



United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 112<sup>th</sup> CONGRESS, SECOND SESSION

## HOUSE OF REPRESENTATIVES—Tuesday, February 14, 2012

The House met at noon and was called to order by the Speaker pro tempore (Mr. HARRIS).

### DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,  
February 14, 2012.

I hereby appoint the Honorable ANDY HARRIS to act as Speaker pro tempore on this day.

JOHN A. BOEHNER,  
Speaker of the House of Representatives.

### MORNING-HOUR DEBATE

The SPEAKER pro tempore. Pursuant to the order of the House of January 17, 2012, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning-hour debate.

The Chair will alternate recognition between the parties, with each party limited to 1 hour and each Member other than the majority and minority leaders and the minority whip limited to 5 minutes each, but in no event shall debate continue beyond 1:50 p.m.

### THE GREAT RULER

The SPEAKER pro tempore. The Chair recognizes the gentleman from Texas (Mr. POE) for 5 minutes.

Mr. POE of Texas. Mr. Speaker, the country cannot afford this great ruler and his administration.

He costs too much.  
He spends too much.  
He taxes too much.  
He regulates too much.  
He cuts defense too much.  
He grows the government too much.  
He divides the people too much.  
He blames others too much.  
He controls our lives too much.  
He despises criticism too much.  
He says no to domestic energy too much.

He obstructs drilling in the Gulf of Mexico too much.

He says yes to OPEC too much.  
He subsidizes bankrupt green energy too much.

He ignores the border too much.  
He sues States too much.  
He infringes on religious freedom too much.

He tries to make Americans dependent on the government too much.

He likes giving away somebody else's money too much.

He campaigns too much.  
He expands government too much.  
He borrows too much.

He taxes people who die too much.  
He taxes people who live too much.  
He likes the word "trillion" too much.

He increases unemployment too much.

He likes the phrase "more deficit" too much.

He lets gasoline prices rise too much.  
He makes health care cost too much.  
He ignores the Constitution too much.

He panders to radical interest groups too much.

He berates capitalism too much.  
He refuses to compromise too much.  
And he really likes Big Government too much.

Mr. Speaker, we cannot afford this great ruler, and especially his current administration.

And that's just the way it is.

### REJECT THE AMERICAN ENERGY AND INFRASTRUCTURE JOBS ACT OF 2012

The SPEAKER pro tempore. The Chair recognizes the gentleman from Virginia (Mr. CONNOLLY) for 5 minutes.

Mr. CONNOLLY of Virginia. Mr. Speaker, for those watching on television and here in the House, I assume my friend from Texas was talking about President George W. Bush. Certainly he was not talking about the current President, Barack Obama.

But I want to talk today about transportation. The residents of my northern Virginia district endure one of the worst commutes in the Nation. Each

citizen spends an average of 74 hours stuck in traffic, costing the average commuter nearly \$1,500 a year in lost productivity and consumption. They're understandably fed up with congestion and traffic, and they want to see improvements being made. They want to be able to get to work without having to leave in the middle of the night to get there on time. They want to be able to attend their child's school activities or go to a doctor's appointment without having to take half the day off from work.

The unmet needs in northern Virginia alone top \$600 million a year. Across the Commonwealth of Virginia, they exceed \$100 billion over the next 25 years. My constituents and I are ready for a robust transportation bill that will repair our roads and bridges and expand commuting options, especially transit. Sadly, H.R. 7 is not that bill, and it is laughable for the House Republican majority to claim otherwise. Their plan will cut investment in transportation and in our Nation's crumbling infrastructure, and it will cut, not create, jobs.

In highway funding alone, Virginia will lose \$361 million under this proposal compared to current funding. H.R. 7 completely eliminates bus and bus facility funding for the Washington area metro system and the Nation's other metropolitan transit authorities. Just 5 States out of 50 will receive more highway dollars over the next 5 years. All the rest are losers. This bill eliminates all dedicated user funding for transit, prompting even the conservative Chamber of Commerce to urge Congress to reject this proposal. Nationally, this bill will cut \$16 billion and result in the loss of more than half a million jobs, which will serve as an abrupt speed bump for our economic recovery. Mr. Speaker, that's unacceptable. We can and must do better.

Twenty-six business leaders in my community—including the Prince William and Fairfax Chambers of Commerce, realtors, builders, and contractors—recently signed a resolution in which they said: New transportation

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

infrastructure is an investment, not a cost. Failure to invest will result in economic decline.

They are right. They have witnessed firsthand the consequence of not making significant, new, dedicated, and reliable investments in infrastructure. Due to this lack of investment at the State level, Federal revenues are now the single-largest source of transportation funding in my State. That's why \$500 million in State dollars are diverted annually from new construction to simple maintenance as more and more roadways deteriorate and along with them our competitiveness in attracting new employers and their families.

But it is not just roads. My community supports a multimodal transportation system that includes bus and van pools, commuter rail, and mass transit. We have the second-highest transit usership in the Nation; yet our success in getting people out of their cars and off the roads is now in jeopardy because of this bill eliminating dedicated funding for transit, breaking a 30-year commitment that we have to supporting multimodal options for commuters all across America. Under this proposal, money that has been dedicated to transit will now go to highways, and a one-time general fund transfer of \$40 billion is somehow supposed to make up for it.

To further salt the wounds of my constituents, House Republicans are proposing to pay for that one-time general fund transfer by gutting the retirement benefits of Federal employees. As a result of the 2-year pay freeze, Federal employees have already contributed \$60 billion over the next 10 years to deficit reduction, but that is not good enough. This new proposal would pile on by increasing out-of-pocket retirement costs by at least three times while reducing overall benefits by 40 percent. Once again, the House Republican majority is using the dedicated Federal workforce as a punching bag politically and discouraging today's young people from even considering a career in public service.

So let me get this straight. The Republican bill will actually reduce spending on transportation, and the reliable user-fee funding system that has been in place since 1956, shifting the burden onto the backs of Federal employees. That's not progress by any stretch of the imagination. In fact, it will just make congestion worse.

I urge my colleagues to defeat this bill and work together on a bipartisan alternative.

#### RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until 2 p.m. today.

Accordingly (at 12 o'clock and 8 minutes p.m.), the House stood in recess.

□ 1400

#### AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. HARRIS) at 2 p.m.

#### PRAYER

The Chaplain, the Reverend Patrick J. Conroy, offered the following prayer: Loving God, we give You thanks for giving us another day.

As we meditate on all the blessing of life, we especially pray for the blessing of peace in our lives and in our world. Our fervent prayer, O God, is that people will learn to live together in reconciliation and respect, so that the terrors of war, and of dictatorial abuse, will be no more.

As You have created each person, we pray that You would guide our hearts and minds that every person of every place and background might focus on Your great gift of life, and so learn to live in unity.

May Your special blessings be upon the Members of this assembly, in the important, sometimes difficult work they do. Give them wisdom and charity, that they might work together for the common good.

May all that is done this day in the people's House, be for Your greater honor and glory.

Amen.

#### THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Ms. FOXX. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER pro tempore. The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. FOXX. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, further proceedings on this question will be postponed.

#### PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from South Carolina (Mr. WILSON) come forward and lead the House in the Pledge of Allegiance.

Mr. WILSON of South Carolina led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

#### PRESIDENT'S BUDGET IS POLITICAL

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, yesterday the President released his budget for 2013, which calls for a cut in defense spending, for the first time since 1998, by almost \$500 billion. It is clear the President is simply taking resources away from our military capabilities and using the funds to grow the size of government to promote more unsustainable domestic programs, putting senior citizens at risk of a devalued dollar and burdening young people and college students with crushing debt.

Instead of focusing on stopping defense cut sequestration, the President is putting our national security at risk and our allies in jeopardy during a time of international instability.

Cutting our defense budget with record-breaking tax increases destroying jobs will not reduce the national deficit, but only represents a diversion of funds. I urge the President to recognize the primary function of the national government is national defense, to provide peace through strength.

In conclusion, God bless our troops, and we will never forget September the 11th in the global war on terrorism.

#### DEMOCRATS PROTECT MEDICARE

(Ms. EDWARDS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. EDWARDS. Mr. Speaker, on behalf of the 3 million seniors represented by the Alliance for Retired Americans, I rise with my Democratic colleagues to accept their valentine for our vote to improve Medicare under the health care reform law. Our seniors deserve love, care, and support every day. But today, on a day when people all across the country are celebrating with their loved ones, let us stand together and show our appreciation to the more than 47 million seniors who make up the fabric of our country.

In my State of Maryland, the Affordable Care Act is already working to provide more than 70,000 seniors with preventive care benefits and offers a 50 percent discount for prescription drugs to nearly 4,000 beneficiaries who enter the Medicare part D doughnut hole.

The Ryan budget, lauded by Republicans, would replace Medicare with an inefficient voucher plan and increase the out-of-pocket costs of Maryland seniors by more than \$6,800 in the first year alone. And while they charge the health reform bill cut Medicare, Republicans fail to admit that they adopted in their plan the same \$500 billion in "cuts"—actually cost savings—included in the health care reform law.

So I stand with my colleagues to assure seniors that we'll protect Medicare today and in the future. And to all of those seniors I visited this morning, Happy Valentine's Day.

#### SUGAR REFORM

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, today, on Valentine's Day, millions of Americans will celebrate with a box of chocolates or candy. All told, consumers are expected to spend more than \$1.5 billion on candy this holiday.

What they don't know is that government sugar controls are making that heart-shaped box more expensive than it needs to be. What they don't know is that American companies are struggling to compete against foreign producers who pay half as much for sugar.

Because of government price supports, marketing allotments, and import quotas, U.S. consumers and businesses pay almost double the average world market price for sugar. By some estimates, this could be costing us more than 20,000 jobs. Many of us have watched good jobs lost because the government guarantees the profits of a relatively small group of growers and producers.

Reforming our sugar program isn't a partisan issue, which is why I've been proud to introduce H.R. 1385, the Free Market Sugar Act, with my friend from Chicago, DANNY DAVIS.

Maybe next Valentine's Day can be sweeter for American workers and consumers.

#### CONTINUED ACCESS TO HEALTH CARE FOR OUR SENIORS

(Mr. CARSON of Indiana asked and was given permission to address the House for 1 minute.)

Mr. CARSON of Indiana. Mr. Speaker, in 2010, the Affordable Care Act delivered a \$250 check to seniors in my district who were struggling to cover the gap between the cost of their prescription drugs and their Medicare coverage. In 2011, these same seniors benefited from an average savings of \$648 on their medications.

For my well-meaning Republican colleagues who say health reform is hurting Medicare beneficiaries, I ask them to imagine spending two and three times that amount on prescription drugs per month.

For most seniors, \$648 is a significant savings. And it is just the beginning. The Affordable Care Act will provide more efficient care by bundling Medicare services, investing in our health care workforce, and focusing on quality.

Replacing Medicare with vouchers would erase the progress we have al-

ready made toward prescription drug coverage and lead to fewer choices for beneficiaries.

I encourage my colleagues to work with me on solutions that guarantee continued access to health care for our seniors.

#### CELEBRATING THE ANNIVERSARY OF THE HOMECOMING OF CONGRESSMAN SAM JOHNSON

(Mr. BURGESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURGESS. Mr. Speaker, today I want to acknowledge a colleague, a fellow Texan, a veteran, and a true American hero. Congressman SAM JOHNSON served in the United States Air Force for 29 years. During service, he flew in 62 combat missions in the Korean war and 25 missions in the Vietnam war. While flying in his 25th Vietnam combat mission, Congressman JOHNSON was shot down and captured in North Vietnam.

On February 12, 1973, after 7 years of imprisonment, Congressman JOHNSON was returned to the United States and reunited with his wife and daughters. This week, we honor Congressman JOHNSON and we celebrate the 39th anniversary of his homecoming. Through the years of agony, he persevered, and he left Vietnam with the resolution to support every man and every woman fighting for the United States of America.

Mr. Speaker, we are all called to office for different reasons. For Members of my class 10 years ago, it was the tragic events of September 11. For Congressman JOHNSON, it was his imprisonment that empowered him to run for office.

It is an honor to celebrate a man who has given not only part of his life to protect our freedoms, but a man who continues to represent the American people with dignity and respect. Thank you, Congressman JOHNSON, for your service to our Nation.

#### COMMENDING THE PRESIDENT'S PLAN TO HELP RESPONSIBLE HOMEOWNERS REFINANCE THEIR HOMES

(Mr. FALEOMAVAEGA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FALEOMAVAEGA. Mr. Speaker, the housing crisis plunged our economy into a recession that we are still struggling to overcome. Homeownership is at the heart of the American Dream, and yet over 10 million American families now owe more on their home than what it's worth. President Obama recently announced a plan that would give homeowners the chance to save hundreds monthly and approximately

\$3,000 yearly on their mortgages by refinancing at historically low interest rates.

Under President Obama's plan, the administration would also expand the eligibility for the Home Affordable Modification Program to borrowers with higher debt loads. It would also triple incentives paid to banks to reduce principal on loans and to help borrowers rebuild equity. In addition to these proposals, the administration is also extending HAMP to December 2013 to help responsible homeowners lower their costs and stay in their homes.

Mr. Speaker, I thank President Obama for his proposal that will provide much-needed relief for millions of American families. And I thank the President for his leadership and his commitment to helping American families move forward.

#### CAMERAS IN THE SUPREME COURT

(Mr. POE of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. POE of Texas. Mr. Speaker, the Supreme Court will soon take up the President's nationalized health care law. This case will go down in history as it affects every American. But unless every citizen has a seat inside the Supreme Court, they will not be able to watch the legal arguments or hear the questions by the Justices. The people will not be able to see justice in action. The American public should be able to view the proceedings on TV much like they do with C-SPAN when Congress is in session.

I know cameras can be placed in a courtroom without disruption because I was one of the first judges in Texas to allow an unobtrusive camera in the courtroom. I did so without any problem and proved the cynics wrong.

A lack of seating capacity is no reason to deny the American public access to the Supreme Court. The American people deserve an all-access pass to watch the High Court in action. The Supreme Court is the most important court in the world. Let the world know what takes place behind those closed doors. Let cameras and the people in.

And that's just the way it is.

#### MEDICARE ADVANTAGE

(Ms. BUERKLE asked and was given permission to address the House for 1 minute.)

Ms. BUERKLE. Mr. Speaker, the President assured American seniors that under his health care package, their insurance plans would not be affected and that they would have the same health care choices as before the law.

Sadly, Mr. Speaker, this is not the case. The President's health care law

makes drastic cuts to the popular Medicare Advantage program of more than \$136 billion. With these cuts, Mr. Speaker, Medicare Advantage plans will be forced to make significant adjustments, including reductions in what they cover. Those reductions will limit seniors' ability to choose the Medicare plan that best suits them.

It is important to note, Mr. Speaker, that the cuts will hit low-income seniors and the disabled with disproportionate cuts. About 70 percent of the cuts will be imposed on those with incomes below \$32,400 per year.

The President's cuts will give the 120,000 seniors in my district who choose Medicare Advantage few choices and increased costs. Mr. Speaker, I urge my colleagues on both sides of the aisle to work with me to protect Medicare Advantage.

#### MEDICARE

(Mrs. McMORRIS RODGERS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. McMORRIS RODGERS. Mr. Speaker, I rise today to address the question that is on the minds of every senior in America, and that question is, what is the future of Medicare? And what is this Congress doing to protect it?

The President's budget, which was released just yesterday, fails to address the inevitable bankruptcy this program faces. His budget includes a record budget deficit. His budget also includes over \$2 trillion in tax increases that will not only destroy jobs but do nothing to protect the future of Medicare. We know that ObamaCare cut \$500 billion out of Medicare. And now the President in his budget is asking for more than \$360 billion in additional cuts.

The President's health care bill is destroying a program that was designed to protect seniors. It's limiting access, increasing costs, and lowering quality care. According to the American Medical Association, one out of three doctors already limits the number of Medicare patients they see. Just try to find a doctor in eastern Washington who will take a new Medicare patient. This is unacceptable. We can do better, and we must do better.

#### MEDICARE ADVANTAGE

(Ms. FOXX asked and was given permission to address the House for 1 minute.)

Ms. FOXX. Mr. Speaker, it's interesting that our colleagues across the aisle are doing their best to hide the truth about the cuts to Medicare that came with ObamaCare and those that the President has recommended in his budget. However, the truth will out.

The President's health care takeover, like his latest budget, is bad for our

Nation's seniors. According to the Congressional Budget Office, the Democrats' health care and tax increase law slashed funding for Medicare Advantage plans used by millions of seniors across the country.

According to an October Forbes article, the average beneficiary—considering both those who stay in the stripped-down Medicare Advantage program and those who transition out of it—will incur an average cut of more than \$3,700 in benefits per year by 2017.

That will directly affect the 40,000 seniors in my mostly rural North Carolina district who enjoy Medicare Advantage plans. So much for the President's promise that "if you like your plan, you can keep it."

That's just another reason why I voted against the health care law and intend to support its repeal.

#### COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,  
HOUSE OF REPRESENTATIVES,  
Washington, DC, February 14, 2012.

Hon. JOHN A. BOEHNER,  
*The Speaker, U.S. Capitol, House of Representatives, Washington, DC.*

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on February 14, 2012 at 10:25 a.m.:

That the Senate passed without amendment H.R. 1162.

With best wishes, I am

Sincerely,

KAREN L. HAAS,  
*Clerk.*

#### COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,  
HOUSE OF REPRESENTATIVES,  
Washington, DC, February 13, 2011.

Hon. JOHN A. BOEHNER,  
*The Speaker, The Capitol, House of Representatives, Washington, DC.*

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House on February 13, 2012, at 2:14 p.m., and said to contain a message from the President whereby he submits his Budget of the United States Government for Fiscal Year 2013.

With best wishes, I am

Sincerely,

KAREN L. HAAS,  
*Clerk of the House.*

#### BUDGET OF THE UNITED STATES GOVERNMENT FOR FISCAL YEAR 2013—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 112-78)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Appropriations and ordered to be printed:

*To the Congress of the United States:*

America was built on the idea that anyone who is willing to work hard and play by the rules, can make it if they try—no matter where they started out. By giving every American a fair shot, asking everyone to do their fair share, and ensuring that everyone played by the same rules, we built the great American middle class and made our country a model for the world.

Today, America is still home to the world's best universities, most productive workers, and most innovative companies. But for many Americans, the basic bargain at the heart of the American Dream has eroded.

Long before this recession hit, there was a widespread feeling that hard work had stopped paying off; that fewer and fewer of those who contributed to the success of our economy actually benefited from that success. Those at the very top grew wealthier while everyone else struggled with paychecks that did not keep up with the rising cost of everything from college tuition to groceries. And as a result, too many families found themselves taking on more and more debt just to keep up—often papered over by mounting credit card bills and home equity loans.

Then, in the middle of 2008, the house of cards collapsed. Too many mortgages had been sold to people who could not afford—or even understand—them. Banks had packaged too many risky loans into securities and then sold them to investors who were misled or misinformed about the risks involved. Huge bets had been made and huge bonuses had been paid out with other people's money. And the regulators who were supposed to prevent this crisis either looked the other way or did not have the authority to act.

In the end, this growing debt and irresponsibility helped trigger the worst economic crisis since the Great Depression. Combined with new tax cuts and new mandatory programs that had never been paid for, it threw our country into a deep fiscal hole. And millions of hardworking Americans lost their jobs, their homes, and their basic economic security.

Today, we are seeing signs that our economy is on the mend. But we are not out of the woods yet. Instead, we are facing a make-or-break moment for the middle class, and for all those who are fighting to get there. What is at



stake is whether or not this will be a country where working people can earn enough to raise a family, build modest savings, own a home, and secure their retirement. This is the defining issue of our time.

This Budget reflects my deep belief that we must rise to meet this moment—both for our economy and for the millions of Americans who have worked so hard to get ahead.

We built this Budget around the idea that our country has always done best when everyone gets a fair shot, everyone does their fair share, and everyone plays by the same rules. It rejects the “you’re on your own” economics that have led to a widening gap between the richest and poorest Americans that undermines both our belief in equal opportunity and the engine of our economic growth. When the middle class is shrinking, and families can no longer afford to buy the goods and services that businesses are selling, it drags down our entire economy. And countries with less inequality tend to have stronger and steadier economic growth over the long run.

The way to rebuild our economy and strengthen the middle class is to make sure that everyone in America gets a fair shot at success. Instead of lowering our standards and our sights, we need to win a race to the top for good jobs that pay well and offer security for the middle class. To succeed and thrive in the global, high-tech economy, we need America to be a place with the highest-skilled, highest-educated workers; the most advanced transportation and communication networks; and the strongest commitment to research and technology in the world. This Budget makes investments that can help America win this race, create good jobs, and lead in the world economy.

And it does so with the understanding that we need an economy that is no longer burdened by years of debt and in which everyone shoulders their fair share to put our fiscal house in order. When I took office 3 years ago, my Administration was left an annual deficit of \$1.3 trillion, or 9.2 percent of GDP, and a projected 10-year deficit of more than \$8 trillion. These deficits were the result of a previous 8 years of undertaking initiatives, but not paying for them—especially two large tax cuts and a new Medicare prescription drug benefit—as well as the financial crisis and recession that made the fiscal situation worse as revenue decreased and automatic Government outlays increased to counter the downturn.

We have taken many steps to re-establish fiscal responsibility, from instituting a statutory pay-as-you-go rule for spending to going through the budget line by line looking for outdated, ineffective, or duplicative programs to cut or reform. Importantly, we enacted the Affordable Care Act, which will not only provide Americans

with more affordable choices and freedom from insurance company abuses, but will also reduce our budget deficits by more than \$1 trillion over the next two decades.

As economic growth was beginning to take hold last year, I took further steps to put our Nation on a fiscally sustainable path that would strengthen the foundation of the economy for years to come. In April of 2011, I put forward my Framework for Shared Prosperity and Shared Fiscal Responsibility that built on the 2012 Budget to identify \$4 trillion in deficit reduction. During negotiations over extending the debt ceiling in the summer, I presented to congressional Republicans another balanced plan to achieve \$4 trillion in deficit reduction. Finally, in September, I sent my Plan for Economic Growth and Deficit Reduction to the Joint Select Committee on Deficit Reduction, which detailed a way to achieve \$3 trillion in deficit reduction on top of the \$1 trillion already achieved in the Budget Control Act of 2011 that I signed into law the previous month.

I also made sure that this plan covered the cost of the American Jobs Act—a set of bipartisan, commonsense proposals designed to put more people back to work, put more money in the pockets of the middle class, and do so without adding a dime to the deficit at a time when it was clear that global events were slowing the economic recovery and our ability to create more jobs. Unfortunately, Republicans in Congress blocked both our deficit reduction measures and almost every part of the American Jobs Act for the simple reason that they were unwilling to ask the wealthiest Americans to pay their fair share.

In the year ahead, I will continue to pursue policies that will shore up our economy and our fiscal situation. Together with the deficit reduction I signed into law this past year, this Budget will cut the deficit by \$4 trillion over the next decade. This will put the country on a course to a level of deficits below 3 percent of GDP by the end of the decade, and will also allow us to stabilize the Federal debt relative to the size of the economy. To get there, this Budget contains a number of steps to put us on a fiscally sustainable path.

First, this Budget implements the tight discretionary spending caps that I signed into law in the Budget Control Act of 2011. These caps will generate approximately \$1 trillion in deficit reduction over the next decade. Building on reductions we already have made, this will result in a cut in discretionary spending of \$42 billion since 2010 when higher levels of Federal spending were essential to provide a jumpstart to the economy. Meeting the spending targets in this Budget meant some very difficult choices: reforming,

consolidating, or freezing programs where we could; cutting programs that were not effective or essential and even some that were, but are now unaffordable; and precisely targeting our investments. Every department will feel the impact of these reductions as they cut programs or tighten their belts to free up more resources for areas critical to economic growth. And throughout the entire Government, we will continue our efforts to make programs and services work better and cost less: using competition and high standards to get the most from the grants we award; getting rid of excess Federal real estate; and saving billions of dollars by cutting overhead and administrative costs.

Second, this Budget begins the process of implementing my new defense strategy that reconfigures our force to meet the challenges of the coming decade. Over the past 3 years, we have made historic investments in our troops and their capabilities, military families, and veterans. After a decade of war, we are at an inflection point: American troops have left Iraq; we are undergoing a transition in Afghanistan so Afghans can assume more responsibility; and we have debilitated al Qaeda’s leadership, putting that terrorist network on the path to defeat. At the same time, we have to renew our economic strength here at home, which is the foundation of our strength in the world, and that includes putting our fiscal house in order. To ensure that our defense budget is driven by a clear strategy that reflects our national interests, I directed the Secretary of Defense and military leadership to undertake a comprehensive strategic review.

I presented the results of the review, reflecting my guidance and the full support of our Nation’s military leadership, at the Pentagon on January 5. There are several key elements to this new strategy. To sustain a global reach, we will strengthen our presence in the Asia Pacific region and continue vigilance in the Middle East. We will invest in critical partnerships and alliances, including NATO, which has demonstrated time and again—most recently in Libya—that it is a force multiplier. Looking past Iraq and Afghanistan to future threats, the military no longer will be sized for large-scale, prolonged stability operations. The Department of Defense will focus modernization on emerging threats and sustaining efforts to get rid of outdated Cold War-era systems so that we can invest in the capabilities we need for the future, including intelligence, surveillance and reconnaissance capabilities. My Administration will continue to enhance capabilities related to counterterrorism and countering weapons of mass destruction, and we will also maintain the ability to operate in environments where adversaries try to

deny us access. And, we will keep faith with those who serve by giving priority to our wounded warriors, servicemembers' mental health, and the well-being of military families.

Adapting our forces to this new strategy will entail investing in high-priority programs, such as unmanned surveillance aircraft and upgraded tactical vehicles. It will mean terminating unnecessary and lower-priority programs such as the C-27 airlift aircraft and a new weather satellite and maintaining programs such as the Joint Strike Fighter at a reduced level. All told, reductions in the growth of defense spending will save \$487 billion over the next 10 years. In addition, the end of our military activities in Iraq and the wind-down of operations in Afghanistan will mean that the country will spend 24 percent less on overseas contingency operations (OCO) this year than it did last year, saving \$30 billion. I also am proposing a multi-year cap on OCO spending so that we fully realize the dividends of this change in policy.

Third, I believe that in our country, everyone must shoulder their fair share—especially those who have benefited the most from our economy. In the United States of America, a teacher, a nurse, or a construction worker who earns \$50,000 a year should not pay taxes at a higher rate than somebody making \$50 million. That is wrong. It is wrong for Warren Buffett's secretary to pay a higher tax rate than Warren Buffett. This is not about class warfare; this is about the Nation's welfare. This is about making fair choices that benefit not just the people who have done fantastically well over the last few decades, but that also benefit the middle class, those fighting to get into the middle class, and the economy as a whole.

In the Budget, I reiterate my opposition to permanently extending the Bush tax cuts for families making more than \$250,000 a year and my opposition to a more generous estate tax than we had in 2009 benefiting only the very largest estates. These policies were unfair and unaffordable when they were passed, and they remain so today. I will push for their expiration in the coming year. I also propose to eliminate special tax breaks for oil and gas companies; preferred treatment for the purchase of corporate jets; tax rules that give a larger percentage deduction to the wealthiest two percent than to middle-class families for itemized deductions; and a loophole that allows some of the wealthiest money managers in the country to pay only 15 percent tax on the millions of dollars they earn. And I support tax reform that observes the "Buffett Rule" that no household making more than \$1 million annually should pay a smaller share of its income taxes than middle-class families pay.

Fourth, to build on the work we have done to reduce health care costs through the Affordable Care Act, I am proposing more than \$360 billion in reforms to Medicare, Medicaid, and other health programs over 10 years. The goal of these reforms is to make these critical programs more effective and efficient, and help make sure our health care system rewards high-quality medicine. What it does not do—and what I will not support—are efforts to turn Medicare into a voucher or Medicaid into a block grant. Doing so would weaken both programs and break the promise that we have made to American seniors, people with disabilities, and low-income families—a promise I am committed to keeping.

Finally, to address other looming, long-term challenges to our fiscal health, I have put forward a wide range of mandatory savings. These include reductions in agricultural subsidies, changes in Federal employee retirement and health benefits, reforms to the unemployment insurance system and the Postal Service, and new efforts to provide a better return to taxpayers from mineral development. Drawn from the plan I presented to the Joint Select Committee on Deficit Reduction, these mandatory proposals would save \$217 billion over the next decade.

Reining in our deficits is not an end in and of itself. It is a necessary step to rebuilding a strong foundation so our economy can grow and create good jobs. That is our ultimate goal. And as we tighten our belts by cutting, consolidating, and reforming programs, we also must invest in the areas that will be critical to giving every American a fair shot at success and creating an economy that is built to last.

That starts with taking action now to strengthen our economy and boost job creation. We need to finish the work we started last year by extending the payroll tax cut and unemployment benefits for the rest of this year. We also need to take additional measures to put more people back to work. That is why I introduced the American Jobs Act last year, and why I will continue to put forward many of the ideas it contained, as well as additional measures, to put people back to work by rebuilding our infrastructure, providing businesses tax incentives to invest and hire, and giving States aid to rehire teachers and first responders.

We also know that education and lifelong learning will be critical for anyone trying to compete for the jobs of the future. That is why I will continue to make education a national mission. What one learns will have a big impact on what he or she earns: the unemployment rate for Americans with a college degree or more is only about half the national average, and the incomes of college graduates are twice as high as those without a high school diploma.

When I took office, I set the goal for America to have the highest proportion of college graduates in the world by 2020. To reach that goal, we increased the maximum annual Pell Grant by more than \$900 to help nearly 10 million needy students afford a college education. The 2013 Budget continues that commitment and provides the necessary resources to sustain the maximum award of \$5,635. In this Budget, I also propose a series of new proposals to help families with the costs of college including making permanent the American Opportunity Tax Credit, a partially refundable tax credit worth up to \$10,000 per student over 4 years of college, and rewarding colleges and universities that act responsibly in setting tuition, providing the best value, and serving needy students well.

To help our students graduate with the skills they will need for the jobs of the future, we are continuing our effort to prepare 100,000 science and math teachers over the next decade. To improve our elementary and secondary schools, we are continuing our commitment to the Race to the Top initiative that rewards the most innovative and effective ways to raise standards, recruit and retain good teachers, and raise student achievement. My Budget invests \$850 million in this effort, which already has been expanded to cover early learning and individual school districts.

And to prepare our workers for the jobs of tomorrow, we need to turn our unemployment system into a re-employment system. That includes giving more community colleges the resources they need to become community career centers—places that teach skills that businesses are looking for right now, from data management to high-tech manufacturing.

Once our students and workers gain the skills they need for the jobs of the future, we also need to make sure those jobs end up in America. In today's high-tech, global economy, that means the United States must be the best place in the world to take an idea from the drawing board to the factory floor to the store shelves. In this Budget, we are sustaining our level of investment in non-defense research and development (R&D) even as overall spending declines, thereby keeping us on track to double R&D funding in the key R&D agencies. We are supporting research at the National Institutes of Health that will accelerate the translation of new discoveries in biomedical science into new therapies and cures, along with initiatives at the Food and Drug Administration that will speed the approval of new medicines. We make important investments in the science and research needed to tackle the most important environmental challenges of our time, and we are investing in fields as varied as cyber-security, nano-technology, and advanced manufacturing.

This Budget also puts an emphasis on the basic research that leads to the breakthroughs of tomorrow, which increasingly is no longer being conducted by the private sector, as well as helping inventors bring their innovations from laboratory to market.

This Budget reflects the importance of safeguarding our environment while strengthening our economy. We do not have to choose between having clean air and clean water and growing the economy. By conserving iconic American landscapes, restoring significant ecosystems from the Everglades to the Great Lakes, and achieving measurable improvements in water and air quality, we are working with communities to protect the natural resources that serve as the engines of their local economies.

Moreover, this Budget continues my Administration's commitment to developing America's diverse, clean sources of energy. The Budget eliminates unwarranted tax breaks for oil companies, while extending key tax incentives to spur investment in clean energy manufacturing and renewable energy production. The Budget also invests in R&D to catalyze the next generation of clean energy technologies. These investments will help us achieve our goal of doubling the share of electricity from clean energy sources by 2035. By promoting American leadership in advanced vehicle manufacturing, including funding to encourage greater use of natural gas in the transportation sector, the Budget will help us reach our goal of reducing oil imports by one-third by 2025 and position the United States to become the first country to have one million electric vehicles on the road by 2015. We also are working to decrease the amount of energy used by commercial and industrial buildings by 20 percent to complement our ongoing efforts to improving the efficiency of the residential sector. And we will work with the private sector, utilities, and States to increase the energy productivity of American industries while investing in the innovative processes and materials that can dramatically reduce energy use.

It is also time for government to do its part to help make it easier for entrepreneurs, inventors, and workers to grow their businesses and thrive in the global economy. I am calling on Congress to immediately begin work on corporate tax reform that will close loopholes, lower the overall rate, encourage investment here at home, simplify taxes for America's small businesses, and not add a dime to the deficit. Moreover, to further assist these companies, we need a comprehensive reorganization of the parts of the Federal Government that help businesses grow and sell their products abroad. If given consolidation authority—which Presidents had for most of the 20th

century—I will propose to consolidate six agencies into one Department, saving money, and making it easier for all companies—especially small businesses—get the help they need to thrive in the world economy.

Finally, this Budget advances the national security interests of the United States, including the security of the American people, the prosperity and trade that creates American jobs, and support for universal values around the world. It increases funding for the diplomatic efforts that strengthen the alliances and partnerships that improve international cooperation in meeting shared challenges, open new markets to American exports, and promote development. It invests in the intelligence and homeland security capabilities to detect, prevent, and defend against terrorist attacks against our country.

As we implement our new defense strategy, my Administration will invest in the systems and capabilities we need so that our Armed Forces are configured to meet the challenges of the coming decade. We will continue to invest in improving global health and food security so that we address the root causes of conflict and security threats. And we will keep faith with our men and women in uniform, their families, and veterans who have served their Nation.

These proposals will take us a long way towards strengthening the middle class and giving families the sense of security they have been missing for too long. But in the end, building an economy that works for everyone will require all of us to take responsibility. Parents will need to take greater responsibility for their children's education. Homeowners will have to take more responsibility when it comes to buying a house or taking out a loan. Businesses will have to take responsibility for doing right by their workers and our country. And those of us in public service will need to keep finding ways to make government more efficient and more effective.

Understanding and honoring the obligations we have to ourselves and each other is what has made this country great. We look out for each other, pull together, and do our part. But Americans also deserve to know that their hard work will be rewarded.

This Budget is a step in the right direction. And I hope it will help serve as a roadmap for how we can grow the economy, create jobs, and give Americans everywhere the security they deserve.

BARACK OBAMA.

THE WHITE HOUSE, February 13, 2012.

#### RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 4:45 p.m. today.

Accordingly (at 2 o'clock and 44 minutes p.m.), the House stood in recess.

□ 1647

#### AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. MCCLINTOCK) at 4 o'clock and 47 minutes p.m.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote incurs objection under clause 6 of rule XX.

Record votes on postponed questions will be taken after 6:30 p.m. today.

#### JOHN J. COOK POST OFFICE

Mr. KELLY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2079) to designate the facility of the United States Postal Service located at 10 Main Street in East Rockaway, New York, as the "John J. Cook Post Office".

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 2079

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. JOHN J. COOK POST OFFICE.

(a) DESIGNATION.—The facility of the United States Postal Service located at 10 Main Street in East Rockaway, New York, shall be known and designated as the "John J. Cook Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "John J. Cook Post Office".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania (Mr. KELLY) and the gentleman from Missouri (Mr. CLAY) each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania.

#### GENERAL LEAVE

Mr. KELLY. Mr. Speaker, I yield myself such time as I may consume.

I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. KELLY. Mr. Speaker, H.R. 2079, introduced by the gentlewoman from New York (Mrs. MCCARTHY) would designate the facility of the United States

Postal Service located at 10 Main Street in East Rockaway, New York, as the John J. Cook Post Office. The bill was introduced in June of this year and was favorably reported by the Committee on Oversight and Government Reform on November 3 of last year.

Mr. Speaker, John J. Cook served the community of East Rockaway, New York, for more than six decades, working as a letter carrier at the facility to be named after him. Serving his community for 60 years and 4 months, Mr. Cook went above and beyond to serve his neighbors and exemplified professionalism and courtesy each and every day on the job.

Mr. Cook delivered mail on the same route for nearly all of his 60 years on the job and, according to many in his community, he continually touched the lives of countless people spanning many generations.

According to one East Rockaway resident, he was quite simply "the best." He knew all of his customers very well and gave personalized service throughout his career. The resident went on to say that, you know what, "they just don't make people like him anymore."

Sadly, Mr. Speaker, Mr. Cook passed away in 2005 at the age of 78. He left behind his wife, Roberta, and many who will miss this true public servant and model postal employee.

I urge all Members to join me in naming the postal facility in East Rockaway, New York, after John J. Cook, and I reserve the balance of my time.

Mr. CLAY. Mr. Speaker, as a member of the Oversight and Government Reform Committee, I am pleased to join my colleagues in the consideration of H.R. 2079, a bill to designate the facility of the U.S. Postal Service located at 10 Main Street in East Rockaway, New York, as the "John J. Cook Post Office."

The measure before us was introduced by Representative CAROLYN MCCARTHY on June 1, 2011. In accordance with the committee requirements, H.R. 2079 is cosponsored by all members of the New York delegation. It was reported out of the committee by unanimous consent on November 3, 2011.

At this time, Mr. Speaker, I would like to yield as much time as she may consume to the gentlewoman from New York (Mrs. MCCARTHY).

Mrs. MCCARTHY of New York. Mr. Speaker, I'd like to thank, certainly, Mr. KELLY from Pennsylvania and Mr. CLAY from Missouri for helping me get this through the committee, and I appreciate that.

Mr. Speaker, I rise today to honor Mr. John J. Cook, a World War II veteran, a model American postal worker, and an integral member of the East Rockaway community. I also want to thank senior Councilman Anthony Santino for bringing this to my attention.

Mr. Cook, a resident of my district, began working for the East Rockaway Post Office on January 8, 1944. For the next 60 years he served our East Rockaway community as a letter carrier who exemplified the American work ethic, displaying professionalism, courtesy and tireless dedication.

After serving in World War II in the Pacific theater, Mr. Cook began working for the local post office and quickly became an integral part of the East Rockaway community. Day in and day out, for more than 60 years, Mr. Cook took pride in his work, delivering the mail to the East Rockaway community in a timely and efficient manner.

He tailored his deliveries to the wishes of each individual customer. For example, he would make sure that important messages such as a wedding invitation or college acceptance letters were placed on the top of the day's mail for that customer.

Mr. Cook would go above and beyond his expected duties. At times, he even would cancel his family vacations because the post office needed him for a last-minute shift.

As public servants, we can recognize the importance of dedication, hard work, and service to one's community. It is only fitting and proper that the United States Government and Postal Service take the opportunity to honor a great man like Mr. Cook. He truly was a great American.

Mr. Cook exemplified these values on a daily basis and became an esteemed member of our East Rockaway community. He watched the children of his customers grow up and marry and have their own children.

To rename the post office in Mr. Cook's honor will be a well-deserved tribute to a World War II veteran and a model public servant; and I hope my colleagues join me in supporting H.R. 2079 in honor of Mr. John J. Cook.

Mr. KELLY. Mr. Speaker, I have no other speakers at the moment, and I continue to reserve the balance of my time.

Mr. CLAY. Mr. Speaker I have no further speakers and am ready to close, if that's okay with the gentleman from Pennsylvania.

Having no additional speakers, I, once again, urge adoption of H.R. 2079. I also ask that we keep the example of Mr. Cook's career in mind as we work together to craft what should be bipartisan legislation to ensure that the institution Mr. Cook loved so much, the United States Postal Service, can continue to serve our Nation so well.

With that, Mr. Speaker, I yield back the balance of my time.

Mr. KELLY. Mr. Speaker, I urge all Members to support the passage of H.R. 2079, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr.

KELLY) that the House suspend the rules and pass the bill, H.R. 2079.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. KELLY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

#### LANCE CORPORAL MATTHEW P. PATHENOS POST OFFICE BUILDING

Mr. KELLY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3247) to designate the facility of the United States Postal Service located at 1100 Town and Country Commons in Chesterfield, Missouri, as the "Lance Corporal Matthew P. Pathenos Post Office Building".

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 3247

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. LANCE CORPORAL MATTHEW P. PATHENOS POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 1100 Town and Country Commons in Chesterfield, Missouri, shall be known and designated as the "Lance Corporal Matthew P. Pathenos Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Lance Corporal Matthew P. Pathenos Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania (Mr. KELLY) and the gentleman from Missouri (Mr. CLAY) each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania.

#### GENERAL LEAVE

Mr. KELLY. Mr. Speaker, I yield myself as much time as I may consume.

I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. KELLY. Mr. Speaker, H.R. 3247, introduced by the gentleman from Missouri (Mr. AKIN) would designate the facility of the United States Postal Service located at 1100 Town and Country Commons in Chesterfield, Missouri, as the "Lance Corporal Matthew P. Pathenos Post Office Building."

The bill is cosponsored by the entire Missouri State delegation and was reported favorably by the Committee on Oversight and Government Reform on November 3 of last year.

Mr. Speaker, it is fitting and proper that we name this post office in Chesterfield, Missouri, for Marine Corps Lance Corporal Pathenos, a true American hero who gave his life courageously defending freedom. More than a selfless marine, Mr. Speaker, Lance Corporal Pathenos was a loving son, brother, and friend.

As one of his fellow marines reflected after his tragic passing, the best thing about Matt was his ability to wake up every day with a smile and hold it all day long. Even while in the midst of war, Lance Corporal Pathenos strove to bring joy to his fellow marines and friends. That's just the kind of guy that he was; and for his service and sacrifice, Mr. Speaker, we are truly grateful.

I now yield as much time as he may consume to my distinguished friend and colleague from the State of Missouri and the sponsor of this legislation, Mr. AKIN.

Mr. AKIN. Mr. Speaker, I rise today in strong support of H.R. 3247, a bill I introduced on the life of Matthew P. Pathenos by designating the post office in Chesterfield, Missouri, as the Lance Corporal Matthew P. Pathenos Post Office Building.

A resident of Baldwin, Missouri, Lance Corporal Matthew Pathenos was part of the 3rd Battalion, 24th Marine Regiment, 4th Marine Division of the Marine Forces Reserve. On February 7, 2007, Lance Corporal Pathenos was killed during combat operations in the al Anbar province of Iraq.

Matthew was often described by family and friends as a friendly young man who always had a joke to tell and a smile on his face. Matthew decided to go join the military in order to follow his older brother into his country's service with the hope of helping those who could not help themselves.

Matthew's then-girlfriend, Erin, calls Lance Corporal Pathenos her hero and wishes she might one day possess a fraction of his bravery and discipline.

As the father of three marines, one of whom has served in Iraq, it is a privilege to stand here today to honor one of our fallen marines. Matthew's commitment and dedication to his country is a shining example of how our military men and women are the finest our Nation has to offer.

□ 1700

His and his family's sacrifice should serve as a reminder to all that the freedom we enjoy in America is not free but the result of the tremendous bravery and selfless service of men and women willing to put themselves in harm's way for freedom's cause. Our Nation will be forever indebted to Lance Corporal Matthew Pathenos.

Mr. Speaker, I ask that my colleagues join me today in honoring Lance Corporal Matthew Pathenos. Vote "yes" on H.R. 3247.

Mr. CLAY. Mr. Speaker, I yield myself such time as I may consume.

As a member of the Oversight and Government Reform Committee, I join my colleagues from my home State of Missouri in strong support of H.R. 3247, and I thank my colleague, Mr. AKIN, for introducing this legislation. The legislation will name the postal facility in Town and Country Commons in Chesterfield, Missouri, after Lance Corporal Matthew P. Pathenos.

H.R. 3247 was introduced by my colleague, Representative AKIN, and has the support of the entire Missouri delegation, including myself. The bill was introduced on October 24 of last year and was considered by and reported from the Oversight Committee by voice vote shortly thereafter, on November 3, 2011.

Tragically, on February 7, 2007, Lance Corporal Pathenos was killed while conducting combat operations in the al Anbar province, Iraq. Described as a disciplined, dedicated, and patriotic gentleman, Corporal Pathenos served his country proudly.

In recognition of his dedication to his country, Mr. Speaker, I ask my colleagues to join me in commemorating the life of this brave marine by supporting the passage of H.R. 3247.

Mr. Speaker, having no additional speakers, I once again urge adoption of H.R. 3247 in honor of the life and service of Lance Corporal Matthew P. Pathenos.

I yield back the balance of my time.

Mr. KELLY. Mr. Speaker, I am truly grateful for the brave and heroic service of Lance Corporal Pathenos and for all of those who serve and defend our Nation each and every day. I urge all Members to join me in strong support of this bill.

I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. KELLY) that the House suspend the rules and pass the bill, H.R. 3247.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. KELLY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

#### LANCE CORPORAL DREW W. WEAVER POST OFFICE BUILDING

Mr. KELLY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3248) to designate the facility of the United States Postal Service located at 112 South 5th Street in Saint Charles, Missouri, as the "Lance Corporal Drew W. Weaver Post Office Building".

The Clerk read the title of the bill. The text of the bill is as follows:

H.R. 3248

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. LANCE CORPORAL DREW W. WEAVER POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 112 South 5th Street in Saint Charles, Missouri, shall be known and designated as the "Lance Corporal Drew W. Weaver Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Lance Corporal Drew W. Weaver Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania (Mr. KELLY) and the gentleman from Missouri (Mr. CLAY) each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania.

#### GENERAL LEAVE

Mr. KELLY. Mr. Speaker, I yield myself such time as I may consume.

I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. KELLY. H.R. 3248, introduced by the gentleman from Missouri (Mr. AKIN), would designate the facility of the United States Postal Service located at 112 South 5th Street in Saint Charles, Missouri, as the Lance Corporal Drew W. Weaver Post Office Building. This bill is cosponsored by the entire Missouri State delegation and was reported favorably by the Committee on Oversight and Government Reform on November 3 of last year.

Mr. Speaker, it is altogether fitting and proper that we name this post office in Saint Charles for Marine Corps Lance Corporal Weaver, a selfless patriot who made the ultimate sacrifice in Iraq at just 20 years of age. Remembered by many for his tenacious spirit, the ability to find the positive in every situation, Mr. Speaker, for being a true hero, Mr. Speaker, I could not agree more.

Lance Corporal Weaver and all of our brave and courageous fighting men and women are true heroes, and I'm thankful to have this opportunity to stand before this Chamber and express my sincere gratitude for all that our servicemembers do and all that they sacrifice each and every day.

I will now yield as much time as he may consume to my distinguished colleague and friend from the State of Missouri, the sponsor of this legislation, Mr. AKIN.

Mr. AKIN. Mr. Speaker, I rise today in strong support of H.R. 3248, a bill I introduced to honor the life of Drew W. Weaver by designating the post office in Saint Charles, Missouri, as the "Lance Corporal Drew W. Weaver Post Office Building."

A resident of Saint Charles, Missouri, Lance Corporal Drew W. Weaver was part of the 3rd Light Armored Reconnaissance Battalion, 1st Marine Division, 1st Marine Expeditionary Force. On February 21, 2007, Lance Corporal Weaver died while conducting combat operations in the al Anbar province of Iraq. As Captain Mark C. Brown noted, Drew was "known for his enthusiasm and his ability to motivate the people around him."

Drew's contribution to his country was honored by his community when hundreds of people showed up to his memorial service and procession. A graduate of Saint Charles West High School, friends and family of Drew remember him as an energetic young man who was eager to serve his country. Ryan Hanson, his best friend and a fellow serviceman, said, "Drew loved what he was doing and was proud of what he was doing in the Marine Corps."

As the father of three marines, one of whom has served in Iraq, it is a privilege to stand here today to honor one of our fallen marines.

Drew's commitment and dedication to his country is a shining example of how our military men and women are the finest the Nation has to offer. His and his family's sacrifice should serve as a reminder to all of us that the freedom we enjoy as Americans is not free but the result of tremendous bravery and selfless service of men and women willing to put themselves in harm's way for freedom's cause.

As Reverend James Benz noted during Drew's funeral, "I think we can learn from them that the freedom we enjoy in this country is precious, that it is special, and that it must be preserved sometimes at great personal cost."

Our Nation will be forever indebted to Lance Corporal Drew Weaver. Mr. Speaker, I ask that my colleagues join me today in honoring Lance Corporal Drew Weaver. Vote "yes" on H.R. 3248.

Mr. CLAY. Mr. Speaker, I yield myself such time as I may consume. As a member of the Oversight and Government Reform Committee, I'm pleased to join my colleagues in the consideration of H.R. 3248, which designates the facility of the U.S. Postal Service located at 112 South 5th Street in Saint Charles, Missouri, as the Lance Corporal Drew W. Weaver Post Office Building.

This legislation was introduced in October of 2011 by my colleague and friend, Representative TODD AKIN of Missouri, and considered and reported out of the committee by a voice vote

on November 3, 2011. Additionally, along with all of my fellow members of the Missouri delegation, we are proud to be cosponsors of this bill.

□ 1710

As was mentioned, Weaver was a native of St. Charles, Missouri. He bravely served with the 3rd Light Armored Reconnaissance Battalion, 1st Marine Division, 1st Marine Expeditionary Force out of 29 Palms, California. On February 21, 2008, the young marine was killed in action in al Anbar province, Iraq, while conducting combat operations in support of Operation Iraqi Freedom.

Mr. Speaker, Lance Corporal Drew Weaver's life and service stand as a testament to the strength and support of his devoted family. He is a fine example of the bravery and dedication of the young men and women who have joined him in serving this Nation and in making the ultimate sacrifice. His devotion to duty was in keeping with the highest traditions of the military service, and it reflects great credit upon himself, his unit, and the United States Marine Corps.

It is my hope that we can honor this outstanding marine through the passage of this legislation. I urge my colleagues to join me in supporting the passage of H.R. 3248.

Mr. Speaker, having no additional speakers, once again, I urge the adoption of H.R. 3248 in honor of Lance Corporal Drew Weaver, who gave his life in service to our country.

I yield back the balance of my time.

Mr. KELLY. Mr. Speaker, I am truly grateful for the brave and heroic service of Lance Corporal Weaver. Let us not forget the ultimate sacrifice that he and so many other young Americans have made in promoting freedom and in protecting our great Nation. I urge all Members of this House to join me in strong support of this bill.

I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. KELLY) that the House suspend the rules and pass the bill, H.R. 3248.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. KELLY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

#### RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 6:30 p.m. today.

Accordingly (at 5 o'clock and 12 minutes p.m.), the House stood in recess.

□ 1830

#### AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. PAULSEN) at 6 o'clock and 30 minutes p.m.

#### THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the unfinished business is the question on agreeing to the Speaker's approval of the Journal, on which the yeas and nays were ordered.

The question is on the Speaker's approval of the Journal.

The vote was taken by electronic device, and there were—yeas 303, nays 89, answered "present" 1, not voting 40, as follows:

[Roll No. 49]

YEAS—303

Ackerman	Cooper	Holden
Aderholt	Crawford	Holt
Akin	Crowley	Honda
Alexander	Cuellar	Huelskamp
Altmire	Cummings	Huizenga (MI)
Amodei	Davis (CA)	Hultgren
Andrews	DeGette	Hunter
Baca	DeLauro	Hurt
Bachmann	Denham	Inslee
Bachus	Dent	Israel
Barletta	DesJarlais	Issa
Barrow	Deutch	Jackson (IL)
Bartlett	Diaz-Balart	Jackson Lee
Barton (TX)	Dicks	(TX)
Bass (CA)	Dingell	Jenkins
Bass (NH)	Doyle	Johnson (GA)
Becerra	Dreier	Johnson, E. B.
Berg	Duncan (SC)	Johnson, Sam
Berkley	Duncan (TN)	Jones
Berman	Edwards	Kaptur
Biggert	Ellison	Keating
Bilbray	Ellmers	Kelly
Bilirakis	Emerson	Kildee
Bishop (GA)	Engel	King (IA)
Bishop (UT)	Eshoo	King (NY)
Black	Farenthold	Kingston
Blackburn	Farr	Kinzinger (IL)
Blumenauer	Fattah	Kissell
Bonamici	Fincher	Kline
Bonner	Flake	Labrador
Bono Mack	Fleischmann	Lamborn
Boswell	Fleming	Lance
Boustany	Fortenberry	Landry
Brady (TX)	Frank (MA)	Langevin
Braley (IA)	Franks (AZ)	Lankford
Brooks	Frelinghuysen	Larsen (WA)
Brown (GA)	Fudge	Larson (CT)
Brown (FL)	Gallagher	Latta
Buchanan	Garamendi	Levin
Bucshon	Gibbs	Lewis (CA)
Buerkle	Gingrey (GA)	Lewis (GA)
Calvert	Gonzalez	Lipinski
Camp	Goodlatte	Loebisack
Canseco	Gowdy	Lofgren, Zoe
Cantor	Granger	Long
Capito	Graves (GA)	Lowey
Capps	Green, Al	Lucas
Carnahan	Griffith (VA)	Luetkemeyer
Carney	Grimm	Lujan
Carson (IN)	Guthrie	Lummis
Carter	Hahn	Lungren, Daniel
Cassidy	Hall	E.
Chabot	Hanabusa	Mack
Chaffetz	Harper	Maloney
Chu	Harris	Manzullo
Cicilline	Hastings (WA)	Marino
Clarke (MI)	Hayworth	McCarthy (CA)
Clay	Hensarling	McCarthy (NY)
Clyburn	Herger	McCaul
Coble	Higgins	McClintock
Cohen	Himes	McCollum
Cole	Hincheey	McHenry
Connolly (VA)	Hinojosa	McIntyre
Conyers	Hochul	McKeon

McKinley  
McMorris  
Rodgers  
McNerney  
Meehan  
Mica  
Michaud  
Miller (MI)  
Miller (NC)  
Miller, Gary  
Miller, George  
Moran  
Mulvaney  
Murphy (CT)  
Myrick  
Nadler  
Napolitano  
Neugebauer  
Nugent  
Nunes  
Nunnelee  
Olson  
Owens  
Palazzo  
Pallone  
Paulsen  
Pelosi  
Pence  
Perlmutter  
Petri  
Pingree (ME)  
Pitts  
Platts  
Polis  
Pompeo  
Posey  
Price (GA)  
Price (NC)  
Quigley

Rehberg  
Reichert  
Reyes  
Ribble  
Richardson  
Richmond  
Rigell  
Rivera  
Roby  
Roe (TN)  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rokita  
Rooney  
Ros-Lehtinen  
Roskam  
Ross (AR)  
Ross (FL)  
Rothman (NJ)  
Roybal-Allard  
Royce  
Runyan  
Ruppersberger  
Ryan (WI)  
Scalise  
Schiff  
Schmidt  
Schrader  
Schwartz  
Schweikert  
Scott (SC)  
Scott, Austin  
Scott, David  
Sensenbrenner  
Sewell  
Sherman  
Shimkus  
Shuster

Simpson  
Smith (NE)  
Smith (NJ)  
Smith (TX)  
Smith (WA)  
Southerland  
Speier  
Stark  
Stearns  
Stutzman  
Sullivan  
Thompson (PA)  
Thornberry  
Tierney  
Tonko  
Turner (NY)  
Turner (OH)  
Upton  
Van Hollen  
Walden  
Walz (MN)  
Wasserman  
Schultz  
Waters  
Watt  
Waxman  
Webster  
Welch  
West  
Westmoreland  
Whitfield  
Wilson (FL)  
Wilson (SC)  
Womack  
Woolsey  
Yarmuth  
Young (IN)

## NAYS—89

Adams  
Baldwin  
Benishke  
Bishop (NY)  
Boren  
Brady (PA)  
Burgess  
Capuano  
Castor (FL)  
Chandler  
Clarke (NY)  
Clever  
Coffman (CO)  
Conaway  
Costa  
Costello  
Courtney  
Cravaack  
Crenshaw  
Critz  
Davis (KY)  
DeFazio  
Dold  
Donnelly (IN)  
Fitzpatrick  
Flores  
Forbes  
Foxx  
Garrett  
Gibson

Graves (MO)  
Green, Gene  
Griffin (AR)  
Hanna  
Hartzler  
Hastings (FL)  
Heck  
Herrera Beutler  
Hoyer  
Johnson (OH)  
Kind  
Kucinich  
Latham  
Lee (CA)  
LoBiondo  
Lynch  
Marchant  
Markey  
Matheson  
Matsui  
McCotter  
McDermott  
McGovern  
Miller (FL)  
Moore  
Murphy (PA)  
Neal  
Olver  
Pastor (AZ)  
Pearce

Peters  
Peterson  
Poe (TX)  
Quayle  
Rahall  
Reed  
Renacci  
Ryan (OH)  
Sanchez, Linda  
T.  
Sarbanes  
Schakowsky  
Schilling  
Schock  
Sessions  
Slaughter  
Sutton  
Terry  
Thompson (CA)  
Thompson (MS)  
Tipton  
Towns  
Velázquez  
Visclosky  
Walberg  
Wittman  
Wolf  
Woodall  
Yoder  
Young (AK)

## ANSWERED "PRESENT"—1

Amash

## NOT VOTING—40

Austria  
Burton (IN)  
Butterfield  
Campbell  
Cardoza  
Culberson  
Davis (IL)  
Doggett  
Duffy  
Filner  
Gardner  
Gerlach  
Gohmert  
Gosar

Grijalva  
Guinta  
Gutierrez  
Heinrich  
Hirono  
Johnson (IL)  
Jordan  
LaTourette  
Meeks  
Noem  
Pascarell  
Paul  
Payne  
Rangel  
Rohrabacher  
Rush  
Sanchez, Loretta  
Scott (VA)  
Serrano  
Shuler  
Sires  
Stivers  
Tiberi  
Tsongas  
Walsh (IL)  
Young (FL)

Mr. DENT changed his vote from "nay" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

Stated for:

Mr. GUTIERREZ. Mr. Speaker, I was unavoidably absent for votes in the House Chamber today. I would like the RECORD to show that, had I been present, I would have voted "yea" on rollcall vote 49.

Mr. FILNER. Mr. Speaker, on rollcall 49, I was away from the Capitol due to prior commitments to my constituents. Had I been present, I would have voted "yea."

Mr. PASCARELL. Mr. Speaker, I missed the one rollcall vote for the day.

Had I been present, I would have voted "yea" on rollcall vote No. 49, on Approving the Journal.

## COMMEMORATING ARIZONA'S CENTENNIAL

(Mr. QUAYLE asked and was given permission to address the House for 1 minute.)

Mr. QUAYLE. Mr. Speaker, I rise today to speak about a very happy occasion for every member of the Arizona delegation. I'm proud to have introduced H. Con. Res. 100, which invites the entire House of Representatives to join with the Arizona delegation in commemorating Arizona's centennial.

For the past 100 years, Arizona has stood as a beacon of opportunity for millions of individuals who came to the State to make a better life for themselves and their families. They came to Arizona and built the State we know today, a State with rich diversity, a soaring optimism, driven by an innovative spirit. They came because they know that Arizona embodies what's best in America.

I can't imagine a better place to live, and I'm proud to call Arizona home. I'm proud that it's the place that I've chosen to start my family, and representing this wonderful State is an honor beyond words.

Arizona has had 100 great years. We start the next 100 with the same spirit of optimism and determination that made our State great, and we still possess that same fierce independence needed to keep it great.

## CELEBRATING ARIZONA'S 100TH BIRTHDAY

(Mr. SCHWEIKERT asked and was given permission to address the House for 1 minute.)

Mr. SCHWEIKERT. Mr. Speaker, as many of you know, today is Arizona's 100th birthday. Think of this: 100 years ago there were only about 200,000 people in Arizona. Today there are about 6½ million.

One of the reasons I wanted to come behind the microphone today is, if you've been watching our Senators and some of my fellow members of our dele-

gation, we've all gotten behind microphones and talked about the wonderful leaders, the Carl Haydens, the Morris Udalls, the Barry Goldwaters that have come from Arizona. But I actually want to say something special about the people of Arizona.

Think of this. In our hundred years, 6½ million have chosen to make it their home. And I believe it's both because of the wonderful lifestyle of Arizona, but also the people themselves. It's a unique population.

Think of this. You have a State full of people who have chosen to pick up their homes in California and the Midwest and back East and venture into a new life, and actually, that type of entrepreneurial spirit, that type of unique personality, I think, is actually what makes Arizona so special.

## ADDRESSING THE ISSUES OF OUR DAY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 5, 2011, the gentleman from Iowa (Mr. KING) is recognized for 60 minutes as the designee of the majority leader.

Mr. KING of Iowa. Mr. Speaker, it's my privilege and honor to be recognized by you to address you here on the floor of the United States House of Representatives and to take up some of the issues of our day.

First I'd like to address the situation that we are in with regard to the payroll tax extension and the unemployment extension and the components that are being deliberated now as a conference committee is trying to get to a final solution.

I'd take you back, Mr. Speaker, to the lame duck session a year ago last December when, within, oh, 30 to 45 days of the election of this 112th Congress, the legitimized now-112th Congress, the lame duck session negotiations took place, initiated by the minority leader of the United States Senate, MITCH MCCONNELL, and the President, President Obama, to deal with a way of extending the Bush tax brackets to avoid the automatic imposition of a 55 percent death tax at midnight on New Year's, beginning on the first minute of 2011. It was the payroll tax holiday, and it was also the refundable tax credits, unemployment benefits extended, and the list went on.

Mr. Speaker, I'd just make the point that we had 87 freshman Republicans waiting in the wings during that lame duck session. They were the legitimate representatives of the American people. And when the United States Congress makes a decision to move forward on large pieces of legislation, any large piece of legislation, in a lame duck session, then it must be something that is urgent and mandatory that we take that kind of action. Our Founding Fathers did not imagine that we would—well, first of all, Thomas Jefferson

□ 1914

Mr. BISHOP of New York changed his vote from "yea" to "nay."



said, large initiatives should not be advanced on slender majorities.

□ 1920

Large initiatives should not be advanced on slender majorities, but, Mr. Speaker, also large initiatives should not be advanced by lame duck sessions of the United States Congress. When that happens, you have a lot of people that are going home: 87 freshman Republicans, 9 freshman Democrats, they replaced all of them, people that were going home. So there's your math.

Ninety-six Members of this Congress today, and there have been several others that have been added, but 96 were waiting in the wings to be sworn into office here in the first week in January so they could do their just constitutional duty, and while that was going on, negotiations were taking place for a lame duck session, a large initiative lame duck session to address Bush tax bracket extensions, unemployment benefit extensions, and for the first time, the severance of the 50-50 relationship between employer and employee in the contributions to the Social Security trust fund.

Now, I've watched that Social Security trust fund since I came here to this Congress, and it was at about a plus of \$1.74 trillion. It's grown to \$2.34 trillion, one of the times I looked. It's moving quickly now because the higher the unemployment, the more damage it does to our Social Security trust fund because the contributions slow down.

As we're seeing baby boomers retire and qualify for Social Security and Medicare, there are more and more demands on the Social Security trust fund.

But the payroll tax holiday that was passed—and that's what it was called—but it actually created a \$130 billion hole in the Social Security trust fund. Now, you can charge it against the general fund, and when the time comes to pay the bill, it will have to come out of the general fund because the Social Security trust fund is borrowed from by the Federal Government anyway.

But the accounting created a \$130 billion hole. You can count that up proportionately and round \$10 billion, \$11 billion a month, each month that there is an extension of the suspension of the 2 percent contribution of the employee into the Social Security trust fund.

Now, that was one of the components from the lame duck session. We never should have, Mr. Speaker, severed the 50-50 bond between equal contribution to the Social Security trust fund out of the employer and the employee. As soon as that happens, it opens the door for class envy. It already had discriminated against the employer in benefit of the employee.

Now, if it had been a reduction of 1 percent from the employer and 1 percent from the employee, at least then the 50-50 bond would have been with-

held. We have, in the past, adjusted the Social Security contribution rate so that we have a viable fund. But we have not in the past broken that 50-50 equal contribution, employer-employee. That happened in the lame duck session. It was one of those things that was agreed to in order to be able to extend the Bush tax brackets. Extending the Bush tax brackets at that time gets us just until December 31 of this year, and then all of the game changes again.

Now, it is a way to avoid having that be a debate while President Obama is up for reelection, just like the debt ceiling was timed so that the President can essentially direct a debt ceiling increase and avoid having a fight here on the floor of the House or the Senate to approve another debt ceiling increase. It looks as though we've negotiated some agreement to keep the President off the hook for holding him accountable coming into this Presidential election.

But to add into that agreement—the lame duck deal, I will call it, Mr. Speaker, when you add to that agreement the payroll tax situation that suspended 2 percent from the employee and didn't suspend any from the employer and broke that bond, we also had the extension of the Bush tax brackets, and we had an adjustment to the death tax, which was zero on the day that this was voted upon, but it jumped to 35 percent. It was automatically going to go to 55.

We also had an extension of unemployment benefits out to 99 weeks, Mr. Speaker. So 99 weeks of unemployment benefits are, as far as the charts that I have looked at and my memory, unprecedented in the history of this country. So the 99 weeks of unemployment, that and extension of refundable tax credits and a few other smaller programs, totaled \$212 billion in outlays just for the duration of that bill, that bill that was negotiated by people who were anxious to make a deal.

Why? I have a little trouble figuring out why the Republicans were anxious to make a deal, Mr. Speaker, because we had 87 new freshmen waiting in the wings. The legitimate voices of the American people, the shock troops that they sent here, they sent them here for fiscal responsibility. Every single one of them ran on the 100 percent repeal of ObamaCare. They ran on fiscal responsibility. They ran on a balanced budget. And \$212 billion went out the window with the lame duck deal without hardly any debate, \$212 billion, most of it to extend unemployment benefits for 99 weeks, but some of it for refundable tax credits. That did not include the \$130 billion created by the suspension of 2 percent of the contribution rate into the Social Security trust fund, that hole that was created.

All of this so the Bush tax brackets could be extended beyond the reelec-

tion of the President of the United States.

That agreement, Mr. Speaker, in my opinion, and it's a strong conviction, should never have been negotiated in a lame duck session. We should have allowed the new Members of this Congress, the 87 freshman Republicans, the nine freshman Democrats, to weigh in, to have a chance to debate, to configure a policy and to vote.

But meanwhile, they were waiting in the wings going through orientation while this vote was taking place. By the time they were actually seated here in this Congress, that horse was out of the barn. That plane had already left the runway.

The horse was out of the barn, the payroll tax was what it was, and it was set to expire at the first day of this year as we know. Now it's been extended for 2 months, and we're in the negotiations to see what to do with the rest of it.

But the problem is rooted back in a bad deal, the lame duck deal, and now this freshman class is being asked to address it, to solve the problem, and to not necessarily reach in their pockets and pay the price but to pay the political price to try to resolve this issue, which is going to go on and on and on until we put the pieces back together, Mr. Speaker.

We've got to put the pieces back together, and to get there politically, no one can paint that picture for me, no one can draw that map. And since I couldn't have drawn that map either, I wouldn't have gone there in the first place.

But we are where we are. It's \$212 billion in outlays to extend unemployment benefits from the lame duck session a year ago last December, and it's \$130 billion in the hole in the Social Security trust fund until you find it some other way, but that's what it is.

The result of extending unemployment benefits out to 99 weeks was that we had a lot of workers in America that were 63 years old that amazingly found themselves unemployed with unemployment benefits guaranteed with no obligation on their part except to sign up, out for the duration of their working career. So it amounted to an early retirement for 63-year-old employees or 64-year-old employees in America, unmeasured in its impact on our economy.

Meanwhile, the measure of what happens when you pay people not to work for 2 years is that their skills atrophy, they're out of the workforce, technology moves on. Not only are they not getting caught up with and staying caught up with technological changes and the modern shifts within our very nimble economy that we must have, but the skills that they had on that day are atrophying.

Now, that doesn't mean that we shouldn't have unemployment. We

should have. The consistent duration of unemployment has been 26 weeks. That's a half a year. If you look at the data, when unemployment runs out people are far more likely to go to work than they are the week before it runs out. It is a fact; it is not an opinion. It's a fact, Mr. Speaker.

But my point here is that we're in this discussion today with a pretty difficult decision that's being made by the conference committee, by the Speaker, the majority leader, and others, but this difficulty we have now is rooted in what I consider to be a mistake in the lame duck deal.

Oh, Mr. Speaker, how I wonder how much different it might have been if we had waited and seated the freshman class, consulted with them, asked them if they wanted to sever that 50–50 equal contribution rate between employers and employees. Ask them if they were willing to accept on their conscience a \$130 billion hole in the Social Security trust fund. Ask them if they were ready to face extending the payroll tax reduction, and doing so in perpetuity. As long as the other side is willing to play class envy, are we going to be willing to continue to dig a hole in the Social Security trust fund?

□ 1930

That is one question in front of us.

Another one that's in front of us—and one I'd like to ask the freshman class also—is:

Did you ever really think that 99 weeks of unemployment was the appropriate thing to do? How did you intend to fund that? Would you have found a pay-for if you'd thought 99 weeks were the appropriate way to deal with an unsettled employment situation in America? Do you have compassion for the employers who are looking to build their businesses with employees when it's difficult to hire them off of the unemployment rolls?

We had a hearing before the Small Business Committee, Mr. Speaker. Before that committee, we had four or five small business employers—there might have actually been six—but I asked them going down the line:

Have you had any kind of luck hiring from the unemployment? They invariably said: Once the unemployment expires, I can hire them just fine. One employer out of the list said that she had hired off of the unemployment rolls on one occasion.

That's fairly typical. I will tell you that I know of businesses in my neighborhood that look around the neighborhood, and they see that there are employees they'd like to hire. They know, when their unemployment benefits run out, they'll be knocking on their doors 1 week or 2 weeks before the unemployment benefits run out so that they're in line to hire them. We have employers who are lining up to hire the unemployed, but they know they can't get

that done as long as unemployment is being paid.

Now, yes, there are people who are unfortunate; there are people who can't find jobs; there are especially people in parts of the country who have an economy that's far worse than that which I represent in northwest Iowa, Mr. Speaker; but we need a logical unemployment plan, perhaps one that ratchets those benefits in an incremental way so that it slowly provides more of an incentive for people to go to work. It's not just that you as an unemployed can't find a job in the community you live in and in the profession that you happened to have been practicing before you were laid off. No, Mr. Speaker. There are many more aspects to this.

There is such a thing as travel: Go and get a job where you can get one. Relocate there if the job is good enough. Go check it out. Call for your family if that's good enough. That has happened throughout the history of this country. Yet our Federal Government is essentially saying to people, You're not going to be obligated to relocate. Some of the people over on this side of the aisle think that somehow we ought to take the jobs to where people live.

It puts me in mind of an article that was researched and written—I happened to have read it in the *Des Moines Register* some years ago, more than a decade ago, I'm certain, Mr. Speaker. They had gone into a neighborhood in Milwaukee, Wisconsin, into a residential neighborhood, and interviewed every household there—all the residences in a six-block-by-six-block area, 36 square blocks. As they interviewed the families and—I guess I can't say the word—analyzed the families and identified the characteristics of the families, they didn't find a single male employed head of household in all 36 square blocks of the residential area in Milwaukee.

The history of that area was that the people in that neighborhood had predominantly been descended from those who had moved up to Milwaukee, right after prohibition ended, in order to take on the brewery jobs, the good brewery jobs in Milwaukee. They brewed a lot of beer in Milwaukee, and they created good jobs there right at the end of the prohibition era, and people were willing to move from the Gulf States up into those neighborhoods to go to work in the breweries. So that would be the thirties, from the thirties to the nineties, a 60-year period of time so to speak. Thomas Jefferson would call that three generations. I'd say probably so. One generation arrived in Milwaukee at the dawn of the aftermath of prohibition. Another generation was born and raised, and the grandchildren were still living there, but they didn't have a single employed male head of household in 36 square blocks.

The story was about the lament, Mr. Speaker, in that we couldn't bring jobs to the people in that neighborhood; but, truthfully, their ancestors—their parents or grandparents—had moved to Milwaukee from the Gulf States for the jobs. Yet it didn't occur to the person writing the article that people could also move for jobs in the modern era. That is what you must do. If we're going to have a flexible, mobile economy, we've got to go to where the work is.

But the disincentive is there from the Federal Government that discourages such things, and we don't ask very much the question about why is it that not a single male head of household is employed in this entire six-block-by-six-block area of Milwaukee. The biggest answer to that is that the 72 different means-tested welfare programs that we have are disincentives for people to find jobs. Now, that sounds shocking to the hyperventilating liberal left, Mr. Speaker, but it's just a fact. It's a fact of human nature. So the discouragement from finding a job has created neighborhoods of people who don't have a tradition of working anymore.

America was built on high productivity and on the efficiency we have, and the intuitive nature, the instinctive, innovative nature of Americans, has been what has made our economy so strong; and it's a very sad thing to think that here we sit with this discussion about whether or not unemployment should be 99 weeks or 79 weeks or 69 weeks. Mr. Speaker, 26 weeks have been long enough for almost all of the history of this country. We are not in an economic situation that matches that of the Great Depression's at this point, although the debt that has been accumulated does match that of the Great Depression's and then some.

I recall the President coming before our Republican Conference on February 10 of 2009, shortly after he'd been inaugurated as President, to make the case that we should advance his economic stimulus plan—his \$787.5 billion, grown into \$825 billion, shovel-ready, spend-now, pay-interest, and pay-principal-later plan. He said to us that FDR's New Deal actually did work. It worked, but FDR lost his nerve. He got worried about spending too much money, so he pulled back. When he pulled back in the second half of the thirties, it brought about a recession within a depression. These are President Obama's words. In this recession within a depression, unemployment went up, and then before the economy could recover, along came World War II, which was the greatest economic stimulus plan ever. That was the President's presentation to us.

President Obama convinced me and, I think, everybody who was listening that day that he will not lose the nerve that he believes FDR lost. President

Obama is the lead Keynesian economist on steroids in the history of the country and, I believe, of the world in that he believes that borrowing money and spending money will stimulate the economy and that, as that economy rolls, the benefits of it will create jobs. He believes if you borrow money and hand it to people, not in exchange for a good or a service that has been produced but just get it in their hands one way or another—if they'll work for it, fine. Then give them something for working. If they won't or if you can't give them something—because they can surely be busy spending as they've got more time to do that if they're not working after all, and spending money stimulates the economy; and, Mr. Speaker, Keynesian economists believe that: that spending money stimulates the economy.

I believe this, that we here in America have to produce goods and services that have a marketable value and that can be sold competitively here and abroad. We need to produce our way out of this economic doldrums that we're in, not spend our way out of it. They believe that if you spend billions of dollars—and in the President's case, I have to give him his due of trillions of dollars, of 4 or 5 or more trillions of extra dollars of debt that have been piled upon us—that that comes back to you several fold.

In fact, the statement was made by our Secretary of Agriculture that, for every dollar in food stamps that gets spent, it stimulates \$1.84 in economic activity. Now, if that's the case, why don't we give out a lot more food stamps. That's because people have to produce the food and because they have to deliver it, stock it, shelve it, and those things. Well, if that's such a good economic stimulator, why don't we just do all of that, throw the food away, and then we can stimulate the economy, too. But who's going to pay the debt?

Here is what I do believe, Mr. Speaker. If we borrow money and if we hand it to people and say, Spend it, spend it, spend it—it's your patriotic duty—it may stimulate the economy for a short while. I call it a sugar high. It may be just for a little while that you can get that little bump—very, very temporary. The trade-off is that the trough that you might otherwise be falling into may not—not will not but may not—be as deep as it would be otherwise.

□ 1940

But the result will be, you have to recover, and you have to pay off the interest and the principal. So even though you might not fall as far, you have a much broader trough to recover from.

We have to pay the interest, and we have to pay the principal on all of this debt that's been accumulated over the

last 3-plus years. And it doesn't mean that the Bush administration is somehow forgiven for the debt that's been driven up. But during the height of the Iraq war, the Bush administration came within \$160 billion of balancing the budget. Now \$160 billion sounds like loose change today compared to the President's budget that he rolled out, which is minus \$1.33 trillion. You run up a deficit of \$1.33 trillion, and you increase taxes by more than \$1.5 trillion in that process, you can see what happens, Mr. Speaker.

This budget that the President has offered should be the news of the day. And maybe we ought to be looking at what's in it. But what we really hear instead is that it's dead on arrival, that his budget will not be brought up—certainly it will not be brought up here in the House. At least I don't think so here in the House, unless it's to illustrate its lack of support.

Last year, President Obama's budget was brought up on the floor of the Senate. And of all the talk about giving the President his due and working with the President on his budget, his budget was voted on in the Senate and voted down 97-0. Mr. Speaker, I don't know that I've had a piece of legislation come to the floor of this Congress that had that kind of unanimous—well, I guess I can't say “support”—unanimous rejection. That would be tough on my ego if I couldn't get anybody to agree with me after I had all that staff put that big budget together. But they didn't want to be held accountable for what the President's budget said.

The President now has a political document—not a fiscal management document—that he'll run around the country, talking about his budget. He will use it to beat up on Republicans that don't support his budget. And maybe he'll realize that it isn't just Republicans; that last time it was HARRY REID and all of the Democrats who voted on the budget over in the Senate. We didn't support it over on this side either.

We had a couple of budgets come to the floor here in the House of Representatives last year, Mr. Speaker. One of them was the RSC budget that balanced in 8 to 9 years. And the other one was what we call the Ryan budget, the Republican Conference budget. That's the one that actually passed here on the floor of the House. And even though that budget had a level of austerity to it, and even though it was ground-breaking in the boldness with which it addressed a path to prosperity, it wasn't strong enough, Mr. Speaker. It went in the right direction. And it was bold by historical standards, but not particularly bold by the standards that we need to envision the future.

Yesterday we had the chairman of the Budget Committee make the statement that we have 2 to 3 years, and we

have the potential of becoming one huge Greece. I have been making a similar statement over the last year and a half or so. And what I believe is that—by the way, Greece is relatively easy to bail out, if you wanted to do that, because their economy is only 2 percent of the EU's GDP. And that's the EU's gross domestic product, just in case the acronyms are bothering people, Mr. Speaker. So 2 percent of the EU's GDP, not that hard to fix.

Here in the United States, we have a different kind of difficulty. The Ryan budget a year ago, though, didn't balance for 26 years and left us with a national debt at the end of 10 years of \$23 trillion. We walked into it with \$14.3 trillion in national debt and ended up 10 years down the road with \$23 trillion in national debt. But when the debt ceiling deal was made last August, it broke faith with the Ryan budget, which projected \$23 trillion in national debt, and became \$26 trillion in national debt. But in fairness, without applying the Ryan budget, we were looking at \$28 trillion in national debt 10 years from now. From \$14.3 trillion to \$28 trillion. The Ryan budget dialed the \$28 trillion down to \$23 trillion. The debt ceiling deal dialed it back up to \$26 trillion in national debt in 10 years.

It's hard to declare a victory over a \$1.2 trillion cut on a debt ceiling deal if you're reducing the projected national debt from \$28 trillion down to \$26 trillion. And if you are dealing with a budget that no longer is binding, having broken faith with at least the big numbers within that Republican Conference/Ryan budget, on a budget that didn't balance for 26 years—I have to go back and look at my three sons who are grown—they're in their thirties right now—and say to them, Sorry we didn't have a balanced budget in the previous decade. We haven't had an effective balanced budget, I don't believe, passed in this millennium. And in 26 years, if all goes well—and we've already said it's probably not going to—we might see a balanced budget. But you will, my sons, be eligible for that Social Security that will be paid for out of the trust fund that has, by then, hundreds of billions of dollars, if not trillions of dollars in holes created in it by paying for things now that make us feel good or we avoid the political confrontation of it.

And you'll never have worked and paid taxes in the United States of America for an entire career and known that a balanced budget is passed out of the United States Congress.

Can you imagine, Mr. Speaker, those sons in their thirties that have been working for well over a decade going through an entire career, knocking on the door of Medicare eligibility, Social Security eligibility, having watched a hole created and expanded bigger and bigger in the Social Security trust fund every year while they're closer and

closer to being able to finally qualify for Social Security and Medicare, and we can't fix this problem now? And the Federal Government is running a deficit for all of those years: 26, 28, 38, add 10, 12,—40 years, 40 years of deficits are what are staring us in the face now, before we can get to the point of paying off the first dollar on our national debt. And that's if we would stick with Ryan's budget of last year. And I'm hopeful we'll do better this year.

But the President, who spoke in his State of the Union address in front of where you are seated right now, Mr. Speaker, when he came for this much anticipated State of the Union address a couple of weeks ago, he made no mention whatsoever of a balanced budget. He didn't make mention of fiscal responsibility, let alone austerity. He laid out his agenda of spending. And I guess I know now why he didn't address the promise that he made 3 years ago in which he said he was going to cut the deficit in half by the end of his term. Well, no, that hasn't happened. That would require a deficit proposal by his budget of roughly a half-trillion dollars, somewhere in that neighborhood. He has got red ink in his own budget of \$1.33 trillion. And he says, This is not the time for us to tighten our belts. This isn't the time for austerity. The economy can't stand it now. Well, the creditors are not going to be able to take this much longer either.

As I sat asking a series of questions over in the German finance minister's office not that long ago, we went through the national debt of the countries that are in trouble, those who have had their bond ratings just lowered by the news that I saw today. And if you add up the national debt of those countries—and I will name them: Greece, Portugal, Spain, Italy, Ireland, Belgium, those countries. If you take the national debt of those countries, not including France, for example, but just the countries that have been, for months now, hanging in the balance of facing the fear of default, their total cumulative national debt, if they paid off everything that they owed as a country, the sovereign debt of those countries that I have mentioned totals \$4.5 trillion.

Now the President already met that. Running up the debt within the first 3 years of his office, he had already arrived at a little over \$4 trillion. So we're in the same neighborhood. The red ink spent under this administration was enough red ink to pay off the sovereign debt of the nations in the EU that are having trouble. I'm not suggesting that we should have done that. But look at the austerity that Greece is having to accept and the fires in the streets, when the streets of Athens go aflame when they find out that about 15,000 government jobs have been cut in order to meet the budgetary guidelines

that they must meet if they're going to be able to borrow money from—who are the players in the European Union? It really comes down to Germany now today.

□ 1950

Fifteen thousand government jobs cut in Greece alone, a little old country that is 2 percent of the GDP of the EU. And we're here, and we cannot tighten our belt. We have a President that puts a budget out that will not even speak of moving toward balance. He will not speak about tightening our belt. But he will demagogue people who will propose such things, and that includes PAUL RYAN.

So, Mr. Speaker, I'm suggesting that we call upon the Presidential candidates who are seeking the Oval Office and ask them, renew your efforts. Declare and ask for the support of the American people; that if you are elected to the highest elected office in this land as President of the United States, call for a mandate from the American people for this Congress to pass a balanced budget out of the House and out of the Senate and message it to the States to begin the ordeal of the ratification of a balanced budget amendment in the 38 States that are necessary in order to implement an amendment to our United States Constitution.

And the balanced budget amendment must have a GDP cap. I'll stand on 18 percent. That's the historic take-out of the GDP for the Federal Government, 18 percent. And it must require a supermajority in order to raise taxes.

Mr. Speaker, this country will not survive in the long run with less. The will to balance the budget does not exist in this Congress today. It doesn't exist in the House. It surely doesn't exist in the Senate. The push from the President for deficit spending is one of the factors. But if you remove the President of the United States and put a new individual in there who is fiscally responsible, we still have the problem of the tendency to overspend and the unwillingness to tighten the belt and the unwillingness to listen to the American people that insist that we balance this budget.

And so, Mr. Speaker, I want to see the Presidential candidates call for a balanced budget amendment. I want that to be actually the second plank in their platform. The first plank needs to be the full, 100 percent repeal of ObamaCare. That's an essential component for us to get our liberty back, and it is an essential component to balance the budget.

We can't afford ObamaCare. It takes away our liberty. It takes away our freedom. It takes away our choices. And we're dealing now with the national debate over right to conscience.

Never in the history of this country have we seen a President that had the

level of audacity to believe that he could sit in the Oval Office and dictate the terms of health insurance policies to every American. And the President did so. Make no mistake, Mr. Speaker. It wasn't Kathleen Sebelius sitting in her office with some of her trusted advisers over at HHS that decided they were going to compel, especially the Catholic but the faith-based institutions who were providing health care services, to provide also for their employees health insurance policies that 100 percent of them would cover birth control pills, other contraceptives, that 100 percent of them would cover sterilizations, tubal ligations—vasectomies in particular.

That 100 percent of the health insurance policies would cover the morning-after pill or the Plan B pill that comes in after the morning-after pill, the ella pill; the ella pill that is prescribed to bring about an abortion up to 5 days but is effective up to 22 days. That would be 4 days after the baby's heart starts beating, I might add, Mr. Speaker.

To compel any religious institution, any person of faith, let alone the Catholic Church, which is the largest single institution standing for life and marriage in the United States of America, the White House understands that if they can plow through the Catholic Church on life and marriage and matters of conscience, then there is no institution left that can stand up to the President of the United States and his radical, social, transformative agenda would have no serious impediment from that point forward.

Thankfully, Mr. Speaker, the American bishops understood what was taking place when Kathleen Sebelius made the announcement, which was actually the order of the President of the United States to compel religious institutions, in particular Catholic institutions, to fund, provide and pay for birth control pills, sterilization, and abortifacients.

That was a violation of the right to privacy. It was a violation of the religious right to conscience, a right to conscience which is guaranteed in the First Amendment of the United States Constitution, freedom of religion.

But for the Federal Government, and I should probably not use that term quite so benignly because this is, for the President of the United States to issue such an order, tells us how radical and aggressive his agenda is, maybe how out of touch he is with the faith community in America.

But I compliment the American bishops for taking such a bold stand, Mr. Speaker. And the stand needed to be taken. When you think about the martyrs of history, it's not a hard stand to take here in the United States of America. You're not going to be crucified. You're not going to lose your head. You're not going to be stoned to death for taking a stand like this. You

might be ridiculed, but when you stand on principle, how can that hurt. It doesn't. If you believe in the principle, it doesn't.

And so, Mr. Speaker, the American Catholic bishops took this position. They said it was a violation of a right to conscience. And they wrote: We cannot, we will not, obey this unjust law. The strongest language that I have heard read from the pulpit in my years as a faithful Catholic. We cannot, we will not obey this unjust law.

A bold position, a bright line, uncompromising. And I know the question was posed that the delay of 12 months in implementing the rule was to give the religious institutions an opportunity to make accommodations and adjust to the imposition of the Federal Government in requiring them to violate their conscience.

Mr. Speaker, I'd submit that one does not violate their conscience. If it is a conscience clause that protects you, that's one thing, but it is your conscience that prohibits you from crossing the line.

The lives of babies are ended by morning-after pills, by the ella pill; and it is a direct violation of the teachings of the Church and no government can compel a church to violate its conscience. Nor can a government compel individuals to violate their conscience. This rule that was imposed was designed to do that, and I believe the President calculated that he could fracture the Catholic Church in doing so. And if he were successful in doing that, then there would be not an impediment in the way with the other components of the radical social agenda.

But, Mr. Speaker, that didn't happen. It's not going to happen. The bishops listened to the President's "accommodation" and bought a little bit of time and said we're going to study this and deliberate and we'll give you an answer. And they did. They studied it, deliberated, and they came back with an answer in a short period of time. It was less than 48 hours, as I recall, and rejected the President's accommodation because it still violates conscience, and it violates the conscience of many faithful Americans and Americans of all religious denominations. Particularly, it runs directly against the principles of the Catholic Church.

And so, Mr. Speaker, we now have a bright line drawn along the line of conscience protection, and we're having a good American debate on conscience protection, and I'm hopeful that we'll be able to get that established. But I would caution this body, Mr. Speaker, if I were addressing them instead of yourself, that we should not accept the idea that we can go into ObamaCare. All this power and authority is rooted in ObamaCare. ObamaCare grants this authority to the executive branch. The President assumes the authority be-

cause he makes the appointments within in the Department, such as Kathleen Sebelius.

But to make changes in ObamaCare that essentially lower the pressure, the 1099 squeal forms component, well, this House passed a bill to repeal it. And you've got other components of ObamaCare that have been egregious and efforts made to repeal a little piece here, a little piece there. The medical equipment tax would be one of those. And now we have the violation of conscience that imposes that everybody in America pay for everybody else's contraceptives and their sterilizations and their abortifacients. My conscience won't let me do that, Mr. Speaker.

□ 2000

But yet the President of the United States believes he has the power built into ObamaCare; and every time we come to this floor and pass a piece of legislation, it takes some of the pressure off from a legislation that would amend out the most egregious aspects of ObamaCare. I remember some of the language back when ObamaCare was passed, and some of the leaders within this Congress—and I count you all as leaders here, as I address you, Mr. Speaker—have said, We will repeal the most egregious aspects of ObamaCare. The most egregious aspect? Mr. Speaker, every aspect of ObamaCare is egregious. It is because it's a violation of our American liberty. And if we repeal one egregious aspect after another after another after another, each time we do that, we take the lid off the pressure cooker, and we lose that opportunity for the heat to come up where we can solve the whole mess.

So I have argued since the beginning, we need to hold the lid on, keep the pressure on and let the heat increase until such time as we are all ready to pass a repeal of ObamaCare and send it to the next President. This President, we have an idea what he would do with it, but the next President will sign the repeal.

And so I've worked on that relentlessly over the last couple of years and worked with each of the Presidential candidates on this, and every Republican candidate has taken a pledge or an oath multiple times for a 100 percent full repeal of ObamaCare. Almost all but one of them have pledged to rip it out by the roots, to repeal 100 percent of ObamaCare and not leave one particle of it left behind.

It's what we must do if we're going to keep faith with our Founding Fathers. It's what we must do if we're going to protect, preserve, and refurbish the liberty that is God given to us as Americans. It's what we must do if we hope to have an economic future in this country with an unsustainable ObamaCare staring at us. It's what we must do if we're going to have research and development in the health care in-

dustry and if we're going to continue to lead the world in providing health care. It's what we must do if we're going to preserve and protect the Constitution of the United States, which we've all taken an oath to uphold.

All of these are reasons for the full 100 percent repeal of ObamaCare, Mr. Speaker. It needs to happen. It needs to happen in the first weeks of the next Congress, and the repeal needs to be set upon the podium on the west portico of the Capitol, prepared there for the next President of the United States so, when he takes the oath of office, his first act of office can be to sign the repeal of ObamaCare right there at the podium, the west portico of the Capitol. I hope to have a good seat for that glorious occasion, Mr. Speaker, and I'll intend to do my share of the work to continue this argument to position us so that this Congress is prepared to pass that repeal.

I believe that we should just go through a warm-up drill here fairly soon. Now, this is St. Valentine's Day, February 14. Sometime in the next 30 to 60 days would be appropriate, Mr. Speaker, for the House of Representatives to renew and refresh our vote to repeal ObamaCare again. Perhaps the people over in the Senate have understood how important it is and have changed their mind, but I believe that this Congress should remind the American people that we are still—100 percent of the Republicans—in a bipartisan way in favor of the full 100 percent repeal of ObamaCare. That's an important message to send.

Mr. Speaker, I'd also submit that the repeal of Dodd-Frank is an essential component, too. We've got to do a lot of undoing of this administration before we can get turned around to doing what we need to do to start the reform process over again. We will have lost 2 or 3 or more years before President Obama, and being locked up in a Congress that's led by NANCY PELOSI then and HARRY REID on the floor of the Senate, and we'll have lost 4 years of the Obama Presidency. We've got to make some progress. We've got to make some progress, and that can't come as long as ObamaCare sits in the way. It can't come as long as Dodd-Frank sits in the way.

The decisions that were made by BARNEY FRANK and Chris Dodd to presumably reform the financial world, the solutions came from some of the people that contributed to the problem. And I would suggest that we do this as a financial package, Mr. Speaker, and that would be in the early days of the 113th Congress to pass the repeal of Dodd-Frank, to pass the repeal of the Community Reinvestment Act, and to move Fannie and Freddie even more boldly towards privatization. And some of those, I understand, are in the agreements that are being negotiated right now. But it won't be bold enough or strong enough, I'm convinced of that.

And, by the way, let's repeal Sarbanes-Oxley while we are at it. If we do that—running the table is what I would say—repeal Dodd-Frank, Sarbanes-Oxley, the Community Reinvestment Act, and move Fannie and Freddie toward privatization, all of these things will lay a foundation where we can write some reasonable regulations in on our financial institutions and open this country back up to do business again, Mr. Speaker.

I think it would be appropriate of this Congress to move the repeal of Dodd-Frank that MICHELE BACHMANN has introduced. She has carried that legislation with her around on the Presidential campaign trail. She is the lead on repeal of Dodd-Frank. And I think a great way to welcome her back to the conference after a brilliant run for the Presidency would be to bring her repeal bill forward here on the floor, the repeal Dodd-Frank. And it sends a message, Mr. Speaker. The message that it sends is the House is for repeal of Dodd-Frank. The Presidential candidates are for repeal of Dodd-Frank. Send it over there to the Senate and see what they want to do about it. But getting that marker down helps encourage the Presidential candidates that this Congress is in and will be in lockstep with the Republican nominee.

Those principles that are universal among all Republican candidates at this point should be moved by the Republican majority in the House of Representatives. For example, passing official English. Eighty-seven percent of the people in this country support English as the official language. It sits there as a dormant issue because it seems as though the only agenda that this Congress has is jobs, jobs, jobs. Well, people earn better pay and better benefits in their jobs when they have English skills.

We burn billions of dollars—and that means “consume” or “waste.” That was a hyperbole, so to speak. We waste billions of dollars in multilingualism, when the strongest and most powerful unifying force known to humanity throughout all of history is having a common language. It's more powerful than a common religion, a common background, a common race or ethnicity. It's more powerful than a common sex. It is the most powerful unifying source in the world.

When God looked down at the Tower of Babel and He said, Behold, they are one people, they speak all one language, and they are building the tower to the Heavens with the arrogance that we remember. He said, Behold, they are one people, they speak all one language and nothing they propose to do will now be impossible for them because of having a common language to bind them together. So God scrambled their language, and that's where the Tower of Babel came from, and they began to

babble. They couldn't understand each other, and they split up to the four winds. And that's the Old Testament story about how we ended up with so many different nations.

We also know historically what has happened. People move into enclaves and live in those enclaves. They communicate with each other. If they do that and don't have a language, they'll create their own. But even if they go there with a language, the language morphs into something else if it doesn't interrelate with the other communications in the region, in the neighborhood, and in the world.

So we have encouragement going on in this culture of encouraging language enclaves instead of the success of assimilation. And I think we should move the H.R. 997, the English Language Unity Act, here right away. It's an 87 percent issue. I know nothing more popular than that. If I've got an agenda here, Mr. Speaker, that is as popular as 87 percent among the American people and I can't get a vote, meanwhile, the President can offer his budget and 97 Senators reject it and he gets a vote, there's something really wrong with that. There's a lot of disparity between the two.

So I think that's another thing that needs to happen. Let's move English, and let's move the repeal of Dodd-Frank. Let's move the repeal of ObamaCare. Those pieces would be good messages to send to the American people. They're good pieces of policy to be established to lay on the desk of HARRY REID that can join the cordwood of the jobs creation legislation that this House has sent over to the Senate and help set the stage for the next President of the United States who needs to come in with a strong mandate from the American people, from the United States Congress, with a clear vision that Americans support our new President to take us where we need to go as a people.

□ 2010

But the components of the agenda of the next President need to include a balanced budget—a balanced budget amendment, a commitment to that balanced budget amendment, and a mandate from the American people to get that balanced budget amendment passed. It's the only way that I can see that we get that accomplished, Mr. Speaker. We need to call for the Presidential candidates to call for a balanced budget amendment.

So I will go through these issues again: pass a balanced budget amendment, one that has an 18 percent cap on spending of GDP, one that requires a supermajority to raise taxes, that has legitimate exemptions for a declared war or a case of a serious national emergency. Balanced budget amendment, repeal ObamaCare, repeal Dodd-Frank and the other financial compo-

nents that I said, and let's move forward with a country that's based upon freedom, upon liberty, upon free enterprise. If we do all that, Mr. Speaker, the American people will take care of the rest.

We still have interest that we've got to pay and principal that's got to be paid down before we can get rid of the interest bill. This is a huge credit card that has been run up. The debt of the countries in trouble in the EU is \$4.5 trillion. And now President Obama's \$1.33 trillion added on to his \$4-plus trillion threaten to take his term of the Presidency well over \$5 trillion, knocking on the door of \$6 trillion in accumulated debt in his time in office.

Whatever we do that's good, we still have to pay the interest and have to pay the principal on that debt. So the recovery time, the depth which we might have otherwise fallen a little bit further, it takes a lot longer to recover when you borrow the money to do so. That's the nature of the free enterprise system. That's the nature of capital and investment and risk. That's the nature of Keynesian economics that the President has embraced.

I am a supply-sider. I don't believe that borrowing money, handing it to people, telling them it's their patriotic duty to go out and spend that money is how we're going to recover from this economy. We're going to recover from this downward economy by producing those goods and services that have a marketable value here and abroad. We do that, we'll sell, we'll compete, we'll rebalance our trade deficit, we'll make American industry strong again, and we will again be the powerhouse of the world. When that happens, we are strong culturally, politically, we are strong militarily, we are strong economically, and we will continue to be looked up at by the rest of the world.

If we fail economically, if we become one huge Greece—as Chairman RYAN is concerned, and as I am and many others—if we become one huge Greece, there is no one to bail us out. There's no one there. We can hold our tin cup out, but no economy will be big enough to put enough in the tin cup that we can get a meal. We would be in a situation of default. It would be a sad, sad day in America. It would take generations to build our credit back again. It would take generations to recover. In fact, the trajectory of this country would be so altered that we could never recover.

Power abhors a vacuum; it fills it. If America has an economic crisis, as I'm suggesting looms in our future, that power, that global vacuum will be filled by our competitors. Much of that power that is projected around the world has been paid for in treasure and blood, Mr. Speaker. We must maintain that for the future destiny of our country. We must maintain it out of honor for those who have sacrificed so much



to protect freedom and liberty around the world.

We are a great country. We're the unchallenged greatest Nation in the world. We derive our strength from Judeo-Christianity, western civilization, and free enterprise capitalism. We need to understand those underpinnings of American exceptionalism, those pillars of American exceptionalism. We need to celebrate them. We need to teach them. We need every child to understand the pillars of American exceptionalism and be able to recite them in the same fashion that the seven sacraments are recited in the very Catholic Church that's standing up for our constitutional rights today, along with the other faith-based organizations.

It's a big picture we have going on in this country, Mr. Speaker. It's a great country that we are. It's a great country filled with great people, people with individual spirits, individual sense of self-sacrifice, willing to tighten their belt, willing to carry their share of the load.

And what do they want out of it? An opportunity to work, prosper, raise their family, live free without an oppressive government reaching in and regulating every aspect of their very lives. They want to be able to utilize the God-given liberty that was articulated by our Founding Fathers, and promote that kind of liberty to all humanity throughout the world, wherever they may be.

Mr. Speaker, I appreciate your attention to the discussion that I've had with you this evening, and I would yield back the balance of my time.

#### MAKE IT IN AMERICA: MANUFACTURING MATTERS

The SPEAKER pro tempore (Mr. PALAZZO). Under the Speaker's announced policy of January 5, 2011, the gentleman from California (Mr. GARAMENDI) is recognized for 60 minutes as the designee of the minority leader.

Mr. GARAMENDI. Mr. Speaker, thank you very much.

I'm joined tonight by two of my colleagues, Mr. TONKO from New York and Mr. ALTMIRE from Pennsylvania. We're going to be talking about the President's budget and about one of the issues that we think really will propel America back to the leading edge of the world's economies.

We've had some tough times, but we've seen some progress. If we can once again make it in America, we're going to see this economy grow, we're going to see the middle class come back to life. We're going to see an expansion of wealth and the opportunity for families to make it in America when we make things in America.

Let me just start off this discussion with the progress that's been made.

Some of our colleagues here would like to say that nothing good has happened over the last 3 years when, in fact, this chart, which is from the Department of Labor Statistics office, points out very, very clearly where we have come from since the Great Recession began.

If you take a look at this, the gold columns over on the far left—or far right, depending on your perspective—you can see the great decline that took place from 2007 until January and February of 2009, when President Obama came into office. Since that time, we've seen a steady improvement in the number of jobs in America. So even though we were seeing here in this particular 2009 period a continued decline, each week that went by we saw improvements, less of a falloff, and we began to emerge from the depths of the Great Recession.

So beginning here in about 2010, we began to turn around and we began to see positive job growth. Every month since that time we have seen positive job growth in America—not enough, not enough to satisfy any of us on the Democratic side and not enough, I'm sure, on the Republican side, and certainly, as President Obama said when he appeared here at the State of the Union, not enough to satisfy the President.

So we're now looking at the President's budget going forward, proposed, came to the Congress yesterday. That budget lays out how he would like America to move forward, and how we in the House of Representatives and the Senate can put into place the laws, the programs, and the money to pay for the advancement of the American economy.

□ 2020

So we're going to spend tonight building off the President's budget and the things that are in there.

Over the last year, my colleagues and I have been talking about the key ladders to success, those things that create opportunity in America. And certainly, they're education, it's the research, it's the manufacturing, the infrastructure, and the opportunities that come with them.

Tonight we'd like to start by focusing on one part of the President's budget, which was the R&D, the research and development portion of the President's budget. Now, in any economy, if you're going to grow that economy, you have to stay in the forefront of technologies. America has been the best in the world at this. And in doing so, we have created extraordinary growth in the economy and opportunities for new businesses.

Unfortunately, in the last 20 years, we've seen those businesses go offshore. But the genesis of that growth is often in the research and development, usually funded by the Federal Government. And that research and develop-

ment comes in several different parts of the Federal budgets. Certainly, we see it in health care, the National Institutes of Health. We see it in the national science, in the Energy Department, and in the military. Each of those organizations has a research budget, and from that budget comes new innovation, new products.

For example, the defense research agency, known around here as DARPA, really did the grunt work, the initial development and research to create the Internet. And we've certainly seen what that has meant to America.

Now, with that introduction, \$148 billion in the President's budget for all the research and development that the Federal Government supports gives us the opportunity to create the new solutions to today's health problems, today's economic problems, energy issues and defense issues.

Fortunately, my two colleagues today are well-steeped and very, very knowledgeable about the research budget. My colleague from New York ran a research program in New York. Share with us, and then if you'll reflect on the President's budget.

Mr. TONKO. Sure. Absolutely.

Representative GARAMENDI, thank you for bringing us together for an hour of thoughtful discussion, dialogue that needs to be exchanged here on the House floor so as to promote what I believe is a very progressive agenda.

And in my heart, I believe that the President has promoted a budget here that allows us to move forward in a progressive style to be able to talk about sustainable outcomes, to be able to talk about meaningful employment, cutting-edge ideas that will now take us, as a sophisticated society, embracing our intellectual capacity, to move forward with the soundness of job creation in the realm of high tech.

Now, we have been talking on the floor, a number of us for several weeks now, months perhaps, about the vision of reigniting the American Dream, reigniting that American Dream through the underpinnings of small business as the pulse of American enterprise and, certainly, entrepreneurs who are those dreamers and movers and shakers and builders that provide the soulfulness of the vision of how we can move ideas forward that translates into jobs and translates into product development.

Then finally, a thriving middle class, making certain that in any democracy the measurement of a resounding future comes through the measurement of how well that democracy's middle class is performing. And so we know that, through reforms out there, we can go forward with this budget and address small business, entrepreneur development, and thriving middle class dynamics in a way that will build the sustainable outcome.

We cannot, in my opinion, I totally believe that we cannot cut our way to



prosperity, cut our way to opportunity, cut our way to an economic recovery. We do it through investment, investment of the soundest order.

Now, to your point, I had served, before entering Congress, as president and CEO of NYSERDA, the New York State Energy and Research Development Authority. And it was there that I got to see programs that we've devised and funded through the State legislature, where I served for nearly 25 years, my last 15 of which were as energy chair. It was quite an eye-opener to see the program development that was providing job opportunities of a new variety, of a cutting-edge opportunity.

And there, not all the research scenarios were, perhaps, a success story; but without that investment, without government joining forces with academia and the private sector, we do not strike that sort of visionary outcome, and what you saw were tremendous investments made that enabled us to pave the way for investments in the Internet, or GPS, or working through the DARPA vision of how we strengthened our military, and then sharing a lot of that information and that intellectual property with the growth of jobs here in this country.

That is the sort of opportunity that is envisioned here by the President in his budget presentation to Congress. And it's that sort of investment that believes in the American worker, believes in a thriving middle class, believes in the strengthening that small business brings to any community, and believes in entrepreneurs, that "rags to riches" scenario that has been, you know, very much a part of our American story. The American history is replete with success stories, "rags to riches" scenarios where America was seen as the promised land.

Well, we have not abandoned manufacturing. We have endorsed this idea of investing in manufacturing, investing in research; and I am really pleased to see that we're moving forward with soundness, with this budget presentation in a way that translates into jobs, no other higher priority, and we do it by reigniting the American Dream.

So, Representative GARAMENDI, seeing those success stories through the lens of NYSERDA, the New York State Energy Research and Development Authority, where we were able to speak to water efficiencies, where you're saving mountains of electrons, we got to see it in electric vehicles that were being developed, we got to see it in energy retrofits for business.

These are the sorts of ideas that a sophisticated society embraces. We don't abandon these goals. We get into it full steam and go forward.

And by the way, it's because we are competing with other nations in what is a global race on clean energy and in-

novation. If we don't take that in, if we don't acknowledge that we're in the midst of that race, we will watch nations pass us by, and we will let down generations of American workers, and that would be unforgivable.

Mr. GARAMENDI. Mr. TONKO, thank you so very much, and thank you for your extraordinary experience in dealing with research and then translating that research into real things that Americans could make.

Now, the great manufacturing center of America is represented here by my colleague from Pennsylvania (Mr. ALTMIRE). Thank you for joining us, and share with us your thoughts as we look at the President's budget and on making it in America.

Mr. ALTMIRE. I thank the gentleman from California and my friend from New York (Mr. TONKO). We have a discussion going now about manufacturing in America. And our colleagues understand the relationship that exists between manufacturing and R&D, research and development. And it's critical that we look at those together, because of the discussion that we're having in this country about why, over the past several decades, we've lost so much in manufacturing, we've lost our core manufacturing businesses.

I come from western Pennsylvania. We have seen the steel industry over the past several years. Although there is a resurgence today, it's been many, many years since we lost a lot of that steel industry that we had in western Pennsylvania, and it was the core base of employment for generations in the Pittsburgh area.

Across the country, we've seen our manufacturing industry decimated by foreign competition; and the reason R&D relates to this, as the gentleman certainly knows, is it's a continuum. And at first, when America lost its manufacturing lead to other countries, we still kept the innovation; we still kept the R&D. But the continuum that exists between someone in America coming up with an idea, an invention, turning that, through R&D, into a real product, a real innovation, we have always been the leaders in that in America. Americans have led the way with innovation, with creation, with technology, and then turning that into the manufacturing sector, turning that towards product development, manufacturing, exportation to other countries, creating a base of people who are going to use that product.

The whole continuum is something that we have seen over the last several years through foreign competition. We've lost our lead in a lot of those things. And because of our failure to invest in research and development, because of our failure to keep up with the foreign competition, we've lost even more than just the manufacturing sector. We've lost our competitive edge on the innovation side as well.

That's why it's so critical, even in the times that we face now, severe fiscal restraint, a recession that we are finally recovering from. We have to continue to make that investment in R&D because, as the gentleman from New York said, if we don't do it, other countries will—and they are. And if we expect to compete in a global economy, if we expect to get back our lead in manufacturing, which we are starting to do, it has to begin at that first stage of innovation, of research and development, creating new products, leading to new ways of manufacturing, more cost-efficient ways of manufacturing.

We're going to be able to do it, and we're starting to see the resurgence in America specifically because we understand that continuum that exists. It would be a tragedy for workers in this country to begin moving in the other direction.

I thank the gentleman for his leadership.

□ 2030

Mr. GARAMENDI. Thank you, Mr. ALTMIRE, and thank you for the work that you've done for us in western Pennsylvania. Indeed, at one time, I know, when I was growing up, it was the center of the American steel industry and manufacturing there, and to the immediate west in Ohio and Indiana and on.

I want to put up this chart because it really demonstrates the challenge that we face and the opportunity that we have.

This chart speaks of the 12 years with 6 million American manufacturing jobs lost. Let's go back about 20, 25 years ago. There were just under 20 million manufacturing jobs in America. Over the years, it was up and down, with a slight decrease. Then beginning around the year 2000, we began to see a precipitous decline, basically the outsourcing of American jobs. The great manufacturing heart and heartbeat of America just began to slow down to a rhythm where now we are down to just over 11 million manufacturing jobs. This is our work. This right here. This decline is the challenge that this House faces.

When you start with what the President has suggested, you start with R&D, because that's the genesis. That's where the new ideas and the new products are developed. Then you have to couple that with manufacturing.

I want to give just two examples from my own district, one that I learned last weekend when I was back home in the Sacramento Valley just west of Sacramento.

A university town, the University of California, Davis, about 10 years ago, some graduate students at the engineering campus or the engineering school there at the University of California, Davis figured out a new program, a new way to do advanced manufacturing. They were into machine

tools, and they figured out a way to take machine tools and make them far more productive and innovative and capable of doing some really different things. They took that idea—these were the entrepreneurs that you talked about, Mr. TONKO. They took that idea and they started a small business. In the intervening years, they began to grow. They now employ 75 people in the Sacramento region for the development of these advanced machine tools.

A company in Japan took a look at this and said, Oh, we want to do that. They were in this business. So they bought the company, and they thought about taking the company back to Japan. No. Didn't happen. Instead, they decided to build that manufacturing facility in Davis, California. That factory is now being constructed, and it will soon employ a hundred people.

So here we have an example of where research out of the University of California, Davis engineering school led to the creation of a new business in the machine tool industry and the continuation of research and development and advancement and, now, manufacturing taking place in California.

There are a couple of other pieces of public policy that fit into this continuum of development of economic growth, and they were policies that were put forth by the House of Representatives when the Democrats controlled the House. It was this: For any company that wanted to make a capital investment, they could immediately write off that total investment in the first year. Rather than depreciating that investment over 7, 10, 15 years, they were able to take advantage of it. A very, very powerful incentive to make it in America, to build your manufacturing facility in America.

So this company, DTL, is now growing in California as a result of the research at the university, coming out, entrepreneurs taking the ideas, building a business, and now investments, in this case by a foreign company, into the United States. We call that insourcing.

I'll come up to the other example a little later.

Mr. TONKO, take it from there.

Mr. TONKO. Representative GARAMENDI, thank you for that lead-in. Certainly Representative ALTMIRE talked about the need for us to invest in manufacturing, when you look at that precipitous drop, losing the many millions of manufacturing jobs, perhaps the largest loss of manufacturing jobs in world history. It's up there. It ranks very high. Why? Well, policy, tax policy that encouraged taking jobs offshore and investing in other nations. We were rewarding that behavior.

What we're talking about now is turning that around, doing this U-turn, putting the brakes on a process, on an incentive that really was destroying

hope for American workers. So now what we see is a new vision of providing incentives for those who will build opportunity in this Nation.

Also, I think when we look at some of the focus that existed or didn't exist over the past decade and a half, you look at where we were going as a Nation, and the focus wasn't on agriculture, it was not on manufacturing, but it was on the service sector, and primarily on the financial service sector.

Now, we know that scenario. We won't go down that road. Suffice it to say, we turned our back and said, Here's the keys; play as you wish. No watchdog in the equation, and people created vehicles by which to circumvent regulation. So we put at risk the Nation's economy. Every family that invested into their future was put at risk.

So we ignored manufacturing.

Mr. GARAMENDI. Mr. TONKO, may I interrupt you for a moment?

Mr. TONKO. Absolutely.

Mr. GARAMENDI. You mentioned something that we actually talked about last week. I want to hand you this chart. If you would hold that one up there and let me go back to the microphone.

You mentioned the effort that we made in the 2002 change from a manufacturing economy to what this chart calls a FIRE economy—finance, insurance, and real estate—a FIRE economy, one that collapsed because it was about manipulating money instead of creating mechanical engineers and chemical engineers and nuclear engineers. We created financial engineers. The result? Not good. The Great Recession.

Please excuse me for interrupting.

Mr. TONKO. It's a valid point. Where was that linear, where was that outreach, that extension into all of America with the good products we developed that would serve this Nation well? So what we're talking about now is bringing back some programs.

What was ignored was the Manufacturing Extension Partnership, MEP. MEP is a program I hear about all the time from my manufacturers who are still clinging on, who are working trying to be productive, offering hope to the worker. They're saying, Where is the MEP program? Well, it was brought back last year, and it's reinstated into the budget this year. The request to Congress is to support the Manufacturing Extension Partnership.

What does that do? It's an MEP program. Okay. It's alphabet soup. But what does it do? It allows for manufacturers, small and medium-size businesses, small and medium-size manufacturing firms, to develop additional markets.

The President has said let's get into exporting; let's build it in America and export to the world. That's a vibrant

economy. Also, it enables us to define, to explore new opportunities and to adopt those technologies and retrofit our manufacturing base with that know-how, with that productivity margin growing. That means greater opportunity for us to compete in the global market, to create jobs, and to provide hope again for the worker.

So it is good to see that MEP, the Manufacturing Extension Partnership, is back in this budget. It's a statement that we care about manufacturing, we care about small and medium-sized businesses, and that we are going to see that as the springboard, the economic springboard to the economic recovery that we so much deserve.

It's about priorities. That's what a budget is. It's like, Where are you putting your investment? How are you developing that formula? What is the hope that you anticipate that is translating to America's working families?

This is the moment for us to move forward by reigniting the American Dream, doing it through small and medium-sized business, the pulse of the American enterprise, investing in those dreamers, those movers, those builders, those entrepreneurs, and then resulting in a thriving middle class. Again, where there's a thriving middle class, you have a strong democracy.

So reignite the American Dream, and, gentlemen, we have work to do.

Mr. GARAMENDI. Indeed we do. We have much work to do.

Mr. ALTMIRE, you've been working long and hard here in the U.S. Congress on these issues. Carry on this discussion.

Mr. ALTMIRE. I wanted to transition into talking about the trade deficit that we're facing in this country. But before I did that, I wanted to close the loop with what Mr. TONKO and Mr. GARAMENDI have been talking about for my colleagues.

□ 2040

I hear a lot back home. You'll have town hall meetings, and you'll have discussions with people about federally funded research. It seems as though there's always an example somewhere of a research project that seems on the surface to be unjustifiable, and in some cases, people will argue it's ridiculous that we're funding certain things. I just wanted, for my colleagues, to give a couple of examples of federally funded research that has paid huge dividends for everyday life.

There was in the late 1970s and early 1980s a big national story about federally funded research that studied the eyesight of eagles. At the time, it was considered to be a mockery—it was of no use to society, and it was a waste of money. Well, lo and behold, what did we get out of that research? We got night vision goggles for our troops who were serving overseas on the military battlefield. We got soft contact lenses.

We got so many innovations from that type of research. The touch screen on our everyday iPad was federally funded research out of the University of Delaware, of course many years after what I'm speaking of. The GPS system, which so many of us rely on, was from federally funded research. The Internet was created, as we all know, through the Pentagon and federally funded research.

So I would say to my colleagues, for those who may be skeptical that certain projects—and you know, I'm sure there are some that you can point to that haven't paid dividends, but there are some that maybe on the surface didn't sound like good ideas in the beginning that have paid huge dividends. I would go back to that example of studying the eyesight of eagles. LASIK eye surgery was the byproduct of that type of research. So investment is what we're talking about. Research and development just pays back so much more than what we're paying into it.

The R&D tax credit has to be made permanent. That is a key part of this. The manufacturing extension partnership that the gentleman was talking about is a key part of our future in this country, bringing back a resurgent manufacturing base. What happens if you don't do that? What happens if you aren't competitive in the global economy?

It's what this chart shows.

Now, this will come as no surprise to our colleagues. This is the U.S. trade deficit from 1976 through 2008. You don't even need to look at the numbers, and you can see it's heading in the wrong direction and that it has been heading in the wrong direction for a very, very long time, and there are a lot of reasons why this is.

Some of it has to do with our foreign competitors and their getting their act together and joining the world competition in a way that they hadn't before. But a lot of it has to do with our own policies and the fact that we have not invested, that we have not had a strategic manufacturing strategy in this country and that we were a little bit slow to react to what was happening overseas.

The role that we have in this House is to change that, and we have a decision to make in this country: Are we going to continue to allow this to happen and just sit back and wait while other countries continue to improve, to modernize, to become more cost-efficient, to become more competitive, and to continue to make this trend worse for the American worker? Or are we going to take action? Are we going to invest in our future? Are we going to change the way that we do our manufacturing strategy in order to incentivize making products in America?

We talked a couple of weeks ago, the gentleman from California and I, on

this very floor about a provision of our Tax Code which may very well be, in my opinion, the most egregious and unjustifiable provision in the entire Federal Tax Code, which is, if you have physical assets, if you have a plant in this country, a manufacturing plant, and if you want to move that plant overseas, if you're going to close your operations, if you're going to get rid of your American workers, if you're going to move your physical assets, literally move those assets overseas, in some cases, you can get a tax deduction for the cost of your moving expenses. The American taxpayer, believe it or not, will cover the cost to move that plant overseas.

That's ludicrous. There is no reason that provision should exist, and that's one of the reasons you see the chart going in the wrong direction—because we have been slow to react. Yet we're at a turning point in this country. We have a tremendous opportunity in front of us to do the right thing, to change the policies that have led to our trade deficit and to begin turning the corner and heading in the right direction.

Mr. GARAMENDI. Thank you very much for pointing out the eye of the eagle. We have to keep our eye on this particular prize, and that's rebuilding the American manufacturing sector.

I handed this chart to Mr. TONKO a while ago. It really needs a further explanation.

What we did beginning in 2000, actually before that, was to develop a FIRE economy—finance, insurance, real estate—not manufacturing. So manufacturing was allowed to decline, and of course real estate, finance, and insurance grew and became the essential economy in the year 2000 to 2010. And, of course, the great collapse in 2007 and 2008 as a result of, as Mr. TONKO said, regulatory oversight disappearing and anything goes. We're reversing that.

Mr. ALTMIRE, you talked about the egregious tax policy of giving the tax breaks when companies offshore jobs. It was actually in 2009, just before the new Congress came into effect, that we enacted legislation that eliminated much of those tax breaks.

Now, there is more to be done. In the President's budget, he calls for the full elimination of tax breaks to companies that offshore jobs and, as he said here in the State of the Union address, turns that around and gives a tax break to companies that bring jobs back to America. In his budget and in his proposals are specific actions on tax law that we must take to carry out that commitment to American and foreign countries that want to bring jobs back to America.

We can do this. Public policy plays into this—the budget and the research and development piece of it. That's the genesis. That's the start of the idea of a new business or of a new technology

and then the manufacturing support that goes with it. There is the tax policy, and we've talked about the vast manufacturing systems. All of those are the feedstock to get these companies up and going so that the entrepreneur, in using the research and creating a small business, will ultimately create a bigger middle class, reigniting the American Dream in doing that.

Mr. TONKO, I'm not sure where we want to go with this. I think we ought to spend a few moments talking about transportation if that's okay with you gentlemen.

Mr. TONKO. I think before we leave this talk of manufacturing growth, both of you gentlemen held up tremendous charts that tell the story.

What I think is interesting is, when you overlay those two charts with the deficit—the trade deficit and the loss of manufacturing jobs—they mimic each other. They absolutely trace the same curve. And so as you drop those manufacturing jobs, as the commitment was the tax policy and the investment in manufacturing declined, the trade deficit impact from Representative ALTMIRE's chart—they're mimicking each other. You can see the precipitous drop here is almost at the same rate as the impact of the trade deficit.

So we can step back and deal with facts or we can be in denial. We can be bitter about success and come on to the floor and try to hold back success. But instead of a tug of war on this House floor, let's tug together. Let's tug forward to make certain that we're investing where we ought to. Let's cut where we can but invest where we must. One of those investments has got to be in the human infrastructure. We're talking about capital investment, and we're talking about physical infrastructure, but we need to talk about the human infrastructure with this manufacturing comeback.

When I see advanced manufacturing embraced in my district, where we as a hub in the 21st Congressional District of New York, in the Capital Region of New York, have seen tremendous growth in clean energy and innovation, those jobs are coming about because of an investment in nanotechnology, semiconductor research so as to transmit more electrons over an exact same-sized cable. From what we do today, we talk about the investment in chips and in growing those chips to a smaller, smaller dimension so that they can have an impact—a partnership with agriculture, communications, energy generation, health care—you name it. Any industry can be impacted by that nanotechnology investment. So there is all this investment, but you're going to need the workers who are now being part of an advanced manufacturing stage in our society, where we're having more and more investment and keen intellect. You need to train those workers.

The President has said, Look, we've got a vehicle that is very sound out there. They're called community colleges. In my district, we not only have Hudson Valley Community College, Fulton-Montgomery Community College, Schenectady County Community College, but we also have an ag and tech campus in the SUNY system, the State University of New York system, in Cobleskill.

□ 2050

All of these are having cutting-edge involvement in research that spills over to the worker. Cleanroom science, retrofitting homes to solar, making certain that you have a trained workforce for nanotechnology, all of this is happening in our community colleges. And the President said, Let's go forward and invest. There is, I believe, an \$8 billion investment in our community colleges to train the worker. So let's not pull back on success. We see what's working. We know what has to happen. We have the formula based on history that ought to speak to us. And let's get it done. The worker can't wait until the next election.

The decisionmaking on this floor should be about hope and opportunity, not about the next election, but about the next jobs we can bring into the congressional districts of this great country that, in a cumulative format, will spark a reigniting of the American Dream.

My district is the donor area to the Erie Canal; and we saw a necklace of communities emerge from that investment which, by the way, came at a tough time for this Nation. Governor DeWitt Clinton said, Look, here's a solution: We have a tough economy. Let's provide opportunities for shipping our cargo, building. And what happened? A number of immigrant patterns traveled to these shores in hope of that rags-to-riches scenario, and they invested. They were the brains behind the industrial revolution, immigrants who came here and developed—along with the industrial giants—an agenda for jobs.

We can do that again. This is the American pioneer spirit. The DNA within my district is a pioneer spirit where these mill towns became the epicenters of invention and innovation. And the same story can be lived today if we're willing to reignite the American Dream through investments in small business, entrepreneurs, and a thriving middle class.

Mr. GARAMENDI. Mr. TONKO, thank you. And you really hit one of those issues directly, particularly the education issue. And we ought not jump to transportation before we deal with the investment in the human capital, that is, in the American worker.

And the President did, in his budget, lay out \$8 billion for community colleges to work directly with companies to educate their workforce. I can give a

specific example. Again, in Davis, California, there is a biopesticide firm that actually goes out and finds microbes, or various kinds of naturally occurring materials, and uses that and makes that into a biopesticide, not a chemical but a biopesticide. They need technicians in their laboratories and in their manufacturing. They go to the community college to bring up the necessary skills and bring those workers in.

So there are jobs out there, but they have to have the education behind them. So much of what the President is proposing—not only with community colleges, but with the Pell Grants and proposing \$30 billion going into our K-12 schools so that those schools can be upgraded, and an additional \$30 billion to bring the teachers back into the classroom.

Mr. TONKO. Representative GARAMENDI, if you will just yield on one point, what I believe is also important with the community college investment is the stated purpose of creating partnerships with the private sector.

Mr. GARAMENDI. Exactly.

Mr. TONKO. So it's not like one person or one institutional network working in a vacuum but, rather, a partnership that is fostered by this budget process, by the thinking here of the administration working with Congress. Let's develop those partnerships with academia, community colleges training people and retraining.

Many people are starting second careers. They lost a job through no fault of their own. This was a brutal time on America's manufacturing base. Let's bring that base back, and let's give them the tools they need to be successful so that it grows more and more opportunity so that we can have as sharp a competitive edge as possible as we enter into the global sweepstakes on jobs.

Mr. GARAMENDI. Thank you, Mr. TONKO.

Mr. ALTMIRE, I see you are kind of ready to go here.

Mr. ALTMIRE. The gentleman has given me so much to work with here on community colleges, and then I will transition into transportation, as the gentleman would like to do.

I visited, just yesterday, the Community College of Allegheny County, outside of Pittsburgh; and they have an amazing fundraising campaign going on, because western Pennsylvanians, private industry, and the foundation community believe in the future of our country, and they believe in the future of community colleges. They have a \$40 million fundraising campaign. They've already exceeded \$30 million. And the discussion was about all of the wonderful things that are happening as a result of the innovations that are taking place at the community colleges, not just in western Pennsylvania but across the country.

We have energy resources in western Pennsylvania that are unique. And all the time we hear about employers saying that they have jobs available, but they can't find people who are trained to fill those spots. So being right on the cutting edge, the Community College of Allegheny County has almost two dozen new programs, new curricula that they have established to train workers and retrain, in some cases, to fill the new spots—geologists, managers, people out there on the work-sites, all types of ways, through the natural gas industry, the nuclear industry, energy, research and development, what we were talking about earlier.

Our community colleges really do play a unique role in this because of their ability to partner with local businesses, to identify the needs, to retrain workers who have lost their jobs through downsizing or changes in the workforce. It's an amazing resource for this country, and the President is right to put a focus on community colleges as part of our resurgence in this country.

Mr. GARAMENDI. Mr. ALTMIRE, if you could wait just a moment. Now you've got me engaged in this, and you talked about your community college. We are going to be going to our community college in Fairfield, the SolanoCommunity College, and we're going to take the work that was done by this Congress in 2010 when it brought the Pell Grants down into the community colleges.

Previously, the Pell Grants were only available at the 4-year college level, but now the community college students can also vie for the Pell Grants and the loan programs that had been significantly improved back in 2010, before we lost the majority here. We took back from the big Wall Street banks the student loan programs, reducing the interest rates, reducing the hassle for students, and making loans far cheaper and more available.

Just this year, the President took one additional step under his authority and stretched out the payment mechanisms so that no graduated student who had taken out a loan needs to pay more than 10 percent of their annual income to repay that loan. All of this is part of investing in the human capital, investing in the workers.

I suspect the three of us could go on for a long time about education.

Mr. TONKO. Let me just mention this. Last night, I spoke before the ERC, the research center at RPI, Rensselaer Polytechnic Institute. They are well regarded for their development of scientists and technology experts and the engineers of the future. Their funding is primarily from the NSF, the National Science Foundation.

There is a 5 percent increase in NSF in this budget, and rightfully so. What they're doing in this think tank is

stretching the creative genius and the imagination of folks with regard to lighting designs, lighting designs that will be used in ways that are unbelievably creative and constructive. It's about creating the incubators of the future, the entrepreneurs of the future. It's about developing the professors that will train students into the future. It is an infrastructure unbelievably sound, and it is NSF-funded.

You know, for people to say, Well, our best days are behind us—what I'm hearing tonight is that there's optimism. There's great optimism. There's a reason to be hopeful. There is a charge for us to be optimistic by investing in opportunity. There are the tools that America's base needs. They need these tools. And how dare we not provide them. Earlier statements on the floor were denouncing workers instead of providing hope, training, and retraining people in areas that will be geared toward their specific strengths.

We all have certain skill sets or have that potential for those skill sets. There's a passion that everyone has for certain types of work. Let's not denounce the worker. Let's insert hope in the equation and, again, provide for the infrastructure, human infrastructure required for this manufacturing base.

Mr. GARAMENDI. Mr. ALTMIRE, I was about to respond that, while the lighting at Rensselaer is obviously good, it's California where the light-emitting diode—the LED—is actually being manufactured by a new startup company called Bridgelux, which has taken that technology and, with a little bit of assistance, is going to being able to manufacture in America.

However, controlling this for the next 20 minutes, we're going to move to transportation. Mr. ALTMIRE, why don't you get us going on transportation.

Mr. ALTMIRE. Earlier, our colleague, Mr. TONKO, was talking about the Erie Canal and the foresight and the commitment that went in and just the unbelievable feat that it was to accomplish that. And I was thinking, as the gentleman was speaking, about the debate that we're having in this country about transportation and infrastructure.

□ 2100

We are going to debate tomorrow and vote probably Thursday in this House on a very underfunded transportation bill that does not contain the same foresight that the gentleman was discussing occurred in New York. And I think about the debate that must have occurred in New York when the Erie Canal was proposed, and the cost and the expense and the manpower and just the time commitment that was necessary, a seemingly impossible task.

You think about the intercontinental railroad in the 1800s and what the country's debate, the political debate had

been at that time. What must have been the debate in the 1940s and 1950s when President Eisenhower finally got off the ground the interstate highway system and began connecting our roads in a way that we'd never done before.

That's what we're facing right now. We have a system of transportation in this country to move goods from point A to point B, manufacturing and make it in America, what we were talking about. Well, if you make it in America, you have to have a way to move goods across the country. We can do that in all kinds of ways. We can do that on our waterways, through shipping, cargo ships; and we also have barges in my neck of the woods. In Pittsburgh, I have a system of locks and dams in the district that I represent, six different locks and dams that average 85 years old. They were built to last 50. Two of them have been rated by the Army Corps of Engineers as in imminent threat of failure. That is a crisis of infrastructure, and that's happening in similar ways all across the country.

You look at our aviation system. If you want to move goods by air, we have an air traffic control system in this country that is still based in technology from the 1950s. And this NextGen technology that is possible through satellite technology, it is expensive but it's long overdue, and it's a commitment that we need to make in this country, as they've made in other countries. Our competitors don't have the same bottlenecks that we do at their airports because they have more modern air traffic technology.

And then you get to our rail system. We all understand the bottlenecks outside of Chicago and other places in this country and our lack of modern investment in our rail system. But what we're going to be talking about this week in the House is our roads and bridges and a highway system. I spoke earlier about President Eisenhower's vision with the interstate highway system and the way that this bill lacks that same vision because it underfunds that investment and it doesn't require or doesn't even incentivize products to be made in America.

There are literally trillions of dollars of need in our transportation infrastructure. Certainly we don't have the ability to afford it all; but I can't think of a better way to put American workers back to work, to put American jobs back in play in the manufacturing sector, to have a resurgence, a regeneration of our manufacturing sector than through our transportation infrastructure.

I'm very disappointed at the lost opportunity that the bill we're debating presents because there are so many ways American workers can win, American manufacturers can win, and, most importantly, America can win. And we're missing that opportunity. But through the discussion that we are

having today, maybe we can move this country in a different direction.

Mr. GARAMENDI. Thank you, Mr. ALTMIRE, for getting us started. And I've got to compliment you on the really neat segue that you used, the Erie Canal to move to modern transportation. That was very nicely done.

We do have a real challenge. This week, we're going to be taking up a transportation bill that the Secretary of Transportation, who has now been in office nearly 3½ years and who was a Member of the House of Representatives for I think over 20 years and a Republican, says that this is the worst transportation bill he has ever seen. Ever seen.

This transportation bill that we are going to be taking up is underfunded. It totally eliminates from the funding stream the public transportation sector. So we're talking about Amtrak, buses, light rail, the metro systems here in Washington, New York, San Francisco, Chicago, Atlanta and other places that are going to be cut out of the funding stream.

There's a whole lot of other things that are within this piece of legislation that are nonsense and nonstarters and ultimately detract from the goal that you so well stated, Mr. ALTMIRE, of building that infrastructure that we need for a modern, thriving, growing economy that's based upon manufacturing.

Now, if all you're doing is sending buy-and-sell signals over the Internet, I guess you don't need a highway. But if you're sending cars and rail systems and you're sending equipment back and forth across America, you better have all of that transportation infrastructure in place. So as we rebuild the American manufacturing sector, we will need this in place.

Now, Mr. TONKO, you took the train from New York today.

Mr. TONKO. I did.

Mr. GARAMENDI. What happened that you were talking about earlier?

Mr. TONKO. Yes. Well, there was concern expressed on that train that the transportation bill advanced in this House falls grossly short of what's needed.

And, you know, when you look at the many sectors of the infrastructure community, it's not just our traditional roads and bridges which require assistance. It's mass transit. It's rail. It's also telecommunications and it's energy. And it's water. So all of this infrastructure requires an investment. And how do we make up ground where we have underinvested in this area?

Well, the President proposes a \$10 billion infrastructure bank bill that will leverage government moneys and private sector moneys that will enable us to provide for the sorts of investments that are required. Now, investing in our transportation infrastructure has great merit. Many of us can cite those weaknesses out there.

My district, in Montgomery County, lost 10 people when a bridge collapsed along the New York State Thruway. There are bridges around the country that need immediate attention. There are those situations where many believe we're going into a water economy in the next 10–20 years. If that's so, how are we treating that resource of water? Are we being the most efficient?

And energy, if we're going to move into a creative, innovative arena for energy supplies and diversify our mix, we need to retrofit the grid system in order to make it all work, in order to incorporate these ideas. Or we can stay beholden to a fossil-based infrastructure for energy supplies, which means that we'll be beholden to nations that are oftentimes unfriendly to the United States and use those energy consumer dollars, American consumer dollars, to pour into their treasury and develop their troops to fight against the American forces. So it's an issue of national security.

So there are many dynamics here that need to be addressed in a full-picture view, not just dealing in some sort of snapshot of denial. That does not produce an infrastructure bill that is worthy of the needs of Americans out there from coast to coast.

You know, sometimes, Representative GARAMENDI, you're looking for that Sputnik moment. That's what inspired our win in the global race on space—U.S. versus USSR. We gave it our all because we had that Sputnik moment. We got knocked on the seat of our pants, stood up, dusted off the backside and said: never again. And we won that global race on space.

What is our Sputnik moment today?

Is it bridges collapsing with people dying? Is it paying God-awful prices for energy supplies and not creating our new energy supplies? Is it ignoring a water economy that is to come and will be a strength for this Nation and a wisdom to invest in our water resources?

All of these moments could be referred to as Sputnik moments, and we need to take those experiences and that recent history and have it influence our thinking and have us go forward with a sound investment in infrastructure.

So I see great potential here in this budget. I see great opportunity. And I see investing our way to opportunity and investing our way to an economic recovery, investing our way to the reigniting of the American Dream, which is our principal foundation by the Democratic Caucus in this House. Let's reignite that American Dream. Let's do it through small business and through investment in entrepreneurs and a thriving middle class. Infrastructure is prime amongst those areas of investment.

Mr. GARAMENDI. Mr. TONKO, you are so very correct about reigniting the American Dream. One of the dreams I

have is to drive down Interstate 5 in California and not have my car knocked to pieces on the unimproved and the falling-apart highways. In America today, we have 150,000 miles of roads that are in desperate need of repair—150,000 miles. That's about 50 times back and forth across America.

□ 2110

Now, if we did that and repaired those highways, what could happen? What could happen if we actually built a real robust transportation network in America? Well, back to the jobs issue, back to making it in America: What if our tax dollars were to be used to buy American-made equipment? This piece of legislation, H.R. 613, is now working its way into the transportation bill. The bill that our Republican colleagues put out has a very, very weak Buy America.

This particular bill, H.R. 613—I happen to be the author, and I'm kind of proud of the piece of legislation—would require that our tax dollars, which will be used to fund the transportation program, the airports, the NextGen system and the roads and bridges that both Mr. TONKO and Mr. ALTMIRE talked about, that those be made in America, that we make it in America. We would use our tax dollars to actually make these things in America. So if we're going to build a high-speed rail, let's make it in America.

In fact, that's happened. In the stimulus bill, the American Recovery Act, there was a provision for some \$12 billion for high-speed rail in various parts of the United States, and an additional sentence was added to that law that said all of this money must be spent on trains and equipment made in America. Guess what happened? Foreign companies that built high-speed systems decided, oh, \$12 billion, we want a piece of that. And so they came to America, and they built manufacturing facilities. One was built in Sacramento. Secretary LaHood was just there a couple of days ago visiting that factory. The German company, Siemens, built a large manufacturing plant in Sacramento, California, to make light rail and to make locomotives for Amtrak, to make and to be prepared to build the high-speed rail systems that are coming.

Why did they do it? Because it was the law of the land that said your tax money, American taxpayer money, must be spent on American-made equipment. But what this bill does is it extends that idea as we go forward so that when we build bridges, the steel is American steel, and it's put together by American welders and by American ironworkers, and that the cement is American cement and that the computer systems that are being used to develop these things are American made. We can rebuild the American manufacturing sector when we decide

it is the public policy that we use American taxpayer dollars to make it in America once again.

There's another piece of legislation that does the same thing for energy products. You've heard of solar systems, the photovoltaic systems, the big wind turbines that we're beginning to see across America. All of those energy products are essential elements in the future. Once again, our taxpayer money is used to support that. And my legislation says if you're going to get American taxpayer money to support your solar system or your wind farm, then you're going to buy American-made solar panels, solar equipment and wind turbines. We can make it in America.

So all of these things fit together—a transportation program that is going to give America what it needs to travel and an education program so that our workers are prepared and an R&D, research and development, program that allows us to innovate for tomorrow's economy.

Mr. TONKO. I think we have about 2 minutes left. Could you wrap it up for us?

Mr. TONKO. Sure. Absolutely. I think beyond the innovation and the ideas that translate into jobs, research equaling jobs, there are these benefits of connecting us as a Nation. We are a large Nation geographically, and the interconnecting that can be done through the investment in infrastructure is important.

Now, we know beyond the roads and bridges and the rail and the grid system for our energy supplies there's a telecommunications network; and that effort to create a national wireless initiative is very important. It will range from first responders with interoperable communications devices for first responders to a high-speed Internet system so that we're wiring in to remote areas and enabling this country to truly prosper.

So, tonight, we have heard such great comments about what we can do and what we must do about cutting where we can, by addressing inefficiency, waste, fraud and outmoded programs, but maintaining the vigilance about investing where we must. If we do not invest, we deny the American Dream. If we invest, we reignite that American Dream. We reignite the dream through the investment in a historic display of what America is at her greatest: when she invests in ideas, she invests in her workers, invests in infrastructure, in small business, entrepreneurs—those dreamers, shakers, movers and builders—and invests in a thriving middle class. It can be done, and it will be done if we put our minds to it. Mr. GARAMENDI, we have work to do.

Mr. GARAMENDI. We have work to do indeed.

Mr. Speaker, I yield back the balance of my time.

## RELIGIOUS FREEDOM

The SPEAKER pro tempore (Mr. BENISHEK). Under the Speaker's announced policy of January 5, 2011, the gentleman from Texas (Mr. GOHMERT) is recognized for 30 minutes.

Mr. GOHMERT. Mr. Speaker, happy Valentine's Day to you. Thank you for this time.

There is so much going on. We have had in recent days the testimony of the director of CBO, Congressional Budget Office, making projections. We've had the White House dictating what religious beliefs people could observe and practice and which they could not, and then what was said to be a compromise so that individuals—actually institutions—could practice religious beliefs, the insurance companies that they utilize will have to provide the coverage that the President dictates even though it is against the religious beliefs, and then naturally the way things work, the insurance companies will spread out the costs, and they will pay for them anyway, which will be, once again, in breach of their religious beliefs.

It's quite interesting. I've been trying to take this all in, Mr. Speaker, as we have seen ObamaCare basically rammed down the throats of Americans with the vast majority not wanting that bill passed, with the vast majority in Congress not having read the bill, and with Speaker PELOSI at the time saying, we'll have to pass it so we can find out what's in it. Well, as people are finding out what's in it, they're not terribly happy.

And when you realize, as some of us did before it passed, as some of us were arguing here on the House floor before it passed, that if the President's health care bill passed, it would be such an intrusion into the rights of Americans that as I said here on the floor, it would be about the GRE, the government running everything, that means every aspect of people's lives. That includes setting aside people's religious beliefs when that came into conflict with the President's health care bill. We knew that it would run up tremendous debt. We knew that it would cut Medicare by \$500 billion—something our friends across the aisle don't like to talk about a whole lot.

Before the supercommittee fiasco ever occurred, the Democratic majority in the House and the Senate passed a bill a majority of Americans didn't want passed that would wrest control away from Americans in so many different areas and would take control and give it to the Federal Government in a way that was never anticipated in the Constitution.

□ 2120

So as we have seen this White House dictate to the Catholic Church, to Catholic hospitals, what they would be allowed to practice in the way of their

religious beliefs, it's been quite interesting. We've heard many Catholic leaders who have said, you know, gee, we supported President Obama when he was Senator running for President. We thought he would do all these wonderful things. From conversations, as President Jenkins at Notre Dame had with President Obama, he just never anticipated that there would be this type of usurpation of religious practices and the ability to practice one's religious beliefs.

This isn't about contraception. Anybody in America that wants contraception can get it. That's not an issue. In fact, it's been interesting to hear people say people have a right to have contraception provided. When I look at the Second Amendment of the Constitution, there is a right to bear arms, but I don't remember anybody who was pushing for the government to basically provide whatever people want in the way of health care, paid for by somebody else. I don't remember them saying, well, the Constitution mentions the right to bear arms, so the Federal Government must provide everybody guns. There's all kinds of things that are ensured under the Constitution and under the Bill of Rights, but it doesn't mean the government's supposed to buy them for everybody.

But in view of the White House's position, President Obama's position on what religious practices he would allow the Catholic Church to observe, Mr. Speaker, I figure we really need to make an addition to the Constitution. Since the President has already taken these actions, then I think maybe we need to just observe some language that we insert into the shadow of a penumbra. So where it says in amendment one to the Constitution of the United States, "Congress shall make no laws respecting an establishment of religion, or prohibiting the free exercise thereof," I think in order to make the President's actions and the White House actions consistent, as those reflected by Secretary Sebelius, we need to insert there a line that comes up and says, But only if you are a religious institution and your beliefs agree with the President of the United States. Because if your religious beliefs come into conflict with Secretary Sebelius or the White House, unless the White House is willing to make some insurance company deal with your practice, then you're just going to have to set aside your religious beliefs.

So apparently the parenthetical has been inserted into the Constitution. I'm hopeful that on this issue the Supreme Court will strike down ObamaCare, say there are so many aspects of this bill that are unconstitutional—the mandate to buy a product for the first time in American history is only one of them. But that mandate, of course, is central to the bill itself.

But then the way it supercedes the religious institution's beliefs, why we

would say "religious institutions" is because the President and Secretary Sebelius in their so-called "compromise" had not been willing to recognize an individual's beliefs, which I've always understood the Constitution was talking about.

No, they say it is confined to the religious beliefs and practices of a religious institution. Because under this White House's interpretation of the Constitution, if you're an individual and you are Baptist, Catholic, Jewish, Muslim, whatever it is—although the FBI has apparently been meeting with named coconspirators for funding terrorism and trying to eliminate any kind of language that might in any way offend people that have supported terrorism, we don't want to offend those who want to kill us, of course.

But other than that, this White House sees it that if you're an individual and not a religious institution, then you have no right under the First Amendment to practice your religious beliefs if they're in conflict with what President Obama or Kathleen Sebelius want to do. You'll have to set them aside. It's only under their interpretation of the Constitution—and of course we know the President was an instructor—not a professor, but an instructor—at a law school at one time, so I'm sure he understands the Constitution—but under their beliefs, you've just got to set them aside. If you're not a religious institution, you have no right to demand to put your practices into use. So apparently the First Amendment, according to them, only applies to religious institutions.

I never learned that in law school, because we were taught that if you read the Declaration of Independence and how that ended up by the end of the Revolution opening the door—of course first for the Articles of Confederation, then 4 years later for the Constitution—that all this worked together. There was a belief at that time in the rights of an individual—not of a religious institution—the rights of an individual. That's why one of the statues here in the Capitol, one of the two from Pennsylvania, is for a Reverend named Muhlenberg. The statue is of him taking off his ministerial robe because he believed, as the Declaration of Independence said, that we were endowed by our Creator with certain inalienable rights, and there comes a time when people have to stand up for those rights.

So Reverend Muhlenberg was preaching from Ecclesiastes and he was talking—I believe it's chapter 3—that there is a time for every purpose under heaven. When he got to the verse—I believe it's verse 8—"there is a time for war and a time for peace," he took off his ministerial robe, and there he was in an officer's uniform and in essence said, ladies and gentlemen, now is the time for war. He recruited people from



his church to join him in the fight in the Revolution, they recruited people from the town, and by the end of the war, Muhlenberg was a general.

His brother was also a reverend. There's a story told that his brother did not agree with him recruiting from the pulpit; but after his church was burned down, he got active and ended up being quite a participant in the Revolution and actually ended up being the first Speaker of the House of Representatives. Those who know where the term "separation of church and state" came from know that it came—not in the Constitution, it's nowhere inhere, not at all. Nowhere before the end of the Constitution do you find the words "separation of church and state," nor do you find the words "wall of separation." Those are both contained in a letter that Jefferson wrote to the Danbury Baptists.

So in the Constitution, you don't see any prohibition against them dating the Constitution itself with these words: "Done in convention by the unanimous consent of the states present the seventeenth day of September in the year of our Lord one thousand seven hundred and eighty-seven."

□ 2130

They apparently did not think it offended the Constitution to date it as being done in the year 1787, that being in the year of our Lord, 1787. So imagine the Founders' surprise to learn that the Bill of Rights that they put together, when it said the government would never prohibit the free exercise of religion, would somehow base beliefs on something unwritten in the Constitution as giving the President of the United States and his appointed representative, Kathleen Sebelius at Health and Human Services, the power to order people to disregard the religious beliefs, set them aside and do what the President ordered. For people, as Dennis Miller said, that were willing to go to war over a tax on their breakfast drink, they would probably have been even more riled up if King George had taken this kind of action.

So, we're told that everyone in America must pay their fair share; yet we're told by the President he does not mean to divide America. And yet I would hope that by the end of this year, before the election, he would put the law where his mouth is and say, You know what? I've been saying for so long now that everybody should pay their fair share. I am finally going to go along with the Republicans who say we ought to have a flat tax. It doesn't matter who you are, Warren Buffett or whom-ever, we're going to have a flat tax.

Steve Forbes said it could be done with a 17 percent flat tax, even allowing for a mortgage interest deduction, even allowing for charitable deduction. And that way, if you've got a flat tax,

then Warren Buffett would not have to sue, or his company would not have to sue, as it is now, to avoid paying the millions or billions in taxes that are alleged to be owed. He wouldn't have to fight the IRS so hard at the same time he's saying he doesn't mind paying more. There wouldn't be any question.

It's a flat tax. Just take your income, multiply it by the flat tax—no matter who you are, how much you make—and that will be your tax. Because with 53 percent of Americans being the only ones that are paying more in income tax than they get back, we'd better act in a hurry; because once we cross that line where people who are voting get more from the government than they pay in, we're not coming back, absent a miracle of God.

So I'm hopeful that the President's going to realize that all the speeches he's been giving about paying fair share really lead you to one, unavoidable conclusion. It's time to quit saying some don't have to pay any tax. It's time to say, look, everybody pay their fair share. Everybody has a percent of their income.

Now, of course, Steve Forbes proposed, under his flat tax, that in order to shield the poor, and of course we could debate on what poor is, but in the United States, his proposal was that if you're a family of four, I believe it was \$46,000 and less, you wouldn't pay any tax. How could anybody argue with that? A flat tax could do that.

In the meantime, we have a proposal from the President for a budget for this year, and it's quite interesting. There's a Wall Street Journal article, and I'll quote from this. It's entitled, "The Amazing Obama Budget," and it's dated today, Valentine's Day 2012. It says:

Federal budgets are by definition political documents, but even by that standard, yesterday's White House proposal for fiscal year 2013 is a brilliant bit of misdirection. With the abracadabra of a tax increase on the wealthy and defense spending cuts that will never materialize, the White House asserts that in President Obama's second term, revenues will soar, outlays will fall, and \$1.3 trillion in annual deficits will be cut in half like the lady in the box on stage.

All voters need to do is suspend disbelief for another 9 months. And ignore this first 3 years.

It says "4," but it's the first 3 years of his administration.

The real news in Mr. Obama's budget proposal is the story of those years. What a tale they'll tell.

It says down further:

All of this has added an astonishing \$5 trillion in debt in a single Presidential term. National debt held by the public, the kind you have to pay back, will hit 74.2 percent this year and keep rising to 77.4 percent next year.

Economists believe that when debt to GDP reaches 90 percent or so, the economic damage begins to rise, and this doesn't include the debt that future taxpayers owe current and future retirees through the IOUs and the Social Security "trust fund."

Anyway, it goes on to say:

Mr. Obama's chief economic adviser, Gene Sperling, reported that the President wants a new "global minimum tax."

Talking about a new tax that's a global minimum tax. Wouldn't it be easier just to say, You know what? We're just going to have a flat tax. Everybody needs to pay their fair share.

I don't have this in a blowup, but the debt boom, according to the Office of Management and Budget of this White House shows that for 2012 and 2013 we go from a Federal debt held by the public as a share of GDP, around 35 percent, just spiking up, as The Wall Street Journal points out, to between 75 and 80 percent. Pretty dramatic.

There's an article from Jeffrey Anderson today that said:

According to the White House's own figures, the actual or projected deficit tallies for the 4 years in which Obama has submitted budgets are as follows: \$1.293 trillion in 2010, \$1.3 trillion in 2011, \$1.327 trillion in 2012, and \$900 billion in 2013.

That's because that's the year that hadn't happened yet.

Further down it says:

To help put that colossal sum of money into perspective, if you take our deficit spending under Obama and divide it evenly among the roughly 300 million American citizens, that works out to just over \$17,000 per person—or about \$70,000 for a family of four.

That's just the debt that has accrued with President Obama at the helm.

I think it's also important to note that, under the bill that I was against but it got passed anyway, the debt ceiling extension back last summer to give the President all the debt ceiling authority he would want, that should carry him clear through the election, it's already appearing that that wasn't near enough.

And of course we had the supercommittee that was going to protect us and take care of us and make the cuts that were necessary. And now that those haven't happened, we're gutting our own defense, gutting our own defense.

Anybody that studies history knows you never put your national security on the table for negotiation, and we've done that.

Now, this chart is pretty telling, and it's based on the testimony of the CBO Director before the Senate Budget Committee. It makes it pretty basic. The Director of CBO in the projections for this year has projected the U.S. tax revenue will be \$2.523 trillion.

□ 2150

The head of CBO in his February 2, 2012, testimony projects the Federal budget this year will be \$3.61 trillion, approximately. That is a deficit for 1 year of \$1.079 trillion. Our national debt currently appears to be \$15.348 trillion. According to the director of CBO, our budget cuts from 2010, when coupled with the ones projected for

2011, actually amounted to around \$41 billion.

So that's kind of hard for some of us to understand when you're talking about numbers with so many zeroes. So it may be far more effective—and my staff has done a great job of putting this together for me—by removing eight zeroes from all of those trillion dollar numbers. It makes it more easily discernible if you say, All right, let's look at it as a family budget.

A family budget. They're bringing in \$25,230 for 1 year, but they're going to spend \$36,010 in that same year. That's going to increase their debt that they're going to owe by \$10,780. So \$10,780 on the new credit card.

Well, we already have a credit card balance of \$153,480. That should put it in perspective.

As a country, it's basically like being a family making \$25,000, spending \$36,000, not once, but 4 years in a row under this President. And we already had \$153,000 in debt, and we're only bringing in \$25,000. This is like credit card debt. It's not secured by a home—except for America.

We have put our future, America's future, our children, grandchildren's future all in hock for this much, and we can proudly say—those that don't understand, I get sarcastic from time to time—we can proudly say that since 2010, 2011, if you take away the eight zeroes, we have cut \$410 of our spending.

We've got a lot of work to do. We owe the American public better than we've done. It's time to take a stand.

We've been told, of course, whether you're a Republican or Democrat, that when you're elected as a freshman, your odds of being defeated in the first election you stand for as an incumbent, are 10 to 20 percent. That means there were some fantastic freshman Republicans that were elected in this last election. Ten to 20 percent of them may get defeated in the next election. What will they have to show unless we stand up and say enough is enough?

Mr. President, Senator REID, we're standing on our principles so that we can leave the next generation as good or better a country than we inherited. But we're going to have start moving and we're going to have to start standing on principle very quickly. Easy to do.

Some say, Oh, it will be so hard making all of these cuts. No, it won't. We can go back to the 2008 budget that the most liberal Congress in history had passed. Didn't hear a lot of complaints about not enough spending that year. Go to that budget. That knocks out a trillion right there.

Enough of the games. It's time to stand up for America, stand up for a responsible budget, cut the wasteful spending, stop the crony capitalism for groups like Solyndra, and let's get this economy going back again—strong, stronger, strongest ever.

With that, Mr. Speaker, I yield back the balance of my time.

#### RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 9 o'clock and 45 minutes p.m.), the House stood in recess.

□ 2317

#### AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Ms. FOXX) at 11 o'clock and 17 minutes p.m.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3408, PROTECTING INVESTMENT IN OIL SHALE THE NEXT GENERATION OF ENVIRONMENTAL, ENERGY, AND RESOURCE SECURITY ACT; PROVIDING FOR CONSIDERATION OF H.R. 3813, SECURING ANNUITIES FOR FEDERAL EMPLOYEES ACT OF 2012; AND PROVIDING FOR CONSIDERATION OF H.R. 7, AMERICAN ENERGY AND INFRASTRUCTURE JOBS ACT OF 2012

Mr. WEBSTER, from the Committee on Rules, submitted a privileged report (Rept. No. 112-398) on the resolution (H. Res. 547) providing for consideration of the bill (H.R. 3408) to set clear rules for the development of United States oil shale resources, to promote shale technology research and development, and for other purposes; providing for consideration of the bill (H.R. 3813) to amend title 5, United States Code, to secure the annuities of Federal civilian employees, and for other purposes; and providing for consideration of the bill (H.R. 7) to authorize funds for Federal-aid highway, public transportation, and highway and motor carrier safety programs, and for other purposes, which was referred to the House Calendar and ordered to be printed.

#### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. DAVIS of Illinois (at the request of Ms. PELOSI) for today.

Mr. HEINRICH (at the request of Ms. PELOSI) for today.

Mr. CAMPBELL (at the request of Mr. CANTOR) for today and February 15 on account of illness.

Mr. CULBERSON (at the request of Mr. CANTOR) for today on account of illness in the family.

#### ADJOURNMENT

Mr. WEBSTER. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 19 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, February 15, 2012, at 10 a.m. for morning-hour debate.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XIV, executive communications were taken from the Speaker's table and referred as follows:

4985. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Cyazofamid; Pesticide Tolerances for Emergency Exemptions [EPA-HQ-OPP-2011-0697; FRL-9332-5] received January 24, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4986. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Etoxazole; Pesticide Tolerances [EPA-HQ-OPP-2010-0968; FRL-9334-9] received January 24, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4987. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Rimsulfuron; Pesticide Tolerances [EPA-HQ-OPP-2010-1017; FRL-9332-1] received January 24, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4988. A letter from the Assistant Secretary, Department of Defense, transmitting the Department's Equipment Delivery Report for fiscal years 2009, 2010, and 2011; to the Committee on Armed Services.

4989. A letter from the Acting Under Secretary, Department of Defense, transmitting authorization of Captain Christopher W. Grady, United States Navy, to wear the authorized insignia of the grade of rear admiral (lower half); to the Committee on Armed Services.

4990. A letter from the Secretary, Department of the Treasury, transmitting the annual report on the operations of the Exchange Stabilization Fund (ESF) for fiscal year 2011, pursuant to 31 U.S.C. 5302(c)(2); to the Committee on Financial Services.

4991. A letter from the Chief Counsel, Department of Health and Human Services, transmitting the Department's final rule — Changes in Flood Elevation Determinations [Docket ID: FEMA-2011-0002] [Internal Agency Docket No.: FEMA-B-1237] received January 23, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

4992. A letter from the Chief Counsel, Department of Health and Human Services, transmitting the Department's final rule — Changes in Flood Elevation Determinations [Docket ID: FEMA-2011-0002] received January 23, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

4993. A letter from the Secretary, Department of Health and Human Services, transmitting the Department's "Report to Congress on the Final Head Start Program Designation Renewal System"; to the Committee on Education and the Workforce.

4994. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting the Department's Alternative Fuel Vehicle program report for FY 2011; to the Committee on Energy and Commerce.

4995. A letter from the Director, Regulatory Management Division, Environmental

Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Oklahoma; Infrastructure Requirements for 1997 8-Hour Ozone and the 1997 and 2006 PM<sub>2.5</sub> NAAQS [EPA-R06-OAR-2008-0637; FRL-9622-5] received January 24, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4996. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Virginia; Consumer and Commercial Products [EPA-R03-OAR-2011-0730; FRL-9620-9] received January 24, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4997. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; North Carolina: Approval of Section 110(a)(1) Maintenance Plan for the Greensboro-Winston-Salem-High Point 1-Hour Ozone Maintenance Area to Maintain the 1997 8-Hour Ozone Standards [EPA-R04-OAR-2011-0455-201131(a); FRL-9621-8] received January 24, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4998. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of State Air Quality Plans For Designated Facilities and Pollutants, State of West Virginia; Control of Emissions from Existing Hospital/Medical/Infectious Waste Incinerator Units, Plan Revision [EPA-R03-OAR-2011-0848; FRL-9620-6] received January 24, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4999. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule — Protection Against Turbine Missiles, Regulatory Guide 1.115, Revision 2, received January 23, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5000. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting the 2011 annual report on the Benjamin A. Gilman International Scholarship Program, pursuant to Public Law 106-309, section 304; to the Committee on Foreign Affairs.

5001. A letter from the Co-Chief Privacy Officers, Federal Election Commission, transmitting the Commission's Privacy Act Report for fiscal year 2011; to the Committee on Oversight and Government Reform.

5002. A letter from the Chairman, Federal Labor Relations Authority, transmitting the Authority's Performance and Accountability Report for Fiscal Year 2011; to the Committee on Oversight and Government Reform.

5003. A letter from the Assistant Attorney General, Department of Justice, transmitting the report on the administration of the Foreign Agents Registration Act covering the six months ending June 30, 2011, pursuant to 22 U.S.C. 621; to the Committee on the Judiciary.

#### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk

for printing and reference to the proper calendar, as follows:

Mr. WEBSTER Committee on Rules. House Resolution 547. Resolution providing for consideration of the bill (H.R. 3408) to set clear rules for the development of United States oil shale resources, to promote shale technology research and development, and for other purposes; providing for consideration of the bill (H.R. 3813) to amend title 5, United States Code, to secure the annuities of Federal civilian employees, and for other purposes; and providing for consideration of the bill (H.R. 7) to authorize funds for Federal-aid highway, public transportation, and highway and motor carrier safety programs, and for other purposes (Rept. 112-398). Referred to the House Calendar.

#### PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. LEVIN (for himself and Mr. RANGEL):

H.R. 4016. A bill to amend the Internal Revenue Code of 1986 to provide for the proper tax treatment of personal service income earned in pass-thru entities; to the Committee on Ways and Means.

By Mr. BASS of New Hampshire (for himself, Mr. MATHESON, Mr. DOLD, Mr. WELCH, Mr. BARROW, and Mr. FITZPATRICK):

H.R. 4017. A bill to promote efficient energy use in the Federal and private sectors, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committees on Oversight and Government Reform, and Science, Space, and Technology, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FITZPATRICK (for himself and Mr. SMITH of Texas):

H.R. 4018. A bill to improve the Public Safety Officers' Benefits Program; to the Committee on the Judiciary.

By Mr. HASTINGS of Washington:

H.R. 4019. A bill to increase employment and educational opportunities in, and improve the economic stability of, counties containing Federal forest land, while also reducing the cost of managing such land, by providing such counties a dependable source of revenue from such land, and for other purposes; to the Committee on Natural Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GARAMENDI (for himself and Mr. DANIEL E. LUNGREN of California):

H.R. 4020. A bill to amend the National Flood Insurance Act of 1968 to allow the construction and improvement of structures used for agricultural production in floodplains, and for other purposes; to the Committee on Financial Services.

By Mr. FALEOMAVAEGA:

H.R. 4021. A bill to amend the Immigration and Nationality Act to waive certain requirements for naturalization for American Samoan United States nationals to become United States citizens; to the Committee on the Judiciary.

By Mr. HIGGINS (for himself, Ms. HOCHUL, and Mr. BRALEY of Iowa):

H.R. 4022. A bill to amend title 28, United States Code, to protect the right of a claimant in a civil action before a Federal court to retain a structured settlement broker to negotiate the terms of payment of an award, and for other purposes; to the Committee on the Judiciary.

By Ms. HOCHUL (for herself and Mr. ROE of Tennessee):

H.R. 4023. A bill to amend title 38, United States Code, to improve the use of teleconsultation, teleretinal imaging, telemedicine, and telehealth coordination services for the provision of health care to veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. MARKEY:

H.R. 4024. A bill to suspend approval of liquefied natural gas export terminals, and for other purposes; to the Committee on Energy and Commerce.

By Mr. MARKEY (for himself and Mr. HOYT):

H.R. 4025. A bill to provide that the Secretary of the Interior may accept bids on any new oil and gas leases of Federal lands (including submerged lands) only from bidders certifying that all natural gas produced pursuant to such leases shall be offered for sale only in the United States, and for other purposes; to the Committee on Natural Resources.

By Mr. MARKEY (for himself, Mr. MCGOVERN, Mr. WELCH, Mr. LARSON of Connecticut, and Ms. DELAUNO):

H.R. 4026. A bill to reauthorize the Low-Income Home Energy Assistance Program for fiscal years 2013 through 2016, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MATHESON (for himself and Mr. BISHOP of Utah):

H.R. 4027. A bill to clarify authority granted under the Act entitled "An Act to define the exterior boundary of the Uintah and Ouray Indian Reservation in the State of Utah, and for other purposes"; to the Committee on Natural Resources.

By Mr. PASCRELL (for himself and Mr. CARNAHAN):

H.R. 4028. A bill to amend title 49, United States Code, to improve transportation for seniors, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. POSEY (for himself, Ms. WATERS, Mr. WESTMORELAND, Mr. JONES, and Mr. PEARCE):

H.R. 4029. A bill to permit certain current loans that would otherwise be treated as non-accrual loans as accrual loans, and for other purposes; to the Committee on Financial Services.

By Mr. POSEY:

H.R. 4030. A bill to amend title 18, United States Code, to extend the post-employment restrictions on lobbying by Members of Congress and officers and employees of the legislative branch; to the Committee on the Judiciary.

By Mr. YOUNG of Alaska (for himself and Mr. COLE):

H.R. 4031. A bill to provide that claims presented to an Indian Health Service contracting officer pursuant to the Indian Self-Determination and Education Assistance Act on or before October 31, 2005, involving claims that accrued after October 1, 1995 and on or before September 30, 1999, shall be

deemed timely presented; to the Committee on Natural Resources.

By Mr. CHABOT:

H.J. Res. 102. A joint resolution proposing a balanced budget amendment to the Constitution of the United States; to the Committee on the Judiciary.

By Mr. QUAYLE (for himself, Mr. FRANKS of Arizona, Mr. GRIJALVA, Mr. GOSAR, Mr. PASTOR of Arizona, and Mr. SCHWEIKERT):

H. Con. Res. 100. Concurrent resolution recognizing February 14, 2012 as the centennial of the State of Arizona; to the Committee on Oversight and Government Reform.

By Mr. McDERMOTT:

H. Res. 545. A resolution congratulating the World Affairs Council of Seattle on the occasion of its 61st anniversary and recognizing its contributions to the greater Seattle region and Washington State; to the Committee on Foreign Affairs.

By Mr. SCHOCK:

H. Res. 546. A resolution expressing the sense of the House of Representatives that the Department of State should raise the travel advisory for Egypt from the current level of "Travel Alert", in place since November 7, 2011, to "Travel Warning", the highest level of travel security advisory, until all 43 detained nongovernmental organization workers are given the freedom to leave Egypt; to the Committee on Foreign Affairs.

#### CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 7 of rule XII of the Rules of the House of Representatives, the following statements are submitted regarding the specific powers granted to Congress in the Constitution to enact the accompanying bill or joint resolution.

By Mr. LEVIN:

H.R. 4016.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clause 1

The Congress shall have Power to lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States.

Sixteenth Amendment

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

By Mr. BASS of New Hampshire:

H.R. 4017.

Congress has the power to enact this legislation pursuant to the following:

Clause 3 of section 8 of article I of the Constitution

By Mr. FITZPATRICK:

H.R. 4018.

Congress has the power to enact this legislation pursuant to the following:

Art. I, Sec. 8, Cl. 1; General Welfare Clause

By Mr. HASTINGS of Washington:

H.R. 4019.

Congress has the power to enact this legislation pursuant to the following:

Article IV, section 3, clause 2

By Mr. GARAMENDI:

H.R. 4020.

Congress has the power to enact this legislation pursuant to the following:

Section 8 of Article 1 of the Constitution

By Mr. FALEOMAVAEGA:

H.R. 4021.

Congress has the power to enact this legislation pursuant to the following:

This bill is enacted pursuant to the power granted to Congress under Article 1, Section 8, Clause 4 of the United States Constitution.

By Mr. HIGGINS:

H.R. 4022.

Congress has the power to enact this legislation pursuant to the following:

Fourteenth Amendment to the Constitution (Sec. 1, Sec. 5)

Commerce Clause (Art. I, Sec. 8, cl. 3)

Necessary and Proper Clause (Art. I, Sec. 8, cl. 3).

By Ms. HOCHUL:

H.R. 4023.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clause 14: To make Rules for the Government and Regulation of the land and naval Forces.

By Mr. MARKEY:

H.R. 4024.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8

By Mr. MARKEY:

H.R. 4025.

Congress has the power to enact this legislation pursuant to the following:

Article 1, Section 8

By Mr. MARKEY:

H.R. 4026.

Congress has the power to enact this legislation pursuant to the following:

Article 1, Section 8

By Mr. MATHESON:

H.R. 4027.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clause 3 of the United States Constitution

By Mr. PASCRELL:

H.R. 4028.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clause 3 of the United States Constitution.

By Mr. POSEY:

H.R. 4029.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clause 3

By Mr. POSEY:

H.R. 4030.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clause 18.

By Mr. YOUNG of Alaska:

H.R. 4031.

Congress has the power to enact this legislation pursuant to the following:

Article 1 section 8 clause 3.

By Mr. CHABOT:

H.J. Res. 102.

Congress has the power to enact this legislation pursuant to the following:

Article 5 of the United States Constitution which states that, "The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution . . ."

#### ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 140: Mr. BRADY of Texas.

H.R. 181: Mr. RAHALL.

H.R. 186: Mr. HOLDEN.

H.R. 192: Ms. SCHAKOWSKY.

H.R. 324: Mr. COLE.

H.R. 333: Mr. AMODEI, Ms. HAHN, Mr. COHEN, Mr. CARSON of Indiana, and Mr. GRAVES of Missouri.

H.R. 374: Mr. MULVANEY and Mr. BROOKS.

H.R. 458: Mrs. MCCARTHY of New York, Mr. RANGEL, Mr. BISHOP of New York, Mr. LEWIS of Georgia, and Ms. WATERS.

H.R. 459: Mr. BISHOP of Utah and Mr. UPTON.

H.R. 494: Ms. CHU.

H.R. 498: Mr. CAMP and Mr. ROKITA.

H.R. 587: Mr. DOGGETT.

H.R. 769: Mr. PASCRELL and Mr. SIREs.

H.R. 780: Ms. HAHN.

H.R. 870: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. HINCHEY, Mr. MORAN, Ms. SCHAKOWSKY, Ms. SLAUGHTER, and Ms. HAHN.

H.R. 876: Mr. SCHRADER.

H.R. 890: Mr. DENT.

H.R. 892: Mrs. BACHMANN.

H.R. 1004: Mr. NUNES.

H.R. 1063: Mr. BASS of New Hampshire.

H.R. 1142: Mr. WOLF.

H.R. 1172: Mr. FILNER.

H.R. 1175: Mr. BURGESS and Ms. RICHARDSON.

H.R. 1179: Mr. RYAN of Wisconsin, Mrs. EMERSON, Mr. BUCSHON, Mr. DUNCAN of Tennessee, Mr. DUNCAN of South Carolina, Mr. UPTON, Mr. ALEXANDER, Mr. PETERSON, Mr. CARTER, and Mr. COBLE.

H.R. 1206: Mr. LABRADOR and Mr. SMITH of New Jersey.

H.R. 1265: Mr. ROONEY.

H.R. 1322: Ms. KAPTUR.

H.R. 1340: Mr. JONES, Mr. SHULER, and Mr. MEEHAN.

H.R. 1370: Mr. REED and Mr. STEARNS.

H.R. 1417: Mr. LEWIS of Georgia, Mr. PASCRELL, Ms. CHU, and Ms. SLAUGHTER.

H.R. 1418: Mr. MILLER of North Carolina.

H.R. 1511: Mr. ROE of Tennessee.

H.R. 1639: Mr. CAMP and Mr. RIGELL.

H.R. 1648: Mr. KEATING, Ms. TSONGAS, Mr. BRALEY of Iowa, and Mr. CLAY.

H.R. 1718: Mr. KEATING, Mr. POLIS, and Ms. ZOE LOFGREN of California.

H.R. 1738: Ms. BONAMICI, Mr. CARNAHAN, Mr. VAN HOLLEN, and Mr. KINZINGER of Illinois.

H.R. 1867: Mr. ANDREWS.

H.R. 1878: Mr. COHEN.

H.R. 1946: Mrs. EMERSON.

H.R. 1960: Mr. ROSS of Arkansas.

H.R. 2106: Mr. HULTGREN, Mr. GALLEGLY, Mr. GRAVES of Missouri, and Mr. RIGELL.

H.R. 2152: Mr. YARMUTH, Mr. COURTNEY, Mr. BACA, Mr. CLAY, Mr. MILLER of North Carolina, Mr. QUIGLEY, and Mr. LUETKEMEYER.

H.R. 2288: Mr. YODER, Mr. CAPUANO, Ms. BORDALLO, Ms. WATERS, Mr. REYES, and Ms. PINGREE of Maine.

H.R. 2299: Mr. RIGELL.

H.R. 2370: Mr. CARNAHAN.

H.R. 2412: Mr. PASCRELL.

H.R. 2429: Mr. CRAWFORD.

H.R. 2485: Mr. MICHAUD.

H.R. 2487: Mr. PASCRELL.

H.R. 2568: Mr. BONNER.

H.R. 2607: Mr. FARR.

H.R. 2674: Mrs. NOEM and Mr. HINOJOSA.

H.R. 2679: Ms. DEGETTE.

H.R. 2689: Mr. KUCINICH.

H.R. 2777: Mr. LOBIONDO.

H.R. 2827: Mr. MATHESON.

H.R. 3001: Mr. HASTINGS of Florida, Mr. WALBERG, and Mr. CAMP.

H.R. 3032: Mr. HIGGINS.

H.R. 3057: Ms. RICHARDSON and Mr. PASTOR of Arizona.

H.R. 3059: Mr. FRELINGHUYSEN and Mr. BACA.

H.R. 3086: Mr. PASTOR of Arizona, Mr. PIERLUISI, Mr. LUJÁN, Mr. BACA, Mr. CARNAHAN, and Mr. DINGELL.

H.R. 3185: Mr. GOODLATTE.

H.R. 3187: Mr. COOPER, Ms. ESHOO, and Mr. YARMUTH.

H.R. 3200: Mr. RUPPERSBERGER and Mr. MILLER of North Carolina.

H.R. 3236: Mr. KIND.

H.R. 3252: Mr. ROONEY.

H.R. 3269: Mr. WESTMORELAND.

H.R. 3300: Mrs. DAVIS of California and Mr. COURTNEY.

H.R. 3315: Ms. SCHWARTZ.

H.R. 3401: Mr. COFFMAN of Colorado.

H.R. 3485: Mr. BRALEY of Iowa, Mr. PERLMUTTER, and Ms. NORTON.

H.R. 3497: Mr. GUTHRIE.

H.R. 3510: Mrs. CHRISTENSEN, Mr. AMODEI, and Ms. HAHN.

H.R. 3515: Mr. KUCINICH and Mr. FILNER.

H.R. 3523: Mr. LANCE, Mr. HASTINGS of Washington, Mr. DAVIS of Kentucky, and Mr. MEEHAN.

H.R. 3526: Mr. ISRAEL and Ms. SCHAKOWSKY.

H.R. 3542: Mr. FARR.

H.R. 3590: Mr. MCGOVERN and Mr. PAYNE.

H.R. 3596: Mr. MORAN, Mr. MEEHAN, Ms. BROWN of Florida, Mr. HEINRICH, Mr. WELCH, and Mr. KUCINICH.

H.R. 3606: Mr. RUSH, Mr. GARY G. MILLER of California, and Mr. CANSECO.

H.R. 3612: Mr. LATHAM.

H.R. 3615: Mr. WESTMORELAND.

H.R. 3618: Ms. SEWELL.

H.R. 3627: Mr. WILSON of South Carolina and Mr. THOMPSON of Pennsylvania.

H.R. 3643: Mr. BRALEY of Iowa and Mr. RIGELL.

H.R. 3676: Mr. ROONEY.

H.R. 3698: Mr. JOHNSON of Ohio.

H.R. 3760: Ms. HIRONO and Ms. NORTON.

H.R. 3767: Ms. HIRONO, Mr. ROTHMAN of New Jersey, and Mr. BOREN.

H.R. 3768: Mr. NUGENT and Mr. CARTER.

H.R. 3769: Mr. HINCHEY.

H.R. 3786: Mr. BURTON of Indiana.

H.R. 3789: Ms. SCHAKOWSKY and Mr. BLUMENAUER.

H.R. 3803: Mr. BURGESS, Mr. ROSKAM, Mr. SCOTT of South Carolina, Mr. ROYCE, Mr. STIVERS, Mr. ROGERS of Michigan, Mr. BERG, Mr. PETRI, Mr. AUSTRIA, Mr. SULLIVAN, and Mr. CAMP.

H.R. 3805: Mr. SAM JOHNSON of Texas.

H.R. 3811: Mr. FINCHER.

H.R. 3828: Mr. BISHOP of Utah and Mr. PALAZZO.

H.R. 3829: Mr. CARNAHAN.

H.R. 3855: Ms. WILSON of Florida.

H.R. 3856: Mr. MACK.

H.R. 3859: Mr. LUJÁN.

H.R. 3877: Mr. HERGER and Mr. JOHNSON of Illinois.

H.R. 3893: Mr. HANNA and Mr. WALSH of Illinois.

H.R. 3909: Mr. PIERLUISI.

H.R. 3973: Mr. GOSAR.

H.R. 3981: Mr. GRIMM and Mr. LATTI.

H.R. 3982: Mr. MCCAUL, Mr. SCOTT of South Carolina, Mr. OLSON, and Mr. AKIN.

H.R. 3993: Mr. CLAY, Ms. SPEIER, and Mrs. MILLER of Michigan.

H.R. 3994: Ms. JENKINS and Mr. JONES.

H.R. 4000: Mr. COFFMAN of Colorado.

H.R. 4003: Mr. GRIMM.

H.R. 4010: Mr. CICILLINE, Mr. MORAN, Mr. PERLMUTTER, Mr. PETERS, Mr. REYES, Mr. CONNOLLY of Virginia, Mrs. DAVIS of California, Ms. NORTON, Ms. DELAUNO, Ms. BALDWIN, Mr. ACKERMAN, Ms. SCHAKOWSKY, Ms. SUTTON, Mr. WALZ of Minnesota, Mr. FATTAH, Ms. CHU, Mr. COURTNEY, Mr. TOWNS, Mr. DAVIS of Illinois, and Mr. VISCLOSKEY.

H.J. Res. 88: Mr. MCDERMOTT.

H. Res. 111: Mr. CARTER, Mr. CAMPBELL, Ms. NORTON, and Mr. SABLAN.

H. Res. 258: Ms. PINGREE of Maine.

H. Res. 282: Mr. SHERMAN and Mr. QUIGLEY.

H. Res. 440: Mr. STARK.

H. Res. 507: Mr. ROSS of Arkansas.

#### CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, OR LIMITED TARIFF BENEFITS

Under clause 9 of rule XXI, lists or statements on congressional earmarks, limited tax benefits, or limited tariff benefits were submitted as follows:

The amendment to be offered by Representative ISSA, or a designee, to H.R. 3813, the Securing Annuities for Federal Employees Act of 2012, does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

**SENATE—Tuesday, February 14, 2012**

The Senate met at 10 a.m. and was called to order by the Honorable CHRISTOPHER A. COONS, a Senator from the State of Delaware.

**PRAYER**

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

God of grace and God of glory, send Your power on Capitol Hill. May the might of Your presence provide our lawmakers with the courage and discipline to follow where You lead. Lord, guide them through their challenging decisions to the desired destination of Your purposes. As they walk on Your path, make them exemplary models of Your love and peace. Fortify their desire to live with sincerity and self-effacement for the glory of Your Kingdom.

We pray in Your sacred Name. Amen.

**PLEDGE OF ALLEGIANCE**

The Honorable CHRISTOPHER A. COONS led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

**APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE**

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. INOUE).

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, February 14, 2012.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CHRISTOPHER A. COONS, a Senator from the State of Delaware, to perform the duties of the Chair.

DANIEL K. INOUE,  
*President pro tempore.*

Mr. COONS thereupon assumed the chair as Acting President pro tempore.

**RECOGNITION OF THE MAJORITY LEADER**

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

Mr. REID. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

**MEETING TRANSPORTATION NEEDS**

Mr. REID. Mr. President, we all know the inconvenience of a few potholes as we drive down the street. It is an inconvenience. But for companies that ship \$10 trillion worth of goods across the country every year, these disintegrating roads are more than an inconvenience or more than a nuisance.

A crowded train ride to an office or a broken escalator at a station where someone is trying to pick up a subway—or what we call here Metro—may be a hassle, but for 51 million Americans who have disabilities, most of whom rely on some type of public transportation to get around, outdated stations and overcrowded trains are more than a minor inconvenience.

Mr. President, this country's deteriorating infrastructure is something we should be very concerned about. This great Nation of ours has an infrastructure that is falling apart. Our highways, our roadways, our bridges, our dams, and railways are more than an inconvenience; they are a drain on our economy. Twenty percent of America's roads don't meet safety standards.

As the Chair heard me say yesterday when I talked about some of these issues, 70,000 bridges need to be replaced or overhauled. We have bridges in America, I am told, where schoolbuses stop when they get to the bridge, have the kids walk across the bridge, then the bus comes across without the kids in it, and then off they go. They do this because they are afraid the bridge will collapse.

Our public transportation system simply can't keep up with the pace of growing ridership. Nine out of ten Americans say rebuilding our crumbling roads and bridges is important—90 percent. Democrats in the Senate agree. Modernizing our transit system—rebuilding the roads American families and businesses depend upon—will help fuel our economy.

The legislation now before the Senate is too important to be bogged down with unrelated ideological amendments. Senate Republicans should not divert this bill to try to take away women's access to health care services such as contraception—something we have been dealing with over the last week—or mammograms and other cancer screenings.

Late last night we were told one of the Republican Senators wants to offer an amendment that deals with something totally unrelated to this bill, dealing with the country of Egypt. A debate on Egypt may be the right thing to do, but shouldn't we maybe start in the Foreign Relations Committee? Maybe we should start there. TV cameras can be there, and then it would not hold up this Transportation bill that is so important.

This bill will create or save 2 million jobs. It has broad bipartisan support. I have said here before, and I say it again, I so admire and respect and appreciate the work done by Senator BOXER and Senator INHOFE on this bipartisan bill. Unfortunately, our Republican House colleagues have gone in the direct opposite direction. They have a bill that is a love note to the tea party. The House bill didn't get a single Democratic vote in committee, for reasons that are very clear, obviously. The Senate bill, on the other hand, passed out of committee unanimously. Even some Republicans don't support the House bill and the way it is paid for—drilling in ANWR. Mr. President, that issue has a beard that has turned white it is so outdated—drilling in ANWR.

Transportation Secretary Ray LaHood—although a Member of President Obama's Cabinet, he was a longtime Republican Congressman from Illinois—said the House legislation is the worst Transportation bill he has seen in the 35 years he has been in public service. That is our Secretary of Transportation, a Republican.

There are lots of reasons, but here are a few: The House legislation would gut public health and environmental protections, and that is a gross understatement. It would ax funding for pedestrian safety even though a pedestrian is injured or killed by a car in this country every 7 minutes. It would starve our Nation's public transportation system. The House bill reverses 30 years of good policy of dedicating funding each year for mass transit—a policy enacted in 1982 by the ultraliberal Ronald Reagan. There are ads on radio and television where we see President Reagan speaking, as he did so well, on one of his signature issues, which was doing something about the transportation system in this country. Maybe someone had read something to him or told him about General Eisenhower and how much he believed the transportation system should keep moving forward.

Many House Republicans don't support the plan to shortchange millions

of Americans. I don't understand why seniors and people with disabilities, who count on public transportation, should be hurt by what the House has done in the bill they have over there.

The Chamber of Commerce and AARP have come out against the drastic approach taken by the House bill. On the other hand, the U.S. Chamber and hundreds of other organizations support the Boxer-Inhofe bill. I am disappointed House Republicans have once again chosen this very partisan path. Rebuilding a transportation system our economy can rely on shouldn't be divisive. Given the choice between working with Democrats to create good-paying jobs for American workers and playing politics, House Republicans chose politics, and that is too bad. The bill before the Senate is a good bill; we need to pass it. I am very disappointed the House has taken the road that has recently been well traveled. That is what we get from the House—the same old stuff—and we have to change.

#### SCHEDULE

Mr. REID. Mr. President, following leader remarks, the Senate will be in a period of morning business for 1 hour. The majority will control the first half, the Republicans will control the final half.

Following morning business, the Senate will resume executive session and consideration of the Jordan nomination postcloture.

The Senate will recess from 12:30 to 2:15 for our weekly caucus meetings.

We hope to confirm the Jordan nomination today and will then resume consideration of the surface transportation bill at the earliest possible time.

#### RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

#### THE BUDGET

Mr. McCONNELL. Mr. President, we have had a little more time now to look at the President's budget, and I have to say the more one looks at it, the harder it is to believe this is the President's considered response to the crisis we face.

President Obama knows better than anyone in this country that government spending and debt is completely out of control and that America is headed down the same road as Europe. This budget was his chance to show it. Instead, he decided to basically pretend these problems don't even exist, and to the extent he does acknowledge them, to propose solutions that are either gimmicks or that he knows will never come to pass.

Just to take two examples, he says he will bank savings by not fighting a war he already declared we wouldn't be fighting. He will take credit for saving money on a war that he has already declared we are not going to be fighting—a gimmick—and he would raise money with tax hikes that have been rejected eight times by both parties. And, by the way, forget the fact that government spends \$1 trillion a year more than it takes in. The President says government spending should be even higher. He significantly increases government spending at a time when we have a \$15 trillion debt, a debt that is as big as our economy.

This is what passes for leadership down at the White House. The President looks at our fiscal crisis, throws together a plan he knows is completely deceptive, and then goes on the road to sell it to captive audiences at high schools and colleges across the country. The failure of leadership is truly breathtaking. The President knows how grave our Nation's fiscal condition is. When he thinks it helps him, he admits it.

A year ago tomorrow, when debt and spending were in the news, he used his budget announcement to reiterate a pledge to cut the deficit in half. Here is what he said just a year ago tomorrow:

The only way we can make these investments in our future is if our government starts living within its means, if we start taking responsibility for our deficits. That's why, when I was sworn in as President, I pledged to cut the deficit in half by the end of my first term. The budget I'm proposing today meets that pledge.

That was the President 1 year ago tomorrow. Here we are 1 year later and he hasn't even come close—not even close.

Last month, the President said he wanted an economy “that is built to last.” What he has given us instead is a blueprint for deficits that are built to last, and he hasn't done a thing to live up to his pledge to get our Nation's fiscal house in order. In fact, he has made it worse. Last year's budget wasn't worth the paper it was printed on and neither is this one. It is not worth the paper it was printed on.

The President's job isn't to tell people what he thinks they want to hear. It is to explain the problems we have, unite people around a solution, and get the job done. This President is truly failing the American people. The only question is how long it will take for that failure to catch up with us.

I yield the floor.

#### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is observed.

#### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the

Senate will be in a period of morning business for 1 hour, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled by the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the final half.

The Senator from Illinois.

#### THE BUDGET

Mr. DURBIN. Mr. President, I listened carefully to the statement made by the Republican minority leader about deficits, and I think it is worthy to note that history suggests an opposite conclusion from what he just said.

Remember this: The last time the Federal Government ever balanced its budget and generated a surplus was in the closing years of the Presidency of William Jefferson Clinton, a Democrat.

When President Clinton left office, the national debt accumulated over the history of the United States of America was \$5 trillion. When Clinton left office and handed the keys to President George W. Bush and said: Incidentally, next year's budget—welcome to Washington—another surplus, a \$120 billion surplus. The economy has created 23 million jobs in my 8 years, and I wish you the best. He left, turned the keys over to President George W. Bush, and gave him control for 8 years.

Eight years later, another snapshot. The national debt was no longer \$5 trillion; it was \$11 trillion, more than doubled under President George W. Bush. We had dramatically lost jobs in America, unlike President Clinton.

When George W. Bush handed the keys over to President Barack Obama, he said: Welcome to Washington. Incidentally, next year's budget is a deficit of \$1.2 trillion.

It is quite a different story; isn't it? We wouldn't know that from the speech just given. The suggestion is that Democrats just don't get it right when it comes to deficits but Republicans do. History tells us otherwise.

President Barack Obama inherited one of the weakest economies since the Great Depression. In fact, we were teetering on another depression. The month he took the oath of office, putting his hand on Abraham Lincoln's Bible, we lost over 750,000 jobs in America. That is what President Obama inherited. We didn't hear that from the Republican minority leader.

I wish to show one chart that tells the story and tells it graphically. It is a chart which those who follow the floor debates will see over and over.

The red reflects job losses under President George W. Bush. The blue lines reflect employment under President Obama.

This was the month President Obama was sworn into office. Almost 800 thousand jobs were lost in America. That is what he saw as he came to the Presidency, and then look what happened.



The job losses started reducing and finally turned the corner on the positive side.

There, we have a graphic presentation of two views of the economy, the views of the Republicans and George W. Bush, with all this job loss, and the views of President Obama. That is the debate in which we are currently engaged. The Republicans want us to return to these policies, policies which call for tax breaks and cuts for the wealthiest in America, and basically ignore the investments we need to put people back to work.

I served on the Bowles-Simpson deficit commission. I understand this issue a little bit, maybe more than some. I don't profess to be an expert. The deficits have to be brought under control. We can't borrow 40 cents for every \$1 we spend in Washington and sustain economic growth in America, period. But I also know this: With 10, 11 or 12 million Americans out of work, we cannot balance this budget. We have to get America back to work. These workers have to start earning a good wage, paying their fair share of taxes, and creating growth in this economy and also growth in revenue which allows us to balance our budget.

The President has two accelerators; he has to push them both at the same time: fiscal responsibility on one side and economic growth on the other. And we have to move forward in a straight path. That is what his budget does. There are those who say ignore economic growth, ignore creating jobs. Just cut spending, just cut the deficit. If we did that alone, I am afraid the result would be disastrous. The President understands, and we all should.

There are three basic pillars to economic growth in America, and they are obvious: training and education. Is there a single Senator, Congressman or anyone here who doesn't understand they wouldn't be here without an education? We value education in America. It is the ladder of opportunity, and President Obama in his budget focuses on educating and training the next generation of skilled workers and leaders in the American economy. When we walk away from that commitment to education, we walk away from our future.

The second thing the President's budget focuses on is innovation, finding those new technologies, those new discoveries which make our lives less burdensome and create more economic opportunity. It may be the next medical device, a diagnostic tool which saves a life. It may be the next pharmaceutical breakthrough at the National Institutes of Health. It may be a new process for developing clean energy in America that puts us back in the race to be the world leader in that field. Those investments by our Federal Government pay off in good businesses, good jobs, and a better life for all of us.

Education, innovation, and the third piece is one that is on the floor today, infrastructure. It is kind of a sterile word, but what it gets down to is it represents the highways, the bridges, the airports, the mass transit, and the ports of America that are literally the arteries through which our economic blood will flow. When they are not as good as they should be or as efficient as they should be, our economy struggles. Let me give one example.

I live in Illinois and am proud of it. My family came to that State, my mother as an immigrant to this country, my father off a farm in southern Illinois, to work in East St. Louis at a railroad. We almost equate Illinois with railroads. We are in the center of America and most railroads pass through the State. There are railroads in every direction.

Right now, it takes as long to take a freight shipment through the city of Chicago as it does from the west coast to Chicago or from Chicago to the east coast. Why? Our railroad infrastructure hasn't kept up with the growing need for rail freight transportation. We need to invest in that. We have an opportunity to invest in it. When we do, when goods move more quickly, there is more profitability, businesses do better, and they hire more people. The same is true with our highway system, with mass transit, with passenger rail. Look at what the Republican view is, how they view this issue.

Currently, we are considering a bill coming over from the House of Representatives which would be a disaster for America's infrastructure and for the State of Illinois, an unqualified disaster. Instead of investing in building the infrastructure so America's economy can grow, this bill, sadly, cuts the Federal investment in transportation by 15 or 20 percent over the next 5 years. It cuts the investment in mass transit dramatically by eliminating the transfer of money from the highway trust fund to mass transit, something that has gone on for 30 years, and it makes a 25-percent cut in Amtrak. At a time when Amtrak is growing and proving itself, they want to basically start shutting it down, closing it down, eliminating trains. That is no vision for the future. That is betting on failure. That is what the House Republican Transportation bill will do. We can do better.

We have a bipartisan bill—a word we don't hear that often in this Chamber but a bipartisan bill—with Senator BARBARA BOXER of California and Senator INHOFE of Oklahoma. They have agreed on a transportation bill which moves us forward for 2 years. We need to make that investment. The President understands that in his budget. We should understand it in the Senate, and we should make it happen.

The last point I will make is this: There was a breakthrough yesterday.

Some people will be critical perhaps of the House Speaker for reversing field and changing his position. It is a question of whether the payroll tax cut which President Obama put in place is going to be continued beyond the end of this month.

Many may remember the flap that occurred in December when we were questioning whether to extend it for 2 additional months. I went back to my State and talked about it county by county as to how much it meant to working families. The Republicans relented in the House and agreed to extend it to the end of February. Unfortunately, just a short time ago, the Speaker said:

If we're going to extend the payroll tax credit, unemployment benefits, with reforms, and take care of the so-called doc fix, we're going to have to offset the spending.

That is what the Speaker said. That was just a few days ago. Yesterday, there was a different announcement. The Speaker of the House, Mr. BOEHNER of Ohio, said:

We are prepared to act to protect small businesses and our economy from the consequences of Washington Democrats' political games.

In other words, now the Republicans are prepared to extend the payroll tax cut without paying for it.

It would be easy to take a shot at the Speaker because he changed his position, but I will not. I remember this, the week of celebrating Abraham Lincoln's birth, the 203rd anniversary of his birth, Lincoln was much criticized for changing his position on an issue.

Lincoln said: Yes, I did change my position. But I would rather be right some of the time than wrong all of the time. I think Speaker BOEHNER is right.

The last point I will make is this: Let us extend the payroll tax cut. The extension of unemployment benefits is of equal value to the economy and immeasurable benefit value to those out of work who are struggling to find a job. Make sure, if we get this done on a payroll tax cut, we don't give up on extending unemployment benefits, benefits that will allow people to get back to work. I wish to see these blue lines growing. I wish to see us moving in the right direction, creating jobs in America.

President Obama's payroll tax cut and the unemployment benefits which we have pushed for have pushed us over the line in creating jobs. Let's not end this record of success. Let's build on it.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Colorado.

Mr. UDALL of Colorado. Mr. President, before the Senator from Illinois departs the floor, I wish to associate myself with his remarks—the standpoint the majority leader has pointed out in order to build an economy, built to last, we have to invest in our people

and in our infrastructure and research and development. We can't cut our way to prosperity. Every business man and woman knows that. Every economist knows that. As our economy grows, then we can meet the challenge that is presented to us when it comes to our deficits and long-term debt. That is how we are going to get a handle on that particular problem. I wish to thank the Senator from Illinois for his compelling remarks.

#### HARDROCK MINE CLEANUP

Mr. UDALL of Colorado. Mr. President, I have come to the floor to talk about an environmental problem that affects many parts of Colorado as well as other western States; that is, abandoned hardrock mines.

These mines pollute thousands of miles of streams and rivers in America with truly a toxic soup of heavy metals, including arsenic, lead, and mercury. That pollution impairs drinking water and kills aquatic and plant life for miles downstream.

This is a problem that doesn't get enough attention in the Congress, and it is my hope that by speaking, I can spur all of us in this body and the administration to take greater steps to help solve this problem. I would, in that spirit, invite my colleagues to join me in this effort.

If I might first, a little background: Starting in the 1800s, miners flocked to the West in search of fortune following the discovery of precious metals, such as gold, lead, copper, and silver. They settled in places with romantic names such as Leadville, Silverton, and Gypsum. Mining became an important part of our history, of our settlement, and of our development in Colorado. But it also left a very dirty and deadly legacy.

When a claim was mined for all its worth, the miner frequently packed up and left without a thought about the lasting problems the mine would cause. And this was an era before modern mining laws that hold miners accountable for their impact on the land.

Then, as a followup, in many cases it became impossible to identify the persons responsible for the vast majority of these abandoned mines. The Government Accountability Office estimates that there are over 160,000 such abandoned hard rock mines in the West; 7,300 are in Colorado, 47,000 are in California, and another 50,000 are in Arizona.

Today, highly acidic water still drains from these mines, polluting entire watersheds. I want to follow the logic that a picture is worth a thousand words. I want to show my colleagues what an acid mine drainage looks like. This is the Red and Bonita Mine in San Juan County, CO, which is near Silverton. For scale, I want viewers to note the pickup truck on the left

side of this photograph. You can see a couple of individuals up there as well. Over 300 gallons of water drains from this mine every minute, and the water is contaminated with all kinds of heavy metals that produce the orange and the red streaks you see in this photograph. Highly acidic water flows into the Cement Creek and eventually into the Animas River, impairing water quality and aquatic life. For a region of Colorado that thrives on tourism, including angling, this situation is extremely harmful.

From EPA data, we can conservatively estimate that over 10,000 miles of streams and rivers and nearly 350,000 acres of lakes are impaired in this country as a result of acid mine drainage. With that backdrop, what is being done? For one, at those sites where a responsible party can be identified, the Federal Government has the tools at its disposal to hold them accountable. Also, the Federal Land Management agencies have a variety of programs that mitigate abandoned hard rock mine pollution.

However, the efforts I want to focus on today are those undertaken by a third category of people: entities that had no role in creating the pollution at an abandoned mine site yet want to make the situation better. Appropriately enough, we refer to these entities as Good Samaritans. One such Good Samaritan is the Animas River Stakeholders Group in southwestern Colorado. They are working to find solutions to clean up the Red and Bonita Mine. Often, Good Samaritans are nonprofits with a mission to restore the natural environment. Sometimes they are community groups that want to improve their cities and their towns. Sometimes they are mining companies looking to be good stewards in the communities in which they operate. Sometimes they are State and local governments.

For example, take the Tiger Mine near Leadville, CO. The picture I want to show you was taken before any remediation activities took place. You can see the piles of mine waste and drainage coming from the mines beside it. At peak flows, as much as 150 gallons of water per minute contaminated with cadmium, copper, lead, zinc, and iron flows out of the Tiger Mine.

As you can see in the second picture, some remediation work has been done. The mine waste was moved out of the way, capped, and revegetated, and the ditches were put in above the mine to divert surface water runoff and to further reduce contamination.

You can also see in this picture that four pits have been dug below the mine, and this represents the next phase of cleanup being lead by Trout Unlimited, another Good Samaritan. Eventually these pits will become what is known as a sulfate-reducing bioreactor. Now, the Presiding Officer knows I was not a

chemistry major, so I won't attempt to describe how this works. But the end result is a good thing, I can tell you that. The acid mine drainage flows in and cleaner water flows out. However, Trout Unlimited has run into a problem that has frustrated many Good Samaritans. The bioreactor counts as a point source of pollution; therefore, before Trout Unlimited can turn the bioreactor on, they must obtain a clean water permit. Trout Unlimited cannot meet the stringent permit requirements without investing in far more expensive water treatment options, nor can they afford to assume the liability that comes with the permit. As a result, the bioreactor sits unused.

Federal law is, in effect, sidelining some of the best hopes for remediation. I have tried for several years—I said several years, but it feels like a lifetime—I think at least a decade to give Good Samaritans some relief. I have introduced legislation to every Congress since 2002 that creates a unique permit specifically for this kind of work. Unfortunately, I have not been able to convince enough of my colleagues just how good of an idea this is, but I am going to keep trying.

In addition, I have been working with Senator BOXER to encourage the EPA to better use the administrative tools it has at its disposal. Good Samaritans report to me that administrative tools have been cumbersome to use so far, and they don't offer the full Clean Water Act protection they need.

Senator BOXER, along with Senator BENNET, has asked the EPA to make this tool more accessible to Good Samaritans. Last week we asked the agency to provide Good Samaritans with assurances that they would not be subject to enforcement for appropriate actions to clean up acid mine pollution.

I am grateful for the work the EPA has done to focus on these issues and for Senator BOXER's leadership. Good Samaritans are too valuable a resource to keep on the sidelines. Congress should do what is necessary to bring their efforts to bear on the cleanup of abandoned mine pollution. Good Samaritans cannot solve all of our abandoned mine pollution problems, but we cannot afford to turn away those willing to help any longer.

Mr. President, I thank you for your interest on this important topic to those of us in the West.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia. (The remarks of Mr. ROCKEFELLER are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. ROCKEFELLER. I yield the floor and note the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHANNIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JOHANNIS. I ask unanimous consent to participate in a colloquy with my colleagues, Senators BLUNT, RISCH, ISAKSON, and HELLER.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JOHANNIS. Thank you, Mr. President.

### THE BUDGET

Mr. JOHANNIS. Mr. President, we rise today to talk about the budget that was submitted by the President of the United States, actually within the last 24 hours. Despite a 2009 promise to literally cut the deficit in half by the end of his first term, President Obama released a budget that, for the fourth year in a row, calls for a deficit in excess of \$1 trillion. Unfortunately, this proposal is one more year of the same old story: more taxes, more spending, more borrowing, and yet another punt on the tough issues we as a Nation must face.

As a former Governor, I understand what it takes to balance a budget. Difficult choices do have to be made, even with programs that are popular. In 2001, when I was Governor of Nebraska, I closed a \$220 million budget shortfall and didn't raise taxes. But \$220 million is merely a drop in the bucket for the Federal budget that amounted to more than 7 percent in Nebraska. By comparison, if the President had submitted a budget that cut spending by 7 percent, he would be cutting more than \$260 billion this year. That wasn't the last thing we had to do. With the post-9/11 economy, we called special session after special session to cut spending.

But instead of that, the President is projected to increase spending. Leadership is necessary and, sadly, this budget does not display it. Instead, America's balance sheet continues to drown in a sea of red ink for yet another year, driving our 2012 deficit to nearly \$1.4 trillion. Instead of making tough choices about priorities, the President appears to be doubling down on more stimulus spending.

Let me give a few examples, and then I will invite my colleagues to join me: \$2 billion in new tax credits for the production of advanced technology vehicles; \$4 billion to extend and modify "certain energy incentives which could include clean renewable energy bonds;" \$3 billion to encourage investments in advanced energy manufacturing projects; \$4.7 billion for new spending to strengthen the teaching profession despite GAO finding 82 duplicative and wasteful teacher quality programs. When we add it all, we are presented

with yet another budget that contains the largest tax increase in U.S. history. It raises taxes by more than \$1.8 trillion. I could go on and on. This is simply a situation where we have seen this budget before, and it doesn't improve.

I will turn to my colleague Senator BLUNT, from the State of Missouri, who has worked on these budgets before, and I will ask him to offer some insights of what he sees in this budget and where it is leading our country, in his opinion.

Mr. BLUNT. I thank my friend for putting this discussion together this morning. I think it is a serious discussion, unlike this budget, which is clearly not a serious budget. The President doesn't expect it to be voted on. The majority leader in the Senate said it wouldn't be voted on. When the White House spokesman was asked if they had a position on the fact that the Senate wasn't going to produce a budget—this budget could be voted on but it won't be debated and there won't be a companion Senate budget apparently that goes along with it—the White House spokesman said no, they didn't have a position on the fact that the majority leader said there would be no Senate budget this year. Remember, this is the budget that is required by law to be passed by April 15 of every year, and I guess this will be the fourth straight time that April 15 will be missed without having passed a budget.

What we have here, unlike a budget document that does what the Senator from Nebraska did as Governor or what my son Matt did as Governor of Missouri—he had a \$1 billion deficit, and they had to make up for that, and they did. The Senator from Nebraska made up for the deficit in his State. Governor and now Senator RISCH was responsible to see that the numbers added up. These numbers don't add up. This is a budget that spends too much and taxes too much and it borrows too much. Spending goes up in this budget. In this budget year we are spending \$3.8 trillion, fiscal year 2013, the budget year we are talking about now. Seven years from now, fiscal year 2022—9 years from now—we are spending almost \$6 trillion, from \$3.8 trillion to \$5.8 trillion.

Clearly, the spending problem isn't solved by this budget. This budget makes the spending problem worse. This budget adds almost \$2 trillion in new taxes. So it spends too much, it taxes too much, and then it borrows too much. We are going to increase the debt again. We have a deficit of almost \$1 trillion in each of the Obama years of responsibility during this first term. It cannot be allowed to continue. But when we look at this budget document—the 10-year projections—there is no indication that we change any of these trends.

We all understand these trends are unacceptable. The Federal Govern-

ment's total debt has now surpassed the size of the economy. The potential of our economy to produce goods and services, the so-called GDP number, is now exceeded by our debt. We know what happened in Greece when their debt exceeded the capacity of their economy to produce goods and services. We know what happened in Italy. We know what happened in Ireland. We know what happened in Portugal. Why don't we think that is going to happen to us? Because it will, and we have to make these numbers add up.

The Senator from Nebraska as a Governor had to produce a budget. Governor Risch produced a budget. I will turn to him in a second to talk about the responsibility of the Executive to lead and then, frankly, the responsibility of the Senate to do its job.

I am continually surprised that we can miss this absolute deadline in the law year after year after year and there is not a press outcry. There is more of a public outcry than a press outcry. My sense is that if when I was in the House of Representatives we had missed this deadline once as opposed to over and over and over, there would have been a marshaling of people around the country to come and stand on the steps of the Capitol to say, Why isn't the majority in the House doing its job? This is something the current majority in the Senate has walked away from in ways I can't understand.

When we talk to Americans, getting people back to work and getting control of Federal spending are the No. 1 and No. 2 domestic priorities, but I don't see those priorities in this budget.

I turn to my friend from Idaho to see what he has thought of, as we have now had a few hours to look at the specifics of the President's budget.

Mr. RISCH. Mr. President, I thank the Senator from Missouri. Like everyone, I have been perusing the numbers to try to figure out whether this gets us somewhere and whether it will actually come to fruition.

A quick look at history. As the Senator points out, this will be the fourth year, if we don't adopt a budget, where we haven't had one. There isn't an entity in the world that operates without a budget. We have to have a budget if we are going to do anything responsibly. Budgeting is not that difficult; it is merely a way of taking the money we have coming in and allocating it on a priority basis for what we think money should be spent for. There is never enough money. There isn't an enterprise in the world that has enough money. Everyone has to make decisions as to what are the priorities and do the best they can with the money they have.

As I said, over 1,000 days have passed since the Senate has adopted a budget. Last year, a similar budget the President produced was actually put on the

floor here of the Senate for a vote. It failed, with zero “yea” votes to 97 “no” votes. That is not a party-line vote.

This budget, one can only conclude, just like the budget produced by the President last year, spends too much, taxes too much, and it borrows too much.

The budgeting process is something that is extremely important. The American people demand it. Common sense demands it. Anyone who has ever operated a government or a business enterprise knows we must budget. Every Governor in the United States does it—all 50 States. Every legislature does it. As was pointed out by Senator JOHANNIS, when he was Governor he had to cut 7 percent.

Let me tell my colleagues about the state of play in Idaho. When I was Governor, the budget was \$3.5 billion when I left. The current Governor is operating with a \$2.5 billion budget. He cut \$1 billion out of a \$3.5 billion budget. If it can be done at the State level, it can be done at the national level, and, indeed, it has to be done at the national level. We are going to have to cut.

The proposed budget spends about \$10.4 billion every day, and I put it on a daily basis because when we start talking about trillions, people's eyes glaze over. There is no possible way—there is no human being on the face of this planet who can determine what \$1 trillion is, let alone the \$3.8 trillion this budget spends. But if we put it on a daily basis, it is \$10.4 billion every day. Remember, in the State of Idaho, for a year, the State spends \$2.5 billion. This government spends \$10.4 billion every day. That comes down to about \$7.2 million every minute.

One wouldn't have a whole lot of argument about that if indeed the government had \$10.4 billion to spend every day or \$7.2 million to spend every minute. But, indeed, every day, under this budget, the Federal Government will borrow \$2.4 billion—every single day. The borrowing comes down to about \$1.7 million every minute.

When we put it in terms of how much it is a day and how much it is a minute, it becomes staggering. Right now, because we have been dealing with this, every time I see nationally a business engaged in a huge deal at \$5 billion or something such as that, we can put it in perspective of how the Federal Government is doing its business. This borrowing that is being done every day by the Federal Government has yielded us now a \$15 trillion debt. Again, I don't know what that is; nobody knows what that is. But what I do know is we will never pay it off in our lifetime. It will be our kids and our grandkids who are saddled with that particular amount. That is the real deal.

I wish everybody could have the experience I had, and a number of Senators have done this. Every day, the

Federal Government has to pay its bills at the end of the day. They are not like businesses; they don't pay every month. They pay at the end of the day. How do they do this? When I first got here, I thought: This is staggering, and what have you. But I went and watched them do it. The Treasury has a checkbook, like everyone else does, and at the end of the day it has a balance, like everybody else. How does it balance it? It balances it by going out and borrowing the money. I watched them borrow. This is indeed borrowing. About a fourth of it comes from China, about a fourth comes from other countries, and about half comes from wealthy institutions including banks and trusts and individuals around the world. But it is real borrowing and it has to be paid back. Indeed, they not only borrow the amount of money they need every day for the daily deficit, but they borrow enough money to pay back the people whose debts are coming due that day.

After you walk out of there and watch them actually do that, you can't help but walk away from it feeling sick. Because when we look at these kinds of numbers, the government can't pay its bills at the end of the day. The only way it can pay its bills is if it borrows.

We need systemic change. Everything has to be reformed. If I were in charge of everything, the first thing I would reform is this ridiculous idea that we budget on a 10-year basis. That is outrageous.

Mr. President, 10-year budgeting allows smoke and mirrors and allows gimmicks and games so you can stand up and say: Why, this budget saves \$4 trillion. It does not save a dime next year. All this alleged savings is 10 years out, and, indeed, on this 10-year cycle they use to budget, the second year never comes.

We need an annual budget. We need to look in the mirror and talk about how much we are spending next year versus how much is coming in. Forget this 10-year basis. It is absolute nonsense.

Senator BLUNT talked about Greece. Greece is going through what we are going to have to go through at some time; that is, cutting back. They lived happy for decades. Well, they spent their children's and their grandchildren's money, and all of a sudden what happened to them? Nobody would loan them money anymore. If that happens to us, we are out of business. If nobody will loan us any money on a daily basis, we are out of business.

So what do we need? We need compromise. It is compromise that got us into the position we are in. Compromise every year caused us to take each budget item, where the Democrats wanted to spend more, the Republicans wanted to spend less, so they compromised somewhere in the middle.

Now we are operating, even under this budget, at a trillion-dollar deficit for the year.

It is time to compromise again. But we need to go in the other direction. We need to compromise on: How much are we going to cut this year? The Republicans are going to want to cut more. The Democrats, I hope, will agree that we need to do some cutting and we need to wind up somewhere in the middle. That is the only way we are going to get this back on track. This budget does not cut it. This budget does not even come close to it. We are going to bankrupt America if we do not start doing things differently.

I see Senator ISAKSON has joined us on the floor.

Mr. JOHANNIS. Mr. President, I thank my colleagues for laying out what this budget is all about and the problems we are seeing.

Senator ISAKSON has been a leader in trying to reform the budget process.

I say to Senator ISAKSON, I would like you to offer thoughts on what you see in this budget and some ideas on how we can improve this situation we find ourselves in with the President's budget wanting more taxing, more borrowing, more spending.

Mr. ISAKSON. Mr. President, I thank the Senator for the opportunity.

I commend Senator RISCH for his remarks. I want to make a little addition to those remarks in a second. But specifically, in answer to Senator JOHANNIS' question, the only thing you can do with this budget is start over.

Senator RISCH has very importantly recognized the 10-year fiasco we look at every year by pushing savings out into years 8, 9, and 10, when this President will not be here and another Congress will be here.

In talking about compromise, one of the things Senator SHAHEEN from New Hampshire and I have pushed for 2 years is a process 40 States operate under, including the Senator's, if I am not mistaken, I say to Mr. JOHANNIS, and that is a biennial budget process. So instead of talking about 10 years, you are talking about 2 years. Instead of talking about appropriating every year, you appropriate in 1 year for 2 years, and in the second year—which happens to be the election year, or the even unnumbered year—your total obligation is to look for savings, efficiencies, and the fine functioning of the government.

We do not ever do in this Congress what our families do and our children do every year at home. We do not ever sit around our kitchen table, reprioritize our expenditures based on our needs, and find out how to live within our means. The American people do not get the luxury of printing money. Japan does not come in and buy notes to fund their money. They have to figure out how they themselves can manage their budget in such a way

as to live within the income they have and not go into big debt. The United States of America ought to do the same.

One of the things Senator RISCH hit on that I want to hammer on for a second—because there is a big part of our problem that is solvable; and it is solvable if good people would be willing to talk about it rather than politic about it—is known as entitlements.

Entitlements are Social Security, welfare, Medicare, Medicaid, retirement disabilities, et cetera. But two of them are not entitlements. Two of them are obligations of the United States of America. That is not an entitlement. That is something somebody has paid for. America's people pay 6.2 percent of their payroll normally—except for the recent holiday we have had—to go into a Social Security trust fund to pay them a benefit. They pay 1.35 percent of their income every month—from day one, since 1968—to pay for Medicare. Those are not entitlements they are entitled to. Those are obligations we have committed them to from moneys they have paid.

This document we are looking at in this budget does not portend a single change in benefits or in obligations for Medicare and Medicaid and Social Security, which simply means the day they go broke comes that much faster. We are defaulting on the obligation we have to the American people. Whereas, if we sat down honestly, put those programs on the table, looked at the out-years, when my grandchildren and children may be beneficiaries, and modify the obligation, pushing out the eligibility, we can save the obligation we owe the American people for Social Security and Medicare. But if we do not do it, it will be gone. That is something they paid for that we took out of the trust fund and used for something else—not the least of which was the \$500 billion the President took out of the trust fund for Medicare to help pay for the affordable health care bill, which has not even gone into effect yet.

I think it is time we ask of ourselves what the American people have to ask of themselves: Sit around our kitchen table, decide what our priorities are, live within our means, and budget for the future. Do not budget for failure. This is budgeting for failure.

Mr. JOHANNES. Mr. President, I appreciate the comments made by Senator ISAKSON. I wish to take a moment to follow up on his comments relative to Medicare and Social Security. Then I would ask Senator BLUNT to offer a few words on where we go from here, what do we anticipate we have to do to set the ship of state on the right course, if you will.

But let me speak to the issue of Medicare and Social Security. Senator ISAKSON could not be more right. When you get paid, you can literally go to

your paycheck stub and you can see the amount of money that is being withheld out of your paycheck—throughout your life—for Social Security benefits and for Medicare benefits.

When these programs were set up, thereabouts, a group was put together—they were referred to as trustees—and they basically did a fair analysis of where these programs were and where they were headed. Every year, they put out a report, and we will be getting another annual report in the not too distant future. But I think we all know what the report is going to say. The report is going to say that in the vicinity of about 2024, if not a bit sooner, Social Security literally is going to be insolvent. It is also going to say Medicare is literally in a position where it will be upside down financially sooner than that. The greatest challenge between the two, obviously, is Medicare.

What does that mean to people who are currently beneficiaries or about to retire and planning on these items being there for them? Well, what it means is, that plan could be in serious jeopardy.

It is not because MIKE JOHANNES woke up last night and said that or dreamt it or thought about it. It is because people who are empowered to look at Social Security and Medicare have studied it very closely, have looked at the financial pieces of this, and have come to this conclusion.

Now let's examine the President's budget. What plan does he have to protect Medicare or Social Security? Well, he does not have a plan. These are not easy issues. I am not arguing here today this is easy to take on. But what I am saying to the American people is, if you study this budget or any other budget submitted by this President, he is doing nothing to arrest literally our progress toward these very important programs becoming insolvent. If there was ever an area in this budget where we need Presidential leadership, it is right here.

I would ask Senator BLUNT for his thoughts. The Senator has studied these issues over the years and has offered great insight. Where do we go from here? What are the Senator's thoughts in terms of this budget and how we get back on track?

Mr. BLUNT. Mr. President, I say to the Senator, I think my first thought is, the insight is not that difficult; it is just that we need to do our job. We cannot expect to solve these problems if the Senate does not do the job it is supposed to do. And we cannot expect to solve these problems if we keep letting the size of our government get out of proportion to the capacity of our economy.

In 2008—the year before the administration started—the deficit was higher than I thought it should be by a lot. It was \$459 billion. That was 3 percent of

GDP, and I thought that was unacceptable. The very next year—the first year of this administration—it went to 10 percent of GDP, \$1.4 trillion. Then after that, it has been a trillion, a trillion, a trillion—\$1.4 trillion, \$1.3 trillion, \$1.3 trillion—\$1.3 trillion in the year we are in now. This does not change that trajectory at all. And in the budget the President submitted, for the first time any President has said this, the President says the Social Security trust fund, during this 10-year window, will run out of money—that the money coming in, for the first time ever, will not equal the money going out—but proposes nothing to do anything about that.

This is a commitment the Federal Government has made to Americans. Social Security can continue to work if you periodically look at the facts, the demographics, and adjust it.

We have about worn out the Tip O'Neill-Ronald Reagan example on Social Security. But I say to the Senators, that was in 1983. On the supposed third rail of politics that a President will not touch, in the very next year, Ronald Reagan carried 49 States. This would have been a great year in divided government to solve this problem because one side could not spend the rest of the time blaming the other.

I do not think the changes in Social Security, made in 1983, to my knowledge, have ever been an issue in any political campaign anywhere. Because they were made in a way that anticipated people's needs to adjust, we are just now, 30 years later, getting to the final phase-in of the new retirement age—30 years later. But if you do not get that started, you will never get there, whether it is Social Security or the Social Security insurance fund, which gets into trouble even quicker, according to the President, in 2018, and there is no proposal to do anything about that.

For people who are absolutely dependent on that safety net—family members, dependent children—if something happens to the worker who is paying into Social Security, 5 years from now the President says that is in big trouble. But you go through all of these papers, and you see no indication anywhere of what we should do about that.

These are issues that have to be dealt with, and I suggest the most fundamental way to deal with them is for the Senate to do its job, for the Senate to produce a budget, for the Senate to get focused—as Senator RISCH suggested we need to focus—not on some phony pay-for 10 years out that never materializes, but what are we going to do this year to change the course of the country, to change the trajectory.

One thing you learn in artillery is, you do not have to change the trajectory, you do not have to change the level of the artillery piece very much

to make a big difference out there in the distance. But if you do not change it at all, you keep landing at exactly the same place. And this is a budget that actually lands in even a worse place because it spends more money, it spends too much, it taxes too much, it borrows too much, and the American people know we cannot continue to do that, as was the case made very well by Senator RISCH.

I ask the Senator, does he have any other thoughts on what we need to be doing and how we need to be doing it?

Mr. RISCH. First of all, one of the things people have to accept—and it does not happen around here—is we do not have an income problem. We have a spending problem. All the money in the world would not get us to where you are able to solve every problem that comes down the pike and people want to resolve.

The President is urging that somebody is not paying their fair share. I wish he would hang more details on that. I wish some media person would ask him: Identify these groups for us, please. I think he is trying to create a national dialog as to who is or who is not paying their fair share. I think that might be appropriate.

I think when the American people started on this, they took the numbers and said: OK, if you take the first half of income earners from the lowest to the median, they are paying zero percent in taxes; the top 10 percent is paying 70 percent of all the money the government takes in, so let's have a dialog as to which of those two groups is paying their fair share.

There are some very good sociological reasons why the upper income pays more than the lower income, and I do not think anyone is going to argue with that.

But there is only so much we can do. I am not here defending the rich. The rich take care of themselves. They can move their capital wherever they want to move it. Indeed, we all know a good deal of it is moved offshore. There is \$2 trillion offshore right now that Americans—American businesses—want to bring back, but they will not bring it back because there is a war on capital in this country with the government trying to take the capital. We need to have a national dialogue about that. We need to land in the middle someplace.

Again, no one is going to defend the rich. They do not have to; the rich can take care of themselves. But the fact is, we have to come to the conclusion at some point that the resources of the American people are finite. Be it the rich, be it the poor, be it the middle class, their ability to pay for government is finite. There is a point at which we have to say wait instead of saying we are going to bring in more. We have to say we are going to have to prioritize the money we have and how we are going to spend it.

I think that is the way we get out of this situation, having an acceptance that there is a finite amount of money. It is too easy for us to borrow money. We have seen that in our own lives. We have seen friends of ours who have gone down to the bank and borrowed money. If the money is too easy to borrow, they get into trouble, and they get into trouble relatively quickly.

Well, we have gotten into trouble because it is so easy for us to borrow. People still want to loan us money. People are still loaning us money every day. They lend us billions and billions. Indeed, if they did not, we would be out of business. So it is time for this national dialogue on where we are going to go.

As I said, the only way this is going to be resolved is if we compromise. Instead of talking about how much more we are going to spend, we need to do something we have not done since World War II; that is, compromise on how much we are going to cut.

The PRESIDING OFFICER (Mr. MANCHIN). The Senator's time has expired.

Mr. JOHANNIS. Mr. President, I anticipate Senator HELLER will probably seek the floor. But this concludes our colloquy.

I yield the floor.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

#### EXECUTIVE SESSION

##### NOMINATION OF ADALBERTO JOSE JORDAN TO BE UNITED STATES CIRCUIT JUDGE FOR THE ELEVENTH CIRCUIT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to resume consideration of the following nomination, which the clerk will report.

The assistant legislative clerk read the nomination of Adalberto Jose Jordan, of Florida, to be United States Circuit Judge for the Eleventh Circuit.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. HELLER. Mr. President, I ask unanimous consent to speak as in morning business for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### THE BUDGET

Mr. HELLER. Mr. President, our Nation is more than \$15 trillion in debt. The President's budget will increase government spending by \$47 trillion over the next decade. Included is the largest tax increase in American history, while our national debt increases to \$25.9 trillion over the next 10 years.

That is right. This budget proposes a massive tax increase, not as a plan to

address the national debt but to fuel more reckless big government spending. Our Nation cannot afford to continue down this path. This reckless budget will not only saddle our children and grandchildren with massive government debt, but it proposes to raise taxes on the very businesses we need to create jobs.

How can this President and the majority party claim to be projobs when everything they are doing is antibusiness? This budget threatens our long-term economic security and places a greater burden on our children and grandchildren who will be forced to live and pay for Washington's inability to solve this problem.

While I believe the President's budget spends too much, borrows too much, and taxes too much, in the Senate the majority party has chosen to go to the other extreme. They have now refused to pass a budget for more than 1,000 days. It is our responsibility as legislators to develop a real, workable budget that will put our Nation back on the path of economic prosperity. Unfortunately, the majority simply has not taken this responsibility seriously.

Now, there are some who claim that spending caps established in the Budget Control Act constitute a budget. Quite frankly, I disagree. At a time when millions of Americans are out of work, this behavior in Washington continues to create great uncertainty and stifles economic growth.

No State has felt the failures of Washington more than the State of Nevada. My State continues to lead the Nation in unemployment, with more than 150,000 Nevadans looking for a job. With the so-called stimulus plans, Cash for Clunkers, and bailouts, Washington's response to our economic problems has been woefully inadequate and, in Nevada, a complete failure.

Here is the kind of story I hear all too often from my fellow Nevadans:

You may recall that my wife Pam and I own Straw Hat Pizza here in Carson. Pam has owned and operated the restaurant since May of 1985. Unfortunately, after 25 years of operation, today is our last day of being in business. We are forced to close our doors and likely file for bankruptcy due to the horrible economic situation in our state, and Carson City in particular. It's a true tragedy that a lifelong endeavor ends this way, and Pam feels that she is a failure.

I keep reminding her that the failure was not hers, but rather a failure of liberal elected officials to do what's right for our country and get out of the way, let free enterprise work its magic, and in turn let individuals flourish.

Members of Congress are willfully refusing to put our Nation on a path of long-term fiscal responsibility, creating greater uncertainty, and contributing to an anemic economy that is forcing small businesses to close their doors. As long as this is the case, Americans will continue to be frustrated and angry with Washington's inability to produce real results.



Our Nation's Capitol remains the only place in the country where difficult decisions are not made. Congress continually kicks the can down the road leaving tough fiscal decisions for future Congresses, future administrations, and worse, the next generation.

In light of these facts, is it any mystery why Congress is currently experiencing its worst approval ratings in history. I introduced the No Budget, No Pay Act to force Congress to face reality, to take responsibility for running this country. This bipartisan legislation requires that the Senate and House of Representatives pass a budget and all appropriations bills by the beginning of each fiscal year. Failure to do so would result in the loss of pay until Congress takes its job seriously.

If Congress does not complete its constitutional duties, then its Members should not be paid. It is that simple. If we do not do our job, then we should not be paid. This concept resonates with the American people. I know this because I asked Nevadans during a series of telephone townhall meetings last year whether they supported a bill that would hold the pay of Members of Congress if they failed to pass a budget. More than 4,000 Nevadans participated in this poll, and 84 percent of them supported the No Budget, No Pay concept.

The budget is not a trivial piece of legislation or a campaign document. It is a roadmap that identifies goals, priorities, and establishes a multiyear fiscal course for the Nation. If done right it can provide stability and set expectations for where we want to take our Nation.

Budgeting is not a strange concept. It is something that is done at all levels of government, businesses large and small, and at every kitchen table across the country. It is past time for Congress to actually implement policies that would encourage the economic growth we need to ensure that workers can have good jobs and provide for their families.

While the No Budget, No Pay Act will not solve every problem in Washington, I sincerely believe it would be a step in the right direction. These essential functions of Congress are vital to fiscal responsibility and creating greater certainty so our job creators can flourish.

I was pleased to see reports of growth—small growth—in our economy. But lack of clarity provided by Washington continues to hamper economic growth. Back home, Nevadans continue to struggle. Small businesses are trying to survive while gridlock in Washington is making it harder for employers to know what to expect in the coming years. Establishing a responsible budget would be a good first step toward placing our Nation on a path for a more prosperous future.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. TESTER). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PAUL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### EGYPT

Mr. PAUL. Mr. President, some Senators are concerned that I may be delaying a vote in the Senate. This is not true. I offered yesterday to vote on my amendment with 10 minutes of discussion. I have offered to vote immediately at any point in time.

I do think it is worth 10 minutes of our time and 10 minutes of America's time to discuss the plight of U.S. citizens in Egypt. I don't think 10 minutes is too much to ask to discuss, debate, and vote on whether Egypt should continue to get aid from us while detaining our citizens. Egypt is unlawfully preventing U.S. citizens from leaving that country. I don't think 10 minutes is too much to ask. We have sent over \$60 billion in aid to Egypt over the years, and they now hold 19 U.S. citizens virtually hostage.

Will we ever learn? Will we ever learn we can't buy friendship? Nineteen U.S. citizens who traveled to Egypt to help Egypt embrace democracy, to help Egypt to have an elective government, to enjoy the freedoms we enjoy and the success we enjoy having a democratic government, those Americans are now being prevented from leaving Egypt. Some of the prodemocracy workers are, in fact, seeking refuge in the U.S. Embassy.

This is a tragedy and something we should make a clear and unequivocal statement about. Does Egypt wish to be part of the civilized world or do they wish to descend into the lawlessness of the Third World? Some have argued we don't need these provisions, that there are already provisions in place to prevent Egypt from getting aid. Apparently, the Egyptians aren't listening, and they need to listen very clearly.

The amendment I proposed will end all aid to Egypt—economic and military. We give over \$1.5 billion to Egypt every year, and we cannot continue to give aid to a country that is illegally detaining our U.S. citizens.

Some have said the provisions we already have will take care of this. There are a couple problems. The Egyptians aren't hearing that message, so the message needs to be louder and more firm. We will not tolerate any country holding U.S. citizens as hostages or lawlessly. I think Egypt needs to know America means business, and that is what this debate is all about.

I don't think it is too much to ask the Senate to consider this proposal on Egypt; let's spend 10 minutes and let's have a vote to send a message to Egypt.

The question is, Will we ever learn? Will we ever learn we cannot buy friendship? Will we ever learn we cannot create Democrats out of authoritarians simply by buying them off? We have tried it. We have sent billions of dollars to Africa and asked authoritarians who rape and pillage and torture their own people, and we give them more money trying to convince them to be democratic. It doesn't work.

We need to have a firmer hand and say there will be no more aid to countries that detain U.S. citizens, that don't allow their citizens to vote, and to countries that torture and rape and pillage their population.

We have sent billions of dollars to Afghanistan, and it is an insult to Americans—particularly to American soldiers—that the President of Afghanistan has said if there were a war, he would side with Pakistan against the United States.

Will we ever learn? We send money—billions of dollars—to these countries, and apparently they still dislike us, disrespect us, and say they will side with our enemies.

There are now officials in Pakistan, which has gotten billions of dollars from us, saying Pakistan will side with Iran. Afghanistan is telling us they will side with Pakistan. So Pakistan will side with Iran, and what does the chump, the U.S. taxpayer, get? Send more money. No. 1, we don't even have the money. We are borrowing the money from China, and we are asked to send more money to people who disrespect us. I think that is an insult that should end.

Will we ever learn? Will we ever learn we can't buy friendship? Will we ever learn authoritarians, no matter how much money we give them, will not become democratic? Egypt must be put on notice.

The President is not leading on this issue. Just a few weeks ago, the President's Under Secretary of State, Robert Hormats, stated he wanted to make sure the administration assured the Egyptians that we want to provide them "more immediate benefits."

Do you think that maybe the President is sending the wrong message to the Egyptians? They are detaining 19 U.S. citizens and preventing them from coming home and U.S. citizens are holed up in our Embassy and the administration says we need to make sure the benefits get there immediately. The administration is bragging about sending more aid to Egypt.

Just yesterday, the President came out with a new budget. Guess what. There is \$1.5 billion of taxpayer money to be sent to Egypt. What kind of message are we sending them? I think the President is not leading the country and is not exemplifying what most Americans would want; that is, to send a clear and unequivocal message to Egypt that we will not tolerate this behavior or subsidize this behavior.



Think of it. The American taxpayer is being asked to subsidize a government that is detaining U.S. citizens. The American taxpayer is being asked to subsidize Pakistan, that says they would side with Iran. The American citizen, the American taxpayer, is being asked to subsidize Afghanistan, that said they would side with Pakistan against us. All the while we are running trillion-dollar deficits, borrowing this money, and bankrupting our country.

The Egyptians need to be sent a clear and unequivocal message. I think it is worth 10 minutes of the Senate's time to have a vote. I think it is worth it for the 19 U.S. citizens. If it were my child in Egypt working there for a prodemocracy group, I would want to think the Senate had 10 minutes of time. I would want to think the Senate can spare 10 minutes of time to send the Egyptians a signal that we will not tolerate this and they must let our citizens come home.

The United States will not and should not stand for the detention of American citizens. The United States will not stand for imprisonment or travel restrictions on its citizens, and the United States should not send aid to a government that so casually accuses American citizens of political crimes.

So while some will say I am holding up the business of the Senate, I argue this is the business of the Senate; that foreign policy was delegated—much of it—to the Senate, that we are abdicating our role, and that we as the Senate should send a clear and unequivocal message to Egypt. So I will continue to argue, despite much opposition, to have a vote to send a signal to Egypt that we will not tolerate the detention of U.S. citizens.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. JOHNSON of South Dakota. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSON of South Dakota. Mr. President, I ask unanimous consent that I be allowed to speak in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSON of South Dakota. Mr. President, I also ask unanimous consent that following my statement, the Banking Committee's ranking member be recognized, followed by Senator MENENDEZ of New Jersey, and that all time they consume be counted toward the postcloture time.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SURFACE TRANSPORTATION ACT

Mr. JOHNSON of South Dakota. Mr. President, I am pleased to present the Banking Committee's public transportation bill to the Senate as an amendment to the surface and transportation legislation now before us. The transit bill was reported by our committee unanimously. Maintaining investment in our Nation's transportation infrastructure is a priority of mine and of our committee.

I wish to thank our committee's ranking member, Senator SHELBY, who has worked for a long time on this bill. Without his support, this bipartisan legislation would not be possible. I also wish to thank our committee chairman, Senator MENENDEZ, and all the other members of the committee who offered their contributions.

With this bill, we have the opportunity to preserve public transportation funding for 2 years at current levels and deliver critical investments in the Nation's aging transportation infrastructure. In addition, the bill will institute much needed reforms, such as eliminating earmarks and speeding the construction of public transportation projects. The bill also includes transit safety provisions that have been stalled for 2 years. These are important reforms that many Senators have worked on. Now is the time to move them forward.

Finally, our bill increases formula funding for all types of transit: additional urban and rural funds, new money for every State to address the state of good repair needs and more money for tribal transit. Our Nation's transit systems need more than \$77 billion to address backlogged repairs. This bill cannot address all those needs, but it can ensure that our transit systems don't fall further behind, and transit funding will support more than 386,000 jobs.

Americans make 35 million trips on public transit every weekday. Many of these trips are in our cities, but in places such as South Dakota rural transit service connects seniors with their doctors and helps the workers travel long distances to get to jobs. Everyone benefits from public transportation, and I urge Senators to support this bipartisan bill.

I yield the floor for the ranking member of the Banking Committee.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I rise in support of legislation to reauthorize the surface transportation bill, and, in particular, the Federal Public Transportation Act of 2012, which is the transit amendment before us today.

While we are nearly 3 years beyond the September 2009 expiration date of SAFETEA, I am pleased we are finally moving one step closer to legislation

that would allow infrastructure investments to move forward.

Chairman JOHNSON and I worked together to produce bipartisan legislation that eliminates outdated, inefficient programs and promotes greater efficiency and effectiveness in public transportation systems all across America. The Federal Public Transportation Act passed the Banking Committee with unanimous support. This legislation before us reflected in the amendment currently under consideration maintains funding for public transportation programs at \$10.5 billion a year. Unlike previous reauthorization bills, the committee was unable to provide an increase in the baseline funding amount for public transportation. We were, however, able to provide a substantial increase to existing programs by eliminating the bus discretionary program which previously contained earmarks totaling \$984 million.

In fact, we did not just eliminate one account that included earmarks, we eliminated all earmarks that were previously included in the reauthorization bill. These reforms have allowed us to provide public transportation systems with an increase in their guaranteed formula funding over the next 2 years. In addition to providing a stable source of funding, I believe we must institute a system that ensures greater accountability and encourages real investment in maintaining our aging public transportation infrastructure all over America.

This issue, also known as state of good repair, is extremely important for public transportation, and our amendment makes it an integral part of the transit programs. The new starts process has undergone significant reforms in order to streamline and to improve delivery of capital investment projects. It also includes a new pilot project with the sole purpose of expediting project approval and attracting private investment.

Setting aside, for a moment, the specific issues related to this amendment, I wish to speak briefly to what I believe is the most significant issue surrounding the reauthorization of SAFETEA—the solvency of the highway trust fund. According to the Congressional Budget Office, the mass transit account of the highway trust fund will end in 2013 with \$2.8 billion—\$6 billion short of what it will need to continue to meet its obligations resulting from this reauthorization bill before us. While the Senate is considering a 2-year authorization bill, others have advocated a longer term reauthorization. The length of the reauthorization is not as important, however, as the need to pay for all this spending before us.

I believe most Americans would agree that a reauthorization bill that leaves the program insolvent or near

insolvency upon its expiration would be irresponsible. I hope this is not what we are doing with this bill. Infrastructure spending is essential to our long-term economic stability and growth in this country. Nevertheless, this country cannot continue to deficit spend its way out of its problems for infrastructure or anything else. Therefore, I think we must begin this discussion with the realization that difficult decisions are going to have to be made, and for our part I believe the Banking Committee has begun to make some of these difficult decisions by providing level funding and eliminating unnecessary earmarks from the program structures.

I look forward to continuing this debate and moving one step closer to completing a responsible and paid-for reauthorization bill.

I thank the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. MENENDEZ. Mr. President, let me begin by recognizing the hard work and dedication of my friend from South Dakota, Chairman JOHNSON, and for his tireless leadership on this legislation that made this possible. Let me also recognize the ranking member, Senator SHELBY, for his efforts to work in an incredibly positive, cooperative, and bipartisan manner that, in fact, created the ultimate result of a unanimous bipartisan vote, something we would love to see more of these days. It was his work, along with the chairman's, that got us to that point. I am glad to have been added to that as the subcommittee chair as well.

Millions of Americans take over 10 billion transit trips a year. It has taken over 2 years of hard work, and it is part of an overall bill that creates or saves 2 million jobs, but those trips and the jobs that get created by it and the opportunity of people to get to employment, to get to a hospital, to go see family and friends are incredibly important in the context of our national economy. At a time when job creation is essential, it invests in every State to keep us competitive as a nation in the global marketplace.

Under this legislation, for example, my home State of New Jersey stands to receive about \$519 million in Federal transit funding without any increase in Federal spending. This bill cuts waste and eliminates earmarks so New Jersey will see benefits from a \$63 million increase in transit funding, more transit funding than in any previous year. This bill invests in our infrastructure and improves public transportation without increasing the Federal budget, and it provides more funds to make the improvements they need to ease congestion and mitigate transportation delays. It is good for America because it will help communities concentrate on smart growth around transit hubs that mirror my Livable Communities

Act and my State's Transit Village Program that will help make New Jersey attractive to businesses and a model job creation hub. It can do that for other communities throughout the Nation.

It is good because it is energy smart and increases competitive funding for clean fuel transit vehicles to help agencies to switch from dirty, expensive fuels to cleaner, cheaper fuels. It not only streamlines the process for Federal approval of new transit projects, but it will help upgrade older systems by adding a new station or another track or a bigger train car to increase capacity rather than having to build new systems from scratch.

It also includes a provision establishing a program to allow public transportation providers temporary flexibility during periods of high unemployment to use a limited portion of their Federal funds for up to 2 years, provided they meet the established criteria for operating expenses.

One last but perhaps most important thing the bill accomplishes is to provide for a strong Federal role in transit safety oversight by establishing a national public transportation safety plan to improve the safety of all public transportation systems that receive Federal funding.

Under this legislation, the Secretary will develop minimum performance standards for vehicles used in public transportation and establish a training program for Federal and State employees who conduct safety audits of public transportation systems. Fundamentally, this bill improves the effectiveness of State safety oversight agencies, increases Federal funding for safety, and provides new enforcement authority over public transportation safety to the Secretary of Transportation.

At the end of the day, making our transit system as safe as humanly possible in every State, from coast to coast, must be a national priority.

So let me conclude by saying, once again, thanks to Senators JOHNSON and SHELBY for their leadership over the last 2 years. I think the bill is a victory for every American community. It is a commonsense investment that will create jobs, keep this Nation competitive, and make our communities more productive, accessible, and livable. It is a victory for those who believe we can create jobs, get people back to work, and keep us on the cutting edge of the global economy.

So now we need to make sure we continue to reach across the aisle, as the chairman and the ranking member and I have done during this process, and get this investment in America's future to the President's desk and signed into law as soon as possible.

With that, I yield the floor.

## RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, at 12:32 p.m., the Senate recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. WEBB).

## NOMINATION OF ADALBERTO JOSE JORDAN TO BE UNITED STATES CIRCUIT JUDGE FOR THE ELEVENTH CIRCUIT—Continued

The PRESIDING OFFICER. The Senator from Arizona.

### ARIZONA'S CENTENNIAL CELEBRATION

Mr. KYL. Mr. President, I rise today to recognize an important milestone in our Nation's history.

On February 14, 1912, Arizona officially became the 48th member of these 50 United States. I am proud to salute my home State on this her centennial celebration.

Yes, we were the last of the contiguous 48 States to join, but we were certainly not the least of them. Today I would like to tell you just a little bit about why I say that is so.

Arizona is not the largest or the oldest member of the Union. It did not participate in the Revolutionary War. It does not border an ocean or one of the Great Lakes. The Declaration of Independence and the Constitution do not bear a single Arizonan signature. Yet there is something about Arizona that is great, something that truly sets the Grand Canyon State apart from the rest. The Grand Canyon, of course, comes to mind.

I would like to quote one of America's most famous explorers, John Wesley Powell, who once said:

The wonders of the Grand Canyon cannot be adequately represented in symbols of speech, nor by speech itself. The resources of the graphic art are taxed beyond their powers in attempting to portray its features. Language and illustration combined must fail.

I agree. I have hiked the Grand Canyon. I have seen it from above, and I have seen it from below. Words literally cannot describe its power or its beauty. That is why every year millions of tourists come from all corners of our Nation and from across the Atlantic and the Pacific to experience the majesty we are fortunate enough to have right there in our own backyard.

But as big as it is, the Grand Canyon is just a small part of the Arizona story. There are the Sedona Red Rocks, the beautiful White Mountains, the Painted Desert, the Petrified Forest, Monument Valley, Saguaro National Park, the 12,000-foot San Francisco Peaks, and countless other natural wonders that span across our deserts and through our forests. There are almost 4,000 peaks and summits in our State alone.

Arizona is also home to manmade marvels, including innovative projects

that have allowed much needed freshwater to flow to our communities. These include the Hoover Dam, the Glen Canyon Dam, the Central Arizona Project, the Salt River Project and its keystone element, and the Theodore Roosevelt Dam.

Arizonans share the land with owls, ocelots, and eagles, jaguars, lots of rattlesnakes, and falcons. Our landscape is foliated not just with agave and cacti but with majestic aspen, fir, and spruce and the largest Ponderosa pine forest in the world.

We are rich in natural resources. From an early age, all Arizonans learn about the State's five Cs: copper, cattle, cotton, citrus, and climate.

Copper. The mineral that attracted many Arizonans to our State in the first place has been used by American Indians in tool and weaponmaking for centuries. Today, Arizona produces more copper than every other State combined, and it is now being used to develop the alternative energy technologies and vehicles of tomorrow.

Cattle. Along with sheep and hogs, the ranching of cattle is deeply imprinted on our State's cowboy culture and continues to help drive our economy today.

Cotton. One of our most important cash crops at the turn of the last century, cotton is still an important industry in our State. This crop, including our very own Pima long-staple variety, is used to produce the clothing, fertilizer, fuel, and cooking oil used by millions of Americans every day.

Citrus. The harvesting of fruits such as lemons and oranges is one of the important elements of Arizona's agricultural industry, with a history that runs deep in our State. We now export about \$40 million in fruits and preparations every year.

Climate. Arizona mornings are warm and filled with sunshine, and our sunsets are the best anywhere. We may not always have a white Christmas, but we do have a booming tourism industry that attracts nearly 37 million—we call them snowbirds, conservationists, and adventurers—every year.

These five Cs, along with the natural treasures I mentioned earlier, are the physical expression of our State motto: "Ditat Deus" or "God Enriches." Because of this, Arizonans are fiercely protective of the ecological riches that exist around them.

We honor nature for its beauty, but we also respect it for its power. I do not need to tell you about Arizona's heat. Some of my colleagues in this Chamber are known to complain when it reaches 80 degrees in Washington. Well, we Arizonans start to get warm when the mercury hits 120. It gets cold at night too. In fact, Arizona can yield the Nation's highest and lowest temperatures in the very same day.

There are forest fires. Last summer, we saw the largest such fire in our his-

tory, the Wallow megafire, burn more than 840 square miles of our treasured landscape. But we have picked ourselves up, and we are rebuilding—just like we always do. The lessons we have learned from the Wallow fire will help us defend against similar megafires in the future.

Some of Arizona's forebears were the prospectors and the ranchers who gave up everything for a chance at a better life. Some were the adventurers and cowboys who thrived on freedom and danger. Some of us can trace our history directly back to the Spanish missionaries or to our longstanding dynamic Hispanic community that has so greatly influenced our distinctive culture and cuisine. Many of us are direct descendants of the very first Arizonans—the 21 great American Indian tribes who continue to teach us important lessons about working with rather than against the expansive natural beauty and danger that surrounds us.

These are Arizona's founding fathers. While each has influenced our State in a unique way, all share these common traits: a strong sense of independence and a willingness to persevere against the odds.

That is, I believe, one of the reasons Arizona has such outsized national influence compared to its relatively small size and population. Indeed, the fierce wind of independence that rolls across our desert landscape has propelled not one but two of our leaders to national political prominence in just the past few decades. We may not have had an Arizonan in the White House—yet—but there are few States that can boast a single 20th or 21st century major party Presidential nominee, let alone two in our Barry Goldwater and JOHN McCAIN.

My friends on the other side of the aisle will no doubt recall their very able Senate majority leader from Arizona, Ernest McFarland. They will also remember Representative Mo Udall and Senator Carl Hayden, who served an amazing 57 years in Congress, 42 of them in this Chamber alone. To put that into perspective, that is longer than Arizona's senior Senator and I have served in the Congress combined.

Our State has both nurtured and welcomed respected jurists such as William Rehnquist and Sandra Day O'Connor, world-renowned architects such as Frank Lloyd Wright, entertainers such as Waylon Jennings, Linda Ronstadt, and Glen Campbell—even Stephenie Meyer, author of the *Twilight* series. Also, of course, I would be remiss if I neglected Steven Spielberg. He, too, embraced Arizona's adventurous, entrepreneurial spirit, turning his teenage moviemaking hobby in Scottsdale and Phoenix into a multimillion-dollar Hollywood empire. Had he been raised in another State, one without our Arizona spirit, would the world have known classics today such as "ET" and "Jaws"? We may never know.

One thing we do know is that Arizona also gave rise to the Navajo Code Talkers. It is a shame more Americans are not aware of the talkers' incredible story. Their official Web site puts it this way:

It is a great American story that is still largely unknown—the story of a group of young Navajo men who answered the call of duty, who performed a service no one else could, and in the process became great warriors and patriots. Their unbreakable code saved thousands of lives and helped end World War II.

Their code, of course, was the Navajo language.

Some of those young men were simple sheepherders on Arizona's great Navajo reservation until our Nation called them to serve. They did so with honor. They became American heroes in the process. Without them, we may never have achieved victory in the Pacific theater, and I am proud to pay tribute to these warriors today. Arizona honors them, and every American owes the Code Talkers a debt of gratitude.

These are just some of the many reasons I am proud to call myself an Arizonian. I was not born in Arizona. I became one by choice, and it was one of the most consequential decisions I ever made. I came as a young man to attend the University of Arizona. There I met my wife Carol, and together we raised two children, both of whom I am proud to say learned their five Cs from a very early age. I have not left Arizona since my days at the University of Arizona, nor do I think I ever would or could. There is something about the beauty that surrounds, the spirit that encompasses, the Sun that paints the landscape every morning. There is something different about Arizona, and I am proud of that difference. We are a special people with a distinctive place in the American mosaic.

I offer my congratulations to our Governor Jan Brewer, to my Arizona colleagues in the House and Senate, and to my constituents throughout our State on this historic centennial anniversary.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, it is my distinct privilege to join with my beloved friend JON KYL to speak in honor of the centennial anniversary of Arizona statehood. One hundred years ago, on February 14, 1912, the State of Arizona was officially admitted to the

Union, effectively completing the contiguous lower 48 States. Americans today recognize Arizona as the thriving center of the Sunbelt, known for its ability to attract businesses, manufacturing, and tourists from around the world. The Valley of the Sun alone supports about 4 million people, and our State capital—Phoenix—is the Nation's sixth largest city.

Compared to its humble beginnings, Arizona has enjoyed tremendous growth and productivity, but this was not always so. Arizona's history began over 10,000 years ago with the migration of early Native American tribes to the region. For centuries, the Anasazi, Hohokam, and other peoples flourished in the forested highlands and Sonoran Desert lowlands. Many of the Indian tribes in Arizona today are the proud descendants of those ancient peoples.

It was not until 1528, with the arrival of Spanish missionaries and conquistadors in the towns of Tubac and Tucson, that the land and people were first reshaped. Spanish colonization eventually gave way to Mexican independence in 1821.

In 1848 the Mexican-American War concluded, with Mexico ceding much of Arizona to the United States.

In 1853 President Franklin Pierce saw an opportunity to build a transcontinental railroad connecting the South with southern California and purchased the remaining bottom half of the Arizona Territory from Mexico for \$10 million—what today would be the equivalent of \$244 million. It was around this time that American pioneers began to settle the towns of Prescott, Flagstaff, picturesque Sedona and Yuma, the gateway to gold-rich California.

During the Civil War, Arizona became a short-lived strategic interest for the Confederacy. The war's western-most battle was fought in Arizona at Picacho Peak, about 50 miles north of Tucson. It reportedly lasted 90 minutes and involved about 25 soldiers.

In the years that followed, cattlemen and mining speculators flocked to develop Arizona's natural resources in towns such as Tombstone, Bisbee, Show Low, and St. John's, the birthplace of our late and beloved Morris Udall. The boundaries of the State soon began to take shape thanks to explorers such as John Wesley Powell, whose famous 3-month expedition down the mighty Colorado charted the first known passage through the Grand Canyon.

Efforts in Congress to pass statehood began around the turn of the 20th century. One proposal sought to combine the territories of Arizona and New Mexico into one massive State. But Arizona settlers would have none of it, and it is unlikely that the people of New Mexico were all too excited about the plan either.

At the time, many outsiders did not fully appreciate Arizona's untapped po-

tential. They considered it nothing more than a desert wasteland, economically desolate and virtually uninhabitable. One of Arizona's first territorial representatives, Henry Ashurst, is known to have risen in Congress to argue that "all that Arizona needs to flourish is good people and water," to which an east coast Member supposedly retorted, "You could say the same about hell."

Arizonans eventually succeeded in convincing Congress to grant statehood. This was partially due to the construction of the Theodore Roosevelt Dam in 1903, as part of the Salt River project in Phoenix, one of the Nation's first Federal reclamation projects. The Roosevelt Dam channeled lifegiving water from the Salt River into a series of irrigation canals that overlay a canal network dug by the Hohokam Indians more than 1,000 years prior. Fueled by irrigation water and hydroelectric power, the small community of Phoenix, which started as a cavalry hay camp at Fort McDowell, began its rise to national prominence.

My predecessor in the Senate, the late Senator Barry Goldwater, is among Arizona's most celebrated statesmen, having served five terms in this body. He was born in Phoenix when Arizona was still a territory and witnessed remarkable changes to the Grand Canyon State throughout his lifetime.

The Smithsonian magazine recently republished an op-ed Goldwater wrote in 1962 called "Arizona's Next Fifty years" where he imagines what Arizona would look like by 2012. Keep in mind that Arizona had barely 1 million people living across the entire State in the 1960s. Modern air-conditioning technology was relatively new, and the 1,500 miles of interstate crisscrossing the State today was still on the drawing board. Yet Goldwater correctly predicted a rapid population growth, comparing Phoenix to other major U.S. cities. I would like to share some of his predictions. He wrote:

It will be the deserts that will support the majority of the new homes. Phoenix will have a population of about three million and Tucson will grow to about one and one-half million. Phoenix and Tucson will remain the two largest cities in the state, with Phoenix being either the fourth or sixth largest city in the United States. The growth of Glendale, Peoria and Avondale will parallel that of Phoenix proper, so that 50 years from now, all of these cities will be contiguous with each other and with Phoenix, and will form a city complex not unlike the present city of Los Angeles.

Anyone who has flown into Phoenix Sky Harbor International Airport can see from the sky, day or night, the infinite grid-like layout of the metro Phoenix area. Senator Goldwater understood that this kind of development would fundamentally alter how Arizonans relate to the desert, writing:

The man of 2012 would not be able to walk from his doorstep into this pastel paradise

with its saguaro, the mesquite, the leap of a jackrabbit . . . or the smell of freshly wet greasewood, because people will have transgressed on the desert for homesites to accommodate a population of slightly over 10 million people. The forests will be protected, as well as our parks and monuments. But even they will have as neighbors the people who today enjoy hardships to visit them.

Despite the challenges of increased demand on our natural resources, Senator Goldwater correctly believed that the State would mature into a modern, industrious economy with global connections. He said:

Arizona's principal economic growth will be in the industrial field, with emphasis being on items of a technological nature. It will not be many years before industry will become an important part of the economies of most Arizona cities, whereas today it is more or less confined to a few. Arizona will continue to be the haven for people who seek an outlet for initiative and a reward for work. The frontier challenges will exist then as they do today, for man's progress never stops unless man stops it. Fortunately for our State, our men have always and will always want to go forward, not backward.

So what is Arizona today? Arizona's open skies and fair climate offer the U.S. military an ideal training environment for our soldiers and high-tech combat systems. Luke Air Force Base outside of Phoenix will be home to the F-35 fighter jet, the most advanced fighter in the world. The U.S. Army Intelligence Center is located at Fort Huachuca in southern Arizona, where UAV training serves a unique and irreplaceable national security mission. Davis-Monthan Air Force Base near Tucson, the Nation's premier A-10 Warthog base, hosts an array of special operations aircraft and will hopefully continue to grow in support of our military's drone fleet. Across the highway, Arizonans in the Air National Guard fly the newest F-16s to train foreign pilots from over 20 countries, and virtually every Marine Corps fixed-wing squadron that participated in Operations Desert Shield and Desert Storm underwent predeployment training at Yuma Marine Corps Station. Arizona is also home to nearly 600,000 veterans, many of whom have returned to their families and loved ones from Iraq and Afghanistan.

More copper is mined in Arizona than all of the other States combined, and the Morenci Mine is the largest copper producer in all of North America.

Two of the country's largest man-made lakes are in Arizona, Lake Powell and Lake Mead—the result of Hoover Dam—which supply drinking water to over 25 million people in Arizona, Nevada, and California.

Yuma, AZ, an agricultural powerhouse, produces about 90 percent of the country's winter vegetables. The lettuce in your salad this month almost certainly came from Arizona.

We operate the Palo Verde Nuclear Generating Station, located about 55 miles west of Phoenix, which generates

more electricity than any other power-plant in the Nation.

It is home to three major State universities: Arizona State University, the University of Arizona, and Northern Arizona University, with an undergraduate and graduate population of over 130,000.

Arizona is a leader in manufacturing information, medical, and defense technologies. We are headquarters to TGen, the Translational Genomics Research Institute, which conducts cutting-edge genetic research with the goal of curing Alzheimer's, autism, Parkinson's, and numerous forms of cancer.

We support critical scientific endeavors to discover our place in the universe: Arizona's unique landscapes, such as Meteor Crater and the Painted Desert, once played a key role in the NASA Apollo training missions. The world's largest solar telescope is located at Kitt Peak National Observatory in Sells, AZ. The University of Arizona is actively involved in the Cassini, Mars Lander, and Mars Rover missions, as well as NASA's Osiris-Rex mission, which will be the first spacecraft to land on an asteroid and return a sample to Earth.

It is also believed that the chimichanga has its origins in Arizona, although its exact hometown is still a matter of vigorous historical debate among locals.

I am immensely proud of Arizona's rich history, and I am humbled to represent a State that has earned a special place in the American consciousness. Even when I travel overseas, it is seldom I meet an individual who doesn't know where the Grand Canyon is or isn't captivated by the tales of the Old West or doesn't admire the rugged individualism of Arizona's frontiersmen. I cannot presume to exercise the kind of predictive abilities that Senator Goldwater displayed in his article. All I can say is that Arizona's future is perhaps best prophesized by reflecting on our legacy—judging our achievements against our intrepid beginnings. For as long as Arizona stays true to the pioneer spirit, I believe her best days are yet to come.

If I might ask the indulgence to read a short piece that I put in a foreword to a book by Lisa Schnebly Heidinger, "Arizona: 100 Years Grand," the official book of Arizona's Centennial:

Near the end of his life, Barry Goldwater tried to describe to an interviewer his affection for Arizona. He started to identify some of the many natural wonders so beloved by Arizonans when he became emotional. 'Arizona,' he proclaimed, 'is 113,400 square miles of heaven that God cut out.' Fighting back tears, and unable to continue at length, he managed only to add, 'I love it so much.'

For much of my life I had been rootless. My father was a naval officer and my childhood was an itinerant one as we moved from one base to another more times than I can enumerate. Following in his footsteps, I, too, made my home in the United States Navy, and the only place I lived for more than a

year or two was an unexpectedly lengthy stay in a foreign country that would not let me leave and would have preferred I had never come.

Except for that period of involuntary residence, I had always lived my life on the move, part of a tradition that compensated me in other ways for the hometown it denied me. I had no connection to one place; no safe harbor where I could rest without care. Landscapes and characters all passed too quickly to form the attachments of shared history and love that calm your heart when age finally cages your restlessness.

I was nearly forty-five years old before I could claim a hometown. My ambitions brought me to Arizona, and my work keeps me away from here for more than half my time. But Arizona has given me a home, and in the thirty years that have passed since I moved here, it has worked its magic on me and enchanted me and claimed me.

In those thirty years I've been to almost every community that Arizonans carved from the wilderness and made thrive: places that have never stopped growing; and places where opportunities were exhausted and were abandoned to history; and places that rose and declined and were re-imagined and made to prosper again by the hard working, self starting dreamers Arizona attracts in such large numbers. I've marveled at the resourcefulness and vision of generations of Arizonans in Yuma and Page, Jerome and Kingman, Bisbee and Flagstaff, who knew success and failure, who struggled, achieved, lost and struggled again to build from their freedom and opportunities in the challenging and beautiful places that had won their hearts, strong, prospering and decent communities.

At the end of every election, I've stood on the courthouse steps in Prescott, our old territorial capital, and thought of the pioneering families whose names still resonate in contemporary public affairs like Udall and Goldwater. I look at the Bucky O'Neill monument, that memorial to the Rough Riders of whom he was among the roughest and bravest, and remember the names of Arizonans, of every station and walk of life, who risked everything so that the freedom Arizonans cherish so dearly and make such good use of would be birthright of all; names like Frank Luke and Ira Hayes, Lori Piestewa and Pat Tillman.

I've experienced every scene of spectacular beauty this blessed, bountiful, beautiful state possesses. I've hiked Canyon de Chelly, Chiricahua, and rim to rim in the greatest of our natural wonders, the Grand Canyon. I've rafted down the Colorado. I've walked the trails of Saguaro National Park; been struck mute by the awe-inspiring landscape of Monument Valley; and spent countless happy hours following hidden paths in our wilderness areas. I've houseboated on Lake Powell. Many times, I've driven through the desert in spring after a wet winter and felt myself become emotional as I marveled at the profusion of vivid colors, the mesmerizing beauty of desert wildflowers in bloom.

We have a home between Cottonwood and Sedona, to where my family escapes whenever we have the chance. It's on a bend of Oak Creek, surrounded by hills, a ghost ranch and Indian caves, adorned by fruit orchards and roses, and shaded by tall cottonwoods and sycamores. So many species of birds make their home there I have lost count of them. Common black hawks return annually to their nest in the sycamore beneath which I drink my morning coffee and give thanks for the blessing of living in such

natural splendor. I have never in my life loved a place more. And when my public life is over, I will spend the remainder of my days there giving thanks, and enjoying the happiness of belonging to someplace so beautiful, smaller and more intimate than a nation that spans a continent.

The State of Arizona is approaching its centennial. A hundred years of audacious and difficult undertakings, of dreams won and lost and sought again, of progress and struggle and resilience. It's a rough and tumble history; colorful, heroic, bold and inspiring, like the character of the people who made it. You'll see it celebrated appropriately in this splendid book. And you'll glimpse the future that today's Arizonans, the dreamers and risk takers, lovers of freedom, captivated by the stunning landscapes and resilient, enterprising communities that have worked their magic on them, will build. It will be a future worthy of our predecessors' achievements and legacies; a future of adversity overcome and opportunities for all. We will change, as all places do. Others will come, as I once came, to make a new home or find the only home they ever really had in towns and cities and rural communities that will be better for their presence and contributions. They will face the challenges of their time and experience unexpected setbacks but they will stick with it, work harder, dream bigger and prevail. And a hundred years from now, their history, character and accomplishments will inspire their fortunate descendants and the newcomers who will come here to live in beauty and make the most of their lives.

We will change, but the values and beauty we treasure will remain intact. Arizona is 113,400 square miles of heaven that God cut out and Arizonans mean to keep it so. We love it that much.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

(The remarks of Mr. LIEBERMAN, Ms. COLLINS, and Mr. ROCKEFELLER pertaining to the introduction of S. 2105 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, Republican Senators delayed a final vote on the nomination of Judge Adalberto Jordan of Florida even though the Senate voted 89-5 last night to end a Republican filibuster that has already prevented a vote for 4 months. This is a consensus nominee who Senator NELSON has been strongly supporting and who Senator RUBIO also supports. He should have been confirmed 4 months ago. He should have been confirmed last night after the overwhelming cloture vote. Instead, obstruction needlessly delayed the Senate acting to fill the emergency judicial vacancy on the Eleventh Circuit.

Senator NELSON has worked hard for this nomination, working to get Judge Jordan's nomination cleared by every Democratic Senator in October immediately after it was reported unanimously by the Judiciary Committee. We were ready to vote in October. We were ready to vote in November. We were ready to vote before the end of

the last session of Congress in December. It is hard to believe that it is now the middle of February, over 4 months after Judge Jordan's nomination was reported with the support of every Democrat and every Republican on the Judiciary Committee, and the Senate still has not voted to fill this judicial emergency vacancy affecting the people of Florida, Georgia and Alabama. I appreciate why Senator NELSON is frustrated. I understand why Hispanics for a Fair Judiciary and the Hispanic National Bar Association are, too.

Let me refer to some of the reporting on this. One post begins:

So, here's the absurdity of our judicial confirmation process—the full Senate voted 89–5 to invoke cloture, meaning that Judge Jordan's nomination to the 11th Circuit would finally come to a vote. But then Senator NELSON said that one Senator is holding up the merits vote by demanding 30 more hours of 'debate' post-cloture. Senators LEAHY and BOXER both then commented how ridiculous such a request was, but that's the way it is. It looks like we'll have [to] wait another 30 hours for Judge Jordan to move up to the 11th. Silliness in our Congress . . .

The article in the South Florida Sun-Sentinel reports:

South Florida lawyers praise him. Both of Florida's U.S. senators have recommended him. And the Senate Judiciary Committee voted unanimously to approve his nomination.

But U.S. District Judge Adalberto Jordan of South Florida has been blocked for four months from rising to the 11th Circuit Court of Appeals, the latest sign of a polarized and dysfunctional Senate.

A Senate filibuster that has kept Jordan waiting and the appellate court unmanned fizzled on Monday when the Senate voted 89–5 to move toward a final confirmation vote.

But Jordan is still waiting because one senator . . . objected to attempts to complete action on Monday . . .

I have not heard from any Republican Senators objecting to this Judge explaining what they find wrong with this highly-qualified Cuban American. I am at a loss as to why Republican Senators continue to delay a vote on this outstanding nominee. This nominee is beyond reproach. This is another nomination battle that has nothing to do with the nominee and his qualifications. This is another example of obstruction based on a collateral objective. The people of Florida, Georgia and Alabama should not be made to suffer a judicial emergency vacancy when this highly-qualified nominee should be confirmed without further delay. Nor did anyone come forward to explain the Senate Republicans' delay for the last 4 months. Cloture has been invoked by the Senate and the filibuster will be ended. There was no good reason to continue to hold up a vote that has already been delayed for 4 months.

When I first became chairman of the Judiciary Committee in 2001, I followed a time when Senate Republicans, who had been in the majority, had pocket

filibustered more than 60 of President Clinton's judicial nominations, blocking them with secret holds in backrooms and cloakrooms, obstructing more with winks and nods, but with little to no public explanation or accountability. I worked hard to change that and to open up the process. I sought to bring daylight to the process by making the consultation with home State Senators public so that the Senate Republicans' abuses during the Clinton years would not be repeated.

When Senate Democrats opposed some of President Bush's most ideological nominees, we did so openly, saying why we opposed them. And when there were consensus nominees—nominees with the support of both Democrats and Republicans—we moved them quickly so they could begin serving the American people. That is how we reduced vacancies in the Presidential election years of 2004 and 2008 to the lowest levels in decades. That is how we confirmed 205 of President Bush's judicial nominees in his first term.

Now we see the reverse of how we treated President Bush's nominees. Senate Republicans do not move quickly to consider consensus nominees, like the 15 still on the Senate calendar that were reported unanimously last year and should have had a Senate vote last year. Instead, as we are seeing today and have seen all too often, Senate Republicans obstruct and delay even consensus nominees, leaving us 45 judicial nominees behind the pace we set for confirming President Bush's judicial nominees. That is why vacancies remain so high, at 86, over 3 years into President Obama's first term. Vacancies are nearly double what they were at this point in President Bush's third year. That is why half of all Americans—nearly 160 million—live in circuits or districts with a judicial vacancy that could have a judge if Senate Republicans would only consent to vote on judicial nominees that have been favorably voted on by the Senate Judiciary Committee and have been on the Senate executive calendar since last year.

This is an area where we should be working for the American people, and putting their needs first. This is a nomination that has the strong and committed support of the senior Senator from Florida, Senator NELSON, as well as that of Senator RUBIO, Florida's Republican Senator. Judge Jordan had the unanimous support of every Republican and every Democrat on the Judiciary Committee when we voted last October, although one Republican switched his vote last night to support the filibuster of Judge Jordan's nomination. This is the nomination of a judge, Judge Jordan, who was confirmed to the district court by a vote of 93 to one in 1999, even while Senate Republicans were pocket filibustering more than 60 of President Clinton's judicial nominees.

I regret that Republican Senators chose to delay a final vote on Judge Jordan's confirmation. He is a fine man who, after emigrating from Havana, Cuba at the age of 6 went on to graduate summa cum laude from the University of Miami law school and clerk for Justice Sandra Day O'Connor on the U.S. Supreme Court. He served as Federal prosecutor and Federal judge. The needless delay of Judge Jordan's confirmation is an example of the harmful tactics that have all but paralyzed the Senate confirmation process and are damaging our Federal courts.

It should not take 4 months and require a cloture motion to proceed to a nomination such as that of Judge Jordan to fill a judicial emergency vacancy on the Eleventh Circuit. It should not take more months and more cloture motions before the Senate finally votes on the nearly 20 other superbly-qualified judicial nominees who have been stalled by Senate Republicans for months while vacancies continue to plague our Federal courts and delay justice for the American people. The American people need and deserve Federal courts ready to serve them, not empty benches and long delays.

#### SURFACE TRANSPORTATION ACT

Mr. LEAHY. Mr. President, I want to respond briefly to comments of the junior Senator from Kentucky earlier today regarding his amendment to cut off all U.S. aid for Egypt.

First, let's take a step back. The new conditions on military aid for Egypt, which I wrote with Senator LINDSEY GRAHAM and were signed into law just 2 months ago, require a certification by the Secretary of State that the Egyptian military is supporting the transition to civilian government and protecting fundamental freedoms and due process. If the crisis involving the non-governmental organizations whose offices were raided and are now facing criminal charges is not resolved satisfactorily, there is no way the certification can be made and Egypt will not receive \$1.3 billion in U.S. military aid. But the Leahy-Graham conditions give the Administration flexibility to respond to this crisis. If we take a leap into the lurch and adopt the Paul Amendment, we risk causing a backlash and the opposite reaction of what we want.

It is ironic that the junior Senator from Kentucky, who is now insisting on a vote on his amendment to cut off all aid—not just military aid but also economic aid—did not even vote for the Omnibus bill that contained the Leahy-Graham certification requirement. For him it is all or nothing, but the real world is not so black and white.

No one disagrees with the goals of the Paul Amendment. Its purpose is no different than the Leahy-Graham provision in current law that has caused



the suspension of military aid. We are all outraged by the crackdown against the NGOs. We want the charges dropped and their property returned so they can resume their pro-democracy work. But the scope of the Paul Amendment is so sweeping that it could backfire and make the situation immeasurably worse: The amendment cuts off all U.S. aid to Egypt—current and prior year—including hundreds of millions of dollars in economic aid and funding for anti-terrorism and non-proliferation programs. Aid that supports the Government of Egypt's ability to interdict arms shipments to Gaza would be cut off.

There is much at stake: the fate of the 19 American citizens facing criminal charges in Egypt; Egypt's continued adherence to the Israeli-Egyptian Peace Agreement could be jeopardized; over-flights for U.S. military aircraft; access to the Suez Canal; and the potential for further crackdowns against Egyptian civil society organizations.

If the Administration were ignoring the certification requirement in current law I might vote for this amendment, but they are not. In fact, the NGOs have repeatedly praised the Administration's efforts on their behalf. They have applauded the new leverage provided by the Leahy-Graham conditions. Both the State Department and the Pentagon are intensely focused on trying to resolve this. General Dempsey was just in Egypt meeting with top military officials about it.

If, over the coming days or weeks the situation continues to deteriorate, we can revisit this. But I would urge the junior Senator from Kentucky to withdraw his amendment until such time and to refrain from obstructing other business of the Senate. Let us see how things play out. Hopefully cooler heads will prevail. The Egyptian military will recognize that these NGOs were doing nothing more than supporting the transition to democracy in an appropriate and transparent manner, and the Egyptian military will agree that it is in Egypt's best interest to preserve close relations with the United States.

I see other Senators on the floor, so I yield the floor.

The PRESIDING OFFICER (Mr. FRANKEN). The Senator from Alabama.

THE BUDGET

Mr. SESSIONS. Mr. President, this morning we had the Budget Committee hearing and the testimony of Mr. Zients, OMB Director, who works for the President and prepared, under the President's direction, the budget they submitted to Congress for the United States for fiscal year 2013 beginning October 1. It is an important document. It is important because in it the President lays out his plan for what this Nation needs to do not just this year but for 10 years, during a time in which our debt crisis remains the No. 1

threat to America. That is what the experts from the President's own debt commission told us—we have never faced a more predictable economic crisis if we don't change our course of borrowing. We are now spending \$3,700 billion a year and taking in \$2,200 billion, borrowing 40 percent of what we spend. So it was an important hearing.

I was deeply disappointed that our new Director, Mr. Zients, seemed to be focused on one thing; that is, regurgitating the talking points he had been provided and steadfastly avoiding answering simple, important questions put to him by members of the committee.

We have two members of the committee here who I think will be sharing remarks about what we talked about today and how we need to address our debt crisis—Senator JOHN THUNE and Senator KELLY AYOTTE. They were there and participated and asked questions.

I think we all agree it was one of the worst witness performances in terms of being responsive to the questions that we have seen in our time in the Senate. I hate to say that. I know he was told not to say anything, just to keep repeating the talking points. But when America is facing a financial crisis and you are asking the budget director fundamental, simple questions, you expect and have a right to expect answers, not for me but for the American people. He does not work for the Obama political campaign; Mr. Zients works for the American people. He is a man who has access to the foot-thick, four-volume budget that was sent out, and he helped write it. It was written under his supervision. So we should be able to get straight answers immediately from this gentleman.

For example, I asked a simple question right off the bat: Does the President's budget spend more money than the agreement we reached last August over raising the debt limit for America? Does it spend more or less? And it went on for 4 minutes, and I kept repeating again and again: Well, is it more or less? Finally, at some point he said the President's budget would spend less, and that is not accurate. It spends at least \$1.5 trillion more. So the budget director can't get straight whether or not the President's budget spends more and is \$1.5 trillion off? A trillion dollars is a lot of money. I felt strongly about it.

Mr. President, I would ask unanimous consent to enter into a colloquy with my Republican colleagues for up to 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, I see Senator THUNE is here, and he has been through a lot of these matters and a lot of hearings during his time as part of the leadership here in the Senate, and I would ask him how he felt about

the hearing this morning and the issues our country faces.

Mr. THUNE. Mr. President, I thank the distinguished ranking member on the Budget Committee for engaging in this discussion, and I am anxious to hear from our colleague from New Hampshire, Senator AYOTTE. She was there this morning and was able to ask questions of the witness, the panel we had in front of the Budget Committee.

I guess what struck me about listening to that discussion was just the evasiveness we had from Mr. Zients and, in fact, as the Senator from Alabama has mentioned, his failure to respond to very direct questions—not questions that are trick questions, questions that are just a matter of the facts.

I think what I was struck by too is that when he was asked about whether the administration wanted Majority Leader REID to bring the President's budget to the floor, he could not give a direct answer, and his comments indicated that they would not be calling on the majority leader to bring the President's budget before the Senate. The other thing I was struck by is that the President's own budget chief could not confirm or verify that the President has added already about \$5 trillion to the debt since taking office. Those were both things that seemed like very straightforward questions and should have been very straightforward answers.

The fact is it is very difficult for him or any other official in this administration to defend this budget. This budget is not a serious budget, and even people on the other side, people in the media have all passed judgment and basically said that this is not the kind of budget that takes on the challenges the country faces.

I would say to my colleagues that it is hard to take this seriously when they aren't serious about it, but they ought to be because these are serious times. We live in a time where we are running a \$15 trillion debt. This budget would add another \$11 trillion to that debt over the next 10 years. We are living in a time when we have European countries that are on the verge of fiscal collapse with regard to their economic and fiscal situations, much of which we are watching on a daily basis unfold in front of us and what that might mean for our country, and hopefully there is something instructive about that because clearly we need to be taking a page out of what is happening there and getting our house in order now.

We have made promises to the American people that we can't keep. We need to reform our entitlement programs. And that probably more than anything else was the biggest disappointment in the President's budget because it is the fourth year in a row where he has proposed a budget that doesn't do anything to address the fundamental drivers of Federal spending,



and by that I mean the mandatory part of the budget; that is, Social Security, Medicare, Medicaid, SNAP. All of those different programs represent today, with interest on the debt, about 64 percent of all Federal spending. At the end of the 10-year period, they would represent 78 percent of all Federal spending. So this budget is a dramatic increase in the amount we are spending on various programs. That is what is driving Federal spending today, that is what will drive Federal spending into the future, and that is why a failure and a lack of leadership when it comes to the issue of entitlement reform is so disturbing, and it really is a missed opportunity.

I understand that this is an election year. Everybody says this is a campaign document, this is a political document. That does not absolve the President or us of the responsibility we have to the American people to start making some decisions around here that will get this country back on the right fiscal track.

When you propose a budget that spends literally \$47 trillion over the next 10 years, which is basically what we are talking about here, then you have not done much to bend the spending curve in the right direction. So I would strongly disagree with Mr. Zients' statement today that this is a "very tight budget"—that is how I think he described it.

We have Governors around the country who are making some tough decisions to balance their State budget. The Federal Government ought to do the same. South Dakota is a good example of that. We made some difficult decisions this last year, and as a consequence of that, our budget situation is much better this year, but it is because they had the courage to step forward and do some things that needed to be done.

The budget proposed by the President fails to rein in government spending and balance the budget. As I said, it adds \$11 trillion to the national debt, which will reach—if my colleagues can believe this—nearly \$26 trillion by the end of the decade under the proposal the President put forward.

I could go on, but I would say to my colleague from Alabama and to my colleague from New Hampshire that based upon what we heard this morning, I guess I don't feel very reassured that this administration gets it. The President's budget submission clearly was an example that they don't get it, and the defense of it this morning that we heard in front of the Budget Committee certainly reinforced that impression with me. But I would be interested in knowing what the Senator from New Hampshire, who was there and able to question the panelists, including the OMB Director, thought based on the testimony we heard this morning.

Ms. AYOTTE. I thank my colleague from South Dakota as well as my colleague from Alabama, the ranking member of the Budget Committee. I was deeply troubled this morning, because I asked Mr. Zients about the President's budget and my concern that under the trajectory of the President's budget we would be reaching \$26 trillion of debt in the next 10 years, and I was shocked when he described the President's budget as a milestone, as leadership. This to me is not leadership. If it is a milestone for anything, this budget is a milestone for bankruptcy and what we see happening in Europe and other areas of the world that we don't want to happen to our country.

When I think about it—I am the mother of two children—how could we possibly ask our children to pay back \$26 trillion in debt? It is outrageous.

I was surprised that Mr. Zients couldn't answer a basic question such as how much debt has been added under this President. As the Senator from South Dakota mentioned, it is close to \$5 trillion in debt.

Also our entitlement programs. I know my grandparents are relying on Medicare and Social Security. I asked Mr. Zients—the Medicare trustees have said that Medicare is going bankrupt in 2024. We know Medicare is a huge driver of our unsustainable debt and that if we don't act to preserve these programs, then the people who are relying on them are going to be put in a horrible position very soon—2024 is coming very quickly. I asked Mr. Zients the question: What is the President's plan to preserve Medicare? What I got was a completely insufficient answer. That is because in this budget there is no plan to preserve Medicare for my grandparents and for everyone who is relying on Medicare right now.

When I reviewed the President's budget, it reminded me of a discussion I have had with my kids recently. In the last couple of weeks we have been talking about Punxsutawney Phil, the groundhog who comes out and looks at his shadow to see if we are going to have more winter. Well, Punxsutawney has already come out of his hole, but in Washington it is Groundhog Day all over again when it comes to the President's budget, because every year this President has been in office, his proposed budgets have left us with trillion-dollar deficits, increased gross debt as a percentage of the share of our economy, continued massive spending, racking up enormous debt to where we will reach \$26 trillion in 10 years. There is no plan to reform Social Security and Medicare, to preserve these programs, and they are mandatory spending and, as Senator THUNE mentioned, the largest driver of our debt, and massive tax increases. It is staggering when we think about a budget that offers close to the largest—if not the

largest—tax increase in the history of our country, yet still runs a \$1.3 trillion deficit this year and at least a \$900 billion deficit in 2013. It is the worst of all worlds. We are going to increase taxes on small businesses in this country that we are asking to generate revenue and create jobs, yet we are still going to run trillion-dollar deficits.

This is a very irresponsible budget. We cannot afford a campaign document. We need a budget for this country. Because when I think about where we are, when I think about what is happening in other countries around the world—in Europe—and the future of our country, and not only all of us here today, but what we will be passing on to my children and your children because they can't repay \$26 trillion in debt—how is that going to happen? And how fair is that? They didn't incur this debt. We did. We have a responsibility to address this now.

I have been deeply disappointed by this President and his failure of leadership on this issue. Think about it: My colleague Senator Gregg served on the President's fiscal commission. The President convenes a fiscal commission and ignores his own fiscal commission. In fact, since that time, we have incurred \$1.5 trillion of debt since the fiscal commission issued a report. Last year the President's budget came up for a vote in this body. It was so fiscally irresponsible that not one Member of this Chamber, from either party or the Independents, voted for the budget. That says it all. Yet, again, we have a similar budget being proposed by this President. That is why I say, unfortunately, it is Groundhog Day in Washington all over again.

It is unfortunate, because the American people have seen this over and over again, and they are very tired because they understand at home they have to balance their budgets. They understand that at home, they are making the difficult calls that need to be made to prioritize. Yet, here in Washington, with this President's budget and the trajectory our country is on because of the failure of leadership, we are in a position where we are hurting our country, and I am very concerned about what we are passing on to the next generation. I hope my colleagues on the Senate Budget Committee will actually do the work that needs to be done and put together a responsible budget for this country, because it has been over 1,000 days since the Democratic-controlled Senate has actually done the work that needs to be done for this country. If the President is not going to do it, then I hope that in this body, the Senate, we will put together a responsible budget that gets our fiscal house in order for the future of our country.

I hope this Acting Budget Director, Mr. Zients, the next time he comes before the Senate Budget Committee,

will answer the questions he is asked. This is simple math. When Senator SESSIONS asked him whether we are spending more money, one would hope to get a straight answer. That is the least the American people deserve. I am hoping that is what they will receive going forward.

I wish to ask my colleague, Senator SESSIONS, the ranking member of the Budget Committee, what his impression of the President's budget is in terms of where it leaves our country going forward and what he hopes the Senate Budget Committee will do to address this fiscal crisis.

Mr. SESSIONS. I thank my colleague. I know Senator AYOTTE wanted to be on the Budget Committee. We had a host of fabulous new Senators who wanted to be on it. We got four, but many more wanted to be on it. Senator PORTMAN, Senator TOOMEY, Senator JOHNSON, and Senator AYOTTE were selected.

I would say I know how disappointing it was because we talked about how we didn't even mark up a budget last year. So the people who wanted to be on there to participate in the great issue of our time—the debt this Nation is facing—got no ability or option or opportunity to participate in the debate because the majority party in the Senate decided that was not what they wanted to do. The majority leader said it would be foolish to have a budget. It is very sad.

The President's budget represents an opportunity and a responsibility to guide this Nation for the future. The President has no higher duty, no higher responsibility than to help the Nation avoid an obvious crisis. Mr. Bowles and Senator Simpson, who chaired President Obama's debt commission, looked us in the eye and issued a joint statement on the Budget Committee last year about this time that said the Nation has never faced a more predictable economic crisis. What they were saying was if we don't change what we are doing, we are headed to a crisis. Mr. Bowles, President Clinton's Chief of Staff, said to us that this crisis could happen within 2 years.

I saw yesterday on the television, "Morning Joe," Mr. Haass of the Council on Foreign Relations talk about Greece. He is internationally recognized. He said the United States could be having this next year. I would say what is stunning to me is that when we look at this budget, it does not change the debt trajectory. We have looked at those numbers. We have looked at those numbers and it does not change the debt trajectory. It increases spending. It increases taxes. And, at the end of the day, based on current law that we achieved last year—minimum steps, but they were achieved—the Budget Control Act numbers that would allow the debt to increase to \$11.5 trillion next year, under the President's budget

that he asserts reduces the deficit by \$4 trillion, the deficit would increase by \$11.2 trillion—almost no change at all. We need big change. He took away some of the spending reductions and replaced them with more tax increases—the reductions we painfully agreed to last August.

I am disappointed in the President's leadership on that. The Senator from South Dakota has been here and dealt with these issues. Maybe he has comments about it. I will yield to him.

Mr. THUNE. I would say to the Senator from Alabama that it was interesting to me because at the White House Fiscal Responsibility Summit in February of 2009—this is in the context of discussing our unsustainable budget deficits—President Obama said the following:

Contrary to the prevailing wisdom in Washington these past few years, we cannot simply spend as we please and defer the consequences to the next budget of the next administration or the next generation.

That is exactly what he has been doing now for 4 years, literally—every budget, every year. We think, OK, maybe this year the President is going to get serious because we have serious problems and these are serious times in which we are living and we have to get the situation turned around or we are headed for certain disaster. Yet, last year, as was noted, the President's budget when it was put on the floor of the Senate did not garner a single vote here—not a single vote. It was 97 to 0. It was unanimously rejected by the Senate, Members on both sides voting against it.

This year one would think, OK, the situation has gotten much worse. Our fiscal situation has deteriorated even more. The amount of debt we have racked up is continuing to accumulate. We thought perhaps this year we would see a budget that actually did address these problems, but, no, we have a budget that is filled with more spending, more debt, and higher taxes at a time literally when we need to be tackling spending, we need to be taking on saving Social Security and Medicare for the next generation, and doing something to create economic growth and get jobs created for American workers.

What is disappointing is not just the fact that the spending and debt situation is out of control but also the impact it has on the economy. The Senator from Alabama knows full well, because we both have studied this subject, that when we look at the research that has been done with regard to the impact of spending on debt and economic job creation, when we achieve a certain level or arrive at a certain level of debt as a percentage of the economy—90 percent is the threshold and it costs about a percentage point of economic growth every year, which means fewer jobs, and in this case

about a million fewer jobs, in our economy. So the high, sustained levels, chronic high levels of debt and spending are directly impacting our economy's ability to get out of this cycle we are in and to start growing and expanding again and creating jobs.

Mr. SESSIONS. The Senator from South Dakota says "directly impact." The way I read the Reinhart-Rogoff study and what I think I hear the Senator saying is that this isn't just that a debt crisis might happen—and those can happen quickly, as they warn in their book, that a crisis can happen when we are at this debt level out of the blue, things we never expected, and we are in serious financial trouble, like our 2006–2007 financial crisis that nobody predicted.

But I guess what I am saying to you is, they also indicate that huge debt can impact economic growth today. And they say, when your debt reaches 90 percent of GDP, your debt is that much that it will slow growth by 1 to 2 percent.

We are already at 100 percent of GDP. Does the Senator think it is possible their study, based on empirical data, might be telling us that the debt, right now—because it weakens confidence and drains investment capital—that our debt now could be slowing our economy?

Mr. THUNE. I think it is very clear. I think if you look at, as the Senator said, the debt as a percent of GDP—now over 100 percent; think about that—this is the highest level of debt, highest level of spending as a percentage of our GDP that we have seen literally since the end of World War II. We have not seen anything that rivals it. We have seen now 4 years in a row where we have run trillion-dollar-plus deficits, and we have added, as was said earlier, nearly \$5 trillion to the debt since this President took office. But when you get that kind of debt level sustained over time, it does have a direct impact on jobs and the economy, and I believe we are paying a price for that right now. You can look at what is happening, obviously, with the high levels of debt and the impact it is having on countries in Europe.

So this whole idea with the President producing his budget and not taking that issue on, not doing anything substantial or meaningful with regard to spending or debt, and then adding to it, and making matters even worse, raising taxes by almost \$2 trillion—it seems like a most natural instinct. It is just in their DNA. Everything has to be about raising taxes. And, clearly, that is not the solution. We all know that. In fact, we need to create policies that will be conducive to economic growth and job creation in this country.

Raising taxes on investment, which is what this budget does—by the way, it would raise capital gains tax rates

from 15 percent to 20 percent right away, and then if you are hit by the Buffett rule, it would go up to 30 percent. It would raise the dividend tax rates from 15 percent to up over 39 percent—almost triple the tax on dividends in this country, which, incidentally, have already been taxed at the corporate business level. So you are talking about almost tripling the tax rate that Americans are going to have to pay on investment income. Then you look at the ObamaCare taxes that would kick in, the 3.8 percent on investment income, you add that and you start getting to a marginal income tax rate that is up in the 43, 44-percent range. It is very hard to argue that can be anything but awful when it comes to jobs.

The entire budget—from the failure to address spending and debt, the failure to take on saving Social Security and Medicare by reforming our entitlement programs; and it seems as though the constant reliance on taxes is their answer to everything—could not be a worse budget for the American people. It could not be a worse budget for the economy. It could not be a worse budget for jobs. And it certainly could not be a worse budget for seniors, as we continue to watch Medicare and Social Security cascade further and further toward bankruptcy. It is a bust as far as I am concerned. I think that is why people on both sides and people in the media and the American people get it.

It is time for this administration to get serious because these are serious times. When you are going to do big things, you need Presidential leadership. There are 100 Senators, 435 Members of the House of Representatives, 535 of us in all. There is only one President, one person who can sign a bill into law, one person who can engage the American public and the Congress in a way that will help us solve these big problems and tackle the challenges we face as a Nation right now. This budget does none of that.

Mr. SESSIONS. I thank the Senator for his comments and his leadership on all these matters that relate fundamentally to job creation and economic growth. Tax increases do not facilitate economic growth. And when you surge debt, it increases more and more pressure to raise taxes. A lot of people in my State say: JEFF, the debt is being run up so you will have to raise taxes. That is what they planned all along. Whether it is true or not, we are finding that. So we need to take steps today to put this country on a sound financial course.

To demonstrate how impactful the debt is, this year the interest on the debt we will pay—of the entire \$3,700 billion we spend, \$225 billion will be spent on paying the interest on the money we borrowed. A lot of people do not understand, when you borrow money, you pay interest on it. And the

interest rates at this point in history are some of the lowest in history for a developed economy. But the President's own budget—the tables he has in his own budget, the assumptions he has about the expenses we will have to pay—assumes that 10 years from today we will not be paying \$230 billion but \$850 billion. That is more than Social Security. That is more than Medicare. That is more than the Defense Department. That is 10 times what we spend on food stamps. It is multiple times what we spend on education and highways—maybe 20 times what we spend on highways. And we are talking about a highway bill today and trying to find the money to keep it on a basic level of funding, to find the money for that, and this interest is going to be hammering us every year because we are running extraordinary deficits every year.

The American people are not happy with us because they know there can be no excuse for spending \$3,700 billion and taking in only \$2,200 billion and borrowing 40 cents of every dollar, having to have interest be the fastest growing item in the entire budget of America, and soon to dwarf the Defense Department, even Social Security and Medicare and Medicaid.

This is not right. This is bad policy. There can be no excuses. The President—the man who is captain of the ship—is having lunch somewhere while the ship is heading to the shoals and not providing any leadership to get us off this path. In fact, worse, I would say, the President attacks people who propose serious solutions. PAUL RYAN in the House worked hard on a budget. They laid out some good proposals that would have changed the debt course of America. It was a historic budget, do you not think, I say to Senator THUNE.

We can disagree about parts of it, but he was attacked by the President, who himself proposes nothing. And the leadership in this body will not even bring up a budget. He said it was foolish. Why is it foolish? Because if we have a budget debate on the floor of the Senate, people get to offer amendments, and they get to debate the honest depth of the danger this country faces, honestly, openly, and you have to vote on it, and the majority leader does not want to have to have his Members vote on it because he wants to avoid responsibility for facing the greatest crisis this Nation is facing.

Admiral Mullen, the Chairman of the Joint Chiefs of Staff, appointed by President Obama, said: The greatest threat to our national security is the debt. That is true. It is out there. If we do not deal with it, we are going to have a crisis.

I am disappointed at this whole process. I was disappointed at the hearing today. I thought we got irresponsible answers. I think the budget is irresponsible. It in no way deals with the main

drivers, as Senator THUNE has said: Medicare, Medicaid, Social Security, food stamps—all entitlements. Those are not even touched in any serious way. Increasing at 8 percent, the highest growth rate predicted by the President in their 10-year budget is 4 percent. So these programs are increasing twice the rate of GDP. That is unsustainable. It is unsustainable. We need some leadership around here to confront it, and we do not need a President who attacks people who have the courage to actually lay out some plans to fix it.

Mr. THUNE. If the Senator would yield on that point, in closing, I do think there will be a vote probably at some point. The House is going to pass a budget. We know that. I suspect what will happen is what happened last year. If the Senate fails to produce, if the Democratic majority does not produce a budget here, we will end up voting on the House budget, perhaps on the President's budget. But the regrettable thing about all that is we are not doing our job as Senators. It has been over 1,000 days now, and this will be the fourth year in a row in which this body has not adopted a budget. What we have gotten from the President, of course, is not a serious one. All they want to do is get out and demagog and attack people who are serious about solving this problem.

Last year, as was the case with the House-passed budget, when it came over here, it was routinely attacked and demagogued. But nothing was ever put forward that would represent an alternative because they do not want to deal with these issues. It is unfortunate for the American people.

The PRESIDING OFFICER (Mrs. SHAHEEN). The Senator's time has expired.

Mr. THUNE. We yield our time.

Mr. SESSIONS. I thank the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

UNANIMOUS CONSENT REQUEST—EXECUTIVE CALENDAR

Mr. BINGAMAN. Madam President, I want to talk about another subject; that is, five of the executive branch nominations that are pending before the Senate today.

To put this in context, every day when the Senate is in session, one of the documents that is put on every desk here in the Senate Chamber is what is called the Executive Calendar. The Executive Calendar is a listing of all the nominations that have been reported by the various committees of the Senate for consideration by the full Senate. These are, of course, nominations that the President has made and asks the Senate to agree with. So there is usually a list of these executive nominations.

I have become particularly concerned in recent weeks that this list has grown and grown and grown. In fact,

there are now 79 appointments that the President has made, nominations that the President has made, that have been approved by the various committees of the Senate but have not been brought up and voted on here in the Senate itself.

That, to me, is an unfortunate result and one with which we need to concern ourselves.

I want to particularly talk about five of these nominations for important offices in the Department of Energy. We have Secretary of Energy Steven Chu coming before the Energy Committee on Thursday to talk about the President's proposed budget as it affects the Department of Energy in the upcoming year. These are nominations for management positions in his Department, he is very much in favor of us moving ahead.

Each of these offices—these five I am talking about here—has important responsibilities. Together, the five of them make up a large part of the management structure of the Department of Energy.

A frequent observation I hear on the Senate floor about energy policy in our country is that the United States needs to have an “all of the above” approach to energy. I do not know how we can execute an “all of the above” strategy for energy when we have vacancies in the key government offices that oversee fossil energy, nuclear energy, renewable energy, energy efficiency, small and minority business access to energy programs, and we have a vacancy in the legal counsel office for the Department of Energy as well.

The President has nominated five outstanding individuals to fill these “all of the above” energy posts. Our committee, the Energy and Natural Resources Committee, held hearings on each of the nominees, has examined their qualifications, and I am pleased to report that the committee reported all five of these nominees unanimously, recommending to the full Senate that we approve them.

The most senior of the five positions is the office of the Under Secretary of Energy. The Under Secretary's responsibilities include energy efficiency, renewable energy, fossil energy, nuclear energy, and electricity. This position has been vacant for nearly a year and a half. The President has nominated Dr. Arun Majumdar to this important post. Dr. Majumdar is currently the Director of ARPA-E, the Advanced Research Projects Agency located at the Department of Energy.

The Senate confirmed Dr. Majumdar to the position he now holds at ARPA-E as the Director of ARPA-E in October of 2009. He is currently serving as the Under Secretary on an acting basis, and serving as Secretary Chu's senior adviser.

Dr. Majumdar is a highly distinguished scientist and engineer. Before

he came to Washington, he was the associate laboratory director for Energy and Environment at Lawrence Berkeley National Laboratory. He was a professor of mechanical engineering and materials sciences and engineering at The University of California at Berkeley. He holds a dozen patents. He has authored close to 200 scientific papers. He has served as an adviser to both the National Science Foundation and the President's Council of Advisers on Science and Technology, as well as startup companies and venture capital firms in Silicon Valley. He holds a doctorate from UC Berkeley, and he is a member of the National Academy of Engineering.

So it is clear to anyone who looks at his qualifications that he is an eminently qualified scientist, and, frankly, we are very fortunate to have someone of his caliber willing to serve as the Under Secretary of Energy.

The second nomination I want to talk about is for the general counsel's position at the Department. This is, of course, the Department's top legal officer. This position has been vacant since last March—nearly a year. The President has nominated Gregory Woods to be the general counsel. Mr. Woods is currently the deputy general counsel in the Department of Transportation. He was previously a partner in a New York law firm. He was a trial lawyer in the Department of Justice before that.

The third office I want to speak about is the Assistant Secretary for Fossil Energy. This important office is responsible for research and development programs that cover coal, oil, and natural gas. It is a position that has been vacant for over a year.

The President has nominated Charles McConnell to be the next Assistant Secretary for Fossil Energy. Mr. McConnell is currently the Chief Operating Officer of the Office of Fossil Energy. Before coming to the Department of Energy, he spent 2 years as a vice president at Battelle Energy Technology and 31 years before that at Praxair, Inc., a Fortune 500 company that produces industrial gases.

The fourth vacant office I want to speak briefly about is that of the Assistant Secretary for Energy Efficiency and Renewable Energy. This office is responsible for programs designed to increase the production and use of solar and wind and geothermal and biomass and hydrogen and ethanol fuels, for improving energy efficiency in the transportation and building and industrial and utility sectors, and for administering programs that provide financial assistance to State energy programs and weatherization for low-income housing.

For this position, the President has nominated Dr. David Danielson. Dr. Danielson is currently a program director at ARPA-E. Before that he was a

clean energy venture capitalist specializing in financing of solar and wind and biofuels and carbon capture and storage and advanced lighting projects. He holds a doctorate in material science and engineering from MIT.

The fifth and final office I want to mention is that of the Director of Minority Economic Impact, which is responsible for advising the Secretary on the effects of energy policies on minority business enterprises and educational institutions and communities and on ways to ensure that minorities are afforded an opportunity to participate fully in the Department's programs. This position has been vacant for nearly 2 years.

The President has nominated LaDoris Harris to head the office. Ms. Harris is currently the president and chief executive officer of Jabo Industries, a minority-woman-owned management consulting firm that specializes in energy and information technology and the health care industry. She has previously been an executive with General Electric and has held executive and management positions at ABB and at Westinghouse before that.

All five of these nominees are outstanding individuals who are especially well-qualified for the positions for which they have been nominated. These are important positions. They need to be filled. All five nominations were unanimously reported, as I indicated before, by our Energy and Natural Resources Committee this last fall. Four of them have been on the calendar—the Senate's Executive Calendar—since November 10. The fifth was added on December 15.

I am not aware of a single objection that has been raised—any objection on any substantive basis for any one of these. In my view, they all deserve to be confirmed, and Secretary Chu deserves to have them confirmed so that he can implement the policies and the laws we are enacting in a responsible way.

I will ask consent now to go ahead and approve these nominees and see if we can get at least these 5 out of the 79 who are on the Executive Calendar approved. Hopefully, that will allow Senators to see that there is a way to get some of these executive nominees approved as well.

I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 493, 494, 495, 496, and 527; that the nominations be confirmed en bloc; the motions to reconsider be considered made and laid upon the table with no interviewing action or debate; that no further motions be in order to any of the nominations; that any related statements be printed in the RECORD; and that the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

The PRESIDING OFFICER. Is there objection to the request?

The Senator from Kentucky.

Mr. PAUL. Madam President, reserving the right to object, I would like to accommodate the President and these nominees. I think the chairman, the distinguished Senator from New Mexico, has made very good points about their qualifications. But I would be remiss if I did not rise in support of 1,200 jobs in Paducah, KY, which are threatened to be lost because the Department of Energy is refusing to address the situation.

We have a company that has 1,200 jobs in Paducah, KY, which enriches uranium. For 50 years uranium has been accumulating, and it sits on the ground as a waste product. We could recycle this. It is a green project. It costs no taxes. In fact, it will actually bring back money to the Treasury.

What I would like is help from the chairman as well as the President as well as Secretary Chu on this issue. I have written to Secretary Chu, and we have not heard back. This is very important to us. We are in the midst of a great recession, and 1,200 people are destined to lose their jobs. Once again, this does not cause any spending. It does not cost any taxes. Actually, if you would allow us to reenrich this uranium, it would bring money back to the Treasury. That is my reason for holding this. I would hope that we could find some reason and means to accommodate each other.

Until that time, I would continue to object to these nominations.

The PRESIDING OFFICER. Objection is heard.

The Senator from New Mexico.

Mr. BINGAMAN. Madam President, maybe if I could just be clear as to exactly what action the Senator from Kentucky is requesting of the Secretary—I know he indicated that he had contacted the Secretary or written to the Secretary and had not heard back. But is there some specific action that the Secretary is being asked to take that we can clarify so that we would know whether this is a request that could be accommodated?

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. PAUL. Madam President, in response to that question, yes. The government owns the uranium. It has been sitting there for 50 years. It is my understanding that the Department of Energy or the President could at any time sign a statement saying that uranium can be enriched.

It is completely under his prerogative and 1,200 jobs could be saved. These are good-paying jobs. Many of these are union jobs. These are people I would like to help in my State. It does not cost the government anything. It does not cost the taxpayers anything. In fact, it uses a waste product that is sitting on the ground. We

had an agreement. We have worked with United Uranium Mine Workers. We have worked with Senators and Congressmen from different States to try to get this figured out. But all it takes is a signature from the Department of Energy to allow them to enrich this uranium.

The Defense Department has written statements saying they could use this uranium. The GAO has said this is the best use of this waste product. But I believe the Secretary of Energy, through a stroke of the pen, could save these 1,200 jobs. That is what I am asking for help with.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Madam President, let me just indicate to my colleague from Kentucky that I am encouraged to hear that this is an action that could be taken without any cost to the taxpayer. I think that is obviously important.

I do not know all of the arguments for and against the action the Senator is advocating or requesting. But we certainly will look into that.

Let me ask one additional question, if I could. If we are able to accommodate the Senator from Kentucky with regard to this request he has made to the Secretary of Energy, is that the only objection he is aware of to the approval of these five nominees or are we going to have additional Senators coming to the floor raising additional objections in the future, even if this action is taken?

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. PAUL. Madam President, this is my only objection. If the Senator were to help me save these 1,200 jobs, we would erect a monument to him in Kentucky. This is a big deal for us. It does not cost anything. I would do everything within my power to make sure there is no objection on our side. I think it is the President's prerogative. I will help facilitate this process as soon as possible. This would be huge for us in Kentucky if we could save these jobs.

Mr. BINGAMAN. Madam President, obviously, I do not want a monument erected to me in Kentucky. But I do appreciate the Senator from Kentucky indicating his commitment to help get these nominees approved if some accommodation could be found for his concerns. As I say, I have no knowledge of this particular issue. I do not know whether the request the Senator from Kentucky is making is within the realm of possibility.

We will certainly go as far as to investigate the issue and try to get a response back to the Senator as to the Department of Energy view on this issue. That much I can certainly commit to the Senator from Kentucky. But I appreciate his willingness to discuss this issue on the Senate floor. I also

very much, as I said before, appreciate his commitment to help us get these nominees approved if some accommodation of his concerns can be agreed upon.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

#### KEYSTONE XL PIPELINE

Mr. HOEVEN. Madam President, I rise to speak on the issue of energy security for our Nation. I have filed legislation which would approve the Keystone XL Pipeline. I filed our bill as an amendment to the highway bill. That bill is the Hovven-Lugar-Vitter-McConnell-Johanns-Hatch bill. But it actually includes 45 Senators as cosponsors of the legislation. As I said, I filed it now as an amendment to the highway bill.

The fact is Congress needs to act. The administration, after more than 3 years, has decided not to act—evidently will not act on this important issue. So we in Congress need to.

This highway bill provides a tremendous opportunity. The highway bill is about infrastructure, vital infrastructure for our country. That is exactly what the Keystone XL Pipeline is. It is vital infrastructure that is very much needed by our country.

Look at gas prices today. According to the Lundberg Survey or AAA, gas prices are now more than \$3.50 a gallon. That is the highest they have been at this time of year ever—more than \$3.50 a gallon.

Since President Obama took office, gas prices are up 88 percent. They are up 88 percent. That is even though demand is down. We are using less. Demand in the United States for gasoline is down by 5 percent. Yet we are seeing record high gas prices. AAA is now projecting that gasoline will go to \$4 a gallon by Memorial Day.

Some are saying we could see \$5 gasoline this year—\$5 a gallon. Why is that? All we have to do is look to the Middle East to understand what is going on. With the turmoil there, Iran is threatening to blockade the Strait of Hormuz. Something like between one-fifth and one-sixth of all the seaborne oil in the world goes through the Strait of Hormuz. So we can imagine what would happen if Iran blockaded that strait.

Why are we continuing to get oil from the Middle East and places such as Venezuela? Nearly 30 percent of the crude we use comes from places such as the Middle East and Venezuela. Why? Why are we doing that when we don't have to? We don't have to. Why not produce that oil in this country and get it from our closest friend and our strongest trading partner, Canada?

The reality is, we can have North American energy independence. We absolutely can do it. I believe we can do it within the next 5 years. In my home State of North Dakota, we now produce

535,000 barrels a day of light sweet Bakken crude oil. But the problem we have is we cannot get it to market. In the last 5 years, we have increased production from about 100,000 barrels a day to more than 500,000 barrels a day, and it is continuing to grow. But we need pipelines to get that product to refineries in the United States. That is what the Keystone XL would do. More than 100,000 barrels a day of our oil would go into the Keystone Pipeline to get it to refineries.

From Canada, 700,000 barrels a day would go into the Keystone XL Pipeline. So we are talking about 830,000 barrels a day that would go through the Keystone XL Pipeline, which we would not need to get from the Middle East.

Between the United States and Canada, and some from Mexico, building infrastructure such as the Keystone XL Pipeline, we can produce more than 75 percent of the crude oil we need in our country, and that is growing. When I talk about North American oil independence or North American energy independence, that is very attainable. It is something we can absolutely do, but we need the infrastructure to do it.

Today, in North Dakota, light sweet Bakken crude is suffering a discount of \$27 a barrel. Our oil is suffering a discount of \$27 a barrel because we are constrained by pipeline capacity. In Canada, Syncrude is suffering a discount of \$21 a barrel because of that pipeline capacity. Even in Cushing, OK, a hub for oil in this country, oil has been discounted because it cannot move to the refineries because we lack the pipeline capacity.

But even with these bottlenecks, as I have pointed out, these discounts at the pump, consumers and businesses are paying more than \$3.50 a gallon. The bottlenecks create those constraints. Think of the impact on our economy and to our consumers. There are other impacts as well. For example, in North Dakota, we have more truck traffic on our western highways than ever before. That means more fatalities, more traffic accidents. It also means a lot more wear and tear on our infrastructure. So we are talking about a highway bill to maintain and improve our highway infrastructure throughout the country, and in my State our roads are getting worn out by all that truck traffic. The Keystone XL Pipeline alone would reduce the truck traffic on our highways just in North Dakota by 17 million truck miles a year. Again, that is 17 million truck miles a year—all that without one penny of government spending, not one penny of Federal Government spending. So it is a \$7 billion private investment in enhancing our infrastructure that would not cost us a penny.

The Keystone XL Pipeline will create needed infrastructure, tens of thousands of jobs, more energy security for

our Nation, and millions in tax revenues, all with no government spending. The U.S. Department of Energy said the Keystone XL Pipeline will lower gas prices—not “may” but “will”—for the east coast, the gulf coast and the Midwest. But the Obama administration says no.

So the Canadian Prime Minister, Stephen Harper, goes to China last week. While there, he met with President Hu Jintao of China about selling Canadian oil to China. Prime Minister Harper said this in *The Gazette*:

We are an emerging energy superpower. . . . We have abundant supplies of virtually every form of energy. And you know, we want to sell our energy to people who want to buy our energy. It's that simple.

He also spoke of “a new era in a strategic Canada-China energy partnership.” To the United States, he said:

If you don't want Canadian oil sand crude, China is a waiting customer.

To back it up, he returned with a memorandum of understanding from China to develop energy sales from Canada to China.

To those who don't think the Canadian oil sands are going to be produced, that is wrong. They are going to be produced. This oil will be produced. The issue is whether it is going to go to China or come to the United States. The reality is, if it goes to China, it will be worse environmental stewardship. If it comes to the United States, there will be better environmental stewardship.

Let's talk about that for a minute. First off, if it comes from the United States in a pipeline instead of going to China, we don't have to haul it in tankers across the ocean, which produces greenhouse gas. The oil going to China creates more greenhouse gas because we have to haul it to China.

Second, if we are not getting it in the pipeline, we are going to have to continue to have tanker loads coming here from the Middle East and Venezuela—again, producing more greenhouse gas.

Third, we have the best refineries in the world. We have the highest standards and the lowest emissions in our refineries. Instead, this oil will go to China, where they have more emissions and more greenhouse gas. That is worse environmental stewardship by sending it to China, not better.

Another point. Eighty percent of new production in the Canadian oil sands is in situ. That means drilling down to bring up the oil, as we do with conventional oil, not excavating, as they have done historically but drilling or in situ, which has the same impact on greenhouse emissions as conventional drilling. So 80 percent of the new development is in situ, with the same impact as conventional drilling.

That is the real solution. The real solution is using better technology to not only produce more energy but with better environmental stewardship. That is

the real solution, and it means jobs and energy independence for North America.

Finally, on the issue of reexporting the oil, the issue has been brought up that, OK, if we bring the oil in from Canada, it will just get exported to some other country and not be utilized in the United States. But 99 percent of the crude in the United States is refined here; 97 percent of the gasoline refined in the United States is used in the United States; 90 percent of the transportation fuel refined in the United States is used in the United States. We need this oil. We need the refined product.

The reality is, for the small amount exported—think about that. For that, we get jobs, and we get dollars for our economy. Think about it like manufacturing for just a minute. Refining is a process. We take crude oil, refine it, and we have a finished product, a refined product. Similar to manufacturing, we take inputs and manufacture and we have a finished good. Would anybody, for a minute, argue that we don't want to manufacture products in the United States and send them overseas? Of course we do because we get jobs and wealth from that, don't we? In other words, we want to manufacture and process goods in the United States, and when we export them, we get value, we get jobs, and we get a growing economy.

What is going on with this argument? If we think about this argument in the simplest form—for those who say we don't want to build the pipeline because some product might get exported, stop and think for a minute. If we don't build the pipeline, all the oil goes to China; none of it comes here. So we are worried that some might get exported? That makes no sense. None.

I will wrap up. The reality is this: Whether we measure it by jobs or whether we measure it by energy security for this Nation—national security with what is going on in the Middle East—or whether we measure it from an environmental stewardship standpoint, it absolutely makes sense to develop this infrastructure. This is an important step in the right direction toward North American energy security. There is a lot more we need to do, but the reality is we can get there with this kind of private investment by creating the right environment for that. With the infrastructure and steps we need to take, we can get to energy security. It is time for Congress to step forward and act.

This is vitally important infrastructure for our country. This is a vitally important step in terms of national security for the American people.

I yield the floor and suggest the absence of a quorum.

THE PRESIDING OFFICER. The clerk will call the roll.

The assistant editor of the *Daily Digest* proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CASEY). Without objection, it is so ordered.

The Senator from Arizona is recognized.

Mr. KYL. I thank the Chair.

(The remarks of Mr. KYL pertaining to the introduction of S. 2109 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

#### THE SUGAR ACT

Mrs. SHAHEEN. Mr. President, I know this comes as no surprise to you, but today is Valentine's Day. Today millions of Americans are buying flowers and candy for their loved ones to celebrate Valentine's Day. This is an important day for American businesses, especially candy manufacturers. Consumers will purchase over 36 million heart-shaped boxes of chocolates for Valentine's Day.

Unfortunately, the price American candy manufacturers must pay for this sugar leaves a very bitter taste in their mouths. Why, you ask. Well, because these companies face artificially high prices for sugar, about twice the world average. That is because there is an outdated and unnecessary government program that keeps sugar prices significantly higher than they should be.

It is programs such as these sugar subsidies that reflect people's frustration with what is going on here in Washington because the sugar program, like too many other subsidies, protects special interests at the expense of regular businesses and consumers. That is why I joined with Senator MARK KIRK on Valentine's Day last year to encourage our colleagues to join us in supporting our bipartisan SUGAR Act.

The SUGAR Act would phase out the U.S. sugar program, which costs businesses and consumers about \$4 billion a year. This is a big concern for us in New Hampshire as we are the American home of Lindt chocolate as well as a number of other smaller candy companies that use a lot of sugar. I know it is a concern for the President, who has Hershey's chocolate in his home State of Pennsylvania, and it is a big concern for Illinois, where Senator KIRK is from, because they have so many candy companies.

This legislation isn't about Democrats or Republicans. This legislation is about ending a bad deal for businesses and consumers. Senator KIRK and I sponsored this legislation because we need to end the sweetheart deal for the sugar industry. There is simply no reason to continue a program that makes candy makers, bakers, and other food manufacturers in our States

pay double the world average price for sugar.

One of the other fallouts from these high sugar prices is that it costs jobs. For every one job we save in the sugar industry because of these subsidies, we are losing three manufacturing jobs.

Today, as we celebrate Valentine's Day, my thoughts are with Senator KIRK, who continues to recover from a serious illness. While Senator KIRK couldn't be with us this Valentine's Day, I do wish him well, and I look forward to his speedy return to the Senate. I know he is focused on getting better so that he will be able to get back here to work for his constituents from Illinois.

It has been my pleasure to work with Senator KIRK on this bipartisan legislation. I look forward to our continued work in the future on the SUGAR Act and on other matters that help our constituents in New Hampshire and Illinois.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MERKLEY. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MERKLEY. Mr. President, I ask to speak as in morning business for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### TRIBUTE TO CLAIRE GRIFFIN

Mr. MERKLEY. Mr. President, I rise today to recognize the dedicated service of one of my team members, Claire Griffin. Claire retired this January after a long and eventful career. She stuck with me through thick and thin, from when I was a newly elected State representative to the speakership of the Oregon House, to my service here in the Senate.

I first met Claire in 1998 at a candidate training event when I was running for the Oregon House. Claire came as the campaign manager for another candidate who was running in a tough race for an open seat. Claire and her candidate kept making key points, responding to all the questions being asked about how one would run their campaign. I just kept thinking: I am in so much trouble. I wish I had it together—like the two of them.

They were enormously outspent in their race and did not win but finished respectably. It was just after the election that the candidate called me and encouraged me to hire Claire for my team, so I did. Thus began a wonderful 13-year partnership.

One of the first things I got to know about Claire was that, while she had moved to Oregon, she was steeped in California politics. Her face would

light up with stories from her California days. Jesse Unruh, former California assemblyman, treasurer, and speaker figured prominently in these stories. The underlying theme of these stories was, if I had just a fraction of Speaker Unruh's political smarts, we could get a lot more done.

Fortunately, Claire did what she could to help provide those political smarts for me. During these years I was working full time for the World Affairs Council of Oregon, in addition to serving as a legislator in the citizen legislator system in Oregon. This greatly increased Claire's workload and, on pretty much a daily basis, it increased her blood pressure. I don't know how I would have gotten through those years without her extraordinary diligence.

I kept hearing from constituents how promptly Claire responded when they called my legislative office. In fact, I think a good share of the folks in my Oregon House district thought Claire was the State representative and I was assisting her.

Then, in 2003, our collective experience took a big turn. The good news for Claire was that I resigned from my day job as director of the World Affairs Council of Oregon, and I could finally devote myself fully to my responsibilities as a State legislator. The bad news for her blood pressure was that I also decided to make a long-shot bid to be House Democratic leader.

Claire always said she was sure I would win. I, on the other hand, was equally sure I would not win. But as so often has proved the case over time, Claire was right and I was wrong.

When the first day of voting arrived, it became clear after the first ballot that the race was going to be a close three-way contest, and in the next two rounds of voting one of us won and the other two tied and nobody was out of the race, so the voting continued. I finally won on the fifth ballot, bringing a new challenge for Claire, developing a strong working relationship with the entire House Democratic leadership.

Over the next 3 years, Claire had to hear me obsess over the challenge of recruiting candidates in 60 districts, raising funds, developing a policy agenda, and overcoming the sometimes dramatic ups and downs of a State legislature. But together we soldiered on.

Starting in the 2005 session, Claire took on a new duty, the essential task of training and mentoring the Democratic legislative assistants. Just as she had impressed me in that first fortuitous meeting in 1998, she impressed her new trainees. Many of the LAs would stop me in the halls of the capitol in Salem, OR, and give thanks for her down-to-earth training and support.

In 2007, our world changed again when I became speaker of the house. As



always, Claire was the rock of our operation, even as I assumed my new duties and then, shortly after the 2007 session, took on the long-shot race of running for the U.S. Senate.

When I was elected to the Senate in 2008, Claire applied her enormous skills to lead my casework team. She and her team have done an amazing job. If you would like to see proof, just visit her office in Portland. The wall is covered in multitudes of thank-you notes.

Recently, I received this letter from a constituent:

Senator, you hardly need one of your constituents to tell you how great your staff operates but I must try. I recently had a problem with government bureaucracy and I was beyond frustration. Then, 2 years ago, I contacted your office and was put in contact with Claire Griffin. I may have found my government to be unresponsive before this, but from that day forward I had been amazed. . . . My issue did not even affect very many people, but Claire did not let those facts guide her efforts. . . .

From the very beginning, she made me feel that my problem was worthy of her total effort. . . . In the end, Claire brought the "mountain to me" and a large part of my problem was resolved. . . . The frustration that I experienced for so many years with an unresponsive government has been lifted through [her] actions.

Like so many other letters through the years, it closed by thanking Claire.

For the past 13 years I have always appreciated Claire's dedication as a staff member, but I have been equally blessed to know her as a person. If anyone should doubt, I can testify that Claire has been the funniest person in Oregon politics. She wields her wit like a sword, and sometimes it stings. But you can't help but smile even when her comments make you smart.

She made it, in part, her job to make sure the various offices did not go to my head, and she was very good at this. When she trained legislative assistants in Salem, she made sure they were trained in how to keep their bosses from taking their offices too much to their headbands.

Claire has been a full member of my and Mary's extended family. She joined the team when my son Jonathan was 2 years old and my daughter Brynne was a newborn. She has stepped in to cut down the mountains and fill in the valleys, all along this 13-year journey. She gave my son Jonathan the best gift he ever had, a box of eight classic adventure novels rewritten for a little tyke to read. He enjoyed them immensely. She rescued me when I forgot my I.D. card and could not get through airport security. As you can imagine, over the years she has been there through one crisis, one challenge after another.

Claire, I couldn't have done it without you. My family could not have done it without you. Thank you for joining our team and our family and working so hard to make this journey a success.

Claire, you have carried on the fight to build a better world, and you have

carried on that fight with heart and humor. Thank you. We will miss you. Please enjoy your well-earned retirement and, of course, keep in touch. You will always be a valued member of Team MERKLEY.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

ADOPTION

Ms. LANDRIEU. Mr. President, that was a beautiful tribute by my colleague.

I come to the floor to just speak for a few minutes while we are trying to figure a way forward on a very important piece of legislation having to do with the transportation infrastructure for our Nation. I know it is a bill that Senator BOXER, as the chair of the EPW Committee, has worked on tirelessly for years along with Senator INHOFE. It is a very important piece of legislation authorizing billions of dollars of programs and projects. I really want to say that I appreciate her leadership so much.

I was so hoping the Republican leadership and the Democratic leadership could come together so sometime in the next few days we could have some votes relative to this important legislation and move forward because I know for the people I represent in Louisiana, this is one of our most important infrastructure bills.

I am sure, Mr. President, you have many people in Pennsylvania talking with you about the importance of getting these road projects authorized. At a time when people are looking for jobs and looking for work, this would be one of the bills we would like to pass. Let's all be patient but not too patient, to get this through because it is very important.

While we are waiting for that, I thought I would come to the floor on this very special day, Valentine's Day, to talk about a very special kind of love that happens between children and parents. Mr. President, you know because you have been a wonderful leader, along with many others here on the Senate floor, for the idea that every child deserves a protective family and that children do not do a very good job of raising themselves. Governments do not do a good job of raising children. Children need to be raised in a family. Children should be with their siblings whenever possible, raised in the protective arms and under the watchful eye of parents—at least one responsible adult.

Mr. President, you know how heart-breaking it is on every day, but particularly a day like today when we are sending cards to our loved ones. I know the first call I made this morning was to my husband and to my children to wish them a Happy Valentine's—people are doing that all over the world today. In fact, I was given some very interesting information.

I had no idea that 180 million Valentine cards were purchased today—that is pretty amazing—200 million roses were sold today, and 36 million heart-shaped boxes of chocolate will be eaten today. I have not gotten my box of chocolate; I don't know if you have. I am still looking for mine.

But the sad thing is, there are millions of children who are not going to receive a phone call today. They are not going to receive a card. They will not receive a box of chocolates, and they may not even receive a pat on the head or a hug or a word of encouragement because they are orphans.

These are children who live all over the world and in our own country, sad to say. We have about 100,000 children in our foster care system whose parents have had their biological rights terminated because of either gross neglect or abuse, children who are waiting for another family to step up. The Presiding Officer has been very active and successful in passing the adoption tax credit provision that provides some financial assistance to families who are stepping forward to adopt children in need in our own country and around the world.

There are 100,000 children waiting for that Valentine's card or that box of chocolate or a hug or just to belong to a family. Around the world, we don't even know what those numbers are. They are overwhelming. We know that in countries that have a high incidence of AIDS, for instance, that causes the death of a parent, particularly a mom—a dad as well—really that leaves sometimes families of eight children, nine children, six children abandoned. Even if a grandmother steps in to try to do that work and she dies within a few years, what happens to these children?

Well, the Presiding Officer, along with many of my colleagues here, I am proud to say, has introduced a resolution today. I wish to thank my cosponsors, particularly Senator LUGAR, who has been a terrific advocate as the former chair and now ranking member of the Foreign Relations Committee; Senator KLOBUCHAR; Senator GRASSLEY, who is my cochair on the foster care caucus; Senator GILLIBRAND; Senator INHOFE, who has probably traveled to more countries—more times to Africa than any Senator in the history of our country, and he should be commended for the work he is doing on that continent; and Senator BLUMENTHAL and Senator BOOZMAN, who have been outstanding advocates in their own right for different aspects of family policy. We are proud to submit a sense-of-the-Senate resolution. Of course, this does not have the force of law, but it most certainly expresses our views as a body and does have impact on policymakers around the world, nonprofits, the faith-based community, the private sector, and, most

importantly, governments around the world.

People would say: What does the Senate think about this, Senator? You say this, but what do the other Senators think about the fact of adoption or international adoption? Do they agree with you that children belong in a family? Because it is sad to say that there are some places in this world that think children can grow up fine in an institution or they can grow up fine without parents. Now, we don't think that in the United States. Not only do our hearts and our minds and our faith tell us otherwise, but the science also says that children who grow up in a family of loving nurturing, particularly in the early years—we know this is true raising our own children; I know this as a mother—every year but particularly those early years get the confidence and the affirmation of kindness and gentleness from a parent.

I have been learning more about this lately, not only how important it is, but what I have been learning about is what the science says when children don't get that. The term that the American Academy of Pediatrics just released calls it toxic stress—toxic stress on the brain of an infant. They underline how even one caring and supportive relationship with an adult in those early years is so important that it can offset the damaging neurological and physiological affects of stress on children. I know adults have stress because I have it myself. What I didn't realize was that infants—the tiniest little infants—can have toxic stress that affects the development of their brain and their ability to function.

I hope our country will realize how important it is for us to do a better job of connecting orphans and abandoned infants and neglected children of all ages—not to put them in an institution, not to turn them out on the street, not to allow them to be trafficked by drug cartels or sex traders or people who will exploit them for other purposes, but to put them in the arms of a loving family, connecting them to a loving and responsible adult.

Of course, we try to keep children in their own biological families when possible, but if war or disease or death separates them, why don't we think that it is the most important thing in the world—because it is—to connect those children to a loving family?

That is what this resolution says. It is just as simple as we can say it on Valentine's Day: For kids who will never get a kiss or a box of chocolates or who haven't yet, there is still hope that we can give them a protective family, that we can protect these sibling groups. If government would work just a little bit smarter, not even necessarily throwing that much more money at it, although I find we can always use a little extra, but just working smarter and better and working

with the churches, working with faith-based communities around the world, we can connect children to families. That is all this resolution says. It expresses the sense of the Senate. I hope we can pass this by unanimous consent.

So when I travel around the world, as I do often, when I am in Guatemala or when I am in Uganda or when I have been in places such as Russia and in China, and the Senators there or the members or the people, the leaders, ask me, "What do the other Senators say? Do they believe this as well?" I can say, "Absolutely." I am going to carry this resolution with me, and I will show it to them because all this resolution says is that every child in the world deserves a protective and loving family.

So I don't know if Valentine's Day will be perfect for many children. I hope my children have had a wonderful day today. But we can work a little harder to try to do our best to make sure they have at least one caring, nurturing, loving adult in their life. It would make a world of difference in our school systems, in our health care systems, in our criminal justice system. It will make our communities stronger. It will make our States and our Nation stronger and ultimately the world. I know the Presiding Officer believes that.

I thank the leadership for allowing me to come to the floor and speak on this today, and hopefully all of my colleagues will vote favorably for this Senate resolution.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. WICKER. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### NATIONAL CRIME VICTIMS' RIGHTS WEEK

Mr. WICKER. Mr. President, I expect that a resolution authorizing National Crime Victims' Rights Week will be adopted unanimously by the Senate in a few moments. I wanted to come to the floor today and reaffirm my support for the rights and needs of survivors of crime. I also wanted to express my gratitude to the dedicated advocates of crime victims as well as the health and law enforcement professionals who work to fight crime and help its victims recover.

Keeping our neighborhoods and communities safe is and will always be a top priority of this country. But close to 20 million Americans are victims of crime each year, and these individuals and their families are confronted with unique and difficult challenges. Acts of crime inflict lasting physical, emotional, and psychological wounds that take time and care to heal. It is important that the necessary resources and services be available to help rebuild the lives of crime survivors.

National Crime Victims' Rights Week, which our Nation has commemorated annually for the last 30 years, renews our commitment to those impacted by crime and the ways we can help them move forward. It is a time for remembrance and reflection, a moment to pause and honor victims, advocates, professionals, and volunteers.

This year's theme is ambitious but critical: "Extending the Vision: Reaching Every Victim." This calls on each of us to make sure that all victims get the help they need. Too many victims are still unable to receive the protections and services they deserve. Our efforts toward better safety and security now are integral to ensuring the safety and security of future generations.

On April 8, 1981, President Ronald Reagan proclaimed the first Crime Victims' Rights Week. As a former prosecutor myself, I remember when the concept of victims' rights was practically unknown as few mechanisms for victim assistance and support even existed. With this first proclamation, President Reagan fulfilled an important and long-awaited call to put the concerns and rights of crime victims on the national agenda.

As President Reagan said in the first proclamation in 1981:

We need a renewed emphasis on and an enhanced sensitivity to the rights of victims. These rights should be a central concern of those who participate in the criminal justice system, and it is time all of us paid greater heed to the plight of victims.

This pioneering vision of President Reagan is one we continue to embrace today.

We are blessed to live in a nation of Good Samaritans, and we have achieved impressive strides toward helping crime victims get the services they need. But the task of preventing crime and healing its harmful effects remains a constant battle. Technology, globalization, and new types of criminal behavior have made the challenge before us more complex than ever before.

Our fight against crime in the 21st century will take strategic partnerships at the local, State, and national levels. It will rely on supportive, vigilant, and compassionate communities and individuals. Serving these individuals is more than an act of kindness; it helps make all of our homes, neighborhoods, and communities safer and stronger.

The resolution I have submitted with Senators LEAHY, SCHUMER, and GRASSLEY and which I expect to be passed today supports the mission and goals of this year's National Crime Victims' Rights Week. I urge my colleagues to continue supporting those who have suffered crimes' effects and a renewed commitment toward reducing crime during this week, which this year will be observed the week of April 22.

In closing, we have come a long way since the days when crime victims had

few rights and services. Yet it is also true that too many crimes are still committed and too few are reported and that many victims struggle to overcome the lasting effects of crime. I am pleased that National Crime Victims' Rights Week offers us the opportunity each year to highlight the needs of crime survivors, recognize those who help them, and engage the public in the fight for victims' rights.

Thank you, Mr. President.

I yield the floor, and I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BENNET). Without objection, it is so ordered.

#### MORNING BUSINESS

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent the Senate proceed to a period of morning business with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### RECOGNIZING K-I LUMBER & BUILDING MATERIALS

Mr. MCCONNELL. Mr. President, I rise today to pay tribute to a thriving and successful business in Kentucky, the K-I Lumber & Building Materials company, headquartered in Louisville. K-I Lumber was founded in Louisville in 1932 by Mr. Walter M. Freeman, Sr., who was working as a lumber salesman for another company in the 1920s. As the Great Depression hit, the company he worked for began to decline, and this enterprising American decided that was the time to strike out on his own.

Mr. Freeman opened K-I Lumber's first headquarters in the Starks Building in downtown Louisville, and began selling carloads and truckloads of lumber to customers in Kentucky, Indiana, and surrounding States. By the early 1950s, he had purchased property for a distribution center and lumberyard. Walt's son, Walt Freeman, Jr., joined the business and began to expand it into Kentucky and Indiana's largest lumber company.

Walt, Jr. grew K-I Lumber until it had nine locations in three States and employed approximately 500 people, turning it into one of the largest independent lumber and building materials companies in the industry and earning it the Home Builders Association of Louisville Associate of the Year award until his passing in 2011.

Now led by the company's chairman, Sharon Freeman, and its president,

Bob DeFarraro, K-I Lumber continues to serve as an example of the success Kentucky businesses can achieve with hard work, good leadership, and a passionate spirit. K-I Lumber recently celebrated its current employees for their combined total of 2,074 years of service to the company and to its customers in Kentucky and the region.

Speaking of the company's custom millwork division, Walt Freeman, Jr. was fond of saying "If you can dream it, we can craft it." Whether it is custom millwork for one very special customer, or lumber needs for the largest distributors, K-I Lumber & Building Materials has survived and thrived over the past 80 years by crafting the desires of its customers, employees, and managers into reality. I know my colleagues join me in wishing many more years of success to this proud and locally owned Kentucky business.

#### SURFACE TRANSPORTATION ACT

Mr. ISAKSON. Mr. President, amendment No. 1574 modifying the Congressional authorization for the Savannah Harbor Expansion Project, SHEP, is clearly supported in the Constitution. Article I of the Constitution grants Congress the power to authorize and appropriate funds and Article I, Section 8, specifically grants Congress the power "To regulate Commerce with foreign Nations, and among the several States, and with Indian Tribes." The power of Congress to fund the Savannah Harbor Expansion Project is unquestionably granted by the Commerce Clause of the Constitution. The Supreme Court has also expressly stated that "Commerce with foreign nations means commerce between citizens of the United States and citizens or subjects of foreign governments. It means trade, and it means intercourse. It means commercial intercourse between nations, and parts of nations, in all its branches. It includes navigation, as the principal means by which foreign intercourse is affected."

The power to regulate, authorize, and appropriate funding for the ports comes from the authority to regulate navigation, arising from the Commerce Clause. The Savannah Harbor Expansion Project, and by extension all harbor deepening projects, involves the general welfare of the United States. The Port of Savannah is a turnstile for cargo that impacts the United States as a whole. Congress is permitted to contribute to the project because it would improve the ability of the United States to receive larger ships entering through the Panama Canal. The Project will make national trade more competitive, while greatly impacting the State and the region. Trades, and its relations (ports), are fundamental extensions of the congressional power to regulate commerce. The Savannah Harbor Expansion

Project is a permissible exercise of Congress's authority to regulate commerce and contributes to the general welfare of the United States. The constitutional ability of Congress to provide funding for the program is unquestionable.

The Port of Savannah is the second largest container port on the East Coast and the fourth largest in the country. The Georgia Department of Economic Development recently announced that Georgia exported more than \$28.7 billion in goods last year, a 20.8 percent increase from 2009 and our imports experienced a 27 percent increase last year compared to 2009. That's well over the overall national increase of 22.6 percent. Exports accounted for more than 54 percent of the 2.8 million containers Georgia Ports moved last year. Savannah handles more than 17 percent of all container cargo on the East Coast and is an essential element for the creation of new jobs, and the preservation of existing jobs, in America. The Panama Canal Authority has undertaken a 7 year \$5.25 billion project to widen the canal to double its capacity by allowing larger ships to transit it. After this expansion, the Panama Canal will be able to handle vessels of cargo capacity up to 13,000 twenty-foot equivalent units or TEUs, which is the measure of cargo capacity often used to describe the capacity of a container ship. As a result of the canal's expansion and widening, shipping vessels are modernizing their fleet and purchasing a much larger class of vessel. These "Post Panamax" and "New Panamax" fleets will be comprised of vessels much larger than anything on the ocean today.

In order to accommodate these vessels, improvements must be made to our Nation's existing infrastructure. The Georgia Ports Authority and the State of Georgia are undertaking a project to deepen the port's channel from 42 feet to 48 feet in order to accommodate this larger class of vessels. Doing so will protect existing jobs at the port while also creating new jobs as these larger vessels call in the Port of Savannah. It is critically important that we expand not only Savannah Harbor but all harbors to ensure they continue to act as gateways for business to not only Georgia and the Southeast United States, but the entire Nation.

#### ADDITIONAL STATEMENTS

##### RECOGNIZING WILBUR'S OF MAINE CHOCOLATE CONFECTIONS

• Ms. SNOWE. Mr. President, today millions of Americans across the country will be reminded of the wonders of love and romance. Some may receive a traditional Valentine's Day card, others a perfect bouquet of fragrant flowers,

and several lucky individuals will receive delectable chocolates, perhaps enclosed in a magnificent red heart shaped box. While today is Valentine's Day, the entire month of February is National Chocolate Lover's month, and with these two festive occasions in mind, I rise to commend Wilbur's of Maine Chocolate Confections located in Freeport, ME.

Tom Wilbur and Catherine Carty-Wilbur opened this small chocolatier in 1983, with the goal of providing the highest quality chocolate products to their customers. One of the highlights of Wilbur's is their scrumptious Needham candy, which is a unique delicacy of Maine offering a luxurious blend of chocolate and potato. Wilbur's uses only Maine-farmed potatoes which are among the best in the world in making this delightful treat.

Over the years, the store's charm and rich chocolate selection warranted an expansion and Tom and Catherine sought to move from their original Freeport location to a larger space where they could produce more candy. While garnering funds for expansion, the Wilburs consulted with the Maine Small Business and Technology Development Center regarding a seed grant from the Maine Technology Institute, which they were successfully awarded in 2008. This grant allowed Wilbur's to finish research and development on two pieces of equipment, which were integral in enhancing their company's candy production. Today, this small business has three retail store locations, two in Freeport and one in Brunswick. Inquisitive customers can even tour one of their Freeport locations which doubles as Wilbur's factory!

Wilbur's also understands the importance of giving back to their local community. Recipients of their generous donations include the Central Maine Medical Center as well as Day One in south Portland—a non-profit whose mission is to reduce youth substance abuse. Additionally, to spread the joy of chocolate making, this small business frequently holds events to instruct individuals in this unique craft, including a summer program to turn children into junior chocolatiers. Earlier this month, Wilbur's even held a fun "love bug" event at their Freeport store where individuals could create a special Valentine's treat for their loved ones, and demonstrated Needham-making for the Freeport Historical Society.

In light of their delicious product and valued contributions to the State, it is no surprise that this small company has received several accolades. In both 2010 and 2011, they were honored with the Readers' Choice Award for Candy Shops by Downeast Maine Magazine. Furthermore, earlier this year Tom and Catherine received the Gowell Award, which is the highest honor bestowed by the New England Retail Con-

fectioner Association and is only given out once every three years—a truly astounding achievement indeed.

Throughout the month of February, but especially today, we celebrate our love of all things chocolate. Wilbur's of Maine Chocolate Confections is a shining example of why everyone's heart truly lights up at the thought of consuming delectable chocolate goods. This company not only produces a superior product, but continually provides valuable contributions as active and engaged members of the community. I am proud to extend my congratulations to everyone at Wilbur's of Maine Chocolate Confections for their dedication to excellence, and offer my best wishes for their continued success. ●

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Foreign Relations.

(The nominations received today are printed at the end of the Senate proceedings.)

#### MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 2105. A bill to enhance the security and resiliency of the cyber and communications infrastructure of the United States.

#### EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-4960. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Indoxacarb; Pesticide Tolerances" (FRL No. 9336-7) received in the Office of the President of the Senate on February 7, 2012; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4961. A communication from the Chairman of the Securities and Exchange Commission, transmitting, pursuant to law, a report relative to violations of the Antideficiency Act that occurred within the Salaries and Expenses account for fiscal years 2010 and 2011; to the Committee on Appropriations.

EC-4962. A communication from the Chairman of the Securities and Exchange Commission, transmitting, pursuant to law, a report relative to violations of the

Antideficiency Act that occurred within the Salaries and Expenses account in fiscal year 2010 and in the over two decades prior; to the Committee on Appropriations.

EC-4963. A communication from the Assistant Secretary, Bureau of Political-Military Affairs, Department of State, transmitting, pursuant to law, an addendum to a certification, transmittal number: DDTC 12-002, of the proposed sale or export of defense articles and/or defense services to a Middle East country regarding any possible affects such a sale might have relating to Israel's Qualitative Military Edge over military threats to Israel; to the Committee on Armed Services.

EC-4964. A communication from the Secretary of the Commission, Division of Clearing and Risk, Commodity Futures Trading Commission, transmitting, pursuant to law, the report of a rule entitled "Protection of Cleared Swaps Customer Contracts and Collateral; Conforming Amendments to the Commodity Broker Bankruptcy Provisions" (RIN3038-AC99) received in the Office of the President of the Senate on February 7, 2012; to the Committee on Banking, Housing, and Urban Affairs.

EC-4965. A communication from the Associate General Counsel for Legislation and Regulations, Office of the Secretary, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity" (RIN2501-AD49) received in the Office of the President of the Senate on February 9, 2012; to the Committee on Banking, Housing, and Urban Affairs.

EC-4966. A communication from the Chairman, Securities and Exchange Commission, transmitting, pursuant to law, the 2010 Annual Report of the Securities Investor Protection Corporation (SIPC); to the Committee on Banking, Housing, and Urban Affairs.

EC-4967. A communication from the Deputy Chief of the National Forest System, Department of Agriculture, transmitting, pursuant to law, a report relative to the detailed boundary for the Sturgeon Wild and Scenic River in Michigan to be added to the National Wild and Scenic Rivers System; to the Committee on Energy and Natural Resources.

EC-4968. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Texas Regulatory Program" ((SATS Nos. TX-061/062/063-FOR)(Docket No. OSM-2008-0018)) received in the Office of the President of the Senate on February 9, 2012; to the Committee on Energy and Natural Resources.

EC-4969. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Maryland; Preconstruction Permitting Requirements for Electric Generation Stations in Maryland" (FRL No. 9628-7) received in the Office of the President of the Senate on February 7, 2012; to the Committee on Environment and Public Works.

EC-4970. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, California Air Resources Board—Consumer Products" (FRL No. 9609-7) received in the Office of the President of

the Senate on February 7, 2012; to the Committee on Environment and Public Works.

EC-4971. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, Joaquin Valley Unified Air Pollution Control District" (FRL No. 9501-6) received in the Office of the President of the Senate on February 7, 2012; to the Committee on Environment and Public Works.

EC-4972. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Modification of Significant New Uses of Tris Carbamoyl Triazine" (FRL No. 9330-6) received in the Office of the President of the Senate on February 7, 2012; to the Committee on Environment and Public Works.

EC-4973. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Disapproval and Promulgation of Air Quality Implementation Plans; Montana; Revisions to the Administrative Rules of Montana—Air Quality, Subchapter 7, Exclusion for De Minimis Changes" (FRL No. 9495-9) received in the Office of the President of the Senate on February 7, 2012; to the Committee on Environment and Public Works.

EC-4974. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Plans for Designated Facilities and Pollutants; State of Florida; Control of Large Municipal Waste Combustor (LMWC) Emissions From Existing Facilities; Correction" (FRL No. 9628-6) received in the Office of the President of the Senate on February 7, 2012; to the Committee on Environment and Public Works.

EC-4975. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Air Quality Designations for the 2010 Primary Nitrogen Dioxide (NO<sub>2</sub>) National Ambient Air Quality Standards" (FRL No. 9624-3) received in the Office of the President of the Senate on February 7, 2012; to the Committee on Environment and Public Works.

EC-4976. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Alabama, Georgia, and Tennessee: Chattanooga; Particulate Matter 2002 Base Year Emissions Inventory" (FRL No. 9628-2) received in the Office of the President of the Senate on February 7, 2012; to the Committee on Environment and Public Works.

EC-4977. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "Engagement in Additional Work Activities and Expenditures for Other Benefits and Services, April–June 2011: A Temporary Assistance for Needy Families (TANF) Report to Congress"; to the Committee on Finance.

EC-4978. A communication from the Director of Regulations and Policy Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Exceptions or Alternatives

to Labeling Requirements for Products Held by the Strategic National Stockpile" (Docket No. FDA-2006-N-0364) received in the Office of the President of the Senate on February 9, 2012; to the Committee on Health, Education, Labor, and Pensions.

EC-4979. A communication from the Program Manager, Centers for Disease Control, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Establishment of User Fees for Filovirus Testing of Nonhuman Primate Liver Samples" (RIN0920-AA47) received in the Office of the President of the Senate on February 9, 2012; to the Committee on Health, Education, Labor, and Pensions.

EC-4980. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a petition to add workers from the Hooker Electrochemical Corporation in Niagara Falls, New York, to the Special Exposure Cohort; to the Committee on Health, Education, Labor, and Pensions.

EC-4981. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a petition to add workers from the Linde Ceramics Plant in Tonawanda, New York, to the Special Exposure Cohort; to the Committee on Health, Education, Labor, and Pensions.

EC-4982. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a petition to add workers from the Savannah River Site in Aiken, South Carolina, to the Special Exposure Cohort; to the Committee on Health, Education, Labor, and Pensions.

EC-4983. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Performance Report for fiscal year 2011 for the Prescription Drug User Fee Act (PDUFA); to the Committee on Health, Education, Labor, and Pensions.

EC-4984. A communication from the Senior Procurement Executive, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled "General Services Administration Acquisition Regulation; Reinstatement of Coverage Pertaining to Final Payment Under Construction and Building Service Contracts" (RIN3090-AJ13) received in the Office of the President of the Senate on February 9, 2012; to the Committee on Homeland Security and Governmental Affairs.

EC-4985. A communication from the Comptroller, National Indian Gaming Commission, transmitting, pursuant to law, the report of a rule entitled "Fees" (25 CFR Part 514) received during adjournment of the Senate in the Office of the President of the Senate on February 10, 2012; to the Committee on Indian Affairs.

EC-4986. A communication from the Chief of Staff, National Indian Gaming Commission, transmitting, pursuant to law, the report of a rule entitled "Review and Approval of Existing Ordinances or Resolutions; Repeal" (RIN3141-AA45) received in the Office of the President of the Senate on February 9, 2012; to the Committee on Indian Affairs.

EC-4987. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report relative to the Tribal-State Road Maintenance Agreements; to the Committee on Indian Affairs.

EC-4988. A communication from the Department of State, transmitting, pursuant to law, a report relative to a foreign terrorist organization (OSS Control No. 2012-0192); to the Committee on the Judiciary.

EC-4989. A communication from the Department of State, transmitting, pursuant to law, a report relative to a foreign terrorist organization (OSS Control No. 2012-0141); to the Committee on the Judiciary.

EC-4990. A communication from the Deputy Associate Director for Management and Administration and Designated Reporting Official, Office on National Drug Control Policy, Executive Office of the President, transmitting, pursuant to law, a report relative to a vacancy in the position of Deputy Director of National Drug Control Policy, received in the Office of the President of the Senate on February 7, 2012; to the Committee on the Judiciary.

EC-4991. A communication from the Clerk of Court, United States Court of Federal Claims, transmitting, pursuant to law, the Court's annual report for the year ended September 30, 2011; to the Committee on the Judiciary.

EC-4992. A communication from the Administrator, National Aeronautics and Space Administration, transmitting, pursuant to law, a report entitled "International Space Station: Approaches for Ensuring Utilization through 2020 Are Reasonable but Should Be Revisited as NASA Gains More Knowledge of On-Orbit Performance"; to the Committee on Commerce, Science, and Transportation.

EC-4993. A communication from the Attorney-Advisor for the Department of Legislation and Regulations, Maritime Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Retrospective Review under E.O. 13563: Shipping—Deletion of Obsolete Regulations" (RIN2133-AB80) received in the Office of the President of the Senate on February 9, 2012; to the Committee on Commerce, Science, and Transportation.

EC-4994. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "FAA-Approved Portable Oxygen Concentrators; Technical Amendment" ((RIN2120-AA66)(Docket No. FAA-2011-1343)) received in the Office of the President of the Senate on February 9, 2012; to the Committee on Commerce, Science, and Transportation.

EC-4995. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of VOR Federal Airways V-320 and V-440; Alaska" ((RIN2120-AA66)(Docket No. FAA-2011-1014)) received in the Office of the President of the Senate on February 9, 2012; to the Committee on Commerce, Science, and Transportation.

EC-4996. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Time of Designation for Restricted Areas R-5314A, B, C, D, E, F, H, and J; Dare County, NC" ((RIN2120-AA66)(Docket No. FAA-2011-1017)) received in the Office of the President of the Senate on February 9, 2012; to the Committee on Commerce, Science, and Transportation.

EC-4997. A communication from the Acting Deputy Assistant Administrator, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Taking and Importing Marine Mammals: U.S. Navy Training in 12 Range Complexes and U.S. Air Force Space Vehicle and Test Flight Activities in California" (RIN0648-BB53) received

during adjournment of the Senate in the Office of the President of the Senate on February 8, 2012; to the Committee on Commerce, Science, and Transportation.

EC-4998. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Federal Airways; Alaska" ((RIN2120-AA66)(Docket No. FAA-2011-0010)) received in the Office of the President of the Senate on February 9, 2012; to the Committee on Commerce, Science, and Transportation.

EC-4999. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class D and E Airspace; Frederick, MD" ((RIN2120-AA66)(Docket No. FAA-2011-0455)) received in the Office of the President of the Senate on February 9, 2012; to the Committee on Commerce, Science, and Transportation.

EC-5000. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class D and E Airspace and Amendment of Class E Airspace; Brooksville, FL" ((RIN2120-AA66)(Docket No. FAA-2011-0578)) received in the Office of the President of the Senate on February 9, 2012; to the Committee on Commerce, Science, and Transportation.

EC-5001. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class D and E Airspace and Amendment of Class E; Punta Gorda, FL" ((RIN2120-AA66)(Docket No. FAA-2011-0347)) received in the Office of the President of the Senate on February 9, 2012; to the Committee on Commerce, Science, and Transportation.

EC-5002. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class D and E Airspace; Baltimore, MD" ((RIN2120-AA66)(Docket No. FAA-2010-1328)) received in the Office of the President of the Senate on February 9, 2012; to the Committee on Commerce, Science, and Transportation.

EC-5003. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Hawker Beechcraft Corporation Models 1900, 1900C, and 1900D Airplanes" ((RIN2120-AA64)(Docket No. FAA-2012-0014)) received in the Office of the President of the Senate on February 9, 2012; to the Committee on Commerce, Science, and Transportation.

EC-5004. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Various Aircraft Equipped with Rotax Aircraft Engines 912 A Series Engine" ((RIN2120-AA64)(Docket No. FAA-2012-0001)) received in the Office of the President of the Senate on February 9, 2012; to the Committee on Commerce, Science, and Transportation.

EC-5005. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives;

Continental Motors, Inc. (CMI) Reciprocating Engines" ((RIN2120-AA64)(Docket No. FAA-2011-1341)) received in the Office of the President of the Senate on February 9, 2012; to the Committee on Commerce, Science, and Transportation.

EC-5006. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; The Boeing Company Model 767 Airplanes" ((RIN2120-AA64)(Docket No. FAA-2009-1221)) received in the Office of the President of the Senate on February 9, 2012; to the Committee on Commerce, Science, and Transportation.

EC-5007. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Hawker Beechcraft Corporation Airplanes Equipped with a Certain Supplemental Type Certificate (SIC)" ((RIN2120-AA64)(Docket No. FAA-2011-1420)) received in the Office of the President of the Senate on February 9, 2012; to the Committee on Commerce, Science, and Transportation.

EC-5008. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Turbomeca Turboshift Engines" ((RIN2120-AA64)(Docket No. FAA-2010-0904)) received in the Office of the President of the Senate on February 9, 2012; to the Committee on Commerce, Science, and Transportation.

EC-5009. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Thielert Aircraft Engines GmbH Reciprocating Engines" ((RIN2120-AA64)(Docket No. FAA-2009-0948)) received in the Office of the President of the Senate on February 9, 2012; to the Committee on Commerce, Science, and Transportation.

EC-5010. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; International Aero Engines Turbofan Engines" ((RIN2120-AA64)(Docket No. FAA-2010-0494)) received in the Office of the President of the Senate on February 9, 2012; to the Committee on Commerce, Science, and Transportation.

EC-5011. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Continental Motors, Inc. (CMI) Reciprocating Engines" ((RIN2120-AA64)(Docket No. FAA-2011-1341)) received in the Office of the President of the Senate on February 9, 2012; to the Committee on Commerce, Science, and Transportation.

EC-5012. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; General Electric Company (GE) GE90-110B1 and GE90-115B Turbofan Engines" ((RIN2120-AA64)(Docket No. FAA-2011-0278)) received in the Office of the President of the Senate on February 9, 2012; to the Committee on Commerce, Science, and Transportation.

EC-5013. A communication from the Senior Program Analyst, Federal Aviation Adminis-

tration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Lockheed Martin Corporation/Lockheed Martin Aeronautics Company Airplanes" ((RIN2120-AA64)(Docket No. FAA-2011-0919)) received in the Office of the President of the Senate on February 9, 2012; to the Committee on Commerce, Science, and Transportation.

EC-5014. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; The Boeing Company Airplanes" ((RIN2120-AA64)(Docket No. FAA-2011-0996)) received in the Office of the President of the Senate on February 9, 2012; to the Committee on Commerce, Science, and Transportation.

EC-5015. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Enstrom Helicopter Corporation Helicopters" ((RIN2120-AA64)(Docket No. FAA-2011-1382)) received in the Office of the President of the Senate on February 9, 2012; to the Committee on Commerce, Science, and Transportation.

EC-5016. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments (6); Amdt. No. 3463" ((RIN2120-AA65)) received in the Office of the President of the Senate on February 9, 2012; to the Committee on Commerce, Science, and Transportation.

EC-5017. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments (35); Amdt. No. 3462" ((RIN2120-AA65)) received in the Office of the President of the Senate on February 9, 2012; to the Committee on Commerce, Science, and Transportation.

EC-5018. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class C Airspace; Palm Beach International Airport, FL" ((RIN2120-AA66)(Docket No. FAA-2011-0527)) received in the Office of the President of the Senate on February 9, 2012; to the Committee on Commerce, Science, and Transportation.

EC-5019. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class E Airspace; Olathe, KS" ((RIN2120-AA66)(Docket No. FAA-2011-0748)) received in the Office of the President of the Senate on February 9, 2012; to the Committee on Commerce, Science, and Transportation.

EC-5020. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class E Airspace; Show Low, AZ" ((RIN2120-AA66)(Docket No. FAA-2011-1023)) received in the Office of the President of the Senate on February 9, 2012; to the Committee on Commerce, Science, and Transportation.



EC-5021. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class E Airspace; Kwigillingok, AK" ((RIN2120-AA66) (Docket No. FAA-2011-0881)) received in the Office of the President of the Senate on February 9, 2012; to the Committee on Commerce, Science, and Transportation.

EC-5022. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class E Airspace; Kipnuk, AK" ((RIN2120-AA66) (Docket No. FM-2011-0866)) received in the Office of the President of the Senate on February 9, 2012; to the Committee on Commerce, Science, and Transportation.

EC-5023. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Oneonta, AL" ((RIN2120-AA66) (Docket No. FAA-2011-0744)) received in the Office of the President of the Senate on February 9, 2012; to the Committee on Commerce, Science, and Transportation.

EC-5024. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Pratt and Whitney Corp. (PW) JT9D-7R4H1 Turbofan Engines" ((RIN2120-AA64) (Docket No. FAA-2011-0731)) received in the Office of the President of the Senate on February 9, 2012; to the Committee on Commerce, Science, and Transportation.

EC-5025. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Apical Industries, Inc., (Apical) Emergency Float Kits" ((RIN2120-AA64) (Docket No. FAA-2010-1190)) received in the Office of the President of the Senate on February 9, 2012; to the Committee on Commerce, Science, and Transportation.

EC-5026. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; PIAGGIO AERO INDUSTRIES S.p.A. Airplanes" ((RIN2120-AA64) (Docket No. FAA-2011-1040)) received in the Office of the President of the Senate on February 9, 2012; to the Committee on Commerce, Science, and Transportation.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KERRY, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Res. 342. A resolution honoring the life and legacy of Laura Pollan.

S. Res. 372. A resolution recognizing the importance of the United States-Egypt relationship, and urging the Government of Egypt to protect civil liberties and cease intimidation and prosecution of civil society workers and democracy activists, and for other purposes.

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. KERRY to the Committee on Foreign Relations.

\*Earl W. Gast, of California, to be an Assistant Administrator of the United States Agency for International Development.

\*Anne Claire Richard, of New York, to be an Assistant Secretary of State (Population, Refugees, and Migration).

\*Tara D. Sonenshine, of Maryland, to be Under Secretary of State for Public Diplomacy.

\*Robert E. Whitehead, of Florida, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Togolese Republic.

Nominee: Robert Earl Whitehead.

Post: Lome, Togo.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, and donee:

1. Self: none.

2. Spouse: none.

3. Children and Spouses: Wesley Richard Whitehead, none; Mary Ellen Whitehead—deceased.

4. Parents: Robert William Whitehead—none; Mary Ellen Whitehead—deceased.

5. Grandparents: Lloyd Alvin Whitehead—deceased; Alma Whitehead—deceased; Earl Hoover—deceased; Barbara Hattie Hoover—deceased.

6. Brothers and Spouses: N/A.

7. Sisters and Spouses: Barbara Lee Georgescu, none (divorced); Richard and Ruth Saukas, none; Nina Marie Howerton, none (divorced); Peter and Pamela Miller: Pete Miller contributed \$200 to Barack Obama 2008 campaign by Internet but did not keep any corroborating record. He thinks it was in August, 2008.

\*Larry Leon Palmer, of Georgia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Barbados, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to St. Kitts and Nevis, Saint Lucia, Antigua and Barbuda, the Commonwealth of Dominica, Grenada, and Saint Vincent and the Grenadines.

NOMINEE: LARRY PALMER.

POST: Barrados.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, and donee:

1. Self: none.

2. Spouse: Lucille Palmer: none.

3. Children and Spouses: Vincent Palmer, none; Heydi Palmer, none.

4. Parents: Rev. R.V. Palmer, Sr—deceased; Mrs. Gladys Palmer—deceased.

5. Grandparents: Augustus Young—deceased; Litha Young—deceased.

6. Brothers and Spouses: R. V. Palmer, II, none; Theresa Palmer, none; Charles Palmer, none; Mollie Palmer, none.

7. Sisters and Spouses: Miriam Golphin, none; Lewis Golphin—deceased; Seygbo Palmer (Single), none.

\*Jonathan Don Farrar, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Panama.

Nominee: Jonathan Don Farrar.

Post: Panama.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, and donee:

1. Self: none.

2. Spouse: none.

3. Children and Spouses: Melissa Lien Farrar: \$30.00, 11/06/08, "No on 8"; \$5.00, 06/28/11, "Obama for America." Jason Asher, none; Jonathan Don Farrar III, none; Leigh Castaldo, none; Nathaniel Lysle Farrar, none.

4. Parents: Joseph Don Farrar—deceased; Josephine McIntire Farrar—deceased.

Grandparents: Elizabeth McIntire—deceased; William McIntire—deceased; Lysle Farrar—deceased; Lucille Farrar—deceased.

6. Brothers and Spouses: Joseph Frank Farrar, none; Dana Farrar: \$50.00, 09/20/08, "No on 8/Equality California"; \$20.00, 09/15/09, "Equality California"; \$25.00, 05/18/10, "Equality California"; \$50.00, 09/21/08, "Obama for America"; \$35.00, 07/07/05, "California Democratic Party."

7. Sisters and Spouses: Melissa Ramirez: \$50.00, 06/17/08, "Obama for America"; \$15.00, 06/28/08, "Obama for America"; \$25.00, 09/03/08, "Obama for America"; \$25.00, 10/08/08, "Obama for America"; \$50.00, 09/02/11, "Emily's List". Fernando Ramirez, none.

\*Phyllis Marie Powers, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Republic of Nicaragua.

Nominee: Phyllis Marie Powers.

Post: Nicaragua.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, and donee:

1. Self: none.

2. Spouse: none.

3. Children and Spouses: none.

4. Parents: deceased.

5. Grandparents: deceased.

6. Brothers and Spouses: none.

7. Sisters and Spouses: Pamela and Donald Curley: \$200.00, August 2008, Brett Green Campaign for District Judge in Wilkesboro, NC. Patricia and Charles Miller, none.

\*Nancy J. Powell, of Iowa, a Career Member of the Senior Foreign Service, Personal Rank of Career Ambassador, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to India.

Nominee: Nancy J. Powell.

Post: New Delhi, India.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform



me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, and donee:

1. Self: none.
2. Spouse: N/A.
3. Children and Spouses: N/A.
4. Parents: Joseph William Powell—deceased; J. Maxine Powell—deceased.
5. Grandparents: Mr. & Mrs. Boyd Crandall—deceased; Mr. & Mrs. Omar Little—deceased.
6. Brothers and Spouses: William Craig Powell—deceased.
7. Sisters and Spouses: N/A.

Mr. KERRY. Mr. President, for the Committee on Foreign Relations I report favorably the following nomination lists which were printed in the RECORD on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

\*Foreign Service nominations beginning with James A. Bever and ending with John Mark Winfield, which nominations were received by the Senate and appeared in the Congressional Record on October 12, 2011. (minus 1 nominee: R. Douglass Arbuckle)

\*Foreign Service nominations beginning with Jason P. Jeffreys and ending with Courtney J. Woods, which nominations were received by the Senate and appeared in the Congressional Record on November 8, 2011.

\*Foreign Service nominations beginning with Ronald P. Verdonk and ending with Bruce J. Zanin, which nominations were received by the Senate and appeared in the Congressional Record on December 15, 2011.

\*Nominations were reported with recommendation that they be confirmed subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. CARDIN (for himself, Mrs. BOXER, and Mr. INHOFE):

S. 2104. A bill to amend the Water Resources Research Act of 1984 to reauthorize grants for and require applied water supply research regarding the water resources research and technology institutes established under that Act; to the Committee on Environment and Public Works.

By Mr. LIEBERMAN (for himself, Ms. COLLINS, Mr. ROCKEFELLER, and Mrs. FEINSTEIN):

S. 2105. A bill to enhance the security and resiliency of the cyber and communications infrastructure of the United States; read the first time.

By Mr. BROWN of Ohio (for himself, Mr. BEGICH, Mr. SANDERS, and Mrs. GILLIBRAND):

S. 2106. A bill to establish a grant program for automated external defibrillators in elementary schools and secondary schools; to

the Committee on Health, Education, Labor, and Pensions.

By Mr. LEE (for himself and Mr. DEMINT):

S. 2107. A bill to amend the extension of the temporary employee payroll tax holiday to give individuals the choice of whether to participate; to the Committee on Finance.

By Mr. BROWN of Ohio (for himself, Mr. SANDERS, and Mr. UDALL of New Mexico):

S. 2108. A bill to amend the Workforce Investment Act of 1998 to provide for the establishment of Youth Corps programs and provide for wider dissemination of the Youth Corps model; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KYL (for himself and Mr. MCCAIN):

S. 2109. A bill to approve the settlement of water rights claims of the Navajo Nation, the Hopi Tribe, and the allottees of the Navajo Nation and Hopi Tribe in the State of Arizona, to authorize construction of municipal water projects relating to the water rights claims, to resolve litigation against the United States concerning Colorado River operations affecting the States of California, Arizona, and Nevada, and for other purposes; to the Committee on Indian Affairs.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. KERRY (for himself, Mr. INHOFE, Mrs. BOXER, and Mr. DURBIN):

S. Res. 372. A resolution recognizing the importance of the United States-Egypt relationship, and urging the Government of Egypt to protect civil liberties and cease intimidation and prosecution of civil society workers and democracy activists, and for other purposes; placed on the calendar.

By Mr. MCCAIN (for himself and Mr. KYL):

S. Res. 373. A resolution recognizing February 14, 2012, as the centennial of the State of Arizona; considered and agreed to.

By Mr. WICKER (for himself, Mr. LEAHY, Mr. SCHUMER, and Mr. GRASSLEY):

S. Res. 374. A resolution supporting the mission and goals of 2012 National Crime Victims' Rights Week to increase public awareness of the rights, needs, and concerns of victims and survivors of crime in the United States; considered and agreed to.

By Mr. BROWN of Ohio (for himself and Mr. PORTMAN):

S. Res. 375. A resolution celebrating the bicentennial of the City of Columbus, the capital city of the State of Ohio; considered and agreed to.

#### ADDITIONAL COSPONSORS

S. 339

At the request of Mr. BAUCUS, the name of the Senator from New Mexico (Mr. UDALL) was added as a cosponsor of S. 339, a bill to amend the Internal Revenue Code of 1986 to make permanent the special rule for contributions of qualified conservation contributions.

S. 414

At the request of Mr. DURBIN, the name of the Senator from Delaware

(Mr. COONS) was added as a cosponsor of S. 414, a bill to protect girls in developing countries through the prevention of child marriage, and for other purposes.

S. 539

At the request of Mr. WHITEHOUSE, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 539, a bill to amend the Public Health Services Act and the Social Security Act to extend health information technology assistance eligibility to behavioral health, mental health, and substance abuse professionals and facilities, and for other purposes.

S. 648

At the request of Mrs. GILLIBRAND, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 648, a bill to require the Commissioner of Social Security to revise the medical and evaluation criteria for determining disability in a person diagnosed with Huntington's Disease and to waive the 24-month waiting period for Medicare eligibility for individuals disabled by Huntington's Disease.

S. 1023

At the request of Mr. DURBIN, the names of the Senator from Oregon (Mr. WYDEN), the Senator from Delaware (Mr. COONS) and the Senator from New Mexico (Mr. UDALL) were added as cosponsors of S. 1023, a bill to authorize the President to provide assistance to the Government of Haiti to end within 5 years the deforestation in Haiti and restore within 30 years the extent of tropical forest cover in existence in Haiti in 1990, and for other purposes.

S. 1249

At the request of Mr. UDALL of Colorado, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 1249, a bill to amend the Pittman-Robertson Wildlife Restoration Act to facilitate the establishment of additional or expanded public target ranges in certain States.

S. 1460

At the request of Mr. BAUCUS, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1460, a bill to grant the congressional gold medal, collectively, to the First Special Service Force, in recognition of its superior service during World War II.

S. 1467

At the request of Mr. BLUNT, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 1467, a bill to amend the Patient Protection and Affordable Care Act to protect rights of conscience with regard to requirements for coverage of specific items and services.

S. 1674

At the request of Mr. REED, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 1674, a bill to improve teacher quality, and for other purposes.

S. 1680

At the request of Mr. CONRAD, the name of the Senator from Mississippi (Mr. WICKER) was added as a cosponsor of S. 1680, a bill to amend title XVIII of the Social Security Act to protect and preserve access of Medicare beneficiaries in rural areas to health care providers under the Medicare program, and for other purposes.

S. 1773

At the request of Mr. BROWN of Ohio, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 1773, a bill to promote local and regional farm and food systems, and for other purposes.

S. 1796

At the request of Mr. ISAKSON, the name of the Senator from Arkansas (Mr. BOOZMAN) was added as a cosponsor of S. 1796, a bill to make permanent the Internal Revenue Service Free File program.

S. 1798

At the request of Mr. UDALL of New Mexico, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1798, a bill to direct the Secretary of Veterans Affairs to establish an open burn pit registry to ensure that members of the Armed Forces who may have been exposed to toxic chemicals and fumes caused by open burn pits while deployed to Afghanistan or Iraq receive information regarding such exposure, and for other purposes.

S. 1925

At the request of Mr. LEAHY, the names of the Senator from Virginia (Mr. WEBB), the Senator from Nebraska (Mr. NELSON) and the Senator from Virginia (Mr. WARNER) were added as cosponsors of S. 1925, a bill to reauthorize the Violence Against Women Act of 1994.

S. 1989

At the request of Ms. CANTWELL, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 1989, a bill to amend the Internal Revenue Code of 1986 to make permanent the minimum low-income housing tax credit rate for unsubsidized buildings and to provide a minimum 4 percent credit rate for existing buildings.

S. 2004

At the request of Mr. UDALL of New Mexico, the name of the Senator from Missouri (Mr. BLUNT) was added as a cosponsor of S. 2004, a bill to grant the Congressional Gold Medal to the troops who defended Bataan during World War II.

S. 2010

At the request of Mr. KERRY, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 2010, a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S. 2051

At the request of Mr. REED, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 2051, a bill to amend the Higher Education Act of 1965 to extend the reduced interest rate for Federal Direct Stafford Loans.

S. 2058

At the request of Ms. MURKOWSKI, the name of the Senator from Florida (Mr. RUBIO) was added as a cosponsor of S. 2058, a bill to close loopholes, increase transparency, and improve the effectiveness of sanctions on Iranian trade in petroleum products.

S. 2065

At the request of Mr. VITTER, his name was added as a cosponsor of S. 2065, a bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to modify the discretionary spending limits to take into account savings resulting from the reduction in the number of Federal employees and extending the pay freeze for Federal employees.

S.J. RES. 21

At the request of Mr. MENENDEZ, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S.J. Res. 21, a joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for men and women.

AMENDMENT NO. 1521

At the request of Mr. WICKER, the names of the Senator from Alabama (Mr. SESSIONS) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of amendment No. 1521 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1534

At the request of Mr. VITTER, the name of the Senator from Wisconsin (Mr. JOHNSON) was added as a cosponsor of amendment No. 1534 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1535

At the request of Mr. VITTER, the name of the Senator from Wisconsin (Mr. JOHNSON) was added as a cosponsor of amendment No. 1535 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1545

At the request of Mr. BOOZMAN, the name of the Senator from Virginia (Mr. WEBB) was added as a cosponsor of amendment No. 1545 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1546

At the request of Mr. LEVIN, the names of the Senator from Minnesota (Ms. KLOBUCHAR), the Senator from Virginia (Mr. WARNER), the Senator from Maryland (Ms. MIKULSKI) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of amendment No. 1546 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CARDIN (for himself, Mrs. BOXER, and Mr. INHOFE):

S. 2104. A bill to amend the Water Resources Research Act of 1984 to reauthorize grants for and require applied water supply research regarding the water resources research and technology institutes established under that Act; to the Committee on Environment and Public Works.

Mr. CARDIN. Mr. President, today I am introducing the Water Resources Research Amendments Act. First authorized in 1964, the Water Resources Research Act established 54 Water Resources Research Institutes across the country and set up a grant program for applied water supply research. The act was most recently reauthorized in 2006, in PL 109-471. The bill I introduce today would reauthorize the grant program for the next 5 years and would add a program focused on the research and development of green infrastructure.

The research funded through the Water Resources Research Act has had lasting impacts on our Nation's waters. In fact, some of the tools we use today for restoration of the Chesapeake Bay were a product of these research grants. WRRRA Researchers across the Mid-Atlantic States have developed ways to keep the Chesapeake waters clean through urban stormwater treatment, improved roadway design, and eco-friendly poultry farming practices. Moreover, WRRRA-funded projects develop innovative and cost-effective solutions for similar water resources issues across the country. For example, the technology used in West Virginia's innovative nutrient trading program utilizes technology developed by WRRRA researchers. Undoubtedly, funding WRRRA is an intelligent and necessary investment in the future of our water resources.

WRRRA authorizes two types of annual grants. First, it supplies grants to each Water Resources Research Institute for research that fosters improvements in water supply reliability, explores new ways to address water problems, encourages dissemination of research to water managers and the public, and encourages the entry of new scientists, engineers and technicians

into the water resources field. Second, WRRRA authorizes a national competitive grant program to address regional water issues. All WRRRA grants must be matched 2 to 1 with non-federal funding.

In the last authorization period, the program was authorized at \$12,000,000 per year, providing \$6,000,000 to each type of grant. Authorization for these grants expired in fiscal year 2011. Today's bill would reauthorize both grant programs for an additional five years by providing \$7,500,000 for institutional grants and \$1,500,000 for national competitive grants. This change in authorization levels reflects our efforts to adjust for present fiscal limitations. The proposed authorization maximizes economic efficiency of the program without compromising its efficacy. The Water Resources Research Institutes across the Nation have 45 years of experience assisting states and federal agencies through research, education and outreach. While the Institutes are only required to match Federal funding with outside sources at a ratio of 2 to 1, they regularly exceed that proportion, often with ratios of more than 5 to 1. Moreover, Federal grants are critical for the institutes to be able to leverage funding from their home State. Consequently, by focusing funds on the Water Resources Research Institutes, we can be sure that we are supporting top-notch science while maximizing cost-effectiveness. Moreover, by funding this network of institutes we are investing in our future. The Water Resources Research Institutes are the country's single largest training program for water scientists, technicians, and engineers.

Today water-related issues pervade the nation. Whether it is floods, droughts, or water degradation, American economies and lives depend on our water resources. WRRRA grants provide us with improved understanding of water-related issues and better technology to address them. Nearly half a century after the Water Resources Research grant program was first put in place, this program is just as relevant, just as critical, and deserves our support.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2104

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Water Resources Research Amendments Act of 2012".

#### SEC. 2. WATER RESOURCES RESEARCH ACT AMENDMENTS.

(a) CONGRESSIONAL FINDINGS AND DECLARATIONS.—Section 102 of the Water Resources Research Act of 1984 (42 U.S.C. 10301) is amended—

(1) by redesignating paragraphs (7) through (9) as paragraphs (8) through (10), respectively;

(2) in paragraph (8) (as so redesignated), by striking "and" at the end; and

(3) by inserting after paragraph (6) the following:

"(7) additional research is required into increasing the effectiveness and efficiency of new and existing treatment works through alternative approaches, including—

"(A) nonstructural alternatives;

"(B) decentralized approaches;

"(C) water use efficiency; and

"(D) actions to reduce energy consumption or extract energy from wastewater;"

(b) CLARIFICATION OF RESEARCH ACTIVITIES.—Section 104(b)(1) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(b)(1)) is amended—

(1) in subparagraph (B)(ii), by striking "water-related phenomena" and inserting "water resources"; and

(2) in subparagraph (D), by striking the period at the end and inserting "; and".

(c) COMPLIANCE REPORT.—Section 104(c) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(c)) is amended—

(1) by striking "From the" and inserting "(1) IN GENERAL.—From the"; and

(2) by adding at the end the following:

"(2) REPORT.—Not later than December 31 of each fiscal year, the Secretary shall submit to the Committee on Environment and Public Works of the Senate, the Committee on the Budget of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on the Budget of the House of Representatives a report regarding the compliance of each funding recipient with this subsection for the immediately preceding fiscal year."

(d) EVALUATION OF WATER RESOURCES RESEARCH PROGRAM.—Section 104 of the Water Resources Research Act of 1984 (42 U.S.C. 10303) is amended by striking subsection (e) and inserting the following:

"(e) EVALUATION OF WATER RESOURCES RESEARCH PROGRAM.—

"(1) IN GENERAL.—The Secretary shall conduct a careful and detailed evaluation of each institute at least once every 5 years to determine—

"(A) the quality and relevance of the water resources research of the institute;

"(B) the effectiveness of the institute at producing measured results and applied water supply research; and

"(C) whether the effectiveness of the institute as an institution for planning, conducting, and arranging for research warrants continued support under this section.

"(2) PROHIBITION ON FURTHER SUPPORT.—If, as a result of an evaluation under paragraph (1), the Secretary determines that an institute does not qualify for further support under this section, no further grants to the institute may be provided until the qualifications of the institute are reestablished to the satisfaction of the Secretary."

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 104(f)(1) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(f)(1)) is amended by striking "\$12,000,000 for each of fiscal years 2007 through 2011" and inserting "\$7,500,000 for each of fiscal years 2012 through 2017".

(f) ADDITIONAL APPROPRIATIONS WHERE RESEARCH FOCUSED ON WATER PROBLEMS OF INTERSTATE NATURE.—Section 104(g)(1) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(g)(1)) is amended by striking "\$6,000,000 for each of fiscal years 2007

through 2011" and inserting "\$1,500,000 for each of fiscal years 2012 through 2017".

By Mr. LIEBERMAN (for himself, Ms. COLLINS, Mr. ROCKEFELLER, and Mrs. FEINSTEIN):

S. 2105. A bill to enhance the security and resiliency of the cyber and communications infrastructure of the United States; read the first time.

Mr. LIEBERMAN. Mr. President, I came to the floor to introduce the Cyber Security Act of 2012. I am here with Senator SUSAN COLLINS. I thank her for all the work we have done together in what has been a wonderfully bipartisan, nonpartisan relationship to deal with a very serious national problem. I am honored that we are joined in introducing this bill by the chairs of the two committees that have been most involved in questions of cyber security, chairman of the Commerce Committee, Senator ROCKEFELLER, and the chair of the Intelligence Committee of the Senate, Senator FEINSTEIN of California. We have also had the involvement of the chairs and others on the Foreign Relations Committee, Judiciary Committee, and Energy Committee. I am very proud this is a bill that Senators COLLINS and ROCKEFELLER and FEINSTEIN and I introduced today.

I wish to give particular thanks to the majority leader, Senator REID, for his unflagging support, based on his personal concern about cyber defenses and based on classified briefings he received on this problem. He pushed us to work across party and committee lines to pull the bill together that we are introducing today.

It is interesting to note—since there has been a lot of commentary in the last 24 hours about President Obama's budget—that President Obama has recognized, in the most tangible terms, the danger that confronts us by recommending adding at least \$300 million in the coming year to our cyber security effort.

Still, I know that while it is February 14, 2012, those of us who have worked on this problem fear that when it comes to protecting America from cyber attack, it may be September 10, 2001, all over again. The question is whether America will confront this grave threat to our security before it happens, before our enemies attack.

We are being bled of our intellectual property every day by cyber thieves. The consequences of their thievery are very real to America's economy, our prosperity, and indeed our capacity to create jobs and hold the ones we have.

Enemies probe the weaknesses in our critical national assets every day, waiting until the time is right, through cyber attack, to cripple our economy or attack, for instance, a city's electric grid with the touch of a key on the other side of the world.

The fact is our cyber defenses are not what they should be, but such as they

are they are blinking red. Yet, again, I fear we will not be able to connect the dots to prevent a 9/11-type cyber attack on America before it happens. The aim of this bill is to make sure we don't scramble here in Congress after such an attack to do what we can and should do today.

Intellectual property worth billions of dollars has already been stolen, giving our international competitors access in the global marketplace without ever having to invest a dime in research.

The fact is that even the most sophisticated companies are being penetrated, and our adversaries are using information learned in one intrusion to plan the next more sophisticated one.

Last year, the computer security firm McAfee conducted a study of 70 specific instances of data theft, and they issued a report on those instances. They included 13 defense contractors, 6 industrial plants, and 8 American and Canadian Government networks. Based on that report, the former vice president of McAfee, Dmitri Alperovitch, issued this ominous warning:

I am convinced that every company in every conceivable industry with significant size and valuable intellectual property and trade secrets has been compromised—or will be shortly—with the great majority of the victims rarely discovering the intrusion or its impact.

In fact, I divide this entire set of Fortune Global 2000 firms into two categories: those that know they've been compromised and those that don't yet know.

These examples, of course, are deeply alarming, but in addition, lurking out in the ether are computer worms such as Stuxnet that can commandeer the computers that control heavy machinery and potentially allow an intruder to open and close key valves and switches in pipelines, refineries, factories, water and sewer systems, and electric plants in our country without detection by their operators.

Obviously, this capacity could be used by an enemy to attack our country and do damage not only comparable to 9/11 but far in excess of it. Depending on the target or targets, these kinds of cyber attacks could lead to terrible physical destruction, massive loss of life, massive evacuations, and, of course, widespread economic disruption.

Owners of these critical systems; that is, private sector owners—and, remember, most of private infrastructure in America is privately owned and is what this bill is talking about—have sometimes told us we don't need to worry about the security of their systems because they are not connected to the Internet. But the reality today is that is simply not correct. The experts have told us that a truly air-gapped system, as they call it; that is, one not connected to the Internet—is as rare as

a blizzard in the Caribbean. If it exists, our best cyber experts have yet to see it. And Stuxnet has shown us it doesn't matter if a system is air gapped, because one thumb drive plugged into a computer can lead to an infection that spreads.

If we don't act now to secure our computer network, sometime in the future—and I believe it will be in the near future—we will be forced to act in the middle of a mega cyber crisis or right after one that has had an enormous, perhaps catastrophic, effect on our country. That is why we introduced this bill, and that is why we look forward to the debate on it, and why we hope it will pass and be enacted before a cyber catastrophe occurs in America.

Let me briefly describe some of the important work this bill does. First, it ensures the computer systems—private systems—that control our most critical infrastructure that are currently not secure are made secure. Our bill defines critical infrastructure narrowly to include those systems that, if brought down, or commandeered in a cyber attack would lead to mass casualties, evacuations of major population centers, the collapse of financial markets, or degradation of our national security. This is critical infrastructure. After identifying the precise systems that meet the definition of high risk, the Secretary of Homeland Security would, under our legislation, then work with the private sector operators of those systems to develop cyber security performance requirements based on risk assessments of those sectors. The private sector owners would then have some flexibility to meet those performance requirements with hardware or software they choose so long as it achieves the required level of security.

The Department of Homeland Security will not be picking technological winners and losers, so there is nothing in this bill that would stifle innovation. In fact, I think quite the contrary. If a company can show it already has met high security standards, it will be exempt from these requirements. The bill focuses on securing that which is not secure today, not on putting new requirements on industries that are doing everything they should be doing to protect themselves and our national security.

Once these improved security systems come on line, I think many companies will want to apply them to non-critical systems that are not covered by this bill as a way to protect the privacy of their employees and customers, as well as giving these companies the chance to offer secure e-commerce services. But that will be up to each company.

This bill also seeks to make compliance easier, more rational for covered critical infrastructure operators by creating a more streamlined and effi-

cient cyber organization within the Department of Homeland Security. And at each step in the process created by our bill, the Department of Homeland Security must work with existing Federal regulators and the private sector they regulate to ensure no rules or regulations are put in place that duplicate or conflict with existing requirements. If a company feels the designation of its networks as critical infrastructure is somehow wrong, it has the right to appeal that decision through a system that the law requires DHS to set up or they can go to Federal district court.

This bill also establishes mechanisms for information sharing between the private sector and the Federal Government and among the private sector operators themselves.

Senator FEINSTEIN and her committee made a significant contribution to this part of our bill. This is important because computer security experts in the private and public sectors need to be able to share information, compare notes, in order to protect us against the evolving cyber threat.

Our proposal also creates appropriate security measures and oversight to protect privacy and preserve civil liberties. In fact, I was pleased to read recently that the American Civil Liberties Union said it had studied our bill and found it offers the greatest privacy protections of all the cyber security legislation that has been proposed.

I am going to jump forward a little so I can yield to my distinguished ranking member in a moment.

I have discussed some of the things the bill does, but I want to mention two it doesn't do.

One myth about this bill is that it contains a kill switch that would allow the President of the United States in an emergency to seize control of the Internet. There is nothing remotely like that in this bill. At one time we had considered language that would, in fact, have limited powers the President has under the Communications Act of 1934 to take over electronic communications in times of war. But that provision was so widely misunderstood or misrepresented that we dropped it rather than risk losing the chance to pass the rest of this urgently needed legislation.

I also want to make clear that nothing in this bill touches on any of the issues that quite recently have inflamed our consideration of the Stop Online Piracy Act or the Protect IP Act, known as PIPA. Many Members in the Chamber have, metaphorically speaking, scars that still show from that experience. No need to fear this bill. This bill does nothing to affect the day-to-day workings of the Internet. Internet piracy and copyright protections are important concerns in the digital age. We have to deal with that at some point, but they are simply not part of this bill.

One final thing I do want to deal with is a complaint from, among others, our Chamber of Commerce that we are “rushing forward with legislation that has not been fully vetted.” Not true. This bipartisan legislation has been 3 years in the making, and its outlines have not only been shared with stakeholders and the public but their input has helped shape this final version of the bill we are introducing today.

More than 20 hearings on cyber security have been held across seven different Senate committees, with dozens more held on questions related to cyber security. In fact, our own committee, since 2005, has held nine hearings on the subject and will hold another one this Thursday where we will hear reactions to this bill.

I am very pleased to say that Senator REID continues to be very committed to seeing us do everything we can to adopt legislation to protect our American cyber systems. I believe it is the leader's intent to bring up this bill in the next work period. I hope so. Because the truth is, time is not on our side. We are not adequately protected at this moment, and the capabilities of those who are attacking us for economic reasons or who prepare to attack us for strategic reasons grows larger and larger.

I do want to say we have a growing number of companies in the private sector—information technology, cyber security and other companies in critical infrastructure areas—that are coming to support this bill. Two I want to mention are CISCO and Oracle, which gives you some sense of the range of support for the bill.

Bottom line, I think this is a subject around which we should have a good healthy debate, an open amendment process, and a bipartisan agreement, because this is not at all about regulation, it is about our most fundamental national economic security and public safety.

With that, I yield the floor to my distinguished ranking member, Senator COLLINS.

**THE PRESIDING OFFICER.** The Senator from Maine.

**Ms. COLLINS.** Mr. President, I do rise today to introduce with the chairman of the Homeland Security Committee Senator LIEBERMAN, as well as Senator ROCKEFELLER and Senator FEINSTEIN, the Cyber Security Act of 2012. As always, it has been a great pleasure to work with my friend and colleague from Connecticut on what I believe is the most important initiative we have come together on since perhaps our 2004 Intelligence Reform and Terrorism Prevention Act.

I am also delighted that three Senate chairmen who have significant jurisdiction in this area—Senators LIEBERMAN, ROCKEFELLER, and FEINSTEIN—have come together. We have all worked very hard on this bill. I also

want to commend the staff of our committee, which has worked extraordinarily hard over several years to produce this bill. Our legislation would provide the Federal Government and the private sector with the tools necessary to protect our most critical infrastructure from growing cyber threats.

Earlier this month, FBI Director Robert Mueller warned that the cyber threat will soon equal or surpass the threat from terrorism. He argued that we should be addressing the cyber threat with the same intensity we have applied to the terrorist threat.

Director of National Intelligence Jim Clapper made the point even more strongly. He described the cyber threat as:

A profound threat to this country, to its future, its economy and its very being.

These warnings are the latest in a chorus of warnings from current and former officials. Last November, the Director of the Defense Advanced Research Projects Agency, or DARPA, warned that malicious cyber attacks threaten a growing number of the systems with which we interact each and every day—the electric grid, our water treatment plants, and key financial systems.

Similarly, GEN Keith Alexander, commander of U.S. Cyber Command, and director of the National Security Agency, has warned that the cyber vulnerabilities we face are extraordinary and characterized by “a disturbing trend from exploitation to disruption to destruction.”

As Senator LIEBERMAN has pointed out, the threat is not only to our national security but also to our economic well-being.

A study by the company, Norton, last year calculated the cost of global cyber crime at \$114 billion annually. When combined with the value of time that victims lost due to cyber crime, this figure grows to \$388 billion globally, which Norton described as “significantly more” than the global black market in marijuana, cocaine, and heroin combined.

In an op-ed last month titled, “China's Cyber Thievery Is National Policy—And Must Be Challenged,” former DNI Mike McConnell, former Homeland Security Secretary Michael Chertoff, and former Deputy Secretary of Defense William Lynn noted the ability of cyberterrorists to cripple our critical infrastructure, and they sounded an even more urgent alarm about the threat of economic cyber espionage.

Citing an October 2011 report to Congress by the Office of the National Counterintelligence Executive, they warned of the catastrophic impact that cyber espionage—particularly that pursued by China—could have on our economy and our competitiveness. They estimated that the cost easily means billions of dollars and millions of jobs.

This threat is all the more menacing because it is being pursued by a global competitor seeking to steal the research and development of American firms to undermine our economic leadership.

The evidence of our cyber security vulnerability is overwhelming and compels us to act. As the chairman mentioned, since 2005, our Homeland Security Committee has held nine hearings on the cyber threat. In 2010, Chairman LIEBERMAN, Senator CARPER, and I introduced our cyber security bill, which was reported by the committee later that same year. Since last year, we have been working with Chairman ROCKEFELLER to merge our bill with legislation he has championed which was reported by the Commerce Committee.

Lately, after incorporating changes based on the feedback of our colleagues, the private sector, and the administration, we have produced a new version which we introduced today. Some of our colleagues have urged us to focus very narrowly on the Federal Information Security Management Act, as well as on Federal research and development, and improved information sharing. We do need to address those issues, and our bill does address those important issues.

Again, as did Senator LIEBERMAN, I commend Senator FEINSTEIN for her contributions in the area of improved information sharing, and Senator CARPER for the work he has done on the Federal Information Security Management Act. But the fact remains that with 85 percent of our Nation's critical infrastructure owned by the private sector, government also has a critical role in ensuring that the most vital parts of that critical infrastructure—those whose disruption could result in truly catastrophic consequences, such as mass casualties or mass evacuations—meet reasonable, risk-based performance standards.

In an editorial this week, the Washington Post concurred, writing that:

Our critical systems have remained unprotected. To accept the status quo would be an unacceptable risk to U.S. national security.

The Post got it exactly right.

Some of our colleagues are skeptical about the need for any new regulations. There is no one who has worked harder than I have to oppose regulations that would unnecessarily burden our economy and cost us jobs. But we need to distinguish between regulations that hurt our economy and are not necessary and hinder our international competitiveness versus regulations that are necessary for our national security and that promote rather than hinder our economic prosperity, those that strengthen our economy and our Nation.

The fact is the risk-based performance requirements in our bill are targeted carefully. They only apply to

specific systems and assets—not entire companies—that, if damaged, could reasonably be expected to result in mass casualties, huge evacuations, catastrophic economic damages, or a severe degradation of our national security. In other words, we are talking about truly catastrophic impacts. Moreover, the owners of critical infrastructure, not the government, would select and implement the cyber security measures the owners determine to be best suited to satisfy the risk-based cyber security performance requirements.

Our new bill would also require the Secretary of Homeland Security to select from among existing industry practices and standards or choose performance requirements proposed by the private sector—lots of collaboration and consultation. Only if none of these mitigates the risks identified through this public-private collaboration could the Secretary propose something different. That is extremely unlikely to happen.

The bill prohibits the regulation of the design and development of commercial IT products. It would require that existing requirements and current regulators be used wherever possible. The bill would allow Federal officials to waive the bill's requirements when existing regulations or security measures are already sufficiently robust.

As with our earlier versions of this bill, companies in substantial compliance with the performance requirements at the time of a cyber incident would receive liability protection from any punitive damages associated with an incident, giving them an incentive to comply.

The fact remains that improving cyber security is absolutely essential. We cannot afford to wait for a cyber 9/11 before taking action. The warnings could not be clearer about the vulnerabilities and the threat to our systems. Every single day nation states, terrorist groups, cyber criminals, and hackers probe our systems both in the public and the private sectors, and they have been successful over and over in their intrusions.

We don't want to look back after a catastrophic cyber event and say: Why didn't we act? How could we have ignored all of these warnings? So I would encourage our colleagues to continue to work with us and to come together and enact this vitally needed legislation.

Mr. President, I yield the floor.

Mr. ROCKEFELLER. Mr. President, when most Americans think of cyber security, they conjure up an image of somebody having a credit card number stolen, for example, or a prankster using their Twitter account or somebody downloading a movie without paying for it. And although that is all true and important, it is not dangerous. The internet is central to our

lives, our economy, and our society. Any insecurity is a worry. I will expand.

We are here today because the experts are warning us that we are on the brink of something much worse, something that could bring down our economy, rip open our national security or even take lives. The prospect of mass casualty is what has propelled us to make cyber security a top priority for this year, to make it an issue that transcends political parties or ideology.

Consider the warning signs: Hackers now seem to be able to routinely crack the codes of our government agencies, including the most sensitive ones. They do so routinely with our Fortune 500 companies, and then everything in between. ADM Mike Mullen, former Joint Chiefs of Staff Chairman, said that a cyber security threat is the only other threat that is on the same level as Russia's stockpile of nuclear weapons—loose nukes, if you will. FBI Director Robert Mueller testified to Congress very recently that the cyber threat will soon overcome terrorism as the top national security focus of the FBI. Think about that—cyber threats will be as dangerous as terrorism.

Cyber threats and the prospects of a widespread cyber attack could potentially be as devastating to this country as the terrorist strikes that tore apart this country just 10 short years ago. How is that possible, you ask. Think about how many people could die if a cyber terrorist attacked our air traffic control system—both now and when it is made modern—and our planes slammed into one another or if rail-switching networks were hacked, causing trains carrying people—and more than that, perhaps hazardous material, toxic materials—to derail or collide in the midst of our most populated urban areas, such as Chicago, New York, San Francisco, Washington, DC, et cetera. What about an attack on networks that run a pipeline, refinery, or a chemical factory, causing temperature and pressure imbalance, leading to an explosion equivalent to a massive bomb, or an attack on a power grid, shutting down generators and killing electricity going into cities and our hospitals. In short, we are on the brink of what could be a calamity.

President Bush's last Director of National Intelligence and President Obama's first Director of National Intelligence in consecutive years said that cyber security was the major national security threat facing this Nation. Are we paying attention? We can act now and try to prepare ourselves as best we can or we can wait and we will be surprised with what happens.

I am here to argue that we should act now to prevent a cyber disaster. That is what this bill would do. Working with my friends Senator LIEBERMAN and Senator COLLINS, we have written

legislation that I believe strikes the right balance, addressing the danger without putting an undue new set of regulations on business.

Our bill would determine the greatest cyber vulnerabilities throughout our critical infrastructure; protect and promote private sector innovation, creativity, and encourage private sector leadership and real accountability in securing their private systems; and improve threat and vulnerability information sharing between the government and the private sector, while protecting as best as we can privacy and civil liberties. It will improve the security of the Federal Government networks, including our most sensitive ones that are now being hacked into; clarify the roles and responsibilities of Federal agencies; strengthen our cyber workforce; coordinate cyber security research and development; and promote public awareness of cyber vulnerabilities to ensure a better informed and more alert citizenry, frankly.

Let me say again that this is bipartisan and was written to address the many concerns that surfaced 3 years ago when we first raised this issue and, frankly, when we started writing this bill. We held meetings with all sides and incorporated hundreds of specific suggestions and, in short, tried to do what we do with any important and large piece of legislation—make a lot of people really think deeply and come up with a compromise to which everyone can agree.

Earlier this month, an association of major high-tech companies praised our approach. Generally, they do. We have talked with industry, with the White House, with everybody hundreds of times over a period of 3 years, and in the end we settled on a plan that creates no new bureaucracy or heavy-handed regulation. However, it is premised on companies taking responsibility for securing their own networks, with government assistance as necessary. Will they do that?

I think back to 2000 and 2001 when we all saw signs of people moving in and out of the country. We were not quite sure what that meant. We saw dots appear to connect, but did they or didn't they? And we knew something new and something different and something dangerous just might be upon us, but we didn't drill down. Our intelligence and national security leadership took these matters very seriously, as best as they possibly could, but in the end not seriously enough. It was too late—September 11 happened.

Today, with a new set of warnings flashing before us on a different subject—cyber security and a wide range of new challenges to our security and our safety—we again face a choice: act now and put in place safeguards to protect this country and our people or act later when it is too late. I hope we act now.



By Mr. BROWN of Ohio (for himself, Mr. SANDERS, and Mr. UDALL of New Mexico):

S. 2108. A bill to amend the Workforce Investment Act of 1998 to provide for the establishment of Youth Corps programs and provide for wider dissemination of the Youth Corps model; to the Committee on Health, Education, Labor, and Pensions.

Mr. BROWN of Ohio. Mr. President, today, only 54 percent of Americans ages 18 to 24 have jobs—the lowest employment rate for young people since this data was first collected in 1948. It is a job deficit that cripples our economy in both the short-term and long-term. But it's also a deficit we can close if we do the right thing and invest in programs that help young people find the jobs they—and our economy—need. That is why I am introducing the Youth Corps Act of 2012.

The Youth Corps Act of 2012 would establish a competitive grant program in the Workforce Investment Act to expand the Youth Corps program across the Nation.

The Youth Corps is a direct descendant of President Franklin Delano Roosevelt's Civilian Conservation Corps, his most successful and popular New Deal program aimed at helping young men find employment during the Great Depression.

From 1933 to 1942, more than 3 million young men served in the Civilian Conservation Corps dramatically improving the Nation's public land, while also receiving food, housing, education, and a small stipend. They helped plant nearly 3 billion trees to reforest the nation, constructed more than 800 parks nationwide, and built a network of public roadways in remote areas. In Ohio, their legacy persists across our State in organizations like the Muskingum Conservancy Watershed District, which provides the system that protects thousands of acres of land from flooding.

Today, more than 30,000 young men and women participate annually in the Youth Corps program in all 50 States and the District of Columbia. Some Corps members improve and preserve public lands and national parks, while others work with students in our Nation's public schools. Finally, some members provide disaster preparation and recovery services to underresourced communities.

The Youth Corps Act of 2012 would provide more young adults with the opportunity to experience Youth Corps, while ensuring a steady source of funding for these programs. Currently, funding for Youth Corps programs comes from a wide variety of sources, forcing many Corps to operate with uncertainty. By investing in Youth Corps, we are investing in our Nation's future teachers and principals, doctors and lawyers.

The men and women who participate in Youth Corps are selfless, dedicated,

and passionate people. While some may have faced challenges during their childhood or struggled in school, all of them are interested in bridging the gap between education and opportunity that too often plagues our communities. With the guidance of an adult community leader, a modest stipend, and support services like education and career preparation, participants are able to gain valuable life and career skills.

Ohio is home to three Youth Corps programs: the WSOS Quilter Conservation Corps, City Year Cleveland, and City Year Columbus. Members of these Corps provide a great public service to the citizens of Ohio—a legacy like that of the CCC which will persist for generations.

The WSOS Quilter Conservation Corps members serve as Benefit and Tax Counselors, helping low-income individuals file their State and Federal taxes, apply for benefits like health care coverage, home energy assistance, child care subsidies and food stamps.

Members of City Year Cleveland and City Year Columbus serve as mentors and educators in our most challenged schools.

My daughter, Elizabeth, was a City Year Corps Member in Philadelphia, and my other daughter, Caitlin, was a member of City Year in Providence.

City Year is a national model on how each of us can serve our Nation. For this reason, we must invest more in these vital programs.

Each of these programs improves our state while providing skills to our Nation's future leaders. And for this reason, we must invest more in these important programs.

That is why I am proud to introduce the Youth Corps Act of 2012. By empowering our young people to serve their communities, we can help provide them with the skills they need to find jobs, strengthen our economy, and enrich our communities.

By Mr. KYL (for himself and Mr. MCCAIN):

S. 2109. A bill to approve the settlement of water rights claims of the Navajo Nation, the Hopi Tribe, and the allottees of the Navajo Nation and Hopi Tribe in the State of Arizona, to authorize construction of municipal water projects relating to the water rights claims, to resolve litigation against the United States concerning Colorado River operations affecting the States of California, Arizona, and Nevada, and for other purposes; to the Committee on Indian Affairs.

Mr. KYL. Mr. President, on behalf of Senator MCCAIN and myself, I am pleased to introduce the Navajo-Hopi Little Colorado River Water Rights Settlement Act of 2012. This is S. 2109.

It is propitious as the State of Arizona today celebrates its centennial—its 100th birthday—that we also have

the opportunity to resolve significant water rights issues for the Navajo Nation, the Hopi Tribe, and water users throughout the Southwest. Indeed, the legal arguments for the claims being settled predate Arizona's induction into the Union. It is also worth noting that for more than two decades—more than 20 percent of Arizona's statehood time—hundreds of individuals in Arizona and here in Washington have worked hard to settle all these claims.

The protracted, and at times contentious, negotiations are a reflection of water's fundamental importance as well as the care and attention communities in the Southwest have given to managing this very limited resource. For many on the Navajo and Hopi Reservations, however, management of the resource is nothing more than a mirage.

It shocks the conscience in this day and age that many on the Navajo and Hopi Reservations only have access to the amount of water they can haul—in some instances literally by horse and wagon—to the remote reaches of the reservations. While this picture of conditions near Dilkon on the Navajo Reservation could be confused as a depiction of conditions at the time Arizona became a State in 1912, it was taken in just August of last year.

We can see that it depicts, as in many other areas of the reservation, that between one-third and one-half of the households lack complete plumbing facilities, with many families being forced to haul water significant distances. That is what we see depicted in this photograph. This has become a way of life on the reservation—a full-time job that limits economic opportunities and perpetuates a cycle of poverty. What is more, this lack of clean, readily available drinking water significantly impacts the health and safety of the Navajo and Hopi people. There are higher rates of disease and infant mortality and a lack of sufficient water supplies to meet fire-suppression needs. It is inconceivable in 2012 that Navajo and Hopi families are still living in these conditions.

Legally, the Navajo Nation and the Hopi Tribe may assert claims to larger quantities of water, but, as seen here, they do not have the means to make use of those supplies in a safe and productive manner. Among water law practitioners, the tribes may be said to have “paper” water, as opposed to “wet” water. Those claims are far-reaching, extending beyond the mesas and plateaus of northern Arizona and calling into question water uses even in California and Nevada.

The legislation we introduce today, however, would resolve many of those issues. In exchange for legal waivers, the Navajo Nation and the Hopi Tribe would receive critical drinking water infrastructure. The three groundwater projects contemplated by this act



would deliver much needed drinking water supplies to the impoverished areas of the Navajo and Hopi Reservations.

It is also important to note that this settlement would facilitate water deliveries to the eastern part of the Navajo reservation through the Navajo-Gallup Water Supply Project, a project that has not only been approved by Congress but was one of 14 projects chosen by the President in October for expedited environmental review and permitting. Although that expedited project may deliver 6,411 acre-feet of water to Navajo communities in Arizona, such deliveries cannot occur until the Navajo claims in Arizona have been resolved. This settlement accomplishes that goal, reallocating water for delivery through the Navajo-Gallup pipeline.

Importantly, this settlement would not only inure to the benefit of the Navajo Nation and the Hopi Tribe, but it would also provide immeasurable benefits to non-Indian communities throughout Arizona, California, and Nevada. Without a settlement, resolution of the tribes' claims would take years, require parties to expend significant sums, create continued uncertainty concerning water supplies, and seriously impair the economic well-being of all of the parties to the settlement.

For example, municipalities, farmers, ranchers, and industrial water users in northern Arizona would be able to better plan for their water future without the uncertainty and expense of continuing costly litigation against the tribes. Likewise, water users from the Imperial Valley of California to the Las Vegas Strip would be able to take comfort in the knowledge that lower Colorado River water-management regulations that they spent years developing would no longer be subject to challenge by the Navajo Nation.

In addition to resolving the tribes' claims to the Little Colorado River, this settlement sets the table for future negotiations regarding the lower Colorado River. The settlement, among other things, reserves water for future negotiation of those claims. In doing so, this bill acknowledges the importance of those settlement negotiations to the tribes and the non-Indian communities throughout the Southwest.

I have had the privilege to work on a number of water settlements throughout my career. Each has been rewarding and served to meet significant needs for both the American Indian and non-Indian communities involved. In that same regard, I am pleased to have had the opportunity to work with the many parties who have negotiated this settlement, and I am committed to bringing it to fruition through congressional enactment.

I believe this bill represents the best opportunity for all of the parties and

for the American taxpayer to achieve a fair result. The settlement resolves significant legal claims, limits legal exposure, avoids protracted litigation costs, and, most important, saves lives. Therefore, I urge my colleagues to support this legislation.

As we move forward with the request for hearings that we will need to hold and hopefully, after that, bringing this legislation, after properly marking it up, to the floor of the Senate, Senator MCCAIN and I will have much more to say about how the settlement came about, what its importance is to the people of Arizona, describing the legal consequences of it, and what it means to the future of my State.

I am particularly pleased that all of the parties in Arizona—literally hundreds of people came together to reach an agreement that we could then embody in legislation that I could introduce on the day of Arizona's birthday, its centennial, its 100th birthday, as another important event in the history of our State. I think it would be a fitting birthday present to the people of the State of Arizona if our colleagues will help us in ensuring that this legislation can be adopted in this centennial year.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2109

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Navajo-Hopi Little Colorado River Water Rights Settlement Act of 2012”.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Purposes.
- Sec. 4. Definitions.

#### TITLE I—NAVAJO-HOPI LITTLE COLORADO RIVER WATER RIGHTS SETTLEMENT AGREEMENT

Sec. 101. Ratification and execution of the Navajo-Hopi Little Colorado River water rights settlement agreement.

Sec. 102. Water rights.

Sec. 103. Authorization for construction of municipal, domestic, commercial, and industrial water projects.

Sec. 104. Funding.

Sec. 105. Waivers, releases, and retentions of claims.

Sec. 106. Satisfaction of water rights and other benefits.

Sec. 107. After-acquired trust land.

Sec. 108. Enforceability date.

Sec. 109. Administration.

Sec. 110. Environmental compliance.

#### TITLE II—CENTRAL ARIZONA PROJECT WATER

Sec. 201. Conditions for reallocation of CAP NIA priority water.

Sec. 202. Reallocation of CAP NIA priority water, firming, water delivery contract.

Sec. 203. Colorado river accounting.

Sec. 204. No modification of existing laws.

Sec. 205. Amendments.

Sec. 206. Retention of Lower Colorado River water for future Lower Colorado River settlement.

Sec. 207. Authorization of appropriations for feasibility study.

#### SEC. 2. FINDINGS.

Congress finds that—

(1) it is the policy of the United States, in keeping with the trust responsibility of the United States to Indian tribes, to settle Indian water rights claims whenever possible without lengthy and costly litigation;

(2) the water rights settlements described in paragraph (1) typically require congressional review and approval;

(3) the Navajo Nation and the United States, acting as trustee for the Navajo Nation and allottees of the Navajo Nation, claim the right to an unquantified amount of water from the Little Colorado River system and source;

(4) the Navajo Nation claims the right to an unquantified amount of water from the lower basin of the Colorado River and has challenged the legality of the Colorado River Interim Surplus Guidelines, the Colorado River Quantification Settlement Agreement of the State of California, interstate water banking regulations, and Central Arizona Project water deliveries;

(5) the defendants in the action described in paragraph (4) include—

(A) the Department of the Interior, including the Bureau of Reclamation and the Bureau of Indian Affairs, and

(B) intervenor-defendants, including—

(i) the Southern Nevada Water Authority;

(ii) the Colorado River Commission of Nevada;

(iii) the State of Arizona;

(iv) the State of Nevada;

(v) the Central Arizona Water Conservation District;

(vi) the Southern California Metropolitan Water District;

(vii) the Imperial Irrigation District;

(viii) the Coachella Valley Water District;

(ix) the Arizona Power Authority;

(x) the Salt River Project Agricultural Improvement and Power District; and

(xi) the Salt River Valley Water Users Association;

(6) the Hopi Tribe and the United States, acting as trustee for the Hopi Tribe and allottees of the Hopi Tribe, claim the right to an unquantified amount of water from the Little Colorado River system and source; and

(7) consistent with the policy of the United States, this Act settles the water rights claims of the Navajo Nation, allottees of the Navajo Nation, the Hopi Tribe, and allottees of the Hopi Tribe by providing drinking water infrastructure to the Navajo Nation and the Hopi Tribe in exchange for limiting the legal exposure and litigation expenses of the United States, the States of Arizona and Nevada, and agricultural, municipal, and industrial water users in the States of Arizona, Nevada, and California.

#### SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to resolve, fully and finally—

(A) any and all claims to the Little Colorado River system and source in the State of Arizona of—

(i) the Navajo Nation, on behalf of itself and the members of the Navajo Nation;

(ii) the United States, acting as trustee for the Navajo Nation, the members of the Navajo Nation, and allottees of the Navajo Nation;

(iii) the Hopi Tribe, on behalf of itself and the members of the Hopi Tribe; and

(iv) the United States, acting as trustee for the Hopi Tribe, the members of the Hopi Tribe, and allottees of the Hopi Tribe; and

(B) any and all claims to the Gila River system and source in the State of Arizona of the Navajo Nation, on behalf of itself and the members of the Navajo Nation;

(2) to approve, ratify, and confirm the settlement agreement entered into among the Navajo Nation, the Hopi Tribe, the United States, the State of Arizona, and any other party;

(3) to authorize and direct the Secretary to execute and perform the duties and obligations of the Secretary under the settlement agreement and this Act; and

(4) to authorize any actions and appropriations necessary for the United States to fulfill the duties and obligations of the United States to the Navajo Nation, allottees of the Navajo Nation, the Hopi Tribe, and allottees of the Hopi Tribe, as provided in the settlement agreement and this Act.

#### SEC. 4. DEFINITIONS.

In this Act:

(1) 1934 ACT CASE.—The term “1934 Act case” means the litigation styled *Honyoama v. Shirley*, Case No. CIV 74–842–PHX–EHC (D. Ariz. 2006).

(2) ABSTRACT.—The term “abstract” means a summary of water rights or uses held or owned by any person, as represented in a form substantially similar to the form attached as exhibit 3.1.4 to the settlement agreement.

(3) AFY.—The term “afy” means acre-feet per year.

(4) ALLOTMENT.—The term “allotment” means an allotment that—

(A) was originally allotted to an individual identified as a Navajo or Hopi Indian in the allotting document;

(B) is located—

(i) within the exterior boundaries of the Navajo Reservation;

(ii) within the exterior boundaries of the Hopi Reservation; or

(iii) on land that is—

(I) off-reservation land; and

(II) within Apache, Coconino, or Navajo County, in the State; and

(C) is held in trust by the United States for the benefit of an allottee.

(5) ALLOTTEE.—The term “allottee” means a person who holds a beneficial real property interest in an allotment.

(6) AVAILABLE CAP SUPPLY.—The term “available CAP supply” means, for any given year—

(A) all fourth priority Colorado River water available for delivery through the CAP system;

(B) water available from CAP dams and reservoirs other than Modified Roosevelt Dam; and

(C) return flows captured by the Secretary for CAP use.

(7) CAP CONTRACT.—The term “CAP contract” means a long-term contract or sub-contract, as those terms are used in the CAP repayment stipulation, for delivery of CAP water.

(8) CAP CONTRACTOR.—The term “CAP contractor” means a person or entity that has entered into a long-term contract or sub-contract (as those terms are used in the CAP repayment stipulation) with the United States or the United States and the Central Arizona Water Conservation District for delivery of water through the CAP system.

(9) CAP FIXED OM&R CHARGE.—The term “CAP fixed OM&R charge” means “Fixed

OM&R Charge”, as that term is defined in the CAP repayment stipulation.

(10) CAP M&I PRIORITY WATER.—The term “CAP M&I priority water” means the CAP water that has a municipal and industrial delivery priority under the CAP repayment contract.

(11) CAP NIA PRIORITY WATER.—The term “CAP NIA priority water” means the CAP water deliverable under a CAP contract providing for the delivery of non-Indian agricultural priority water.

(12) CAP OPERATING AGENCY.—

(A) IN GENERAL.—The term “CAP operating agency” has the meaning given the term in section 2 of the Arizona Water Settlements Act (Public Law 108–451; 118 Stat. 3478).

(B) ADMINISTRATION.—As of the date of enactment of this Act, the “CAP operating agency” is the Central Arizona Water Conservation District.

(13) CAP PUMPING ENERGY CHARGE.—The term “CAP pumping energy charge” means “Pumping Energy Charge”, as that term is defined in the CAP repayment stipulation.

(14) CAP REPAYMENT CONTRACT.—The term “CAP repayment contract” has the meaning given the term in section 2 of the Arizona Water Settlements Act (Public Law 108–451; 118 Stat. 3478).

(15) CAP REPAYMENT STIPULATION.—The term “CAP repayment stipulation” means the Stipulated Judgment and the Stipulation for Judgment (including exhibits), entered on November 21, 2007, in the case styled *Central Arizona Water Conservation District v. United States, et al.*, No. CIV 95–625–TUC–WDB (EHC), No. CIV 95–1720–PHX–EHC (Consolidated Action), United States District Court for the District of Arizona (including any amendments or revisions).

(16) CAP SYSTEM.—The term “CAP system” has the meaning given the term in section 2 of the Arizona Water Settlements Act (Public Law 108–451; 118 Stat. 3478).

(17) CAP WATER.—The term “CAP water” means “Project Water”, as that term is defined in the CAP repayment stipulation.

(18) CENTRAL ARIZONA PROJECT OR CAP.—The term “Central Arizona Project” or “CAP” means the Federal reclamation project authorized and constructed by the United States in accordance with title III of the Colorado River Basin Project Act (43 U.S.C. 1521 et seq.).

(19) CENTRAL ARIZONA WATER CONSERVATION DISTRICT.—The term “Central Arizona Water Conservation District” means the political subdivision of the State that is the contractor under the CAP repayment contract.

(20) COLORADO RIVER COMPACT.—The term “Colorado River Compact” means the Colorado River Compact of 1922, as ratified and reprinted in article 2 of chapter 7 of title 45, Arizona Revised Statutes.

(21) COLORADO RIVER SYSTEM.—The term “Colorado River system” has the meaning given the term in article II(a) of the Colorado River Compact.

(22) COMMISSIONER.—The term “Commissioner” means the Commissioner of Reclamation.

(23) DECREE.—The term “decree”, when used without a modifying adjective, means—

(A) the decree of the Supreme Court in the case styled *Arizona v. California* (376 U.S. 340 (1964));

(B) the Consolidated Decree entered on March 27, 2006 (547 U.S. 150), in the case described in subparagraph (A); and

(C) any modifications to the decrees described in subparagraphs (A) and (B).

(24) DIVERT.—The term “divert” means to receive, withdraw, develop, produce, or cap-

ture groundwater, surface water, Navajo Nation CAP water, or effluent by means of a ditch, canal, flume, bypass, pipeline, pit, collection or infiltration gallery, conduit, well, pump, turnout, other mechanical device, or any other human act, including the initial impoundment of that water.

(25) EFFLUENT.—

(A) IN GENERAL.—The term “effluent” means water that—

(i) has been used in the State for domestic, municipal, or industrial purposes; and

(ii) is available for use for any purpose.

(B) EXCLUSION.—The term “effluent” does not include water that has been used solely for hydropower generation.

(26) FOURTH PRIORITY COLORADO RIVER WATER.—The term “fourth priority Colorado River water” means Colorado River water that is available for delivery in the State for satisfaction of entitlements—

(A) pursuant to contracts, Secretarial reservations, perfected rights, and other arrangements between the United States and water users in the State entered into or established subsequent to September 30, 1968, for use on Federal, State, or privately owned land in the State, in a total quantity that does not exceed 164,652 afy of diversions; and

(B) after first providing for the delivery of water under section 304(e) of the Colorado River Basin Project Act (43 U.S.C. 1524(e)), pursuant to the CAP repayment contract for the delivery of Colorado River water for the CAP, including use of Colorado River water on Indian land.

(27) GILA RIVER ADJUDICATION.—The term “Gila River adjudication” means the action pending in the Superior Court of the State of Arizona in and for the County of Maricopa styled *In Re the General Adjudication of All Rights To Use Water In The Gila River System and Source*, W–1 (Salt), W–2 (Verde), W–3 (Upper Gila), W–4 (San Pedro) (Consolidated).

(28) GILA RIVER ADJUDICATION COURT.—The term “Gila River adjudication court” means the Superior Court of the State of Arizona in and for the County of Maricopa, exercising jurisdiction over the Gila River adjudication.

(29) GILA RIVER ADJUDICATION DECREE.—The term “Gila River adjudication decree” means the judgment or decree entered by the Gila River adjudication court, which shall be in substantially the same form as the form of judgment attached to the settlement agreement as exhibit 3.1.49.

(30) GROUNDWATER.—The term “groundwater” means all water beneath the surface of the earth within the State that is not—

(A) surface water;

(B) underground water within the Upper Basin;

(C) Lower Colorado River water; or

(D) effluent.

(31) HOPI FEE LAND.—The term “Hopi fee land” means land, other than Hopi trust land, that—

(A) is located in the State;

(B) is located outside the exterior boundaries of the Hopi Reservation; and

(C) as of the LCR enforceability date, is owned by the Hopi Tribe, including ownership through a related entity.

(32) HOPI GROUNDWATER PROJECT.—The term “Hopi Groundwater Project” means the project carried out in accordance with section 103(b).

(33) HOPI GROUNDWATER PROJECT ACCOUNT.—The term “Hopi Groundwater Project Account” means the account created in the Treasury of the United States pursuant to section 104(c).

(34) HOPI LAND.—The term “Hopi land” means—

- (A) the Hopi Reservation;
- (B) Hopi trust land; and
- (C) Hopi fee land.

(35) HOPI OM&R TRUST ACCOUNT.—The term “Hopi OM&R Trust Account” means the account created in the Treasury of the United States pursuant to section 104(d).

(36) HOPI RESERVATION.—

(A) IN GENERAL.—The term “Hopi Reservation” means the land within the exterior boundaries of the Hopi Reservation, including—

(i) all land withdrawn by the Executive Order dated December 16, 1882, and in which the Hopi Tribe is recognized as having an exclusive interest in the case styled *Healing v. Jones*, Case No. CIV-579 (D. Ariz. September 28, 1962), or that was partitioned to the Hopi Tribe in accordance with section 4 of the Act of December 22, 1974 (Public Law 93-531; 88 Stat. 1713), and codified in the Navajo-Hopi Land Dispute Settlement Act of 1996 (25 U.S.C. 640d note; Public Law 104-301);

(ii) all land partitioned to the Hopi Tribe by Judgment of Partition, dated February 10, 1977, in the case styled *Sekaquaptewa v. MacDonald*, Case No. CIV-579-PCT-JAW (D. Ariz.);

(iii) all land recognized as part of the Hopi Reservation in the 1934 Act case; and

(iv) all individual allotments made to members of the Hopi Tribe within the boundaries of the Hopi Reservation.

(B) MAP.—

(i) IN GENERAL.—The “Hopi Reservation” is also depicted more particularly on the map attached to the settlement agreement as exhibit 3.1.100.

(ii) APPLICABILITY.—In case of a conflict relating to the “Hopi Reservation” as depicted on the map under clause (i) and the definition in subparagraph (A), the definition under subparagraph (A) shall control.

(C) EXCLUSION.—The term “Hopi Reservation” does not include any land held in trust by the United States for the benefit of the Navajo Nation within the exterior boundaries of the Hopi Reservation.

(37) HOPI TRIBE.—The term “Hopi Tribe” means the Hopi Tribe, a Tribe of Hopi Indians organized under section 16 of the Act of June 18, 1934 (25 U.S.C. 476) (commonly known as the “Indian Reorganization Act”).

(38) HOPI TRUST LAND.—The term “Hopi trust land” means land that—

(A) is located in the State;

(B) is located outside the exterior boundaries of the Hopi Reservation; and

(C) as of the LCR enforceability date, is held in trust by the United States for the benefit of the Hopi Tribe.

(39) INDIAN TRIBE.—The term “Indian tribe” has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(40) INJURY TO QUALITY OF LOWER COLORADO RIVER WATER.—The term “injury to quality of Lower Colorado River water” means—

(A) any diminution or degradation of the quality of Lower Colorado River water due to a change in the salinity or concentration of naturally occurring chemical constituents of Lower Colorado River water; and

(B) any effect of a change described in subparagraph (A) if the change and effect of the change are due to the withdrawal, diversion, or use of Lower Colorado River water.

(41) INJURY TO RIGHTS TO LOWER COLORADO RIVER WATER.—The term “injury to rights to Lower Colorado River water” means any interference with, diminution of, or depriva-

tion of the right of any entity to Lower Colorado River water under applicable law.

(42) INJURY TO WATER QUALITY.—The term “injury to water quality” means—

(A) any diminution or degradation of the quality of water due to a change in the salinity or concentration of naturally occurring chemical constituents of water; and

(B) any effect of a change described in subparagraph (A) if the change and effect of the change are due to the withdrawal, diversion, or use of water.

(43) INJURY TO WATER RIGHTS.—The term “injury to water rights” means an interference with, diminution of, or deprivation of, water rights under applicable law.

(44) LCR.—The term “LCR” means the Little Colorado River, a tributary of the Colorado River in Arizona.

(45) LCR ADJUDICATION.—The term “LCR adjudication” means the action pending in the Superior Court of the State of Arizona in and for the County of Apache styled *In Re the General Adjudication of All Rights To Use Water In The Little Colorado River System and Source*, CIV No. 6417.

(46) LCR ADJUDICATION COURT.—The term “LCR adjudication court” means the Superior Court of the State of Arizona in and for the County of Apache, exercising jurisdiction over the LCR adjudication.

(47) LCR DECREE.—The term “LCR decree” means the judgment and decree entered by the LCR adjudication court, which shall be in substantially the same form as the form of judgment attached to the settlement agreement as exhibit 3.1.70.

(48) LCR ENFORCEABILITY DATE.—The term “LCR enforceability date” means the date on which the Secretary publishes in the Federal Register the statement of findings described in section 108(a).

(49) LCR WATERSHED.—The term “LCR watershed” means all land located within the surface water drainage of the LCR and the tributaries of the LCR in the State.

(50) LEE FERRY.—The term “Lee Ferry” has the meaning given the term in article II(e) of the Colorado River Compact.

(51) LOWER BASIN.—The term “lower basin” has the meaning given the term in article II(g) of the Colorado River Compact.

(52) LOWER COLORADO RIVER.—The term “Lower Colorado River” means the portion of the Colorado River that is in the United States and downstream from Lee Ferry, including any reservoirs on that portion of the Colorado River.

(53) LOWER COLORADO RIVER BASIN DEVELOPMENT FUND.—The term “Lower Colorado River Basin Development Fund” means the fund established by section 403 of the Colorado River Basin Project Act (43 U.S.C. 1543).

(54) LOWER COLORADO RIVER WATER.—

(A) IN GENERAL.—The term “Lower Colorado River water” means the waters of the Lower Colorado River, including—

(i) the waters of the reservoirs on the Lower Colorado River;

(ii) the waters of the tributaries to the Lower Colorado River, other than—

(I) tributaries located within the State;

(II) tributaries located within the Western Navajo Colorado River Basin; or

(III) tributaries of the LCR in the State of New Mexico;

(iii) all underground water that is hydraulically connected to the Lower Colorado River; and

(iv) all underground water that is hydraulically connected to tributaries to the Lower Colorado River, other than—

(I) tributaries located within the State;

(II) tributaries located within the Western Navajo Colorado River Basin; or

(III) tributaries of the LCR in the State of New Mexico.

(B) APPLICABILITY.—The definition of the term “Lower Colorado River water” in subparagraph (A) and any definition of the term included in the settlement agreement—

(i) shall apply only to this Act and the settlement agreement, as applicable; and

(ii) shall not be used in any interpretation of—

(I) the Colorado River Compact;

(II) the Boulder Canyon Project Act (43 U.S.C. 617 et seq.);

(III) the Colorado River Basin Project Act (43 U.S.C. 1501 et seq.); or

(IV) any contract or agreement entered into pursuant to the documents described in subclauses (I) through (III).

(55) NAVAJO FEE LAND.—The term “Navajo fee land” means land, other than Navajo trust land, that—

(A) is located in the State;

(B) is located outside the exterior boundaries of the Navajo Reservation; and

(C) as of the LCR enforceability date, is owned by the Navajo Nation, including through a related entity.

(56) NAVAJO-GALLUP WATER SUPPLY PROJECT.—The term “Navajo-Gallup water supply project” means the project authorized, constructed, and operated pursuant to the Northwestern New Mexico Rural Water Projects Act (Public Law 111-11; 123 Stat. 1368).

(57) NAVAJO GENERATING STATION.—The term “Navajo generating station” means the Navajo generating station, a steam electric generating station located on the Navajo Reservation near Page, Arizona, and consisting of Units 1, 2, and 3, the switchyard facilities, and all facilities and structures used or related to the Navajo generating station.

(58) NAVAJO GROUNDWATER PROJECTS.—The term “Navajo Groundwater Projects” means the projects carried out in accordance with section 103(a).

(59) NAVAJO GROUNDWATER PROJECTS ACCOUNT.—The term “Navajo Groundwater Projects Account” means the account created in the Treasury of the United States pursuant to section 104(a).

(60) NAVAJO LAND.—The term “Navajo land” means—

(A) the Navajo Reservation;

(B) Navajo trust land; and

(C) Navajo fee land.

(61) NAVAJO NATION.—

(A) IN GENERAL.—The term “Navajo Nation” means the Navajo Nation, a body politic and federally recognized Indian nation, as provided in the notice of the Department of the Interior entitled “Indian Entities Recognized and Eligible To Receive Services From The United States Bureau of Indian Affairs” (75 Fed. Reg. 60810 (October 1, 2010)) published pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a-1)).

(B) INCLUSIONS.—

(i) IN GENERAL.—The term “Navajo Nation” includes—

(I) the Navajo Tribe;

(II) the Navajo Tribe of Arizona, New Mexico & Utah;

(III) the Navajo Tribe of Indians; and

(IV) other similar names.

(ii) BANDS AND CHAPTERS.—The term “Navajo Nation” includes all bands of Navajo Indians and chapters of the Navajo Nation.

(62) NAVAJO NATION CAP WATER.—The term “Navajo Nation CAP water” means the 6,411 afy of the CAP NIA priority water retained by the Secretary pursuant to section 104(a)(1)(B)(ii) of the Arizona Water Settlements Act of 2004 (Public Law 108-451; 118

Stat. 3487) and reallocated to the Navajo Nation pursuant to section 202(a) of this Act.

(63) **NAVAJO NATION WATER DELIVERY CONTRACT.**—The term “Navajo Nation water delivery contract” means the contract entered into pursuant to the settlement agreement and section 202(c) of this Act for the delivery of Navajo Nation CAP water.

(64) **NAVAJO OM&R TRUST ACCOUNT.**—The term “Navajo OM&R Trust Account” means the account created in the Treasury of the United States pursuant to section 104(b).

(65) **NAVAJO PROJECT LEASE.**—The term “Navajo Project lease” means the Indenture of Lease made and entered into on September 29, 1969, between—

- (A) the Navajo Nation, as lessor; and
- (B) lessees—
  - (i) the Arizona Public Service Company (including any successor or assignee);
  - (ii) the Department of Water and Power of the City of Los Angeles (including any successor or assignee);
  - (iii) the Nevada Power Company (including any successor or assignee);
  - (iv) the Salt River Project Agricultural Improvement and Power District (including any successor or assignee); and
  - (v) the Tucson Gas & Electric Company (including any successor or assignee).

(66) **NAVAJO PROJECT LESSEES.**—The term “Navajo Project lessees” means the lessees described in paragraph (65)(B).

(67) **NAVAJO RESERVATION.**—

(A) **IN GENERAL.**—The term “Navajo Reservation” means land that is within the exterior boundaries of the Navajo Reservation in the State, as defined by the Act of June 14, 1934 (48 Stat. 960, chapter 521), including—

- (i) all land—
  - (I) withdrawn by the Executive Order dated December 16, 1882, and partitioned to the Navajo Nation in accordance with the Act of December 22, 1974 (Public Law 93-531; 88 Stat. 1713), and codified in the Navajo-Hopi Land Dispute Settlement Act of 1996 (25 U.S.C. 640d note; Public Law 104-301); and
  - (II) partitioned to the Navajo Nation by Judgment of Partition, dated February 10, 1977, in the case styled *Sekaquaptewa v. MacDonald*, Case No. CIV-579-PC-T-JAW (D. Ariz.); and
- (ii) all land taken into trust as a part of the Navajo Reservation pursuant to section 11 of the Act of December 22, 1974 (25 U.S.C. 640d-10) and codified in the Navajo-Hopi Land Dispute Settlement Act of 1996 (25 U.S.C. 640d note; Public Law 104-301).

(B) **MAP.**—

(i) **IN GENERAL.**—The “Navajo Reservation” is also depicted more particularly on the map attached to the settlement agreement as exhibit 3.1.100.

(ii) **APPLICABILITY.**—In case of a conflict relating to the “Navajo Reservation” as depicted on the map under clause (i) and the definition in subparagraph (A), the map under clause (i) shall control.

(C) **EXCLUSION.**—Except as provided in paragraph (36)(C), the term “Navajo Reservation” does not include any land within the boundaries of the Hopi Reservation.

(68) **NAVAJO TRUST LAND.**—The term “Navajo trust land” means land that—

- (A) is located in the State;
- (B) is located outside the exterior boundaries of the Navajo Reservation; and
- (C) as of the LCR enforceability date, is held in trust by the United States for the benefit of the Navajo Nation.

(69) **NORVIEL DECREE.**—The term “Norviel Decree” means the final decree of the State of Arizona Superior Court in and for the County of Apache in the case styled *The St.*

*John’s Irrigation Company and the Meadows Reservoir Irrigation Company*, et al. v. *Round Valley Water Storage & Ditch Company*, *Eagar Irrigation Company*, *Springerville Water Right and Ditch Company*, et al., Case No. 569 (Apr. 29, 1918), including any modifications to the final decree.

(70) **OM&R.**—The term “OM&R” means operation, maintenance, and replacement.

(71) **PARTY.**—The term “party” means a person who is a signatory to the settlement agreement.

(72) **PEABODY.**—The term “Peabody” means the Peabody Western Coal Company, including any affiliate or successor of the Peabody Western Coal Company.

(73) **PERSON.**—

(A) **IN GENERAL.**—The term “person” means—

- (i) an individual;
- (ii) a public or private corporation;
- (iii) a company;
- (iv) a partnership;
- (v) a joint venture;
- (vi) a firm;
- (vii) an association;
- (viii) a society;
- (ix) an estate or trust;
- (x) a private organization or enterprise;
- (xi) the United States;
- (xii) an Indian tribe;
- (xiii) a State, territory, or country;
- (xiv) a governmental entity; and
- (xv) a political subdivision or municipal corporation organized under or subject to the constitution and laws of the State.

(B) **INCLUSIONS.**—The term “person” includes an officer, director, agent, insurer, representative, employee, attorney, assign, subsidiary, affiliate, enterprise, legal representative, any predecessor and successor in interest and any heir of a predecessor and successor in interest of a person.

(74) **PRECONSTRUCTION ACTIVITY.**—

(A) **IN GENERAL.**—The term “preconstruction activity” means the work associated with the preplanning, planning, and design phases of construction, as those terms are defined in paragraphs (1) through (3) of section 900.112(a) of title 25, Code of Federal Regulations (or successor regulation).

(B) **INCLUSION.**—The term “preconstruction activity” includes activities described in section 900.112(b) of title 25, Code of Federal Regulations (or successor regulation).

(75) **RAILROAD GRANTED LAND.**—The term “Railroad granted land” means the land granted (including Federal rights-of-way and easements) to Navajo Project lessees in accordance with sections 1.16 and 2 of the grant issued by the Secretary and dated January 19, 1971.

(76) **RIGHTS TO LOWER COLORADO RIVER WATER.**—The term “rights to Lower Colorado River water” means any and all rights in or to Lower Colorado River water under applicable law.

(77) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior (or the designee of the Secretary).

(78) **SETTLEMENT AGREEMENT.**—

(A) **IN GENERAL.**—The term “settlement agreement” means the 2012 agreement, including exhibits, entitled the “Navajo-Hopi Little Colorado River Water Rights Settlement Agreement”.

(B) **INCLUSIONS.**—The term “settlement agreement” includes—

- (i) any amendments necessary to make the settlement agreement consistent with this Act; and

(ii) any other amendments approved by the parties to the settlement agreement and the Secretary.

(79) **STATE.**—The term “State” means the State of Arizona.

(80) **STATE IMPLEMENTING LAW.**—The term “State implementing law” means a law enacted by the State that includes terms that are substantially similar to the terms of the settlement agreement and attached to the settlement agreement as exhibit 3.1.128.

(81) **SURFACE WATER.**—

(A) **IN GENERAL.**—The term “surface water” means all water in the State that is appropriate under State law.

(B) **EXCLUSIONS.**—The term “surface water” does not include—

- (i) appropriate water that is located within the upper basin; or
- (ii) Lower Colorado River water.

(82) **UNDERGROUND WATER.**—

(A) **IN GENERAL.**—The term “underground water” means all water beneath the surface of the earth within the boundaries of the State, regardless of the legal characterization of that water as appropriate or non-appropriate under applicable law.

(B) **EXCLUSION.**—The term “underground water” does not include effluent.

(83) **UPPER BASIN.**—The term “upper basin” has the meaning given the term in article II(f) of the Colorado River Compact.

(84) **UPPER BASIN COMPACT.**—The term “Upper Basin Compact” means the Upper Colorado River Basin Compact of 1948, as ratified and reprinted in article 3 of chapter 7 of title 45, Arizona Revised Statutes.

(85) **UPPER BASIN WATER.**—The term “upper basin water” means the waters of the upper basin.

(86) **WATER.**—The term “water”, when used without a modifying adjective, means—

- (A) groundwater;
- (B) surface water; and
- (C) effluent.

(87) **WATER RIGHT.**—The term “water right” means any right in or to water under Federal, State, or law.

(88) **WESTERN NAVAJO COLORADO RIVER BASIN.**—The term “Western Navajo Colorado River Basin” means the portions of the Navajo Reservation that are located in the lower basin and outside of the LCR watershed.

(89) **WINDOW ROCK.**—The term “Window Rock” means the geographical area in the State to be served by the Navajo-Gallup water supply project, which shall include Window Rock, Arizona.

## **TITLE I—NAVAJO-HOPI LITTLE COLORADO RIVER WATER RIGHTS SETTLEMENT AGREEMENT**

### **SEC. 101. RATIFICATION AND EXECUTION OF THE NAVAJO-HOPI LITTLE COLORADO RIVER WATER RIGHTS SETTLEMENT AGREEMENT.**

(a) **IN GENERAL.**—Except to the extent that any provision of the settlement agreement conflicts with this Act, the settlement agreement is authorized, ratified, and confirmed.

(b) **AMENDMENTS TO SETTLEMENT AGREEMENT.**—If an amendment to the settlement agreement is executed to make the settlement agreement consistent with this Act, the amendment is authorized, ratified, and confirmed.

(c) **EXECUTION OF SETTLEMENT AGREEMENT.**—To the extent the settlement agreement does not conflict with this Act, the Secretary shall promptly execute—

- (1) the settlement agreement, including all exhibits to the settlement agreement requiring the signature of the Secretary; and
- (2) any amendments to the settlement agreement, including any amendment to any

exhibit to the settlement agreement requiring the signature of the Secretary, necessary to make the settlement agreement consistent with this Act.

(d) **DISCRETION OF THE SECRETARY.**—The Secretary may execute any other amendment to the settlement agreement, including any amendment to any exhibit to the settlement agreement requiring the signature of the Secretary, that is not inconsistent with this Act if the amendment does not require congressional approval pursuant to the Trade and Intercourse Act (25 U.S.C. 177) or other applicable Federal law (including regulations).

#### SEC. 102. WATER RIGHTS.

(a) **WATER RIGHTS TO BE HELD IN TRUST.**—

(1) **NAVAJO NATION WATER RIGHTS.**—All water rights of the Navajo Nation for the Navajo Reservation and land held in trust by the United States for the Navajo Nation and allottees of the Navajo Nation and all Navajo Nation CAP water shall be held in trust by the United States for the benefit of the Navajo Nation and allottees of the Navajo Nation, respectively.

(2) **HOPi TRIBE WATER RIGHTS.**—All water rights of the Hopi Tribe for the Hopi Reservation and land held in trust by the United States for the Hopi Tribe and allottees of the Hopi Tribe shall be held in trust by the United States for the benefit of the Hopi Tribe and allottees of the Hopi Tribe, respectively.

(b) **FORFEITURE AND ABANDONMENT.**—Any water right held in trust by the United States under subsection (a) shall not be subject to loss by nonuse, forfeiture, abandonment, or any other provision of law.

(c) **USE OF WATER DIVERTED FROM LCR WATERSHED.**—

(1) **IN GENERAL.**—Notwithstanding any other provision of law, the Navajo Nation may—

(A) divert surface water or groundwater described in paragraph 4.0 of the settlement agreement; and

(B) subject to the condition that the water remain on the Navajo Reservation, move any water diverted under subparagraph (A) out of the LCR watershed for use by the Navajo Nation.

(2) **EFFECT OF DIVERSION.**—Any water diverted and moved out of the LCR watershed pursuant to paragraph (1)—

(A) shall be considered to be a part of the LCR; and

(B) shall not be considered to be part of, or charged against, the consumptive use apportionment made—

(i) to the State by article III(a)(1) of the Upper Basin Compact; or

(ii) to the upper basin by article III(a) of the Colorado River Compact.

(d) **WATER RIGHTS OF ALLOTTEES.**—

(1) **NAVAJO RESERVATION ALLOTMENTS.**—

(A) **IN GENERAL.**—The right of an allottee (and of the United States acting as trustee for an allottee), to use water on an allotment located on the Navajo Reservation shall be—

(i) satisfied solely from the water secured to the Navajo Nation (and to the United States acting as trustee for the Navajo Nation) by the LCR decree; and

(ii) subject to the terms of the LCR decree.

(B) **ADMINISTRATION.**—A right under subparagraph (A) shall be enforceable only pursuant to the Navajo Nation water code, which shall provide allottees a process to enforce such rights against the Navajo Nation.

(2) **HOPi RESERVATION ALLOTMENTS.**—

(A) **IN GENERAL.**—The right of an allottee (and of the United States acting as trustee for an allottee), to use water on an allotment located on the Hopi Reservation shall be—

(i) satisfied solely from the water secured to the Hopi Tribe (and to the United States acting as trustee for the Hopi Tribe) by the LCR decree; and

(ii) subject to the terms of the LCR decree.

(B) **ADMINISTRATION.**—A right under subparagraph (A) shall be enforceable only pursuant to the Hopi Tribe water code, which shall provide allottees a process to enforce such rights against the Hopi Tribe.

(3) **OFF-RESERVATION ALLOTMENTS.**—The right of an allottee (and of the United States acting as trustee for an allottee), to use water on an allotment located off the Navajo and Hopi Reservations shall be as described in the abstracts attached to the settlement agreement as exhibit 4.7.3.

#### SEC. 103. AUTHORIZATION FOR CONSTRUCTION OF MUNICIPAL, DOMESTIC, COMMERCIAL, AND INDUSTRIAL WATER PROJECTS.

(a) **NAVAJO GROUNDWATER PROJECTS.**—

(1) **IN GENERAL.**—Subject to the availability of appropriations, the Secretary, acting through the Commissioner, shall plan, design, and construct the water diversion and delivery features of the Navajo Groundwater Projects.

(2) **LEAD AGENCY.**—The Bureau of Reclamation shall serve as the lead agency for any activity relating to the planning, design, and construction of the water diversion and delivery features of the Navajo Groundwater Projects.

(3) **SCOPE.**—

(A) **IN GENERAL.**—Subject to subparagraph (B), the scope of the planning, design, and construction activities for the Navajo Groundwater Projects shall be as generally described in the documents prepared by Brown & Caldwell entitled—

(i) “Final Summary Report Leupp, Birdsprings, and Tolani Lake Water Distribution System Analysis (May 2008)”;

(ii) “Final Summary Report Dilkon and Teestoh Water Distribution System Analysis (May 2008)”;

(iii) “Raw Water Transmission Pipeline Alignment Alternative Evaluation Final Report (May 2008)”;

(iv) “Ganado C-Aquifer Project Report (October 2008)”.

(B) **REVIEW.**—

(i) **IN GENERAL.**—Before beginning construction activities for the Navajo Groundwater Projects, the Secretary shall—

(I) review the proposed designs of the Navajo Groundwater Projects; and

(II) carry out value engineering analyses of the proposed designs.

(ii) **NEGOTIATIONS WITH THE NAVAJO NATION.**—As necessary, the Secretary shall periodically negotiate and reach agreement with the Navajo Nation regarding any change to the proposed designs of the Navajo Groundwater Projects if, on the basis of the review under clause (i), the Secretary determines that a change is necessary—

(I) to meet applicable industry standards;

(II) to ensure the Navajo Groundwater Projects will be constructed for not more than the amount set forth in paragraph (4); and

(III) to improve the cost-effectiveness of the delivery of water.

(4) **FUNDING.**—

(A) **IN GENERAL.**—The total amount of obligations incurred by the Secretary in carrying out this subsection shall not exceed \$199,000,000, except that the total amount of obligations shall be increased or decreased, as appropriate, based on ordinary fluctuations from May 1, 2011, in construction cost indices applicable to the types of construction involved in the planning, design, and

construction of the Navajo Groundwater Projects.

(B) **NO REIMBURSEMENT.**—The Secretary shall not be reimbursed by any entity, including the Navajo Nation, for any amounts expended by the Secretary in carrying out this subsection.

(C) **PROJECT EFFICIENCIES.**—If the total cost of planning, design, and construction activities of the Navajo Groundwater Projects results in cost savings and is less than the amounts authorized to be obligated under this paragraph, the Secretary, at the request of the Navajo Nation, may—

(i) use those cost savings to carry out capital improvement projects associated with the Navajo Groundwater Projects; or

(ii) transfer those cost savings to the Navajo OM&R Trust Account.

(5) **APPLICABILITY OF THE ISDEAA.**—

(A) **IN GENERAL.**—At the request of the Navajo Nation and in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), the Secretary shall enter into 1 or more agreements with the Navajo Nation to carry out this subsection.

(B) **ADMINISTRATION.**—The Commissioner and the Navajo Nation shall negotiate the cost of any oversight activity carried out by the Bureau of Reclamation for an agreement entered into under subparagraph (A), subject to the condition that the total cost for the oversight shall not exceed 4.0 percent of the total costs of the Navajo Groundwater Projects.

(6) **TITLE TO NAVAJO GROUNDWATER PROJECTS.**—

(A) **IN GENERAL.**—The Secretary shall convey to the Navajo Nation title to each of the Navajo Groundwater Projects on the date on which the Secretary issues a notice of substantial completion that—

(i) the infrastructure constructed is capable of storing, diverting, treating, transmitting, and distributing a supply of water as generally set forth in the final project design described in paragraph (3); and

(ii) the Secretary has consulted with the Navajo Nation regarding the proposed finding that the respective Navajo Groundwater Project is substantially complete.

(B) **LIMITATION ON LIABILITY.**—Effective beginning on the date on which the Secretary transfers to the Navajo Nation title to the Leupp-Dilkon Groundwater Project or the Ganado Groundwater Project under subparagraph (A), the United States shall not be held liable by any court for damages arising out of any act, omission, or occurrence relating to the facilities transferred, other than damages caused by an intentional act or an act of negligence committed by the United States, or by employees or agents of the United States, prior to the date on which the Secretary transfers title to the Leupp-Dilkon Groundwater Project or the Ganado Groundwater Project to the Navajo Nation.

(C) **OM&R OBLIGATION OF THE UNITED STATES AFTER CONVEYANCE.**—The United States shall have no obligation to pay for the OM&R costs of the Navajo Groundwater Projects beginning on the date on which—

(i) title to the Navajo Groundwater Projects is transferred to the Navajo Nation; and

(ii) the amounts required to be deposited in the Navajo OM&R Trust Account pursuant to section 104(b) have been deposited in that account.

(7) **TECHNICAL ASSISTANCE.**—Subject to the availability of appropriations, the Secretary shall provide technical assistance, including operation and management training, to the

Navajo Nation to prepare the Navajo Nation for the operation of the Navajo Groundwater Projects.

(8) **PROJECT MANAGEMENT COMMITTEE.**—The Secretary shall facilitate the formation of a project management committee composed of representatives from the Bureau of Reclamation, the Bureau of Indian Affairs, and the Navajo Nation—

(A) to review cost factors and budgets for construction, operation, and maintenance activities for the Navajo Groundwater Projects;

(B) to improve management of inherently governmental functions through enhanced communication; and

(C) to seek additional ways to reduce overall costs for the Navajo Groundwater Projects.

(9) **AUTHORIZATION TO CONSTRUCT.**—

(A) **IN GENERAL.**—The Secretary is authorized to construct the Navajo Groundwater Projects beginning on the day after the date on which the Secretary publishes in the Federal Register the statement of findings under section 108(a).

(B) **PRECONSTRUCTION ACTIVITIES.**—Notwithstanding subparagraph (A), the Secretary is authorized to use amounts appropriated to the Navajo Groundwater Projects Account pursuant to section 104(a) to carry out prior to the LCR enforceability date preconstruction activities for the Navajo Groundwater Projects.

(b) **HOPÍ GROUNDWATER PROJECT.**—

(1) **IN GENERAL.**—Subject to the availability of appropriations, the Secretary, acting through the Commissioner, shall plan, design, and construct the water diversion and delivery features of the Hopí Groundwater Project.

(2) **LEAD AGENCY.**—The Bureau of Reclamation shall serve as the lead agency for any activity relating to the planning, design, and construction of the water diversion and delivery features of the Hopí Groundwater Project.

(3) **SCOPE.**—

(A) **IN GENERAL.**—Subject to subparagraph (B), the scope of the planning, design, and construction activities for the Hopí Groundwater Project shall be as generally described in the document entitled “Hopí Tribe 2012 Little Colorado River Adjudication Settlement Domestic, Commercial, Municipal and Industrial Water System Memorandum (February 2012)” by Dowl HKM.

(B) **REVIEW.**—

(i) **IN GENERAL.**—Before beginning construction activities, the Secretary shall—

(I) review the proposed design of the Hopí Groundwater Project; and

(II) carry out value engineering analyses of the proposed design.

(ii) **NEGOTIATIONS WITH THE HOPÍ TRIBE.**—As necessary, the Secretary shall periodically negotiate and reach agreement with the Hopí Tribe regarding any change to the proposed design of the Hopí Groundwater Project if, on the basis of the review under clause (i), the Secretary determines that a change is necessary—

(I) to meet applicable industry standards;

(II) to ensure that the Hopí Groundwater Project will be constructed for not more than the amount set forth in paragraph (4); and

(III) to improve the cost-effectiveness of the delivery of water.

(4) **FUNDING.**—

(A) **IN GENERAL.**—The total amount of obligations incurred by the Secretary in carrying out this subsection shall not exceed \$113,000,000, except that the total amount of

obligations shall be increased or decreased, as appropriate, based on ordinary fluctuations from May 1, 2011, in construction cost indices applicable to the types of construction involved in the planning, design, and construction of the Hopí Groundwater Project.

(B) **NO REIMBURSEMENT.**—The Secretary shall not be reimbursed by any entity, including the Hopí Tribe, for any amounts expended by the Secretary in carrying out this subsection.

(C) **PROJECT EFFICIENCIES.**—If the total cost of planning, design, and construction activities of the Hopí Groundwater Project results in cost savings and is less than the amounts authorized to be obligated under this paragraph, the Secretary, at the request of the Hopí Tribe, may—

(i) use those cost savings to carry out capital improvement projects associated with the Hopí Groundwater Project; or

(ii) transfer those cost savings to the Hopí OM&R Trust Account.

(5) **APPLICABILITY OF THE ISDEAA.**—

(A) **IN GENERAL.**—At the request of the Hopí Tribe and in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), the Secretary shall enter into 1 or more agreements with the Hopí Tribe to carry out this subsection.

(B) **ADMINISTRATION.**—The Commissioner and the Hopí Tribe shall negotiate the cost of any oversight activity carried out by the Bureau of Reclamation for an agreement entered into under subparagraph (A), subject to the condition that the total cost for the oversight shall not exceed 4.0 percent of the total costs of the Hopí Groundwater Project.

(6) **TITLE TO HOPÍ GROUNDWATER PROJECT.**—

(A) **IN GENERAL.**—The Secretary shall convey to the Hopí Tribe title to the Hopí Groundwater Project on the date on which the Secretary issues a notice of substantial completion that—

(i) the infrastructure constructed is capable of storing, diverting, treating, transmitting, and distributing a supply of water as generally set forth in the final project design described in paragraph (3); and

(ii) the Secretary has consulted with the Hopí Tribe regarding the proposed finding that the Hopí Groundwater Project is substantially complete.

(B) **LIMITATION ON LIABILITY.**—Effective beginning on the date on which the Secretary transfers to the Hopí Tribe title to the Hopí Groundwater Project under subparagraph (A), the United States shall not be held liable by any court for damages arising out of any act, omission, or occurrence relating to the facilities transferred, other than damages caused by an intentional act or an act of negligence committed by the United States, or by employees or agents of the United States, prior to the date on which the Secretary transfers title to the Hopí Groundwater Project to the Hopí Tribe.

(C) **OM&R OBLIGATION OF THE UNITED STATES AFTER CONVEYANCE.**—The United States shall have no obligation to pay for the OM&R costs of the Hopí Groundwater Project beginning on the date on which—

(i) title to the Hopí Groundwater Project is transferred to the Hopí Tribe; and

(ii) the amounts required to be deposited in the Hopí OM&R Trust Account pursuant to section 104(d) have been deposited in that account.

(7) **TECHNICAL ASSISTANCE.**—Subject to the availability of appropriations, the Secretary shall provide technical assistance, including operation and management training, to the Hopí Tribe to prepare the Hopí Tribe for the operation of the Hopí Groundwater Project.

(8) **PROJECT MANAGEMENT COMMITTEE.**—The Secretary shall facilitate the formation of a project management committee composed of representatives from the Bureau of Reclamation, the Bureau of Indian Affairs, and the Hopí Tribe—

(A) to review cost factors and budgets for construction, operation, and maintenance activities for the Hopí Groundwater Project;

(B) to improve management of inherently governmental activities through enhanced communication; and

(C) to seek additional ways to reduce overall costs for the Hopí Groundwater Project.

(9) **AUTHORIZATION TO CONSTRUCT.**—

(A) **IN GENERAL.**—The Secretary is authorized to construct the Hopí Groundwater Project beginning on the day after the date on which the Secretary publishes in the Federal Register the statement of findings under section 108(a).

(B) **PRECONSTRUCTION ACTIVITIES.**—Notwithstanding subparagraph (A), the Secretary is authorized to use amounts appropriated to the Hopí Groundwater Project Account pursuant to section 104(c) to carry out prior to the LCR enforceability date preconstruction activities for the Hopí Groundwater Project.

(c) **N-AQUIFER MANAGEMENT PLAN.**—

(1) **IN GENERAL.**—Prior to the LCR enforceability date, the Secretary, acting through the Director of the United States Geological Survey and in consultation with the Navajo Nation and the Hopí Tribe, is authorized to use amounts appropriated to the N-Aquifer Account pursuant to section 104(e) to conduct modeling and monitoring activities of the N-Aquifer as provided for in paragraph 6.2 of the settlement agreement.

(2) **CONTINUING ASSISTANCE.**—After the LCR enforceability date, the Secretary, in consultation with the Navajo Nation and the Hopí Tribe, is authorized to use amounts appropriated to the N-Aquifer Account pursuant to section 104(e) to assist the Navajo Nation and the Hopí Tribe in implementing the N-Aquifer Management Plan and the Pasture Canyon Springs Protection Program Account pursuant to section 104(f) to assist the Navajo Nation and the Hopí Tribe in implementing the Pasture Canyon Springs Protection Program, both as described in paragraph 6.2 of the settlement agreement.

(3) **LIMITED LIABILITY.**—The Secretary shall have no liability with respect to the management of the N-Aquifer, subject to the condition that the Secretary complies with the responsibilities of the Secretary, as set forth in the N-Aquifer Management Plan.

## SEC. 104. FUNDING.

(a) **NAVAJO GROUNDWATER PROJECTS ACCOUNT.**—

(1) **ESTABLISHMENT.**—There is established in the Treasury of the United States an account, to be known as the “Navajo Groundwater Projects Account”, to be administered by the Secretary, consisting of the amounts deposited in the account under paragraph (2), together with any interest accrued by those amounts, for use by the Navajo Nation in constructing the Navajo Groundwater Projects.

(2) **TRANSFERS TO ACCOUNT.**—

(A) **IN GENERAL.**—Subject to subparagraph (C), there are authorized to be appropriated to the Secretary for deposit in the Navajo Groundwater Projects Account—

(i) \$199,000,000, to remain available until expended; less

(ii) the amounts deposited in the account under subparagraph (B).

(B) **TRANSFERS FROM OTHER SOURCES.**—

(i) **LOWER COLORADO RIVER BASIN DEVELOPMENT FUND.**—



(I) IN GENERAL.—The Secretary of the Treasury shall transfer, without further appropriation, \$25,000,000 to the Navajo Groundwater Projects Account from the Future Indian Water Settlement Subaccount of the Lower Colorado River Basin Development Fund established pursuant to section 403(f)(2)(D)(vi) of the Colorado River Basin Project Act (43 U.S.C. 1543(f)(2)(D)(vi)).

(II) AVAILABILITY.—The amounts transferred under subclause (I) shall not be available to the Secretary for expenditure until the date on which the Secretary publishes in the Federal Register the statement of findings under section 108(a).

(ii) RECLAMATION WATER SETTLEMENTS FUND.—

(I) IN GENERAL.—If amounts remain available for expenditure in the Reclamation Water Settlements Fund established by section 10501 of the Omnibus Public Land Management Act of 2009 (43 U.S.C. 407), the Secretary of the Treasury shall transfer to the Navajo Groundwater Projects Account, without further appropriation, not more than \$50,000,000.

(II) AVAILABILITY.—The amounts transferred under subclause (I) shall not be available to the Secretary for expenditure until the date on which the Secretary publishes in the Federal Register the statement of findings under section 108(a).

(iii) STATE CONTRIBUTION.—Pursuant to subparagraph 13.22 of the settlement agreement, the State shall transfer to the Navajo Groundwater Projects Account \$1,000,000.

(C) FLUCTUATION IN DEVELOPMENT COSTS.—The amount authorized to be appropriated under subparagraph (A)(i) and deposited in the Navajo Groundwater Projects Account shall be increased or decreased, as appropriate, by such amounts as may be justified by reason of ordinary fluctuations in development costs occurring after May 1, 2011, as indicated by engineering cost indices applicable to the type of construction involved, until the Secretary declares that the Navajo Groundwater Projects are substantially complete.

(3) MANAGEMENT OF ACCOUNT.—

(A) IN GENERAL.—The Secretary shall manage the Navajo Groundwater Projects Account in a manner that is consistent with—

(i) the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.); and

(ii) this subsection.

(B) INVESTMENTS.—The Secretary shall invest amounts in the Navajo Groundwater Projects Account in accordance with—

(i) the Act of April 1, 1880 (25 U.S.C. 161);

(ii) the first section of the Act of June 24, 1938 (25 U.S.C. 162a); and

(iii) obligations of Federal corporations and Federal Government-sponsored entities, the charter documents of which provide that the obligations of the entities are lawful investments for federally managed funds, including—

(I) obligations of the United States Postal Service described in section 2005 of title 39, United States Code;

(II) bonds and other obligations of the Tennessee Valley Authority described in section 15d of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831n-4);

(III) mortgages, obligations, or other securities of the Federal Home Loan Mortgage Corporation described in section 303 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452); and

(IV) bonds, notes, or debentures of the Commodity Credit Corporation described in section 4 of the Act of March 8, 1938 (15 U.S.C. 713a-4).

(C) CREDITS TO ACCOUNT.—The interest on, and the proceeds from, the sale or redemption of, any obligations held in the Navajo Groundwater Projects Account shall be credited to, and form a part of, the account.

(4) AVAILABILITY OF AMOUNTS AND INVESTMENT EARNINGS.—

(A) IN GENERAL.—Except as provided in section 103(a)(9), amounts appropriated to and deposited in the Navajo Groundwater Projects Account shall not be available to the Secretary for expenditure until the date on which the Secretary publishes in the Federal Register the statement of findings under section 108(a).

(B) INVESTMENT EARNINGS.—Investment earnings on amounts deposited in the Navajo Groundwater Projects Account under paragraph (3) shall not be available to the Secretary for expenditure until the date on which the Secretary publishes in the Federal Register the statement of findings under section 108(a).

(b) NAVAJO OM&R TRUST ACCOUNT.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States a trust account, to be known as the “Navajo OM&R Trust Account”, to be administered by the Secretary and to be available until expended, consisting of the amounts deposited in the account under paragraph (2), together with any interest accrued by those amounts, for the OM&R of the Navajo Groundwater Projects.

(2) AUTHORIZATION OF APPROPRIATIONS.—

(A) IN GENERAL.—Subject to subparagraph (B) and in addition to any amounts transferred to the Navajo OM&R Trust Account pursuant to section 103(a)(4), there is authorized to be appropriated, deposited, and retained in the Navajo OM&R Trust Account, \$23,000,000.

(B) FLUCTUATION IN COSTS.—The amount authorized to be appropriated under subparagraph (A) shall be increased or decreased, as appropriate, by such amounts as may be justified by reason of ordinary fluctuations in costs occurring after May 1, 2011, as indicated by applicable engineering cost indices.

(3) MANAGEMENT OF ACCOUNT.—

(A) IN GENERAL.—The Secretary shall manage the Navajo OM&R Trust Account in a manner that is consistent with—

(i) the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.); and

(ii) this subsection.

(B) INVESTMENTS.—The Secretary shall invest amounts in the Navajo OM&R Trust Account in accordance with subsection (a)(3)(B).

(4) AVAILABILITY OF AMOUNTS.—Amounts appropriated to and deposited in the Navajo OM&R Trust Account, including any investment earnings, shall be made available to the Navajo Nation by the Secretary beginning on the date on which title to the Navajo Groundwater Projects is transferred to the Navajo Nation.

(c) HOPI GROUNDWATER PROJECT ACCOUNT.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States an account, to be known as the “Hopi Groundwater Project Account”, to be administered by the Secretary, and consisting of the amounts deposited in the account under paragraph (2), together with any interest accrued by those amounts, for use in constructing the Hopi Groundwater Project.

(2) TRANSFERS TO ACCOUNT.—

(A) IN GENERAL.—Subject to subparagraphs (C), there is authorized to be appropriated to the Secretary for deposit in the Hopi Groundwater Project Account—

(i) \$113,000,000, to remain available until expended; less

(ii) the amounts deposited in the account under subparagraph (B).

(B) TRANSFERS FROM OTHER SOURCES.—

(i) LOWER COLORADO RIVER BASIN DEVELOPMENT FUND.—

(I) IN GENERAL.—The Secretary of the Treasury shall transfer, without further appropriation, \$25,000,000 to the Hopi Groundwater Project Account from the Future Indian Water Settlement Subaccount of the Lower Colorado River Basin Development Fund established pursuant to section 403(f)(2)(D)(vi) of the Colorado River Basin Project Act (43 U.S.C. 1543(f)(2)(D)(vi)).

(II) AVAILABILITY.—The amounts transferred under subclause (I) shall not be available to the Secretary for expenditure until the date on which the Secretary publishes in the Federal Register the statement of findings under section 108(a).

(ii) STATE CONTRIBUTION.—Pursuant to subparagraph 13.22 of the settlement agreement, the State shall transfer to the Hopi Groundwater Project Account \$1,000,000.

(C) FLUCTUATION IN DEVELOPMENT COSTS.—The amount authorized to be appropriated under subparagraph (A)(i) shall be increased or decreased, as appropriate, by such amounts as may be justified by reason of ordinary fluctuations in development costs occurring after May 1, 2011, as indicated by engineering cost indices applicable to the type of construction involved, until the Secretary declares that the Hopi Groundwater Project is substantially complete.

(3) MANAGEMENT OF ACCOUNT.—

(A) IN GENERAL.—The Secretary shall manage the Hopi Groundwater Project Account in a manner that is consistent with—

(i) the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.); and

(ii) this subsection.

(B) INVESTMENTS.—The Secretary shall invest amounts in the Hopi Groundwater Project Account in accordance with subsection (a)(3)(B).

(C) CREDITS TO ACCOUNT.—The interest on, and the proceeds from, the sale or redemption of, any obligations held in the Hopi Groundwater Project Account shall be credited to, and form a part of, the account.

(4) AVAILABILITY OF AMOUNTS AND INVESTMENT EARNINGS.—

(A) IN GENERAL.—Except as provided in section 103(b)(9), amounts appropriated to and deposited in the Hopi Groundwater Project Account shall not be available to the Secretary for expenditure until the date on which the Secretary publishes findings under section 108(a).

(B) INVESTMENT EARNINGS.—Investment earnings on amounts deposited in the Hopi Groundwater Project Account under paragraph (3) shall not be available to the Secretary for expenditure until after the date on which the Secretary publishes in the Federal Register the statement of findings under section 108(a).

(d) HOPI OM&R TRUST ACCOUNT.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States a trust account, to be known as the “Hopi OM&R Trust Account”, to be administered by the Secretary and to be available until expended, consisting of the amounts deposited in the account under paragraph (2), together with any interest accrued by those amounts, for the OM&R of the Hopi Groundwater Project.

(2) AUTHORIZATION OF APPROPRIATIONS.—



(A) IN GENERAL.—Subject to subparagraph (B) and in addition to any amounts transferred to the Hopi OM&R Trust Account pursuant to section 103(b)(4), there is authorized to be appropriated, deposited, and retained in the Hopi OM&R Trust Account, \$5,000,000.

(B) FLUCTUATION IN COSTS.—The amount authorized to be appropriated under subparagraph (A) shall be increased or decreased, as appropriate, by such amounts as may be justified by reason of ordinary fluctuations in costs occurring after May 1, 2011, as indicated by applicable engineering cost indices.

(3) MANAGEMENT OF ACCOUNT.—

(A) IN GENERAL.—The Secretary shall manage the Hopi OM&R Trust Account in a manner that is consistent with—

(i) the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.); and

(ii) this subsection.

(B) INVESTMENTS.—The Secretary shall invest amounts in the Hopi OM&R Trust Account in accordance with subsection (a)(3)(B).

(4) AVAILABILITY OF AMOUNTS.—Amounts appropriated to and deposited in the Hopi OM&R Trust Account, including any investment earnings, shall be made available to the Hopi Tribe by the Secretary beginning on the date on which title to the Hopi Groundwater Project is transferred to the Hopi Tribe.

(e) N-AQUIFER ACCOUNT.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States an account, to be known as the “N-Aquifer Account”, to be administered by the Secretary and to be available until expended, consisting of the amounts deposited in the account under paragraph (2) to carry out activities relating to the N-Aquifer in accordance with section 103(c) and subparagraph 6.2 of the settlement agreement.

(2) AUTHORIZATION OF APPROPRIATIONS FOR N-AQUIFER MANAGEMENT PLAN.—

(A) IN GENERAL.—In addition to any amounts transferred to the Aquifer account pursuant to subsection (g), there is authorized to be appropriated, deposited, and retained to carry out section 103(c) and subparagraph 6.2 of the settlement agreement \$5,000,000.

(B) FLUCTUATIONS IN COSTS.—The amount authorized to be appropriated under subparagraph (A) shall be increased or decreased, as appropriate, by such amounts as may be justified by reason of ordinary fluctuations in costs occurring after May 1, 2011, as indicated by applicable engineering cost indices.

(3) AVAILABILITY.—Amounts appropriated to and deposited in the N-Aquifer Account shall be made available by the Secretary prior to the LCR enforceability date to carry out the activities relating to the N-Aquifer management plan in accordance with section 103(c)(1) and subparagraph 6.2 of the settlement agreement.

(f) PASTURE CANYON SPRINGS PROTECTION PROGRAM ACCOUNT.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States a trust account, to be known as the “Pasture Canyon Springs Protection Program Account”, to be administered by the Secretary and to be available until expended, consisting of the amounts deposited in the account under paragraph (2), together with any interest accrued by those amounts, to carry out activities relating to the Pasture Canyon Springs Protection Program in accordance with section 103(c) and subparagraph 6.2 of the settlement agreement.

(2) AUTHORIZATION OF APPROPRIATION FOR PASTURE CANYON SPRINGS PROTECTION PROGRAM.—

(A) IN GENERAL.—There is authorized to be appropriated to carry out activities relating to the Pasture Canyon Springs Protection Program in accordance with section 103(c)(2) and to implement the Pasture Canyon Springs Protection Program provisions of subparagraph 6.2 of the settlement agreement \$10,400,000.

(B) FLUCTUATIONS IN COSTS.—The amount authorized to be appropriated under subparagraph (A) shall be increased or decreased, as appropriate, by such amounts as may be justified by reason of ordinary fluctuations in costs occurring after May 1, 2011, as indicated by applicable engineering cost indices.

(3) MANAGEMENT OF ACCOUNT.—

(A) IN GENERAL.—The Secretary shall manage the Pasture Canyon Springs Protection Program Account in a manner that is consistent with—

(i) the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.); and

(ii) this subsection.

(B) INVESTMENTS.—The Secretary shall invest amounts in the Pasture Canyon Springs Protection Program Account in accordance with subsection (a)(3)(B).

(4) AVAILABILITY.—Amounts made available under this subsection shall not be available to the Secretary for expenditure until the date on which the Secretary publishes in the Federal Register the statement of findings under section 108(a).

(g) TRANSFER OF FUNDS.—

(1) NAVAJO NATION.—The Secretary may, upon request of the Navajo Nation, transfer amounts from an account established by subsections (a) and (b) to any other account established by this section.

(2) HOPI TRIBE.—The Secretary may, upon request of the Hopi Tribe, transfer amounts from an account established by subsections (c), (d), and (f) to any other account established by this section.

(3) AVAILABILITY.—

(A) IN GENERAL.—The Secretary shall not transfer amounts under this subsection until the day after the date on which the Secretary publishes in the Federal Register the statement of findings under section 108(a).

(B) AVAILABLE UNTIL EXPENDED.—Any amounts transferred under this subsection shall remain available until expended.

(h) OFFSET.—To the extent necessary, the Secretary shall offset any direct spending authorized and any interest earned on amounts expended pursuant to this section using such additional amounts as may be made available to the Secretary for the applicable fiscal year.

#### SEC. 105. WAIVERS, RELEASES, AND RETENTIONS OF CLAIMS.

(a) NAVAJO NATION WAIVERS, RELEASES, AND RETENTIONS OF CLAIMS.—

(1) CLAIMS AGAINST THE STATE AND OTHERS.—

(A) IN GENERAL.—Except as provided in subparagraph (C), the Navajo Nation, on behalf of itself and the members of the Navajo Nation (but not members in their capacity as allottees), and the United States, acting as trustee for the Navajo Nation and the members of the Navajo Nation (but not members in their capacity as allottees), as part of the performance of the respective obligations of the Navajo Nation and the United States under the settlement agreement, are authorized to execute a waiver and release of any claims against the State (or any agency or political subdivision of the State), the Hopi

Tribe, or any other person, entity, corporation or municipal corporation under Federal, State or other law for all—

(i) past, present, and future claims for water rights for Navajo land and land of the Navajo Nation outside of the State, whether held in fee or held in trust by the United States on behalf of the Navajo Nation, arising from time immemorial and, thereafter, forever;

(ii) past, present, and future claims for water rights arising from time immemorial and, thereafter, forever, that are based on aboriginal occupancy of land both within and outside of the State by the Navajo Nation, the members of the Navajo Nation, or their predecessors;

(iii) past and present claims for injury to water rights and injury to water quality for Navajo land and land of the Navajo Nation outside of the State, whether held in fee or held in trust by the United States on behalf of the Navajo Nation, arising from time immemorial through the LCR enforceability date;

(iv) past, present, and future claims for injury to water rights and injury to water quality arising from time immemorial and, thereafter, forever, that are based on aboriginal occupancy of land both within and outside of the State by the Navajo Nation, the members of the Navajo Nation, or their predecessors;

(v) claims for injury to water rights and injury to water quality arising after the LCR enforceability date for Navajo land and land of the Navajo Nation outside of the State, whether held in fee or held in trust by the United States on behalf of the Navajo Nation, resulting from the diversion or use of water in a manner not in violation of the settlement agreement; and

(vi) past, present, and future claims arising out of, or relating in any manner to, the negotiation, execution, or adoption of the settlement agreement, an applicable settlement judgment or decree, or this Act.

(B) EFFECTIVE DATE.—The waiver and release of claims under subparagraph (A) shall be effective on the LCR enforceability date.

(C) RETENTION OF CLAIMS.—The Navajo Nation, on behalf of itself and the members of the Navajo Nation (but not members in their capacity as allottees), and the United States, acting as trustee for the Navajo Nation and the members of the Navajo Nation (but not members in their capacity as allottees), shall retain all rights not expressly waived under subparagraph (A), including any right—

(i) subject to subparagraph 13.14 of the settlement agreement—

(I) to assert claims of rights to upper basin water for Navajo land; and

(II) to assert claims of rights to upper basin water that are based on aboriginal occupancy of land within the upper basin by the Navajo Nation, the members of the Navajo Nation, or their predecessors;

(ii) subject to subparagraphs 6.3 and 13.8 of the settlement agreement, to assert claims for injuries to, and seek enforcement of, the rights of the Navajo Nation under the settlement agreement or this Act, in any Federal or State court of competent jurisdiction;

(iii) to assert claims for injuries to, and seek enforcement of, the rights of the Navajo Nation under the LCR decree;

(iv) to assert claims for injuries to, and seek enforcement of, the rights of the Navajo Nation under the Gila River Adjudication decree;

(v) to participate in the LCR adjudication to the extent provided in the settlement agreement;

(vi) to participate in the Gila River adjudication to the extent provided in subparagraphs 4.12, 4.13 and 4.14 of the settlement agreement;

(vii) except as provided in the settlement agreement, to object to any claims for water rights, injury to water rights, or injury to water quality by or for any Indian tribe or the United States on behalf of the Indian tribe;

(viii) except as provided in the settlement agreement, to assert past, present, or future claims for injury to water rights, injury to water quality, or any other claims other than a claim for water rights, against any Indian tribe or the United States on behalf of the Indian tribe;

(ix) to assert past, present, or future claims for rights to Lower Colorado River water, injury to rights to Lower Colorado River water, or injury to quality of Lower Colorado River water for Navajo land; and

(x) to assert past, present, or future claims for rights to Lower Colorado River water, injury to rights to Lower Colorado River water, or injury to quality of Lower Colorado River water that are based on aboriginal occupancy of land by the Navajo Nation, the members of the Navajo Nation, or their predecessors.

(2) CLAIMS AGAINST THE UNITED STATES.—

(A) IN GENERAL.—Except as provided in subparagraph (C), the Navajo Nation, on behalf of itself and the members of the Navajo Nation (but not members in their capacity as allottees), as part of the performance of the obligations of the Navajo Nation under the settlement agreement, is authorized to execute a waiver and release of any claims against the United States (or agencies, officials, or employees of the United States) under Federal, State, or other law for all—

(i) past, present, and future claims for water rights for Navajo land and land of the Navajo Nation outside of the State, whether held in fee or held in trust by the United States on behalf of the Navajo Nation, arising from time immemorial and, thereafter, forever;

(ii) past, present, and future claims for water rights arising from time immemorial and, thereafter, forever, that are based on aboriginal occupancy of land both within and outside of the State by the Navajo Nation, the members of the Navajo Nation, or their predecessors;

(iii) past and present claims for injury to water rights and injury to water quality for Navajo land and land of the Navajo Nation outside of the State, whether held in fee or held in trust by the United States on behalf of the Navajo Nation, arising from time immemorial through the LCR enforceability date;

(iv) past, present, and future claims for injury to water rights and injury to water quality arising from time immemorial and, thereafter, forever, that are based on aboriginal occupancy of land both within and outside of the State by the Navajo Nation, the members of the Navajo Nation, or their predecessors;

(v) claims for injury to water rights and injury to water quality arising after the LCR enforceability date for Navajo land and land of the Navajo Nation outside of the State, whether held in fee or held in trust by the United States on behalf of the Navajo Nation, resulting from the diversion or use of water in a manner not in violation of the settlement agreement;

(vi) past, present, and future claims arising out of, or relating in any manner to, the negotiation, execution, or adoption of the set-

tlement agreement, an applicable settlement judgment or decree, or this Act;

(vii) past, present, and future claims for failure to protect, acquire, or develop water rights for or on behalf of the Navajo Nation and the members of the Navajo Nation arising from time immemorial and, thereafter, forever;

(viii) past, present, and future claims relating to failure to assert any claims authorized to be waived under this subsection;

(ix) claims for the OM&R costs of the Navajo Groundwater Projects, which shall be effective on the date on which the Secretary transfers title to, and OM&R responsibility for, the Navajo Groundwater Projects to the Navajo Nation;

(x) claims in the case styled *The Navajo Nation v. United States Department of the Interior*, Case No. CV-03-057-PCT-PGR, pending in the United States District Court for the District of Arizona, including all claims based on the facts alleged in the complaint filed in the action, except any claim that is dismissed without prejudice pursuant to section 108(a)(14); and

(xi) past and present claims relating in any manner to damages, losses, or injuries to water, water rights, land, or other resources due to loss of water or water rights (including damages, losses, or injuries to hunting, fishing, gathering, or cultural rights due to loss of water or water rights, claims relating to interference with, diversion, or taking of water, or claims relating to failure to protect, acquire, or develop water, water rights, or water infrastructure) within the reservation and off-reservation trust land that first accrued at any time prior to the LCR enforceability date.

(B) EFFECTIVE DATE.—Except as provided in subparagraph (A)(ix), the waiver and release of claims under subparagraph (A) shall be effective on the LCR enforceability date.

(C) RETENTION OF CLAIMS.—The Navajo Nation and the members of the Navajo Nation (but not members in their capacity as allottees) shall retain all rights not expressly waived in under subparagraph (A), including any right—

(i) subject to subparagraph 13.14 of the settlement agreement—

(I) to assert claims of rights to upper basin water for Navajo land; and

(II) to assert claims of rights to upper basin water that are based on aboriginal occupancy of land within the upper basin by the Navajo Nation, the members of the Navajo Nation, or their predecessors;

(ii) subject to subparagraph 13.8 of the settlement agreement, to assert claims for injuries to, and seek enforcement of, the rights of the Navajo Nation under the settlement agreement or this Act in any Federal or State court of competent jurisdiction;

(iii) to assert claims for injuries to, and seek enforcement of, the rights of the Navajo Nation under the LCR decree;

(iv) to assert claims for injuries to, and seek enforcement of, the rights of the Navajo Nation under the Gila River adjudication decree;

(v) to participate in the LCR adjudication to the extent provided in the settlement agreement;

(vi) to participate in the Gila River adjudication to the extent provided in subparagraphs 4.12, 4.13, and 4.14 of the settlement agreement;

(vii) except as provided in the settlement agreement, to object to any claims for water rights, injury to water rights, or injury to water quality by or for any Indian tribe or the United States on behalf of the Indian tribe;

(viii) except as provided in the settlement agreement, to assert past, present, or future claims for injury to water rights, injury to water quality, or any other claims other than a claim for water rights, against any Indian tribe or the United States on behalf of the Indian tribe;

(ix) to assert past, present, or future claims for rights to Lower Colorado River water, injury to rights to Lower Colorado River water, or injury to quality of Lower Colorado River water for Navajo land; and

(x) to assert past, present, or future claims for rights to Lower Colorado River water, injury to rights to Lower Colorado River water, or injury to quality of Lower Colorado River water that are based on aboriginal occupancy of land by the Navajo Nation, the members of the Navajo Nation, or their predecessors.

(b) HOPI TRIBE WAIVERS, RELEASES, AND RETENTIONS OF CLAIMS.—

(1) CLAIMS AGAINST THE STATE AND OTHERS.—

(A) IN GENERAL.—Except as provided in subparagraph (C), the Hopi Tribe, on behalf of itself and the members of the Hopi Tribe (but not members in their capacity as allottees), and the United States, acting as trustee for the Hopi Tribe and the members of the Hopi Tribe (but not members in their capacity as allottees), as part of the performance of the respective obligations of the Hopi Tribe and the United States under the settlement agreement, are authorized to execute a waiver and release of any claims against the State (or any agency or political subdivision of the State), the Navajo Nation, or any other person, entity, corporation, or municipal corporation under Federal, State, or other law for all—

(i) past, present, and future claims for water rights for Hopi land arising from time immemorial and, thereafter, forever;

(ii) past, present, and future claims for water rights arising from time immemorial and, thereafter, forever, that are based on aboriginal occupancy of land by the Hopi Tribe, the members of the Hopi Tribe, or their predecessors;

(iii) past and present claims for injury to water rights and injury to water quality for Hopi land arising from time immemorial through the LCR enforceability date;

(iv) past, present, and future claims for injury to water rights and injury to water quality arising from time immemorial and, thereafter, forever, that are based on aboriginal occupancy of land by the Hopi Tribe, the members of the Hopi Tribe, or their predecessors;

(v) claims for injury to water rights and injury to water quality arising after the LCR enforceability date for Hopi land resulting from the diversion or use of water in a manner not in violation of the settlement agreement; and

(vi) past, present, and future claims arising out of, or relating in any manner to, the negotiation, execution, or adoption of the settlement agreement, an applicable settlement judgment or decree, or this Act.

(B) EFFECTIVE DATE.—The waiver and release of claims under subparagraph (A) shall be effective on the LCR enforceability date.

(C) RETENTION OF CLAIMS.—The Hopi Tribe on behalf of itself and the members of the Hopi Tribe (but not members in their capacity as allottees), and the United States, acting as trustee for the Hopi Tribe and the members of the Hopi Tribe (but not members in their capacity as allottees), shall retain all rights not expressly waived under subparagraph (A), including any right—

(i) to assert claims for injuries to, and seek enforcement of, the rights of the Hopi Tribe under the Norviel Decree, as set forth in the abstracts required pursuant to subparagraph 5.4.1 of the settlement agreement;

(ii) subject to subparagraphs 6.3 and 13.8 of the settlement agreement, to assert claims for injuries to, and seek enforcement of, the rights of the Hopi Tribe under the settlement agreement or this Act, in any Federal or State court of competent jurisdiction;

(iii) to assert claims for injuries to, and seek enforcement of, the rights of the Hopi Tribe under the LCR decree;

(iv) to participate in the LCR adjudication to the extent provided in the settlement agreement;

(v) except as provided in the settlement agreement, to object to any claims for water rights, injury to water rights, or injury to water quality by or for any Indian tribe or the United States on behalf of the Indian tribe;

(vi) except as provided in the settlement agreement, to assert past, present, or future claims for injury to water rights, injury to water quality, or any other claims other than a claim for water rights, against any Indian tribe or the United States on behalf of the Indian tribe;

(vii) to assert past, present, or future claims for rights to Lower Colorado River water, injury to rights to Lower Colorado River water, or injury to quality of Lower Colorado River water for Hopi land; and

(viii) to assert past, present, or future claims for rights to Lower Colorado River water, injury to rights to Lower Colorado River water, or injury to quality of Lower Colorado River water that are based on aboriginal occupancy of land by the Hopi Tribe, the members of the Hopi Tribe, or their predecessors.

#### (2) CLAIMS AGAINST THE UNITED STATES.—

(A) IN GENERAL.—Except as provided in subparagraph (C), the Hopi Tribe, on behalf of itself and the members of the Hopi Tribe (but not members in their capacity as allottees), as part of the performance of the obligations of the Hopi Tribe under the settlement agreement, is authorized to execute a waiver and release of any claims against the United States (or agencies, officials, or employees of the United States) under Federal, State, or other law for all—

(i) past, present, and future claims for water rights for Hopi land arising from time immemorial and, thereafter, forever;

(ii) past, present, and future claims for water rights arising from time immemorial and, thereafter, forever, that are based on aboriginal occupancy of land by the Hopi Tribe, the members of the Hopi Tribe, or their predecessors;

(iii) past and present claims for injury to water rights and injury to water quality for Hopi land arising from time immemorial through the LCR enforceability date;

(iv) past, present, and future claims for injury to water rights and injury to water quality arising from time immemorial and, thereafter, forever, that are based on aboriginal occupancy of land by the Hopi Tribe, the members of the Hopi Tribe, or their predecessors;

(v) claims for injury to water rights and injury to water quality arising after the LCR enforceability date for Hopi land resulting from the diversion or use of water in a manner not in violation of the settlement agreement;

(vi) past, present, and future claims arising out of, or relating in any manner to, the negotiation, execution, or adoption of the set-

tlement agreement, an applicable settlement judgment or decree, or this Act;

(vii) past, present, and future claims for failure to protect, acquire, or develop water rights for or on behalf of the Hopi Tribe and the members of the Hopi Tribe arising from time immemorial and, thereafter, forever;

(viii) past, present, and future claims relating to failure to assert any claims authorized to be waived under this subsection;

(ix) claims for the OM&R costs of the Hopi Groundwater Project, which shall become effective on the date on which the Secretary transfers title to, and OM&R responsibility for, the Hopi Groundwater Project to the Hopi Tribe; and

(x) past and present claims relating in any manner to damages, losses, or injuries to water, water rights, land, or other resources due to loss of water or water rights (including damages, losses, or injuries to hunting, fishing, gathering, or cultural rights due to loss of water or water rights, claims relating to interference with, diversion, or taking of water, or claims relating to failure to protect, acquire, or develop water, water rights, or water infrastructure) within the reservation and off-reservation trust land that first accrued at any time prior to the LCR enforceability date.

(B) EFFECTIVE DATE.—Except as provided in subparagraph (A)(ix), the waiver and release of claims under subparagraph (A) shall be effective on the LCR enforceability date.

(C) RETENTION OF CLAIMS.—The Hopi Tribe on behalf of itself and the members of the Hopi Tribe (but not members in their capacity as allottees) shall retain all rights not expressly waived under subparagraph (A), including any right—

(i) to assert claims for injuries to, and seek enforcement of, the rights of the Hopi Tribe under the Norviel Decree, as set forth in the abstracts required pursuant to subparagraph 5.4.1 of the settlement agreement;

(ii) subject to subparagraph 13.8 of the settlement agreement, to assert claims for injuries to, and seek enforcement of, the rights of the Hopi Tribe under the settlement agreement or this Act, in any Federal or State court of competent jurisdiction;

(iii) to assert claims for injuries to, and seek enforcement of, the rights of the Hopi Tribe under the LCR decree;

(iv) to participate in the LCR adjudication to the extent provided in the settlement agreement;

(v) except as provided in the settlement agreement, to object to any claims for water rights, injury to water rights, or injury to water quality by or for any Indian tribe or the United States on behalf of the Indian tribe other than the Navajo Nation and the Hopi Tribe;

(vi) except as provided in the settlement agreement, to assert past, present, or future claims for injury to water rights, injury to water quality, or any other claims other than a claim for water rights, against any Indian tribe or the United States on behalf of the Indian tribe other than the Navajo Nation and the Hopi Tribe;

(vii) to assert past, present, or future claims for rights to Lower Colorado River water, injury to rights to Lower Colorado River water, or injury to quality of Lower Colorado River water for Hopi land; and

(viii) to assert past, present, or future claims for rights to Lower Colorado River water, injury to rights to Lower Colorado River water, or injury to quality of Lower Colorado River water that are based on aboriginal occupancy of land by the Hopi Tribe, the members of the Hopi Tribe, or their predecessors.

(c) WAIVERS AND RELEASES OF CLAIMS BY THE UNITED STATES.—

(1) ACTING AS TRUSTEE FOR ALLOTTEES.—

(A) IN GENERAL.—Except as provided in subparagraph (C), the United States, acting as trustee for allottees of the Navajo Nation and Hopi Tribe, as part of the performance of the obligations of the United States under the settlement agreement, is authorized to execute a waiver and release of any claims against the State (or any agency or political subdivision of the State), the Navajo Nation, the Hopi Tribe, or any other person, entity, corporation, or municipal corporation under Federal, State, or other law, for all—

(i) past, present, and future claims for water rights for allotments arising from time immemorial and, thereafter, forever;

(ii) past, present, and future claims for water rights arising from time immemorial and, thereafter, forever, that are based on aboriginal occupancy of land by allottees or their predecessors;

(iii) past and present claims for injury to water rights and injury to water quality for allotments arising from time immemorial through the LCR enforceability date;

(iv) past, present, and future claims for injury to water rights and injury to water quality, if any, arising from time immemorial and, thereafter, forever, that are based on aboriginal occupancy of land by allottees or their predecessors;

(v) claims for injury to water rights and injury to water quality arising after the LCR enforceability date for allotments resulting from the diversion or use of water in a manner not in violation of the settlement agreement; and

(vi) past, present, and future claims arising out of, or relating in any manner to, the negotiation, execution, or adoption of the settlement agreement, an applicable settlement judgment or decree, or this Act.

(B) EFFECTIVE DATE.—The waiver and release of claims under subparagraph (A) shall be effective on the LCR enforceability date.

(C) RETENTION OF CLAIMS.—The United States, acting as trustee for allottees of the Navajo Nation and Hopi Tribe, shall retain all rights not expressly waived under subparagraph (A), including any right—

(i) subject to subparagraph 13.14 of the settlement agreement—

(I) to assert claims of rights to upper basin water, if any, for allotments; and

(II) to assert claims of rights to upper basin water that are based on aboriginal occupancy of land within the upper basin in the State by allottees or their predecessors;

(ii) subject to subparagraph 13.8 of the settlement agreement, to assert claims for injuries to, and seek enforcement of, the rights of allottees, if any, under the settlement agreement or this Act, in any Federal or State court of competent jurisdiction;

(iii) to assert claims for injuries to, and seek enforcement of, the rights of allottees, if any, under the LCR decree;

(iv) to participate in the LCR adjudication to the extent provided in the settlement agreement;

(v) except as provided in the settlement agreement, to object to any claims for water rights, injury to water rights, or injury to water quality by or for any Indian tribe;

(vi) except as provided in the settlement agreement, to assert past, present, or future claims for injury to water rights, injury to water quality, or any other claims other than a claim for water rights, against any Indian tribe;

(vii) to assert past, present, or future claims for rights to Lower Colorado River

water, injury to rights to Lower Colorado River water, or injury to quality of Lower Colorado River water for allotments; and

(viii) to assert past, present, or future claims for rights to Lower Colorado River water, injury to rights to Lower Colorado River water, or injury to quality of Lower Colorado River water that are based on aboriginal occupancy of land by allottees or their predecessors.

(2) **WAIVER AND RELEASE OF CLAIMS BY THE UNITED STATES AGAINST THE NAVAJO NATION AND THE HOPI TRIBE.**—

(A) **IN GENERAL.**—Except as provided subparagraph (C), the United States, except when acting as trustee for an Indian tribe other than the Navajo Nation or the Hopi Tribe, as part of the performance of the obligations of the United States under the settlement agreement, is authorized to execute a waiver and release of any and all claims of the United States against the Navajo Nation and the Hopi Tribe, including any agency, official, or employee of the Navajo Nation or the Hopi Tribe, under Federal, State, or any other law for all—

(i) past, present, and future claims arising out of, or relating in any manner to, the negotiation or execution of the settlement agreement or this Act;

(ii) past and present claims for injury to water rights and injury to water quality resulting from the diversion or use of water on Navajo land and Hopi land arising from time immemorial through the LCR enforceability date; and

(iii) claims for injury to water rights and injury to water quality arising after the LCR enforceability date resulting from the diversion or use of water on Navajo land and Hopi land in a manner not in violation of the settlement agreement.

(B) **EFFECTIVE DATE.**—The waiver and release of claims under subparagraph (A) shall be effective on the LCR enforceability date.

(C) **RETENTION OF CLAIMS.**—The United States shall retain all rights not expressly waived under subparagraph (A), including—

(i) subject to subparagraph 13.8 of the settlement agreement, to assert claims for injuries to, and seek enforcement of, the settlement agreement or this Act, in any Federal or State court of competent jurisdiction;

(ii) to enforce the Gila River adjudication decree; and

(iii) to enforce the LCR decree.

**SEC. 106. SATISFACTION OF WATER RIGHTS AND OTHER BENEFITS.**

(a) **NAVAJO NATION.**—

(1) **IN GENERAL.**—Except as provided in the settlement agreement, the benefits realized by the Navajo Nation under the settlement agreement and this Act shall be in complete and full satisfaction of all claims of the Navajo Nation and the members of the Navajo Nation, and the United States, acting as trustee for the Navajo Nation and the members of the Navajo Nation, for water rights, injury to water rights, and injury to water quality, under Federal, State, or other law with respect to Navajo land.

(2) **SOURCE.**—Any entitlement to water of the Navajo Nation and the members of the Navajo Nation, or the United States, acting as trustee for the Navajo Nation and the members of the Navajo Nation, for Navajo land shall be satisfied out of the water resources and other benefits granted, confirmed, or recognized to or for the Navajo Nation, and the United States, acting as trustee for the Navajo Nation, by the settlement agreement, the LCR decree, the Navajo Nation water delivery contract, and this Act.

(3) **EFFECT.**—Notwithstanding paragraph (2), nothing in the settlement agreement or

this Act has the effect of recognizing or establishing any right of a member of the Navajo Nation to water on Navajo land.

(b) **HOPI TRIBE.**—

(1) **IN GENERAL.**—Except as provided in the settlement agreement, the benefits realized by the Hopi Tribe under the settlement agreement and this Act shall be in complete and full satisfaction of all claims of the Hopi Tribe and the members of the Hopi Tribe, and the United States, acting as trustee for the Hopi Tribe and the members of the Hopi Tribe, for water rights, injury to water rights, and injury to water quality under Federal, State, or other law with respect to Hopi land.

(2) **SOURCE.**—Any entitlement to water of the Hopi Tribe and the members of the Hopi Tribe, or the United States, acting as trustee for the Hopi Tribe and the members of the Hopi Tribe, for Hopi land shall be satisfied out of the water resources and other benefits granted, confirmed, or recognized to or for the Hopi Tribe, and the United States, acting as trustee for the Hopi Tribe, by the settlement agreement, the LCR decree, and this Act.

(3) **EFFECT.**—Notwithstanding paragraph (2), nothing in the settlement agreement or this Act has the effect of recognizing or establishing any right of a member of the Hopi Tribe to water on Hopi land.

(c) **ALLOTTEES WATER CLAIMS.**—

(1) **IN GENERAL.**—Except as provided in the settlement agreement, the benefits realized by allottees under the settlement agreement and this Act shall be in complete replacement of and substitution for, and full satisfaction of, all claims of allottees, and the United States, acting as trustee for allottees, for water rights, injury to water rights, and injury to water quality under Federal, State, or other law with respect to allotments.

(2) **SOURCE.**—Except as provided in exhibit 4.7.3 of the settlement agreement, any entitlement to water of allottees, or the United States, acting as trustee for allottees, for allotments shall be satisfied out of the water resources and other benefits granted, confirmed, or recognized to or for the Navajo Nation, the Hopi Tribe, and the United States, acting as trustee for the Navajo Nation, the Hopi Tribe, and allottees, by the settlement agreement, the LCR decree, and this Act.

(d) **EXCEPTIONS.**—Except as provided in section 105, nothing in this Act affects any right to water of any member of the Navajo Nation, the Hopi Tribe, or any allottee for land outside of Navajo land, Hopi land, or allotments.

(e) **NAVAJO-HOPI LAND DISPUTE SETTLEMENT ACT OF 1996.**—

(1) **WATER RIGHTS.**—Except as expressly provided in the settlement agreement, the water rights of the Hopi Tribe on land acquired pursuant to the Navajo-Hopi Land Dispute Settlement Act of 1996 (25 U.S.C. 640d note; Public Law 104-301), and the rights of the Hopi Tribe to object to surface water and groundwater uses on the basis of water rights associated with that land, shall be governed by that Act.

(2) **AMENDMENT.**—Section 12 of the Navajo-Hopi Land Dispute Settlement Act of 1996 (25 U.S.C. 640d note; Public Law 104-301) is amended—

(A) in subsection (a)(1)(C), by striking “beneficial use” and inserting “beneficial use of surface water”; and

(B) by striking subsection (e) and inserting the following:

“(e) **PROHIBITION.**—

“(1) **IN GENERAL.**—Subject to paragraph (2), water rights for newly acquired trust land shall not be used, leased, sold, or transported for use off of that land or the other trust land of the Tribe, except that the Tribe may agree with other persons having junior water rights to subordinate the senior water rights of the Tribe.

“(2) **RESTRICTIONS.**—

“(A) **IN GENERAL.**—Water rights for newly acquired trust land shall only be used on that land or other trust land of the Tribe that is located within the same river basin tributary as the main stream of the Colorado River.

“(B) **TEMPORARY TRANSFER FOR USE OFF-RESERVATION.**—Notwithstanding any other provision of statutory or common law or subparagraph (A) and in accordance with subparagraphs (C) through (J), on approval of the Secretary, the Hopi Tribe may enter into a service contract, lease, exchange, or other agreement providing for the temporary delivery, use, or transfer of not more than 10,000 acre-feet per year of groundwater from newly acquired trust land that is located within 20 miles of the municipal boundaries of Winslow, Arizona, but is not within the Protection Areas (as that term is described in paragraph 3.1.119 of the Navajo-Hopi Little Colorado River Water Rights Settlement Agreement) for use at—

“(i) Hopi fee land that is located within 5 miles of the municipal boundaries of Winslow, Arizona; and

“(ii) the City of Winslow, Arizona, for municipal use by the City of Winslow and the residents of that city, with the consent of the Hopi Tribe, as provided in paragraph 5.3 and exhibit 5.3 of the Navajo-Hopi Little Colorado River Water Rights Settlement Agreement.

“(C) **MAXIMUM TERM.**—

“(i) **IN GENERAL.**—The maximum term of any service contract, lease, exchange, or other agreement under subparagraph (B) (including all renewals of such an agreement) shall not exceed 99 years in duration.

“(ii) **ALIENATION.**—The Hopi Tribe shall not permanently alienate any groundwater transported off of newly acquired trust land pursuant to subparagraph (B).

“(D) **WEED AND DUST CONTROL.**—The Tribe shall maintain newly acquired trust land from which groundwater is or will be transported pursuant to subparagraph (B) free of noxious weeds and blowing dust that creates a threat to health or safety consistent with section 45-546 of the Arizona Revised Statutes.

“(E) **DAMAGE TO SURROUNDING LAND OR OTHER WATER USERS.**—

“(i) **DAMAGES.**—Any transportation of groundwater off of newly acquired trust land pursuant to subsection (B) shall be subject to payment of damages to the extent the groundwater withdrawals unreasonably increase damage to surrounding land or other water users from the concentration of wells.

“(ii) **NO PRESUMPTION OF DAMAGE.**—Neither injury to nor impairment of the water supply of any landowner shall be presumed from the fact of transportation of groundwater off of newly acquired trust land pursuant to subparagraph (B).

“(iii) **MITIGATION.**—In determining whether there has been injury and the extent of any injury, the court shall consider all acts of the person transporting groundwater toward the mitigation of injury, including the retirement of land from irrigation, discontinuance of other preexisting uses of groundwater, water conservation techniques, and procurement of additional sources of water

that benefit the sub-basin or landowners within the sub-basin.

“(iv) COURT FEES.—The court may award reasonable attorney fees, expert witness expenses and fees, and court costs to the prevailing party in litigation seeking damages for transporting groundwater off of newly acquired trust land pursuant to subparagraph (B).

“(F) NO OBLIGATION.—The United States (in any capacity) shall have no trust or other obligation to monitor, administer, or account for, in any manner, groundwater delivered pursuant to subparagraph (B).

“(G) LIABILITY.—The Secretary shall not be liable to the Hopi Tribe, the City of Winslow, Arizona, or any other person for any loss or other detriment resulting from an agreement entered into pursuant to subparagraph (B).

“(H) APPLICABLE LAW.—

“(i) STATE LAW.—Any transportation or use of groundwater off of the newly acquired trust land pursuant to subparagraph (B) shall be subject to and consistent with all laws (including regulations) of the State that apply to the transportation and use of water, including all applicable permitting and reporting requirements.

“(ii) PURCHASES OR GRANTS OF LANDS FROM INDIANS.—Section 2116 of the Revised Statutes (25 U.S.C. 177) shall not apply to any groundwater transported off of newly acquired trust land pursuant to subparagraph (B).

“(I) APPROVAL OF SECRETARY.—The Secretary shall approve or disapprove any service contract, lease, exchange, or other agreement under subparagraph (B) submitted by the Hopi Tribe for approval within a reasonable period of time after submission, except that approval by the Secretary shall not be required for any groundwater lease under subparagraph (B) for less than 10 acre-feet per year with a term of less than 7 years, including renewals.

“(J) NO FORFEITURE OR ABANDONMENT.—The nonuse of groundwater of the Hopi Tribe from the newly acquired trust land pursuant to subparagraph (B) shall not result in a forfeiture, abandonment, relinquishment, or other loss of all or any part of applicable rights.”.

#### SEC. 107. AFTER-ACQUIRED TRUST LAND.

(a) REQUIREMENT OF ACT OF CONGRESS.—Except as provided in section 11 of Public Law 93-531 (25 U.S.C. 640d-10) and the Navajo-Hopi Land Dispute Settlement Act of 1996 (25 U.S.C. 640d note; Public Law 104-301), the Navajo Nation or the Hopi Tribe may only seek to have legal title to additional land in the State, located outside the exterior boundaries of the land that is, on the date of enactment of this Act, in reservation status or held in trust for the benefit of the Navajo Nation or the Hopi Tribe, taken into trust by the United States for the benefit of the Navajo Nation or the Hopi Tribe, respectively, pursuant to an Act of Congress enacted after the date of enactment of this Act.

(b) WATER RIGHTS.—Any land taken into trust for the benefit of the Navajo Nation or the Hopi Tribe after the date of the enactment of this Act shall have only those rights to water provided under the settlement agreement, the Navajo-Hopi Land Dispute Settlement Act of 1996 (25 U.S.C. 640d note; Public Law 104-301), and this Act, unless provided otherwise in a subsequent Act of Congress, as provided in subsection (a).

(c) ACCEPTANCE OF LAND IN TRUST STATUS.—

(1) MANDATORY TRUST ACQUISITION.—Notwithstanding subsections (a) and (b), if the

Navajo Nation or Hopi Tribe acquires legal fee title to land that is located within the exterior boundaries of the Navajo Reservation or the Hopi Reservation, respectively, upon application by the Navajo Nation or the Hopi Tribe to take the land into trust, the Secretary shall accept the land into trust status for the benefit of the Navajo Nation or Hopi Tribe in accordance with applicable Federal law (including regulations).

(2) RESERVATION STATUS.—Land taken or held in trust by the Secretary under paragraph (1) shall be part of the Navajo Reservation or the Hopi Reservation, respectively.

#### SEC. 108. ENFORCEABILITY DATE.

(a) LITTLE COLORADO RIVER AND GILA RIVER WAIVERS.—The waivers and releases of claims described in section 105 shall take effect and be fully enforceable, and construction of the Navajo Groundwater Projects and the Hopi Groundwater Project may begin, on the date on which the Secretary publishes in the Federal Register a statement of findings that—

(1) to the extent that the settlement agreement conflicts with this Act, the settlement agreement has been revised through an amendment to eliminate the conflict and the revised settlement agreement has been executed by the Secretary, the Navajo Nation, the Hopi Tribe, the Governor of Arizona, and not less than 19 other parties;

(2) the waivers and releases of claims described in section 105 have been executed by the Navajo Nation, the Hopi Tribe, and the United States;

(3) the State contributions described in subsections (a)(2)(B)(iii) and (c)(2)(B)(ii) of section 104 have been made;

(4) the full amount described in section 104(a)(2)(A)(i), as adjusted by section 104(a)(2)(C), has been deposited in the Navajo Groundwater Projects Account;

(5) the full amount described in section 104(b)(2) has been deposited in the Navajo OM&R Trust Account;

(6) the full amount described in section 104(c)(2)(A)(i), as adjusted by section 104(c)(2)(C), has been deposited in the Hopi Groundwater Project Account;

(7) the full amount described in section 104(d)(2) has been deposited in the Hopi OM&R Trust Account;

(8) the full amount described in section 104(e)(2)(A), as adjusted by section 104(e)(2)(B), has been deposited in the N-Aquifer Account and is available for use to implement the N-Aquifer Management Plan;

(9) the full amount described in section 104(f)(2)(A), as adjusted by section 104(f)(2)(B), has been deposited in the Pasture Canyon Springs Protection Program Account and is available for use to implement the Pasture Canyon Springs Protection Program;

(10) the judgments and decrees in the LCR adjudication and the Gila River adjudication have been approved by the LCR adjudication court and the Gila River adjudication court substantially in the form of the judgments and decrees attached to the settlement agreement as exhibits 3.1.70 and 3.1.49, respectively;

(11) a law has been enacted by the State substantially in the form of a State implementing law attached to the settlement agreement as exhibit 3.1.128 and the law remains effective;

(12) the provisions of section 45-544 of the Arizona Revised Statutes restricting the transporting of groundwater from the Little Colorado River Plateau Groundwater Basin are in effect;

(13) the Secretary has completed a record of decision approving construction of—

(A) the Navajo Groundwater Projects in a configuration substantially similar to the configuration described in section 103(a); and

(B) the Hopi Groundwater Project, in a configuration substantially similar to the configuration described in section 103(b); and

(14) the Navajo Nation has moved for the dismissal with prejudice of the first, second, third, fourth, and fifth claims for relief contained in the complaint for declaratory and injunctive relief filed by the Navajo Nation on March 14, 2003, in the United States District Court for the District of Arizona, as part of the case styled *The Navajo Nation v. United States Department of the Interior* (No. CV-03-0507-PCT-PGR), and has moved for the dismissal without prejudice of sixth claim for relief contained in the complaint, substantially in the form of the dismissal attached to the settlement agreement as exhibit 11.9.

(b) FAILURE OF THE LITTLE COLORADO RIVER WAIVERS.—

(1) IN GENERAL.—If the Secretary does not publish in the Federal Register a statement of findings under subsection (a) by October 31, 2022, this Act is repealed and any amounts—

(A) appropriated under section 104, together with any investment earnings on those amounts, less any amounts expended under subsections (a)(9), (b)(9), and (c)(1) of section 103, shall revert immediately to the general fund of the Treasury;

(B) transferred pursuant to subsections (a)(2)(B)(i) and (c)(2)(B)(i) of section 104 to the Navajo Groundwater Projects Account and the Hopi Groundwater Project Account from the Future Indian Water Settlement Subaccount of the Lower Colorado River Basin Development Fund established pursuant to section 403(f)(2)(D)(vi) of the Colorado River Basin Project Act (43 U.S.C. 1543(f)(2)(D)(vi)), together with any investment earnings on those amounts, shall be returned immediately to the Future Indian Water Settlement Subaccount of the Lower Colorado River Basin Development Fund;

(C) transferred pursuant to section 104(a)(2)(B)(ii) to the Navajo Groundwater Projects Account from the Reclamation Water Settlements Fund established by section 10501 of the Omnibus Public Land Management Act of 2009 (43 U.S.C. 407), together with any investment earnings on those amounts, shall be returned immediately to the Reclamation Water Settlements Fund; and

(D) transferred pursuant to subsections (a)(2)(B)(iii) and (c)(2)(B)(ii) of section 104 to the Navajo Groundwater Projects Account and the Hopi Groundwater Project Account, together with any investment earnings on those amounts, shall be returned immediately to the State.

(2) SEVERABILITY.—Notwithstanding paragraph (1), if the Secretary does not publish in the Federal Register a statement of findings under subsection (a) by October 31, 2022, the designation under section 109(g) and the provisions of sections 205(a)(1), 205(a)(2)(B), 205(a)(3), 205(a)(4), 205(a)(5), and 206 shall remain in effect.

(c) RIGHT TO OFFSET.—

(1) NAVAJO NATION.—If the Secretary has not published in the Federal Register the statement of findings under subsection (a) by October 31, 2022, the United States shall be entitled to offset any Federal amounts made available under subsections (a)(9) and (c)(1) of section 103 that were used or authorized for any use under those subsections against any claim asserted by the Navajo Nation against the United States described in section 105(a)(2)(A).

(2) HOPI TRIBE.—If the Secretary has not published in the Federal Register the statement of finding under subsection (a) by October 31, 2022, the United States shall be entitled to offset any Federal amounts made available under subsections (b)(9) and (c)(1) of section 103 that were used or authorized for any use under those subsections against any claim asserted by the Hopi Tribe against the United States described in section 105(b)(2)(A).

#### SEC. 109. ADMINISTRATION.

(a) SOVEREIGN IMMUNITY.—If any party to the settlement agreement brings an action in any court of the United States or any State court relating only and directly to the interpretation or enforcement of this Act or the settlement agreement and names the United States, the Navajo Nation, or the Hopi Tribe as a party, or if any other landowner or water user in the Gila River or LCR basins in the State files a lawsuit relating only and directly to the interpretation or enforcement of paragraph 11.0 of the settlement agreement or section 105 of this Act, naming the United States, or the Navajo Nation or the Hopi Tribe as a party—

(1) the United States, the Navajo Nation, or the Hopi Tribe may be joined in the action; and

(2) any claim by the United States, the Navajo Nation, or the Hopi Tribe to sovereign immunity from the action is waived, but only for the limited and sole purpose of the interpretation or enforcement of this Act or the settlement agreement.

(b) NO QUANTIFICATION OR EFFECT ON RIGHTS OF OTHER INDIAN TRIBES OR THE UNITED STATES ON BEHALF OF OTHER INDIAN TRIBES.—

(1) IN GENERAL.—Except as provided in paragraph 7.2 of the settlement agreement or in paragraph (2), nothing in this Act—

(A) shall be construed to quantify or otherwise affect the water rights, claims, or entitlements to water of any Indian tribe, nation, band, or community, including the San Juan Southern Paiute Tribe, other than the Hopi Tribe and the Navajo Nation; or

(B) shall affect the ability of the United States to take action on behalf of any Indian tribe, nation, band, or community, including the San Juan Southern Paiute Tribe, other than the Hopi Tribe, members of the Hopi Tribe, allottees of the Hopi Tribe, the Navajo Nation, members of the Navajo Nation, and allottees of the Navajo Nation.

(c) ANTIDEFICIENCY.—

(1) IN GENERAL.—The expenditure or advance of any money or the performance of any obligation by the United States, in any capacity, under this Act shall be contingent on the appropriation of funds.

(2) LIABILITY.—The United States shall not be liable for the failure to carry out any obligation or activity authorized under this Act (including any obligation or activity under this Act) if Congress does not provide adequate appropriations expressly to carry out the purposes of this Act.

(d) RECLAMATION REFORM ACT.—The Reclamation Reform Act of 1982 (43 U.S.C. 390aa et seq.) and any other acreage limitation or full-cost pricing provision of Federal law shall not apply to any person, entity, or tract of land solely on the basis of—

(1) receipt of any benefit under this Act;

(2) execution or performance of this Act; or

(3) the use, storage, delivery, lease, or exchange of CAP water.

(e) DISMISSAL OF PENDING NAVAJO NATION COURT CASE.—Not later than 30 days after the date on which the settlement agreement is executed by the United States, the Navajo

Nation shall execute and file a stipulation and proposed order, substantially in the form attached to the settlement agreement as exhibit 11.9 for—

(1) the dismissal with prejudice of the first, second, third, fourth, and fifth claims for relief contained in the complaint for declaratory and injunctive relief in the case styled Navajo Nation v. United States Department of the Interior, No. CV-03-0507-PCT-PGR (D. Ariz. March 14, 2003); and

(2) the dismissal without prejudice of the sixth claim for relief contained in the complaint described in paragraph (1).

(f) TOLLING OF STATUTES OF LIMITATIONS.—Any statute of limitations that may otherwise apply to, limit, or bar the sixth claim for relief described in subsection (e)(2) shall be tolled as follows:

(1) If a settlement of the claims by the Navajo Nation to Lower Colorado River water has been approved by an Act of Congress enacted on or before December 15, 2022, then any statute of limitations that may otherwise apply to, limit, or bar the sixth claim for relief shall be tolled until the Navajo Nation waives the claims to Lower Colorado River water under the Act of Congress.

(2) If a settlement of the claims of the Navajo Nation to Lower Colorado River water has not been approved by an act of Congress on or before December 15, 2022, then any statute of limitations that may otherwise apply to, limit, or bar the sixth claim for relief shall be tolled until December 15, 2022.

(g) PETE SHUMWAY DAM & RESERVOIR.—

(1) IN GENERAL.—The facility known as Schoens Lake, Schoens Dam, and Schoens Reservoir, located on Show Low Creek in Navajo County, Arizona shall be known and designated as the “Pete Shumway Dam and Reservoir”.

(2) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility described in paragraph (1) shall be deemed to be a reference to the “Pete Shumway Dam and Reservoir”.

#### SEC. 110. ENVIRONMENTAL COMPLIANCE.

(a) ENVIRONMENTAL COMPLIANCE.—In implementing the settlement agreement and this Act, the Secretary shall comply with all applicable Federal environmental laws and regulations, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(b) EXECUTION OF THE SETTLEMENT AGREEMENT.—Execution of the settlement agreement by the Secretary as provided in this Act shall not constitute a major Federal action under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

(c) LEAD AGENCY.—The Commissioner of the Bureau of Reclamation shall be primarily responsible to ensure environmental compliance in carrying out this Act.

(d) NO EFFECT ON ENFORCEMENT OF ENVIRONMENTAL LAWS.—Nothing in this Act precludes the United States, the Navajo Nation, or the Hopi Tribe, when delegated regulatory authority, from enforcing Federal environmental laws, including—

(1) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), including claims for damages for harm to natural resources;

(2) the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

(3) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(4) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.); or

(5) any regulation implementing 1 or more of those Acts.

## TITLE II—CENTRAL ARIZONA PROJECT WATER

### SEC. 201. CONDITIONS FOR REALLOCATION OF CAP NIA PRIORITY WATER.

(a) REALLOCATION.—

(1) IN GENERAL.—The Secretary shall neither reallocate any CAP NIA priority water to the Navajo Nation under section 202(a) nor enter into a contract with the Navajo Nation for the delivery of that water under section 202(c) unless and until the Secretary has published in the Federal Register the statement of findings referred to in subsection (b) that all of the conditions described in paragraph (2) have been satisfied.

(2) CONDITIONS.—The conditions described in this paragraph are that—

(A) the LCR enforceability date has occurred;

(B) the Navajo Nation and the Navajo project lessees, with the approval of the Secretary, have executed an amendment to the Navajo Project Lease extending the term of the Navajo Project Lease through December 23, 2044;

(C) the Secretary, with the consent of the Navajo Nation, has issued or renewed to the Navajo project lessees, in a form acceptable to the Navajo project lessees, grants of Federal rights-of-way and easements pursuant to the first section of the Act of February 5, 1948 (25 U.S.C. 323), for—

(i) the land subject to the Navajo Project Lease and for the railroad-granted land, the terms of which shall extend through the term of the Navajo Project Lease, as amended; and

(ii) the power transmission lines over and across land on the Navajo Reservation, the terms of which shall extend through the term of the Navajo Project Lease, as amended, described as—

(I) the grant entitled “Grant of Easement or Right of Way from the Bureau of Indian Affairs, Window Rock, Arizona, Grantor”, dated February 1971, for the construction, operation, maintenance, replacement, and removal of the Navajo Project Southern Transmission System, with Map Nos. INH-96, sheets 1-4, B29036, dated May 28, 1970, marked as Exhibit B to that grant, and the complete centerline description shown on Exhibit A of that grant;

(II) the grant entitled “Grant of Easement and Right-of-Way by the United States of America, Bureau of Indian Affairs, Department of the Interior, Window Rock, Arizona, Grantor”, dated September 8, 1988, including amendments to that grant, for the construction, operation, and maintenance of the Navajo-McCullough Transmission Line, as shown on the Map marked Exhibit B to that grant and more particularly described in the right-of-way description marked Exhibit A to that grant; and

(III) a right-of-way or permit for the Navajo Generating Station/Western Area Power Administrative Intertie Transmission System, running from the Navajo Generating Station switchyard approximately 200 feet to the Western Area Power Administration transmission line;

(D) Peabody has leased coal in sufficient quantity and quality from the Navajo Nation, or the Navajo Nation and the Hopi Tribe, for the Navajo Generating Station to operate through the term of the Navajo Project Lease, as amended;

(E) the surface coal mining permit, or a revision of that permit, has been issued by the Secretary, acting through the Office of Surface Mining, Reclamation and Enforcement, to Peabody authorizing the operation of the



Kayenta mine and the mining of the quantities of coal referred to in subparagraph (D) through the term of the Navajo Project Lease, as amended;

(F) Peabody and the Navajo project lessees have entered into a coal supply contract for the purchase of the quantities and quality of coal referred to in subparagraph (D) that extends through the term of the Navajo Project Lease, as amended;

(G) the term of the contract for water service among the Navajo project lessees and the Bureau of Reclamation for the consumptive use at the Navajo Generating Station of up to 34,100 afy of upper basin water has been extended through the term of the Navajo Project Lease, as amended; and

(H) the Secretary, acting through the Director of the National Park Service, has reissued or extended the right-of-way permit No. RW GLCA-06-002, issued on August 30, 2006, through the term of the Navajo Project Lease, as amended.

(b) PUBLICATION OF STATEMENT OF FINDINGS.—Upon satisfaction of all of the conditions described in subsection (a)(2), the Secretary shall publish in the Federal Register a statement of findings that each of the conditions has been met.

(c) TIMING OF REALLOCATION.—Upon publication in the Federal Register of the statement of findings referred to in subsection (b), the Secretary shall reallocate to the Navajo Nation the CAP NIA priority water in accordance with section 202(a) and enter into a contract with the Navajo Nation for the delivery of that water in accordance with section 202(c), through the Navajo-Gallup water supply project in accordance with this Act.

(d) FAILURE TO PUBLISH NOTICE.—If the Secretary fails to publish a statement of findings in the Federal Register under subsection (b) by October 31, 2022—

(1) the authority provided under this section and section 202 shall terminate; and

(2) this section and section 202, 203, 204, 205(a)(2)(A), and 205(b) shall be of no further force or effect.

## SEC. 202. REALLOCATION OF CAP NIA PRIORITY WATER, FIRING, WATER DELIVERY CONTRACT.

(a) REALLOCATION TO THE NAVAJO NATION.—

(I) IN GENERAL.—On the date on which the Secretary publishes in the Federal Register the statement of findings under section 201(b), the Secretary shall reallocate to the Navajo Nation the Navajo Nation CAP water.

(2) AVAILABILITY AND USE.—The water reallocated under paragraph (1) shall be available for diversion and use from the San Juan River pursuant to and consistent with section 10603(b)(2)(D) of the Omnibus Public Land Management Act of 2009 (Public Law 111–11; 123 Stat. 1383) (as amended by section 205).

(b) FIRING.—

(I) NAVAJO NATION CAP WATER.—The Navajo Nation CAP water shall be fired as follows:

(A) In accordance with section 105(b)(1)(B) of the Arizona Water Settlements Act (Public Law 108–451; 118 Stat. 3492), the Secretary shall firm 50 percent of the Navajo Nation CAP water to the equivalent of CAP M&I priority water for the period of 100 years beginning on January 1, 2008.

(B) In accordance with section 105(b)(2)(B) of the Arizona Water Settlements Act (Public Law 108–451; 118 Stat. 3492), the State shall firm 50 percent of the Navajo Nation CAP water to the equivalent of CAP M&I priority water for the period of 100 years beginning on January 1, 2008.

(2) ADDITIONAL FIRING.—The Navajo Nation may, at the expense of the Navajo Nation, take additional actions to firm or supplement the Navajo Nation CAP water, including by entering into agreements for that purpose with the Central Arizona Water Conservation District, the Arizona Water Banking Authority, or any other lawful authority, in accordance with State law.

(c) NAVAJO NATION WATER DELIVERY CONTRACT.—

(I) CONTRACT.—

(A) IN GENERAL.—The Secretary shall enter into the Navajo Nation water delivery contract, in accordance with the settlement agreement, which shall meet, at a minimum, the requirements described in subparagraph (B).

(B) REQUIREMENTS.—The requirements described in this subparagraph are as follows:

(i) AUTHORIZATION.—The contract entered into under subparagraph (A) shall be for permanent service (as that term is used in section 5 of the Boulder Canyon Project Act (43 U.S.C. 617d)), and shall be without limit as to term.

(ii) NAVAJO NATION CAP WATER.—

(I) IN GENERAL.—The Navajo Nation CAP water may be delivered through the Navajo-Gallup water supply project for use in the State.

(II) METHOD OF DELIVERY.—Subject to the physical availability of water from the San Juan River and to the rights of the Navajo Nation to use that water, deliveries under this clause shall be effected by the diversion and use of water from the San Juan River pursuant to section 10603 of the Omnibus Public Land Management Act of 2009 (Public Law 111–11; 123 Stat. 1382) (as amended by section 205).

(iii) CONTRACTUAL DELIVERY.—The Secretary shall deliver the Navajo Nation CAP water to the Navajo Nation in accordance with the terms and conditions of the Navajo Nation water delivery contract.

(iv) CURTAILMENT.—Except to the extent that the Navajo Nation CAP water is firmed by the United States and the State under subsection (b)(1) or is otherwise firmed by the Navajo Nation, deliveries of the Navajo Nation CAP water shall be subject to curtailment in that—

(I) deliveries of the Navajo Nation CAP water effected by the diversion of water from the San Juan River shall be curtailed during shortages of CAP NIA priority water to the same extent as other CAP NIA priority water supplies; and

(II) the extent of that curtailment shall be determined in accordance with clause (xvi).

(v) LEASES AND EXCHANGES OF NAVAJO NATION CAP WATER.—On and after the date on which the Navajo Nation water delivery contract becomes effective, the Navajo Nation may, with the approval of the Secretary, enter into contracts to lease, options to lease, exchange, or options to exchange the Navajo Nation CAP water within Apache, Cochise, Coconino, Gila, Graham, Maricopa, Navajo, Pima, Pinal, Santa Cruz, and Yavapai Counties, Arizona, providing for the temporary delivery to other persons of any portion of Navajo Nation CAP water.

(vi) TERM OF LEASES AND EXCHANGES.—

(I) LEASING.—Contracts to lease and options to lease under clause (v) shall be for a term not to exceed 100 years.

(II) EXCHANGING.—Contracts to exchange or options to exchange under clause (v) shall be for the term provided for in each such contract or option.

(III) RENEGOTIATION.—The Navajo Nation may, with the approval of the Secretary, re-

negotiate any lease described in clause (v), at any time during the term of the lease, if the term of the renegotiated lease does not exceed 100 years.

(vii) PROHIBITION ON PERMANENT ALIENATION.—No Navajo Nation CAP water may be permanently alienated.

(viii) NO FIRING OF LEASED WATER.—The firming obligations described in subsection (b)(1) shall not apply to any Navajo Nation CAP water leased by the Navajo Nation to other persons.

(ix) ENTITLEMENT TO LEASE AND EXCHANGE FUNDS.—

(I) IN GENERAL.—Only the Navajo Nation, and not the United States in any capacity, shall be entitled to all consideration due to the Navajo Nation under any contracts to lease, options to lease, contracts to exchange, or options to exchange the Navajo Nation CAP water entered into by the Navajo Nation.

(II) OBLIGATIONS OF UNITED STATES.—The United States in any capacity shall have no trust or other obligation to monitor, administer, or account for, in any manner, any funds received by the Navajo Nation as consideration under any contracts to lease, options to lease, contracts exchange, or options to exchange the Navajo Nation CAP water entered into by the Navajo Nation, except in a case in which the Navajo Nation deposits the proceeds of any such lease, option to lease, exchange, or option to exchange into an account held in trust for the Navajo Nation by the United States.

(x) WATER USE ON NAVAJO LAND.—

(I) IN GENERAL.—Except as authorized by clause (v), the Navajo Nation CAP water may only be used on—

(aa) the Navajo Reservation;

(bb) land held in trust by the United States for the benefit of the Navajo Nation; or

(cc) land owned by the Navajo Nation in fee that is located within the State.

(II) STORAGE.—The Navajo Nation may store the Navajo Nation CAP water at underground storage facilities or groundwater savings facilities located within the CAP system service area, consisting of Pima, Pinal, and Maricopa Counties, in accordance with State law.

(III) ASSIGNMENT.—The Navajo Nation may assign any long-term storage credits accrued as a result of storage under subclause (II) in accordance with State law.

(xi) NO USE OUTSIDE ARIZONA.—

(I) IN GENERAL.—No Navajo Nation CAP water may be used, leased, exchanged, forborne, or otherwise transferred by the Navajo Nation for use directly or indirectly outside of the State.

(II) AGREEMENTS.—Nothing in this Act or the settlement agreement limits the right of the Navajo Nation to enter into any agreement with the Arizona Water Banking Authority, or any successor agency or entity, in accordance with State law.

(xii) CAP FIXED OM&R CHARGES.—

(I) IN GENERAL.—The CAP operating agency shall be paid the CAP fixed OM&R charges associated with the delivery of all the Navajo Nation CAP water.

(II) PAYMENT OF CHARGES.—Except as provided in clause (xiii), all CAP fixed OM&R charges associated with the delivery of the Navajo Nation CAP water to the Navajo Nation shall be paid by—

(aa) the Secretary, pursuant to section 403(f)(2)(A) of the Colorado River Basin Project Act (43 U.S.C. § 1543(f)(2)(A)), as long as funds for that payment are available in the Lower Colorado River Basin Development Fund; and



(bb) if those funds become unavailable, the Navajo Nation.

(xiii) **LESSEE RESPONSIBILITY FOR CHARGES.**—

(I) **IN GENERAL.**—Any lease or option to lease providing for the temporary delivery to other persons of any Navajo Nation CAP water shall require the lessee to pay the CAP operating agency all CAP fixed OM&R charges and all CAP pumping energy charges associated with the delivery of the leased water.

(II) **NO RESPONSIBILITY FOR PAYMENT.**—Neither the Navajo Nation nor the United States in any capacity shall be responsible for the payment of any charges associated with the delivery of the Navajo Nation CAP water leased to other persons.

(xiv) **ADVANCE PAYMENT.**—No Navajo Nation CAP water shall be delivered unless the CAP fixed OM&R charges and the CAP pumping energy charges associated with the delivery of that water have been paid in advance.

(xv) **CALCULATION.**—The charges for delivery of the Navajo Nation CAP water pursuant to the Navajo Nation water delivery contract shall be calculated in accordance with the CAP repayment stipulation.

(xvi) **SHORTAGES OF NAVAJO NATION CAP WATER.**—If, for any year, the available CAP supply is insufficient to meet all demands under CAP contracts for the delivery of CAP NIA priority water, the Secretary and the CAP operating agency shall prorate the available CAP NIA priority water among the CAP contractors holding contractual entitlements to CAP NIA priority water on the basis of the quantity of CAP NIA priority water used by each such CAP contractor in the last year for which the available CAP supply was sufficient to fill all orders for CAP NIA priority water.

(xvii) **CAP REPAYMENT.**—For purpose of determining the allocation and repayment of costs of any stages of the CAP constructed after November 21, 2007, the costs associated with the delivery of the Navajo Nation CAP water, regardless of whether the Navajo Nation CAP water is delivered for use by the Navajo Nation or in accordance with any lease, option to lease, exchange, or option to exchange providing for the delivery to other persons of the Navajo Nation CAP water, shall be—

(I) nonreimbursable; and

(II) excluded from the repayment obligation of the Central Arizona Water Conservation District.

(xviii) **NONREIMBURSABLE CAP CONSTRUCTION COSTS.**—

(I) **IN GENERAL.**—With respect to the costs associated with the construction of the CAP system allocable to the Navajo Nation—

(aa) the costs shall be nonreimbursable; and

(bb) the Navajo Nation shall have no repayment obligation for the costs.

(II) **CAPITAL CHARGES.**—No CAP water service capital charges shall be due or payable for the Navajo Nation CAP water, regardless of whether the water is delivered for use by the Navajo Nation or is delivered under any lease, option to lease, exchange, or option to exchange the Navajo Nation CAP water entered into by the Navajo Nation.

#### SEC. 203. COLORADO RIVER ACCOUNTING.

(a) **ACCOUNTING FOR THE TYPE OF WATER DELIVERED.**—All deliveries of the Navajo Nation CAP water effected by the diversion of water from the San Juan River shall be accounted for as deliveries of CAP water.

(b) **ACCOUNTING FOR AS LOWER BASIN USE IN ARIZONA REGARDLESS OF PLACE OF USE OR POINT OF DIVERSION.**—All Navajo Nation CAP

water delivered to and consumptively used by the Navajo Nation or lessees of the Navajo Nation pursuant to the settlement agreement and this Act shall be—

(1) accounted for as if the use had occurred in the lower basin, regardless of the point of diversion or place of use;

(2) credited as water reaching Lee Ferry pursuant to articles III(c) and III(d) of the Colorado River Compact;

(3) charged against the consumptive use apportionment made to the lower basin by article III(a) of the Colorado River Compact; and

(4) accounted for as part of and charged against the 2,800,000 afy of Colorado River water apportioned to Arizona in article II(B)(1) of the decree.

(c) **LIMITATIONS.**—

(1) **IN GENERAL.**—Notwithstanding subsections (a) and (b) and subject to paragraphs (2) and (3), no water diverted by the Navajo-Gallup water supply project shall be accounted for as provided in subsections (a) and (b) until such time as the Secretary has developed and, as necessary, modified, in consultation with the Upper Colorado River Commission and the representatives of Governors on Colorado River Operations from each of the respective State signatories to the Colorado River Compact, all operational and decisional criteria, policies, contracts, guidelines, or other documents that control the operations of the Colorado River system reservoirs and diversion works, so as to adjust, account for, and offset the diversion of water apportioned to the State, pursuant to the Boulder Canyon Project Act (43 U.S.C. 617 et seq.), from a point of diversion on the San Juan River in New Mexico.

(2) **MODIFICATIONS.**—All modifications under paragraph (1) shall be—

(A) consistent with section 10603(c)(2)(A) of the Omnibus Public Land Management Act of 2009 (Public Law 111-11; 123 Stat. 1384) and this Act; and

(B) applicable only for the duration of any diversion described in paragraph (1) pursuant to section 10603(c)(2)(B) of the Omnibus Public Land Management Act of 2009 (Public Law 111-11; 123 Stat. 1384) and this Act.

(3) **ADMINISTRATION.**—Article II(B) of the decree shall be administered so that diversions from the mainstream of the Colorado River for the Central Arizona Project, as served under existing contracts with the United States by diversion works constructed before the date of enactment of this Act, shall be limited and reduced to offset any diversions of CAP water made pursuant to section 10603(c)(2)(B) of the Omnibus Public Land Management Act of 2009 (Public Law 111-11; 123 Stat. 1384) and this Act.

(4) **EFFECT OF SUBSECTION.**—This subsection shall not—

(A) affect, in any manner, the quantity of water apportioned to the State pursuant to the Boulder Canyon Project Act (43 U.S.C. 617 et seq.) and the decree; or

(B) amend any provision of the decree or the Colorado River Basin Project Act (43 U.S.C. 1501 et seq.).

#### SEC. 204. NO MODIFICATION OF EXISTING LAWS.

(a) **NO MODIFICATION OR PREEMPTION OF OTHER LAWS.**—Unless expressly provided in this Act, nothing in this Act modifies, conflicts with, preempts, or otherwise affects—

(1) the Boulder Canyon Project Act (43 U.S.C. 617 et seq.);

(2) the Boulder Canyon Project Adjustment Act (43 U.S.C. 618 et seq.);

(3) the Act of April 11, 1956 (commonly known as the “Colorado River Storage Project Act”) (43 U.S.C. 620 et seq.);

(4) the Colorado River Basin Project Act (43 U.S.C. 1501 et seq.);

(5) the Treaty between the United States of America and Mexico respecting utilization of waters of the Colorado and Tijuana Rivers and of the Rio Grande, signed at Washington on February 3, 1944 (59 Stat. 1219);

(6) the Colorado River Compact;

(7) the Upper Colorado River Basin Compact; or

(8) the Omnibus Public Land Management Act of 2009 (Public Law 111-11; 123 Stat. 991).

(b) **NO PRECEDENT.**—Nothing in this Act—

(1) authorizes or establishes a precedent for any type of transfer of Colorado River system water between the upper basin and the lower basin; or

(2) expands the authority of the Secretary in the upper basin.

(c) **PRESERVATION OF EXISTING RIGHTS.**—

(1) **IN GENERAL.**—Rights to the consumptive use of water available to the upper basin from the Colorado River system under the Colorado River Compact and the Upper Colorado River Basin Compact shall not be reduced or prejudiced by any use of water pursuant to section 10603(c) of the Omnibus Public Land Management Act of 2009 (Public Law 111-11; 123 Stat. 1384) or this Act.

(2) **NO EFFECT ON DUTIES AND POWERS.**—Nothing in this Act impairs, conflicts with, or otherwise changes the duties and powers of the Upper Colorado River Commission.

(d) **UNIQUE SITUATION.**—Diversions through the Navajo-Gallup water supply project consistent with this Act address critical tribal and non-Indian water supply needs under unique circumstances, including—

(1) the intent to benefit Indian tribes in the United States;

(2) the location of the Navajo Nation in both the upper basin and the lower basin;

(3) the intent to address critical Indian and non-Indian water needs in the State; and

(4) the lack of other reasonable options available for developing a firm, sustainable supply of municipal water for the Navajo Nation in the State.

(e) **EFFICIENT USE.**—The diversions and uses authorized for the Navajo-Gallup water supply project under this Act represent unique and efficient uses of Colorado River apportionments in a manner that Congress has determined would be consistent with the obligations of the United States to the Navajo Nation.

#### SEC. 205. AMENDMENTS.

(a) **AMENDMENTS TO THE OMNIBUS PUBLIC LAND MANAGEMENT ACT OF 2009.**—

(1) **DEFINITIONS.**—Section 10302 of the Omnibus Public Land Management Act of 2009 (43 U.S.C. 407 note; Public Law 111-11) is amended—

(A) in paragraph (2), by striking “Arrellano” and inserting “Arellano”; and

(B) in paragraph (27), by striking “75-185” and inserting “75-184”.

(2) **DELIVERY AND USE OF NAVAJO-GALLUP WATER SUPPLY PROJECT WATER.**—Section 10603(c) of the Omnibus Public Land Management Act of 2009 (Public Law 111-11; 123 Stat. 1384) is amended—

(A) in paragraph (1)(A), by striking “Lower Basin and” and inserting “Lower Basin or”; and

(B) in paragraph (2)(A)—

(i) in clause (i), by striking “Article III(c)” and inserting “Articles III(c)”; and

(ii) in clause (ii)(II), by striking “Article III(c)” and inserting “Articles III(c)”.

(3) **PROJECT CONTRACTS.**—Section 10604(f)(1) of the Omnibus Public Land Management Act of 2009 (Public Law 111-11; 123 Stat. 1391) is amended by inserting “Project” before “water.”

(4) AUTHORIZATION OF APPROPRIATIONS.—Section 10609 of the Omnibus Public Land Management Act of 2009 (Public Law 111-11; 123 Stat. 1395) is amended—

(A) in paragraphs (1) and (2) of subsection (b), by striking “construction or rehabilitation” each place it appears and inserting “planning, design, construction, rehabilitation,”;

(B) in subsection (e)(1), by striking “2 percent” and inserting “4 percent”; and

(C) in subsection (f)(1), by striking “4 percent” and inserting “2 percent”.

(5) AGREEMENT.—Section 10701(e) of the Omnibus Public Land Management Act of 2009 (Public Law 111-11; 123 Stat. 1400) is amended in paragraphs (2)(A), (2)(B), and (3)(A) by striking “and Contract” each place it appears.

(b) AMENDMENTS TO THE ARIZONA WATER SETTLEMENTS ACT OF 2004.—Section 104(a)(1)(B)(ii) of the Arizona Water Settlements Act of 2004 (Public Law 108-451; 118 Stat. 3487) is amended in the first sentence by striking “claims to water in Arizona” and inserting “claims to the Little Colorado River in Arizona.”

(c) EFFECTIVE DATES.—The amendments made by subsections (a)(2)(A) and (b) take effect on the date of publication in the Federal Register of the statement of findings described in section 201(b).

#### SEC. 206. RETENTION OF LOWER COLORADO RIVER WATER FOR FUTURE LOWER COLORADO RIVER SETTLEMENT.

(a) RETENTION OF CAP NIA PRIORITY WATER.—Notwithstanding section 104(a)(1)(B)(i) of the Arizona Water Settlements Act (Public Law 108-451; 118 Stat. 3487), the Secretary shall retain until January 1, 2031—

(1) 22,589 afy of the CAP NIA priority water referred to in section 104(a)(1)(A)(iii) of that Act (Public Law 108-451; 118 Stat. 3487) for use in a future settlement of the claims of the Navajo Nation to Lower Colorado River water; and

(2) 1,000 afy of the CAP NIA priority water referred to in section 104(a)(1)(A)(iii) of that Act (Public Law 108-451; 118 Stat. 3487) for use in a future settlement of the claims of the Hopi Tribe to Lower Colorado River water.

(b) RETENTION OF FOURTH PRIORITY MAIN-STREAM COLORADO RIVER WATER.—The Secretary shall retain—

(1) 2,000 afy of the 3,500 afy of uncontracted Arizona fourth priority Colorado River water referred to in section 11.3 of the Arizona Water Settlement Agreement, among the Director of the Arizona Department of Water Resources, the Central Arizona Water Conservation District, and the Secretary, dated August 16, 2004, for use in a future settlement of the claims of the Navajo Nation to Lower Colorado River water; and

(2) 1,500 afy of the 3,500 afy of uncontracted Arizona fourth priority Colorado River water referred to in subparagraph 11.3 of the Arizona Water Settlement Agreement, among the Director of the Arizona Department of Water Resources, the Central Arizona Water Conservation District, and the Secretary, dated August 16, 2004, for use in a future settlement of the claims of the Hopi Tribe to Lower Colorado River water.

(c) CONDITIONS.—

(1) NAVAJO NATION.—If Congress does not approve a settlement of the claims of the Navajo Nation to Lower Colorado River water by January 1, 2031, the 22,589 afy of CAP NIA priority water referred to in subsection (a)(1) shall be available to the Secretary under section 104(a)(1)(B)(i) of the Ari-

zona Water Settlements Act (Public Law 108-451; 118 Stat. 3487).

(2) HOPI TRIBE.—If Congress does not approve a settlement of the claims of the Hopi Tribe to Lower Colorado River water by January 1, 2031, the 1,000 afy of CAP NIA priority water referred to in subsection (a)(2) shall be available to the Secretary under section 104(a)(1)(B)(i) of the Arizona Water Settlements Act (Public Law 108-451; 118 Stat. 3487).

(3) WATER RETAINED FOR THE NAVAJO NATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the fourth priority Colorado River water retained for the Navajo Nation under subsection (b)(1) shall not be allocated, nor shall any contract be issued under the Boulder Canyon Project Act (42 U.S.C. 617 et seq.) for the use of the water, until a final Indian water rights settlement for the Navajo Nation has been approved by Congress, resolving the claims of the Navajo Nation to Lower Colorado River water within the State.

(B) ADJUDICATION OF NAVAJO NATION CLAIMS.—

(i) IN GENERAL.—Except as provided in paragraph (1) and subparagraph (C), if the claims of the Navajo Nation to Lower Colorado River water are fully and finally adjudicated through litigation without a settlement of those claims, the 22,589 afy of CAP NIA priority water referred to in subsection (a)(1) and the 2,000 afy of fourth priority Colorado River water referred to in subsection (b)(1)—

(I) shall no longer be retained as provided in those subsections; but

(II) shall be used to satisfy, in whole or in part, any rights of the Navajo Nation to Lower Colorado River water determined through that litigation.

(ii) MANNER AND EXTENT OF DISTRIBUTION.—

(I) IN GENERAL.—Notwithstanding the last sentence of section 104(a)(1)(B)(i) of the Arizona Water Settlements Act (Public Law 108-451; 118 Stat. 3487), the manner and extent to which the water described in clause (i) shall be used to satisfy any rights of the Navajo Nation shall be determined by the court in the litigation.

(II) CAP NIA PRIORITY WATER.—To the extent that any of the CAP NIA priority water is not needed to satisfy any rights of the Navajo Nation described in clause (i), the water shall be available to the Secretary under section 104(a)(1)(B)(i) of the Arizona Water Settlements Act (Public Law 108-451; 118 Stat. 3487).

(III) FOURTH PRIORITY COLORADO RIVER WATER.—To the extent that any of the fourth priority Colorado River water is not needed to satisfy any rights of the Navajo Nation described in clause (i), the water shall be retained by the Secretary for uses relating to Indian water right settlements in the State.

(C) TERMINATION OF RETENTION OF CAP WATER.—

(i) IN GENERAL.—If the Navajo Nation files an action against the United States regarding the claims of the Navajo Nation to Lower Colorado River water or the operation of the Lower Colorado River after the Navajo Nation dismisses the court case described in section 109(e) and before January 1, 2031, the Secretary may, prior to any judicial determination of the claims asserted in the action, terminate the retention of the 22,589 afy of CAP NIA priority water described in subsection (a)(1).

(ii) REQUIREMENTS FOLLOWING TERMINATION.—If the Secretary terminates the retention of the 22,589 afy of CAP NIA priority

water under this subsection, the Secretary shall—

(I) promptly give written notice of that action to the Navajo Nation and the Arizona Department of Water Resources; and

(II) use the 22,589 afy of CAP NIA priority water as provided in section 104(a)(1)(B)(i) of the Arizona Water Settlements Act (Public Law 108-451; 118 Stat. 3487).

(4) WATER RETAINED FOR HOPI TRIBE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the fourth priority Colorado River water retained for the Hopi Tribe under subsection (b)(2) shall not be allocated, nor shall any contract be issued under the Boulder Canyon Project Act (43 U.S.C. 617 et seq.) for the use of the water, until a final Indian water rights settlement for the Hopi Tribe and the Navajo Nation has been approved by Congress, resolving the claims of the Hopi Tribe and the Navajo Nation to Lower Colorado River water within the State.

(B) ADJUDICATION OF HOPI TRIBE CLAIMS.—

(i) IN GENERAL.—Except as provided in paragraph (1) and subparagraph (C), if the claims of the Hopi Tribe to the Lower Colorado River are fully and finally adjudicated through litigation without a settlement of those claims, the 1,000 afy of CAP NIA priority water referred to in subsection (a)(2) and the 1,500 afy of fourth priority Colorado River water referred to in subsection (b)(2)—

(I) shall no longer be retained as provided in those subsections; but

(II) shall be used to satisfy, in whole or in part, any rights of the Hopi Tribe to Lower Colorado River water determined through that litigation.

(ii) MANNER AND EXTENT OF DISTRIBUTION OF WATER.—

(I) IN GENERAL.—Notwithstanding the last sentence of section 104(a)(1)(B)(i) of the Arizona Water Settlements Act (Public Law 108-451; 118 Stat. 3487), the manner and extent to which the water described in clause (i) shall be used to satisfy any rights of the Hopi Tribe shall be determined by the court in the litigation.

(II) CAP NIA PRIORITY WATER.—To the extent that any of the CAP NIA priority water is not needed to satisfy any rights of the Hopi Tribe described in clause (i), that water shall be available to the Secretary under section 104(a)(1)(B)(i) of the Arizona Water Settlements Act (Public Law 108-451; 118 Stat. 3487).

(III) FOURTH PRIORITY COLORADO RIVER WATER.—To the extent that any of the fourth priority Colorado River water is not needed to satisfy any rights of the Hopi Tribe described in clause (i), that water shall be retained by the Secretary for uses relating to Indian water right settlements in the State.

(C) TERMINATION OF RETENTION OF CAP WATER.—

(i) IN GENERAL.—If the Hopi Tribe files an action against the United States regarding the claims of the Hopi Tribe to Lower Colorado River water or the operation of the Lower Colorado River before January 1, 2031, the Secretary may, prior to any judicial determination of those claims, terminate the retention of the 1,000 afy of CAP NIA priority water described in subsection (a)(2).

(ii) REQUIREMENTS FOLLOWING TERMINATION.—If the Secretary terminates the retention of the 1,000 afy of CAP NIA priority water under this subparagraph, the Secretary shall—

(I) promptly give written notice of that action to the Hopi Tribe and the Arizona Department of Water Resources; and

(II) use the 1,000 afy of CAP NIA priority water as provided in section 104(A)(1)(B)(i) of

the Arizona Water Settlements Act (Public Law 108-451; 118 Stat. 3487).

(5) EFFECT OF SECTION.—Nothing in this section determines, confirms, or limits the validity or extent of the claims of the Navajo Nation and the Hopi Tribe to Lower Colorado River water.

#### SEC. 207. AUTHORIZATION OF APPROPRIATIONS FOR FEASIBILITY STUDY.

There is authorized to be appropriated to complete the feasibility investigations of the Western Navajo Pipeline component of the North Central Arizona Water Supply Study \$3,300,000.

### SUBMITTED RESOLUTIONS

#### SENATE RESOLUTION 372—RECOGNIZING THE IMPORTANCE OF THE UNITED STATES-EGYPT RELATIONSHIP, AND URGING THE GOVERNMENT OF EGYPT TO PROTECT CIVIL LIBERTIES AND CEASE INTIMIDATION AND PROSECUTION OF CIVIL SOCIETY WORKERS AND DEMOCRACY ACTIVISTS, AND FOR OTHER PURPOSES

Mr. KERRY (for himself, Mr. INHOFE, Mrs. BOXER, and Mr. DURBIN) submitted the following resolution; which was placed on the calendar:

S. RES. 372

Whereas the Governments and people of the United States and Egypt enjoy a long history of a strong strategic partnership;

Whereas the United States Government seeks to maintain robust bilateral relations with the Government and people of Egypt so that they may continue to work together toward our shared goals of peace, security, and economic prosperity in Egypt and the region;

Whereas, on February 11, 2011, peaceful mass protests succeeded in bringing an end to the authoritarian rule of Hosni Mubarak;

Whereas the United States Government and the international community stood by the people of Egypt as they began to undertake their transition to a democracy;

Whereas there have been numerous clashes between security personnel and protesters, including Egyptians who were calling for a swifter transition to civilian-led rule;

Whereas, on November 28 and 29, 2011, the first of three rounds of parliamentary elections began in Egypt, which have been deemed largely free and fair by civil society observers and monitors;

Whereas United States-based organizations such as the National Democratic Institute, the International Republican Institute, Freedom House, and the International Center for Journalists were in Egypt to support and promote democratic activity, including elections, adherence to the rule of law, and the existence of a free press;

Whereas certain of those organizations had been operating openly in Egypt for many years, had long sought formal registration and had never received rejections of their applications, had exhibited an unprecedented level of transparency, and had only recently become the targets of malicious reporting by state-run media in Egypt;

Whereas, on December 29, 2011, the Government of Egypt raided the offices of the National Democratic Institute, the International Republican Institute, Freedom House, the International Center for Journal-

ists, and several other Egyptian and international civil society organizations in Egypt, confiscating their property and equipment;

Whereas the Government of Egypt announced that it would launch investigations into hundreds of civil society organizations, has targeted and interrogated staff of these organizations, and has imposed restrictions on the movement of United States citizens who are staff members of these organizations, including placing them on a “no-fly” list to prohibit departure from the country;

Whereas, on February 5, 2012, the Government of Egypt announced that it would refer for arrest more than 40 staff members of various nongovernmental organizations, among them 16 United States citizens, including staff of the United States-based National Democratic Institute, the International Republican Institute, Freedom House, the International Center for Journalists, and Germany-based Konrad Adenauer Stiftung;

Whereas in the Consolidated Appropriations Act, 2012 (Public Law 112-74), Congress conditioned economic and military assistance to Egypt on the Secretary of State’s certification that Egypt is meeting its obligations under the 1979 Peace Treaty with Israel and that it is supporting the transition to a civilian government, including by holding free and fair elections and protecting freedoms of expression, association, and religion and due process of law;

Whereas Secretary of State Hillary Clinton has stated that the United States Government has “deep concerns about what is happening to our NGOs, and Americans and others who work for them. . . . We do not believe there is any basis for these investigations, these raids on the sites that the NGOs operate out of, the seizure of their equipment, and certainly no basis for prohibiting the exit from the country by individuals who have been working with our NGOs.”;

Whereas restricting the space for civil society engagement dishonors the promise of the Egyptian revolution and could potentially damage the country’s transition to democracy; and

Whereas, according to Secretary of State Clinton, “We have worked very hard the last year to put into place financial assistance and other support for the economic and political reforms that are occurring in Egypt, and we will have to closely review these matters as it comes time for us to certify whether or not any of these funds from our government can be made available under these circumstances.”; Now, therefore, be it

*Resolved*, That the Senate—

(1) acknowledges the central and historic importance of the United States-Egyptian strategic partnership in advancing the common interests of both countries, including peace and security in the broader Middle East and North Africa;

(2) reiterates its support for the people of Egypt during a difficult political transition towards a more representative and responsive democratic government;

(3) praises the work that United States democracy promotion organizations such as the National Democratic Institute, the International Republican Institute, Freedom House, and the International Center for Journalists, do internationally to strengthen civic institutions, democratic practice, political parties, the rule of law, respect for human rights, and protections for independent media;

(4) reaffirms the commitment of the Government and people of the United States to universal rights of freedom of expression, re-

ligion, assembly, and association, including Internet freedom;

(5) notes the critical role civil society plays in democratic societies and applauds the work of democracy promotion, human rights, and developmental organizations in Egypt;

(6) expresses deep concern at the intimidation and media manipulation against democracy activists and Egyptian and international civil society organizations in Egypt;

(7) urges the Government of Egypt to protect civil liberties for all citizens, embrace transparency and accountability, and promote the creation of a vibrant civil society;

(8) calls upon the Government of Egypt to immediately cease its intimidation and prosecution of civil society workers and democracy activists of all nationalities in Egypt, including Egyptians, and to allow non-Egyptian civil society workers to voluntarily leave the country; and

(9) calls on the Government of Egypt to halt harassment, including that conducted via state media, of democracy and human rights activists in Egypt.

#### SENATE RESOLUTION 373—RECOGNIZING FEBRUARY 14, 2012, AS THE CENTENNIAL OF THE STATE OF ARIZONA

Mr. MCCAIN (for himself and Mr. KYL) submitted the following resolution; which was considered and agreed to:

S. RES. 373

Whereas, after many changes in government administration, territorial divisions, and additions, including lands acquired through the Treaty of Guadalupe Hidalgo and the Gadsden Purchase, the Territory of Arizona came into existence nearly 150 years ago after serving as a sacred home to native cultures for thousands of years;

Whereas Arizona is home to many of the greatest natural treasures of the United States, including the Sedona Red Rocks, the White Mountains, the Painted Desert, the Petrified Forest, Monument Valley, Saguaro National Park, the 12,000-foot San Francisco Peaks, and the Grand Canyon, 1 of the 7 natural wonders of the world, which explorer John Wesley Powell said could not be “adequately represented in symbols of speech, nor by speech itself”;

Whereas Arizona is also home to man-made wonders, including innovative projects that have allowed much-needed fresh water to flow to Arizona communities for decades, such as the Hoover Dam, the Glen Canyon Dam, the Central Arizona Project, the Salt River Project, and the keystone element of the Salt River Project, the Theodore Roosevelt Dam;

Whereas Arizona has long been recognized for being rich in natural resources, including the famous “5 C’s”, copper, cattle, cotton, citrus, and climate, that continue to sustain the economies of Arizona and the United States;

Whereas Arizona is a mosaic of cultures, cuisines, and traditions, drawing continuing influence from 21 proud American Indian tribes and the early prospectors, ranchers, cowboys, adventurers, and missionaries, as well as a dynamic Latino community;

Whereas all of these Arizonans were, and remain, bound by a strong sense of independence and a willingness to persevere against the odds, and are again picking themselves

up in the wake of devastating wildfires and economic challenges;

Whereas this unique Arizona spirit has nurtured leaders in the arts, justice, conservation, and science, as well as some of the greatest statesmen in the 20th century United States, including Senators Ernest McFarland, Carl Hayden, and Barry Goldwater, Representative Morris Udall, and Supreme Court Justices William Rehnquist and Sandra Day O'Connor;

Whereas the many military installations in Arizona have provided valuable contributions to the defense of the United States and will continue to do so for years to come;

Whereas, after nearly half a century as a territory of the United States, Arizona became the 48th State of the United States, and the last contiguous State, on February 14, 1912;

Whereas the people of the United States now have the opportunity to celebrate the natural splendor, innovative spirit, and cultural diversity that have made Arizona so special for the past 100 years and will continue to make Arizona special for centuries to come: Now, therefore, be it

*Resolved*, That the Senate recognizes February 14, 2012 as the centennial of the State of Arizona.

**SENATE RESOLUTION 374—SUPPORTING THE MISSION AND GOALS OF 2012 NATIONAL CRIME VICTIMS' RIGHTS WEEK TO INCREASE PUBLIC AWARENESS OF THE RIGHTS, NEEDS, AND CONCERNS OF VICTIMS AND SURVIVORS OF CRIME IN THE UNITED STATES**

Mr. WICKER (for himself, Mr. LEAHY, Mr. SCHUMER, and Mr. GRASSLEY) submitted the following resolution; which was considered and agreed to:

**S. RES. 374**

Whereas each year, approximately 19,000,000 individuals in the United States are victims of crime, including more than 4,000,000 victims of violent crime;

Whereas a just society acknowledges the impact of crime on individuals, families, and communities by ensuring that rights, resources, and services are available to help rebuild lives;

Whereas although the United States has steadily expanded rights, protections, and services for victims of crime, too many victims are still not able to realize the hope and promise of these gains;

Whereas despite impressive accomplishments during the past 40 years in the rights of and services available to crime victims, there remain many challenges to ensure that all victims—

(1) are treated with fairness, dignity, and respect;

(2) are offered support and services regardless of whether the victims report crimes committed against them; and

(3) are recognized as key participants within systems of justice in the United States when the victims do report crimes;

Whereas observing the rights of victims and treating victims with fairness, dignity, and respect serve the public interest by—

(1) engaging victims in the justice system;

(2) inspiring respect for public authorities; and

(3) promoting confidence in public safety;

Whereas the people of the United States recognize that we make our homes, neigh-

borhoods, and communities safer and stronger by serving victims of crime and ensuring justice for all;

Whereas in each of the last 30 years, communities throughout the United States have joined Congress and the Department of Justice in observing National Crime Victims' Rights Week to celebrate a vision of a comprehensive and just response to all victims of crime;

Whereas, the theme of 2012 National Crime Victims' Rights Week, celebrated on April 22, 2012, through April 28, 2012, is "Extending the Vision: Reaching Every Victim," which highlights the importance of ensuring that services are available for all victims of crime; and

Whereas the people of the United States appreciate the continued importance of promoting victims' rights and honoring crime victims and those who advocate on their behalf: Now, therefore, be it

*Resolved*, That the Senate—

(1) supports the mission and goals of 2012 National Crime Victims' Rights Week to increase public awareness of—

(A) the impact on victims and survivors of crime; and

(B) the constitutional and statutory rights and needs of those victims and survivors; and

(2) recognizes that fairness, dignity, and respect comprise the very foundation of how victims and survivors of crime should be treated.

**SENATE RESOLUTION 375—CELEBRATING THE BICENTENNIAL OF THE CITY OF COLUMBUS, THE CAPITAL CITY OF THE STATE OF OHIO**

Mr. BROWN of Ohio (for himself and Mr. PORTMAN) submitted the following resolution; which was considered and agreed to:

**S. RES. 375**

Whereas in 1787, Congress enacted the Northwest Ordinance to settle claims following the American Revolution and begin the westward expansion of our Nation;

Whereas in 1803, Ohio was admitted as the 17th State in the Union, becoming the first territory of the Northwest Ordinance to achieve statehood;

Whereas in 1812, the Ohio General Assembly was offered land along the Scioto River in Central Ohio to serve as the capital of the State, due to its central location;

Whereas on February 14, 1812, the Ohio General Assembly officially designated the new capital city as Columbus, in honor of Christopher Columbus;

Whereas Columbus emerged as a trading and transportation hub through the influence of the Ohio & Erie Canal and the National Highway;

Whereas on March 3, 1834, 31 years after Ohio achieved statehood, Columbus was officially chartered as a city because of its growing population;

Whereas during the Civil War, Columbus was home to Camp Chase, a major base for the Union Army that housed 26,000 troops, Camp Jackson, an assembly center for recruits, and Columbus Barracks, which served as an arsenal;

Whereas Columbus was a major outpost on the Underground Railroad, led by the Kelton family, who assisted fugitive slaves on their road to freedom;

Whereas in 1870, the Ohio General Assembly used to the Morrill Land Grant Act to

create the Ohio Agricultural and Mechanical College, which was renamed the Ohio State University in 1878 and is presently one of the Nation's premier public universities and an anchor for economic activity in the City of Columbus;

Whereas Columbus is home to other world-class institutions of higher learning, including Capital University, established in 1830, Columbus College of Art and Design, established in 1879, Pontifical College Josephinum, established in 1888, Franklin University, established in 1902, Mount Carmel College of Nursing, established in 1903, Ohio Dominican University, established in 1911, and Columbus State Community College, established in 1963;

Whereas Columbus is home to some of the Nation's earliest schools for Americans living with disabilities, having established the Ohio School for the Deaf in 1829 and the Ohio State School for the Blind in 1837;

Whereas Columbus is of historical importance to the organized labor movement, as one of the Nation's first federations of labor, the American Federation of Labor, was founded in Columbus in 1886;

Whereas the American Veterans of Foreign Service, the earliest organization of veterans of foreign wars, was founded in Columbus in 1899;

Whereas in the late 19th century and the early 20th century, Columbus saw the rise of manufacturing and steel businesses, brewers, and cultural and arts institutions, such as the Southern Theatre;

Whereas leading retail corporations, health care and insurance companies, and financial institutions call Columbus their home, attracted by the city's world-class workforce and cultural outlets;

Whereas Columbus serves as a leader in cutting-edge medical research and hospital systems through the Ohio State Medical Center and the Arthur James Cancer Hospital and Richard J. Solove Research Institute, Nationwide Children's Hospital, Mt. Carmel Hospital, Riverside Community Hospital, and Grant Medical Center;

Whereas Columbus is home to green space and parks that are used as both community gathering locations and to honor pioneers, including Shrum Mound, one of the last remaining conical burial mounds in the United States, which dates back more than 2,000 years;

Whereas Columbus is also home to the Midwest's largest Fourth of July Festival and the famed Ohio State Fair;

Whereas Columbus combines excellence in art and culture with professional sports teams such as the Columbus Clippers, the Columbus Crew, and the Columbus Blue Jackets;

Whereas Columbus is Ohio's most populous city and the 15th largest city in the United States, as well as one of the fastest growing cities in the Eastern United States;

Whereas February 14, 2012, marks the 200th anniversary of the founding of Columbus, Ohio; and

Whereas the citizens of Columbus will commemorate a year-long bicentennial celebration with the theme of "Honor the Past. Celebrate the Present. Envision the Future.": Now, therefore, be it

*Resolved*, That the Senate—

(1) celebrates the bicentennial anniversary of the founding of the City of Columbus, the capital of the State of Ohio; and

(2) honors the important economic, cultural, educational, and artistic contributions that the people of Columbus have made to this Nation over the past 200 years.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 1569. Mrs. SHAHEEN (for herself and Mr. WICKER) submitted an amendment intended to be proposed by her to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table.

SA 1570. Mr. CASEY submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1571. Mr. CASEY submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1572. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 1515 proposed by Mr. REID (for Mr. JOHNSON of South Dakota (for himself and Mr. SHELBY)) to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1573. Mr. LIEBERMAN (for himself and Mr. BLUMENTHAL) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1574. Mr. ISAKSON (for himself and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1575. Mr. BINGAMAN (for himself and Mr. UDALL of New Mexico) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1576. Mr. BINGAMAN (for himself and Mr. UDALL of New Mexico) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1577. Mr. LEE submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1578. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1579. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1580. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1581. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1582. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1583. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1584. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1585. Mr. DEMINT (for himself, Mr. HATCH, Mr. HELLER, and Mr. PAUL) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1586. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1587. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1588. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1589. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1590. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1591. Mr. KOHL (for himself, Ms. KLOBUCHAR, and Mr. VITTER) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1592. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1593. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1594. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1595. Mr. COBURN (for himself and Mr. MCCAIN) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1596. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1597. Mr. COBURN (for himself and Mr. MCCAIN) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1598. Mr. COBURN (for himself, Mr. MCCAIN, Mr. BURR, Mr. LEE, Mr. PORTMAN, Mr. ISAKSON, and Mr. COATS) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1599. Mr. MERKLEY submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1600. Mr. MERKLEY submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1601. Mr. MERKLEY (for himself and Mr. LEE) submitted an amendment intended to be proposed to amendment SA 1515 proposed by Mr. REID (for Mr. JOHNSON of South Dakota (for himself and Mr. SHELBY)) to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1602. Mr. MERKLEY submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1603. Mr. MERKLEY submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1604. Mr. MERKLEY (for himself and Mr. FRANKEN) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1605. Mr. MERKLEY (for himself and Mr. SANDERS) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1606. Mr. MERKLEY submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1607. Mrs. SHAHEEN (for herself, Ms. MURKOWSKI, Ms. COLLINS, Mr. LEVIN, Ms. KLOBUCHAR, Mr. SANDERS, and Ms. LANDRIEU) submitted an amendment intended to be proposed by her to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1608. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1609. Mrs. McCASKILL submitted an amendment intended to be proposed by her to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1610. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1611. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1612. Mr. BEGICH (for himself and Ms. MURKOWSKI) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1613. Mr. BEGICH (for himself, Mr. WARNER, and Ms. MURKOWSKI) submitted an amendment intended to be proposed to amendment SA 1515 proposed by Mr. REID (for Mr. JOHNSON of South Dakota (for himself and Mr. SHELBY)) to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1614. Ms. KLOBUCHAR (for herself, Mr. CASEY, Mr. BLUMENTHAL, Ms. MIKULSKI, Mr. BROWN of Ohio, Mr. FRANKEN, and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1615. Ms. KLOBUCHAR (for herself and Mr. SESSIONS) submitted an amendment intended to be proposed by her to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1616. Ms. KLOBUCHAR (for herself and Mr. WARNER) submitted an amendment intended to be proposed by her to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1617. Ms. KLOBUCHAR (for herself and Mr. ROBERTS) submitted an amendment intended to be proposed by her to the bill S. 1813, supra; which was ordered to lie on the table.

## TEXT OF AMENDMENTS

**SA 1569.** Mrs. SHAHEEN (for herself and Mr. WICKER) submitted an amendment intended to be proposed by her to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

In division D, on page 119, strike line 8 and all that follows through “(B)” on line 14, and insert the following:

“(A) for public transportation systems that operate fewer than 50 buses during peak service hours, in an amount not to exceed 100 percent of the share of the apportionment which is attributable to such systems within the urbanized area, as measured by vehicle revenue hours;

“(B) for public transportation systems that operate a minimum of 50 buses and a maximum of 75 buses during peak service hours,

in an amount not to exceed 50 percent of the share of the apportionment which is attributable to such systems within the urbanized area, as measured by vehicle revenue hours; and

“(C)

**SA 1570.** Mr. CASEY submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . NATURAL GAS ENERGY AND ALTERNATIVES REBATE PROGRAM.**

(a) DEFINITIONS.—In this section:

(1) **ALTERNATIVE FUEL.**—The term “alternative fuel” means natural gas, liquid petroleum gas, hydrogen, or fuel cell.

(2) **ALTERNATIVELY FUELED BUS.**—The term “alternatively fueled bus” means—

(A) a school bus (as defined in section 390.5 of title 49, Code of Federal Regulations) that operates on alternative fuel;

(B) a multifunction school activity bus (as defined in section 571.3 of title 49, Code of Federal Regulations) that operates on alternative fuel; or

(C) a motor vehicle that—

(i) provides public transportation (as defined in section 5302(a)(10) of title 49, United States Code); and

(ii) operates on alternative fuel.

(3) **ELIGIBLE ENTITY.**—The term eligible entity means—

(A) a public or private entity providing transportation exclusively for school students, personnel, and equipment; or

(B) a public entity providing mass transit services to the public.

(b) **REBATE PROGRAM.**—

(1) **IN GENERAL.**—The Secretary of Transportation shall establish the Natural Gas Energy and Alternatives Rebates Program (referred to in this section as the “NGEAR Program”) to subsidize the purchase of alternatively fueled buses by eligible entities.

(2) **AMOUNTS.**—An eligible entity that purchases an alternatively fueled bus during the period beginning on the date of the enactment of this Act and ending on December 31, 2016, is eligible to receive a rebate from the Department of Transportation under this subsection in an amount equal to the lesser of—

(A) 30 percent of the purchase price of the alternatively fueled bus; or

(B) \$15,000.

(3) **APPLICATION.**—Eligible entities desiring a rebate under the NGEAR Program shall submit an application to the Secretary of Transportation that contains copies of relevant sales invoices and any additional information that the Secretary of Transportation may require.

**SA 1571.** Mr. CASEY submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . CLEAN VEHICLE CORRIDORS PROGRAM.**

(a) **PURPOSE.**—The purpose of this section is to establish the Clean Vehicle Corridors Program—

(1) to provide market certainty to drive private and commercial capital investment in economic clean transportation options;

(2) to promote clean transportation technologies that will—

(A) lead to increased diversity and dissemination of alternative fuel options; and

(B) enable the United States to bridge the gap from foreign energy imports to secure, domestically produced energy; and

(3) to facilitate clean transportation incentives that will—

(A) attract a critical mass of clean transportation vehicles that will give alternative fueling stations an assured customer base and market certitude;

(B) provide for ongoing increases in energy demands;

(C) support the growth of jobs and businesses in the United States; and

(D) reduce vehicular petroleum use and emissions.

(b) **DESIGNATION OF CLEAN VEHICLE CORRIDORS.**—

(1) **IN GENERAL.**—Not later than 1 year after the date of the enactment of this Act, the Secretary of Transportation, in consultation with the Secretary of Energy, shall designate 10 Clean Vehicle Corridors routed along Federal highways or other contiguous highways (large thoroughfares).

(2) **SOURCES OF INPUT.**—In carrying out paragraph (1), the Secretary shall seek input from Federal, State, and local entities, non-governmental organizations, and individual residents regarding where the Clean Vehicle Corridors should be located.

(3) **EFFECT.**—In conjunction with the designations under paragraph (1), the Secretary shall—

(A) encourage the promotion of rapid-fueling compressed natural gas, liquefied natural gas, liquefied petroleum gas, plug-in electric, biofuel, hydrogen and other clean fuels, as determined by the Secretary; and

(B) facilitate the development of policies needed to develop the infrastructure necessary to support clean vehicles, including fueling stations, rest stops, travel plazas, or other service areas on Federal or private property, which—

(i) are most practically located along a Clean Vehicle Corridor; and

(ii) would be available to support all clean vehicles regardless of ownership.

(4) **PUBLICATION.**—The Secretary shall maintain a publicly available website that contains relevant information and resources regarding Clean Vehicle Corridors.

(c) **INTERSTATE COMPACTS.**—

(1) **IN GENERAL.**—An interstate compact between 3 or more contiguous States to establish a regional Clean Vehicle Corridor agency to facilitate planning for, and siting of, necessary facilities within the participating States shall be subject to congressional approval.

(2) **TECHNICAL ASSISTANCE.**—The Secretary of Transportation, in consultation with the Secretary of Energy, may provide technical assistance to the regional agencies described in paragraph (1).

**SA 1572.** Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 1515 proposed by Mr. REID (for Mr. JOHNSON of South Dakota (for himself and Mr. SHELBY)) to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

In division D, on page 164, after line 24, add the following:

“(9) **PROGRAMS OF PROJECTS WITH SIGNIFICANT PRIVATE FUNDING.**—For purposes of determining whether a group of projects is a program of interrelated projects under subsection (a)(5), the Secretary shall deem a project to be developed simultaneously with another project in the group if—

“(A) the project is funded primarily with private contributions;

“(B) the planning and project development process overlaps for all program elements; and

“(C) the significant private contributions have allowed the project to proceed more rapidly and reach a more advanced phase than the other project at the time of submission under paragraph (1).

**SA 1573.** Mr. LIEBERMAN (for himself and Mr. BLUMENTHAL) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . LIMITATION ON STATE TAXATION OF COMPENSATION EARNED BY NONRESIDENT TELECOMMUTERS.**

(a) **IN GENERAL.**—Chapter 4 of title 4, United States Code, is amended by adding at the end the following new section:

“§ 127. **Limitation on State taxation of compensation earned by nonresident telecommuters**

“(a) **IN GENERAL.**—In applying its income tax laws to the compensation of a nonresident individual, a State may deem such nonresident individual to be present in or working in such State for any period of time only if such nonresident individual is physically present in such State for such period and such State may not impose nonresident income taxes on such compensation with respect to any period of time when such nonresident individual is physically present in another State.

“(b) **DETERMINATION OF PHYSICAL PRESENCE.**—For purposes of determining physical presence, no State may deem a nonresident individual to be present in or working in such State on the grounds that—

“(1) such nonresident individual is present at or working at home for convenience, or

“(2) such nonresident individual’s work at home or office at home fails any convenience of the employer test or any similar test.

“(c) **DETERMINATION OF PERIODS OF TIME WITH RESPECT TO WHICH COMPENSATION IS PAID.**—For purposes of determining the periods of time with respect to which compensation is paid, no State may deem a period of time during which a nonresident individual is physically present in another State and performing certain tasks in such other State to be—

“(1) time that is not normal work time unless such individual’s employer deems such period to be time that is not normal work time,

“(2) nonworking time unless such individual’s employer deems such period to be nonworking time, or

“(3) time with respect to which no compensation is paid unless such individual’s employer deems such period to be time with respect to which no compensation is paid.

“(d) **DEFINITIONS.**—As used in this section—

“(1) **STATE.**—The term ‘State’ means each of the several States (or any subdivision



thereof), the District of Columbia, and any territory or possession of the United States.

“(2) **INCOME TAX.**—The term ‘income tax’ has the meaning given such term by section 110(c).

“(3) **INCOME TAX LAWS.**—The term ‘income tax laws’ includes any statutes, regulations, administrative practices, administrative interpretations, and judicial decisions.

“(4) **NONRESIDENT INDIVIDUAL.**—The term ‘nonresident individual’ means an individual who is not a resident of the State applying its income tax laws to such individual.

“(5) **EMPLOYEE.**—The term ‘employee’ means an employee as defined by the State in which the nonresident individual is physically present and performing personal services for compensation.

“(6) **EMPLOYER.**—The term ‘employer’ means the person having control of the payment of an individual’s compensation.

“(7) **COMPENSATION.**—The term ‘compensation’ means the salary, wages, or other remuneration earned by an individual for personal services performed as an employee or as an independent contractor.

“(e) **NO INFERENCE.**—Nothing in this section shall be construed as bearing on—

“(1) any tax laws other than income tax laws,

“(2) the taxation of corporations, partnerships, trusts, estates, limited liability companies, or other entities, organizations, or persons other than nonresident individuals in their capacities as employees or independent contractors,

“(3) the taxation of individuals in their capacities as shareholders, partners, trust and estate beneficiaries, members or managers of limited liability companies, or in any similar capacities, and

“(4) the income taxation of dividends, interest, annuities, rents, royalties, or other forms of unearned income.”.

(b) **CLERICAL AMENDMENT.**—The table of sections of such chapter 4 is amended by adding at the end the following new item:

“127. Limitation on State taxation of compensation earned by nonresident telecommuters.”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date of the enactment of this Act.

**SA 1574.** Mr. ISAKSON (for himself and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 469, after line 22, add the following:

**SEC. 15. SAVANNAH HARBOR EXPANSION, GEORGIA.**

The project for harbor deepening, Savannah Harbor Expansion, Georgia, authorized by section 101(b)(9) of the Water Resources Development Act of 1999 (Public Law 106-53; 113 Stat. 279), is modified to authorize the Secretary of the Army to construct the project at a total cost of \$629,000,000, with an estimated Federal cost of \$377,400,000 and an estimated non-Federal cost of \$251,600,000, pending a record of decision for the project.

**SA 1575.** Mr. BINGAMAN (for himself and Mr. UDALL of New Mexico) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and

highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 469, after line 22, add the following:

**SEC. 1521. USE OF CERTAIN EARMARKS FOR OTHER STATE PROJECTS.**

(a) **IN GENERAL.**—Notwithstanding section 1517 and subject to subsection (b), for the 3-year period beginning on the date of enactment of this Act, each State may use the unobligated balance of any funding provided to the State for any project under section 1602 of Public Law 105-178 (112 Stat. 256), or section 1301, 1302, 1702, or 1934 of Public Law 109-59 (119 Stat. 1144), for any other project in the State, as the State determines to be appropriate.

(b) **UNOBLIGATED AMOUNTS.**—The balance of any funding provided to a State for a project under section 1602 of Public Law 105-178 (112 Stat. 256), or section 1301, 1302, 1702, or 1934 of Public Law 109-59 (119 Stat. 1144), that remains unobligated under that section or subsection (a) on the date that is 3 years after the date of enactment of this Act shall be refunded to the Treasury.

**SA 1576.** Mr. BINGAMAN (for himself and Mr. UDALL of New Mexico) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 469, after line 22, insert the following:

**SEC. 1521. REAUTHORIZATION OF ADDITIONAL CONTRACT AUTHORITY FOR STATES WITH INDIAN RESERVATIONS.**

Section 1214(d)(5)(A) of the Transportation Equity Act for the 21st Century (23 U.S.C. 202 note; Public Law 105-178) is amended by striking “\$1,800,000 for each of fiscal years 2005 through 2009” and inserting “\$2,000,000 for each of fiscal years 2012 through 2013”.

**SA 1577.** Mr. LEE submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_\_. ELECTION TO TAKE EMPLOYEE PAYROLL TAX CUT.**

(a) **IN GENERAL.**—Section 601 of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 is amended by redesignating subsections (b) through (g) as subsections (c) through (i), respectively, and by inserting after subsection (a) the following new subsection:

“(b) **ELECTION TO TAKE EMPLOYEE PAYROLL TAX CUT.**—

“(1) **IN GENERAL.**—Subsection (a) shall apply with respect to remuneration received by any individual for services rendered in a calendar year (or taxable year beginning in the calendar year) in the payroll tax holiday period only if a tax holiday election under paragraph (2) is in effect with respect to such calendar year.

“(2) **TAX HOLIDAY ELECTION.**—For purposes of this subsection—

“(A) **IN GENERAL.**—The term ‘tax holiday election’ means, with respect to the individual, an election to have subsection (a)

apply to a calendar year (or taxable year beginning in such calendar year) in the payroll tax holiday period beginning in or after 2012. Any such election shall remain in effect until such election is revoked.

“(B) **WHEN MADE.**—An election with respect to a calendar year (and a taxable year beginning in the taxable year) may be made before July 1 of the calendar year for which such remuneration is received.

“(C) **REVOCATION OF ELECTION.**—Subject to such conditions as the Secretary deems necessary, an individual may revoke an election to have subsection (a) apply with respect to a calendar year (and taxable year beginning in the calendar year) if such revocation is made before July 1 of the calendar year.

“(D) **TIME AND MANNER OF ELECTION AND REVOCATION.**—Any election and revocation under this subsection shall be made at such time and in such manner as the Secretary may prescribe.

“(3) **SPECIAL RULES.**—

“(A) **1ST EMPLOYMENT OR SELF-EMPLOYMENT AFTER BEGINNING OF YEAR.**—In the case of an individual whose employment or self-employment first commences after the beginning of the calendar year or taxable year (as the case may be), the election under paragraph (2)(A) shall be made before or with the beginning of such employment.

“(B) **MULTIPLE EMPLOYERS.**—In the case that an individual is employed by more than 1 employer (including self-employment) for a period, an election or revocation made under this subsection made with respect to remuneration from 1 employer shall apply to all employers. For purposes of the preceding sentence, the most recent valid election or revocation for a period shall be the only election or revocation (as the case may be) in effect for that period.

“(4) **OVERPAYMENT AND UNDERPAYMENT OF TAX.**—

“(A) **CREDIT FOR OVERPAYMENT.**—See sections 6402 and 6413 of such Code for provisions relating to overpayments of employment taxes.

“(B) **UNDERPAYMENT OF TAXES.**—If, by reason of an election or revocation under this subsection for a calendar year or taxable year, an individual has a liability for tax under section 1401(a), 3101(a), 3201(a), or 3211(a)(1) of such Code for the taxable year beginning with or in the calendar year, for purposes of subtitle F of such Code, such liability, together with interest on such liability at the underpayment rate established under section 6621, shall be assessed and collected in the manner prescribed by the Secretary.

“(5) **REGULATIONS.**—The Secretary, in consultation with the Commissioner of Social Security, shall prescribe such regulations or other guidance as may be necessary to carry out this subsection. Such regulations or other guidance shall include procedures providing for the exchange of information between the Secretary and the Commissioner of Social Security for purposes of this subsection.”.

(b) **EXTENSION OF RETIREMENT AGE IN CONNECTION WITH ELECTION TO TAKE PAYROLL TAX CUT.**—Section 216(l) of the Social Security Act (42 U.S.C. 416(l)) is amended by adding at the end the following new paragraph:

“(4)(A) For each calendar year beginning with or after 2012 for which section 601(a) of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 applies with respect to the wages received by an individual for services rendered in such year, the retirement age (as defined in paragraph (1)) of such individual shall be increased by 1 month.



“(B) In the case of any taxable year for which such section 601(a) applies (with respect to remuneration received by an individual as self-employment income for services rendered in such taxable year), any calendar year in which such taxable year commences shall be treated as a calendar year for which such section 601(a) applies as described in subparagraph (A).”.

**SA 1578.** Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike title III and, at the appropriate place, insert the following:

**SEC. \_\_\_\_\_. TERMINATION OF TIFIA.**

(a) **TERMINATION OF TIFIA.**—Sections 601 through 609 of title 23, United States Code, are repealed.

(b) **CONFORMING AMENDMENTS.**—

(1) **STATE INFRASTRUCTURE BANK PROGRAM.**—Section 610 of title 23, United States Code, is amended by striking the section designation and inserting the following:

“§ 601. State infrastructure bank program”.

(2) **CHAPTER 6 ANALYSIS.**—The analysis for chapter 6 of title 23, United States Code, is amended—

(A) by striking the items relating to sections 601 through 610; and

(B) by inserting the following:

“601. State infrastructure bank program.”.

**SA 1579.** Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

**SEC. \_\_\_\_\_. PROHIBITION ON PROVISION OF LOAN GUARANTEES.**

Notwithstanding any other provision of law, no loan guarantee may be provided by the Secretary or any other Federal official or agency for any transportation project.

**SA 1580.** Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_\_. LIMITATION.**

Notwithstanding any other provision of law, the total amount obligated or expended under this Act, including an amendment made by this Act, during a fiscal year shall not exceed the total revenue of the Highway Trust Fund for that fiscal year.

**SA 1581.** Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_\_. REPEAL OF DAVIS-BACON.**

Subchapter IV of chapter 31 of part A of subtitle II of title 40, United States Code (commonly referred to as the “Davis-Bacon Act”) is repealed.

**SA 1582.** Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_\_. REPEAL OF PPACA.**

(a) **IN GENERAL.**—

(1) **JOB-KILLING HEALTH CARE LAW.**—Effective as of the enactment of Public Law 111-148, such Act is repealed, and the provisions of law amended or repealed by such Act are restored or revived as if such Act had not been enacted.

(2) **HEALTH CARE-RELATED PROVISIONS IN THE HEALTH CARE AND EDUCATION RECONCILIATION ACT OF 2010.**—Effective as of the enactment of the Health Care and Education Reconciliation Act of 2010 (Public Law 111-152), title I and subtitle B of title II of such Act are repealed, and the provisions of law amended or repealed by such title or subtitle, respectively, are restored or revived as if such title and subtitle had not been enacted.

(b) **BUDGETARY EFFECTS OF THIS ACT.**—The budgetary effects of this section, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this section, submitted for printing in the Congressional Record by the Chairman of the Committee on the Budget of the House of Representatives, as long as such statement has been submitted prior to the vote on passage of this Act.

**SA 1583.** Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_\_. PERMANENT ESTATE TAX RELIEF.**

(a) **IN GENERAL.**—Title III of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, and the amendments made thereby, are repealed; and the Internal Revenue Code of 1986 shall be applied as if such title, and amendments, had never been enacted.

(b) **EXCLUSION FROM EGGTRA SUNSET.**—Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall not apply to the provisions of, and amendments made by, subtitle A or E of title V of such Act.

(c) **EFFECTIVE DATE.**—The repeal made by subsection (a) shall apply to estates of decedents dying, gifts made, and generation skipping transfers after December 31, 2009.

**SA 1584.** Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_\_. REPEAL OF DODD-FRANK ACT.**

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Public Law 111-203) is repealed, and the provisions of law amended by such Act are revived or restored as if such Act had not been enacted.

**SA 1585.** Mr. DEMINT (for himself, Mr. HATCH, Mr. HELLER, and Mr. PAUL) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_\_. REPEAL OF AUTHORITY TO PROVIDE CERTAIN LOANS TO THE INTERNATIONAL MONETARY FUND; PROHIBITION ON LOANS TO THE FUND FOR EUROPEAN FINANCIAL STABILITY.**

(a) **REPEAL OF AUTHORITY TO PROVIDE CERTAIN LOANS TO THE INTERNATIONAL MONETARY FUND AND INCREASE IN THE UNITED STATES QUOTA.**—

(1) **REPEAL OF AUTHORITIES.**—The Bretton Woods Agreements Act (22 U.S.C. 286 et seq.) is amended—

(A) in section 17—

(i) in subsection (a)—

(I) by striking “(1) In order” and inserting “In order”; and

(II) by striking paragraphs (2), (3), and (4); and

(ii) in subsection (b)—

(I) by striking “(1) For the purpose” and inserting “For the purpose”; and

(II) by striking “subsection (a)(1)” and inserting “subsection (a)”; and

(III) by striking paragraph (2);

(B) by striking sections 64, 65, 66, and 67; and

(C) by redesignating section 68 as section 64.

(2) **RESCISSION OF AMOUNTS.**—

(A) **IN GENERAL.**—The unobligated balance of the amounts specified in subparagraph (B)—

(i) is rescinded;

(ii) shall be deposited in the general fund of the Treasury to be dedicated for the sole purpose of deficit reduction; and

(iii) may not be used as an offset for other spending increases or revenue reductions.

(B) **AMOUNTS SPECIFIED.**—The amounts specified in this subparagraph are the amounts appropriated under the heading “UNITED STATES QUOTA, INTERNATIONAL MONETARY FUND”, and under the heading “LOANS TO INTERNATIONAL MONETARY FUND”, under the heading “INTERNATIONAL MONETARY PROGRAMS” under the heading “INTERNATIONAL ASSISTANCE PROGRAMS” in title XIV of the Supplemental Appropriations Act, 2009 (Public Law 111-32; 123 Stat. 1916).

(b) **PROHIBITION ON UNITED STATES LOANS TO THE INTERNATIONAL MONETARY FUND TO BE USED FOR FINANCING FOR EUROPEAN FINANCIAL STABILITY.**—

(1) **IN GENERAL.**—Section 17 of the Bretton Woods Agreements Act (22 U.S.C. 286e-2), as amended by subsection (a)(1), is further amended by adding at the end the following:

“(e) **RESTRICTION ON LOANS TO MEMBER STATES OF THE EUROPEAN UNION.**—A loan may not be made under this section in a calendar year to enable the International Monetary Fund to provide financing, directly or indirectly—

“(1) to any member state of the European Union, until the ratio of the total outstanding public debt of each such member state to the gross domestic product of the member state, as of the end of the most recent fiscal year of the member state ending in the preceding calendar year, is not more than 60 percent; or

“(2) for any new credit or liquidity facility, or any new special purpose vehicle, related to European financial stability.”.

(2) UNITED STATES OPPOSITION TO INTERNATIONAL MONETARY FUND FINANCING FOR EUROPEAN FINANCIAL STABILITY.—The Bretton Woods Agreements Act (22 U.S.C. 286 et seq.), as amended by subsection (a)(1), is further amended by adding at the end the following: **“SEC. 65. OPPOSITION OF UNITED STATES TO INTERNATIONAL MONETARY FUND FINANCING FOR EUROPEAN FINANCIAL STABILITY.**

“The Secretary of the Treasury shall instruct the United States Executive Director of the Fund to use the voice and vote of the United States to oppose the provision of financing by the Fund, directly or indirectly—

“(1) to any member state of the European Union in a calendar year, until the ratio of the total outstanding public debt of each such member state to the gross domestic product of the member state, as of the end of the most recent fiscal year of the member state ending in the preceding calendar year, is not more than 60 percent; or

“(2) for any new credit or liquidity facility, or any new special purpose vehicle, related to European financial stability.”.

(c) SENSE OF CONGRESS ON IMPLEMENTATION OF DOUBLING OF UNITED STATES QUOTA IN THE INTERNATIONAL MONETARY FUND.—It is the sense of Congress that Congress should not approve any legislation to implement the December 15, 2010, vote of the Board of Governors of the International Monetary Fund to double the quota of the United States in the Fund.

**SA 1586.** Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . REPEAL OF AUTOMOBILE FUEL ECONOMY STANDARDS.**

Chapter 329 of title 49, United States Code, is repealed.

**SA 1587.** Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Transportation Empowerment Act”.

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.  
Sec. 2. Findings and purposes.  
Sec. 3. Funding for core highway programs.  
Sec. 4. Infrastructure Special Assistance Fund.  
Sec. 5. Return of excess tax receipts to States.

Sec. 6. Reduction in taxes on gasoline, diesel fuel, kerosene, and special fuels funding Highway Trust Fund.  
Sec. 7. Report to Congress.  
Sec. 8. Effective date contingent on certification of deficit neutrality.

**SEC. 2. FINDINGS AND PURPOSES.**

(a) **FINDINGS.**—Congress finds that—

(1) the objective of the Federal highway program has been to facilitate the construction of a modern freeway system that promotes efficient interstate commerce by connecting all States;

(2) that objective has been attained, and the Interstate System connecting all States is near completion;

(3) each State has the responsibility of providing an efficient transportation network for the residents of the State;

(4) each State has the means to build and operate a network of transportation systems, including highways, that best serves the needs of the State;

(5) each State is best capable of determining the needs of the State and acting on those needs;

(6) the Federal role in highway transportation has, over time, usurped the role of the States by taxing motor fuels used in the States and then distributing the proceeds to the States based on the Federal Government's perceptions of what is best for the States;

(7) the Federal Government has used the Federal motor fuels tax revenues to force all States to take actions that are not necessarily appropriate for individual States;

(8) the Federal distribution, review, and enforcement process wastes billions of dollars on unproductive activities;

(9) Federal mandates that apply uniformly to all 50 States, regardless of the different circumstances of the States, cause the States to waste billions of hard-earned tax dollars on projects, programs, and activities that the States would not otherwise undertake; and

(10) Congress has expressed a strong interest in reducing the role of the Federal Government by allowing each State to manage its own affairs.

(b) **PURPOSES.**—The purposes of this Act are—

(1) to return to the individual States maximum discretionary authority and fiscal responsibility for all elements of the national surface transportation systems that are not within the direct purview of the Federal Government;

(2) to preserve Federal responsibility for the Dwight D. Eisenhower National System of Interstate and Defense Highways;

(3) to preserve the responsibility of the Department of Transportation for—

(A) design, construction, and preservation of transportation facilities on Federal public land;

(B) national programs of transportation research and development and transportation safety; and

(C) emergency assistance to the States in response to natural disasters;

(4) to eliminate to the maximum extent practicable Federal obstacles to the ability of each State to apply innovative solutions to the financing, design, construction, operation, and preservation of Federal and State transportation facilities; and

(5) with respect to transportation activities carried out by States, local governments, and the private sector, to encourage—

(A) competition among States, local governments, and the private sector; and

(B) innovation, energy efficiency, private sector participation, and productivity.

**SEC. 3. FUNDING FOR CORE HIGHWAY PROGRAMS.**

(a) **IN GENERAL.**—

(1) **FUNDING.**—For the purpose of carrying out title 23, United States Code, the following sums are authorized to be appropriated out of the Highway Trust Fund:

(A) **INTERSTATE MAINTENANCE PROGRAM.**—For the Interstate maintenance program under section 119 of title 23, United States Code, \$5,200,000,000 for fiscal year 2014, \$5,280,000,000 for fiscal year 2015, \$5,360,000,000 for fiscal year 2016, \$5,440,000,000 for fiscal year 2017, and \$5,520,000,000 for fiscal year 2018.

(B) **EMERGENCY RELIEF.**—For emergency relief under section 125 of that title, \$100,000,000 for each of fiscal years 2014 through 2018.

(C) **INTERSTATE BRIDGE PROGRAM.**—For the Interstate bridge program under section 144 of that title, \$2,527,000,000 for fiscal year 2014, \$2,597,000,000 for fiscal year 2015, \$2,667,000,000 for fiscal year 2016, \$2,737,000,000 for fiscal year 2017, and \$2,807,000,000 for fiscal year 2018.

(D) **FEDERAL LANDS HIGHWAYS PROGRAM.**—

(i) **INDIAN RESERVATION ROADS.**—For Indian reservation roads under section 204 of that title, \$470,000,000 for fiscal year 2014, \$510,000,000 for fiscal year 2015, \$550,000,000 for fiscal year 2016, \$590,000,000 for fiscal year 2017, and \$630,000,000 for fiscal year 2018.

(ii) **PUBLIC LANDS HIGHWAYS.**—For public lands highways under section 204 of that title, \$300,000,000 for fiscal year 2014, \$310,000,000 for fiscal year 2015, \$320,000,000 for fiscal year 2016, \$330,000,000 for fiscal year 2017, and \$340,000,000 for fiscal year 2018.

(iii) **PARKWAYS AND PARK ROADS.**—For parkways and park roads under section 204 of that title, \$255,000,000 for fiscal year 2014, \$270,000,000 for fiscal year 2015, \$285,000,000 for fiscal year 2016, \$300,000,000 for fiscal year 2017, and \$315,000,000 for fiscal year 2018.

(iv) **REFUGE ROADS.**—For refuge roads under section 204 of that title, \$32,000,000 for each of fiscal years 2014 through 2018.

(E) **HIGHWAY SAFETY PROGRAMS.**—

(i) **IN GENERAL.**—For highway safety programs under section 402 of that title, \$170,000,000 for each of fiscal years 2014 through 2018.

(ii) **HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.**—For highway safety research and development under section 403 of that title, \$35,000,000 for each of fiscal years 2014 through 2018.

(F) **SURFACE TRANSPORTATION RESEARCH.**—For cooperative agreements with nonprofit research organizations to carry out applied pavement research under section 502 of that title, \$200,000,000 for each of fiscal years 2014 through 2018.

(G) **ADMINISTRATIVE EXPENSES.**—For administrative expenses incurred in carrying out the programs referred to in subparagraphs (A) through (F), \$92,890,000 for fiscal year 2014, \$95,040,000 for fiscal year 2015, \$97,190,000 for fiscal year 2016, \$99,340,000 for fiscal year 2017, and \$101,490,000 for fiscal year 2018.

(2) **TRANSFERABILITY OF FUNDS.**—Section 104 of title 23, United States Code, is amended by striking subsection (g) and inserting the following:

“(g) **TRANSFERABILITY OF FUNDS.**—

“(1) **IN GENERAL.**—To the extent that a State determines that funds made available under this title to the State for a purpose are in excess of the needs of the State for that purpose, the State may transfer the excess funds to, and use the excess funds for,

any surface transportation (including mass transit and rail) purpose in the State.

“(2) ENFORCEMENT.—If the Secretary determines that a State has transferred funds under paragraph (1) to a purpose that is not a surface transportation purpose as described in paragraph (1), the amount of the improperly transferred funds shall be deducted from any amount the State would otherwise receive from the Highway Trust Fund for the fiscal year that begins after the date of the determination.”.

(3) FEDERAL-AID SYSTEM.—Section 103(a) of title 23, United States Code, is amended by striking “systems are the Interstate System and the National Highway System” and inserting “system is the Interstate System”.

(4) INTERSTATE MAINTENANCE PROGRAM.—Section 104(b) of title 23, United States Code, is amended by striking paragraph (4) and inserting the following:

“(4) INTERSTATE MAINTENANCE COMPONENT.—For each of fiscal years 2014 through 2018, for the Interstate maintenance program under section 119, 1 percent to the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands and the remaining 99 percent apportioned as follows:

“(A)(i) For each State with an average population density of 20 persons or fewer per square mile, and each State with a population of 1,500,000 persons or fewer and with a land area of 10,000 square miles or less, the greater of—

“(I) a percentage share of apportionments equal to the percentage for the State described in clause (ii); or

“(II) a share determined under subparagraph (B).

“(ii) The percentage referred to in clause (i)(I) for a State for a fiscal year shall be the percentage calculated for the State for the fiscal year under section 105(b) of title 23, United States Code.

“(B) For each State not described in subparagraph (A), a share of the apportionments remaining determined in accordance with the following formula:

“(i)  $\frac{1}{2}$  in the ratio that the total rural lane miles in each State bears to the total rural lane miles in all States with an average population density greater than 20 persons per square mile and all States with a population of more than 1,500,000 persons and with a land area of more than 10,000 square miles.

“(ii)  $\frac{1}{2}$  in the ratio that the total rural vehicle miles traveled in each State bears to the total rural vehicle miles traveled in all States described in clause (i).

“(iii)  $\frac{1}{2}$  in the ratio that the total urban lane miles in each State bears to the total urban lane miles in all States described in clause (i).

“(iv)  $\frac{1}{2}$  in the ratio that the total urban vehicle miles traveled in each State bears to the total urban vehicle miles traveled in all States described in clause (i).

“(v)  $\frac{1}{2}$  in the ratio that the total diesel fuel used in each State bears to the total diesel fuel used in all States described in clause (i).”.

(5) INTERSTATE BRIDGE PROGRAM.—Section 144 of title 23, United States Code, is amended—

(A) in subsection (d)—

(i) by inserting “on the Federal-aid system or described in subsection (c)(3)” after “highway bridge” each place it appears; and

(ii) by inserting “on the Federal-aid system or described in subsection (c)(3)” after “highway bridges” each place it appears;

(B) in the second sentence of subsection (e)—

(i) in paragraph (1), by adding “and” at the end;

(ii) in paragraph (2), by striking the comma at the end and inserting a period; and

(iii) by striking paragraphs (3) and (4);

(C) in the first sentence of subsection (k), by inserting “on the Federal-aid system or described in subsection (c)(3)” after “any bridge”;

(D) in subsection (l)(1), by inserting “on the Federal-aid system or described in subsection (c)(3)” after “construct any bridge”; and

(E) in the first sentence of subsection (m), by inserting “for each of fiscal years 1991 through 2013,” after “of law.”.

(6) NATIONAL DEFENSE HIGHWAYS.—Section 311 of title 23, United States Code, is amended—

(A) in the first sentence, by striking “under subsection (a) of section 104 of this title” and inserting “to carry out this section”; and

(B) by striking the second sentence.

(7) FEDERALIZATION AND DEFEDERALIZATION OF PROJECTS.—Notwithstanding any other provision of law, beginning on October 1, 2013—

(A) a highway construction or improvement project shall not be considered to be a Federal highway construction or improvement project unless and until a State expends Federal funds for the construction portion of the project;

(B) a highway construction or improvement project shall not be considered to be a Federal highway construction or improvement project solely by reason of the expenditure of Federal funds by a State before the construction phase of the project to pay expenses relating to the project, including for any environmental document or design work required for the project; and

(C)(i) a State may, after having used Federal funds to pay all or a portion of the costs of a highway construction or improvement project, reimburse the Federal Government in an amount equal to the amount of Federal funds so expended; and

(ii) after completion of a reimbursement described in clause (i), a highway construction or improvement project described in that clause shall no longer be considered to be a Federal highway construction or improvement project.

(8) REPORTING REQUIREMENTS.—No reporting requirement, other than a reporting requirement in effect as of the date of enactment of this Act, shall apply on or after October 1, 2013, to the use of Federal funds for highway projects by a public-private partnership.

(b) EXPENDITURES FROM HIGHWAY TRUST FUND.—

(1) EXPENDITURES FOR CORE PROGRAMS.—Section 9503(c) of the Internal Revenue Code of 1986 is amended—

(A) in paragraph (1), by striking “Surface Transportation Extension Act of 2011, Part II” and inserting “Transportation Empowerment Act”;

(B) in paragraph (1), by striking “April 1, 2012” and inserting “October 1, 2018”;

(C) in paragraphs (3)(A)(i), (4)(A), and (5), by striking “April 1, 2012” each place it appears and inserting “October 1, 2020”; and

(D) in paragraph (2), by striking “January 1, 2013” and inserting “July 1, 2021”.

(2) AMOUNTS AVAILABLE FOR CORE PROGRAM EXPENDITURES.—Section 9503 of such Code is amended by adding at the end the following:

“(g) CORE PROGRAMS FINANCING RATE.—For purposes of this section—

“(1) IN GENERAL.—Except as provided in paragraph (2)—

“(A) in the case of gasoline and special motor fuels the tax rate of which is the rate specified in section 4081(a)(2)(A)(i), the core programs financing rate is—

“(i) after September 30, 2013, and before October 1, 2014, 18.3 cents per gallon,

“(ii) after September 30, 2014, and before October 1, 2015, 9.6 cents per gallon,

“(iii) after September 30, 2015, and before October 1, 2016, 6.4 cents per gallon,

“(iv) after September 30, 2016, and before October 1, 2017, 5.0 cents per gallon, and

“(v) after September 30, 2017, 3.7 cents per gallon, and

“(B) in the case of kerosene, diesel fuel, and special motor fuels the tax rate of which is the rate specified in section 4081(a)(2)(A)(iii), the core programs financing rate is—

“(i) after September 30, 2013, and before October 1, 2014, 24.3 cents per gallon,

“(ii) after September 30, 2014, and before October 1, 2015, 12.7 cents per gallon,

“(iii) after September 30, 2015, and before October 1, 2016, 8.5 cents per gallon,

“(iv) after September 30, 2016, and before October 1, 2017, 6.6 cents per gallon, and

“(v) after September 30, 2017, 5.0 cents per gallon.

“(2) APPLICATION OF RATE.—In the case of fuels used as described in paragraph (3)(C), (4)(B), and (5) of subsection (c), the core programs financing rate is zero.”.

(c) TERMINATION OF TRANSFERS TO MASS TRANSIT ACCOUNT.—Section 9503(e)(2) of the Internal Revenue Code of 1986 is amended by inserting “, and before October 1, 2013” after “March 31, 1983”.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section take effect on October 1, 2013.

(2) CERTAIN EXTENSIONS.—The amendments made by subsection (b)(1) shall take effect on April 1, 2012.

#### SEC. 4. INFRASTRUCTURE SPECIAL ASSISTANCE FUND.

(a) BALANCE OF CORE PROGRAMS FINANCING RATE DEPOSITED IN FUND.—Section 9503 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

“(h) ESTABLISHMENT OF INFRASTRUCTURE SPECIAL ASSISTANCE FUND.—

“(1) CREATION OF FUND.—There is established in the Highway Trust Fund a separate fund to be known as the ‘Infrastructure Special Assistance Fund’ consisting of such amounts as may be transferred or credited to the Infrastructure Special Assistance Fund as provided in this subsection or section 9602(b).

“(2) TRANSFERS TO INFRASTRUCTURE SPECIAL ASSISTANCE FUND.—On the first day of each fiscal year, the Secretary, in consultation with the Secretary of Transportation, shall determine the excess (if any) of—

“(A) the sum of—

“(i) the amounts appropriated in such fiscal year to the Highway Trust Fund under subsection (b) which are attributable to the core programs financing rate for such year, plus

“(ii) the amounts appropriated in such fiscal year to the Highway Trust Fund under subsection (b) which are attributable to taxes under sections 4051, 4071, and 4481 for such year, over

“(B) the amount appropriated under subsection (c) for such fiscal year,

and shall transfer such excess to the Infrastructure Special Assistance Fund.

“(3) EXPENDITURES FROM INFRASTRUCTURE SPECIAL ASSISTANCE FUND.—

“(A) TRANSITIONAL ASSISTANCE.—

“(i) IN GENERAL.—Except as provided in clause (iii), during fiscal years 2014 through 2017, \$1,000,000,000 in the Infrastructure Special Assistance Fund shall be available to States for transportation-related program expenditures.

“(ii) STATE SHARE.—Each State is entitled to a share of the amount specified in clause (i) determined in the following manner:

“(I) Multiply the percentage of the amounts appropriated in the latest fiscal year for which such data are available to the Highway Trust Fund under subsection (b) which is attributable to taxes paid by highway users in the State, by the amount specified in clause (i). If the result does not exceed \$15,000,000, the State's share equals \$15,000,000. If the result exceeds \$15,000,000, the State's share is determined under subclause (II).

“(II) Multiply the percentage determined under subclause (I), by the amount specified in clause (i) reduced by an amount equal to \$15,000,000 times the number of States the share of which is determined under subclause (I).

“(iii) DISTRIBUTION OF REMAINING AMOUNT.—If after September 30, 2017, a portion of the amount specified in clause (i) remains, the Secretary, in consultation with the Secretary of Transportation, shall, on October 1, 2017, apportion the portion among the States using the percentages determined under clause (ii)(I) for such States.

“(B) ADDITIONAL EXPENDITURES FROM FUND.—

“(i) IN GENERAL.—Amounts in the Infrastructure Special Assistance Fund, in excess of the amount specified in subparagraph (A)(i), shall be available, as provided by appropriation Acts, to the States for any surface transportation (including mass transit and rail) purpose in such States, and the Secretary shall apportion such excess amounts among all States using the percentages determined under clause (ii)(I) for such States.

“(ii) ENFORCEMENT.—If the Secretary determines that a State has used amounts under clause (i) for a purpose which is not a surface transportation purpose as described in clause (i), the improperly used amounts shall be deducted from any amount the State would otherwise receive from the Highway Trust Fund for the fiscal year which begins after the date of the determination.”.

(b) EFFECTIVE DATE.—The amendment made by this section takes effect on October 1, 2013.

#### SEC. 5. RETURN OF EXCESS TAX RECEIPTS TO STATES.

(a) IN GENERAL.—Section 9503(c) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

“(6) RETURN OF EXCESS TAX RECEIPTS TO STATES FOR SURFACE TRANSPORTATION PURPOSES.—

“(A) IN GENERAL.—On the first day of each of fiscal years 2014, 2015, 2016, and 2017, the Secretary, in consultation with the Secretary of Transportation, shall—

“(i) determine the excess (if any) of—

“(I) the amounts appropriated in such fiscal year to the Highway Trust Fund under subsection (b) which are attributable to the taxes described in paragraphs (1) and (2) thereof (after the application of paragraph (4) thereof) over the sum of—

“(II) the amounts so appropriated which are equivalent to—

“(aa) such amounts attributable to the core programs financing rate for such year, plus

“(bb) the taxes described in paragraphs (3)(C), (4)(B), and (5) of subsection (c), and

“(ii) allocate the amount determined under clause (i) among the States (as defined in section 101(a) of title 23, United States Code) for surface transportation (including mass transit and rail) purposes so that—

“(I) the percentage of that amount allocated to each State, is equal to

“(II) the percentage of the amount determined under clause (i)(I) paid into the Highway Trust Fund in the latest fiscal year for which such data are available which is attributable to highway users in the State.

“(B) ENFORCEMENT.—If the Secretary determines that a State has used amounts under subparagraph (A) for a purpose which is not a surface transportation purpose as described in subparagraph (A), the improperly used amounts shall be deducted from any amount the State would otherwise receive from the Highway Trust Fund for the fiscal year which begins after the date of the determination.”.

(b) EFFECTIVE DATE.—The amendment made by this section takes effect on October 1, 2013.

#### SEC. 6. REDUCTION IN TAXES ON GASOLINE, DIESEL FUEL, KEROSENE, AND SPECIAL FUELS FUNDING HIGHWAY TRUST FUND.

(a) REDUCTION IN TAX RATE.—

(1) IN GENERAL.—Section 4081(a)(2)(A) of the Internal Revenue Code of 1986 is amended—

(A) in clause (i), by striking “18.3 cents” and inserting “3.7 cents”; and

(B) in clause (iii), by striking “24.3 cents” and inserting “5.0 cents”.

(2) CONFORMING AMENDMENTS.—

(A) Section 4081(a)(2)(D) of such Code is amended—

(i) by striking “19.7 cents” and inserting “4.1 cents”; and

(ii) by striking “24.3 cents” and inserting “5.0 cents”.

(B) Section 6427(b)(2)(A) of such Code is amended by striking “7.4 cents” and inserting “1.5 cents”.

(b) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 4041(a)(1)(C)(iii)(I) of the Internal Revenue Code of 1986 is amended by striking “7.3 cents per gallon (4.3 cents per gallon after March 31, 2012)” and inserting “1.4 cents per gallon (zero after September 30, 2020)”.

(2) Section 4041(a)(2)(B)(ii) of such Code is amended by striking “24.3 cents” and inserting “5.0 cents”.

(3) Section 4041(a)(3)(A) of such Code is amended by striking “18.3 cents” and inserting “3.7 cents”.

(4) Section 4041(m)(1) of such Code is amended—

(A) in subparagraph (A), by striking “April 1, 2012” and inserting “October 1, 2020”; and

(B) in subparagraph (A)(i), by striking “9.15 cents” and inserting “1.8 cents”;

(C) in subparagraph (A)(ii), by striking “11.3 cents” and inserting “2.3 cents”; and

(D) by striking subparagraph (B) and inserting the following:

“(B) zero after September 30, 2020.”.

(5) Section 4081(d)(1) of such Code is amended by striking “4.3 cents per gallon after March 31, 2012” and inserting “zero after September 30, 2020”.

(6) Section 9503(b) of such Code is amended—

(A) in paragraphs (1) and (2), by striking “April 1, 2012” both places it appears and inserting “October 1, 2020”; and

(B) in the heading of paragraph (2), by striking “APRIL 1, 2012” and inserting “OCTOBER 1, 2020”;

(C) in paragraph (2), by striking “after March 31, 2012, and before January 1, 2013” and inserting “after September 30, 2020, and before July 1, 2021”; and

(D) in paragraph (6)(B), by striking “April 1, 2012” and inserting “October 1, 2018”.

(c) FLOOR STOCK REFUNDS.—

(1) IN GENERAL.—If—

(A) before October 1, 2017, tax has been imposed under section 4081 of the Internal Revenue Code of 1986 on any liquid; and

(B) on such date such liquid is held by a dealer and has not been used and is intended for sale;

there shall be credited or refunded (without interest) to the person who paid such tax (in this subsection referred to as the “taxpayer”) an amount equal to the excess of the tax paid by the taxpayer over the amount of such tax which would be imposed on such liquid had the taxable event occurred on such date.

(2) TIME FOR FILING CLAIMS.—No credit or refund shall be allowed or made under this subsection unless—

(A) claim therefor is filed with the Secretary of the Treasury before April 1, 2018; and

(B) in any case where liquid is held by a dealer (other than the taxpayer) on October 1, 2017—

(i) the dealer submits a request for refund or credit to the taxpayer before January 1, 2018; and

(ii) the taxpayer has repaid or agreed to repay the amount so claimed to such dealer or has obtained the written consent of such dealer to the allowance of the credit or the making of the refund.

(3) EXCEPTION FOR FUEL HELD IN RETAIL STOCKS.—No credit or refund shall be allowed under this subsection with respect to any liquid in retail stocks held at the place where intended to be sold at retail.

(4) DEFINITIONS.—For purposes of this subsection, the terms “dealer” and “held by a dealer” have the respective meanings given to such terms by section 6412 of such Code; except that the term “dealer” includes a producer.

(5) CERTAIN RULES TO APPLY.—Rules similar to the rules of subsections (b) and (c) of section 6412 and sections 6206 and 6675 of such Code shall apply for purposes of this subsection.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to fuel removed after September 30, 2017.

(2) CERTAIN CONFORMING AMENDMENTS.—The amendments made by subsections (b)(1), (b)(4), (b)(5), and (b)(6) shall apply to fuel removed after September 30, 2011.

#### SEC. 7. REPORT TO CONGRESS.

Not later than 180 days after the date of enactment of this Act, after consultation with the appropriate committees of Congress, the Secretary of Transportation shall submit a report to Congress describing such technical and conforming amendments to titles 23 and 49, United States Code, and such technical and conforming amendments to other laws, as are necessary to bring those titles and other laws into conformity with the policy embodied in this Act and the amendments made by this Act.

#### SEC. 8. EFFECTIVE DATE CONTINGENT ON CERTIFICATION OF DEFICIT NEUTRALITY.

(a) PURPOSE.—The purpose of this section is to ensure that—

(1) this Act will become effective only if the Director of the Office of Management

and Budget certifies that this Act is deficit neutral;

(2) discretionary spending limits are reduced to capture the savings realized in devolving transportation functions to the State level pursuant to this Act; and

(3) the tax reduction made by this Act is not scored under pay-as-you-go and does not inadvertently trigger a sequestration.

(b) **EFFECTIVE DATE CONTINGENCY.**—Notwithstanding any other provision of this Act, this Act and the amendments made by this Act shall take effect only if—

(1) the Director of the Office of Management and Budget (referred to in this section as the “Director”) submits the report as required in subsection (c); and

(2) the report contains a certification by the Director that, based on the required estimates, the reduction in discretionary outlays resulting from the reduction in contract authority is at least as great as the reduction in revenues for each fiscal year through fiscal year 2018.

(c) **OMB ESTIMATES AND REPORT.**—

(1) **REQUIREMENTS.**—Not later than 5 calendar days after the date of enactment of this Act, the Director shall—

(A) estimate the net change in revenues resulting from this Act for each fiscal year through fiscal year 2018;

(B) estimate the net change in discretionary outlays resulting from the reduction in contract authority under this Act for each fiscal year through fiscal year 2018;

(C) determine, based on those estimates, whether the reduction in discretionary outlays is at least as great as the reduction in revenues for each fiscal year through fiscal year 2018; and

(D) submit to Congress a report setting forth the estimates and determination.

(2) **APPLICABLE ASSUMPTIONS AND GUIDELINES.**—

(A) **REVENUE ESTIMATES.**—The revenue estimates required under paragraph (1)(A) shall be predicated on the same economic and technical assumptions and scorekeeping guidelines that would be used for estimates made pursuant to section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902(d)).

(B) **OUTLAY ESTIMATES.**—The outlay estimates required under paragraph (1)(B) shall be determined by comparing the level of discretionary outlays resulting from this Act with the corresponding level of discretionary outlays projected in the baseline under section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 907).

(d) **CONFORMING ADJUSTMENT TO DISCRETIONARY SPENDING LIMITS.**—On compliance with the requirements specified in subsection (b), the Director shall adjust the adjusted discretionary spending limits for each fiscal year through fiscal year 2013 under section 601(a)(2) of the Congressional Budget Act of 1974 (2 U.S.C. 665(a)(2)) by the estimated reductions in discretionary outlays under subsection (c)(1)(B).

(e) **PAYGO INTERACTION.**—On compliance with the requirements specified in subsection (b), no changes in revenues estimated to result from the enactment of this Act shall be counted for the purposes of section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902(d)).

**SA 1588.** Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for

other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ REPEAL OF RENEWABLE FUEL PROGRAM.**

(a) **IN GENERAL.**—Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended by striking subsection (c).

(b) **CONFORMING AMENDMENTS.**—

(1) Section 107(a)(1)(B) of the Petroleum Marketing Practices Act (15 U.S.C. 2807(a)(1)(B)) is amended by striking “(as defined in regulations adopted pursuant to section 211(c) of the Clean Air Act (40 CFR, part 80))”.

(2) Section 211(d) of the Clean Air Act (42 U.S.C. 7545(d)) is amended—

(A) in paragraph (1)—

(i) in the first sentence, by striking “(n), or (o)” each place it appears and inserting “or (n)”; and

(ii) in the second sentence, by striking “(m), or (o)” and inserting “or (m)”; and

(B) in the first sentence of paragraph (2), by striking “(n), and (o)” each place it appears and inserting “and (n)”.

**SA 1589.** Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**TITLE \_\_\_\_ —REPEAL OF ENERGY TAX SUBSIDIES**

**SEC. \_\_\_\_ 100. REFERENCE TO 1986 CODE.**

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

**SEC. \_\_\_\_ 101. REPEAL OF CREDIT FOR ALCOHOL FUEL, BIODIESEL, AND ALTERNATIVE FUEL MIXTURES.**

(a) **IN GENERAL.**—Section 4626 is repealed.

(b) **CONFORMING AMENDMENTS.**—

(1) Subparagraph (D) of section 6427(e)(6) of such Code is amended by striking “September 30, 2014” and inserting “September 30, 2012”.

(2) Paragraph (1) of section 4101(a) is amended by striking “or alcohol (as defined in section 6426(b)(4)(A))”.

(3) Paragraph (2) of section 4104(a) is amended by striking “6426, or 6427(e)”.

(4) Subparagraph (E) of section 7704(d)(1) is amended—

(A) by inserting “(as in effect on the day before the date of the enactment of the Energy Freedom and Economic Prosperity Act)” after “of section 6426”; and

(B) by inserting “(as so in effect)” after “section 6426(b)(4)(A)”.

(5) Paragraph (1) of section 9503(b) is amended by striking the second sentence.

(c) **CLERICAL AMENDMENT.**—The table of sections for subchapter B of chapter 65 is amended by striking the item relating to section 6426.

(d) **EFFECTIVE.**—The amendments made by this section shall apply with respect to fuel sold and used after December 31, 2012.

**SEC. \_\_\_\_ 102. REPEAL OF CREDIT FOR CERTAIN PLUG-IN ELECTRIC VEHICLES.**

(a) **IN GENERAL.**—Section 30 is repealed.

(b) **CONFORMING AMENDMENTS.**—

(1) Paragraph (3) of section 24(b) is amended by striking “, 30”.

(2) Clause (ii) of section 25(e)(1)(C) is amended by striking “, 30”.

(3) Paragraph (2) of section 25B(g) is amended by striking “, 30”.

(4) Paragraph (1) of section 26(a) is amended by striking “, 30”.

(5) Subclause (VI) of section 48C(c)(1)(A)(i) is amended by inserting “(as in effect on the day before the date of the enactment of the Energy Freedom and Economic Prosperity Act)” after “section 30(d)”.

(6) Paragraph (3) of section 179A(c) is amended by inserting “(as in effect on the day before the date of the enactment of the Energy Freedom and Economic Prosperity Act)” after section “30(c)”.

(7) Subsection (a) of section 1016 is amended by striking paragraph (25) and by redesignating paragraphs (26) through (37) as paragraphs (25) through (36), respectively.

(8) Subsection (m) of section 6501 is amended by striking “30(e)(6)”.

(c) **CLERICAL AMENDMENT.**—The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 30.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to property placed in service after December 31, 2011.

**SEC. \_\_\_\_ 103. EARLY TERMINATION OF CREDIT FOR QUALIFIED FUEL CELL MOTOR VEHICLES.**

(a) **IN GENERAL.**—Section 30B is repealed.

(b) **CONFORMING AMENDMENTS.**—

(1) Subparagraph (A) of section 24(b)(3) is amended by striking “, 30B”.

(2) Clause (ii) of section 25(e)(1)(C) is amended by striking “, 30B”.

(3) Paragraph (2) of section 25B(g) is amended by striking “, 30B”.

(4) Paragraph (1) of section 26(a) is amended by striking “, 30B”.

(5) Subsection (b) of section 38 is amended by striking paragraph (25).

(6) Subsection (a) of section 1016, as amended by section 102 of this Act, is amended by striking paragraph (33) and by redesignating paragraphs (34), (35), and (36) as paragraphs (33), (34), and (35), respectively.

(7) Paragraph (2) of section 1400C(d) is amended by striking “, 30B”.

(8) Subsection (m) of section 6501 is amended by striking “, 30B(h)(9)”.

(c) **CLERICAL AMENDMENT.**—The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 30B.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to property placed in service after December 31, 2012.

**SEC. \_\_\_\_ 104. REPEAL OF ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY CREDIT.**

(a) **IN GENERAL.**—Section 30C is repealed.

(b) **CONFORMING AMENDMENTS.**—

(1) Subsection (b) of section 38 is amended by striking paragraph (26).

(2) Paragraph (3) of section 55(c) is amended by striking “, 30C(d)(2)”.

(3) Subsection (a) of section 1016, as amended by sections 102 and 103 of this Act, is amended by striking paragraph (33) and by redesignating paragraph (34) and (35) as paragraphs (33) and (34), respectively.

(4) Subsection (m) of section 6501 is amended by striking “, 30C(e)(5)”.

(c) **CLERICAL AMENDMENT.**—The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 30C.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to property placed in service after December 31, 2012.

**SEC. 105. REPEAL OF CREDIT FOR ALCOHOL USED AS FUEL.**

(a) IN GENERAL.—Section 40 is repealed.  
(b) CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 38 is amended by striking paragraph (3).

(2) Subsection (c) of section 196 is amended by striking paragraph (3) and by redesignating paragraphs (4) through (14) as paragraphs (3) through (13), respectively.

(3) Paragraph (1) of section 4101(a) is amended by striking “, and every person producing cellulosic biofuel (as defined in section 40(b)(6)(E))”.

(4) Paragraph (1) of section 4104(a) is amended by striking “, 40”.

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 40.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after December 31, 2012.

**SEC. 106. REPEAL OF CREDIT FOR BIODIESEL AND RENEWABLE DIESEL USED AS FUEL.**

(a) IN GENERAL.—Section 40A is repealed.  
(b) CONFORMING AMENDMENT.—

(1) Subsection (b) of section 38 is amended by striking paragraph (17).

(2) Section 87 is repealed.

(3) Subsection (c) of section 196, as amended by section 106 of this Act, is amended by striking paragraph (11) and by redesignating paragraphs (11), (12), and (13) as paragraphs (10), (11), and (12), respectively.

(4) Paragraph (1) of section 4101(a) is amended by striking “, every person producing or importing biodiesel (as defined in section 40A(d)(1))”.

(5) Paragraph (1) of section 4104(a) is amended by striking “, and 40A”.

(6) Subparagraph (E) of section 7704(d)(1) is amended by inserting “(as so in effect)” after “section 40A(d)(1)”.

(c) CLERICAL AMENDMENTS.—

(1) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 40A.

(2) The table of sections for part II of subchapter A of chapter 1 is amended by striking the item relating to section 87.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel produced, and sold or used, after December 31, 2011.

**SEC. 107. REPEAL OF ENHANCED OIL RECOVERY CREDIT.**

(a) IN GENERAL.—Section 43 is repealed.  
(b) CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 38 is amended by striking paragraph (6).

(2) Paragraph (4) of section 45Q(d) is amended by inserting “(as in effect on the day before the date of the enactment of the Energy Freedom and Economic Prosperity Act)” after “section 43(c)(2)”.

(3) Subsection (c) of section 196, as amended by sections 106 and 107 of this Act, is amended by striking paragraph (5) and by redesignating paragraphs (6) through (12) as paragraphs (5) through (11), respectively.

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 43.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to costs paid or incurred in taxable years beginning after December 31, 2012.

**SEC. 108. TERMINATION OF CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.**

(a) IN GENERAL.—Subsection (d) of section 45 is amended—

(1) by striking “2013” in paragraph (1) and inserting “2012”, and

(2) by striking “2014” each place it appears in paragraphs (2), (3), (4), (6), (7), (9), and (11) and inserting “2012”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2012.

**SEC. 109. REPEAL OF CREDIT FOR PRODUCING OIL AND GAS FROM MARGINAL WELLS.**

(a) IN GENERAL.—Section 45I is repealed.

(b) CONFORMING AMENDMENT.—Subsection (b) of section 38 is amended by striking paragraph (19).

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 45I.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to production in taxable years beginning after December 31, 2012.

**SEC. 110. TERMINATION OF CREDIT FOR PRODUCTION FROM ADVANCED NUCLEAR POWER FACILITIES.**

(a) IN GENERAL.—Subparagraph (B) of section 45J(d)(1) is amended by striking “January 1, 2021” and inserting “January 1, 2013”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2012.

**SEC. 111. REPEAL OF CREDIT FOR CARBON DIOXIDE SEQUESTRATION.**

(a) IN GENERAL.—Section 45Q is repealed.

(b) CONFORMING AMENDMENT.—Subsection (b) of section 38 is amended by striking paragraph (34).

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 45Q.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to carbon dioxide captured after December 31, 2012.

**SEC. 112. TERMINATION OF ENERGY CREDIT.**

(a) IN GENERAL.—Section 48 is amended—

(1) by striking “January 1, 2017” each place it appears and inserting “January 1, 2013”,

(2) by striking “December 31, 2016” each place it appears and inserting “December 31, 2012”, and

(3) by striking “2012, or 2013” in subsection (a)(5)(C)(ii) and inserting “or 2012”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2012.

**SEC. 113. REPEAL OF QUALIFYING ADVANCED COAL PROJECT.**

(a) IN GENERAL.—Section 48A is repealed.

(b) CONFORMING AMENDMENT.—Section 46 is amended by striking paragraph (3) and by redesignating paragraphs (4), (5), and (6) as paragraphs (3), (4), and (5), respectively.

(c) CLERICAL AMENDMENT.—The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 48A.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2012.

**SEC. 114. REPEAL OF QUALIFYING GASIFICATION PROJECT CREDIT.**

(a) IN GENERAL.—Section 48B is repealed.

(b) CONFORMING AMENDMENT.—Section 46, as amended by this Act, is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(c) CLERICAL AMENDMENT.—The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 48B.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2012.

**SEC. 115. REPEAL OF AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 ENERGY GRANT PROGRAM.**

(a) IN GENERAL.—Section 1603 of division B of the American Recovery and Reinvestment Act of 2009 is repealed.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2011.

**TITLE —REDUCTION OF CORPORATE INCOME TAX RATE****SEC. 201. CORPORATE INCOME TAX RATE REDUCED.**

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall prescribe proportionate modifications to each of the rates of tax under paragraph (1) of section 11(b) of the Internal Revenue Code of 1986 such that—

(1) the decrease in revenue to the Treasury for taxable years beginning during the 10-year period beginning on the date of the enactment of this Act, as estimated by the Secretary, is equal to

(2) the increase in revenue for such taxable years by reason of the amendments made by title I of this Act, as estimated by the Secretary.

The appropriate corresponding changes shall be made to the dollar amounts contained in the last 2 sentences of section 11(b)(1) of such Code and to the rates of tax under section 11(b)(2) of such Code, section 1201(a) of such Code, and paragraphs (1), (2), and (6) of section 1445(e) of such Code.

(b) EFFECTIVE DATE.—The rates prescribed by the Secretary under subsection (a) shall apply to taxable years beginning more than 1 year after the date of the enactment of this Act. Section 211(o) of the Clean Air Act (42 U.S.C. 7545(o)) is repealed.

**SA 1590.** Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. —. AMENDMENTS TO THE NATIONAL LABOR RELATIONS ACT.**

Section 9 of the National Labor Relations Act (29 U.S.C. 159) is amended—

(1) in subsection (b), by inserting “prior to an election” after “in each case”; and

(2) in subsection (c)—

(A) in the flush matter following paragraph (1)(B)—

(i) by inserting “of 14 days in advance” after “appropriate hearing upon due notice”; and

(ii) by inserting “, and a review of post-hearing appeals,” after “the record of such hearing”; and

(iii) by adding at the end the following:

“No election shall be conducted less than 40 calendar days following the filing of an election petition. The employer shall provide the Board a list of employee names and home addresses of all eligible voters within 7 days following the Board’s determination of the appropriate unit or following any agreement between the employer and the labor organization regarding the eligible voters.”; and

(B) by adding at the end the following:

“(6)(A) No election shall take place after the filing of any petition unless and until—

“(i) a hearing is conducted before a qualified hearing officer in accordance with due process on any and all material, factual



issues regarding jurisdiction, statutory coverage, appropriate unit, unit inclusion or exclusion, or eligibility of individuals; and

“(ii) the issues are resolved by a Regional Director, subject to appeal and review, or by the Board.

“(B) No election results shall be final and no labor organization shall be certified as the bargaining representative of the employees in an appropriate unit unless and until the Board has ruled on—

“(i) each pre-election issue not resolved before the election; and

“(ii) the resolution, following a hearing conducted in accordance with due process, of each issue pertaining to the conduct or results of the election.”.

**SA 1591.** Mr. KOHL (for himself, Ms. KLOBUCHAR, and Mr. VITTER) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, insert the following:

**TITLE \_\_\_\_\_ —RAILROAD ANTITRUST ENFORCEMENT ACT OF 2012**

**SEC. 01. SHORT TITLE.**

This title may be cited as the “Railroad Antitrust Enforcement Act of 2012”.

**SEC. 02. INJUNCTIONS AGAINST RAILROAD COMMON CARRIERS.**

The proviso in section 16 of the Clayton Act (15 U.S.C. 26) ending with “Code.” is amended to read as follows: “*Provided*, That nothing herein contained shall be construed to entitle any person, firm, corporation, or association, except the United States, to bring suit for injunctive relief against any common carrier that is not a railroad subject to the jurisdiction of the Surface Transportation Board under subtitle IV of title 49, United States Code.”.

**SEC. 03. MERGERS AND ACQUISITIONS OF RAILROADS.**

The sixth undesignated paragraph of section 7 of the Clayton Act (15 U.S.C. 18) is amended to read as follows:

“Nothing contained in this section shall apply to transactions duly consummated pursuant to authority given by the Secretary of Transportation, Federal Power Commission, Surface Transportation Board (except for transactions described in section 11321 of that title), the Securities and Exchange Commission in the exercise of its jurisdiction under section 10 (of the Public Utility Holding Company Act of 1935), the United States Maritime Commission, or the Secretary of Agriculture under any statutory provision vesting such power in the Commission, Board, or Secretary.”.

**SEC. 04. LIMITATION OF PRIMARY JURISDICTION.**

The Clayton Act is amended by adding at the end thereof the following:

“SEC. 29. In any civil action against a common carrier railroad under section 4, 4C, 15, or 16 of this Act, the district court shall not be required to defer to the primary jurisdiction of the Surface Transportation Board.”.

**SEC. 05. FEDERAL TRADE COMMISSION ENFORCEMENT.**

(a) CLAYTON ACT.—Section 11(a) of the Clayton Act (15 U.S.C. 21(a)) is amended by striking “subject to jurisdiction” and all that follows through the first semicolon and inserting “subject to jurisdiction under subtitle IV of title 49, United States Code (ex-

cept for agreements described in section 10706 of that title and transactions described in section 11321 of that title);”.

(b) FTC ACT.—Section 5(a)(2) of the Federal Trade Commission Act (15 U.S.C. 45(a)(2)) is amended by striking “common carriers subject” and inserting “common carriers, except for railroads, subject”.

**SEC. 06. EXPANSION OF TREBLE DAMAGES TO RAIL COMMON CARRIERS.**

Section 4 of the Clayton Act (15 U.S.C. 15) is amended by—

(1) redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) inserting after subsection (a) the following:

“(b) Subsection (a) shall apply to a common carrier by railroad subject to the jurisdiction of the Surface Transportation Board under subtitle IV of title 49, United States Code, without regard to whether such railroads have filed rates or whether a complaint challenging a rate has been filed.”.

**SEC. 07. TERMINATION OF EXEMPTIONS IN TITLE 49.**

(a) IN GENERAL.—Section 10706 of title 49, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2)(A), by striking “, and the Sherman Act (15 U.S.C. 1 et seq.),” and all that follows through “or carrying out the agreement” in the third sentence;

(B) in paragraph (4)—

(i) by striking the second sentence; and

(ii) by striking “However, the” in the third sentence and inserting “The”; and

(C) in paragraph (5)(A), by striking “, and the antitrust laws set forth in paragraph (2) of this subsection do not apply to parties and other persons with respect to making or carrying out the agreement”; and

(2) by striking subsection (e) and inserting the following:

“(e) APPLICATION OF ANTITRUST LAWS.—

“(1) IN GENERAL.—Nothing in this section exempts a proposed agreement described in subsection (a) from the application of the Sherman Act (15 U.S.C. 1 et seq.), the Clayton Act (15 U.S.C. 12, 14 et seq.), the Federal Trade Commission Act (15 U.S.C. 41 et seq.), section 73 or 74 of the Wilson Tariff Act (15 U.S.C. 8 and 9), or the Act of June 19, 1936 (15 U.S.C. 13, 13a, 13b, 21a).

“(2) ANTITRUST ANALYSIS TO CONSIDER IMPACT.—In reviewing any such proposed agreement for the purpose of any provision of law described in paragraph (1), the Board shall take into account, among any other considerations, the impact of the proposed agreement on shippers, on consumers, and on affected communities.”.

(b) COMBINATIONS.—Section 11321 of title 49, United States Code, is amended—

(1) in subsection (a)—

(A) by striking “The authority” in the first sentence and inserting “Except as provided in sections 4 (15 U.S.C. 15), 4C (15 U.S.C. 15c), section 15 (15 U.S.C. 25), and section 16 (15 U.S.C. 26) of the Clayton Act (15 U.S.C. 21(a)), the authority”; and

(B) by striking “is exempt from the antitrust laws and from all other law,” in the third sentence and inserting “is exempt from all other law (except the antitrust laws referred to in subsection (c)).”; and

(2) by adding at the end the following:

“(c) APPLICATION OF ANTITRUST LAWS.—

“(1) IN GENERAL.—Nothing in this section exempts a transaction described in subsection (a) from the application of the Sherman Act (15 U.S.C. 1 et seq.), the Clayton Act (15 U.S.C. 12, 14 et seq.), the Federal Trade Commission Act (15 U.S.C. 41 et seq.), section 73 or 74 of the Wilson Tariff Act (15 U.S.C. 8-

9), or the Act of June 19, 1936 (15 U.S.C. 13, 13a, 13b, 21a). The preceding sentence shall not apply to any transaction relating to the pooling of railroad cars approved by the Surface Transportation Board or its predecessor agency pursuant to section 11322 of title 49, United States Code.

“(2) ANTITRUST ANALYSIS TO CONSIDER IMPACT.—In reviewing any such transaction for the purpose of any provision of law described in paragraph (1), the Board shall take into account, among any other considerations, the impact of the transaction on shippers and on affected communities.”.

(c) CONFORMING AMENDMENTS.—

(1) The heading for section 10706 of title 49, United States Code, is amended to read as follows: “**Rate agreements**”.

(2) The item relating to such section in the chapter analysis at the beginning of chapter 107 of such title is amended to read as follows:

“10706. Rate agreements.”.

**SEC. 08. EFFECTIVE DATE.**

(a) IN GENERAL.—Subject to the provisions of subsection (b), this title shall take effect on the date of enactment of this title.

(b) CONDITIONS.—

(1) PREVIOUS CONDUCT.—A civil action under section 4, 15, or 16 of the Clayton Act (15 U.S.C. 15, 25, 26) or complaint under section 5 of the Federal Trade Commission Act (15 U.S.C. 45) may not be filed with respect to any conduct or activity that occurred prior to the date of enactment of this title that was previously exempted from the antitrust laws as defined in section 1 of the Clayton Act (15 U.S.C. 12) by orders of the Interstate Commerce Commission or the Surface Transportation Board issued pursuant to law.

(2) GRACE PERIOD.—A civil action or complaint described in paragraph (1) may not be filed earlier than 180 days after the date of enactment of this title with respect to any previously exempted conduct or activity or previously exempted agreement that is continued subsequent to the date of enactment of this Act.

**SA 1592.** Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . ANNUAL INFLATION ADJUSTMENTS.**

Section 28103 of title 49, United States Code, is amended—

(1) in subsection (a)(2), by adding at the end the following: “Such amount shall be adjusted annually by the Secretary of Transportation to reflect changes in the Consumer Price Index-All Urban Consumers.”; and

(2) in subsection (c), by adding at the end the following: “Such amount shall be adjusted annually by the Secretary of Transportation to reflect changes in the Consumer Price Index-All Urban Consumers.”.

**SA 1593.** Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Transportation Empowerment Act”.

**SEC. 2. FINDINGS AND PURPOSES.**

(a) FINDINGS.—Congress finds that—

(1) the objective of the Federal highway program has been to facilitate the construction of a modern freeway system that promotes efficient interstate commerce by connecting all States;

(2) that objective has been attained, and the Interstate System connecting all States is near completion;

(3) each State has the responsibility of providing an efficient transportation network for the residents of the State;

(4) each State has the means to build and operate a network of transportation systems, including highways, that best serves the needs of the State;

(5) each State is best capable of determining the needs of the State and acting on those needs;

(6) the Federal role in highway transportation has, over time, usurped the role of the States by taxing motor fuels used in the States and then distributing the proceeds to the States based on the Federal Government's perceptions of what is best for the States;

(7) the Federal Government has used the Federal motor fuels tax revenues to force all States to take actions that are not necessarily appropriate for individual States;

(8) the Federal distribution, review, and enforcement process wastes billions of dollars on unproductive activities;

(9) Federal mandates that apply uniformly to all 50 States, regardless of the different circumstances of the States, cause the States to waste billions of hard-earned tax dollars on projects, programs, and activities that the States would not otherwise undertake; and

(10) Congress has expressed a strong interest in reducing the role of the Federal Government by allowing each State to manage its own affairs.

(b) PURPOSES.—The purposes of this Act are—

(1) to return to the individual States maximum discretionary authority and fiscal responsibility for all elements of the national surface transportation systems that are not within the direct purview of the Federal Government;

(2) to preserve Federal responsibility for the Dwight D. Eisenhower National System of Interstate and Defense Highways;

(3) to preserve the responsibility of the Department of Transportation for—

(A) design, construction, and preservation of transportation facilities on Federal public land;

(B) national programs of transportation research and development and transportation safety; and

(C) emergency assistance to the States in response to natural disasters;

(4) to eliminate to the maximum extent practicable Federal obstacles to the ability of each State to apply innovative solutions to the financing, design, construction, operation, and preservation of Federal and State transportation facilities; and

(5) with respect to transportation activities carried out by States, local governments, and the private sector, to encourage—

(A) competition among States, local governments, and the private sector; and

(B) innovation, energy efficiency, private sector participation, and productivity.

**SEC. 3. FUNDING FOR CORE HIGHWAY PROGRAMS.**

(a) IN GENERAL.—

(1) FUNDING.—For the purpose of carrying out title 23, United States Code, the following sums are authorized to be appropriated out of the Highway Trust Fund:

(A) INTERSTATE MAINTENANCE PROGRAM.—For the Interstate maintenance program under section 119 of title 23, United States Code, \$5,200,000,000 for fiscal year 2014, \$5,280,000,000 for fiscal year 2015, \$5,360,000,000 for fiscal year 2016, \$5,440,000,000 for fiscal year 2017, and \$5,520,000,000 for fiscal year 2018.

(B) EMERGENCY RELIEF.—For emergency relief under section 125 of that title, \$100,000,000 for each of fiscal years 2014 through 2018.

(C) INTERSTATE BRIDGE PROGRAM.—For the Interstate bridge program under section 144 of that title, \$2,527,000,000 for fiscal year 2014, \$2,597,000,000 for fiscal year 2015, \$2,667,000,000 for fiscal year 2016, \$2,737,000,000 for fiscal year 2017, and \$2,807,000,000 for fiscal year 2018.

(D) FEDERAL LANDS HIGHWAYS PROGRAM.—

(i) INDIAN RESERVATION ROADS.—For Indian reservation roads under section 204 of that title, \$470,000,000 for fiscal year 2014, \$510,000,000 for fiscal year 2015, \$550,000,000 for fiscal year 2016, \$590,000,000 for fiscal year 2017, and \$630,000,000 for fiscal year 2018.

(ii) PUBLIC LANDS HIGHWAYS.—For public lands highways under section 204 of that title, \$300,000,000 for fiscal year 2014, \$310,000,000 for fiscal year 2015, \$320,000,000 for fiscal year 2016, \$330,000,000 for fiscal year 2017, and \$340,000,000 for fiscal year 2018.

(iii) PARKWAYS AND PARK ROADS.—For parkways and park roads under section 204 of that title, \$255,000,000 for fiscal year 2014, \$270,000,000 for fiscal year 2015, \$285,000,000 for fiscal year 2016, \$300,000,000 for fiscal year 2017, and \$315,000,000 for fiscal year 2018.

(iv) REFUGE ROADS.—For refuge roads under section 204 of that title, \$32,000,000 for each of fiscal years 2014 through 2018.

(E) HIGHWAY SAFETY PROGRAMS.—

(i) IN GENERAL.—For highway safety programs under section 402 of that title, \$170,000,000 for each of fiscal years 2014 through 2018.

(ii) HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—For highway safety research and development under section 403 of that title, \$35,000,000 for each of fiscal years 2014 through 2018.

(F) SURFACE TRANSPORTATION RESEARCH.—For cooperative agreements with nonprofit research organizations to carry out applied pavement research under section 502 of that title, \$200,000,000 for each of fiscal years 2014 through 2018.

(G) ADMINISTRATIVE EXPENSES.—For administrative expenses incurred in carrying out the programs referred to in subparagraphs (A) through (F), \$92,890,000 for fiscal year 2014, \$95,040,000 for fiscal year 2015, \$97,190,000 for fiscal year 2016, \$99,340,000 for fiscal year 2017, and \$101,490,000 for fiscal year 2018.

(2) TRANSFERABILITY OF FUNDS.—Section 104 of title 23, United States Code, is amended by striking subsection (g) and inserting the following:

“(g) TRANSFERABILITY OF FUNDS.—

“(1) IN GENERAL.—To the extent that a State determines that funds made available under this title to the State for a purpose are in excess of the needs of the State for that purpose, the State may transfer the excess funds to, and use the excess funds for, any surface transportation (including mass transit and rail) purpose in the State.

“(2) ENFORCEMENT.—If the Secretary determines that a State has transferred funds under paragraph (1) to a purpose that is not a surface transportation purpose as described in paragraph (1), the amount of the improperly transferred funds shall be deducted from any amount the State would otherwise receive from the Highway Trust Fund for the fiscal year that begins after the date of the determination.”.

(3) FEDERAL-AID SYSTEM.—Section 103(a) of title 23, United States Code, is amended by striking “systems are the Interstate System and the National Highway System” and inserting “system is the Interstate System”.

(4) INTERSTATE MAINTENANCE PROGRAM.—Section 104(b) of title 23, United States Code, is amended by striking paragraph (4) and inserting the following:

“(4) INTERSTATE MAINTENANCE COMPONENT.—For each of fiscal years 2014 through 2018, for the Interstate maintenance program under section 119, 1 percent to the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands and the remaining 99 percent apportioned as follows:

“(A)(i) For each State with an average population density of 20 persons or fewer per square mile, and each State with a population of 1,500,000 persons or fewer and with a land area of 10,000 square miles or less, the greater of—

“(I) a percentage share of apportionments equal to the percentage for the State described in clause (ii); or

“(II) a share determined under subparagraph (B).

“(ii) The percentage referred to in clause (i)(I) for a State for a fiscal year shall be the percentage calculated for the State for the fiscal year under section 105(b) of title 23, United States Code.

“(B) For each State not described in subparagraph (A), a share of the apportionments remaining determined in accordance with the following formula:

“(i)  $\frac{1}{3}$  in the ratio that the total rural lane miles in each State bears to the total rural lane miles in all States with an average population density greater than 20 persons per square mile and all States with a population of more than 1,500,000 persons and with a land area of more than 10,000 square miles.

“(ii)  $\frac{1}{3}$  in the ratio that the total rural vehicle miles traveled in each State bears to the total rural vehicle miles traveled in all States described in clause (i).

“(iii)  $\frac{1}{3}$  in the ratio that the total urban lane miles in each State bears to the total urban lane miles in all States described in clause (i).

“(iv)  $\frac{1}{3}$  in the ratio that the total urban vehicle miles traveled in each State bears to the total urban vehicle miles traveled in all States described in clause (i).

“(v)  $\frac{1}{3}$  in the ratio that the total diesel fuel used in each State bears to the total diesel fuel used in all States described in clause (i).”.

(5) INTERSTATE BRIDGE PROGRAM.—Section 144 of title 23, United States Code, is amended—

(A) in subsection (d)—

(i) by inserting “on the Federal-aid system or described in subsection (c)(3)” after “highway bridge” each place it appears; and

(ii) by inserting “on the Federal-aid system or described in subsection (c)(3)” after “highway bridges” each place it appears;

(B) in the second sentence of subsection (e)—

(i) in paragraph (1), by adding “and” at the end;

(ii) in paragraph (2), by striking the comma at the end and inserting a period; and

(iii) by striking paragraphs (3) and (4);

(C) in the first sentence of subsection (k), by inserting “on the Federal-aid system or described in subsection (c)(3)” after “any bridge”;

(D) in subsection (l)(1), by inserting “on the Federal-aid system or described in subsection (c)(3)” after “construct any bridge”; and

(E) in the first sentence of subsection (m), by inserting “for each of fiscal years 1991 through 2013,” after “of law.”.

(6) NATIONAL DEFENSE HIGHWAYS.—Section 311 of title 23, United States Code, is amended—

(A) in the first sentence, by striking “under subsection (a) of section 104 of this title” and inserting “to carry out this section”; and

(B) by striking the second sentence.

(7) FEDERALIZATION AND DEFEDERALIZATION OF PROJECTS.—Notwithstanding any other provision of law, beginning on October 1, 2013—

(A) a highway construction or improvement project shall not be considered to be a Federal highway construction or improvement project unless and until a State expends Federal funds for the construction portion of the project;

(B) a highway construction or improvement project shall not be considered to be a Federal highway construction or improvement project solely by reason of the expenditure of Federal funds by a State before the construction phase of the project to pay expenses relating to the project, including for any environmental document or design work required for the project; and

(C)(i) a State may, after having used Federal funds to pay all or a portion of the costs of a highway construction or improvement project, reimburse the Federal Government in an amount equal to the amount of Federal funds so expended; and

(ii) after completion of a reimbursement described in clause (i), a highway construction or improvement project described in that clause shall no longer be considered to be a Federal highway construction or improvement project.

(8) REPORTING REQUIREMENTS.—No reporting requirement, other than a reporting requirement in effect as of the date of enactment of this Act, shall apply on or after October 1, 2013, to the use of Federal funds for highway projects by a public-private partnership.

(b) EXPENDITURES FROM HIGHWAY TRUST FUND.—

(1) EXPENDITURES FOR CORE PROGRAMS.—Section 9503(c) of the Internal Revenue Code of 1986 is amended—

(A) in paragraph (1), by striking “Surface Transportation Extension Act of 2011, Part II” and inserting “Transportation Empowerment Act”;

(B) in paragraph (1), by striking “April 1, 2012” and inserting “October 1, 2018”;

(C) in paragraphs (3)(A)(i), (4)(A), and (5), by striking “April 1, 2012” each place it appears and inserting “October 1, 2020”; and

(D) in paragraph (2), by striking “January 1, 2013” and inserting “July 1, 2021”.

(2) AMOUNTS AVAILABLE FOR CORE PROGRAM EXPENDITURES.—Section 9503 of such Code is amended by adding at the end the following:

“(g) CORE PROGRAMS FINANCING RATE.—For purposes of this section—

“(1) IN GENERAL.—Except as provided in paragraph (2)—

“(A) in the case of gasoline and special motor fuels the tax rate of which is the rate

specified in section 4081(a)(2)(A)(i), the core programs financing rate is—

“(i) after September 30, 2013, and before October 1, 2014, 18.3 cents per gallon,

“(ii) after September 30, 2014, and before October 1, 2015, 9.6 cents per gallon,

“(iii) after September 30, 2015, and before October 1, 2016, 6.4 cents per gallon,

“(iv) after September 30, 2016, and before October 1, 2017, 5.0 cents per gallon, and

“(v) after September 30, 2017, 3.7 cents per gallon, and

“(B) in the case of kerosene, diesel fuel, and special motor fuels the tax rate of which is the rate specified in section 4081(a)(2)(A)(iii), the core programs financing rate is—

“(i) after September 30, 2013, and before October 1, 2014, 24.3 cents per gallon,

“(ii) after September 30, 2014, and before October 1, 2015, 12.7 cents per gallon,

“(iii) after September 30, 2015, and before October 1, 2016, 8.5 cents per gallon,

“(iv) after September 30, 2016, and before October 1, 2017, 6.6 cents per gallon, and

“(v) after September 30, 2017, 5.0 cents per gallon.

“(2) APPLICATION OF RATE.—In the case of fuels used as described in paragraph (3)(C), (4)(B), and (5) of subsection (c), the core programs financing rate is zero.”.

(c) TERMINATION OF TRANSFERS TO MASS TRANSIT ACCOUNT.—Section 9503(e)(2) of the Internal Revenue Code of 1986 is amended by inserting “, and before October 1, 2013” after “March 31, 1983”.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section take effect on October 1, 2013.

(2) CERTAIN EXTENSIONS.—The amendments made by subsection (b)(1) shall take effect on April 1, 2012.

#### SEC. 4. INFRASTRUCTURE SPECIAL ASSISTANCE FUND.

(a) BALANCE OF CORE PROGRAMS FINANCING RATE DEPOSITED IN FUND.—Section 9503 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

“(h) ESTABLISHMENT OF INFRASTRUCTURE SPECIAL ASSISTANCE FUND.—

“(1) CREATION OF FUND.—There is established in the Highway Trust Fund a separate fund to be known as the ‘Infrastructure Special Assistance Fund’ consisting of such amounts as may be transferred or credited to the Infrastructure Special Assistance Fund as provided in this subsection or section 9602(b).

“(2) TRANSFERS TO INFRASTRUCTURE SPECIAL ASSISTANCE FUND.—On the first day of each fiscal year, the Secretary, in consultation with the Secretary of Transportation, shall determine the excess (if any) of—

“(A) the sum of—

“(i) the amounts appropriated in such fiscal year to the Highway Trust Fund under subsection (b) which are attributable to the core programs financing rate for such year, plus

“(ii) the amounts appropriated in such fiscal year to the Highway Trust Fund under subsection (b) which are attributable to taxes under sections 4051, 4071, and 4481 for such year, over

“(B) the amount appropriated under subsection (c) for such fiscal year, and shall transfer such excess to the Infrastructure Special Assistance Fund.

“(3) EXPENDITURES FROM INFRASTRUCTURE SPECIAL ASSISTANCE FUND.—

“(A) TRANSITIONAL ASSISTANCE.—

“(i) IN GENERAL.—Except as provided in clause (iii), during fiscal years 2014 through

2017, \$1,000,000,000 in the Infrastructure Special Assistance Fund shall be available to States for transportation-related program expenditures.

“(ii) STATE SHARE.—Each State is entitled to a share of the amount specified in clause (i) determined in the following manner:

“(I) Multiply the percentage of the amounts appropriated in the latest fiscal year for which such data are available to the Highway Trust Fund under subsection (b) which is attributable to taxes paid by highway users in the State, by the amount specified in clause (i). If the result does not exceed \$15,000,000, the State’s share equals \$15,000,000. If the result exceeds \$15,000,000, the State’s share is determined under subclause (II).

“(II) Multiply the percentage determined under subclause (I), by the amount specified in clause (i) reduced by an amount equal to \$15,000,000 times the number of States the share of which is determined under subclause (I).

“(iii) DISTRIBUTION OF REMAINING AMOUNT.—If after September 30, 2017, a portion of the amount specified in clause (i) remains, the Secretary, in consultation with the Secretary of Transportation, shall, on October 1, 2017, apportion the portion among the States using the percentages determined under clause (ii)(I) for such States.

“(B) ADDITIONAL EXPENDITURES FROM FUND.—

“(i) IN GENERAL.—Amounts in the Infrastructure Special Assistance Fund, in excess of the amount specified in subparagraph (A)(i), shall be available, as provided by appropriation Acts, to the States for any surface transportation (including mass transit and rail) purpose in such States, and the Secretary shall apportion such excess amounts among all States using the percentages determined under clause (ii)(I) for such States.

“(ii) ENFORCEMENT.—If the Secretary determines that a State has used amounts under clause (i) for a purpose which is not a surface transportation purpose as described in clause (i), the improperly used amounts shall be deducted from any amount the State would otherwise receive from the Highway Trust Fund for the fiscal year which begins after the date of the determination.”.

(b) EFFECTIVE DATE.—The amendment made by this section takes effect on October 1, 2013.

#### SEC. 5. RETURN OF EXCESS TAX RECEIPTS TO STATES.

(a) IN GENERAL.—Section 9503(c) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

“(6) RETURN OF EXCESS TAX RECEIPTS TO STATES FOR SURFACE TRANSPORTATION PURPOSES.—

“(A) IN GENERAL.—On the first day of each of fiscal years 2014, 2015, 2016, and 2017, the Secretary, in consultation with the Secretary of Transportation, shall—

“(i) determine the excess (if any) of—

“(I) the amounts appropriated in such fiscal year to the Highway Trust Fund under subsection (b) which are attributable to the taxes described in paragraphs (1) and (2) thereof (after the application of paragraph (4) thereof) over the sum of—

“(II) the amounts so appropriated which are equivalent to—

“(aa) such amounts attributable to the core programs financing rate for such year, plus

“(bb) the taxes described in paragraphs (3)(C), (4)(B), and (5) of subsection (c), and

“(ii) allocate the amount determined under clause (i) among the States (as defined in

section 101(a) of title 23, United States Code) for surface transportation (including mass transit and rail) purposes so that—

“(I) the percentage of that amount allocated to each State, is equal to

“(II) the percentage of the amount determined under clause (i)(I) paid into the Highway Trust Fund in the latest fiscal year for which such data are available which is attributable to highway users in the State.

“(B) ENFORCEMENT.—If the Secretary determines that a State has used amounts under subparagraph (A) for a purpose which is not a surface transportation purpose as described in subparagraph (A), the improperly used amounts shall be deducted from any amount the State would otherwise receive from the Highway Trust Fund for the fiscal year which begins after the date of the determination.”.

(b) EFFECTIVE DATE.—The amendment made by this section takes effect on October 1, 2013.

#### **SEC. 6. REDUCTION IN TAXES ON GASOLINE, DIESEL FUEL, KEROSENE, AND SPECIAL FUELS FUNDING HIGHWAY TRUST FUND.**

(a) REDUCTION IN TAX RATE.—

(1) IN GENERAL.—Section 4081(a)(2)(A) of the Internal Revenue Code of 1986 is amended—

(A) in clause (i), by striking “18.3 cents” and inserting “3.7 cents”; and

(B) in clause (iii), by striking “24.3 cents” and inserting “5.0 cents”.

(2) CONFORMING AMENDMENTS.—

(A) Section 4081(a)(2)(D) of such Code is amended—

(i) by striking “19.7 cents” and inserting “4.1 cents”; and

(ii) by striking “24.3 cents” and inserting “5.0 cents”.

(B) Section 6427(b)(2)(A) of such Code is amended by striking “7.4 cents” and inserting “1.5 cents”.

(b) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 4041(a)(1)(C)(iii)(I) of the Internal Revenue Code of 1986 is amended by striking “7.3 cents per gallon (4.3 cents per gallon after March 31, 2012)” and inserting “1.4 cents per gallon (zero after September 30, 2020)”.

(2) Section 4041(a)(2)(B)(ii) of such Code is amended by striking “24.3 cents” and inserting “5.0 cents”.

(3) Section 4041(a)(3)(A) of such Code is amended by striking “18.3 cents” and inserting “3.7 cents”.

(4) Section 4041(m)(1) of such Code is amended—

(A) in subparagraph (A), by striking “April 1, 2012” and inserting “October 1, 2020”; and

(B) in subparagraph (A)(i), by striking “9.15 cents” and inserting “1.8 cents”;

(C) in subparagraph (A)(ii), by striking “11.3 cents” and inserting “2.3 cents”; and

(D) by striking subparagraph (B) and inserting the following:

“(B) zero after September 30, 2020.”.

(5) Section 4081(d)(1) of such Code is amended by striking “4.3 cents per gallon after March 31, 2012” and inserting “zero after September 30, 2020”.

(6) Section 9503(b) of such Code is amended—

(A) in paragraphs (1) and (2), by striking “April 1, 2012” both places it appears and inserting “October 1, 2020”; and

(B) in the heading of paragraph (2), by striking “APRIL 1, 2012” and inserting “OCTOBER 1, 2020”; and

(C) in paragraph (2), by striking “after March 31, 2012, and before January 1, 2013”

and inserting “after September 30, 2020, and before July 1, 2021”; and

(D) in paragraph (6)(B), by striking “April 1, 2012” and inserting “October 1, 2018”.

(c) FLOOR STOCK REFUNDS.—

(1) IN GENERAL.—If—

(A) before October 1, 2017, tax has been imposed under section 4081 of the Internal Revenue Code of 1986 on any liquid; and

(B) on such date such liquid is held by a dealer and has not been used and is intended for sale;

there shall be credited or refunded (without interest) to the person who paid such tax (in this subsection referred to as the “taxpayer”) an amount equal to the excess of the tax paid by the taxpayer over the amount of such tax which would be imposed on such liquid had the taxable event occurred on such date.

(2) TIME FOR FILING CLAIMS.—No credit or refund shall be allowed or made under this subsection unless—

(A) claim therefor is filed with the Secretary of the Treasury before April 1, 2018; and

(B) in any case where liquid is held by a dealer (other than the taxpayer) on October 1, 2017—

(i) the dealer submits a request for refund or credit to the taxpayer before January 1, 2018; and

(ii) the taxpayer has repaid or agreed to repay the amount so claimed to such dealer or has obtained the written consent of such dealer to the allowance of the credit or the making of the refund.

(3) EXCEPTION FOR FUEL HELD IN RETAIL STOCKS.—No credit or refund shall be allowed under this subsection with respect to any liquid in retail stocks held at the place where intended to be sold at retail.

(4) DEFINITIONS.—For purposes of this subsection, the terms “dealer” and “held by a dealer” have the respective meanings given to such terms by section 6412 of such Code; except that the term “dealer” includes a producer.

(5) CERTAIN RULES TO APPLY.—Rules similar to the rules of subsections (b) and (c) of section 6412 and sections 6206 and 6675 of such Code shall apply for purposes of this subsection.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to fuel removed after September 30, 2017.

(2) CERTAIN CONFORMING AMENDMENTS.—The amendments made by subsections (b)(1), (b)(4), (b)(5), and (b)(6) shall apply to fuel removed after September 30, 2011.

#### **SEC. 7. REPORT TO CONGRESS.**

Not later than 180 days after the date of enactment of this Act, after consultation with the appropriate committees of Congress, the Secretary of Transportation shall submit a report to Congress describing such technical and conforming amendments to titles 23 and 49, United States Code, and such technical and conforming amendments to other laws, as are necessary to bring those titles and other laws into conformity with the policy embodied in this Act and the amendments made by this Act.

#### **SEC. 8. EFFECTIVE DATE CONTINGENT ON CERTIFICATION OF DEFICIT NEUTRALITY.**

(a) PURPOSE.—The purpose of this section is to ensure that—

(1) this Act will become effective only if the Director of the Office of Management and Budget certifies that this Act is deficit neutral;

(2) discretionary spending limits are reduced to capture the savings realized in devolving transportation functions to the State level pursuant to this Act; and

(3) the tax reduction made by this Act is not scored under pay-as-you-go and does not inadvertently trigger a sequestration.

(b) EFFECTIVE DATE CONTINGENCY.—Notwithstanding any other provision of this Act, this Act and the amendments made by this Act shall take effect only if—

(1) the Director of the Office of Management and Budget (referred to in this section as the “Director”) submits the report as required in subsection (c); and

(2) the report contains a certification by the Director that, based on the required estimates, the reduction in discretionary outlays resulting from the reduction in contract authority is at least as great as the reduction in revenues for each fiscal year through fiscal year 2018.

(c) OMB ESTIMATES AND REPORT.—

(1) REQUIREMENTS.—Not later than 5 calendar days after the date of enactment of this Act, the Director shall—

(A) estimate the net change in revenues resulting from this Act for each fiscal year through fiscal year 2018;

(B) estimate the net change in discretionary outlays resulting from the reduction in contract authority under this Act for each fiscal year through fiscal year 2018;

(C) determine, based on those estimates, whether the reduction in discretionary outlays is at least as great as the reduction in revenues for each fiscal year through fiscal year 2018; and

(D) submit to Congress a report setting forth the estimates and determination.

(2) APPLICABLE ASSUMPTIONS AND GUIDELINES.—

(A) REVENUE ESTIMATES.—The revenue estimates required under paragraph (1)(A) shall be predicated on the same economic and technical assumptions and scorekeeping guidelines that would be used for estimates made pursuant to section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902(d)).

(B) OUTLAY ESTIMATES.—The outlay estimates required under paragraph (1)(B) shall be determined by comparing the level of discretionary outlays resulting from this Act with the corresponding level of discretionary outlays projected in the baseline under section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 907).

(d) CONFORMING ADJUSTMENT TO DISCRETIONARY SPENDING LIMITS.—On compliance with the requirements specified in subsection (b), the Director shall adjust the adjusted discretionary spending limits for each fiscal year through fiscal year 2013 under section 601(a)(2) of the Congressional Budget Act of 1974 (2 U.S.C. 665(a)(2)) by the estimated reductions in discretionary outlays under subsection (c)(1)(B).

(e) PAYGO INTERACTION.—On compliance with the requirements specified in subsection (b), no changes in revenues estimated to result from the enactment of this Act shall be counted for the purposes of section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902(d)).

**SA 1594.** Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_\_. NO RESIDENTIAL ENERGY EFFICIENT PROPERTY CREDIT FOR MILLIONAIRES AND BILLIONAIRES.**

(a) IN GENERAL.—Section 21(e) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(9) NO CREDIT FOR MILLIONAIRES AND BILLIONAIRES.—No credit shall be allowed under this section for any taxable year with respect to any taxpayer with an adjusted gross income equal to or greater than \$1,000,000 for such taxable year.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2011.

**SA 1595.** Mr. COBURN (for himself and Mr. MCCAIN) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle E of title I, add the following:

**SEC. 15 \_\_\_\_\_. REPORT ON HIGHWAY TRUST FUND EXPENDITURES.**

(a) INITIAL REPORT.—Not later than 150 days after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report describing the total amount of funds expended from the Highway Trust Fund during each of fiscal years 2009 through 2011 for purposes other than construction and maintenance of highways and bridges.

(b) UPDATES.—Not later than 4 years after the date on which the report is submitted under subsection (a) and every 4 years thereafter, the Comptroller General of the United States shall submit to Congress a report that updates the information provided in the report under that subsection for the applicable 4-year period.

(c) INCLUSIONS.—A report submitted under subsection (a) or (b) shall include information similar to the information included in the report of the Government Accountability Office numbered “GAO-09-729R” and entitled “Highway Trust Fund Expenditures on Purposes Other Than Construction and Maintenance of Highways and Bridges During Fiscal Years 2004-2008”.

**SA 1596.** Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_\_. LIMITATION OF GOVERNMENT TRAVEL COSTS.**

(a) DEFINITION.—In this section, the term “agency”—

(1) has the meaning given under section 5701(1) of title 5, United States Code; and

(2) does not include the Department of Defense.

(b) LIMITATION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the total amount which is paid or reimbursed by an agency under subchapter I of chapter 57 of title 5, United States Code (relating to travel and subsistence expenses; mileage allowances for official travel by Federal employees) may not—

(A) for each of fiscal years 2013 and 2014, exceed 50 percent of the total amount so paid or reimbursed by such agency for fiscal year 2012; and

(B) for fiscal year 2015, exceed 25 percent of the total amount so paid or reimbursed by such agency for fiscal year 2012.

(2) EXCEPTIONS.—For purposes of carrying out paragraph (1), there shall not be taken into account the amounts paid or reimbursed for—

(A) any subsistence or travel expenses for threatened law enforcement personnel, as described in section 5706a of title 5, United States Code; or

(B) any other expenses for which an exception is established under paragraph (3) for reasons relating to national security or public safety.

(3) REGULATIONS.—Any regulations necessary to carry out this subsection shall, in consultation with the Director of the Office of Management and Budget, be prescribed by the same respective authorities as are responsible for prescribing regulations under section 5707 of title 5, United States Code.

(c) RESERVE TRAVEL AMOUNT.—

(1) DEFINITION.—In this subsection, the term “reserve travel amount” means an amount equal to 10 percent of the total amount of appropriations made available to an agency in any fiscal year for purposes of payment or reimbursement by that agency under subchapter I of chapter 57 of title 5, United States Code (relating to travel and subsistence expenses; mileage allowances for official travel by Federal employees).

(2) REQUIREMENT.—For each of fiscal years 2013 through 2015, each agency shall have a reserve travel amount available for expenditure or obligation on September 1 of each such fiscal year for purposes of payment or reimbursement by that agency under subchapter I of chapter 57 of title 5, United States Code (relating to travel and subsistence expenses; mileage allowances for official travel by Federal employees).

**SA 1597.** Mr. COBURN (for himself and Mr. MCCAIN) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_\_. SUSPENSION OF PERSONS HAVING SERIOUSLY DELINQUENT TAX DEBTS FOR FEDERAL EMPLOYMENT.**

(a) IN GENERAL.—Chapter 73 of title 5, United States Code, is amended by adding at the end the following:

“SUBCHAPTER VIII—SUSPENSION OF PERSONS HAVING SERIOUSLY DELINQUENT TAX DEBTS FOR FEDERAL EMPLOYMENT

“§ 7381. Suspension of persons having seriously delinquent tax debts for Federal employment

“(a) DEFINITIONS.—For purposes of this section—

“(1) the term ‘seriously delinquent tax debt’ means an outstanding debt under the Internal Revenue Code of 1986 for which a notice of lien has been filed in public records pursuant to section 6323 of such Code, except that such term does not include—

“(A) a debt that is being paid in a timely manner pursuant to an agreement under section 6159 or section 7122 of such Code; and

“(B) a debt with respect to which a collection due process hearing under section 6330

of such Code, or relief under subsection (a), (b), or (f) of section 6015 of such Code, is requested or pending; and

“(2) the term ‘Federal employee’ means—

“(A) an employee, as defined by section 2105; and

“(B) an employee of the United States Postal Service or of the Postal Regulatory Commission.

“(b) SUSPENSION FROM FEDERAL EMPLOYMENT.—An individual who has a seriously delinquent tax debt shall be ineligible to be appointed as a Federal employee and, if serving as a Federal employee, shall be suspended without pay until the seriously delinquent tax debt is being paid in a timely manner pursuant to an agreement under section 6159 or section 7122 of the Internal Revenue Code of 1986 or has been repaid in full.

“(c) REGULATIONS.—The Office of Personnel Management shall, for purposes of carrying out this section with respect to the executive branch, prescribe any regulations which the Office considers necessary.”.

(b) CLERICAL AMENDMENT.—The analysis for chapter 73 of title 5, United States Code, is amended by adding at the end the following:

“SUBCHAPTER VIII—SUSPENSION OF PERSONS HAVING SERIOUSLY DELINQUENT TAX DEBTS FOR FEDERAL EMPLOYMENT

“7381. Suspension of persons having seriously delinquent tax debts for Federal employment.”.

**SA 1598.** Mr. COBURN (for himself, Mr. MCCAIN, Mr. BURR, Mr. LEE, Mr. PORTMAN, Mr. ISAKSON, and Mr. COATS) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_\_. 001. DIRECT FEDERAL-AID HIGHWAY PROGRAM.**

(a) IN GENERAL.—Chapter 1 of title 23, United States Code (as amended by section 1115(a)), is amended by adding at the end the following:

“§ 168. Direct Federal-aid highway program

“(a) ELECTION BY STATE NOT TO PARTICIPATE.—Notwithstanding any other provision of law, a State may elect not to participate in any Federal program relating to highways, including a Federal highway program under the SAFETEA-LU (Public Law 109-59; 119 Stat. 1144), this title, or title 49.

“(b) DIRECT FEDERAL-AID HIGHWAY PROGRAM.—

“(1) IN GENERAL.—Beginning in fiscal year 2011, the Secretary shall carry out a direct Federal-aid highway program in accordance with this section under which the legislature of a State may elect, not later than 90 days before the beginning of a fiscal year—

“(A) to waive the right of the State to receive amounts apportioned or allocated to the State under the Federal-aid highway program for the fiscal year to which the election relates; and

“(B) to receive an amount for that fiscal year that is determined in accordance with subsection (e) for that fiscal year.

“(2) EFFECT.—On making an election under paragraph (1), a State shall—

“(A) assume all Federal obligations relating to each program that is the subject of the election; and

“(B) fulfill those obligations using the amounts transferred to the State under subsection (e).

“(c) STATE RESPONSIBILITY.—

“(1) IN GENERAL.—The Governor of a State making an election under subsection (b) shall—

“(A) agree to maintain the Interstate System in accordance with the Interstate System program;

“(B) submit a plan to the Secretary describing—

“(i) the purposes, projects, and uses to which amounts received under the program will be used; and

“(ii) which programmatic requirements of this title the State elects to continue;

“(C) agree to obligate or expend amounts received under the direct Federal-aid highway program exclusively for projects that would be eligible for funding under section 133(b) if the State was not participating in the program; and

“(D) agree to report annually to the Secretary on the use of amounts received under the direct Federal-aid highway program and to make the report available to the public in an easily accessible format.

“(2) NO FEDERAL LIMITATION ON USE OF FUNDS.—Except as provided in paragraph (1), the expenditure or obligation of funds received by a State under the direct Federal-aid highway program shall not be subject to any Federal regulation under this title (except for this section), title 49, or any other Federal law.

“(3) ELECTION IRREVOCABLE.—An election under subsection (b) shall be irrevocable for the applicable fiscal year.

“(d) EFFECT ON PREEXISTING COMMITMENTS.—The making of an election under subsection (b) shall not affect any responsibility or commitment of the State under this title for any fiscal year with respect to—

“(1) a project or program funded under this title (other than under this section); or

“(2) any project or program funded under this title for any fiscal year for which an election under subsection (b) is not in effect.

“(e) TRANSFERS.—

“(1) IN GENERAL.—The amount to be transferred to a State under the direct Federal-aid highway program for a fiscal year shall be the portion of the taxes appropriated to the Highway Trust Fund (other than for the Mass Transit Account) for that fiscal year that is attributable to highway users in that State during that fiscal year, reduced by a pro rata share withheld by the Secretary to fund contract authority for programs of the National Highway Traffic Safety Administration and the Federal Motor Carrier Safety Administration.

“(2) TRANSFERS UNDER PROGRAM.—

“(A) IN GENERAL.—Transfers under the program shall be made—

“(i) at the same time as deposits to the Highway Trust Fund are made by the Secretary of the Treasury; and

“(ii) on the basis of estimates by the Secretary, in consultation with the Secretary of the Treasury, based on the most recent data available, with proper adjustments made in amounts subsequently transferred to the extent prior estimates were in excess of, or less than, the amounts required to be transferred.

“(B) LIMITATION.—

“(i) IN GENERAL.—An adjustment under subparagraph (A)(ii) to any transfer may not exceed 5 percent of the transferred amount to which the adjustment relates.

“(ii) SUBSEQUENT ADJUSTMENTS.—If the adjustment required under subparagraph (A)(ii) exceeds that percentage, the excess shall be taken into account in making subsequent adjustments under subparagraph (A)(ii).

“(f) APPLICATION WITH OTHER AUTHORITY.—Any contract authority under this chapter (and any obligation limitation) authorized for a State for a fiscal year for which an election by that State is in effect under subsection (b)—

“(1) shall be rescinded or canceled; and

“(2) shall not be reallocated or distributed to any other State under the Federal-aid highway program.

“(g) MAINTENANCE OF EFFORT.—

“(1) IN GENERAL.—Not later than 30 days after the date on which an amount is distributed to a State or State agency under this section, the Governor of the State shall certify to the Secretary that the State will maintain the effort of the State with regard to State funding for the types of projects that are funded by the amounts.

“(2) AMOUNTS.—As part of the certification, the Governor shall submit to the Secretary a description of the amount of funds the State plans to expend from State sources during the covered period, for the types of projects that are funded by the amounts.

“(h) TREATMENT OF GENERAL REVENUES.—For purposes of this section, any general revenue funds appropriated to the Highway Trust Fund shall be transferred to a State under the program in the manner described in subsection (e)(1).”

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code (as amended by section 1115(b)), is amended by adding at the end the following:

“168. Direct Federal-aid highway program”.

#### SEC. 002. ALTERNATIVE FUNDING OF PUBLIC TRANSPORTATION PROGRAMS.

(a) IN GENERAL.—Chapter 53 of title 49, United States Code, is amended by adding at the end the following:

##### “§5341. Alternative funding of public transportation programs

“(a) DEFINITIONS.—In this section—

“(1) ALTERNATIVE FUNDING PROGRAM.—The term ‘alternative funding program’ means the program established under subsection (c).

“(2) COVERED PROGRAMS.—The term ‘covered programs’ means the programs authorized under—

“(A) sections 5305, 5307, 5308, 5309, 5310, 5311, 5316, 5317, 5320, 5335, 5339, and 5340; and

“(B) section 3038 of the Federal Transit Act of 1998 (49 U.S.C. 5310 note; Public Law 105-178).

“(b) ELECTION BY STATE NOT TO PARTICIPATE.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, a State may elect not to participate in all Federal programs relating to public transportation funded under the Mass Transit Account of the Highway Trust Fund, including the Federal public transportation programs under the SAFETEA-LU (Public Law 109-59; 119 Stat. 1144), title 23, or this title.

“(2) EFFECT.—On making an election under paragraph (1), a State shall—

“(A) assume all Federal obligations relating to each program that is the subject of the election; and

“(B) fulfill those obligations using the amounts transferred to the State under subsection (e).

“(c) PUBLIC TRANSPORTATION PROGRAM.—

“(1) PROGRAM ESTABLISHED.—Beginning in fiscal year 2011, the Secretary shall carry out an alternative funding program under which the legislature of a State may elect, not later than 90 days before the beginning of a fiscal year—

“(A) to waive the right of the State to receive amounts apportioned or allocated to

the State under the covered programs for the fiscal year to which the election relates; and

“(B) to receive an amount for that fiscal year that is determined in accordance with subsection (e).

“(2) PROGRAM REQUIREMENTS.—

“(A) IN GENERAL.—The Governor of a State that participates in the alternative funding program shall—

“(i) submit a plan to the Secretary describing—

“(I) the purposes, projects, and uses to which amounts received under the alternative funding program will be used; and

“(II) which programmatic requirements of this title the State elects to continue;

“(ii) agree to obligate or expend amounts received under the alternative funding program exclusively for projects that would be eligible for funding under the covered programs if the State was not participating in the alternative funding program; and

“(iii) submit to the Secretary an annual report on the use of amounts received under the alternative funding program, and to make the report available to the public in an easily accessible format.

“(B) NO FEDERAL LIMITATION ON USE OF FUNDS.—Except as provided in subparagraph (A), the expenditure or obligation of funds received by a State under the alternative funding program shall not be subject to the provisions of this title (except for this section), title 23, or any other Federal law.

“(3) ELECTION IRREVOCABLE.—An election under paragraph (1) shall be irrevocable for the applicable fiscal year.

“(d) EFFECT ON PREEXISTING COMMITMENTS.—Participation in the alternative funding program shall not affect any responsibility or commitment of the State under this title for any fiscal year with respect to—

“(1) a project or program funded under this title (other than under this section); or

“(2) any project or program funded under this title for any fiscal year for which the State elects not to participate in the alternative funding program.

“(e) TRANSFERS.—

“(1) IN GENERAL.—The amount to be transferred to a State under the alternative funding program for a fiscal year shall be the portion of the taxes transferred to the Mass Transit Account of the Highway Trust Fund, for that fiscal year, that is attributable to highway users in that State during that fiscal year.

“(2) TRANSFERS.—

“(A) IN GENERAL.—Transfers under the program shall be made—

“(i) at the same time as transfers to the Mass Transit Account of the Highway Trust Fund are made by the Secretary of the Treasury; and

“(ii) on the basis of estimates by the Secretary, in consultation with the Secretary of the Treasury, based on the most recent data available, with proper adjustments made in amounts subsequently transferred, to the extent prior estimates were in excess of, or less than, the amounts required to be transferred.

“(B) LIMITATION.—

“(i) IN GENERAL.—An adjustment under subparagraph (A)(ii) to any transfer may not exceed 5 percent of the transferred amount to which the adjustment relates.

“(ii) SUBSEQUENT ADJUSTMENTS.—If the adjustment required under subparagraph (A)(ii) exceeds that percentage, the excess shall be taken into account in making subsequent adjustments under subparagraph (A)(ii).

“(f) CONTRACT AUTHORITY.—There shall be rescinded or canceled any contract authority



under this chapter (and any obligation limitation) authorized for a State for a fiscal year for which the State elects to participate in the alternative funding program.

“(g) MAINTENANCE OF EFFORT.—

“(1) IN GENERAL.—Not later than 30 days after the date on which an amount is distributed to a State or State agency under this section, the Governor of the State shall certify to the Secretary that the State will maintain the effort of the State with regard to State funding for the types of projects that are funded by the amounts.

“(2) AMOUNTS.—The certification under paragraph (1) shall include a description of the amount of funds the State plans to expend from State sources for projects funded under the alternative funding program, during the fiscal year for which the State elects to participate in the alternative funding program.

“(h) TREATMENT OF GENERAL REVENUES.—For purposes of this section, any general revenue funds appropriated to the Highway Trust Fund shall be transferred to a State under the program in the manner described in subsection (e).”

(b) CONFORMING AMENDMENT.—The analysis for chapter 53 of title 49, United States Code, is amended by adding at the end the following:

“5341. Alternative funding of public transportation programs”.

**SA 1599.** Mr. MERKLEY submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ BUYING GOODS PRODUCED IN THE UNITED STATES.**

(a) COMPLIANCE.—None of the amounts made available to carry out parts A and B of subtitle V of title 49, United States Code, may be expended by any entity unless the entity agrees that such expenditures will comply with the requirements under this section.

(b) PREFERENCE.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Transportation may not obligate any funds appropriated to carry out parts A and B of subtitle V of title 49, United States Code, unless all the steel, iron, and manufactured products used in the project are produced in the United States.

(2) WAIVER.—The Secretary of Transportation may waive the application of paragraph (1) in circumstances in which the Secretary determines that—

(A) such application would be inconsistent with the public interest;

(B) such materials and products produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality; or

(C) inclusion of domestic material would increase the cost of the overall project by more than 25 percent.

(c) LABOR COSTS.—For purposes of this subsection (b)(2)(C), labor costs involved in final assembly shall not be included in calculating the cost of components.

(d) MANUFACTURING PLAN.—The Secretary of Transportation shall prepare, in conjunction with the Secretary of Commerce, a manufacturing plan that—

(1) promotes the production of products in the United States that are the subject of waivers granted under subsection (b)(2)(B);

(2) addresses how such products may be produced in a sufficient and reasonably available amount, and in a satisfactory quality, in the United States; and

(3) addresses the creation of a public database for the waivers granted under subsection (b)(2)(B).

(e) WAIVER NOTICE AND COMMENT.—If the Secretary of Transportation determines that a waiver of subsection (b)(1) is warranted, the Secretary, before the date on which such determination takes effect, shall—

(1) post the waiver request and a detailed written justification of the need for such waiver on the Department of Transportation's public website;

(2) publish a detailed written justification of the need for such waiver in the Federal Register; and

(3) provide notice of such determination and an opportunity for public comment for a reasonable period of time not to exceed 30 days.

(f) STATE REQUIREMENTS.—The Secretary of Transportation may not impose any limitation on amounts made available under this title to carry out parts A and B of subtitle V of title 49, United States Code, which—

(1) restricts a State from imposing requirements that are more stringent than the requirements under this section on the use of articles, materials, and supplies mined, produced, or manufactured in foreign countries, in projects carried out with such assistance; or

(2) prohibits any recipient of such amounts from complying with State requirements authorized under paragraph (1).

(g) CERTIFICATION.—The Secretary of Transportation may authorize a manufacturer or supplier of steel, iron, or manufactured goods to correct, after bid opening, any certification of noncompliance or failure to properly complete the certification (except for failure to sign the certification) under this section if such manufacturer or supplier attests, under penalty of perjury, and establishes, by a preponderance of the evidence, that such manufacturer or supplier submitted an incorrect certification as a result of an inadvertent or clerical error.

(h) REVIEW.—Any entity adversely affected by an action by the Department of Transportation under this section is entitled to seek judicial review of such action in accordance with section 702 of title 5, United States Code.

(i) MINIMUM COST.—The requirements under this section shall only apply to contracts for which the costs exceed \$100,000.

(j) CONSISTENCY WITH INTERNATIONAL AGREEMENTS.—This section shall be applied in a manner consistent with United States obligations under international agreements.

(k) FRAUDULENT USE OF “MADE IN AMERICA” LABEL.—An entity is ineligible to receive a contract or subcontract made with amounts appropriated under this title to carry out parts A and B of subtitle V of title 49, United States Code, if a court or department, agency, or instrumentality of the Government determines that the person intentionally—

(1) affixed a “Made in America” label, or a label with an inscription having the same meaning, to goods sold in or shipped to the United States that are used in a project to which this section applies, but were not produced in the United States; or

(2) represented that goods described in paragraph (1) were produced in the United States.

**SA 1600.** Mr. MERKLEY submitted an amendment intended to be proposed by

him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 91, between lines 14 and 15, insert:

“(C) WAIVER.—The Secretary may waive the requirement in subparagraph (A) for any State in which the State transportation agency and organizations representing local governments that own at least 80 percent of the local government bridges in the State are able to reach agreement on an alternative bridge investment strategy that provides an amount for bridges owned by public entities other than the State transportation agency equal to at least the amount of funds required to be obligated by the State for off-system bridges for fiscal year 2009 under section 144(f)(2), as in effect on the day before the date of enactment of the MAP-21.

**SA 1601.** Mr. MERKLEY (for himself and Mr. LEE) submitted an amendment intended to be proposed to amendment SA 1515 proposed by Mr. REID (for Mr. JOHNSON, of South Dakota (for himself and Mr. SHELBY)) to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in division D, insert the following:

**SEC. \_\_\_\_ CATEGORICAL EXCLUSION FOR STREETCAR PROJECTS.**

Section 5323(r) of title 49, United States Code, as amended by this Act, is further amended—

(1) in paragraph (1), by striking “streetcar, bus rapid transit,” and inserting “bus rapid transit”; and

(2) by adding at the end the following:

“(3) STREETCARS.—Not later than 60 days after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue a notice of proposed rulemaking to amend section 771.117 of title 23, Code of Federal Regulations, to add streetcar projects to the list of actions under subsection (c) of such section 771.117 that meet the criteria for categorical exclusions.”.

**SA 1602.** Mr. MERKLEY submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 76, strike line 24 and all that follows through page 77, line 9, and insert the following:

“(3) TERRITORIES.—The total obligations for projects under this section for any fiscal year in the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall not exceed \$20,000,000.

“(4) SUBSTITUTE TRAFFIC.—Notwithstanding

**SA 1603.** Mr. MERKLEY submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 437, line 7, insert “, Federal land access transportation facilities,” after “facilities”.

**SA 1604.** Mr. MERKLEY (for himself and Mr. FRANKEN) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 236, strike lines 18 through 23.

**SA 1605.** Mr. MERKLEY (for himself and Mr. SANDERS) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in section 1105 (in the text amending section 104 of title 23, United States Code), insert the following:

“(e) PEDESTRIAN AND BICYCLE PROJECTS.—Notwithstanding any other provision of this title, not less than 2 percent of funds apportioned under this section shall be used for any of the following activities, regardless of whether the activities are carried out as part of any program or project authorized or funded under this title or as independent programs or projects relating to surface transportation:

“(1) Provision of facilities for pedestrian and bicycles.

“(2) Provision of safety and educational activities for pedestrians and bicyclists.

“(3) Preservation of abandoned railway corridors, including the conversion and use of the corridors for pedestrian or bicycle trails.

“(4)(A) The installation or modification of bicycle transportation and pedestrian walkways in accordance with section 217.

“(B) The modification of public sidewalks to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

“(5) Recreational trails projects eligible for funding under section 206.

“(6) Safe routes to school projects eligible for funding under section 1404 of the SAFETEA-LU (23 U.S.C. 402 note; Public Law 109-59).

“(7) Provision of transportation choices, including—

“(A) on-road and off-road trail facilities for pedestrians, bicyclists, and other non-motorized forms of transportation, including—

“(i) sidewalks;

“(ii) bicycle infrastructure;

“(iii) pedestrian and bicycle signals;

“(iv) traffic calming techniques;

“(v) lighting;

“(vi) other safety-related infrastructure; and

“(vii) transportation projects to achieve compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

“(B) the planning, design, and construction of infrastructure-related projects and systems that will provide safe routes for non-drivers (including children, older adults, and individuals with disabilities) to access daily needs; and

“(C) activities for safety and education for pedestrians and bicyclists and to encourage walking and bicycling, including efforts to encourage walking and bicycling to school and community centers.”.

**SA 1606.** Mr. MERKLEY submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. . . BUY AMERICA PROVISIONS.**

(a) SURFACE TRANSPORTATION.—Section 313 of title 23, United States Code, is amended by adding at the end the following:

“(g) APPLICATION TO HIGHWAY PROGRAMS.—The requirements under this section shall apply to all contracts for a project carried out within the scope of the applicable finding, determination, or decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), regardless of the funding source of such contracts, if at least 1 contract for the project is funded with amounts made available to carry out this title.”.

(b) TRANSIT PROVISIONS.—Section 5323(j) of title 49, United States Code, is amended by adding at the end the following:

“(10) APPLICATION TO TRANSIT PROGRAMS.—The requirements under this subsection shall apply to all contracts for a project carried out within the scope of the applicable finding, determination, or decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), regardless of the funding source of such contracts, if at least 1 contract for the project is funded with amounts made available to carry out this chapter.”.

(c) AMTRAK.—Section 24305(f) of title 49, United States Code, is amended by adding at the end the following:

“(5) The requirements under this subsection shall apply to all contracts for a project carried out within the scope of the applicable finding, determination, or decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), regardless of the funding source of such contracts, if at least 1 contract for the project is funded with amounts made available to carry out this chapter.”.

(d) APPLICATION TO INTERCITY PASSENGER RAIL SERVICE CORRIDORS.—Section 24405(a) of title 49, United States Code, is amended—

(1) by striking paragraph (4);

(2) by redesignating paragraphs (5) through (11) as paragraphs (4) through (10), respectively; and

(3) by adding at the end the following:

“(11) The requirements under this subsection shall apply to all contracts for a project carried out within the scope of the applicable finding, determination, or decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), regardless of the funding source of such contracts, if at least 1 contract for the project is funded with amounts made available to carry out this title.”.

**SA 1607.** Mrs. SHAHEEN (for herself, Ms. MURKOWSKI, Ms. COLLINS, Mr. LEVIN, Ms. KLOBUCHAR, Mr. SANDERS, and Ms. LANDRIEU) submitted an amendment intended to be proposed by her to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 264, strike line 23 and all that follows through page 267, line 9, and insert the following:

“(5) SPECIAL RULES FOR SMALL METROPOLITAN PLANNING ORGANIZATIONS.—

“(A) IN GENERAL.—Subject to subparagraph (B), a metropolitan planning organization subject to this section and chapter 53 of title 49 (as in effect on the day before the date of enactment of the MAP-21) shall continue to be designated as a metropolitan planning organization subject to this section (as amended by that Act) if the metropolitan planning organization—

“(i) serves an urbanized area; and

“(ii) the population of the urbanized area is more than 50,000 individuals and less than 100,000 individuals.

“(B) EXCEPTION.—Subparagraph (A) shall not apply if the Governor and units of general purpose local government—

“(i) agree to terminate the designation described in subparagraph (A); and

“(ii) together represent at least 75 percent of the population described in subparagraph (A)(ii), based on the latest available decennial census conducted under section 141(a) of title 13, United States Code.

“(C) TREATMENT.—A metropolitan planning organization described in subparagraph (A) shall be treated, for purposes this section and chapter 53 of title 49 as a metropolitan planning organization that is subject to this section (as amended by the MAP-21).

On page 267, line 10, strike “(8)” and insert “(6)”.

**SA 1608.** Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. . . BILL MAY NOT TAKE EFFECT BEFORE A BUDGET RESOLUTION IS IN EFFECT.**

Notwithstanding any other provision of this Act, this Act shall not take effect before the date a concurrent resolution on the budget has been agreed to and is in effect for the fiscal year during which this Act was enacted.

**SA 1609.** Mrs. MCCASKILL submitted an amendment intended to be proposed by her to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

**DIVISION—MISCELLANEOUS**

**SEC. .01. LIMITATION ON USE OF CERTAIN FUNDS BY THE DEPARTMENT OF DEFENSE FOR CAPITAL PROJECTS IN AFGHANISTAN; TRANSFER OF AMOUNTS TO HIGHWAY TRUST FUND.**

(a) LIMITATION ON USE OF CERTAIN FUNDS FOR CAPITAL PROJECTS IN AFGHANISTAN.—

(1) IN GENERAL.—Notwithstanding section 9005 of the Department of Defense Appropriations Act, 2012 (Public Law 112-74), or any other provision of law, funds described in paragraph (2) may not be obligated or expended on or after the date of the enactment of this Act to carry out a capital project described in paragraph (3).

(2) FUNDS DESCRIBED.—Funds described in this paragraph are amounts—

(A) appropriated or otherwise made available to the Department of Defense by the Department of Defense Appropriations Act, 2012 (Public Law 112-74), for fiscal year 2012 for

the Afghanistan Infrastructure Fund, the Commanders' Emergency Response Program, or any other program of the Department and available to carry out capital projects in Afghanistan; and

(B) available for obligation on or after the date of the enactment of this Act.

(3) **CAPITAL PROJECTS DESCRIBED.**—A capital project described in this paragraph is a capital project (as defined in section 308 of the Aid, Trade, and Competitiveness Act of 1992 (22 U.S.C. 2421e))—

(A) carried out for the benefit of the host country in Afghanistan; and

(B) the cost of which exceeds \$50,000.

(b) **REPORT REQUIRED.**—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report that contains—

(1) a determination of the amount of funds described in subsection (a)(2) that would have been obligated and expended by the Department of Defense in fiscal year 2012 to carry out capital projects described in subsection (a)(3), based on the plans of the Department on such date of enactment to carry out such projects during that fiscal year, but for the limitation on the obligation and expenditure of such funds for such projects under subsection (a)(1); and

(2) a description of each capital project described in subsection (a)(3) for which amounts were obligated or expended during fiscal year 2012 and before the date of the enactment of this Act.

(c) **TRANSFER OF AMOUNTS TO HIGHWAY TRUST FUND.**—Section 9503(b) of the Internal Revenue Code of 1986, as amended by this Act, is further amended by adding at the end the following:

“(9) **CERTAIN AMOUNTS PREVIOUSLY APPROPRIATED FOR CAPITAL PROJECTS IN AFGHANISTAN.**—There is hereby appropriated to the Highway Trust Fund for fiscal year 2012 an amount equal to the amount of funds described in subsection (a)(2) of section 101 of the Moving Ahead for Progress in the 21st Century Act that the Secretary of Defense determines under subsection (b)(1) of that section would have been obligated or expended in fiscal year 2012 for capital projects described in subsection (a)(3) of that section but for the limitation on the obligation and expenditure of such funds for such projects under subsection (a)(1) of that section.”.

**SA 1610.** Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 497, line 15, strike “and” after the semicolon.

On page 497, line 17, strike the period at the end and insert “; and”.

On page 497, between lines 17 and 18, insert the following:

“(XVIII) improving the analysis of costs and benefits of climate change preparedness measures (including economic, social, and environmental costs and benefits), including cross-sector interactions between infrastructure (including transportation, energy, water, and telecommunication infrastructure) and natural systems (such as rivers).”.

**SA 1611.** Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for

other purposes; which was ordered to lie on the table; as follows:

At end of subtitle E of title I, add the following:

**SEC. \_\_\_\_ . CAPACITY-BUILDING FOR NATURAL DISASTERS AND EXTREME WEATHER.**

(a) **DEFINITIONS.**—In this section, the following definitions apply:

(1) **EXTREME WEATHER.**—The term “extreme weather” includes severe or unseasonable weather, heavy precipitation, a storm surge, flooding, drought, extreme heat, and extreme cold.

(2) **SECRETARY.**—The term “Secretary” means the Secretary of Transportation, in consultation with (as appropriate)—

(A) the Administrator of the National Oceanic and Atmospheric Administration;

(B) the Director of the United States Geological Survey;

(C) the Administrator of the National Aeronautics and Space Administration;

(D) the Administrator of the Environmental Protection Agency;

(E) the Administrator of the Federal Emergency Management Agency; and

(F) the heads of other Federal agencies.

(b) **DATA.**—The Secretary shall determine and provide to transportation planners appropriate data on the impact on infrastructure of natural disasters and a higher frequency of extreme weather.

(c) **TECHNICAL ASSISTANCE AND GUIDANCE.**—The Secretary shall—

(1) provide technical assistance and guidance to help States, metropolitan planning organizations, and local governments plan for natural disasters and a greater frequency of extreme weather events when planning, citing, designing, and constructing transportation infrastructure by assessing vulnerabilities to a changing climate and the costs and benefits of adaptation measures (including economic, social, and environmental costs and benefits);

(2) continue to develop and enhance technical assistance and guidance on—

(A) integration of extreme weather preparedness into asset management and planning processes;

(B) identification of critical assets and vulnerabilities;

(C) selection and application of—

(i) analytical tools;

(ii) extreme weather models;

(iii) visualization software; and

(iv) appropriate data for extreme weather preparedness analyses;

(D) best practices in emergency response and evacuation;

(E) design, maintenance, and operations for infrastructure, including culverts;

(F) material selection and engineering standards;

(G) analysis of the costs and benefits of adaptation measures (including economic, social, and environmental costs and benefits);

(H) statistical and hydrological flood plain projection methods taking climate scenarios into account and

(I) public and stakeholder engagement in adaptation planning;

(3) conduct enhanced extreme weather preparedness pilot programs that are integrated with the long-range transportation plans of metropolitan planning organizations;

(4) integrate extreme weather scenarios into a public planning process that considers multiple transportation and land use scenarios; and

(5) include targeted capacity-building in each of the actions described in this subsection.

**SA 1612.** Mr. BEGICH (for himself and Ms. MURKOWSKI) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page \_\_, between lines \_\_ and \_\_, insert the following:

**SECTION \_\_\_\_ . DENALI COMMISSION.**

(a) **REAUTHORIZATION OF THE DENALI COMMISSION ACCESS SYSTEM PROGRAM.**—Section 309(j)(1) of the Denali Commission Act of 1998 (42 U.S.C. 3121 note) is amended by striking “2006 through 2009” and inserting “2012 through 2013”.

(b) **AUTHORITY TO ACCEPT DONATIONS AND TRANSFERRED FUNDS.**—The Denali Commission Act of 1998 (42 U.S.C. 3121 note) is amended—

(1) in section 305, by striking subsection (c) and inserting the following:

“(c) **GIFTS OR DONATIONS.**—

“(1) **IN GENERAL.**—Except as provided in paragraph (2), the Commission may accept use, and dispose of gifts or donations of services, property, or money.

“(2) **CONDITIONAL.**—With respect to conditional gifts—

“(A)(i) the Commission may accept conditional gifts, if approved by the Federal Co-chairperson; and

“(ii) the principal of and income from any such conditional gift shall be held, invested, reinvested, and used in accordance with the condition applicable to the gift; but

“(B) no gift shall be accepted that is conditioned on any expenditure not to be funded from the gift or from the income generated by the gift unless the expenditure has been approved by Act of Congress.”; and

(2) by adding at the end the following:

**“SEC. 311. TRANSFER OF FUNDS FROM OTHER FEDERAL AGENCIES.**

“(a) **IN GENERAL.**—Subject to subsection (c), for purposes of this Act, the Commission may accept transfers of funds from other Federal agencies.

“(b) **TRANSFERS.**—Any Federal agency authorized to carry out an activity that is within the authority of the Commission may transfer to the Commission any appropriated funds for the activity.

“(c) **TREATMENT.**—Any funds transferred to the Commission under this subsection—

“(1) shall remain available until expended; and

“(2) may, to the extent necessary to carry out this Act, be transferred to, and merged with, the amounts made available by appropriations Acts for the Commission by the Federal Co-chairperson.”.

**SA 1613.** Mr. BEGICH (for himself, Mr. WARNER, and Ms. MURKOWSKI) submitted an amendment intended to be proposed to amendment SA 1515 proposed by Mr. REID (for Mr. JOHNSON of South Dakota (for himself and Mr. SHELBY)) to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

In division D, on page 248, line 6, strike the quotation marks and the second period and insert the following:

“(s) **RECEIPTS FROM PRIVATE PROVIDERS OF PUBLIC TRANSPORTATION ELIGIBLE FOR LOCAL SHARE.**—The non-Government share of the

cost of a capital project carried out by a recipient of funding under this chapter may include an amount equal to the amount that a private provider of public transportation receives from providing public transportation service in the service area of the recipient that is in excess of the operating costs of the service provided, if the rolling stock used to provide the service—

- “(1) has been privately acquired; and
- “(2) has not been acquired using any Government capital assistance.”.

**SA 1614.** Ms. KLOBUCHAR (for herself, Mr. CASEY, Mr. BLUMENTHAL, Ms. MIKULSKI, Mr. BROWN of Ohio, Mr. FRANKEN, and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . PRESERVING ACCESS TO LIFE-SAVING MEDICATION.**

(a) DRUG SHORTAGES.—

(1) EXPANSION OF NOTIFICATION REQUIREMENT REGARDING POTENTIAL SHORTAGES OF PRESCRIPTION DRUGS.—Section 506C of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 356c) is amended—

(A) in the section heading, by striking “DISCONTINUANCE OF A LIFE SAVING PRODUCT” and inserting “DISCONTINUANCE OR INTERRUPTION OF THE MANUFACTURE OF A PRESCRIPTION DRUG”; and

(B) by amending subsection (a) to read as follows:

“(a) IN GENERAL.—

“(1) DEFINITION.—In this section, the terms ‘drug shortage’ and ‘shortage’, when used with respect to a drug, mean a period of time when the total supply of all versions of a drug available at the user level will not meet the current demand for the drug at the user level.

“(2) NOTIFICATION.—A manufacturer of a drug described in paragraph (3) shall notify the Secretary of a discontinuance, interruption, or other adjustment of the manufacture of the drug that would likely result in a shortage of such drug—

“(A) in the case of a discontinuance or planned interruption or adjustment, at least 6 months prior to the date of such discontinuance or planned interruption or adjustment; and

“(B) in the case of any other interruption or adjustment, as soon as practicable after becoming aware of such interruption or adjustment.

“(3) DRUGS DESCRIBED.—A drug described in this paragraph is a drug—

“(A) for which an application has been approved under section 505(b) or 505(j);

“(B) that is described in section 503(b)(1); and

“(C) that is not a product that was originally derived from human tissue and was replaced by a recombinant product.

“(4) TYPES OF ADJUSTMENTS.—An adjustment for which a manufacturer shall submit a notification under paragraph (2) includes—

“(A) adjustments related to the supply of raw materials, including active pharmaceutical ingredients;

“(B) adjustments to production capabilities;

“(C) business decisions that may affect the manufacture of the drug, such as mergers,

discontinuations, and a change in production output; and

“(D) other adjustments as determined appropriate by the Secretary.

“(5) MODIFICATION OF TIME FRAMES.—The Secretary may adjust the required time frame under paragraph (2) as determined appropriate by the Secretary based on—

“(A) the type of interruption or adjustment at issue; and

“(B) any other factor, as determined by the Secretary.

“(6) ENFORCEMENT.—Not later than 180 days after the date of enactment of this section, the Secretary shall promulgate regulations establishing a schedule of civil monetary penalties for failure to submit a notification as required under this subsection.”.

(2) CONFIDENTIALITY OF INFORMATION.—Section 506C(c) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 356c(c)) is amended to read as follows:

“(c) CONFIDENTIALITY OF INFORMATION.—The Secretary shall ensure the confidentiality of proprietary information submitted in a notification under subsection (a).”.

(3) PUBLIC NOTIFICATION.—Section 506C of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 356c) is amended by adding at the end the following:

“(d) PUBLIC NOTIFICATION.—

“(1) NOTIFICATION OF SHORTAGES.—The Secretary shall publish information on the types of adjustments for which a notification is required under subsection (a)(4) and on actual drug shortages on the Internet Web site of the Food and Drug Administration and, to the maximum extent practicable, distribute such information to appropriate health care provider and patient organizations.

“(2) IDENTIFICATION AND NOTIFICATION OF DRUGS VULNERABLE TO DRUG SHORTAGE.—

“(A) IN GENERAL.—The Secretary shall implement evidence-based criteria for identifying drugs that may be vulnerable to a drug shortage. Such criteria shall be based on—

“(i) the number of manufacturers of the drug;

“(ii) the sources of raw material or active pharmaceutical ingredients;

“(iii) the supply chain characteristics, such as production complexities; and

“(iv) the availability of therapeutic alternatives.

“(B) NOTIFICATION.—If the Secretary determines using the criteria under subparagraph (A) that a drug may be vulnerable to a drug shortage, the Secretary shall notify the manufacturer of the drug of such determination and of the collaboration described under paragraph (3).

“(3) CONTINUITY OF OPERATIONS PLANS.—The Secretary shall collaborate with manufacturers of drugs identified pursuant to paragraph (2) to establish and improve continuity of operations plans with respect to medically necessary drugs, as defined by the Secretary, so that such plans include a process for addressing drug shortages.”.

(b) MANUFACTURER REVIEW.—Section 510(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(h)) is amended—

(1) by striking “(h)” and inserting “(h)(1)”; and

(2) by inserting at the end the following:

“(2)(A) If an establishment registered with the Secretary pursuant to this section is subject to a reinspection due to failure to comply with a requirement of this Act, the Secretary shall conduct such reinspection not later than 90 days after the establishment certifies to the Secretary that the establishment has corrected the reason for such failure.

“(B) The Secretary shall prioritize re-inspections described in subparagraph (A) based on whether the establishment involved manufactures, propagates, compounds, or processes a drug involved in a drug shortage (as defined in section 506C).”.

(c) REPORTS TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, and on an annual basis thereafter, the Secretary of Health and Human Services shall submit to Congress a report that describes the actions taken by such Secretary during the previous 1-year period to address drug shortages through all aspects of the prescription drug supply chain.

**SA 1615.** Ms. KLOBUCHAR (for herself and Mr. SESSIONS) submitted an amendment intended to be proposed by her to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 509, between lines 2 and 3, insert the following:

“(I) HIGH-RISK RURAL ROADS BEST PRACTICES.—

“(i) STUDY.—

“(I) IN GENERAL.—The Secretary shall conduct a study of the best practices for implementing cost-effective roadway safety infrastructure improvements on high-risk rural roads.

“(II) METHODOLOGY.—In carrying out the study, the Secretary shall—

“(aa) conduct a thorough literature review;

“(bb) survey current practices of State departments of transportation; and

“(cc) survey current practices of local units of government, as appropriate.

“(III) CONSULTATION.—In carrying out the study, the Secretary shall consult with—

“(aa) State departments of transportation;

“(bb) county engineers and public works professionals;

“(cc) appropriate local officials; and

“(dd) appropriate private sector experts in the field of roadway safety infrastructure.

“(ii) REPORT.—

“(I) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the study.

“(II) CONTENTS.—The report shall include—

“(aa) a summary of cost-effective roadway safety infrastructure improvements;

“(bb) a summary of the latest research on the financial savings and reduction in fatalities and serious bodily injury crashes from the implementation of cost-effective roadway safety infrastructure improvements; and

“(cc) recommendations for State and local governments on best practice methods to install cost-effective roadway safety infrastructure on high-risk rural roads.

“(iii) MANUAL.—

“(I) DEVELOPMENT.—Based on the results of the study under clause (ii), the Secretary, in consultation with the individuals and entities described in clause (i)(III), shall develop a best practices manual to support Federal, State, and local efforts to reduce fatalities and serious bodily injury crashes on high-risk rural roads through the use of cost-effective roadway safety infrastructure improvements.

“(II) AVAILABILITY.—The manual shall be made available to State and local governments not later than 180 days after the date of submission of the report under clause (ii).

“(III) CONTENTS.—The manual shall include, at a minimum, a list of cost-effective roadway safety infrastructure improvements and best practices on the installation of cost-effective roadway safety infrastructure improvements on high-risk rural roads.”.

**SA 1616.** Ms. KLOBUCHAR (for herself and Mr. WARNER) submitted an amendment intended to be proposed by her to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page \_\_, between lines \_\_ and \_\_, insert the following:

**SEC. \_\_\_\_ . INCLUSION OF BROADBAND CONDUIT INSTALLATION IN CERTAIN HIGHWAY CONSTRUCTION PROJECTS.**

Chapter 3 of title 23, United States Code, is amended by adding at the end the following:

**“§ 330. Inclusion of broadband conduit installation in certain highway construction projects**

“(a) DEFINITIONS.—In this section:

“(1) BROADBAND.—The term ‘broadband’ means an Internet Protocol-based transmission service that enables users to send and receive voice, video, data, or graphics, or a combination of those items.

“(2) BROADBAND CONDUIT.—The term ‘broadband conduit’ means a conduit for fiber optic cables that support broadband or, where appropriate, wireless facilities for broadband service.

“(3) COVERED HIGHWAY CONSTRUCTION PROJECT.—The term ‘covered highway construction project’ means a project to construct a new highway or to construct an additional lane or shoulder for an existing highway that—

“(A) is commenced after the date of enactment of this section; and

“(B) receives funding under this title.

“(b) REQUIREMENT.—The Secretary shall require States to install 1 or more broadband conduits in accordance with this section as part of any covered highway construction project.

“(c) INSTALLATION REQUIREMENTS.—In carrying out subsection (b), the Secretary shall ensure, to the maximum extent practicable with respect to a covered highway construction project, that—

“(1) an appropriate number of broadband conduits, as determined by the Secretary, are installed along the highway to accommodate multiple broadband providers, with consideration given to the availability of existing conduits;

“(2) the size of each such conduit is consistent with industry best practices and is sufficient to accommodate potential demand, as determined by the Secretary; and

“(3) hand holes and manholes for fiber access and pulling with respect to each such conduit are placed at intervals consistent with industry best practices, as determined by the Secretary.

“(d) STANDARDS.—In establishing standards to carry out subsection (c), the Secretary shall take into consideration—

“(1) population density in the area of a covered highway construction project;

“(2) the type of highway involved in the project; and

“(3) existing broadband access in the area of the project.

“(e) PULL TAPE.—Each broadband conduit installed pursuant to this section shall include a pull tape and be capable of supporting fiber optic cable placement tech-

niques consistent with industry best practices, as determined by the Secretary.

“(f) ACCESS.—The Secretary shall ensure that any requesting broadband provider has access to each broadband conduit installed pursuant to this section, on a competitively neutral and nondiscriminatory basis, for a charge not to exceed a cost-based rate.

“(g) DEPTH OF INSTALLATION.—Each broadband conduit installed pursuant to this section shall be placed at a depth consistent with industry best practices, as determined by the Secretary, after consideration is given to the location of existing utilities and the cable separation requirements of State and local electrical codes.

“(h) WAIVER AUTHORITY.—The Secretary may waive the application of this section or any provision of this section if the Secretary determines that, upon a showing of undue burden or that a covered highway construction project is not necessary based on the availability of existing broadband conduit infrastructure, cost-benefit analysis, or consideration of other relevant factors, the waiver is appropriate with respect to a covered highway construction project.

“(i) COORDINATION WITH FCC.—In carrying out this section, the Secretary shall coordinate with the Federal Communications Commission, including with respect to determinations regarding—

“(1) potential demand under subsection (c)(2);

“(2) existing broadband access under subsection (d)(3);

“(3) pull tape requirements under subsection (e); and

“(4) depth-of-installation standards under subsection (g).”.

**SEC. \_\_\_\_ . CONFORMING AMENDMENT.**

The analysis for chapter 3 of title 23, United States Code, is amended by adding at the end the following:

“330. Inclusion of broadband conduit installation in certain highway construction projects.”.

**SA 1617.** Ms. KLOBUCHAR (for herself and Mr. ROBERTS) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

In section 32101, add at the end the following:

(d) TRANSPORTATION OF AGRICULTURAL COMMODITIES AND FARM SUPPLIES.—Section 229(a)(1) of the Motor Carrier Safety Improvement Act of 1999 (49 U.S.C. 31136 note) is amended to read as follows:

“(1) TRANSPORTATION OF AGRICULTURAL COMMODITIES AND FARM SUPPLIES.—Regulations prescribed by the Secretary under sections 31136 and 31502 regarding maximum driving and on-duty time for drivers used by motor carriers shall not apply during planting and harvest periods, as determined by each State, to—

“(A) drivers transporting agricultural commodities in the State from the source of the agricultural commodities to a location within a 100 air-mile radius from the source;

“(B) drivers transporting farm supplies for agricultural purposes in the State from a wholesale or retail distribution point of the farm supplies to a farm or other location where the farm supplies are intended to be used within a 100 air-mile radius from the distribution point; or

“(C) drivers transporting farm supplies for agricultural purposes in the State from a

wholesale distribution point of the farm supplies to a retail distribution point of the farm supplies within a 100 air-mile radius from the wholesale distribution point.”.

**AUTHORITY FOR COMMITTEES TO MEET**

**COMMITTEE ON ARMED SERVICES**

Mr. JOHNSON of South Dakota. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on February 14, 2012, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON FINANCE**

Mr. JOHNSON of South Dakota. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on February 14, 2012, at 10 a.m., in room 215 of the Dirksen Senate Office Building, to conduct a hearing entitled “The President’s Budget for Fiscal Year 2013.”

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON FOREIGN RELATIONS**

Mr. JOHNSON of South Dakota. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on February 14, 2012, at 2:15 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS**

Mr. JOHNSON of South Dakota. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet, during the session of the Senate, in order to conduct a hearing entitled “Pain in America: Exploring Challenges to Relief” on February 14, 2012, at 2:30 p.m. in room 430 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

**SELECT COMMITTEE ON INTELLIGENCE**

Mr. JOHNSON of South Dakota. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate, on February 14, 2012, at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

**RESOLUTIONS SUBMITTED TODAY**

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration en bloc of the following resolutions which were submitted earlier today: S. Res. 373, S. Res. 374, and S. Res. 375.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to consider the resolutions en bloc.

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent the resolutions be agreed to, the preambles be agreed to, the motions to reconsider be laid upon the table en bloc, with no intervening action or debate, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolutions were agreed to.

The preambles were agreed to.

The resolutions, with their preambles, read as follows:

#### S. RES. 373

Recognizing February 14, 2012, as the Centennial of the State of Arizona

Whereas, after many changes in government administration, territorial divisions, and additions, including lands acquired through the Treaty of Guadalupe Hidalgo and the Gadsden Purchase, the Territory of Arizona came into existence nearly 150 years ago after serving as a sacred home to native cultures for thousands of years;

Whereas Arizona is home to many of the greatest natural treasures of the United States, including the Sedona Red Rocks, the White Mountains, the Painted Desert, the Petrified Forest, Monument Valley, Saguaro National Park, the 12,000-foot San Francisco Peaks, and the Grand Canyon, 1 of the 7 natural wonders of the world, which explorer John Wesley Powell said could not be “adequately represented in symbols of speech, nor by speech itself”;

Whereas Arizona is also home to man-made wonders, including innovative projects that have allowed much-needed fresh water to flow to Arizona communities for decades, such as the Hoover Dam, the Glen Canyon Dam, the Central Arizona Project, the Salt River Project, and the keystone element of the Salt River Project, the Theodore Roosevelt Dam;

Whereas Arizona has long been recognized for being rich in natural resources, including the famous “5 C’s”, copper, cattle, cotton, citrus, and climate, that continue to sustain the economies of Arizona and the United States;

Whereas Arizona is a mosaic of cultures, cuisines, and traditions, drawing continuing influence from 21 proud American Indian tribes and the early prospectors, ranchers, cowboys, adventurers, and missionaries, as well as a dynamic Latino community;

Whereas all of these Arizonans were, and remain, bound by a strong sense of independence and a willingness to persevere against the odds, and are again picking themselves up in the wake of devastating wildfires and economic challenges;

Whereas this unique Arizona spirit has nurtured leaders in the arts, justice, conservation, and science, as well as some of the greatest statesmen in the 20th century United States, including Senators Ernest McFarland, Carl Hayden, and Barry Goldwater, Representative Morris Udall, and Supreme Court Justices William Rehnquist and Sandra Day O’Connor;

Whereas the many military installations in Arizona have provided valuable contributions to the defense of the United States and will continue to do so for years to come;

Whereas, after nearly half a century as a territory of the United States, Arizona became the 48th State of the United States, and the last contiguous State, on February 14, 1912;

Whereas the people of the United States now have the opportunity to celebrate the

natural splendor, innovative spirit, and cultural diversity that have made Arizona so special for the past 100 years and will continue to make Arizona special for centuries to come: Now, therefore, be it

*Resolved*, That the Senate recognizes February 14, 2012 as the centennial of the State of Arizona.

#### S. RES. 374

Supporting the mission and goals of 2012 National Crime Victims’ Rights Week to increase public awareness of the rights, needs, and concerns of victims and survivors of crime in the United States

Whereas each year, approximately 19,000,000 individuals in the United States are victims of crime, including more than 4,000,000 victims of violent crime;

Whereas a just society acknowledges the impact of crime on individuals, families, and communities by ensuring that rights, resources, and services are available to help rebuild lives;

Whereas although the United States has steadily expanded rights, protections, and services for victims of crime, too many victims are still not able to realize the hope and promise of these gains;

Whereas despite impressive accomplishments during the past 40 years in the rights of and services available to crime victims, there remain many challenges to ensure that all victims—

(1) are treated with fairness, dignity, and respect;

(2) are offered support and services regardless of whether the victims report crimes committed against them; and

(3) are recognized as key participants within systems of justice in the United States when the victims do report crimes;

Whereas observing the rights of victims and treating victims with fairness, dignity, and respect serve the public interest by—

(1) engaging victims in the justice system;

(2) inspiring respect for public authorities; and

(3) promoting confidence in public safety;

Whereas the people of the United States recognize that we make our homes, neighborhoods, and communities safer and stronger by serving victims of crime and ensuring justice for all;

Whereas in each of the last 30 years, communities throughout the United States have joined Congress and the Department of Justice in observing National Crime Victims’ Rights Week to celebrate a vision of a comprehensive and just response to all victims of crime;

Whereas, the theme of 2012 National Crime Victims’ Rights Week, celebrated on April 22, 2012, through April 28, 2012, is “Extending the Vision: Reaching Every Victim,” which highlights the importance of ensuring that services are available for all victims of crime; and

Whereas the people of the United States appreciate the continued importance of promoting victims’ rights and honoring crime victims and those who advocate on their behalf: Now, therefore, be it

*Resolved*, That the Senate—

(1) supports the mission and goals of 2012 National Crime Victims’ Rights Week to increase public awareness of—

(A) the impact on victims and survivors of crime; and

(B) the constitutional and statutory rights and needs of those victims and survivors; and

(2) recognizes that fairness, dignity, and respect comprise the very foundation of how

victims and survivors of crime should be treated.

#### S. RES. 375

Celebrating the bicentennial of the City of Columbus, the capital city of the State of Ohio

Whereas in 1787, Congress enacted the Northwest Ordinance to settle claims following the American Revolution and begin the westward expansion of our Nation;

Whereas in 1803, Ohio was admitted as the 17th State in the Union, becoming the first territory of the Northwest Ordinance to achieve statehood;

Whereas in 1812, the Ohio General Assembly was offered land along the Scioto River in Central Ohio to serve as the capital of the State, due to its central location;

Whereas on February 14, 1812, the Ohio General Assembly officially designated the new capital city as Columbus, in honor of Christopher Columbus;

Whereas Columbus emerged as a trading and transportation hub through the influence of the Ohio & Erie Canal and the National Highway;

Whereas on March 3, 1834, 31 years after Ohio achieved statehood, Columbus was officially chartered as a city because of its growing population;

Whereas during the Civil War, Columbus was home to Camp Chase, a major base for the Union Army that housed 26,000 troops, Camp Jackson, an assembly center for recruits, and Columbus Barracks, which served as an arsenal;

Whereas Columbus was a major outpost on the Underground Railroad, led by the Kelton family, who assisted fugitive slaves on their road to freedom;

Whereas in 1870, the Ohio General Assembly used to the Morrill Land Grant Act to create the Ohio Agricultural and Mechanical College, which was renamed the Ohio State University in 1878 and is presently one of the Nation’s premier public universities and an anchor for economic activity in the City of Columbus;

Whereas Columbus is home to other world-class institutions of higher learning, including Capital University, established in 1830, Columbus College of Art and Design, established in 1879, Pontifical College Josephinum, established in 1888, Franklin University, established in 1902, Mount Carmel College of Nursing, established in 1903, Ohio Dominican University, established in 1911, and Columbus State Community College, established in 1963;

Whereas Columbus is home to some of the Nation’s earliest schools for Americans living with disabilities, having established the Ohio School for the Deaf in 1829 and the Ohio State School for the Blind in 1837;

Whereas Columbus is of historical importance to the organized labor movement, as one of the Nation’s first federations of labor, the American Federation of Labor, was founded in Columbus in 1886;

Whereas the American Veterans of Foreign Service, the earliest organization of veterans of foreign wars, was founded in Columbus in 1899;

Whereas in the late 19th century and the early 20th century, Columbus saw the rise of manufacturing and steel businesses, brewers, and cultural and arts institutions, such as the Southern Theatre;

Whereas leading retail corporations, health care and insurance companies, and financial institutions call Columbus their home, attracted by the city’s world-class workforce and cultural outlets;



Whereas Columbus serves as a leader in cutting-edge medical research and hospital systems through the Ohio State Medical Center and the Arthur James Cancer Hospital and Richard J. Solove Research Institute, Nationwide Children's Hospital, Mt. Carmel Hospital, Riverside Community Hospital, and Grant Medical Center;

Whereas Columbus is home to green space and parks that are used as both community gathering locations and to honor pioneers, including Shrum Mound, one of the last remaining conical burial mounds in the United States, which dates back more than 2,000 years;

Whereas Columbus is also home to the Midwest's largest Fourth of July Festival and the famed Ohio State Fair;

Whereas Columbus combines excellence in art and culture with professional sports teams such as the Columbus Clippers, the Columbus Crew, and the Columbus Blue Jackets;

Whereas Columbus is Ohio's most populous city and the 15th largest city in the United States, as well as one of the fastest growing cities in the Eastern United States;

Whereas February 14, 2012, marks the 200th anniversary of the founding of Columbus, Ohio; and

Whereas the citizens of Columbus will commemorate a year-long bicentennial celebration with the theme of "Honor the Past. Celebrate the Present. Envision the Future.": Now, therefore, be it

*Resolved*, That the Senate—

(1) celebrates the bicentennial anniversary of the founding of the City of Columbus, the capital of the State of Ohio; and

(2) honors the important economic, cultural, educational, and artistic contributions that the people of Columbus have made to this Nation over the past 200 years.

Mr. BROWN of Ohio. Mr. President, I would like to speak on one of these resolutions, S. Res. 375, about the Columbus, OH, bicentennial.

Today marks the 200th anniversary of the founding of the city of Columbus, our largest city, one of the great cities of America, the capital of the great State of Ohio. I have lived in different neighborhoods in Columbus over the last 30 years—from German Village to Berwick to the Hilltop. My grandson and his parents live in Clintonville, a great neighborhood in the north side of Columbus. Our daughter lives in the Short North, one of the most exciting places of any city in the Midwest.

For 200 years Columbus has been a hub of economic and cultural activity for the State. We talk often in Columbus about the great brain gain; how Columbus is one of the fastest growing cities in the Midwest and east of the Mississippi.

Columbus started in its early days as a trading post along the Scioto River and continued as steamboats and railroads connected more people with new opportunities and new commerce. I should add that the Presiding Officer, if I am allowed to say this, once lived in the great city of Columbus. I think I am allowed to say that. He now is the very able junior Senator from Colorado.

During the Civil War, Columbus became an important location for the

Union Army, and something I am more particularly proud of, the Underground Railroad. Through the turmoil of that era, President Lincoln signed the Morrill Act, which led to the creation of the Ohio Agricultural and Mechanical College in 1870. In 1878 it was renamed Ohio State University.

Today, OSU is one of the Nation's premiere public universities, and there are many other institutions of higher learning in Columbus: Capital University, established much earlier than that, 1830; the Columbus College of Art and Design, established in 1879; the Pontifical College Josephinum, established in 1888; Franklin University, established in 1902; the Mount Carmel College of Nursing in 1903; Ohio Dominican University, established in 1911, the year my father was born; and the Columbus State Community College, part of the great group of community colleges who were visiting the Capitol today—many people from those colleges—established in 1963.

Columbus is home to some of the Nation's earliest schools for Americans living with disabilities. The Ohio School for the Deaf was established in 1829. Many graduates of that school have gone on to Gallaudet University located in Washington, founded during the Civil War by Abraham Lincoln, the most outstanding school of its kind in the country. The Ohio School for the Blind was established in 1837.

In 2011, the Columbus library system was named the best in the United States, the recipient of the National Medal for Museum and Library Service. Columbus prospered in the post-Civil-War era through new banks, expanded railroad networks, extended streetcar service, and the city's first waterworks system. Manufacturers from horse-and-buggy manufacturers, to steel, and brewers made Columbus an important location for organized labor. The American Federation of Labor later merged with the Congress of Industrial Organizations into what we know today as the AFL-CIO. The American Federation of Labor was founded in Columbus 116 years ago in 1886.

Today the legacy of advanced manufacturing continues at Ohio's cutting-edge Edison Networks, the Ohio Manufacturing Association, and Battelle. The spirit of the labor movement continues as workers of the Columbus local unions represent all types of industries and professions.

Attracted by world-class workforces and cultural outlets, leading retail corporations, health care, insurance companies, and financial institutions such as the Limited, Nationwide, Grange, Cardinal Health, and Huntington all call Columbus their home.

Columbus is a leader in cutting-edge medical research and hospital systems. We see it at the Ohio State Medical Center, the Arthur James Cancer Hospital, the Richard J. Solove Research

Institute, and Nationwide Children's Hospitals. Of the top 10 Children's Hospitals in America, three of them are in Ohio consistently: Cleveland, Columbus, and Cincinnati, in addition to other great Children's Hospitals in Ohio: Mount Carmel Hospital, Riverside Community Hospital, and Grant Medical Center.

Columbus is a crown jewel of arts and culture in the Midwest. The majestic Southern Theatre, Southern Theatre and Hotel attracted world-class performances for more than 100 years. The Southern Hotel was one of President Theodore Roosevelt's favorite stops as he traveled through the Midwest.

The Short North is the epicenter of the burgeoning art scene, home to galleries, parks, and restaurants such as Betty's, the Happy Greek, Jeni's Ice Cream, and the North Market that attract an incredible number of young people with energy and commitment to that city.

It hosts some of the Midwest's largest concerts, fairs, and festivals ranging from ComFest to the Pride Festival. Columbus is also home to the Midwest's largest Fourth of July festival and the very famous Ohio State Fair.

Mayor Coleman and the Columbus Partnership, which is much more than just business organizations, are doing a tremendous job promoting economic development from the South Campus Gateway to the Short North, to the Scioto riverfront and the German Village.

Like Ohioans across the State, our people have long served those who serve us. One of the first Veterans of Foreign Wars chapters in the country was founded in Columbus in 1899.

Aside from the Buckeyes of Ohio State, Columbus is home to professional sports teams, including the Columbus Clippers, the Columbus Crew, and the Blue Jackets.

This year, Columbus will commence a year-long bicentennial celebration, with the theme "Honoring the Past. Celebrate the Present. Envision the Future." In doing so, it will celebrate the economic, cultural, educational, and artistic contributions of the people of Columbus to our great State and Nation.

On behalf of the Senate, with unanimous consent, I wish all the citizens of Columbus a happy 200th anniversary.

#### MEASURE READ THE FIRST TIME—S. 2105

Mr. BROWN of Ohio. Mr. President, I understand that S. 2105, introduced earlier today by Senator LIEBERMAN, is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the title of the bill for the first time.

The bill clerk read as follows:

A bill (S. 2105) to enhance the security and resiliency of the cyber and communications infrastructure of the United States.

Mr. BROWN of Ohio. Mr. President, I now ask unanimous consent for its second reading and object to my own request.

The PRESIDING OFFICER. Objection is heard. The bill will be read for the second time on the next legislative day.

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#### UNANIMOUS CONSENT AGREEMENT—READING OF WASHINGTON'S FAREWELL ADDRESS

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that notwithstanding the resolution of the Senate of January 24, 1901, the traditional reading of Washington's Farewell Address take place on Monday, February 27, 2012, at a time to be determined by the majority leader in consultation with the Republican leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

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#### APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to the order of the Senate of January 24, 1901, as modified by the order of February 14, 2012, appoints the Senator from New Hampshire (Mrs. SHAHEEN) to read Washington's Farewell Address on Monday, February 27, 2012.

#### ORDERS FOR WEDNESDAY, FEBRUARY 15, 2012

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the Senate adjourn until 9:30 on Wednesday, February 15, 2012; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, and the time for the two leaders be reserved for their use later in the day; that following any leader remarks, the Senate be in a period of morning business until noon, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the Republicans controlling the first 30 minutes and the majority controlling the second 30 minutes; that following morning business, the Senate proceed to executive session and resume consideration of the Jordan nomination, with 2 minutes of debate equally divided and controlled in the usual form prior to a vote on confirmation of the Jordan nomination; that upon confirmation of the nomination, the motion to reconsider be considered made and laid upon the table with no intervening action or debate; that no further motions be in order; that any related statements be printed in the RECORD; that the President be immediately notified of the Senate's action and the Senate then resume legislative session and consideration of S. 1813, the surface transportation bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

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#### PROGRAM

Mr. BROWN of Ohio. Mr. President, the first vote tomorrow will be at approximately noon on confirmation of the Jordan nomination. Additional votes in relation to amendments to the surface transportation bill are possible.

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#### ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. BROWN of Ohio. If there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 6:28 p.m., adjourned until Wednesday, February 15, 2012, at 9:30 a.m.

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#### NOMINATIONS

Executive nominations received by the Senate:

##### OVERSEAS PRIVATE INVESTMENT CORPORATION

JAMES M. DEMERS, OF NEW HAMPSHIRE, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2014, VICE KEVIN GLENN NEALER, TERM EXPIRED.

NAOMI A. WALKER, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2012, VICE CHRISTOPHER J. HANLEY, TERM EXPIRED.

## EXTENSIONS OF REMARKS

HONORING THE LIFE OF MR.  
DENNIS KAHN

**HON. BRIAN HIGGINS**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 14, 2012*

Mr. HIGGINS. Mr. Speaker, I rise today to honor and celebrate the life of Mr. Dennis Kahn, a great citizen and prominent attorney in my western New York community. Mr. Kahn passed away on February 6th, 2012 at the young age of 60.

Mr. Kahn was one of Buffalo's brightest and most successful attorneys. He earned his law degree from the University of Akron after completing undergraduate work at the University at Buffalo. He began his practice in 1976 and became partner at a firm that eventually bore his name, Siegel Kelleher & Kahn, focusing on personal injury law. Mr. Kahn helped expand the firm to the sixth-largest law firm in western New York. He was recognized in "Who's Who" in law and nominated as "Best in Field—Personal Injury".

Throughout his distinguished career, Mr. Kahn served as a member of the Erie County, New York State, and American Bar Associations. He was admitted to practice before U.S. District Court for the Western District of New York, U.S. District Court for the Northern District of New York, and Federal Tax Court, and the U.S. Supreme Court. Mr. Kahn also served as a member of the advisory board for Bryn Mawr Hospitals and is a former member of the board of trustees for Shea's Performing Arts Center.

I was privileged to introduce Dennis at an American Cancer Society event in 2011. Dennis was a tireless advocate in the fight against cancer and I was proud to stand with him in that fight. We will carry on this mission in his memory, reflecting on the passion with which he waged his fight against this terrible disease.

Mr. Speaker, I wish to express my deepest condolences to Dennis's wife, Carrie, his son, Max, and the rest of the Kahn family.

HONORING NATHAN VINCENT  
FAGERSTONE

**HON. SAM GRAVES**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 14, 2012*

Mr. GRAVES of Missouri. Mr. Speaker, I proudly pause to recognize Nathan Vincent Fagerstone. Nathan is a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 175, and earning the most prestigious award of Eagle Scout.

Nathan has been very active with his troop, participating in many scout activities. Over the many years Nathan has been involved with scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community. Most notably, Nathan has contributed to his community through his Eagle Scout project.

Mr. Speaker, I proudly ask you to join me in commending Nathan Vincent Fagerstone for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

CELEBRATING BLACK HISTORY  
MONTH

**HON. PETER J. VISCLOSKY**

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 14, 2012*

Mr. VISCLOSKY. Mr. Speaker, it is with great respect and sincere admiration that I rise to celebrate Black History Month and its 2012 theme—Black Women in American Culture and History. This year's theme offers us the opportunity to reflect on the outstanding accomplishments of African American women who often faced not only racial discrimination, but gender discrimination as well.

The innumerable contributions made by African American women throughout history have played a major role in shaping our great nation. From historical heroes, such as the leader of the Underground Railroad, Harriet Tubman, and the courageous civil rights activist, Rosa Parks, to modern leaders, including First Lady Michelle Obama, and locally, the Honorable Karen Freeman-Wilson, Mayor of the City of Gary, Indiana, the American people have been blessed and inspired by extraordinary African American women who have at many times, against all odds, strengthened our union.

As the Representative of the First Congressional District of Indiana, I have had the opportunity and pleasure to know and work with Mayor Freeman-Wilson. Mayor Freeman-Wilson's first term began this year, and her victory is an extraordinary example of how far our nation has come. With her recent election, Mayor Freeman-Wilson became the first female mayor of the city of Gary and the first African American female mayor in the State of Indiana.

Standing on the shoulders of the brave African American women who fought so hard for their rights, Mayor Freeman-Wilson continues to inspire and is a role model for women of all races. Mayor Freeman-Wilson grew up in Gary and was taught by her parents the importance of hard work and public service at an early age. She eventually graduated from Harvard Law School but quickly realized her calling was to be a public servant. She has held

many prestigious positions throughout her career including: presiding judge for the Gary City Court, Attorney General for the State of Indiana, Executive Director of the National Drug Court Institute, and Director of the Indiana Civil Rights Commission. She is also active in numerous organizations and charitable groups aimed at protecting human rights, promoting the quality of life, and combating substance abuse. In particular, Mayor Freeman-Wilson's work with the Second Chance Foundation, an organization she helped found to fight substance abuse, is truly admirable.

It is leaders like Mayor Karen Freeman-Wilson who become an inspiration for future generations. We honor her, along with all of the courageous African American women, past and present and across the nation, for their courage and tenacity to help create better communities and a better nation.

Mr. Speaker, I ask that you and my other distinguished colleagues join me in remembering the many strong African American women who have left their mark in history and have fought for equality for all races and genders. They are worthy of the highest praise. Through the efforts of these honorable individuals, we are reminded of how far we have come as a nation, while recognizing that there is still much progress to be made.

CONGRATULATING PRESIDENT MA  
YING-JEOU ON HIS RE-ELECTION

**HON. ENI F.H. FALEOMAVAEGA**

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 14, 2012*

Mr. FALEOMAVAEGA. Mr. Speaker, President Ma Ying-jeou was inaugurated President of the Republic of China, ROC, on May 20, 2008. He was elected on a platform which included a promise to revive Taiwan's economy and improve cross-strait relations.

President Ma was re-elected on January 14, 2012. Upon President Ma's re-election, The White House issued a statement. "Cross-strait peace, stability, and improved relations in an environment free from intimidation are of profound importance to the United States. We hope the impressive efforts that both sides have undertaken in recent years to build cross-strait ties continue." The U.S. State Department also congratulated President Ma and, added, "Taiwan has once again held a free and fair election."

President Ma's victory shows that the people of Taiwan agree with his efforts, and so do I. As the former Chairman and current Ranking Member of the Foreign Affairs Subcommittee on Asia and the Pacific, I offer my congratulations to President Ma. I have known President Ma before he was first elected, back when he was one of many candidates. I knew then what I know now. President Ma is the right man for the right times.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Since his election in 2008, U.S.-Taiwan relations have been far better than any period in recent memory, and the Obama administration has shown clear support for the Ma administration by more than doubling the Bush administration's arms sales to Taiwan. The Obama administration has also sent high-level officials from the U.S. to Taiwan and, most recently, the Obama administration nominated Taiwan for inclusion in the U.S. Visa Waiver Program, VWP.

The people of Taiwan have also shown strong support for President Ma and his policies. As a result of President Ma's policy to reduce tensions in cross-strait relations, there are now 558 direct flights from cities in Taiwan to cities in China every week. China-bound investments have been relaxed, and business is good for both the Taiwanese and Chinese people.

President Ma's policy of rapprochement, which upholds our shared values of democracy, freedom, and the rule of law, has advanced regional peace and stability, and the U.S. is appreciative and supportive of President Ma's initiatives because improved cross-strait relations are in the best interest of the U.S.-Taiwan relationship.

President Ma Ying-jeou graduated from National Taiwan University. After earning a Master of Laws degree from New York University, he received a Doctor of Juridical Sciences from Harvard Law School, specializing in the law of the sea and international economic law.

President Ma's father, Ma Ho-ling, and his mother, Chin Hou-hsiu, dedicated themselves to government and country. Following in his parents' footsteps, President Ma devoted his life to creating a government that upholds those ideals that embody Taiwan's core traditional values—benevolence, righteousness, diligence, honesty, generosity, and industriousness.

For historical purposes, I submit this statement to be made part of the CONGRESSIONAL RECORD in tribute to the service President Ma Ying-jeou has rendered for and on behalf of the people of Taiwan. President Ma is married to Chow Mei-ching and they have two daughters—Ma Wei-chung and Ma Yuan-chung—and a stray dog affectionately known as Ma Hsiao-jeou (Little Ma).

#### RESOLUTION CELEBRATING THE ARIZONA CENTENNIAL

**HON. DAVID SCHWEIKERT**

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 14, 2012*

Mr. SCHWEIKERT. Mr. Speaker, I will introduce this week the following resolution to recognize Arizona on her Centennial birthday.

For almost 50 years, Arizona has been my home, and today I could not be more excited to celebrate her 100th birthday.

While Arizonans celebrate her Centennial, we also remember the pioneers who went before us to settle our beautiful State, and those since who have made her the Masterpiece of the West.

Our State motto is "Ditat Deus," or "God Enriches." The truth of that phrase can never

be clearer each time I travel across our painted deserts, peaks, valleys, and canyons or see a red sunset.

It is not only the beauty of our landscape, but the character of our people that make Arizona a great place to live and raise our families.

Here's to another 100 years for our Grand Canyon State.

#### RESOLUTION

##### CELEBRATING THE ARIZONA CENTENNIAL

Whereas on February 14, 1912, after nearly 49 years as a United States territory and thousands of years as a sacred home to indigenous peoples, Arizona became the 48th State and the last of the contiguous states to enter the Union of the United States;

Whereas in 2008, in order to commemorate its centennial and to properly celebrate the history of its people, the Arizona Centennial Commission was established to develop a comprehensive plan to specially mark such an auspicious occasion;

Whereas Arizona has been home to some of the most influential citizens in United States history including Barry Goldwater, William Rehnquist, Carl Hayden, Mo Udall, Sandra Day O'Connor, and Pat Tillman;

Whereas after being explored by Europeans in the 1500s, first by Spanish Franciscan Marcos de Niza and later by the Spanish explorer Coronado, Arizona is now known around the world as the Grand Canyon State for its breathtaking natural formations and unique beauty;

Whereas Arizona, among all the States, has the largest percentage of its land set aside and designated as Indian lands;

Whereas Arizona is the home of the Salt River Pima, Gila River, Fort McDowell, Pasaena Yaqui, and many other indigenous communities;

Whereas Arizona is home to Oraibi, the oldest Indian settlement in the United States, which was founded by the Hopi Indian Tribe;

Whereas the Navajo Code talkers helped safeguard United States military secrets during the Second World War;

Whereas in 2001, the Arizona Diamondbacks defeated the New York Yankees 4 games to 3 in the World Series, becoming the youngest expansion franchise to win the World Series;

Whereas Arizona's State flag consists of 13 rays of red and yellow to symbolize its picturesque sunsets and the 13 original colonies, a copper star to represent the copper mining industry, and a blue background to represent liberty;

Whereas Arizona's centennial engenders a sense of unity and pride in the diverse nature of Arizona's people, and reminds Arizonans of the need to leave a lasting legacy for generations to come; and

Whereas the sun shines in Arizona more than 85 percent of the time: Now, therefore, be it

*Resolved*, That the House of Representatives honors and commends the State of Arizona and its people on Arizona's centennial.

PAYING TRIBUTE TO MS. BARBARA L. BONESSA, AFTER 41 YEARS OF SERVICE TO OUR NATION

**HON. NORMAN D. DICKS**

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 14, 2012*

Mr. DICKS. Mr. Speaker, I rise to pay tribute to Ms. Barbara L. Bonessa for her extraordinary dedication to duty and service to the United States of America. Ms. Barbara L. Bonessa will retire from federal service on February 28th, 2012, after 41 distinguished years of service to the U.S. Army.

Ms. Barbara L. Bonessa has distinguished herself by her exceptional leadership and unparalleled demonstration of technical expertise in the management of the Army's Budget from June 2006 to February 2012. Ms. Bonessa led the development of seven Army Budget requests totaling \$944 billion dollars and seven supplemental requests totaling \$635 billion. These resources were essential to the Army's strategic and unprecedented goals of restoring balance to a force feeling the cumulative effects of 10 years of war and setting conditions for the future to fulfill its strategic role as an integral part of the Joint Force.

Ms. Bonessa led the Army Budget Office's efforts to develop, justify, and defend the Army's budget requests along four imperatives: Sustaining Soldiers, Families, and Army Civilians in an era of persistent conflict; Preparing Soldiers, units, and equipment for success in the current conflicts; Resetting returning Soldiers, units, and equipment to restore readiness consumed in operations; and Transforming the Army to improve its ability to meet the needs of combatant commanders.

To ensure the Army's story was widely told and understood by its stakeholders, Ms. Bonessa built highly effective strategic partnerships with senior officials in the Office of the Secretary of Defense and the Office of Management and Budget, and with congressional staff and members. Her ability to facilitate formal and informal information-sharing and articulate the Army's message garnered resources and protected programs that were necessary to build and sustain the Army while simultaneously prosecuting two wars. These relationships were instrumental in the Army's ability to articulate, defend and secure both base and supplemental funding for the past 7 years. Through her tireless efforts, the Army's base and supplemental requests were consistently and flawlessly presented, justified, defended, and ultimately submitted to and supported by Congress. Her leadership and technical skills directly resulted in obtaining critical and timely funding for Operations Noble Eagle, Enduring Freedom, Iraqi Freedom, and New Dawn; Grow the Army; Army Modularity; Base Realignment and Closure; Army Modernization; sustainment of the All-Volunteer Force; care of Soldiers, Families and Civilians; and Soldier and leader development. As a direct result of her efforts, the Army's supplemental requests were consistently funded at 100% or more of its request.

There are very few Financial Management professionals or leaders who have had a

greater impact during their service to the Nation than Barbara Bonessa. She is highly respected throughout the government for her unquestionable integrity and passion for supporting Soldiers and the Army. Our commanders in the field have always benefitted from her incredible capacity to meet challenges, whether presented by individual units or the Congress, and to develop an enterprise approach to solutions. The Army has gained immeasurably over the last 7 years from her positive and strategic outlook, and she leaves a solid foundation upon which the Army will continue to build.

Ms. Bonessa richly deserves to be recognized for her selfless service and influential leadership and her efforts to support an Army at war and sustain the all-volunteer force. Her exceptional performance leaves a lasting legacy.

Mr. Speaker, on behalf of a grateful Nation, I join my colleagues today in saying thank you to Ms. Barbara L. Bonessa, for her extraordinary dedication and service to her country throughout her distinguished career as an Army civilian. We wish her and her husband Alan all the best in her well-deserved retirement.

**INTRODUCTION OF THE RESOLUTION CELEBRATING THE WORLD AFFAIRS COUNCIL OF SEATTLE ON THE OCCASION OF ITS 61ST ANNIVERSARY AND RECOGNIZING ITS CONTRIBUTIONS TO THE GREATER SEATTLE REGION AND THE WASHINGTON STATE**

**HON. JIM McDERMOTT**

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 14, 2012*

Mr. McDERMOTT. Mr. Speaker, I rise today to introduce a resolution recognizing the contributions of the World Affairs Council of Seattle as it marks the 61st anniversary of connecting the Seattle community with the global community. Seattle has long served as a gateway for the global economy, as home to one of the United States' largest ports, innovative companies and world-class research. Since the World Affairs Council of Seattle was founded in 1951, the Council has been integral in providing extraordinary opportunities for people to participate in global debates and expanding people-to-people relationships across the globe. I thank the World Affairs Council of Seattle for its contribution in fostering dialogue in the Seattle region and Washington State.

**IN CELEBRATION OF RYAN ROSSI**

**HON. JANICE HAHN**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 14, 2012*

Ms. HAHN. Mr. Speaker, I rise to pay tribute to the life of Ryan Rossi, an inspiring young man from my district who died too soon this past December.

A star soccer forward at his alma mater of Cal State Northridge, a talented singer song-

writer, and a dedicated humanitarian, Ryan made the world a brighter place for his having been in it. And while non-Hodgkin's lymphoma extinguished his life at the age of 27, it could not dim the love and generosity that suffused it.

After a trip to El Salvador, meeting impoverished children with ragged breathing caused by the toxic fumes of the kerosene lamps that lit their homes, Ryan helped start a charity to replace the noxious lamps with clean, safe and affordable solar lamps.

Before his death, Ryan asked that he be remembered not with a funeral, but with a celebration. And well we should celebrate, for today I know Ryan's light lives on—not only in the hearts of those who knew him, but in the homes of thousands who never will.

**HONORING CITY MANAGER STEVE HELVEY**

**HON. LINDA T. SÁNCHEZ**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 14, 2012*

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, I rise today to recognize Steve Helvey for his public service to the people of Whittier, California. Steve began with the City of Whittier in 2000 as the city's sixth City Manager. After 12 productive years of service to Whittier and its residents, Steve is retiring.

Steve and his wife Paula are long-time Whittierites. He attended Sierra High School from 1964–1968, Rio Hondo College from 1968–1970, and graduated from California State University in Fullerton in 1972. Steve came to the City of Whittier after serving the City of Burbank for 17 years as its Financial Services Director and Assistant City Manager. Prior to that, Steve was the Finance Director in the City of Alhambra and the Chief of the Tax Division for the Los Angeles County Auditor-Controller's Office.

During his tenure with the City of Whittier, Steve always provided strong and knowledgeable leadership and direction for major projects. Those numerous projects included the Whittier Utility Authority Finance Plan, Pio Pico State Historic Park renovation, Parnell Park Community and Senior Center construction, Whittier Greenway Trail acquisition and development, new Whittier Police Headquarters Building, Uptown Whittier Specific Plan, Whittier Boulevard Specific Plan, Whittwood Town Center redevelopment, release of Fred C. Nelles property for development, and the Mineral Extraction Project.

Over the past decade, Steve has worked tirelessly to ensure Whittier operates on firm financial footing and never outside its fiscal means. While the struggling economy has impacted many cities throughout Southern California, Whittier has managed to maintain funding for all city services and capital improvement projects and Steve is a big reason why.

As an active civic member he has served as a member of the California City Management Association, California Society of Municipal Finance Officers, and the San Gabriel Valley City Managers Association.

From one public servant to another, I praise Steve Helvey and commend him on his many

years of outstanding public service and dedication to the City of Whittier and the community. Whittier would not be the community it is today without him.

**OUR UNCONSCIONABLE NATIONAL DEBT**

**HON. MIKE COFFMAN**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 14, 2012*

Mr. COFFMAN of Colorado. Mr. Speaker, on January 26, 1995, when the last attempt at a balanced budget amendment passed the House by a bipartisan vote of 300–132, the national debt was \$4,801,405,175,294.28.

Today, the day after the President proposed a federal budget that would never again balance, it is \$15,355,198,335,393.66. We've added \$10,553,793,160,099.38 dollars to our debt in 16 years. This is \$10 trillion in debt our Nation, our economy, and our children could have avoided with a balanced budget amendment.

**INTRODUCTION OF THE CARRIED INTEREST FAIRNESS ACT OF 2012**

**HON. SANDER M. LEVIN**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 14, 2012*

Mr. LEVIN. Mr. Speaker, I introduce today the Carried Interest Fairness Act of 2012.

The Carried Interest Fairness Act provides that the "carried interest" compensation received by investment fund managers will be taxed at ordinary income rates and treated as wage income subject to employment taxes. In exchange for providing the service of managing their investors' assets, fund managers often take a portion of a fund's profits, or a carried interest, usually equal to 20 percent of such profits. The bill clarifies that this income is subject to ordinary income tax rates rather than the much lower capital gains rate. For a technical explanation of the Carried Interest Fairness Act of 2012, please visit my website at [www.house.gov/levin](http://www.house.gov/levin).

**IN RECOGNITION OF THE AMERICAN HERBAL PRODUCTS ASSOCIATION (AHPA)**

**HON. FRANK PALLONE, JR.**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 14, 2012*

Mr. PALLONE. Mr. Speaker, I rise today to honor the American Herbal Products Association (AHPA) as that organization celebrates its 30th anniversary.

Since AHPA's founding in 1982, the organization has been at the forefront of promoting the responsible commerce of herbs and herbal products and providing leadership in the herbal products community. Started by a handful of growers, processors, manufacturers and marketers of herbal products, AHPA has now

grown into a diverse trade association, representing nearly 300 companies in the herbal products industry and their affiliated businesses.

AHPA has distinguished itself in the herbal and dietary supplement trades for the quality of its work and advocacy before lawmakers and regulators. Legislatively, AHPA was an active participant in the passage of the Dietary Supplement Health and Education Act of 1994, which is the law that established a separate category for dietary supplements under a robust regulatory framework. AHPA also played a seminal role in the passage of the Dietary Supplement and Nonprescription Drug Consumer Protection Act of 2006, which established a Federal serious adverse event reporting mechanism for the dietary supplements.

Since its inception, AHPA has also been tireless in its efforts to communicate respectfully and clearly with the Food and Drug Administration (FDA), the Federal Trade Commission, the U.S. Fish & Wildlife Service, and other Federal agencies on the unique aspects and needs of the herbal trade. In recent years, the supplement industry has encountered a number of substantive regulatory issues, including a new rule for Good Manufacturing Practice compliance, guidance on New Dietary Ingredients, and implementation of various Food Safety Modernization Act requirements, to name just a few. AHPA has been at the forefront with each of these and others, actively and effectively interacting with regulatory agencies on proposals that impact the regulated community and providing guidance and training to regulated businesses.

AHPA and its members should be commended for their ongoing commitment to supporting the responsible commerce of herbs and herbal products in the United States. I once again rise to recognize this momentous occasion and to wish AHPA a happy 30th Anniversary.

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CELEBRATING THE 90TH ANNIVERSARY OF THE IZAAK WALTON LEAGUE OF AMERICA

**HON. PETER J. VISCLOSKY**

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 14, 2012*

Mr. VISCLOSKY. Mr. Speaker, it is with immense pleasure that I rise today to recognize the Izaak Walton League of America on their 90th Anniversary and to congratulate its members on their many accomplishments. In honor of this exceptional milestone, the Izaak Walton League of America began a yearlong celebration on January 14, 2012, 90 years to the date of the organization's incorporation.

After being formally incorporated on January 14, 1922, in Illinois, the League, which initially consisted of fifty-four admirable men, began to work diligently on conserving natural resources in order to ensure their enjoyment, benefit, and use to the current generation and generations to come. Today, the League consists of 39,000 members and more than 250 community-based chapters who are committed to continuing the legacy and furthering the ac-

complishments of their predecessors. With a goal in mind to protect the nation's soil, air, wood, waters, and wildlife, the League's members have set high standards, and through hard work and dedication, not only met, but exceeded their goals. To elaborate on just a few examples of the tremendous impact the League's efforts have had on the environment, League leaders played a major role in the formulation of the Wild and Scenic Rivers Act of 1968, which led to the landmark 1973 Clean Water Act. Furthermore, the League led the way in the creation of the Land and Water Conservation Fund, and today, its members work to ensure these funds are being allocated appropriately, for purposes which include the acquisition of public land and the creation of local opportunities for outdoor recreation. The Izaak Walton League is also to be commended for its role in the creation of the Upper Mississippi River National Wildlife and Fish Refuge, Superior National Forest, Boundary Waters Canoe Area Wilderness, and the Everglades and Isle Royale National Parks.

The League's continuous cooperation in working with communities, as well as with Congress, has led to many positive changes involving policies, legislation, and efforts to protect the environment. When it comes to protecting our water sources, defending public lands, establishing farm and energy policy, protecting fish and wildlife, and conservation, the Izaak Walton League's members have proven that with diligence, teamwork, and an appreciation for nature, everyday citizens can have a major impact on the world.

The Izaak Walton League's dedication to communities is endless. The League has supported programs to keep family farms in business, and groups of League members, known as "Ikes," give their time to help build nature trails, restore stream banks, plant trees and rain gardens, and prevent the spread of invasive species. The Izaak Walton League knows how important it is to invest in the future, and it is with this in mind that the organization annually awards \$125,000 in scholarships to college students seeking their degrees in fields related to conservation and natural resources.

Mr. Speaker, I ask that you and my other distinguished colleagues join me in honoring and congratulating the Izaak Walton League of America on its 90th Anniversary. Through the years, the League's members have dedicated their time and efforts to ensure the conservation of our natural resources, and for this, they are to be recognized and commended.

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RECOGNIZING LANGLEY HIGH SCHOOL

**HON. JAMES P. MORAN**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 14, 2012*

Mr. MORAN. Mr. Speaker, I'd like to recognize the administration, teachers, coaches, and athletic training staff of Langley High School in McLean, Virginia for the care and compassion they showed in helping one of their students detect, cope, and ultimately re-

cover with vigor and honor from an aggressive form of cancer.

In a world that charts success in reaching goals and milestones, Langley High School more than 'measures up.' Although this AAA school is consistently ranked among the best in the country, their care and attention exemplified by their role in Maureen Marsh's life tells a deeper story, holding lessons for everyone to learn from and follow.

As a 14 year-old freshman volleyball player, Maureen continued her intense daily regimen even as her knee pain grew more severe. Despite the doctors' diagnoses as growing pains, the Langley training staff noticed a small bump that the doctors had missed. The bump was osteosarcoma, an aggressive bone cancer. Maureen endured months of intensive chemotherapy and limb-salvage surgery that resulted in her needing to re-learn how to walk. This tall, quiet young woman had clear goals: to stay on track with her schoolwork and to once again play volleyball, something the doctors said would never happen. Most of all, she wanted to be a 'normal' kid, not easy when you are literally fighting for your life.

The team at Langley understood Maureen's wishes and gave her everything she needed during a battle that this young warrior conquered, defying the odds and her doctors' prognostications. Now a junior, she is an honor student and has returned to the volleyball court.

At a time when we could all use some good news, I am proud to recognize all of the staff at Langley for their outstanding work, going far beyond what can be measured quantitatively, to lift up and support those in their tutelage. To Principal Matt Ragone, Vice Principal Fred Amico, Volleyball coaches Sue Shifflett and Amy Dean, the Langley training staff, administration, and the wonderful teaching staff, I am pleased to take this opportunity to honor your service to our children, as they are our future.

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HONORING THE LIFE OF SPECIALIST ROBERT J. TAUTERIS JR.

**HON. JOE DONNELLY**

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 14, 2012*

Mr. DONNELLY of Indiana. Mr. Speaker, I rise today to solemnly remember and honor the life and dedicated service of Specialist Robert J. Tauteris Jr., a native son of Hamlet, Indiana, and a proud member of the 713th Engineer Company based in Valparaiso and assigned to 81st Troop Command. Specialist Tauteris died along with three of his fellow soldiers on January 5, 2012 in Kandahar Province, Afghanistan of wounds sustained when their vehicle was hit by a roadside improvised explosive device as they scouted for bombs and potential problems along a major supply route.

The state of Indiana mourns the loss of the four brave men who took on this dangerous mission to ensure the safety of their fellow soldiers. Specialist Tauteris died with his fellow National Guardsmen, Specialist Brian Leonhardt, Specialist Christopher Patterson,



and Staff Sergeant Jonathan Metzger. Private Douglas Rachowicz was severely injured in the same incident.

Robert graduated from North Judson High School in 1986 and had worked in manufacturing at Faro Corporation in Plymouth. Robert Tauteris served one tour in Afghanistan with the National Guard and volunteered for his second deployment when his son Robert Tauteris III enlisted. Father and son left together for Afghanistan in the fall of 2011; Bobby III accompanied his father's body home to Dover Air Force Base.

Robert's awards include the Bronze Star Medal, Posthumous; Purple Heart, Posthumous; Army Good Conduct Medal, Posthumous; Army Achievement Medal; National Defense Service Medal; Afghanistan Campaign Medal with the Bronze Service Star; Global War on Terrorism Service Medal; Armed Forces Reserve Medal with M Device; Army Service Ribbon; Overseas Service Ribbon; NATO Medal; Combat Action Badge; Driver and Mechanic Badge; Combat and Special Skill Badge; Basic Marksmanship Qualification Badge; and the Overseas Service Bar.

Robert will be remembered by his friends, family, and fellow soldiers as a dedicated, reliable, and hard-working man who cared deeply for his family. He is survived by his sons Robert J. III and Matthew, his father, Robert J. Tauteris, his sister, Tammy Tauteris Smith, brother, Thomas, half-brother Darrel Ray Minix and step-mother Nichelle as well as extended family and friends who are left to treasure his memory.

It is my solemn duty and humble privilege to honor the life, service, and memory of Specialist Robert J. Tauteris Jr. He is a testament to the great honor possessed and sacrifices made by our men and women in the armed forces. We mourn his passing and offer solemn gratitude for his service and sacrifice.

IN REMEMBRANCE OF BISHOP  
BARNETT KARL THOROUGHGOOD

**HON. E. SCOTT RIGELL**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 14, 2012*

Mr. RIGELL. Mr. Speaker, I rise today to enter a statement into the RECORD on behalf of the family of Bishop Barnett Karl Thoroughgood:

"Bishop Barnett Karl Thoroughgood was born November 7, 1949 in Princess Anne Co., to the parentage of Mr. John Thomas Thoroughgood and Mrs. Mildred B. Cooper Thoroughgood. He was the 7th of 9 children, one whom (John Thoroughgood) preceded him in death.

He received his formative education through the Princess Anne County School system and graduated from the former Union Kempsville High School in 1967. He received many educational honors taking him to his Doctorate of Ministry. In 1970, Bishop Thoroughgood founded the New Jerusalem COGIC. He served as District Superintendent of the Virginia Beach District and 2nd Administrative Assistant to Bishop Samuel L. Green, Jr. He

was very active in the community and received numerous awards. He also served as a member of the Virginia Beach Clergy Association and Ministerial Alliance. He was the founder and President of the Hampton Roads Ecumenical Council of Bishops.

Bishop Thoroughgood leaves to cherish his memories his loving wife of 39 years, Mrs. Ernestine Thoroughgood; his sons Bertram, Emmanuel, and Jonnathan; one daughter, Mekia Bonita; four brothers, Olanda (Silvia) Thoroughgood, Darnell (Jean) Thoroughgood, YD (Shylene) Thoroughgood, Paul (Darlene) Thoroughgood; three sisters, Constance Spence, Alice Faye (Purnell) Major, Paulette (Joseph) Spence, one adopted sister, Mable Beckett (Robert), five grandchildren, many children they have adopted and helped through the Social Services Foster Care Program, the New Jerusalem Church family, and the members of the Church of God in Christ worldwide."

PERSONAL EXPLANATION

**HON. JOHN C. CARNEY, JR.**

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 14, 2012*

Mr. CARNEY. Mr. Speaker, I wish to clarify my position on a vote cast on February 9, 2012. The vote was on passage of S. 2038, the Stop Trading on Congressional Knowledge (STOCK) Act, which would prohibit members of Congress and staff from benefiting from insider trading based on non-public information.

On rollcall vote Number 47, I did not vote. It was my intention to vote "aye."

HONORING UNITED STATES ARMY  
COMMAND SERGEANT MAJOR  
DAVID DAVENPORT

**HON. SILVESTRE REYES**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 14, 2012*

Mr. REYES. Mr. Speaker, I rise today to recognize Command Sergeant Major David Davenport as he departs Fort Bliss and the 1st Armored Division. His selection as the U.S. Army Europe (USAREUR) Command Sergeant Major will provide him with a new opportunity to influence the next generation of Army leaders.

In his 27 years of Army service, Sergeant Major Davenport has held every enlisted leadership position from cavalry scout and tank commander to his current position as command sergeant major. Sergeant Major Davenport's career has taken him to Army installations across the United States and the world, and his assignment as Command Sergeant Major of the Future Forces Integration Directorate put him at the leading edge of the Army's top modernization initiative.

During their time in El Paso, Sergeant Major Davenport and his wife Claudia have not only committed themselves to supporting soldiers and their families at Fort Bliss, but they also served as ambassadors representing the post

in the El Paso community. From completing the Greater El Paso Chamber of Commerce Leadership Course to volunteering with many local organizations, Command Sergeant Major Davenport did not just live in El Paso; he made it his home. He worked with the civilian community to expand understanding of the changing mission of the post, and he helped enlisted soldiers and their families make important connections to the El Paso community.

In his time at Fort Bliss, Command Sergeant Major Davenport demonstrated outstanding leadership both as a strong advocate for the Army and as a liaison working to build bridges between the post and the civilian community. His most important role has been as a tireless voice for Fort Bliss soldiers and their families. From ensuring that they have the resources they need to achieve their mission to caring for enlisted families as they deal with deployments and other challenges, his unwavering commitment to serving those who serve is a model for future Army leaders.

As we say farewell to the Davenports and wish them well in their next assignment, I wanted to add my words of thanks and recognition for all that Dave and Claudia have done for our Army and our community. While we know the Army needs them in such a critical leadership position at USAREUR, we look forward to welcoming them back to El Paso in the future.

A RESOLUTION COMMEMORATING  
THE 233RD ANNIVERSARY OF  
THE BATTLE OF KETTLE CREEK

**HON. PAUL C. BROWN**

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 14, 2012*

Mr. BROWN of Georgia. Mr. Speaker, I rise today to commemorate the 233rd anniversary of the Battle of Kettle Creek, one of Georgia's most memorable victories during the American Revolutionary War. The battle, which took place on February 14, 1779, demonstrates the popular patriotic spirit that defined our fight for freedom, as a small group of militiamen fearlessly confronted and conquered a force twice its size.

In pursuit of Colonel John Boyd and his force of British Loyalists, Colonels Andrew Pickens, John Dooly, and Elijah Clarke led Patriot rebel forces to attack at Kettle Creek. Despite being outnumbered and far less experienced, the fearless patriots rallied and decisively won the day. They inflicted many times the casualties and took the remaining contingent as prisoners. Following this extraordinary triumph, Colonel Pickens declared, "Kettle Creek was the severest check and chastisement the Tories ever received in South Carolina or Georgia."

For this reason, and on the occasion of its anniversary, it is my honor to acknowledge the victory at the Battle of Kettle Creek and pay tribute to the courageous soldiers who fought on behalf of their new sovereign Nation. Furthermore, I extend my sincere appreciation to organizations such as the Washington-Wilkes Chapter Sons of the American Revolution, Kettle Creek Chapter Daughters of the American Revolution, Washington Wilkes Historical

Foundation, and the Kettle Creek Battlefield Association for their efforts to discover our heritage and preserve our history for future generations.

Mr. Speaker, it is my privilege to unite with my fellow Americans as we observe this remarkable event in Georgia history and recognize the indispensable role that the Battle of Kettle Creek achieved in the American Revolution.

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CONGRATULATING MAYOR JIM  
RIDENOUR

**HON. JEFF DENHAM**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 14, 2012*

Mr. DENHAM. Mr. Speaker, I rise today to offer my sincere congratulations to Mayor Jim Ridenour, as he completes his second term and concludes his service as Mayor of Modesto, California.

Born and raised in Modesto, Mayor Ridenour enjoyed a successful career in the ambulance industry before embarking on a career in public service. In 1974, he became the first paramedic certified in Santa Barbara County and served in law enforcement as a reserve deputy in both Stanislaus and Santa Barbara Counties. In forty years of service, Mayor Ridenour became Vice President for Central Valley Operations for American Medical Response and served five terms as chairman of the California Ambulance Association.

Since 2003, Mayor Ridenour led the city of Modesto under the premise that local government should be responsive to its citizens by providing basic services, while still being a responsible steward of taxpayers' dollars. The Mayor's background in business proved to be a perfect foundation for his commitment to making the City of Modesto a safe and prosperous community. During his time in office, Mayor Ridenour focused on improving the city's economic development, its transportation problems, and the citizens' overall quality of life. In addition to his many daily tasks as Mayor, Mayor Ridenour also served as chair of the Audit Committee for the Modesto City Council.

Mayor Ridenour further demonstrated his commitment to public service during his tenure as the 2010–2011 President of the League of California Cities. He demonstrated true leadership by bringing leaders together to address regional and State challenges.

Mr. Speaker, please join me in honoring and commending the outstanding contributions made to the City of Modesto by its long-time public servant, Mayor Jim Ridenour. He has been a true inspiration to those he has served; and although he has completed his service as Mayor, I know he will continue to make a meaningful difference in the lives of those around him.

REMEMBERING JOHN FALLON

**HON. MIKE QUIGLEY**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 14, 2012*

Mr. QUIGLEY. Mr. Speaker, I rise today to remember and honor the life of John Fallon. John Fallon, whose integrity, love of politics and trusting eyes guided him through a successful career in the Cook County Assessor's Office, passed away on January 11, 2012, after heroically battling cancer since 2004.

John battled cancer on three different occasions since 2004, but refused to give up his fight for life. He once said he considered cancer to be a "blessing because you appreciate everything so much more." His life was never defined by his illness, but rather by his commitment to his family, his skillful baking, his love of the bagpipes and his dedication to politics.

John never let cancer get in the way of living every moment of his life to the fullest. He participated in Chicago's Polar Plunge fully clothed while playing the bagpipes, a challenge few are brave enough to tackle. He trained and ran in two marathons, successfully completing the Chicago marathon in 2008, a feat few healthy people achieve. John also continued to help others in need by serving in a soup kitchen and working with Immerman's Angels to help people fight the disease with which he had become so familiar. John taught us all how to live the life we are given regardless of the obstacles we face.

May Mr. John Fallon rest in peace.

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RECOGNIZING PAMELA AND  
PAULA MCGEE

**HON. KAREN BASS**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 14, 2012*

Ms. BASS of California. Mr. Speaker, I pay tribute to two women of exceptional talent and character—Ms. Pamela McGee and Ms. Paula McGee.

Always committed to excellence, the McGee twins, as they came to be known, are often recognized for their accolades in women's basketball. At the University of Southern California they teamed up with Cheryl Miller and Cynthia Cooper to win two back-to-back National Championships in 1983 and 1984.

Equally as impressive are the McGee sisters' lives off the court. After her life in basketball, Paula McGee pursued her life's calling to preach. She was also the co-founder of Christian Business Success Network, a nonprofit organization that specialized in training and providing support for Christian business leaders. After winning a Gold medal in the 1984 Olympic Games in Los Angeles, Pamela McGee served as Executive Director of the non-profit Save the Children or Perish (S.T.O.P.), a grassroots organization that helped her to become an elected official as a School Board Member in Flint, Michigan.

Mr. Speaker, Paula and Pamela McGee are two great American role models who I am proud to have in my District.

KANKAKEE COUNTY FARM  
BUREAU'S 100TH ANNIVERSARY

**HON. ADAM KINZINGER**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 14, 2012*

Mr. KINZINGER of Illinois. Mr. Speaker, it is my honor to rise today in celebration of the Kankakee County Farm Bureau, which is set to celebrate its 100th Annual meeting on March 15, 2012. This exemplary organization was created during a public meeting at the Kankakee County Courthouse on May 29, 1912 and continues to enrich our community today.

Since its formation, the Kankakee County Farm Bureau has pursued a mission to "improve the economic well-being of agriculture and enrich the quality of farm family life." I am proud to say that the Kankakee County Farm Bureau has more than met these goals throughout its many years of service.

For the past 100 years the Kankakee County Farm Bureau has been working for our agriculture community to improve efficiency, profitability, safety, and quality of life. Today, a number of directors throughout the county maintain that course, and I congratulate and thank each of those members for recognizing the freedom, dignity and equal opportunity afforded to all individuals throughout our area. Those directors include:

District 1: Rockville Township, Jon Whitten; Manteno Township, Greg St. Aubin

District 2: Sumner Township, Gene Rademacher; Yellowhead Township, Keith Mussman, President

District 3: Essex Township, Marty Joyce; Salina Township, Patrick Joyce

District 4: Bourbonnais Township, Gary Paarlberg; Limestone Township, Mark Tanner

District 5: Norton Township, Patrick Koerner; Pilot Township, Sterling Bouchard

District 6: Kankakee Township, Steve Benoit; Otto Township, Bret Perreault

District 7: Aroma Township, Mike Bourgeois; Saint Anne Township, Duane Oosterhoff

District 8: Ganee Township, Kevin Yohnka, Vice President; Momence Township, Paula Karlock, Secretary-Treasurer; and Pembroke Township, Brian Dandurand

Once again, I am humbled to have the opportunity to congratulate the Kankakee County Farm Bureau for reaching its centennial milestone. The farm bureau truly is an extraordinary group, serving our community in every facet of life.

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OFFERING CONDOLENCES TO THE  
FAMILY OF ATF SPECIAL AGENT  
JOHN CAPANO

**HON. PETER T. KING**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 14, 2012*

Mr. KING of New York. Mr. Speaker, today I rise to honor and acknowledge a true American hero, ATF Special Agent John Capano, who was killed this past New Year's Eve attempting to stop an armed robbery at a pharmacy in Seaford, New York, the community

where he was raised and lived for many years.

I had the privilege of knowing John, his parents, and his brother and sisters for more than 40 years. My wife Rosemary was John's 4th grade teacher.

John Capano died as he lived—putting his life on the line to protect others. He was a 23-year veteran of the ATF, with an extremely distinguished record not only at home but overseas as well. An explosives expert, John volunteered to serve on ATF missions in Iraq, Afghanistan, Colombia and Peru. Several years ago I had the honor of presenting John with an award for his overseas deployments.

On the fateful day of December 31, 2011 John Capano was off duty. He went to Charlie's Pharmacy on Merrick Road in Seaford to pick up cancer medication for his 82-year-old father, Jimmy, a retired NYPD Detective. While John was in the pharmacy, a recently released ex-convict and drug addict displayed what he said was a gun, and demanded prescription drugs. As the robber attempted to exit, John identified himself as a law enforcement officer. The robber was shot in the leg and a struggle ensued on the sidewalk outside the front door. Other off-duty law enforcement officials arrived during the struggle; shots were fired; and John Capano and the robber were both killed.

John Capano's death caused great sorrow and sadness in the Seaford Community; in the neighboring community of Massapequa where John lived with his wife Dori and their two children, John and Natalie; and throughout the entire law enforcement community in the New York-Long Island region. Thousands of mourners attended John's funeral on January 6th and our community is still overcome with grief.

This has been a particularly anguishing time for the Capano family. John's mother Helen had died just 15 days before his death. Like John, though, the Capano family is strong and unflinching. To ensure that John did not die in vain, they are dedicated to doing whatever they can to eliminate the epidemic of prescription drug abuse on Long Island.

In closing, let me extend my sincere condolences to the family of John Capano. May he always be in our thoughts and prayers and may he rest in peace.

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COMMEMORATING THE 20TH ANNIVERSARY OF THE KHOJALY MASSACRE

**HON. STEVE COHEN**

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 14, 2012*

Mr. COHEN. Mr. Speaker, I rise to commemorate the 20th anniversary of the Khojaly massacre by Armenian armed forces on February 25–26, 1992 in the town of Khojaly in the Nagorno-Karabakh region of Azerbaijan. Khojaly, now under the occupation of Armenian armed forces, was the site of the largest killing of ethnic Azerbaijani civilians in the course of the Armenia-Azerbaijan conflict.

Khojaly, once the home to 7,000 people, was completely destroyed. Six hundred thirteen people were killed, of which 106 were

women, 83 were children and 56 were purported to have been killed with extreme cruelty and torture. In addition, 1,275 people were taken hostage, 150 went missing and 487 people became disabled. Also in the records maintained, 76 of the victims were teenagers, 8 families were wiped out and 25 children lost both of their parents while 130 lost one of their parents. According to Human Rights Watch and other international observers, the Armenian armed forces were reportedly aided by the Russian 366th Motor Rifle Regiment.

At the time, Newsweek magazine reported: "Azerbaijan was a charnel house again last week: a place of mourning refugees and dozens of mangled corpses dragged to a makeshift morgue behind the mosque. They were ordinary Azerbaijani men, women and children of Khojaly, a small village in war-torn Nagorno-Karabakh overrun by Armenian forces on 25–26 February. Many were killed at close range while trying to flee; some had their faces mutilated, others were scalped."

As part of the Khojaly population that tried to escape, they encountered violent ambushes that led to abuses, torture, mutilation and death. The Russian organization, Memorial, stated that 200 Azerbaijani corpses were brought from Khojaly to Agdam within four days.

Time magazine published the following description: "While the details are argued, this much is plain: something grim and unconscionable happened in the Azerbaijani town of Khojaly 2 weeks ago. So far, some 200 dead Azerbaijanis, many of them mutilated, have been transported out of the town tucked inside the Armenian-dominated enclave of Nagorno-Karabakh for burial in neighboring Azerbaijan. The total number of deaths—the Azerbaijanis claim 1,324 civilians have been slaughtered, most of them women and children—is unknown."

The extent of the cruelty of this massacre against women, children and the elderly was unfathomable. This anniversary reminds us of the need to redouble efforts to help resolve the Armenia-Azerbaijan conflict. The United States as a Co-Chair of the OSCE Minsk Group should continue to stay engaged in the resolution of this protracted conflict.

Mr. Speaker, Azerbaijan is a strong ally of the United States in a strategically important and complex region of the world. I ask my colleagues to join me and our Azerbaijani friends in commemorating the tragedy that occurred in the town of Khojaly.

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IN RECOGNITION OF THE ALBANY MARINE BAND—MARINE CORPS LOGISTICS BASE, ALBANY, GEORGIA

**HON. SANFORD D. BISHOP, JR.**

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 14, 2012*

Mr. BISHOP of Georgia. Mr. Speaker, I rise today to salute one of our nation's most prestigious and accomplished United States Marine Corps bands—the Albany Marine Band stationed at the Marine Corps Logistics Base in Albany, Georgia. After 22 years of distin-

guished service, members of the Albany Marine Band will be performing a farewell concert on Tuesday, February 14, 2012 at the Albany Municipal Auditorium at 7 p.m. in Albany, Georgia.

The farewell concert has been titled "Thanks for the Memories" and admission to the event is free. The musical performance will feature many of the band's greatest hits from over the last several years, including many of the group's most notable award-winning pieces.

Mr. Speaker, last December, amid budgetary constraints, it was announced by the Marine Corps Headquarters in Washington, D.C., that the Albany Marine Band would be cut along with the Marine Corps band stationed at Twentynine Palms, California. Although their mission is coming to an end, the Albany Marine Band's legacy of musical excellence will not soon be forgotten.

Over the last couple decades, the members of the Albany Marine Band have honorably represented our country and been recognized repeatedly for their harmonious innovations and inspiring melodic renditions. In December of 2003, the band was awarded the distinguished Commander in Chief Installation Excellence Award. This prestigious award recognized the members of the Albany Marine Band for their pride and commitment in performing their duties.

In 2010 and 2011, the Albany Marine Band was recognized as the United States Marine Corps Band of the Year. Additionally, in 2011, the band also received the "Best Live Recording Award" in a competition among the twelve United States Marine Corps bands.

Due to their musical excellence, the Albany Marine Band has performed at locations throughout the United States and around the world. The band has traveled more than fifty thousand miles to perform over one hundred commitments in destinations such as Essex Junction, Vermont; New Orleans, Louisiana; San Antonio, Texas; and the Statue of Liberty in Liberty, New York. It is also worth noting that the Albany Marine Band was given the great honor of being selected to represent the United States in 2004 as it performed for the Changing of the Guard at the Citadel in Quebec City, Canada.

The Albany Marine Band has also performed for nationwide audiences during performances on Good Morning America and at the Outback Bowl in Tampa, Florida.

Mr. Speaker, I ask that my colleagues join me in applauding the exceptional musical achievements and patriotic commitment of the members of the Albany Marine Band. These fine men and women have served as excellent ambassadors for our country and the United States Marine Corps and I will remain eternally grateful to them for their many noteworthy accomplishments and selfless acts of service.

THANK YOU TO OUR OPERATION  
IRAQI FREEDOM AND OPERATION  
NEW DAWN VETERANS

**HON. ROBERT J. WITTMAN**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 14, 2012*

Mr. WITTMAN. Mr. Speaker, I rise today to recognize those men and women who have served this great Nation while conducting combat operations in Iraq over the past 9 years. From March 20, 2003 until December 31, 2011 our Nation's Soldiers, Sailors, Airmen, and Marines supported Operation Iraqi Freedom and Operation New Dawn while serving in Iraq. During this time they disarmed and removed Saddam Hussein from power, freed a country and its people from years of suffering under an oppressive dictatorship, and fought a brutal insurgency. Many members of our all-volunteer force, the greatest all-volunteer force in history, served multiple combat tours in Iraq during this time with little dwell time at home.

More than 1.5 million members of the United States Armed Forces served in Operation Iraqi Freedom and Operation New Dawn conducting operations against a dangerous and determined enemy force. 4,474 members of the United States Armed Forces made the ultimate sacrifice while serving in Operation Iraqi Freedom and Operation New Dawn and 32,223 members of the United States Armed Forces were wounded during almost 9 years of military operations in Iraq. During this time four Medals of Honor, the highest United States award for military valor, were awarded for service in Operation Iraqi Freedom and Operation New Dawn, additionally, at least 327 Silver Stars, 21 Navy Crosses, and 15 Distinguished Service Crosses were awarded to members of the United States Armed Forces.

I stand today to recognize the tremendous personal sacrifice of the members of the United States Armed Forces who served in Operation Iraqi Freedom and Operation New Dawn, many of whom were committed to multiple deployments away from loved ones, and the contributions of military families on the home front. The bravery and service of our all-volunteer force, the best and the brightest that our Nation has to offer, adds to the enduring legacy of the proud history of our armed forces. I am committed to honoring the memory of these heroes for their courage and sacrifice. To all the Soldiers, Sailors, Airmen, and Marines who served in Iraq during Operation Iraqi Freedom and Operation New Dawn, wel-

come home and thank you for your service to the United States of America.

HONORING SOUTHLAKE POLICE  
OFFICER NATE ANDERSON

**HON. KENNY MARCHANT**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 14, 2012*

Mr. MARCHANT. Mr. Speaker, it is with great pride that I recognize Southlake Officer Nate Anderson for his unbelievable act of generosity by going above and beyond the call of duty to assist an individual in need.

Officer Anderson was patrolling the town square late one evening in December 2011 when he came across a parked vehicle with a woman trying to fall asleep in the back seat.

The woman was in her forties, and she had moved from California to Texas hoping for better opportunities. When Officer Anderson approached her, he found her distressed and crying. She explained her plight and how her situation had left her stranded and alone.

Officer Anderson verified her story by looking at her prepared résumé. Going beyond the call of duty, he arranged for the woman to have a hot meal, a full tank of gas and a hotel room for two nights. He then gave her all his cash, totaling \$150. To ensure that she had more help, Officer Anderson put her in touch with a number of churches to assist her.

Remarkably, Officer Anderson did not speak of his actions. The event was an unknown incident until the woman contacted his superiors about his generosity. Officer Anderson's selfless actions demonstrate unbelievable charity. I am extremely proud to represent Officer Anderson and to recognize him as a Star of the 24th.

Mr. Speaker, on behalf of the 24th Congressional District of Texas, I ask all my distinguished colleagues to join me in thanking Nate Anderson for his outstanding act of charity.

SUPPORT OF THE BILL TO PERMIT  
U.S. NATIONALS TO APPLY FOR  
CITIZENSHIP FROM AMERICAN  
SAMOA

**HON. ENI F.H. FALEOMAVAEGA**

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 14, 2012*

Mr. FALEOMAVAEGA. Mr. Speaker, I rise today to announce my introduction of a bill to

allow for U.S. Nationals who are born in American Samoa, to file an application for naturalization from American Samoa. Currently, American Samoans must travel thousands of miles to Hawaii or California and live there for 3 months before they can apply for citizenship. The financial burden of traveling to the U.S. placed on U.S. Nationals in American Samoa prevents many from applying for citizenship. My bill will lift this burden and help U.S. Nationals, who by definition owe a permanent allegiance to the United States, to apply for citizenship directly from American Samoa.

My bill will also eliminate the requirements of knowledge of English and U.S. government for U.S. Nationals. American Samoa has been a territory of the United States for over one hundred years, and has in many ways adopted parts of American culture. The education system in American Samoa is modeled after the U.S. education system and students learn both English and about the U.S. government in American Samoan schools. The requirement of English proficiency and knowledge of the U.S. government was intended for foreign nationals who applied to become U.S. citizens. It is futile to test American Samoans on their knowledge of English and the U.S. government, since they learn these subjects in American Samoan schools.

American Samoa has a per capita enlistment rate in the U.S. military that rivals any state. American Samoans have also joined the U.S. Armed Forces and fought and died for the United States during World War II, the Korean war, the Vietnam war, the Persian Gulf wars, and most recently the wars in Iraq and Afghanistan. Despite, these sacrifices of American Samoans, U.S. nationals still must travel to the U.S. and wait for 3 months prior to applying for naturalization.

My bill will have a dramatic positive effect on the lives of U.S. nationals living in American Samoa by removing the hardship of traveling to the U.S. to apply for naturalization.

It is with great enthusiasm that I submit this statement in support for the bill to streamline the naturalization process for American Samoans.

## HOUSE OF REPRESENTATIVES—Wednesday, February 15, 2012

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Ms. FOXX).

### DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,  
February 15, 2012.

I hereby appoint the Honorable VIRGINIA FOXX to act as Speaker pro tempore on this day.

JOHN A. BOEHNER,  
*Speaker of the House of Representatives.*

### MORNING-HOUR DEBATE

The SPEAKER pro tempore. Pursuant to the order of the House of January 17, 2012, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning-hour debate.

The Chair will alternate recognition between the parties, with each party limited to 1 hour and each Member other than the majority and minority leaders and the minority whip limited to 5 minutes each, but in no event shall debate continue beyond 11:50 a.m.

### ALLOW FAIRNESS AND JUSTICE TO REIGN ONCE AGAIN ON THE ISLAND OF PUERTO RICO

The SPEAKER pro tempore. The Chair recognizes the gentleman from Illinois (Mr. GUTIERREZ) for 5 minutes.

Mr. GUTIERREZ. Madam Speaker, this next Sunday, February 19, I will be joining thousands of Puerto Ricans in Old San Juan behind the banners of Casa Pueblo, labor unions, environmental groups, and many other leaders of Puerto Rico's civic society. The people will exercise their democratic right to demand redress from their government. In this particular instance, they're demanding clear explanations of the many contradictions, misleading statements, and scandals associated with the natural gas project popularly known as Gasoducto and misnamed by the Puerto Rican regime as Via Verde, or the Green Way.

Now, it looks like that regime, which fired tens of thousands of public sector employees alleging that there was no money to pay their salaries, has wasted more than \$50 million on a project that was never needed, was never practical, and was never supported by the public, a project that many think may now be dead. It is also a project with a history of troubling insider deals and suspect relationships.

Madam Speaker, I will proudly march with thousands of people from across the island as we make our opposition to the Gasoducto clear. We will start at the Capitolio—the Capitol Building—in Old San Juan at 10 a.m. and march to the Fortaleza. That's the Governor's mansion.

One of our key messages is to the Federal Government and, specifically, to the U.S. Army Corps of Engineers. I wrote to the Secretary of the Army asking for an investigation of this very cozy relationship between the Jacksonville, Florida, district office of the U.S. Army Corps of Engineers and the Florida-based consulting company made up mostly of retired Corps of Engineers staffers hired by the Puerto Rican regime in order to advocate for the pipeline.

I'm still waiting for a response to my request; but in the meantime, I ask why does the Corps waste taxpayers' money continuing to evaluate a gas pipeline for which there is no gas? Why are we still considering a costly pipeline instead of a more affordable alternative? Why are we still considering a project that has raised serious objections from the U.S. EPA and the Fish and Wildlife Service and environmental groups across the country? Why are we still considering a project opposed by no less than 70 percent of the people on the island of Puerto Rico?

The public has turned against the project, its price tag, its danger, and its complete lack of justification. Key decision-makers in the private sector and in the Federal Government and in the Puerto Rican Government, even up to and including the Governor himself, are slowly backpedaling from what has been a headlong rush to build a 92-mile gas pipeline.

Even still, the U.S. Army Corps of Engineers continues to consider a permit for reasons that are simply unclear to me and anyone else, except they may wish to continue to do their friends' bidding—yes, their friends that they left behind at the office who soon will leave that Federal Government office to join them in the private sector. Oh, the ways of Washington, D.C.

But the people of Puerto Rico have already declared: permit denied. This coming Sunday in Old San Juan we will stand together, environmental leaders, labor leaders; and we will speak out loud and clear.

Permit to destroy the environment: denied.

Permit to put lives at risk: denied.

Permit to disregard the views and the voices of the people: denied.

Permit to waste money to lavish the friends of the regime with no-bid contracts: denied.

Yes, Madam Speaker, most people in Puerto Rico are convinced that the Gasoducto is dead, but I will be proud to join the voice of the Puerto Rican people next Sunday as we remain vigilant and firm in our opposition to this wasteful, dangerous, and abusive project. Together, we will continue to work to allow fairness and justice to reign once again on the island of Puerto Rico.

### MERCK FOR MOTHERS PROGRAM

The SPEAKER pro tempore. The Chair recognizes the gentleman from New Jersey (Mr. LANCE) for 5 minutes.

Mr. LANCE. Madam Speaker, I rise to call attention to one of the world's oldest and most preventable health tragedies and to recognize efforts under way to address it. I am speaking of the needless and preventable death of women in pregnancy and childbirth.

Motherhood is, of course, at the heart of much of what we value and cherish in our civilization. Yet even today, in this age of scientific achievement, becoming a mother still carries great risk. During the next 10 years, an estimated 3 million women may die attempting to bring new life into the world. This is approximately 1,000 mothers per day. Yet when a mother dies, we lose so much. Her baby is at greater risk and so are her other children. Families are torn apart, and some are thrust into poverty, or deeper into poverty.

Maternal mortality is a problem in the developing world. It is also a problem, Madam Speaker, in the United States of America. As I understand the figures, mothers dying around the time of childbirth doubled here in this country between 1990 and 2008. Unfortunately, women in the United States have a higher risk of dying from pregnancy-related complications than women in 38 other countries.

Yet in acknowledging this tragedy, I rise to recognize and applaud efforts that bring real hope. In my district in Whitehouse Station, New Jersey, the health care company Merck has just announced a new program: Merck for Mothers. Merck has pledged a half billion dollars over the next decade to help alleviate this situation, complications of pregnancy and childbirth. The people of Merck will dedicate their expertise to help make proven solutions more widely available, to develop new technologies, and to improve public awareness to save lives.

Making progress against this complex challenge will not be easy. It is not purely a medical problem, and there are no magic bullets.

I applaud Merck and other organizations and individuals who are dedicating their time, their resources, and their expertise to creating an environment where no woman has to die in order to bring a child into the world.

#### A BRAVE AFGHANISTAN TRUTH-TELLER COMES FORWARD

The SPEAKER pro tempore. The Chair recognizes the gentlewoman from California (Ms. WOOLSEY) for 5 minutes.

Ms. WOOLSEY. Madam Speaker, it was an ancient Greek playwright who originally said: "Trust is the first casualty of war." More than 2,500 years later, those words still hold painfully and tragically true.

Tomorrow afternoon, I will join several of my colleagues in meeting with Lieutenant Colonel Daniel Davis who has embarked on a brave truth-telling campaign about the war in Afghanistan.

□ 1010

After two combat deployments to Afghanistan, Lieutenant Colonel Davis has written two reports—one classified, one unclassified—in which he tells what he has seen. As part of his assignment with the Rapid Equipping Force, he traveled across Afghanistan several times, spanning some 9,000 miles, and visited with hundreds of troops as well as with Afghan civilians and Afghan security forces.

What he saw were Afghan police who stay in the safe harbor of their checkpoints while allowing the Taliban to roam free. What he saw were Afghan local governments completely unprepared to protect and provide for their people. What he heard were stories of, in his words, "how insurgents controlled virtually every piece of land beyond eyeshot of a U.S. or International Security Assistance Force base."

Madam Speaker, this is not exactly the story we've been getting from top military brass when they report on the status of the Afghanistan war. Lieutenant Colonel Davis' experience is yet one more example of how we're not getting the entire story.

As he puts it:

Senior ranking U.S. military leaders have so distorted the truth when communicating with the U.S. Congress and American people in regards to conditions on the ground in Afghanistan that the truth has become unrecognizable.

He continues:

This deception has damaged America's credibility among both our allies and enemies, severely limiting our ability to reach a political solution to the war in Afghanistan.

Madam Speaker, after everything Americans have sacrificed—the lives,

limbs, the mental capacities of thousands of our people, the billions of dollars every month, our global reputation, and credibility—the least we are owed is the unvarnished truth. For the price the Nation has paid, we deserve transparency and not the propaganda we're receiving. A good start would be to declassify the National Intelligence Estimate on Afghanistan as well as to publicly release the classified version of Lieutenant Colonel Davis' story.

Some have suggested that Lieutenant Colonel Davis is a publicity seeker. My only response to that is, I certainly hope so. I want the message out. Goodness knows, the other side of the story, the official party line that the Afghanistan war is a strategic success, has gotten plenty of publicity over the last decade. It's about time that a different version of events got close to equal time.

I hope my colleagues, in particular those who have supported the Afghanistan war year in and year out, will read what Lieutenant Colonel Davis has written, and I hope they will consider the significant risk he has taken and the patriotism he has shown. I look forward to meeting Lieutenant Colonel Davis today, and I look forward to the Nation finally heeding his words, honoring his courage and vindicating his story by bringing our troops home.

#### COLONEL SAM JOHNSON, A TRUE HERO AMONG US

The SPEAKER pro tempore. The Chair recognizes the gentleman from Texas (Mr. POE) for 5 minutes.

Mr. POE of Texas. Madam Speaker, the date was April 16, 1966. The pilot was SAM JOHNSON, United States Air Force. He was a colonel, and he was doing his second tour of duty in Vietnam. He was flying with the fighter squadron called Satan's Angels. He was a career pilot who had already flown 62 combat missions during the Korean war, flying an F 86 Sabre jet. Colonel JOHNSON also flew with the famed Air Force Thunderbirds.

But on that day, April 16, 1966, Colonel JOHNSON in his F 4 was shot down by ground fire by the North Vietnamese. He was captured, and he was put in a prisoner of war camp. Madam Speaker, he was in that POW camp for 7 years.

Because of the way that he would not give in to the torture and to the interrogation, the enemy moved him to the famous Hanoi Hilton, a place they called "Alcatraz." It was as bad a POW camp that ever existed in history. Alcatraz was where 11 POWs were put because they were the most obstinate men, and they were leaders of other POWs. They were hard-nosed, and they had to be segregated. They called themselves the "Alcatraz gang." They were defiant, and the North Vietnamese called this man right here, Colonel SAM JOHNSON, "Die Hard."

They tortured him, but they got no information from him. During that time, that 7 years he was beaten and tortured, SAM JOHNSON never broke down. He was so obstinate that they finally decided to put him in solitary confinement where he remained for 4 years in a cell that was 3-feet-wide by 9-feet. During that 4 years, all that was in that cell was a light bulb above his head that the enemy kept on for 24 hours a day. During the nighttime, they put SAM JOHNSON in leg irons, and during that 4 years, he never saw or talked to another American.

While in the POW camp, he and other POWs communicated with each other with a code by tapping on the wall, and during that time, he memorized the names of the other 374 POWs in captivity. He kept that memory going so that, when he got away or was released or escaped, he would be able to tell their loved ones who they were and where they were. It was brutal, it was harsh, it was cruel, it was mean.

The enemy laughed and made fun of Colonel SAM, and all he ever said was, Is that the best you can do? For food, he ate weeds and pig fat and rice, and he went from 200 pounds to 120 pounds. After 7 years of confinement, on February 12, 1973, 39 years ago this week, Colonel SAM JOHNSON was finally released.

After his release, Colonel JOHNSON continued to serve in the United States Air Force for a total of 29 years. While he was in that POW camp, back home in Texas, his wife, Shirley, knew he'd been shot down, but she didn't know what had happened to him for 2 years—whether he was alive, dead, or missing in action.

After he left the United States Air Force, he served in the State house in Texas. He had his own business, and then in 1991, he came to the House of Representatives, where he continues to serve with distinction and to represent the folks from Texas.

SAM JOHNSON returned to America with honor. He is a special breed. He is the American breed. He is that special warrior, even during the time he was a captive warrior, who never forsook his duty and never forsook his honor.

Colonel SAM and other Vietnam veterans were not only treated badly in Vietnam, but many who returned were treated poorly by America. These vets had no welcome home parades. They were cursed and they were spit upon. America did not really appreciate those old warhorses from Vietnam.

So, to Colonel SAM and all who served in Vietnam, welcome home, welcome home, welcome home.

Some served and returned. Some served and did not return. Some served with the wounds of war.

So, to Colonel SAM JOHNSON, we appreciate your service because the worst casualty of war is to be forgotten.

And that's just the way it is.

## SAFE ROUTES TO SCHOOL

The SPEAKER pro tempore. The Chair recognizes the gentleman from Oregon (Mr. BLUMENAUER) for 5 minutes.

Mr. BLUMENAUER. The fancy new software at use in our congressional offices gives us the ability to see all of the constituent contacts, all of their questions, complaints, and concerns by category.

I wonder if anyone in Congress has received any complaints about the Safe Routes to School program. I'll bet not. So why is the Republican transportation bill eliminating Safe Routes to School, creating an "unsafe route to school"?

This is a wildly popular program, costing a fraction of a percent of the transportation budget, and it has had a huge impact nationally on our children because it deals with real consequences for them.

□ 1020

A generation ago, 40 or 50 percent of children were able to get to school on their own. Now only 13 percent can. It's no wonder that childhood obesity has exploded over the same period of time, with one in three of our children now overweight or obese or seriously at risk. Asthma has gone up for children 74 percent over the last 5 years. There are real consequences for accidents. There were 23,000 5- to 15-year-olds injured, and more than 250 kids killed walking or biking in 2009.

Getting our children to school in the morning represents 10 to 14 percent of the entire American morning commute, 6.5 billion trips stretching 30 billion miles. Doesn't it make sense to do something about the congestion, the injuries, deaths, and the obesity? Absolutely.

Twenty years ago, as Portland's commissioner of public works, I started a program in my city to help teach kids how to get to school safely and to improve road and sidewalk conditions. Ten years ago, we started a national program, Safe Routes to School. Schools with these programs show a 20 percent to 200 percent increase in the number of kids walking or biking. According to a recent California study, these students are healthier, they do better in school, and there is a 49 percent decrease in accident rates.

So why are my Republican friends advancing a transportation bill attacking Safe Routes to School, stripping it out, making it an unsafe route to school? Well, it's a fitting metaphor for perhaps the worst transportation bill in history. I think that may be one of the reasons they were afraid to even have a single hearing on the package that's coming to the floor this week.

They attacked the foundation of 20 years of balanced transportation reform. It shatters the 30-year partnership between transit and road interests

that gave 80 percent to roads and 20 percent to a transit account, brokered by Ronald Reagan's administration. It undercuts the role of local governments and metropolitan areas to shape and control their own destiny, leaving them to the tender mercy of bureaucrats in their State capitals.

But it's not just Safe Routes to School. They attack high-speed rail, bicycles, Amtrak. They attack the basic environmental and public participation protections that have been gutted that actually have been very important to make sure that we have good projects that aren't held up politically or in court.

Sadly, I am very disappointed. I have worked for years on a coalition of broad interests across the spectrum of highway, professional, environmental, labor, business groups toward a good transportation bill and a coalition that can work together for the badly needed transportation resources. This Republican bill splits away valuable allies and will make it almost impossible to get the resources we need in the future. And, of course, their bill is \$5 billion short for highways after taking all of these resources and stuffing them into the Highway Account.

This is, simply, the worst highway bill ever. It is the first we've seen that has not been at least a semblance of bipartisanship and is something that's never been considered in committee. Too timid to do the job, it recklessly abandons the trust fund principle, raising the ire of budget hawks for abandoning "user pay". It guts the most popular programs that help stretch dollars and improve communities. And, as I say, it shatters the coalition that we need to deal with the future resources.

Mercifully, this theological statement, sloppy, incomplete, and ill-considered has no chance of ever being enacted into law; but it's important that the House reject it. There is no more powerful symbol of how bankrupt this proposal is than eliminating the wildly popular and effective Safe Routes to School. If for no other reason, reject this bill for our children.

IMPROVING THE  
TRANSPORTATION BILL

The SPEAKER pro tempore. The Chair recognizes the gentleman from Illinois (Mr. DOLD) for 5 minutes.

Mr. DOLD. Madam Speaker, one of the core functions of the government is to invest in infrastructure and transportation. This is not a Republican idea or a Democrat idea. It's an American one. At a time when people are so desperately looking for Washington to come together, this is an issue that we should and can work together on.

This week we're debating the transportation bill. While there are many great qualities about this bill, there is still a need—and I would argue a great

need—to improve it. That's why I am pleased that there are literally hundreds of amendments to try to strengthen this bill.

I hail from the State of Illinois. Illinois is a donor State, which means that we are putting in more transportation funds than we are receiving back from the Federal Government. That is why I am concerned by the cuts facing our State. We stand to lose almost \$650 million. As one of the largest manufacturing hubs of the country, our region cannot afford to lose this critical funding. Our transportation funds help strengthen our local economy and keep jobs at home.

Let me be clear. There are some very good steps in this bill that I believe we all should be able to embrace. The bill provides long-term certainty to States when they're planning their transportation projects. We haven't had a transportation bill in a number of years, since 2005; and this would provide 5 years of stability. It includes numerous reforms that enable States to cut through red tape and speed up the completion of projects, many taking about 15 years today, which would be going down to 7 or 8 years in the future.

I'm pleased that the bill strengthens the Harbor Maintenance Trust Fund, which impacts places like Waukegan Harbor. Waukegan Harbor is a critical part of the Great Lakes harbor system and helps bring jobs home to the 10th District, which so desperately needs them.

That being said, there are several aspects about this bill that need to be resolved. One of my major areas of concern is that of the environment. Madam Speaker, the bill would open a portion of the Arctic National Wildlife Refuge, also referred to as ANWR, to oil and gas drilling. For over 50 years, the development of ANWR has been debated greatly. We have an obligation to be good stewards of our national treasures and fiscally responsible in funding our Nation's infrastructure. However, including the Arctic refuge drilling provision will greatly complicate the transportation bill moving forward and make agreement with the Senate far more difficult. ANWR should be the last resort, not the first one.

I'm also concerned with the future sustainability of transit funding. In the Chicagoland region, we depend on mass transit to lessen the congestion on our roads and to get people to and from work. We do this far more efficiently with mass transit. Fifty percent more people would be on area highways and interstates if it were not for mass transit.

So think about that. For the people back there that have driven through Chicago, if we were to add an additional 50 percent on the already congested roads, it would make life far more difficult for moving goods and



services around and for getting people to and from work. This is not what we need. Mass transit is a vital program and one that we need to preserve. We need to have the certainty out there for funding. In Illinois, our State will face a \$137 million shortfall each and every year if this bill is enacted as it stands right now. This is unacceptable.

With all this being said, I believe that we have much to do, and we can work together to build a transportation bill that gives States the ability to plan for the long term and complete projects faster. But we do not need to do so at the detriment of mass transit or the environment. So let's work together and make this a better bill that we can all be proud of and move our country forward.

□ 1030

#### CRISIS OF POVERTY IN AMERICA

The SPEAKER pro tempore. The Chair recognizes the gentlewoman from California (Ms. LEE) for 5 minutes.

Ms. LEE of California. Madam Speaker, as a founder and cochair of the Congressional Out of Poverty Caucus, I rise again to sound the alarm about the crisis of poverty in America.

While many of us are encouraged by the recent improvements in the unemployment rate, which fell to 8.3 percent, the rate of unemployment continues to be unacceptably high, especially for communities of color. For African Americans, the unemployment rate is 13.6 percent, and it's 10.5 percent for Latinos. The rate of unemployment for our youth is even more alarming, with over 23 percent of 16-19 year olds looking for a job. Without a job, Madam Speaker, how can we expect our youth, the future of this country, to develop the skills and experience they need to succeed and live out their American Dream.

Encouragingly, President Obama understands that we cannot speed up economic recovery without investments that create jobs. I was pleased to see in his 2013 budget proposal critical investments to create good jobs and job training programs for communities hardest hit by our struggling economy. By targeting economic assistance where it's most needed, the President's proposed budget goes a long way to level the playing field to give every American the opportunity to succeed.

There's a lot that my Republican colleagues can learn from the President's budget, especially this: that fighting poverty and reducing the deficit can be achieved together. But let me be clear. This budget is not perfect. There are cuts in this budget that would undermine some of the progress our economy is making. Cuts to safety net programs like the Community Services Block Grant, Low Income Heating Assistance, and affordable housing programs

will hit already struggling families especially hard.

During these difficult times, we really do need to protect programs that are a lifeline for the most vulnerable. We need to increase funding for programs like SNAP and WIC which keep millions of American families out of poverty. But keeping people from suffering the worst effects of poverty is not enough to restore our economy. Even with the recent increases we have seen in job creation, long-term unemployment remains at record levels, with 5.5 million workers who have been out of work for 27 weeks or more. Until Republican leaders in the House can pass President Obama's American Jobs Act or put forth any kind of reasonable plan for job creation, we must ensure that the safety net is strong.

So, Madam Speaker, again I call for an immediate up-or-down vote on Congressman BOBBY SCOTT's and my bill, H.R. 589, which will give the millions of job seekers who continue to struggle to find a job just 14 more weeks of vital unemployment benefits. This would allow them to have just a little more time to find a good job and to support their family while our fragile economy continues to recover.

Also, Madam Speaker, this Congress has a lot of work to do. We are just a few days away from when unemployment benefits are set to expire for millions of Americans across the country. Low-income families were hardest hit during the recession, and they cannot afford another year of a Republican Congress that fails to focus on jobs, refuses to strengthen our middle class, and tries to end the Medicare guarantee for all of our seniors. It is incumbent upon this conference committee to ensure that the bridge is strong enough to deliver us all, even our most vulnerable, over these troubled waters.

Madam Speaker, let's put our Nation before our party. Americans really cannot wait, and neither should this Congress.

#### TRANSPORTATION EMPOWERMENT ACT

The SPEAKER pro tempore. The Chair recognizes the gentleman from Georgia (Mr. GRAVES) for 5 minutes.

Mr. GRAVES of Georgia. Madam Speaker, we're hearing a lot about transportation this week in the form of the transportation reauthorization bill. That causes us to maybe reflect back. Why are we reauthorizing something, and where did it originate, and what is our plan forward?

In fact, this comes from decades and decades and decades ago, and it's a chance when we can say to ourselves: Are we on the right path? Is this the right path for this Congress and the future of our Nation?

I think back to the last election cycle when the American people said

we want to see things done just a little bit different, and I want to talk about that just a little bit this morning because today, when it comes to transportation, all States pay 18.4 cents per gallon for every gallon of gas they purchase. They send that to the Federal Government, and the Federal Government is distributing that out across the country.

Now, a lot of people would say that comes back to our States, doesn't it? Well, in fact, it does not. There are 28 States in this Nation that send money to the Federal Government and don't get it all back, Georgia being one of them, along with many others throughout the country. We're referred to as the donor States.

So, in addition to these 28 States not getting back all of their money, there are all of these mandates that occur to each and every one of these States. So as we can imagine, these 28 States, they want to get back all of their money. In fact, Georgia sent a resolution to Congress, and I want to read a section of it here and then submit it for the RECORD, because the Georgia General Assembly said that this body, meaning the Georgia General Assembly, urges the Federal Government to cease the collection of motor fuel taxes in Georgia so that the State can collect and distribute the taxes without the delay caused by the Federal collection and disbursement.

So Georgia and many other States are asking for changes. They're asking for the Federal Government to do something just a little different, but yet we're entering into this debate about reauthorization when maybe we just need to rethink the program altogether.

In Georgia, \$800 million was not received by the State of Georgia. It was submitted by the taxpayers of Georgia, the hardworking Georgians sending money to the Federal Government, and \$800 million of it was sent somewhere else across the country in the last reauthorization. \$15 billion from other States was sent to States outside of their boundaries to be spent on other projects.

Now this program started in 1956. In 1956, when Congress was debating the interstate system, it was a great debate. As they debated it, they said, This will be a short-term tax that we're going to implement. It will be a tax that will be starting at 3 percent, will last for 15 years, build an interstate system, and had a great plan to do it. There was a debate about it. Well, what happens when we come to the end of that 15-year period? Well, here is part of an exchange that occurred in the Ways and Means Committee when they were debating this tax. It was in 1956, when Congressman Boggs of Louisiana and Congressman Fallon of Maryland, they were discussing what would happen during this

expiration period. In that exchange, both Congressmen agreed that at the end of the 15-year authorization period, "The interstate system is built and paid for, and there is no obligation beyond the period of construction."

Yet here we are, 2012, so far removed from that debate, and not only are we at 3 cents per gallon, we are at 18.4 cents per gallon. At the end of that 15 years, it was actually supposed to go to 1.5 cents, but ever since it has always gone up. Yet here we debate about spending more and more and more money, and we've just learned from previous speakers that this isn't even going all to roads and bridges and highways; in fact, it's going to bike paths, planting flowers and bushes, walking trails, and other things. Shouldn't it be about moving people and freight? That's what it was always about.

So, as we consider the reauthorization, I hope we'll consider maybe a reflection of a new program, a new path forward. So I'm offering an amendment that changes all this, that says, You know what? It's complete. The interstate system has reached that point of completion, maybe let's devolve this back to the States. Let's empower the States to collect their taxes, as Georgia is asking to do, spend it on their priorities, not deal with the red tape of Washington or the exchange fee that's occurring, but in fact empower the States to collect their taxes at the rates that they choose and spend it on the priorities that are most important to them. Keep it back in the home States where they know where the needs are.

Instead, we're up here debating how they should spend their money and mandating all these hundreds of various program lines that they've got to spend it on.

So we'll be offering an amendment that just changes the debate a little bit and causes us to reflect and refocus on where transportation should be as we are in the 21st century.

So, Madam Speaker, as I close and as we move into this debate on reauthorization, I hope there'll be a time when this Congress remembers what the American people said in 2010: Let's eliminate some of this government and devolve it back to the States.

#### SENATE RESOLUTION 750

By: Senators Pearson of the 51st, Mullis of the 53rd, Rogers of the 21st, Hill of the 32nd, Seay of the 34th and others

As passed:

#### A RESOLUTION

Urging the United States Department of Transportation to reconsider its mission and purpose; and for other purposes.

Whereas, the United States Department of Transportation was established by an act of Congress on October 15, 1966, and the department's first official day of operation was April 1, 1967; and

Whereas, the mission of the department is to "Serve the United States by ensuring a fast, safe, efficient, accessible and conven-

ient transportation system that meets our vital national interests and enhances the quality of life of the American people, today and into the future."; and

Whereas, the main mission of the department has largely been fulfilled by the completion of the federal interstate highway system; and

Whereas, state and local governments are faced with difficult decisions regarding local transportation needs on a continuing and ever-increasing basis; and

Whereas, the federal motor fuel taxes charged to the citizens of Georgia are needlessly sent to the federal government before being returned to the state government; and

Whereas, Georgia is a donor state and does not receive back as much motor fuel tax as it collects and sends to the federal government: Now, therefore, be it

*Resolved by the General Assembly of Georgia,* That this body urges making the funds collected under the federal gas tax immediately available to individual states to fund their transportation needs; be it further

*Resolved,* That this body urges the federal government to cease the collection of motor fuel taxes in Georgia so that the state can collect and distribute the taxes without the delay caused by federal collection and disbursement; and be it further

*Resolved,* That a copy of this resolution be delivered to the Commissioner of the United States Department of Transportation and to the congressional delegation of the State of Georgia.

#### COMMUNITY COLLEGE TO CAREER FUND

The SPEAKER pro tempore. The Chair recognizes the gentlewoman from Alabama (Ms. SEWELL) for 5 minutes.

Ms. SEWELL. Madam Speaker, today I rise to recognize the critical role of community colleges and the role that they play in economic recovery and the continued growth of our communities across the Seventh Congressional District of Alabama and this entire Nation.

In the Seventh Congressional District, the State of Alabama, and this country, the most important issue is job creation. In parts of the Seventh Congressional District that I am so privileged to represent, unemployment rates are as high as 16 percent.

This persistent, high unemployment number demonstrates the importance of career training and development. It also points to the critical role that our community colleges play in our Nation's growth. The junior colleges, our community college system, play a vital role in developing our Nation's greatest resource—our people.

A lasting partnership between the private sector and community colleges is key to creating an economy built to last. These partnerships ensure that future workers are being prepared to take advantage of every opportunity in the employment sector as we recover in this economy. In order to win the future, we must continue to out-innovate, out-educate, and out-compete our global competitors.

I want to commend the President on his recent release of a blueprint to

train 2 million workers for high-demanding industries through our Community College to Career Fund.

□ 1040

The new \$8 billion Community College to Career Fund would promote the development of community college partnerships that would train skilled workers for unfilled jobs. What a great way to not only promote our community colleges but also help to train future workers.

As America regains its position as the world's preeminent innovator and developer, the need for a trained, skilled workforce becomes even greater. This proposed fund would support the training of workforce development all throughout our Nation. The Community College to Career Fund will also institute a "pay for performance" in job training. This new initiative will serve as an incentive to businesses that will provide and help them provide workforce training.

It will also help individuals find employment while encouraging businesses to assist workers in this endeavor. This is critically important, and it is not only enough to train our workers, but we must also ensure that they can find jobs right here in America.

In addition, through this job-training fund, State and local governments will be allowed to apply for grants that will help them recruit businesses to their States. This incentive to locate businesses right here in America will help create jobs, discourage outsourcing, and encourage insourcing. We have to start making things right here in America and promote that endeavor. We must create an environment that gives more Americans a fair shot at achieving the American Dream, a dream that the unemployed in my district and across this Nation are waiting to grasp. They just need opportunities and resources.

The Community College to Career Fund will inspire and train the next generation of entrepreneurs. These workers could be responsible for the next Google, the next Apple, Microsoft or other cutting-edge technology. It will promote American exceptionalism and will propel this Nation back to the forefront of workforce development.

The President's blueprint to build a highly skilled workforce through our community college system is the right thing to do. It will allow community colleges in my district, for example, Shelton State and Wallace State Community Colleges, greater access to resources to educate those ready and willing to take jobs—highly skilled jobs in our workforce.

At this time, these initiatives are critically important because we in America can ill afford to be left behind when it comes to innovation. I believe that the President's blueprint should be applauded and supported. I know

that in my own district, Mercedes Benz, a very important employer in my district, has taken such initiatives to another level. They've encouraged high school students, giving them a chance to learn how to use their machines and participate in a program; and they've also said that upon completion, 75 percent of those students will actually have a job in the Mercedes Benz plant in Vance, Alabama.

I think initiatives such as this should be encouraged. It's critically important that we not only support the private sector in their endeavors to create public partnerships with our community colleges, but also to grow our economy and help this recovery effort actually exist.

So I support these endeavors, and I support the President in this initiative. I look forward to working with the President on this initiative and supporting this initiative in this House, and I ask and urge all of my colleagues on both sides of the aisle to support such an initiative.

#### GENERAL AVIATION INDUSTRY

The SPEAKER pro tempore. The Chair recognizes the gentleman from Kansas (Mr. POMPEO) for 5 minutes.

Mr. POMPEO. Madam Speaker, on Monday of this week, 2 days ago, the President released his budget plan. It will take America's deficits, or total debt, to over \$27 trillion. That's a big number. It's hard to get our heads around numbers like that. So I want to talk about how it impacts a particular industry and a particular group of people, how his budget and plan will put under attack 1.2 million Americans and an industry known as general aviation that generates over \$150 billion for our U.S. economy.

Now, the general aviation industry is an industry that this President has been assaulting ever since he took office. It is one of America's last great manufacturing sectors, indeed, a manufacturing jewel still here in America; and yet it has become a bit of a political punching bag for our President who constantly refers to the entire industry as made up of nothing but "corporate fat-cat jet owners."

But I want to talk about the job creation aspect. I want to talk about how the general aviation industry impacts real people. I want to tell some real stories about how lives are impacted when a President speaks about an industry this way and then presents a budget that has such an enormous impact. There are real consequences.

I can tell you that each time the President attacks the general aviation industry, a machine shop in Wichita, Kansas, is impacted; a West Virginia company loses a sale; or a private company putting jet fuel on airplanes in California feels the squeeze.

I want to recall some of the attacks, but I also want to talk about these peo-

ple. The general aviation industry produces aircraft that are a tool—a tool—that increases productivity and ultimately contributes to the success of businesses all across our country. It's about helping a parts supplier, a fellow named Jim who wrote a story to me from Plainwell, Michigan. It helps him deliver parts all across the country so not only can his company succeed and grow jobs, but all of the folks that Jim's company serves.

It's about getting a daughter to a hospital who is very ill on an Angel Flight—a wonderful nonprofit organization that uses excess capacity on small planes all around the country to meet the medical needs of people all across our Nation.

It's about the town of Fort Morgan, Colorado, whose local industries rely heavily on general aviation and which is an absolute lifeline for this small town's continuing success.

It's about a fellow named William in Mobile, Alabama, who wrote me and said:

I work for a manufacturer. We build jet engines for the general aviation industry. We've seen firsthand how President Obama's rhetoric hurts our industry. We lose sales. Why would a President attack an industry that provides hundreds of thousands of good, union jobs when he says that his entire focus is those jobs? I wish the President would encourage general aviation, and not attack it.

I think William has it exactly right. Many in my hometown of Wichita, Kansas, which is the headquarters for Beechcraft, Learjet and Cessna, know these stories all too well, also.

For the third time now in the President's budget, he's called for user fees on every flight of every general aviation aircraft and has set up a system whereby it will become more expensive through the Tax Code to purchase these aircraft—these American-built aircraft. But it impacts lots of folks in different places, not just the manufacturers.

Chris from Los Angeles wrote me and said:

My little flight school employs five full-time workers and three part-time employees. Up through now, I've been able to weather the economic storms. Unfortunately, despite the claims that piston aircraft will be exempt, these user fees will hurt us, Mr. President. I'll be forced to shut my doors, thereby laying off my employees.

Madam Speaker, this is not about fat-cat corporate jet owners in the corner office. This is about the livelihood of those eight people in California who depend on this industry to put food on the table for their families.

Carl from Plano, Texas, wrote me and said:

Like others have said, a large percentage of people who use business aircraft do it as a productivity tool. I wish Washington would recognize that an airplane is a tool just like production machinery and a delivery truck.

The whole time the President is criticizing the aircraft flying industry, he

flies around in one of the great jets built in Kansas—Air Force One. His Cabinet members and senior staff fly on airplanes all across the world, and I'm proud of that. But, unfortunately, the President doesn't see the value in general aviation except for when it's his own. I've invited the President multiple times to come to Wichita, Kansas, to see the workers who build these great planes. And yet it continues: the President tries to destroy an industry that employs over 1 million people.

This is not leadership. This is division and envy, and I wish the President would cease to do so. It's a travesty, it's not good for jobs in America, and it's not good for our general aviation industry.

#### NATIONAL ENGINEERS WEEK

The SPEAKER pro tempore. The Chair recognizes the gentleman from Illinois (Mr. LIPINSKI) for 5 minutes.

Mr. LIPINSKI. Madam Speaker, as one of only a handful of engineers in Congress, I'm proud to once again sponsor a resolution honoring our Nation's engineers during National Engineers Week. Next week will mark the 61st annual Engineers Week and the 8th year I have introduced this resolution. I would like to thank the gentleman from Illinois (Mr. MANZULLO) for joining me in leading this bipartisan effort for the second consecutive year.

The central goal of Engineers Week—attracting new students to engineering careers—has never been more important.

□ 1050

As a 2010 National Academies report explained:

While only 4 percent of the Nation's workforce is composed of scientists and engineers, this group disproportionately creates jobs for the other 96 percent.

Engineers drive our economy by designing and building everyday products, including bridges, airplanes, roads, computers, medical devices, cars, power plants—just to name a few. America's 2.5 million engineers have helped make our country great by solving problems and turning dreams into reality, and America's future depends on them.

In these uncertain times, as we look for ways to promote job creation, educating America's youth about engineering and science needs to be a national priority. Each year, National Engineers Week seeks to do just this through events aimed at inspiring students and fostering public awareness of vital contributions made by engineers.

These events, including the Future City Competition, Introduce a Girl to Engineering Day, and Discover Engineering Family Day, all impart an appreciation of the wonders of engineering to children of all backgrounds. The

importance of these events is underscored by a 2012 survey by the Intel Corporation that found American teenagers are more likely to consider a degree in engineering after learning about what engineers do.

This year's theme is "7 Billion People; 7 Billion Dreams; 7 Billion Chances for Engineers to Turn Dreams Into Reality." This theme emphasizes the potential for growth among the community of engineers worldwide. It also highlights a challenge to our position as a global leader in engineering.

Last month, the latest Science and Engineering Indicators released by the National Science Board showed that the number of students obtaining engineering degrees in the United States continues to rise, but our production of new engineering degrees has been dramatically eclipsed by China, where 30 percent of all undergraduate degrees are in engineering, as compared to 4 percent in the United States. Inspiring bright young minds to consider careers in engineering is more important than ever for our economic competitiveness.

Growing up in Chicago, I was fascinated with figuring out how mechanical devices worked. I remember how my high school calculus and physics teachers at St. Ignatius helped mold this fascination into an interest in engineering. These teachers, together with informal experiences at places like the Museum of Science and Industry and the Brookfield Zoo, helped motivate me to pursue an undergraduate degree in mechanical engineering at Northwestern University and then a master's degree in engineering-economic systems from Stanford University. One of the central goals of National Engineers Week is to provide this kind of inspiration for the next generation.

During Engineers Week, I will be attending the Chicago Engineering Awards Benefit, where the Washington Award will be presented to a Chicago native and pioneer of the cell phone, Martin Cooper, and also where students will be honored for their participation in numerous competitions, including the Future City Competition. I am always greatly inspired when I go to this banquet to see one of the great pioneers of engineering talk about the work they've done, and to see the students and the work that they're doing today, and know the future of our country will be great with their help.

Madam Speaker, I'd like to encourage all of my colleagues to cosponsor this resolution, but more importantly, to go home and participate in Engineers Week celebrations in your districts. This is a great opportunity for us to thank the engineers who contribute so much to our country and inspire the next generation of engineers that our country needs to stay competitive.

## SECURITY

The SPEAKER pro tempore. The Chair recognizes the gentleman from Tennessee (Mr. DUNCAN) for 5 minutes.

Mr. DUNCAN of Tennessee. Madam Speaker, I rise to talk for a few minutes about security. I know that almost no Member is willing to vote against something that has the word "security" attached to it, but I wish that most Members would consider these words from Ian Lustick. Professor Lustick is a professor at the University of Pennsylvania, and he wrote several years after 9/11 about the war on terror money feeding frenzy. He wrote this:

After September 11, 2001, what accounts for the vast discrepancy between the terrorist threat facing America and the scale of our response? Why, absent any evidence of a serious domestic terror threat, is the war on terror so enormous, so all encompassing, and still expanding? The fundamental answer is that al Qaeda's most important accomplishment was not to hijack our planes, but to hijack our political system. For a multitude of politicians, interest groups, professional associations, corporations, media organizations, universities, local and State governments, and Federal agency officials, the war on terror is now a major profit center, a funding bonanza, and a set of slogans and sound bites to be inserted into budget, project, grant, and contract proposals. For the country as a whole, however, it has been a maelstrom of waste.

He pointed out an example that even Dunkin' Donuts franchises had received \$22 million in Federal counterterrorism loans.

Madam Speaker, in addition to that, shortly after 9/11, when every government, department, and agency was requesting more money for security, The Wall Street Journal carried an editorial that said:

Any bill with the word "security" in it should get double the public scrutiny and maybe four times the normal wait, lest all kinds of bad legislation become law under the phony guise of fighting terrorism.

Unfortunately, we haven't followed the guidance of Professor Lustick or The Wall Street Journal. I thought of these writings by Mr. Lustick and The Wall Street Journal when I read two recent articles. On December 20, 2 months ago, Vanity Fair magazine carried an article on its Web site which said:

As you stand in endless lines this holiday season, here's a comforting thought: all those security measures accomplish nothing at enormous costs.

The magazine said since 9/11, the government has spent more than \$1.1 trillion on homeland security. Then the article added this:

To a large number of security analysts, this expenditure makes no sense. The vast cost is not worth the infinitesimal benefit. Not only has the actual threat been exaggerated, they say, but the great bulk of the post-9/11 measures to contain it are little more than security theater; actions that accomplish nothing but are designed to make

the government look like it is on the job. In fact, the continuing expenditure on security may actually have made the United States less safe.

And then a second article by ABC News. Probably, Madam Speaker, the most needless, useless agency in the entire Federal Government is the Air Marshal Service. USA Today once reported that more air marshals had been arrested than were arrests by air marshals. Talk about a soft, easy job. All these people do is ride back and forth on airplanes, back and forth, back and forth, mostly in first class.

A few days ago, ABC News reported that air marshals took taxpayer-paid trips to visit families and to go to vacation spots. One supervisor was even photographed asleep on a flight while carrying a loaded pistol. ABC reported that managers at the Air Marshal Service acted like "a bunch of school yard punks," and that they "repeatedly made fun of blacks, Latinos, and gays," according to agency insiders. I guess they had too much time on their hands and too little to do.

I know, as I said earlier, that it's almost impossible to get Congress to vote against anything that claimed to be for security. But this almost \$1 billion that we give to air marshals each year is a total complete waste. When we go ridiculously overboard, Madam Speaker, on security, we are taking money away from individuals and families who really need it, and taking money away from other good things on which this money could be spent.

## STOP MILITARY RAPE

The SPEAKER pro tempore. The Chair recognizes the gentlewoman from California (Ms. SPEIER) for 5 minutes.

Ms. SPEIER. Madam Speaker, I rise again today to highlight the epidemic of rape and sexual assault in the military.

This issue was recently brought up on Fox News by a commentator who ignorantly declared that women who join the military should expect to be raped. Yes, believe it or not, this was what the commentator said. I don't think our women choose to enlist in the military with the expectation that they might get raped.

This morning I'm going to tell you the story of U.S. marine Stephanie Schroeder, who was raped in a public restroom by a fellow marine. He shoved her down, beat her, and forced her on her back. He ripped down her pants and raped her. Then he ejaculated on her inner thigh and spit on her.

Private Schroeder reported the rape to command. Her commander laughed at her and said don't come "blankin" to me because you had sex and changed your mind.

□ 1100

Don't come "blankin" to me? That's the response that was given to Private

Schroeder. That was her leader. That was her commander saying that to her. Instead of helping her, her commander called her a liar and restricted her from seeking medical help or any type of counseling.

And what's worse is that her commander did nothing illegal. The military judicial system allows commanders complete discretion for handling cases of rape and sexual assault. To the current standard of justice, the commander did absolutely nothing wrong.

This story is one of thousands that happens in the military every year. By the Department of Defense's own statistics, 19,000 men and women are sexually assaulted or raped in the military every year. This is not a secret. Congress and the DOD have worked on this issue for a quarter of a century, but very little has changed.

The issue has been treated like a game of tag. Congress calls a hearing and then, tag, DOD submits a report, then, tag, Congress has a hearing, then DOD has a press conference about a new report. The game goes on and on, but no real changes actually occur.

Well, I have my own game. It's called "Truth Or Dare."

First, truth: the women in our military are more likely to be raped or assaulted by colleagues than they are to be killed by the enemy.

Truth: only 13.5 percent of victims report the crime.

Truth: only 8 percent of the cases are actually prosecuted.

Truth: the sole arbiters of reports of assaults in commands who decide which rapists are punished and will go free are, in fact, the commanders.

And now, there's a dare. I dare the Department of Defense to create a better, fairer process for handling rapes and sexual assaults. Instead of continuing a system that punishes victims and sweeps sexual offenses under the rug, I dare the Department of Defense to create an impartial office to review and handle these cases with experts in prosecution and investigation.

So what actually happened to Private Schroeder? Well, she got transferred away from her rapist to a new duty location. Prior to her arrival, her command called and told her new supervisor that she was a "troublemaker."

Two weeks after the transfer, her new superior made a pass at her. She refused to have sex with him, and he retaliated by publicly harassing her at work. When she contracted pink eye, he asked her in front of formation if she let a guy ejaculate in her eye.

She reported the harassment to command. Nothing happened. A month later, she awoke to the same supervisor sexually assaulting her. Again, she reported it to her command.

This time the command took action—against Private Schroeder. She

was disciplined for having a man in her room. Private Schroeder, the victim of sexual assault, was punished after a sex offender broke into her room and harmed her.

Private Schroeder learned not to report crimes committed against her. So 6 months later, when she was sexually assaulted again by a marine in a truck, she told no one how he attempted to have sex with her, or how, when she refused, he began to masturbate in front of her and locked the doors so she could not leave. He said, Show me your tits; and, Help me masturbate; and, You masturbate for me.

This is outrageous conduct that should not be allowed in our military. For now, victims of rape and sexual assault must follow the chain of command, even if their commanding officer chooses to ignore the problem. We need to overhaul this system.

I've introduced H.R. 3435, the STOP Act, that would take these cases out of the chain of command and create an office in the military that will handle them.

I will continue to tell stories like Private Schroeder's until something changes. Survivors can email me at [stopmilitaryrape@mail.house.gov](mailto:stopmilitaryrape@mail.house.gov) if they would like to speak out.

For more information about this issue and opportunities to advocate for change, please visit [ProtectOurDefenders.com](http://ProtectOurDefenders.com).

#### RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until noon today.

Accordingly (at 11 o'clock and 3 minutes a.m.), the House stood in recess.

□ 1200

#### AFTER RECESS

The recess having expired, the House was called to order by the Speaker at noon.

#### PRAYER

Reverend Rudy Stevens, United States Army, Pinehurst, North Carolina, offered the following prayer:

Lord, too often, we Americans back home forget to pray for our leaders here in D.C. Forgive us, Lord. For those assembled here in the people's House, I pray that You give them courage, strength, and wisdom.

Give them courage from our convictions, strength from Your spirit, and wisdom for the future. For here decisions are made: choices that shape circumstances of years, if not generations, of all Americans.

All the way from California to North Carolina that airborne chorus sounds off loud and strong with, "This land is my land, and this land is your land."

And it is here in this room that chorus hits the ground and finds harmony reminding us that from many, we are one, one Nation under God that seeks liberty and justice for all, for all the fatherless and the oppressed.

So, Lord, hear our prayer and keep these leaders wise, strong, and courageous.

In Jesus' name, amen.

#### THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

#### PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from California (Ms. HAHN) come forward and lead the House in the Pledge of Allegiance.

Ms. HAHN led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

#### WELCOMING REVEREND RUDY STEVENS

The SPEAKER. Without objection, the gentleman from North Carolina (Mr. COBLE) is recognized for 1 minute.

There was no objection.

Mr. COBLE. Mr. Speaker, it is a great honor for me today to introduce Army Chaplain Rudy Stevens.

Captain Stevens lives in North Carolina's Sixth Congressional District and serves the 2-504 Parachute Infantry Regiment, 1st Brigade Combat Team of the 82nd Airborne Division at Fort Bragg, North Carolina.

During his tenure, Mr. Speaker, Captain Stevens has received many awards, most notably the Bronze Star, the Air Assault Wings, and Jump Wings. He has been deployed, Mr. Speaker, on separate occasions and will continue his duty with a deployment to Afghanistan in the coming months.

On behalf of the constituents of the Sixth District of North Carolina and my colleagues here in the people's House, Chaplain Stevens, we welcome you to the House of Representatives and extend our appreciation to you for having offered today's prayer.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. MILLER of Michigan). The Chair will entertain up to 15 requests for 1-minute speeches from both sides of the aisle.

# HONORING RETIRED COLONEL JOHN R. HED OF THE UNITED STATES AIR FORCE

(Mr. CRAVAACK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CRAVAACK. Madam Speaker, I rise today to offer my respects for retired Colonel John R. Hed of the United States Air Force.

Colonel Hed was born to Swedish immigrants in St. Paul, Minnesota, on August 16, 1920; and ever since he was young, his passion was aviation. In his teens, he enlisted in the Air National Guard and eventually went on to flying school in the Army Air Corps. He later served in World War II in the Aleutian Islands. Upon his return to Minnesota, he helped start the Air National Guard base in Duluth, now the 148th Fighter Wing.

In his career, he has flown over 7,400 hours in over 75 different aircraft. He even owned a prototype, the Baby Albatross sailplane, which now resides in the Smithsonian; and in 2003, he was inducted into the Minnesota Aviation Hall of Fame.

He was a devoted husband, father, grandfather, and great grandfather. He was married to the love of his life, Artelle, for 55 years.

Throughout his 91 years on this Earth, Colonel Hed was a true American who lived by the motto of "God, family, country." Minnesota will miss him, and America will miss the likes of him.

## THE HELP ENTREPRENEURS CREATE AMERICAN JOBS ACT

(Mr. JOHNSON of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHNSON of Georgia. Madam Speaker, I rise to ask my colleagues to support a tax cut to help entrepreneurs start businesses. Today, I'm introducing the Help Entrepreneurs Create American Jobs Act to permanently double the deduction for start-up expenses. Supporting small entrepreneurs, who are the true job creators, and creating jobs should be our number one priority. That is why President Obama called for this tax cut and why I am proud to stand with businesses across my district and the Nation to introduce this commonsense proposal.

We must put party aside and make it easier for Americans to start small businesses. I ask my colleagues to support this bill.

## THE PRESIDENT'S BUDGET DESTROYS JOBS

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Madam Speaker, National Review Editor Rich Lowry stated that the President's budget "is built on gimmicks and cheery assumptions that support a massive superstructure of new taxes and new debt. It is a blueprint for national decline."

The President's budget request called for the biggest tax increases and accumulates the largest debt in our Nation's history. Over the past 3 years, this administration has spent more money than ever before and increased our national debt by almost \$5 trillion. Our unemployment rate has consistently remained above 8 percent for 36 months. It is clear that borrowing and spending more money will not create jobs. It is past time for the President and the liberal-controlled Senate to come together and support House Republicans' efforts to put American families back to work. Dozens of job-promoting bills that have passed the House are sadly held up in the Senate graveyard.

In conclusion, God bless our troops, and we will never forget September the 11th in the global war on terrorism.

## THE TRANSPORTATION BILL

(Mr. BACA asked and was given permission to address the House for 1 minute.)

Mr. BACA. Madam Speaker, across the Nation, Americans are calling for Congress to take immediate action to create new jobs. Instead of working on a bipartisan agenda to create jobs, Republicans are moving a transportation bill that slashes the infrastructure funding and destroys jobs.

Transportation Secretary Ray LaHood has called this bill the worst transportation bill he has ever seen. The Republican transportation bill would eliminate 550,000 American jobs, cut highway investment in 45 States, and bankrupt the highway trust fund by \$98 billion.

Congress must get serious about working together to solve the problems our Nation is facing. It just can't be "my way or the highway." Let's do a jobs bill that will create jobs for the American people.

□ 1210

## CONGRATULATIONS TO CARDINAL- DESIGNATE DOLAN

(Mr. GRIMM asked and was given permission to address the House for 1 minute.)

Mr. GRIMM. Madam Speaker, I proudly rise today to congratulate Archbishop Timothy Dolan, who will be elevated to a cardinal in the Roman Catholic Church this Saturday. His Holiness, Pope Benedict, could not have picked a better man of faith for this prestigious role. Archbishop Dolan has

dedicated his entire life to serving God and the Catholic Church.

Just 3 years ago, New Yorkers were blessed when the Pope appointed him the 10th Archbishop of New York. He has warmed our hearts with his big personality and quick wit, and he has strengthened our faith with his guidance. On a national level, his leadership has shed positive light on the Catholic Church and continues to raise his profile.

As New Yorkers, we are truly blessed to have Archbishop Dolan lead our archdiocese from the pulpit at St. Patrick's Cathedral. We couldn't be more proud that he will soon be wearing a red hat and serving as the prince of the Catholic Church in the Pope's College of Cardinals.

Once again, I offer my warm congratulations to Cardinal-Designate Dolan and wish him Godspeed in his new role.

## PRESIDENT'S 2013 BUDGET PROPOSAL

(Mr. HIGGINS asked and was given permission to address the House for 1 minute.)

Mr. HIGGINS. Madam Speaker, on Monday, President Obama released his 2013 budget proposal. The budget recognizes that infrastructure investments are necessary to create an environment of growth. For western New York in particular, we are pleased it includes measures that benefit the Niagara Falls Air Reserve Station, Buffalo Coast Guard, Jamestown Airport, and our Great Lakes.

We need only look at the United States in 1937, Japan in the 1990s, and Europe over the last couple of years to understand the dire consequences of government pulling back at a time of economic uncertainty. For this reason, I wish the budget had gone a little further.

A New America Foundation report makes the case that investing \$1.2 trillion over the next 5 years rebuilding the infrastructure of this Nation will create 27 million jobs in 5 years. This job growth would cut the debt and deficit and create jobs for Americans, for these jobs cannot be outsourced.

## RELIGIOUS EXEMPTION AND OBAMACARE

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Madam Speaker, despite the Obama administration's recent actions to disguise their attempt to force contraceptive coverage on religious institutions, the American people will not be fooled.

The Obama administration has gone out of its way to impose its radical agenda on Americans. While some religious exemptions exist for churches, affiliated institutions such as religious

hospitals or schools would not be exempt from this overreaching mandate. In fact, New York Bishop Timothy Dolan summed it up when he said:

Never before has the Federal Government forced individuals and organizations to go out into the marketplace and buy a product that violates their own conscience. This shouldn't happen in a land where free exercise of religion ranks first in the Bill of Rights.

This administration has shown no restraint in expanding the size, scope, and power of the Federal Government. We must repeal this law and restore religious freedom to religiously affiliated institutions in this country.

#### COLLEGE TUITION CRISIS

(Mrs. DAVIS of California asked and was given permission to address the House for 1 minute.)

Mrs. DAVIS of California. Madam Speaker, I rise to speak about our college tuition crisis. It's a topic of conversation that comes up around kitchen tables all across America. Parents are seeing college tuition creep up year after year, while their income has declined or stagnated and their savings have been squeezed. Parents are worried that their children won't get a shot at the American Dream because they simply cannot afford the cost of higher education.

The President's budget proposal makes it clear that even in these tough budgetary times we cannot shirk our responsibilities to strengthen investments in education. I share his commitment to increasing college affordability and quality. Freezing interest rates on subsidized student loans is something we can do something about right now to help millions of students across the country. Failure to act means that 7 million students could see their interest rates double to 6.8 percent.

I urge my colleagues to work with the President to make sure that this issue gets the time and attention that it deserves.

#### CATCH INITIATIVE

(Mr. OLSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OLSON. Madam Speaker, I rise today to commend the Coordinated Approach to Child Health initiative, CATCH, an innovative program being implemented in Houston and across Texas to combat rising rates of childhood obesity.

It's no secret that childhood obesity is a growing problem in our country. Statistics show that 18 percent of elementary schoolchildren are overweight, and the number is growing every year.

The University of Texas School of Public Health created CATCH to help

elementary schools, children, and their families adopt healthy eating and physical activity behaviors.

CATCH is a huge success. It's been adopted by more than 2,500 elementary schools in Texas, impacting 800,000 schoolchildren—that's 50 percent of Texas elementary schools. CATCH has received national recognition for being one of the most comprehensive and cost-effective approaches in fighting childhood obesity.

Madam Speaker, I commend all schools in Texas that have adopted this program. They recognize that every child needs to be taught, and every child needs to be taught how to grow up healthy.

#### HAPPY 100TH BIRTHDAY TO LOTTIE HARRIS ROLLINS DUNSTON

(Mr. BUTTERFIELD asked and was given permission to address the House for 1 minute.)

Mr. BUTTERFIELD. Today, family and friends will gather to celebrate the 100th birthday of Lottie Harris Rollins Dunston, a wonderful human being who has lived in Wake County, North Carolina, her entire life.

"Grandlottie," as she is affectionately called, is the second eldest of 13 siblings, 7 of whom are still living and advanced in age. After working her way through historic Fayetteville State College, she went on to become an elementary teacher, where she shaped young minds for 41 long years.

Today, Grandlottie is a lover of Shakespeare and politics and, most of all, cherishes her independence. So often she can be seen driving her white pickup truck as she shops for her needs with her 5-year-old chocolate lab, Diva.

Madam Speaker, Grandlottie loves her supportive family that includes granddaughter Jacquelyn Rollins Wynn, whose husband serves on the U.S. Circuit Court of Appeals for the Fourth Circuit.

We pray that Grandlottie continues to enjoy health and happiness for many more years. Happy birthday to you. And most of all, thank you for making North Carolina a better place to live and work.

#### UNCONSTITUTIONAL GOVERNMENT TAKEOVER OF HEALTH CARE

(Mr. CANSECO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CANSECO. Madam Speaker, when the Democrats passed the unconstitutional government takeover of health care, they cleverly front-loaded some of the provisions but left the most troubling mandates and requirements to be implemented at a later date.

Recently, the Obama administration released its controversial contracep-

tion mandate, and Americans got a glance of the looming disaster that the health care law will produce once it actually goes fully into effect. This mandate is one of the first prescribed by the Democrats' government health care takeover, but it will not be the last. Unfortunately, the HHS ruling that ignores religious freedom is just one example of the many disastrous provisions of a top-down, government-controlled health care system.

If Americans did not like this provision, they certainly won't like the IPAB, the Independent Payment Advisory Board, a group of 15 unelected, unaccountable bureaucrats who will control virtually every health care decision.

I urge my colleagues to support commonsense legislation that will protect the rights of all human life, including the unborn, and to continue working to fully repeal the Democrats' government health care takeover as a whole, as well as the harmful individual provisions that violate our constitutional rights.

#### WORKING TOGETHER TO EXTEND PAYROLL TAX CUT AND UNEMPLOYMENT BENEFITS

(Ms. HAHN asked and was given permission to address the House for 1 minute.)

Ms. HAHN. Madam Speaker, I've come to this floor practically every week for the past few months asking my friends on both sides of the aisle to work together to extend the payroll tax cut and the unemployment benefits for a full year. As we convene this today, it looks like we may have a deal.

To be sure that we follow through, let's remind ourselves what this would mean for Americans:

Working families would see more than \$80 a month in their pockets—almost \$1,000 for the year. It's always good for people to be able to keep more of their money in their own pockets;

And 2.8 million Americans and nearly 500,000 Californians, where I come from, would be able to keep their unemployment benefits, their lifeline during these tough times;

And the doc fix would allow seniors on Medicare to continue to see their own doctors.

I know the ink isn't dry, but I believe this is the type of compromise and governing that our constituents and all of America wants to see us do here in Congress. I want to encourage the leadership on both sides of the aisle to get this deal done, move forward, and create jobs in this great country.

□ 1220

#### H.R. 3572, THE CAMERAS IN THE COURTROOM ACT

(Mr. CONNOLLY of Virginia asked and was given permission to address



the House for 1 minute and to revise and extend his remarks.)

Mr. CONNOLLY of Virginia. Madam Speaker, there's nothing more important to democracy than sunshine. This March among the most historic and momentous cases ever to come before the Supreme Court will be health care.

Many Americans supported health care reform, many opposed it. It was the product of hundreds of hours of debate on this very floor and in committees over many months. While there are a limited number of seats for the public here in the House, thanks to C-SPAN millions of Americans had the opportunity to view those proceedings.

Unfortunately, when the case comes before the Supreme Court, just 50 Americans will be able to witness it. Shouldn't transparency require that the average citizen have an opportunity to view those proceedings? There is an easy and non-intrusive way: allowing cameras in the Supreme Court.

Along with my Republican colleague, Judge POE, I introduced H.R. 3572, the Cameras in the Courtroom Act, to require televising open Supreme Court proceedings. Sunshine remains the best disinfectant against those who might feel that the black robe of life tenure grants an entire branch of government permanent immunity from accountability.

I urge my colleagues to support this thoughtful act.

#### THE STOCK ACT

(Mr. WALZ of Minnesota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALZ of Minnesota. Madam Speaker, last week this House did something that should be common but is getting rarer and rarer. We passed a bipartisan piece of legislation with a vote of 417-2. That was the STOCK Act, the Stop Trading on Congressional Knowledge bill, making sure that we have the audacity to say Members of Congress should play by the same rules as everyone else, restoring faith in our market. The Senate did the same thing, 96-3.

But I remind you of those famous words from Saturday morning cartoons in "Schoolhouse Rock," I'm just a bill, sitting on Capitol Hill. It's not the law. No conference has been decided yet. The President, while in the State of the Union, from that very perch, said he would sign that bill the very next day, but there's nothing on the horizon bringing it up.

Madam Speaker, I encourage my colleagues, and I encourage all Americans to make sure they hold us accountable. Casting that vote for a bill still keeps it a bill. We need to follow through and make it the law of the land.

#### FORMULA FOR INNOVATION AND JOB CREATION

(Mrs. BLACKBURN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BLACKBURN. Madam Speaker, in the wake of the Obama budget that has been filed this week and has been called everything from a nervous breakdown on paper, to a disaster, to not a serious budget, we get more news this morning.

According to a Gallup poll that has come out this morning, 85 percent of small business owners in this country indicated that they are currently not looking for workers. Asked why, 48 percent said it was due to concern about possible rising health care costs. Forty-six percent said that they were worried about new government regulations because last year this administration gave them about 4,000 new mandates and gave them about 80,000 pages of new Federal regulations.

We need to return to the time-tested formula that always works in this country: less regulation plus less taxation plus less litigation always equals more innovation and more job creation right here in this country.

We know that the total cost of Federal regulation has risen to \$1.75 trillion annually, twice what is collected in Federal income taxes. Let's get on the right track.

#### COMMENDING PRESIDENT OBAMA'S TAX REFORM PROPOSALS TO CREATE JOBS AND BRING JOBS BACK TO THE UNITED STATES

(Mr. FALEOMAVAEGA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FALEOMAVAEGA. Madam Speaker, this week President Obama revealed his FY 2013 proposed budget, which introduces important tax reforms to revitalize the economy by boosting job creation and encouraging businesses to bring overseas jobs back to America.

President Obama's proposed budget especially underscores his commitment to provide needed tax relief for America's small businesses. For example, the proposed budget offers a temporary 10 percent tax credit for small businesses that add new jobs and raise workers' salaries.

Madam Speaker, the proposed budget also offers tax incentives for locating jobs in the United States while eliminating tax deductions for shipping jobs overseas and closing tax loopholes that result in outsourcing U.S. jobs to foreign countries.

Madam Speaker, in line with the focus on American manufacturing, President Obama also introduced temporary tax credits to direct some \$20

billion to domestic clean energy manufacturing.

Madam Speaker, I commend President Obama for introducing significant reforms that will put America back to work, return profits to America's private sector, and promote a stronger American economy.

#### CONGRESSIONAL GOLD MEDAL FOR CIVIL RIGHTS WORKERS

(Mr. COHEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COHEN. Madam Speaker, this is Black History Month, and I introduced recently a proposal to have a Congressional Gold Medal issued to a cumulative group, the individuals who marched for freedom, sat in, brought about civil rights in our Nation, all the civil rights leaders and workers.

In this Nation, to make it the country that Thomas Jefferson and our Founding Fathers wrote about, it took civil rights workers to protest and demonstrate and sometimes go to jail to change this country's path and see to it that all people were created equal, and that all people had equal opportunities in this Nation. I think those people deserve recognition because they made America's promise its reality.

To date, we've sent out a letter asking for cosponsors three times to every Member of Congress, and yet we don't have a single Republican with us. This should be a bipartisan effort, and I would ask all my Republican colleagues to ask their LA's to sign on to the Congressional Gold Medal for civil rights workers. It's something we should come together with in a bipartisan fashion because it's as American as apple pie.

#### OUR ECONOMY IS RECOVERING

(Mr. YARMUTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. YARMUTH. Madam Speaker, there's no question that our economy is recovering. The private sector has added jobs for 23 straight months, putting 3.7 million Americans workers back on the job.

Last week, in my district, GE opened its first new manufacturing facility and the first new product line at Louisville's Appliance Park in more than 50 years. Because of our Recovery Act investments, 1,300 workers will be back on the job at Appliance Park, and hundreds of those jobs are coming back from China.

When the private sector can rely on the Federal Government as a partner, jobs and economic growth follow, and that's exactly what we're seeing today in my district and across the country.

We decided we are not going to surrender the lead in innovation to the

Chinese and the rest of the world, and as a result, we are revitalizing American manufacturing. We are making it in America, but we can't stop now.

Madam Speaker, as we begin to debate the Federal budget, we must continue to invest in American innovation and ingenuity, the way we have in Louisville and in so many other cities across the country.

#### WORST TRANSPORTATION AUTHORIZATION BILL IN OUR NATION'S HISTORY

(Mr. MORAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MORAN. Madam Speaker, the House leadership is still scrambling to find the votes to pass what everyone is coming to recognize as the worst transportation authorization bill in this Nation's history. But with gasoline prices approaching \$4 a gallon, House Republicans are falling back on their wrong-headed 2008 campaign slogan of "Drill, Baby, Drill."

It's a cynical ploy, and assumes Americans think that the pain of high gasoline prices is justifiable grounds to open restricted areas for drilling and weaken protections that would ensure offshore drilling is done in a safe and environmentally responsible manner.

The cold reality, however, is that this bill will not bring relief to Americans suffering at the gasoline pump, and prosperous fishing and tourism industries—real job creators—based in Bristol Bay, southern California, the west coast of Florida, and Virginia will needlessly be placed at risk.

And for what? Approximately \$1.8 billion in new Federal revenue over 10 years. Not nearly enough to fund public transit or any other meaningful part of a transportation infrastructure bill.

And the revenue generated by drilling off Virginia's coast: \$40 million over 10 years. Our Governor says that's what's going to pay for his transportation plan. It pays for nothing. Billions in economic activity and tens of thousands of jobs would be put at risk for very little in benefits.

□ 1230

#### PROVIDING FOR CONSIDERATION OF H.R. 3408, PROTECTING INVESTMENT IN OIL SHALE THE NEXT GENERATION OF ENVIRONMENTAL, ENERGY, AND RESOURCE SECURITY ACT; PROVIDING FOR CONSIDERATION OF H.R. 3813, SECURING ANNUITIES FOR FEDERAL EMPLOYEES ACT OF 2012; AND PROVIDING FOR CONSIDERATION OF H.R. 7, AMERICAN ENERGY AND INFRASTRUCTURE JOBS ACT OF 2012

Mr. WEBSTER. Madam Speaker, by direction of the Committee on Rules, I

call up House Resolution 547 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

#### H. RES. 547

*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 3408) to set clear rules for the development of United States oil shale resources, to promote shale technology research and development, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour, with 40 minutes equally divided and controlled by the chair and ranking minority member of the Committee on Natural Resources and 20 minutes equally divided and controlled by the chair and ranking minority member of the Committee on Energy and Commerce. After general debate the bill shall be considered for amendment under the five-minute rule. In lieu of the amendment in the nature of a substitute recommended by the Committee on Natural Resources now printed in the bill, an amendment in the nature of a substitute consisting of the text of titles XIV and XVII of Rules Committee Print 112-14 shall be considered as adopted in the House and in the Committee of the Whole. The bill, as amended, shall be considered as the original bill for the purpose of further amendment under the five-minute rule and shall be considered as read. All points of order against provisions in the bill, as amended, are waived. No further amendment to the bill, as amended, shall be in order except those printed in part A of the report of the Committee on Rules accompanying this resolution. Each such further amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such further amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill, as amended, to the House with such further amendments as may have been adopted. The previous question shall be considered as ordered on the bill, as amended, and any further amendment thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. At any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 3813) to amend title 5, United States Code, to secure the annuities of Federal civilian employees, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chair and ranking minority member of the Committee on Oversight and Government Reform. After general debate the bill shall be considered for amendment

under the five-minute rule. In lieu of the amendment in the nature of a substitute recommended by the Committee on Oversight and Government Reform now printed in the bill, an amendment in the nature of a substitute consisting of the text of title XVI of Rules Committee Print 112-14 shall be considered as adopted in the House and in the Committee of the Whole. The bill, as amended, shall be considered as the original bill for the purpose of further amendment under the five-minute rule and shall be considered as read. All points of order against provisions in the bill, as amended, are waived. No further amendment to the bill, as amended, shall be in order except those printed in part B of the report of the Committee on Rules accompanying this resolution. Each such further amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such further amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill, as amended, to the House with such further amendments as may have been adopted. The previous question shall be considered as ordered on the bill, as amended, and any further amendment thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 3. At any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 7) to authorize funds for Federal-aid highway, public transportation, and highway and motor carrier safety programs, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. In lieu of the amendment in the nature of a substitute recommended by the Committee on Transportation and Infrastructure now printed in the bill, an amendment in the nature of a substitute consisting of the text of titles I through XIII and title XV of Rules Committee Print 112-14 shall be considered as adopted in the House and in the Committee of the Whole. General debate shall be confined to the bill, as amended, and shall not exceed one hour equally divided and controlled by the chair and ranking minority member of the Committee on Transportation and Infrastructure. After general debate, the Committee of the Whole shall rise without motion. No further consideration of the bill shall be in order except pursuant to a subsequent order of the House.

SEC. 4. In preparing an amendment in the nature of a substitute to be adopted pursuant to this resolution, the Clerk shall retain the title and section designations as they appear in Rules Committee Print 112-14.

SEC. 5. In the engrossment of a measure addressed by the first or second section of this resolution, the Clerk is authorized to make technical and conforming changes to amendatory instructions.

SEC. 6. (a) In the engrossment of H.R. 7, the Clerk shall—

(1) await the disposition of H.R. 3408 and H.R. 3813;

(2) add the respective texts of H.R. 3408 and H.R. 3813, as passed by the House, to H.R. 7, retaining the title and section designations as they appear in Rules Committee Print 112-14 to the extent possible;

(3) conform the title of H.R. 7 to reflect the addition of the text of H.R. 3408 or H.R. 3813, as passed by the House, to the engrossment;

(4) assign appropriate designations to provisions within the engrossment; and

(5) conform provisions for short titles within the engrossment.

(b) Upon the addition of the text of H.R. 3408 or H.R. 3813, as passed by the House, to the engrossment of H.R. 7, H.R. 3408 or H.R. 3813 (as the case may be) shall be laid on the table.

SEC. 7. The chair of each of the following committees is authorized, on behalf of the respective committee, to file a supplemental report to accompany any of the following measures:

(a) Natural Resources, with respect to H.R. 3407, 3408, and 3410;

(b) Ways and Means, with respect to H.R. 3864; and

(c) Oversight and Government Reform, with respect to H.R. 3813.

The SPEAKER pro tempore. The gentleman from Florida is recognized for 1 hour.

Mr. WEBSTER. Madam Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. McGOVERN), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

#### GENERAL LEAVE

Mr. WEBSTER. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. WEBSTER. Madam Speaker, I rise today in support of this rule and the efforts made to address our aging national infrastructure and chronic unemployment.

House Resolution 547 provides for a structured rule for consideration of H.R. 3408, the Protecting Investment in Oil Shale the Next Generation of Environmental, Energy, and Resource Security, PIONEERS, Act; a structured rule for H.R. 3813, the Securing Annuities for Federal Employees, SAFE, Act; and general debate for H.R. 7, the American Energy and Infrastructure Act.

□ 1240

This rule makes 20 amendments in order for the PIONEERS Act. Of these, 13 are Democrat amendments; three are Republican; and then there are three bipartisan amendments. This rule also makes three amendments in order for the SAFE Act. However, over 80 percent of the amendments submitted to the Rules Committee are dealing with H.R. 7, so the bulk of the amendment debate will take place later this week. Finally, this rule sets

the stage for robust debate on H.R. 7, the American Energy and Infrastructure Jobs Act, the long-term surface transportation reauthorization.

In order to gather innovative ideas and input into the reauthorization proposal, in addition to the regular subcommittee and full committee hearings held here in Washington, Transportation and Infrastructure Chairman MICA and the committee conducted several bipartisan and, in some cases, even bicameral hearings at public forums around the country. In total, 14 field hearings were held in locations like Los Angeles and Chicago to Millington, Tennessee, and Maitland, Florida.

The previous transportation authorization, SAFETEA-LU, was enacted in 2005, and it expired on September 30, 2009. Since that time, surface transportation programs and activities have operated under a series of short-term extensions. The most recent of these extensions expires on March 31, 2012. The Transportation and Infrastructure Committee put together a long-term reauthorization of highway, transit and highway safety programs that will provide much-needed certainty and stability to those charged with rebuilding our Nation's infrastructure and all who depend on it for their safe travel.

H.R. 7 authorizes approximately \$260 billion over 5 years for highway, transit, rail, safety, and other programs, which is consistent with current funding levels. It provides 5 years of stability for States to undertake major infrastructure projects and to provide lasting employment. It also allows States to spend their highway money on actual highway projects. By removing Federal requirements that currently force States to spend highway money on nonhighway activities, the American Energy and Infrastructure Jobs Act ensures that our Nation's highways and bridges are repaired and properly maintained and that Federal dollars are spent on the most crucial infrastructure needs.

As opposed to past transportation efforts, this bill stops the annual raid on the general fund to bail out the highway trust fund, and is paid for by CBO-scored savings and revenues.

Significant savings are generated by the SAFE Act, which increases Federal employee pension contributions to 2.3 percent. It also increases pension contributions by Members of Congress to 2.8 percent. Revenues are also generated by the PIONEERS Act, which not only removes Federal barriers that block the production of our own U.S. energy resources, but also creates over 1 million new energy jobs.

Finally, unlike past transportation bills, including those overseen by both Republicans and Democrats, H.R. 7 contains no earmarks. To put that in perspective, the previous transportation law contained over 6,300 ear-

marks. The American Energy and Infrastructure Jobs Act also significantly reforms transportation policy in this country.

As families across the Nation tighten their own belts during these difficult economic times, they are reexamining their budgets to ensure no penny is wasted on unnecessary or duplicative expenses. Because your pennies are placed into the highway trust fund every time you fill up your car due to the Federal gas tax, it is in that same and necessary spirit that the American Clean Energy and Security Act reexamines the dozens of programs paid for by the highway trust fund to root out any duplication, waste, or inefficiency.

Currently, there are over 100 Federal surface transportation programs. Many were added over the last 50 years since the Interstate Highway System was created in 1956 in order to expand the scope of the original programmatic goals of our transportation system. The American Energy and Infrastructure Jobs Act reforms surface transportation programs by consolidating or eliminating approximately 70 programs that are duplicative or do not serve a Federal purpose.

By eliminating or consolidating these cookie-cutter programs that the Federal Government is certainly known for, stamping out a program that supposedly fits Florida and Montana and Maine and every other State equally and including the cities and counties within those communities, which is almost impossible to have one plan fits all, this eliminates many of those programs. It gives them the flexibility to create programs on their own, similar to what the President just did by exempting many States from No Child Left Behind. Why? Because the States did a better job than the cookie-cutter approach done by that particular program.

By eliminating or consolidating these cookie-cutter programs, the American Energy and Infrastructure Jobs Act helps to ensure that taxpayer dollars go to high-priority projects that have a direct connection to our economy. By eliminating requirements for States to spend highway funds on nonhighway activities, H.R. 7 permits States to fund those activities which they choose, but it allows States to also fund their most crucial infrastructure needs first. The bill also strengthens safety programs and gives States more flexibility to develop innovative safety initiatives that save lives.

In short, the bill seeks to return the focus of our highway funds to interstate commerce and safe travel, and it allows States to choose their own courses of action.

For those projects that are crucial for the safe and efficient movement of goods and people around our Nation, this legislation streamlines their delivery process or construction time by

cutting the average highway construction completion time in half, from 14 years to 7 years.

The American Energy and Infrastructure Jobs Act cuts the bureaucratic red tape by allowing Federal agencies to review transportation projects concurrently, delegates project approval authority to the States, and establishes hard deadlines for Federal agencies to make decisions on permits and project approvals. The bureaucracy inherent in the approval and delivery process has proven to be the real hurdle, delaying long overdue improvements to highways, bridges, and other projects. H.R. 7 also expands the list of activities that qualify for categorical exclusions, an approval process that is faster and simpler than the standard process.

While cutting the project review process time in half, we are also ensuring environmental protections, such as those under the National Environmental Policy Act, NEPA, remain in place while making infrastructure improvements in a much more effective manner.

The American Energy and Infrastructure Jobs Act also reforms financing programs to increase private sector involvement in building infrastructure. For example, it funds the Transportation Infrastructure Finance and Innovation Act, the TIFIA program, for low-cost interest loans at \$1 billion per year. It also incentivizes States to build upon the existing State Infrastructure Bank program by allowing States to seek out revenue-generating infrastructure projects that lack the capital to move from planning to pavement.

As these pressing State and local infrastructure needs are met, taxpayer exposure for future projects will lessen as revenues generated by the State Infrastructure Bank-funded projects will be recycled back into the infrastructure bank for future projects. The American Energy and Infrastructure Jobs Act provides certainty to communities that infrastructure will be rebuilt, and it provides stability to those whose jobs depend on our commitment to rebuilding it.

Given the current economy, it seeks to safeguard valuable taxpayer dollars by cutting Washington red tape and by leveraging private sector dollars. It frees up States and local governments to make decisions that are in the best interests of their communities that they serve. It does all of this without a single earmark or a single tax increase, and it's all paid for.

Once again, Madam Speaker, I rise in support of this rule and of the efforts made by the relevant committees to address the Nation's infrastructure and chronic unemployment. I encourage my colleagues to vote "yes" on the rule, and I reserve the balance of my time.

Mr. MCGOVERN. Madam Speaker, I want to thank the gentleman from

Florida (Mr. WEBSTER) for yielding me the customary 30 minutes. I yield myself such time as I may consume.

(Mr. MCGOVERN asked and was given permission to revise and extend his remarks.)

Mr. MCGOVERN. Oh, my goodness, I don't even know where to begin. I first would like to publicly thank the Reading Clerk for his patience in slogging through the reading of this terribly complicated and confusing rule. I think the mere reading of this rule says it all, demonstrating how messed up this process is.

□ 1250

Madam Speaker, Speaker BOEHNER used to be fond of criticizing bills by saying, they wouldn't pass the "straight face" test. Well, let me tell you, I'm having trouble keeping a straight face right now, not when I look at this incredibly partisan, slapdash set of bills before us, not when I look at the awful, convoluted process that got us here.

Madam Speaker, this process is an absolute travesty. The Republican leadership took a thousand-page bill—the most partisan transportation bill in congressional history—and made it worse. They took a bill that was written in secret and jammed through the Transportation Committee and inserted unrelated and controversial provisions like Keystone pipeline, ANWR, offshore drilling, and cuts in Federal pensions. Even worse, they changed the rules in the middle of the game because yesterday morning, after everyone had submitted their amendments to the original single bill, Speaker BOEHNER decided to split it into three separate measures, and he said it was in the name of transparency. Transparency? Give me a break. It was more like the Valentine's Day massacre of transparency.

You know a bill is bad when the Competitive Enterprise Institute, Taxpayers for Common Sense, and the Natural Resources Defense Council are all opposed to how it's structured. Talk about strange bedfellows.

Transportation Secretary Ray LaHood, a former Republican Congressman, called H.R. 7 "the most partisan transportation bill that I have ever seen," and "the worst transportation bill I've ever seen during 35 years of public service."

The chairman of the Transportation Committee calls this a bipartisan product. Madam Speaker, making Democratic amendments in order in and of itself and then defeating them doesn't make a bill bipartisan. Transportation bills, by their nature, have always been truly bipartisan, written together by the majority and minority. Republicans and Democrats in the past have not only worked in good faith on this bill, but they have put their differences aside and did their jobs. I should know.

I served on the Transportation Committee during a Republican-controlled House in my first term, and I served as a conferee to the 1998 reauthorization bill.

Yet H.R. 7 abandons years of good-faith efforts by members of both parties to thoughtfully and responsibly craft a bipartisan transportation bill that reflects the priorities and vital importance of infrastructure investments across this country. H.R. 7 slashes investments in Federal highways by \$15.8 billion from current levels over the bill's duration. It does so at a time when our roads and bridges are crumbling before our eyes. This bill ignores that harsh reality. It guts transit funding by de-linking dedicated Federal funding from the highway trust fund and lumping it in with a smorgasbord of other transportation accounts that will be forced to compete for annual appropriations.

What's most egregious and irresponsible about this bill—worse than the hyperpartisanship, worse than the atrocious process—is that this bill will result in 550,000 job losses. We should be focused, Madam Speaker, on creating good jobs in manufacturing and construction—two sectors hardest hit with job losses—not kicking them while they're already down.

And like so many other bills, Republicans couldn't let an opportunity pass to help their friends at Big Oil. Oil companies are making more money, hand over fist, to the tune of tens of billions of dollars in record profits every year. Now we're seeing gas prices rise again. Yet Republicans continue to provide \$40 billion worth of taxpayer-funded subsidies to companies that don't need them and don't deserve them.

Last night in the Rules Committee, I tried to end taxpayer subsidies to Big Oil. But instead of asking ExxonMobil, BP, Chevron, Shell, and other Big Oil companies to pay their fair share while prices at the pump rise, the Republicans doubled down for their corporate friends and blocked my amendment. I offered it three different ways last night, and all three ways were rejected, not even given the courtesy of consideration on this House floor. I will offer it again today, if the Rules Committee meets, but I have no doubt the other side will continue what they usually do: stand with Big Oil and continue to block my amendment.

Allowing more oil and gas drilling off our coasts and opening up the treasured Arctic National Wildlife Refuge to drilling will do nothing to lower gas prices in the short term, let alone pay for this bill. At best, it will be years before any money would come from the new drilling areas.

And let's not forget the Keystone provision that's jammed in here that would automatically deem—I used the word "deem"—the environmentally harmful pipeline approved.

Oh, and then there's the provision to force Federal employees—who are currently under a 2-year pay freeze—to nearly triple their contributions to their Federal retirement accounts. The Republican leadership has, once again, found a way to take a swipe at Federal employees, even in a surface transportation bill.

This part is really confusing. The Republicans are using this attack on Federal employees to pay for the highway bill, but they are also, apparently—according to press reports—using the same revenue to pay for the payroll tax extension. Perhaps my friend from Florida—and I'm happy to yield to him—could explain to us how they expect to use the same pot of money to pay for two separate things.

Well, maybe we'll get an answer later on in the debate.

Madam Speaker, Democrats want a fully funded, commonsense transportation bill that puts people back to work. We want a bill that makes our roads and bridges safer, not more dangerous. We want a bill that is good for America. This is not that bill. This bill before us is nothing but red meat political propaganda at its worst. It simply makes no sense. It will not become law. We should scrap this bill and start over and do it the right way. That's the way we've always done it. We should do it in a bipartisan way, come together, and help to get a really good transportation bill that will put people back to work.

I reserve the balance of my time.

Mr. WEBSTER. Madam Speaker, I yield myself such time as I may consume.

In hearing what I heard in the Rules Committee last night and here on the floor this morning, it reminds me that people who have been here a long time love cookie cutters, and so many of the people that are opposed to this bill are opposed to it because they like cookie cutters. They like to say that this program works here and there and everywhere, as opposed to giving flexibility to the States.

Cookie cutters are used in education funding. They are used in Medicaid funding. They are used in this particular funding for transportation. And they're used to limit the flexibility of States who really know what their program is. It's far better for the District Five MPO in central Florida to put together a program, build it from the ground up, determine what their needs are and what modes of transportation they would like to have, build that program, send it up to the State, the legislature passes it, and it becomes law.

But no. Right now, there are so many different little programs that you have to put money into that you cannot devise your own program. You have to live within the constraints of a Federal Government that believes in cookie cutters. And it's sad.

So when you start talking about people who have been around for 35 years and they've never seen a program like this—no, because they love cookie cutters. They love it the way it is because it promotes the Federal Government making decisions for the States and local communities, as opposed to the local communities being able to develop their own programs.

So let me tell you what they did to Florida. In Florida, at one point in time, back in the times that we're talking about, we got 69 percent of our money back while States in other areas of the country, including the northeast, got maybe two times that amount of money. So the money and the funding and the flexibility were all nonexistent. Why?

If I were on the take, I would have liked to have kept it the way it was, but when we begin flattening it out and giving every State a chance and returning more moneys back to the State and with that return also allowing them to make their own choices on how they would fund their transportation projects and what kind of needs they have, and being able to, with flexibility from the Federal Government, provide for those needs for local communities, there are a lot of people who say, I don't want to do it that way. Why? I love cookie cutters.

I reserve the balance of my time.

□ 1300

Mr. MCGOVERN. Madam Speaker, I yield myself such time as I may consume.

I don't know what the gentleman is talking about. All I do know is this bill underfunds our highway and transportation system. It guts mass transit. It's not good for any State in this country. We deserve a better bill.

Also what I have learned is all of these new Members who came to Washington and say they want a more open process are giving us one of the most convoluted processes I think I have ever witnessed on this floor.

At this time, it is my privilege to yield such time as she may consume to the gentlewoman from New York (Ms. SLAUGHTER), the ranking member of the Rules Committee.

Ms. SLAUGHTER. Madam Speaker, I thank the gentleman very much for yielding.

We stand here today considering a rule that is a blatant manipulation of the legislative process, which we have been pretty proud of, frankly, since the beginning of time here. Process is very important in the legislative business; and while it may seem like cookie cutter, we all still revere Thomas Jefferson and his manual. That's just the way we are, I guess.

But breaking with longstanding, bipartisan tradition for the consideration of surface transportation bills, today's rule throws all notions of bipartisan-

ship and transparency out of the window. As you've heard, it is the first transportation bill since Eisenhower was President that was not bipartisan, and it moves toward a transportation bill that has been widely condemned on both sides of the aisle and by almost everybody who knows about it in the United States.

Now, as you can see on this poster beside me, the Grand Old Pretzel's rating system tracks the legislative contortions that are being done by the Republican leadership as they pursue a hyperpartisan agenda. We launched this system to answer the calls of the American people: What in the world is going on there? No matter which party is in power, the American people demand a fair shot, not a rigged game.

The legislative acrobatics being done by the majority are really quite remarkable. I don't know anybody else on Earth who could have even thought of it. Their stunt work began late last week, as Mr. MCGOVERN pointed out, when we were fully expecting to come in on Monday and deal with a thousand-page transportation infrastructure bill, legislation that we knew already, because we'd heard so many complaints about it, that was cobbled together into Frankenstein's monster. It is made up of completely, believe me, completely unrelated and most times unvetted provisions that addressed almost every issue under the sun.

The Secretary of Transportation, as we all know who is our good friend, deplores this bill. He would like to see this bill fail.

However, before the Rules Committee convened last night, and that's not the first time this year, we were given last-minute notice that Frankenstein's monster was going to be disassembled and broken into three separate bills. This last-minute change would allow the majority to limit the number of germane amendments—300 were filed—and rule out of order commonsense attempts by Democrats to make some special interests, such as Big Oil—and Mr. MCGOVERN has fought this for years—pay their fair share instead of receiving billions of dollars in taxpayer subsidies.

After forcing through these three bills, the majority plans to direct the Clerk of the House to stitch it back together. So the whole purpose of it is to try a sleight of hand. What shell game are we playing here? That's what we're up to, I'm afraid. So that gives the Senate a stitched-together bill which we had cut into three. I don't want anybody to miss this point. And they can take it or leave it. Or, I hope, have a better bill than this. That's what we're hoping for.

For inventing a way to pass as many Republican amendments as possible, and block as many Democrat amendments as possible, while still sewing

this monster back again, I want to award the majority four Grand Old Pretzels, the coveted Quadruple Contortion.

The majority has truly achieved the remarkable. Unfortunately, their acrobatic achievements come at great cost to the House; and by pursuing a partisan agenda over transparency and bipartisanship, the majority moves forward alone, against the wishes of their colleagues and the American people.

And I certainly should mention that the President has said this bill will be vetoed by him. He again calls for us to work in a bipartisan manner, not to be throwing more people out of work but to create jobs with an infrastructure bill which is time honored and may be as cookie cutter as it gets but, by George, it works.

Mr. WEBSTER. Madam Speaker, I yield such time as he may consume to the gentleman from Utah (Mr. BISHOP).

Mr. BISHOP of Utah. Madam Speaker, I enjoyed watching "Moneyball." I enjoyed reading the book as well. In the book, they talk about fielding averages, players who don't make many mistakes. And in the book, Billy Beane said the talent for avoiding failure is not a great trait. In fact, the easiest way that someone can avoid making a mistake is just being too slow to get to the ball.

With all due respect, this administration and my good friends on the other side are simply too slow to get to the ball. The background or the basis of their arguments against this particular rule for this particular bill is they wish to fund transportation programs the old-fashioned way, which means we spend money we don't have. What we're trying to do with this particular bill is go outside of the box and find a way to actually pay for infrastructure improvements, a way to pay for our transportation needs, and to do it with energy development, like we all have a problem with escalating prices of gas at the pump.

For the most vulnerable of our society, we have a problem with them paying for heating oil. Economic development, business development demands a cheap source of energy, if it's going to happen; and we need to find a way to fund our infrastructure needs, and we are wrapping them all together by paying for it with economic energy development. Who can possibly be opposed to that?

Even the President of the United States, in one of his arguments for having a payroll tax increase, said the reason we need to do it is because we are paying too much money at the pump for gasoline, which I think is justifiable in his case. When President Obama came into office, the average cost of gasoline was \$1.79. Today, the average cost for a gallon of gasoline, not inflated prices, just same dollars, is \$3.28. That's an 83 percent increase in the

cost at the pump since President Obama has been in office.

Now, we asked in the Rules Committee the other day, if we went back to the old-fashioned way of paying for transportation and just paid for it out of gas taxes, how much would we have to raise to fund this particular program? And the guesstimate at that time was around 20 cents a gallon—20 cents a gallon. Even if you had a small car, that's still two to three bucks a time every time you went to fill up. At that rate, nobody in the car can afford a Big Gulp. Basically, what we're trying to do on the Republican side is allow people to drive with good drinks on good roads. Our friends on the other side apparently want us to walk; or if we have good roads, you have to pay significantly more for it. That simply is wrong.

We have problems with heating oil in this country. The other side's approach to it is simply freeze in the dark. There is a better way of doing it; and this bill, these bills, try to accomplish that.

The other day we heard in the Rules Committee that there is no oil in ANWR. That comes as a great surprise to people who live in Alaska, which is maybe one of the reasons why the State Legislature of Alaska has asked us to please allow them to have access to their resources. The Native Americans who live near ANWR have asked us and begged us to please allow them to have job production by allowing them to be able to get to the resources of their area. And, indeed, if we had not usurped the control of the lands of those people, this would have happened well before that.

Even President Carter has suggested that this particular area in ANWR is where we should be developing our oil and gas resources, and that's specifically why it was put there. The fact that we haven't done it is nothing more than a dissatisfaction and a shame on us as the U.S. Congress.

I heard the other day that there is no plan for oil shale development. We have no technology to do it, even though Estonia has been doing it for over 100 years in a way that has minimal amount of water that's used. Last year, they produced 1.3 million barrels, meeting the European Union environmental standards.

My friends over in Germany who are trying to get away from nuclear are looking to Estonia and using their oil shale to supplement what they need. And we don't have the technology to go forward with that?

We are looking in the western States as a Saudi Arabia of oil shale. We have more energy potential in those three States than there is in Saudi Arabia, and all we are asking to do is be allowed to deal with it. In the 2000s, the professionals on the ground, they did the study. They charted the land. They held the town meetings, and they came

up with a plan that this administration threw out the window, arbitrarily making a political deal to stop that. What we're asking is to go back to that as our starting foundation. What the professionals on the ground did, use that as our basis to start moving forward in this particular area.

I heard that the CBO said there's no money to be gained out of it, there's no energy from that.

□ 1310

What the CBO actually said is, of course, there is, but by scoring it—you're not going to score in the future—it's zero because you already know what's going to happen in the future. It is there, it is possible, and we can do it.

We want alternative energy. We certainly want more solar power, as long as you're not bailing out failed programs. We want more wind power, especially off the coast of Massachusetts. We just want to have every element—every element—of our energy portfolio developed, including what we have here in the United States. These bills do just that.

Let me figure out one last reason to do it. It's for kids. I live in a State where 70 percent of the land is owned by the Federal Government. That means, quite simply, when we try to fund our education system, we cannot charge property tax on our land. When you stop, by arbitrary decisions of the Department of Energy, developing resources, we don't get income tax from high-paying jobs, we don't get severance tax, and we don't get royalty payments.

That means the 12 western States that have all the BLM lands grew their education funding over the last 3 years at a 35 percent rate. That's not bad. But every State east that has no BLM land that doesn't have these kinds of restrictions grew their education funding at 68 percent, almost two to one. That's the difference. That's the reality.

What we are doing when we stop energy development, it's hurting kids in the West—my kids. Their education opportunities are retarded simply because we do not allow the development of resources that are there, and that should be done.

Look, we're asking you simply to allow us to develop these lands and, in so doing, make it possible to have cheaper gas at the pump, make it possible to heat our homes cheaply, make it possible for energy development that goes on energy, cheap energy, and build infrastructure with it at the same time to develop our potential.

All I want you to do, Madam Speaker, is to follow the words that are printed above you on that wall where it simply says: "Let us develop the resources of our land, call forth its powers, and see whether in our day and



generation, we may not perform something worthy to be remembered."

It is time for us to do something worthy to be remembered by developing our resources, using it to pay for infrastructure, and for Heaven's sake, for once, Congress doesn't need to be too slow to get to the ball.

Mr. MCGOVERN. Madam Speaker, let me yield myself such time as I may consume.

Madam Speaker, let me just make a couple of points to remind my colleagues of a few things. One is, this bill breaks the tradition of bipartisan action to rebuild our economy, to create jobs, and strengthen our economy. This bill, the Republican bill, kills 550,000 American jobs. It kills them. It cuts highway investments in 45 States and bankrupts the highway trust fund by \$78 billion.

I would like to include for the RECORD a statement by the ranking member, Mr. RAHALL, talking about CBO's estimate, prediction that this would bankrupt the highway trust fund.

NEWS FROM THE HOUSE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE, REP. NICK J. RAHALL, II—RANKING MEMBER

For Immediate Release: February 13, 2012.  
BREAKING NEWS—CBO: REPUBLICAN SURFACE TRANSPORTATION PROPOSAL BANKRUPTS HIGHWAY TRUST FUND—REPUBLICAN LEADERSHIP'S BILL FALLS \$78 BILLION SHORT OVER TEN-YEAR PERIOD

WASHINGTON, DC.—According to a new analysis released this afternoon by the non-partisan Congressional Budget Office (CBO), the Republican Leadership's surface transportation bill that the House is expected to act on later this week would bankrupt the Highway Trust Fund by 2016 and create a \$78 billion funding shortfall over a ten-year period.

"The Republican Leadership's partisan signature 'jobs' bill is not sustainable, and would lead America's transportation programs down a reckless path toward bankruptcy," said U.S. Representative Nick J. Rahall (D-WV), top Democrat on the House Transportation and Infrastructure Committee. "There is no doubt we need to pass a long-term bill that creates certainty, but the only thing this bill does is make certain the Highway Trust Fund will go belly up even before the end of the bill."

New projections released today by CBO show the balance of the Highway Account of the Highway Trust Fund will go broke by fiscal year 2016 under the Republican Leadership's controversial plan. Over a ten-year period, the bill would create a \$78 billion funding shortfall in the Highway Trust Fund, adding greater uncertainty to the future integrity of surface transportation programs.

"Despite attempts by Republican Leadership to cobble together a hodgepodge of funding that included giveaways to Big Oil, cutting pensions for middle-class American workers, and a bailout from the General Fund, the bill is going to create a huge funding shortfall that will jeopardize the ability of States and local communities to move forward with construction projects down the road," said Rahall. "Instead of working with Democrats in a bipartisan fashion to create jobs, Republicans are advancing a partisan proposal that will destroy 550,000 American

jobs while putting the future of transportation programs in doubt."

CBO's analysis of H.R. 7, which is also available on the House Transportation and Infrastructure Committee Democrats' Website at: <http://go.usa.gov/QET>.

I also want to point out to my colleagues both from Utah and Florida, under this bill, Utah would lose \$159 million over 5 years in highway funding according to the Federal Highway Administration. That, according to economists, is 5,531 jobs. In Florida, there would be a cut of \$880 million over 5 years compared to current law; and according to economists, that would destroy 30,637 jobs. Now granted, this thing is over 1,000 pages, so I could forgive my colleagues for not reading the fine print on the bill; but if they read the fine print and they were advocating these kinds of reductions for their States, let me just say I'm glad they're not my Congressmen.

At this point, I'd like to yield 2 minutes to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. I thank the gentleman for yielding.

Madam Speaker, this bill is a tragic exercise. It's a waste of time, and here's why. This is probably the only chance for a jobs bill this year, but it destroys almost 600,000 jobs. This bill is the only chance for every State to start on its backlog of projects for roads and bridges and transit, but it has cuts for every State except for five States. This bill is the only opportunity for Federal funding for mass transit across the country, but the bill defunds the Federal allocation for mass transit funding that began with Ronald Reagan.

This bill is the only major piece of Federal legislation that has paid for itself with user fees, but this bill uses Federal employee pensions from hard-pressed middle-income workers to subsidize roads for almost 300 million Americans. This bill was the only chance this year for a bipartisan bill based on the long history of bipartisan Transportation and Infrastructure bills, but it is rife with poison pills that guarantee that it will be stillborn.

Historically, the Transportation and Infrastructure bill has been our most popular bill. Even before coming to the floor today, this bill has received thumbs down across the Nation. That's what it should get here, too.

Mr. WEBSTER. Madam Speaker, I just want to remind the Members that this bill, H.R. 7, will also be allowed to be amended. It will require another rule. There's no previous question in here; we're not moving towards that. We're going to have the opportunity to amend that bill at a later date. So I did say that in my opening remarks. I just want to remind the Members.

I reserve the balance of my time.

Mr. MCGOVERN. Madam Speaker, I'm happy to yield to the gentleman from Florida, or anybody, who can ex-

plain to me what's happening. I just got an email from the Rules Committee saying that the meeting on the transportation bill that was scheduled for 2 o'clock today to deal with hundreds of amendments that Members have offered has now been postponed subject to the call of the Chair. I'm wondering whether my friend from Florida or Utah or somebody could tell me whether they have any idea why the meeting was canceled and when it's going to be rescheduled.

I'm happy to yield to the gentleman.

Mr. WEBSTER. Well, I thank the gentleman for yielding. And the answer to that question is that this—different from the last Congress—this Congress allows amendments to bills, lots of them. There have been a huge amount of amendments filed to this H.R. 7, and it's going to take awhile to go through them to make sure they're germane and so forth. The meeting is coming. Don't worry about that. It's just not going to happen by 2 o'clock.

Mr. MCGOVERN. I just say to the gentleman, from my understanding, there's already been a cutoff for amendments, that people can't file new amendments as we speak. Or is the gentleman telling me something different?

Mr. WEBSTER. Yes.

Mr. MCGOVERN. We've passed the amendment deadline—

Mr. WEBSTER. I'm not talking about future amendments; I'm talking about the ones already filed. There are many, many amendments. In reviewing those, there's a process, and we're going to do that.

Mr. MCGOVERN. Well, I appreciate that.

Let me ask the gentleman this: yesterday, we were told—well, I'm reading right now news reports that one of the problems is that one of your offsets to the payroll tax cut, which is going after Federal workers' pensions, is the same offset that you have in the highway bill.

Is that the reason why this is being postponed, because the Republican leadership can't quite figure out how they're paying for any of this stuff?

Mr. WEBSTER. Not to my knowledge, no.

Mr. MCGOVERN. I thank the gentleman.

Madam Speaker, at this time, I would like to insert in the RECORD the Statement of Administration Policy making it very clear that this bill would be vetoed.

#### STATEMENT OF ADMINISTRATION POLICY

H.R. 7—AMERICAN ENERGY AND INFRASTRUCTURE JOBS ACT OF 2012

(Rep. Mica, R Florida, and Rep. Duncan, R Tennessee, Feb. 14, 2012)

The Administration strongly opposes the Rules Committee Print of H.R. 7, which includes H.R. 3408, the Protecting Investment in Oil Shale the Next Generation of Environmental, Energy, and Resource Security (PIONEERS Act) and H.R. 3813, the Securing Annuities for Federal Employees Act of 2012.



H.R. 7 does not reflect the historically bipartisan nature of the Transportation and Infrastructure Committee. The Administration has serious concerns with provisions in the bill that would make America's roads, rails, and transit systems less safe, reduce the transportation options available to America's traveling public, short circuit local decision-making, and turn back the clock on environmental and labor protections.

This bill would reduce safety throughout the Nation's transportation system by failing to make necessary investments in roads and bridges, limiting funding to State and local governments for highway safety, and repealing requirements that help ensure the safe handling of hazardous materials by railroads. The bill also fails to adequately improve transit safety in accordance with recommendations of the National Transportation Safety Board and legislation submitted by the Administration in December 2009.

H.R. 7 eliminates programs that ensure the Nation's metropolitan areas have sufficient resources to provide multiple transportation options to help reduce congestion. H.R. 7 also eliminates a thirty-year legacy of dedicated transit funding from the Highway Trust Fund. The bill allocates Federal funding for transit in a manner that undermines local decision making regarding the operation of local transit systems. This bill also reduces authorized funding levels for Amtrak and loosens the requirements on loan programs, putting taxpayer dollars at risk. In addition, the bill inappropriately targets funding towards systems that carry only a small number of the Nation's bus passengers. Finally, while the Administration appreciates that the bill does not contain earmarks, H.R. 7 eliminates funding for a number of discretionary grant programs, missing an opportunity to promote competition and innovation.

H.R. 7 would also significantly weaken environmental protections for transportation projects and undermine civic engagement in the decision-making process. The bill includes arbitrary timelines that deem an environmental and substantive review satisfactory regardless of a project's complexity and impact. The bill also limits judicial recourse of parties affected by transportation projects in a manner that undermines well-established judicial principles.

The Administration is committed to promoting safe and responsible domestic oil and gas production as part of a broad energy strategy that will protect consumers and reduce the Nation's dependence on foreign oil. Unfortunately, the bill includes pay-fors that open up pristine natural habitats not suitable for resource extraction and undermine prudent development of the Nation's oil and natural gas resources by opening the Arctic National Wildlife Refuge to industrial development, mandating lease sales in new offshore areas with no Secretarial discretion for determining which areas are appropriate and safe for such exploration and development, and preempting a Bureau of Land Management environmental impact statement on oil shale extraction. Further, this bill seeks to circumvent a longstanding process for determining whether cross-border pipelines are in the national interest by mandating the permitting of the Keystone XL pipeline project despite the fact that the pipeline route has yet to be identified and there is no complete assessment of its potential impacts, including impacts on health and safety, the economy, foreign policy, energy security, and the environment.

The Administration is committed to working on a bipartisan basis on a surface transportation reauthorization bill that provides the necessary funding to modernize the Nation's surface transportation infrastructure, increase transportation options, maintain and create good paying jobs, and ensure lasting economic competitiveness. Because this bill jeopardizes safety, weakens environmental and labor protections, and fails to make the investments needed to strengthen the Nation's roads, bridges, rail, and transit systems, the President's senior advisors would recommend that he veto this legislation.

I yield 2 minutes to the gentleman from Texas (Mr. REYES).

Mr. REYES. Madam Speaker, I thank the gentleman for yielding. I'm reminded of the Broadway play "Chicago," when one of the acts is "razzle dazzle them." With all due respect to my colleagues on the other side of the aisle, all the razzle and all the dazzle is not working here. There are conflicts in terms of the offsets that are being used in trying to offset money both in this bill and in other legislations, and I think that that's indicative of the kinds of issues that are being brought before the floor here.

H.R. 7 takes \$44 billion out of the pockets of millions of middle class American workers over the next 10 years by slashing existing pension benefits and cutting employer retirement contributions for new, current, and retiring Federal workers. That's according to the Congressional Budget Office—again, new, current, and retiring Federal workers.

□ 1320

Over the weekend in my district, I heard from many Federal workers who are concerned about the kinds of proposals that are being brought forth to offset legislation by our colleagues on the other side of the aisle. The \$44 billion that I just talked about is in addition to \$60 billion that Federal workers are already contributing as a result of the existing 2-year pay freeze.

Although House Republicans would force Federal workers to contribute more than \$100 billion, given both proposals, toward deficit reduction—and now obviously transportation projects, and who knows how many times they're over-counting this—they have consistently refused to ask wealthy Americans to sacrifice even one penny toward these goals.

I am opposed to this H.R. 7, I'm opposed to this rule, and I ask my colleagues on the other side of the aisle to stop attacking Federal workers.

Mr. WEBSTER. Madam Speaker, I yield 1 minute to the gentleman from Ohio (Mr. LATOURETTE).

Mr. LATOURETTE. I thank the gentleman for yielding.

I rise to engage the gentleman from Florida, the manager of the rule, in just a discussion if I could.

I don't have any problem with the rule—I don't think. The underlying leg-

islation I've got a lot of difficulties with, which is why I filed or participated in the filing of many, many amendments, particularly on H.R. 7.

What causes me some angst is on page six, at the conclusion of section three of the rule, it indicates that after general debate on H.R. 7 the Committee of the Whole will rise without motion and no further consideration of the bill shall be in order except pursuant to a subsequent order of the House. Now, I think that you can't go to passage without a subsequent rule and you can't do a variety of other things. But my concern is, as a conspiracy theorist in training, that that line could produce a result—you're asking for us to vote on the rule today, but could produce a result where you don't bring a subsequent rule dealing with the amendments.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. WEBSTER. I yield the gentleman an additional 30 seconds.

Mr. LATOURETTE. It's fraught with difficulty because, out of these 240 amendments that are out there to H.R. 7, I may have a different view on your rule today unless there is some assurance you're going to produce a second rule that is somehow going to resemble an open rule on these remaining amendments.

I yield to the gentleman for whatever response you choose to make.

Mr. WEBSTER. I thank the gentleman for yielding.

I would tell you this, I'm only here as the manager of this rule. No other position do I espouse or claim. However, I can tell you over my dead body the Rules Committee will not go forward unless we have reviewed those amendments and come back with a second edition that would allow for all of the things that you said in that particular statement out of that page.

Mr. LATOURETTE. Well, the gentleman is an honorable Member and I'm going to go with that, but I want the concern to be mentioned.

Mr. MCGOVERN. Madam Speaker, I yield myself such time as I may consume.

This gets more and more interesting. I share the gentleman from Ohio's concern, especially in light of the fact that the Rules Committee canceled their meeting today at 2 o'clock that was scheduled to go over all these amendments.

We have no idea what's going on. My guess is the leadership on their side has no idea what's going on. This process is so convoluted and it lacks transparency. I, quite frankly, think my colleagues should be ashamed of bringing this kind of a bill under this kind of process to the floor.

At this time, I yield 3 minutes to the gentleman from Massachusetts (Mr. MARKEY), the ranking member of the Committee on Natural Resources.

Mr. MARKEY. I thank the gentleman.

So last year the oil industry made \$137 billion in the United States. This year, of course, heading to \$5 a gallon gasoline. They're tipping American drivers upside-down so fast that they'll probably make \$200 billion.

They've got to raise about another \$40 billion to pay for this transportation bill. They could take away the \$4 billion in tax breaks each year over 10 years, \$40 billion that they give to ExxonMobil. They really don't need that money. The taxpayers shouldn't have to pay twice, once at the pump and then once as taxpayers. So they could have solved all of this just by taking away the oil tax breaks.

But here's what they do: They say, one, we can drill for shale in Colorado and Wyoming. And we know that Shell Oil and the Department of Interior say that there is no commercially available technology. Two, they can drill in the Arctic refuge, but we know that there are no votes in the Senate to make it possible for that to happen. And three, their next proposal is to drill off of the beaches of California and Florida for oil—off the beaches. The Republicans are lining up themselves in these States to say I want to make the amendment to make sure we don't do that.

So, none of this is going to happen in terms of the revenues that they say they're going to generate. These are phantom revenues from phantom drilling that's never going to happen.

Moreover, they want to export the natural gas out of our country. Well, let me tell you what T. Boone Pickens says about this. This is what T. Boone Pickens says about exporting U.S. natural gas:

If we do it, we're truly going to go down as America's dumbest generation.

It's bad public policy to export natural gas. Why is that? Because natural gas in the United States is six times cheaper than in Asia, it's three times cheaper than in Europe. That's why our agriculture is doing so well, that's why manufacturing is coming back. The cost of a unit of production of any product in terms of the energy which is needed has plummeted. That's our advantage in coming out of the recession.

Finally, on the Keystone pipeline, why don't we keep the oil here in the United States? The Canadians want to take the oil, build a pipeline through the United States over our environmentally sensitive areas, bring it to Port Arthur, Texas, an export zone, and then send the oil to Asia and Latin America. Where's the American part of this? What do we get out of the Keystone pipeline? Nothing.

So I will have an amendment that says, if we build that pipeline—if we let the Canadians—that we keep the oil here in the United States because the oil should stay in the United States,

the natural gas should stay in the United States. We shouldn't be pretending that we're going to be raising the revenues from these other places where they are just phantom revenues from phantom drilling, which is never going to happen.

Mr. WEBSTER. I reserve the balance of my time.

Mr. MCGOVERN. Madam Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. One hundred sixty days ago, the President of the United States came to this Chamber and put forward a plan to create jobs for our country. One of the ideas that he had to create jobs for our country was to put our construction workers back to work building schools and fixing roads and bridges so they could have money to spend in stores and restaurants and help the country. For 160 days, the majority ignored this idea. Now what they've done is brought this idea to the floor that is doomed for failure and won't work.

In the other body, Republicans and Democrats worked together and 80 Members have voted for a bill that in fact would put construction workers back to work, they're cooperating on it, and I think it has a great chance to pass and be signed by the President. But consistent with their principle that consensus is always to be avoided, the majority over here did something else. The "something else" is a bill that will actually kill jobs in the United States, and we should not support it.

But the way they did it I think merits some mention. Many on the other side were outraged when they thought the health care bill was going to be brought up when no one had read it and it wasn't going to be a straight up-or-down vote. What in fact happened was the health care bill was available to the public and the Members for 7 weeks—every word of it—and there was a direct up-or-down vote.

What we have here is a bill that's 1,000 pages long that almost no one has read and a procedure that avoids having an up-or-down vote on the bill. If you thought it was wrong in March of 2010—and it would have been, which is why we didn't do it—then it's wrong now. We should oppose the rule, oppose the bill, and work together to put Americans back to work.

The SPEAKER pro tempore. The gentleman from Florida is recognized and is advised that he has 6 minutes remaining. The gentleman from Massachusetts has 4 minutes remaining.

Mr. WEBSTER. Madam Speaker, I would only remind the Members that there is nothing that leaves this Chamber without an up-or-down vote.

I reserve the balance of my time.

□ 1330

Mr. MCGOVERN. I yield 2 minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Madam Speaker, I take modest exception to my good friend from Florida. There will be no up-or-down vote on this package.

Now, service in Congress is often a roller coaster with highs and lows. Well, I've had highs and lows in my service in Congress, but this is one of the worst moments of the last 15 years.

At a time when our communities and our economy need us to rebuild and renew America, we are faced with the worst transportation bill in history, ever. It is so bad that the majority party did not even have a hearing on any of the three pieces that they've broken the transportation package into. It reverses 20 years of bipartisan transportation reform. It eliminates a 30-year commitment for transit and road funding certainty that comes from the Reagan administration, it's out the window.

It is so bad that they aren't going to allow an up-or-down vote. The strategy they have is to have the pieces dealt with individually, and then, when they're done, if they somehow pass, and I hope they don't, then it's deemed passed.

Now, what's really sad is that this is not just a partisan bill; it's a bad partisan bill. Like my friend from Massachusetts, I served on the Transportation and Infrastructure Committee for 12 years, and most of that time, Republicans were in charge. But we never, ever had behavior like this—shutting people out, shutting down the process, not involving the public, and moving in the wrong direction.

It shatters a bipartisan coalition that I've been working on for years to develop support for resources and good policy. It's even so bad they get rid of the wildly popular Safe Routes to School program.

It's not worthy of the proud tradition of the T&I Committee or, for that matter, even the Rules Committee. It should be rejected.

Mr. WEBSTER. Madam Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Madam Speaker, I yield 30 seconds to the gentlewoman from Texas (Ms. JACKSON LEE.)

Ms. JACKSON LEE of Texas. Boone Pickens is right: It makes no sense to export our natural gas when manufacturing is coming back.

I join with Mr. LATOURETTE for an open rule. This is not a comprehensive rule and, as well, there's no oversight and regulation, and that means no environmental oversight. Minority contracting needs to be in place.

And if you want to do something, look at H.R. 3710, my deficit reduction, job creation, energy security bill. This is a bill that needs to go back to the drawing board and really do, as the President said, an infrastructure bill that will help all Americans, be paid for, and not take pensions off the backs of Federal employees.

With that, Madam Speaker, I ask for a “no” vote on the rule.

Mr. WEBSTER. Madam Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. SHUSTER).

Mr. SHUSTER. I wasn’t going to speak on the rule, but I heard my colleague from Oregon stand up and criticize the bill, criticize the process, and I needed to set the record straight.

This bill is the first bill that has come out of the committee on a partisan-line vote, but it’s not because of Republicans. It’s because Democrats refused to participate in the process.

When they were in the majority, Chairman Oberstar brought a bill to the committee and we unanimously supported it. There was a lot of stuff in there we didn’t like, but we wanted to do it on a bipartisan basis, try to correct some of the problems. But we were unable to even move that bill to the floor because the majority, the Democrat majority, wouldn’t even put that bill on the floor.

So it’s not that Republicans didn’t reach out to our colleagues across the aisle. We did. Chairman MICA and many members of the committee traveled the United States, had bipartisan hearings, had a bicameral hearing in California with Senator BOXER. So we reached out and reached out and reached out.

And the Democrats typically want to work together on the T&I Committee. I don’t know; maybe their leadership told them they weren’t allowed to work with us on this. But this bill is the biggest reform bill that’s happened in the transportation industry, in transportation in this country since its inception of the highway trust fund in the 1950s.

We are consolidating programs that overlap and today are outmoded, so we’ve consolidated, eliminated some. We’re compressing the timelines. Most Americans don’t realize that it takes, on average, 13 to 15 years to build a highway in this country. We’re compressing that to 7 to 8 years. We’re going to have more roads built in this country because we are taking the reforms that are necessary.

This has gone on for far too long, and I’m really disappointed that my Democratic colleagues, all they want to do is raise taxes. They want to increase the regulation instead of making government work better, more efficiently, and get those dollars out there quicker that our communities need.

So I believe this is a significantly improved transportation bill than what we’ve seen at least 2 years ago, and it’s something that I support wholeheartedly and would encourage my Democratic colleagues to take a close look and support it also.

Mr. McGOVERN. Madam Speaker, I yield 30 seconds to the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. I thank the gentleman for yielding.

I rise in opposition to the rule. I like some of the reforms in this bill. There are some reforms that have been overdue and are necessary.

The problem I have is that if this rule waives all points of order against the bill, the bill as I understand it—and nobody can inform me otherwise—is that it violates the Ryan budget, or the so-called House budget, that we passed. We don’t know how much. It could be tens of billions, could be just under that, but it seems to violate the budget that we passed. That’s why we’re having to waive all points of order against the bill, and for that I voice my opposition for the rule.

Mr. WEBSTER. Madam Speaker, I reserve the balance of my time.

Mr. McGOVERN. Madam Speaker, may I inquire from the gentleman how many more speakers he has left, because we have a lot. We ran out of time, so I’m the last speaker.

Mr. WEBSTER. Madam Speaker, I am prepared to close.

The SPEAKER pro tempore. The gentleman from Massachusetts has 1½ minutes remaining. The gentleman from Florida has 4 minutes remaining.

Mr. McGOVERN. Madam Speaker, I yield myself the remaining time.

Madam Speaker, this bill is awful, this process is awful, and I think it’s beyond salvageable. I just want to talk about one thing in closing.

Madam Speaker, oil companies get taxpayer subsidies for oil injection, extraction, drilling, manufacturing, pricing, and inventory floors. They get taxpayer subsidies, while making tens of billions of dollars in record profits, and taxpayers continue to get fleeced with rising gas prices.

At the end of this debate, I will try to defeat the previous question. If the previous question is defeated, I will offer an amendment to eliminate one of these subsidies for the Big Five oil companies. The Big Five oil companies do not need, they do not deserve this subsidy, and the American people don’t deserve these rising gas prices.

I ask unanimous consent to insert the text of the amendment in the RECORD, along with extraneous materials immediately prior to the previous question.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. McGOVERN. Madam Speaker, this is a reasonable amendment. The American people are tired of getting gouged at the pump by these big oil companies that are making record profits and, at the same time, we continue with taxpayer subsidies to give them these handouts. Enough is enough.

I urge my colleagues to vote “no” and defeat the previous question. I urge a “no” vote on the rule, and I yield back the balance of my time.

Mr. WEBSTER. Madam Speaker, I yield myself such time as I may consume.

Improvements to our infrastructure are waiting. Stable construction jobs are waiting. Unemployment lingers above 8 percent nationally and near 10 percent in central Florida.

A long-term reauthorization is necessary, not just another short-term extension like we have become so used to in this body. It streamlines and consolidates Federal transportation programs, cuts red tape and Washington bureaucracy, increases funding flexibility to the States and local government, better leverages existing infrastructure resources, and encourages more private sector participation in building our Nation’s decaying infrastructure. It provides 5 years of certainty and stability with flat funding that is paid for without raising taxes.

The American Energy and Infrastructure Act is long overdue. We can’t delay anymore. It’s time to stop putting off until tomorrow what we should have done yesterday.

This bill eliminates the typical cookie-cutter approach that Washington has used over and over again to fund all kinds of programs, including transportation. This is a great policy that consolidates many programs, that allows States the flexibility to build their own programs. It allows local communities and NPOs to design a program of transportation that fits their needs.

□ 1340

It can only be done when we consolidate these programs and make the reforms found in this bill. I ask my colleagues to join me in voting in favor of this rule.

Ms. JACKSON LEE of Texas. Mr. Speaker, I rise today to debate the Rules for H.R. 7, “The American Energy and Infrastructure Jobs Act of 2012.” I believe the transportation bill should have been an open rule. This bill is not a comprehensive bill. When Congress spends taxpayer dollars, we are accountable for how it is spent. As written, this measure limits federal government oversight and therefore limits accountability.

I believe, a well-functioning transportation system is critical to the Nation’s prosperity. Whether it is by road, aviation, or rail we rely on our transportation system to move people and goods safely. A properly functioning transportation infrastructure will facilitate commerce, attract and retain businesses, and support jobs.

Public transportation benefits the economy in several ways. It helps the right people to get to the right jobs, without wasting otherwise productive hours. It allows employers to tap into various pools of recipients who have no other means of getting to work and it helps customers get to the doors of businesses.

For every dollar we invest in running public transportation systems boosts business sales by another three dollars. A \$10 million investment in building public transportation systems

creates more than 300 jobs, and the same amount spent on running them creates nearly 600 more.

Part of the challenge of our transportation system is to ensure that everyone is able to benefit. The GAO would study ways to increase access to the underserved and underrepresented communities, as well as, minority communities. This will help to identify areas that we can work to improve. The GAO would further study how to increase the mobility of the disabled.

Public transportation is important to ensure these communities will not only have access to services, businesses, and the community at large, but will also improve their quality of life.

Public involvement needs to encompass the full range of community interests, yet people underserved by transportation often do not participate. We need to find ways to reach the underserved. They not only have greater difficulty getting to jobs, schools, recreation, and shopping than the population at large, but often they are also unaware of transportation proposals that could dramatically change their lives. Many lack experience with public involvement, even though they have important, unspoken issues that should be heard.

Underserved people include those with special cultural, racial, or ethnic characteristics. Cultural differences sometimes hinder full participation in transportation planning and project development.

People with disabilities find access to transportation more difficult and their ability to participate in public involvement efforts more constrained. People with limited resources often lack both access and time to participate. In addition individuals who have not been adequately educated may not be fully aware either of what transportation services are available or of opportunities to help improve them.

These groups are a rich source of ideas that can improve transportation not only for themselves but also for the entire community. Agencies must assume responsibility for reaching out and including them in the decision-making process—which requires strategic thinking and tailoring public involvement efforts to these communities and their needs. Techniques to reach the underserved are grouped here under two headings:

A thorough study of how this bill will impact cost and jobs. As well as a study on how to improve services to the underserved and under-represented will insure that there is accountability for how we are using government resources.

There is much left to be done in the areas of Transportation in our great Nation. I believe this study is a step in the right direction.

Generally, the same transit agencies operate both rail and a bus system, which improves efficiency by ensuring both Systems complement each other.

For example, transit agencies can design bus routes that collect passengers from outlying neighborhoods and deliver them to rail transit stations.

Congress has always allowed transit systems operating both rail and bus lines to receive bus and bus facility grants, recognizing that bus and rail lines work as part of a complete transit network in large metropolitan areas and that federal policy should support

local and regional efforts to maximize the efficiency of transit service. H.R. 7 would reverse this longstanding federal policy.

In Houston, TX alone, the City operates 1,300 buses and 7 miles of rail. Denying access to these funds to major metropolitan areas does not make sense. Public transportation benefits the economy in several ways. It helps the right people to get to the right jobs, without wasting otherwise productive hours. It allows employers to tap into various pools of recipients who have no other means of getting to work and it helps customers get to the doors of businesses.

In the case of Houston, the light rail system is vital to increase mobility of Houston, Texas' population which is forecasted to grow by an additional 9.4 million people by 2035, a 38.9 percent increase over the projected 2010 levels. The same can be said for many urban areas across our Nation.

Light rail projects and other transportation investments represent the potential to create thousands of jobs, enhanced mobility, and future economic development for the region.

Public transportation is an investment in the truest sense of the word: An outlay today pays out considerable profit down the road. Nationwide, government invests \$15.4 billion in public transportation a year. Public transportation generates upwards of \$60 billion in economic benefits. Public transportation boosts state and local tax revenues by at least 4 percent and as much as 16 percent.

Some 30,000 people work directly for the public transportation industry, which creates thousands more jobs indirectly through fields ranging from engineering to construction.

For every dollar we invest in running public transportation systems boosts business sales by another three dollars. A \$10 million investment in building public transportation systems creates more than 300 jobs, and the same amount spent on running them creates nearly 600 more.

To be sure, public transportation systems are not cheap to build or run; however, public transportation pays for itself several times over. And if a stronger economy is the destination we seek, public transit is the fastest way to get there. These funds could be used to fix buses, bus shelters, and bus facilities.

With the recent uptick in fuel prices more people are opting to ride the bus. In addition, the bus system also is vital resource for the disabled and seniors who rely on these services for transportation. The TE program funds projects that build bus shelters. This would encourage even more people to opt for public transportation. Shelters safeguard passengers against the sun, wind, and rain. Texas has heat waves and many other parts of the country have inclement weather. Funding the building of bus shelters may not be a priority for some, but to the people who are standing waiting for the bus it makes a world of difference.

In addition, bus stops are extremely important for people with disabilities. The inaccessibility of bus stops often represents the weak link in the system and can effectively prevent the use of fixed-route service. This can severely hamper bus ridership by disability community, and thereby limit their mobility. Increasing the accessibility of fixed-route service

under the TE program will decrease paratransit costs.

Since 1983, when the Surface Transportation Assistance Act was signed into law, 2.86 cents in motor fuels taxes has been deposited into the Mass Transit Account of the Highway Trust Fund to provide a dedicated stable source of funding for public transportation programs. H.R. 7 eliminates the Mass Transit Account and dedicates that 2.86 cents to highway programs.

The bill moves transit and other public transportation programs into a new "Alternative Transportation Fund," which would be dependent on appropriations from general revenue. Although the bill makes a one-time transfer of \$40 billion into the Alternative Transportation Fund to cover funding for those programs through the life of the bill, there is no guarantee for public transportation funding beyond FY 2016. Such a reality would make it difficult, if not impossible, for transit agencies to develop reliable long-term capital plans, and it would leave the future of the program in doubt.

Public transportation agencies around the country are already struggling to maintain current levels of service and keep the system in a state of good repair. Removing federally guaranteed funding could result in a virtual construction and service freeze, the effects of which would be felt by riders, businesses, contractors, manufacturers and suppliers around the country.

Transit agencies may have to take on more debt in order to finance capital projects, and it could result in increased fares for our constituents.

There is no reason to make such a drastic change in how we finance public transportation. Our amendment would restore the Mass Transit Account of the Highway Trust Fund and the 2.86 cents dedicated funding stream for public transportation programs. It would eliminate the Alternative Trust Fund, make the Highway Trust Fund whole, and allow it to once again fund both highways and mass transit.

#### FAST FACTS

##### HIGHWAY AND TRANSIT BILL (OR SURFACE TRANSPORTATION BILL) (H.R. 7)—IMPACT ON JOBS

**Cuts 550,000 American Jobs.** Cuts investments in highways by \$15.8 billion from current levels. We know that every \$1 billion invested in infrastructure creates an estimated 34,800 jobs. Cuts Highway Investments in 45 states & DC. Reduces highway investments for all but 5 states (Kansas, Maryland, Massachusetts Nebraska, Wyoming), neglecting the need to fix our bridges and roads.

**Buy America Loopholes.** Continues loopholes that allow surface transportation jobs to be outsourced overseas, and fails to extend Buy America protections to all Federal surface transportation programs.

**Unstable Funding.** The non-partisan Congressional Budget Office reported that the GOP bill would bankrupt the Highway trust fund by 2016—creating a \$78 billion shortfall over 10 years and jeopardizing critical transportation projects and American jobs. Boehner argue the bill doesn't create jobs. Speaker John A. Boehner made the unusual argument that spending money on highway projects under the bill would not create jobs. "We are

not making the claim that spending taxpayer money on transportation projects creates jobs.”

#### OTHER TRANSPORTATION ISSUES

**Undermines Safety.** Cuts National Highway Traffic Safety Administration grants, allows companies with poor safety records to be exempted from hazardous material safety requirements, delays the deadline for installing new train systems to automatically prevent train collisions and derailments for passenger rail from December 31, 2015 to December 31, 2020 and eliminates worker safety for hazmat workers.

**Kills Public Transit.** Eliminates all of the dedicated funding for public transportation, leaving millions of riders already faced with service cuts and fare increases out in the cold. The bill stops the highway user fee revenues for transit, so that transit will compete with other priorities in the budget. These provisions are opposed by 600 groups—including National League of Cities, National Association of Counties, American Public Transportation Association, League of Conservation Voters, U.S. Steelworkers, U.S. PIRG, and Chamber of Commerce. The bill also fails to provide flexibility to transit systems to use Federal funds to maintain service and transit worker jobs at times of economic crisis. Mandates Privatization in Public Transit & Highways. Incentivizes transit agencies to contract out their bus services, makes private entities eligible to receive Federal Transit Administration (FTA) grants, and mandates private sector participation in local transit planning and for engineering and design services on Federal-aid highway projects.

**Jeopardizes Efforts to Make Streets and Roads Safer for Children, Pedestrians, and Bikes.** Eliminates efforts to help underwrite local bike paths, bike lanes and pedestrian safety projects, including the Safe Routes to School program. Weakens Environmental, Public Health, and Safety Protections. Includes sweeping changes that undermine local community involvement and environmental protection in transportation project development, such as delegating environmental and safety reviews—including whether they should be conducted—entirely to state highway agencies, imposing arbitrary deadlines for completing or challenging reviews regardless of project size, and waiving environmental reviews for all projects where the Federal share of the costs is less than \$10 million or 15 percent of the total project cost regardless of the scope of the project.

**Hurts Amtrak.** Reduces funding for Amtrak by \$308 million, abrogates labor contracts between Amtrak and its food and beverage workers likely costing 2,000 union jobs, and prevents Amtrak from using Federal funds to hire outside counsel to file a lawsuit or defend itself against a passenger rail operator.

#### FEDERAL RETIREMENT (H.R. 3813)

**Cutting Federal Retirement.** In an effort to finance the highway bill, the package includes extraneous provisions that take \$44 billion out of the pockets of the middle-class—who have already suffered through a pay freeze for 2 years, which contributed approximately \$60 billion to deficit reduction. Raising Worker Contributions. Increases the retirement contribution from current federal workers by 1.5

percent. New federal workers would be forced to contribute 3.2 percent more for an annuity that is 40 percent less than existing benefits—with the retirement based on the high five years of salary, instead of the high three years. Changing Benefits Already Earned. Eliminates the annuity supplement payment for federal employees who retire before age 62, throwing into chaos the longstanding retirement plans of middle-class workers who relied on the promise of this benefit and dedicated decades of service to our country. Even the conservative American Enterprise Institute has said, “Benefits already accrued should not be altered. Those benefits have been promised and earned, and the obligation to pay them should be honored.”

**Role of Federal Workers.** Federal workers support our troops in the battlefield and provide care upon their return, protect our borders, safeguard our food supply, make sure seniors get their Social Security checks, and help hunt down Osama Bin Laden.

**Opposition.** Opposed by American Federation of Government Employees, National Active and Retired Federal Employees Association, National Treasury Employees Union, National Federation of Federal Employees, National Association of Government Employees, International Federation of Professional and Technical Engineers, National Association of Assistant U.S. Attorneys, and Federal Managers Association.

Further, I believe that more should be done for small businesses owned by women and minorities. It is a shame that the numbers of women and minority owned business competing for these contracts has been decreasing every year. We must reinforce our commitment to women and minority owned business.

The Department of Transportation’s DBE program aims to increase participation of small businesses owned and controlled by socially and economically disadvantaged individuals.

Enhanced oversight is critical to ensuring that the objectives of the DBE program are achieved and federal funds are spent appropriately. But the current program lacks a mechanism to enforce that committed spending for DBEs reflects actual spending.

The October 2011 report by GAO highlights both DOT’s need for increased oversight and the lack of clarity in determining whether both committed and actual spending are meeting the goals of the DBE program.

Two things need to be addressed to help the DBE program: increased oversight, and the ability to enforce the DBE program requirements.

The program lacks the necessary “teeth,” its requirements are often flaunted to the detriment of small business owners.

I believe the Secretary of the Department of Transportation should be required to issue regulations providing for strengthening oversight, enforcement, and compliance with DBE spending requirements.

I have offered a bill, H.R. 3710—Deficit Reduction, Job Creation, and Energy Security Act, that I firmly believe will increase jobs, decrease our deficit, and will be great for our economy.

H.R. 3710 will direct the Secretary of Interior to increase the total lease acreage set forth in the proposed Outer Continental Shelf Oil &

Gas leasing program for 2012–2017 by an additional 10 percent. This 10 percent increase shall be known as the Deficit Reduction Acreage. As such, the Secretary shall lease 20 percent of the Deficit Reduction Acreage each year from 2012–2017. All proceeds from the Deficit Reduction Acreage shall be deposited into the Deficit Reduction Energy Security Fund.

For 15 years after issuance of the first lease or receipt of the first payment coming from the Deficit Reduction Energy Security Fund, all proceeds shall be deposited into an interest bearing account for a period of 2 years. Upon expiration of the 2 year period, these proceeds shall be distributed as follows:

The interest gained during 2 year period shall be placed in the Coastal and Ocean Sustainability and Health Fund (COSH); and

The principle from the Deficit Reduction Energy Security Fund shall be deposited into the US Treasury and applied directly toward Deficit Reduction.

The COSH fund will establish grants for states (Coastal and Disaster Grant Program and a National Grant Program) for addressing coastal and ocean disasters, restoration, protection, and maintenance of coastal areas and oceans, including research and programs in coordination with state and local agencies.

Additionally, the Deficit Reduction and Energy Security Act establishes an Office of Onshore and Offshore Energy Employment and Training, and an Office of Minority and Women Inclusion. CBO has estimated that this amendment is outside of the 10 year budgetary window, so there is no score.

I think we must carefully consider the bill that I propose. And again I reiterate the importance of having an open rule for the Surface Transportation Reauthorization to ensure that all Members of this Body have an opportunity to address their concerns with this bill.

The material previously referred to by Mr. McGOVERN is as follows:

AN AMENDMENT TO H. RES. 547 OFFERED BY MR. MCGOVERN OF MASSACHUSETTS

(1) The amendment in section 2, to be offered by Mr. McGovern of Massachusetts or his designee, debatable for 10 minutes, is considered to have been printed at the end of part A of the report of the Committee on Rules accompanying H. Res. 547.

(2) The amendment referred to in section 1 is as follows:

Strike all after the enacting clause and insert the following:

**SEC. 1. DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES NOT ALLOWED WITH RESPECT TO OIL AND GAS ACTIVITIES OF MAJOR INTEGRATED OIL COMPANIES.**

(a) IN GENERAL.—Subparagraph (A) of section 199(d)(9) of the Internal Revenue Code of 1986 is amended by inserting “(9 percent in the case of any major integrated oil company (as defined in section 167(h)(5)))” after “3 percent”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

(The information contained herein was provided by the Republican Minority on multiple occasions throughout the 110th and 111th Congresses.)

THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Republican majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's Precedents of the House of Representatives (VI, 308-311), describes the vote on the previous question on the rule as "a motion to direct or control the consideration of the subject before the House being made by the Member in charge." To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that "the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition" in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R Illinois) said: "The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition."

Because the vote today may look bad for the Republican majority they will say "the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution . . . [and] has no substantive legislative or policy implications whatsoever." But that is not what they have always said. Listen to the Republican Leadership Manual on the Legislative Process in the United States House of Representatives, (6th edition, page 135). Here's how the Republicans describe the previous question vote in their own manual: "Although it is generally not possible to amend the rule because the majority Member controlling the time will not yield for the purpose of offering an amendment, the same result may be achieved by voting down the previous question on the rule . . . When the motion for the previous question is defeated, control of the time passes to the Member who led the opposition to ordering the previous question. That Member, because he then controls the time, may offer an amendment to the rule, or yield for the purpose of amendment."

In Deschler's Procedure in the U.S. House of Representatives, the subchapter titled "Amending Special Rules" states: "a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate." (Chapter 21, section 21.2) Section 21.3 continues: "Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon."

Clearly, the vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Republican majority's agenda and allows those with alternative views the opportunity to offer an alternative plan.

Mr. WEBSTER. I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MCGOVERN. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 and clause 9 of rule XX, this 15-minute vote on ordering the previous question will be followed by 5-minute votes on adoption of House Resolution 547, if ordered, and motions to suspend the rules on H.R. 2079, H.R. 3247, and H.R. 3248.

The vote was taken by electronic device, and there were—yeas 229, nays 181, not voting 23, as follows:

[Roll No. 50]

YEAS—229

Adams Flores Lummis  
Aderholt Forbes Lungren, Daniel  
Akin Fortenberry E.  
Alexander Foxx Mack  
Amash Franks (AZ) Manzullo  
Amodei Frelinghuysen Marchant  
Austria Gallegly Marino  
Bachmann Gardner Matheson  
Bachus Garrett McCarthy (CA)  
Bartetta Gerlach McCaul  
Bartlett Gibbs McClintock  
Barton (TX) Gibson McCotter  
Bass (NH) Gingrey (GA) McHenry  
Benishek Gohmert McKeon  
Berg Goodlatte McKinley  
Biggart Gosar McMorris  
Bilbray Gowdy Rodgers  
Bilirakis Granger Meehan  
Bishop (UT) Graves (GA) Mica  
Black Graves (MO) Miller (FL)  
Bonner Griffin (AR) Miller (MI)  
Bono Mack Griffith (VA) Miller, Gary  
Boren Grimm Mulvaney  
Boustany Guthrie Murphy (PA)  
Brady (TX) Hall Myrick  
Brooks Hanna Neugebauer  
Broun (GA) Harper Noem  
Buchanan Harris Nugent  
Bucshon Hastings (WA) Nunes  
Buerkle Hayworth Nunnelee  
Burgess Heck Olson  
Burton (IN) Hensarling Palazzo  
Calvert Herger Paulsen  
Camp Herrera Beutler Pearce  
Cantor Huelskamp Pence  
Carter Huizenga (MI) Petri  
Cassidy Hultgren Platts  
Chabot Hunter Poe (TX)  
Chaffetz Hurt Pompeo  
Coble Issa Posey  
Coffman (CO) Jenkins Price (GA)  
Cole Johnson (OH) Quayle  
Conaway Johnson, Sam Reed  
Cravaack Jones Rehberg  
Crawford Jordan Reichert  
Crenshaw Kelly Ribble  
Culberson King (IA) Rigell  
Davis (KY) King (NY) Rivera  
Denham Kingston Roby  
Dent Kinzinger (IL) Roe (TN)  
DesJarlais Kline Rogers (AL)  
Dold Labrador Rogers (KY)  
Dreier Lamborn Rogers (MI)  
Duncan (SC) Lance Rohrabacher  
Duncan (TN) Landry Rokita  
Ellmers Lankford Rooney  
Emerson Latham Ros-Lehtinen  
Farenthold LaTourette Roskam  
Fincher Latta Ross (FL)  
Fitzpatrick Lewis (CA) Royce  
Flake LoBiondo Runyan  
Fleischmann Long Ryan (WI)  
Fleming Lucas Scalise

Schilling  
Schmidt  
Schock  
Schweikert  
Scott (SC)  
Scott, Austin  
Sensenbrenner  
Sessions  
Shimkus  
Shuster  
Simpson  
Smith (NE)  
Smith (NJ)  
Smith (TX)

Southerland  
Stearns  
Stivers  
Stutzman  
Sullivan  
Terry  
Thompson (PA)  
Thornberry  
Tiberi  
Tipton  
Turner (NY)  
Turner (OH)  
Upton  
Walberg

Walden  
Walsh (IL)  
Webster  
West  
Westmoreland  
Whitfield  
Wilson (SC)  
Wittman  
Wolf  
Womack  
Woodall  
Yoder  
Young (AK)  
Young (IN)

NAYS—181

Ackerman  
Altmire  
Andrews  
Baca  
Baldwin  
Barrow  
Bass (CA)  
Berkley  
Berman  
Bishop (GA)  
Bishop (NY)  
Blumenauer  
Bonamici  
Boswell  
Brady (PA)  
Braley (IA)  
Brown (FL)  
Butterfield  
Capps  
Capuano  
Carnahan  
Carney  
Carson (IN)  
Castor (FL)  
Chandler  
Chu  
Cicilline  
Clarke (MI)  
Clarke (NY)  
Clay  
Cleaver  
Clyburn  
Cohen  
Connolly (VA)  
Conyers  
Cooper  
Costa  
Costello  
Courtney  
Critz  
Crowley  
Cuellar  
Cummings  
Davis (CA)  
Davis (IL)  
DeFazio  
DeGette  
DeLauro  
Deutch  
Dicks  
Dingell  
Donnelly (IN)  
Doyle  
Edwards  
Ellison  
Engel  
Eshoo  
Farr  
Fattah  
Filner  
Frank (MA)  
Fudge

Garamendi  
Gonzalez  
Green, Al  
Green, Gene  
Grijalva  
Gutierrez  
Hahn  
Hanabusa  
Hastings (FL)  
Heinrich  
Higgins  
Himes  
Hinchey  
Hinojosa  
Hirono  
Hochul  
Holden  
Holt  
Honda  
Hoyer  
Inslee  
Israel  
Jackson (IL)  
Jackson Lee  
(TX)  
Johnson (GA)  
Johnson, E. B.  
Kaptur  
Keating  
Kildee  
Kind  
Kissell  
Kucinich  
Langevin  
Larsen (WA)  
Larson (CT)  
Lee (CA)  
Levin  
Lewis (GA)  
Lipinski  
Loeb sack  
Lofgren, Zoe  
Lowey  
Lujan  
Lynch  
Maloney  
Markey  
Matsui  
McCarthy (NY)  
McCollum  
McDermott  
McGovern  
McIntyre  
McNerney  
Meeks  
Michaud  
Miller (NC)  
Miller, George  
Moran  
Murphy (CT)  
Nadler  
Napolitano

Neal  
Oliver  
Owens  
Pascarell  
Pastor (AZ)  
Pelosi  
Perlmutter  
Peters  
Peterson  
Pingree (ME)  
Polis  
Price (NC)  
Quigley  
Rahall  
Reyes  
Richardson  
Richmond  
Ross (AR)  
Rothman (NJ)  
Roybal-Allard  
Ruppersberger  
Rush  
Ryan (OH)  
Sánchez, Linda  
T.  
Sanchez, Loretta  
Sarbanes  
Schakowsky  
Schiff  
Schradner  
Schwartz  
Scott (VA)  
Scott, David  
Sewell  
Sherman  
Shuler  
Shuts  
Slaughter  
Smith (WA)  
Speier  
Stark  
Sutton  
Thompson (CA)  
Thompson (MS)  
Tierney  
Tonko  
Towns  
Tsongas  
Van Hollen  
Velázquez  
Visclosky  
Walz (MN)  
Wasserman  
Schultz  
Waters  
Watt  
Waxman  
Welch  
Wilson (FL)  
Yarmuth

NOT VOTING—23

Becerra  
Blackburn  
Roby  
Campbell  
Canseco  
Capito  
Cardoza  
Diaz-Balart  
Doggett

Duffy  
Guinta  
Hartzler  
Johnson (IL)  
Luetkemeyer  
Moore  
Pallone  
Paul

Payne  
Pitts  
Rangel  
Renacci  
Serrano  
Woolsey  
Young (FL)

□ 1406

Mr. CROWLEY, Ms. WATERS, and Messrs. CUELLAR and MEEKS changed their vote from "yea" to "nay."

So the previous question was ordered.  
The result of the vote was announced as above recorded.

Stated against:

Mr. PALLONE. Mr. Speaker, on rollcall No. 50 I was at an important hearing of the Health Subcommittee. Had I been present, I would have voted "nay."

Ms. WOOLSEY. Mr. Speaker, on February 15, 2012, I was unavoidably detained and was unable to record my vote for rollcall No. 50. Had I been present I would have voted: rollcall No. 50: "nay"—On Ordering the Previous Question.

The SPEAKER pro tempore (Mr. POE of Texas). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

#### RECORDED VOTE

Mr. MCGOVERN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 235, noes 186, not voting 12, as follows:

[Roll No. 51]

AYES—235

Aderholt	Duffy	Jordan
Akin	Duncan (SC)	Kelly
Alexander	Duncan (TN)	King (IA)
Amash	Ellmers	King (NY)
Amodel	Emerson	Kingston
Austria	Farenthold	Kinzinger (IL)
Bachmann	Fincher	Kissell
Bachus	Fitzpatrick	Kline
Barletta	Fleischmann	Labrador
Bartlett	Fleming	Lamborn
Barton (TX)	Flores	Lance
Bass (NH)	Forbes	Landry
Benishkek	Fortenberry	Lankford
Berg	Fox	Latham
Biggert	Franks (AZ)	LaTourette
Bilbray	Frelinghuysen	Latta
Bilirakis	Gallely	Lewis (CA)
Bishop (UT)	Gardner	LoBiondo
Black	Garrett	Long
Blackburn	Gerlach	Lucas
Bonner	Gibbs	Luetkemeyer
Bono Mack	Gibson	Lummis
Boustany	Gingrey (GA)	Lungren, Daniel
Brady (TX)	Gohmert	E.
Brooks	Goodlatte	Mack
Brown (GA)	Gosar	Manzullo
Buchanan	Gowdy	Marchant
Buohson	Granger	Marino
Buerkle	Graves (GA)	Matheson
Burgess	Graves (MO)	McCarthy (CA)
Burton (IN)	Griffin (AR)	McCaul
Calvert	Griffith (VA)	McClintock
Camp	Grimm	McCotter
Canseco	Guthrie	McHenry
Cantor	Hall	McKeon
Capito	Hanna	McKinley
Carter	Harper	McMorris
Cassidy	Harris	Rodgers
Chabot	Hartzler	Meehan
Chaffetz	Hastings (WA)	Mica
Coble	Hayworth	Miller (FL)
Coffman (CO)	Heck	Miller (MI)
Cole	Hensarling	Miller, Gary
Conaway	Herger	Mulvaney
Cravaack	Herrera Beutler	Murphy (PA)
Crawford	Huelskamp	Myrick
Crenshaw	Huizenga (MI)	Neugebauer
Culberson	Hultgren	Noem
Davis (KY)	Hunter	Nugent
Denham	Hurt	Nunes
Dent	Issa	Nunnelee
DesJarlais	Jenkins	Olson
Diaz-Balart	Johnson (OH)	Palazzo
Dold	Johnson, Sam	Paulsen
Dreier	Jones	Pearce

Pence	Rooney
Peterson	Ros-Lehtinen
Petri	Roskam
Pitts	Royce
Platts	Runyan
Poe (TX)	Ryan (WI)
Pompeo	Scalise
Posey	Schilling
Price (GA)	Schmidt
Quayle	Schock
Reed	Schweikert
Rehberg	Scott (SC)
Reichert	Scott, Austin
Renacci	Sensenbrenner
Ribble	Sessions
Rigell	Shimkus
Rivera	Shuster
Roby	Simpson
Roe (TN)	Smith (NE)
Rogers (AL)	Smith (NJ)
Rogers (KY)	Smith (TX)
Rogers (MI)	Southerland
Rohrabacher	Stearns
Rokita	Stivers

#### NOES—186

Ackerman	Flake	Napolitano
Adams	Frank (MA)	Neal
Altmire	Fudge	Olver
Andrews	Garamendi	Owens
Baca	Gonzalez	Pallone
Baldwin	Green, Al	Pascarell
Barrow	Green, Gene	Pastor (AZ)
Bass (CA)	Grijalva	Pelosi
Berkley	Gutierrez	Perlmutter
Berman	Hahn	Peters
Bishop (GA)	Hanabusa	Pingree (ME)
Bishop (NY)	Hastings (FL)	Polis
Blumenauer	Heinrich	Price (NC)
Bonamici	Higgins	Quigley
Boren	Himes	Rahall
Boswell	Hinchey	Reyes
Brady (PA)	Hinojosa	Richardson
Braley (IA)	Hirono	Richmond
Brown (FL)	Hochul	Ross (AR)
Butterfield	Holden	Ross (FL)
Capps	Holt	Rothman (NJ)
Capuano	Honda	Roybal-Allard
Cardoza	Hoyer	Ruppersberger
Carnahan	Inslee	Rush
Carney	Israel	Ryan (OH)
Carson (IN)	Jackson (IL)	Sánchez, Linda
Castor (FL)	Jackson Lee	T.
Chandler	(TX)	Sanchez, Loretta
Chu	Johnson (GA)	Sarbanes
Ciulline	Johnson, E. B.	Schakowsky
Clarke (MI)	Kaptur	Schiff
Clarke (NY)	Keating	Schrader
Clay	Kildee	Schwartz
Cleaver	Kind	Scott (VA)
Clyburn	Kucinich	Scott, David
Coble	Cohen	Sewell
Coffman (CO)	Connolly (VA)	Sherman
Cohen	Conyers	Shuler
Cole	Cooper	Sires
Conaway	Costa	Slaughter
Connolly (VA)	Costello	Smith (WA)
Conyers	Courtney	Speier
Cooper	Critz	Stark
Costa	Crowley	Sutton
Culberson	Cuellar	Thompson (CA)
Cummings	Cummings	Thompson (MS)
DeFazio	Davis (CA)	Tierney
DeGette	Davis (IL)	Tonko
DeLauro	DeFazio	Towns
Deutch	DeGette	Tsongas
Dicks	DeLauro	Van Hollen
Dingell	DeMott	Velázquez
Donnelly (IN)	McCollum	Visclosky
Doyle	McDermott	Walz (MN)
Edwards	McGovern	Wasserman
Ellison	McIntyre	Schultz
Engel	McNerney	Watt
Eshoo	Meeks	Waxman
Farr	Michaud	Welch
Fattah	Miller (NC)	Wilson (FL)
Filner	Miller, George	Wolf
	Moran	Woolsey
	Murphy (CT)	Yarmuth
	Nadler	

#### NOT VOTING—12

Johnson (IL)	Rangel
Moore	Serrano
Paul	Waters
Payne	Young (FL)

□ 1415

So the resolution was agreed to.  
The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

#### JOHN J. COOK POST OFFICE

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill (H.R. 2079) to designate the facility of the United States Postal Service located at 10 Main Street in East Rockaway, New York, as the "John J. Cook Post Office," on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. KELLY) that the House suspend the rules and pass the bill.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 418, nays 2, not voting 13, as follows:

[Roll No. 52]

YEAS—418

Ackerman	Capps	Duncan (SC)
Adams	Capuano	Duncan (TN)
Aderholt	Cardoza	Edwards
Akin	Carnahan	Ellison
Alexander	Carney	Ellmers
Altmire	Carson (IN)	Emerson
Amash	Carter	Engel
Amodel	Cassidy	Eshoo
Andrews	Castor (FL)	Farenthold
Austria	Chabot	Farr
Baca	Chaffetz	Fattah
Bachmann	Chandler	Fincher
Bachus	Chu	Fitzpatrick
Baldwin	Ciulline	Flake
Barletta	Clarke (MI)	Fleischmann
Barrow	Clarke (NY)	Fleming
Bartlett	Clay	Flores
Barton (TX)	Cleaver	Forbes
Bass (CA)	Clyburn	Fortenberry
Bass (NH)	Coble	Fox
Benishkek	Coffman (CO)	Frank (MA)
Berg	Cohen	Franks (AZ)
Berkley	Cole	Frelinghuysen
Berman	Conaway	Fudge
Biggert	Connolly (VA)	Gallely
Bilbray	Conyers	Garamendi
Bilirakis	Cooper	Gardner
Bishop (GA)	Costa	Garrett
Bishop (NY)	Costello	Gerlach
Bishop (UT)	Courtney	Gibbs
Black	Cravaack	Gibson
Blackburn	Crawford	Gingrey (GA)
Blumenauer	Crenshaw	Gohmert
Bonamici	Critz	Gonzalez
Bonner	Crowley	Goodlatte
Bono Mack	Cuellar	Gosar
Boren	Culberson	Gowdy
Boswell	Cummings	Granger
Boustany	Davis (CA)	Graves (GA)
Brady (PA)	Davis (IL)	Graves (MO)
Brady (TX)	Davis (KY)	Green, Al
Braley (IA)	DeFazio	Green, Gene
Brooks	DeGette	Griffin (AR)
Brown (GA)	DeLauro	Griffith (VA)
Brown (FL)	Denham	Grijalva
Buchanan	Dent	Grimm
Bucshon	DesJarlais	Guthrie
Buerkle	Deutch	Gutierrez
Burgess	Diaz-Balart	Hahn
Burton (IN)	Dicks	Hall
Butterfield	Dingell	Hanabusa
Calvert	Dold	Hanna
Camp	Donnelly (IN)	Harper
Canseco	Doyle	Hartzler
Cantor	Dreier	Hastings (FL)
Capito	Duffy	Hastings (WA)



Hayworth  
Heck  
Heinrich  
Hensarling  
Herger  
Herrera Beutler  
Higgins  
Himes  
Hinchey  
Hinojosa  
Hirono  
Hochul  
Holden  
Holt  
Honda  
Hoyer  
Huelskamp  
Huizenga (MI)  
Hultgren  
Hunter  
Hurt  
Inslee  
Israel  
Issa  
Jackson (IL)  
Jackson Lee  
(TX)  
Jenkins  
Johnson (GA)  
Johnson (OH)  
Johnson, E. B.  
Johnson, Sam  
Jones  
Jordan  
Kaptur  
Keating  
Kelly  
Kildee  
Kind  
King (IA)  
King (NY)  
Kingston  
Kinzinger (IL)  
Kissell  
Kline  
Kucinich  
Labrador  
Lamborn  
Lance  
Landry  
Langevin  
Lankford  
Larsen (WA)  
Larson (CT)  
Latham  
LaTourette  
Latta  
Lee (CA)  
Levin  
Lewis (CA)  
Lewis (GA)  
Lipinski  
LoBiondo  
Loeb sack  
Lofgren, Zoe  
Long  
Lowey  
Lucas  
Luetkemeyer  
Luján  
Lummis  
Lungren, Daniel  
E.  
Lynch  
Mack  
Maloney  
Manzullo  
Marchant  
Marino  
Markey  
Matheson  
Matsui  
McCarthy (CA)  
McCarthy (NY)  
McCaul

## NAYS—2

Harris

Rigell

## NOT VOTING—13

Becerra  
Campbell  
Doggett  
Filner  
Guinta

Johnson (IL)  
Moore  
Palazzo  
Paul  
Payne

Rangel  
Serrano  
Young (FL)

Ruppersberger  
Rush  
Ryan (OH)  
Ryan (WI)  
Sánchez, Linda  
T.  
Sanchez, Loretta  
Sarbanes  
Scalise  
Schakowsky  
Schiff  
Schilling  
Schmidt  
Schock  
Schrader  
Schwartz  
Schweikert  
Scott (SC)  
Scott (VA)  
Scott, Austin  
Scott, David  
Sensenbrenner  
Sessions  
Sewell  
Sherman  
Shimkus  
Shuler  
Shuster  
Simpson  
Sires  
Slaughter  
Smith (NE)  
Smith (NJ)  
Smith (TX)  
Smith (WA)  
Southernland  
Speier  
Stark  
Stearns  
Stivers  
Stutzman  
Sullivan  
Sutton  
Terry  
Thompson (CA)  
Thompson (MS)  
Thompson (PA)  
Thornberry  
Tiberi  
Tierney  
Tipton  
Tonko  
Towns  
Tsongas  
Turner (NY)  
Turner (OH)  
Upton  
Van Hollen  
Velázquez  
Visclosky  
Walberg  
Walden  
Walsh (IL)  
Walz (MN)  
Wasserman  
Schultz  
Waters  
Watt  
Waxman  
Webster  
Welch  
West  
Westmoreland  
Whitfield  
Wilson (FL)  
Wilson (SC)  
Wittman  
Wolf  
Womack  
Woodall  
Woolsey  
Yarmuth  
Yoder  
Young (AK)  
Young (IN)

□ 1422

Mr. ELLISON changed his vote from “nay” to “yea.”

So (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. FILNER. Mr. Speaker, on rollcall No. 52, I was unavoidably detained. Had I been present, I would have voted “yea.”

### LANCE CORPORAL MATTHEW P. PATHENOS POST OFFICE BUILDING

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill (H.R. 3247) to designate the facility of the United States Postal Service located at 1100 Town and Country Commons in Chesterfield, Missouri, as the “Lance Corporal Matthew P. Pathenos Post Office Building,” on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. KELLY) that the House suspend the rules and pass the bill.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 419, nays 0, not voting 14, as follows:

[Roll No. 53]

YEAS—419

Ackerman  
Adams  
Aderholt  
Akin  
Alexander  
Altmire  
Amash  
Amodei  
Andrews  
Austria  
Baca  
Bachmann  
Bachus  
Baldwin  
Barletta  
Barrow  
Bartlett  
Barton (TX)  
Bass (CA)  
Bass (NH)  
Benishke  
Berg  
Berkley  
Berman  
Biggett  
Bilbray  
Bilirakis  
Bishop (GA)  
Bishop (NY)  
Bishop (UT)  
Black  
Blackburn  
Blumenauer  
Bonamici  
Bonner  
Bono Mack  
Boren  
Bowwell  
Boustany  
Brady (PA)  
Brady (TX)  
Braley (IA)  
Brooks

Brown (GA)  
Brown (FL)  
Buchanan  
Bucshon  
Buerkle  
Burgess  
Burton (IN)  
Butterfield  
Calvert  
Camp  
Canseco  
Cantor  
Capito  
Capps  
Capuano  
Cardoza  
Carnahan  
Carney  
Carson (IN)  
Carter  
Cassidy  
Castor (FL)  
Chabot  
Chaffetz  
Chandler  
Chu  
Cicilline  
Clarke (MI)  
Clarke (NY)  
Clay  
Cleaver  
Clyburn  
Coble  
Coffman (CO)  
Cohen  
Cole  
Conaway  
Connolly (VA)  
Conyers  
Cooper  
Costa  
Costello  
Courtney

Cravaack  
Crawford  
Crenshaw  
Critz  
Crowley  
Cuellar  
Culberson  
Cummings  
Davis (CA)  
Davis (IL)  
Davis (KY)  
DeFazio  
DeGette  
DeLauro  
Denham  
Dent  
DesJarlais  
Deutch  
Diaz-Balart  
Dicks  
Dingell  
Dold  
Donnelly (IN)  
Doyle  
Dreier  
Duffy  
Duncan (SC)  
Duncan (TN)  
Edwards  
Ellison  
Ellmers  
Emerson  
Engel  
Eshoo  
Farenthold  
Farr  
Fattah  
Filner  
Fincher  
Fitzpatrick  
Flake  
Fleischmann  
Fleming

Flores  
Forbes  
Fortenberry  
Foxy  
Frank (MA)  
Franks (AZ)  
Frelinghuysen  
Fudge  
Gallegly  
Garamendi  
Gardner  
Garrett  
Gerlach  
Gibbs  
Gibson  
Gingrey (GA)  
Gohmert  
Gonzalez  
Goodlatte  
Gosar  
Gowdy  
Granger  
Graves (GA)  
Graves (MO)  
Green, Al  
Griffin (AR)  
Griffith (VA)  
Grijalva  
Grimm  
Guthrie  
Gutierrez  
Hahn  
Hall  
Hanabusa  
Hanna  
Harper  
Harris  
Hartzler  
Hastings (FL)  
Hastings (WA)  
Hayworth  
Heck  
Heinrich  
Hensarling  
Herger  
Herrera Beutler  
Higgins  
Himes  
Hinchey  
Hinojosa  
Hochul  
Holden  
Holt  
Honda  
Hoyer  
Huizenga (MI)  
Hultgren  
Hunter  
Hurt  
Inslee  
Israel  
Issa  
Jackson (IL)  
Jackson Lee  
(TX)  
Jenkins  
Johnson (GA)  
Johnson (OH)  
Johnson, E. B.  
Johnson, Sam  
Jones  
Jordan  
Kaptur  
Keating  
Kelly  
Kildee  
Kind  
King (IA)  
King (NY)  
Kingston  
Kinzinger (IL)  
Kissell  
Kline  
Kucinich  
Labrador  
Lamborn  
Lance  
Landry  
Langevin  
Lankford  
Larsen (WA)  
Larson (CT)  
Latham  
LaTourette  
Latta  
Lee (CA)

Levin  
Lewis (CA)  
Lewis (GA)  
Lipinski  
LoBiondo  
Loeb sack  
Lofgren, Zoe  
Long  
Lowey  
Lucas  
Luetkemeyer  
Luján  
Lummis  
Lungren, Daniel  
E.  
Lynch  
Mack  
Maloney  
Manzullo  
Marchant  
Marino  
Markey  
Matheson  
Matsui  
McCarthy (CA)  
McCarthy (NY)  
McCaul

Rigell  
Rivera  
Roby  
Roe (TN)  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rohrabacher  
Rokita  
Rooney  
Ros-Lehtinen  
Roskam  
Ross (AR)  
Ross (FL)  
Rothman (NJ)  
Roybal-Allard  
Royce  
Runyan  
Ruppersberger  
Rush  
Ryan (OH)  
Ryan (WI)  
Sánchez, Linda  
T.  
Sanchez, Loretta  
Sarbanes  
Scalise  
Schakowsky  
Schiff  
Schilling  
Schmidt  
Schock  
Schrader  
Schwartz  
Schweikert  
Scott (SC)  
Scott (VA)  
Scott, Austin  
Scott, David  
Sensenbrenner  
Sessions  
Sewell  
Sherman  
Shimkus  
Shuler  
Shuster  
Simpson  
Sires  
Slaughter  
Smith (NE)  
Smith (NJ)  
Smith (TX)  
Smith (WA)  
Southernland  
Speier  
Stark  
Stearns  
Stivers  
Stutzman  
Sullivan  
Sutton  
Terry  
Thompson (CA)  
Thompson (MS)  
Thompson (PA)  
Thornberry  
Tiberi  
Tierney  
Tipton  
Tonko  
Pearce  
Pelosi  
Towns  
Tsongas  
Pence  
Perlmutter  
Peters  
Peterson  
Petri  
Pingree (ME)  
Pitts  
Platts  
Poe (TX)  
Pompeo  
Posey  
Price (GA)  
Price (NC)  
Quayle  
Watt  
Waxman  
Webster  
Welch  
West  
Westmoreland  
Whitfield  
Wilson (FL)  
Wilson (SC)  
Wittman  
Wolf

Womack Yarmuth Young (IN)  
Woodall Yoder  
Woolsey Young (AK)

## NOT VOTING—14

Becerra Hirono Payne  
Campbell Huelskamp Rangel  
Doggett Johnson (IL) Serrano  
Green, Gene Moore Young (FL)  
Guinta Paul

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining.

□ 1429

So (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

LANCE CORPORAL DREW W.  
WEAVER POST OFFICE BUILDING

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill (H.R. 3248) to designate the facility of the United States Postal Service located at 112 South 5th Street in Saint Charles, Missouri, as the "Lance Corporal Drew W. Weaver Post Office Building," on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. KELLY) that the House suspend the rules and pass the bill.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 412, nays 0, not voting 21, as follows:

[Roll No. 54]

YEAS—412

Ackerman	Bonner	Chu
Adams	Bono Mack	Cicilline
Aderholt	Boren	Clarke (MI)
Akin	Boswell	Clarke (NY)
Alexander	Boustany	Clay
Altmire	Brady (PA)	Cleaver
Amash	Brady (TX)	Clyburn
Amodei	Braley (IA)	Coble
Andrews	Brooks	Coffman (CO)
Austria	Brown (GA)	Cole
Baca	Brown (FL)	Conaway
Bachmann	Buchanan	Connolly (VA)
Bachus	Bucshon	Conyers
Baldwin	Buerkle	Cooper
Barletta	Burgess	Costa
Barrow	Burton (IN)	Costello
Bartlett	Butterfield	Courtney
Barton (TX)	Calvert	Cravaack
Bass (CA)	Camp	Crawford
Bass (NH)	Canseco	Crenshaw
Benishkek	Cantor	Critz
Berg	Capito	Crowley
Berkley	Capps	Cuellar
Berman	Capuano	Culberson
Biggart	Cardoza	Cummings
Bilbray	Carnahan	Davis (IL)
Bilirakis	Carney	Davis (KY)
Bishop (GA)	Carson (IN)	DeFazio
Bishop (NY)	Carter	DeGette
Bishop (UT)	Cassidy	DeLauro
Black	Castor (FL)	Denham
Blackburn	Chabot	Dent
Blumenauer	Chaffetz	DesJarlais
Bonamici	Chandler	Deutch

Diaz-Balart	Jordan	Peters
Dicks	Kaptur	Peterson
Dingell	Keating	Petri
Dold	Kelly	Pingree (ME)
Donnelly (IN)	Kildee	Pitts
Doyle	Kind	Platts
Dreier	King (IA)	Poe (TX)
Duffy	King (NY)	Polis
Duncan (SC)	Kingston	Pompeo
Duncan (TN)	Kinzinger (IL)	Posey
Edwards	Kissell	Price (GA)
Ellison	Kline	Price (NC)
Ellmers	Kucinich	Quayle
Emerson	Labrador	Quigley
Engel	Lamborn	Rahall
Eshoo	Lance	Reed
Farenthold	Landry	Rehberg
Farr	Langevin	Reichert
Fattah	Lankford	Renacci
Filner	Larsen (WA)	Reyes
Fincher	Larson (CT)	Ribble
Fitzpatrick	Latham	Richardson
Flake	LaTourette	Richmond
Fleischmann	Latta	Rigell
Fleming	Lee (CA)	Rivera
Flores	Levin	Roby
Forbes	Lewis (CA)	Roe (TN)
Fortenberry	Lewis (GA)	Rogers (AL)
Fox	Lipinski	Rogers (KY)
Frank (MA)	LoBiondo	Rogers (MI)
Franks (AZ)	Loebach	Rohrabacher
Frelinghuysen	Lofgren, Zoe	Rokita
Fudge	Long	Rooney
Galleghy	Lowe	Ros-Lehtinen
Garamendi	Lucas	Roskam
Gardner	Luetkemeyer	Ross (AR)
Garrett	Lujan	Ross (FL)
Gerlach	Lummis	Rothman (NJ)
Gibbs	Lungren, Daniel	Roybal-Allard
Gibson	E.	Royce
Gingrey (GA)	Lynch	Runyan
Gohmert	Mack	Rush
Gonzalez	Maloney	Ryan (OH)
Goodlatte	Manzullo	Ryan (WI)
Gosar	Marchant	Sanchez, Linda
Gowdy	Marino	T.
Granger	Markey	Sanchez, Loretta
Graves (GA)	Matheson	Sarbanes
Graves (MO)	Matsui	Scalise
Green, Al	McCarthy (CA)	Schakowsky
Griffin (AR)	McCarthy (NY)	Schiff
Griffith (VA)	McCaul	Schilling
Grijalva	McClintock	Schmidt
Grimm	McCollum	Schrader
Guthrie	McCotter	Schwartz
Gutierrez	McDermott	Schweikert
Hahn	McGovern	Scott (SC)
Hall	McHenry	Scott (VA)
Hanabusa	McIntyre	Scott, Austin
Hanna	McKeon	Scott, David
Harper	McKinley	Sensenbrenner
Harris	McMorris	Sessions
Hartzler	Rodgers	Sewell
Hastings (FL)	McNerney	Sherman
Hastings (WA)	Meehan	Shimkus
Hayworth	Meeks	Shuler
Heck	Mica	Shuster
Heinrich	Michaud	Simpson
Hensarling	Miller (FL)	Sires
Herrera Beutler	Miller (MI)	Slaughter
Higgins	Miller (NC)	Smith (NE)
Himes	Miller, Gary	Smith (NJ)
Hinchoy	Miller, George	Smith (TX)
Hinojosa	Moran	Smith (WA)
Hochul	Murphy (CT)	Southerland
Holden	Murphy (PA)	Speier
Holt	Myrick	Stark
Honda	Nadler	Stearns
Hoyer	Napolitano	Stivers
Huelskamp	Neugebauer	Stutzman
Huizenga (MI)	Noem	Sullivan
Hultgren	Nugent	Sutton
Hunter	Nunes	Terry
Hurt	Nunnelee	Thompson (CA)
Inslee	Olson	Thompson (MS)
Israel	Oliver	Thompson (PA)
Issa	Owens	Thornberry
Jackson (IL)	Palazzo	Tiberi
Jackson Lee	Pallone	Tierney
(TX)	Pascrell	Tipton
Jenkins	Pastor (AZ)	Tonko
Johnson (GA)	Paulsen	Towns
Johnson (OH)	Pearce	Tsongas
Johnson, E. B.	Pelosi	Turner (NY)
Johnson, Sam	Pence	Turner (OH)
Jones	Perlmutter	Upton

Van Hollen	Waters	Wittman
Velázquez	Waxman	Wolf
Visclosky	Webster	Womack
Walberg	Welch	Woodall
Walden	West	Woodsey
Walsh (IL)	Westmoreland	Yarmuth
Walz (MN)	Whitfield	Yoder
Wasserman	Wilson (FL)	Young (AK)
Schultz	Wilson (SC)	Young (IN)

## NOT VOTING—21

Becerra	Herger	Payne
Campbell	Hirono	Rangel
Cohen	Johnson (IL)	Ruppersberger
Davis (CA)	Moore	Schock
Doggett	Mulvaney	Serrano
Green, Gene	Neal	Watt
Guinta	Paul	Young (FL)

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining.

□ 1435

So (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mrs. DAVIS of California. Mr. Speaker, on rollcall No. 54, H.R. 3248, had I been present, I would have voted "yea."

## PERSONAL EXPLANATION

Mr. GENE GREEN of Texas. Mr. Speaker, on rollcall Nos. 53 and 54, had I been present, I would have voted "yea."

## PERSONAL EXPLANATION

Mr. JOHNSON of Illinois. Mr. Speaker, on Wednesday, February 15, 2012 I was scheduled to fly out of Champaign, Illinois, on American Airlines Flight 4373 which was supposed to arrive in Chicago at 10 a.m. CST. This flight would have allowed me to make a connector flight to Washington in time for votes at 1:30 p.m. However, a maintenance issue on that flight unfortunately precluded my attendance for the first series of votes.

Had I been present, I would have voted "aye" on Ordering the Previous Question and "aye" on adoption of H. Res. 547, the Rule for H.R. 3408. Further, I would have voted "aye" on H.R. 2079, to designate the facility of the United States Postal Service located at 10 Main Street in East Rockaway, New York, as the "John J. Cook Post Office"; H.R. 3247, to designate the facility of the United States Postal Service located at 1100 Town and Country Commons in Chesterfield, Missouri, as the "Lance Corporal Matthew P. Pathenos Post Office Building"; and H.R. 3248, to designate the facility of the United States Postal Service located at 112 South 5th Street in Saint Charles, Missouri, as the "Lance Corporal Drew W. Weaver Post Office Building."

PROTECTING INVESTMENT IN OIL  
SHALE THE NEXT GENERATION  
OF ENVIRONMENTAL, ENERGY,  
AND RESOURCE SECURITY ACT

Mr. HASTINGS of Washington. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the bill, H.R. 3408.

The SPEAKER pro tempore (Mr. DOLD). Is there objection to the request of the gentleman from Washington?

There was no objection.

The SPEAKER pro tempore. Pursuant to House Resolution 547 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the consideration of the bill, H.R. 3408.

□ 1435

#### IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 3408) to set clear rules for the development of United States oil shale resources, to promote shale technology research and development, and for other purposes, with Mr. POE of Texas in the chair.

The Clerk read the title of the bill.

The CHAIR. Pursuant to the rule, the bill is considered read the first time.

General debate shall not exceed 1 hour, with 40 minutes equally divided and controlled by the chair and the ranking minority member of the Committee on Natural Resources, and 20 minutes equally divided and controlled by the chair and ranking minority member of the Committee on Energy and Commerce.

The gentleman from Washington (Mr. HASTINGS) and the gentleman from Massachusetts (Mr. MARKEY) each will control 20 minutes. The gentleman from Michigan (Mr. UPTON) and the gentleman from California (Mr. WAXMAN) each will control 10 minutes.

The Chair recognizes the gentleman from Washington.

Mr. HASTINGS of Washington. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today in support of H.R. 3408, which contains the energy provisions in the American Energy and Infrastructure Jobs Act. This is an action plan to create jobs that will vastly expand American energy production, lower gasoline prices, strengthen our national and economic security, and generate new revenue to help pay for infrastructure, and, Mr. Chairman, all without raising taxes or adding to the deficit.

In this year's State of the Union speech, President Obama proclaimed his support for expanding American energy production with an all-of-the-above energy strategy. Sadly, Mr. Chairman, the President's actions while he has been in office have been anything but pro-energy. In fact, his rhetoric—and I don't say this lightly, Mr. Chairman—is 180 degrees from his actions.

Since taking office, this administration has repeatedly blocked U.S. energy production. The offshore drilling moratorium and the Keystone pipeline are just the tip of the iceberg. He has canceled and withdrawn scheduled

lease sales, shut off promising areas to new drilling, blocked mining in mineral-rich areas, and issued countless job-destroying regulations.

Mr. Chairman, actions do speak louder than words. The bill we are considering today is an action plan that clearly contrasts President Obama's anti-energy policies with the pro-energy, pro-American jobs policies of Republicans.

While President Obama has closed off new areas for offshore drilling, this bill will open areas known to contain the most oil and natural gas resources in the Atlantic, Pacific, and Arctic Oceans. As a result, economic analysis has shown that well over 1 million jobs—long-term jobs, long-term American jobs—can be created.

While President Obama opposes energy production in ANWR, this bill will open less than 3 percent of the total area to responsible and safe drilling. That issue has been around a while, Mr. Chairman. ANWR represents the single greatest resource of onshore area production in the United States. This is one of the reasons that way back in 1980, when Jimmy Carter was still President and the Democrats controlled the Congress, they specifically set aside the north slope of ANWR for energy production.

□ 1440

Safe and responsible energy production in ANWR will protect the environment while creating tens of thousands of jobs and providing upwards of 1½ million barrels of oil per day. By the way, this is more than the U.S. imports daily from Saudi Arabia.

While the President has delayed leases and withdrawn over a million acres in the Rocky Mountains to oil shale development, this bill will set clear rules and require additional oil shale leases to be issued. According to the government estimates, this region may hold—and, Mr. Chairman, this is a significant number. This region may hold more than 1½ trillion barrels of oil equivalent. That's six times Saudi Arabia's proven reserves and enough to provide the United States with energy for the next 200 years. And I'm just talking about oil shale. Robust oil shale development could also create hundreds of thousands of jobs, and that should be self-evident.

Finally, while the President refused to approve the Keystone XL pipeline, this bill would require the Federal Energy Regulatory Commission, or FERC, to approve it within 30 days. The Keystone XL pipeline will create more than 20,000 American jobs and displace less stable energy imports with millions of barrels of safe and secure North American oil.

Since this President took office, Mr. Chairman, gasoline prices have climbed by 91 percent. Meanwhile, Iran is threatening to close off the Strait of

Hormuz, which is responsible for transportation of almost 17 million barrels of oil a day, or 20 percent of all oil traded. Prices will only climb higher if we don't take action now to increase our energy independence and develop our own energy resources.

Today, Mr. Chairman, Republicans are moving forward with a plan to create more jobs and create more American energy.

With that, Mr. Chairman, I reserve the balance of my time.

Mr. MARKEY. Mr. Chairman, I yield myself as much time as I may consume.

Unfortunately, according to the Congressional Budget Office, these drilling measures the Republicans are bringing out on the House floor today, together, would only raise \$4.3 billion over 10 years, less than one-tenth of the revenue shortfall needed to fund our highways.

In reality, this bill amounts to little more than a giveaway of our public lands to Big Oil under the guise of funding our Nation's transportation projects, and most estimates are that no new revenue will be produced that is usable for this transportation bill.

Across the United States, oil production is at its highest level in nearly a decade. Natural gas production has reached levels we have never seen before in the United States. Oil production on public lands offshore is higher than it was during each of the last 3 years of the Bush administration.

According to industry analysts, by this summer, there will be nearly 30 percent more floating rigs operating in the Gulf of Mexico than there were prior to the BP spill. Yet the Republican bill would threaten the tourism and fishing economies of coastal States by allowing drilling off of our beaches in Florida, in California, up and down our east and west coasts, and, as well, in an area extensively used by the military where even Secretary Rumsfeld said "drilling structures and associated development would be incompatible with military activities" in this area.

This Congress has not enacted a single safety improvement since the BP spill. The bill would allow for drilling in the Arctic National Wildlife Refuge in Alaska, ripping out the heart of the crown jewel of our National Wildlife Refuge System. The Arctic Refuge is America's Serengeti. It is one of the natural wonders of the world, like the Grand Canyon, Niagara Falls, or the Great Barrier Reef, and it should be protected.

If we allow drilling in the Arctic Refuge, it will set a precedent that will allow the oil and gas industry to place a bull's-eye on each of the 540 wildlife refuges across this country. And this legislation would rush to give away 125,000 acres of public land in Colorado, Utah, and Wyoming to Big Oil for oil shale development. However, there is

no commercially viable oil shale technology, and oil shale development could have significant impacts on water quality and quantity in the West if there were a commercially viable technology available, which Shell Oil and the Department of the Interior says does not yet exist.

In fact, the Government Accountability Office has said that the impacts of oil shale development on water could be significant but are unknown. What's more, this provision has been included by the majority, despite the fact that the Congressional Budget Office says that it would not raise any revenue over the next 10 years to fund our highways. So understand that.

This is a provision which CBO says raises no revenue in the next 10 years, but it's just stuck in here. The oil and gas industry would like to see it, so they just tossed it in. Nothing to do with funding transportation.

And the majority's drilling bills wouldn't even ensure that American natural gas stays here in America to help our consumers. Natural gas prices are six times higher in Asia than they are right here. They are more than three times higher in Europe than they are right here.

Low natural gas prices have been driving the economic recovery of the United States. We have far more natural gas in our country—and it's very low-priced—then we have oil. What the Republican bill will allow to happen is for this natural gas to be exported around the world, and exporting our natural gas would eliminate our competitive edge by driving prices up by as much as 54 percent, according to the Department of Energy.

Not ensuring that the natural gas stays here in the United States ensures that the majority, the Republicans, are imposing a de facto natural gas tax on American agriculture, manufacturing, chemicals, steel, plastics by allowing our gas to be exported.

Here's what T. Boone Pickens says about the idea of exporting American natural gas. Here's what he says:

If we do it, we're truly going to go down as America's dumbest generation. It's bad public policy to export natural gas.

Our natural gas is six times cheaper than Asian; it is three times cheaper than European. What are we doing exporting it? We should keep it here for our own farmers, for our own industries, for our own consumers. That's how we begin to put ourselves on a path of energy independence.

I agree with T. Boone Pickens. We should keep our natural gas here. We should not be following the Republican energy plan of drill here, sell there, and pay more. If we sell this natural gas around the world, the Department of Energy says the price is going up 57 percent here because we'll have less of it. That's how supply and demand works.

The same dynamic exists in the Keystone portion of the bill, where Republicans have failed to include any assurances that even a drop of the oil or the fuels will stay in this country.

When I asked the president of TransCanada, the pipeline company from Canada, whether he would be willing to commit to keeping the oil that passes through this pipeline in the United States, he said no. And why? Because the oil companies and the refineries want to export the fuels to the highest bidders around the world, leaving the American people with all of the environmental risk and little or none of the energy or economic benefit.

So drill here, sell there, pay more, that's not the Republican mantra. Drill here, drill now, pay less. Now they've morphed into what the oil and gas industry want, and all of the economic indicators point to the conclusion that our consumers will be harmed by that.

On the question of the totality of the economic benefits for our country, they are simultaneously proposing to kill the tax breaks for the wind industry, which is now creating 85,000 jobs in our country, in the face of the wind industry, saying that they will have to lay off 40,000 people over the next year unless the production tax break for the wind industry stays on the books.

□ 1450

So all of this is basically upside down as an energy policy. My strongest admonition to the Members who are listening to this debate is to vote "no" on this Republican proposal.

I reserve the balance of my time.

Mr. HASTINGS of Washington. I am pleased to yield 3 minutes to the former chairman of the Natural Resources Committee and the former chairman of the Transportation Committee, the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Chairman, I rise in strong support of H.R. 3408.

I'm really here to talk about ANWR. You know, I just wrote a little poem. It's not too good:

Old Mother Hubbard went to the cupboard to fetch a barrel of oil.

Lo and behold, none was there.

Lack of action by this Congress, beware.

ANWR still lays bare.

Time to drill for the people of America.

We have argued this battle over and over again. The gentleman from Massachusetts says no use for atomic power, no use for ANWR, we're in good shape. But look at the prices of gas, Mr. and Mrs. America. It will go to \$5. You say this won't solve the problem. I've heard this before.

If you want to have money for transportation, think for a moment. I passed this bill out, got it to the Senate side, this is the 12th time. One time it got to the President, and President Clinton vetoed it. We would have saved \$4 tril-

lion if we had had ANWR open at that time. Think of the highway bill we would have had then. That's something I think the American people should recognize.

We do have the fossil fuels in America. We do have the oil, we do have the gas. But we haven't had the will to develop them because we brought them from overseas. We got them in here, and now we're dependent upon the Middle East, and, yes, Venezuela, our good neighbor Venezuela, Chavez.

It's time for America to wake up. We need this supply of fossil fuels, and it's going to stay here. Not wind, not solar, because fossil fuels are still the cheapest way to move an object. It is the commerce of this Nation. It moves our trains, our planes, our automobiles, our trucks, and our ships, and it will continue to do that. That's what keeps us moving in this country. It keeps our economy strong. As long as we will have that fossil fuel within the United States, it is criminal to continue to rely upon the foreign countries.

We talk about Big Oil. Pick on Big Oil. Big Oil this, Big Oil that, Big Oil this. The truth of the matter is Big Oil does help the United States of America. Little oil helps the United of America. It keeps our trucks and our planes flying. It keeps our economy strong.

So I'm urging you to vote on this aspect of ANWR. Open ANWR. Let's vote on it. Let's provide for this Nation. Let's do what's right for the people in this Nation. It only covers an area as big as Dulles airport. Out of 19 million acres, less than 3,000 acres will be developed. Less than 3,000 acres will be developed to divide us from probably 39 billion barrels of oil, 74 miles away from the pipeline, a pipeline that can deliver 2 million barrels of oil a day to the United States of America, as we have done in the past.

We've had one shipment of oil go overseas, heavy oil. All of the rest has gone to the United States of America. It's gone to the refineries. It's time for us as a Congress to act responsibly.

With all due respect to my friend from Massachusetts, he's against nuclear power. He's against oil. In fact, I question the wind power because one time he was against that. I'm saying, wait a minute. What are we doing to run this country for power? How do we get our economy going again? That is the key to our economy: energy, good cheap energy.

Mr. MARKEY. Mr. Chairman, I yield myself 2 minutes.

When the Democrats controlled the Congress in 2009, we passed a bill out here on the House floor that created an advanced energy technology bank that included \$75 billion that the nuclear industry could have qualified for, \$60 billion for the coal industry for clean coal technology. Although we also built in incentives for wind and for solar and

for energy efficiency, we did it all. We gave everyone a running head start. We didn't say "nothing" to nuclear. No.

What have the Republicans done over the last year? They passed out here on the floor a bill that zeroed out the money for loan guarantees for wind and solar, but they left in the loan guarantees for the nuclear industry. That's not an all-of-the-above strategy, and you all voted for it unanimously.

No. Here's where we are. This oil-above-all strategy that you have, not all-of-the-above, this is basically at the heart of what this whole debate is all about.

Last year, the oil industry in the United States made \$137 billion. This year, they're going to blast right past that \$137 billion. Every person watching this debate is looking at the pump right now at \$3.50, \$4, \$4.50 that they're paying, and it's going straight up.

They're going to be reporting profits of upwards of \$200 billion. The Republicans continue to keep in the \$4 billion-a-year for tax breaks for the oil industry. Over 10 years, that's \$40 billion that would pay for the transportation bill.

Subsidizing the oil industry in 2012 to drill for oil is like subsidizing fish to swim or birds to fly; you don't have to do it. The consumer is already doing it at the pump. They're being tipped upside down.

So, there's an easy funding mechanism here. It's just taking away the oil company tax breaks.

The CHAIR. The time of the gentleman has expired.

Mr. MARKEY. I yield myself an additional 30 seconds.

That is the only way that we can substitute the money that stays within that sector.

These guys are going to cut back on the pension plans of Federal retirees in order to pay for a transportation bill when we should be keeping the funding stream within this energy sector because that's why we have cars on the road, in order to use this petroleum.

The oil industry right now is having it both ways. They're getting tax breaks from the taxpayers at the same time that they're taking the other pocket of every American as consumers, and they're taking money out of that pocket as well. That's really at the heart of what this debate is all about.

I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Chairman, I am very pleased to yield 3 minutes to the gentleman from Colorado (Mr. LAMBORN).

Mr. LAMBORN. Mr. Chairman, I thank the chairman of the committee, Dr. HASTINGS.

I rise in support of H.R. 3408. This legislation does three vital things: it will open up land in the West to oil shale development; open up one of our most promising areas for energy devel-

opment in the United States, the Arctic National Wildlife Refuge; and increase offshore production as well.

These provisions will create hundreds of thousands of American jobs and ensure the continued production of new domestic increases in our energy security and decrease our reliance on foreign oil—a goal the administration has professed to support time and time again.

Oil shale is one of the most promising new sources of American-made energy. The U.S. Geological Survey estimates that the Western United States holds more than 1.5 trillion, with a "t," barrels of oil—six times Saudi Arabia's proven resources and enough to provide the United States with energy for the next 200 years. Opponents to this legislation will argue that this legislation attempts to promote technology that isn't proven.

However, while the American oil shale industry is forced overseas due to regulatory uncertainty and burdensome Federal regulations here, other nations are profiting right now from this technology, countries like Jordan, China, and Estonia.

Just this morning we heard from Secretary Ken Salazar who expressed the administration's support of emerging technologies. You would think that that would include oil shale. Unfortunately, the Obama administration's support amounts to offering leases with such extremely restrictive terms that it attracts hardly any industry support at all.

As a result, countries overseas, which get over 90 percent of their total energy supply from oil shale, like Estonia, have robust oil shale industries.

I asked Secretary Salazar how this administration can say it promotes new energy while stifling research and development of this tremendous energy potential, oil shale, and he had no good answer.

□ 1500

Now, this legislation also opens up energy in Alaska, specifically in the less than 3 percent of ANWR that the bill deals with. This area was set aside by President Carter in 1980 precisely for oil and gas development. The Arctic National Wildlife Refuge holds the single greatest potential for a new domestic energy source within the United States. Offshore, this legislation would increase drilling in Federal waters while ensuring the protection for our offshore military operations as well as fair and equitable revenue sharing for all coastal States. This energy legislation will create consistent policies to move the domestic energy industry forward and will create good-paying American jobs for thousands of Americans.

People say all the time to me, Why don't we have a better energy policy in this country? This legislation does exactly that.

I urge my colleagues to support H.R. 3408.

Mr. MARKEY. Mr. Chairman, may I inquire as to how much time is remaining on either side.

The CHAIR. Both sides have 9½ minutes remaining.

Mr. MARKEY. I yield 3 minutes to the gentleman from California (Mr. GARAMENDI).

Mr. GARAMENDI. My good friend and colleague just asked a very good question: Why don't we have a good American energy policy?

You won't get it with this bill. This may be the worst American energy policy I've ever seen.

Oil shale, are you kidding me? There is no way that you're going to see oil shale developed within the United States at any time probably in our lifetimes. It didn't work in the 1980s. It's not likely to work in the next two decades. So what's this all about? And by the way, if you happen to be from Colorado, Utah, Arizona, California or New Mexico, you'd want to go, Whoa, wait a minute. Oil shale? That takes a lot of water. We don't have enough water, and you're going to use it for that? I don't think so.

Come on. Let's get real here. We do need a real energy policy.

You're going to open up ANWR? There are some very special places in this world, and ANWR happens to be one of them. The Arctic National Wildlife Refuge happens to be one of those places. You're not going to open it up. And by the way, as for those of us from California, my good friends on the Republican side are always talking about states' rights. They're always talking about states' rights. Your little piece of legislation here strips away the right of California to take care of its own coastline. It's not just authorizing the offshore drilling. You take away California's coastal zone management powers, stripping away from Californians—all 38 million of us—our ability to take care of our own coast. Something is terribly wrong with this piece of energy legislation.

You're going to fund the transportation with this while stripping money away from the Land and Water Conservation Fund? How does that work? How does that work? And by the way, the money won't be there anyway.

This is not an energy policy—this is a stupid policy—and there ought to be 435 reasons. Each and every person in this House is affected in a negative way by this piece of legislation. There are 435 of us who ought to say, Put this aside just as we have discovered the underlying bill on transportation has found little support and has to go back and be reworked because of its insufficiencies.

This is no way to fund a transportation bill. This is no way to treat California. This is no way to have an energy policy for America. Yes, we do

need an energy policy, and we do need to have many different elements to it; but we don't sacrifice those special places like the California coast, like the Arctic National Wildlife Refuge, like Bristol Bay, like the coast of Florida, like the east coast of the United States. We do not sacrifice that for an energy policy that doesn't solve the problem that this is purported to solve.

Mr. HASTINGS of Washington. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from Tennessee (Mr. DUNCAN).

Mr. DUNCAN of Tennessee. I thank the gentleman from Washington for yielding me this time, and I thank him for his leadership on this very important bill.

I rise in strong support of this legislation.

This administration, Mr. Chairman, has a Secretary of Energy who told *The Wall Street Journal* that we should be paying the same price for gasoline as they're paying over in Europe. At the time he said that, they were paying \$8 to \$9 a gallon. Well, I know that most environmental radicals come from very wealthy or very upper-income families, and perhaps they can afford gasoline at \$8 or \$9 a gallon, but most people can't. In fact, Mr. Chairman, many experts are predicting we're going to be at \$5 a gallon as soon as this summer. I can tell you that's going to hurt a lot of poor and lower-income and working people if we go to even \$5 a gallon, and it's going to hurt a lot of small towns and rural areas because people in those places generally have to drive longer distances to go to work.

I represent, Mr. Chairman, a large part of the Great Smoky Mountains National Park. That national park is slightly under 600,000 acres. We get between 9 million and 10 million visitors a year. ANWR—and I happen to be one of the very few Members who has been to ANWR twice—is the most barren place I've ever been to. Chairman YOUNG estimated that there are 100 miles without a tree or a bush on it. ANWR is 19.8 million acres, which is 35 times the size of the Great Smoky Mountains. *Time* magazine said they get about 200 to 300 visitors a year, and you have to be a survivalist to go in there.

Now we want to expand our energy production there with just a few thousand acres—a minuscule portion of ANWR—to help our own people. If we don't do that, who we're helping are foreign energy producers; but we're hurting a lot of poor and lower-income and working people in this country.

When we passed ANWR in the mid-90s and when it was vetoed by President Clinton, it was said at that time that it would produce 1 million barrels a day coming down into this country, but President Clinton vetoed it. They said at that time that it wouldn't help right away. Well, it would sure be helping

now if it hadn't been vetoed. In addition to that, if we would start developing more of our natural resources now, some of these foreign energy producers would have to start bringing their prices down. I think—in fact, I'm convinced—that this legislation would start helping right away or it would, at least, in a very short time.

We need to start putting our own people first, once again, instead of just helping out foreign energy producers.

Mr. MARKEY. I yield myself 1 minute.

Here is the reality. The Republicans need money to build roads, so they want to drill in the Arctic National Wildlife Refuge, which Senator INHOFE from Oklahoma has already made clear doesn't have the votes to pass in the Senate. The same thing is true for California and Florida and off the coast of Massachusetts and New Jersey. They want to drill there as well, and it's very clear that the votes aren't there in the Senate to accomplish that goal either. As the gentleman from California just said, the likelihood of finding any revenues from oil shale is at least two decades away, so there are no revenues there.

There is another bill, by the way, that's going to come out here on the floor. And in order to find the revenues, do you know where they're going to drill? They're going to drill into the pensions of FBI agents; they're going to drill into the pensions of the researchers for cancer out of the National Institutes of Health; and they're going to drill into the pensions of the Border Patrol agents, who are protecting us right now down on the Mexico border. That's where they're going to find almost all of the money for this bill—in the pensions of those people.

Is that really the way we want to build the roads of our country?

I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Chairman, I am pleased to yield 1 minute to a member of the Natural Resources Committee, the gentleman from Colorado (Mr. TIPTON).

Mr. TIPTON. I thank Chairman HASTINGS for yielding.

Mr. Chairman, this is clearly an interesting position from our Democratic colleagues. They say we need roads; they say we need jobs; they say we need an energy policy. But not here, not now, not anywhere.

When we look at the challenges that we face from overseas in terms of creating American certainty for energy, it's something for which we must all stand together. We're looking at developing oil shale as a potential resource for this country, right here in America, in order to be able to create American jobs on American soil while using American energy resources.

Let's explore this.

□ 1510

From the Republican side, we've clearly stood for an all-of-the-above

policy. Why is there such reluctance from our Democrat colleagues to embrace developing the technology to be able to create certainty for America's energy future, to be able to help struggling young families, senior citizens on fixed incomes make sure that their utility bills, their gas bills don't continue to rise? That's what we're proposing.

The CHAIR. The time of the gentleman has expired.

Mr. HASTINGS of Washington. I yield the gentleman another 1 minute.

Mr. TIPTON. I thank the gentleman.

When we're talking about protecting Colorado, many of our Democrat colleagues joined the amendment that I put forward, stating that the Secretary wouldn't consider but shall address local concerns. If you understand Colorado water, you can't just take it. It's a priority-based system. You have to actually own that water to be able to develop it.

We have a reasonable plan that we're trying to put forward to develop American energy certainty; but our Democratic colleagues, their solution of having "no, not here, not now, not anywhere" is not a solution that will work for America. Let's get our people to work. Let's create certainty for America and stand up for the American consumer for a change.

Mr. MARKEY. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, just 2 weeks ago, President Obama stood right here in this Chamber; and he said that he was going to propose opening up 75 percent of the oil and gas resources off the coast of the United States. That's a great plan. He doesn't want to drill off the California beaches. He doesn't want to drill off Florida beaches or off the New Jersey or Massachusetts beaches. But the rest of it, he's pretty much saying he's open to. But they're not happy with it over here. The President has a real plan and a plan that can be implemented.

What they are doing is they bring out proposals here that try to build real highways with fake oil revenues that are never going to materialize. So rather than working here in the real world, where the real transportation needs of our country are dealt with with real revenues that are coming in, they talk about oil shale which Shell says is at least another 10 years away. Shell Oil, that is, not some shell collector along the beaches.

The CHAIR. The time of the gentleman has expired.

Mr. MARKEY. I yield myself 30 additional seconds.

We are talking Shell Oil who says it's 10 years away. JIM INHOFE in the Senate says the votes aren't there to drill in the Arctic National Wildlife Refuge. So that's zero dollars as well. And the likelihood of them drilling off the coast of California or Florida or Massachusetts for oil is zero. So rather than

going through this facade of trying to pretend that real highways can be built with fake oil revenues, we should be taking up the offer of President Obama where he says he'll open up 75 percent of all the drilling possibilities off the coastlines of our country. That is what this debate should be all about.

I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Texas (Mr. OLSON).

Mr. OLSON. I thank the chairman of the Natural Resources Committee for the courtesy of speaking in support of H.R. 3408.

Mr. Chairman, I rise in strong support of H.R. 3408, the PIONEERS Act, and by doing so, I'm standing up for American innovation, American jobs, and renewed American prosperity. Shale oil is a game-changer. You don't have to look any further than the Eagle Ford shale in my home State of Texas to see the economic benefits of this stable American energy resource.

This past Sunday when I went to the Eagle Ford shale, there were 171 oil rigs and 93 natural gas rigs drilling thousands of wells. More rigs are coming, and major pipeline projects are under way to support production that will grow to 420,000 barrels per day. Let me say that again: 420,000 barrels of oil per day. One of my friends on the other side of the aisle said, Oil shale, no way. I've seen with my own eyes at Eagle Ford shale; and I say, Oil shale, yes way.

Eagle Ford shale job creation is now in full swing with scores of new businesses opening up to support the boom. More than 10,000 jobs have already been created, and 58,000 more are on the way. The economic recession is a thing of the past in this part of our country and in my State.

The world, as we've known it, is literally changing in front of our eyes. Our long-established dependence upon imported energy could be a thing of the past if we unleash America's energy resources. H.R. 3408 will get us one step closer.

Mr. MARKEY. I yield myself 1 minute at this time.

The Republicans, over the past year, have betrayed their agenda. They have pretty much voted out on the House floor to gut the budget for wind, gut the budget for solar, gut the budget for plug-in hybrid vehicles and, at the same time, kept in the money for the nuclear industry, kept in the tax breaks for the oil industry. So that is pretty much what the debate is all about. It's about the past versus the future.

In our country right now, the American people want to know that we're embracing a future-oriented, technology-oriented, advanced-technology-oriented agenda for our country. That's what all the Republicans keep voting

against out here, all of the new technologies that allow us to move on from this fossil-fuel era.

And it would be one thing if they just didn't vote for it, but then they have the temerity to stand up and to say they believe in all of the above. No, they do not. They believe in oil above all because otherwise they would not vote to kill wind and solar out here on the House floor over the last year.

I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, Senator INHOFE's quote has been thrown around here recently. Let me give another quote by Senator INHOFE:

As I have said, we can make great strides toward increasing North American energy independence by developing our own domestic resources. We can do this and support millions of American jobs, produce affordable energy for consumers, and reduce our dependence on foreign oil.

He said that in March 2010. I think that's important.

Mr. Chairman, I want to make one other point. There's been an implication here that it has been the policies of this administration that have increased oil and gas supplies; but if you look at the President's own budget that came out this week, there are two aspects of revenue coming in from oil and gas production. You have the lease sales, and you have the royalties. If you look at the President's own budget that came out just 2 days ago, you will see that this year and in the out-years, money coming in from lease sales decreases. That means that the policy of this administration is not more energy production on public lands. It's less.

He has taken advantage of the situation that's going on on State and private lands and is taking credit for it with what's happened in North Dakota. This plan here puts together a solid footing for American energy production on public lands.

With that, I reserve the balance of my time.

Mr. MARKEY. I think it would be helpful for both sides to understand what the time situation is for the conclusion of the debate.

The CHAIR. The gentleman from Massachusetts has 3 minutes remaining. The gentleman from Washington has 1½ minutes.

Mr. MARKEY. Does the gentleman intend to conclude debate with his next speaker?

Mr. HASTINGS of Washington. My intent, Mr. Chairman, is to hold that 1½ minutes at the end of the overall debate in case the gentleman says something that needs to be responded to.

Mr. MARKEY. In that case, I will yield myself the balance of my time so that I can utter the sentences that will need responding to by the chairman of the committee.

□ 1520

Mr. Chairman, let's go back a little bit to this issue of natural gas and what this Republican bill calls for—more drilling for natural gas in our country. Okay, we can look at that.

We support natural gas. We think that natural gas is the best story that's happened in our country in the last 10 years. We love natural gas. Democrats love it. It's half the pollutants of coal. It's domestically produced. We have to make sure that when we're extracting it we don't shoot chemicals down into the surface so that we pollute the water that our children drink, but we think that we can work through those issues if people of good faith are willing to work together.

Otherwise, it's a fantastic story. Why is that? Because natural gas is not a world market. The world market is for oil. If it's \$116 a barrel in China, it's \$116 a barrel in the U.S. It's a global market. And that's what allows OPEC to hold us hostage, because they control all of that oil coming out of the Strait of Hormuz. They control all that oil so that they can basically hold the rest of the globe's economy hostage. But natural gas, not true.

Here we've seen a 30 percent increase in our natural gas reserves over the last 5 years. What does that mean? Well, in China it's \$16. Japan, \$16 per million cubic feet of natural gas. What is it in the United States? It's \$2.42. So it's six, seven times cheaper in the United States. That means it is cheaper for every manufacturer, cheaper for every retailer, cheaper for every farmer, cheaper for every consumer.

What are the Democrats saying? We love natural gas; let's keep it here. Let's not be setting up terminals all across our country to export the natural gas across the planet with the Department of Energy saying, if we did that, the price of natural gas in the United States would rise 57 percent. How can that be good for consumers? Isn't that our advantage? Saudi Arabia is the Saudi Arabia of oil. We are the Saudi Arabia of natural gas. Why don't we use that to our advantage? Why don't we use that to inoculate ourselves against what Saudi Arabia of oil does to us by jacking the price of oil up and down? Why don't we become independent of them? Why don't we move to all natural gas vehicles? Why don't we use natural gas in the generation of electricity? Why don't we use natural gas in the production of all of our products? And why don't we use natural gas in the homes of our country, in the factories of our country, in the industries of our country at a price that's six times lower than China and Japan, three times lower than Europe?

That's what we are calling for here, an energy strategy that is all-American. And if we can get to that with this debate today, I think that the American people will be the winners.



I yield back the balance of my time.

Mr. HASTINGS of Washington. I reserve my remaining 1½ minutes until the end of the overall debate.

Mr. WHITFIELD. Mr. Chairman, I yield myself such time as I may consume.

I rise today in support of H.R. 3408, which is known as the Protecting Investment in Oil Shale the Next Generation of Environmental, Energy, and Resource Security Act.

This is primarily about the Keystone pipeline. The Keystone pipeline has been a topic of discussion in America for the last 3 or 4 years. When it came to the attention of Congress that this pipeline, which promises to create tens of thousands of jobs and increase our access to safe and secure supplies of oil, was experiencing an unreasonable level of delay, Congress decided that we needed to step in.

We have, in Keystone pipeline, a company willing to invest \$7 billion in private funds at no expense to the taxpayer. That would ultimately bring nearly a million barrels of oil per day from Canada to the U.S.—additional oil per day.

Even the President's Jobs Council agrees. Their report specifically suggested the pipeline is a win-win-win for job creation, modernizing the Nation's infrastructure, and helping ultimately to lower gasoline prices in America. I would also like to point out that five major labor unions support the building of the Keystone pipeline.

A few years ago, Secretary of State Hillary Clinton was in San Francisco giving a speech at the Commonwealth Club. In response to a question about Keystone pipeline, whether or not they would issue the permit to build it, Secretary of State Clinton said: We are inclined to do so.

This project has now been studied for over 40 months by seven or eight agencies of the Federal Government. And normally, to build an oil pipeline in America, it takes on the average of 24 months. When the Department of State issued their final environmental impact statement back in August 2011, they concluded that there were not any significant environmental issues. And they also said that when they look at the option of either, one, building a pipeline, or, two, not building a pipeline, that the preferable option was to build the pipeline. And of course the rationale for that is that if you don't build the pipeline and you bring oil in from other countries, you either have to do it by truck or by rail, which certainly emits a lot into the atmosphere.

But despite all of these positive reasons to build this pipeline, President Obama made a blatantly political decision when he said: I don't want to decide until after the Presidential election. And that's when Congress got involved and said we'd like a decision by February of 2012. And the President

said: Well, I don't have enough time to study it, so I'm not going to allow it—even though it has been studied for 40 months. This is a 1,700-mile pipeline. The only issue left relates to about 60 miles in the State of Nebraska, and the Governor of Nebraska supports building this pipeline.

So this is a win-win-win situation for the American people, and I would urge my fellow Members to support this legislation to require FERC to make a decision on this pipeline.

I reserve the balance of my time.

Mr. WAXMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman and my colleagues, I rise in opposition to this legislation.

Last week, the Republicans filed this bill, this transportation bill that the Secretary of Transportation called the worst transportation bill he had ever seen. The Republican leadership realized that not even Republican Members would vote for this monstrosity of bad policy, so they've chopped the bill up into three parts and hope to get a separate majority on each part. This way, House Republicans hope they can pass the bill and give their Members deniability at the same time. Now, that's not a transparent process or a fair one. It's a way to hide what's really going on from the American people.

Some Republicans don't want to vote for drilling in the Arctic National Wildlife Refuge; others don't want to vote for the money for the highways because some of the right-wing groups in this country are against it. So we've got this shell game going on.

The bill before us, H.R. 3408, contains the text of a very bad bill that came out of the Energy and Commerce Committee. We considered that bill earlier this month. The bill provides a legislative earmark that would direct the Federal Energy Regulatory Commission, or FERC, to issue a permit for the construction of the Keystone XL pipeline within 30 days of receipt of an application.

□ 1530

Now, existing law requires the President to make a determination whether this pipeline is in the national interest. Serious questions have been raised about whether this pipeline is in our national interest. It is being built with steel imported from South Korea and pipes from India. The oil it transports, I believe, will be exported to China. Meanwhile, the risks of spills from that pipeline that could contaminate drinking water will be borne by American families.

These are factors the President should take into account. But this law ties his hands. It mandates that the Federal Energy Regulatory Commission approve the pipeline without addressing any of these issues. In fact, it requires approval before we even know the route that the pipeline will take.

Now this follows some Keystone Kops activities on the Republican side of the aisle. They've worked themselves up about this pipeline. So in order to get unemployment insurance or middle class tax breaks, they put in the extension for 2 months of those areas, a requirement that the President decide the issue within 2 months. And the President said, I don't have all the information, I can't make that decision. So he said, I'm not going to approve it within 2 months. I'll consider it later, but I'm not going to approve it.

Suddenly, the Republicans realized they were outsmarted, hoisted by their own petard. They forced the President to make a decision, and he made a decision against them. They don't want to take that chance again.

This bill would put in an exemption from all the laws for one pet project, from the ordinary permitting requirements that apply to every other oil pipeline crossing our borders.

During the committee process, we asked a simple question: Who benefits from this unprecedented congressional intervention into the regulatory process? Many media reports said that a private oil company, Koch Industries, is one of the "big winners." But the committee refused, even though the Democrats asked them, to even inquire from the company, Koch Industries, whether it had a direct and substantial interest in the pipeline. They wouldn't even ask that question. Could you imagine? They talk about they're against earmarks, then when there is an earmark that they want, they won't even tell us who benefits from it?

Under this bill, the oil industry gets a conduit for exporting tar sands products from Canada to China. India gets the opportunity to provide pipes to build it. South Korea gets a market for its steel. But what do we get? Midwestern farmers and ranchers will have their land seized through eminent domain and may lose their vital water supplies to a pipeline spill into the Ogallala Aquifer. Oil prices in parts of the United States will increase as fuel supplies come into their area, and we are left with a dirtier fuel supply and higher emissions of carbon pollution, worsening the climate change that is already starting to afflict our Nation.

I urge all Members to oppose this legislation, and I reserve the balance of my time.

Mr. WHITFIELD. At this time, I would like to yield 3 minutes to the distinguished gentleman from Nebraska (Mr. TERRY).

Mr. TERRY. Mr. Chairman, the language that we're discussing at this current time is allowing the Keystone pipeline a path forward. It's based on a bill I introduced back in September, which is H.R. 3548. Keep in mind that the President of the United States killed the Keystone pipeline. We think that was kowtowing to the environmental extremists, some of which may

be in the House of Representatives, or represented here today. But the reality is that it was a wrong decision. It is in the best interests of our Nation to have the Keystone pipeline bringing oil from Alberta oil sands into the United States, where it can be refined and used in the United States, offsetting imported oil from Venezuela and Saudi Arabia.

Keystone pipeline would take these supplies from Canada and use them in the United States, creating tens of thousands of jobs over a 2-year to 2½ year construction phase with permanent jobs thereafter to maintain the pipeline and its hubs along the 1,700-mile pipeline.

Now, as far as the environmental objections to the project are concerned, I wish more people would have read the administration's own final environmental impact study. It found that not building the Keystone XL would lead to more oil being transported by riskier means, such as tankers, trains, and trucks. For this reason, the administration's folks concluded that the building of the pipeline is environmentally preferable to not building the pipeline and that its route was safe. Then the Nebraska Governor requested that, just for a little bit of Nebraska, that they do a 30- or 40-mile loop. The path was set, except for this little loop.

Now, it would take a long time to dispel all the myths that have been perpetuated by the opponents in the environmental community. But it's worth noting that these are intrastate issues well on their way to being resolved and, in fact, were carved out in the previous bill mentioned by the gentleman from California, but the President ignored the Nebraska exemption giving Nebraska time to work through its change of route for about 40 or 50 miles of the 1,700. He never mentioned that and killed the pipeline.

So we give a pathway forward to TransCanada to re-file its permit with all of the environmental documents that it has gathered over the last 3 years, presented to the administration last year, and give time to Nebraska to resolve their issue.

The CHAIR. The time of the gentleman has expired.

Mr. WHITFIELD. I yield the gentleman 1 additional minute.

Mr. TERRY. So, politics of the extreme put us in this position. But let's ask, who benefits from this oil coming into the United States from our partner, Canada, and being refined and used in the United States of America? If we have this, everyone benefits in our Nation. If we don't have this pipeline to displace the oil, who wins? Venezuela, which continues to send us 900,000 barrels per day, and Saudi Arabia. Our reliance just grows for these nations' oil supplies. That's who wins, Saudi Arabia and Venezuela.

Mr. WAXMAN. Mr. Chairman, I'm pleased at this time to yield 4 minutes

the gentleman from Illinois (Mr. RUSH), the ranking member of the Energy Subcommittee.

Mr. RUSH. I want to thank the ranking member for this time, and I thank him for his leadership on this issue.

Mr. Chairman, I find it remarkable that we are here today debating a bill that is essentially a regulatory earmark for just one company, and that company is called TransCanada. And we're here debating whether to build a pipeline through the heart of our country without even allowing the appropriate State and Federal agencies to completely conduct their due diligence and their oversight responsibility.

Mr. Chairman, this legislative gift wrapped in fine gift-wrapping to TransCanada on behalf of my Republican colleagues will completely circumvent the State Department and the other State and Federal agencies, those agencies that have the know-how and the expertise, to thoroughly examine this process, and Mr. Chairman, they will require that FERC, the Federal Energy Regulatory Commission, issue a permit for the construction of the Keystone XL pipeline within 30 days of the receipt of the application.

□ 1540

If FERC does not act on the permit application within the meager 30 days, the permit shall be considered approved automatically.

Mr. Chairman, how insane can insanity get? How ridiculous can ridiculous be when we are telling an agency that if they don't pass this permit within 30 days, if they don't do all their investigations within 30 days, then this permit will automatically be approved?

Mr. Chairman, the Keystone XL project is too big, too consequential, too important to the American people for this Congress to completely ignore all the established protocols that have existed prior and exist now and set a precedent of bypassing State and Federal oversight procedures. The very people whose lives will be most affected by this pipeline deserve to have the responsible agencies complete their review process to ensure the American people that this project has been thoroughly examined and vetted.

Mr. Chairman, even my colleagues who may support the merits of the Keystone XL pipeline are appalled—and they should be appalled—at the majority party's attempt to hijack the process and circumvent the appropriate State and Federal agencies in order to hastily, irresponsibly green-light this project.

This sentiment can be summed up best by a letter sent to me on February 9 by a citizen of this Nation, a Nebraskan rancher by the name of Randy Thomas, who said:

The short circuiting of the process leaves those of us who live and work along the proposed pathway of this project with many lin-

gering doubts about its safety, and the impacts it could have on our livelihoods.

The CHAIR. The time of the gentleman has expired.

Mr. WAXMAN. I yield the gentleman an additional 30 seconds.

Mr. RUSH. Mr. Chairman, the American people deserve better than this shoddy attempt to provide TransCanada with a regulatory earmark that allows them to bypass the established rules and procedures we have in place. I cannot support this, and I ask my colleagues to join me in not supporting this particular bill.

Mr. WAXMAN. Mr. Chairman, I yield the gentleman another 30 seconds if he would yield to me for further comment.

The CHAIR. The gentleman from California only has 15 seconds remaining.

Mr. WAXMAN. We heard debate from the other side about refining oil. I think we ought to refine our debate because, on the other side of the aisle, a comment was made that extremists are pushing opposition to this pipeline. From what I heard from Mr. RUSH and what I understand the case to be is that those who ordinarily make this decision should have all the facts, and I don't think that is an extreme position at all.

I thank the gentleman for yielding to me.

The CHAIR. The time of the gentleman has expired.

Mr. WHITFIELD. Mr. Chairman, how much time do I have remaining?

The CHAIR. The gentleman from Kentucky has 2 minutes.

Mr. WHITFIELD. I yield myself 2 minutes.

Mr. Chairman, we're here today because it's time to decide. President Obama and his administration have made a decision not to decide, even though his own Secretary of State, in their final economic environmental impact statement, made the decision that if you looked at two options—one, build the pipeline, or two, not build the pipeline—the preferable route was to build the pipeline; 1 million more barrels of oil a day coming to America, ultimately. We're facing ever-increasing gasoline prices.

There's only 60 miles at issue at all in this pipeline out of 1,700. Five major labor unions support this pipeline. There's not one dime of Federal dollars in this pipeline, unlike the millions and billions that this administration have given to wind power and solar power and battery companies—many of which are in bankruptcy, just like Solyndra, which received \$538 million from the taxpayers of America. This is a private company willing to put in \$7 billion to bring 100,000 more barrels of oil a day, willing to provide 20,000 additional jobs to construct this pipeline.

So I think the decision here is very easy for the American people, and that's what Mr. TERRY's legislation

does. Since the President won't make a decision, Mr. TERRY directs the Federal Energy Regulatory Commission to make the decision. We have all of the data necessary. It's the right decision to make.

Mr. Chairman, I yield back the balance of my time.

The CHAIR. The gentleman from Washington is recognized for 1½ minutes.

Mr. HASTINGS of Washington. Mr. Chairman, I yield back the balance of my time.

Ms. DEGETTE. Mr. Chair, today I rise in strong opposition to the so-called Protecting Investment in Oil Shale the Next Generation of Environmental, Energy and Resource Security Act, which is purported to help finance the transportation bill.

I agree with my colleagues' concerns about the Keystone XL pipeline provision that forces the Federal Energy Regulatory Commission to approve the project. The permitting process for Keystone XL has become a political spin war and I urge my colleagues to oppose my colleague from Nebraska's proposal. We should allow the original permitting process to be completed fairly and without interference.

However, I come to the Floor today to talk about another huge problem with the oil shale provisions: CBO estimates they would have no significant net impact on the federal budget from 2012–2022.

Oil shale has yet to be produced in commercial quantities despite 100 years of research and development. The oil shale provisions found in H.R. 3408 are being promoted by the Majority as a funding mechanism for the surface transportation reauthorization package despite the fact that the Congressional Budget Office last week concluded that opening up 2 million acres in Colorado, Utah and Wyoming for oil shale speculation would generate negligible revenue over the next decade.

Speculators have swept through Colorado throughout our state's history to try and make a quick buck off oil shale. The last time around, in the early 1980s, Federal legislation much like H.R. 3408 ushered in a boom-bust cycle that devastated communities on the Western Slope when it became clear production was not profitable. 85 million dollars in annual payroll disappeared in Garfield and Mesa counties over two years.

Oil shale is still not commercially viable—in fact, Shell Corporation estimates it could be 2020 before a company could be ready to develop a Federal oil shale lease.

We need real solutions for funding our nation's crumbling transportation infrastructure. Using H.R. 3408 as a funding source for the surface transportation reauthorization is not a good faith effort to create the jobs Americans so desperately need.

Mr. Chair, I hope every member of Congress realizes what an economic mistake H.R. 3408 is. I urge every member to oppose the PIONEERS Act and to support the amendment to strike all oil shale provisions.

Mr. GRIJALVA. Mr. Chair, I rise in opposition to this bill.

I do not even know where to start: Keystone XL; Drilling in the Arctic National Wildlife Ref-

uge; Drilling of the coast of California; Throwing money at oil shale, an unproven technology with a horrible track record and no clear path to responsible development that will not create jobs or revenue for the Treasury. All of that is in this bill.

Reauthorization of the Surface Transportation bill should be a noncontroversial exercise that invests in roads, highways, bridges, tunnels, and waterways throughout the country. Bipartisan efforts in the past saw this reauthorization as a key jobs creator and reinvestment tool for America to reinvest in its physical infrastructure and regain its competitive advantage. For the first time since the creation of the Interstate Highway System in 1956, this Transportation bill does not contain a single high priority infrastructure project.

Instead, this bill intends to pay for reauthorization of the transportation bill with some of the most controversial, partisan, and special interest-driven pieces of legislation considered by this Republican-controlled House.

This bill would open the Alaska National Wildlife Refuge to onshore oil extraction. Home to elk, caribou, gray wolves and polar bears, the refuge is one of the most pristine pieces of wilderness anywhere on Earth. It was set aside as a refuge on a bipartisan basis. Now, the majority wants to throw that away and allow large oil companies to suck massive profits out of our Nation's public resources.

Even with expanded drilling in some of the most sensitive ecosystems in North America, this proposal would only generate less than 2 percent of the revenue needed to support the transportation projects the bill authorizes over the next 5 years.

With the President's wise decision to wait on the controversial Keystone XL pipeline, Republicans are now trying anything they can move it through without review or public support. This bill would shift authority for approval from the State Department to the Federal Energy Regulatory Commission (FERC), even though FERC is not responsible for overseeing or regulating oil pipeline siting or safety.

This bill would not ask FERC to review the pipeline; it would mandate that FERC authorize the construction of Keystone XL. If they refuse to approve it, the project would move ahead, ignoring important environmental protocol.

Despite our Nation's recent investments in clean, homegrown, energy choices for Americans, we are rushing through a pipeline that will import dirty oil from Canada to a port in Texas so it can be exported to other countries. This is not the way to make this sort of decision.

At the beginning of last year, the Republican majority promised an open and transparent Congress that would include single item bills, sufficient time for review, and bills under an open rule. Today, we are on the House floor debating a 200-page section of a 900-page transportation bill.

We were promised a Congress focused on jobs and continued efforts to bolster our Nation's economic recovery. Instead, we have been given a year of political games and a paralyzed legislative branch.

Let's start over and work on a bill that will make our roads safer, modernize our highways and create real, long lasting jobs.

I urge my colleagues to vote NO.

Mr. LEVIN. Mr. Chair, I rise in opposition to the surface transportation bill before the House of Representatives this week and the partisan and contorted process the Republican Leadership is using to ram this bill through the House.

For as long as I have served in the House, transportation bills have always been bipartisan. That's because every one of our states confront unmet transportation needs, and infrastructure investments are critical to jobs, economic growth, and competitiveness.

But this bill throws bipartisanship out the window. Secretary of Transportation LaHood—himself a former Republican House Member from Illinois—recently said that this is, and I quote, “the most partisan transportation bill that I have ever seen.” Secretary LaHood also declared that this is “the worst transportation bill I’ve seen during 35 years of public service.” That’s quite an indictment coming from a man who is respected on both sides of the aisle.

Some of our constituents may be watching and wondering why Speaker BOEHNER decided to take the transportation package and divide it into three separate bills. The reality is that the bill probably can't pass as a single, stand-alone piece of legislation. So the Leadership has broken the bill into pieces that will move separately through the House. Later, the clerk will be directed to sew all the pieces back into one bill and it will be deemed passed without a single member of the House voting for it.

Today we're considering the portion of the bill that opens up vast swaths of the Atlantic and Pacific Oceans, as well as the Eastern Gulf of Mexico and the pristine Arctic Wildlife Refuge to oil drilling. The bill also approves the controversial Keystone Pipeline and there is not even a guarantee that any of the oil that it transports to the Gulf of Mexico will remain in the country to benefit Americans. What does handing out more goodies to the oil companies have to do with transportation policy? The oil industry made record profits last year. They don't need the special interest provisions contained in this bill.

Although this portion of the transportation package is not before the House today, I want to state my complete opposition to the provision of the larger package that undercuts mass transit. This provision undermines the very structure of the highway trust fund by eliminating guaranteed funding for transit and replacing it with monies from the general fund. The loss of dedicated revenue will make it impossible for public transit systems across the country to plan for long-term investments. I will continue to strongly support efforts to correct this unnecessary and harmful attack on mass transit.

I urge defeat of the bill before the House. We need to go back to the drawing board and craft a bipartisan transportation bill.

Mr. STARK. Mr. Chair, I rise in opposition to H.R. 3408, the so-called “PIONEERS Act.” The Republican majority is bringing this bill to the floor under a procedural charade that has us voting on three separate bills that will magically become a transportation bill at some point in the future when the Speaker is able to twist enough arms to pass the other pieces.

An obvious question to ask about H.R. 3408 is: what does it have to do with transportation? Not much. Although this bill is a grab bag of goodies for the oil and gas industry, it will do virtually nothing to repair our crumbling roads and bridges.

The legislation requires drilling off the coast of Southern California and overrides current law to forbid the State of California from haying any input into where, when, and how the drilling will occur. So much for states' rights. In their drive to hand out drilling leases to oil companies, Republicans are preventing my constituents in California from having any say on an issue that could have profound consequences on our state's economy and environment.

In the unlikely event that this bill becomes law, the Arctic National Wildlife Refuge would be opened to oil drilling and the Keystone XL tar sands pipeline will be approved despite the fact that the President found the pipeline is not in the national interest. This legislation also mandates oil shale production on millions of acres of taxpayer owned lands in the West without environmental review. Producing oil from oil shale is an unproven process that requires massive amounts of water and energy and produces equally massive amounts of waste. That's why the Obama Administration continues to study the process and conduct research and development on the feasibility of oil shale extraction prior to opening up federal lands. Instead of following this reasonable approach, Republicans are ignoring science and pushing ahead.

Republican leaders claim that all of this new drilling might raise some money in the future that can then pay for transportation projects. Instead of relying on fictional revenues, we could simply end the \$4 billion in yearly tax subsidies that the big oil companies enjoy. These companies raked in \$137 billion in profits last year, yet taxpayers are still forced to subsidize them. Let's end those handouts to pay for transportation projects not provide yet more giveaways to the oil industry.

I urge all my colleagues to vote against this dirty energy bill.

Ms. CASTOR of Florida. Mr. Chair, in the aftermath of the BP Deepwater Horizon disaster, President Obama, lawmakers from both sides of the aisle, a national commission, businesses and environmentalists reached consensus that 80% of the fines and penalties that BP is required to pay for violating the Clean Water Act be devoted to Gulf of Mexico recovery and research. All have urged Congress to act, but unfortunately, the Congress has not done so.

As Co-Chair of the bipartisan Gulf Coast Caucus, I ask my colleagues not to let the effort languish any longer. The House should act expeditiously to do so and devote 80% of the Deepwater Horizon fines and penalties to the Gulf of Mexico.

Unfortunately, the Scalise amendment could be interpreted as an endorsement of a particular piece of legislation, such as the RESTORE Act. While the RESTORE Act does devote 80% of the Clean Water Act fines to the Gulf States, it is flawed in its current form and does not achieve meaningful recovery of the Gulf of Mexico.

So while I urge my colleagues to defeat the amendment, the time is now for the Congress

to pass an 80% bill and focus on the economic and environmental health of the Gulf of Mexico.

Extensive review of the BP Deepwater Horizon disaster and the historic degradation of the Gulf of Mexico was conducted by the National Commission on the BP Deepwater Horizon Oil Spill, Secretary of the Navy Ray Mabus Report, and the EPA Gulf Restoration Task Force is appreciated. All recommended recovery and research strategies to be funded in large part by 80% of the fines and penalties under the Clean Water Act. Although the RESTORE Act purports to follow the recommended strategies, it does not and is flawed.

#### RESTORE SHOULD FOCUS ON A GULF-WIDE RESEARCH AND RECOVERY STRATEGY

As currently drafted, the RESTORE Act does not promote a Gulf-wide research and recovery strategy. Under the formulas contained in the bill that divide the 80% resources, Gulf-wide research and recovery efforts would be disjointed and receive short-shrift. The formulas currently contained in the bill appear to be based upon Senate dynamics rather than a Gulf-wide recovery and research strategy based upon sound science. The RESTORE Act fails to make a large enough investment in Gulf-wide solutions to the "dead zone," red tide outbreaks that threaten tourism, and the health of the Gulf overall. Where is the overarching science advisory component that is necessary for such an important research and recovery strategy?

This is a once-in-a-lifetime opportunity to address critical systemic issues that have plagued the Gulf for decades. We must not waste it.

#### RESTORE SHOULD DEVOTE GREATER RESOURCES TO LONG TERM RESEARCH AND GULF MONITORING

RESTORE should be improved to ensure that adequate Gulf research and monitoring are conducted for decades to come. Many of the impacts from the catastrophic disaster are currently impossible to discern to the naked eye and in the short-term. The blowout wreaked havoc on fisheries, marshes, seagrasses, oyster beds, coasts, and aquatic life. In addition, over past decades, science gathering and sharing in the Gulf has been neglected. While RESTORE does carve out some dollars for long-term research and monitoring, the investments are inadequate to ensure a long-term, sustained research and recovery effort.

#### DO NOT DUPLICATE NATURAL RESOURCE DAMAGE ASSESSMENTS \$ BILLIONS FLOWING TO IMPACTED AREAS

Any legislation that devotes 80% of the Clean Water Act fines and penalties to the Gulf of Mexico research and recovery effort should not duplicate the billions of dollars going to the impacted areas under the Oil Pollution Act and the Natural Resource Damage Assessment. One billion dollars already have been directed to oiled areas and states for cleanup and restoration.

#### JOBS AND ECONOMICS

The Gulf is rich in natural resources that support many jobs and economic stability for millions of families. The Gulf ecosystem produced thirty percent of the United States' gross domestic product in 2009. If our five Gulf States were one country it would rank seventh in global gross domestic product. Our

abundance of natural resources is critical to our economic health, as those resources dwindle so do our livelihoods and our financial stability. Investing in long-term environmental restoration and addressing environmental issues present prior to the BP oil disaster is critical to achieving comprehensive economic restoration.

I am encouraged to see bipartisan support to direct 80% of the Clean Water Act fines to the Gulf of Mexico. However, the RESTORE Act as currently drafted falls far short of the coordinated, long-term, science-based effort that is needed to protect such a valuable national resource. Therefore, I look forward to working with all Members on an improved national strategy for the Gulf of Mexico and its communities.

Mrs. MALONEY. Mr. Chair, like a broken, outdated record player, with this legislation the Republican Majority in the House shows itself to be out of touch with America's energy needs and energy future. The Congress should be encouraging innovation in our energy sector and natural resource preservation. Instead, H.R. 3408 shirks environmental stewardship and ignores all lessons from past drilling and spill related disasters. Almost two years after the Deepwater Horizon oil spill disaster there are still no new safety measures or reforms in place to prevent and mitigate a future catastrophe. Rather than meaningful efforts to prevent loss of life and loss of habitat, the Republican Majority chooses to open up nearly every coastline of the U.S. for development of oil and gas drilling.

This bill threatens our nation's most pristine wilderness, the beautiful Arctic National Wildlife Refuge. Opening this area to oil and gas drilling is not projected to lower gas prices in the near future or by any significant amount—less than two cents per gallon 20 years from now. But this is not the only area that would be opened up for offshore drilling under this bill. The Majority wants to mandate that broad swaths of the Atlantic, Pacific and Gulf coasts be made available for drilling leases. I thank my colleague in the New York Delegation, Mr. BISHOP, for his amendment that would prevent oil and gas leases in the Northeast region. If I had been present, I would have voted "aye" on the Amendment 12 offered by Mr. DEUTCH.

The grievances continue. The Majority repeats itself by again attempting to force approval of the Keystone XL pipeline. Throughout the 112th Congress they have refused to allow for a thorough review and study by the State Department. Seeking to direct the Federal Energy Regulatory Commission to approve the pipeline within 30 days without conditions is wholly irresponsible and does nothing to ensure the safety and security of workers, residents, and communities impacted by the pipeline.

The Republican Majority has tried to say opening up these lands to drillings will pay for a transportation package but that is false. This legislation would cover less than one percent of the overall cost of their transportation proposal.

For reasons listed above, I oppose this misguided and dangerous legislation.

The CHAIR. All time for general debate has expired.

Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule.

In lieu of the amendment in the nature of a substitute recommended by the Committee on Natural Resources, printed in the bill, an amendment in the nature of a substitute consisting of the text of titles XIV and XVII of Rules Committee print 112-14 shall be considered as adopted. The bill, as amended, shall be considered as an original bill for the purpose of further amendment under the 5-minute rule and shall be considered read.

The text of the bill, as amended, is as follows:

H.R. 3408

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### **TITLE XIV—KEYSTONE XL PIPELINE**

##### **SEC. 14001. SHORT TITLE.**

This title may be cited as the “North American Energy Access Act”.

##### **SEC. 14002. RESTRICTION.**

(a) **IN GENERAL.**—No person may construct, operate, or maintain the oil pipeline and related facilities described in subsection (b) except in accordance with a permit issued under this title.

(b) **PIPELINE.**—The pipeline and related facilities referred to in subsection (a) are those described in the Final Environmental Impact Statement for the Keystone XL Pipeline Project issued by the Department of State on August 26, 2011, including any modified version of that pipeline and related facilities.

##### **SEC. 14003. PERMIT.**

(a) **ISSUANCE.**—

(1) **BY FERC.**—The Federal Energy Regulatory Commission shall, not later than 30 days after receipt of an application therefor, issue a permit without additional conditions for the construction, operation, and maintenance of the oil pipeline and related facilities described in section 14002(b), to be implemented in accordance with the terms of the Final Environmental Impact Statement described in section 14002(b). The Commission shall not be required to prepare a Record of Decision under section 1505.2 of title 40 of the Code of Federal Regulations with respect to issuance of the permit provided for in this section.

(2) **ISSUANCE IN ABSENCE OF FERC ACTION.**—If the Federal Energy Regulatory Commission has not acted on an application for a permit described in paragraph (1) within 30 days after receiving such application, the permit shall be deemed to have been issued under this title upon the expiration of such 30-day period.

(b) **MODIFICATION.**—

(1) **IN GENERAL.**—The applicant for or holder of a permit described in subsection (a) may make a substantial modification to the pipeline route or any other term of the Final Environmental Impact Statement described in section 14002(b) only with the approval of the Federal Energy Regulatory Commission. The Commission shall expedite consideration of any such modification proposal.

(2) **NEBRASKA MODIFICATION.**—Within 30 days after the date of enactment of this Act, the Federal Energy Regulatory Commission shall enter into a memorandum of understanding with the State of Nebraska for an effective and timely review under the National Environmental Policy Act of 1969 of any modification to the proposed pipeline route in Nebraska as proposed by the applicant for the permit described in subsection (a). Not later than 30 days after receiving approval of such proposed modification from the

Governor of Nebraska, the Commission shall complete consideration of and approve such modification.

(3) **ISSUANCE IN ABSENCE OF FERC ACTION.**—If the Federal Energy Regulatory Commission has not acted on an application for approval of a modification described in paragraph (2) within 30 days after receiving such application, such modification shall be deemed to have been issued under this title upon expiration of the 30-day period.

(4) **CONSTRUCTION DURING CONSIDERATION OF NEBRASKA MODIFICATION.**—While any modification of the proposed pipeline route in Nebraska is under consideration pursuant to paragraph (2), the holder of the permit issued under subsection (a) may commence or continue with construction of any portion of the pipeline and related facilities described in section 14002(b) that is not within the State of Nebraska.

(c) **NATIONAL ENVIRONMENTAL POLICY ACT OF 1969.**—Except for actions taken under subsection (b)(1), the actions taken pursuant to this title shall be taken without further action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

##### **SEC. 14004. RELATION TO OTHER LAW.**

(a) **GENERAL RULE.**—Notwithstanding Executive Order 13337 (3 U.S.C. 301 note), Executive Order 11423 (3 U.S.C. 301 note), section 301 of title 3, United States Code, and any other Executive Order or provision of law, no presidential permits shall be required for the construction, operation, and maintenance of the pipeline and related facilities described in section 14002(b) of this Act.

(b) **APPLICABILITY.**—Nothing in this title shall affect the application to the pipeline and related facilities described in section 14002(b) of—

(1) chapter 601 of title 49, United States Code; or

(2) the authority of the Federal Energy Regulatory Commission to regulate oil pipeline rates and services.

(c) **FINAL ENVIRONMENTAL IMPACT STATEMENT.**—The final environmental impact statement issued by the Secretary of State on August 26, 2011, shall be considered to satisfy all requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

#### **TITLE XVII—NATURAL RESOURCES**

##### **Subtitle A—Oil Shale Leasing**

##### **SEC. 17001. SHORT TITLE.**

This subtitle may be cited as the “Protecting Investment in Oil Shale the Next Generation of Environmental, Energy, and Resource Security Act” or the “PIONEERS Act”.

##### **SEC. 17002. EFFECTIVENESS OF OIL SHALE REGULATIONS, AMENDMENTS TO RESOURCE MANAGEMENT PLANS, AND RECORD OF DECISION.**

(a) **REGULATIONS.**—Notwithstanding any other law or regulation to the contrary, the final regulations regarding oil shale management published by the Bureau of Land Management on November 18, 2008 (73 Fed. Reg. 69,414) are deemed to satisfy all legal and procedural requirements under any law, including the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and the Energy Policy Act of 2005 (Public Law 109-58), and the Secretary of the Interior shall implement those regulations, including the oil shale leasing program authorized by the regulations, without any other administrative action necessary.

(b) **AMENDMENTS TO RESOURCE MANAGEMENT PLANS AND RECORD OF DECISION.**—Notwithstanding any other law or regulation to the contrary, the November 17, 2008 U.S. Bureau of Land Management Approved Resource Manage-

ment Plan Amendments/Record of Decision for Oil Shale and Tar Sands Resources to Address Land Use Allocations in Colorado, Utah, and Wyoming and Final Programmatic Environmental Impact Statement are deemed to satisfy all legal and procedural requirements under any law, including the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and the Energy Policy Act of 2005 (Public Law 109-58), and the Secretary of the Interior shall implement the oil shale leasing program authorized by the regulations referred to in subsection (a) in those areas covered by the resource management plans amended by such amendments, and covered by such record of decision, without any other administrative action necessary.

##### **SEC. 17003. OIL SHALE LEASING.**

(a) **ADDITIONAL RESEARCH AND DEVELOPMENT LEASE SALES.**—The Secretary of the Interior shall hold a lease sale within 180 days after the date of enactment of this Act offering an additional 10 parcels for lease for research, development, and demonstration of oil shale resources, under the terms offered in the solicitation of bids for such leases published on January 15, 2009 (74 Fed. Reg. 10).

(b) **COMMERCIAL LEASE SALES.**—No later than January 1, 2016, the Secretary of the Interior shall hold no less than 5 separate commercial lease sales in areas considered to have the most potential for oil shale development, as determined by the Secretary, in areas nominated through public comment. Each lease sale shall be for an area of not less than 25,000 acres, and in multiple lease blocs.

##### **SEC. 17004. POLICIES REGARDING BUYING, BUILDING, AND WORKING FOR AMERICA.**

(a) **CONGRESSIONAL INTENT.**—It is the intent of the Congress that—

(1) this subtitle will support a healthy and growing United States domestic energy sector that, in turn, helps to reinvigorate American manufacturing, transportation, and service sectors by employing the vast talents of United States workers to assist in the development of energy from domestic sources;

(2) to ensure a robust oil shale industry and ensure that the benefits of development support local communities, under this subtitle, the Secretary of the Interior shall make every effort to promote the development of oil shale in a manner that will support the long-term commercial development of oil shale, and shall take into consideration the socioeconomic impacts, infrastructure requirements, and fiscal stability for local communities located within areas containing oil shale resources; and

(3) the Congress will monitor the deployment of personnel and material onshore to encourage the development of American technology and manufacturing to enable United States workers to benefit from this subtitle through good jobs and careers, as well as the establishment of important industrial facilities to support expanded access to American resources.

(b) **REQUIREMENT.**—The Secretary of the Interior shall when possible, and practicable, encourage the use of United States workers and equipment manufactured in the United States in all construction related to mineral resource development under this subtitle.

##### **Subtitle B—Offshore Oil and Gas Leasing**

##### **SEC. 17101. SHORT TITLE.**

This subtitle may be cited as the “Energy Security and Transportation Jobs Act”.

## PART 1—EXPANDING OFFSHORE ENERGY DEVELOPMENT

### SEC. 17201. OUTER CONTINENTAL SHELF LEASING PROGRAM.

Section 18(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1344(a)) is amended by adding at the end the following:

“(5)(A) In each oil and gas leasing program under this section, the Secretary shall make available for leasing and conduct lease sales including—

“(i) at least 50 percent of the available unleased acreage within each outer Continental Shelf planning area considered to have the largest undiscovered, technically recoverable oil and gas resources (on a total btu basis) based upon the most recent national geologic assessment of the outer Continental Shelf, with an emphasis on offering the most geologically prospective parts of the planning area; and

“(ii) any State subdivision of an outer Continental Shelf planning area that the Governor of the State that represents that subdivision requests be made available for leasing.

“(B) In this paragraph the term ‘available unleased acreage’ means that portion of the outer Continental Shelf that is not under lease at the time of a proposed lease sale, and that has not otherwise been made unavailable for leasing by law.

“(6)(A) In the 2012–2017 5-year oil and gas leasing program, the Secretary shall make available for leasing any outer Continental Shelf planning areas that—

“(i) are estimated to contain more than 2,500,000,000 barrels of oil; or

“(ii) are estimated to contain more than 7,500,000,000 cubic feet of natural gas.

“(B) To determine the planning areas described in subparagraph (A), the Secretary shall use the document entitled ‘Minerals Management Service Assessment of Undiscovered Technically Recoverable Oil and Gas Resources of the Nation’s Outer Continental Shelf, 2006’.”.

### SEC. 17202. DOMESTIC OIL AND NATURAL GAS PRODUCTION GOAL.

Section 18(b) of the Outer Continental Shelf Lands Act (43 U.S.C. 1344(b)) is amended to read as follows:

“(b) DOMESTIC OIL AND NATURAL GAS PRODUCTION GOAL.—

“(1) IN GENERAL.—In developing a 5-year oil and gas leasing program, and subject to paragraph (2), the Secretary shall determine a domestic strategic production goal for the development of oil and natural gas as a result of that program. Such goal shall be—

“(A) the best estimate of the possible increase in domestic production of oil and natural gas from the outer Continental Shelf;

“(B) focused on meeting domestic demand for oil and natural gas and reducing the dependence of the United States on foreign energy; and

“(C) focused on the production increases achieved by the leasing program at the end of the 15-year period beginning on the effective date of the program.

“(2) 2012–2017 PROGRAM GOAL.—For purposes of the 2012–2017 5-year oil and gas leasing program, the production goal referred to in paragraph (1) shall be an increase by 2027, from the levels of oil and gas produced as of the date of enactment of this paragraph, of—

“(A) no less than 3,000,000 barrels in the amount of oil produced per day; and

“(B) no less than 10,000,000,000 cubic feet in the amount of natural gas produced per day.

“(3) REPORTING.—The Secretary shall report annually, beginning at the end of the 5-year period for which the program applies, to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate on the progress of the program in meeting the produc-

tion goal. The Secretary shall identify in the report projections for production and any problems with leasing, permitting, or production that will prevent meeting the goal.”.

## PART 2—CONDUCTING PROMPT OFFSHORE LEASE SALES

### SEC. 17301. REQUIREMENT TO CONDUCT PROPOSED OIL AND GAS LEASE SALE 216 IN THE CENTRAL GULF OF MEXICO.

(a) IN GENERAL.—The Secretary of the Interior shall conduct offshore oil and gas Lease Sale 216 under section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) as soon as practicable, but not later than 4 months after the date of enactment of this Act.

(b) ENVIRONMENTAL REVIEW.—For the purposes of that lease sale, the Environmental Impact Statement for the 2007–2012 5 Year Outer Continental Shelf Plan and the Multi-Sale Environmental Impact Statement are deemed to satisfy the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

### SEC. 17302. REQUIREMENT TO CONDUCT PROPOSED OIL AND GAS LEASE SALE 220 ON THE OUTER CONTINENTAL SHELF OFFSHORE VIRGINIA.

(a) IN GENERAL.—Notwithstanding the inclusion of Lease Sale 220 in the Proposed Outer Continental Shelf Oil & Gas Leasing Program 2012–2017, the Secretary shall conduct offshore oil and gas Lease Sale 220 under section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) as soon as practicable, but not later than one year after the date of enactment of this Act.

(b) REQUIREMENT TO MAKE REPLACEMENT LEASE BLOCKS AVAILABLE.—

(1) IN GENERAL.—For each lease block in a proposed lease sale under this section for which the Secretary of Defense, in consultation with the Secretary of the Interior, under the Memorandum of Agreement referred to in subsection (c)(2), issues a statement proposing deferral from a lease offering due to defense-related activities that are irreconcilable with mineral exploration and development, the Secretary of the Interior, in consultation with the Secretary of Defense, shall make available in the same lease sale two other lease blocks in the Virginia lease sale planning area that are acceptable for oil and gas exploration and production in order to mitigate conflict.

(2) VIRGINIA LEASE SALE PLANNING AREA DEFINED.—In this subsection the term “Virginia lease sale planning area” means the area of the outer Continental Shelf (as that term is defined in the Outer Continental Shelf Lands Act (33 U.S.C. 1331 et seq.)) that is bounded by—

(A) a northern boundary consisting of a straight line extending from the northernmost point of Virginia’s seaward boundary to the point on the seaward boundary of the United States exclusive economic zone located at 37 degrees 17 minutes 1 second North latitude, 71 degrees 5 minutes 16 seconds West longitude; and

(B) a southern boundary consisting of a straight line extending from the southernmost point of Virginia’s seaward boundary to the point on the seaward boundary of the United States exclusive economic zone located at 36 degrees 31 minutes 58 seconds North latitude, 71 degrees 30 minutes 1 second West longitude.

(c) BALANCING MILITARY AND ENERGY PRODUCTION GOALS.—

(1) JOINT GOALS.—In recognition that the Outer Continental Shelf oil and gas leasing program and the domestic energy resources produced therefrom are integral to national security, the Secretary of the Interior and the Secretary of Defense shall work jointly in implementing this section in order to ensure achievement of the following common goals:

(A) Preserving the ability of the Armed Forces of the United States to maintain an optimum

state of readiness through their continued use of the Outer Continental Shelf.

(B) Allowing effective exploration, development, and production of our Nation’s oil, gas, and renewable energy resources.

(2) PROHIBITION ON CONFLICTS WITH MILITARY OPERATIONS.—No person may engage in any exploration, development, or production of oil or natural gas off the coast of Virginia that would conflict with any military operation, as determined in accordance with the Memorandum of Agreement between the Department of Defense and the Department of the Interior on Mutual Concerns on the Outer Continental Shelf signed July 20, 1983, and any revision or replacement for that agreement that is agreed to by the Secretary of Defense and the Secretary of the Interior after that date but before the date of issuance of the lease under which such exploration, development, or production is conducted.

### SEC. 17303. REQUIREMENT TO CONDUCT OIL AND GAS LEASE SALE 222 IN THE CENTRAL GULF OF MEXICO.

(a) IN GENERAL.—The Secretary shall conduct offshore oil and gas Lease Sale 222 under section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) by as soon as practicable, but not later than September 1, 2012.

(b) ENVIRONMENTAL REVIEW.—For the purposes of that lease sale, the Environmental Impact Statement for the 2007–2012 5 Year Outer Continental Shelf Plan and the Multi-Sale Environmental Impact Statement are deemed to satisfy the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

### SEC. 17304. LEASE SALE OFFSHORE CALIFORNIA WITH NO NEW OFFSHORE IMPACT.

(a) SOUTHERN CALIFORNIA LEASE SALE.—The Secretary shall offer for sale leases of tracts in the Southern California Planning Area in the Santa Maria and Santa Barbara/Ventura Basins in accordance with section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) as soon as practicable, but not later than July 1, 2014.

(b) USE OF EXISTING STRUCTURES OR ON-SHORE-BASED DRILLING.—Leases offered for sale under this section shall include such terms and conditions as are necessary to require that development and production may occur only from existing offshore infrastructure or from onshore-based drilling.

(c) RELATIONSHIP TO LEASING PROGRAM.—Areas shall be offered for lease under this section notwithstanding the omission of the Southern California Planning Area from any outer Continental Shelf leasing program under section 18 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344).

(d) RELATIONSHIP TO STATE COASTAL ZONE MANAGEMENT PROGRAM.—Section 307(c) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456(c)) shall not apply to lease sales under this section and activities conducted under leases issued in such sales, including exploration, development, and production.

(e) ENVIRONMENTAL IMPACT STATEMENT REQUIREMENT.—

(1) IN GENERAL.—Before conducting the first lease sale under this section, the Secretary shall prepare an environmental impact statement for the lease sales required under this section, under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

(2) ACTIONS TO BE CONSIDERED.—

(A) IN GENERAL.—Notwithstanding section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332), in such statement—

(i) the Secretary is not required to identify nonleasing alternative courses of action or to analyze the environmental effects of such alternative courses of action; and

(ii) the Secretary shall only—



(I) identify a preferred action for leasing and not more than one alternative leasing proposal; and

(II) analyze the environmental effects and potential mitigation measures for such preferred action and such alternative leasing proposal.

(B) **DEADLINE.**—The identification of the preferred action and related analysis for the first lease sale under this subtitle shall be completed within 18 months after the date of enactment of this Act.

(3) **CONSIDERATION OF PUBLIC COMMENTS.**—In preparing such statement, the Secretary shall only consider public comments that specifically address the Secretary's preferred action and that are filed within 20 days after publication of an environmental analysis.

(4) **COMPLIANCE.**—Compliance with this subsection is deemed to satisfy all requirements for the analysis and consideration of the environmental effects of proposed leasing under this section.

**SEC. 17305. REQUIREMENT TO CONDUCT OIL AND GAS LEASE SALE 214 IN THE NORTH ALEUTIAN BASIN OFFSHORE ALASKA.**

(a) **IN GENERAL.**—The Secretary of the Interior shall conduct the lease sale formerly known as Lease Sale 214, for the tracts located in the North Aleutian Basin Outer Continental Shelf Planning Area, not later than 1 year after the date of enactment of this Act.

(b) **RELATIONSHIP TO LEASING PROGRAM.**—Areas shall be offered for lease under this section notwithstanding inclusion of areas referred to in subsection (a) in the Proposed Outer Continental Shelf Oil & Gas Leasing Program 2012–2017.

**SEC. 17306. ADDITIONAL LEASES.**

Section 18 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344) is amended by adding at the end the following:

“(i) **ADDITIONAL LEASE SALES.**—In addition to lease sales in accordance with a leasing program in effect under this section, the Secretary may hold lease sales for areas identified by the Secretary to have the greatest potential for new oil and gas development as a result of local support, new seismic findings, or nomination by interested persons.”

**SEC. 17307. DEFINITIONS.**

In this part:

(1) The term “Environmental Impact Statement for the 2007–2012 5 Year Outer Continental Shelf Plan” means the Final Environmental Impact Statement for Outer Continental Shelf Oil and Gas Leasing Program: 2007–2012 (April 2007) prepared by the Secretary.

(2) The term “Multi-Sale Environmental Impact Statement” means the Environmental Impact Statement for Proposed Western Gulf of Mexico Outer Continental Shelf Oil and Gas Lease Sales 204, 207, 210, 215, and 218, and Proposed Central Gulf of Mexico Outer Continental Shelf Oil and Gas Lease Sales 205, 206, 208, 213, 216, and 222 (September 2008) prepared by the Secretary.

(3) The term “Secretary” means the Secretary of the Interior.

**PART 3—LEASING IN NEW OFFSHORE AREAS**

**SEC. 17401. LEASING IN THE EASTERN GULF OF MEXICO.**

Section 104 of division C of the Tax Relief and Health Care Act of 2006 (Public Law 109–432; 120 Stat. 3003) is repealed.

**SEC. 17402. REFORMING OIL AND GAS LEASING IN THE EASTERN GULF OF MEXICO.**

(a) **REFORMING ADMINISTRATIVE BOUNDARIES.**—Effective July 1, 2012, for purposes of administering the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) the boundary between the Central Gulf of Mexico Outer Con-

tinental Shelf Planning Area and the Eastern Gulf of Mexico Outer Continental Shelf Planning Area shall be 86 degrees, 41 minutes west longitude.

(b) **EXTENDING THE MORATORIUM.**—Effective during the period beginning on the date of enactment of this Act and ending June 30, 2025, the Secretary of the Interior shall not offer for leasing, preleasing, or any related activity any area in the Eastern Gulf of Mexico Outer Continental Shelf Planning Area except as required under subsection (c).

(c) **LIMITED NEW LEASING IN THE EASTERN GULF OF MEXICO.**—

(1) **IN GENERAL.**—Notwithstanding the Proposed Outer Continental Shelf Oil & Gas Leasing Program 2012–2017, the Secretary shall conduct planning and leasing for one lease sale in the Eastern Gulf of Mexico Outer Continental Shelf Planning Area in each of 2013, 2014, and 2015. Each lease sale shall only consist of 50 contiguous Outer Continental Shelf lease blocks in those areas the Secretary considers to have the greatest potential for oil and gas after issuing a request for, receiving, and considering public comment. In reviewing potential areas for such leasing, the Secretary shall focus on those areas for which there are known quantities of hydrocarbons that can be conventionally produced using existing or reasonably foreseeable technology, and for which oil and gas exploration, development, production, and marketing could be carried out in an expeditious manner.

(2) **LEASE CONDITIONS.**—In addition to such requirements as otherwise apply, each lease sale under this subsection shall be subject to the following:

(A) The Secretary may include limits on permanent surface occupancy on any lease block if surface occupancy is incompatible with military operations.

(B) The Secretary may include limits on drilling schedules and surface occupancy to accommodate defense activities on a short-term or seasonal basis. Such limits shall be treated as administrative suspensions of a lease term.

(C) The Secretary may limit permanent surface infrastructure on any Outer Continental Shelf lease block that is closer than 12 nautical miles to the coast of any State, unless that infrastructure is approved by the State.

(d) **REQUIREMENT TO MAKE REPLACEMENT LEASE BLOCKS AVAILABLE.**—For each lease block in a proposed lease sale under this section for which the Secretary of Defense, in consultation with the Secretary of the Interior, under the Memorandum of Agreement referred to in subsection (e)(2) issues a statement proposing deferral from a lease offering due to defense-related activities that are irreconcilable with mineral exploration and development, the Secretary of the Interior, in consultation with the Secretary of Defense, shall make available in the same lease sale two other lease blocks in the same Outer Continental Shelf planning area that are acceptable for oil and gas exploration and production in order to mitigate conflict.

(e) **BALANCING MILITARY AND ENERGY PRODUCTION GOALS.**—

(1) **JOINT GOALS.**—In recognition that the Outer Continental Shelf oil and gas leasing program and the domestic energy resources produced therefrom are integral to national security, the Secretary of the Interior and the Secretary of Defense shall work jointly in implementing this section in order to ensure achievement of the goals of—

(A) preserving the ability of the Armed Forces of the United States to maintain an optimum state of readiness through their continued use of the Outer Continental Shelf; and

(B) allowing effective exploration, development, and production of our Nation's oil, gas, and renewable energy resources.

(C) recognizing the Outer Continental Shelf oil and gas leasing program is an integral part of the Nation's energy security program to develop domestic oil and gas resources.

(2) **PROHIBITION ON CONFLICTS WITH MILITARY OPERATIONS.**—No person may engage in any exploration, development, or production of oil or natural gas in the Eastern Gulf of Mexico Outer Continental Shelf Planning Area that would conflict with any military operation, as determined in accordance with the Memorandum of Agreement between the Department of Defense and the Department of the Interior on Mutual Concerns on the Outer Continental Shelf signed July 20, 1983, and any revision or replacement for that agreement that is agreed to by the Secretary of Defense and the Secretary of the Interior after that date but before the date of issuance of the lease under which such exploration, development, or production is conducted.

**SEC. 17403. AREAS ADDED TO CENTRAL GULF OF MEXICO PLANNING AREA.**

The Secretary shall conduct an offshore oil and gas lease sale under section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) for the areas added to the Central Gulf of Mexico Outer Continental Shelf Planning Area as a result of the enactment of section 17402(a) as soon as practicable, but not later than the first lease sale under such section after the date of the enactment of this Act in which any area in such planning area is made available for leasing.

**SEC. 17404. APPLICATION OF OUTER CONTINENTAL SHELF LANDS ACT WITH RESPECT TO TERRITORIES OF THE UNITED STATES.**

Section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331) is amended—

(1) in paragraph (a), by inserting after “control” the following: “or lying within the United States’ exclusive economic zone and the Continental Shelf adjacent to any territory of the United States”; and

(2) in paragraph (p), by striking “and” after the semicolon at the end;

(3) in paragraph (q), by striking the period at the end and inserting “; and”; and

(4) by adding at the end the following:

“(r) The term ‘State’ includes each territory of the United States.”

**PART 4—OUTER CONTINENTAL SHELF REVENUE SHARING**

**SEC. 17501. DISPOSITION OF OUTER CONTINENTAL SHELF REVENUES TO COASTAL STATES.**

(a) **IN GENERAL.**—Section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338) is amended—

(1) in the existing text—

(A) in the first sentence, by striking “All rentals,” and inserting the following:

“(c) **DISPOSITION OF REVENUE UNDER OLD LEASES.**—All rentals,”; and

(B) in subsection (c) (as designated by the amendment made by subparagraph (A) of this paragraph), by striking “for the period from June 5, 1950, to date, and thereafter” and inserting “in the period beginning June 5, 1950, and ending on the date of enactment of the Energy Security and Transportation Jobs Act”;

(2) by adding after subsection (c) (as so designated) the following:

“(d) **DEFINITIONS.**—In this section:

“(1) **COASTAL STATE.**—The term ‘coastal State’ includes a territory of the United States.

“(2) **NEW LEASING REVENUES.**—The term ‘new leasing revenues’—

“(A) means amounts received by the United States as bonuses, rents, and royalties under leases for oil and gas, wind, tidal, or other energy exploration, development, and production on areas of the outer Continental Shelf that are authorized to be made available for leasing as a result of enactment of the Energy Security and Transportation Jobs Act; and



“(B) does not include amounts received by the United States under any lease of an area located in the boundaries of the Central Gulf of Mexico and Western Gulf of Mexico Outer Continental Shelf Planning Areas on the date of the enactment of the Energy Security and Transportation Jobs Act, including a lease issued before, on, or after such date of enactment.”; and

(3) by inserting before subsection (c) (as so designated) the following:

“(a) PAYMENT OF NEW LEASING REVENUES TO COASTAL STATES.—

“(1) IN GENERAL.—Except as provided in paragraph (2), of the amount of new leasing revenues received by the United States each fiscal year, 37.5 percent shall be allocated and paid in accordance with subsection (b) to coastal States that are affected States with respect to the leases under which those revenues are received by the United States.

“(2) PHASE-IN.—Paragraph (1) shall be applied—

“(A) with respect to new leasing revenues under leases awarded under the first leasing program under section 18(a) that takes effect after the date of enactment of the Energy Security and Transportation Jobs Act, by substituting ‘12.5 percent’ for ‘37.5 percent’; and

“(B) with respect to new leasing revenues under leases awarded under the second leasing program under section 18(a) that takes effect after the date of enactment of the Energy Security and Transportation Jobs Act, by substituting ‘25 percent’ for ‘37.5 percent’.

“(b) ALLOCATION OF PAYMENTS.—

“(1) IN GENERAL.—The amount of new leasing revenues received by the United States with respect to a leased tract that are required to be paid to coastal States in accordance with this subsection each fiscal year shall be allocated among and paid to coastal States that are within 200 miles of the leased tract, in amounts that are inversely proportional to the respective distances between the point on the coastline of each such State that is closest to the geographic center of the lease tract, as determined by the Secretary.

“(2) MINIMUM AND MAXIMUM ALLOCATION.—The amount allocated to a coastal State under paragraph (1) each fiscal year with respect to a leased tract shall be—

“(A) in the case of a coastal State that is the nearest State to the geographic center of the leased tract, not less than 25 percent of the total amounts allocated with respect to the leased tract;

“(B) in the case of any other coastal State, not less than 10 percent, and not more than 15 percent, of the total amounts allocated with respect to the leased tract; and

“(C) in the case of a coastal State that is the only coastal State within 200 miles of a leased tract, 100 percent of the total amounts allocated with respect to the leased tract.

“(3) ADMINISTRATION.—Amounts allocated to a coastal State under this subsection—

“(A) shall be available to the coastal State without further appropriation;

“(B) shall remain available until expended; and

“(C) shall be in addition to any other amounts available to the coastal State under this Act.

“(4) USE OF FUNDS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), a coastal State may use funds allocated and paid to it under this subsection for any purpose as determined by the laws of that State.

“(B) RESTRICTION ON USE FOR MATCHING.—Funds allocated and paid to a coastal State under this subsection may not be used as matching funds for any other Federal program.”.

(b) LIMITATION ON APPLICATION.—This section and the amendment made by this section shall

not affect the application of section 105 of the Gulf of Mexico Energy Security Act of 2006 (title I of division C of Public Law 109-432; (43 U.S.C. 1331 note)), as in effect before the enactment of this Act, with respect to revenues received by the United States under oil and gas leases issued for tracts located in the Western and Central Gulf of Mexico Outer Continental Shelf Planning Areas, including such leases issued on or after the date of the enactment of this Act.

## PART 5—MISCELLANEOUS PROVISIONS

### SEC. 17601. POLICIES REGARDING BUYING, BUILDING, AND WORKING FOR AMERICA.

(a) CONGRESSIONAL INTENT.—It is the intent of the Congress that—

(1) this subtitle will support a healthy and growing United States domestic energy sector that, in turn, helps to reinvigorate American manufacturing, transportation, and service sectors by employing the vast talents of United States workers to assist in the development of energy from domestic sources; and

(2) the Congress will monitor the deployment of personnel and material onshore and offshore to encourage the development of American technology and manufacturing to enable United States workers to benefit from this subtitle through good jobs and careers, as well as the establishment of important industrial facilities to support expanded access to American resources.

(b) REQUIREMENT.—The Secretary of the Interior shall when possible, and practicable, encourage the use of United States workers and equipment manufactured in the United States in all construction related to mineral and renewable energy resource development on the Outer Continental Shelf under this subtitle.

### SEC. 17602. REGULATIONS.

Section 30(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1356(a)) is amended by striking “shall issue regulations which” and inserting “shall issue regulations that shall be supplemental to, complementary with, and under no circumstances a substitution for the provisions of the Constitution and laws of the United States extended to the subsoil and seabed of the outer Continental Shelf by section 4(a)(1), except insofar as such laws would otherwise apply to individuals who have extraordinary ability in the sciences, arts, education, or business, which has been demonstrated by sustained national or international acclaim, and that”.

### Subtitle C—Alaska Coastal Plain Oil and Gas Leasing

#### SEC. 17701. SHORT TITLE.

This subtitle may be cited as the “Alaskan Energy for American Jobs Act”.

#### SEC. 17702. DEFINITIONS.

In this subtitle:

(1) COASTAL PLAIN.—The term “Coastal Plain” means that area described in appendix I to part 37 of title 50, Code of Federal Regulations.

(2) PEER REVIEWED.—The term “peer reviewed” means reviewed—

(A) by individuals chosen by the National Academy of Sciences with no contractual relationship with, or those who have no application for a grant or other funding pending with, the Federal agency with leasing jurisdiction; or

(B) if individuals described in subparagraph (A) are not available, by the top individuals in the specified biological fields, as determined by the National Academy of Sciences.

(3) SECRETARY.—The term “Secretary”, except as otherwise provided, means the Secretary of the Interior or the Secretary’s designee.

### SEC. 17703. LEASING PROGRAM FOR LANDS WITHIN THE COASTAL PLAIN.

(a) IN GENERAL.—The Secretary shall take such actions as are necessary—

(1) to establish and implement, in accordance with this subtitle and acting through the Direc-

tor of the Bureau of Land Management in consultation with the Director of the United States Fish and Wildlife Service, a competitive oil and gas leasing program that will result in the exploration, development, and production of the oil and gas resources of the Coastal Plain; and

(2) to administer the provisions of this subtitle through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, subsistence resources, and the environment, including, in furtherance of this goal, by requiring the application of the best commercially available technology for oil and gas exploration, development, and production to all exploration, development, and production operations under this subtitle in a manner that ensures the receipt of fair market value by the public for the mineral resources to be leased.

(b) REPEAL OF EXISTING RESTRICTION.—

(1) REPEAL.—Section 1003 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3143) is repealed.

(2) CONFORMING AMENDMENT.—The table of contents in section 1 of such Act is amended by striking the item relating to section 1003.

(c) COMPLIANCE WITH REQUIREMENTS UNDER CERTAIN OTHER LAWS.—

(1) COMPATIBILITY.—For purposes of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.), the oil and gas leasing program and activities authorized by this section in the Coastal Plain are deemed to be compatible with the purposes for which the Arctic National Wildlife Refuge was established, and no further findings or decisions are required to implement this determination.

(2) ADEQUACY OF THE DEPARTMENT OF THE INTERIOR’S LEGISLATIVE ENVIRONMENTAL IMPACT STATEMENT.—The “Final Legislative Environmental Impact Statement” (April 1987) on the Coastal Plain prepared pursuant to section 1002 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3142) and section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is deemed to satisfy the requirements under the National Environmental Policy Act of 1969 that apply with respect to prelease activities under this subtitle, including actions authorized to be taken by the Secretary to develop and promulgate the regulations for the establishment of a leasing program authorized by this subtitle before the conduct of the first lease sale.

(3) COMPLIANCE WITH NEPA FOR OTHER ACTIONS.—Before conducting the first lease sale under this subtitle, the Secretary shall prepare an environmental impact statement under the National Environmental Policy Act of 1969 with respect to the actions authorized by this subtitle that are not referred to in paragraph (2). Notwithstanding any other law, the Secretary is not required to identify nonleasing alternative courses of action or to analyze the environmental effects of such courses of action. The Secretary shall only identify a preferred action for such leasing and a single leasing alternative, and analyze the environmental effects and potential mitigation measures for those two alternatives. The identification of the preferred action and related analysis for the first lease sale under this subtitle shall be completed within 18 months after the date of enactment of this Act. The Secretary shall only consider public comments that specifically address the Secretary’s preferred action and that are filed within 20 days after publication of an environmental analysis. Notwithstanding any other law, compliance with this paragraph is deemed to satisfy all requirements for the analysis and consideration of the environmental effects of proposed leasing under this subtitle.

(d) **RELATIONSHIP TO STATE AND LOCAL AUTHORITY.**—Nothing in this subtitle shall be considered to expand or limit State and local regulatory authority.

(e) **SPECIAL AREAS.**—

(1) **IN GENERAL.**—The Secretary, after consultation with the State of Alaska, the city of Kaktovik, and the North Slope Borough, may designate up to a total of 45,000 acres of the Coastal Plain as a Special Area if the Secretary determines that the Special Area is of such unique character and interest so as to require special management and regulatory protection. The Secretary shall designate as such a Special Area the Sadlerochit Spring area, comprising approximately 4,000 acres.

(2) **MANAGEMENT.**—Each such Special Area shall be managed so as to protect and preserve the area's unique and diverse character including its fish, wildlife, and subsistence resource values.

(3) **EXCLUSION FROM LEASING OR SURFACE OCCUPANCY.**—The Secretary may exclude any Special Area from leasing. If the Secretary leases a Special Area, or any part thereof, for purposes of oil and gas exploration, development, production, and related activities, there shall be no surface occupancy of the lands comprising the Special Area.

(4) **DIRECTIONAL DRILLING.**—Notwithstanding the other provisions of this subsection, the Secretary may lease all or a portion of a Special Area under terms that permit the use of horizontal drilling technology from sites on leases tracts located outside the Special Area.

(f) **LIMITATION ON CLOSED AREAS.**—The Secretary's sole authority to close lands within the Coastal Plain to oil and gas leasing and to exploration, development, and production is that set forth in this subtitle.

(g) **REGULATIONS.**—

(1) **IN GENERAL.**—The Secretary shall prescribe such regulations as may be necessary to carry out this subtitle, including regulations relating to protection of the fish and wildlife, their habitat, subsistence resources, and environment of the Coastal Plain, by no later than 15 months after the date of enactment of this Act.

(2) **REVISION OF REGULATIONS.**—The Secretary shall, through a rule making conducted in accordance with section 553 of title 5, United States Code, periodically review and, if appropriate, revise the regulations issued under subsection (a) to reflect a preponderance of the best available scientific evidence that has been peer reviewed and obtained by following appropriate, documented scientific procedures, the results of which can be repeated using those same procedures.

#### **SEC. 17704. LEASE SALES.**

(a) **IN GENERAL.**—Lands may be leased under this subtitle to any person qualified to obtain a lease for deposits of oil and gas under the Mineral Leasing Act (30 U.S.C. 181 et seq.).

(b) **PROCEDURES.**—The Secretary shall, by regulation and no later than 180 days after the date of enactment of this Act, establish procedures for—

(1) receipt and consideration of sealed nominations for any area of the Coastal Plain for inclusion in, or exclusion (as provided in subsection (c)) from, a lease sale;

(2) the holding of lease sales after such nomination process; and

(3) public notice of and comment on designation of areas to be included in, or excluded from, a lease sale.

(c) **LEASE SALE BIDS.**—Lease sales under this subtitle may be conducted through an Internet leasing program, if the Secretary determines that such a system will result in savings to the taxpayer, an increase in the number of bidders participating, and higher returns than oral bidding or a sealed bidding system.

(d) **SALE ACREAGES AND SCHEDULE.**—

(1) The Secretary shall offer for lease under this subtitle those tracts the Secretary considers to have the greatest potential for the discovery of hydrocarbons, taking into consideration nominations received pursuant to subsection (b)(1).

(2) The Secretary shall offer for lease under this subtitle no less than 50,000 acres for lease within 22 months after the date of the enactment of this Act.

(3) The Secretary shall offer for lease under this subtitle no less than an additional 50,000 acres at 6-, 12-, and 18-month intervals following offering under paragraph (2).

(4) The Secretary shall conduct four additional sales under the same terms and schedule no later than two years after the date of the last sale under paragraph (3), if sufficient interest in leasing exists to warrant, in the Secretary's judgment, the conduct of such sales.

(5) The Secretary shall evaluate the bids in each sale and issue leases resulting from such sales, within 90 days after the date of the completion of such sale.

#### **SEC. 17705. GRANT OF LEASES BY THE SECRETARY.**

(a) **IN GENERAL.**—The Secretary may grant to the highest responsible qualified bidder in a lease sale conducted under section 17704 any lands to be leased on the Coastal Plain upon payment by the such bidder of such bonus as may be accepted by the Secretary.

(b) **SUBSEQUENT TRANSFERS.**—No lease issued under this subtitle may be sold, exchanged, assigned, sublet, or otherwise transferred except with the approval of the Secretary. Prior to any such approval the Secretary shall consult with, and give due consideration to the views of, the Attorney General.

#### **SEC. 17706. LEASE TERMS AND CONDITIONS.**

(a) **IN GENERAL.**—An oil or gas lease issued under this subtitle shall—

(1) provide for the payment of a royalty of not less than 12½ percent in amount or value of the production removed or sold under the lease, as determined by the Secretary under the regulations applicable to other Federal oil and gas leases;

(2) provide that the Secretary may close, on a seasonal basis, portions of the Coastal Plain to exploratory drilling activities as necessary to protect caribou calving areas and other species of fish and wildlife based on a preponderance of the best available scientific evidence that has been peer reviewed and obtained by following appropriate, documented scientific procedures, the results of which can be repeated using those same procedures;

(3) require that the lessee of lands within the Coastal Plain shall be fully responsible and liable for the reclamation of lands within the Coastal Plain and any other Federal lands that are adversely affected in connection with exploration, development, production, or transportation activities conducted under the lease and within the Coastal Plain by the lessee or by any of the subcontractors or agents of the lessee;

(4) provide that the lessee may not delegate or convey, by contract or otherwise, the reclamation responsibility and liability to another person without the express written approval of the Secretary;

(5) provide that the standard of reclamation for lands required to be reclaimed under this subtitle shall be, as nearly as practicable, a condition capable of supporting the uses which the lands were capable of supporting prior to any exploration, development, or production activities, or upon application by the lessee, to a higher or better use as certified by the Secretary;

(6) contain terms and conditions relating to protection of fish and wildlife, their habitat,

subsistence resources, and the environment as required pursuant to section 17703(a)(2);

(7) provide that the lessee, its agents, and its contractors use best efforts to provide a fair share, as determined by the level of obligation previously agreed to in the 1974 agreement implementing section 29 of the Federal Agreement and Grant of Right of Way for the Operation of the Trans-Alaska Pipeline, of employment and contracting for Alaska Natives and Alaska Native corporations from throughout the State;

(8) prohibit the export of oil produced under the lease; and

(9) contain such other provisions as the Secretary determines necessary to ensure compliance with this subtitle and the regulations issued under this subtitle.

(b) **NEGOTIATED LABOR AGREEMENTS.**—The Secretary, as a term and condition of each lease under this subtitle, shall require that the lessee and its agents and contractors negotiate to obtain an agreement for the employment of laborers and mechanics on production, maintenance, and construction under the lease.

#### **SEC. 17707. POLICIES REGARDING BUYING, BUILDING, AND WORKING FOR AMERICA.**

(a) **CONGRESSIONAL INTENT.**—It is the intent of the Congress that—

(1) this subtitle will support a healthy and growing United States domestic energy sector that, in turn, helps to reinvigorate American manufacturing, transportation, and service sectors by employing the vast talents of United States workers to assist in the development of energy from domestic sources; and

(2) the Congress will monitor the deployment of personnel and material onshore and offshore to encourage the development of American technology and manufacturing to enable United States workers to benefit from this subtitle through good jobs and careers, as well as the establishment of important industrial facilities to support expanded access to American resources.

(b) **REQUIREMENT.**—The Secretary of the Interior shall when possible, and practicable, encourage the use of United States workers and equipment manufactured in the United States in all construction related to mineral development on the Coastal Plain.

#### **SEC. 17708. COASTAL PLAIN ENVIRONMENTAL PROTECTION.**

(a) **NO SIGNIFICANT ADVERSE EFFECT STANDARD TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.**—The Secretary shall, consistent with the requirements of section 17703, administer this subtitle through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that—

(1) ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, and the environment;

(2) require the application of the best commercially available technology for oil and gas exploration, development, and production on all new exploration, development, and production operations; and

(3) ensure that the maximum amount of surface acreage covered by production and support facilities, including airstrips and any areas covered by gravel berms or piers for support of pipelines, does not exceed 10,000 acres on the Coastal Plain for each 100,000 acres of area leased.

(b) **SITE-SPECIFIC ASSESSMENT AND MITIGATION.**—The Secretary shall also require, with respect to any proposed drilling and related activities, that—

(1) a site-specific analysis be made of the probable effects, if any, that the drilling or related activities will have on fish and wildlife, their habitat, subsistence resources, and the environment;

(2) a plan be implemented to avoid, minimize, and mitigate (in that order and to the extent practicable) any significant adverse effect identified under paragraph (1); and

(3) the development of the plan shall occur after consultation with the agency or agencies having jurisdiction over matters mitigated by the plan.

(c) **REGULATIONS TO PROTECT COASTAL PLAIN FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS, AND THE ENVIRONMENT.**—Before implementing the leasing program authorized by this subtitle, the Secretary shall prepare and promulgate regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other measures designed to ensure that the activities undertaken on the Coastal Plain under this subtitle are conducted in a manner consistent with the purposes and environmental requirements of this subtitle.

(d) **COMPLIANCE WITH FEDERAL AND STATE ENVIRONMENTAL LAWS AND OTHER REQUIREMENTS.**—The proposed regulations, lease terms, conditions, restrictions, prohibitions, and stipulations for the leasing program under this subtitle shall require compliance with all applicable provisions of Federal and State environmental law, and shall also require the following:

(1) Standards at least as effective as the safety and environmental mitigation measures set forth in items 1 through 29 at pages 167 through 169 of the “Final Legislative Environmental Impact Statement” (April 1987) on the Coastal Plain.

(2) Seasonal limitations on exploration, development, and related activities, where necessary, to avoid significant adverse effects during periods of concentrated fish and wildlife breeding, denning, nesting, spawning, and migration based on a preponderance of the best available scientific evidence that has been peer reviewed and obtained by following appropriate, documented scientific procedures, the results of which can be repeated using those same procedures.

(3) That exploration activities, except for surface geological studies, be limited to the period between approximately November 1 and May 1 each year and that exploration activities shall be supported, if necessary, by ice roads, winter trails with adequate snow cover, ice pads, ice airstrips, and air transport methods, except that such exploration activities may occur at other times if the Secretary finds that such exploration will have no significant adverse effect on the fish and wildlife, their habitat, and the environment of the Coastal Plain.

(4) Design safety and construction standards for all pipelines and any access and service roads, that—

(A) minimize, to the maximum extent possible, adverse effects upon the passage of migratory species such as caribou; and

(B) minimize adverse effects upon the flow of surface water by requiring the use of culverts, bridges, and other structural devices.

(5) Prohibitions on general public access and use on all pipeline access and service roads.

(6) Stringent reclamation and rehabilitation requirements, consistent with the standards set forth in this subtitle, requiring the removal from the Coastal Plain of all oil and gas development and production facilities, structures, and equipment upon completion of oil and gas production operations, except that the Secretary may exempt from the requirements of this paragraph those facilities, structures, or equipment that the Secretary determines would assist in the management of the Arctic National Wildlife Refuge and that are donated to the United States for that purpose.

(7) Appropriate prohibitions or restrictions on access by all modes of transportation.

(8) Appropriate prohibitions or restrictions on sand and gravel extraction.

(9) Consolidation of facility siting.

(10) Appropriate prohibitions or restrictions on use of explosives.

(11) Avoidance, to the extent practicable, of springs, streams, and river systems; the protection of natural surface drainage patterns, wetlands, and riparian habitats; and the regulation of methods or techniques for developing or transporting adequate supplies of water for exploratory drilling.

(12) Avoidance or minimization of air traffic-related disturbance to fish and wildlife.

(13) Treatment and disposal of hazardous and toxic wastes, solid wastes, reserve pit fluids, drilling muds and cuttings, and domestic wastewater, including an annual waste management report, a hazardous materials tracking system, and a prohibition on chlorinated solvents, in accordance with applicable Federal and State environmental law.

(14) Fuel storage and oil spill contingency planning.

(15) Research, monitoring, and reporting requirements.

(16) Field crew environmental briefings.

(17) Avoidance of significant adverse effects upon subsistence hunting, fishing, and trapping by subsistence users.

(18) Compliance with applicable air and water quality standards.

(19) Appropriate seasonal and safety zone designations around well sites, within which subsistence hunting and trapping shall be limited.

(20) Reasonable stipulations for protection of cultural and archeological resources.

(21) All other protective environmental stipulations, restrictions, terms, and conditions deemed necessary by the Secretary.

(e) **CONSIDERATIONS.**—In preparing and promulgating regulations, lease terms, conditions, restrictions, prohibitions, and stipulations under this section, the Secretary shall consider the following:

(1) The stipulations and conditions that govern the National Petroleum Reserve-Alaska leasing program, as set forth in the 1999 Northeast National Petroleum Reserve-Alaska Final Integrated Activity Plan/Environmental Impact Statement.

(2) The environmental protection standards that governed the initial Coastal Plain seismic exploration program under parts 37.31 to 37.33 of title 50, Code of Federal Regulations.

(3) The land use stipulations for exploratory drilling on the KIC ASRC private lands that are set forth in appendix 2 of the August 9, 1983, agreement between Arctic Slope Regional Corporation and the United States.

(f) **FACILITY CONSOLIDATION PLANNING.**—

(1) **IN GENERAL.**—The Secretary shall, after providing for public notice and comment, prepare and update periodically a plan to govern, guide, and direct the siting and construction of facilities for the exploration, development, production, and transportation of Coastal Plain oil and gas resources.

(2) **OBJECTIVES.**—The plan shall have the following objectives:

(A) Avoiding unnecessary duplication of facilities and activities.

(B) Encouraging consolidation of common facilities and activities.

(C) Locating or confining facilities and activities to areas that will minimize impact on fish and wildlife, their habitat, and the environment.

(D) Utilizing existing facilities wherever practicable.

(E) Enhancing compatibility between wildlife values and development activities.

(g) **ACCESS TO PUBLIC LANDS.**—The Secretary shall—

(1) manage public lands in the Coastal Plain subject to section 811 of the Alaska National In-

terest Lands Conservation Act (16 U.S.C. 3121); and

(2) ensure that local residents shall have reasonable access to public lands in the Coastal Plain for traditional uses.

#### **SEC. 17709. EXPEDITED JUDICIAL REVIEW.**

(a) **FILING OF COMPLAINT.**—

(1) **DEADLINE.**—Subject to paragraph (2), any complaint seeking judicial review—

(A) of any provision of this subtitle shall be filed by not later than 1 year after the date of enactment of this Act; or

(B) of any action of the Secretary under this subtitle shall be filed—

(i) except as provided in clause (ii), within the 90-day period beginning on the date of the action being challenged; or

(ii) in the case of a complaint based solely on grounds arising after such period, within 90 days after the complainant knew or reasonably should have known of the grounds for the complaint.

(2) **VENUE.**—Any complaint seeking judicial review of any provision of this subtitle or any action of the Secretary under this subtitle may be filed only in the United States Court of Appeals for the District of Columbia.

(3) **LIMITATION ON SCOPE OF CERTAIN REVIEW.**—Judicial review of a Secretarial decision to conduct a lease sale under this subtitle, including the environmental analysis thereof, shall be limited to whether the Secretary has complied with this subtitle and shall be based upon the administrative record of that decision. The Secretary's identification of a preferred course of action to enable leasing to proceed and the Secretary's analysis of environmental effects under this subtitle shall be presumed to be correct unless shown otherwise by clear and convincing evidence to the contrary.

(b) **LIMITATION ON OTHER REVIEW.**—Actions of the Secretary with respect to which review could have been obtained under this section shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

(c) **LIMITATION ON ATTORNEYS' FEES AND COURT COSTS.**—No person seeking judicial review of any action under this subtitle shall receive payment from the Federal Government for their attorneys' fees and other court costs, including under any provision of law enacted by the Equal Access to Justice Act (5 U.S.C. 504 note).

#### **SEC. 17710. TREATMENT OF REVENUES.**

Notwithstanding any other provision of law, 50 percent of the amount of bonus, rental, and royalty revenues from Federal oil and gas leasing and operations authorized under this subtitle shall be deposited in the Treasury.

#### **SEC. 17711. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.**

(a) **IN GENERAL.**—The Secretary shall issue rights-of-way and easements across the Coastal Plain for the transportation of oil and gas produced under leases under this subtitle—

(1) except as provided in paragraph (2), under section 28 of the Mineral Leasing Act (30 U.S.C. 185), without regard to title XI of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3161 et seq.); and

(2) under title XI of the Alaska National Interest Lands Conservation Act (30 U.S.C. 3161 et seq.), for access authorized by sections 1110 and 1111 of that Act (16 U.S.C. 3170 and 3171).

(b) **TERMS AND CONDITIONS.**—The Secretary shall include in any right-of-way or easement issued under subsection (a) such terms and conditions as may be necessary to ensure that transportation of oil and gas does not result in a significant adverse effect on the fish and wildlife, subsistence resources, their habitat, and the environment of the Coastal Plain, including requirements that facilities be sited or designed so as to avoid unnecessary duplication of roads and pipelines.

(c) **REGULATIONS.**—The Secretary shall include in regulations under section 17703(g) provisions granting rights-of-way and easements described in subsection (a) of this section.

**SEC. 17712. CONVEYANCE.**

In order to maximize Federal revenues by removing clouds on title to lands and clarifying land ownership patterns within the Coastal Plain, the Secretary, notwithstanding section 1302(h)(2) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3192(h)(2)), shall convey—

(1) to the Kaktovik Inupiat Corporation the surface estate of the lands described in paragraph 1 of Public Land Order 6959, to the extent necessary to fulfill the Corporation's entitlement under sections 12 and 14 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611 and 1613) in accordance with the terms and conditions of the Agreement between the Department of the Interior, the United States Fish and Wildlife Service, the Bureau of Land Management, and the Kaktovik Inupiat Corporation dated January 22, 1993; and

(2) to the Arctic Slope Regional Corporation the remaining subsurface estate to which it is entitled pursuant to the August 9, 1983, agreement between the Arctic Slope Regional Corporation and the United States of America.

The CHAIR. No further amendment to the bill, as amended, shall be in order except those printed in part A of House Report 112-398. Each such further amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

**AMENDMENT NO. 1 OFFERED BY MS. ESHOO**

The CHAIR. It is now in order to consider amendment No. 1 printed in part A of House Report 112-398.

Ms. ESHOO. Mr. Chairman, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

In section 14003(a), add at the end the following:

(3) **ENSURING PUBLIC SAFETY.**—Notwithstanding paragraphs (1) and (2), a permit shall not be issued or deemed to have been issued under this subsection until the Federal Energy Regulatory Commission examines and determines the relevance to the Keystone XL pipeline of the report issued by the Pipeline and Hazardous Materials Safety Administration, pursuant to the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (Public Law 112-90), describing the results of its review of hazardous liquid pipeline regulations and whether such regulations are sufficient to ensure the safety of pipelines used for the transportation of diluted bitumen.

The CHAIR. Pursuant to House Resolution 547, the gentlewoman from California (Ms. ESHOO) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from California.

Ms. ESHOO. Last year, in the bipartisan pipeline safety bill that was

signed into law, I worked with Chairman UPTON to include language which requires the Pipeline and Hazardous Materials Safety Administration, which is called PHMSA, to complete a comprehensive review of hazardous liquid pipeline regulations. This review will determine whether the current regulations are sufficient to ensure the safety of pipelines used for the transportation of diluted bitumen or tar sands oil. Everyone agrees that this review makes sense. The House and the Senate both passed the pipeline safety bill without a single Member of Congress voting against it. What doesn't make sense is directing the Federal Energy Regulatory Commission to issue a permit for the Keystone XL pipeline before we know whether our safety standards are adequate.

Last year, Cynthia Quarterman, the Administrator of PHMSA, testified before the Energy and Commerce Committee, stating the agency had not done a study to analyze the risks associated with transporting diluted bitumen. We've heard concerns that pipelines carrying tar sands oil may pose greater safety risks and may be more corrosive than pipelines carrying conventional crude. According to a recent whistleblower who worked as a safety inspector for the first Keystone pipeline, he said:

This oil has the consistency of peanut butter and is similar to sending heavy grit sandpaper down the steel pipe.

□ 1550

So we're not talking about a theoretical risk. In July 2010, a pipeline carrying tar sands oil ruptured near Marshall, Michigan. Over 800,000 gallons of oil spilled into the Talmadge Creek and then flowed into the Kalamazoo River. A year and a half after the spill, the cleanup continues and is expected to cost hundreds of millions of dollars. Oil tar sands, unlike conventional crude oil, sinks to the bottom of a river, making it especially difficult to clean up.

TransCanada's first Keystone pipeline doesn't really inspire confidence either. This is a brand-new, supposedly state-of-the-art pipeline. It was predicted to spill no more than once every 7 years; but in just a year and a half of operation, it's reported 14 separate oil spills. In North Dakota, over 21,000 gallons of tar sands oil have been spilled, and these spills are a warning to all of us that we need to get this right.

This is not a subject to be taken lightly. We've seen in my neck of the woods, in the northern part of the county where I live, in San Bruno, California, an explosion, natural-gas pipeline explosion that killed eight people. It injured dozens, and it destroyed 38 homes.

The Federal Government has been regulating pipelines since 1968, and we're still seeing explosions like the

one in San Bruno, California. I think it's dangerous, Mr. Chairman, to move forward with a tar sands pipeline before we have the proper safety knowledge and procedures in place.

So my amendment is really quite simple. It requires the FERC, the Federal Energy Regulatory Commission, to review the results of the PHMSA study before issuing a permit for the Keystone XL pipeline. I think this review is important for the safety of Americans who will be living near this pipeline for decades to come and who rely on the rivers and the streams and the aquifers it will cross.

This approach makes sense. It's also far less costly to build pipelines correctly than to try to fix or replace a line that's already built.

For all of these reasons, I urge my colleagues to support my amendment.

I yield back the balance of my time.

Mr. WHITFIELD. Mr. Chairman, I rise to speak in opposition to the amendment.

The CHAIR. The gentleman from Kentucky is recognized for 5 minutes.

Mr. WHITFIELD. I do so reluctantly because we all have such great respect for Ms. ESHOO of California. She is a hardworking member of the Energy and Commerce Committee and provides great leadership.

But we oppose this amendment for a couple of simple reasons. Number one, this study by the Department of Transportation is going to be made anyway. We're not stopping that at all.

Number two, Keystone will transport a grade of crude oil that has been in our Nation's pipelines for decades. There's nothing really new about this substance. Venezuelan oil has about the same density. Certain Saudi Arabian oils have basically the same density.

Studies by the Canadian Government and private sector engineers in this country have demonstrated that heavy oils and diluted bitumen are not more dangerous or corrosive than regular grades of oil. We have not found any evidence to the contrary of those studies.

The reason that we're opposing this amendment is because this amendment would say you cannot begin this pipeline until this study is completed, and our position is we want this study to go forward. We've waited over 40 months to get the approval to build this pipeline. The American people need this pipeline. America needs this additional oil.

If the study comes back and comes up with significant, or any, safety issues, I can assure you that Congress is ready to act to address those. But there's no indication that there will be a problem.

So for that reason, we feel quite confident that this pipeline should be built. We want the study to go forward, but we want the permit to be issued to

build it now, as the Department of State recognized in their final environmental statement back in August of 2011.

I would urge the defeat of the Eshoo amendment.

With that, I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from California (Ms. ESHOO).

The question was taken; and the Chair announced that the noes appeared to have it.

Ms. ESHOO. Mr. Chairman, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from California will be postponed.

AMENDMENT NO. 2 OFFERED BY MR. MARKEY

The CHAIR. It is now in order to consider amendment No. 2 printed in part A of House Report 112-398.

Mr. MARKEY. I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 903, after line 22, insert the following new paragraph:

(3) ENERGY SECURITY.—Notwithstanding paragraph (1), the Federal Energy Regulatory Commission shall require every permit issued under this Act to include provisions that ensure that any crude oil and bitumen transported by the Keystone XL pipeline, and all refined petroleum fuel products whose origin was via importation of crude oil or bitumen by the Keystone XL pipeline, will be entered into domestic commerce for use as a fuel, or for the manufacture of another product, in the United States. The President may provide for waivers of such requirement in the following situations:

(A) Where the President determines that such a waiver is in the national interest because it—

(i) will not lead to an increase in domestic consumption of crude oil or refined petroleum products obtained from countries hostile to United States interests or with political and economic instability that compromises energy supply security;

(ii) will not lead to higher costs to refiners who purchase the crude oil than such refiners would have to pay for crude oil in the absence of such a waiver; and

(iii) will not lead to higher gasoline costs to consumers than consumers would have to pay in the absence of such a waiver.

(B) Where an exchange of crude oil or refined product provides for no net loss of crude oil or refined product consumed domestically.

(C) Where a waiver is necessary under the Constitution, a law, or an international agreement.

The CHAIR. Pursuant to House Resolution 547, the gentleman from Massachusetts (Mr. MARKEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Massachusetts.

Mr. MARKEY. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, the purported benefits of the Keystone pipeline have achieved

mythic status. We have been told that this pipeline will lower gas prices, even though TransCanada says gas prices will go up. We've been told tens of thousands will be hired to build it, even though only about 5,000 or 6,000 temporary construction jobs will be created.

And in a particularly egregious descent into Fairyland, we have been told that the oil coming through this pipeline would enable us to reduce our dependence on oil imported from unfriendly Middle Eastern or Latin American nations.

Last month, Canadian Prime Minister Stephen Harper even said, when you look at the Iranians threatening to block the Strait of Hormuz, I think this just illustrates how critical it is that supply for the United States be North American.

But under this bill, the Republican bill, there is no guarantee that even a drop of the tar sands oil and fuels will stay here in this country. They keep saying how great it would be if we had a million barrels of oil coming into the United States from Canada. There's no guarantee in this bill, and that's because many of the refineries where the Keystone crude will be sent plan to re-export the refined fuels.

This is the map of what the oil industry plans on doing with this oil. It comes right through the United States, and then it heads off to Asia, South America, over to Europe. And Valero, one of these refineries, says in its investor presentation that it plans to refine the Canadian crude at the same facility it is building in Port Arthur, Texas, an export zone, because doing so leverages its export logistics.

Our amendment will say this oil coming through this pipeline from Canada stays here in the United States and doesn't head off to China. That's what the amendment is all about.

I reserve the balance of my time.

Mr. TERRY. Mr. Chairman, I claim the time in opposition to the amendment.

The CHAIR. The gentleman from Nebraska is recognized for 5 minutes.

Mr. TERRY. I yield myself such time as I may consume.

This is one of those myths that we must try to dispel. I guess if you say it enough times, some people will start believing it. But the reality is, why would you build a pipeline 1,700 miles, branching off to several refineries along the way, to our main refineries in Texas and Louisiana, simply to put it on a boat, send it through South America over to China, when they're already discussing, because the President denied this permit and set off a little bit of an international fury, sending a message to the rest of the world that we're going to kowtow to the environmental extremists as our energy policy in the United States, they are now talking about, or have been for

some time, of just building a pipeline straight from the Alberta tar sands up here, all the way to Vancouver coast.

Now, let me just read some of the article, since Prime Minister Stephen Harper went to China last week to court them to buy the oil that the United States just rejected when the President denied the Keystone XL permit.

□ 1600

This is from an article from Ottawa.ctv, referring to the Prime Minister:

He also made a subtle dig at environmentalists who helped block TransCanada's planned Keystone XL pipeline, which would have carried Canada's oil to refineries in the United States.

"We uphold our responsibility to put the interests of Canadians ahead of foreign money and influence that seek to obstruct development in Canada in favor of energy imported from other, less stable parts of the world," he told the dinner.

By the way, he was referring to Saudi Arabia, Middle East, and Venezuela where we're getting our oil now and will continue to do so unless this Keystone pipeline is built offsetting up to a million barrels per day.

In Bloomberg on February 10, Harper said he is committed to "profoundly" diversifying the country's energy exports that will facilitate construction of new infrastructure needed to ship the country's oil to China.

He's not talking about Keystone pipeline. He's talking about the new one along the west to Vancouver.

The article continues:

Canada, which holds the third largest oil reserves, is seeking to reduce its reliance on the United States after President Barack Obama rejected TransCanada Corp.'s \$7 billion Keystone XL pipeline to ship Canadian oil to the Gulf Coast.

"We want to sell our energy to people who want to buy our energy."

That's why he went to China because obviously it's not the United States.

Oil and Gas Journal states:

Harper's visit was described as an open warning to Washington after President Barack Obama rejected the Keystone pipeline.

"It's not a subtle warning. It's an open warning. Harper has said Keystone was a wake-up call," said Wenran Jiang, an energy expert at the University of Alberta.

Now, next, Washington Post:

Chinese state-controlled Sinopec has a stake in a proposed Canadian pipeline to the Pacific Ocean that would substantially boost Chinese investment in Alberta oil sands.

From today, February 15, Kinder Morgan pipeline—this is from the Houston Business Journal—the chief of Port Metro Vancouver, the city's port authority, said the port would be willing to undertake the dredging and infrastructure work necessary to allow the bigger ships into the port that could carry crude shipped to the coast from Alberta oil sands.

The reality is if you want this oil to go to China, kill the XL pipeline, the

Keystone pipeline, and let this one be built in Canada, which Canada is already preparing to do.

I reserve the balance of my time.

Mr. MARKEY. I yield 1 minute to the gentleman from Vermont (Mr. WELCH).

Mr. WELCH. I thank the gentleman. Keystone is not the energy future that advocates claim it is. But if in fact the Keystone pipeline is built, then this amendment says that that oil in fact should be used in the United States to reduce our dependence on oil. It appears right now that if this pipeline is built, it will be for the purpose of transporting tar sands oil from Canada down to Houston for refining and then export to Latin America and China. That's very much what is on the mind of many people.

You can't have both—have that pipeline be essentially a conduit for export and claim that it's going to reduce American dependence on overseas oil. This amendment speaks directly to that it and it allows those who claim that Keystone will allow us energy independence to guarantee in law that that will happen.

Mr. MARKEY. May I inquire as to how much time is remaining on either side?

The Acting CHAIR (Mr. YODER). The gentleman from Massachusetts has 2 minutes remaining. The gentleman from Nebraska has 1 minute remaining.

Mr. MARKEY. Mr. Chairman, I yield 1 minute to the gentleman from Virginia (Mr. CONNOLLY).

Mr. CONNOLLY of Virginia. I thank my colleague.

Mr. Chairman, oil companies are running a multi-million dollar lobbying campaign to approve the Keystone pipeline, a pipeline the owner itself says the price of oil in middle America to go up, not down.

Here's what the oil company, TransCanada, said in its own application:

Additional producer revenues are possible if the Keystone pipeline also relieves the oversupply situation in the Midwest.

It goes on to say:

The market prices of Canadian heavy crudes should rise in the Midwest.

This gives new meaning to the phrase "voodoo economics."

Only in a party bought and paid for by the Koch Brothers would politicians have the audacity to claim that raising oil prices in America will lower gas prices help consumers or improve national security.

Our amendment prevents oil companies from gouging American consumers by requiring that any oil pumped through the Keystone pipeline stay in America which is, ostensibly, the avowed purpose of the pipeline.

Mr. TERRY. I continue to reserve the balance of my time.

Mr. MARKEY. Again, could we get a review of the time remaining?

The Acting CHAIR. The gentleman from Massachusetts has 1 minute. The

gentleman from Nebraska has 1 minute remaining.

Mr. MARKEY. Could you inform me as to who has the right to close?

The Acting CHAIR. The gentleman from Nebraska has the right to close.

Mr. MARKEY. Mr. Chairman, I yield myself the remaining minute.

The gentleman from Nebraska says, What's the problem? All the oil's going to stay in the United States. It's not going to China.

That's what will happen if we don't build the pipeline. So they should vote for the Markey amendment because the Markey amendment could only be guilty of redundancy saying all the oil stays here in America.

So if that's your purpose, that's what the Markey amendment says. We'll hold you to your word when we have the vote.

But here's the real plan. TransCanada puts the dirtiest oil on the planet into the brand new pipeline Republicans are giving it; two, TransCanada sends that oil to the gulf coast where it can make billions more than where it currently sells it in the Midwest; three, refineries in the gulf coast re-export it to other countries at world oil prices and don't pay any taxes to the U.S. for doing so; four, Americans get higher gas prices and no increased energy security; five, TransCanada, Hugo Chavez, and the sheiks of Saudi Arabia laugh all the way to the bank.

Please vote "yes" for the Markey-Connolly-Cohen-Welch amendment.

I yield back the balance of my time.

Mr. TERRY. Mr. Chairman, I yield myself the balance of my time.

This amendment just defies logic in the sense that the refined product of gasoline is going to be used in the United States. Now, the fallacy of this amendment here is it says all of the refined products. Well, there's stuff that's left over after the process that we can't even use in the United States that's commonly exported today for decades.

We actually don't use all of the diesel, and we trade with Europe to bring in more gasoline.

So what this amendment is trying to do is, A, start a trade war because it violates all trade rules and regulations. But the reality is it's a misnomer. If you really want this oil to go to China and us to have to continue to import from Venezuela and Saudi Arabia, then vote "yes" on this amendment because evidently you're more concerned about jobs in China than you are in the United States.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Massachusetts (Mr. MARKEY).

The question was taken; and the Acting Chair announced that the yeas appeared to have it.

Mr. MARKEY. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Massachusetts will be postponed.

AMENDMENT NO. 3 OFFERED BY MR. RUSH

The Acting CHAIR. It is now in order to consider amendment No. 3 printed in part A of House Report 112-398.

Mr. RUSH. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 903, after line 22, insert the following new paragraph:

(3) RESTRICTION ON USE OF EMINENT DOMAIN.—Notwithstanding paragraphs (1) and (2), a permit shall not be issued or deemed to have been issued under this subsection absent a condition that prohibits the permit recipient from initiating or threatening to initiate proceedings to invoke the power of eminent domain for the purpose of taking ownership, rights-of-way, easements, or other access or use of private property in the United States, for purposes of constructing or operating the Keystone XL pipeline, against the will of the property's owner.

The Acting CHAIR. Pursuant to House Resolution 547, the gentleman from Illinois (Mr. RUSH) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Illinois.

□ 1610

Mr. RUSH. Mr. Chairman, why is it that the proponents of this bill are smiling and smirking while walking around this Capitol?

It's because this bill requires the hasty approval of an unprecedented permit for the Keystone XL pipeline. They're smiling and smirking because their friends, the Big Oil companies, are big winners with this bill while the little people, the private property owners along the path of the proposed Keystone XL pipeline, will be the big losers.

Mr. Chairman, people might be surprised to learn that TransCanada has been bullying the American people—American landowners—and has been pressuring them to allow the company to build a pipeline through their land. In fact, during the subcommittee hearing, we heard testimony from witnesses who live along the path near the proposed route of this pipeline that TransCanada is doing just that—bullying them. They don't even have a permit to build the pipeline, yet we are told that they are threatening American citizens with eminent domain, basically telling people, If you don't give us access to your land, if you don't give us your land, then we're going to take it.

Mr. Chairman, this is wrong. This is wrong. This is wrong. Why are we rewarding a private foreign company that is trying to intimidate and coerce American citizens with this regulatory earmark?



In order to protect private property owners along the path of this pipeline, I am offering an amendment that will restrict the use of eminent domain. My amendment requires that a permit for this pipeline would only be issued if it prohibits the use of eminent domain to take someone's private property against his will.

Mr. Chairman, my office was in contact with a Nebraska rancher by the name of Randy Thompson, who wrote me a letter dated February 9, and I want to read an excerpt of it for my colleagues.

He wrote:

Dear Congressman Rush, I would like to express to you, sir, my concerns about the bill introduced by Representative Terry to fast-forward the permitting process for the Keystone XL pipeline. It seems inherently wrong to me that a foreign corporation can actually force American citizens to forfeit their individual property rights through the use of eminent domain. With the denial of a permit, TransCanada has, for the time being, suspended their land acquisition process in the State of Nebraska. I can assure you, however, that they will be back on our doorsteps with a vengeance once a new route has been determined and a permit has been granted. It appears to me that some Members of Congress are all too eager to subsidize the Big Oil companies, not only with our tax dollars, but now with land that belongs to American citizens.

Mr. Chairman, we have a duty to protect our citizens from being bullied into giving up their land against their will for the gain of private foreign companies. Let us wipe the smiles and the smirks off the faces of the proponents of this bill. Pass this amendment. Protect the American people.

I reserve the balance of my time.

Mr. TERRY. I rise in opposition to the gentleman's amendment.

The Acting CHAIR. The gentleman from Nebraska is recognized for 5 minutes.

Mr. TERRY. None of us are smiling over the fact that the President killed the pipeline that would have created 20,000 jobs and that would have provided us a newer level of energy security. This amendment, in essence, is a way of killing this pipeline. Let's be clear about this.

The pipeline is 1,700 miles, and through each State this proposed pipeline would pass, the pipeline company would negotiate with the landowners on the proposed routes. So, if you have one person who objects, then he can ostensibly kill the pipeline. In every State, there is a mechanism in its own State laws that resolves any disputes for a right-of-way. We've heard some language here about taking people's property. This is for use of a property and a right-of-way, a small strip of land, okay? So their rights are protected. The States' rights are protected.

What this amendment would do is to strip the States of their rights here, and it would send them off to an un-

known area that has no rights to resolve any disputes. They only need one landowner to kill a 1,700-mile project. The gentleman that the gentleman from Chicago mentioned is one of those people. He belongs to BOLD Nebraska, an organization of environmentalists that wants to kill the pipeline.

At this point, I yield my remaining time to the gentleman from Texas (Mr. BARTON).

Mr. BARTON of Texas. I thank the gentleman from Nebraska for yielding.

I am actually here to speak on Mr. MARKEY's amendment, the previous amendment. I do want to oppose the amendment of my good friend from Chicago, Mr. RUSH, but I think Mr. TERRY eloquently made the case as to why it is not in order at this point in time.

Mr. Chairman, I want to go back to the previous amendment that Mr. MARKEY offered, which would restrict the use of both crude oil and refined products that come in from the Keystone pipeline to have to be sold in the United States. It goes without saying that if it's crude oil it would make absolutely no sense to transship it through the Keystone pipeline to the gulf coast and then put it in a tanker to go overseas. If you're going to export crude oil, it makes much more sense to export it directly from Canada.

On the refined product end of it, you have to know one thing, which is that this crude oil that we would be importing from Canada is a heavy crude oil. We have some of the best refineries in the country that have been upgraded by billions and billions of dollars so that we can handle not just the light sweet crudes, like West Texas Intermediate or Saudi Light, but so we can handle these heavy crudes, like the Canadian crude oil, that would come down.

When you have a barrel of crude oil, you can't just say, I want to make it all gasoline. You can make a lot of gasoline, but you're going to end up having to make diesel oil and asphalt and a lot of other products. Our refineries are the best in the world at cracking these heavy crudes. As they come down through the Midwest to the Louisiana and Texas refineries, most of the refined products would be sold in the United States, but the United States is primarily a gasoline market. The European market, on the other hand, is primarily a diesel market. So, as our refineries have become better and more competitive, it makes sense not to put a restriction on the refined products but to let the market allocate it. It would actually create jobs in the United States. We could ship some of these refined—primarily diesel, but some of the distillates could go to the European market. You'd get a better margin, create jobs, and protect jobs here in the United States. The primary

market will always be the United States. Currently, about 75 percent of the crude oil that's refined on the gulf coast is used in refined products that are sold in the United States, but somewhere around 20 to 25 percent has been going to Europe, primarily the distillates and the diesel.

The Markey amendment would turn that market on its head. It would be counterproductive to our economy, counterproductive to our consumers, and counterproductive to the general oil markets in the world.

I know Mr. MARKEY is trying to do what he thinks is the right thing, but in actuality, we defeated his amendment in the committee, I think, 34 14 or something like this. We got eight Democrats—about 40 percent of the Democrats—to vote with us against the Markey amendment in committee. We ought to defeat it by that same margin here on the floor of the House of Representatives.

At this point, I also want to thank Mr. WHITFIELD for his excellent leadership on this issue.

Mr. RUSH. Mr. Chairman, I would like to inquire as to how much time I have remaining.

The Acting CHAIR. The gentleman from Illinois has 1 minute remaining.

□ 1620

Mr. RUSH. Mr. Chairman, I yield myself as much time as I may consume.

Mr. Chairman, let me just say that as Members of this Congress, we were elected to this body to protect the American people, to protect our citizens, to protect their property.

And, Mr. Chairman, the action that's occurring by the Republican majority is going to pass. But it's also going to turn that responsibility, that obligation, the reason for our existence here in this Congress upside down. It's going to make it just meaningless for the protection of the American people.

Why don't you protect the landowners, the private landowners?

Mr. TERRY. Will the gentleman yield so I can answer the question?

The answer to that question would be that each State has set up a due process law—

Mr. RUSH. Why don't we protect the landowners, the property holders in our Nation? We are elected here to protect them and not let a big oil company, TransCanada, a foreign company, come in and just take—

Mr. TERRY. They don't take. \* \* \*

The Acting CHAIR. The gentleman from Nebraska will suspend.

The time of the gentleman from Illinois has expired.

ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR. Members should not interject remarks after the Member under recognition has declined to yield.

The question is on the amendment offered by the gentleman from Illinois (Mr. RUSH).



The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mr. RUSH. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Illinois will be postponed.

AMENDMENT NO. 4 OFFERED BY MR. DOYLE

The Acting CHAIR. It is now in order to consider amendment No. 4 printed in part A of House Report 112-398.

Mr. DOYLE. I have an amendment at the desk, Mr. Chairman.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 906, after line 10, insert the following new section:

**SEC. 14005. USE OF AMERICAN IRON AND STEEL.**

Notwithstanding section 14003(a)(1) and (2), a permit shall not be issued or deemed to have been issued under this title unless the permit applicant certifies and provides adequate documentation to the Federal Energy Regulatory Commission that at least 75 percent of iron and steel to be used in the construction of the domestic portion of the pipeline and related facilities described in section 14002(b) is produced in North America.

The Acting CHAIR. Pursuant to House Resolution 547, the gentleman from Pennsylvania (Mr. DOYLE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Pennsylvania.

Mr. DOYLE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, despite all the controversy surrounding this pipeline, I think this is a good opportunity for us to examine some of the claims that the applicant for the Keystone XL pipeline has made.

Now let me say at the onset, I support building this pipeline in a way that protects the environment and helps create American jobs. I don't support the rushed 30-day manner that this bill would have us do, but I do support the pipeline.

When I started reading about the 800,000 tons of steel to be used in the Keystone XL pipeline, like everyone else, I was pretty excited about the prospects for our U.S. manufacturers, and especially coming from Pittsburgh, our steel manufacturers. So I have to tell you, I was a little confused when I talked to my friends in the U.S. steel industry and they told me they weren't making any of the steel for this project. Now, I knew this had to be a mistake because TransCanada had told us that there would be 7,000 direct manufacturing jobs created by this project, so surely someone somewhere in the United States has to know what these jobs are.

I've also heard folks talking about the wonderful jobs being created at steel mills in southwestern Pennsyl-

vania. The trouble is I can't find a steel mill in southwestern Pennsylvania that's making steel for the Keystone XL pipeline. In fact, I'm having trouble finding a single U.S. steelmaker that has any orders for any of this pipe.

Now, I've reached out to the permit applicant, TransCanada, and several other sources for some clarifying information regarding their claim that 75 percent of the steel used in the Keystone XL pipeline will be sourced from North America. Unfortunately, the best I seem to get is that there's a single pipe manufacturer in Little Rock, Arkansas, that is providing much of the steel pipe for the pipeline. The trouble is that manufacturer doesn't actually use U.S. or North American steel to make the pipe. In fact, the Little Rock plant very clearly told me that they make their pipe out of foreign steel imports. They also told me they have imported and are housing on their site 140 miles of ready-made pipe that they got from India to be used in the Keystone pipeline.

So all my amendment does is ask for some truth in advertising. TransCanada has told us that they make every effort to source as much steel from U.S. mills as they can. I'm simply asking the applicant to certify their claims.

Along with other members of the Energy and Commerce Committee, I have sent a letter to TransCanada asking for this information, but I have yet to receive a response. I think Members deserve this information. If there is, in fact, a U.S. steelmaker out there that is making all or some of the steel for the Keystone XL pipeline, I think we have a right to know about it.

Mr. Chairman, I reserve the balance of my time.

Mr. WHITFIELD. Mr. Chairman, I rise in opposition to the amendment.

The Acting CHAIR. The gentleman from Kentucky is recognized for 5 minutes.

Mr. WHITFIELD. I yield myself 3 minutes.

First of all, I would like to say to the gentleman from Pennsylvania, who is a very hardworking member of the Energy and Commerce Committee and provides great leadership, that we reluctantly oppose his amendment.

His amendment is very simple, and it is very direct. It simply says the permit will not be issued until the permit applicant certifies and provides adequate documentation that at least 75 percent of the iron and steel used in the construction of the pipeline is produced in North America, which is a goal that many of us have.

I would like to point out a couple of facts here:

Number one, this is a private company that's putting up \$7 billion of its own money;

Number two, in order to keep costs down, it has already acquired all of the

steel and iron that it is going to use in this pipeline.

Now, some people will say, well, why in the world would it spend over \$2 billion buying this material when they didn't have a permit? Well, they filed this permit 40 months ago, and all of the information coming out from the Secretary of State, the Department of State in their final environmental impact statement would indicate that the pipeline was going to be approved. So they bought this material many months ago to try to keep costs down.

And I will tell you, from the information that we have, 74 percent of the pipe was milled here in North America. In fact, it's milled in four different locations. Not all of them are in North America. The steel comes from seven different sources. Some of it from America and some of it not from America. But the reality is that, if we adopted this amendment, the permit would not be issued because the applicant cannot certify that 75 percent comes from America because it bought this material a long time ago. And, I might add, there's not one dime of taxpayer money in this project.

So our feeling is that, the practical aspect is that, if you would basically stop the building of this pipeline, we would lose all those jobs, we would lose all the additional oil that we would be getting, and we believe that there would be more negatives from it than there would be positives.

And one other comment that I would make is that the American Iron and Steel Institute, which represents many of the companies that Mr. DOYLE is concerned about, is supporting our legislation. We have the letter that they support this legislation, and they support building the pipeline.

The Acting CHAIR. The time of the gentleman has expired.

□ 1630

Mr. WHITFIELD. I yield myself an additional 30 seconds.

Five of the major labor unions in America support this legislation because they recognize the additional jobs that will be available to them in the construction of the pipeline. So for that reason, reluctantly, I oppose Mr. DOYLE's amendment, and I reserve the balance of my time.

Mr. DOYLE. Mr. Chairman, at this time I would like to yield 1 minute to the gentlelady from Ohio (Ms. SUTTON).

Ms. SUTTON. Thank you, Mr. DOYLE, for your leadership. This is a great amendment. It's a commonsense amendment. Now we don't know if the XL pipeline will be built. Many have strong opinions on whether or not it should be built at all. But one thing that we should all agree on is, if it is built, it should be built with materials made right here in America.

You see, when we talk about producing energy in America, that doesn't

just mean oil, gas, wind, nuclear, and other sources that power our homes and businesses. It means materials used to extract, refine, and transport that energy. And why does it have to happen that it needs to be American-made materials? Because it means jobs, good-paying jobs that can help to strengthen our middle class. It means stronger communities and a stronger economy at a time when we need that now more than ever. And it means a future with more security and more certainty for the next generation.

This pipeline is going to run through America; it should be made of American iron, steel, and manufactured goods. I ask all of my colleagues to join me in supporting this commonsense amendment and supporting the American middle class and in supporting American jobs.

Mr. WHITFIELD. I continue to reserve the balance of my time.

Mr. DOYLE. Mr. Chairman, how much time do I have?

The Acting CHAIR. The gentleman from Pennsylvania has 1 minute remaining.

Mr. DOYLE. I would like to yield 30 seconds to the gentleman from Texas (Mr. GREEN).

Mr. GENE GREEN of Texas. Mr. Chairman, I support the Keystone pipeline, but I found out this last Monday, and I've asked, and I know the chair of our Energy Committee has heard me ask about a project labor agreement that's for the whole pipeline but it doesn't cover Texas. The largest State along the route does not have a project labor agreement with TransCanada. TransCanada maybe didn't deceive me, but they sure didn't answer the questions when I asked them in our committee. I've talked to them about that. I know our labor support nationwide, they have a project labor agreement from the Canadian border to the Oklahoma border, but not for the biggest part of it, in the State of Texas, and I'm going to work with them because it's important to see that the job be done safely.

Mr. DOYLE. Mr. Chairman, I yield myself the balance of my time.

My good friend from Kentucky, and he is my good friend, more or less has just said that the amendment can't go through because it's impossible for TransCanada to certify what they said was true. They've misled us. I think we just ought to be honest with the American people. It's obvious from the discussion today and from past discussion that this steel is not being manufactured in North America. It may be finished in North America at some of these plants, but no steel was made in North America. Congress has been misled. This is not a way for a company to do business. They're a private company. They can use anybody they want. What they can't do is lie to Congress.

Mr. Chairman, I ask for a "yes" vote, and I yield back the balance of my time.

Mr. WHITFIELD. Mr. Chairman, how much time do I have remaining?

The Acting CHAIR. The gentleman from Kentucky has 1½ minutes remaining.

Mr. WHITFIELD. I might reiterate once again, this is a private company spending \$7 billion of their own money. Before any of this ever became an issue, they acquired this material. They spent over \$2 billion acquiring this material. Everybody is talking about jobs. One of the reasons they're offering this amendment is because of jobs. Well, there's nothing we can do about the material that's already been acquired. It's already purchased. So all we would do if we pass this amendment is we would make sure that the permit for this pipeline would not be issued. This material, all this \$2 billion worth of steel, would be moved to Canada. They would build the pipeline to the west coast and move all of the oil to China, and they would get the construction jobs. So we would end up with no jobs.

I know the gentleman's intentions are the very best, and we all are concerned about the issue, but there are no taxpayer dollars involved in this. It is a private company. They have already acquired this material. This never became an issue until, I suppose, about a month ago, and the material was even acquired at that point.

So I would respectfully request that Members oppose this amendment. Let's build this pipeline and let's help America be less dependent on foreign oil, and I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. DOYLE).

The question was taken; and the Acting Chair announced that the yeas appeared to have it.

Mr. DOYLE. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Pennsylvania will be postponed.

#### AMENDMENT NO. 5 OFFERED BY MR. POLIS

The Acting CHAIR. It is now in order to consider amendment No. 5 printed in part A of House Report 112-398.

Mr. POLIS. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Beginning at page 926, line 3, strike subtitle A of title XVII.

Page 976, line 20, strike "50" and insert "51".

The Acting CHAIR. Pursuant to House Resolution 547, the gentleman

from Colorado (Mr. POLIS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Colorado.

Mr. POLIS. Mr. Chairman, my amendment gets to the heart of what sustains our western communities from Colorado to California to New Mexico to Montana—our water and our land.

My amendment is the answer to concerns from my constituents in Colorado, outcries from farmers, from ranchers, local communities, from sportsmen, from recreationists, and from many others who know this bill threatens their livelihoods, and my amendment corrects that component.

This bill contains a troubling oil shale provision. Now, it was originally included to help pay for the bill's overall cost, but it was found to provide no revenue. So how can something help pay for a bill when it provides no revenue? With the CBO score confirming it receives no revenue, there is, therefore, no reason to include it. We might as well simply take up any random natural resources bill. And, in fact, the whole discussion of oil shale certainly deserves its own discussion. And since it is not going to help pay for our highways, I would urge my colleagues, even if they are supportive of this end product, to remove this from this bill.

Let me be clear, my amendment has nothing to do with one form of energy over another. You'll probably hear people from both sides of this argument talk about the potential for oil shale in the future. It's not about dirty or clean forms of energy; it's simply about common sense. If the technology doesn't exist and it won't bring in revenue, why is it being considered as a revenue provision for an unrelated infrastructure bill?

We've all heard of former Presidential candidate Herman Cain's 9-9-9 plan, but the oil shale section of this bill is a zero-zero-zero plan—no revenue, no jobs, and no energy. It mandates we lock up land at fire-sale prices to those who are connected enough to make bids for a technology that doesn't even exist and would threaten jobs, would threaten water in western Colorado, and threaten our western way of life.

My amendment simply strikes that section, leaving revenue for the overall bill unaffected, and keeps our western lands and waters as they currently are, outside of what's supposed to be an infrastructure and transportation bill.

Now, you might hear some hold up Estonia as an example of oil shale development, but by all accounts, Estonia oil shale has been an economic disaster. Even Jim Barts with the RAND Corporation said: "To our knowledge, oil shale in Estonia is not even used to produce transportation fuels."

You'll also hear that we're the Saudi Arabia of various energy resources.

Now, I continue to question the wisdom in looking to Estonia and Saudi Arabia for leadership in energy independence for our country. Even industry insiders know that a provision like the one contained in this bill is simply the wrong thing to do.

Jeremy Boak, a professor who heads the industry-sponsored Center for Oil Shale Technology at the Colorado School of Mines, said that he's doubtful that any firm would even bid on commercial leases, leaving them to speculators. He also said: "It isn't obvious to me yet that we need to be putting a bunch of commercial leases out there because no one has a commercial process yet."

That's something that industry admits. There's no feasible, cost-effective commercial process for extracting oil from shale. We're talking about a potential technology, one that will have profound implications on water, profound implications on land use, and, yes, profound implications on national energy policy, but it's a technology that doesn't exist.

This component of the bill, if we don't remove it, will simply remove speculators rather than those who can actually play a meaningful role in providing for our energy independent future. I strongly encourage my colleagues on both sides of the aisle to support this commonsense amendment, and I reserve the balance of my time.

Mr. LAMBORN. Mr. Chairman, I claim time in opposition to this amendment.

The Acting CHAIR. The gentleman from Colorado is recognized for 5 minutes.

Mr. LAMBORN. I rise in strong opposition to this amendment. It would strike a key provision of the bill that would provide American jobs and tap into a potential natural resource, American oil shale.

This amendment also increases the Federal take from drilling in ANWR from 50 to 51 percent, leaving the State of Alaska with that much less.

Now, proponents of this amendment will argue that we should get rid of the oil shale provisions because the technology is not proven. Estonia does get a sizable amount of energy from oil shale currently. I would like to ask why is the proponent of this amendment so concerned that this is going to be a big thing in the future and affect the western way of life if he thinks it's never going to take off and amount to anything. You know, he can't have it both ways.

So why don't we let the companies experiment at their own expense, on their own dime, and see if they can find a commercial, viable process that works to extract this hugely potential source of energy.

□ 1640

The USGS has estimated that there are 1.5 trillion—with a "T"—barrels of

oil equivalent in these oil shale formations. I think it's worth at least experimenting to see if it can be commercially extracted because that would be a huge relief from having to get foreign oil, and it would create money for the treasuries of States and the Federal Government and create American jobs as well as the security aspect.

So I just don't see why there's such opposition to this when they say it's not going to work. That just doesn't make sense. They can't have it both ways. I say, let the companies experiment at their own expense and at no cost to the taxpayer.

So, I strongly urge opposition to this amendment, and I reserve the balance of my time.

Mr. POLIS. Mr. Chairman, I yield myself such time as I may consume.

Perhaps my friend and colleague from Colorado isn't aware that there already is extensive experimentation about the potential of oil shale to meet our energy needs. In fact, there are millions of dollars spent every year in research that industry itself has invested in this technology.

Furthermore, there are 3 million acres of oil shale lands in Colorado, Utah, and Wyoming that are under State, private, or tribal leadership and have been for decades. In fact, several large companies alone already control 200,000 acres of oil shale lands. There are a couple of sites in Colorado where they're looking to try to develop cost-effective methods. In fact, by the end of 2012, there will be nine active Federal research and development leases. No one has figured out a cost-effective way to develop these areas.

Again, this is not about the research. In fact, after the second round of bids in early 2009, when the Obama administration affirmed the Bush administration's decision regarding a second round of R&D leasing, there was a significant reduction in industry bids. Industry itself was even less interested in trying to figure out this because it's been a nut that they've been unable to crack for nearly 100 years.

This amendment is not about the environment. It's about common sense.

Mr. Chairman, I inquire how much time remains?

The Acting CHAIR. The time of the gentleman has expired.

Mr. POLIS. Well, I urge my colleagues on both sides of the aisle to strongly support this commonsense amendment to preserve our land, our jobs, and our water in the West.

Mr. LAMBORN. Mr. Chairman, I would just like to point out that this is one more example of the Obama administration stifling the production of domestic energy in this country. They put out restrictive regulations that made it so untenable for commercial companies to even go into the research and development leases after President Obama took office that there was little

interest in pursuing under the new format.

So we need to go back to the previous way of offering these leases so there is at least interest on the part of industry, at their own expense, to see if this technology is commercially viable.

So, once again, I would just ask the question, why is there opposition to something that they say is not going to work? We don't know if it's going to work or not. And with the possibility of 1.5 trillion barrels' equivalent of oil, let's at least let that happen to see if that can be feasibly explored, developed, and produced.

We have nothing to lose. This is a great win for the American consumer, especially should a commercial application and scalable venture be produced. It would create energy, jobs, and money for the Treasury.

I urge strong opposition to this amendment. I have to disagree with my friend and colleague from Colorado on this particular issue, and I urge a "no" vote.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Colorado (Mr. POLIS).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mr. POLIS. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Colorado will be postponed.

#### AMENDMENT NO. 6 OFFERED BY MR. HASTINGS OF WASHINGTON

The Acting CHAIR. It is now in order to consider amendment No. 6 printed in part A of House Report 112-398.

Mr. HASTINGS of Washington. Mr. Chairman, I have an amendment at the desk made in order under the rule.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 935, line 7, strike "two other lease blocks" and insert "1 other lease block".

Page 937, after line 13, insert the following:

(3) NATIONAL DEFENSE AREAS.—The United States reserves the right to designate by and through the Secretary of Defense, with the approval of the President, national defense areas on the Outer Continental Shelf pursuant to section 12(d) of the Outer Continental Shelf Lands Act (43 U.S.C. 1341(d)).

Page 941, beginning at line 1, strike "1 year after the date of enactment of this Act" and insert "December 31, 2015".

Page 945, line 8, strike "two other lease blocks" and insert "1 other lease block".

Page 946, after line 22, insert the following:

(3) NATIONAL DEFENSE AREAS.—The United States reserves the right to designate by and through the Secretary of Defense, with the approval of the President, national defense areas on the outer Continental Shelf pursuant to section 12(d) of the Outer Continental Shelf Lands Act (43 U.S.C. 1341(d)).

The Acting CHAIR. Pursuant to House Resolution 547, the gentleman

from Washington (Mr. HASTINGS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Washington.

Mr. HASTINGS of Washington. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is essentially a technical manager's amendment making changes agreed to with the Armed Services Committee in order to ensure that we are fully respecting the needs of our Nation's military.

It adds further protections to those already included through the bill to ensure any production and our Nation's national defense cooperatively coexist in our Nation's offshore areas.

## NOES—276

Adams	Doyle	Jones
Aderholt	Dreier	Jordan
Akin	Duffy	Kelly
Alexander	Duncan (SC)	King (IA)
Altmire	Duncan (TN)	King (NY)
Amodel	Ellmers	Kingston
Austria	Emerson	Kinzinger (IL)
Bachmann	Farenthold	Kline
Bachus	Fattah	Labrador
Barletta	Fincher	Lamborn
Barrow	Fitzpatrick	Lance
Bartlett	Flake	Landry
Barton (TX)	Fleischmann	Lankford
Bass (NH)	Fleming	Larsen (WA)
Benishkek	Flores	Latham
Berg	Forbes	LaTourette
Biggert	Foxx	Latta
Bilbray	Frank (MA)	Lewis (CA)
Bilirakis	Franks (AZ)	Lipinski
Bishop (GA)	Frelinghuysen	LoBiondo
Bishop (UT)	Gallely	Long
Black	Gardner	Lucas
Blackburn	Garrett	Luetkemeyer
Blumenauer	Gerlach	Lummis
Bonner	Gibbs	Lungren, Daniel
Bono Mack	Gingrey (GA)	E.
Boren	Gohmert	Lynch
Boustany	Gonzalez	Mack
Brady (PA)	Goodlatte	Manzullo
Brady (TX)	Gosar	Marchant
Braley (IA)	Gowdy	Marino
Brooks	Granger	Matheson
Broun (GA)	Graves (GA)	McCarthy (CA)
Buchanan	Graves (MO)	McCaul
Bucshon	Green, Al	McClintock
Buerkle	Green, Gene	McCotter
Burgess	Griffin (AR)	McHenry
Burton (IN)	Griffith (VA)	McIntyre
Calvert	Grimm	McKeon
Camp	Guinta	McKinley
Canseco	Guthrie	McMorris
Cantor	Hall	Rodgers
Capito	Hanna	Meehan
Cardoza	Harper	Mica
Carter	Harris	Miller (FL)
Cassidy	Hartzler	Miller (MI)
Chabot	Hastings (WA)	Miller (NC)
Chaffetz	Hayworth	Miller, Gary
Chandler	Heck	Mulvaney
Coble	Hensarling	Murphy (PA)
Coffman (CO)	Herger	Myrick
Cole	Herrera Beutler	Neugebauer
Conaway	Higgins	Noem
Cooper	Himes	Nugent
Costa	Hochul	Nunes
Costello	Holden	Nunnelee
Cravack	Huelskamp	Olson
Crawford	Huizenga (MI)	Owens
Crenshaw	Hultgren	Palazzo
Critz	Hunter	Paulsen
Cuellar	Hurt	Pearce
Culberson	Inslee	Pence
Davis (KY)	Issa	Perlmutter
Denham	Jackson Lee	Peterson
Dent	(TX)	Petri
DesJarlais	Jenkins	Pitts
Diaz-Balart	Johnson (IL)	Platts
Dold	Johnson (OH)	Poe (TX)
Donnelly (IN)	Johnson, Sam	Pompeo

Posey	Runyan	Thompson (PA)
Price (GA)	Ryan (WI)	Thornberry
Quayle	Scalise	Tiberi
Rahall	Schilling	Tipton
Reed	Schmidt	Turner (NY)
Rehberg	Schock	Turner (OH)
Reichert	Schweikert	Upton
Renacci	Scott (SC)	Visclosky
Ribble	Scott, Austin	Walberg
Rigell	Sensenbrenner	Walden
Rivera	Sessions	Walsh (IL)
Roby	Shimkus	Walz (MN)
Roe (TN)	Shuler	Webster
Rogers (AL)	Shuster	West
Rogers (KY)	Simpson	Whitfield
Rogers (MI)	Smith (NE)	Wilson (SC)
Rohrabacher	Smith (NJ)	Wittman
Rokita	Smith (TX)	Wolf
Rooney	Southerland	Womack
Ros-Lehtinen	Stearns	Woodall
Roskam	Stivers	Yoder
Ross (AR)	Stutzman	Young (AK)
Ross (FL)	Sullivan	Young (FL)
Royce	Terry	Young (IN)

## NOT VOTING—8

Campbell	Payne	Slaughter
Doggett	Rangel	Westmoreland
Paul	Serrano	

## ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR (during the vote).  
There are 30 seconds remaining.

□ 1821

So the amendment was rejected.  
The result of the vote was announced  
as above recorded.

## AMENDMENT NO. 4 OFFERED BY MR. DOYLE

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Pennsylvania (Mr. DOYLE) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

## RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This will be a 2-minute vote.

The vote was taken by electronic device, and there were—ayes 193, noes 234, not voting 6, as follows:

[Roll No. 58]

## AYES—193

Ackerman	Carson (IN)	Deutch
Altmire	Castor (FL)	Dicks
Andrews	Chandler	Dingell
Baca	Chu	Doggett
Baldwin	Cicilline	Donnelly (IN)
Barrow	Clarke (MI)	Doyle
Bass (CA)	Clarke (NY)	Edwards
Becerra	Clay	Ellison
Berkley	Cleaver	Engel
Berman	Clyburn	Eshoo
Bilirakis	Cohen	Farr
Bishop (GA)	Connolly (VA)	Fattah
Bishop (NY)	Conyers	Filmer
Blumenauer	Costa	Fitzpatrick
Bonamici	Costello	Fortenberry
Boswell	Courtney	Frank (MA)
Brady (PA)	Critz	Fudge
Braley (IA)	Crowley	Garamendi
Brown (FL)	Cummings	Gibson
Butterfield	Davis (CA)	Gonzalez
Capps	Davis (IL)	Green, Al
Capuano	DeFazio	Green, Gene
Cardoza	DeGette	Grijalva
Carnahan	DeLauro	Gutierrez
Carney	Dent	Hanabusa

Hastings (FL)	Maloney	Sánchez, Linda
Heinrich	Markey	T.
Higgins	Matsui	Sanchez, Loretta
Himes	McCarthy (NY)	Sarbanes
Hinchey	McCollum	Schakowsky
Hinojosa	McDermott	Schiff
Hirono	McGovern	Schrader
Hochul	McIntyre	Schwartz
Holden	McNerney	Scott (VA)
Holt	Meehan	Scott, David
Honda	Meeks	Sewell
Hoyer	Michaud	Sherman
Inslee	Miller (NC)	Shuler
Israel	Miller, George	Sires
Jackson (IL)	Moore	Smith (WA)
Jackson Lee	Moran	Speier
(TX)	Murphy (CT)	Stark
Johnson (GA)	Nadler	Stivers
Johnson (OH)	Napolitano	Sutton
Johnson, E. B.	Neal	Thompson (CA)
Jones	Oliver	Thompson (MS)
Kaptur	Owens	Tierney
Keating	Pallone	Tonko
Kildee	Pascarell	Towns
Kind	Pastor (AZ)	Tsongas
Kissell	Pelosi	Van Hollen
Kucinich	Perlmutter	Velázquez
Langevin	Peters	Visclosky
Larsen (WA)	Pingree (ME)	Walz (MN)
Larson (CT)	Price (NC)	Wasserman
LaTourette	Quigley	Schultz
Lee (CA)	Rahall	Waters
Levin	Renacci	Watt
Lewis (GA)	Reyes	Waxman
Lipinski	Richmond	Welch
LoBiondo	Rothman (NJ)	Wilson (FL)
Loeb sack	Roybal-Allard	Woolsey
Lofgren, Zoe	Runyan	Yarmuth
Lowey	Ruppersberger	Young (FL)
Lujan	Rush	
Lynch	Ryan (OH)	

This amendment also includes a slight adjustment to the timing of the leasing of one offshore area off the coast of Alaska. In fact, it moves it back to 2015.

So these have been talked over with the minority. I encourage my colleagues to support the amendment, and I reserve the balance of my time.

Mr. MARKEY. Mr. Chairman, I rise to strike the last word.

The Acting CHAIR. Does the gentleman claim time in opposition?

Mr. MARKEY. I claim the time of the minority.

The Acting CHAIR. The gentleman from Massachusetts is recognized for 5 minutes.

Mr. MARKEY. I thank the Chairman.

I will say that this amendment marginally improves the bill, but it does not change our fundamental opposition to it. But progress on any front is welcomed, even if we cannot make progress on every front.

Mr. HASTINGS of Washington. Will the gentleman yield?

Mr. MARKEY. I yield to the gentleman from Washington.

Mr. HASTINGS of Washington. I would totally agree with you. Progress in any way is beneficial. So I appreciate the gentleman's accepting the amendment.

Mr. MARKEY. We do not oppose the amendment, and I yield back the balance of my time.

Mr. HASTINGS of Washington. I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Washington (Mr. HASTINGS).

The amendment was agreed to.

AMENDMENT NO. 7 OFFERED BY MRS. CAPPS

The Acting CHAIR. It is now in order to consider amendment No. 7 printed in part A of House Report 112-398.

Mrs. CAPPS. I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Beginning on page 938, line 3, strike section 17304.

Beginning on page 948, line 3, strike part 4.

The Acting CHAIR. Pursuant to House Resolution 547, the gentlewoman from California (Mrs. CAPPS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from California.

Mrs. CAPPS. I yield myself such time as I may consume.

Mr. Chairman, this is a straightforward amendment, and it is overwhelmingly supported by my constituents, so I hope we can all agree to it.

The amendment strikes a harmful and unnecessary provision in the underlying bill that mandates new drilling—mandates new drilling—in the sensitive waters off Santa Barbara and Ventura counties in California.

The majority says this new drilling is necessary to help fund the transportation bill. But according to CBO, any new drilling off southern California would, at best, generate tens of millions of dollars in revenue, while the gap in transportation funding is measured in the tens of billions of dollars.

Mr. Chairman, leaving aside the specious funding arguments that the authors of the bill have made, the people most affected, my constituents, don't want new drilling. My colleagues have heard me invoke Santa Barbara's devastating 1969 oil spill before. And that's because it galvanized central coast residents and virtually the whole State of California against more offshore drilling. We were outraged by the damage to the environment, the wildlife, and to our economy. And we understood the havoc that similar blowouts would wreak upon our economy, especially tourism and fishing industries.

It's why California permanently banned new oil and gas leasing in State waters in 1994. It's why Californians fought to pass groundbreaking environmental laws like the National Environmental Policy Act and the Coastal Zone Management Act. It's why some 24 city and county governments, including both Santa Barbara and Ventura counties, have passed measures requiring voter approval before any new onshore facilities to support offshore drilling could be built. And it's why in 2008 then Republican Governor Schwarzenegger told President Bush and Congress to oppose new drilling off the west coast.

More recently, an oil company in Santa Barbara thought it could cap-

italize on the high gasoline prices by placing a measure on the ballot to allow slant drilling from the shore.

□ 1650

That plan was rejected by 70 percent—that's right, 70 percent—of the voters in the community that was affected by it, Carpinteria, California. That was just in 2010.

We're also aware of the Pentagon's concerns with new drilling in our area so close to Vandenberg Air Force Base. In a 2008 letter to an oil company proposing to slant drill from the shore, the Air Force replied—and I have a copy of the letter to submit with my statement:

A drilling and production facility would present a wide range of significant operational constraints, inconsistent with Vandenberg Air Force Base's national space launch mission.

Mr. Chairman, Californians have spoken loud and clear: we do not want more drilling off our shores. We want to protect our coastline from the devastation that the 1969 oil spill brought to Santa Barbara. Now, because of this legislation, these communities are at risk again. It's not just the new drilling mandate in this bill, but also because the bill would gut critical environmental laws like CZMA and NEPA, the very laws passed in response to the 1969 spill off the Santa Barbara coast.

It's outrageous. This bill specifically denies California—and only California—any role in new offshore drilling decisions under the Coastal Zone Management Act. It also removes California citizens' ability to voice their concerns about new drilling during the environmental review process.

I find it ironic that some of the same people in this body who decry an over-arching Federal Government seem to have no qualms about forcing new drilling upon a local population which is directly against its wishes. This heavy-handed, know-it-all approach rubber-stamps destructive drilling, cuts out environmental reviews, and closes down the public input. Might be good policy for oil companies; but it's bad policy for my constituents, and it's bad energy policy for our Nation.

So, Mr. Chairman, American families want us to pass a balanced transportation bill that creates jobs, fixes our roads and bridges, and ensures that they have a safe way to get to work and back home again. They don't want more politics, especially the kind that puts our coasts, our communities, and our very way of life at risk. So I urge my colleagues to join me in striking these harmful, unnecessary provisions from this bill.

DEPARTMENT OF THE AIR FORCE,  
OFFICE OF THE ASSISTANT SECRETARY,  
Washington, DC, June 25, 2008.

Mr. RAY G. CHARLES,  
ExxonMobil Exploration Company,  
Houston, TX.

Mr. ROBERT E. NUNN,  
Sunset Exploration, Inc.,  
Brentwood, CA.

DEAR MESSRS CHARLES AND NUNN: We have evaluated your proposal to leverage your option to lease on-shore, sub-surface mineral rights beneath 7,780-acres of South Vandenberg Air Force Base (VAFB) to establish oil and gas drilling and production facilities on 25-acres near Space Launch Complex (SLC) 5 for directional drilling into off-shore reserves.

I believe it would be premature to proceed with the National Environmental Policy Act (NEPA)/Environmental Impact Statement (EIS) evaluation of your desired location for the reasons stated below. A drilling and production facility at your proposed location would present a wide range of significant operational constraints, inconsistent with VAFB's national space launch mission. Most significantly, your proposed location is within the Impact Limit Lines of all of our active SLCs; it is within the SLC-5 explosives safety clear zone, eliminating SLC-5 as an optional platform for the approximate 40 year life of the Vahevala project; and in the event of a natural disaster or catastrophic mission failure at any of the SLCs, the presence of the facility would severely complicate emergency response. Consistent with these concerns, the Air Force cannot provide you access to your desired 25-acre location on South VAFB.

We do understand that if you exercise the option to lease, you will be entitled to reasonable access to onshore, subsurface minerals. Any drilling and oil or gas production on South VAFB would still hamper execution of space launches and create operational impacts. However, there are areas which may present less operational impact than your proposed 25-acre site west of SLC 5. They are generally in the northern and eastern portions of South VAFB, within the 7,780-acre option to lease.

We recognize the Air Force's discussions with you regarding the Vahevala project have been protracted. Please accept my personal assurance that this has been due to diligent examination of the proposal at the several levels of command that support the space launch mission at VAFB. As a result of this diligent examination, our military commanders have decided it is simply not consistent with their most fundamental mission responsibilities.

As the Deputy Assistant Secretary of the Air Force for Energy and the Environment, I am keenly aware of the crucial contributions of your industry to our nation, and to the national defense. I salute you for your initiatives to enhance the energy security of America, and look forward to the possibility of collaborating with you on projects that might be synergistic with the Air Force mission.

Sincerely,

KEVIN W. BILLINGS,  
Deputy Assistant Secretary, Energy, Environment, Safety and Occupational Health.

I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Chairman, I rise to claim time in opposition to this amendment.

The Acting CHAIR. The gentleman is recognized for 5 minutes.

Mr. HASTINGS of Washington. I yield myself such time as I may consume.

Mr. Chairman, according to the U.S. Census, the State of California's largest import is petroleum. Let me repeat that, Mr. Chairman. According to the U.S. Census Bureau, the State of California's largest import is petroleum. So I guess it's a good thing that private geologists estimate that over 1.6 billion barrels of American-made energy are ready and waiting to be developed from existing infrastructure in southern California.

What does existing infrastructure mean? Well, there are currently about 23 oil and gas platforms located offshore in southern California which account for about 24 million barrels of oil and 47 billion cubic feet of gas annually. The lease sale proposed in this legislation allows drilling from existing platforms or, to put it in another vernacular, those that are already in place. If we are going to have a serious discussion about offshore drilling, it makes perfect sense to drill not only where there is already drilling going on, but from where the platforms already exist, which is why this bill specifically states: "no new infrastructure."

We need to drill where there are known resources, and this California lease sale is a commonsense way to limit the drilling footprint while accessing our resources that are known in southern California. In fact, Mr. Chairman, the State of California is already working with the Bureau of Ocean Energy Management on a permit to allow a company to drill from an existing platform in Federal waters into State waters for State resources.

Let me say this: the State of California has entered into the same concept that's embodied in this bill. So let me repeat here one more time. It's Governor Brown's administration that is pursuing drilling off these same platforms closer to the coast.

Additionally, this amendment completely eliminates all coastal States and U.S. territories from receiving fair and equitable income for drilling that would occur potentially off their shores. This means States like Florida and Virginia will not receive any portion of any revenues for drilling that will occur off their coasts under this bill if this amendment were to be adopted.

The underlying bill is a drill-smart plan that directly focuses on those offshore areas where there are known resources. That includes the vast resources of southern California. This amendment would lock away significant resources that belong to the American people. It would keep our country shackled to the foreign powers upon whom we rely for oil and gas im-

ports. It would also hinder our Nation's energy security.

This amendment also ignores the soaring gas prices that American families are facing at the pump right now. Many of those families don't have room in their budget to pay hundreds more dollars just to drive to work or drive their kids to school. And by the way, I might add, Mr. Chairman, I think if there is an epitome of an area in the country that does a lot of driving, it's in California.

We need to get America producing energy again. I urge my colleagues to oppose this amendment and vote for the underlying legislation.

With that, I reserve the balance of my time.

The Acting CHAIR. The gentlewoman from California has 30 seconds remaining.

Mrs. CAPPS. I would just comment to remark that the very project that my colleague from Washington, my friend, described is the project that the local constituents rejected by 70 percent, the project that was mentioned. We are interested, in California, in ending drilling, not just stopping leasing.

Mr. Chairman, our Nation should be investing our time, our energy and creativity into real solutions that put us toward the path for clean-energy solutions for our future. We've seen time and time again that our congressional district doesn't want to be known for chasing after yesterday's energy solutions, but for leadership towards the renewable energy solutions of today and tomorrow.

I urge an "aye" vote for my amendment.

I yield back the balance of my time.

Mr. HASTINGS of Washington. How much time do I have left, Mr. Chairman?

The Acting CHAIR. The gentleman from Washington has 1½ minutes remaining.

Mr. HASTINGS of Washington. I yield myself the balance of my time.

Mr. Chairman, I just want to reiterate once again—and this is understanding that people in our great country have different views—I certainly understand what happened in southern California some 40 years ago. Listen, that picture is indelibly in everybody's mind. But nobody can argue there have not been advances in oil exploration in this country, and certainly in the OCS. But as a recognition of that, in this bill we didn't say just go anywhere you want to go in southern California. We said go to the existing platforms where you're drilling and existing infrastructure where there has been drilling.

Now, that seems to me to be a perfectly acceptable way to utilize the resources that we have—by the way, in Federal waters, not in State waters, in Federal waters—so that we can make ourselves less dependent on foreign energy.

The last thing I would say is the State of California is pursuing precisely the same thing that's embodied in this underlying bill, only in State waters.

So I urge my colleagues to oppose my good friend's amendment from southern California.

With that, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentlewoman from California (Mrs. CAPPS).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mrs. CAPPS. I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from California will be postponed.

AMENDMENT NO. 8 OFFERED BY MR. BILIRAKIS

The Acting CHAIR. It is now in order to consider amendment No. 8 printed in part A of House Report 112-398.

Mr. BILIRAKIS. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 944, after line 22, insert the following new subparagraph:

(D) The Secretary shall conduct, and take into consideration the results of, an economic impact survey to determine any adverse economic effects that such lease sales within 100 miles of the western coast of Florida may have on the Florida Gulf coast fishing industry and tourism industry.

The Acting CHAIR. Pursuant to House Resolution 547, the gentleman from Florida (Mr. BILIRAKIS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Florida.

Mr. BILIRAKIS. Mr. Chairman, I yield myself such time as I may consume.

With the national unemployment rate hovering around 8 percent—in my home State of Florida, its rate is close to 10 percent—there is no question that our Nation is hurting for economic growth. This year, the focus of efforts here in the House of Representatives has centered on creating a framework for the private sector to innovate and grow, to create the jobs we desperately need. To that end, Mr. Chairman, my amendment seeks to take all prudent steps to ensure that jobs and the economy are the focus.

□ 1700

My amendment simply requires the Secretary to conduct an economic impact survey to assess any effect lease sales would have on the Florida tourism and fishing industries.

People from all over the world flock to the gulf coast of Florida specifically

to visit our spectacular beaches, our parks, our waterways, and other recreational opportunities. More than 80 million tourists, Mr. Chairman, per year stay in our hotels, eat at our restaurants, and create many economic opportunities for Floridians.

The tourism industry is a multibillion-dollar industry for Florida and the national economy, Mr. Chairman. Florida's seafood and recreational fishing industries also contribute thousands of jobs and billions of dollars to the local economy.

Mr. Chairman, I strongly urge this House to adopt a commonsense measure to ensure that the Federal Government consider all ramifications of lease sales, and to ensure that the promotion of jobs and the economy remain the focus of any actions of our Federal Government.

I reserve the balance of my time.

Mr. MARKEY. I rise to claim the time in the minority.

The Acting CHAIR. The gentleman from Massachusetts is recognized for 5 minutes.

Mr. MARKEY. I thank the Chair very much.

Mr. HASTINGS of Washington. Mr. Chairman, just a point. The issue is not claiming time in the minority or majority. The time is in opposition, and with that in mind, I would rise to claim time in opposition, although I am not opposed to the amendment.

The Acting CHAIR. The gentleman is correct.

Is the gentleman from Massachusetts opposed to the amendment?

Mr. MARKEY. Mr. Chairman, there's no question that the gentleman from Washington State is correct, and a master of parliamentary rules, having stood up there or sat up there hundreds of hours, so he is an absolute correct dissector of language used here of seeking recognition from the Chair.

So I rise to claim the time in opposition to the amendment, if those are the technical words of art that the gentleman would prefer for me to use.

The Acting CHAIR. The gentleman from Massachusetts, a true opponent is recognized for 5 minutes.

Mr. MARKEY. I thank you.

This amendment would require a study to investigate potential economic impacts from a variety of risks that oil development in the Outer Continental Shelf poses to local tourism and fishing economies in Florida.

Well, we actually had a real-world study for 87 days during the BP spill. As we saw in 2010, with the BP oil spill, oil can wreak havoc on a coastal community, meaning a disaster for tourism and fishing, seafood industries. These disasters can and do happen, putting hundreds of thousands of jobs and billions of dollars at stake.

It is important for the public to know the risks associated with allowing oil companies to drill off of our

coast. But we should be protecting our beaches in Florida and California and New Jersey and Massachusetts, not just requiring a study of how huge a disaster a spill would be for these States.

We should be protecting the lives and the livelihoods of the people of the gulf by taking the lessons of the BP spill and turning them into new laws. But nearly 2 years after the BP spill began, this Congress has not enacted a single new law to improve the safety of offshore drilling. That is indefensible when the BP Commission found that we have a fatally flawed rate of accidents and fatalities in our country. Compared to the rest of the world, ours is four times higher than that in Europe, that is, the fatalities on our oil rigs. So that's the issue.

We have yet to increase the fines because only we can do that here in Congress. Right now, a lot of these oil companies think it's just the equivalent of a parking ticket. You know, if you could pay a parking ticket for a whole day on the main street of any one of the cities in the United States, you'd pay that \$1 parking ticket because it would be cheaper than paying 20 bucks to put it in a garage. And that's what we have right now. We have the equivalent of \$1 parking tickets that are assessed against oil companies that despoil the ocean, that result in, because of their faulty safety rules, the highest fatality rate in the world in terms of people who work on oil rigs.

At this point, I have completed my statement, and I yield back the balance of my time.

Mr. BILIRAKIS. Mr. Chairman, I yield 2 minutes to the gentleman from Washington (Mr. HASTINGS), our distinguished chairman.

Mr. HASTINGS of Washington. I thank the gentleman for yielding.

The gentleman's amendment will conduct this economic impact study only for the Eastern Gulf of Mexico OCS Planning Area, as defined in the bill. I understand and appreciate the gentleman's interest in protecting the multiple use of the OCS, and I join him in that interest. For decades, tourism, fishing, and oil and gas drilling have been compatible in the Gulf of Mexico, and there's no reason that the new areas opened up under this bill would not operate in the same way.

While I understand the interests of the gentleman to have this study for those areas in the eastern Gulf of Mexico, I wish that he could have expanded the study to jobs that could have been created by new drilling and the support that comes with that activity.

While that's not embodied in the gentleman's amendment, I would only have to think that because you're having the study on that, there may be some residual, and I would look forward to that residual potentially also.

So I thank the gentleman and congratulate him for offering this amendment.

Mr. BILIRAKIS. I'd like to close briefly. Of course I urge passage of this reasonable, commonsense amendment, and I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Florida (Mr. BILIRAKIS).

The amendment was agreed to.

AMENDMENT NO. 9 OFFERED BY MR. BISHOP OF NEW YORK

The Acting CHAIR. It is now in order to consider amendment No. 9 printed in part A of House Report 112-398.

Mr. BISHOP of New York. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 948, beginning on line 3, strike part 4.

Page 954, after line 19, insert the following new section:

**SEC. 176. PROHIBITION ON LEASE SALES IN CERTAIN AREAS.**

No oil and gas lease sale may be conducted for any area of the outer Continental Shelf (as that term is defined in the Outer Continental Shelf Lands Act (33 U.S.C. 1331 et seq.)) for which any of the States of New York, New Jersey, Connecticut, Rhode Island, Massachusetts, New Hampshire, or Maine is an affected State under section 2(f)(1) of the Outer Continental Shelf Lands Act (33 U.S.C. 1331(f)(1)).

The Acting CHAIR. Pursuant to House Resolution 547, the gentleman from New York (Mr. BISHOP) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New York.

Mr. BISHOP of New York. I yield myself such time as I may consume.

Mr. Chairman, my amendment is very simple. It prohibits oil and natural gas lease sales off the coast of Northeast States, including New Jersey, New York, Connecticut, Rhode Island, Massachusetts, New Hampshire and Maine. Furthermore, my amendment is paid for by striking language in the bill related to Outer Continental Shelf revenue sharing in Section 17501.

I appreciate the Rules Committee making my amendment in order because this amendment will protect the coastline of New York and other Northeast States. I also thank my cosponsors, including Mr. CROWLEY, Mr. RANGEL, Mr. PASCRELL, Mr. CAPUANO, and Ms. PINGREE.

Mr. Chairman, I represent the last 70 miles of eastern Long Island, where the primary industries are travel and tourism, everything to do with the second home market, agriculture, and the fishing industry. Thus, in my district, the environment is the economy in many respects. It can ill-afford a disaster like Gulf Coast States endured during the Deepwater Horizon oil spill in 2010. Oil-soaked beaches would devastate Long Island's economy, let



alone the environment, and there is no reasonable person who can disagree with me on this point.

The Republican drilling proposals to offset the highway bill would raise less than \$4.3 billion over 10 years, according to CBO, or less than one-tenth of the revenue actually needed.

Combine this with the other funding mechanisms for the highway bill, and Republicans are paying for their reckless legislation on the backs of middle class families. For example, the Republican spending package will require Federal employees to increase their pension contributions while reducing their benefits.

Worse, as of this moment, they are using Federal employees' pension contributions to offset costs in two completely separate proposals: the highway bill and the payroll tax cut package for unemployment benefits and the doc fix.

This isn't being honest with the American people. I would ask the Republican leadership to check their numbers again.

Mr. Chairman, I urge my colleagues to support my amendment and oppose the underlying bill.

I reserve the balance of my time.

□ 1710

Mr. HASTINGS of Washington. Mr. Chairman, I rise to claim time in opposition to the amendment.

The Acting CHAIR. The gentleman is recognized for 5 minutes.

Mr. HASTINGS of Washington. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Outer Continental Shelf and the resources it contains are under the jurisdiction of the Federal Government, and therefore it belongs to all of the people of the United States as a whole. These Federal offshore resources are unlike Federal lands and onshore resources outside the borders of the States. Each individual State controls several miles offshore of their coasts, and that varies State by State. But beyond that point, the Federal lands are owned by the Federal Government and its resources.

This bill, underlying legislation, is a drill-smart plan that directly focuses on those offshore areas where there are known resources. Federal assessments estimate that the North Atlantic contains nearly two billion barrels of oil and nearly 18 trillion cubic feet of gas. Using modern technology, it's highly likely that the find could be even more than what is estimated.

This amendment, then, would lock away those resources from the American people who, as I mentioned a moment ago, own them.

Not too long ago, the entire OCS was under moratoria. Offshore drilling in this country was prohibited. When the gas skyrocketed past \$4 a gallon in 2008, the American people collectively said, No more. The American people

cried out and demanded that Congress act, and we did by lifting the moratoria.

In fact, what the American people found out, Mr. Chairman, at that time is that we had tremendous potential resources here that we weren't utilizing. That's why they cried out and said, Okay. Let's end the several moratoria.

Now, this amendment proposes to reverse the will of the American people, to ignore the high cost of gas at the pump, to ignore that prices are again climbing towards \$4 a gallon, and to ignore that our Nation's security is strengthened when we get our energy from here in this Nation and not from hostile foreign nations.

The American people want to increase American energy production and jobs, not stifle American energy production. Let's not forget that we are creating American oil and gas that can be refined and used here. Some of the States that want to shut down production off their coasts are the highest consumers of these fuels that they would have shut down.

Additionally, this amendment completely eliminates all coastal States and U.S. territories from receiving a fair and equitable revenue for drilling that would occur off their shores. That means States like Florida and Virginia and others that would like to participate could not receive a portion of the revenues for drilling that would occur off their States under this bill.

Finally, I would like to say this because we have had a long discussion today in debate, and I've heard my colleagues on the other side of the aisle say, We love natural gas. I'm not sure if it was said with that same cadence, but the message was there.

Listen, Mr. Chairman, nearly 18 trillion cubic feet of natural gas lies off the Atlantic Coast. Can you imagine how much easier it is to get that to market than shipping it from someplace else?

So I would urge rejection of this amendment.

I reserve the balance of my time.

Mr. BISHOP of New York. Mr. Chairman, may I inquire as to how much time I have left.

The Acting CHAIR. The gentleman from New York has 3 minutes remaining.

Mr. BISHOP of New York. I yield 1 minute to the gentlelady from Maine (Ms. PINGREE).

Ms. PINGREE of Maine. Mr. BISHOP, thank you for allowing me this time.

Mr. Chairman, this amendment would prohibit any oil and gas drilling on the Outer Continental Shelf in the northeast, including my home State of Maine. An accident or a spill off our coast would be devastating to our working waterfronts. We don't have to look any further than the Deepwater Horizon disaster to see the damage an accident can do to a coastal economy.

Not only that, but it would be decades before any oil that is discovered would ever make it to market, decades that should be spent researching and investing in new sources of clean energy and breaking our dependence on oil.

The Republican proposals of this bill would not only carelessly expand the permitting for current gas and oil leases but also encourage expanded drilling.

I ask my colleagues to join me in supporting this commonsense amendment and voting against this ill-conceived bill.

Mr. HASTINGS of Washington. Mr. Chairman, I will continue to reserve the balance of my time since I have the right to close.

Mr. BISHOP of New York. Mr. Chairman, I am prepared to close as well, so I will yield myself the balance of my time.

I would say to my friend from Washington that I would find his argument and I would find the statistics that he cited somewhat more persuasive if this Congress had enacted any reforms, any safeguards to protect our coastline from the kind of disaster that affected the Louisiana and the Florida coast in the wake of the BP oil spill.

We have not put in place a single piece of legislation that would make offshore drilling safer. We have not put in place a single piece of legislation designed to prevent the kind of disaster that took place in the gulf. We are continuing to rely on the sort of slipshod environmental reviews that preceded the granting of leases in the gulf, and I think to expose certainly my region, Ms. PINGREE's region, to the kind of disaster that the gulf was exposed to without putting in place those safeguards is simply unwise, not worth \$4.3 billion to fund a bill that most of us feel is a very flawed bill to begin with.

So I would urge adoption of my amendment. As I say, I would urge defeat of the underlying legislation.

I yield back the balance of my time.

Mr. HASTINGS of Washington. Mr. Chairman, how much time do I have?

The Acting CHAIR. The gentleman from Washington has 1¼ minutes remaining.

Mr. HASTINGS of Washington. I yield myself the balance of my time.

Two points, Mr. Chairman: first of all, the gentleman suggests that this Congress and this House, led by Republicans, have not done anything as far as safety offshore. I would just remind the gentleman that through the appropriations process there has been a tremendous increase in precisely what the Obama administration was asking for safety. The Obama administration has said essentially that it is safe, although I would argue they should be more aggressive; but they say it's safe to drill. So that argument I don't think really has a great deal of bearing.

But more importantly, I would say this: the port of Boston has a liquid

natural gas terminal, and they are importing natural gas from Trinidad and Yemen, hardly a stable community or country in the Middle East. Right now, right off the coast of Nova Scotia, just north of this area that we're talking about, there is natural gas drilling going on.

So certainly, if we want to be less dependent on foreign oil and foreign energy and we like natural gas, like a lot of my friends on the other side of the aisle have talked about, then we should reject this amendment and adopt the underlying bill.

With that, I urge rejection of this amendment, and I yield back the balance of my time.

Mr. PASCRELL. Mr. Chair, I rise in strong support of Mr. BISHOP's amendment, of the Bishop/Crowley/Rangel/Pascrell/Pingree Amendment (#43) to strike sections of this bill that would open parts of the Atlantic coast, including the shores of my home state of New Jersey, to offshore drilling.

Setting aside the precedent we are setting here by funding a transportation authorization with revenues from energy development instead of user fees, House Republicans have clearly failed to learn the lesson from the catastrophic economic and environmental consequences of the 2010 Deepwater Horizon oil spill in the Gulf of Mexico. For one, this bill fails to introduce any comprehensive new safety standards, such as the commonsense steps recommended by the President's bipartisan Oil Spill Commission in the wake of the Deepwater Horizon spill.

In light of that, I am especially concerned that this bill could result in new drilling in the Atlantic Ocean, including off of the shore of my home state of New Jersey. The people of New Jersey strongly oppose opening our shores to offshore drilling. A whopping 63% of New Jersey residents oppose oil and gas drilling off the coast of our state according to a 2010 Monmouth University poll, and through this legislation, the Tea Party wants to force the people of New Jersey to hand over our beaches to the oil companies.

New Jerseyans oppose offshore drilling because they understand the potentially devastating effects it could have on our economy in the event of a spill. The tourism and fishing industries support hundreds of thousands of jobs and billions of dollars in economic activity across the state and region. In fact, tourism is New Jersey's second largest industry, supporting jobs for over 500,000 people and generating over \$50 billion in economic activity for the state each and every year. The people who make their livings in this industry depend on the responsible stewardship of our waters and coasts for their livelihoods. Risky new drilling could put these jobs in jeopardy, potentially destroying more jobs than it would create.

I strongly urge my colleagues to support this amendment, which is fully paid for, and reject opening the northeast to new offshore drilling. Instead, we should be supporting and encouraging alternative energy development off our shores, as I have tried to do by introducing H.R. 3238, the Incentivizing Offshore Wind Power Act. New Jersey is primed to be a lead-

er in the offshore wind industry, and this bill will create jobs and increase renewable domestic energy production in the Garden State.

Instead, by continuing to invest in further digging and drilling for oil rather than searching for new sources of energy, as the bill in front of us proposes we do, we will only end up digging ourselves a deeper hole.

The Acting CHAIR. The question is on the amendment offered by the gentleman from New York (Mr. BISHOP).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mr. BISHOP of New York. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New York will be postponed.

AMENDMENT NO. 10 OFFERED BY MR. RICHMOND

The Acting CHAIR. It is now in order to consider amendment No. 10 printed in part A of House Report 112-398.

Mr. RICHMOND. I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 952, beginning on line 17, strike "Federal program" and insert "Federal program, except in the case of a project for coastal wetlands conservation, coastal restoration, or hurricane protection, or an infrastructure project directly impacted by coastal wetland losses".

The Acting CHAIR. Pursuant to House Resolution 547, the gentleman from Louisiana (Mr. RICHMOND) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Louisiana.

Mr. RICHMOND. Mr. Chairman, what this amendment simply does is it allows those Gulf Coast States to invest their oil and gas into their States in terms of coastal restoration.

I would tell you, Mr. Chairman, that Louisiana, since 1950, has contributed over \$160 billion to the Federal Treasury; and, in return, Louisiana has received some of the same benefits as other States have received. However, one unique thing that we've received is a tattered coast line.

Louisiana loses almost a football field an hour in terms of our wetland laws. What this amendment would do is allow us to take some of those revenues that we receive and invest that back into restoring our coast.

I will tell you also, Mr. Chairman, that restoring Louisiana's coast is a very monumental task; and the people of Louisiana, the people of all of the gulf coast communities are willing to step up and take not only their own resources but resources they receive from the Federal Government in terms of any revenues or royalties they will receive and put those back into coastal restoration, making sure that we have wetlands.

□ 1720

Because when we talk about the damage that has been done to Louisiana by the BP Deepwater Horizon oil spill, that event cost us 11 Louisiana citizens. Katrina, Rita, Gustav, and Ike cost the gulf coast community the lives of almost 1,600 of its citizens. When we talk about our wetlands, that's our first line of defense in preventing the damage of a hurricane. So, while we are willing to sacrifice our coast and those things so that we can have a stable energy sector in this country, we also recognize that we should invest back in it to make sure the citizens are safe.

With that, I reserve the balance of my time.

Mr. HASTINGS of Washington. I claim time in opposition, although I am not opposed to the amendment.

The Acting CHAIR. Without objection, the gentleman is recognized for 5 minutes.

There was no objection.

Mr. HASTINGS of Washington. Mr. Chairman, I yield myself such time as I may consume.

The proposal of the gentleman from Louisiana has merit. I commend him for proposing it, and I do urge its adoption.

The goal of revenue sharing in the bill is to allow States the flexibility to use the money they want with their local States. If this is what the gentleman's State wants to use its money for, I have no problem, and I certainly agree with him. In fact, I would emphasize one other point:

Since I've had an opportunity to visit the gentleman's State and to see firsthand what it has done with the initiative, I think that it is a tremendous template for other States, which is precisely why, in the underlying bill, we have the component of revenue sharing. It is for other States to, maybe, emulate what Louisiana has always done.

So I think the gentleman's amendment is certainly compatible with what we're trying to do. It is a good amendment, and I commend the gentleman for that.

I yield back the balance of my time.

Mr. RICHMOND. Mr. Chairman, I would just simply close by thanking the gentleman and by saying that what the amendment does is really allow the gulf coast communities to invest in their own futures while continuing to invest in the energy future of America.

Mr. Chair, Louisiana has contributed over \$160 Billion to the Federal Government through offshore oil and gas revenues—primarily from oil and gas exploration off of Louisiana's coast. From the 1950s until 2006, Louisiana didn't receive any royalties. We have received funding from the Federal government like other states, but our royalty over those 56 years was a tattered coastline.

Louisiana loses 25 square miles of coastal wetlands every year or 1 football field every

hour. Our state has 40 percent of the nation's wetlands, but experiences 80 percent of all wetland loss. Part of the reason is nature, but besides blocking off the natural flow of the Mississippi River, oil and gas canals are big culprits.

The bill before us creates a revenue sharing scheme for east and west coast states but does not allow the states to use these royalties as matching funds for federal programs.

I can tell you that right now, because gulf coast states are receiving a very small amount of money from oil and gas production off their shores, much of the time, the Gulf states use these funds as their required cost share of Corps of Engineers and Department of Interior projects for coastal restoration, hurricane protection, wildlife restoration, and other disaster mitigation projects.

My amendment would give states the option to use oil and gas revenues as their state cost share of federal projects for "coastal wetlands conservation, coastal restoration, hurricane protection, or infrastructure projects directly impacted by coastal wetland losses."

I think that coastal states like California, Alaska and Virginia which are embarking on offshore energy production will want the flexibility to spend their revenues on projects that strengthen and protect their coastline. Without this amendment, revenues derived from offshore oil, gas and renewable energy could not be used for these critical projects.

This amendment would help the coastal states help themselves without tapping into the Federal Treasury. We don't want to be dependent on Federal Fund. We want to invest in our own future while we protect America's energy future.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Louisiana (Mr. RICHMOND).

The amendment was agreed to.

AMENDMENT NO. 11 OFFERED BY MR. LANDRY

The Acting CHAIR. It is now in order to consider amendment No. 11 printed in part A of House Report 112 398.

Mr. LANDRY. I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Beginning on page 952, line 19, strike section 17501(b) and insert the following:

(b) LIMITATION ON APPLICATION.—Subsection (a) and the amendment made by subsection (a) shall not affect the application of section 105 of the Gulf of Mexico Energy Security Act of 2006 (title I of division C of Public Law 109-432; (43 U.S.C. 1331 note)), as in effect before the enactment of this Act, with respect to revenues received by the United States under oil and gas leases issued for tracts located in the Western and Central Gulf of Mexico Outer Continental Shelf Planning Areas, including such leases issued on or after the date of the enactment of this Act.

(c) AMOUNT OF DISTRIBUTED QUALIFIED OUTER CONTINENTAL SHELF REVENUES.—Section 105(f)(1) of the Gulf of Mexico Energy Security Act of 2006 (title I of division C of Public Law 109-432; (43 U.S.C. 1331 note)) is amended by striking "2055" and inserting

"2022, and shall not exceed \$750,000,000 for each of fiscal years 2023 through 2055".

The Acting CHAIR. Pursuant to House Resolution 547, the gentleman from Louisiana (Mr. LANDRY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Louisiana.

Mr. LANDRY. Mr. Chairman, this is a bipartisan amendment offered in cooperation with my good friend, the gentleman from Louisiana, Mr. CEDRIC RICHMOND.

As the gentleman said earlier, Louisianians invented offshore oil exploration, and it has been drilling off its coast ever since the mid-1940s. Yet, for the first 60 years of drilling off the coast of Louisiana, our State and other Gulf Coast States had received no money—not a dime—from the revenue derived from these wells.

Starting in 2007, Congress passed an act called the Gulf of Mexico Energy Security Act. This act provided that a small portion of offshore revenues would finally start to trickle in to our Gulf Coast States. Those of us in the Gulf Coast States will continue to receive a small portion of those revenues through 2017 when, at that time, we will start to receive the 37.5 percent of the offshore revenue of each of those wells producing at that time. However, in GOMESA, it included a cap so that, collectively, those four Gulf Coast States could never receive more than a collective amount of \$500 million.

As the current bill is now going to provide revenue sharing without a cap for additional States, we are simply asking for fundamental fairness here in that the cap of \$500 million be raised to \$750 million. That's what this amendment does. This amendment simply raises the collective cap amongst those four States from \$500 million to \$750 million, reminding everyone that there will be no cap on the additional States.

I reserve the balance of my time.

Mr. MARKEY. I rise in opposition to this amendment.

The Acting CHAIR. The gentleman from Massachusetts is recognized for 5 minutes.

Mr. MARKEY. If this amendment passes, Mardi Gras will come on the Wednesday before Fat Tuesday this year. That's because the Landry amendment delivers up to \$6 billion in a financial King Cake to Louisiana and to the other Gulf States at the expense of the other 46 States in the Union.

In 2006, the Republican Congress passed legislation that will divert \$150 billion over the next 60 years from offshore drilling on public lands to the four Gulf Coast States—Louisiana, Mississippi, Alabama, and Texas. That bill set up what amounts to a new entitlement program for these four States, which will result in a massive transfer of wealth from the Federal Government. This amendment would send \$6

billion to these four States on top of that \$150 billion they will already be getting.

These oil and gas resources on public lands belong to all of the American people, not just to those of the adjacent States. They are public resources that belong as much to someone living in Kansas, Massachusetts, or Hawaii as they do to someone living in Louisiana or Texas. These are resources that should help every American, not just a select few. The revenue generated from these public resources goes to the Federal Treasury to help pay for Medicare and Medicaid. It helps to pay for our national defense. We can no longer afford to continue this diversion of taxpayer funds to these four States. We need this revenue to reduce our deficit and to get our fiscal house in order.

I had offered an amendment that would have recovered the \$150 billion we are going to be sending to these four States, which the majority did not make in order, and now this amendment would take us in the complete opposite direction.

So I commend the gentleman from Louisiana. I can't blame him for trying to get even more Federal money directed to his home State under this program. Yet, if you come from one of the 46 States that is not—and let me enumerate them again—Louisiana, Mississippi, Alabama, or Texas, you would have to be crazy to vote for this amendment, because they're going to take money away from your States, away from your Medicare beneficiaries, away from your contributions to the defense budget. It will be higher in all of those other States because this money is going to be sucked out of the Federal Treasury, as though through a straw, right into the States of Louisiana, Alabama, Mississippi, and Texas. If you vote for this amendment, you are voting to send that money—\$6 billion—directly from your State to the gentleman from Louisiana's State.

I urge all members of the Louisiana delegation to vote against the Markey amendment, and I would give a similar recommendation to the other Members from the other three States. But if you don't come from one of those four States, why would you send \$6 billion to those States, money which should be in the Federal Treasury, when it should be used for all of the citizens of our country?

At this point, I yield back the balance of my time.

Mr. LANDRY. How much time remains?

The Acting CHAIR. The gentleman from Louisiana has 3 minutes remaining.

Mr. LANDRY. I yield 1 minute to the chairman of the Natural Resources Committee, the gentleman from Washington (Mr. HASTINGS).

□ 1730

Mr. HASTINGS of Washington. Mr. Chairman, I would just point out, the

underlying bill vastly expands the number of States that would be eligible for revenue sharing to far beyond those four States that the ranking member mentioned.

But when our committee held a markup on this legislation 2 weeks ago, I pledged to work with the gentleman from Louisiana and Gulf Members to help bring parity to the differences between the existing revenue sharing currently enjoyed in the four Gulf States and all the other coastal States, which, up until this legislation today, as I mentioned, were not entitled to a share of the revenues from oil and gas production off their shores. Let me repeat that again. Under this legislation, more States will have an opportunity to share this.

But this amendment seeks to bring existing revenue sharing in the Gulf more in line with the plan that was included in the underlying bill. And I congratulate the gentleman for bringing this amendment to the floor. I support it.

Mr. LANDRY. I yield 1 minute to the gentleman from Louisiana (Mr. RICHMOND).

Mr. RICHMOND. I thank the gentleman from Louisiana.

Mr. Chairman, I have an understanding different from my good friend and colleague from Massachusetts. He is absolutely right when he says the resources are everyone's. The resources are everyone's. But the sacrifices that you make to get those resources come from those Gulf States. We lost 1,836 lives in Katrina. We lost 11 lives in the BP oil spill. We've lost 328 square miles of marsh. And in this bill, we give royalties to all the other States immediately.

What we're asking from Louisiana is that, without a cap, is that in 2023 when we start to give us the 37.5 percent. However, we're willing to cap it at \$750 million as opposed to the unlimited amount that all the other States under this bill would do.

And then I think in 2006, Congress recognized that the Gulf Coast States were bearing the brunt of our energy production in this country, the lands that we lose. We produce 90 percent of the Nation's offshore oil and gas. So that's a sacrifice that we make for people in Kansas, people in California to be able to turn on their lights in the afternoon or at nighttime.

With that, Mr. Chairman, I would urge Members to vote for the amendment.

The Acting CHAIR. The gentleman from Louisiana has 1 minute remaining.

Mr. LANDRY. Mr. Chairman, I will just close with this: As the gentleman from Louisiana just indicated, 30 percent of all oil and gas produced in this country comes from Louisiana shores. A quarter of all the seafood is caught in Louisiana. In Louisiana, we have

made it a constitutional amendment that any revenue we receive from the Federal Government or offshore royalties goes to coastal protection and the building of the coast that we are so rapidly losing. And again, this is not an amendment whereby we're asking for more of our share. We are simply asking to raise a cap when other States will have no cap. This is only fundamental fairness here, and I certainly would urge all Members to consider that and to please support this amendment when it comes to the floor.

With that, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Louisiana (Mr. LANDRY).

The question was taken; and the Acting Chair announced that the ayes appeared to have it.

Mr. MARKEY. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Louisiana will be postponed.

AMENDMENT NO. 12 OFFERED BY MR. DEUTCH

The Acting CHAIR. It is now in order to consider amendment No. 12 printed in part A of House Report 112-398.

Mr. DEUTCH. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 954, after line 19, insert the following:  
**SEC. 17603. ESTIMATE OF THE ECONOMIC IMPACT OF WORST-CASE DISCHARGE OF OIL.**

A person shall not be eligible for a lease issued under this subtitle (including the amendments made by this subtitle) unless the person includes in the application for the lease an estimate of the economic impact, including job losses, resulting from a worst-case discharge of oil from facilities operated under the lease.

The Acting CHAIR. Pursuant to House Resolution 547, the gentleman from Florida (Mr. DEUTCH) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Florida.

Mr. DEUTCH. Mr. Chairman, nearly 2 years ago, an explosion on the BP Deepwater Horizon drilling vessel unleashed a steady gush of crude oil into the Gulf of Mexico that went unstoppable for 3 full months. The 4.9 million barrels of crude oil spewed into the gulf and jeopardized an ecosystem that is home to over 15,000 species and claimed the mantle as the worst environmental disaster in our Nation's history.

Yet the BP Deepwater Horizon spill was also an economic disaster. And, Mr. Chairman, that is the issue addressed in the amendment I present to this body today. My amendment simply provides that no one shall be eligible for a lease issued unless there is, first, an estimate of the economic im-

pact, including job losses resulting from a worst-case discharge of oil from facilities operated under that lease.

Right now under current law and under this legislation, as drafted, companies applying for new oil drilling leases are not required to project the toll on local economies resulting from a worst-case scenario spill.

In my home State of Florida and in other Gulf Coast States, like Alabama and Mississippi and Louisiana, the economic consequences were enormous. Forced closures of fishing areas led to shuttered businesses. Fewer tourists led to job losses. The powerful economic ripple effect was felt by millions of Americans in States whose coastal towns, cities, and businesses depend on the livelihood of tourism, fishing, restaurants, shrimping, and other industries.

The bill before us today would open large areas of the Gulf of Mexico, the east and west coasts of the United States, and areas in Alaska to oil drilling. Opening these areas to drilling exposes the coastal communities and coastal States to significant economic impact and job losses should a large-scale oil spill like BP Deepwater Horizon occur.

And while BP created a \$20 billion recovery fund to assist communities devastated by this bill, litigation over the total cost of the disaster continues today. As BP seeks financial contributions from Deepwater Horizon contractors for payout of claims, estimates of the spill's total economic impact are upwards of \$40 billion and more. The Federal Government has a real interest in ensuring that companies applying for new oil drilling leases are aware of and are prepared for the potential economic impact and job losses resulting from a worst-case scenario spill. It only makes sense that these applications require an economic, in addition to the environmental, estimate of such disasters.

My amendment, therefore, would require the person to include in their application this estimate of economic impact arising from a worst-case discharge of oil from the facilities.

I urge my colleagues to join me in safeguarding our economy from tragedies like the Deepwater Horizon spill, and I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Chairman, I rise in opposition to the amendment.

The Acting CHAIR. The gentleman is recognized for 5 minutes.

Mr. HASTINGS of Washington. I yield myself as much time as I may consume.

Mr. Chairman, since the Deepwater Horizon tragedy, the Bureau of Ocean Energy Management and the Bureau of Safety and Environmental Enforcement have put forward significant regulatory measures governing offshore drilling. This is very important, Mr.

Chairman, because existing Federal regulations—specifically, 30 CFR 254.26—already require a worst-case discharge scenario in all lease applications, which includes an evaluation of economic resources that may be impacted. So that's in the law already, Mr. Chairman.

So I find it interesting that we have an amendment before us that we are debating on essentially legislation and regulatory issues that are already currently in place.

Let me make another point to hopefully point out the disconnect of what we are talking about because one of the issues that we are talking about here is the creation of American energy, American jobs, American security, less dependence on foreign sources of our energy.

This last January, for example, the State Department expelled the consul general of Venezuela in Miami for plotting a cyberattack on the U.S. Government. And yet here we are, debating an issue that could affect our getting to be less dependent on foreign energy sources and ignoring what is the obvious. We, obviously, ought to be trying to be less dependent on foreign oil, and yet that debate isn't even going on. We are talking about a debate on an amendment that is simply redundant of current law.

I don't know why we are having this debate, but I think that the redundancy of it here—we always have a worst-case discharge scenario in current law. We simply don't need this.

So with that, Mr. Chairman, I urge opposition to this amendment, and I reserve the balance of my time.

□ 1740

Mr. DEUTCH. Mr. Chairman, how much time do I have remaining?

The Acting CHAIR. The gentleman from Florida has 2 minutes remaining.

Mr. DEUTCH. Mr. Chairman, the gentleman from Washington I respect a great deal, but to say this is redundant of current law is just incorrect. The gentleman knows, and in fact told us, that the requirement he referred to is in regulations.

Mr. Chairman, for anyone who has watched what's gone on in this body, in this Congress, it has been this House of Representatives that has brought to the floor bill after bill after bill to give this Congress the ability to repeal regulations and to block regulations. I don't want to have to rely on what's in regulations. If we believe in American jobs, and the suggestion that somehow the American jobs in the energy industry are more important than the American jobs in the tourism industry and the shrimpers and the people in tourism who realize every day the opportunity to provide for their families because of the beautiful, pristine coastline that we have in Florida and because of all that surrounds the environ-

ment in the other States in the gulf, to suggest that those are somehow less important than energy jobs is inappropriate.

But more than that, I don't want to have to rely on regulations, Mr. Chairman. If we are committed to ensuring that there is an analysis of what would happen in the worst case, then let's put it in the law. Let's put it in the statute. Let's not rely on the regulations that my friends so often blame on these bureaucrats for writing. Let's not rely on them. Here's an opportunity for us to stand together and not want to rely on regulations.

Mr. Chairman, I ask my colleagues to join with me, as they've already acknowledged that this is an important issue, to not have to rely on regulations any longer. Let's make this a part of the law.

I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Chairman, since I have the right to close, I will reserve.

Mr. DEUTCH. Mr. Chairman, there are lots of amendments that are controversial. Simply requiring that companies do what the regulations require them to do, which my colleague from Washington acknowledges that they are already required to do, but making it a part of the law instead of requiring regulations that may change from time to time is the appropriate step. I think we should all be in agreement on that, and I urge adoption of this amendment, and I yield back the balance of my time.

Mr. HASTINGS of Washington. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, from time to time there shows, really, progress in the course of debate. The gentleman from Florida correctly pointed out that my side of the aisle has some real heartburn on a lot of regulations. I'll be the first to admit that. Apparently he does, too, by his acknowledgement that we have that acknowledgement, and he doesn't want to be governed by regulations. So I think we're making progress, at least in that way, and I congratulate him.

But here's the point. On this specific issue, this Congress has responded, and to their credit, this administration has responded, not probably to the extent that I would like, seeing that the regulatory oversight on potential spills in the gulf or any place in the OCS will be responded to in a timely manner. That was done through the appropriation process by a Republican-led Congress. I congratulate the chairman of the Interior Subcommittee on Appropriations for doing precisely that.

But I will repeat again, in my view, in this particular case this amendment is redundant to what the law, through regulations, already is; and I would urge rejection of this amendment, and I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Florida (Mr. DEUTCH).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mr. DEUTCH. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Florida will be postponed.

#### ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments printed in part A of House Report 112 398 on which further proceedings were postponed, in the following order:

Amendment No. 1 by Ms. ESHOO of California.

Amendment No. 2 by Mr. MARKEY of Massachusetts.

Amendment No. 3 by Mr. RUSH of Illinois.

Amendment No. 4 by Mr. DOYLE of Pennsylvania.

Amendment No. 5 by Mr. POLIS of Colorado.

Amendment No. 7 by Mrs. CAPPS of California.

Amendment No. 9 by Mr. BISHOP of New York.

Amendment No. 11 by Mr. LANDRY of Louisiana.

Amendment No. 12 by Mr. DEUTCH of Florida.

The Chair will reduce to 2 minutes the minimum time for any electronic vote after the first vote in this series.

#### AMENDMENT NO. 1 OFFERED BY MS. ESHOO

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentlewoman from California (Ms. ESHOO) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

#### RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 173, noes 249, not voting 11, as follows:

[Roll No. 55]

AYES—173

Ackerman	Braley (IA)	Clay
Andrews	Brown (FL)	Cleaver
Baca	Butterfield	Clyburn
Baldwin	Capps	Cohen
Bass (CA)	Capuano	Connolly (VA)
Becerra	Cardoza	Conyers
Berkley	Carnahan	Costello
Berman	Carney	Courtney
Bishop (GA)	Carson (IN)	Crowley
Bishop (NY)	Castor (FL)	Cuellar
Blumenauer	Chu	Cummings
Bonamici	Cicilline	Davis (CA)
Boswell	Clarke (MI)	Davis (IL)
Brady (PA)	Clarke (NY)	DeFazio

DeGette	Keating	Rahall	Marchant	Posey	Shuler	Berman	Higgins	Pascarell
DeLauro	Kildee	Richardson	Marino	Price (GA)	Shuster	Bishop (GA)	Hinchey	Pastor (AZ)
Deutch	Kind	Richmond	Matheson	Quayle	Simpson	Bishop (NY)	Hirono	Pelosi
Dicks	Kissell	Rothman (NJ)	McCarthy (CA)	Reed	Smith (NE)	Blumenauer	Hochul	Perlmutter
Dingell	Kucinich	Roybal-Allard	McCaul	Rehberg	Smith (NJ)	Bonamici	Holden	Peters
Doggett	Langevin	Ruppersberger	McClintock	Reichert	Smith (TX)	Boswell	Holt	Pingree (ME)
Doyle	Larsen (WA)	Rush	McCotter	Renacci	Southerland	Brady (PA)	Honda	Platts
Edwards	Larson (CT)	Ryan (OH)	McHenry	Reyes	Stearns	Braley (IA)	Hoyer	Polis
Ellison	Lee (CA)	Sánchez, Linda T.	McKeon	Ribble	Stivers	Brown (FL)	Israel	Price (NC)
Engel	Levin	Sanchez, Loretta	McKinley	Rigell	Stutzman	Butterfield	Jackson (IL)	Quigley
Eshoo	Lewis (GA)	Sarbanes	McMorris	Rivera	Terry	Capps	Jackson Lee	Rahall
Farr	Loeb sack	Schakowsky	Rodgers	Roby	Thompson (PA)	Capuano	(TX)	Reyes
Fattah	Lofgren, Zoe	Schiff	Meehan	Roe (TN)	Thornberry	Carnahan	Johnson (GA)	Richardson
Filner	Lowe y	Schrad er	Mica	Rogers (AL)	Tiberi	Carney	Johnson, E. B.	Rothman (NJ)
Frank (MA)	Lujan	Schwartz	Miller (FL)	Rogers (KY)	Tipton	Carson (IN)	Jones	Roybal-Allard
Fudge	Maloney	Scott (VA)	Miller (MI)	Rogers (MI)	Turner (NY)	Castor (FL)	Kaptur	Ruppersberger
Garamendi	Markey	Scott, David	Miller, Gary	Rohrabacher	Turner (OH)	Chandler	Keating	Rush
Gibson	Matsui	Sewell	Mulvaney	Rokita	Upton	Chu	Kildee	Ryan (OH)
Gonzalez	McCarthy (NY)	Sherman	Murphy (PA)	Rooney	Walberg	Cicilline	Kind	Sánchez, Linda T.
Green, Al	McCollum	Sires	Myrick	Ros-Lehtinen	Walden	Clarke (NY)	King (NY)	Sanchez, Loretta
Grijalva	McDermott	Slaughter	Neugebauer	Roskam	Walsh (IL)	Clay	Kissell	Sarbanes
Gutierrez	McGovern	Smith (WA)	Noem	Ross (AR)	Walz (MN)	Cleaver	Kucinich	Schakowsky
Hahn	McIntyre	Speier	Nugent	Ross (FL)	Webster	Clyburn	Langevin	Schiff
Hanabusa	McNerney	Stark	Smith (WA)	Royce	West	Cohen	Larson (CT)	Lee (CA)
Harris	Meeks	Sutton	Olson	Runyan	Westmoreland	Connolly (VA)	Levin	Schrad er
Hastings (FL)	Michaud	Thompson (CA)	Owens	Ryan (WI)	Whitfield	Conyers	Lewis (GA)	Schwartz
Heinrich	Miller (NC)	Thompson (MS)	Paulsen	Scalise	Wilson (SC)	Courtney	Lipinski	Scott, David
Higgins	Miller, George	Tierney	Pearce	Schilling	Wittman	Crowley	LoBiondo	Sewell
Himes	Moore	Tonko	Pence	Schmidt	Wolf	Cummings	Sherman	Shuler
Hinchey	Moran	Towns	Peterson	Schock	Womack	Davis (CA)	Loeb sack	Sires
Hinojosa	Murphy (CT)	Tsongas	Petri	Schweikert	Woodall	Davis (IL)	Lofgren, Zoe	Lowe y
Hirono	Nadler	Velázquez	Pitts	Scott (SC)	Yoder	DeFazio	DeGette	Lujan
Hochul	Napolitano	Woolsey	Platts	Scott, Austin	Young (AK)	DeLauro	DeLauro	Lynch
Holden	Neal	Yarmuth	Poe (TX)	Sensenbrenner	Young (FL)	Deutch	Maloney	Mark ey
Holt	Oliver		Visclosky	Sessions	Young (IN)	Dicks	Mark ey	Matsui
Honda	Pallone		Wasserman	Shinkus		Doggett	Donnelly (IN)	McCarthy (NY)
Hoyer	Pascarell		Schultz			Edwards	McCollum	McDermott
Inslée	Pelosi		Waters	Bonner	Lewis (CA)	Ellison	McGovern	McIntyre
Israel	Perlmutter		Watt	Campbell	Palazzo	Engel	McNerney	McNerney
Jackson (IL)	Pingree (ME)		Peters	Flores	Paul	Eshoo	Meeks	Michaud
Jackson Lee	Polis		Welch	Fortenberry	Payne	Farr	Miller (NC)	Miller, George
(TX)	Price (NC)					Fattah	Moore	Moran
Johnson (GA)	Quigley					Filner	Murphy (CT)	Nadler
Johnson, E. B.						Fitzpatrick	Napolitano	Neal
Kaptur						Fudge	Oliver	Owens
						Garamendi	Pallone	
						Gibson		
						Green, Al		
						Gutierrez		
						Hahn		
						Hanabusa		
						Hastings (FL)		
						Heinrich		

## NOT VOTING—11

□ 1812

Messrs. YOUNG of Indiana, GOHMERT, and GRIMM changed their vote from “aye” to “no.”

Messrs. BLUMENAUER and OLVER changed their vote from “no” to “aye.”

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. PALAZZO. Mr. Chair, on rollcall No. 55, I was unavoidably detained. Had I been present, I would have voted “no.”

AMENDMENT NO. 2 OFFERED BY MR. MARKEY

The Acting CHAIR (Mr. CHAFFETZ). The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Massachusetts (Mr. MARKEY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This will be a 2-minute vote.

The vote was taken by electronic device, and there were—ayes 173, noes 254, not voting 6, as follows:

[Roll No. 56]

AYES—173

Adams	Cooper	Guthrie
Aderholt	Costa	Hall
Akin	Cravaack	Hanna
Alexander	Crawford	Harper
Altmire	Crenshaw	Hartzler
Amash	Critz	Hastings (WA)
Amodei	Culberson	Hayworth
Austria	Davis (KY)	Heck
Bachmann	Denham	Hensarling
Bachus	Dreier	Herger
Barletta	Duffy	Herrera Beutler
Barrow	Duncan (SC)	Huelskamp
Bartlett	Duncan (TN)	Huizenga (MI)
Barton (TX)	Ellmers	Hultgren
Bass (NH)	Emerson	Hunter
Benishkek	Farenthold	Hurt
Berg	Fincher	Issa
Biggert	Fitzpatrick	Jenkins
Bilbray	Flake	Johnson (IL)
Bilirakis	Fleischmann	Johnson (OH)
Bishop (UT)	Fleming	Johnson, Sam
Black	Forbes	Jones
Blackburn	Fox	Jordan
Bono Mack	Gosar	Kelly
Boren	Gowdy	King (IA)
Boustany	Granger	King (NY)
Brady (TX)	Graves (GA)	Kingston
Brooks	Graves (MO)	Kinzing (IL)
Broun (GA)	Green, Gene	Kline
Buchanan	Griffin (AR)	Labrador
Bucshon	Grimm	Lamborn
Buerkle	Guinta	Lance
Burgess	Gowdy	Landry
Burton (IN)	Granger	Lankford
Calvert	Graves (GA)	Latham
Camp	Graham	LaTourrette
Canseco	Granger	Latta
Cantor	Graves (MO)	Lipinski
Capito	Green, Gene	LoBiondo
Carter	Griffin (VA)	Long
Cassidy	Grimm	Lucas
Chabot	Guinta	Luetkemeyer
Chaffetz	Guthrie	Lummis
Chandler	Harper	Lungren, Daniel E.
Coble	Harris	Lynch
Coffman (CO)	Hartzer	Mack
Cole	Hastings (WA)	Manzullo
Conaway	Hayworth	
	Heck	

## NOES—254

Adams	Capito	Fleischmann
Aderholt	Cardoza	Fleming
Akin	Carter	Flores
Alexander	Cassidy	Forbes
Amash	Chabot	Fortenberry
Amodei	Chaffetz	Fox
Austria	Clarke (MI)	Frank (MA)
Bachmann	Coble	Franks (AZ)
Bachus	Coffman (CO)	Frelinghuysen
Barletta	Cole	Gallagher
Bartlett	Conaway	Garrett
Barton (TX)	Cooper	Gibbs
Bass (NH)	Costa	Gingrey (GA)
Benishkek	Costello	Gohmert
Berg	Cravaack	Gonzalez
Biggert	Crawford	Goodlatte
Bilbray	Crenshaw	Gosar
Bilirakis	Critz	Gowdy
Bishop (UT)	Cuellar	Granger
Black	Culberson	Graves (GA)
Blackburn	Davis (KY)	Graves (MO)
Bonner	Denham	Green, Gene
Bono Mack	Dent	Griffin (AR)
Boren	DesJarlais	Griffith (VA)
Boustany	Diaz-Balart	Grijalva
Brady (TX)	Dingell	Grimm
Brooks	Dold	Guinta
Broun (GA)	Doyle	Guthrie
Buchanan	Dreier	Hall
Bucshon	Duffy	Hanna
Buerkle	Duncan (SC)	Harper
Burgess	Duncan (TN)	Harris
Burton (IN)	Ellmers	Hartzler
Calvert	Emerson	Hastings (WA)
Camp	Farenthold	Hayworth
Canseco	Fincher	
Cantor	Flake	

Hensarling McKinley  
 Herger McMorris  
 Herrera Beutler Rodgers  
 Himes Meehan  
 Hinojosa Mica  
 Huelskamp Miller (FL)  
 Huizenga (MI) Miller (MI)  
 Hultgren Miller, Gary  
 Hunter Mulvaney  
 Hurt Murphy (PA)  
 Inslee Myrick  
 Issa Neugebauer  
 Jenkins Noem  
 Johnson (IL) Nugent  
 Johnson (OH) Nunes  
 Johnson, Sam Nunnelee  
 Jordan Olson  
 Kelly Palazzo  
 King (IA) Paulsen  
 Kingston Pearce  
 Kinzinger (IL) Pence  
 Kline Peterson  
 Labrador Petri  
 Lamborn Pitts  
 Lance Poe (TX)  
 Landry Pompeo  
 Lankford Posey  
 Larsen (WA) Price (GA)  
 Latham Quayle  
 LaTourette Reed  
 Latta Rehberg  
 Lewis (CA) Reichert  
 Long Renacci  
 Lucas Ribble  
 Luetkemeyer Richmond  
 Lummis Rigell  
 Lungren, Daniel Rivera  
 E. Webster  
 Mack Roe (TN)  
 Manzullo Rogers (AL)  
 Marchant Rogers (KY)  
 Marino Rogers (MI)  
 Matheson Rohrabacher  
 McCarthy (CA) Rokita  
 McCaul Rooney  
 McClintock Ros-Lehtinen  
 McCotter Roskam  
 McHenry Ross (AR)  
 McKeon Ross (FL)

## NOT VOTING—6

Campbell Payne  
 Paul Rangel Serrano

## ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR (during the vote).  
 There are 30 seconds remaining.

□ 1817

Mr. FRANK of Massachusetts  
 changed his vote from “aye” to “no.”

Mr. DICKS and Ms. SCHAKOWSKY  
 changed their vote from “no” to “aye.”  
 So the amendment was rejected.

The result of the vote was announced  
 as above recorded.

## AMENDMENT NO. 3 OFFERED BY MR. RUSH

The Acting CHAIR. The unfinished  
 business is the demand for a recorded  
 vote on the amendment offered by the  
 gentleman from Illinois (Mr. RUSH) on  
 which further proceedings were post-  
 poned and on which the noes prevailed  
 by voice vote.

The Clerk will redesignate the  
 amendment.

The Clerk redesignated the amend-  
 ment.

## RECORDED VOTE

The Acting CHAIR. A recorded vote  
 has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This will be a 2-  
 minute vote.

The vote was taken by electronic de-  
 vice, and there were—ayes 149, noes 276,  
 not voting 8, as follows:

[Roll No. 57]

## AYES—149

Ackerman Grijalva  
 Amash Gutierrez  
 Andrews Hahn  
 Baca Hanabusa  
 Baldwin Hastings (FL)  
 Bass (CA) Heinrich  
 Becerra Hinchey  
 Berkley Hinojosa  
 Berman Hirono  
 Bishop (NY) Holt  
 Bonamici Honda  
 Boswell Hoyer  
 Brown (FL) Israel  
 Butterfield Jackson (IL)  
 Capps Johnson (GA)  
 Capuano Johnson, E. B.  
 Carnahan Kaptur  
 Carney Keating  
 Carson (IN) Kildee  
 Castor (FL) Kind  
 Chu Kissell  
 Cicilline Kucinich  
 Clarke (MI) Langevin  
 Clarke (NY) Larson (CT)  
 Clay Lee (CA)  
 Cleaver Levin  
 Clyburn Lewis (GA)  
 Cohen Loeb sack  
 Connolly (VA) Lofgren, Zoe  
 Conyers Lowey  
 Courtney Lujan  
 Crowley Maloney  
 Cummings Markey  
 Davis (CA) Matsui  
 Davis (IL) McCarthy (NY)  
 DeFazio McCollum  
 DeGette McDermott  
 DeLauro McGovern  
 Deutch McHenry  
 Dicks Meeks  
 Dingell Michaud  
 Edwards Miller, George  
 Ellison Moore  
 Engel Moran  
 Eshoo Murphy (CT)  
 Farr Nadler  
 Filner Napolitano  
 Fortenberry Neal  
 Fudge Oliver  
 Garamendi Pallone  
 Gibson Pascarell

## NOES—234

Adams Chabot  
 Aderholt Chaffetz  
 Akin Coble  
 Alexander Coffman (CO)  
 Amash Cole  
 Amodei Conaway  
 Austria Cooper  
 Bachmann Cravack  
 Bachus Crawford  
 Barletta Crenshaw  
 Bartlett Cuellar  
 Barton (TX) Culberson  
 Bass (NH) Davis (KY)  
 Benishek Denham  
 Berg DesJarlais  
 Biggert Diaz-Balart  
 Bilbray Dold  
 Bishop (UT) Dreier  
 Black Duffy  
 Blackburn Duncan (SC)  
 Bonner Duncan (TN)  
 Bono Mack Ellmers  
 Boren Emerson  
 Boustany Farenthold  
 Brady (TX) Fincher  
 Brooks Flake  
 Brown (GA) Fleischmann  
 Buchanan Fleming  
 Bucshon Flores  
 Buerkle Forbes  
 Burgess Foss  
 Burton (IN) Franks (AZ)  
 Calvert Frelinghuysen  
 Camp Gallegly  
 Canseco Gardner  
 Cantor Garrett  
 Capito Gerlach  
 Carter Gibbs  
 Cassidy Gingrey (GA)

Kline Kline  
 Labrador Labrador  
 Lamborn Lamborn  
 Lance Latta  
 Landry Landry  
 Lankford Lankford  
 Latham Latham  
 Lewis (CA) Lewis (CA)  
 Long Long  
 Lucas Lucas  
 Luetkemeyer Luetkemeyer  
 Lummis Lummis  
 Lungren, Daniel Lungren, Daniel  
 E. E.  
 Mack Mack  
 Manzullo Manzullo  
 Marchant Marchant  
 Marino Marino  
 Matheson Matheson  
 McCarthy (CA) McCarthy (CA)  
 McCaul McCaul  
 McClintock McClintock  
 McCotter McCotter  
 McHenry McHenry  
 McKeon McKeon  
 McKinley McKinley  
 McMorris McMorris  
 Rodgers Rodgers  
 Mica Mica  
 Miller (FL) Miller (FL)  
 Miller (MI) Miller (MI)  
 Miller, Gary Miller, Gary  
 Mulvaney Mulvaney  
 Murphy (PA) Murphy (PA)  
 Myrick Myrick  
 Neugebauer Neugebauer  
 Noem Noem  
 Nugent Nugent  
 Nunes Nunes

## NOT VOTING—6

Campbell Payne  
 Paul Rangel Serrano

## ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR (during the vote).  
 There are 30 seconds remaining.

□ 1825

So the amendment was rejected.

The result of the vote was announced  
 as above recorded.

## AMENDMENT NO. 5 OFFERED BY MR. POLIS

The Acting CHAIR. The unfinished  
 business is the demand for a recorded  
 vote on the amendment offered by the  
 gentleman from Colorado (Mr. POLIS)  
 on which further proceedings were  
 postponed and on which the noes pre-  
 vailed by voice vote.

The Clerk will redesignate the  
 amendment.

The Clerk redesignated the amend-  
 ment.

## RECORDED VOTE

The Acting CHAIR. A recorded vote  
 has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This will be a 2-  
 minute vote.

The vote was taken by electronic de-  
 vice, and there were—ayes 160, noes 265,  
 not voting 8, as follows:

[Roll No. 59]

## AYES—160

Ackerman Bonamici  
 Andrews Brady (PA)  
 Baca Braley (IA)  
 Baldwin Brown (FL)  
 Bass (CA) Butterfield  
 Becerra Capps  
 Berkley Capuano  
 Berman Cardoza  
 Bishop (NY) Carnahan  
 Blumenauer Carney  
 Carson (IN)  
 Castor (FL)  
 Chu  
 Cicilline  
 Clarke (MI)  
 Clarke (NY)  
 Clay  
 Cleaver  
 Clyburn  
 Cohen



Connolly (VA)	Kaptur	Rahall	Latta	Pastor (AZ)	Scott (SC)	Ciilline	Israel	Pingree (ME)
Conyers	Keating	Reichert	Lewis (CA)	Paulsen	Scott, Austin	Clarke (MI)	Jackson (IL)	Polis
Cooper	Kildee	Reyes	LoBiondo	Pearce	Sensenbrenner	Clarke (NY)	Johnson (GA)	Price (NC)
Costa	Kind	Richmond	Loeb sack	Pence	Sessions	Clay	Johnson, E. B.	Quigley
Courtney	Kucinich	Rothman (NJ)	Long	Peterson	Shimkus	Cleaver	Kaptur	Rahall
Crowley	Langevin	Roybal-Allard	Lucas	Petri	Simpson	Clyburn	Keating	Reichert
Cummings	Larsen (WA)	Rush	Luetkemeyer	Pitts	Smith (NE)	Cohen	Kildee	Reyes
Davis (CA)	Larson (CT)	Ryan (OH)	Lummis	Platts	Smith (NJ)	Connolly (VA)	Kissell	Richardson
Davis (IL)	Lee (CA)	Sánchez, Linda	Lungren, Daniel	Poe (TX)	Smith (TX)	Conyers	Kucinich	Richmond
DeFazio	Levin	T.	E.	Pompeo	Southerland	Costello	Langevin	Rothman (NJ)
DeGette	Lewis (GA)	Sanchez, Loretta	Mack	Posey	Stearns	Courtney	Larsen (WA)	Roybal-Allard
DeLauro	Lipinski	Sarbanes	Manzullo	Price (GA)	Stivers	Crowley	Larson (CT)	Ruppersberger
Deutch	Lofgren, Zoe	Schakowsky	Marchant	Quayle	Stutzman	Cummings	Lee (CA)	Rush
Dingell	Lowe y	Schiff	Marino	Reed	Sullivan	Davis (CA)	Levin	Ryan (OH)
Doggett	Lujan	Schrader	Matheson	Rehberg	Terry	Davis (IL)	Lewis (GA)	Sánchez, Linda
Doyle	Lynch	Schwartz	McCarthy (CA)	Renacci	Thompson (MS)	DeFazio	Lipinski	T.
Edwards	Maloney	Scott (VA)	McCaul	Ribble	Thompson (PA)	DeGette	Loeb sack	Sanchez, Loretta
Ellison	Markey	Scott, David	McClintock	Richardson	Thornberry	DeLauro	Lofgren, Zoe	Sarbanes
Engel	Matsui	Sewell	McCotter	Rigell	Tiberi	Deutch	Lowe y	Schakowsky
Eshoo	McCarthy (NY)	Sherman	McHenry	Rivera	Dicks	Lujan	Schiff	
Farr	McCollum	Shuler	McIntyre	Roby	Tipton	Doggett	Lynch	Schrader
Fattah	McDermott	Sires	McKeon	Roe (TN)	Turner (NY)	Doyle	Maloney	Schwartz
Filner	McGovern	Smith (WA)	McKinley	Rogers (AL)	Turner (OH)	Edwards	Markey	Scott (VA)
Frank (MA)	McNerney	Speier	McMorris	Rogers (KY)	Upton	Ellison	Matsui	Scott, David
Fudge	Meeks	Stark	Rodgers	Rogers (MI)	Walberg	Engel	McCarthy (NY)	Sherman
Garamendi	Michaud	Sutton	Meehan	Rohrabacher	Walden	Eshoo	McCollum	Sires
Grijalva	Miller (NC)	Thompson (CA)	Mica	Rokita	Walsh (IL)	Farr	McDermott	Smith (WA)
Gutierrez	Miller, George	Tierney	Rooney	Ros-Lehtinen	Webster	Fattah	McGovern	Speier
Hanabusa	Moore	Tonko	Miller (MI)	Roskam	West	Filner	McNerney	Stark
Hastings (FL)	Moran	Towns	Miller, Gary	Ross (AR)	Westmoreland	Frank (MA)	Meeks	Sutton
Heinrich	Murphy (CT)	Tsongas	Mulvaney	Ross (FL)	Whitfield	Fudge	Miller (NC)	Thompson (CA)
Higgins	Nadler	Van Hollen	Murphy (PA)	Royce	Wilson (SC)	Garamendi	Miller, George	Tierney
Himes	Napolitano	Velázquez	Myrick	Runyan	Wittman	Grijalva	Moore	Tonko
Hinche y	Neal	Visclosky	Neugebauer	Ruppersberger	Wolf	Gutierrez	Moran	Towns
Hirono	Olver	Walz (MN)	Noem	Ryan (WI)	Womack	Hahn	Murphy (CT)	Tsongas
Holt	Pallone	Wasserman	Nugent	Scalise	Woodall	Hanabusa	Nadler	Van Hollen
Honda	Pascarell	Schultz	Nunes	Schilling	Yoder	Hastings (FL)	Napolitano	Velázquez
Hoyer	Pelosi	Waters	Nunnelee	Schmidt	Young (AK)	Heinrich	Neal	Visclosky
Insl ee	Perlmutter	Watt	Olson	Schock	Young (FL)	Higgins	Olver	Wasserman
Israel	Peters	Waxman	Owens	Schweikert	Young (IN)	Himes	Owens	Schultz
Jackson (IL)	Pingree (ME)	Welch	Palazzo			Hinche y	Pallone	Waters
Johnson (GA)	Polis	Wilson (FL)		NOT VOTING—8		Hirono	Pascarell	Watt
Johnson (IL)	Price (NC)	Woolsey			Shuster	Holt	Pastor (AZ)	Waxman
Johnson, E. B.	Quigley	Yarmuth	Brady (TX)	Payne		Honda	Pelosi	Welch

## NOES—265

Adams	Conaway	Green, Al
Aderholt	Costello	Green, Gene
Akin	Cravaack	Griffin (AR)
Alexander	Crawford	Griffith (VA)
Altmire	Crenshaw	Grimm
Amash	Critz	Guinta
Amodei	Cuellar	Guthrie
Austria	Culberson	Hahn
Bachmann	Davis (KY)	Hall
Bachus	Denham	Hanna
Barletta	Dent	Harper
Barrow	DesJarlais	Harris
Bartlett	Diaz-Balart	Hartzler
Barton (TX)	Dicks	Hastings (WA)
Bass (NH)	Dold	Hayworth
Benish ek	Donnelly (IN)	Heck
Berg	Dreier	Hensarling
Biggert	Duffy	Herger
Bilbray	Duncan (SC)	Herrera Beutler
Bilirakis	Duncan (TN)	Hinojosa
Bishop (GA)	Ellmers	Hochul
Bishop (UT)	Emerson	Holden
Black	Farenthold	Huelskamp
Blackburn	Fincher	Huizenga (MI)
Bonner	Fitzpatrick	Hultgren
Bono Mack	Flake	Hunter
Boren	Fleischmann	Hurt
Boswell	Fleming	Issa
Boustany	Flores	Jackson Lee
Brooks	Forbes	(TX)
Broun (GA)	Fortenberry	Jenkins
Buchanan	Fox	Johnson (OH)
Bucshon	Franks (AZ)	Johnson, Sam
Buerkle	Frelinghuysen	Jones
Burgess	Galle y	Jordan
Burton (IN)	Gardner	Kelly
Calvert	Garrett	King (IA)
Camp	Gerlach	King (NY)
Canseco	Gibbs	Kingston
Cantor	Gibson	Kinzing er (IL)
Capito	Gingrey (GA)	Kissell
Carter	Gohmert	Kline
Cassidy	Gonzalez	Labrador
Chabot	Goodlatte	Lamborn
Chaffetz	Gosar	Lance
Chandler	Gowdy	Landry
Coble	Granger	Lankford
Coffman (CO)	Graves (GA)	Latham
Cole	Graves (MO)	LaTourette

ANNOUNCEMENT BY THE ACTING CHAIR  
The Acting CHAIR (during the vote).  
There are 30 seconds remaining.

□ 1829

So the amendment was rejected.  
The result of the vote was announced  
as above recorded.

AMENDMENT NO. 7 OFFERED BY MRS. CAPPS  
The Acting CHAIR. The unfinished  
business is the demand for a recorded  
vote on the amendment offered by the  
gentlewoman from California (Mrs.  
CAPPS) on which further proceedings  
were postponed and on which the noes  
prevailed by voice vote.

The Clerk will redesignate the  
amendment.

The Clerk redesignated the amend-  
ment.

RECORDED VOTE  
The Acting CHAIR. A recorded vote  
has been demanded.

A recorded vote was ordered.  
The Acting CHAIR. This will be a 2-  
minute vote.

The vote was taken by electronic de-  
vice, and there were—ayes 160, noes 267,  
not voting 6, as follows:

[Roll No. 60]

AYES—160

Ackerman	Bilbray	Capps
Andrews	Bishop (NY)	Capuano
Baca	Blumenauer	Cardoza
Baldwin	Bonamici	Carnahan
Bass (CA)	Brady (PA)	Carney
Becerra	Brady (IA)	Carson (IN)
Berkley	Brown (FL)	Castor (FL)
Berman	Butterfield	Chu

## NOES—267

Adams	Coffman (CO)	Gosar
Aderholt	Cole	Gowdy
Akin	Conaway	Granger
Alexander	Cooper	Graves (GA)
Altmire	Costa	Graves (MO)
Amash	Cravaack	Green, Al
Amodei	Crawford	Green, Gene
Austria	Crenshaw	Griffin (AR)
Bachmann	Critz	Griffith (VA)
Bachus	Cuellar	Grimm
Barletta	Culberson	Guinta
Barrow	Davis (KY)	Guthrie
Bartlett	Denham	Hall
Barton (TX)	Dent	Hanna
Bass (NH)	DesJarlais	Harper
Benish ek	Diaz-Balart	Harris
Berg	Dingell	Hartzler
Biggert	Dold	Hastings (WA)
Bilirakis	Donnelly (IN)	Hayworth
Bishop (GA)	Dreier	Heck
Bishop (UT)	Duffy	Hensarling
Black	Duncan (SC)	Herger
Blackburn	Duncan (TN)	Herrera Beutler
Bonner	Ellmers	Hinojosa
Bono Mack	Emerson	Hochul
Boren	Farenthold	Holden
Boswell	Fincher	Huelskamp
Boustany	Fitzpatrick	Huizenga (MI)
Brady (TX)	Flake	Hultgren
Brooks	Fleischmann	Hunter
Broun (GA)	Fleming	Hurt
Buchanan	Flores	Issa
Bucshon	Forbes	Jackson Lee
Buerkle	Fortenberry	(TX)
Burgess	Fox	Jenkins
Burton (IN)	Franks (AZ)	Johnson (IL)
Calvert	Frelinghuysen	Johnson (OH)
Camp	Galle y	Johnson, Sam
Canseco	Gardner	Jones
Cantor	Garrett	Jordan
Capito	Gerlach	Kelly
Carter	Gibbs	Kind
Cassidy	Gibson	King (IA)
Chabot	Gingrey (GA)	King (NY)
Chaffetz	Gohmert	Kingston
Chandler	Gonzalez	Kinzing er (IL)
Coble	Goodlatte	Kline

Labrador	Nunes	Scott, Austin	Carney	Honda	Pingree (ME)	Johnson (IL)	Miller (MI)	Schmidt
Lamborn	Nunnelee	Sensenbrenner	Carson (IN)	Hoyer	Polis	Johnson (OH)	Miller, Gary	Schock
Lance	Olson	Sessions	Castor (FL)	Inslee	Price (NC)	Johnson, Sam	Mulvaney	Schweikert
Landry	Palazzo	Sewell	Chandler	Israel	Quigley	Jones	Murphy (PA)	Scott (SC)
Lankford	Paulsen	Shimkus	Chu	Jackson (IL)	Rahall	Jordan	Myrick	Scott, Austin
Latham	Pearce	Shuler	Cicilline	Jackson Lee	Reichert	Kelly	Neugebauer	Sensenbrenner
LaTourette	Pence	Shuster	Clarke (MI)	(TX)	Reyes	Kind	Noem	Sessions
Latta	Peterson	Simpson	Clarke (NY)	Johnson (GA)	Richardson	King (IA)	Nugent	Shimkus
Lewis (CA)	Petri	Smith (NE)	Clay	Johnson, E. B.	Richmond	King (NY)	Nunes	Shuler
LoBiondo	Pitts	Smith (NJ)	Clyburn	Kaptur	Rothman (NJ)	Kingston	Nunnelee	Shuster
Long	Platts	Smith (TX)	Cohen	Keating	Roybal-Allard	Kinzinger (IL)	Olson	Simpson
Lucas	Poe (TX)	Southerland	Connolly (VA)	Kildee	Runyan	Kline	Palazzo	Smith (NE)
Luetkemeyer	Pompeo	Stearns	Conyers	Kissell	Ruppersberger	Labrador	Paulsen	Smith (TX)
Lummis	Posey	Stivers	Costello	Kucinich	Rush	Lamborn	Pearce	Southerland
Lungren, Daniel E.	Price (GA)	Stutzman	Courtney	Lance	Ryan (OH)	Landry	Pence	Stearns
Mack	Quayle	Sullivan	Crowley	Langevin	Sanchez, Linda T.	Lankford	Peterson	Stivers
Manzullo	Rehberg	Thompson (MS)	Cummings	Larsen (WA)	Sanchez, Loretta	Latham	Petri	Stutzman
Marchant	Renacci	Thompson (PA)	Davis (CA)	Larson (CT)	T.	LaTourette	Pitts	Sullivan
Marino	Ribble	Thornberry	Davis (IL)	Lee (CA)	Sanchez, Loretta	Latta	Platts	Terry
Matheson	Rigell	Tiberi	DeFazio	Levin	Sarbanes	Lewis (CA)	Poe (TX)	Thompson (PA)
McCarthy (CA)	Rivera	Tipton	DeGette	Lewis (GA)	Schakowsky	Loeb sack	Pompeo	Thornberry
McCaul	Roby	Turner (NY)	Lipinski	LoBiondo	Schiff	Long	Posey	Tiberi
McClintock	Roe (TN)	Turner (OH)	LoLauro	Lofgren, Zoe	Schrader	Lucas	Price (GA)	Tipton
McCotter	Rogers (AL)	Upton	Dicks	Lowey	Schwartz	Luetkemeyer	Quayle	Turner (NY)
McHenry	Rogers (KY)	Walberg	Dingell	Lujan	Scott (VA)	Lummis	Reed	Turner (OH)
McIntyre	Rogers (MI)	Walden	Doggett	Lynch	Scott, David	Lungren, Daniel E.	Rehberg	Upton
McKeon	Rohrabacher	Walsh (IL)	Doyle	Maloney	Sewell	Mack	Renacci	Ribble
McKinley	Rokita	Walz (MN)	Edwards	Marketa	Sherman	Manzullo	Ribble	Rigell
McMorris	Rooney	Webster	Ellison	Matsui	Sires	Marchant	Rivera	Roby
Rodgers	Ros-Lehtinen	West	Engel	McCarthy (NY)	Smith (NJ)	Marino	Roe (TN)	Rogers (AL)
Meehan	Roskam	Westmoreland	Eshoo	McCollum	Smith (WA)	Matheson	Rogers (KY)	Rogers (MI)
Mica	Ross (AR)	Whitfield	Farr	McDermott	Speier	McCarthy (CA)	Rogers (MI)	Rohrabacher
Mitchaud	Ross (FL)	Wilson (SC)	Fattah	McGovern	Stark	McCaul	Rokita	Rooney
Miller (FL)	Royce	Wittman	Finler	McNerney	Sutton	McClintock	Rogers (KY)	Wittman
Miller (MI)	Runyan	Wolf	Frank (MA)	Meeks	Thompson (CA)	McCotter	Rohrabacher	Wittman
Miller, Gary	Ryan (WI)	Womack	Frelinghuysen	Miller (NC)	Thompson (MS)	McHenry	Rokita	Rooney
Mulvaney	Scalise	Woodall	Fudge	Moore	Tierney	McIntyre	Rooney	Ros-Lehtinen
Murphy (PA)	Schilling	Yarmuth	Garamendi	Miller, George	Tonko	McKeon	Ros-Lehtinen	Roskam
Myrick	Schmidt	Yoder	Graves (GA)	Moran	Towns	McKinley	Roskam	Ross (AR)
Neugebauer	Schock	Young (AK)	Grijalva	Murphy (CT)	Tsongas	McMorris	Ross (AR)	Ross (FL)
Noem	Schweikert	Young (FL)	Gutierrez	Nadler	Van Hollen	Rodgers	Ross (FL)	Royce
Nugent	Scott (SC)	Young (IN)	Hahn	Napolitano	Velázquez	Meehan	Ryan (WI)	Scalise
			Hanabusa	Oliver	Visclosky	Mica	Schilling	Schilling
			Hastings (FL)	Owens	Wasserman	Miller (FL)		
			Heinrich	Pallone	Watt			
			Higgins	Pascrell	Watt			
			Himes	Pastor (AZ)	Waxman			
			Hinchey	Pelosi	Welch			
			Hinojosa	Perlmutter	Wilson (FL)			
			Hirono	Peters	Woolsey			
			Hochul					
			Holt					

## NOT VOTING—6

Campbell  
Paul

Payne  
Rangel

Serrano  
Slaughter

## ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR (during the vote).  
There are 30 seconds remaining.

□ 1833

So the amendment was rejected.  
The result of the vote was announced  
as above recorded.

## AMENDMENT NO. 9 OFFERED BY MR. BISHOP OF NEW YORK

The Acting CHAIR. The unfinished  
business is the demand for a recorded  
vote on the amendment offered by the  
gentleman from New York (Mr. BISHOP)  
on which further proceedings were  
postponed and on which the noes pre-  
vailed by voice vote.

The Clerk will redesignate the  
amendment.

The Clerk redesignated the amend-  
ment.

## RECORDED VOTE

The Acting CHAIR. A recorded vote  
has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This will be a 2-  
minute vote.

The vote was taken by electronic de-  
vice, and there were—ayes 169, noes 257,  
not voting 7, as follows:

[Roll No. 61]

AYES—169

Ackerman  
Andrews  
Baca  
Baldwin  
Bass (CA)  
Becerra

Berkley  
Berman  
Bishop (NY)  
Blumenauer  
Bonamici  
Brady (PA)

Brown (FL)  
Butterfield  
Capps  
Capuano  
Cardoza  
Carnahan

Adams  
Aderholt  
Akin  
Alexander  
Altmire  
Amash  
Amodei  
Austria  
Bachmann  
Bachus  
Barletta  
Barrow  
Bartlett  
Barton (TX)  
Bass (NH)  
Benishak  
Berg  
Biggert  
Bilbray  
Bilirakis  
Bishop (GA)  
Bishop (UT)  
Black  
Blackburn  
Bonner  
Bono Mack  
Boren  
Boswell  
Boustany  
Brady (TX)  
Braley (IA)  
Brooks  
Broun (GA)  
Buchanan  
Bucshon  
Buerkle  
Burgess  
Burton (IN)  
Calvert  
Camp  
Canseco

## NOES—257

Cantor  
Capito  
Carter  
Cassidy  
Chabot  
Chaffetz  
Coble  
Coffman (CO)  
Cole  
Conaway  
Cooper  
Costa  
Cravaack  
Crawford  
Crenshaw  
Critz  
Cuellar  
Culberson  
Davis (KY)  
Denham  
Dent  
DesJarlais  
Diaz-Balart  
Dold  
Donnelly (IN)  
Dreier  
Duffy  
Duncan (SC)  
Duncan (TN)  
Ellmers  
Emerson  
Farenthold  
Fincher  
Fitzpatrick  
Flake  
Fleischmann  
Fleming  
Flores  
Forbes  
Fortenberry  
Foxy

Franks (AZ)  
Gallegly  
Gardner  
Garrett  
Gerlach  
Gibbs  
Gibson  
Gingrey (GA)  
Gohmert  
Gonzalez  
Goodlatte  
Gosar  
Gowdy  
Granger  
Graves (MO)  
Green, Al  
Green, Gene  
Griffith (AR)  
Griffith (VA)  
Grimm  
Guinta  
Guthrie  
Hall  
Hanna  
Harper  
Harris  
Hartzler  
Hastings (WA)  
Hayworth  
Heck  
Hensarling  
Henger  
Herrera Beutler  
Holden  
Huelskamp  
Huizenga (MI)  
Hultgren  
Hunter  
Hurt  
Issa  
Jenkins

## NOT VOTING—7

Campbell  
Cleaver  
Paul

Payne  
Rangel  
Serrano

## ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR (during the vote).  
There are 30 seconds remaining.

□ 1837

So the amendment was rejected.  
The result of the vote was announced  
as above recorded.

AMENDMENT NO. 11 OFFERED BY MR. LANDRY  
The Acting CHAIR. The unfinished  
business is the demand for a recorded  
vote on the amendment offered by the  
gentleman from Louisiana (Mr.  
LANDRY) on which further proceedings  
were postponed and on which the ayes  
prevailed by voice vote.

The Clerk will redesignate the  
amendment.

The Clerk redesignated the amend-  
ment.

## RECORDED VOTE

The Acting CHAIR. A recorded vote  
has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This will be a 2-  
minute vote.

The vote was taken by electronic de-  
vice, and there were—ayes 266, noes 159,  
not voting 8, as follows:

[Roll No. 62]

AYES—266

Adams  
Aderholt  
Akin

Alexander  
Altmire  
Amash

Amodei  
Austria  
Bachmann

[Roll No. 63]

## AYES—188

Bachus	Graves (GA)	Palazzo	Capps	Holden	Pelosi		
Barletta	Graves (MO)	Pastor (AZ)	Capuano	Holt	Perlmutter		
Bartlett	Green, Al	Paulsen	Cardoza	Honda	Peters		
Barton (TX)	Green, Gene	Pearce	Carnahan	Hoyer	Peterson	Ackerman	Nadler
Benishkek	Griffin (AR)	Pence	Carney	Inslee	Pingree (ME)	Altmire	Frank (MA)
Berg	Griffith (VA)	Petri	Carson (IN)	Israel	Polis	Andrews	Fudge
Bilbray	Grimm	Pitts	Castor (FL)	Johnson (GA)	Price (NC)	Baca	Garamendi
Bilirakis	Guinta	Platts	Chandler	Johnson (IL)	Quigley	Baldwin	Gibson
Bishop (GA)	Guthrie	Poe (TX)	Chu	Kaptur	Rahall	Barrow	Gohmert
Bishop (UT)	Hall	Pompeo	Cicilline	Keating	Rothman (NJ)	Bass (CA)	Green, Al
Black	Hanabusa	Posey	Clarke (MI)	Kildee	Roybal-Allard	Becerra	Grijalva
Blackburn	Hanna	Price (GA)	Connolly (VA)	Kind	Ruppersberger	Berkley	Gutierrez
Bonner	Harper	Quayle	Conyers	Kucinich	Ryan (OH)	Berman	Hahn
Bono Mack	Harris	Reed	Cooper	Langevin	Sanchez, Linda	Bishop (GA)	Hanabusa
Boren	Hartzler	Rehberg	Costa	Larsen (WA)	T.	Bishop (NY)	Hastings (FL)
Boustany	Hastings (WA)	Reichert	Costello	Lee (CA)	Sanchez, Loretta	Blumenauer	Heinrich
Brady (TX)	Heck	Renacci	Courtney	Levin	Sarbanes	Bonamici	Higgins
Brooks	Hensarling	Reyes	Critz	Lewis (GA)	Schakowsky	Boswell	Hinchey
Broun (GA)	Herger	Ribble	Crowley	Lipinski	Schiff	Brady (PA)	Hinojosa
Brown (FL)	Herrera Beutler	Richardson	Davis (CA)	LoBiondo	Schrader	Braley (IA)	Hirono
Buchanan	Hinojosa	Richmond	DeFazio	Loeb sack	Schwartz	Brown (FL)	Hochul
Bucshon	Huelskamp	Rigell	DeGette	Lofgren, Zoe	Scott (VA)	Buchanan	Holden
Buerkle	Huizenga (MI)	Rivera	DeLauro	Lowey	Sherman	Butterfield	Holt
Burgess	Hultgren	Roby	Deutch	Lummis	Shuler	Capps	Honda
Burton (IN)	Hunter	Roe (TN)	Dicks	Dingell	Sires	Capuano	Hoyer
Calvert	Hurt	Rogers (AL)	Donnelly (IN)	Maloney	Smith (NJ)	Cardoza	Inslee
Camp	Issa	Rogers (KY)	Doyle	Markay	Smith (WA)	Carnahan	Israel
Canseco	Jackson (IL)	Rogers (MI)	Edwards	Markey	Speier	Carney	Jackson (IL)
Cantor	Jackson Lee	Rohrabacher	Ellison	Matsui	Stark	Carson (IN)	Jackson Lee
Capito	(TX)	Rokita	Engel	McCarthy (NY)	Sutton	Castor (FL)	(TX)
Carter	Jenkins	Rooney	Eshoo	McCollum	Thompson (CA)	Chandler	Johnson (GA)
Cassidy	Johnson (OH)	Ros-Lehtinen	McDermott	McGovern	Tierney	Chu	Johnson, E. B.
Chabot	Johnson, E. B.	Roskam	Farr	McNerney	Tipton	Cicilline	Jones
Chaffetz	Johnson, Sam	Ross (AR)	Fattah	Meeks	Tonko	Clarke (MI)	Kaptur
Clarke (NY)	Jones	Ross (FL)	Finer	Miller (MI)	Tsongas	Clarke (NY)	Keating
Clay	Jordan	Royce	Frank (MA)	Miller (NC)	Van Hollen	Clay	Kildee
Clyburn	Kelly	Runyan	Gibson	Miller, George	Velázquez	Clyburn	Kissell
Coble	King (IA)	Rush	Gutierrez	Moore	Visclosky	Coffman (CO)	Kucinich
Coffman (CO)	King (NY)	Ryan (WI)	Hahn	Moran	Walz (MN)	Cohen	Langevin
Cohen	Kingston	Scalise	Hastings (FL)	Murphy (CT)	Wasserman	Connolly (VA)	Larson (CT)
Cole	Kinzinger (IL)	Schilling	Hayworth	Nadler	Schultz	Conyers	Lee (CA)
Conaway	Kissell	Schmidt	Heinrich	Napolitano	Waters	Cooper	Levin
Cravaack	Kline	Schock	Higgins	Neal	Watt	Costello	Lewis (GA)
Crawford	Labrador	Schweikert	Himes	Olver	Waxman	Courtney	Lipinski
Crenshaw	Lamborn	Scott (SC)	Hinchey	Owens	Welch	Critz	LoBiondo
Cuellar	Lance	Scott, Austin	Hirono	Pallone	Woolsey	Crowley	Loeb sack
Culberson	Landry	Scott, David	Hochul	Pascarell	Yarmuth	Cuellar	Lofgren, Zoe
Cummings	Lankford	Sensenbrenner				Cummings	Lowey
Davis (IL)	Larson (CT)	Sessions	Campbell	Paul	Serrano	Davis (CA)	Davis (CA)
Davis (KY)	Latham	Sewell	Cleaver	Payne	Slaughter	Davis (IL)	Lynch
Denham	LaTourette	Shimkus	Gingrey (GA)	Rangel		DeFazio	Markey
Dent	Latta	Shuster				DeGette	Matsui
DesJarlais	Lewis (CA)	Simpson				DeLauro	McCarthy (NY)
Diaz-Balart	Long	Smith (NE)				Dent	McCollum
Doggett	Lucas	Smith (TX)				Deutch	McDermott
Dold	Luetkemeyer	Southerland				Dicks	McGovern
Dreier	Lungren, Daniel	Stearns				Dingell	McIntyre
Duffy	E.	Stivers				Doggett	McNerney
Duncan (SC)	Mack	Stutzman				Donnelly (IN)	Meehan
Duncan (TN)	Manzullo	Sullivan				Doyle	Meeks
Ellmers	Marchant	Terry				Edwards	Michaud
Emerson	Marino	Thompson (MS)				Ellison	Miller (FL)
Farenthold	Matheson	Thompson (PA)				Engel	Miller (NC)
Fincher	McCarthy (CA)	Thornberry				Eshoo	Miller, George
Fitzpatrick	McCauley	Tiberi				Farr	Moore
Flake	McClintock	Towns				Fattah	Moran
Fleischmann	McCotter	Turner (NY)				Filner	Murphy (CT)
Fleming	McHenry	Turner (OH)					
Flores	McIntyre	Upton					
Forbes	McKeon	Walberg					
Fortenberry	McKinley	Walden					
Fox	McMorris	Walsh (IL)					
Franks (AZ)	Rodgers	Webster					
Frelinghuysen	Meehan	West					
Fudge	Mica	Westmoreland					
Gallely	Michaud	Whitfield					
Garamendi	Miller (FL)	Wilson (FL)					
Gardner	Miller, Gary	Wilson (SC)					
Garrett	Mulvaney	Wittman					
Gerlach	Murphy (PA)	Wolf					
Gibbs	Myrick	Womack					
Gohmert	Neugebauer	Woodall					
Gonzalez	Noem	Yoder					
Goodlatte	Nugent	Young (AK)					
Gosar	Nunes	Young (FL)					
Gowdy	Nunnelee	Young (IN)					
Granger	Olson						

## NOES—159

Ackerman	Bass (NH)	Blumenauer
Andrews	Becerra	Bonamici
Baca	Berkley	Boswell
Baldwin	Berman	Brady (PA)
Barrow	Biggart	Braley (IA)
Bass (CA)	Bishop (NY)	Butterfield

## NOT VOTING—8

ANNOUNCEMENT BY THE ACTING CHAIR  
The Acting CHAIR (during the vote).  
There are 30 seconds remaining.

□ 1841

Ms. EDWARDS and Mr. CARNEY changed their vote from “aye” to “no.”  
Mr. ROHRABACHER changed his vote from “no” to “aye.”

So the amendment was agreed to.  
The result of the vote was announced as above recorded.

AMENDMENT NO. 12 OFFERED BY MR. DEUTCH  
The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Florida (Mr. DEUTCH) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

## RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This will be a 2-minute vote.

The vote was taken by electronic device, and there were—ayes 188, noes 236, not voting 9, as follows:

## AYES—188

Fitzpatrick	Nadler
Frank (MA)	Napolitano
Fudge	Neal
Garamendi	Olver
Gibson	Owens
Gohmert	Pallone
Green, Al	Pascarell
Grijalva	Pastor (AZ)
Gutierrez	Pelosi
Hahn	Peters
Hanabusa	Pingree (ME)
Hastings (FL)	Polis
Heinrich	Price (NC)
Higgins	Quigley
Hinchey	Rahall
Hinojosa	Reichert
Hirono	Reyes
Hochul	Richardson
Holden	Richmond
Holt	Ros-Lehtinen
Honda	Rothman (NJ)
Hoyer	Roybal-Allard
Inslee	Ruppersberger
Israel	Rush
Jackson (IL)	Ryan (OH)
Jackson Lee	Sanchez, Linda
(TX)	T.
Johnson (GA)	Sanchez, Loretta
Johnson, E. B.	Sarbanes
Jones	Schakowsky
Kaptur	Schiff
Keating	Schrader
Kildee	Schwartz
Kissell	Scott (VA)
Kucinich	Scott, David
Langevin	Sewell
Larson (CT)	Sherman
Lee (CA)	Sires
Lewis (GA)	Smith (NJ)
Lipinski	Smith (WA)
LoBiondo	Speier
Loeb sack	Stark
Lofgren, Zoe	Sutton
Lowey	Thompson (CA)
Lujan	Thompson (MS)
Lynch	Tierney
Markey	Tonko
Matsui	Towns
McCarthy (NY)	Tsongas
McCollum	Van Hollen
McDermott	Velázquez
McGovern	Visclosky
McIntyre	Walz (MN)
McNerney	Wasserman
Meehan	Schultz
Meeks	Waters
Michaud	Watt
Miller (FL)	Waxman
Miller (NC)	Welch
Miller, George	Wilson (FL)
Moore	Woolsey
Moran	Yarmuth
Murphy (CT)	Young (FL)

## NOES—236

Adams	Brooks	Diaz-Balart
Aderholt	Broun (GA)	Dold
Akin	Bucshon	Dreier
Alexander	Buerkle	Duffy
Amash	Burgess	Duncan (SC)
Amodei	Burton (IN)	Duncan (TN)
Austria	Calvert	Ellmers
Bachmann	Camp	Emerson
Bachus	Canseco	Farenthold
Barletta	Cantor	Fincher
Bartlett	Capito	Flake
Barton (TX)	Carter	Fleischmann
Bass (NH)	Cassidy	Fleming
Benishkek	Chabot	Flores
Berg	Chaffetz	Forbes
Biggart	Coble	Fortenberry
Bilbray	Cole	Fox
Bilirakis	Conaway	Franks (AZ)
Bishop (UT)	Costa	Frelinghuysen
Black	Cravaack	Gallely
Blackburn	Crawford	Gardner
Bonner	Crenshaw	Garrett
Bono Mack	Culberson	Gerlach
Boren	Davis (KY)	Gibbs
Boustany	Denham	Gingrey (GA)
Brady (TX)	DesJarlais	Gonzalez

Goodlatte	Lummis	Rohrabacher
Gosar	Lungren, Daniel	Rokita
Gowdy	E.	Rooney
Granger	Mack	Roskam
Graves (GA)	Manzullo	Ross (AR)
Graves (MO)	Marchant	Ross (FL)
Green, Gene	Marino	Royce
Griffin (AR)	Matheson	Runyan
Griffith (VA)	McCarthy (CA)	Ryan (WI)
Grimm	McCaul	Scalise
Guinta	McClintock	Schilling
Guthrie	McCotter	Schmidt
Hall	McHenry	Schock
Hanna	McKeon	Schweikert
Harper	McKinley	Scott (SC)
Harris	McMorris	Scott, Austin
Hartzler	Rodgers	Sensenbrenner
Hastings (WA)	Mica	Sessions
Hayworth	Miller (MI)	Shimkus
Heck	Miller, Gary	Shuler
Hensarling	Mulvaney	Shuster
Herger	Murphy (PA)	Simpson
Herrera Beutler	Myrick	Smith (NE)
Huelskamp	Neugebauer	Smith (TX)
Huizenga (MI)	Noem	Southerland
Hultgren	Nugent	Stearns
Hunter	Nunes	Stivers
Hurt	Nunnelee	Stutzman
Issa	Olson	Sullivan
Jenkins	Palazzo	Terry
Johnson (IL)	Paulsen	Thompson (PA)
Johnson (OH)	Pearce	Thornberry
Johnson, Sam	Pence	Tiberti
Jordan	Perlmutter	Tipton
Kelly	Peterson	Turner (NY)
Kind	Petri	Turner (OH)
King (IA)	Pitts	Upton
King (NY)	Platts	Walberg
Kingston	Poe (TX)	Walden
Kinzinger (IL)	Pompeo	Walsh (IL)
Kline	Posey	Webster
Labrador	Price (GA)	West
Lamborn	Quayle	Westmoreland
Lance	Reed	Whitfield
Landry	Rehberg	Wilson (SC)
Lankford	Renacci	Wittman
Larsen (WA)	Ribble	Wolf
Latham	Rigell	Womack
LaTourette	Rivera	Woodall
Latta	Roby	Yoder
Lewis (CA)	Roe (TN)	Young (AK)
Long	Rogers (AL)	Young (IN)
Lucas	Rogers (KY)	
Luetkemeyer	Rogers (MI)	

## NOT VOTING—9

Campbell	Maloney	Rangel
Cleaver	Paul	Serrano
Himes	Payne	Slaughter

## ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR (during the vote).  
There are 30 seconds remaining.

□ 1845

So the amendment was rejected.

The result of the vote was announced  
as above recorded.

## PERSONAL EXPLANATION

Ms. SLAUGHTER. Mr. Chair, I was unavoidably detained and missed rollcall vote numbers 56, 57, 58, 59, 60, 61, 62, 63. Had I been present, I would have voted "aye" on rollcall vote numbers 56, 57, 58, 59, 60, 61, and 63. I would have voted "no" on rollcall vote number 62.

Mr. HASTINGS of Washington. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. CASSIDY) having assumed the chair, Mr. CHAFFETZ, Acting Chair of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 3408) to set clear rules for the development of United States oil

shale resources, to promote shale technology research and development, and for other purposes, had come to no resolution thereon.

## APPOINTMENT OF MEMBER TO UNITED STATES HOLOCAUST MEMORIAL COUNCIL

The SPEAKER pro tempore. The Chair announces the Speaker's appointment, pursuant to 36 U.S.C. 2302, and the order of the House of January 5, 2011, of the following Member of the House to the United States Holocaust Memorial Council:

Mr. ISRAEL, New York.

## ST. JUDE'S CHARITABLE AUCTION

(Mr. FLEMING asked and was given permission to address the House for 1 minute.)

Mr. FLEMING. Mr. Speaker, for 50 years, the St. Jude Children's Research Hospital has been one of the leading facilities for researching and treating catastrophic diseases in children. Every year, nearly 8,000 children are treated at St. Jude. That's why I'm proud of a group of friends back in my hometown who, for 36 years, have been raising money for St. Jude through an annual auction.

When the auction started, the first goal they set and reached was \$10,000. Well, that has long since been eclipsed. This year was another record-breaking year. The Minden, Louisiana, St. Jude auction held earlier this month raised \$1,065,235 to help the ongoing work of saving children's lives.

So thank you to Melissa Brown and Christie Ruple, the cochairs of the Minden St. Jude auction. And thank you to Pete Treat who, after suffering the terrible loss of his 5-year-old daughter to leukemia, started the Minden St. Jude auction and now has had the privilege of watching that auction raise more than \$1 million for the St. Jude Children's Research Hospital.

□ 1850

## REMEMBERING WHITNEY HOUSTON

(Ms. JACKSON LEE of Texas asked and was given permission to address the House for 1 minute.)

Ms. JACKSON LEE of Texas. Mr. Speaker, I rise today to speak of a loss that so many have spoken about over the last week, and that is the loss of Whitney Houston. I would imagine that everyone would acknowledge the beauty of her music and certainly the beauty that she was as a person and a human being. What a very sad loss for her daughter, Bobbi, and her mother, Cissy, her aunt, Dionne Warwick, and the extended family members who loved her dearly.

We cannot help but be reminded of Whitney's beautiful voice singing "The

Star Spangled Banner" after and during the Gulf War. Or the words that she sang, "Yes, Jesus Loves Me" in the song that she sang in the first acting effort that she did in "The Bodyguard" that was so superb. And we can't help but be reminded of that song "I Will Always Love You" that has touched everyone's heart. Whitney touched our hearts. And my constituents, Kim Burrell, Bishop Woodard and others, are deeply saddened. And our good friend, Congressman DON PAYNE, who has been in touch with the family and is helping, he has been a comfort as well.

I simply wanted to say: Whitney, you've given us much joy. We'll remember your music of the seventies and eighties. Many of us danced to it, but many of us were made happy by it. And we realize that your legacy will survive. We thank you, and we thank your wonderful family for sharing you for some more than 20 years. And we thank you for that beautiful, beautiful voice that sang "The Star Spangled Banner" like we've never heard it before. We will always love you. God bless you, and may you rest in peace.

## HAPPY BIRTHDAY FORMER CONGRESSMAN LOUIS STOKES

(Ms. KAPTUR asked and was given permission to address the House for 1 minute.)

Ms. KAPTUR. Mr. Speaker, I rise with great privilege to wish a very happy birthday that will come on February 23 to one of our most distinguished Members who served for so many years, Congressman Louis Stokes of Cleveland, Ohio. He will turn 87 on February 23. And truly, he deserves recognition during this Black History Month, and I pay him his due honor.

He grew up in difficult circumstances in public housing. His widowed mother had to raise her two sons, one of which, Louis, became the first African American congressman ever elected from the State of Ohio, and his brother, Carl, the first African American mayor of Cleveland, Ohio. Can you imagine that family? Can you imagine their struggle?

I wish to place in the RECORD tonight some of his story. One of the tremendous accomplishments that he achieved as an attorney was trying many cases in front of the U.S. Supreme Court, including a case which created Ohio's first mostly minority congressional district, and then later in life he had the opportunity to run for that seat. He changed the face of this country.

I'm just so pleased to call him our friend, and let us take the time to fully recognize the admirable and path-breaking contributions of former Congressman Louis Stokes during this year's Black History Month. He deserves it.

[From Cleveland.com, Feb. 13, 2012]

**LAWYER LOUIS STOKES BECAME OHIO'S FIRST  
BLACK CONGRESSMAN: BLACK HISTORY MONTH**  
(By Grant Segall)

As part of Black History Month, we honor Louis Stokes, Ohio's first black congressman.

Stokes, who turns 87 on Feb. 23, still practices law with Squire Sanders, mostly in Washington, D.C.

At the Outhwaite housing project, a young, widowed Louise Stokes used to display her hands, callused from maid's work, and tell her boys to work with their minds. A calm, genial Lou helped her raise his flamboyant kid brother, Carl, who became the first black mayor of a major U.S. city.

Lou graduated from Cleveland Central High School and after serving three years in the military in World War II, earned his law degree in 1953.

He became a leading lawyer. He argued three cases before the U.S. Supreme Court and persuaded it to create Ohio's first mostly minority congressional district in 1968. Local leaders persuaded him to represent it.

In Washington, Stokes chaired a committee probing John F. Kennedy's assassination, dressed down Col. Oliver North over the Iran-Contra scandal and steered vast sums to health clinics, job programs and veterans care. At home, he launched a famous district caucus and Labor Day parade. After 30 years, he retired undefeated.

A dozen or so landmarks have been named for him, including a building at the National Institutes of Health.

**GOP DOCTORS CAUCUS: SAVE  
MEDICARE**

The SPEAKER pro tempore (Mr. BERG). Under the Speaker's announced policy of January 5, 2011, the gentleman from Louisiana (Mr. FLEMING) is recognized for 60 minutes as the designee of the majority leader.

Mr. FLEMING. Mr. Speaker, once again the GOP Doctors Caucus comes together to discuss important matters regarding health care. Tonight we're going to focus on saving Medicare. This has been a very interesting discussion going back to the days of the ObamaCare debate where we talked about how we would finance ObamaCare. And lo and behold in the middle of the debate, we find out that the Members of the other side of the aisle decide that they're going to help finance ObamaCare by taking out over \$500 billion—half a trillion—\$500 billion from Medicare over the next 10 years in order to help finance ObamaCare.

Now if you think about this, the CBO states that Medicare may become insolvent as early as 2016. So I think the focus right now with regard to Medicare, an important part of our entitlement program, has got to be how are we going to save Medicare. I have an array of colleagues here this evening that are going to help me develop that issue.

Again, I'll go back to the financing of ObamaCare, and that is cutting out over half a trillion dollars from Medicare in order to help finance

ObamaCare. And there are some other pieces of the financing as well—the individual mandate which is soon to go to the Supreme Court. And if that is struck down, that will be another piece of the financing that won't be available. Tax increases, increases of taxes, excise taxes, taxes on equipment, taxes on tanning beds, many different new taxes, as much as \$800 billion over 10 years of new taxes in order to finance ObamaCare.

Then there was the CLASS Act, which was long term health care, which the actuaries said from the beginning would not work. It would not finance anything.

And then last, but not least, is the student loan program, which was nationalized in order to siphon off profits from that in order to help finance ObamaCare. And we hear talk now about forgiving those loans which means that it'll probably be another bailout, like the mortgage.

So, Mr. Speaker, I have to speak out tonight on the fact that ObamaCare is going to bankrupt this country if it is actually fully implemented. But more importantly, Medicare will become insolvent as early as 2016. We're going to be talking about how that's happening, how we're seeing skyrocketing costs. And some of the things perhaps that will be discussed tonight will be how we can save Medicare.

Again, in closing my initial comments here, I will have to emphasize to you that our colleagues from the other side, inasmuch as they somehow want to blame us for ending Medicare, which not a single Member on the Republican side wants to do, of course, but they accuse us of this, but in fact they have yet to submit a plan that will save Medicare, will prevent it from becoming insolvent by 2016 or 2022, depending on whom you believe.

So with these opening remarks, I would like to open the floor to my good friend, Dr. HARRIS from Maryland, and would love to hear some of your comments about saving Medicare and other matters having to do with health care.

Mr. HARRIS. Thank you for yielding to me to speak on this very important issue.

Mr. Speaker, as the gentleman from Louisiana has said, we really have to talk about saving Medicare. Medicare is under assault in a way that it has never been under assault before. The gentleman from Louisiana mentioned quite accurately that the President's health care bill passed 2 years ago would take \$500 billion from Medicare spending on our seniors who are currently receiving Medicare—\$500 billion. Now, how are they going to do that? What are we not going to deliver to those seniors?

Well, the way it's done is the President appoints the Independent Payment Advisory Board, 15 appointed, not elected members, no appeal from their judgment.

□ 1900

What they're going to do is they're going to say in a year when it looks like we're going to spend a little more on Medicare than the country can afford by the budget, we're going to decide what can and can't be delivered. The President's budget he just released this week makes it even worse because it sets even a lower budget target for Medicare spending. And, of course, the President doesn't even deal with the issue that's before the House this week, which is what are we going to do about physician payments.

Now, Mr. Speaker, I represent a rural area of Maryland, Maryland's First Congressional District, where it's already very difficult for seniors to find a physician who is willing to take a new Medicare patient because, to be honest with you, they're afraid that their pay is going to be cut 30 percent at the end of this month, on February 29. And the President, in his budget, doesn't even deal with this issue. The President doubles down on the President's health care act. He sticks to that \$500 billion in cuts that are going to occur. And not only that, he lowers the threshold for that Independent Payment Advisory Board to begin rationing care to our seniors. We have got to save Medicare.

Mr. Speaker, some of the people listening are going to say, well, we're not going to believe these people. They all wanted to vote against the President's health care bill. Mr. Speaker, they don't need to believe us. Go to the Congressional Budget Office's Web site. It's nonpartisan. It doesn't pick sides. It says that the Medicare plan is going to go broke by the end of this decade. And if you don't believe them, go to the Medicare trustee's Web site. Just go to Google and search Medicare trustee's report. They say it goes bankrupt a few years after that.

Mr. Speaker, the gentleman is right. We have to address Medicare, and we have to address it now before the President's health care act destroys health care for seniors. My mother, who is 88 years old, depends on her Medicare. She depends on her prescription drug coverage. She depends on it to have access to the physicians that she needs for her health care. And, Mr. Speaker, I'm afraid that under the President's plan, my mother, and millions of other Americans, our seniors receiving Medicare, are just not going to have the care they're used to and that they deserve. We need to save Medicare.

Mr. Speaker, I think we're going to hear about some of the ideas tonight about how we're going to do that. So I want to thank my colleague from Louisiana for yielding me these few minutes, and thank you for coming to the floor and doing this work tonight so that we show our Members and show the public who's watching how we have to save Medicare for our seniors. Thank you for yielding to me.

Mr. FLEMING. I thank the gentleman from Maryland, my good friend, who is an anesthesiologist, a practicing anesthesiologist for a number of years and very experienced.

Before I recognize my friend from Georgia (Mr. GINGREY), I did want to point out a couple of things. Remember I said a moment ago the CMS actuary in this case projects the Medicare program could be bankrupt as early as 2016. This is 2012. That's 4 years, Mr. Speaker.

Where is the Democrat plan to save Medicare? Republicans, on the other hand, we've already passed a budget last year. We're working on another one this year that would do that. We just could not get HARRY REID to even salute it, much less have a vote on it.

Also, Medicare costs are projected to grow substantially from approximately 3.6 percent of GDP in 2010 to 5.5 percent by 2035. The physician payment formula in Medicare needs to be fixed or seniors may lose their doctor as it costs \$316 billion. And that's what Dr. HARRIS was referring to, that it's already very difficult for doctors to make it on what they're paid, and they're looking at a cliff of a 30 percent reduction in their pay. If that goes into effect, Mr. Speaker, a lot of seniors out there will not have access to health care.

So I want to show you, before I recognize my good friend, what this means in graphic form. And as you can see, the purple aspect of this is Social Security. The green is Medicaid and other health care. You see it rising very fairly steadily, but plateauing. But look at the red. That's Medicare. That is Medicare.

And in out-years, going all the way out to 2080, it just goes straight up. Of course, that's largely due to an aging population, baby boomers like myself getting older. But everything about this program has way outdistanced any projections of what those costs are. So this really takes it up to a point where Medicare alone, if not dealt with, not reformed and saved, will eventually displace all of our budgetary spending, that alone. And of course that means no defense, no nothing else, no running government whatsoever.

With that, I would like to recognize my good friend, Dr. PHIL GINGREY, a gynecologist-obstetrician from the great State of Georgia.

Mr. GINGREY of Georgia. Mr. Speaker, I thank my colleague from Louisiana for yielding. And as I look out over this packed House Chamber, and I see seven of my colleagues who are in these, that are participating in this Special Order hour on saving Medicare this evening, I'm estimating that there are about 175 years of clinical experience in the aggregate among these doctors.

I am very appreciative, Mr. Speaker, of the Republican leadership and the

leadership of our committees that deal with health care, and I'm referring mainly to Ways and Means, Energy and Commerce, and Education and Workforce. And many of the Members here tonight serve on one of those three committees. So our work in the Congress, although not exclusively on health care, I think each and every one of us is a member of the House GOP Doctors Caucus, came to Washington, gave up our medical careers with mixed emotions, I guess, but feeling that there was a need—there was a need—that we had to try to address. Thankfully, our leadership has committed to the House GOP Doctors Caucus that we will be part of the discussion, and we will be part of the solution to saving Medicare.

I think I can speak for my colleagues, Mr. Speaker, in regard to our universal opposition to this new entitlement program, the Patient Protection—and I call it the un-Affordable Care Act, sometimes referred to as ObamaCare. We are opposed not solely because of its threat to Medicare, but to a large part because of that. And my colleague from the Eastern Shore, Dr. HARRIS, spoke of the amount of money that was taken out of the Medicare program, something north of \$500 billion, and from a program that he also emphasized, as did Dr. FLEMING, that by a date certain, it could be as early as 2016, Medicare part A, the hospital trust fund, will be broke. It will be insolvent. There won't be any money there to honor those claims.

Mr. Speaker, the gentleman from Maryland, Dr. HARRIS, referenced his aging mom, and I hope she's in good health. And we love our moms. His mom is 88; my mom is 94, Mr. Speaker. And my mom's life is just as precious to her as anybody's life in this Chamber that may be 60 years younger than Mom Gingrey, Helen Gingrey, at age 94. But she depends on this program. She wouldn't be alive today if it weren't for the benefits that were available to her, whether it's medication under part D or whether it's the ability to be treated for cancer, which she recently was and had a surgical procedure.

So I don't want to take too much of the allotted time tonight because, my colleagues, I want to hear from them; but I just want to say this, that we as the House GOP Doctors Caucus, in conjunction with the physicians in the Senate, sent a letter 2 weeks ago to the AARP, American Association of Retired Persons. I don't know how many people age 50 are retired, but when you include all of these folks that join AARP under the senior status, you're talking about 35 million or more that are in that organization.

□ 1910

So we felt very strongly, Mr. Speaker, that we needed to reach out to this

organization—which we did. I think some 26 Members, House and Senate, signed a letter and asked them to meet with us. By the way, Mr. Speaker, we did hear back from the executive director, Barry Rand, just within the last couple of days.

So what we want to do is say to them, no matter where we have been in the past in regard to issues of Medicare part D, the support of or opposition to ObamaCare, clearly, surely we can all agree in a bipartisan way that we have to save Medicare. That's what this hour is all about, to talk about that. And I look forward to the opportunity, without a lot of public fanfare, until we decide what we can agree on and what we can come forward with in regard to saving Medicare.

We, the physicians, the health care providers in the House and Senate, in conjunction with the American Association of Retired Persons and other retired groups, the one that Jim Martin leads—one of my colleagues will mention that in a few minutes. All of a sudden, I'm having a senior moment on the name of that group, but a great group, a great organization. We're going to work together on this. We're going to go forward to the American people in a bipartisan way and say, you know what, we're going to do it now. We're not going to worry about the results of the next election. That will take care of itself. The American people understand who they want in Congress and who they want at 1600 Pennsylvania Avenue based on what we do to save these legacy programs.

I thank my colleague for yielding me the time.

Mr. FLEMING. I thank the gentleman from Georgia, my colleague and physician.

Let me say parenthetically here that what are some of the things that we in this Chamber, we Republicans from the Doc Caucus—which, by the way, is 23 strong, which includes three nurses, two dentists, and one psychologist.

So what are some of the things that we agree on moving forward that we really need in terms of saving Medicare?

Well, I can tell you one thing that everybody agrees on, and that is that we need robust competition among providers—doctors, hospitals, insurance companies. There is no reason why they shouldn't have to deal with the competition of market forces. And why? Because everything in America that we see improves improves because of the marketplace; that is that when you compete, it makes you work harder; it makes you try harder; it raises the level of effort; and, ultimately, you end up with better quality service products and you end up with lower cost to the consumer.

We also agree that we want choices for Americans. Today, there are a lot of choices even for Medicare recipients

that just aren't there, and we want that to occur.

We also want to move away from a top-down bureaucratic system where, again, a 15-member appointed board of bureaucrats—nameless, faceless, unelectable, unaccountable people who are selected and who will not be there to answer your call. We all agree that that is not a good thing. Instead, we want a program, a system in which you can change health care systems, you can change hospitals, doctor, insurance companies, whatever you want to do, and there's lots of transparency in order to do that. That's going to make the quality of care improve and the cost go down.

I would now like to recognize another gentleman from Georgia. Georgia, like Louisiana, is flush with physician Members in Congress, but we'd like to have a few more, in fact. So I would like to recognize my good friend Dr. BROUN, the gentleman from Georgia.

Mr. BROUN of Georgia. Dr. FLEMING, I appreciate you yielding me some time.

Mr. Speaker, the American people need to understand very clearly that this administration, this President's policy on Medicare, as well as our Democratic colleagues here in the House and the Senate, can be summarized by four Ds: They want to deny that there's a problem; they want to delay fixing it; they want to destroy Medicare as we know it today; and they want to demonize those of us who want to fix it so that it is a good and solid program for the future generations of this country.

That's exactly what we're trying to do here tonight is focus upon the fact that, number one, they do want to deny it. They even deny that there's a problem. They keep saying that they want to save Medicare as we know it today, but Medicare is not sustainable as we know it today because it's going broke. And it's going broke because of failed policies of this administration, and it's getting worse and worse.

Hopefully, we'll see the Supreme Court throw out the Affordable Care Act, the President's reform bill, which is going to be disastrous. It's going to destroy the doctor-patient relationship. It's going to destroy budgets, from individual budgets, businesses' budgets, States' budgets, even the Federal budget. IPAB, as Dr. HARRIS was talking about, is going to be disastrous because we're going to have rationing of care.

Our Democrat colleagues and this President want to deny that there is any problem. They want to delay doing anything about it. In fact, the Ryan budget, our budget that we passed last year, started the dialogue, started the process of looking at trying to fix Medicare for future generations. But our Democrat colleagues don't want to do that. They want to delay fixing it.

They just want to posture. They want to try to do anything that they can to not face the fact that we've got to deal with Medicare and the financial problems it has that my good friend from Maryland, Dr. HARRIS, talked about.

Their policy is going to destroy Medicare. They're already destroying Medicare Advantage. We've seen, as Dr. FLEMING talked about, we've already seen the President's Affordable Care Act has destroyed Medicare Advantage and has cut \$500 billion, one-half trillion dollars out of Medicare. And then they want to demonize us who want to do something about it.

I introduced my Patient Option Act, which is a comprehensive health care reform plan. It deals with Medicare. It helps to save it for future generations. I introduced it in the last Congress. We reintroduced it to put in place a repeal section to repeal ObamaCare and replace that disastrous law that we have in place, the Affordable Care Act, for something that makes sense, that will lower the cost of all health care services and products for everybody in this country.

We are tweaking it, and I'm going to reintroduce my Patient Option Act just in the next week or two. It's just a little over 100 pages. It's a comprehensive bill. It's market-based, and it puts the doctor and patient in charge of making all health care decisions, not some bureaucrat here in Washington, D.C., that the President and our Democrat colleagues want to have in every single doctor-patient relationship. Whether you're on Medicare or not, they want to insert a bureaucrat from Washington, D.C., to make those decisions for you.

The American people need to know, Mr. Speaker, that our colleagues on the Democratic side and this President, if they have their way, they're going to deny there's a problem. They're delaying fixing it. They're going to destroy Medicare as we know it, and they want to demonize us that want to fix it.

We're not going to sit still. We're not going to have it. We're going to continue to fight to make Medicare available, make insurance available for everybody at a lower price. That's exactly what Republicans are doing.

We have a plan—many plans. Actually, there have been numerous bills introduced by many colleagues on our side, physician colleagues. Dr. TOM PRICE from Roswell, Georgia, orthopedic surgeon, one of our Georgia colleagues, introduced his plan. We've got many plans here.

So we're fighting to save Medicare. Our Democrat colleagues and this administration, this President, are going to destroy it.

Mr. FLEMING. I thank the gentleman, my good friend from Georgia, a family physician of note, and also one who has actually reentered the U.S. Marine Corps as a reserve physician as well. I admire him for that.

Before I recognize my friend from Tennessee, also another physician, I want to point out something about Medicare that is very important for everyone to think about.

Medicare was started in 1965 with a lot of promises, and the promises have been fulfilled to those recipients who get the benefits of Medicare. However, this big, beautiful apple, if you will, of Medicare, unbeknownst to a lot of people, has been slowly rotting and decaying from the inside financially in ways that the public can't see, in a way that is very soon going to be evident. And why? The reason is because even though folks pay their premiums into Medicare, they do not nearly cover the cost of Medicare. In fact, they only cover about one-third. The other two-thirds come from the providers themselves, and also from the taxpayers.

□ 1920

And that's all well and good. There's nobody we would rather do more for than those who are from the Greatest Generation, those who lived through the Great Depression, World War II.

But the fact is, we cannot continue the same way. It will totally bankrupt the country. And therefore we have got to heal this patient and, that is, we've got to save Medicare.

I want to recognize my good friend from Tennessee, also an OB GYN, one who came here in 2009, as I did. We've grown to be great friends. And certainly, the best doctors are from the South, mostly from Louisiana and Tennessee, I think you would agree.

With that, I yield to my good friend, the gentleman from Tennessee, Dr. ROE.

Mr. ROE of Tennessee. I thank the gentleman for yielding.

Mr. Speaker, I want to thank all of my colleagues for being here tonight. And one of the things in the Health Caucus we are so blessed with are three new additions of registered nurses, psychologists, dentists. We really cover the whole spectrum of health care in, I think, 21 or 22 members of the Health Caucus now, 15 physicians. And this is the first time probably in years that the House has had this kind of support from the health care community around the Nation.

This weekend I had an opportunity to talk to my wife a little bit about what my purpose was here in this House. I'm a veteran, as you are. I served as a practicing physician, as almost, I think, every one of the Doctors Caucus on the Republican side has been out for years, decades, myself 31 years of private medical practice.

Medicare came along in 1965 when I was a college student. And the reason it came along at that point was because half of our citizens, when they retired, didn't have access to any health care coverage. So there was a problem noted. And at that point in



time, that plan started as a \$3 million program, really a skeleton program in the Federal Government.

The government estimators—there was no Congressional Budget Office then—but they estimated that in 25 years this would be a \$12 billion to \$15 billion program. The actual number was \$110 billion. Today it's over \$500 billion, and a very important program because you and I, Dr. FLEMING, have seen incredible advances.

I could sit here the rest of the night and talk about the last 30-plus years of medical advances that have been applied to our patients, and medications, surgical procedures that have improved the quality of life of every American citizen.

One of the strange things that happened when I was a very young doctor, 31 years old in Johnson City, Tennessee, I noticed that 30-something years later my 40-year-old patients were in their seventies, and they were on Medicare. And I have had a chance to follow them throughout, really, most of their adult lives and see the care that they got.

And one of the things I think that our Health Caucus and our Physicians Caucus is absolutely committed to is saving Medicare. It's a great program, but it is not sustainable.

One of the frustrations I've had here on this House floor is how can you solve a problem you can't even talk about. When you're demagogued and told that you're going to dump Grandma off a cliff, and you're going to do this, that's not solving problems, that's throwing bombs.

I think this group of men and women are here to solve these problems. Otherwise, I don't really have a purpose here in this Congress. And so I'm going to commit myself, as I think our entire Health Caucus is, to saving this vital program for our seniors.

It's been pointed out, pick your number; the estimators have been wrong before. But what if they're right? What if they're even close to being right? We've got to start solving the problem today and not wait.

The President's plan is to simply do nothing. Well, what are we talking about doing? What are we planning on doing?

Before I get to that, I want to mention IPAB a little bit. This is hard to explain in a minute or two on a TV interview we might do. But the Independent Payment Advisory Board takes health care decisions away from where the health care decisions ought to be made; and those health care decisions ought to be made between a physician, the patient, and that patient's family, not between the insurance company and not between, certainly, a bunch of bureaucrats here in Washington, D.C.

Quite frankly, I don't want a Republican President putting them on there,

and I don't want a Democratic President putting them on there. I want those decisions made in the examining room and the doctor's office, between the family and the patient and the doctor.

Now, the IPAB, as Dr. HARRIS a moment ago mentioned, are 15 bureaucrats appointed. Look, we have 224 cosponsors to repeal this bill, from BARNEY FRANK to PHIL ROE. There's a lot of room in that camp to fill in, so all the Congressmen can be on this because it is a bad idea.

My colleagues over here on the other side of the aisle, quite frankly, did not have this in the House version of the bill, as you'll recall. That came in the Senate version of the bill. So we need their support, in a bipartisan way, to repeal this.

And why do we want to repeal it? We want to repeal it because it is based not on quality of care and not on access of care. It is based strictly on costs, and to squeeze more money out for the Affordable Care Act, that's why our seniors need to get involved in helping us get the Affordable Care Act, or the so-called ObamaCare plan, overturned because they are interlocked, and the money will come out of Medicare.

So we have a bureau up here, a board that says you've spent this much money, and if you spend more, then it's going to come out of the providers. That's hospitals, doctors and other health care providers, meaning that you will decrease access because they won't be able to see their doctor. And when you decrease access, you decrease quality of care, and no one in this country wants it.

Has it been done anywhere else in the world? Absolutely. It's done in England right now. And we can go on with the horror stories of rationing of care, because that is ultimately what happens. And who gets rationed? Is it based on a certain age? Is it based on a certain disease?

I don't think any physician in the world, I know morally I can't, and ethically I can't do that. If a patient comes in, we have that conversation with the family, we put out a treatment plan, and we execute that plan.

Now, how do we save it? I know we're going to talk about that in a little bit, but I want to point this out since I am on Medicare.

I got on Medicare last year. The day before I turned 65 years of age I had a health care plan. And in this health care plan was a hospitalization. It had a drug benefit; it also had the ability for me to go see my doctor. So it was a health care plan.

Medicare has part A, part B, part C, part D. The only reason it's chopped up in parts like that is because politicians put it together, not an access, not a way to see your doctor.

What I think should happen to you when you're 65 is you should have a

health care plan. It has prescription drug benefits, hospitalization, doctor benefits, and testing benefits like any other.

And so what will we do, and how do we plan on doing this? It's not hard at all. The premium support that we're talking about is, just act like the Federal Government, the day before, when your business, your employer paid that part of the premium, the Federal Government will pay that premium, and the other part will be paid by you, as an individual. And higher-income seniors like us right here are going to get a bigger piece of that. And lower-income seniors are going to have a small piece to pay.

Or if you want to stay on traditional Medicare, you're allowed to stay on traditional Medicare. In doing this, we can save this very vital program for our seniors. And I'm willing to sit down, as anybody in this caucus is, to talk to our seniors about how we're going to help save this.

I want to thank you, Dr. FLEMING, tonight for holding this Special Order, and my colleagues for coming down here.

Mr. FLEMING. I thank the gentleman, Dr. ROE, for his very insightful comments. And we're beginning to pull the cover back on what some of the solutions are.

I will point out this evening that, you know, it's interesting the way physicians are trained. We're trained to be problem solvers. We're trained to look for solutions. And sometimes it's like mixing oil and water up here in Washington because there are a lot of people who've been up here a long time who don't think in terms of solutions.

So we're committed, all of us, our physician colleagues and nurses, psychologists, dentists, to continue to apply the pressure to move forward in solving problems for the American people.

I'd now like to yield to another physician from Louisiana. He's actually a hepatologist. And I know that some who may be hearing me speak right now may not know what that is. It's basically a specialist, a physician specialist in liver disease, and also a gastroenterologist as well.

With that, I will recognize the gentleman from Louisiana, BILL CASSIDY.

Mr. CASSIDY. Thank you, Dr. FLEMING. I always tell people hepatologist—no, I don't do snakes. I do liver disease. We have to make that correction.

I just want to kind of pick up where Dr. ROE left off. A lot of folks say, heck, how did we end up with Medicare going bankrupt when they've paid into it their whole life? Well, if you work backwards, it began, if you will, or maybe the most recent insult, was the fact that the President's health care plan, the Affordable Care Act, took \$500 billion from Medicare. Instead of putting it back into Medicare to support

the program, it used it to create their new entitlement.

□ 1930

Now, that's important because as the graph you had earlier showed, at our current rate of going forward, by 2030, I think it is, Dr. FLEMING, you have it right there, roughly 2040, 2045, Social Security, Medicaid, and Medicare will take up the entirety of our Federal budget. Whatever tax dollars we receive by 2045 will be entirely consumed by those three entitlement programs.

Do you have that graph where there is the debt on there as well?

Mr. FLEMING. This is the only graph I have.

Mr. CASSIDY. So by 2030, I think it is, if nothing changes, Social Security, Medicaid, Medicare, and the national debt will consume 100 percent of our tax revenue. Clearly, we have to preserve this important program.

The other thing I'd like to point out to people is, in 1964, when Medicare was conceived, people were having, on average, four kids per family. So the folks that came up with Medicare said, Well, people are having four kids per family now, most likely they'll continue to have four kids per family going forward. Let's make this a pay-as-you-go. There will always be four people paying for the two people ahead of them. It turns out families have shrunk.

Now I'd point out in most crowds, most people have more brothers and sisters than they do children. Families have decreased in size. Instead of on average four kids per family, now there's about 2.5. That demographic shift has made all of the difference. Instead of a pay-as-you-go program where there is always as much money coming in as we needed to pay out, what has happened is families have shrunk, you have a large number of baby boomers, and then their parents, and beneath it, you have kind of a tree, if you will, where it goes straight down. Instead of the pyramid originally thought that would occur, we now have something that looks like that and then goes straight down.

There is no longer this broader base of people paying in.

We're not the first to recognize this. John Breaux, the former Democratic Senator from Louisiana, was appointed by President Bill Clinton to say, Listen, the demographics are changing. How do we preserve Medicare? It was actually John Breaux, a Democrat, who first came up with the premium support model.

Now, we speak of it sometimes as a Republican plan. No. It was originally a Democratic plan, and it was a bipartisan commission. It came up with this premium support model as a thing that would save Medicare. As it turns out, President Clinton became distracted with the Monica Lewinsky affair, if you will, and it kind of got pushed to the wayside.

This same Breaux carry model conceived of in the nineties is the basis for what is now the bipartisan Wyden-Ryan plan.

Now, although Dr. ROE spoke of it earlier, it's worth going back over. If you're 55 and above, nothing changes from the Medicare program you've always known. If you're 55 and above, if you're already on Medicare because you're disabled, nothing changes. If you're 54 and below, like I am, the program changes to premium support.

Now, in the premium support model, it works kind of like Medicare Part D. I find the program that best fits my need. I choose the program that I want. If I'm very wealthy, I pay a little bit more. If I am poor, I pay nothing at all. But if I'm middle class, I pick the program I like. If it's a frugal program, then I pay less out of pocket. If it's a bells and whistles program, I may pay a little bit more out of pocket—much like the Medicare Part D program that seniors now get their drug benefit from. By the way, a Medicare Part D program that has an 80 percent approval among seniors.

Mr. FLEMING. If the gentleman will yield.

Mr. CASSIDY. I yield to the gentleman.

Mr. FLEMING. By Medicare Part D, you're referring to the drug program, which is the last piece that was added where there was a lot of debate about top-down, government commanded pricing or a market-based system. They ended with a market-based system, and that reduced the cost by 40 percent.

Mr. CASSIDY. If I may reclaim my time, because of market forces, not only is Medicare Part D incredibly popular among seniors, but its costs are 40 percent cheaper than originally conceived. That is the power of giving the patient the ability to go from plan to plan. If she doesn't like that plan, next year she chooses another, and the bad plan goes out of business if enough seniors do that. That's the same concept behind Medicare Part D.

We have other colleagues to speak. I'll add one more thing. I'm always struck when our Democratic friends say they want the American people to have the same type of plan that Members of Congress do. The premium support model is the same type of plan you and I have. We pick among an array of programs. We pick the one that works best for us that matches our pocketbook.

If we're poor, we pay nothing at all. If we're rich, we pay a little bit more. But most of us in Congress are in this middle range, we get the plan that most fits our needs. That is the Wyden-Ryan plan totally. We actually give the American people the same sort of deal that Members of Congress get.

So that said, thank you for allowing me to join you, Dr. FLEMING.

Mr. FLEMING. Just to reiterate, we in Congress, despite what a lot of people think, we don't have any kind of special health care plan. We have the same plan as all other Federal workers, and that is simply to go on a Web site or in a booklet and choose from hundreds of excellent health plans that are competing with each other for our business. We pay part of the premium; our employer, the Federal Government, pays the other part, and that is precisely what we want for everyone in America to have.

But in order to do that, you've got to take down the walls from one State to another, the State borders, when it comes to insurance. You've got to make sure that all of these providers of services—doctors, hospitals, insurance companies—are competing with each other, driving up the quality and driving down the cost.

With that, I would like to recognize one of our freshman members who's really come on fast, again another physician, a family physician, Mr. DESJARLAIS from the State of Tennessee.

Mr. DESJARLAIS. I thank my colleague. I'll be brief tonight.

I just wanted to point out the fact that I'm proud to stand here with my physician, nursing, dental colleagues, all of the members of the Doctors Caucus, because I can say I think for all of us that none of us chose Congress as our career path in life. Our first passion in life was to help people.

We know that we have a problem facing us. Nobody can deny on either side of the aisle that Medicare is going broke. As Dr. ROE said, we can't afford to wait to solve this problem. It's there. It's not a partisan issue. It's a people issue. It's about my parents and your parents and our grandparents. We just can't afford to let partisan bickering get in the way of solving this problem.

So what I guess I would ask people to do if you're a Member of AARP, if you've not contacted your Congressman or your representative or your senator, pick up the phone and make sure you know where they stand because they can't answer you that Medicare is not going broke in the next 10 years. We've offered up a lot of solutions to try to stave this off. But we want to make sure that we help you save Medicare, and we're going to do all we can from our end, but we can only do so much.

So if you're a Member of AARP, call AARP, tell them to get on board. The GOP Doctors Caucus will help lead the way. I can say that all of us in this caucus, as we treated patients over the years, we never looked at them as Democrats or Republicans. We just looked at them as patients and people. That's what we're here to do tonight. We're here to help save Medicare, but we need your help, so pick up the

phone tomorrow, call your Member of Congress, and make sure you know where they stand, and they need to get on board, and they can't deny that this problem is coming.

Mr. FLEMING. I thank the gentleman.

Did you hear that? Did you hear what the gentleman said? The gentleman said that he's never treated a patient that was either a Republican or a Democrat. It doesn't matter to us who we're providing care to.

We've got three wonderful nurses here, and we all appreciate what nurses do. Often times, the nurse is the first health care worker you encounter when you open your eyes after whatever has happened to you. So we appreciate our angels so much.

But again, we providers, we don't care, we don't ask whether you're a Democrat or a Republican. All we care about is that you have a need.

I would now like to recognize Congresswoman ANN MARIE BUERKLE from the great State of New York. We're actually moving above the Mason-Dixon line this evening, and we're talking to folks from New York.

Ms. BUERKLE. I thank my colleague. I feel a little bit out of my element. We've only dealt with Tennessee and Louisiana. So it's good to be here, and I appreciate the opportunity to stand here with my colleagues.

I think it's so important that the Doctors Caucus have this conversation with the American people because we stand here tonight not as politicians but as people who care deeply about the health care profession and about patients getting the kind of care they need.

So I hope that when we speak to the American people, and particularly our seniors, because tonight we're talking about saving Medicare, that they look at us as people who are deeply committed to making sure that they have the health care and the Medicare benefits that they deserve because they've paid into it.

□ 1940

I guess briefly, because we have so many other colleagues here, I'd like to make just a couple of points to the American people.

Number one, unfortunately, because of the current health care law, Medicare has been changed. When we talk about saving Medicare, it really means restoring it to what the American people know Medicare is, especially our seniors. I am so saddened when I see some of the senior groups like AARP. In fact, I've got a whole box of letters from people who belong to AARP, saying, Don't cut Medicare.

I want to assure the American people and say to them that we are not cutting Medicare. For those who are 55 years and older and, as was mentioned earlier, for those who are on disability

and getting SSI, their plans don't change. They remain the same. For those who are 54 and younger, we're talking about a premium support. The reason we're talking about that is, if we don't, there will be no Medicare for anyone.

So we are intent on saving Medicare. We want to make sure that our seniors have what they deserve and what they've paid into all of their lives, which is good Medicare coverage. I'm not only a nurse; I'm also the daughter of a 90-year-old mother. She and I know very well how important Medicare is, so we have no desire to change Medicare as the seniors know it now. We're talking about making a change for those who are 54 years and younger.

The sad part about this is that the health care law has changed Medicare, and now our seniors will have to be dealing with IPAB, and they'll have to be dealing with cuts in their Medicare services. We implore them, as my colleagues have said, to reach out to their senior groups and to say, Wait a minute. The real threat to our Medicare is the health care law, and that's what needs to be changed.

Just before I end, I would say to all the American people that we are committed here in the Congress and on this side of the aisle in making sure that you get the Medicare services you've paid into all of your lives and that you so richly deserve and count on. We in the health care profession stand together, and we want to make that pledge to our seniors, not only to them but to all the American people.

Mr. FLEMING. I thank the gentlelady from New York.

I would now like to yield to another gentlelady, to a person with whom I've become good friends, who is also from New York State. She is a person who has a vision for America. Not only that, she is someone who has been taking care of the vision of other people as well. She is an ophthalmologist, and she has come to Washington to apply her vision to what she feels—and we agree with her—the future of health care should be like as well as many other things in life.

With that, I yield to the gentlelady from New York, NAN HAYWORTH.

Ms. HAYWORTH. I thank the gentleman so much for holding this Special Order session, which is so important.

One thing, the comments by my distinguished colleagues have been perceptive and enlightening and moving. There is one aspect I might be able to add, although they have said so much.

I would like to invite our seniors and those who love them and who may accompany them in the course of their care, as I have had the privilege of doing for my own parents, both of whom have relied on Medicare for many years, to talk with their doctors about what it means when Medicare

changes the way it deals with the doctors' practices and what it will mean for our seniors in their having the ability to be cared for by the doctors they prefer and in the places where they are comfortable and that are familiar and that they like and trust as well as what may happen if Medicare loses the funds that now exist in the trust fund, which are running out very, very rapidly.

I think it's important for patients and doctors throughout the United States to have that conversation and for our doctors to hear their patients' perspectives and for patients to hear from their doctors how tough it may be for a lot of doctors' practices to keep their doors open if Medicare loses the funds that it needs and if that's accelerated through the Affordable Care Act, which does, as we've mentioned many times but is so important to say, take an enormous piece of crucial funding away from Medicare. We can't afford that. A half a trillion dollars is an enormous amount of money. So there are lots of threats looming on the horizon for our doctors' practices.

I had the privilege of practicing ophthalmology in Mount Kisco, New York, for 16 years. I took care of Medicare patients and I cherished them. It was a privilege, as you mentioned, Dr. FLEMING, to care for those patients, so many of whom have done so much for our country and for our communities. Yet I can attest to the fact that it can be very difficult to keep your doors open when Medicare keeps ratcheting down what it will pay for certain services even in the face of the fact that doctors have rent to pay and staff to pay and that they have insurance, including malpractice insurance, which can be very expensive in a State like my own home State of New York.

It can become very, very difficult to balance all of those things, and that's why it's so important to make sure that Medicare has the funds it needs and that we protect Medicare for the future in the way that we handle its premium structure. Premium support will be a great help to us, but those are the things that we need to hear about from our patients and our doctors. So I would like to urge everybody to talk with your doctors, to find out the stories, to find out what they want to tell you so that the patients and doctors can take that message home to their Members of Congress, to their Senators and to the President.

I thank you, Dr. FLEMING, for all you're doing to support a wonderful cause.

Mr. FLEMING. I thank the gentlelady from New York, NAN HAYWORTH, for all of her contributions both here in Washington and certainly back home.

We've saved the best for last here. We have Dr. BENISHEK, the gentleman from Michigan, who actually managed the time for our last Special Order and did a great job. As I understand it, he is a wonderful surgeon.

So I would like to yield to the gentleman in the last few minutes that we have tonight.

Mr. BENISHEK. Thank you, Dr. FLEMING. I appreciate the opportunity to be here tonight to express my feelings about our cause to save Medicare.

I've been taking care of patients in northern Michigan, in a rural setting, for the last 30 years. It certainly means a lot to my patients to have Medicare there to help them get through their medical problems in their elder years. I am kind of surprised that I've been castigated for voting to end Medicare when, really, I voted to try to save Medicare because of the crisis that's coming forward due to the demographics of our country and the pending bankruptcy of the Medicare trust fund. As I see it, there are really four reasons that Medicare is in trouble.

Number one, there is an increasing number of patients on Medicare every year. There are 10,000 patients a day who are added to Medicare. There are approximately 50 million people today who receive Medicare. In 20 years, I think that number will be 80 million people. That's one reason.

The second reason is that there are a little over three persons paying into Medicare for every person receiving that benefit today; but in 20 years, there will be a little over two people paying. Not only are there going to be 30 percent more people, but there are going to be a third fewer people paying in.

The third problem, of course, is just the general rising costs of medicine. This is an issue where, in our plan to save Medicare, which is a premium support plan in which there are options in your insurance, I think it will help keep those costs down.

Of course, the fourth problem is the Affordable Care Act. The Medicare that people are familiar with today, that the seniors of today have, will not be the same Medicare going forward because the Affordable Care Act has taken \$575 billion away from Medicare. That's over \$100 billion from hospitals; I think it's like \$40 billion from home health care, \$30 billion from hospice care, and over \$100 billion from Medicare Advantage.

□ 1950

Well, I know in my rural district, we have many small community hospitals that depend on their Medicare payments; and \$100 billion taken from each of those small hospitals—you know, those hospitals operate on a razor-thin profit margin. If we take that money away from the small hospital in my district, they may not be there tomorrow. So how would my senior population come see me? They wouldn't be able to come to their local hospital. They may have to go to Green Bay or Marquette or, you know, drive hundreds of miles to get evaluated in an emergency room, for example.

The way things are now is just not sustainable, especially with the Affordable Care Act's impact on Medicare. And to think that if we do nothing, everything will be okay is just wrong.

We've put forward this plan about premium support where you have a choice. It is similar to Medicare Advantage, where in Michigan there are 20 or 30 different plans you can choose from, the one that suits you the best. I think that's a reasonable option. There may be another plan out there somewhere that's equally as good. I haven't seen that. But I'm certainly willing to listen to a plan of how to fix it.

Doing nothing is unacceptable, and I just think that it's just wrong to castigate those of us who are trying to find an answer that will fit most people and be affordable and, like many of the advantages that people have talked to previously this evening, you know, different people's situations. But to do nothing, though, to put your head in the sand like an ostrich and pretend there's no problem is not an option.

So like the speakers before me, I encourage people to speak to their physicians about what the situation is. I'm going around my district in the next several months and am putting together a little Medicare meet-and-greet at the senior citizens' centers at various locales in my district to try to explain this to patients because they don't really seem to have an idea—I said patients; I guess I mean constituents. I was speaking in doctor terms—but they don't have an idea how serious the problem is. And I think part of our problem is getting that message out to other people that this is not something we can ignore, that this is not something that's just going to go away by not dealing with it. And it's certainly not going to go away by castigating people that are trying to find an answer.

So I encourage those people, as NAN mentioned, to speak to their physician. Feel free to call my office to get further information, but realize that we're trying to fix a problem, not ignore a problem.

With that, I thank the gentleman for yielding.

Mr. FLEMING. I thank the gentleman from Michigan, the physician.

In the closing moments here, what have we learned? We've learned that we have a Medicare system that's highly bureaucratic, highly expensive and, as the graph showed, is going to be insolvent as early as 2016. That's 4 years away. And we desperately need a solution to that. We've got this side of the aisle which has already come up with a solution, a premium support plan that basically offers to Americans the same opportunity we, in Congress, have, an excellent health care plan. And then we have got this side of the aisle, Democrats, who absolutely have come up with no solution. As the gentleman

says, they bury their heads in the sand and offer nothing.

I would submit to you, Mr. Speaker, that we can't continue going this way. We have got to move forward. We've got to find solutions by, again, putting health care providers in the arena, having them compete with each other, always doing that. If it's a level playing field—and that's our responsibility in government—the quality of care goes up while the cost goes down.

I want to thank my colleagues here tonight. We have had a great discussion, and I look forward to doing this again very soon.

With that, I yield back the balance of my time.

## MEDICARE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 5, 2011, the gentleman from New Jersey (Mr. PALLONE) is recognized for 30 minutes.

Mr. PALLONE. Mr. Speaker, I wasn't planning on coming to the floor this evening; but when I heard my Republican colleagues' Special Order that was just completed, I couldn't help but come down because I think I have to correct the record on many of the statements that they made this evening about Medicare and their efforts with regard to Medicare.

First of all, I have to point out that when Medicare was first adopted in the House and in the Senate back in the sixties when President Johnson was in office, the Republicans overwhelmingly opposed it. They were opposed to Medicare. They voted against it. It would never have passed if it was for their votes. It only passed as a Democratic initiative. And over the years, Democrats have been the ones to protect Medicare.

Republicans have consistently opposed Medicare, tried to repeal it, tried to privatize it, voucherize it. And basically as a Republican Speaker once said—I was here at the time when Newt Gingrich became the Speaker back in the mid-nineties—he said that we want Medicare to wither on the vine. And that's basically what the Republican leadership has been doing consistently in the 20-something years that I have been in Congress.

Certainly, if you look at the budget that was adopted by the Republicans last year, it does exactly that. The Republican budget would end the Medicare guarantee, replacing it with a voucher in 2022. And what that essentially means is that right now and under the Medicare program, when you get to be 65, you immediately become eligible for Medicare, which is a government program; and you are guaranteed that you have your health insurance through the government, through Medicare.

But if you establish a voucher, which is what the Republicans tried to do in

their budget last year—fortunately, they didn't succeed—they would simply give you a voucher or a set amount of money for you to go out into the private sector and try to buy health insurance for that amount. And of course the amount that would be available wouldn't keep up with inflation. So even if you were able to buy health insurance when you were over 65 as a senior—which many people would not be able to—eventually you would not be able to; and you would simply have to pay more and more money out of pocket in order to buy the health insurance. In fact, we estimate that the Republican budget would double out-of-pocket costs by 2022 and cost an additional \$6,000 for each senior, and out-of-pocket costs would triple by 2030.

So what I want my constituents and everyone to understand is, the reason that Democrats started Medicare in the sixties under President Johnson was because people over 65 were not able to get health insurance privately. They weren't able to go out and buy health insurance because, basically, insurers didn't want to cover seniors. They had too many disabilities, too many times that they had to go to the hospital or see the doctor. So it was impossible to get health insurance if you were over 65.

And I would maintain that if you let the Republicans move forward with their voucher proposal, which they still talk about constantly—the chairman of the Budget Committee, Mr. RYAN, keeps talking about it—the same thing would happen again. Seniors simply wouldn't be able to buy health insurance with a voucher or without one. The cost of it would get so prohibitive. And the consequence is that Medicare would disappear, both as a guaranteed health insurance plan for seniors, and many seniors would simply not have health insurance at all.

The other thing that my colleagues tried to suggest tonight is that Medicare was going broke. They tried to convince you that Medicare is going broke. But if you believe that, then that sets the stage for the fact that you should either get rid of Medicare or voucherize Medicare because the notion is that somehow the government isn't going to continue with the program or can't afford the program; and, therefore, we need to change it drastically. I would maintain that's simply not true.

□ 2000

Actually, right now there are 40 million seniors and 8 million people with disabilities below age 65 who have Medicare. Medicare is efficient, per capita spending at nearly half the per capita increase for comparable benefits provided by private insurers. And the fact of the matter is that the Medicare trust fund could certainly use some more money, but the way to deal with

that is essentially to solve the economic crisis. In other words, as more people are employed, as unemployment goes down and the economy grows and more people pay into the Medicare trust fund, the Medicare trust fund would be just fine. The same thing goes for Social Security.

The problem with the trust funds, whether it be Medicare or Social Security, is that in a slow economy, in a recession, less and less people who are working pay into the trust funds. So the answer is not to get rid of the trust funds and not allow people to have a pension, which Social Security provides, or allow people to have Medicare and health insurance when they're over 65, but, rather, to grow the economy, reduce the unemployment, have more people pay into the trust funds, and they become financially solvent for a long time in the future. And that's what the Democrats have proposed.

Our answer to the Medicare program is to try to put more money into the trust fund, grow the economy, and keep Medicare as a Federal guarantee, as a Federal program that's guaranteed to all seniors.

Now, I also heard my Republican colleagues tonight talk about how the Affordable Care Act, that's the health care reform—some people call it ObamaCare—the health care reform, the Affordable Care Act, that somehow that was going to destroy Medicare. Nothing could be further from the truth.

The reality is that the Affordable Care Act strengthens Medicare. The only cuts in the Affordable Care Act are to providers. There are no cuts to beneficiaries. In fact, programs for beneficiaries and benefits for senior citizens are actually expanded under the Affordable Care Act, and many seniors have already seen that.

First of all, the hallmark of the Affordable Care Act, the health care reform, is prevention. And so what the Affordable Care Act says is that if you have some kind of health care, whether it's a mammogram or some kind of diagnostic test, you don't pay a copay. All prevention methods under the Affordable Care Act are provided without a copay. That's mammogram, testing for prostate cancer, any kind of diagnostic test or any kind of prevention program. And the reason for that is because we don't want people to go to the hospital. We don't want people to get sick. We want them to be diagnosed at an early stage. And so we know that if people have to pay a copay, a lot of times they won't have the test done. So that's number one.

The other major benefit expansion under the Affordable Care Act or the health care reform is with regard to part D and prescription drug benefits. Many seniors know that when the Republicans passed Medicare part D, they left a huge, what we call, hole or

doughnut hole so that when you pay out of pocket up to a certain amount, in other words, when you incur Medicare expenses up to a certain amount in the course of the year, it was \$2,000, now \$2,500, whatever the figure is, then everything that you incur beyond that is not covered, and then you have to go to a catastrophic level, something above \$5,000, to get your coverage again.

So many senior citizens, when they start the year, are getting their prescription drugs, but by August, September, or October, sometimes even earlier, they reached that threshold or doughnut hole and their Medicare prescription drugs were not covered under the original Medicare part D proposal.

So what the Democrats did in the Affordable Care Act, what the President did in the Affordable Care Act, or ObamaCare, if you will, was to gradually fill in that doughnut hole over the life of the program. So the first year, there was a \$250 rebate, and then prescription drugs in the doughnut hole were discounted 50 percent. And gradually, over the next few years, that doughnut hole will disappear so your prescription drugs will be completely covered and you won't have the doughnut hole.

Again, these are benefit expansions under the Affordable Care Act. So when the suggestion is made by the Republicans that somehow the Affordable Care Act is going to hurt or destroy Medicare, nothing could be further from the truth. The fact of the matter is that the Affordable Care Act strengthens Medicare, strengthens the benefit, expands benefits, whether it be for prescription drugs or diagnostic testing or prevention. It also provides a free wellness test every year where there is no copay. It actually pays money back into the trust fund.

So the life of the Medicare program, if you go along with what the Democrats are proposing, whether it is their proposals to improve the economy, grow the economy, would actually shore up the Medicare program, contrary to what some of my colleagues said here tonight.

You know, they mentioned different organizations. There was a group of doctors, they mentioned AARP. Most of the organizations, and I didn't listen to the whole hour, but most of the organizations that they mentioned, the American Medical Society, specialty doctor groups, the AARP, these are the groups that supported the Affordable Care Act, that supported the health care reform, because they knew that it was strengthening Medicare and making Medicare more viable for the future and expanding benefits for seniors and the disabled that are covered by Medicare.

This is part of the historic nature of the Democrats and Medicare. We started Medicare. We strengthened Medicare. We have done everything we can

to make Medicare more secure as a guaranteed Federal program. Republicans opposed Medicare from the beginning, continue to try to either repeal it, or, in the words of Speaker Gingrich, make it wither on the vine. And now in the latest proposal, the Republican budget here in the House of Representatives, my very Republican colleagues that spoke tonight all voted for the Republican budget that would essentially get rid of Medicare, make it into a voucher, not provide the Federal guarantee, and make it so the seniors were essentially thrown out with a voucher or a certain amount of money and had to go out and buy private health insurance, which they'll never find.

So I had to come to the floor tonight, Mr. Speaker, and really tell the truth about the parties and where they stand on Medicare. The fact of the matter is that the Democrats started the Medicare program and continue to make it viable.

I yield back the balance of my time.

#### IN RECOGNITION OF BLACK HISTORY MONTH

The SPEAKER pro tempore. Under the Speaker's announced policy of January 5, 2011, the gentleman from Florida (Mr. WEST) is recognized for 30 minutes.

Mr. WEST. Mr. Speaker, in commemoration of Black History Month, I rise to acknowledge the Republican Party's proud and storied history of standing up for the rights of African Americans.

The first black Members of Congress served during Reconstruction, and they were all Republicans. They won their seats, despite fierce threats of violence against black voters by groups like the Ku Klux Klan, and were successful only as a result of the firm support they received from the Republican Party.

One of these Members was Josiah T. Walls, a slave who earned his freedom through service to the Union in the Civil War. He settled in Alachua County, in our sunny State of Florida, and was repeatedly elected to Congress at large.

In some ways, Mr. Speaker, I carry the torch of Josiah Walls. You see, in 1876, the Democrats contested his election and had him replaced midterm with one of their own. No black Republican would again be elected from Florida to this House until November 2, 2010, when the voters of that State entrusted me to be their Representative.

On my desk in my office, there is a book called "Capitol Men," and it is a biography of those first black Members of Congress. I stand where Josiah Walls and the other early black Republican Members of Congress once stood—Hiram Revels of Mississippi; Benjamin Turner of Alabama; Jefferson Long of Georgia; Robert DeLarge, Robert

Brown Elliott, and Joseph Rainey, all of South Carolina. They were the ones who carried that first torch for my colleague, TIM SCOTT.

□ 2010

They would have stood here urging support for policies of equal opportunity for all. Mr. Speaker, I stand here this evening to recognize their legacy.

The Republican Party has always been the party of freedom. Today, we understand that our principles are best served when we act as stalwart advocates of free markets. But historically, Republicans understood that the value of every human life is diminished when any human life is made to work against its will.

Free markets are characterized by the free exchange of goods and services—and by the free exchange of labor for compensation. You see, Mr. Speaker, without free people, there can be no free markets.

Where men are not free, freedom does not reign. And so the Republicans have always been the party of free men, of individual freedom. It was President Abraham Lincoln, the father of the Grand Old Party, who signed the Emancipation Proclamation and brought about the freeing of the slaves. For many, this is the beginning and the end of the Republican Party's role in advancing equal rights. But that understanding misses the myriad ways our party went on to better the lives of Black Americans and cheapens the many contributions that later generations of Republicans made to the cause of freedom.

It was, in fact, Republicans of their day who worked to pass the 13th, the 14th, and the 15th Amendments, securing for African Americans deliverance from slavery, equal protection under the law, and the right to vote.

Each of these accomplishments did its part to cement the fundamental freedoms all Americans enjoy today. None of them could have gotten off the ground without GOP support. Take the 13th amendment, for example. At Abraham Lincoln's request, the Republican National Committee Chairman Edwin Morgan made abolishing slavery an official part of the party's platform in 1864. At that year's national convention, he opened with a statement on the topic. He said:

The party of which you, gentlemen, are the delegated and honored representatives, will fall far short of accomplishing its great mission unless among its other resolves it shall declare for such an amendment of the Constitution as will positively prohibit African slavery in the United States.

The 14th Amendment was no different. A little known fact about that law that granted Black Americans citizenship, with all the rights and privileges thereof, is that every vote in favor was cast by a Republican and every vote against was cast by a Democrat.

In 1968, when the Democrat-controlled legislature of New Jersey voted to rescind its ratification of the 14th Amendment, it was the State's Republican Governor who vetoed that attempt.

Mr. Speaker, it was the Republican-controlled 39th Congress that established the Buffalo Soldiers, a fighting force of six regiments of Black American troops. They would soon become known for exhibiting the "courage of a cornered buffalo" in battle while posted to the frontier. In peacetime, they gained renown for being the finest horsemen the Army had to offer. And in 1907, the 10th Cavalry Regiment of Buffalo Soldiers was sent to the United States Military Academy at West Point to teach the cadets riding skills and mounted drill.

Mr. Speaker, think about that for a second: the commanders of their day were so confident in the ability of the Buffalo Soldiers that they entrusted them with the training of the next generation of Army leaders. And it was the Republicans who made that happen.

It was the Republicans who passed the 15th Amendment, as well. For once, the story is true that not every Republican supported it. A few abstained, saying the measure did not go far enough. It was the Democrats who voted against the 15th Amendment, and when it passed anyway, it was the Democrats who resorted to the use of poll taxes, literacy tests, intimidation and other pernicious practices in an effort to keep Black Americans from exercising their right to vote. This was something that my grandparents and my parents experienced growing up in south Georgia.

It was a Republican by the name of Senator Charles Sumner who got the equal rights movement on its feet. A fierce abolitionist and leader of the "Radical Republicans"—sounds very familiar when they start talking about Tea Party Republicans—Senator Sumner wrote and shepherded the first ever civil rights bill through Congress. It was a Republican President, the great General Ulysses S. Grant, who signed it into law the same day that it passed. And that comprehensive bill, the Civil Rights Act of 1875, would become the blueprint for every subsequent piece of civil rights legislation to come before Congress despite the fact that it was struck down by a backward-looking court.

It was the Republicans who first called for racial justice in the Armed Forces, not only allowing Black Americans to serve their country, but welcoming them to serve their country alongside their white brothers.

It was a Republican judge named Elbert Tuttle who time and again ruled in favor of civil rights and who went on to order the University of Mississippi to admit its first ever Black college student. It was a Republican Supreme

Court Justice who authored the decision in *Brown v. Board of Education* that recognized racial segregation for what it was: a violation of the United States Constitution.

And when a school district in Arkansas refused to integrate, it was a Republican President, Dwight David Eisenhower, who sent in the 101st Airborne Division to escort the Little Rock Nine to class. However, it was a Democrat Governor in Orval Faubus, you may recall, who had tried to use his National Guardsmen to prevent them from enrolling.

Mr. Speaker, Republicans were unfazed by the many Democrats, including John F. Kennedy and Lyndon Johnson, who criticized President Eisenhower's decision. Meanwhile, it was the Democrats in the Senate who filibustered the first civil rights act of the 20th century and the Republicans who managed to pass it nonetheless.

The law established a Civil Rights Division within the Justice Department and authorized the Attorney General to request injunctions against anyone attempting to deny a person's right to vote. It was written at the behest of President Eisenhower after a long drought of civil rights bills under Presidents Franklin Delano Roosevelt and President Harry Truman.

It was a Senate minority leader, Everett Dirksen, a Republican, who helped write the first Civil Rights Act of 1964, widely regarded as the most influential of them all. And in recent years, it's been the Republican Party that has fought to prevent African Americans from being trapped in a permanent underclass through dependence on government handouts.

In the 1990s, it was the Republican-controlled 104th Congress that passed the Personal Responsibility and Work Opportunity Act. Then-Democrat President Bill Clinton signed it only after reluctantly having vetoed it twice.

This reform changed the face of welfare, ensuring that recipients who were able to work would be required to seek employment. No longer would government checks be seen as an entitlement. No longer would States have a financial incentive to add as many names to their welfare rolls as possible. Finally, there was an alternative to the cycle of poverty caused by years of misguided Democrat policy. And it's been Republicans who have continued to fight for the underprivileged communities, even as we're painted as the party of the white upper class.

In 2004, another Republican-controlled Congress under the leadership of Republican President George W. Bush signed an omnibus bill that included a voucher program for school children right here in the District of Columbia. Instead of being shackled to the failed public school system, thousands of students were able to use the

first Federal Government vouchers to escape high-performing private schools.

□ 2020

Mr. Speaker, what Republicans have long understood is that poor communities are best served when they're empowered to care for themselves. The more they come to rely on government checks, the less they learn to rely on their own ability and ingenuity.

Our party firmly believes in the safety net. We reject the idea of the safety net becoming a hammock. For this reason, the Republican value of minimizing government dependence is particularly beneficial to the poorest among us. Conversely, the Democratic appetite for ever-increasing redistributionary handouts is in fact the most insidious form of slavery remaining in the world today and does not promote economic freedom.

Time after time, the GOP has stood strong as leaders on issues of conscience. Even when the positions we've taken have been unpopular, we've held the line and ultimately brought about liberty and justice for all. From eliminating slavery, to securing full citizenship and voting rights for African Americans, to calling for desegregation even in the most hostile bastions of the Deep South, to implementing school choice in poor communities, to helping black families break out of the cycle of welfare dependence, Mr. Speaker, Republicans have been on the front lines of the fight for equal rights and individual manifest destiny since our party's founding under Lincoln.

So, too, has the party led on issues like reducing the size of government, streamlining the Federal bureaucracy, and returning power to the States. These positions didn't always garner the most popular support at the time. It's easier to convince a person that a government should be doing something for them it currently isn't than to convince a person the government shouldn't be doing something for them it currently is.

But real visionary leaders don't retreat from fights. It is said that one evening, as George Washington sat at his table after dinner, the fire behind him flared up, leading him to move his chair away so as not to end up getting burned. When someone called George Washington out, saying a general ought to be able to stand the fire, he responded that no general should ever be taking fire from behind.

That is the essence of integrity and conviction—the willingness to stand for what you believe at all times, alone if need be, without the option of retreat, no matter how tough the slog ahead may be, and to do so with the faith that eventually it is possible to transform a losing fight into a winning one.

For inspiration, we need only to look to the former slave and Republican,

Frederick Douglass. Having found his way to freedom through education and hard work, he could have been forgiven for retiring from the public eye, but he didn't back down from the work still to be done. Instead, he made himself one of the most stalwart champions of not just the antislavery movement, but the women's rights movement as well. He wasn't content to lend his political capital to causes that would benefit him. He knew what we know, that injustice anywhere is an affront to the human spirit.

To free African Americans from the bonds of slavery was only the first step for Frederick Douglass, and he would not be satisfied until he helped liberate women from the bonds of misogyny as well. In those days, Douglass could count on the Republican Party to be his ally in the fight. Today, we remain no less dedicated to the cause of freedom.

So therefore, Mr. Speaker, with a core belief in the supremacy and the sovereignty of the individual and the unconditional dignity of every human life, the Republican Party is, always has been, and forever shall be the party of equality of opportunity.

Happy Black History Month.

Mr. Speaker, I yield back the balance of my time.

#### HEALTH CARE REFORM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 5, 2011, the gentleman from Texas (Mr. GOHMERT) is recognized for 30 minutes.

Mr. GOHMERT. Mr. Speaker, it is such an honor to serve with such an honorable man as Colonel ALLEN WEST. I've known him for a few years, going back to his previous efforts at election to the House of Representatives. I'm just delighted that he is here. I'm delighted to call him a friend. He has been a fantastic addition here to the House of Representatives.

I would like to address something a Democratic colleague had referenced, and that was with regard to Medicare. My friend was taking issue with what my Republican doctors were addressing here on the floor with regard to Medicare. And it was interesting to hear a Democrat say that actually ObamaCare strengthened Medicare. It's interesting. I guess the definition of "is" means something to some folks. In this case, I guess the definition of "strengthen" would have to be what was at issue here.

The Democrats strengthened Medicare, cut \$500 billion—with a B—out of Medicare, and are proud to report to the American people that they strengthened Medicare. Well, in a bill I didn't agree with, the debt ceiling bill, it's cutting hundreds of billions of dollars from our national security, for our



national defense. I guess the same reasoning would say we're cutting hundreds of billions of dollars from our national defense. And under the Democratic strategy and definition, I guess, of "strengthen," could say, under that logic and that thinking, will strengthen our military and our national defense.

I don't happen to agree with that definition. I don't believe that's what it does; \$500 billion in cuts to Medicare that ObamaCare rammed down America's throat, to my way of thinking, does not strengthen Medicare. It guts it.

Now, an explanation has been that the hundreds of billions of dollars that the Democrats in the House and Senate, when they were in the majority, took from Medicare, we're told, well, that wasn't cuts to the American people. That was only cuts to the health care providers. Well, lest I become too sarcastic, let me just say, when you cut the payments by \$500 billion to those who are going to provide seniors with health care, you didn't cut the money going to seniors, you cut it to the people that the seniors need to provide them care.

If people haven't gotten out from around this town and gone out and talked to doctors across the country, including doctors in what some would deem "flyover country," you find out the doctors say, if and when those cuts occur, we cannot stay in business; we'll have to close our doors.

I've had a number of doctors tell me, Once ObamaCare is fully law, I can't live on that. There's so many pieces of equipment that cost so much. There's so much medication that costs more and more. The government would require me to provide services and not reimburse me enough to pay the people I have to hire, to pay for the equipment I have to purchase and lease, and the medications I have to have in our facilities. Can't stay in business. I've had doctors tell me repeatedly, I had hoped to have more in savings before I retired, but I'm just going to have to do with what I've got there because I can't stay in the practice of medicine once those \$500 billion in cuts are made.

□ 2030

So I guess someone can make the argument that the \$500 billion in cuts to health care providers somehow strengthens Medicare for seniors since it only guts the payments to the health care providers, the doctors, the hospitals.

But I don't think it takes a whole lot of reasoning to understand seniors will find themselves in the position that the lady at the White House did during the President's town hall, when she pointed out, My mother was 95. Her personal doctor said she needs a pacemaker. The cardiologist said, she's too

old, but he had never met her. Once he met her, he realized this is a woman that's going to live a lot longer. She does need a pacemaker. So he installed it, and 8 to 10 years later she's still going strong.

And the woman's question to the President was, in deciding who gets treatment and who doesn't, who gets surgery and who doesn't, will the people making the decisions under your bill consider the quality of a person's life in deciding whether they'll get the surgery, whether they'll get the health care they need, whether my mother would get the pacemaker she needed?

The President, after beating around the bush—it can be found online, both the video and transcript—the President ultimately said, you know, we have to come to the conclusion that maybe we're better off telling your mother she should just take a pain pill. In other words, the woman's mother would be dead, but she would have gotten a pain pill under the President's idea of good health care, under his ObamaCare program.

So that's what happens when you cut \$500 billion to Medicare, as the Democrats did, in ObamaCare. And I know my colleague across the aisle pointed out that the AMA, the AHA, and others, I would add, many leaders of the Catholic Church, encouraged the passage of ObamaCare. And now, so many are finding egg on their faces.

Heck, the big pharmaceutical groups, they supported it. Every one of those groups that signed on was bought off. That's just the way it is. They thought that they were signing on to something that would help them out because they were given some little bit that they wanted in the bill.

Some from those groups told me, gee, we wanted to have a seat at the table. I tried to warn them, you don't want a seat at the table when you're on the menu. When they signed on to agree to ObamaCare, they signed their own group's death warrants because \$500 billion in cuts to health care providers, when you don't even eliminate the fraud and waste and abuse, is going to gut the very people financially that are supposed to provide the care.

So who suffers? Well, the doctors, the health care providers, they retire. They go on and do something else. Who suffers? The seniors do. That's what the \$500 billion in cuts to Medicare under ObamaCare do for Americans.

I had a health care bill. In the CBO's effort to help the President get ObamaCare passed, of course they had scored it originally as being over \$1 trillion; but since the President promised it would cost much less than that, there was a meeting with the Director of CBO at the White House. We don't know what was said, but we understood the President was saying before and after the meeting that it had to be scored to where it was under \$1 trillion.

And lo and behold, CBO went back and scored it at \$800 billion, approximately.

ObamaCare passes, and then after it becomes law, CBO re-scores. And guess what? It's over \$1 trillion. So we now know that anything we get from CBO in the way of a scoring has to be considered plus or minus 25 percent accurate. I think we ought to change legislation, get rid of CBO, and find entities competitively who are most accurate at scoring bills who can come closer than a plus or minus 25 percent accuracy.

But my bill would give seniors a choice and say, if you like your Medicare, and especially now, with all the cuts that are coming to health care, if you like it, great, keep it. But if you would like the best health insurance that money can buy, with a high deductible, \$3,000, \$4,000, \$5,000, whatever we found to be most accommodating, then we would buy that for the seniors, their choice, Medicare or the best private insurance with a high deductible.

Say, for example, if we made it, in my bill it was 3,500, say, 4,000, 5,000 now. That deductible amount would then be provided to the senior's household in a health savings account that they would control with their own debit card so that, for the first time since Medicare came into existence, seniors would get to control their own health care. They wouldn't have to go begging to an insurance company, because insurance companies, health insurance companies have gotten out of the business of health insurance. They're in health management. I don't want them in health management. I want them in health insurance.

Insurance is when you pay a small premium to insure against an insurable event down the road. You don't know what's coming; but in case there's a catastrophic accident or disease, then you're covered.

In the meantime, each year we'd provide that cash in the health savings account that can only be used for health matters. Now, that would put patients back in control because the most effective government, we have found—and yet we have to keep relearning this lesson—comes not when government is the referee and the coach, and a player. It doesn't work well. We have to keep learning that lesson.

People in this body say, oh, well, it'll work out better if government competes with the private sector. No, it doesn't. It works better if we're a referee.

So whether it's the stock market, there are referees. There are officials that watch out for people like Madoff. Instead of being so engaged in details of day-to-day transactions, they're engaged in health insurance as a referee to make sure people are playing fairly with their consumers, with their patients, so that they're not getting jerked around, so that the government

can go after those who are defrauding or being unfair in their treatment. That's the government's role. Be a referee.

But when the government becomes a player and a coach and the referee, then everybody suffers. There is no reason we should have to keep relearning that lesson.

Now, I wouldn't mind so much guest-worker permits. We hear from some of the farmers in California and what-not that, gee, we have to have guest workers come in and harvest our crops. But we shouldn't have to have the rest of the country pay for their health care because they don't have it.

So we ought to have a new requirement for visas. Yeah, we'll give you a visa to come into the country, but you have to show that you're going to have health insurance the entire time you're here.

You want to bring guest workers in to harvest your crops, well, then provide an umbrella health insurance policy for them so that the rest of America doesn't pay for that farmer's, that rancher's employees' health care.

Those are just little things. But one other thing that we need to do to really get health care on track is get competition back in health care.

□ 2040

When a hospital, when a doctor, when a clinic cannot tell you exactly what the cost is unless they know which insurance company you have or if it's Medicare or if it's Medicaid or what, whether it's cash—because if it's cash, the way the system is now, you're going to pay more than the insurance companies pay—well, that's no way to have a competitive system.

When I grew up in my hometown, Mount Pleasant, Texas, my parents sometimes switched doctors. If one doctor went up, well, we knew there were a number of good doctors in town. We went to one that was cheaper because we knew they were good, too.

We don't do that anymore because nobody knows what things cost. Well, that ought to be posted. You ought to be able to find it, published, post it, so people know this one is cheaper. If you have your own debit card with money in that account or a health savings account, then you would be concerned about that. But the government gets so involved that it becomes the problem.

#### VISAS

I want to address one other area in which the government ought to be the referee, but it's so busy trying to be the coach and the player that the job is not getting done. That is in the area of visas.

Apparently, we have this EB 5 program that, in essence, says if you're a non-American, but if you want to come into the United States and you have a million dollars and you're willing to invest it in the U.S., hey, we'll give you

a visa, one of these EB 5 visas. Then you can come into this country, and you can be a legal resident. So you buy your way in.

Well, everybody acknowledges times are tough. Things have not gotten any better than they were when President Obama took office. We're worse off than we were when he took office, debt through the roof. But I can understand. It makes sense. Let's encourage outside investment in America.

Well, it just so happens that the month of February has been quite revealing in this program in that in my hometown of Tyler, Texas, we had a very weary local law enforcement. I know from my days as a district judge handling felonies, we have some very capable, competent local law enforcement. We have extremely capable State law enforcement in Texas.

A car was pulled over. It had no front license plates. That's required in Texas. Then the officer found that there were some questionable things going on and asked him for permission to search. Permission was granted. \$67,000 in cash was in the car; children in the car; two individuals in the car with another adult driver; shotgun in the car. Strange situation. When they were taken in for their violations, the name was run, the shotgun was run, lo and behold, they hear from the Federal Government. ICE says, We're in charge. These folks are ours. So they take them from Tyler, Texas, detention to Dallas to the detention there.

We just happen to have the mug shots of these folks. These individuals were Hector Hernandez Javier Villarreal. He's the former secretary executive of Tax Administration Service of Coahuila, Mexico, along with his wife, Marie Teresita Botello. Then they also had a driver with them, Oswaldo Coronado. These were their mug shots.

Well, ICE takes over. They take these folks to detention in Dallas. Homeland Security gets alerted. We don't know whether it was the shotgun being run or the people's names being run, but they get involved reporting to the Smith County Sheriff's Office wanting to interrogate these individuals. They were told, well, you'll have to get in line behind ICE. They've just taken them to Dallas about 100 miles up the interstate.

Well, once they were in Dallas, and there was computer material, different things that were obtained after they were arrested in Tyler, obtained by warrant, and they begin to find out a little bit more about them.

This is in the Tyler Morning Telegraph, my hometown paper. They do a good job of reporting local news. So they report, as did FOX and the San Antonio Express-News:

Villarreal and at least six other men face charges linked to more than \$3 billion in debt racked up by the Coahuila government during the administration by the former governor, Humberto Moreira.

Villarreal is accused of falsifying documents involving \$325 million in bank loans to the state shortly before Moreira resigned to become national president of the opposition Institutional Revolutionary Party, or PRI.

State police arrested Villarreal and another former Coahuila official October 28 charging them in connection with suspicious loans. Villarreal was released on bail within hours after being detained.

I was told that bond was around \$1 million. The article continues with a quote from our sheriff there, J.B. Smith:

"All we did was make a traffic stop. We did not realize we had stopped a major person of interest for Mexico and the United States."

Villarreal was charged with money laundering and turned over to Immigration and Customs Enforcement. He was released on February 6 on \$20,000 bail, according to jail records. Carl Rusnok, an ICE spokesman in Dallas, would not comment on the situation.

Three days later, Federal investigators in Mexico issued a warrant for Villarreal's arrest. Members of Mexico's ruling National Action Party, or PAN, are asking the same questions: Why was Villarreal able to enter the U.S. and why was he released?

We're giving visas to people because they promised to come in here and invest \$500,000 or \$1 million in the U.S. What, do we need to change the inscription on the Statute of Liberty? Give us your tired, your fugitives, your embezzlers? Give us your criminals longing to stay free?

Some of us have been pretty critical of the Mexican Government not being tougher on corruption. Here we have a case where it appears the Mexican Government is trying to crack down on corruption.

I know from my days as a judge, when somebody is released on bond, they're not allowed to leave the country. Why wouldn't our government—because I was assured today in a hearing of the Immigration Committee by the Customs and Immigration Service Director that, gee, they do a very thorough background study on people before they will give them this EB 5 visa. They're very thorough, I was told. I'm looking forward to the report from the Director that he promised me today in the hearing as to exactly what happened here, why they didn't pick up that these people were being charged in Mexico with embezzlement of hundreds of millions, maybe even billions of dollars.

I mean, is the economy so in need of help that we welcome people charged with criminal activity to come in as long as they'll invest their dirty money in our country? We need to have better standards than that. We need to be the country that was, as it once was, a rule-of-law Nation, where the law mattered.

But once they were in Dallas, the State Department, I was told by the law enforcement officials I'd talked to, they were told—Homeland Security, ICE—you've got to let these folks go. We gave them a valid visa. They told

the local officials that, now, we did revoke that visa, but since they came into the U.S. before we revoked the visa, we have to let them stay, so you've got to let them go. They were ordered to let these three individuals go.

□ 2050

Now, I was told that upon pulling these folks out of detention and being told that the State Department had ordered their release and that they were free to go wherever they wanted in the United States that Villarreal's wife said, But you told us we were going to be deported back to Mexico, where the charges were waiting for them.

He said, No, we're told we have to release you here in this country.

When she started to say that didn't make sense, Mr. Villarreal responded very assertively in Spanish, and she didn't say anything after that. It's not hard to figure out what he must have said:

Look, if these people are so stupid they're going to let us go when we're wanted in Mexico, when we're wanted here and they're going to let us go, just shut up, and let these stupid people let us go.

So they were let go.

It was only a day or two later that the State Department said, You know what? These people are wanted fugitives, and we need to hang onto them.

They're gone and they haven't been found, and they told local law enforcement that they had access to private jets so they could come in and out of the United States when they were ready to.

Well, I hope they find them. As a former prosecutor, as a former judge and chief justice, the law needs to be addressed.

In the meantime, here in Congress, we did have a hearing today with immigration officials, including the inspector general of the immigration service, CIS. I was told during the hearing that if the chairman of our immigration committee will request an investigation, the IG will do that investigation, and I'm hopeful that will be forthcoming.

We've got to clean up this administration's mess. It's bad enough the damage that's being done to Medicare and our seniors. It's bad enough that a payroll tax rate of insurance is being reduced so that there is not enough money to pay Social Security from the Social Security tax coming in again this year and that it may go from an approximately 5 percent shortfall last year to a maybe 14 percent or so shortfall this year. It's bad enough we're doing that to the seniors. It's bad enough what ObamaCare will be doing to the seniors in making it difficult for them to find the care they need in the years to come unless we repeal ObamaCare—but now we have to deal

with fugitives coming in from Mexico because they were willing to invest money that the Mexican authorities allege was stolen, embezzled money.

At some point, it is time to stop hurting American citizens who have contributed and who have been law-abiding for their lives. It's time the government became a proper referee and quit trying to divide America, quit trying to be the player, the coach and the referee and got back into the business of making sure Americans are treated fairly, that Americans are protected from outside evil forces—those who want to harm us and destroy our way of life. It's time to get the United States Government back into the business of providing for the common defense, of making sure there is a level playing field, of encouraging competition, not rewarding cronies who have some wild-eyed scheme of something that they call "green energy" while the rest of America can't even fill up their gas tanks.

It is time to do the job that is given to Congress, that is given to the President in the Constitution; and once we get back to that and concentrate on doing that well, America could make another 200 years.

With that, Madam Speaker, I yield back the balance of my time.

## RECESS

The SPEAKER pro tempore (Mrs. BLACK). Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 8 o'clock and 54 minutes p.m.), the House stood in recess.

□ 2129

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mrs. BLACK) at 9 o'clock and 29 minutes p.m.

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. MOORE (at the request of Ms. PELOSI) for today until 3 p.m. on account of official business in the district.

## ENROLLED BILL SIGNED

Karen L. Haas, Clerk of the House, reported and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 1162. An act to provide the Quileute Indian Tribe Tsunami and Flood Protection, and for other purposes.

## ADJOURNMENT

Mr. GOHMERT. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 30 minutes p.m.), under its previous order, the House adjourned until tomorrow, Thursday, February 16, 2012, at 10 a.m. for morning-hour debate.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XIV, executive communications were taken from the Speaker's table and referred as follows:

5004. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — *Trichoderma virens* strain G-41; Exemption from the Requirement of a Tolerance [EPA-HQ-OPP-2010-0053; FRL-9333-5] received January 30, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5005. A letter from the Chief Counsel, Department of Homeland Security, transmitting the Department's final rule — Suspension of Community Eligibility for Repealing Its Floodplain Management Regulations [Docket ID: FEMA-2011-0020] received January 23, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

5006. A letter from the General Counsel, National Credit Union Administration, transmitting the Administration's final rule — New Worth and Equity Ratio (RIN: 3133-AD87) received January 24, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

5007. A letter from the General Counsel, National Credit Union Administration, transmitting the Administration's final rule — Corporate Credit Unions (RIN: 3313-AD95) received January 24, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

5008. A letter from the Secretary, Securities and Exchange Commission, transmitting the Commission's final rule — Covered Securities of Bats Exchange, Inc. [Release No.: 33-9295; File No.: S7-31-11] (RIN: 3235-AL20) received January 23, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

5009. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Designation of Areas for Air Quality Planning Purposes; Maryland; Determination of Nonattainment and Reclassification of the Baltimore 1997 8-Hour Ozone Nonattainment Area [EPA-R03-OAR-2011-0681-201124; FRL-9625-3] received January 30, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5010. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Nonconformance Penalties for On-highway Heavy Heavy-Duty Diesel Engines [AMS-FRL-9623-8] received January 30, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5011. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval, Disapproval and Promulgation of Air Quality Implementation Plans; District of Columbia; Regional Haze State Implementation Plan [EPA-R03-OAR-2011-0913; FRL-9625-5] received January 30, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5012. A letter from the Director, Regulatory Management Division, Environmental

Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Virginia; Amendments to Virginia's Regulation Regarding the Sulfur Dioxide National Ambient Air Quality Standard [EPA-R03-OAR-2011-0731; FRL-9625-8] received January 30, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5013. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval of Air Quality Implementation Plans; California; San Joaquin Valley; Attainment Plan for 1997 8-hour Ozone Standards [EPA-R09-OAR-2011-0589; FRL-9624-5] received January 30, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5014. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval of Air Quality Implementation Plans; California; South Coast; Attainment Plan for 1997 8-hour Ozone Standards [EPA-R09-OAR-2011-0622; FRL-9624-6] received January 30, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5015. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Amendments to the Queen Conch and Reef Fish Fishery Management Plans of Puerto Rico and the U.S. Virgin Islands [Docket No.: 100120037-1626-02] (RIN: 0648-AY55) received January 23, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

5016. A letter from the Assistant Administrator for Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Amendments to the Reef Fish, Spiny Lobster, Queen Conch and Coral and Reef Associated Plants and Invertebrates Fishery Management Plans of Puerto Rico and the U.S. Virgin Islands [Docket No.: 101217620-1788-03] (RIN: 0648-BA62) received January 23, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

5017. A letter from the Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone off Alaska; Inseason Adjustment to the 2012 Gulf of Alaska Pollock and Pacific Cod Total Allowable Catch Amounts [Docket No.: 101126522-0640-02] (RIN: 0648-XA917) received January 23, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

5018. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources in the Gulf of Mexico and Atlantic Region; Amendment 18 [Docket No.: 101206604-1758-02] (RIN: 0648-BB33) received January 19, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

5019. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish

of the Gulf of Alaska; Amendment 88 [Docket No.: 110314196-1725-02] (RIN: 0648-BA97) received January 19, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

5020. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — International Fisheries; Western and Central Pacific Fisheries for Highly Migratory Species; Fishing Restrictions for Bigeye Tuna and Yellowfin Tuna in Purse Seine Fisheries for 2012 [Docket No.: 11127732-1745-01] (RIN: 0648-BB73) received January 19, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

5021. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Northeastern United States; Removal of Standardized Bycatch Reporting Methodology Regulations [Docket No.: 111219777-1775-02] (RIN: 0648-BB52) received January 19, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

5022. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Comprehensive Ecosystem-Based Amendment 2 for the South Atlantic Region [Docket No.: 110831547-1736-02] (RIN: 0648-BB26) received January 19, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

5023. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass Fisheries; Interim 2012 Summer Flounder, Scup, and Black Sea Bass Specifications; 2012 Research Set-Aside Projects [Docket No.: 111220786-1781-01] (RIN: 0648-AX795) received January 19, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. JOHNSON of Georgia (for himself, Mr. LEWIS of Georgia, Mr. McDERMOTT, and Mr. CONNOLLY of Virginia):

H.R. 4032. A bill to amend the Internal Revenue Code of 1986 to make permanent the 2010 increase in the deduction for start-up expenditures; to the Committee on Ways and Means.

By Mr. SULLIVAN:

H.R. 4033. A bill to amend the Indian Gaming Regulatory Act to provide for community approval before Indian class III gaming operations may take effect; to the Committee on Natural Resources.

By Ms. VELÁZQUEZ:

H.R. 4034. A bill to amend title V of the Social Security Act to provide grants for school-based mentoring programs for at risk teenage girls to prevent and reduce teen pregnancy, and to provide student loan forgiveness for mentors participating in such

programs; to the Committee on Energy and Commerce, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. REICHERT (for himself and Mr. LARSON of Connecticut):

H.R. 4035. A bill to amend the Internal Revenue Code of 1986 to exempt private foundations from the tax on excess business holdings in the case of certain philanthropic enterprises which are independently supervised, and for other purposes; to the Committee on Ways and Means.

By Mr. JOHNSON of Ohio:

H.R. 4036. A bill to amend the Legislative Reorganization Act of 1946 to impose a daily reduction in the rates of pay for Members of Congress if Congress fails to agree to a concurrent resolution on the budget; to the Committee on House Administration, and in addition to the Committee on Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SABLAN:

H.R. 4037. A bill to provide that no Federal funds may be used for any construction project in the Northern Mariana Islands the cost of which exceeds \$100,000, unless the workforce carrying out the project is composed of at least 60 percent United States workers; to the Committee on Oversight and Government Reform.

By Mr. ACKERMAN (for himself, Mr. HINCHEY, Mr. NADLER, Mr. MCGOVERN, Ms. WATERS, Mr. CICILLINE, and Mr. ELLISON):

H.R. 4038. A bill to amend the Internal Revenue Code of 1986 to provide a 4-year extension of the deduction for tuition and related expenses; to the Committee on Ways and Means.

By Mr. AMODEI (for himself, Mr. HECK, and Ms. BERKLEY):

H.R. 4039. A bill to convey certain Federal land to the city of Yerington, Nevada; to the Committee on Natural Resources.

By Mr. BACA (for himself, Mr. ROONEY, Mr. TIBERI, and Mr. AUSTRIA):

H.R. 4040. A bill to provide for the award of a gold medal on behalf of Congress to Jack Nicklaus in recognition of his service to the Nation in promoting excellence and good sportsmanship in golf; to the Committee on Financial Services.

By Mr. BERMAN (for himself and Mr. MANZULLO):

H.R. 4041. A bill to amend the Export Enhancement Act of 1988 to further enhance the promotion of exports of United States goods and services, and for other purposes; to the Committee on Foreign Affairs.

By Mr. BRALEY of Iowa:

H.R. 4042. A bill to amend the Public Health Service Act to designate certain medical facilities of the Department of Veterans Affairs as health professional shortage areas, and for other purposes; to the Committee on Energy and Commerce.

By Mr. GALLEGLY:

H.R. 4043. A bill to amend title 10, United States Code, to direct the Secretary of Defense to establish Southern Sea Otter Military Readiness Areas for national defense purposes, and for other purposes; to the Committee on Armed Services, and in addition to the Committee on Natural Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of

such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KINZINGER of Illinois:

H.R. 4044. A bill to amend the National Telecommunications and Information Administration Organization Act to create a Federal Spectrum Reallocation Commission, to provide for the use of a portion of the proceeds from the auction of reallocated Federal spectrum for deficit reduction, and for other purposes; to the Committee on Energy and Commerce.

By Mr. KLINE:

H.R. 4045. A bill to modify the Department of Defense Program Guidance relating to the award of Post-Deployment/Mobilization Respite Absence administrative absence days to members of the reserve components to exempt any member whose qualified mobilization commenced before October 1, 2011, and continued on or after that date, from the changes to the program guidance that took effect on that date; to the Committee on Armed Services.

By Mr. LAMBORN (for himself, Mrs. SCHMIDT, Mr. JONES, Mr. MCCOTTER, Mr. LATTA, Mr. BROWN of Georgia, Mr. BURTON of Indiana, Mrs. BACHMANN, Mr. DUNCAN of South Carolina, Mr. KING of Iowa, Mr. BRADY of Texas, Mr. FRANKS of Arizona, Mr. CHABOT, Mr. CULBERSON, Mr. FLEMING, Mr. PEARCE, Mr. COLE, Mr. HARRIS, Mr. PAUL, Mrs. HARTZLER, Mr. GOHMERT, Mr. NEUGEBAUER, Mr. CONAWAY, and Mr. MARCHANT):

H.R. 4046. A bill to amend the General Education Provisions Act to prohibit Federal education funding for elementary or secondary schools that provide access to emergency postcoital contraception; to the Committee on Education and the Workforce.

By Mr. MURPHY of Connecticut:

H.R. 4047. A bill to require solicitations for Federal procurement contracts to include information about the applicability of Buy American law and whether foreign goods may be used to fulfill the requirements of the contracts; to the Committee on Oversight and Government Reform.

By Ms. CASTOR of Florida:

H. Res. 548. A resolution acknowledging the National Academy of Inventors (NAI) as a driving factor in the world economy and the contributions of scientist-inventors across all disciplines; to the Committee on the Judiciary.

By Mr. ELLISON:

H. Res. 549. A resolution calling for democratic change in Syria; to the Committee on Foreign Affairs.

By Mr. GRIJALVA:

H. Res. 550. A resolution expressing the support of the House of Representatives for innovative transformative research conducted by early career faculty, and recognizing the Research Corporation for Science Advancement (RCSA) on its 100th anniversary for supporting such research; to the Committee on Science, Space, and Technology.

By Mr. SCHWEIKERT (for himself, Mr. FLAKE, Mr. QUAYLE, Mr. GRIJALVA, Mr. PASTOR of Arizona, Mr. GOSAR, and Mr. FRANKS of Arizona):

H. Res. 551. A resolution celebrating the Arizona centennial; to the Committee on Oversight and Government Reform.

tives, the following statements are submitted regarding the specific powers granted to Congress in the Constitution to enact the accompanying bill or joint resolution.

By Mr. JOHNSON of Georgia:

H.R. 4032.

Congress has the power to enact this legislation pursuant to the following:

Article I, Sec. 8 cl. 1 and cl. 1.

By Mr. SULLIVAN:

H.R. 4033.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clause 3

“The Congress shall have Power . . . To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes.”

By Ms. VELÁZQUEZ:

H.R. 4034.

Congress has the power to enact this legislation pursuant to the following:

This bill is enacted pursuant to the power granted to Congress under Article I, Section 8, Clause 1 of the United States Constitution.

By Mr. REICHERT:

H.R. 4035.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clause 1: The Congress shall have Power to lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States.

By Mr. JOHNSON of Ohio:

H.R. 4036.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 9, Clause 7.

By Mr. SABLAN:

H.R. 4037.

Congress has the power to enact this legislation pursuant to the following:

Under Article I, section 8, clause 3 and Article IV, section 3, clause 2 of the Constitution.

By Mr. ACKERMAN:

H.R. 4038.

Congress has the power to enact this legislation pursuant to the following:

Amendment XVI to the Constitution

By Mr. AMODEI:

H.R. 4039.

Congress has the power to enact this legislation pursuant to the following:

The constitutional authority of Congress to enact this legislation is provided by Article I, Section of the United States Constitution, specifically clause 1 (relating to providing for the general welfare of the United States) and clause 18 (relating to the power to make all laws necessary and proper for carrying out the powers vested in Congress), and Article IV, Section 3, Clause 2 (relating to the power of Congress to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States).

By Mr. BACA:

H.R. 4040.

Congress has the power to enact this legislation pursuant to the following:

Clause 18 of Section 8 of Article 1 of the Constitution—To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States or in any Department or Officer thereof.

By Mr. BERMAN:

H.R. 4041.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clause 3.

By Mr. BRALEY of Iowa:

H.R. 4042.

Congress has the power to enact this legislation pursuant to the following:

This bill is enacted pursuant to the power granted to Congress under Article I, Section 8, Clause 18 of the United States Constitution.

By Mr. GALLEGLY:

H.R. 4043.

Congress has the power to enact this legislation pursuant to the following:

Article 1, Section 8, Clause 13 & 14 of the U.S. Constitution, giving Congress the power to provide and maintain a Navy, and also make rules for the Government and Regulation of the land and naval Forces.

By Mr. KINZINGER of Illinois:

H.R. 4044.

Congress has the power to enact this legislation pursuant to the following:

This bill is enacted pursuant to the power granted to Congress under Article I, Section 8, Clause 3 of the United States Constitution.

By Mr. KLINE:

H.R. 4045.

Congress has the power to enact this legislation pursuant to the following:

This legislation ensures that members of the National Guard and Reserve Component who mobilized and deployed prior to changes made to Department of Defense guidelines pertaining to the earning of the Post Deployment Mobilization Respite Absence Program do not receive a reduction in their earned benefits while deployed in defense of our nation. Specific authority is provided by Article I, section 8 of the United States Constitution (clauses 12, 13, 14, and 16), which grants Congress the power to raise and support an Army; to provide and maintain a Navy; to make rules for the government and regulation of the land and naval forces; and to provide for organizing, arming, and disciplining the militia.

By Mr. LAMBORN:

H.R. 4046.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clause 3 of the United States Constitution.

By Mr. MURPHY of Connecticut:

H.R. 4047.

Congress has the power to enact this legislation pursuant to the following:

Article 1, Section 8

#### ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 23: Mr. BERMAN.

H.R. 178: Ms. WOOLSEY.

H.R. 303: Mr. HOLDEN.

H.R. 374: Mr. GOSAR and Mr. KINZINGER of Illinois.

H.R. 383: Mr. CLAY.

H.R. 459: Mr. CRAWFORD, Mr. BISHOP of Georgia, Mr. CASSIDY, and Mr. PEARCE.

H.R. 466: Mr. GODLATTE and Mr. CLAY.

H.R. 481: Mr. HASTINGS of Florida.

H.R. 615: Mr. MURPHY of Pennsylvania, Mr. HENSARLING, and Mr. SCHWEIKERT.

H.R. 623: Mr. KUCINICH and Ms. NORTON.

H.R. 665: Mrs. BLACK.

H.R. 718: Ms. WATERS, Mr. ACKERMAN, and Mr. WALBERG.

H.R. 735: Mrs. BONO MACK.

H.R. 809: Ms. BALDWIN and Mr. CLAY.

#### CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 7 of rule XII of the Rules of the House of Representa-

- H.R. 812: Mr. GRIJALVA.  
H.R. 941: Ms. SCHAKOWSKY.  
H.R. 981: Mrs. ADAMS.  
H.R. 1084: Ms. HANABUSA.  
H.R. 1161: Mr. CRAVAACK.  
H.R. 1176: Mr. DICKS, Mr. RIGELL, Ms. ESHOO, and Ms. BERKLEY.  
H.R. 1179: Mr. CUELLAR, Mr. WITTMAN, Mr. SULLIVAN, Mr. GARDNER, and Mr. MCKINLEY.  
H.R. 1190: Mr. PRICE of North Carolina and Ms. CHU.  
H.R. 1265: Mr. MEEHAN.  
H.R. 1288: Mr. JOHNSON of Georgia and Mr. BISHOP of New York.  
H.R. 1303: Mr. CLAY.  
H.R. 1332: Mr. QUIGLEY.  
H.R. 1488: Mrs. DAVIS of California.  
H.R. 1513: Mr. SABLAN, Mr. ROHRABACHER, Mrs. MYRICK, Mr. JONES, Mr. GINGREY of Georgia, Mr. DUNCAN of Tennessee, and Mr. KINGSTON.  
H.R. 1578: Mr. CLAY.  
H.R. 1588: Mrs. SCHMIDT.  
H.R. 1724: Mr. CLAY.  
H.R. 1738: Mr. POLIS.  
H.R. 1744: Mr. YOUNG of Alaska, Mr. KING of New York, and Mr. FLAKE.  
H.R. 1802: Mr. CARNEY.  
H.R. 1819: Mr. SCHWEIKERT.  
H.R. 1865: Mrs. BLACK, Mr. CRENSHAW, and Mr. SCHWEIKERT.  
H.R. 1867: Mr. COHEN.  
H.R. 1912: Mr. ELLISON and Mr. SHERMAN.  
H.R. 1916: Mr. CLARKE of Michigan and Mr. FITZPATRICK.  
H.R. 1955: Mr. MILLER of North Carolina.  
H.R. 1960: Mr. COURTNEY.  
H.R. 1964: Mr. SHIMKUS.  
H.R. 2014: Mr. SMITH of Washington.  
H.R. 2016: Mr. BERMAN.  
H.R. 2040: Mr. CANSECO.  
H.R. 2069: Mr. YOUNG of Indiana.  
H.R. 2085: Ms. TSONGAS and Mr. FATTAH.  
H.R. 2104: Ms. WATERS, Ms. DEGETTE, and Ms. TSONGAS.  
H.R. 2152: Mr. MCINTYRE, Mr. ALTMIRE, and Ms. WASSERMAN SCHULTZ.  
H.R. 2168: Ms. PINGREE of Maine.  
H.R. 2181: Mr. KEATING.  
H.R. 2182: Mr. GONZALEZ.  
H.R. 2245: Mr. MCCAUL.  
H.R. 2281: Ms. ZOE LOFGREN of California.  
H.R. 2284: Mr. ELLISON.  
H.R. 2288: Mr. BRADY of Pennsylvania.  
H.R. 2334: Ms. TSONGAS and Mr. BOREN.  
H.R. 2342: Ms. WATERS and Ms. NORTON.  
H.R. 2528: Mr. ROE of Tennessee, Mr. CHAFFETZ, Mrs. LUMMIS, Mr. GARRETT, Mr. HUELSKAMP, Mr. CONAWAY, Mr. SOUTHERLAND, Mr. MCHENRY, and Mr. GOHMERT.  
H.R. 2529: Mr. LATOURETTE.  
H.R. 2569: Mr. DUNCAN of South Carolina.  
H.R. 2607: Mr. CLARKE of Michigan and Ms. SCHAKOWSKY.  
H.R. 2697: Mr. SCHOCK.  
H.R. 2728: Mr. GRIJALVA.  
H.R. 2741: Ms. SCHAKOWSKY.  
H.R. 2834: Mr. GOSAR and Mr. MILLER of Florida.  
H.R. 2881: Ms. WILSON of Florida.  
H.R. 2959: Mr. SCHOCK.  
H.R. 2966: Mr. COFFMAN of Colorado.  
H.R. 2970: Mr. FRELINGHUYSEN.  
H.R. 2981: Mr. JACKSON of Illinois.  
H.R. 3053: Mr. ELLISON.  
H.R. 3059: Ms. PINGREE of Maine.  
H.R. 3061: Mr. BISHOP of New York.  
H.R. 3199: Mr. GRIFFIN of Arkansas and Mr. CAMPBELL.  
H.R. 3210: Mr. MATHESON.  
H.R. 3221: Mr. ELLISON.  
H.R. 3238: Mr. LANGEVIN, Mr. CICILLINE, Mr. NEAL, Mr. QUIGLEY, Mr. MORAN, Mr. HOLT, Mr. VAN HOLLEN, and Ms. PINGREE of Maine.  
H.R. 3264: Mr. BRADY of Texas, Mr. HARRIS, Mr. PEARCE, and Mr. WEST.  
H.R. 3307: Mr. BOUSTANY and Mr. BOREN.  
H.R. 3359: Mr. RANGEL.  
H.R. 3368: Mr. RANGEL and Mr. FATTAH.  
H.R. 3399: Mr. SCHOCK and Mr. BOSWELL.  
H.R. 3401: Mr. CANSECO and Mrs. BONO MACK.  
H.R. 3423: Mr. YODER, Mr. YARMUTH, Mr. CICILLINE, Mr. MCKINLEY, and Mr. ROE of Tennessee.  
H.R. 3483: Mr. WALZ of Minnesota, Mr. RYAN of Ohio, and Mr. FILNER.  
H.R. 3506: Mr. LATHAM.  
H.R. 3559: Mr. LUETKEMEYER.  
H.R. 3572: Mr. LANCE, Ms. HAHN, and Mr. COHEN.  
H.R. 3573: Mr. CLAY.  
H.R. 3612: Mr. TOWNS.  
H.R. 3634: Mr. SESSIONS and Mr. COBLE.  
H.R. 3646: Ms. BALDWIN.  
H.R. 3733: Mr. BLUMENAUER.  
H.R. 3785: Mr. STARK.  
H.R. 3798: Mr. COHEN, Mr. FILNER, and Mr. BACA.  
H.R. 3803: Mr. SENSENBRENNER, Mrs. MYRICK, and Mr. COBLE.  
H.R. 3806: Mr. BROOKS.  
H.R. 3808: Mr. ROSS of Florida.  
H.R. 3814: Mr. SCHWEIKERT.  
H.R. 3824: Mrs. NAPOLITANO, Mr. GRIJALVA, and Mr. PASTOR of Arizona.  
H.R. 3826: Mr. CONNOLLY of Virginia, Mr. BISHOP of New York, Ms. BASS of California, Mr. DOYLE, Mr. RAHALL, Mr. CARNAHAN, and Mr. WAXMAN.  
H.R. 3828: Mr. WOLF, Mr. GRIFFIN of Arkansas, and Mr. FRANKS of Arizona.  
H.R. 3840: Ms. LEE of California.  
H.R. 3842: Mr. FINCHER and Mr. HUNTER.  
H.R. 3844: Mrs. NOEM.  
H.R. 3855: Mr. BENISHEK.  
H.R. 3860: Ms. SCHAKOWSKY and Mr. REYES.  
H.R. 3863: Mr. RYAN of Wisconsin.  
H.R. 3867: Mr. GOHMERT, Mr. DUNCAN of South Carolina, Mr. FLEMING, Mr. ROSS of Florida, and Mr. PEARCE.  
H.R. 3871: Mr. LUETKEMEYER.  
H.R. 3875: Mr. PAYNE and Mr. MICHAUD.  
H.R. 3881: Mr. POLIS, Mr. FILNER, and Mr. GRIJALVA.  
H.R. 3886: Mr. FARR.  
H.R. 3895: Mr. MICHAUD.  
H.R. 3903: Mr. HOLT, Mr. FARR, and Mr. ELLISON.  
H.R. 3910: Mr. THOMPSON of California.  
H.R. 3981: Mr. ELLISON.  
H.R. 3982: Mr. LONG, Mr. BROUN of Georgia, and Mr. CANSECO.  
H.R. 3991: Mr. LANKFORD.  
H.R. 3995: Ms. DEGETTE.  
H.R. 4000: Mr. GRIMM, Mr. HALL, and Mr. HULTGREN.  
H.R. 4010: Mr. PASTOR of Arizona, Mr. SERRANO, Mr. MURPHY of Connecticut, Mr. QUIGLEY, Mr. BLUMENAUER, and Mr. CAPUANO.  
H.R. 4014: Mr. LUETKEMEYER and Mr. CANSECO.  
H.J. Res. 101: Mr. JONES.  
H. Con. Res. 18: Mr. SHERMAN.  
H. Con. Res. 63: Mr. YOUNG of Alaska.  
H. Con. Res. 100: Mr. FLAKE.  
H. Res. 130: Mr. MORAN and Mr. MCNERNEY.  
H. Res. 298: Mr. LATHAM.  
H. Res. 460: Mr. DEUTCH, Mr. BRALEY of Iowa, Mr. KING of New York, Mr. AL GREEN of Texas, and Mr. FARR.  
H. Res. 503: Mrs. ADAMS and Mr. SCOTT of South Carolina.  
H. Res. 532: Mr. ROKITA.  
H. Res. 543: Ms. BUERKLE, Mr. ISRAEL, Mr. NADLER, Mrs. MALONEY, Mr. TOWNS, Mr. HINCHEY, Mr. OWENS, Mr. KING of New York, Mr. SERRANO, Mr. RANGEL, Mr. TONKO, and Mr. GIBSON.

## SENATE—Wednesday, February 15, 2012

The Senate met at 9:30 a.m. and was called to order by the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York.

### PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Our Father and our God, who by Your word spoke the world into being, we acknowledge how little we often care about this world You love so much. We know little of where the world hurts and even less why.

Lord, use our Senators to ease the hurt in our world. As they encounter problems that seem to defy solutions, give them Your wisdom so they will not weary of well doing. May they be slow to anger and abounding in Your steadfast love.

We pray in Your merciful Name. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable KIRSTEN E. GILLIBRAND led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. INOUE).

The assistant legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, February 15, 2012.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York, to perform the duties of the Chair.

DANIEL K. INOUE,  
*President pro tempore.*

Mrs. GILLIBRAND thereupon assumed the chair as Acting President pro tempore.

### RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

### SCHEDULE

Mr. REID. Madam President, following leader remarks, the Senate will

be in a period of morning business until noon. The Republicans will control the first 30 minutes, and the majority the second 30 minutes.

At noon the Senate will resume consideration of the Jordan nomination to be a circuit court judge for the Eleventh Circuit. Following that vote, the Senate will resume consideration of the surface transportation bill. There could be additional rollcall votes on amendments to the bill today.

### AMERICA'S INFRASTRUCTURE

Mr. REID. Madam President, we are here today as a result of stalling by my Republican colleagues. We have a judge for whom the vote was overwhelmingly in his favor. It was 89 for him, with 4 or 5 against him on a motion to proceed. But now we are being forced to eat up 30 hours of valuable time, just sitting around and doing nothing. It is really unfortunate.

We have not confirmed the judge yet because under the rules I have had to file cloture on this noncontroversial judge. After I file cloture, and cloture is invoked, and then the Republicans get 30 hours under the Senate rules. This has happened scores of times—scores of times—during the past year, all last year, and certainly it is already happening this year. We can't move to anything unless we file cloture.

Early in this Congress, Senators TOM UDALL of New Mexico, MERKLEY of Oregon, and others suggested the rules be changed, and in good faith a number of Senators believed: Well, let's see how the system works if we make a few minor changes—hoping things would get better because they were told they would get better. We were told the other side would not make us file motions to proceed to every piece of legislation that came up. Absolutely untrue. We have virtually had to file cloture on everything. We have wasted weeks of this Congress, months of this Congress, on dilatory tactics.

We have a bill before this body that is so very important, creating 2 million jobs. Is it something that Senator BOXER, the chairman of the committee, and Senator INHOFE, the ranking member, just dreamed up and said let's try something new for a change? No. The legislation allowing us to have a highway system expires at the end of March. So we have to do something.

This isn't something where Senator BOXER said: Well, I think this is a great idea. Her idea is not unique, nor is Senator INHOFE's idea unique. It goes back to when Eisenhower was a major in the Army, and he was asked to bring a

caravan of vehicles across the country. He was struck with this idea when he saw that the roads were awful. So after his successful tour of duty in the military and he became President of our country, he decided he wanted to do something about it.

Here is what President Eisenhower did: He got the Congress to appropriate \$50 billion. In today's dollars, that would be  $\frac{1}{2}$  trillion. He got that through Congress. He wanted to build about 50,000 miles of roads in this country so that when another young major was directed to bring military vehicles across the country, he would have roads, highways, and freeways to do that. Eisenhower said it would free the Nation from the "antiquated shackles of secondary roads." That is what General Eisenhower said. It would give America a modern highway system for moving people and goods across the country.

Presidents since that period of time have recommitted to this idea. Johnson did it. Someone who spoke about it as much, if not more, than anyone since Eisenhower was President Reagan. Reagan said:

Common sense tells us it will cost a lot less to keep the [transportation] system we have in good repair than let it disintegrate and have to start over.

Since those 8 years of President Reagan, here is where we are today. We have 70,000 bridges in this country that are in a state of disrepair. They are unsafe.

I was in a meeting yesterday where they talked about a bridge in Reno, NV, that was built during the Depression by the Works Progress Administration. I was meeting with a flood control district from Washoe County, NV, and they said they have a bridge—a beautiful bridge—that is so unsafe they will not let schoolbuses drive over it anymore with kids in it. The bus can go without kids in it. There are hundreds and hundreds of bridges in our country in this same state of disrepair.

It is time to rebuild our crumbling infrastructure, and this bill does it in a good way. We talk about this system as if it didn't have any bearing on individuals, but people's lives depend on it—not only on the bridge I just talked about, but the highways I talked about and the sidewalks. We have a person injured or killed as a pedestrian every 7 minutes in the United States. Why? Because they are walking in unsafe conditions. There are lots of roads back here in Washington and lots of them in Nevada where there are no sidewalks. So investing in our infrastructure, as I have said, and I continue to say, will create 2 million jobs.



The Republican caucus is not doing this all in one big band. There are a few Republican Senators over there who are ruining it for everybody. No one can accuse JIM INHOFE of being some radical liberal. He represents the State of Oklahoma. So what do we have here? We have 100 amendments that have been filed already on this bill. Very few of them are related to the bill. We have an amendment that some refer to as an abortion amendment, we have some referring to an amendment dealing with contraceptives, and we have an amendment to cut off aid to Egypt.

Now, tell me, what in the world does aid to Egypt have to do with this highway bill? We have a Foreign Relations Committee. They have TV cameras there. Let them have a hearing in that committee, and the person offering the amendment can make his speech before the Foreign Relations Committee. There is no chance of this amendment passing. None. Zero.

Senator MCCAIN is going to Egypt next week. Why? Because he is a person who is an expert in foreign affairs. He is respected around the world, and he is going to go there to try to work with the Egyptians to resolve some of these problems. He does not even want this amendment to be voted on. He has told me that.

We have an amendment to keep poisons out of the air. It is called Boiler MACT. It is to keep arsenic and mercury and stuff out of the air—excuse me, to keep it in the air. I thank the Senator from California, chairman of that committee.

We have an amendment that takes us back to Keystone—building a pipeline from Canada to the southern part of our country. I would consider that or take a look at it. If they were going to use American products in doing that and the oil would be used in the United States, I might even consider that. I am not sure, but I would consider it. But that is not where we are.

So we have a handful of Republican Senators holding up what we are doing. Mrs. BOXER. Would the Senator yield for a question?

Mr. REID. I would be glad to yield to my colleague.

Mrs. BOXER. I thank the leader.

First, I just want to thank the Leader so much for his remarks this morning. They are so close to my heart. Frankly, they are close to the hearts of the members of the Environment and Public Works Committee and all the committees that have done their work in a bipartisan way. It is a unique moment when we have four committees complete their work and here we sit.

Before I ask my question, I think the people of this country need to understand what is going on. We are wasting, as my friend said, minute after minute, hour after hour, day after day because Republican Senators, for whatever their reasons, want to bring progress in

this country to a halt, to a stop. We have to wonder, is this politically motivated?

As my friend said, 2 million jobs are at stake. I would say to my friend, it is actually up to 2.8 million because there are 1.8 million jobs we protect, and up to 1 million new jobs we would create because of the bipartisan cooperation we have had across the board in the Senate on the highway bill. So I thank my friend.

My question is, Is my friend aware we have more than 1,000 organizations representing millions of Americans who are Republicans and Democrats and Independents, who work out there on the roads or who are the business leaders from the Chamber of Commerce to the AFL-CIO, to the general contractors or the granite people—it goes on and on—the cement people, to the coal ash people, and the fact is a thousand groups are out there and they are watching us, minute after minute?

I hope this is an opportunity to tell them to activate their people and let them know why we are not passing a bill that will save or create 2.8 million jobs and help our businesses across the board and help our States. When we talk about safety, as my friend pointed out, Senator INHOFE tells an eloquent story of a woman killed in Oklahoma walking with her child under a bridge and concrete falls on her. She is gone, and he is so motivated by that.

So I hope my friend will address whether he is aware of the broad support in America for this bill regardless of party label.

Mr. REID. I say through the Chair to my friend from California that yesterday I gave some remarks, and the outline of the speech mentioned there were scores of organizations supporting this bill. I looked at that and said to myself: There are hundreds and hundreds of organizations supporting this bill. So I recognize that, I say to my friend, the chairman of that committee.

To rub salt in the wound of what we are going through, the House of Representatives, led by the Republican caucus—which is overwhelmingly tea party—decided they were going to do some legislation.

That is dandy. Their legislation is so bad that the Congressional Budget Office said it would bankrupt the trust fund. We are trying to replenish the trust fund; they are bankrupting the trust fund. But as I hear on the news this morning, the Republican caucus over in the House is fractured, and now they can't figure out what to do with that bill. They are thinking, maybe we will break it into three different pieces. Even with the power of the tea party, it is so obnoxious and so out of control, that piece of legislation, they appear they are not going to allow a vote to take place on that bill itself because it is so bad.

There is a simple way to avoid this headache; that is, Democrats and Republicans work together. We are here. We want to do this. Let's assume that I decide to file cloture on this bill. What I would do is have a substitute amendment. Let's say I decide to do that. I can't imagine why the Republicans wouldn't join with us in doing that. If there is something in the substitute that I disagree with, the amendment process is still there. To not allow the bill to go forward is repulsive. I can't imagine how a majority of the Republicans who say they want this bill done wouldn't allow us at least to get on the bill itself and move forward with amendments.

I am terribly disappointed where we are. I hope the House will take a page out of our playbook over here and work together, as BOXER and INHOFE have done, to come up with a bill that is a good bill. That bill we are trying to get through was passed unanimously out of committee. So I am cautiously optimistic that the American people will see what is going on and put some pressure on my Republican colleagues to get this bill passed. It is just unfair what is happening on this and other pieces of legislation.

#### MEASURE PLACED ON CALENDAR—S. 2105

Mr. REID. Madam President, there is a bill due for a second reading, S. 2105. The ACTING PRESIDENT pro tempore. The clerk will read the bill by title for the second time.

The assistant legislative clerk read as follows:

A bill (S. 2105) to enhance the security and resiliency of the cyber and communications infrastructure of the United States.

Mr. REID. Madam President, I object to any further proceedings with respect to this bill at this time.

The ACTING PRESIDENT pro tempore. Objection is heard.

The bill will be placed on the calendar.

Mr. REID. Madam President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

#### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the

Senate will be in a period of morning business until 12 noon, with Senators permitted to speak therein for up to 10 minutes each and with the time equally divided and controlled between the two leaders or their designees, with the Republicans controlling the first 30 minutes and the majority controlling the second 30 minutes.

#### SURFACE TRANSPORTATION ACT

Mrs. HUTCHISON. Madam President, I wish to comment on the remarks of the leader just a few minutes ago.

I came to talk about the budget, which I want to do, that was produced by the President. But I will say we had a vote on going to the highway bill last week and the vote was 85 to 11. So Republicans are ready to go to the highway bill.

We have talked about what a great job Senator BOXER and Senator INHOFE did in the committee, working together, to produce a bill. Senator ROCKEFELLER and I have negotiated what is a good settlement on the Commerce part of that bill, and I think we are going to have to have separate votes on the party-line committee vote that was made in Commerce and have a compromise that I think Senator ROCKEFELLER and I will both support going forward.

But I think we just need to get on it. It is just time to go. We don't need to stand here and talk about not being able to move. Let's move. Republicans are ready. Let's go.

#### THE BUDGET

Mrs. HUTCHISON. Madam President, I do wish to speak about the fiscal year 2013 budget that came out this week from the President, and I guess I would start by saying here we go again. Here we go again.

We have another budget given to us by the President that increases spending and increases taxes to a huge extent. It is stunning, \$1.9 trillion in tax increases in the President's proposal over the next decade.

Instead of coming forward and giving responsible solutions to a \$1 trillion annual deficit—which is what we have, \$1 trillion. My gosh, we didn't even have debt that was \$1 trillion. Now we have debt that is almost \$16 trillion, and we are talking about more deficits?

Most important, the President didn't put anything in his budget on entitlement reform. So he gave us another budget proposal that spends too much, borrows too much, and taxes too much, which is the same thing that happened last year.

The President's request proposes \$11 trillion in gross new debt—\$11 trillion in gross new debt—over the next 10 years that would make our total national debt, if we stuck to this budget, \$25.9 trillion in 2022. Oh, my gosh, \$25.9

trillion, and we are talking about this as a serious proposal? These numbers are untenable. It is a path that is unthinkable for this country.

So \$1.4 trillion of the President's proposed tax increases over the next decade would fall on individuals. The budget that the President put forward explicitly states: Immediate broad tax cuts for the middle class are far more effective at creating jobs and growing the economy. I would agree with that. Broad tax cuts for the middle class would be effective at creating jobs and growing the economy.

But the President fails to acknowledge where the tax increases fall. It is on the people who own and work in small businesses, and they are the ones who have the ability to hire if we would let them.

According to the Joint Committee on Taxation, 50 percent of all flowthrough business income will be subject to the proposed tax increases. The National Federation of Independent Business reports that 75 percent of small businesses pay taxes on their business income at the individual tax rate because they are organized as flowthrough businesses, such as partnerships, S corporations, LLCs, and sole proprietorships. So the President is going to the heart of the potential hiring in our economy; that is, small business, and they are going to increase taxes.

I would say the constant drumbeat of this administration for new taxes is putting a blanket on present-day potential hiring. It is putting a blanket on growth because our small businesses see the President continuing to come forward again and again and again and talk about new taxes on the people who could create jobs.

Incredibly, the \$1 trillion in new taxes doesn't even pay down the debt. It doesn't lower the deficit. The new taxes the President is proposing just increase spending. Oh, my gosh. Instead of cutting deficits and responsible spending cuts, we are talking about new taxes and new spending.

Where have we heard this before? We have heard it out of Washington, DC, for years. It is the wrong approach, and it is why we are in trouble right now with a \$15 trillion debt.

Instead, we need to have sensible spending reductions that meet the caps set under the Budget Control Act and carefully considered investments in strategic, nationally important projects that will have a long-term effect on job increases because of creativity and entrepreneurship.

We must cut spending. It is simple. That is it. We have to cut spending if we are going to get our fiscal house in order.

Most important, we need to address entitlements, which the President did not do in his budget proposal. If there is anything urgent in this country that the President should take the leader-

ship position to do, it is a bipartisan approach to entitlement reform. Our fiscal problems are inextricably linked if we can't fix our broken entitlement system.

Today, mandatory spending—entitlements—are approximately 55 percent of our Federal budget. So we have less than half the budget in the discretionary spending that we pass appropriations for each year. If we don't take that other 50 percent and stop that growth, do you know what is going to happen?

According to the Congressional Budget Office, our mandatory spending by 2022—10 years from now—will be approximately 74 percent of total Federal spending. Over seventy percent of Federal spending will be mandatory. This is out of control.

If we are going to stop this growing deficit and debt cycle, we have to address entitlements. People are living longer than they were living when Social Security was passed in 1935, but we have not addressed that change in our demographics to make sure the program will last. The longer we put it off, the harder it is going to be. If we do not solve this problem, current and future retirees will confront a guaranteed 23 percent cut in benefits in 2036. In today's dollars, that would be a \$271 cut in a beneficiary's monthly payment. There is not anyone here who wants that to happen—we know that.

I have introduced legislation with Senator KYL, the "Defend and Save Social Security Act." It gradually increases the retirement age over 11 years—that is how gradual it is. It would go from 66 to 67 to 68 and end at 69—over 11 years. It is 3 months a year that the increase would occur, and it decreases the annual cost-of-living adjustment if it exceeds 1 percent. When inflation goes above 1 percent, the cost-of-living adjustment will kick in. So if you have rampant inflation, such as 2 or 3 percent, there will be a cost-of-living adjustment. My bill with Senator KYL will make the Social Security trust fund solvent through 2085 without raising taxes or cutting core benefits.

Saving our programs, such as Social Security and Medicare, will require bipartisan leadership. We cannot do it with one party. We cannot do it with one party because of the 30-second ad. We must do it together.

I know my time is up, and my colleague from Arkansas is on the Senate floor. I would just say that we could cut \$416 billion, nearly  $\frac{1}{2}$  trillion over 10 years, if we would start addressing just Social Security right now. Let's do it with bipartisan leadership, starting with the President, the Senate, which is controlled by Democrats, and the House, which is controlled by Republicans. We will have to do it together. Let's do it.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arkansas is recognized.

Mr. BOOZMAN. Madam President, on Monday morning the country was presented with President Obama's budget proposal for the fiscal year. If you were only to listen to the President and his advisers, you would think this proposal is great for the Nation. The Acting Budget Director says the President's budget "makes the right investments." The head of the President's National Economic Council used several sports metaphors to make the case that "the President has very much stepped up to the plate," and the President himself said his budget makes "some tough choices in order to put the country back on a more sustainable fiscal path." The reason they are so excited about this proposal is that they believe, in an election year, they have offered every ally something to woo their support. This budget proposal truly does try to be everything for everyone. The problem is that no one wins with it.

When you scratch the surface of this proposal, the shine quickly wears off. The deficit reduction claims the administration throws out to defend this proposal simply do not hold water. You cannot claim \$1 trillion in cuts that Congress pushed through during the debt ceiling debate as new cuts, nor can you say with all honesty that \$850 billion in war savings are real cuts. This money was never going to be spent in the first place.

When you get down to it, President Obama was never serious about his pledge to cut the deficit in half by the end of his first term. Like every budget this administration has proposed, this one was written with red ink. The deficit spending proposed in the President's fiscal year 2013 budget topped \$1 trillion again. This is simply an unsustainable rate of spending.

On Monday, the President's team was doing a full-scale PR push for that budget. At one point during the rollout, a reporter asked the President's top economic aides what ever happened to that pledge the President had made to the American people. Gone from their answers was the tough talk about making difficult decisions and facing challenges we have long neglected. Instead, his advisers were left to pull out the old standby excuse that the President's team simply did not realize how bad the economy actually was when they first took over.

Clearly, they still do not realize it now. Not only does the President's budget ignore the very real disarray our fiscal house is in, it makes it worse. Since President Obama took office, our national debt has shot up 42 percent. Under President Obama's watch, the national debt has jumped to a jaw-dropping \$15.1 trillion. This is the fourth year in a row that the budget

would run a deficit above \$1.29 trillion. When it comes to fiscal responsibility, this is not a record of which to be proud.

America deserves better than a collection of tax hikes, phony savings, and additional debt. The President's budget proposal is bad for seniors, as it takes no steps to protect and strengthen Medicare and Social Security. It will hurt the chances of an economic recovery through tax hikes and will add \$11 trillion more to our already staggering national debt in a 10-year period. We cannot continue to keep going down this road. America's fiscal health is at stake. We have to stop spending more than we take in. If not, we risk going in the direction of Greece, Portugal, Italy, and other European countries that have spent their way to the brink of default.

As we head into the final year of President Obama's first term, we have already witnessed the most rapid increase in debt under any U.S. President. With our national debt already the size of our entire economy, the President has proposed a budget that calls for hundreds of billions of dollars in new spending. If we follow through with this budget, deficit spending would exceed \$600 billion every year but one over the next decade. Our national debt would grow to \$18.7 trillion.

President Obama would like you to believe that if we simply raise taxes we can solve all of our fiscal problems. A recent CBO report shows that spending is the primary cause of our fiscal crisis and supports spending cuts rather than tax increases to reverse the trend. But the President is holding steadfast to his desire to raise taxes as an answer. The President's failed policy of borrowing, spending, and taxing is just what the CBO is warning us to avoid. It has not worked in the past, and it will not work in the future.

Washington does not have a revenue problem. Washington has a spending problem. The fact that President Obama still believes we can tax our way out of the problem reveals a huge disconnect with the American people. When it comes to our country's budget, Americans have a right to expect accountability, honesty, and responsibility. This proposal has none of those.

If President Obama refuses to acknowledge and address the very real economic crisis facing our country, let's show America that we will. We can do so by rejecting the White House's proposal and passing a responsible budget that puts our Nation back on a fiscally responsible path.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. MIKULSKI. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Ms. MIKULSKI. Madam President, now what is the pending business?

The ACTING PRESIDENT pro tempore. The Senate is in a period of morning business.

#### SURFACE TRANSPORTATION ACT

Ms. MIKULSKI. Madam President, I wish to claim 10 minutes to speak on behalf of a bill which I hope will return to the Senate today, which is the surface transportation reauthorization bill. I hope we take it up. I hope we actually vote on it, and I hope there are not a lot of extraneous amendments that are not relevant to getting America moving again, creating jobs that result in public safety, a better environment, and people actually working. What I like about the surface transportation reauthorization bill is that, in effect, this could be the only vehicle we have that is a version of the infrastructure bank, a topic on which I know the Presiding Officer has worked assiduously.

We need an infrastructure bank. We need to have jobs in construction to build highways, byways, subways, and we can do it, but it looks as though it will be difficult to do. In the meantime, we have a regular order bill, the surface transportation reauthorization bill. This is the bill that Congress reauthorizes every couple of years to do construction on highways, byways, and beltways, and at the same time in the very important area of mass transit, something the gentlelady from New York knows is important since she has one of the busiest subways in America. We have a busy subway called the Metro, and I am going to talk about that in a minute.

Right now we must pass this long-term transportation bill to put people back to work, repair our aging roads and bridges and tunnels, keep the public safe, and lower our carbon footprint. This is a bipartisan bill, and it is actually paid for and meets a sense of a frugal government but smart spending. It is time to show the American people that we can govern, that we can actually pass legislation in a regular order, conducting ourselves with civility as we debate our amendments.

We have to keep America rolling. This is a jobs bill. One of the best ways to put people to work is through infrastructure projects. It builds America and builds our economy. This bill will contribute to saving over 1.8 million jobs and actually creates new jobs in construction, in the supply chain, and in design and engineering, and all the vendors it supports.

In my own home State we estimate that 10,000 jobs will be created if we pass this bill. I cannot speak about this in a more firm and insistent way. When

I met with the building trades guys, it was a bleak conversation with the unemployment rate in construction still sky-high. This bill will jump-start the economy. All the people who analyze this type of data say that for every dollar we spend on infrastructure construction, we get \$2 in economic output back into our economy through the multiplier effect.

Let's do an inventory of why this is a compelling need. We know we have a high unemployment rate and that we are running big debts and we are running deficits. One of the ways to reduce the debt and the deficit is to have people working where they are paying revenue in to the government. We also have an infrastructure deficit. Do you know that right now 700,000 bridges are structurally deficient? That is not a fact, that is a danger zone. Fifty percent of our roads are in need of serious repair. More than 4 million people travel over these bridges every day. This would address that kind of problem.

Then there is this whole issue of, again, roads, highways, byways, and beltways. There is also the issue of mass transit. One of the parts of the bill I am most proud of is creating Federal safety standards for the metro systems nationwide.

On June 22, 2009, there was a terrible accident in the national capital region. Nine people were killed and 50 more injured in a terrible metro transit accident when a red line train struck another train. The woman who was the conductor on that train tried valiantly to save her passengers. She died as a result. Well, we went to the funerals, we listened to the people, and we always say: We will never forget, but we do. Well, I didn't forget and the Maryland delegation didn't forget. BEN CARDIN didn't forget, CHRIS VAN HOLLEN didn't forget, and DONNA EDWARDS didn't forget. We worked very hard in creating legislation. The first thing we did was listen to the National Transportation Safety Board that gave us recommendations and said there was not only a failure of Metro being fit for duty, but all of the transit systems in America face this kind of risk where there is a failure of technology, the failure of cars to be crash resistant, the failure to have exit doors, and the failure to have a black box.

When you look at the Congress, we are the failure. Give us an F because we have safety standards for how you open a bottle cap but not how you open a subway car in a disaster. So it wasn't Senator BARB making up safety rules on her own; we went and listened to the National Transit Safety Board. I put in legislation to give the Federal Transit Administration the authority to establish and enforce national safety standards for Metro. We had aggressive oversight hearings. Metro leadership initially was dragging its axles, but I wouldn't take no for an answer. We

shook up the management, we shook up the board, and now I want to shake up the Congress.

I want to thank Senator BOB MENENDEZ. He had a parallel bill. I want to thank TIM JOHNSON, the chair of the committee. They have taken my ideas and have actually done a version of their own, and working together we have come up with a great solution that has bipartisan support. This checklist for change that I insisted on would replace the oldest cars in the fleet. It would develop real-time automatic controls so that technology would have redundancy in it. It would develop a training and certificate program so that the personnel not only know how to operate their cars but what to do in the danger zones. Run-away cars make a great movie. Denzel Washington did that one, but I don't want to see another movie where there is another transit system that went through the horrific accident here in the national capital region.

In this checklist for change legislation, working again with Senator MENENDEZ, my colleague Senator CARDIN, whom I cannot give enough credit to, our new bill gives the Transportation Secretary, Mr. LaHood, authority to establish and enforce safety standards, and allows Federal funding for these safety improvements. I am pleased that this was inculcated.

The story goes one step farther, and this is an example. Last year, through the appropriations, I was able to get funding, working with Senator MURRAY, to be able to replace the Metro cars, the ones that are old, dated, and cannot withstand all the problems I just enumerated.

I am going to tell you the rest of the story as if Paul Harvey were on the floor. A couple of weeks ago during one of our work weeks when we were visiting our constituents, I went to a place called Knorr Brakes in Carroll County, which was once very rural. Knorr Brakes actually makes the brakes for these Metro cars and makes the brakes for Amtrak and makes the brakes for many transit systems in the United States of America. Because of the improvements at Metro, they have been able to hire more people.

I wish you could have walked that factory floor with me. It is not your grandfather's factory floor, which was often dark and dangerous. It is clean, uses the best of engineering, a few robots, engineers, with skilled blue-collar workers who are machinists who are working on this very specialized equipment. These brakes have to work, and they are the best in the world. Workers in Maryland are the best in the world. Yes, they are part of a German holding company, so we are ready to be global, and at the same time they are fixing not only Washington's Metro but they are working on transit systems.

My whole point is smart funding in the area of infrastructure and in trans-

portation safety creates American jobs. Every time we modernize our transit fleet, we are building railroad cars in the United States of America. Many of those brakes that will go on that car will be made in Maryland by Maryland workers, competing with other American companies. And you know what. That is what it is all about. That is smart funding that creates safety and creates jobs.

I want to thank the Banking Committee for including this, and I also want to thank all three committees: Banking, Environment, and Public Works, under the leadership of Senator BOXER and Senator INHOFE, Senator BAUCUS, Senator GRASSLEY, Senator TIM JOHNSON, and my colleague from Alabama, Senator SHELBY.

This could be a great day. This could be a great day or a great week. But, yes, while we are working on the payroll tax and its temporary holiday, the real thing we could get done this week is to pass this legislation. America will be safer, our economy will grow, and it will be a win-win situation.

Madam President, I want to thank you for your kind attention. I want to thank all my colleagues who worked on a bipartisan basis. We actually listened to each other. I had a set of ideas. Others had as well. Some had flashing lights about costs, we went back and forth, and that is the subject of negotiation, and we were able to do it. I think we have come up with a great bill for surface transportation. We have come up with a great bill for transit safety, and I am going to be happy to vote for it. Let's get Congress rolling so we can get our economy rolling.

I yield the floor. I note the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

Mr. BARRASSO. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### A SECOND OPINION

Mr. BARRASSO. Madam President, I come to the floor because of a new report that has come out by the chief economist of Gallup, the polling organization, dated today, February 15, 2012. The headline is: "Health Costs, Gov't Regulations Curb Small Business Hiring."

As a Member of the Senate as well as a physician who has taken care of families across the State of Wyoming for about a quarter of a century, I am concerned about jobs in this country, the economy in this country, and also the health care needs of the American people, which is why week after week I come to the Senate floor with a doctor's second opinion about a health care law that was supposed to give people what they were looking for, which

was the care they need, from the doctor they want, at a cost they can afford.

Regrettably, what this President and this Senate and this House—at the time controlled by the Democrats—gave them is something very different. So the result of this report today—first line: U.S. small business owners who aren't hiring, that is 85 percent of the 600 who were surveyed, those small business owners who are not hiring are being asked: Why not?

Nearly half the small business owners point to the potential health care costs and government regulations as two big reasons. Those worried about the potential cost of health care: 48 percent. Those worried about new government regulations: 46 percent.

But yet when the President addressed the Nation about health care, what he promised was that if people liked the care they had, they could keep it, and they would see their premiums drop by \$2,500 a year a family.

When I have townhall meetings, I ask how many people believe the health care costs are going to go up as a result of the health care law. Every hand goes up in the room. So the President has misled the American people both in terms of the cost of the health care law as well as he misled the people in regard to regulations. He stood in front of us in the House of Representatives as he gave his State of the Union Address and talked about removing expensive regulations. But that is not what the small business owners, those who create the jobs in this country, that is not what they are finding.

Then the President came out with his budget on Monday. It is his fiscal year 2013 budget. As I have said before, it is "debt on arrival." The Obama budget spends \$3.8 trillion. It runs a deficit of nearly \$1 trillion. It raises taxes by nearly \$1.9 trillion. It is the largest tax increase in the history of our country, and it is the fourth year in a row to run a deficit of over \$1 trillion.

Yet the President goes on. To me, this is another clear example of President Obama's lack of leadership and his bad habit of saying one thing and doing the exact opposite. Instead of saving money, which he promises, he just spends more. Instead of leveling with the American people about our fiscal future, he misleads them.

So I would like to focus on one specific part of this budget. It is the part referring to and regarding the President's health care law. As we all remember, the President promised the American people repeatedly, not just once but repeatedly, that his health care reform would not add a dime to the deficit. Two years later, the American people know that is just not true. In fact, the President's new budget asks for almost \$1 billion—\$1 billion, that is 1,000 million—\$1 billion to fund his health care exchange.

As The Hill newspaper recently reported, "The health reform law did not set aside any money specifically for the creation of the Federal exchanges." Let me repeat that. The health care law did not set aside any money specifically for the creation of the Federal exchanges.

Two years ago, did the President and my friends on the other side of the aisle seriously believe Washington would be able to implement an unprecedented health care exchange for free, that it would just be free? Of course not. But the fact is, they knowingly—knowingly—ignored the costs of the President's major new entitlement program. Why?

To try to score a political victory. What do we know about that victory? We know it is going to be bad for patients, bad for the providers, the nurses and doctors who take care of those patients, and bad for the American taxpayers. The health care law, when it was crammed down the throats of the American people and forced through Congress, we knew it was unpopular then, and we know it is even more unpopular today.

The whole time the Democrats were drafting the bill behind closed doors, right outside this Senate Chamber, they knew it would cost American taxpayers billions and billions of dollars. But they did not want to admit it. They did not admit it. They refused to admit it. So they shaded the numbers. They punted this down the road. Here we are 2 years later and now they are finally trying to pay for it—listed in the President's budget.

To make matters worse, the 2013 Obama budget wants to spend \$290 million for "consumer beneficiary education and outreach" within the exchanges. What does this mean? It basically means they want to educate Americans about the exchanges in the health care law to the tune of 290 million of taxpayer dollars.

I think it is important to keep the American people informed. But my question is: Why are President Obama and the Democrats in Congress focused on educating people about the health care law now? Why? Why didn't they take the time 2 years ago to educate the American people about the exchanges and the costs of doing this?

We know the reason. The reason is because they knew the American people would never support the new law, would never give up their freedoms. Instead, the White House and Democrats in Congress covered up the costs, drafted the bill behind closed doors, and jammed it through Congress.

Now the financial bills are coming due, but the checks are not in the mail. The United States is running out of money and running out of money fast. Instead of proposing a serious budget that would get our country back on the right track, the President has put forward

not a serious budget but a campaign document. No matter what he says, he is much more interested in winning votes now than in winning what he calls the future.

Earlier this week, the President spoke to students at a community college. He said his budget would make their futures brighter. I watched on television as he said that. His words could not have been further from the truth. The fact is, the President and his budget will make these students have to work even harder to pay off the Nation's increasingly growing debt. These students and all future generations of Americans will pay for the choices they never made and programs they do not want.

The new \$800 million pricetag on the exchanges is bad, and that is just the beginning. In fact, the cost of the President's health care law is going to continue to skyrocket each and every year. When we are already \$15 trillion in debt, we cannot allow this health care law to move forward. When we look at trillion-dollar deficits for each of the 4 years of the Obama Presidency, we say this cannot continue. Yet when we look at this budget, it adds \$11 trillion to the national debt over the next 10 years.

We need to repeal this health care law. We need to replace it with something that will not make it harder for future generations to get out of debt, and we need to pass a law that will allow Americans to get what they wanted in the first place; the care they need, from a doctor they want, at a price they can afford.

I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MERKLEY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### SECURE RURAL SCHOOLS

Mr. MERKLEY. Madam President, I rise to draw my colleagues' attention to an issue of great importance to our rural communities. If Congress does not act, many of our rural counties will face an increasingly dire state of affairs in the months to come. Across the United States, timber counties are facing local budgets suddenly and deeply in the red. This fiscal crisis could mean reduced schooldays, fewer sheriffs, more offenders on the street, and cuts to other basic county services.

Congress has the power to avert this impending disaster, and Congress must utilize that power. So we must act without delay to extend the Secure Rural Schools and Communities Self-

Determination Act. Secure Rural Schools is not an entitlement program; it is a commitment this Nation, our Federal Government, made to rural forest counties out of fairness and common sense when it determined it would put environmental overlays over large blocks of forest land that we dedicated to timber production with revenue shared with the local county. This contract between the Federal Government and our rural counties has been at the foundation of our National Forest System, and we in this Chamber need to honor it. Many folks come here and talk about how the Federal Government needs to uphold its share of the bargain. Well, this is an explicit contract with our rural counties, and we need to uphold that bargain.

Since 1908—more than 100 years—the Federal Government has appropriately shared timber revenues with counties for the infrastructure they develop because this timber land is in Federal hands and produces no property tax revenue to support that infrastructure.

Let me give some background on what the scale of this issue is for States such as Oregon. Oregon has 2.2 million acres of O&C lands. These lands were granted to the Oregon and California Railroad in 1866 and later reverted to the Federal Government when the railroad failed to live up to its terms of the grant. They also included a class of lands that originated from a similar situation—the Coos Bay Wagon Road lands. These lands make up a large percentage of the acreage in southern and western Oregon. Then there are Forest Service lands—timbered lands owned by the Federal Forest Service—that make up 14 million additional acres across the State of Oregon. When you add it all together, more than half of Oregon's lands are federally owned. That means they do not produce a penny of property taxes to support infrastructure in our rural counties. The O&C lands and the Wagon Road lands were dedicated to timber production, with the counties receiving 50 percent of all revenues. Counties with national forest lands received 25 percent of the timber revenues. This created jobs and a source of money to provide counties with that needed infrastructure.

In the early 1990s timber production began a long decline—a precipitous decline. Trends such as automation and trade hit the sector hard, as they had so many more sectors. On top of this, there were the environmental overlays that dramatically reduced timber harvesting.

To compensate for the newly imposed Federal structure that changed the entire pattern of timber production in our rural counties, our National Government developed the Secure Rural Schools Program to provide payments to counties based on historic timber harvest levels but no longer tied directly to the annual timber harvest.

This type of arrangement is not unique to Oregon, nor are the problems arising from the lapse of the Secure Rural Schools Program. There are a great many States, particularly in the West, where much of the land is federally owned and counties rely on this program and similar programs to support key infrastructure.

It is no wonder that when the Secure Rural Schools payments lapsed in 2006, drastic measures had to be taken to adjust to the loss. Let me give some sense of what this is like in Oregon.

In Josephine County—southern Oregon—two-thirds of the county's general fund came from county payments. So loss of county payments means cutting public safety programs. Overnight, in 2006, patrols were cut down to just six individuals to cover an area the size of the State of Rhode Island.

In Lake County, where Federal lands make up 61 percent of the county, they cut their Federal road department from 42 individuals to 14—14 folks for a road department covering a land area equal to the combined size of Connecticut and Delaware.

In Jackson County, where one-third of the general fund comes from Federal payments, the county eliminated 117 jobs in parks, human services, roads, and public safety, and they closed all of their libraries.

Let me be clear. When the Federal Government fails to uphold the contract it has struck with our rural timber counties, the suffering is intense. It is an embarrassment that we would permit the Federal Government not to fulfill its commitment under this framework.

This impact is so substantial that the Oregon Legislature, when I was serving as speaker, redirected \$50 million in transportation funds to the rural counties. In the year of 2007, I organized a bipartisan, bicameral tour of our most affected counties. We went out to talk to the county officials, and when we came back I advocated for and supported this \$50 million emergency transfer to compensate for the fact that the Federal Government was breaking its contract with the timber counties in America. Let's not let that happen again.

Later, Congress restored this contract. But here we are now, 5 years later, facing the worst-case scenarios all over again. As Yogi Berra said, it is *deja vu* all over again. Because we failed to pass an extension before we left for the holidays, the last payment occurred a few weeks ago and timber counties don't know what is going to happen now. They would like to think folks in this Chamber will honor and support sustaining this Federal contract with our rural timber counties, but this Chamber has to act to make that happen.

The Eugene Register-Guard recently published an editorial about the situation in Lane County, stating:

The emerging picture looks like a multi-car pileup on Interstate 5.

Lane County is facing a \$14 million shortfall. More than half of this—\$7.2 million—will have to be absorbed by the sheriff's office. What does that mean for Lane County? It means the end of 24-hour patrol, with coverage limited to just 16 hours a day. It means so few officers that they would be unable to respond except “to the most serious of crimes.” It means parole and probation supervision will be eliminated for hundreds of offenders and 130 jail beds would have to be closed. In addition, the district attorney's office faces a \$1.9 million reduction in county funding, which would mean the loss of between 12 to 20 employees in the criminal division and potential shutdown of the county's medical examiner's office. And this is one of the counties that is in better shape. Others could go bankrupt as early as June of this year. As the Register-Guard newspaper says, it is “a dire predicament, and in desperate need of help from Congress.”

Rural counties in Oregon and elsewhere deserve to have the Federal Government honor its contract and to have the peace of mind that funds guaranteed to pay for their infrastructure are there—for the roads, for schools, for public safety. In this contract between the Federal Government and rural America, the Federal Government must uphold its end of the bargain. Rural counties have been on a roller coaster for far too long. They have been flying off the tracks. Pick any metaphor you want—a pileup on I-5, a roller coaster or a train running off the tracks—this is the situation in our rural timber counties. And those Members who don't have rural counties have other situations where there are vital Federal commitments. This one must be honored by this Chamber.

The first step is to extend the Secure Rural Schools Program as soon as possible. President Obama has supported and proposed and included in his budget a 5-year reauthorization of Secure Rural Schools and has made it mandatory spending. This short-term funding is a critical bridge to maintain schools and law enforcement in timber counties while we work for a viable long-term, sustainable management solution for Federal forests.

I want to be clear. Timber counties would rather have forest practices that allow sustained production of timber, as these lands were dedicated to. That creates jobs, it supports the whole supply chain, and it provides logs to the independent mills that don't own their own forest land. That is the vitality of rural communities.

My father worked at a sawmill when I was born—Harbor Plywood in Riddle, OR, and I lived in the adjoining town of Myrtle Creek.

Those of us with a timber background understand the essential nature



of this Federal contract. We must get it done in this Chamber. I urge my colleagues to support it.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. ALEXANDER. Madam President, I ask unanimous consent to speak as in morning business for 10 minutes, and I would ask the Chair to please let me know when 8 minutes has expired.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### PAYROLL TAX EXTENSION

Mr. ALEXANDER. Madam President, there are reports in some of the newspapers this morning that there is an effort to try to slip into the negotiation about extending the payroll tax break for the next year a big loophole for the rich and for the investment bankers and for most of the people President Obama keeps talking about as people whose taxes he would like to raise. What I mean by this is I have heard there may be an effort to put into the payroll tax agreement a 4-year extension of the so-called production tax credit, which is a big tax break for wind developers. I cannot think of anything that would derail more rapidly the consensus that is developing about extending the payroll tax deduction than to do such a thing. We are supposed to be talking about reducing taxes for working people. This would maintain a big loophole for investment bankers, for the very wealthy, and for big corporations.

We hear a lot of talk about Federal subsidies for Big Oil. I would like to take a moment to talk about Federal subsidies for Big Wind—\$27 billion over 10 years. That is the amount of Federal taxpayer dollars between 2007 and 2016, according to the Joint Tax Committee, that taxpayers will have given to wind developers across our country. This subsidies comes in the form of a production tax credit, renewable energy bonds, investment tax credits, federal grants, and accelerated appreciation. These are huge subsidies. The production tax credit itself has been there for 20 years. It was a temporary tax break put in the law in 1992. And what do we get in return for these billions of dollars of subsidies? We get a puny amount of unreliable electricity that arrives disproportionately at night when we don't need it.

Madam President, residents in community after community across America are finding out that these are not your grandma's windmills. These gigantic turbines, which look so pleasant on the television ads—paid for by the people who are getting all the tax breaks—look like an elephant when they are in your backyard. In fact, they are much bigger than an elephant. They are three times as tall as the sky boxes at Neyland Stadium, the Univer-

sity of Tennessee football stadium in Knoxville. They are taller than the Statue of Liberty in the home State of the Presiding Officer. The blades are as wide as a football field is long, and you can see the blinking lights that are on top of these windmills for 20 miles.

In town after town, American residents are complaining about the noise and disturbance that come from these giant wind turbines in their backyards. There is a new movie that was reviewed in the New York Times in the last few days called "Windfall" about residents in upstate New York who are upset and have left their homes because of the arrival of these big wind turbines. The great American West, which conservationists for a century have sought to protect, has become littered with these giant towers. Boone Pickens, an advocate of wind power, says he doesn't want them on his own ranch because they are ugly. Senator KERRY, Senator Kennedy, Senator WARNER, and Senator SCOTT BROWN have all complained about the new Manhattan Island sized wind development which will forever change the landscape off the coast of Nantucket Island.

On top of all that, these giant turbines have become a Cuisinart in the sky for birds. Federal law protects the American eagle and migratory birds. In 2009, Exxon had to pay \$600,000 in fines when oil developments harmed these protected birds. But the Federal Government so far has refused to apply the same Federal law to Big Wind that applies to Big Oil, even though chopping up an eagle in a wind turbine couldn't be any better than its landing and dying on an oil slick. And wind turbines kill over 400,000 birds every year.

We have had some experience with the reliability of this kind of wind power in the Tennessee Valley Authority region. A few years ago TVA built 30 big wind turbines on top of Buffalo Mountain. In the Eastern United States, onshore wind power only works when the wind turbines are placed on the ridge lines of Americas most scenic mountains. So you will see them along the areas near the Appalachian Trail through the mountains of scenic views we prize in our State. But there they are, 30 big wind turbines to see whether they would work. Here is what happened:

The wind blows 19 percent of the time. According to TVA's own estimates, it is reliable 12 percent of the time. So TVA signed a contract to spend \$60 million to produce 6 megawatts of wind—actual production of wind—over that 10-year period of time. It was a commercial failure.

There are obviously better alternatives to this. First, there is nuclear power. We wouldn't think of going to war in sailboats if nuclear-powered submarines and aircraft carriers were available. The energy equivalent of

going to war in sailboats is trying to produce enough clean energy for the United States of America with windmills.

The United States uses 25 percent of all the electricity in the world. It needs to be clean, reliable electricity that we can afford. Twenty percent of the electricity that we use today is nuclear power. Nearly 70 percent of the clean electricity, the pollution-free electricity that we use today is nuclear power. It comes from 104 reactors located at 65 sites. Each reactor consumes about 1 square mile of land.

To produce the same amount of electricity by windmills would mean we would have to have 186,000 of these wind turbines; it would cover an area the size of West Virginia; we would need 19,000 miles of transmission lines through backyards and scenic areas; so 100 reactors on 100 square miles or 186,000 wind turbines on 25,000 square miles.

Think about it another way. Four reactors on 4 square miles is equal to a row of 50-story tall wind turbines along the entire 2,178-mile Appalachian Trail. Of course, if we had the turbines, we would still need the nuclear plants or the gas plants or the coal plants because we would like our computers to work and our lights to be on when the wind doesn't blow, and we can't store the electricity.

Then, of course, there is natural gas, which has no sulfur pollution, very little nitrogen pollution, half as much carbon as coal. Gas is very cheap today. A Chicago-based utility analyst said: Wind on its own without incentives is far from economic unless gas is north of \$6.50 per unit. The Wall Street Journal says that wind power is facing a make-or-break moment in Congress, while we debate to extend these subsidies. So that is why the wind power companies are on pins and needles waiting to see what Congress decides to do about its subsidy.

Taxpayers should be the ones on pins and needles. This \$27 billion over 10 years is a waste of money. It could be used for energy research. It could be used to reduce the debt. Let's start with the \$12 billion over that 10 years that went for the production tax credit. That tax credit was supposed to be temporary in 1992.

Today, according to Secretary Chu, wind is a mature technology. Why does it need a credit? The credit is worth about 3 cents per kilowatt hour, if we take into account the corporate tax rate of 35 percent. That has caused some energy officials to say they have never found an easier way to make money. Well, of course not.

So we do not need to extend the production tax credit for wind at a time when we are borrowing 40 cents out of every dollar, at a time when natural gas is cheap and nuclear power is clean and more reliable and less expensive.



I would like to see us put some of that money on energy research. We only spend \$5 billion or \$6 billion a year on energy research: clean energy research, carbon recapture, making solar cheaper, making electric batteries that go further. I am ready to reduce the subsidies for Big Oil as long as we reduce the subsidies for Big Wind at the same time.

So let's not even think about putting this tax break for the rich in the middle of an extension of a tax deduction for working Americans this week. Let's focus on reducing the debt, increasing expenditure for research, and getting rid of the subsidies.

Twenty years is long enough for a wind production tax credit for what our distinguished Nobel Prize-winning Secretary of Energy says is a mature technology.

I ask unanimous consent to have printed in the RECORD a film review from the New York Times on February 3 entitled, "Turbines in the Backyard: The Sound and the Strobes." This is about the movie "Windfall," about upstate New York communities that have experienced having these huge things in their backyards. An article by Robert Bryce, "Why The Wind Is Full of Hot Air and Costing You Big Bucks," an article from the Los Angeles Times on wind farms, and another article from February 2 in the Globe, "Town turns off wind, opts for solar energy."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Feb. 2, 2012]

**TURBINES IN THE BACKYARD: THE SOUND AND THE STROBES**

(By Andy Webster)

We can all agree that energy independence is a worthy objective, right? Alternative energy sources like solar power can help free the United States from fossil fuels and the grip of unstable Persian Gulf states. And wind power—wait, not so fast, says "Windfall," Laura Israel's urgent, informative and artfully assembled documentary. An account of rural Meredith, in upstate New York, when wind turbines came to town, the film depicts the perils of a booming industry and the bitter rancor it sowed among a citizenry.

In 2004 residents of this once-flourishing dairy center were approached by companies offering to pay a nominal fee to erect turbines on their property while insisting on confidentiality agreements (to keep competitors ignorant of costs). Economically beset, some people, like Ron and Sue Bailey, jumped at first. But others, like Keitha Capouya, now the town supervisor, dug into the research and sounded an alarm.

Turbines are huge: some are 40 stories tall, with 130-foot blades weighing seven tons and spinning at 150 miles an hour. They can fall over or send parts flying; struck by lightning, say, they can catch fire. Their 24/7 rotation emits nerve-racking low frequencies (like a pulsing disco) amplified by rain and moisture, and can generate a disorienting strobe effect in sunlight. Giant flickering shadows can tarnish a sunset's glow on a landscape.

People in Lowville, N.Y., farther north, express despair on camera at having caved to

the wind companies' entreaties; Bovina, N.Y., banned turbines entirely. Meredith is riven by the issue, which pits the Planning Board against the Town Board and neighbor against neighbor. Former city dwellers escaping urban anxieties are surprised to see themselves as activists. Concerns like setback (the distance of turbines from a property line) are debated.

Government officials are seen only in glimpses of television talk shows. Conspicuously absent are representatives of corporations like Airtricity, Enxco or Horizon Wind Energy (though the financier and wind advocate T. Boone Pickens comes off as a wolf in good-old-boy clothing). And despite Ms. Israel's inspired use of a local demolition derby as a metaphor for Meredith's struggles, her accelerated pacing almost overheats.

But the film's implications are clear: The quest for energy independence comes with caveats. Developers' motives must be weighed, as should the risks Americans are willing to take in their own backyard. Despite BP's three-month blanketing of Gulf of Mexico beaches in crude oil; the nuclear disaster in Fukushima, Japan; and the possible impact of hydraulic fracturing (fracking) on the water table, energy companies remain eager to plunder nature's bounty in pursuit of profit.

[From FoxNews.com, Dec. 20, 2011]

**WHY THE WIND INDUSTRY IS FULL HOT AIR AND COSTING YOU BIG BUCKS**

(By Robert Bryce)

The American Wind Energy Association has begun a major lobbying effort in Congress to extend some soon-to-expire renewable-energy tax credits. And to bolster that effort, the lobby group's CEO, Denise Bode, is calling the wind industry "a tremendous American success story."

But the wind lobby's success has largely been the result of its ability to garner subsidies. And those subsidies are coming with a big price tag for American taxpayers. Since 2009, AWEA's largest and most influential member companies have garnered billions of dollars in direct cash payments and loan guarantees from the US government. And while the lobby group claims to be promoting "clean" energy, AWEA's biggest member companies are also among the world's biggest users and/or producers of fossil fuels.

A review of the \$9.8 billion in cash grants provided under section 1603 of the American Recovery and Reinvestment Act of 2009 (also known as the federal stimulus bill) for renewable energy projects shows that the wind energy sector has corralled over \$7.6 billion of that money. And the biggest winners in the 1603 sweepstakes: the companies represented on AWEA's board of directors.

An analysis of the 4,256 projects that have won grants from the Treasury Department under section 1603 over the past two years shows that \$3.37 billion in grants went to just nine companies—all of them are members of AWEA's board. To put that \$3.37 billion in perspective, consider that in 2010, according to the Energy Information Administration, the total of all "energy specific subsidies and support" provided to the oil and gas sector totaled \$2.84 billion. And that \$2.84 billion in oil and gas subsidies is being divided among thousands of entities. The Independent Petroleum Association of America estimates the US now has over 14,000 oil and gas companies.

The renewable energy lobby likes to portray itself as an upstart industry, one that is

grappling with big business and the entrenched interests of the hydrocarbon sector. But billions of dollars in 1603 grants—all of it exempt from federal corporate income taxes—is being used to fatten the profits of some of the world's biggest companies. Indeed, the combined market capitalization of the 11 biggest corporations on AWEA's board—a group that includes General Electric and Siemens—is about \$450 billion.

Nevertheless, the clock is ticking on renewable-energy subsidies. The 1603 grants end on December 31 and the renewable-energy production tax credit expires on January 1, 2013. On Monday, AWEA issued a report which predicted that some 37,000 wind-related jobs in the US could be lost by 2013 if the production tax credit is not extended.

But the subsidies are running out at the very same time that a cash-strapped Congress is turning a hard eye on the renewable sector. The collapse of federally backed companies like solar-panel-maker Solyndra and biofuel producer Range Fuels, are providing critics of renewable subsidies with plenty of ammunition. And if critics need more bullets, they need only look at AWEA's board to see how big business is grabbing every available dollar from US taxpayers all in the name of "clean" energy. Indeed, AWEA represents a host of fossil-fuel companies who are eagerly taking advantage of the renewable-energy subsidies.

Consider NRG Energy, which has a seat on AWEA's board. Last month, the New York Times reported that New Jersey-based NRG and its partners have secured \$5.2 billion in federal loan guarantees to build solar-energy projects. NRG's market capitalization: \$4.3 billion.

But NRG is not a renewable energy company. The company currently has about 26,000 megawatts (MW) of generation capacity. Of that, 450 MW is wind capacity, another 65 MW is solar, and 1,175 MW comes from nuclear. So why is NRG expanding into renewables? The answer is simple: profits. Last month, David Crane, the CEO of NRG, told the Times that "I have never seen anything that I have had to do in my 20 years in the power industry that involved less risk than these projects."

Or look at E.On, the giant German electricity and natural gas company, which also has a seat on AWEA's board of directors. In 2010, the company emitted 116 million metric tons of carbon dioxide an amount approximately equal to that of the Czech Republic, a country of 10.5 million people. And last year, the company—which has about 2,000 MW of wind-generation capacity in the US—produced about 14 times as much electricity by burning hydrocarbons as it did from wind.

Despite its role as a major fossil-fuel utility, E.On has been awarded \$542.5 million in section 1603 cash so that it can build wind projects. And the company is getting that money even though it is the world's largest investor-owned utility with a market capitalization of \$45 billion.

Another foreign company with a seat on AWEA's board: Spanish utility Iberdrola, the second-largest domestic wind operator. But in 2010, Iberdrola produced about 3 times as much electricity from hydrocarbons as it did from wind. Nevertheless, the company has collected \$1 billion in section 1603 money. To put that \$1 billion in context, consider that in 2010, Iberdrola's net profit was about 2.8 billion Euros, or around \$3.9 billion. Thus, US taxpayers have recently provided cash grants to Iberdrola that amount to about one-fourth of the company's 2010 profits. And again, none of that grant money is subject to

US corporate income taxes. Iberdrola currently sports a market cap of \$39 billion.

Another big winner on AWEA's board of directors: NextEra Energy (formerly Florida Power & Light) which has garnered some \$610.6 million in 1603 grants for various wind projects. NextEra's market capitalization is \$23 billion. The subsidies being garnered by NextEra are helping the company drastically cut its taxes. A look at the company's 2010 annual report shows that it cut its federal tax bill by more than \$200 million last year thanks to various federal tax credits. And the company's latest annual report shows that it has another \$1.8 billion of "tax credit carryforwards" that will help it slash its taxes over the coming years.

The biggest fossil-fuel-focused company on AWEA's board is General Electric, which had revenues last year of \$150 billion. Of that sum, about 25 percent came from what the company calls "energy infrastructure." While some of that revenue comes from GE's wind business, the majority comes from building generators, jet engines, and other machinery that burn hydrocarbons. The company is also rapidly growing GE Oil & Gas, which had 2010 revenues of \$7.2 billion. GE Oil & Gas has more than 20,000 employees and provides a myriad of products and services to the oil and gas industry.

GE has a starring role in one of the most egregious examples of renewable-energy corporate welfare: the Shepherds Flat wind project in Oregon. The majority of the funding for the \$1.9 billion, 845-megawatt project is coming from federal taxpayers. Not only is the Energy Department providing GE and its partners—who include Caithness Energy, Google, and Sumitomo—a \$1.06 billion loan guarantee, as soon as GE's 338 turbines start turning at Shepherds Flat, the Treasury Department will send the project developers a cash grant of \$490 million.

On December 9, the American Council on Renewable Energy issued a press release urging Congress to quickly extend the 1603 program and the renewable-energy production tax credit, because they will "bolster renewable energy's success and American competitiveness."

But time is running short. Backers of the renewable-energy credits say that to assure continuity on various projects, a bill must be passed into law by March 2012. If that doesn't happen, they are predicting domestic investment in renewable energy could fall by 50 percent. A bill now pending in the House would extend the production tax credit for four additional years, through 2017. The bill has 40 sponsors, 9 are Republicans. The bill is awaiting a hearing by the House Ways and Means Committee.

[From Los Angeles Times, July 24, 2011]

#### WIND FARMS MULTIPLY, FUELING CLASHES WITH NEARBY RESIDENTS

(By Tiffany Hsu)

TEHACHAPI, CA.—Donna and Bob Moran moved to the wind-whipped foothills here four years ago looking for solitude and serenity amid the pinyon pines and towering Joshua trees.

But lately their view of the valley is being marred by a growing swarm of whirling wind turbines—many taller than the Statue of Liberty—sweeping ever closer to their home.

"Once, you could see stars like you wouldn't believe," Donna Moran said. "Now, with the lights from the turbines, you can't even see the night sky."

It's about to get worse.

Turbines are multiplying at blistering speeds as wind developers, drawn by the

area's powerful gusts, attempt to meet an insatiable demand for clean energy.

Helo Energy plans to scatter 450-foot machines across hundreds of acres in nearby Sand Canyon. A few miles away, near the Old West Ranch enclave, Terra-Gen Power is building the nation's largest wind farm with hundreds of turbines, if not more. The project, Alta Wind Energy Center, is backed by hundreds of millions of dollars from Google Inc. and Citibank.

Federal and local officials hail the Tehachapi Valley, a harsh desert expanse about 100 miles north of Los Angeles, as an alternative energy mecca that will help wean Americans off fossil fuel. Kern County, home to the nation's largest concentration of wind farms, is looking forward to millions of dollars in much-needed tax revenue and has approved most proposed installations.

But wind projects aren't only proliferating in the region's outskirts. Nearly 3,000 turbines, many of them bigger than Ferris wheels, were installed across the country last year.

The growth is being propelled by federal incentives and state clean-energy mandates. In April, Gov. Jerry Brown signed a law that requires California utilities to get 33% of the state's electricity from renewable sources by 2020. As of the first quarter of 2011, they're at 17.9%.

But with thousands more wind projects on the drawing board, they're increasingly generating opposition among local residents. Less than 100 miles from Tehachapi in the Antelope Valley, proposed turbine developments are facing similar resistance. Across the country, Cape Cod, Mass., residents and political heavyweights such as Sen. John Kerry waged war against what could be the country's first offshore wind farm.

And the issue isn't just with wind turbines, said Tom Soto, an environmental activist and managing partner of Craton Equity Partners.

"These large projects enter at their own peril without involving the community," Soto said. "Just because they're renewables instead of landfills doesn't mean they're off the hook."

Residents of Blythe, Calif., near the border with Arizona, showed up at the recent groundbreaking of Solar Millennium's massive solar plant there to protest its proximity to sacred Native American sites. Gleaming mirrors will blanket nearly 6,000 acres, helping to generate electricity for Southern California Edison.

In San Diego County, critics have spent the better part of a decade trying to block the Sunrise Powerlink transmission network, which would bring electricity from far-flung solar and wind farms.

Activists there and elsewhere say that the fight is more than a classic case of "not in my backyard" resistance. Large, remote projects aren't the only solution to the nation's energy woes, they say.

City-dwellers could produce just as much clean electricity without the transmission hassles, they said, using rooftop solar panels, small wind turbines, fuel cells and other adaptable forms of renewable energy generation.

"We're going to need to find space to place these projects," Soto said. "A successful portfolio will be balanced, with some utility-scale projects and some urban projects."

Tehachapi activist Terry Warsaw said he's worried his community will soon be surrounded by turbines.

"Alternative energy has lulled us into a sense of complacency," he said. "The poten-

tial is here to take over every ridge and every mountainside if the community isn't careful."

Veterinarian Beverly Billingsley has been hosting anti-turbine community meetings in her new Sand Canyon barn, just up the slope from where the cluster of 450-foot machines is slated for construction.

"They are not benign things," she said. "We've seen turbines go berserk."

The machines get no more sympathy from Mother Mary Augustine, who lives cloistered at the Norbertine Sisters Monastery in a cradle of hills recently eyed for wind development.

"Monstrous insects," she calls them. "I look at the propellers for a moment and my head gets dizzy."

It's not that they dislike alternative energy, residents say. Many employ solar panels and smaller turbines to power their homes.

Lately, though, locals say that farm animals have begun cowering as construction vehicles rumble across lawns and surveyor helicopters roar overhead. There are worries about turbine oil leaking into water wells and turbines obstructing landing maneuvers at the local airport.

"Avian cuisinarts," said Sand Canyon resident April Biglay. She worries that more turbines could slaughter birds or cause ground vibrations that could decimate native species.

"We are resembling hundreds of towns around the country," she said.

Last year, an older machine began spinning uncontrollably, forcing authorities to shut down a main freeway for hours. The resulting traffic was an anomaly in a community where most jams are caused by high school football games and meandering sheep.

Fire is also a concern, with turbines' finicky electrical wiring, long fire department response times and limited roads on which to flee.

And the turbines could topple in an earthquake, since they're situated in sedentary soil directly on the Garlock fault line, residents say.

Some suggest that removing trees to make way for the machines could lead to erosion and flooding.

They also argue that the projects aren't helping the local economy. Local residents say pickup trucks driven by construction workers often have out-of-state license plates. Each new project causes nearby property values to plunge as much as 40%, city officials say.

And because companies aren't required to dismantle the turbines when they stop functioning, many will join the hordes of "mechanical dinosaurs" that already crowd the area, critics say.

Other residents say they're tired of making sacrifices for electricity that will go to other counties.

"It's a question of what you're willing to give up to be green," said local lawyer Kassandra McQuillen of some recent project plans. "It's like proposing clear-cutting Griffith Observatory or the cliffs of Malibu."

Residents say they've won some victories. Developer Terra-Gen yanked its 7,000-acre Pahnamid project last month after opponents slammed plans to set up nearly 150 turbines on the Tehachapi crests.

"It is not unusual for projects to fall by the wayside early in the development process," Terra-Gen said in a statement. "The decision to pull back in an early stage on the Pahnamid project was a result of several important development concerns, including local opposition."

By the end of the year, the developer said it will have invested \$2.2 billion in Kern County, become the county's third largest taxpayer with \$30 million a year and made more progress building its 1,100-megawatt Alta project.

But with so many projects on the plate for the region, Tehachapi city officials are urging Kern County to impose a temporary moratorium on wind projects near homes. And the city that has long been associated with the fields of propellers is now trying to draw tourists by talking up its chili cook-offs, historic downtown and pristine mountains.

"We've coexisted with the turbines for a long time," City Council member Susan Wiggins said. "But we don't want to look like one big wind park."

[From Boston Globe, Feb. 2, 2012]

#### TOWN TURNS OFF WIND, OPTS FOR SOLAR ENERGY

(By Robert Knox)

At a time of accelerating production of both wind and solar energy, Duxbury officials have decided to buy solar energy produced elsewhere and take their own wind project off the table.

"It's an opportunity to save money," Jim Goldenberg, chairman of the town's Alternative Energy Committee, said after town selectmen signed a 20-year agreement with a solar energy company that plans to build its facility in Acushnet.

The deal is expected to save the town up to \$30,000 a year in energy costs and supply about 25 percent of the energy the town needs to run facilities such as schools, Town Hall, and other buildings, officials say. The producer, Pegasus Renewable Energy Partners LLC of Marstons Mills, has yet to begin construction of the solar farm. It's expected to take about a year to begin producing power.

Duxbury is also moving ahead on a plan to lease its capped landfill to a private developer, American Capital Energy, a national company whose customers include the Army, to build a solar energy farm there. Town Meeting backed the project last fall.

The town's move to buy solar energy was made in conjunction with the Alternative Energy Committee's decision to put a hold on the possibility of building a wind turbine. The decision comes at a time when neighboring Kingston is touting the construction of five turbines within its borders. Kingston officials said their town's wind and solar projects together would earn up to a \$1 million a year in new revenue.

Until recently Duxbury was planning to build a wind turbine, too. Goldenberg's committee had planned to seek funding from Town Meeting to continue its feasibility study of a wind turbine on town property next to its North Hill golf course.

But that plan came under attack by a group of residents who said they feared that living near a turbine would undermine their health, lower their property values, and alter the neighborhood's residential character. They hired an attorney, produced a report attacking the financial basis of the project, and won a vote from selectmen urging the committee not to seek funds for the project.

Local wind power advocates cried foul. They said opponents were relying on a corporate-quality website and dubious information supplied by an anti-wind lobby with little connection to the town.

But Goldenberg said his group chose the solar option solely based on a comparison of the economics of the wind turbine project relative to the solar deals committee mem-

bers have been working on. The bottom line, he said, is that a wind turbine on North Hill would produce electricity at \$.155 per kilowatt hour versus \$.10 per kilowatt hour to buy solar, a 35 percent cost differential.

Madam President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NELSON of Florida. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### JORDAN NOMINATION

Mr. NELSON of Florida. Madam President, we are going to vote on Judge Jordan, a Cuban-American Federal district judge, who has been named by the President to go to the Eleventh Circuit Court of Appeals.

Judge Jordan came out of the Judiciary Committee unanimously. As Senator RUBIO and I spoke on Monday, the two of us, in a bipartisan way, do all of the selection of our Federal district judges—and it is all done in a bipartisan way.

In this case, with Judge Jordan being elevated to the Eleventh Circuit Court of Appeals—again, done in a bipartisan way and, indeed, the motion for cloture on the nomination; that is, to stop all debate on the nomination, was passed at a 5:30 vote Monday afternoon by a vote of 89 to 5. So at noon today, we are going to vote on the actual confirmation, which is the second step in the process: after the President nominates, the Senate confirms. Judge Jordan, by our vote today—which I expect will be rather overwhelmingly bipartisan—will ascend to the Eleventh Circuit Court of Appeals as the first Hispanic judge on that Court of Appeals.

I think it is instructive that we could have done all of this Monday at about 6:00 after the vote had occurred 89 to 5 to cut off debate. Yet the Senate rules allow even one Senator, if they object—which one Senator did object—to the waiving of the cloture cutting off debate. The Senate rules say there can be up to 30 hours of debate before the matter at hand is voted on.

Of course, with a vote of 89 to 5, it is pretty well determined, especially since Senator RUBIO and I were the ones who were bringing this judge to the attention of the Senate. Yet here we are.

It is now Wednesday at noon that it is going to take us to get to this judge. This is illustrative of how the Senate is not working. For whatever reason, the Senator who objected—which, by the way, it is my understanding that the Senator had no objection to the judge; it is some other extraneous matter

and, therefore, wanted to slow up and throw rocks into the gears of the Senate so that what could have been dispensed with on Monday evening at 6:00 is now taking all the way until noon-time on Wednesday, after the 30 hours have run.

For the Senate to function it has to have a measure of trust among Senators. It has to be bipartisan. The two leaders have to get along. In the process, a lot of the work is done by unanimous consent, with the consent of the two leaders, the Democratic leader and the Republican leader. But when things get too hyperpartisan or too ideologically rigid, then that is when the whole process, the mechanism goes out of kilter. It is just another illustration in this time of an election cycle for President where things are highly sensitive from a political, partisan, and ideological standpoint that a judge who is warmly embraced by both sides for his confirmation is getting held up.

I will close by recalling the reason that Judge Jordan got a vote of 89 to 5: He has had a stellar record as a Federal district judge. He has, over the course of his career, clerked, when he came out of law school, for a judge on the Eleventh Circuit. Then he clerked for Justice Sandra Day O'Connor. He went back and was an assistant U.S. attorney, and then went to the bench and has been there for over a decade.

This is the kind of person we want to have in the judicial branch of our government.

I commend him on behalf of Senator RUBIO. The two of us have been in a meeting all morning in duties of another committee, the Intelligence Committee. I commend to the Senate, on behalf of Senator RUBIO and me, Judge Jordan to be confirmed for the Eleventh Circuit Court of Appeals.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska.

#### SURFACE TRANSPORTATION ACT

Mr. JOHANNES. Madam President, I rise today to take a few minutes to comment on the bill that the Senate will soon be considering to state why I oppose the bill in its current form. I am speaking of the bill that we often-times refer to as the Transportation bill.

I do think this bill does some good things. I supported it coming out of the EPW Committee. It had very sound bipartisan support in that committee.

But there is a serious concern with the bill, a concern for all of us. Specifically, there is a provision in the bill that is what I would call an earmark. However, it is often referred to by our rule as a congressionally directed spending item. Let me again say, purely and simply, it is an earmark. That is why, even though I supported the bill in committee, I did feel very strongly

about that provision and I felt compelled to vote against proceeding to the bill and that is why I am here today, filing an amendment.

This provision changes the purpose of an earmark that was included in the previous highway bill. Then the language goes on to do a second thing: It newly directs the money back to the same State where the earmarked project would have occurred, that being the State of Nevada. Let me repeat that. It takes an unspent earmark from a previous highway bill in Nevada and it replaces it with yet another earmark to the State of Nevada. I will go into further detail.

First, the bill identifies any unobligated balances associated with this earmark. The bill reads:

... any unobligated balances of amounts required to be allocated to a State by section such and such of the SAFETEA-LU. . . .

In other words, it goes to the unobligated balances, which was an earmark. If you go back to the previous highway bill, this section 1307(d)(1) is an earmark in that previous bill. But it does not stop there. It does not stop by rescinding that earmark. It goes on to say in the text of the bill we are considering that this money "shall instead be made available to such State . . ."—the State of Nevada.

So we have rescinded the earmark, but then we said the money goes back to the same State. In other words, the earmarked money is now directed by law, if this were to pass, back to the State where the project was to be built.

Two wrongs do not make a right. If several million dollars is sitting idly by in an account and we want to rescind those funds, then that is pretty straightforward. We direct the rescission of those funds and do not earmark it to a specific State. If we are going to start the game, though, of earmarking—which I believe is what this does—obviously there will be a lot of other Senators who believe in earmarks who will say I want my turn also. I do not happen to believe in earmarks, but some of my colleagues would say: Look, if you can do this for one State, you can do it for my State. So if every State can direct specific spending to their own State, then we are right back in the business of earmarking.

I will not necessarily speak to the purposes behind the change in the project, although it is pretty clear from newspaper articles out of Nevada that this money is going to be used for a road project. I will leave the defense of the policy to others. What I will say is that the provision without a shadow of a doubt meets the definition of an earmark under rule XLIV of the Standing Rules of the Senate. The bottom line is that the provision in the bill will direct Federal funds to a single State.

Rule XLIV of our standing rules, the Standing Rules of the Senate, as we all

know, defines what is a congressionally directed spending item. I will quote that rule:

... a provision or report language included primarily at the request of a Senator providing, authorizing or recommending a specific amount of discretionary budget authority, credit authority, or other spending authority for a contract, loan, loan guarantee, grant, loan authority, or other expenditure with or to an entity, or targeted to a specific State—

It goes on to say:

locality or Congressional district, other than through a statutory or administrative formula-driven or competitive award process.

There was a reason why that language is included in that rule and it is what is happening here. If you could simply direct funds to your State, then, as I said previously, we are back in the earmarking business.

Furthermore, the bill before the Senate was written based on the understanding that there would be no earmarks. Everybody is running around saying there are no earmarks in the bill. Everybody has been very public about saying that. That posture was well received. It was commended, in fact. It was commended, in my judgment, in part because many understood that a highway bill that included earmarks simply would not pass. In other words, a "no earmark" policy was necessary to get this bill done.

So at the moment I am very concerned that we will have damaged the Senate bill, our legislative process, and hurt the chances of a highway bill getting done. I think the highway bill makes a lot of sense for our country, but we have to solve this kind of problem. I cannot support the bill with an earmark for one State, the State of Nevada.

Even the President of the United States has weighed in on this. He has taken a very strong stand. He said, "If a bill comes to my desk with an earmark inside, I will veto it."

This highway bill is far too important for us to jeopardize its passage or to invite a veto by the President, just because the provision is very hard to find and buried at page 463.

I think there is a way to move forward on the highway bill, at least as far as this is concerned. I think our State and local leaders are hoping we pass a highway bill. There are a lot of good things that could happen with it, but this has to come out of the bill. This needs to change, and my hope is the Senate will agree to my amendment to do just that.

I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LEAHY. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LEAHY. Madam President, I ask unanimous consent to speak for up to 5 minutes as in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. FRANKEN). Morning business is now closed.

#### EXECUTIVE SESSION

#### NOMINATION OF ADALBERTO JOSE JORDAN TO BE UNITED STATES CIRCUIT JUDGE FOR THE ELEVENTH CIRCUIT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to resume consideration of the following nomination, which the clerk will report.

The bill clerk read the nomination of Adalberto Jose Jordan, of Florida, to be United States Circuit Judge for the Eleventh Circuit.

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes of debate equally divided and controlled in the usual form.

Mr. LEAHY. Mr. President, today the Senate will finally vote on the nomination of Judge Adalberto Jordan of Florida to fill a judicial emergency vacancy on the Eleventh Circuit. Finally, after a 4 month Republican filibuster that was broken by an 89 to 5 vote on Monday, and after Republicans insisted on two additional days of delay, the Senate will have a vote.

Judge Jordan is by any measure the kind of consensus nominee who should have been confirmed after being reported unanimously by the Judiciary Committee last October. Despite the strong support of his home State Senators, Senator NELSON, a Democrat, and Senator RUBIO, a Republican, Republicans filibustered and delayed this confirmation for months. They prevented the Senate from voting on Judge Jordan's nomination in October, in November, in December, and in January. And it should not have taken another 2 days after the Senate voted overwhelmingly to bring the debate to a close to have this vote.

This superbly-qualified nominee will be the first Cuban-American on the Eleventh Circuit. His record of achievement is beyond reproach. The only statements about this nominee—by me, by Senator NELSON and even by the Republican Senators who spoke—described him as qualified and worthy of confirmation. The stalling, the delays, the obstruction, even the votes against

ending the filibuster were all about something else, some collateral issue. They should not have marred this process and complicated this nomination. They should not have delayed this moment when Cuban Americans will see one of their own elevated to the second highest court in the land. I appreciate the attention that Hispanics for a Fair Judiciary and the Hispanic National Bar Association have given this important nomination. Their work will finally be rewarded, as well.

The junior Senator from Kentucky held up this nominee for his own purposes—purposes having nothing to do with the nominee. He did it in order to gain leverage to force a vote on an unrelated and ill-advised amendment. You cannot amend a nomination. So now that he has forced the Senate into 2 days of inactivity, the Senate will finally vote.

As I said yesterday, the goals of Senator PAUL's amendment are already the law of the land. The new conditions on military aid for Egypt, which I wrote with Senator GRAHAM, passed by an overwhelming bipartisan majority and were signed into law just 2 months ago without Senator PAUL's support. Those conditions require certification by the Secretary of State that the Egyptian military is supporting the transition of civilian government and protecting fundamental freedoms and due process. Unlike Senator PAUL's proposed amendment, these conditions again, already the law—do not pose a risk of backfiring on us and on our ally Israel.

Moreover, once this misguided obstruction is ended and the Senate has voted to confirm Judge Jordan to fill the judicial emergency vacancy on the Eleventh Circuit, the Senate will turn back to its work on the surface transportation bill. As Senator BOXER said this morning, that bipartisan bill can save or create 2.8 million jobs. That, too, should be a priority, not a pin cushion to attach ill-advised foreign policy amendments.

This is the kind of obstruction that is hard to explain to the American people. A Florida lawyer and former prosecutor was quoted in the Orlando Sentinel saying: "It's a good reason why Congress' approval rating is 10 percent." He continued: "Politics should have no place in the nomination and confirmation of excellent jurists like Judge Jordan. Shouldn't happen. We need qualified judicial nominees on the bench, big time." It is the kind of senseless obstruction that comes at a great cost to the millions of Americans living in Florida, Georgia and Alabama who are affected by the judicial emergency vacancy on the Eleventh Circuit. I am glad that they will finally have a judge to fill that vacancy.

I am certain that all Americans will be well served by Judge Adalberto Jordan. He has proven through his long ca-

reer on the bench and as a prosecutor to be a public servant of tremendous quality and integrity. I congratulate Judge Jordan, his family, Senator NELSON, Senator RUBIO and the people of Florida on his confirmation today.

Mr. LEAHY. Mr. President, I am advised that there is nobody else who wishes to speak, so I ask unanimous consent to yield back any time and ask for the yeas and nays.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is, Will the Senate advise and consent to the nomination of Adalberto Jose Jordan, of Florida, to be United States Circuit Judge for the Eleventh Circuit?

Mr. LEAHY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. KYL. The following Senator is necessarily absent: the Senator from Illinois (Mr. KIRK).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 94, nays 5, as follows:

(Rollcall Vote No. 19 Ex.)

YEAS—94

Akaka	Gillibrand	Moran
Alexander	Graham	Murkowski
Ayotte	Grassley	Murray
Barrasso	Hagan	Nelson (NE)
Baucus	Harkin	Nelson (FL)
Begich	Hatch	Paul
Bennet	Heller	Portman
Bingaman	Hoeven	Pryor
Blumenthal	Hutchison	Reed
Boozman	Inhofe	Reid
Boxer	Inouye	Risch
Brown (MA)	Isakson	Roberts
Brown (OH)	Johanns	Rockefeller
Burr	Johnson (SD)	Rubio
Cantwell	Johnson (WI)	Sanders
Cardin	Kerry	Schumer
Carper	Klobuchar	Sessions
Casey	Kohl	Shaheen
Chambliss	Kyl	Shelby
Coats	Landrieu	Snowe
Coburn	Lautenberg	Stabenow
Cochran	Leahy	Tester
Collins	Levin	Thune
Conrad	Lieberman	Udall (CO)
Cooms	Lugar	Udall (NM)
Corker	Manchin	Warner
Cornyn	McCain	Webb
Crapo	McCaskill	Whitehouse
Durbin	McConnell	Wicker
Enzi	Menendez	Wyden
Feinstein	Merkley	
Franken	Mikulski	

NAYS—5

Blunt	Lee	Vitter
DeMint	Toomey	

NOT VOTING—1

Kirk

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid upon the table, and the President will be immediately notified of the Senate's action.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session. The Senator from Rhode Island.

## MORNING BUSINESS

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business until 3 p.m., with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. WHITEHOUSE. I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. SANDERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER OF PROCEDURE

Mr. SANDERS. Mr. President, I ask unanimous consent that I and other Senators, including TOM UDALL and the Presiding Officer and Senator WHITEHOUSE, be permitted to speak for the next 60 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

## GLOBAL WARMING

Mr. SANDERS. Mr. President, I fear one of the major issues that not only faces our country but faces our planet is not getting the kind of serious debate and discussion it needs in the Senate; that is, the planetary crisis of global warming, what its impact is having now in our country and in other countries throughout the world and how, in fact, we can address this enormous crisis.

I understand politically some of my colleagues do not believe global warming is real and they do not think there is much our country should or can do to address this crisis. I understand that. But with all due respect, I strongly disagree with that position and believe, in terms of the future of our planet, the lives of our kids and our grandchildren, that is a very wrong-headed position and could lead to enormous problems for our country and for the rest of the world.

But the truth is, the real debate about global warming is not whether other Members of the Senate disagree with me or Senator UDALL, the issue is what the scientific community, the people who have studied this issue for years, in fact, believes. As I think the

Presiding Officer understands, the overwhelming consensus in our country and around the world from the scientific community is, A, global warming is real, and, B, to a very significant degree global warming is manmade.

That is not just my position, not just what I say or what other Members of the Senate say. Far more important, it is what leading scientists all over the world are saying.

The National Academy of Sciences in this country, joined by academies of science in the United Kingdom, Italy, Mexico, Canada, France, Japan, Russia, Germany, China, India, Brazil, and South Africa, has said—this is their statement, the National Academy of Sciences—“. . . climate change is happening even faster than previously estimated” and the “need for urgent action to address climate change is now indisputable.”

It is fine for radio talk show hosts to have their view. Frankly, I think it is more significant that the scientific community from all over the world is in agreement. Let me repeat what they say: “. . . climate change is happening even faster than previously estimated” and the “need for urgent action to address climate change is now indisputable.”

Mr. President, 18 scientific societies, including the American Geophysical Union and the American Association for the Advancement of Science, said:

Observations throughout the world make it clear that climate change is occurring, and rigorous scientific research demonstrates that the greenhouse gases emitted by human activities are the primary driver.

That is not I; that is 18 scientific societies, including the American Geophysical Union and the American Association for the Advancement of Science.

They continue:

These conclusions are based on multiple independent lines of evidence, and contrary assertions are inconsistent with an objective assessment of the vast body of peer-reviewed science.

But it is not only the scientific community. It is agencies of the U.S. Government that have to deal or worry about the impact of global warming.

The Department of Defense says:

Climate change is an accelerant of instability.

What they worry about is, as the planet warms, as floods occur, as drought occurs, we are going to see migrations of people, we are going to see countries fighting over limited natural resources, whether it is farmland or whether it is water. From the Department of Defense perspective, they say, and I repeat:

Climate change is an accelerant of instability.

That is the U.S. Department of Defense—not BERNIE SANDERS.

The CIA—our intelligence agency—says: “. . . climate change could have

significant geopolitical impacts around the world, contributing to poverty, environmental degradation, and the further weakening of fragile governments,” as well as “food and water scarcity.”

That is not a Senator on the floor. That is the Central Intelligence Agency, the business of which is to gather and assess threats to our country.

Interestingly enough, there are segments of the business community that are also speaking out on climate change and global warming for their own reasons.

The insurance industry, in a report from the National Association of Insurance Commissioners, found there is “broad consensus among insurers that climate change will have an effect on extreme weather events.”

What we are seeing is that scientists all over the world, academic institutions all over the world, governmental agencies right here in the United States of America—including the Department of Defense and the CIA—and the insurance industry saying global warming is real, it is a real threat to our planet, and it is imperative we address it.

I have more to say on this issue, and some of us will be on the floor for an hour, but I want to give the floor over to Senator TOM UDALL from New Mexico, who has certainly been a leading advocate in the fight for policies that will reverse global warming and move us in another direction.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. UDALL of New Mexico. Mr. President, thank you so very much.

I first wish to ask my colleague from Vermont a little bit about some of the things he said that I find remarkable.

We are still in a very fragile recession. The economy is starting to grow, but it is not strong enough, and we could slip back. So what has happened is, we have these—what we call in this language—tax extenders. What we are talking about is jobs, isn't it? We are talking about the idea that we can have a clean energy economy; that over the last couple years this has been the fastest growing sector, and we have a production tax credit for wind, we have a section in the Treasury Department's 603, and those provisions create jobs.

I just wish to ask the Senator, it seems to me, at this particular time, we have the potential to grow the American economy, but we have to get off the dime because these things expire on February 29—in less than 2 weeks.

Mr. SANDERS. I say to my friend, he is absolutely right. The issue we are talking about now is not only trying to reverse global warming and save the planet, what we are talking about is creating, over a period of years, millions of good-paying jobs.

We may not know it from some media reports, but the fact is the solar industry in this country is exploding. All over this country, we are seeing more and more installations of solar panels, we are seeing the production of solar. One of the issues I think Senator UDALL is referring to is whether the United States of America will be a leader in sustainable energy or are we going to give that whole enormous economic area over to China.

I know the Senator and I are in agreement that we believe American workers can manufacture those panels. We think American workers can install those panels.

We also understand it is not just solar, it is wind; that these industries need some of the help that the fossil fuel industry has been receiving for years. I think we will also be talking about the whole issue of energy efficiency and weatherization, which in my State is enormously important. We are creating jobs, saving consumers money, as we retrofit their homes and cut back on their use of fuel.

So, yes, I say to the Senator, we are talking about a major jobs issue.

Mr. UDALL of New Mexico. I say to Senator SANDERS, the thing we should focus on, when it comes to wind farms, is how much these wind farms can be expanded in terms of jobs. The average wind farm in America built today has 50 large wind turbines. Each turbine can produce electricity to power roughly 500 homes, even accounting for the variability of the winds. So the average wind farm can power about 25,000 homes.

The average wind farm, then, produces many other benefits. This is what is remarkable to me: There is \$20 million in construction payroll in a year from an average wind farm; \$875,000 per year to rural local school districts; and also \$280,000 per year to rural county governments; \$150,000 per year in ongoing direct payroll for employees; \$1.5 million in contract labor payroll; and \$300,000 to \$600,000 per year in royalties to land owners, farmers, and ranchers.

So when we talk about wind—wind power—what we are talking about is American jobs, clean energy jobs, growing the economy, and it mystifies me that our friends on the Republican side and in the House are saying: These things are going to expire in 2 weeks, and there is no hurry to push them, to put them in place, and to move it. Is that the Senator's understanding, that they are saying we are going to let them expire?

Mr. SANDERS. Absolutely. It is incomprehensible. Here we have technologies that are incredibly successful. They are producing substantial amounts of energy, without pollution, without greenhouse gases. They are creating jobs. Of course, we should continue these tax credits, these extenders



to make sure these industries can flourish.

Some people may think when Senator UDALL and I talk about wind and solar, we are talking about some kind of fringe idea. Let's be clear; in the State of Texas today they are producing 10,000 megawatts of electricity through wind. That is the equivalent of 10 average-sized nuclear powerplants. That is not insignificant. In Iowa, as I understand it, about 20 percent of the electricity in that State is generated from wind.

So we are in the beginning, in the first stages of a real revolution to transform our energy system to clean, safe energy which, in the process, can create, over a period of years, millions of good-paying jobs.

So I would certainly agree with the Senator from New Mexico.

Mr. UDALL of New Mexico. I say to Senator SANDERS, one of the things that I think is very instructive is that the history of the wind production tax credit has been completely bipartisan. I would like to lay out a little bit of that history.

The production tax credit began in a bipartisan energy policy in 1992, signed by then-President George H.W. Bush. It was extended in December 1999 by a Republican Congress and signed into law by President Clinton. It was extended again in 2002 and in 2004, this time signed into law by President George W. Bush. In 2005, it was extended again as a part of bipartisan energy legislation, the 2005 Energy Policy Act. The Senator and I, I think, were both in the House at that time, and we voted for that in the House. In December 2006, it was extended again. Most recently, it was extended in the 2009 Recovery Act, which was signed by President Obama.

So Congress should continue this bipartisan tradition and extend the wind production tax credit, these other tax credits that create clean energy jobs, and stay focused on the good job we have been doing that has been bipartisan. That is why I do not understand the House, the chairman of the Ways and Means Committee saying: Oh, we can do these later. We need to do this work today. We need to put that in place now so that we can grow these clean energy jobs. Is that the Senator's understanding?

Mr. SANDERS. Well, the Senator is absolutely right. Everybody understands that if you are in business, if you are in wind or in solar, you have to be planning for the future. And if you do not believe or you are uncertain about whether these tax credits are going to be available, what is going to happen is you are not going to go forward. We know there are examples right now of major projects that have already been canceled.

Furthermore, we are not talking—given the context of U.S. Government expenditures—about a huge amount of

money, but it is money that I think is very well spent, protects our environment, and creates jobs.

I see the Senator from Rhode Island has joined us. Senator WHITEHOUSE has surely been one of the strongest advocates for our environment and the need to address global warming.

Mr. WHITEHOUSE. I am glad to have a chance to join with you today. I appreciate very much Senator SANDERS convening us on this day when we have agreed, it appears, to extend the payroll tax; we have agreed, it appears, to extend unemployment insurance; and we have agreed, it appears, to extend the payments for doctors under Medicare, under the so-called doc fix. And the one piece that has fallen out was the tax extenders that support our clean energy industry.

Our clean energy industry has more employees than Big Oil, and there are well-paying jobs. It is a growing industry, and it creates American manufacturing and American installation.

Senator UDALL was talking about the economic value of these wind farms. I know that in his home State, there are plenty of wind farms that are built on the land. In my home State, we are working toward having wind farms that are built offshore. And the ability to construct those giant turbines at Quonset Point in Rhode Island, in order to install them offshore and enjoy the power and the jobs that result, is something that is really important to us.

So I am glad the Senator has called us together to focus on this question of the tax extenders and also to focus on the environmental harm of climate change. I will turn it back to the Senator, but I wish to make one last point before I do, which is that there is a certain amount of sort of snickering around Washington about climate change, which is a unique feature to Washington. If you go out in the scientific community, nobody is laughing. They are very anxious. They are worried.

The major scientific organizations have all signed off on public letters urging us to do something about this because it is so significant. We have looked out at the first dozen billion-dollar storms year that we have had. Wherever you look around the world, we are seeing extreme weather. And the notion that when the scientists predicted extreme weather and now we are seeing it—if that should not be cause for additional concern, that really flies in the face of both prudence and reality.

The last area where we are really getting clobbered is with our oceans. As we pump, in human time, unprecedented amounts of carbon into our atmosphere, it is taken up by the oceans. It is absorbed by the oceans. During the course of the Industrial Revolution and to now, the oceans have absorbed

enormous amounts of carbon. It is changing the oceans. It is killing off coral reefs in the tropical areas. It is making the oceans so acidic that the little organisms that are at the base of the food chain are having trouble growing to their proper size. It is becoming a hostile environment. Creatures do not live well in an environment in which they are increasingly soluble.

These are not theories, these are measurements by scientists who go out and actually measure what is happening. The blindness in Washington to this problem is something that is not only a cause for concern now but is going to be a cause for harsh judgment in history's eyes.

Mr. UDALL of New Mexico. Mr. President, may I just ask the Senator—and I know he may have other places to go, but he mentioned offshore wind on the Atlantic coast, and the study out of the University of Delaware indicated that off of the Atlantic coast there is the potential in wind to generate enough electricity to power the entire east coast group of cities—very large cities, as you know—from Providence, to New York, to Boston. And Google is already out there starting to lay the grid with some other partners. So we have huge potential to move forward, and basically what we are being told at this point is, oh, let these things expire.

That is a very shortsighted position. But that study about the coast is an eye-opener because it tells the American people: Look, here is clean energy. We do not have to import oil anymore. We do not have to bring in energy from outside. Just off our coast, we can go out there and put a grid in place and generate wind energy. I know the Senator has probably heard about this study.

Mr. SANDERS. If I can, let me just jump in to ask unanimous consent that Senators WHITEHOUSE, UDALL, and I be permitted to engage in a colloquy.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SANDERS. If I could ask Senator WHITEHOUSE and Senator UDALL a simple question—and Senator WHITEHOUSE raised this issue—all over the world, there really is no debate within the scientific community about the reality of global warming, the basic causes of global warming, the severity of global warming. Yet suddenly here in this Congress it becomes a major political issue. We fund the National Institutes of Health. We fund scientific organizations. They do research on cancer. They do research on heart disease. They do all kinds of research. I don't see great political debate about what this says. And suddenly, when you have almost unanimity within the scientific community, this becomes this great dividing political issue. How did it happen that where there is so much unanimity among the scientific community in this country and around the



world, this has become such a hot-potato political issue?

Mr. WHITEHOUSE. Special interests would be my answer. We have seen it before. We saw the science mocked that tobacco was injurious to human health. We saw the science mocked that the lead in paint was injurious to children. And now we have seen mockery of the science that shows that when you put unprecedented amounts of carbon into the atmosphere, it changes things.

The science is actually not new. The scientist who created the global warming theory was a scientist named Tindall who published his work around the time of the American Civil War, and it has never been controversial. The idea that when you put enormous amounts of carbon into the atmosphere, it creates a warming effect, a blanketing effect, we have known this literally since the horse-and-buggy era. The difference is that there are now powerful special interests that are involved.

To Senator UDALL's points, we are at a point of choice. We can choose to go toward having the environmental needs of the country met and the energy needs of the country met with clean, American-made, manufactured power that is renewable. The Senator is right about the capabilities of offshore wind on the east coast, but that is not the only road we can take. We can continue to support multinational mega-corporations that have no loyalty to any flag or nation, that traffic internationally in oil, and that want to make sure that we stay, as President Bush said, addicted to oil. There is a choice, and I think those special interests have a clear desire as to what choice this country should make. I happen to believe it is contrary to this country's national interests, so that is why we are here fighting to try to steer in the other direction.

Mr. UDALL of New Mexico. Just to the point of why we aren't able to move—and I agree with Senator WHITEHOUSE, and I think Senator SANDERS has seen this also—when you get into energy, there are huge, powerful special interests—especially those special interests that are representing fossil fuels—and they would love nothing better than to just have the status quo. What we have seen is they are relying—and this is amazing to me, and the Senator has been one of the leaders on this issue where Big Oil is getting subsidies today from the Federal Government, and we have tried to take those Big Oil subsidies and move them over into the clean energy area. They resist that even though President Bush and the leaders of their industry say: We don't need these subsidies.

Mr. SANDERS. If I could just point out, picking up on Senator UDALL's point, in recent years we have seen, as everybody in America knows—not only

are we paying outrageously high prices at the pump, but we are seeing oil companies making huge profits. My recollection is that in the last 10 years the oil companies have made about \$1 trillion in profits. ExxonMobil has made more money than any corporation in history. Yet, over the last 10 years, there have been examples, there have been cases in a given year where a major oil company—ExxonMobil being one—made huge profits, billions in profits, and ended up paying zero in Federal income taxes and, in fact, got a rebate. So you have this absurd situation where hugely profitable oil companies are paying nothing in taxes, and some of us think that does not make any sense at all. We think they should pay their fair share and that to a significant degree that money should go into sustainable energy so that we can break our addiction to oil.

Mr. WHITEHOUSE. And the results are really profound.

I will close with this point in this discussion. For as long essentially as mankind has been on this Earth, for 800,000 years—to put 800,000 years in scale, we have probably been engaged in agriculture as a species for 10,000 or 15,000 years. Before that we were pure hunter-gatherers. So 800,000 years—8,000 centuries—is an enormous period of time in human history. It is essentially the entire sweep of the human species on the face of the Earth. Throughout that period, we have existed within an atmosphere that stayed within a range of carbon concentration. For the first time in 8,000 centuries, we have now rocketed outside of that range. That ought to be a pretty significant warning to us that we are in new and untested territory in terms of the basic conditions of the environment that supports our species. And because the concentrations in the atmosphere have grown so greatly, so has the acidity of our oceans. If you go back into geological time to look at what changes such as these can potentially lead to, you see really massive adverse events such as catastrophic die-offs of species.

So we are playing with potentially very big consequences. We are playing outside of the boundaries that have governed our planet for 800,000 years, and we are refusing to correct what is going on, I believe, as both of you have pointed out, because of one predominant reason; that is, the power of special interests to phony-up a debate in this town.

Mr. UDALL of New Mexico. Two weeks from today, the payroll tax cut championed by the President and extended by Congress in December will expire.

Congress should renew this financial relief to American working families while our economy is still recovering.

For a family making \$50,000 a year, the payroll tax cut means about \$1,000 a year, or about \$40 in every paycheck.

I'm encouraged by recent progress that Congress will resolve this issue, but the payroll tax cut is not the only tax provision that can create jobs in New Mexico, and across the Nation.

The production tax credit for wind is set to expire at the end of this year. The Treasury Grant Program for renewable energy tax credits expired this past December.

One of the best things we can do to help our economy recover is invest in the clean energy economy. It has created the jobs of the future while the broader economy was struggling. According to the Brookings Institute, the clean energy economy grew twice as fast as the broader economy during the recession.

To maintain the growth of wind energy jobs, Congress should renew the production tax credit as part of the payroll tax cut. If we wait until the end of the year, or delay until 2013, many projects will be delayed and thousands of jobs will be lost. The production tax credit has, by any measure, been extraordinarily successful. It was first used in 1992 and has led to the installation of wind energy capacity in America equivalent to 75 average coal-fired power plants, and it is rapidly growing.

We added the equivalent of 10 large power plants worth of wind power in 2011, and are on track to do even more in 2012. In New Mexico, we have enough wind power either already built, or currently under construction to power 200,000 homes. New Mexico has tremendous wind capacity, with 20 times more capacity in the planning stages. Those plans depend in large part on Congress continuing to support the American wind industry. The tax credit has been extended seven times by Presidents and Congresses of both parties.

Wind is becoming cost-competitive with fossil fuels. A 4-year tax credit extension would allow the industry to thrive long term. With 60 percent of wind turbines made in America, the beneficiaries of the wind production tax credit are legion, including: U.S. iron and steel producers, over 400 U.S. manufacturing facilities in 43 States, 85,000 employees in well-paid engineering and technical jobs, thousands of farmers and ranchers who lease their land, rural school districts that receive tax payments, and rural local governments.

The future is wide open. The Department of Energy estimates the U.S. could receive 20 percent of its power from wind by 2030. Wind is not just in the west and midwest. The east coast can be powered by huge offshore wind resources in the Atlantic Ocean.

If the wind production tax credit is the engine for the clean energy economy, the Treasury grant program is the turbo boost. Enacted as Sec. 1603 of the Recovery Act, this program allows renewable energy tax credit earners to

receive the value of the tax credit as a grant.

This eliminates the need for complex financing arrangements and finding other parties who are able to use the tax credits. Typically financial institutions will receive 10 or 15 percent of the value of renewable tax credits in return for financing a project.

The Treasury grant program removes the middle man, and has led to the rapid expansion of renewable energy in the last 2 to 3 years, especially with solar energy. Until it expired in December, the program awarded over 4,000 grants worth \$1.75 billion for 22,000 solar projects in 47 States.

This innovative financing then supported over \$4 billion in private sector investment. One report found that an extension of the program would create an additional 37,000 jobs in 2012 in the solar industry alone. China, the EU, India, Japan, and other nations are acting aggressively to take leadership of the clean energy economy. They want the job growth and the energy security that results.

I am confident that our workers and entrepreneurs can compete with anyone.

But if we do counterproductive things, and pull the rug out from underneath our fastest growing clean energy industries, our economy and our energy security will fall behind. The payroll tax extension is a logical vehicle for extending other expiring tax provisions that benefit the economy.

On the other hand, the payroll tax extension is a terrible place to make unrelated policy that subverts Congressional process on behalf of special interests. The Environmental Protection Agency is, by and large, following the Nation's long-standing environmental laws and court orders when it updates standards to reduce pollution.

If Members are opposed to the Clean Air Act or the Clean Water Act, then they can propose bills to change those laws. Pollution does not create jobs. In fact, reducing pollution saves money for business and reduces health care costs for citizens. I am personally opposed to wholesale rollbacks of long-standing, bipartisan environmental laws.

But I am even more strongly and passionately opposed to backdoor attempts to undermine those laws on unrelated legislation.

Congress has voted down several resolutions of disapproval for EPA updated standards.

While I have opposed those efforts in the past, at least that is a legitimate process under the Congressional Review Act.

Holding much needed tax relief hostage for anti-environmental policy riders will not stand up to public scrutiny.

We must remain vigilant and keep upcoming legislation focused on tax re-

lief that will benefit working families and invest in clean energy jobs.

I ask unanimous consent to have printed in the RECORD.

The material was ordered to be printed in the RECORD, as follows:

#### FACTS ABOUT AN AVERAGE AMERICAN WIND FARM

An average wind farm in America built today has about 50 large wind turbines.

Each turbine can produce electricity to power roughly 500 homes, even accounting for variability of wind.

So the average wind farm can power around 25,000 homes.

That average wind farm then produces many other benefits: \$20 million in construction payroll in the year of construction, \$875,000 per year to rural local school districts, \$280,000 per year to rural county governments, \$150,000 per year in ongoing direct payroll for employees, \$1.5 million per year in contract labor payroll, \$300,000 to \$600,000 per year in royalties to landowners, farmers, and ranchers.

Mr. UDALL of New Mexico. Mr. President, as to the history of the wind production tax credit, the production tax credit began in the bipartisan Energy Policy Act of 1992, signed by President George H.W. Bush.

It was extended in Dec. 1999, by a Republican Congress and signed into law by President Clinton.

It was extended again in 2002 and 2004, this time signed into law by President George W. Bush.

In 2005, it was extended again as part of bipartisan energy legislation, the 2005 Energy Policy Act.

I voted for that legislation when I served in the House.

In December 2006, it was extended again.

Most recently, it was extended in the 2009 Recovery Act, which was signed by President Obama.

Congress should continue this bipartisan tradition, and extend the wind production tax credit very soon.

We should avoid the mistakes of the past, where last minute extensions led to uncertainty and job losses.

I would like to thank the Senator for asking us to come to the floor, for leading this debate. This is a debate we need to carry on until we get the production tax credits and other tax extenders in place and move our clean energy industry forward.

I thank the Senator for that.

I yield the floor.

Mr. SANDERS. I thank the Senator for the good work he is doing. What I would like to do is just pick up on a point Senator WHITEHOUSE just raised; that is, the record of history shows us that we cannot take the climate for granted. Our relatively limited experience of advancement over the last 10,000 years, during the time of stable climate on a planet that is billions of years old, has distorted our view of the Earth's complex climate system.

A recent National Academy of Sciences report stated:

... it seems clear that the Earth's future will be unlike the climate that ecosystems

and human societies have been accustomed to during the last 10,000 years. . . .

That is the point Senator WHITEHOUSE just made, and that is according to the National Academy of Sciences.

The reason is that human activities—primarily the burning of fossil fuels—are increasing greenhouse gas emissions and causing global warming. According to the U.S. Global Change Research Program, “global warming is unequivocal and primarily human induced.”

We have altered the climate that has sustained humanity for the last 10,000 years. We are now at 392 parts per million of carbon dioxide, up from 280 parts per million in the 18th century. What an extraordinary increase in carbon dioxide in that short period of time. And greenhouse gas levels are rising steadily. In fact, carbon dioxide levels are increasing faster than at any time on record, according to our EPA.

Maybe that 392 parts per million seems like an abstract number, so let me put it into context. According to UCLA researchers, the last time carbon dioxide levels were consistently this high—the last time—was 15 million years ago—15 million years ago. The Earth, at that time, was warmer by 5 to 10 degrees Fahrenheit than it is today. At that level of warmth, there is no permanent sea ice in the Arctic and little, if any, ice on Antarctica and Greenland.

That explains, in part, why sea levels at that time were 75 to 120 feet higher than today. If sea levels today even approached half that level, we would inundate—inundate—major coastal cities around the world and create hundreds of millions of displaced refugees. And that is what we are talking about.

So let me repeat: The last time carbon dioxide levels were consistently this high was 15 million years ago, at which time the Earth was warmer by 5 to 10 degrees Fahrenheit than it is today.

There is no doubt, if we do nothing to reverse global warming, we are doing more than just threatening harm to the environment. We are jeopardizing the future of our planet and much of humanity. All too often we talk about global warming as if the impact will be somewhere down the line—maybe in 100 years, maybe in 200 years, and isn't it too bad those polar bears are trying to get by on that little block of ice. The reality is that global warming is impacting our planet today, and the impact is devastating.

Mr. President, I see the Senator from Minnesota is here. He has been very active on this issue, and I know he has some important points to be made, so I yield the floor for Senator FRANKEN of Minnesota.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The Senator from Minnesota.

Mr. FRANKEN. I thank the Senator from Vermont and also the Presiding

Officer and the Senator from Rhode Island for engaging in this colloquy that is so important.

Mr. President, I rise today to urge my colleagues in the Senate to support an extension of the renewable energy production tax credit. This tax credit, slated to expire at the end of this year, has created thousands of jobs for the wind industry, has reduced our dependence on foreign oil, and is hugely important to Minnesota and to the Nation. But because it takes a lot of time to order and manufacture new wind turbines, investors need to know the credit will exist in 2013 or else they will not invest. That is why the credit must be extended now, along with the payroll tax extension and unemployment benefits.

If Congress lets the renewable energy production tax credit expire, we will let down the 80,000 people working on wind farms and manufacturing facilities across the Nation, and we may cost this country \$10 billion in lost investment. Already, because of uncertainty about the fate of the production tax credit, investment in the wind industry is drying up. America cannot afford to wait any longer. Congress must act now to extend this important measure for American business and manufacturing and, indeed, for the future of our planet.

Just a few weeks ago, I received a letter from Terry and Janet Carlson, who run a family farm in Parkers Prairie, MN, and are developing a wind project in their community. They write:

Our family believes in renewable energy and the benefits it can provide to our local community. Besides being environmentally friendly, wind energy has proved to be a great economic benefit to the State of Minnesota and small communities such as ours. But the 2012 expiration of the production tax credit has created a high level of uncertainty in the wind industry. . . . We have a significant amount of time and money invested in this project and the production tax credit expiration has a significant impact on our project moving forward. It also has a significant impact on the thousands of renewable energy related jobs in America and the economic boon it would provide to our community.

Terry and Janet have good reasons to be concerned. A Navigant Consulting study found that if the tax production credit is not extended, construction of wind turbines will drop by 75 percent in 2013. That means a lot fewer manufacturing jobs and construction jobs. And, in fact, if Congress fails to extend the production tax credit, the wind industry will lose half of its jobs, dropping from 80,000 in 2012 to 41,000 in 2013. That means 39,000 well-paying construction and manufacturing jobs will evaporate if Congress fails to extend this tax credit.

What a shame that would be. We have had this discussion. We have had a colloquy before on global warming. As the Senator from Vermont said in

his opening remarks, the world community knows this exists. The world scientific community knows where this is going. And so China is doing wind, Germany is doing wind, and Denmark is doing wind. This is the future of our energy. If we stop producing wind energy, we are going to cede this to the rest of the world. If we don't act now, and renew the production tax credit, we are going to lose 40,000 jobs right now, but we are also going to lose the future.

On the other hand, this tax policy has major potential for the American economy now and in the future. With a 4-year extension, the production tax credit will continue to support growth in the wind industry, boosting construction of wind farms by 25 percent, and instead of losing 39,000 jobs, an extension of the wind production credit will create 15,000 additional well-paying construction and manufacturing jobs.

With the help of the renewable energy production tax credit, the wind industry has been a bright spot in these tough economic times. There are over 400 facilities across 43 States manufacturing for the wind energy industry. Sixteen of these facilities are in Minnesota and support about 3,000 jobs. Currently, a majority of wind industry parts are produced here in America.

I think that is so important. We talk about the future of our economy. We talk about all the time here, or at least should be talking about all the time here, the future of our economy. Think about that. Over half of wind energy parts are now produced here in America, whereas in 2005, a quarter of components were made in this country. That is what we have to continue to do. That is the story we want to hear.

Instead of exporting manufacturing jobs to other countries, the wind industry has been bringing well-paying, high-tech jobs back to America, where the technology was first invented, and that is thanks to the renewable energy tax credit. If we don't extend this tax credit, we will fail these facilities and the people whose jobs are at stake. As uncertainty about the tax credit deepens, we have already seen that orders to wind manufacturing facilities are slowing down and companies are making layoffs.

This is our fault, here in Congress, and it is unacceptable. The longer we wait, the worse the layoffs and shutdowns will become. In fact, if we don't extend the tax credit this month, it will be too late for the wind industry to build any turbines in 2013. Wind turbines are big, and wind farms need to plan and order parts a year in advance. If the wind farms can't depend on the tax credit of 2013, they can't make plans to build for the next year, which means they can't make orders to 400 manufacturing facilities across the country for parts.

Because of the uncertainty of the tax credit in 2013, production now in 2012 has already come to a halt. That is why we need to extend this tax credit now, immediately, in the payroll tax package.

For the past several months, we have been celebrating reports that the unemployment rate is improving. This is fantastic news. But we can't rest on our laurels yet. We must be sure to enact smart policies that promote businesses and job growth in the parts of the economy that need it most and which are the future. The renewable energy tax credit does just that. It will promote growth in manufacturing and construction—industries that deserve our help the most.

America has tremendous wind resources, most of which are still untapped. Take Minnesota, for example. We are ranked fifth in the country for the most installed wind capacity. Yet our wind resources could still provide 25 times more energy. This is a huge opportunity for this country—an opportunity that we can't afford to dismiss.

Wind blows all over this Nation. It blows in red States and in blue States alike. It is an abundant, cheap, clean energy resource that is proving to be a boon to our economy. We cannot stop developing it now. I urge my colleagues to extend the renewable energy production tax credit immediately, at the same time we extend the payroll tax cut and unemployment benefits.

I want to thank the Presiding Officer for his leadership, and I want to thank the Senator from Vermont and the Senator from Rhode Island, and so many others, who are leading this fight. This is smart on an economic basis, but we are facing a crisis that scientists around the world agree on.

I yield to the Senator from Vermont. I have said what I wanted to say about the wind production tax credit and the other renewable energy tax credits. I thank the Senator from Vermont for his leadership.

**THE PRESIDING OFFICER.** The Senator from Vermont is recognized.

**Mr. SANDERS.** Mr. President, I thank the Senator from Minnesota.

The point that he makes is indisputable; that is, if we are serious about creating decent-paying, meaningful jobs in this country, why in God's name are we not extending 1603 for solar and wind and the renewable energy tax credit? This will enable us to create good-paying jobs, make sure sustainable energy is an important part of our economy, and allow this country to play a leadership role in reversing greenhouse gas emissions and combating global warming.

I think there are some people who say: Well, maybe global warming might be real, but we don't have to worry about it today. Its impact will not be seen for decades or centuries to

come. I would suggest that is not quite correct. We are seeing the impact of global warming climate change right now. Let me give an example.

According to studies, in my own State of Vermont in northern New England, if we fail to reverse global warming we will see continued temperature increases. Vermont's climate, by 2080, is projected to be similar to Georgia's climate today. Mr. President, 2080, in the great scheme of things, is not all that far away. To think that Vermont, northern New England, will have a climate similar to Georgia's today is rather extraordinary if that takes place by the year 2080. Clearly, if that trend takes place, it would be devastating in many respects for Vermont, including our winter tourism and our sugar maple producers, among other aspects of our economy.

Lake Champlain, our beautiful lake which borders New York State and Vermont, which used to freeze for 9 out of every 10 years in the early 20th century, froze over just three times in the 1990s and has not fully frozen over since 2007. So in my small State, the State of Vermont, northern New England, we are seeing the impact of climate change today. The idea that by the year 2080 Vermont's climate will be similar to the State of Georgia's climate today is just unthinkable and extraordinary and tells us the impact that global warming is having.

According to NASA, 2010 tied 2005 for the warmest year since records began in 1880. Nine of the ten warmest years on record have occurred since the year 2000. The last decade was the warmest on record.

We have seen temperature records being recorded all over the planet in the year 2010. During that year, Pakistan set a record for recording the highest temperature ever in Asia, hitting 129 degrees Fahrenheit. Iraq set its own record for high temperatures at over 125 degrees. Sudan reached a record 121 degrees. Los Angeles, right here in our country, had a record 113-degree day. Houston, TX, set a record for its highest monthly average temperature.

In the United States, according to a New York Times article, two record-high temperatures are now set for every one record low. The National Climatic Data Center shows that 26,500 record-high temperatures were recorded in weather stations across the United States in the summer of 2011. Texas set the record for the warmest summer of any State since instrument records began. Oklahoma set a record for its warmest summer, exceeding the record set during the Dust Bowl era in the 1930s.

But we are not just looking at hot temperatures and hot days. What are the impacts of those kinds of weather changes? What does it mean to people's lives? Scientists used to say they could

not tie a particular event to climate change. That is no longer true. Our understanding of climate and extreme weather has advanced.

NASA's James Hansen and his colleagues can say that some of the extreme heat waves we have seen, such as those in Russia and Texas and Oklahoma, over the past several years were caused by global warming because their likelihood would be negligible if not for global warming.

Let me give some other examples of what global warming is doing in terms of heat waves and its horrendous impact on the lives of people.

Some of us remember Europe in 2003. During that period in Europe, 2003, a heat wave caused temperatures to reach or exceed 100 degrees Fahrenheit in the United Kingdom and France and led to high temperatures throughout Europe for weeks which killed 70,000 people, according to the World Health Organization. Many older people, people with respiratory problems, people who were fragile in health died during that period. In the heat wave in Europe in 2003, 70,000 people died.

In Russia in 2010, a week-long heat wave sent temperatures soaring above 100 degrees Fahrenheit in areas where the average temperature that time of year is 67 degrees. Mr. President, 56,000 people died during that period as a result of that heat wave, and wildfires created a smoke plume nearly 2,000 miles wide, which was visible from space.

So this is not some kind of abstract issue: Oh, my goodness; isn't it too bad it is really hot today. What we are talking about are prolonged heat waves that kill substantial numbers of people.

In India in 2010, they recorded temperatures of over 100 degrees that killed hundreds of people; Chile in 2011, a heat wave, drought, and wildfire destroyed 57,000 acres of forest and land and forced 500 people to evacuate; Australia in 2012, the start of 2012 was the hottest start of any year for Australia in the century, according to ABC News, with temperatures exceeding 104 degrees and electricity cut off in some areas to prevent the igniting of fires.

Prolonged and more severe drought is likely to increase as global warming continues, according to the National Center for Atmospheric Research in Colorado. This means increased risk of crop failure, wildfires, and water scarcity. A recent study published in Scientific American found that climate change has cut production of cereal crops—wheat, rice, corn, soybeans—causing these crops to be nearly 19 percent more expensive than if global warming was not occurring.

I could go on and on about this issue. But the main point I want to make is the following, and let me summarize it here. According to virtually the entire scientific community in the United

States of America and around the world, according to virtually every agency of the United States Government, global warming is real, and it is significantly caused by human activity. People are mistaken if they believe the impact of global warming will just be in decades to come. We are seeing very negative impacts today. The scientific community tells us if we do not begin to reverse greenhouse gas emissions, those problems in America and around the world will only get worse.

If there is a silver lining in all of that, it is that right now we know how to cut greenhouse gas emissions. We know how to move to energy efficiency, mass transportation, and automobiles that get 50, 60, 100 miles per gallon. We know how to weatherize our homes so we can cut significantly the use of fuel. What we also know is that in the middle of this recession, if we move in that direction—energy efficiency and sustainable energy—we can create over a period of years millions of good-paying jobs.

Let me conclude by saying: we now have the opportunity to be in a win-win-win situation. We can save consumers money, we can significantly reduce greenhouse gases and protect our planet, and we can create substantial numbers of jobs that we desperately need in the midst of this terrible recession.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SYNTHETIC DRUG USE

Mr. GRASSLEY. Mr. President, in the fall of 2010 I came to this Chamber to speak about my growing concern of synthetic drug use in this country.

Specifically, I raised concerns about a popular new drug known as K2, or Spice, and I learned about this myself for the first time because a constituent of mine by the name of David Rozga committed suicide. David killed himself shortly after smoking a package of the drug he and some friends bought at a local shopping mall.

At the time, David's death in June 2010 was one of the first associated with what was a new and very dangerous drug craze. Nearly 2 years after David's death, the use of synthetic drugs like K2 has exploded and is becoming a major problem across the country.

In 2009 the American Association of Poison Centers reported only 13 calls concerning synthetic drug use. One year later, in 2010, over 1,300 calls were

made to poison centers about synthetic drugs. So I have gone from 2009 to 2010, and now 2011. We have gone from 13 to 1,300 to last year, 12,000 calls to poison centers regarding synthetic drugs.

The Monitoring the Future Survey, a survey of high school youth, asked students for the first time last year if they ever tried synthetic drugs. Roughly one in nine high school seniors responded they used synthetic drugs last year.

These numbers are quite obviously an astonishing increase in just 2 years and they illustrate, of course, how rapidly the use of these drugs has come on the scene. These drugs are having a terrible effect on those who use them. Emergency room doctors across the country are reporting increasing uses of synthetic drugs in the number of users coming to the hospital.

My staff heard from one such doctor from upstate New York about what she has seen. Dr. Sandra Schneider, from Rochester, NY, reported that users in her ER experienced psychotic episodes, rapid heart rate, very high blood pressure, and seizures. In some cases, users—many of whom were in their teens and twenties—suffered heart attacks and strokes and died as a result. Other cases involved users who tried to kill themselves, harm others, or got into a car accident while high on these synthetic drugs.

How do we get from practically no use to where we are now? The people who manufacture and sell these drugs have circumvented the laws to easily sell synthetic drugs online, at gas stations, in novelty stores at the local shopping malls, and in tobacco stores and other shops. Many of the drugs are manufactured overseas, in countries such as China, and then imported into the United States. They spray chemical compounds, that have not been tested on humans and were not intended for human consumption, on dried leaves. They package and market these drugs to appear as legitimate products such as incense, bath salts, plant food, and snow remover. They slap a label on these packages stating that the product is not for human consumption to get around FDA regulations.

Over 30 States have passed laws to ban various synthetic drug compounds. The Drug Enforcement Administration has also acted to stop these drugs. Although the DEA has used its emergency scheduling powers to control seven chemical compounds, there are too many on the market now for DEA to go through the long and laborious process to schedule each and every one. The makers of these drugs know this as well and have altered their chemical formulas—some as little as a molecule—to get around existing State and Federal laws.

This is exactly the case in my home State of Iowa. Iowa passed a law last

year that banned many chemical compounds. However, the law only listed a specific set of chemical compounds and the drugmakers are now altering their formulas.

Recently, two Iowa youths have become victims of the new drugs. One is a Polk County teenager who got into a high-speed crash smoking a product called 100 Percent Pure Evil.

This teen had two other passengers in her car. After smoking this product the driver became agitated and stated she wanted to kill herself. She started driving her car into several trees. When paramedics arrived at the scene they reported that everyone was badly hurt and the driver was vomiting blood. Thankfully all passengers survived the crash.

Another teen in central Iowa experienced a near-death experience after smoking the same product. This teen purchased the product—remember the name, 100 Percent Pure Evil—purchased it at a local store and started convulsing and vomiting shortly after smoking the drug. Once a paramedic got this boy into the hospital he fell into a coma. He, however, awoke from the coma the next day but had failed to recognize his mother or grandmother at the hospital. Thankfully this boy has since recovered his memory. Now he suffers occasional anxiety attacks.

When the boy's mother told the police about the product and where he got it, she reported that the police told her there was nothing they could do about it because it was not known what was in the product and it may be legal. This product is still being reviewed to see if any compounds fall under Iowa's law.

Nearly a year ago I introduced this legislation we named after the person who died 2 years ago, David Rozga. I introduced this bill with Senator FEINSTEIN. It bans the chemicals that comprise K2/Spice. We designed the legislation to capture a wide variety of compounds so it would not be so easy to circumvent this law by altering the molecule. In fact, the Iowa Governor's Office of Drug Control Policy is crafting new legislation based on the legislation I introduced last year that captures more substances. My legislation was unanimously passed out of the Judiciary Committee 8 months ago. It is currently being prevented from consideration by the full Senate by one Senator. The House of Representatives passed its version of the Synthetic Drug Control Act overwhelmingly last December, with over 70 percent of the Representatives supporting scheduling these drugs.

Many of the opponents of this legislation stated on the House floor that by scheduling these compounds we are preventing scientific research. This is far from true. Any scheduled substance, even current Schedule I drugs such as cocaine and heroin, can be re-

searched. Any scientist can apply to be registered by the DEA to research any drug. Just because we are removing the drugs from the store shelves does not mean we cannot study them.

I say to my colleagues, it is now time for the Senate to take action. We cannot let the will of one Senator obstruct the will of many. I believe if our legislation received a vote and a fair debate in this body, it would pass overwhelmingly. So I urge my colleagues to support our efforts to get these drugs off the store shelves and off the streets, and I urge the Senate leadership to allow a debate and a vote on the issue. The American people, people such as the Rozga family and others who have been victims of these drugs, want to see this poison removed from their communities.

I appreciate working together with the Senator from Minnesota and the Senator from New York on this bill and similar bills as well.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Minnesota.

MS. KLOBUCHAR. Mr. President, I come to the floor today to join my colleague, Senator GRASSLEY of Iowa. I thank him for his remarks. I think you can tell this is a very important issue but also one that is bipartisan. As he pointed out with the vote on the House side, this was a bipartisan issue over there. It was bipartisan on the Judiciary Committee. We simply need to allow for a debate and a vote in a timely manner on these bills.

I also know Senator CHUCK SCHUMER from New York will be joining us, another senior member of the committee. We are all three on the Judiciary Committee, with Senator GRASSLEY being the ranking Republican on the committee. So we have much support for this bill.

Today I want to take a few minutes to add to the comments of Senator GRASSLEY about the growing threat to people of all ages, but particularly to our young people, of the dangerous synthetic drugs that are becoming, sadly, more and more common in our communities.

There have been reports from States around the country of people acting violently while under the influence of these drugs, leading to deaths or injuries to themselves or to others. While taking these drugs, people can experience elevated heart rates and blood pressure, hallucinations, seizures, and extreme agitation. They are very dangerous.

These synthetic drugs have exploded as an issue in recent years. Until 2006 I was the county attorney for Hennepin County, which is Minnesota's largest county. It actually is about a fourth of our State in terms of the population. During that time two words I never heard were "synthetic drugs." We were focused on crack, we were focused on

methamphetamine, we were focused on laws to contain that, but synthetic drugs were not something we talked about. It is an example of how quickly this drug has come on the scene. Poison control centers and emergency rooms from across the United States are reporting dramatic increases in the number of calls and visits relating to synthetic drugs. In 2011, poison control centers across America received more than 13,000 calls about synthetic drugs. Think about that. Do you know what the number was in 2010, a year before? It was 3,200; it was 3,200 in 2010, 13,000 in 2011. In Minnesota there was a total of 392 calls to poison control relating to synthetic drugs in 2011, compared to 111 in 2010, so you are seeing a four-times increase in our State and across the country in terms of the rise of this drug.

A recent report by the National Institutes of Health shows that one in nine high school seniors admitted to using synthetic marijuana during this past year, so it is clearly a rapidly growing problem.

This all hit home in my State with the tragic death of 19-year-old Trevor Robinson in Blaine, MN, who overdosed on a synthetic hallucinogen known as 2C-E. Last year another young man shot himself in our State under the influence of synthetic drugs. I can only imagine the pain and anguish their friends and families must feel. It is anguishing. This is a life-and-death issue. It is not something where we can put our head in the sand and pretend it is not happening. This is a new type of drug, it is a dangerous drug.

We have begun to take action. We have to take action on both the State and Federal level and we are making progress on a few fronts. I introduced a bill which would add 2C-E, the drug that killed the young man in my State, and similar drugs to a list of banned substances so they will be treated in the same manner as other banned drugs that they mimic, such as heroin.

I am also cosponsor of the bill Senator GRASSLEY referenced and also Senator SCHUMER has another bill to ban other types of synthetic drugs. Basically one bans the bath salts, one is focused on synthetic marijuana, and my bill is on the synthetic hallucinogens. All three of these bills passed the Judiciary Committee in July and one has already passed the House with a very strong vote.

Unfortunately, as Senator GRASSLEY also mentioned, a hold has been placed on all three of the Senate bills by one Senator. That is extremely unfortunate. These drugs can kill, and if we do not take action they are going to become more and more prevalent and put more and more people at risk. We cannot wait around and let these important bills languish in procedural gridlock, especially because of one Senator.

We are going to keep fighting here in the Senate until those laws get passed. We have seen in Minnesota, with the tragic story of Trevor Robinson, what these drugs can do and I for one do not want to see it happen again, not in my State, not anywhere in the country. I understand the Senator who is holding these bills has genuine and philosophical opposition and he deserves to be heard on his objections. My suggestion is that we come to an agreement so we can have a period of debate on these bills, a simple period of debate. This should not be a week-long debate. We can take the floor and speak to this issue and he can speak as long as he likes. We are not asking him to change his position. We want him to be heard but we simply want to have a period of debate and then a vote. That is what the Senate should be about.

Luckily, the Drug Enforcement Administration is taking its own action and has temporarily banned some synthetic drugs, but most of the substances in these bills have not been banned, including all of the substances in my bill. On the State level, roughly 40 States have banned some synthetic drugs, including Minnesota, where a major law regarding synthetic drugs took effect in July. But that means that some States have not banned any of these drugs yet and some have banned only certain types, so people can go to other States to buy them legally or buy them on the Internet. That is one of the reasons we need this Federal law.

Also, local law enforcement needs a strong ally in the Federal authorities as they try to turn the tide against synthetic drugs. Sadly, many of these instances I have seen in our State with synthetic drugs involve more rural communities—towns that may not have the ability to call in a bunch of lab technicians and experts to be able to testify about what type of synthetic drug it is. That is why, for the sake of that law community, it is important we get it on that Federal list and we also make it very clear it is banned. Passing a Federal law will help create a partnership and will send a strong message that we need to eradicate these substances.

I do think we have made progress by raising awareness of this issue, which will lead to better education efforts, more vigilance by parents, and more attention by law enforcement. Now that the DEA has become more familiar with these substances, it will be better equipped to combat the problem. But the fact remains that the most important thing we can do on the Federal level is to pass these three bills that have already been approved unanimously by the Judiciary Committee. These bills won't solve the problem overnight, but they are the first step we need to take, and we need to do it now. Before we lose more kids, before

these drugs spread any further, let's pass these bills. As I mentioned, it is estimated that one in nine high school seniors has tried synthetic marijuana. I don't want to wake up a year from now and read that it has increased to one in seven or one in five. Let's have a debate. Let's hear what the objections are, and then let's pass these bills. I really think we can save lives. While there is still time to catch up, we should be doing everything we can to address these problems.

I thank my colleagues, Senator GRASSLEY, the ranking Republican Senator from Iowa on the Judiciary Committee, who has already spoken, and Senator CHUCK SCHUMER from New York, who is a senior member of the Judiciary Committee. We are doing this as a team. We think it is very important that you, Mr. President, and the rest of the Senate have the opportunity to vote on these bills and have the opportunity to debate them. We hope we can achieve this goal procedurally so we can move forward in the way we are supposed to.

I yield the floor. I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New York.

Mr. SCHUMER. Mr. President, today I rise to join my colleagues, Senator KLOBUCHAR and Senator GRASSLEY, to discuss an epidemic overtaking our country: synthetic drugs. I wish to compliment both of my colleagues. Each of us has been working on this issue in different ways, and we combined our three approaches into one piece of legislation that will go a long way toward helping to keep our kids away from drugs they should not have.

Synthetic drugs are an epidemic overtaking our country. They are also known as bath salts or, in the case of manmade marijuana, spice or incense. They are given innocent names, but they are deadly. Synthetic drugs are not sold on street corners by slingers who keep stashes hidden in alleys. Instead, these drugs can be found in local corner stores across the country. They are as easy to buy as a lollipop or a carton of milk, but they are much more dangerous.

No wonder emergency rooms and poison control centers have seen an enormous rise in patients who have taken these drugs and must seek help. The numbers are nothing short of eye-popping. Poison control centers reported 13 calls concerning these products in 2009, over 1,000 calls in 2010, and over 6,500 in 2011—from 13 calls to over 6,500 calls in 2 years. For every call they

get, there are many people taking these drugs with no call at all. One survey, in fact, indicates that one in nine high school seniors used synthetic drugs in the past year. That is a frightening, astounding, and devastating number.

The Senate has before it a rare opportunity to do something simple and right that will actually go a very long way to fixing this crisis. We have three bills—Senator KLOBUCHAR's, my colleague from Minnesota, Senator GRASSLEY's, my colleague from Iowa, and mine—that would place the chemical components that make up these substances directly on schedule I of the Controlled Substances Act without waiting for the DEA to go through its yearlong listing process. Our communities desperately need us to make these drug compounds illegal once and for all. The DEA wants us to go ahead and make them illegal, and so does the FDA. There is no legitimate or commercial use for these compounds.

Our bills passed out of the Judiciary Committee unanimously and with no opposition. The House passed its version of our bills with little opposition. All we have to do now is put them on the floor and have a vote or simply pass them unanimously. But one of my colleagues has put a hold on these bills—just one. That is fine. I am in favor of protecting my colleague's rights, as they are my rights and Senator KLOBUCHAR's and Senator GRASSLEY's rights. But one Senator should not be able to prevent a vote on something that 99 percent of Americans want that directly affects their health and safety and the health and safety of their children. So I have a suggestion. Why can't we at least put these bills on the floor, and our colleague can air his opposition and see if he can win people over to his point of view? This really should not take more than an hour or two of our business.

Law enforcement and health professionals are begging for this bill. I know for a fact that parents and families in my State are begging for this to become law. A lot of us have worked hard on this issue because it is of critical importance to our communities and States.

Before I go any further, I again want to compliment and commend my colleagues, Senators KLOBUCHAR and GRASSLEY, as well as Senator FEINSTEIN, who is not here with us this afternoon, for their excellent leadership on banning these so-called designer drugs.

On Monday I was in Rochester, NY, to discuss Senator GRASSLEY's synthetic marijuana bill with local law enforcement and emergency room doctors. I heard horrific stories of patients who smoked synthetic marijuana and ended up crazed in the emergency room. Everyone I met with urged me to help ban these substances as soon as possible.

My own bill, the Combating Dangerous Synthetic Stimulants Act, bans two more of these drugs, mephedrone and methylenedioxypyrovalerone—fortunately, it is regularly known as MDPV—and they are commonly sold as bath salts. By calling them bath salts, manufacturers are trying to deliberately mislead people into thinking they are an everyday product. It is despicable when young kids—14, 15, 16 years old—try bath salts and they think it is harmless. These dangerous drugs are sold in convenience stores and smoke shops for as little as \$14 to \$40. And what are their names? Tranquility, Zoom, White Lightning, and Hurricane Charlie. These so-called bath salts or plant foods are nothing more than deadly narcotics, and they are being sold cheaply to all comers with no questions asked at store counters around the country. How is it possible that such deadly drugs are legal? Because by marketing them as bath salts, which aren't for human consumption, they aren't regulated. These bath salts have much the same effects, according to users, as cocaine or ecstasy, but they are preferred because they are cheaper and more readily accessible. In fact, according to court papers obtained by the Staten Island Advance, one of our fine local papers in New York, a seller in Brooklyn boasted to a Federal agent that the bath salts would deliver a better high than cocaine.

This ease of access does not, however, translate into their safe use. A recent New York Times article reported that an individual high on bath salts had climbed a roadside flagpole and jumped into traffic, broken into a monastery and stabbed a priest, and scratched herself to pieces because something was under her skin.

One of these drugs, Cloud 9, is so easily accessible it is sold on amazon.com. A person can go on amazon.com and buy this horrible stuff. How much? Sixteen dollars, plus shipping. It is accessible to anybody. Can my colleagues guess what item most customers buy with this specific bath salt? Is it relaxing candles or lotion? Is it soap? No. The item customers most buy with this bath salt is Click N Smoke all In One Vaporizer With Wind Proof Torch Lighter. That is the name of the product. One does not need much of an imagination to believe that the purchasers of Cloud 9 are smoking these drugs and not adding them to a relaxing bath.

These drugs are the worst kind. Not only do they cause people to perform horrible actions, but they also give the impression that they are legal, that they are innocuous. Make no mistake that these drugs can and will cause harm to their users. At least 30 States, including my home State of New York, have recognized these drugs as harmful. They have banned bath salts at the

State level. But only the DEA—the Drug Enforcement Agency—and the resources that are behind it can keep these drugs from coming into our country, from crossing State lines, and from morphing time and again to evade State bans. That is why we need these bills.

The DEA temporarily banned two of these substances in November. However, the clock is now ticking until this temporary ban ends. FDA and HHS must complete a complicated checklist in the remaining 7 months to prevent these drugs from returning to the corner store.

We must provide the DEA with a permanent ban before the time runs out. This will provide them with the necessary tools to address these legal drugs on a national stage. The DEA has the ability to spearhead multi-State and international investigations to prevent the manufacture and sale of bath salts.

These drugs are deadly and dangerous. Yet they are easier to buy than cigarettes in many States. Parents should not worry that each time their child goes into a convenience store or gas station, he or she can buy a deadly drug.

This bill has broad bipartisan support. We cannot wait for another parent to lose a child because of the inaction of the Senate. I look forward to working with my colleagues to pass the legislation. Once again, I implore my colleague—the single Senator who is holding up this bill—I hope he will not agree to set aside his differences, which come from a deep Libertarian ideological perspective that is different than most Americans have, but agree not to block them but to debate them and let them come up for a vote.

I thank the Chair.

I yield the floor and note the absence of a quorum.

The PRESIDING OFFICER (Mr. CARDIN). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PORTMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PORTMAN. Mr. President, I ask unanimous consent to enter into a colloquy with my Republican colleagues for up to 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### THE BUDGET

Mr. PORTMAN. As the Presiding Officer knows, this week the President sent his budget to Congress. This happens every year. The budget is a document that determines what the spending will be and what the revenues will be not just for the next fiscal year but for a 10-year period. So it is a document about what the direction of our



country ought to be. It is a vision for the country, if you will.

It is being sent to the Congress at a time when we face extraordinary fiscal challenges. We have a record debt of over \$15 trillion. We have deficits that have been over \$1 trillion a year for the last several years, and it looks as though this year, once again, it will be well over \$1 trillion.

In comparison to previous years, we have a debt that is now as large as our entire economy, which is larger than at any time since World War II. In fact, as a country, we are spending more money at the Federal level than we ever have before—as a percent of GDP, more than we ever have since World War II. So these are times when we have a true fiscal crisis at our doorstep and we need to handle it.

We are borrowing over 35 cents of every \$1 we spend at the Federal level. In that context, I have to say I am very disappointed in the budget proposal that was sent to us because it is simply not up to the challenges we face. It taxes too much, it borrows too much, and it spends too much. Unfortunately, it adds another \$11 trillion to the national debt over this 10-year period—again, a debt that already tops 100 percent of our country's economy. It does nothing to change the fact that Social Security and Medicare are in trouble—very important programs, of course, but by not addressing them in this budget document it means what everybody knows, which is that unless we do something that will head toward solvency, this will continue to be the case.

Remarkably, I thought, the President proposes another \$350 billion in a so-called stimulus bill within this budget and pays for it either in red ink, with more borrowing, or by raising taxes. It actually raises taxes by nearly \$2 trillion over this 10-year period. This is despite the fact the Congressional Budget Office has told us that by raising taxes, we are going to hurt the economy. In fact, it would result in higher unemployment next year than this year.

We all know the long-term driver of these deficits is entitlement spending. These important programs, Social Security, Medicare, and Medicaid, along with interest on the debt, are called the mandatory spending part of the budget. That is now a bigger and bigger part of the budget and the fastest growing part of the budget. It is 64 percent of the budget this year.

Under what the President has proposed, for the next 10 years, that mandatory spending—which means it is not subject to annual appropriations by Congress; again, important programs but not on a sustainable path—this mandatory spending will grow from 64 percent of the budget—where it is today, which has grown and grown over the years—to 78 percent of the budget

in 10 years, under the budget proposal the President has put forward.

Republicans, Democrats, Independents alike, we know this is not sustainable. It is not sustainable and, unfortunately, it is going to hurt these programs in a way that is going to make it very difficult for our seniors and others who rely on them.

Overall, the President's promise of deficit reduction also does not look like it works. The budget claims \$5.3 trillion in deficit reduction over the next decade. However, if we look at it, that \$5.3 trillion does not come from spending cuts. Looking at a budget table, table 3—and I ask folks at home to take a look at this—99.9 percent of that \$5.3 trillion in so-called deficit reduction does not come from spending cuts, it comes from tax increases—almost \$2 trillion—a savings that is considered to be a gimmick of saying we are not going to spend as much in Iraq and Afghanistan. Everybody knows we are not going to spend as much there. Yet they take credit for that. Already enacted spending caps—remember, the discretionary spending caps were put in place, the so-called sequestration or across-the-board cuts, they take credit for those which have already been enacted and then, finally, the net interest savings from all those policies, which is about \$800 billion, they say.

So again, almost all that so-called deficit reduction over the next decade comes not from spending cuts but, in fact, from either gimmicks, tax increases or things Congress has already done. That leaves very little—about \$4 billion out of the \$5.3 trillion—that is truly spending reductions.

By the way, on top of that, in the so-called baseline that the President bases his numbers off of—in other words, we have to determine what would the spending otherwise be—in that baseline, there is another \$479 billion in new spending on Pell grants, the Medicare doc fix, and so on.

So the spending savings completely vanish when we put all that together. That is not the kind of budget we need right now.

Last year, the President submitted a budget that I thought was a good political document, also, but did not address our budget problems, and we took it to the floor of this Senate for a vote. In the Senate, last year, the President's budget was voted on by Republicans and Democrats, and it lost by a vote of 97 to 0.

I do not know how this budget would do if it came to the floor, but I am not sure it would fare much better because, frankly, when we look at this objectively, it is hard to say it addresses the very real problems we face. These are problems that relate to our spending and relate to the fact that we have these big deficits and debt, but also it relates to what is going on at kitchen tables all over America, which is peo-

ple are having a harder time finding work, keeping jobs, making ends meet.

The economy is tough in my own State of Ohio. We not only have high unemployment, but we have record numbers of weeks where people have been on unemployment—approximately 40 weeks now. We have a lot of people who have given up looking for work altogether. Unless we get this budget deficit and debt under control and add more predictability and certainty to our economy and to what is going to happen with these huge deficits and debt that seem to be taking us toward what is happening in Greece, Italy or Spain—unless we do that, we are not going to be able to turn this economy around and give people the kind of confidence they are looking for to be able to make investments and move our country forward.

There are some other folks who are with me in the Chamber today. I would like to ask them if they would not mind talking about their budget perspective, what they see in this budget, the concerns they might have, and the ideas we have to try to improve our fiscal situation, therefore, our economy.

I see the ranking member of the Budget Committee is here.

I say to Senator SESSIONS, I know he wants to speak briefly on this issue.

Mr. SESSIONS. Mr. President, I thank Senator PORTMAN for his comments and for his leadership on the Budget Committee. We have three fabulous new members on the Budget Committee in Senator TOOMEY, Senator PORTMAN, and Senator RON JOHNSON, who are with us and will share their perspectives as new members on the Budget Committee.

At a time of fiscal crisis, as Senator PORTMAN has described, it is very important the leadership of America speak honestly to the American people about the challenges we face and how we plan to go about fixing them. That is right. That is fair. That is just. It is wrong, it is unfair, and unjust to spin plans, to misrepresent the impact of policies in a way that confuses the American people and our colleagues in Washington about what is going on.

So our colleagues who are here understand the numbers. They are going to make some very good points. I will just say, as a member of the committee and the ranking Republican, I am disappointed the budget does virtually nothing to change the debt trajectory we are on from the agreement we had last year and, in the course of it it raises taxes considerably and raises spending considerably, although the Budget Director was so reluctant yesterday to acknowledge it raises spending. But it does raise spending in any fair and objective analysis of the situation we are in today with the current trajectory in the Budget Control Act we agreed to last year.

So we are at a crisis, and we need to have leadership that looks the American people in the eye and tells them of the crisis we are facing, the difficult challenges, and lays out a plan on how we can fix it. We can fix it. If we put ourselves on a sound path, we will have more growth and prosperity than a lot of people predict.

I thank Senator PORTMAN for the opportunity to share these few moments and for the contribution he and our other colleagues are making to this important national debate.

Mr. PORTMAN. Mr. President, I thank the Senator for his leadership on the Budget Committee.

I see we have also been joined by one of our new Members, a freshman Member, who comes from the business side of things. He ran a manufacturing company, so he has an interesting perspective on Federal budgeting. I love to ask folks who are in business: Could you see doing business where you were borrowing 35 cents of every \$1 you spent? The answer is: I wouldn't stay in business very long.

With that, I would like to hear from Senator JOHNSON of Wisconsin.

Mr. JOHNSON of Wisconsin. Mr. President, I thank Senator PORTMAN. Again, I so value his experience. Being the head of OMB himself, he understands these numbers.

What I have been trying to do over the last couple days is, I have been trying to figure out where is this \$4 trillion worth of deficit reduction.

I have a chart on the debt in the Chamber. I have shown this chart in the past. I like this—I do not like it, but I like this depiction of the debt. It goes back to 1987, when our Federal debt was \$2.3 trillion. It took us 200 years to incur that much debt, and we just entered an agreement—I did not vote for it, but we entered an agreement to increase the debt ceiling by \$2.1 trillion, and we will blow through that in about 2 years.

But if we take a look at the debt President Obama in his latest budget is projecting 10 years into the future, it is \$25.9 trillion. In last year's budget, it was about \$26.3 trillion. Again, I am trying to do the math. If we reduce the deficit by \$4 trillion, one would think that final debt figure would also be reduced, and it simply is not.

I realize the President is talking about a balanced approach. But you know as well as I do we have a spending problem, and that is what the next chart is trying to portray.

If we take a look at 10-year spending, in the 1990s, our Federal Government spent \$16 trillion in total. In the last decade, we spent \$28 trillion. In President Obama's budget for last year, he was projecting spending over 10 years of \$46 trillion. In his new budget—just 1 year further into the future—he is projecting \$47 trillion over 10 years.

Again, I do not see where there is \$4 trillion worth of deficit reduction. I am

an accountant. I am going to continue to look through the budget. I am afraid I am not going to truly come up with it.

I think what is very disappointing about President Obama's budget is that he simply is not grappling with what we all realize. I think everybody in Washington realizes what is driving our debts and deficit long term is Social Security and Medicare spending.

Just a quick little chart in terms of where we are in terms of Social Security. In 2010, we went cash negative, which means the amount of the payroll is not covering the benefits—by \$51 billion in 2010, \$46 billion last year. By the year 2035, we will accumulate \$6 trillion in deficit spending in Social Security alone, and the President's budget is silent on Social Security. The President's budget is silent on Medicare.

He has had 4 years. Why doesn't he propose something? The only thing he is proposing is a tax on millionaires. He is asking Congress to hop on board and let's pass corporate tax reform. Why doesn't he propose it? There is actually a growing consensus about progrowth tax reform.

I want to agree with this President on something to enact something. But he needs to lead, and he is not leading on these issues.

I want to finish my little part by talking about those millionaires on whom President Obama wants to raise taxes.

I have been doing an awful lot of telephone townhall meetings. Last week, we had a very interesting call. After a couple of my constituents from Wisconsin asked me why I would not support a millionaires' tax, we had a call from an elderly woman, and I could tell she was afraid. She was scared. She said: Senator JOHNSON, I am so concerned about what is going to happen to our taxes. My husband and I have been building a business all our lives. All our assets are wrapped up in that business, and now my husband has been sick for 2 years. He has not been able to work in the business. I have been trying to make a go of it, and now we are going to have to sell the business. In maybe 1 year, when we sell this business, I might report one million dollars' worth of income, and I am so concerned: Am I going to be paying that 15-percent tax on my retirement fund, which is my business, or am I going to be paying a 30-percent tax?

The fact is, that is whom this President wants to punish—people such as that woman in Wisconsin who has her entire retirement wrapped up in her business, and she is going to sell it. That is on whom President Obama wants to double the tax.

Again, I think that puts a face on the type of people President Obama wants to punish. I think that is a tragedy. I would like to see the President lead on the debt and deficit issue far better than he has.

Mr. PORTMAN. Mr. President, I thank Senator JOHNSON for his perspective, and it is very helpful.

We are now going to hear from another colleague who also is a new Member of the Senate but has a lot of experience in what makes the economy work and has been promoting progrowth tax reform and progrowth regulatory relief and other things to actually move the economy to generate more revenue in the right way, which is through growth, PAT TOOMEY from Pennsylvania.

Mr. TOOMEY. Mr. President, I thank Senator PORTMAN for organizing this colloquy and Senator JOHNSON for his contribution.

Let me start by making this point: It seems to me the two top priorities the budget—and most of what we do—ought to have are, No. 1, policies that will help encourage strong economic growth, a recovery that we need and the job creation that would come with it—that is No. 1—and No. 2, putting our Federal Government on a sustainable path because we are not on a sustainable fiscal path now, and if we do not get on a sustainable path soon, we are inviting a crisis. We are inviting a disaster.

It is my view that the President's budget fails badly on both fronts. On the economic front, there are a number of areas. First and foremost is a budget that proposes a growing budget deficit. The President who promised us in his first term he would cut the deficit in half, in fact, is proposing in fiscal year 2012—this year—a deficit that is bigger than last year and almost as big as the alltime record high—nowhere near cutting these deficits in half. Huge deficits themselves have a chilling effect on economic growth because they discourage investment.

Everybody knows when we are racking up massive amounts of debt, unprecedented amounts of debt—as we are doing right now—there is a huge threat that the result will be either dramatic inflation or much higher taxes or both. Given that threat, businesses and entrepreneurs, understandably, are reluctant to take a risk, to make an investment, to grow a business, to hire workers. So that is point No. 1.

Point No. 2 that I would like to make is a little bit more technical and very specific; that is, the President's idea that we ought to tax dividend income, which is to say investment in business, at ordinary income rates instead of at the current 15-percent rate. I just want to illustrate why I think that is a particularly bad idea and why it will hurt our economy and weaken our ability to create jobs.

This little chart demonstrates what this means is, what the President is proposing is effectively a 63-percent tax on investment in a business. The reason I say that is as follows: If you

can imagine, let's say you have saved some money and you want to invest in a business so that business can grow and hire workers. How will these taxes be paid?

Right now, we have just about the highest corporate income tax rate in the world. So if you make an investment in a business and that business makes a profit, the first thing that company has to do is pay \$35 of every \$100 it makes. Let's assume the company makes \$100. At the 35-percent top income tax rate that the company pays, \$35 is taken, goes to the government. So the aftertax income for that business is \$65. That is what the owners of the business get, right? Not quite.

If the dividend is then paid to the owners of the business, the President wants that to be taxed now at the ordinary income tax rate. By the way, he wants that rate to go from the current rate of 35 percent up to 43.4 percent. A top marginal income tax rate of 39.6 percent, plus the 3.8 percent from the health care bill that was passed, brings the top marginal income tax rate to 43 percent.

I know this gets a little bit confusing, but at the end of the day, it is not that complicated. The \$65 that is remaining after the corporation pays its income tax—if that gets paid to the investor—that now, under the President's plan, would be subject to a 43-percent further tax.

That is another \$28 that gets taken from that initial \$100 of income, leaving the investor with \$37 out of the \$100 this business makes. So the President's plan is, if you want to invest in a business to help grow this economy and create jobs, the business—your activity—will be subject to having almost two-thirds of the income taken and you are left with about one-third.

What is the net effect? It is a huge disincentive to invest, to grow a business, to take a risk. Most of the rest of the world does not have tax rates this high, does not have a corporate tax rate this high, and therefore it is a further incentive for capital to move elsewhere.

I think we ought to pursue policies that encourage maximum economic growth, not policies that absolutely discourage savings and investment and the growth that comes with it.

If Senator PORTMAN tells me I have a couple of other minutes, I will make one more point; that is, to switch to the sustainable fiscal profile which we are not on now.

The President, to his credit, has put his finger on precisely what is the long-term problem we face. He has described it as the mandatory health care spending, the entitlement programs, as a general matter. He is exactly right. When we look at his budget, it is very revealing.

If we take just the following categories—Medicare, Social Security,

Medicaid, and interest on our debt, just those items—and look at what the President has proposed for those items over the next 10 years, it is an average annual increase of almost 8 percent—7.8 percent to be precise. But he is only proposing that the economy is going to be able to grow by about 5 percent.

Frankly, that is optimistic. So what happens if we have huge government programs growing faster than the economy each and every year for as far as the eye can see? That is the definition of unsustainable because these programs consume ever more of the budget and ever more of the economy until something has to collapse.

This is why I am so disappointed the President has not so much as suggested an idea for how we might reform the long-term, totally unsustainable path they are on. Most of us—Republicans in this body and in the other body—believe we need to make some changes for future retirees. We are not talking about changing the rules for people who are currently retired or about to retire but people my age and younger and my kids. When are we going to acknowledge that we have to fix this so these programs can survive for the next generation?

If we refuse, if we continue to go on this path, we are going to face the kind of financial crisis they are facing in Europe. We have a limited window of opportunity to solve this. It is not too late for us to avoid the fate of our friends on the other side of the Atlantic. But I would suggest we do not have time to lose.

I think the President has missed the big opportunity to provide some leadership. I hope we will make up for that in this body.

With that, I would be happy to yield back to my colleague from Ohio.

Mr. PORTMAN. Mr. President, I thank Senator TOOMEY. I appreciate his focusing on the pro-growth elements because, as I said at the outset, a budget is an opportunity to set the Nation on a 10-year course, both on the spending side—how much should the government spend—but also on the revenue side. That means we are getting into how to grow the economy because the right tax reform will generate more growth. That growth will generate more revenue in the right way.

Unfortunately, if we look at the proposal the President has made, it does nothing to help improve our economic growth. In fact, when the dividend tax was moved down to 15 percent, it was done so because, as Senator TOOMEY has rightfully pointed out, it is a double tax. In other words, it has already been taxed once at the company level. So when we get a dividend paid, we should not have to pay a high tax on it again.

In fact, because of that double taxation, as he has indicated, there will be a tax—total tax of over 60 percent. By

the way, in the President's budget, the dividend tax was increased from 15 percent to 39.6 percent for some taxpayers. Then, as Senator TOOMEY has said, we can add the surcharge that comes from the health care bill and get it up into the forties for the individual.

Most people did not expect that. It is an example where this budget actually went further in terms of trying to, again, tax people more and therefore have less growth than anyone expected. Most people thought it would go from 15 percent to 20 percent or 25 percent, but not all of the way to—almost tripling the tax on dividends.

So it is an example where, in this budget, there was an opportunity to lay out a pro-growth path that included tax reform. Instead, we are building on our current antiquated, inefficient tax system and just lopping more taxes on top, including taxes on capital gains and on dividends that will make it more difficult for us to have the kind of investment we need to get this economy moving again.

The President, when he ran for election in 2008, pledged to reform entitlements. Senator TOOMEY talked about the fact that he has continued to talk about that, the need for it. I certainly agree with that, as do, by the way, most of my colleagues in the Senate, Democrat and Republican alike.

The budget, of course, does nothing to help. In fact, it increases the cost significantly on entitlements, as Senator TOOMEY has said, an 8-percent increase on average for these important programs. But that puts them on an unsustainable footing when the economy will not be growing nearly that fast.

Instead of doing something to reform these programs, making them work better, the President is just continuing to pile on more entitlements. But in 2008 the President also said he was going to cut the deficit in half. At that time the deficit that first year of his administration was \$1.4 trillion. He proposed to cut it in half over the 4-year term. So now we are in 2012, the final of his 4 years—fiscal year—and their estimate for the deficit this year—from the Office of Management and Budget, from the Congressional Budget Office—is that we will be over \$1.3 trillion.

So it does not sound like he has cut the deficit in half. Some will say, well, it is less as a percent of our economy. That is true. Our economy has grown some. But it is still not close to cutting it in half. A lot of things happen during a Presidential term. But I would hope that the President, in putting forward a budget, would have put forward a serious effort to reduce the deficit significantly, to get this economy back on track and prepare for, again, this unsustainable growth in entitlements by truly reforming the programs to make them work better and to make them sustainable over time.

We still have the opportunity to do that in the Senate. It is an election year, but we still have 8 or 9 months until the election. We should get busy working together as Republicans and Democrats, not follow the President's budget because, unfortunately, it does not provide the guidance we need. But we need to follow what all of us know in our hearts has to be done, which is grow the economy through pro-growth, sensible approaches such as tax reform, regulatory relief, and using more of our own natural resources in this country. We can help grow the economy on the one hand and, therefore, create revenue.

Then, second, we ought to do everything we can to reform these programs to make them sustainable, to reduce annually appropriated spending in ways that are responsible—not just to our kids and grandkids, as important as that is, but to today's economy to ensure that we can, indeed, have a strong recovery that all of us hope for and begin to bring people back to the workforce, create jobs, get this economy moving again, and give people that dignity and self-respect that comes from work.

I am glad to have had the opportunity to talk about this budget.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant editor of the Daily Digest proceeded to call the roll.

Mr. CORKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SURFACE TRANSPORTATION ACT

Mr. CORKER. Mr. President, I thank the Chair for his leadership. I am here today to appeal to this body. I think the Presiding Officer, I know myself, and a whole host of folks in this body have been concerned about where the country is going. I know many of us have talked about ways of reforming our Medicare system at some point, which I realize may not happen this year, and our Medicaid system, and to move our country to a place where it works fiscally for all Americans. We have talked about all kinds of things. Shoot, I think there have been over 50 or 60 Senators involved in trying to reach consensus on those issues.

Today, we are debating a highway bill. I know we have had a lot of great work that has taken place in EPW, a lot of great work in the Commerce Committee, in the Banking Committee, and in the Finance Committee. What we have done in this bill—and I so appreciate our leadership allowing us to look at this bill in this way—is to move to one portion of the bill and then adding other portions on to the

bill. So I thank the leadership of the Senate for letting us look at the bill in this way.

I know there are provisions in the Finance component that are being worked out now before the Finance piece comes to the floor, and again I appreciate the people working on that. But it was my understanding—and I think I am right—that the major components of that Finance work were not supposed to change, yet here we are and what we are getting ready to do with this highway bill is pretty unbelievable.

All of us want to see infrastructure in this country built. I know the Senator from Maryland is a strong proponent of that and has lobbied heavily for that. I was the mayor of a city at a time when it seemed we had nothing but orange barrels, so I thought it was very important we had proper infrastructure.

But with all of the consensus that has developed in the Senate around trying to solve our big issues, here is what we are doing. And many people on the other side of the aisle—my friends—can remember the debate during health care. One of the things that many people on my side of the aisle argued was a problem with the health care bill was that we were going to use 6 years' worth of cost and 10 years' worth of revenue. That was one of the things that actually got a lot of people's attention and concerned people on both sides of the aisle. What we are doing with this bill is even more egregious. What we are doing with this highway bill is we have 2 years' worth of cost and 10 years of revenue.

Again, I know all of us want to see a highway bill put in place. I think most of us want to see a long-term highway bill put in place. But let me explain what is happening. The Senator from Maryland and I, every year or so, have to deal with something called SGR. It is the sustainability growth rate for Medicare. We put a formula in place back in 1997, but we haven't owned up to that. So what we do every year and a half or so is we kick the can further down the road and we create what is called a financial cliff at the end of it. Every time we deal with that, it gets more and more expensive.

I understand people here in the Senate don't want to support physicians across their States, so we keep kicking the can down the road and not finding a way for a long-term solution that all of us know needs to be in place. I personally understand how people are concerned with how we reform Medicare. It affects a lot of seniors in our States, and we want to make sure we do that in the right way.

What I don't understand is why on this highway bill, which has a trust set up—and by the way, it doesn't have the same type of constituency. I shouldn't be talking politics, but it doesn't. We

deal with all of our Governors back home. But why on this highway bill are we creating exactly the same problem for our highway program that we have with SGR? What we are effectively doing, if we pass this bill in the way the Finance Committee has come up with paying for it, is we have created exactly the problem we have with SGR. I cannot imagine why anyone in this body wants to see us take one problem and transfer it to something else that so many of our Governors and people across our country depend upon.

So here we are, in a situation where we all know our fiscal situation is not sustainable, we know we have to make changes—and I realize it is very unlikely those changes are going to happen this year—and yet we would go ahead and do what I think is unbelievably irresponsible, which is that we would go ahead and pass this highway bill where we are going to spend all the money in 2 years and pay for it over 10. So I am here to appeal to people on both sides of the aisle.

This is a bipartisan issue. It is a bipartisan bill. This isn't one of those things where one side of the aisle is trying to pass something over the objections of the other side of the aisle. But I want to appeal to the conscience of the people in this body, to the moral high ground that sometimes this body can exhibit in representing the American people, that we not do the same kind of thing we have done with SGR—the doc fix and Medicare—to the highway bill. We ought to spend the amount of money we have coming in. If we don't think that is enough money to pay for it annually, we ought to change the way the revenue structure is coming into the program.

There is no way in the world households in Maryland or Tennessee or any other place would possibly consider doing this. We know fiscally this doesn't work. Financially, it doesn't work. So I am hopeful enough people in this body will put aside expediency, put aside making everybody feel good back home in the short term, and not create a crisis.

By the way, at the end of 2013, if we pass this bill as it is laid out now by the Finance Committee—even with the tweak they are looking at on IRAs—what we are looking at doing is putting in place a \$10 billion cliff.

Again, I think it is unbelievably irresponsible that we would transfer the same woes we have in our entitlement programs to the highway program. We ought to either spend the amount of money that is coming in annually and reduce the amount of outflows or we ought to do something different with the gas tax or some other revenue stream. But we should not put our heads in the sand and say, even though we know this doesn't work, it is an election year and we want to get a highway bill behind us. We know it is

going to be bad news for our country down the road, but it is good news for us today. To me, that is irresponsible. So I am appealing to both sides of the aisle. I am appealing to all those people who have been to numerous meetings trying to figure out a bipartisan way—not as Republicans or Democrats, but in a bipartisan way—we can deal with our country's financial problems in an appropriate way, a pragmatic way, that doesn't jerk the rug out but gets us where we need to go over the next 10 years. I am appealing to all those people who act very sincerely in these meetings and speak with passion about where our country is going. I am appealing to their goodwill. I am appealing to their conscience. I am suggesting that we take the moral high ground and not let a bill pass like this—a bill that uses the same budget gimmickry we have used for so many years and that has put us in the place we are now in.

I hope, in a bipartisan way, we will say, no, stop. Let's do this in the appropriate way that reflects the trust the American people have placed in us to handle their finances, their tax money, and this country.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### MOVING AHEAD FOR PROGRESS IN THE 21ST CENTURY ACT—Resumed

The PRESIDING OFFICER. The clerk will report the bill.

The legislative clerk read as follows:

A bill (S. 1813) to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

Pending:

Reid (for Johnson (SD)/Shelby) amendment No. 1515, of a perfecting nature.

AMENDMENT NO. 1515 WITHDRAWN

Mr. REID. I withdraw the pending amendment No. 1515.

The PRESIDING OFFICER. The Senator has that right. The amendment is withdrawn.

AMENDMENT NO. 1633

Mr. REID. I have a first-degree amendment, which is a perfecting amendment, at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 1633.

Mr. REID. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Text of Amendments.")

Mr. REID. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

#### CLOTURE MOTION

Mr. REID. Mr. President, I have a cloture motion at the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk reads as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the Reid amendment No. 1633 to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes:

Harry Reid, John D. Rockefeller IV, Kay R. Hagan, Patrick J. Leahy, Patty Murray, Sheldon Whitehouse, Richard Blumenthal, Herb Kohl, Ben Nelson, Jeff Bingaman, Jeanne Shaheen, Barbara A. Mikulski, Jack Reed, Max Baucus, Frank R. Lautenberg, Robert Menendez, Maria Cantwell.

Mr. REID. I ask unanimous consent that the mandatory quorum required under rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1634 TO AMENDMENT NO. 1633

Mr. REID. Mr. President, I now have a second-degree amendment which is at the desk that I ask to be reported.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 1634 to amendment No. 1633.

The amendment is as follows:

At the end, add the following:

(e) EFFECTIVE DATE.—This division shall become effective 4 days after enactment.

MOTION TO RECOMMIT WITH AMENDMENT NO. 1635

Mr. REID. Mr. President, I have a motion to recommit the bill with instructions at the desk.

The PRESIDING OFFICER. The clerk will report the motion.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] moves to recommit the bill (S. 1813) to the Committee on Environment and Public Works with instructions to report back forthwith with an amendment numbered 1635.

The amendment is as follows:

At the end, add the following new section:

SEC. \_\_\_\_.

This Act shall become effective 3 days after enactment.

Mr. REID. I ask for the yeas and nays on that motion.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1636

Mr. REID. Mr. President, I have an amendment to the instructions at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 1636 to the instructions on the motion to recommit.

Mr. REID. I ask unanimous consent further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the amendment, strike "3 days" and insert "2 days".

Mr. REID. I ask for the yeas and nays on that amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1637 TO AMENDMENT NO. 1636

Mr. REID. Mr. President, I have a second-degree amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 1637 to amendment No. 1636.

Mr. REID. Mr. President, I ask unanimous consent that further reading be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the amendment, strike "2 days" and insert "1 day".

#### EXECUTIVE SESSION

NOMINATION OF JESSE M. FURMAN TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider Calendar No. 366.

The PRESIDING OFFICER. Without objection, the clerk will report.

The legislative clerk read the nomination of Jesse M. Furman, of New York, to be United States District Judge for the Southern District of New York.

#### CLOTURE MOTION

Mr. REID. Mr. President, I have a cloture motion which is at the desk.

The PRESIDING OFFICER. The cloture motion having been presented

under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of Jesse M. Furman, of New York, to be United States District Judge for the Southern District of New York:

Harry Reid, Patrick J. Leahy, Robert P. Casey Jr., Richard J. Durbin, Richard Blumenthal, Jeff Bingaman, Christopher A. Coons, Sheldon Whitehouse, Al Franken, Herb Kohl, Dianne Feinstein, Tom Udall, Mark Begich, Kent Conrad, Amy Klobuchar, Charles E. Schumer, Kirsten E. Gillibrand, Joseph I. Lieberman.

Mr. REID. I ask unanimous consent that the mandatory quorum required under rule XXII be waived.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). Is there objection?

Without objection, it is so ordered.

#### MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that we proceed to a period of morning business, with Senators allowed to speak for up to 10 minutes each, until 6:15 this evening.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### LEGISLATIVE SESSION

Mr. REID. Mr. President, has the Chair announced that we are resuming legislative session?

The PRESIDING OFFICER. The Senate will now resume legislative session.

#### SURFACE TRANSPORTATION ACT

Mr. REID. Mr. President, I was going to ask a number of consent requests which I thought were important to present to the Senate, important issues that have not been resolved. I decided not to do that.

We have made some progress in working toward an end of the issues that are preventing us from moving forward on this bill. I hope we can continue to do that in the next 24 hours. There is certainly enough importance in this legislation to do just that. We are talking about more than 2 million jobs with this legislation, so I hope my friends, the Republicans, will figure out a way to help us move forward on this legislation.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I want to follow on to the comments made by the majority leader about the importance of the bill we are trying desperately to move forward here today and we tried to move forward yesterday. We had a good vote when we came back here on Monday night. Eighty-

five of us said, Let's go do this highway bill. This is a key and important matter for the country.

In the 1950s, it was President Dwight Eisenhower, a Republican President, who said, We need an interstate highway system. We cannot move people, we cannot move commerce, we cannot be a great power. We have a great military, but we don't have a good road system. He moved forward not only with that but with the very first aid to schools at that time; because before he made the point that we needed to have a Federal program to help our schools, it was strictly a State matter. So we owe President Eisenhower a lot. And I will tell you, the way we are acting around here, if he were watching, he would be shocked. The first amendment to a highway bill is birth control. The second amendment the Republicans want after birth control is to talk about Egypt. It goes on and on, controversial drilling off our coast, and all of this list they came up with.

It is very clear we have a bipartisan bill. It will make sure that we build our roads, we fix our roads, we fix our freeways, we make sure our bridges are safe. Right now, we have a horrible situation with tens of thousands of bridges that are unsafe. Do we need to have another tragedy before we pass this highway bill?

Every committee has done its work, including the Finance Committee, to come up with the funds to fill the Highway Trust Fund so we can keep going at current levels plus inflation, and we have leveraged one program called TIFIA which leverages 30 times. So by putting \$1 billion into the TIFIA Program—and you know about it because you are a proud member of the EPW Committee—by putting \$1 billion into the TIFIA Program, it means \$30 billion out there, because the States and the localities will apply for this funding, they will match this funding, the private sector will match it, and we will create up to 1 million more jobs in addition to the 1.8 million we are protecting with the rest of the programs.

We are talking about a real shot in the arm to our economy. I am proud that Senator INHOFE—who is the mirror opposite of me in most issues. We do not agree on most issues. We do agree on this, the need to have a class-A infrastructure. We agree on that. We think it is critical. Yet here we sit, minute after minute, hour after hour, day after day, because Republican Senators do not want us to move forward on this bill. You have to ask why. Why? We are willing to take these amendments. We are willing to work on several of them. We cannot do 100 unrelated amendments. Come to us with a list that makes sense. But do not tell the people in your State you are working to get a highway bill done because I am here to put in the RECORD that the fact is, you are not helping. You

are hurting us. You are hurting the hundreds of thousands of construction workers who need these good-paying jobs. You are hurting the tens of thousands of businesses that need to get back to work making the cement, laying the pavement, fixing the bridges, building the houses.

It is very distressing. When I go home and people say: What is happening, well, they have to have a vote on birth control. It is hard to find the words except to say: What are you thinking when we have a bill that is so important?

My Republican friends stand here, minute after minute and hour after hour—they are not here now—all day criticizing President Obama, who has turned this economy around—no thanks to them. When he took over, 800,000 jobs a month—bleeding. There was a contraction in economic growth. It was way down in the final quarter of the Bush years. There were huge deficits he inherited from Bush. He's turned it around. He said we need to save the auto industry, and we did. A lot of our friends on the other side said: Oh, don't do it. They were wrong. The President was right. We are recovering. Month after month we are adding jobs, after loss after loss of jobs. We have turned it around.

But I will tell you that this bill is, as the chamber of commerce and the AFL-CIO agree, the No. 1 jobs bill we can do. There is not much we do around here that can have an impact on 2.8 million jobs. I cannot think of anything that tops that. They are mostly private sector jobs. There are some jobs in the public sector in the transit areas, but they are mostly private sector, private business jobs.

So anyone who tells you they are for jobs and anyone who tells you they are for economic recovery, the first thing you should say is, Are you helping Senators BOXER and INHOFE in a bipartisan way to move the highway bill, because that is 2.8 million jobs. If they give you an answer like: Oh, sure, but we have to have a few important amendments first, you ask them what those amendments are. If they are honest with you, they will tell you birth control, a woman's right to choose, health care, offshore oil drilling.

They have one they want to offer that would hurt our people's health. It would allow dangerous arsenic and lead and other toxins to go into the air from boilers. They want to repeal a protective rule we have that will clean up the pollution from boilers, even though the biggest boiler manufacturers support the rule. Go figure. The last thing I hear people in my State tell me is, oh, I want more arsenic in my air and, oh, I would love to have more lead. I need more mercury.

Please. This is the 21st century. We have made so much progress on the environment. We are making progress on

health care. We are making progress on infrastructure. Don't stop it all. Step back, let this bill go forward.

Senator REID has set up a vote, a first test vote after the vote to proceed. I know some people have some problems with a couple of the titles, and we are working on fixing that, but I hope we will get 60 votes to proceed. If we do not, we are going to try again. Believe me, we are going to try and try again because, as one Senator, I am not going to agree to do anything else until will we get this bill done, period. One thousand organizations are at work trying to push this bill forward, organizations from business, to labor, to government. We have the general contractors, the cement makers, the AFL CIO and a number of unions, the chamber of commerce, the granite people, we have Portland Cement, and we have a group that represents America, AAA.

We have to do this bill. I will not, as one Senator, give up my right and go to anything else. That is how strongly I feel about it, and I do not believe I am being selfish. I think I am representing the people of this country who want to see a jobs bill pass, who want to see a bipartisan bill pass, who want to make sure our States do not suddenly start laying people off at a time when we are finally turning this economy around.

I guess I am laying down a marker here as one Senator from one State, albeit the largest State in the Union, 38 million people strong, with a high unemployment rate, traffic congestion. We take 40 percent of the goods through California that are being imported into our country. It goes on our roads, all throughout America. Do you think we need better roads? Oh, yes, we do. Do you know what happens when those trucks sit and stall on the 10 freeway? It is ugly, it is dirty, it is wasting money, it is wasting time, it is hurting people's lungs, and it cannot stand.

I lay down the marker today. I ask my friends to please come to the table. I am ready, willing, and able, as the chairman of the Environment and Public Works Committee. We will meet with you. We will listen to you. If you want to have a certain amendment offered and we can help you get it done and it makes sense, it is relevant, we will help.

But other than that, let me be clear, there are a few things we do around here that are bread and butter, basic. The highway bill that got started under Dwight Eisenhower is basic. You should hear what Ronald Reagan said about the importance of a highway bill, the importance of a transit bill. You should hear it. It is on the radio. People are taking out ads to talk about it. Bill Clinton is eloquent on the point. This is a bipartisan issue, and it will be voted on in this Senate. It will be voted on because I cannot in good faith as

the chairman of this committee just give in and say: OK, we are done. We tried for 4 days, it did not happen.

But I hope everyone watching in America—if we have anyone watching—will understand that it is 3:20 on a workday. This Chamber is empty because people are playing games and maybe they don't want this economy to go forward. Maybe they don't want to see President Obama succeed. Maybe they don't care about jobs, for all their talk, because that is the only thing I can say.

When you have a bill on the floor that came out of a committee unanimously—it came out of two committees unanimously: Senator INHOFE and I agreed; Senators JOHNSON and SHELBY agreed—and then you have the Finance Committee reaching out to the Republicans—they worked together, and they had a tremendous vote, which I think was 17 to 6 with one voting present, for their title, and that is about 90 percent of this bill—and then you see nothing here going on because people want to offer amendments about birth control, it is beyond me.

I hope, as you see this floor quiet today, if it bothers you the way it bothers me, you will call the Capitol and leave a message for the leaders on both sides of the aisle and say: For the good of the people, put aside your differences and get this job done.

This is a bipartisan bill. This is not a Democratic bill. It is not a Republican bill. It is a bipartisan bill. Surely if the committees could set aside unbelievable differences, then we can do the same and get to work on this.

I am embarrassed—embarrassed for the people of this country. They are out there working and there is an empty Chamber here when we have the most important bill we could possibly have on the floor.

I am going to fight for this bill. I am going to fight hard. I am going to make the case. I am going to fight for the 2.8 million jobs it could produce. I am going to fight for the thousands of businesses that need this lift. I am going to fight for the people who need to have safe roads and safe routes to school so they do not have to worry. I am going to do it in the name of the people who never made it because they were on some unsafe road. Senator INHOFE talks about a mother and a child who went under a bridge in Oklahoma, and a big sheet of concrete fell down and she is gone. She died. I am going to do it in the name of all these things because this bill is about motherhood and apple pie.

There is no partisanship to this—none. Republicans use the roads and Democrats use the roads. Independents use the roads. We all use the roads. We want our children safe. We want our families safe. We want our roads usable. We do not want to be caught in congestion. Every part of the transpor-

tation system is addressed by the four committees that have come together on this bill.

As I leave the floor—and I do not see anybody else—I hope people will watch. In 5 or 10 minutes, if nobody is here, pick up your phone and call the leaders of Congress and tell them to get to work on the Transportation bill and don't offer ridiculously unrelated amendments. We do not have to do that. Come together and sit down together and make a path forward because right now there is no path forward. I do not see it. I do not see it. It is one of those things where people just say: I don't care; we are not going to this bill.

Everyone in America is going to know this is happening because I am going to tell everyone in America it is happening. I will not be listened to the first few times, but maybe by the 20th time somebody will notice what is happening here. We are in morning business, meaning we are just yakking, we are not doing any real work. But I will be back in a little while to give a report on the progress we are making—or lack of same.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. COATS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. KLOBUCHAR). Without objection, it is so ordered.

Mr. COATS. Madam President, I come to the floor today frustrated, as many of us are, that once again we are not able to address legislation in the way the Senate is designed to address it, which is to debate, to discuss, to offer amendments, and to vote. Once again the majority leader has decided he didn't like some of the proposed amendments and, therefore, is trying to shut off all opportunity to provide amendments. We are allowed to come down and give our little speeches, but there is no debate, there is no back and forth, there is no record of where we stand on certain issues except for final passage. I think the American people want more than that. That is not why they sent us here.

This is my second time in the Senate, with a 12-year gap in between my terms, and a lot of people ask me what has changed since my first time here. I say one thing that has dramatically changed—and which didn't happen my first time in the Senate—is that we used to be able to come to the floor and essentially offer any amendment at any time to any bill. That is the difference between Senate procedure and the rules in the House of Representatives. We don't have a Rules Committee that dictates which amendments can be offered and which ones



can't. This is supposed to be a body where we have an open discussion, where any Member can offer any amendment to any bill at any time. So in my first 10 years, that is what we did. It made for long nights, it made for long days, but we were performing the function our Founding Fathers designed for this body to fulfill.

Somehow it worked out. We went on record. Our yea was yea, and our nay was nay, and it was all there for the public to see. The amendments that were offered, the debate that took place, and the vote that was conducted were all there. Then we went home and explained why we voted yes or why we voted no. But the public had full transparency.

Today, and in this period of time—and I have just been here a year and a month in my second stint in the Senate—it is very seldom we have that opportunity.

Once again, on the highway bill, which affects every American in every State, we have finally gotten to the real thing. Our side has put up some amendments, and the majority has looked at them and said: No, we don't want our Members to have to vote on those, so we will use a procedure called "filling the tree."

Now, that doesn't mean anything to Americans—filling the tree. What am I talking about? There is a procedure in the Senate where we can only offer so many amendments to a particular bill before we are precluded from offering another. The majority leader of the Senate—whether Republican or Democrat—has the opportunity, if he or she wants to take it, to gain the floor and procedurally put us in a position where no amendments can be offered and then move to talking about it and to immediate debate.

That is not the way we should proceed. I was prepared to give this highway bill a real chance. I have some real problems with the bill that is before us. The House is passing legislation that has many things in it I like—some things I don't like—and we were all looking for an opportunity to try to address those particular concerns.

I have a particular concern with the bill that is brought before the Senate because this bill, for starters, goes into the general fund and beyond the sales tax for gasoline purchases fund.

Everybody thinks when they pull up to the pump and fill their car with gas, they know there is a Federal tax attached to the price we pay, but they know it goes into a tax fund specially designed to provide for construction and provide for return to the States so they can build the roads and repair the bridges and do things associated with transportation. That is why we pay that gas tax. That is supposed to be apportioned in a rational way back to the States so they can do what is needed for their State to provide the kind of transportation their State wants.

This bill not only uses all the money that is paid into that fund but adds an additional \$12 billion of spending that is from the general fund. The pay-fors aren't legitimate. So, once again, we are in a situation where we are borrowing money, going into debt, increasing deficit spending and increasing the debt load we have in order to enhance the money we are going to send out to the States.

Many of us have said based on what we have seen and what has happened here in years that has driven us into a deficit which cannot be sustained and a debt which may never be repaid, we are simply not going to support legislation that spends more than we take in without being paid for. We can't keep doing this. Now we are in a situation where we have a bill before us that is needed because we need these funds to give to the States to build the roads and repair the bridges, but we are dipping into the general fund for an additional \$12 billion.

Secondly, there is an inequitable treatment to States. I bring this chart to show how this affects various States. If we take what a State has paid into the fund and look at what a State receives back, we will see there is an inequity present. Part of the general fund money that is going into this might try to make up for some of that. But if we stay with the principle upon which highway funding has always been funded; that is, a State gets returned its proportionate share of what the taxpayers pay when they pull up to the pump in that State and fill their car with gas, there are some States that fall within a real deep deficit.

It starts with the State of Texas. Texas loses \$1,113,000,000 that is paid in but doesn't come back to them under the formula. My home State of Indiana is third on the list. We lose \$275 million because what we pay into the fund is not returned to us. These are all of the donor States. Donor States are those that pay in more than they receive back. They are pretty big States and have a real stake in this and would have had a real stake in this amendment. These States would have had an opportunity to vote for or against this amendment had I been allowed to offer it.

The States of Texas, Georgia \$283 million, New Jersey, Florida, California, Ohio, Virginia, Michigan, Illinois, and on it goes. Members can take a look at this chart. This is the amount of money they lose because they are not getting their fair share back and they are the donor States. The money that is lost is sent to other States that are the donee States. So our taxpayers in Indiana are paying the equivalent of \$283 million to other States.

We have been a State that has managed our fiscal situation very well and we have been very careful. We have

this old-fashioned belief that we shouldn't spend more money than we take in, and we live by that principle in Indiana. We have been careful in how we have managed our money and how we have used the money that is sent to us that we paid into the gas tax fund. Yet we are penalized because we have managed our finances well, and Hoosier taxpayers end up sending money to States that haven't done as well.

The second problem is, this bill falls short because though we are no longer doing earmarks, it includes earmarks from over the past several years, and the total of those earmarks goes into the total average of spending for that particular State, and the formula then is based on the fact that the big earmarkers end up getting more money, while States such as Indiana that have not pursued those earmarks lose out because the average is based on the accumulative amount that is paid into the fund, including earmarks. Once again, a State that has been careful in terms of managing and spending its money ends up being penalized because we haven't pursued earmarks, which, fortunately, are no longer part of our method of doing business.

Indiana pays approximately 2.71 percent of the total Federal gas tax, and we would like to get 2.71 of that back. If we do get that back, it will have a significant effect. We have a second chart that talks about what is paid into the highway trust fund just for a few States that we listed, the apportionment under the bill that is before us and the amount that is below the fair share and I have read some of those. Again, Texas, Georgia, Indiana, New Jersey, and Florida being the top five States that are penalized for this.

I also had amendments I was going to add that would give States greater flexibility in terms of how they use the money they receive. We have all heard the stories about money being diverted to things that a State doesn't want because there is a formula attached to the legislation that says you have to spend X percent of money on certain projects, such as bike paths and walking paths and other so-called enhancements. I am not against that. I use those. I jog on bike paths and appreciate some of those enhancements. But that ought to be a State decision in terms of how it allocates its money and not a Federal decision because a one-size-fits-all dictated by a particular piece of legislation simply does not take into account the individual needs of a particular State. Some States may want to say: Look, our roads are in such shape and our bridges need repaired. At least for this year or the next 2 years, we are going to divert the money into strictly construction and repair projects. Others might say: Well, we are in a little bit better shape this year and we can use some of this. That

ought to be for the States to decide and not a piece of legislation coming out of this body.

Finally, another amendment I would have liked to offer, if not for the majority leader's refusal for an open-amendment process, is one that would have limited the scope of eligible transportation enhancement projects. We hear these reports every day about crumbling roads and unsafe bridges. Yet what we are doing in this bill is limiting how a State determines where it puts its funds. I think we ought to narrow that option, if not take it away.

To wrap up, let me just say I think it is very unfortunate that we have resorted to a system where if the other side—and I would say this to my leader if my party was in the majority. This is not how the Senate is supposed to operate. Someone from the other side who has an amendment we don't like, they ought to have the opportunity to offer that amendment and they ought to have the opportunity to debate that amendment and to require a vote on that amendment. Then we can vote yes or we can vote no and the public can judge us accordingly. But to simply shut it all down and not give anybody that opportunity I think is not the kind of procedure we want.

Finally, let me simply say this bill brought before us is a flawed bill. Without the process of amending it or the opportunity to amend, to fix what we think is wrong with it, puts us in a position where it is impossible to say we can vote for something such as this.

For the reasons I have articulated and for other reasons that will come out as we make these speeches on the floor but don't have a chance to offer amendments, I simply cannot support this bill as it is.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WHITEHOUSE). Without objection, it is so ordered.

#### RECOGNIZING JOHN HERSCHEL GLENN, JR.

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the Senate proceed to S. Res. 377, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 377) recognizing the 50th anniversary of the historic achievement of John Herschel Glenn, Jr., in becoming the first United States astronaut to orbit the Earth.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid on the table, with no intervening action or debate, and that any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 377) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 377

Whereas John Herschel Glenn, Jr. was born on July 18, 1921, in Cambridge, Ohio to parents John and Clara Glenn;

Whereas John Glenn grew up in New Concord, Ohio with his childhood sweetheart and future wife, Annie Castor, 150 miles east of Dayton, Ohio, the birthplace of the Wright brothers, who first took humankind into flight;

Whereas John Glenn enlisted in the Naval Aviation Cadet program shortly after the December 7, 1941, attack on Pearl Harbor, Hawaii, and was commissioned as an officer in the United States Marine Corps in 1943;

Whereas John Glenn received many honors for his military service, including the Distinguished Flying Cross on 6 occasions, the Air Medal with 18 Clusters, the Asiatic-Pacific Campaign Medal, the American Campaign Medal, the World War II Victory Medal, the China Service Medal, the National Defense Service Medal, and the Korean Service Medal;

Whereas, with the onset of the Cold War, the United States and the free world feared the intentions of the Soviet Union in space;

Whereas President Dwight D. Eisenhower asked the National Aeronautics and Space Administration (referred to in this preamble as "NASA") to find the most talented, patriotic, and selfless test pilots to participate in Project Mercury, the first human spaceflight program in the United States;

Whereas John Glenn and fellow candidates for NASA's Astronaut Corps underwent pressure suit, acceleration, vibration, heat, loud noise, psychiatric, personality, motivation, and aptitude tests at the Aeromedical Laboratory at the Wright Air Development Center in Dayton, Ohio;

Whereas John Glenn, Malcolm S. Carpenter, L. Gordon Cooper, Jr., Virgil I. "Gus" Grissom, Walter M. Shirra, Jr., Alan B. Shepard, Jr., and Donald K. Slayton were selected from among hundreds of other patriotic candidates to be named the original "Mercury Seven" astronauts;

Whereas Project Mercury was charged with the unprecedented responsibility of competing with the strides that the Soviet Union was making in space exploration;

Whereas the United States public viewed John Glenn and the Mercury Seven astronauts as men on the front line of the war not only for space supremacy but also, in many minds, for the survival of the United States;

Whereas John Glenn accurately captured the significance of the time when he later wrote that "the world was at the door of a new age, and we were the people who had been chosen to take the first steps across the threshold";

Whereas the Project Mercury astronauts trained for their manned space flight missions in the Multi-Axis Space Training Iner-

tial Facility at NASA's Research Center in Cleveland, Ohio;

Whereas Alan Shepard was chosen to pilot the first manned Project Mercury mission on *Freedom 7* on May 5, 1961, which proved that the United States was capable of successfully launching a person into suborbital flight;

Whereas Virgil Grissom was chosen to pilot the second manned Project Mercury mission on *Liberty Bell 7* and became the second United States astronaut to achieve suborbital flight on July 21, 1961;

Whereas the Soviet Union had successfully launched the spacecrafts *Lunar 2* and *Lunar 3* in 1959 before successfully launching and returning to Earth Major Yuri Gagarin, who completed a 108-minute single orbit around the Earth in 1961;

Whereas John Glenn was selected from among the Project Mercury astronauts to command the first United States capsule to orbit the Earth;

Whereas John Glenn, with the help of his children Dave and Lyn, named the first United States space capsule to orbit the Earth *Friendship 7*, re-emphasizing the peaceful intentions of the United States space exploration program;

Whereas John Glenn trained vigorously, working through 70 simulated missions and reacting to nearly 200 simulated system failures, to prepare to orbit the Earth and successfully complete the first manned orbital mission for the United States;

Whereas the work that John Glenn conducted on the cockpit layout, instrument panel design, and spacecraft controls in the Mercury spacecraft enhanced the design of *Friendship 7* and the ability of an astronaut to control *Friendship 7*, which proved useful during the mission;

Whereas, at 9:47 a.m. Eastern Standard Time on February 20, 1962, the Atlas 109D rocket boosters ignited and John Glenn and *Friendship 7* commenced liftoff at NASA's Space Center in Cape Canaveral, Florida;

Whereas John Glenn, aboard *Friendship 7*, became the first United States astronaut to orbit the Earth, orbiting 3 times and observing 3 sunrises, 3 sunsets, and the wonder of the universe in only 4 hours and 56 minutes;

Whereas, when John Glenn learned that the heat shield on *Friendship 7* had possibly become loose in orbit, compromising the successful completion of the space mission, Glenn bravely managed the reentry procedures and proved that a person can safely and successfully complete a NASA mission;

Whereas John Glenn successfully completed reentry into Earth, splashing down in the Atlantic Ocean at 2:43 p.m. Eastern Standard Time, east of Grand Turk Island at 21 degrees, 25 minutes North latitude and 68 degrees, 36 minutes West longitude, and was recovered by the USS *Noa*;

Whereas, in the context of the Cold War, the success of the *Friendship 7* flight restored the standing of the United States as the leading country in the race to space against the Soviet Union;

Whereas the completion of the inaugural orbit of the Earth by John Glenn validated NASA's manned space flight mission and secured the future missions of NASA's manned space capsules;

Whereas the people of the United States heralded John Glenn as the personification of heroism and dignity in an age of uncertainty and fear;

Whereas the press later described John Glenn as a man who embodied the noblest human qualities;

Whereas President John F. Kennedy echoed the belief held by John Glenn that

the United States space program was not just a scientific journey but also a source of inspiration and pride, saying, "our leadership in science and industry, our hopes for peace and security . . . require us to solve these mysteries and to solve them for the good of all men";

Whereas John Glenn is a patriot and space pioneer who encouraged the people of the United States to rightfully view NASA as an embodiment of the persistent quest of the people of the United States to expand their knowledge and explore frontiers;

Whereas, in retirement, John and Annie Glenn continued their public service by establishing the John Glenn School of Public Affairs at The Ohio State University, living up to the words of John Glenn, who said, "If there is one thing I've learned in my years on this planet, it's that the happiest and most fulfilled people I've known are those who devoted themselves to something bigger and more profound than merely their own self-interest."; and

Whereas, although 50 years have passed, the historic orbit of John Glenn around the Earth aboard *Friendship 7* remains a source of pride and honor for the people of the United States: Now, therefore, be it

*Resolved*, That the Senate—

(1) honors the 50th anniversary of the landmark mission of John Herschel Glenn, Jr., in piloting the first manned orbital mission for the United States;

(2) recognizes the profound importance of the achievement of John Glenn as a catalyst for space exploration and scientific advancement in the United States; and

(3) honors the thousands of dedicated men and women of the National Aeronautics and Space Administration who worked on Project Mercury and ensured the success of the *Friendship 7* Mercury mission.

Mr. BROWN of Ohio. Mr. President, on behalf of Senator PORTMAN and myself, I am proud to have submitted this bipartisan resolution—joined by 18 Senators, 10 of whom served with John Glenn in the Senate.

Fifty-years ago next week, on the morning of February 20, 1962, John Herschel Glenn, Jr. of Ohio became the first American to orbit the Earth.

I was 9 years old. Like other families around Ohio, I watched him on television at home in Mansfield with my parents and two brothers.

The broadcast also showed John Glenn, Sr. and Clara Glenn, John's parents, watching anxiously.

Across the country, others were listening on transistor radios. In New York City, the subway system broadcast the liftoff and flight progress over loud speakers.

In Grand Central Station, CBS News set up a large 12 foot by 16 foot screen over the main ticket window—by the time of lift-off 10,000 people had packed the terminal.

Like millions of Americans, they watched Walter Cronkite set the scene. Our Nation was in the midst of the Cold War—worried about Russian nuclear aggression, worried about the race into space.

Cronkite would later say that:

It was a time when the intricacies of science were complicated by deep American doubts and anxieties over where we stood in the race with Russian science.

With the arms race in a dead heat, space had become the scoreboard of Cold War competition.

That's why a few years earlier, President Eisenhower launched Project Mercury as the first human spaceflight program in the United States—to put our country on the playing field.

Hundreds of our Nation's bravest and patriotic aviators signed up—only seven were selected as the original Mercury 7: John Glenn, Jr. of Ohio; M. Scott Carpenter of Colorado; L. Gordon Cooper, Jr. of Oklahoma; Virgil I. "Gus" Grissom of Indiana; Walter M. Schirra, Jr. of New Jersey; Alan B. Shepard, Jr. of New Hampshire; and Donald K. "Deke" Slayton of Wisconsin.

Glenn later wrote of the original Mercury 7 astronauts, "The world was at the door of a new age, and we were the people who had been chosen to take the first steps across the threshold."

And when President Kennedy took office, he continued our Nation's pursuit into space—and race against the Russians.

He said, "Our leadership in science and industry, our hopes for peace and security . . . require us to solve these mysteries and to solve them for the good of all men."

Alan Shepard piloted the *Freedom 7* in May 1961 and Gus Grissom piloted *Liberty Bell 7* in July 1961 to prove that Americans could launch humans into suborbital flight.

But then the Russians successfully launched Yuri Gagarin into orbit around the Earth.

America's response was left to a decorated Marine aviator born in Cambridge, Ohio who grew up a few miles away in New Concord.

On the morning of February 20, 1962, the eyes of the world were on John Glenn, who was tasked with piloting our space program's most dangerous flight at the time.

He would command *Friendship 7*—named by Glenn and his children, Dave and Lyn, to emphasize our Nation's intentions in space.

But over weeks and months, his mission was scrubbed ten times.

The reasons were varied—from inclement weather to technical problems. Tensions remained high throughout.

Any miscues or failure would undermine national security—along with national pride and the country's psyche.

Finally, at 9:47 a.m. on February 20, 1962, with 70 degree Fahrenheit weather at NASA's Space Center in Cape Canaveral, Florida, *Friendship 7* was blasted off into space.

As the rocket ascended, people cheered. Others cried and prayed—the hopes of an entire nation rested on the shoulders of a single man in a space capsule hurling into an unknown place.

Everything was going as planned—from launch to orbital entry—and once

successfully in space, John Glenn became the first American to orbit the Earth.

He would observe three sunrises, three sunsets, and the wonder of the universe in 4 hours and 56 minutes.

But during the flight, problems occurred. The spacecraft's automatic control system malfunctioned, causing Glenn to manually control the capsule.

And he was prepared to do so—benefitting from NASA's vigorous training that included 70 simulated missions and malfunction response training for nearly 200 simulated system failures.

His model of calmness, which I have seen many times over the years in all kinds of situations, would become standard operating procedure for future NASA manned space missions.

And despite having to deal with the malfunctions, Glenn still carried out critical parts of the mission.

He took photographs of the Earth, observed weather on the Earth's surface, and gave constant feedback to flight controllers about his physical responses to the zero-gravity environment.

But earlier in the flight, Glenn saw an indicator light that *Friendship 7*'s heat shield had loosened—threatening his re-entry into Earth.

With its world-class scientists and engineers leading the way—and confident in its flight planning—NASA decided to keep the retrorocket pack attached to secure the heat shield.

As planned, *Friendship 7* re-entered the Earth's atmosphere—with Glenn describing the "fire-ball" re-entry as one of the most exhilarating parts of the flight.

It is the streak of light that people on Earth could see in the sky.

And in descent, the capsule successfully parachuted and splashed down in the Atlantic Ocean, east of the Grand Turk Island, at 2:43 p.m., Eastern Standard Time. The USS *Noa* retrieved *Friendship 7* and brought Glenn aboard—validating our Nation's pursuit of discovery and ensuring its place in the space race against the Russians.

And just as important—the flight of *Friendship 7* and the courage of John Glenn inspired generations of new scientists, engineers, and aviators. It launched a new era of science, aerospace, and defense industries, and it showed that our advancements in science—in exploring the unknown—are not only a national security imperative, they are an economic imperative, too—reaffirming that we have what it takes to out-compete and out-innovate any nation in the world.

After his flight, Glenn received a hero's welcome—decorated with awards and accolades—and honored in ticker-tape parades and magazine profiles. Throughout it all, he remained humbled by his patriotism and his small town Ohio roots—as a son whose father was a plumber, and whose mother was

a schoolteacher. And he remained grounded by his love for his wife, his childhood sweetheart, Annie.

Much has been written about John and Annie. Both are just as in love with each other now in their 90s as they were as children when they met—as John says, in a playpen in New Concord.

He says of Annie, “that she was part of my life from the time of my first memory.”

It is fitting that in celebrating the 50th anniversary of John Glenn’s historic orbit of Earth, we honor his family—Annie and their children, Dave and Lyn who gave public blessing and private prayers and support during his service to our Nation.

I was fortunate to sit with Lyn and Dave and Annie in the Rotunda when John Glenn, with three other astronauts, received the Congressional Gold Medal for his flight aboard *Friendship 7*.

We also honor the thousands of dedicated and patriotic men and women of NASA’s Project Mercury Program.

It took a huge team of people as dedicated as John Glenn, and perhaps as courageous, who ensured the safety and security of their astronauts and preserved the pride of a grateful Nation. John will be in Florida on this weekend to meet with those who were part of that operation—the engineers, the scientists, the technicians—thanking them again for sending him up and bringing him down safely. Their service has inspired generations of future NASA technicians and mission control specialists—from Plum Brook Station in Sandusky, to NASA Glenn in Cleveland, to NASA centers around the country.

At one of the first press conferences of the Mercury 7 astronauts, Glenn said:

This whole project . . . stands with us now like the Wright Brothers—Ohioans also—stood at Kitty Hawk . . . I think we stand on the verge of something as big and expansive as that was 50 years ago.

It is that spirit of discovery, that conviction, duty, and faith that John Glenn embodies and that his flight aboard *Friendship 7* symbolizes. It is my honor to submit this bipartisan resolution celebrating such an important national and scientific achievement.

It is also my honor to be accompanied on the floor today by Nicole Smith, who is a fellow from NASA Glenn, an aeronautical engineer, who has done things as varied as having trained cosmonauts to the work she has done in our office, guiding the success of NASA Glenn, one of the best NASA centers in the country.

I am also joined on the floor by Laura Lynch, who has been with my office for 3 years—a Cleveland—who is actually leaving our office for bigger and better things in a couple of weeks. She has been part of this too.

In my last personal moment with this resolution, I remember 40-some

years ago—44 years ago, I believe—when John Glenn was not Senator Glenn but still Colonel Glenn. I received my Eagle Scout award in Mansfield earlier in the year, and COL John Glenn came to a dinner with a number of other Eagle Scouts in Mansfield. I have a picture in my office in the Senate Hart Building of me standing there in my Boy Scout uniform with my Eagle Scout pin with John Glenn, and next to that is a picture of John Glenn and me some 38 years later before he walked me down the center aisle to be sworn in to the Senate with the Senator from Rhode Island in January of 2007.

John Glenn is special to our Nation. He is special to my wife Connie and me because of our love for John and Annie and our respect for Dave and Lyn, their children. He has honored our country in so many ways, it is my honor to submit this resolution and I thank my colleagues.

I yield the floor and suggest the absence of a quorum.

The assistant legislative clerk proceeded to call the roll.

Ms. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ALASKA RURAL ROADS SYSTEM

Ms. MURKOWSKI. Mr. President, we are dealing with the Transportation bill, and let me say I hope we truly deal with the Transportation bill eventually because there has been a great deal of work on this measure by the chairman and the ranking members of the relevant committees, and I thank them for the hard work they have put into this. I support their efforts to give States long-term security for moving forward with Federal highway aid and transit programs. I support the efforts to give States that long-term security for planning purposes, improve the project approval process, and reduce duplicative and excessive programs. However, I do have very serious concerns with certain aspects of the legislation proposed. Most particularly, and the reason I have come to the floor this evening, is to discuss what this legislation does to the Indian Reservation Roads Program. This is the program known as IRR.

IRR is a jointly administered program between the Federal Highway Administration and the Bureau of Indian Affairs that addresses the transportation needs of our tribes by providing funds for the planning, the design, the construction, and the maintenance activities.

The Indian Reservation Roads are public roads. They provide access to and within Indian reservations, Indian trust land, restricted Indian land, and Alaskan Native villages. There are ap-

proximately 29,000 miles that are under jurisdiction of the BIA and the tribes, and another 73,000 miles are under State and local ownership. IRR funds can be used for any type of title 23 transportation project that provides access to or within Federal or Indian lands and may be used as the State and local matching share for a portion of Federal aid highway funds. The IRR inventory is a comprehensive database of all transportation facilities that are eligible for IRR Program funding by tribe, reservation, BIA agency, region, congressional district, the State, and the county.

I think it is important to understand how we came to the position of where we are today with MAP-21. For years, Alaska received very little assistance from the IRR Program because we only have one reservation, a very small reservation down in southeastern Alaska, Metlakatla and, therefore, little to no BIA-owned roads. The BIA maintains a national database of roads, the IRR inventory, which is used to allocate IRR funds and determine locations where IRR funds can be used. State and county-owned roads comprise the majority of the road miles within the IRR system. A few decades ago, there were very few villages in Alaska that were putting any inventory into the system. TEA-21 gave the committee criteria in establishing the funding formula based on the needs of Indian tribes for transportation assistance, cost of road construction, geographic isolation, and difficulty in maintaining all-weather access to employment, commerce, health, safety, and education resources. With the passage of TEA-21, a rulemaking committee was established, the IRR Program Coordinating Committee, which helped to develop the funding formula which was published in 2004. The coordinating committee was made up of 12 primary members from Indian tribes, one from each region. There were 12 alternates and two nonvoting Federal representatives. Decisions that were made by the committee were reached by consensus. It was not a majority decision process.

The funding formula, which is known as the relative need distribution formula, adopted in the IRR Program final rule, reflects Congress’s intent that the funding distribution method balance the interests of all tribes and enable all tribes to participate in the IRR Program. I should note that 40 percent of all federally recognized tribes in the Nation reside in the State of Alaska—40 percent. I think that is something many of my colleagues are not aware of. That balancing of interests called for avoiding substantial allocations from the larger tribes while still addressing the central problem that historically left the smaller tribes out of the program. The prior formula distributed funds based on an inventory limited to roads built and owned

by the BIA. But the new formula broadened tribal participation by allowing the inclusion of State, county, and municipally owned IRR-eligible facilities in the inventory so the actual IRR transportation needs could be counted for funding purposes.

In 2003, Loretta Bullard, who is with a regional nonprofit representing the Bering Straits region of northwestern Alaska, testified before the Senate Indian Affairs Committee saying that the BIA had never surveyed any villages to identify the roads that were eligible for support. So there just wasn't a complete inventory at that time because there had never been a survey up in Alaska. That was back in 2003. As a result of the 2004 rulemaking, which took 5 years, by the way, Alaska increased its inventory. Alaska benefited from a competitive grant program that was established under the rulemaking for smaller tribes called the High Priority Project Program. This legislation we are dealing with now seeks to undo all the gains Alaska made through TEA-21, through the 2004 rulemaking, and through SAFETEA-LU. It is all unraveled with this legislation. Alaska is unfairly harmed by MAP-21, more than any other region in the country. Alaska loses \$16 million a year under MAP-21 and tribes throughout the State will be effectively shut out of the program. This is not acceptable. The current negotiated regulation, which was developed, again, by consensus from tribes throughout the entire country, is focused on need. The new formula which we see reflected in this legislation was written behind closed doors by a handful of people with no government-to-government tribal consultation. Its focus is on the population and the urban areas. It disregards the trust responsibility that is owed to the 566 federally recognized tribes in our Nation, 229 of which reside in the State of Alaska—again, nearly half of all the recognized tribes in the Nation.

I think every time I come to the floor and talk about something, I have to put up the map of Alaska so we are all reminded how big it is. This is the proportional size when we superimpose Alaska over the rest of the lower 48. The red on this map is our road system. All these areas in white where we don't see anything, there are no roads there. Clearly our roads are pretty limited—our road system is centralized in the middle of the state, with a few scattered roads in other areas.

What is behind this kind of great shadow of Alaska? The States that are covered up behind it are North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Minnesota, Iowa, Missouri, Wisconsin, and Illinois. They are all kind of tucked under this great expanse. Just imagine if one is from Missouri, it would be like saying we have no roads in the state. That is what we are talking about. My map shows all

the roads in Alaska, not the IRR roads. These are our State roads and our Federal highways. This is everything. So when we are talking about the IRR piece, it is even more minuscule in terms of comparison to what the Lower 48 has.

We have approximately 16,000 miles of road in Alaska, and 5,600 miles of those are unpaved. That sounds like a lot, but keep in mind, we have 570,000 square miles of land to cover in my home state. When you put in perspective, that's not a lot of roads we are talking about—16,000 miles of road for 570,000 square miles of state.

I would like to highlight some of the things we have been able to do in the State of Alaska as a result of the IRR Program. The Indian Reservation Roads Program funds the construction and maintenance of roads and bridges within Alaska Native villages. In many cases, these are not roads you and I would think of as typical roads.

Mr. President, I ask unanimous consent for an additional 5 minutes from my colleague, if that is acceptable.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MURKOWSKI. Mr. President, most of our roads, when we are talking about the IRR roads, are not necessarily roads that are going to carry a vehicle. These are roads that will carry pedestrians, a four-wheeler, a snow machine. These are the ways that Alaska's Native people access our subsistence resources, haul their subsistence food home. These are the roads that form the link to the village airport, which is the only way out during the wintertime. If there are no roads, you have to be flying to all of these locations.

This is a picture of the village of Kwigillingok, which lies on the western shore of Kuskokwim Bay, 388 miles west of Anchorage. In this village, the primary mode of transportation is by foot, ATV, and snow machine in the wintertime. But you look at this picture, it is all nice, green—it looks beautiful. But it is tundra. It is wet and marshy. If you get down there in your rubber boots, you are going to be up to your knees in brush and water. You cannot walk through this and would not want to put a vehicle on it.

So what you see here is a real technological breakthrough in how to build rural roads in places where dirt and gravel either just do not exist out there or just do not work. This was built using IRR funds from the Native village of Kwigillingok, funding from the State of Alaska, and funding from the Denali Commission. This is construction of a geo-tech grid track. It looks like grading. It is like a plastic grading that overlays the ground and provides access over the tundra.

IRR funding and the Denali Commission funding were leveraged with other funding sources, and it provided jobs within the community.

The next picture we have is a boardwalk, a board road that was built in Nunam Iqua, which is on the south fork of the Yukon River, about 500 miles northwest of Anchorage. Again, this project was made possible by leveraging funds from the Denali Commission, the State of Alaska, and Nunam Iqua's tribal shares from the IRR Program.

It is just a boardwalk, but you look at this picture, and you can see it is kind of rippled and wavy. Well, that is what happens when you put boards on top of wet, marshy tundra, but at least you can walk on it. At least you can access it by your four-wheeler without doing damage to the area and it connects your schools and health clinics to the homes. This project created jobs within the community and a safe road system for the residents to access public facilities.

This picture is from one of my visits down in the Y-K Delta. You can see, this is their road system. It provides a connection to homes and to community facilities. This is the means of transportation here. You go out on the tundra there and, again, you sink.

I took Secretary Paige, the Secretary of Education, out there to one of our smaller villages, Tuntutuliak, and we got out and got on the boardwalk, and he said: When does it dry out here?

I said: Sir, this is as dry as it gets.

He said: Where do the children play?

I said: Well, this is it.

In the Lower 48 children play on the sidewalks and quiet neighborhood streets, in rural Alaska children play on the boardwalks.

We also have some challenging conditions in other parts of our State.

In southeastern Alaska, we do not have to worry about the tundra, but we do have some challenging conditions. The Craig Tribal Association down in Craig has been working on the reconstruction of the Port Saint Nicholas Road for the past 4 years. The road has several bridges that are being replaced concurrent with the road construction.

Again, "the Denali Commission has been a committed, critical partner," in the words of the tribe. In this picture, you can see Dog Salmon Creek Bridge prior to the construction. This was a dilapidated, rotting, wooden bridge. Then, in the next picture, you can see what \$1.7 million from the Denali Commission and from IRR does—a modest investment that really comes together. You have a paved road and a solid bridge that is going to last for decades.

But these projects could not be built under the reduced funding levels for small tribes that we have proposed in MAP-21. Tribal transportation funding in the bill is directed toward populated areas, and roads that are more established receive greater amounts of funding.

So again, when you take into account an area such as Alaska, where we

have many miles but few people, and a formula that is designed to work against us, how do we ever make headway, how do we ever connect these communities, how do we ever allow for a transportation system to progress and be developed?

I have submitted an amendment I hope we will have an opportunity to bring up. It restores current law and current regulations with respect to the funding formula that was developed, again, after years of negotiation in a very open and transparent process.

Just yesterday, at the Intertribal Transportation Association meeting in Minnesota, we had tribes from the Rocky Mountain region, the Great Plains region, the Midwest region, and the Navajo Nation who all agreed that MAP-21 sets a dangerous precedent to allow Congress to overturn the tribal rulemaking process, as it is a threat to tribal sovereignty, and we are hearing more and more concerns every day about the opposition coming from those who feel they have been circumvented by Congress in this act.

In the past couple days, I have received letters from tribes from California, as well as Alaska. I have a letter from the Susanville Indian Rancheria, one from the Ramona Band of Cahuilla, who wrote: Under MAP-21, smaller urban tribes with paved roads garner a significant increase in funding while tribes such as the Ramona Band which are rural and have poor roads, arguably those with the most need and no other access to transportation funding, will see significant decreases.

What I am trying to do is restore some parity.

I ask unanimous consent that these letters from not only the Alaskan tribes but from the Californian tribes I just mentioned be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUSANVILLE INDIAN RANCHERIA,  
*Susanville, CA, February 13, 2012.*

Re Murkowski Amendment to MAP-21's  
Tribal Transportation Program.

Hon. BARBARA BOXER,  
*Hart Senate Office Building,*  
*Washington, DC.*

DEAR SENATOR BOXER, I write to you today on behalf of the Susanville Indian Rancheria to encourage you to co-sponsor and support the attached amendment to S. 1813, the Moving Ahead for Progress in the 21st Century ("MAP-21") legislation proposed by Alaska Senator Murkowski. The amendment would remove the population based Tribal Transportation funding formula and replace it with the funding presently in SAFETEA-LU.

Based on the data provided by the Bureau of Indian Affairs ("BIA"), Tribes throughout Indian Country (California, Alaska, New Mexico, Michigan, Minnesota, Utah, the Dakotas, and Wisconsin) would lose millions in program funds under the MAP-21 funding formula.

Under the proposed legislation, the current Indian Reservation Roads Program (IRR) would be discarded and replaced with what is

called the Tribal Transportation Program (TTP). The current IRR program is how federal transportation funding is filtered to tribes. The TTP was created to address what is argued to be the flawed IRR program.

The great majority of Tribes strongly oppose MAP-21, including 189 Alaska Tribes, the Navajo Nation, and the majority of Tribes in California, New Mexico, Michigan, Minnesota, Utah, the Dakotas, and Wisconsin.

Unlike the original IRR formula distribution that was ultimately finalized by negotiated rule making with tribes, no tribes were consulted in the creation of the TTP. The new TTP under MAP-21 was created without any tribal consultation, and the program is based on population and not road needs. This sort of formula would never be used by states in their determination of road funding.

Tribes recognize that the current IRR formula has imperfections; however, the TTP does nothing more than exacerbate the issue and creates even greater problems than before.

Under MAP-21, small urban tribes with paved roads garner a significant increase in funding—while rural tribes with poor roads, arguably those with the most need and no other access to transportation funding, will see significant decreases. While funding for California tribes would be increased by a minimal \$192,000 for 110 tribes, the California tribes with the greatest needs and poorest roads would suffer significant funding decreases.

The proposed solutions within MAP-21 do not adequately address the problems inherent within Indian Country transportation funding. The solution is not for Congress to impose a flawed funding formula on Tribes and overturn the SAFETEA-LU funding formula that was agreed upon by all Tribes in negotiated rulemaking. While federal agencies may believe they are smarter than Tribes and know better how to resolve the funding formula imperfections, we disagree and believe the consensus among Tribes achieved in the negotiated rulemaking that approved the funding formula under SAFETEA-LU must prevail is tribal consultation is to have real meaning.

The same proposed amendment herein included was added to H.R. 7 in amendments offered by House Transportation and Infrastructure Committee Congressman Don Young during that committee's markup of H.R. 7 on February 2, 2012.

Please support this fair and common sense amendment to MAP-21 and let us know how we may assist you to increase support for this in the Senate.

Sincerely,

MR. STACY DIXON,  
*Tribal Chairman.*

RAMONA BAND OF CAHUILLA,  
A SOVEREIGN NATION,  
*Anza, CA, February 13, 2012.*

Re: Submission of Request to Support  
Amendment to MAP-21

Senator LISA MURKOWSKI,  
*Hart Senate Office Building,*  
*Washington, DC.*

DEAR SENATOR MURKOWSKI: On behalf of the Ramona Band of Cahuilla, a federally recognized Tribe located in California, Chairman Joseph Hamilton submitted requests to Senator Boxer and Senator Feinstein requesting their support for your proposed amendment to MAP-21.

Attached is a copy of the request letters to each Senator. As you can see, the requests

were also forwarded to the Senate Committee on Indian Affairs. Additionally, the Ramona Band will forward copies of the requests and a letter stating the Tribe's support for the proposed amendment to Congresswoman Mary Bono Mack, our Representative in the House.

The Ramona Band supports your proposed amendment as a fair and common sense approach to address a critical issue in MAP-21 that would negatively impact numerous Tribes and hinder us in our collective efforts to provide for the health and safety of our communities.

Place feel free to contact the Ramona Band if you have any question or wish to discuss this issue.

Respectfully,

JOHN GOMEZ, Jr.,  
*Project Coordinator.*

RAMONA BAND OF CAHUILLA,  
A SOVEREIGN NATION,  
*Anza, CA, February 13, 2012.*

Re: Murkowski Amendment to MAP-21's  
Tribal Transportation Program

Hon. BARBARA BOXER,  
*Hart Senate Office Building,*  
*Washington, DC.*

DEAR SENATOR BOXER: On behalf of the Ramona Band of Cahuilla, a federally recognized Indian Tribe located in Riverside County, California, I write to you today to encourage you to co-sponsor and support the attached amendment to S. 1813, Moving Ahead for Progress in the 21st Century ("MAP-21").

The attached amendment, as proposed by Alaska Senator Murkowski, would remove the population based Tribal Transportation funding formula found in MAP-21 and replace it with the funding formula presently found in SAFETEA-LU. The amendment mirrors that which was added to H.R. 7 by Congressman Don Young in the House Transportation and Infrastructure Committee markup of H.R. 7 on February 2, 2012.

Under MAP-21, the current Indian Reservation Roads Program (IRR) would be discarded and replaced with what is called the Tribal Transportation Program (TTP). The current IRR program is how federal transportation funding is filtered to tribes. The TTP was created to address what is argued to be the flawed IRR program.

Unlike the original IRR formula distribution that was ultimately finalized by negotiated rulemaking with tribes, no tribes were consulted in the creation of the TTP. The new TTP under MAP-21 was created without any tribal consultation, and the program is based on population and not road needs. This sort of formula would never be used by states in their determination of road funding.

Under MAP-21, small urban tribes with paved roads garner a significant increase in funding—while tribes such as the Ramona Band which are rural and have poor roads—arguably those with the most need and no other access to transportation funding—will see significant decreases.

Based on a comparison of the funding formulas, funding for California tribes would be increased by a total of \$192,000 for the 110 tribes under the MAP-21 formula. However, the Ramona Band's funding would be reduced by nearly \$70,000.00 (more than 70% of our current funding). California tribes with the greatest needs and poorest roads would suffer significant and disproportionate funding decreases which would cripple their ability to address necessary planning maintenance, and construction projects of their outdated and/or damaged roads. While the current formula is not perfect, it properly considers the



needs of tribes and tribal communities, the conditions of their current inventories, and their desire to provide adequate, safe, and secure routes, Changes to the current IRR funding formula, such as those proposed in MAP-21, would greatly damage small, rural tribes and have long-term negative impacts on their communities and roads systems.

Furthermore, the proposed solutions within MAP-21 do not adequately address the problems inherent within Indian Country transportation funding. The solution is not for Congress to impose a flawed funding formula on Tribes and overturn the SAFETEA-LU funding formula that was agreed upon by all Tribes in negotiated rulemaking. While federal agencies may believe they are smarter than Tribes and know better how to resolve the funding formula imperfections, we disagree and believe the consensus among Tribes achieved in the negotiated rulemaking that approved the funding formula under SAFETEA-LU must prevail if tribal consultation is to have real meaning.

Please support this fair and common sense amendment to MAP-21 so that tribes like the Ramona Band can plan for the future and provide for the health and safety of our community.

Sincerely,

JOSEPH D. HAMILTON,  
*Tribal Chairman.*

WRANGELL COOPERATIVE ASSOCIATION,  
*Wrangell, AK, December 12, 2011.*

Re: MAP-21 "Moving Ahead for Progress in the 21st Century Act"

Senator LISA MURKOWSKI,  
*Hart Senate Office Building,*  
*Washington, DC.*

DEAR SENATOR MURKOWSKI, The Wrangell Cooperative Association (hereinafter referred to as the WCA) has reviewed the Senate Minority Environmental Public Works proposed legislation MAP-21, "Moving Ahead for Progress in the 21st Century Act" and shares the following concerns.

Previous legislation, which you were instrumental in authoring, "SAFETEA-LU", provided the opportunity for Alaska and Federally Recognized Tribes to participate in the transportation program at 100%. Proposed legislation, "MAP-21", takes a step backwards and decreases funding for tribes significantly, basically uprooting their transportation programs.

Under Section 1116, Federal Lands and Tribal Transportation Programs, these are a few of the programs to be affected should the MAP-21 legislation be passed: Indian Reservation Roads Bridge Program (IRRB), Tribal Scenic Byways, Indian Reservation Road High Priority Project Program (IRRHPP), Tribal Transit Program, Tribal Safety Programs.

The National Bridge and Tunnel Inventory Identified within MAP-21 have already been completed as a result of SAFETEA-LU. Having separate inventory developed with another set of standards will be time consuming and costly to tax payers. Currently an AASHTO standard is being used to assure that everything is designed and built properly.

National Facility Inventory identified in MAP-21 has already been established per SAFETEA-LU and the Final Rule 2004, 25 CFR, PART 170 Indian Reservation Roads Program.

Returning prior to October 1, 2004 would take away the ability of Alaskan Tribes, established by SAFETEA-LU, to participate in the Transportation Program at 100% and would NOT capture the transportation needs

within Alaska; therefore, we strongly oppose this legislation.

The Funding Formula identified in MAP-21 will not work because it only calculates population and lane miles. Here in Alaska, tribes would not be able to sustain building roads at the local level because our populations would not generate enough funding to create a local match for projects. We need to keep the current formula or the relative need distribution formula (RNDF) that is currently in the regulations of 25 CFR, PART 170.

The proposed legislation goes away from the Average Daily Traffic (ADT), Cost to Construct (CTC), and Vehicle Miles Traveled (VMT) of the equation in which is valuable in developing design standards when planning, designing, and constructing roadways.

Since SAFETEA-LU, many Alaskan communities have built very successful tribal transportation programs and have had, do have and will continue to have great projects if MAP-21 does NOT pass. This Proposed legislation is a huge threat to our transportation programs, specifically Alaska.

WCA/ANTTC just finished our first IRR Program project this past summer. IRR HPP Funding was an integral part of the funding that was put together to finance the project. Under MAP-21 IRR HPP is gone. We are sure there are other components of MAP-21 that will hurt Alaska and Alaska Tribal Governments in this proposed legislation. Attached are pictures of before the project began and after the project was finished. Quite a contrast in what was there before and what is here now. WCA encourages you to come up with a longer term solution to the overall picture within the Transportation and Infrastructure picture throughout our great country and not support MAP-21.

Thank-You,

DAWN HUTCHINSON,  
*WCA President.*

ASSOCIATION OF VILLAGE COUNCIL  
PRESIDENTS, ADMINISTRATION,  
*Bethel, AK, December 8, 2011.*

Re: EPW MAP-21

INTER-TRIBAL TRANSPORTATION ASSOCIATION,  
*c/o John Healy, President,*  
*Harlem, MT.*

DEAR PRESIDENT HEALY AND ITA MEMBERS: The Association of Village Council Presidents (AVCP) is a Native Non-profit organization comprised of 56 federally-recognized Indian Tribes in southwest Alaska. On behalf of AVCP's member Tribes, we wish to convey concern over certain provisions of Section 1116 of the proposed MAP-21 bill.

As background, the AVCP Tribes are not connected by any road system and are scattered over an area approximately the size of Oregon. The Tribes' transportation needs are significant and framed against the backdrop of significant challenges, including short building seasons, shipping costs that reach 40% of total project budgets, building in remote locations without any road infrastructure, and no access to very basic human needs, such as health care and education. A large portion of the AVCP region has no roads at all, and that fact is critical to understanding its member Tribes' transportation plans. It wasn't until approximately 10 years ago that, by statute, Alaska Tribes were allowed to participate in the Indian Reservation Roads program. Since that time, they have been vigorously developing transportation programs on the premise of meeting very basic but essential needs. The struggles over having to choose between purchasing food or purchasing gasoline and fig-

uring out how to get to the nearest health facility for basic health care were beginning to be resolved through road building. Having a better understanding of the underlying realities facing Alaska Native Tribes will lead to a better understanding of their unique challenges and a fair and equitable solution to any proposed legislation.

With respect to our objections to MAP-21, our concerns include the following. The Bill sets a dangerous precedent by tearing apart formulas that were developed during an extensive negotiated rule-making process, opening the door to disassembling other Tribal programs, such as Housing and the reauthorization for NAHASDA. The Bill further eliminates entirely the High Priority Program, which has provided an enormous amount of support for Alaska Tribes, who have just begun developing their infrastructure.

The Bill further eliminates the Population Adjustment Factor. Because the average population number, at least in the AVCP region, for our Tribes is 200, only those Tribes with large population numbers will benefit.

The Bill also changes the ability for Alaska Tribes to participate in a meaningful way by altering the distribution formula. Alaska Tribes were only recently allowed to participate in the IRR Program, which means that only a scant number of roads prior to 2004 were entered into the system. This proposal would essentially obliterate Alaska Tribes' existing programs. Moreover, as a large portion of the roads in Alaska are not paved, Alaska Tribes would further suffer from the lane mile formula, counting unimproved roads as one lane mile and paved roads as 2-lane miles. The proposed funding formula contained in MAP-21 would result in an 85% reduction to our Tribes' programs. Alaska Tribes together own 44 million acres of land with little to no roads within them. The inventory they have built up in efforts to building an infrastructure to improve the health and safety of their members will disappear, funneling those funds to Tribes with a decades-long road systems and larger populations.

The Bill is inequitable, and we urge the ITA to take a serious look at the unfair consequences it places on Alaska Tribes.

Sincerely,

MYRON P. NANENG, Sr.,  
*President.*

KLAWOCK COOPERATIVE  
ASSOCIATION, TRIBE,  
*Klawock, AK, December 5, 2011.*

Re: MAP-21 "Moving Ahead for Progress in the 21st Century Act"

Hon. Senator LISA MURKOWSKI,  
*U.S. Senate, Hart Senate Office Building,*  
*Washington, DC.*

DEAR SENATOR MURKOWSKI: The Klawock Cooperative Association (KCA) has reviewed the Senate Minority Environmental Public Works proposed legislation Map 21, "Moving Ahead for Progress in the 21st Century Act" and shares the following concerns.

Previous legislation, "SAFETEA-LU", provided the opportunity for Alaska and Federally Recognized Tribes to participate in the transportation program at 100%. Proposed legislation, "MAP-21", takes a step backwards and decreases funding for tribes significantly, basically uprooting their transportation programs.

Under Section 1116, Federal Lands and Tribal Transportation Programs, these are a few of the programs to be affected should the Map 21 legislation be passed: Indian Reservation Roads Bridge Program (IRRB), Tribal



Scenic Byways, Indian Reservation Road High Priority Project Program (IRRHPP), Tribal Transit Program, Tribal Safety Programs.

The National Bridge and Tunnel Inventory identified within MAP-21 have already been completed as a result of SAFETEA-LU. Having separate inventory developed with another set of standards will be time consuming and costly to tax payers. Currently an AASHTO standard is being used to assure that everything is designed and built properly.

National Facility Inventory identified in MAP-21 has already been established per SAFETEA-LU and the Final Rule 2004, 25 CFR, PART 170 Indian Reservation Roads Program. Returning prior to October 1, 2004 would take away the ability of Alaskan Tribes, established by SAFETEA-LU, to participate in the Transportation Program at 100% and would NOT capture the transportation needs within Alaska; therefore, we strongly oppose this legislation.

The Funding Formula identified in MAP-21 will not work because it only calculates population and lane miles. Here in Alaska, tribes would not be able to sustain building roads at the local level because our populations would not generate enough funding to create a local match for projects. We need to keep the current formula or the relative need distribution formula (RNDF) that is currently in the regulations of 25 CFR, PART 170. The proposed legislation goes away from the Average Daily Traffic (ADT), Cost to Construct (CTC), and Vehicles Miles Traveled (VMT) of the equation which is valuable in developing design standards when planning, designing, and constructing roadways.

Since SAFETEA-LU, many Alaskan communities have built very successful tribal transportation programs and have had, do have and will continue to have great projects if MAP-21 does NOT pass. This Proposed legislation is a huge threat to our transportation programs, specifically Alaska, therefore; we encourage you to vote against it and come up with a long term solution to the overall picture within the Transportation and Infrastructure in our great state.

Sincerely,

A. WEBSTER DEMMERT III,  
*Tribal President.*

Ms. MURKOWSKI. Mr. President, I have other concerns with this Transportation bill. I have mentioned the Denali Commission several times today. I have joined my colleague, Senator BEGICH, in filing an amendment to this bill that would restore the Denali Commission's transportation program—an incredibly important program to our State. I have also raised concerns about a provision within the banking title that relates to our Alaska Railroad.

These are concerns that, while they might not register fully with all of our colleagues here in the Senate, to Alaska they are critical. Our transportation needs are different. Some might say they are unique. But we have risen to the challenge with limited funding and smart people trying to do good things to connect us in ways that make sense.

Through the work of the Denali Commission, our IRR funding, and our Alaska Railroad, we have been engaged

in building up the transportation infrastructure of the Last Frontier. In order to continue the progress that we've made thus far, I ask for your support and consideration to address the problems I've outlined with this legislation.

With that, I thank my colleague from Oregon for giving me some additional time this afternoon.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. MERKLEY. Mr. President, I too wish to address transportation infrastructure. I enjoyed the presentation of my colleague from Alaska. Her State certainly has some unique challenges in terms of creating a way for goods and people to move around the State effectively. I look forward to hearing the details of her amendment when we get to the Transportation bill.

Meanwhile, we are sitting here in this Chamber—both of us—unable to present our amendments before this body because we are not yet on the Transportation bill. Why would that be?

Well, apparently, there are Members of this body who have decided to obstruct the normal ability to assemble the bill that comes from four committees on this floor in order to do non-germane amendments that have nothing to do with transportation and to hold this entire body hostage, to hold hostage those on the left side of the aisle and to hold hostage those on the right side of the aisle, to hold transportation hostage, to hold, if you will, jobs across America hostage. This hostage-taking is just not right. It is just not right that when we should be building infrastructure in America, which is right in the short term for jobs and in the long term for our economy, we are instead sitting here talking about the amendments we would like to offer to make the transportation system work better, to improve upon the bill as it came out of committee.

Now, just to refresh the memories of my colleagues, this Transportation bill has gone through four committees successfully. It has gone through Commerce. It has gone through Finance. It has gone through Banking. It has gone through Environment and Public Works. In the course of that, in two of these committees, the bill was unanimous. And in the other two committees, it was not unanimous, but it was bipartisan. So we have had this bill come to the floor with the support of 85 Senators in the four committees. Yet we cannot get the conversation on the floor started. This is enormously frustrating to everyone across America.

I found it interesting to see this letter from 2 days ago. I thought I would just read it to you. It has a list of about 20 organizations that are appealing for the commonsense deliberation of transportation infrastructure. It is dated February 13, 2012.

It says:

To Members of the United States Senate:

The time is now to pass S. 1813, [the] Moving Ahead for Progress in the 21st Century [bill], the bipartisan highway bill crafted by the Environment and Public Works Committee. Last Thursday, eighty-five Senators voted to invoke cloture on the motion to proceed to S. 1813, clearly demonstrating bipartisan support for passing the highway and transit bill. While we are encouraged by this show of support, the undersigned organizations are concerned that progress may be impeded if non-germane amendments are offered as part of the deliberations on this bill.

The organizations that we represent may hold diverse views on social, energy, and fiscal issues, but we are united in our desire to see immediate action on the Senate's bipartisan highway and transit reauthorization measures.

This does come from a broad array of organizations. It comes from the AAA, the American Automobile Association. It comes from the American Association of State Highway and Transit Officials. It comes from the American Bus Association. It comes from the American Concrete Pavement Association. It comes from the American Council of Engineering Companies. It comes from the American Highway Users Alliance. It comes from the American Moving & Storage Association, from the American Public Transportation Association, from the Road and Transportation Builders Association, from the American Society of Civil Engineers, from the American Traffic Safety Services Association, from the American Trucking Associations, from the Associated General Contractors of America, the Associated Equipment Distributors, the Associated Equipment Manufacturers, the Association of Metropolitan Planning Organizations, the Commercial Vehicle Safety Alliance, the Governors Highway Safety Association, the Intelligent Transportation Society of America, the International Union of Operating Engineers, the Motor & Equipment Manufacturers Association, the National Asphalt Pavement Association, the National Association of Development Organizations, the National Construction Alliance II, the National Stone, Sand & Gravel Association, the Portland Cement Association, and the U.S. Chamber of Commerce.

That is an extraordinary array of groups that are saying: Enough with the posturing on social issues. Let's get to work building the infrastructure of America.

Now, one of the amendments a colleague wants us to spend our time on is an amendment that says: If you are the owner of a business, anything you consider to be a health care perspective, you can impose on your employees. There is some interesting humor on this on late-night television.

I believe it was Jon Stewart's show, "The Daily Show," in which he said: You know, in my business, I happen to think that humor is the best medicine.

So I am going to impose a health care bill or a health care policy on all the folks who work for me that says, if you get sick, you have to go to a comedian for therapy or you have to read a joke book or something like that.

I mean, this is not a serious amendment, and it is not about highway infrastructure.

While we sit here doing nothing in this Chamber, China is spending 10 percent of its gross domestic product on infrastructure. I had a chance to go to China 14 years ago and then once again last year. In the intervening timespan, they went from a couple ring roads and virtually no connecting roads between major cities to an enormous highway system, an enormous expansion of the infrastructure in major cities, light rail systems, high-speed trains. It was enormously strange to get on a train in Beijing and go at 200 miles per hour to Tianjin. I cannot get on a train here in DC and go 200 miles per hour anywhere. There are vast infrastructure projects across that nation in cities we have never even heard of because they are spending 10 percent of their gross domestic product building the infrastructure that will be the foundation of a future thriving economy.

Europe is spending 5 percent—half of what China is spending but still substantial. What are we spending here in America? And when I ask this question in townhalls, normally folks say 1 percent or maybe they venture 5 percent. But depending on how you count it, the answer is 2 percent. So it is a fraction of what Europe is spending and one-fifth of what China is spending. Thus, we are barely able to repair the infrastructure we have, let alone build the infrastructure for the economy of tomorrow.

Now here we are, spending our time awaiting the opportunity to have the highway and transit bill here on the floor of the Senate so that we can direct resources to build that infrastructure. But instead of debating, we wait.

So I say to my colleagues across the aisle, who somehow have lost sight of the fact that infrastructure is essential for building America, who have lost sight of the fact that the construction industry is flat on its back and ready to go to work, who have lost sight of the fact that right now with low interest rates and an unemployed construction business this is the best time to be investing in infrastructure, the most cost-effective time to be investing in infrastructure, I say to my colleagues who have lost sight of the fact that there is a responsibility to spend a dollar wisely, in construction and infrastructure, now is the time when you get the biggest bang for the buck, now is the time when it is wise.

This is not just about the infrastructure that makes our economy work better, it is about creating jobs. Maybe some folks in this Chamber say: Well,

we want to play politics with jobs. We do not want people to go back to work. We want America to be broken so we can promote our Presidential candidate over someone else's Presidential candidate.

I say that is irresponsible. It is absolutely irresponsible to be playing these political games with the livelihood of working Americans.

The bill that came out of the House or the bill that was proposed in the House was a 35-percent reduction in highway spending, infrastructure spending. What would that mean for my State back home? Well, it would mean projects all over the State that address critical chokepoints in transit and transportation will not get addressed.

I have a 36-county tour. Every year I go and listen to folks in every one of my 36 counties, and I talk, and I have a special meeting with the county and city officials beforehand. Inevitably, they say: Here are our infrastructure challenges. Please go back and fight to do something so that we have the resources to tackle these challenges and make our economy stronger.

So I am here on the floor awaiting the embargo imposed by my colleagues who are not so concerned about infrastructure, who apparently have not talked to their city and county officials who are desperate to take on these chokepoints in their local economy. So I say to them: Stand aside. If you cannot get on board with making America work, stand aside so the rest of us can put America to work.

In Oregon, this is also 7,000 living-wage jobs—the difference between the vision the House had on the other side of this building and the vision the Senate had. The Senate vision is not, quite frankly, that ambitious. The Senate vision simply says that we are going to maintain the fiscal 2011 support for the transportation process, for the transportation infrastructure. It is not building beyond that. It should be, but it is not. So it is a modest vision. But compare it to the vision on the other side of the Capitol and the other side of the aisle which says: Let's not only not spend 2 percent, let's cut the entire budget by one-third—let's put 7,000 people out of work in Oregon who are not only building a foundation for their families, they are building the foundation for the future economy. I know that in every State there are similar portions of workers who want to be at work, getting up with a mission in their life to go out and do something useful for their society, to build something useful, and to have a paycheck to put the foundation under their family.

The time has long passed for us to be fully debating this bill. I urge my colleagues to come and do the work the American citizens expect of us all.

## RECOGNIZING INDIANA UNIVERSITY CHEERLEADERS

Mr. LUGAR. Mr. President, I rise today to recognize the Indiana University Crimson All-Girl Cheerleading Team in honor of their being named the 2012 Division I UCA College National Champions.

This national distinction has brought well-deserved attention and accolades to these young women, whose hard work and dedication helped them rise to the top. This is the first national championship for IU's all-girl team, and their hard-earned victory lays the foundation for many future successes.

I congratulate these young women on their outstanding achievement and wish them every continuing success in their academic and athletic endeavors. I am pleased to submit for the record the names of the championship team members and coaching staff.

### 2012 NATIONALS TEAM MEMBERS

Abby Markowitz, Adina Johnson, Alex Martin, Angela Stilwell, Brooke Carlin, Caity Hinshaw, Chelsea McMullen, Chrissy Day, Courtney Byrne, Elizabeth Cross, Halle Hill, Hannah Cox, Heather Barton, Jena Hecht, Kari Hellman, Kari Swartz, Kirby Lynch, Kristen Fischer, Natalie Skizas, Samantha Dewling.

Coaching Staff: Julie Horine, Chuck Crabb, Hank Light, Jeff Cox, Tony Nash.

## REMEMBERING FRANK MARTIN CUSHING

Ms. MURKOWSKI. Mr. President, it is with great sadness that I come to the floor concerning the passing of Frank Cushing, one of the true public servants that the Congress has known. Frank served as a legislative aide to Senator Jim McClure of Idaho prior to joining the Appropriations Committee staff as director of the Subcommittee on Interior and Related Agencies in 1981. In 1984 he became the staff director of the Committee on Energy and Natural Resources, a post he held until 1991. Although he left briefly for the private sector, public service remained an integral part of his commitment to the Congress and this Nation. His expertise, command of the appropriations, authorizing, and budget processes, and his exceptional talent and ability to work with others was missed, and he returned to the Congress as staff director of the House Appropriations Committee under Congressman LEWIS.

It takes exceptional abilities to be a good staff director, especially with the strong personalities that come with the experts who serve on the staff of our committees. Frank had the ability to work across the aisle and with other committees as few have ever done. His knowledge of the appropriations process and budgeting provided a unique depth to the consideration of authorizing legislation. He was able to challenge the staff, improve the work product, and set a high standard for quality

and substance that we still strive to maintain. Much of the work of the Energy and Natural Resources Committee is bipartisan and often nonpartisan, reflecting regional interests and concerns, and Frank understood how those interests and concerns could fit within the overall policies that we tried to set for our energy, public lands, and resource goals.

During his tenure on the committee, Frank in many ways was responsible for the close working relationship between Senator McClure and Senator Johnston as they switched from their roles as chairman and ranking member. Frank was extraordinarily helpful when Senator McClure was chairman in resolving the budgetary issues that threatened to hold up the Compacts of Free Association that, when finally enacted, led to the termination of the Trusteeship of the Pacific Islands the last of the U.N. Trusteeships. When Senator Johnston announced at the beginning of one Congress that he thought the committee should consider and report legislation dealing with Puerto Rico as well as national energy policy, Frank was in large measure responsible for negotiating and constructing the framework and process that enabled the committee to successfully report both measures with bipartisan support, although I should mention that there were also bipartisan concerns as well.

Those are details, however, and do not convey what a warm and generous person Frank was. They do not convey the respect and admiration that those who worked with him had for his ability to negotiate without rancor and without being disagreeable. They do not tell of his concern for his staff and their problems or his interest in their welfare and future or how the friendships that developed during his tenure continued and grew and deepened over the years since he left.

There is one other aspect of Frank's service to the Senate as staff director of the Energy and Natural Resources Committee that should be mentioned. If Frank always put public service and the willingness to respond to calls to return to public service above the lures of the private sector, there was one passion that surmounted everything else and that was his love for his family. Frank met his wife Amy while he served on the Energy Committee, and anyone who ever met Frank understood that Amy and his children, from his first marriage and with Amy, were the center of his life.

Our hearts and thoughts in these times go out to Amy and Frank's children and to all their family and to those who were close to him. His presence remains with the institutions he served; and his humor, compassion, and commitment will continue to be a marker for not just our committee, but for public service generally. His family

and multitude of friends lost a good and faithful man, but they all remain the richer for having known him for the many years, both in and out of government, that they shared with him.

#### ADDITIONAL STATEMENTS

##### RECOGNIZING THOS. MOSER CABINETMAKERS

• Ms. COLLINS. Mr. President, in his famous essay titled "Courage," Ralph Waldo Emerson wrote that he most admired those "who can organize their wishes and thoughts in stone and wood and steel and brass." In our time, when so much is mass produced and temporary, we have a special regard for the craftsmen and women who turn the materials provided by nature into objects of beautiful form and lasting function.

I rise today to congratulate the craftsmen and women of Thos. Moser Cabinetmakers of Auburn, ME, as they celebrate the 40th anniversary of this remarkable company. With skill and creativity, they transform black cherry, maple, ash, and walnut into fine furniture that is recognized worldwide as the pinnacle of the woodworkers' art.

This story of success driven by the pursuit of excellence began in 1972, when Tom Moser left the secure life of a college professor to follow his dream to revive the craftsmanship of woodworkers of the past. With his wife Mary, they set up shop in an old Grange Hall in New Gloucester, ME.

They met the challenges faced by all entrepreneurs with determination. Soon, their sons joined them in the growing business. Today, 70 skilled men and women work in their modern woodshop in Auburn and another 50 in other aspects of the operation, including showrooms in major American cities, from New York and Washington, DC, to Los Angeles and San Francisco.

When Tom and Mary Moser founded this company, they did more than revive quality woodworking—they were pioneers in Maine's thriving creative economy. From cutting-edge technology to the arts, these visionaries are moving our State forward, building new industries and new opportunities.

This segment of the creative economy truly defines Maine. The resurgence of furniture making, cabinetry, pottery, and textiles bring the past alive and remind us of the special quality of something made by hand in Maine. The talented designers and woodworkers of Thos. Moser Cabinetmakers create objects that bring pleasure today and will be treasured heirlooms for generations to come. I congratulate the Moser family and all their employees for 40 years of success.●

##### RECOGNIZING PORTLAND COMMUNITY COLLEGE

• Mr. MERKLEY. Mr. President, today I wish to congratulate Portland Community College in Portland, OR on its 50 years of delivering high-quality education. Portland Community College has consistently demonstrated its devotion to an accessible education for everyone, serving more than 1.3 million college-age residents in a five-county area in Northwest Oregon.

Simply put, the education offered at Portland Community College creates a pathway to the middle-class for so many Oregonians. Students of all ages and backgrounds rely upon this college to improve skills for either career or personal reasons, explore opportunities, complete a high school degree or GED, work towards a bachelor's degree, or complete a certificate or technical degree. Portland Community College's mission has always been to create a foundation of long term vitality by supporting a broad range of needs in northwest Oregon.

Fifty years of commitment to accessible life long learning opportunities has produced more than 1.3 million educated members of the Oregon community and our Nation—members who, thanks to PCC, are prepared to attain the American dream. To Preston Pulliams, the district president of Portland Community College, and to the faculty and students of PCC, congratulations on a half century of academic excellence.●

##### RECOGNIZING THE ALASKA SPORTS HALL OF FAME

• Ms. MURKOWSKI. Mr. President, today I wish to recognize the Alaska Sports Hall of Fame. Since the body's inception in 2006 and its first class of inductees in 2007, the Alaska Sports Hall of Fame has educated Alaskans and visitors, honored and preserved memories in Alaskan sports, and promoted a healthy youth population by providing activities that will inspire children to strive for success in their own lives. The Hall's mission is to teach, honor, and inspire.

Beyond that core mission, the Alaska Sports Hall of Fame has done much to promote the accomplishments of the world-class athletes in the great state of Alaska. The 23 Hall of Fame inductees through 2012 have stacked up tremendous accomplishments, but there is, perhaps above all else, a single thread that binds the inductees together: a love and respect for Alaska.

Dr. Bradford Washburn, without ever actually living in-State, was certainly an honorary Alaskan. He traversed the North Country in more than 70 trips and strapped himself into the open door of a low-flying plane for aerial photographic work of the great State of Alaska. The legendary "Huslia Husler," George Attla, was a ten-time Fur

Rondy sled dog champion and motivated crowds that included a strong rivalry with Roland "Doc" Lombard. Carlos Boozer, born in Juneau, Douglas for the Crimson Bears at Juneau-Douglas High School, compiling a 95 12 career record and winning back-to-back Class 4A State titles in 1997 and 1998, before moving on to be an NBA All-Star. Reggie Joule, the greatest practitioner of the blanket toss in the long history of the World Eskimo-Indian Olympics, captured more than 30 medals in the 2-foot high kick, greased pole walk, arm pull, and other events, earning the title "Mr. Olympics."

The Alaska Sports Hall of Fame depicts an understanding that goes beyond the basic tenets of its own stated mission. It is a way to honor the Alaskan way of life and to depict Alaskan exceptionalism. Mark Schlereth, 2008 Alaska Sports Hall of Fame inductee and 3-time Super Bowl Champion, described the Alaskan bond as special and a true source of pride.

After the sweat, the injuries, the memories, the failures and accomplishments, the true value of sport goes far beyond the statues and medals. Sport brings friends and family together it can make teammates of complete strangers. It provides youth with positive role models, promotes healthy lifestyles, and teaches life skills.

The Alaska Sports Hall of Fame reminds us of the positive attributes of sport, but equally important is highlighting and respecting the Alaskan way of life. Events such as the Iditarod, the Great Alaska Shootout, and the World Eskimo-Indian Olympics showcase the great State of Alaska and who we are as a people.

There is so much to celebrate and commemorate in Alaska. The Alaska Sports Hall of Fame provides an opportunity to demonstrate excellence in athletic endeavors by exceptional Alaskans.●

#### MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 2105. A bill to enhance the security and resiliency of the cyber and communications infrastructure of the United States.

#### MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 2111. A bill to enhance punishment for identity theft and other violations of data privacy and security.

#### EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of nominations were submitted:

By Ms. STABENOW for the Committee on Agriculture, Nutrition, and Forestry.

\*Bruce J. Sherrick, of Illinois, to be a Member of the Board of Directors of the Federal Agricultural Mortgage Corporation.

\*Chester John Culver, of Iowa, to be a Member of the Board of Directors of the Federal Agricultural Mortgage Corporation.

\*Michael T. Scuse, of Delaware, to be Under Secretary of Agriculture for Farm and Foreign Agricultural Services.

\*Michael T. Scuse, of Delaware, to be a Member of the Board of Directors of the Commodity Credit Corporation.

\*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BAUCUS (for himself and Mr. TESTER):

S. 2110. A bill to settle claims of the Northern Cheyenne Tribe by authorizing the Secretary of the Interior to convey mineral rights in the State of Montana, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LEAHY:

S. 2111. A bill to enhance punishment for identity theft and other violations of data privacy and security; read the first time.

By Mr. BEGICH (for himself, Mr. GRAMM, Mr. BROWN of Massachusetts, Mr. MANCHIN, Ms. MURKOWSKI, Mr. LEAHY, Ms. SNOWE, Ms. AYOTTE, Mrs. GILLIBRAND, Mr. TESTER, Mr. UDALL of New Mexico, Ms. KLOBUCHAR, Mr. NELSON of Nebraska, Mr. AKAKA, Mr. CASEY, Mr. PRYOR, and Mr. GRASSLEY):

S. 2112. A bill to amend title 10, United States Code, to authorize space-available travel on military aircraft for members of the reserve components, a member or former member of a reserve component who is eligible for retired pay but for age, widows and widowers of retired members, and dependents; to the Committee on Armed Services.

By Mrs. HAGAN:

S. 2113. A bill to empower the Food and Drug Administration to ensure a clear and effective pathway that will encourage innovative products to benefit patients and improve public health; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ROCKEFELLER (for himself, Ms. COLLINS, and Mr. TESTER):

S. 2114. A bill to prohibit the Department of Homeland Security from procuring certain items directly related to the national security unless the items are grown, reprocessed, reused, or produced in the United States, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. WICKER:

S. Res. 376. A resolution commemorating the 225th anniversary of the signing of the

Constitution of the United States and recognizing the contributions of the National Society of the Sons of the American Revolution and the National Society Daughters of the American Revolution; to the Committee on the Judiciary.

By Mr. BROWN of Ohio (for himself, Mr. PORTMAN, Mr. NELSON of Florida, Mr. ROCKEFELLER, Mr. WICKER, Mr. BOOZMAN, Mr. DURBIN, Mrs. HUTCHISON, Mr. PRYOR, Mrs. MURRAY, Mr. REID, Mr. SCHUMER, and Mr. LEVIN):

S. Res. 377. A resolution recognizing the 50th anniversary of the historic achievement of John Herschel Glenn, Jr., in becoming the first United States astronaut to orbit the Earth; considered and agreed to.

By Ms. LANDRIEU (for herself, Mr. LUGAR, Ms. KLOBUCHAR, Mr. GRASSLEY, Mrs. GILLIBRAND, Mr. INHOFE, Mr. BLUMENTHAL, Mr. BOOZMAN, Mrs. HUTCHISON, Mr. LEVIN, and Mr. NELSON of Nebraska):

S. Res. 378. A resolution expressing the sense of the Senate that children should have a safe, loving, nurturing, and permanent family and that it is the policy of the United States that family reunification, kinship care, or domestic and intercountry adoption promotes permanency and stability to a greater degree than long-term institutionalization and long-term, continually disrupted foster care; considered and agreed to.

#### ADDITIONAL COSPONSORS

S. 82

At the request of Mr. JOHANNES, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 82, a bill to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the expansion of the adoption credit and adoption assistance programs, to repeal the sunset of the Patient Protection and Affordable Care Act with respect to increased dollar limitations for such credit and programs, and to allow the adoption credit to be claimed in the year expenses are incurred, regardless of when the adoption becomes final.

S. 296

At the request of Ms. KLOBUCHAR, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 296, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide the Food and Drug Administration with improved capacity to prevent drug shortages.

S. 501

At the request of Mr. THUNE, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 501, a bill to establish pilot projects under the Medicare program to provide incentives for home health agencies to utilize home monitoring and communications technologies.

S. 641

At the request of Mr. DURBIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 641, a bill to provide 100,000,000 people with first-time access to safe

drinking water and sanitation on a sustainable basis within six years by improving the capacity of the United States Government to fully implement the Senator Paul Simon Water for the Poor Act of 2005.

S. 645

At the request of Mr. SCHUMER, the name of the Senator from Missouri (Mr. BLUNT) was added as a cosponsor of S. 645, a bill to amend the National Child Protection Act of 1993 to establish a permanent background check system.

S. 1023

At the request of Mr. DURBIN, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 1023, a bill to authorize the President to provide assistance to the Government of Haiti to end within 5 years the deforestation in Haiti and restore within 30 years the extent of tropical forest cover in existence in Haiti in 1990, and for other purposes.

S. 1880

At the request of Mr. BARRASSO, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 1880, a bill to repeal the health care law's job-killing health insurance tax.

S. 1980

At the request of Mr. INOUE, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 1980, a bill to prevent, deter, and eliminate illegal, unreported, and unregulated fishing through port State measures.

S. 2010

At the request of Mr. KERRY, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 2010, a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S. 2051

At the request of Mr. REED, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 2051, a bill to amend the Higher Education Act of 1965 to extend the reduced interest rate for Federal Direct Stafford Loans.

S. 2099

At the request of Mr. JOHNSON of South Dakota, the names of the Senator from Hawaii (Mr. AKAKA), the Senator from Ohio (Mr. BROWN) and the Senator from North Carolina (Mrs. HAGAN) were added as cosponsors of S. 2099, a bill to amend the Federal Deposit Insurance Act with respect to information provided to the Bureau of Consumer Financial Protection.

S. 2100

At the request of Mr. VITTER, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 2100, a bill to suspend sales of petroleum products from the Strategic Petroleum Reserve until certain conditions are met.

S. 2103

At the request of Mr. LEE, the name of the Senator from Missouri (Mr. BLUNT) was added as a cosponsor of S. 2103, a bill to amend title 18, United States Code, to protect pain-capable unborn children in the District of Columbia, and for other purposes.

S. 2105

At the request of Mr. WHITEHOUSE, his name was added as a cosponsor of S. 2105, a bill to enhance the security and resiliency of the cyber and communications infrastructure of the United States.

S. RES. 80

At the request of Mr. WYDEN, his name was added as a cosponsor of S. Res. 80, a resolution condemning the Government of Iran for its state-sponsored persecution of its Baha'i minority and its continued violation of the International Covenants on Human Rights.

S. RES. 310

At the request of Ms. COLLINS, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. Res. 310, a resolution designating 2012 as the "Year of the Girl" and congratulating Girl Scouts of the USA on its 100th anniversary.

AMENDMENT NO. 1520

At the request of Mr. BLUNT, the name of the Senator from Ohio (Mr. PORTMAN) was added as a cosponsor of amendment No. 1520 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1521

At the request of Mr. WICKER, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of amendment No. 1521 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1534

At the request of Mr. VITTER, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of amendment No. 1534 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1535

At the request of Mr. VITTER, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of amendment No. 1535 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1537

At the request of Mr. HOEVEN, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of amendment No. 1537 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

posed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1549

At the request of Mr. COCHRAN, the name of the Senator from Massachusetts (Mr. BROWN) was added as a cosponsor of amendment No. 1549 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1565

At the request of Mr. SESSIONS, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of amendment No. 1565 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1566

At the request of Mr. SESSIONS, the names of the Senator from Oregon (Mr. MERKLEY) and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of amendment No. 1566 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1582

At the request of Mr. DEMINT, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of amendment No. 1582 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1591

At the request of Mr. KOHL, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of amendment No. 1591 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1613

At the request of Mr. BEGICH, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of amendment No. 1613 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1617

At the request of Ms. KLOBUCHAR, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of amendment No. 1617 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEAHY:

S. 2111. A bill to enhance punishment for identity theft and other violations of data privacy and security; read the first time.

Mr. LEAHY. Mr. President, today, I am pleased to introduce the Cyber Crime Protection Security Act, a bill to strengthen our Nation's cybercrime laws. Developing a comprehensive strategy for cybersecurity is one of the most pressing challenges facing our Nation today, and an issue that the Senate will tackle in the coming weeks. A legislative response to the growing threat of cyber crime must be a part of that conversation.

Protecting American consumers and businesses from cyber crime and other threats in cyberspace has long been a priority of the Senate Judiciary Committee. In September, the Committee favorably reported legislation which included a provision essentially identical to this bill as a part of the Personal Data Privacy and Security Act. Since then, I have worked closely with Senator GRASSLEY to advance cyber crime legislation that will have strong bipartisan support.

Cyber crime impacts all of us, regardless of political party or ideology. Recently, several Republican Senators stated the following in an opinion piece about the Senate's cybersecurity legislation: "In addition, our nation's criminal laws must be updated to account for the growing number of cybercrimes. We support legislation to clarify and expand the Computer Fraud and Abuse Act—including increasing existing penalties, defining new offenses and clarifying the scope of current criminal conduct. These changes will ensure that our criminal laws keep pace with the ever-evolving threats posed by cybercriminals." I could not agree more. I hope that all Senators will support this bill and I urge the Senate to quickly pass this important legislation.

We simply cannot afford to ignore the growing threat of cyber crime. A study released by Symantec Corp estimates that the cost of cybercrime globally is \$114 billion a year. During the past year, we have witnessed major data breaches at Sony, Epsilon, RSA, the International Monetary Fund, and Lockheed Martin, just to name a few. In addition, our Government computer networks have not been spared, as evidenced by the hacking incidents involving the websites of the Senate and Central Intelligence Agency.

The Cyber Crime Protection Security Act takes several important steps to combat cyber crime. First, the bill updates the Federal RICO statute to add violations of the Computer Fraud and Abuse Act to the definition of racketeering activity, so that the Government can better prosecute organized criminal activity involving computer fraud. Second, the bill streamlines and enhances the penalty structure under

the Computer Fraud and Abuse Act. To address cyber crime involving the trafficking of consumers' passwords, the bill also expands the scope of the offense for trafficking in passwords under title 18, United States Code, section 1030(a)(6) to include passwords used to access a protected Government or non-government computer, and to include any other means of unauthorized access to a Government computer.

In addition, the bill clarifies that both conspiracy and attempt to commit a computer hacking offense are subject to the same penalties as completed, substantive offenses, and the bill adds new forfeiture tools to help the Government recover the proceeds of illegal activity.

This legislation also strengthens the legal tools available to law enforcement to protect our nation's critical infrastructure, by adding a new criminal offense that would make it a felony to damage a computer that manages or controls national defense, national security, transportation, public health and safety, or other critical infrastructure systems or information. Lastly, the bill clarifies that relatively innocuous conduct, such as violating a terms of use agreement, should not be prosecuted under the Computer Fraud and Abuse Act.

The bill is strongly supported by the Department of Justice, which is on the front lines of the battle against cybercrime. In fact, the criminal law updates in this bill were a part of the cybersecurity proposal that President Obama delivered to Congress last May. We must give the dedicated prosecutors and investigators in our Government the tools that they need to address criminal activity in cyberspace.

To build a secure future for our Nation and its citizens in cyberspace, Congress must work together, across party lines and ideology, to address the dangers of cybercrime and other cyber threats. It is in that cooperative spirit that I urge all Senators to support this important cybercrime legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD as follows:

S. 2111

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Cyber Crime Protection Security Act".

#### SEC. 2. ORGANIZED CRIMINAL ACTIVITY IN CONNECTION WITH UNAUTHORIZED ACCESS TO PERSONALLY IDENTIFIABLE INFORMATION.

Section 1961(1) of title 18, United States Code, is amended by inserting "section 1030 (relating to fraud and related activity in connection with computers) if the act is a felony," before "section 1084".

#### SEC. 3. PENALTIES FOR FRAUD AND RELATED ACTIVITY IN CONNECTION WITH COMPUTERS.

Section 1030(c) of title 18, United States Code, is amended to read as follows:

"(c) The punishment for an offense under subsection (a) or (b) of this section is—

"(1) a fine under this title or imprisonment for not more than 20 years, or both, in the case of an offense under subsection (a)(1) of this section;

"(2)(A) except as provided in subparagraph (B), a fine under this title or imprisonment for not more than 3 years, or both, in the case of an offense under subsection (a)(2); or  
 "(B) a fine under this title or imprisonment for not more than ten years, or both, in the case of an offense under paragraph (a)(2) of this section, if—

"(i) the offense was committed for purposes of commercial advantage or private financial gain;

"(ii) the offense was committed in the furtherance of any criminal or tortious act in violation of the Constitution or laws of the United States, or of any State; or

"(iii) the value of the information obtained, or that would have been obtained if the offense was completed, exceeds \$5,000;

"(3) a fine under this title or imprisonment for not more than 1 year, or both, in the case of an offense under subsection (a)(3) of this section;

"(4) a fine under this title or imprisonment for not more than 20 years, or both, in the case of an offense under subsection (a)(4) of this section;

"(5)(A) except as provided in subparagraph (D), a fine under this title, imprisonment for not more than 20 years, or both, in the case of an offense under subsection (a)(5)(A) of this section, if the offense caused—

"(i) loss to 1 or more persons during any 1-year period (and, for purposes of an investigation, prosecution, or other proceeding brought by the United States only, loss resulting from a related course of conduct affecting 1 or more other protected computers) aggregating at least \$5,000 in value;

"(ii) the modification or impairment, or potential modification or impairment, of the medical examination, diagnosis, treatment, or care of 1 or more individuals;

"(iii) physical injury to any person;

"(iv) a threat to public health or safety;

"(v) damage affecting a computer used by, or on behalf of, an entity of the United States Government in furtherance of the administration of justice, national defense, or national security; or

"(vi) damage affecting 10 or more protected computers during any 1-year period;

"(B) a fine under this title, imprisonment for not more than 10 years, or both, in the case of an offense under subsection (a)(5)(B), if the offense caused a harm provided in clause (i) through (vi) of subparagraph (A) of this subsection;

"(C) if the offender attempts to cause or knowingly or recklessly causes death from conduct in violation of subsection (a)(5)(A), a fine under this title, imprisonment for any term of years or for life, or both; or

"(D) a fine under this title, imprisonment for not more than 1 year, or both, for any other offense under subsection (a)(5);

"(6) a fine under this title or imprisonment for not more than 10 years, or both, in the case of an offense under subsection (a)(6) of this section; or

"(7) a fine under this title or imprisonment for not more than 10 years, or both, in the case of an offense under subsection (a)(7) of this section..".



**SEC. 4. TRAFFICKING IN PASSWORDS.**

Section 1030(a) of title 18, United States Code, is amended by striking paragraph (6) and inserting the following:

“(6) knowingly and with intent to defraud traffics (as defined in section 1029) in—

“(A) any password or similar information or means of access through which a protected computer as defined in subparagraphs (A) and (B) of subsection (e)(2) may be accessed without authorization; or

“(B) any means of access through which a protected computer as defined in subsection (e)(2)(A) may be accessed without authorization.”.

**SEC. 5. CONSPIRACY AND ATTEMPTED COMPUTER FRAUD OFFENSES.**

Section 1030(b) of title 18, United States Code, is amended by inserting “for the completed offense” after “punished as provided”.

**SEC. 6. CRIMINAL AND CIVIL FORFEITURE FOR FRAUD AND RELATED ACTIVITY IN CONNECTION WITH COMPUTERS.**

Section 1030 of title 18, United States Code, is amended by striking subsections (i) and (j) and inserting the following:

“(i) CRIMINAL FORFEITURE.—

“(1) The court, in imposing sentence on any person convicted of a violation of this section, or convicted of conspiracy to violate this section, shall order, in addition to any other sentence imposed and irrespective of any provision of State law, that such person forfeit to the United States—

“(A) such person’s interest in any property, real or personal, that was used, or intended to be used, to commit or facilitate the commission of such violation; and

“(B) any property, real or personal, constituting or derived from any gross proceeds, or any property traceable to such property, that such person obtained, directly or indirectly, as a result of such violation.

“(2) The criminal forfeiture of property under this subsection, including any seizure and disposition of the property, and any related judicial or administrative proceeding, shall be governed by the provisions of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), except subsection (d) of that section.

“(j) CIVIL FORFEITURE.—

“(1) The following shall be subject to forfeiture to the United States and no property right, real or personal, shall exist in them:

“(A) Any property, real or personal, that was used, or intended to be used, to commit or facilitate the commission of any violation of this section, or a conspiracy to violate this section.

“(B) Any property, real or personal, constituting or derived from any gross proceeds obtained directly or indirectly, or any property traceable to such property, as a result of the commission of any violation of this section, or a conspiracy to violate this section.

“(2) Seizures and forfeitures under this subsection shall be governed by the provisions in chapter 46 of title 18, United States Code, relating to civil forfeitures, except that such duties as are imposed on the Secretary of the Treasury under the customs laws described in section 981(d) of title 18, United States Code, shall be performed by such officers, agents and other persons as may be designated for that purpose by the Secretary of Homeland Security or the Attorney General.”.

**SEC. 7. DAMAGE TO CRITICAL INFRASTRUCTURE COMPUTERS.**

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by inserting after section 1030 the following:

**“SEC. 1030A. AGGRAVATED DAMAGE TO A CRITICAL INFRASTRUCTURE COMPUTER.**

“(a) DEFINITIONS.—In this section—

“(1) the terms ‘computer’ and ‘damage’ have the meanings given such terms in section 1030; and

“(2) the term ‘critical infrastructure computer’ means a computer that manages or controls systems or assets vital to national defense, national security, national economic security, public health or safety, or any combination of those matters, whether publicly or privately owned or operated, including—

“(A) gas and oil production, storage, and delivery systems;

“(B) water supply systems;

“(C) telecommunication networks;

“(D) electrical power delivery systems;

“(E) finance and banking systems;

“(F) emergency services;

“(G) transportation systems and services; and

“(H) government operations that provide essential services to the public.

“(b) OFFENSE.—It shall be unlawful to, during and in relation to a felony violation of section 1030, intentionally cause or attempt to cause damage to a critical infrastructure computer, and such damage results in (or, in the case of an attempt, would, if completed have resulted in) the substantial impairment—

“(1) of the operation of the critical infrastructure computer; or

“(2) of the critical infrastructure associated with the computer.

“(c) PENALTY.—Any person who violates subsection (b) shall be fined under this title, imprisoned for not less than 3 years nor more than 20 years, or both.

“(d) CONSECUTIVE SENTENCE.—Notwithstanding any other provision of law—

“(1) a court shall not place on probation any person convicted of a violation of this section;

“(2) except as provided in paragraph (4), no term of imprisonment imposed on a person under this section shall run concurrently with any other term of imprisonment, including any term of imprisonment imposed on the person under any other provision of law, including any term of imprisonment imposed for the felony violation section 1030;

“(3) in determining any term of imprisonment to be imposed for a felony violation of section 1030, a court shall not in any way reduce the term to be imposed for such crime so as to compensate for, or otherwise take into account, any separate term of imprisonment imposed or to be imposed for a violation of this section; and

“(4) a term of imprisonment imposed on a person for a violation of this section may, in the discretion of the court, run concurrently, in whole or in part, only with another term of imprisonment that is imposed by the court at the same time on that person for an additional violation of this section, provided that such discretion shall be exercised in accordance with any applicable guidelines and policy statements issued by the United States Sentencing Commission pursuant to section 994 of title 28.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1030 the following:

“Sec. 1030A. Aggravated damage to a critical infrastructure computer.”.

**SEC. 8. LIMITATION ON ACTIONS INVOLVING UNAUTHORIZED USE.**

Section 1030(e)(6) of title 18, United States Code, is amended by striking “alter,” and in-

serting “alter, but does not include access in violation of a contractual obligation or agreement, such as an acceptable use policy or terms of service agreement, with an Internet service provider, Internet website, or non-government employer, if such violation constitutes the sole basis for determining that access to a protected computer is unauthorized;”.

By Mrs. HAGAN:

S. 2113. A bill to empower the Food and Drug Administration to ensure a clear and effective pathway that will encourage innovative products to benefit patients and improve public health; to the Committee on Health, Education, Labor, and Pensions.

Mrs. HAGAN. Mr. President, today I am proud to introduce the Transforming the Regulatory Environment to Accelerate Access to Treatments, TREAT, Act.

This bill empowers the Food and Drug Administration to ensure consistent processes and a clear and effective pathway that will encourage the development of innovative treatments to benefit patients, particularly subpopulations and those with rare diseases, and improve the public health.

Without question, the FDA plays a critical role in helping to ensure that new medicines are safe and effective. At the same time, by promoting investment in and development of innovative treatments for unmet medical needs, the FDA can positively influence our national strategy to identify and treat serious and life-threatening diseases and improve the quality of life for millions of Americans.

In order for FDA to accomplish this goal, however, Congress needs to give the agency the tools necessary to transcend existing barriers, reform its processes, and provide greater clarity, consistency, and transparency to industry.

The bill accomplishes this in three ways.

First, it provides the FDA with the authorities and tools that are reflective of the agency’s responsibilities and that are necessary to ensure maximum operational excellence by updating FDA’s mission statement and creating a management review board.

Second, it advances regulatory science and innovation within FDA to ensure that evaluations of innovative treatments, therapies, and diagnostics are conducted by those who have the best available knowledge. To do this, the bill creates a chief innovation officer and chief medical policy officers, and expands participation on advisory committees by those experts most familiar with the disease being considered.

Finally, the bill promotes the utilization of modern scientific tools and methodologies to ensure patients have timely access to innovative products by creating a clinical informatics coordinator, providing more information to drug sponsors when an application has



not been approved, and enhancing and codifying the accelerated approval process.

In the nearly 2 decades since the accelerated approval mechanism was established by FDA to more expeditiously approve treatments, advances in medical sciences, including genomics, molecular biology, and bioinformatics, have provided scientists with an unprecedented understanding of the underlying biological mechanisms and pathogenesis of disease.

A new generation of modern, targeted, personalized medicines is currently under development to treat serious and life-threatening diseases. Some apply drug development strategies based on biomarkers or pharmacogenomics, predictive toxicology, clinical trial enrichment techniques, and novel clinical trial designs, such as adaptive clinical trials that can be altered based on observed patient outcomes in the interim.

In order to ensure these scientific advances are translated into treatments that benefit patients, Congress should allow FDA to implement a more effective process for the expedited development and review of innovative new medicines intended to address unmet medical needs for serious or life-threatening diseases or conditions.

FDA is already doing this, to some extent. However, application of the accelerated approval process has been somewhat limited, largely to HIV and oncology drugs, and inconsistently applied to other disease targets. For example, a 2011 report by the National Organization for Rare Disorders compared the approval process for 135 non-cancer orphan therapies approved by FDA from 1983 through June 2010. The report found that 45 went through the conventional approval process; 32 were approved with some sort of administrative flexibility; and 58 were approved on a case-by-case flexibility process. This report illustrates that while FDA does have the authority to approve these treatments with some flexibility, there does not appear to be uniformity or consistency in employing this flexibility.

The TREAT Act allows FDA to tap into modern scientific advances by using a broad range of surrogate or clinical endpoints and modern scientific tools earlier in the drug development cycle, when appropriate, to approve treatments for patients. Employing these modern scientific tools may result in fewer, smaller, or shorter clinical trials for the intended patient population or targeted subpopulation without compromising or altering FDA's existing high standards for the approval of drugs.

It is the patients suffering from these serious and life-threatening diseases that benefit from expedited access to safe and effective innovative therapies.

For the 30 million Americans living with rare diseases, new advances in science and medicine cannot come fast enough. That is why I am proud that this bill has the support of the National Organization for Rare Disorders (NORD) and Friends of Cancer Research. The TREAT Act provides FDA with the tools needed to modernize its processes and encourage the development of innovative products to benefit patients, particularly subpopulations and those with rare diseases.

I urge my other colleagues to join us in supporting this important bill.

#### SUBMITTED RESOLUTIONS

##### SENATE RESOLUTION 376—COMMEMORATING THE 225TH ANNIVERSARY OF THE SIGNING OF THE CONSTITUTION OF THE UNITED STATES AND RECOGNIZING THE CONTRIBUTIONS OF THE NATIONAL SOCIETY OF THE SONS OF THE AMERICAN REVOLUTION AND THE NATIONAL SOCIETY DAUGHTERS OF THE AMERICAN REVOLUTION

Mr. WICKER submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 376

Whereas the American Revolution secured the independence of the United States of America and made possible the vibrant system of self-government of the United States;

Whereas the supporters of the American Revolution, through their vision and determination, enhanced the lives of countless individuals and made possible the system of equal justice, limited government, and the rule of law that exists in the United States;

Whereas the people who fought in the American Revolution made great sacrifices for their fledgling country;

Whereas the 55 delegates who attended the Constitutional Convention in Philadelphia, Pennsylvania 225 years ago, and the 39 delegates who signed the Constitution of the United States at the Constitutional Convention, irrevocably changed the course of history;

Whereas the Constitution of the United States, a revered and living document—

(1) provides important rights to every citizen of the United States;

(2) secures "the Blessings of Liberty to ourselves and our Posterity"; and

(3) sets the standard of democracy for the world;

Whereas the delegates to the Constitutional Convention in 1787 established the imperative precedent of compromise;

Whereas the Constitution and the subsequent 27 amendments to the Constitution outline the freedoms and the principles of representative government that are as strong today as they were on that momentous occasion in 1787;

Whereas September 17, 2012, marks the 225th anniversary of the signing of the Constitution of the United States, which is the supreme law of the land and the document by which the people of the United States govern their great country;

Whereas, to venerate the immeasurable importance of the Constitution and the day

on which the Constitution was signed, it is essential to continually educate people about, and celebrate, the principles and legacy of the Founding Fathers; and

Whereas members of organizations such as the National Society of the Sons of the American Revolution and the National Society Daughters of the American Revolution play an important role in promoting patriotism, preserving the history of the United States, and educating the public about the rights and responsibilities of citizenship: Now, therefore, be it

*Resolved*, That the Senate—

(1) commemorates the 225th anniversary of the signing of the Constitution of the United States on September 17, 2012, and remembers the sacrifices made by the people who made the signing possible; and

(2) applauds the continuing contributions made by the members, volunteers, and staff of historical, educational, and patriotic societies of the United States, such as the National Society of the Sons of the American Revolution and the National Society Daughters of the American Revolution, in promoting patriotism and the values embodied in the Constitution of the United States.

##### SENATE RESOLUTION 377—RECOGNIZING THE 50TH ANNIVERSARY OF THE HISTORIC ACHIEVEMENT OF JOHN HERSCHEL GLENN, JR., IN BECOMING THE FIRST UNITED STATES ASTRONAUT TO ORBIT THE EARTH

Mr. BROWN of Ohio (for himself, Mr. PORTMAN, Mr. NELSON of Florida, Mr. ROCKEFELLER, Mr. WICKER, Mr. BOOZMAN, Mr. DURBIN, Mrs. HUTCHISON, Mr. PRYOR, Mrs. MURRAY, Mr. REID, Mr. SCHUMER, and Mr. LEVIN) submitted the following resolution; which was considered and agreed to:

S. RES. 377

Whereas John Herschel Glenn, Jr. was born on July 18, 1921, in Cambridge, Ohio to parents John and Clara Glenn;

Whereas John Glenn grew up in New Concord, Ohio with his childhood sweetheart and future wife, Annie Castor, 150 miles east of Dayton, Ohio, the birthplace of the Wright brothers, who first took humankind into flight;

Whereas John Glenn enlisted in the Naval Aviation Cadet program shortly after the December 7, 1941, attack on Pearl Harbor, Hawaii, and was commissioned as an officer in the United States Marine Corps in 1943;

Whereas John Glenn received many honors for his military service, including the Distinguished Flying Cross on 6 occasions, the Air Medal with 18 Clusters, the Asiatic-Pacific Campaign Medal, the American Campaign Medal, the World War II Victory Medal, the China Service Medal, the National Defense Service Medal, and the Korean Service Medal;

Whereas, with the onset of the Cold War, the United States and the free world feared the intentions of the Soviet Union in space;

Whereas President Dwight D. Eisenhower asked the National Aeronautics and Space Administration (referred to in this preamble as "NASA") to find the most talented, patriotic, and selfless test pilots to participate in Project Mercury, the first human spaceflight program in the United States;

Whereas John Glenn and fellow candidates for NASA's Astronaut Corps underwent pressure suit, acceleration, vibration, heat, loud

noise, psychiatric, personality, motivation, and aptitude tests at the Aeromedical Laboratory at the Wright Air Development Center in Dayton, Ohio;

Whereas John Glenn, Malcolm S. Carpenter, L. Gordon Cooper, Jr., Virgil I. "Gus" Grissom, Walter M. Shirra, Jr., Alan B. Shepard, Jr., and Donald K. Slayton were selected from among hundreds of other patriotic candidates to be named the original "Mercury Seven" astronauts;

Whereas Project Mercury was charged with the unprecedented responsibility of competing with the strides that the Soviet Union was making in space exploration;

Whereas the United States public viewed John Glenn and the Mercury Seven astronauts as men on the front line of the war not only for space supremacy but also, in many minds, for the survival of the United States;

Whereas John Glenn accurately captured the significance of the time when he later wrote that "the world was at the door of a new age, and we were the people who had been chosen to take the first steps across the threshold";

Whereas the Project Mercury astronauts trained for their manned space flight missions in the Multi-Axis Space Training Inertial Facility at NASA's Research Center in Cleveland, Ohio;

Whereas Alan Shepard was chosen to pilot the first manned Project Mercury mission on *Freedom 7* on May 5, 1961, which proved that the United States was capable of successfully launching a person into suborbital flight;

Whereas Virgil Grissom was chosen to pilot the second manned Project Mercury mission on *Liberty Bell 7* and became the second United States astronaut to achieve suborbital flight on July 21, 1961;

Whereas the Soviet Union had successfully launched the spacecrafts *Lunar 2* and *Lunar 3* in 1959 before successfully launching and returning to Earth Major Yuri Gagarin, who completed a 108-minute single orbit around the Earth in 1961;

Whereas John Glenn was selected from among the Project Mercury astronauts to command the first United States capsule to orbit the Earth;

Whereas John Glenn, with the help of his children Dave and Lyn, named the first United States space capsule to orbit the Earth *Friendship 7*, re-emphasizing the peaceful intentions of the United States space exploration program;

Whereas John Glenn trained vigorously, working through 70 simulated missions and reacting to nearly 200 simulated system failures, to prepare to orbit the Earth and successfully complete the first manned orbital mission for the United States;

Whereas the work that John Glenn conducted on the cockpit layout, instrument panel design, and spacecraft controls in the Mercury spacecraft enhanced the design of *Friendship 7* and the ability of an astronaut to control *Friendship 7*, which proved useful during the mission;

Whereas, at 9:47 a.m. Eastern Standard Time on February 20, 1962, the Atlas 109D rocket boosters ignited and John Glenn and *Friendship 7* commenced liftoff at NASA's Space Center in Cape Canaveral, Florida;

Whereas John Glenn, aboard *Friendship 7*, became the first United States astronaut to orbit the Earth, orbiting 3 times and observing 3 sunrises, 3 sunsets, and the wonder of the universe in only 4 hours and 56 minutes;

Whereas, when John Glenn learned that the heat shield on *Friendship 7* had possibly become loose in orbit, compromising the successful completion of the space mission,

Glenn bravely managed the reentry procedures and proved that a person can safely and successfully complete a NASA mission;

Whereas John Glenn successfully completed reentry into Earth, splashing down in the Atlantic Ocean at 2:43 p.m. Eastern Standard Time, east of Grand Turk Island at 21 degrees, 25 minutes North latitude and 68 degrees, 36 minutes West longitude, and was recovered by the USS *Noa*;

Whereas, in the context of the Cold War, the success of the *Friendship 7* flight restored the standing of the United States as the leading country in the race to space against the Soviet Union;

Whereas the completion of the inaugural orbit of the Earth by John Glenn validated NASA's manned space flight mission and secured the future missions of NASA's manned space capsules;

Whereas the people of the United States heralded John Glenn as the personification of heroism and dignity in an age of uncertainty and fear;

Whereas the press later described John Glenn as a man who embodied the noblest human qualities;

Whereas President John F. Kennedy echoed the belief held by John Glenn that the United States space program was not just a scientific journey but also a source of inspiration and pride, saying, "our leadership in science and industry, our hopes for peace and security . . . require us to solve these mysteries and to solve them for the good of all men";

Whereas John Glenn is a patriot and space pioneer who encouraged the people of the United States to rightfully view NASA as an embodiment of the persistent quest of the people of the United States to expand their knowledge and explore frontiers;

Whereas, in retirement, John and Annie Glenn continued their public service by establishing the John Glenn School of Public Affairs at The Ohio State University, living up to the words of John Glenn, who said, "If there is one thing I've learned in my years on this planet, it's that the happiest and most fulfilled people I've known are those who devoted themselves to something bigger and more profound than merely their own self-interest."; and

Whereas, although 50 years have passed, the historic orbit of John Glenn around the Earth aboard *Friendship 7* remains a source of pride and honor for the people of the United States: Now, therefore, be it

*Resolved*, That the Senate—

(1) honors the 50th anniversary of the landmark mission of John Herschel Glenn, Jr., in piloting the first manned orbital mission for the United States;

(2) recognizes the profound importance of the achievement of John Glenn as a catalyst for space exploration and scientific advancement in the United States; and

(3) honors the thousands of dedicated men and women of the National Aeronautics and Space Administration who worked on Project Mercury and ensured the success of the *Friendship 7* Mercury mission.

SENATE RESOLUTION 378—EXPRESSING THE SENSE OF THE SENATE THAT CHILDREN SHOULD HAVE A SAFE, LOVING, NURTURING, AND PERMANENT FAMILY AND THAT IT IS THE POLICY OF THE UNITED STATES THAT FAMILY REUNIFICATION, KINSHIP CARE, OR DOMESTIC AND INTERCOUNTRY ADOPTION PROMOTES PERMANENCY AND STABILITY TO A GREATER DEGREE THAN LONG-TERM INSTITUTIONALIZATION AND LONG-TERM, CONTINUALLY DISRUPTED FOSTER CARE

Ms. LANDRIEU (for herself, Mr. LUGAR, Ms. KLOBUCHAR, Mr. GRASSLEY, Mrs. GILLIBRAND, Mr. INHOFE, Mr. BLUMENTHAL, Mr. BOOZMAN, Mrs. HUTCHISON, Mr. LEVIN, Mr. NELSON of Nebraska) submitted the following resolution; which was considered and agreed to:

S. RES. 378

Whereas the family is the basic unit of society and contributes to the emotional, financial, and material support essential for the healthy growth and development of children;

Whereas children without a family or connections to siblings and relatives or a permanent relationship with a caring adult are at risk of being homeless, growing up in substandard institutional care, and are vulnerable to sexual and labor exploitation and abuse;

Whereas research has shown that children who are abandoned, abused, or severely neglected can face significant risks that are costly to society, including lower individual lifetime earnings, poorer educational achievement, and higher consumption of health services, which in turn could lead to a greater risk of criminal activity and greater risk of incarceration;

Whereas there is scientific evidence that children deprived of a family, including connections with siblings, often experience trauma, which can have a detrimental impact on the development of a child;

Whereas some estimates show that there are approximately 18 million children in the world who have lost both parents and at least 2 million children in the world who are in institutional care;

Whereas there are approximately 408,000 children in the United States foster-care system and 107,000 of them are awaiting adoption;

Whereas within the current foster-care system, many children are overmedicated, housed in inadequate group homes, denied the ability to engage in age-appropriate activities, such as afterschool activities, and often denied access to their siblings or placement with a relative guardian due to insufficient efforts to locate family members;

Whereas thousands of children who "age out" of the foster-care system in the United States every year lack the security or support of a biological or adoptive family, connections with siblings and relatives, or a permanent relationship with a caring adult and struggle to secure affordable housing, health insurance, higher education, and adequate employment;

Whereas current governmental efforts to assist these highly vulnerable children in the United States and around the world do not include an effective strategy for securing a

protective family, connections with siblings and relatives, or a permanent relationship with a caring adult for every child; and

Whereas while there have been several bipartisan laws enacted in the past several years that have made progress on a number of needed child-welfare reforms, much remains to be done to ensure that all children have a safe, loving, nurturing, and permanent family, regardless of age or special needs: Now, therefore, be it

*Resolved, That—*

(1) the Senate—

(A) affirms that all children in the world, including those with special needs, deserve a safe, loving, nurturing, and permanent family, connections with siblings and relatives, or a permanent relationship with a caring adult;

(B) acknowledges that the United States Government can and should do more by working with the private sector, nonprofit organizations, and faith-based communities to implement cost effective strategies that connect children living outside of family care with a permanent, supportive family, or connections with siblings and relatives, or a permanent relationship with a caring adult;

(C) encourages States, counties, cities, and to the extent appropriate, other governments to invest resources in family preservation, reunification services, services to help older youth transition out of care with a connection to siblings, relatives or a caring adult, kinship adoption, domestic adoption, and intercountry adoption and post adoption strategies to ensure that more children in the United States are provided with safe, loving, and permanent family placements or a permanent relationship with a caring adult; and

(D) recognizes the United States Agency for International Development and the Department of State for recent efforts to develop a strategy for meeting the unique needs of children living outside of family care;

(2) it is the sense of the Senate that children should have a safe, loving, nurturing, and permanent family; and

(3) it is the policy of the United States that family reunification, kinship care, or domestic and intercountry adoption promotes permanency and stability to a greater degree than long-term institutionalization and long-term, continually disrupted foster care.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 1618. Mr. BARRASSO (for himself and Mr. BLUNT) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table.

SA 1619. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1620. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1621. Ms. MURKOWSKI (for herself, Mr. FRANKEN, and Mr. BEGICH) submitted an amendment intended to be proposed by her to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1622. Ms. MURKOWSKI (for herself and Mr. BEGICH) submitted an amendment intended to be proposed by her to the bill S.

1813, supra; which was ordered to lie on the table.

SA 1623. Mrs. HUTCHISON (for herself and Mr. CORNYN) submitted an amendment intended to be proposed by her to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1624. Mr. BENNET (for himself, Mr. MORAN, and Mr. UDALL of Colorado) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1625. Mr. JOHANNIS submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1626. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1627. Mr. BINGAMAN (for himself and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1628. Mr. RUBIO submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1629. Mr. RUBIO submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1630. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1631. Mr. UDALL, of New Mexico submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1632. Mr. UDALL, of New Mexico submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1633. Mr. REID proposed an amendment to the bill S. 1813, supra.

SA 1634. Mr. REID proposed an amendment to amendment SA 1633 proposed by Mr. REID to the bill S. 1813, supra.

SA 1635. Mr. REID proposed an amendment to the bill S. 1813, supra.

SA 1636. Mr. REID proposed an amendment to amendment SA 1635 proposed by Mr. REID to the bill S. 1813, supra.

SA 1637. Mr. REID proposed an amendment to amendment SA 1636 proposed by Mr. REID to the amendment SA 1635 proposed by Mr. REID to the bill S. 1813, supra.

SA 1638. Mr. CORKER (for himself and Mr. ALEXANDER) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1639. Ms. KLOBUCHAR (for herself and Mr. SESSIONS) submitted an amendment intended to be proposed by her to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1640. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1641. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1642. Ms. SNOWE (for herself, Ms. KLOBUCHAR, and Mr. RUBIO) submitted an amendment intended to be proposed by her to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1643. Ms. SNOWE submitted an amendment intended to be proposed by her to the

bill S. 1813, supra; which was ordered to lie on the table.

SA 1644. Ms. SNOWE (for herself, Mr. WHITEHOUSE, Ms. COLLINS, Mr. SANDERS, Mr. REED, and Mrs. SHAHEEN) submitted an amendment intended to be proposed by her to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1645. Mr. ENZI submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1646. Mr. BROWN of Ohio submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1647. Mr. BROWN of Ohio submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1648. Mrs. GILLIBRAND submitted an amendment intended to be proposed by her to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1649. Mrs. GILLIBRAND submitted an amendment intended to be proposed by her to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1650. Mrs. GILLIBRAND (for herself and Mr. SANDERS) submitted an amendment intended to be proposed by her to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1651. Mr. BEGICH submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1652. Mr. HARKIN (for himself, Mr. MORAN, and Mr. LEVIN) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1653. Mr. MERKLEY (for himself, Mr. TOOMEY, and Mr. BLUNT) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1654. Mr. BOOZMAN submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1655. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1656. Mr. TOOMEY submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1657. Ms. CANTWELL (for herself and Mr. LUGAR) submitted an amendment intended to be proposed by her to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1658. Mr. RUBIO submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1659. Mr. RUBIO submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1660. Ms. COLLINS (for herself, Mr. ALEXANDER, Mr. TOOMEY, Mr. PRYOR, and Ms. LANDRIEU) submitted an amendment intended to be proposed by her to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1661. Ms. KLOBUCHAR (for herself, Mr. BURR, Mrs. SHAHEEN, and Mr. RISCH) submitted an amendment intended to be proposed by her to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1662. Mr. NELSON of Florida (for himself, Mr. SHELBY, Ms. LANDRIEU, Mr. VITTER,

Mr. RUBIO, Mr. SESSIONS, Mr. COCHRAN, Mr. WICKER, Mrs. HUTCHISON, and Mr. WHITEHOUSE submitted an amendment intended to be proposed by him to the bill S. 1813, *supra*; which was ordered to lie on the table.

### TEXT OF AMENDMENTS

**SA 1618.** Mr. BARRASSO (for himself and Mr. BLUNT) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows;

At the end, add the following:

### TITLE V—CEMENT SECTOR REGULATORY RELIEF

#### SEC. 5001. SHORT TITLE.

This title may be cited as the “Cement Sector Regulatory Relief Act of 2011”.

#### SEC. 5002. LEGISLATIVE STAY.

(a) ESTABLISHMENT OF STANDARDS.—In lieu of the rules specified in subsection (b), and notwithstanding the date by which those rules would otherwise be required to be promulgated, the Administrator of the Environmental Protection Agency (referred to in this title as the “Administrator”) shall—

(1) propose regulations for the Portland cement manufacturing industry and Portland cement plants that are subject to any of the rules specified in subsection (b) that—

(A) establish maximum achievable control technology standards, performance standards, and other requirements under sections 112 and 129, as applicable, of the Clean Air Act (42 U.S.C. 7412, 7429); and

(B) identify nonhazardous secondary materials that, when used as fuels in combustion units of that industry and those plants, qualify as solid waste under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) for purposes of determining the extent to which the combustion units are required to meet the emission standards under section 112 or 129 of the Clean Air Act (42 U.S.C. 7412, 7429); and

(2) promulgate final versions of those regulations by not later than—

(A) the date that is 15 months after the date of enactment of this Act; or

(B) such later date as may be determined by the Administrator.

(b) STAY OF EARLIER RULES.—

(1) PORTLAND-SPECIFIC RULES.—The final rule entitled “National Emission Standards for Hazardous Air Pollutants from the Portland Cement Manufacturing Industry and Standards of Performance for Portland Cement Plants” (75 Fed. Reg. 54970 (September 9, 2010)) shall be—

(A) of no force or effect;

(B) treated as though the rule had never taken effect; and

(C) replaced in accordance with subsection (a).

(2) OTHER RULES.—

(A) IN GENERAL.—The final rules described in subparagraph (B), to the extent that those rules apply to the Portland cement manufacturing industry and Portland cement plants, shall be—

(i) of no force or effect;

(ii) treated as though the rules had never taken effect; and

(iii) replaced in accordance with subsection (a).

(B) DESCRIPTION OF RULES.—The final rules described in this subparagraph are—

(i) the final rule entitled “Standards of Performance for New Stationary Sources and

Emission Guidelines for Existing Sources: Commercial and Industrial Solid Waste Incineration Units” (76 Fed. Reg. 15704 (March 21, 2011)); and

(ii) the final rule entitled “Identification of Non-Hazardous Secondary Materials That Are Solid Waste” (76 Fed. Reg. 15456 (March 21, 2011)).

#### SEC. 5003. COMPLIANCE DATES.

(a) ESTABLISHMENT OF COMPLIANCE DATES.—For each regulation promulgated pursuant to section 5002(a), the Administrator—

(1) shall establish a date for compliance with standards and requirements under the regulation that is, notwithstanding any other provision of law, not earlier than 5 years after the effective date of the regulation; and

(2) in proposing a date for that compliance, shall take into consideration—

(A) the costs of achieving emission reductions;

(B) any non-air quality health and environmental impact and energy requirements of the standards and requirements;

(C) the feasibility of implementing the standards and requirements, including the time necessary—

(i) to obtain necessary permit approvals; and

(ii) to procure, install, and test control equipment;

(D) the availability of equipment, suppliers, and labor, given the requirements of the regulation and other proposed or finalized regulations of the Administrator; and

(E) potential net employment impacts.

(b) NEW SOURCES.—The date on which the Administrator proposes a regulation pursuant to section 5002(a)(1) establishing an emission standard under section 112 or 129 of the Clean Air Act (42 U.S.C. 7412, 7429) shall be treated as the date on which the Administrator first proposes such a regulation for purposes of applying—

(1) the definition of the term “new source” under section 112(a)(4) of that Act (42 U.S.C. 7412(a)(4)); or

(2) the definition of the term “new solid waste incineration unit” under section 129(g)(2) of that Act (42 U.S.C. 7429(g)(2)).

(c) RULE OF CONSTRUCTION.—Nothing in this Act restricts or otherwise affects paragraphs (3)(B) and (4) of section 112(i) of the Clean Air Act (42 U.S.C. 7412(i)).

#### SEC. 5004. ENERGY RECOVERY AND CONSERVATION.

Notwithstanding any other provision of law, and to ensure the recovery and conservation of energy consistent with the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), in promulgating regulations under section 5002(a) addressing the subject matter of the rules specified in section 5002(b)(2), the Administrator shall—

(1) adopt the definitions of the terms “commercial and industrial solid waste incineration unit”, “commercial and industrial waste”, and “contained gaseous material” in the rule entitled “Standards for Performance of New Stationary Sources and Emission Guidelines for Existing Sources: Commercial and Industrial Solid Waste Incineration Units” (65 Fed. Reg. 75338 (December 1, 2000)); and

(2) identify nonhazardous secondary material to be solid waste (as defined in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903) only if—

(A) the material meets that definition of commercial and industrial waste; or

(B) if the material is a gas, the material meets that definition of contained gaseous material.

#### SEC. 5005. OTHER PROVISIONS.

(a) ESTABLISHMENT OF STANDARDS ACHIEVABLE IN PRACTICE.—In promulgating regulations under section 5002(a), the Administrator shall ensure, to the maximum extent practicable, that emission standards for existing and new sources established under section 112 or 129 of the Clean Air Act (42 U.S.C. 7412, 7429), as applicable, can be met under actual operating conditions consistently and concurrently with emission standards for all other air pollutants covered by regulations applicable to the source category, taking into account—

(1) variability in actual source performance;

(2) source design;

(3) fuels;

(4) inputs;

(5) controls;

(6) ability to measure the pollutant emissions; and

(7) operating conditions.

(b) REGULATORY ALTERNATIVES.—For each regulation promulgated under section 5002(a), from among the range of regulatory alternatives authorized under the Clean Air Act (42 U.S.C. 7401 et seq.), including work practice standards under section 112(h) of that Act (42 U.S.C. 7412(h)), the Administrator shall impose the least burdensome, consistent with the purposes of that Act and Executive Order 13563 (76 Fed. Reg. 3821 (January 21, 2011)).

**SA 1619.** Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

#### SEC. \_\_\_\_ RAIL LINE RELOCATION PROJECTS.

Section 20154(i) of title 49, United States Code, is amended by striking “2006 through 2009” and inserting “2012 through 2013”.

**SA 1620.** Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

#### SEC. \_\_\_\_ PROGRAM TO SECURE PUBLIC INVESTMENTS IN TRANSPORTATION INFRASTRUCTURE.

(a) DEFINITIONS.—In this section:

(1) ASSET TRANSACTION.—The term “asset transaction” means—

(A) a concession agreement for a public transportation asset; or

(B) a contract for the sale or lease of a public transportation asset between the State or local government with jurisdiction over the public transportation asset and a private individual or entity.

(2) CONCESSION AGREEMENT.—The term “concession agreement” means—

(A) means an agreement entered into by a private individual or entity and a State or local government with jurisdiction over a public transportation asset to convey to the private individual or entity the right to manage, operate, and maintain the public transportation asset for a specific period of time in exchange for the authorization to impose and collect a toll or other user fee

from a person for each use of the public transportation asset during that period; and

(B) does not include an agreement entered into by a State or local government and a private individual or entity for the construction of any new public transportation asset.

(3) PUBLIC TRANSPORTATION ASSET.—

(A) IN GENERAL.—The term “public transportation asset” means a transportation facility of any kind that was or is constructed, maintained, or upgraded before, on, or after the date of enactment of this Act using Federal funds—

(i) the fair market value of which is more than \$500,000,000, as determined by the Secretary; and

(ii) that has received any Federal funding, as of the date on which the determination is made;

(ii) the fair market value of which is less than or equal to \$500,000,000, as determined by the Secretary; and

(I) that has received \$25,000,000 or more in Federal funding, as of the date on which the determination is made; or

(iii) in which a significant national public interest (such as interstate commerce, homeland security, public health, or the environment) is at stake, as determined by the Secretary.

(B) INCLUSIONS.—The term “public transportation asset” includes a transportation facility described in subparagraph (A) that is—

(i) a Federal-aid highway (as defined in section 101 of title 23, United States Code);

(ii) a highway or mass transit project constructed using amounts made available from the Highway Account or Mass Transit Account, respectively, of the Highway Trust Fund;

(iii) an air navigation facility (as defined in section 40102(a) of title 49, United States Code); or

(iv) a train station or multimodal station that receives a Federal grant, including any grant authorized under the Passenger Rail Investment and Improvement Act of 2008 (Public Law 110-432; 122 Stat. 4907) or an amendment made by that Act.

(b) PROHIBITION ON SALES AND LEASES.—

(1) IN GENERAL.—A public transportation asset may not be the subject of any asset transaction unless—

(A) agreements are reached in accordance with paragraph (2);

(B)(i) the private individual or entity seeking the asset transaction enters into an agreement described in paragraph (3)(A)(i); and

(ii) the State or local government or other public sponsor seeking the asset transaction enters into an agreement described in paragraph (3)(A)(ii);

(C) the Secretary publishes a disclosure in accordance with paragraph (4); and

(D) the State or local government seeking the asset transaction provides for public notice and an opportunity to comment on the proposed asset transaction.

(2) SALE AND LEASE APPROVAL.—

(A) IN GENERAL.—A public transportation asset described in paragraph (1) may not be subject to an asset transaction unless—

(i) the State or local government or other public sponsor seeking the asset transaction for the public transportation asset pays to the Secretary an amount determined by the Secretary under subparagraph (B); and

(ii) the Secretary certifies that the required agreements described in paragraph (3) have been signed, and the terms of the agreements incorporated into the terms of the asset transaction, for the public transportation asset.

(B) DETERMINATION OF REPAYMENT AMOUNT.—The Secretary shall determine the amount that is required to be paid before an asset transaction may take place of a public transportation asset under this paragraph, taking into account, at a minimum—

(i) the total amount of Federal funds that have been expended to construct, maintain, or upgrade the public transportation asset;

(ii) the amount of Federal funding received by a State or local government based on inclusion of the public transportation asset in calculations using Federal funding formulas or for Federal block grants;

(iii) the reasonable depreciation of the public transportation asset, including the amount of Federal funds described in clause (i) that may be offset by that depreciation; and

(iv) the loss of Federal tax revenue from bonds relating to, and the tax consequences of depreciation of, the public transportation asset.

(3) AGREEMENTS.—

(A) IN GENERAL.—As a condition of any new or renewed asset transaction for a public transportation asset—

(i) the private individual or entity seeking the asset transaction shall enter into an agreement with the Secretary, which shall be incorporated into the terms of the asset transaction, under which the private individual or entity agrees—

(I) to disclose and eliminate any conflict of interest involving any party to the agreement;

(II)(aa) to adequately maintain the condition and performance of the public transportation asset during the term of the asset transaction; and

(bb) on the end of the term of the asset transaction, to return the public transportation asset to the applicable State or local government in a state of good repair;

(III) to disclose an estimated amount of tax benefits and financing transactions over the life of the lease resulting from the lease or sale of the public transportation asset;

(IV) to disclose anticipated changes in the workforce and wages, benefits, or rules over the life of the lease and an estimate of the amount of savings from those changes; and

(V) to provide an estimate of the revenue the transportation asset will produce for the private entity during the lease or sale period; and

(ii) the State or local government or other public sponsor seeking the asset transaction for the public transportation asset shall enter into an agreement with the Secretary, which shall be incorporated into the terms of the asset transaction, under which the State or local government or other public sponsor agrees—

(I) to pay to the Secretary the amount determined by the Secretary under paragraph (2)(B);

(II) to conduct an assessment of whether, and provide justification that, the asset transaction with the private entity would represent a better public and financial benefit than a similar transaction using public funding or with a public (as opposed to private) entity, including an assessment of—

(aa) the loss of toll revenues and other user fees relating to the public transportation asset; and

(bb) any impacts on other public transportation assets in the vicinity of the public transportation asset covered by the asset transaction;

(III) that, if the private individual or entity enters into bankruptcy, becomes insolvent, or fails to comply with all terms and conditions of the asset transaction—

(aa) the asset transaction shall immediately terminate; and

(bb) the interest in the public transportation asset conveyed by the asset transaction will immediately revert to the public sponsor;

(IV) to provide an estimate of all increased tolls and other user fees that may be charged to persons using the public transportation asset during the term of the asset transaction;

(V) to disclose any plans the State or local government seeking the asset transaction has for up-front payments or concessions from the private individual or entity seeking the asset transaction;

(VI) that the Federal Government and the applicable State and local governments will retain respective authority and control over decisions regarding transportation planning and management; and

(VII) to prominently post or display the agreement on the website of the local government or public sponsor.

(B) TERM.—An agreement under this paragraph shall not exceed a reasonable term, as determined by the Secretary, in consultation with the relevant State or local government.

(4) PUBLICATION OF DISCLOSURE.—Not later than 90 days before the date on which an asset transaction covering a public transportation asset takes effect, the Secretary shall publish in the Federal Register a notice that contains—

(A) a copy of all agreements relating to the asset transaction between the Secretary and the public and private sponsors involved;

(B) a description of the total amount of Federal funds that have been expended as of the date of publication of the notice to construct, maintain, or upgrade the public transportation asset;

(C) the determination of the repayment amount under paragraph (2)(B) for the public transportation asset;

(D) the amount of Federal funding received by a State or local government based on inclusion of the public transportation asset in calculations using Federal funding formulas or for Federal block grants; and

(E) a certification that the asset transaction will not adversely impact the national public interest of the United States (including the interstate commerce, homeland security, public health, and environment of the United States).

(5) RENEWAL OF ASSET TRANSACTION.—An asset transaction that expires or terminates may not be renewed unless—

(A) the Secretary—

(i) calculates a new repayment amount under paragraph (2)(B) required for renewal, as the Secretary determines to be appropriate;

(ii) takes into consideration the impact of a renewed agreement on nearby public transportation assets; and

(iii) publishes a new disclosure for the renewed agreement in accordance with paragraph (4); and

(B) the State or local government seeking to renew the asset transaction—

(i) provides for public notice and an opportunity to comment on the proposed renewal;

(ii) pays to the Secretary the new amount calculated by the Secretary pursuant to subparagraph (A)(i); and

(iii) enters into a new agreement in accordance with paragraph (3) for the renewal.

(c) USE OF FUNDS BY SECRETARY.—Amounts received by the Secretary as a payment under paragraph (2)(A)(i) or (5)(B)(ii) of subsection (b) shall be available for use by the Secretary, without further appropriation,

and shall remain available until expended for road, transit, rail, and aviation projects eligible for Federal funding under title 23, 49, or 53 of the United States Code.

(d) **RULEMAKING.**—Not later than 180 days after the date of the enactment of this Act, the Secretary shall promulgate such regulations as may be necessary to implement this section.

(e) **REPORT TO CONGRESS.**—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit to Congress, and publish in the Federal Register, a report that describes each public transportation asset that is the subject of an asset transaction during the year covered by the report, including the total amount of Federal funds that were received by a State or local government to construct, maintain, or upgrade the public transportation asset as of the date on which the report is submitted.

(f) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as may be necessary to carry out this section.

(g) **BUDGETARY EFFECTS.**—The budgetary effects of this section, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this section, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

**SA 1621.** Ms. MURKOWSKI (for herself, Mr. FRANKEN, and Mr. BEGICH) submitted an amendment intended to be proposed by her to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 210, strike line 5 and all that follows through page 218, line 20, and insert the following:

“(2) **REGULATIONS.**—Notwithstanding sections 563(a) and 565(a) of title 5, the Secretary and the Secretary of the Interior shall promulgate or amend regulations governing the tribal transportation program only through the use of negotiated rulemaking procedures with tribal government representatives.

“(3) **BASIS FOR FUNDING FORMULA.**—

“(A) **IN GENERAL.**—After making the set asides authorized under subsections (a)(6), (c), (d), and (e), on October 1 of each fiscal year, the Secretary shall distribute the remainder authorized to be appropriated for the tribal transportation program under this section among Indian tribes only pursuant to the Tribal Transportation Allocation Methodology described in subpart C of part 170 of title 25, Code of Federal Regulations (as in effect on the date of enactment of this Act).

“(B) **TRIBAL HIGH PRIORITY PROJECTS.**—The treatment of the High Priority Projects program as included in the Tribal Transportation Allocation Methodology described in subpart C of part 170 of title 25, Code of Federal Regulations (as in effect on the date of enactment of this Act), shall remain in effect as in effect under that part on the date of enactment of this Act.

**SA 1622.** Ms. MURKOWSKI (for herself and Mr. BEGICH) submitted an amendment intended to be proposed by her to the bill S. 1813, to reauthorize

Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in division D, insert the following:

**SEC. \_\_\_\_ . HOLD HARMLESS.**

No area in which a recipient of funding under chapter 53 of title 49, United States Code, issued grant anticipation bonds in reliance upon a provision of Federal law in effect on the day before the date of enactment of this Act that have maturity dates after the date of enactment of this Act shall receive an amount apportioned under section 5336 of title 49, United States Code, for fiscal year 2012 or 2013 that is less than an amount equal to 150 percent of the annual bonded debt service the recipient is obligated to pay pursuant to a federally approved grant anticipation bond sale.

**SA 1623.** Mrs. HUTCHISON (for herself and Mr. CORNYN) submitted an amendment intended to be proposed by her to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 38, strike lines 17 through 22 and insert the following:

(1) **IN GENERAL.**—Section 1105(e)(5)(A) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2031; 109 Stat. 597; 115 Stat. 872) is amended—

(A) in the first sentence, by striking “and in subsections (c)(18) and (c)(20)” and inserting “, in subsections (c)(18) and (c)(20), and in subparagraphs (A)(iii) and (B) of subsection (c)(26)”;

(B) in the second sentence, by striking “that the segment” and all that follows through the period and inserting “that the segment meets the Interstate System design standards approved by the Secretary under section 109(b) of title 23, United States Code.”.

**SA 1624.** Mr. BENNET (for himself, Mr. MORAN, and Mr. UDALL of Colorado) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . EXTENSION OF WIND ENERGY CREDIT.**

Paragraph (1) of section 45(d) of the Internal Revenue Code of 1986 is amended by striking “January 1, 2013” and inserting “January 1, 2014”.

**SEC. \_\_\_\_ . COST OFFSET FOR EXTENSION OF WIND ENERGY CREDIT, AND DEFICIT REDUCTION, RESULTING FROM DELAY IN APPLICATION OF WORLD-WIDE ALLOCATION OF INTEREST.**

(a) **IN GENERAL.**—Paragraphs (5)(D) and (6) of section 864(f) of the Internal Revenue Code of 1986 are each amended by striking “December 31, 2020” and inserting “December 31, 2021”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date of the enactment of this Act.

**SA 1625.** Mr. JOHANNIS submitted an amendment intended to be proposed by

him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 463, strike lines 8 through 14.

**SA 1626.** Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page \_\_, between lines \_\_ and \_\_, insert the following:

**SEC. \_\_\_\_ . NO RESIDENTIAL ENERGY EFFICIENT PROPERTY CREDIT FOR MILLIONAIRES AND BILLIONAIRES.**

(a) **IN GENERAL.**—Section 25D(e) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(9) **NO CREDIT FOR MILLIONAIRES AND BILLIONAIRES.**—No credit shall be allowed under this section for any taxable year with respect to any taxpayer with an adjusted gross income equal to or greater than \$1,000,000 for such taxable year.”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to taxable years beginning after December 31, 2011.

**SA 1627.** Mr. BINGAMAN (for himself and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 45, between lines 3 and 4, insert the following:

“(C) **FURTHER ADJUSTMENT FOR PRIVATIZED HIGHWAYS.**—

“(i) **DEFINITION OF PRIVATIZED HIGHWAY.**—In this subparagraph, the term ‘privatized highway’ means a highway subject to an agreement giving a private entity—

“(I) control over the operation of the highway; and

“(II) ownership over the toll revenues collected from the operation of the highway.

“(ii) **ADJUSTMENT.**—After making the adjustments to the apportionment of a State under subparagraphs (A) and (B), the Secretary shall further adjust the amount to be apportioned to the State by reducing the apportionment by an amount equal to the product obtained by multiplying—

“(I) the amount to be apportioned to the State, as so adjusted under those subparagraphs; and

“(II) the percentage described in clause (iii).

“(iii) **PERCENTAGE.**—The percentage referred to in clause (ii) is the percentage equal to the sum obtained by adding—

“(I) the product obtained by multiplying—

“(aa)  $\frac{1}{2}$ ; and

“(bb) the proportion that—

“(AA) the total number of privatized lane miles of National Highway System routes in a State; bears to

“(BB) the total number of all lane miles of National Highway System routes in the State; and

“(II) the product obtained by multiplying—

“(aa)  $\frac{1}{2}$ ; and

“(bb) the proportion that—

“(AA) the total number of vehicle miles traveled on privatized lanes on National



Highway System routes in the State; bears to

“(BB) the total number of vehicle miles traveled on all lanes on National Highway System routes in the State.

**SA 1628.** Mr. RUBIO submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle E of title I, add the following:

**SEC. \_\_\_\_ . EVACUATION ROUTES.**

Each State shall give adequate consideration to the needs of evacuation routes in the State when allocating funds apportioned to the State under title 23, United States Code, for the construction of Federal-aid highways.

**SA 1629.** Mr. RUBIO submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . PROHIBITION ON USE OF AMOUNTS.**

None of the amounts appropriated or otherwise made available under this Act or an amendment made by this Act may be used to erect physical signage indicating that a project is funded under this Act.

**SA 1630.** Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 68, line 19, insert “(other than amounts suballocated to metropolitan areas and other areas of the State under 133(d))” after “104(b)(2)”.

On page 70, line 25, insert “(other than amounts suballocated to metropolitan areas and other areas of the State under 133(d))” after “104(b)(2)”.

On page 127, line 18, insert “(other than amounts suballocated to metropolitan areas and other areas of the State under 133(d))” after “104(b)(2)”.

**SA 1631.** Mr. UDALL of New Mexico submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title I, insert the following:

**SEC. \_\_\_\_ . INCLUSION OF STATE REPRESENTATIVES OF HEALTH AGENCIES IN CERTAIN PLANNING PROCESSES.**

(a) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—Section 148(a)(12)(A) of title 23, United States Code (as amended by section 1112), is further amended by striking clauses (viii) and (ix) and inserting the following:

“(viii) county transportation officials;“(ix) State representatives of health agencies; and

“(x) other major Federal, State, tribal, and local safety stakeholders;”.

(b) METROPOLITAN TRANSPORTATION PLANNING.—Section 134 of title 23, United States Code (as amended by section 1201), is further amended—

(1) in subsection (g)(4)(A), by inserting “health agencies,” before “environmental protection”; and

(2) in subsection (h)(4)—(A) in subparagraph (A), by inserting “(including State representatives of health agencies)” after “parties”; and

(B) in subparagraph (B)(i), by inserting “(including State representatives of health agencies)” before “that participate”; and

(3) in subsection (i)(7)(A), by inserting “health agencies,” after “protection”.

(c) STATEWIDE AND NONMETROPOLITAN TRANSPORTATION PLANNING.—Section 135 of title 23, United States Code (as amended by section 1202), is further amended—

(1) in subsection (c)(1), by inserting “health agencies,” after “protection”; and

(2) in subsection (g)(1)(B), by inserting “(including State representatives of health agencies)” after “parties”.

**SA 1632.** Mr. UDALL of New Mexico submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title I, add the following:

**SEC. \_\_\_\_ . INCLUSION OF STATE REPRESENTATIVES OF NONMOTORIZED USERS IN CERTAIN PLANNING PROCESSES.**

(a) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—Section 148(a)(12)(A) of title 23, United States Code (as amended by section 1112), is further amended by striking clauses (viii) and (ix) and inserting the following:

“(viii) county transportation officials;

“(ix) State representatives of nonmotorized users; and

“(x) other major Federal, State, tribal, and local safety stakeholders;”.

(b) METROPOLITAN TRANSPORTATION PLANNING.—Section 134 of title 23, United States Code (as amended by section 1201), is further amended—

(1) in subsection (g)(4)(A), by inserting “nonmotorized users,” before “environmental protection”; and

(2) in subsection (h)(4)—

(A) in subparagraph (A), by inserting “(including State representatives of nonmotorized users)” after “parties”; and

(B) in subparagraph (B)(i), by inserting “(including State representatives of nonmotorized users)” before “that participate”.

(c) STATEWIDE AND NONMETROPOLITAN TRANSPORTATION PLANNING.—Section 135(g)(1)(B) of title 23, United States Code (as amended by section 1202), is further amended by inserting “(including State representatives of nonmotorized users)” after “parties”.

**SA 1633.** Mr. REID proposed an amendment to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; as follows:

At the end of the bill, add the following:

**DIVISION B—PUBLIC TRANSPORTATION**

**SEC. 20001. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This division may be cited as the “Federal Public Transportation Act of 2012”.

(b) TABLE OF CONTENTS.—The table of contents for this division is as follows:

Sec. 20001. Short title; table of contents.

Sec. 20002. Repeals.

Sec. 20003. Policies, purposes, and goals.

Sec. 20004. Definitions.

Sec. 20005. Metropolitan transportation planning.

Sec. 20006. Statewide and nonmetropolitan transportation planning.

Sec. 20007. Public Transportation Emergency Relief Program.

Sec. 20008. Urbanized area formula grants.

Sec. 20009. Clean fuel grant program.

Sec. 20010. Fixed guideway capital investment grants.

Sec. 20011. Formula grants for the enhanced mobility of seniors and individuals with disabilities.

Sec. 20012. Formula grants for other than urbanized areas.

Sec. 20013. Research, development, demonstration, and deployment projects.

Sec. 20014. Technical assistance and standards development.

Sec. 20015. Bus testing facilities.

Sec. 20016. Public transportation workforce development and human resource programs.

Sec. 20017. General provisions.

Sec. 20018. Contract requirements.

Sec. 20019. Transit asset management.

Sec. 20020. Project management oversight.

Sec. 20021. Public transportation safety.

Sec. 20022. Alcohol and controlled substances testing.

Sec. 20023. Nondiscrimination.

Sec. 20024. Labor standards.

Sec. 20025. Administrative provisions.

Sec. 20026. National transit database.

Sec. 20027. Apportionment of appropriations for formula grants.

Sec. 20028. State of good repair grants.

Sec. 20029. Authorizations.

Sec. 20030. Apportionments based on growing States and high density States formula factors.

Sec. 20031. Technical and conforming amendments.

**SEC. 20002. REPEALS.**

(a) CHAPTER 53.—Chapter 53 of title 49, United States Code, is amended by striking sections 5316, 5317, 5321, 5324, 5328, and 5339.

(b) TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY.—Section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note) is repealed.

(c) SAFETEA-LU.—The following provisions are repealed:

(1) Section 3009(i) of SAFETEA-LU (Public Law 109–59; 119 Stat. 1572).

(2) Section 3011(c) of SAFETEA-LU (49 U.S.C. 5309 note).

(3) Section 3012(b) of SAFETEA-LU (49 U.S.C. 5310 note).

(4) Section 3045 of SAFETEA-LU (49 U.S.C. 5308 note).

(5) Section 3046 of SAFETEA-LU (49 U.S.C. 5338 note).

**SEC. 20003. POLICIES, PURPOSES, AND GOALS.**

Section 5301 of title 49, United States Code, is amended to read as follows:

**“§ 5301. Policies, purposes, and goals**

“(a) DECLARATION OF POLICY.—It is in the interest of the United States, including the economic interest of the United States, to foster the development and revitalization of public transportation systems.

“(b) GENERAL PURPOSES.—The purposes of this chapter are to—

“(1) provide funding to support public transportation;

“(2) improve the development and delivery of capital projects;



“(3) initiate a new framework for improving the safety of public transportation systems;

“(4) establish standards for the state of good repair of public transportation infrastructure and vehicles;

“(5) promote continuing, cooperative, and comprehensive planning that improves the performance of the transportation network;

“(6) establish a technical assistance program to assist recipients under this chapter to more effectively and efficiently provide public transportation service;

“(7) continue Federal support for public transportation providers to deliver high quality service to all users, including individuals with disabilities, seniors, and individuals who depend on public transportation;

“(8) support research, development, demonstration, and deployment projects dedicated to assisting in the delivery of efficient and effective public transportation service; and

“(9) promote the development of the public transportation workforce.

“(c) NATIONAL GOALS.—The goals of this chapter are to—

“(1) increase the availability and accessibility of public transportation across a balanced, multimodal transportation network;

“(2) promote the environmental benefits of public transportation, including reduced reliance on fossil fuels, fewer harmful emissions, and lower public health expenditures;

“(3) improve the safety of public transportation systems;

“(4) achieve and maintain a state of good repair of public transportation infrastructure and vehicles;

“(5) provide an efficient and reliable alternative to congested roadways;

“(6) increase the affordability of transportation for all users; and

“(7) maximize economic development opportunities by—

“(A) connecting workers to jobs;

“(B) encouraging mixed-use, transit-oriented development; and

“(C) leveraging private investment and joint development.”.

#### SEC. 20004. DEFINITIONS.

Section 5302 of title 49, United States Code, is amended to read as follows:

#### “§ 5302. Definitions

“Except as otherwise specifically provided, in this chapter the following definitions apply:

“(1) ASSOCIATED TRANSIT IMPROVEMENT.—The term ‘associated transit improvement’ means, with respect to any project or an area to be served by a project, projects that are designed to enhance public transportation service or use and that are physically or functionally related to transit facilities. Eligible projects are—

“(A) historic preservation, rehabilitation, and operation of historic public transportation buildings, structures, and facilities (including historic bus and railroad facilities) intended for use in public transportation service;

“(B) bus shelters;

“(C) landscaping and streetscaping, including benches, trash receptacles, and street lights;

“(D) pedestrian access and walkways;

“(E) bicycle access, including bicycle storage facilities and installing equipment for transporting bicycles on public transportation vehicles;

“(F) signage; or

“(G) enhanced access for persons with disabilities to public transportation.

“(2) BUS RAPID TRANSIT SYSTEM.—The term ‘bus rapid transit system’ means a bus transit system—

“(A) in which the majority of each line operates in a separated right-of-way dedicated for public transportation use during peak periods; and

“(B) that includes features that emulate the services provided by rail fixed guideway public transportation systems, including—

“(i) defined stations;

“(ii) traffic signal priority for public transportation vehicles;

“(iii) short headway bidirectional services for a substantial part of weekdays and weekend days; and

“(iv) any other features the Secretary may determine are necessary to produce high-quality public transportation services that emulate the services provided by rail fixed guideway public transportation systems.

“(3) CAPITAL PROJECT.—The term ‘capital project’ means a project for—

“(A) acquiring, constructing, supervising, or inspecting equipment or a facility for use in public transportation, expenses incidental to the acquisition or construction (including designing, engineering, location surveying, mapping, and acquiring rights-of-way), payments for the capital portions of rail track-age rights agreements, transit-related intelligent transportation systems, relocation assistance, acquiring replacement housing sites, and acquiring, constructing, relocating, and rehabilitating replacement housing;

“(B) rehabilitating a bus;

“(C) remanufacturing a bus;

“(D) overhauling rail rolling stock;

“(E) preventive maintenance;

“(F) leasing equipment or a facility for use in public transportation, subject to regulations that the Secretary prescribes limiting the leasing arrangements to those that are more cost-effective than purchase or construction;

“(G) a joint development improvement that—

“(i) enhances economic development or incorporates private investment, such as commercial and residential development;

“(ii)(I) enhances the effectiveness of public transportation and is related physically or functionally to public transportation; or

“(II) establishes new or enhanced coordination between public transportation and other transportation;

“(iii) provides a fair share of revenue that will be used for public transportation;

“(iv) provides that a person making an agreement to occupy space in a facility constructed under this paragraph shall pay a fair share of the costs of the facility through rental payments and other means;

“(v) may include—

“(I) property acquisition;

“(II) demolition of existing structures;

“(III) site preparation;

“(IV) utilities;

“(V) building foundations;

“(VI) walkways;

“(VII) pedestrian and bicycle access to a public transportation facility;

“(VIII) construction, renovation, and improvement of intercity bus and intercity rail stations and terminals;

“(IX) renovation and improvement of historic transportation facilities;

“(X) open space;

“(XI) safety and security equipment and facilities (including lighting, surveillance, and related intelligent transportation system applications);

“(XII) facilities that incorporate community services such as daycare or health care;

“(XIII) a capital project for, and improving, equipment or a facility for an intermodal transfer facility or transportation mall; and

“(XIV) construction of space for commercial uses; and

“(vi) does not include outfitting of commercial space (other than an intercity bus or rail station or terminal) or a part of a public facility not related to public transportation;

“(H) the introduction of new technology, through innovative and improved products, into public transportation;

“(I) the provision of nonfixed route paratransit transportation services in accordance with section 223 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12143), but only for grant recipients that are in compliance with applicable requirements of that Act, including both fixed route and demand responsive service, and only for amounts not to exceed 10 percent of such recipient’s annual formula apportionment under sections 5307 and 5311;

“(J) establishing a debt service reserve, made up of deposits with a bondholder’s trustee, to ensure the timely payment of principal and interest on bonds issued by a grant recipient to finance an eligible project under this chapter;

“(K) mobility management—

“(i) consisting of short-range planning and management activities and projects for improving coordination among public transportation and other transportation service providers carried out by a recipient or subrecipient through an agreement entered into with a person, including a governmental entity, under this chapter (other than section 5309); but

“(ii) excluding operating public transportation services; or

“(L) associated capital maintenance, including—

“(i) equipment, tires, tubes, and material, each costing at least .5 percent of the current fair market value of rolling stock comparable to the rolling stock for which the equipment, tires, tubes, and material are to be used; and

“(ii) reconstruction of equipment and material, each of which after reconstruction will have a fair market value of at least .5 percent of the current fair market value of rolling stock comparable to the rolling stock for which the equipment and material will be used.

“(4) DESIGNATED RECIPIENT.—The term ‘designated recipient’ means—

“(A) an entity designated, in accordance with the planning process under sections 5303 and 5304, by the Governor of a State, responsible local officials, and publicly owned operators of public transportation, to receive and apportion amounts under section 5336 to urbanized areas of 200,000 or more in population; or

“(B) a State or regional authority, if the authority is responsible under the laws of a State for a capital project and for financing and directly providing public transportation.

“(5) DISABILITY.—The term ‘disability’ has the same meaning as in section 3(1) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102).

“(6) EMERGENCY REGULATION.—The term ‘emergency regulation’ means a regulation—

“(A) that is effective temporarily before the expiration of the otherwise specified periods of time for public notice and comment under section 5334(c); and

“(B) prescribed by the Secretary as the result of a finding that a delay in the effective date of the regulation—

“(i) would injure seriously an important public interest;

“(ii) would frustrate substantially legislative policy and intent; or

“(iii) would damage seriously a person or class without serving an important public interest.

“(7) **FIXED GUIDEWAY.**—The term ‘fixed guideway’ means a public transportation facility—

“(A) using and occupying a separate right-of-way for the exclusive use of public transportation;

“(B) using rail;

“(C) using a fixed catenary system;

“(D) for a passenger ferry system; or

“(E) for a bus rapid transit system.

“(8) **GOVERNOR.**—The term ‘Governor’—

“(A) means the Governor of a State, the mayor of the District of Columbia, and the chief executive officer of a territory of the United States; and

“(B) includes the designee of the Governor.

“(9) **LOCAL GOVERNMENTAL AUTHORITY.**—The term ‘local governmental authority’ includes—

“(A) a political subdivision of a State;

“(B) an authority of at least 1 State or political subdivision of a State;

“(C) an Indian tribe; and

“(D) a public corporation, board, or commission established under the laws of a State.

“(10) **LOW-INCOME INDIVIDUAL.**—The term ‘low-income individual’ means an individual whose family income is at or below 150 percent of the poverty line, as that term is defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by that section, for a family of the size involved.

“(11) **NET PROJECT COST.**—The term ‘net project cost’ means the part of a project that reasonably cannot be financed from revenues.

“(12) **NEW BUS MODEL.**—The term ‘new bus model’ means a bus model (including a model using alternative fuel)—

“(A) that has not been used in public transportation in the United States before the date of production of the model; or

“(B) used in public transportation in the United States, but being produced with a major change in configuration or components.

“(13) **PUBLIC TRANSPORTATION.**—The term ‘public transportation’—

“(A) means regular, continuing shared-ride surface transportation services that are open to the general public or open to a segment of the general public defined by age, disability, or low income; and

“(B) does not include—

“(i) intercity passenger rail transportation provided by the entity described in chapter 243 (or a successor to such entity);

“(ii) intercity bus service;

“(iii) charter bus service;

“(iv) school bus service;

“(v) sightseeing service;

“(vi) courtesy shuttle service for patrons of one or more specific establishments; or

“(vii) intra-terminal or intra-facility shuttle services.

“(14) **REGULATION.**—The term ‘regulation’ means any part of a statement of general or particular applicability of the Secretary designed to carry out, interpret, or prescribe law or policy in carrying out this chapter.

“(15) **SECRETARY.**—The term ‘Secretary’ means the Secretary of Transportation.

“(16) **SENIOR.**—The term ‘senior’ means an individual who is 65 years of age or older.

“(17) **STATE.**—The term ‘State’ means a State of the United States, the District of

Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

“(18) **STATE OF GOOD REPAIR.**—The term ‘state of good repair’ has the meaning given that term by the Secretary, by rule, under section 5326(b).

“(19) **TRANSIT.**—The term ‘transit’ means public transportation.

“(20) **URBAN AREA.**—The term ‘urban area’ means an area that includes a municipality or other built-up place that the Secretary, after considering local patterns and trends of urban growth, decides is appropriate for a local public transportation system to serve individuals in the locality.

“(21) **URBANIZED AREA.**—The term ‘urbanized area’ means an area encompassing a population of not less than 50,000 people that has been defined and designated in the most recent decennial census as an ‘urbanized area’ by the Secretary of Commerce.”

## **SEC. 20005. METROPOLITAN TRANSPORTATION PLANNING.**

(a) **IN GENERAL.**—Section 5303 of title 49, United States Code, is amended to read as follows:

### **“§ 5303. Metropolitan transportation planning**

“(a) **POLICY.**—It is in the national interest—

“(1) to encourage and promote the safe, cost-effective, and efficient management, operation, and development of surface transportation systems that will serve efficiently the mobility needs of individuals and freight, reduce transportation-related fatalities and serious injuries, and foster economic growth and development within and between States and urbanized areas, while fitting the needs and complexity of individual communities, maximizing value for taxpayers, leveraging cooperative investments, and minimizing transportation-related fuel consumption and air pollution through the metropolitan and statewide transportation planning processes identified in this chapter;

“(2) to encourage the continued improvement, evolution, and coordination of the metropolitan and statewide transportation planning processes by and among metropolitan planning organizations, State departments of transportation, regional planning organizations, interstate partnerships, and public transportation and intercity service operators as guided by the planning factors identified in subsection (h) of this section and section 5304(d);

“(3) to encourage and promote transportation needs and decisions that are integrated with other planning needs and priorities; and

“(4) to maximize the effectiveness of transportation investments.

“(b) **DEFINITIONS.**—In this section and section 5304, the following definitions shall apply:

“(1) **EXISTING MPO.**—The term ‘existing MPO’ means a metropolitan planning organization that was designated as a metropolitan planning organization as of the day before the date of enactment of the Federal Public Transportation Act of 2012.

“(2) **LOCAL OFFICIAL.**—The term ‘local official’ means any elected or appointed official of general purpose local government with responsibility for transportation in a designated area.

“(3) **MAINTENANCE AREA.**—The term ‘maintenance area’ means an area that was designated as an air quality nonattainment area, but was later redesignated by the Administrator of the Environmental Protection Agency as an air quality attainment area,

under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)).

“(4) **METROPOLITAN PLANNING AREA.**—The term ‘metropolitan planning area’ means a geographical area determined by agreement between the metropolitan planning organization for the area and the applicable Governor under subsection (c).

“(5) **METROPOLITAN PLANNING ORGANIZATION.**—The term ‘metropolitan planning organization’ means the policy board of an organization established pursuant to subsection (c).

“(6) **METROPOLITAN TRANSPORTATION PLAN.**—The term ‘metropolitan transportation plan’ means a plan developed by a metropolitan planning organization under subsection (i).

“(7) **NONATTAINMENT AREA.**—The term ‘nonattainment area’ has the meaning given the term in section 171 of the Clean Air Act (42 U.S.C. 7501).

“(8) **NONMETROPOLITAN AREA.**—

“(A) **IN GENERAL.**—The term ‘nonmetropolitan area’ means a geographical area outside the boundaries of a designated metropolitan planning area.

“(B) **INCLUSIONS.**—The term ‘nonmetropolitan area’ includes a small urbanized area with a population of more than 50,000, but fewer than 200,000 individuals, as calculated according to the most recent decennial census, and a nonurbanized area.

“(9) **NONMETROPOLITAN PLANNING ORGANIZATION.**—The term ‘nonmetropolitan planning organization’ means an organization that—

“(A) was designated as a metropolitan planning organization as of the day before the date of enactment of the Federal Public Transportation Act of 2012; and

“(B) is not designated as a tier I MPO or tier II MPO.

“(10) **REGIONALLY SIGNIFICANT.**—The term ‘regionally significant’, with respect to a transportation project, program, service, or strategy, means a project, program, service, or strategy that—

“(A) serves regional transportation needs (such as access to and from the area outside of the region, major activity centers in the region, and major planned developments); and

“(B) would normally be included in the modeling of a transportation network of a metropolitan area.

“(11) **RURAL PLANNING ORGANIZATION.**—The term ‘rural planning organization’ means a voluntary organization of local elected officials and representatives of local transportation systems that—

“(A) works in cooperation with the department of transportation (or equivalent entity) of a State to plan transportation networks and advise officials of the State on transportation planning; and

“(B) is located in a rural area—

“(i) with a population of not fewer than 5,000 individuals, as calculated according to the most recent decennial census; and

“(ii) that is not located in an area represented by a metropolitan planning organization.

“(12) **STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM.**—The term ‘statewide transportation improvement program’ means a statewide transportation improvement program developed by a State under section 5304(g).

“(13) **STATEWIDE TRANSPORTATION PLAN.**—The term ‘statewide transportation plan’ means a plan developed by a State under section 5304(f).

“(14) **TIER I MPO.**—The term ‘tier I MPO’ means a metropolitan planning organization

designated as a tier I MPO under subsection (e)(4)(A).

“(15) TIER II MPO.—The term ‘tier II MPO’ means a metropolitan planning organization designated as a tier II MPO under subsection (e)(4)(B).

“(16) TRANSPORTATION IMPROVEMENT PROGRAM.—The term ‘transportation improvement program’ means a program developed by a metropolitan planning organization under subsection (j).

“(17) URBANIZED AREA.—The term ‘urbanized area’ means a geographical area with a population of 50,000 or more individuals, as calculated according to the most recent decennial census.

“(c) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

“(1) IN GENERAL.—To carry out the metropolitan transportation planning process under this section, a metropolitan planning organization shall be designated for each urbanized area with a population of 200,000 or more individuals, as calculated according to the most recent decennial census—

“(A) by agreement between the applicable Governor and local officials that, in the aggregate, represent at least 75 percent of the affected population (including the largest incorporated city (based on population), as calculated according to the most recent decennial census); or

“(B) in accordance with procedures established by applicable State or local law.

“(2) SMALL URBANIZED AREAS.—To carry out the metropolitan transportation planning process under this section, a metropolitan planning organization may be designated for any urbanized area with a population of 50,000 or more individuals, but fewer than 200,000 individuals, as calculated according to the most recent decennial census—

“(A) by agreement between the applicable Governor and local officials that, in the aggregate, represent at least 75 percent of the affected population (including the largest incorporated city (based on population), as calculated according to the most recent decennial census); and

“(B) with the consent of the Secretary, based on a finding that the resulting metropolitan planning organization has met the minimum requirements under subsection (e)(4)(B).

“(3) STRUCTURE.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, a metropolitan planning organization shall consist of—

“(A) elected local officials in the relevant metropolitan area;

“(B) officials of public agencies that administer or operate major modes of transportation in the relevant metropolitan area, including providers of public transportation; and

“(C) appropriate State officials.

“(4) EFFECT OF SUBSECTION.—Nothing in this subsection interferes with any authority under any State law in effect on December 18, 1991, of a public agency with multimodal transportation responsibilities—

“(A) to develop the metropolitan transportation plans and transportation improvement programs for adoption by a metropolitan planning organization; or

“(B) to develop capital plans, coordinate public transportation services and projects, or carry out other activities pursuant to State law.

“(5) CONTINUING DESIGNATION.—A designation of an existing MPO—

“(A) for an urbanized area with a population of 200,000 or more individuals, as cal-

culated according to the most recent decennial census, shall remain in effect—

“(i) for the period during which the structure of the existing MPO complies with the requirements of paragraph (1); or

“(ii) until the date on which the existing MPO is redesignated under paragraph (6); and

“(B) for an urbanized area with a population of fewer than 200,000 individuals, as calculated according to the most recent decennial census, shall remain in effect until the date on which the existing MPO is redesignated under paragraph (6) unless—

“(i) the existing MPO requests that its planning responsibilities be transferred to the State or to another planning organization designated by the State; or

“(ii)(I) the applicable Governor determines not later than 3 years after the date on which the Secretary issues a rule pursuant to subsection (e)(4)(B)(i), that the existing MPO is not meeting the minimum requirements established by the rule; and

“(II) the Secretary approves the Governor’s determination.

“(C) DESIGNATION AS TIER II MPO.—If the Secretary determines the existing MPO has met the minimum requirements under the rule issued under subsection (e)(4)(B)(i), the Secretary shall designate the existing MPO as a tier II MPO.

“(6) REDESIGNATION.—

“(A) IN GENERAL.—The designation of a metropolitan planning organization under this subsection shall remain in effect until the date on which the metropolitan planning organization is redesignated, as appropriate, in accordance with the requirements of this subsection pursuant to an agreement between—

“(i) the applicable Governor; and

“(ii) affected local officials who, in the aggregate, represent at least 75 percent of the existing metropolitan planning area population (including the largest incorporated city (based on population), as calculated according to the most recent decennial census).

“(B) RESTRUCTURING.—A metropolitan planning organization may be restructured to meet the requirements of paragraph (3) without undertaking a redesignation.

“(7) DESIGNATION OF MULTIPLE MPOS.—

“(A) IN GENERAL.—More than 1 metropolitan planning organization may be designated within an existing metropolitan planning area only if the applicable Governor and an existing MPO determine that the size and complexity of the existing metropolitan planning area make the designation of more than 1 metropolitan planning organization for the metropolitan planning area appropriate.

“(B) SERVICE JURISDICTIONS.—If more than 1 metropolitan planning organization is designated for an existing metropolitan planning area under subparagraph (A), the existing metropolitan planning area shall be split into multiple metropolitan planning areas, each of which shall be served by the existing MPO or a new metropolitan planning organization.

“(C) TIER DESIGNATION.—The tier designation of each metropolitan planning organization subject to a designation under this paragraph shall be determined based on the size of each respective metropolitan planning area, in accordance with subsection (e)(4).

“(d) METROPOLITAN PLANNING AREA BOUNDARIES.—

“(1) IN GENERAL.—For purposes of this section, the boundaries of a metropolitan planning area shall be determined by agreement between the applicable metropolitan plan-

ning organization and the Governor of the State in which the metropolitan planning area is located.

“(2) INCLUDED AREA.—Each metropolitan planning area—

“(A) shall encompass at least the relevant existing urbanized area and any contiguous area expected to become urbanized within a 20-year forecast period under the applicable metropolitan transportation plan; and

“(B) may encompass the entire relevant metropolitan statistical area, as defined by the Office of Management and Budget.

“(3) IDENTIFICATION OF NEW URBANIZED AREAS.—The designation by the Bureau of the Census of a new urbanized area within the boundaries of an existing metropolitan planning area shall not require the redesignation of the relevant existing MPO.

“(4) NONATTAINMENT AND MAINTENANCE AREAS.—

“(A) EXISTING METROPOLITAN PLANNING AREAS.—

“(i) IN GENERAL.—Except as provided in clause (ii), notwithstanding paragraph (2), in the case of an urbanized area designated as a nonattainment area or maintenance area as of the date of enactment of the Federal Public Transportation Act of 2012, the boundaries of the existing metropolitan planning area as of that date of enactment shall remain in force and effect.

“(ii) EXCEPTION.—Notwithstanding clause (i), the boundaries of an existing metropolitan planning area described in that clause may be adjusted by agreement of the applicable Governor and the affected metropolitan planning organizations in accordance with subsection (c)(7).

“(B) NEW METROPOLITAN PLANNING AREAS.—In the case of an urbanized area designated as a nonattainment area or maintenance area after the date of enactment of the Federal Public Transportation Act of 2012, the boundaries of the applicable metropolitan planning area—

“(i) shall be established in accordance with subsection (c)(1);

“(ii) shall encompass the areas described in paragraph (2)(A);

“(iii) may encompass the areas described in paragraph (2)(B); and

“(iv) may address any appropriate nonattainment area or maintenance area.

“(e) REQUIREMENTS.—

“(1) DEVELOPMENT OF PLANS AND TIPS.—To accomplish the policy objectives described in subsection (a), each metropolitan planning organization, in cooperation with the applicable State and public transportation operators, shall develop metropolitan transportation plans and transportation improvement programs for metropolitan planning areas of the State through a performance-driven, outcome-based approach to metropolitan transportation planning consistent with subsection (h).

“(2) CONTENTS.—The metropolitan transportation plans and transportation improvement programs for each metropolitan area shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation) that will function as—

“(A) an intermodal transportation system for the metropolitan planning area; and

“(B) an integral part of an intermodal transportation system for the applicable State and the United States.

“(3) PROCESS OF DEVELOPMENT.—The process for developing metropolitan transportation plans and transportation improvement programs shall—

“(A) provide for consideration of all modes of transportation; and

“(B) be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation needs to be addressed.

“(4) TIERING.—

“(A) TIER I MPOS.—

“(i) IN GENERAL.—A metropolitan planning organization shall be designated as a tier I MPO if—

“(I) as certified by the Governor of each applicable State, the metropolitan planning organization operates within, and primarily serves, a metropolitan planning area with a population of 1,000,000 or more individuals, as calculated according to the most recent decennial census; and

“(II) the Secretary determines the metropolitan planning organization—

“(aa) meets the minimum technical requirements under clause (iv); and

“(bb) not later than 2 years after the date of enactment of the Federal Public Transportation Act of 2012, will fully implement the processes described in subsections (h) through (j).

“(ii) ABSENCE OF DESIGNATION.—In the absence of designation as a tier I MPO under clause (i), a metropolitan planning organization shall operate as a tier II MPO until the date on which the Secretary determines the metropolitan planning organization can meet the minimum technical requirements under clause (iv).

“(iii) REDESIGNATION AS TIER I.—A metropolitan planning organization operating within a metropolitan planning area with a population of 200,000 or more and fewer than 1,000,000 individuals and primarily within urbanized areas with populations of 200,000 or more individuals, as calculated according to the most recent decennial census, that is designated as a tier II MPO under subparagraph (B) may request, with the support of the applicable Governor, a redesignation as a tier I MPO on a determination by the Secretary that the metropolitan planning organization has met the minimum technical requirements under clause (iv).

“(iv) MINIMUM TECHNICAL REQUIREMENTS.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue a rule that establishes the minimum technical requirements necessary for a metropolitan planning organization to be designated as a tier I MPO, including, at a minimum, modeling, data, staffing, and other technical requirements.

“(B) TIER II MPOS.—

“(i) IN GENERAL.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue a rule that establishes minimum requirements necessary for a metropolitan planning organization to be designated as a tier II MPO.

“(ii) REQUIREMENTS.—The minimum requirements established under clause (i) shall—

“(I) ensure that each metropolitan planning organization has the capabilities necessary to develop the metropolitan transportation plan and transportation improvement program under this section; and

“(II) include—

“(aa) only the staff resources necessary to operate the metropolitan planning organization; and

“(bb) a requirement that the metropolitan planning organization has the technical capacity to conduct the modeling necessary, as appropriate to the size and resources of the metropolitan planning organization, to fulfill the requirements of this section, except that in cases in which a metropolitan planning organization has a formal agreement with a State to conduct the modeling on behalf of the metropolitan planning organization, the metropolitan planning organization shall be exempt from the technical capacity requirement.

“(iii) INCLUSION.—A metropolitan planning organization operating primarily within an urbanized area with a population of 200,000 or more individuals, as calculated according to the most recent decennial census, and that does not qualify as a tier I MPO under subparagraph (A)(i), shall—

“(I) be designated as a tier II MPO; and

“(II) follow the processes under subsection (k).

“(C) CONSOLIDATION.—

“(i) IN GENERAL.—Metropolitan planning organizations operating within contiguous or adjacent urbanized areas may elect to consolidate in order to meet the population thresholds required to achieve designation as a tier I or tier II MPO under this paragraph.

“(ii) EFFECT OF SUBSECTION.—Nothing in this subsection requires or prevents consolidation among multiple metropolitan planning organizations located within a single urbanized area.

“(f) COORDINATION IN MULTISTATE AREAS.—

“(1) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

“(2) COORDINATION ALONG DESIGNATED TRANSPORTATION CORRIDORS.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire designated transportation corridor.

“(3) COORDINATION WITH INTERSTATE COMPACTS.—The Secretary shall encourage metropolitan planning organizations to take into consideration, during the development of metropolitan transportation plans and transportation improvement programs, any relevant transportation studies concerning planning for regional transportation (including high-speed and intercity rail corridor studies, commuter rail corridor studies, intermodal terminals, and interstate highways) in support of freight, intercity, or multistate area projects and services that have been developed pursuant to interstate compacts or agreements, or by organizations established under section 5304.

“(g) ENGAGEMENT IN METROPOLITAN TRANSPORTATION PLAN AND TIP DEVELOPMENT.—

“(1) NONATTAINMENT AND MAINTENANCE AREAS.—If more than 1 metropolitan planning organization has authority within a metropolitan area, nonattainment area, or maintenance area, each metropolitan planning organization shall consult with all other metropolitan planning organizations designated for the metropolitan area, nonattainment area, or maintenance area and the State in the development of metropolitan transportation plans and transportation improvement programs under this section.

“(2) TRANSPORTATION IMPROVEMENTS LOCATED IN MULTIPLE METROPOLITAN PLANNING AREAS.—If a transportation improvement

project funded under this chapter or title 23 is located within the boundaries of more than 1 metropolitan planning area, the affected metropolitan planning organizations shall coordinate metropolitan transportation plans and transportation improvement programs regarding the project.

“(3) COORDINATION OF ADJACENT PLANNING ORGANIZATIONS.—

“(A) IN GENERAL.—A metropolitan planning organization that is adjacent or located in reasonably close proximity to another metropolitan planning organization shall coordinate with that metropolitan planning organization with respect to planning processes, including preparation of metropolitan transportation plans and transportation improvement programs, to the maximum extent practicable.

“(B) NONMETROPOLITAN PLANNING ORGANIZATIONS.—A metropolitan planning organization that is adjacent or located in reasonably close proximity to a nonmetropolitan planning organization shall consult with that nonmetropolitan planning organization with respect to planning processes, to the maximum extent practicable.

“(4) RELATIONSHIP WITH OTHER PLANNING OFFICIALS.—

“(A) IN GENERAL.—The Secretary shall encourage each metropolitan planning organization to cooperate with Federal, State, tribal, and local officers and entities responsible for other types of planning activities that are affected by transportation in the relevant area (including planned growth, economic development, infrastructure services, housing, other public services, environmental protection, airport operations, high-speed and intercity passenger rail, freight rail, port access, and freight movements), to the maximum extent practicable, to ensure that the metropolitan transportation planning process, metropolitan transportation plans, and transportation improvement programs are developed in cooperation with other related planning activities in the area.

“(B) INCLUSION.—Cooperation under subparagraph (A) shall include the design and delivery of transportation services within the metropolitan area that are provided by—

“(i) recipients of assistance under sections 202, 203, and 204 of title 23;

“(ii) recipients of assistance under this title;

“(iii) government agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide nonemergency transportation services; and

“(iv) sponsors of regionally significant programs, projects, and services that are related to transportation and receive assistance from any public or private source.

“(5) COORDINATION OF OTHER FEDERALLY REQUIRED PLANNING PROGRAMS.—The Secretary shall encourage each metropolitan planning organization to coordinate, to the maximum extent practicable, the development of metropolitan transportation plans and transportation improvement programs with other relevant federally required planning programs.

“(h) SCOPE OF PLANNING PROCESS.—

“(1) IN GENERAL.—The metropolitan transportation planning process for a metropolitan planning area under this section shall provide for consideration of projects and strategies that will—

“(A) support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency;

“(B) increase the safety of the transportation system for motorized and non-motorized users;

“(C) increase the security of the transportation system for motorized and non-motorized users;

“(D) increase the accessibility and mobility of individuals and freight;

“(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;

“(F) enhance the integration and connectivity of the transportation system, across and between modes, for individuals and freight;

“(G) increase efficient system management and operation; and

“(H) emphasize the preservation of the existing transportation system.

“(2) PERFORMANCE-BASED APPROACH.—

“(A) IN GENERAL.—The metropolitan transportation planning process shall provide for the establishment and use of a performance-based approach to transportation decision-making to support the national goals described in section 5301(c) of this title and in section 150(b) of title 23.

“(B) PERFORMANCE TARGETS.—

“(i) SURFACE TRANSPORTATION PERFORMANCE TARGETS.—

“(I) IN GENERAL.—Each metropolitan planning organization shall establish performance targets that address the performance measures described in sections 119(f), 148(h), 149(k) (where applicable), and 167(i) of title 23, to use in tracking attainment of critical outcomes for the region of the metropolitan planning organization.

“(II) COORDINATION.—Selection of performance targets by a metropolitan planning organization shall be coordinated with the relevant State to ensure consistency, to the maximum extent practicable.

“(ii) PUBLIC TRANSPORTATION PERFORMANCE TARGETS.—Each metropolitan planning organization shall adopt the performance targets identified by providers of public transportation pursuant to sections 5326(c) and 5329(d), for use in tracking attainment of critical outcomes for the region of the metropolitan planning organization.

“(C) TIMING.—Each metropolitan planning organization shall establish or adopt the performance targets under subparagraph (B) not later than 90 days after the date on which the relevant State or provider of public transportation establishes the performance targets.

“(D) INTEGRATION OF OTHER PERFORMANCE-BASED PLANS.—A metropolitan planning organization shall integrate in the metropolitan transportation planning process, directly or by reference, the goals, objectives, performance measures, and targets described in other State plans and processes, as well as asset management and safety plans developed by providers of public transportation, required as part of a performance-based program, including plans such as—

“(i) the State National Highway System asset management plan;

“(ii) asset management plans developed by providers of public transportation;

“(iii) the State strategic highway safety plan;

“(iv) safety plans developed by providers of public transportation;

“(v) the congestion mitigation and air quality performance plan, where applicable;

“(vi) the national freight strategic plan; and

“(vii) the statewide transportation plan.

“(E) USE OF PERFORMANCE MEASURES AND TARGETS.—The performance measures and targets established under this paragraph shall be used, at a minimum, by the relevant metropolitan planning organization as the basis for development of policies, programs, and investment priorities reflected in the metropolitan transportation plan and transportation improvement program.

“(3) FAILURE TO CONSIDER FACTORS.—The failure to take into consideration 1 or more of the factors specified in paragraphs (1) and (2) shall not be subject to review by any court under this chapter, title 23, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a metropolitan transportation plan, a transportation improvement program, a project or strategy, or the certification of a planning process.

“(4) PARTICIPATION BY INTERESTED PARTIES.—

“(A) IN GENERAL.—Each metropolitan planning organization shall provide to affected individuals, public agencies, and other interested parties notice and a reasonable opportunity to comment on the metropolitan transportation plan and transportation improvement program and any relevant scenarios.

“(B) CONTENTS OF PARTICIPATION PLAN.—Each metropolitan planning organization shall establish a participation plan that—

“(i) is developed in consultation with all interested parties; and

“(ii) provides that all interested parties have reasonable opportunities to comment on the contents of the metropolitan transportation plan of the metropolitan planning organization.

“(C) METHODS.—In carrying out subparagraph (A), the metropolitan planning organization shall, to the maximum extent practicable—

“(i) develop the metropolitan transportation plan and transportation improvement program in consultation with interested parties, as appropriate, including by the formation of advisory groups representative of the community and interested parties that participate in the development of the metropolitan transportation plan and transportation improvement program;

“(ii) hold any public meetings at times and locations that are, as applicable—

“(I) convenient; and

“(II) in compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

“(iii) employ visualization techniques to describe metropolitan transportation plans and transportation improvement programs; and

“(iv) make public information available in appropriate electronically accessible formats and means, such as the Internet, to afford reasonable opportunity for consideration of public information under subparagraph (A).

“(i) DEVELOPMENT OF METROPOLITAN TRANSPORTATION PLAN.—

“(1) DEVELOPMENT.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), not later than 5 years after the date of enactment of the Federal Public Transportation Act of 2012, and not less frequently than once every 5 years thereafter, each metropolitan planning organization shall prepare and update, respectively, a metropolitan transportation plan for the relevant metropolitan planning area in accordance with this section.

“(B) EXCEPTIONS.—A metropolitan planning organization shall prepare or update, as appropriate, the metropolitan transportation

plan not less frequently than once every 4 years if the metropolitan planning organization is operating within—

“(i) a nonattainment area; or

“(ii) a maintenance area.

“(2) OTHER REQUIREMENTS.—A metropolitan transportation plan under this section shall—

“(A) be in a form that the Secretary determines to be appropriate;

“(B) have a term of not less than 20 years; and

“(C) contain, at a minimum—

“(i) an identification of the existing transportation infrastructure, including highways, local streets and roads, bicycle and pedestrian facilities, public transportation facilities and services, commuter rail facilities and services, high-speed and intercity passenger rail facilities and services, freight facilities (including freight railroad and port facilities), multimodal and intermodal facilities, and intermodal connectors that, evaluated in the aggregate, function as an integrated metropolitan transportation system;

“(ii) a description of the performance measures and performance targets used in assessing the existing and future performance of the transportation system in accordance with subsection (h)(2);

“(iii) a description of the current and projected future usage of the transportation system, including a projection based on a preferred scenario, and further including, to the extent practicable, an identification of existing or planned transportation rights-of-way, corridors, facilities, and related real properties;

“(iv) a system performance report evaluating the existing and future condition and performance of the transportation system with respect to the performance targets described in subsection (h)(2) and updates in subsequent system performance reports, including—

“(I) progress achieved by the metropolitan planning organization in meeting the performance targets in comparison with system performance recorded in previous reports;

“(II) an accounting of the performance of the metropolitan planning organization on outlay of obligated project funds and delivery of projects that have reached substantial completion in relation to—

“(aa) the projects included in the transportation improvement program; and

“(bb) the projects that have been removed from the previous transportation improvement program; and

“(III) when appropriate, an analysis of how the preferred scenario has improved the conditions and performance of the transportation system and how changes in local policies, investments, and growth have impacted the costs necessary to achieve the identified performance targets;

“(v) recommended strategies and investments for improving system performance over the planning horizon, including transportation systems management and operations strategies, maintenance strategies, demand management strategies, asset management strategies, capacity and enhancement investments, State and local economic development and land use improvements, intelligent transportation systems deployment, and technology adoption strategies, as determined by the projected support of the performance targets described in subsection (h)(2);

“(vi) recommended strategies and investments to improve and integrate disability-related access to transportation infrastructure, including strategies and investments

based on a preferred scenario, when appropriate;

“(vii) investment priorities for using projected available and proposed revenues over the short- and long-term stages of the planning horizon, in accordance with the financial plan required under paragraph (4);

“(viii) a description of interstate compacts entered into in order to promote coordinated transportation planning in multistate areas, if applicable;

“(ix) an optional illustrative list of projects containing investments that—

“(I) are not included in the metropolitan transportation plan; but

“(II) would be so included if resources in addition to the resources identified in the financial plan under paragraph (4) were available;

“(x) a discussion (developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies) of types of potential environmental and stormwater mitigation activities and potential areas to carry out those activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the metropolitan transportation plan; and

“(xi) recommended strategies and investments, including those developed by the State as part of interstate compacts, agreements, or organizations, that support intercity transportation.

“(3) SCENARIO DEVELOPMENT.—

“(A) IN GENERAL.—When preparing the metropolitan transportation plan, the metropolitan planning organization may, while fitting the needs and complexity of their community, develop multiple scenarios for consideration as a part of the development of the metropolitan transportation plan, in accordance with subparagraph (B).

“(B) COMPONENTS OF SCENARIOS.—The scenarios—

“(i) shall include potential regional investment strategies for the planning horizon;

“(ii) shall include assumed distribution of population and employment;

“(iii) may include a scenario that, to the maximum extent practicable, maintains baseline conditions for the performance targets identified in subsection (h)(2);

“(iv) may include a scenario that improves the baseline conditions for as many of the performance targets under subsection (h)(2) as possible;

“(v) may include a revenue constrained scenario based on total revenues reasonably expected to be available over the 20-year planning period and assumed population and employment; and

“(vi) may include estimated costs and potential revenues available to support each scenario.

“(C) METRICS.—In addition to the performance targets identified in subsection (h)(2), scenarios developed under this paragraph may be evaluated using locally developed metrics for the following categories:

“(i) Congestion and mobility, including transportation use by mode.

“(ii) Freight movement.

“(iii) Safety.

“(iv) Efficiency and costs to taxpayers.

“(4) FINANCIAL PLAN.—A financial plan referred to in paragraph (2)(C)(vii) shall—

“(A) be prepared by each metropolitan planning organization to support the metropolitan transportation plan; and

“(B) contain a description of—

“(i) the projected resource requirements for implementing projects, strategies, and services recommended in the metropolitan

transportation plan, including existing and projected system operating and maintenance needs, proposed enhancement and expansions to the system, projected available revenue from Federal, State, local, and private sources, and innovative financing techniques to finance projects and programs;

“(ii) the projected difference between costs and revenues, and strategies for securing additional new revenue (such as by capture of some of the economic value created by any new investment);

“(iii) estimates of future funds, to be developed cooperatively by the metropolitan planning organization, any public transportation agency, and the State, that are reasonably expected to be available to support the investment priorities recommended in the metropolitan transportation plan; and

“(iv) each applicable project only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

“(5) COORDINATION WITH CLEAN AIR ACT AGENCIES.—The metropolitan planning organization for any metropolitan area that is a nonattainment area or maintenance area shall coordinate the development of a transportation plan with the process for development of the transportation control measures of the State implementation plan required by the Clean Air Act (42 U.S.C. 7401 et seq.).

“(6) PUBLICATION.—On approval by the relevant metropolitan planning organization, a metropolitan transportation plan involving Federal participation shall be, at such times and in such manner as the Secretary shall require—

“(A) published or otherwise made readily available by the metropolitan planning organization for public review, including (to the maximum extent practicable) in electronically accessible formats and means, such as the Internet; and

“(B) submitted for informational purposes to the applicable Governor.

“(7) CONSULTATION.—

“(A) IN GENERAL.—In each metropolitan area, the metropolitan planning organization shall consult, as appropriate, with Federal, State, tribal, and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation concerning the development of a metropolitan transportation plan.

“(B) ISSUES.—The consultation under subparagraph (A) shall involve, as available, consideration of—

“(i) metropolitan transportation plans with Federal, State, tribal, and local conservation plans or maps; and

“(ii) inventories of natural or historic resources.

“(8) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—Notwithstanding paragraph (4), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the metropolitan transportation plan under paragraph (2)(C)(ix).

“(j) TRANSPORTATION IMPROVEMENT PROGRAM.—

“(1) DEVELOPMENT.—

“(A) IN GENERAL.—In cooperation with the applicable State and any affected public transportation operator, the metropolitan planning organization designated for a metropolitan area shall develop a transportation improvement program for the metropolitan planning area that—

“(i) contains projects consistent with the current metropolitan transportation plan;

“(ii) reflects the investment priorities established in the current metropolitan transportation plan; and

“(iii) once implemented, will make significant progress toward achieving the performance targets established under subsection (h)(2).

“(B) OPPORTUNITY FOR PARTICIPATION.—In developing the transportation improvement program, the metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties, in accordance with subsection (h)(4).

“(C) UPDATING AND APPROVAL.—The transportation improvement program shall be—

“(i) updated not less frequently than once every 4 years, on a cycle compatible with the development of the relevant statewide transportation improvement program under section 5304; and

“(ii) approved by the applicable Governor.

“(2) CONTENTS.—

“(A) PRIORITY LIST.—The transportation improvement program shall include a priority list of proposed federally supported projects and strategies to be carried out during the 4-year period beginning on the date of adoption of the transportation improvement program, and each 4-year period thereafter, using existing and reasonably available revenues in accordance with the financial plan under paragraph (3).

“(B) DESCRIPTIONS.—Each project described in the transportation improvement program shall include sufficient descriptive material (such as type of work, termini, length, and other similar factors) to identify the project or phase of the project and the effect that the project or project phase will have in addressing the performance targets described in subsection (h)(2).

“(C) PERFORMANCE TARGET ACHIEVEMENT.—The transportation improvement program shall include, to the maximum extent practicable, a description of the anticipated effect of the transportation improvement program on attainment of the performance targets established in the metropolitan transportation plan, linking investment priorities to those performance targets.

“(D) ILLUSTRATIVE LIST OF PROJECTS.—In developing a transportation improvement program, an optional illustrative list of projects may be prepared containing additional investment priorities that—

“(i) are not included in the transportation improvement program; but

“(ii) would be so included if resources in addition to the resources identified in the financial plan under paragraph (3) were available.

“(3) FINANCIAL PLAN.—A financial plan referred to in paragraph (2)(D)(ii) shall—

“(A) be prepared by each metropolitan planning organization to support the transportation improvement program; and

“(B) contain a description of—

“(i) the projected resource requirements for implementing projects, strategies, and services recommended in the transportation improvement program, including existing and projected system operating and maintenance needs, proposed enhancement and expansions to the system, projected available revenue from Federal, State, local, and private sources, and innovative financing techniques to finance projects and programs;

“(ii) the projected difference between costs and revenues, and strategies for securing additional new revenue (such as by capture of some of the economic value created by any new investment);

“(iii) estimates of future funds, to be developed cooperatively by the metropolitan planning organization, any public transportation agency, and the State, that are reasonably expected to be available to support the investment priorities recommended in the transportation improvement program; and

“(iv) each applicable project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

“(4) INCLUDED PROJECTS.—

“(A) PROJECTS UNDER THIS CHAPTER AND TITLE 23.—A transportation improvement program developed under this subsection for a metropolitan area shall include a description of the projects within the area that are proposed for funding under this chapter and chapter 1 of title 23.

“(B) PROJECTS UNDER CHAPTER 2.—

“(i) REGIONALLY SIGNIFICANT.—Each regionally significant project proposed for funding under chapter 2 of title 23 shall be identified individually in the transportation improvement program.

“(ii) NONREGIONALLY SIGNIFICANT.—A description of each project proposed for funding under chapter 2 of title 23 that is not determined to be regionally significant shall be contained in 1 line item or identified individually in the transportation improvement program.

“(5) OPPORTUNITY FOR PARTICIPATION.—Before approving a transportation improvement program, a metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties in the development of the transportation improvement program, in accordance with subsection (h)(4).

“(6) SELECTION OF PROJECTS.—

“(A) IN GENERAL.—Each tier I MPO and tier II MPO shall select projects carried out within the boundaries of the applicable metropolitan planning area from the transportation improvement program, in consultation with the relevant State and on concurrence of the affected facility owner, for funds apportioned to the State under section 104(b)(2) of title 23 and suballocated to the metropolitan planning area under section 133(d) of title 23.

“(B) PROJECTS UNDER CHAPTER 53.—In the case of projects under this chapter, the selection of federally funded projects in metropolitan areas shall be carried out, from the approved transportation improvement program, by the designated recipients of public transportation funding in cooperation with the metropolitan planning organization.

“(C) CONGESTION MITIGATION AND AIR QUALITY PROJECTS.—Each tier I MPO shall select projects carried out within the boundaries of the applicable metropolitan planning area from the transportation improvement program, in consultation with the relevant State and on concurrence of the affected facility owner, for funds apportioned to the State under section 104(b)(4) of title 23 and suballocated to the metropolitan planning area under section 149(j) of title 23.

“(D) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, approval by the Secretary shall not be required to carry out a project included in a transportation improvement program in place of another project in the transportation improvement program.

“(7) PUBLICATION.—

“(A) IN GENERAL.—A transportation improvement program shall be published or

otherwise made readily available by the applicable metropolitan planning organization for public review in electronically accessible formats and means, such as the Internet.

“(B) ANNUAL LIST OF PROJECTS.—An annual list of projects, including investments in pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation, for which Federal funds have been obligated during the preceding fiscal year shall be published or otherwise made available by the cooperative effort of the State, public transportation operator, and metropolitan planning organization in electronically accessible formats and means, such as the Internet, in a manner that is consistent with the categories identified in the relevant transportation improvement program.

“(k) PLANNING REQUIREMENTS FOR TIER II MPOS.—

“(1) IN GENERAL.—The Secretary may provide for the performance-based development of a metropolitan transportation plan and transportation improvement program for the metropolitan planning area of a tier II MPO, as the Secretary determines to be appropriate, taking into account—

“(A) the complexity of transportation needs in the area; and

“(B) the technical capacity of the metropolitan planning organization.

“(2) EVALUATION OF PERFORMANCE-BASED PLANNING.—In reviewing a tier II MPO under subsection (m), the Secretary shall take into consideration the effectiveness of the tier II MPO in implementing and maintaining a performance-based planning process that—

“(A) addresses the performance targets described in subsection (h)(2); and

“(B) demonstrates progress on the achievement of those performance targets.

“(1) CERTIFICATION.—

“(1) IN GENERAL.—The Secretary shall—

“(A) ensure that the metropolitan transportation planning process of a metropolitan planning organization is being carried out in accordance with applicable Federal law; and

“(B) subject to paragraph (2), certify, not less frequently than once every 4 years, that the requirements of subparagraph (A) are met with respect to the metropolitan transportation planning process.

“(2) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make a certification under paragraph (1)(B) if—

“(A) the metropolitan transportation planning process complies with the requirements of this section and other applicable Federal law;

“(B) representation on the metropolitan planning organization board includes officials of public agencies that administer or operate major modes of transportation in the relevant metropolitan area, including providers of public transportation; and

“(C) a transportation improvement program for the metropolitan planning area has been approved by the relevant metropolitan planning organization and applicable Governor.

“(3) DELEGATION OF AUTHORITY.—The Secretary may—

“(A) delegate to the appropriate State fact-finding authority regarding the certification of a tier II MPO under this subsection; and

“(B) make the certification under paragraph (1) in consultation with the State.

“(4) EFFECT OF FAILURE TO CERTIFY.—

“(A) WITHHOLDING OF PROJECT FUNDS.—If a metropolitan transportation planning process of a metropolitan planning organization is not certified under paragraph (1), the Sec-

retary may withhold up to 20 percent of the funds attributable to the metropolitan planning area of the metropolitan planning organization for projects funded under this chapter and title 23.

“(B) RESTORATION OF WITHHELD FUNDS.—Any funds withheld under subparagraph (A) shall be restored to the metropolitan planning area on the date of certification of the metropolitan transportation planning process by the Secretary.

“(5) PUBLIC INVOLVEMENT.—In making a determination regarding certification under this subsection, the Secretary shall provide for public involvement appropriate to the metropolitan planning area under review.

“(m) PERFORMANCE-BASED PLANNING PROCESSES EVALUATION.—

“(1) IN GENERAL.—The Secretary shall establish criteria to evaluate the effectiveness of the performance-based planning processes of metropolitan planning organizations under this section, taking into consideration the following:

“(A) The extent to which the metropolitan planning organization has achieved, or is currently making substantial progress toward achieving, the performance targets specified in subsection (h)(2), taking into account whether the metropolitan planning organization developed meaningful performance targets.

“(B) The extent to which the metropolitan planning organization has used proven best practices that help ensure transportation investment that is efficient and cost-effective.

“(C) The extent to which the metropolitan planning organization—

“(i) has developed an investment process that relies on public input and awareness to ensure that investments are transparent and accountable; and

“(ii) provides regular reports allowing the public to access the information being collected in a format that allows the public to meaningfully assess the performance of the metropolitan planning organization.

“(2) REPORT.—

“(A) IN GENERAL.—Not later than 5 years after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall submit to Congress a report evaluating—

“(i) the overall effectiveness of performance-based planning as a tool for guiding transportation investments; and

“(ii) the effectiveness of the performance-based planning process of each metropolitan planning organization under this section.

“(B) PUBLICATION.—The report under subparagraph (A) shall be published or otherwise made available in electronically accessible formats and means, including on the Internet.

“(n) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—

“(1) IN GENERAL.—Notwithstanding any other provision of this chapter or title 23, Federal funds may not be advanced in any metropolitan planning area classified as a nonattainment area or maintenance area for any highway project that will result in a significant increase in the carrying capacity for single-occupant vehicles, unless the owner or operator of the project demonstrates that the project will achieve or make substantial progress toward achieving the performance targets described in subsection (h)(2).

“(2) APPLICABILITY.—This subsection applies to any nonattainment area or maintenance area within the boundaries of a metropolitan planning area, as determined under subsection (d).



“(o) EFFECT OF SECTION.—Nothing in this section provides to any metropolitan planning organization the authority to impose any legal requirement on any transportation facility, provider, or project not subject to the requirements of this chapter or title 23.

“(p) FUNDING.—Funds apportioned under section 104(b)(6) of title 23 and set aside under section 5305(g) of this title shall be available to carry out this section.

“(q) CONTINUATION OF CURRENT REVIEW PRACTICE.—

“(1) IN GENERAL.—In consideration of the factors described in paragraph (2), any decision by the Secretary concerning a metropolitan transportation plan or transportation improvement program shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(2) DESCRIPTION OF FACTORS.—The factors referred to in paragraph (1) are that—

“(A) metropolitan transportation plans and transportation improvement programs are subject to a reasonable opportunity for public comment;

“(B) the projects included in metropolitan transportation plans and transportation improvement programs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

“(C) decisions by the Secretary concerning metropolitan transportation plans and transportation improvement programs have not been reviewed under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) as of January 1, 1997.

“(r) SCHEDULE FOR IMPLEMENTATION.—The Secretary shall issue guidance on a schedule for implementation of the changes made by this section, taking into consideration the established planning update cycle for metropolitan planning organizations. The Secretary shall not require a metropolitan planning organization to deviate from its established planning update cycle to implement changes made by this section. Metropolitan planning organizations shall reflect changes made to their transportation plan or transportation improvement program updates not later than 2 years after the date of issuance of guidance by the Secretary.”

(b) PILOT PROGRAM FOR TRANSIT-ORIENTED DEVELOPMENT PLANNING.—

(1) DEFINITIONS.—In this subsection the following definitions shall apply:

(A) ELIGIBLE PROJECT.—The term “eligible project” means a new fixed guideway capital project or a core capacity improvement project, as those terms are defined in section 5309 of title 49, United States Code, as amended by this division.

(B) SECRETARY.—The term “Secretary” means the Secretary of Transportation.

(2) GENERAL AUTHORITY.—The Secretary may make grants under this subsection to a State or local governmental authority to assist in financing comprehensive planning associated with an eligible project that seeks to—

(A) enhance economic development, ridership, and other goals established during the project development and engineering processes;

(B) facilitate multimodal connectivity and accessibility;

(C) increase access to transit hubs for pedestrian and bicycle traffic;

(D) enable mixed-use development;

(E) identify infrastructure needs associated with the eligible project; and

(F) include private sector participation.

(3) ELIGIBILITY.—A State or local governmental authority that desires to participate

in the program under this subsection shall submit to the Secretary an application that contains, at a minimum—

(A) identification of an eligible project;

(B) a schedule and process for the development of a comprehensive plan;

(C) a description of how the eligible project and the proposed comprehensive plan advance the metropolitan transportation plan of the metropolitan planning organization;

(D) proposed performance criteria for the development and implementation of the comprehensive plan; and

(E) identification of—

(i) partners;

(ii) availability of and authority for funding; and

(iii) potential State, local or other impediments to the implementation of the comprehensive plan.

#### SEC. 20006. STATEWIDE AND NONMETROPOLITAN TRANSPORTATION PLANNING.

Section 5304 of title 49, United States Code, is amended to read as follows:

#### “§ 5304. Statewide and nonmetropolitan transportation planning

“(a) STATEWIDE TRANSPORTATION PLANS AND STIPS.—

“(1) DEVELOPMENT.—

“(A) IN GENERAL.—To accomplish the policy objectives described in section 5303(a), each State shall develop a statewide transportation plan and a statewide transportation improvement program for all areas of the State in accordance with this section.

“(B) INCORPORATION OF METROPOLITAN TRANSPORTATION PLANS AND TIPS.—Each State shall incorporate in the statewide transportation plan and statewide transportation improvement program, without change or by reference, the metropolitan transportation plans and transportation improvement programs, respectively, for each metropolitan planning area in the State.

“(C) NONMETROPOLITAN AREAS.—Each State shall coordinate with local officials in small urbanized areas with a population of 50,000 or more individuals, but fewer than 200,000 individuals, as calculated according to the most recent decennial census, and nonurbanized areas of the State in preparing the nonmetropolitan portions of statewide transportation plans and statewide transportation improvement programs.

“(2) CONTENTS.—The statewide transportation plan and statewide transportation improvement program developed for each State shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation) that will function as—

“(A) an intermodal transportation system for the State; and

“(B) an integral part of an intermodal transportation system for the United States.

“(3) PROCESS.—The process for developing the statewide transportation plan and statewide transportation improvement program shall—

“(A) provide for consideration of all modes of transportation; and

“(B) be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation needs to be addressed.

“(b) COORDINATION AND CONSULTATION.—

“(1) IN GENERAL.—Each State shall—

“(A) coordinate planning carried out under this section with—

“(i) the transportation planning activities carried out under section 5303 for metropolitan areas of the State; and

“(ii) statewide trade and economic development planning activities and related multistate planning efforts;

“(B) coordinate planning carried out under this section with the transportation planning activities carried out by each nonmetropolitan planning organization in the State, as applicable;

“(C) coordinate planning carried out under this section with the transportation planning activities carried out by each rural planning organization in the State, as applicable; and

“(D) develop the transportation portion of the State implementation plan as required by the Clean Air Act (42 U.S.C. 7401 et seq.).

“(2) MULTISTATE AREAS.—

“(A) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan planning area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

“(B) COORDINATION ALONG DESIGNATED TRANSPORTATION CORRIDORS.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate transportation corridor to provide coordinated transportation planning for the entire designated corridor.

“(C) INTERSTATE COMPACTS.—For purposes of this section, any 2 or more States—

“(i) may enter into compacts, agreements, or organizations not in conflict with any Federal law for cooperative efforts and mutual assistance in support of activities authorized under this section, as the activities relate to interstate areas and localities within the States;

“(ii) may establish such agencies (joint or otherwise) as the States determine to be appropriate for ensuring the effectiveness of the agreements and compacts; and

“(iii) are encouraged to enter into such compacts, agreements, or organizations as are appropriate to develop planning documents in support of intercity or multistate area projects, facilities, and services, the relevant components of which shall be reflected in statewide transportation improvement programs and statewide transportation plans.

“(D) RESERVATION OF RIGHTS.—The right to alter, amend, or repeal any interstate compact or agreement entered into under this subsection is expressly reserved.

“(c) RELATIONSHIP WITH OTHER PLANNING OFFICIALS.—

“(1) IN GENERAL.—The Secretary shall encourage each State to cooperate with Federal, State, tribal, and local officers and entities responsible for other types of planning activities that are affected by transportation in the relevant area (including planned growth, economic development, infrastructure services, housing, other public services, environmental protection, airport operations, high-speed and intercity passenger rail, freight rail, port access, and freight movements), to the maximum extent practicable, to ensure that the statewide and nonmetropolitan planning process, statewide transportation plans, and statewide transportation improvement programs are developed with due consideration for other related planning activities in the State.

“(2) INCLUSION.—Cooperation under paragraph (1) shall include the design and delivery of transportation services within the State that are provided by—

“(A) recipients of assistance under sections 202, 203, and 204 of title 23;

“(B) recipients of assistance under this chapter;

“(C) government agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide nonemergency transportation services; and

“(D) sponsors of regionally significant programs, projects, and services that are related to transportation and receive assistance from any public or private source.

“(d) SCOPE OF PLANNING PROCESS.—

“(1) IN GENERAL.—The statewide transportation planning process for a State under this section shall provide for consideration of projects, strategies, and services that will—

“(A) support the economic vitality of the United States, the State, nonmetropolitan areas, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency;

“(B) increase the safety of the transportation system for motorized and non-motorized users;

“(C) increase the security of the transportation system for motorized and non-motorized users;

“(D) increase the accessibility and mobility of individuals and freight;

“(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;

“(F) enhance the integration and connectivity of the transportation system, across and between modes, for individuals and freight;

“(G) increase efficient system management and operation; and

“(H) emphasize the preservation of the existing transportation system.

“(2) PERFORMANCE-BASED APPROACH.—

“(A) IN GENERAL.—The statewide transportation planning process shall provide for the establishment and use of a performance-based approach to transportation decision-making to support the national goals described in section 5301(c) of this title and in section 150(b) of title 23.

“(B) SURFACE TRANSPORTATION PERFORMANCE TARGETS.—

“(i) IN GENERAL.—Each State shall establish performance targets that address the performance measures described in sections 119(f), 148(h), and 167(i) of title 23 to use in tracking attainment of critical outcomes for the region of the State.

“(ii) COORDINATION.—Selection of performance targets by a State shall be coordinated with relevant metropolitan planning organizations to ensure consistency, to the maximum extent practicable.

“(C) PUBLIC TRANSPORTATION PERFORMANCE TARGETS.—For providers of public transportation operating in urbanized areas with a population of fewer than 200,000 individuals, as calculated according to the most recent decennial census, and not represented by a metropolitan planning organization, each State shall adopt the performance targets identified by such providers of public transportation pursuant to sections 5326(c) and 5329(d), for use in tracking attainment of critical outcomes for the region of the metropolitan planning organization.

“(D) INTEGRATION OF OTHER PERFORMANCE-BASED PLANS.—A State shall integrate into the statewide transportation planning proc-

ess, directly or by reference, the goals, objectives, performance measures, and performance targets described in this paragraph in other State plans and processes, and asset management and safety plans developed by providers of public transportation in urbanized areas with a population of fewer than 200,000 individuals, as calculated according to the most recent decennial census, and not represented by a metropolitan planning organization, required as part of a performance-based program, including plans such as—

“(i) the State National Highway System asset management plan;

“(ii) asset management plans developed by providers of public transportation;

“(iii) the State strategic highway safety plan;

“(iv) safety plans developed by providers of public transportation; and

“(v) the national freight strategic plan.

“(E) USE OF PERFORMANCE MEASURES AND TARGETS.—The performance measures and targets established under this paragraph shall be used, at a minimum, by a State as the basis for development of policies, programs, and investment priorities reflected in the statewide transportation plan and statewide transportation improvement program.

“(3) FAILURE TO CONSIDER FACTORS.—The failure to take into consideration 1 or more of the factors specified in paragraphs (1) and (2) shall not be subject to review by any court under this chapter, title 23, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a statewide transportation plan, a statewide transportation improvement program, a project or strategy, or the certification of a planning process.

“(4) PARTICIPATION BY INTERESTED PARTIES.—

“(A) IN GENERAL.—Each State shall provide to affected individuals, public agencies, and other interested parties notice and a reasonable opportunity to comment on the statewide transportation plan and statewide transportation improvement program.

“(B) METHODS.—In carrying out subparagraph (A), the State shall, to the maximum extent practicable—

“(i) develop the statewide transportation plan and statewide transportation improvement program in consultation with interested parties, as appropriate, including by the formation of advisory groups representative of the State and interested parties that participate in the development of the statewide transportation plan and statewide transportation improvement program;

“(ii) hold any public meetings at times and locations that are, as applicable—

“(I) convenient; and

“(II) in compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

“(iii) employ visualization techniques to describe statewide transportation plans and statewide transportation improvement programs; and

“(iv) make public information available in appropriate electronically accessible formats and means, such as the Internet, to afford reasonable opportunity for consideration of public information under subparagraph (A).

“(e) COORDINATION AND CONSULTATION.—

“(1) METROPOLITAN AREAS.—

“(A) IN GENERAL.—Each State shall develop a statewide transportation plan and statewide transportation improvement program for each metropolitan area in the State by incorporating, without change or by reference, at a minimum, as prepared by each metropolitan planning organization des-

ignated for the metropolitan area under section 5303—

“(i) all regionally significant projects to be carried out during the 10-year period beginning on the effective date of the relevant existing metropolitan transportation plan; and

“(ii) all projects to be carried out during the 4-year period beginning on the effective date of the relevant transportation improvement program.

“(B) PROJECTED COSTS.—Each metropolitan planning organization shall provide to each applicable State a description of the projected costs of implementing the projects included in the metropolitan transportation plan of the metropolitan planning organization for purposes of metropolitan financial planning and fiscal constraint.

“(2) NONMETROPOLITAN AREAS.—With respect to nonmetropolitan areas in a State, the statewide transportation plan and statewide transportation improvement program of the State shall be developed in coordination with affected nonmetropolitan local officials with responsibility for transportation, including providers of public transportation.

“(3) INDIAN TRIBAL AREAS.—With respect to each area of a State under the jurisdiction of an Indian tribe, the statewide transportation plan and statewide transportation improvement program of the State shall be developed in consultation with—

“(A) the tribal government; and

“(B) the Secretary of the Interior.

“(4) FEDERAL LAND MANAGEMENT AGENCIES.—With respect to each area of a State under the jurisdiction of a Federal land management agency, the statewide transportation plan and statewide transportation improvement program of the State shall be developed in consultation with the relevant Federal land management agency.

“(5) CONSULTATION, COMPARISON, AND CONSIDERATION.—

“(A) IN GENERAL.—A statewide transportation plan shall be developed, as appropriate, in consultation with Federal, State, tribal, and local agencies responsible for land use management, natural resources, infrastructure permitting, environmental protection, conservation, and historic preservation.

“(B) COMPARISON AND CONSIDERATION.—Consultation under subparagraph (A) shall involve the comparison of statewide transportation plans to, as available—

“(i) Federal, State, tribal, and local conservation plans or maps; and

“(ii) inventories of natural or historic resources.

“(f) STATEWIDE TRANSPORTATION PLAN.—

“(1) DEVELOPMENT.—

“(A) IN GENERAL.—Each State shall develop a statewide transportation plan, the forecast period of which shall be not less than 20 years for all areas of the State, that provides for the development and implementation of the intermodal transportation system of the State.

“(B) INITIAL PERIOD.—A statewide transportation plan shall include, at a minimum, for the first 10-year period of the statewide transportation plan, the identification of existing and future transportation facilities that will function as an integrated statewide transportation system, giving emphasis to those facilities that serve important national, statewide, and regional transportation functions.

“(C) SUBSEQUENT PERIOD.—For the second 10-year period of the statewide transportation plan (referred to in this subsection as the ‘outer years period’), a statewide transportation plan—

“(i) may include identification of future transportation facilities; and

“(ii) shall describe the policies and strategies that provide for the development and implementation of the intermodal transportation system of the State.

“(D) OTHER REQUIREMENTS.—A statewide transportation plan shall—

“(i) include, for the 20-year period covered by the statewide transportation plan, a description of—

“(I) the projected aggregate cost of projects anticipated by a State to be implemented; and

“(II) the revenues necessary to support the projects;

“(ii) include, in such form as the Secretary determines to be appropriate, a description of—

“(I) the existing transportation infrastructure, including an identification of highways, local streets and roads, bicycle and pedestrian facilities, public transportation facilities and services, commuter rail facilities and services, high-speed and intercity passenger rail facilities and services, freight facilities (including freight railroad and port facilities), multimodal and intermodal facilities, and intermodal connectors that, evaluated in the aggregate, function as an integrated transportation system;

“(II) the performance measures and performance targets used in assessing the existing and future performance of the transportation system described in subsection (d)(2);

“(III) the current and projected future usage of the transportation system, including, to the maximum extent practicable, an identification of existing or planned transportation rights-of-way, corridors, facilities, and related real properties;

“(IV) a system performance report evaluating the existing and future condition and performance of the transportation system with respect to the performance targets described in subsection (d)(2) and updates to subsequent system performance reports, including—

“(aa) progress achieved by the State in meeting performance targets, as compared to system performance recorded in previous reports; and

“(bb) an accounting of the performance by the State on outlay of obligated project funds and delivery of projects that have reached substantial completion, in relation to the projects currently on the statewide transportation improvement program and those projects that have been removed from the previous statewide transportation improvement program;

“(V) recommended strategies and investments for improving system performance over the planning horizon, including transportation systems management and operations strategies, maintenance strategies, demand management strategies, asset management strategies, capacity and enhancement investments, land use improvements, intelligent transportation systems deployment and technology adoption strategies as determined by the projected support of performance targets described in subsection (d)(2);

“(VI) recommended strategies and investments to improve and integrate disability-related access to transportation infrastructure;

“(VII) investment priorities for using projected available and proposed revenues over the short- and long-term stages of the planning horizon, in accordance with the financial plan required under paragraph (2);

“(VIII) a description of interstate compacts entered into in order to promote co-

ordinated transportation planning in multistate areas, if applicable;

“(IX) an optional illustrative list of projects containing investments that—

“(aa) are not included in the statewide transportation plan; but

“(bb) would be so included if resources in addition to the resources identified in the financial plan under paragraph (2) were available;

“(X) a discussion (developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies) of types of potential environmental and stormwater mitigation activities and potential areas to carry out those activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the statewide transportation plan; and

“(XI) recommended strategies and investments, including those developed by the State as part of interstate compacts, agreements, or organizations, that support intercity transportation; and

“(iii) be updated by the State not less frequently than once every 5 years.

“(2) FINANCIAL PLAN.—A financial plan referred to in paragraph (1)(D)(ii)(VII) shall—

“(A) be prepared by each State to support the statewide transportation plan; and

“(B) contain a description of—

“(i) the projected resource requirements during the 20-year planning horizon for implementing projects, strategies, and services recommended in the statewide transportation plan, including existing and projected system operating and maintenance needs, proposed enhancement and expansions to the system, projected available revenue from Federal, State, local, and private sources, and innovative financing techniques to finance projects and programs;

“(ii) the projected difference between costs and revenues, and strategies for securing additional new revenue (such as by capture of some of the economic value created by any new investment);

“(iii) estimates of future funds, to be developed cooperatively by the State, any public transportation agency, and relevant metropolitan planning organizations, that are reasonably expected to be available to support the investment priorities recommended in the statewide transportation plan;

“(iv) each applicable project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project; and

“(v) aggregate cost ranges or bands, subject to the condition that any future funding source shall be reasonably expected to be available to support the projected cost ranges or bands, for the outer years period of the statewide transportation plan.

“(3) COORDINATION WITH CLEAN AIR ACT AGENCIES.—For any nonmetropolitan area that is a nonattainment area or maintenance area, the State shall coordinate the development of the statewide transportation plan with the process for development of the transportation control measures of the State implementation plan required by the Clean Air Act (42 U.S.C. 7401 et seq.).

“(4) PUBLICATION.—A statewide transportation plan involving Federal and non-Federal participation programs, projects, and strategies shall be published or otherwise made readily available by the State for public review, including (to the maximum extent practicable) in electronically accessible formats and means, such as the Internet, in such manner as the Secretary shall require.

“(5) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—Notwithstanding paragraph (2), a State shall not be required to select any project from the illustrative list of additional projects included in the statewide transportation plan under paragraph (1)(D)(ii)(IX).

“(g) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAMS.—

“(1) DEVELOPMENT.—

“(A) IN GENERAL.—In cooperation with nonmetropolitan officials with responsibility for transportation and affected public transportation operators, the State shall develop a statewide transportation improvement program for the State that—

“(i) includes projects consistent with the statewide transportation plan;

“(ii) reflects the investment priorities established in the statewide transportation plan; and

“(iii) once implemented, makes significant progress toward achieving the performance targets described in subsection (d)(2).

“(B) OPPORTUNITY FOR PARTICIPATION.—In developing a statewide transportation improvement program, the State, in cooperation with affected public transportation operators, shall provide an opportunity for participation by interested parties in the development of the statewide transportation improvement program, in accordance with subsection (e).

“(C) OTHER REQUIREMENTS.—

“(i) IN GENERAL.—A statewide transportation improvement program shall—

“(I) cover a period of not less than 4 years; and

“(II) be updated not less frequently than once every 4 years, or more frequently, as the Governor determines to be appropriate.

“(ii) INCORPORATION OF TIPS.—A statewide transportation improvement program shall incorporate any relevant transportation improvement program developed by a metropolitan planning organization under section 5303, without change.

“(iii) PROJECTS.—Each project included in a statewide transportation improvement program shall be—

“(I) consistent with the statewide transportation plan developed under this section for the State;

“(II) identical to a project or phase of a project described in a relevant transportation improvement program; and

“(III) for any project located in a non-attainment area or maintenance area, carried out in accordance with the applicable State air quality implementation plan developed under the Clean Air Act (42 U.S.C. 7401 et seq.).

“(2) CONTENTS.—

“(A) PRIORITY LIST.—A statewide transportation improvement program shall include a priority list of proposed federally supported projects and strategies, to be carried out during the 4-year period beginning on the date of adoption of the statewide transportation improvement program, and during each 4-year period thereafter, using existing and reasonably available revenues in accordance with the financial plan under paragraph (3).

“(B) DESCRIPTIONS.—Each project or phase of a project included in a statewide transportation improvement program shall include sufficient descriptive material (such as type of work, termini, length, estimated completion date, and other similar factors) to identify—

“(i) the project or project phase; and

“(ii) the effect that the project or project phase will have in addressing the performance targets described in subsection (d)(2).

“(C) PERFORMANCE TARGET ACHIEVEMENT.—A statewide transportation improvement program shall include, to the maximum extent practicable, a discussion of the anticipated effect of the statewide transportation improvement program toward achieving the performance targets established in the statewide transportation plan, linking investment priorities to those performance targets.

“(D) ILLUSTRATIVE LIST OF PROJECTS.—An optional illustrative list of projects may be prepared containing additional investment priorities that—

“(i) are not included in the statewide transportation improvement program; but

“(ii) would be so included if resources in addition to the resources identified in the financial plan under paragraph (3) were available.

“(3) FINANCIAL PLAN.—A financial plan referred to in paragraph (2)(D)(ii) shall—

“(A) be prepared by each State to support the statewide transportation improvement program; and

“(B) contain a description of—

“(i) the projected resource requirements for implementing projects, strategies, and services recommended in the statewide transportation improvement program, including existing and projected system operating and maintenance needs, proposed enhancement and expansions to the system, projected available revenue from Federal, State, local, and private sources, and innovative financing techniques to finance projects and programs;

“(ii) the projected difference between costs and revenues, and strategies for securing additional new revenue (such as by capture of some of the economic value created by any new investment);

“(iii) estimates of future funds, to be developed cooperatively by the State and relevant metropolitan planning organizations and public transportation agencies, that are reasonably expected to be available to support the investment priorities recommended in the statewide transportation improvement program; and

“(iv) each applicable project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

“(4) INCLUDED PROJECTS.—

“(A) PROJECTS UNDER THIS CHAPTER AND TITLE 23.—A statewide transportation improvement program developed under this subsection for a State shall include the projects within the State that are proposed for funding under this chapter and chapter 1 of title 23.

“(B) PROJECTS UNDER THIS CHAPTER AND CHAPTER 2.—

“(i) REGIONALLY SIGNIFICANT.—Each regionally significant project proposed for funding under this chapter and chapter 2 of title 23 shall be identified individually in the statewide transportation improvement program.

“(ii) NONREGIONALLY SIGNIFICANT.—A description of each project proposed for funding under this chapter and chapter 2 of title 23 that is not determined to be regionally significant shall be contained in 1 line item or identified individually in the statewide transportation improvement program.

“(5) PUBLICATION.—

“(A) IN GENERAL.—A statewide transportation improvement program shall be published or otherwise made readily available by the State for public review in electronically accessible formats and means, such as the Internet.

“(B) ANNUAL LIST OF PROJECTS.—An annual list of projects, including investments in pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation, for which Federal funds have been obligated during the preceding fiscal year shall be published or otherwise made available by the cooperative effort of the State, public transportation operator, and relevant metropolitan planning organizations in electronically accessible formats and means, such as the Internet, in a manner that is consistent with the categories identified in the relevant statewide transportation improvement program.

“(6) PROJECT SELECTION FOR URBANIZED AREAS WITH POPULATIONS OF FEWER THAN 200,000 NOT REPRESENTED BY DESIGNATED MPAS.—Projects carried out in urbanized areas with populations of fewer than 200,000 individuals, as calculated according to the most recent decennial census, and that are not represented by designated metropolitan planning organizations, shall be selected from the approved statewide transportation improvement program (including projects carried out under this chapter and projects carried out by the State), in cooperation with the affected nonmetropolitan planning organization, if any exists, and in consultation with the affected nonmetropolitan area local officials with responsibility for transportation.

“(7) APPROVAL BY SECRETARY.—

“(A) IN GENERAL.—Not less frequently than once every 4 years, a statewide transportation improvement program developed under this subsection shall be reviewed and approved by the Secretary, based on the current planning finding of the Secretary under subparagraph (B).

“(B) PLANNING FINDING.—The Secretary shall make a planning finding referred to in subparagraph (A) not less frequently than once every 5 years regarding whether the transportation planning process through which statewide transportation plans and statewide transportation improvement programs are developed is consistent with this section and section 5303.

“(8) MODIFICATIONS TO PROJECT PRIORITY.—Approval by the Secretary shall not be required to carry out a project included in an approved statewide transportation improvement program in place of another project in the statewide transportation improvement program.

“(h) CERTIFICATION.—

“(1) IN GENERAL.—The Secretary shall—

“(A) ensure that the statewide transportation planning process of a State is being carried out in accordance with applicable Federal law; and

“(B) subject to paragraph (2), certify, not less frequently than once every 5 years, that the requirements of subparagraph (A) are met with respect to the statewide transportation planning process.

“(2) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make a certification under paragraph (1)(B) if—

“(A) the statewide transportation planning process complies with the requirements of this section and other applicable Federal law; and

“(B) a statewide transportation improvement program for the State has been approved by the Governor of the State.

“(3) EFFECT OF FAILURE TO CERTIFY.—

“(A) WITHHOLDING OF PROJECT FUNDS.—If a statewide transportation planning process of a State is not certified under paragraph (1), the Secretary may withhold up to 20 percent of the funds attributable to the State for

projects funded under this chapter and title 23.

“(B) RESTORATION OF WITHHELD FUNDS.—Any funds withheld under subparagraph (A) shall be restored to the State on the date of certification of the statewide transportation planning process by the Secretary.

“(4) PUBLIC INVOLVEMENT.—In making a determination regarding certification under this subsection, the Secretary shall provide for public involvement appropriate to the State under review.

“(i) PERFORMANCE-BASED PLANNING PROCESSES EVALUATION.—

“(1) IN GENERAL.—The Secretary shall establish criteria to evaluate the effectiveness of the performance-based planning processes of States, taking into consideration the following:

“(A) The extent to which the State has achieved, or is currently making substantial progress toward achieving, the performance targets described in subsection (d)(2), taking into account whether the State developed meaningful performance targets.

“(B) The extent to which the State has used proven best practices that help ensure transportation investment that is efficient and cost-effective.

“(C) The extent to which the State—

“(i) has developed an investment process that relies on public input and awareness to ensure that investments are transparent and accountable; and

“(ii) provides regular reports allowing the public to access the information being collected in a format that allows the public to meaningfully assess the performance of the State.

“(2) REPORT.—

“(A) IN GENERAL.—Not later than 5 years after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall submit to Congress a report evaluating—

“(i) the overall effectiveness of performance-based planning as a tool for guiding transportation investments; and

“(ii) the effectiveness of the performance-based planning process of each State.

“(B) PUBLICATION.—The report under subparagraph (A) shall be published or otherwise made available in electronically accessible formats and means, including on the Internet.

“(j) FUNDING.—Funds apportioned under section 104(b)(6) of title 23 and set aside under section 5305(g) shall be available to carry out this section.

“(k) CONTINUATION OF CURRENT REVIEW PRACTICE.—

“(1) IN GENERAL.—In consideration of the factors described in paragraph (2), any decision by the Secretary concerning a statewide transportation plan or statewide transportation improvement program shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(2) DESCRIPTION OF FACTORS.—The factors referred to in paragraph (1) are that—

“(A) statewide transportation plans and statewide transportation improvement programs are subject to a reasonable opportunity for public comment;

“(B) the projects included in statewide transportation plans and statewide transportation improvement programs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

“(C) decisions by the Secretary concerning statewide transportation plans and statewide transportation improvement programs have

not been reviewed under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) as of January 1, 1997.

“(1) SCHEDULE FOR IMPLEMENTATION.—The Secretary shall issue guidance on a schedule for implementation of the changes made by this section, taking into consideration the established planning update cycle for States. The Secretary shall not require a State to deviate from its established planning update cycle to implement changes made by this section. States shall reflect changes made to their transportation plan or transportation improvement program updates not later than 2 years after the date of issuance of guidance by the Secretary under this subsection.”.

**SEC. 20007. PUBLIC TRANSPORTATION EMERGENCY RELIEF PROGRAM.**

Section 5306 of title 49, United States Code, is amended to read as follows:

**“§ 5306. Public transportation emergency relief program**

“(a) DEFINITION.—In this section the following definitions shall apply:

“(1) ELIGIBLE OPERATING COSTS.—The term ‘eligible operating costs’ means costs relating to—

- “(A) evacuation services;
- “(B) rescue operations;
- “(C) temporary public transportation service; or
- “(D) reestablishing, expanding, or relocating public transportation route service before, during, or after an emergency.

“(2) EMERGENCY.—The term ‘emergency’ means a natural disaster affecting a wide area (such as a flood, hurricane, tidal wave, earthquake, severe storm, or landslide) or a catastrophic failure from any external cause, as a result of which—

“(A) the Governor of a State has declared an emergency and the Secretary has concurred; or

“(B) the President has declared a major disaster under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170).

“(b) GENERAL AUTHORITY.—

“(1) CAPITAL ASSISTANCE.—The Secretary may make grants and enter into contracts and other agreements (including agreements with departments, agencies, and instrumentalities of the Government) for capital projects to protect, repair, reconstruct, or replace equipment and facilities of a public transportation system operating in the United States or on an Indian reservation that the Secretary determines is in danger of suffering serious damage, or has suffered serious damage, as a result of an emergency.

“(2) OPERATING ASSISTANCE.—Of the funds appropriated to carry out this section, the Secretary may make grants and enter into contracts or other agreements for the eligible operating costs of public transportation equipment and facilities in an area directly affected by an emergency during—

“(A) the 1-year period beginning on the date of a declaration described in subsection (a)(2); or

“(B) if the Secretary determines there is a compelling need, the 2-year period beginning on the date of a declaration described in subsection (a)(2).

“(c) COORDINATION OF EMERGENCY FUNDS.—

“(1) USE OF FUNDS.—Funds appropriated to carry out this section shall be in addition to any other funds available—

- “(A) under this chapter; or
- “(B) for the same purposes as authorized under this section by any other branch of the Government, including the Federal Emergency Management Agency, or a State agen-

cy, local governmental entity, organization, or person.

“(2) NOTIFICATION.—The Secretary shall notify the Secretary of Homeland Security of the purpose and amount of any grant made or contract or other agreement entered into under this section.

“(d) INTERAGENCY TRANSFERS.—Amounts that are made available for emergency purposes to any other agency of the Government, including the Federal Emergency Management Agency, and that are eligible to be expended for purposes authorized under this section may be transferred to and administered by the Secretary under this section.

“(e) INTERAGENCY AGREEMENT.—

“(1) IN GENERAL.—The Secretary shall enter into an interagency agreement with the Secretary of Homeland Security which shall provide for the means by which the Department of Transportation, including the Federal Transit Administration, and the Department of Homeland Security, including the Federal Emergency Management Agency, shall cooperate in administering emergency relief for public transportation.

“(2) CONTENTS.—The interagency agreement under paragraph (1) shall provide that funds made available to the Federal Emergency Management Agency for emergency relief for public transportation shall be transferred to the Secretary to carry out this section, to the maximum extent possible.

“(f) GRANT REQUIREMENTS.—A grant awarded under this section shall be subject to the terms and conditions the Secretary determines are necessary.

“(g) GOVERNMENT SHARE OF COSTS.—

“(1) CAPITAL PROJECTS AND OPERATING ASSISTANCE.—A grant, contract, or other agreement for a capital project or eligible operating costs under this section shall be, at the option of the recipient, for not more than 80 percent of the net project cost, as determined by the Secretary.

“(2) NON-FEDERAL SHARE.—The remainder of the net project cost may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital.

“(3) WAIVER.—The Secretary may waive, in whole or part, the non-Federal share required under paragraph (2).”.

**SEC. 20008. URBANIZED AREA FORMULA GRANTS.**

Section 5307 of title 49, United States Code, is amended to read as follows:

**“§ 5307. Urbanized area formula grants**

“(a) GENERAL AUTHORITY.—

“(1) GRANTS.—The Secretary may make grants under this section for—

- “(A) capital projects;
- “(B) planning; and
- “(C) operating costs of equipment and facilities for use in public transportation in an urbanized area with a population of fewer than 200,000 individuals, as determined by the Bureau of the Census.

“(2) SPECIAL RULE.—The Secretary may make grants under this section to finance the operating cost of equipment and facilities for use in public transportation, excluding rail fixed guideway, in an urbanized area with a population of not fewer than 200,000 individuals, as determined by the Bureau of the Census—

- “(A) for public transportation systems that operate 75 or fewer buses during peak service hours, in an amount not to exceed 50 percent of the share of the apportionment which is attributable to such systems within the urbanized area, as measured by vehicle revenue hours; and

“(B) for public transportation systems that operate a minimum of 76 buses and a maximum of 100 buses during peak service hours, in an amount not to exceed 25 percent of the share of the apportionment which is attributable to such systems within the urbanized area, as measured by vehicle revenue hours.

“(3) TEMPORARY AND TARGETED ASSISTANCE.—

“(A) ELIGIBILITY.—The Secretary may make a grant under this section to finance the operating cost of equipment and facilities to a recipient for use in public transportation in an area that the Secretary determines has—

“(i) a population of not fewer than 200,000 individuals, as determined by the Bureau of the Census; and

“(ii) a 3-month unemployment rate, as reported by the Bureau of Labor Statistics, that is—

- “(I) greater than 7 percent; and
- “(II) at least 2 percentage points greater than the lowest 3-month unemployment rate for the area during the 5-year period preceding the date of the determination.

“(B) AWARD OF GRANT.—

“(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the Secretary may make a grant under this section for not more than 2 consecutive fiscal years.

“(ii) ADDITIONAL YEAR.—If, at the end of the second fiscal year following the date on which the Secretary makes a determination under subparagraph (A) with respect to an area, the Secretary determines that the 3-month unemployment rate for the area is at least 2 percentage points greater than the unemployment rate for the area at the time the Secretary made the determination under subparagraph (A), the Secretary may make a grant to a recipient in the area for 1 additional consecutive fiscal year.

“(iii) EXCLUSION PERIOD.—Beginning on the last day of the last consecutive fiscal year for which a recipient receives a grant under this paragraph, the Secretary may not make a subsequent grant under this paragraph to the recipient for a number of fiscal years equal to the number of consecutive fiscal years in which the recipient received a grant under this paragraph.

“(C) LIMITATION.—

“(i) FIRST FISCAL YEAR.—For the first fiscal year following the date on which the Secretary makes a determination under subparagraph (A) with respect to an area, not more than 25 percent of the amount apportioned to a designated recipient under section 5336 for the fiscal year shall be available for operating assistance for the area.

“(ii) SECOND AND THIRD FISCAL YEARS.—For the second and third fiscal years following the date on which the Secretary makes a determination under subparagraph (A) with respect to an area, not more than 20 percent of the amount apportioned to a designated recipient under section 5336 for the fiscal year shall be available for operating assistance for the area.

“(D) PERIOD OF AVAILABILITY FOR OPERATING ASSISTANCE.—Operating assistance awarded under this paragraph shall be available for expenditure to a recipient in an area until the end of the second fiscal year following the date on which the Secretary makes a determination under subparagraph (A) with respect to the area, after which time any unexpended funds shall be available to the recipient for other eligible activities under this section.

“(E) CERTIFICATION.—The Secretary may make a grant for operating assistance under this paragraph for a fiscal year only if the recipient certifies that—

“(i) the recipient will maintain public transportation service levels at or above the current service level, which shall be demonstrated by providing an equal or greater number of vehicle hours of service in the fiscal year than the number of vehicle hours of service provided in the preceding fiscal year;

“(ii) any non-Federal entity that provides funding to the recipient, including a State or local governmental entity, will maintain the tax rate or rate of allocations dedicated to public transportation at or above the rate for the preceding fiscal year;

“(iii) the recipient has allocated the maximum amount of funding under this section for preventive maintenance costs eligible as a capital expense necessary to maintain the level and quality of service provided in the preceding fiscal year; and

“(iv) the recipient will not use funding under this section for new capital assets except as necessary for the existing system to maintain or achieve a state of good repair, assure safety, or replace obsolete technology.

“(b) ACCESS TO JOBS PROJECTS.—

“(1) IN GENERAL.—A designated recipient shall expend not less than 3 percent of the amount apportioned to the designated recipient under section 5336 or an amount equal to the amount apportioned to the designated recipient in fiscal year 2011 to carry out section 5316 (as in effect for fiscal year 2011), whichever is less, to carry out a program to develop and maintain job access projects. Eligible projects may include—

“(A) a project relating to the development and maintenance of public transportation services designed to transport eligible low-income individuals to and from jobs and activities related to their employment, including—

“(i) a public transportation project to finance planning, capital, and operating costs of providing access to jobs under this chapter;

“(ii) promoting public transportation by low-income workers, including the use of public transportation by workers with non-traditional work schedules;

“(iii) promoting the use of public transportation vouchers for welfare recipients and eligible low-income individuals; and

“(iv) promoting the use of employer-provided transportation, including the transit pass benefit program under section 132 of the Internal Revenue Code of 1986; and

“(B) a transportation project designed to support the use of public transportation including—

“(i) enhancements to existing public transportation service for workers with non-traditional hours or reverse commutes;

“(ii) guaranteed ride home programs;

“(iii) bicycle storage facilities; and

“(iv) projects that otherwise facilitate the provision of public transportation services to employment opportunities.

“(2) PROJECT SELECTION AND PLAN DEVELOPMENT.—Each grant recipient under this subsection shall certify that—

“(A) the projects selected were included in a locally developed, coordinated public transit-human services transportation plan;

“(B) the plan was developed and approved through a process that included individuals with low incomes, representatives of public, private, and nonprofit transportation and human services providers, and participation by the public;

“(C) services funded under this subsection are coordinated with transportation services funded by other Federal departments and agencies to the maximum extent feasible; and

“(D) allocations of the grant to subrecipients, if any, are distributed on a fair and equitable basis.

“(3) COMPETITIVE PROCESS FOR GRANTS TO SUBRECIPIENTS.—

“(A) AREAWIDE SOLICITATIONS.—A recipient of funds apportioned under this subsection may conduct, in cooperation with the appropriate metropolitan planning organization, an areawide solicitation for applications for grants to the recipient and subrecipients under this subsection.

“(B) APPLICATION.—If the recipient elects to engage in a competitive process, recipients and subrecipients seeking to receive a grant from apportioned funds shall submit to the recipient an application in the form and in accordance with such requirements as the recipient shall establish.

“(c) PROGRAM OF PROJECTS.—Each recipient of a grant shall—

“(1) make available to the public information on amounts available to the recipient under this section;

“(2) develop, in consultation with interested parties, including private transportation providers, a proposed program of projects for activities to be financed;

“(3) publish a proposed program of projects in a way that affected individuals, private transportation providers, and local elected officials have the opportunity to examine the proposed program and submit comments on the proposed program and the performance of the recipient;

“(4) provide an opportunity for a public hearing in which to obtain the views of individuals on the proposed program of projects;

“(5) ensure that the proposed program of projects provides for the coordination of public transportation services assisted under section 5336 of this title with transportation services assisted from other United States Government sources;

“(6) consider comments and views received, especially those of private transportation providers, in preparing the final program of projects; and

“(7) make the final program of projects available to the public.

“(d) GRANT RECIPIENT REQUIREMENTS.—A recipient may receive a grant in a fiscal year only if—

“(1) the recipient, within the time the Secretary prescribes, submits a final program of projects prepared under subsection (c) of this section and a certification for that fiscal year that the recipient (including a person receiving amounts from a Governor under this section)—

“(A) has or will have the legal, financial, and technical capacity to carry out the program, including safety and security aspects of the program;

“(B) has or will have satisfactory continuing control over the use of equipment and facilities;

“(C) will maintain equipment and facilities;

“(D) will ensure that, during non-peak hours for transportation using or involving a facility or equipment of a project financed under this section, a fare that is not more than 50 percent of the peak hour fare will be charged for any—

“(i) senior;

“(ii) individual who, because of illness, injury, age, congenital malfunction, or other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semiambulatory capability), cannot use a public transportation service or a public transportation facility effectively without special facilities, planning, or design; and

“(iii) individual presenting a Medicare card issued to that individual under title II or XVIII of the Social Security Act (42 U.S.C. 401 et seq. and 1395 et seq.);

“(E) in carrying out a procurement under this section, will comply with sections 5323 and 5325;

“(F) has complied with subsection (c) of this section;

“(G) has available and will provide the required amounts as provided by subsection (e) of this section;

“(H) will comply with sections 5303 and 5304;

“(I) has a locally developed process to solicit and consider public comment before raising a fare or carrying out a major reduction of transportation;

“(J)(i) will expend for each fiscal year for public transportation security projects, including increased lighting in or adjacent to a public transportation system (including bus stops, subway stations, parking lots, and garages), increased camera surveillance of an area in or adjacent to that system, providing an emergency telephone line to contact law enforcement or security personnel in an area in or adjacent to that system, and any other project intended to increase the security and safety of an existing or planned public transportation system, at least 1 percent of the amount the recipient receives for each fiscal year under section 5336 of this title; or

“(ii) has decided that the expenditure for security projects is not necessary;

“(K) in the case of a recipient for an urbanized area with a population of not fewer than 200,000 individuals, as determined by the Bureau of the Census—

“(i) will expend not less than 1 percent of the amount the recipient receives each fiscal year under this section for associated transit improvements, as defined in section 5302; and

“(ii) will submit an annual report listing projects carried out in the preceding fiscal year with those funds; and

“(L) will comply with section 5329(d); and

“(2) the Secretary accepts the certification.

“(e) GOVERNMENT SHARE OF COSTS.—

“(1) CAPITAL PROJECTS.—A grant for a capital project under this section shall be for 80 percent of the net project cost of the project. The recipient may provide additional local matching amounts.

“(2) OPERATING EXPENSES.—A grant for operating expenses under this section may not exceed 50 percent of the net project cost of the project.

“(3) REMAINING COSTS.—Subject to paragraph (4), the remainder of the net project costs shall be provided—

“(A) in cash from non-Government sources other than revenues from providing public transportation services;

“(B) from revenues from the sale of advertising and concessions;

“(C) from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital;

“(D) from amounts appropriated or otherwise made available to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation; and

“(E) from amounts received under a service agreement with a State or local social service agency or private social service organization.

“(4) USE OF CERTAIN FUNDS.—For purposes of subparagraphs (D) and (E) of paragraph (3), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42

U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

“(f) UNDERTAKING PROJECTS IN ADVANCE.—

“(1) PAYMENT.—The Secretary may pay the Government share of the net project cost to a State or local governmental authority that carries out any part of a project eligible under subparagraph (A) or (B) of subsection (a)(1) without the aid of amounts of the Government and according to all applicable procedures and requirements if—

“(A) the recipient applies for the payment;

“(B) the Secretary approves the payment; and

“(C) before carrying out any part of the project, the Secretary approves the plans and specifications for the part in the same way as for other projects under this section.

“(2) APPROVAL OF APPLICATION.—The Secretary may approve an application under paragraph (1) of this subsection only if an authorization for this section is in effect for the fiscal year to which the application applies. The Secretary may not approve an application if the payment will be more than—

“(A) the recipient's expected apportionment under section 5336 of this title if the total amount authorized to be appropriated for the fiscal year to carry out this section is appropriated; less

“(B) the maximum amount of the apportionment that may be made available for projects for operating expenses under this section.

“(3) FINANCING COSTS.—

“(A) IN GENERAL.—The cost of carrying out part of a project includes the amount of interest earned and payable on bonds issued by the recipient to the extent proceeds of the bonds are expended in carrying out the part.

“(B) LIMITATION ON THE AMOUNT OF INTEREST.—The amount of interest allowed under this paragraph may not be more than the most favorable financing terms reasonably available for the project at the time of borrowing.

“(C) CERTIFICATION.—The applicant shall certify, in a manner satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

“(g) REVIEWS, AUDITS, AND EVALUATIONS.—

“(1) ANNUAL REVIEW.—

“(A) IN GENERAL.—At least annually, the Secretary shall carry out, or require a recipient to have carried out independently, reviews and audits the Secretary considers appropriate to establish whether the recipient has carried out—

“(i) the activities proposed under subsection (d) of this section in a timely and effective way and can continue to do so; and

“(ii) those activities and its certifications and has used amounts of the Government in the way required by law.

“(B) AUDITING PROCEDURES.—An audit of the use of amounts of the Government shall comply with the auditing procedures of the Comptroller General.

“(2) TRIENNIAL REVIEW.—At least once every 3 years, the Secretary shall review and evaluate completely the performance of a recipient in carrying out the recipient's program, specifically referring to compliance with statutory and administrative requirements and the extent to which actual program activities are consistent with the activities proposed under subsection (d) of this section and the planning process required under sections 5303, 5304, and 5305 of this title. To the extent practicable, the Secretary shall coordinate such reviews with any related State or local reviews.

“(3) ACTIONS RESULTING FROM REVIEW, AUDIT, OR EVALUATION.—The Secretary may take appropriate action consistent with a review, audit, and evaluation under this subsection, including making an appropriate adjustment in the amount of a grant or withdrawing the grant.

“(h) TREATMENT.—For purposes of this section, the United States Virgin Islands shall be treated as an urbanized area, as defined in section 5302.

“(i) PASSENGER FERRY GRANT PROGRAM.—

“(1) IN GENERAL.—The Secretary may make grants under this subsection to recipients for passenger ferry projects that are eligible for a grant under subsection (a).

“(2) GRANT REQUIREMENTS.—Except as otherwise provided in this subsection, a grant under this subsection shall be subject to the same terms and conditions as a grant under subsection (a).

“(3) COMPETITIVE PROCESS.—The Secretary shall solicit grant applications and make grants for eligible projects on a competitive basis.

“(4) GEOGRAPHICALLY CONSTRAINED AREAS.—Of the amounts made available to carry out this subsection, \$10,000,000 shall be for capital grants relating to passenger ferries in areas with limited or no access to public transportation as a result of geographical constraints.”.

#### SEC. 20009. CLEAN FUEL GRANT PROGRAM.

Section 5308 of title 49, United States Code, is amended to read as follows:

##### “§ 5308. Clean fuel grant program

“(a) DEFINITIONS.—In this section, the following definitions shall apply:

“(1) CLEAN FUEL BUS.—The term ‘clean fuel bus’ means a bus that is a clean fuel vehicle.

“(2) CLEAN FUEL VEHICLE.—The term ‘clean fuel vehicle’ means a passenger vehicle used to provide public transportation that the Administrator of the Environmental Protection Agency has certified sufficiently reduces energy consumption or reduces harmful emissions, including direct carbon emissions, when compared to a comparable standard vehicle.

“(3) DIRECT CARBON EMISSIONS.—The term ‘direct carbon emissions’ means the quantity of direct greenhouse gas emissions from a vehicle, as determined by the Administrator of the Environmental Protection Agency.

“(4) ELIGIBLE AREA.—The term ‘eligible area’ means an area that is—

“(A) designated as a nonattainment area for ozone or carbon monoxide under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)); or

“(B) a maintenance area, as defined in section 5303, for ozone or carbon monoxide.

“(5) ELIGIBLE PROJECT.—The term ‘eligible project’ means a project or program of projects in an eligible area for—

“(A) acquiring or leasing clean fuel vehicles;

“(B) constructing or leasing facilities and related equipment for clean fuel vehicles;

“(C) constructing new public transportation facilities to accommodate clean fuel vehicles; or

“(D) rehabilitating or improving existing public transportation facilities to accommodate clean fuel vehicles.

“(6) RECIPIENT.—The term ‘recipient’ means—

“(A) for an eligible area that is an urbanized area with a population of fewer than 200,000 individuals, as determined by the Bureau of the Census, the State in which the eligible area is located; and

“(B) for an eligible area not described in subparagraph (A), the designated recipient for the eligible area.

“(b) AUTHORITY.—The Secretary may make grants to recipients to finance eligible projects under this section.

“(c) GRANT REQUIREMENTS.—

“(1) IN GENERAL.—A grant under this section shall be subject to the requirements of section 5307.

“(2) GOVERNMENT SHARE OF COSTS FOR CERTAIN PROJECTS.—Section 5323(j) applies to projects carried out under this section, unless the grant recipient requests a lower grant percentage.

“(d) MINIMUM AMOUNTS.—Of amounts made available by or appropriated under section 5338(a)(2)(D) in each fiscal year to carry out this section—

“(1) not less than 65 percent shall be made available to fund eligible projects relating to clean fuel buses; and

“(2) not less than 10 percent shall be made available for eligible projects relating to facilities and related equipment for clean fuel buses.

“(e) COMPETITIVE PROCESS.—The Secretary shall solicit grant applications and make grants for eligible projects on a competitive basis.

“(f) AVAILABILITY OF FUNDS.—Any amounts made available or appropriated to carry out this section—

“(1) shall remain available to an eligible project for 2 years after the fiscal year for which the amount is made available or appropriated; and

“(2) that remain unobligated at the end of the period described in paragraph (1) shall be added to the amount made available to an eligible project in the following fiscal year.”.

#### SEC. 20010. FIXED GUIDEWAY CAPITAL INVESTMENT GRANTS.

(a) IN GENERAL.—Section 5309 of title 49, United States Code, is amended to read as follows:

##### “§ 5309. Fixed guideway capital investment grants

“(a) DEFINITIONS.—In this section, the following definitions shall apply:

“(1) APPLICANT.—The term ‘applicant’ means a State or local governmental authority that applies for a grant under this section.

“(2) BUS RAPID TRANSIT PROJECT.—The term ‘bus rapid transit project’ means a single route bus capital project—

“(A) a majority of which operates in a separated right-of-way dedicated for public transportation use during peak periods;

“(B) that represents a substantial investment in a single route in a defined corridor or subarea; and

“(C) that includes features that emulate the services provided by rail fixed guideway public transportation systems, including—

“(i) defined stations;

“(ii) traffic signal priority for public transportation vehicles;

“(iii) short headway bidirectional services for a substantial part of weekdays and weekend days; and

“(iv) any other features the Secretary may determine are necessary to produce high-quality public transportation services that emulate the services provided by rail fixed guideway public transportation systems.

“(3) CORE CAPACITY IMPROVEMENT PROJECT.—The term ‘core capacity improvement project’ means a substantial corridor-based capital investment in an existing fixed guideway system that adds capacity and functionality.



“(4) NEW FIXED GUIDEWAY CAPITAL PROJECT.—The term ‘new fixed guideway capital project’ means—

“(A) a new fixed guideway project that is a minimum operable segment or extension to an existing fixed guideway system; or

“(B) a bus rapid transit project that is a minimum operable segment or an extension to an existing bus rapid transit system.

“(5) PROGRAM OF INTERRELATED PROJECTS.—The term ‘program of interrelated projects’ means the simultaneous development of—

“(A) 2 or more new fixed guideway capital projects or core capacity improvement projects; or

“(B) 1 or more new fixed guideway capital projects and 1 or more core capacity improvement projects.

“(b) GENERAL AUTHORITY.—The Secretary may make grants under this section to State and local governmental authorities to assist in financing—

“(1) new fixed guideway capital projects, including the acquisition of real property, the initial acquisition of rolling stock for the system, the acquisition of rights-of-way, and relocation, for fixed guideway corridor development for projects in the advanced stages of project development or engineering; and

“(2) core capacity improvement projects, including the acquisition of real property, the acquisition of rights-of-way, double tracking, signalization improvements, electrification, expanding system platforms, acquisition of rolling stock, construction of infill stations, and such other capacity improvement projects as the Secretary determines are appropriate.

“(c) GRANT REQUIREMENTS.—

“(1) IN GENERAL.—The Secretary may make a grant under this section for new fixed guideway capital projects or core capacity improvement projects, if the Secretary determines that—

“(A) the project is part of an approved transportation plan required under sections 5303 and 5304; and

“(B) the applicant has, or will have—

“(i) the legal, financial, and technical capacity to carry out the project, including the safety and security aspects of the project;

“(ii) satisfactory continuing control over the use of the equipment or facilities; and

“(iii) the technical and financial capacity to maintain new and existing equipment and facilities.

“(2) CERTIFICATION.—An applicant that has submitted the certifications required under subparagraphs (A), (B), (C), and (H) of section 5307(d)(1) shall be deemed to have provided sufficient information upon which the Secretary may make the determinations required under this subsection.

“(3) TECHNICAL CAPACITY.—The Secretary shall use an expedited technical capacity review process for applicants that have recently and successfully completed at least 1 new bus rapid transit project, new fixed guideway capital project, or core capacity improvement project, if—

“(A) the applicant achieved budget, cost, and ridership outcomes for the project that are consistent with or better than projections; and

“(B) the applicant demonstrates that the applicant continues to have the staff expertise and other resources necessary to implement a new project.

“(4) RECIPIENT REQUIREMENTS.—A recipient of a grant awarded under this section shall be subject to all terms, conditions, requirements, and provisions that the Secretary de-

termines to be necessary or appropriate for purposes of this section.

“(d) NEW FIXED GUIDEWAY GRANTS.—

“(1) PROJECT DEVELOPMENT PHASE.—

“(A) ENTRANCE INTO PROJECT DEVELOPMENT PHASE.—A new fixed guideway capital project shall enter into the project development phase when—

“(i) the applicant—

“(I) submits a letter to the Secretary describing the project and requesting entry into the project development phase; and

“(II) initiates activities required to be carried out under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the project; and

“(ii) the Secretary responds in writing to the applicant within 45 days whether the information provided is sufficient to enter into the project development phase, including, when necessary, a detailed description of any information deemed insufficient.

“(B) ACTIVITIES DURING PROJECT DEVELOPMENT PHASE.—Concurrent with the analysis required to be made under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), each applicant shall develop sufficient information to enable the Secretary to make findings of project justification, policies and land use patterns that promote public transportation, and local financial commitment under this subsection.

“(C) COMPLETION OF PROJECT DEVELOPMENT ACTIVITIES REQUIRED.—

“(i) IN GENERAL.—Not later than 2 years after the date on which a project enters into the project development phase, the applicant shall complete the activities required to obtain a project rating under subsection (g)(2) and submit completed documentation to the Secretary.

“(ii) EXTENSION OF TIME.—Upon the request of an applicant, the Secretary may extend the time period under clause (i), if the applicant submits to the Secretary—

“(I) a reasonable plan for completing the activities required under this paragraph; and

“(II) an estimated time period within which the applicant will complete such activities.

“(2) ENGINEERING PHASE.—

“(A) IN GENERAL.—A new fixed guideway capital project may advance to the engineering phase upon completion of activities required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), as demonstrated by a record of decision with respect to the project, a finding that the project has no significant impact, or a determination that the project is categorically excluded, only if the Secretary determines that the project—

“(i) is selected as the locally preferred alternative at the completion of the process required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

“(ii) is adopted into the metropolitan transportation plan required under section 5303;

“(iii) is justified based on a comprehensive review of the project's mobility improvements, environmental benefits, and cost-effectiveness, as measured by cost per rider;

“(iv) is supported by policies and land use patterns that promote public transportation, including plans for future land use and rezoning, and economic development around public transportation stations; and

“(v) is supported by an acceptable degree of local financial commitment (including evidence of stable and dependable financing sources), as required under subsection (f).

“(B) DETERMINATION THAT PROJECT IS JUSTIFIED.—In making a determination under sub-

paragraph (A)(iii), the Secretary shall evaluate, analyze, and consider—

“(i) the reliability of the forecasting methods used to estimate costs and utilization made by the recipient and the contractors to the recipient; and

“(ii) population density and current public transportation ridership in the transportation corridor.

“(e) CORE CAPACITY IMPROVEMENT PROJECTS.—

“(1) PROJECT DEVELOPMENT PHASE.—

“(A) ENTRANCE INTO PROJECT DEVELOPMENT PHASE.—A core capacity improvement project shall be deemed to have entered into the project development phase if—

“(i) the applicant—

“(I) submits a letter to the Secretary describing the project and requesting entry into the project development phase; and

“(II) initiates activities required to be carried out under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the project; and

“(ii) the Secretary responds in writing to the applicant within 45 days whether the information provided is sufficient to enter into the project development phase, including when necessary a detailed description of any information deemed insufficient.

“(B) ACTIVITIES DURING PROJECT DEVELOPMENT PHASE.—Concurrent with the analysis required to be made under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), each applicant shall develop sufficient information to enable the Secretary to make findings of project justification and local financial commitment under this subsection.

“(C) COMPLETION OF PROJECT DEVELOPMENT ACTIVITIES REQUIRED.—

“(i) IN GENERAL.—Not later than 2 years after the date on which a project enters into the project development phase, the applicant shall complete the activities required to obtain a project rating under subsection (g)(2) and submit completed documentation to the Secretary.

“(ii) EXTENSION OF TIME.—Upon the request of an applicant, the Secretary may extend the time period under clause (i), if the applicant submits to the Secretary—

“(I) a reasonable plan for completing the activities required under this paragraph; and

“(II) an estimated time period within which the applicant will complete such activities.

“(2) ENGINEERING PHASE.—

“(A) IN GENERAL.—A core capacity improvement project may advance into the engineering phase upon completion of activities required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), as demonstrated by a record of decision with respect to the project, a finding that the project has no significant impact, or a determination that the project is categorically excluded, only if the Secretary determines that the project—

“(i) is selected as the locally preferred alternative at the completion of the process required under the National Environmental Policy Act of 1969;

“(ii) is adopted into the metropolitan transportation plan required under section 5303;

“(iii) is in a corridor that is—

“(I) at or over capacity; or

“(II) projected to be at or over capacity within the next 5 years;

“(iv) is justified based on a comprehensive review of the project's mobility improvements, environmental benefits, and cost-effectiveness, as measured by cost per rider; and

“(v) is supported by an acceptable degree of local financial commitment (including evidence of stable and dependable financing sources), as required under subsection (f).

“(B) DETERMINATION THAT PROJECT IS JUSTIFIED.—In making a determination under subparagraph (A)(iv), the Secretary shall evaluate, analyze, and consider—

“(i) the reliability of the forecasting methods used to estimate costs and utilization made by the recipient and the contractors to the recipient;

“(ii) whether the project will adequately address the capacity concerns in a corridor;

“(iii) whether the project will improve interconnectivity among existing systems; and

“(iv) whether the project will improve environmental outcomes.

“(f) FINANCING SOURCES.—

“(1) REQUIREMENTS.—In determining whether a project is supported by an acceptable degree of local financial commitment and shows evidence of stable and dependable financing sources for purposes of subsection (d)(2)(A)(v) or (e)(2)(A)(v), the Secretary shall require that—

“(A) the proposed project plan provides for the availability of contingency amounts that the Secretary determines to be reasonable to cover unanticipated cost increases or funding shortfalls;

“(B) each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable; and

“(C) local resources are available to recapitalize, maintain, and operate the overall existing and proposed public transportation system, including essential feeder bus and other services necessary to achieve the projected ridership levels without requiring a reduction in existing public transportation services or level of service to operate the project.

“(2) CONSIDERATIONS.—In assessing the stability, reliability, and availability of proposed sources of local financing for purposes of subsection (d)(2)(A)(v) or (e)(2)(A)(v), the Secretary shall consider—

“(A) the reliability of the forecasting methods used to estimate costs and revenues made by the recipient and the contractors to the recipient;

“(B) existing grant commitments;

“(C) the degree to which financing sources are dedicated to the proposed purposes;

“(D) any debt obligation that exists, or is proposed by the recipient, for the proposed project or other public transportation purpose; and

“(E) the extent to which the project has a local financial commitment that exceeds the required non-Government share of the cost of the project.

“(g) PROJECT ADVANCEMENT AND RATINGS.—

“(1) PROJECT ADVANCEMENT.—A new fixed guideway capital project or core capacity improvement project proposed to be carried out using a grant under this section may not advance from the project development phase to the engineering phase, or from the engineering phase to the construction phase, unless the Secretary determines that—

“(A) the project meets the applicable requirements under this section; and

“(B) there is a reasonable likelihood that the project will continue to meet the requirements under this section.

“(2) RATINGS.—

“(A) OVERALL RATING.—In making a determination under paragraph (1), the Secretary shall evaluate and rate a project as a whole on a 5-point scale (high, medium-high, medium, medium-low, or low) based on—

“(i) in the case of a new fixed guideway capital project, the project justification criteria under subsection (d)(2)(A)(iii), the policies and land use patterns that support public transportation, and the degree of local financial commitment; and

“(ii) in the case of a core capacity improvement project, the capacity needs of the corridor, the project justification criteria under subsection (e)(2)(A)(iv), and the degree of local financial commitment.

“(B) INDIVIDUAL RATINGS FOR EACH CRITERION.—In rating a project under this paragraph, the Secretary shall—

“(i) provide, in addition to the overall project rating under subparagraph (A), individual ratings for each of the criteria established under subsection (d)(2)(A)(iii) or (e)(2)(A)(iv), as applicable; and

“(ii) give comparable, but not necessarily equal, numerical weight to each of the criteria established under subsections (d)(2)(A)(iii) or (e)(2)(A)(iv), as applicable, in calculating the overall project rating under clause (i).

“(C) MEDIUM RATING NOT REQUIRED.—The Secretary shall not require that any single project justification criterion meet or exceed a ‘medium’ rating in order to advance the project from one phase to another.

“(3) WARRANTS.—The Secretary shall, to the maximum extent practicable, develop and use special warrants for making a project justification determination under subsection (d)(2) or (e)(2), as applicable, for a project proposed to be funded using a grant under this section, if—

“(A) the share of the cost of the project to be provided under this section does not exceed—

“(i) \$100,000,000; or

“(ii) 50 percent of the total cost of the project;

“(B) the applicant requests the use of the warrants;

“(C) the applicant certifies that its existing public transportation system is in a state of good repair; and

“(D) the applicant meets any other requirements that the Secretary considers appropriate to carry out this subsection.

“(4) LETTERS OF INTENT AND EARLY SYSTEMS WORK AGREEMENTS.—In order to expedite a project under this subsection, the Secretary shall, to the maximum extent practicable, issue letters of intent and enter into early systems work agreements upon issuance of a record of decision for projects that receive an overall project rating of medium or better.

“(5) POLICY GUIDANCE.—The Secretary shall issue policy guidance regarding the review and evaluation process and criteria—

“(A) not later than 180 days after the date of enactment of the Federal Public Transportation Act of 2012; and

“(B) each time the Secretary makes significant changes to the process and criteria, but not less frequently than once every 2 years.

“(6) RULES.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue rules establishing an evaluation and rating process for—

“(A) new fixed guideway capital projects that is based on the results of project justification, policies and land use patterns that promote public transportation, and local financial commitment, as required under this subsection; and

“(B) core capacity improvement projects that is based on the results of the capacity needs of the corridor, project justification, and local financial commitment.

“(7) APPLICABILITY.—This subsection shall not apply to a project for which the Secretary issued a letter of intent, entered into a full funding grant agreement, or entered into a project construction agreement before the date of enactment of the Federal Public Transportation Act of 2012.

“(h) PROGRAMS OF INTERRELATED PROJECTS.—

“(1) PROJECT DEVELOPMENT PHASE.—A federally funded project in a program of interrelated projects shall advance through project development as provided in subsection (d) or (e), as applicable.

“(2) ENGINEERING PHASE.—A federally funded project in a program of interrelated projects may advance into the engineering phase upon completion of activities required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), as demonstrated by a record of decision with respect to the project, a finding that the project has no significant impact, or a determination that the project is categorically excluded, only if the Secretary determines that—

“(A) the project is selected as the locally preferred alternative at the completion of the process required under the National Environmental Policy Act of 1969;

“(B) the project is adopted into the metropolitan transportation plan required under section 5303;

“(C) the program of interrelated projects involves projects that have a logical connectivity to one another;

“(D) the program of interrelated projects, when evaluated as a whole, meets the requirements of subsection (d)(2) or (e)(2), as applicable;

“(E) the program of interrelated projects is supported by a program implementation plan demonstrating that construction will begin on each of the projects in the program of interrelated projects within a reasonable time frame; and

“(F) the program of interrelated projects is supported by an acceptable degree of local financial commitment, as described in subsection (f).

“(3) PROJECT ADVANCEMENT AND RATINGS.—

“(A) PROJECT ADVANCEMENT.—A project receiving a grant under this section that is part of a program of interrelated projects may not advance from the project development phase to the engineering phase, or from the engineering phase to the construction phase, unless the Secretary determines that the program of interrelated projects meets the applicable requirements of this section and there is a reasonable likelihood that the program will continue to meet such requirements.

“(B) RATINGS.—

“(i) OVERALL RATING.—In making a determination under subparagraph (A), the Secretary shall evaluate and rate a program of interrelated projects on a 5-point scale (high, medium-high, medium, medium-low, or low) based on the criteria described in paragraph (2).

“(ii) INDIVIDUAL RATING FOR EACH CRITERION.—In rating a program of interrelated projects, the Secretary shall provide, in addition to the overall program rating, individual ratings for each of the criteria described in paragraph (2) and shall give comparable, but not necessarily equal, numerical weight to each such criterion in calculating the overall program rating.

“(iii) MEDIUM RATING NOT REQUIRED.—The Secretary shall not require that any single criterion described in paragraph (2) meet or exceed a ‘medium’ rating in order to advance

the program of interrelated projects from one phase to another.

“(4) ANNUAL REVIEW.—

“(A) REVIEW REQUIRED.—The Secretary shall annually review the program implementation plan required under paragraph (2)(E) to determine whether the program of interrelated projects is adhering to its schedule.

“(B) EXTENSION OF TIME.—If a program of interrelated projects is not adhering to its schedule, the Secretary may, upon the request of the applicant, grant an extension of time if the applicant submits a reasonable plan that includes—

“(i) evidence of continued adequate funding; and

“(ii) an estimated time frame for completing the program of interrelated projects.

“(C) SATISFACTORY PROGRESS REQUIRED.—If the Secretary determines that a program of interrelated projects is not making satisfactory progress, no Federal funds shall be provided for a project within the program of interrelated projects.

“(5) FAILURE TO CARRY OUT PROGRAM OF INTERRELATED PROJECTS.—

“(A) REPAYMENT REQUIRED.—If an applicant does not carry out the program of interrelated projects within a reasonable time, for reasons within the control of the applicant, the applicant shall repay all Federal funds provided for the program, and any reasonable interest and penalty charges that the Secretary may establish.

“(B) CREDITING OF FUNDS RECEIVED.—Any funds received by the Government under this paragraph, other than interest and penalty charges, shall be credited to the appropriation account from which the funds were originally derived.

“(6) NON-FEDERAL FUNDS.—Any non-Federal funds committed to a project in a program of interrelated projects may be used to meet a non-Government share requirement for any other project in the program of interrelated projects, if the Government share of the cost of each project within the program of interrelated projects does not exceed 80 percent.

“(7) PRIORITY.—In making grants under this section, the Secretary may give priority to programs of interrelated projects for which the non-Government share of the cost of the projects included in the programs of interrelated projects exceeds the non-Government share required under subsection (k).

“(8) NON-GOVERNMENT PROJECTS.—Including a project not financed by the Government in a program of interrelated projects does not impose Government requirements that would not otherwise apply to the project.

“(i) PREVIOUSLY ISSUED LETTER OF INTENT OR FULL FUNDING GRANT AGREEMENT.—Subsections (d) and (e) shall not apply to projects for which the Secretary has issued a letter of intent, entered into a full funding grant agreement, or entered into a project construction grant agreement before the date of enactment of the Federal Public Transportation Act of 2012.

“(j) LETTERS OF INTENT, FULL FUNDING GRANT AGREEMENTS, AND EARLY SYSTEMS WORK AGREEMENTS.—

“(1) LETTERS OF INTENT.—

“(A) AMOUNTS INTENDED TO BE OBLIGATED.—The Secretary may issue a letter of intent to an applicant announcing an intention to obligate, for a new fixed guideway capital project or core capacity improvement project, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the

project. When a letter is issued for a capital project under this section, the amount shall be sufficient to complete at least an operable segment.

“(B) TREATMENT.—The issuance of a letter under subparagraph (A) is deemed not to be an obligation under sections 1108(c), 1501, and 1502(a) of title 31, United States Code, or an administrative commitment.

“(2) FULL FUNDING GRANT AGREEMENTS.—

“(A) IN GENERAL.—A new fixed guideway capital project or core capacity improvement project shall be carried out through a full funding grant agreement.

“(B) CRITERIA.—The Secretary shall enter into a full funding grant agreement, based on the evaluations and ratings required under subsection (d), (e), or (h), as applicable, with each grantee receiving assistance for a new fixed guideway capital project or core capacity improvement project that has been rated as high, medium-high, or medium, in accordance with subsection (g)(2)(A) or (h)(3)(B), as applicable.

“(C) TERMS.—A full funding grant agreement shall—

“(i) establish the terms of participation by the Government in a new fixed guideway capital project or core capacity improvement project;

“(ii) establish the maximum amount of Federal financial assistance for the project;

“(iii) include the period of time for completing the project, even if that period extends beyond the period of an authorization; and

“(iv) make timely and efficient management of the project easier according to the law of the United States.

“(D) SPECIAL FINANCIAL RULES.—

“(i) IN GENERAL.—A full funding grant agreement under this paragraph obligates an amount of available budget authority specified in law and may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional amount from future available budget authority specified in law.

“(ii) STATEMENT OF CONTINGENT COMMITMENT.—The agreement shall state that the contingent commitment is not an obligation of the Government.

“(iii) INTEREST AND OTHER FINANCING COSTS.—Interest and other financing costs of efficiently carrying out a part of the project within a reasonable time are a cost of carrying out the project under a full funding grant agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

“(iv) COMPLETION OF OPERABLE SEGMENT.—The amount stipulated in an agreement under this paragraph for a new fixed guideway capital project shall be sufficient to complete at least an operable segment.

“(E) BEFORE AND AFTER STUDY.—

“(i) IN GENERAL.—A full funding grant agreement under this paragraph shall require the applicant to conduct a study that—

“(I) describes and analyzes the impacts of the new fixed guideway capital project or core capacity improvement project on public transportation services and public transportation ridership;

“(II) evaluates the consistency of predicted and actual project characteristics and performance; and

“(III) identifies reasons for differences between predicted and actual outcomes.

“(ii) INFORMATION COLLECTION AND ANALYSIS PLAN.—

“(I) SUBMISSION OF PLAN.—Applicants seeking a full funding grant agreement under this paragraph shall submit a complete plan for the collection and analysis of information to identify the impacts of the new fixed guideway capital project or core capacity improvement project and the accuracy of the forecasts prepared during the development of the project. Preparation of this plan shall be included in the full funding grant agreement as an eligible activity.

“(II) CONTENTS OF PLAN.—The plan submitted under subclause (I) shall provide for—

“(aa) collection of data on the current public transportation system regarding public transportation service levels and ridership patterns, including origins and destinations, access modes, trip purposes, and rider characteristics;

“(bb) documentation of the predicted scope, service levels, capital costs, operating costs, and ridership of the project;

“(cc) collection of data on the public transportation system 2 years after the opening of a new fixed guideway capital project or core capacity improvement project, including analogous information on public transportation service levels and ridership patterns and information on the as-built scope, capital, and financing costs of the project; and

“(dd) analysis of the consistency of predicted project characteristics with actual outcomes.

“(F) COLLECTION OF DATA ON CURRENT SYSTEM.—To be eligible for a full funding grant agreement under this paragraph, recipients shall have collected data on the current system, according to the plan required under subparagraph (E)(ii), before the beginning of construction of the proposed new fixed guideway capital project or core capacity improvement project. Collection of this data shall be included in the full funding grant agreement as an eligible activity.

“(3) EARLY SYSTEMS WORK AGREEMENTS.—

“(A) CONDITIONS.—The Secretary may enter into an early systems work agreement with an applicant if a record of decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been issued on the project and the Secretary finds there is reason to believe—

“(i) a full funding grant agreement for the project will be made; and

“(ii) the terms of the work agreement will promote ultimate completion of the project more rapidly and at less cost.

“(B) CONTENTS.—

“(i) IN GENERAL.—An early systems work agreement under this paragraph obligates budget authority available under this chapter and title 23 and shall provide for reimbursement of preliminary costs of carrying out the project, including land acquisition, timely procurement of system elements for which specifications are decided, and other activities the Secretary decides are appropriate to make efficient, long-term project management easier.

“(ii) CONTINGENT COMMITMENT.—An early systems work agreement may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional amount from future available budget authority specified in law.

“(iii) PERIOD COVERED.—An early systems work agreement under this paragraph shall cover the period of time the Secretary considers appropriate. The period may extend beyond the period of current authorization.

“(iv) INTEREST AND OTHER FINANCING COSTS.—Interest and other financing costs of

efficiently carrying out the early systems work agreement within a reasonable time are a cost of carrying out the agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

“(v) FAILURE TO CARRY OUT PROJECT.—If an applicant does not carry out the project for reasons within the control of the applicant, the applicant shall repay all Federal grant funds awarded for the project from all Federal funding sources, for all project activities, facilities, and equipment, plus reasonable interest and penalty charges allowable by law or established by the Secretary in the early systems work agreement.

“(vi) CREDITING OF FUNDS RECEIVED.—Any funds received by the Government under this paragraph, other than interest and penalty charges, shall be credited to the appropriation account from which the funds were originally derived.

“(4) LIMITATION ON AMOUNTS.—

“(A) IN GENERAL.—The Secretary may enter into full funding grant agreements under this subsection for new fixed guideway capital projects and core capacity improvement projects that contain contingent commitments to incur obligations in such amounts as the Secretary determines are appropriate.

“(B) APPROPRIATION REQUIRED.—An obligation may be made under this subsection only when amounts are appropriated for the obligation.

“(5) NOTIFICATION TO CONGRESS.—At least 30 days before issuing a letter of intent, entering into a full funding grant agreement, or entering into an early systems work agreement under this section, the Secretary shall notify, in writing, the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives of the proposed letter or agreement. The Secretary shall include with the notification a copy of the proposed letter or agreement as well as the evaluations and ratings for the project.

“(k) GOVERNMENT SHARE OF NET CAPITAL PROJECT COST.—

“(1) IN GENERAL.—Based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities, the Secretary shall estimate the net capital project cost. A grant for the project shall not exceed 80 percent of the net capital project cost.

“(2) ADJUSTMENT FOR COMPLETION UNDER BUDGET.—The Secretary may adjust the final net capital project cost of a new fixed guideway capital project or core capacity improvement project evaluated under subsection (d), (e), or (h) to include the cost of eligible activities not included in the originally defined project if the Secretary determines that the originally defined project has been completed at a cost that is significantly below the original estimate.

“(3) MAXIMUM GOVERNMENT SHARE.—The Secretary may provide a higher grant percentage than requested by the grant recipient if—

“(A) the Secretary determines that the net capital project cost of the project is not more than 10 percent higher than the net capital project cost estimated at the time

the project was approved for advancement into the engineering phase; and

“(B) the ridership estimated for the project is not less than 90 percent of the ridership estimated for the project at the time the project was approved for advancement into the engineering phase.

“(4) REMAINDER OF NET CAPITAL PROJECT COST.—The remainder of the net capital project cost shall be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital.

“(5) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as authorizing the Secretary to require a non-Federal financial commitment for a project that is more than 20 percent of the net capital project cost.

“(6) SPECIAL RULE FOR ROLLING STOCK COSTS.—In addition to amounts allowed pursuant to paragraph (1), a planned extension to a fixed guideway system may include the cost of rolling stock previously purchased if the applicant satisfies the Secretary that only amounts other than amounts provided by the Government were used and that the purchase was made for use on the extension. A refund or reduction of the remainder may be made only if a refund of a proportional amount of the grant of the Government is made at the same time.

“(7) LIMITATION ON APPLICABILITY.—This subsection shall not apply to projects for which the Secretary entered into a full funding grant agreement before the date of enactment of the Federal Public Transportation Act of 2012.

“(1) UNDERTAKING PROJECTS IN ADVANCE.—

“(1) IN GENERAL.—The Secretary may pay the Government share of the net capital project cost to a State or local governmental authority that carries out any part of a project described in this section without the aid of amounts of the Government and according to all applicable procedures and requirements if—

“(A) the State or local governmental authority applies for the payment;

“(B) the Secretary approves the payment; and

“(C) before the State or local governmental authority carries out the part of the project, the Secretary approves the plans and specifications for the part in the same way as other projects under this section.

“(2) FINANCING COSTS.—

“(A) IN GENERAL.—The cost of carrying out part of a project includes the amount of interest earned and payable on bonds issued by the State or local governmental authority to the extent proceeds of the bonds are expended in carrying out the part.

“(B) LIMITATION ON AMOUNT OF INTEREST.—The amount of interest under this paragraph may not be more than the most favorable interest terms reasonably available for the project at the time of borrowing.

“(C) CERTIFICATION.—The applicant shall certify, in a manner satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

“(m) AVAILABILITY OF AMOUNTS.—

“(1) IN GENERAL.—An amount made available or appropriated for a new fixed guideway capital project or core capacity improvement project shall remain available to that project for 5 fiscal years, including the fiscal year in which the amount is made available or appropriated. Any amounts that are unobligated to the project at the end of the 5-fiscal-year period may be used by the Secretary for any purpose under this section.

“(2) USE OF DEOBLIGATED AMOUNTS.—An amount available under this section that is deobligated may be used for any purpose under this section.

“(n) REPORTS ON NEW FIXED GUIDEWAY AND CORE CAPACITY IMPROVEMENT PROJECTS.—

“(1) ANNUAL REPORT ON FUNDING RECOMMENDATIONS.—Not later than the first Monday in February of each year, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives a report that includes—

“(A) a proposal of allocations of amounts to be available to finance grants for projects under this section among applicants for these amounts;

“(B) evaluations and ratings, as required under subsections (d), (e), and (h), for each such project that is in project development, engineering, or has received a full funding grant agreement; and

“(C) recommendations of such projects for funding based on the evaluations and ratings and on existing commitments and anticipated funding levels for the next 3 fiscal years based on information currently available to the Secretary.

“(2) REPORTS ON BEFORE AND AFTER STUDIES.—Not later than the first Monday in August of each year, the Secretary shall submit to the committees described in paragraph (1) a report containing a summary of the results of any studies conducted under subsection (j)(2)(E).

“(3) ANNUAL GAO REVIEW.—The Comptroller General of the United States shall—

“(A) conduct an annual review of—

“(i) the processes and procedures for evaluating, rating, and recommending new fixed guideway capital projects and core capacity improvement projects; and

“(ii) the Secretary's implementation of such processes and procedures; and

“(B) report to Congress on the results of such review by May 31 of each year.”.

(b) PILOT PROGRAM FOR EXPEDITED PROJECT DELIVERY.—

(1) DEFINITIONS.—In this subsection the following definitions shall apply:

(A) ELIGIBLE PROJECT.—The term “eligible project” means a new fixed guideway capital project or a core capacity improvement project, as those terms are defined in section 5309 of title 49, United States Code, as amended by this section, that has not entered into a full funding grant agreement with the Federal Transit Administration before the date of enactment of the Federal Public Transportation Act of 2012.

(B) PROGRAM.—The term “program” means the pilot program for expedited project delivery established under this subsection.

(C) RECIPIENT.—The term “recipient” means a recipient of funding under chapter 53 of title 49, United States Code.

(D) SECRETARY.—The term “Secretary” means the Secretary of Transportation.

(2) ESTABLISHMENT.—The Secretary shall establish and implement a pilot program to demonstrate whether innovative project development and delivery methods or innovative financing arrangements can expedite project delivery for certain meritorious new fixed guideway capital projects and core capacity improvement projects.

(3) LIMITATION ON NUMBER OF PROJECTS.—The Secretary shall select 3 eligible projects to participate in the program, of which—

(A) at least 1 shall be an eligible project requesting more than \$100,000,000 in Federal financial assistance under section 5309 of title 49, United States Code; and

(B) at least 1 shall be an eligible project requesting less than \$100,000,000 in Federal financial assistance under section 5309 of title 49, United States Code.

(4) **GOVERNMENT SHARE.**—The Government share of the total cost of an eligible project that participates in the program may not exceed 50 percent.

(5) **ELIGIBILITY.**—A recipient that desires to participate in the program shall submit to the Secretary an application that contains, at a minimum—

(A) identification of an eligible project;

(B) a schedule and finance plan for the construction and operation of the eligible project;

(C) an analysis of the efficiencies of the proposed project development and delivery methods or innovative financing arrangement for the eligible project; and

(D) a certification that the recipient's existing public transportation system is in a state of good repair.

(6) **SELECTION CRITERIA.**—The Secretary may award a full funding grant agreement under this subsection if the Secretary determines that—

(A) the recipient has completed planning and the activities required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(B) the recipient has the necessary legal, financial, and technical capacity to carry out the eligible project.

(7) **BEFORE AND AFTER STUDY AND REPORT.**—

(A) **STUDY REQUIRED.**—A full funding grant agreement under this paragraph shall require a recipient to conduct a study that—

(i) describes and analyzes the impacts of the eligible project on public transportation services and public transportation ridership;

(ii) describes and analyzes the consistency of predicted and actual benefits and costs of the innovative project development and delivery methods or innovative financing for the eligible project; and

(iii) identifies reasons for any differences between predicted and actual outcomes for the eligible project.

(B) **SUBMISSION OF REPORT.**—Not later than 9 months after an eligible project selected to participate in the program begins revenue operations, the recipient shall submit to the Secretary a report on the results of the study under subparagraph (A).

**SEC. 20011. FORMULA GRANTS FOR THE ENHANCED MOBILITY OF SENIORS AND INDIVIDUALS WITH DISABILITIES.**

Section 5310 of title 49, United States Code, is amended to read as follows:

**“§ 5310. Formula grants for the enhanced mobility of seniors and individuals with disabilities**

“(a) **DEFINITIONS.**—In this section, the following definitions shall apply:

“(1) **RECIPIENT.**—The term ‘recipient’ means a designated recipient or a State that receives a grant under this section directly.

“(2) **SUBRECIPIENT.**—The term ‘subrecipient’ means a State or local governmental authority, nonprofit organization, or operator of public transportation that receives a grant under this section indirectly through a recipient.

“(b) **GENERAL AUTHORITY.**—

“(1) **GRANTS.**—The Secretary may make grants under this section to recipients for—

“(A) public transportation capital projects planned, designed, and carried out to meet the special needs of seniors and individuals

with disabilities when public transportation is insufficient, inappropriate, or unavailable;

“(B) public transportation projects that exceed the requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

“(C) public transportation projects that improve access to fixed route service and decrease reliance by individuals with disabilities on complementary paratransit; and

“(D) alternatives to public transportation that assist seniors and individuals with disabilities with transportation.

“(2) **LIMITATIONS FOR CAPITAL PROJECTS.**—

“(A) **AMOUNT AVAILABLE.**—The amount available for capital projects under paragraph (1)(A) shall be not less than 55 percent of the funds apportioned to the recipient under this section.

“(B) **ALLOCATION TO SUBRECIPIENTS.**—A recipient of a grant under paragraph (1)(A) may allocate the amounts provided under the grant to—

“(i) a nonprofit organization; or

“(ii) a State or local governmental authority that—

“(I) is approved by a State to coordinate services for seniors and individuals with disabilities; or

“(II) certifies that there are no nonprofit organizations readily available in the area to provide the services described in paragraph (1)(A).

“(3) **ADMINISTRATIVE EXPENSES.**—

“(A) **IN GENERAL.**—A recipient may use not more than 10 percent of the amounts apportioned to the recipient under this section to administer, plan, and provide technical assistance for a project funded under this section.

“(B) **GOVERNMENT SHARE OF COSTS.**—The Government share of the costs of administering a program carried out using funds under this section shall be 100 percent.

“(4) **ELIGIBLE CAPITAL EXPENSES.**—The acquisition of public transportation services is an eligible capital expense under this section.

“(5) **COORDINATION.**—

“(A) **DEPARTMENT OF TRANSPORTATION.**—To the maximum extent feasible, the Secretary shall coordinate activities under this section with related activities under other Federal departments and agencies.

“(B) **OTHER FEDERAL AGENCIES AND NON-PROFIT ORGANIZATIONS.**—A State or local governmental authority or nonprofit organization that receives assistance from Government sources (other than the Department of Transportation) for nonemergency transportation services shall—

“(i) participate and coordinate with recipients of assistance under this chapter in the design and delivery of transportation services; and

“(ii) participate in the planning for the transportation services described in clause (i).

“(6) **PROGRAM OF PROJECTS.**—

“(A) **IN GENERAL.**—Amounts made available to carry out this section may be used for transportation projects to assist in providing transportation services for seniors and individuals with disabilities, if such transportation projects are included in a program of projects.

“(B) **SUBMISSION.**—A recipient shall annually submit a program of projects to the Secretary.

“(C) **ASSURANCE.**—The program of projects submitted under subparagraph (B) shall contain an assurance that the program provides for the maximum feasible coordination of transportation services assisted under this

section with transportation services assisted by other Government sources.

“(7) **MEAL DELIVERY FOR HOMEBOUND INDIVIDUALS.**—A public transportation service provider that receives assistance under this section or section 5311(c) may coordinate and assist in regularly providing meal delivery service for homebound individuals, if the delivery service does not conflict with providing public transportation service or reduce service to public transportation passengers.

“(c) **APPORTIONMENT AND TRANSFERS.**—

“(1) **FORMULA.**—The Secretary shall apportion amounts made available to carry out this section as follows:

“(A) **LARGE URBANIZED AREAS.**—Sixty percent of the funds shall be apportioned among designated recipients for urbanized areas with a population of 200,000 or more individuals, as determined by the Bureau of the Census, in the ratio that—

“(i) the number of seniors and individuals with disabilities in each such urbanized area; bears to

“(ii) the number of seniors and individuals with disabilities in all such urbanized areas.

“(B) **SMALL URBANIZED AREAS.**—Twenty percent of the funds shall be apportioned among the States in the ratio that—

“(i) the number of seniors and individuals with disabilities in urbanized areas with a population of fewer than 200,000 individuals, as determined by the Bureau of the Census, in each State; bears to

“(ii) the number of seniors and individuals with disabilities in urbanized areas with a population of fewer than 200,000 individuals, as determined by the Bureau of the Census, in all States.

“(C) **OTHER THAN URBANIZED AREAS.**—Twenty percent of the funds shall be apportioned among the States in the ratio that—

“(i) the number of seniors and individuals with disabilities in other than urbanized areas in each State; bears to

“(ii) the number of seniors and individuals with disabilities in other than urbanized areas in all States.

“(2) **AREAS SERVED BY PROJECTS.**—

“(A) **IN GENERAL.**—Except as provided in subparagraph (B)—

“(i) funds apportioned under paragraph (1)(A) shall be used for projects serving urbanized areas with a population of 200,000 or more individuals, as determined by the Bureau of the Census;

“(ii) funds apportioned under paragraph (1)(B) shall be used for projects serving urbanized areas with a population of fewer than 200,000 individuals, as determined by the Bureau of the Census; and

“(iii) funds apportioned under paragraph (1)(C) shall be used for projects serving other than urbanized areas.

“(B) **EXCEPTIONS.**—A State may use funds apportioned to the State under subparagraph (B) or (C) of paragraph (1)—

“(i) for a project serving an area other than an area specified in subparagraph (A)(ii) or (A)(iii), as the case may be, if the Governor of the State certifies that all of the objectives of this section are being met in the area specified in subparagraph (A)(ii) or (A)(iii); or

“(ii) for a project anywhere in the State, if the State has established a statewide program for meeting the objectives of this section.

“(C) **LIMITED TO ELIGIBLE PROJECTS.**—Any funds transferred pursuant to subparagraph (B) shall be made available only for eligible projects selected under this section.

“(D) **CONSULTATION.**—A recipient may transfer an amount under subparagraph (B)

only after consulting with responsible local officials, publicly owned operators of public transportation, and nonprofit providers in the area for which the amount was originally apportioned.

“(d) GOVERNMENT SHARE OF COSTS.—

“(1) CAPITAL PROJECTS.—A grant for a capital project under this section shall be in an amount equal to 80 percent of the net capital costs of the project, as determined by the Secretary.

“(2) OPERATING ASSISTANCE.—A grant made under this section for operating assistance may not exceed an amount equal to 50 percent of the net operating costs of the project, as determined by the Secretary.

“(3) REMAINDER OF NET COSTS.—The remainder of the net costs of a project carried out under this section—

“(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and

“(B) may be derived from amounts appropriated or otherwise made available—

“(i) to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation; or

“(ii) to carry out the Federal lands highways program under section 204 of title 23, United States Code.

“(4) USE OF CERTAIN FUNDS.—For purposes of paragraph (3)(B)(i), the prohibition under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) on the use of grant funds for matching requirements shall not apply to Federal or State funds to be used for transportation purposes.

“(e) GRANT REQUIREMENTS.—

“(1) IN GENERAL.—A grant under this section shall be subject to the same requirements as a grant under section 5307, to the extent the Secretary determines appropriate.

“(2) CERTIFICATION REQUIREMENTS.—

“(A) PROJECT SELECTION AND PLAN DEVELOPMENT.—Before receiving a grant under this section, each recipient shall certify that—

“(i) the projects selected by the recipient are included in a locally developed, coordinated public transit-human services transportation plan;

“(ii) the plan described in clause (i) was developed and approved through a process that included participation by seniors, individuals with disabilities, representatives of public, private, and nonprofit transportation and human services providers, and other members of the public; and

“(iii) to the maximum extent feasible, the services funded under this section will be coordinated with transportation services assisted by other Federal departments and agencies.

“(B) ALLOCATIONS TO SUBRECIPIENTS.—If a recipient allocates funds received under this section to subrecipients, the recipient shall certify that the funds are allocated on a fair and equitable basis.

“(f) COMPETITIVE PROCESS FOR GRANTS TO SUBRECIPIENTS.—

“(1) AREA-WIDE SOLICITATIONS.—A recipient of funds apportioned under subsection (c)(1)(A) may conduct, in cooperation with the appropriate metropolitan planning organization, an area-wide solicitation for applications for grants under this section.

“(2) STATE-WIDE SOLICITATIONS.—A recipient of funds apportioned under subparagraph (B) or (C) of subsection (c)(1) may conduct a statewide solicitation for applications for grants under this section.

“(3) APPLICATION.—If the recipient elects to engage in a competitive process, a recipient or subrecipient seeking to receive a grant from funds apportioned under subsection (c) shall submit to the recipient making the election an application in such form and in accordance with such requirements as the recipient making the election shall establish.

“(g) TRANSFERS OF FACILITIES AND EQUIPMENT.—A recipient may transfer a facility or equipment acquired using a grant under this section to any other recipient eligible to receive assistance under this chapter, if—

“(1) the recipient in possession of the facility or equipment consents to the transfer; and

“(2) the facility or equipment will continue to be used as required under this section.

“(h) PERFORMANCE MEASURES.—

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue a final rule to establish performance measures for grants under this section.

“(2) TARGETS.—Not later than 3 months after the date on which the Secretary issues a final rule under paragraph (1), and each fiscal year thereafter, each recipient that receives Federal financial assistance under this section shall establish performance targets in relation to the performance measures established by the Secretary.

“(3) REPORTS.—Each recipient of Federal financial assistance under this section shall submit to the Secretary an annual report that describes—

“(A) the progress of the recipient toward meeting the performance targets established under paragraph (2) for that fiscal year; and

“(B) the performance targets established by the recipient for the subsequent fiscal year.”.

#### **SEC. 2012. FORMULA GRANTS FOR OTHER THAN URBANIZED AREAS.**

Section 5311 of title 49, United States Code, is amended to read as follows:

##### **“§ 5311. Formula grants for other than urbanized areas**

“(a) DEFINITIONS.—As used in this section, the following definitions shall apply:

“(1) RECIPIENT.—The term ‘recipient’ means a State or Indian tribe that receives a Federal transit program grant directly from the Government.

“(2) SUBRECIPIENT.—The term ‘subrecipient’ means a State or local governmental authority, a nonprofit organization, or an operator of public transportation or intercity bus service that receives Federal transit program grant funds indirectly through a recipient.

“(b) GENERAL AUTHORITY.—

“(1) GRANTS AUTHORIZED.—Except as provided by paragraph (2), the Secretary may award grants under this section to recipients located in areas other than urbanized areas for—

“(A) planning, provided that a grant under this section for planning activities shall be in addition to funding awarded to a State under section 5305 for planning activities that are directed specifically at the needs of other than urbanized areas in the State;

“(B) public transportation capital projects;

“(C) operating costs of equipment and facilities for use in public transportation; and

“(D) the acquisition of public transportation services, including service agreements with private providers of public transportation service.

“(2) STATE PROGRAM.—

“(A) IN GENERAL.—A project eligible for a grant under this section shall be included in

a State program for public transportation service projects, including agreements with private providers of public transportation service.

“(B) SUBMISSION TO SECRETARY.—Each State shall submit to the Secretary annually the program described in subparagraph (A).

“(C) APPROVAL.—The Secretary may not approve the program unless the Secretary determines that—

“(i) the program provides a fair distribution of amounts in the State, including Indian reservations; and

“(ii) the program provides the maximum feasible coordination of public transportation service assisted under this section with transportation service assisted by other Federal sources.

“(3) RURAL TRANSPORTATION ASSISTANCE PROGRAM.—

“(A) IN GENERAL.—The Secretary shall carry out a rural transportation assistance program in other than urbanized areas.

“(B) GRANTS AND CONTRACTS.—In carrying out this paragraph, the Secretary may use not more than 2 percent of the amount made available under section 5338(a)(2)(F) to make grants and contracts for transportation research, technical assistance, training, and related support services in other than urbanized areas.

“(C) PROJECTS OF A NATIONAL SCOPE.—Not more than 15 percent of the amounts available under subparagraph (B) may be used by the Secretary to carry out projects of a national scope, with the remaining balance provided to the States.

“(4) DATA COLLECTION.—Each recipient under this section shall submit an annual report to the Secretary containing information on capital investment, operations, and service provided with funds received under this section, including—

“(A) total annual revenue;

“(B) sources of revenue;

“(C) total annual operating costs;

“(D) total annual capital costs;

“(E) fleet size and type, and related facilities;

“(F) vehicle revenue miles; and

“(G) ridership.

“(c) APPORTIONMENTS.—

“(1) PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS.—Of the amounts made available or appropriated for each fiscal year pursuant to section 5338(a)(2)(F) to carry out this paragraph, the following amounts shall be apportioned each fiscal year for grants to Indian tribes for any purpose eligible under this section, under such terms and conditions as may be established by the Secretary:

“(A) \$10,000,000 shall be distributed on a competitive basis by the Secretary.

“(B) \$20,000,000 shall be apportioned as formula grants, as provided in subsection (k).

“(2) APPALACHIAN DEVELOPMENT PUBLIC TRANSPORTATION ASSISTANCE PROGRAM.—

“(A) DEFINITIONS.—In this paragraph—

“(i) the term ‘Appalachian region’ has the same meaning as in section 14102 of title 40; and

“(ii) the term ‘eligible recipient’ means a State that participates in a program established under subtitle IV of title 40.

“(B) IN GENERAL.—The Secretary shall carry out a public transportation assistance program in the Appalachian region.

“(C) APPORTIONMENT.—Of amounts made available or appropriated for each fiscal year under section 5338(a)(2)(F) to carry out this paragraph, the Secretary shall apportion funds to eligible recipients for any purpose eligible under this section, based on the

guidelines established under section 9.5(b) of the Appalachian Regional Commission Code.

“(D) SPECIAL RULE.—An eligible recipient may use amounts that cannot be used for operating expenses under this paragraph for a highway project if—

“(i) that use is approved, in writing, by the eligible recipient after appropriate notice and an opportunity for comment and appeal are provided to affected public transportation providers; and

“(ii) the eligible recipient, in approving the use of amounts under this subparagraph, determines that the local transit needs are being addressed.

“(3) REMAINING AMOUNTS.—

“(A) IN GENERAL.—The amounts made available or appropriated for each fiscal year pursuant to section 5338(a)(2)(F) that are not apportioned under paragraph (1) or (2) shall be apportioned in accordance with this paragraph.

“(B) APPORTIONMENT BASED ON LAND AREA AND POPULATION IN NONURBANIZED AREAS.—

“(i) IN GENERAL.—83.15 percent of the amount described in subparagraph (A) shall be apportioned to the States in accordance with this subparagraph.

“(ii) LAND AREA.—

“(I) IN GENERAL.—Subject to subclause (II), each State shall receive an amount that is equal to 20 percent of the amount apportioned under clause (i), multiplied by the ratio of the land area in areas other than urbanized areas in that State and divided by the land area in all areas other than urbanized areas in the United States, as shown by the most recent decennial census of population.

“(II) MAXIMUM APPORTIONMENT.—No State shall receive more than 5 percent of the amount apportioned under subclause (I).

“(iii) POPULATION.—Each State shall receive an amount equal to 80 percent of the amount apportioned under clause (i), multiplied by the ratio of the population of areas other than urbanized areas in that State and divided by the population of all areas other than urbanized areas in the United States, as shown by the most recent decennial census of population.

“(C) APPORTIONMENT BASED ON LAND AREA, VEHICLE REVENUE MILES, AND LOW-INCOME INDIVIDUALS IN NONURBANIZED AREAS.—

“(i) IN GENERAL.—16.85 percent of the amount described in subparagraph (A) shall be apportioned to the States in accordance with this subparagraph.

“(ii) LAND AREA.—Subject to clause (v), each State shall receive an amount that is equal to 29.68 percent of the amount apportioned under clause (i), multiplied by the ratio of the land area in areas other than urbanized areas in that State and divided by the land area in all areas other than urbanized areas in the United States, as shown by the most recent decennial census of population.

“(iii) VEHICLE REVENUE MILES.—Subject to clause (v), each State shall receive an amount that is equal to 29.68 percent of the amount apportioned under clause (i), multiplied by the ratio of vehicle revenue miles in areas other than urbanized areas in that State and divided by the vehicle revenue miles in all areas other than urbanized areas in the United States, as determined by national transit database reporting.

“(iv) LOW-INCOME INDIVIDUALS.—Each State shall receive an amount that is equal to 40.64 percent of the amount apportioned under clause (i), multiplied by the ratio of low-income individuals in areas other than urbanized areas in that State and divided by the

number of low-income individuals in all areas other than urbanized areas in the United States, as shown by the Bureau of the Census.

“(v) MAXIMUM APPORTIONMENT.—No State shall receive—

“(I) more than 5 percent of the amount apportioned under clause (ii); or

“(II) more than 5 percent of the amount apportioned under clause (iii).

“(d) USE FOR LOCAL TRANSPORTATION SERVICE.—A State may use an amount apportioned under this section for a project included in a program under subsection (b) of this section and eligible for assistance under this chapter if the project will provide local transportation service, as defined by the Secretary of Transportation, in an area other than an urbanized area.

“(e) USE FOR ADMINISTRATION, PLANNING, AND TECHNICAL ASSISTANCE.—The Secretary may allow a State to use not more than 15 percent of the amount apportioned under this section to administer this section and provide technical assistance to a subrecipient, including project planning, program and management development, coordination of public transportation programs, and research the State considers appropriate to promote effective delivery of public transportation to an area other than an urbanized area.

“(f) INTERCITY BUS TRANSPORTATION.—

“(1) IN GENERAL.—A State shall expend at least 15 percent of the amount made available in each fiscal year to carry out a program to develop and support intercity bus transportation. Eligible activities under the program include—

“(A) planning and marketing for intercity bus transportation;

“(B) capital grants for intercity bus shelters;

“(C) joint-use stops and depots;

“(D) operating grants through purchase-of-service agreements, user-side subsidies, and demonstration projects; and

“(E) coordinating rural connections between small public transportation operations and intercity bus carriers.

“(2) CERTIFICATION.—A State does not have to comply with paragraph (1) of this subsection in a fiscal year in which the Governor of the State certifies to the Secretary, after consultation with affected intercity bus service providers, that the intercity bus service needs of the State are being met adequately.

“(g) ACCESS TO JOBS PROJECTS.—

“(1) IN GENERAL.—Amounts made available under section 5338(a)(2)(F) may be used to carry out a program to develop and maintain job access projects. Eligible projects may include—

“(A) projects relating to the development and maintenance of public transportation services designed to transport eligible low-income individuals to and from jobs and activities related to their employment, including—

“(i) public transportation projects to finance planning, capital, and operating costs of providing access to jobs under this chapter;

“(ii) promoting public transportation by low-income workers, including the use of public transportation by workers with non-traditional work schedules;

“(iii) promoting the use of transit vouchers for welfare recipients and eligible low-income individuals; and

“(iv) promoting the use of employer-provided transportation, including the transit pass benefit program under section 132 of the Internal Revenue Code of 1986; and

“(B) transportation projects designed to support the use of public transportation including—

“(i) enhancements to existing public transportation service for workers with non-traditional hours or reverse commutes;

“(ii) guaranteed ride home programs;

“(iii) bicycle storage facilities; and

“(iv) projects that otherwise facilitate the provision of public transportation services to employment opportunities.

“(2) PROJECT SELECTION AND PLAN DEVELOPMENT.—Each grant recipient under this subsection shall certify that—

“(A) the projects selected were included in a locally developed, coordinated public transit-human services transportation plan;

“(B) the plan was developed and approved through a process that included participation by low-income individuals, representatives of public, private, and nonprofit transportation and human services providers, and the public;

“(C) to the maximum extent feasible, services funded under this subsection are coordinated with transportation services funded by other Federal departments and agencies; and

“(D) allocations of the grant to subrecipients, if any, are distributed on a fair and equitable basis.

“(3) COMPETITIVE PROCESS FOR GRANTS TO SUBRECIPIENTS.—

“(A) STATEWIDE SOLICITATIONS.—A State may conduct a statewide solicitation for applications for grants to recipients and subrecipients under this subsection.

“(B) APPLICATION.—If the State elects to engage in a competitive process, recipients and subrecipients seeking to receive a grant from apportioned funds shall submit to the State an application in the form and in accordance with such requirements as the State shall establish.

“(h) GOVERNMENT SHARE OF COSTS.—

“(1) CAPITAL PROJECTS.—

“(A) IN GENERAL.—Except as provided by subparagraph (B), a grant awarded under this section for a capital project or project administrative expenses shall be for 80 percent of the net costs of the project, as determined by the Secretary.

“(B) EXCEPTION.—A State described in section 120(b) of title 23 shall receive a Government share of the net costs in accordance with the formula under that section.

“(2) OPERATING ASSISTANCE.—

“(A) IN GENERAL.—Except as provided by subparagraph (B), a grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.

“(B) EXCEPTION.—A State described in section 120(b) of title 23 shall receive a Government share of the net operating costs equal to 62.5 percent of the Government share provided for under paragraph (1)(B).

“(3) REMAINDER.—The remainder of net project costs—

“(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital;

“(B) may be derived from amounts appropriated or otherwise made available to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation; and

“(C) notwithstanding subparagraph (B), may be derived from amounts made available to carry out the Federal lands highway program established by section 204 of title 23.



“(4) USE OF CERTAIN FUNDS.—For purposes of paragraph (3)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

“(5) LIMITATION ON OPERATING ASSISTANCE.—A State carrying out a program of operating assistance under this section may not limit the level or extent of use of the Government grant for the payment of operating expenses.

“(i) TRANSFER OF FACILITIES AND EQUIPMENT.—With the consent of the recipient currently having a facility or equipment acquired with assistance under this section, a State may transfer the facility or equipment to any recipient eligible to receive assistance under this chapter if the facility or equipment will continue to be used as required under this section.

“(j) RELATIONSHIP TO OTHER LAWS.—

“(1) IN GENERAL.—Section 5333(b) applies to this section if the Secretary of Labor utilizes a special warranty that provides a fair and equitable arrangement to protect the interests of employees.

“(2) RULE OF CONSTRUCTION.—This subsection does not affect or discharge a responsibility of the Secretary of Transportation under a law of the United States.

“(k) FORMULA GRANTS FOR PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS.—

“(1) APPORTIONMENT.—

“(A) IN GENERAL.—Of the amounts described in subsection (c)(1)(B)—

“(i) 50 percent of the total amount shall be apportioned so that each Indian tribe providing public transportation service shall receive an amount equal to the total amount apportioned under this clause multiplied by the ratio of the number of vehicle revenue miles provided by an Indian tribe divided by the total number of vehicle revenue miles provided by all Indian tribes, as reported to the Secretary;

“(ii) 25 percent of the total amount shall be apportioned equally among each Indian tribe providing at least 200,000 vehicle revenue miles of public transportation service annually, as reported to the Secretary; and

“(iii) 25 percent of the total amount shall be apportioned among each Indian tribe providing public transportation on tribal lands on which more than 1,000 low-income individuals reside (as determined by the Bureau of the Census) so that each Indian tribe shall receive an amount equal to the total amount apportioned under this clause multiplied by the ratio of the number of low-income individuals residing on an Indian tribe's lands divided by the total number of low-income individuals on tribal lands on which more than 1,000 low-income individuals reside.

“(B) LIMITATION.—No recipient shall receive more than \$300,000 of the amounts apportioned under subparagraph (A)(iii) in a fiscal year.

“(C) REMAINING AMOUNTS.—Of the amounts made available under subparagraph (A)(iii), any amounts not apportioned under that subparagraph shall be allocated among Indian tribes receiving less than \$300,000 in a fiscal year according to the formula specified in that clause.

“(D) LOW-INCOME INDIVIDUALS.—For purposes of subparagraph (A)(iii), the term ‘low-income individual’ means an individual whose family income is at or below 100 percent of the poverty line, as that term is defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by that section, for a family of the size involved.

“(2) NON-TRIBAL SERVICE PROVIDERS.—A recipient that is an Indian tribe may use funds apportioned under this subsection to finance public transportation services provided by a non-tribal provider of public transportation that connects residents of tribal lands with surrounding communities, improves access to employment or healthcare, or otherwise addresses the mobility needs of tribal members.”.

#### SEC. 20013. RESEARCH, DEVELOPMENT, DEMONSTRATION, AND DEPLOYMENT PROJECTS.

Section 5312 of title 49, United States Code, is amended to read as follows:

#### “§ 5312. Research, development, demonstration, and deployment projects

“(a) RESEARCH, DEVELOPMENT, DEMONSTRATION, AND DEPLOYMENT PROJECTS.—

“(1) IN GENERAL.—The Secretary may make grants and enter into contracts, cooperative agreements, and other agreements for research, development, demonstration, and deployment projects, and evaluation of research and technology of national significance to public transportation, that the Secretary determines will improve public transportation.

“(2) AGREEMENTS.—In order to carry out paragraph (1), the Secretary may make grants to and enter into contracts, cooperative agreements, and other agreements with—

“(A) departments, agencies, and instrumentalities of the Government;

“(B) State and local governmental entities;

“(C) providers of public transportation;

“(D) private or non-profit organizations;

“(E) institutions of higher education; and

“(F) technical and community colleges.

“(3) APPLICATION.—

“(A) IN GENERAL.—To receive a grant, contract, cooperative agreement, or other agreement under this section, an entity described in paragraph (2) shall submit an application to the Secretary.

“(B) FORM AND CONTENTS.—An application under subparagraph (A) shall be in such form and contain such information as the Secretary may require, including—

“(i) a statement of purpose detailing the need being addressed;

“(ii) the short- and long-term goals of the project, including opportunities for future innovation and development, the potential for deployment, and benefits to riders and public transportation; and

“(iii) the short- and long-term funding requirements to complete the project and any future objectives of the project.

“(b) RESEARCH.—

“(1) IN GENERAL.—The Secretary may make a grant to or enter into a contract, cooperative agreement, or other agreement under this section with an entity described in subsection (a)(2) to carry out a public transportation research project that has as its ultimate goal the development and deployment of new and innovative ideas, practices, and approaches.

“(2) PROJECT ELIGIBILITY.—A public transportation research project that receives assistance under paragraph (1) shall focus on—

“(A) providing more effective and efficient public transportation service, including services to—

“(i) seniors;

“(ii) individuals with disabilities; and

“(iii) low-income individuals;

“(B) mobility management and improvements and travel management systems;

“(C) data and communication system advancements;

“(D) system capacity, including—

“(i) train control;

“(ii) capacity improvements; and

“(iii) performance management;

“(E) capital and operating efficiencies;

“(F) planning and forecasting modeling and simulation;

“(G) advanced vehicle design;

“(H) advancements in vehicle technology;

“(I) asset maintenance and repair systems advancement;

“(J) construction and project management;

“(K) alternative fuels;

“(L) the environment and energy efficiency;

“(M) safety improvements; or

“(N) any other area that the Secretary determines is important to advance the interests of public transportation.

“(c) INNOVATION AND DEVELOPMENT.—

“(1) IN GENERAL.—The Secretary may make a grant to or enter into a contract, cooperative agreement, or other agreement under this section with an entity described in subsection (a)(2) to carry out a public transportation innovation and development project that seeks to improve public transportation systems nationwide in order to provide more efficient and effective delivery of public transportation services, including through technology and technological capacity improvements.

“(2) PROJECT ELIGIBILITY.—A public transportation innovation and development project that receives assistance under paragraph (1) shall focus on—

“(A) the development of public transportation research projects that received assistance under subsection (b) that the Secretary determines were successful;

“(B) planning and forecasting modeling and simulation;

“(C) capital and operating efficiencies;

“(D) advanced vehicle design;

“(E) advancements in vehicle technology;

“(F) the environment and energy efficiency;

“(G) system capacity, including train control and capacity improvements; or

“(H) any other area that the Secretary determines is important to advance the interests of public transportation.

“(d) DEMONSTRATION, DEPLOYMENT, AND EVALUATION.—

“(1) IN GENERAL.—The Secretary may, under terms and conditions that the Secretary prescribes, make a grant to or enter into a contract, cooperative agreement, or other agreement with an entity described in paragraph (2) to promote the early deployment and demonstration of innovation in public transportation that has broad applicability.

“(2) PARTICIPANTS.—An entity described in this paragraph is—

“(A) an entity described in subsection (a)(2); or

“(B) a consortium of entities described in subsection (a)(2), including a provider of public transportation, that will share the costs, risks, and rewards of early deployment and demonstration of innovation.

“(3) PROJECT ELIGIBILITY.—A project that receives assistance under paragraph (1) shall seek to build on successful research, innovation, and development efforts to facilitate—

“(A) the deployment of research and technology development resulting from private efforts or federally funded efforts; and

“(B) the implementation of research and technology development to advance the interests of public transportation.

“(4) EVALUATION.—Not later than 2 years after the date on which a project receives assistance under paragraph (1), the Secretary

shall conduct a comprehensive evaluation of the success or failure of the projects funded under this subsection and any plan for broad-based implementation of the innovation promoted by successful projects.

“(e) ANNUAL REPORT ON RESEARCH.—Not later than the first Monday in February of each year, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives a report that includes—

“(1) a description of each project that received assistance under this section during the preceding fiscal year;

“(2) an evaluation of each project described in paragraph (1), including any evaluation conducted under subsection (d)(4) for the preceding fiscal year; and

“(3) a proposal for allocations of amounts for assistance under this section for the subsequent fiscal year.

“(f) GOVERNMENT SHARE OF COSTS.—

“(1) IN GENERAL.—The Government share of the cost of a project carried out under this section shall not exceed 80 percent.

“(2) NON-GOVERNMENT SHARE.—The non-Government share of the cost of a project carried out under this section may be derived from in-kind contributions.

“(3) FINANCIAL BENEFIT.—If the Secretary determines that there would be a clear and direct financial benefit to an entity under a grant, contract, cooperative agreement, or other agreement under this section, the Secretary shall establish a Government share of the costs of the project to be carried out under the grant, contract, cooperative agreement, or other agreement that is consistent with the benefit.”

#### SEC. 20014. TECHNICAL ASSISTANCE AND STANDARDS DEVELOPMENT.

Section 5314 of title 49, United States Code, is amended to read as follows:

##### “§ 5314. Technical assistance and standards development

“(a) TECHNICAL ASSISTANCE AND STANDARDS DEVELOPMENT.—

“(1) IN GENERAL.—The Secretary may make grants and enter into contracts, cooperative agreements, and other agreements (including agreements with departments, agencies, and instrumentalities of the Government) to carry out activities that the Secretary determines will assist recipients of assistance under this chapter to—

“(A) more effectively and efficiently provide public transportation service;

“(B) administer funds received under this chapter in compliance with Federal law; and

“(C) improve public transportation.

“(2) ELIGIBLE ACTIVITIES.—The activities carried out under paragraph (1) may include—

“(A) technical assistance; and

“(B) the development of standards and best practices by the public transportation industry.

“(b) TECHNICAL ASSISTANCE CENTERS.—

“(1) DEFINITION.—In this subsection, the term ‘eligible entity’ means a nonprofit organization, an institution of higher education, or a technical or community college.

“(2) IN GENERAL.—The Secretary may make grants to and enter into contracts, cooperative agreements, and other agreements with eligible entities to administer centers to provide technical assistance, including—

“(A) the development of tools and guidance; and

“(B) the dissemination of best practices.

“(3) COMPETITIVE PROCESS.—The Secretary may make grants and enter into contracts,

cooperative agreements, and other agreements under paragraph (2) through a competitive process on a biennial basis for technical assistance in each of the following categories:

“(A) Human services transportation coordination, including—

“(i) transportation for seniors;

“(ii) transportation for individuals with disabilities; and

“(iii) coordination of local resources and programs to assist low-income individuals and veterans in gaining access to training and employment opportunities.

“(B) Transit-oriented development.

“(C) Transportation equity with regard to the impact that transportation planning, investment, and operations have on low-income and minority individuals.

“(D) Financing mechanisms, including—

“(i) public-private partnerships;

“(ii) bonding; and

“(iii) State and local capacity building.

“(E) Any other activity that the Secretary determines is important to advance the interests of public transportation.

“(4) EXPERTISE OF TECHNICAL ASSISTANCE CENTERS.—In selecting an eligible entity to administer a center under this subsection, the Secretary shall consider—

“(A) the demonstrated subject matter expertise of the eligible entity; and

“(B) the capacity of the eligible entity to deliver technical assistance on a regional or nationwide basis.

“(5) PARTNERSHIPS.—An eligible entity may partner with another eligible entity to provide technical assistance under this subsection.

“(c) GOVERNMENT SHARE OF COSTS.—

“(1) IN GENERAL.—The Government share of the cost of an activity under this section may not exceed 80 percent.

“(2) NON-GOVERNMENT SHARE.—The non-Government share of the cost of an activity under this section may be derived from in-kind contributions.”

#### SEC. 20015. BUS TESTING FACILITIES.

Section 5318 of title 49, United States Code, is amended to read as follows:

##### “§ 5318. Bus testing facilities

“(a) FACILITIES.—The Secretary shall certify not more than 4 comprehensive facilities for testing new bus models for maintainability, reliability, safety, performance (including braking performance), structural integrity, fuel economy, emissions, and noise.

“(b) COOPERATIVE AGREEMENT.—The Secretary shall enter into a cooperative agreement with not more than 4 qualified entities to test public transportation vehicles under subsection (a).

“(c) FEES.—An entity that operates and maintains a facility certified under subsection (a) shall establish and collect reasonable fees for the testing of vehicles at the facility. The Secretary must approve the fees.

“(d) AVAILABILITY OF AMOUNTS TO PAY FOR TESTING.—

“(1) IN GENERAL.—The Secretary shall enter into a cooperative agreement with an entity that operates and maintains a facility certified under subsection (a), under which 80 percent of the fee for testing a vehicle at the facility may be available from amounts apportioned to a recipient under section 5336 or from amounts appropriated to carry out this section.

“(2) PROHIBITION.—An entity that operates and maintains a facility described in subsection (a) shall not have a financial interest in the outcome of the testing carried out at the facility.

“(e) ACQUIRING NEW BUS MODELS.—Amounts appropriated or made available

under this chapter may be obligated or expended to acquire a new bus model only if—

“(1) a bus of that model has been tested at a facility described in subsection (a); and

“(2) the bus tested under paragraph (1) met—

“(A) performance standards for maintainability, reliability, performance (including braking performance), structural integrity, fuel economy, emissions, and noise, as established by the Secretary by rule; and

“(B) the minimum safety performance standards established by the Secretary pursuant to section 5329(b).”

#### SEC. 20016. PUBLIC TRANSPORTATION WORKFORCE DEVELOPMENT AND HUMAN RESOURCE PROGRAMS.

Section 5322 of title 49, United States Code, is amended to read as follows:

##### “§ 5322. Public transportation workforce development and human resource programs

“(a) IN GENERAL.—The Secretary may undertake, or make grants or enter into contracts for, activities that address human resource needs as the needs apply to public transportation activities, including activities that—

“(1) educate and train employees;

“(2) develop the public transportation workforce through career outreach and preparation;

“(3) develop a curriculum for workforce development;

“(4) conduct outreach programs to increase minority and female employment in public transportation;

“(5) conduct research on public transportation personnel and training needs;

“(6) provide training and assistance for minority business opportunities;

“(7) advance training relating to maintenance of alternative energy, energy efficiency, or zero emission vehicles and facilities used in public transportation; and

“(8) address a current or projected workforce shortage in an area that requires technical expertise.

“(b) FUNDING.—

“(1) URBANIZED AREA FORMULA GRANTS.—A recipient or subrecipient of funding under section 5307 shall expend not less than 0.5 percent of such funding for activities consistent with subsection (a).

“(2) WAIVER.—The Secretary may waive the requirement under paragraph (1) with respect to a recipient or subrecipient if the Secretary determines that the recipient or subrecipient—

“(A) has an adequate workforce development program; or

“(B) has partnered with a local educational institution in a manner that sufficiently promotes or addresses workforce development and human resource needs.

“(c) INNOVATIVE PUBLIC TRANSPORTATION WORKFORCE DEVELOPMENT PROGRAM.—

“(1) PROGRAM ESTABLISHED.—The Secretary shall establish a competitive grant program to assist the development of innovative activities eligible for assistance under subsection (a).

“(2) SELECTION OF RECIPIENTS.—To the maximum extent feasible, the Secretary shall select recipients that—

“(A) are geographically diverse;

“(B) address the workforce and human resources needs of large public transportation providers;

“(C) address the workforce and human resources needs of small public transportation providers;

“(D) address the workforce and human resources needs of urban public transportation providers;

“(E) address the workforce and human resources needs of rural public transportation providers;

“(F) advance training related to maintenance of alternative energy, energy efficiency, or zero emission vehicles and facilities used in public transportation;

“(G) target areas with high rates of unemployment; and

“(H) address current or projected workforce shortages in areas that require technical expertise.

“(d) GOVERNMENT’S SHARE OF COSTS.—The Government share of the cost of a project carried out using a grant under this section shall be 50 percent.

“(e) REPORT.—Not later than 2 years after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report concerning the measurable outcomes and impacts of the programs funded under this section.”

#### SEC. 20017. GENERAL PROVISIONS.

Section 5323 of title 49, United States Code, is amended to read as follows:

##### “§ 5323. General provisions

“(a) INTERESTS IN PROPERTY.—

“(1) IN GENERAL.—Financial assistance provided under this chapter to a State or a local governmental authority may be used to acquire an interest in, or to buy property of, a private company engaged in public transportation, for a capital project for property acquired from a private company engaged in public transportation after July 9, 1964, or to operate a public transportation facility or equipment in competition with, or in addition to, transportation service provided by an existing public transportation company, only if—

“(A) the Secretary determines that such financial assistance is essential to a program of projects required under sections 5303 and 5304;

“(B) the Secretary determines that the program provides for the participation of private companies engaged in public transportation to the maximum extent feasible; and

“(C) just compensation under State or local law will be paid to the company for its franchise or property.

“(2) LIMITATION.—A governmental authority may not use financial assistance of the United States Government to acquire land, equipment, or a facility used in public transportation from another governmental authority in the same geographic area.

“(b) RELOCATION AND REAL PROPERTY REQUIREMENTS.—The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.) shall apply to financial assistance for capital projects under this chapter.

“(c) CONSIDERATION OF ECONOMIC, SOCIAL, AND ENVIRONMENTAL INTERESTS.—

“(1) COOPERATION AND CONSULTATION.—In carrying out the goal described in section 5301(c)(2), the Secretary shall cooperate and consult with the Secretary of the Interior and the Administrator of the Environmental Protection Agency on each project that may have a substantial impact on the environment.

“(2) COMPLIANCE WITH NEPA.—The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall apply to financial assistance for capital projects under this chapter.

“(d) CORRIDOR PRESERVATION.—

“(1) IN GENERAL.—The Secretary may assist a recipient in acquiring right-of-way be-

fore the completion of the environmental reviews for any project that may use the right-of-way if the acquisition is otherwise permitted under Federal law. The Secretary may establish restrictions on such an acquisition as the Secretary determines to be necessary and appropriate.

“(2) ENVIRONMENTAL REVIEWS.—Right-of-way acquired under this subsection may not be developed in anticipation of the project until all required environmental reviews for the project have been completed.

“(e) CONDITION ON CHARTER BUS TRANSPORTATION SERVICE.—

“(1) AGREEMENTS.—Financial assistance under this chapter may be used to buy or operate a bus only if the applicant, governmental authority, or publicly owned operator that receives the assistance agrees that, except as provided in the agreement, the governmental authority or an operator of public transportation for the governmental authority will not provide charter bus transportation service outside the urban area in which it provides regularly scheduled public transportation service. An agreement shall provide for a fair arrangement the Secretary of Transportation considers appropriate to ensure that the assistance will not enable a governmental authority or an operator for a governmental authority to foreclose a private operator from providing intercity charter bus service if the private operator can provide the service.

“(2) VIOLATIONS.—

“(A) INVESTIGATIONS.—On receiving a complaint about a violation of the agreement required under paragraph (1), the Secretary shall investigate and decide whether a violation has occurred.

“(B) ENFORCEMENT OF AGREEMENTS.—If the Secretary decides that a violation has occurred, the Secretary shall correct the violation under terms of the agreement.

“(C) ADDITIONAL REMEDIES.—In addition to any remedy specified in the agreement, the Secretary shall bar a recipient or an operator from receiving Federal transit assistance in an amount the Secretary considers appropriate if the Secretary finds a pattern of violations of the agreement.

“(f) BOND PROCEEDS ELIGIBLE FOR LOCAL SHARE.—

“(1) USE AS LOCAL MATCHING FUNDS.—Notwithstanding any other provision of law, a recipient of assistance under section 5307, 5309, or 5337 may use the proceeds from the issuance of revenue bonds as part of the local matching funds for a capital project.

“(2) MAINTENANCE OF EFFORT.—The Secretary shall approve of the use of the proceeds from the issuance of revenue bonds for the remainder of the net project cost only if the Secretary finds that the aggregate amount of financial support for public transportation in the urbanized area provided by the State and affected local governmental authorities during the next 3 fiscal years, as programmed in the State transportation improvement program under section 5304, is not less than the aggregate amount provided by the State and affected local governmental authorities in the urbanized area during the preceding 3 fiscal years.

“(3) DEBT SERVICE RESERVE.—The Secretary may reimburse an eligible recipient for deposits of bond proceeds in a debt service reserve that the recipient establishes pursuant to section 5302(3)(J) from amounts made available to the recipient under section 5309.

“(g) SCHOOLBUS TRANSPORTATION.—

“(1) AGREEMENTS.—Financial assistance under this chapter may be used for a capital

project, or to operate public transportation equipment or a public transportation facility, only if the applicant agrees not to provide schoolbus transportation that exclusively transports students and school personnel in competition with a private schoolbus operator. This subsection does not apply—

“(A) to an applicant that operates a school system in the area to be served and a separate and exclusive schoolbus program for the school system; and

“(B) unless a private schoolbus operator can provide adequate transportation that complies with applicable safety standards at reasonable rates.

“(2) VIOLATIONS.—If the Secretary finds that an applicant, governmental authority, or publicly owned operator has violated the agreement required under paragraph (1), the Secretary shall bar a recipient or an operator from receiving Federal transit assistance in an amount the Secretary considers appropriate.

“(h) BUYING BUSES UNDER OTHER LAWS.—Subsections (e) and (g) of this section apply to financial assistance to buy a bus under sections 133 and 142 of title 23.

“(i) GRANT AND LOAN PROHIBITIONS.—A grant or loan may not be used to—

“(1) pay ordinary governmental or non-project operating expenses; or

“(2) support a procurement that uses an exclusionary or discriminatory specification.

“(j) GOVERNMENT SHARE OF COSTS FOR CERTAIN PROJECTS.—A grant for a project to be assisted under this chapter that involves acquiring vehicle-related equipment or facilities required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) or vehicle-related equipment or facilities (including clean fuel or alternative fuel vehicle-related equipment or facilities) for purposes of complying with or maintaining compliance with the Clean Air Act, is for 90 percent of the net project cost of such equipment or facilities attributable to compliance with those Acts. The Secretary shall have discretion to determine, through practicable administrative procedures, the costs of such equipment or facilities attributable to compliance with those Acts.

“(k) BUY AMERICA.—

“(1) IN GENERAL.—The Secretary may obligate an amount that may be appropriated to carry out this chapter for a project only if the steel, iron, and manufactured goods used in the project are produced in the United States.

“(2) WAIVER.—The Secretary may waive paragraph (1) of this subsection if the Secretary finds that—

“(A) applying paragraph (1) would be inconsistent with the public interest;

“(B) the steel, iron, and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality;

“(C) when procuring rolling stock (including train control, communication, and traction power equipment) under this chapter—

“(i) the cost of components and subcomponents produced in the United States is more than 60 percent of the cost of all components of the rolling stock; and

“(ii) final assembly of the rolling stock has occurred in the United States; or

“(D) including domestic material will increase the cost of the overall project by more than 25 percent.

“(3) WRITTEN WAIVER DETERMINATION AND ANNUAL REPORT.—

“(A) WRITTEN DETERMINATION.—Before issuing a waiver under paragraph (2), the Secretary shall—

“(i) publish in the Federal Register and make publicly available in an easily identifiable location on the website of the Department of Transportation a detailed written explanation of the waiver determination; and

“(ii) provide the public with a reasonable period of time for notice and comment.

“(B) ANNUAL REPORT.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, and annually thereafter, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report listing any waiver issued under paragraph (2) during the preceding year.

“(4) LABOR COSTS FOR FINAL ASSEMBLY.—In this subsection, labor costs involved in final assembly are not included in calculating the cost of components.

“(5) WAIVER PROHIBITED.—The Secretary may not make a waiver under paragraph (2) of this subsection for goods produced in a foreign country if the Secretary, in consultation with the United States Trade Representative, decides that the government of that foreign country—

“(A) has an agreement with the United States Government under which the Secretary has waived the requirement of this subsection; and

“(B) has violated the agreement by discriminating against goods to which this subsection applies that are produced in the United States and to which the agreement applies.

“(6) PENALTY FOR MISLABELING AND MISREPRESENTATION.—A person is ineligible under subpart 9.4 of the Federal Acquisition Regulation, or any successor thereto, to receive a contract or subcontract made with amounts authorized under the Federal Public Transportation Act of 2012 if a court or department, agency, or instrumentality of the Government decides the person intentionally—

“(A) affixed a ‘Made in America’ label, or a label with an inscription having the same meaning, to goods sold in or shipped to the United States that are used in a project to which this subsection applies but not produced in the United States; or

“(B) represented that goods described in subparagraph (A) of this paragraph were produced in the United States.

“(7) STATE REQUIREMENTS.—The Secretary may not impose any limitation on assistance provided under this chapter that restricts a State from imposing more stringent requirements than this subsection on the use of articles, materials, and supplies mined, produced, or manufactured in foreign countries in projects carried out with that assistance or restricts a recipient of that assistance from complying with those State-imposed requirements.

“(8) OPPORTUNITY TO CORRECT INADVERTENT ERROR.—The Secretary may allow a manufacturer or supplier of steel, iron, or manufactured goods to correct after bid opening any certification of noncompliance or failure to properly complete the certification (but not including failure to sign the certification) under this subsection if such manufacturer or supplier attests under penalty of perjury that such manufacturer or supplier submitted an incorrect certification as a result of an inadvertent or clerical error. The burden of establishing inadvertent or clerical error is on the manufacturer or supplier.

“(9) ADMINISTRATIVE REVIEW.—A party adversely affected by an agency action under this subsection shall have the right to seek review under section 702 of title 5.

“(1) PARTICIPATION OF GOVERNMENTAL AGENCIES IN DESIGN AND DELIVERY OF TRANSPORTATION SERVICES.—Governmental agencies and nonprofit organizations that receive assistance from Government sources (other than the Department of Transportation) for nonemergency transportation services shall—

“(1) participate and coordinate with recipients of assistance under this chapter in the design and delivery of transportation services; and

“(2) be included in the planning for those services.

“(m) RELATIONSHIP TO OTHER LAWS.—

“(1) FRAUD AND FALSE STATEMENTS.—Section 1001 of title 18 applies to a certificate, submission, or statement provided under this chapter. The Secretary may terminate financial assistance under this chapter and seek reimbursement directly, or by offsetting amounts, available under this chapter if the Secretary determines that a recipient of such financial assistance has made a false or fraudulent statement or related act in connection with a Federal public transportation program.

“(2) POLITICAL ACTIVITIES OF NON-SUPERVISORY EMPLOYEES.—The provision of assistance under this chapter shall not be construed to require the application of chapter 15 of title 5 to any nonsupervisory employee of a public transportation system (or any other agency or entity performing related functions) to whom such chapter does not otherwise apply.

“(n) PREAWARD AND POSTDELIVERY REVIEW OF ROLLING STOCK PURCHASES.—The Secretary shall prescribe regulations requiring a preaward and postdelivery review of a grant under this chapter to buy rolling stock to ensure compliance with Government motor vehicle safety requirements, subsection (k) of this section, and bid specifications requirements of grant recipients under this chapter. Under this subsection, independent inspections and review are required, and a manufacturer certification is not sufficient. Rolling stock procurements of 20 vehicles or fewer made for the purpose of serving other than urbanized areas and urbanized areas with populations of 200,000 or fewer shall be subject to the same requirements as established for procurements of 10 or fewer buses under the post-delivery purchaser's requirements certification process under section 663.37(c) of title 49, Code of Federal Regulations.

“(o) SUBMISSION OF CERTIFICATIONS.—A certification required under this chapter and any additional certification or assurance required by law or regulation to be submitted to the Secretary may be consolidated into a single document to be submitted annually as part of a grant application under this chapter. The Secretary shall publish annually a list of all certifications required under this chapter with the publication required under section 5336(d)(2).

“(p) GRANT REQUIREMENTS.—The grant requirements under sections 5307, 5309, and 5337 apply to any project under this chapter that receives any assistance or other financing under chapter 6 (other than section 609) of title 23.

“(q) ALTERNATIVE FUELING FACILITIES.—A recipient of assistance under this chapter may allow the incidental use of federally funded alternative fueling facilities and equipment by nontransit public entities and private entities if—

“(1) the incidental use does not interfere with the recipient's public transportation operations;

“(2) all costs related to the incidental use are fully recaptured by the recipient from the nontransit public entity or private entity;

“(3) the recipient uses revenues received from the incidental use in excess of costs for planning, capital, and operating expenses that are incurred in providing public transportation; and

“(4) private entities pay all applicable excise taxes on fuel.

“(r) FIXED GUIDEWAY CATEGORICAL EXCLUSION.—

“(1) STUDY.—Not later than 6 months after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall conduct a study to determine the feasibility of providing a categorical exclusion for streetcar, bus rapid transit, and light rail projects located within an existing transportation right-of-way from the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) in accordance with the Council on Environmental Quality implementing regulations under parts 1500 through 1508 of title 40, Code of Federal Regulations, or any successor thereto.

“(2) FINDINGS AND RULES.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue findings and, if appropriate, issue rules to provide categorical exclusions for suitable categories of projects.”.

#### SEC. 20018. CONTRACT REQUIREMENTS.

Section 5325 of title 49, United States Code, is amended—

(1) in subsection (h), by striking “Federal Public Transportation Act of 2005” and inserting “Federal Public Transportation Act of 2012”;

(2) in subsection (j)(2)(C), by striking “, including the performance reported in the Contractor Performance Assessment Reports required under section 5309(1)(2)”;

(3) by adding at the end the following:

“(k) VETERANS EMPLOYMENT.—Recipients and subrecipients of Federal financial assistance under this chapter shall ensure that contractors working on a capital project funded using such assistance give a hiring preference to veterans, as defined in section 2108 of title 5, who have the requisite skills and abilities to perform the construction work required under the contract.”.

#### SEC. 20019. TRANSIT ASSET MANAGEMENT.

Section 5326 of title 49, United States Code, is amended to read as follows:

##### “§ 5326. Transit asset management

“(a) DEFINITIONS.—In this section the following definitions shall apply:

“(1) CAPITAL ASSET.—The term ‘capital asset’ includes equipment, rolling stock, infrastructure, and facilities for use in public transportation and owned or leased by a recipient or subrecipient of Federal financial assistance under this chapter.

“(2) TRANSIT ASSET MANAGEMENT PLAN.—The term ‘transit asset management plan’ means a plan developed by a recipient of funding under this chapter that—

“(A) includes, at a minimum, capital asset inventories and condition assessments, decision support tools, and investment prioritization; and

“(B) the recipient certifies complies with the rule issued under this section.

“(3) TRANSIT ASSET MANAGEMENT SYSTEM.—The term ‘transit asset management system’ means a strategic and systematic process of operating, maintaining, and improving public transportation capital assets effectively throughout the life cycle of such assets.

“(b) TRANSIT ASSET MANAGEMENT SYSTEM.—The Secretary shall establish and implement a national transit asset management system, which shall include—

“(1) a definition of the term ‘state of good repair’ that includes objective standards for measuring the condition of capital assets of recipients, including equipment, rolling stock, infrastructure, and facilities;

“(2) a requirement that recipients and sub-recipients of Federal financial assistance under this chapter develop a transit asset management plan;

“(3) a requirement that each recipient of Federal financial assistance under this chapter report on the condition of the system of the recipient and provide a description of any change in condition since the last report;

“(4) an analytical process or decision support tool for use by public transportation systems that—

“(A) allows for the estimation of capital investment needs of such systems over time; and

“(B) assists with asset investment prioritization by such systems; and

“(5) technical assistance to recipients of Federal financial assistance under this chapter.

“(c) PERFORMANCE MEASURES AND TARGETS.—

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue a final rule to establish performance measures based on the state of good repair standards established under subsection (b)(1).

“(2) TARGETS.—Not later than 3 months after the date on which the Secretary issues a final rule under paragraph (1), and each fiscal year thereafter, each recipient of Federal financial assistance under this chapter shall establish performance targets in relation to the performance measures established by the Secretary.

“(3) REPORTS.—Each recipient of Federal financial assistance under this chapter shall submit to the Secretary an annual report that describes—

“(A) the progress of the recipient during the fiscal year to which the report relates toward meeting the performance targets established under paragraph (2) for that fiscal year; and

“(B) the performance targets established by the recipient for the subsequent fiscal year.

“(d) RULEMAKING.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue a final rule to implement the transit asset management system described in subsection (b).”.

**SEC. 20020. PROJECT MANAGEMENT OVERSIGHT.** Section 5327 of title 49, United States Code, is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking “United States” and all that follows through “Secretary of Transportation” and inserting the following: “Federal financial assistance for a major capital project for public transportation under this chapter or any other provision of Federal law, a recipient must prepare a project management plan approved by the Secretary and carry out the project in accordance with the project management plan”; and

(B) in paragraph (12), by striking “each month” and inserting “quarterly”;

(2) by striking subsections (c), (d), and (f);

(3) by inserting after subsection (b) the following:

“(c) ACCESS TO SITES AND RECORDS.—Each recipient of Federal financial assistance for public transportation under this chapter or any other provision of Federal law shall provide the Secretary and a contractor the Secretary chooses under section 5338(g) with access to the construction sites and records of the recipient when reasonably necessary.”;

(4) by redesignating subsection (e) as subsection (d); and

(5) in subsection (d), as so redesignated—

(A) in paragraph (1), by striking “subsection (c) of this section” and inserting “section 5338(g)”; and

(B) in paragraph (2)—

(i) by striking “preliminary engineering stage” and inserting “project development phase”; and

(ii) by striking “another stage” and inserting “another phase”.

**SEC. 20021. PUBLIC TRANSPORTATION SAFETY.**

(a) PUBLIC TRANSPORTATION SAFETY PROGRAM.—Section 5329 of title 49, United States Code, is amended to read as follows:

“§ 5329. Public transportation safety program

“(a) DEFINITION.—In this section, the term ‘recipient’ means a State or local governmental authority, or any other operator of a public transportation system, that receives financial assistance under this chapter.

“(b) NATIONAL PUBLIC TRANSPORTATION SAFETY PLAN.—

“(1) IN GENERAL.—The Secretary shall create and implement a national public transportation safety plan to improve the safety of all public transportation systems that receive funding under this chapter.

“(2) CONTENTS OF PLAN.—The national public transportation safety plan under paragraph (1) shall include—

“(A) safety performance criteria for all modes of public transportation;

“(B) the definition of the term ‘state of good repair’ established under section 5326(b);

“(C) minimum safety performance standards for public transportation vehicles used in revenue operations that—

“(i) do not apply to rolling stock otherwise regulated by the Secretary or any other Federal agency; and

“(ii) to the extent practicable, take into consideration—

“(I) relevant recommendations of the National Transportation Safety Board; and

“(II) recommendations of, and best practices standards developed by, the public transportation industry; and

“(D) a public transportation safety certification training program, as described in subsection (c).

“(c) PUBLIC TRANSPORTATION SAFETY CERTIFICATION TRAINING PROGRAM.—

“(1) IN GENERAL.—The Secretary shall establish a public transportation safety certification training program for Federal and State employees, or other designated personnel, who conduct safety audits and examinations of public transportation systems and employees of public transportation agencies directly responsible for safety oversight.

“(2) INTERIM PROVISIONS.—Not later than 90 days after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall establish interim provisions for the certification and training of the personnel described in paragraph (1), which shall be in effect until the effective date of the final rule issued by the Secretary to implement this subsection.

“(d) PUBLIC TRANSPORTATION AGENCY SAFETY PLAN.—

“(1) IN GENERAL.—Effective 1 year after the effective date of a final rule issued by the

Secretary to carry out this subsection, each recipient shall certify that the recipient has established a comprehensive agency safety plan that includes, at a minimum—

“(A) a requirement that the board of directors (or equivalent entity) of the recipient approve the agency safety plan and any updates to the agency safety plan;

“(B) methods for identifying and evaluating safety risks throughout all elements of the public transportation system of the recipient;

“(C) strategies to minimize the exposure of the public, personnel, and property to hazards and unsafe conditions;

“(D) a process and timeline for conducting an annual review and update of the safety plan of the recipient;

“(E) performance targets based on the safety performance criteria and state of good repair standards established under subparagraphs (A) and (B), respectively, of subsection (b)(2);

“(F) assignment of an adequately trained safety officer who reports directly to the general manager, president, or equivalent officer of the recipient; and

“(G) a comprehensive staff training program for the operations personnel and personnel directly responsible for safety of the recipient that includes—

“(i) the completion of a safety training program; and

“(ii) continuing safety education and training.

“(2) INTERIM AGENCY SAFETY PLAN.—A system safety plan developed pursuant to part 659 of title 49, Code of Federal Regulations, as in effect on the date of enactment of the Federal Public Transportation Act of 2012, shall remain in effect until such time as this subsection takes effect.

“(e) STATE SAFETY OVERSIGHT PROGRAM.—

“(1) APPLICABILITY.—This subsection applies only to eligible States.

“(2) DEFINITION.—In this subsection, the term ‘eligible State’ means a State that has—

“(A) a rail fixed guideway public transportation system within the jurisdiction of the State that is not subject to regulation by the Federal Railroad Administration; or

“(B) a rail fixed guideway public transportation system in the engineering or construction phase of development within the jurisdiction of the State that will not be subject to regulation by the Federal Railroad Administration.

“(3) IN GENERAL.—In order to obligate funds apportioned under section 5338 to carry out this chapter, effective 3 years after the date on which a final rule under this subsection becomes effective, an eligible State shall have in effect a State safety oversight program approved by the Secretary under which the State—

“(A) assumes responsibility for overseeing rail fixed guideway public transportation safety;

“(B) adopts and enforces Federal law on rail fixed guideway public transportation safety;

“(C) establishes a State safety oversight agency;

“(D) determines, in consultation with the Secretary, an appropriate staffing level for the State safety oversight agency that is commensurate with the number, size, and complexity of the rail fixed guideway public transportation systems in the eligible State;

“(E) requires that employees and other designated personnel of the eligible State safety oversight agency who are responsible for rail fixed guideway public transportation

safety oversight are qualified to perform such functions through appropriate training, including successful completion of the public transportation safety certification training program established under subsection (c); and

“(F) prohibits any public transportation agency from providing funds to the State safety oversight agency or an entity designated by the eligible State as the State safety oversight agency under paragraph (4).

“(4) STATE SAFETY OVERSIGHT AGENCY.—

“(A) IN GENERAL.—Each State safety oversight program shall establish a State safety oversight agency that—

“(i) is an independent legal entity responsible for the safety of rail fixed guideway public transportation systems;

“(ii) is financially and legally independent from any public transportation entity that the State safety oversight agency oversees;

“(iii) does not fund, promote, or provide public transportation services;

“(iv) does not employ any individual who is also responsible for the administration of public transportation programs;

“(v) has the authority to review, approve, oversee, and enforce the implementation by the rail fixed guideway public transportation agency of the public transportation agency safety plan required under subsection (d);

“(vi) has investigative and enforcement authority with respect to the safety of rail fixed guideway public transportation systems of the eligible State;

“(vii) audits, at least once triennially, the compliance of the rail fixed guideway public transportation systems in the eligible State subject to this subsection with the public transportation agency safety plan required under subsection (d); and

“(viii) provides, at least once annually, a status report on the safety of the rail fixed guideway public transportation systems the State safety oversight agency oversees to—

“(I) the Federal Transit Administration;

“(II) the Governor of the eligible State; and

“(III) the board of directors, or equivalent entity, of any rail fixed guideway public transportation system that the State safety oversight agency oversees.

“(B) WAIVER.—At the request of an eligible State, the Secretary may waive clauses (i) and (iii) of subparagraph (A) for eligible States with 1 or more rail fixed guideway systems in revenue operations, design, or construction, that—

“(i) have fewer than 1,000,000 combined actual and projected rail fixed guideway revenue miles per year; or

“(ii) provide fewer than 10,000,000 combined actual and projected unlinked passenger trips per year.

“(5) ENFORCEMENT.—Each State safety oversight agency shall have the authority to request that the Secretary take enforcement actions available under subsection (g) against a rail fixed guideway public transportation system that is not in compliance with Federal safety laws.

“(6) PROGRAMS FOR MULTI-STATE RAIL FIXED GUIDEWAY PUBLIC TRANSPORTATION SYSTEMS.—An eligible State that has within the jurisdiction of the eligible State a rail fixed guideway public transportation system that operates in more than 1 eligible State shall—

“(A) jointly with all other eligible States in which the rail fixed guideway public transportation system operates, ensure uniform safety standards and enforcement procedures that shall be in compliance with this section, and establish and implement a State safety oversight program approved by the Secretary; or

“(B) jointly with all other eligible States in which the rail fixed guideway public transportation system operates, designate an entity having characteristics consistent with the characteristics described in paragraph (3) to carry out the State safety oversight program approved by the Secretary.

“(7) GRANTS.—

“(A) IN GENERAL.—The Secretary may make a grant to an eligible State to develop or carry out a State safety oversight program, if the eligible State submits—

“(i) a proposal for the establishment of a State safety oversight program to the Secretary for review and written approval before implementing a State safety oversight program; and

“(ii) any amendment to the State safety oversight program of the eligible State to the Secretary for review not later than 60 days before the effective date of the amendment.

“(B) DETERMINATION BY SECRETARY.—

“(1) IN GENERAL.—The Secretary shall transmit written approval to an eligible State that submits a State safety oversight program, if the Secretary determines the State safety oversight program meets the requirements of this subsection and the State safety oversight program is adequate to promote the purposes of this section.

“(ii) AMENDMENT.—The Secretary shall transmit to an eligible State that submits an amendment under subparagraph (A)(ii) a written determination with respect to the amendment.

“(iii) NO WRITTEN DECISION.—If an eligible State does not receive a written decision from the Secretary with respect to an amendment submitted under subparagraph (A)(ii) before the end of the 60-day period beginning on the date on which the eligible State submits the amendment, the amendment shall be deemed to be approved.

“(iv) DISAPPROVAL.—If the Secretary determines that a State safety oversight program does not meet the requirements of this subsection, the Secretary shall transmit to the eligible State a written explanation and allow the eligible State to modify and resubmit the State safety oversight program for approval.

“(C) GOVERNMENT SHARE.—

“(i) IN GENERAL.—The Government share of the reasonable cost of a State safety oversight program developed or carried out using a grant under this paragraph shall be 80 percent.

“(ii) IN-KIND CONTRIBUTIONS.—Any calculation of the non-Government share of a State safety oversight program shall include in-kind contributions by an eligible State.

“(iii) NON-GOVERNMENT SHARE.—The non-Government share of the cost of a State safety oversight program developed or carried out using a grant under this paragraph may not be met by—

“(I) any Federal funds;

“(II) any funds received from a public transportation agency; or

“(III) any revenues earned by a public transportation agency.

“(iv) SAFETY TRAINING PROGRAM.—The Secretary may reimburse an eligible State or a recipient for the full costs of participation in the public transportation safety certification training program established under subsection (c) by an employee of a State safety oversight agency or a recipient who is directly responsible for safety oversight.

“(8) CONTINUAL EVALUATION OF PROGRAM.—The Secretary shall continually evaluate the implementation of a State safety oversight program by a State safety oversight agency, on the basis of—

“(A) reports submitted by the State safety oversight agency under paragraph (4)(A)(viii); and

“(B) audits carried out by the Secretary.

“(9) INADEQUATE PROGRAM.—

“(A) IN GENERAL.—If the Secretary finds that a State safety oversight program approved by the Secretary is not being carried out in accordance with this section or has become inadequate to ensure the enforcement of Federal safety regulations, the Secretary shall—

“(i) transmit to the eligible State a written explanation of the reason the program has become inadequate and inform the State of the intention to withhold funds, including the amount of funds proposed to be withheld under this section, or withdraw approval of the State safety oversight program; and

“(ii) allow the eligible State a reasonable period of time to modify the State safety oversight program or implementation of the program and submit an updated proposal for the State safety oversight program to the Secretary for approval.

“(B) FAILURE TO CORRECT.—If the Secretary determines that a modification by an eligible State of the State safety oversight program is not sufficient to ensure the enforcement of Federal safety regulations, the Secretary may—

“(i) withhold funds available under this section in an amount determined by the Secretary; or

“(ii) provide written notice of withdrawal of State safety oversight program approval.

“(C) TEMPORARY OVERSIGHT.—In the event the Secretary takes action under subparagraph (B)(i), the Secretary shall provide oversight of the rail fixed guideway systems in an eligible State until the State submits a State safety oversight program approved by the Secretary.

“(D) RESTORATION.—

“(i) CORRECTION.—The eligible State shall address any inadequacy to the satisfaction of the Secretary prior to the Secretary restoring funds withheld under this paragraph.

“(ii) AVAILABILITY AND REALLOCATION.—Any funds withheld under this paragraph shall remain available for restoration to the eligible State until the end of the first fiscal year after the fiscal year in which the funds were withheld, after which time the funds shall be available to the Secretary for allocation to other eligible States under this section.

“(10) FEDERAL OVERSIGHT.—The Secretary shall—

“(A) oversee the implementation of each State safety oversight program under this subsection;

“(B) audit the operations of each State safety oversight agency at least once triennially; and

“(C) issue rules to carry out this subsection.

“(f) AUTHORITY OF SECRETARY.—In carrying out this section, the Secretary may—

“(1) conduct inspections, investigations, audits, examinations, and testing of the equipment, facilities, rolling stock, and operations of the public transportation system of a recipient;

“(2) make reports and issue directives with respect to the safety of the public transportation system of a recipient;

“(3) in conjunction with an accident investigation or an investigation into a pattern or practice of conduct that negatively affects public safety, issue a subpoena to, and take the deposition of, any employee of a recipient or a State safety oversight agency, if—

“(A) before the issuance of the subpoena, the Secretary requests a determination by

the Attorney General of the United States as to whether the subpoena will interfere with an ongoing criminal investigation; and

“(B) the Attorney General—

“(i) determines that the subpoena will not interfere with an ongoing criminal investigation; or

“(ii) fails to make a determination under clause (i) before the date that is 30 days after the date on which the Secretary makes a request under subparagraph (A);

“(4) require the production of documents by, and prescribe recordkeeping and reporting requirements for, a recipient or a State safety oversight agency;

“(5) investigate public transportation accidents and incidents and provide guidance to recipients regarding prevention of accidents and incidents;

“(6) at reasonable times and in a reasonable manner, enter and inspect equipment, facilities, rolling stock, operations, and relevant records of the public transportation system of a recipient; and

“(7) issue rules to carry out this section.

“(g) ENFORCEMENT ACTIONS.—

“(1) TYPES OF ENFORCEMENT ACTIONS.—The Secretary may take enforcement action against a recipient that does not comply with Federal law with respect to the safety of the public transportation system, including—

“(A) issuing directives;

“(B) requiring more frequent oversight of the recipient by a State safety oversight agency or the Secretary;

“(C) imposing more frequent reporting requirements;

“(D) requiring that any Federal financial assistance provided under this chapter be spent on correcting safety deficiencies identified by the Secretary or the State safety oversight agency before such funds are spent on other projects;

“(E) subject to paragraph (2), withholding Federal financial assistance, in an amount to be determined by the Secretary, from the recipient, until such time as the recipient comes into compliance with this section; and

“(F) subject to paragraph (3), imposing a civil penalty, in an amount to be determined by the Secretary.

“(2) USE OR WITHHOLDING OF FUNDS.—

“(A) IN GENERAL.—The Secretary may require the use of funds in accordance with paragraph (1)(D), or withhold funds under paragraph (1)(E), only if the Secretary finds that a recipient is engaged in a pattern or practice of serious safety violations or has otherwise refused to comply with Federal law relating to the safety of the public transportation system.

“(B) NOTICE.—Before withholding funds from a recipient under paragraph (1)(E), the Secretary shall provide to the recipient—

“(i) written notice of a violation and the amount proposed to be withheld; and

“(ii) a reasonable period of time within which the recipient may address the violation or propose and initiate an alternative means of compliance that the Secretary determines is acceptable.

“(C) FAILURE TO ADDRESS.—If the recipient does not address the violation or propose an alternative means of compliance that the Secretary determines is acceptable within the period of time specified in the written notice, the Secretary may withhold funds under paragraph (1)(E).

“(D) RESTORATION.—

“(i) CORRECTION.—The recipient shall address any violation to the satisfaction of the Secretary prior to the Secretary restoring funds withheld under paragraph (1)(E).

“(ii) AVAILABILITY AND REALLOCATION.—Any funds withheld under paragraph (1)(E) shall remain available for restoration to the recipient until the end of the first fiscal year after the fiscal year in which the funds were withheld, after which time the funds shall be available to the Secretary for allocation to other eligible recipients.

“(E) NOTIFICATION.—Not later than 3 days before taking any action under subparagraph (C), the Secretary shall notify the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of such action.

“(3) CIVIL PENALTIES.—

“(A) IMPOSITION OF CIVIL PENALTIES.—

“(i) IN GENERAL.—The Secretary may impose a civil penalty under paragraph (1)(F) only if—

“(I) the Secretary has exhausted the enforcement actions available under subparagraphs (A) through (E) of paragraph (1); and

“(II) the recipient continues to be in violation of Federal safety law.

“(ii) EXCEPTION.—The Secretary may waive the requirement under clause (i)(I) if the Secretary determines that such a waiver is in the public interest.

“(B) NOTICE.—Before imposing a civil penalty on a recipient under paragraph (1)(F), the Secretary shall provide to the recipient—

“(i) written notice of any violation and the penalty proposed to be imposed; and

“(ii) a reasonable period of time within which the recipient may address the violation or propose and initiate an alternative means of compliance that the Secretary determines is acceptable.

“(C) FAILURE TO ADDRESS.—If the recipient does not address the violation or propose an alternative means of compliance that the Secretary determines is acceptable within the period of time specified in the written notice, the Secretary may impose a civil penalty under paragraph (1)(F).

“(D) NOTIFICATION.—Not later than 3 days before taking any action under subparagraph (C), the Secretary shall notify the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of such action.

“(E) DEPOSIT OF CIVIL PENALTIES.—Any amounts collected by the Secretary under this paragraph shall be deposited into the Mass Transit Account of the Highway Trust Fund.

“(4) ENFORCEMENT BY THE ATTORNEY GENERAL.—At the request of the Secretary, the Attorney General may bring a civil action—

“(A) for appropriate injunctive relief to ensure compliance with this section;

“(B) to collect a civil penalty imposed under paragraph (1)(F); and

“(C) to enforce a subpoena, request for admissions, request for production of documents or other tangible things, or request for testimony by deposition issued by the Secretary under this section.

“(h) COST-BENEFIT ANALYSIS.—

“(1) ANALYSIS REQUIRED.—In carrying out this section, the Secretary shall take into consideration the costs and benefits of each action the Secretary proposes to take under this section.

“(2) WAIVER.—The Secretary may waive the requirement under this subsection if the Secretary determines that such a waiver is in the public interest.

“(i) CONSULTATION BY THE SECRETARY OF HOMELAND SECURITY.—The Secretary of Homeland Security shall consult with the Secretary of Transportation before the Sec-

retary of Homeland Security issues a rule or order that the Secretary of Transportation determines affects the safety of public transportation design, construction, or operations.

“(j) PREEMPTION OF STATE LAW.—

“(1) NATIONAL UNIFORMITY OF REGULATION.—Laws, regulations, and orders related to public transportation safety shall be nationally uniform to the extent practicable.

“(2) IN GENERAL.—A State may adopt or continue in force a law, regulation, or order related to the safety of public transportation until the Secretary issues a rule or order covering the subject matter of the State requirement.

“(3) MORE STRINGENT LAW.—A State may adopt or continue in force a law, regulation, or order related to the safety of public transportation that is consistent with, in addition to, or more stringent than a regulation or order of the Secretary if the Secretary determines that the law, regulation, or order—

“(A) has a safety benefit;

“(B) is not incompatible with a law, regulation, or order, or the terms and conditions of a financial assistance agreement of the United States Government; and

“(C) does not unreasonably burden interstate commerce.

“(4) ACTIONS UNDER STATE LAW.—

“(A) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to preempt an action under State law seeking damages for personal injury, death, or property damage alleging that a party has failed to comply with—

“(i) a Federal standard of care established by a regulation or order issued by the Secretary under this section;

“(ii) its own program, rule, or standard that it created pursuant to a rule or order issued by the Secretary; or

“(iii) a State law, regulation, or order that is not incompatible with paragraph (2).

“(B) EFFECTIVE DATE.—This paragraph shall apply to any cause of action under State law arising from an event or activity occurring on or after the date of enactment of the Federal Public Transportation Act of 2012.

“(5) JURISDICTION.—Nothing in this section shall be construed to create a cause of action under Federal law on behalf of an injured party or confer Federal question jurisdiction for a State law cause of action.

“(k) ANNUAL REPORT.—The Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives an annual report that—

“(1) analyzes public transportation safety trends among the States and documents the most effective safety programs implemented using grants under this section; and

“(2) describes the effect on public transportation safety of activities carried out using grants under this section.”.

(b) BUS SAFETY STUDY.—

(1) DEFINITION.—In this subsection, the term “highway route” means a route where 50 percent or more of the route is on roads having a speed limit of more than 45 miles per hour.

(2) STUDY.—Not later than 180 days after the date of enactment of this Act, the Secretary of Transportation shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that—

(A) examines the safety of public transportation buses that travel on highway routes;



(B) examines laws and regulations that apply to commercial over-the-road buses; and

(C) makes recommendations as to whether additional safety measures should be required for public transportation buses that travel on highway routes.

**SEC. 20022. ALCOHOL AND CONTROLLED SUBSTANCES TESTING.**

Section 5331(b)(2) of title 49, United States Code, is amended—

(1) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(2) by inserting before subparagraph (B), as so redesignated, the following:

“(A) shall establish and implement an enforcement program that includes the imposition of penalties for failure to comply with this section.”.

**SEC. 20023. NONDISCRIMINATION.**

(a) AMENDMENTS.—Section 5332 of title 49, United States Code, is amended—

(1) in subsection (b)—

(A) by striking “creed” and inserting “religion”; and

(B) by inserting “disability,” after “sex,”; and

(2) in subsection (d)(3), by striking “and” and inserting “or”.

(b) EVALUATION AND REPORT.—

(1) EVALUATION.—The Comptroller General of the United States shall evaluate the progress and effectiveness of the Federal Transit Administration in assisting recipients of assistance under chapter 53 of title 49, United States Code, to comply with section 5332(b) of title 49, including—

(A) by reviewing discrimination complaints, reports, and other relevant information collected or prepared by the Federal Transit Administration or recipients of assistance from the Federal Transit Administration pursuant to any applicable civil rights statute, regulation, or other requirement; and

(B) by reviewing the process that the Federal Transit Administration uses to resolve discrimination complaints filed by members of the public.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report concerning the evaluation under paragraph (1) that includes—

(A) a description of the ability of the Federal Transit Administration to address discrimination and foster equal opportunities in federally funded public transportation projects, programs, and activities;

(B) recommendations for improvements if the Comptroller General determines that improvements are necessary; and

(C) information upon which the evaluation under paragraph (1) is based.

**SEC. 20024. LABOR STANDARDS.**

Section 5333(b) of title 49, United States Code, is amended—

(1) in paragraph (1), by striking “sections 5307-5312, 5316, 5318, 5323(a)(1), 5323(b), 5323(d), 5328, 5337, and 5338(b)” each place that term appears and inserting “sections 5307, 5308, 5309, 5311, and 5337”; and

(2) in paragraph (5), by inserting “of Labor” after “Secretary”.

**SEC. 20025. ADMINISTRATIVE PROVISIONS.**

Section 5334 of title 49, United States Code, is amended—

(1) in subsection (a)(1), by striking “under sections 5307 and 5309-5311 of this title” and

inserting “that receives Federal financial assistance under this chapter”;

(2) in subsection (b)(1)—

(A) by inserting after “emergency,” the following: “or for purposes of establishing and enforcing a program to improve the safety of public transportation systems in the United States.”; and

(B) by striking “chapter, nor may the Secretary” and inserting “chapter. The Secretary may not”;

(3) in subsection (c)(4), by striking “section (except subsection (i)) and sections 5318(e), 5323(a)(2), 5325(a), 5325(b), and 5325(f)” and inserting “subsection”;

(4) in subsection (h)(3), by striking “another” and inserting “any other”;

(5) in subsection (i)(1), by striking “title 23 shall” and inserting “title 23 may”;

(6) by striking subsection (j); and

(7) by redesignating subsections (k) and (l) as subsections (j) and (k), respectively.

**SEC. 20026. NATIONAL TRANSIT DATABASE.**

Section 5335 of title 49, United States Code, is amended by adding at the end the following:

“(c) DATA REQUIRED TO BE REPORTED.—The recipient of a grant under this chapter shall report to the Secretary, for inclusion in the National Transit Database, any information relating to—

“(1) the causes of a reportable incident, as defined by the Secretary; and

“(2) a transit asset inventory or condition assessment conducted by the recipient.”.

**SEC. 20027. APPORTIONMENT OF APPROPRIATIONS FOR FORMULA GRANTS.**

Section 5336 of title 49, United States Code, is amended to read as follows:

**“§ 5336. Apportionment of appropriations for formula grants**

“(a) BASED ON URBANIZED AREA POPULATION.—Of the amount apportioned under subsection (h)(4) to carry out section 5307—

“(1) 9.32 percent shall be apportioned each fiscal year only in urbanized areas with a population of less than 200,000 so that each of those areas is entitled to receive an amount equal to—

“(A) 50 percent of the total amount apportioned multiplied by a ratio equal to the population of the area divided by the total population of all urbanized areas with populations of less than 200,000 as shown in the most recent decennial census; and

“(B) 50 percent of the total amount apportioned multiplied by a ratio for the area based on population weighted by a factor, established by the Secretary, of the number of inhabitants in each square mile; and

“(2) 90.68 percent shall be apportioned each fiscal year only in urbanized areas with populations of at least 200,000 as provided in subsections (b) and (c) of this section.

“(b) BASED ON FIXED GUIDEWAY VEHICLE REVENUE MILES, DIRECTIONAL ROUTE MILES, AND PASSENGER MILES.—(1) In this subsection, ‘fixed guideway vehicle revenue miles’ and ‘fixed guideway directional route miles’ include passenger ferry operations directly or under contract by the designated recipient.

“(2) Of the amount apportioned under subsection (a)(2) of this section, 32.29 percent shall be apportioned as follows:

“(A) 95.61 percent of the total amount apportioned under this subsection shall be apportioned so that each urbanized area with a population of at least 200,000 is entitled to receive an amount equal to—

“(i) 60 percent of the 95.61 percent apportioned under this subparagraph multiplied by a ratio equal to the number of fixed guideway vehicle revenue miles attributable

to the area, as established by the Secretary, divided by the total number of all fixed guideway vehicle revenue miles attributable to all areas; and

“(ii) 40 percent of the 95.61 percent apportioned under this subparagraph multiplied by a ratio equal to the number of fixed guideway directional route miles attributable to the area, established by the Secretary, divided by the total number of all fixed guideway directional route miles attributable to all areas.

An urbanized area with a population of at least 750,000 in which commuter rail transportation is provided shall receive at least .75 percent of the total amount apportioned under this subparagraph.

“(B) 4.39 percent of the total amount apportioned under this subsection shall be apportioned so that each urbanized area with a population of at least 200,000 is entitled to receive an amount equal to—

“(i) the number of fixed guideway vehicle passenger miles traveled multiplied by the number of fixed guideway vehicle passenger miles traveled for each dollar of operating cost in an area; divided by

“(ii) the total number of fixed guideway vehicle passenger miles traveled multiplied by the total number of fixed guideway vehicle passenger miles traveled for each dollar of operating cost in all areas.

An urbanized area with a population of at least 750,000 in which commuter rail transportation is provided shall receive at least .75 percent of the total amount apportioned under this subparagraph.

“(C) Under subparagraph (A) of this paragraph, fixed guideway vehicle revenue or directional route miles, and passengers served on those miles, in an urbanized area with a population of less than 200,000, where the miles and passengers served otherwise would be attributable to an urbanized area with a population of at least 1,000,000 in an adjacent State, are attributable to the governmental authority in the State in which the urbanized area with a population of less than 200,000 is located. The authority is deemed an urbanized area with a population of at least 200,000 if the authority makes a contract for the service.

“(D) A recipient’s apportionment under subparagraph (A)(i) of this paragraph may not be reduced if the recipient, after satisfying the Secretary that energy or operating efficiencies would be achieved, reduces vehicle revenue miles but provides the same frequency of revenue service to the same number of riders.

“(c) BASED ON BUS VEHICLE REVENUE MILES AND PASSENGER MILES.—Of the amount apportioned under subsection (a)(2) of this section, 66.71 percent shall be apportioned as follows:

“(1) 90.8 percent of the total amount apportioned under this subsection shall be apportioned as follows:

“(A) 73.39 percent of the 90.8 percent apportioned under this paragraph shall be apportioned so that each urbanized area with a population of at least 1,000,000 is entitled to receive an amount equal to—

“(i) 50 percent of the 73.39 percent apportioned under this subparagraph multiplied by a ratio equal to the total bus vehicle revenue miles operated in or directly serving the urbanized area divided by the total bus vehicle revenue miles attributable to all areas;

“(ii) 25 percent of the 73.39 percent apportioned under this subparagraph multiplied by a ratio equal to the population of the area divided by the total population of all areas,

as shown in the most recent decennial census; and

“(iii) 25 percent of the 73.39 percent apportioned under this subparagraph multiplied by a ratio for the area based on population weighted by a factor, established by the Secretary, of the number of inhabitants in each square mile.

“(B) 26.61 percent of the 90.8 percent apportioned under this paragraph shall be apportioned so that each urbanized area with a population of at least 200,000 but not more than 999,999 is entitled to receive an amount equal to—

“(i) 50 percent of the 26.61 percent apportioned under this subparagraph multiplied by a ratio equal to the total bus vehicle revenue miles operated in or directly serving the urbanized area divided by the total bus vehicle revenue miles attributable to all areas;

“(ii) 25 percent of the 26.61 percent apportioned under this subparagraph multiplied by a ratio equal to the population of the area divided by the total population of all areas, as shown by the most recent decennial census; and

“(iii) 25 percent of the 26.61 percent apportioned under this subparagraph multiplied by a ratio for the area based on population weighted by a factor, established by the Secretary, of the number of inhabitants in each square mile.

“(2) 9.2 percent of the total amount apportioned under this subsection shall be apportioned so that each urbanized area with a population of at least 200,000 is entitled to receive an amount equal to—

“(A) the number of bus passenger miles traveled multiplied by the number of bus passenger miles traveled for each dollar of operating cost in an area; divided by

“(B) the total number of bus passenger miles traveled multiplied by the total number of bus passenger miles traveled for each dollar of operating cost in all areas.

“(d) DATE OF APPORTIONMENT.—The Secretary shall—

“(1) apportion amounts appropriated under section 5338(a)(2)(C) of this title to carry out section 5307 of this title not later than the 10th day after the date the amounts are appropriated or October 1 of the fiscal year for which the amounts are appropriated, whichever is later; and

“(2) publish apportionments of the amounts, including amounts attributable to each urbanized area with a population of more than 50,000 and amounts attributable to each State of a multistate urbanized area, on the apportionment date.

“(e) AMOUNTS NOT APPORTIONED TO DESIGNATED RECIPIENTS.—The Governor of a State may expend in an urbanized area with a population of less than 200,000 an amount apportioned under this section that is not apportioned to a designated recipient, as defined in section 5302(4).

“(f) TRANSFERS OF APPORTIONMENTS.—(1) The Governor of a State may transfer any part of the State's apportionment under subsection (a)(1) of this section to supplement amounts apportioned to the State under section 5311(c)(3). The Governor may make a transfer only after consulting with responsible local officials and publicly owned operators of public transportation in each area for which the amount originally was apportioned under this section.

“(2) The Governor of a State may transfer any part of the State's apportionment under section 5311(c)(3) to supplement amounts apportioned to the State under subsection (a)(1) of this section.

“(3) The Governor of a State may use throughout the State amounts of a State's apportionment remaining available for obligation at the beginning of the 90-day period before the period of the availability of the amounts expires.

“(4) A designated recipient for an urbanized area with a population of at least 200,000 may transfer a part of its apportionment under this section to the Governor of a State. The Governor shall distribute the transferred amounts to urbanized areas under this section.

“(5) Capital and operating assistance limitations applicable to the original apportionment apply to amounts transferred under this subsection.

“(g) PERIOD OF AVAILABILITY TO RECIPIENTS.—An amount apportioned under this section may be obligated by the recipient for 5 years after the fiscal year in which the amount is apportioned. Not later than 30 days after the end of the 5-year period, an amount that is not obligated at the end of that period shall be added to the amount that may be apportioned under this section in the next fiscal year.

“(h) APPORTIONMENTS.—Of the amounts made available for each fiscal year under section 5338(a)(2)(C)—

“(1) \$35,000,000 shall be set aside to carry out section 5307(i);

“(2) 3.07 percent shall be apportioned to urbanized areas in accordance with subsection (j);

“(3) of amounts not apportioned under paragraphs (1) and (2), 1 percent shall be apportioned to urbanized areas with populations of less than 200,000 in accordance with subsection (i); and

“(4) any amount not apportioned under paragraphs (1), (2), and (3) shall be apportioned to urbanized areas in accordance with subsections (a) through (c).

“(i) SMALL TRANSIT INTENSIVE CITIES FORMULA.—

“(1) DEFINITIONS.—In this subsection, the following definitions apply:

“(A) ELIGIBLE AREA.—The term ‘eligible area’ means an urbanized area with a population of less than 200,000 that meets or exceeds in one or more performance categories the industry average for all urbanized areas with a population of at least 200,000 but not more than 999,999, as determined by the Secretary in accordance with subsection (c)(2).

“(B) PERFORMANCE CATEGORY.—The term ‘performance category’ means each of the following:

“(i) Passenger miles traveled per vehicle revenue mile.

“(ii) Passenger miles traveled per vehicle revenue hour.

“(iii) Vehicle revenue miles per capita.

“(iv) Vehicle revenue hours per capita.

“(v) Passenger miles traveled per capita.

“(vi) Passengers per capita.

“(2) APPORTIONMENT.—

“(A) APPORTIONMENT FORMULA.—The amount to be apportioned under subsection (h)(3) shall be apportioned among eligible areas in the ratio that—

“(i) the number of performance categories for which each eligible area meets or exceeds the industry average in urbanized areas with a population of at least 200,000 but not more than 999,999; bears to

“(ii) the aggregate number of performance categories for which all eligible areas meet or exceed the industry average in urbanized areas with a population of at least 200,000 but not more than 999,999.

“(B) DATA USED IN FORMULA.—The Secretary shall calculate apportionments under

this subsection for a fiscal year using data from the national transit database used to calculate apportionments for that fiscal year under this section.

“(j) APPORTIONMENT FORMULA.—The amounts apportioned under subsection (h)(2) shall be apportioned among urbanized areas as follows:

“(1) 75 percent of the funds shall be apportioned among designated recipients for urbanized areas with a population of 200,000 or more in the ratio that—

“(A) the number of eligible low-income individuals in each such urbanized area; bears to

“(B) the number of eligible low-income individuals in all such urbanized areas.

“(2) 25 percent of the funds shall be apportioned among designated recipients for urbanized areas with a population of less than 200,000 in the ratio that—

“(A) the number of eligible low-income individuals in each such urbanized area; bears to

“(B) the number of eligible low-income individuals in all such urbanized areas.”

#### SEC. 20028. STATE OF GOOD REPAIR GRANTS.

Section 5337 of title 49, United States Code, is amended to read as follows:

##### “§ 5337. State of good repair grants

“(a) DEFINITIONS.—In this section, the following definitions shall apply:

“(1) FIXED GUIDEWAY.—The term ‘fixed guideway’ means a public transportation facility—

“(A) using and occupying a separate right-of-way for the exclusive use of public transportation;

“(B) using rail;

“(C) using a fixed catenary system;

“(D) for a passenger ferry system; or

“(E) for a bus rapid transit system.

“(2) STATE.—The term ‘State’ means the 50 States, the District of Columbia, and Puerto Rico.

“(3) STATE OF GOOD REPAIR.—The term ‘state of good repair’ has the meaning given that term by the Secretary, by rule, under section 5326(b).

“(4) TRANSIT ASSET MANAGEMENT PLAN.—The term ‘transit asset management plan’ means a plan developed by a recipient of funding under this chapter that—

“(A) includes, at a minimum, capital asset inventories and condition assessments, decision support tools, and investment prioritization; and

“(B) the recipient certifies that the recipient complies with the rule issued under section 5326(d).

“(b) GENERAL AUTHORITY.—

“(1) ELIGIBLE PROJECTS.—The Secretary may make grants under this section to assist State and local governmental authorities in financing capital projects to maintain public transportation systems in a state of good repair, including projects to replace and rehabilitate—

“(A) rolling stock;

“(B) track;

“(C) line equipment and structures;

“(D) signals and communications;

“(E) power equipment and substations;

“(F) passenger stations and terminals;

“(G) security equipment and systems;

“(H) maintenance facilities and equipment;

“(I) operational support equipment, including computer hardware and software;

“(J) development and implementation of a transit asset management plan; and

“(K) other replacement and rehabilitation projects the Secretary determines appropriate.

“(2) INCLUSION IN PLAN.—A recipient shall include a project carried out under paragraph (1) in the transit asset management plan of the recipient upon completion of the plan.

“(C) HIGH INTENSITY FIXED GUIDEWAY STATE OF GOOD REPAIR FORMULA.—

“(1) IN GENERAL.—Of the amount authorized or made available under section 5338(a)(2)(M), \$1,874,763,500 shall be apportioned to recipients in accordance with this subsection.

“(2) AREA SHARE.—

“(A) IN GENERAL.—50 percent of the amount described in paragraph (1) shall be apportioned for fixed guideway systems in accordance with this paragraph.

“(B) SHARE.—A recipient shall receive an amount equal to the amount described in subparagraph (A), multiplied by the amount the recipient would have received under this section, as in effect for fiscal year 2011, if the amount had been calculated in accordance with section 5336(b)(1) and using the definition of the term ‘fixed guideway’ under subsection (a) of this section, as such sections are in effect on the day after the date of enactment of the Federal Public Transportation Act of 2012, and divided by the total amount apportioned for all areas under this section for fiscal year 2011.

“(C) RECIPIENT.—For purposes of this paragraph, the term ‘recipient’ means an entity that received funding under this section, as in effect for fiscal year 2011.

“(3) VEHICLE REVENUE MILES AND DIRECTIONAL ROUTE MILES.—

“(A) IN GENERAL.—50 percent of the amount described in paragraph (1) shall be apportioned to recipients in accordance with this paragraph.

“(B) VEHICLE REVENUE MILES.—A recipient in an urbanized area shall receive an amount equal to 60 percent of the amount described in subparagraph (A), multiplied by the number of fixed guideway vehicle revenue miles attributable to the urbanized area, as established by the Secretary, divided by the total number of all fixed guideway vehicle revenue miles attributable to all urbanized areas.

“(C) DIRECTIONAL ROUTE MILES.—A recipient in an urbanized area shall receive an amount equal to 40 percent of the amount described in subparagraph (A), multiplied by the number of fixed guideway directional route miles attributable to the urbanized area, as established by the Secretary, divided by the total number of all fixed guideway directional route miles attributable to all urbanized areas.

“(4) LIMITATION.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the share of the total amount apportioned under this section that is apportioned to an area under this subsection shall not decrease by more than 0.25 percentage points compared to the share apportioned to the area under this subsection in the previous fiscal year.

“(B) SPECIAL RULE FOR FISCAL YEAR 2012.—In fiscal year 2012, the share of the total amount apportioned under this section that is apportioned to an area under this subsection shall not decrease by more than 0.25 percentage points compared to the share that would have been apportioned to the area under this section, as in effect for fiscal year 2011, if the share had been calculated using the definition of the term ‘fixed guideway’ under subsection (a) of this section, as in effect on the day after the date of enactment of the Federal Public Transportation Act of 2012.

“(5) USE OF FUNDS.—Amounts made available under this subsection shall be available

for the exclusive use of fixed guideway projects.

“(6) RECEIVING APPORTIONMENT.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), for an area with a fixed guideway system, the amounts provided under this section shall be apportioned to the designated recipient for the urbanized area in which the system operates.

“(B) EXCEPTION.—An area described in the amendment made by section 3028(a) of the Transportation Equity Act for the 21st Century (Public Law 105-178; 112 Stat. 366) shall receive an individual apportionment under this subsection.

“(7) APPORTIONMENT REQUIREMENTS.—For purposes of determining the number of fixed guideway vehicle revenue miles or fixed guideway directional route miles attributable to an urbanized area for a fiscal year under this subsection, only segments of fixed guideway systems placed in revenue service not later than 7 years before the first day of the fiscal year shall be deemed to be attributable to an urbanized area.

“(d) FIXED GUIDEWAY STATE OF GOOD REPAIR GRANT PROGRAM.—

“(1) IN GENERAL.—The Secretary may make grants under this section to assist State and local governmental authorities in financing fixed guideway capital projects to maintain public transportation systems in a state of good repair.

“(2) COMPETITIVE PROCESS.—The Secretary shall solicit grant applications and make grants for eligible projects on a competitive basis.

“(3) PRIORITY CONSIDERATION.—In making grants under this subsection, the Secretary shall give priority to grant applications received from recipients receiving an amount under this section that is not less than 2 percent less than the amount the recipient would have received under this section, as in effect for fiscal year 2011, if the amount had been calculated using the definition of the term ‘fixed guideway’ under subsection (a) of this section, as in effect on the day after the date of enactment of the Federal Public Transportation Act of 2012.

“(e) HIGH INTENSITY MOTORBUS STATE OF GOOD REPAIR.—

“(1) DEFINITION.—For purposes of this subsection, the term ‘fixed guideway motorbus’ means public transportation that is provided on a facility with access for other high-occupancy vehicles.

“(2) APPORTIONMENT.—Of the amount authorized or made available under section 5338(a)(2)(M), \$112,500,000 shall be apportioned to urbanized areas for high intensity motorbus state of good repair in accordance with this subsection.

“(3) VEHICLE REVENUE MILES AND DIRECTIONAL ROUTE MILES.—

“(A) IN GENERAL.—\$60,000,000 of the amount described in paragraph (2) shall be apportioned to each area in accordance with this paragraph.

“(B) VEHICLE REVENUE MILES.—Each area shall receive an amount equal to 60 percent of the amount described in subparagraph (A), multiplied by the number of fixed guideway motorbus vehicle revenue miles attributable to the area, as established by the Secretary, divided by the total number of all fixed guideway motorbus vehicle revenue miles attributable to all areas.

“(C) DIRECTIONAL ROUTE MILES.—Each area shall receive an amount equal to 40 percent of the amount described in subparagraph (A), multiplied by the number of fixed guideway motorbus directional route miles attributable to the area, as established by the Sec-

retary, divided by the total number of all fixed guideway motorbus directional route miles attributable to all areas.

“(4) SPECIAL RULE FOR FIXED GUIDEWAY MOTORBUS.—

“(A) IN GENERAL.—\$52,500,000 of the amount described in paragraph (2) shall be apportioned—

“(i) in accordance with this paragraph; and

“(ii) among urbanized areas within a State in the same proportion as funds are apportioned within a State under section 5336, except subsection (b), and shall be added to such amounts.

“(B) TERRITORIES.—Of the amount described in subparagraph (A), \$500,000 shall be distributed among the territories, as determined by the Secretary.

“(C) STATES.—Of the amount described in subparagraph (A), each State shall receive \$1,000,000.

“(5) USE OF FUNDS.—A recipient may transfer any part of the apportionment under this subsection for use under subsection (c).

“(6) APPORTIONMENT REQUIREMENTS.—For purposes of determining the number of fixed guideway motorbus vehicle revenue miles or fixed guideway motorbus directional route miles attributable to an urbanized area for a fiscal year under this subsection, only segments of fixed guideway motorbus systems placed in revenue service not later than 7 years before the first day of the fiscal year shall be deemed to be attributable to an urbanized area.”

#### SEC. 20029. AUTHORIZATIONS.

Section 5338 of title 49, United States Code, is amended to read as follows:

#### “§ 5338. Authorizations

“(a) FORMULA GRANTS.—

“(1) IN GENERAL.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5305, 5307, 5308, 5310, 5311, 5312, 5313, 5314, 5315, 5322, 5335, and 5340, subsections (c) and (e) of section 5337, and section 20005(b) of the Federal Public Transportation Act of 2012, \$8,360,565,000 for each of fiscal years 2012 and 2013.

“(2) ALLOCATION OF FUNDS.—Of the amounts made available under paragraph (1)—

“(A) \$124,850,000 for each of fiscal years 2012 and 2013 shall be available to carry out section 5305;

“(B) \$20,000,000 for each of fiscal years 2012 and 2013 shall be available to carry out section 20005(b) of the Federal Public Transportation Act of 2012;

“(C) \$4,756,161,500 for each of fiscal years 2012 and 2013 shall be allocated in accordance with section 5336 to provide financial assistance for urbanized areas under section 5307;

“(D) \$65,150,000 for each of fiscal years 2012 and 2013 shall be available to carry out section 5308, of which not less than \$8,500,000 shall be used to carry out activities under section 5312;

“(E) \$248,600,000 for each of fiscal years 2012 and 2013 shall be available to provide financial assistance for services for the enhanced mobility of seniors and individuals with disabilities under section 5310;

“(F) \$591,190,000 for each of fiscal years 2012 and 2013 shall be available to provide financial assistance for other than urbanized areas under section 5311, of which not less than \$30,000,000 shall be available to carry out section 5311(c)(1) and \$20,000,000 shall be available to carry out section 5311(c)(2);

“(G) \$34,000,000 for each of fiscal years 2012 and 2013 shall be available to carry out research, development, demonstration, and deployment projects under section 5312;

“(H) \$6,500,000 for each of fiscal years 2012 and 2013 shall be available to carry out a transit cooperative research program under section 5313;

“(I) \$4,500,000 for each of fiscal years 2012 and 2013 shall be available for technical assistance and standards development under section 5314;

“(J) \$5,000,000 for each of fiscal years 2012 and 2013 shall be available for the National Transit Institute under section 5315;

“(K) \$2,000,000 for each of fiscal years 2012 and 2013 shall be available for workforce development and human resource grants under section 5322;

“(L) \$3,850,000 for each of fiscal years 2012 and 2013 shall be available to carry out section 5335;

“(M) \$1,987,263,500 for each of fiscal years 2012 and 2013 shall be available to carry out subsections (c) and (e) of section 5337; and

“(N) \$511,500,000 for each of fiscal years 2012 and 2013 shall be allocated in accordance with section 5340 to provide financial assistance for urbanized areas under section 5307 and other than urbanized areas under section 5311.

“(b) EMERGENCY RELIEF PROGRAM.—There are authorized to be appropriated such sums as are necessary to carry out section 5306.

“(c) CAPITAL INVESTMENT GRANTS.—There are authorized to be appropriated to carry out section 5309, \$1,955,000,000 for each of fiscal years 2012 and 2013.

“(d) PAUL S. SARBANES TRANSIT IN THE PARKS.—There are authorized to be appropriated to carry out section 5320, \$26,900,000 for each of fiscal years 2012 and 2013.

“(e) FIXED GUIDEWAY STATE OF GOOD REPAIR GRANT PROGRAM.—There are authorized to be appropriated to carry out section 5337(d), \$7,463,000 for each of fiscal years 2012 and 2013.

“(f) ADMINISTRATION.—

“(1) IN GENERAL.—There are authorized to be appropriated to carry out section 5334, \$108,350,000 for each of fiscal years 2012 and 2013.

“(2) SECTION 5329.—Of the amounts authorized to be appropriated under paragraph (1), not less than \$10,000,000 shall be available to carry out section 5329.

“(3) SECTION 5326.—Of the amounts made available under paragraph (2), not less than \$1,000,000 shall be available to carry out section 5326.

“(g) OVERSIGHT.—

“(1) IN GENERAL.—Of the amounts made available to carry out this chapter for a fiscal year, the Secretary may use not more than the following amounts for the activities described in paragraph (2):

“(A) 0.5 percent of amounts made available to carry out section 5305.

“(B) 0.75 percent of amounts made available to carry out section 5307.

“(C) 1 percent of amounts made available to carry out section 5309.

“(D) 1 percent of amounts made available to carry out section 601 of the Passenger Rail Investment and Improvement Act of 2008 (Public Law 110-432; 126 Stat. 4968).

“(E) 0.5 percent of amounts made available to carry out section 5310.

“(F) 0.5 percent of amounts made available to carry out section 5311.

“(G) 0.5 percent of amounts made available to carry out section 5320.

“(H) 0.75 percent of amounts made available to carry out section 5337(c).

“(2) ACTIVITIES.—The activities described in this paragraph are as follows:

“(A) Activities to oversee the construction of a major capital project.

“(B) Activities to review and audit the safety and security, procurement, management, and financial compliance of a recipient or subrecipient of funds under this chapter.

“(C) Activities to provide technical assistance generally, and to provide technical assistance to correct deficiencies identified in compliance reviews and audits carried out under this section.

“(3) GOVERNMENT SHARE OF COSTS.—The Government shall pay the entire cost of carrying out a contract under this subsection.

“(4) AVAILABILITY OF CERTAIN FUNDS.—Funds made available under paragraph (1)(C) shall be made available to the Secretary before allocating the funds appropriated to carry out any project under a full funding grant agreement.

“(h) GRANTS AS CONTRACTUAL OBLIGATIONS.—

“(1) GRANTS FINANCED FROM HIGHWAY TRUST FUND.—A grant or contract that is approved by the Secretary and financed with amounts made available from the Mass Transit Account of the Highway Trust Fund pursuant to this section is a contractual obligation of the Government to pay the Government share of the cost of the project.

“(2) GRANTS FINANCED FROM GENERAL FUND.—A grant or contract that is approved by the Secretary and financed with amounts appropriated in advance from the General Fund of the Treasury pursuant to this section is a contractual obligation of the Government to pay the Government share of the cost of the project only to the extent that amounts are appropriated for such purpose by an Act of Congress.

“(i) AVAILABILITY OF AMOUNTS.—Amounts made available by or appropriated under this section shall remain available until expended.”.

#### **SEC. 20030. APPORTIONMENTS BASED ON GROWING STATES AND HIGH DENSITY STATES FORMULA FACTORS.**

Section 5340 of title 49, United States Code, is amended to read as follows:

#### **“§ 5340. Apportionments based on growing States and high density States formula factors**

“(a) DEFINITION.—In this section, the term ‘State’ shall mean each of the 50 States of the United States.

“(b) ALLOCATION.—Of the amounts made available for each fiscal year under section 5338(a)(2)(N), the Secretary shall apportion—

“(1) 50 percent to States and urbanized areas in accordance with subsection (c); and

“(2) 50 percent to States and urbanized areas in accordance with subsection (d).

“(c) GROWING STATE APPORTIONMENTS.—

“(1) APPORTIONMENT AMONG STATES.—The amounts apportioned under subsection (b)(1) shall provide each State with an amount equal to the total amount apportioned multiplied by a ratio equal to the population of that State forecast for the year that is 15 years after the most recent decennial census, divided by the total population of all States forecast for the year that is 15 years after the most recent decennial census. Such forecast shall be based on the population trend for each State between the most recent decennial census and the most recent estimate of population made by the Secretary of Commerce.

“(2) APPORTIONMENTS BETWEEN URBANIZED AREAS AND OTHER THAN URBANIZED AREAS IN EACH STATE.—

“(A) IN GENERAL.—The Secretary shall apportion amounts to each State under paragraph (1) so that urbanized areas in that State receive an amount equal to the

amount apportioned to that State multiplied by a ratio equal to the sum of the forecast population of all urbanized areas in that State divided by the total forecast population of that State. In making the apportionment under this subparagraph, the Secretary shall utilize any available forecasts made by the State. If no forecasts are available, the Secretary shall utilize data on urbanized areas and total population from the most recent decennial census.

“(B) REMAINING AMOUNTS.—Amounts remaining for each State after apportionment under subparagraph (A) shall be apportioned to that State and added to the amount made available for grants under section 5311.

“(3) APPORTIONMENTS AMONG URBANIZED AREAS IN EACH STATE.—The Secretary shall apportion amounts made available to urbanized areas in each State under paragraph (2)(A) so that each urbanized area receives an amount equal to the amount apportioned under paragraph (2)(A) multiplied by a ratio equal to the population of each urbanized area divided by the sum of populations of all urbanized areas in the State. Amounts apportioned to each urbanized area shall be added to amounts apportioned to that urbanized area under section 5336, and made available for grants under section 5307.

“(d) HIGH DENSITY STATE APPORTIONMENTS.—Amounts to be apportioned under subsection (b)(2) shall be apportioned as follows:

“(1) ELIGIBLE STATES.—The Secretary shall designate as eligible for an apportionment under this subsection all States with a population density in excess of 370 persons per square mile.

“(2) STATE URBANIZED LAND FACTOR.—For each State qualifying for an apportionment under paragraph (1), the Secretary shall calculate an amount equal to—

“(A) the total land area of the State (in square miles); multiplied by

“(B) 370; multiplied by

“(C)(i) the population of the State in urbanized areas; divided by

“(ii) the total population of the State.

“(3) STATE APPORTIONMENT FACTOR.—For each State qualifying for an apportionment under paragraph (1), the Secretary shall calculate an amount equal to the difference between the total population of the State less the amount calculated in paragraph (2).

“(4) STATE APPORTIONMENT.—Each State qualifying for an apportionment under paragraph (1) shall receive an amount equal to the amount to be apportioned under this subsection multiplied by the amount calculated for the State under paragraph (3) divided by the sum of the amounts calculated under paragraph (3) for all States qualifying for an apportionment under paragraph (1).

“(5) APPORTIONMENTS AMONG URBANIZED AREAS IN EACH STATE.—The Secretary shall apportion amounts made available to each State under paragraph (4) so that each urbanized area receives an amount equal to the amount apportioned under paragraph (4) multiplied by a ratio equal to the population of each urbanized area divided by the sum of populations of all urbanized areas in the State. For multistate urbanized areas, the Secretary shall suballocate funds made available under paragraph (4) to each State's part of the multistate urbanized area in proportion to the State's share of population of the multistate urbanized area. Amounts apportioned to each urbanized area shall be made available for grants under section 5307.”.

**SEC. 20031. TECHNICAL AND CONFORMING AMENDMENTS.**

(a) SECTION 5305.—Section 5305 of title 49, United States Code, is amended—

(1) in subsection (c), by striking “sections 5303, 5304, and 5306” and inserting “sections 5303 and 5304”;

(2) in subsection (d), by striking “sections 5303 and 5306” each place that term appears and inserting “section 5303”;

(3) in subsection (e)(1)(A), by striking “sections 5304, 5306, 5315, and 5322” and inserting “section 5304”;

(4) in subsection (f)—

(A) in the heading, by striking “GOVERNMENT’S” and inserting “GOVERNMENT”; and

(B) by striking “Government’s” and inserting “Government”; and

(5) in subsection (g), by striking “section 5338(c) for fiscal years 2005 through 2011 and for the period beginning on October 1, 2011, and ending on March 31, 2012” and inserting “section 5338(a)(2)(A) for a fiscal year”.

(b) SECTION 5313.—Section 5313(a) of title 49, United States Code, is amended—

(1) in the first sentence, by striking “subsections (a)(5)(C)(iii) and (d)(1) of section 5338” and inserting section “5338(a)(2)(H)”; and

(2) in the second sentence, by striking “of Transportation”.

(c) SECTION 5319.—Section 5319 of title 49, United States Code, is amended, in the second sentence—

(1) by striking “sections 5307(e), 5309(h), and 5311(g) of this title” and inserting “sections 5307(e), 5309(k), and 5311(h)”; and

(2) by striking “of the United States” and inserting “made by the”.

(d) SECTION 5325.—Section 5325 of title 49, United States Code, is amended—

(1) in subsection (b)(2)(A), by striking “title 48, Code of Federal Regulations (commonly known as the Federal Acquisition Regulation)” and inserting “the Federal Acquisition Regulation, or any successor thereto”; and

(2) in subsection (e), by striking “Government financial assistance” and inserting “Federal financial assistance”.

(e) SECTION 5330.—Effective 3 years after the effective date of the final rules issued by the Secretary of Transportation under section 5329(e) of title 49, United States Code, as amended by this division, section 5330 of title 49, United States Code, is repealed.

(f) SECTION 5331.—Section 5331 of title 49, United States Code, is amended by striking “Secretary of Transportation” each place that term appears and inserting “Secretary”.

(g) SECTION 5332.—Section 5332(c)(1) of title 49, United States Code, is amended by striking “of Transportation”.

(h) SECTION 5333.—Section 5333(a) of title 49, United States Code, is amended by striking “sections 3141-3144” and inserting “sections 3141 through 3144”.

(i) SECTION 5334.—Section 5334 of title 49, United States Code, is amended—

(1) in subsection (c)—

(A) by striking “Secretary of Transportation” each place that term appears and inserting “Secretary”; and

(B) in paragraph (1), by striking “Committees on Transportation and Infrastructure and Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and Appropriations of the Senate” and inserting “Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives”;

(2) in subsection (d), by striking “of Transportation”;

(3) in subsection (e), by striking “of Transportation”;

(4) in subsection (f), by striking “of Transportation”;

(5) in subsection (g), in the matter preceding paragraph (1)—

(A) by striking “of Transportation”; and

(B) by striking “subsection (a)(3) or (4) of this section” and inserting “paragraph (3) or (4) of subsection (a)”;

(6) in subsection (h)—

(A) in paragraph (1), in the matter preceding subparagraph (A), by striking “of Transportation”; and

(B) in paragraph (2), by striking “of this section”;

(7) in subsection (i)(1), by striking “of Transportation”; and

(8) in subsection (j), as so redesignated by section 20025 of this division, by striking “Committees on Banking, Housing, and Urban Affairs and Appropriations of the Senate and Committees on Transportation and Infrastructure and Appropriations of the House of Representatives” and inserting “Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives”.

(j) SECTION 5335.—Section 5335(a) of title 49, United States Code, is amended by striking “of Transportation”.

(k) TABLE OF SECTIONS.—The table of sections for chapter 53 of title 49, United States Code, is amended to read as follows:

“Sec.

“5301. Policies, purposes, and goals.

“5302. Definitions.

“5303. Metropolitan transportation planning.

“5304. Statewide and nonmetropolitan transportation planning.

“5305. Planning programs.

“5306. Public transportation emergency relief program.

“5307. Urbanized area formula grants.

“5308. Clean fuel grant program.

“5309. Fixed guideway capital investment grants.

“5310. Formula grants for the enhanced mobility of seniors and individuals with disabilities.

“5311. Formula grants for other than urbanized areas.

“5312. Research, development, demonstration, and deployment projects.

“5313. Transit cooperative research program.

“5314. Technical assistance and standards development.

“5315. National Transit Institute.

“[5316. Repealed.]

“[5317. Repealed.]

“5318. Bus testing facilities.

“5319. Bicycle facilities.

“5320. Alternative transportation in parks and public lands.

“[5321. Repealed.]

“5322. Public transportation workforce development and human resource programs.

“5323. General provisions.

“[5324. Repealed.]

“5325. Contract requirements.

“5326. Transit asset management.

“5327. Project management oversight.

“[5328. Repealed.]

“5329. Public transportation safety program.

“5330. State safety oversight.

“5331. Alcohol and controlled substances testing.

“5332. Nondiscrimination.

“5333. Labor standards.

“5334. Administrative provisions.

“5335. National transit database.

“5336. Apportionment of appropriations for formula grants.

“5337. State of good repair grants.

“5338. Authorizations.

“[5339. Repealed.]

“5340. Apportionments based on growing States and high density States formula factors.”.

**DIVISION C—TRANSPORTATION SAFETY AND SURFACE TRANSPORTATION POLICY  
TITLE I—MOTOR VEHICLE AND HIGHWAY SAFETY IMPROVEMENT ACT OF 2012**

**SEC. 31001. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This title may be cited as the “Motor Vehicle and Highway Safety Improvement Act of 2012” or “Mariah’s Act”.

(b) TABLE OF CONTENTS.—The table of contents for this division is as follows:

**DIVISION C—TRANSPORTATION SAFETY AND SURFACE TRANSPORTATION POLICY**

**TITLE I—MOTOR VEHICLE AND HIGHWAY SAFETY IMPROVEMENT ACT OF 2012**

Sec. 31001. Short title; table of contents.

Sec. 31002. Definition.

**Subtitle A—Highway Safety**

Sec. 31101. Authorization of appropriations.

Sec. 31102. Highway safety programs.

Sec. 31103. Highway safety research and development.

Sec. 31104. National driver register.

Sec. 31105. Combined occupant protection grants.

Sec. 31106. State traffic safety information system improvements.

Sec. 31107. Impaired driving countermeasures.

Sec. 31108. Distracted driving grants.

Sec. 31109. High visibility enforcement program.

Sec. 31110. Motorcyclist safety.

Sec. 31111. Driver alcohol detection system for safety research.

Sec. 31112. State graduated driver licensing laws.

Sec. 31113. Agency accountability.

Sec. 31114. Emergency medical services.

**Subtitle B—Enhanced Safety Authorities**

Sec. 31201. Definition of motor vehicle equipment.

Sec. 31202. Permit reminder system for non-use of safety belts.

Sec. 31203. Civil penalties.

Sec. 31204. Motor vehicle safety research and development.

Sec. 31205. Odometer requirements definition.

Sec. 31206. Electronic disclosures of odometer information.

Sec. 31207. Increased penalties and damages for odometer fraud.

Sec. 31208. Extend prohibitions on importing noncompliant vehicles and equipment to defective vehicles and equipment.

Sec. 31209. Financial responsibility requirements for importers.

Sec. 31210. Conditions on importation of vehicles and equipment.

Sec. 31211. Port inspections; samples for examination or testing.

**Subtitle C—Transparency and Accountability**

Sec. 31301. Improved National Highway Traffic Safety Administration vehicle safety database.

Sec. 31302. National Highway Traffic Safety Administration hotline for manufacturer, dealer, and mechanic personnel.

- Sec. 31303. Consumer notice of software updates and other communications with dealers.
- Sec. 31304. Public availability of early warning data.
- Sec. 31305. Corporate responsibility for National Highway Traffic Safety Administration reports.
- Sec. 31306. Passenger motor vehicle information program.
- Sec. 31307. Promotion of vehicle defect reporting.
- Sec. 31308. Whistleblower protections for motor vehicle manufacturers, part suppliers, and dealership employees.
- Sec. 31309. Anti-revolving door.
- Sec. 31310. Study of crash data collection.
- Sec. 31311. Update of means of providing notification; improving efficacy of recalls.
- Sec. 31312. Expanding choices of remedy available to manufacturers of replacement equipment.
- Sec. 31313. Recall obligations and bankruptcy of manufacturer.
- Sec. 31314. Repeal of insurance reports and information provision.
- Sec. 31315. Monroney sticker to permit additional safety rating categories.
- Subtitle D—Vehicle Electronics and Safety Standards
- Sec. 31401. National Highway Traffic Safety Administration electronics, software, and engineering expertise.
- Sec. 31402. Vehicle stopping distance and brake override standard.
- Sec. 31403. Pedal placement standard.
- Sec. 31404. Electronic systems performance standard.
- Sec. 31405. Pushbutton ignition systems standard.
- Sec. 31406. Vehicle event data recorders.
- Sec. 31407. Prohibition on electronic visual entertainment in driver's view.
- Subtitle E—Child Safety Standards
- Sec. 31501. Child safety seats.
- Sec. 31502. Child restraint anchorage systems.
- Sec. 31503. Rear seat belt reminders.
- Sec. 31504. Unattended passenger reminders.
- Sec. 31505. New deadline.
- Subtitle F—Improved Daytime and Nighttime Visibility of Agricultural Equipment
- Sec. 31601. Rulemaking on visibility of agricultural equipment.
- TITLE II—COMMERCIAL MOTOR VEHICLE SAFETY ENHANCEMENT ACT OF 2012**
- Sec. 32001. Short title.
- Sec. 32002. Definition.
- Sec. 32003. References to title 49, United States Code.
- Subtitle A—Commercial Motor Vehicle Registration
- Sec. 32101. Registration of motor carriers.
- Sec. 32102. Safety fitness of new operators.
- Sec. 32103. Reincarnated carriers.
- Sec. 32104. Financial responsibility requirements.
- Sec. 32105. USDOT number registration requirement.
- Sec. 32106. Registration fee system.
- Sec. 32107. Registration update.
- Sec. 32108. Increased penalties for operating without registration.
- Sec. 32109. Revocation of registration for imminent hazard.
- Sec. 32110. Revocation of registration and other penalties for failure to respond to subpoena.
- Sec. 32111. Fleetwide out of service order for operating without required registration.
- Sec. 32112. Motor carrier and officer patterns of safety violations.
- Sec. 32113. Federal successor standard.
- Subtitle B—Commercial Motor Vehicle Safety
- Sec. 32201. Repeal of commercial jurisdiction exception for brokers of motor carriers of passengers.
- Sec. 32202. Bus rentals and definition of employer.
- Sec. 32203. Crashworthiness standards.
- Sec. 32204. Canadian safety rating reciprocity.
- Sec. 32205. State reporting of foreign commercial driver convictions.
- Sec. 32206. Authority to disqualify foreign commercial drivers.
- Sec. 32207. Revocation of foreign motor carrier operating authority for failure to pay civil penalties.
- Subtitle C—Driver Safety
- Sec. 32301. Electronic on-board recording devices.
- Sec. 32302. Safety fitness.
- Sec. 32303. Driver medical qualifications.
- Sec. 32304. Commercial driver's license notification system.
- Sec. 32305. Commercial motor vehicle operator training.
- Sec. 32306. Commercial driver's license program.
- Sec. 32307. Commercial driver's license requirements.
- Sec. 32308. Commercial motor vehicle driver information systems.
- Sec. 32309. Disqualifications based on non-commercial motor vehicle operations.
- Sec. 32310. Federal driver disqualifications.
- Sec. 32311. Employer responsibilities.
- Subtitle D—Safe Roads Act of 2012
- Sec. 32401. Short title.
- Sec. 32402. National clearinghouse for controlled substance and alcohol test results of commercial motor vehicle operators.
- Sec. 32403. Drug and alcohol violation sanctions.
- Sec. 32404. Authorization of appropriations.
- Subtitle E—Enforcement
- Sec. 32501. Inspection demand and display of credentials.
- Sec. 32502. Out of service penalty for denial of access to records.
- Sec. 32503. Penalties for violation of operation out of service orders.
- Sec. 32504. Minimum prohibition on operation for unfit carriers.
- Sec. 32505. Minimum out of service penalties.
- Sec. 32506. Impoundment and immobilization of commercial motor vehicles for imminent hazard.
- Sec. 32507. Increased penalties for evasion of regulations.
- Sec. 32508. Failure to pay civil penalty as a disqualifying offense.
- Sec. 32509. Violations relating to commercial motor vehicle safety regulation and operators.
- Sec. 32510. Emergency disqualification for imminent hazard.
- Sec. 32511. Intrastate operations of interstate motor carriers.
- Sec. 32512. Enforcement of safety laws and regulations.
- Sec. 32513. Disclosure to State and local law enforcement agencies.
- Subtitle F—Compliance, Safety, Accountability
- Sec. 32601. Compliance, safety, accountability.
- Sec. 32602. Performance and registration information systems management program.
- Sec. 32603. Commercial motor vehicle defined.
- Sec. 32604. Driver safety fitness ratings.
- Sec. 32605. Uniform electronic clearance for commercial motor vehicle inspections.
- Sec. 32606. Authorization of appropriations.
- Sec. 32607. High risk carrier reviews.
- Sec. 32608. Data and technology grants.
- Sec. 32609. Driver safety grants.
- Sec. 32610. Commercial vehicle information systems and networks.
- Subtitle G—Motorcoach Enhanced Safety Act of 2012
- Sec. 32701. Short title.
- Sec. 32702. Definitions.
- Sec. 32703. Regulations for improved occupant protection, passenger evacuation, and crash avoidance.
- Sec. 32704. Standards for improved fire safety.
- Sec. 32705. Occupant protection, collision avoidance, fire causation, and fire extinguisher research and testing.
- Sec. 32706. Motorcoach registration.
- Sec. 32707. Improved oversight of motorcoach service providers.
- Sec. 32708. Report on feasibility, benefits, and costs of establishing a system of certification of training programs.
- Sec. 32709. Report on driver's license requirements for 9- to 15-passenger vans.
- Sec. 32710. Event data recorders.
- Sec. 32711. Safety inspection program for commercial motor vehicles of passengers.
- Sec. 32712. Distracted driving.
- Sec. 32713. Regulations.
- Subtitle H—Safe Highways and Infrastructure Preservation
- Sec. 32801. Comprehensive truck size and weight limits study.
- Sec. 32802. Compilation of existing State truck size and weight limit laws.
- Subtitle I—Miscellaneous
- PART I—DETENTION TIME STUDY**
- Sec. 32911. Detention time study.
- Sec. 32912. Prohibition of coercion.
- Sec. 32913. Motor carrier safety advisory committee.
- Sec. 32914. Waivers, exemptions, and pilot programs.
- Sec. 32915. Transportation of horses.
- PART II—HOUSEHOLD GOODS TRANSPORTATION**
- Sec. 32921. Additional registration requirements for household goods motor carriers.
- Sec. 32922. Failure to give up possession of household goods.
- Sec. 32923. Settlement authority.
- Sec. 32924. Household goods transportation assistance program.
- Sec. 32925. Household goods consumer education program.
- PART III—TECHNICAL AMENDMENTS**
- Sec. 32931. Update of obsolete text.
- Sec. 32932. Correction of interstate commerce commission references.
- Sec. 32933. Technical and conforming amendments.
- PART IV—SURFACE TRANSPORTATION AND FREIGHT POLICY ACT OF 2012**
- Sec. 32941. Short title.

- Sec. 32942. Establishment of a national surface transportation and freight policy.
- Sec. 32943. Surface transportation and freight strategic plan.
- Sec. 32944. Transportation investment data and planning tools.
- Sec. 32945. National freight infrastructure investment grants.
- Sec. 32946. Port infrastructure development initiative.
- Sec. 32947. Office of Freight Planning and Development.
- Sec. 32948. Safety for motorized and non-motorized users.

### TITLE III—HAZARDOUS MATERIALS TRANSPORTATION SAFETY IMPROVEMENT ACT OF 2012

- Sec. 33001. Short title.
- Sec. 33002. Definition.
- Sec. 33003. References to title 49, United States Code.
- Sec. 33004. Training for emergency responders.
- Sec. 33005. Paperless Hazard Communications Pilot Program.
- Sec. 33006. Improving data collection, analysis, and reporting.
- Sec. 33007. Loading and unloading of hazardous materials.
- Sec. 33008. Hazardous material technical assessment, research and development, and analysis program.
- Sec. 33009. Hazardous Material Enforcement Training Program.
- Sec. 33010. Inspections.
- Sec. 33011. Civil penalties.
- Sec. 33012. Reporting of fees.
- Sec. 33013. Special permits, approvals, and exclusions.
- Sec. 33014. Highway routing disclosures.
- Sec. 33015. Authorization of appropriations.

### TITLE IV—RESEARCH AND INNOVATIVE TECHNOLOGY ADMINISTRATION REAUTHORIZATION ACT OF 2012

- Sec. 34001. Short title.
- Sec. 34002. National Cooperative Freight Research Program.
- Sec. 34003. Multimodal Innovative Research Program.
- Sec. 34004. Bureau of Transportation Statistics.
- Sec. 34005. 5.9 GHz vehicle-to-vehicle and vehicle-to-infrastructure communications systems deployment.
- Sec. 34006. Administrative authority.
- Sec. 34007. Prize authority.
- Sec. 34008. Transportation research and development.
- Sec. 34009. Use of funds for intelligent transportation systems activities.
- Sec. 34010. National Travel Data Program.
- Sec. 34011. Authorization of appropriations.

#### SEC. 31002. DEFINITION.

In this title, the term “Secretary” means the Secretary of Transportation.

#### Subtitle A—Highway Safety

#### SEC. 31101. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

- (1) HIGHWAY SAFETY PROGRAMS.—For carrying out section 402 of title 23, United States Code—
- (A) \$243,000,000 for fiscal year 2012; and
- (B) \$243,000,000 for fiscal year 2013.
- (2) HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—For carrying out section 403 of title 23, United States Code—
- (A) \$130,000,000 for fiscal year 2012; and
- (B) \$139,000,000 for fiscal year 2013.

(3) COMBINED OCCUPANT PROTECTION GRANTS.—For carrying out section 405 of title 23, United States Code—

- (A) \$44,000,000 for fiscal year 2012; and
- (B) \$44,000,000 for fiscal year 2013.
- (4) STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS.—For carrying out section 408 of title 23, United States Code—
- (A) \$44,000,000 for fiscal year 2012; and
- (B) \$44,000,000 for fiscal year 2013.
- (5) IMPAIRED DRIVING COUNTERMEASURES.—For carrying out section 410 of title 23, United States Code—

- (A) \$139,000,000 for fiscal year 2012; and
- (B) \$139,000,000 for fiscal year 2013.
- (6) DISTRACTED DRIVING GRANTS.—For carrying out section 411 of title 23, United States Code—

- (A) \$39,000,000 for fiscal year 2012; and
- (B) \$39,000,000 for fiscal year 2013.
- (7) NATIONAL DRIVER REGISTER.—For the National Highway Traffic Safety Administration to carry out chapter 303 of title 49, United States Code—

- (A) \$5,000,000 for fiscal year 2012; and
- (B) \$5,000,000 for fiscal year 2013.
- (8) HIGH VISIBILITY ENFORCEMENT PROGRAM.—For carrying out section 2009 of SAFETEA-LU (23 U.S.C. 402 note)—

- (A) \$37,000,000 for fiscal year 2012; and
- (B) \$37,000,000 for fiscal year 2013.
- (9) MOTORCYCLIST SAFETY.—For carrying out section 2010 of SAFETEA-LU (23 U.S.C. 402 note)—

- (A) \$6,000,000 for fiscal year 2012; and
- (B) \$6,000,000 for fiscal year 2013.
- (10) ADMINISTRATIVE EXPENSES.—For administrative and related operating expenses of the National Highway Traffic Safety Administration in carrying out chapter 4 of title 23, United States Code, and this subtitle—

- (A) \$25,581,280 for fiscal year 2012; and
- (B) \$25,862,674 for fiscal year 2013.

(11) DRIVER ALCOHOL DETECTION SYSTEM FOR SAFETY RESEARCH.—For carrying out section 413 of title 23, United States Code—

- (A) \$12,000,000 for fiscal year 2012; and
- (B) \$12,000,000 for fiscal year 2013.

(12) STATE GRADUATED DRIVER LICENSING LAWS.—For carrying out section 414 of title 23, United States Code—

- (A) \$22,000,000 for fiscal year 2012; and
- (B) \$22,000,000 for fiscal year 2013.

(b) PROHIBITION ON OTHER USES.—Except as otherwise provided in chapter 4 of title 23, United States Code, in this subtitle, and in the amendments made by this subtitle, the amounts made available from the Highway Trust Fund (other than the Mass Transit Account) for a program under such chapter—

- (1) shall only be used to carry out such program; and
- (2) may not be used by States or local governments for construction purposes.

(c) APPLICABILITY OF TITLE 23.—Except as otherwise provided in chapter 4 of title 23, United States Code, and in this subtitle, amounts made available under subsection (a) for fiscal years 2012 and 2013 shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

(d) REGULATORY AUTHORITY.—Grants awarded under this subtitle shall be in accordance with regulations issued by the Secretary.

(e) STATE MATCHING REQUIREMENTS.—If a grant awarded under this subtitle requires a State to share in the cost, the aggregate of all expenditures for highway safety activities made during any fiscal year by the State and its political subdivisions (exclusive of Federal funds) for carrying out the grant

(other than planning and administration) shall be available for the purpose of crediting the State during such fiscal year for the non-Federal share of the cost of any project under this subtitle (other than planning or administration) without regard to whether such expenditures were actually made in connection with such project.

(f) MAINTENANCE OF EFFORT.—

(1) REQUIREMENT.—No grant may be made to a State under section 405, 408, or 410 of title 23, United States Code, in any fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State will maintain its aggregate expenditures from all State and local sources for programs described in such sections at or above the average level of such expenditures in the 2 fiscal years preceding the date of enactment of this Act.

(2) WAIVER.—Upon the request of a State, the Secretary may waive or modify the requirements under paragraph (1) for not more than 1 fiscal year if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances.

(g) TRANSFERS.—In each fiscal year, the Secretary may transfer any amounts remaining available under paragraphs (3), (4), (5), (6), (9), (11), and (12) of subsection (a) to the amounts made available under paragraph (1) or any other of such paragraphs in order to ensure, to the maximum extent possible, that all funds are obligated.

(h) GRANT APPLICATION AND DEADLINE.—To receive a grant under this subtitle, a State shall submit an application, and the Secretary shall establish a single deadline for such applications to enable the award of grants early in the next fiscal year.

(i) ALLOCATION TO SUPPORT STATE DISTRACTED DRIVING LAWS.—Of the amounts made available under subsection (a)(6) for distracted driving grants, the Secretary may expend, in each fiscal year, up to \$5,000,000 for the development and placement of broadcast media to support the enforcement of State distracted driving laws.

#### SEC. 31102. HIGHWAY SAFETY PROGRAMS.

(a) PROGRAMS INCLUDED.—Section 402(a) of title 23, United States Code, is amended to read as follows:

“(a) PROGRAM REQUIRED.—

“(1) IN GENERAL.—Each State shall have a highway safety program, approved by the Secretary, that is designed to reduce traffic accidents and the resulting deaths, injuries, and property damage.

“(2) UNIFORM GUIDELINES.—Programs required under paragraph (1) shall comply with uniform guidelines, promulgated by the Secretary and expressed in terms of performance criteria, that—

“(A) include programs—

“(i) to reduce injuries and deaths resulting from motor vehicles being driven in excess of posted speed limits;

“(ii) to encourage the proper use of occupant protection devices (including the use of safety belts and child restraint systems) by occupants of motor vehicles;

“(iii) to reduce injuries and deaths resulting from persons driving motor vehicles while impaired by alcohol or a controlled substance;

“(iv) to prevent accidents and reduce injuries and deaths resulting from accidents involving motor vehicles and motorcycles;

“(v) to reduce injuries and deaths resulting from accidents involving school buses;

“(vi) to reduce accidents resulting from unsafe driving behavior (including aggressive



or fatigued driving and distracted driving arising from the use of electronic devices in vehicles); and

“(vii) to improve law enforcement services in motor vehicle accident prevention, traffic supervision, and post-accident procedures;

“(B) improve driver performance, including—

“(i) driver education;

“(ii) driver testing to determine proficiency to operate motor vehicles; and

“(iii) driver examinations (physical, mental, and driver licensing);

“(C) improve pedestrian performance and bicycle safety;

“(D) include provisions for—

“(i) an effective record system of accidents (including resulting injuries and deaths);

“(ii) accident investigations to determine the probable causes of accidents, injuries, and deaths;

“(iii) vehicle registration, operation, and inspection; and

“(iv) emergency services; and

“(E) to the extent determined appropriate by the Secretary, are applicable to federally administered areas where a Federal department or agency controls the highways or supervises traffic operations.”.

(b) ADMINISTRATION OF STATE PROGRAMS.—Section 402(b)(1) of title 23, United States Code, is amended—

(1) in subparagraph (D), by striking “and” at the end;

(2) by redesignating subparagraph (E) as subparagraph (F);

(3) by inserting after subparagraph (D) the following:

“(E) beginning on October 1, 2012, provide for a robust, data-driven traffic safety enforcement program to prevent traffic violations, crashes, and crash fatalities and injuries in areas most at risk for such incidents, to the satisfaction of the Secretary.”; and

(4) in subparagraph (F), as redesignated—

(A) in clause (i), by inserting “and high-visibility law enforcement mobilizations coordinated by the Secretary” after “mobilizations”;

(B) in clause (iii), by striking “and” at the end;

(C) in clause (iv), by striking the period at the end and inserting “; and”; and

(D) by adding at the end the following:

“(v) ensuring that the State will coordinate its highway safety plan, data collection, and information systems with the State strategic highway safety plan (as defined in section 148(a)).”.

(c) APPROVED HIGHWAY SAFETY PROGRAMS.—Section 402(c) of title 23, United States Code, is amended—

(1) by striking “(c) Funds authorized” and inserting the following:

“(c) USE OF FUNDS.—

“(1) IN GENERAL.—Funds authorized”;

(2) by striking “Such funds” and inserting the following:

“(2) APPORTIONMENT.—Except for amounts identified in subsection (1) and section 403(e), funds described in paragraph (1)”;

(3) by striking “The Secretary shall not” and all that follows through “subsection, a highway safety program” and inserting “A highway safety program”;

(4) by inserting “A State may use the funds apportioned under this section, in cooperation with neighboring States, for highway safety programs or related projects that may confer benefits on such neighboring States.” after “in every State.”;

(5) by striking “50 per centum” and inserting “20 percent”; and

(6) by striking “The Secretary shall promptly” and all that follows and inserting the following:

“(3) REAPPORTIONMENT.—The Secretary shall promptly apportion the funds withheld from a State’s apportionment to the State if the Secretary approves the State’s highway safety program or determines that the State has begun implementing an approved program, as appropriate, not later than July 31st of the fiscal year for which the funds were withheld. If the Secretary determines that the State did not correct its failure within such period, the Secretary shall re-apportion the withheld funds to the other States in accordance with the formula specified in paragraph (2) not later than the last day of the fiscal year.”.

(d) USE OF HIGHWAY SAFETY PROGRAM FUNDS.—Section 402(g) of title 23, United States Code, is amended to read as follows:

“(g) SAVINGS PROVISION.—

“(1) IN GENERAL.—Except as provided under paragraph (2), nothing in this section may be construed to authorize the appropriation or expenditure of funds for—

“(A) highway construction, maintenance, or design (other than design of safety features of highways to be incorporated into guidelines); or

“(B) any purpose for which funds are authorized by section 403.

“(2) DEMONSTRATION PROJECTS.—A State may use funds made available to carry out this section to assist in demonstration projects carried out by the Secretary under section 403.”.

(e) IN GENERAL.—Section 402 of title 23, United States Code, is amended—

(1) by striking subsections (k) and (m);

(2) by redesignating subsections (i) and (j) as subsections (h) and (i), respectively; and

(3) by redesignating subsection (l) as subsection (j).

(f) HIGHWAY SAFETY PLAN AND REPORTING REQUIREMENTS.—Section 402 of title 23, United States Code, as amended by this section, is further amended by adding at the end the following:

“(k) HIGHWAY SAFETY PLAN AND REPORTING REQUIREMENTS.—

“(1) IN GENERAL.—The Secretary shall require each State to develop and submit to the Secretary a highway safety plan that complies with the requirements under this subsection not later than July 1, 2012, and annually thereafter.

“(2) CONTENTS.—State highway safety plans submitted under paragraph (1) shall include—

“(A) performance measures required by the Secretary or otherwise necessary to support additional State safety goals, including—

“(i) documentation of current safety levels for each performance measure;

“(ii) quantifiable annual performance targets for each performance measure; and

“(iii) a justification for each performance target;

“(B) a strategy for programming funds apportioned to the State under this section on projects and activities that will allow the State to meet the performance targets described in subparagraph (A);

“(C) data and data analysis supporting the effectiveness of proposed countermeasures;

“(D) a description of any Federal, State, local, or private funds that the State plans to use, in addition to funds apportioned to the State under this section, to carry out the strategy described in subparagraph (B);

“(E) beginning with the plan submitted by July 1, 2013, a report on the State’s success in meeting State safety goals set forth in the previous year’s highway safety plan; and

“(F) an application for any additional grants available to the State under this chapter.

“(3) PERFORMANCE MEASURES.—For the first highway safety plan submitted under this subsection, the performance measures required by the Secretary under paragraph (2)(A) shall be limited to those developed by the National Highway Traffic Safety Administration and the Governor’s Highway Safety Association and described in the report, ‘Traffic Safety Performance Measures for States and Federal Agencies’ (DOT HS 811 025). For subsequent highway safety plans, the Secretary shall consult with the Governor’s Highway Safety Association and safety experts if the Secretary makes revisions to the set of required performance measures.

“(4) REVIEW OF HIGHWAY SAFETY PLANS.—

“(A) IN GENERAL.—Not later than 60 days after the date on which a State’s highway safety plan is received by the Secretary, the Secretary shall review and approve or disapprove the plan.

“(B) APPROVALS AND DISAPPROVALS.—

“(i) APPROVALS.—The Secretary shall approve a State’s highway safety plan if the Secretary determines that—

“(I) the plan is evidence-based and supported by data;

“(II) the performance targets are adequate; and

“(III) the plan, once implemented, will allow the State to meet such targets.

“(ii) DISAPPROVALS.—The Secretary shall disapprove a State’s highway safety plan if the Secretary determines that the plan does not—

“(I) set appropriate performance targets; or

“(II) provide for evidence-based programming of funding in a manner sufficient to allow the State to meet such targets.

“(C) ACTIONS UPON DISAPPROVAL.—If the Secretary disapproves a State’s highway safety plan, the Secretary shall—

“(i) inform the State of the reasons for such disapproval; and

“(ii) require the State to resubmit the plan with any modifications that the Secretary determines to be necessary.

“(D) REVIEW OF RESUBMITTED PLANS.—If the Secretary requires a State to resubmit a highway safety plan, with modifications, the Secretary shall review and approve or disapprove the modified plan not later than 30 days after the date on which the Secretary receives such plan.

“(E) REPROGRAMMING AUTHORITY.—If the Secretary determines that the modifications contained in a State’s resubmitted highway safety plan do not provide for the programming of funding in a manner sufficient to meet the State’s performance goals, the Secretary, in consultation with the State, shall take such action as may be necessary to bring the State’s plan into compliance with the performance targets.

“(F) PUBLIC NOTICE.—A State shall make the State’s highway safety plan, and decisions of the Secretary concerning approval or disapproval of a revised plan, available to the public.”.

(g) COOPERATIVE RESEARCH AND EVALUATION.—Section 402 of title 23, United States Code, as amended by this section, is further amended by adding at the end the following:

“(1) COOPERATIVE RESEARCH AND EVALUATION.—

“(i) ESTABLISHMENT AND FUNDING.—Notwithstanding the apportionment formula set forth in subsection (c)(2), \$2,500,000 of the total amount available for apportionment to the States for highway safety programs

under subsection (c) in each fiscal year shall be available for expenditure by the Secretary, acting through the Administrator of the National Highway Traffic Safety Administration, for a cooperative research and evaluation program to research and evaluate priority highway safety countermeasures.

“(2) ADMINISTRATION.—The program established under paragraph (1)—

“(A) shall be administered by the Administrator of the National Highway Traffic Safety Administration; and

“(B) shall be jointly managed by the Governors Highway Safety Association and the National Highway Traffic Safety Administration.”.

(h) TEEN TRAFFIC SAFETY PROGRAM.—Section 402 of title 23, United States Code, as amended by this section, is further amended by adding at the end the following:

“(m) TEEN TRAFFIC SAFETY PROGRAM.—

“(1) PROGRAM AUTHORIZED.—Subject to the requirements of a State’s highway safety plan, as approved by the Secretary under subsection (k), a State may use a portion of the amounts received under this section to implement a statewide teen traffic safety program to improve traffic safety for teen drivers.

“(2) STRATEGIES.—The program implemented under paragraph (1)—

“(A) shall include peer-to-peer education and prevention strategies in schools and communities designed to—

“(i) increase safety belt use;

“(ii) reduce speeding;

“(iii) reduce impaired and distracted driving;

“(iv) reduce underage drinking; and

“(v) reduce other behaviors by teen drivers that lead to injuries and fatalities; and

“(B) may include—

“(i) working with student-led groups and school advisors to plan and implement teen traffic safety programs;

“(ii) providing subgrants to schools throughout the State to support the establishment and expansion of student groups focused on teen traffic safety;

“(iii) providing support, training, and technical assistance to establish and expand school and community safety programs for teen drivers;

“(iv) creating statewide or regional websites to publicize and circulate information on teen safety programs;

“(v) conducting outreach and providing educational resources for parents;

“(vi) establishing State or regional advisory councils comprised of teen drivers to provide input and recommendations to the governor and the governor’s safety representative on issues related to the safety of teen drivers;

“(vii) collaborating with law enforcement;

“(viii) organizing and hosting State and regional conferences for teen drivers;

“(ix) establishing partnerships and promoting coordination among community stakeholders, including public, not-for-profit, and for profit entities; and

“(x) funding a coordinator position for the teen safety program in the State or region.”.

#### SEC. 31103. HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.

Section 403 of title 23, United States Code, is amended to read as follows:

#### “§ 403. Highway safety research and development

“(a) DEFINED TERM.—In this section, the term ‘Federal laboratory’ includes—

“(1) a Government-owned, Government-operated laboratory; and

“(2) a Government-owned, contractor-operated laboratory.

“(b) GENERAL AUTHORITY.—

“(1) RESEARCH AND DEVELOPMENT ACTIVITIES.—The Secretary may conduct research and development activities, including demonstration projects and the collection and analysis of highway and motor vehicle safety data and related information needed to carry out this section, with respect to—

“(A) all aspects of highway and traffic safety systems and conditions relating to—

“(i) vehicle, highway, driver, passenger, motorcyclist, bicyclist, and pedestrian characteristics;

“(ii) accident causation and investigations;

“(iii) communications;

“(iv) emergency medical services; and

“(v) transportation of the injured;

“(B) human behavioral factors and their effect on highway and traffic safety, including—

“(i) driver education;

“(ii) impaired driving;

“(iii) distracted driving; and

“(iv) new technologies installed in, or brought into, vehicles;

“(C) an evaluation of the effectiveness of countermeasures to increase highway and traffic safety, including occupant protection and alcohol- and drug-impaired driving technologies and initiatives; and

“(D) the effect of State laws on any aspects, activities, or programs described in subparagraphs (A) through (C).

“(2) COOPERATION, GRANTS, AND CONTRACTS.—The Secretary may carry out this section—

“(A) independently;

“(B) in cooperation with other Federal departments, agencies, and instrumentalities and Federal laboratories;

“(C) by entering into contracts, cooperative agreements, and other transactions with the National Academy of Sciences, any Federal laboratory, State or local agency, authority, association, institution, foreign country, or person (as defined in chapter 1 of title 1); or

“(D) by making grants to the National Academy of Sciences, any Federal laboratory, State or local agency, authority, association, institution, or person (as defined in chapter 1 of title 1).

“(c) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

“(1) IN GENERAL.—To encourage innovative solutions to highway safety problems, stimulate voluntary improvements in highway safety, and stimulate the marketing of new highway safety related technology by private industry, the Secretary is authorized to carry out, on a cost-shared basis, collaborative research and development with—

“(A) non-Federal entities, including State and local governments, foreign countries, colleges, universities, corporations, partnerships, sole proprietorships, organizations serving the interests of children, people with disabilities, low-income populations, and older adults, and trade associations that are incorporated or established under the laws of any State or the United States; and

“(B) Federal laboratories.

“(2) AGREEMENTS.—In carrying out this subsection, the Secretary may enter into cooperative research and development agreements (as defined in section 12 of the Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3710a)) in which the Secretary provides not more than 50 percent of the cost of any research or development project under this subsection.

“(3) USE OF TECHNOLOGY.—The research, development, or use of any technology pursuant to an agreement under this subsection,

including the terms under which technology may be licensed and the resulting royalties may be distributed, shall be subject to the provisions of the Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

“(d) TITLE TO EQUIPMENT.—In furtherance of the purposes set forth in section 402, the Secretary may vest title to equipment purchased for demonstration projects with funds authorized under this section to State or local agencies on such terms and conditions as the Secretary determines to be appropriate.

“(e) TRAINING.—Notwithstanding the apportionment formula set forth in section 402(c)(2), 1 percent of the total amount available for apportionment to the States for highway safety programs under section 402(c) in each fiscal year shall be available, through the end of the succeeding fiscal year, to the Secretary, acting through the Administrator of the National Highway Traffic Safety Administration—

“(1) to provide training, conducted or developed by Federal or non-Federal entity or personnel, to Federal, State, and local highway safety personnel; and

“(2) to pay for any travel, administrative, and other expenses related to such training.

“(f) DRIVER LICENSING AND FITNESS TO DRIVE CLEARINGHOUSE.—From amounts made available under this section, the Secretary, acting through the Administrator of the National Highway Traffic Safety Administration, is authorized to expend \$1,280,000 between the date of enactment of the Motor Vehicle and Highway Safety Improvement Act of 2012 and September 30, 2013, to establish an electronic clearinghouse and technical assistance service to collect and disseminate research and analysis of medical and technical information and best practices concerning drivers with medical issues that may be used by State driver licensing agencies in making licensing qualification decisions.

“(g) INTERNATIONAL HIGHWAY SAFETY INFORMATION AND COOPERATION.—

“(1) ESTABLISHMENT.—The Secretary, acting through the Administrator of the National Highway Traffic Safety Administration, may establish an international highway safety information and cooperation program to—

“(A) inform the United States highway safety community of laws, projects, programs, data, and technology in foreign countries that could be used to enhance highway safety in the United States;

“(B) permit the exchange of information with foreign countries about laws, projects, programs, data, and technology that could be used to enhance highway safety; and

“(C) allow the Secretary, represented by the Administrator, to participate and cooperate in international activities to enhance highway safety.

“(2) COOPERATION.—The Secretary may carry out this subsection in cooperation with any appropriate Federal agency, State or local agency or authority, foreign government, or multinational institution.

“(h) PROHIBITION ON CERTAIN DISCLOSURES.—Any report of the National Highway Traffic Safety Administration, or of any officer, employee, or contractor of the National Highway Traffic Safety Administration, relating to any highway traffic accident or the investigation of such accident conducted pursuant to this chapter or chapter 301 shall be made available to the public in a manner that does not identify individuals.

“(i) MODEL SPECIFICATIONS FOR DEVICES.—The Secretary, acting through the Administrator of the National Highway Traffic Safety Administration, may—

“(1) develop model specifications and testing procedures for devices, including devices designed to measure the concentration of alcohol in the body;

“(2) conduct periodic tests of such devices;

“(3) publish a Conforming Products List of such devices that have met the model specifications; and

“(4) may require that any necessary tests of such devices are conducted by a Federal laboratory and paid for by the device manufacturers.”.

#### SEC. 31104. NATIONAL DRIVER REGISTER.

Section 30302(b) of title 49, United States Code, is amended by adding at the end the following: “The Secretary shall make continual improvements to modernize the Register’s data processing system.”.

#### SEC. 31105. COMBINED OCCUPANT PROTECTION GRANTS.

(a) IN GENERAL.—Section 405 of title 23, United States Code, is amended to read as follows:

##### “§ 405. Combined occupant protection grants

“(a) GENERAL AUTHORITY.—Subject to the requirements of this section, the Secretary of Transportation shall award grants to States that adopt and implement effective occupant protection programs to reduce highway deaths and injuries resulting from individuals riding unrestrained or improperly restrained in motor vehicles.

“(b) FEDERAL SHARE.—The Federal share of the costs of activities funded using amounts from grants awarded under this section may not exceed 80 percent for each fiscal year for which a State receives a grant.

“(c) ELIGIBILITY.—

“(1) HIGH SEAT BELT USE RATE.—A State with an observed seat belt use rate of 90 percent or higher, based on the most recent data from a survey that conforms with national criteria established by the National Highway Traffic Safety Administration, shall be eligible for a grant in a fiscal year if the State—

“(A) submits an occupant protection plan during the first fiscal year;

“(B) participates in the Click It or Ticket national mobilization;

“(C) has an active network of child restraint inspection stations; and

“(D) has a plan to recruit, train, and maintain a sufficient number of child passenger safety technicians.

“(2) LOWER SEAT BELT USE RATE.—A State with an observed seat belt use rate below 90 percent, based on the most recent data from a survey that conforms with national criteria established by the National Highway Traffic Safety Administration, shall be eligible for a grant in a fiscal year if—

“(A) the State meets all of the requirements under subparagraphs (A) through (D) of paragraph (1); and

“(B) the Secretary determines that the State meets at least 3 of the following criteria:

“(i) The State conducts sustained (ongoing and periodic) seat belt enforcement at a defined level of participation during the year.

“(ii) The State has enacted and enforces a primary enforcement seat belt use law.

“(iii) The State has implemented countermeasure programs for high-risk populations, such as drivers on rural roadways, unrestrained nighttime drivers, or teenage drivers.

“(iv) The State has enacted and enforces occupant protection laws requiring front and

rear occupant protection use by all occupants in an age-appropriate restraint.

“(v) The State has implemented a comprehensive occupant protection program in which the State has—

“(I) conducted a program assessment;

“(II) developed a statewide strategic plan;

“(III) designated an occupant protection coordinator; and

“(IV) established a statewide occupant protection task force.

“(vi) The State—

“(I) completed an assessment of its occupant protection program during the 3-year period preceding the grant year; or

“(II) will conduct such an assessment during the first year of the grant.

“(d) USE OF GRANT AMOUNTS.—Grant funds received pursuant to this section may be used to—

“(1) carry out a program to support high-visibility enforcement mobilizations, including paid media that emphasizes publicity for the program, and law enforcement;

“(2) carry out a program to train occupant protection safety professionals, police officers, fire and emergency medical personnel, educators, and parents concerning all aspects of the use of child restraints and occupant protection;

“(3) carry out a program to educate the public concerning the proper use and installation of child restraints, including related equipment and information systems;

“(4) carry out a program to provide community child passenger safety services, including programs about proper seating positions for children and how to reduce the improper use of child restraints;

“(5) purchase and distribute child restraints to low-income families if not more than 5 percent of the funds received in a fiscal year are used for this purpose;

“(6) establish and maintain information systems containing data concerning occupant protection, including the collection and administration of child passenger safety and occupant protection surveys; and

“(7) carry out a program to educate the public concerning the dangers of leaving children unattended in vehicles.

“(e) GRANT AMOUNT.—The allocation of grant funds under this section to a State for a fiscal year shall be in proportion to the State’s apportionment under section 402 for fiscal year 2009.

“(f) REPORT.—A State that receives a grant under this section shall submit a report to the Secretary that documents the manner in which the grant amounts were obligated and expended and identifies the specific programs carried out with the grant funds. The report shall be in a form prescribed by the Secretary and may be combined with other State grant reporting requirements under chapter 4 of title 23, United States Code.

“(g) DEFINITIONS.—In this section:

“(1) CHILD RESTRAINT.—The term ‘child restraint’ means any device (including child safety seat, booster seat, harness, and excepting seat belts) designed for use in a motor vehicle to restrain, seat, or position children who weigh 65 pounds (30 kilograms) or less, and certified to the Federal motor vehicle safety standard prescribed by the National Highway Traffic Safety Administration for child restraints.

“(2) SEAT BELT.—The term ‘seat belt’ means—

“(A) with respect to open-body motor vehicles, including convertibles, an occupant restraint system consisting of a lap belt or a lap belt and a detachable shoulder belt; and

“(B) with respect to other motor vehicles, an occupant restraint system consisting of integrated lap and shoulder belts.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 4 of title 23, United States Code, is amended by striking the item relating to section 405 and inserting the following:

“405. Combined occupant protection grants.”.

#### SEC. 31106. STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS.

Section 408 of title 23, United States Code, is amended to read as follows:

##### “§ 408. State traffic safety information system improvements

“(a) GENERAL AUTHORITY.—Subject to the requirements of this section, the Secretary of Transportation shall award grants to States to support the development and implementation of effective State programs that—

“(1) improve the timeliness, accuracy, completeness, uniformity, integration, and accessibility of the State safety data that is needed to identify priorities for Federal, State, and local highway and traffic safety programs;

“(2) evaluate the effectiveness of efforts to make such improvements;

“(3) link the State data systems, including traffic records, with other data systems within the State, such as systems that contain medical, roadway, and economic data;

“(4) improve the compatibility and interoperability of the data systems of the State with national data systems and data systems of other States; and

“(5) enhance the ability of the Secretary to observe and analyze national trends in crash occurrences, rates, outcomes, and circumstances.

“(b) FEDERAL SHARE.—The Federal share of the cost of adopting and implementing in a fiscal year a State program described in this section may not exceed 80 percent.

“(c) ELIGIBILITY.—A State is not eligible for a grant under this section in a fiscal year unless the State demonstrates, to the satisfaction of the Secretary, that the State—

“(1) has a functioning traffic records coordinating committee (referred to in this subsection as ‘TRCC’) that meets at least 3 times a year;

“(2) has designated a TRCC coordinator;

“(3) has established a State traffic record strategic plan that has been approved by the TRCC and describes specific quantifiable and measurable improvements anticipated in the State’s core safety databases, including crash, citation or adjudication, driver, emergency medical services or injury surveillance system, roadway, and vehicle databases;

“(4) has demonstrated quantitative progress in relation to the significant data program attribute of—

“(A) accuracy;

“(B) completeness;

“(C) timeliness;

“(D) uniformity;

“(E) accessibility; or

“(F) integration of a core highway safety database; and

“(5) has certified to the Secretary that an assessment of the State’s highway safety data and traffic records system was conducted or updated during the preceding 5 years.

“(d) USE OF GRANT AMOUNTS.—Grant funds received by a State under this section shall be used for making data program improvements to core highway safety databases related to quantifiable, measurable progress in any of the 6 significant data program attributes set forth in subsection (c)(4).

“(e) GRANT AMOUNT.—The allocation of grant funds under this section to a State for a fiscal year shall be in proportion to the State’s apportionment under section 402 for fiscal year 2009.”

**SEC. 31107. IMPAIRED DRIVING COUNTERMEASURES.**

(a) IN GENERAL.—Section 410 of title 23, United States Code, is amended to read as follows:

**“§ 410. Impaired driving countermeasures**

“(a) GRANTS AUTHORIZED.—Subject to the requirements of this section, the Secretary of Transportation shall award grants to States that adopt and implement—

“(1) effective programs to reduce driving under the influence of alcohol, drugs, or the combination of alcohol and drugs; or

“(2) alcohol-ignition interlock laws.

“(b) FEDERAL SHARE.—The Federal share of the costs of activities funded using amounts from grants under this section may not exceed 80 percent in any fiscal year in which the State receives a grant.

“(c) ELIGIBILITY.—

“(1) LOW-RANGE STATES.—Low-range States shall be eligible for a grant under this section.

“(2) MID-RANGE STATES.—A mid-range State shall be eligible for a grant under this section if—

“(A) a statewide impaired driving task force in the State developed a statewide plan during the most recent 3 calendar years to address the problem of impaired driving; or

“(B) the State will convene a statewide impaired driving task force to develop such a plan during the first year of the grant.

“(3) HIGH-RANGE STATES.—A high-range State shall be eligible for a grant under this section if the State—

“(A)(i) conducted an assessment of the State’s impaired driving program during the most recent 3 calendar years; or

“(ii) will conduct such an assessment during the first year of the grant;

“(B) convenes, during the first year of the grant, a statewide impaired driving task force to develop a statewide plan that—

“(i) addresses any recommendations from the assessment conducted under subparagraph (A);

“(ii) includes a detailed plan for spending any grant funds provided under this section; and

“(iii) describes how such spending supports the statewide program;

“(C)(i) submits the statewide plan to the National Highway Traffic Safety Administration during the first year of the grant for the agency’s review and approval;

“(ii) annually updates the statewide plan in each subsequent year of the grant; and

“(iii) submits each updated statewide plan for the agency’s review and comment; and

“(D) appoints a full- or part-time impaired driving coordinator—

“(i) to coordinate the State’s activities to address enforcement and adjudication of laws to address driving while impaired by alcohol; and

“(ii) to oversee the implementation of the statewide plan.

“(d) USE OF GRANT AMOUNTS.—

“(1) REQUIRED PROGRAMS.—High-range States shall use grant funds for—

“(A) high visibility enforcement efforts; and

“(B) any of the activities described in paragraph (2) if—

“(i) the activity is described in the statewide plan; and

“(ii) the Secretary approves the use of funding for such activity.

“(2) AUTHORIZED PROGRAMS.—Medium- and low-range States may use grant funds for—

“(A) any of the purposes described in paragraph (1);

“(B) paid and earned media in support of high visibility enforcement efforts;

“(C) hiring a full-time impaired driving coordinator of the State’s activities to address the enforcement and adjudication of laws regarding driving while impaired by alcohol;

“(D) court support of high visibility enforcement efforts;

“(E) alcohol ignition interlock programs;

“(F) improving blood-alcohol concentration testing and reporting;

“(G) establishing driving while intoxicated courts;

“(H) conducting—

“(i) standardized field sobriety training;

“(ii) advanced roadside impaired driving evaluation training; and

“(iii) drug recognition expert training for law enforcement;

“(I) training and education of criminal justice professionals (including law enforcement, prosecutors, judges and probation officers) to assist such professionals in handling impaired driving cases;

“(J) traffic safety resource prosecutors;

“(K) judicial outreach liaisons;

“(L) equipment and related expenditures used in connection with impaired driving enforcement in accordance with criteria established by the National Highway Traffic Safety Administration;

“(M) training on the use of alcohol screening and brief intervention;

“(N) developing impaired driving information systems; and

“(O) costs associated with a ‘24-7 sobriety program’.

“(3) OTHER PROGRAMS.—Low-range States may use grant funds for any expenditure designed to reduce impaired driving based on problem identification. Medium- and high-range States may use funds for such expenditures upon approval by the Secretary.

“(e) GRANT AMOUNT.—Subject to subsection (g), the allocation of grant funds to a State under this section for a fiscal year shall be in proportion to the State’s apportionment under section 402(c) for fiscal year 2009.

“(f) GRANTS TO STATES THAT ADOPT AND ENFORCE MANDATORY ALCOHOL-IGNITION INTERLOCK LAWS.—

“(1) IN GENERAL.—The Secretary shall make a separate grant under this section to each State that adopts and is enforcing a mandatory alcohol-ignition interlock law for all individuals convicted of driving under the influence of alcohol or of driving while intoxicated.

“(2) USE OF FUNDS.—Such grants may be used by recipient States only for costs associated with the State’s alcohol-ignition interlock program, including screening, assessment, and program and offender oversight.

“(3) ALLOCATION.—Funds made available under this subsection shall be allocated among States described in paragraph (1) on the basis of the apportionment formula under section 402(c).

“(4) FUNDING.—Not more than 15 percent of the amounts made available to carry out this section in a fiscal year shall be made available by the Secretary for making grants under this subsection.

“(g) DEFINITIONS.—In this section:

“(1) 24-7 SOBRIETY PROGRAM.—The term ‘24-7 sobriety program’ means a State law or program that authorizes a State court or a State agency, as a condition of sentence, probation, parole, or work permit, to—

“(A) require an individual who plead guilty or was convicted of driving under the influence of alcohol or drugs to totally abstain from alcohol or drugs for a period of time; and

“(B) require the individual to be subject to testing for alcohol or drugs—

“(i) at least twice a day;

“(ii) by continuous transdermal alcohol monitoring via an electronic monitoring device; or

“(iii) by an alternate method with the concurrence of the Secretary.

“(2) AVERAGE IMPAIRED DRIVING FATALITY RATE.—The term ‘average impaired driving fatality rate’ means the number of fatalities in motor vehicle crashes involving a driver with a blood alcohol concentration of at least 0.08 for every 100,000,000 vehicle miles traveled, based on the most recently reported 3 calendar years of final data from the Fatality Analysis Reporting System, as calculated in accordance with regulations prescribed by the Administrator of the National Highway Traffic Safety Administration.

“(3) HIGH-RANGE STATE.—The term ‘high-range State’ means a State that has an average impaired driving fatality rate of 0.60 or higher.

“(4) LOW-RANGE STATE.—The term ‘low-range State’ means a State that has an average impaired driving fatality rate of 0.30 or lower.

“(5) MID-RANGE STATE.—The term ‘mid-range State’ means a State that has an average impaired driving fatality rate that is higher than 0.30 and lower than 0.60.”

(b) CONFORMING AMENDMENT.—The analysis for chapter 4 of title 23, United States Code, is amended by striking the item relating to section 410 and inserting the following:

“410. Impaired driving countermeasures.”

**SEC. 31108. DISTRACTED DRIVING GRANTS.**

(a) IN GENERAL.—Section 411 of title 23, United States Code, is amended to read as follows:

**“§ 411. Distracted driving grants**

“(a) IN GENERAL.—The Secretary shall award a grant under this section to any State that enacts and enforces a statute that meets the requirements set forth in subsections (b) and (c).

“(b) PROHIBITION ON TEXTING WHILE DRIVING.—A State statute meets the requirements set forth in this subsection if the statute—

“(1) prohibits drivers from texting through a personal wireless communications device while driving;

“(2) makes violation of the statute a primary offense;

“(3) establishes—

“(A) a minimum fine for a first violation of the statute; and

“(B) increased fines for repeat violations; and

“(4) provides increased civil and criminal penalties than would otherwise apply if a vehicle accident is caused by a driver who is using such a device in violation of the statute.

“(c) PROHIBITION ON YOUTH CELL PHONE USE WHILE DRIVING.—A State statute meets the requirements set forth in this subsection if the statute—

“(1) prohibits a driver who is younger than 18 years of age from using a personal wireless communications device while driving;

“(2) makes violation of the statute a primary offense;

“(3) requires distracted driving issues to be tested as part of the State driver’s license examination;

“(4) establishes—

“(A) a minimum fine for a first violation of the statute; and

“(B) increased fines for repeat violations; and

“(5) provides increased civil and criminal penalties than would otherwise apply if a vehicle accident is caused by a driver who is using such a device in violation of the statute.

“(d) PERMITTED EXCEPTIONS.—A statute that meets the requirements set forth in subsections (b) and (c) may provide exceptions for—

“(1) a driver who uses a personal wireless communications device to contact emergency services;

“(2) emergency services personnel who use a personal wireless communications device while—

“(A) operating an emergency services vehicle; and

“(B) engaged in the performance of their duties as emergency services personnel; and

“(3) an individual employed as a commercial motor vehicle driver or a school bus driver who uses a personal wireless communications device within the scope of such individual's employment if such use is permitted under the regulations promulgated pursuant to section 31152 of title 49.

“(e) USE OF GRANT FUNDS.—Of the grant funds received by a State under this section—

“(1) at least 50 percent shall be used—

“(A) to educate the public through advertising containing information about the dangers of texting or using a cell phone while driving;

“(B) for traffic signs that notify drivers about the distracted driving law of the State; or

“(C) for law enforcement costs related to the enforcement of the distracted driving law; and

“(2) up to 50 percent may be used for other projects that—

“(A) improve traffic safety; and

“(B) are consistent with the criteria set forth in section 402(a).

“(f) ADDITIONAL GRANTS.—In fiscal year 2012, the Secretary may use up to 25 percent of the funding available for grants under this section to award grants to States that—

“(1) enacted statutes before July 1, 2011, which meet the requirements under paragraphs (1) and (2) of subsection (b); and

“(2) are otherwise ineligible for a grant under this section.

“(g) DEFINITIONS.—In this section:

“(1) DRIVING.—The term ‘driving’—

“(A) means operating a motor vehicle on a public road, including operation while temporarily stationary because of traffic, a traffic light or stop sign, or otherwise; and

“(B) does not include operating a motor vehicle when the vehicle has pulled over to the side of, or off, an active roadway and has stopped in a location where it can safely remain stationary.

“(2) PERSONAL WIRELESS COMMUNICATIONS DEVICE.—The term ‘personal wireless communications device’—

“(A) means a device through which personal wireless services (as defined in section 332(c)(7)(C)(i) of the Communications Act of 1934 (47 U.S.C. 332(c)(7)(C)(i))) are transmitted; and

“(B) does not include a global navigation satellite system receiver used for positioning, emergency notification, or navigation purposes.

“(3) PRIMARY OFFENSE.—The term ‘primary offense’ means an offense for which a law en-

forcement officer may stop a vehicle solely for the purpose of issuing a citation in the absence of evidence of another offense.

“(4) PUBLIC ROAD.—The term ‘public road’ has the meaning given that term in section 402(c).

“(5) TEXTING.—The term ‘texting’ means reading from or manually entering data into a personal wireless communications device, including doing so for the purpose of SMS texting, e-mailing, instant messaging, or engaging in any other form of electronic data retrieval or electronic data communication.”

(b) CONFORMING AMENDMENT.—The analysis for chapter 4 of title 23, United States Code, is amended by striking the item relating to section 411 and inserting the following:

“411. Distracted driving grants.”

#### SEC. 31109. HIGH VISIBILITY ENFORCEMENT PROGRAM.

Section 2009 of SAFETEA-LU (23 U.S.C. 402 note) is amended—

(1) in subsection (a)—

(A) by striking “at least 2” and inserting “at least 3”; and

(B) by striking “years 2006 through 2012.” and inserting “fiscal years 2012 and 2013. The Administrator may also initiate and support additional campaigns in each of fiscal years 2012 and 2013 for the purposes specified in subsection (b).”;

(2) in subsection (b) by striking “either or both” and inserting “outcomes related to at least 1”;

(3) in subsection (c), by inserting “and Internet-based outreach” after “print media advertising”; and

(4) in subsection (e), by striking “subsections (a), (c), and (f)” and inserting “subsection (c)”;

(5) by striking subsection (f); and

(6) by redesignating subsection (g) as subsection (f).

#### SEC. 31110. MOTORCYCLIST SAFETY.

Section 2010 of SAFETEA-LU (23 U.S.C. 402 note) is amended—

(1) by striking subsections (b) and (g);

(2) by redesignating subsections (c), (d), (e), and (f) as subsections (b), (c), (d), and (e), respectively; and

(3) in subsection (c)(1), as redesignated, by striking “to the satisfaction of the Secretary” and all that follows and inserting “, to the satisfaction of the Secretary, at least 2 of the 6 criteria listed in paragraph (2).”

#### SEC. 31111. DRIVER ALCOHOL DETECTION SYSTEM FOR SAFETY RESEARCH.

(a) IN GENERAL.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following:

##### “§ 413. In-vehicle alcohol detection device research

“(a) IN GENERAL.—The Administrator of the National Highway Traffic Safety Administration shall carry out a collaborative research effort under chapter 301 of title 49, United States Code, to continue to explore the feasibility and the potential benefits of, and the public policy challenges associated with, more widespread deployment of in-vehicle technology to prevent alcohol-impaired driving.

“(b) REPORTS.—The Administrator shall submit a report annually to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

“(1) describing progress in carrying out the collaborative research effort; and

“(2) including an accounting for the use of Federal funds obligated or expended in carrying out that effort.

“(c) DEFINITIONS.—In this title:

“(1) ALCOHOL-IMPAIRED DRIVING.—The term ‘alcohol-impaired driving’ means operation of a motor vehicle (as defined in section 30102(a)(6) of title 49, United States Code) by an individual whose blood alcohol content is at or above the legal limit.

“(2) LEGAL LIMIT.—The term ‘legal limit’ means a blood alcohol concentration of 0.08 percent or greater (as specified by chapter 163 of title 23, United States Code) or such other percentage limitation as may be established by applicable Federal, State, or local law.”

(b) CLERICAL AMENDMENT.—The analysis for chapter 4 of title 23, United States Code, is amended by inserting after the item relating to section 412 the following:

“413. In-vehicle alcohol detection device research.”

#### SEC. 31112. STATE GRADUATED DRIVER LICENSING LAWS.

(a) IN GENERAL.—Chapter 4 of title 23, United States Code, as amended by this title, is further amended by adding at the end the following:

##### “§ 414. State Graduated Driver Licensing Incentive Grant

“(a) GRANTS AUTHORIZED.—Subject to the requirements of this section, the Secretary shall award grants to States that adopt and implement graduated driver licensing laws in accordance with the requirements set forth in subsection (b).

“(b) MINIMUM REQUIREMENTS.—

“(1) IN GENERAL.—A State meets the requirements set forth in this subsection if the State has a graduated driver licensing law that requires novice drivers younger than 21 years of age to comply with the 2-stage licensing process described in paragraph (2) before receiving an unrestricted driver's license.

“(2) LICENSING PROCESS.—A State is in compliance with the 2-stage licensing process described in this paragraph if the State's driver's license laws include—

“(A) a learner's permit stage that—

“(i) is at least 6 months in duration;

“(ii) prohibits the driver from using a cellular telephone or any communications device in a nonemergency situation; and

“(iii) remains in effect until the driver—

“(I) reaches 16 years of age and enters the intermediate stage; or

“(II) reaches 18 years of age;

“(B) an intermediate stage that—

“(i) commences immediately after the expiration of the learner's permit stage;

“(ii) is at least 6 months in duration;

“(iii) prohibits the driver from using a cellular telephone or any communications device in a nonemergency situation;

“(iv) restricts driving at night;

“(v) prohibits the driver from operating a motor vehicle with more than 1 nonfamilial passenger younger than 21 years of age unless a licensed driver who is at least 21 years of age is in the motor vehicle; and

“(vi) remains in effect until the driver reaches 18 years of age; and

“(C) any other requirement prescribed by the Secretary of Transportation, including—

“(i) in the learner's permit stage—

“(I) at least 40 hours of behind-the-wheel training with a licensed driver who is at least 21 years of age;

“(II) a driver training course; and

“(III) a requirement that the driver be accompanied and supervised by a licensed driver, who is at least 21 years of age, at all times while such driver is operating a motor vehicle; and

“(ii) in the learner’s permit or intermediate stage, a requirement, in addition to any other penalties imposed by State law, that the grant of an unrestricted driver’s license be automatically delayed for any individual who, during the learner’s permit or intermediate stage, is convicted of a driving-related offense, including—

“(I) driving while intoxicated;

“(II) misrepresentation of his or her true age;

“(III) reckless driving;

“(IV) driving without wearing a seat belt;

“(V) speeding; or

“(VI) any other driving-related offense, as determined by the Secretary.

“(c) RULEMAKING.—

“(1) IN GENERAL.—The Secretary shall promulgate regulations necessary to implement the requirements under subsection (b), in accordance with the notice and comment provisions under section 553 of title 5, United States Code.

“(2) EXCEPTION.—A State that otherwise meets the minimum requirements set forth in subsection (b) shall be deemed by the Secretary to be in compliance with the requirement set forth in subsection (b) if the State enacted a law before January 1, 2011, establishing a class of license that permits licensees or applicants younger than 18 years of age to drive a motor vehicle—

“(A) in connection with work performed on, or for the operation of, a farm owned by family members who are directly related to the applicant or licensee; or

“(B) if demonstrable hardship would result from the denial of a license to the licensees or applicants.

“(d) ALLOCATION.—Grant funds allocated to a State under this section for a fiscal year shall be in proportion to a State’s apportionment under section 402 for such fiscal year.

“(e) USE OF FUNDS.—Grant funds received by a State under this section may be used for—

“(1) enforcing a 2-stage licensing process that complies with subsection (b)(2);

“(2) training for law enforcement personnel and other relevant State agency personnel relating to the enforcement described in paragraph (1);

“(3) publishing relevant educational materials that pertain directly or indirectly to the State graduated driver licensing law;

“(4) carrying out other administrative activities that the Secretary considers relevant to the State’s 2-stage licensing process; and

“(5) carrying out a teen traffic safety program described in section 402(m).”

#### SEC. 31113. AGENCY ACCOUNTABILITY.

Section 412 of title 23, United States Code, is amended—

(1) by amending subsection (a) to read as follows:

“(a) TRIENNIAL STATE MANAGEMENT REVIEWS.—

“(1) IN GENERAL.—Except as provided under paragraph (2), the Secretary shall conduct a review of each State highway safety program at least once every 3 years.

“(2) EXCEPTIONS.—The Secretary may conduct reviews of the highway safety programs of the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands as often as the Secretary determines to be appropriate.

“(3) COMPONENTS.—Reviews under this subsection shall include—

“(A) a management evaluation of all grant programs funded under this chapter;

“(B) an assessment of State data collection and evaluation relating to performance measures established by the Secretary;

“(C) a comparison of State efforts under subparagraphs (A) and (B) to best practices and programs that have been evaluated for effectiveness; and

“(D) the development of recommendations on how each State could—

“(i) improve the management and oversight of its grant activities; and

“(ii) provide a management and oversight plan for such grant programs.”; and

(2) by striking subsection (f).

#### SEC. 31114. EMERGENCY MEDICAL SERVICES.

Section 10202 of Public Law 109-59 (42 U.S.C. 300d-4), is amended by adding at the end the following:

“(b) NATIONAL EMERGENCY MEDICAL SERVICES ADVISORY COUNCIL.—

“(1) ESTABLISHMENT.—The Secretary of Transportation, in coordination with the Secretary of Health and Human Services and the Secretary of Homeland Security, shall establish a National Emergency Medical Services Advisory Council (referred to in this subsection as the ‘Advisory Council’).

“(2) MEMBERSHIP.—The Advisory Council shall be composed of 25 members, who—

“(A) shall be appointed by the Secretary of Transportation; and

“(B) shall collectively be representative of all sectors of the emergency medical services community.

“(3) PURPOSES.—The purposes of the Advisory Council are to advise and consult with—

“(A) the Federal Interagency Committee on Emergency Medical Services on matters relating to emergency medical services issues; and

“(B) the Secretary of Transportation on matters relating to emergency medical services issues affecting the Department of Transportation.

“(4) ADMINISTRATION.—The Administrator of the National Highway Traffic Safety Administration shall provide administrative support to the Advisory Council, including scheduling meetings, setting agendas, keeping minutes and records, and producing reports.

“(5) LEADERSHIP.—The members of the Advisory Council shall annually select a chairperson of the Council.

“(6) MEETINGS.—The Advisory Council shall meet as frequently as is determined necessary by the chairperson of the Council.

“(7) ANNUAL REPORTS.—The Advisory Council shall prepare an annual report to the Secretary of Transportation regarding the Council’s actions and recommendations.”

#### Subtitle B—Enhanced Safety Authorities

#### SEC. 31201. DEFINITION OF MOTOR VEHICLE EQUIPMENT.

Section 30102(a)(7)(C) of title 49, United States Code, is amended to read as follows:

“(C) any device or an article or apparel, including a motorcycle helmet and excluding medicine or eyeglasses prescribed by a licensed practitioner, that—

“(i) is not a system, part, or component of a motor vehicle; and

“(ii) is manufactured, sold, delivered, or offered to be sold for use on public streets, roads, and highways with the apparent purpose of safeguarding motor vehicles and highway users against risk of accident, injury, or death.”

#### SEC. 31202. PERMIT REMINDER SYSTEM FOR NON-USE OF SAFETY BELTS.

(a) IN GENERAL.—Chapter 301 of title 49, United States Code, is amended—

(1) in section 30122, by striking subsection (d); and

(2) by amending section 30124 to read as follows:

#### “§ 30124. Nonuse of safety belts

“A motor vehicle safety standard prescribed under this chapter may not require a manufacturer to comply with the standard by using a safety belt interlock designed to prevent starting or operating a motor vehicle if an occupant is not using a safety belt.”

(b) CONFORMING AMENDMENT.—The analysis for chapter 301 of title 49, United States Code, is amended by striking the item relating to section 30124 and inserting the following:

“30124. Nonuse of safety belts.”

#### SEC. 31203. CIVIL PENALTIES.

(a) IN GENERAL.—Section 30165 of title 49, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking “30123(d)” and inserting “30123(a)”; and

(ii) by striking “\$15,000,000” and inserting “\$250,000,000”; and

(B) in paragraph (3), by striking “\$15,000,000” and inserting “\$250,000,000”; and

(2) by amending subsection (c) to read as follows:

“(c) RELEVANT FACTORS IN DETERMINING AMOUNT OF PENALTY OR COMPROMISE.—In determining the amount of a civil penalty or compromise under this section, the Secretary of Transportation shall consider the nature, circumstances, extent, and gravity of the violation. Such determination shall include, as appropriate—

“(1) the nature of the defect or noncompliance;

“(2) knowledge by the person charged of its obligation to recall or notify the public;

“(3) the severity of the risk of injury;

“(4) the occurrence or absence of injury;

“(5) the number of motor vehicles or items of motor vehicle equipment distributed with the defect or noncompliance;

“(6) the existence of an imminent hazard;

“(7) actions taken by the person charged to identify, investigate, or mitigate the condition;

“(8) the appropriateness of such penalty in relation to the size of the business of the person charged, including the potential for undue adverse economic impacts;

“(9) whether the person has previously been assessed civil penalties under this section during the most recent 5 years; and

“(10) other appropriate factors.”

(b) CIVIL PENALTY CRITERIA.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue a final rule, in accordance with the procedures of section 553 of title 5, United States Code, which provides an interpretation of the penalty factors described in section 30165(c) of title 49, United States Code.

(c) CONSTRUCTION.—Nothing in this section may be construed as preventing the imposition of penalties under section 30165 of title 49, United States Code, before the issuance of a final rule under subsection (b).

#### SEC. 31204. MOTOR VEHICLE SAFETY RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—Chapter 301 of title 49, United States Code, is amended by adding at the end the following:

“SUBCHAPTER V—MOTOR VEHICLE SAFETY RESEARCH AND DEVELOPMENT

#### “§ 30181. Policy

“The Secretary of Transportation shall conduct research, development, and testing on any area or aspect of motor vehicle safety necessary to carry out this chapter.

#### “§ 30182. Powers and duties

“(a) IN GENERAL.—The Secretary of Transportation shall—

“(1) conduct motor vehicle safety research, development, and testing programs and activities, including new and emerging technologies that impact or may impact motor vehicle safety;

“(2) collect and analyze all types of motor vehicle and highway safety data and related information to determine the relationship between motor vehicle or motor vehicle equipment performance characteristics and—

“(A) accidents involving motor vehicles; and

“(B) deaths or personal injuries resulting from those accidents;

“(3) promote, support, and advance the education and training of motor vehicle safety staff of the National Highway Traffic Safety Administration, including using program funds for—

“(A) planning, implementing, conducting, and presenting results of program activities; and

“(B) travel and related expenses;

“(4) obtain experimental and other motor vehicles and motor vehicle equipment for research or testing;

“(5)(A) use any test motor vehicles and motor vehicle equipment suitable for continued use, as determined by the Secretary to assist in carrying out this chapter or any other chapter of this title; or

“(B) sell or otherwise dispose of test motor vehicles and motor vehicle equipment and use the resulting proceeds to carry out this chapter;

“(6) award grants to States and local governments, interstate authorities, and nonprofit institutions; and

“(7) enter into cooperative agreements, collaborative research, or contracts with Federal agencies, interstate authorities, State and local governments, other public entities, private organizations and persons, nonprofit institutions, colleges and universities, consumer advocacy groups, corporations, partnerships, sole proprietorships, trade associations, Federal laboratories (including Government-owned, Government-operated laboratories and Government-owned, contractor-operated laboratories), and foreign governments and research organizations.

“(b) **USE OF PUBLIC AGENCIES.**—In carrying out this subchapter, the Secretary shall avoid duplication by using the services, research, and testing facilities of public agencies, as appropriate.

“(c) **FACILITIES.**—The Secretary may plan, design, and build a new facility or modify an existing facility to conduct research, development, and testing in traffic safety, highway safety, and motor vehicle safety.

“(d) **AVAILABILITY OF INFORMATION, PATENTS, AND DEVELOPMENTS.**—When the United States Government makes more than a minimal contribution to a research or development activity under this chapter, the Secretary shall include in the arrangement for the activity a provision to ensure that all information, patents, and developments related to the activity are available to the public without charge. The owner of a background patent may not be deprived of a right under the patent.

#### “§ 30183. Prohibition on certain disclosures.

“Any report of the National Highway Traffic Safety Administration, or of any officer, employee, or contractor of the National Highway Traffic Safety Administration, relating to any highway traffic accident or the investigation of such accident conducted pursuant to this chapter or section 403 of title 23, shall be made available to the public

in a manner that does not identify individuals.”.

(b) **CONFORMING AMENDMENTS.**—

(1) **AMENDMENT OF CHAPTER ANALYSIS.**—The chapter analysis for chapter 301 of title 49, United States Code, is amended by adding at the end the following:

“SUBCHAPTER V—MOTOR VEHICLE SAFETY RESEARCH AND DEVELOPMENT

“30181. Policy.

“30182. Powers and duties.

“30183. Prohibition on certain disclosures.”.

(2) **DELETION OF REDUNDANT MATERIAL.**—Chapter 301 of title 49, United States Code, is amended—

(A) in the chapter analysis, by striking the item relating to section 30168; and

(B) by striking section 30168.

#### **SEC. 31205. ODOMETER REQUIREMENTS DEFINITION.**

Section 32702(5) of title 49, United States Code, is amended by inserting “or system of components” after “instrument”.

#### **SEC. 31206. ELECTRONIC DISCLOSURES OF ODOMETER INFORMATION.**

Section 32705 of title 49, United States Code, is amended by adding at the end the following:

“(g) **ELECTRONIC DISCLOSURES.**—In carrying out this section, the Secretary may prescribe regulations permitting any written disclosures or notices and related matters to be provided electronically.”.

#### **SEC. 31207. INCREASED PENALTIES AND DAMAGES FOR ODOMETER FRAUD.**

Chapter 327 of title 49, United States Code, is amended—

(1) in section 32709(a)(1)—

(A) by striking “\$2,000” and inserting “\$10,000”; and

(B) by striking “\$100,000” and inserting “\$1,000,000”; and

(2) in section 32710(a), by striking “\$1,500” and inserting “\$10,000”.

#### **SEC. 31208. EXTEND PROHIBITIONS ON IMPORTING NONCOMPLIANT VEHICLES AND EQUIPMENT TO DEFECTIVE VEHICLES AND EQUIPMENT.**

Section 30112 of title 49, United States Code, is amended—

(1) in subsection (a), by adding at the end the following:

“(3) Except as provided in this section, section 30114, subsections (i) and (j) of section 30120, and subchapter III, a person may not sell, offer for sale, introduce or deliver for introduction in interstate commerce, or import into the United States any motor vehicle or motor vehicle equipment if the vehicle or equipment contains a defect related to motor vehicle safety about which notice was given under section 30118(c) or an order was issued under section 30118(b). Nothing in this paragraph may be construed to prohibit the importation of a new motor vehicle that receives a required recall remedy before being sold to a consumer in the United States.”; and

(2) in subsection (b)(2)—

(A) in subparagraph (A), by striking “or” at the end;

(B) in subparagraph (B), by adding “or” at the end; and

(C) by adding at the end the following:

“(C) having no reason to know, despite exercising reasonable care, that a motor vehicle or motor vehicle equipment contains a defect related to motor vehicle safety about which notice was given under section 30118(c) or an order was issued under section 30118(b);”.

#### **SEC. 31209. FINANCIAL RESPONSIBILITY REQUIREMENTS FOR IMPORTERS.**

Chapter 301 of title 49, United States Code, is amended—

(1) in the chapter analysis, by striking the item relating to subchapter III and inserting the following:

“SUBCHAPTER III—IMPORTING MOTOR VEHICLES AND EQUIPMENT”;

(2) in the heading for subchapter III, by striking “NONCOMPLYING”; and

(3) in section 30147, by amending subsection (b) to read as follows:

“(b) **FINANCIAL RESPONSIBILITY REQUIREMENT.**—

“(1) **RULEMAKING.**—The Secretary of Transportation may issue regulations requiring each person that imports a motor vehicle or motor vehicle equipment into the customs territory of the United States, including a registered importer (or any successor in interest), provide and maintain evidence, satisfactory to the Secretary, of sufficient financial responsibility to meet its obligations under section 30117(b), sections 30118 through 30121, and section 30166(f).

“(2) **REFUSAL OF ADMISSION.**—If the Secretary of Transportation believes that a person described in paragraph (1) has not provided and maintained evidence of sufficient financial responsibility to meet the obligations referred to in paragraph (1), the Secretary of Homeland Security may refuse the admission into the customs territory of the United States of any motor vehicle or motor vehicle equipment imported by the person.

“(3) **EXCEPTION.**—This subsection shall not apply to original manufacturers (or wholly owned subsidiaries) of motor vehicles that, prior to the date of enactment of the Motor Vehicle and Highway Safety Improvement Act of 2012—

“(A) have imported motor vehicles into the United States that are certified to comply with all applicable Federal motor vehicle safety standards;

“(B) have submitted to the Secretary appropriate manufacturer identification information under part 566 of title 49, Code of Federal Regulations; and

“(C) if applicable, have identified a current agent for service of process in accordance with part 551 of title 49, Code of Federal Regulations.”.

#### **SEC. 31210. CONDITIONS ON IMPORTATION OF VEHICLES AND EQUIPMENT.**

Chapter 301 of title 49, United States Code, is amended—

(1) in the chapter analysis, by striking the item relating to section 30164 and inserting the following:

“30164. Service of process; conditions on importation of vehicles and equipment.”;

and

(2) in section 30164—

(A) in the section heading, by adding “; **CONDITIONS ON IMPORTATION OF VEHICLES AND EQUIPMENT**” at the end; and

(B) by adding at the end the following:

“(c) **IDENTIFYING INFORMATION.**—A manufacturer (including an importer) offering a motor vehicle or motor vehicle equipment for import shall provide such information as the Secretary may, by rule, request including—

“(1) the product by name and the manufacturer’s address; and

“(2) each retailer or distributor to which the manufacturer directly supplied motor vehicles or motor vehicle equipment over which the Secretary has jurisdiction under this chapter.

“(d) **RULEMAKING.**—The Secretary may issue regulations that—

“(1) condition the import of a motor vehicle or motor vehicle equipment on the manufacturer’s compliance with—



“(A) the requirements under this section;  
 “(B) any rules issued with respect to such requirements; or  
 “(C) any other requirements under this chapter or rules issued with respect to such requirements;

“(2) provide an opportunity for the manufacturer to present information before the Secretary’s determination as to whether the manufacturer’s imports should be restricted; and

“(3) establish a process by which a manufacturer may petition for reinstatement of its ability to import motor vehicles or motor vehicle equipment.

“(e) EXCEPTION.—The requirements of subsections (c) and (d) shall not apply to original manufacturers (or wholly owned subsidiaries) of motor vehicles that, prior to the date of enactment of the Motor Vehicle and Highway Safety Improvement Act of 2012—

“(1) have imported motor vehicles into the United States that are certified to comply with all applicable Federal motor vehicle safety standards,

“(2) have submitted to the Secretary appropriate manufacturer identification information under part 566 of title 49, Code of Federal Regulations; and

“(3) if applicable, have identified a current agent for service of process in accordance with part 551 of title 49, Code of Federal Regulations.”.

#### SEC. 31211. PORT INSPECTIONS; SAMPLES FOR EXAMINATION OR TESTING.

Section 30166(c) of title 49, United States Code, is amended—

(1) in paragraph (2), by striking “and” at the end;

(2) in paragraph (3)—

(A) in subparagraph (A), by inserting “(including at United States ports of entry)” after “held for introduction in interstate commerce”; and

(B) in subparagraph (D), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(4) shall obtain from the Secretary of Homeland Security without charge, upon the request of the Secretary of Transportation, a reasonable number of samples of motor vehicle equipment being offered for import to determine compliance with this chapter or a regulation or order issued under this chapter; and

“(5) shall instruct the Secretary of Homeland Security to refuse admission of the motor vehicle equipment into the customs territory of the United States if the Secretary of Transportation determines, after examination of the samples obtained under paragraph (4), that such refusal is warranted due to noncompliance with—

“(A) this chapter;

“(B) a regulation prescribed under this chapter; or

“(C) an order issued under this chapter.”.

#### Subtitle C—Transparency and Accountability

#### SEC. 31301. IMPROVED NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION VEHICLE SAFETY DATABASE.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall improve public accessibility to information on the National Highway Traffic Safety Administration’s publicly accessible vehicle safety databases by—

(1) improving organization and functionality, including modern web design features, and allowing for data to be searched, aggregated, and downloaded;

(2) providing greater consistency in presentation of vehicle safety issues; and

(3) improving searchability about specific vehicles and issues through standardization of commonly used search terms.

#### (b) VEHICLE RECALL INFORMATION.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall require that motor vehicle safety recall information—

(A) is available to the public on the Internet;

(B) is searchable by vehicle make and model and vehicle identification number;

(C) is in a format that preserves consumer privacy; and

(D) includes information about each recall that has not been completed for each vehicle.

(2) RULEMAKING.—The Secretary may initiate a rulemaking proceeding to require each manufacturer to provide the information described in paragraph (1), with respect to that manufacturer’s motor vehicles, at no cost on a publicly accessible Internet website.

(3) DATABASE AWARENESS PROMOTION ACTIVITIES.—The Secretary, in consultation with the heads of other relevant agencies, shall promote consumer awareness of the information made available to the public pursuant to this subsection.

#### SEC. 31302. NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION HOTLINE FOR MANUFACTURER, DEALER, AND MECHANIC PERSONNEL.

The Secretary shall—

(1) establish a means by which mechanics, passenger motor vehicle dealership personnel, and passenger motor vehicle manufacturer personnel may directly and confidentially contact the National Highway Traffic Safety Administration to report potential passenger motor vehicle safety defects; and

(2) publicize the means for contacting the National Highway Traffic Safety Administration in a manner that targets mechanics, passenger motor vehicle dealership personnel, and manufacturer personnel.

#### SEC. 31303. CONSUMER NOTICE OF SOFTWARE UPDATES AND OTHER COMMUNICATIONS WITH DEALERS.

(a) INTERNET ACCESSIBILITY.—Section 30166(f) of title 49, United States Code, is amended—

(1) by striking “A manufacturer shall give the Secretary of Transportation” and inserting the following:

“(1) IN GENERAL.—A manufacturer shall give the Secretary of Transportation, and make available on a publicly accessible Internet website,”; and

(2) by adding at the end the following:

“(2) NOTICES.—Communications required to be submitted to the Secretary and made available on a publicly accessible Internet website under this subsection shall include all notices to dealerships of software upgrades and modifications recommended by a manufacturer for all previously sold vehicles. Notice is required even if the software upgrade or modification is not related to a safety defect or noncompliance with a motor vehicle safety standard. The notice shall include a plain language description of the purpose of the update and that description shall be prominently placed at the beginning of the notice.

“(3) INDEX.—Communications required to be submitted to the Secretary under this subsection shall be accompanied by an index to each communication, which—

“(A) identifies the make, model, and model year of the affected vehicles;

“(B) includes a concise summary of the subject matter of the communication; and

“(C) shall be made available by the Secretary to the public on the Internet in a searchable format.”.

#### SEC. 31304. PUBLIC AVAILABILITY OF EARLY WARNING DATA.

Section 30166(m) of title 49, United States Code, is amended in paragraph (4), by amending subparagraph (C) to read as follows:

“(C) DISCLOSURE.—

“(i) IN GENERAL.—The information provided to the Secretary pursuant to this subsection shall be disclosed publicly unless exempt from disclosure under section 552(b) of title 5.

“(ii) PRESUMPTION.—In administering this subparagraph, the Secretary shall presume in favor of maximum public availability of information.”.

#### SEC. 31305. CORPORATE RESPONSIBILITY FOR NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION REPORTS.

(a) IN GENERAL.—Section 30166 of title 49, United States Code, is amended by adding at the end the following:

“(o) CORPORATE RESPONSIBILITY FOR REPORTS.—

“(1) IN GENERAL.—The Secretary shall require a senior official responsible for safety in each company submitting information to the Secretary in response to a request for information in a safety defect or compliance investigation under this chapter to certify that—

“(A) the signing official has reviewed the submission; and

“(B) based on the official’s knowledge, the submission does not—

“(i) contain any untrue statement of a material fact; or

“(ii) omit to state a material fact necessary in order to make the statements made not misleading, in light of the circumstances under which such statements were made.

“(2) NOTICE.—The certification requirements of this section shall be clearly stated on any request for information under paragraph (1).”.

(b) CIVIL PENALTY.—Section 30165(a) of title 49, United States Code, is amended—

(1) in paragraph (3), by striking “A person” and inserting “Except as provided in paragraph (4), a person”; and

(2) by adding at the end the following:

“(4) FALSE, MISLEADING, OR INCOMPLETE REPORTS.—A person who knowingly and willfully submits materially false, misleading, or incomplete information to the Secretary, after certifying the same information as accurate and complete under the certification process established pursuant to section 30166(o), shall be subject to a civil penalty of not more than \$5,000 per day. The maximum penalty under this paragraph for a related series of daily violations is \$5,000,000.”.

#### SEC. 31306. PASSENGER MOTOR VEHICLE INFORMATION PROGRAM.

(a) DEFINITION.—Section 32301 of title 49, United States Code, is amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively;

(2) by inserting before paragraph (2), as redesignated, the following:

“(1) ‘crash avoidance’ means preventing or mitigating a crash;”; and

(3) in paragraph (2), as redesignated, by striking the period at the end and inserting “; and”.

(b) INFORMATION INCLUDED.—Section 32302(a) of title 49, United States Code, is amended—

(1) in paragraph (2), by inserting “, crash avoidance, and any other areas the Secretary determines will improve the safety of passenger motor vehicles” after “crash-worthiness”; and

(2) by striking paragraph (4).

**SEC. 31307. PROMOTION OF VEHICLE DEFECT REPORTING.**

Section 32302 of title 49, United States Code, is amended by adding at the end the following:

“(d) MOTOR VEHICLE DEFECT REPORTING INFORMATION.—

“(1) RULEMAKING REQUIRED.—Not later than 1 year after the date of enactment of the Motor Vehicle and Highway Safety Improvement Act of 2012, the Secretary shall prescribe regulations that require passenger motor vehicle manufacturers—

“(A) to affix, in the glove compartment or in another readily accessible location on the vehicle, a sticker, decal, or other device that provides, in simple and understandable language, information about how to submit a safety-related motor vehicle defect complaint to the National Highway Traffic Safety Administration;

“(B) to prominently print the information described in subparagraph (A) on a separate page within the owner’s manual; and

“(C) to not place such information on the label required under section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232).

“(2) APPLICATION.—The requirements under paragraph (1) shall apply to passenger motor vehicles manufactured in any model year beginning more than 1 year after the date on which a final rule is published under paragraph (1).”

**SEC. 31308. WHISTLEBLOWER PROTECTIONS FOR MOTOR VEHICLE MANUFACTURERS, PART SUPPLIERS, AND DEALERSHIP EMPLOYEES.**

(a) IN GENERAL.—Subchapter IV of chapter 301 of title 49, United States Code, is amended by adding at the end the following:

**“§ 30171. Protection of employees providing motor vehicle safety information**

“(a) DISCRIMINATION AGAINST EMPLOYEES OF MANUFACTURERS, PART SUPPLIERS, AND DEALERSHIPS.—No motor vehicle manufacturer, part supplier, or dealership may discharge an employee or otherwise discriminate against an employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

“(1) provided, caused to be provided, or is about to provide (with any knowledge of the employer) or cause to be provided to the employer or the Secretary of Transportation information relating to any motor vehicle defect, noncompliance, or any violation or alleged violation of any notification or reporting requirement of this chapter;

“(2) has filed, caused to be filed, or is about to file (with any knowledge of the employer) or cause to be filed a proceeding relating to any violation or alleged violation of any motor vehicle defect, noncompliance, or any violation or alleged violation of any notification or reporting requirement of this chapter;

“(3) testified or is about to testify in such a proceeding;

“(4) assisted or participated or is about to assist or participate in such a proceeding; or

“(5) objected to, or refused to participate in, any activity that the employee reasonably believed to be in violation of any provision of any Act enforced by the Secretary of Transportation, or any order, rule, regulation, standard, or ban under any such Act.

“(b) COMPLAINT PROCEDURE.—

“(1) FILING AND NOTIFICATION.—A person who believes that he or she has been discharged or otherwise discriminated against

by any person in violation of subsection (a) may, not later than 180 days after the date on which such violation occurs, file (or have any person file on his or her behalf) a complaint with the Secretary of Labor (hereinafter in this section referred to as the ‘Secretary’) alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify, in writing, the person named in the complaint of the filing of the complaint, of the allegations contained in the complaint, of the substance of evidence supporting the complaint, and of the opportunities that will be afforded to such person under paragraph (2).

“(2) INVESTIGATION; PRELIMINARY ORDER.—

“(A) IN GENERAL.—Not later than 60 days after the date of receipt of a complaint filed under paragraph (1) and after affording the person named in the complaint an opportunity to submit to the Secretary a written response to the complaint and an opportunity to meet with a representative of the Secretary to present statements from witnesses, the Secretary shall conduct an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify, in writing, the complainant and the person alleged to have committed a violation of subsection (a) of the Secretary’s findings. If the Secretary concludes that there is a reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary shall accompany the Secretary’s findings with a preliminary order providing the relief prescribed by paragraph (3)(B). Not later than 30 days after the date of notification of findings under this paragraph, either the person alleged to have committed the violation or the complainant may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Such hearings shall be conducted expeditiously. If a hearing is not requested in such 30-day period, the preliminary order shall be deemed a final order that is not subject to judicial review.

“(B) REQUIREMENTS.—

“(i) REQUIRED SHOWING BY COMPLAINANT.—The Secretary shall dismiss a complaint filed under this subsection and shall not conduct an investigation otherwise required under subparagraph (A) unless the complainant makes a prima facie showing that any behavior described in paragraphs (1) through (5) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

“(ii) SHOWING BY EMPLOYER.—Notwithstanding a finding by the Secretary that the complainant has made the showing required under clause (i), no investigation otherwise required under subparagraph (A) shall be conducted if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

“(iii) CRITERIA FOR DETERMINATION BY SECRETARY.—The Secretary may determine that a violation of subsection (a) has occurred only if the complainant demonstrates that any behavior described in paragraphs (1) through (5) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

“(iv) PROHIBITION.—Relief may not be ordered under subparagraph (A) if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

“(3) FINAL ORDER.—

“(A) DEADLINE FOR ISSUANCE; SETTLEMENT AGREEMENTS.—Not later than 120 days after the date of conclusion of a hearing under paragraph (2), the Secretary shall issue a final order providing the relief prescribed by this paragraph or denying the complaint. At any time before issuance of a final order, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary, the complainant, and the person alleged to have committed the violation.

“(B) REMEDY.—If, in response to a complaint filed under paragraph (1), the Secretary determines that a violation of subsection (a) has occurred, the Secretary shall order the person who committed such violation—

“(i) to take affirmative action to abate the violation;

“(ii) to reinstate the complainant to his or her former position together with the compensation (including back pay) and restore the terms, conditions, and privileges associated with his or her employment; and

“(iii) to provide compensatory damages to the complainant.

“(C) ATTORNEYS’ FEES.—If such an order is issued under this paragraph, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys’ and expert witness fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, bringing the complaint upon which the order was issued.

“(D) FRIVOLOUS COMPLAINTS.—If the Secretary determines that a complaint under paragraph (1) is frivolous or has been brought in bad faith, the Secretary may award to the prevailing employer a reasonable attorney’s fee not exceeding \$1,000.

“(E) DE NOVO REVIEW.—With respect to a complaint under paragraph (1), if the Secretary of Labor has not issued a final decision within 210 days after the filing of the complaint and if the delay is not due to the bad faith of the employee, the employee may bring an original action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy, and which action shall, at the request of either party to the action, be tried by the court with a jury. The action shall be governed by the same legal burdens of proof specified in paragraph (2)(B) for review by the Secretary of Labor.

“(4) REVIEW.—

“(A) APPEAL TO COURT OF APPEALS.—Any person adversely affected or aggrieved by an order issued under paragraph (3) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation. The petition for review shall be filed not later than 60 days after the date of the issuance of the final order of the Secretary. Review shall conform to chapter 7 of title 5. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order.

“(B) LIMITATION ON COLLATERAL ATTACK.—An order of the Secretary with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

“(5) ENFORCEMENT OF ORDER BY SECRETARY.—Whenever any person fails to comply with an order issued under paragraph (3), the Secretary may file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief, including injunctive relief and compensatory damages.

“(6) ENFORCEMENT OF ORDER BY PARTIES.—

“(A) COMMENCEMENT OF ACTION.—A person on whose behalf an order was issued under paragraph (3) may commence a civil action against the person to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

“(B) ATTORNEY FEES.—The court, in issuing any final order under this paragraph, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines such award is appropriate.

“(C) MANDAMUS.—Any nondiscretionary duty imposed under this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28.

“(d) NONAPPLICABILITY TO DELIBERATE VIOLATIONS.—Subsection (a) shall not apply with respect to an employee of a motor vehicle manufacturer, part supplier, or dealership who, acting without direction from such motor vehicle manufacturer, part supplier, or dealership (or such person's agent), deliberately causes a violation of any requirement relating to motor vehicle safety under this chapter.”.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 301 of title 49, United States Code, is amended by inserting after the item relating to section 30170 the following:

“30171. Protection of employees providing motor vehicle safety information.”.

#### SEC. 31309. ANTI-REVOLVING DOOR.

(a) AMENDMENT.—Subchapter I of chapter 301 of title 49, United States Code, is amended by adding at the end the following:

#### “§ 30107. Restriction on covered motor vehicle safety officials

“(a) IN GENERAL.—During the 2-year period after the termination of his or her service or employment, a covered vehicle safety official may not knowingly make, with the intent to influence, any communication to or appearance before any officer or employee of the National Highway Traffic Safety Administration on behalf of any manufacturer subject to regulation under this chapter in connection with any matter involving motor vehicle safety on which such person seeks official action by any officer or employee of the National Highway Traffic Safety Administration.

“(b) MANUFACTURERS.—It is unlawful for any manufacturer or other person subject to regulation under this chapter to employ or contract for the services of an individual to whom subsection (a) applies during the 2-year period commencing on the individual's termination of employment with the National Highway Traffic Safety Administration in a capacity in which the individual is prohibited from serving during that period.

“(c) SPECIAL RULE FOR DETAILEES.—For purposes of this section, a person who is detailed from 1 department, agency, or other entity to another department, agency, or

other entity shall, during the period such person is detailed, be deemed to be an officer or employee of both departments, agencies, or such entities.

“(d) SAVINGS PROVISION.—Nothing in this section may be construed to expand, contract, or otherwise affect the application of any waiver or criminal penalties under section 207 of title 18.

“(e) EXCEPTION FOR TESTIMONY.—Nothing in this section may be construed to prevent an individual from giving testimony under oath, or from making statements required to be made under penalty of perjury.

“(f) DEFINED TERM.—In this section, the term ‘covered vehicle safety official’ means any officer or employee of the National Highway Traffic Safety Administration—

“(1) who, during the final 12 months of his or her service or employment with the agency, serves or served in a technical or legal capacity, and whose job responsibilities include or included vehicle safety defect investigation, vehicle safety compliance, vehicle safety rulemaking, or vehicle safety research; and

“(2) who serves in a supervisory or management capacity over an officer or employee described in paragraph (1).

“(g) EFFECTIVE DATE.—This section shall apply to covered vehicle safety officials who terminate service or employment with the National Highway Traffic Safety Administration after the date of enactment of the Motor Vehicle and Highway Safety Improvement Act of 2012.”.

(b) CIVIL PENALTY.—Section 30165(a) of title 49, United States Code, as amended by this subtitle, is further amended by adding at the end the following:

“(5) IMPROPER INFLUENCE.—An individual who violates section 30107(a) is liable to the United States Government for a civil penalty, as determined under section 216(b) of title 18, for an offense under section 207 of that title. A manufacturer or other person subject to regulation under this chapter who violates section 30107(b) is liable to the United States Government for a civil penalty equal to the sum of—

“(A) an amount equal to not less than \$100,000; and

“(B) an amount equal to 90 percent of the annual compensation or fee paid or payable to the individual with respect to whom the violation occurred.”.

(c) STUDY OF DEPARTMENT OF TRANSPORTATION POLICIES ON OFFICIAL COMMUNICATION WITH FORMER MOTOR VEHICLE SAFETY ISSUE EMPLOYEES.—Not later than 1 year after the date of enactment of this Act, the Inspector General of the Department of Transportation shall—

(1) review the Department of Transportation's policies and procedures applicable to official communication with former employees concerning motor vehicle safety compliance matters for which they had responsibility during the last 12 months of their tenure at the Department, including any limitations on the ability of such employees to submit comments, or otherwise communicate directly with the Department, on motor vehicle safety issues; and

(2) submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives that contains the Inspector General's findings, conclusions, and recommendations for strengthening those policies and procedures to minimize the risk of undue influence without compromising the ability of the Department to employ and retain highly

qualified individuals for such responsibilities.

(d) POST-EMPLOYMENT POLICY STUDY.—

(1) IN GENERAL.—The Inspector General of the Department of Transportation shall conduct a study of the Department's policies relating to post-employment restrictions on employees who perform functions related to transportation safety.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Inspector General shall submit a report containing the results of the study conducted under paragraph (1) to—

(A) the Committee on Commerce, Science, and Transportation of the Senate;

(B) the Committee on Energy and Commerce of the House of Representatives; and

(C) the Secretary of Transportation.

(3) USE OF RESULTS.—The Secretary of Transportation shall review the results of the study conducted under paragraph (1) and take whatever action the Secretary determines to be appropriate.

(e) CONFORMING AMENDMENT.—The table of contents for chapter 301 of title 49, United States Code, is amended by inserting after the item relating to section 30106 the following:

“30107. Restriction on covered motor vehicle safety officials.”.

#### SEC. 31310. STUDY OF CRASH DATA COLLECTION.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate the Committee on Energy and Commerce of the House of Representatives regarding the quality of data collected through the National Automotive Sampling System, including the Special Crash Investigations Program.

(b) REVIEW.—The Administrator of the National Highway Traffic Safety Administration (referred to in this section as the “Administration”) shall conduct a comprehensive review of the data elements collected from each crash to determine if additional data should be collected. The review under this subsection shall include input from interested parties, including suppliers, automakers, safety advocates, the medical community, and research organizations.

(c) CONTENTS.—The report issued under this section shall include—

(1) the analysis and conclusions the Administration can reach from the amount of motor vehicle crash data collected in a given year;

(2) the additional analysis and conclusions the Administration could reach if more crash investigations were conducted each year;

(3) the number of investigations per year that would allow for optimal data analysis and crash information;

(4) the results of the comprehensive review conducted pursuant to subsection (b);

(5) recommendations for improvements to the Administration's data collection program; and

(6) the resources needed by the Administration to implement such recommendations.

#### SEC. 31311. UPDATE OF MEANS OF PROVIDING NOTIFICATION; IMPROVING EFFICACY OF RECALLS.

(a) UPDATE OF MEANS OF PROVIDING NOTIFICATION.—Section 30119(d) of title 49, United States Code, is amended—

(1) by striking, in paragraph (1), “by first class mail” and inserting “in the manner prescribed by the Secretary, by regulation”; and

(2) in paragraph (2)—

(A) by striking “(except a tire) shall be sent by first class mail” and inserting “shall

be sent in the manner prescribed by the Secretary, by regulation.”; and

(B) by striking the second sentence;

(3) in paragraph (3)—

(A) by striking the first sentence;

(B) by inserting “to the notification required under paragraphs (1) and (2)” after “addition”; and

(C) by inserting “by the manufacturer” after “given”; and

(4) in paragraph (4), by striking “by certified mail or quicker means if available” and inserting “in the manner prescribed by the Secretary, by regulation”.

(b) **IMPROVING EFFICACY OF RECALLS.**—Section 30119(e) of title 49, United States Code, is amended—

(1) in the subsection heading, by striking “SECOND” and inserting “ADDITIONAL”;

(2) by striking “If the Secretary” and inserting the following:

“(1) **SECOND NOTIFICATION.**—If the Secretary”;

(3) by adding at the end the following:

“(2) **ADDITIONAL NOTIFICATIONS.**—If the Secretary determines, after considering the severity of the defect or noncompliance, that the second notification by a manufacturer does not result in an adequate number of motor vehicles or items of replacement equipment being returned for remedy, the Secretary may order the manufacturer—

“(A) to send additional notifications in the manner prescribed by the Secretary, by regulation;

“(B) to take additional steps to locate and notify each person registered under State law as the owner or lessee or the most recent purchaser or lessee, as appropriate; and

“(C) to emphasize the magnitude of the safety risk caused by the defect or noncompliance in such notification.”.

**SEC. 31312. EXPANDING CHOICES OF REMEDY AVAILABLE TO MANUFACTURERS OF REPLACEMENT EQUIPMENT.**

Section 30120 of title 49, United States Code, is amended—

(1) in subsection (a)(1), by amending subparagraph (B) to read as follows:

“(B) if replacement equipment, by repairing the equipment, replacing the equipment with identical or reasonably equivalent equipment, or by refunding the purchase price.”;

(2) in the heading of subsection (i), by adding “OF NEW VEHICLES OR EQUIPMENT” at the end; and

(3) in the heading of subsection (j), by striking “REPLACED” and inserting “REPLACEMENT”.

**SEC. 31313. RECALL OBLIGATIONS AND BANKRUPTCY OF MANUFACTURER.**

(a) **IN GENERAL.**—Chapter 301 of title 49, United States Code, is amended by inserting the following after section 30120:

**“§ 30120A. Recall obligations and bankruptcy of a manufacturer**

“A manufacturer’s filing of a petition in bankruptcy under chapter 11 of title 11, does not negate the manufacturer’s duty to comply with section 30112 or sections 30115 through 30120 of this title. In any bankruptcy proceeding, the manufacturer’s obligations under such sections shall be treated as a claim of the United States Government against such manufacturer, subject to subchapter II of chapter 37 of title 31, United States Code, and given priority, pursuant to section 3710 of such chapter, to ensure that consumers are adequately protected from any safety defect or noncompliance determined to exist in the manufacturer’s products. This section shall apply equally to actions of a manufacturer taken before or after the filing of a petition in bankruptcy.”.

(b) **CONFORMING AMENDMENT.**—The chapter analysis of chapter 301 of title 49, United States Code, is amended by inserting after the item relating to section 30120 the following:

“30120a. Recall obligations and bankruptcy of a manufacturer.”.

**SEC. 31314. REPEAL OF INSURANCE REPORTS AND INFORMATION PROVISION.**

Chapter 331 of title 49, United States Code, is amended—

(1) in the chapter analysis, by striking the item relating to section 33112; and

(2) by striking section 33112.

**SEC. 31315. MONROEY STICKER TO PERMIT ADDITIONAL SAFETY RATING CATEGORIES.**

Section 3(g)(2) of the Automobile Information Disclosure Act (15 U.S.C. 1232(g)(2)), is amended by inserting “safety rating categories that may include” after “refers to”.

**Subtitle D—Vehicle Electronics and Safety Standards**

**SEC. 31401. NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION ELECTRONICS, SOFTWARE, AND ENGINEERING EXPERTISE.**

(a) **COUNCIL FOR VEHICLE ELECTRONICS, VEHICLE SOFTWARE, AND EMERGING TECHNOLOGIES.**—

(1) **IN GENERAL.**—The Secretary shall establish, within the National Highway Traffic Safety Administration, a Council for Vehicle Electronics, Vehicle Software, and Emerging Technologies (referred to in this section as the “Council”) to build, integrate, and aggregate the Administration’s expertise in passenger motor vehicle electronics and other new and emerging technologies.

(2) **IMPLEMENTATION OF ROADMAP.**—The Council shall research the inclusion of emerging lightweight plastic and composite technologies in motor vehicles to increase fuel efficiency, lower emissions, meet fuel economy standards, and enhance passenger motor vehicle safety through continued utilization of the Administration’s Plastic and Composite Intensive Vehicle Safety Roadmap (Report No. DOT HS 810 863).

(3) **INTRA-AGENCY COORDINATION.**—The Council shall coordinate with all components of the Administration responsible for vehicle safety, including research and development, rulemaking, and defects investigation.

(b) **HONORS RECRUITMENT PROGRAM.**—

(1) **ESTABLISHMENT.**—The Secretary shall establish, within the National Highway Traffic Safety Administration, an honors program for engineering students, computer science students, and other students interested in vehicle safety that will enable such students to train with engineers and other safety officials for a career in vehicle safety.

(2) **STIPEND.**—The Secretary is authorized to provide a stipend to students during their participation in the program established pursuant to paragraph (1).

(c) **ASSESSMENT.**—The Council, in consultation with affected stakeholders, shall assess the implications of emerging safety technologies in passenger motor vehicles, including the effect of such technologies on consumers, product availability, and cost.

**SEC. 31402. VEHICLE STOPPING DISTANCE AND BRAKE OVERRIDE STANDARD.**

Not later than 1 year after the date of enactment of this Act, the Secretary shall prescribe a Federal motor vehicle safety standard that—

(1) mitigates unintended acceleration in passenger motor vehicles;

(2) establishes performance requirements, based on the speed, size, and weight of the

vehicle, that enable a driver to bring a passenger motor vehicle safely to a full stop by normal braking application even if the vehicle is simultaneously receiving accelerator input signals, including a full-throttle input signal;

(3) may permit compliance through a system that requires brake pedal application, after a period of time determined by the Secretary, to override an accelerator pedal input signal in order to stop the vehicle;

(4) requires that redundant circuits or other mechanisms be built into accelerator control systems, including systems controlled by electronic throttle, to maintain vehicle control in the event of failure of the primary circuit or mechanism; and

(5) may permit vehicles to incorporate a means to temporarily disengage the function required under paragraph (2) to facilitate operations, such as maneuvering trailers or climbing steep hills, which may require the simultaneous operation of brake and accelerator.

**SEC. 31403. PEDAL PLACEMENT STANDARD.**

(a) **IN GENERAL.**—The Secretary shall initiate a rulemaking proceeding to consider a Federal motor vehicle safety standard that would mitigate potential obstruction of pedal movement in passenger motor vehicles, after taking into account—

(1) various pedal mounting configurations; and

(2) minimum clearances for passenger motor vehicle foot pedals with respect to other pedals, the vehicle floor (including aftermarket floor coverings), and any other potential obstructions to pedal movement that the Secretary determines to be relevant.

(b) **DEADLINE.**—

(1) **IN GENERAL.**—Except as provided under paragraph (2), the Secretary shall issue a final rule to implement the safety standard described in subsection (a) not later than 3 years after the date of enactment of this Act.

(2) **REPORT.**—If the Secretary determines that a pedal placement standard does not meet the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code, the Secretary shall submit a report describing the reasons for not prescribing such standard to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

(c) **COMBINED RULEMAKING.**—The Secretary may combine the rulemaking proceeding required under subsection (a) with the rulemaking proceeding required under section 31402.

**SEC. 31404. ELECTRONIC SYSTEMS PERFORMANCE STANDARD.**

(a) **IN GENERAL.**—Not later than 2 years after the date of enactment of this Act, the Secretary shall initiate a rulemaking proceeding to consider prescribing or amending a Federal motor vehicle safety standard that—

(1) requires electronic systems in passenger motor vehicles to meet minimum performance requirements; and

(2) may include requirements for—

(A) electronic components;

(B) the interaction of electronic components;

(C) security needs for those electronic systems to prevent unauthorized access; or

(D) the effect of surrounding environments on those electronic systems.

(b) **DEADLINE.**—

(1) IN GENERAL.—Except as provided under paragraph (2), the Secretary shall issue a final rule to implement the safety standard described in subsection (a) not later than 4 years after the date of enactment of this Act.

(2) REPORT.—If the Secretary determines that such a standard does not meet the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code, the Secretary shall submit a report describing the reasons for not prescribing such standard to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

(c) NATIONAL ACADEMY OF SCIENCES.—In conducting the rulemaking under subsection (a), the Secretary shall consider the findings and recommendations of the National Academy of Sciences, if any, pursuant to its study of electronic vehicle controls.

#### SEC. 31405. PUSHBUTTON IGNITION SYSTEMS STANDARD.

(a) PUSHBUTTON IGNITION STANDARD.—

(1) IN GENERAL.—The Secretary shall initiate a rulemaking proceeding to consider a Federal motor vehicle safety standard for passenger motor vehicles with pushbutton ignition systems that establishes a standardized operation of such systems when used by drivers, including drivers who may be unfamiliar with such systems, in an emergency situation when the vehicle is in motion.

(2) OTHER IGNITION SYSTEMS.—In the rulemaking proceeding initiated under paragraph (1), the Secretary may include any other ignition-starting mechanism that the Secretary determines should be considered.

(b) PUSHBUTTON IGNITION SYSTEM DEFINED.—The term “pushbutton ignition system” means a mechanism, such as the push of a button, for starting a passenger motor vehicle that does not involve the physical insertion and turning of a tangible key.

(c) DEADLINE.—

(1) IN GENERAL.—Except as provided under paragraph (2), the Secretary shall issue a final rule to implement the standard described in subsection (a) not later than 2 years after the date of enactment of this Act.

(2) REPORT.—If the Secretary determines that a standard does not meet the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code, the Secretary shall submit a report describing the reasons for not prescribing such standard to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

#### SEC. 31406. VEHICLE EVENT DATA RECORDERS.

(a) MANDATORY EVENT DATA RECORDERS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall revise part 563 of title 49, Code of Federal Regulations, to require, beginning with model year 2015, that new passenger motor vehicles sold in the United States be equipped with an event data recorder that meets the requirements under that part.

(2) PENALTY.—The violation of any provision under part 563 of title 49, Code of Federal Regulations—

(A) shall be deemed to be a violation of section 30112 of title 49, United States Code;

(B) shall be subject to civil penalties under section 30165(a) of that title; and

(C) shall not subject a manufacturer (as defined in section 30102(a)(5) of that title) to

the requirements under section 30120 of that title.

(b) LIMITATIONS ON INFORMATION RETRIEVAL.—

(1) OWNERSHIP OF DATA.—Any data in an event data recorder required under part 563 of title 49, Code of Federal Regulations, regardless of when the passenger motor vehicle in which it is installed was manufactured, is the property of the owner, or in the case of a leased vehicle, the lessee of the passenger motor vehicle in which the data recorder is installed.

(2) PRIVACY.—Data recorded or transmitted by such a data recorder may not be retrieved by a person other than the owner or lessee of the motor vehicle in which the recorder is installed unless—

(A) a court authorizes retrieval of the information in furtherance of a legal proceeding;

(B) the owner or lessee consents to the retrieval of the information for any purpose, including the purpose of diagnosing, servicing, or repairing the motor vehicle;

(C) the information is retrieved pursuant to an investigation or inspection authorized under section 1131(a) or 30166 of title 49, United States Code, and the personally identifiable information of the owner, lessee, or driver of the vehicle and the vehicle identification number is not disclosed in connection with the retrieved information; or

(D) the information is retrieved for the purpose of determining the need for, or facilitating, emergency medical response in response to a motor vehicle crash.

(c) REPORT TO CONGRESS.—Two years after the date of implementation of subsection (a), the Secretary shall study the safety impact and the impact on individual privacy of event data recorders in passenger motor vehicles and report its findings to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives. The report shall include—

(1) the safety benefits gained from installation of event data recorders;

(2) the recommendations on what, if any, additional data the event data recorder should be modified to record;

(3) the additional safety benefit such information would yield;

(4) the estimated cost to manufacturers to implement the new enhancements;

(5) an analysis of how the information proposed to be recorded by an event data recorder conforms to applicable legal, regulatory, and policy requirements regarding privacy;

(6) a determination of the risks and effects of collecting and maintaining the information proposed to be recorded by an event data recorder;

(7) an examination and evaluation of the protections and alternative processes for handling information recorded by an event data recorder to mitigate potential privacy risks.

(d) REVISED REQUIREMENTS FOR EVENT DATA RECORDERS.—Based on the findings of the study under subsection (c), the Secretary shall initiate a rulemaking proceeding to revise part 563 of title 49, Code of Federal Regulations. The rule—

(1) shall require event data recorders to capture and store data related to motor vehicle safety covering a reasonable time period before, during, and after a motor vehicle crash or airbag deployment, including a rollover;

(2) shall require that data stored on such event data recorders be accessible, regardless

of vehicle manufacturer or model, with commercially available equipment in a specified data format;

(3) shall establish requirements for preventing unauthorized access to the data stored on an event data recorder in order to protect the security, integrity, and authenticity of the data; and

(4) may require an interoperable data access port to facilitate universal accessibility and analysis.

(e) DISCLOSURE OF EXISTENCE AND PURPOSE OF EVENT DATA RECORDER.—The rule issued under subsection (d) shall require that any owner's manual or similar documentation provided to the first purchaser of a passenger motor vehicle for purposes other than resale—

(1) disclose that the vehicle is equipped with such a data recorder; and

(2) explain the purpose of the data recorder.

(f) ACCESS TO EVENT DATA RECORDERS IN AGENCY INVESTIGATIONS.—Section

30166(c)(3)(C) of title 49, United States Code, is amended by inserting “, including any electronic data contained within the vehicle's diagnostic system or event data recorder” after “equipment.”

(g) DEADLINE FOR RULEMAKING.—The Secretary shall issue a final rule under subsection (d) not later than 4 years after the date of enactment of this Act.

#### SEC. 31407. PROHIBITION ON ELECTRONIC VISUAL ENTERTAINMENT IN DRIVER'S VIEW.

(a) VISUAL ENTERTAINMENT SCREENS IN DRIVER'S VIEW.—Not later than 2 years after the date of enactment of this Act, the Secretary of Transportation shall issue a final rule that prescribes a Federal motor vehicle safety standard prohibiting electronic screens from displaying broadcast television, movies, video games, and other forms of similar visual entertainment that is visible to the driver while driving.

(b) EXCEPTIONS.—The standard prescribed under subsection (a) shall allow electronic screens that display information or images regarding operation of the vehicle, vehicle surroundings, and telematic functions, such as the vehicles navigation and communications system, weather, time, or the vehicle's audio system.

#### Subtitle E—Child Safety Standards

##### SEC. 31501. CHILD SAFETY SEATS.

(a) PROTECTION FOR LARGER CHILDREN.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue a final rule amending Federal Motor Vehicle Safety Standard Number 213 to establish frontal crash protection requirements for child restraint systems for children weighing more than 65 pounds.

(b) SIDE IMPACT CRASHES.—Not later than 2 years after the date of enactment of this Act, the Secretary shall issue a final rule amending Federal Motor Vehicle Safety Standard Number 213 to improve the protection of children seated in child restraint systems during side impact crashes.

(c) FRONTAL IMPACT TEST PARAMETERS.—

(1) COMMENCEMENT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall commence a rulemaking proceeding to amend test parameters under Federal Motor Vehicle Safety Standard Number 213 to better replicate real world conditions.

(2) FINAL RULE.—Not later than 4 years after the date of enactment of this Act, the Secretary shall issue a final rule pursuant to paragraph (1).

##### SEC. 31502. CHILD RESTRAINT ANCHORAGE SYSTEMS.

(a) INITIATION OF RULEMAKING PROCEEDING.—Not later than 1 year after the

date of enactment of this Act, the Secretary shall initiate a rulemaking proceeding to—

(1) amend Federal Motor Vehicle Safety Standard Number 225 (relating to child restraint anchorage systems) to improve the visibility of, accessibility to, and ease of use for lower anchorages and tethers in all rear seat seating positions if such anchorages and tethers are feasible; and

(2) amend Federal Motor Vehicle Safety Standard Number 213 (relating to child restraint systems) or Federal Motor Vehicle Safety Standard Number 225 (relating to child restraint anchorage systems)—

(A) to establish a maximum allowable weight of the child and child restraint for standardizing the recommended use of child restraint anchorage systems in all vehicles; and

(B) to provide the information described in subparagraph (A) to the consumer.

(b) **FINAL RULE.**—

(1) **IN GENERAL.**—Except as provided under paragraph (2), the Secretary shall issue a final rule under subsection (a) not later than 3 years after the date of enactment of this Act.

(2) **REPORT.**—If the Secretary determines that an amendment to the standard referred to in subsection (a) does not meet the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code, the Secretary shall submit a report describing the reasons for not prescribing such a standard to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

#### **SEC. 31503. REAR SEAT BELT REMINDERS.**

(a) **INITIATION OF RULEMAKING PROCEEDING.**—Not later than 2 years after the date of enactment of this Act, the Secretary shall initiate a rulemaking proceeding to amend Federal Motor Vehicle Safety Standard Number 208 (relating to occupant crash protection) to provide a safety belt use warning system for designated seating positions in the rear seat.

(b) **FINAL RULE.**—

(1) **IN GENERAL.**—Except as provided under paragraph (2), the Secretary shall issue a final rule under subsection (a) not later than 3 years after the date of enactment of this Act.

(2) **REPORT.**—If the Secretary determines that an amendment to the standard referred to in subsection (a) does not meet the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code, the Secretary shall submit a report describing the reasons for not prescribing such a standard to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

#### **SEC. 31504. UNATTENDED PASSENGER REMINDERS.**

(a) **SAFETY RESEARCH INITIATIVE.**—Not later than 2 years after the date of enactment of this Act, the Secretary shall complete research into the development of performance requirements to warn drivers that a child or other unattended passenger remains in a rear seating position after the vehicle motor is disengaged.

(b) **SPECIFICATIONS.**—In carrying out subsection (a), the Secretary shall consider performance requirements that—

(1) sense weight, the presence of a buckled seat belt, or other indications of the presence of a child or other passenger; and

(2) provide an alert to prevent hyperthermia and hypothermia that can result in death or severe injuries.

(c) **RULEMAKING OR REPORT.**—

(1) **RULEMAKING.**—Not later than 1 year after the completion of each research and testing initiative required under subsection (a), the Secretary shall initiate a rulemaking proceeding to issue a Federal motor vehicle safety standard if the Secretary determines that such a standard meets the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code.

(2) **REPORT.**—If the Secretary determines that the standard described in subsection (a) does not meet the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code, the Secretary shall submit a report describing the reasons for not prescribing such a standard to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

#### **SEC. 31505. NEW DEADLINE.**

If the Secretary determines that any deadline for issuing a final rule under this Act cannot be met, the Secretary shall—

(1) provide the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives with an explanation for why such deadline cannot be met; and

(2) establish a new deadline for that rule.

#### **Subtitle F—Improved Daytime and Nighttime Visibility of Agricultural Equipment**

##### **SEC. 31601. RULEMAKING ON VISIBILITY OF AGRICULTURAL EQUIPMENT.**

(a) **DEFINITIONS.**—In this section:

(1) **AGRICULTURAL EQUIPMENT.**—The term “agricultural equipment” has the meaning given the term “agricultural field equipment” in ASABE Standard 390.4, entitled “Definitions and Classifications of Agricultural Field Equipment”, which was published in January 2005 by the American Society of Agriculture and Biological Engineers, or any successor standard.

(2) **PUBLIC ROAD.**—The term “public road” has the meaning given the term in section 101(a)(27) of title 23, United States Code.

(b) **RULEMAKING.**—

(1) **IN GENERAL.**—Not later than 2 years after the date of enactment of this Act, the Secretary of Transportation, after consultation with representatives of the American Society of Agricultural and Biological Engineers and appropriate Federal agencies, and with other appropriate persons, shall promulgate a rule to improve the daytime and nighttime visibility of agricultural equipment that may be operated on a public road.

(2) **MINIMUM STANDARDS.**—The rule promulgated pursuant to this subsection shall—

(A) establish minimum lighting and marking standards for applicable agricultural equipment manufactured at least 1 year after the date on which such rule is promulgated; and

(B) provide for the methods, materials, specifications, and equipment to be employed to comply with such standards, which shall be equivalent to ASABE Standard 279.14, entitled “Lighting and Marking of Agricultural Equipment on Highways”, which was published in July 2008 by the American Society of Agricultural and Biological Engineers, or any successor standard.

(c) **REVIEW.**—Not less frequently than once every 5 years, the Secretary of Transportation shall—

(1) review the standards established pursuant to subsection (b); and

(2) revise such standards to reflect the revision of ASABE Standard 279 that is in effect at the time of such review.

(d) **LIMITATIONS.**—

(1) **COMPLIANCE WITH SUCCESSOR STANDARDS.**—Any rule promulgated pursuant to this section may not prohibit the operation on public roads of agricultural equipment that is equipped in accordance with any adopted revision of ASABE Standard 279 that is later than the revision of such standard that was referenced during the promulgation of the rule.

(2) **NO RETROFITTING REQUIRED.**—Any rule promulgated pursuant to this section may not require the retrofitting of agricultural equipment that was manufactured before the date on which the lighting and marking standards are enforceable under subsection (b)(2)(A).

(3) **NO EFFECT ON ADDITIONAL MATERIALS AND EQUIPMENT.**—Any rule promulgated pursuant to this section may not prohibit the operation on public roads of agricultural equipment that is equipped with materials or equipment that are in addition to the minimum materials and equipment specified in the standard upon which such rule is based.

#### **TITLE II—COMMERCIAL MOTOR VEHICLE SAFETY ENHANCEMENT ACT OF 2012**

##### **SEC. 32001. SHORT TITLE.**

This title may be cited as the “Commercial Motor Vehicle Safety Enhancement Act of 2012”.

##### **SEC. 32002. DEFINITION.**

In this title, the term “Secretary” means the Secretary of Transportation.

##### **SEC. 32003. REFERENCES TO TITLE 49, UNITED STATES CODE.**

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

#### **Subtitle A—Commercial Motor Vehicle Registration**

##### **SEC. 32101. REGISTRATION OF MOTOR CARRIERS.**

(a) **REGISTRATION REQUIREMENTS.**—Section 13902(a)(1) is amended to read as follows:

“(1) **IN GENERAL.**—Except as otherwise provided in this section, the Secretary of Transportation may not register a person to provide transportation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier unless the Secretary determines that the person—

“(A) is willing and able to comply with—

“(i) this part and the applicable regulations of the Secretary and the Board;

“(ii) any safety regulations imposed by the Secretary;

“(iii) the duties of employers and employees established by the Secretary under section 31135;

“(iv) the safety fitness requirements established by the Secretary under section 31144;

“(v) the accessibility requirements established by the Secretary under subpart H of part 37 of title 49, Code of Federal Regulations (or successor regulations), for transportation provided by an over-the-road bus; and

“(vi) the minimum financial responsibility requirements established by the Secretary under sections 13906, 31138, and 31139;

“(B) has submitted a comprehensive management plan documenting that the person has management systems in place to ensure compliance with safety regulations imposed by the Secretary;



“(C) has disclosed any relationship involving common ownership, common management, common control, or a common familial relationship between that person and any other motor carrier, freight forwarder, or broker, or any other applicant for motor carrier, freight forwarder, or broker registration, or a successor (as that term is defined under section 31153), if the relationship occurred in the 5-year period preceding the date of the filing of the application for registration; and

“(D) after the Secretary establishes a written proficiency examination pursuant to section 32101(b) of the Commercial Motor Vehicle Safety Enhancement Act of 2012, has passed the written proficiency examination.”.

(b) WRITTEN PROFICIENCY EXAMINATION.—

(1) ESTABLISHMENT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall establish a written proficiency examination for applicant motor carriers pursuant to section 13902(a)(1)(D) of title 49, United States Code. The written proficiency examination shall test a person's knowledge of applicable safety regulations, standards, and orders of the Federal Government and State government.

(2) ADDITIONAL FEE.—The Secretary may assess a fee to cover the expenses incurred by the Department of Transportation in—

(A) developing and administering the written proficiency examination; and

(B) reviewing the comprehensive management plan required under section 13902(a)(1)(B) of title 49, United States Code.

(c) CONFORMING AMENDMENT.—Section 210(b) of the Motor Carrier Safety Improvement Act of 1999 (49 U.S.C. 31144 note) is amended—

(1) by inserting “, commercial regulations, and provisions of subpart H of part 37 of title 49, Code of Federal Regulations, or successor regulations” after “applicable safety regulations”; and

(2) by striking “consider the establishment of” and inserting “establish”.

**SEC. 32102. SAFETY FITNESS OF NEW OPERATORS.**

(a) SAFETY REVIEWS OF NEW OPERATORS.—Section 31144(g)(1) is amended to read as follows:

“(1) SAFETY REVIEW.—

“(A) IN GENERAL.—The Secretary shall require, by regulation, each owner and each operator granted new registration under section 13902 or 31134 to undergo a safety review not later than 12 months after the owner or operator, as the case may be, begins operations under such registration.

“(B) PROVIDERS OF MOTORCOACH SERVICES.—The Secretary may register a person to provide motorcoach services under section 13902 or 31134 after the person undergoes a pre-authorization safety audit, including verification, in a manner sufficient to demonstrate the ability to comply with Federal rules and regulations, as described in section 13902. The Secretary shall continue to monitor the safety performance of each owner and each operator subject to this section for 12 months after the owner or operator is granted registration under section 13902 or 31134. The registration of each owner and each operator subject to this section shall become permanent after the motorcoach service provider is granted registration following a pre-authorization safety audit and the expiration of the 12 month monitoring period.

“(C) PRE-AUTHORIZATION SAFETY AUDIT.—The Secretary may require, by regulation, that the pre-authorization safety audit

under subparagraph (B) be completed on-site not later than 90 days after the submission of an application for operating authority.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 1 year after the date of enactment of this Act.

**SEC. 32103. REINCARNATED CARRIERS.**

(a) EFFECTIVE PERIODS OF REGISTRATION.—(1) SUSPENSIONS, AMENDMENTS, AND REVOCATIONS.—Section 13905(d) is amended—

(A) by redesignating paragraph (2) as paragraph (4);

(B) by striking paragraph (1) and inserting the following:

“(1) APPLICATIONS.—On application of the registrant, the Secretary may amend or revoke a registration.

“(2) COMPLAINTS AND ACTIONS ON SECRETARY'S OWN INITIATIVE.—On complaint or on the Secretary's own initiative and after notice and an opportunity for a proceeding, the Secretary may—

“(A) suspend, amend, or revoke any part of the registration of a motor carrier, broker, or freight forwarder for willful failure to comply with—

“(i) this part;

“(ii) an applicable regulation or order of the Secretary or the Board, including the accessibility requirements established by the Secretary under subpart H of part 37 of title 49, Code of Federal Regulations (or successor regulations), for transportation provided by an over-the-road bus; or

“(iii) a condition of its registration;

“(B) withhold, suspend, amend, or revoke any part of the registration of a motor carrier, broker, or freight forwarder for failure—

“(i) to pay a civil penalty imposed under chapter 5, 51, 149, or 311;

“(ii) to arrange and abide by an acceptable payment plan for such civil penalty, not later than 90 days after the date specified by order of the Secretary for the payment of such penalty; or

“(iii) for failure to obey a subpoena issued by the Secretary;

“(C) withhold, suspend, amend, or revoke any part of a registration of a motor carrier, broker, or freight forwarder following a determination by the Secretary that the motor carrier, broker, or freight forwarder failed to disclose, in its application for registration, a material fact relevant to its willingness and ability to comply with—

“(i) this part;

“(ii) an applicable regulation or order of the Secretary or the Board; or

“(iii) a condition of its registration; or

“(D) withhold, suspend, amend, or revoke any part of a registration of a motor carrier, broker, or freight forwarder if the Secretary finds that—

“(i) the motor carrier, broker, or freight forwarder is or was related through common ownership, common management, common control, or a common familial relationship to any other motor carrier, broker, or freight forwarder, or any other applicant for motor carrier, broker, or freight forwarder registration that the Secretary determines is or was unwilling or unable to comply with the relevant requirements listed in section 13902, 13903, or 13904; or

“(ii) the person is the successor, as defined in section 31153, to a person who is or was unwilling or unable to comply with the relevant requirements of section 13902, 13903, or 13904.

“(3) LIMITATION.—Paragraph (2)(B) shall not apply to a person who is unable to pay a civil penalty because the person is a debtor in a case under chapter 11 of title 11.”; and

(C) in paragraph (4), as redesignated by section 32103(a)(1)(A) of this Act, by striking “paragraph (1)(B)” and inserting “paragraph (2)(B)”.

(2) PROCEDURE.—Section 13905(e) is amended by inserting “or if the Secretary determines that the registrant failed to disclose a material fact in an application for registration in accordance with subsection (d)(2)(C),” after “registrant,”.

(b) INFORMATION SYSTEMS.—Section 31106(a)(3) is amended—

(1) in subparagraph (F), by striking “and” at the end;

(2) in subparagraph (G), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(H) determine whether a person or employer is or was related, through common ownership, common management, common control, or a common familial relationship, to any other person, employer, or any other applicant for registration under section 13902 or 31134.”.

**SEC. 32104. FINANCIAL RESPONSIBILITY REQUIREMENTS.**

(a) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary shall—

(1) issue a report on the appropriateness of—

(A) the current minimum financial responsibility requirements under sections 31138 and 31139 of title 49, United States Code; and

(B) the current bond and insurance requirements under section 13904(d) of title 49, United States Code; and

(2) submit the report issued under paragraph (1) to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(b) RULEMAKING.—Not later than 6 months after the publication of the report under subsection (a), the Secretary shall initiate a rulemaking—

(1) to revise the minimum financial responsibility requirements under sections 31138 and 31139 of title 49, United States Code; and

(2) to revise the bond and insurance requirements under section 13904(d) of such title, as appropriate, based on the findings of the report submitted under subsection (a).

(c) DEADLINE.—Not later than 1 year after the start of the rulemaking under subsection (b), the Secretary shall—

(1) issue a final rule; or

(2) if the Secretary determines that a rulemaking is not required following the Secretary's analysis, submit a report stating the reason for not increasing the minimum financial responsibility requirements to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(d) BIENNIAL REVIEWS.—Not less than once every 2 years, the Secretary shall review the requirements prescribed under subsection (b) and revise the requirements, as appropriate.

**SEC. 32105. USDOT NUMBER REGISTRATION REQUIREMENT.**

(a) IN GENERAL.—Chapter 311 is amended by inserting after section 31133 the following:

**“§ 31134. Requirement for registration and USDOT number**

“(a) IN GENERAL.—Upon application, and subject to subsections (b) and (c), the Secretary shall register an employer or person subject to the safety jurisdiction of this subchapter. An employer or person may operate a commercial motor vehicle in interstate commerce only if the employer or person is



registered by the Secretary under this section and receives a USDOT number. Nothing in this section shall preclude registration by the Secretary of an employer or person not engaged in interstate commerce. An employer or person subject to jurisdiction under subchapter I of chapter 135 of this title shall apply for commercial registration under section 13902 of this title.

“(b) WITHHOLDING REGISTRATION.—The Secretary may withhold registration under subsection (a), after notice and an opportunity for a proceeding, if the Secretary determines that—

“(1) the employer or person seeking registration is unwilling or unable to comply with the requirements of this subchapter and the regulations prescribed thereunder and chapter 51 and the regulations prescribed thereunder;

“(2) the employer or person is or was related through common ownership, common management, common control, or a common familial relationship to any other person or applicant for registration subject to this subchapter who is or was unfit, unwilling, or unable to comply with the requirements listed in subsection (b)(1); or

“(3) the person is the successor, as defined in section 31153, to a person who is or was unfit, unwilling, or unable to comply with the requirements listed in subsection (b)(1).

“(c) REVOCATION OR SUSPENSION OF REGISTRATION.—The Secretary shall revoke the registration of an employer or person under subsection (a) after notice and an opportunity for a proceeding, or suspend the registration after giving notice of the suspension to the employer or person, if the Secretary determines that—

“(1) the employer's or person's authority to operate pursuant to chapter 139 of this title would be subject to revocation or suspension under sections 13905(d)(1) or 13905(f) of this title;

“(2) the employer or person is or was related through common ownership, common management, common control, or a common familial relationship to any other person or applicant for registration subject to this subchapter that the Secretary determines is or was unfit, unwilling, or unable to comply with the requirements listed in subsection (b)(1);

“(3) the person is the successor, as defined in section 31153, to a person the Secretary determines is or was unfit, unwilling, or unable to comply with the requirements listed in subsection (b)(1); or

“(4) the employer or person failed or refused to submit to the safety review required by section 31144(g) of this title.

“(d) PERIODIC REGISTRATION UPDATE.—The Secretary may require an employer to update a registration under this section periodically or not later than 30 days after a change in the employer's address, other contact information, officers, process agent, or other essential information, as determined by the Secretary.”

(b) CONFORMING AMENDMENT.—The analysis of chapter 311 is amended by inserting after the item relating to section 31133 the following:

“31134. Requirement for registration and USDOT number.”

#### SEC. 32106. REGISTRATION FEE SYSTEM.

Section 13908(d)(1) is amended by striking “but shall not exceed \$300”.

#### SEC. 32107. REGISTRATION UPDATE.

(a) PERIODIC MOTOR CARRIER UPDATE.—Section 13902 is amended by adding at the end the following:

“(h) UPDATE OF REGISTRATION.—The Secretary may require a registrant to update its

registration under this section periodically or not later than 30 days after a change in the registrant's address, other contact information, officers, process agent, or other essential information, as determined by the Secretary.”

(b) PERIODIC FREIGHT FORWARDER UPDATE.—Section 13903 is amended by adding at the end the following:

“(c) UPDATE OF REGISTRATION.—The Secretary may require a freight forwarder to update its registration under this section periodically or not later than 30 days after a change in the freight forwarder's address, other contact information, officers, process agent, or other essential information, as determined by the Secretary.”

(c) PERIODIC BROKER UPDATE.—Section 13904 is amended by adding at the end the following:

“(e) UPDATE OF REGISTRATION.—The Secretary may require a broker to update its registration under this section periodically or not later than 30 days after a change in the broker's address, other contact information, officers, process agent, or other essential information, as determined by the Secretary.”

#### SEC. 32108. INCREASED PENALTIES FOR OPERATING WITHOUT REGISTRATION.

(a) PENALTIES.—Section 14901(a) is amended—

(1) by striking “\$500” and inserting “\$1,000”;

(2) by striking “who is not registered under this part to provide transportation of passengers,”;

(3) by striking “with respect to providing transportation of passengers,” and inserting “or section 13902(c) of this title,”; and

(4) by striking “\$2,000 for each violation and each additional day the violation continues” and inserting “\$10,000 for each violation, or \$25,000 for each violation relating to providing transportation of passengers”.

(b) TRANSPORTATION OF HAZARDOUS WASTES.—Section 14901(b) is amended by striking “not to exceed \$20,000” and inserting “not less than \$25,000”.

#### SEC. 32109. REVOCATION OF REGISTRATION FOR IMMINENT HAZARD.

Section 13905(f)(2) is amended to read as follows:

“(2) IMMINENT HAZARD TO PUBLIC HEALTH.—Notwithstanding subchapter II of chapter 5 of title 5, the Secretary shall revoke the registration of a motor carrier if the Secretary finds that the carrier is or was conducting unsafe operations that are or were an imminent hazard to public health or property.”

#### SEC. 32110. REVOCATION OF REGISTRATION AND OTHER PENALTIES FOR FAILURE TO RESPOND TO SUBPOENA.

Section 525 is amended—

(1) by striking “subpenas” in the section heading and inserting “subpoenas”;

(2) by striking “subpena” and inserting “subpoena”;

(3) by striking “\$100” and inserting “\$1,000”;

(4) by striking “\$5,000” and inserting “\$10,000”; and

(5) by adding at the end the following:

“The Secretary may withhold, suspend, amend, or revoke any part of the registration of a person required to register under chapter 139 for failing to obey a subpoena or requirement of the Secretary under this chapter to appear and testify or produce records.”

#### SEC. 32111. FLEETWIDE OUT OF SERVICE ORDER FOR OPERATING WITHOUT REQUIRED REGISTRATION.

Section 13902(e)(1) is amended—

(1) by striking “motor vehicle” and inserting “motor carrier” after “the Secretary determines that a”; and

(2) by striking “order the vehicle” and inserting “order the motor carrier operations” after “the Secretary may”.

#### SEC. 32112. MOTOR CARRIER AND OFFICER PATTERNS OF SAFETY VIOLATIONS.

Section 31135 is amended—

(1) by striking subsection (b) and inserting the following:

“(b) NONCOMPLIANCE.—

“(1) MOTOR CARRIERS.—Two or more motor carriers, employers, or persons shall not use common ownership, common management, common control, or a common familial relationship to enable any or all such motor carriers, employers, or persons to avoid compliance, or mask or otherwise conceal non-compliance, or a history of non-compliance, with regulations prescribed under this subchapter or an order of the Secretary issued under this subchapter.

“(2) PATTERN.—If the Secretary finds that a motor carrier, employer, or person engaged in a pattern or practice of avoiding compliance, or masking or otherwise concealing noncompliance, with regulations prescribed under this subchapter, the Secretary—

“(A) may withhold, suspend, amend, or revoke any part of the motor carrier's, employer's, or person's registration in accordance with section 13905 or 31134; and

“(B) shall take into account such non-compliance for purposes of determining civil penalty amounts under section 521(b)(2)(D).

“(3) OFFICERS.—If the Secretary finds, after notice and an opportunity for proceeding, that an officer of a motor carrier, employer, or owner or operator engaged in a pattern or practice of violating regulations prescribed under this subchapter, or assisted a motor carrier, employer, or owner or operator in avoiding compliance, or masking or otherwise concealing noncompliance, the Secretary may impose appropriate sanctions, subject to the limitations in paragraph (4), including—

“(A) suspension or revocation of registration granted to the officer individually under section 13902 or 31134;

“(B) temporary or permanent suspension or bar from association with any motor carrier, employer, or owner or operator registered under section 13902 or 31134; or

“(C) any appropriate sanction approved by the Secretary.

“(4) LIMITATIONS.—The sanctions described in subparagraphs (A) through (C) of subsection (b)(3) shall apply to—

“(A) intentional or knowing conduct, including reckless conduct that violates applicable laws (including regulations); and

“(B) repeated instances of negligent conduct that violates applicable laws (including regulations).”;

(2) by striking subsection (c) and inserting the following:

“(c) AVOIDING COMPLIANCE.—For purposes of this section, ‘avoiding compliance’ or ‘masking or otherwise concealing non-compliance’ includes serving as an officer or otherwise exercising controlling influence over 2 or more motor carriers where—

“(1) 1 of the carriers was placed out of service, or received notice from the Secretary that it will be placed out of service, following—

“(A) a determination of unfitness under section 31144(b);

“(B) a suspension or revocation of registration under section 13902, 13905, or 31144(g);

“(C) issuance of an imminent hazard out of service order under section 521(b)(5) or section 5121(d); or

“(D) notice of failure to pay a civil penalty or abide by a penalty payment plan; and

“(2) 1 or more of the carriers is the ‘successor,’ as that term is defined in section 31153, to the carrier that is the subject of the action in paragraph (1).”

**SEC. 32113. FEDERAL SUCCESSOR STANDARD.**

(a) IN GENERAL.—Chapter 311 is amended by adding after section 31152, as added by section 32508 of this Act, the following:

**“§ 31153. Federal successor standard**

“(a) FEDERAL SUCCESSOR STANDARD.—Notwithstanding any other provision of Federal or State law, the Secretary may take an action authorized under chapters 5, 51, 131 through 149, subchapter III of chapter 311 (except sections 31138 and 31139), or sections 31302, 31303, 31304, 31305(b), 31310(g)(1)(A), or 31502 of this title, or a regulation issued under any of those provisions, against a successor of a motor carrier (as defined in section 13102), a successor of an employer (as defined in section 31132), or a successor of an owner or operator (as that term is used in subchapter III of chapter 311), to the same extent and on the same basis as the Secretary may take the action against the motor carrier, employer, or owner or operator.

“(b) SUCCESSOR DEFINED.—For purposes of this section, the term ‘successor’ means a motor carrier, employer, or owner or operator that the Secretary determines, after notice and an opportunity for a proceeding, has 1 or more features that correspond closely with the features of another existing or former motor carrier, employer, or owner or operator, such as—

“(1) consideration paid for assets purchased or transferred;

“(2) dates of corporate creation and dissolution or termination of operations;

“(3) commonality of ownership;

“(4) commonality of officers and management personnel and their functions;

“(5) commonality of drivers and other employees;

“(6) identity of physical or mailing addresses, telephone, fax numbers, or e-mail addresses;

“(7) identity of motor vehicle equipment;

“(8) continuity of liability insurance policies;

“(9) commonality of coverage under liability insurance policies;

“(10) continuation of carrier facilities and other physical assets;

“(11) continuity of the nature and scope of operations, including customers;

“(12) commonality of the nature and scope of operations, including customers;

“(13) advertising, corporate name, or other acts through which the motor carrier, employer, or owner or operator holds itself out to the public;

“(14) history of safety violations and pending orders or enforcement actions of the Secretary; and

“(15) additional factors that the Secretary considers appropriate.

“(c) EFFECTIVE DATE.—Notwithstanding any other provision of law, this section shall apply to any action commenced on or after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012 without regard to whether the violation that is the subject of the action, or the conduct that caused the violation, occurred before the date of enactment.

“(d) RIGHTS NOT AFFECTED.—Nothing in this section shall affect the rights, functions, or responsibilities under law of any other Department, Agency, or instrumentality of the United States, the laws of any State, or any

rights between a private party and a motor carrier, employer, or owner or operator.”

(b) CONFORMING AMENDMENT.—The analysis of chapter 311 is amended by inserting after the item related to section 31152, as added by section 32508 of this Act, the following:

“31153. Federal successor standard.”

**Subtitle B—Commercial Motor Vehicle Safety**

**SEC. 32201. REPEAL OF COMMERCIAL JURISDICTION EXCEPTION FOR BROKERS OF MOTOR CARRIERS OF PASSENGERS.**

(a) IN GENERAL.—Section 13506(a) is amended—

(1) by inserting “or” at the end of paragraph (13);

(2) by striking paragraph (14); and

(3) by redesignating paragraph (15) as paragraph (14).

(b) CONFORMING AMENDMENT.—Section 13904(a) is amended by striking “of property” in the first sentence.

**SEC. 32202. BUS RENTALS AND DEFINITION OF EMPLOYER.**

Paragraph (3) of section 31132 is amended to read as follows:

“(3) ‘employer’—

“(A) means a person engaged in a business affecting interstate commerce that—

“(i) owns or leases a commercial motor vehicle in connection with that business, or assigns an employee to operate the commercial motor vehicle; or

“(ii) offers for rent or lease a motor vehicle designed or used to transport more than 8 passengers, including the driver, and from the same location or as part of the same business provides names or contact information of drivers, or holds itself out to the public as a charter bus company; but

“(B) does not include the Government, a State, or a political subdivision of a State.”

**SEC. 32203. CRASHWORTHINESS STANDARDS.**

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary shall conduct a comprehensive analysis on the need for crashworthiness standards on property-carrying commercial motor vehicles with a gross vehicle weight rating or gross vehicle weight of at least 26,001 pounds involved in interstate commerce, including an evaluation of the need for roof strength, pillar strength, air bags, and frontal and back wall standards.

(b) REPORT.—Not later than 90 days after completing the comprehensive analysis under subsection (a), the Secretary shall report the results of the analysis and any recommendations to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

**SEC. 32204. CANADIAN SAFETY RATING RECIPROCITY.**

Section 31144 is amended by adding at the end the following:

“(h) RECOGNITION OF CANADIAN MOTOR CARRIER SAFETY FITNESS DETERMINATIONS.—

“(1) If an authorized agency of the Canadian federal government or a Canadian Territorial or Provincial government determines, by applying the procedure and standards prescribed by the Secretary under subsection (b) or pursuant to an agreement under paragraph (2), that a Canadian employer is unfit and prohibits the employer from operating a commercial motor vehicle in Canada or any Canadian Province, the Secretary may prohibit the employer from operating such vehicle in interstate and foreign commerce until the authorized Canadian agency determines that the employer is fit.

“(2) The Secretary may consult and participate in negotiations with authorized officials of the Canadian federal government or a Canadian Territorial or Provincial government, as necessary, to provide reciprocal recognition of each country’s motor carrier safety fitness determinations. An agreement shall provide, to the maximum extent practicable, that each country will follow the procedure and standards prescribed by the Secretary under subsection (b) in making motor carrier safety fitness determinations.”

**SEC. 32205. STATE REPORTING OF FOREIGN COMMERCIAL DRIVER CONVICTIONS.**

(a) DEFINITION OF FOREIGN COMMERCIAL DRIVER.—Section 31301 is amended—

(1) by redesignating paragraphs (10) through (14) as paragraphs (11) through (15), respectively; and

(2) by inserting after paragraph (9) the following:

“(10) ‘foreign commercial driver’ means an individual licensed to operate a commercial motor vehicle by an authority outside the United States, or a citizen of a foreign country who operates a commercial motor vehicle in the United States.”

(b) STATE REPORTING OF CONVICTIONS.—Section 31311(a) is amended by adding after paragraph (21) the following:

“(22) The State shall report a conviction of a foreign commercial driver by that State to the Federal Convictions and Withdrawal Database, or another information system designated by the Secretary to record the convictions. A report shall include—

“(A) for a driver holding a foreign commercial driver’s license, each conviction relating to the operation of—

“(i) a commercial motor vehicle; and

“(ii) a non-commercial motor vehicle; and

“(B) for an unlicensed driver or a driver holding a foreign non-commercial driver’s license, each conviction for operating a commercial motor vehicle.”

**SEC. 32206. AUTHORITY TO DISQUALIFY FOREIGN COMMERCIAL DRIVERS.**

Section 31310 is amended by adding at the end the following:

“(k) FOREIGN COMMERCIAL DRIVERS.—A foreign commercial driver shall be subject to disqualification under this section.”

**SEC. 32207. REVOCATION OF FOREIGN MOTOR CARRIER OPERATING AUTHORITY FOR FAILURE TO PAY CIVIL PENALTIES.**

Section 13905(d)(2), as amended by section 32103(a) of this Act, is amended by inserting “foreign motor carrier, foreign motor private carrier,” after “registration of a motor carrier,” each place it appears.

**Subtitle C—Driver Safety**

**SEC. 32301. ELECTRONIC ON-BOARD RECORDING DEVICES.**

(a) GENERAL AUTHORITY.—Section 31137 is amended—

(1) by amending the section heading to read as follows:

**“§ 31137. Electronic on-board recording devices and brake maintenance regulations”;**

(2) by redesignating subsection (b) as subsection (e); and

(3) by amending subsection (a) to read as follows:

“(a) ELECTRONIC ON-BOARD RECORDING DEVICES.—Not later than 1 year after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, the Secretary of Transportation shall prescribe regulations—

“(1) requiring a commercial motor vehicle involved in interstate commerce and operated by a driver subject to the hours of service and the record of duty status requirements under part 395 of title 49, Code of Federal Regulations, be equipped with an electronic on-board recording device to improve compliance by an operator of a vehicle with hours of service regulations prescribed by the Secretary; and

“(2) ensuring that an electronic on-board recording device is not used to harass a vehicle operator.

“(b) ELECTRONIC ON-BOARD RECORDING DEVICE REQUIREMENTS.—

“(1) IN GENERAL.—The regulations prescribed under subsection (a) shall—

“(A) require an electronic on-board recording device—

“(i) to accurately record commercial driver hours of service; and

“(ii) to record the location of a commercial motor vehicle; and

“(iii) to be tamper resistant; and

“(iv) to be integrally synchronized with an engine's control module; and

“(B) allow law enforcement to access the data contained in the device during a roadside inspection; and

“(C) apply to a commercial motor vehicle beginning on the date that is 2 years after the date that the regulations are published as a final rule.

“(2) PERFORMANCE AND DESIGN STANDARDS.—The regulations prescribed under subsection (a) shall establish performance standards—

“(A) defining a standardized user interface to aid vehicle operator compliance and law enforcement review; and

“(B) establishing a secure process for standardized—

“(i) and unique vehicle operator identification; and

“(ii) data access; and

“(iii) data transfer for vehicle operators between motor vehicles; and

“(iv) data storage for a motor carrier; and

“(v) data transfer and transportability for law enforcement officials; and

“(C) establishing a standard security level for an electronic on-board recording device and related components to be tamper resistant by using a methodology endorsed by a nationally recognized standards organization; and

“(D) identifying each driver subject to the hours of service and record of duty status requirements under part 395 of title 49, Code of Federal Regulations.

“(c) CERTIFICATION CRITERIA.—

“(1) IN GENERAL.—The regulations prescribed by the Secretary under this section shall establish the criteria and a process for the certification of an electronic on-board recording device to ensure that the device meets the performance requirements under this section.

“(2) EFFECT OF NONCERTIFICATION.—An electronic on-board recording device that is not certified in accordance with the certification process referred to in paragraph (1) shall not be acceptable evidence of hours of service and record of duty status requirements under part 395 of title 49, Code of Federal Regulations.

“(d) ELECTRONIC ON-BOARD RECORDING DEVICE DEFINED.—In this section, the term ‘electronic on-board recording device’ means an electronic device that—

“(1) is capable of recording a driver's hours of service and duty status accurately and automatically; and

“(2) meets the requirements established by the Secretary through regulation.”.

(b) CIVIL PENALTIES.—Section 30165(a)(1) is amended by striking “or 30141 through 30147” and inserting “30141 through 30147, or 31137”.

(c) CONFORMING AMENDMENT.—The analysis for chapter 311 is amended by striking the item relating to section 31137 and inserting the following:

“31137. Electronic on-board recording devices and brake maintenance regulations.”.

#### SEC. 32302. SAFETY FITNESS.

(a) SAFETY FITNESS RATING METHODOLOGY.—The Secretary shall—

(1) incorporate into its Compliance, Safety, Accountability program a safety fitness rating methodology that assigns sufficient weight to adverse vehicle and driver performance-based data that elevate crash risks to warrant an unsatisfactory rating for a carrier; and

(2) ensure that the data to support such assessments is accurate.

(b) INTERIM MEASURES.—Not later than March 31, 2012, the Secretary shall take interim measures to implement a similar safety fitness rating methodology in its current safety rating system if the Compliance, Safety, Accountability program is not fully implemented.

#### SEC. 32303. DRIVER MEDICAL QUALIFICATIONS.

(a) DEADLINE FOR ESTABLISHMENT OF NATIONAL REGISTRY OF MEDICAL EXAMINERS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall establish a national registry of medical examiners in accordance with section 31149(d)(1) of title 49, United States Code.

(b) EXAMINATION REQUIREMENT FOR NATIONAL REGISTRY OF MEDICAL EXAMINERS.—Section 31149(c)(1)(D) is amended to read as follows:

“(D) not later than 1 year after enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, develop requirements for a medical examiner to be listed in the national registry under this section, including—

“(i) the completion of specific courses and materials; and

“(ii) certification, including self-certification, if the Secretary determines that self-certification is necessary for sufficient participation in the national registry, to verify that a medical examiner completed specific training, including refresher courses, that the Secretary determines necessary to be listed in the national registry; and

“(iii) an examination that requires a passing grade; and

“(iv) demonstration of a medical examiner's willingness to meet the reporting requirements established by the Secretary.”.

(c) ADDITIONAL OVERSIGHT OF LICENSING AUTHORITIES.—

(1) IN GENERAL.—Section 31149(c)(1) is amended—

(A) in subparagraph (E), by striking “and” after the semicolon; and

(B) in subparagraph (F), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(G) annually review the implementation of commercial driver's license requirements by not fewer than 10 States to assess the accuracy, validity, and timeliness of—

“(i) the submission of physical examination reports and medical certificates to State licensing agencies; and

“(ii) the processing of the submissions by State licensing agencies.”.

(2) INTERNAL OVERSIGHT POLICY.—

(A) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall establish an oversight policy

and procedure to carry out section 31149(c)(1)(G) of title 49, United States Code, as added by section 32303(c)(1) of this Act.

(B) EFFECTIVE DATE.—The amendments made by section 32303(c)(1) of this Act shall take effect on the date the oversight policies and procedures are established pursuant to subparagraph (A).

(d) ELECTRONIC FILING OF MEDICAL EXAMINATION CERTIFICATES.—Section 31311(a), as amended by sections 2205(b) and 2306(b) of this Act, is amended by adding at the end the following:

“(24) Not later than 1 year after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, the State shall establish and maintain, as part of its driver information system, the capability to receive an electronic copy of a medical examiner's certificate, from a certified medical examiner, for each holder of a commercial driver's license issued by the State who operates or intends to operate in interstate commerce.”.

(e) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—Of the funds provided for Data and Technology Grants under section 31104(a) of title 49, United States Code, there are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary to make grants to States or an organization representing agencies and officials of the States to support development costs of the information technology needed to carry out section 31311(a)(24) of title 49, United States Code, up to \$1,000,000 for fiscal year 2012 and up to \$1,000,000 for fiscal year 2013.

(2) PERIOD OF AVAILABILITY.—The amounts made available under this subsection shall remain available until expended.

#### SEC. 32304. COMMERCIAL DRIVER'S LICENSE NOTIFICATION SYSTEM.

(a) IN GENERAL.—Section 31304 is amended—

(1) by striking “An employer” and inserting the following:

“(a) IN GENERAL.—An employer”; and

(2) by adding at the end the following:

“(b) DRIVER VIOLATION RECORDS.—

“(1) PERIODIC REVIEW.—Except as provided in paragraph (3), an employer shall ascertain the driving record of each driver it employs—

“(A) by making an inquiry at least once every 12 months to the appropriate State agency in which the driver held or holds a commercial driver's license or permit during such time period; and

“(B) by receiving occurrence-based reports of changes in the status of a driver's record from 1 or more driver record notification systems that meet minimum standards issued by the Secretary; or

“(C) by a combination of inquiries to States and reports from driver record notification systems.

“(2) RECORD KEEPING.—A copy of the reports received under paragraph (1) shall be maintained in the driver's qualification file.

“(3) EXCEPTIONS TO RECORD REVIEW REQUIREMENT.—Paragraph (1) shall not apply to a driver employed by an employer who, in any 7-day period, is employed or used as a driver by more than 1 employer—

“(A) if the employer obtains the driver's identification number, type, and issuing State of the driver's commercial motor vehicle license; or

“(B) if the information described in subparagraph (A) is furnished by another employer and the employer that regularly employs the driver meets the other requirements under this section.

“(4) DRIVER RECORD NOTIFICATION SYSTEM DEFINED.—In this section, the term ‘driver record notification system’ means a system that automatically furnishes an employer with a report, generated by the appropriate agency of a State, on the change in the status of an employee’s driver’s license due to a conviction for a moving violation, a failure to appear, an accident, driver’s license suspension, driver’s license revocation, or any other action taken against the driving privilege.”.

(b) STANDARDS FOR DRIVER RECORD NOTIFICATION SYSTEMS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue minimum standards for driver notification systems, including standards for the accuracy, consistency, and completeness of the information provided.

(c) PLAN FOR NATIONAL NOTIFICATION SYSTEM.—

(1) DEVELOPMENT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall develop recommendations and a plan for the development and implementation of a national driver record notification system, including—

(A) an assessment of the merits of achieving a national system by expanding the Commercial Driver’s License Information System; and

(B) an estimate of the fees that an employer will be charged to offset the operating costs of the national system.

(2) SUBMISSION TO CONGRESS.—Not later than 90 days after the recommendations and plan are developed under paragraph (1), the Secretary shall submit a report on the recommendations and plan to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

#### SEC. 32305. COMMERCIAL MOTOR VEHICLE OPERATOR TRAINING.

(a) IN GENERAL.—Section 31305 is amended by adding at the end the following:

“(c) STANDARDS FOR TRAINING.—Not later than 6 months after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, the Secretary shall issue final regulations establishing minimum entry-level training requirements for an individual operating a commercial motor vehicle—

“(1) addressing the knowledge and skills that—

“(A) are necessary for an individual operating a commercial motor vehicle to safely operate a commercial motor vehicle; and

“(B) must be acquired before obtaining a commercial driver’s license for the first time or upgrading from 1 class of commercial driver’s license to another class;

“(2) addressing the specific training needs of a commercial motor vehicle operator seeking passenger or hazardous materials endorsements, including for an operator seeking a passenger endorsement training—

“(A) to suppress motorcoach fires; and

“(B) to evacuate passengers from motorcoaches safely;

“(3) requiring effective instruction to acquire the knowledge, skills, and training referred to in paragraphs (1) and (2), including classroom and behind-the-wheel instruction;

“(4) requiring certification that an individual operating a commercial motor vehicle meets the requirements established by the Secretary; and

“(5) requiring a training provider (including a public or private driving school, motor carrier, or owner or operator of a commercial motor vehicle) that offers training that

results in the issuance of a certification to an individual under paragraph (4) to demonstrate that the training meets the requirements of the regulations, through a process established by the Secretary.”.

(b) COMMERCIAL DRIVER’S LICENSE UNIFORM STANDARDS.—Section 31308(1) is amended to read as follows:

“(1) an individual issued a commercial driver’s license—

“(A) pass written and driving tests for the operation of a commercial motor vehicle that comply with the minimum standards prescribed by the Secretary under section 31305(a); and

“(B) present certification of completion of driver training that meets the requirements established by the Secretary under section 31305(c);”.

(c) CONFORMING AMENDMENT.—The section heading for section 31305 is amended to read as follows:

#### “§ 31305. General driver fitness, testing, and training”.

(d) CONFORMING AMENDMENT.—The analysis for chapter 313 is amended by striking the item relating to section 31305 and inserting the following:

“31305. General driver fitness, testing, and training.”.

#### SEC. 32306. COMMERCIAL DRIVER’S LICENSE PROGRAM.

(a) IN GENERAL.—Section 31309 is amended—

(1) in subsection (e)(4), by amending subparagraph (A) to read as follows:

“(A) IN GENERAL.—The plan shall specify—

“(i) a date by which all States shall be operating commercial driver’s license information systems that are compatible with the modernized information system under this section; and

“(ii) that States must use the systems to receive and submit conviction and disqualification data.”; and

(2) in subsection (f), by striking “use” and inserting “use, subject to section 31313(a).”.

(b) REQUIREMENTS FOR STATE PARTICIPATION.—Section 31311 is amended—

(1) in subsection (a), as amended by section 32205(b) of this Act—

(A) in paragraph (5), by striking “At least” and all that follows through “regulation,” and inserting: “Not later than the time period prescribed by the Secretary by regulation.”; and

(B) by adding at the end the following:

“(23) Not later than 1 year after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, the State shall implement a system and practices for the exclusive electronic exchange of driver history record information on the system the Secretary maintains under section 31309, including the posting of convictions, withdrawals, and disqualifications.”; and

(2) by adding at the end the following:

“(d) CRITICAL REQUIREMENTS.—

“(1) IDENTIFICATION OF CRITICAL REQUIREMENTS.—After reviewing the requirements under subsection (a), including the regulations issued pursuant to subsection (a) and section 31309(e)(4), the Secretary shall identify the requirements that are critical to an effective State commercial driver’s license program.

“(2) GUIDANCE.—Not later than 180 days after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, the Secretary shall issue guidance to assist States in complying with the critical requirements identified under paragraph (1). The guidance shall include a description of the actions that each State must take to col-

lect and share accurate and complete data in a timely manner.

“(e) STATE COMMERCIAL DRIVER’S LICENSE PROGRAM PLAN.—

“(1) IN GENERAL.—Not later than 180 days after the Secretary issues guidance under subsection (d)(2), a State shall submit a plan to the Secretary for complying with the requirements under this section during the period beginning on the date the plan is submitted and ending on September 30, 2016.

“(2) CONTENTS.—A plan submitted by a State under paragraph (1) shall identify—

“(A) the actions that the State will take to comply with the critical requirements identified under subsection (d)(1);

“(B) the actions that the State will take to address any deficiencies in the State’s commercial driver’s license program, as identified by the Secretary in the most recent audit of the program; and

“(C) other actions that the State will take to comply with the requirements under subsection (a).

“(3) PRIORITY.—

“(A) IMPLEMENTATION SCHEDULE.—A plan submitted by a State under paragraph (1) shall include a schedule for the implementation of the actions identified under paragraph (2). In establishing the schedule, the State shall prioritize the actions identified under paragraphs (2)(A) and (2)(B).

“(B) DEADLINE FOR COMPLIANCE WITH CRITICAL REQUIREMENTS.—A plan submitted by a State under paragraph (1) shall include assurances that the State will take the necessary actions to comply with the critical requirements pursuant to subsection (d) not later than September 30, 2015.

“(4) APPROVAL AND DISAPPROVAL.—The Secretary shall—

“(A) review each plan submitted under paragraph (1);

“(B) approve a plan that the Secretary determines meets the requirements under this subsection and promotes the goals of this chapter; and

“(C) disapprove a plan that the Secretary determines does not meet the requirements or does not promote the goals.

“(5) MODIFICATION OF DISAPPROVED PLANS.—If the Secretary disapproves a plan under paragraph (4)(C), the Secretary shall—

“(A) provide a written explanation of the disapproval to the State; and

“(B) allow the State to modify the plan and resubmit it for approval.

“(6) PLAN UPDATES.—The Secretary may require a State to review and update a plan, as appropriate.

“(f) ANNUAL COMPARISON OF STATE LEVELS OF COMPLIANCE.—The Secretary shall annually—

“(1) compare the relative levels of compliance by States with the requirements under subsection (a); and

“(2) make the results of the comparison available to the public.”.

(c) DECERTIFICATION AUTHORITY.—Section 31312 is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following:

“(b) DEADLINE FOR COMPLIANCE WITH CRITICAL REQUIREMENTS.—Beginning on October 1, 2016, in making a determination under subsection (a), the Secretary shall consider a State to be in substantial noncompliance with this chapter if the Secretary determines that—

“(1) the State is not complying with a critical requirement under section 31311(d)(1); and

“(2) sufficient grant funding was made available to the State under section 31313(a) to comply with the requirement.”.

**SEC. 32307. COMMERCIAL DRIVER'S LICENSE REQUIREMENTS.**

(a) **LICENSING STANDARDS.**—Section 31305(a)(7) is amended by inserting “would not be subject to a disqualification under section 31310(g) of this title and” after “taking the tests”.

(b) **DISQUALIFICATIONS.**—Section 31310(g)(1) is amended by deleting “who holds a commercial driver's license and”.

**SEC. 32308. COMMERCIAL MOTOR VEHICLE DRIVER INFORMATION SYSTEMS.**

Section 31106(c) is amended—

(1) by striking the subsection heading and inserting “(1) IN GENERAL.—”;

(2) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D); and

(3) by adding at the end the following:

“(2) **ACCESS TO RECORDS.**—The Secretary may require a State, as a condition of an award of grant money under this section, to provide the Secretary access to all State licensing status and driver history records via an electronic information system, subject to section 2721 of title 18.”.

**SEC. 32309. DISQUALIFICATIONS BASED ON NON-COMMERCIAL MOTOR VEHICLE OPERATIONS.**

(a) **FIRST OFFENSE.**—Section 31310(b)(1)(D) is amended by striking “commercial” after “revoked, suspended, or canceled based on the individual's operation of a,” and before “motor vehicle”.

(b) **SECOND OFFENSE.**—Section 31310(c)(1)(D) is amended by striking “commercial” after “revoked, suspended, or canceled based on the individual's operation of a,” and before “motor vehicle”.

**SEC. 32310. FEDERAL DRIVER DISQUALIFICATIONS.**

(a) **DISQUALIFICATION DEFINED.**—Section 31301, as amended by section 32205 of this Act, is amended—

(1) by redesignating paragraphs (6) through (15) as paragraphs (7) through (16), respectively; and

(2) by inserting after paragraph (5) the following:

“(6) ‘Disqualification’ means—

“(A) the suspension, revocation, or cancellation of a commercial driver's license by the State of issuance;

“(B) a withdrawal of an individual's privilege to drive a commercial motor vehicle by a State or other jurisdiction as the result of a violation of State or local law relating to motor vehicle traffic control, except for a parking, vehicle weight, or vehicle defect violation;

“(C) a determination by the Secretary that an individual is not qualified to operate a commercial motor vehicle; or

“(D) a determination by the Secretary that a commercial motor vehicle driver is unfit under section 31144(g).”.

(b) **COMMERCIAL DRIVER'S LICENSE INFORMATION SYSTEM CONTENTS.**—Section 31309(b)(1)(F) is amended by inserting after “disqualified” the following: “by the State that issued the individual a commercial driver's license, or by the Secretary.”.

(c) **STATE ACTION ON FEDERAL DISQUALIFICATION.**—Section 31310(h) is amended by inserting after the first sentence the following:

“If the State has not disqualified the individual from operating a commercial vehicle under subsections (b) through (g), the State shall disqualify the individual if the Secretary determines under section 31144(g) that the individual is disqualified from operating a commercial motor vehicle.”.

**SEC. 32311. EMPLOYER RESPONSIBILITIES.**

Section 31304, as amended by section 32304 of this Act, is amended in subsection (a)—

(1) by striking “knowingly”; and

(2) by striking “in which” and inserting “that the employer knows or should reasonably know that”.

**Subtitle D—Safe Roads Act of 2012**

**SEC. 32401. SHORT TITLE.**

This subtitle may be cited as the “Safe Roads Act of 2012”.

**SEC. 32402. NATIONAL CLEARINGHOUSE FOR CONTROLLED SUBSTANCE AND ALCOHOL TEST RESULTS OF COMMERCIAL MOTOR VEHICLE OPERATORS.**

(a) **IN GENERAL.**—Chapter 313 is amended—

(1) in section 31306(a), by inserting “and section 31306a” after “this section”; and

(2) by inserting after section 31306 the following:

**“§ 31306a. National clearinghouse for controlled substance and alcohol test results of commercial motor vehicle operators**

“(a) **ESTABLISHMENT.**—

“(1) **IN GENERAL.**—Not later than 2 years after the date of enactment of the Safe Roads Act of 2012, the Secretary of Transportation shall establish a national clearinghouse for records relating to alcohol and controlled substances testing of commercial motor vehicle operators.

“(2) **PURPOSES.**—The purposes of the clearinghouse shall be—

“(A) to improve compliance with the Department of Transportation's alcohol and controlled substances testing program applicable to commercial motor vehicle operators;

“(B) to facilitate access to information about an individual before employing the individual as a commercial motor vehicle operator;

“(C) to enhance the safety of our United States roadways by reducing accident fatalities involving commercial motor vehicles; and

“(D) to reduce the number of impaired commercial motor vehicle operators.

“(3) **CONTENTS.**—The clearinghouse shall function as a repository for records relating to the positive test results and test refusals of commercial motor vehicle operators and violations by such operators of prohibitions set forth in subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations).

“(4) **ELECTRONIC EXCHANGE OF RECORDS.**—The Secretary shall ensure that records can be electronically submitted to, and requested from, the clearinghouse by authorized users.

“(5) **AUTHORIZED OPERATOR.**—The Secretary may authorize a qualified and experienced private entity to operate and maintain the clearinghouse and to collect fees on behalf of the Secretary under subsection (e). The entity shall establish, operate, maintain and expand the clearinghouse and permit access to driver information and records from the clearinghouse in accordance with this section.

“(b) **DESIGN OF CLEARINGHOUSE.**—

“(1) **USE OF FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION RECOMMENDATIONS.**—In establishing the clearinghouse, the Secretary shall consider—

“(A) the findings and recommendations contained in the Federal Motor Carrier Safety Administration's March 2004 report to Congress required under section 226 of the Motor Carrier Safety Improvement Act of 1999 (49 U.S.C. 31306 note); and

“(B) the findings and recommendations contained in the Government Accountability

Office's May 2008 report to Congress entitled ‘Motor Carrier Safety: Improvements to Drug Testing Programs Could Better Identify Illegal Drug Users and Keep Them off the Road.’.

“(2) **DEVELOPMENT OF SECURE PROCESSES.**—In establishing the clearinghouse, the Secretary shall develop a secure process for—

“(A) administering and managing the clearinghouse in compliance with applicable Federal security standards;

“(B) registering and authenticating authorized users of the clearinghouse;

“(C) registering and authenticating persons required to report to the clearinghouse under subsection (g);

“(D) preventing the unauthorized access of information from the clearinghouse;

“(E) storing and transmitting data;

“(F) persons required to report to the clearinghouse under subsection (g) to timely and accurately submit electronic data to the clearinghouse;

“(G) generating timely and accurate reports from the clearinghouse in response to requests for information by authorized users; and

“(H) updating an individual's record upon completion of the return-to-duty process described in title 49, Code of Federal Regulations.

“(3) **EMPLOYER ALERT OF POSITIVE TEST RESULT.**—In establishing the clearinghouse, the Secretary shall develop a secure method for electronically notifying an employer of each additional positive test result or other non-compliance—

“(A) for an employee, that is entered into the clearinghouse during the 7-day period immediately following an employer's inquiry about the employee; and

“(B) for an employee who is listed as having multiple employers.

“(4) **ARCHIVE CAPABILITY.**—In establishing the clearinghouse, the Secretary shall develop a process for archiving all clearinghouse records, including the depositing of personal records, records relating to each individual in the database, and access requests for personal records, for the purposes of—

“(A) auditing and evaluating the timeliness, accuracy, and completeness of data in the clearinghouse; and

“(B) auditing to monitor compliance and enforce penalties for noncompliance.

“(5) **FUTURE NEEDS.**—

“(A) **INTEROPERABILITY WITH OTHER DATA SYSTEMS.**—In establishing the clearinghouse, the Secretary shall consider—

“(i) the existing data systems containing regulatory and safety data for commercial motor vehicle operators;

“(ii) the efficacy of using or combining clearinghouse data with 1 or more of such systems; and

“(iii) the potential interoperability of the clearinghouse with such systems.

“(B) **SPECIFIC CONSIDERATIONS.**—In carrying out subparagraph (A), the Secretary shall determine—

“(i) the clearinghouse's capability for interoperability with—

“(I) the National Driver Register established under section 30302;

“(II) the Commercial Driver's License Information System established under section 31309;

“(III) the Motor Carrier Management Information System for preemployment screening services under section 31150; and

“(IV) other data systems, as appropriate; and

“(ii) any change to the administration of the current testing program, such as forms,

that is necessary to collect data for the clearinghouse.

“(c) STANDARD FORMATS.—The Secretary shall develop standard formats to be used—

“(1) by an authorized user of the clearinghouse to—

“(A) request a record from the clearinghouse; and

“(B) obtain the consent of an individual who is the subject of a request from the clearinghouse, if applicable; and

“(2) to notify an individual that a positive alcohol or controlled substances test result, refusing to test, and a violation of any of the prohibitions under subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations), will be reported to the clearinghouse.

“(d) PRIVACY.—A release of information from the clearinghouse shall—

“(1) comply with applicable Federal privacy laws, including the fair information practices under the Privacy Act of 1974 (5 U.S.C. 552a);

“(2) comply with applicable sections of the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.); and

“(3) not be made to any person or entity unless expressly authorized or required by law.

“(e) FEES.—

“(1) AUTHORITY TO COLLECT FEES.—Except as provided under paragraph (3), the Secretary may collect a reasonable, customary, and nominal fee from an authorized user of the clearinghouse for a request for information from the clearinghouse.

“(2) USE OF FEES.—Fees collected under this subsection shall be used for the operation and maintenance of the clearinghouse.

“(3) LIMITATION.—The Secretary may not collect a fee from an individual requesting information from the clearinghouse that pertains to the record of that individual.

“(f) EMPLOYER REQUIREMENTS.—

“(1) DETERMINATION CONCERNING USE OF CLEARINGHOUSE.—The Secretary shall determine if an employer is authorized to use the clearinghouse to meet the alcohol and controlled substances testing requirements under title 49, Code of Federal Regulations.

“(2) APPLICABILITY OF EXISTING REQUIREMENTS.—Each employer and service agent shall comply with the alcohol and controlled substances testing requirements under title 49, Code of Federal Regulations.

“(3) EMPLOYMENT PROHIBITIONS.—Beginning 30 days after the date that the clearinghouse is established under subsection (a), an employer shall not hire an individual to operate a commercial motor vehicle unless the employer determines that the individual, during the preceding 3-year period—

“(A) if tested for the use of alcohol and controlled substances, as required under title 49, Code of Federal Regulations—

“(i) did not test positive for the use of alcohol or controlled substances in violation of the regulations; or

“(ii) tested positive for the use of alcohol or controlled substances and completed the required return-to-duty process under title 49, Code of Federal Regulations;

“(B)(i) did not refuse to take an alcohol or controlled substance test under title 49, Code of Federal Regulations; or

“(ii) refused to take an alcohol or controlled substance test and completed the required return-to-duty process under title 49, Code of Federal Regulations; and

“(C) did not violate any other provision of subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations).

“(4) ANNUAL REVIEW.—Beginning 30 days after the date that the clearinghouse is established under subsection (a), an employer shall request and review a commercial motor vehicle operator's record from the clearinghouse annually for as long as the commercial motor vehicle operator is under the employ of the employer.

“(g) REPORTING OF RECORDS.—

“(1) IN GENERAL.—Beginning 30 days after the date that the clearinghouse is established under subsection (a), a medical review officer, employer, service agent, and other appropriate person, as determined by the Secretary, shall promptly submit to the Secretary any record generated after the clearinghouse is initiated of an individual who—

“(A) refuses to take an alcohol or controlled substances test required under title 49, Code of Federal Regulations;

“(B) tests positive for alcohol or a controlled substance in violation of the regulations; or

“(C) violates any other provision of subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations).

“(2) INCLUSION OF RECORDS IN CLEARINGHOUSE.—The Secretary shall include in the clearinghouse the records of positive test results and test refusals received under paragraph (1).

“(3) MODIFICATIONS AND DELETIONS.—If the Secretary determines that a record contained in the clearinghouse is not accurate, the Secretary shall modify or delete the record, as appropriate.

“(4) NOTIFICATION.—The Secretary shall expeditiously notify an individual, unless such notification would be duplicative, when—

“(A) a record relating to the individual is received by the clearinghouse;

“(B) a record in the clearinghouse relating to the individual is modified or deleted, and include in the notification the reason for the modification or deletion; or

“(C) a record in the clearinghouse relating to the individual is released to an employer and specify the reason for the release.

“(5) DATA QUALITY AND SECURITY STANDARDS FOR REPORTING AND RELEASING.—The Secretary may establish additional requirements, as appropriate, to ensure that—

“(A) the submission of records to the clearinghouse is timely and accurate;

“(B) the release of data from the clearinghouse is timely, accurate, and released to the appropriate authorized user under this section; and

“(C) an individual with a record in the clearinghouse has a cause of action for any inappropriate use of information included in the clearinghouse.

“(6) RETENTION OF RECORDS.—The Secretary shall—

“(A) retain a record submitted to the clearinghouse for a 5-year period beginning on the date the record is submitted;

“(B) remove the record from the clearinghouse at the end of the 5-year period, unless the individual fails to meet a return-to-duty or follow-up requirement under title 49, Code of Federal Regulations; and

“(C) retain a record after the end of the 5-year period in a separate location for archiving and auditing purposes.

“(h) AUTHORIZED USERS.—

“(1) EMPLOYERS.—The Secretary shall establish a process for an employer to request and receive an individual's record from the clearinghouse.

“(A) CONSENT.—An employer may not access an individual's record from the clearinghouse unless the employer—

“(i) obtains the prior written or electronic consent of the individual for access to the record; and

“(ii) submits proof of the individual's consent to the Secretary.

“(B) ACCESS TO RECORDS.—After receiving a request from an employer for an individual's record under subparagraph (A), the Secretary shall grant access to the individual's record to the employer as expeditiously as practicable.

“(C) RETENTION OF RECORD REQUESTS.—The Secretary shall require an employer to retain for a 3-year period—

“(i) a record of each request made by the employer for records from the clearinghouse; and

“(ii) the information received pursuant to the request.

“(D) USE OF RECORDS.—An employer may use an individual's record received from the clearinghouse only to assess and evaluate the qualifications of the individual to operate a commercial motor vehicle for the employer.

“(E) PROTECTION OF PRIVACY OF INDIVIDUALS.—An employer that receives an individual's record from the clearinghouse under subparagraph (B) shall—

“(i) protect the privacy of the individual and the confidentiality of the record; and

“(ii) ensure that information contained in the record is not divulged to a person or entity that is not directly involved in assessing and evaluating the qualifications of the individual to operate a commercial motor vehicle for the employer.

“(2) STATE LICENSING AUTHORITIES.—The Secretary shall establish a process for the chief commercial driver's licensing official of a State to request and receive an individual's record from the clearinghouse if the individual is applying for a commercial driver's license from the State.

“(A) CONSENT.—The Secretary may grant access to an individual's record in the clearinghouse under this paragraph without the prior written or electronic consent of the individual. An individual who holds a commercial driver's license shall be deemed to consent to such access by obtaining a commercial driver's license.

“(B) PROTECTION OF PRIVACY OF INDIVIDUALS.—A chief commercial driver's licensing official of a State that receives an individual's record from the clearinghouse under this paragraph shall—

“(i) protect the privacy of the individual and the confidentiality of the record; and

“(ii) ensure that the information in the record is not divulged to any person that is not directly involved in assessing and evaluating the qualifications of the individual to operate a commercial motor vehicle.

“(3) NATIONAL TRANSPORTATION SAFETY BOARD.—The Secretary shall establish a process for the National Transportation Safety Board to request and receive an individual's record from the clearinghouse if the individual is involved in an accident that is under investigation by the National Transportation Safety Board.

“(A) CONSENT.—The Secretary may grant access to an individual's record in the clearinghouse under this paragraph without the prior written or electronic consent of the individual. An individual who holds a commercial driver's license shall be deemed to consent to such access by obtaining a commercial driver's license.

“(B) PROTECTION OF PRIVACY OF INDIVIDUALS.—An official of the National Transportation Safety Board that receives an individual's record from the clearinghouse under this paragraph shall—

“(i) protect the privacy of the individual and the confidentiality of the record; and

“(ii) unless the official determines that the information in the individual's record should be reported under section 1131(e), ensure that the information in the record is not divulged to any person that is not directly involved with investigating the accident.

“(4) **ADDITIONAL AUTHORIZED USERS.**—The Secretary shall consider whether to grant access to the clearinghouse to additional users. The Secretary may authorize access to an individual's record from the clearinghouse to an additional user if the Secretary determines that granting access will further the purposes under subsection (a)(2). In determining whether the access will further the purposes under subsection (a)(2), the Secretary shall consider, among other things—

“(A) what use the additional user will make of the individual's record;

“(B) the costs and benefits of the use; and

“(C) how to protect the privacy of the individual and the confidentiality of the record.

“(i) **ACCESS TO CLEARINGHOUSE BY INDIVIDUALS.**—

“(1) **IN GENERAL.**—The Secretary shall establish a process for an individual to request and receive information from the clearinghouse—

“(A) to determine whether the clearinghouse contains a record pertaining to the individual;

“(B) to verify the accuracy of a record;

“(C) to update an individual's record, including completing the return-to-duty process described in title 49, Code of Federal Regulations; and

“(D) to determine whether the clearinghouse received requests for the individual's information.

“(2) **DISPUTE PROCEDURE.**—The Secretary shall establish a procedure, including an appeal process, for an individual to dispute and remedy an administrative error in the individual's record.

“(j) **PENALTIES.**—

“(1) **IN GENERAL.**—An employer, employee, medical review officer, or service agent who violates any provision of this section shall be subject to civil penalties under section 521(b)(2)(C) and criminal penalties under section 521(b)(6)(B), and any other applicable civil and criminal penalties, as determined by the Secretary.

“(2) **VIOLATION OF PRIVACY.**—The Secretary shall establish civil and criminal penalties, consistent with paragraph (1), for an authorized user who violates paragraph (2)(B) or (3)(B) of subsection (h).

“(k) **COMPATIBILITY OF STATE AND LOCAL LAWS.**—

“(1) **PREEMPTION.**—Except as provided under paragraph (2), any law, regulation, order, or other requirement of a State, political subdivision of a State, or Indian tribe related to a commercial driver's license holder subject to alcohol or controlled substance testing under title 49, Code of Federal Regulations, that is inconsistent with this section or a regulation issued pursuant to this section is preempted.

“(2) **APPLICABILITY.**—The preemption under paragraph (1) shall include—

“(A) the reporting of valid positive results from alcohol screening tests and drug tests;

“(B) the refusal to provide a specimen for an alcohol screening test or drug test; and

“(C) other violations of subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations).

“(3) **EXCEPTION.**—A law, regulation, order, or other requirement of a State, political

subdivision of a State, or Indian tribe shall not be preempted under this subsection to the extent it relates to an action taken with respect to a commercial motor vehicle operator's commercial driver's license or driving record as a result of the driver's—

“(A) verified positive alcohol or drug test result;

“(B) refusal to provide a specimen for the test; or

“(C) other violations of subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations).

“(1) **DEFINITIONS.**—In this section—

“(1) **AUTHORIZED USER.**—The term ‘authorized user’ means an employer, State licensing authority, National Transportation Safety Board, or other person granted access to the clearinghouse under subsection (h).

“(2) **CHIEF COMMERCIAL DRIVER'S LICENSING OFFICIAL.**—The term ‘chief commercial driver's licensing official’ means the official in a State who is authorized to—

“(A) maintain a record about commercial driver's licenses issued by the State; and

“(B) take action on commercial driver's licenses issued by the State.

“(3) **CLEARINGHOUSE.**—The term ‘clearinghouse’ means the clearinghouse established under subsection (a).

“(4) **COMMERCIAL MOTOR VEHICLE OPERATOR.**—The term ‘commercial motor vehicle operator’ means an individual who—

“(A) possesses a valid commercial driver's license issued in accordance with section 31308; and

“(B) is subject to controlled substances and alcohol testing under title 49, Code of Federal Regulations.

“(5) **EMPLOYER.**—The term ‘employer’ means a person or entity employing, or seeking to employ, 1 or more employees (including an individual who is self-employed) to be commercial motor vehicle operators.

“(6) **MEDICAL REVIEW OFFICER.**—The term ‘medical review officer’ means a licensed physician who is responsible for—

“(A) receiving and reviewing a laboratory result generated under the testing program;

“(B) evaluating a medical explanation for a controlled substances test under title 49, Code of Federal Regulations; and

“(C) interpreting the results of a controlled substances test.

“(7) **SECRETARY.**—The term ‘Secretary’ means the Secretary of Transportation.

“(8) **SERVICE AGENT.**—The term ‘service agent’ means a person or entity, other than an employee of the employer, who provides services to employers or employees under the testing program.

“(9) **TESTING PROGRAM.**—The term ‘testing program’ means the alcohol and controlled substances testing program required under title 49, Code of Federal Regulations.”

(b) **CONFORMING AMENDMENT.**—The analysis for chapter 313 is amended by inserting after the item relating to section 31306 the following:

“31306a. National clearinghouse for positive controlled substance and alcohol test results of commercial motor vehicle operators.”

**SEC. 32403. DRUG AND ALCOHOL VIOLATION SANCTIONS.**

Chapter 313 is amended—

(1) by redesignating section 31306(f) as 31306(f)(1); and

(2) by inserting after section 31306(f)(1) the following:

“(2) **ADDITIONAL SANCTIONS.**—The Secretary may require a State to revoke, suspend, or cancel the commercial driver's license of a

commercial motor vehicle operator who is found, based on a test conducted and confirmed under this section, to have used alcohol or a controlled substance in violation of law until the commercial motor vehicle operator completes the rehabilitation process under subsection (e).”; and

(3) by amending section 31310(d) to read as follows:

“(d) **CONTROLLED SUBSTANCE VIOLATIONS.**—The Secretary may permanently disqualify an individual from operating a commercial vehicle if the individual—

“(1) uses a commercial motor vehicle in the commission of a felony involving manufacturing, distributing, or dispensing a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance; or

“(2) uses alcohol or a controlled substance, in violation of section 31306, 3 or more times.”

**SEC. 32404. AUTHORIZATION OF APPROPRIATIONS.**

From the funds authorized to be appropriated under section 31104(h) of title 49, United States Code, up to \$5,000,000 is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary of Transportation to develop, design, and implement the national clearinghouse required by section 32402 of this Act.

#### Subtitle E—Enforcement

**SEC. 32501. INSPECTION DEMAND AND DISPLAY OF CREDENTIALS.**

(a) **SAFETY INVESTIGATIONS.**—Section 504(c) is amended—

(1) by inserting “, or an employee of the recipient of a grant issued under section 31102 of this title” after “a contractor”; and

(2) by inserting “, in person or in writing” after “proper credentials”.

(b) **CIVIL PENALTY.**—Section 521(b)(2)(E) is amended—

(1) by redesignating subparagraph (E) as subparagraph (E)(i); and

(2) by adding at the end the following:

“(ii) **PLACE OUT OF SERVICE.**—The Secretary may by regulation adopt procedures for placing out of service the commercial motor vehicle of a foreign-domiciled motor carrier that fails to promptly allow the Secretary to inspect and copy a record or inspect equipment, land, buildings, or other property.”

(c) **HAZARDOUS MATERIALS INVESTIGATIONS.**—Section 512(c)(2) is amended by inserting “, in person or in writing,” after “proper credentials”.

(d) **COMMERCIAL INVESTIGATIONS.**—Section 14122(b) is amended by inserting “, in person or in writing” after “proper credentials”.

**SEC. 32502. OUT OF SERVICE PENALTY FOR DENIAL OF ACCESS TO RECORDS.**

Section 521(b)(2)(E) is amended—

(1) by inserting after “\$10,000.” the following: “In the case of a motor carrier, the Secretary may also place the violator's motor carrier operations out of service.”; and

(2) by striking “such penalty” after “It shall be a defense to” and inserting “a penalty”.

**SEC. 32503. PENALTIES FOR VIOLATION OF OPERATION OUT OF SERVICE ORDERS.**

Section 521(b)(2) is amended by adding at the end the following:

“(F) **PENALTY FOR VIOLATIONS RELATING TO OUT OF SERVICE ORDERS.**—A motor carrier or employer (as defined in section 31132) that operates a commercial motor vehicle in commerce in violation of a prohibition on transportation under section 31144(c) of this title or an imminent hazard out of service order



issued under subsection (b)(5) of this section or section 5121(d) of this title shall be liable for a civil penalty not to exceed \$25,000.”.

**SEC. 32504. MINIMUM PROHIBITION ON OPERATION FOR UNFIT CARRIERS.**

(a) IN GENERAL.—Section 31144(c)(1) is amended by inserting “, and such period shall be for not less than 10 days” after “operator is fit”.

(b) OWNERS OR OPERATORS TRANSPORTING PASSENGERS.—Section 31144(c)(2) is amended by inserting “, and such period shall be for not less than 10 days” after “operator is fit”.

(c) OWNERS OR OPERATORS TRANSPORTING HAZARDOUS MATERIAL.—Section 31144(c)(3) is amended by inserting before the period at the end of the first sentence the following: “, and such period shall be for not less than 10 days”.

**SEC. 32505. MINIMUM OUT OF SERVICE PENALTIES.**

Section 521(b)(7) is amended by adding at the end the following:

“The penalties may include a minimum duration for any out of service period, not to exceed 90 days.”.

**SEC. 32506. IMPOUNDMENT AND IMMOBILIZATION OF COMMERCIAL MOTOR VEHICLES FOR IMMINENT HAZARD.**

Section 521(b) is amended by adding at the end the following:

“(15) IMPOUNDMENT OF COMMERCIAL MOTOR VEHICLES.—

“(A) ENFORCEMENT OF IMMINENT HAZARD OUT-OF-SERVICE ORDERS.—

“(i) The Secretary, or an authorized State official carrying out motor carrier safety enforcement activities under section 31102, may enforce an imminent hazard out-of-service order issued under chapters 5, 51, 131 through 149, 311, 313, or 315 of this title, or a regulation promulgated thereunder, by towing and impounding a commercial motor vehicle until the order is rescinded.

“(ii) Enforcement shall not unreasonably interfere with the ability of a shipper, carrier, broker, or other party to arrange for the alternative transportation of any cargo or passenger being transported at the time the commercial motor vehicle is immobilized. In the case of a commercial motor vehicle transporting passengers, the Secretary or authorized State official shall provide reasonable, temporary, and secure shelter and accommodations for passengers in transit.

“(iii) The Secretary’s designee or an authorized State official carrying out motor carrier safety enforcement activities under section 31102, shall immediately notify the owner of a commercial motor vehicle of the impoundment and the opportunity for review of the impoundment. A review shall be provided in accordance with section 554 of title 5, except that the review shall occur not later than 10 days after the impoundment.

“(B) ISSUANCE OF REGULATIONS.—The Secretary shall promulgate regulations on the use of impoundment or immobilization of commercial motor vehicles as a means of enforcing additional out-of-service orders issued under chapters 5, 51, 131 through 149, 311, 313, or 315 of this title, or a regulation promulgated thereunder. Regulations promulgated under this subparagraph shall include consideration of public safety, the protection of passengers and cargo, inconvenience to passengers, and the security of the commercial motor vehicle.

“(C) DEFINITION.—In this paragraph, the term ‘impoundment’ or ‘impounding’ means the seizing and taking into custody of a commercial motor vehicle or the immobilizing of a commercial motor vehicle through the at-

tachment of a locking device or other mechanical or electronic means.”.

**SEC. 32507. INCREASED PENALTIES FOR EVASION OF REGULATIONS.**

(a) PENALTIES.—Section 524 is amended—

(1) by striking “knowingly and willfully”; (2) by inserting after “this chapter” the following: “, chapter 51, subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), 31310(g)(1)(A), or 31502 of this title, or a regulation issued under any of those provisions.”;

(3) by striking “\$200 but not more than \$500” and inserting “\$2,000 but not more than \$5,000”; and

(4) by striking “\$250 but not more than \$2,000” and inserting “\$2,500 but not more than \$7,500”.

(b) EVASION OF REGULATION.—Section 14906 is amended—

(1) by striking “\$200” and inserting “at least \$2,000”; (2) by striking “\$250” and inserting “\$5,000”; and

(3) by inserting after “a subsequent violation” the following: “, and may be subject to criminal penalties”.

**SEC. 32508. FAILURE TO PAY CIVIL PENALTY AS A DISQUALIFYING OFFENSE.**

(a) IN GENERAL.—Chapter 311 is amended by inserting after section 31151 the following:

**“§ 31152. Disqualification for failure to pay**

“An individual assessed a civil penalty under this chapter, or chapters 5, 51, or 149 of this title, or a regulation issued under any of those provisions, who fails to pay the penalty or fails to comply with the terms of a settlement with the Secretary, shall be disqualified from operating a commercial motor vehicle after the individual is notified in writing and is given an opportunity to respond. A disqualification shall continue until the penalty is paid, or the individual complies with the terms of the settlement, unless the nonpayment is because the individual is a debtor in a case under chapter 11 of title 11, United States Code.”.

(b) TECHNICAL AMENDMENTS.—Section 31310, as amended by sections 2206 and 2310 of this Act, is amended—

(1) by redesignating subsections (h) through (k) as subsections (i) through (l), respectively; and

(2) by inserting after subsection (g) the following:

“(h) DISQUALIFICATION FOR FAILURE TO PAY.—The Secretary shall disqualify from operating a commercial motor vehicle any individual who fails to pay a civil penalty within the prescribed period, or fails to conform to the terms of a settlement with the Secretary. A disqualification shall continue until the penalty is paid, or the individual conforms to the terms of the settlement, unless the nonpayment is because the individual is a debtor in a case under chapter 11 of title 11, United States Code.”; and

(3) in subsection (i), as redesignated, by striking “Notwithstanding subsections (b) through (g)” and inserting “Notwithstanding subsections (b) through (h)”.

(c) CONFORMING AMENDMENT.—The analysis of chapter 311 is amended by inserting after the item relating to section 31151 the following:

“31152. Disqualification for failure to pay.”.

**SEC. 32509. VIOLATIONS RELATING TO COMMERCIAL MOTOR VEHICLE SAFETY REGULATION AND OPERATORS.**

Section 521(b)(2)(D) is amended by striking “ability to pay.”.

**SEC. 32510. EMERGENCY DISQUALIFICATION FOR IMMINENT HAZARD.**

Section 31310(f) is amended—

(1) in paragraph (1) by inserting “section 521 or” before “section 5102”; and

(2) in paragraph (2) by inserting “section 521 or” before “section 5102”.

**SEC. 32511. INTRASTATE OPERATIONS OF INTERSTATE MOTOR CARRIERS.**

(a) PROHIBITED TRANSPORTATION.—Section 521(b)(5) is amended by inserting after subparagraph (B) the following:

“(C) If an employee, vehicle, or all or part of an employer’s commercial motor vehicle operations is ordered out of service under paragraph (5)(A), the commercial motor vehicle operations of the employee, vehicle, or employer that affect interstate commerce are also prohibited.”.

(b) PROHIBITION ON OPERATION IN INTERSTATE COMMERCE AFTER NONPAYMENT OF PENALTIES.—Section 521(b)(8) is amended—

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) by inserting after subparagraph (A) the following:

“(B) ADDITIONAL PROHIBITION.—A person prohibited from operating in interstate commerce under paragraph (8)(A) may not operate any commercial motor vehicle where the operation affects interstate commerce.”.

**SEC. 32512. ENFORCEMENT OF SAFETY LAWS AND REGULATIONS.**

(a) ENFORCEMENT OF SAFETY LAWS AND REGULATIONS.—Chapter 311, as amended by sections 2113 and 2508 of this Act, is amended by adding after section 31153 the following:

**“§ 31154. Enforcement of safety laws and regulations**

“(a) IN GENERAL.—The Secretary may bring a civil action to enforce this part, or a regulation or order of the Secretary under this part, when violated by an employer, employee, or other person providing transportation or service under this subchapter or subchapter I.

“(b) VENUE.—In a civil action under subsection (a)—

“(1) trial shall be in the judicial district in which the employer, employee, or other person operates;

“(2) process may be served without regard to the territorial limits of the district or of the State in which the action is instituted; and

“(3) a person participating with a carrier or broker in a violation may be joined in the civil action without regard to the residence of the person.”.

(b) CONFORMING AMENDMENT.—The analysis of chapter 311 is amended by inserting after the item relating to section 31153 the following:

“31154. Enforcement of safety laws and regulations.”.

**SEC. 32513. DISCLOSURE TO STATE AND LOCAL LAW ENFORCEMENT AGENCIES.**

Section 31106(e) is amended—

(1) by redesignating subsection (e) as subsection (e)(1); and

(2) by inserting at the end the following:

“(2) IN GENERAL.—Notwithstanding any prohibition on disclosure of information in section 31105(h) or 31143(b) of this title or section 552a of title 5, the Secretary may disclose information maintained by the Secretary pursuant to chapters 51, 135, 311, or 313 of this title to appropriate personnel of a State agency or instrumentality authorized to carry out State commercial motor vehicle safety activities and commercial driver’s license laws, or appropriate personnel of a local law enforcement agency, in accordance with standards, conditions, and procedures as determined by the Secretary. Disclosure

under this section shall not operate as a waiver by the Secretary of any applicable privilege against disclosure under common law or as a basis for compelling disclosure under section 552 of title 5."

**Subtitle F—Compliance, Safety, Accountability**

**SEC. 32601. COMPLIANCE, SAFETY, ACCOUNTABILITY.**

(a) IN GENERAL.—Section 31102 is amended—

(1) by amending the section heading to read:

**"§ 31102. Compliance, safety, and accountability grants";**

(2) by amending subsection (a) to read as follows:

"(a) GENERAL AUTHORITY.—Subject to this section, the Secretary of Transportation shall make and administer a compliance, safety, and accountability grant program to assist States, local governments, and other entities and persons with motor carrier safety and enforcement on highways and other public roads, new entrant safety audits, border enforcement, hazardous materials safety and security, consumer protection and household goods enforcement, and other programs and activities required to improve the safety of motor carriers as determined by the Secretary. The Secretary shall allocate funding in accordance with section 31104 of this title.";

(3) in subsection (b)—

(A) by amending the heading to read as follows:

**"(b) MOTOR CARRIER SAFETY ASSISTANCE PROGRAM.—";**

(B) by redesignating paragraphs (1) through (3) as (2) through (4), respectively;

(C) by inserting before paragraph (2), as redesignated, the following:

**"(1) PROGRAM GOAL.—**The goal of the Motor Carrier Safety Assistance Program is to ensure that the Secretary, States, local government agencies, and other political jurisdictions work in partnership to establish programs to improve motor carrier, commercial motor vehicle, and driver safety to support a safe and efficient surface transportation system by—

"(A) making targeted investments to promote safe commercial motor vehicle transportation, including transportation of passengers and hazardous materials;

"(B) investing in activities likely to generate maximum reductions in the number and severity of commercial motor vehicle crashes and fatalities resulting from such crashes;

"(C) adopting and enforcing effective motor carrier, commercial motor vehicle, and driver safety regulations and practices consistent with Federal requirements; and

"(D) assessing and improving statewide performance by setting program goals and meeting performance standards, measures, and benchmarks.";

(D) in paragraph (2), as redesignated—

(i) by striking "make a declaration of" in subparagraph (I) and inserting "demonstrate";

(ii) by amending subparagraph (M) to read as follows:

"(M) ensures participation in appropriate Federal Motor Carrier Safety Administration systems and other information systems by all appropriate jurisdictions receiving Motor Carrier Safety Assistance Program funding";

(iii) in subparagraph (Q), by inserting "and dedicated sufficient resources to" between "established" and "a program";

(iv) in subparagraph (W), by striking "and" after the semicolon;

(v) by amending subparagraph (X) to read as follows:

"(X) except in the case of an imminent or obvious safety hazard, ensures that an inspection of a vehicle transporting passengers for a motor carrier of passengers is conducted at a station, terminal, border crossing, maintenance facility, destination, weigh station, rest stop, turnpike service area, or a location where adequate food, shelter, and sanitation facilities are available for passengers, and reasonable accommodation is available for passengers with disabilities; and"; and

(vi) by adding after subparagraph (X) the following:

"(Y) ensures that the State will transmit to its roadside inspectors the notice of each Federal exemption granted pursuant to section 31315(b) and provided to the State by the Secretary, including the name of the person granted the exemption and any terms and conditions that apply to the exemption.";

(E) by amending paragraph (4), as redesignated, to read as follows:

**"(4) MAINTENANCE OF EFFORT.—**

"(A) IN GENERAL.—A plan submitted by a State under paragraph (2) shall provide that the total expenditure of amounts of the lead State agency responsible for implementing the plan will be maintained at a level at least equal to the average level of that expenditure for fiscal years 2004 and 2005.

"(B) AVERAGE LEVEL OF STATE EXPENDITURES.—In estimating the average level of State expenditure under subparagraph (A), the Secretary—

"(i) may allow the State to exclude State expenditures for Government-sponsored demonstration or pilot programs; and

"(ii) shall require the State to exclude State matching amounts used to receive Government financing under this subsection.

"(C) WAIVER.—Upon the request of a State, the Secretary may waive or modify the requirements of this paragraph for 1 fiscal year, if the Secretary determines that a waiver is equitable due to exceptional or uncontrollable circumstances, such as a natural disaster or a serious decline in the financial resources of the State motor carrier safety assistance program agency.";

(4) by redesignating subsection (e) as subsection (h); and

(5) by inserting after subsection (d) the following:

**"(e) NEW ENTRANT SAFETY ASSURANCE PROGRAM.—**

"(1) PROGRAM GOAL.—The Secretary may make grants to States and local governments for pre-authorization safety audits and new entrant motor carrier audits as described in section 31144(g).

"(2) RECIPIENTS.—Grants made in support of this program may be provided to States and local governments.

"(3) FEDERAL SHARE.—The Federal share of a grant made under this program is 100 percent.

"(4) ELIGIBLE ACTIVITIES.—Eligible activities will be in accordance with criteria developed by the Secretary and posted in the Federal Register in advance of the grant application period.

"(5) DETERMINATION.—If the Secretary determines that a State or local government is unable to conduct a new entrant motor carrier audit, the Secretary may use the funds to conduct the audit.

**"(f) BORDER ENFORCEMENT.—**

"(1) PROGRAM GOAL.—The Secretary of Transportation may make a grant for car-

rying out border commercial motor vehicle safety programs and related enforcement activities and projects.

"(2) RECIPIENTS.—The Secretary of Transportation may make a grant to an entity, State, or other person for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects.

"(3) FEDERAL SHARE.—The Secretary shall reimburse a grantee at least 80 percent of the costs incurred in a fiscal year for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects.

"(4) ELIGIBLE ACTIVITIES.—An eligible activity will be in accordance with criteria developed by the Secretary and posted in the Federal Register in advance of the grant application period.

**"(g) HIGH PRIORITY INITIATIVES.—**

"(1) PROGRAM GOAL.—The Secretary may make grants to carry out high priority activities and projects that improve commercial motor vehicle safety and compliance with commercial motor vehicle safety regulations, including activities and projects that—

"(A) are national in scope;

"(B) increase public awareness and education;

"(C) target unsafe driving of commercial motor vehicles and non-commercial motor vehicles in areas identified as high risk crash corridors;

"(D) improve consumer protection and enforcement of household goods regulations;

"(E) improve the movement of hazardous materials safely and securely, including activities related to the establishment of uniform forms and application procedures that improve the accuracy, timeliness, and completeness of commercial motor vehicle safety data reported to the Secretary; or

"(F) demonstrate new technologies to improve commercial motor vehicle safety.

"(2) RECIPIENTS.—The Secretary may allocate amounts to award grants to State agencies, local governments, and other persons for carrying out high priority activities and projects that improve commercial motor vehicle safety and compliance with commercial motor vehicle safety regulations in accordance with the program goals specified in paragraph (1).

"(3) FEDERAL SHARE.—The Secretary shall reimburse a grantee at least 80 percent of the costs incurred in a fiscal year for carrying out the high priority activities or projects.

"(4) ELIGIBLE ACTIVITIES.—An eligible activity will be in accordance with criteria that is—

"(A) developed by the Secretary; and

"(B) posted in the Federal Register in advance of the grant application period.";

(b) CONFORMING AMENDMENT.—The analysis of chapter 311 is amended by striking the item relating to section 31102 and inserting the following:

**"31102. Compliance, safety, and accountability grants."**

**SEC. 32602. PERFORMANCE AND REGISTRATION INFORMATION SYSTEMS MANAGEMENT PROGRAM.**

Section 31106(b) is amended—

(1) by amending paragraph (3)(C) to read as follows—

"(C) establish and implement a process—

"(i) to cancel the motor vehicle registration and seize the registration plates of a vehicle when an employer is found liable under section 31310(j)(2)(C) for knowingly allowing or requiring an employee to operate such a commercial motor vehicle in violation of an out-of-service order; and

“(ii) to reinstate the vehicle registration or return the registration plates of the commercial motor vehicle, subject to sanctions under clause (i), if the Secretary permits such carrier to resume operations after the date of issuance of such order.”; and

(2) by striking paragraph (4).

**SEC. 32603. COMMERCIAL MOTOR VEHICLE DEFINED.**

Section 31101(1) is amended to read as follows:

“(1) ‘commercial motor vehicle’ means (except under section 31106) a self-propelled or towed vehicle used on the highways in commerce to transport passengers or property, if the vehicle—

“(A) has a gross vehicle weight rating or gross vehicle weight of at least 10,001 pounds, whichever is greater;

“(B) is designed or used to transport more than 8 passengers, including the driver, for compensation;

“(C) is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or

“(D) is used in transporting material found by the Secretary of Transportation to be hazardous under section 5103 and transported in a quantity requiring placarding under regulations prescribed by the Secretary under section 5103.”.

**SEC. 32604. DRIVER SAFETY FITNESS RATINGS.**

Section 31144, as amended by section 32204 of this Act, is amended by adding at the end the following:

“(i) **COMMERCIAL MOTOR VEHICLE DRIVERS.**—The Secretary may maintain by regulation a procedure for determining the safety fitness of a commercial motor vehicle driver and for prohibiting the driver from operating in interstate commerce. The procedure and prohibition shall include the following:

“(1) Specific initial and continuing requirements that a driver must comply with to demonstrate safety fitness.

“(2) The methodology and continually updated safety performance data that the Secretary will use to determine whether a driver is fit, including inspection results, serious traffic offenses, and crash involvement data.

“(3) Specific time frames within which the Secretary will determine whether a driver is fit.

“(4) A prohibition period or periods, not to exceed 1 year, that a driver that the Secretary determines is not fit will be prohibited from operating a commercial motor vehicle in interstate commerce. The period or periods shall begin on the 46th day after the date of the fitness determination and continue until the Secretary determines the driver is fit or until the prohibition period expires.

“(5) A review by the Secretary, not later than 30 days after an unfit driver requests a review, of the driver’s compliance with the requirements with which the driver failed to comply and that resulted in the Secretary determining that the driver was not fit. The burden of proof shall be on the driver to demonstrate fitness.

“(6) The eligibility criteria for reinstatement, including the remedial measures the unfit driver must take for reinstatement.”.

**SEC. 32605. UNIFORM ELECTRONIC CLEARANCE FOR COMMERCIAL MOTOR VEHICLE INSPECTIONS.**

(a) **IN GENERAL.**—Chapter 311 is amended by adding after section 31109 the following:

**“§ 31110. Withholding amounts for State non-compliance**

“(a) **FIRST FISCAL YEAR.**—Subject to criteria established by the Secretary of Trans-

portation, the Secretary may withhold up to 50 percent of the amount a State is otherwise eligible to receive under section 31102(b) on the first day of the fiscal year after the first fiscal year following the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012 in which the State uses for at least 180 days an electronic commercial motor vehicle inspection selection system that does not employ a selection methodology approved by the Secretary.

“(b) **SECOND FISCAL YEAR.**—The Secretary shall withhold up to 75 percent of the amount a State is otherwise eligible to receive under section 31102(b) on the first day of the fiscal year after the second fiscal year following the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012 in which the State uses for at least 180 days an electronic commercial motor vehicle inspection selection system that does not employ a selection methodology approved by the Secretary.

“(c) **SUBSEQUENT AVAILABILITY OF WITHHELD FUNDS.**—The Secretary may make the amounts withheld under subsection (a) or subsection (b) available to the State if the Secretary determines that the State has substantially complied with the requirement described under subsection (a) or subsection (b) not later than 180 days after the beginning of the fiscal year in which amounts were withheld.”.

(b) **CONFORMING AMENDMENT.**—The analysis of chapter 311 is amended by inserting after the item relating to section 31109 the following:

“31110. Withholding amounts for State non-compliance.”.

**SEC. 32606. AUTHORIZATION OF APPROPRIATIONS.**

Section 31104 is amended to read as follows:

**“§ 31104. Availability of amounts**

“(a) **IN GENERAL.**—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for Federal Motor Carrier Safety Administration programs the following:

“(1) **COMPLIANCE, SAFETY, AND ACCOUNTABILITY GRANTS UNDER SECTION 31102.**—

“(A) \$249,717,000 for fiscal year 2012, provided that the Secretary shall set aside not less than \$168,388,000 to carry out the motor carrier safety assistance program under section 31102(b); and

“(B) \$253,814,000 for fiscal year 2013, provided that the Secretary shall set aside not less than \$171,813,000 to carry out the motor carrier safety assistance program under section 31102(b).

“(2) **DATA AND TECHNOLOGY GRANTS UNDER SECTION 31109.**—

“(A) \$30,000,000 for fiscal year 2012; and

“(B) \$30,000,000 for fiscal year 2013.

“(3) **DRIVER SAFETY GRANTS UNDER SECTION 31313.**—

“(A) \$31,000,000 for fiscal year 2012; and

“(B) \$31,000,000 for fiscal year 2013.

“(4) **CRITERIA.**—The Secretary shall develop criteria to allocate the remaining funds under paragraphs (1), (2), and (3) for fiscal year 2013 and for each fiscal year thereafter not later than April 1 of the prior fiscal year.

“(b) **AVAILABILITY AND REALLOCATION OF AMOUNTS.**—

“(1) **ALLOCATIONS AND REALLOCATIONS.**—Amounts made available under subsection (a)(1) remain available until expended. Allocations to a State remain available for expenditure in the State for the fiscal year in which they are allocated and for the next fiscal year. Amounts not expended by a State during those 2 fiscal years are released to the Secretary for reallocation.

“(2) **REDISTRIBUTION OF AMOUNTS.**—The Secretary may, after August 1 of each fiscal year, upon a determination that a State does not qualify for funding under section 31102(b) or that the State will not expend all of its existing funding, reallocate the State’s funding. In revising the allocation and redistributing the amounts, the Secretary shall give preference to those States that require additional funding to meet program goals under section 31102(b).

“(3) **PERIOD OF AVAILABILITY FOR DATA AND TECHNOLOGY GRANTS.**—Amounts made available under subsection (a)(2) remain available for obligation for the fiscal year and the next 2 years in which they are appropriated. Allocations remain available for expenditure in the State for 5 fiscal years after they were obligated. Amounts not expended by a State during those 3 fiscal years are released to the Secretary for reallocation.

“(4) **PERIOD OF AVAILABILITY FOR DRIVER SAFETY GRANTS.**—Amounts made available under subsection (a)(3) of this section remain available for obligation for the fiscal year and the next fiscal year in which they are appropriated. Allocations to a State remain available for expenditure in the State for the fiscal year in which they are allocated and for the following 2 fiscal years. Amounts not expended by a State during those 3 fiscal years are released to the Secretary for reallocation.

“(5) **REALLOCATION.**—The Secretary, upon a request by a State, may reallocate grant funds previously awarded to the State under a grant program authorized by section 31102, 31109, or 31313 to another grant program authorized by those sections upon a showing by the State that it is unable to expend the funds within the 12 months prior to their expiration provided that the State agrees to expend the funds within the remaining period of expenditure.

“(c) **GRANTS AS CONTRACTUAL OBLIGATIONS.**—Approval by the Secretary of a grant under sections 31102, 31109, and 31313 is a contractual obligation of the Government for payment of the Government’s share of costs incurred in developing and implementing programs to improve commercial motor vehicle safety and enforce commercial driver’s license regulations, standards, and orders.

“(d) **DEDUCTION FOR ADMINISTRATIVE EXPENSES.**—

“(1) **IN GENERAL.**—On October 1 of each fiscal year or as soon after that as practicable, the Secretary may deduct, from amounts made available under—

“(A) subsection (a)(1) for that fiscal year, not more than 1.5 percent of those amounts for administrative expenses incurred in carrying out section 31102 in that fiscal year;

“(B) subsection (a)(2) for that fiscal year, not more than 1.4 percent of those amounts for administrative expenses incurred in carrying out section 31109 in that fiscal year; and

“(C) subsection (a)(3) for that fiscal year, not more than 1.4 percent of those amounts for administrative expenses incurred in carrying out section 31313 in that fiscal year.

“(2) **TRAINING.**—The Secretary may use at least 50 percent of the amounts deducted from the amounts made available under sections (a)(1) and (a)(3) to train non-Government employees and to develop related training materials to carry out sections 31102, 31311, and 31313 of this title.

“(3) **CONTRACTS.**—The Secretary may use amounts deducted under paragraph (1) to enter into contracts and cooperative agreements with States, local governments, associations, institutions, corporations, and

other persons, if the Secretary determines the contracts and cooperative agreements are cost-effective, benefit multiple jurisdictions of the United States, and enhance safety programs and related enforcement activities.

“(e) ALLOCATION CRITERIA AND ELIGIBILITY.—

“(1) On October 1 of each fiscal year or as soon as practicable after that date after making the deduction under subsection (d)(1)(A), the Secretary shall allocate amounts made available to carry out section 31102(b) for such fiscal year among the States with plans approved under that section. Allocation shall be made under the criteria prescribed by the Secretary.

“(2) On October 1 of each fiscal year or as soon as practicable after that date and after making the deduction under subsection (d)(1)(B) or (d)(1)(C), the Secretary shall allocate amounts made available to carry out sections 31109(a) and 31313(b)(1).

“(f) INTRASTATE COMPATIBILITY.—The Secretary shall prescribe regulations specifying tolerance guidelines and standards for ensuring compatibility of intrastate commercial motor vehicle safety laws and regulations with Government motor carrier safety regulations to be enforced under section 31102(b). To the extent practicable, the guidelines and standards shall allow for maximum flexibility while ensuring a degree of uniformity that will not diminish transportation safety. In reviewing State plans and allocating amounts or making grants under section 153 of title 23, United States Code, the Secretary shall ensure that the guidelines and standards are applied uniformly.

“(g) WITHHOLDING AMOUNTS FOR STATE NONCOMPLIANCE.—

“(1) IN GENERAL.—Subject to criteria established by the Secretary, the Secretary may withhold up to 100 percent of the amounts a State is otherwise eligible to receive under section 31102(b) on October 1 of each fiscal year beginning after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012 and continuing for the period that the State does not comply substantially with a requirement under section 31109(b).

“(2) SUBSEQUENT AVAILABILITY OF WITHHELD FUNDS.—The Secretary may make the amounts withheld in accordance with paragraph (1) available to a State if the Secretary determines that the State has substantially complied with a requirement under section 31109(b) not later than 180 days after the beginning of the fiscal year in which the amounts are withheld.

“(h) ADMINISTRATIVE EXPENSES.—

“(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary to pay administrative expenses of the Federal Motor Carrier Safety Administration—

“(A) \$250,819,000 for fiscal year 2012; and

“(B) \$248,523,000 for fiscal year 2013.

“(2) USE OF FUNDS.—The funds authorized by this subsection shall be used for personnel costs, administrative infrastructure, rent, information technology, programs for research and technology, information management, regulatory development, the administration of the performance and registration information system management, outreach and education, other operating expenses, and such other expenses as may from time to time be necessary to implement statutory mandates of the Administration not funded from other sources.

“(i) AVAILABILITY OF FUNDS.—

“(1) PERIOD OF AVAILABILITY.—The amounts made available under this section shall remain available until expended.

“(2) INITIAL DATE OF AVAILABILITY.—Authorizations from the Highway Trust Fund (other than the Mass Transit Account) for this section shall be available for obligation on the date of their apportionment or allocation or on October 1 of the fiscal year for which they are authorized, whichever occurs first.”.

**SEC. 32607. HIGH RISK CARRIER REVIEWS.**

(a) HIGH RISK CARRIER REVIEWS.—Section 31104(h), as amended by section 32606 of this Act, is amended by adding at the end of paragraph (2) the following:

“From the funds authorized by this subsection, the Secretary shall ensure that a review is completed on each motor carrier that demonstrates through performance data that it poses the highest safety risk. At a minimum, a review shall be conducted whenever a motor carrier is among the highest risk carriers for 2 consecutive months.”.

(b) CONFORMING AMENDMENT.—Section 4138 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (49 U.S.C. 31144 note) is repealed.

**SEC. 32608. DATA AND TECHNOLOGY GRANTS.**

(a) IN GENERAL.—Section 31109 is amended to read as follows:

**“§ 31109. Data and technology grants**

“(a) GENERAL AUTHORITY.—The Secretary of Transportation shall establish and administer a data and technology grant program to assist the States with the implementation and maintenance of data systems. The Secretary shall allocate the funds in accordance with section 31104.

“(b) PERFORMANCE GOALS.—The Secretary may make a grant to a State to implement the performance and registration information system management requirements of section 31106(b) to develop, implement, and maintain commercial vehicle information systems and networks, and other innovative technologies that the Secretary determines improve commercial motor vehicle safety.

“(c) ELIGIBILITY.—To be eligible for a grant to implement the requirements of section 31106(b), the State shall design a program that—

“(1) links Federal motor carrier safety information systems with the State's motor carrier information systems;

“(2) determines the safety fitness of a motor carrier or registrant when licensing or registering the registrant or motor carrier or while the license or registration is in effect; and

“(3) denies, suspends, or revokes the commercial motor vehicle registrations of a motor carrier or registrant that was issued an operations out-of-service order by the Secretary.

“(d) REQUIRED PARTICIPATION.—The Secretary shall require States that participate in the program under section 31106 to—

“(1) comply with the uniform policies, procedures, and technical and operational standards prescribed by the Secretary under section 31106(b);

“(2) possess or seek the authority to possess for a time period not longer than determined reasonable by the Secretary, to impose sanctions relating to commercial motor vehicle registration on the basis of a Federal safety fitness determination; and

“(3) establish and implement a process to cancel the motor vehicle registration and seize the registration plates of a vehicle when an employer is found liable under section 31310(j)(2)(C) for knowingly allowing or

requiring an employee to operate such a commercial motor vehicle in violation of an out of service order.

“(e) FEDERAL SHARE.—The total Federal share of the cost of a project payable from all eligible Federal sources shall be at least 80 percent.”.

(b) CONFORMING AMENDMENT.—The analysis of chapter 311 is amended by striking the item relating to section 31109 and inserting the following:

“31109. Data and technology grants.”.

**SEC. 32609. DRIVER SAFETY GRANTS.**

(a) DRIVER FOCUSED GRANT PROGRAM.—Section 31313 is amended to read as follows:

**“§ 31313. Driver safety grants**

“(a) GENERAL AUTHORITY.—The Secretary shall make and administer a driver focused grant program to assist the States, local governments, entities, and other persons with commercial driver's license systems, programs, training, fraud detection, reporting of violations and other programs required to improve the safety of drivers as the Federal Motor Carrier Safety Administration deems critical. The Secretary shall allocate the funds for the program in accordance with section 31104.

“(b) COMMERCIAL DRIVER'S LICENSE PROGRAM IMPROVEMENT GRANTS.—

“(1) PROGRAM GOAL.—The Secretary of Transportation may make a grant to a State in a fiscal year—

“(A) to comply with the requirements of section 31311;

“(B) in the case of a State that is making a good faith effort toward substantial compliance with the requirements of this section and section 31311, to improve its implementation of its commercial driver's license program;

“(C) for research, development demonstration projects, public education, and other special activities and projects relating to commercial driver licensing and motor vehicle safety that are of benefit to all jurisdictions of the United States or are designed to address national safety concerns and circumstances;

“(D) for commercial driver's license program coordinators;

“(E) to implement or maintain a system to notify an employer of an operator of a commercial motor vehicle of the suspension or revocation of the operator's commercial driver's license consistent with the standards developed under section 32304(b) of the Commercial Motor Vehicle Safety Enhancement Act of 2012; or

“(F) to train operators of commercial motor vehicles, as defined under section 31301, and to train operators and future operators in the safe use of such vehicles. Funding priority for this discretionary grant program shall be to regional or multi-state educational or nonprofit associations serving economically distressed regions of the United States.

“(2) PRIORITY.—The Secretary shall give priority, in making grants under paragraph (1)(B), to a State that will use the grants to achieve compliance with the requirements of the Motor Carrier Safety Improvement Act of 1999 (113 Stat. 1748), including the amendments made by the Commercial Motor Vehicle Safety Enhancement Act of 2012.

“(3) RECIPIENTS.—The Secretary may allocate grants to State agencies, local governments, and other persons for carrying out activities and projects that improve commercial driver's license safety and compliance with commercial driver's license and commercial motor vehicle safety regulations in

accordance with the program goals under paragraph (1) and that train operators on commercial motor vehicles. The Secretary may make a grant to a State to comply with section 3131 for commercial driver's license program coordinators and for notification systems.

“(4) **FEDERAL SHARE.**—The Federal share of a grant made under this program shall be at least 80 percent, except that the Federal share of grants for commercial driver license program coordinators and training commercial motor vehicle operators shall be 100 percent.”

(b) **CONFORMING AMENDMENT.**—The analysis of chapter 313 is amended by striking the item relating to section 31313 and inserting the following:

“31313. Driver safety grants.”

**SEC. 32610. COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS.**

Not later than 6 months after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that includes—

- (1) established time frames and milestones for resuming the Commercial Vehicle Information Systems and Networks Program; and
- (2) a strategic workforce plan for its grants management office to ensure that it has determined the skills and competencies that are critical to achieving its mission goals.

**Subtitle G—Motorcoach Enhanced Safety Act of 2012**

**SEC. 32701. SHORT TITLE.**

This subtitle may be cited as the “Motorcoach Enhanced Safety Act of 2012”.

**SEC. 32702. DEFINITIONS.**

In this subtitle:

(1) **ADVANCED GLAZING.**—The term “advanced glazing” means glazing installed in a portal on the side or the roof of a motorcoach that is designed to be highly resistant to partial or complete occupant ejection in all types of motor vehicle crashes.

(2) **BUS.**—The term “bus” has the meaning given the term in section 571.3(b) of title 49, Code of Federal Regulations (as in effect on the day before the date of enactment of this Act).

(3) **COMMERCIAL MOTOR VEHICLE.**—Except as otherwise specified, the term “commercial motor vehicle” has the meaning given the term in section 31132(1) of title 49, United States Code.

(4) **DIRECT TIRE PRESSURE MONITORING SYSTEM.**—The term “direct tire pressure monitoring system” means a tire pressure monitoring system that is capable of directly detecting when the air pressure level in any tire is significantly under-inflated and providing the driver a low tire pressure warning as to which specific tire is significantly under-inflated.

(5) **ELECTRONIC ON-BOARD RECORDER.**—The term “electronic on-board recorder” means an electronic device that acquires and stores data showing the record of duty status of the vehicle operator and performs the functions required of an automatic on-board recording device in section 395.15(b) of title 49, Code of Federal Regulations.

(6) **EVENT DATA RECORDER.**—The term “event data recorder” has the meaning given that term in section 563.5 of title 49, Code of Federal Regulations.

(7) **MOTOR CARRIER.**—The term “motor carrier” means—

(A) a motor carrier (as defined in section 13102(14) of title 49, United States Code); or

(B) a motor private carrier (as defined in section 13102(15) of that title).

(8) **MOTORCOACH.**—The term “motorcoach” has the meaning given the term “over-the-road bus” in section 3038(a)(3) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note), but does not include—

(A) a bus used in public transportation provided by, or on behalf of, a public transportation agency; or

(B) a school bus, including a multifunction school activity bus.

(9) **MOTORCOACH SERVICES.**—The term “motorcoach services” means passenger transportation by motorcoach for compensation.

(10) **MULTIFUNCTION SCHOOL ACTIVITY BUS.**—The term “multifunction school activity bus” has the meaning given the term in section 571.3(b) of title 49, Code of Federal Regulations (as in effect on the day before the date of enactment of this Act).

(11) **PORTAL.**—The term “portal” means any opening on the front, side, rear, or roof of a motorcoach that could, in the event of a crash involving the motorcoach, permit the partial or complete ejection of any occupant from the motorcoach, including a young child.

(12) **PROVIDER OF MOTORCOACH SERVICES.**—The term “provider of motorcoach services” means a motor carrier that provides passenger transportation services with a motorcoach, including per-trip compensation and contracted or chartered compensation.

(13) **PUBLIC TRANSPORTATION.**—The term “public transportation” has the meaning given the term in section 5302 of title 49, United States Code.

(14) **SAFETY BELT.**—The term “safety belt” has the meaning given the term in section 153(i)(4)(B) of title 23, United States Code.

(15) **SECRETARY.**—The term “Secretary” means the Secretary of Transportation.

**SEC. 32703. REGULATIONS FOR IMPROVED OCCUPANT PROTECTION, PASSENGER EVACUATION, AND CRASH AVOIDANCE.**

(a) **REGULATIONS REQUIRED WITHIN 1 YEAR.**—Not later than 1 year after the date of enactment of this Act, the Secretary shall prescribe regulations requiring safety belts to be installed in motorcoaches at each designated seating position.

(b) **REGULATIONS REQUIRED WITHIN 2 YEARS.**—Not later than 2 years after the date of enactment of this Act, the Secretary shall prescribe the following commercial motor vehicle regulations:

(1) **ROOF STRENGTH AND CRUSH RESISTANCE.**—The Secretary shall establish improved roof and roof support standards for motorcoaches that substantially improve the resistance of motorcoach roofs to deformation and intrusion to prevent serious occupant injury in rollover crashes involving motorcoaches.

(2) **ANTI-EJECTION SAFETY COUNTERMEASURES.**—The Secretary shall require advanced glazing to be installed in each motorcoach portal and shall consider other portal improvements to prevent partial and complete ejection of motorcoach passengers, including children. In prescribing such standards, the Secretary shall consider the impact of such standards on the use of motorcoach portals as a means of emergency egress.

(3) **ROLLOVER CRASH AVOIDANCE.**—The Secretary shall require motorcoaches to be equipped with stability enhancing technology, such as electronic stability control and torque vectoring, to reduce the number and frequency of rollover crashes among motorcoaches.

(c) **COMMERCIAL MOTOR VEHICLE TIRE PRESSURE MONITORING SYSTEMS.**—Not later than 3

years after the date of enactment of this Act, the Secretary shall prescribe the following commercial vehicle regulation:

(1) **IN GENERAL.**—The Secretary shall require motorcoaches to be equipped with direct tire pressure monitoring systems that warn the operator of a commercial motor vehicle when any tire exhibits a level of air pressure that is below a specified level of air pressure established by the Secretary.

(2) **PERFORMANCE REQUIREMENTS.**—The regulation prescribed by the Secretary under this subsection shall include performance requirements to ensure that direct tire pressure monitoring systems are capable of—

(A) providing a warning to the driver when 1 or more tires are underinflated;

(B) activating in a specified time period after the underinflation is detected; and

(C) operating at different vehicle speeds.

(d) **APPLICATION OF REGULATIONS.**—

(1) **NEW MOTORCOACHES.**—Any regulation prescribed in accordance with subsection (a), (b), or (c) shall apply to all motorcoaches manufactured more than 2 years after the date on which the regulation is published as a final rule.

(2) **RETROFIT REQUIREMENTS FOR EXISTING MOTORCOACHES.**—

(A) **IN GENERAL.**—The Secretary may, by regulation, provide for the application of any requirement established under subsection (a) or (b)(2) to motorcoaches manufactured before the date on which the requirement applies to new motorcoaches under paragraph (1) based on an assessment of the feasibility, benefits, and costs of retrofitting the older motorcoaches.

(B) **ASSESSMENT.**—The Secretary shall complete an assessment with respect to safety belt retrofits not later than 1 year after the date of enactment of this Act and with respect to anti-ejection countermeasure retrofits not later than 2 years after the date of enactment of this Act.

(e) **FAILURE TO MEET DEADLINE.**—If the Secretary determines that a final rule cannot be issued before the deadline established under this section, the Secretary shall—

(1) submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives that explains why the deadline cannot be met; and

(2) establish a new deadline for the issuance of the final rule.

**SEC. 32704. STANDARDS FOR IMPROVED FIRE SAFETY.**

(a) **EVALUATIONS.**—Not later than 18 months after the date of enactment of this Act, the Secretary shall initiate the following rulemaking proceedings:

(1) **FLAMMABILITY STANDARD FOR EXTERIOR COMPONENTS.**—The Secretary shall establish requirements for fire hardening or fire resistance of motorcoach exterior components to prevent fire and smoke inhalation injuries to occupants.

(2) **SMOKE SUPPRESSION.**—The Secretary shall update Federal Motor Vehicle Safety Standard Number 302 (49 C.F.R. 571.302; relating to flammability of interior materials) to improve the resistance of motorcoach interiors and components to burning and permit sufficient time for the safe evacuation of passengers from motorcoaches.

(3) **PREVENTION OF, AND RESISTANCE TO, WHEEL WELL FIRES.**—The Secretary shall establish requirements—

(A) to prevent and mitigate the propagation of wheel well fires into the passenger compartment; and

(B) to substantially reduce occupant deaths and injuries from such fires.

(4) **AUTOMATIC FIRE SUPPRESSION.**—The Secretary shall establish requirements for motorcoaches to be equipped with highly effective fire suppression systems that automatically respond to and suppress all fires in such motorcoaches.

(5) **PASSENGER EVACUATION.**—The Secretary shall establish requirements for motorcoaches to be equipped with—

(A) improved emergency exit window, door, roof hatch, and wheelchair lift door designs to expedite access and use by passengers of motorcoaches under all emergency circumstances, including crashes and fires; and

(B) emergency interior lighting systems, including luminescent or retroreflectorized delineation of evacuation paths and exits, which are triggered by a crash or other emergency incident to accomplish more rapid and effective evacuation of passengers.

(6) **CAUSATION AND PREVENTION OF MOTORCOACH FIRES.**—The Secretary shall examine the principle causes of motorcoach fires and vehicle design changes intended to reduce the number of motorcoach fires resulting from those principle causes.

(b) **DEADLINE.**—Not later than 42 months after the date of enactment of this Act, the Secretary shall—

(1) issue final rules in accordance with subsection (a); or

(2) if the Secretary determines that any standard is not warranted based on the requirements and considerations set forth in subsection (a) and (b) of section 30111 of title 49, United States Code, submit a report that describes the reasons for not prescribing such a standard to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

(c) **TIRE PERFORMANCE STANDARD.**—Not later than 3 years after the date of enactment of this Act, the Secretary shall—

(1) issue a final rule upgrading performance standards for tires used on motorcoaches, including an enhanced endurance test and a new high-speed performance test; or

(2) if the Secretary determines that a standard is not warranted based on the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code, submit a report that describes the reasons for not prescribing such a standard to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

**SEC. 32705. OCCUPANT PROTECTION, COLLISION AVOIDANCE, FIRE CAUSATION, AND FIRE EXTINGUISHER RESEARCH AND TESTING.**

(a) **SAFETY RESEARCH INITIATIVES.**—Not later than 2 years after the date of enactment of this Act, the Secretary shall complete the following research and testing:

(1) **IMPROVED FIRE EXTINGUISHERS.**—The Secretary shall research and test the need to install improved fire extinguishers or other readily available firefighting equipment in motorcoaches to effectively extinguish fires in motorcoaches and prevent passenger deaths and injuries.

(2) **INTERIOR IMPACT PROTECTION.**—The Secretary shall research and test enhanced occupant impact protection standards for motorcoach interiors to reduce substantially serious injuries for all passengers of motorcoaches.

(3) **COMPARTMENTALIZATION SAFETY COUNTERMEASURES.**—The Secretary shall require enhanced compartmentalization safety coun-

termesures for motorcoaches, including enhanced seating designs, to substantially reduce the risk of passengers being thrown from their seats and colliding with other passengers, interior surfaces, and components in the event of a crash involving a motorcoach.

(4) **COLLISION AVOIDANCE SYSTEMS.**—The Secretary shall research and test forward and lateral crash warning systems applications for motorcoaches.

(b) **RULEMAKING.**—Not later than 2 years after the completion of each research and testing initiative required under subsection (a), the Secretary shall issue final motor vehicle safety standards if the Secretary determines that such standards are warranted based on the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code.

**SEC. 32706. MOTORCOACH REGISTRATION.**

(a) **REGISTRATION REQUIREMENTS.**—Section 13902(b) is amended—

(1) by redesignating paragraphs (1) through (8) as paragraphs (4) through (11), respectively; and

(2) by inserting before paragraph (4), as redesignated, the following:

“(1) **ADDITIONAL REGISTRATION REQUIREMENTS FOR PROVIDERS OR MOTORCOACH SERVICES.**—In addition to meeting the requirements under subsection (a)(1), the Secretary may not register a person to provide motorcoach services until after the person—

“(A) undergoes a preauthorization safety audit, including verification, in a manner sufficient to demonstrate the ability to comply with Federal rules and regulations, of—

“(i) a drug and alcohol testing program under part 40 of title 49, Code of Federal Regulations;

“(ii) the carrier’s system of compliance with hours-of-service rules, including hours-of-service records;

“(iii) the ability to obtain required insurance;

“(iv) driver qualifications, including the validity of the commercial driver’s license of each driver who will be operating under such authority;

“(v) disclosure of common ownership, common control, common management, common familial relationship, or other corporate relationship with another motor carrier or applicant for motor carrier authority during the past 3 years;

“(vi) records of the State inspections, or of a Level I or V Commercial Vehicle Safety Alliance Inspection, for all vehicles that will be operated by the carrier;

“(vii) safety management programs, including vehicle maintenance and repair programs; and

“(viii) the ability to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), and the Over-the-Road Bus Transportation Accessibility Act of 2007 (122 Stat. 2915);

“(B) has been interviewed to review safety management controls and the carrier’s written safety oversight policies and practices; and

“(C) through the successful completion of a written examination developed by the Secretary, has demonstrated proficiency to comply with and carry out the requirements and regulations described in subsection (a)(1).

“(2) **PRE-AUTHORIZATION SAFETY AUDIT.**—The pre-authorization safety audit required under paragraph (1)(A) shall be completed on-site not later than 90 days following the submission of an application for operating authority.

“(3) **FEE.**—The Secretary may establish, under section 9701 of title 31, a fee of not

more than \$1,200 for new registrants that as nearly as possible covers the costs of performing a preauthorization safety audit. Amounts collected under this subsection shall be deposited in the Highway Trust Fund (other than the Mass Transit Account).”

(b) **SAFETY REVIEWS OF NEW OPERATORS.**—Section 31144(g)(1) is amended by inserting “transporting property” after “each operator”.

(c) **CONFORMING AMENDMENT.**—Section 24305(a)(3)(A)(i) is amended by striking “section 13902(b)(8)(A)” and inserting “section 13902(b)(11)(A)”.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall take effect 1 year after the date of enactment of this Act.

**SEC. 32707. IMPROVED OVERSIGHT OF MOTORCOACH SERVICE PROVIDERS.**

Section 31144, as amended by sections 2204 and 2604 of this Act, is amended by adding at the end the following:

“(j) **PERIODIC SAFETY REVIEWS OF PROVIDERS OF MOTORCOACH SERVICES.**—

“(1) **SAFETY REVIEW.**—

“(A) **IN GENERAL.**—The Secretary shall—

“(i) determine the safety fitness of all providers of motorcoach services registered with the Federal Motor Carrier Safety Administration; and

“(ii) assign a safety fitness rating to each such provider.

“(B) **APPLICABILITY.**—Subparagraph (A) shall apply—

“(i) to any provider of motorcoach services registered with the Administration after the date of enactment of the Motorcoach Enhanced Safety Act of 2012 beginning not later than 2 years after the date of such registration; and

“(ii) to any provider of motorcoach services registered with the Administration on or before the date of enactment of that Act beginning not later than 3 years after the date of enactment of that Act.

“(2) **PERIODIC REVIEW.**—The Secretary shall establish, by regulation, a process for monitoring the safety performance of each provider of motorcoach services on a regular basis following the assignment of a safety fitness rating, including progressive intervention to correct unsafe practices.

“(3) **ENFORCEMENT STRIKE FORCES.**—In addition to the enhanced monitoring and enforcement actions required under paragraph (2), the Secretary may organize special enforcement strike forces targeting providers of motorcoach services.

“(4) **PERIODIC UPDATE OF SAFETY FITNESS RATING.**—In conducting the safety reviews required under this subsection, the Secretary shall reassess the safety fitness rating of each provider not less frequently than once every 3 years.

“(5) **MOTORCOACH SERVICES DEFINED.**—In this subsection, the term ‘provider of motorcoach services’ has the meaning given such term in section 32702 of the Motorcoach Enhanced Safety Act of 2012.”

**SEC. 32708. REPORT ON FEASIBILITY, BENEFITS, AND COSTS OF ESTABLISHING A SYSTEM OF CERTIFICATION OF TRAINING PROGRAMS.**

Not later than 2 years after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that describes the feasibility, benefits, and costs of establishing a system of certification of public and private schools and of motor carriers and motorcoach operators that provide motorcoach driver training.

**SEC. 32709. REPORT ON DRIVER'S LICENSE REQUIREMENTS FOR 9- TO 15-PASSENGER VANS.**

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that examines requiring all or certain classes of drivers operating a vehicle, which is designed or used to transport not fewer than 9 and not more than 15 passengers (including a driver) in interstate commerce, to have a commercial driver's license passenger-carrying endorsement and be tested in accordance with a drug and alcohol testing program under part 40 of title 49, Code of Federal Regulations.

(b) CONSIDERATIONS.—In developing the report under subsection (a), the Secretary shall consider—

- (1) the safety benefits of the requirement described in subsection (a);
- (2) the scope of the population that would be impacted by such requirement;
- (3) the cost to the Federal Government and State governments to meet such requirement; and
- (4) the impact on safety benefits and cost from limiting the application of such requirement to certain drivers of such vehicles, such as drivers who are compensated for driving.

**SEC. 32710. EVENT DATA RECORDERS.**

(a) EVALUATION.—Not later than 1 year after the date of enactment of this Act, the Secretary, after considering the performance requirements for event data recorders for passenger vehicles under part 563 of title 49, Code of Federal Regulations, shall complete an evaluation of event data recorders, including requirements regarding specific types of vehicle operations, events and incidents, and systems information to be recorded, for event data recorders to be used on motorcoaches used by motor carriers in interstate commerce.

(b) STANDARDS AND REGULATIONS.—Not later than 2 years after completing the evaluation required under subsection (a), the Secretary shall issue standards and regulations based on the results of that evaluation.

**SEC. 32711. SAFETY INSPECTION PROGRAM FOR COMMERCIAL MOTOR VEHICLES OF PASSENGERS.**

Not later than 3 years after the date of enactment of this Act, the Secretary shall complete a rulemaking proceeding to consider requiring States to conduct annual inspections of commercial motor vehicles designed or used to transport passengers, including an assessment of—

- (1) the risks associated with improperly maintained or inspected commercial motor vehicles designed or used to transport passengers;
- (2) the effectiveness of existing Federal standards for the inspection of such vehicles in—
  - (A) mitigating the risks described in paragraph (1); and
  - (B) ensuring the safe and proper operation condition of such vehicles; and
- (3) the costs and benefits of a mandatory State inspection program.

**SEC. 32712. DISTRACTED DRIVING.**

(a) IN GENERAL.—Chapter 311, as amended by sections 2113, 2508, and 2512 of this Act, is amended by adding after section 31154 the following:

**“§ 31155. Regulation of the use of distracting devices in motorcoaches**

“(a) IN GENERAL.—Not later than 1 year after the date of enactment of the Motor-

coach Enhanced Safety Act of 2012, the Secretary of Transportation shall prescribe regulations on the use of electronic or wireless devices, including cell phones and other distracting devices, by an individual employed as the operator of a motorcoach (as defined in section 32702 of that Act).

“(b) BASIS FOR REGULATIONS.—The Secretary shall base the regulations prescribed under subsection (a) on accident data analysis, the results of ongoing research, and other information, as appropriate.

“(c) PROHIBITED USE.—Except as provided under subsection (d), the Secretary shall prohibit the use of the devices described in subsection (a) in circumstances in which the Secretary determines that their use interferes with a driver's safe operation of a motorcoach.

“(d) PERMITTED USE.—The Secretary may permit the use of a device that is otherwise prohibited under subsection (c) if the Secretary determines that such use is necessary for the safety of the driver or the public in emergency circumstances.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 311 is amended by inserting after the item relating to section 31154 the following:

“31155. Regulation of the use of distracting devices in motorcoaches.”.

**SEC. 32713. REGULATIONS.**

Any standard or regulation prescribed or modified pursuant to the Motorcoach Enhanced Safety Act of 2012 shall be prescribed or modified in accordance with section 553 of title 5, United States Code.

**Subtitle H—Safe Highways and Infrastructure Preservation****SEC. 32801. COMPREHENSIVE TRUCK SIZE AND WEIGHT LIMITS STUDY.**

(a) TRUCK SIZE AND WEIGHT LIMITS STUDY.—Not later than 90 days after the date of enactment of this Act, the Secretary, in consultation with each relevant State and other applicable Federal agencies, shall commence a comprehensive truck size and weight limits study. The study shall—

(1) provide data on accident frequency and factors related to accident risk of each route of the National Highway System in each State that allows a vehicle to operate with size and weight limits that are in excess of the Federal law and regulations and its correlation to truck size and weight limits;

(2) evaluate the impacts to the infrastructure of each route of the National Highway System in each State that allows a vehicle to operate with size and weight limits that are in excess of the Federal law and regulations, including—

(A) an analysis that quantifies the cost and benefits of the impacts in dollars;

(B) an analysis of the percentage of trucks operating in excess of the Federal size and weight limits; and

(C) an analysis that examines the ability of each State to recover the cost for the impacts, or the benefits incurred;

(3) evaluate the impacts and frequency of violations in excess of the Federal size and weight law and regulations to determine the cost of the enforcement of the law and regulations, and the effectiveness of the enforcement methods;

(4) examine the relationship between truck performance and crash involvement and its correlation to Federal size and weight limits, including the impacts on crashes;

(5) assess the impacts that truck size and weight limits in excess of the Federal law and regulations have in the risk of bridge failure contributing to the structural defi-

ciencies of bridges or in the useful life of a bridge, including the impacts resulting from the number of bridge loadings;

(6) analyze the impacts on safety and infrastructure in each State that allows a truck to operate in excess of Federal size and weight limitations in truck-only lanes; and

(7) compare and contrast the safety and infrastructure impacts of the Federal limits regarding truck size and weight limits in relation to—

(A) six-axle and other alternative configurations of tractor-trailers; and

(B) safety records of foreign nations with truck size and weight limits and tractor-trailer configurations that differ from the Federal law and regulations.

(b) REPORT.—Not later than 2 years after the date that the study is commenced under subsection (a), the Secretary shall submit a final report on the study, including all findings and recommendations, to the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

**SEC. 32802. COMPILATION OF EXISTING STATE TRUCK SIZE AND WEIGHT LIMIT LAWS.**

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary, in consultation with the States, shall begin to compile—

(1) a list for each State, as applicable, that describes each route of the National Highway System that allows a vehicle to operate in excess of the Federal truck size and weight limits that—

(A) was authorized under State law on or before the date of enactment of this Act; and

(B) was in actual and lawful operation on a regular or periodic basis (including seasonal operations) on or before the date of enactment of this Act;

(2) a list for each State, as applicable, that describes—

(A) the size and weight limitations applicable to each segment of the National Highway System in that State as listed under paragraph (1);

(B) each combination that exceeds the Interstate weight limit, but that the Department of Transportation, other Federal agency, or a State agency has determined on or before the date of enactment of this Act, could be or could have been lawfully operated in the State; and

(C) each combination that exceeds the Interstate weight limit, but that the Secretary determines could have been lawfully operated on a non-Interstate segment of the National Highway System in the State on or before the date of enactment of this Act; and

(3) a list of each State law that designates or allows designation of size and weight limitations in excess of Federal law and regulations on routes of the National Highway System, including nondivisible loads.

(b) SPECIFICATIONS.—The Secretary, in consultation with the States, shall specify whether the determinations under paragraphs (1) and (2) of subsection (a) were made by the Department of Transportation, other Federal agency, or a State agency.

(c) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit a final report of the compilation under subsection (a) to the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.



# Subtitle I—Miscellaneous

## PART I—DETENTION TIME STUDY

### SEC. 32911. DETENTION TIME STUDY.

(a) STUDY.—Not later than 30 days after the date of enactment of this Act, the Secretary shall task the Motor Carrier Safety Advisory Committee to study the extent to which detention time contributes to drivers violating hours of service requirements and driver fatigue. In conducting this study, the Committee shall—

(1) examine data collected from driver and vehicle inspections;

(2) consult with—

(A) motor carriers and drivers, shippers, and representatives of ports and other facilities where goods are loaded and unloaded;

(B) government officials; and

(C) other parties as appropriate; and

(3) provide recommendations to the Secretary for addressing issues identified in the study.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall provide a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that includes recommendations for legislation and for addressing the results of the study.

### SEC. 32912. PROHIBITION OF COERCION.

Section 31136(a) is amended by—

(1) striking “and” at the end of paragraph (3);

(2) striking the period at the end of paragraph (4) and inserting “; and”; and

(3) adding after subsection (4) the following:

“(5) an operator of a commercial motor vehicle is not coerced by a motor carrier, shipper, receiver, or transportation intermediary to operate a commercial motor vehicle in violation of a regulation promulgated under this section, or chapter 51 or chapter 313 of this title.”.

### SEC. 32913. MOTOR CARRIER SAFETY ADVISORY COMMITTEE.

(a) MEMBERSHIP.—Section 4144(b)(1) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (49 U.S.C. 31100 note), is amended by inserting “nonprofit employee labor organizations representing commercial motor vehicle drivers,” after “industry.”.

(b) TERMINATION DATE.—Section 4144(d) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (49 U.S.C. 31100 note), is amended by striking “March 31, 2012” and inserting “September 30, 2013”.

### SEC. 32914. WAIVERS, EXEMPTIONS, AND PILOT PROGRAMS.

(a) WAIVER STANDARDS.—Section 31315(a) is amended—

(1) by inserting “and” at the end of paragraph (2);

(2) by striking paragraph (3); and

(3) redesignating paragraph (4) as paragraph (3).

(b) EXEMPTION STANDARDS.—Section 31315(b)(4) is amended—

(1) in subparagraph (A), by inserting “(or, in the case of a request for an exemption from the physical qualification standards for commercial motor vehicle drivers, post on a web site established by the Secretary to implement the requirements of section 31149)” after “Federal Register”;

(2) by amending subparagraph (B) to read as follows:

“(B) UPON GRANTING A REQUEST.—Upon granting a request and before the effective

date of the exemption, the Secretary shall publish in the Federal Register (or, in the case of an exemption from the physical qualification standards for commercial motor vehicle drivers, post on a web site established by the Secretary to implement the requirements of section 31149) the name of the person granted the exemption, the provisions from which the person is exempt, the effective period, and the terms and conditions of the exemption.”; and

(3) in subparagraph (C), by inserting “(or, in the case of a request for an exemption from the physical qualification standards for commercial motor vehicle drivers, post on a web site established by the Secretary to implement the requirements of section 31149)” after “Federal Register”.

(c) PROVIDING NOTICE OF EXEMPTIONS TO STATE PERSONNEL.—Section 31315(b)(7) is amended to read as follows:

“(7) NOTIFICATION OF STATE COMPLIANCE AND ENFORCEMENT PERSONNEL.—Before the effective date of an exemption, the Secretary shall notify a State safety compliance and enforcement agency, and require the agency pursuant to section 31102(b)(1)(Y) to notify the State’s roadside inspectors, that a person will be operating pursuant to an exemption and the terms and conditions that apply to the exemption.”.

(d) PILOT PROGRAMS.—Section 31315(c)(1) is amended by striking “in the Federal Register”.

(e) REPORT TO CONGRESS.—Section 31315 is amended by adding after subsection (d) the following:

“(e) REPORT TO CONGRESS.—The Secretary shall submit an annual report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives listing the waivers, exemptions, and pilot programs granted under this section, and any impacts on safety.”.

(f) WEB SITE.—The Secretary shall ensure that the Federal Motor Carrier Safety Administration web site includes a link to the web site established by the Secretary to implement the requirements under sections 31149 and 31315. The link shall be in a clear and conspicuous location on the home page of the Federal Motor Carrier Safety Administration web site and be easily accessible to the public.”.

### SEC. 32915. TRANSPORTATION OF HORSES.

Section 80502 is amended—

(1) in subsection (c), by striking “This section does not” and inserting “Subsections (a) and (b) shall not”;

(2) by redesignating subsection (d) as subsection (e);

(3) by inserting after subsection (c) the following:

“(d) TRANSPORTATION OF HORSES.—

“(1) PROHIBITION.—No person may transport, or cause to be transported, a horse from a place in a State, the District of Columbia, or a territory or possession of the United States through or to a place in another State, the District of Columbia, or a territory or possession of the United States in a motor vehicle containing 2 or more levels stacked on top of each other.

“(2) MOTOR VEHICLE DEFINED.—In this subsection, the term ‘motor vehicle’—

“(A) means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways; and

“(B) does not include a vehicle operated exclusively on a rail or rails.”; and

(4) in subsection (e), as redesignated—

(A) by striking “A rail carrier” and inserting the following:

“(1) IN GENERAL.—A rail carrier”;

(B) by striking “this section” and inserting “subsection (a) or (b)”;

and

(C) by striking “On learning” and inserting

before “of a violation” the following:

“(2) TRANSPORTATION OF HORSES IN MULTI-

LEVEL TRAILER.—

“(A) CIVIL PENALTY.—A person that knowingly violates subsection (d) is liable to the United States Government for a civil penalty of at least \$100 but not more than \$500 for each violation. A separate violation occurs under subsection (d) for each horse that is transported, or caused to be transported, in violation of subsection (d).

“(B) RELATIONSHIP TO OTHER LAWS.—The penalty provided under subparagraph (A) shall be in addition to any penalty or remedy available under any other law.

“(3) CIVIL ACTION.—On learning”.

## PART II—HOUSEHOLD GOODS TRANSPORTATION

### SEC. 32921. ADDITIONAL REGISTRATION REQUIREMENTS FOR HOUSEHOLD GOODS MOTOR CARRIERS.

(a) Section 13902(a)(2) is amended—

(1) in subparagraph (B), by striking “section 13702(c);” and inserting “section 13702(c); and”;

(2) by amending subparagraph (C) to read as follows:

“(C) demonstrates, before being registered, through successful completion of a proficiency examination established by the Secretary, knowledge and intent to comply with applicable Federal laws relating to consumer protection, estimating, consumers’ rights and responsibilities, and options for limitations of liability for loss and damage.”; and

(3) by striking subparagraph (D).

(b) COMPLIANCE REVIEWS OF NEW HOUSEHOLD GOODS MOTOR CARRIERS.—Section 31144(g), as amended by section 32102 of this Act, is amended by adding at the end the following:

“(6) ADDITIONAL REQUIREMENTS FOR HOUSEHOLD GOODS MOTOR CARRIERS.—(A) In addition to the requirements of this subsection, the Secretary shall require, by regulation, each registered household goods motor carrier to undergo a consumer protection standards review not later than 18 months after the household goods motor carrier begins operations under such authority.

“(B) ELEMENTS.—In the regulations issued pursuant to subparagraph (A), the Secretary shall establish the elements of the consumer protections standards review, including basic management controls. In establishing the elements, the Secretary shall consider the effects on small businesses and shall consider establishing alternate locations where such reviews may be conducted for the convenience of small businesses.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 2 years after the date of enactment of this Act.

### SEC. 32922. FAILURE TO GIVE UP POSSESSION OF HOUSEHOLD GOODS.

(a) INJUNCTIVE RELIEF.—Section 14704(a)(1) is amended by striking “and 14103” and inserting “, 14103, and 14915(c)”.

(b) CIVIL PENALTIES.—Section 14915(a)(1) is amended by adding at the end the following:

“The United States may assign all or a portion of the civil penalty to an aggrieved shipper. The Secretary of Transportation shall establish criteria upon which such assignments shall be made. The Secretary may order, after notice and an opportunity for a proceeding, that a person found holding a household goods shipment hostage return the goods to an aggrieved shipper.”.

**SEC. 32923. SETTLEMENT AUTHORITY.**

(a) SETTLEMENT OF GENERAL CIVIL PENALTIES.—Section 14901 is amended by adding at the end the following:

“(h) SETTLEMENT OF HOUSEHOLD GOODS CIVIL PENALTIES.—Nothing in this section shall be construed to prohibit the Secretary from accepting partial payment of a civil penalty as part of a settlement agreement in the public interest, or from holding imposition of any part of a civil penalty in abeyance.”.

(b) SETTLEMENT OF HOUSEHOLD GOODS CIVIL PENALTIES.—Section 14915(a) is amended by adding at the end the following:

“(4) SETTLEMENT AUTHORITY.—Nothing in this section shall be construed as prohibiting the Secretary from accepting partial payment of a civil penalty as part of a settlement agreement in the public interest, or from holding imposition of any part of a civil penalty in abeyance.”.

**SEC. 32924. HOUSEHOLD GOODS TRANSPORTATION ASSISTANCE PROGRAM.**

(a) JOINT ASSISTANCE PROGRAM.—Not later than 18 months after the date of enactment of this Act, the Secretary shall develop and implement a joint assistance program, through the Federal Motor Carrier Safety Administration—

(1) to educate consumers about the household goods motor carrier industry pursuant to the recommendations of the task force established under section 2925 of this Act;

(2) to improve the Federal Motor Carrier Safety Administration's implementation, monitoring, and coordination of Federal and State household goods enforcement activities;

(3) to assist a consumer with the timely resolution of an interstate household goods hostage situation, as appropriate; and

(4) to conduct other enforcement activities as designated by the Secretary.

(b) JOINT ASSISTANCE PROGRAM PARTNERSHIP.—The Secretary—

(1) may partner with 1 or more household goods motor carrier industry groups to implement the joint assistance program under subsection (a); and

(2) shall ensure that each participating household goods motor carrier industry group—

(A) implements the joint assistance program in the best interest of the consumer;

(B) implements the joint assistance program in the public interest;

(C) accurately represents its financial interests in providing household goods mover services in the normal course of business and in assisting consumers resolving hostage situations;

(D) does not hold itself out or misrepresent itself as an agent of the Federal government;

(E) abides by Federal regulations and guidelines for the provision of assistance and receipt of compensation for household goods mover services; and

(F) accurately represents the Federal and State remedies that are available to consumers for resolving interstate household goods hostage situations.

(c) REPORT.—The Secretary shall submit a report annually to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives providing a detailed description of the joint assistance program under subsection (a).

(d) PROHIBITION.—The joint assistance program under subsection (a) may not include the provision of funds by the United States to a consumer for lost, stolen, or damaged items.

**SEC. 32925. HOUSEHOLD GOODS CONSUMER EDUCATION PROGRAM.**

(a) TASK FORCE.—The Secretary of Transportation shall establish a task force to develop recommendations to ensure that a consumer is informed of Federal law concerning the transportation of household goods by a motor carrier, including recommendations—

(1) on how to condense publication ESA 03005 of the Federal Motor Carrier Safety Administration into a format that can be more easily used by a consumer; and

(2) on the use of state-of-the-art education techniques and technologies, including the use of the Internet as an educational tool.

(b) TASK FORCE MEMBERS.—The task force shall be comprised of—

(1) individuals with expertise in consumer affairs;

(2) educators with expertise in how people learn most effectively; and

(3) representatives of the household goods moving industry.

(c) RECOMMENDATIONS.—Not later than 1 year after the date of enactment of this Act, the task force shall complete its recommendations under subsection (a). Not later than 1 year after the task force completes its recommendations under subsection (a), the Secretary shall issue regulations implementing the recommendations, as appropriate.

(d) FEDERAL ADVISORY COMMITTEE ACT EXEMPTION.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the task force.

(e) TERMINATION.—The task force shall terminate 2 years after the date of enactment of this Act.

**PART III—TECHNICAL AMENDMENTS****SEC. 32931. UPDATE OF OBSOLETE TEXT.**

(a) Section 31137(e), as redesignated by section 32301 of this Act, is amended by striking “Not later than December 1, 1990, the Secretary shall prescribe” and inserting “The Secretary shall maintain”.

(b) Section 31151(a) is amended—

(1) by amending paragraph (1) to read as follows:

“(1) IN GENERAL.—The Secretary of Transportation shall maintain a program to ensure that intermodal equipment used to transport intermodal containers is safe and systematically maintained.”; and

(2) by striking paragraph (4).

(c) Section 31307(b) is amended by striking “Not later than December 18, 1994, the Secretary shall prescribe” and inserting “The Secretary shall maintain”.

(d) Section 31310(g)(1) is amended by striking “Not later than 1 year after the date of enactment of this Act, the” and inserting “The”.

(e) Section 4123(f) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1736), is amended by striking “Not later than 1 year after the date of enactment of this Act, the” and inserting “The”.

**SEC. 32932. CORRECTION OF INTERSTATE COMMERCE COMMISSION REFERENCES.**

(a) SAFETY INFORMATION AND INTERVENTION IN INTERSTATE COMMERCE COMMISSION PROCEEDINGS.—Chapter 3 is amended—

(1) by repealing section 307;

(2) in the analysis, by striking the item relating to section 307;

(3) in section 333(d)(1)(C), by striking “Interstate Commerce Commission” and inserting “Surface Transportation Board”; and

(4) in section 333(e)—

(A) by striking “Interstate Commerce Commission” and inserting “Surface Transportation Board”; and

(B) by striking “Commission” and inserting “Board”.

(b) FILING AND PROCEDURE FOR APPLICATION TO ABANDON OR DISCONTINUE.—Section 10903(b)(2) is amended by striking “24706(c) of this title” and inserting “24706(c) of this title before May 31, 1998”.

(c) RIGHTS AND REMEDIES OF PERSONS INJURED BY CARRIERS OR BROKERS.—

(1) Section 14704 is amended—

(A) in subsection (a)—

(i) by striking “IN GENERAL.—” and all that follows through “injured” and inserting “ENFORCEMENT OF ORDER.—A person injured”; and

(ii) by redesignating paragraph (2) as subsection (b)(1); and

(B) in subsection (b)—

(i) by redesignating subsection (b) as paragraph (2);

(ii) by striking “LIABILITY AND DAMAGES FOR EXCEEDING TARIFF RATE.—” and all that follows through “A carrier” and inserting “EXCEEDING TARIFF RATE.—”; and

(iii) by striking “DAMAGES FOR VIOLATIONS.—” in paragraph (1), as redesignated, and inserting “OTHER VIOLATIONS.—”.

(2) Section 14705(c) is amended by striking “14704(b)” and inserting “14704(b)(2)”.

(d) TECHNICAL AMENDMENTS TO PART C OF SUBTITLE V.—

(1) Section 24307(b)(3) is amended by striking “Interstate Commerce Commission” and inserting “Surface Transportation Board”.

(2) Section 24311 is amended—

(A) by striking “Interstate Commerce Commission” and inserting “Surface Transportation Board”;

(B) by striking “Commission” each place it appears and inserting “Board”; and

(C) by striking “Commission’s” and inserting “Board’s”.

(3) Section 24902 is amended—

(A) by striking “Interstate Commerce Commission” each place it appears and inserting “Surface Transportation Board”; and

(B) by striking “Commission” each place it appears and inserting “Board”.

(4) Section 24904 is amended—

(A) by striking “Interstate Commerce Commission” and inserting “Surface Transportation Board”; and

(B) by striking “Commission” each place it appears and inserting “Board”.

**SEC. 32933. TECHNICAL AND CONFORMING AMENDMENTS.**

(a) Section 14504a(c)(1) is amended—

(1) in subparagraph (C), by striking “sections” and inserting “section”; and

(2) in subparagraph (D)(ii)(II) by striking the period at the end and inserting “; and”.

(b) Section 31103(a) is amended by striking “section 31102(b)(1)(E)” and inserting “section 31102(b)(2)(E)”.

(c) Section 31103(b) is amended by striking “authorized by section 31104(f)(2)”.

(d) Section 31309(b)(2) is amended by striking “31308(2)” and inserting “31308(3)”.

**PART IV—SURFACE TRANSPORTATION AND FREIGHT POLICY ACT OF 2012****SEC. 32941. SHORT TITLE.**

This part may be cited as the “Surface Transportation and Freight Policy Act of 2012”.

**SEC. 32942. ESTABLISHMENT OF A NATIONAL SURFACE TRANSPORTATION AND FREIGHT POLICY.**

(a) IN GENERAL.—Subchapter I of chapter 3, as amended by section 32932 of this Act, is amended—

(1) by redesignating sections 304 through 306 as sections 307 through 309, respectively;

(2) by redesignating sections 308 and 309 as sections 310 and 311, respectively;

(3) by redesignating sections 303 and 303a as sections 305 and 306, respectively; and

(4) by inserting after section 302 the following:

**“§ 303. National surface transportation policy**

“(a) **POLICY.**—It is the policy of the United States to develop a comprehensive national surface transportation system that advances the national interest and defense, interstate and foreign commerce, the efficient and safe interstate mobility of people and goods, and the protection of the environment. The system shall be built, maintained, managed, and operated as a partnership between the Federal, State, and local governments and the private sector and shall be coordinated with the overall transportation system of the United States, including the Nation's air, rail, pipeline, and water transportation systems. The Secretary of Transportation shall be responsible for carrying out this policy and for defining the Federal government's role in the system.

“(b) **OBJECTIVES.**—The objectives of the policy shall be to facilitate and advance—

“(1) the improved accessibility and reduced travel times for persons and goods within and between nations, regions, States, and metropolitan areas;

“(2) the safety and health of the public;

“(3) the security of the Nation and the public;

“(4) environmental protection;

“(5) energy conservation and security, including reducing transportation-related energy use;

“(6) international and interstate freight movement, trade enhancement, job creation, and economic development;

“(7) responsible planning to address population distribution and employment and sustainable development;

“(8) the preservation and adequate performance of system-critical transportation assets, as defined by the Secretary;

“(9) reasonable access to the national surface transportation system for all system users, including rural communities;

“(10) the sustainable, balanced, and adequate financing of the national surface transportation system; and

“(11) innovation in transportation services, infrastructure, and technology.

“(c) **GOALS.**—

“(1) **SPECIFIC GOALS.**—The goals of the policy shall be—

“(A) to reduce average per capita peak period travel times on an annual basis;

“(B) to reduce national motor vehicle-related and truck-related fatalities by 50 percent by 2030;

“(C) to reduce national surface transportation delays per capita on an annual basis;

“(D) to improve the access to employment opportunities and other economic activities;

“(E) to increase the percentage of system-critical surface transportation assets, as defined by the Secretary, that are in a state of good repair by 20 percent by 2030;

“(F) to improve access to public transportation, intercity passenger rail services, and non-motorized transportation where travel demand warrants;

“(G) to reduce passenger and freight transportation infrastructure-related delays entering into and out of international points of entry on an annual basis;

“(H) to increase travel time reliability on major freight corridors that connect major population centers to freight generators and international gateways on an annual basis;

“(I) to ensure adequate transportation of domestic energy supplies and promote energy security;

“(J) to maintain or reduce the percentage of gross domestic product consumed by transportation costs; and

“(K) to reduce transportation-related impacts on the environment and on communities on an annual basis.

“(2) **BASELINES.**—Not later than 2 years after the date of enactment of the Surface Transportation and Freight Policy Act of 2012, the Secretary shall develop baselines for the goals and shall determine appropriate methods of data collection to measure the attainment of the goals.”.

(b) **FREIGHT POLICY.**—Subchapter I of chapter 3, as amended by section 32942(a) of this Act, is amended by adding at the end the following:

**“§ 312. National freight transportation policy.**

“(a) **NATIONAL FREIGHT TRANSPORTATION POLICY.**—It is the policy of the United States to improve the efficiency, operation, and security of the national transportation system to move freight by leveraging investments and promoting partnerships that advance interstate and foreign commerce, promote economic competitiveness and job creation, improve the safe and efficient mobility of goods, and protect the public health and the environment.

“(b) **OBJECTIVES.**—The objectives of the policy are—

“(1) to target investment in freight transportation projects that strengthen the economic competitiveness of the United States with a focus on domestic industries and businesses and the creation and retention of high-value jobs;

“(2) to promote and advance energy conservation and the environmental sustainability of freight movements;

“(3) to facilitate and advance the safety and health of the public, including communities adjacent to freight movements;

“(4) to provide for systematic and balanced investment to improve the overall performance and reliability of the national transportation system to move freight, including ensuring trade facilitation and transportation system improvements are mutually supportive;

“(5) to promote partnerships between Federal, State, and local governments, the private sector, and other transportation stakeholders to leverage investments in freight transportation projects; and

“(6) to encourage adoption of operational policies, such as intelligent transportation systems, to improve the efficiency of freight-related transportation movements and infrastructure.”.

(c) **CONFORMING AMENDMENTS.**—The table of contents for chapter 3 is amended—

(1) by redesignating the items relating to sections 304 through 306 as sections 307 through 309, respectively;

(2) by redesignating the items relating to sections 308 and 309 as sections 310 and 311, respectively;

(3) by redesignating the items relating to sections 303 and 303a as sections 305 and 306, respectively;

(4) by inserting after the item relating to section 302 the following:

“303. National surface transportation policy.”; and

(5) by inserting after the item relating to section 311 the following:

“312. National freight transportation policy.”.

**SEC. 32943. SURFACE TRANSPORTATION AND FREIGHT STRATEGIC PLAN.**

(a) **SURFACE TRANSPORTATION AND FREIGHT STRATEGIC PLAN.**—Subchapter I of chapter 3,

as amended by section 32942 of this Act, is amended by inserting after section 303 the following—

**“§ 304. National surface transportation and freight strategic performance plan.**

“(a) **DEVELOPMENT.**—Not later than 2 years after the date of enactment of the Surface Transportation and Freight Policy Act of 2012, the Secretary of Transportation shall develop and implement a National Surface Transportation and Freight Performance Plan to achieve the policy, objectives, and goals set forth in sections 303 and 312.

“(b) **CONTENTS.**—The plan shall include—

“(1) an assessment of the current performance of the national surface transportation system and an analysis of the system's ability to achieve the policy, objectives, and goals set forth in sections 303 and 312;

“(2) an analysis of emerging and long-term projected trends, including economic and national trade policies, that will impact the performance, needs, and uses of the national surface transportation system, including the system to move freight;

“(3) a description of the major challenges to effectively meeting the policy, objectives, and goals set forth in sections 303 and 312 and a plan to address such challenges;

“(4) a comprehensive strategy and investment plan to meet the policy, objectives, and goals set forth in sections 303 and 312, including a strategy to develop the coalitions, partnerships, and other collaborative financing efforts necessary to ensure stable, reliable funding and completion of freight corridors and projects;

“(5) initiatives to improve transportation modeling, research, data collection, and analysis, including those to assess impacts on public health, and environmental conditions;

“(6) a plan for any reorganization of the Department of Transportation or its agencies necessary to meet the policy, objectives, and goals set forth in sections 303 and 312;

“(7) guidelines to encourage the appropriate balance of means to finance the national transportation system to move freight to implement the plan and the investment plan proposed under paragraph (4); and

“(8) a list of priority freight corridors and gateways to be improved and developed to meet the policy, objectives, and goals set forth in section 312.

“(c) **CONSULTATION.**—In developing the plan required by subsection (a), the Secretary shall—

“(1) consult with appropriate Federal agencies, local, State, and tribal governments, public and private transportation stakeholders, non-profit organizations representing transportation employees, appropriate foreign governments, and other interested parties;

“(2) consider on-going Federal, State, and corridor-wide transportation plans;

“(3) provide public notice and hearings and solicit public comments on the plan, and

“(4) as appropriate, establish advisory committees to assist with developing the plan.

“(d) **SUBMITTAL AND PUBLICATION.**—The Secretary shall—

“(1) submit the completed plan to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives; and

“(2) post the completed plan on the Department of Transportation's public web site.

“(e) **PROGRESS REPORTS.**—The Secretary shall submit biennial progress reports on the implementation of the plan beginning 2

years after the date of submittal of the plan under subsection (d)(1). Each progress report shall—

“(1) describe progress made toward fully implementing the plan and achieving the policies, objectives, and goals established under sections 303 and 312;

“(2) describe challenges and obstacles to full implementation;

“(3) describe updates to the plan necessary to reflect changed circumstances or new developments; and

“(4) make policy and legislative recommendations the Secretary believes are necessary and appropriate to fully implement the plan.

“(f) DATA.—The Secretary shall have the authority to conduct studies, gather information, and require the production of data necessary to develop or update this plan, consistent with Federal privacy standards.

“(g) IMPLEMENTATION.—The Secretary shall—

“(1) develop appropriate performance criteria and data collections systems for each Federal surface transportation program to evaluate:

“(A) whether such programs are consistent with the policy, objectives, and goals established by sections 303 and 312; and

“(B) how effective such programs are in contributing to the achievement of the policy, objectives, and goals established by sections 303 and 312;

“(2) using the criteria developed under paragraph (1), periodically evaluate each such program and provide the results to the public;

“(3) based on the evaluation performed under paragraph (2), make any necessary changes or improvements to such programs to ensure such consistency and effectiveness;

“(4) implement this section in a manner that is consistent with sections 302, 5503, 10101, and 13101 of this title and section 101 of title 23 to the extent that such sections do not conflict with the policy, objectives, and goals established by sections 303 and 312;

“(5) review, update, and reissue all relevant surface transportation planning requirements to ensure that such requirements require that regional, State, and local surface transportation planning efforts funded with Federal funds are consistent with the policy, objectives, and goals established by this section; and

“(6) require States and metropolitan planning organizations to annually report on the use of Federal surface transportation funds, including a description of—

“(A) which projects and priorities were funded with such funds;

“(B) the rationale and method employed for apportioning such funds to the projects and priorities; and

“(C) how the obligation of such funds is consistent with or advances the policy, objectives, and goals established by sections 303 and 312.”

(b) CONFORMING AMENDMENT.—The table of contents for chapter 3 is amended by inserting after the item relating to section 303 the following:

“304. National surface transportation and freight strategic performance plan.”

#### SEC. 32944. TRANSPORTATION INVESTMENT DATA AND PLANNING TOOLS.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall—

(1) develop new tools or improve existing tools to support an outcome-oriented, performance-based approach to evaluate pro-

posed freight-related and other surface transportation projects. These new or improved tools shall include—

(A) a systematic cost-benefit analysis;

(B) an evaluation of external effects on congestion, pollution, the environment, and the public health;

(C) a valuation of modal alternatives; and

(D) other elements to assist in effective transportation planning; and

(2) facilitate the collection of transportation-related data to support a broad range of evaluation methods and techniques such as demand forecasts, modal diversion forecasts, estimates of the effect of proposed investments on congestion, pollution, public health, and other factors, to assist in making transportation investment decisions. At a minimum, the Secretary, in consultation with other relevant Federal agencies, shall consider any improvements to the Commodity Flow Survey that reduce identified freight data gaps and deficiencies and help evaluate forecasts of transportation demand.

(b) CONSULTATION.—To the extent practicable, the Secretary shall consult with Federal, State, and local transportation planners to develop, improve, and implement the tools and collect the data under subsection (a).

(c) ESTABLISHMENT OF PILOT PROGRAM.—

(1) ESTABLISHMENT.—To assist in the development of tools under subsection (a) and to inform the National Surface Transportation and Freight Performance Plan required by section 304 of title 49, United States Code, the Secretary shall establish a pilot program under which the Secretary shall conduct case studies of States and metropolitan planning organizations that are designed—

(A) to provide more detailed, in-depth analysis and data collection with respect to transportation programs; and

(B) to apply rigorous methods of measuring and addressing the effectiveness of program participants in achieving national transportation goals.

(2) PRELIMINARY REQUIREMENTS.—

(A) SOLICITATION.—The Secretary shall solicit applications to participate in the pilot program from States and metropolitan planning organizations.

(B) NOTIFICATION.—A State or metropolitan planning organization that desires to participate in the pilot program shall notify the Secretary of such desire before a date determined by the Secretary.

(C) SELECTION.—

(i) NUMBER OF PROGRAM PARTICIPANTS.—The Secretary shall select to participate in the pilot program—

(I) not fewer than 3, and not more than 5, States; and

(II) not fewer than 3, and not more than 5, metropolitan planning organizations.

(ii) TIMING.—The Secretary shall select program participants not later than 3 months after the date of enactment of this Act.

(iii) DIVERSITY OF PROGRAM PARTICIPANTS.—The Secretary shall, to the extent practicable, select program participants that represent a broad range of geographic and demographic areas (including rural and urban areas) and types of transportation programs.

(d) CASE STUDIES.—

(1) BASELINE REPORT.—Not later than 6 months after the date of enactment of this Act, each program participant shall submit to the Secretary a baseline report that—

(A) describes the reporting and data collection processes of the program participant for transportation investments that are in effect on the date of the report;

(B) assesses how effective the program participant is in achieving the national surface transportation goals in section 303 of title 49, United States Code;

(C) describes potential improvements to the methods and metrics used to measure the effectiveness of the program participant in achieving national surface transportation goals in section 303 of title 49, United States Code, and the challenges to implementing such improvements; and

(D) includes an assessment of whether, and specific reasons why, the preparation and submission of the baseline report may be limited, incomplete, or unduly burdensome, including any recommendations for facilitating the preparation and submission of similar reports in the future.

(2) EVALUATION.—Each program participant shall work cooperatively with the Secretary to evaluate the methods and metrics used to measure the effectiveness of the program participant in achieving national surface transportation goals in section 303 of title 49, United States Code, including—

(A) by considering the degree to which such methods and metrics take into account—

(i) the factors that influence the effectiveness of the program participant in achieving the national surface transportation goals;

(ii) all modes of transportation; and

(iii) the transportation program as a whole, rather than individual projects within the transportation program; and

(B) by identifying steps that could be used to implement the potential improvements identified under paragraph (1)(C).

(3) FINAL REPORT.—Not later than 18 months after the date of enactment of this section, each program participant shall submit to the Secretary a comprehensive final report that—

(A) contains an updated assessment of the effectiveness of the program participant in achieving national surface transportation goals under section 303 of title 49, United States Code; and

(B) describes the ways in which the performance of the program participant in collecting and reporting data and carrying out the transportation program of the program participant has improved or otherwise changed since the date of submission of the baseline report under subparagraph (A).

#### SEC. 32945. NATIONAL FREIGHT INFRASTRUCTURE INVESTMENT GRANTS.

(a) ESTABLISHMENT OF PROGRAM.—Chapter 55 is amended by adding at the end the following:

##### “SUBCHAPTER III—FINANCIAL ASSISTANCE

#### “§ 5581. National freight infrastructure investment grants.

“(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Transportation shall establish a competitive grant program to provide financial assistance for capital investments that improve the efficiency of the national transportation system to move freight.

“(b) ELIGIBLE PROJECTS.—An applicant is eligible for a grant under this section for—

“(1) a port development or improvement project;

“(2) a multimodal terminal facility project;

“(3) a land port of entry project;

“(4) a freight rail improvement or capacity expansion project;

“(5) an intelligent transportation system project primarily for freight benefit that reduces congestion or improves safety;

“(6) a project that improves access to a port or terminal facility;

“(7) a highway project to reduce congestion or improve safety; or

“(8) planning, preparation, or design of any project described in paragraph (1), (2), (3), (4), (5), (6), or (7).

“(c) **PROJECT SELECTION CRITERIA.**—In determining whether to award a grant to an eligible applicant under this section, the Secretary shall consider the extent to which the project—

“(1) supports the objectives of the National Surface Transportation and Freight Performance Plan developed under section 304;

“(2) leverages Federal investment by encouraging non-Federal contributions to the project, including contributions from public-private partnerships;

“(3) improves the mobility of goods and commodities;

“(4) incorporates new and innovative technologies, including freight-related intelligent transportation systems;

“(5) improves energy efficiency or reduces greenhouse gas emissions;

“(6) helps maintain or protect the environment, including reducing air and water pollution;

“(7) reduces congestion;

“(8) improves the condition of the freight infrastructure, including bringing it into a state of good repair;

“(9) improves safety, including reducing transportation accidents, injuries, and fatalities;

“(10) demonstrates that the proposed project cannot be readily and efficiently realized without Federal support and participation; and

“(11) enhances national or regional economic development, growth, and competitiveness.

“(d) **PRIORITY.**—The Secretary shall give priority to projects that have the highest system performance improvement relative to their benefit-cost analysis, as measured by the tools developed under section 32944 of the Surface Transportation and Freight Policy Act of 2012 and those that support domestic manufacturing of goods.

“(e) **LETTERS OF INTENT.**—

“(1) **IN GENERAL.**—The Secretary may issue a letter of intent to an applicant announcing an intention to obligate, for a major capital project under this section, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project.

“(2) **WRITTEN NOTICE.**—Not later than 30 days before issuing a letter under paragraph (1), the Secretary shall provide written notice of the proposed letter or agreement to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives. The Secretary shall include with the notification a copy of the proposed letter or agreement, the criteria used under subsection (c) for selecting the project for a grant award, and a description of how the project meets such criteria.

“(3) **SUBJECT TO AVAILABILITY OF FUNDS.**—An obligation or administrative commitment may be made only when amounts are made available. Each letter of intent shall state that the contingent commitment is not an obligation of the Federal Government, and is subject to the availability of funds under Federal law and to Federal laws in force or enacted after the date of the contingent commitment.

“(f) **FEDERAL SHARE OF NET PROJECT COST.**—

“(1) **IN GENERAL.**—Based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities, the Secretary shall estimate the net project cost.

“(2) **FEDERAL SHARE.**—The Federal share of a grant for the project shall not exceed 80 percent of the project net capital cost.

“(3) **PRIORITY.**—The Secretary shall give priority in allocating future obligations and contingent commitments to incur obligations to grant requests seeking a lower Federal share of the project net capital cost.

“(g) **COOPERATIVE AGREEMENTS.**—

“(1) **IN GENERAL.**—An applicant may enter into an agreement with any public, private, or nonprofit entity to cooperatively implement any project funded with a grant under this subchapter.

“(2) **FORMS OF PARTICIPATION.**—Participation by an entity under paragraph (1) may consist of—

“(A) ownership or operation of any land, facility, vehicle, or other physical asset associated with the project;

“(B) cost-sharing of any project expense or non-Federal share of the project cost, including in kind contributions;

“(C) carrying out administration, construction management, project management, project operation, or any other management or operational duty associated with the project; and

“(D) any other form of participation approved by the Secretary.

“(h) **OVERSIGHT PROGRAM.**—

“(1) **ESTABLISHMENT.**—

“(A) **IN GENERAL.**—The Secretary shall establish an oversight program to monitor the effective and efficient use of funds authorized to carry out this section.

“(B) **MINIMUM REQUIREMENT.**—At a minimum, the oversight program shall be responsive to all areas relating to financial integrity and project delivery.

“(2) **FINANCIAL INTEGRITY.**—

“(A) **FINANCIAL MANAGEMENT SYSTEMS.**—The Secretary shall perform annual reviews that address elements of the applicant's financial management systems that affect projects approved under subsection (a).

“(B) **PROJECT COSTS.**—The Secretary shall develop minimum standards for estimating project costs and shall periodically evaluate the practices of applicants for estimating project costs, awarding contracts, and reducing project costs.

“(3) **PROJECT DELIVERY.**—The Secretary shall perform annual reviews that address elements of the project delivery system of an applicant, which elements include 1 or more activities that are involved in the life cycle of a project from conception to completion of the project.

“(4) **RESPONSIBILITY OF THE APPLICANTS.**—

“(A) **IN GENERAL.**—Each applicant shall submit to the Secretary for approval such plans, specifications, and estimates for each proposed project as the Secretary may require.

“(B) **APPLICANT SUBRECIPIENTS.**—The applicant shall be responsible for determining that a subrecipient of Federal funds under this section—

“(i) has adequate project delivery systems for projects approved under this section; and

“(ii) has sufficient accounting controls to properly manage such Federal funds.

“(C) **PERIODIC REVIEW.**—The Secretary shall periodically review the monitoring of subrecipients by the applicant.

“(5) **SPECIFIC OVERSIGHT RESPONSIBILITIES.**—Nothing in this section shall affect or discharge any oversight responsibility of the

Secretary specifically provided for under this title or other Federal law.

“(i) **MAJOR PROJECTS.**—

“(1) **IN GENERAL.**—A recipient of a grant for a project under this section with an estimated total cost of \$500,000,000 or more, and a recipient for such other projects as may be identified by the Secretary, shall submit to the Secretary for each project—

“(A) a project management plan; and

“(B) an annual financial plan.

“(2) **PROJECT MANAGEMENT PLAN.**—A project management plan shall document—

“(A) the procedures and processes that are in effect to provide timely information to the project decisionmakers to effectively manage the scope, costs, schedules, and quality of, and the Federal requirements applicable to, the project; and

“(B) the role of the agency leadership and management team in the delivery of the project.

“(3) **FINANCIAL PLAN.**—A financial plan shall—

“(A) be based on detailed estimates of the cost to complete the project; and

“(B) provide for the annual submission of updates to the Secretary that are based on reasonable assumptions, as determined by the Secretary, of future increases in the cost to complete the project.

“(j) **OTHER PROJECTS.**—A recipient of Federal financial assistance for a project under this title with an estimated total cost of \$100,000,000 or more that is not covered by subsection (i) shall prepare an annual financial plan. Annual financial plans prepared under this subsection shall be made available to the Secretary for review upon the request of the Secretary.

“(k) **OTHER TERMS AND CONDITIONS.**—The Secretary shall determine what additional grant terms and conditions are necessary and appropriate to meet the requirements of this section.

“(l) **REGULATIONS.**—Not later than 1 year after the date of enactment of the Surface Transportation and Freight Policy Act of 2012, the Secretary shall prescribe regulations to implement this section.

“(m) **APPLICANT DEFINED.**—In this subchapter, the term ‘applicant’ includes a State, a political subdivision of a State, a metropolitan planning organization, government-sponsored authorities and corporations, and the District of Columbia.

“(n) **SECRETARIAL OVERSIGHT.**—

“(1) **IN GENERAL.**—The Secretary may use not more than 1 percent of amounts made available in a fiscal year for capital projects under this subchapter to enter into contracts to oversee the construction of such projects.

“(2) **PERMISSIBLE USES.**—The Secretary may use amounts available under paragraph (1) to make contracts for safety, procurement, management, and financial compliance reviews and audits of a recipient of amounts under paragraph (1).

“(3) **COST.**—The Federal Government shall pay the entire cost of carrying out a contract under this subsection.”

“(b) **CONFORMING AMENDMENT.**—The table of contents for chapter 55 is amended by adding at the end the following:

“SUBCHAPTER III. FINANCIAL ASSISTANCE”

“5581. National freight infrastructure investment grants.”

**SEC. 32946. PORT INFRASTRUCTURE DEVELOPMENT INITIATIVE.**

Section 50302(c)(3)(C) of title 46, United States Code, is amended to read as follows:

“(C) **TRANSFERS.**—Amounts appropriated or otherwise made available for any fiscal year for a marine facility or intermodal facility that includes maritime transportation

may be transferred, at the option of the recipient of such amounts, to the Fund and administered by the Administrator as a component of a project under the program.”.

**SEC. 32947. OFFICE OF FREIGHT PLANNING AND DEVELOPMENT.**

(a) IN GENERAL.—Section 102 is amended—  
(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following:

“(h) OFFICE OF FREIGHT PLANNING AND DEVELOPMENT.—

“(1) ESTABLISHMENT.—There is established within the Office of the Secretary an Office of Freight Planning and Development. The Office shall—

“(A) coordinate investment of Federal funding to improve the efficiency of the national transportation system to move freight consistent with the policy and objectives of section 312;

“(B) facilitate communication among government, public, and private freight transportation stakeholders;

“(C) support the Secretary in the development of the National Freight Transportation Strategic Plan; and

“(D) carry out other duties, as prescribed by the Secretary.

“(2) ORGANIZATION.—The head of the Office shall be the Assistant Secretary of Freight Planning and Development.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 102(e) is amended by striking “4” and inserting “5”.

(2) Section 5315 of title 5, United States Code, is amended by striking “(4)” in the item relating to Assistant Secretaries of Transportation and inserting “(5)”.

**SEC. 32948. SAFETY FOR MOTORIZED AND NON-MOTORIZED USERS.**

(a) IN GENERAL.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following:

**“§ 413. Safety for motorized and non-motorized users**

“(a) IN GENERAL.—Not later than 2 years after the date of enactment of the Surface Transportation and Freight Policy Act of 2012, subject to subsection (b), the Secretary shall establish standards to ensure that the design of Federal surface transportation projects provides for the safe and adequate accommodation, in all phases of project planning, development, and operation, of all users of the transportation network, including motorized and nonmotorized users.

“(b) WAIVER FOR STATE LAW OR POLICY.—The Secretary may waive the application of standards established under subsection (a) to a State that has adopted a law or policy that provides for the safe and adequate accommodation as certified by the State (or other grantee), in all phases of project planning and development, of users of the transportation network on federally funded surface transportation projects, as determined by the Secretary.

“(c) COMPLIANCE.—

“(1) IN GENERAL.—Each State department of transportation shall submit to the Secretary, at such time, in such manner, and containing such information as the Secretary shall require, a report describing the implementation by the State of measures to achieve compliance with this section.

“(2) DETERMINATION BY SECRETARY.—On receipt of a report under paragraph (1), the Secretary shall determine whether the applicable State has achieved compliance with this section.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 4 of title 23, United States Code,

is amended by adding at the end the following:

“413. Safety for motorized and nonmotorized users.”.

**TITLE III—HAZARDOUS MATERIALS TRANSPORTATION SAFETY IMPROVEMENT ACT OF 2012**

**SEC. 33001. SHORT TITLE.**

This title may be cited as the “Hazardous Materials Transportation Safety Improvement Act of 2012”.

**SEC. 33002. DEFINITION.**

In this title, the term “Secretary” means the Secretary of Transportation.

**SEC. 33003. REFERENCES TO TITLE 49, UNITED STATES CODE.**

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

**SEC. 33004. TRAINING FOR EMERGENCY RESPONDERS.**

(a) TRAINING CURRICULUM.—Section 5115 is amended—

(1) in subsection (b)(1)(B), by striking “basic”;

(2) in subsection (b)(2), by striking “basic”; and

(3) in subsection (c), by striking “basic”.

(b) OPERATIONS LEVEL TRAINING.—Section 5116 is amended—

(1) in subsection (b)(1), by adding at the end the following: “To the extent that a grant is used to train emergency responders, the State or Indian tribe shall provide written certification to the Secretary that the emergency responders who receive training under the grant will have the ability to protect nearby persons, property, and the environment from the effects of accidents or incidents involving the transportation of hazardous material in accordance with existing regulations or National Fire Protection Association standards for competence of responders to hazardous materials.”;

(2) in subsection (j)—

(A) by redesignating paragraph (5) as paragraph (7); and

(B) by inserting after paragraph (4) the following:

“(5) The Secretary may not award a grant to an organization under this subsection unless the organization ensures that emergency responders who receive training under the grant will have the ability to protect nearby persons, property, and the environment from the effects of accidents or incidents involving the transportation of hazardous material in accordance with existing regulations or National Fire Protection Association standards for competence of responders to hazardous materials.

“(6) Notwithstanding paragraphs (1) and (3), to the extent determined appropriate by the Secretary, a grant awarded by the Secretary to an organization under this subsection to conduct hazardous material response training programs may be used to train individuals with responsibility to respond to accidents and incidents involving hazardous material.”; and

(3) in subsection (k)—

(A) by striking “annually” and inserting “an annual report”;

(B) by inserting “the report” after “make available”;

(C) by striking “information” and inserting “. The report submitted under this subsection shall include information”; and

(D) by striking “The report shall identify” and all that follows and inserting the fol-

lowing: “The report submitted under this subsection shall identify the ultimate recipients of such grants and include—

“(A) a detailed accounting and description of each grant expenditure by each grant recipient, including the amount of, and purpose for, each expenditure;

“(B) the number of persons trained under the grant program, by training level;

“(C) an evaluation of the efficacy of such planning and training programs; and

“(D) any recommendations the Secretary may have for improving such grant programs.”.

**SEC. 33005. PAPERLESS HAZARD COMMUNICATIONS PILOT PROGRAM.**

(a) IN GENERAL.—The Secretary may conduct pilot projects to evaluate the feasibility and effectiveness of using paperless hazard communications systems. At least 1 of the pilot projects under this section shall take place in a rural area.

(b) REQUIREMENTS.—In conducting pilot projects under this section, the Secretary—

(1) may not waive the requirements under section 5110 of title 49, United States Code; and

(2) shall consult with organizations representing—

(A) fire services personnel;

(B) law enforcement and other appropriate enforcement personnel;

(C) other emergency response providers;

(D) persons who offer hazardous material for transportation;

(E) persons who transport hazardous material by air, highway, rail, and water; and

(F) employees of persons who transport or offer for transportation hazardous material by air, highway, rail, and water.

(c) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall—

(1) prepare a report on the results of the pilot projects carried out under this section, including—

(A) a detailed description of the pilot projects;

(B) an evaluation of each pilot project, including an evaluation of the performance of each paperless hazard communications system in such project;

(C) an assessment of the safety and security impact of using paperless hazard communications systems, including any impact on the public, emergency response, law enforcement, and the conduct of inspections and investigations; and

(D) a recommendation on whether paperless hazard communications systems should be permanently incorporated into the Federal hazardous material transportation safety program under chapter 51 of title 49, United States Code; and

(2) submit a final report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that contains the results of the pilot projects carried out under this section, including the matters described in paragraph (1).

(d) PAPERLESS HAZARD COMMUNICATIONS SYSTEM DEFINED.—In this section, the term “paperless hazard communications system” means the use of advanced communications methods, such as wireless communications devices, to convey hazard information between all parties in the transportation chain, including emergency responders and law enforcement personnel. The format of communication may be equivalent to that used by the carrier.

**SEC. 33006. IMPROVING DATA COLLECTION, ANALYSIS, AND REPORTING.****(a) ASSESSMENT.—**

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary, in coordination with the Secretary of Homeland Security, as appropriate, shall conduct an assessment to improve the collection, analysis, reporting, and use of data related to accidents and incidents involving the transportation of hazardous material.

(2) REVIEW.—The assessment conducted under this subsection shall review the methods used by the Pipeline and Hazardous Materials Safety Administration (referred to in this section as the “Administration”) for collecting, analyzing, and reporting accidents and incidents involving the transportation of hazardous material, including the adequacy of—

(A) information requested on the accident and incident reporting forms required to be submitted to the Administration;

(B) methods used by the Administration to verify that the information provided on such forms is accurate and complete;

(C) accident and incident reporting requirements, including whether such requirements should be expanded to include shippers and consignees of hazardous materials;

(D) resources of the Administration related to data collection, analysis, and reporting, including staff and information technology; and

(E) the database used by the Administration for recording and reporting such accidents and incidents, including the ability of users to adequately search the database and find information.

(b) DEVELOPMENT OF ACTION PLAN.—Not later than 9 months after the date of enactment of this Act, the Secretary shall develop an action plan and timeline for improving the collection, analysis, reporting, and use of data by the Administration, including revising the database of the Administration, as appropriate.

(c) SUBMISSION TO CONGRESS.—Not later than 15 days after the completion of the action plan and timeline under subsection (c), the Secretary shall submit the action plan and timeline to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(d) REPORTING REQUIREMENTS.—Section 5125(b)(1)(D) is amended by inserting “and other hazardous materials transportation incident reporting to the 9-1-1 emergency system or involving State or local emergency responders in the initial response to the incident” before the period at the end.

**SEC. 33007. LOADING AND UNLOADING OF HAZARDOUS MATERIALS.**

(a) RULEMAKING.—Not later than 2 years after date of enactment of this Act, the Secretary, after consultation with the Department of Labor and the Environmental Protection Agency, as appropriate, and after providing notice and an opportunity for public comment shall prescribe regulations establishing uniform procedures among facilities for the safe loading and unloading of hazardous materials on and off tank cars and cargo tank trucks.

(b) INCLUSION.—The regulations prescribed under subsection (a) may include procedures for equipment inspection, personnel protection, and necessary safeguards.

(c) CONSIDERATION.—In prescribing regulations under subsection (a), the Secretary shall give due consideration to carrier rules

and procedures that produce an equivalent level of safety.

**SEC. 33008. HAZARDOUS MATERIAL TECHNICAL ASSESSMENT, RESEARCH AND DEVELOPMENT, AND ANALYSIS PROGRAM.**

(a) IN GENERAL.—Chapter 51 is amended by inserting after section 5117 the following:

**“§ 5118. Hazardous material technical assessment, research and development, and analysis program**

“(a) RISK REDUCTION.—

“(1) PROGRAM AUTHORIZED.—The Secretary of Transportation may develop and implement a hazardous material technical assessment, research and development, and analysis program for the purpose of—

“(A) reducing the risks associated with the transportation of hazardous material; and

“(B) identifying and evaluating new technologies to facilitate the safe, secure, and efficient transportation of hazardous material.

“(2) COORDINATION.—In developing the program under paragraph (1), the Secretary shall—

“(A) utilize information gathered from other modal administrations with similar programs; and

“(B) coordinate with other modal administrations, as appropriate.

“(b) COOPERATION.—In carrying out subsection (a), the Secretary may work cooperatively with regulated and other entities, including shippers, carriers, emergency responders, State and local officials, and academic institutions.”.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 51 is amended by inserting after the item relating to section 5117 the following:

“5118. Hazardous material technical assessment, research and development, and analysis program.”.

**SEC. 33009. HAZARDOUS MATERIAL ENFORCEMENT TRAINING PROGRAM.**

(a) IN GENERAL.—The Secretary shall establish a multimodal hazardous material enforcement training program for government hazardous materials inspectors and investigators—

(1) to develop uniform performance standards for training hazardous material inspectors and investigators; and

(2) to train hazardous material inspectors and investigators on—

(A) how to collect, analyze, and publish findings from inspections and investigations of accidents or incidents involving the transportation of hazardous material; and

(B) how to identify noncompliance with regulations issued under chapter 51 of title 49, United States Code, and take appropriate enforcement action.

(b) STANDARDS AND GUIDELINES.—Under the program established under this section, the Secretary may develop—

(1) guidelines for hazardous material inspector and investigator qualifications;

(2) best practices and standards for hazardous material inspector and investigator training programs; and

(3) standard protocols to coordinate investigation efforts among Federal, State, and local jurisdictions on accidents or incidents involving the transportation of hazardous material.

(c) AVAILABILITY.—The standards, protocols, and findings of the program established under this section—

(1) shall be mandatory for—

(A) the Department of Transportation’s multimodal personnel conducting hazardous material enforcement inspections or investigations; and

(B) State employees who conduct federally funded compliance reviews, inspections, or investigations; and

(2) shall be made available to Federal, State, and local hazardous materials safety enforcement personnel.

**SEC. 33010. INSPECTIONS.**

(a) NOTICE OF ENFORCEMENT MEASURES.—Section 5121(c)(1) is amended—

(1) in subparagraph (E), by striking “and” at the end;

(2) in subparagraph (F), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(G) shall provide to the affected offeror, carrier, packaging manufacturer or tester, or other person responsible for the package reasonable notice of—

“(i) his or her decision to exercise his or her authority under paragraph (1);

“(ii) any findings made; and

“(iii) any actions being taken as a result of a finding of noncompliance.”.

(b) REGULATIONS.—Section 5121(e) is amended by adding at the end the following:

“(3) MATTERS TO BE ADDRESSED.—The regulations issued under this subsection shall address—

“(A) the safe and expeditious resumption of transportation of perishable hazardous material, including radiopharmaceuticals and other medical products, that may require timely delivery due to life-threatening situations;

“(B) the means by which—

“(i) noncompliant packages that present an imminent hazard are placed out-of-service until the condition is corrected; and

“(ii) noncompliant packages that do not present a hazard are moved to their final destination;

“(C) appropriate training and equipment for inspectors; and

“(D) the proper closure of packaging in accordance with the hazardous material regulations.”.

(c) GRANTS AND COOPERATIVE AGREEMENTS.—Section 5121(g)(1) is amended by inserting “safety and” before “security”.

**SEC. 33011. CIVIL PENALTIES.**

Section 5123 is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking “\$50,000” and inserting “\$75,000”; and

(B) in paragraph (2), by striking “\$100,000” and inserting “\$175,000”; and

(2) by adding at the end the following:

“(h) PENALTY FOR OBSTRUCTION OF INSPECTIONS AND INVESTIGATIONS.—The Secretary may impose a penalty on a person who obstructs or prevents the Secretary from carrying out inspections or investigations under subsection (c) or (i) of section 5121.

“(i) PROHIBITION ON HAZARDOUS MATERIAL OPERATIONS AFTER NONPAYMENT OF PENALTIES.—

“(1) IN GENERAL.—Except as provided under paragraph (2), a person subject to the jurisdiction of the Secretary under this chapter who fails to pay a civil penalty assessed under this chapter, or fails to arrange and abide by an acceptable payment plan for such civil penalty, may not conduct any activity regulated under this chapter beginning on the 91st day after the date specified by order of the Secretary for payment of such penalty unless the person has filed a formal administrative or judicial appeal of the penalty.

“(2) EXCEPTION.—Paragraph (1) shall not apply to any person who is unable to pay a civil penalty because such person is a debtor in a case under chapter 11 of title 11.



“(3) RULEMAKING.—Not later than 2 years after the date of enactment of this subsection, the Secretary, after providing notice and an opportunity for public comment, shall issue regulations that—

“(A) set forth procedures to require a person who is delinquent in paying civil penalties to cease any activity regulated under this chapter until payment has been made or an acceptable payment plan has been arranged; and

“(B) ensures that the person described in subparagraph (A)—

“(i) is notified in writing; and

“(ii) is given an opportunity to respond before the person is required to cease the activity.”

#### SEC. 33012. REPORTING OF FEES.

Section 5125(f)(2) is amended by striking “, upon the Secretary’s request,” and inserting “biennially”.

#### SEC. 33013. SPECIAL PERMITS, APPROVALS, AND EXCLUSIONS.

(a) IN GENERAL.—Section 5117 is amended to read as follows:

##### “§ 5117. Special permits, approvals, and exclusions

“(a) AUTHORITY TO ISSUE SPECIAL PERMITS.—

“(1) CONDITIONS.—The Secretary of Transportation may issue, modify, or terminate a special permit implementing new technologies or authorizing a variance from a provision under this chapter or a regulation prescribed under section 5103(b), 5104, 5110, or 5112 to a person performing a function regulated by the Secretary under section 5103(b)(1) to achieve—

“(A) a safety level at least equal to the safety level required under this chapter; or

“(B) a safety level consistent with the public interest and this chapter, if a required safety level does not exist.

“(2) FINDINGS REQUIRED.—

“(A) IN GENERAL.—Before issuing, renewing, or modifying a special permit or granting party status to a special permit, the Secretary shall determine that the person is fit to conduct the activity authorized by such permit in a manner that achieves the level of safety required under paragraph (1).

“(B) CONSIDERATIONS.—In making the determination under subparagraph (A), the Secretary shall consider—

“(i) the person’s safety history (including prior compliance history);

“(ii) the person’s accident and incident history; and

“(iii) any other information the Secretary considers appropriate to make such a determination.

“(3) EFFECTIVE PERIOD.—A special permit issued under this section—

“(A) shall be for an initial period of not more than 2 years;

“(B) may be renewed by the Secretary upon application—

“(i) for successive periods of not more than 4 years each; or

“(ii) in the case of a special permit relating to section 5112, for an additional period of not more than 2 years.

“(b) APPLICATIONS.—

“(1) REQUIRED DOCUMENTATION.—When applying for a special permit or the renewal or modification of a special permit or requesting party status to a special permit under this section, the Secretary shall require the person to submit an application that contains—

“(A) a detailed description of the person’s request;

“(B) a listing of the person’s current facilities and addresses where the special permit will be utilized;

“(C) a safety analysis prescribed by the Secretary that justifies the special permit;

“(D) documentation to support the safety analysis;

“(E) a certification of safety fitness; and

“(F) proof of registration, as required under section 5108.

“(2) PUBLIC NOTICE.—The Secretary shall—

“(A) publish notice in the Federal Register that an application for a special permit has been filed; and

“(B) provide the public an opportunity to inspect and comment on the application.

“(3) SAVINGS CLAUSE.—This subsection does not require the release of information protected by law from public disclosure.

“(c) COORDINATE AND COMMUNICATE WITH MODAL CONTACT OFFICIALS.—

“(1) IN GENERAL.—In evaluating applications under subsection (b), and making the findings and determinations under subsections (a), (e), and (h), the Administrator of the Pipeline and Hazardous Materials Safety Administration shall consult, coordinate, or notify the modal contact official responsible for the specified mode of transportation that will be utilized under a special permit or approval before—

“(A) issuing, modifying, or renewing the special permit;

“(B) granting party status to the special permit; or

“(C) issuing or renewing the special permit or approval.

“(2) MODAL CONTACT OFFICIAL DEFINED.—In this section, the term ‘modal contact official’ means—

“(A) the Administrator of the Federal Aviation Administration;

“(B) the Administrator of the Federal Motor Carrier Safety;

“(C) the Administrator of the Federal Railroad Administration; and

“(D) the Commandant of the Coast Guard.

“(d) APPLICATIONS TO BE DEALT WITH PROMPTLY.—The Secretary shall—

“(1) issue, modify, renew, or grant party status to a special permit or approval for which a request was filed under this section, or deny the issuance, modification, renewal, or grant, on or before the last day of the 180-day period beginning on the first day of the month following the date of the filing of the request; or

“(2) publish a statement in the Federal Register that—

“(A) describes the reason for the delay of the Secretary’s decision on the special permit or approval; and

“(B) includes an estimate of the additional time necessary before the decision is made.

“(e) EMERGENCY PROCESSING OF SPECIAL PERMITS.—

“(1) FINDINGS REQUIRED.—The Secretary may not grant a request for emergency processing of a special permit unless the Secretary determines that—

“(A) a special permit is necessary for national security purposes;

“(B) processing on a routine basis under this section would result in significant injury to persons or property; or

“(C) a special permit is necessary to prevent significant economic loss or damage to the environment that could not be prevented if the application were processed on a routine basis.

“(2) WAIVER OF FITNESS TEST.—The Secretary may waive the requirement under subsection (a)(2) for a request for which the Secretary makes a determination under subparagraph (A) or (B) of paragraph (1).

“(3) NOTIFICATION.—Not later than 90 days after the date of issuance of a special permit under this subsection, the Secretary shall publish a notice in the Federal Register of the issuance that includes—

“(A) a statement of the basis for the finding of emergency; and

“(B) the scope and duration of the special permit.

“(4) EFFECTIVE PERIOD.—A special permit issued under this subsection shall be effective for a period not to exceed 180 days.

“(f) EXCLUSIONS.—

“(1) IN GENERAL.—The Secretary shall exclude, in any part, from this chapter and regulations prescribed under this chapter—

“(A) a public vessel (as defined in section 2101 of title 46);

“(B) a vessel exempted under section 3702 of title 46 or from chapter 37 of title 46; and

“(C) a vessel to the extent it is regulated under the Ports and Waterways Safety Act of 1972 (33 U.S.C. 1221, et seq.).

“(2) FIREARMS.—This chapter and regulations prescribed under this chapter do not prohibit—

“(A) or regulate transportation of a firearm (as defined in section 232 of title 18), or ammunition for a firearm, by an individual for personal use; or

“(B) transportation of a firearm or ammunition in commerce.

“(g) LIMITATION ON AUTHORITY.—Unless the Secretary decides that an emergency exists, a person subject to this chapter may only be granted a variance from this chapter through a special permit or renewal granted under this section.

“(h) APPROVALS.—

“(1) FINDINGS REQUIRED.—

“(A) IN GENERAL.—The Secretary may not issue an approval or grant the renewal of an approval pursuant to part 107 of title 49, Code of Federal Regulations until the Secretary has determined that the person is fit, willing, and able to conduct the activity authorized by the approval in a manner that achieves the level of safety required under subsection (a)(1).

“(B) CONSIDERATIONS.—In making a determination under subparagraph (A), the Secretary shall consider—

“(i) the person’s safety history (including prior compliance history);

“(ii) the person’s accident and incident history; and

“(iii) any other information the Secretary considers appropriate to make such a determination.

“(2) REQUIRED DOCUMENTATION.—When applying for an approval or renewal or modification of an approval under this section, the Secretary shall require the person to submit an application that contains—

“(A) a detailed description of the person’s request;

“(B) a listing of the persons current facilities and addresses where the approval will be utilized;

“(C) a safety analysis prescribed by the Secretary that justifies the approval;

“(D) documentation to support the safety analysis;

“(E) a certification of safety fitness; and

“(F) the verification of registration required under section 5108.

“(3) SAVINGS PROVISION.—Nothing in this subsection may be construed to require the release of information protected by law from public disclosure.

“(i) NONCOMPLIANCE.—The Secretary may modify, suspend, or terminate a special permit or approval if the Secretary determines that—

“(1) the person who was granted the special permit or approval has violated the special permit or approval or the regulations issued under this chapter in a manner that demonstrates that the person is not fit to conduct the activity authorized by the special permit or approval; or

“(2) the special permit or approval is unsafe.

“(j) RULEMAKING.—Not later than 2 years after the date of enactment of the Hazardous Materials Transportation Safety Improvement Act of 2012, the Secretary, after providing notice and an opportunity for public comment, shall issue regulations that establish—

“(1) standard operating procedures to support administration of the special permit and approval programs; and

“(2) objective criteria to support the evaluation of special permit and approval applications.

“(k) ANNUAL REVIEW OF CERTAIN SPECIAL PERMITS.—

“(1) REVIEW.—The Secretary shall conduct an annual review and analysis of special permits—

“(A) to identify consistently used and longstanding special permits with an established safety record; and

“(B) to determine whether such permits may be converted into the hazardous materials regulations.

“(2) FACTORS.—In conducting the review and analysis under paragraph (1), the Secretary may consider—

“(A) the safety record for hazardous materials transported under the special permit;

“(B) the application of a special permit;

“(C) the suitability of provisions in the special permit for incorporation into the hazardous materials regulations; and

“(D) rulemaking activity in related areas.

“(3) RULEMAKING.—After completing the review and analysis under paragraph (1) and providing notice and opportunity for public comment, the Secretary shall issue regulations, as needed.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 51 is amended by striking the item relating to section 5117 and inserting the following:

“5117. Special permits, approvals, and exclusions.”.

#### SEC. 33014. HIGHWAY ROUTING DISCLOSURES.

(a) LIST OF ROUTE DESIGNATIONS.—Section 5112(c) is amended—

(1) by striking “In coordination” and inserting the following:

“(1) IN GENERAL.—In coordination”; and

(2) by adding at the end the following:

“(2) STATE RESPONSIBILITIES.—

“(A) IN GENERAL.—Each State shall submit to the Secretary, in a form and manner to be determined by the Secretary and in accordance with subparagraph (B)—

“(i) the name of the State agency responsible for hazardous material highway route designations; and

“(ii) a list of the State’s currently effective hazardous material highway route designations.

“(B) FREQUENCY.—Each State shall submit the information described in subparagraph (A)(ii)—

“(i) at least once every 2 years; and

“(ii) not later than 60 days after a hazardous material highway route designation is established, amended, or discontinued.”.

(b) COMPLIANCE WITH SECTION 5112.—Section 5125(c)(1) is amended by inserting “, and is published in the Department’s hazardous materials route registry under section 5112(c)” before the period at the end.

#### SEC. 33015. AUTHORIZATION OF APPROPRIATIONS.

Section 5128 is amended to read as follows:

##### “§ 5128. Authorization of appropriations

“(a) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out this chapter (except sections 5107(e), 5108(g)(2), 5113, 5115, 5116, and 5119)—

“(1) \$42,338,000 for fiscal year 2012; and

“(2) \$42,762,000 for fiscal year 2013.

“(b) HAZARDOUS MATERIALS EMERGENCY PREPAREDNESS FUND.—From the Hazardous Materials Emergency Preparedness Fund established under section 5116(i), the Secretary may expend, during each of fiscal years 2012 and 2013—

“(1) \$188,000 to carry out section 5115;

“(2) \$21,800,000 to carry out subsections (a) and (b) of section 5116, of which not less than \$13,650,000 shall be available to carry out section 5116(b);

“(3) \$150,000 to carry out section 5116(f);

“(4) \$625,000 to publish and distribute the Emergency Response Guidebook under section 5116(i)(3); and

“(5) \$1,000,000 to carry out section 5116(j).

“(c) HAZARDOUS MATERIALS TRAINING GRANTS.—From the Hazardous Materials Emergency Preparedness Fund established pursuant to section 5116(i), the Secretary may expend \$4,000,000 for each of the fiscal years 2012 and 2013 to carry out section 5107(e).

“(d) CREDITS TO APPROPRIATIONS.—

“(1) EXPENSES.—In addition to amounts otherwise made available to carry out this chapter, the Secretary may credit amounts received from a State, Indian tribe, or other public authority or private entity for expenses the Secretary incurs in providing training to the State, authority, or entity.

“(2) AVAILABILITY OF AMOUNTS.—Amounts made available under this section shall remain available until expended.”.

#### TITLE IV—RESEARCH AND INNOVATIVE TECHNOLOGY ADMINISTRATION REAUTHORIZATION ACT OF 2012

##### SEC. 34001. SHORT TITLE.

This title may be cited as the “Research and Innovative Technology Administration Reauthorization Act of 2012”.

##### SEC. 34002. NATIONAL COOPERATIVE FREIGHT RESEARCH PROGRAM.

Section 509(d) of title 23, United States Code, is amended by adding at the end the following:

“(6) COORDINATION OF COOPERATIVE RESEARCH.—The National Academy of Sciences shall coordinate research agendas, research project selections, and competitions across all transportation-related cooperative research programs conducted by the National Academy of Sciences to ensure program efficiency, effectiveness, and sharing of research findings.”.

##### SEC. 34003. MULTIMODAL INNOVATIVE RESEARCH PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 55 of title 49, United States Code, is amended by adding at the end the following:

##### “§ 5507. Multimodal Innovative Research Program

“(a) ESTABLISHMENT.—The Secretary of Transportation shall establish a Multimodal Innovative Research Program (referred to in this section as the ‘Program’) in the Research and Innovative Technology Administration.

“(b) PURPOSE.—The Program shall support—

“(1) national transportation policy, objectives, and goals by applying state-of-the-art advanced technology solutions to multimodal transportation issues; and

“(2) key partnerships throughout the Department of Transportation and with other Federal agencies to fully leverage their investments in transportation research and technology developments to address transportation problems at modal interfaces or affecting more than 1 transportation mode.

“(c) CONTENT.—The Program shall—

“(1) address issues affecting—

“(A) policy;

“(B) cross-modal concerns, such as efficient and intermodal goods and passenger movements;

“(C) the development of advanced vehicle technologies;

“(D) the application of existing technologies; and

“(E) the integration of multimodal real-time transportation information systems;

“(2) competitively award contracts or cooperative agreements for advanced multimodal transportation research to facilitate practical innovative approaches to solve transportation problems related to attaining—

“(A) the strategic goals of the Department of Transportation; and

“(B) multimodal elements of the Transportation Research and Development Strategic Plan required under section 508 of title 23;

“(3) demonstrate transportation system applications of advanced transportation technologies, methodologies, policies, and decisions;

“(4) disseminate best practices in planning, operations, design, and maintenance of transportation and related systems; and

“(5) provide technology identification, modification, and dissemination through outreach to other Federal agencies, State and local transportation agencies, and other public, private, and academic stakeholders in the industry.

“(d) COORDINATION.—The Secretary of Transportation shall coordinate activities under this section with other Federal agencies, as appropriate.

“(e) FUNDING.—

“(1) IN GENERAL.—Of the amounts appropriated pursuant to section 34011 of the Research and Innovative Technology Administration Reauthorization Act of 2012, \$20,000,000 shall be made available for each of the fiscal year 2012 and 2013 to establish and maintain the Multimodal Innovative Research Program.

“(2) MANAGEMENT AND OVERSIGHT.—During each of the fiscal years 2012 and 2013, the Secretary of Transportation may not expend more than 1.5 percent of the amounts made available under paragraph (1) to carry out management and oversight of the Multimodal Innovative Research Program.”.

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 55 of title 49, United States Code, is amended by inserting after the item relating to section 5506 the following:

“5507. Multimodal Innovative Research Program.”.

##### SEC. 34004. BUREAU OF TRANSPORTATION STATISTICS.

(a) IN GENERAL.—Subtitle III of title 49, United States Code, is amended by adding at the end the following:

##### “CHAPTER 63—BUREAU OF TRANSPORTATION STATISTICS

“SUBCHAPTER I—BUREAU OF TRANSPORTATION STATISTICS

“Sec.

“6301. Establishment.

“6302. Director.

“6303. Responsibilities.

- "6304. National Transportation Library.
- "6305. Advisory Council on Transportation Statistics.
- "6306. Transportation statistical collection, analysis, and dissemination.
- "6307. Furnishing information, data, or reports by Federal agencies.
- "6308. Prohibition on certain disclosures.
- "6309. Data access.
- "6310. Proceeds of data product sales.
- "6311. Information collection.
- "6312. National transportation atlas database.
- "6313. Limitations on statutory construction.
- "6314. Research and development grants.
- "6315. Transportation statistics annual report.
- "6316. Mandatory response authority for data collections.

#### "SUBCHAPTER I—BUREAU OF TRANSPORTATION STATISTICS

##### "§ 6301. Establishment

"There is established, in the Research and Innovative Technology Administration, a Bureau of Transportation Statistics (referred to in this subchapter as the 'Bureau').

##### "§ 6302. Director

"(a) APPOINTMENT.—The Bureau shall be headed by a Director, who shall be appointed in the competitive service by the Secretary of Transportation.

"(b) QUALIFICATIONS.—The Director shall be appointed from among individuals who are qualified to serve as the Director by virtue of their training and experience in the collection, analysis, and use of transportation statistics.

##### "§ 6303. Responsibilities

"(a) DUTIES OF THE DIRECTOR.—The Director, who shall serve as the Secretary of Transportation's senior advisor on data and statistics, shall be responsible for carrying out the following duties:

"(1) Ensuring that the statistics compiled under paragraph (6) are designed to support transportation decisionmaking by the Federal Government, State and local governments, metropolitan planning organizations, transportation-related associations, the private sector (including the freight community), and the public.

"(2) Establishing a program, on behalf of the Secretary—

"(A) to effectively integrate safety data across modes; and

"(B) to address gaps in existing safety data programs of the Department of Transportation.

"(3) Working with the operating administrations of the Department of Transportation—

"(A) to establish and implement the Bureau's data programs; and

"(B) to improve the coordination of information collection efforts with other Federal agencies.

"(4) Continually improving surveys and data collection methods to improve the accuracy and utility of transportation statistics.

"(5) Encouraging the standardization of data, data collection methods, and data management and storage technologies for data collected by the Bureau, the operating administrations of the Department of Transportation, States, local governments, metropolitan planning organizations, and private sector entities.

"(6) Collecting, compiling, analyzing, and publishing a comprehensive set of transportation statistics on the performance and impacts of the national transportation system, including statistics on—

"(A) transportation safety across all modes and intermodally;

"(B) the state of good repair of United States transportation infrastructure.

"(C) the extent, connectivity, and condition of the transportation system, building on the national transportation atlas database developed under section 6312;

"(D) economic efficiency throughout the entire transportation sector;

"(E) the effects of the transportation system on global and domestic economic competitiveness;

"(F) demographic, economic, and other variables influencing travel behavior, including choice of transportation mode and goods movement;

"(G) transportation-related variables that influence the domestic economy and global competitiveness;

"(H) the economic costs and impacts for passenger travel and freight movement;

"(I) intermodal and multimodal passenger movement;

"(J) intermodal and multimodal freight movement; and

"(K) the consequences of transportation for the human and natural environment, sustainable transportation, and livable communities.

"(7) Building and disseminating the transportation layer of the National Spatial Data Infrastructure developed under Executive Order 12906, including—

"(A) coordinating the development of transportation geospatial data standards;

"(B) compiling intermodal geospatial data; and

"(C) collecting geospatial data that is not being collected by others.

"(8) Issuing guidelines for the collection of information by the Department of Transportation that is required for transportation statistics, modeling, economic assessment, and program assessment in order to ensure that such information is accurate, reliable, relevant, uniform and in a form that permits systematic analysis by the Department.

"(9) Reviewing and reporting to the Secretary of Transportation on the sources and reliability of—

"(A) the statistics proposed by the heads of the operating administrations of the Department of Transportation to measure outputs and outcomes, as required by the Government Performance and Results Act of 1993 (Public Law 103-62; 107 Stat. 285); and

"(B) other data collected or statistical information published by the heads of the operating administrations of the Department.

"(10) Making the statistics published under this subsection readily accessible to the public, consistent with applicable security constraints and confidentiality interests.

"(b) ACCESS TO FEDERAL DATA.—In carrying out subsection (a)(2), the Director shall be provided access to—

"(1) all safety data held by any agency of the Department; and

"(2) all safety data held by any other Federal Government agency that is germane to carrying out subsection (a), upon written request and subject to any statutory or regulatory restrictions.

"(c) INTERMODAL TRANSPORTATION DATABASE.—

"(1) IN GENERAL.—In consultation with the Under Secretary for Policy, the Assistant Secretaries, and the heads of the operating administrations of the Department of Transportation, the Director shall establish and maintain a transportation database for all modes of transportation.

"(2) USE OF DATABASE.—The database established under this subsection shall be suit-

able for analyses carried out by the Federal Government, the States, and metropolitan planning organizations.

"(3) CONTENTS.—The database established under this section shall include—

"(A) information on the volumes and patterns of movement, including local, inter-regional, and international movement—

"(i) of goods by all modes of transportation and intermodal combinations, and by relevant classification; and

"(ii) of people by all modes of transportation (including bicycle and pedestrian modes) and intermodal combinations, and by relevant classification;

"(B) information on the location and connectivity of transportation facilities and services; and

"(C) a national accounting of expenditures and capital stocks on each mode of transportation and intermodal combination.

##### "§ 6304. National Transportation Library

"(a) PURPOSE AND ESTABLISHMENT.—There is established, in the Bureau, a National Transportation Library (referred to in this section as the 'Library'), which shall—

"(1) support the information management and decisionmaking needs of transportation at Federal, State, and local levels;

"(2) be headed by an individual who is highly qualified in library and information science;

"(3) acquire, preserve, and manage transportation information and information products and services for use of the Department of Transportation, other Federal agencies, and the general public;

"(4) provide reference and research assistance;

"(5) serve as a central depository for research results and technical publications of the Department of Transportation;

"(6) provide a central clearinghouse for transportation data and information in the Federal Government;

"(7) serve as coordinator and policy lead for transportation information access;

"(8) provide transportation information and information products and services to the Department of Transportation, other agencies of the Federal Government, public and private organizations, and individuals, within the United States and internationally;

"(9) coordinate efforts among, and cooperate with, transportation libraries, information providers, and technical assistance centers, in conjunction with private industry and other transportation library and information centers, toward the development of a comprehensive transportation information and knowledge network supporting activities described in subparagraphs (A) through (K) of section 6303(a)(6); and

"(10) engage in such other activities as the Director determines appropriate and as the Library's resources permit.

"(b) ACCESS.—The Director shall publicize, facilitate, and promote access to the information products and services described in subsection (a) to improve—

"(1) the ability of the transportation community to share information; and

"(2) the ability of the Director to make statistics and other information readily accessible under section 6303(a)(10).

"(c) AGREEMENTS.—

"(1) IN GENERAL.—The Director may enter into agreements with, award grants to, and receive funds from any State and other political subdivision, organization, business, or individual for the purpose of conducting activities under this section.

“(2) **CONTRACTS, GRANTS, AND AGREEMENTS.**—The Library may initiate and support specific information and data management, access, and exchange activities in connection with matters relating to Department of Transportation’s strategic goals, knowledge networking, and national and international cooperation by entering into contracts or awarding grants for the conduct of such activities.

“(3) **FUNDS.**—Amounts received under this subsection for payments for library products and services or other activities shall—

“(A) be deposited in the Research and Innovative Technology Administration’s general fund account; and

“(B) remain available to the Library until expended.

**“§ 6305. Advisory Council on Transportation Statistics**

“(a) **IN GENERAL.**—The Director shall maintain an Advisory Council on Transportation Statistics (referred to in this section as the ‘Advisory Council’).

“(b) **FUNCTION.**—The Advisory Council shall advise the Director on—

“(1) the quality, reliability, consistency, objectivity, and relevance of transportation statistics and analyses collected, supported, or disseminated by the Bureau and the Department of Transportation; and

“(2) methods to encourage cooperation and interoperability of transportation data collected by the Bureau, the operating administrations of the Department, States, local governments, metropolitan planning organizations, and private sector entities.

“(c) **MEMBERSHIP.**—

“(1) **IN GENERAL.**—The Advisory Council shall be composed of not fewer than 9 members and not more than 11 members, who shall be appointed by the Director.

“(2) **SELECTION.**—In selecting members for the Advisory Council, the Director shall appoint individuals who—

“(A) are not officers or employees of the United States;

“(B) possess expertise in—

“(i) transportation data collection, analysis, or application;

“(ii) economics; or

“(iii) transportation safety; and

“(C) represent a cross section of transportation stakeholders, to the greatest extent possible.

“(3) **TERMS OF APPOINTMENT.**—

“(A) **IN GENERAL.**—Except as provided in subparagraph (B), members of the Advisory Council—

“(i) shall be appointed to staggered terms not to exceed 3 years; and

“(ii) may be renominated for 1 additional 3-year term.

“(B) **CURRENT MEMBERS.**—Members serving on the Advisory Council as of the date of enactment of the Research and Innovative Technology Administration Reauthorization Act of 2012 shall serve until the end of their appointed terms.

“(d) **APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.**—The Federal Advisory Committee Act (except for section 14 of such Act) shall apply to the Advisory Council.

**“§ 6306. Transportation statistical collection, analysis, and dissemination**

“To ensure that all transportation statistical collection, analysis, and dissemination is carried out in a coordinated manner, the Director may—

“(1) utilize, with their consent, the services, equipment, records, personnel, information, and facilities of other Federal, State, local, and private agencies and instrumen-

talities with or without reimbursement for such utilization;

“(2) enter into agreements with agencies and instrumentalities referred to in paragraph (1) for purposes of data collection and analysis;

“(3) confer and cooperate with foreign governments, international organizations, States, municipalities, and other local agencies;

“(4) request such information, data, and reports from any Federal agency as may be required to carry out the purposes of this section;

“(5) encourage replication, coordination, and sharing among transportation agencies regarding information systems, information policy, and data; and

“(6) confer and cooperate with Federal statistical agencies as needed to carry out the purposes of this section, including by entering into cooperative data sharing agreements in conformity with all laws and regulations applicable to the disclosure and use of data.

**“§ 6307. Furnishing information, data, or reports by Federal agencies**

“Federal agencies requested to furnish information, data, or reports under section 6303(b) shall provide such information to the Bureau as is required to carry out the purposes of this section.

**“§ 6308. Prohibition on certain disclosures**

“(a) **IN GENERAL.**—An officer, employee, or contractor of the Bureau may not—

“(1) make any disclosure in which the data provided by an individual or organization under section 6303 can be identified;

“(2) use the information provided under section 6303 for a nonstatistical purpose; or

“(3) permit anyone other than an individual authorized by the Director to examine any individual report provided under section 6303.

“(b) **COPIES OF REPORTS.**—

“(1) **IN GENERAL.**—A department, bureau, agency, officer, or employee of the United States (except the Director in carrying out this section) may not require, for any reason, a copy of any report that has been filed under section 6303 with the Bureau or retained by an individual respondent.

“(2) **LIMITATION ON JUDICIAL PROCEEDINGS.**—A copy of a report described in paragraph (1) that has been retained by an individual respondent or filed with the Bureau or any of its employees, contractors, or agents—

“(A) shall be immune from legal process; and

“(B) may not, without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceedings.

“(3) **APPLICABILITY.**—This subsection shall only apply to reports that permit information concerning an individual or organization to be reasonably determined by direct or indirect means.

“(c) **INFORMING RESPONDENT OF USE OF DATA.**—If the Bureau is authorized by statute to collect data or information for a nonstatistical purpose, the Director shall clearly distinguish the collection of such data or information, by rule and on the collection instrument, to inform a respondent who is requested or required to supply the data or information of the nonstatistical purpose.

**“§ 6309. Data access**

“The Director shall be provided access to transportation and transportation-related information in the possession of any Federal agency, except—

“(1) information that is expressly prohibited by law from being disclosed to another Federal agency; or

“(2) information that the agency possessing the information determines could not be disclosed without significantly impairing the discharge of authorities and responsibilities which have been delegated to, or vested by law, in such agency.

**“§ 6310. Proceeds of data product sales**

“Notwithstanding section 3302 of title 31, amounts received by the Bureau from the sale of data products, for necessary expenses incurred, may be credited to the Highway Trust Fund (other than the Mass Transit Account) for the purpose of reimbursing the Bureau for such expenses.

**“§ 6311. Information collection**

“As the head of an independent Federal statistical agency, the Director may consult directly with the Office of Management and Budget concerning any survey, questionnaire, or interview that the Director considers necessary to carry out the statistical responsibilities under this subchapter.

**“§ 6312. National transportation atlas database**

“(a) **IN GENERAL.**—The Director shall develop and maintain a national transportation atlas database that is comprised of geospatial databases that depict—

“(1) transportation networks;

“(2) flows of people, goods, vehicles, and craft over the networks; and

“(3) social, economic, and environmental conditions that affect, or are affected by, the networks.

“(b) **INTERMODAL NETWORK ANALYSIS.**—The databases developed under subsection (a) shall be capable of supporting intermodal network analysis.

**“§ 6313. Limitations on statutory construction**

“Nothing in this subchapter may be construed—

“(1) to authorize the Bureau to require any other department or agency to collect data; or

“(2) to reduce the authority of any other officer of the Department to independently collect and disseminate data.

**“§ 6314. Research and development grants**

“The Secretary may award grants to, or enter into cooperative agreements or contracts with, public and nonprofit private entities (including State transportation departments, metropolitan planning organizations, and institutions of higher education) for—

“(1) investigation of the subjects specified in section 6303 and research and development of new methods of data collection, standardization, management, integration, dissemination, interpretation, and analysis;

“(2) demonstration programs by States, local governments, and metropolitan planning organizations to coordinate data collection, reporting, management, storage, and archiving to simplify data comparisons across jurisdictions;

“(3) development of electronic clearinghouses of transportation data and related information, as part of the National Transportation Library under section 6304; and

“(4) development and improvement of methods for sharing geographic data, in support of the database under section 6303 and the National Spatial Data Infrastructure.

**“§ 6315. Transportation statistics annual report**

“The Director shall submit to the President and Congress a transportation statistics annual report, which shall include—

“(1) information on items referred to in section 6303(a)(6);

“(2) documentation of methods used to obtain and ensure the quality of the statistics presented in the report; and

“(3) recommendations for improving transportation statistical information.

**“§ 6316. Mandatory response authority for data collections**

“Any individual who, as the owner, official, agent, person in charge, or assistant to the person in charge of any corporation, company, business, institution, establishment, organization of any nature or the member of a household, neglects or refuses, after requested by the Director or other authorized officer, employee, or contractor of the Bureau, to answer completely and correctly to the best of the individual’s knowledge all questions relating to the corporation, company, business, institution, establishment, or other organization or household, or to make available records or statistics in the individual’s official custody, contained in a data collection request prepared and submitted under section 6303(a)—

“(1) shall be fined not more than \$500, except as provided under paragraph (2); and

“(2) if the individual willfully gives a false answer to such a question, shall be fined not more than \$10,000.”.

(b) **RULES OF CONSTRUCTION.**—In transferring the provisions under section 111 of title 49, United States Code, to chapter 63 of title 49, as added by subsection (a), the following rules of construction shall apply:

(1) For purposes of determining whether 1 provision of law supersedes another based on enactment later in time, a provision under chapter 63 of title 49, United States Code, is deemed to have been enacted on the date of the enactment of the corresponding provision under section 111 of such title.

(2) A reference to a provision under such chapter 65 is deemed to refer to the corresponding provision under such section 111.

(3) A reference to a provision under such section 111, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision under such chapter 65.

(4) A regulation, order, or other administrative action authorized by a provision under such section 111 continues to be authorized by the corresponding provision under such chapter 65.

(5) An action taken or an offense committed under a provision of section 111 is deemed to have been taken or committed under the corresponding provision of chapter 65.

**(c) CONFORMING AMENDMENTS.**—

(1) **REPEAL.**—Chapter 1 of title 49, United States Code, is amended—

(A) by repealing section 111; and

(B) by striking the item relating to section 111 in the chapter analysis.

(2) **ANALYSIS OF SUBTITLE III.**—The table of chapters for subtitle III of title 49, United States Code, is amended by inserting after the item for chapter 61 the following:

“63. Bureau of Transportation Statistics . . . 6301”.

**SEC. 34005. 5.9 GHZ VEHICLE-TO-VEHICLE AND VEHICLE-TO-INFRASTRUCTURE COMMUNICATIONS SYSTEMS DEPLOYMENT.**

(a) **IN GENERAL.**—Subchapter I of chapter 55 of title 49, United States Code, as amended by section 34003, is further amended by adding at the end the following:

**“§ 5508. GHz vehicle-to-vehicle and vehicle-to-infrastructure communications systems deployment**

“(a) **IN GENERAL.**—Not later than 3 years after the date of enactment of this section, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Energy and Commerce of the House of Representatives that—

“(1) defines a recommended implementation path for Dedicated Short Range Communications (DSRC) technology and applications; and

“(2) includes guidance concerning the relationship of the proposed DSRC deployment to Intelligent Transportation System National Architecture and Standards.

“(b) **REPORT REVIEW.**—The Secretary shall enter into an agreement for the review of the report submitted under subsection (a) by an independent third party with subject matter expertise.”.

(b) **CONFORMING AMENDMENT.**—The analysis of chapter 55 of title 49, United States Code, is amended by inserting after the item relating to section 5507, as added by section 34003, the following:

“5508. 5.9 GHz vehicle-to-vehicle and vehicle-to-infrastructure communications systems deployment.”.

**SEC. 34006. ADMINISTRATIVE AUTHORITY.**

Section 112 of title 49, United States Code, is amended by inserting after subsection (e) the following:

“(f) **PROGRAM EVALUATION AND OVERSIGHT.**—The Administrator is authorized to expend not more than 1.5 percent of the amounts authorized to be appropriated for each of the fiscal years 2012 and 2013, for necessary expenses for administration and operations of the Research and Innovative Technology Administration for the coordination, evaluation, and oversight of the programs administered by the Administration.

“(g) **COLLABORATIVE RESEARCH AND DEVELOPMENT.**—

“(1) **IN GENERAL.**—To encourage innovative solutions to multimodal transportation problems and stimulate the deployment of new technology, the Administrator may carry out, on a cost-shared basis, collaborative research and development with—

“(A) non-Federal entities, including State and local governments, foreign governments, colleges and universities, corporations, institutions, partnerships, sole proprietorships, and trade associations that are incorporated or established under the laws of any State;

“(B) Federal laboratories; and

“(C) other Federal agencies.

“(2) **COOPERATION, GRANTS, CONTRACTS, AND AGREEMENTS.**—Notwithstanding any other provision of law, the Administrator may directly initiate contracts, grants, other transactions, and cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)) to fund, and accept funds from, the Transportation Research Board of the National Research Council of the National Academy of Sciences, State departments of transportation, cities, counties, universities, associations, and the agents of such entities to conduct joint transportation research and technology efforts.

“(3) **FEDERAL SHARE.**—

“(A) **IN GENERAL.**—The Federal share of the cost of activities carried out under a cooperative research and development agreement entered into under this subsection may not

exceed 50 percent unless the Secretary approves a greater Federal share due to substantial public interest or benefit.

“(B) **NON-FEDERAL SHARE.**—All costs directly incurred by the non-Federal partners, including personnel, travel, facility, and hardware development costs, shall be credited toward the non-Federal share of the cost of the activities described in subparagraph (A).

“(4) **USE OF TECHNOLOGY.**—The research, development, or use of a technology under a cooperative research and development agreement entered into under this subsection, including the terms under which the technology may be licensed and the resulting royalties may be distributed, shall be subject to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

“(5) **WAIVER OF ADVERTISING REQUIREMENTS.**—Section 3709 of the Revised Statutes (41 U.S.C. 5) shall not apply to a contract, grant, or other agreement entered into under this chapter.”.

**SEC. 34007. PRIZE AUTHORITY.**

(a) **IN GENERAL.**—Chapter 3 of title 49, United States Code, is amended by inserting before section 336 the following:

**“SEC. 335. PRIZE AUTHORITY.**

“(a) **IN GENERAL.**—The Secretary of Transportation may carry out a program, in accordance with this section, to competitively award cash prizes to stimulate innovation in basic and applied research, technology development, and prototype demonstration that have the potential for application to the national transportation system.

“(b) **TOPICS.**—In selecting topics for prize competitions under this section, the Secretary shall—

“(1) consult with a wide variety of Government and nongovernment representatives; and

“(2) give consideration to prize goals that demonstrate innovative approaches and strategies to improve the safety, efficiency, and sustainability of the national transportation system.

“(c) **ADVERTISING.**—The Secretary shall encourage participation in the prize competitions through extensive advertising.

“(d) **REQUIREMENTS AND REGISTRATION.**—For each prize competition, the Secretary shall publish a notice on a public website that describes—

“(1) the subject of the competition;

“(2) the eligibility rules for participation in the competition;

“(3) the amount of the prize; and

“(4) the basis on which a winner will be selected.

“(e) **ELIGIBILITY.**—An individual or entity may not receive a prize under this section unless the individual or entity—

“(1) has registered to participate in the competition pursuant to any rules promulgated by the Secretary under this section;

“(2) has complied with all the requirements under this section;

“(3)(A) in the case of a private entity, is incorporated in, and maintains a primary place of business in, the United States; or

“(B) in the case of an individual, whether participating singly or in a group, is a citizen or permanent resident of the United States; and

“(4) is not a Federal entity or Federal employee acting within the scope of his or her employment.

“(f) **LIABILITY.**—

“(1) **ASSUMPTION OF RISK.**—

“(A) **IN GENERAL.**—A registered participant shall agree to assume any and all risks and waive claims against the Federal Government and its related entities, except in the

case of willful misconduct, for any injury, death, damage, or loss of property, revenue, or profits, whether direct, indirect, or consequential, arising from participation in a competition, whether such injury, death, damage, or loss arises through negligence or otherwise.

“(B) RELATED ENTITY.—In this paragraph, the term ‘related entity’ means a contractor, subcontractor (at any tier), supplier, user, customer, cooperating party, grantee, investigator, or detailee.

“(2) FINANCIAL RESPONSIBILITY.—A participant shall obtain liability insurance or demonstrate financial responsibility, in amounts determined by the Secretary, for claims by—

“(A) a third party for death, bodily injury, or property damage, or loss resulting from an activity carried out in connection with participation in a competition, with the Federal Government named as an additional insured under the registered participant’s insurance policy and registered participants agreeing to indemnify the Federal Government against third party claims for damages arising from or related to competition activities; and

“(B) the Federal Government for damage or loss to Government property resulting from such an activity.

“(g) JUDGES.—

“(1) SELECTION.—For each prize competition, the Secretary, either directly or through an agreement under subsection (h), shall assemble a panel of qualified judges to select the winner or winners of the prize competition on the basis described in subsection (d). Judges for each competition shall include individuals from outside the Administration, including the private sector.

“(2) LIMITATIONS.—A judge selected under this subsection may not—

“(A) have personal or financial interests in, or be an employee, officer, director, or agent of, any entity that is a registered participant in a prize competition under this section; or

“(B) have a familial or financial relationship with an individual who is a registered participant.

“(h) ADMINISTERING THE COMPETITION.—The Secretary may enter into an agreement with a private, nonprofit entity to administer the prize competition, subject to the provisions of this section.

“(i) FUNDING.—

“(1) PRIVATE SECTOR FUNDING.—A cash prize under this section may consist of funds appropriated by the Federal Government and funds provided by the private sector. The Secretary may accept funds from other Federal agencies, State and local governments, and metropolitan planning organizations for the cash prizes. The Secretary may not give any special consideration to any private sector entity in return for a donation under this paragraph.

“(2) AVAILABILITY OF FUNDS.—Notwithstanding any other provision of law, amounts appropriated for prize awards under this section—

“(A) shall remain available until expended; and

“(B) may not be transferred, reprogrammed, or expended for other purposes until after the expiration of the 10-year period beginning on the last day of the fiscal year for which the funds were originally appropriated.

“(3) SAVINGS PROVISION.—Nothing in this subsection may be construed to permit the obligation or payment of funds in violation of the Anti-Deficiency Act (31 U.S.C. 1341).

“(4) PRIZE ANNOUNCEMENT.—A prize may not be announced under this section until all

the funds needed to pay out the announced amount of the prize have been appropriated or committed in writing by a private source.

“(5) PRIZE INCREASES.—The Secretary may increase the amount of a prize after the initial announcement of the prize under this section if—

“(A) notice of the increase is provided in the same manner as the initial notice of the prize; and

“(B) the funds needed to pay out the announced amount of the increase have been appropriated or committed in writing by a private source.

“(6) CONGRESSIONAL NOTIFICATION.—A prize competition under this section may offer a prize in an amount greater than \$1,000,000 only after 30 days have elapsed after written notice has been transmitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives.

“(7) AWARD LIMIT.—A prize competition under this section may not result in the award of more than \$25,000 in cash prizes without the approval of the Secretary.

“(j) USE OF DEPARTMENT NAME AND INSIGNIA.—A registered participant in a prize competition under this section may use the Department’s name, initials, or insignia only after prior review and written approval by the Secretary.

“(k) COMPLIANCE WITH EXISTING LAW.—The Federal Government shall not, by virtue of offering or providing a prize under this section, be responsible for compliance by registered participants in a prize competition with Federal law, including licensing, export control, and non-proliferation laws, and related regulations.”.

(b) CONFORMING AMENDMENT.—The analysis of chapter 3 of title 49, United States Code, is amended by inserting before the item relating to section 336 the following:

“335. Prize authority.”.

#### SEC. 34008. TRANSPORTATION RESEARCH AND DEVELOPMENT.

Section 508(a) of title 23, United States Code, is amended—

(1) in paragraph (1), by striking “SAFETEA-LU” and inserting “Research and Innovative Technology Administration Reauthorization Act of 2012”; and

(2) by amending paragraph (2)(A) to read as follows:

“(A) describe the primary purposes of the transportation research and development program, which shall include—

“(i) promoting safety;

“(ii) reducing congestion and improving mobility;

“(iii) promoting security;

“(iv) protecting and enhancing the environment;

“(v) preserving the existing transportation system; and

“(vi) improving transportation infrastructure, in coordination with Department of Transportation strategic goals and planning efforts.”.

#### SEC. 34009. USE OF FUNDS FOR INTELLIGENT TRANSPORTATION SYSTEMS ACTIVITIES.

Section 513 of title 23, United States Code, is amended to read as follows:

##### “§ 513. Use of funds for ITS activities

“(a) IN GENERAL.—The Secretary may use not more than \$500,000 of the amounts made available to the Department for each fiscal year to carry out the Intelligent Transportation Systems Program (referred to in this section as ‘ITS’) on intelligent transportation system outreach, websites, public relations, displays, tours, and brochures.

“(b) PURPOSE.—Amounts authorized for use under subsection (a) are intended to develop, administer, communicate, and promote the use of products of research, technology, and technology transfer programs under this section.

“(c) ITS DEPLOYMENT INCENTIVES.—

“(1) IN GENERAL.—The Secretary may develop and implement incentives to accelerate the deployment of ITS technologies and services within all programs receiving amounts appropriated pursuant to section 34011 of the Research and Innovative Technology Administration Reauthorization Act of 2012.

“(2) COMPREHENSIVE PLAN.—The Secretary shall develop a detailed and comprehensive plan to carry out this subsection that addresses how incentives may be adopted, as appropriate, through the existing deployment activities carried out by surface transportation modal administrations.”.

#### SEC. 34010. NATIONAL TRAVEL DATA PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 55 of title 49, United States Code, as amended by sections 4003 and 4005, is further amended by adding at the end the following:

##### “§ 5509. National Travel Data Program

“(a) ESTABLISHMENT.—Not later than 18 months after the date of enactment of the Research and Innovative Technology Administration Reauthorization Act of 2012, the Secretary of Transportation shall establish the National Travel Data Program (referred to in this section as the “Program”) to collect essential national passenger and freight travel data to help guide transportation operations, policy, and investment decisions for Federal, State, and local governments and the private sector.

“(b) PROGRAM ELEMENTS.—In carrying out the Program, the Secretary shall—

“(1) collect data and make such data available to support transportation operations, policy, and investment decisions, including data on system performance, safety, international competitiveness, energy efficiency, and changes in demographics;

“(2) improve the quality of the data collected under the Program, including identifying and addressing current gaps in passenger and freight travel data collection, such as the sample sizes and frequency of transportation surveys including the Commodity Flow Survey, the National Household Travel Survey, and the Transportation Services Index; and

“(3) consult with State and local governments, private sector data providers, and professional and nonprofit associations to improve the integration, management, and implementation of data collected under the Program.

“(c) ADVISORY COUNCIL ON TRANSPORTATION STATISTICS.—

“(1) ESTABLISHMENT.—In carrying out the Program, the Secretary shall seek recommendations from the Advisory Council on Transportation Statistics, established under section 6305 on—

“(A) the design and implementation of the Program;

“(B) emerging transportation-related data needs relevant to the Program; and

“(C) other matters the Secretary determines to be appropriate.

“(d) REPORTS TO CONGRESS.—

“(1) 5-YEAR PLAN.—Not later than 1 year after the date of enactment of the Research and Innovative Technology Administration Reauthorization Act of 2012, the Secretary shall submit, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of

Representatives, a 5-year plan for implementing the National Travel Data Program that includes benchmarks and goals.

“(2) BIENNIAL REPORT.—Upon the establishment of the National Travel Data Program, and every 2 years thereafter, the Secretary shall submit a report on the activities of the Program to the congressional committees set forth in paragraph (1).

“(e) FUNDING.—Of the amounts made available under section 34011 of the Research and Innovative Technology Administration Reauthorization Act of 2012, \$8,000,000 shall be available for each of the fiscal years 2012 and 2013 to establish and maintain the Program.”.

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 55 of title 49, United States Code, as amended by sections 3 and 5, is further amended by inserting after the item relating to section 5508 the following:

“5509. National Travel Data Program.”.

#### SEC. 34011. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account), under the conditions set forth in subsection (b)—

- (1) \$55,297,000 for fiscal year 2012; and
- (2) \$55,597,000 for fiscal year 2013.

(b) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—

(1) IN GENERAL.—Except as provided in paragraph (2), amounts appropriated pursuant to subsection (a) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

(2) FEDERAL SHARE.—The Federal share of the cost of a project or activity carried out with amounts appropriated pursuant to subsection (a) shall be 50 percent unless another percentage is—

- (A) expressly provided under this Act or the amendments made by this Act; or
- (B) determined by the Secretary.

(3) AVAILABILITY; TRANSFERABILITY.—Amounts appropriated pursuant to subsection (a) shall remain available until expended and shall not be transferable.

#### DIVISION D—FINANCE

##### SEC. 40001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This division may be cited as the “Highway Investment, Job Creation, and Economic Growth Act of 2012”.

(b) TABLE OF CONTENTS.—The table of contents for this division is as follows:

#### DIVISION D—FINANCE

Sec. 40001. Short title; table of contents.

#### TITLE I—EXTENSION OF HIGHWAY TRUST FUND EXPENDITURE AUTHORITY AND RELATED TAXES

Sec. 40101. Extension of trust fund expenditure authority.

Sec. 40102. Extension of highway-related taxes.

#### TITLE II—OTHER PROVISIONS

Sec. 40201. Temporary increase in small issuer exception to tax-exempt interest expense allocation rules for financial institutions.

Sec. 40202. Temporary modification of alternative minimum tax limitations on tax-exempt bonds.

Sec. 40203. Issuance of TRIP bonds by State infrastructure banks.

Sec. 40204. Extension of parity for exclusion from income for employer-provided mass transit and parking benefits.

Sec. 40205. Exempt-facility bonds for sewage and water supply facilities.

#### TITLE III—REVENUE PROVISIONS

Sec. 40301. Transfer from Leaking Underground Storage Tank Trust Fund to Highway Trust Fund.

Sec. 40302. Portion of Leaking Underground Storage Tank Trust Fund financing rate transferred to Highway Trust Fund.

Sec. 40303. Transfer of gas guzzler taxes to Highway Trust Fund.

Sec. 40304. Revocation or denial of passport in case of certain unpaid taxes.

Sec. 40305. 100 percent continuous levy on payments to Medicare providers and suppliers.

Sec. 40306. Transfer of amounts attributable to certain duties on imported vehicles into the Highway Trust Fund.

Sec. 40307. Treatment of securities of a controlled corporation exchanged for assets in certain reorganizations.

Sec. 40308. Internal Revenue Service levies and Thrift Savings Plan Accounts.

Sec. 40309. Depreciation and amortization rules for highway and related property subject to long-term leases.

Sec. 40310. Extension for transfers of excess pension assets to retiree health accounts.

Sec. 40311. Transfer of excess pension assets to retiree group term life insurance accounts.

Sec. 40312. Pension funding stabilization.

#### TITLE I—EXTENSION OF HIGHWAY TRUST FUND EXPENDITURE AUTHORITY AND RELATED TAXES

##### SEC. 40101. EXTENSION OF TRUST FUND EXPENDITURE AUTHORITY.

(a) HIGHWAY TRUST FUND.—Section 9503 of the Internal Revenue Code of 1986 is amended—

- (1) by striking “April 1, 2012” in subsections (b)(6)(B), (c)(1), and (e)(3) and inserting “October 1, 2013”; and

(2) by striking “Surface Transportation Extension Act of 2011, Part II” in subsections (c)(1) and (e)(3) and inserting “Moving Ahead for Progress in the 21st Century Act”.

(b) SPORT FISH RESTORATION AND BOATING TRUST FUND.—Section 9504 of the Internal Revenue Code of 1986 is amended—

- (1) by striking “Surface Transportation Extension Act of 2011, Part II” each place it appears in subsection (b)(2) and inserting “Moving Ahead for Progress in the 21st Century Act”; and

(2) by striking “April 1, 2012” in subsection (d)(2) and inserting “October 1, 2013”.

(c) LEAKING UNDERGROUND STORAGE TANK TRUST FUND.—Paragraph (2) of section 9508(e) of the Internal Revenue Code of 1986 is amended by striking “April 1, 2012” and inserting “October 1, 2013”.

(d) ESTABLISHMENT OF SOLVENCY ACCOUNT.—Section 9503 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(g) ESTABLISHMENT OF SOLVENCY ACCOUNT.—

“(1) CREATION OF ACCOUNT.—There is established in the Highway Trust Fund a separate account to be known as the ‘Solvency Account’ consisting of such amounts as may be transferred or credited to the Solvency Account as provided in this section or section 9602(b).

“(2) TRANSFERS TO SOLVENCY ACCOUNT.—The Secretary of the Treasury shall transfer to the Solvency Account the excess of—

“(A) any amount appropriated to the Highway Trust Fund before October 1, 2013, by

reason of the provisions of, and amendments made by, the Highway Investment, Job Creation, and Economic Growth Act of 2012, over

“(B) the amount necessary to meet the required expenditures from the Highway Trust Fund under subsection (c) for the period ending before October 1, 2013.

“(3) EXPENDITURES FROM ACCOUNT.—Amounts in the Solvency Account shall be available for transfers to the Highway Account (as defined in subsection (e)(5)(B)) and the Mass Transit Account in such amounts as determined necessary by the Secretary to ensure that each account has a surplus balance of \$2,800,000,000 on September 30, 2013.

“(4) TERMINATION OF ACCOUNT.—The Solvency Account shall terminate on September 30, 2013, and the Secretary shall transfer any remaining balance in the Account on such date to the Highway Trust Fund.”.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 2012.

##### SEC. 40102. EXTENSION OF HIGHWAY-RELATED TAXES.

(a) IN GENERAL.—

(1) Each of the following provisions of the Internal Revenue Code of 1986 is amended by striking “March 31, 2012” and inserting “September 30, 2015”:

(A) Section 4041(a)(1)(C)(iii)(I).

(B) Section 4041(m)(1)(B).

(C) Section 4081(d)(1).

(2) Each of the following provisions of such Code is amended by striking “April 1, 2012” and inserting “October 1, 2015”:

(A) Section 4041(m)(1)(A).

(B) Section 4051(c).

(C) Section 4071(d).

(D) Section 4081(d)(3).

(b) EXTENSION OF TAX, ETC., ON USE OF CERTAIN HEAVY VEHICLES.—Each of the following provisions of the Internal Revenue Code of 1986 is amended by striking “2012” and inserting “2015”:

(1) Section 4481(f).

(2) Subsections (c)(4) and (d) of section 4482.

(c) FLOOR STOCKS REFUNDS.—Section 6412(a)(1) of the Internal Revenue Code of 1986 is amended—

(1) by striking “April 1, 2012” each place it appears and inserting “October 1, 2015”; and

(2) by striking “September 30, 2012” each place it appears and inserting “March 31, 2016”; and

(3) by striking “July 1, 2012” and inserting “January 1, 2016”.

(d) EXTENSION OF CERTAIN EXEMPTIONS.—Sections 4221(a) and 4483(i) of the Internal Revenue Code of 1986 are each amended by striking “April 1, 2012” and inserting “October 1, 2015”.

(e) EXTENSION OF TRANSFERS OF CERTAIN TAXES.—

(1) IN GENERAL.—Section 9503 of the Internal Revenue Code of 1986 is amended—

(A) in subsection (b)—

(i) by striking “April 1, 2012” each place it appears in paragraphs (1) and (2) and inserting “October 1, 2015”; and

(ii) by striking “APRIL 1, 2012” in the heading of paragraph (2) and inserting “OCTOBER 1, 2015”;

(iii) by striking “March 31, 2012” in paragraph (2) and inserting “September 30, 2015”; and

(iv) by striking “January 1, 2013” in paragraph (2) and inserting “July 1, 2016”; and

(B) in subsection (c)(2), by striking “January 1, 2013” and inserting “July 1, 2016”.

(2) MOTORBOAT AND SMALL-ENGINE FUEL TAX TRANSFERS.—

(A) IN GENERAL.—Paragraphs (3)(A)(i) and (4)(A) of section 9503(c) of such Code are each



amended by striking “April 1, 2012” and inserting “October 1, 2015”.

(B) CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.—Section 201(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601 11(b)) is amended—

(i) by striking “April 1, 2013” each place it appears and inserting “October 1, 2016”; and

(ii) by striking “April 1, 2012” and inserting “October 1, 2015”.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on April 1, 2012.

(2) SUBSECTION (b)(2).—The amendment made by subsection (b)(2) shall apply to periods beginning after September 30, 2012.

## TITLE II—OTHER PROVISIONS

### SEC. 40201. TEMPORARY INCREASE IN SMALL ISSUER EXCEPTION TO TAX-EXEMPT INTEREST EXPENSE ALLOCATION RULES FOR FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—Subparagraph (G) of section 265(b)(3) of the Internal Revenue Code of 1986 is amended—

(1) by striking “2009 or 2010” in clause (i) and inserting “2009, 2010, or 2012”;

(2) by striking “2009 or 2010” each place it appears in clauses (ii) and (iii) and inserting “2009, 2010, or the period beginning after the date of the enactment of the Highway Investment, Job Creation, and Economic Growth Act of 2012 and before January 1, 2013”, and

(3) by striking “2009 AND 2010” in the heading and inserting “2009, 2010, AND 2012”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

### SEC. 40202. TEMPORARY MODIFICATION OF ALTERNATIVE MINIMUM TAX LIMITATIONS ON TAX-EXEMPT BONDS.

(a) INTEREST ON PRIVATE ACTIVITY BONDS NOT TREATED AS TAX PREFERENCE ITEMS.—Clause (vi) of section 57(a)(5)(C) of the Internal Revenue Code of 1986 is amended—

(1) in subclause (I) by inserting “, or after the date of enactment of the Highway Investment, Job Creation, and Economic Growth Act of 2012 and before January 1, 2013” after “January 1, 2011”;

(2) in subclause (III) by inserting “before January 1, 2011” after “which is issued”; and

(3) by striking “AND 2010” in the heading and inserting “, 2010, AND PORTIONS OF 2012”.

(b) NO ADJUSTMENT TO ADJUSTED CURRENT EARNINGS.—Clause (iv) of section 56(g)(4)(B) of the Internal Revenue Code of 1986 is amended—

(1) in subclause (I) by inserting “, or after the date of enactment of the Highway Investment, Job Creation, and Economic Growth Act of 2012 and before January 1, 2013” after “January 1, 2011”;

(2) in subclause (III) by inserting “before January 1, 2011” after “which is issued”; and

(3) by striking “AND 2010” in the heading and inserting “, 2010, AND PORTIONS OF 2012”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of enactment of this Act.

### SEC. 40203. ISSUANCE OF TRIP BONDS BY STATE INFRASTRUCTURE BANKS.

Section 610(d) of title 23, United States Code, is amended—

(1) by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively,

(2) by inserting after paragraph (3) the following new paragraph:

“(4) TRIP BOND ACCOUNT.—

“(A) IN GENERAL.—A State, through a State infrastructure bank, may issue TRIP bonds and deposit proceeds from such issuance into the TRIP bond account of the bank.

“(B) TRIP BOND.—For purposes of this section, the term ‘TRIP bond’ means any bond issued as part of an issue if—

“(i) 100 percent of the available project proceeds of such issue are to be used for expenditures incurred after the date of the enactment of this paragraph for 1 or more qualified projects pursuant to an allocation of such proceeds to such project or projects by a State infrastructure bank,

“(ii) the bond is issued by a State infrastructure bank and is in registered form (within the meaning of section 149(a) of the Internal Revenue Code of 1986),

“(iii) the State infrastructure bank designates such bond for purposes of this section, and

“(iv) the term of each bond which is part of such issue does not exceed 30 years.

“(C) QUALIFIED PROJECT.—For purposes of this subparagraph, the term ‘qualified project’ means the capital improvements to any transportation infrastructure project of any governmental unit or other person, including roads, bridges, rail and transit systems, ports, and inland waterways proposed and approved by a State infrastructure bank, but does not include costs of operations or maintenance with respect to such project.”.

(3) by adding at the end of paragraph (5), as redesignated by paragraph (1), the following new subparagraph:

“(D) TRIP BOND ACCOUNT.—Funds deposited into the TRIP bond account shall constitute for purposes of this section a capitalization grant for the TRIP bond account of the bank.”, and

(4) by adding at the end the following new paragraph:

“(8) SPECIAL RULES FOR TRIP BOND ACCOUNT FUNDS.—

“(A) IN GENERAL.—The State shall develop a transparent competitive process for the award of funds deposited into the TRIP bond account that considers the impact of qualified projects on the economy, the environment, state of good repair, and equity.

“(B) APPLICABILITY OF FEDERAL LAW.—The requirements of any Federal law, including this title and titles 40 and 49, which would otherwise apply to projects to which the United States is a party or to funds made available under such law and projects assisted with those funds shall apply to—

“(i) funds made available under the TRIP bond account for similar qualified projects, and

“(ii) similar qualified projects assisted through the use of such funds.”.

### SEC. 40204. EXTENSION OF PARITY FOR EXCLUSION FROM INCOME FOR EMPLOYER-PROVIDED MASS TRANSIT AND PARKING BENEFITS.

(a) IN GENERAL.—Paragraph (2) of section 132(f) of the Internal Revenue Code of 1986 is amended by striking “January 1, 2012” and inserting “January 1, 2013”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to months after December 31, 2011.

### SEC. 40205. EXEMPT-FACILITY BONDS FOR SEWAGE AND WATER SUPPLY FACILITIES.

(a) BONDS FOR WATER AND SEWAGE FACILITIES TEMPORARILY EXEMPT FROM VOLUME CAP ON PRIVATE ACTIVITY BONDS.—Subsection (g) of section 146 of the Internal Revenue Code of 1986 is amended—

(1) by striking “and” at the end of paragraph (3),

(2) by striking the period at the end of paragraph (4) and inserting “, and”, and

(3) by inserting after paragraph (4) the following new paragraph:

“(5) any exempt facility bonds issued before January 1, 2018, as part of an issue described in paragraph (4) or (5) of section 142(a).”.

(b) CONFORMING CHANGE.—Paragraphs (2) and (3)(B) of section 146(k) of the Internal Revenue Code of 1986 are both amended by striking “paragraph (4), (5), (6), or (10) of section 142(a)” and inserting “paragraph (4) or (5) of section 142(a) with respect to bonds issued after December 31, 2017, or paragraph (6) or (10) of section 142(a)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

## TITLE III—REVENUE PROVISIONS

### SEC. 40301. TRANSFER FROM LEAKING UNDERGROUND STORAGE TANK TRUST FUND TO HIGHWAY TRUST FUND.

(a) IN GENERAL.—Subsection (c) of section 9508 of the Internal Revenue Code of 1986 is amended—

(1) by striking “Amounts” and inserting:

“(1) IN GENERAL.—Except as provided in paragraph (2), amounts”, and

(2) by adding at the end the following new paragraph:

“(2) TRANSFER TO HIGHWAY TRUST FUND.—Out of amounts in the Leaking Underground Storage Tank Trust Fund there is hereby appropriated \$3,000,000,000 to be transferred under section 9503(f)(3) to the Highway Trust Fund.”.

(b) TRANSFER TO HIGHWAY TRUST FUND.—

(1) IN GENERAL.—Subsection (f) of section 9503 of the Internal Revenue Code of 1986 is amended by inserting after paragraph (2) the following new paragraph:

“(3) INCREASE IN FUND BALANCE.—There is hereby transferred to the Highway Trust Fund amounts appropriated from the Leaking Underground Storage Tank Trust Fund under section 9508(c)(2).”.

(2) CONFORMING AMENDMENTS.—Paragraph (4) of section 9503(f) of such Code is amended—

(A) by inserting “or transferred” after “appropriated”, and

(B) by striking “APPROPRIATED” in the heading thereof.

### SEC. 40302. PORTION OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE TRANSFERRED TO HIGHWAY TRUST FUND.

(a) IN GENERAL.—Subsection (b) of section 9503 of the Internal Revenue Code of 1986 is amended by inserting after paragraph (2) the following new paragraph:

“(3) PORTION OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—There are hereby appropriated to the Highway Trust Fund amounts equivalent to one-third of the taxes received in the Treasury under—

“(A) section 4041(d) (relating to additional taxes on motor fuels),

“(B) section 4081 (relating to tax on gasoline, diesel fuel, and kerosene) to the extent attributable to the Leaking Underground Storage Tank Trust Fund financing rate under such section, and

“(C) section 4042 (relating to tax on fuel used in commercial transportation on inland waterways) to the extent attributable to the Leaking Underground Storage Tank Trust Fund financing rate under such section.

For purposes of this paragraph, there shall not be taken into account the taxes imposed by sections 4041 and 4081 on diesel fuel sold

for use or used as fuel in a diesel-powered boat.”.

(b) CONFORMING AMENDMENTS.—

(1) Paragraphs (1), (2), and (3) of section 9508(b) of the Internal Revenue Code of 1986 are each amended by inserting “two-thirds of the” before “taxes”.

(2) Paragraph (4) of section 9503(b) of such Code is amended by striking subparagraphs (A) and (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (A) and (B), respectively.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxes received after the date of the enactment of this Act.

**SEC. 40303. TRANSFER OF GAS GUZZLER TAXES TO HIGHWAY TRUST FUND.**

(a) IN GENERAL.—Paragraph (1) of section 9503(b) of the Internal Revenue Code of 1986 is amended by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively, and by inserting after subparagraph (B) the following new subparagraph:

“(B) section 4064 (relating to gas guzzler tax).”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxes received after the date of the enactment of this Act.

**SEC. 40304. REVOCATION OR DENIAL OF PASSPORT IN CASE OF CERTAIN UNPAID TAXES.**

(a) IN GENERAL.—Subchapter D of chapter 75 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

**“SEC. 7345. REVOCATION OR DENIAL OF PASSPORT IN CASE OF CERTAIN TAX DELINQUENCIES.**

“(a) IN GENERAL.—If the Secretary receives certification by the Commissioner of Internal Revenue that any individual has a seriously delinquent tax debt in an amount in excess of \$50,000, the Secretary shall transmit such certification to the Secretary of State for action with respect to denial, revocation, or limitation of a passport pursuant to section 4 of the Act entitled ‘An Act to regulate the issue and validity of passports, and for other purposes’, approved July 3, 1926 (22 U.S.C. 211a et seq.), commonly known as the ‘Passport Act of 1926’.

“(b) SERIOUSLY DELINQUENT TAX DEBT.—For purposes of this section, the term ‘seriously delinquent tax debt’ means an outstanding debt under this title for which a notice of lien has been filed in public records pursuant to section 6323 or a notice of levy has been filed pursuant to section 6331, except that such term does not include—

“(1) a debt that is being paid in a timely manner pursuant to an agreement under section 6159 or 7122, and

“(2) a debt with respect to which collection is suspended because a collection due process hearing under section 6330, or relief under subsection (b), (c), or (f) of section 6015, is requested or pending.

“(c) ADJUSTMENT FOR INFLATION.—In the case of a calendar year beginning after 2012, the dollar amount in subsection (a) shall be increased by an amount equal to—

“(1) such dollar amount, multiplied by

“(2) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, determined by substituting ‘calendar year 2011’ for ‘calendar year 1992’ in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of \$1,000, such amount shall be rounded to the next highest multiple of \$1,000.”.

(b) CLERICAL AMENDMENT.—The table of sections for subchapter D of chapter 75 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

“Sec. 7345. Revocation or denial of passport in case of certain tax delinquencies.”.

(c) AUTHORITY FOR INFORMATION SHARING.—(1) IN GENERAL.—Subsection (1) of section 6103 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(23) DISCLOSURE OF RETURN INFORMATION TO DEPARTMENT OF STATE FOR PURPOSES OF PASSPORT REVOCATION UNDER SECTION 7345.—

“(A) IN GENERAL.—The Secretary shall, upon receiving a certification described in section 7345, disclose to the Secretary of State return information with respect to a taxpayer who has a seriously delinquent tax debt described in such section. Such return information shall be limited to—

“(i) the taxpayer identity information with respect to such taxpayer, and

“(ii) the amount of such seriously delinquent tax debt.

“(B) RESTRICTION ON DISCLOSURE.—Return information disclosed under subparagraph (A) may be used by officers and employees of the Department of State for the purposes of, and to the extent necessary in, carrying out the requirements of section 4 of the Act entitled ‘An Act to regulate the issue and validity of passports, and for other purposes’, approved July 3, 1926 (22 U.S.C. 211a et seq.), commonly known as the ‘Passport Act of 1926’.”.

(2) CONFORMING AMENDMENT.—Paragraph (4) of section 6103(p) of such Code is amended by striking “or (22)” each place it appears in subparagraph (F)(ii) and in the matter preceding subparagraph (A) and inserting “(22), or (23)”.

(d) REVOCATION AUTHORIZATION.—The Act entitled “An Act to regulate the issue and validity of passports, and for other purposes”, approved July 3, 1926 (22 U.S.C. 211a et seq.), commonly known as the “Passport Act of 1926”, is amended by adding at the end the following:

**“SEC. 4. AUTHORITY TO DENY OR REVOKE PASSPORT.**

“(a) INELIGIBILITY.—

“(1) ISSUANCE.—Except as provided under subsection (b), upon receiving a certification described in section 7345 of the Internal Revenue Code of 1986 from the Secretary of the Treasury, the Secretary of State may not issue a passport or passport card to any individual who has a seriously delinquent tax debt described in such section.

“(2) REVOCATION.—The Secretary of State shall revoke a passport or passport card previously issued to any individual described in subparagraph (A).

“(b) EXCEPTIONS.—

“(1) EMERGENCY AND HUMANITARIAN SITUATIONS.—Notwithstanding subsection (a), the Secretary of State may issue a passport or passport card, in emergency circumstances or for humanitarian reasons, to an individual described in subsection (a)(1).

“(2) LIMITATION FOR RETURN TO UNITED STATES.—Notwithstanding subsection (a)(2), the Secretary of State, before revocation, may—

“(A) limit a previously issued passport or passport card only for return travel to the United States; or

“(B) issue a limited passport or passport card that only permits return travel to the United States.”.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2013.

**SEC. 40305. 100 PERCENT CONTINUOUS LEVY ON PAYMENTS TO MEDICARE PROVIDERS AND SUPPLIERS.**

(a) IN GENERAL.—Paragraph (3) of section 6331(h) of the Internal Revenue Code of 1986 is amended by striking the period at the end and inserting “, or to a Medicare provider or supplier under title XVIII of the Social Security Act.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after the date of the enactment of this Act.

**SEC. 40306. TRANSFER OF AMOUNTS ATTRIBUTABLE TO CERTAIN DUTIES ON IMPORTED VEHICLES INTO THE HIGHWAY TRUST FUND.**

Section 9503(b) of the Internal Revenue Code of 1986, as amended by this Act, is amended by adding at the end the following new paragraph:

“(8) CERTAIN DUTIES ON IMPORTED VEHICLES.—There are hereby appropriated to the Highway Trust Fund amounts equivalent to the amounts received in the Treasury that are attributable to duties collected on or after October 1, 2011, and before October 1, 2016, on articles classified under subheading 8703.22.00 or 8703.24.00 of the Harmonized Tariff Schedule of the United States.”.

**SEC. 40307. TREATMENT OF SECURITIES OF A CONTROLLED CORPORATION EXCHANGED FOR ASSETS IN CERTAIN REORGANIZATIONS.**

(a) IN GENERAL.—Section 361 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(d) SPECIAL RULES FOR TRANSACTIONS INVOLVING SECTION 355 DISTRIBUTIONS.—In the case of a reorganization described in section 368(a)(1)(D) with respect to which stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under section 355—

“(1) this section shall be applied by substituting ‘stock other than nonqualified preferred stock (as defined in section 351(g)(2))’ for ‘stock or securities’ in subsections (a) and (b)(1), and

“(2) the first sentence of subsection (b)(3) shall apply only to the extent that the sum of the money and the fair market value of the other property transferred to such creditors does not exceed the adjusted bases of such assets transferred (reduced by the amount of the liabilities assumed (within the meaning of section 357(c))).”.

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 361(b) is amended by striking the last sentence.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to exchanges after the date of the enactment of this Act.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to any exchange pursuant to a transaction which is—

(A) made pursuant to a written agreement which was binding on February 6, 2012, and at all times thereafter;

(B) described in a ruling request submitted to the Internal Revenue Service on or before February 6, 2012; or

(C) described on or before February 6, 2012, in a public announcement or in a filing with the Securities and Exchange Commission.

**SEC. 40308. INTERNAL REVENUE SERVICE LEVIES AND THRIFT SAVINGS PLAN ACCOUNTS.**

Section 8437(e)(3) of title 5, United States Code, is amended by inserting “, the enforcement of a Federal tax levy as provided in

section 6331 of the Internal Revenue Code of 1986," after "(42 U.S.C. 659)".

**SEC. 40309. DEPRECIATION AND AMORTIZATION RULES FOR HIGHWAY AND RELATED PROPERTY SUBJECT TO LONG-TERM LEASES.**

(a) ACCELERATED COST RECOVERY.—

(1) IN GENERAL.—Section 168(g)(1) of the Internal Revenue Code of 1986 is amended by striking "and" at the end of subparagraph (D), by redesignating subparagraph (E) as subparagraph (F), and by inserting after subparagraph (D) the following new subparagraph:

"(E) any applicable leased highway property."

(2) RECOVERY PERIOD.—The table contained in subparagraph (C) of section 168(g)(2) of such Code is amended by redesignating clause (iv) as clause (v) and by inserting after clause (iii) the following new clause:

"(iv) Applicable leased highway property ..... 45 years."

(3) APPLICABLE LEASED HIGHWAY PROPERTY DEFINED.—

(A) IN GENERAL.—Section 168(g) of such Code is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

"(7) APPLICABLE LEASED HIGHWAY PROPERTY.—For purposes of paragraph (1)(E)—

"(A) IN GENERAL.—The term 'applicable leased highway property' means property to which this section otherwise applies which—  
 "(i) is subject to an applicable lease, and  
 "(ii) is placed in service before the date of such lease.

"(B) APPLICABLE LEASE.—The term 'applicable lease' means a lease or other arrangement—

"(i) which is between the taxpayer and a State or political subdivision thereof, or any agency or instrumentality of either, and  
 "(ii) under which the taxpayer—

"(I) leases a highway and associated improvements,  
 "(II) receives a right-of-way on the public lands underlying such highway and improvements, and  
 "(III) receives a grant of a franchise or other intangible right permitting the taxpayer to receive funds relating to the operation of such highway."

(B) CONFORMING AMENDMENT.—Subparagraph (F) of section 168(g)(1) (as redesignated by subsection (a)(1)) is amended by striking "paragraph (7)" and inserting "paragraph (8)".

(b) AMORTIZATION OF INTANGIBLES.—Section 197(f) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

"(11) INTANGIBLES RELATING TO APPLICABLE LEASED HIGHWAY PROPERTY.—In the case of any amortizable section 197 intangible property which is acquired in connection with an applicable lease (as defined in section 168(g)(7)(B)), the amortization period under this section shall not be less than the term of the applicable lease. For purposes of the preceding sentence, rules similar to the rules of section 168(i)(3)(A) shall apply in determining the term of the applicable lease."

(c) NO PRIVATE ACTIVITY BOND FINANCING OF APPLICABLE LEASED HIGHWAY PROPERTY.—Section 147(e) of the Internal Revenue Code of 1986 is amended by inserting ", or to finance any applicable leased highway property (as defined in section 168(g)(7)(A))" after "premises".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to leases entered into after the date of the enactment of this Act.

(2) NO PRIVATE ACTIVITY BOND FINANCING.—The amendment made by subsection (c) shall apply to bonds issued after the date of the enactment of this Act.

**SEC. 40310. EXTENSION FOR TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.**

(a) IN GENERAL.—Paragraph (5) of section 420(b) of the Internal Revenue Code of 1986 is amended by striking "December 31, 2013" and inserting "December 31, 2021".

(b) CONFORMING ERISA AMENDMENTS.—

(1) Sections 101(e)(3), 403(c)(1), and 408(b)(13) of the Employee Retirement Income Security Act of 1974 are each amended by striking "Pension Protection Act of 2006" and inserting "Highway Investment, Job Creation, and Economic Growth Act of 2012".

(2) Section 408(b)(13) of such Act (29 U.S.C. 1108(b)(13)) is amended by striking "January 1, 2014" and inserting "January 1, 2022".

(c) EFFECTIVE DATE.—The amendments made by this Act shall take effect on the date of the enactment of this Act.

**SEC. 40311. TRANSFER OF EXCESS PENSION ASSETS TO RETIREE GROUP TERM LIFE INSURANCE ACCOUNTS.**

(a) IN GENERAL.—Subsection (a) of section 420 of the Internal Revenue Code of 1986 is amended by inserting ", or an applicable life insurance account," after "health benefits account".

(b) APPLICABLE LIFE INSURANCE ACCOUNT DEFINED.—

(1) IN GENERAL.—Subsection (e) of section 420 of the Internal Revenue Code of 1986 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) APPLICABLE LIFE INSURANCE ACCOUNT.—The term 'applicable life insurance account' means a separate account established and maintained for amounts transferred under this section for qualified current retiree liabilities based on premiums for applicable life insurance benefits."

(2) APPLICABLE LIFE INSURANCE BENEFITS DEFINED.—Paragraph (1) of section 420(e) of such Code is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

"(D) APPLICABLE LIFE INSURANCE BENEFITS.—The term 'applicable life insurance benefits' means group-term life insurance coverage provided to retired employees who, immediately before the qualified transfer, are entitled to receive such coverage by reason of retirement and who are entitled to pension benefits under the plan, but only to the extent that such coverage is provided under a policy for retired employees and the cost of such coverage is excludable from the retired employee's gross income under section 79."

(3) COLLECTIVELY BARGAINED LIFE INSURANCE BENEFITS DEFINED.—

(A) IN GENERAL.—Paragraph (6) of section 420(f) of such Code is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

"(D) COLLECTIVELY BARGAINED LIFE INSURANCE BENEFITS.—The term 'collectively bargained life insurance benefits' means, with respect to any collectively bargained transfer—

"(i) applicable life insurance benefits which are provided to retired employees who, immediately before the transfer, are entitled to receive such benefits by reason of retirement, and  
 "(ii) if specified by the provisions of the collective bargaining agreement governing

the transfer, applicable life insurance benefits which will be provided at retirement to employees who are not retired employees at the time of the transfer."

(B) CONFORMING AMENDMENTS.—

(i) Clause (i) of section 420(e)(1)(C) of such Code is amended by striking "upon retirement" and inserting "by reason of retirement".

(ii) Subparagraph (C) of section 420(f)(6) of such Code is amended—

(I) by striking "which are provided to" in the matter preceding clause (i),

(II) by inserting "which are provided to" before "retired employees" in clause (i),

(III) by striking "upon retirement" in clause (i) and inserting "by reason of retirement", and

(IV) by striking "active employees who, following their retirement," and inserting "which will be provided at retirement to employees who are not retired employees at the time of the transfer and who".

(c) MAINTENANCE OF EFFORT.—

(1) IN GENERAL.—Subparagraph (A) of section 420(c)(3) of the Internal Revenue Code of 1986 is amended by inserting ", and each group-term life insurance plan under which applicable life insurance benefits are provided," after "health benefits are provided".

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (B) of section 420(c)(3) of such Code is amended—

(i) by redesignating subclauses (I) and (II) of clause (i) as subclauses (II) and (III) of such clause, respectively, and by inserting before subclause (II) of such clause, as so redesignated, the following new subclause:

"(I) separately with respect to applicable health benefits and applicable life insurance benefits," and

(ii) by striking "for applicable health benefits" and all that follows in clause (ii) and inserting "was provided during such taxable year for the benefits with respect to which the determination under clause (i) is made."

(B) Subparagraph (C) of section 420(c)(3) of such Code is amended—

(i) by inserting "for applicable health benefits" after "applied separately", and

(ii) by inserting ", and separately for applicable life insurance benefits with respect to individuals age 65 or older at any time during the taxable year and with respect to individuals under age 65 during the taxable year" before the period.

(C) Subparagraph (E) of section 420(c)(3) of such Code is amended—

(i) in clause (i), by inserting "or retiree life insurance coverage, as the case may be," after "retiree health coverage", and

(ii) in clause (ii), by inserting "FOR RETIREE HEALTH COVERAGE" after "COST REDUCTIONS" in the heading thereof, and

(iii) in clause (ii)(II), by inserting "with respect to applicable health benefits" after "liabilities of the employer".

(D) Paragraph (2) of section 420(f) of such Code is amended by striking "collectively bargained retiree health liabilities" each place it occurs and inserting "collectively bargained retiree liabilities".

(E) Clause (i) of section 420(f)(2)(D) of such Code is amended—

(i) by inserting ", and each group-term life insurance plan or arrangement under which applicable life insurance benefits are provided," in subclause (I) after "applicable health benefits are provided",

(ii) by inserting "or applicable life insurance benefits, as the case may be," in subclause (I) after "provides applicable health benefits",

(iii) by striking "group health" in subclause (II), and

(iv) by inserting “or collectively bargained life insurance benefits” in subclause (II) after “collectively bargained health benefits”.

(F) Clause (ii) of section 420(f)(2)(D) of such Code is amended—

(i) by inserting “with respect to applicable health benefits or applicable life insurance benefits” after “requirements of subsection (c)(3)”, and

(ii) by adding at the end the following: “Such election may be made separately with respect to applicable health benefits and applicable life insurance benefits. In the case of an election with respect to applicable life insurance benefits, the first sentence of this clause shall be applied as if subsection (c)(3) as in effect before the amendments made by such Act applied to such benefits.”

(G) Clause (iii) of section 420(f)(2)(D) of such Code is amended—

(i) by striking “retiree” each place it occurs, and

(ii) by inserting “, collectively bargained life insurance benefits, or both, as the case may be,” after “health benefits” each place it occurs.

(d) COORDINATION WITH SECTION 79.—Section 79 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(f) EXCEPTION FOR LIFE INSURANCE PURCHASED IN CONNECTION WITH QUALIFIED TRANSFER OF EXCESS PENSION ASSETS.—Subsection (b)(3) and section 72(m)(3) shall not apply in the case of any cost paid (whether directly or indirectly) with assets held in an applicable life insurance account (as defined in section 420(e)(4)) under a defined benefit plan.”.

(e) CONFORMING AMENDMENTS.—

(1) Section 420 of the Internal Revenue Code of 1986 is amended by striking “qualified current retiree health liabilities” each place it appears and inserting “qualified current retiree liabilities”.

(2) Section 420 of such Code is amended by inserting “, or an applicable life insurance account,” after “a health benefits account” each place it appears in subsection (b)(1)(A), subparagraphs (A), (B)(i), and (C) of subsection (c)(1), subsection (d)(1)(A), and subsection (f)(2)(E)(ii).

(3) Section 420(b) of such Code is amended—

(A) by adding the following at the end of paragraph (2)(A): “If there is a transfer from a defined benefit plan to both a health benefits account and an applicable life insurance account during any taxable year, such transfers shall be treated as 1 transfer for purposes of this paragraph.”, and

(B) by inserting “to an account” after “may be transferred” in paragraph (3).

(4) The heading for section 420(c)(1)(B) of such Code is amended by inserting “OR LIFE INSURANCE” after “HEALTH BENEFITS”.

(5) Paragraph (1) of section 420(e) of such Code is amended—

(A) by inserting “and applicable life insurance benefits” in subparagraph (A) after “applicable health benefits”, and

(B) by striking “HEALTH” in the heading thereof.

(6) Subparagraph (B) of section 420(e)(1) of such Code is amended—

(A) in the matter preceding clause (i), by inserting “(determined separately for applicable health benefits and applicable life insurance benefits)” after “shall be reduced by the amount”,

(B) in clause (i), by inserting “or applicable life insurance accounts” after “health benefit accounts”, and

(C) in clause (i), by striking “qualified current retiree health liability” and inserting “qualified current retiree liability”.

(7) The heading for subsection (f) of section 420 of such Code is amended by striking “HEALTH” each place it occurs.

(8) Subclause (II) of section 420(f)(2)(B)(ii) of such Code is amended by inserting “or applicable life insurance account, as the case may be,” after “health benefits account”.

(9) Subclause (III) of section 420(f)(2)(E)(i) of such Code is amended—

(A) by inserting “defined benefit” before “plan maintained by an employer”, and

(B) by inserting “health” before “benefit plans maintained by the employer”.

(10) Paragraphs (4) and (6) of section 420(f) of such Code are each amended by striking “collectively bargained retiree health liabilities” each place it occurs and inserting “collectively bargained retiree liabilities”.

(11) Subparagraph (A) of section 420(f)(6) of such Code is amended—

(A) in clauses (i) and (ii), by inserting “, in the case of a transfer to a health benefits account,” before “his covered spouse and dependents”, and

(B) in clause (ii), by striking “health plan” and inserting “plan”.

(12) Subparagraph (B) of section 420(f)(6) of such Code is amended—

(A) in clause (i), by inserting “, and collectively bargained life insurance benefits,” after “collectively bargained health benefits”,

(B) in clause (ii)—

(i) by adding at the end the following: “The preceding sentence shall be applied separately for collectively bargained health benefits and collectively bargained life insurance benefits.”, and

(ii) by inserting “, applicable life insurance accounts,” after “health benefit accounts”, and

(C) by striking “HEALTH” in the heading thereof.

(13) Subparagraph (E) of section 420(f)(6) of such Code, as redesignated by subsection (b), is amended—

(A) by striking “bargained health” and inserting “bargained”,

(B) by inserting “, or a group-term life insurance plan or arrangement for retired employees,” after “dependents”, and

(C) by striking “HEALTH” in the heading thereof.

(14) Section 101(e) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(e)) is amended—

(A) in paragraphs (1) and (2), by inserting “or applicable life insurance account” after “health benefits account” each place it appears, and

(B) in paragraph (1), by inserting “or applicable life insurance benefit liabilities” after “health benefits liabilities”.

(f) TECHNICAL CORRECTION.—Clause (iii) of section 420(f)(6)(B) is amended by striking “416(I)(1)” and inserting “416(i)(1)”.

“(g) REPEAL OF DEADWOOD.—

(1) Subparagraph (A) of section 420(b)(1) of the Internal Revenue Code of 1986 is amended by striking “in a taxable year beginning after December 31, 1990”.

(2) Subsection (b) of section 420 of such Code is amended by striking paragraph (4) and by redesignating paragraph (5), as amended by this Act, as paragraph (4).

(3) Paragraph (2) of section 420(b) of such Code, as amended by this section, is amended—

(A) by striking subparagraph (B), and

(B) by striking “PER YEAR.—” and all that follows through “No more than” and inserting “PER YEAR.—No more than”.

(4) Paragraph (2) of section 420(c) of such Code is amended—

(A) by striking subparagraph (B),

(B) by moving subparagraph (A) two ems to the left, and

(C) by striking “BEFORE TRANSFER.—” and all that follows through “The requirements of this paragraph” and inserting the following: “BEFORE TRANSFER.—The requirements of this paragraph”.

(5) Paragraph (2) of section 420(d) of such Code is amended by striking “after December 31, 1990”.

(h) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to transfers made after the date of the enactment of this Act.

(2) CONFORMING AMENDMENTS RELATING TO PENSION PROTECTION ACT.—The amendments made by subsections (b)(3)(B) and (f) shall take effect as if included in the amendments made by section 841(a) of the Pension Protection Act of 2006.

#### SEC. 40312. PENSION FUNDING STABILIZATION.

(a) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.—

(1) IN GENERAL.—Subparagraph (C) of section 430(h)(2) of the Internal Revenue Code of 1986 is amended by adding at the end the following new clause:

“(iv) SEGMENT RATE STABILIZATION.—If a segment rate described in clause (i), (ii), or (iii) with respect to any applicable month (determined without regard to this clause) is less than 85 percent, or more than 115 percent, of the average of the segment rates (determined on an annual basis by the Secretary) described in such clause for years in the 10-year period ending with September 30 of the calendar year preceding the calendar year in which the plan year begins, then the segment rate described in such clause with respect to the applicable month shall be equal to 85 or 115 percent of such average, whichever is closest.”.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (6) of section 404(o) of such Code is amended by inserting “(determined by not taking into account any adjustment under clause (iv) of subsection (h)(2)(C) thereof)” before the period.

(B) Subparagraph (F) of section 430(h)(2) of such Code is amended by inserting “and the averages determined under subparagraph (C)(iv)” after “subparagraph (C)”.

(C) Subparagraphs (C) and (D) of section 417(e)(3) of such Code are each amended by striking “section 430(h)(2)(C)” and inserting “section 430(h)(2)(C) (determined by not taking into account any adjustment under clause (iv) thereof)”.

(b) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) IN GENERAL.—Subparagraph (C) of section 303(h)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1083(h)(2)) is amended by adding at the end the following new clause:

“(iv) SEGMENT RATE STABILIZATION.—If a segment rate described in clause (i), (ii), or (iii) with respect to any applicable month (determined without regard to this clause) is less than 85 percent, or more than 115 percent, of the average of the segment rates (determined on an annual basis by the Secretary of the Treasury) described in such clause for years in the 10-year period ending with September 30 of the calendar year preceding the calendar year in which the plan year begins, then the segment rate described in such clause with respect to the applicable month shall be equal to 85 or 115 percent of such average, whichever is closest.”.

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (F) of section 303(h)(2) of such Act (29 U.S.C. 1083(h)(2)) is amended by inserting “and the averages determined under subparagraph (C)(iv)” after “subparagraph (C)”.

(B) Clauses (ii) and (iii) of section 205(g)(3)(B) of such Act (29 U.S.C. 1055(g)(3)(B)) are each amended by striking “section 303(h)(2)(C)” and inserting “section 303(h)(2)(C) (determined by not taking into account any adjustment under clause (iv) thereof)”.

(C) Clause (iv) of section 4006(a)(3)(E) of such Act (29 U.S.C. 1306(a)(3)(E)) is amended by striking “section 303(h)(2)(C)” and inserting “section 303(h)(2)(C) (notwithstanding any regulations issued by the corporation, determined by not taking into account any adjustment under clause (iv) thereof)”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to plan years beginning after December 31, 2011.

(d) **TRANSFER TO HIGHWAY TRUST FUND.**—Subsection (f) of section 9503 of the Internal Revenue Code of 1986, as amended by this Act, is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

“(4) **ADDITIONAL APPROPRIATION TO FUND.**—Out of money in the Treasury not otherwise appropriated, there is hereby appropriated \$1,588,000,000 to the Highway Trust Fund.”.

**SA 1634.** Mr. REID proposed an amendment to amendment SA 1633 proposed by Mr. REID to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; as follows:

At the end, add the following:

(e) **Effective Date**

This division shall become effective 4 days after enactment.

**SA 1635.** Mr. REID proposed an amendment to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; as follows:

At the end, add the following new section:  
**SEC. \_\_\_\_.**

This Act shall become effective 3 days after enactment.

**SA 1636.** Mr. REID proposed an amendment to amendment SA 1635 proposed by Mr. REID to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; as follows:

In the amendment, strike “3 days” and insert “2 days”.

**SA 1637.** Mr. REID proposed an amendment to amendment SA 1636 proposed by Mr. REID to the amendment SA 1635 proposed by Mr. Reid to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; as follows:

In the amendment, strike “2 days” and insert “1 day”.

**SA 1638.** Mr. CORKER (for himself and Mr. ALEXANDER) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety

construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 23, strike line 19 and insert the following:  
habitats.

“(K) Any project or activity carried out using amounts from the Mass Transit Account of the Highway Trust Fund.”; and

**SA 1639.** Ms. KLOBUCHAR (for herself and Mr. SESSION) submitted an amendment intended to be proposed by her to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 509, between lines 2 and 3, insert the following:

“(I) **HIGH-RISK RURAL ROADS BEST PRACTICES.**—

“(i) **STUDY.**—

“(I) **IN GENERAL.**—The Secretary shall conduct a study of the best practices for implementing cost-effective roadway safety infrastructure improvements on high-risk rural roads.

“(II) **METHODOLOGY.**—In carrying out the study, the Secretary shall—

“(aa) conduct a thorough literature review;

“(bb) survey current practices of State departments of transportation; and

“(cc) survey current practices of local units of government, as appropriate.

“(III) **CONSULTATION.**—In carrying out the study, the Secretary shall consult with—

“(aa) State departments of transportation;

“(bb) county engineers and public works professionals;

“(cc) appropriate local officials; and

“(dd) appropriate private sector experts in the field of roadway safety infrastructure.

“(ii) **REPORT.**—

“(I) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the study.

“(II) **CONTENTS.**—The report shall include—

“(aa) a summary of cost-effective roadway safety infrastructure improvements;

“(bb) a summary of the latest research on the financial savings and reduction in fatalities and serious bodily injury crashes from the implementation of cost-effective roadway safety infrastructure improvements; and

“(cc) recommendations for State and local governments on best practice methods to install cost-effective roadway safety infrastructure on high-risk rural roads.

“(iii) **MANUAL.**—

“(I) **DEVELOPMENT.**—Based on the results of the study under clause (ii), the Secretary, in consultation with the individuals and entities described in clause (i)(III), shall develop a best practices manual to support Federal, State, and local efforts to reduce fatalities and serious bodily injury crashes on high-risk rural roads through the use of cost-effective roadway safety infrastructure improvements.

“(II) **AVAILABILITY.**—The manual shall be made available to State and local governments not later than 180 days after the date of submission of the report under clause (ii).

“(III) **CONTENTS.**—The manual shall include, at a minimum, a list of cost-effective roadway safety infrastructure improvements and best practices on the installation of

cost-effective roadway safety infrastructure improvements on high-risk rural roads.

“(IV) **USE OF MANUAL.**—Use of the manual shall be voluntary and the manual shall not establish any binding standards or legal duties on State or local governments, or any other person.”.

**SA 1640.** Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 44, line 15, after “2009”, insert the following: “, after subtracting the amounts provided under sections 1301, 1302, and 1934 of the SAFETEA-LU (23 U.S.C. 101 note; 119 Stat. 1198, 1204, 1485)”.

On page 44, line 18, after “fiscal years”, insert the following: “, after subtracting the amounts provided under sections 1301, 1302, and 1934 of the SAFETEA-LU (23 U.S.C. 101 note; 119 Stat. 1198, 1204, 1485)”.

**SA 1641.** Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 598, strike lines 11 through 15 and insert the following:

“(3) **APPLICATION.**—

“(A) **IN GENERAL.**—A State, local government, public authority, public-private partnership, or any other legal entity undertaking the project and authorized by the Secretary, shall submit a project application acceptable to the Secretary.

“(B) **PUBLIC-PRIVATE PARTNERSHIPS.**—A State, local government, or public authority may submit a project application to the Secretary under which a private party to a public-private partnership for a project—

“(i) would be the sole obligor; and

“(ii) is to be identified at a later date through the completion of a procurement and selection of the private party.

On page 599, between lines 23 and 24, insert the following:

“(7) **PROJECT READINESS.**—An applicant under this section shall demonstrate that the contracting process for construction of the project will commence not later than the date that is 90 days after the date on which the application is approved.

On page 601, strike line 9 and insert the following:

“(c) **APPROVAL OF APPLICATIONS AND FUNDING.**—

“(1) **IN GENERAL.**—The Secretary shall—

“(A) approve applications for projects that meet the criteria under subsection (a) in the order in which the Secretary receives the applications; and

“(B) commit, or conditionally commit, budget authority for projects, out of amounts made available to carry out this chapter for a fiscal year, in the order in which the Secretary approves the applications for the projects.

“(2) **INSUFFICIENT FUNDS.**—If the Secretary approves an application submitted for a project in a fiscal year, but is unable to provide financial assistance for the project in that fiscal year as a result of prior commitments or conditional commitments of budget authority under this chapter, the Secretary shall provide the project sponsor with the option of—

“(A) receiving the financial assistance as soon as sufficient budget authority is made available to carry out this chapter in a subsequent fiscal year; or

“(B) paying the subsidy amount from other available sources, including from funds apportioned under chapter 1 of this title or chapter 53 of title 49.

**“(d) APPLICATION AND CREDIT PROCESSING PROCEDURES.—**

“(1) **ESTABLISHMENT.**—The Secretary shall establish procedures for—

“(A) processing applications requesting financial assistance for projects that are received under this chapter;

“(B) approving, conditionally approving, or disapproving an application received under this chapter based on whether the projects will meet the criteria under subsection (a); and

“(C) processing term sheets, credit review and approval, credit commitments, and final agreements for credit assistance.

**“(2) APPLICATION PROCESSING PROCEDURES.—**The procedures established under paragraph (1)—

“(A) shall not restrict the time period during which applications may be filed;

“(B) shall ensure that—

“(i) the Secretary shall be required to provide written notice to an applicant, not later than the date that is 15 days after the date of receipt of the application, informing the applicant of whether the application is complete;

“(ii) if the application is complete, the Secretary shall be required to provide written notice to the applicant, not later than 60 days after the date on which the written notice under clause (i) is issued, informing the applicant of whether the Secretary has approved, conditionally approved, or disapproved the application;

“(iii) if the application is not complete, the Secretary shall be required to provide written notice to the applicant, together with the written notice issued for the application under clause (i), informing the applicant of the information and materials needed to complete the application; and

“(iv) if the Secretary does not provide written notice to an applicant under clause (i) in the 15-day period specified in that clause—

“(I) the application shall be considered to be complete;

“(II) the Secretary shall be required to provide written notice to the applicant, not later than the date that is 60 days after the last day of the 15-day period, informing the applicant of whether the Secretary has approved or disapproved the application; and

“(III) the Secretary shall be required to provide written notice to the applicant, not later than the date that is 60 days after the last day of the 15-day period, informing the applicant of whether the Secretary has approved, conditionally approved, or disapproved the application;

“(C) shall not use eligibility criteria that are supplemental to those criteria that are established by this chapter;

“(D) shall require approval of an application if the project meets the eligibility criteria under subsection (a); and

“(E) shall require that any written notice of disapproval of an application shall—

“(i) identify the eligibility criteria that are not satisfied; and

“(ii) contain an explanation of the deficiencies that resulted in failure to meet the criteria.

**“(3) SPECIAL PROCEDURES FOR CREDIT-WORTHINESS.—**The Secretary shall condi-

tionally approve an application based on the pro forma plan of finance of the applicant and gather and analyze after the conditional approval any further information necessary to determine the creditworthiness of the applicant, if the Secretary determines that—

“(A)(i) the project described in an application is potentially creditworthy; but

“(ii) the Secretary lacks complete information to determine that the project is creditworthy; and

“(B) the project meets the other criteria for eligibility for financial assistance under this chapter.

**“(4) SPECIAL PROCEDURES FOR LATER-IDENTIFIED OBLIGOR.—**For applications that are approved or conditionally approved, the Secretary shall establish and follow procedures—

“(A) during the period between approval or conditional approval and selection of the private party as the obligor, requiring—

“(i) constructive engagement with the applicant and the potential obligors;

“(ii) diligent processing and approval of the term sheet;

“(iii) the conduct of due diligence;

“(iv) the review and setting of terms for credit assistance;

“(v) the preparation and approval of a conditional credit commitment; and

“(vi) any other activity necessary to advance the credit assistance to the maximum extent practicable; and

“(B) not later than 90 days after the date on which the applicant identifies the private party that will be the obligor, requiring—

“(i) the completion of the creditworthiness determination;

“(ii) the assistance of the private party in satisfying credit conditions; and

“(iii) the execution of final agreements for the credit assistance.

**“(5) APPLICATION APPROVAL.—**Approval or conditional approval of an application for a project under subsection (a) qualifies the project for execution of a term sheet establishing a conditional commitment of credit assistance.

**“(e) FEDERAL REQUIREMENTS.—**

**SA 1642.** Ms. SNOWE (for herself, Ms. KLOBUCHAR, and Mr. RUBIO) submitted an amendment intended to be proposed by her to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . PROGRAM TO ASSIST VETERANS TO ACQUIRE COMMERCIAL DRIVER'S LICENSES.**

(a) **ESTABLISHMENT.**—Not later than 1 year after the date of the enactment of this Act, the Secretary of Transportation, in consultation with the Secretary of Defense and in cooperation with the States, shall establish accelerated licensing procedures to assist veterans to acquire commercial driver's licenses.

(b) **ACCELERATED LICENSING PROCEDURES.**—The procedures established under subsection (a) shall be designed to be applicable to any veteran who—

(1) is attempting to acquire a commercial driver's license; and

(2) obtained, during military service, driving experience that, in the determination of the Secretary of Transportation, makes the use of accelerated licensing procedures appropriate.

(c) **DEFINITIONS.**—In this section:

(1) **COMMERCIAL DRIVER'S LICENSE.**—The term “commercial driver's license” has the meaning given that term in section 31301 of title 49, United States Code.

(2) **STATE.**—The term “State” has the meaning given that term in such section.

(3) **VETERAN.**—The term “veteran” has the meaning given that term in section 101 of title 38, United States Code.

**SA 1643.** Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 83, line 4, insert “, programs, and technical assistance” after “Projects”.

**SA 1644.** Ms. SNOWE (for herself, Mr. WHITEHOUSE, Ms. COLLINS, Mr. SANDERS, Mr. REED, and Mrs. SHAHEEN) submitted an amendment intended to be proposed by her to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 143, between lines 9 and 10, insert the following:

**“(3) USE OF FUNDS FOR OTHER ACTIVITIES.**—Notwithstanding paragraph (1) and subsection (c), the Secretary may permit a State to use amounts apportioned to the State for the congestion mitigation and air quality improvement program under section 104(b)(4) to carry out any activity on a system that was eligible for funding under that program as in effect on December 31, 2010.

**SA 1645.** Mr. ENZI submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . INFLATION ADJUSTMENT FOR TAX ON GASOLINE AND DIESEL FUEL.**

(a) **ADJUSTMENT FOR MANUFACTURER LEVEL TAX.—**

(1) **IN GENERAL.**—Subpart A of part III of subchapter A of chapter 32 of the Internal Revenue Code of 1986 is amended by redesignating section 4084 as section 4085 and inserting after section 4083 the following new section:

**“SEC. 4084. INFLATION ADJUSTMENT FOR GASOLINE, KEROSENE, AND DIESEL FUEL.**

“(a) **IN GENERAL.**—In the case of any calendar year beginning after 2012, each of the specified amounts shall be adjusted by an amount equal to—

“(1) such dollar amount, multiplied by

“(2) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, determined by substituting ‘calendar year 2011’ for ‘calendar year 1992’ in subparagraph (B) thereof.

“(b) **SPECIFIED AMOUNTS.**—For purposes of subsection (a), the specified amounts are—

“(1) the 18.3 cent amount under section 4081(a)(2)(A)(i),

“(2) the 24.3 cent amount under section 4081(a)(2)(A)(iii), and

“(3) the 19.7 cent amount under section 4081(a)(2)(D).



“(c) ROUNDING.—If any amount as adjusted under subsection (a) is not a multiple of 0.1 cents, such amount shall be rounded to the next highest multiple of 0.1 cents.

“(d) FLOOR STOCKS TAX.—

“(1) IN GENERAL.—There is hereby imposed on any applicable fuel held on an inflation adjustment date, by any person a tax equal to—

“(A) the tax which would have been imposed under section 4081 on the day before such inflation adjustment date on such applicable fuel had the most recent inflation adjustment under subsection (a) been in effect at all times before such inflation adjustment date, reduced by

“(B) the tax imposed under section 4081 on such applicable fuel before such inflation adjustment date.

“(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

“(A) LIABILITY FOR TAX.—A person holding an applicable fuel on an inflation adjustment date to which the tax imposed by paragraph (1) applies shall be liable for such tax.

“(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe.

“(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before the date which is 3 months after the inflation adjustment date.

“(3) DEFINITIONS.—For purposes of this subsection—

“(A) HELD BY A PERSON.—An applicable fuel shall be considered as ‘held by a person’ if title thereto has passed to such person (whether or not delivery to the person has been made).

“(B) APPLICABLE FUEL.—The term ‘applicable fuel’ means gasoline (other than aviation gasoline), diesel fuel, and kerosene.

“(C) INFLATION ADJUSTMENT DATE.—The term ‘inflation adjustment date’ means any date on which there is an increase in tax by reason of an adjustment under subsection (a).

“(4) EXCEPTION FOR EXEMPT USES.—The tax imposed by paragraph (1) shall not apply to applicable fuel held by any person exclusively for any use to the extent a credit or refund of the tax imposed by section 4081 is allowable for such use.

“(5) EXCEPTION FOR FUEL HELD IN VEHICLE TANK.—No tax shall be imposed by paragraph (1) on applicable fuel held in the tank of a vehicle.”.

(2) CONFORMING AMENDMENTS.—

(A) Section 4081(a)(2)(D) of the Internal Revenue Code of 1986 is amended by striking “for ‘24.3 cents’ ” and inserting “for the dollar applicable thereunder.”

(B) The table of sections for subpart A of part III of subchapter A of chapter 32 of the Internal Revenue Code of 1986 is amended by redesignating the item relating to section 4084 as relating to section 4085 and by inserting after the item relating to section 4083 the following new item:

“Sec. 4084. Inflation adjustment for gasoline, kerosene, and diesel fuel.”.

(b) ADJUSTMENT FOR RETAIL TAX.—Section 4041 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(c) INFLATION ADJUSTMENT FOR CERTAIN TAX RATES.—

“(1) IN GENERAL.—In the case of any calendar year beginning after 2012, each of the specified amounts shall be adjusted by an amount equal to—

“(A) such amount, multiplied by

“(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar

year, determined by substituting ‘calendar year 2011’ for ‘calendar year 1992’ in subparagraph (B) thereof.

“(2) SPECIFIED AMOUNT.—For purposes of paragraph (1), the specified amounts are—

“(A) the 24.3 cent amount under subsection (a)(2)(B)(ii).

“(B) the 18.3 cent amount under subsection (a)(3).

“(C) the 9.15 cent amount under subsection (m)(1)(A)(i), and

“(D) the 11.3 cent amount under subsection (m)(1)(A)(ii).

“(3) ROUNDING.—If any amount as adjusted under paragraph (1) is not a multiple of 0.1 cents, such amount shall be rounded to the next highest multiple of 0.1 cents.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel removed, entered, sold, or used after December 31, 2012.

**SA 1646.** Mr. BROWN of Ohio submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page \_\_, between lines \_\_ and \_\_, insert the following:

**SEC. \_\_\_\_.** MAKE IT IN AMERICA MANUFACTURING EXTENSION PARTNERSHIP.

(a) MEMORANDUM OF AGREEMENT.—The term ‘Memorandum of Agreement’ means the August 2011 Memorandum of Agreement between the Department of Transportation and the Department of Commerce entitled ‘Development of a Domestic Supply Base for Intermodal Transportation in the U.S.’.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) collaboration between the Department of Transportation and the Department of Commerce can significantly improve the scope and depth of the domestic supply base for transportation infrastructure, particularly for small businesses in the United States; and

(2) the Memorandum of Agreement should remain in effect until at least September 30, 2013.

(c) IMPLEMENTATION.—The Secretary shall—

(1) prioritize the implementation of the Memorandum of Agreement; and

(2) allocate such Department resources and personnel as necessary for such implementation.

(d) REPORT TO CONGRESS.—The Secretary, or a designee of the Secretary, shall submit an annual report to Congress regarding the progress made under the Memorandum of Agreement that contains—

(1) quantifiable performance metrics regarding the domestic supply base for transportation projects;

(2) appropriate recommendations for further ways to enhance the Make it in America Manufacturing Extension Partnership; and

(3) appropriate findings regarding specific impediments to compliance with Buy America requirements under this Act or under any other Act.

**SA 1647.** Mr. BROWN of Ohio submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_.** BUY AMERICA WAIVER REQUIREMENTS.

(a) NOTICE AND COMMENT OPPORTUNITIES.—

(1) IN GENERAL.—If the Secretary receives a request for a waiver under section 313(b) of title 23, United States Code, section 5323(j)(2) of title 49, United States Code, or section 24305(f)(4), 24405(a)(2), or 50101(b) of such title, the Secretary shall provide notice of, and an opportunity for public comment on, the request not later than 30 days before making a finding based on such request.

(2) NOTICE REQUIREMENTS.—Each notice provided under paragraph (1)—

(A) shall include the information available to the Secretary concerning the request, including the requestor’s justification for such request; and

(B) shall be provided electronically, including on the official public Internet website of the Department.

(b) PUBLICATION OF DETAILED JUSTIFICATION.—If the Secretary issues a waiver pursuant to the authority granted under a provision referenced in subsection (a)(1), the Secretary shall publish, in the Federal Register, a detailed justification for the waiver that—

(1) addresses the public comments received under subsection (a)(1); and

(2) is published before the waiver takes effect.

(c) BUY AMERICA REPORTING.—Not later than February 1, 2013, and annually thereafter, the Secretary shall submit a report to Congress that—

(1) specifies each highway, public transportation, or railroad project for which the Secretary issued a waiver from a Buy America requirement pursuant to the authority granted under a provision referenced in subsection (a)(1) during the preceding calendar year;

(2) identifies the country of origin and product specifications for the steel, iron, or manufactured goods acquired pursuant to each of the waivers specified under paragraph (1); and

(3) provides an employment impact analysis of the cumulative effect on manufacturing employment in the United States of all waivers for highway, public transportation, or railroad projects from a Buy America requirement issued by the Secretary during the preceding calendar year.

(d) CONSISTENCY WITH INTERNATIONAL AGREEMENTS.—This section shall be applied in a manner that is consistent with United States obligations under relevant international agreements.

(e) REVIEW OF NATIONWIDE WAIVERS.—Not later than 1 year after the date of the enactment of this Act, and at least once every 5 years thereafter, the Secretary shall review each standing nationwide waiver issued pursuant to the authority granted under any of the provisions referenced in subsection (a)(1) to determine whether continuing such waiver is necessary.

**SA 1648.** Mrs. GILLIBRAND submitted an amendment intended to be proposed by her to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle E of title I, add the following:

**SEC. \_\_\_\_.** CONSTRUCTION CAREERS DEMONSTRATION PROJECT.

(a) DEFINITIONS.—In this section, the following definitions apply:



(1) **DEMONSTRATION PROJECT.**—The term “demonstration project” means the construction careers demonstration project established under subsection (b)(1).

(2) **ELIGIBLE PROJECT.**—The term “eligible project” means any of the projects described in and identified by the Secretary under subsection (c)(1), and for which terms and conditions are set forth under subsection (c)(2), that—

(A) is requested for inclusion in the demonstration project by the State or local recipient of Department assistance through written communication to the Secretary;

(B) is estimated to have a total cost (including all sources of funding) of more than \$25,000,000; and

(C) would be constructed in a labor market area (as defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801)) for which a project-wide proportion of 15 percent of work hours to be performed by targeted workers is practical and attainable.

(3) **QUALIFIED PREAPPRENTICESHIP PROGRAM.**—The term “qualified preapprenticeship program” means a preapprenticeship training program that the Secretary of Labor, after consultation with stakeholders, determines—

(A) has demonstrated an ability to recruit, train, and prepare for admission to registered apprenticeship programs individuals who are targeted workers;

(B) has a written arrangement with at least 1 registered apprenticeship program to assist in recruitment and preparation of workers for application to that apprenticeship program; and

(C) uses a training curriculum that does not include on-the-job training.

(4) **REGISTERED APPRENTICESHIP PROGRAM.**—

(A) **IN GENERAL.**—The term “registered apprenticeship program” means an apprenticeship program registered with the Office of Apprenticeship of the Department of Labor, or with a State apprenticeship agency recognized by that Office of Apprenticeship, for purposes of regulation of apprenticeship programs pursuant to Federal law (including regulations).

(B) **EXCLUSIONS.**—The term “registered apprenticeship program” does not include any program that maintains provisional registration status.

(5) **TARGETED WORKER.**—The term “targeted worker” means an individual who—

(A) resides in the same labor market area (as defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801)) in which a project is to be carried out;

(B)(i)(I) is a member of a targeted group within the meaning of section 51 of the Internal Revenue Code of 1986; or

(II) resides in a census tract in which not less than 20 percent of the households have incomes below the Federal poverty guidelines; and

(ii) is a member of a family with a total family income that, during the 2-year period prior to employment on the project, did not exceed 200 percent of the Federal poverty guidelines (exclusive of unemployment compensation, child support payments, payments described in section 101(25)(A) of the Workforce Investment Act (29 U.S.C. 2801(25)(A)), and old-age and survivors insurance benefits received under section 202 of the Social Security Act (42 U.S.C. 402)); or

(C) is a displaced homemaker (as defined in section 3 of the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2302)).

(6) **WORKFORCE ENTITY.**—The term “workforce entity” means—

(A) a qualified preapprenticeship program;

(B) a workforce investment board established pursuant to section 111 of the Workforce Investment Act of 1998 (29 U.S.C. 2821); and

(C) a community-based organization with a track record of working with targeted workers.

(b) **ESTABLISHMENT AND AUTHORITY.**—

(1) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Labor, shall, by regulation and through the use of guidance, establish a construction careers demonstration project in accordance with this section.

(2) **PURPOSE.**—The purposes of the demonstration project shall be—

(A) to promote middle class careers and quality employment practices in the construction sector among targeted workers; and

(B) to advance efficiency and performance on eligible projects.

(c) **ROLE OF SECRETARY.**—To achieve the purposes described in subsection (b)(2), the Secretary shall—

(1) consult with State and local funding recipients to identify up to 20 projects per year that are directly funded or assisted, in whole or in part, by or through—

(A) the Federal Highway Administration;

(B) the Federal Transit Administration; and

(C) any other agency within the Department of Transportation;

(2) establish such terms and conditions for eligible projects as the Secretary, in consultation with the Secretary of Labor, determines are necessary to achieve those purposes and meet the requirements set forth in this section;

(3) for each included eligible project, in consultation with the Secretary of Labor and the State or local funding recipient, evaluate local labor market conditions and specify a proportion of overall construction work hours to be performed by targeted workers, and include such specification in the terms and conditions applicable to that project;

(4) require contractors performing construction services on included eligible projects to comply with the terms and conditions of the Secretary, and the requirements of this section, as conditions on the receipt by the project of Federal funding or assistance; and

(5)(A) not later than 3 years after the date on which the first eligible project under the demonstration project is identified under this subsection, evaluate the demonstration project in light of the purposes of this section; and

(B) if the Secretary determines that the demonstration project has advanced the goals set forth in this section, identify such additional eligible projects as the Secretary determines are appropriate for inclusion in the demonstration project.

(d) **GAO REPORT.**—Not later than 3 years after the date of enactment of this Act, the Comptroller General shall prepare and submit to the Committees on Transportation and Infrastructure and Education and the Workforce of the House of Representatives and the Committees on Banking, Health, Education, Labor and Pensions, Environment and Public Works, and Commerce, Science, and Transportation of the Senate, a report that describes the results of the demonstration project, including outcomes relating to training and employment placement, and any appropriate recommendations.

(e) **CONSTRUCTION CAREERS PATHWAYS.**—Each contractor and subcontractor that seeks to provide construction services on eligible projects shall submit adequate assurances with a bid or proposal that, for each craft or trade classification of worker that the contractor or subcontractor intends to employ to perform work on the eligible project, the contractor or subcontractor participates in a registered apprenticeship program.

(f) **PREAPPRENTICESHIP TRAINING.**—In order to advance the purposes of this section, on each eligible project included in the demonstration project, up to 1 percent of total project funds shall be used to support—

(1) training through qualified preapprenticeship programs to targeted workers interested in enrolling in registered apprenticeship programs; and

(2) community-based organizations in recruiting targeted workers to participate in registered apprenticeship programs or preapprenticeship training programs.

(g) **ENGAGEMENT OF QUALIFIED PREAPPRENTICESHIP PROGRAMS.**—In order to advance the purposes of this section, the recipient of Federal funding or assistance, or other public entity awarding contracts for construction of the eligible project shall—

(1) on each eligible project included in the demonstration project, engage local workforce entities to assist contractors in satisfying the targeted hiring requirements of the eligible project by—

(A) identifying and training targeted workers who are not currently enrolled in registered apprenticeship programs; and

(B) developing relationships with local registered apprenticeship programs; and

(2) before commencement of construction on the eligible project, convene contractors, workforce entities, and registered apprenticeship programs to facilitate programmatic relationships.

(h) **SMALL- AND DISADVANTAGED-BUSINESS REQUIREMENTS.**—Terms and conditions applicable to eligible projects shall require recipients and contractors to comply with all applicable federally mandated small- and disadvantaged-business requirements for contracting, subcontracting, and procurement.

(i) **LIMITATION.**—This section shall not apply to any project funded under this Act in American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, or the United States Virgin Islands, unless participation is requested by the Governor of the territory by not later than the date that is 1 year after the effective date of the regulations promulgated under subsection (j).

(j) **REGULATIONS.**—The Secretary, in consultation with the Secretary of Labor, shall promulgate such regulations as are necessary to carry out this section.

**SA 1649.** Mrs. GILLIBRAND submitted an amendment intended to be proposed by her to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

In section 414 of title 23, United States Code, as added by section 3112, add at the end the following:

“(f) **WITHHOLDING.**—

“(1) **THIRD FISCAL YEAR.**—The Secretary shall withhold 3 percent of the amounts otherwise apportioned to any State under paragraphs (1), (3), and (4) of section 104(b) of title 23, United States Code, on the first day of

the third fiscal year following the date of the enactment of this Act if the State has not enacted or is not enforcing a graduated driver licensing law that meets the requirements under this section.

“(2) **FOURTH FISCAL YEAR.**—The Secretary shall withhold 5 percent of the amounts otherwise apportioned to any State under paragraphs (1), (3), and (4) of section 104(b) of title 23, United States Code, on the first day of the fourth fiscal year following the date of the enactment of this Act if the State has not enacted or is not enforcing a graduated driver licensing law that meets the requirements under this section.”.

“(3) **FIFTH FISCAL YEAR.**—The Secretary shall withhold 10 percent of the amounts otherwise apportioned to any State under paragraphs (1), (3), and (4) of section 104(b) of title 23, United States Code, on the first day of the fifth fiscal year following the date of the enactment of this Act if the State has not enacted or is not enforcing a graduated driver licensing law that meets the requirements under this section.

“(4) **RELEASE OF FUNDS.**—The Secretary shall release any amounts withheld from a State under this subsection as soon as feasible once the State demonstrates, in a manner prescribed by the Secretary, that the State—

“(A) has enacted a graduated driver licensing law that complies with the requirements under this section; and

“(B) is enforcing the State law described in subparagraph (A).

“(5) **RETURN OF FUNDS.**—If a State fails to demonstrate its compliance with paragraph (4) by the first day of the fiscal year that is 3 years after the date on which amounts were withheld under this subsection, such amounts shall be—

“(A) forfeited by the State; and

“(B) deposited by the Secretary into the general fund of the Treasury.”.

**SA 1650.** Mrs. GILLIBRAND (for herself and Mr. SANDERS) submitted an amendment intended to be proposed by her to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 93, between the matter following line 12 and line 13, insert the following:

**SEC. \_\_\_\_ COORDINATED BORDER INFRASTRUCTURE PROGRAM.**

(a) **IN GENERAL.**—Section 1303 of the SAFETEA-LU (23 U.S.C. 101 note; 119 Stat. 1207) is amended—

(1) in subsection (a), by striking “motor vehicles” and inserting “motor vehicles and freight and passenger rail”;

(2) in subsection (b), in paragraphs (1), (3), (4), and (5), by inserting “, rail,” after “motor vehicle” each place it appears;

(3) in subsection (d), in the matter preceding paragraph (1), by inserting “, rail,” after “motor vehicle”; and

(4) in subsection (g)—

(A) by redesignating paragraph (5) as paragraph (6); and

(B) by inserting after paragraph (4) the following:

“(5) **RAIL.**—The term ‘rail’ means railroad (as defined in section 10102 of title 49, United States Code).”.

(b) **CONFORMING AMENDMENT.**—Section 133(c) of title 23, United States Code, as amended by section 1108, is further amended by striking paragraph (16) and inserting the following:

“(16) Border infrastructure projects eligible for funding under section 1303 of the SAFETEA-LU (23 U.S.C. 101 note; 119 Stat. 1207) (including freight and passenger railroads as defined in section 10102 of title 49).”.

**SA 1651.** Mr. BEGICH submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 283, strike line 20 and all that follows through page 284, line 11, and insert the following:

“(A) support the economic vitality of the metropolitan area, especially by enabling global competitiveness, travel and tourism, productivity, and efficiency;

“(B) increase the safety of the transportation system for motorized and non-motorized users;

“(C) increase the security of the transportation system for motorized and non-motorized users;

“(D) increase the accessibility and mobility of individuals and freight;

“(E) protect and enhance the environment, promote energy conservation, improve the quality of life, facilitate travel and tourism, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;”.

On page 317, line 22, strike “and”.

On page 318, line 2, strike the period and insert “; and”.

On page 318, between lines 2 and 3, insert the following:

“(C) to the maximum extent practicable, provide for consultation with State tourism offices and local and regional domestic marketing organizations.”.

On page 323, line 18, insert “facilitate travel and tourism,” after “life.”.

**SA 1652.** Mr. HARKIN (for himself, Mr. MORAN, and Mr. LEVIN) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

In division D, on page 299, line 5, strike “\$1,874,763,500” and insert “\$1,574,763,500”.

In division D, on page 303, strike line 22 and all that follows through “area.” on page 306, line 12.

In division D, on page 306, strike lines 21 and 22 and insert the following: 5310, 5311, 5312, 5313, 5314, 5315, 5322, 5335, 5337(c), and 5340.

In division D, on page 307, line 10, strike “\$4,756,161,500” and insert “\$5,039,661,500”.

In division D, on page 308, line 1, strike “\$591,190,000” and insert “\$720,190,000”.

In division D, on page 309, line 6, strike “\$1,987,263,500” and insert “\$1,574,763,500”.

In division D, on page 309, line 8, strike “subsections (c) and (e) of section 5337” and insert “section 5337(c)”.

In division D, on page 309, line 20, strike “\$1,955,000,000” and insert “\$1,655,000,000”.

In division D, on page 310, between lines 4 and 5 insert the following:

“(f) **FORMULA GRANTS.**—

“(1) **URBANIZED AREA FORMULA GRANTS.**—There are authorized to be appropriated to carry out section 5307 \$203,500,000 for each of fiscal years 2012 and 2013, which shall be allocated in accordance with section 5336.

“(2) **FORMULA GRANTS FOR OTHER THAN URBANIZED AREAS.**—There are authorized to be appropriated to carry out section 5311 \$96,500,000 for each of fiscal years 2012 and 2013, which shall be apportioned in accordance with section 5311(c).

**SA 1653.** Mr. MERKLEY (for himself, Mr. TOOMEY, and Mr. BLUNT) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle E of title I, add the following:

**SEC. \_\_\_\_ EXEMPTIONS FROM REQUIREMENTS FOR CERTAIN FARM VEHICLES.**

(a) **FEDERAL REQUIREMENTS.**—A covered farm vehicle, including the individual operating that vehicle, shall be exempt from the following:

(1) Any requirement relating to commercial driver's licenses established under chapter 313 of title 49, United States Code.

(2) Any requirement relating to drug testing established under chapter 313 of title 49, United States Code.

(3) Any requirement relating to medical certificates established under—

(A) subchapter III of chapter 311 of title 49, United States Code; or

(B) chapter 313 of title 49, United States Code.

(4) Any requirement relating to hours of service established under—

(A) subchapter III of chapter 311 of title 49, United States Code; or

(B) chapter 315 of title 49, United States Code.

(5) Any requirement relating to vehicle inspection, repair, and maintenance established under—

(A) subchapter III of chapter 311 of title 49, United States Code; or

(B) chapter 315 of title 49, United States Code.

(b) **STATE REQUIREMENTS.**—

(1) **IN GENERAL.**—Federal transportation funding to a State may not be terminated, limited, or otherwise interfered with as a result of the State exempting a covered farm vehicle, including the individual operating that vehicle, from any State requirement relating to the operation of that vehicle.

(2) **EXCEPTION.**—Paragraph (1) does not apply with respect to a covered farm vehicle transporting hazardous materials that require a placard.

(c) **COVERED FARM VEHICLE DEFINED.**—

(1) **IN GENERAL.**—In this section, the term “covered farm vehicle” means a motor vehicle (including an articulated motor vehicle)—

(A) that—

(i) is traveling in the State in which the vehicle is registered or another State;

(ii) is operated by—

(I) a farm owner or operator;

(II) a ranch owner or operator; or

(III) an employee or family member of an individual specified in subclause (I) or (II);

(iii) is transporting to or from a farm or ranch—

(I) agricultural commodities;

(II) livestock; or

(III) machinery or supplies;

(iv) except as provided in paragraph (2), is not used in the operations of a for-hire motor carrier; and

(v) is equipped with a special license plate or other designation by the State in which

the vehicle is registered to allow for identification of the vehicle as a farm vehicle by law enforcement personnel; and

(B) that has a gross vehicle weight rating or gross vehicle weight, whichever is greater, that is—

(i) 26,001 pounds or less; or

(ii) greater than 26,001 pounds and traveling within the State or within 150 air miles of the farm or ranch with respect to which the vehicle is being operated.

(2) INCLUSION.—In this section, the term “covered farm vehicle” includes a motor vehicle that meets the requirements of paragraph (1) (other than paragraph (1)(A)(iv)) and is—

(A) operated pursuant to a crop share farm lease agreement; and

(B) owned by a tenant with respect to that agreement; and

(C) transporting the landlord’s portion of the crops under that agreement.

**SA 1654.** Mr. BOOZMAN submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, insert the following:

**TITLE —PRIVATE PROPERTY RIGHTS PROTECTION ACT OF 2012**

**SEC. 01. SHORT TITLE.**

This title may be cited as the “Private Property Rights Protection Act of 2012”.

**SEC. 02. PROHIBITION ON EMINENT DOMAIN ABUSE BY STATES.**

(a) IN GENERAL.—No State or political subdivision of a State shall exercise its power of eminent domain, or allow the exercise of such power by any person or entity to which such power has been delegated, over property to be used for economic development or over property that is used for economic development within 7 years after that exercise, if that State or political subdivision receives Federal economic development funds during any fiscal year in which the property is so used or intended to be used.

(b) INELIGIBILITY FOR FEDERAL FUNDS.—A violation of subsection (a) by a State or political subdivision shall render such State or political subdivision ineligible for any Federal economic development funds for a period of 2 fiscal years following a final judgment on the merits by a court of competent jurisdiction that such subsection has been violated, and any Federal agency charged with distributing those funds shall withhold them for such 2-year period, and any such funds distributed to such State or political subdivision shall be returned or reimbursed by such State or political subdivision to the appropriate Federal agency or authority of the Federal Government, or component thereof.

(c) OPPORTUNITY TO CURE VIOLATION.—A State or political subdivision shall not be ineligible for any Federal economic development funds under subsection (b) if such State or political subdivision returns all real property the taking of which was found by a court of competent jurisdiction to have constituted a violation of subsection (a) and replaces any other property destroyed and repairs any other property damaged as a result of such violation. In addition, the State must pay applicable penalties and interest to reattain eligibility.

**SEC. 03. PROHIBITION ON EMINENT DOMAIN ABUSE BY THE FEDERAL GOVERNMENT.**

The Federal Government or any authority of the Federal Government shall not exercise its power of eminent domain to be used for economic development.

**SEC. 04. PRIVATE RIGHT OF ACTION.**

(a) CAUSE OF ACTION.—Any (1) owner of private property whose property is subject to eminent domain who suffers injury as a result of a violation of any provision of this title with respect to that property, or (2) any tenant of property that is subject to eminent domain who suffers injury as a result of a violation of any provision of this title with respect to that property, may bring an action to enforce any provision of this title in the appropriate Federal or State court. A State shall not be immune under the 11th Amendment to the Constitution of the United States from any such action in a Federal or State court of competent jurisdiction. In such action, the defendant has the burden to show by clear and convincing evidence that the taking is not for economic development. Any such property owner or tenant may also seek an appropriate relief through a preliminary injunction or a temporary restraining order.

(b) LIMITATION ON BRINGING ACTION.—An action brought by a property owner or tenant under this title may be brought if the property is used for economic development following the conclusion of any condemnation proceedings condemning the property of such property owner or tenant, but shall not be brought later than seven years following the conclusion of any such proceedings.

(c) ATTORNEYS’ FEE AND OTHER COSTS.—In any action or proceeding under this title, the court shall allow a prevailing plaintiff a reasonable attorneys’ fee as part of the costs, and include expert fees as part of the attorneys’ fee.

**SEC. 05. REPORTING OF VIOLATIONS TO ATTORNEY GENERAL.**

(a) SUBMISSION OF REPORT TO ATTORNEY GENERAL.—Any (1) owner of private property whose property is subject to eminent domain who suffers injury as a result of a violation of any provision of this title with respect to that property, or (2) any tenant of property that is subject to eminent domain who suffers injury as a result of a violation of any provision of this title with respect to that property, may report a violation by the Federal Government, any authority of the Federal Government, State, or political subdivision of a State to the Attorney General.

(b) INVESTIGATION BY ATTORNEY GENERAL.—Upon receiving a report of an alleged violation, the Attorney General shall conduct an investigation to determine whether a violation exists.

(c) NOTIFICATION OF VIOLATION.—If the Attorney General concludes that a violation does exist, then the Attorney General shall notify the Federal Government, authority of the Federal Government, State, or political subdivision of a State that the Attorney General has determined that it is in violation of this title. The notification shall further provide that the Federal Government, State, or political subdivision of a State has 90 days from the date of the notification to demonstrate to the Attorney General either that (1) it is not in violation of this title or (2) that it has cured its violation by returning all real property the taking of which the Attorney General finds to have constituted a violation of this title and replacing any other property destroyed and repairing any other property damaged as a result of such violation.

(d) ATTORNEY GENERAL’S BRINGING OF ACTION TO ENFORCE ACT.—If, at the end of the 90-day period described in subsection (c), the Attorney General determines that the Federal Government, authority of the Federal Government, State, or political subdivision of a State is still violating this title or has not cured its violation as described in subsection (c), then the Attorney General will bring an action to enforce this title unless the property owner or tenant who reported the violation has already brought an action to enforce this title. In such a case, the Attorney General shall intervene if it determines that intervention is necessary in order to enforce this title. The Attorney General may file its lawsuit to enforce this title in the appropriate Federal or State court. A State shall not be immune under the 11th Amendment to the Constitution of the United States from any such action in a Federal or State court of competent jurisdiction. In such action, the defendant has the burden to show by clear and convincing evidence that the taking is not for economic development. The Attorney General may seek any appropriate relief through a preliminary injunction or a temporary restraining order.

(e) LIMITATION ON BRINGING ACTION.—An action brought by the Attorney General under this title may be brought if the property is used for economic development following the conclusion of any condemnation proceedings condemning the property of an owner or tenant who reports a violation of this title to the Attorney General, but shall not be brought later than seven years following the conclusion of any such proceedings.

(f) ATTORNEYS’ FEE AND OTHER COSTS.—In any action or proceeding under this title brought by the Attorney General, the court shall, if the Attorney General is a prevailing plaintiff, award the Attorney General a reasonable attorneys’ fee as part of the costs, and include expert fees as part of the attorneys’ fee.

**SEC. 06. NOTIFICATION BY ATTORNEY GENERAL.**

(a) NOTIFICATION TO STATES AND POLITICAL SUBDIVISIONS.—

(1) Not later than 30 days after the enactment of this title, the Attorney General shall provide to the chief executive officer of each State the text of this title and a description of the rights of property owners and tenants under this title.

(2) Not later than 120 days after the enactment of this title, the Attorney General shall compile a list of the Federal laws under which Federal economic development funds are distributed. The Attorney General shall compile annual revisions of such list as necessary. Such list and any successive revisions of such list shall be communicated by the Attorney General to the chief executive officer of each State and also made available on the Internet website maintained by the United States Department of Justice for use by the public and by the authorities in each State and political subdivisions of each State empowered to take private property and convert it to public use subject to just compensation for the taking.

(b) NOTIFICATION TO PROPERTY OWNERS AND TENANTS.—Not later than 30 days after the enactment of this title, the Attorney General shall publish in the Federal Register and make available on the Internet website maintained by the United States Department of Justice a notice containing the text of this title and a description of the rights of property owners and tenants under this title.

**SEC. 07. REPORTS.**

(a) BY ATTORNEY GENERAL.—Not later than 1 year after the date of enactment of this title, and every subsequent year thereafter, the Attorney General shall transmit a report identifying States or political subdivisions that have used eminent domain in violation of this title to the Chairman and Ranking Member of the Committee on the Judiciary of the House of Representatives and to the Chairman and Ranking Member of the Committee on the Judiciary of the Senate. The report shall—

(1) identify all private rights of action brought as a result of a State's or political subdivision's violation of this title;

(2) identify all violations reported by property owners and tenants under section 5(c) of this title;

(3) identify the percentage of minority residents compared to the surrounding non-minority residents and the median incomes of those impacted by a violation of this title;

(4) identify all lawsuits brought by the Attorney General under section 5(d) of this title;

(5) identify all States or political subdivisions that have lost Federal economic development funds as a result of a violation of this title, as well as describe the type and amount of Federal economic development funds lost in each State or political subdivision and the Agency that is responsible for withholding such funds; and

(6) discuss all instances in which a State or political subdivision has cured a violation as described in section 2(c) of this title.

(b) DUTY OF STATES.—Each State and local authority that is subject to a private right of action under this title shall have the duty to report to the Attorney General such information with respect to such State and local authorities as the Attorney General needs to make the report required under subsection (a).

**SEC. 08. SENSE OF CONGRESS REGARDING RURAL AMERICA.**

(a) FINDINGS.—The Congress finds the following:

(1) The founders realized the fundamental importance of property rights when they codified the Takings Clause of the Fifth Amendment to the Constitution, which requires that private property shall not be taken "for public use, without just compensation".

(2) Rural lands are unique in that they are not traditionally considered high tax revenue-generating properties for State and local governments. In addition, farmland and forest land owners need to have long-term certainty regarding their property rights in order to make the investment decisions to commit land to these uses.

(3) Ownership rights in rural land are fundamental building blocks for our Nation's agriculture industry, which continues to be one of the most important economic sectors of our economy.

(4) In the wake of the Supreme Court's decision in *Kelo v. City of New London*, abuse of eminent domain is a threat to the property rights of all private property owners, including rural land owners.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the use of eminent domain for the purpose of economic development is a threat to agricultural and other property in rural America and that the Congress should protect the property rights of Americans, including those who reside in rural areas. Property rights are central to liberty in this country and to our economy. The use of eminent domain to take farmland and other

rural property for economic development threatens liberty, rural economies, and the economy of the United States. The taking of farmland and rural property will have a direct impact on existing irrigation and reclamation projects. Furthermore, the use of eminent domain to take rural private property for private commercial uses will force increasing numbers of activities from private property onto this Nation's public lands, including its National forests, National parks and wildlife refuges. This increase can overburden the infrastructure of these lands, reducing the enjoyment of such lands for all citizens. Americans should not have to fear the government's taking their homes, farms, or businesses to give to other persons. Governments should not abuse the power of eminent domain to force rural property owners from their land in order to develop rural land into industrial and commercial property. Congress has a duty to protect the property rights of rural Americans in the face of eminent domain abuse.

**SEC. 09. DEFINITIONS.**

In this title the following definitions apply:

(1) ECONOMIC DEVELOPMENT.—

(A) IN GENERAL.—The term "economic development" means taking private property, without the consent of the owner, and conveying or leasing such property from one private person or entity to another private person or entity for commercial enterprise carried on for profit, or to increase tax revenue, tax base, employment, or general economic health, except that such term shall not include—

(i) conveying private property—

(I) to public ownership, such as for a road, hospital, airport, or military base;

(II) to an entity, such as a common carrier, that makes the property available to the general public as of right, such as a railroad or public facility;

(III) for use as a road or other right of way or means, open to the public for transportation, whether free or by toll; and

(IV) for use as an aqueduct, flood control facility, pipeline, or similar use;

(ii) removing blighted property;

(iii) leasing property to a private person or entity that occupies an incidental part of public property or a public facility, such as a retail establishment on the ground floor of a public building;

(iv) acquiring abandoned property;

(v) clearing defective chains of title;

(vi) taking private property for use by a public utility, including a utility providing electric, natural gas, telecommunications, water and wastewater services, either directly to the public or indirectly through provision of such services at the wholesale level for resale to the public; and

(vii) redeveloping of a brownfield site as defined in the Small Business Liability Relief and Brownfields Revitalization Act (42 U.S.C. 9601(39)).

(B) BLIGHTED PROPERTY.—In subparagraph (A)(ii), the term "blighted property" means a structure—

(i) that was inspected by the appropriate local government and cited for one or more enforceable housing, maintenance, or building code violations that—

(I) affect the safety of the occupants or the public; and

(II) involve one or more of the following:

(aa) a roof and roof framing element;

(bb) support walls, beams, and headers;

(cc) foundation, footings, and subgrade conditions;

(dd) light and ventilation;

(ee) fire protection, including egress;

(ff) internal utilities, including electricity, gas, and water;

(gg) flooring and flooring elements; or

(hh) walls, insulation, and exterior envelope;

(ii) in which the cited housing, maintenance, or building code violations have not been remedied within a reasonable time after 2 notices to cure the noncompliance; and

(iii) that the satisfaction of those enforceable, cited and uncured housing, maintenance, and building code violations cost more than 50 percent of the assessor's taxable market value for the building, excluding land value, for property taxes payable in the year in which the condemnation is commenced.

(C) ABANDONED PROPERTY.—In subparagraph (A)(iv), the term "abandoned property" means property that—

(i) has been substantially unoccupied or unused for any commercial or residential purpose for at least 1 year by a person with a legal or equitable right to occupy the property;

(ii) has not been maintained; and

(iii) for which property taxes have not been paid for at least 2 years.

(2) FEDERAL ECONOMIC DEVELOPMENT FUNDS.—The term "Federal economic development funds" means any Federal funds distributed to or through States or political subdivisions of States under Federal laws designed to improve or increase the size of the economies of States or political subdivisions of States.

(3) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or any other territory or possession of the United States.

**SEC. 10. SEVERABILITY AND EFFECTIVE DATE.**

(a) SEVERABILITY.—The provisions of this title are severable. If any provision of this title, or any application thereof, is found unconstitutional, that finding shall not affect any provision or application of this title not so adjudicated.

(b) EFFECTIVE DATE.—This title shall take effect upon the first day of the first fiscal year that begins after the date of the enactment of this title, but shall not apply to any project for which condemnation proceedings have been initiated prior to the date of enactment.

**SEC. 11. SENSE OF CONGRESS.**

It is the policy of the United States to encourage, support, and promote the private ownership of property and to ensure that the constitutional and other legal rights of private property owners are protected by the Federal Government.

**SEC. 12. BROAD CONSTRUCTION.**

This title shall be construed in favor of a broad protection of private property rights, to the maximum extent permitted by the terms of this title and the Constitution.

**SEC. 13. LIMITATION ON STATUTORY CONSTRUCTION.**

Nothing in this title may be construed to supersede, limit, or otherwise affect any provision of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

**SEC. 14. RELIGIOUS AND NONPROFIT ORGANIZATIONS.**

(a) PROHIBITION ON STATES.—No State or political subdivision of a State shall exercise its power of eminent domain, or allow the exercise of such power by any person or entity to which such power has been delegated,

over property of a religious or other non-profit organization by reason of the non-profit or tax-exempt status of such organization, or any quality related thereto if that State or political subdivision receives Federal economic development funds during any fiscal year in which it does so.

(b) **INELIGIBILITY FOR FEDERAL FUNDS.**—A violation of subsection (a) by a State or political subdivision shall render such State or political subdivision ineligible for any Federal economic development funds for a period of 2 fiscal years following a final judgment on the merits by a court of competent jurisdiction that such subsection has been violated, and any Federal agency charged with distributing those funds shall withhold them for such 2-year period, and any such funds distributed to such State or political subdivision shall be returned or reimbursed by such State or political subdivision to the appropriate Federal agency or authority of the Federal Government, or component thereof.

(c) **PROHIBITION ON FEDERAL GOVERNMENT.**—The Federal Government or any authority of the Federal Government shall not exercise its power of eminent domain over property of a religious or other nonprofit organization by reason of the nonprofit or tax-exempt status of such organization, or any quality related thereto.

**SEC. 15. REPORT BY FEDERAL AGENCIES ON REGULATIONS AND PROCEDURES RELATING TO EMINENT DOMAIN.**

Not later than 180 days after the date of the enactment of this title, the head of each Executive department and agency shall review all rules, regulations, and procedures and report to the Attorney General on the activities of that department or agency to bring its rules, regulations and procedures into compliance with this title.

**SEC. 16. SENSE OF CONGRESS.**

It is the sense of Congress that any and all precautions shall be taken by the government to avoid the unfair or unreasonable taking of property away from survivors of Hurricane Katrina who own, were bequeathed, or assigned such property, for economic development purposes or for the private use of others.

**SEC. 17. DISPROPORTIONATE IMPACT ON MINORITIES.**

If the court determines that a violation of this title has occurred, and that the violation has a disproportionately high impact on the poor or minorities, the Attorney General shall use reasonable efforts to locate and inform former owners and tenants of the violation and any remedies they may have.

**SA 1655.** Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle E of title I, insert the following:

**SEC. 15. ELECTION TO RECEIVE STATE CONTRIBUTION TO HIGHWAY TRUST FUND IN LIEU OF PARTICIPATING IN FEDERAL-AID HIGHWAY PROGRAM.**

(a) **IN GENERAL.**—Chapter 1 of title 23, United States Code (as amended by section 1115(a)), is amended by adding at the end the following:

**“SEC. 168. DIRECT FEDERAL-AID HIGHWAY PROGRAM.**

“(a) **PROGRAM.**—

“(1) **IN GENERAL.**—Beginning with the first fiscal year after the date of enactment of

this section, the Secretary shall carry out a direct Federal-aid highway program in accordance with this section under which the Governor or chief executive officer of a State may elect, not less than 90 days before the beginning of each fiscal year—

“(A) to have the State waive the right of the State to receive amounts apportioned or allocated to the State under the Federal-aid highway program for the fiscal year to which the election applies; and

“(B) to receive instead the amount determined under subsection (d) for that fiscal year.

“(2) **FORM AND NATURE OF ELECTION.**—An election for a fiscal year under this subsection shall be made in such form and manner as the Secretary may require and shall be irrevocable for the fiscal year.

“(b) **STATE RESPONSIBILITY.**—

“(1) **IN GENERAL.**—The Secretary shall accept an election under subsection (a) if the Secretary determines that the State making the election—

“(A) has an Interstate maintenance program and agrees to maintain the portions of the Interstate System in the State in accordance with that program;

“(B) submits to the Secretary a plan describing—

“(i) the purposes, projects, and uses to which amounts received under the program will be put; and

“(ii) which programmatic requirements of this title the State elects to continue;

“(C) agrees to obligate or expend amounts received under the program exclusively for projects that would be eligible for funding under section 133(b) if the State were not participating in the program; and

“(D) agrees to report annually to the Secretary on the use of amounts received under the program and to make the report available to the public in an easily accessible format.

“(2) **SAFETY REQUIREMENTS.**—The Secretary may determine that requirements important for transportation safety continue to apply to a State that makes an election under subsection (a).

“(3) **SURFACE TRANSPORTATION PROGRAM.**—A State that makes an election under subsection (a) shall continue to suballocate funds to urbanized areas and other areas using the formulas and rules under section 133(d)(3).

“(4) **NO LIMITATION ON USE OF FUNDS.**—Except as provided in paragraphs (1), (2), and (3), the expenditure or obligation of funds received by the State under the program is not subject to regulation under this title or title 49.

“(c) **EFFECT ON PRE-EXISTING OBLIGATIONS.**—The making of an election under subsection (a) shall not affect any obligation, responsibility, or commitment of the State under this title for any fiscal year with respect to—

“(1) a project or program funded under this title (other than under this section); or

“(2) any project or program funded under this title for any fiscal year for which an election under subsection (a) is not in effect.

“(d) **TRANSFERS.**—

“(1) **IN GENERAL.**—The amount to be transferred to a State under the program for a fiscal year shall be the portion of the tax revenue appropriated to the Highway Trust Fund, other than for the Mass Transit Account, for a fiscal year for which an election is in effect under subsection (a) that is attributable to highway users in that State during that fiscal year, reduced by a pro rata share withheld by the Secretary to fund con-

tract authority for programs of the National Highway Traffic Safety Administration and the Federal Motor Carrier Safety Administration.

“(2) **GENERAL FUND AMOUNTS.**—For purposes of paragraph (1), any amounts deposited in or credited to the Highway Trust Fund from the general fund of the Treasury shall be treated as if the amounts were amounts received as tax revenue and appropriated to the Fund.

“(3) **TRANSFERS.**—

“(A) **IN GENERAL.**—Transfers under the program shall be made—

“(i) at the same time as deposits to the Highway Trust Fund are made by the Secretary of the Treasury; and

“(ii) on the basis of estimates by the Secretary, in consultation with the Secretary of the Treasury.

“(B) **ADJUSTMENTS.**—Subject to subparagraph (C), proper adjustments shall be made in amounts subsequently transferred under this paragraph to the extent prior estimates were in excess of, or less than, the amounts required to be transferred.

“(C) **LIMITATION.**—With respect to an adjustment under subparagraph (B) to any transfer—

“(i) the adjustment may not exceed 5 percent of the transferred amount to which the adjustment relates; and

“(ii) if the adjustment required exceeds that percentage, the excess shall be taken into account in making subsequent adjustments under that subparagraph.

“(e) **APPLICATION WITH OTHER AUTHORITY.**—The Secretary shall rescind or cancel any contract authority under this chapter (and any obligation limitation) for a State for a fiscal year for which an election by that State is in effect under subsection (a).”.

(b) **CONFORMING AMENDMENT.**—The analysis for chapter 1 of title 23, United States Code (as amended by section 1115(b)), is amended by adding at the end the following:

“Sec. 168. Direct Federal-aid highway program.”.

**SA 1656.** Mr. TOOMEY submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 469, after line 22, insert the following:

**SEC. 1521. ELIMINATION OF FEDERAL MANDATES FOR TRAFFIC SIGN RETROREFLECTIVITY.**

(a) **FINDING.**—Congress finds that it is the responsibility of State and local governments to determine whether traffic signs of the State and local governments provide necessary levels of retroreflectivity.

(b) **PROHIBITION ON STANDARD.**—The Secretary of Transportation (referred to in this section as the “Secretary”) shall not promulgate, implement, or enforce a minimum retroreflectivity level standard for a traffic control device that is applicable to a State or local government.

(c) **MODIFICATION OF MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES FOR STREETS AND HIGHWAYS.**—The Secretary shall modify the Manual on Uniform Traffic Control Devices for Streets and Highways, 2009 Edition (incorporated by reference in part 655 of title 23, Code of Federal Regulations (as in effect on the date of enactment of this Act)), to eliminate—

(1) the minimum retroreflectivity level standards for traffic control devices contained in section 2A.08 of the Manual; and

(2) the schedule for the implementation of the standards contained in table I-2 of the Manual.

(d) REPEAL.—Section 406 of the Department of Transportation and Related Agencies Appropriations Act, 1993 (Public Law 102-388; 106 Stat. 1564) is amended by striking “to include—” and all that follows through “(b) a standard” and inserting “to include a standard”.

**SA 1657.** Ms. CANTWELL (for herself and Mr. LUGAR) submitted an amendment intended to be proposed by her to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . OPEN FUELS STANDARD.**

(a) IN GENERAL.—Chapter 329 of title 49, United States Code, is amended by adding at the end the following:

**“§ 32920. Open fuels standard**

“(a) DEFINITIONS.—In this section:

“(1) ADVANCED ALTERNATIVE FUEL BLEND.—The term ‘advanced alternative fuel blend’ means—

“(A) a mixture containing—

“(i) at least 85 percent denatured ethanol, by volume, or a lower percentage prescribed by the Secretary pursuant to section 32901(b); and

“(ii) gasoline or drop-in fuel;

“(B) a mixture containing—

“(i) at least 70 percent methanol, by volume; and

“(ii) gasoline or drop-in fuel; and

“(C) any other mixture of alcohols or liquid fuels certified by the Secretary pursuant to subsection (b)(2).

“(2) ANNUAL COVERED INVENTORY.—The term ‘annual covered inventory’ means the number of automobiles (as defined in section 32901(a)(3)) that a manufacturer, during a given calendar year, manufactures in the United States or imports from outside of the United States, for sale in the United States.

“(3) FUEL CHOICE-ENABLING VEHICLE.—The term ‘fuel choice-enabling vehicle’ means a automobile warranted by its manufacturer—

“(A)(i) absent certification authorizing the use of an advanced alternative fuel blend under subsection (b)(2), to operate on a mixture containing—

“(I) at least 85 percent denatured ethanol, by volume, or a lower percentage prescribed by the Secretary pursuant to section 32901(b); and

“(II) gasoline or drop-in fuel; and

“(ii) after certification under subsection (b)(2), to operate on an advanced alternative fuel blend; or

“(B) to operate on—

“(i) natural gas;

“(ii) hydrogen;

“(iii) electricity;

“(iv) a hybrid electric engine;

“(v) a mixture of biodiesel and diesel fuel meeting the standard established by the American Society for Testing and Materials or under section 211(u) of the Clean Air Act (42 U.S.C. 7545(u)) for fuel containing 5 percent biodiesel; or

“(vi) any other fuel or means of powering covered automobiles prescribed by the Secretary, by regulation, that contains not more than 10 percent petroleum, by volume.

“(b) OPEN FUELS STANDARD.—

“(1) IN GENERAL.—Each automobile manufacturer’s annual covered inventory shall be comprised of—

“(A) not less than 50 percent fuel choice-enabling vehicles in model years 2015, 2016, and 2017; and

“(B) not less than 80 percent fuel choice-enabling vehicles in model year 2018 and each subsequent model year.

“(2) CERTIFICATIONS.—Not later than 2 years after the date of the enactment of this section, the Secretary of Transportation, in consultation with the Administrator of the Environmental Protection Agency, shall certify—

“(A) the use of advanced alternative fuel blends in fuel choice-enabling vehicles unless the Secretary determines that such certification—

“(i) is not technologically feasible;

“(ii) would result in burdensome consumer costs;

“(iii) negatively impacts automobile safety;

“(iv) negatively impacts air quality;

“(v) would not increase the use of domestic feedstock sources; or

“(vi) is unlikely to enable reductions in foreign oil imports;

“(B) the type and blend of advanced alternative fuel blend that can be utilized by specific automobiles in use on such date of enactment; and

“(C) the type and blend of advanced alternative fuel blend that can be utilized by new and existing components of the Nation’s transportation fueling infrastructure for fuel choice-enabled vehicles.

“(3) SMALL MANUFACTURER EXEMPTION.—At the request of a manufacturer, the Secretary of Transportation shall exempt the manufacturer from the requirement described in paragraph (1) if the manufacturer’s annual covered inventory is fewer than 10,000.

“(4) CREDIT TRADING AMONG MANUFACTURERS.—

“(A) IN GENERAL.—The Secretary may establish, by regulation, an open fuels standard credit trading program to allow manufacturers whose annual covered inventory exceeds the requirement described in paragraph (1) to earn credits, which may be sold to manufacturers that are unable to achieve such requirement.

“(B) DUAL FUEL CREDIT.—Beginning in model year 2018, any automobile used to qualify for the open fuels standard under this subsection cannot be used to receive the dual fuel credit under section 32903.

“(c) FUEL CHOICE COMPARISON TOOL.—The Secretary of Transportation, in consultation with the Secretary of Energy, the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, and the Federal Trade Commission, shall—

“(1) develop a model label for pumps in the United States dispensing advanced alternative fuels to consumers that—

“(A) identifies a single, readily comprehensible metric that allows consumers to evaluate the relative value, energy density, and expected automobile performance of any particular advanced alternative fuel blend; and

“(B) includes appropriate warnings against the use of such fuels in unwarranted engines, including nonautomobile engines; and

“(2) make the label described in paragraph (1) available for voluntary reproduction and adoption.

“(d) STUDY OF FUEL DISPENSING INFRASTRUCTURE FOR ADVANCED ALTERNATIVE FUEL BLENDS.—Not later than 2 years after the date of the enactment of this section, the Secretary of Transportation shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce

of the House of Representatives that evaluates the need for standardized fueling equipment that facilitates the dispensing of advanced alternative fuel blends to fuel choice-enabling vehicles and prevents such fuel blends from being dispensed to incompatible automobiles.”.

(b) CLERICAL AMENDMENT.—The table of section for chapter 329 of title 49, United States Code, is amended by adding at the end the following:

“32920. Open fuels standard.”.

(c) RULEMAKING.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall promulgate regulations to carry out the amendment made by subsection (a).

**SA 1658.** Mr. RUBIO submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

**SEC. \_\_\_\_ . CONSOLIDATION OF GRANTS.**

(a) DEFINITIONS.—In this section, the term “recipient” means—

(1) a State, local, or tribal government, including—

(A) a territory of the United States;

(B) a transit agency;

(C) a port authority;

(D) a metropolitan planning organization; or

(E) any other political subdivision of a State or local government;

(2) a multistate or multijurisdictional group, if each member of the group is an entity described in paragraph (1); and

(3) a public-private partnership, if both parties are engaged in building the project.

(b) CONSOLIDATION.—

(1) IN GENERAL.—A recipient that receives multiple grant awards from the Department to support 1 multimodal project may request that the Secretary designate 1 modal administration in the Department to be the lead agency for the overall project.

(2) REVIEW.—

(A) IN GENERAL.—Not later than 30 days after the date on which a request under paragraph (1) is made, the Secretary shall review the request and approve or deny the designation of a single modal administration as the lead Federal agency and point of contact for the Department.

(B) NOTIFICATION.—

(i) IN GENERAL.—The Secretary shall notify the requestor of the decision of the Secretary under subparagraph (A) in such form and at such time as the Secretary and the requestor agree.

(ii) DENIAL.—If a request is denied, the Secretary shall provide the requestor with a detailed explanation of the reasoning of the Secretary with the notification under clause (i).

(c) DUTIES.—

(1) IN GENERAL.—A modal administration designated as a lead agency under this section shall—

(A) be responsible for leading and coordinating the integrated project management team, which shall consist of all of the other modal administrations in the Department relating to the multimodal project; and

(B) during the first 30 days of carrying out the multimodal project, if applicable, identify overlapping or duplicative regulatory requirements and propose a single, streamlined approach to meeting the regulatory requirements.

## (2) ADMINISTRATION.—

(A) IN GENERAL.—The Secretary shall transfer all amounts that have been competitively awarded for the multimodal project to the modal administration designated as the project lead.

## (B) OPTION.—

(i) IN GENERAL.—Participation under this section shall be optional for recipients, and no recipient shall be required to participate.

(ii) SECRETARIAL DUTIES.—The Secretary is not required to identify every recipient that may be eligible to participate under this section.

## (d) COOPERATION.—

(1) IN GENERAL.—The Secretary and modal administrations with relevant jurisdiction over a multimodal project should cooperate on project review and delivery activities at the earliest practicable time.

(2) PURPOSES.—The purposes of the cooperation under paragraph (1) are—

(A) to avoid delays and duplication of effort later in the process;

(B) to prevent potential conflicts; and

(C) to ensure that planning and project development decisions are made in a streamlined manner.

**SA 1659.** Mr. RUBIO submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

## (k) REPORTS.—

## (1) SECRETARY.—

(A) IN GENERAL.—Not later than 30 days after the date on which the Secretary selects a project for funding under this section, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes the reasons for selecting the project, based on the criteria described in subsection (e).

(B) INCLUSIONS.—The report submitted under subparagraph (A) shall specify each criteria described in subsection (e) that the project meets.

(C) AVAILABILITY.—The Secretary shall make available on the website of the Department the report submitted under subparagraph (A).

## (2) COMPTROLLER GENERAL.—

(A) ASSESSMENT.—The Comptroller General of the United States shall conduct an assessment of the establishment, solicitation, selection, and justification process with respect to the funding of projects under this section.

(B) REPORT.—Not later than 3 years after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes—

(i) the process by which each project was selected;

(ii) the factors that went into the selection of each project; and

(iii) the justification for the selection of each project based on the criteria described in subsection (e).

## (3) INSPECTOR GENERAL.—

(A) ASSESSMENT.—The Inspector General of the Department shall conduct an assessment

of the establishment, solicitation, selection, and justification process with respect to the funding of projects under this section.

(B) INITIAL REPORT.—Not later than 2 years after the date of enactment of this Act, the Inspector General of the Department shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes the initial results of the assessment conducted under subparagraph (A).

(C) FINAL REPORT.—Not later than 4 years after the date of enactment of this Act, the Inspector General of the Department shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a final report that describes the findings of the Inspector General of the Department with respect to the assessment conducted under subparagraph (A).

**SA 1660.** Ms. COLLINS (for herself, Mr. ALEXANDER, Mr. TOOMEY, Mr. PRYOR, and Ms. LANDRIEU) submitted an amendment intended to be proposed by her to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title I of division A, add the following:

**Subtitle F—EPA Regulatory Relief****SEC. 15031. SHORT TITLE.**

This subtitle may be cited as the “EPA Regulatory Relief Act of 2011”.

**SEC. 15032. LEGISLATIVE STAY.**

(a) ESTABLISHMENT OF STANDARDS.—In place of the rules specified in subsection (b), and notwithstanding the date by which such rules would otherwise be required to be promulgated, the Administrator of the Environmental Protection Agency (in this subtitle referred to as the “Administrator”) shall—

(1) propose regulations for industrial, commercial, and institutional boilers and process heaters, and commercial and industrial solid waste incinerator units, subject to any of the rules specified in subsection (b)—

(A) establishing maximum achievable control technology standards, performance standards, and other requirements under sections 112 and 129, as applicable, of the Clean Air Act (42 U.S.C. 7412, 7429); and

(B) identifying non-hazardous secondary materials that, when used as fuels or ingredients in combustion units of such boilers, process heaters, or incinerator units are solid waste under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.; commonly referred to as the “Resource Conservation and Recovery Act”) for purposes of determining the extent to which such combustion units are required to meet the emissions standards under section 112 of the Clean Air Act (42 U.S.C. 7412) or the emission standards under section 129 of such Act (42 U.S.C. 7429); and

(2) finalize the regulations on the date that is 15 months after the date of the enactment of this Act.

(b) STAY OF EARLIER RULES ON SUCH.—The following rules are of no force or effect, shall be treated as though such rules had never taken effect, and shall be replaced as described in subsection (a):

(1) “National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boil-

ers and Process Heaters”, published at 76 Fed. Reg. 15608 (March 21, 2011).

(2) “National Emission Standards for Hazardous Air Pollutants for Area Sources: Industrial, Commercial, and Institutional Boilers”, published at 76 Fed. Reg. 15554 (March 21, 2011).

(3) “Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Commercial and Industrial Solid Waste Incineration Units”, published at 76 Fed. Reg. 15704 (March 21, 2011).

(4) “Identification of Non-Hazardous Secondary Materials That are Solid Waste”, published at 76 Fed. Reg. 15456 (March 21, 2011).

(c) INAPPLICABILITY OF CERTAIN PROVISIONS.—With respect to any standard required by subsection (a) to be promulgated in regulations under section 112 of the Clean Air Act (42 U.S.C. 7412), the provisions of subsections (g)(2) and (j) of such section 112 shall not apply prior to the effective date of the standard specified in such regulations.

**SEC. 15033. COMPLIANCE DATES.**

(a) ESTABLISHMENT OF COMPLIANCE DATES.—For each regulation promulgated pursuant to section 15032, the Administrator—

(1) shall establish a date for compliance with standards and requirements under such regulation that is, notwithstanding any other provision of law, not earlier than 5 years after the effective date of the regulation; and

(2) in proposing a date for such compliance, shall take into consideration—

(A) the costs of achieving emissions reductions;

(B) any non-air quality health and environmental impact and energy requirements of the standards and requirements;

(C) the feasibility of implementing the standards and requirements, including the time needed to—

(i) obtain necessary permit approvals; and

(ii) procure, install, and test control equipment;

(D) the availability of equipment, suppliers, and labor, given the requirements of the regulation and other proposed or finalized regulations of the Environmental Protection Agency; and

(E) potential net employment impacts.

(b) NEW SOURCES.—The date on which the Administrator proposes a regulation pursuant to section 15032(a)(1) establishing an emission standard under section 112 or 129 of the Clean Air Act (42 U.S.C. 7412, 7429) shall be treated as the date on which the Administrator first proposes such a regulation for purposes of applying the definition of a new source under section 112(a)(4) of such Act (42 U.S.C. 7412(a)(4)) or the definition of a new solid waste incineration unit under section 129(g)(2) of such Act (42 U.S.C. 7429(g)(2)).

(c) RULE OF CONSTRUCTION.—Nothing in this subtitle shall be construed to restrict or otherwise affect the provisions of paragraphs (3)(B) and (4) of section 112(i) of the Clean Air Act (42 U.S.C. 7412(i)).

**SEC. 15034. ENERGY RECOVERY AND CONSERVATION.**

(a) IN GENERAL.—Notwithstanding any other provision of law, to ensure the recovery and conservation of energy consistent with the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) (commonly known as the “Resource Conservation and Recovery Act of 1976”), in promulgating regulations under section 15032(a) that address the subject matter of the regulations described in paragraphs (3) and (4) of section 15032(b), the Administrator shall—



(1) adopt the definitions of the terms “commercial and industrial solid waste incineration unit”, “commercial and industrial waste”, and “contained gaseous material” contained in the regulation entitled “Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Commercial and Industrial Solid Waste Incineration Units” (65 Fed. Reg. 75338 (December 1, 2000)); and

(2) identify nonhazardous secondary material as not to be solid waste for purposes of the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) if—

(A) the material—

(i) does not meet the definition of commercial and industrial waste; and

(ii) is on the list published by the Administrator under subsection (b); or

(B) in the case of the material that is a gas, the material does not meet the definition of contained gaseous material.

(b) LIST OF NONHAZARDOUS SECONDARY MATERIALS.—

(1) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the Administrator shall publish a list of nonhazardous secondary materials that are not solid waste when combusted in units designed for energy recovery, including—

(A) without limitation, all forms of biomass, including—

(i) agricultural and forest-derived biomass;

(ii) biomass crops, vines, and orchard trees;

(iii) bagasse and other crop and tree residues, including—

(I) hulls and seeds;

(II) spent grains;

(III) byproducts of cotton;

(IV) corn and peanut production;

(V) rice milling and grain elevator operations;

(VI) cellulosic biofuels; and

(VII) byproducts of ethanol natural fermentation processes;

(iv) hogged fuel, including wood pallets, sawdust, and wood pellets;

(v) wood debris from forests and urban areas;

(vi) resinated wood and other resinated biomass-derived residuals, including trim, sanderdust, offcuts, and woodworking residuals;

(vii) creosote-treated, borate-treated, sapstained, and other treated wood;

(viii) residuals from wastewater treatment by the manufacturing industry, including process wastewater with significant British thermal unit (“Btu”) value;

(ix) paper and paper or cardboard recycling residuals, including paper-derived fuel cubes, paper fines, and paper and cardboard rejects;

(x) turpentine, turpentine derivatives, pine tar, rectified methanol, glycerine, lumber kiln condensates, and wood char;

(xi) tall oil and related soaps;

(xii) biogases or bioliquids generated from biomass materials, wastewater operations, or landfill operations;

(xiii) processed biomass derived from construction and demolition debris for the purpose of fuel production; and

(xiv) animal manure and bedding material;

(B) solid and emulsified paraffin;

(C) petroleum and chemical reaction and distillation byproducts and residues, alcohol, ink, and nonhalogenated solvents;

(D) tire-derived fuel, including factory scrap tire and related material;

(E) foundry sand processed in thermal reclamation units;

(F) coal refuse and coal combustion residuals;

(G) shredded cloth and carpet scrap;

(H) latex paint water, organic printing dyes and inks, recovered paint solids, and nonmetallic paint sludges;

(I) nonchlorinated plastics;

(J) all used oil that qualifies as recycled oil under section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903);

(K) process densified fuels that contain any of the materials described in this paragraph; and

(L) any other specific or general categories of material that the Administrator determines the combustion of which is for use as a fuel pursuant to paragraph (2).

(2) ADDITIONS TO THE LIST.—

(A) IN GENERAL.—To provide greater regulatory certainty, the Administrator may, after public notice and opportunity to comment, add nonhazardous secondary materials to the list published under paragraph (1)—

(i) as the Administrator determines necessary; or

(ii) based on a petition submitted by any person.

(B) RESPONSE.—Not later than 120 days after receiving any petition under subparagraph (A)(ii), the Administrator shall respond to the petition.

(C) REQUIREMENTS.—In making a determination under this paragraph, the Administrator may decline to add a material to the list under paragraph (1) if the Administrator determines that regulation under section 112 of the Clean Air Act (42 U.S.C. 7412) would not reasonably protect public health with an ample margin of safety.

#### SEC. 15035. OTHER PROVISIONS.

(a) ESTABLISHMENT OF STANDARDS ACHIEVABLE IN PRACTICE.—In promulgating rules under section 15032(a), the Administrator shall ensure that emissions standards for existing and new sources established under section 112 or 129 of the Clean Air Act (42 U.S.C. 7412, 7429), as applicable, can be met under actual operating conditions consistently and concurrently with emission standards for all other air pollutants regulated by the rule for the source category, taking into account variability in actual source performance, source design, fuels, inputs, controls, ability to measure the pollutant emissions, and operating conditions.

(b) REGULATORY ALTERNATIVES.—For each regulation promulgated pursuant to section 15032(a), from among the range of regulatory alternatives authorized under the Clean Air Act (42 U.S.C. 7401 et seq.) including work practice standards under section 112(h) of such Act (42 U.S.C. 7412(h)), the Administrator shall impose the least burdensome, consistent with the purposes of such Act and Executive Order 13563 published at 76 Fed. Reg. 3821 (January 21, 2011).

**SA 1661.** Ms. KLOBUCHAR (for herself, Mr. BURR, Mrs. SHAHEEN, and Mr. RISCH) submitted an amendment intended to be proposed by her to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 6, between lines 17 and 18, insert the following:

(5) RECREATIONAL TRAILS PROGRAM.—For the recreational trails program under section 206 of title 23, United States Code, \$85,000,000 for each of fiscal years 2012 and 2013.

On page 51, strike line 16 and insert the following:

“(g) RECREATIONAL TRAILS PROGRAM.—

“(1) DEFINITION OF ELIGIBLE STATE.—In this subsection, the term ‘eligible State’ means a State that meets the requirements of section 206(c).

“(2) ADMINISTRATIVE COSTS.—

“(A) IN GENERAL.—Before apportioning sums authorized to be appropriated to carry out the recreational trails program under section 206, the Secretary shall deduct for administrative, research, technical assistance, and training expenses for the program \$840,000 for each fiscal year.

“(B) CONTRACTS.—The Secretary may enter into contracts with for-profit organizations or contracts, partnerships, or cooperative agreements with other government agencies, institutions of higher learning, or nonprofit organizations to perform functions described in subparagraph (A).

“(3) APPORTIONMENT TO THE STATES.—The Secretary shall apportion the sums authorized to be appropriated for expenditure on the recreational trails program for each fiscal year among eligible States in the following manner:

“(A) 50 percent equally among eligible States.

“(B) 50 percent in amounts proportionate to the degree of non-highway recreational fuel use in each eligible State during the preceding year.

“(h) REPORT TO CONGRESS.—For each fiscal year, the

**SA 1662.** Mr. NELSON of Florida (for himself, Mr. SHELBY, Ms. LANDRIEU, Mr. VITTER, Mr. RUBIO, Mr. SESSIONS, Mr. COCHRAN, Mr. WICKER, Mrs. HUTCHISON, and Mr. WHITEHOUSE) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 469 after line 22, add the following:

#### Subtitle F—Gulf Coast Restoration

##### SEC. 1601. SHORT TITLE.

This subtitle may be cited as the “Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012”.

##### SEC. 1602. GULF COAST RESTORATION TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund to be known as the “Gulf Coast Restoration Trust Fund” (referred to in this section as the “Trust Fund”), consisting of such amounts as are deposited in the Trust Fund under this subtitle or any other provision of law.

(b) TRANSFERS.—The Secretary of the Treasury shall deposit in the Trust Fund an amount equal to 80 percent of all administrative and civil penalties paid by responsible parties after the date of enactment of this Act in connection with the explosion on, and sinking of, the mobile offshore drilling unit Deepwater Horizon pursuant to a court order, negotiated settlement, or other instrument in accordance with section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321).

(c) EXPENDITURES.—Amounts in the Trust Fund, including interest earned on advances to the Trust Fund and proceeds from investment under subsection (d), shall—

(1) be available for expenditure, without further appropriation, solely for the purpose and eligible activities of this subtitle; and

(2) remain available until expended, without fiscal year limitation.

(d) INVESTMENT.—Amounts in the Trust Fund shall be invested in accordance with section 9702 of title 31, United States Code, and any interest on, and proceeds from, any such investment shall be available for expenditure in accordance with this subtitle and the amendments made by this subtitle.

(e) ADMINISTRATION.—Not later than 180 days after the date of enactment of this Act, after providing notice and an opportunity for public comment, the Secretary of the Treasury, in consultation with the Secretary of the Interior and the Secretary of Commerce, shall establish such procedures as the Secretary determines to be necessary to deposit amounts in, and expend amounts from, the Trust Fund pursuant to this subtitle, including—

(1) procedures to assess whether the programs and activities carried out under this subtitle and the amendments made by this subtitle achieve compliance with applicable requirements, including procedures by which the Secretary of the Treasury may determine whether an expenditure by a Gulf Coast State or coastal political subdivision (as those terms are defined in section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321)) pursuant to such a program or activity achieves compliance;

(2) auditing requirements to ensure that amounts in the Trust Fund are expended as intended; and

(3) procedures for identification and allocation of funds available to the Secretary under other provisions of law that may be necessary to pay the administrative expenses directly attributable to the management of the Trust Fund.

**SEC. 1603. GULF COAST NATURAL RESOURCES RESTORATION AND ECONOMIC RECOVERY.**

Section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321) is amended—

(1) in subsection (a)—

(A) in paragraph (25)(B), by striking “and” at the end;

(B) in paragraph (26)(D), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

“(27) the term ‘Chairperson’ means the Chairperson of the Council;

“(28) the term ‘coastal political subdivision’ means any local political jurisdiction that is immediately below the State level of government, including a county, parish, or borough, with a coastline that is contiguous with any portion of the United States Gulf of Mexico;

“(29) the term ‘Comprehensive Plan’ means the comprehensive plan developed by the Council pursuant to subsection (t);

“(30) the term ‘Council’ means the Gulf Coast Ecosystem Restoration Council established pursuant to subsection (t);

“(31) the term ‘Deepwater Horizon oil spill’ means the blowout and explosion of the mobile offshore drilling unit Deepwater Horizon that occurred on April 20, 2010, and resulting hydrocarbon releases into the environment;

“(32) the term ‘Gulf Coast ecosystem’ means—

“(A) in the Gulf Coast States, the coastal zones (as that term is defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453), except that, in this section, the term ‘coastal zones’ includes land within the coastal zones that is held in trust by, or the use of which is by law subject solely to the discretion of, the Federal Government or officers or agents of the Federal Government) that border the Gulf of Mexico;

“(B) any adjacent land, water, and watersheds, that are within 25 miles of the coastal

zones described in subparagraph (A) of the Gulf Coast States; and

“(C) all Federal waters in the Gulf of Mexico;

“(33) the term ‘Gulf Coast State’ means any of the States of Alabama, Florida, Louisiana, Mississippi, and Texas; and

“(34) the term ‘Trust Fund’ means the Gulf Coast Restoration Trust Fund established pursuant to section 1602 of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012.”;

(2) in subsection (s), by inserting “except as provided in subsection (t)” before the period at the end; and

(3) by adding at the end the following:

“(t) GULF COAST RESTORATION AND RECOVERY.—

“(1) STATE ALLOCATION AND EXPENDITURES.—

“(A) IN GENERAL.—Of the total amounts made available in any fiscal year from the Trust Fund, 35 percent shall be available, in accordance with the requirements of this section, to the Gulf Coast States in equal shares for expenditure for ecological and economic restoration of the Gulf Coast ecosystem in accordance with this subsection.

“(B) USE OF FUNDS.—

“(i) ELIGIBLE ACTIVITIES.—Amounts provided to the Gulf States under this subsection may only be used to carry out 1 or more of the following activities:

“(I) Coastal restoration projects and activities, including conservation and coastal land acquisition.

“(II) Mitigation of damage to, and restoration of, fish, wildlife, or natural resources.

“(III) Implementation of a federally approved marine, coastal, or comprehensive conservation management plan, including fisheries monitoring.

“(IV) Programs to promote tourism in a Gulf Coast State, including recreational fishing.

“(V) Programs to promote the consumption of seafood produced from the Gulf Coast ecosystem.

“(VI) Programs to promote education regarding the natural resources of the Gulf Coast ecosystem.

“(VII) Planning assistance.

“(VIII) Workforce development and job creation.

“(IX) Improvements to or upon State parks located in coastal areas affected by the Deepwater Horizon oil spill.

“(X) Mitigation of the ecological and economic impact of outer Continental Shelf activities and the impacts of the Deepwater Horizon oil spill or promotion of the long-term ecological or economic recovery of the Gulf Coast ecosystem through the funding of infrastructure projects.

“(XI) Coastal flood protection and infrastructure directly affected by coastal wetland losses, beach erosion, or the impacts of the Deepwater Horizon oil spill.

“(XII) Administrative costs of complying with this subsection.

“(ii) LIMITATION.—

“(I) IN GENERAL.—Of the amounts received by a Gulf State under this subsection not more than 3 percent may be used for administrative costs eligible under clause (i)(XII).

“(II) PROHIBITION ON USE FOR IMPORTED SEAFOOD.—None of the funds made available under this subsection shall be used for any program to support or promote imported seafood or any seafood product that is not harvested from the Gulf Coast ecosystem.

“(C) COASTAL POLITICAL SUBDIVISIONS.—

“(i) IN GENERAL.—In the case of a State where the coastal zone includes the entire State—

“(I) 75 percent of funding shall be provided to the 8 disproportionately affected counties impacted by the Deepwater Horizon Oil Spill; and

“(II) 25 percent shall be provided to nondisproportionately impacted counties within the State.

“(ii) FLORIDA.—

“(I) DISPROPORTIONALLY AFFECTED COUNTIES.—Of the total amounts made available to counties in the State of Florida under clause (i)(I)—

“(aa) 10 percent shall be distributed equally among the 8 disproportionately affected counties; and

“(bb) 90 percent shall be distributed to the 8 disproportionately affected counties in accordance with the following weighted formula:

“(AA) 30 percent based on the weighted average of the county shoreline oiled.

“(BB) 30 percent based on the weighted average of the county per capita sales tax collections estimated for the fiscal year ending September 30, 2012.

“(CC) 20 percent based on the weighted average of the population of the county.

“(DD) 20 percent based on the inverse proportion of the weighted average distance from the Deepwater Horizon oil rig to each of the nearest and farthest points of the shoreline.

“(II) NONDISPROPORTIONATELY IMPACTED COUNTIES.—The total amounts made available to coastal political subdivisions in the State of Florida under clause (i)(II) shall be distributed according to the following weighted formula:

“(aa) 34 percent based on the weighted average of the population of the county.

“(bb) 33 percent based on the weighted average of the county per capita sales tax collections estimated for the fiscal year ending September 30, 2012.

“(cc) 33 percent based on the inverse proportion of the weighted average distance from the Deepwater Horizon oil rig to each of the nearest and farthest points of the shoreline.

“(iii) LOUISIANA.—Of the total amounts made available to the State of Louisiana under this paragraph:

“(I) 70 percent shall be provided directly to the State in accordance with this subsection.

“(II) 30 percent shall be provided directly to parishes in the coastal zone (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)) of the State of Louisiana according to the following weighted formula:

“(aa) 40 percent based on the weighted average of miles of the parish shoreline oiled.

“(bb) 40 percent based on the weighted average of the population of the parish.

“(cc) 20 percent based on the weighted average of the land mass of the parish.

“(iv) CONDITIONS.—

“(I) LAND USE PLAN.—As a condition of receiving amounts allocated under clause (iii), the chief executive of the eligible parish shall certify to the Governor of the State that the parish has completed a comprehensive land use plan.

“(II) OTHER CONDITIONS.—A coastal political subdivision receiving funding under this subsection shall meet all of the conditions in subparagraph (D).

“(D) CONDITIONS.—As a condition of receiving amounts from the Trust Fund, a Gulf Coast State, including the entities described in subparagraph (E), or a coastal political subdivision shall—

“(i) agree to meet such conditions, including audit requirements, as the Secretary of the Treasury determines necessary to ensure that amounts disbursed from the Trust Fund will be used in accordance with this subsection;

“(ii) certify in such form and in such manner as the Secretary of the Treasury determines necessary that the project or program for which the Gulf Coast State or coastal political subdivision is requesting amounts—

“(I) is designed to restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, coastal wetlands, or economy of the Gulf Coast;

“(II) carries out 1 or more of the activities described in subparagraph (B)(i);

“(III) was selected based on meaningful input from the public, including broad-based participation from individuals, businesses, and nonprofit organizations; and

“(IV) in the case of a natural resource protection or restoration project, is based on the best available science;

“(iii) certify that the project or program and the awarding of a contract for the expenditure of amounts received under this subsection are consistent with the standard procurement rules and regulations governing a comparable project or program in that State, including all applicable competitive bidding and audit requirements; and

“(iv) develop and submit a multiyear implementation plan for use of those funds.

“(E) APPROVAL BY STATE ENTITY, TASK FORCE, OR AGENCY.—The following Gulf Coast State entities, task forces, or agencies shall carry out the duties of a Gulf Coast State pursuant to this paragraph:

“(i) ALABAMA.—

“(I) IN GENERAL.—In the State of Alabama, the Alabama Gulf Coast Recovery Council, which shall be comprised of only the following:

“(aa) The Governor of Alabama, who shall also serve as Chairperson and preside over the meetings of the Alabama Gulf Coast Recovery Council.

“(bb) The Director of the Alabama State Port Authority, who shall also serve as Vice Chairperson and preside over the meetings of the Alabama Gulf Coast Recovery Council in the absence of the Chairperson.

“(cc) The Chairman of the Baldwin County Commission.

“(dd) The President of the Mobile County Commission.

“(ee) The Mayor of the city of Bayou La Batre.

“(ff) The Mayor of the town of Dauphin Island.

“(gg) The Mayor of the city of Fairhope.

“(hh) The Mayor of the city of Gulf Shores.

“(ii) The Mayor of the city of Mobile.

“(jj) The Mayor of the city of Orange Beach.

“(II) VOTE.—Each member of the Alabama Gulf Coast Recovery Council shall be entitled to 1 vote.

“(III) MAJORITY VOTE.—All decisions of the Alabama Gulf Coast Recovery Council shall be made by majority vote.

“(ii) LOUISIANA.—In the State of Louisiana, the Coastal Protection and Restoration Authority of Louisiana.

“(iii) MISSISSIPPI.—In the State of Mississippi, the Mississippi Department of Environmental Quality.

“(F) COMPLIANCE WITH ELIGIBLE ACTIVITIES.—If the Secretary of the Treasury determines that an expenditure by a Gulf Coast State or coastal political subdivision of amounts made available under this subsection does not meet 1 of the activities de-

scribed in subparagraph (B)(i), the Secretary shall make no additional amounts from the Trust Fund available to that Gulf Coast State or coastal political subdivision until such time as an amount equal to the amount expended for the unauthorized use—

“(i) has been deposited by the Gulf Coast State or coastal political subdivision in the Trust Fund; or

“(ii) has been authorized by the Secretary of the Treasury for expenditure by the Gulf Coast State or coastal political subdivision for a project or program that meets the requirements of this subsection.

“(G) COMPLIANCE WITH CONDITIONS.—If the Secretary of the Treasury determines that a Gulf Coast State or coastal political subdivision does not meet the requirements of this subsection, including the conditions of subparagraph (D), where applicable, the Secretary of the Treasury shall make no amounts from the Trust Fund available to that Gulf Coast State or coastal political subdivision until all conditions of this subsection are met.

“(H) PUBLIC INPUT.—In meeting any condition of this subsection, a Gulf Coast State may use an appropriate procedure for public consultation in that Gulf Coast State, including consulting with 1 or more established task forces or other entities, to develop recommendations for proposed projects and programs that would restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, coastal wetlands, and economy of the Gulf Coast.

“(I) PREVIOUSLY APPROVED PROJECTS AND PROGRAMS.—A Gulf Coast State or coastal political subdivision shall be considered to have met the conditions of subparagraph (D) for a specific project or program if, before the date of enactment of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012—

“(i) the Gulf Coast State or coastal political subdivision has established conditions for carrying out projects and programs that are substantively the same as the conditions described in subparagraph (D); and

“(ii) the applicable project or program carries out 1 or more of the activities described in subparagraph (B)(ii).

“(J) CONSULTATION WITH COUNCIL.—In carrying out this subsection, each Gulf Coast State shall seek the input of the Chairperson of the Council to identify large-scale projects that may be jointly supported by that Gulf Coast State and by the Council pursuant to the Comprehensive Plan with amounts provided under this subsection.

“(K) NON-FEDERAL MATCHING FUNDS.—

“(i) IN GENERAL.—A Gulf Coast State or coastal political subdivision may use, in whole or in part, amounts made available to that Gulf Coast State from the Trust Fund to satisfy the non-Federal share of the cost of any project or program authorized by Federal law that meets the eligible use requirements under subparagraph (B)(i).

“(ii) EFFECT ON OTHER FUNDS.—The use of funds made available from the Trust Fund to satisfy the non-Federal share of the cost of a project or program that meets the requirements of clause (i) shall not affect the priority in which other Federal funds are allocated or awarded.

“(L) LOCAL PREFERENCE.—In awarding contracts to carry out a project or program under this subsection, a Gulf Coast State or coastal political subdivision may give a preference to individuals and companies that reside in, are headquartered in, or are principally engaged in business in, a Gulf Coast State.

“(M) UNUSED FUNDS.—Any Funds not identified in an implementation plan by a State or coastal political subdivision in accordance with subparagraph (D)(iv) shall remain in the Trust Fund until such time as the State or coastal political subdivision to which the funds have been allocated develops and submits a plan identifying uses for those funds in accordance with subparagraph (D)(iv).

“(N) JUDICIAL REVIEW.—If the Secretary of the Treasury determines that a Gulf Coast State or coastal political subdivision does not meet the requirements of this subsection, including the conditions of subparagraph (D), the Gulf Coast State or coastal political subdivision may obtain expedited judicial review within 90 days of that decision in a district court of the United States, of appropriate jurisdiction and venue, that is located within the State seeking such review.

“(2) COUNCIL ESTABLISHMENT AND ALLOCATION.—

“(A) IN GENERAL.—Of the total amount made available in any fiscal year from the Trust Fund, 60 percent shall be disbursed to the Council to carry out the Comprehensive Plan.

“(B) COUNCIL EXPENDITURES.—

“(i) IN GENERAL.—In accordance with this paragraph, the Council shall expend funds made available from the Trust Fund to undertake projects and programs that would restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, coastal wetlands, and economy of the Gulf Coast.

“(ii) ALLOCATION AND EXPENDITURE PROCEDURES.—The Secretary of the Treasury shall develop such conditions, including audit requirements, as the Secretary of the Treasury determines necessary to ensure that amounts disbursed from the Trust Fund to the Council to implement the Comprehensive Plan will be used in accordance with this paragraph.

“(iii) ADMINISTRATIVE EXPENSES.—Of the amounts received by the Council under this subsection, not more than 3 percent may be used for administrative expenses, including staff.

“(C) GULF COAST ECOSYSTEM RESTORATION COUNCIL.—

“(i) ESTABLISHMENT.—There is established as an independent entity in the Federal Government a council to be known as the ‘Gulf Coast Ecosystem Restoration Council’.

“(ii) MEMBERSHIP.—The Council shall consist of the following members, or in the case of a Federal agency, a designee at the level of the Assistant Secretary or the equivalent:

“(I) The Chair of the Council on Environmental Quality.

“(II) The Secretary of the Interior.

“(III) The Secretary of the Army.

“(IV) The Secretary of Commerce.

“(V) The Administrator of the Environmental Protection Agency.

“(VI) The Secretary of Agriculture.

“(VII) The head of the department in which the Coast Guard is operating.

“(VIII) The Governor of the State of Alabama.

“(IX) The Governor of the State of Florida.

“(X) The Governor of the State of Louisiana.

“(XI) The Governor of the State of Mississippi.

“(XII) The Governor of the State of Texas.

“(iii) ALTERNATE.—A Governor appointed to the Council by the President may designate an alternate to represent the Governor on the Council and vote on behalf of the Governor.

“(iv) CHAIRPERSON.—From among the Federal agency members of the Council, the representatives of States on the Council shall select, and the President shall appoint, 1 Federal member to serve as Chairperson of the Council.

“(v) PRESIDENTIAL APPOINTMENT.—All Council members shall be appointed by the President.

“(vi) COUNCIL ACTIONS.—

“(I) IN GENERAL.—Subject to subclause (IV), significant actions by the Council shall require the affirmative vote of the Federal Chairperson and a majority of the State members to be effective.

“(II) INCLUSIONS.—Significant actions include but are not limited to—

“(aa) approval of a Comprehensive Plan and future revisions to a Comprehensive Plan;

“(bb) approval of State plans pursuant to paragraph (3)(B)(iv); and

“(cc) approval of reports to Congress pursuant to clause (vii)(X).

“(III) QUORUM.—A quorum of State members shall be required to be present for the Council to take any significant action.

“(IV) AFFIRMATIVE VOTE REQUIREMENT DEEMED MET.—For approval of State plans pursuant to paragraph (3)(B)(iv), the certification by a State member of the Council that the plan satisfies all requirements of clauses (i) and (ii) of paragraphs (3)(B), when joined by an affirmative vote of the Federal Chairperson of the Council, is deemed to satisfy the requirements for affirmative votes under subclause (I).

“(V) PUBLIC TRANSPARENCY.—Appropriate actions of the Council, including votes on significant actions and associated deliberations, shall be made available to the public.

“(vii) DUTIES OF COUNCIL.—The Council shall—

“(I) develop the Comprehensive Plan, and future revisions to the Comprehensive Plan;

“(II) identify as soon as practicable the projects that—

“(aa) have been authorized prior to the date of enactment of this subsection but not yet commenced; and

“(bb) if implemented quickly, would restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, barrier islands, dunes, and coastal wetlands of the Gulf Coast ecosystem;

“(III) coordinate the development of consistent policies, strategies, plans, and activities by Federal agencies, State and local governments, and private sector entities for addressing the restoration and protection of the Gulf Coast ecosystem;

“(IV) establish such other advisory committee or committees as may be necessary to assist the Council, including a scientific advisory committee and a committee to advise the Council on public policy issues;

“(V) coordinate scientific and other research associated with restoration of the Gulf Coast ecosystem, including research, observation, and monitoring carried out pursuant to section 1604 of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012;

“(VI) seek to ensure that all policies, strategies, plans, and activities for addressing the restoration of the Gulf Coast ecosystem are based on the best available physical, ecological, and economic data;

“(VII) make recommendations to address the particular needs of especially economically and socially vulnerable populations;

“(VIII) develop standard terms to include in contracts for projects and programs

awarded pursuant to the Comprehensive Plan that provide a preference to individuals and companies that reside in, are headquartered in, or are principally engaged in business in, a Gulf Coast State;

“(IX) prepare an integrated financial plan and recommendations for coordinated budget requests for the amounts proposed to be expended by the Federal agencies represented on the Council for projects and programs in the Gulf Coast States;

“(X) submit to Congress an annual report that—

“(aa) summarizes the policies, strategies, plans, and activities for addressing the restoration and protection of the Gulf Coast ecosystem;

“(bb) describes the projects and programs being implemented to restore and protect the Gulf Coast ecosystem; and

“(cc) makes such recommendations to Congress for modifications of existing laws as the Council determines necessary to implement the Comprehensive Plan; and

“(XI) submit to Congress a final report on the date on which all funds made available to the Council are expended.

“(viii) APPLICATION OF FEDERAL ADVISORY COMMITTEE ACT.—The Council, or any other advisory committee established under this subsection, shall not be considered an advisory committee under the Federal Advisory Committee Act (5 U.S.C. App.).

“(D) COMPREHENSIVE PLAN.—

“(i) PROPOSED PLAN.—

“(I) IN GENERAL.—Not later than 180 days after the date of enactment of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012, the Chairperson, on behalf of the Council, shall publish a proposed plan to restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of the Gulf Coast ecosystem.

“(II) CONTENTS.—The proposed plan described in subclause (I) shall include and incorporate the findings and information prepared by the President’s Gulf Coast Restoration Task Force.

“(ii) PUBLICATION.—

“(I) INITIAL PLAN.—Not later than 1 year after date of enactment of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 and after notice and opportunity for public comment, the Chairperson, on behalf of the Council and after approval by the Council, shall publish in the Federal Register the initial Comprehensive Plan to restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of the Gulf Coast ecosystem.

“(II) COOPERATION WITH GULF COAST RESTORATION TASK FORCE.—The Council shall develop the initial Comprehensive Plan in close coordination with the President’s Gulf Coast Restoration Task Force.

“(III) CONSIDERATIONS.—In developing the initial Comprehensive Plan and subsequent updates, the Council shall consider all relevant findings, reports, or research prepared or funded by a center of excellence or the Gulf Fisheries and Ecosystem Endowment established pursuant to the Gulf Coast Ecosystem Restoration Science, Monitoring, and Technology Program under section 1604 of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012.

“(IV) CONTENTS.—The initial Comprehensive Plan shall include—

“(aa) such provisions as are necessary to fully incorporate in the Comprehensive Plan the strategy, projects, and programs recommended by the President’s Gulf Coast Restoration Task Force;

“(bb) a list of any project or program authorized prior to the date of enactment of this subsection but not yet commenced, the completion of which would further the purposes and goals of this subsection and of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012;

“(cc) a description of the manner in which amounts from the Trust Fund projected to be made available to the Council for the succeeding 10 years will be allocated; and

“(dd) subject to available funding in accordance with clause (iii), a prioritized list of specific projects and programs to be funded and carried out during the 3-year period immediately following the date of publication of the initial Comprehensive Plan, including a table that illustrates the distribution of projects and programs by Gulf Coast State.

“(V) PLAN UPDATES.—The Council shall update—

“(aa) the Comprehensive Plan every 5 years in a manner comparable to the manner established in this subsection for each 5-year period for which amounts are expected to be made available to the Gulf Coast States from the Trust Fund; and

“(bb) the 3-year list of projects and programs described in subclause (IV)(dd) annually.

“(iii) RESTORATION PRIORITIES.—Except for projects and programs described in subclause (IV)(bb), in selecting projects and programs to include on the 3-year list described in subclause (IV)(dd), based on the best available science, the Council shall give highest priority to projects that address 1 or more of the following criteria:

“(I) Projects that are projected to make the greatest contribution to restoring and protecting the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of the Gulf Coast ecosystem, without regard to geographic location.

“(II) Large-scale projects and programs that are projected to substantially contribute to restoring and protecting the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of the Gulf Coast ecosystem.

“(III) Projects contained in existing Gulf Coast State comprehensive plans for the restoration and protection of natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of the Gulf Coast ecosystem.

“(IV) Projects that restore long-term resiliency of the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands most impacted by the Deepwater Horizon oil spill.

“(E) IMPLEMENTATION.—

“(i) IN GENERAL.—The Council, acting through the member agencies and Gulf Coast States, shall expend funds made available from the Trust Fund to carry out projects and programs adopted in the Comprehensive Plan.

“(ii) ADMINISTRATIVE RESPONSIBILITY.—

“(I) IN GENERAL.—Primary authority and responsibility for each project and program included in the Comprehensive Plan shall be assigned by the Council to a Gulf Coast State represented on the Council or a Federal agency.

“(II) TRANSFER OF AMOUNTS.—Amounts necessary to carry out each project or program included in the Comprehensive Plan shall be transferred by the Secretary of the Treasury from the Trust Fund to that Federal agency or Gulf Coast State as the project or program is implemented, subject to such conditions as the Secretary of the Treasury, in consultation with the Secretary of the Interior and the Secretary of Commerce, established pursuant to section 1602 of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012.

“(iii) COST SHARING.—

“(I) IN GENERAL.—A Gulf Coast State or coastal political subdivision may use, in whole or in part, amounts made available to that Gulf Coast State or coastal political subdivision from the Trust Fund to satisfy the non-Federal share of the cost of carrying a project or program that—

“(aa) is authorized by other Federal law; and

“(bb) meets the criteria of subparagraph (D).

“(II) INCLUSION IN COMPREHENSIVE PLAN.—A project or program described in subclause (I) that meets the criteria for inclusion in the Comprehensive Plan described in subparagraph (D) shall be selected and adopted by the Council as part of the Comprehensive Plan in the manner described in subparagraph (D).

“(F) COORDINATION.—The Council and the Federal members of the Council may develop Memorandums of Understanding establishing integrated funding and implementation plans among the member agencies and authorities.

“(G) TERMINATION.—The Council shall terminate on the date on which the report described in subparagraph (C)(vii)(XI) is submitted to Congress.

“(3) OIL SPILL RESTORATION IMPACT ALLOCATION.—

“(A) IN GENERAL.—Except as provided in paragraph (4), of the total amount made available to the Council under paragraph (2) in any fiscal year from the Trust Fund, 50 percent shall be disbursed by the Council as follows:

“(i) FORMULA.—Subject to subparagraph (B), for each Gulf Coast State, the amount disbursed under this paragraph shall be based on a formula established by the Council by regulation that is based on a weighted average of the following criteria:

“(I) 40 percent based on the proportionate number of miles of shoreline in each Gulf Coast State that experienced oiling as of April 10, 2011, compared to the total number of miles of shoreline that experienced oiling as a result of the Deepwater Horizon oil spill.

“(II) 40 percent based on the inverse proportion of the average distance from the Deepwater Horizon oil rig to the nearest and farthest point of the shoreline that experienced oiling of each Gulf Coast State.

“(III) 20 percent based on the average population in the 2010 decennial census of coastal counties bordering the Gulf of Mexico within each Gulf Coast State.

“(ii) MINIMUM ALLOCATION.—The amount disbursed to a Gulf Coast State for each fiscal year under clause (i) shall be at least 5 percent of the total amounts made available under this paragraph.

“(B) APPROVAL OF PROJECTS AND PROGRAMS.—

“(i) IN GENERAL.—The Council shall disburse amounts to the respective Gulf Coast States in accordance with the formula devel-

oped under subparagraph (A) for projects, programs, and activities that will improve the ecosystems or economy of the Gulf Coast, subject to the condition that each Gulf Coast State submits a plan for the expenditure of amounts disbursed under this paragraph which meet the following criteria:

“(I) All projects, programs, and activities included in that plan are eligible activities pursuant to paragraph (1)(B)(i).

“(II) The projects, programs, and activities included in that plan contribute to the overall economic and ecological recovery of the Gulf Coast.

“(III) The plan takes into consideration the Comprehensive Plan and is consistent with its goals and objectives, as described in paragraph (2)(B)(i).

“(ii) FUNDING.—

“(I) IN GENERAL.—Except as provided in subclause (II), the plan described in clause (i) may use not more than 25 percent of the funding made available for infrastructure projects eligible under subclauses (X) and (XI) of paragraph (1)(B)(i).

“(II) EXCEPTION.—The plan described in clause (i) may propose to use more than 25 percent of the funding made available for infrastructure projects eligible under subclauses (X) and (XI) of paragraph (1)(B)(i) if the plan certifies that—

“(aa) ecosystem restoration needs in the State will be addressed by the projects in the proposed plan; and

“(bb) additional investment in infrastructure is required to mitigate the impacts of the Deepwater Horizon Oil Spill to the ecosystem or economy.

“(iii) DEVELOPMENT.—The plan described in clause (i) shall be developed by—

“(I) in the State of Alabama, the Alabama Gulf Coast Recovery Council established under paragraph (1)(E)(i);

“(II) in the State of Florida, a consortium of local political subdivisions that includes at least 1 representative of each disproportionately affected county;

“(III) in the State of Louisiana, the Coastal Protection and Restoration Authority of Louisiana;

“(IV) in the State of Mississippi, the Office of the Governor or an appointee of the Office of the Governor; and

“(V) in the State of Texas, the Office of the Governor or an appointee of the Office of the Governor.

“(iv) APPROVAL.—Not later than 60 days after the date on which a plan is submitted under clause (i), the Council shall approve or disapprove the plan based on the conditions of clause (i).

“(C) DISAPPROVAL.—If the Council disapproves a plan pursuant to subparagraph (B)(iv), the Council shall—

“(i) provide the reasons for disapproval in writing; and

“(ii) consult with the State to address any identified deficiencies with the State plan.

“(D) FAILURE TO SUBMIT ADEQUATE PLAN.—If a State fails to submit an adequate plan under this subsection, any funds made available under this subsection shall remain in the Trust Fund until such date as a plan is submitted and approved pursuant to this subsection.

“(E) JUDICIAL REVIEW.—If the Council fails to approve or take action within 60 days on a plan described in subparagraph (B)(iv), the State may obtain expedited judicial review within 90 days of that decision in a district court of the United States, of appropriate jurisdiction and venue, that is located within the State seeking such review.

“(4) AUTHORIZATION OF INTEREST TRANS-

“(A) IN GENERAL.—Of the total amount made available in any fiscal year from the Trust Fund, an amount equal to the interest earned by the Trust Fund and proceeds from investments made by the Trust Fund in the preceding fiscal year—

“(i) 50 percent shall be transferred to the National Endowment for Oceans in subparagraph (B); and

“(ii) 50 percent shall be transferred to the Gulf of Mexico Research Endowment in subparagraph (C).

“(B) NATIONAL ENDOWMENT FOR THE OCEANS.—

“(i) ESTABLISHMENT.—

“(I) IN GENERAL.—There is established in the Treasury of the United States a trust fund to be known as the ‘National Endowment for the Oceans’, consisting of such amounts as may be appropriated or credited to the National Endowment for the Oceans.

“(II) INVESTMENT.—Amounts in the National Endowment for the Oceans shall be invested in accordance with section 9602 of the Internal Revenue Code of 1986, and any interest on, and proceeds from, any such investment shall be available for expenditure in accordance with this subparagraph.

“(ii) TRUSTEE.—The trustee for the National Endowment for the Oceans shall be the Secretary of Commerce.

“(iii) ALLOCATION OF FUNDS.—

“(I) IN GENERAL.—Each fiscal year, the Secretary shall allocate, at a minimum, an amount equal to the interest earned by the National Endowment for the Oceans in the preceding fiscal year, and may distribute an amount equal to up to 10 percent of the total amounts in the National Endowment for the Oceans—

“(aa) to allocate funding to coastal states (as defined in section 304 of the Marine Resources and Engineering Development Act of 1966 (16 U.S.C. 1453)) and affected Indian tribes;

“(bb) to make grants to regional ocean and coastal planning bodies; and

“(cc) to develop and implement a National Grant Program for Oceans and Coastal Waters.

“(II) PROGRAM ADJUSTMENTS.—Each fiscal year where the amount described in subparagraph (A)(i) does not exceed \$100,000,000, the Secretary may elect to fund only the grant program established in subclause (I)(cc).

“(iv) ELIGIBLE ACTIVITIES.—Funds deposited in the National Endowment for the Oceans may be allocated by the Secretary only to fund grants for programs and activities intended to restore, protect, maintain, or understand living marine resources and their habitats and resources in ocean and coastal waters (as defined in section 304 of the Marine Resources and Engineering Development Act of 1966 (16 U.S.C. 1453)), including baseline scientific research, ocean observing, and other programs and activities carried out in coordination with Federal and State departments or agencies, that are consistent with Federal environmental laws and that avoid environmental degradation.

“(v) APPLICATION.—To be eligible to receive a grant under clause (iii)(I), an entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary determines to be appropriate.

“(vi) FUNDING FOR COASTAL STATES.—The Secretary shall allocate funding among States as follows:

“(I) 50 percent of the funds shall be allocated equally among coastal States.

“(II) 25 percent of the funds shall be allocated based on tidal shoreline miles.

“(III) 25 percent of the funds shall be allocated based on the coastal population density of a coastal State.

“(IV) No State shall be allocated more than 10 percent of the total amount of funds available for allocation among coastal States for any fiscal year.

“(V) No territory shall be allocated more than 1 percent of the total amount of funds available for allocation among coastal States for any fiscal year.

“(C) GULF OF MEXICO RESEARCH ENDOWMENT.—

“(i) IN GENERAL.—There is established in the Treasury of the United States a trust fund to be known as the ‘Gulf of Mexico Research Endowment’, to be administered by the Secretary of Commerce, solely for use in providing long-term funding in accordance with section 1604 of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012.

“(ii) INVESTMENT.—Amounts in the Gulf of Mexico Research Endowment shall be invested in accordance with section 9602 of the Internal Revenue Code of 1986, and, after adjustment for inflation so as to maintain the value of the principal, any interest on, and proceeds from, any such investment shall be available for expenditure and shall be allocated in equal portions to the Gulf Coast Ecosystem Restoration Science, Monitoring, and Technology Program and Fisheries Endowment established in section 1604 of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012.”.

**SEC. 1604. GULF COAST ECOSYSTEM RESTORATION SCIENCE, OBSERVATION, MONITORING, AND TECHNOLOGY PROGRAM.**

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the National Oceanic and Atmospheric Administration.

(2) FISHERIES AND ECOSYSTEM ENDOWMENT.—The term “Fisheries and Ecosystem Endowment” means the endowment established by subsection (d).

(3) PROGRAM.—The term “Program” means the Gulf Coast Ecosystem Restoration Science, Observation, Monitoring, and Technology Program established by subsection (b).

(b) ESTABLISHMENT OF PROGRAM.—There is established within the National Oceanic and Atmospheric Administration a program to be known as the “Gulf Coast Ecosystem Restoration Science, Observation, Monitoring, and Technology Program”, to be carried out by the Administrator.

(c) CENTERS OF EXCELLENCE.—

(1) IN GENERAL.—In carrying out the Program, the Administrator, in consultation with other Federal agencies with expertise in the discipline of a center of excellence, shall make grants in accordance with paragraph (2) to establish and operate 5 centers of excellence, 1 of which shall be located in each of the States of Alabama, Florida, Louisiana, Mississippi, and Texas.

(2) GRANTS.—

(A) IN GENERAL.—The Administrator shall use the amounts made available to carry out this section to award competitive grants to nongovernmental entities and consortia in the Gulf Coast region (including public and private institutions of higher education) for the establishment of centers of excellence as described in paragraph (1).

(B) APPLICATION.—To be eligible to receive a grant under this paragraph, an entity or consortium described in subparagraph (A)

shall submit to the Administrator an application at such time, in such manner, and containing such information as the Administrator determines to be appropriate.

(C) PRIORITY.—In awarding grants under this paragraph, the Administrator shall give priority to entities and consortia that demonstrate the ability to establish the broadest cross-section of participants with interest and expertise in any discipline described in paragraph (3) on which the proposal of the center of excellence will be focused.

(3) DISCIPLINES.—Each center of excellence shall focus on science, technology, and monitoring in at least 1 of the following disciplines:

(A) Coastal and deltaic sustainability, restoration and protection; including solutions and technology that allow citizens to live safely and sustainably in a coastal delta.

(B) Coastal fisheries and wildlife ecosystem research and monitoring.

(C) Offshore energy development, including research and technology to improve the sustainable and safe development of energy resources.

(D) Sustainable and resilient growth, economic and commercial development in the Gulf Coast.

(E) Comprehensive observation, monitoring, and mapping of the Gulf of Mexico.

(4) COORDINATION WITH OTHER PROGRAMS.—The Administrator shall develop a plan for the coordination of projects and activities between the Program and other existing Federal and State science and technology programs in the States of Alabama, Florida, Louisiana, Mississippi, and Texas, as well as between the centers of excellence.

(d) ESTABLISHMENT OF FISHERIES AND ECOSYSTEM ENDOWMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Council shall establish a fishery and ecosystem endowment to ensure, to the maximum extent practicable, the long-term sustainability of the ecosystem, fish stocks, fish habitat and the recreational, commercial, and charter fishing industry in the Gulf of Mexico.

(2) EXPENDITURE OF FUNDS.—For each fiscal year, amounts made available to carry out this subsection may be expended for, with respect to the Gulf of Mexico—

(A) marine and estuarine research;

(B) marine and estuarine ecosystem monitoring and ocean observation;

(C) data collection and stock assessments;

(D) pilot programs for—

(i) fishery independent data; and

(ii) reduction of exploitation of spawning aggregations; and

(E) cooperative research.

(3) ADMINISTRATION AND IMPLEMENTATION.—The Fisheries and Ecosystem Endowment shall be administered by the Administrator of the National Oceanic and Atmospheric Administration, in consultation with the Director of the United States Fish and Wildlife Service, with guidance provided by the Regional Gulf of Mexico Fishery Management Council.

(4) SPECIES INCLUDED.—The Fisheries and Ecosystem Endowment will include all marine, estuarine, aquaculture, and fish and wildlife species in State and Federal waters of the Gulf of Mexico.

(5) RESEARCH PRIORITIES.—In distributing funding under this subsection, priority shall be given to integrated, long-term projects that—

(A) build on, or are coordinated with, related research activities; and

(B) address current or anticipated marine ecosystem, fishery, or wildlife management information needs.

(6) DUPLICATION AND COORDINATION.—In carrying out this subsection, the Administrator shall seek to avoid duplication of other research and monitoring activities and coordinate with existing research and monitoring programs, including the Integrated Coastal and Ocean Observation System Act of 2009 (33 U.S.C. 3601 et seq.).

(e) FUNDING.—

(1) IN GENERAL.—Except as provided in subsection (t)(4) of section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321), of the total amount made available for each fiscal year for the Gulf Coast Restoration Trust Fund established under section 1602, 5 percent shall be allocated in equal portions to the Program and Fisheries and Ecosystem Endowment established by this section.

(2) ADMINISTRATIVE EXPENSES.—Of the amounts received by the National Oceanic and Atmospheric Administration to carry out this section, not more than 3 percent may be used for administrative expenses.

**SEC. 1605. EFFECT.**

(a) IN GENERAL.—Nothing in this subtitle or any amendment made by this subtitle—

(1) supersedes or otherwise affects any provision of Federal law, including, in particular, laws providing recovery for injury to natural resources under the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.) and laws for the protection of public health and the environment; or

(2) applies to any fine collected under section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321) for any incident other than the Deepwater Horizon oil spill.

(b) USE OF FUNDS.—Funds made available under this subtitle may be used only for eligible activities specifically authorized by this subtitle.

**AUTHORITY FOR COMMITTEES TO MEET**

**COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY**

Mr. MERKLEY. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on February 15, 2011, at 9:30 a.m. in room SD G50 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY**

Mr. MERKLEY. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on February 15, 2011, at 9:30 a.m. in room SD G50 of the Dirksen Senate Office Building to conduct a hearing entitled “Energy and Economic Growth for Rural America.”

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON FINANCE**

Mr. MERKLEY. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on February 15, 2012, at 10:30 a.m., in

room 215 of the Dirksen Senate Office Building, to conduct a hearing entitled "The President's Budget for Fiscal Year 2013."

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMITTEE ON THE JUDICIARY

Mr. MERKLEY. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on February 15, 2012, at 10 a.m., in room SD 226 of the Dirksen Senate Office Building, to conduct a hearing entitled "Protecting Those Who Protect Us: The Bulletproof Vest Partnership Grant Program."

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMITTEE ON THE JUDICIARY

Mr. MERKLEY. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on February 15, 2012, at 2:30 p.m., in room SD 226 of the Dirksen Senate Office Building, to conduct a hearing entitled "Nominations."

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SUBCOMMITTEE ON FINANCIAL INSTITUTIONS AND CONSUMER PROTECTION

Mr. MERKLEY. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs' Subcommittee on Financial Institutions and Consumer Protection be authorized to meet during the session of the Senate on February 15, 2012, at 2 p.m., to conduct a hearing entitled "Pay for Performance: Incentive Compensation at Large Financial Institutions."

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PRIVILEGES OF THE FLOOR

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that a fellow in my office, Nicole Smith, be allowed the privilege of the floor for the remainder of the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### AUTHORIZING THE USE OF EMANCIPATION HALL

Mr. MERKLEY. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H. Con. Res. 99, which was received from the House and is at the desk.

The PRESIDING OFFICER (Mr. BENNET). The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 99) authorizing the use of Emancipation Hall in the Capitol Visitor Center for a ceremony to unveil the marker which acknowledges the role that slave labor played in the construction of the United States Capitol.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. MERKLEY. Mr. President, I ask unanimous consent that the preamble be agreed to, the concurrent resolution be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 99) was agreed to.

The preamble was agreed to.

#### PROMOTING PERMANENT FAMILY CARE FOR CHILDREN

Mr. MERKLEY. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 378, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 378) expressing the sense of the Senate that children should have a safe, loving, nurturing, and permanent family and that it is the policy of the United States that family reunification, kinship care, or domestic and inter-country adoption promotes permanency and stability to a greater degree than long-term institutionalization and long-term, continually disrupted foster care.

There being no objection, the Senate proceeded to consider the resolution.

Mr. MERKLEY. Mr. President, I further ask that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table with no intervening action or debate, and that any statements related to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 378) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 378

Whereas the family is the basic unit of society and contributes to the emotional, financial, and material support essential for the healthy growth and development of children;

Whereas children without a family or connections to siblings and relatives or a permanent relationship with a caring adult are at risk of being homeless, growing up in substandard institutional care, and are vulnerable to sexual and labor exploitation and abuse;

Whereas research has shown that children who are abandoned, abused, or severely neglected can face significant risks that are costly to society, including lower individual lifetime earnings, poorer educational achievement, and higher consumption of health services, which in turn could lead to a greater risk of criminal activity and greater risk of incarceration;

Whereas there is scientific evidence that children deprived of a family, including connections with siblings, often experience trauma, which can have a detrimental impact on the development of a child;

Whereas some estimates show that there are approximately 18 million children in the world who have lost both parents and at least 2 million children in the world who are in institutional care;

Whereas there are approximately 408,000 children in the United States foster-care system and 107,000 of them are awaiting adoption;

Whereas within the current foster-care system, many children are overmedicated, housed in inadequate group homes, denied the ability to engage in age-appropriate activities, such as afterschool activities, and often denied access to their siblings or placement with a relative guardian due to insufficient efforts to locate family members;

Whereas thousands of children who "age out" of the foster-care system in the United States every year lack the security or support of a biological or adoptive family, connections with siblings and relatives, or a permanent relationship with a caring adult and struggle to secure affordable housing, health insurance, higher education, and adequate employment;

Whereas current governmental efforts to assist these highly vulnerable children in the United States and around the world do not include an effective strategy for securing a protective family, connections with siblings and relatives, or a permanent relationship with a caring adult for every child; and

Whereas while there have been several bipartisan laws enacted in the past several years that have made progress on a number of needed child-welfare reforms, much remains to be done to ensure that all children have a safe, loving, nurturing, and permanent family, regardless of age or special needs: Now, therefore, be it

*Resolved*, That—

(1) the Senate—

(A) affirms that all children in the world, including those with special needs, deserve a safe, loving, nurturing, and permanent family, connections with siblings and relatives, or a permanent relationship with a caring adult;

(B) acknowledges that the United States Government can and should do more by working with the private sector, nonprofit organizations, and faith-based communities to implement cost effective strategies that connect children living outside of family care with a permanent, supportive family, or connections with siblings and relatives, or a permanent relationship with a caring adult;

(C) encourages States, counties, cities, and to the extent appropriate, other governments to invest resources in family preservation, reunification services, services to help older youth transition out of care with a connection to siblings, relatives or a caring adult, kinship adoption, domestic adoption, and intercountry adoption and post adoption strategies to ensure that more children in the United States are provided with safe, loving, and permanent family placements or a permanent relationship with a caring adult; and

(D) recognizes the United States Agency for International Development and the Department of State for recent efforts to develop a strategy for meeting the unique needs of children living outside of family care;

(2) it is the sense of the Senate that children should have a safe, loving, nurturing, and permanent family; and



(3) it is the policy of the United States that family reunification, kinship care, or domestic and intercountry adoption promotes permanency and stability to a greater degree than long-term institutionalization and long-term, continually disrupted foster care.

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MEASURE READ THE 1ST TIME—S.  
2111

Mr. MERKLEY. Mr. President, I understand S. 2111, introduced earlier today by Senator LEAHY, is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the title of the bill for the first time.

The assistant legislative clerk read as follows:

A bill (S. 2111) to enhance punishment for identity theft and other violations of data privacy and security.

Mr. MERKLEY. I now ask for its second reading and object to my own request.

The PRESIDING OFFICER. Objection is heard. The bill will be read for the second time on the next legislative day.

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ORDERS FOR THURSDAY,  
FEBRUARY 16, 2012

Mr. MERKLEY. Mr. President, I ask unanimous consent that the Senate adjourn until 10 a.m., on Thursday, February 16, 2012; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, and the time for the two leaders be reserved for their use later in the day; that following any leader remarks, the Senate be in a period of morning business for 1 hour, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the final half; that following

morning business, the Senate resume consideration of S. 1813, the surface transportation bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

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ADJOURNMENT UNTIL 10 A.M.  
TOMORROW

Mr. MERKLEY. If there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order.

There being no objection, the Senate, at 6:11 p.m., adjourned until Thursday, February 16, 2012, at 10 a.m.

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CONFIRMATION

Executive nomination confirmed by the Senate February 15, 2012:

THE JUDICIARY

ADALBERTO JOSE JORDAN, OF FLORIDA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE ELEVENTH CIRCUIT.

## EXTENSIONS OF REMARKS

HONORING MS. HATTIE LUCINDA BENNETT FOR HER SERVICES IN THE MISSISSIPPI HEALTH CARE COMMUNITY

**HON. BENNIE G. THOMPSON**

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 15, 2012

Mr. THOMPSON of Mississippi. Mr. Speaker, I rise today to honor a remarkable woman, Ms. Hattie Lucinda Bennett. Ms. Bennett was born on January 2, 1916 in Spartanburg, South Carolina to John and Hattie Abner. Ms. Bennett began her early years of school in the Spartanburg community until she and her family relocated to West Palm Beach, Florida. It is in the West Palm Beach community at the early age of 10 that she discovered the severity of economic depression and hardship affecting her community. After visiting a hospital in West Palm Beach, Ms. Bennett realized she would leave her mark on society by becoming a nurse.

Ms. Bennett graduated from West Palm Beach Industrial High School in 1935 as Valedictorian of her class. A short time after that, she began selling insurance policies at a private company to help raise money for college tuition. This job, along with the help of her family and her community, afforded Ms. Bennett the opportunity to successfully attend and complete nursing school as one of 16 blacks. Her achievements did not end there. Ms. Hattie Bennett, after completing nursing school, immediately passed the Georgia and Mississippi Registry Exam, which allowed her to begin a career in nursing.

Ms. Bennett's academic achievements and nursing credentials attracted the attention of Dr. Carl Day of the Yazoo Clinic and Hospital of Yazoo City, Mississippi. In February of 1941, Dr. Carl offered Ms. Bennett the head nursing position at the Yazoo Clinic and Hospital. After generously accepting, Ms. Bennett managed to meticulously raise the standards and performance expectations of the staff by implementing professional training and seminars. She sought to institute professional development activities by the staff to grow and enhance the facility.

Ms. Bennett served admirably as head nurse for the Yazoo Clinic and Hospital of Yazoo City for 29 years before subsequently serving for 2 years at the African American Sons and Daughter Hospital, 14 years at the Heritage Manor Nursing Home, and 32 years at the Mid-Delta Home Health Service.

In 2002, Ms. Bennett retired and was honored for her exemplary lifelong dedication to the nursing profession. Ms. Bennett continues her commitment to nursing as she motivates and encourages youth to pursue a career in the health profession. In 2002, she was honored with the Community Service Award presented by the St. Peters Missionary Baptist Church.

Ms Bennett is also a faithful member of the Bethel A.M.E. Church of Yazoo, Mississippi where she serves as steward, trustee and chairperson of the Surplus Fund.

Mr. Speaker, I ask my colleagues to join me today in honoring a legendary servant of Yazoo City, Mississippi, community, Ms. Hattie Lucinda Bennett.

IN CELEBRATION OF TWENTY YEARS OF U.S.-UZBEKISTAN DIPLOMATIC RELATIONS

**HON. ENI F.H. FALEOMAVAEGA**

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 15, 2012

Mr. FALEOMAVAEGA. Mr. Speaker, I rise today in celebration of 20 years of U.S.-Uzbekistan diplomatic relations.

When the United States of America established diplomatic relations with Uzbekistan on February 19, 1992, we were dealing with a newly reborn country that had just gained back its independence from the Soviet Union. Although Uzbekistan has a history that is thousands of years old, it faced many difficulties during the first years of its independence.

Today, Uzbekistan has managed to make significant progress in every field including politics, economics, and international relations. Working to build a foundation based on established legislative, executive, and judicial branches of power, Uzbekistan is transitioning to democracy and, in so doing, is raising its unique historical heritage and national identity.

I am extremely pleased by the high level of cooperation between Uzbekistan and the U.S. in the areas of regional security, the fight against transnational threats, and the deepening of political and economic consultations. U.S. companies are also expanding their presence in Uzbekistan, including General Motors.

The U.S. is particularly appreciative of Uzbekistan's assistance in our efforts in Afghanistan. Uzbekistan is also building railroads and bridges and providing low price electricity and other bilateral assistance to Afghanistan, which is also critical to U.S. interests.

So, once more, I congratulate the government and people of Uzbekistan for all they are doing to support the U.S., and I applaud President Barack Obama and Secretary of State Hillary Clinton for strengthening U.S.-Uzbekistan relations.

HONORING IMMACULATE CONCEPTION CATHOLIC CHURCH ON RECEIVING AN OFFICIAL TEXAS HISTORICAL MARKER

**HON. GENE GREEN**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 15, 2012

Mr. GENE GREEN of Texas. Mr. Speaker, I rise today to commend Immaculate Conception Catholic Church on receiving an official Texas Historical Marker. The current Pastor is Rev. Kevin A. Collins and the church is composed of people from all walks of life. I am proud to honor Immaculate Conception, located in Magnolia Park, for receiving this marker.

On Monday, February 20, 2012, the Texas Historical Commission will dedicate the historical marker with the following text:

In October 1911, the oblates of Mary Immaculate established their Roman Catholic society's first parish in Harris County and named it Immaculate Conception. The site was chosen on Harrisburg Boulevard in the incorporated community of Magnolia Park, which was annexed by the City of Houston in 1926. For the parish's first anniversary on October 6, 1912, a three building campus comprising a wood-frame church, rectory, and school and boarding house was dedicated. The school and boarding house were administered by the Sisters of Divine Providence. A consolidated school and auditorium brick building dedicated in September 1936 replaced these facilities, with the school auditorium serving as the church. The 1912 church building was relocated two miles away and converted into a brick building to serve another parish, Queen of Peace, which was originally a mission church of Immaculate Conception. In March 1957, a neo-Romanesque style church was dedicated to complement the style of the 1936 school and auditorium. The boarding house ceased operating and in 1969 the school closed permanently.

Adhering to their motto as oblates of Mary Immaculate, the priests of Immaculate Conception ministered to the needy and conducted extensive missionary work in southeast and central Texas. For decades, the priests were assigned the ministry for the state penitentiary system in Huntsville. Immaculate Conception was the mother church of the first predominantly Hispanic Catholic Church in Houston, named Our Lady of Guadalupe. At least nine parishes in Harris and surrounding counties can trace their histories to the missionary efforts of Immaculate Conception. Entering its second century of existence, Immaculate Conception continues to be an influential institution in the Magnolia Park community and beyond.

And so it is with great pleasure that I recognize and congratulate Immaculate Conception Catholic Church on receiving an official Texas Historical Marker.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

HONORING THE LIFE OF HENRY  
"HANK" PIOROWSKI

**HON. BRIAN HIGGINS**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 15, 2012*

Mr. HIGGINS. Mr. Speaker, I rise to honor the life and legacy of Henry "Hank" Piorowski, a loving husband, proud father, and a distinguished veteran who earned national recognition for his instrumental role in helping to create "Drug Court."

In 1994, under the leadership of the Chief Judge of Buffalo City Court, the Honorable Thomas Amodeo, and Justice Robert T. Russell, Hank led the study to determine how the traditional criminal justice system could be improved and to develop a centralized tracking system to ensure judges received timely updates.

With no additional funds, this court analyst became the newly designated Project Director with Buffalo's City Court innovative C.O.U.R.T.S. (Court Outreach Unit: Referral and Treatment Services) that began to identify defendants' social problems and link them to needed services. Hank once described his role as "a treatment and communication broker for the court. We basically can meet any need of a person who comes through the doors."

And under his direction, needs were met, results measured, and responsibility and reform rewarded. The program linked individuals coming through the justice system with a full range of social services, including drug treatment, mental health treatment, medical care, anger management, family counseling, youth counseling, and domestic violence programming, vocational/educational services, and housing.

Within ten years, the C.O.U.R.T.S. program had made over 40,000 referrals. From 2000 to 2005, defendants completed over 75,500 hours of community service, including graffiti removal and demolition of crack houses. The value of labor contributed to the community during that time was estimated to be \$453,000.

Mental Health and Veterans Courts would follow this model which has since been successfully replicated across this country. His profound sense of professionalism, humanity, and collaboration was recognized by the New York State Bar Association Justice award in 2003.

Hank's ability to successfully integrate the value of community partnerships and the implementation of information technology within the criminal justice system led to national recognition as he became the first western New York resident to be inducted into the Stanley M. Goldstein Drug Court Hall of Fame.

Retired in 2010, Hank lost his battle with a long, debilitating illness on February 12. He is survived by his loving family which includes wife, Gloria, son, Henry, four sisters and two brothers and many nieces and nephews. His legacy of public service will now be carried on by his son who took the oath of office as the Council President in the City of Lackawanna on January 1, 2012.

Henry "Hank" Piorowski will be missed but he will be remembered by those whose lives

were made better and whose families were reunited though his work and commitment to the soldier's creed to "leave no one behind."

REMEMBERING ALEXANDRIA  
PARAMEDIC JOSHUA WEISSMAN

**HON. JAMES P. MORAN**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 15, 2012*

Mr. MORAN. Mr. Speaker, it is with a heavy heart that I enter into the RECORD the passing of Paramedic Joshua Weissman. Paramedic Weissman was born in Ithaca, New York, lived in Bristow, Virginia with his wife Rebecca and worked for the City of Alexandria.

While responding to a car fire on I-395 last week, Paramedic Weissman had a tragic fall from the roadway, down an embankment, where he suffered a severe head injury.

City of Alexandria and Arlington County firefighters, paramedics, and police responded immediately, rushing to the scene. Despite their valiant efforts, and those by the medical team at the Washington Hospital Center, Paramedic Weissman's injuries proved fatal. It was a great loss for the Weissman family and the entire Alexandria community.

Mr. Weissman served as a paramedic for the City for nearly six years. In that time, he compiled a record of outstanding performance ratings as an enthusiastic, energetic and engaging instructor who took great pleasure providing innovation to the work of his department.

Joshua was very active in a variety of career-related organizations that interacted with the community and honed his abilities. He was a regular participant in, and member of, the EMS Training Committee, the EMS Quality Management Committee—where he was in charge of the Call of the Quarter Submissions—and the EMS 1/5/10/20 Committee. Josh was also instrumental in the establishment of the Field Training Program for EMS Interns, receiving the Alexandria Jaycees Award in 2011 for his contributions to that effort.

Josh's reputation as a top paramedic was well known. Numerous letters to his department commending his work from members of the Alexandria community are testament to that fact. In one instance, Josh responded to a home incident in which a grandmother, carrying her young grandson, tripped and fell. The boy's mother, upon arriving home after the incident, was concerned with the medical status of her son. Josh went out of his way to revisit the home to reassure the little boy's mother that he had been thoroughly checked out during the initial response, thus alleviating the mother's concerns and an unnecessary and likely expensive trip to the hospital. The mother was so impressed by Josh's concern that she wrote a letter to the Fire Chief expressing her appreciation. That's the way Josh lived day in, day out, going the extra mile to serve those in need.

Mr. Speaker, Joshua Weissman made the ultimate sacrifice in the line of duty. His untimely death is a loss to the entire community. Not only was he an outstanding paramedic,

Joshua was also a dedicated family member, coworker, and friend. Paramedic Weissman's service will not be forgotten. He has left us a legacy of honor, kindness, and bravery.

HONORING THE LIFE OF DR.  
MARTHA WILLIAMS DAVIS

**HON. BENNIE G. THOMPSON**

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 15, 2012*

Mr. THOMPSON of Mississippi. Mr. Speaker, I rise today to honor the life of Dr. Martha Williams Davis of Holmes County, Mississippi. Dr. Davis was the Founder and former President and Chief Executive Officer of the Dr. Arenia C. Mallory Community Health Center, Inc. from 1993 to 2007. In addition to her professional career, she devoted much of her life to improving the lives of others and was a true friend to her community.

Dr. Davis' formal education included having received her Doctorate in Philosophy from Mississippi State University, a Master's of Science from Michigan State University, and a Bachelors of Science from Alcorn State University. In addition to having served as Chief Executive Officer, President and Founder of the Dr. Arenia C. Mallory Community Health Center, Inc., Dr. Davis worked as a consultant with various organizations and companies across the United States.

Dr. Davis was tremendously active in the community. She was associated with several local and national groups and committees. She served as a member on the National Association of Community Health Center Legislative and Health Policy Committee, the Association of Health Administrators, Diamond Life Member of Delta Sigma Theta, Inc., Order of Eastern Star, Organized Youth Advisory Council, Student Advisory Council, Organized Delta Health Partners, President of Mississippi Primary Health Care Association, President of the Mississippi School Food Service Administration's Five State Nutrition Project, Trustee to Holmes Community College, and Organized Healthy Start within Mallory Community Health Center System. She was also a Worthy Matron of the Eastern Star Modern Free and Accepted Masons and held the position of Sunday School Superintendent at Saint Paul Church of God and Christ in Lexington, Mississippi.

Mr. Speaker, I ask that my colleagues join me in honoring the life and legacy of Dr. Martha Williams Davis for her steadfast devotion in serving and giving back to her community.

RECOGNITION OF THE 175TH ANNIVERSARY OF SISTERS OF ST. JOSEPH OF CARONDELET

**HON. RUSS CARNAHAN**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 15, 2012*

Mr. CARNAHAN. Mr. Speaker, I rise today to recognize and honor the hard work of the Sisters of St. Joseph of Carondelet.

They recently celebrated their 175th anniversary of serving those in need.

Dedicated to a mission of unity and reconciliation, nonviolence and peacemaking, the Sisters have worked tirelessly to make the St. Louis community a better place.

Sisters of St. Joseph celebrate 175 years in the United States.

Having arrived from France in New Orleans in March 1836, the first six sisters traveled up the Mississippi River to reach St. Louis.

They spent some time learning English and then opened their first mission in Cahokia, Illinois, in April, 1836.

On September 12, 1836, they moved into a log cabin in Carondelet, a small village south of St. Louis.

Today, the Sisters continue their social justice work in the Carondelet neighborhood in South St. Louis City.

They serve in a variety of places and work in an array of areas, such as health care, child care, deaf education, youth ministry and adult education.

Our community, state, and country are beneficiaries of the mission and work of the Sisters of St. Joseph of Carondelet, and I am proud to honor them and their work today.

#### PERSONAL EXPLANATION

#### HON. JIM JORDAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 15, 2012*

Mr. JORDAN. Mr. Speaker, my scheduled flight into Washington was cancelled yesterday for mechanical reasons. As a result, I was absent from the House Floor during Tuesday's rollcall vote.

Had I been present, I would have voted "aye" on rollcall 49.

#### OUR UNCONSCIONABLE NATIONAL DEBT

#### HON. MIKE COFFMAN

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 15, 2012*

Mr. COFFMAN of Colorado. Mr. Speaker, on January 26, 1995, when the last attempt at a balanced budget amendment passed the House by a bipartisan vote of 300-132, the national debt was \$4,801,405,175,294.28.

Today, it is \$15,359,384,163,919.51. We've added \$10,557,978,988,625.23 dollars to our debt in 16 years. This is \$10 trillion in debt our nation, our economy, and our children could have avoided with a balanced budget amendment.

#### HONORING THE FEDERAL RETIREMENT OF MR. JIM BERGDAHL

#### HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 15, 2012*

Mr. MORAN. Mr. Speaker, I rise today to honor one of my constituents, Jim Bergdahl,

on his retirement from the federal government after 52 years of service.

Jim Bergdahl was born and raised in Chicago, was educated at Northwestern, and served in the Air National Guard while attending college.

In 1959, during his senior year at Northwestern, Jim began his federal civil service career as an appraiser with the Army Corps of Engineers in Chicago. Six years later, he joined the General Services Administration in the San Francisco regional office as an appraiser in the Real Property Division.

Jim's work quickly caught the attention of his supervisors. He was soon nominated for and received a "Career Education Award", sponsored by the National Institute of Public Affairs and the Civil Service Commission. The prize for receiving this prestigious award was one year of free graduate study at the University of Virginia.

Following graduation, Jim relocated to the Office of Real Property in Washington, D.C. where he was in charge of reviewing the fast growing Federal property holdings, which had literally doubled between 1954 and 1969. The government was on pace to own the whole country by the year 2000. Jim was asked to determine the cause of this tremendous expansion.

As he quickly discovered, while U.S. federal land holdings had doubled, the phenomenon was directly related to the increase in the number of States in the U.S. between 1954 and 1969. Jim determined that the newest state, Alaska, had the distinction of having more government-owned land within its borders than all of the other 49 States combined. Case closed.

In 1974, Jim transferred to the Federal Buildings Fund Management Division to help get the new division up and running. Here he again was tapped for a special project, working to develop critical information to persuade the Department of Defense to correct congressional testimony as to the total amount they were spending on rent. In short order, the record was corrected.

Following that daunting yet successful challenge, Jim returned to the Office of Real Property as Program Policy Advisor to the Assistant Commissioner in 1976. He played a major role in the establishment of the Federal Property Resources Service, where he became Director of Special Projects. One project involved the sale to the public of a large number of Carson City Silver Dollars minted in the 1800s that were found in a vault. The sale began just as the Hunt brothers were trying to corner the silver market and the price of silver skyrocketed. Suddenly, the coins were worth more for the silver they contained than their value to coin collectors. To avoid delaying or postponing sales of the coins, toll free phone lines were set up for buyers to obtain the price of the coins based on the price of silver each day. This fast action by Jim and his office was fortuitous. Shortly after the sales were completed, the Hunt brothers failed in their attempt to corner the market and silver prices collapsed.

The curtain rose on Jim's final act as a civil servant when the new Public Building Service was rolled out in 1995. Jim was part of the Courthouse Management Group, formed to

provide oversight, program management and budgeting for the largest federal courthouse construction program in the nation's history. As a senior member of the Group, Jim provided extensive knowledge and expertise in many aspects of the federal courthouse program, working with Congress, the Office of Management and Budget, and the federal Judiciary, as well as regional GSA offices to see that the ambitious program succeeded. When he retired this year, he was the last charter member still remaining with the agency.

Mr. Speaker, I am honored to ask my colleagues to join me in congratulating Mr. Bergdahl on his retirement from the federal service. During Jim's successful 52-year career, he was a model employee, consistently recognized by his peers and his congressional colleagues as providing the highest level of professionalism, superior subject knowledge, and willingness to take on and solve even the toughest problems. I wish him only the very best as he continues tackling new endeavors and conquering even greater challenges in the years ahead.

#### PASSING OF MRS. FRANCES BROCK STARMS FEBRUARY 9, 2012

#### HON. GWEN MOORE

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 15, 2012*

Ms. MOORE. Mr. Speaker, I rise today to pay tribute to the life and work of Mrs. Frances Brock Starms, a compassionate leader, educator, writer and advocate for children who passed away on February 9, 2012, at the age of 97.

She was considered a treasure by our community and an active member of the Alpha Kappa Alpha Sorority, Inc. (Epsilon Kappa Omega Chapter), Links Inc. (Milwaukee Chapter), Town & Country Garden Club, Jack and Jill of America Inc., Delta Kappa Gamma Honor Society, Milwaukee Urban League, and a lifetime member of the N.A.A.C.P.

Frances Starms was born and raised in Montgomery, Alabama, and she graduated with honors from Spelman College. She continued her education at Atlanta University, receiving a Master of Arts Degree in Early Childhood Education.

Her postgraduate work included scholarly research at the University of Southern California and the University of Wisconsin-Milwaukee. In 2004, she was recognized by UWM with an honorary doctorate in Public Service.

In 1948, Frances Starms moved to Wisconsin and continued her career as an educator with Milwaukee Public Schools, MPS. During her teaching career, she became the first African American to be appointed as director of the Head Start Program.

Mrs. Starms was one of few living Milwaukeeans after whom a Milwaukee Public School had been named; in fact, three schools now claim her as namesake: Starms Early Childhood Center, Starms Monumental Baptist Early Childhood Center, and Starms Discovery Learning Center.

Mrs. Starms was a prolific writer and received numerous awards and citations for her

work. She was published in numerous local and national publications and was best known for her poems which focused on the richness and enduring strength of the African American Heritage. Her book entitled "Love is Best" expressed the beauty and texture of this heritage.

Her poetry was described as coming straight from the "heart" and reflected the elegance and authenticity of her own experience, reaching out to children and adults alike. For her commitment to our children and for her many efforts and gifts, Mrs. Starms was awarded with the 1979 Award for Meritorious Service from the UW-Milwaukee School of Education; 1983 Special Citation from Governor Tony Earl for her inclusion in the Smithsonian Institute/Wisconsin Humanities Committee exhibit "Black Women Achievement Against the Odds"; the 1984 Sarah Scott Administrative Leadership Award from the Metropolitan Milwaukee Alliance of Black School Educators for her leadership and commitment to improving educational opportunities for children; 1989 G.A.E.P. Award from Delta Sigma Gamma Society International Sigma State for the publication of her poetry; and was the recipient of St. Marks's Anvil Award for service to the church and the community. Mrs. Starms was an active member of St. Mark A.M.E. Church in Milwaukee for more than 62 years.

Mr. Speaker, Mrs. Frances Brock Starms' passion for education, writing and her church have served the people of the Wisconsin Fourth Congressional District well, and we need only to look at the buildings that bear her name or read her poems to be reminded of her legacy. For these reasons I am honored to pay tribute to Mrs. Frances Brock Starms, who dedicated her life toward educating and improving the lives of children.

Today, I thank her and her family for their immeasurable contributions, mourn her loss and I salute her legacy.

RECOGNIZING MRS. JUDY EVANS  
FOR HER SERVICE AND COMMUNITY CONTRIBUTIONS

**HON. BENNIE G. THOMPSON**

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 15, 2012*

Mr. THOMPSON of Mississippi. Mr. Speaker, I rise today to recognize Mrs. Judy Evans, a health care professional, from Crystal Springs, Mississippi. Mrs. Evans has served in the health care profession for more than 25 years in her hometown of Crystal Springs, Mississippi. She uses her current position as a deputy medical examiner investigator to support, encourage, and assist families in need.

Mrs. Evans is the youngest child of Benjamin and Betty Hicks. She is the wife of Arthur Evans Jr. and mother to their two children, Arthur Lee III and Jabreanne. Mrs. Evans has been recognized as First Lady of Crystal Springs for the past six years. She is an active member of New Zion United Methodist church where she serves as youth ministry co-chair and sings in the gospel choir. She is also a member of the Covich County Animal Rescue League board.

Mr. Speaker, I ask that you and our colleagues join me in expressing my appreciation to Mrs. Judy Evans of Crystal Springs, Mississippi, for her commitment and servitude to the cause of health care.

HONORING HULET HORNBECK

**HON. GEORGE MILLER**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 15, 2012*

Mr. GEORGE MILLER of California. Mr. Speaker, it is with great sadness that I rise today with my colleagues Congressman PETE STARK, Congresswoman BARBARA LEE, Congressman JERRY MCNERNEY, and Congressman JOHN GARAMENDI to honor our friend, Hulet Hornbeck, who passed away on January 7, 2012. The State of California has lost a tireless leader whose many contributions to the East Bay Regional Park District will be remembered and revered by the residents of Alameda and Contra Costa Counties and by all who knew him.

Hulet relocated to California soon after the end of World War II and began his career at the East Bay Regional Park District. He enjoyed a distinguished career as Chief of Land Acquisition for the East Bay Regional Park District from 1965 through 1985, serving with legendary leaders William Penn Mott and Richard Trudeau. Hulet is credited with overseeing the acquisition of 49,000 acres of parkland and expanding the District's land holdings from eight parks of 13,000 acres to 46 parks of 62,000 acres. His acquisitions elevated the East Bay Regional Park district to the largest regional urban park district in the nation, a unique distinction it still holds today.

A lifetime conservationist and outdoorsman, Hulet held many positions in local trail and conservation organizations and received countless honors and awards as a result of his work. He provided leadership and advice for organizations, including the California Conservation Council, the American Hiking Society, the National Trails Council, the Martinez Land Trust, the Trails and Greenways Foundation, American Trails, Heritage Trails Fund, Amigos de Anza, the California Recreational Trails Committee, the East Bay Area Trails Council, the American Trails Association, Solano County Farmlands and Open Space Foundation, and the San Francisco Bay Chapter of the Sierra Club.

In 2005, on Hornbeck's 88th birthday, the California Riding and Hiking Trail in the Carquinez Strait Regional Shoreline Park was renamed the Hulet Hornbeck Trail, "in recognition of [his] tireless efforts in parkland development and management on behalf of the East Bay Regional Park District," according to the National Trails Training Partnership.

Hulet was one of the most creative land acquisition agents in the country; on behalf of the public he partnered with private companies, individuals, non-profits, and all levels of government. We owe him and the East Bay Regional Park District a great debt of gratitude for creating the largest urban regional park district in the nation.

Mr. Speaker, we invite our colleagues to join us in offering our condolences to Hulet's fam-

ily and friends. Hulet will be sorely missed, but his contributions toward environmental conservation and dedication to public access to open spaces will be enjoyed for generations to come. His legacy lives on in the heart of every resident and visitor who seeks solace in the thousands of acres of wild greenbelts that grace the East Bay.

TRIBUTE TO THE LIFE OF SAMUEL  
MARTIN, SR.

**HON. JOE BACA**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 15, 2012*

Mr. BACA. Mr. Speaker, I stand here today to pay tribute to a great activist, pioneer, and role model, Samuel Martin, Sr. who passed away on February 3, 2012 at the age of 87.

Samuel was the 2nd of 20 children born in 1924 to Will and Mary Martin in Edwards, Mississippi. Enlisting in the Army in 1944, Samuel served his country honorably as a soldier. After serving his country, Samuel married Willie Mae Martin in 1946. During this time, Samuel worked for the Sante Fe Railroad in Needles, California where he first became involved in the NAACP and veteran's issues. Samuel moved his family to San Bernardino in 1954 due to a job opportunity at Norton Air Force Base.

Because of his childhood and upbringing in Mississippi, Samuel strongly believed that everyone should have an equal opportunity to succeed. In San Bernardino, Samuel continued his activism, fighting for integration in Veterans' Housing and integration in schools. His early retirement allowed him to continue his fight for equality in Southern California. In 1962, Samuel became the first African American to be elected to the Democratic Central Committee.

In 1965, Samuel Martin and Arthur Townsend founded the Precinct Reporter, a newspaper that still serves San Bernardino today. Later, in 1969, Samuel and his wife, Willie started the San Bernardino American News, which is now operated by his daughter, Mary Harris, and his son-in-law, Clifton Harris.

With his experience and expertise in the newspaper business, Samuel also worked with the Black Union at University of California, Riverside to establish the Black Voice News in 1972 and helped the Hispanic community start El Chicano newspaper.

Samuel was preceded by his beloved wife, Willie. Samuel is survived by his four children; Violet Jean Rose, Mary Florean Harris, Samuel, Jr., and Barry Lymond. He leaves with cherished memories a loving family of grandchildren and great-grandchildren. My thoughts and prayers, along with those of my wife, Barbara, and my children, Rialto City Councilman Joe Baca, Jr., Jeremy, Natalie, and Jennifer are with Samuel's family at this time. Mr. Speaker, I ask my colleagues to pay tribute to Samuel Martin, Sr.

HONORING THE LIFE OF ARCHIE  
SAVAGE, JR.

**HON. CHRISTOPHER S. MURPHY**

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 15, 2012*

Mr. MURPHY of Connecticut. Mr. Speaker, I rise today to honor the memory of Mr. Archie Savage, Jr. Sadly, Archie passed away last year at the West Haven Veterans Affairs Medical Center.

Archie was born in Memphis in 1930 but called New Britain, Connecticut home since 1980. As a young man just out of high school, Archie served in the U.S. Army during the Korean Conflict and afterwards continued to serve his country as a counterintelligence agent at the height of the Cold War. Archie found time during his 22 years of service to this country to acquire an education with a Bachelors Degree from the University of Denver in 1966 followed by a Masters in Education in 1971, and a Ph.D. from Denver University in 1976.

As a public servant Archie was truly exceptional. The first African-American operative in the Central Intelligence Agency, Archie's 22-year career with the Agency brought him across Europe and Asia. He served with distinction on the frontlines of the Cold War at a time of great peril to America and her allies. Archie was given the rank of Officier de la Legion d'Honneur, one of the highest civilian awards granted by the French Republic, for his role in foiling an attempt on the life of President de Gaulle of France in the 1960s.

After he retired from government service, Archie dedicated his life to improving his community in New Britain and across Connecticut. He served as a faculty member at Central Connecticut State University and for the past 15 years was the Director of the Office of Affirmative Action at the UCONN Health Center. Over the course of his life he also served on the Board of Directors for a variety of organizations like United Way, the New Britain Public Library, Catholic Family Services, and the Boys and Girls Club; always seeking to give back to his adopted home in New Britain. A devout man, Archie was a long-time member and past Senior Warden of St. Mark's Episcopal Church in New Britain.

The creation of a more just and inclusive society was the issue that defined Archie's lifetime of community service more than any other. He served as President of the New Britain-Berlin Rotary Club, an organization dedicated to strengthening the community by bringing people together in service to the community. Archie also served as Chairman of the New Britain Commission on Human Rights and sat on the National Board of Directors of YMCA in the U.S.A. While there he took part in the Jerusalem International YMCA Task Force, a program that seeks to bring opposing communities together and build peace in the Holy Land. Only recently did Archie retire from his position on the New Britain YMCA Board of Trustees.

In reflection on the unfortunate loss of a decorated public servant, veteran, and advocate for the communities of New Britain and Connecticut, I ask my colleagues to join me in

recognizing and honoring the life of Archie Savage, Jr. and the work he has done defending this country and working to bring together diverse communities across Connecticut and the world.

RECOGNIZING THE DR. ARMENIA  
C. MALLORY COMMUNITY  
HEALTH CENTER

**HON. BENNIE G. THOMPSON**

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 15, 2012*

Mr. THOMPSON of Mississippi. Mr. Speaker, I rise today to recognize the Dr. Armenia C. Mallory Community Health Center, Inc. for their years of service to those in need of quality family health care. The Mallory Health Center provides families within the Mississippi communities of Lexington, Tchula, Durant, Vaiden, Canton and Greenwood quality and affordable health care.

The Mallory Health Center evolved from a community health survey conducted by the Rural Organizing and Cultural Center, Inc. in 1991. The survey documented the many health disparities and access barriers that hindered proper growth, development, and maintenance of a healthy citizen.

In April 1993 the Mallory Community Health Center was incorporated in Mississippi as a nonprofit corporation by a group of committed men and women concerned about improving health care services in their community. The Mallory Community Health Center's mission became to assure that all persons regardless of their ability to pay have access to quality, comprehensive, cost-effective primary health care services. Second to that mission was to empower their community to self-sufficiency while improving the health status of the community.

The Center was named in honor of Dr. Armenia C. Mallory for her untiring commitment to make a difference for all people. She devoted more than 50 years of her life to serving the Holmes County, Mississippi community.

Mr. Speaker, I ask my colleagues to join me in expressing my gratitude and appreciation to the Dr. Armenia C. Mallory Community Health Center.

HONORING VIETNAM VETERAN  
PAUL GIBERT

**HON. JAMES P. MORAN**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 15, 2012*

Mr. MORAN. Mr. Speaker, I rise today to recognize and pay tribute to Corporal Paul Gibert for his valiant service as a Marine in the Vietnam war, upon his homecoming from a recent revisit to Vietnam. Mr. Gibert served his country loyally and with great devotion, putting his life at risk on numerous occasions to save wounded fellow Marines.

Corporal Gibert enlisted in the Marine Corps in 1966, at age 19. After completing basic training, escape and evasion courses, and ad-

vanced language Vietnamese courses, he was assigned as a recon scout with the 1st Battalion, 9th Marines. His storied unit was known as the "The Walking Dead" because of its record setting casualty rate.

As a recon scout fluent in Vietnamese, he was routinely assigned to go ahead of his unit and participate in extremely dangerous recon work in villages that had not yet been secured. It was not uncommon for him to be given inaccurate information from locals who were actually working for the North Vietnamese, making his job one of the most dangerous jobs in the Marine Corps.

In April 1967, during Operation Buffalo, the 9th Marines suffered a severe setback. Corporal Gibert was called up from a rear area to support a unit that had been so severely attacked they were actually piling the dead and wounded onto tanks to evacuate them. Virtually all of the Marines in the attacked unit were either killed or wounded. Reaching down to help a wounded Marine, Gibert was hit by shrapnel from an exploding artillery shell, piercing his shoulder. He was evacuated and recuperated for six weeks in an Air Force hospital in Cam Rahn Bay, after which he was sent back to his unit.

In September, only a few months later, he was back in the hospital for jungle rot in his leg, which had swollen up to the size of a barrel. With the exception of his recovery time in the hospital, virtually all of his time in Vietnam was spent near the Demilitarized Zone. Corporal Gibert was awarded the Purple Heart for his wounds, and his unit received two Presidential Unit Citations for exceptional valor.

Mr. Speaker, I am honored to ask my colleagues to join me in commending Corporal Paul Gibert for his bravery and commitment to his country. I sincerely thank him for his service, and wish him well as he returns from his recent trip back to Vietnam for what I know had to be a deeply emotional experience.

A TRIBUTE TO MISSOURI SUPREME COURT JUDGE GEORGE W. DRAPER, ACCLAIMED JURIST, PROSECUTOR, AND CIVIC LEADER

**HON. WM. LACY CLAY**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 15, 2012*

Mr. CLAY. Mr. Speaker, I rise today to pay tribute to a great American—a remarkable trial attorney, prosecutor, circuit and appellate judge, and most recently, the newest member of the Missouri Supreme Court, my dear friend and constituent, the Honorable Judge George W. Draper. Late last year, Missouri Governor Jay Nixon appointed Judge Draper to the Missouri Supreme Court after 17 years on the bench and 10 years in the St. Louis Circuit Attorney's office. He is only the second African American to serve on Missouri's high court. During his 27 years of public service, Judge Draper has demonstrated a dedication to justice and to serving the people of Missouri.

Those decades of experience and his legal acumen will serve him well on the Missouri Supreme Court. While serving on the Missouri

Court of Appeals, Judge Draper heard a variety of civil and criminal appeals and authored several hundred opinions. He served as Chief Judge of the Court of Appeals from 2005 to 2006. Prior to his appointment to the appellate court, Judge Draper served first as an associate circuit judge from 1994 to 1998, and then as a circuit judge from 1998 to 2000 in St. Louis County. While serving as a prosecutor with the St. Louis Circuit Attorney's Office from 1984 to 1994, Judge Draper prosecuted numerous major felony cases and worked closely with law enforcement.

A graduate of Howard University School of Law, Judge Draper obtained his undergraduate degree from Morehouse College in Atlanta. Judge Draper has been active in several bar associations, including the Mound City Bar Association and the Missouri Bar Association, and has been supportive of the Missouri Asian Bar Association, as well as being an active member of Covenant Community Church.

Mr. Speaker, I have been blessed to know Judge George W. Draper and his wonderful family for more than three decades. His dedication to the law, to his State, and to the community that I represent is legendary. He is truly worthy of receiving this special congressional recognition.

IN RECOGNITION OF THE 100TH  
BIRTHDAY OF ELLEN STILLMAN

**HON. WILLIAM R. KEATING**

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 15, 2012*

Mr. KEATING. Mr. Speaker, I rise today in recognition of Mrs. Ellen Stillman, a resident of Hanson, Massachusetts, who celebrates her 100th birthday on February 20th.

Ellen was born in 1912, and began her first job at a Hanson cranberry cooperative, Cranberry Cannery, when she was 15 years old. She fell in love with the work and after graduating from the Chandler School for Women and Boston University with a degree in journalism and advertising, she convinced her father to cultivate a bog of their own. In 1937, she borrowed \$15,000 and built a six-acre bog on the Stillman property in Hanson. Her bog paid for itself after only the second harvest.

Ellen continued to pursue her passion, and by the time she retired as vice president in charge of advertising at the Ocean Spray Cranberry Association in 1956, she had built a national reputation for the cranberry industry. Some of her more notable accomplishments include spearheading an advertising campaign to join cranberries and chicken, appearing on radio and TV and making a presentation of cranberries to President Eisenhower and Vice President Nixon at the White House. One year later, she was named the only female member of the 24-person Ocean Spray board of directors.

When not busy with her bogs, Ellen took time out for philanthropy, serving on the women's committee of the Boston Museum of Fine Arts and donating generously to the Boston Symphony Orchestra. She also used her expertise to write a number of cookbooks.

More than 70 years later, Ellen's cranberry bogs continue to be an important part of the

Hanson community and economy, and Ellen, herself, remains a pioneer in the industry. Mr. Speaker, I am proud to honor Ellen Stillman on this joyful occasion and I hope my colleagues will join me in wishing her many more years of happiness and health.

THE MYTH OF CHINA AS A  
HARMLESS TIGER

**HON. FRANK R. WOLF**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 15, 2012*

Mr. WOLF. Mr. Speaker, I submit a piece authored by Chinese dissident Yu Jie which ran in yesterday's Washington Post. His words are deeply alarming about the extent of China's reach in the U.S. He rightly laments the lack of "visionary politicians, such as Ronald Reagan, to stand up to this threat." I couldn't agree more.

[From the Washington Post, Feb. 13, 2012]

THE MYTH OF CHINA AS A HARMLESS TIGER

(By Yu Jie)

Chinese dissident writers exiled to the West today get a very different response than Soviet writers received not so long ago.

In 1975, Secretary of State Henry Kissinger advised President Ford not to meet with writer Alexander Solzhenitsyn, warning in a memorandum that doing so would offend the Soviet Union. Now, similar views are held not only by pragmatic politicians but also by multinational corporations with large investments in China as well as universities and foundations with inextricable links to China.

The Chinese communist regime's penetration of the West far exceeds that of the former Soviet Union. In the Cold War era, the Soviet Union was blocked behind the Iron Curtain; there were few links between Soviet and Western economies. An average American family would not be using products "made in the USSR." Today, China is deeply embedded within the globalized system. An American recently wrote an interesting book detailing a year of her refusal to buy products that were "made in China" and the many difficulties she encountered as a result of this decision.

On the surface, the West has profited from its trade with China. Western consumers can buy vast amounts of cheap Chinese products. However, fundamental values of the West are quietly being eroded: Who knows whether the American flag flying outside your home was manufactured by inmates in Chinese prisons or by child labor?

I arrived in the United States a month ago, thinking I had escaped the reach of Beijing, only to realize that the Chinese government's shadow continues to be omnipresent. Several U.S. universities that I have contacted dare not invite me for a lecture, as they cooperate with China on many projects. If you are a scholar of Chinese studies who has criticized the Communist Party, it would be impossible for you to be involved in research projects with the Chinese-funded Confucius Institute, and you may even be denied a Chinese visa. Conversely, if you praise the Communist Party, not only would you receive ample research funding but you might also be invited to visit China and even received by high-level officials. Western academic freedom has been distorted by invisible hands.

I believe that China is a far greater threat than the former Soviet Union ever was; unfortunately, the West lacks visionary politicians, such as Ronald Reagan, to stand up to this threat. President Obama might perceive the Chinese Communist Party as a tiger that does not bite and, hence, is looking forward to Vice President Xi Jinping's visit this week. Will Obama, a winner of the Nobel Peace Prize, openly request that China release Liu Xiaobo, a Nobel Peace laureate imprisoned by the Communist Party? Why did Secretary of State Hillary Rodham Clinton have the courage to meet with Burma's Aung San Suu Kyi but not to meet with Liu? Is it because Burma is weak, while China is strong?

The Chinese Communist Party remains a tiger that will bite. For working on human rights with Liu Xiaobo, after he was awarded the Nobel Prize, I was tortured by the country's secret police and nearly lost my life. Since then, dozens of lawyers and writers have been subjected to brutal torture; some contracted severe pneumonia after being held in front of fans blowing cold air and then being baked by an electric furnace. The secret police threatened me, saying that they had a list of 200 anticommunist party intellectuals whom they were ready to arrest and bury alive. Over the past year, the number of political prisoners in China has increased, and the jail sentences have become longer—yet Western voices of protest have become weaker.

Harsh internal repression and unrestrained external expansion are two sides of the same coin. The Chinese Communist Party recently vetoed the U.N. Security Council's resolution on Syria because killings not unlike those committed by Damascus continue in Tibet.

More than a century ago, Westerners described China as a "sleeping lion"; today, it is the West that has fallen asleep. As an independent writer and a Christian member of a "house church," I have the responsibility to tell the truth: The Chinese Communist Party is still a man-eating tiger.

RECOGNIZING MS. JUDITH  
WINFORD FOR HER SERVICES IN  
THE MISSISSIPPI HEALTH CARE  
COMMUNITY

**HON. BENNIE G. THOMPSON**

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 15, 2012*

Mr. THOMPSON of Mississippi. Mr. Speaker, I rise today to recognize the prominent career of Ms. Judith Winford, a notable Program Director of Delta State University's school-based Asthma Management Program. In this role, she is responsible for the oversight of asthma case management services in 14 Delta counties and 31 school districts across the Mississippi Delta. Ms. Winford is also an adjunct instructor in the RN program at Coahoma Community College.

She earned a Bachelor's Degree in Nursing from the University of Tennessee at Memphis and a Master's Degree in Nursing from Regis University in Denver, Colorado. She is currently enrolled in a Post-Master's Program at Delta State University.

During her extended career of over 15 years, Ms. Winford has served in the pediatric critical care unit at Le Bonheur Children's



Medical Center in Memphis, Tennessee. She subsequently served as Nurse Epidemiologist with the Memphis and Shelby County Health Department, where she was responsible for surveillance and case investigations for Category 1 Notifiable Disease. Ms. Winford played a pivotal role in helping Memphis and Shelby County health care providers develop emergency response plans for anticipated community disasters.

Ms. Winford has years of clinical expertise in the area of health care risk management. She has served as the risk manager for Memphis Mental Health Institute and Director of Quality and Risk Management at Bolivar Medical Center. In these roles, she has coordinated the Joint Commission on the Accreditation of Healthcare Organizations survey, functioned as a resource for legal counsel, established benchmarks for quality indicators, developed quality goals and objectives, and created innovative tools for medical record auditing.

Ms. Winford holds a national certification as a Certified Professional in Healthcare Quality. She is also a member of Alpha Kappa Alpha Sorority, Inc., Sigma Theta Tau International Honor Society of Nursing, and the Mississippi Nursing Association. While at the Memphis Mental Health Institute, she received special recognition from the Department of Justice for the development of quality tools for patient compliance. Ms. Winford has presented extensively in Tennessee and Mississippi on a variety of health topics. Most recently, she was a guest speaker at the Alabama-Mississippi Sociological Association, Mississippi School Nurse Association, Mississippi Association of Professionals in Health, and the Recreation and Dance Professional Association.

Ms. Winford is the proud mother of one son, who is a senior at the Mississippi School of Mathematics and Science in Columbus, Mississippi. Mr. Speaker, I ask you and our colleagues to join me in recognizing Ms. Judith Winford for her many contributions to healthcare and service to her community.

#### RECALLING RAUF DENKTASH

#### HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 15, 2012*

Mr. BURTON of Indiana. Mr. Speaker, I rise today to pay tribute to Rauf Denktash: a statesman, lawyer, author, and the leader of the Turkish-Cypriots, who passed away on January 13, 2012 at the age of 88.

Rauf Denktash was born on January 27, 1924 at the village of Ktima, near Paphos, Cyprus, the son of a judge, he went on to study law at Lincoln's Inn in London. During the London Blitz of World War II, he served as an air-raid warden and helped to save Lincoln's Inn Hall from destruction. After the war, he practiced as a prosecuting barrister in Nicosia. By the time Denktash became Solicitor General in 1956, he was already a prominent leader within the Turkish-Cypriot community and served in numerous leadership capacities in the following decades on behalf of the Turkish-Cypriot community. In 1983, Denktash became the

Turkish-Cypriot leader, a position he held until his retirement in 2005.

Spanning his entire political career, Denktash worked tirelessly in support of his Cypriot homeland. He defined his vision of Cyprus as "a place where my grandchildren can grow up free from fear." In addition to Denktash's extensive political career, he was also the author of over 40 books, and was an avid and renowned photographer. During the course of his life, his works were exhibited throughout the world.

I extend my condolences to the Denktash family and I join my Turkish-American friends and constituents in recognizing Rauf Denktash for all of his achievements throughout his lifetime. I know that those who knew and admired him will greatly miss him.

#### RECOGNIZING MERCY VILLAGE APARTMENTS OF JOPLIN, MISSOURI

#### HON. BILLY LONG

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 15, 2012*

Mr. LONG. Mr. Speaker, I rise today to recognize Mercy Village Apartments, of Joplin, Missouri, which is welcoming its residents home after being damaged in the devastating F 5 tornado of May 22, 2011.

For nearly 30 years, Mercy Housing has been committed to developing affordable, program-enriched housing for low-income families, seniors and people with special needs who lack the economic resources to access quality, safe housing opportunities. To date, Mercy Housing has participated in the development, preservation and financing of more than 40,000 affordable homes and an additional 7,309 homes are in the pre-development, construction or concept phase.

The day of the tornado, residents and staff worked together to get everyone to safety, even carrying wheelchairs down three flights of stairs. Thankfully, no one was hurt. One resident who was especially lucky to survive was 82-year-old Bonnie Betz. When Bonnie was awakened from her nap by the tornado sirens, she immediately started to move downstairs to shelter. The entire wall of the stairwell was torn away from the building by the tornado. She clung to the banister and was lifted off her feet, yet despite her arthritic hands, was able to literally hold on for her life. A structural engineer later said that without the good design and extra structural reinforcement Mercy Housing added when they built Mercy Village in 2005, the story might have a different ending.

I would therefore like to commend Mercy Housing for its hard work and dedication. Because of them, Joplin seniors can remain in the community they call home.

#### IN RECOGNITION OF THE 103RD BIRTHDAY OF MARGARET BONNER

#### HON. WILLIAM R. KEATING

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 15, 2012*

Mr. KEATING. Mr. Speaker, I rise today to honor Margaret Bonner of Quincy, Massachusetts who celebrates her 103rd birthday on February 22nd.

Margaret was born on February 22, 1909 in Great Britain, where she spent her childhood. A concert pianist by training, she graduated from the London College of Music and shortly thereafter immigrated to the United States, arriving just before the crash of the stock market. Margaret first moved to Dorchester, Massachusetts before settling in Quincy in 1975. Always a creative person and an arts enthusiast, she worked as an illustrative artist on greeting cards during the Great Depression.

Throughout her life, Margaret has had a rich and remarkable career. At the end of World War I, she returned to Great Britain to volunteer with the Red Cross as a nurse's aide. Following that, she embarked on a long and accomplished career in the fashion and bridal industry, working as a buyer and manager for Worth of Boston on Boylston Street, among other high-end stores. In this position, Margaret traveled the world, purchasing couture clothes and meeting directly with famous designers from Versace to Halston. It was her love of fashion and the arts that kept her going over the years, and she did not retire until she was 86 years old.

Mr. Speaker, I am proud to honor Margaret Bonner on this joyous occasion. I ask that my colleagues join me in wishing her many more years of health and happiness.

#### HONORING ALEXIS MONTGOMERY

#### HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 15, 2012*

Mr. THOMPSON of Mississippi. Mr. Speaker, I rise today to honor a remarkable public servant, Alexis Montgomery. Although young, Ms. Montgomery has shown what can be accomplished through hard work, diligence, and determination.

Alexis Montgomery, the daughter of Donald C. and Burnidene Montgomery was born July 4, 1982, in Monroe, North Carolina. After graduating from South Mecklenburg High School at the age of 17, she enlisted into the United States Navy, and was stationed in LaMaddalena, Italy. After a year, she was reassigned to Mayport, Florida, for five years where she worked at the base clinic as a Medical Assistant and Lab Technician. She graduated from Sanford Brown Institute in 2003 where she received her certificate in Medical Assisting. After completing her enlistment with the Navy, she gained employment with Quest Diagnostic Laboratory and LabCorp in Jacksonville, Florida.

In 2007, she relocated to Greenville, Mississippi. In 2008, she gained employment at

the Greenville Family Clinic, where she currently works under Dr. Bill Maddox. Along with caring for her patients, she is also the loving mother of three children.

Mr. Speaker, I ask my colleagues to join me in recognizing Ms. Alexis Montgomery for her remarkable dedication and service to the community of Greenville, Mississippi.

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HONORING U.S. NAVY VETERAN  
AND PEARL HARBOR SURVIVOR  
SYLVESTER PUCCIO

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**HON. RICHARD L. HANNA**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 15, 2012*

Mr. HANNA. Mr. Speaker, I rise today in honor of Mr. Sylvester Puccio, a very special veteran and a survivor of Pearl Harbor. Mr. Puccio will soon be awarded the Navy and Marine Corps Commendation Medal, at the direction of the Secretary of the Navy.

Mr. Puccio served aboard the USS *West Virginia* during the attack on Pearl Harbor on December 7, 1941 as a Shipfitter Third Class. As the Japanese aerial attack engulfed the *West Virginia*, the call to General Quarters was sent, and Mr. Puccio went to his battle station at the same time multiple Japanese torpedoes struck the ship. Mr. Puccio and his fellow sailors, realizing that counter flooding was critical to prevent the *West Virginia* from rolling due to the torpedo damage, rushed to the locker containing the handles to operate the counter flood valves.

The locker was padlocked and the key was on another part of the ship. Mr. Puccio, acting quickly, took a large spool and repeatedly struck at the padlock until it broke free, enabling him and the other sailors to access the handles to begin counter flooding. At this time, the *West Virginia* had listed 28 degrees, and the quick actions of Mr. Puccio and other sailors prevented the ship from further listing and together, they righted her. In the coming days after the day "that would live in infamy," Mr. Puccio returned to the *West Virginia* on fire fighting and salvage detail. He was eventually assigned to the submarine section of Pearl Harbor and from there continued his Navy service in the Pacific Theatre during World War II.

Mr. Puccio returned to Rome, and dedicated his life to his family, his community, and his fellow veterans as an active member of the Central New York Pearl Harbor Survivors Association. Mr. Puccio never sought recognition for himself, only for his fellow veterans and those who paid the ultimate sacrifice. I urge my colleagues to join me today in honoring Mr. Sylvester "Syl" Puccio, United States Navy, for his service and sacrifice during World War II on behalf of the United States of America.

IN RECOGNITION OF FIRST, FOR  
INSPIRATION AND RECOGNITION  
OF SCIENCE AND TECHNOLOGY

**HON. REID J. RIBBLE**

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 15, 2012*

Mr. RIBBLE. Mr. Speaker, I rise today to recognize an organization called FIRST. FIRST is an acronym for the organization titled, "For Inspiration and Recognition of Science and Technology." FIRST has been working to help teams of students of all ages understand the importance of Math, Science, and Technology academic disciplines and how to best utilize them in real time problem solving.

Mr. Speaker, please join me in commending all students, mentors and teachers who participate in this program, especially FIRST Team 93 and all the other teams competing in the Wisconsin Regional in Milwaukee on March 22nd and 24th. I also rise to recognize those that will be at the World Championship in St. Louis, Missouri from April 26–28th. These participants can make a difference in our world and help change a culture.

Mr. Speaker, I proudly ask you join me in congratulating all FIRST participants for their accomplishments and for the efforts put forth in the pursuit of their endeavors and achievements.

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A SALUTE TO WOMEN

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**HON. WM. LACY CLAY**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 15, 2012*

Mr. CLAY. Mr. Speaker, I rise today to give distinct recognition to the 9th Annual Salute to Women in Leadership Luncheon—an event paying tribute to women of diverse social strata committed to strengthening professional, social and family institutions through dedicated responsibilities.

The St. Louis Community Empowerment Foundation, Anheuser Busch and Worldwide Technologies will honor 14 distinguished women at the event, with the Lifetime Achievement Award bestowed upon Ms. Xernona Clayton, President and CEO of the Trumpet Awards Foundation and originator of "Moments in History," one-minute broadcasts on black Americans televised during Black History Month.

Xernona Clayton deserves a broadcast depicting her accomplishments as she actively participated in the Civil Rights Movement organizing events for the Southern Christian Leadership Conference under the direction of Dr. Martin Luther King, Jr. She was also the first African American female to host a prime time talk show broadcast on WAGA-TV in Atlanta, and is credited with influencing a former Grand Dragon of the Ku Klux Klan to denounce the organization.

This year's celebrated women will also include Adrian Bracy, Kathleen Brady, Jacqueline Brock, Myrtle Dorsey, Shirley Drury, Frankie Eichenberger, Robbie Montgomery,

Sandra Moore, Valerie Patton, Mary Attyberry Polk, Kacie Starr Triplett, Kimberly McKinney, and Cindy Erickson.

Mr. Speaker, the 9th Annual Salute to Women in Leadership Luncheon inspires advocacy for social justice through the works, accomplishments and deeds of the honored women. I urge my colleagues to join me in recognizing this event slated to be held this May in the beautiful City of St. Louis.

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IN RECOGNITION OF JULIE  
CARUSO

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**HON. WILLIAM R. KEATING**

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 15, 2012*

Mr. KEATING. Mr. Speaker, I rise today to recognize and congratulate Julie Caruso, who was honored as the 2011 Citizen of the Year by the Pembroke Express, in recognition of her tireless support of our troops serving overseas.

Julie started the Pembroke Military Support Group following the attacks of September 11th, and for the past ten years, she has been the moving force behind it. The group's goal is both simple and noble: support our service men and women and military families in tangible ways.

Meeting every month, a core group of approximately fifteen volunteers assemble care packages for more than 120 Pembroke residents—or those connected to Pembroke—who are currently serving in Iraq and Afghanistan. Members of the Military Support Group also provide support to the service members' families living in Pembroke, Massachusetts. In 2009, the group received the Community Caring Award presented by the Norwell Visiting Nurse Association for outstanding service to the community.

Many people would have become fatigued or worn out after a couple years supporting a military community, but not Julie. Julie is that rare individual with the imagination to dream up this successful group, the dedication to get it off the ground and the perseverance to remain its backbone for over ten years. She not only organizes fundraising, but collects and packages the items and then works with multiple agencies to get the care packages to the troops overseas. Julie has said that she lives by the belief that her door is always open for family members of servicemen and service-women in need of a shoulder to lean on, and I doubt there is any resident in Pembroke, MA who would disagree with her.

Mr. Speaker, please join me in congratulating Julie Caruso as she is honored for her generosity, drive and initiative. She is a model of leadership and selflessness for us all.

## HONORING FILIPINO AND FILIPINO-AMERICAN WORLD WAR II VETERANS

**HON. JIM McDERMOTT**

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 15, 2012*

Mr. McDERMOTT. Mr. Speaker, today I rise to give recognition to the stalwart Filipino and Filipino-American veterans who fought alongside U.S. troops in the Battles of Bataan and Corregidor following the Japanese invasion of the Philippines in December 1941. By Executive Order, the Filipino soldiers' service entitled them to U.S. veterans' health benefits, pensions, and money for college. But when the war ended, the VA benefits promised to the Filipino soldiers were rescinded by Congress' passage of the Recession Act of 1946.

I also rise to honor those prisoners of war forced into the Bataan Death March, a harrowing episode of dreadful suffering and immense casualties. The heroic resistance of these fighters engaged the Japanese Imperial Army for four months, preventing Japanese occupation of Australia.

On February 4, 2011, at Dr. Jose Rizal Park in Seattle, Washington, I joined the Association of Bataan and Corregidor Survivors and their families and friends for the unveiling of two bronze memorial plaques honoring the Filipino and Filipino-American veterans. These permanent reminders of their extraordinary bravery and sacrifice will always speak of the strength of the Filipino and American spirit.

I am a proud cosponsor of H.R. 210, the Filipino Veterans Fairness Act of 2011. This measure deems certain service performed before July 1, 1946, in the organized military forces of the Philippines and the Philippine Scouts, active military service eligible for veterans' benefits from the United States Department of Veterans Affairs.

Filipino World War II veterans, who fought so courageously alongside U.S. troops during critical engagements of World War II, have waited far too long—almost 65 years—to receive what they were promised by our government. Most have now passed on.

Mr. Speaker, our debt to the surviving veterans and their families is long overdue. We must fulfill our obligation to them now.

## IN CELEBRATION OF JIMMY AND BILLIE METCALF'S 70TH WEDDING ANNIVERSARY

**HON. PETE SESSIONS**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 15, 2012*

Mr. SESSIONS. Mr. Speaker, I rise today to ask the House of Representatives to join me in congratulating Jimmy and Billie Metcalf on their 70th wedding anniversary.

Jimmy Metcalf joined the U.S. Army Air Corps in 1941 and married Billie Borchardt on February 14, 1942, just two months after the attack on Pearl Harbor. During World War II, Jimmy proudly served his country overseas, which kept him apart from his wife for over

three years. Despite this separation, their love persevered.

As family and friends join Jimmy and Billie to celebrate this joyous occasion, it is important to reflect upon the significance of this outstanding milestone. Over the past seventy years, they have shared many joys and faced life's trials together. Through all of life's ups and downs, their love for each other and for their children has remained constant. This platinum anniversary is a testament of their commitment to each other and to the wedding vows they took seventy years ago.

Mr. Speaker, I ask my esteemed colleagues to join me in congratulating Jimmy and Billie on seventy years of wedded bliss. May God bless them with many more years of happiness and health together!

## IN HONOR OF DR. JEFF BRAFF

**HON. SAM FARR**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 15, 2012*

Mr. FARR. Mr. Speaker, I rise before you today to recognize the life, career, and public service of Dr. Jeff Braff. Dr. Braff passed away on January 16th. He will be remembered for his optometric services to the city of Salinas, his contribution to political change in the Central Coast of California, and as my personal friend and doctor.

Jeff grew up working in his father's contact lens laboratory in Arcadia, California. He attended the University of California at Berkeley where he earned a degree in optometry in 1964. After graduating, he traveled to India where he helped set up the country's first contact lens fabricating laboratory.

After returning to the United States, Jeff was drafted in to the US Army and served as an optometrist at the Fort Ord military base. He completed his military service in 1972 and moved to Salinas where he practiced optometry for the next 37 years.

As the representative for the California Optometric Association and the Monterey Bay Optometric Association, Jeff played an invaluable role in local politics in the Central Coast of California. Jeff volunteered for many political campaigns, including for Leon Panetta's first election to the U.S. House of Representatives in 1976 and my own run in 1976 for the Monterey County Board of Supervisors. Jeff was also instrumental in drawing support for several political campaigns in Bainbridge Island, Washington.

His ability to draw support to local elections and political change earned him a following. "Jeff's Group" became an informal name given to those he could count on to show up and wave signs, hand out coffees, and recruit neighbors to support the many causes he was involved in.

In a document entitled "How I Want to be Remembered" Jeff wrote: "Between being born and dying, he didn't take some things seriously that should have been, took some things seriously that shouldn't have, was getting the hang of love, and anger, and play, and all that; he tinkered with life, and did OK."

Mr. Speaker, it is with great pain that I announce the passing of Jeff. I would like to per-

sonally acknowledge his service to the people of California. It was the relationships that he fostered at his practice that kept him invigorated and loving his work. I would like to express my deepest condolences to Sue, his loving wife of 36 years, his son, Zack and his brother, Brian.

## RECOGNIZING MRS. KERRIN A. FLOWERS FOR HER SERVICE IN THE MISSISSIPPI HEALTH CARE COMMUNITY

**HON. BENNIE G. THOMPSON**

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 15, 2012*

Mr. THOMPSON of Mississippi. Mr. Speaker, I rise today to recognize the distinguished career of Mrs. Kerrin A. Flowers, a prominent Board-Certified Family Nurse Practitioner serving with the Tallahatchie County Correctional Facility and the Family Health Care Clinic in Grenada, MS.

Mrs. Flowers has been a certified RN for 15+ years and began her advanced practice nursing role in 2009. Throughout her career, she has assumed progressive roles of responsibility such as staff nurse, charge nurse, Nurse Manager, and Assistant Director of Nursing. Mrs. Flowers' hard work and dedication earned her the Employee of the Month Award for outstanding job performance.

Mrs. Flowers received an Associate's Degree in Nursing from Mississippi Delta Community College. She later earned a Bachelor's Degree in Nursing from Delta State University, and a Master's Degree in Nursing from Mississippi University for Women. Mrs. Flowers is dedicated to the improvement of health care, which is evident in her continuing pursuit of advancement studies in dermatology and narcotic substance abuse. Mrs. Flowers has made many contributions to scholarly nurse research, which includes recent presentations in Treatment Therapy for Bronchiolitis and Treatment in Pediatric Patients Diagnosed with Bronchiolitis.

Service to the greater community is another attribute of Mrs. Flowers' career. This is reflected in her service as Chairperson for the Health and Wellness Community Program and her service with the Mississippi Nurses Association, the National Honor Society and Sigma Theta Tau International Honor Society of Nursing. Her participation in a nationwide study earned Mrs. Flowers a Certificate from the National Council of State Board of Nursing.

Mrs. Flowers is married to Fredrick Flowers and is the mother of two sons, Darryl and Deracius Winfield. In her spare time, she enjoys movies and exercising.

Mr. Speaker, I ask you and our colleagues join me in recognizing Mrs. Kerrin A. Flowers for her commitment and service to the cause of health care.

RECOGNIZING GARY SINDERBRAND FOR HIS SERVICE AS CHAIRMAN OF THE NATIONAL BOARD OF TRUSTEES FOR THE CROHN'S AND COLITIS FOUNDATION OF AMERICA

**HON. ANDER CRENSHAW**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 15, 2012*

Mr. CRENSHAW. Mr. Speaker, I rise today to recognize the dedicated service of Mr. Gary Sinderbrand as Chairman of the National Board of Trustees for the Crohn's & Colitis Foundation of America over the last three years.

Joining the National Board of the Crohn's and Colitis Foundation of America in 2003, Mr. Sinderbrand has passionately committed to meeting financial goals and a rigorous research agenda while accomplishing an extraordinary number of professional milestones and achievements.

Mr. Sinderbrand is a veteran of the New York investment banking community and currently serves as managing director with Wells Fargo in Manhattan, New York. He is also an active volunteer pilot for Angel Flight and Veteran's Airlift Command. As a parent of a child with Crohn's disease, Mr. Sinderbrand has shown great commitment and leadership to raising awareness of inflammatory bowel disease, a debilitating disease that currently does not have a cure to eliminate the suffering of over one million Americans.

Under Mr. Sinderbrand's leadership, the Foundation has been able to focus on new research initiatives including the Microbiome Initiative, Genetics Initiative and CCFA Partners, which has helped advance the science and bring us one step closer to cures for Crohn's disease and ulcerative colitis. While we still do not have all the answers, there is hope. An increasing number of genes have been identified, eight in 2007 alone. In 2011, that number grew to more than 70 genes identified, and with new technological advances researchers are working furiously to find cures.

Together, we've made our mark on Capitol Hill with the newly formed Congressional Crohn's & Colitis Caucus promoting awareness and support for the cause. We've identified funding sources at the Department of Defense, National Institutes of Health and have successfully restored funding at the Centers for Disease Control and Prevention for the IBD Epidemiology Program. These are no small feats in such challenging times.

Mr. Sinderbrand has set the bar high, and I'm confident he has put the Foundation on the right path for continued success in the future. I am grateful for his commitment to the National Board of Trustees for the Crohn's and Colitis Foundation of America at a time when the field of inflammatory bowel disease research is achieving such great success.

HONORING MICHAEL GREENE

**HON. JO ANN EMERSON**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 15, 2012*

Mrs. EMERSON. Mr. Speaker, I rise today in honor of Michael Greene's 21 years of service on Missouri's Eighth Congressional District Service Academy Review Board. Membership on this board is an important public service and one that I entrust only to those who have truly shown quality of character and judgment. An exceptional example is Michael Greene.

I want to thank Michael for his service to the Eighth Congressional District and to the five branches of military in our great nation. His leadership on the Service Academy Review Board has been influential in the lives of countless young men and women from southern Missouri who have worked hard to better themselves in the service of our country.

As an advocate for our nation's five service academies, I have relied on his sound judgment and good guidance. Michael has always taken seriously the important task of reviewing the applications of students who seek an appointment to the service academies, encouraging them in their decision-making process and furthering a long, proud tradition of military service. Because our congressional district is so well represented at the nation's service academies, we also have a reputation for producing motivated, honorable young people who are earnest in their desire to serve others, steadfast in their obligation to defend freedom, and pure in their patriotic love for America. Michael shares these virtues with the young Missourians he has helped to nominate and place in positions of leadership in all branches of the armed services.

From the bottom of my heart, I appreciate everything he has done for the Service Academy Review Board program to further its aims and to achieve its goals. I deeply appreciate his role in this important congressional responsibility. Like our Americans in uniform, Michael volunteered for this duty, and he has long served ably, honorably and well.

IN HONOR OF JEAN LEIDIG DRAPER

**HON. SAM FARR**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 15, 2012*

Mr. FARR. Mr. Speaker, I rise today to honor the life, public service and philanthropy of Jean Leidig Draper, Carmel's "Grand Dame." Mrs. Draper passed away January 20th. She will be remembered for her generous support of local, civic, and cultural organizations on the Central Coast of California and for the many lives she touched through her community work in the city of Carmel.

After attending Dominican College in San Rafael and the California Institute of Arts in San Francisco, Jean married Raymond Draper. Together they had three children: Wendy, Michael and Susan.

Jean was widely known for her love of Carmel and the causes she supported. Included

among the many recipients of Jean's generosity were the Carmel Library, the Community Hospital of Monterey Peninsula, the Forest Theatre Foundation, the Carmel Foundation, the Pacific Repertory Theater, the American Red Cross, Westland House, and the Monterey Bay Aquarium.

Jean served as the first elected Chaplain of the Stillwater Cove Yacht Club. She was a dedicated supporter of Chartwell School and a longtime parishoner of the Carmelite Monastery.

Mr. Speaker, it is with great pain that I announce the passing of Jean. I would like to personally acknowledge her life and commitment to the city of Carmel. I would also like to extend my deepest condolences to her family, friends and all those who benefitted from her service, generosity, and kindness.

TRIBUTE TO THE MEMORY OF WHITNEY HOUSTON

**HON. DONALD M. PAYNE**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 15, 2012*

Mr. PAYNE. Mr. Speaker, I rise today to extend my deepest sympathy to the family, friends and fans of Ms. Whitney Elizabeth Houston whose sudden death on February 11, 2012 has left us all saddened. Her passing leaves a void in the lives of those of us who knew and loved her. It also marks the silencing of a voice that was one of the greatest in the history of the recording industry and one that will be missed throughout the world.

Ms. Houston, known lovingly to her legions of fans as Whitney and to her family and friends as "Nippy" was born and raised within the borders of the 10th Congressional District in the cities of Newark and East Orange. Whitney made her singing debut at the family's longtime church home, New Hope Baptist Church in Newark. The fact that Whitney would love to sing came as no surprise to anyone who knew her family's history. The Drinkard Sisters, on her mother side were legendary in the Greater Newark area and beyond. Her mother, Cissy Houston and cousin, Dionne Warwick are both well known talents. What we would discover over the course of Whitney's career would be her incredible international appeal driven by her angelic voice and God given talent. Not only was Whitney a gifted singer but she was an actress, a model, film producer, record producer and songwriter.

Whitney Houston was a Super Star and in 2009, the Guinness World Records cited her as the most awarded female act of all time. These awards include two Emmy Awards, six Grammy Awards, 30 Billboard Music Awards and 22 American Music Awards. She was a trend setter and influenced many of the artists performing today. Her incomparable style will live on forever with every mention of incredible voices.

Mr. Speaker, I know my colleagues here in the House of Representatives agree that our nation has lost one of its greatest talents in Whitney Houston. Fortunately for her family especially Bobbi Kristina, her legacy will live on. My thoughts and prayers are with you.

HONORING FIREFIGHTER JAMES  
DYKSTRA

**HON. PETER J. ROSKAM**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 15, 2012*

Mr. ROSKAM. Mr. Speaker, I am pleased to rise today in recognition of the long and distinguished service of Firefighter James Dykstra of the Streamwood Fire Department on the occasion of his retirement. He recently concluded his loyal service of over 30 years to the community.

Jim earned his Associate Degree in Applied Science from Thornton Community College in December of 1980. Firefighter Dykstra began his firefighter career in Streamwood in 1981 as a Paid-On-Call Firefighter. His training included becoming an EMP/Paramedic and Firefighter before being hired as a career firefighter.

With dedication and persistence, he worked alongside his colleagues at the Streamwood Fire Department to promote the safety and well-being of his community. As a testimony to his service and commitment to Streamwood, he earned several Illinois certifications, including Firefighter III, Fire Apparatus Engineer, HazMat First Responder Operations status, Fire Prevention Officer, Fire Investigator, Provisional Fire Office Instructor I, and Certified Officer I. Jim was a founding member of the Department's Fire Investigation Team. On February 28, 1999, he received the Disaster Service Medal for participating in a structure fire. His leadership has been demonstrated through an unwavering display of courage and achievement.

Mr. Speaker and Distinguished Colleagues, please join me in celebrating this special occasion and wishing him all the best in his future endeavors.

IN RECOGNITION OF REX EUGENE  
GEITNER

**HON. JACKIE SPEIER**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 15, 2012*

Ms. SPEIER. Mr. Speaker, I rise to honor Rex Eugene Geitner who has been selected as the 2011 Farmer of the Year by the San Mateo County Farm Bureau. Rex has cultivated land from the Midwest to California where he has grown some of the best wines in the world.

Rex was born on August 6, 1950, in Davenport, Iowa, while his mother was visiting her sister. He then grew up in the family's hometown of Peoria and several other rural communities in Illinois. The family owned and operated a small farm near Elmwood which is where Rex developed his love for the land.

In 1966, the family moved to Orange, California, where Rex entered his junior year at Orange High School. He took classes in agriculture, became active in the Future Farmers of America, and raised steers until graduation.

In 1972, Rex moved to Napa where the region was just starting to transform itself into

one of the most respected and famous wine areas. Rex began his career by cleaning hillside land that was then planted with Cabernet Sauvignon. Sterling Vineyards acquired the land and kept him as their vineyard manager. From those humble beginnings, Rex evolved to be one of Napa's most experienced and sought after viticulturalists and hillside developers. During his ascent, he worked for well-known vineyards such as Stag's Leap, Domaine Chandon, Spring Mountain Vineyards and many others. Rex also took several courses about viticulture and enology at UC Davis.

In the 1990s, Rex started a business that designed and developed environmentally responsible hillside vineyards. One of his clients, T.J. Rodgers, eventually hired him full-time. According to Dr. Rodgers, his company had to court Rex for five years until he decided that he "was ready to focus on making the world's best Pinot Noir."

Rex and his wife of 37 years, Amy, raised their children, Alison and Michael, in Napa. After living in the wine country for 27 years, Amy and Rex headed for the coast and now live in El Granada. However, Rex did not leave the wine business behind; he is now developing the winery and vineyards for Clos de la Tech. He also has served as the board president of the San Mateo County Farm Bureau since 2009.

Mr. Speaker, the San Mateo County Farm Bureau is right to honor Rex Geitner as Farmer of the Year. His lifelong dedication to environmentally responsible farming and viticulture have both benefitted and delighted Californians and wine connoisseurs all over the world.

HONORING THE CONTRIBUTIONS  
OF ROGER GEIGER TO HIS FELLOW  
VETERANS

**HON. CHRISTOPHER S. MURPHY**

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 15, 2012*

Mr. MURPHY of Connecticut. Mr. Speaker, I rise today to honor Roger Geiger of Torrington, Connecticut. Mr. Geiger is a veteran and this year's recipient of the American Veterans Post 24 member of the year award.

After serving his nation in the armed services, Mr. Geiger continues to serve his community as a member of AMVETS Post 24. Mr. Geiger and his wife Diane founded and continue to run Post 24's Heroes on Wheels program. This program takes in donations of electric wheelchairs and scooters for the benefit of Connecticut veterans. Many of these wheelchairs and scooters are received out of working order and Mr. Geiger takes it upon himself to repair and refurbish this equipment that is essential to ensuring the mobility of many elderly or disabled veterans. Once the repairs are completed, Mr. Geiger and his fellow Post 24 members deliver the electric wheelchairs and scooters to veterans in need.

Mr. Geiger's tireless work has resulted in hundreds of veterans in Connecticut and neighboring states being provided with chairs that have returned to them their freedom of

mobility. It is for this reason, in addition to his service as the chapter chaplain and his general dedication to the chapter, that Roger Geiger was awarded the Post 24 member of the year award in 2011.

Mr. Speaker, I believe that we can all agree Roger Geiger deserves recognition for his outstanding service, both to his nation and to his fellow veterans. His efforts to provide his fellow veterans with the tools they need to maintain their mobility and independence are undoubtedly worthy of recognition. I ask my colleagues to join me in applauding Roger Geiger for his service to our community of veterans.

RECOGNIZING MS. EILEEN BREEN  
FOR HER SERVICES IN THE MISSISSIPPI  
HEALTH CARE COMMUNITY

**HON. BENNIE G. THOMPSON**

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 15, 2012*

Mr. THOMPSON of Mississippi. Mr. Speaker, with health care in our nation at the forefront of many discussions, it gives me great pleasure to rise today to honor a notable health care provider, Ms. Eileen Breen. I find it befitting to acknowledge those who help improve the quality of health care in our country.

Ms. Breen moved from New York City, New York in 1991 to serve medically underserved populations in the Mississippi Delta. Ms. Breen has serviced Tallahatchie County, Mississippi as a Nurse Practitioner for over eighteen years. She has worked in various clinics throughout the county, including those in Glendora and Tutwiler Mississippi, two of Mississippi's most underserved communities. Ms. Breen is well known in the community for treating patients regardless of their access to health care insurance. She has been instrumental in bringing to the forefront awareness of crippling health issues affecting Mississippi and is a pillar in her community.

Mr. Speaker, I ask our colleagues to join me in recognizing Ms. Eileen Breen for her commitment to improving health care throughout the Mississippi Delta.

HONORING LIEUTENANT GARY  
BOBER

**HON. PETER J. ROSKAM**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 15, 2012*

Mr. ROSKAM. Mr. Speaker, I am pleased to rise today in recognition of the long and distinguished service of Lieutenant Gary Bober of the Streamwood Fire Department on the occasion of his retirement. He recently concluded his loyal service of over 34 years to the community.

Lieutenant Bober began his firefighter career in West Dundee in 1976 as a Paid-On-Call Firefighter. In 1978, Lieutenant Bober was hired by the Streamwood Fire Department. His training included becoming an EMP/Paramedic and Firefighter. On July 20, 1988, Gary was

promoted to Lieutenant for the Streamwood Fire department.

Day in and day out, Lieutenant Bober worked with the men and women from the Streamwood Fire Department to protect the Village of Streamwood. As a reflection of his commitment, he earned several Illinois certifications, including Firefighter III, Fire Apparatus Engineer, HazMat Technician, Certified Instructor II, Hazmat Incident Command, and Certified Officer I. On February 28, 1999, he received the Disaster Service Medal for participating in 3 structural fires, and later that same year, he received the Meritorious Service Award for rescuing a victim from a residential structure fire. His leadership is reflected in his bravery and achievement.

Mr. Speaker and Distinguished Colleagues, please join me in celebrating this special occasion and the long years of service and commitment that Lieutenant Bober has dedicated to the community.

#### PERSONAL EXPLANATION

### HON. JIM GERLACH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 15, 2012*

Mr. GERLACH. Mr. Speaker, unfortunately, on Tuesday, February 14, 2012, I missed one recorded vote on the House floor. Had I been present, I would have voted "aye" on rollcall 49.

#### A TRIBUTE TO NORM PARKER

### HON. TOM LATHAM

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 15, 2012*

Mr. LATHAM. Mr. Speaker, I rise today to recognize the historic career of the Iowa Hawkeye nation's legendary Defensive Coordinator, Norm Parker.

Norm came to Iowa City in 1999 with a new coaching staff faced with the daunting task of reestablishing the Iowa Hawkeyes as a powerhouse football program on the national stage. Coach Parker played a pivotal role in accomplishing this task in short order by consistently coaching the Hawkeye defense into one of the nation's best. Norm built the Hawkeye defense into one of the most consistently dominant defensive units in all of college football both statistically and physically.

Over the last 13 years, Coach Parker has coached 34 players, prior to this year's upcoming draft, that have gone on to play at the sport's highest level in the National Football League. At the University of Iowa, Norm's rushing defense finished among the nation's top ten on five separate occasions, in addition to three top-ten scoring defenses in the last four years.

Any fan of college football knows that Coach Parker held a commitment to his program that is unlike any other, and in 2010, despite his battle with serious medical issues, coached the Hawkeyes to a fifth-ranked national defense, sixth-ranked rushing defense,

and seventh-ranked scoring defense before finishing the season as the Insight Bowl Champions. In 2011, Norm announced his retirement just weeks after being awarded the nation's Assistant Coach of the Year by the American Football Coaches Association.

Throughout his 48-year football career, Norm has held himself to the highest standards of professionalism and commitment. His success as a defensive coach is only matched by his impact as a positive role model for countless young Iowans, on and off the field. Whether you are a fan of the Hawkeyes, the Cyclones, the Bulldogs or the Panthers, there is no denying the profound impact Coach Parker has had on college football and the state of Iowa in general.

Mr. Speaker, I believe Iowa sportscaster Jon Miller said it best when he proclaimed, "Simply put, Iowa football would not be Iowa football without Norm Parker. Iowa football will have a tough time remaining Iowa football without Norm Parker." The impact Coach Parker has had on Hawkeye football and the state of Iowa will be evident for decades. Even as a Cyclone, it is my distinct honor to represent all college football fans across Iowa, the nation, and in the United States Congress, in thanking Coach Norm Parker for his commitment and dedication to the sport of football, his students, and the people of Iowa and wishing Norm and his wife Linda a long, happy and healthy retirement with much less stressful Saturdays.

#### U.S. DOLLARS SHOULD CREATE JOBS FOR U.S. WORKERS

### HON. GREGORIO KILILI CAMACHO SABLÁN

OF THE NORTHERN MARIANA ISLANDS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 15, 2012*

Mr. SABLÁN. Mr. Speaker, we have to ensure that U.S. workers get jobs. So, today I am introducing legislation that requires that on federally funded construction projects in my district, the Northern Mariana Islands, at least 60 percent of the workforce has to be U.S. workers.

It is just common-sense: U.S. dollars should employ U.S. workers.

There is a threshold. This legislation only applies to projects that cost more than \$100,000. We do not want to enact a law that unnecessarily delays spending or over-regulates business.

But for larger projects funded with federal dollars—and in the Northern Marianas this means road construction, modernizing schools, putting in water lines—we need to make sure that the local, U.S. workers get most of the jobs. We need to make a stand for U.S. workers and for the families they support.

I know that our national economy is still pulling itself out of the worst recession since the 1930s. Although we have seen almost 4 million jobs created in the last two years, we still have unacceptably high levels of unemployment.

But, if you can imagine, in the Northern Marianas the situation is worse—and not improving. Even before the national recession

began our economy was sinking. Our island gross domestic product has gone down every year since 2005—20 percent in 2009, the last year the Bureau of Economic Analysis has computed.

We do not have unemployment data for the Northern Marianas, but we do know that our population has shrunk from 69,000 in 2000 to 54,000 in 2010. People have left because jobs have disappeared. I can say from personal observation and from talking with my constituents that there are many people in the Northern Marianas who want work and cannot get a job.

I know, too, that many of the local, U.S. workers in the Marianas, who want to work are being passed over for the jobs that do exist.

We have something like 11,000 foreign workers today in the Northern Marianas. One has to ask: how can we have so many foreign workers, when there are U.S. workers unemployed, who want to work.

Something is not right.

The workers I talk to have skills. They have a good work ethic. They are employable. Yet they are being passed over.

We have to do more in this Congress for these U.S. workers. At the very least, we can say that when we appropriate federal dollars for construction projects in the Northern Marianas, those funds will put U.S. workers on the payroll.

We are not even asking that all the workers be U.S. workers, only that most are U.S. workers. We understand that there may be some specialty skills U.S. workers do not have. Maybe there will be numerical shortages that need to be filled.

But as long as we know that there are U.S. workers, who want jobs, who need to work, then let us make very sure that the federal dollars we provide to the Northern Mariana Islands put those U.S. workers to work.

#### HONORING ALVIN BENN, RECIPIENT OF THE ALABAMA PRESS ASSOCIATION LIFETIME ACHIEVEMENT AWARD

### HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 15, 2012*

Mr. BONNER. Mr. Speaker, I rise to pay tribute to one of Alabama's best known and most respected journalists, Mr. Alvin Benn, who this week is being honored with a Lifetime Achievement Award from the Alabama Press Association.

Perhaps there's a measure of irony in the fact that the man who has become synonymous with both covering and capturing Alabama history and culture, in a way that only a Southern native could, actually hails from the North. Al Benn was born in Lancaster, Pennsylvania, in the heart of Pennsylvania Dutch country on April 25, 1940.

After graduating from Manheim Township High School in 1958, he enlisted in the Marine Corps where he served his country for six years. He was stationed at Cherry Point, NC with the Second Marine Air Wing and at Okinawa, Japan, where he worked for the Armed

Forces Radio and Television Service. After returning stateside, he completed military journalism school at the Great Lakes Naval Training Center and briefly attended East Carolina College while at Cherry Point.

His long journey chronicling the history of our region began as a newly minted correspondent for United Press International covering the burgeoning Civil Rights movement. As he details in his 2006 book, "Reporter: Covering Civil Rights . . . and Wrongs in Dixie," Al Benn not only interviewed the major leaders of both sides of this historic struggle—including Dr. Martin Luther King and Governor George C. Wallace—but he used his fearless quest of news to take him to some of the most unsettling venues to get the unvarnished true story.

After two and a half years as UPI's Birmingham bureau chief, Al Benn took on the roles of writer, photographer, editor and publisher at newspapers in Alabama, including the Selma Times-Journal and the Montgomery Advertiser. He also crossed over the state line to work at the Natchez Democrat where he and his news staff were nominated for a Pulitzer Prize. Although he officially retired in 2003, Al Benn continues to write his widely read column, "Al Benn's Alabama", for the Montgomery Advertiser.

In commenting about his life's work, Al Benn once observed: "Journalistic integrity cannot be duplicated. That's all reporters really have. We never make much money. What we can leave behind is a good name in our chosen profession. I hope I've done just that. There are those who will disagree but I've tried to be as fair as I could be."

I have never known a more professional, articulate and even-handed reporter than Al Benn. On behalf of the people of Alabama, I offer my congratulations to Al, and I wish him and his wife, Sharon, and their family a future full of happiness.

#### RECOGNIZING THE 50TH ANNIVERSARY OF ST. JOHN THE EVANGELIST CATHOLIC CHURCH

#### HON. PETER J. ROSKAM

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 15, 2012

Mr. ROSKAM. Mr. Speaker, I rise today to commemorate the 50th anniversary of St. John the Evangelist Catholic Church in Streamwood, Illinois, in my district.

St. John the Evangelist celebrated its first Mass with approximately 300 families in June of 1962. In September of 1962, the parish began constructing its first building which served as a church and school. Five years later, due to the rapid growth of the Catholic population of Streamwood, the Cardinal approved the parish's request for the construction of a permanent church building.

Over the last 50 years, St. John the Evangelist has continued to grow. Currently, there are more than 2,660 families registered in the parish. Reaching out to the youth in the community, St. John the Evangelist School has 228 students from kindergarten through the eighth grade, and plans to have 300 students

by 2013. St. John the Evangelist also has 331 students enrolled in evening and weekend religious education programs.

Reaching out to the community, St. John the Evangelist's parish has participated in community activities and events that have helped make Streamwood a great place for families to live, play, learn and worship. Annually, St. John the Evangelist sponsors the Bingo table at the Streamwood Fest.

Mr. Speaker and Distinguished Colleagues, please join me in recognizing this 50th Anniversary as we celebrate St. John the Evangelist Catholic Church's legacy of faith and service.

#### CONGRATULATING QUEEN P. (POLLY) NELSON FOR HER YEARS OF SERVICE

#### HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 15, 2012

Mr. KILDEE. Mr. Speaker, I ask the House of Representatives to join me in congratulating Queen P. (Polly) Nelson on her retirement from the Internal Revenue Service.

Polly started her career in the federal government working with the U.S. Army where she handled monthly payroll checks. At one point she was in charge of mailing 30 thousand monthly salary checks for soldiers throughout the U.S. and overseas. After the Army she worked for numerous federal agencies including: Federal Highway Administration, Social Security Administration, and the U.S. Department of Housing and Urban Development's Federal Housing Administration where she briefly served in the Disaster Program.

Ms. Nelson eventually made her way to the Internal Revenue Service where she faithfully served for over 34 years. She currently works in the Small Business/Self Employed (SB/SE) division where they provide small business owners with top quality service by educating and informing them of their tax obligations, developing educational products and services, and helping them understand and comply with applicable tax laws. Polly currently serves in the SB/SE division as an Audit Aide and Group Clerk/Secretary for the Examination division. She is responsible for assisting auditors in performing their duties as well as time input, assigning work, reports, filing, and numerous other essential daily duties. Through her 34 plus years she earned 12 manager and performance awards, and one Sustained Superior Performance Award. She is a testament to the dedication and superb performance of our public servants in all federal agencies.

Mr. Speaker, I would like to congratulate Queen P. (Polly) Nelson on her retirement beginning March 30, 2012. We are fortunate to have such a dedicated public servant in the Internal Revenue Service and I wish her well in her future endeavors.

#### PERSONAL EXPLANATION

#### HON. JOHN A. YARMUTH

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 15, 2012

Mr. YARMUTH. Mr. Speaker, I was unable to cast the recorded votes for rollcalls 34 and 35. Had I been present I would have voted "yes" for these measures.

H. Res. 537: On Agreeing to the Resolution, rollcall No. 34.

H.R. 1162: On Motion to Suspend the Rules and Pass, as Amended, rollcall No. 35.

#### SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, February 16, 2012 may be found in the Daily Digest of today's RECORD.

#### MEETINGS SCHEDULED

##### FEBRUARY 22

2 p.m.

Commission on Security and Cooperation in Europe

To receive a briefing on Moscow, focusing on Luke Harding's encounter with the KGB.

210, Cannon Building

##### FEBRUARY 28

9:30 a.m.

Armed Services

To hold hearings to examine U.S. Pacific Command and U.S. Transportation Command in review of the Defense Authorization request for fiscal year 2013 and the Future Years Defense Program; with the possibility of a closed session in SVC 217 following the open session.

SD-106

10 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings to examine strengthening conservation through the 2012 farm bill.

SH-216

Energy and Natural Resources

To hold hearings to examine the President's proposed budget request for fiscal year 2013 for the Department of the Interior.

SD-366



2 p.m.

## Foreign Relations

To hold hearings to examine national security and foreign policy priorities in the fiscal year 2013 International Affairs Budget.

SH-216

## Commission on Security and Cooperation in Europe

To hold hearings to examine clarifying the fate of missing persons in the Organization for Security and Cooperation in Europe (OSCE) region, focusing on locating and identifying persons missing as a result of conflicts, trafficking in humans and human rights violations, as well as natural or manmade disasters.

Room to be announced

2:30 p.m.

## Veterans' Affairs

To hold joint hearings to examine a legislative presentation from the Disabled American Veterans (DAV).

345, Cannon Building

## FEBRUARY 29

10 a.m.

## Veterans' Affairs

To hold hearings to examine the President's proposed budget request for fiscal year 2013 for Veterans' Programs.

SR-418

## MARCH 1

9:30 a.m.

## Armed Services

To hold hearings to examine U.S. European Command and U.S. Africa Command in review of the Defense Authorization request for fiscal year 2013 and the Future Years Defense Program; with the possibility of a closed session in SVC 217 following the open session.

SH-216

## MARCH 6

9:30 a.m.

## Armed Services

To hold hearings to examine U.S. Central Command and U.S. Special Operations Command in review of the Defense Authorization request for fiscal year 2013 and the Future Years Defense Program; with the possibility of a closed session in SVC 217 following the open session.

SH-216

## MARCH 7

10 a.m.

## Veterans' Affairs

To hold joint hearings to examine a legislative presentation from the Veterans of Foreign Wars (VFW).

SD-G50

9:30 a.m.

## Armed Services

To hold hearings to examine the Department of the Army in review of the Defense Authorization request for fiscal year 2013 and the Future Years Defense Program.

SD-106

2:15 p.m.

## Indian Affairs

To hold hearings to examine the President's proposed budget request for fiscal year 2013 for Native Programs.

SD-628

## MARCH 13

9:30 a.m.

## Armed Services

To hold hearings to examine U.S. Southern Command and U.S. Northern Command in review of the Defense Authorization request for fiscal year 2013 and the Future Years Defense Program; with the possibility of a closed session in SVC 217 following the open session.

SD-G50

## MARCH 14

Time to be announced

## Agriculture, Nutrition, and Forestry

To hold hearings to examine healthy food initiatives, local production, and nutrition.

Room to be announced

10 a.m.

## Veterans' Affairs

To hold hearings to examine ending homelessness among veterans, focusing on Veterans' Affairs progress on its five year plan.

SR-418

2 p.m.

## Armed Services

## Personnel Subcommittee

To hold hearings to examine the Active, Guard, Reserve, and civilian personnel programs in review of the Defense Authorization request for fiscal year 2013 and the Future Years Defense Program.

SR-232A

## MARCH 15

9:30 a.m.

## Armed Services

To hold hearings to examine the Department of the Navy in review of the Defense Authorization request for fiscal year 2013 and the Future Years Defense Program; with the possibility of a closed session in SVC 217 following the open session.

SD-G50

2:15 p.m.

## Indian Affairs

To hold an oversight hearing to examine Indian water rights, focusing on promoting the negotiation and implementation of water settlements in Indian country.

SD-628

## MARCH 8

## MARCH 20

9:30 a.m.

## Armed Services

To hold hearings to examine the Department of the Air Force in review of the Defense Authorization request for fiscal year 2013 and the Future Years Defense Program; with the possibility of a closed session in SVC 217 following the open session.

SD-G50

## MARCH 21

Time to be announced

## Agriculture, Nutrition, and Forestry

To hold hearings to examine risk management and commodities in the 2012 farm bill.

Room to be announced

10 a.m.

## Veterans' Affairs

To hold joint hearings to examine the legislative presentations of the Military Order of the Purple Heart, Iraq and Afghanistan Veterans of America (IAVA), Non Commissioned Officers Association, American Ex-Prisoners of War, Vietnam Veterans of America, Wounded Warrior Project, National Association of State Directors of Veterans Affairs, and The Retired Enlisted Association.

SD-G50

## MARCH 22

10 a.m.

## Veterans' Affairs

To hold joint hearings to examine the legislative presentations of the Paralyzed Veterans of America, Air Force Sergeants Association, Blinded Veterans Association, American Veterans (AMVETS), Gold Star Wives, Fleet Reserve Association, Military Officers Association of America, and the Jewish War Veterans.

345, Cannon Building

## MARCH 28

10 a.m.

## Veterans' Affairs

To hold hearings to examine the nominations of Margaret Bartley, of Maryland, and Coral Wong Pietsch, of Hawaii, both to be a Judge of the United States Court of Appeals for Veterans Claims.

SR-418

2 p.m.

## Armed Services

## Personnel Subcommittee

To resume hearings to examine the Active, Guard, Reserve, and civilian personnel programs in review of the Defense Authorization request for fiscal year 2013 and the Future Years Defense Program.

SR-232A

**SENATE—Thursday, February 16, 2012**

The Senate met at 10 a.m. and was called to order by the Honorable TOM UDALL, a Senator from the State of New Mexico.

**PRAYER**

The PRESIDING OFFICER. Today's opening prayer will be offered by the Reverend Dr. Costa G. Christo, senior pastor of the St. George Greek Orthodox Cathedral in Philadelphia, PA.

The guest Chaplain offered the following prayer:

Let us bow our heads in prayer.

Be mindful of and protect, O Lord, these United States of America, our civil authorities, our Armed Forces by land, sea, and air, and all who reside and find shelter and refuge in this country from sea to shining sea, because "blessed is that Nation whose God is the Lord."

During these times of economic instability at home and across the globe, give us hope, restore order to our inner chaos, and strengthen our faith, because You are the God of all possibilities, sound judgment, stability, new beginnings, moderation, prudence, justice, and everlasting love, mercy, peace, and compassion. Enable our Nation—the land of the free and the home of the brave, one nation under God, indivisible, with liberty and justice for all—to be the example par excellence for all civilizations under the heavens.

Furthermore, let our esteemed Senators be Your instruments to bless our Nation and the entire world; for to You belong the kingdom, the power, and the glory, forevermore. Amen.

**PLEDGE OF ALLEGIANCE**

The Honorable TOM UDALL led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

**APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE**

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. INOUE).

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, February 16, 2012.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TOM UDALL, a Senator from the State of New Mexico, to perform the duties of the Chair.

DANIEL K. INOUE,  
President pro tempore.

Mr. UDALL of New Mexico thereupon assumed the chair as Acting President pro tempore.

**RECOGNITION OF THE MAJORITY LEADER**

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

**SCHEDULE**

Mr. REID. Following leader remarks, the Senate will be in a period of morning business for 1 hour. The majority will control the first half, the Republicans the second half. Following morning business, the Senate will resume consideration of the surface transportation bill.

Mr. President, we are doing our utmost to work through the matters we still have to do in the Senate. We have pending now a cloture motion on the surface transportation bill. That time will ripen tomorrow morning an hour after we come in. Following that, there is a vote on a person from New York who desires to be a Federal judge.

We will notify all Members when the conference report is scheduled in the House, and we will do it over here as quickly as we can. We are going to see if things can be expedited, but it appears that we will be in at least for tomorrow. I hope we don't have to be in longer than that, but it all depends on when the House completes the work on the conference report. That is not scheduled yet.

**MEASURE PLACED ON THE CALENDAR—S. 2111**

Mr. REID. Mr. President, there is a bill at the desk due for a second reading. It is S. 2111.

The ACTING PRESIDENT pro tempore. The clerk will report the bill by title for the second time.

The legislative clerk read as follows:

A bill (S. 2111) to enhance punishment for identity theft and other violations of data privacy and security.

Mr. REID. I object to any further proceedings with respect to this bill at this time.

The ACTING PRESIDENT pro tempore. Objection is heard. The bill will be placed on the calendar.

Mr. REID. I ask the Chair to announce the business of the day.

**RESERVATION OF LEADER TIME**

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

**MORNING BUSINESS**

Mr. REID. Under the previous order, the Senate will be in a period of morning business for 1 hour, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the final half.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

**RUSSIAN HUMAN RIGHTS**

Mr. WICKER. Mr. President, I expect to be joined in a moment by my colleague and good friend, Senator CARDIN, and he and I and perhaps others will be talking about the deteriorating situation in Russia with regard to human rights and the rule of law.

I came to the floor in November to speak about the deteriorating situation. I spoke about the wrongful imprisonment and tragic death of Russian lawyer Sergei Magnitsky.

Mr. President, let me state that at this point I will be happy to yield to my colleague from Maryland to actually kick off this discussion. I think that was the agreed-upon order, and staff believed I would have a few moments. But I would be glad to defer to my friend.

The ACTING PRESIDENT pro tempore. The Senator from Maryland.

Mr. CARDIN. Mr. President, I ask unanimous consent that there be 30 minutes available for a colloquy controlled by Senator WICKER and myself.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CARDIN. I thank the Chair, and I thank Senator WICKER for starting us off on the discussion of what is happening in Russia today.

I rise today, along with some of my colleagues, to bring attention to the growing issue of human rights violations in Russia, typified by the case of

Sergei Magnitsky. Just last week, as part of a bilateral Presidential commission, Attorney General Holder met with the Russian Minister of Justice to discuss the rule of law issues. That same week, Russian officials moved in their criminal prosecution of Sergei Magnitsky. Mr. President, I remind you that Mr. Magnitsky has been dead for more than 2 years.

Last May I joined with Senator MCCAIN, Senator WICKER, and 11 other Senators from both parties to introduce the Sergei Magnitsky Rule of Law Accountability Act. We now have nearly 30 cosponsors, and I urge more to join us and look at ways to move forward on helping halt abuses like this in the future.

After exposing the largest known tax fraud in Russian history, Sergei Magnitsky, a Russian tax lawyer, working for an American firm in Moscow, was falsely arrested for crimes he did not commit and tortured in prison. Six months later, he became seriously ill and was consistently denied medical attention, despite 20 formal requests. Then, on the night of November 16, 2009, he went into critical condition. But instead of being treated in a hospital, he was put in an isolation cell, chained to a bed, beaten by eight prison guards with rubber batons for 1 hour and 18 minutes until he was dead. Sergei Magnitsky was 37 years old and left behind a wife, two children, and a dependent mother.

While the facts surrounding his arrest, detention, and death have been independently verified and accepted at the highest levels of Russian Government, those implicated in his death and the corruption he exposed remain unpunished, in positions of authority, and some have even been decorated and promoted. Following Magnitsky's death, they have continued to target others, including American business interests in Moscow.

These officials have been credibly linked to similar crimes and have ties to the Russian mafia, international arms trafficking, and even drug cartels. The money they stole from the Russian budget was laundered through a network of banks, including two in the United States. Calls for an investigation have fallen on deaf ears.

In an Orwellian turn of events, the law enforcement officers accused by Magnitsky and those complicit in his murder are moving to try him for the very tax crimes they committed. Think of the irony. He exposed corruption in Russia. As a result, he was arrested, imprisoned, tortured, and killed. Now those who perpetrated the crime on him are charging him, after his death, with the crimes they committed.

We cannot be silent. One of the most articulate voices in the Senate on this issue has been Senator WICKER, who is the leading Republican on the Helsinki Commission, and I applaud him for his

efforts not only in bringing the Magnitsky abuse to public attention and what is happening in Russia, but in many other areas where human rights violations have occurred.

I will be glad to allow my colleague some time on this issue, Mr. President.

Mr. WICKER. I thank my colleague from Maryland. And yes, indeed, there are other cases of human rights violations, not the least of which I have highlighted time and again on this Senate floor—being the cases of Mikhail Khodorkovsky and Platon Lebedev. Each is an appalling story such as the one Senator CARDIN pointed out with regard to Mr. Magnitsky, a story about the corruption within the Russian Government itself. My colleagues and I will continue to speak out about these cases in the hope that attention will inspire change.

I look forward to the day when the focus of a floor statement can be about the progress we have made with Russia. This is something to which my colleague and I dearly look forward. We look forward to the day when Russia begins to uphold democracy, human rights, and the rule of law.

Unfortunately, today is not the day. In recent months, an overwhelming number of headlines out of Russia focus on the Russian spring. Opposition groups, citizens, and, in many cases, the mainstream media have reacted to moves by the Russian regime they view as no longer acceptable.

On September 24 of last year, President Medvedev struck a deal that would clear the way for his predecessor, Vladimir Putin, to run next month for a third Presidential term. As the Wall Street Journal noted in an opinion piece last December:

Even the most thick-skinned citizens saw that turning the Presidency into the object of a private swap made a mockery of the Constitution.

Russia's fraudulent parliamentary elections in December further deepened the political crisis and affirmed the erosion of democracy. Secretary Clinton—our Secretary of State—called them neither free nor fair. So this is a bipartisan denunciation of the process.

Observers have claimed that 12 to 15 percent of the votes were falsified in favor of the United Russia Party. According to most analysts, improvement is not expected in the upcoming Presidential election this March.

But these corrupt actions have not been ignored. On December 10, more than 60,000 Russians took to the streets of Moscow in protest. Similarly, on February 4, some 120,000 citizens from across the political spectrum braved below-zero weather during a prodemocracy march in central Moscow. Their demands were clear: Release political prisoners such as Khodorkovsky and Lebedev. Allow opposition parties to register. Hold free and fair elections. And pledge not to give a single vote to

Putin on March 4. Similar rallies were held in small towns across Russia.

We can be glad for the call for reform and we are glad it is growing louder. According to a February poll by Russia's independent Levada Center, 43 percent of Russians now support prodemocracy protests. Additional protests are already scheduled for later this month.

Specifically let me once again underscore the horrific facts about Sergei Magnitsky, because they need to be heard, and perhaps some of our colleagues were not listening the first time.

In the midst of this public outcry and demand for democratic process, the news out of Russia with regard to Mr. Magnitsky is almost unbelievable. Last week, it was revealed that the police in Russia plan to retry the tax evasion case of the late Sergei Magnitsky. As many of my colleagues are aware, Mr. Magnitsky is already dead. He died in Russian detention more than 2 years ago. He was a lawyer and a partner in an American-owned law firm based in Moscow. He was married, with two children, as my friend has said. His clients included the Hermitage Fund, which is the largest foreign portfolio investor in Russia.

Through his investigative work on behalf of Hermitage, Mr. Magnitsky discovered that Russian Interior Ministry officers, tax officials, and organized criminals worked together to steal \$230 million in public funds, orchestrating the largest tax rebate fraud in the history of the Russian Republic.

In 2008, Mr. Magnitsky voluntarily gave sworn testimony against officials from the Interior Ministry Russian tax department and the private criminals whom he found had perpetrated the fraud. A month later, an arrest was made—and the person arrested was Mr. Magnitsky himself. He was placed in pretrial detention and held without trial for 12 months.

While in custody, he was pressured and tortured by Russian officials, hoping he would withdraw his testimony and falsely incriminate himself and his client. But he refused to do so, and his condition worsened and his health worsened. He spent months without medical care. Requests for medical examination and surgery were denied by Russian government officials.

On November 13, 2009, Mr. Magnitsky's condition deteriorated dramatically. Doctors saw him on November 16, when he was transferred to a Moscow detention center that actually had medical facilities. Yet, instead of being treated at those facilities immediately, he was placed in an isolation cell, handcuffed, and beaten until he died.

In the months following his death, Russian officials repeatedly denied facts concerning his health condition.

The Russian state investigative committee claimed that Magnitsky was not pressured or tortured, but died naturally of heart disease, and his death was nobody's fault. This is from the Russian Government.

Since Mr. Magnitsky's death, two subsequent reviews have helped clarify some of the facts. In late December of 2009, the Moscow Public Oversight Commission, an independent watchdog mandated under Russian law to monitor human rights, issued its conclusions on this case. This independent Russian oversight commission stated that in detention, Magnitsky had been subjected to torture, physical and psychological pressure; that he was denied medical care; and that his right to life had been violated by the Russian state.

The conclusions were sent to the Russian General Prosecutor's Office, the Russian State Investigative Committee, the Russian Ministry of Justice, and the Presidential Commission. None of these agencies has responded to the report's conclusions.

More recently, a second finding was issued by the Russian President's Human Rights Council. It issued its independent expert findings on the case. The report found that Magnitsky was arrested on trumped-up charges—yet, they are being brought forward again after his unfortunate death—in breach of Russian law and in breach of the European human rights convention, that his prosecution was unlawful, that he was systemically denied medical care, that he was beaten in custody which was the proximate cause of his death, that his medical records were falsified, and that there is an ongoing coverup and resistance by all government bodies to investigate.

Senator CARDIN and I and Senator MCCAIN and others have no choice but to continue coming to this floor, to continue using every forum we can possibly use to bring these facts to light.

I have taken quite a bit of our time with my prepared statement, so I yield back to my friend from Maryland as to any other thoughts he might have. I want to commend his leadership with regard to the legislation.

Do I understand now that we have some 30 cosponsors?

Mr. CARDIN. That is correct. And, again, I thank the Senator for his leadership and I thank him for his comments.

We have 30 cosponsors of the Magnitsky legislation and I am going to be encouraging more of our colleagues to join us in cosponsorship. I want to talk a little bit about that, if I might. But let me underscore the point Senator WICKER made.

Mr. Magnitsky died 2 years ago for crimes perpetrated on him that have been well documented. The Russian Federation is now charging him after his death for those crimes—after his death. Not even in Stalin's time did

they try people after they died. This is the first time in Russian history that a man has been tried after his death. Further, they have summoned Mr. Magnitsky's widow and ailing mother as witnesses against their husband and son. This is a new chapter in brazen impunity.

An editorial last week in the *Financial Times* observed that:

If he is convicted, the accused's citizenship could be revoked, he could be exiled, and forced to die somewhere else.

That might be funny if it weren't real.

If that weren't enough, the Russian Justice Minister recently proposed that the United States and Russia conclude an extradition treaty.

Legal farces like we have seen in the case of Sergei Magnitsky and many others bring reasonable people to only two conclusions, both of which are profoundly disturbing: Either senior leaders are not the ones running the country or the senior leadership is complicit in these outrages.

The Magnitsky story sounds like a Hollywood thriller, but his case is real and the rampant corruption, violence, and lawlessness do exist in the Russian Government. His cause has become a global campaign for justice.

As Senator WICKER pointed out, the popular opinion in Russia is on the side of justice. There have been over 4,000 stories on Sergei Magnitsky since his death in Russia.

We know from countless historical cases, such as the death in police custody of the anti-apartheid activist Steve Biko in 1977, that one person's life and sometimes death can change the system. Since we are now living on the Internet, such change often comes much faster than expected.

I am going to comment about the legislation I filed and the need for us to consider that, but I notice Senator SHAHEEN is on the floor. Senator SHAHEEN is a member of the Helsinki Commission. She also chairs the Subcommittee on European Affairs on the Senate Foreign Relations Committee and has been an outspoken champion on behalf of human rights. I am pleased she is here, and I wish to give her an opportunity to talk about this issue.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mrs. SHAHEEN. Mr. President, I thank Senator CARDIN and Senator WICKER for their efforts today coming down to the floor to raise this important human rights issue.

As you say, if we didn't see the facts, we would believe this was fiction, what is going on in Russia today. But I think these efforts are particularly important given what is happening today in Russia.

We have seen historic demonstrations on the streets of Moscow over the last several months. Ordinary Russian citizens, fed up with nearly a decade of

corruption, have courageously taken to the streets to demand their voices be heard. The fraudulent Duma elections and the cynical and manipulative decision by Prime Minister Putin to return to the Presidency have reawakened civil society throughout Russia.

As a leading Russian social activist Alexei Navalny wrote from his jail cell following the peaceful December demonstrations:

We all have the only weapon we need and the most powerful. That is the sense of self-respect.

Today, as we call for justice for human rights abuses in Russia, we also stand with those brave Russian citizens who have risked so much in calling for their rights to be respected, just as Sergei Magnitsky did.

As we have seen throughout this last year of upheaval around the globe, the rising voice of a public driven to peaceful protest can be deafening. Prime Minister Putin and his regime would be wise to listen to the people of Russia.

I also want to echo what Senators WICKER and CARDIN have said about the importance of passing the Sergei Magnitsky Rule of Law Accountability Act. There are now 28 Senate cosponsors. I am one of those cosponsors and am proud to be, and I want to associate myself with what Senators have said on the floor of the Senate today.

The case of Mr. Magnitsky is a tragic one. He was falsely imprisoned, beaten, denied medical care, and ultimately killed, as you all have so eloquently explained. And to this day, no one has been held accountable for his tragic and unnecessary killing. We stand here today to press for accountability in Mr. Magnitsky's death. However, I think it is important for us to reiterate that this is more than simply a question of one man's tragic case.

The State Department's human rights report for this year described numerous violations, as Senator CARDIN said so well: attacks on journalists, physical abuse of citizens, harsh prison conditions, politically motivated imprisonments, and other government harassments and violence.

The European Court of Human Rights has issued more than 210 judgments, holding Russia responsible for grave human rights violations, including abductions, killings, and torture in Chechnya and throughout the northern Caucasus.

There are many more cases like Magnitsky, which is why the bill is so important. It seeks to ensure that no human rights abusers, in Russia or elsewhere in the world, are granted the privilege of traveling to this country or utilizing our American financial system.

As chair of the Subcommittee on European Affairs, I was pleased to preside over a hearing on the Magnitsky bill and on the state of human rights in Russia. I thank Chairman KERRY for helping to make that hearing possible.

During the hearing we had a very constructive conversation with State Department officials, and we heard unanimous support for the legislation from an impressive panel of human rights activists and Russian experts. We have also received letters that I ask unanimous consent to have printed in the RECORD from leading human rights and civil society leaders in Russia calling on the Senate to pass the Magnitsky bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PEOPLE'S FREEDOM PARTY,  
Russia, December 11, 2011.

Sen. JEANNE SHAHEEN,  
Chairman,  
Sen. JOHN BARRASSO,  
Ranking Member, Subcommittee on European  
Affairs, U.S. Senate Committee on Foreign  
Relations.

DEAR SENATORS: I am writing to express my strong support for S. 1039, the Sergei Magnitsky Rule of Law Accountability Act of 2011, currently under consideration by the U.S. Senate.

Last Saturday, over 100,000 Russian citizens gathered in central Moscow to protest against the authoritarian and kleptocratic regime of Vladimir Putin—the regime that has curtailed media freedom, turned elections into a farce, and Parliament and the judiciary into rubber-stamps, put opponents behind bars, and presided over unprecedented corruption (the latest Transparency International Index places Russia 143rd, below Eritrea and Sierra Leone). Too often, as in the case of Sergei Magnitsky, the corruption and the lawlessness result in human tragedy.

Apart from robbing the Russian people of its wealth and its dignity, Mr. Putin's regime is robbing it of its voice. The December 4th parliamentary election was marred by widespread fraud: some 13 million votes were stolen as a result of ballot-stuffing and other manipulations designed to preserve the ruling United Russia party's majority (even with this, the party received less than 50 percent of the vote). Nine opposition parties across the political spectrum, including the People's Freedom Party, were denied access to the ballot altogether. This behavior violates not only Russian, but also international norms—including the statutes of the OSCE, to which both Russia and the United States are party.

It is time to end the impunity for those who continue to show contempt for international norms and values, while enjoying the privileges of free travel and financial interactions in the West. S. 1039 would provide an important measure of accountability for those who violate the basic—and internationally protected—rights and freedoms of Russian citizens. It is time to tell thieves and human rights violators that they are no longer welcome.

It is the task of Russian citizens and Russian citizens alone to bring about political change and democratic governance in our country. But by passing S. 1039, the U.S. Senate can do more to help the cause of democracy and the rule of law in Russia than by all the statements and speeches combined.

Sincerely,

BORIS NEMTSOV,  
Co-Chairman.

16 SEPTEMBER 2011.

Hon. HARRY REID,  
Majority Leader, U.S. Senate,  
Hon. JOHN KERRY,  
Chairman, Committee on Foreign Relations,  
U.S. Senate.

DEAR MESSRS. SENATORS: This letter is an expression of support for S. 1039, the "Sergei Magnitsky Rule of Law Accountability Act of 2011", currently pending before the Senate Committee on Foreign Relations.

This bill prescribes sanctions in the form of denial of visas to the US and freezing of bank accounts in the USA for persons—including officials of the Russian Federation—who have engaged in human rights violations, ones such as abuses of power whether for personal or political motives or for covering up abuses by colleagues.

Egregious abuses of human rights are, unfortunately, common in today's Russia. Sergei Magnitsky, the namesake of the bill, was deprived of his liberty without cause and in violation of basic principles of justice. Russian authorities were responsible for his perishing while in custody. Magnitsky ended up in jail because, executing his official duties, he discovered theft from the Russian budget of a large sum of money, committed by a group of senior Russian officials. Russian authorities continue to evade bringing the officials guilty of Magnitsky's death to justice.

For us it is very important that US legislators take steps to bring the persons who are violating the law and abusing power in Russia to justice. We believe human rights should not be sidelined for perceived political interests.

Human rights should not be sidelined for the sake of political interests, whatever they may be.

Sergei Magnitsky fell victim to inhuman Russian justice. No small number of our citizens are illegally deprived of liberty in consequence of the defects of this system. Impunity for those who fabricated the charges against Magnitsky and caused him to die, gives free rein to other officials, who enrich themselves with the property of others or pursue the political opponents of the authorities. The felonious enforcement cliques seize the property of their victims who resist these takeovers, pursue them and deprive them of their liberty for many long years. And in detention they can be subjected to abuse and even torture.

The most famous victims of such takeovers are the owner of the YUKOS company Mikhail Khodorkovsky and the manager of this company Platon Lebedev. Amnesty International has recognized both of them as prisoners of conscience. The result of their arrest and the takeover of the company became expansion of the gigantic economic empire owned by persons from Prime Minister V. Putin's inner circle.

Opposition politicians, human rights advocates and civic activists have become victims of persecutions and unlawful arrests under made-up pretexts. Such persecutions will not cease as long as those who are responsible for the death of Magnitsky, for the imprisonment of Khodorkovsky and Lebedev, and the crackdown on Russian civil society remain unpunished.

Bill S. 1039 prescribes sanctions not only with respect to the Magnitsky case, but applies to the entire range of human rights abuses, among others, in Russia as well. Accordingly, officials responsible for the politically motivated persecution of Mikhail Khodorkovsky, Platon Lebedev and the other victims of the persecution of the

YUKOS company as well as those who impede the exercise of fundamental democratic liberties, ones such as freedom of assembly, freedom to create parties, freedom of elections etc. ought to be included in this list. This is a list that is much longer than that list of roughly 60 individuals sent by Senator Cardin to the US State Department in 2010. Such a list must from now on be supplemented with new names.

The threat of sanctions against the perpetrators of the Magnitsky tragedy struck a raw nerve with the Russian officials responsible for this tragedy. The consistent implementation of international pressure on the corruptioneers in the leadership circles of Russia will be a significant support for our civil society and for those honest people within the Russian power structures who are trying to renew and reform government institutions.

We call upon you, Honorable Senators, to support S. 1039, the "Sergei Magnitsky Rule of Law Accountability Act of 2011." We hope that it will be considered without delay and favorably in the Senate Committee on Foreign Relations and then by the full Senate.

Respectfully,

Ludmila Alexeeva, chairwoman of the Moscow Helsinki Group; Lev Ponomarev, head of the All-Russia Movement For Human Rights; Nina Katerli, writer, member of the Russian PEN-CENTRE, member of the Public Expert Board of the All-Russia Movement For Human Rights; Lidiya Grafova, journalist; Liya Akhedzhakova, people's artist of the RF; Natalia Fateyeva, people's artist of the RF; Boris Vishnevsky, observer for Novaya gazeta; Konstantin Azadovskii, literary historian, Chairman of the executive committee of the Saint Petersburg PEN-club; Eldar Ryazanov, film director, scriptwriter, poet; Alexey Devotchenko, Russian theater and movie actor, honoured artist of Russia; Boris Nemtsov, politician; Mark Urnov, Russian political scientist, scientific head of the Applied Political Science Department of the Higher School of Economics State University; Victor Shenderovich, Soviet and Russian satirist, TV and radio host, liberal publicist, human rights advocate; Vladimir Ryzhkov, opposition politician; Rafail Ganelin, historian, corresponding member of the Russian Academy of Sciences.

Mrs. SHAHEEN. Around the world, governments are also taking up this important call. The European Parliament, Canada, and The Netherlands are considering similar pieces of legislation. This summer, the U.S. State Department barred dozens of Russian officials from traveling to the United States over their involvement in the death of Magnitsky.

I want to commend the administration, and particularly Secretary Clinton for her strong words condemning the recent fraudulent elections in Russia. But despite all these efforts, there is more we can do to support human rights in civil society, freedom of expression in Russia.

Passing the Magnitsky bill this year is one of them. In the midst of an election year, at a time of difficult partisanship, I believe this is one effort—

as we have seen so well from Senator CARDIN and Senator WICKER today—this is one effort on which both sides of the aisle can agree. We stand today unambiguously in support of the rule of law, democracy, and respect for human rights in Russia. I hope our colleagues in the Congress and at the State Department will work constructively in the months ahead to pass this critical legislation.

Before I yield the floor, I also think it is important to call attention to the particularly egregious act that Russia committed in recent days before the United Nations, when they vetoed the Security Council resolution aimed at halting the ongoing violence in Syria. Today, more than 25,000 people have fled Syria; more than 7,000 innocent Syrians have died at the hands of President Assad. Despite Syria's growing isolation, Russia continues to harbor and arm the Syrian regime. This is unacceptable. I think our passage of the Magnitsky bill will send a very strong sign to Russia that not only in the Magnitsky case and other human abuses in-country are they going to be held accountable, but their actions internationally will also make them accountable to the international community.

Again, I say thank you to Senators CARDIN and WICKER for their leadership on this issue. I am pleased and honored to be able to join them in making this fight.

Mr. WICKER. Mr. President, we were honored to have Senator SHAHEEN join us. I know there are others who would like to be here today.

We are here to tell the sordid facts of this case. But we are also here because change can occur. If this were completely hopeless, what would be the point of this exercise? Change occurred in Eastern Europe. I must admit there was a time in my younger days when I doubted it would ever occur. My hat is off to the intrepid members of the Public Oversight Commission who had the courage to issue a report critical of their government to the Russian President's Human Rights Council. So voices are being heard. There is a thread of truth coming from the almost Iron Curtain of authoritarianism that we have reverted to in Russia.

The Senator from New Hampshire mentioned other organizations in Russia. I am glad she has had those letters printed in the RECORD.

I also point out I have to applaud the international reaction. In December, the European Parliament passed a resolution recommending an EU-wide travel ban and asset freeze for officials tied to Mr. Magnitsky's death.

We need to act as a Senate and as a Congress. I am calling on every Senator within the sound of my voice today, every legislative director dealing with defense and foreign policy issues, once again to look at the Sergei

Magnitsky Rule of Law Accountability Act.

I will tell my friend from New Hampshire that the number is now up to 30, we learned on the floor today from Senator CARDIN, so we have 30 Senators involved. We ought to have a majority of Senators before the end of this day, if people would just take the time to look. I join her in congratulating the Foreign Relations Committee on bringing further light to this issue. I thank the State Department, as she said. I will simply conclude my portion by saying recent events make it even more important that the Foreign Relations Committee and that this Senate take up and pass this legislation. I urge all my colleagues to consider joining us on this legislation.

Mr. CARDIN. If I might, I thank Senator SHAHEEN for her comments, but more importantly I thank her for her leadership. The hearing she held on the Sergei Magnitsky bill was very helpful.

First, I think in answer to the question of why we should care, we all understand America's leadership on moral issues. The world looks to America to stand against these fundamental abuses of human rights, so that in and of itself is a reason for us to act.

It is also apparent from the hearings that actions of these criminals, these violations in Russia, involve our financial institutions. So we are talking about the integrity of American companies to be able to do business internationally.

It is not only the moral issue about which we have a right to speak out. As my colleagues on the floor know, in the commitments we all signed onto in Helsinki in 1975, we had committed ourselves to basic human rights and the obligation of any member state to question the conduct in another state. Russia is a signator of the Helsinki Final Act. The United States is a signator. We have a responsibility to bring this to the world's attention.

We can do more. What can we do about this? There are many aspects of the Magnitsky tragedy that are difficult for us to pursue in the United States. It cannot be through our justice system; it has to be their justice system that has to be reformed. But there are steps we can take. The legislation we all filed recognizes the right to visit America is a privilege granted by the United States. The visa is a privilege. There is no guaranteed right to come to America.

One thing we can do is say those who are committing these gross human rights violations should not be given the privilege of entering the United States.

I wish to acknowledge and thank Secretary of State Clinton for taking action against human rights violators. That is the right policy. The legislation we have authored institutionalizes a process where we deny the right for

those individuals to visit, to come to the United States.

Obviously, that has a price to them. Of course, what we are trying to do is get the government—in this case Russia—to do what is right.

The second thing we could do is deal with their financial participation in U.S. institutions. These people do get involved in international finance. They do have resources that travel through U.S. financial institutions. We do have laws that allow us to hold those funds through due process. We can do that.

That is the reason why the legislation we have talked about today, the legislation I introduced, along with my colleagues, would institutionalize those types of changes. For those who think it may not mean much, let me remind them about what we did when the Soviet Union denied the rights of Jews to be able to leave the country. In the Congress, we took action by legislation. Many said: Would that make any difference?

It made a huge difference. It brought about change in the Soviet Union. Other countries followed our leadership. As both my colleagues have pointed out, if we act, other countries will act. It will become the norm and that will help us establish the expectation that countries do need to address tragedies such as Sergei Magnitsky's and, more importantly, take steps so it never happens again. That is what we are attempting to do by moving forward with this legislation. As Senator WICKER said, we do urge our colleagues to join us in this effort.

Senator WICKER mentioned what is happening around the world. We see countries go through a democratic transformation we never thought we would see in our lifetime. It happened in Europe and they are now some model democracies, our NATO allies, countries that just a few decades ago we thought would be our enemies to this day. So we have seen change occur. We want to be on the right side of this issue, the right side of history, on moving Russia forward with the types of reforms to which the people of Russia are entitled.

We have the right to do that under the Helsinki Act. We have the responsibility to point out these issues. We can take action that can make a huge difference. That is why we are engaged in this discussion, to say we want Russia to do the right thing. We want to speak out to the Russian people. We think we can play a very important role.

The U.S. Helsinki Commission, of which I had the honor to be the Senate chair and Senator WICKER is the lead Republican on the Senate side, has a proud history of putting a spotlight on problems. People do not like name calling, but we have to point out where the violations occur. Unfortunately, if we do not do it, it becomes statistics. But if we do it, we put a face on it—so we

realize these are people who have families who have been abused because they are trying to do the right thing—we can get action. That is why I am so proud of the legacy of the U.S. Helsinki Commission and what we have been able to do.

This is another chapter in that proud history of saying we are going to stand for basic human rights, that is a priority for our country, we can do better and we can do justice for Sergei Magnitsky and we can do justice for the people of Russia.

Mrs. SHAHEEN. Will the Senator yield for a question?

Mr. CARDIN. I will be glad to yield.

Mrs. SHAHEEN. One of the things the Senator talked about so eloquently, as we talked about the ability of our financial systems to impact what is happening in Russia—one of the things we heard about at the hearing on the Magnitsky bill was from the head of the American Chamber in Russia who talked about what the impact of this kind of case is on American companies trying to do business and the concern it raises about issues of corruption and the ability to operate freely in Russia. Does my colleague not agree that we can also urge those companies that are operating in Russia to speak out when cases such as this happen and they have concerns about what it does to their business in the country?

The ACTING PRESIDENT pro tempore. The majority's 30 minutes has expired.

Mr. CARDIN. We are going to yield the floor. Let me agree with my colleague, Senator SHAHEEN. She is absolutely right. It is going to be easier for them to speak out if they know we are going to continue raising these issues.

I thank Senators SHAHEEN and WICKER and I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming is recognized.

### THE BUDGET

Mr. BARRASSO. Mr. President, I come to the floor as someone who sat through the President's State of the Union and I have just come from a Senate Energy Committee hearing. I sat through the State of the Union near the Secretary of Energy and was happy when I heard some of the comments of the President when he talked about an "all of the above" strategy, needing all of the sources of energy. But this Monday the President's budget came out which is very different than that. It is a budget I would like to discuss this morning and talk about because, as I read through it, it looks to me as though the President has abandoned his role as leader of the Nation by not being honest with the American people about the significance of the debt that we as Americans face. To me, this

budget ambushes the American people. The President, under the pretense of economizing, promises to cut \$4 trillion of deficit over 10 years, but the budget itself actually piles \$11 trillion of new debt in that same timeframe.

Under the pretense of helping everyone to prosper, to me the President's budget buries every single American under a mountain of debt and that is a debt that is going to rob more and more from their paychecks with each passing year. The savings the President promises are not going to come. The spending he demands is for things we cannot afford. It seems to me this President's budget is another painful step on the road to bankrupting America.

We are in the fourth year of the Presidency, and for each of those 4 years the deficit has exceeded \$1 trillion; \$1 trillion in each of the 4 years of this Presidency.

How does that match with what the President has been saying? In February of 2009, the President had been President about a month, he made a pledge. The pledge was he would cut the deficit in half by the end of his first term in office. Here we are, the final year of the President's first term in office, and this deficit is still above \$1 trillion. Once again, what the President has said to the American people is very different than what he has delivered to the American people. I am still waiting for a chance in this body, in the Senate, to vote on the President's budget. The majority leader, who sits in the front row, has said he doesn't intend to even bring it to the floor of the Senate for a discussion or a debate or a vote. The law is pretty clear: The President has to introduce a budget by a certain date—the President missed that deadline—and the Senate and the House have to go ahead and pass a budget, which this body has not done now for over 1,000 days. Multiple years and no budget has passed this body.

There actually was a vote last year on the President's budget. It was one where the budget itself was called irresponsible, and there were a number of press renderings on it. The majority leader refused to bring it to the Senate floor, so the minority leader brought the President's budget to the Senate floor. Not one Republican voted for it, but not one Democrat voted for the President's budget either. The total count on the President's budget last year in the Senate: 0 votes for the President's budget, 97 votes against the President's budget. Yet the President introduces another budget this year ignoring the two major tidal waves we face, the tidal waves of Social Security and Medicare.

It is interesting. You read in the New York Times:

Obama Faces Task of Selling Dueling Budget Ideas.

President Obama more than ever confronts the challenge of persuading voters that he

has a long-term plan to reduce the deficit, even as he highlights stimulus spending.

Challenging to persuade voters that he has a long-term plan to reduce the deficit. What did he promise? What did he deliver? What we see is a health care law where he promised one thing and delivered something very different. We see it now in the budget, and the numbers are so large. The numbers are so astronomically large that it is hard for one to comprehend how much a deficit of \$1 trillion truly is. You can visit with high school students or service clubs or go to townhall meetings or senior centers, the number is so large it is hard to wrap one's mind around it.

The President tries to make people believe that everything would be OK if he could just raise some taxes—just a little bit, he says—on some other people—not you but other people—and everything would be fine. When you actually look through this, to get to \$1.3 trillion, which is what the President has proposed in this year's budget as a deficit, you could take all the millionaires and billionaires—things he likes to rail about—and you could take every penny they earn over that \$1 million, all of them combined, and then on top of that sell off all the gold in Fort Knox, add it all together, and that would not be enough to cover just the deficit, that \$1 trillion the President plans to spend over and above what comes in. It is completely irresponsible, but that is what we have seen from this administration.

So we have a President who makes presentations, gives speeches, and yet what the American people see is something very different. So this morning in the Energy Committee, we had an opportunity to visit with the Secretary of Energy specifically on budgetary issues relating to the budget and the future.

Of course, the President said he supported an all-of-the-above energy plan for the country. Well, I support an all-of-the-above energy plan for the country, but when you go through the details, that is not exactly what the American people see. What the American people see is the cost of gasoline at the pump continuing to go up. They see an administration that is blocking an opportunity to move oil from northern parts of our country, as well as from Canada, to the United States for use here.

Take a look at the front-page headline of USA Today from a couple of days ago:

"Chaotic spring" predicted for gas. Average prices likely to hit \$4.05 a gallon.

People care about that. People all across the country drive around, they see the signs up, they see what the cost of a gallon of gasoline is, and they see it impacting their daily lives.

Today a number of us visited the Energy Committee and talked about today's Wall Street Journal article this



morning. "Oil Rise Imperils Budding Recovery." We want this country to recover. We want people to get back to work. We want to make it easier and cheaper for the private sector to hire people and get America working again. The price of energy goes up, the price of oil goes up—"Oil Rise Imperils Budding Recovery."

What does it say? "The average price of a gallon of regular gasoline has jumped 13.1 cents to \$3.51 cents in the past month." So gasoline at the pump is up 13 cents in the last month. This is according to AAA.

It goes on to say:

Some parts of the country have seen even bigger increases, with prices approaching \$4 a gallon in parts of California.

Higher prices at the pump—and this is where it really hits home. This is what I hear about at home in Wyoming when the price of gasoline goes up. And we drive great distances, Mr. President, in your home State and my home State. People notice it because it impacts on other things for which they can use that same money.

It says here in the Wall Street Journal:

Higher prices at the pump force consumers to cut back spending on discretionary items like restaurant meals, hair cuts and family vacations, hurting those industries.

Isn't that what it is really about as the price of gasoline at the pump goes up? It hurts the ability of families and the quality of life—they could spend that money in other ways.

It says:

A prolonged increase can drive up inflation and drive down hiring.

We are a country that wants people to get back to work. We want to give them those opportunities, and it just seems that the President's budget and the policies of this administration and a rejection of things that would actually help us with American energy are going to make it harder for families. When the price of gasoline goes up, the impact on an average family is over \$1,000 a year in terms of their ability to have disposable income. If it is a family dealing with a mortgage and bills and kids, that is a huge difference in the quality of life for those American families.

States around the country get it. I look at Wyoming. We are in our legislative session there right now. We balance our budget every year. The constitution demands it. If less money comes in, we spend less money. They make the tough decisions.

The President said he is ready to make the tough decisions, but I don't see tough decisions in this budget. What I see is a political document, a campaign document, something that has more stimulus money in it, money so he can promise people things. We all know how that first so-called stimulus program went. To me, it was a failure. We had spending of about \$800 billion.

The President promised that if we passed the stimulus program, the unemployment rate would stay less than 8 percent. They put out charts, and by today, from those charts, the unemployment rate should be 6 percent. The unemployment rate is still 8.3 percent. It has been over 8 percent for 36 months now.

When you look at this and look at the President's budget, to me, it is debt on arrival. The budget spends \$47 trillion, it borrows \$11 trillion, and it increases the national debt to \$26 trillion by 2022. It is debt upon debt upon debt. So from where do you borrow the money? A lot of it you borrow from overseas. A lot of it comes from China. So what role is China playing now? Well, they are continuing to lend us money.

By the way, when the President blocked the Keystone XL Pipeline, what did China say to our northern neighbors, our big trading partner, Canada? If the United States doesn't want it, if President Obama isn't interested, we will take the oil in China. The Prime Minister of Canada was in China last week doing exactly that—cutting a deal with the Chinese for energy that will be sold from Canada. I think we should want it. I think if we want to be energy secure and work on energy security, which, to me, is an issue of national security, we should want that energy. Good jobs; the amount of money in terms of jobs that are available—this isn't government money, it is private money to put people back to work. We haven't seen it, and this administration, through its budget and through its policies, continues to oppose those efforts for American jobs.

So what we see is that under the President's 10-year budget proposal, the spending goes up every year without stop. Every year from now to over the next 10 years, spending goes up and we see trillion-dollar deficits year after year after year.

What is most disturbing to some of my colleagues who have accounting degrees—especially the senior Senator from the State of Wyoming, who is an accountant, who has run businesses; he looks at this, and he can easily point out the budgetary gimmicks, the accounting tricks that have been used over and over to make this budget, as irresponsible as it happens to be, look not as bad as it really is.

This budget is bad for America, and it is a continuation of a number of policies that have come out of this administration that have made it harder and more expensive for the private sector to create jobs. What I am trying to do is look for ways to make it easier and cheaper for the private sector to create jobs. We have not seen it in the President's budget, we have not seen it in the policies of this administration, and we have not seen it in this President.

Thank you very much.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Vermont.

Mr. LEAHY. Mr. President, I ask unanimous consent to speak for up to 10 minutes as in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LEAHY. The Senate was forced to spend the better part of this week ending a filibuster against the nomination of Judge Adalberto Jordan of Florida to fill a judicial emergency vacancy on the Eleventh Circuit. Finally, after a four month Republican filibuster that was broken on Monday by an 89-5 cloture vote, and after Republicans insisted on two additional days of delay, the Senate was allowed to vote on the nomination. We voted 94-5 to confirm Judge Jordan. I suspect the vote would have been the same four months and two days sooner. It was a colossal waste of the Senate's time and another week lost to obstruction and delay.

Now the Senate Majority Leader has been required to file another cloture petition on yet another consensus nominee. This is the ninth time the Majority Leader has had to file a cloture petition to overcome a Republican filibuster of one of President Obama's superbly-qualified judicial nominees. The nomination of Jesse Furman to fill a vacancy on the Southern District of New York has been stalled for more than five months after being reported unanimously from the Senate Judiciary Committee. Consensus nominations like this to Federal district courts have nearly always been taken up and confirmed by the Senate within days or weeks, whether nominated by a Democratic or a Republican President. Certainly that was the approach taken by Senate Democrats when President Bush sent us consensus nominees. That is how we reduced vacancies in the presidential election years of 2004 and 2008 to the lowest levels in decades and how we confirmed 205 of President Bush's judicial nominees in his first term. Yet, in an almost complete reversal of this approach, Mr. Furman's nomination has been blocked by Senate Republicans for over five months, without reason or explanation.

Regrettably, for the second time, we will have to vote to end a Republican filibuster of one of President Obama's district court nominations. I cannot recall a single instance in which a President's judicial nomination to a Federal trial court, a Federal district court, was blocked by a filibuster. Yet, Senate Republicans nearly did so last year when they sought to filibuster Judge Jack McConnell's nomination to the Rhode Island District Court, despite the strong support of both home state Senators who know their state best. At that time I emphasized the danger of

rejecting the Senate's traditional deference to home state Senators and beginning to filibuster district court nominations. Fortunately, the Senate rejected that filibuster and that path and Judge McConnell was confirmed. I trust the Senate will do so again, bringing to an end another filibuster, this time for a district court nominee, Mr. Furman, who was reported unanimously by the Judiciary Committee.

Like the needless delay in Judge Jordan's confirmation, the Republican filibuster of Jesse Furman, who by any traditional measure is a consensus nominee, is another example of the tactics that have all but paralyzed the Senate confirmation process and are damaging our Federal courts. It should not take five months and require a cloture motion for the Senate to proceed to vote on this nomination. At a time when nearly one out of every 10 judge-ships is vacant and we have over 20 judicial nominations reported favorably by the Committee, 16 of which have been stalled on the Senate calendar since last year, nearly all of them superbly-qualified consensus nominees, our Federal courts and the American people cannot afford more of these partisan tactics.

I read with interest this morning Gail Collins' column in *The New York Times* on the approval rating of Congress. She notes that Congress is "unpopular like the Ebola virus, or zombies . . . like TV shows about hoarders with dead cats in their kitchens." She goes on to discuss the Republican filibusters of judicial nominees and writes:

This week, the Senate confirmed Judge Adalberto Jose Jordan to a seat on the federal Court of Appeals for the 11th Circuit in Atlanta. A visitor from another country might not have appreciated the proportions of this achievement, given that Jordan, who was born in Cuba and who once clerked for Sandra Day O'Connor, had no discernible opposition.

I ask consent that a copy of Ms. Collins' column be printed in the *RECORD* at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. BROWN of Ohio). Without objection, it is so ordered.

(See exhibit 1.)

Mr. LEAHY. This is the kind of obstruction that is hard to explain to the American people. This Republican filibuster, like that of Judge Jordan, is very hard to understand. Jesse Furman is an experienced Federal prosecutor who has prosecuted international narcotics trafficking and terrorism and consulted on some of the Southern District's most complex cases, including the Galleon insider trading case, the prosecution of former Madoff employees, and the Times Square bomber case. A dedicated public servant, Mr. Furman has been a law clerk at all three levels of the Federal judiciary, including as a clerk to Supreme Court Justice David Souter.

I got to know Mr. Furman when he was the counselor to Attorney General Michael Mukasey. That is right: The Senate Republicans are filibustering someone strongly supported by President Bush's Attorney General who was himself a Federal judge. When Mr. Furman's nomination was before the Committee last summer, Attorney General Mukasey wrote to the Committee in strong support:

All I can hope to add is my own belief that he is a person to whom one can entrust decisions that are consequential to the lives of people and to the general welfare of the populace, with confidence that they will be made wisely and fairly . . . and I urge that he be confirmed.

Former Supreme Court clerks who served at the same time as Mr. Furman, including clerks for conservative Justices such as Chief Justice Rehnquist, Justice Thomas, and Justice Scalia wrote in support of Mr. Furman's nomination, stating that, "Mr. Furman has demonstrated his deep respect for and commitment to the rule of law, over and above politics or ideology."

With this bipartisan support, the strong support of his home state Senators, and his impressive background, Mr. Furman's nomination was reported by the Judiciary Committee on September 15, without opposition from a single member of the Committee. We should have voted on his nomination many months ago, and certainly before the end of the last session. Senate Republicans have blocked this nomination for over five months without any explanation.

Sadly, this is not the first New York judge to be filibustered by Senate Republicans. Just a few years ago, Judge Denny Chin, an outstanding nominee with 16 years of judicial experience, was delayed from being elevated to the Second Circuit for four months until the Majority Leader forced a vote and he was confirmed 98-0.

Last May, the Majority Leader was required to file for cloture to end the filibuster of Judge Jack McConnell of Rhode Island. By rejecting that filibuster, the Senate took a step toward restoring a longstanding tradition of deference to home state Senators with regard to Federal District Court nominations. The Senate turned away from a precipice. It is wrong now for us to approach that precipice again. Filibustering this nomination would set a new standard for obstruction of judicial nominations.

Indeed, I have looked back over the last six decades and found only four district court nominations—four in over 60 years, on which cloture was even filed. For two of those, the cloture petitions were withdrawn after procedural issues were resolved. In connection with the other two, the Senate voted on cloture and it was invoked and the filibuster ended. All of those nominations were confirmed.

From the start of President Obama's term, Republican Senators have applied a heightened and unfair standard to President Obama's district court nominees. Senate Republicans have chosen to depart dramatically from the long tradition of deference on district court nominees to the home state Senators who know the needs of their states best. Instead, an unprecedented number of President Obama's highly-qualified district court nominees have been targeted for opposition and obstruction. That approach is a serious break from the Senate's practice of advice and consent. Since 1945, the Judiciary Committee has reported more than 2,100 district court nominees to the Senate. Out of these 2,100 nominees, only six have been reported by party-line votes. Only six total in the last 65 years. Five of those six party-line votes have been against President Obama's highly-qualified district court nominees. Indeed, only 22 of those 2,100 district court nominees were reported by any kind of split roll call vote at all, and eight of those, more than a third, have been President Obama's nominees.

Democrats never applied this standard to President Bush's district court nominees, whether in the majority or the minority. And certainly, there were nominees to the district court put forth by that administration that were considered ideologues. All told, in eight years, the Judiciary Committee reported only a single Bush district court nomination by a party line vote. President Obama's nominees are being treated differently than those of any President, Democratic or Republican, before him.

When I first became Chairman of the Judiciary Committee in 2001, I followed a time when Senate Republicans, who had been in the majority, had pocket filibustered more than 60 of President Clinton's judicial nominations, blocking them with secret holds in backrooms and cloakrooms, obstructing more with winks and nods, but with little to no public explanation or accountability. I worked hard to change that and to open up the process. I sought to bring daylight to the process by making the consultation with home state Senators public so that the Senate Republicans' abuses during the Clinton years would not be repeated.

When Senate Democrats opposed some of President Bush's most ideological nominees, we did so openly, saying why we opposed them. And when there were consensus nominees—nominees with the support of both Democrats and Republicans—we moved them quickly so they could begin serving the American people. That is how we reduced vacancies in the presidential election years of 2004 and 2008 to the lowest levels in decades. That is how we confirmed 205 of President Bush's circuit and district nominees in his first term.

Now we see the reverse of how we treated President Bush's nominees. Senate Republicans do not move quickly to consider consensus nominees, like the 14 still on the Senate Calendar that were reported unanimously last year and should have had a Senate vote last year. Instead, as we are seeing today and have seen all too often, Senate Republicans obstruct and delay even consensus nominees, leaving us 43 judicial nominees behind the pace we set for confirming President Bush's judicial nominees. That is why vacancies remain so high, at 86, over three years into President Obama's first term. Vacancies are nearly double what they were at this point in President Bush's third year. That is why 130 million Americans live in circuits or districts with a judicial vacancy that could have a judge if Senate Republicans would only consent to vote on judicial nominees that have been favorably voted on by the Senate Judiciary Committee and have been on the Senate Executive Calendar since last year.

This is an area where we should be working for the American people, and putting their needs first. It is the American people who pay the price for the Senate's unnecessary and harmful delay in confirming judges to our Federal courts. It is unacceptable for hardworking Americans who are seeking their day in court to find seats on one in 10 of those courts vacant. When an injured plaintiff sues to help cover the cost of medical expenses, that plaintiff should not have to wait for years before a judge hears his or her case. When two small business owners disagree over a contract, they should not have to wait years for a court to resolve their dispute. With over 20 judicial nominees favorably reported by the Committee and cloture motions being required for consensus nominees, the Senate is failing in its responsibility, harming our Federal courts and ultimately hurting the American people. Is it any wonder that barely 10 percent of the American people view Congress favorably?

The slow pace of confirmations of President Obama's judicial nominees is no accident or happenstance. It is the result of deliberate obstruction and delays. For the second year in a row, the Senate Republican leadership ignored long-established precedent and refused to schedule any votes before the December recess on the nearly 20 consensus judicial nominees who had been favorably reported by the Judiciary Committee. Here we are in the middle of February fighting to hold a vote on one of the 18 nominees who should have been confirmed last year. Fourteen of the nominees being blockaded by Senate Republicans were reported with the unanimous support of their home state Senators and every Republican and every Democrat on the Senate Judiciary Committee. The re-

sult of these Republican delay tactics is clear—we are far behind the pace set by the Senate during President George W. Bush's first term, with a judicial vacancy rate nearly twice what it was at this point in his first term.

During President George W. Bush's administration, Republican Senators insisted that filibusters of judicial nominees were unconstitutional. They threatened the "nuclear option" in 2005 to guarantee up-or-down votes for each of President Bush's judicial nominees. Many Republican Senators declared that they would never support the filibuster of a judicial nomination—never. Yet, only a few years later, Senate Republicans reversed course and filibustered President Obama's very first judicial nomination, that of Judge David Hamilton of Indiana, a widely-respected 15-year veteran of the Federal bench who had the support of the most senior and longest-serving Republican in the Senate, Senator LUGAR. The Senate rejected that filibuster and Judge Hamilton was confirmed.

But the partisan delays and opposition have continued. Senate Republicans have required cloture votes even for nominees who ended up being confirmed unanimously when the Senate finally overcame those filibusters and voted on their nomination. So it was with Judge Barbara Keenan of the Fourth Circuit, who was confirmed 99-0 when the filibuster of her nomination finally ended in 2010, and Judge Denny Chin of the Second Circuit, an outstanding nominee with 16 years judicial experience, who was ultimately confirmed 98-0 when the Republican filibuster was overcome after four months of needless delays. Just this week the long-delayed nomination of Judge Adalberto Jordan to the Eleventh Circuit was confirmed 94-5.

This obstruction is particularly damaging at a time when judicial vacancies remain at record highs. There are currently 86 judicial vacancies across the country, meaning that nearly one out of every 10 Federal judgeships remains vacant. The vacancy rate is nearly double what it had been reduced to by this point in the Bush administration, when we worked together to reduce judicial vacancies to 46.

Some Senate Republicans are now seeking to excuse these months of delay by blaming President Obama for forcing them to do it. They point to President Obama's recent recess appointments of a Director for the Consumer Financial Protection Bureau and members of the National Labor Relations Board. Of course, those appointments were made a few weeks ago, long after Judge Jordan's nomination was already being delayed. Moreover, the President took his action because Senate Republicans had refused to vote on those executive nominations and were intent on rendering the Government agencies unable to enforce the law and

carry out their critical work on behalf of the American people. Some Senate Republicans are doubling down on their obstruction in response. They are apparently extending their blockage against nominees beyond executive branch nominees to these much-needed judicial nominees. This needless obstruction accentuates the burdens on our Federal courts and delays in justice to the American people. We can ill afford these additional delays and protest votes. The Senate needs, instead, to come together to address the needs of hardworking Americans around the country.

I, again, urge Senate Republicans to stop the destructive delays that have plagued our nominations process. I urge them to join us not only in rejecting the five-month filibuster of Mr. Furman's nomination, but also in restoring the Senate's longstanding practice of considering and confining consensus nominees without extended and damaging delays. The American people deserve no less.

#### EXHIBIT 1

##### CONGRESS HAS NO DATE FOR THE PROM

(By Gail Collins)

I am shocked to report that Congress, the beating heart of American democracy, is unpopular.

Not unpopular like a shy kid in junior high. Unpopular like the Ebola virus, or zombies. Held in near-universal contempt, like TV shows about hoarders with dead cats in their kitchens. Or people who get students to call you up during dinner and ask you to give money to your old university.

The latest Gallup poll gave Congress a 10 percent approval rating. As Senator Michael Bennet of Colorado keeps pointing out, that's lower than BP during the oil spill, Nixon during Watergate or banks during the banking crisis.

On the plus side, while 86 percent of respondents told Gallup that they disapproved of the job Congress was doing, only 4 percent said they had no opinion. That's really a great sense of public awareness, given the fact that other surveys show less than half of all Americans know who their member of Congress is.

So little attention, yet so much rancor. We're presuming that this is because of the dreaded partisan gridlock, which has made Congress increasingly unproductive in matters that do not involve the naming of post offices.

And Congress is listening! Lately, we have been seeing heartening new signs of bipartisan cooperation. For instance, the House and Senate are near an agreement on the payroll tax cut, namely that it will continue and not be paid for.

This is actually sort of a tradition. No matter who is in power in Washington, Congress has always shown a remarkable ability to band together and pass tax cuts that are not paid for. It's like naming post offices, only somewhat more expensive.

But there's much, much more. For instance, both chambers recently approved a big new ethics reform bill that would ban members of Congress from engaging in insider trading.

Perhaps you imagined that this was already against the law.

This piece of legislation had been lying around gathering dust since 2006. But, this

year, the House and Senate decided to stand tall and pass it as a matter of principle. It had nothing to do with a "60 Minutes" report that made the whole place look like a convention of grifters. Totally unrelated. This was simply a bill whose time had come.

And that bill would probably already be signed into law were it not for a disagreement over whether to require the high-paid professionals who poke around Congress collecting information that might be of use to their Wall Street clients to register the same way lobbyists do.

You'd think this would be easy to sort out since most members of the House and the Senate have gone on the record in favor of registering these guys.

But, no, the idea ran afoul of the House majority leader, Eric Cantor, the Darth Vader of Capitol Hill. Cantor says the idea should be studied, which is, of course, legislatese for "trampled to death by a thousand boots."

Still, the good news is that the basic idea of prohibiting members of Congress from using the information they acquire in the course of their public duties to engage in insider trading did pass both chambers by enormous majorities.

Yippee.

And the bipartisan cooperation keeps rolling on. This week, the Senate confirmed Judge Adalberto Jose Jordan to a seat on the federal Court of Appeals for the 11th Circuit in Atlanta. A visitor from another country might not have appreciated the proportions of this achievement, given the fact that Jordan, who was born in Cuba and who once clerked for Sandra Day O'Connor, had no discernible opposition.

But Americans ought to have a better grasp of how the Senate works. The nomination's progress had long been thwarted by Mike Lee, a freshman Republican from Utah, who has decided to hold up every single White House appointment to anything out of pique over . . . well, it doesn't really matter. When you're a senator, you get to do that kind of thing.

This forced the majority leader, Harry Reid, to get 60 votes to move Judge Jordan forward, which is never all that easy. Then there was further delay thanks to Rand Paul, a freshman from Kentucky, who stopped action for as long as possible because he was disturbed about foreign aid to Egypt.

All that is forgotten now. The nomination was approved, 94 to 5, only 125 days after it was unanimously O.K.'d by the Judiciary Committee. Whiners in the White House pointed out that when George W. Bush was president, circuit court nominations got to a floor vote in an average of 28 days.

No matter. Good work, Senate! Only 17 more long-pending judicial nominations to go!

Meanwhile, the House named a post office in Missouri for a fallen Marine.

Mr. LEAHY. I yield the floor.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

#### MOVING AHEAD FOR PROGRESS IN THE 21ST CENTURY ACT

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 1813, which the clerk will report.

The bill clerk read as follows:

A bill (S. 1813) to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

Pending:

Reid amendment No. 1633, of a perfecting nature.

Reid amendment No. 1634 (to amendment No. 1633), to change the enactment date.

Reid motion to recommit the bill to the Committee on Environment and Public Works, with instructions, Reid amendment No. 1635, to change the enactment date.

Reid amendment No. 1636 (to the instructions) amendment No. 1635), of a perfecting nature.

Reid amendment No. 1637 (to amendment No. 1636), of a perfecting nature.

The PRESIDING OFFICER. The assistant Republican leader is recognized.

Mr. KYL. Mr. President, I ask unanimous consent to speak as in morning business for 10 minutes and that I be followed by the Senator from Texas, Mr. ALEXANDER.

The PRESIDING OFFICER. From Tennessee.

Mr. KYL. What did I say? From Tennessee. Whatever I said, I apologize. I said Texas. I apologize.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### THE BUDGET AND OUR NUCLEAR ARSENAL

Mr. KYL. Mr. President, I need to speak for a few minutes this morning about two important news events of this week: the budget that was submitted by the President and the news reports that the President is considering reducing our nuclear arsenal to dramatically lower levels than they are today. Let me speak to both those subjects briefly this morning, and then I will have more to say about them as time goes on.

In the President's budget, there is a specific part for the Department of Energy that funds the nuclear weapons program. Despite promises of the President that he would follow what is called the 1251 study over the course of his Presidency and request in the budget the sums of money for the Department that is called the NNSA—part of the Department of Energy—he reduced that this year by \$372 million less than the target. The net result of that over 5 years is going to be \$4.3 billion.

I know my colleague from Tennessee is very interested in this. Before the START treaty was debated, there was a big debate about whether the funding for the NNSA in the nuclear modernization program was adequate.

On the Veterans Day recess, before we began the debate on START, General Chilton, former head of STRATCOM, and Dr. Miller, the Assistant Secretary of Defense, flew to Phoenix and said to me: You were right. We were wrong. We have underfunded this by over \$4 billion. We are going to add that to our 5-year budget profile.

This was the argument we had been making all along: You have underfunded the nuclear modernization pro-

gram. You need to add between \$4 billion and \$5 billion to it. They agreed and that is what went into the revised 1251 report.

As a result of the budget request this year, we are right back where we started from before the revision—\$4.3 billion below—and that is where we were when the administration came forward and said: You were right. We were wrong. Our previous figure was not enough.

So we have a problem, and it is going to cause some real disruptions.

One of the things we have to do is extend the life of one of our old weapons called the B-61. This is a 2-year delay now on that, a 2-year delay on another warhead called the W-76, at least a 5-year delay in the construction of the plutonium processing facility at Los Alamos Laboratory called the CMRR facility.

Why is that important? We knew prior to commitments the President made before the START treaty was debated that the CMRR was critical. We do not have a production capacity. Unlike Russia and China, for example, we cannot produce new nuclear weapons. We have to go back and revise the ones we have. One of the facilities that would enable us to do that is this CMRR facility. In fact, that is where a great deal of the work would be done.

What we were told was that the President was fully committed to constructing this facility on a timetable set out in the 1251 report. Some of us were a little dubious. The President's representative said: We will put it to you in writing. So he did. What he said in his message on the New START treaty to the Senate with regard to this facility—I will quote it; the letter related to his intent to modernize and replace the triad:

[To] accelerate to the extent possible, the design and engineering phase of the Chemistry and Metallurgy Research Replacement (CMRR) building and the Uranium Processing Facility (UPF)—

That is the facility for uranium processing at Oak Ridge, TN—

[and to] request full funding, including on a multiyear basis as appropriate, for the CMRR building and the UPF upon completion of the design and engineering phase for such facilities.

We were concerned he would not request the funding in the outyears and that they would not accelerate the construction of these facilities. So he said he would. He would accelerate it to the extent possible and request full funding, including on a multiyear basis.

The budget he submitted this year breaks that commitment to the Senate, and those Senators who voted for the treaty based upon these commitments are obviously going to be re-evaluating their support for the treaty. There are things that can be done by the Congress, including our power of the purse, to deal with the issue, which I will hope to have time to speak to in a moment.

Former Secretary Gates reflected on the Senate's reliance on these commitments when he said:

This modernization program was very carefully worked out between ourselves and the Department of Energy; and, frankly, where we came out on that played a fairly significant role in the willingness of the Senate to ratify the New START agreement.

For those who relied on the administration's commitment, they have been broken. We are right back to where we started from before the treaty was taken up.

If you want to know specifically what the problems are, Dr. Charles McMillan, the Los Alamos Director said:

Without CMRR, there is an identified path to meet the Nation's requirement of 50 to 80 pits per year . . . the budget reduction in FY13 compounds an already difficult set of FY12 budget challenges and raises questions about whether we can meet the pace of the modernization path outlined in the 2010 Nuclear Posture Review.

So we have a problem. Unless the President is willing to work with Members of Congress, and unless Members of Congress are willing to recognize that the Senate acted based upon some commitments the administration made and we have to keep our end of the bargain as well, we are going to find a huge problem with our modernization program, with our nuclear weapons program, and all that portends with respect to our deterrent capability.

Now, let me turn to the other news of the week. The President's people confirmed that, yes, they are, in fact, studying whether we can reduce our nuclear warheads. Remember, we were at 1,500 for START, and an 80 percent reduction could take us down to 300. That is almost unthinkable, especially in today's environment where we have Russia and China with new production capacities. They are developing new nuclear weapons and producing them.

We are not designing or developing any new nuclear weapons. We have no plans to do so, and we have no production capacity to make them, even if we did. The capacity to refurbish the old ones is now going to be delayed another 5 years. So why would we be thinking about reducing our warheads even further under these circumstances? Well, some people say, with a robust missile defense program, and by upgrading our conventional capabilities, we might think about this. The problem with these two assumptions is, this budget cuts both of them dramatically as well. We are not enhancing conventional capabilities, we are drawing them down, which, by the way, is what has caused the Russians to rely much more heavily on their nuclear program.

What about the people who rely on our nuclear deterrence, the 32 countries that rely on our nuclear umbrella? If they see this, my guess is they are going to look at what they might do to develop their own weapons:

So much for nonproliferation. What about the idea that countries that now have close to 300 weapons could become peers of the United States? How is that for strategy, to have Pakistan, which will soon have more weapons than Britain does, to have as many nuclear weapons as the United States?

That is not exactly the most stable place in the world today. Iran is developing its capability. North Korea already has it. The Chinese are already at roughly this level and improving their capability. Of course, Russia is much above it and talking about actually building more nuclear weapons, not fewer.

The Deputy Defense Minister in Russia recently said, on February 6:

I do not rule out that under certain circumstances, we will have to boost, not cut our nuclear arsenal.

Now we are talking about reducing ours. How are we going to convince the Russians to reduce theirs? I presume this is all going to be done in some kind of additional treaty with the Russians, not likely to occur.

To me, what is most bothersome is that one of the arguments that nuclear opponents have always had is that we never want to get to a point where our doctrine, instead of holding hostage the military capability of any would-be adversary, would be to hold civilians hostage, innocent civilians. That is precisely what happens when instead of having enough nuclear weapons to cover all of the military targets of a potential adversary, we end up having only enough weapons to hold hostage the cities of our potential adversary and thus the civilian population of those countries.

That is not a moral deterrent. As a result, I think we have to think very carefully about this prospect of reducing our nuclear weaponry. We, obviously, have to do a lot more work on this issue in the Congress. As I said, we have some means of expressing our views to the administration. I think it needs to think very carefully about this. To the extent that it thinks it is going to solve or going to help with our financial crisis, reducing the number of warheads, unfortunately, does not reduce a lot of expense. It is a little bit like the BRAC Commission. So that cannot be cited as a reason to do this.

Finally, nor is there any prospect that we can serve as a moral example to other countries in the world by reducing our warheads to that level. The START treaty was supposed to be a new reset showing the world, through our moral example, the benefits of reducing warheads. Not a country in the world has reduced warheads since the signing of the New START treaty except the United States. Russia has not, China has not, Pakistan has not, our allies have not, and Iran and North Korea talk about expanding their programs.

So this is based on a very shaky proposition of benefits which are very unlikely to occur, and it is fraught with dangers that we must debate in this country before the President simply unilaterally decides to make such a drastic change in American policy.

We will have more time to discuss this in the future. Given the fact that these two events were kicked off this week—the President's budget and this latest announcement—I thought we should at least have a preliminary discussion of it on the floor of the Senate today.

I yield to my colleague from Tennessee.

The PRESIDING OFFICER. The senior Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### MARKETPLACE FAIRNESS

Mr. ALEXANDER. Mr. President, I am here to talk about another subject, marketplace fairness. But before I do, I want to acknowledge the importance of what the Senator from Arizona has had to say and his leadership in the whole area of our nuclear doctrine, but especially in the area of nuclear weapons modernization.

I think he is correct to say that the discussion about section 1251, which he described—which is the goal for the amount of money we need to modernize our nuclear weapons that we have in this country—may not have been the reason that the New START treaty passed. But I doubt the New START treaty would have been ratified without it. So it is an important part of that debate, and it is an important part of the debate today.

I am one of those Senators who is right in the middle of the discussion. I worked with the Senator from Arizona on the last appropriations bill, and he worked harder than anyone to try to get the amount of appropriations closer to the 1251 number. We made some progress but still fell short. This represents a substantial challenge to us.

I think he has put his finger on a very important problem. When we talk about reducing defense spending—or sequestering defense spending—this is the kind of thing that we end up having to deal with because, even in the last year, both the administration and the Senate Appropriations Committee moved some money from defense over to this account to try to increase the money for nuclear weapons modernization, and still there was not enough to meet the 1251 commitment that many of us agreed to at the time the New START treaty was announced.

I thank him for his comments. I look forward to working with him on that important question.

I would like to talk about marketplace fairness, which ought to be an

all-American subject in the Senate. It has turned out to be one that attracts strong bipartisan support. In November, Senator ENZI of Wyoming, the Democratic whip, Senator DURBIN, and I introduced, along with seven other Senators—an equal number from both sides of the aisle—what we call the Marketplace Fairness Act to close a 20-year loophole that distorts the American marketplace by picking winners and losers, by subsidizing some businesses at the expense of other businesses, and subsidizing some taxpayers at the expense of other taxpayers.

My colleagues and I keep talking about it because we strongly believe, as do many people across this country, that now is the time for Congress to act. Many Americans do not realize when they buy something online, which we increasingly do today, or order something through a catalog, which we have done for a long time, from a business outside of our own State that we still owe the State sales tax.

So what we are talking about does not even rise to the dignity of a loophole. What we are talking about is a law that says you owe the State sales tax even if you buy it online and even if you buy it from a catalog from out of State. The law already says, if you buy it you owe it.

This is not a problem only for big retailers such as Amazon and Walmart. It is a problem that is killing small businesses in Tennessee and across our country.

Last month, Gov. Bill Haslam of Tennessee and I spoke with small business owners from Knoxville and Oak Ridge, Chattanooga, Johnson City, Nashville and Memphis about this problem. Every single one of those business owners shared personal stories about how this loophole has hurt their businesses.

Basically, this is what they said happened. I remember the story of the Nashville Boot Company. I talked to the owner. The customer came into the store, tried on a boot, got advice from employees about the boot, and then went home to buy the product online in order to avoid paying the State sales tax, which the customer owes. The State law already says you owe the tax.

The problem is, when you buy something at the Nashville Boot Company, or any other local store, the Nashville Boot Company collects the tax from you, adds it to your bill, and then sends the money to the State. That is how it has always worked. But if you buy the same boot or the same other item online or through a catalog, that business does not collect the State sales tax, even though you owe it. So the result is that similar businesses selling the same thing are being treated entirely different. That is not right, and it is not fair.

Most Americans who have looked at the issue agree with that. So how did

this happen? Well, in 1992, when most of us could not possibly have imagined how the Internet would have changed the way we shop for things, the Supreme Court said States could not require out-of-State catalogs or online sellers to do the same thing States require of stores up and down Main Street. What was the reason? It was too complicated for an online seller such as Amazon or a catalog seller to figure out what the sales tax would be in Tennessee, and then how much to add on Maryville, which is the town in which I live.

Well, 20 years ago, I might have agreed with that. But today technology has made it easy for catalog sellers or online sellers to do the same thing Main Street sellers are required to do. Let me give an example.

This morning I wanted to know what the weather was in my hometown of Maryville, TN. So I opened my computer, went to Google, I typed in my ZIP Code, I typed in "weather." It told me the weather. The software now exists to provide to catalog sellers or online sellers the same sort of easy way to find out sales tax.

If I were to buy a TV set online in Maryville, TN, I could just type in that city, the price, my name, and it would tell me the tax. I think it could even send the tax on to the State. In fact, it is about as easy—with this software that under our law is going to have to be provided by the State to out of state retailers—it is about as easy for them to find out what the tax is as it would be for the Nashville Boot Company when someone walks in and buys the boots in Nashville.

Some people have asked why should Congress get involved because nothing is preventing States from going ahead and collecting those taxes. That is true. If I were to buy my boots online and not pay the sales tax, the Governor could come knocking on my door and add the sales tax onto the purchase price of the boots. But that is not going to happen in a practical world. I mean, the State cannot do that for millions of purchases that are made every year online; and no one wants the Governor and his agents knocking on their doors about that.

So there is a simpler way to do it. Congress should make it easy for States to be able to do that because we should recognize the loophole is unfair, that it is anticompetitive, and it is distorting the marketplace.

As a Republican Senator, I believe our party should oppose government policies that prefer some businesses over other businesses and some taxpayers over other taxpayers. I believe in States rights. Our bill gives States the right to make decisions for themselves. If Illinois or Tennessee or California wants to prefer some businesses over others, wants to prefer some taxpayers over others, they can do that.

That is their State's right. But we ought to make it possible for them to make their own decision.

A number of conservatives have been outspoken supporters for our legislation.

At times, conservatives were reluctant to support it over the years, because it was complicated and because it "sounded like a" tax. Well, it is about a tax, but it is a tax that is already owed.

Here is what Al Cardenas, chairman of the American Conservative Union, says. He supports our legislation and says:

There is no more glaring example of misguided government power than when taxes or regulations affect two similar businesses completely differently.

Former Governor Haley Barbour also supports our bill. He said:

There is simply no longer a compelling reason for government to continue giving online retailers special treatment over small businesses.

Governor Mitch Daniels of Indiana said a similar thing. Congressman MIKE PENCE of Indiana, a well-known conservative Congressman, said:

I don't think Congress should be in the business of picking winners and losers. Inaction by Congress today results in a system that does pick winners and losers.

That is what Congressman MIKE PENCE had to say.

At CPAC this past weekend, in a gathering of conservative activists, there was a panel of leaders and industry experts talking about this issue. The general agreement was that Congress should act to solve the problem. The solution, the panelists said, should be fair, something people can understand, and meet the needs of States, consumers, and retailers.

I believe our legislation accomplishes all these goals. In the first place, it is a rarity in Federal legislation, because it is only 10 pages long. You can actually read it in a few minutes. It is fair because it gives States the right to decide for themselves how to enforce the States' own laws. It protects businesses and consumers by requiring States to adopt basic simplifications.

It exempts small businesses that sell less than \$500,000 in remote sales each year. That is very important. I used the example of the Nashville Boot Company. The owner sells online and he sells out the front door. He said never in his history has he sold more than \$400,000 worth of revenue from his boot sales online. And when he began, he was at least one of the larger online boot sellers. So the \$500,000 exemption for small businesses from this legislation should go a long way to meeting the concerns of those Senators on both sides who want to make sure we don't impose some sort of new rule on very small entrepreneurs.

Another reason Congress should act now is that States and local governments will lose an estimated \$23 billion



in uncollected sales tax revenue in 2012 because of this loophole. Here is what former Governor Jeb Bush had to say about that:

It seems to me there has to be a way to tax sales done online in the same way that sales are taxed in brick and mortar establishments. My guess is that there would be hundreds of millions of dollars that then could be used to reduce taxes to fulfill campaign promises.

Uncollected sales taxes could be used to pay for things our States need to pay for now. They could be used to reduce college tuition. They could be used to pay outstanding teachers. But they could also be used to reduce the sales tax rate or to reduce some other tax, or to avoid a tax altogether.

In Tennessee, where we don't have a State income tax, we want to avoid one. "State income tax" are probably the three worst words in our vocabulary, and collecting tax on sales from everybody who owes it could not only reduce our sales tax but help us avoid a State income tax.

Governor Haslam of Tennessee, who strongly supports our legislation, says:

It's just too big of a piece of our economy now to treat it like we did 20 years ago.

Governor Haslam is right. Online sales set new records last year. And while the growth of e-commerce is very good news for our economy, our local businesses are getting hurt because they are not competing on a level playing field. That is why our legislation has the support of the National Governors Association, the National Conference of State Legislatures, the Conference of Mayors, and the National Association of Counties, to name a few.

About the only ones left who are complaining about our legislation are taxpayers and businesses who are being subsidized by other taxpayers and businesses because the playing field isn't level.

Amazon, a huge online seller, strongly supports our legislation. Over the years, they have opposed legislation like this. Now they believe we have solved the problem. Why? Because they say our bill makes it easy for consumers and easy for retailers to comply with State sales tax laws, and it helps States without raising taxes or new Federal spending.

Some people will tell you we are talking about taxing the Internet. That is not true. Our legislation doesn't create a new tax. It doesn't tax the Internet. The Senate debated Internet access taxes several years ago. I was in the middle of the debate. It led to a moratorium on Internet access taxes. That moratorium is still in effect today.

We are talking about State taxes that are already owed, and the moratorium on an Internet access tax will stay in place and not be altered.

It is very hard to see how anyone can say with a straight face that giving

States the right to collect taxes that are already owed is a tax increase.

I have spent a lot of time talking with my colleagues about making the Senate work more effectively. One way to do that is to make sure Senators have an opportunity to thoroughly consider important legislation.

On January 31, a few weeks ago, over 200 businesses and State and national trade associations sent a letter to the Senator from Montana, chairman of the Finance Committee, asking him to cosponsor our bill and to address the inequity this year. Senator ENZI and the bill's cosponsors have also urged the Senate Finance Committee to hold a hearing on our bill as soon as possible.

The House Judiciary Committee has already held a hearing. Their hearing on November 30, gave House Members of both political parties the opportunity to learn more about the issue and express their support for it. I hope the Senate Finance Committee will seriously consider our request and soon find time so Senators can have the same opportunity that House Members have had.

Ten years ago, the bills we considered to try to close this loophole simply weren't adequate to solve the problem. The legislation we introduced in November does solve the problem. It is simple, it is about States rights, it is about fairness, and it solves the problem. It doesn't cost the Federal Government a dime, it doesn't change Federal tax laws, and it doesn't require States to do anything. It simply gives States the right to decide for themselves how to enforce their own laws.

This is a 20-year-old problem that only the Federal Government can solve. Unless we act, States will continue to be deprived of their right to enforce their own tax laws and businesses will not be allowed to compete on a level playing field.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter to Chairman BAUCUS and Ranking Member HATCH from the 12 Senate bipartisan cosponsors of this legislation of January 31 asking for a hearing on the Marketplace Fairness Act, quotes from conservatives on this issue, and another memo with quotes from the Conservative Political Action Conference.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,

Washington, DC, January 31, 2012.

Hon. MAX BAUCUS,  
Chairman, Committee on Finance, Dirksen Senate Office Building, Washington, DC.

Hon. ORRIN HATCH,  
Ranking Member, Committee on Finance, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN BAUCUS AND RANKING MEMBER HATCH: We urge the Finance Committee to hold a hearing on The Marketplace Fair-

ness Act (S. 1832), bipartisan legislation to allow States to collect sales and use taxes on remote sales that are already owed under State law. For the past 20 years, States have been prohibited from enforcing their own sales and use tax laws on sales by out-of-state, catalog and online sellers due to the 1992 Supreme Court decision *Quill Corporation v. North Dakota*. Congress has been debating solutions for more than a decade, and some States have been forced to take action on their own leading to greater confusion and further distorting the marketplace.

On November 9, 2011, five Democrats and five Republicans introduced The Marketplace Fairness Act, which would give states the right to decide for themselves whether to collect—or not to collect—sales and use taxes on all remote sales. Congressional action is necessary because the ruling stated that the thousands of different state and local sales tax rules were too complicated and onerous to require businesses to collect sales taxes unless they have a physical presence in the state.

Today, if an out-of-state retailer refuses to collect sales and use taxes, the burden is on the consumer to report the tax on an annual income tax return or a separate state tax form. However, most consumers are unaware of this legal requirement and very few comply with the law. Consumers can be audited and charged with penalties for failing to pay sales and use taxes.

Across the country, states and local governments are losing billions in tax revenue already owed. On average, States depend on sales and use taxes for 20% of their annual revenue. According to the National Conference of State Legislatures, this sales tax loophole will cost states and local governments \$23 billion in avoided taxes this year alone. At a time when State budgets are under increasing pressure, Congress should give States the ability to enforce their own laws.

The *Quill* decision also put millions of local retailers at a competitive disadvantage by exempting remote retailers from tax collection responsibility. Local retailers in our communities are required to collect sales taxes, while online and catalog retailers selling in the same state are not required to collect any of these taxes. This creates a tax loophole that subsidizes some taxpayers at the expense of others and some businesses over others.

State and local governments, retailers, and taxation experts from across the country are urging Congress to pass The Marketplace Fairness Act because it gives states the right to decide what works best for their local governments, residents, and businesses. Given our fiscal constraints, we should allow states to enforce their own tax laws and make sure that state and local governments and businesses are not left behind in tax reform discussions. The House Judiciary Committee's hearing on this single issue on November 30, 2011, demonstrated the growing demand to close this loophole, and your committee would provide the best public forum for an open debate in the Senate on the merits of this important policy issue.

The Finance Committee is in the best position to shape the discussion on state and local taxation this year, particularly on sales and use taxes on remote sales. We urge the Committee to hold a hearing on the implications of The Marketplace Fairness Act at the earliest date possible. Thank you in advance for your consideration of this request.

Sincerely,

Michael B. Enzi; Lamar Alexander; John Boozman; Roy Blunt; Bob Corker;



Richard J. Durbin; Tim Johnson; Jack Reed; Sheldon Whitehouse; Mark L. Pryor; Benjamin L. Cardin.

#### CONSERVATIVE VOICES ON E-FAIRNESS

"The only complete answer to this problem is a federal solution that treats all retailers and all states the same."

—Indiana Governor Mitch Daniels, announcing that Amazon.com will begin collecting sales tax in Indiana beginning in 2014, January 9, 2012.

"I don't think Congress should be in the business of picking winners and losers. Inaction by Congress today results in a system today that does pick winners and losers."

—Representative Mike Pence, House Judiciary Committee, hearing on "Constitutional Limitations on States' Authority to Collect Sales Taxes in E-Commerce," November 30, 2011.

"... e-commerce has grown, and there is simply no longer a compelling reason for government to continue giving online retailers special treatment over small businesses who reside on the Main Streets across Mississippi and the country. The time to level the playing field is now ..."

—Mississippi Governor Haley Barbour, letter to Sens. Enzi and Alexander endorsing S. 1832, the Marketplace Fairness Act, November 29, 2011.

"The National Governors Association applauds your efforts to level the playing field between Main Street retailers and online sellers by introducing S. 1832, the 'Marketplace Fairness Act.' This common sense approach will allow states to collect the taxes they are owed, help businesses comply with different state laws, and provide fair competition between retailers that will benefit consumers."

—Tennessee Governor Bill Haslam and Washington Governor Christine Gregoire, National Governors Association letter to Sens. Durbin, Enzi, Tim Johnson and Alexander endorsing S. 1832, the Marketplace Fairness Act, November 28, 2011.

"When it comes to sales tax, it is time to address the area where prejudice is most egregious—our policy towards Internet sales. At issue is the federal government exempting some Internet transactions from sales taxes while requiring the remittance of sales taxes for identical sales made at brick and mortar locations. It is an outdated set of policies in today's super information age, when families every day make decisions to purchase goods and services online or in person. Moreover, it's unfair, punitive to some small businesses and corporations and a boon for others."

—Al Cardenas, chairman of the American Conservative Union, "The Chief Threat to American Competitiveness: Our Tax Code," National Review Online, November 8, 2011.

"It seems to me there has to be a way to tax sales done online in the same way that sales are taxed in brick and mortar establishments. My guess is that there would be hundreds of millions of dollars that then could be used to reduce taxes to fulfill campaign promises."

—Former Florida Governor Jeb Bush, letter to Florida Governor Rick Scott, January 2, 2011.

"The truth is, Amazon's unfair sales tax exemption has seriously penalized its com-

petition, which is mostly smaller, locally owned retail shops. It has hurt job creation and economic growth. It has resulted in government superseding market and consumer preferences. And it has left Main Streets across the country barren."

—Stephen DeMaura, Americans for Job Security, "Amazon's Argument Falls Apart," RedState.com, September 14, 2011.

"The mattress maker in Connecticut is willing to compete with the company in Massachusetts, but does not like it if out-of-state businesses are, in practical terms, subsidized; that's what the non-tax amounts to. Local concerns are complaining about traffic in mattresses and books and records and computer equipment which, ordered through the Internet, come in, so to speak, duty free."

—William F. Buckley, National Review Editor at Large, "Get that Internet Tax Right," National Review Online, October 19, 2001.

"Current policy makes the sales tax a distortion. Current policy gives remote sellers a price advantage, allowing them to sell their goods and services without collecting the sales tax owed by the purchaser. This price difference functions like a subsidy. It distorts the allocation between the two forms of selling. The subsidy from not collecting tax due means a larger share of sales will take place remotely than would occur in a free, undistorted market."

—Hanns Kuttner, Hudson Institute, report on e-fairness entitled "Future Marketplace: Free and Fair," November 29, 2011.

"Some opponents will argue against placing another burden on businesses and especially on small business. Unfortunately, today the burden is on those retailers who are trying to compete against someone who isn't collecting the tax. That 6-10% government mandated price advantage is the real burden on small business. However, all of the bills introduced in this Congress protect small businesses by excluding the smallest, by requiring states to simplify their laws and processes, and by requiring states to provide software."

—Indiana State Senator Luke Kenley, testimony before the House Judiciary Committee, hearing on "Constitutional Limitations on States' Authority to Collect Sales Taxes in E-Commerce," November 30, 2011.

"If action is not taken and Quill is allowed to remain the law of the land, then are we not picking winners and losers within the retail sector? How is a retailer, such as Bed, Bath and Beyond, J.C. Penney or Wal-Mart supposed to compete with Amazon.com, Blue Nile.com or Overstocked.com [sic] when the latter enjoy anywhere from an 8-10% discount due to not having to collect sales tax. This current law and policy discourages the continued development of the very brick and mortar establishments that support our state and local communities in numerous ways. This issue of fairness should be addressed and I believe that H.R. 3179 does that."

—Texas State Representative John Otto, testimony before the House Judiciary Committee, hearing on "Constitutional Limitations on States' Authority to Collect Sales Taxes in E-Commerce," November 30, 2011.

#### SUPPORT FOR MARKETPLACE FAIRNESS ACT AT CPAC

Conservative Political Action Conference (CPAC) panel demonstrates broad support

among conservatives for Congressional action on state sales tax policy choice.

On Saturday, February 11, 2012, a panel of conservative leaders and industry experts at the CPAC conference discussed the issue of creating a Constitutional framework for collecting sales tax online. The discussion demonstrated the strong consensus that Congress should act to establish a fair, national approach that will address the needs of retailers, states and consumers. Conclusions from the panelists:

"The principles that we agree to as conservatives is generally: limited government, that taxes should be low, spending should be restrained, no infringement on personal liberties and that elected officials certainly shouldn't be picking winners and losers in the marketplace."

"When [conservatives] apply these principles to this issue of e-fairness, we come up with the conclusion that the system is antiquated, flawed and should be replaced."

—Steve DeMaura, President, Americans for Job Security.

"So, if we are going to change the system, we should make sure that it's something simple, something understandable and something fair across the board. Whatever burdens the system puts on online businesses should also be put on brick and mortar businesses. States should not be allowed to collect until they accept basic rules about what gets taxed and where."

"The bill before Congress now achieves this better than previous bills."

—Joe Henchman, Vice-President of Legal and State Projects, Tax Foundation.

"If a consumer changes their behavior because of government policy, this is not a free market result. It's the result of the government and the government's policy. That's why you have to create a level playing field between the seller who has to collect the sales tax... and those who don't."

—Hanns Kuttner, Visiting Fellow, Hudson Institute.

"We think the Congress should act. The time is right to act, for Congress to get this done and allow the states to make fiscal policy choices on their own—as a matter of fairness. As an added detail, there needs to be fairness not only between offline and online, but among online sellers and we certainly support that approach."

—Paul Misener—Vice President for Global Public Policy, Amazon.

#### WHY CONSERVATIVES SUPPORT PASSAGE OF THE MARKETPLACE FAIRNESS ACT

The Marketplace Fairness Act protects states' rights to make their own policy choices.

The federal government should not prevent states from collecting taxes that are already owed.

Government should not pick winners and loses among various businesses. A new federal framework will level the playing field and make it easier for small businesses and consumers to comply with the law.

Mr. ALEXANDER. I thank the Chair. I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. BOXER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. Mr. President, we have on the floor of the Senate the Transportation bill. You might wonder why a bill that is the No. 1 jobs bill that we can do here is moving so slowly. You might wonder. Any normal person would wonder why a bill that is so popular that it has everyone from the AFL-CIO to the Chamber of Commerce supporting it is moving so slowly. You might wonder why it is moving so slowly, since the transportation authorization for all of our highway and transit projects expires in about 1 month. You might wonder why it is moving so slowly. Why isn't anyone here? What is going on?

Yesterday, I came here and said I didn't see a clear path forward for this bill. It is very disturbing, and I will tell you why it is so disturbing. And that is that when you look at the construction area of our economy, it is still down. We have 1.5 million unemployed construction workers. If you think in your mind's eye what that is, I have a picture here of a stadium during the Super Bowl. You could see this stadium. I want you to picture everyone sitting in this stadium as an unemployed construction worker and think about 15 stadiums full. Yesterday, I said it was 10; that was incorrect. I stand corrected today. It is 15 stadiums full of unemployed construction workers praying that we pass this bill, because they are unemployed and this bill will create or save up to 2.8 million jobs. It will create or save 1.8 million jobs and create up to 1 million jobs.

Yesterday, I said I didn't see a clear path forward. Today, I see a path forward. I really do. There has been some progress overnight. But it isn't as clear as it should be. We asked both sides of the aisle, we said, Can you come up with amendments that you feel compelled to offer to this bill? And try to keep them related to transportation. Well, the bad news is there are a lot of extraneous amendments that were filed.

First and foremost, birth control. The Blunt amendment. Not only does it say that any employer could say they have a moral objection, it doesn't even have to be a religious objection. Any employer. So if I am an employer and I employ 100 people, and let's say I believe in prayer over medicine, I can then deny health care to all my employees. This makes no sense at all. Senator BLUNT says, well, you could take it to court. Oh, sure. Some low-paid employee is going to take it to court.

So we have to deal with this birth control amendment and health care amendment on a highway bill. As I said yesterday, first when I saw the birth control amendment, I thought maybe it says you can't take your birth control pills when you are on a Federal

highway. What is going on here? There is no relation. It is bizarre to offer these unrelated amendments.

Then we have an amendment on Egypt. Now, frankly, I am ready to vote on the birth control. I am happy to vote on an Egypt amendment, although I believe—this is my own view as a member of the Foreign Relations Committee—that when we have such delicate negotiations going on over the safety of our citizens who are being held there, we have to be very careful not to interfere in that important backdoor diplomacy that is going on. But we have one Senator who is holding up everything because he insists that we have to take a stand on Egypt even though we have Americans in danger over there.

My Republican friends have to understand what is at stake. The business community, the labor community, everyone is in favor of this transportation bill, and we are going to have to face votes that are unrelated.

There is an idea to repeal a very important environmental regulation that will clean up the pollution from boilers, pollution that is dangerous. It is mercury. It causes brain damage. It is arsenic. It is lead. And as I said yesterday—and I don't know whether you have had this experience. I have never in the history of my electoral career, which spans a long time, had anyone come up to me and say, Please, BARBARA, we really need more arsenic in our air, we need arsenic in our water, we need more lead, we need more mercury. People don't want it. Why on Earth would they now come forward in a highway bill and repeal a very important rule that will make our families healthier? That is what my Republican friends are putting out there. They want to drill off our coast, even though it might interfere with the fishing industry, the tourism industry, the recreation industry.

I would say to my colleagues with a hand of friendship, we are happy to look at transportation-related amendments. We can work those through. My staff and Senator INHOFE's staff have a very close working relationship, and we can take these relevant amendments and sit down and work through them. But obviously, if there is going to be a series of amendments on birth control and foreign policy matters and extraneous matters, it makes it very difficult. It diverts our attention from what is at stake. The clock is ticking on us. This transportation authorization we have expires in March.

Here is where we are: We are going to have a cloture vote on the various titles to the bill, the Finance title, the Banking title, the Commerce Committee title. I want to praise all of the committees. They have done their work. Four committees, including ours, the EPW, the Environment and Public Works Committee, we have all

done our work. We have done our jobs. We did what we had to do. We passed out the legislation. Now let's marry all the pieces and get going with legitimate amendments and get this done. Get this done.

I urge colleagues to vote yes on cloture. I know some have problems with one of the titles, and we can amend that. If you don't like something in that title, we can amend it. And if we don't make cloture on the first round, we will come up with a path forward after that. But, please, it won't work if we have all of these bizarre, extraneous amendments. I am not saying the amendments are bizarre. Some are. But they are extraneous and they don't belong on this bill.

I want to take a minute to remind my colleagues how popular the transportation authorization is. We are going to show you the ad that is being run. But President Reagan was very clear on why it was so important to pass a transportation bill. Here is what he said:

The state of our transportation system affects our commerce, our economy, and our future.

He said, clearly, this program is an investment in tomorrow that we must make today. And there is a very good coalition out there, a broad coalition taking out ads on the radio. After they quote Ronald Reagan, they say:

It's time for leadership again, for new investments in transportation, to keep America moving and jobs growing. Call Congress. Tell them to pass the highway and transit bill and, once again, make transportation job number one.

This is out on the radio airwaves. I am very grateful that it is happening. I really, really am. Also, we have ads in the various newspapers. Then there is another one that marries up two Presidents' statements, President Reagan and President Clinton. They quote President Clinton by saying:

By modernizing and building roads, bridges, transit systems, and railroads, we can usher in two decades of unparalleled growth.

Then they also quote Ronald Reagan again. He says:

A network of highways and mass transit has enabled our commerce to thrive.

At the end it says:

Tell Congress to pass the highway and transit bill and make transportation job number one.

So here we sit—and I want to show you. I don't know if people can see this. I hope you can see this. This is an ad that is running all over today: President Reagan stood up for public transportation. Will you? Then they quote him and they say: A recovering economy is exactly the time to rebuild America. President Reagan knew it in 1983 when he signed into law dedicating motor fuel revenues to public transportation for years to come. But now the House—and they talk about the problem with the House bill and they tell

the House to fix their proposal, which we hope they are doing as we speak.

This is a very important endeavor. Again, I have been around a long time. I have never seen the likes of the coalition we have seen. We have a coalition—it is the broadest coalition I have ever seen in my life in every single State, whether it is Ohio or California or New York or Alabama or Nevada or Kentucky. I am telling you, this is a strong coalition. And this is what they wrote to us:

In 2011, political leaders—Republican and Democrat, House, Senate, and the administration—stated a multi-year surface transportation bill is important for job creation and economic recovery. We urge you to follow words with action: Make Transportation Job #1 and move legislation immediately in the House and Senate to invest in the roads, bridges, and transit systems that are the backbone of the U.S. economy, its businesses large and small, and communities of all sizes.

That is basically from the letter signed by over 1,000 organizations.

I see my friend from California is here. She may be speaking on this topic or another topic, and I am going to yield to her momentarily.

I think it is important to take a look at the organizations I talked about to give you a sense of it. First of all, every State in the Union is listed on this letter.

I ask unanimous consent to have printed in the RECORD a copy of the letter from over 1,000 organizations.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JANUARY 25, 2012.

TO THE MEMBERS OF THE U.S. HOUSE AND SENATE: As Congress embarks on a new legislative session, we, the undersigned companies and organizations, urge you to Make Transportation Job #1 in 2012 and pass federal highway, transit and safety legislation that, at a minimum, maintains investment levels before the current law expires on March 31. The long-delayed reauthorization of federal highway and public transportation programs is a major piece of unfinished business that can provide a meaningful boost to the U.S. economy and its workers and already has broad-based support.

To grow, the United States must invest. There are few federal efforts that rival the potential of critical transportation infrastructure investments for sustaining and creating jobs and economic activity over the short term.

Maintaining—and ideally increasing—federal funding for road, bridge, public transportation and safety investments can sustain and create jobs and economic activity in the short-term, and improve America's export and travel infrastructure, offer new economic growth opportunities, and make the nation more competitive over the long-term. Program reform would make the dollars stretch even further: reducing the time it takes transportation projects to get from start to finish, encouraging public-private partnerships and use of private capital, increasing accountability for using federal funds to address the highest priority needs, and spurring innovation and technology deployment.

We recognize there are challenges in finding the resources necessary to adequately fund such a measure. However, with the economic opportunities that a well-crafted measure could afford and emerging political consensus for advancing such an effort, we believe it is time for all involved parties to come together and craft a final product.

In 2011, political leaders—Republican and Democrat, House, Senate and the Administration—stated a multi-year surface transportation bill is important for job creation and economic recovery. We urge you to follow words with action: Make Transportation Job #1 and move legislation immediately in the House and Senate to invest in the roads, bridges, transit systems that are the backbone of the U.S. economy, its businesses large and small, and communities of all sizes.

From over 1,000 organizations, led by U.S. Chamber.

Mrs. BOXER. Madam President, I am going to name a few of them: the American Composite Manufacturers Association, American Concrete Pavement Association, American Hotel and Lodging Association, American Nursery and Landscape Association, American Society of Civil Engineers, Associated General Contractors of America, National Society of Professional Engineers, National Resources Defense Council, North American Die Casting Association, Pacific Northwest Waterways Association, Reconnecting America, Retail Industry Leaders Association, Transportation for America, U.S. Chamber of Commerce, U.S. Travel Association, United Brotherhood of Carpenters and Joiners, Laborers International, International Bridge, Tunnel and Turnpike Association—it goes on and on, a thousand groups representing Democrats, Republicans, Independents.

I am so grateful to them. I speak to them, frankly, a couple of times a week to tell them what we are doing here to move this important bill forward. I told them yesterday they needed to contact every single Senator in this Chamber to let them know what is at stake in their State.

In closing, I will say this: Sometimes when we act we not only do something good, which this bill will do—it is a reform bill, it is a great bill, and it adds to the TIFIA Program, an idea that came out of Los Angeles and is going to create up to 1 million new jobs while protecting 1.8 million jobs—we do many good things. But also when we do this, we stop bad things from happening. What will happen if we fail to act by March 31 and there is no action to fill that trust fund, which our bill does? There will be over 600,000 jobs lost.

Later today, at a time when others are not here, I will go State by State. Here it is. "Estimated jobs lost." There would be a 35-percent cut in transportation funding if we do not pass this bill and the finance title that raises the funds necessary. We will break this down. Let me tell you, it is an ugly picture for us to have to go home and face

the music at home and tell construction workers that even though we have 1.5 million unemployed construction workers, that is going to go up by 600,000 jobs.

We cannot afford to let this bill stop. I will not let this bill go away. I will assert every right I have as a Senator from California, where we have 63,000 of these jobs at stake. I am going to be here on the Senate floor. We are going to get this bill done one way or another. We stand ready to work with our colleagues, to work with our Republican friends, to go through these amendments that are relevant and urge them to backtrack on these very unrelated amendments.

I yield the floor.

The PRESIDING OFFICER (Mrs. HAGAN). The Senator from California is recognized.

Mrs. FEINSTEIN. Madam President, I thank my friend and colleague, the distinguished chair of the committee, for her work in managing this bill. This is a huge bill. It has many titles. It is a complex bill. It is a totally vital bill. Both on this floor and off this floor, she has been advocating and pushing and doing what is necessary. I want to say thank you very much to my friend and colleague, Senator BOXER.

Mrs. BOXER. I thank the Senator, and we are working on that too.

Mrs. FEINSTEIN. Madam President, let me describe what happened in 2008 in Chatsworth, CA. On September 12, 2008, Metrolink commuter train 111, carrying more than 200 people, departed the Chatsworth train station about 4:20 p.m. Heading west, the commuter train ran through a train signal at 44 miles per hour at about 4:22 p.m. and 2 seconds. The train signal showed red, for stop.

At the same time, a Union Pacific freight train, weighing four times the weight of the commuter train, was heading east on the same track. It exited a tunnel with little time to react to the oncoming commuter train. Both trains were on the same track going in opposite directions, each going roughly 40 miles per hour. The trains collided head on.

The carnage was unspeakable; 25 people died. Their bodies, many torn to pieces, had to be extracted from heaps of steel and wreckage.

This is the scene. This is the commuter train. This is the freight train. This is the car that essentially chopped apart 25 people.

As Superior Court Judge Peter Lichtman wrote:

These were teachers, Federal, State, municipal employees, business owners, executives, artists and students that were all lost on that day.

Many families were left without any provider, not to mention the loss of a mom or dad.

Another 101 people were injured, many of them very seriously. Volunteers and rescue crews worked valiantly to pull them from the wreckage.

You can see this overturned train here. You see the rescue crews. It was a terrible, terrible scene.

Judge Peter Lichtman described many of these injuries. Passengers seated at table seats suffered “horrible abdominal injuries that could not be medically resolved.” “All of the bench passengers were launched head [or] face first into a bulkhead.” “Almost all of these passengers suffered traumatic brain injuries to varying degrees.”

Let me explain how and why this happened. Seconds before the crash, the train’s engineer was text-messaging on his cell phone. He was the only personnel aboard that train when he looked down to send a text to a teenage boy. This was one of 21 text messages sent by this engineer this day. He received 20 secretaries messages and made four outgoing telephone calls, all while he was driving a large commuter train.

According to the NTSB’s comprehensive report on the crash, this behavior distracted the engineer and caused the collision. It led to the train running red signals. In fact, NTSB found the passenger train’s engineer never even hit the brakes before impact. NTSB found that a crash avoidance system would have stopped the train and prevented this disaster, but, unfortunately, the tracks in Los Angeles had and have no such system nor do most tracks in the United States.

As a result of this accident, 25 people died and 100 people were injured. The statistics about the Chatsworth disaster do not begin to tell the story. Perhaps I might be able to better put into words what is at stake in this debate in one of the votes we will be taking about positive train control by telling you a little bit about Kari Hsieh and Atul Vyas.

Eighteen-year-old Kari did not want to trouble her father to drive her from the family’s Newhall home to a restaurant in Simi Valley, so she took the train. In October 2008 she became one of many young people killed in this crash. She was just starting her senior year at Hart High School and looking forward to a career in medicine, according to her family. She played tennis for the school and was well liked by her classmates who described her as warm and caring. “Anyone who knew her can remember her by her beaming smile and infectious laugh,” one of her classmates told the Los Angeles Times.

Here she is.

“She had such a positive outlook on life and always had something nice to say about everyone,” wrote a parent of a varsity tennis player. “I feel blessed to have been part of her life.”

Then there is Atul Vyas, a student at Claremont McKenna College, who was

studying to become a doctor. At 20 years old, he was in the process of applying to graduate programs at MIT, Duke, and Harvard. He scored in the top 1 percent of his medical school entry exams, but he was having trouble answering one question on applications: Describe a hardship you have overcome.

“He said ‘I have not had any.’ I have had a blessed life,” explained his father. Atul never finished that application nor did he reach his goal of medical school. He took Metrolink train 111 home to visit his family as he did every 2 to 3 weeks, but he never made it home because an engineer was texting.

As the NTSB found, these young lives and the lives of 23 others could have been saved if crash avoidance technology, known as positive train control, had been in place. In 2008, Congress finally required railroads to deploy positive train control, which the National Transportation Safety Board had placed on its top 10 most wanted safety technologies listed since 1990. This body gave the railroad industry 7 years to deploy positive train control crash avoidance systems nationwide. The leaders of Southern California’s Metrolink, Union Pacific, and BNSF railroads each committed to deploy positive train control systems in Los Angeles years earlier than the national mandate. These railroads are still on track to deploy the system next year.

I met yesterday with John Fenton, the new CEO of Metrolink, and Matt Rose, the CEO of BNSF. They both indicated their desire to make their highest priority positive train control, and I thank them. Metrolink is going to go ahead with it as soon as possible regardless. BNSF told us if they delay—if this bill delays it, they may take an additional year.

I salute both of them for their support of this program. However, I am very alarmed that others in the railroad industry and in Congress diminish the value of positive train control.

As a matter of fact, the bill we will most likely be voting on—in one of its titles, the commerce title—delays positive train control until 2018. The House bill delays it until 2020. When the technology is there, despite its complications of installation, when you have high-risk lines, freight lines and commuter lines traveling in opposite directions on the same track, and when you have human frailty—in this case one engineer texting aboard a commuter train of a couple of hundred people—the only answer to assure the safety to the commuter trains of this Nation, in my view, is positive train control. I view it as an emergency need. The NTSB views it as an emergency need.

According to them, scores of deadly accidents across the country since 1970 could have been prevented if positive train control in effect were installed. I

agree strongly with the NTSB Chairman, Deborah Hersman, whom I happen to know, who recently wrote to the Congress that:

The NTSB will be disappointed if installation of this vital safety system to prevent fatalities and injuries is delayed.

The need to extend the 2015 positive train control deployment deadline has not been demonstrated. The Senate Commerce Committee has held no hearings on this issue and no published reports investigating this question have recommended an extension, according to the NTSB experts.

Furthermore, every railroad has submitted an approved plan to meet the 2015 deadline to the Federal Railroad Administration, and the administration is preparing a report to Congress on positive train control deployment progress this year, which should provide us guidance on that effort to date.

I think Congress should consider the FRA’s findings carefully before scaling back or delaying a system that can prevent crashes such as Chatsworth. And there have been three prior crashes that have taken lives on this Metrolink system. These are not isolated. They happen. We now have a technical system that can be 100 percent proof-positive to provide safety. So I am very concerned that without a national strategy, deployment of positive train control in southern California will become more difficult. There will be excuses, and there will be a lessening of effort. And both BNSF and Metrolink have made very strong efforts to comply with 2015. Why change it? The Los Angeles area is a huge commuter area, and when it is not necessary to change it, why do it? The national requirement to deploy the system by 2015 creates a substantial incentive for industry to develop new and cost-effective technology that lowers the deployment costs for everyone, including Metrolink.

The national strategy, which will hopefully be presented in the FRA’s 2012 report to Congress, could play a significant role in addressing positive train control deployment barriers. This system can prevent human error from causing collisions, dangerous releases of hazardous materials, and passengers and train crews from being killed and injured.

So I make these remarks today in the hopes that there will be support in this body for the 2015 deadline. And I really appeal to the committee that right now it is locked in at 2018—we have tried, we have talked to the staff, and we have been rejected—to understand that what they are delaying is a device that saves lives, and there is no excuse for so doing. The case has not been made to do so. The hearings have not taken place, there was no markup to add this, and I strongly believe it should not be delayed in this bill. I hope Members will listen. I hope they

will respond. Hundreds of thousands of commuters are at risk until this system is put into place.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. PAUL. Madam President, dependency often leads to indolence, lethargy, a sense of entitlement, and ultimately to a state of insolence. Egypt has been receiving welfare from the United States for nearly 40 years. America has lavished \$60 billion on Egypt. They react with insolence and disregard by detaining 19 of our U.S. citizens. For several months now these citizens have been essentially held hostage, unable to leave Egypt. They are held on the pretense of trumped-up political charges, held in order to display them in show trials to placate the mob.

The United States can respond in one of two ways: We can hang our head low; we can take the tack of Jimmy Carter; we can try to placate Egypt with concessions and offer them bribes in the form of more government aid; or America can respond with strength.

Today the President should call the Egyptian Ambassador in and send him home with a message, a message that America will not tolerate any country holding U.S. citizens as political prisoners. Congress should act today to tell Egypt that we will no longer send our annual welfare check to them; that this year's \$1.8 billion is not on the way. America could put Egyptian travelers on notice that the welcome sign in America will temporarily expire unless the Egyptian Government lets our people go; or America could hang her head, promise to continue the foreign aid to Egypt, and apologize for supporting democracy. Which will it be?

So far, the signal sent to Egypt from the President and from the Senate has been weak or counterproductive. In late January the President's Under Secretary of State said to the administration that he wanted to provide more immediate benefits to Egypt; let's speed up the welfare checks. The President's budget this week still continues to include \$1.8 billion for Egypt without a single word of rebuke or any demand that our U.S. citizens be released. The President went one step further when he actually increased foreign aid to the Middle East in his budget, and now the Senate refuses to hold a single vote to spend 10 minutes discussing why U.S. citizens are being detained in Egypt.

One might excuse the Egyptians for not believing we will cut their aid. You cannot lead from behind. Senate leadership appears unwilling to address this issue head-on, so the Senate won't act to help our citizens this week.

I hope that when Senators return home and talk to their constituents in their States, their constituents will ask these questions: Senator, why do you continue to send our taxpayer

money to Egypt? Why do you continue to send our money to Egypt when they detain our citizens? Senator, why do you continue to send billions of dollars to Egypt when 12 million Americans are out of work? Senator, why do you continue to send welfare to foreign countries when our bridges are falling down and in desperate need of repair? Senator, how can you continue to flush our taxpayer money down a foreign drain when we are borrowing \$40,000 a second? The money we send to Egypt we must first borrow from China. That is insanity, and it must end. Finally, Mr. Senator, I hope your constituents ask you this when you go home: When working families are suffering under rising food prices, when working families are suffering because gas prices have doubled, how can you justify sending our hard-earned taxpayer dollars to Egypt, to countries that openly show their disdain for us?

When will we learn? You can't buy friendship, and you can't convince authoritarians to love freedom with welfare checks.

America needs to send a clear and unequivocal message to Egypt that we will not tolerate the detention of U.S. citizens on trumped-up political charges or otherwise and that we will not continue to send welfare checks to Egypt, to a country that commits an injustice to American citizens.

I ask unanimous consent today to set aside the pending amendment and call up my amendment on Egypt that would end all foreign aid to Egypt if our U.S. citizens are not released within 30 days. I think this is an important amendment which deserves discussion, and Egypt deserves to hear a message from the Senate that we will not tolerate this.

I ask unanimous consent to bring up amendment No. 1541.

The PRESIDING OFFICER. Is there objection?

The Senator from California.

Mrs. BOXER. Madam President, reserving the right to object, I want to be very clear here that Members on both sides of the aisle, Republicans and Democrats, have very strong feelings that this amendment should not be brought up at this time. We need to be smart and strategic when we have people in harm's way in other countries.

Further, I think it is important to note what Senator LEAHY has said several times, which is already in law—we have certain conditions placed upon aid to Egypt, and I think that needs to be understood and explored.

So because there is so much objection to this amendment being brought up at this time, I will object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Iowa.

Mr. GRASSLEY. If it is appropriate, I would like to ask unanimous consent to speak as in morning business for about 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### THE BUDGET

Mr. GRASSLEY. If a Republican like this Senator says that the President's 2013 budget doesn't pass the smell test, I would probably have half the country questioning my judgment. But I would like to quote the Washington Post's Dana Milbank's comments on the President's budget. This was recently in the Washington Post, these words by a columnist who I think is generally pretty favorable toward President Obama as a person and his administration, but there is great disagreement by this columnist about the President's budget.

The White House budget for fiscal 2013 begins with a broken promise, adds some phony policy assumptions, throws in a few rosy forecasts, and omits all kinds of painful decisions . . . the proposal would add \$1 trillion more to the national debt than Obama contemplated a few months ago.

Dana Milbank added that the Obama budget "is a nonstarter on Capitol Hill, where even Senate Democrats have no plans to take it up. It is, in other words, exactly what it was supposed to be: a campaign document."

So with that background from somebody who is not a Member of Congress, not a Republican or Democrat—I don't know how he might be registered—I would like to give my views on the President's budget, but just so that people know it isn't just Republicans who disagree with the President's budget.

I think you could sum up the President's budget with three words that might say you are giving it a D grade, and probably most people would give it an F grade, but they would be debt, deficit, distrust, and disaster—too much spending, too much taxing, and too much debt. This comes from the fact that earlier this week the President submitted—as he has to every year—a budget proposal, and this budget proposal was all too predictable. It was predictable because it follows the same path as his previous three budgets. With breathtaking irresponsibility, the President's 2013 budget would expand the scope of government by spending more money, increase taxes on job creators, particularly small business, and continue on the path of enormous deficits and record debt—*déjà vu*.

The President's budget proposal is supposed to be a serious document, a document that lays out the President's priorities along with the President's ideas on how to address our national fiscal and economic challenges. This budget fails those goals miserably.

As a member of the Budget Committee, I have heard from numerous experts who come before that committee about the need for Congress and the President to get serious about the fiscal cliff we are approaching. We have

had deficit commissions—you remember Simpson-Bowles, as an example—we have had task forces, and we have had what we call gangs, the Gang of 6, six Senators trying to work things out, and other Members of Congress. All have put forward deficit reduction plans. It is going to take more than a commission, and the President didn't even back the recommendations of his own commission a year ago. It is going to take more than task forces, and it is going to take more than gangs of Senators because the single most important political and moral leader in America is whoever holds the Presidency of the United States. In this particular instance of this executive budget, that person and that document has failed to lead on this critical issue. It does not matter how many commissions, how many task forces, and how many gangs of Senators we have, without Presidential participation a problem as big as this country's national debt is never going to be solved.

What President Obama put forward on Monday of this week is not a serious budget. As I said before, it is a political statement. The fact is Americans are going to pay a heavy price for the President's unwillingness and inability to lead.

While President Obama claims his budget will create an America built to last, his budget builds higher deficits and debt, a bigger, more intrusive government, and economic decline for future generations.

We want to remember that more important than the economic points of a budget is, when we get a more intrusive government, the less economic and social freedom people have.

By nearly every fiscal measure, President Obama's budget makes matters much worse. Not only has the President chosen to ignore the looming fiscal catastrophe, he has chosen to continue the course and even step on the accelerator.

This year, the Federal Government will spend \$3.8 trillion—equal to 24.1 percent of our GDP. During the past 60 years, we have averaged about 21 percent of GDP. So we quantify government growing dramatically from taking 21 percent out of the economy—that government spends, 535 Members of Congress spend; instead of 300 million Americans—and that is raised to 24.3 percent.

Alarming, over the 10-year period ahead, in the 2013 budget, in this budget, spending never gets below 22 percent. So forever they are growing government and detracting from individual freedom.

The President intends to lock in historically high levels of spending. Do not take it from me, but it is right here in these budget documents we have all been given this week. He is a big spender of other people's money.

In dollar terms, spending goes up from \$3.8 trillion this year to \$5.8 tril-

lion 2022. Over a 10-year period of time, this budget spends about \$47 trillion, and during that period of time, it increases the national debt by \$11 trillion. So it is clear this document the President gives to Congress under law is built to spend.

President Obama's budget is also harmful to our fragile economy because it would impose a \$1.9 trillion tax increase.

I always go back to what I thought was a very wise decision President Obama made about 2 or 3 weeks before he actually took the oath of office. During the campaign, he reminded everybody he wanted to raise taxes. But when he got to being sworn in, he looked at how bad the economy was, and he clearly said it is not too wise to raise taxes when we are in recession.

Maybe technically we are not in a recession, but for the 8.3 percent of the American people who are unemployed, it is not just a recession, it is also a depression for each one of them.

So since the unemployment rate stands at 8.3 percent, and the President seems to be just fine this year, compared to 3 years ago when he was sworn in, that hiking taxes is not going to be harmful to the economy, it is not going to be harmful to those 8.3 percent of the people who are unemployed and looking for jobs, it is going to be. So why has the President flip-flopped on this issue of whether you ought to increase taxes when people have such high unemployment rates?

This tax increase will harm the economy and result in fewer job opportunities, particularly among the small businesspeople who create or provide for 25 percent of the jobs in America and generally create 70 percent of the new jobs in our economy. That is where it is going to be very harmful.

I recently asked Federal Reserve Chairman Bernanke about the prospects of a tax increase and the impact it would have on our economy. He indicated a significant tax hike could slow the economy, slow the recovery. In my question to him before the Budget Committee, I quoted the Congressional Budget Office that says unemployment would go up and the economy would grow less if we had this big tax increase the President wants.

The President has spent many hours speaking about helping our economy, investing in our future, and increasing economic opportunities for all Americans. While he is saying all those things that he is probably sincere about, at the same time he does not put his actions where his words are because he does not allow a pipeline to be built that will create 20,000 jobs right now and 110,000 indirect jobs connected with it.

If he gets his wish to hike taxes by \$1.9 trillion, it will harm all Americans, further prolong this already 3-year slowdown, while growing an even

larger, more intrusive Federal Government impinging upon personal liberties to a greater extent.

Maybe the President's purpose in imposing this huge tax increase is an effort to reduce the Nation's debt and that is probably what he would tell us, and he may truly believe that. Unfortunately, that is not what he has planned. He wants to spend every dollar. His budget leads to an additional, as I said before, \$11 trillion increase in debt—national debt—over the next 10 years. Debt held by the public increases from 74 percent of our economy today to 76 percent of our economy by the year 2022, at the end of this 10-year budget window.

We have to compare that to the historic average since World War II, and that was just 43 percent, compared to where it is right now: 74.2 percent, going up to 76 percent.

If people believe President Obama is putting us on a path to fiscal sustainability by taxing increases, I would suggest they look at the annual deficits over the next 10 years. These deficits never drop below \$575 billion, and actually go up toward the end of his budget, rising to \$704 billion by 2022. This budget puts America on the course of deficits and debt as far as the eye can see into the future.

Additionally, the President took a pass on proposing any real changes to our entitlement programs, which are the real driver of future deficits and debt. That is only part of it. The main part of it is, do we want to preserve Social Security, Medicare, and Medicaid for future generations? Because if we do not do something about it, it is not going to be preserved. Again, he is absent from the discussion when Social Security, Medicare, and Medicaid comes up.

He has offered no solution in this budget, even though the Simpson-Bowles Commission he appointed—he never endorsed their recommendations 1 year ago; and why he did not endorse and trust the people he put in place to get a solution to these problems I do not know, but even the Simpson-Bowles Commission has solutions for Social Security, Medicare, and Medicaid. That is further evidence that the President has chosen not to lead on these very difficult issues.

President Obama has spoken a lot lately about the issue of fairness. President Obama believes this type of budget, with higher taxes, more borrowing, and enormous deficits and debt will bring about fairness.

If the President is referring to sharing in our Nation's economic decline, he is right. If he is talking about sharing in a Japanese-like prolonged period of stagflation, he is right. If he is talking about sharing in an economic collapse such as the one going on in Greece, he is right. It may not be tomorrow, but all signs point down the



road in those directions because based upon the national debts of those particular countries, that is where we are headed.

The budget proposed by President Obama will have all Americans sharing in higher taxes, a larger, more intrusive government, less freedom, and deficits and debt that will lead to economic decline for future generations.

We all know a large budget deficit reduces national savings, leading to higher interest rates, more borrowing from abroad, and less domestic investment, which, in turn, would lower income growth in our country.

This will hurt the lower and middle class the most. The gains President Obama touts in his budget that he is delivering to the middle class will be dwarfed by the loss of economic activity caused by deficits and debt.

This is not a serious document. It is a political document. As evidence of how out of touch this budget is, few of my Democratic colleagues have even acknowledged President Obama submitted a budget, much less defend it.

I hope the Senate will have an opportunity to debate and vote upon President Obama's budget. Last year, we had such a vote. Last year, the President's budget was defeated in the Senate by a vote of 97 to 0. Not a single member of the President's party supported his budget.

So when constituents ask me why we cannot do something in a bipartisan way in Congress—and we do a lot in a bipartisan way that does not get the attention of the press, so people are cynical about Congress being bipartisan—I quote a 97-to-0 vote about whether there is bipartisanship, and that was a vote against the President's budget. Every Republican and every Democrat agreed. Once again this year, if we ever get this to a vote, I predict that very few, if any, will support this budget.

Quite frankly, it would be humorous if the consequences of inaction were not so serious. We have a moral obligation to offer serious solutions for today and for future generations. The President's budget fails in this responsibility. He has chosen a politically expedient path rather than a responsible, forthright path.

Our grandchildren and great-grandchildren will suffer as a result of this failure, and that suffering comes from this fact: that for nine generations of Americans, each succeeding generation has lived better than the previous generation, and a lot of Americans feel that is not going to happen with the next generation. That would be a sad commentary.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BROWN of Ohio. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWN of Ohio. Madam President, I ask unanimous consent to speak as in morning business for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### CHINA TRADE

Mr. BROWN of Ohio. Madam President, I was presiding earlier today before the Senator from North Carolina. I listened to Senator BOXER talk about the importance of this Transportation bill, this highway bill, which I underscore.

This week we have seen movement on extension of the payroll tax and tax cuts and unemployment benefits, two very important things—with the doctors fix too—very important things to keep our economy moving. It made me think back what has happened in the last couple of years.

In 2009, when Senator Obama became President Obama, we were losing 800,000 jobs a month in the United States. We know what was happening, especially to manufacturing and especially in States such as the Presiding Officer's, North Carolina, and my State of Ohio. In fact, we had for 12 years—every single year for 12 years—from 1997 to 2009, we had lost manufacturing jobs every single year in Ohio and in the United States.

But after President Obama took office, we passed the Recovery Act, we did some other things, the health care bill, all of that. We have begun to see, month after month after month, job growth. Not job growth that we want yet, not the kind of strong job growth we want. But for 21, 22 consecutive months we have seen more manufacturing jobs than the month before, including my State of Ohio—more manufacturing jobs every single month than the preceding month for 20, 21, 22 months in a row.

Why is that? There are a lot of reasons. No. 1 is we have begun to put the economy on track—no longer losing 800,000 jobs a month; instead, gaining manufacturing jobs every month.

The auto rescue has made a huge difference in States such as Ohio, but really across the country as we have seen manufacturing take off.

Coming out of every recession, what leads out of the recession? Typically it is the auto industry. And in the Midwest and throughout the country, people are making cars, they are buying cars, all the economic activities generated from making a car and buying a car and running a car.

One of the untold stories, in Toledo, OH, in northwest Ohio, near the Michigan border, the Jeep plant, the Chrysler-Jeep plant—Chrysler, a company that was saved by the auto rescue.

They went into bankruptcy. The restructuring and the financing by U.S. taxpayers got that company back on its feet, back into business making cars. But prior to the auto rescue in 2008, the Jeep plant in Toledo—only 50 percent of the products going into a Jeep, the components assembled in Toledo, only 50 percent were American made. Do you know what happened after the auto rescue? Now 75 percent of those products are American made, those components. That is exactly the point. Because it is not just the companies you hear about—Honda has a big operation in Ohio, Chrysler, GM, Ford, all big operations in Ohio, all expanding, all investing—just in the last 6 months, each of those four companies has announced major investment dollars going into Ohio operations.

It is not just those auto plants, it is the supply chain. So if a Chrysler Jeep is made out of 75-percent American parts rather than 50-percent American parts, think of the jobs that creates: tires, steering wheels, blocks, transmissions, the engine, the fenders, all of the steel, all of the electronics, all of the products that go into those automobiles and trucks. That is in many ways the untold story.

The problem, though, with that is we are still seeing China, the People's Republic of China, Communist China, cheating when it comes to auto parts. The auto parts trade deficit a decade ago was about \$1 billion, meaning that the U.S. companies bought \$1 billion in Chinese-made auto parts more than we sold to China—auto parts made in this country. We had a \$1 billion deficit in auto parts. Today, that deficit is about 800 percent bigger than that. It is around \$10 billion, that auto parts trade deficit. So the point of that is if we can turn that around, if we can force the Chinese to play fair and stand up and practice trade according to our national interests, not according to some economic textbook that is 20 years out of print, if we can do that, it will mean way more American jobs making auto components in steel, in rubber, and all of those things that go into the creation of an automobile, the assembly of an automobile and a truck.

Yesterday, 100 feet from here, a group of us met with the Vice President of China, who will soon be the leader of that country, people who know China well predict. I asked him a question about that, that China does not play fair, they do not play fair on currency, they do not play fair when it comes to subsidizing energy and water and capital and land. Of course, he deflected the question. He did not answer. I did not expect him to. But I wanted him to know as eight or nine of us were sitting around the table, I was the only one who directly brought up the issue of jobs and this economic relationship, leveling the playing field.

But that is why it is so important that the House of Representatives pass



my China currency bill. This is legislation the Senator from North Carolina, Mrs. HAGAN, has cosponsored. It is legislation that LINDSEY GRAHAM from South Carolina, a Republican, has cosponsored. It is legislation that CHUCK SCHUMER of New York, a Democrat, has cosponsored, along with OLYMPIA SNOWE, a Republican from Maine, and DEBBIE STABENOW, a Democrat from Michigan, and Senator SESSIONS, a Republican from Alabama, all of us who have come together.

My currency bill was the largest bipartisan jobs bill that the Senate passed in 2011. Unfortunately, Speaker BOEHNER in the House of Representatives is blocking it. It is important that he move on that. It will have a strong bipartisan vote out of the House of Representatives, as it did—far in excess of 60 votes in the Senate.

It works like this, briefly: With China cheating on currency, it means that a product made in Cleveland, OH, and sold in Wuhan, China has a minimum 25 percent—some former Reagan administration officials say 40 or 50 percent—but at least a 25-percent currency tariff or tax, that every one of our products is taxed that way. That cost is added to it when it is sold in China.

Conversely, if the Chinese make something and sell it into Akron or Lima or Mansfield, OH, that product is 25 percent less expensive, which means that American companies cannot compete. There was a company in Brunswick. I was talking to two brothers who run this company. They were about to make a million-dollar sale. All of a sudden the Chinese competitor came in, with that 25-percent bonus that they get because China games and cheats on the currency system, and they were underpriced by 20 percent. So that clearly does not work.

That is why I said that to the Vice President of China about the importance of currency. That is why the House of Representatives needs to pass my legislation. It will mean we can keep this recovery going. The 21 months in a row of manufacturing job growth, coupled with the extension of the payroll tax cut, coupled with the extension of unemployment benefits, coupled with the Transportation bill, the highway bill that Senator BOXER and Senator INHOFE bipartisanship are working on, coupled with standing up to the Chinese on trade enforcement and on this currency bill, will mean we are going to get this recovery, we are going to sustain it, we are going to grow it. It is going to mean significant new jobs in my State of Ohio and across the country.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANCHIN. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. MCCASKILL). Without objection, it is so ordered.

#### FISCAL RESPONSIBILITY

Mr. MANCHIN. Madam President, I rise today to speak about the dire finances of this great Nation and the policies and laws of this government that are only weakening our fiscal standing for future generations.

A year ago, I was in a Senate Armed Services Committee meeting and then-Chairman of the Joint Chiefs of Staff ADM Mike Mullen was asked: What is the greatest threat to our Nation and our national security? I would have thought he would have said terrorism, the terrorists, al-Qaida, North Africa, could have been Iran, it could have been another rising military power, but he didn't hesitate in responding that the national debt is the greatest threat to our country.

That was one of the most sobering moments I have experienced since becoming a Senator. I thought more people would hear what he said and take this situation more seriously, but things have only gotten worse since then. Our debt ceiling is at a record here, \$16.4 trillion. By 2022, according to the President's newly proposed budget, we will be \$25.9 trillion in debt. That means every man, woman, and child will be responsible for more than \$79,000 of debt. Our children and grandchildren will be paying more in interest on that debt than we spend on education, energy, and defense—combined. Our elected leaders should be negotiating solutions but instead everyone is cooking up short-term Band-Aids that create long-term obligations that will take years for future generations to repay. They are trying to figure out how to point fingers at the other side.

There is not a person in West Virginia who can understand why politics is trumping our future fiscal stability. I don't think there is a person in America who understands why in Washington we cannot come together on a long-term fix to the problems we have. And for the life of me, I cannot imagine why our elected leaders from both sides of the aisle continue to play political football with our spending, our debt, and our children's future. This isn't how we reach a solution.

When I was Governor of the State of West Virginia, I didn't blame previous administrations for our problems. I took the responsibility for fixing them. And I didn't come here to blame anyone for our problems either. I came here to fix them. I didn't come here to put the next generation into more debt; I came here to get them out of it. I came here to serve my State and Washington because my parents and grandparents left me a country that was in very sound fiscal shape and I

want to do the same for the next generation. I came here because in West Virginia, even during a recession, we lived within our means and had a surplus every year that I was Governor. The people of my State are proud of what our little State accomplished, and I know Americans can again feel that same pride in this great Nation of ours. I know we can put our fiscal house back in order.

I had those priorities in mind when I looked at the President's proposed budget, the projected deficits, the accumulated debt over the next decade and wondered, what in the world are we doing? This budget claims to be balanced, but only if we don't count the exploding interest we must pay on our ever-increasing debt. Including interest, there is not a single year that this budget is balanced. At the end of the decade, this budget puts an additional \$6.7 trillion more on the debt. And I would ask anybody, how does that make sense?

This is not the first time I have shared my concerns about this country going down the wrong fiscal track, and I can already hear some folks saying: Oh, there goes JOE MANCHIN again blaming President Obama. Well, let me tell you, I am a proud Democrat, but I am a proud West Virginian and American first, and I will stand and speak my mind whether our President is a Democrat or Republican. I am trying to be as understanding and respectful as possible in my critique, but what we are doing doesn't make any sense at all to me, and I certainly cannot in good conscience tell the people of West Virginia any differently. And if we don't do anything to address this fiscal mess, the priorities of both Democrats and Republicans will face the consequences.

Standing here, I tell my Democratic friends that we must face the truth that the very programs we care so dearly about and fight so hard for will be destroyed unless we do something about this exploding debt. Standing here, I also tell my Republican friends that they too must face the truth or not only will the programs they care about be destroyed, they may be forced to one day support a massive tax increase to simply keep this country solvent. Both scenarios are unacceptable and preventable.

There is a commonsense solution to our Nation's dire fiscal woes within our grasp. We already have a template with substantial bipartisan support, split evenly between Democrats and Republicans in both the House and the Senate, that gives us a starting point with which to move forward. As I have said before, the Bowles-Simpson framework might not be perfect, but it has more support from both sides of the aisle than anything else I have seen since I came here. Not only that, it withstood the test of time better than any other

proposal I have seen. It is a framework that cuts trillions from our debt, makes our tax system more fair, and raises revenue without raising tax rates. The only problem is that our country's leaders from both parties won't move forward with the recommendations of the Bowles-Simpson Commission. So instead of real solutions where we choose our priorities based on our values, we see political proposals that will only send this country further into a death spiral of debt.

Take for example the fact that this body will soon debate extending the so-called payroll tax cut for the remainder of this year, 10 more months. Let's call that what it really is: It truly is cutting funding to Social Security. This Congress has voted twice since I have been here to tell Americans that they don't have to pay their share as far as their obligation to Social Security. I voted for the idea the first time around because I thought, as it was proposed to me, it might create jobs or save jobs. But I don't think we have seen much evidence that that happened, so I decided to stop throwing good money after bad and stop jeopardizing Social Security. But, as I warned this fall, along with my dear friend Senator MARK KIRK, whom all of our prayers are with, now we are talking about extending this policy indefinitely because once something like this is enacted, even an act of Congress can't reverse it. It might take an act of God to reverse it.

I know going back home and saying we voted for tax cuts is popular. Everyone wants to be popular in this arena. But this is not a tax cut, this is a Social Security cut, plain and simple, and you cannot make it look any different. Knowing that we are adding 10,000 beneficiaries turning 65 years of age every day—and when you look at last year, Social Security was the first time we paid out more than we took in—it doesn't make any sense. Just what exactly will continuing this policy do to the long-term solvency of Social Security? The answer is very simple: It will be a disaster.

The so-called experts will tell you that everything will be right because we will backfill those contributions with revenue from the general fund. Let me remind you that this is the fourth straight year the general fund has operated with a deficit of more than \$4 trillion. That has never happened in the life of this great country. We have accumulated \$15.36 trillion of debt as of today, and the President just allowed that to grow to \$16.4 trillion with a new debt ceiling. These are the same experts who tell us we can balance a budget if we simply ignore the fundamentals of math. Does that make sense?

When this body votes on whether to extend the so-called payroll tax cut or, as it should be more accurately de-

scribed, the defunding of Social Security's revenue stream, I cannot in good conscience vote to undermine Social Security. I have taken this position because at the end of the day the people of West Virginia and this Nation must be told the truth, which is why the budget proposal the President offered this week is so disappointing and maddening.

Let's be clear. Both Republicans and Democrats are responsible for our budget problems. Everybody is responsible for where we are today. In fairness, this administration inherited a tremendous debt, falling revenues, and a terrible economy. Everyone was at fault, and the public spoke loudly and clearly. They changed things with the 2008 election, and they said: Fix it. But we haven't done it, and this budget doesn't do it either.

If we are going to address our fiscal nightmare and stop digging a deeper debt hole, we must have meaningful tax reform that not only ensures that everybody pays their fair share but that also strengthens our economy and creates jobs—good jobs. Instead, this budget is not balanced even once. Over the next decade, it would actually add an additional \$6.7 trillion more debt on top of the \$16.4 trillion debt ceiling we have now that the President just authorized. That is more than \$23 trillion of debt by 2022. That is simply unsustainable.

This proposed budget relies too much on phantom accounting from so-called war savings from a war that should have been over when its purpose changed to what I call nation building.

In terms of energy investment—one area that business and labor both believe is critical to not only creating more jobs but keeping the good jobs we have—this administration continues to pick winners and losers. Take the role of coal, for example. As I just pointed out in the Energy and Natural Resources Committee, the administration's own Department of Energy forecasts that coal will play a major role in the energy portfolio well into the coming decades, up through 2035. But this budget slashes funding for the research that would allow us to use coal more efficiently and cleanly with environmental standards for which we must be responsible. This doesn't make sense, and it puts the livelihoods of an awful lot of West Virginians and Americans in jeopardy. Those priorities defy common sense, especially when millions of people rely on coal for their jobs and the affordable, reliable electricity it produces.

We are spending more where we don't need to and less where we do. We are extending programs that do not work and going into debt to pay for them, and then we wonder why this great Nation faces such a dire fiscal future. So if and when the President's budget proposal comes up for a vote, I simply can-

not support it. As always, though, I will continue to work diligently with my colleagues on both sides of the aisle to push for a more commonsense fiscal approach based on the bipartisan Bowles-Simpson template so we can finally and responsibly address the fiscal problems our Nation and our families face. I urge the President and my colleagues to do the same.

Madam President, allow me to close by saying I do travel my State, like most of my colleagues, and I am sure you do in Missouri. I meet with my constituents, as you do also, and I can tell you what I find out from them. There are a lot of issues they are worried about. There are some places where they disagree, but there is one issue that gets universal agreement and brings everybody together when they tell us, to a person, they are concerned that those of us in Washington are not listening to their cries to put the country ahead of our politics. They urge all of us to stand and do what is right for this country.

We must not let selfish ambitions about the next election cloud what must be done for the Nation that I know we all love. The challenge before us is a simple one. Over the course of our history, this Nation has succeeded because our parents and grandparents left our country better off than what they inherited from their parents and grandparents. We cannot be the first generation to fail to leave the United States in better shape for the next generation. I don't want to be a part of that. I do not intend to stand by and let a party or politics destroy the hopes of the next generation for this great country, and I urge all of our congressional leaders and our President to put politics aside and realize one simple fact: Whether we are Democrats or Republicans or Independents, we all belong to the same party, and that party is called America, and we will rise or fall together.

I thank the Chair.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. SHAHEEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SANDERS). Without objection, it is so ordered.

Mrs. SHAHEEN. Mr. President, we voted 85 to 11 to start work on the highway bill, which is an essential piece of legislation to reauthorize our highway and transit programs.

Eight hundred sixty-eight days have passed since our last Federal Transportation bill expired. If you cannot do the math very fast, just to put a little more emphasis on that, that is 2 years, 4 months, and 18 days since the last Federal Transportation bill expired.

We need new legislation to help streamline Federal programs, spur job creation, and move our transportation system into the 21st century.

This Transportation bill before us is about infrastructure. We call it infrastructure because “infra” means “below.” So it is the foundation beneath everything else on which our civilized country is built. As we think about the buildings and operating our municipalities and our States and our Federal Government, our country, it is about making sure we have a sound infrastructure.

Our businesses, our workers, our innovators, all of them rely on a system of quality infrastructure to succeed. More funding for transportation in this bill means we can do critical roads and bridges, and we can do repairs to the existing roads and bridges. It means we have more transit for buses and railroads, and it means we can put people back to work. More jobs for construction and manufacturing workers, more jobs for workers means more consumer spending and a stronger overall economy.

The Federal Highway Administration estimates that for every \$1 we spend on highways, that spending supports more than 27,000 jobs. Economists at Moody’s estimate that for every \$1 we invest in infrastructure, our gross domestic product goes up by \$1.59. That is because of the ripple effect those investments have on our economy.

The bill before us would help create about 1 million American jobs, many of them in the construction industry, which has been one of the hardest hit by the recession. In New Hampshire, the number of people who were working in the construction industry in 2010 was the lowest it had been in a decade—25 percent lower than it was in 2006, 5 years ago. We need to pass this bill to help put those people back to work.

One of the most important efforts we have in New Hampshire right now is the long overdue and badly needed widening of Interstate 93, which is in the southern part of New Hampshire. I-93 is our State’s most important highway. It connects New Hampshire citizens to their jobs, businesses to global markets, and communities to each other.

Right now this vital artery is badly clogged. Every day 100,000 cars travel on a road designed for 60,000. This congestion wastes time and wastes money. Crowding so many vehicles on Interstate 93 is not only an inconvenience to the thousands who use it every day, but it also compromises the safety of drivers traveling at regular highway speed in heavy traffic.

The Interstate 93 project was budgeted and planned based on the idea that the Federal Government would provide a consistent level of funding. But the uncertainty created by the lack of a long-term highway bill has made the

project difficult to finance. Right now New Hampshire transportation officials have \$115 million worth of bonding for this project that is sitting on the sidelines until the Federal Government makes good on its commitment. We need to move these Federal funds off the sidelines and get this project going.

Laura Scott, who is the economic development director for the town of Windham, near the Massachusetts border, summed it up best:

The I-93 project is critical to the future economic vitality of Windham and all of southern New Hampshire. Our businesses want it, our citizens want it, and we need to get it done.

The bill before us today can help complete this vital project and others like it. We need to work on this bill in a bipartisan fashion just as it has come out of the Environment and Public Works Committee. There was strong bipartisan support coming out of that committee. We need to set aside the partisanship now, the election year comments, and come together to do what is right for our economy and our country. I hope in the end all of my colleagues on both sides of the aisle will support that.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CORKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CORKER. Mr. President, I have come to the floor to talk about a topic I spoke a little bit about yesterday.

I know all the focus right now is working on a solution to some of the things going on between the House and the Senate. I know that is what people are focused on today. I understand that probably sometime tomorrow there will be a vote on the highway bill, which is expected to fail, and then it is my understanding there will be some amendments brought forth to bring a finance bill, an EPW bill, a commerce bill, and a banking bill together that will actually be debated and, in my sense, will ultimately pass, but that after the recess is over we will come back and deal with that.

I wish to speak to that topic now. I know I am beginning to sound a little bit like a broken record on this, but we have had so many people down here on both sides of the aisle who have actually worked together, for a year and a half after the Bowles-Simpson report came out, on long-term deficit reduction, progrowth tax reform, and entitlement reform, and there seems to be a real seriousness about that issue. I think all those who have signed letters in support of it were very sincere. Yet I think what we are finding with this highway bill, in spite of the changes

that are likely to take place with the finance component, is that what we are ending up with is a situation where we have 2 years’ worth of spending that is taking place and we are using 10 years’ worth of pay-fors.

I can tell you there is no one in this body who likes infrastructure more than me or has spent more time on the back of a paving machine or on a screed. Those are the kind of things I love to see happening. I know they create jobs and tremendous economic growth over the long haul. But I know the Presiding Officer remembers the debate we had for a long time in this body over health care, and I know he remembers the tremendous discussions that took place on the floor over the financing mechanisms. I don’t think there is any question that people on my side of the aisle railed strongly—I might say as they should have—over the fact we had a pay-for formula where basically we were spending money over a 6-year period and paying for it over 10.

Ultimately, the bill passed, but there was tremendous divide in this body over mostly just the budget gimmickry that took place. Yet what I see getting ready to happen, in a large bipartisan way, is we are going to vote for a highway bill, possibly—I am not going to do that—that spends money over a 2-year period and recoups it over 10.

I am actually stunned by this. We talk about all the things we need to do in this body regarding Medicare and how we need to focus on reforms that make sure seniors in Vermont and seniors in Tennessee have these programs down the road, and we talk about Medicare in the same light. I think all of us want to make sure Social Security is here for future generations—for these young people in front of us. All of us know we have to figure out a way to solve that problem. The highway bill is simple. It is just math. It is unlike Medicare, it is unlike Medicaid, and it is unlike so many of the things we deal with around here that are so complex to get it just right. We have a highway bill that is not complicated. It is just math. There aren’t all kinds of moving parts, as far as people providing health care and the incentives that are in place. But it feels to me like what we are getting ready to do as a body—and I hope this is not the case—is to pass a highway bill where we are going to do exactly what we have done with the sustainable growth rate for physicians in Medicare.

Back in 1997, we passed a bill here—I wasn’t here at the time—that basically created a mechanism for paying physicians who dealt with seniors, and the formula was flawed. So what we have done every 18 months or every year is cause the medical community to be panicked and seniors to be panicked over whether this is going to be extended because the sustainable

growth rate, as it was put forth, was going to call for huge reductions in payments to physicians.

We are actually dealing with that right now. It is one of the issues we are trying to work out with the House. What we did was to create a cliff. So every time we deal with this issue it gets more and more difficult to deal with it because we will not just sit down and do the long-term reforms on that one component that need to happen. We keep taking from Peter to pay Paul. We keep wrestling with this issue but we will not deal with it.

What we are getting ready to do with the highway bill is basically inject that same poisonous formula into the highway bill. What we are getting ready to do is to pass a highway bill that will fund highways through 2013, but at the end of that period of time we will have the same kind of cliff that we deal with regarding the SGR. We will have a \$10 billion shortfall, instead of just dealing with a funding formula. If we don't think we are spending enough on infrastructure and people want to offer that in some way, now is the time to do it. Otherwise, if people don't want to go into a deficit situation, what we ought to do is spend the amount of money that is coming in.

But it feels to me as if we are getting ready, in a very bipartisan way, when we get back from recess, to show the country it is ridiculous to think this Congress will deal with the kind of reforms to Medicare to make it solvent, to do the kinds of things we need to do with Social Security—both of which are more complex—because this Congress will not even deal with this little program. It is a very important program, very important to my State and I am sure to Vermont. But we will not even deal with the reforms to it, in this time of great concern about our fiscal situation.

Again, I strongly support infrastructure funding. But I think what we will show the country, if we pass a bill like this, in a strong bipartisan way, is that there is very little hope Congress will ever deal with the more complex issues that challenge this country and which cause many seniors in our country to be concerned, which cause taxpayers to be very concerned, and certainly cause future generations to wonder whether this body is ever going to deal with the issues they know will haunt them down the road.

I came down to speak on this. I have done it daily in the lunch meetings we have with our own side. I just hope that sometime over the recess period, prior to coming to the floor, the Finance Committee will come up with a different package that actually either pays for this bill by offering funding formulas—which, by the way, is just math, it is not very difficult—or where we spend the amount of money that is actually coming in.

I will say that if we spent just the base moneys that are coming in, States such as Vermont and Tennessee and other places have the ability, if they choose, to generate gasoline taxes in their own States and do things with road money. Candidly, the way this program works, I think most people know that citizens send up \$1 and they get back 98 cents. So it actually could be a more efficient way for this to work than sending it up to us and letting us get our hands on part of the money and figuring out what we are going to do with it.

I do believe this is one of the most irresponsible things we can do, especially when there may have been some criticisms over the President's budget. I haven't heard a lot of people speak on it because I don't think it has been taken up as a document that we will debate on this floor in a real way. But it is difficult to criticize the President's budget. I know the vote on last year's budget was 97 to 0 against it. But it is very difficult for people on either side of the aisle to criticize the President's budget if, in fact, there is a large bipartisan desire to pass a highway bill that does exactly the same thing.

I hope the Finance Committee will meet again and come up with a solution to this. It is not urgent. We have a recess period that is coming up. Surely, this Congress, this Senate, can show the ability to deal with an issue such as this, which, again, is so simple, and demonstrate to the American people, in a bipartisan way, that we have the ability to begin looking at these programs that are so important to people across our country in a way that doesn't take us down the fiscal tube.

I thank the Chair for listening. I know it is tough when there is not much happening down here.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BEGICH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ELIZABETH PERATROVICH DAY

Mr. BEGICH. Mr. President, I rise today to recognize a great civil rights leader in Alaska and to join all Alaskans in celebrating Elizabeth Peratrovich Day.

Almost 25 years ago, the Alaska State legislature designated today as Elizabeth Peratrovich Day to commemorate the signing of the Alaska Anti-Discrimination Act of 1945, and to honor Ms. Peratrovich.

Elizabeth Peratrovich is a Tlingit Alaska Native who fought for equal rights for all Alaskans long before her now famous address to the Alaska leg-

islature. She was grand president of the Alaska Native Sisterhood and fought against the very public discrimination taking place against the first people of Alaska.

In many places in southeast Alaska just 60 years ago, public signs read: No Dogs, No Natives or Filipinos. Others simply said: No Natives Allowed.

There were separate drinking fountains and separate doors in public buildings. As Tlingits, the Peratrovichs could only purchase property in Native neighborhoods, could only be seated in segregated portions of the theater, and could only send their children to missionary schools—not the public schools for which they paid a school tax. In the face of this discrimination, Ms. Peratrovich demonstrated courage in her convictions—a courage which changed the course of civil rights treatment for Alaska Natives.

In 1941, Elizabeth and her husband Roy wrote a joint letter to Territorial Governor Ernest Gruening about their concerns. In part, they wrote:

My attention has been called to a business establishment . . . which has a sign on the door which reads, "No Natives Allowed." In view of the present emergency when unity is being stressed, don't you think that it is very un-American?

We have always contended that we are entitled to every benefit that is accorded our so-called White Brothers. We pay the required taxes, taxes in some instances that we feel are unjust, such as the School tax. Our Native people pay the school tax each year to educate the White Children, yet they try to exclude our children from these schools. Although antidiscrimination legislation had been floating around the territorial legislature for years, it had not gained any traction.

Again, I want you to put your mind in this time. This was the 1940s. Many legislators believed Alaskan Natives were second-class citizens. Despite the fact they paid taxes and bore arms in defense of this Nation, they were not endowed with the same rights as others.

In 1945, however, hope emerged. Anti-discrimination legislation had passed the Alaska statehouse but was stalled in the State senate. One senator made a speech stating that Natives had only recently emerged from savagery and were not fit for society. He argued that they had not had the experience of 5,000 years of civilization.

With great courage and composure and poise, Elizabeth Peratrovich confronted the senator who had just belittled her and her people. Not only was she a Native addressing the mostly White Alaskan audience, she was also the first woman ever to address the Alaska State senate. In a quiet, steady, but bold voice, Elizabeth Peratrovich opened her testimony with the following words:

I would not have expected that I, who am barely out of savagery, would have to remind the gentlemen with 5,000 years of recorded civilization behind them, of our Bill of Rights.

She then recounted her experiences with discrimination—how she and her husband had not been allowed to lease a house in a White neighborhood; how she was prohibited from enrolling her children in the same schools as everyone else, the schools for which she paid a school tax. She talked about the embarrassment her children felt when they were not allowed to sit with their friends in the theater.

Following Elizabeth Peratrovich's speech, the senate exploded in applause. Her plea had been effective. The opposition that had been so absolute shrank to a mere whisper.

On February 8, 1945—again, I underline the date, thinking of our national history—on February 8, 1945, a bill to end discrimination in Alaska passed the senate by a vote of 11 to 5. Elizabeth Peratrovich had been instrumental in making Alaska the first organized government under the U.S. flag to condemn discrimination.

Today in Alaska we celebrate Elizabeth Peratrovich Day and affirm our beliefs in equality. With each passing year we move closer to truly realizing the quote that all men are created equal and all are endowed with certain unalienable rights.

Thank you for allowing me to embrace the memory of one woman who fought for those fundamental principles, Alaskan Elizabeth Peratrovich.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. SHAHEEN). The clerk will call the roll. The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Madam President, I ask unanimous consent that the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### TRIBUTE TO BEN LUJÁN

Mr. BINGAMAN. Madam President, I come to the floor, along with my colleague Senator UDALL, to honor Ben Luján, who is the longtime speaker of the New Mexico House of Representatives. After tirelessly representing District 46 in our State legislature for 37 years—the last 12 years of that 37 years as speaker of the house—Ben is retiring. He is doing so to pursue his fight against lung cancer. I am certain he will bring the same strength and tenacity and courage to that battle that he has brought to every other endeavor he has taken on throughout his life.

Throughout his long career, he has fought fiercely to ensure that the needs of his fellow New Mexicans were being addressed. He has worked hard to improve the quality of New Mexico's school system. He has fought for the rights of our workers, and he has worked hard at strengthening our economy.

I know I speak for all of his colleagues in our State legislature when I

say that his service and strength throughout his recent personal difficulties have been an inspiration to all, and his fighting spirit will be missed once he leaves our legislature. His exemplary work ethic is something to which we should all aspire.

He was born into a family of nine children, the son of a sheepherder in the small town of Nambe in northern New Mexico. In 1957 he began working as an ironworker at Los Alamos National Laboratory. It was from these experiences that he learned the importance of always striving to do better, to do more, not only for his family but for his community and for his beloved State. In 1970 he began his extraordinary public service when he was elected to Santa Fe's County Commission. He aspired to have a wider impact, and he ran for the New Mexico House of Representatives in 1975. After nearly a quarter of a century in the house, he was elected by his colleagues as the speaker of the house in 2001.

His devotion is a characteristic that is reflected in all aspects of his life, public and private. He and his wife Carmen have been married for 52 years. His children—Shirley, Jackie, Jerome, and BEN RAY—are a testament to the values with which they were raised. In fact, we are fortunate to have his son BEN RAY as a Member of the U.S. House of Representatives representing the Third District of New Mexico. Tom and I have had the good fortune to serve with BEN RAY in the New Mexico delegation, and he represents our State extremely well.

All of us whose lives have been enriched by Ben Luján's work in bettering our State owe him a debt of gratitude for his service. His illness has not hindered his dedication and hard work for our State, as he continued running the house of representatives in our State throughout the current session of our legislature, which is expected to end today.

I am joined with all New Mexicans and Senator UDALL in extending my gratitude to the speaker for his extraordinary work for the people of New Mexico. We are, indeed, fortunate to have had a man of his character serving our State in such an exemplary way and in such an important position for so many years.

I thank the Chair.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. UDALL of New Mexico. Madam President, I also rise today to join New Mexico's senior Senator, who has served New Mexico so well. It is a real honor to join Senator BINGAMAN in paying tribute to one of our great New Mexico citizens, Speaker Ben Luján. Ben, as Senator BINGAMAN said, is retiring this month. He is an esteemed colleague of ours, and he is also our friend—a good friend at that. Indeed,

Ben Luján is a friend to all New Mexicans. Ben recently said:

Let us make our time on Earth . . . worthwhile, and do what is right, and make a difference for the children, our working families, and our elderly.

He has lived up to that challenge throughout his career, fighting for education, for workers, for middle-class families, for Native Americans, for health care, and for jobs. In a world that grows ever more cynical, Ben Luján has always been the real deal.

Ben was born in 1935 in the small community of Nambe, NM, one of nine children. His family, like so many, struggled through the Great Depression. He used to relate tales of his father as a sheepherder herding sheep from the Valley Grande to the Chama in New Mexico. Ben still lives on the property that has been in his family for three generations.

Ben is that rare combination—humble but tenacious in what he believes. He has never forgotten from where he came, and he has always been a champion for the less fortunate among us. Even in his youth, Ben showed a remarkable talent for teamwork, for playing by the rules, for just plain hard work, and for determination.

He loves basketball. In high school he was the captain of his high school varsity basketball squad, and the gymnasium where the Pojoaque Elks play today is named in his honor. Ben Luján has been leading teams ever since.

He attended the College of Santa Fe but had to disenroll for lack of money. For the next couple of years, he sought work wherever he could find it in California and in New Mexico, wherever he had to go to get a job. He understands hard times. He knows what it is like to try to make ends meet. And in all of his years of public service, a sense of justice and fair play has always been at his core.

Ben worked as an iron man in Los Alamos. He joined the International Association of Bridge, Structural, Ornamental, and Reinforcing Iron Workers. In 1959 Ben married his high school sweetheart, the love of his life, Carmen, his devoted partner for over half a century. They began a family that would grow to include four children: Shirley, Jackie, Jerome, and Congressman BEN RAY LUJÁN. As Jeff said, we are fortunate to have BEN RAY serving in our delegation, and we have worked with him on many occasions on a daily basis. Ben began his extraordinary career in public service when he was elected to the Santa Fe County Commission in 1970. Four years later he was elected to the New Mexico House of Representatives. After a quarter of a century of service in that body, he was elected speaker of the New Mexico House of Representatives.

He has always called attention to the needs of others and not to himself. Ben is an inspiration not just to those who

aspire to a life of public service but also to a life of personal integrity. His word is his bond to his family and to the people of New Mexico. His principles have illuminated his life and brightened the lives of all who know him. I count myself among that number. I am proud to call Ben Luján my friend.

I was present at the opening of the New Mexico State Legislature last month when Ben informed us of his illness—an illness that left him weakened but not defeated. Like everyone in that room, I was deeply saddened at the news of Ben's illness, but that sorrow is tempered by admiration—admiration for Ben, for Carmen, for the entire Luján family and for the incredible strength they have shown. He would not allow a terrible illness to distract from his duties as speaker of the house. He remains steadfast in his services to the people of New Mexico. Even while undergoing chemotherapy, he continued to work as speaker. Even a devastating illness could not deter Ben Luján from the job he had committed to do, and his family supported him every step of the way. That is honor, that is integrity, and that is courage.

None of us will ever forget Ben's brave words the day last month when he said, "While this has taken a toll on me physically, it has not broken my spirit, my will, my faith and my commitment to New Mexico."

So to Ben, I want to say thank you. Thank you for your service, thank you for your sacrifice, and thank you for your friendship.

As we celebrate this great son of New Mexico, I will close with these lines from the poet, Lord Alfred Tennyson:

Though much is taken, much abides, and though we are not now that strength which in the old days moved earth and heaven, that which we are, we are—one equal temper of heroic hearts, made weak by time and fate, but strong in will to strive, to seek, to find, and not to yield.

That, my friends, is Ben Luján—to serve, to strive, and not to yield.

It is a real honor to be on the floor with Senator BINGAMAN to talk about our good friend Ben Luján.

I yield the floor.

Mr. BINGAMAN. I suggest the absence of a quorum.

The assistant bill clerk proceeded to call the roll.

Mr. MCCONNELL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING OUR ARMED FORCES

SERGEANT ADAM J. RAY

Mr. MCCONNELL. Madam President, I have the sad and solemn task today to speak of one brave and honorable Kentuckian who was lost in the performance of his duties while wearing his country's uniform. SGT Adam J. Ray of Louisville, KY, was killed on

February 9, 2010, in Afghanistan when an improvised explosive device set by the enemy detonated near his patrol. He was 23 years old.

For his heroic service, Sergeant Ray received many medals, awards, and decorations, including the Bronze Star Medal, the Purple Heart, the Army Commendation Medal, the Army Achievement Medal, the Army Good Conduct Medal, the National Defense Service Medal, the Afghanistan Campaign Medal with Bronze Service Star, the Global War on Terrorism Service Medal, the Korean Defense Service Medal, the Army Service Ribbon, the Overseas Service Ribbon, the NATO Medal, the Combat Infantryman Badge, the Weapons Qualification Badge, and the Overseas Service Bar.

Sergeant Ray knew the risks of Army service and faced them squarely without flinching. In fact, a reporter imbedded with Sergeant Ray's unit has written of how his patrol's assignment on the day he was killed was to find and deactivate explosives hidden by the enemy in culverts under the main road heading west from Kandahar connecting to major cities such as Kabul.

"People ask me if I regret letting Adam join," says his mother, Donna Ray.

Well, I don't. Adam died doing what he loved more than anything else in the world. No, Adam did not go into this wanting to die for his country, but he was more than willing to do it. I am so very honored to be his mother and to tell everyone about him.

Adam Ray was born March 9, 1986, to Jim and Donna Ray. When Adam was in the third grade, he went on a school field trip to a military museum. From that moment on, he wanted to be a soldier.

"He would play army with his little toy soldiers in the bath tub," remembers Donna.

He lined them up around the edge of the tub and prepared for the attack of his dinosaurs. At night, when I tucked him in his bed, I would have to pry the toy soldiers out of his clenched fist.

Adam's father Jim attended West Point, and Adam wanted to follow in his footsteps and also go there. However, after the terrorist attacks of 9/11, Adam felt an urgency to serve his country that could not wait, so he entered military service in April of 2005 and graduated basic combat training at Fort Benning, GA.

Adam then attended advanced individual training at Fort Sam Houston, TX, where he was trained as a patient administrative specialist. His first deployment was to Camp Casey, Korea. After 1 year in Korea, Adam reenlisted and was transferred to an infantry unit. By the time he was deployed to Afghanistan, he was assigned to C Company, 4th Battalion, 23rd Infantry Regiment, 2nd Infantry Division based out of Joint Base Lewis-McChord, WA.

In early 2009, Adam was deployed to Afghanistan. He visited his family

while on leave in September of that year and returned to Afghanistan in October. By Christmas, his family was hearing less from him because he was preparing for a dangerous mission.

"The Friday before he was killed, he called about 2 a.m. our time—he always forgot about the time difference," Donna remembers. "He told me that his unit was moving and that I may not hear from him for a while, and not to worry."

A few days later came the fateful Tuesday that was February 9. Adam's unit was conducting "culvert denial" in an area where an Afghanistan soldier had recently been killed by a bomb hidden in a culvert underneath a road.

At approximately 9:30 a.m., the explosion went off, and as one contemporary news report puts it, "Adam Ray, the third of five children, beloved son of a minister and a devoted mother, a soccer player and a flirt, who tutored dyslexic kids and was known to ask less popular girls to dance at school events, died."

We are thinking of Sergeant Ray's loved ones today as I recount his story for my colleagues here in the Senate. We are thinking of his parents Jim and Donna Ray; his grandparents John and Doris Ray and Bobby and Marilyn Sumner; his brothers Zachary and Seth Ray; his sisters Betsy and Amanda Ray; his nephew Christopher Mitchem; and many other beloved family members and friends.

I know my colleagues join me in extending the sincere and profound gratitude of the Senate to the family of SGT Adam J. Ray. We have set aside this moment to recognize his service, service proudly and freely given, for the country he so loved. And we pay tribute to his supreme sacrifice.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MANCHIN). Without objection, it is so ordered.

Mr. WARNER. Mr. President, I ask unanimous consent to speak for up to 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

PAYROLL TAX CONFERENCE REPORT

Mr. WARNER. Mr. President, let me rise today to speak about the conference report that it appears we will be voting on tomorrow regarding the issues of the payroll tax, unemployment benefits, and the so-called doc fix. Let me first of all acknowledge that I know that many of my colleagues have worked long hours on the payroll tax deal that was apparently reached late last night.

I have been briefed on pieces of this deal and I've also seen many of the



press reports that have described this deal as a new sign of bipartisanship. As a new Member of the Senate, I know, like the Presiding Officer, we believe that we do our best work here in Congress when we can have bipartisan solutions, when we can find ways to reach common ground.

All of those factors make it doubly difficult for me to now rise and say I will be voting against the conference report when it comes before this body tomorrow.

Now, let me acknowledge on the front end that I think there are worthy reasons in this recovering economy we have got right now, it makes some sense to maintain some form of payroll tax holiday for a limited period of time.

I know the Presiding Officer feels that one of the most important issues our country confronts right now—I would say the most important issue and the one that overhangs everything else we debate here—is our inability to come to grips with our debt and deficit.

I know, as we try to nurture this growing recovery, one of the ways we take on that debt and deficit is by having a growing economy.

But I also believe it is terribly important that we show progress on this issue. Our national debt now exceeds \$15 trillion. Every day that we fail to act, we add \$4 billion to that total. None of this becomes self-correcting. It will not correct itself until and unless we act.

I, for one, believe there is no action this body could take that would be more stimulative to our economy, that would be a better jobs program, that would do more to restore the trust of the business community and the public than to show bipartisan collaboration and cooperation on a long-term debt and deficit deal. So let me share with my colleagues the five reasons I will be voting against the conference report tomorrow.

First and foremost, the payroll tax cut that has been proposed isn't being paid for. It will add \$100 billion to the debt.

Second, I think the compromise that has been put together turns some of our traditional policies on their head. By taking this action of saying tax cuts somehow don't have to be paid for, we are advancing a policy I believe will come back to haunt us later this year when the Bush tax cuts expire.

As a matter of fact, while I have only been a Member of this body for 3 years, I know it has been a tradition that in moments of economic crisis, the Congress will sometimes extend unemployment benefits, particularly for those States that have been hardest hit. In those moments of crisis, the unemployment benefits sometimes go unpaid for. Well, in the compromise in this conference report, we turn that policy on its head in that there was a require-

ment to pay for the extension of unemployment benefits but no requirement to pay for the \$100 billion of additional debt taken on by the payroll tax cut.

I know in this body, as we have had debates about debt and deficits and economics, we have discussed the economic theories of a whole host of thinkers and economists—John Maynard Keynes, Frederick Von Hayek, Milton Friedman, Paul Krugman. I somehow feel as though this conference report we will be voting on tomorrow may reflect the thinking of a more obscure individual, but someone I recall as a child growing up, and that was Wimpy, who was a cartoon character—Popeye's hungry pal. Wimpy used to always say, "I will gladly pay you Tuesday for a hamburger today."

Well, it seems on this economic policy we are talking about today, of deferring payment for this payroll tax policy, that Wimpy once again has won out.

Let me cite the third reason I will be voting against the conference report tomorrow. As I acknowledged at the beginning of my comments, I believe extension of the payroll tax holiday makes sense in this recovery, but it just needs to be paid for. So I could have very easily supported a number of the proposals put forward by my colleagues on the Democratic side, including a 1-percent increase of the taxes on those of us who make more than \$1 million a year—a defined benefit for the defined pay-for.

If we couldn't breach the gap on that, I could have looked at means-testing the payroll tax holiday.

If we are trying to make sure these dollars get into the economy as quickly as possible over this coming year, then clearly a payroll tax holiday for folks who make less than \$150,000 a year or \$250,000 a year or \$500,000 a year or \$1 million or less a year—it didn't make sense to say that regardless of one's income. This payroll tax holiday—going to folks like me, who are doing pretty well—is not going to have a stimulative effect, I just don't think economic theory bears that out. So if we had paid for this or put some restraints on it, I would have been happy to support this conference report.

The fourth reason I can't support the conference report is because I am concerned this payroll tax holiday—which goes into the Social Security trust fund, is supposed to end at the end of this year. But we have no metrics placed on it. It scares me greatly that we will approach the end of the year and there will be some other reason it needs to be extended again.

I believe we should have put in place a requirement that this payroll tax holiday would start to ratchet back if we continued to see growth in the economy—perhaps ratcheted back one-third if we had seen GDP growth for the next 3 months or employment

growth for the next 3 months, ratcheted back another one-third, ratcheted back another one-third—so we wouldn't have the cliff effect that is being proposed at the end of the year, again, a cliff effect that will come at the same time as the end of the Bush tax cuts, the imposition of the so-called \$1.2 trillion sequester cuts, and the proverbial train wreck that is already being talked about.

So while I believe this payroll tax holiday is important, the price, the fact we are not paying for it, the fact we have put no restrictions or parameters around it and the fact that there's no guarantee it will actually expire because we have no metrics of how much economic progress we need to have before it expires are reasons I will be voting no.

Let me raise one other concern I have about the conference report. This is one more example of particularly our colleagues in the House saying the first place they go for any pay-for for any project seems to be our Federal workers—the same Federal workers, close to 2 million strong, who keep our streets safe, make sure we get those Social Security checks, try to take out terrorists, drug dealers, you name it. They are the same Federal workers who have had their pay frozen for the last 2 years and who have had to endure the prospects of two or three potential shutdowns over the last year and a half. To say we are going to come back to the well time after time on this group I don't think is fair or right.

As someone who has looked at the Federal pay and benefits, when we get to that issue of a comprehensive tax reform, entitlement reform, big deficit deal, all these items will need to be reviewed. But the notion the first place to come back to for any pay-for is our Federal employees, to me, doesn't seem fair nor does it seem right. So for these five reasons, I will reluctantly be voting against the conference report tomorrow. I believe it was, again, in the context of the debt and deficit particularly, Will Rogers who said: When you find yourself in a hole and you want to get out, stop digging. Well, in some small way, by voting no tomorrow, I hope I will send a signal that I—and I hope others will join me—will stop digging.

With that, Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. Will the Senator withhold his request for a quorum?

Mr. WARNER. I will.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. ENZI. I thank the Chair.

(The remarks of Mr. ENZI pertaining to the introduction of S.J. Res. 36 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")



Mr. BENNET. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENNET. Mr. President, I am here on the floor today to talk a little bit about our economy and something that I think is very important that has been left unaddressed in this payroll tax compromise that I think is a real tragedy for our country and for my State, the State of Colorado, and, most importantly, for people who are suffering through this incredibly difficult economy.

It is not well understood by people—I think maybe even in this Chamber—that our country's gross domestic product—the economic output of our country—is actually higher today than it was before we went into this recession. We saw it rising all the way in the 1990s and 2000s, and then we had the worst recession since the Great Depression. Now we are seeing economic output that is actually at a level that is higher than it was before we went into the recession.

Our productivity is higher today than it has been at any time in the history of the United States of America. It has become fashionable to talk about what has happened or not happened since the founding of our country. Since the founding of our country, our economy has never been more productive than it is today, and there are several reasons for that. Competition from abroad that has become a daily occurrence—something we have to fight hard every day to stay ahead of—has driven productivity. That is a good result. Technology has driven productivity. That is a good result. And the recession itself drove productivity straight up. As our business men and women of this country did what they had to do to get through this incredibly tough economic time to keep their businesses alive, to keep their doors open, to keep a promise to the next generation of Americans, productivity went ever skyward. That is a good result. That is progress. And we are only going to become more productive over time as we face competitive threats from around the world.

But we can see what else has happened over this period of time. Median family income has fallen over the last decade for the first time in our country's history. The middle class is earning less today in real dollars than in the early 1990s. And, as the President knows, we are producing this economic output with 23 or 24 million people who today are unemployed or underemployed in this economy. There are no jobs for these Americans in this economy even though our output is as high as it was before we went into this recession.

There are a lot of people smarter than I am who could figure out the an-

swers to this, but there are at least two big ones we have to keep in mind. The first one is education because the worst the unemployment rate ever got for people with a college degree during this recession was 4.5 percent. That is the worst it got for people who had a college degree, who could compete in the 21st century, even in the worst recession since the Great Depression.

As I have said on the floor of this Chamber that has 100 seats, 100 desks, if we were poor children living in the United States of America today, only 9 of these 100 seats would represent college graduates because 91 of 100 poor children in the United States in the 21st century cannot get access to a college degree. So that is job No. 1, to keep a promise to the next generation of Americans.

I think job No. 2 needs to be driving innovation and job growth in this economy, which is what has brought me to the floor today because we are failing in this package, among other things, to extend the wind production tax credit which cuts right to the core of whether and how we want to compete in the 21st century in this global economy.

For people here or elsewhere who think these jobs aren't real in the wind industry, I brought some pictures. I brought some pictures of a manufacturing plant made in America—made in America—in this case, in Brighton, CO—a manufacturing plant, the towers from which wind turbines are going to be hung, driving electricity and jobs in the United States. So we are not talking about some fly-by-night, experimental industry. This credit has triggered enormous economic growth in Colorado and across the country.

Congressman STEVE KING, a Republican from Iowa, wrote today in an op-ed that he published that “the production tax credit has driven as much as \$20 billion in private investing.” This isn't some Bolshevik trick, some Socialist trick; it is \$20 billion in private investment in real American manufacturing jobs.

Wind power accounts for more than one-third of all new U.S. electric generation in recent years. In Colorado alone, I can tell you it has created 6,000 jobs in my State. It has moved our State toward a more diversified and cleaner energy portfolio, so that Colorado today is a leader among the 50 States in diversifying our portfolio.

Let's be clear. We have oil and we have coal and we have natural gas. We have abundant wind and abundant sun and entrepreneurial horsepower all across the Front Range. What we don't have is Washington's cooperation. What we don't have is the decency of people coming together and doing better than just keeping the flickering lights on in this place.

It is because they can't get any certainty out of Washington that developers and manufacturers are starting

layoffs already in anticipation of the credit expiring at the end of this year. This is the result of nothing other than our political dysfunction in Washington.

Vestas, which has a huge manufacturing footprint in Colorado—from Windsor all the way south to Pueblo—is poised to lay off 1,600 workers if we fail to act. Iberdrola Renewables, also doing business in Colorado, has already laid off 50 employees for no reason other than our inability to get our work done. Nationally, 37,000 jobs are at risk, not to mention the ones we could have created after 2012 but won't if we let this credit expire.

I brought a couple of other pictures just to make sure people know this is distributed all over the United States.

This is Pennsylvania and Texas.

I know I sound like a broken record when I say this because I have said it over and over on this floor, but we should not be confused that the rest of the world is somehow waiting for us to get our act together, that they are somehow waiting for us to cure our politics and do something that will actually solve those curves that I mentioned earlier and put Americans back to work manufacturing in jobs that are actually driving middle-class family income up, rather than down, which is what we are doing today.

Our largest single export from the United States of America is aircraft. We export \$30 billion a year. China's export of solar panels last year was \$15 billion—half our largest single export. They didn't export one solar panel 10 years ago, and we invented the technology here in the United States. In fact, some of us believe we invented that technology in the State of Colorado. I am sure the Chinese would love to have this business as well. And my concern is not that this is a temporary interruption in our wind industry but that this will become a permanent shutdown of our ability to drive economic growth across the United States. This is a perfect example of an industry that can move this employment level back up, an industry that we don't have today, one that is in its infancy but 50 years from now or 20 years from now may be driving significant employment growth across the United States of America. This is an industry that, by the way, would drive this curve up as well.

I met a young man in Logan County not long ago. He was working—he was giving me a tour on the top of a wind turbine. I was standing on the very top of the box. It was about 10,000 feet in the air—or it felt that way to me. I was wearing the shoes I am wearing right now on the floor of the Senate, which is not what you should wear when you are on the top of a wind turbine, swaying in the wind. He told me he would be unable to live in his home community and raise his family in his

home community if it had not been for that job, a job he could not even have imagined there being 5 years ago. And there it is today.

These are high-quality, high-paying jobs in the United States of America. It would seem to me the Congress ought to figure out a way to support these industries. I actually do not believe any of these kinds of credits should be permanent. I want to be clear about that. I think we would be doing ourselves and the country a service if we designed them in a way that phased them out over time, because at a certain point every business has to sink or swim based on its merits. We are "this close" to being there with wind production and we are "this close" to turning it over to the rest of the world.

This is not a partisan issue. This is not a partisan issue. Last week Republicans and Democrats from the Colorado delegation came together in the House and the Senate to urge a quick extension as part of the payroll deal. I know my colleagues Senators HARKIN and GRASSLEY did the same with the delegation from Iowa.

I ask unanimous consent to have those letters printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESS OF THE UNITED STATES,  
Washington, DC, February 7, 2012.

Hon. MAX BAUCUS,  
Chairman, Senate Finance Committee, Dirksen Building, Washington, DC.

Hon. DAVE CAMP,  
Chairman, House Ways and Means Committee, Longworth House Office Building, Washington, DC.

DEAR CHAIRMAN BAUCUS AND CHAIRMAN CAMP: The undersigned Members of the Colorado delegation urgently request inclusion of a provision to extend the wind energy production tax credit (PTC) as your conference negotiates the payroll tax reduction package. In passing this extension, we would urge the conference committee to include a pay for as well.

The PTC has been very effective in facilitating new market penetration of wind energy and moving us toward a more diversified and cleaner energy portfolio. A delay in this extension would do enormous damage to that progress. Since its inception, the wind PTC has driven economic growth across the nation, including substantial growth in Colorado. Our state is a wind energy leader, currently generating the third highest percentage of power from wind of any state in the nation. Colorado is home to several major wind energy developers and wind turbine manufacturing facilities, employing upwards of 6,000 workers statewide. We're also home to the National Renewable Energy Laboratory (NREL), a critical government lab and the world's premier renewable energy research facility.

Unless the wind PTC is renewed in the first quarter of this year, new wind energy development projects and the thousands of jobs associated with those projects are predicted to drop off precipitously after 2012. This dire situation will be especially pronounced in Colorado, where we manufacture many of the components for wind turbines. Wind-related manufacturing workers will be the first to

lose their jobs as developers stop ordering turbines for installation after the PTC ends. Companies with a footprint in Colorado have already started layoffs and several thousand Colorado jobs could be lost if the PTC isn't extended in the near future.

While the PTC is vital to the near-term future of wind energy production in Colorado and across the nation, the credit should not exist in perpetuity, particularly as the wind industry matures. Following a prompt extension, we believe that Congress should engage in a broader conversation about an incremental phase-down of the credit over the long-term.

In a difficult economy, with thousands of high-quality jobs at stake across our state and the entire country, we urge the Conference Committee to extend the wind PTC as part of your upcoming package.

Sincerely,

MICHAEL F. BENNET.  
MARK UDALL.  
DIANA DEGETTE.  
ED PERLMUTTER.  
JARED POLIS.  
CORY GARDNER.  
SCOTT R. TIPTON.  
MIKE COFFMAN.

CONGRESS OF THE UNITED STATES,  
Washington, DC, February 8, 2012.

Hon. HARRY REID,  
Majority Leader, U.S. Senate, Washington, DC.

Hon. MITCH MCCONNELL,  
Minority Leader, U.S. Senate, Washington, DC.

Hon. Speaker JOHN BOEHNER,  
Majority Leader, House of Representatives, Washington, DC.

Hon. NANCY PELOSI,  
Minority Leader, House of Representatives, Washington, DC.

Hon. DAVID CAMP,  
Chairman, Conference Committee on H.R. 3630, House of Representatives, Washington, DC.

Hon. MAX BAUCUS,  
Co-Chairman, Conference Committee on H.R. 3630, U.S. Senate, Washington, DC.

DEAR LEADER REID, LEADER MCCONNELL, SPEAKER BOEHNER, REPRESENTATIVE PELOSI, REPRESENTATIVE CAMP, SENATOR BAUCUS, AND MEMBERS OF THE CONFERENCE COMMITTEE ON H.R. 3630: The undersigned Members of the Iowa delegation respectfully urge you to include a short term Production Tax Credit (PTC) extension for wind energy as part of any payroll tax cut extension you are currently negotiating.

Our state and the whole nation have benefited tremendously from the economic development, new manufacturing jobs, and increased domestic energy supply that wind energy has provided. And the PTC has been a major factor behind this success. Iowa is now receiving 20% of our electricity from wind at stable and dependable rates. There are over 215 wind related businesses operating in 55 counties across our state, employing over 5000 people. While Iowa has been a leader, we are seeing these results multiplying across the country.

However, with the PTC for wind due to expire at the end of 2012, the expansion, jobs and manufacturing of the industry is put in serious jeopardy—not just in Iowa, but across the country. We must provide some certainty to allow this industry to keep growing. If the PTC is not extended immediately, our communities back home stand to lose thousands of jobs, manufacturing, infrastructure and private investment. The manufacturing workers, in particular, are the first to lose their jobs as developers have already stopped ordering turbines for instal-

lation after 2012 because of uncertainty about the continuation of the credit.

Clearly, no energy incentive should be in place forever, but now is not the time to pull the rug out from under the wind energy industry, as it is putting in place the domestic manufacturing, the private investment and the technological advancements that will allow it to prosper without the PTC in the near future. We appreciate your consideration of our request to include language in the upcoming payroll tax cut legislation to immediately extend the wind energy PTC.

Sincerely,

SENATOR TOM HARKIN.  
SENATOR CHARLES GRASSLEY.  
REPRESENTATIVE BRUCE BRALEY.  
REPRESENTATIVE TOM LATHAM.  
REPRESENTATIVE DAVE LOEBACK.  
REPRESENTATIVE LEONARD BOSWELL.  
REPRESENTATIVE STEVE KING.

Mr. BENNET. As I recall, Senator GRASSLEY actually was the one who wrote this to begin with. We have also recently filed an amendment, a bipartisan, fully paid for, 1-year extension of the credit to the surface transportation bill. I thank Senator MORAN, a Republican from Kansas, for joining me to lead on that amendment.

There is plenty of support out there for us to get this done. More important than that, if we do not act, there are thousands of people who are going to have to go home to their families and say they were laid off from their job for no reason other than the political dysfunction here in Washington, DC.

I think enough is enough. I cannot tell you how much I look forward to a time when we have a thoughtful, bipartisan, fact-based tax reform in this country; when we are thinking about our Tax Code and our regulatory code and asking ourselves: Are we driving job growth here in the United States with these policies? Are we driving up middle-class family income with these policies? Are we addressing the income inequality gap by having an economy that truly does lift all ships and, as the President would make the point, are we dealing with the fiscal challenges this country faces so we do not strap our kids with this mountain of debt?

I know there are people on both sides of the aisle who are anxious to work on this, but we have failed that test in this compromise measure. It is my hope that at some point in the near future we can get a vote on this amendment, Senator MORAN's amendment, and we can put Americans back to work in these industries before we lose them forever.

Mr. TOOMEY. Mr. President, I rise today to speak about an important reimbursement issue that impacts the lives of millions of Medicare beneficiaries and providers. The sustainable growth rate, SGR, originally implemented in 1997 through the Balanced

Budget Act, was intended to constrain overall Medicare spending growth in physician services. However, since 2002, actual expenditures for physician services have exceeded allowed targets, yielding negative updates in prospective years. As a result, Congress intervened 13 times to preempt a physician payment cut. In doing so, they failed to address the underlying issue and sustained a flawed reimbursement mechanism. With each year that passes, the cost of 'fixing' the SGR grows, amounting to an albatross of several hundred billion dollars. Consequently, on March 1, 2012, Medicare physicians will face a 27.4 percent cut to their reimbursement. Our budget baseline perpetuates an illusory premise that these cuts will occur. However, it's widely acknowledged that if implemented, these cuts would have a debilitating effect on medical practices and Medicare beneficiaries.

As Congress looks to yet again preempt a physician payment cut, I believe it is imperative that we identify a viable pathway to replacing the SGR. We can begin by utilizing Overseas Contingency Operations, OCO, funding to pay for the \$195 billion in accrued SGR retrospective debt. OCO funds, deemed to be budgetary savings from the drawdown of military engagement in Iraq and Afghanistan, can be appropriately reallocated against accrued SGR debt that will not be collected. This would not constitute new spending, but rather amount to a down payment on an SGR fix. I urge conferees to give strong consideration to utilizing OCO funding to offset SGR's retrospective debt. It's time that Congress use honest budgeting and provide Pennsylvania's 2.2 million Medicare beneficiaries and 155,776 employees of medical practices, with some certainty.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. WICKER. Mr. President, are we in morning business or do I have to ask consent to speak as in morning business?

The PRESIDING OFFICER. The Senate is on the bill.

Mr. WICKER. I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### RECESS APPOINTMENTS

Mr. WICKER. Mr. President, I came to the floor previously to speak about President Obama's unconstitutional appointments of Richard Cordray as Director of the Consumer Financial Protection Bureau and of three new members to the National Labor Relations Board. I spoke about why this blatant overstep of executive authority violates the President's right to make recess appointments under article II, section 2 of the Constitution. I described its unequivocal reversal of years of precedent which the Obama

Justice Department's Office of Legal Council has since defended, essentially stating that pro forma sessions no longer matter.

This issue is far from over. We cannot allow it simply to go away and the illegal appointments must eventually be set aside.

The 23-page Justice Department opinion, written by Assistant Attorney General Virginia A. Seitz, wrongly advises that, despite the convening of pro forma sessions, the President "has discretion to conclude that the Senate is unavailable to perform its advise-and-consent function and to exercise his power to make recess appointments." Under this misguided opinion, the Obama administration is suggesting that the executive branch—not Congress—can determine when the legislative branch is in session. The egregious overreach undermines the checks and balances at the very heart of our Constitution.

I am deeply concerned that this presumptuous action by the President poses profound and dangerous implications. As others have suggested, President Obama's abuse of his recess appointment power could lead to unilateral "recess" appointments anytime, such as during lunch or in the middle of the night. This is not that far fetched.

As I said before, it is my hope that both parties will rise to defend the separated powers our Founders put in place to prevent tyranny and the misuse of authority.

It is worth repeating that the controversy surrounding the President's non-recess appointments has nothing to do with the personal character of Mr. Cordray or of those named to the National Labor Relations Board. Nor is the debate over appointments when the Senate is in recess. What the President has done transcends party issues and ideological divides.

A day after the appointments were made, former attorney general Edwin Meese III and former Office of Legal Counsel lawyer Todd Gaziano wrote in the Washington Post that President Obama's move is "a constitutional abuse of a high order." It challenges 225 years of executive practice.

The Constitution is very clear in its delegation of powers. It explicitly grants the Senate the exclusive responsibility to give "advice and consent" on treaties and nominations. It endows the President with the right to fill vacancies when the Senate is not in session—a provision conceived by the Framers as a way to keep the government operational when the ability of Senators to communicate with the executive branch and travel back to the Capitol took much longer than today.

Of course, it is disappointing that President Obama has dismissed the will of the Senate, which rejected Mr. Cordray's nomination in December.

But never before has a President assumed the authority to issue recess appointments when the Senate is not in recess. In doing so, the President is violating the Constitution plain and simple, and invalidating the legitimacy of his appointees. It stands to reason that any decisions of the CFPB or NLRB will be subject to the same shroud of unconstitutionality and legal contest.

The Constitution and nearly a century of legal opinion provide a solid basis for determining the parameters of what qualifies as a legislative "recess," which is required for the President to invoke his appointment privileges.

Under Article section 5, clause 4 of the Constitution, the House of Representatives must grant its consent in order for the Senate to adjourn longer than 3 days. The Senate must do the same for the House.

It is an undisputed fact that the House of Representatives did not give this chamber that consent and, in keeping with the Constitution, this Senate did not adjourn for more than 3 days.

The President's claim that a brief adjournment can be called a "recess" goes against 90 years of legal opinion. In 1921, President Harding's Attorney General Harry M. Daugherty had this to say about what defines a recess: "[N]o one, I venture to say, would for a moment contend that the Senate is not in session when an adjournment [of two days] is taken. Nor do I think an adjournment for 5 or even 10 days can be said to constitute the recess intended by the Constitution."

Since then, Attorneys General and Presidents of both parties have agreed that at least 10 days should pass before a recess is acknowledged.

And yet, as we are aware, there were not 10 days of adjournment when President Obama made his four appointments. We were holding pro forma sessions—proceeding just as the Senate did in 2007, when Majority Leader REID wanted to block President Bush from making recess appointments—and succeeded in doing so. As Edwin Meese and Todd Gaziano acknowledged in their op-ed, "Reid was right, whether or not his tactics were justified."

Michael McConnell, a former Federal judge and director of the Constitutional Law Center at Stanford Law School, came to the same conclusion. Last month, he wrote in the Wall Street Journal:

Several years ago—under the leadership of Harry Reid and with the vote of then-Sen. Obama—the Senate adopted a practice of holding pro forma sessions every three days during its holidays with the expressed purpose of preventing President George W. Bush from making recess appointments during intrasession adjournments. This administration must think the rules made to hamstring President Bush do not apply to President Obama. But an essential bedrock of any functioning democratic republic is that the

same rules apply regardless of who holds of-  
fice.

It is appalling that the Obama administration would call into question the entire legitimacy of pro forma sessions when, less than two weeks before the appointments, the President signed into law the payroll tax extension that the Senate had passed in such a session.

What makes the business conducted during the pro forma session on Dec. 23 any different from the pro forma sessions that came just days after? Based on this case, it appears the validity of a Senate session is subject to the President's whim. He signs legislation passed in one pro forma session. He concludes that another pro forma session did not exist at all.

In the same op-ed to the Washington Post, Edwin Meese and Todd Gaziano concluded:

If Congress does not resist, the injury is not just to its branch but ultimately to the people. [And that is what is important.] James Madison made clear that the separation of powers was not to protect government officials' power for their sake but as a vital check on behalf of individual liberty.

Indeed, the forefathers of this country were candid about the crucial link between the separation of powers and freedom itself.

As Madison wrote in essay No. 48 of *The Federalist*:

It is agreed on all sides, that the powers properly belonging to one of the departments ought not to be directly and completely administered by either of the other departments. It is equally evident, that none of them ought to possess, directly or indirectly, an overruling influence over the others, in the administration of their respective powers. It will not be denied, that power is of an encroaching nature, and that it ought to be effectually restrained from passing the limits assigned to it.

As elected public servants, we are bound by our oath of office to uphold and preserve the principles of the Constitution.

To do that, we must guard the sanctity of the decisions made and privileges held by this chamber. Our government's separation of powers is not an antiquated idea but a timeless safeguard to liberty.

In 1985, Sen. Byrd, the Democratic Majority Leader from West Virginia, wrote in a letter to President Reagan:

Recess appointments should be limited to circumstances when the Senate, by reason of a protracted recess, is incapable of confirming a vitally needed public officer. Any other interpretation of the Recess Appointments clause could be seen as a deliberate effort to circumvent the Constitutional responsibility of the Senate to advise and consent to such appointments.

Where are the Robert Byrds today?

Those who served before us provided precedent and wisdom to address our problems today. They defended the constitutional duties we are now entrusted to protect. Is there not one Democratic Senator who will step for-

ward to defend the constitutional principle of separation of powers?

The President has made no secret of his contempt for Congress in recent months. His campaign rhetoric is heavy with "do-nothing" accusations.

The President is certainly free to engage in election-year hyperbole. But he is not free to overstep the constitutional limits of his office. I can think of a number of other priorities demanding our undivided attention right now—fixing the economy and putting Americans back to work are top among them. Yet in order to address these challenges, we need a working relationship between the legislative and executive branches. The President's power grab undermines the very constitutional foundation of this relationship.

I urge Members from both sides of the aisle to call for President Obama to rescind these appointments. Regardless of our party allegiances, we are united by a pledge to serve the American people. That is what motivated Robert Byrd earlier, and it is what ought to motivate us today. Keeping that promise means standing for the sanctity of our country's founding document and the integrity of this institution.

I thank the Chair.

I yield the floor and note the absence of a quorum.

The PRESIDING OFFICER (Mr. BLUMENTHAL). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CARDIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CARDIN. Mr. President, I wish to take the time now to talk about the conference report that has been filed in regard to the extension of the payroll tax holiday, the Medicare physician issues so our seniors can continue to have access to their doctors, and the extension of the unemployment insurance.

I was appointed to that conference, and the conference has been meeting now for the better part of the last 6 to 8 weeks. We were able to reach an agreement that was filed. I first wish to compliment Senator BAUCUS, the Senate chair of the conference committee. There was a real effort made that this conference would operate the way a conference should operate; that is, the House and Senate Members meeting, discussing the differences between the two bodies and trying to reconcile their differences in a somewhat open process. We had several open discussions where we talked about some of the issues.

Each Member of the conference had a chance to express themselves on the issues, and we had a good exchange. I think during that exchange we were able to reach some consensus. Almost

immediately we reached a consensus that all of us wanted to make sure the payroll tax holiday was extended. The payroll tax holiday provides tax relief for 160 million Americans. This is not the time for paychecks to actually go down for American workers. We are trying to build a confidence in the workplace, in the marketplace. The more money in the paychecks allows people the opportunity to be better consumers, helping to create jobs.

There was general consensus that we needed to extend the unemployment insurance, that we are still in the recovery where unemployment rates are so high that it is important we use this countercyclical program to help people but to also build our economy. It helps create jobs, again having more money available for the consumers to help our small businesses and to help our economy.

Lastly, we all understood we could not allow a 27-percent cut in Medicare rates for physicians, that that would deny many of our seniors access to health care. So very early in the conference process we reached consensus that those three issues should be extended, at least through the end of this calendar year. For the payroll tax holiday, that was our understanding, to extend it through the end of the year.

We know the Medicare issues need to be extended for a longer period of time. We worked together. I thought it was very important that we allow the full Senate, the full House to consider that conference report. We have had too much gridlock. We have had too much of individual Members trying to block the consideration of important legislation, particularly in the Senate. So I think it is very important that we were able to bring this issue to the full Senate, and we are going to have, I hope, a good debate, and sometime tomorrow we are going to have a chance to vote on whether to accept the conference report.

There is some good news. I do applaud again Senator BAUCUS and my colleagues Senator CASEY and Senator REED on the work that was done by the Democrats on the committee. We took a very strong position against adding these extraneous positions that came over from the House, the so-called Boiler MACT, which was a provision that would have affected the health of people in our community. There is no question that if we would have accepted the House position, it would have weakened our Clean Air Act, it would have led to more premature deaths, more hospital admissions, more lost days from work. The cost-benefit ratio of this rule is well documented, that it will help our economy, help save the health and workdays for American workers.

We also removed a provision from the House bill that dealt with the Keystone issue. This has to go through a regular

regulatory process. It should have no place in this conference. We were able to remove that provision.

On the unemployment insurance front, let me mention that we were able to reserve the extension of unemployment insurance benefits. Under the current law, there is a maximum available of 99 weeks. Let me remind my colleagues that because of the way the extended benefit program is calculated, that at least in my State by April, those 20 weeks are likely to be not available for new people who become unemployed, and throughout the rest of our Nation, we are finding that extended benefit program will not be providing those extra weeks.

So the conference committee recommendation is to try to use better triggers as it relates to the different tiers of benefits in the extended benefit program, so the high unemployment States have a greater number of weeks than those States that are doing better and to transition us to a more regular unemployment system as we go through the year.

In regard to the Medicare provisions in this bill, we were able not only to extend the sustainable growth rate, the SGR system, so we do not get the automatic cuts that would occur against physicians, we were able to extend that through the end of the year. But we also extended the therapy caps. If we did not do that, those who are the victims of stroke or who have had a hip replacement would have run into an arbitrary cap which would provide them the therapy they need for their recovery. We were able to get that done.

On the payroll tax, as I said earlier, there was an agreement we would extend that. The payroll tax is all about helping 160 million Americans. It is about creating jobs.

That is where we were able to come to an agreement that I think was in the best interest of the conference. Let me talk about some serious problems I have with the conference report. It deals with how we decided to fund or offset the cost of unemployment insurance extensions. Let me remind my colleagues that this is a short-term extension, where we are phasing out the extra benefits through the end of this year. It is calculated to cost about \$30 billion. Historically, we have extended unemployment insurance benefits during tough economic times without having offsets.

Why? Because unemployment insurance is countercyclical. It is there to help people during tough times. During good times we pay money into the system. We are trying to put more money into the economy. It does not make sense to take money out of the economy when we are trying to create jobs and get our economy back on track.

Unfortunately, that principle was violated in this conference report. The \$30 billion is offset. Let me compare

that to the payroll tax holiday, which is \$100 billion, which many of us think should be offset, which is not offset. As you know, we came in with recommendations where we could fairly offset the extension of the payroll tax holiday without adversely affecting our economy. We had suggested we would have a surtax on income, exempting \$1 million of taxable income from the surtax—a little bit of fairness in our Tax Code—in order to make sure we do not add to the deficit, do not hurt the economy but allow middle-income taxpayers to continue to get their tax relief.

To me, that would have been the responsible thing for us to do. But we do not do that in this conference. Instead, we did not pay for the \$100 billion for extending the payroll tax, but we paid for the unemployment insurance benefits, \$30 billion, which I would suggest is an emergency. That truly is a matter that historically we have not paid for.

All right. Here is the problem. In order to pay for that \$30 billion, we picked on our Federal workforce. I tell you, I find that wrong. We put a provision in this bill that will require new Federal employees, those who start work after January of 2013, to pay more for their defined retirement benefit. That is how we funded about half the cost of extending the unemployment insurance. I think that is wrong.

Let me also say that the extension of the unemployment benefits is temporary—only until the end of this year. The extra costs for the retirement benefits are permanent. It stays in the law. That doesn't seem like a good deal for what we are trying to do.

We also are saying that one group of workers, and only one group, makes a contribution toward this. These are middle-income workers who will be paying for this, a large part of the unemployment insurance cost. I don't think that is right. I don't think we should have done that.

Let me also point out, as we talk about the Federal workforce, that the additional cost the new workers will pay will be 2.3 percent of their payroll, which will go to a retirement trust fund that is already fully funded. So this is not to address a problem with the funding of the retirement plans for our Federal employees; I think this is strictly a punitive hit at the Federal workforce.

Public servants have already given \$60 billion toward deficit reduction in the form of a 2-year pay freeze and will give at least another \$30 billion if the base pay adjustment for 2013 is .5 percent instead of the 1.2 percent, which is what the adjustment should be under the Federal Employees Pay Comparability Act. Add it all together, and present and future Federal workers are providing over \$100 billion in deficit reduction. That is \$100 billion in deficit

reduction coming out of our Federal workforce. Yet the Republicans continue to defend the most affluent Americans who won't pay one extra penny for funding this payroll tax package. I don't think that is right, I don't think that is fair, and I don't think we should have done it in that manner.

Now, I want to say some positive things. You can always look at things and say it could have been a lot worse. And that is true, it could have been a lot worse. When you look at the House bill that included these provisions, it included a pay freeze for our Federal workers. That is not in this. We got that out.

I worked very hard with my colleague, Congressman CHRIS VAN HOLLEN from Maryland. We worked together. In the original package, all Federal workers would have had to pay more, including current Federal workers. This package does not affect current Federal workers. They will not have to pay extra for their pension plans. That is fair. When they signed up as a Federal employee, they knew what the ground rules were and they knew what the pension contributions would have to be and what the benefits were. It is right that we live up to that commitment. So this agreement will not affect current workers. Their pension contributions will remain the same.

The bill that came over to us from the House also reduced pension benefits. We took that out of the bill. That is not in the bill. And the rate they would have had new hires pay is higher than what we agreed to in this package.

Congressman VAN HOLLEN and I worked very hard to try to accommodate the parameters of the conference and what was being required of our Federal workforce in a way that it would not penalize our existing workers and would not be anywhere near as punitive as the provisions that were put in the House bill. So we are at least grateful that the conference includes that, but I can't help but be disappointed that the unemployment insurance is being financed at least in half by a permanent change in the contribution rates to defined benefit plans by those who join the Federal workforce after January 1, 2013. They are the only ones who are affected by that proposal.

Let me conclude by saying that we all should be pleased that the conference worked, that we took a difficult issue in which there are strong fundamental differences between the House and the Senate and we were able to come to an agreement to at least be presented to the Members of the House and Senate for an up-or-down vote where each of us can make our own judgment as to whether we think this is the right package for the American

people. I might have a different view than the Presiding Officer, and we will both be able to express our views by our votes tomorrow.

I hope that process will be used to get more work done for the American people. They want us to work together. They want Democrats and Republicans to say: OK, we know we differ on issues. Now let's get together and get things done.

We have the Transportation bill that is on the floor and that we are talking about today. That Transportation bill should end up on the President's desk. That Transportation bill came out of our committees with bipartisan votes. So now let's not clutter that bill with issues that will divide us. Let's work in the spirit the conference committee did—a committee on which I was privileged to serve—and try to keep it relevant to the issues at hand so that at the end of the day we can not only pass the Transportation bill in the Senate, but we can get it passed in the House of Representatives—or work out our differences—and get it to the President for his signature. That bill will create jobs.

By the way, I think the American people will applaud us for moving forward with the people's business. That is what we need to do. If we could get that bill done, maybe—just maybe—we can get other issues done.

I have talked to my Republican colleagues, and they all agree we can't allow sequestration to take place. That is these automatic cuts, if we can't do another \$1.2 trillion of deficit reduction over the 10 years. We should be able to get that done. We shouldn't have to wait until after the November elections. Let's take a lesson from the conference committee on which I served. Let's sit down and work out our differences and not just say "it has to be my way or it is not going to get done." That is what is in the best interests of the Senate, and that is in the best interests of our Nation.

I hope we will have a robust debate on the conference report. I hope each Member will have an opportunity to review it, and at the end of the day we will have a chance to see how the votes turn out. Again, I am sorry I have certain reservations about it, and I needed to express them, but, quite frankly, I think we need to stand for our Federal workforce out there every day providing services to our people. Whether it is guarding our borders, whether it is finding the answers to the most dread diseases, whether it is helping us develop the technology that will make America competitive, or providing public safety as a correctional officer or helping us make sure we get our Social Security checks or get our disability checks, these are the people on the front lines. We are asking them to do more with less, and they deserve not just the respect of this body but they deserve our support.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. I ask unanimous consent that I be recognized as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. INHOFE pertaining to the introduction of S.J. Res. 37 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. INHOFE. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. FRANKEN). The clerk will call the roll.

The bill clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WYDEN. Mr. President, I ask unanimous consent to speak as in morning business and would also ask unanimous consent that following my remarks, my colleague in this effort to fund transportation projects, Senator HOEVEN, follow me.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WYDEN. Mr. President, we all understand that our country faces an array of major economic challenges, and I made the judgment quite some time ago that it was simply impossible to have big league economic wealth with little league transportation systems. All across the country—I know the distinguished Presiding Officer has seen this in Minnesota, where he has been doing good work on infrastructure and bridges—we have seen this in every corner.

When the Senator from North Dakota came to the Senate, I had the good fortune to begin to have discussions with him with respect to some new ways to address the question of how to generate funds for the critical transportation work that needs to be done and to generate those funds in a fashion that would be acceptable to the American people.

I think we all understand that with this kind of an economy and with skyrocketing gasoline prices, it is not very likely that folks will be marching outside our Senate offices anytime soon carrying signs saying: Senator, please raise the gas tax; that is what I hope you will spend your time doing. So we have this challenge given the fact that

the traditional system of funding transportation—user fees—of course, in a tough economy, is going to be hard to suggest as a route to generate additional funds.

So for quite some time I have been devoted to the cause of trying to find a way to secure the possibility of getting additional funds through transportation bonds. They, of course, have been used at a variety of levels of government, particularly State and local, over the years.

About 8 years ago, I put forward the first proposal for looking at paying for transportation projects with our former colleague, Senator Jim Talent, a Republican from Missouri, and we called them Build America Bonds. Senator Talent and I thought at that time that this was an opportunity to come up with a fresh and attractive way to pay for transportation projects. We sought to work with the private sector to find some way to use Federal tax credit bonding for these projects, and over the years Senator Talent and I were able to attract a number of Senators on both sides of the aisle for this cause. To give an idea of just how bipartisan this effort has been over the years, Senator THUNE, Senator VITTER, our former colleague Senator Dole, Senator COLLINS, Senator WICKER, and our former colleague Senator Coleman are just a few on the Republican side who were part of the effort. And on the Democratic side, Senator KLOBUCHAR, our former colleague Senator Dayton, Senator CARDIN, and Senator ROCKEFELLER have been just a few of those who have supported the bonding efforts.

In 2009 the Congress decided to test a version of Build America Bonds. In effect, as a member of the Senate Finance Committee, I had brought it up so many times with Chairman BAUCUS and Senator GRASSLEY, who was then the ranking member, I think the two of them said: Well, let's give this a try as part of the Recovery Act. In effect, it would essentially go from the middle of 2009 until the end of 2010.

Late in the evening, as Chairman BAUCUS and Senator GRASSLEY were working to put together the details on the Recovery Act, I was asked what I thought might be the results of the Build America Bonds program, and I said: Well, it is not going to last all that long. It is going to take the Internal Revenue Service a period of time to put together the rules. And I said: I am just making this up, but why don't we just estimate that it might generate \$6 billion to \$10 billion worth of transportation and infrastructure investments.

Everybody said: It is an experimental program, sounds promising, go ahead. Let's give it a try.

Well, between April 2009 and the end of the program at the end of 2010, there was more than \$181 billion worth of Build America Bonds issued. It was



just a little bit more than 18 times what was predicted.

You don't often have this kind of challenge, but, in effect, one of the issues we had to deal with was Build America Bonds became so popular that there was an effort to use them for a variety of other kinds of projects, many of them very laudable but they were not projects that focused specifically on transportation, and, of course, that was the original intent of Build America Bonds. Also, there was no cap on them. Nobody realized they would be so popular.

So there was a concern that this was more than colleagues on both sides of the aisle had bargained for.

We do want to note that the Treasury Department issued their final report on Build America Bonds earlier this year, and they said that Build America Bonds issuers saved well over \$20 billion in borrowing costs on a present value basis as compared to tax-exempt bonds.

So clearly there was something to work with in terms of trying to take the next step, and when the Senator from North Dakota arrived here, I said: It would be great to have an opportunity to work with a partner and look specifically at trying to rebuild the concept of focusing specifically on transportation in a way that would generate a substantial amount of new revenue and would be acceptable to colleagues across the political spectrum and those who follow these issues.

As the Senator from North Dakota knows, we have now come up with a new approach called Transportation and Regional Infrastructure Project Bonds. Chairman BAUCUS and Senator HATCH have been good enough to include them in the finance title of this year's Transportation Funding Program, and we wanted to take a few minutes to talk a little bit about how this would work.

Given the fact that we have been able to attract a number of folks on the progressive side of the political spectrum—folks in labor, for example—Doug Holtz-Eakin has issued a very helpful paper that I hope will also bring conservatives to this cause. We have shared that paper with Senators on both sides of the aisle.

The way the TRIP bonds would work is, first, they are tax credit bonds created specifically for transportation projects. We would allow infrastructure banks that already exist in nearly every State to issue these bonds. This time we are looking to really focus on the States. The States are the primary vehicle for ensuring that these projects would have local support and would really meet the long-term needs the States have identified.

We would pay for the bonds with a sinking fund comprised of State matching contributions and Customs

user fees. In the proposal that was accepted by the Finance Committee, we would cap the total amount of bonds issued at \$50 billion, giving each State 2 percent of the total. In effect, what the Finance Committee has done is put a placeholder in their bill for us to go forward with this effort.

Each State would get at least \$1 billion in bonds to issue on projects at their discretion. States can also band together to bond for larger projects or ones that would have the benefit of addressing a concern of States in a region. This would give the States the incentive and the ability to invest in their own transportation and does so in a way that leverages private investment and costs little to our government in lost revenue.

We would give private investors who show a willingness to help build our roads, bridges, and rail systems a tax credit for their commitment. What Build America Bonds taught us is that there is a real market out there, and what we would like to do is look at a different approach now, focusing on the States, focusing on an approach that would drive these projects, not in Washington, DC but at the local level.

The Joint Committee on Taxation has told us this is an approach that would produce a particularly good deal for American taxpayers.

We can get a transportation bill done. We can put folks back to work. But we are going to have to find a way to come up with more creative approaches to generate additional revenue. If we do not, I think we are going to continue to see, in every corner of the country, critically needed projects simply go unaddressed. We are going to continue to see traffic jams in areas of the country nobody could have even dreamt a traffic jam would be.

I hope Senators, as we go forward with this debate, particularly after the President's Day break, will join my colleagues. Senator BEGICH has been very supportive of this approach as well. We think this is an approach with a proven track record given what we saw with Build America Bonds. We believe this is a chance to take the lessons we learned from that experience and, by changing the focus so it zeros in more directly, one, on transportation, two, on the States, and looks to some creative features—it is possible, for example, for someone to strip the credit from the underlying bond and to sell the credit—so this provides a lot more flexibility in terms of finding a way to get the private sector into the transportation area.

I hope my colleagues, when we come back, will be supportive of this effort. It has won, as I have indicated, support from across the political spectrum.

I want to thank my partner from the State of North Dakota. I have very much enjoyed working with him both on the Energy Committee and on this

issue. As a former Governor, I think he understands particularly well the role of the States in terms of infrastructure.

We will be talking to colleagues between now and the time the Transportation bill comes up, and I thank my friend from North Dakota for his support.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. HOEVEN. Mr. President, I thank my esteemed colleague from the great State of Oregon, Senator WYDEN, for his leadership on this important issue, for his work on the highway bill, and specifically for his work on the TRIP bonds, as he said, the Transportation and Regional Infrastructure Project bonds. It is a creative concept, and I think it is very timely.

Senator WYDEN approached me and said: As we are working on this highway bill, can we work together on this concept of something like a TRIP bond concept? I expressed my appreciation for his creativity and the offer to work together and said, one, I absolutely wanted to do it because it is so important to our country right now—we need the jobs, we need the economic activity, we need the infrastructure, that is clear—and, as the good Senator said, we have to be creative in figuring out how to do this.

I said: We are going to have to do it within the framework of making sure it is paid for and making sure it does not add to the deficit or the debt. He said: Agreed. And we went to work on it.

So this truly is bipartisan, and I thank him for taking the initiative and for all the work both and he his staff have put into what I think is a very creative idea and a real opportunity for us, as I say, in infrastructure and in job creation and economic activity for our country.

I also extend my thanks to two Members of the House of Representatives as well, both ED WHITFIELD, Congressman from Kentucky, Republican, and Congressman LEONARD BOSWELL, Democrat from the State of Iowa.

So in both the Senate and the House this has been a bipartisan effort. That is important because at the end of the day, if we are going to get this passed, that is what it is going to take, bipartisan support. So this is about addressing something that is vitally important: our infrastructure needs, job creation. It is something we pay for, so it does not increase the deficit or the debt, and it is absolutely bipartisan.

Again, as my esteemed colleague just mentioned, I bring a perspective as a Governor. We are talking about \$25 billion in addition to the normal highway funding. So this is for projects in infrastructure that State departments of transportation and Governors—people at the State level, at the local level—



decide what infrastructure projects need to be done, and they can then use these funds accordingly. That is of tremendous value to them. Without exception, go across the States, ask any of the Governors or directors of transportation, and they will tell you: That is exactly the kind of funding we want and need to do the very best job for the people we serve in our respective States.

Mr. President, \$25 billion—\$10 billion the first year, \$15 billion in year 2—will make an incredible difference for every single State in the country.

Now, the other thing to keep in mind is—Senator WYDEN went through for just a minute how we have structured the bonds—essentially, it results in a 4-to-1 leveraging of funds for every State. They put their dollars into the sinking fund. They select the projects. Then, on a project-by-project basis, they put forward dollars in the sinking fund, and we provide them a 4-to-1 match.

So, for example,  $\$1\frac{1}{2}$  billion goes to a State. As they select projects, that  $\$1\frac{1}{2}$  billion funds those projects. They put up \$100 million as they select and advance those projects. For their \$100 million, they are doing \$500 million in projects.

Again, this is exactly what the States are looking for. This is exactly what they need to meet their infrastructure needs. Anyone driving around the country—whether it is in the District or anywhere else—is going to tell you: Look, we have to address our infrastructure needs. And this is absolutely something that will make a big difference in doing that.

Again, in addition to being truly a bipartisan effort, and a bicameral effort, at this point we have received tremendous support and encouragement from across the country and from truly a diverse range of groups—from labor, from business, from mayors, from county commissioners. It truly has not only bipartisan support but incredibly strong support across the country.

Just some of the various groups that have come out and already endorsed the project include the American Association of Road and Transportation Builders, the American Association of State Highway and Transportation Officials, the U.S. Chamber of Commerce, the American Highway Users Alliance, the Associated General Contractors of America, the International Union of Operating Engineers, the Laborers' International Union of North America, the National Association of Manufacturers, and the American Society of Civil Engineers.

Again, mayors, commissioners—this truly has broad, strong support at the grassroots level. That is reflective of the fact that it is exactly the kind of project we need to advance.

So as we work on this highway bill, I see this as a tremendous opportunity—

really an opportunity, and not just in terms of the infrastructure we so badly need but to put people to work in good jobs, in good-paying jobs. Think of the ramifications that has, the secondary ramifications that has for our economy right now. It is incredibly important. It makes a huge difference, and then we have the lasting infrastructure, we are meeting the lasting infrastructure needs of this country.

Before I yield the floor, just a final comment and that is to ask our colleagues to join us in this effort. If they have good ideas, we are absolutely open to those ideas. But this is a concept whose time has come. We need to make sure, as we work forward on this highway bill, we include the TRIP bonds as part of that package.

With that, I yield the floor back to my esteemed colleague.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I ask unanimous consent to proceed for just 2 additional minutes. I see our friend from Iowa is in the Chamber.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WYDEN. Mr. President, I thank my colleague from North Dakota for his statement. This is bipartisan. It is a bicameral effort. My colleague's point at the end, in terms of our being open to additional ideas and suggestions, is particularly appropriate.

What the challenge is going to be on this transportation issue for years to come is to try to find a way to generate the additional money for the work that needs to be done in a fashion that is acceptable to the American people. If it was so easy, everybody would be just ripping through one idea after another.

The two of us have spent many months trying to take the lessons we have learned from the Build America bonds effort to try to come up with a fresh approach, a fresh bipartisan approach, that would be acceptable to colleagues on both sides of the aisle. We think we have done it. We do not think this is the only way. We are certainly open to ideas and suggestions. But the model of trying to focus on the States, to build on the support we have from folks in business and labor unions, and a whole host of groups at the local level—mayors and county commissioners—strikes us as the way to go.

We are open to additional ideas and suggestions. Our staffs will be working all through this week, the period of the President's Day recess, to refine our proposal, to deal with the various issues related to scoring. But this is a genuinely new approach to generating revenue. It is bipartisan; it is bicameral, with the support of folks in labor and business. We hope colleagues will be supportive, and we are interested in their ideas and suggestions

over this period between now and when we start voting on the Transportation bill.

So, again, I thank my friend from North Dakota. It has been great to work with him.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent that at a time to be determined by the majority leader, after consultation with the Republican leader, the Senate proceed to the cloture vote with respect to the Reid amendment No. 1633; that if cloture is invoked on the Reid amendment, the second-degree amendment be withdrawn, the Reid amendment be agreed to and the bill, as amended, be considered original text for the purposes of further amendment; that if cloture is not invoked, the motion to recommit and the Reid amendment No. 1633 be withdrawn; that immediately following the cloture vote and the actions listed above, depending on the result of the cloture vote, the Senate then proceed to executive session and the cloture motion on the Furman nomination be vitiated; that there be 2 minutes equally divided between the chair and ranking members of the Judiciary Committee prior to a vote on the confirmation of the Furman nomination; that if the nomination is confirmed, the motion to reconsider be considered made and laid upon the table, with no intervening action or debate; that no further motions be in order; that any related statements be printed in the RECORD; that the President be immediately notified of the Senate's action; that following the vote on confirmation of the Furman nomination, the Senate then resume legislative session and the majority leader be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Iowa is recognized.

#### PAYROLL TAX CONFERENCE REPORT

Mr. HARKIN. Mr. President, I come to the floor to state my vehement opposition to the agreement to extend the payroll tax cut and to slash the Public Health and Prevention Fund to help pay for the continuation of unemployment benefits.

Let me preface my remarks by stressing that the No. 1 priority in Washington today must be creating jobs, growing the economy, and restoring the middle class. In recent months,

we have seen modestly good news on the jobs front, including the manufacturing sector, and we must do everything possible to keep our economy moving in the right direction.

To this end, nothing is more effective than continuing unemployment insurance benefits for those hardest hit by the great recession. Details on the unemployment insurance portion of this agreement are not available. But what I am hearing sounds less and less like a good or fair deal for workers.

Federal unemployment benefits will be dramatically scaled back over the year, especially in Iowa, my own State, and some other States in the Midwest. I do not understand that. It seems to me, if you are unemployed, you are unemployed. If you are out of work and your family needs help, I do not care whether you live in Iowa or Minnesota or New York or New Jersey or anywhere else.

The payroll tax provisions are also seriously flawed. This Congress will be making a grave mistake—a grave mistake—and reinforcing a dangerous precedent by extending the payroll tax cuts and adding another negative, without paying for it. I am dismayed that Democrats, including a Democratic President and a Democratic Vice President, have proposed this and are willing to sign off on a deal that could begin the unraveling of Social Security.

Two of the critical strengths of Social Security are that it is universal and it is self-funded. Not one dollar in benefits ever came from any source other than the payroll tax on future Social Security beneficiaries. Moreover, the program has never contributed even one dime to the deficit or the national debt. How often have we, those who support Social Security in its entirety—how many times have we come to this floor and argued against those who would invade Social Security and say, well, we have to reduce the deficit, so we will cut Social Security. What do we say, with all honesty, with all the evidence backing us up? Social Security has never contributed one dime to the deficit.

So cutting Social Security will never reduce the deficit. With this bill, we can no longer say that. We can no longer say Social Security does not contribute to the deficit. This argument, this fact, that Social Security has never contributed a dime to the deficit has given Social Security a unique, even an almost sacrosanct, status in our society.

It was one of the strongest arguments, I repeat, for those of us defending Social Security from misguided attempts to cut it in the name of deficit reduction. Some might say, well, people are out of work; with the fragile economy, we need to put some spending in the pockets of our middle-class Americans.

I could not agree more. The biggest job creator in America is not someone who is rich and has billions of dollars. The biggest job creator in America is a working American with money in his or her pocket to spend. That is the biggest job creator.

So, yes, we have to get money in the pockets of working Americans, and we have done that in the past in a good way. In the 2009 Recovery Act, working Americans received a 6.2-percent credit of their taxes, refundable up to \$400, to increase their spending power and boost the economy. This in no way impacted the Social Security trust fund. I supported that, wholeheartedly supported that.

However, in late 2010, Congress voted to replace that tax credit with a 2-percent reduction in payroll taxes which are dedicated to the Social Security trust fund. This was done on a temporary basis to provide added income for working families, and it was not offset. It was not paid for. So for the first time—for the first time—general revenues were transferred to the Social Security trust fund to replace lost revenue.

While this ensured that no financial harm was done to the trust fund itself, what it did is it created a dangerous precedent by calling into question Social Security's dedicated funding. I voted against that bill. So in late 2010, we transferred general revenues to replace lost revenue.

In December of 2011, just a couple months ago, we were persuaded to support the 2-month extension of the payroll tax cut. Some may look at the record and say: HARKIN, you voted for that. I did with misgivings. But a critical factor was that it was at least fully paid for and would not negatively impact the Social Security trust fund.

However, we are being offered an agreement that extends the payroll tax cut through the end of this calendar year. Bad enough, doubly negative, it does not pay for it. This is terrible public policy, with grave consequences for Social Security. With this new agreement, we will be taking \$100 billion from the general fund, which is in deficit, by the way. So we are going to add \$100 billion to the deficit, to substitute for the \$100 billion in revenues lost due to the payroll tax cut. As I said and I repeat, we will be adding \$100 billion to the deficit and the debt.

This compounds the mistake Congress made in late 2010 by passing the original payroll tax cut without paying for it. No longer—no longer—can we say Social Security is a program that pays for itself without adding to the deficit. Mixing general revenues into the system will make it easier for those who have long wished to dismantle Social Security to do so in the future.

Worse—worse—since this tax cut is not being paid for, there is a much

greater likelihood it will be extended yet again in the future because, you see, there is another precedent here: Tax cuts do not have to be paid for. Only spending has to be paid for, not tax cuts.

Does this not open the door to even further extending payroll tax cuts because we do not have to pay for it? I choose my words carefully. Make no mistake about it, American people, make no mistake about it. This is the beginning of the end of the sanctity of Social Security. The very real risk is that Social Security will become just another program to be paid for with deficit spending and then in the future perhaps raided to help reduce the deficit.

I never thought I would live to see the day when a Democratic President and a Democratic Vice President would agree to put Social Security in this kind of jeopardy. Never did I ever imagine a Democratic President beginning the unraveling of Social Security. I warn my colleagues to consider the long-term ramifications of these actions.

While we need to maintain temporary supports for middle-class families in these tough economic times, this assistance should not come at the expense of American's retirement security. As traditional pensions have fallen by the wayside, as the value of people's retirements in 401(k)s has plummeted, Social Security remains the one essential program preventing millions of seniors from plunging into poverty in their retirement years, a program started by a Democratic President and a Democratic Congress, further enhanced by future Democratic Presidents, others, Truman, Kennedy, Lyndon Johnson, of course, the Great Society.

This, I believe, has been the hallmark and the underpinning of the party I have been proud to belong to. Now this party—this party—the Democratic Party, with a Democratic President, is now beginning the unraveling of Social Security. That is what is happening, the unraveling of Social Security. Never again can any one of us come to the floor and say: No. No, we cannot cut Social Security to reduce the deficit because it does not add to the deficit.

With this agreement, Social Security will add to the deficit by \$100 billion. Think about it. I urge my colleagues to look at excellent alternative ways of providing temporary support to our middle class. One proven approach would be to enlarge the Making Work Pay tax credit I talked about that was in the Recovery Act. Again, this tax credit, as I said, put an additional \$800 in both 2009 and 2010. It could be enlarged to provide the similar level of benefits to median-income working families as compared to the payroll tax cut.

So instead of cutting the payroll tax, let's do the tax credit that we had in 2009 and 2010, just bump it up a little bit. How do we pay for it? The same way we are paying for the cut in the Social Security taxes. Put it on the deficit. Put it on the deficit. But at least we are not invading the Social Security trust fund. Cutting the payroll tax is a bad idea, a terrible idea. I am embarrassed it is being proposed by a Democratic President and a Democratic Vice President.

We could fully pay for a tax credit, a refundable tax credit, do it over a 10-year period of time so it does not negatively impact the fragile economic recovery. It would support middle-class families, give them the support they need and deserve, but it would not harm Social Security.

I said there were a couple reasons I am opposed to this. That is one. That is a big one, what we are doing to the Social Security trust fund. But I must also state my strenuous opposition to the cuts in this agreement to the Public Health and Prevention Fund that is in the Affordable Care Act.

My Republican friends and colleagues have been trying to get at the health care reform bill ever since we passed it: Cut it here, nick it there. We have fought that off. The health care act is now making a big impact in Americans' lives. Need I mention the fact that kids are covered now, even though they may have a preexisting condition. Young people can stay on their parents' policy until they are age 26. But we put into that affordable care act a Prevention and Public Health Fund, with the aim of transforming America's sick care system into a true health care system, emphasizing wellness and prevention and public health, keeping people out of the hospital in the first place.

So this last October things started kicking into effect. Beginning last October, for example, women over age 40 could get a mammogram every year with no copays, no deductibles, no cost. It has to be absorbed in the insurance program. Seniors on Medicare get a free screening of their health and a health assessment every year so they know what to do in the future to keep themselves healthy. No copays, no deductibles. Colonoscopies over age 50, no copays, no deductibles. We also started investing in proven programs to promote health and wellness, decreasing obesity, for example, across the country, through this fund.

Earlier this month, the Trust for America's Health released a remarkable study showing that a 5-percent reduction in the obesity rate could yield more than \$600 billion in savings on health care in the next 20 years. This study is the latest confirmation of what common sense tells us: Prevention is the best medicine both for our bodies and for our budgets.

Now think about it. We currently spend more than \$2 trillion on health care each year. An estimated 75 percent of that is accounted for by preventable chronic diseases and conditions. Chronic disease is a prime culprit in the relentless rise in health insurance premiums, and it contributes to the overall poor health that places our Nation's economic security and competitiveness in jeopardy.

This is shameful and, frankly, exasperating because we know how to prevent many of these diseases and conditions from developing in the first place. We know a lot about the power of prevention through the kinds of evidence-based clinical and community prevention programs and things that are funded by the Prevention and Public Health Fund. For example, for every \$1 we spend on the full course of childhood vaccines, we can save \$16.60 in future health care costs. Not a bad return on a dollar, not to mention the quality of the lives of kids who don't get measles, mumps, rubella, polio, and a whole bunch of other diseases.

Given the relentless rise in health care costs, it is a classic case of penny wise and pound foolish to take money from the Prevention and Public Health Fund. Americans get it. Americans get it when it comes to disease prevention. They understand that prevention saves lives, saves money, and is the common-sense thing to do. In this bill—again, for the first time—\$5 billion is taken out of the Prevention and Public Health Fund—\$5 billion. This is outrageous and unacceptable.

As I said, Americans get it. Here is a letter from the American College of Preventive Medicine urging us to oppose taking any money, to diverting any money from the Prevention and Public Health Fund. Here is the Coalition for Health Funding, opposed to taking money from the prevention fund. The American Heart Association is opposed taking money from the prevention fund; the Campaign to End Obesity Action Fund, opposed to taking money from that fund; the Center for Science in the Public Interest, opposed to taking money from the prevention fund; the Heartland Alliance, opposed to taking money from the prevention fund; the Association of State and Territorial Health Officials, opposed to taking money from this fund; the Prevention Institute, opposed to taking money from the Prevention and Public Health Fund; the American Heart Association, the National Alliance of State and Territorial AIDS Directors, the American Public City Health Officials, the American Lung Association, the National Viral Hepatitis Roundtable, the Association of Maternal & Child Health Programs, the American Association of Colleges of Pharmacy—722 groups across this country—opposed to taking money from the Prevention and Public Health Fund.

Mr. President, I ask unanimous consent to have printed in the RECORD at the end of my remarks some letters in opposition to this taking. There are over 700 organizations in opposition to this.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HARKIN. So who do we listen to, Mr. President? Do we listen to public health officials—the American Heart Association, the American Lung Association, people all across America saying don't do this?

This is what is going to save us in the future. Yet they are taking \$5 billion out of it. It is totally unacceptable and it is outrageous—outrageous—outrageous. And again, this wasn't in either the House or the Senate bill. If I'm not mistaken, maybe a point of order lies against things in a conference report that were not considered either in the House or the Senate.

This agreement is being presented as a done deal, nothing we can do about it. Well, I urge Senators to think about the dangerous consequences and precedence of passing this bill in its current form. This bill ends Social Security's historic status as a program that pays for itself. Think about it. The bill validates the absurd idea that tax cuts have a special status—they do not need to be offset, but spending does. Think about it. And this bill foolishly slashes funding for the Prevention and Public Health Fund, cuts that will significantly add to the deficit in future years.

I repeat: We need to continue to bolster the economy and boost the income of ordinary Americans. This bill is not the way to do it. It is a devil's deal. It is a bad deal. There are better ways to accomplish these goals. I urge my colleagues to vote against this terribly misguided bill in its current form.

#### EXHIBIT 1

#### AMERICAN COLLEGE OF PREVENTIVE MEDICINE, February 9, 2012.

On behalf of the American College of Preventive Medicine (ACPM), I urge you to oppose any effort to divert funds from the Prevention and Public Health Fund to finance an extended "doc fix" in the Medicare physician fee schedule as part of the negotiations on H.R. 3630, the Temporary Payroll Tax Cut Continuation Act of 2011. ACPM is the national professional society for over 2,500 physicians who dedicate their careers to prevention and health promotion at the individual and population levels. As such, ACPM has a primary interest in expanding our nation's investment in prevention to improve the health of communities across the country while adding greater value to our health care system.

While ACPM has been a staunch supporter of efforts to fix the broken sustainable growth rate formula used to calculate Medicare physician reimbursement levels, the College will not support any proposal that diverts funds away from disease prevention programs in order to increase payments for

disease treatment. The Prevention and Public Health Fund, established through the Affordable Care Act, represents a critical investment in public health and a historic commitment towards efforts that will help shift the focus of our health care system from disease treatment to disease prevention and health promotion.

Already, states are using Prevention Fund dollars to bolster our public health infrastructure and to build a stronger foundation for prevention in communities and neighborhoods that are most in need. To drain the fund of its important resources just when communities are now putting prevention to work represents a shortsighted approach to fund increased reimbursements for Medicare providers.

There has long been strong bipartisan support for efforts that improve health, reduce costs, and enhance the value of our health care system. Now is not the time to abandon these goals. ACPM will continue to strongly oppose any efforts to decrease the federal commitment to prevention and public health and we ask that you join us in these efforts.

Sincerely,

MIRIAM A. ALEXANDER,  
MD, MPH,  
ACPM President.

COALITION FOR HEALTH FUNDING,  
Washington, DC, February 15, 2012.

DEAR MEMBER OF CONGRESS: The Coalition for Health Funding is gravely concerned and deeply disappointed that Congress—in negotiating a compromise on the “extenders” package—plans to raid the Prevention and Public Health Fund to partially offset the costs of a temporary patch to Medicare physician fee schedule. The Coalition’s 75 national organizations—representing more than 100 million patients and families, health care providers, public health professionals, and scientists—feels strongly that it is penny-wise and pound foolish to cut public health and prevention funding. We urge you to oppose these proposed cuts to the Fund, and instead consider the return on investment the Fund will show in the long-term by keeping people healthy.

Prevention and public health are vital to securing America’s position as a global leader in prosperity, discovery, and military capability. The Prevention and Public Health Fund, established through the Affordable Care Act, represents a critical investment and an unprecedented commitment to improving America’s health.

Already, states and communities are using the Fund to combat chronic diseases, which account for 70 percent of all deaths and 75 percent of all Medicare spending. Specifically, the Fund is bringing communities together to reverse the obesity epidemic. A new analysis by Trust for America’s Health shows that reducing the average body mass index by just five percent could lead to nearly \$30 billion in health care savings in just five years.

Evidence abounds—from the Department of Defense to the U.S. Chamber of Commerce—that healthy Americans are stronger on the battlefield, have higher academic achievement, and are more productive in school and on the job. Healthy Americans drive our economic engine, and cost our nation less in health care spending. It is shortsighted to drain the Fund just as communities are now putting prevention to work. We need to improve health, reign in health care spending, and reduce our nation’s deficit and debt. The Fund will help us achieve these goals.

There has long been strong bipartisan support for efforts that improve health, reduce

costs, and enhance the value of our health care system. Now is not the time to abandon these goals by “robbing Peter to pay Paul.” The Coalition strongly opposes any efforts to reduce the federal commitment to prevention and public health. We hope you will join us in our opposition.

Sincerely,

JUDY SHERMAN,  
President.  
EMILY J. HOLUBOWICH,  
Executive Director.

AMERICAN HEART ASSOCIATION,  
Washington, DC, February 15, 2012.  
Hon. MAX BAUCUS,  
U.S. Senate, Hart Senate Office Building,  
Washington, DC.

DEAR SENATOR BAUCUS: The American Heart Association (AHA), on behalf of its more than 22 million volunteers and supporters, urges you to protect the Prevention and Public Health Fund (Fund) and oppose any efforts to reduce, eliminate, or divert its funding as you consider options for paying for an extension of the payroll tax reduction, for unemployment insurance benefits, and for Medicare payments to physicians.

The programs supported by the Fund are essential if we are to reduce the growth of chronic diseases, such as heart disease and obesity, and decrease tobacco use rates, which are primary drivers of rising health care costs. Cardiovascular disease (CVD), including heart disease and stroke, is the leading cause of death and disability in the United States and our nation’s costliest illness. Based on recent projections, prevalence and costs of CVD will increase dramatically in the next two decades, leaving 40 percent of the population with some form of the disease.

We know that prevention works and is one of the best ways to avert this cardiovascular crisis. In a 2008 study, the AHA used a model to evaluate the impact of 11 widely recognized measures for cardiovascular prevention. We found that if all 11 measures were addressed, heart attacks would be reduced by 36 percent and strokes by 20 percent. These measures could add 200 million life-years over the next three decades and increase life expectancy by 1.3 years.

However, only 18 percent of U.S. adults follow three important measures recommended by the AHA for optimal health: not smoking, maintaining a healthy body weight, and exercising at moderate-vigorous intensity for at least 30 minutes, five days per week. Programs supported by the Fund can help Americans adopt healthier lifestyles and we know that the earlier in life they develop these habits, the better. Studies estimate that when people practice these healthy habits reach middle age, they have only a six to eight percent chance of developing CVD in their lifetimes.

Investing in prevention is a smart move during these fiscally challenging times to maintain both a healthy economy and a healthy society. We urge you to protect the Fund.

Sincerely,

NANCY A. BROWN,  
Chief Executive Officer.

PRESIDENT’S BUDGET PRESENTS DANGEROUS,  
COSTLY SETBACK TO OBESITY EPIDEMIC,  
CAMPAIGN WARNS

WASHINGTON, DC.—In the face of staggering costs—both in lives and in billions of taxpayer dollars spent because of the nation’s obesity epidemic—the President’s budget cuts vital obesity prevention programs by \$4

billion over the next ten years, the Campaign to End Obesity Action Fund warned today.

The President’s budget recommends drastic reductions to programs that the White House championed a little more than 18 months ago designed to promote prevention and wellness through “an unprecedented funding commitment to these areas.” At that time, the President specifically proposed “the creation of a national prevention and health promotion strategy that incorporates the most effective and achievable methods to improve the health status of Americans and reduce the incidence of preventable illness and disability in the United States.”

These programs were largely contained in the Affordable Care Act, which established the Prevention and Public Health Fund in significant part to reverse the obesity epidemic and help the nation secure a healthier future. The Fund—the whose budget the President now proposes to cut by more than 20 percent over the next 10 years—enables work by state and local governmental agencies and community organizations to increase healthy food options in schools, create physical activity programs and promote incentives for workplace wellness.

In a statement, Stephanie Silverman, co-founder of the Campaign to End Obesity Action Fund, said:

“The President must know that there is little good news about obesity—the epidemic continues, and with it the long term costs to our nation increase. The First Lady has done exemplary work highlighting some of the successes of prevention efforts, but obesity remains one of the country’s costliest medical conditions. We respectfully urge the President to reconsider his recommendation, which would undermine vital obesity prevention and reversal initiatives already in place around the country.”

“The initiatives supported by the Prevention Fund can help our communities to get on track to a healthy weight and achieve more manageable long-term health care costs. Standing pat will not get us there. If we are serious about reigning in health care costs, we must have strategies to change our nation’s current course. No easy fixes exist to balancing our budget, but failing to put all of our muscle behind tackling the obesity epidemic will only lead to greater illness for patients and greater expenses for taxpayers in the long run. Reducing the Prevention and Public Health Fund is economically backwards.”

Ultimately, slashing obesity prevention programs will not help the U.S. to reduce its deficit, particularly in light of a recent study from the Trust for America’s Health, which finds that if obesity rates were reduced by five percent in the U.S. the country could save \$29.8 billion in five years, \$158.1 billion in 10 years and \$611.7 billion in 20 years in health care costs.

Currently, the annual health costs related to obesity in the U.S. are as high as \$168 billion and obesity drives nearly 17 percent of U.S. medical costs, according to research released by the National Bureau of Economic Research. By 2018—just six years from now, researchers at Emory University estimate that obesity could account for 21 percent of all health care spending. Employers alone experience a more than \$73 billion loss each year due to losses in productivity, absenteeism and medical costs attributed to obesity, according to researchers at Duke University.

CENTER FOR SCIENCE  
IN THE PUBLIC INTEREST,

Washington, DC, February 13, 2012.

Hon. Senator MAX BAUCUS,  
Chairman, Finance Committee, U.S. Senate,  
Hart Senate Office Building, Washington,  
DC.

DEAR CHAIRMAN BAUCUS: On behalf of the Center for Science in the Public Interest, I urge you to support the Prevention and Public Health Fund and oppose any efforts to reduce, eliminate, or divert its funding. At a time when today's children are in danger of becoming the first generation in American history to live shorter, less healthy lives than their parents, we need to do more—not less—to reduce the burden of heart disease, cancer, and other preventable diseases.

The Prevention Fund, supported by nearly 720 organizations, is a much-needed investment in national, state, and local efforts to prevent disease, save lives, and reduce long-term health costs. Due to the growing burden of chronic disease, our country faces exploding health-care costs that diminish our economic productivity and limit businesses' ability to compete in a global economy. Right now, 75 percent of all health care costs are spent on the treatment of chronic diseases, many of which could be prevented.

States are also using Prevention Fund dollars to mount campaigns to reduce obesity and tobacco use, promote healthy eating and physical activity, expand mental health services, provide flu and other immunizations, and fight infectious diseases. If we are serious about reducing health care costs and the deficit, decreasing funding for prevention would be counterproductive. With your support, we can ensure that vital programs aimed at preventing illness and promoting health and wellness continue through the next decade. Please let me know what you will do to protect this important health funding.

Sincerely,

MARGO G. WOOTAN,  
Director of Nutrition Policy.

FEBRUARY 13, 2012.

Hon. RICHARD J. DURBIN,  
U.S. Senate, State of Illinois, Hart Senate Office  
Building, Washington DC.

DEAR SENATOR DURBIN: Your support is needed to maintain funding for critical preventive health work made possible by the Prevention and Public Health Fund. Recent proposals to reduce, eliminate or divert its funding ignore the long-term fiscal and health benefits of investing in prevention.

We urge you to oppose any reduction in funding to the Prevention Fund. The fund is an unprecedented investment in national, state and local efforts to prevent disease, save lives and reduce long-term health costs. More than 700 national, state and local organizations support the Prevention Fund.

Last year, Illinois received almost \$21 billion to invest in effective and proven prevention efforts. That money is going to communities making changes to improve long-term health, the state's public health infrastructure and training centers, HIV prevention efforts, tobacco prevention, and primary care and behavioral health services.

Overall, the Prevention Fund will provide communities across the U.S. with more than \$16 billion over the next 10 years. Slashing this funding would be an enormous step backward in our progress on cost containment, public health modernization and wellness promotion.

By and large, our health care system is based on treating illness rather than pre-

venting it: Billions of dollars are spent each year through Medicare, Medicaid, and other federal health care programs to pay for health care services once patients get sick. Before the Prevention Fund, there was no corresponding, reliable investment in efforts to promote wellness, prevent disease, and protect against public health or bioterrorism emergencies.

Prevention is the key to lowering health care costs and creating a long-term path to a healthier and economically sound America. I urge you to continue our investment in the Prevention and Public Health Fund.

Sincerely,

JOSEPH A. ANTOLIN,  
Vice President,  
Heartland Alliance;  
Executive Director,  
Heartland Human Care Services, Inc.

Mr. HARKIN. Mr. President, I yield the floor.

Mrs. FEINSTEIN. Mr. President, today I have submitted an amendment to the pending surface transportation reauthorization bill.

Community colleges are a critical source of education and job training for many individuals. Nationwide, we have 1,655 community colleges, which enroll nearly 6 million students. These community colleges will play a big role in helping Americans develop the skills to be competitive in our 21st century economy.

In light of the President's call for job training assistance, it is imperative that we support programs that help workers meet the new demands of our economy. My amendment does just that.

This amendment ensures that transit agencies that partner with community colleges on job training programs are eligible for Federal grants.

By supporting collaborative job-training programs between community colleges and transit agencies, we support our workforce in gaining valuable technical skills, while also supporting industries that are facing a workforce shortage.

I will urge my colleagues to vote for this amendment to ensure that we are supporting our workers in getting a valuable education and supporting an industry that is facing a critical workforce shortage.

The PRESIDING OFFICER. The majority leader.

#### MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that we go to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### RECOGNIZING BILL BOARMAN

Mr. REID. Mr. President, I rise today to recognize the service of the 26th Public Printer of the United States. Bill Boarman led the Government

Printing Office, GPO, with distinction over the past year. He has been a tremendous asset to the organization, and we will miss his service.

President Obama nominated Bill to serve as the Public Printer in April 2010, and his nomination was reported favorably by the Senate Rules Committee in July of that year. Because the Senate was unable to confirm Bill in the 111th Congress, President Obama used a recess appointment to install Bill as the Public Printer in December 2010.

Once in office Bill found that the GPO faced serious financial problems. Bill immediately took steps to put GPO on solid financial footing by cutting spending overhead and other non-essential costs. He successfully implemented a buyout to adjust the size of GPO's workforce. Perhaps most important, Bill set up a special task force to collect millions in outstanding payments owed to the GPO by other Federal agencies. These actions saved the GPO and the taxpayers millions of dollars.

Bill did more than just cut costs. To help Congress reduce its use of printed documents, Bill ordered the first-ever survey of all Senate and House offices that allowed them to opt out of receiving printed copies of the CONGRESSIONAL RECORD and other publications. He put the GPO on Facebook, oversaw the release of the GPO's first mobile Web app, and drafted a strategic investment plan to modernize the GPO's technology. He also presided over the observance of the GPO's 150th anniversary and made history himself by appointing as his deputy a seasoned GPO official who is the first woman ever to hold that position.

Unfortunately, the Senate did not confirm Bill before the 112th Congress adjourned, and Bill's recess appointment expired. He leaves the agency in sound condition and in the good hands of Acting Public Printer Davita Vance-Cooks. During his brief tenure, Bill compiled a remarkable record of accomplishments. I know I speak for the Senate family when we thank Bill for his service as our Nation's Public Printer.

#### RECOGNIZING MIDWAY COLLEGE

Mr. MCCONNELL. Mr. President, I rise today to pay tribute to an educational institution that has been determined to create job opportunities and more easily accessible pathways to attaining professional degrees for Kentuckians, Midway College.

Midway College is a private school in Midway, KY, located in between Lexington and Frankfort. The school, established in 1847, has since created not only a rich tradition but a bright future for itself as well. Grounded in the golden rule, the school's motto is "ama vicinum acte," Latin for "love your

neighbor in deed." And Midway College and its faculty are dedicated to living just so. The college has opened 14 different branches across the State offering numerous disciplines students can choose to study and thereby diversifying the type of student who could potentially enroll by constructing schools in an array of unique locations.

In 2009, Midway College president Dr. William B. Drake, Jr., along with attorney G. Chad Perry III, and his wife Judy Perry, had a vision to create a 15th branch of the college in a small Kentucky town. This new branch would be expected to not only strengthen the Commonwealth but the entire Nation as well. Their dream soon became a reality in January of 2010 when Midway College's board of trustees announced plans to open the Midway College School of Pharmacy in Paintsville, KY.

The small community of Paintsville is located in Johnson County, and, according to President Drake, they could not have asked for a more perfect location for the school. The town's citizens, who strongly care about education, got involved early with the project and stepped forward to ensure that Paintsville would be the right home for the school. The new institute of learning will not only offer over 100 jobs to an area that is suffering from high unemployment rates but will generate around \$30 million in revenue each year.

The climate of our Nation is rapidly changing. As baby boomers age and are now in more medical need than ever before, Midway College is breaking new grounds in its attempt to combat the problem. Only four States have greater need of pharmacists than Kentucky, a State which currently has only two pharmaceutical schools. Midway seeks to provide an opportunity to students in the Appalachian regions of eastern Kentucky, in hopes that they will take their professional degree and return to their hometowns across the Commonwealth and make a difference for those in need.

Eighty percent of Kentuckians are still without a college degree. The fight to educate citizens of Kentucky wages on, and with the help of forward-thinking institutions like Midway College, the future looks brighter than ever before. So today I would like to ask my colleagues in the U.S. Senate if they would join me in recognizing the faculty and staff of Kentucky's own Midway College.

Mr. President, the Kentucky publication "Discover the Power of Southeast Kentucky," published by the Southeast Kentucky Chamber of Commerce, recently printed an article extolling Midway College and its president, Dr. William B. Drake, Jr. I ask unanimous consent that said article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Discover the Power of Southeast Kentucky, Summer 2011]

MIDWAY COLLEGE PRESIDENT DR. WILLIAM B. DRAKE, JR.

Anticipation is in the air as the new Midway College School of Pharmacy prepares to greet its inaugural class. The City of Paintsville, Johnson County, and people throughout the region are excited about the arrival of students aspiring to earn the Doctor of Pharmacy (PharmD) degree.

Five years ago, the vision of bringing a pharmacy school to eastern Kentucky began taking shape in the minds of Paintsville attorney G. Chad Perry III, his wife, Judy, and the administration of Midway College led by Midway College President Dr. William B. Drake, Jr. One by one, the people whose support was needed recognized the merit of the idea and got behind it. One by one the obstacles to such an ambitious plan were overcome.

In January 2010, Midway College Board of Trustees Chairman James J. O'Brien, Chairman and CEO of Ashland, Inc., officially announced that the Midway College School of Pharmacy would open in Paintsville. Local and state government officials were on hand along with a large crowd gathered for the announcement. U.S. Representative Hal Rogers said, "This project will bring a hundred good paying jobs to the region during a time of high unemployment rates. It also builds educational resources at home to continue the mission of providing quality opportunities so our best and brightest students don't have to leave Kentucky for professional degrees and careers."

In explaining why Midway College chose Paintsville as the site, President Drake said, "The citizens of this community care about education and these citizens, as well as the local public officials, have stepped forward at this unique time to make this school happen." A two-million dollar campaign took place in Paintsville to assist with the capital expenses of building the new school. The school is expected to generate more than \$30 million in economic activity annually in the Paintsville area.

President Drake said the college could not ask for a more enthusiastic or dedicated community than Paintsville. "They understand the value of education," he said. "And it is an incredibly attractive place to work, live, and earn your professional degree."

Dr. Drake has been making weekly trips to Johnson County to oversee the process which he says has been taxing but worthwhile. "It's like building a whole new culture," he said, describing the many facets of expanding the college's already sizable system of location. He called the projected \$20-million startup venture one of the biggest decisions ever for the private college, whose roots predate the Civil War.

Founded in 1847, Midway College has a main campus in Midway, Kentucky, which is located between Frankfort and Lexington, and offers coursework in 14 different locations across the Commonwealth. In addition to offering in-seat coursework in both the traditional and accelerated setting, Midway offers classes in an online format, providing additional flexibility for students to have the opportunity to obtain their degree. One program unique to Midway includes an online bachelor's degree in Mining Management and Safety. This is one of the only programs in the country designed for those working in the mining industry. Midway College also offers a Masters of Business Administration and will launch a Master of Arts in Teaching this fall, both of which are offered in an online format.

The new school is expected to fill a need for pharmacists all across the nation. With the baby-boomer generation coming into its retirement years, there is a call for pharmacists not only to care for the aging populace but to replace those "boomers" who are retiring from behind the drug counters themselves. According to industry data, there are approximately five applications for each opening at pharmacy schools in the U.S., with even greater need in Appalachia. Only four states have more difficulty than Kentucky in filling pharmacists positions, and there are only two other pharmacy schools in Kentucky—the University of Kentucky in Lexington and the Sullivan School in Louisville.

"Because of the number of students that apply to pharmacy schools, we could fill enrollment with students from California, there are that many," Dr. Drake said. But, he explained, there is a special emphasis on drawing students from the immediate area. "It has been the intent of those who care about the school that we look first and foremost at the students from Appalachia," he said.

"As students graduate from our school they will meet the pressing need that exists in Kentucky today for pharmacists."

Within a year of the official announcement about the opening of the school, the process was underway to select the 80 students who would make up the enrollment of the first class. More than 430 applications were received for the coveted 80 spots. To date, 25 faculty and staff members have been hired with an anticipated total of approximately 100. The school's faculty salaries will be in the 60th percentile of pharmaceutical faculty salaries in the United States.

When asked about the contributions of his staff, President Drake said, "Having a staff like mine, with such an entrepreneurial spirit, has been like gold to me." The staff includes Martha Jean McKenzie Wells (PhD, MsS) and Emily L. Coleman (PhD, MEd) who are natives to the area. The school is also honored to have Dr. Barry Bleidt taking the helm as its Dean. Dr. Bleidt, who earned his undergraduate degrees in Pharmacy and Environmental Geography from the University of Kentucky, was formerly a founding member of Texas A&M's Health Science Center College and left there as the school's Professor of Pharmaceutical Sciences and Associate Dean of Academic Affairs. He has also held prestigious positions at other pharmacy schools in California, Virginia, and Louisiana.

The School of Pharmacy has a vision of expanding the scope of pharmacy practice and elevating the level of care to patients in all practice settings, with special emphasis on eastern Kentucky and Appalachia. With that goal in mind, Midway College has signed an agreement with the University of Pikeville guaranteeing interviews to the top 10 students who meet the academic qualifications. Similar agreements have been penned between Midway and Eastern Kentucky University, Big Sandy Community and Technical College, and Morehead State University. These agreements not only benefit the students through specific pharmaceutical instruction, but they will allow all schools to share their academic resources. Hand in hand with the University of Pikeville's School of Osteopathic Medicine and other post-secondary institutions in the area, Midway is looking to show the mountain communities the diverse options that are available to them. With 80 percent of Kentuckians without college degrees, the new institution



will offer a fresh new route, a route that's already proving popular with students from the area. Fifty-five to 60 percent of the incoming class is from the state, and even more from adjacent mountain communities.

In keeping with the original vision of Midway and its donors, the new pharmacy school is by Kentuckians for Kentuckians, strengthening the region through strong ties to surrounding communities and its renewed outlook to higher education.

#### AMBASSADOR SHERRY REHMAN

Mr. KERRY. Mr. President, I want to welcome Pakistan's new Ambassador to the United States, Sherry Rehman. Ambassador Rehman has rightly been described as representing "the traditional values of Jinnah's Pakistan." As a journalist, politician, and diplomat, she has fought tirelessly in defense of tolerance and moderation and has been a leading voice for women's equality and protection of minority rights.

The United States-Pakistan relationship has been tested this past year, and while the problems we face are daunting, the basic fact is that stability in Pakistan remains vital to our national security. Ambassador Rehman has arrived in Washington at a time of deep mistrust on both sides. A series of tactical disputes have strained our strategic partnership. Progress on bedrock national interests has stalled, and Pakistan's internal politics seems exceptionally turbulent at this time.

Pakistan faces major challenges today, including an economic and fiscal crisis, a growing insurgency within its borders and cities, and chronic energy shortages. There is increasing anxiety in Pakistan about how the war ends in Afghanistan and what implications this will have for regional stability. Many on both sides are questioning the value and meaning of our strategic partnership.

The truth is we have a lot of work to do to rebuild a productive relationship. Despite our many frustrations and setbacks, we still have more to gain by finding common ground. Whether it is finding a political solution in Afghanistan, reducing militancy, supporting democracy and civil society, or promoting economic and development reforms, the basic fact is that our interests do converge. The challenge for all of us now is to find ways to act together in common purpose, when and where possible.

For instance, on Afghanistan, we need to make our goals and strategy absolutely clear. Pakistan has a constructive role to play in forging a durable political settlement that will bring an end to this war. And while we have often been frustrated by the divergence of policies on Afghanistan, it remains important that we work together to further a reconciliation process that is Afghan led and supported by the region's key players. This is a time for us to be careful, to be thoughtful, and to

proceed deliberately but determinately—as I believe we are—to strengthen our relationship and confront our common challenges.

Moreover, I want to emphasize that this relationship is not only about the threats we face. It is not only about defeating militant extremists who threaten the security of both our countries. It is also about building a deeper, broader, and long term strategic engagement with the people of Pakistan. As I have said before, Pakistan's prosperity and its security—as well as our own—depend on it. And I am determined to make sure that the kinds of projects supported by Kerry-Lugar-Berman funds remain on track and demonstrate our long term commitment to the stability of Pakistan and to the region itself.

Make no mistake: our ability to influence events in Pakistan is limited, and we should be realistic about what we can achieve. But we cannot allow events that might divide us in a small way to distract from the shared interests that unite us in a big way. Mohammad Ali Jinnah said it best in his address to Pakistan's Constituent Assembly in 1947. His words are as relevant in today's context as they were then:

If you will work in cooperation, forgetting the past, burying the hatchet, you are bound to succeed.

The road ahead will be difficult no doubt. But I look forward to working with Ambassador Rehman as a partner in these efforts in the months and years to come.

#### RECOGNIZING THE SALT LAKE COUNCIL OF WOMEN

Mr. HATCH. Mr. President, I rise today to pay tribute to the Salt Lake Council of Women on the upcoming 100th anniversary of its founding.

In the ranks of those who greatly admire this wonderful organization and its exemplary members, I stand front and center today to salute them for their accomplishments and outstanding public service. As I do so, I am humbled by the magnitude of the task. It is difficult to find the right words that will do justice to their extraordinary contributions to Utah.

A century after its founding, this remarkable group has more than lived up to its motto: "Community Service for Civic Improvement." Evidence of its good works is found throughout the Wasatch Front, including the International Peace Gardens the group was instrumental in making a reality in 1947 and has helped preside over ever since.

That alone is sufficient to ensure that the Salt Lake Council of Women's legacy will long endure in the heads and hearts of its legions of admirers. But this service organization's legacy neither begins nor ends there.

Its service began on February 26, 1912, when it organized with the aim of

bettering the "social, civic and moral" environment of the Salt Lake City area, and that service has continued unabated and on an ever-increasing scale ever since.

Over the years, members of the Council have been a tireless advocate for Utah's youth, supporting child labor laws, visiting nurse and teacher programs for children who are ill, respect for the American flag, and the installation of the first drinking fountains in public schools.

They have further assisted with the Boy and Girl Scouts programs and helped found a home for troubled girls, which has evolved into what is now known as the Utah Youth Village. The organization has also helped the Utah State Development Center, Alcoholics Anonymous, Ronald McDonald House, and numerous hospitals, nursing homes, and homeless shelters and animal shelters, just to name a few.

And Utahns have not been the only beneficiaries. During World War I, the group provided relief to the embattled and starving Finnish people. When World War II erupted, the council gave generously to the USO, American Red Cross, and War Bond Drives. The council also has been a strong advocate for the arts, supporting the Utah Symphony, Ballet West and the Days of '47, Utah's annual July celebration to commemorate the 1847 arrival of the Mormon Pioneers in the Salt Lake Valley.

Today, as the Salt Lake Council of Women's centennial anniversary nears, its 200 members—representing 40 organizations and 5,000 women—are as engaging and anxiously engaged in the community as ever. Along with their continued commitment to the International Peace Gardens and Utah Youth Village, council members are involved with the YWCA, University Hospital Project, Wasatch Youth Center, and with an ever-widening variety of special projects. This month, for instance, the council will award a college scholarship to a victim of domestic violence, who will be chosen from mothers in the YWCA's long-term transitional housing program.

No matter what they do or who they serve, members of the Salt Lake Council of Women are the embodiment of what Mahatma Gandhi called "the spirit of service and sacrifice." As the council gathers February 25th to celebrate its 100th anniversary, I add my voice to the chorus of praise in saluting its visionary and selfless members, both past and present, who have done so much for so many to make Utah the great place it is today.

#### REMEMBERING WHITNEY ELIZABETH HOUSTON

Mr. LAUTENBERG. Mr. President, on Saturday, February 11, 2012, New Jersey lost one of its proudest daughters and our country lost one of its



brightest stars when Whitney Houston died at the untimely age of 48.

Whitney Houston's New Jersey roots run deep. She was born in Newark in 1963. She moved to East Orange at age 4 and attended high school at Mount Saint Dominic Academy in Caldwell.

The daughter of noted gospel singer Cissy Houston, Whitney spent her young life singing in the choir of the New Hope Baptist Church in Newark. She never forgot her roots, and even after she became a star, she sometimes returned to New Hope Baptist Church to sing on Easter Sunday. Fittingly, it is at New Hope Baptist Church that Whitney's family and friends will mourn her loss and celebrate her life this Saturday, February 18.

Virtually from the moment of the release of her debut album, "Whitney Houston," Whitney was an international superstar. The album spent a record 14 weeks at the top of the Billboard charts, and it was the first album by a female artist to yield three No. 1 hits. One of those hits, "The Greatest Love of All," became an anthem and a symbol of hope. For all of us who work to make a better world for our children and grandchildren, the song's opening line, "I believe the children are our future," is a constant reminder of our mission.

Much more than just a great singer and performer, Whitney was a great patriot and humanitarian. Her performance of the "Star Spangled Banner" for Super Bowl XXV in 1991—during the first gulf war—has been hailed as the yardstick for other singers performing our national anthem. Whitney donated her proceeds from that performance to the American Red Cross Gulf Crisis Fund. When her rendition was re-released in the wake of the September 11 attacks, Whitney donated those proceeds to firefighters and victims of the attacks.

For her many accomplishments, Whitney received numerous awards, including 6 Grammys, 2 Emmys, and 22 American Music Awards. But no achievement meant more to Whitney than the birth of her daughter Bobbi Kristina in 1993.

Though her loss will be felt far and wide, Whitney's powerful words—"I believe the children are our future. Teach them well and let them lead the way"—live on in New Jersey, across the country, and around the world.

#### ADDITIONAL STATEMENTS

##### TRIBUTE TO CHIEF DONALD F. CONLEY

• Ms. AYOTTE. Mr. President, today I wish to recognize and congratulate chief of police Donald F. Conley of the Nashua, NH, Police Department for his 32 years of dedicated service to the law enforcement profession, the City of

Nashua, and the State of New Hampshire.

After serving in the U.S. Marine Corps, Chief Conley began his law enforcement career with the U.S. Capitol Police and then joined the Nashua Police Department in 1980. He was promoted to sergeant in 1988, lieutenant in 1995, captain in 1998, and deputy chief of police in 2002. He was named the chief of police in 2007.

During his long tenure as a police chief, Donald Conley has been a leader in promoting community-oriented policing, improving public safety within the State of New Hampshire, and promoting sound public policies and practices that have helped keep New Hampshire one of the safest States in the Nation. Chief Conley has worked tirelessly with his peers and with other public safety officials to better the administration of justice.

As Donald Conley celebrates his retirement, I want to commend him on a job well done and ask my colleagues to join me in wishing him and his wife Tricia well in all future endeavors.●

#### RECOGNIZING THE JUNIOR LEAGUE OF BALTIMORE

• Mr. CARDIN. Mr. President, I rise today to recognize the 100th anniversary of the Junior League of Baltimore. Mary Goodwillie founded the Junior League of Baltimore in 1912 with the goal of engaging educated young ladies to help alleviate the ills of the city. The league members began working with underprivileged women and children in Baltimore. Their early advocacy efforts helped bring about reduced work hours for women and better living conditions for children. Throughout its 100-year history, the league has harnessed the spirit of volunteerism to help countless families in Baltimore with projects ranging from a nursery school for blind and deaf children in the 1940s, a drug abuse education program in the 1970s, and the Kids in the Kitchen nutrition education program today.

Once, the league was a volunteer activity for well-to-do women; today, it is a training ground where women interested in nonprofit management, social work, and public service professions receive hands-on experience. Volunteer activities are designed to empower diverse women from all walks of life to make a difference in their community.

The Junior League of Baltimore is part of the Association of Junior Leagues International and continues its foremothers' legacy of service and advocacy, emphasizing collaboration, coalition building, and responsiveness to community needs. The Junior League of Baltimore's recent projects include art programs, family support services, and partnerships with various organizations such as Read Across

America, in addition to its innovative nutrition education program designed to fight childhood obesity.

I would ask my colleagues to join me in congratulating the Junior League of Baltimore on 100 years of service to Baltimore, and in thanking league members past and present for all that they have done and are doing to enrich the lives of the citizens of Baltimore and Maryland.●

#### TRIBUTE TO DR. KENNETH HALL

• Mr. CORNYN. Mr. President, today I would like to commend the extraordinary career of Buckner International CEO Dr. Kenneth Hall, who will soon be retiring from the Dallas-based organization after 19 years of dedicated service. Throughout his tenure, he has promoted founder R.C. Buckner's mission of bringing unconditional Christian love to needy children. Hall has been instrumental in expanding the scope of Buckner's activities, which are inspired by the biblical principles of James 1:27: "Religion that God our Father accepts as pure and faultless is this: to look after orphans and widows in their distress and to keep oneself from being polluted by the world."

A Baptist minister by training, R.C. Buckner devoted his life to helping children whose families had been displaced or broken by war, poverty, and other hardships. The mustard seed of Buckner International was planted on a hot July day in 1877, when Dr. Buckner gathered concerned citizens around an old oak tree in Paris, TX, and asked for their assistance in building a home for orphans. From a humble collection that day of \$27, Dr. Buckner created Buckner Orphans' Home in Dallas in 1879. Now known as Buckner Children's Home, it is one of the oldest orphanages west of the Mississippi River.

One hundred and thirty-five years after the famous oak tree meeting, Buckner International is aiding more than 400,000 people in countries across the world. Dr. Hall became its fifth President and CEO in 1994. Under his leadership, the endowment surpassed \$200 million, and the organization established a new global ministry program. It now does charitable work in China, the Dominican Republic, Egypt, Ethiopia, Ghana, Guatemala, Honduras, India, Kenya, Mexico, Peru, Russia, Sierra Leone, South Korea, and Vietnam. Buckner also runs several retirement communities in Texas, and provides an extensive array of services to assist and empower families in crisis.

I am grateful for all that Dr. Hall has done to improve the lives of the vulnerable and underprivileged, both at home and abroad. I join my colleagues in saluting him for his tireless efforts, which have brought joy and comfort to so many. He deserves recognition as a

true humanitarian and a true American patriot.●

#### TRIBUTE TO JOHN E. FRAMPTON

● Mr. GRAHAM. Mr. President, I ask my colleagues to join me in recognizing John E. Frampton on the occasion of his retirement as director of the South Carolina Department of Natural Resources, SCDNR.

John has dedicated the past 35 years to advancing and improving the State of South Carolina's natural resources and quality of life. He has been a tireless advocate of wildlife preservation in South Carolina and across the United States. As director of SCDNR, he served as the chief administrator for natural resources in the State and was responsible for management and supervision of the agency's five divisions.

Leading with passion, determination, and humility, John has worked to protect and promote South Carolina's natural resources at every level around the State. John joined SCDNR in 1974 as an assistant district biologist. Prior to his appointment as director, he served as a regional wildlife biologist, chief of wildlife, and assistant director for development and national affairs. On April 2, 2003, Mr. Frampton was selected as the agency's director by the SCDNR Board.

John is an active member of multiple regional, national, and international wildlife organizations and served as a past president of both the Southeastern Association of Fish and Wildlife Agencies and the Association of Fish and Wildlife Agencies. Because of his dedicated leadership and commitment to conservation, John was appointed to the National Marine Protected Area Federal Advisory Committee by the Secretary of Commerce and appointed to the prestigious Wildlife and Hunting Heritage Conservation Council by the Secretary of Interior and the Secretary of Agriculture in 2010.

John's well-deserved acknowledgments and recognitions highlight the impact he has had on the conservation community at the State and national level. John has received numerous honors and awards over his career, including the International Canvasback Award from the North American Waterfowl Management Plan Committee, the Clarence W. Watson Award from the Southeastern Association of Fish and Wildlife Agencies, the Shooting, Hunting and Outdoor Trades', SHOT, Business Person of the Year Award, the Henry S. Mosby Award from the National Wild Turkey Federation, the Captain David Hart Award by the Atlantic States Marine Fisheries Commission, and the Seth Gordon Award by the Association of Fish and Wildlife Agencies. Additionally, John is recognized for initiating South Carolina's Ashpoo, Combahee, and South Edisto,

ACE, Basin Project in 1988 and continues to serve on the ACE Basin Task Force. He is an invaluable asset to the conservation community and as a leader has set an example for future SCDNR directors to follow.

Born in Summerville, SC, John holds a bachelor of science degree in marine biology from the College of Charleston. He later received a master of arts in teaching degree in biology from the Citadel and a master of science degree in wildlife biology from Clemson University. He is a certified wildlife biologist through the Wildlife Society.

I ask that the Senate join me in celebrating John Frampton's lifelong dedication to the South Carolina Department of Natural Resources, the State of South Carolina, and our Nation. I wish John the very best in his future endeavors.●

#### REMEMBERING BRIAN DONNELLY

● Mr. LEVIN. Mr. President, my colleague Senator DEBBIE STABENOW and I would like to pay tribute to Brian Donnelly. The measure of a man is seen from many vantage points, from the family he loves, to the good work he has done, to the lives he has positively influenced along the way. By this measure, Brian Donnelly lived a full and prosperous life. We see that in the words of his adoring and devoted wife and family; we see that in the seemingly endless outpouring of affection from his colleagues, friends, and associates; and we see that even from those he prosecuted.

Brian Donnelly, who died suddenly last month, was a dedicated civil servant from my home State of Michigan. He devoted his life to upholding the law and serving the citizens of Michigan. This devotion and commitment can be seen through Brian's 25 years of service as a prosecutor, most recently for Kalkaska County. Brian was a skilled and highly respected litigator who was known to work long days, often returning to the office after dinner. Brian was admired not only by his colleagues but by those on both sides of the bench. His commitment both to his work and to his family was evident to all who knew him.

Brian graduated from Michigan State University and received his law degree from the University of Michigan School of Law. He married his wife Ruthann in July of 1987, and they remained partners for the rest of his life. While Brian's life was full of many successes, he also experienced tragedy. Brian's brother, Mac J. Donnelly, Jr., was killed in the line of duty while working as a police officer in Lansing, MI, in 1977. His brother's death helped encourage Brian to pursue a successful career as a prosecutor. It also led to his continued support of Michigan Concerns of Police Survivors, MI-C.O.P.S., an organization dedicated to sup-

porting the families of fallen officers. He took what was a personal tragedy and transformed it into a lifelong, positive pursuit that filled a void for many across Michigan.

After his death last month, Ruthann was inundated with letters of condolence from across our State. Some of these condolence letters even came from people Brian had prosecuted, who praised his fairness and decency and expressed sorrow for his loss. To be respected by one's colleagues is a sign of a job well done, but to be respected by one's adversaries is the mark of a truly unique man. Posthumously, Brian was honored by the Prosecuting Attorneys Association of Michigan for his outstanding service as a prosecutor in Kalkaska County, an honor he richly deserved.

Brian Donnelly left a legacy of nobility and dedicated public service for Michigan and for the legal profession. He will be missed, but his many efforts and the good he has done will be remembered for years to come. Senator STABENOW and I are proud to honor him today.●

#### TRIBUTE TO MAJOR GENERAL JEFFREY J. DORKO

● Mr. LEVIN. Mr. President, I would like to pay tribute to MG Jeffrey J. Dorko, deputy commanding general for military and international operations for the U.S. Army Corps of Engineers, who is retiring from Active Duty service on Friday, February 10, 2012. As we reflect on the career of this exemplary public servant, I express appreciation for his distinguished and selfless service on behalf of a grateful nation. It is his sacrifice, along with the sacrifices of countless others in uniform around the world, which helps to keep our Nation strong and secure.

Major General Dorko has accumulated more than 33 years of service to our country, and, more important, has amassed an impressive record of accomplishments. His military career began in 1978 as a platoon leader, company executive officer, and assistant battalion operations officer for the 299th Engineer Battalion at Fort Sill, OK. Over the next three decades, he served three tours of duty with the U.S. Army Corps of Engineers in Germany and was deployed in support of Operations Joint Endeavor and Joint Guard in Bosnia-Herzegovina.

From 2007 to 2008, Major General Dorko assumed command of the U.S. Army Engineer Division, Gulf Region, headquartered in Baghdad, Iraq, in support of Operation Iraqi Freedom. And currently, as the deputy commanding general for military and international operations for the U.S. Army Corps of Engineers, Major General Dorko is responsible for the successful execution of more than \$28 billion in design, construction, and environmental projects.

I know Major General Dorko would want us to also recognize his family's many sacrifices throughout his exemplary career. Major General Dorko's dedicated service and sound leadership have served as useful examples to our men and women in uniform. I know my Senate colleagues join me in congratulating Major General Dorko and honoring his distinguished record of service to our country. I wish him the best as he embarks on the next chapter of his life.●

#### RECOGNIZING DELOITTE LLC

● Mr. MENENDEZ. Mr. President, last week I had the privilege of speaking at the LATINA Style 50 Awards Ceremony and Diversity Leaders Conference, which is held each year to recognize leaders in corporate diversity. A premier and well-respected publication, LATINA Style 50 honored Deloitte LLC with its Company of the Year award, in recognition of its commitment to fostering an inclusive workplace for Latinas and professionals from diverse backgrounds and perspectives. I would like to congratulate Deloitte for receiving this honor.

Deloitte has a long legacy of developing leaders and giving back to its communities. From establishing the accounting industry's first women's initiative in 1993, to operating an external advisory council, chaired by Dr. Sally Ride, that oversees its women's initiatives, Deloitte has been a leader in promoting diversity in the workplace. Deloitte also focuses its efforts externally through its support of a broad range of community groups, including several that serve Hispanics.

Deloitte's CEO, Joe Echevarria, personifies the career and development opportunities available at the organization. Of Puerto Rican heritage, Mr. Echevarria began working at Deloitte as an audit recruit from the University of Miami. Today, he oversees 45,000 professionals who specialize in multiple industries, in nearly 90 U.S. cities. He understands inclusive and empowering policies aren't just good for his employees—they are good for business.

It is a pleasure to congratulate Deloitte, its employees, and Deloitte CEO, Mr. Joseph Echevarria, on being named Company of the Year by LATINA Style 50, and I encourage other companies to follow the lead of Deloitte in growing and developing diverse talent in their executive suites and boardrooms.●

#### TRIBUTE TO DOYLE ROGERS

● Mr. PRYOR. Mr. President, for over 50 years, Doyle W. Rogers has been a proud resident of the city of Batesville, AR. Next month, Batesville will honor him by designating March 6, 2012, as Doyle Rogers Day. Through his many endeavors, Doyle has found success

through visionary leadership and hard work. It is in that spirit that I rise today to recognize a man I consider a great businessman and an even greater Arkansan.

Doyle Rogers was born in Diaz, AR, in 1918, and raised in Newport. After attending Arkansas State University in Jonesboro, Doyle enlisted in the Royal Canadian Air Force to fight in World War II before the United States had entered the war. He then went on to serve in Burma with the U.S. Army Air Corps. His return from the war and transition into civilian life brought him to Batesville, where he started his professional career. Doyle tried his hand in several businesses in those early years, even traveling southern States selling Masonic Bibles, until establishing the Doyle Rogers Realty and Insurance Agency in 1953.

This company would later become the Doyle Rogers Company. This company's real estate projects have shaped the Arkansas landscape and the Little Rock skyline. In 1982, Doyle's vision led to the development and opening of the Statehouse Convention Center and Excelsior Hotel, a world-class facility now known as the Peabody Hotel. A few years later, Doyle added the Rogers Building, a 25-story office tower now called the Stephens Building. These projects still stand proud along the Arkansas River in downtown Little Rock and assisted in the rejuvenation of business development in downtown Little Rock.

Doyle would go on to purchase Metropolitan National Bank in 1983 and relocate its headquarters to downtown Little Rock. He serves as chairman of the board, and during his tenure the bank has grown to one of the largest in the State. His success with Metropolitan National Bank and his other projects led to his induction into the Arkansas Business Hall of Fame in 2006. With this induction, Doyle joined a prestigious group that includes Sam Walton, William Dillard, and Don Tyson.

Many of Doyle's friends speak of his relentless work effort and dedication to the causes he holds dear. Education has been one of those issues over the years. He has served on the board of trustees of Hendrix College as well as advisory boards for the School of Business and School of Law at the University of Arkansas in Fayetteville. He holds honorary degrees from Lyon College and Philander Smith College. I know these institutions and countless students have benefited from Doyle's business acumen and visionary leadership.

Doyle attributes much of his success to the love and support of his great family. He married the love of his life, the former Josephine Raye Jackson, in 1941. Together they have been blessed with two children, Barbara Rogers Hoover and Doyle W. "Rog" Rogers, Jr., and six grandchildren. He noted in an interview with Arkansas Business:

The way you enjoy your life is through your family. Material things are good, but being with your family, watching them grow and prosper is probably the greatest reward.

Batesville is one of my State's oldest cities. Situated along the White River, it was used as a shipping point decades before Arkansas was granted statehood. With this history, Batesville has been home to many notable residents, from professional athletes and NASCAR drivers to several former Governors. Doyle Rogers has certainly earned the honor of being listed as a great resident of Batesville. Even with Doyle's business success, he has remained humble to his roots, always believing in the value of hard work and loving the great city of Batesville. In 2004, my good friend and former Congressman Marion Berry said this of Doyle:

In a day and age when the presiding belief is in order to grow up and succeed you must escape Rural America, Doyle Rogers and his family lived in Batesville, Arkansas for more than 50 years, proving success comes with hard work, not a change of zip code.

I agree with my former colleague. Doyle's life and work are worthy of praise, and I am proud of the legacy he has built. I know that whatever endeavor Doyle chooses to pursue in the future, he will continue to have a positive impact on Batesville and Arkansas. I ask my colleagues to join me in congratulating Doyle Rogers for this honor bestowed on him by the city of Batesville and thank him for a job well done.●

#### REMEMBERING MAYOR EMORY MCCORD FOLMAR

● Mr. SESSIONS. Mr. President, I wish to pay tribute to a friend and the former mayor of Montgomery, AL, Emory McCord Folmar. He passed on from this life on November 11, 2011, and I wish to honor Mayor Folmar's courage and service to his country, the State of Alabama, and the city of Montgomery.

Mayor Folmar was born in Troy, AL on June 3, 1930, to Marshall Bibb Folmar and Miriam Woods Pearson Folmar. At the age of 14, the Folmar family moved to Montgomery, AL, where he graduated from Sidney Lanier High School in 1948. Mayor Folmar attended the University of Alabama, where he earned a B.S. in business in just 3 years. During his time at the Capstone, he served as a cadet colonel in the Army ROTC and was a member of the Sigma Alpha Epsilon fraternity. Upon graduation, Mayor Folmar received a regular Army commission and was assigned to the parachute training and instructors' school for the 11th Airborne Division of the 2nd Infantry Division at Fort Benning, GA.

He married Anita Pierce in February 1952, immediately prior to his deployment to the Korean war theatre later

that summer. During that intense conflict, Mayor Folmar was wounded in combat and received the Silver Star, Bronze Star, and Purple Heart. He also received the French Croix de Guerre for his actions with the 23rd Regiment of the 2nd Infantry Division and French troops. Following the Korean war, he was assigned to Fort Campbell, KY, as an airborne jump master until 1954. Mayor Folmar was then and until his last breath a true American patriot who loved, respected, and defended the men and women who serve our Nation in uniform. As everyone knew, this was a part of his very being.

Emory and Anita then moved to Montgomery, where he joined his brother, James Folmar, to run a successful construction and shopping center development company. In 1975 Mayor Folmar was urged to enter political life and run for the District 8 seat on the Montgomery City Council. He was elected president of the city council and became mayor of Montgomery in 1977 in a most remarkable election. He was elected mayor with 65 percent of the vote, despite having 57 competitors. Mayor Folmar went on to serve as mayor for 22 years until 1999. Mayor Folmar was a fiscal conservative who was most proud of the financial health of the city. He was famous for maintaining a balanced budget and establishing a healthy reserve fund. Mayor Folmar was also known to walk municipal ditches and visit public property in order to ensure that municipal services were operating at peak performance. He would often say, "It's not what you expect, it's what you inspect." He was perhaps one of the greatest mayors in the history of Alabama and one of the best in America. He was honest, courageous, a superb manager, and, quite noticeably, direct and plain spoken.

In 1980, Mayor Folmar served as State chairman of President Ronald Reagan's finance committee, and in 1984, he served as Reagan's State campaign chairman. In 1982, Mayor Folmar ran a competitive race as the Republican candidate for the Governor's office in Alabama. Mayor Folmar also served as the State campaign chairman for Bush-Quayle in 1988 and again in 1992. After retiring from politics, Mayor Folmar worked as a business consultant and then was appointed commissioner of the important Alabama Beverage Control Board in 2003 by Gov. Bob Riley. He served the State in this role until 2011, doing superb work making the department leaner and more productive.

On a personal note, I had the pleasure of working closely with Mayor Folmar when he served as campaign chairman for my first campaign for the Senate in 1996. I will always appreciate and remember his support throughout the years and his leadership in Alabama. Those of us who knew Mayor

Folmar know also that he was a man of faith who was an elder at Trinity Presbyterian Church in Montgomery, AL. Governor Riley noted how impressed he was with Mayor Folmar's wisdom and scriptural knowledge. Emory Folmar had the reputation in Alabama as an extremely intelligent, hard-working, honest, and headstrong leader. He was all that and more.

His dedication to serving the Nation in military conflict and to serving the citizens of the State of Alabama and city of Montgomery, AL, as a public servant will continue to inspire others for generations to come. We shall miss his leadership in the public arena. I feel quite privileged to be a U.S. Senator and to have the honor to pay tribute to Mayor Emory McCord Folmar's life and service to this great Nation.●

#### REMEMBERING JAMES LUCIEN HINTON

● Mr. SESSIONS. Mr. President, I wish to remember Mr. James Lucien "Jimmy" Hinton, who passed away on December 3, 2011, in Tuscaloosa, AL, at the age of 88. He was one of Alabama's best known and respected citizens.

Mr. Jimmy was born in Tuscaloosa on April 8, 1923. He grew up in the Little Sandy community, attended the University of Alabama in the 1940s, and served in the U.S. Army. In 1958, he married Jean Jolly and they had three children: Jimmy, Jr., Mary Katherine, and Elizabeth. He loved his family and enjoyed spending time at his farm, Sedgefield Plantation, in Dallas County.

Mr. Jimmy was a highly successful businessman and involved in many businesses during his lifetime, starting his own sawmill company at the age of 16. He was engaged in the lumber business, real estate development, a box and pallet factory, automobile business, asphalt business, and the family owned a meat-packing company, R. L. Zeigler Co., Inc., where he served as chairman of the board. He also served as a board member for the First National Bank of Tuscaloosa and Southern United Life Insurance Company. In 1999, he was inducted into the Alabama Business Hall of Fame.

Mr. Jimmy loved his family very much and particularly enjoyed hunting and fishing with them and his many friends at Sedgefield. He often opened Sedgefield for national and State field trials and also allowed hunts for persons with disabilities and terminal illness. He began the first Life Hunts for such hunters over 25 years ago, and many have benefited from his care and concern. He supported a host of worthy causes over his life.

In 1998, Jimmy received the Governor's Award and was named Conservationist of the Year for his dedication to conservation in Alabama.

He was a passionate supporter of the University of Alabama and its athletics

program. Paul W. "Bear" Bryant and he were famous friends. He served on the University of Alabama Presidents Cabinet and the Board of Visitors of the Culverhouse College of Commerce and Business Administration.

I knew Mr. Jimmy for a number of years. It was easy to see why he engendered such affection and respect. A decisive and strong man, certainly, he nevertheless was totally unassuming. That background of country living, his love of hunting and the outdoors, his success in business, and his association with athletics at the iconic University of Alabama combined in a special way to shape who he was. People saw him for who he was. There was a rare combination of strength, modesty, and loyalty deep in his character. And to a very unusual degree, this remarkable businessman, who never sought the limelight, was well known and loved throughout our State.

Alabama and the Nation have lost one of its finest citizen. My sympathy is extended to his family upon this loss, but they have been given a wonderful heritage of industry, humility, and public service.●

#### RECOGNIZING THE LANSING REGIONAL CHAMBER OF COMMERCE

● Ms. STABENOW. Mr. President, my colleague Senator CARL LEVIN and I would like to pay tribute to the Lansing Regional Chamber of Commerce on the occasion of the 100th anniversary of its annual dinner.

From the very first dinner held in 1912 to the present, the Lansing Regional Chamber of Commerce Annual Dinner has played a significant role in bringing business and community leaders together to celebrate exciting developments in the region. Although the format of the evening may have changed over the years, the mission remains the same: to serve as the premier business networking event of the year and to celebrate the contributions of individuals and organizations that make the region great.

The group of Lansing area business leaders who formed the Lansing Business Men's Association certainly paved the way for the tradition that is celebrated today. After changing their name to the Lansing Chamber of Commerce, Ransom E. Olds, founder of Oldsmobile, addressed the first annual meeting at the Masonic Temple. The association had encouraged him to come back to Lansing from Detroit and build a factory, which he did. This clearly established the chamber as the community leader in fostering economic growth and creating jobs.

I am very proud that the Lansing Chamber founded the now internationally known ATHENA Award in 1982. What started as a visionary way to support, develop and honor local women

leaders, has now become a global movement with more than 6000 awards presented in 500 communities in the United States, Canada, Russia, the United Arab Emirates and the United Kingdom.

It is exciting that on February 22, 2012, the 100th Annual Dinner will be celebrated at the Lansing Center. This event will not only celebrate the chamber's history and the many people who made things happen over the past 100 years, it will include updates from current business leaders and the presentation of the 2011 Community Service, Outstanding Small Business and Legacy Awards.

More than just a dinner, this event showcases the businesses and people who have helped make this region into what it is today and shape its future. We are pleased to congratulate the Lansing Regional Chamber of Commerce on this special occasion and wish them many more years of success.●

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Pate, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

#### MESSAGES FROM THE HOUSE

At 10:03 a.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2079. An act to designate the facility of the United States Postal Service located at 10 Main Street in East Rockaway, New York, as the "John J. Cook Post Office".

H.R. 3247. An act to designate the facility of the United States Postal Service Located at 1100 Town and Country Commons in Chesterfield, Missouri, as the "Lance Corporal Matthew P. Pathenos Post Office Building".

H.R. 3248. An act to designate the facility of the United States Postal Service located at 112 South 5th Street in Saint Charles, Missouri, as the "Lance Corporal Drew W. Weaver Post Office Building".

#### ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

H.R. 1162. An act to provide the Quileute Indian Tribe Tsunami and Flood Protection, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore (Mr. INOUE).

At 2:42 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that pursuant to 36 U.S.C. 2302, and the order of the House of January 5, 2011, the Speaker appoints the following Member of the House of Representatives to the United States Holocaust Memorial Council: Mr. ISRAEL of New York.

#### MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 2079. An act to designate the facility of the United States Postal Service located at 10 Main Street in East Rockaway, New York, as the "John J. Cook Post Office"; to the Committee on Homeland Security and Governmental Affairs.

H.R. 3247. An act to designate the facility of the United States Postal Service located at 1100 Town and Country Commons in Chesterfield, Missouri, as the "Lance Corporal Matthew P. Pathenos Post Office Building"; to the Committee on Homeland Security and Governmental Affairs.

H.R. 3248. An act to designate the facility of the United States Postal Service located at 112 South 5th Street in Saint Charles, Missouri, as the "Lance Corporal Drew W. Weaver Post Office Building"; to the Committee on Homeland Security and Governmental Affairs.

#### MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 2111. A bill to enhance punishment for identity theft and other violations of data privacy and security.

#### MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 2118. A bill to remove unelected, unaccountable bureaucrats from seniors' personal health decisions by repealing the Independent Payment Advisory Board.

#### EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-5027. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Pasteuria nishizawae—Pn 1; Exemption From the Requirement of a Tolerance" (FRL No. 9337 2) received in the Office of the President of the Senate on February 14, 2012; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5028. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Aureobasidium pullulans strains DSM 14940 and DSM 14941; Exemption From

the Requirement of a Tolerance" (FRL No. 9337 3) received in the Office of the President of the Senate on February 14, 2012; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5029. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Spirotetramat; Pesticide Tolerances for Emergency Exemptions" (FRL No. 9332 9) received in the Office of the President of the Senate on February 14, 2012; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5030. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Defense Federal Acquisition Regulation Supplement; Business Systems-Definition and Administration" ((RIN0750-AG58) (DFARS Case 2009 D038)) received in the Office of the President of the Senate on February 14, 2012; to the Committee on Armed Services.

EC-5031. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Defense Federal Acquisition Regulation Supplement; Award Fee Reduction or Denial for Health or Safety Issues" ((RIN0750-AH37) (DFARS Case 2011 D033)) received in the Office of the President of the Senate on February 14, 2012; to the Committee on Armed Services.

EC-5032. A communication from the Acting Under Secretary of Defense (Personnel and Readiness), transmitting a report on the approved retirement of Vice Admiral John M. Mateczun, United States Navy, and his advancement to the grade of vice admiral on the retired list; to the Committee on Armed Services.

EC-5033. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report relative to the continuation of a national emergency declared in Executive Order 13222 with respect to the lapse of the Export Administration Act of 1979; to the Committee on Banking, Housing, and Urban Affairs.

EC-5034. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Greenhouse Gas Reporting Program: Electronics Manufacturing (Subpart I): Revisions to Heat Transfer Fluid Provisions" (FRL No. 9633 5) received in the Office of the President of the Senate on February 14, 2012; to the Committee on Environment and Public Works.

EC-5035. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; State of Missouri" (FRL No. 9632 7) received in the Office of the President of the Senate on February 14, 2012; to the Committee on Environment and Public Works.

EC-5036. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Quality Assurance Requirements for Continuous Opacity Monitoring Systems at Stationary Sources" (FRL No. 9630 7) received in the Office of the President of the Senate on February 14, 2012; to the Committee on Environment and Public Works.

EC-5037. A joint communication from the Secretary of Health and Human Services and the Attorney General, transmitting, pursuant to law, an annual report relative to the Health Care Fraud and Abuse Control Program for fiscal year 2011; to the Committee on Finance.

EC-5038. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the fiscal year 2011 Report on the progress to date on implementing Congressionally mandated goals and responsibilities of the Medicare-Medicaid Coordination Office; to the Committee on Finance.

EC-5039. A communication from the Chairman of the United States International Trade Commission, transmitting, pursuant to law, the Commission's Annual Performance Report for fiscal year 2011 and Addendum to the Strategic Plan for fiscal years 2009-2014; to the Committee on Finance.

EC-5040. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Definition of a Taxpayer" (RIN1545-BF73) (TD-9576) received in the Office of the President of the Senate on February 13, 2012; to the Committee on Finance.

EC-5041. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Foreign Tax Credit Splitting Events" (RIN1545-BK50) (TD-9577) received in the Office of the President of the Senate on February 13, 2012; to the Committee on Finance.

EC-5042. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Physical Inspections Pilot Program" (Notice 2012 18) received in the Office of the President of the Senate on February 13, 2012; to the Committee on Finance.

EC-5043. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Application of Section 367 to Section 304 Transactions" (Notice 2012 15) received in the Office of the President of the Senate on February 13, 2012; to the Committee on Finance.

EC-5044. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled "Visas: Issuance of Full Validity L Visas to Qualified Applicants" (22 CFR part 41) received in the Office of the President of the Senate on February 13, 2012; to the Committee on Foreign Relations.

EC-5045. A communication from the Acting Chief Executive Officer, Corporation for National and Community Service, transmitting, pursuant to law, the Corporation's fiscal year 2013 Congressional Budget Justification Report; to the Committee on Health, Education, Labor, and Pensions.

EC-5046. A communication from the Director of Regulations and Policy Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Revisions to Labeling Requirements for Blood and Blood Components, Including Source Plasma; Correction" (Docket No. FDA 2003 N 0097) received in the

Office of the President of the Senate on February 13, 2012; to the Committee on Health, Education, Labor, and Pensions.

EC-5047. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "Fiscal Year 2011 Performance Report to Congress for the Medical Device User Fee Amendments of 2007"; to the Committee on Health, Education, Labor, and Pensions.

EC-5048. A communication from the Members of the Railroad Retirement Board, transmitting, pursuant to law, the Board's Congressional Justification of Budget Estimates Report for fiscal year 2013; to the Committee on Health, Education, Labor, and Pensions.

EC-5049. A communication from the Inspector General of the Railroad Retirement Board, transmitting, pursuant to law, the Inspector General's Budget Justification Report for fiscal year 2013; to the Committee on Health, Education, Labor, and Pensions.

EC-5050. A communication from the Director, Administrative Office of the United States Courts, transmitting, pursuant to law, a report relative to time limitations established for deciding habeas corpus death penalty petitions; to the Committee on the Judiciary.

EC-5051. A communication from the General Counsel and Acting Executive Director, U.S. Election Assistance Commission, transmitting, pursuant to law, a report entitled "Fiscal Year 2011 Activities"; to the Committee on Rules and Administration.

EC-5052. A communication from the Secretary of the Commission, Bureau of Competition, Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled "Revised Jurisdictional Thresholds for Section 8 of the Clayton Act" received in the Office of the President of the Senate on February 13, 2012; to the Committee on Commerce, Science, and Transportation.

EC-5053. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pollock in the Bering Sea and Aleutian Islands" (RIN0648-XA940) received in the Office of the President of the Senate on February 14, 2012; to the Committee on Commerce, Science, and Transportation.

EC-5054. A communication from the Administrator, National Aeronautics and Space Administration, transmitting, pursuant to law, a report entitled "National Aeronautics and Space Administration: Acquisition Approach for Commercial Crew Transportation Includes Good Practices, but Faces Significant Challenges"; to the Committee on Commerce, Science, and Transportation.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KERRY, from the Committee on Foreign Relations, without amendment with a preamble:

S. Res. 379. An original resolution condemning violence by the Government of Syria against the Syrian people.

## EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of nominations were submitted:

By Mr. LEAHY for the Committee on the Judiciary.

Kristine Gerhard Baker, of Arkansas, to be United States District Judge for the Eastern District of Arkansas.

John Z. Lee, of Illinois, to be United States District Judge for the Northern District of Illinois.

George Levi Russell, III, of Maryland, to be United States District Judge for the District of Maryland.

John J. Tharp, Jr., of Illinois, to be United States District Judge for the Northern District of Illinois.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. RUBIO:

S. 2115. A bill to limit the authority of the Administrator of the Environmental Protection Agency with respect to certain numeric nutrient criteria, and for other purposes; to the Committee on Environment and Public Works.

By Mr. CARPER (for himself, Mr. WEBB, Mr. HARKIN, Mrs. HAGAN, Mrs. MCCASKILL, Mr. ROCKEFELLER, Mr. JOHNSON of South Dakota, and Mr. FRANKEN):

S. 2116. A bill to count revenues from military and veteran education programs toward the limit on Federal revenues that certain proprietary institutions of higher education are allowed to receive for purposes of section 487 of the Higher Education Act of 1965, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. WEBB (for himself, Mr. REED, and Mr. BROWN of Ohio):

S. 2117. A bill to increase access to adult education to provide for economic growth; to the Committee on Finance.

By Mr. CORNYN (for himself, Mr. BURR, Mr. COBURN, Mr. ROBERTS, Mr. BLUNT, Mr. GRASSLEY, Mr. LEE, Mr. PAUL, Mr. COATS, Mr. INHOFE, Mr. ISAKSON, Mr. RISCH, Mr. HELLER, Mr. BARRASSO, Mr. COCHRAN, Mr. RUBIO, Mr. MORAN, Mr. JOHANNIS, Mr. THUNE, and Mr. CRAPO):

S. 2118. A bill to remove unelected, unaccountable bureaucrats from seniors' personal health decisions by repealing the Independent Payment Advisory Board; read the first time.

By Mr. UDALL of Colorado (for himself, Mr. CARPER, Mr. COONS, Mr. FRANKEN, and Mr. UDALL of New Mexico):

S. 2119. A bill to establish a pilot program to address overweight/obesity among children from birth to age 5 in child care settings and to encourage parental engagement; to the Committee on Health, Education, Labor, and Pensions.

By Ms. MURKOWSKI (for herself, Mr. BROWN of Ohio, and Mr. BROWN of Massachusetts):

S. 2120. A bill to require the lender or servicer of a home mortgage upon a request by the homeowner for a short sale, to make a prompt decision whether to allow the sale; to the Committee on Banking, Housing, and Urban Affairs.



By Ms. KLOBUCHAR:

S. 2121. A bill to modify the Department of Defense Program Guidance relating to the award of Post-Deployment/Mobilization Respite Absence administrative absence days to members of the reserve components to exempt any member whose qualified mobilization commenced before October 1, 2011, and continued on or after that date, from the changes to the program guidance that took effect on that date; to the Committee on Armed Services.

By Mr. PAUL (for himself and Mr. LEE):

S. 2122. A bill to clarify the definition of navigable waters, and for other purposes; to the Committee on Environment and Public Works.

By Mr. ENZI (for himself, Mr. ALEXANDER, Ms. AYOTTE, Mr. BARRASSO, Mr. BLUNT, Mr. BOOZMAN, Mr. BURR, Mr. CHAMBLISS, Mr. COATS, Mr. COBURN, Mr. COCHRAN, Ms. COLLINS, Mr. CORKER, Mr. CORNYN, Mr. CRAPO, Mr. DEMINT, Mr. GRAHAM, Mr. GRASSLEY, Mr. HATCH, Mr. HELLER, Mr. HOEVEN, Mrs. HUTCHISON, Mr. INHOFE, Mr. ISAKSON, Mr. JOHANNES, Mr. JOHNSON of Wisconsin, Mr. KYL, Mr. LEE, Mr. LUGAR, Mr. MCCAIN, Mr. MCCONNELL, Mr. MORAN, Mr. PAUL, Mr. PORTMAN, Mr. RISCH, Mr. ROBERTS, Mr. RUBIO, Mr. SESSIONS, Mr. SHELBY, Ms. SNOWE, Mr. THUNE, Mr. TOOMEY, Mr. VITTER, and Mr. WICKER):

S.J. Res. 36. A joint resolution providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the National Labor Relations Board relating to representation election procedures; to the Committee on Health, Education, Labor, and Pensions.

By Mr. INHOFE:

S.J. Res. 37. A joint resolution to disapprove a rule promulgated by the Administrator of the Environmental Protection Agency relating to emission standards for certain steam generating units; to the Committee on Environment and Public Works.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. KERRY:

S. Res. 379. An original resolution condemning violence by the Government of Syria against the Syrian people; from the Committee on Foreign Relations; placed on the calendar.

By Mr. GRAHAM (for himself, Mr. LIEBERMAN, Mr. CASEY, Ms. AYOTTE, Mr. BLUMENTHAL, Mr. BOOZMAN, Mr. BROWN of Massachusetts, Mr. BROWN of Ohio, Mr. CARDIN, Mr. CHAMBLISS, Mr. COATS, Ms. COLLINS, Mr. COONS, Mr. CORNYN, Mrs. GILLIBRAND, Mr. HATCH, Mr. HELLER, Mr. HOEVEN, Mrs. HUTCHISON, Mr. INHOFE, Mr. MCCAIN, Mrs. MCCASKILL, Mr. MENENDEZ, Ms. MIKULSKI, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. PORTMAN, Mr. PRYOR, Mr. RISCH, Mr. SCHUMER, Mr. UDALL of Colorado, Mr. WYDEN, Ms. SNOWE, Mr. VITTER, Mr. ISAKSON, and Mr. SESSIONS):

S. Res. 380. A resolution to express the sense of the Senate regarding the importance of preventing the Government of Iran from acquiring nuclear weapons capability; to the Committee on Foreign Relations.

## ADDITIONAL COSPONSORS

S. 102

At the request of Mr. MCCAIN, the name of the Senator from North Carolina (Mrs. HAGAN) was added as a cosponsor of S. 102, a bill to provide an optional fast-track procedure the President may use when submitting rescission requests, and for other purposes.

S. 418

At the request of Mr. HARKIN, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 418, a bill to award a Congressional Gold Medal to the World War II members of the Civil Air Patrol.

S. 491

At the request of Mr. PRYOR, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 491, a bill to amend title 38, United States Code, to recognize the service in the reserve components of the Armed Forces of certain persons by honoring them with status as veterans under law, and for other purposes.

S. 543

At the request of Mr. WYDEN, the name of the Senator from Mississippi (Mr. WICKER) was added as a cosponsor of S. 543, a bill to restrict any State or local jurisdiction from imposing a new discriminatory tax on cell phone services, providers, or property.

S. 648

At the request of Mrs. GILLIBRAND, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 648, a bill to require the Commissioner of Social Security to revise the medical and evaluation criteria for determining disability in a person diagnosed with Huntington's Disease and to waive the 24-month waiting period for Medicare eligibility for individuals disabled by Huntington's Disease.

S. 810

At the request of Ms. CANTWELL, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 810, a bill to prohibit the conducting of invasive research on great apes, and for other purposes.

S. 905

At the request of Mr. HARKIN, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 905, a bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for the purchase of hearing aids.

S. 1086

At the request of Mr. HARKIN, the names of the Senator from Maine (Ms. COLLINS) and the Senator from Vermont (Mr. SANDERS) were added as cosponsors of S. 1086, a bill to reauthorize the Special Olympics Sport and Empowerment Act of 2004, to provide assistance to Best Buddies to support the expansion and development of mentoring programs, and for other purposes.

S. 1161

At the request of Mr. GRASSLEY, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 1161, a bill to amend the Food Security Act of 1985 to restore integrity to and strengthen payment limitation rules for commodity payments and benefits.

S. 1494

At the request of Mrs. BOXER, the name of the Senator from New Mexico (Mr. UDALL) was added as a cosponsor of S. 1494, a bill to reauthorize and amend the National Fish and Wildlife Foundation Establishment Act.

S. 1503

At the request of Mr. BROWN of Massachusetts, the name of the Senator from Ohio (Mr. PORTMAN) was added as a cosponsor of S. 1503, a bill to decrease the deficit by realigning, consolidating, selling, disposing, and improving the efficiency of Federal buildings and other civilian real property, and for other purposes.

S. 1526

At the request of Mrs. GILLIBRAND, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 1526, a bill to amend the Internal Revenue Code of 1986 to provide a tax incentive for the installation and maintenance of mechanical insulation property.

S. 1773

At the request of Mr. BROWN of Ohio, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 1773, a bill to promote local and regional farm and food systems, and for other purposes.

S. 1787

At the request of Mr. HARKIN, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 1787, a bill to amend the Internal Revenue Code of 1986 to impose a tax on certain trading transactions.

S. 1796

At the request of Mr. ISAKSON, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 1796, a bill to make permanent the Internal Revenue Service Free File program.

S. 1884

At the request of Mr. DURBIN, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 1884, a bill to provide States with incentives to require elementary schools and secondary schools to maintain, and permit school personnel to administer, epinephrine at schools.

S. 1906

At the request of Mr. TESTER, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1906, a bill to modify the Forest Service Recreation Residence



Program as the program applies to units of the National Forest System derived from the public domain by implementing a simple, equitable, and predictable procedure for determining cabin user fees, and for other purposes.

S. 1925

At the request of Mr. LEAHY, the names of the Senator from Ohio (Mr. BROWN) and the Senator from Hawaii (Mr. INOUE) were added as cosponsors of S. 1925, a bill to reauthorize the Violence Against Women Act of 1994.

S. 1971

At the request of Mr. INHOFE, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 1971, a bill to provide for the establishment of a committee to assess the effects of certain Federal regulatory mandates and to provide for relief from those mandates, and for other purposes.

S. 2017

At the request of Mr. CARDIN, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 2017, a bill to secure the Federal voting rights of persons when released from incarceration.

S. 2043

At the request of Mr. RUBIO, the name of the Senator from Ohio (Mr. PORTMAN) was added as a cosponsor of S. 2043, a bill to amend title XXVII of the Public Health Service Act to provide religious conscience protections for individuals and organizations.

S. 2075

At the request of Mr. LEVIN, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 2075, a bill to close unjustified corporate tax loopholes, and for other purposes.

S. 2099

At the request of Mr. JOHNSON of South Dakota, the names of the Senator from New York (Mr. SCHUMER), the Senator from New Jersey (Mr. MENENDEZ) and the Senator from Louisiana (Mr. VITTER) were added as cosponsors of S. 2099, a bill to amend the Federal Deposit Insurance Act with respect to information provided to the Bureau of Consumer Financial Protection.

S. 2104

At the request of Mr. CARDIN, the name of the Senator from Arkansas (Mr. BOOZMAN) was added as a cosponsor of S. 2104, a bill to amend the Water Resources Research Act of 1984 to reauthorize grants for and require applied water supply research regarding the water resources research and technology institutes established under that Act.

AMENDMENT NO. 1516

At the request of Mr. MCCAIN, the name of the Senator from North Carolina (Mrs. HAGAN) was added as a cosponsor of amendment No. 1516 in-

tended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1520

At the request of Mr. BLUNT, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of amendment No. 1520 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1549

At the request of Mr. CARDIN, the names of the Senator from Massachusetts (Mr. KERRY), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Colorado (Mr. UDALL), the Senator from New Hampshire (Mrs. SHAHEEN) and the Senator from Vermont (Mr. SANDERS) were added as cosponsors of amendment No. 1549 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1562

At the request of Mr. LIEBERMAN, the names of the Senator from Delaware (Mr. CARPER) and the Senator from Massachusetts (Mr. BROWN) were added as cosponsors of amendment No. 1562 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1613

At the request of Mr. BEGICH, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of amendment No. 1613 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1625

At the request of Mr. JOHANNIS, the name of the Senator from Indiana (Mr. COATS) was added as a cosponsor of amendment No. 1625 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1649

At the request of Mrs. GILLIBRAND, the names of the Senator from Connecticut (Mr. BLUMENTHAL) and the Senator from Minnesota (Ms. KLOBUCHAR) were added as cosponsors of amendment No. 1649 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1652

At the request of Mr. HARKIN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of amendment No. 1652 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1661

At the request of Ms. KLOBUCHAR, the names of the Senator from Vermont (Mr. SANDERS) and the Senator from Colorado (Mr. UDALL) were added as cosponsors of amendment No. 1661 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WEBB (for himself, Mr. REED, and Mr. BROWN of Ohio):  
S. 2117. A bill to increase access to adult education to provide for economic growth; to the Committee on Finance.

Mr. WEBB. Mr. President, today I am reintroducing the Adult Education and Economic Growth Act of 2012. This bill will address the critical needs in our workforce by investing in adult education, job training and other workforce programs needed to build a strong and competitive 21st century workforce. I am pleased to be joined in this initiative by Senators JACK REED and SHERROD BROWN. An identical bill has been reintroduced in the House of Representatives by Congressman HINOJOSA.

By almost any measure, our Nation faces a critical need to strengthen existing programs of adult education. Our current adult education system falls short in preparing our people to compete globally. In fact, fewer than 3 million of the 93 million people who could benefit from these services actually receive them.

The U.S. labor market has changed dramatically with the advent of new technology and with the loss of jobs in the manufacturing sector. The need for well-trained and highly skilled workers has increased. At the same time, our adult education system, which should effectively prepare our low-skill workers to meet the demands of this shifting economy, has not kept pace with this changing workforce.

Since 2002, the Federal Government has consistently decreased funding for adult education. In addition, the Nation's primary Federal resource for adult education, job training and employment services, the Workforce Investment Act, has not been reauthorized for more than 10 years. Only about one in four adults with less than a high school education participates in any kind of further education or training.

There are other signs pointing to the need for a better approach to adult education. Consider adult education enrollment rates. In 1998 there were more than 4 million individuals enrolled in adult education programs. In 2007, enrollments had dropped to just 2 million. This is a 40 percent drop from when the Workforce Investment Act was originally enacted in 1998.

A growing number of U.S. skilled workers are facing retirement age and

the growth in skilled labor force has stagnated. Addressing the looming skills shortage in many sectors and regions in the U.S., through reinvestment in our adult education system, will result in an educated and literate adult population.

According to the Workforce Alliance, 80 percent of jobs in today's economy require some education beyond a high school degree. Yet there are 8 million adults in the workforce who have low literacy, limited English proficiency, or lack educational credentials beyond high school.

With so many workers who are unemployed or underemployed, it is clear that we should invest in the training or re-training of U.S. workers to fill this growing gap.

Our legislation begins the vital task of addressing these problems.

Today, we are proposing a four-pronged approach to strengthen the Nation's workforce. First, we want to build "on ramps" for American workers who need new skills and a better education in order to improve their lives. Currently our adult education programs are operating in silos and it is critical that we improve the adult education system through partnerships with businesses and workforce development groups. Just as importantly, we want to encourage employers to help them, by offering tax credits to businesses that invest in their employees. This government has long provided employers with limited tax credits when they help their employees go to college or graduate school. It is basic logic and to the national good, that we should provide similar incentives for basic adult education.

Second, we must modernize the delivery system of adult education by harnessing the increased use of technology in workforce skills training and adult education. The bill provides incentives to states and local service providers to increase their use of technology and distance learning in adult education. Many adult learners cannot afford the time or money to travel to a classroom and deploying technology will help meet this need.

Third, our bill establishes stronger assessment and accountability measures.

This bill authorizes a rather modest \$500 million increase in funding to invigorate state and local adult education programs nationwide to increase the number of adults with a high school diploma. As a result, the bill will inevitably increase the number of high school graduates who go on to college, and update and expand the job skills of the U.S. workforce. All of this is relevant to my longstanding personal goal of promoting basic economic fairness in our society.

Other provisions of the Adult Education and Economic Growth Act will improve workers' readiness to meet the

demands of a global workforce by providing pathways to obtain basic skills, job training, and adult education.

The act will provide workers with greater access to on-the-job training and adult education by encouraging public-private partnerships between government, business and labor.

The act will improve access to correctional education programs to channel former offenders into productive endeavors and reduce recidivism.

The act will encourage investment in lower skilled workers by providing employers with a tax credit if they invest in their employee's education. This tax credit is aimed at encouraging general and transferable skills development that may be in the long term interest of most employers but are not always so clearly rewarded by the market.

This act focuses on addressing the unique needs of adults with limited basic skills, with no high school diploma, or with limited English proficiency. Those individuals who may have taken a different path earlier in life, and who now find themselves eager to go back to school and receive additional job training and skills, should be provided opportunities to get back on track.

I encourage my colleagues to support this important endeavor. Our Nation's workforce and local communities will be stronger for it.

By Mr. UDALL of Colorado (for himself, Mr. CARPER, Mr. COONS, Mr. FRANKEN, and Mr. UDALL of New Mexico):

S. 2119. A bill to establish a pilot program to address overweight/obesity among children from birth to age 5 in child care settings and to encourage parental engagement; to the Committee on Health, Education, Labor, and Pensions.

Mr. UDALL of Colorado. Mr. President, today I am introducing the Healthy Kids from Day One Act—a bill that will add another tool to our toolbox for tackling the national epidemic of childhood obesity. Today, about one in three children is either overweight or obese, and nearly 21 percent of our littlest ones—those in preschool—are obese or overweight. This problem has become an epidemic, and I want to thank Senators COONS, CARPER, FRANKEN, and TOM UDALL for joining me in introducing this important legislation.

The Healthy Kids from Day One Act seeks to focus on the childcare setting as a part of our strategy to combat childhood obesity and get kids healthy and moving again. This bill recognizes that in order to reduce the prevalence of childhood obesity, we must reach children in as many settings as possible and particularly in the places where they live, learn, and play. With 75 percent of U.S. children aged 3 to 5 years in childcare and 56 percent in

centers, including nursery schools, preschools, and full-day centers, it makes sense to focus on the preschool and childcare environment. Experts are increasingly acknowledging this setting as critical to obesity prevention. For example, this past October the Robert Wood Johnson Foundation released a research synthesis on how childcare settings can promote healthy eating and physical activity. Furthermore, an article in the January 2012 issue of *Pediatrics* examined barriers to children's physical activity in childcare.

Childcare providers want to create healthy environments for children but vary in the expertise or resources needed to achieve this goal. This legislation builds on a bill I introduced with Senator FRANKEN in 2010 by supporting the establishment of childcare collaborative workshops at the local level to offer childcare providers the tools, training, and assistance they need to encourage healthy eating and physical activity. This bill supplements some of the work being done right now by the First Lady in her Let's Move Child Care initiative, as it would bring together, in interactive collaborative learning sessions, relevant entities needed for meaningful childhood-obesity prevention.

Obesity has serious health and economic consequences. It puts our children at greater risk of costly but preventable chronic illnesses, such as diabetes, heart disease, and stroke. Obesity also comes at a tremendous cost to our society. The total economic cost is estimated at \$300 billion annually, and, as the Nation's youth continues to age, further costs will be added to the national health care system if these trends continue. Obesity also has impacted our ability to recruit healthy, young servicemembers into the military and maintain a strong national defense.

My childhood and much of my adult life has been spent in the great outdoors, and I have tried to bring my enthusiasm for being active and exploring the world around us here to the U.S. Congress as a cochair of the Senate Outdoor Recreation Caucus. I firmly believe that we need to reconnect folks with the idea that being active is fun and rewarding, and it can help us lower health care costs and improve the quality of life here in America.

I would like to thank Nemours, Trust for America's Health, the YMCA of the USA, the American Academy of Pediatrics, and the American Heart Association for working with me to develop this legislation. This bill builds upon their expertise with obesity prevention.

I urge my colleagues to join me in the fight against childhood obesity by supporting this bill.

By Mr. ENZI (for himself, Mr. ALEXANDER, Ms. AYOTTE, Mr.

BARRASSO, Mr. BLUNT, Mr. BOOZMAN, Mr. BURR, Mr. CHAMBLISS, Mr. COATS, Mr. COBURN, Mr. COCHRAN, Ms. COLLINS, Mr. CORKER, Mr. CORNYN, Mr. CRAPO, Mr. DEMINT, Mr. GRAHAM, Mr. GRASSLEY, Mr. HATCH, Mr. HELLER, Mr. HOEVEN, Mrs. HUTCHISON, Mr. INHOFE, Mr. ISAKSON, Mr. JOHANNES, Mr. JOHNSON of Wisconsin, Mr. KYL, Mr. LEE, Mr. LUGAR, Mr. MCCAIN, Mr. MCCONNELL, Mr. MORAN, Mr. PAUL, Mr. PORTMAN, Mr. RISCH, Mr. ROBERTS, Mr. RUBIO, Mr. SESSIONS, Mr. SHELBY, Ms. SNOWE, Mr. THUNE, Mr. TOOMEY, Mr. VITTER, and Mr. WICKER):

S.J. Res. 36. A joint resolution providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the National Labor Relations Board relating to representation election procedures; to the Committee on Health, Education, Labor, and Pensions.

Mr. ENZI. Mr. President, I rise today after introducing a Congressional Review Act Resolution of Disapproval to stop the National Labor Relations Board's unfair and unnecessary ambush elections rule. I am pleased that 43 fellow Senators have cosponsored this resolution. I know it will draw more support on the Senate floor as people learn the details of the new rule.

This administration's National Labor Relations Board has done a lot of controversial things, but the ambush elections rule stands out because it is a politicized and unjustified effort to make a fair system less fair, and it is being rushed into effect over tremendous objection.

The National Labor Relations Act, which the National Labor Relations Board enforces, is a carefully balanced law that protects the rights of employees to join or not join a union and also protects the rights of employers to free speech and unrestricted flow of commerce.

Since it was enacted in 1935, changes to this statute have been rare. When they do occur, it is the result of careful negotiations with all the stakeholders. Most of the questions that come up under the law are handled through decisions of the board. Board decisions often do change the enforcement of the law significantly, but they are issued in response to an actual dispute and an actual question of law. In contrast, the ambush elections rule is not a response to a real issue because the current election process for certifying whether employees want to form a union is not broken.

This rule was not carefully negotiated by stakeholders. Instead, it was rushed into place over just 6 months, despite the fact that it drew over 65,000 comments in the 2-month period after it was first proposed.

Had the board held the comment period open longer to allow more input from the regulated community, which was clearly quite engaged on the proposal, it would certainly have received even more comments. Yet this relatively small agency reported that it gone through all 65,957 comments in just the 7 weeks they took to release a modified rule, which was then finalized. The rule was finalized just days before the board lost its quorum with the expiration of Member Becker's recess appointment term. Under any circumstances, a rulemaking this hasty looks suspicious. In this case, there is simply no justification for the rush.

Today's secret ballot elections occur in a median timeframe of 38 days. Unions win more than 71 percent of elections—their highest win rate on record. The current system does not disadvantage labor unions at all. But it does ensure there is fairness for the employees whose right it is to make the decision of whether or not to form a union, to pay union dues, and to have some of their dues go into political campaigns and have the full opportunity to hear from both sides about the ramifications of that decision—to have the time to get full disclosure.

There is supposed to be a poster that notifies employees of their right not to have their money go into political campaigns, but this administration has taken that off of the poster so they are no longer informed of that right.

This principle of law has been upheld over nearly seven decades. It was Senator John F. Kennedy who argued during the debate over the 1959 amendments to the law, saying:

There should be at least a 30-day interval between the request for an election and the holding of an election . . . in which both parties can present their viewpoints.

Frankly, whenever I hear a government decision that aims to limit information available to citizens and depress free speech, I am very concerned. It was that sort of agenda that was behind the card check legislation which was defeated in the Senate. Let me repeat that. It was that sort of agenda that was behind the card check legislation that was defeated in the Senate. I am afraid this rule has been hatched in the same laboratory, and I hope it will meet the same fate.

The ambush elections rule eliminates the 25-day waiting period to conduct elections in cases where a party has filed a preelection request for review. It effectively eliminates the opportunity for parties to voice objections and settle issues before the elections and limits the ability to address them after elections as well.

What are we trying to hide? The effect of these changes will be union certification elections held in as few as 10 days. Union organizers will hand-select members of the bargaining unit, and any review of the appropriateness of

the unit makeup or status of employees who may qualify as supervisors will be postponed until after the election—something always done before the election. Employees will be voting on whether to form a union without any idea of who will actually be in the bargaining unit.

Employers will be caught off guard and potentially flying blind with regard to their rights under the law, particularly small businesses. Union organizers spend months, if not years, organizing and spreading their message to the employees, unbeknownst to the employer. So when a union files a representation petition, employers are already at a significant disadvantage in educating employees about their views on unionization. Employers also use this time to consult with their attorneys to ensure their actions are permissible under the law. Shortening the time period will increase the likelihood that employers will act hastily, opening themselves to unfair labor practice charges that have very severe consequences.

I am particularly concerned about the small businesses that will be ambushed under this rule. Instead of focusing on growing and creating more jobs, they will be swamped with legal issues, with bargaining obligations, a less flexible workforce, and increased costs across the board. Most small businesses likely have no idea about the changes being made by the National Labor Relations Board because the rule was rushed into place so hastily.

Instead of directing the National Labor Relations Board to focus on enforcing current law rather than ambushing small business job creators and their employees, President Obama has stacked the Board with unconstitutional recess appointees and requested a \$15 million increase in their budget. He simply doesn't understand. He doesn't get it.

By passing this resolution through both the House and Senate, we will strike a victory for those on the side of job creation and fairness to employees. It will also send a very important message to a runaway agency. Under this administration, the National Labor Relations Board has been more controversial than most observers can ever remember. They have flouted the intentions of Congress repeatedly.

The President has redefined a recess appointment in order to keep it going. There is no law that allowed that. There is no change that has been made that would allow a President to do something different than has ever been done before. But he did it. He redefined the recess appointment in order to keep the Board going.

A few weeks ago, National Labor Relations Board Chairman Pearce announced that he intends to push through even more controversial

changes to the elections rules before the end of the year. He is planning to require a mandatory hearing 7 days after a petition is filed. Employers would be forced to file a position statement on important legal questions at the hearing or lose the right to subsequently argue those issues. He plans to require employers to provide personal employee information to union organizers, such as e-mail addresses, within 2 days. Do you think the employees want to be harassed with e-mails? I doubt it. These changes would completely cripple any employer's ability to have a voice in the decisionmaking process, let alone a small employer's.

Enacting a resolution of disapproval of the ambush elections rule would prevent Chairman Pearce from promulgating these destruction changes. It would not roll back any rights or privileges, it would simply return these workplace rules to current law. Current law. Not current rule, current law. It just returns it to the workplace rules we have under current law. I will remind my colleagues that current law is a fair system under which employees retain the right to decide by secret ballot election whether to form a union. Elections occur in a median of 38 days,

and unions win 71 percent of the elections.

I ask unanimous consent to have printed in the RECORD letters of support from a number of groups.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION  
OF MANUFACTURERS,  
*Washington, DC, February 16, 2012.*

Hon. MICHAEL B. ENZI,  
*Ranking Member, Committee on Health, Education, Labor and Pensions, U.S. Senate, Washington, DC.*

DEAR SENATOR ENZI: On behalf of the National Association of Manufacturers (NAM), I am writing to express manufacturers' strong support for S.J. Res. 36, the "Resolution of Disapproval" of the National Labor Relations Board's (NLRB) rule relating to representation election procedures.

The NAM is the nation's largest industrial trade association, representing small and large manufacturers in every industrial sector and in all 50 states. The NAM's mission is to enhance the competitiveness of the manufacturing economy by advocating policies that are conducive to U.S. economic growth.

The NLRB's rule relating to representation election procedures, finalized in December, represents one of many recent actions and decisions made by the NLRB, stifling economic growth and job creation. These ac-

tions would burden manufacturers with harsh rules, making it harder to do business in the United States. The rule would limit what issues and evidence can be presented at a pre-election hearing, potentially leaving important questions unresolved until after an election has taken place, making these questions moot.

Furthermore, the rule would also eliminate the current 25 day "grace period," compressing the time frame for elections to occur in approximately 20 days. Business owners would effectively be stripped of legal rights ensuring a fair election and those who lack resources, or in house legal expertise, will be left scrambling to navigate and understand complex labor processes with too little time. Moreover, employees will be denied the ability to make fully informed decisions about whether they want to join a union. Finally, the NLRB has not provided any evidence such a rule is needed in order to address a systematic problem of representation election delays. Absent any justification, the NAM believes the rule is unnecessary and will create problems where none currently exist.

S.J. Res. 36 would send a strong message to the NLRB and rein in the agency, whose actions have resulted in the most dramatic changes to labor law in 75 years, threatening the ability of business owners to create and retain jobs. We look forward to continuing to work with you on our shared goals for a strong economy, job creation and promoting fair and balanced labor laws.

#### NLRB REPRESENTATION ELECTION STATUS THROUGH THE YEARS

Fiscal year	Cases	Election agreement %	Median days	56-day %
2011	1790	92.1	38	95.1
2010	1690	91.9	37	95.5
2009	2085	91.8	38	95.1
2008	2080	91.2	39	93.9
2007	2296	91.1	38	94.2
2006	2715	89	39	93.6
2005	2537	89	39	93.6
2004	2659	88.5	40	92.5
2003	2871	86.1	41	91
2002	2842	88.2	40	N/A
2001	2356	89.9	38.9	93.8
10 year Average				

NATIONAL RESTAURANT ASSOCIATION,  
*February 15, 2012.*

MICHAEL B. ENZI,  
*Ranking Member, Senate Health, Education, Labor, & Pensions, Washington, DC.*

DEAR SENATOR ENZI: We write on behalf of the National Restaurant Association to commend you on your leadership urging the use of the Congressional Review Act (CRA) to challenge the National Labor Relations Board's (NLRB) decision to issue "ambush election" regulations. These regulations make it more difficult for small businesses to respond and educate their employees during union election campaigns.

The ambush election regulations would, in practice, deny employees' proper access to information on unions, while restricting employers' rights of free speech and due process. Specifically, the ambush election regulations restrict an employer's ability to raise substantive issues and concerns prior to a union election, such as allowing the NLRB to limit the issues raised at a pre-election hearing and preventing an employer from raising objections to the size and scope of a unit.

The ambush election regulations would also eliminate the requirement that a union election not be held within 25 days after a hearing judge rules on pre-election matters. As NLRB Board Member Brian Hayes points

out, the intent of the ambush election regulations is to "eviscerate an employer's legitimate opportunity to express its views about collective bargaining."

We praise your leadership on this issue and look forward to assisting you as this matter moves toward a floor vote in the US Senate.

Sincerely,

ANGELO I. AMADOR, ESQ.,  
*Vice President Director, Labor & Workforce Policy.*

MICHELLE REINKE  
NEBLETT,  
*Director, Labor & Workforce Policy.*

ASSOCIATED BUILDERS  
AND CONTRACTORS, INC.,  
*February 16, 2012.*

The Hon. MICHAEL B. ENZI,  
*U.S. Senate, Washington, DC.*

DEAR SENATOR ENZI: On behalf of Associated Builders and Contractors (ABC), a national association with 74 chapters representing more than 22,000 merit shop construction and construction-related firms, I am writing to thank you for introducing S.J. Res. 36, which provides for congressional disapproval and nullification of the National Labor Relations Board's (NLRB) rule related

to representation election procedures. ABC supports S.J. Res. 36 and urges Congress to immediately pass this much-needed resolution, which will nullify the ambush election proposal.

The ambush election rule is nothing more than the Board's attempt to promote the interests of organized labor by effectively denying employees access to critical information about the pros and cons of union representation. Stripping employers of free speech and the ability to educate their employees, the rule poses a threat to both employees and employers.

In August, ABC criticized the NLRB proposed ambush rule that could dramatically shorten the time frame for union organizing elections from the current average of 38 days to as few as 10 days between when a petition is filed and the election occurs. ABC submitted comments to the NLRB stating the proposed rule would significantly impede the ability of construction industry employers to protect their rights in the pre-election hearing process; hinder construction employers ability to share facts and information regarding union representation with their employees; and impose numerous burdens without any reasoned justification on small merit shop businesses and their employees, which constitute the majority of the construction industry. In the largest response

on record, the NLRB received more than 70,000 comments regarding the proposal, many of which strongly opposed the changes.

The Board published a final rule on December 22, 2011, with an April 30, 2012 effective date. While it somewhat modified the original proposal, disposing of the rigid seven- and two-day requirements, the final rule is identical in purpose and similar in effect to the August proposal.

At this time of economic challenges, it is unfortunate that the NLRB continues to move forward with policies that threaten to paralyze the construction industry and stifle job growth. If left unchecked, the actions of the NLRB will fuel economic uncertainty and have serious negative ramifications for millions of American workers. We applaud you for introducing S.J. Res. 36 and urge Congress to immediately pass this much-needed resolution.

Sincerely,

GEOFFREY G. BURR,  
*Vice President, Federal Affairs.*

NATIONAL RETAIL FEDERATION,  
February 16, 2012.

Hon. MICHAEL B. ENZI,  
*U.S. Senate, 379A Russell Senate Office Building, Washington, DC.*

DEAR SENATOR ENZI: On behalf of the National Retail Federation (NRF), I am writing to you urge your support for the Joint Resolution of Disapproval challenging the National Labor Relations Board's (NLRB) rule on ambush elections. Senator Mike Enzi has introduced this resolution, and NRF urges you to support this legislation.

As the world's largest retail trade association and the voice of retail worldwide, NRF's global membership includes retailers of all sizes, formats and channels of distribution as well as chain restaurants and industry partners from the United States and more than 45 countries abroad. In the U.S., NRF represents an industry that includes more than 3.6 million establishments and which directly and indirectly accounts for 42 million jobs—one in four U.S. jobs. The total U.S. GDP impact of retail is \$2.5 trillion annually, and retail is a daily barometer of the health of the nation's economy.

Senator Enzi's resolution will relieve the serious threat to both employees and employers posed by a recently finalized NLRB rule regarding election timing. The rule, announced December 21, 2011, would drastically change the process for union representation elections and would severely limit worker access to information needed to make an informed decision about whether or not to vote in favor of a union.

The average amount of time that elapses in a NLRB election is presently 37 days. Under the new rule, a vote could happen in as few as fourteen days, leaving an employer little time to prepare for an election. Moreover, since a union can be organizing for an election and talking to employees for up to a year before a formal petition for an election is submitted to the NLRB, the new rule severely tilts the playing field against employers. As a result, the quality and quantity of information available to employees in consideration of the issue will be severely unbalanced; and the rights of employees who do not favor the union position will be undermined.

This action by the NLRB, taken along with a series of other extraordinary rulings over the course of the last nine months, are nothing more than an attempt to impose the Employee Free Choice Act (card-check) on employees and employers through regulation.

We urge you to strongly reject this "backdoor" card check agenda by a board of unelected bureaucrats and restore balance to the organizing process so that we can start removing the economic uncertainty facing both employers and employees.

NRF is fully behind Senator Enzi's effort, and we urge you to support the Joint Resolution of Disapproval. We look forward to working with the Senate to move this Resolution forward.

Sincerely,

DAVID FRENCH,  
*Senior Vice President, Government Relations.*

COALITION FOR A  
DEMOCRATIC WORKPLACE,  
February 16, 2012.

DEAR SENATORS ENZI AND ISAKSON AND REPRESENTATIVES KLINE, ROE AND GINGREY: On behalf of millions of job creators concerned with mounting threats to the basic tenets of free enterprise, the Coalition for a Democratic Workplace thanks you for introducing S.J. Res. 36 and its companion resolution in the House of Representatives, which provide for congressional disapproval and nullification of the National Labor Relations Board's (NLRB or Board) rule related to representation election procedures. This "ambush" election rule is nothing more than the Board's attempt to placate organized labor by effectively denying employees' access to critical information about unions and stripping employers of free speech and dues process rights. The rule poses a threat to both employees and employers. We support S.J. Res. 36 and its House companion and urge Congress to immediately pass these much-needed resolutions, which will nullify the ambush election proposal.

The Coalition for a Democratic Workplace, a group of more than 600 organizations, has been united in its opposition to the so-called "Employee Free Choice Act" (EFCA) and EFCA alternatives that pose a similar threat to workers, businesses and the U.S. economy. Thanks to the bipartisan group of elected officials who stood firm against this damaging legislation, the threat of EFCA is less immediate this Congress. Politically powerful labor unions, other EFCA supporters, and their allies in government are not backing down, however. Having failed to achieve their goals through legislation, they are now coordinating with the Board and the Department of Labor (DOL) in what appears to be an all-out attack on job-creators and employees in an effort to enact EFCA through administrative rulings and regulations.

On June 21, 2011, the Board proposed its ambush election rule, which was designed to significantly speed up the existing union election process and limit employer participation in elections. At the time, Board Member Hayes warned that "the proposed rules will (1) shorten the time between filing of the petition and the election date, and (2) substantially limit the opportunity for full evidentiary hearing or Board review on contested issues involving, among other things, appropriate unit, voter eligibility, and election misconduct." Hayes noted the effect would be to "stifle debate on matters that demand it." The Board published a final rule on December 22, 2011, with an April 30, 2012 effective date. While it somewhat modified the original proposal, the final rule is identical in purpose and similar in effect to the proposal.

The NLRB's own statistics reveal the average time from petition to election was 31 days, with over 90% of elections occurring

within 56 days. There is no indication that Congress intended a shorter election time frame, and indeed, based on the legislative history of the 1959 amendments to the National Labor Relations Act, it is clear Congress believed that an election period of at least 30 days was necessary to adequately assure employees the "fullest freedom" in exercising their right to choose whether they wish to be represented by a union. As then Senator John F. Kennedy Jr. explained, a 30-day period before any election was a necessary "safeguard against rushing employees into an election where they are unfamiliar with the issues." Senator Kennedy stated "there should be at least a 30-day interval between the request for an election and the holding of the election" and he opposed an amendment that failed to provide "at least 30 days in which both parties can present their viewpoints."

The current election time frames are not only reasonable, but permit employees time to hear from both the union and the employer and make an informed decision, which would not be possible under the ambush election rule. In fact, in other situations involving "group" employee issues, Congress requires that employees be given at least 45 days to review relevant information in order to make a "knowing and voluntary" decision. (This is required under the Older Workers Benefit Protection Act when employees evaluate whether to sign an age discrimination release in the context of a program offered to a group or class of employees.) Also, in many cases, employers, particularly small ones, will not have enough time under the rule's time frames to secure legal counsel, let alone an opportunity to speak with employees about union representation or respond to promises union organizers may have made to secure union support, even though many of those promises may be completely unrealistic. Given that union organizers typically lobby employees for months outside the workplace without an employer's knowledge, these "ambush" elections would often result in employees' receiving only half the story. They would hear promises of raises and benefits that unions have no way of guaranteeing, without an opportunity for the employer to explain its position and the possible inaccuracies put forward by the union.

For these reasons, we thank you for introducing S.J. Res. 36 and its House companion and urge Congress to immediately pass these much-needed resolutions. If left unchecked, the actions of the NLRB will fuel economic uncertainty and have serious negative ramifications for millions of employers, U.S. workers they have hired or would like to hire, and consumers.

Sincerely,

GEOFFREY BURR,  
*Chairman.*

By Mr. INHOFE:

S.J. Res. 37. A joint resolution to disapprove a rule promulgated by the Administrator of the Environmental Protection Agency relating to emission standards for certain steam generating units; to the Committee on Environment and Public Works.

Mr. INHOFE. Mr. President, I want to announce that I introduced a resolution of disapproval just a few minutes ago under the Congressional Review Act.

A lot of people don't know what the Congressional Review Act is, but it is

an act that will allow Congress to look at some of the regulations. If there is something they don't believe is in the best interest of the country, they are able to introduce something to rescind that. It would call for a vote, and the vote would be a 51-vote. So it is one that has not been used very much, but it is a measure that would prevent, in this case the Obama EPA, from going through with its Utility MACT.

MACT is the maximum achievable control technology. That is used quite often because there are sometimes requirements in these EPA rules that require different industries to do things where there is no technology available to allow them to get that done. So the Utility MACT is one of the most expensive environmental rules in American history, second only to President Obama's cap-and-trade rules, which he was unable to achieve legislatively. Left untouched, the Utility MACT would destroy over 1 million jobs and cost the American economy billions of dollars.

My CRA, the Congressional Review Act, will be the moment of truth for a majority in this body who understand how harmful the Obama EPA regulatory agenda will be for their constituents. Remember, last year at this time 64 Senators voted in different ways to rein in the EPA's destructive greenhouse gas regulations. I had a bill to take away the jurisdiction from the Environmental Protection Agency to regulate greenhouse gases. It was called the Energy Tax Prevention Act. At the same time, there was another I call a cover vote. Sometimes when you want to tell people at home that you are against something, you can have a less maybe severe vote, and there happens to be a cover vote that takes place.

The bottom line is 64 of the 100 Senators voted to do something about the overregulation that is coming out of the Environmental Protection Agency. That particular one was on the regulation that would be the most expensive of all.

The Utility MACT I am offering the CRA on now is probably the second most expensive. But to refresh your memory, in order to have the EPA have jurisdiction of the greenhouse gases, they had to somehow come up with an endangerment finding. They did, and they based it on the IPCC science that gave rise to the concern that was exposed in climategate. I think everyone understands that was flawed science. But, nonetheless, that is what they used. That is why we were able to get two-thirds of this body to object to the EPA regulating greenhouse gases.

I think the bottom line now is that there are more than a dozen Senate Democrats who have claimed they want to rein in the EPA because they know the devastating impact the Agen-

cy's regulatory train wreck will have at home. The Senators understand if their constituents lose their jobs as a result of these overregulations, they might lose their jobs.

So today the Senate can look forward to having one more opportunity to stand up to President Obama's war on affordable energy. They can vote for this CRA which will put a halt to one of the Obama EPA's most expensive and economically destructive rules.

Under the Utility MACT, it would cost American families—and nobody disagrees with this—the range is between \$11 billion and \$18 billion in electricity rate increases. That is over an 11-percent rate increase on average that it would cost if we were to pass this Utility MACT under the regulations of the utilities. This would send ripple effects throughout the economy, causing approximately 1.4 million net job losses by 2020. And it is not just jobs in the coal industry that would be affected.

Dr. Bernard Weinstein of the Maguire Energy Institute at Southern Methodist University has estimated EPA's air rules could endanger 1 million manufacturing jobs outside of the coal and utility industry losses. Workers recently laid off in Ohio, Kentucky, and West Virginia are feeling the devastating impacts of the rule. Sadly, these lost jobs are all part of Obama's wider war on coal and fossil fuels.

You might remember that he admitted this was his goal in the campaign of 2008 when he said:

If somebody wants to build a coal-fired plant they can. It's just that it will bankrupt them. And under my plan of a cap-and-trade system, electricity rates would necessarily skyrocket.

When the cap-and-trade failed, Obama began aggressively pursuing these goals through an executive regulatory barrage of unelected bureaucrats. So companies such as Solyndra got big cash payoffs while a regulatory train wreck was unleashed by the EPA to destroy America's fossil fuel industry.

The political climate is much different now than it was in the days when global warming alarmists could bask in their historical gloom-and-doom predictions about the end of the world. Now, President Obama wouldn't dare say anything like that because the American people no longer are buying it. Instead, he has begun touting oil and gas development and saying he is for an all-out, all-of-the-above energy strategy. In an election year, he knows the American people want the hundreds of thousands of jobs and affordable energy prices that come with domestic oil and gas.

But he is clearly still determined to achieve his global warming agenda. His war on affordable energy is moving underneath the radar and wrapped in lies about protecting public health. Make

no mistake, the train wreck will achieve all of Obama's global warming objectives, and it will severely undermine our Nation's economy in the process. So I will spend just a moment on that.

When President Obama could not achieve cap-and-trade through legislation, he said he would just do it through regulations. EPA's greenhouse gas regime will cost American families between \$300 billion and \$400 billion a year. This is important because no one has refuted this. We have gone through the Kyoto convention, and that was a range that was given to us by the Wharton econometrics survey at that time. And several others chimed in—MIT chimed in, CRA chimed in. So the cost of regulating greenhouse gas would be about \$300 billion to \$400 billion a year.

When we talk about billions and trillions of dollars, I am like everybody else. I have a hard time seeing how that really affects us. In my State of Oklahoma, I regularly determine each year how many families in my State of Oklahoma are going to file a tax return, and then I do the math. This particular one, at \$300 billion a year, would cost each family filing a tax return in my State of Oklahoma about \$3,000 a year. Now, that is not just once, that would be every year.

What do you get for it? And this is the thing that I think is important, and the American people finally have caught on. They have admitted that through the EPA, when you ask them if we were to pass one of these things regulating CO<sub>2</sub> through the cap-and-trade legislation that we have defeated, would this reduce greenhouse gases, the answer from the Administrator of the EPA is, no, it wouldn't because this only would affect the United States of America. This isn't where the problem is. China would still be doing its thing, India would be doing its thing, and Mexico.

I have contended if we are regulating these in the United States, it could actually have the effect of increasing the emissions because, as we chase our manufacturing base overseas to find energy, they would be going to countries such as China and India where they don't have the regulatory restrictions we have in this country.

So the Utility MACT is second only to the greenhouse gas regulations in terms of what it would cost, in terms of costing the people in terms of jobs and money. Actually, the regulatory thing would be worse when we are talking about greenhouse gases because under the bills that were introduced starting in 2003—that was the McCain-Lieberman bill, going all the way forward to the Waxman-Markey bill—the assumption has been that they would regulate industries and emitters that were over the 25,000 tons a year.

Now, if we do it through regulation, as they are trying to do it right now,

the Clean Air Act has a limit of 250 tons. So we would be talking about regulating virtually every church, school, and hospital in America and not just the very large utilities. So that is where we were on that issue.

On oil, President Obama has been congratulating himself on decreasing the imports of oil from the Middle East, but he fails to mention his policies have been consistently against oil and gas. In fact, he and people in his administration have said they want to do away with fossil fuels. Secretary of Energy Steven Chu said they wanted to “boost the price of gasoline to the levels in Europe.”

Well, that is \$7 or \$8 a gallon. Right now we are looking at \$4 a gallon, and that is what they want to do. What is their motive? To do away with fossil fuels. He claims to care about energy security, yet he stopped the Keystone Pipeline.

I am very proud of a lot of Senators in here who have talked about it. Senator HOEVEN, for example, is very familiar with it because of the production in his State. We are talking about the sands up in Alberta and bringing them down through the United States. I am interested in this because Cushing, OK, happens to be one of the intersections that is there for the pipeline.

So here is something there is absolutely no reason to do away with except to kill oil because we know the pipeline is going to bring oil down into the United States through, I might say, my State of Oklahoma down to the coast where it can be used. A lot of people don't understand this because they have been told things that, quite frankly, are not true.

In terms of oil, gas, and coal, the United States of America has the largest recoverable reserves in the world. People keep saying over and over again: Well, we only have 3 percent of the reserves. Yet we use 25 percent. Quite frankly, they are talking about proven reserves. You can't get a recoverable reserve until you drill. If they don't let us drill because of the policies of this administration, then, obviously, we would be stuck with just the very small amount we could produce. Nonetheless, it is out there. We are the only country in the world that our politicians don't allow us to explore and recover our own reserves—the only country in the world.

Natural gas. We know it is happening right now. We know in areas like New York and Pennsylvania with the Marcellus debate, we have opportunities we have never had in this country. We have the opportunity to recover more natural gas. When the President made a statement in the State of the Union Message about being supportive of “all the above,” talking about natural gas, he slipped in one little statement: Well, we don't want to poison the Earth—or something like that.

What he is talking about is they have spent countless hours trying to regulate a process called hydraulic fracturing—a process that started in my State of Oklahoma in 1949. There has never been a documented case of ground water contamination since they have been using hydraulic fracturing. And we can't get into these tight formations without hydraulic fracturing. It can't be done.

So the President can get by with saying he wants to produce the natural gas we have locally, and at the same time take over the regulation of hydraulic fracturing by the Federal Government. We know what that would mean. I think the best evidence of that is President Obama in his current budget is doubling the funding for the antifracking agenda in the 2013 budget. Nuclear? That is agreed. If we believe in “all of the above,” you have to have fossil fuel as coal, oil, and gas, but also nuclear. It is a very important component. It is interesting that only yesterday President Obama sent his Energy Secretary, Steven Chu, to Georgia, to take credit for the 5,800 jobs that will be created when two new nuclear reactors are built there. As Secretary Chu said yesterday:

In his State of the Union Address, President Obama outlined a blueprint for an American economy that is built to last and develops every available source of American energy. Nuclear power is an important part of that blueprint.

Yes, nuclear power is so important that President Obama forgot to mention it in his very long State of the Union message. To send Secretary Chu to Georgia is kind of ironic, given that Chu is the one who said that nuclear power is the “lesser of two evils.” It was the President himself who designated a Chairman of the Nuclear Regulatory Commission who had been leading the antinuclear energy group for quite some time. In fact, Chairman Jaczko tried to delay the progress on licensing the very reactors in Georgia that they went up to try to take credit for.

We see this over and over again.

What does this all mean? President Obama knows he needs to talk the talk on domestic energy because people have caught on. I think people know now that we have the recoverable reserves to be completely free from the Middle East. All we have to do in a short period of time is develop our own resources. I know my environmental friends are already saying, about the CRA on the Utility MACT—the NRDC jumped on the story today with the headline “Let Loose the Defenders of Mercury Poisoning.” Nothing could be further from the truth.

I remember in 2003 and 2005 when we had the Clear Skies bill. The Clear Skies bill would have had mandatory reductions—keep in mind we are talking about 2003—mandatory reductions

on mercury emissions by 70 percent by 2018. It was a matter of a few years from now, that would be reality. Think about it, 6 years from now we would already have a 70-percent reduction if the Democrats had not stopped the bill. The reason they did is because we refused—we want to have SO<sub>x</sub>, NO<sub>x</sub>, and mercury, which are the real pollutants, reduced and reduced in a rapid fashion, faster than President Clinton or anybody else has tried to do it. They held it hostage because they also wanted CO<sub>2</sub> included in it, so we got none of the above as a result of it.

The EPA's Utility MACT is designed to destroy jobs by killing off the coal industry. EPA admits itself that the Utility MACT rule would cost an unprecedented \$11 billion to implement. Of course these costs will come in the form of higher electricity rates for every American. Importantly, the EPA also admits that the \$11 billion in costs will yield a mere \$6 billion in direct benefits.

Do the math. It means the agency has by its own admission completely failed the cost-benefit test. It has the advantage of reducing emissions without killing jobs and the Utility MACT would do little for the environment but destroy millions of jobs. Why did Clear Skies fail? As I said, it was held hostage because they didn't want us to just lose SO<sub>x</sub>, NO<sub>x</sub>, and mercury, the real pollutants. They wanted to include CO<sub>2</sub>.

Before Obama's decision to halt the ozone rule, which would have put hundreds of thousands of jobs at risk, then-White House Chief of Staff Bill Daley asked: What are the health impacts of unemployment?

That is a good question. What are the health impacts of skyrocketing electricity rates which hurt the poor the most? What are the health impacts on children whose parents will lose one of the 1.4 million jobs that will be destroyed by the EPA's rules on powerplants?

The Senate needs to focus on promoting policies that improve our environment without harming our economy. The EPA's Utility MACT does the opposite. My CRA, I think, is one of the things about which they say: You will never get it done. I have criticized people for bringing a Congressional Review Act up against regulations where I know the votes are not there. It takes just 51 votes. The reason I think the votes should be here now is if the people at home care enough to put the pressure on. That is exactly what happened on the ozone requirements. They said the President was committed to ozone changes. He changed his mind because of that.

Remember the farm dust rule? The President was going to have a farm dust rule on emissions that would hit the air. I always remember, I had a news conference in my State of Oklahoma, in the western part of the State.



We had a couple of people there from Washington who had never been west of the Mississippi. We got down there in this area of Oklahoma. We were talking about farm dust. I said: You see this brown stuff down here? That is dirt. You see that round green thing? That is cotton. Hold your finger up in the air—that is wind. Are there any questions?

There is no technology to do that, yet the expense to each of my farmers in a farm State like Oklahoma would have been hundreds of thousands of dollars a year and not accomplishing anything. We were able to get the public to write in to complain about that. As a result of that, the President pulled back.

I hope enough people are concerned about Utility MACT and its devastating effect on our economy and on jobs in America that they will join in and apply the pressure necessary to help the people in this Chamber understand that we should pass this Congressional Review Act and do away with this particular, very harmful regulation that is before us.

I have often said—a lot of people do not understand this—but Presidents are the ones who put the budgets down every year. A lot of times they try to blame the House or Senate, Democrats or Republicans. No. It doesn't matter. Who is in the White House, they are the ones who determine what the budget is. During the Bush years there was a total of \$2 trillion of deficits in 8 years. However, after this budget came out last week, in the Obama 4 years the increase has been, in deficits, \$5.3 trillion. That is \$5.3 trillion in 4 years as opposed to \$2 trillion in 8 years.

As bad as that is, I contend that the regulations of this administration are actually more expensive to the American people than servicing this debt. So I think it is important that we talk about this, talk about not just Utility MACT but all of these. Utility MACT is where we should draw the line, however, because that is one that directly affects our ability to provide energy for America, for our manufacturing jobs. We are right now a little bit under 50 percent dependent upon coal for our ability to run this machine called America. If you do this, we would lose, it is anticipated, 20 percent of our generation capacity and that translates into a lot of money, as I have noted.

That is what we have introduced today. I encourage my Democratic and Republican colleagues to join us in passing the CRA.

#### SUBMITTED RESOLUTIONS

#### SENATE RESOLUTION 379—CONDEMNING VIOLENCE BY THE GOVERNMENT OF SYRIA AGAINST THE SYRIAN PEOPLE

Mr. KERRY submitted the following resolution; from the Committee on

Foreign Relations; which was placed on the calendar:

#### S. RES. 379

Whereas the Syrian Arab Republic is a party to the International Covenant on Civil and Political Rights (ICCPR), adopted at New York December 16, 1966, the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984;

Whereas Syria voted in favor of the Universal Declaration of Human Rights, adopted at Paris, December 10, 1948;

Whereas, in March 2011, peaceful demonstrations in Syria began against the authoritarian rule of Bashar al-Assad;

Whereas, in response to the demonstrations, the Government of Syria launched a brutal crackdown, which has resulted in gross human rights violations, use of force against civilians, torture, extrajudicial killings, arbitrary executions, sexual violence, and interference with access to medical treatment;

Whereas the United Nations, as of January 25, 2012, estimated that more than 5,400 people in Syria have been killed since the violence began in March 2011;

Whereas, on February 4, 2012, President Barack Obama stated that President Bashar al-Assad "has no right to lead Syria, and has lost all legitimacy with his people and the international community";

Whereas the Department of State has repeatedly condemned the Government of Syria's crackdown on its people, including on January 30, 2012, when Secretary of State Hillary Clinton stated "The status quo is unsustainable. . . The longer the Assad regime continues its attacks on the Syrian people and stands in the way of a peaceful transition, the greater the concern that instability will escalate and spill over throughout the region.";

Whereas President Obama, on April 29, 2011, designated 3 individuals subject to sanctions for human rights abuses in Syria: Maher al-Assad, the brother of Syrian President Bashar al-Assad and brigade commander in the Syrian Army's 4th Armored Division; Atif Najib, the former head of the Political Security Directorate for Daraa Province and a cousin of Bashar al-Assad; and Ali Mamluk, director of Syria's General Intelligence Directorate;

Whereas, on May 18, 2011, President Obama issued an executive order sanctioning senior officials of the Syrian Arab Republic and their supporters, specifically designating 7 people: President Bashar al-Assad, Vice President Farouk al-Shara, Prime Minister Adel Safar, Minister of the Interior Mohammad Ibrahim al-Shaar, Minister of Defense Ali Habib Mahmoud, Head of Syrian Military Intelligence Abdul Fatah Qudsiya, and Director of Political Security Directorate Mohammed Dib Zaitoun;

Whereas President Obama, on August 17, 2011, issued Executive Order 13582, blocking property of the Government of Syria and prohibiting certain transactions with respect to Syria;

Whereas, on December 1, 2011, the Department of the Treasury designated 2 individuals, Aus Aslan and Muhammad Makhluaf, under Executive Order 13573 and 2 entities, the Military Housing Establishment and the Real Estate Bank of Syria, under Executive Order 13582;

Whereas, on May 6, 2011, the European Union's 27 countries imposed sanctions on the Government of Syria for the human rights abuses, including asset freezes and

visa bans on members of the Government of Syria and an arms embargo on the country;

Whereas, on November 12, 2011, the League of Arab States voted to suspend Syria's membership in the organization;

Whereas, on December 2, 2011, the United Nations Human Rights Council passed Resolution S-18/1, which deplores the human rights situation in Syria, commends the League of Arab States, and supports implementation of its Plan of Action;

Whereas the League of Arab States approved and implemented a plan of action to send a team of international monitors to Syria, which began December 26, 2011;

Whereas, on January 28, 2012, the League of Arab States decided to suspend its international monitoring mission due to escalating violence within Syria;

Whereas, on February 4, 2012, the Russian Federation and People's Republic of China vetoed a United Nations Security Council Resolution in support of the League of Arab States' Plan of Action;

Whereas, on February 14, 2012, General Martin Dempsey, Chairman of the Joint Chiefs of Staff, testified before the Committee on Armed Services of the Senate that Syria "is a much different situation than we collectively saw in Libya," presenting a "very different challenge" in which "we also know that other regional actors are providing support" as a part of a "Sunni majority rebelling against an oppressive Alawite-Shia regime";

Whereas the Governments of the Russian Federation and the Islamic Republic of Iran remain major suppliers of military equipment to the Government of Syria notwithstanding that government's violent repression of demonstrators;

Whereas the gross human rights violations perpetuated by the Government of Syria against the people of Syria represent a grave risk to regional peace and stability; and

Whereas the Committee on Foreign Relations of the Senate will immediately schedule a hearing to take place as soon as the Senate reconvenes to assess the situation in Syria and all the international options available to address this crisis: Now, therefore, be it

*Resolved*, That the Senate—

(1) strongly condemns the Government of Syria's brutal and unjustifiable use of force against civilians, including unarmed women and children and its violations of the fundamental human rights and dignity of the people of Syria;

(2) expresses its solidarity with the people of Syria, who have exhibited remarkable courage and determination in the face of unspeakable violence to rid themselves of a brutal dictatorship;

(3) expresses strong disappointment with the Governments of the Russian Federation and the People's Republic of China for their veto of the United Nations Security Council resolution condemning Bashar al-Assad and the violence in Syria and urges them to reconsider their votes;

(4) encourages the members of the United Nations Security Council to continue to pursue a resolution in support of a political solution to the crisis in Syria;

(5) commends the League of Arab States' efforts to bring about a peaceful resolution in Syria;

(6) regrets that the League of Arab States observer mission was not able to monitor the full implementation of the League of Arab States' Action Plan of November 2, 2011, due to the escalating violence in Syria; and

(7) urges the international community to review legal processes available to hold officials of the Government of Syria accountable for crimes against humanity and gross violations of human rights.

**SENATE RESOLUTION 380—TO EXPRESS THE SENSE OF THE SENATE REGARDING THE IMPORTANCE OF PREVENTING THE GOVERNMENT OF IRAN FROM ACQUIRING NUCLEAR WEAPONS CAPABILITY**

Mr. GRAHAM (for himself, Mr. LIEBERMAN, Mr. CASEY, Ms. AYOTTE, Mr. BLUMENTHAL, Mr. BOOZMAN, Mr. BROWN of Massachusetts, Mr. BROWN of Ohio, Mr. CARDIN, Mr. CHAMBLISS, Mr. COATS, Ms. COLLINS, Mr. COONS, Mr. CORNYN, Mrs. GILLIBRAND, Mr. HATCH, Mr. HELLER, Mr. HOEVEN, Mrs. HUTCHISON, Mr. INHOFE, Mr. MCCAIN, Mrs. MCCASKILL, Mr. MENENDEZ, Ms. MIKULSKI, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. PORTMAN, Mr. PRYOR, Mr. RISCH, Mr. SCHUMER, Mr. UDALL of Colorado, Mr. WYDEN, Ms. SNOWE, Mr. VITTER, Mr. ISAKSON, and Mr. SESSIONS) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 380

Whereas since at least the late 1980s, the Government of the Islamic Republic of Iran has engaged in a sustained and well-documented pattern of illicit and deceptive activities to acquire nuclear capability;

Whereas the United Nations Security Council has adopted multiple resolutions since 2006 demanding the full and sustained suspension of all uranium enrichment-related and reprocessing activities by the Iranian Government and its full cooperation with the International Atomic Energy Agency (IAEA) on all outstanding issues related to its nuclear activities, particularly those concerning the possible military dimensions of its nuclear program;

Whereas on November 8, 2011, the IAEA issued an extensive report that—

(1) documents “serious concerns regarding possible military dimensions to Iran’s nuclear programme”;

(2) states that “Iran has carried out activities relevant to the development of a nuclear device”; and

(3) states that the efforts described in paragraphs (1) and (2) may be ongoing;

Whereas as of November 2008, Iran had produced, according to the IAEA—

(1) approximately 630 kilograms of uranium-235 enriched to 3.5 percent; and

(2) no uranium-235 enriched to 20 percent;

Whereas as of November 2011, Iran had produced, according to the IAEA—

(1) nearly 5,000 kilograms of uranium-235 enriched to 3.5 percent; and

(2) 79.7 kilograms of uranium-235 enriched to 20 percent;

Whereas on January 9, 2011, IAEA inspectors confirmed that the Iranian government had begun enrichment activities at the Fordow site, including possibly enrichment of uranium-235 to 20 percent;

Whereas if Iran were successful in acquiring a nuclear weapon capability, it would likely spur other countries in the region to consider developing their own nuclear weapons capabilities;

Whereas on December 6, 2011, Prince Turki al-Faisal of Saudi Arabia stated that if international efforts to prevent Iran from obtaining nuclear weapons fail, “we must, as a duty to our country and people, look into all options we are given, including obtaining these weapons ourselves”;

Whereas top Iranian leaders have repeatedly threatened the existence of the State of Israel, pledging to “wipe Israel off the map”;

Whereas the Department of State—

(1) has designated Iran as a “State Sponsor of Terrorism” since 1984; and

(2) has characterized Iran as the “most active state sponsor of terrorism”;

Whereas Iran has provided weapons, training, funding, and direction to terrorist groups, including Hamas, Hezbollah, and Shiite militias in Iraq that are responsible for the murders of hundreds of American forces and innocent civilians;

Whereas on July 28, 2011, the Department of the Treasury charged that the Government of Iran had forged a “secret deal” with al Qaeda to facilitate the movement of al Qaeda fighters and funding through Iranian territory;

Whereas in October 2011, senior leaders of Iran’s Islamic Revolutionary Guard Corps (IRGC) Quds Force were implicated in a terrorist plot to assassinate Saudi Arabia’s Ambassador to the United States on United States soil;

Whereas on December 26, 2011, the United Nations General Assembly passed a resolution denouncing the serious human rights abuses occurring in the Islamic Republic of Iran, including torture, cruel and degrading treatment in detention, the targeting of human rights defenders, violence against women, and “the systematic and serious restrictions on freedom of peaceful assembly” as well as severe restrictions on the rights to “freedom of thought, conscience, religion or belief”;

Whereas President Obama, through the P5+1 process, has made repeated efforts to engage the Iranian Government in dialogue about Iran’s nuclear program and its international commitments under the Nuclear Nonproliferation Treaty.

Whereas on March 31, 2010, President Obama stated that the “consequences of a nuclear-armed Iran are unacceptable”;

Whereas in his State of the Union Address on January 24, 2012, President Obama stated: “Let there be no doubt: America is determined to prevent Iran from getting a nuclear weapon, and I will take no options off the table to achieve that goal”;

Whereas Secretary of Defense Panetta stated, in December 2011, that it was unacceptable for Iran to acquire nuclear weapons, reaffirmed that all options were on the table to thwart Iran’s nuclear weapons efforts, and vowed that if the United States gets “intelligence that they are proceeding with developing a nuclear weapon then we will take whatever steps necessary to stop it”;

Whereas the Defense Department’s January 2012 Strategic Guidance stated that U.S. defense efforts in the Middle East would be aimed “to prevent Iran’s development of a nuclear weapons capability and counter its destabilizing policies”;

Now, therefore, be it

*Resolved*, That the Senate—

(1) affirms that it is a vital national interest of the United States to prevent the Government of the Islamic Republic of Iran from acquiring a nuclear weapons capability;

(2) warns that time is limited to prevent the Iranian government from acquiring a nuclear weapons capability;

(3) urges continued and increasing economic and diplomatic pressure on the Islamic Republic of Iran to secure an agreement from the Government of the Islamic Republic of Iran that includes—

(A) the full and sustained suspension of all uranium enrichment-related and reprocessing activities;

(B) complete cooperation with the IAEA on all outstanding questions related to Iran’s nuclear activities, including—

(i) the implementation of the Non-Proliferation Treaty Additional Protocol; and

(ii) the verified end of Iran’s ballistic missile programs; and

(C) a permanent agreement that verifiably assures that Iran’s nuclear program is entirely peaceful;

(4) expresses support for the universal rights and democratic aspirations of the Iranian people;

(5) strongly supports United States policy to prevent the Iranian Government from acquiring nuclear weapons capability;

(6) rejects any United States policy that would rely on efforts to contain a nuclear weapons-capable Iran; and

(7) urges the President to reaffirm the unacceptability of an Iran with nuclear-weapons capability and oppose any policy that would rely on containment as an option in response to the Iranian nuclear threat.

**AMENDMENTS SUBMITTED AND PROPOSED**

SA 1663. Mr. BLUNT submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table.

SA 1664. Mr. THUNE submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1665. Mr. CARPER (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1666. Mr. CARPER (for himself, Mr. ALEXANDER, and Mr. BOOZMAN) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1667. Mr. NELSON of Nebraska (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1668. Mr. NELSON of Nebraska submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1669. Mr. MCCAIN (for himself, Mr. REID, Mr. HELLER, and Mr. KYL) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1670. Mr. CARPER (for himself, Mr. KIRK, and Mr. WARNER) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1671. Mr. CARPER submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1672. Mr. MERKLEY submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1673. Mr. LEAHY (for himself and Mr. SANDERS) submitted an amendment intended

to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1674. Mr. CASEY (for himself and Mr. UDALL of New Mexico) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1675. Mr. CASEY submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1676. Mr. SANDERS submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1677. Mr. SANDERS (for himself, Mr. MENENDEZ, Mr. LAUTENBERG, and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1678. Mrs. SHAHEEN submitted an amendment intended to be proposed by her to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1679. Mrs. SHAHEEN (for herself, Ms. MURKOWSKI, Ms. COLLINS, Mr. LEVIN, Ms. KLOBUCHAR, Mr. SANDERS, Mr. BEGICH, Mr. LEAHY, and Ms. STABENOW) submitted an amendment intended to be proposed by her to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1680. Mr. BINGAMAN (for himself and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1681. Ms. COLLINS (for herself, Mr. BROWN of Massachusetts, Mr. LEVIN, Mr. KYL, Mr. AKAKA, and Mr. COBURN) submitted an amendment intended to be proposed by her to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1682. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1683. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1684. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1685. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1686. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1687. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1688. Mr. SCHUMER (for himself and Mrs. GILLIBRAND) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1689. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1690. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1691. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1692. Mr. WYDEN (for himself, Mr. HOEVEN, and Mr. BEGICH) submitted an

amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1693. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1694. Mr. BAUCUS (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1695. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1696. Mr. KOHL submitted an amendment intended to be proposed to amendment SA 1633 proposed by Mr. REID to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1697. Mr. KOHL submitted an amendment intended to be proposed to amendment SA 1633 proposed by Mr. REID to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1698. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1699. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1700. Mr. CASEY submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1701. Mr. WHITEHOUSE (for himself and Mr. REED) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1702. Mr. CARPER submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1703. Mr. WARNER (for himself and Mr. KIRK) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1704. Mr. WARNER (for himself and Mr. BEGICH) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1705. Mr. BENNET (for himself and Mr. WARNER) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1706. Mr. CARDIN submitted an amendment intended to be proposed to amendment SA 1633 proposed by Mr. REID to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1707. Mrs. GILLIBRAND (for herself and Mr. WYDEN) submitted an amendment intended to be proposed by her to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1708. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

#### TEXT OF AMENDMENTS

**SA 1663.** Mr. BLUNT submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page \_\_, between lines \_\_ and \_\_, insert the following:

#### **SEC. \_\_\_\_ 001. WAIVER OF FUEL REQUIREMENTS.**

Section 211(c)(4)(C) of the Clean Air Act (42 U.S.C. 7545(c)(4)(C)) is amended—

(1) in clause (i)(II), by inserting “an unexpected problem with distribution or delivery equipment that is necessary for the transportation or delivery of fuel or fuel additives,” after “equipment failure,”; and

(2) by redesignating the second clause (v) (relating to the authority of the Administrator to approve certain State implementation plans) as clause (vi).

#### **SEC. \_\_\_\_ 002. FUEL SYSTEM REQUIREMENTS HARMONIZATION STUDY.**

Section 1509 of the Energy Policy Act of 2005 (Public Law 109–58; 119 Stat. 1083) is amended—

(1) in subsection (a)—

(A) in paragraph (1)(A), by inserting “biofuels,” after “oxygenated fuel”; and

(B) in paragraph (2)—

(i) in subparagraph (B)—

(I) by redesignating clause (ii) as clause (iii);

(II) in clause (i), by striking “and” after the semicolon; and

(III) by inserting after clause (i) the following:

“(ii) the renewable fuels standard; and”; and

(i) in subparagraph (G), by striking “Tier II” and inserting “Tier III”; and

(2) in subsection (b)(1), by striking “2008” and inserting “2014”.

**SA 1664.** Mr. THUNE submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

In division D, at the end, add the following:

#### **SEC. \_\_\_\_ . ADDITIONAL TRANSFER TO HIGHWAY TRUST FUND.**

Subsection (f) of section 9503 of the Internal Revenue Code of 1986, as amended by this Act, is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

“(7) TRANSFER OF ADDITIONAL RESULTING REVENUES.—Out of money in the Treasury not otherwise appropriated, there are hereby appropriated to the Highway Trust Fund amounts equivalent to the increases in revenues received in the Treasury resulting from the provisions of, and amendments made by division D of the Highway Investment, Job Creation, and Economic Growth Act of 2012, which are not otherwise subject to appropriation or transfer to the Highway Trust Fund.”.

**SA 1665.** Mr. CARPER (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 324, line 16, insert “149(k),” after “148(h).”.

On page 325, line 10, strike “and”.

On page 325, between lines 12 and 13, insert the following:

“(iii) the congestion mitigation and air quality performance plan; and

On page 325, line 13, strike “(iii)” and insert “(iv)”.

**SA 1666.** Mr. CARPER (for himself, Mr. ALEXANDER and Mr. BOOZMAN) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

In section 149(b)(1) of title 23, United States Code (as amended by section 11013), strike “(G) if the project” and all that follows through “(H) if the Secretary” and insert the following:

“(G) if the project involves the installation of battery charging or replacement facilities for electric-drive vehicles, or refueling facilities for alternative-fuel vehicles;

“(H) if the project or program shifts traffic demand to nonpeak hours or other transportation modes, increases vehicle occupancy rates, or otherwise reduces demand for roads through such means as telecommuting, ride-sharing, carsharing, alternative work hours, and pricing; or

“(I) if the Secretary

**SA 1667.** Mr. NELSON of Nebraska (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 527, strike line 22 and all that follows through page 529, line 8, and insert the following:

“(2) REGIONAL UNIVERSITY TRANSPORTATION CENTERS.—

“(A) LOCATION OF REGIONAL CENTERS.—One regional university transportation center shall be located in each of the 10 Federal regions that comprise the Standard Federal Regions established by the Office of Management and Budget in the document entitled ‘Standard Federal Regions’ and dated April, 1974 (circular A-105).

“(B) SELECTION CRITERIA.—In conducting a competition under subsection (b), the Secretary shall provide grants to 10 recipients on the basis of—

“(i) the criteria described in subsection (b)(2);

“(ii) the location of the center within the Federal region to be served; and

“(iii) whether or not the institution (or, in the case of a consortium of institutions, the lead institution) demonstrates that the institution has a well-established, nationally recognized program in transportation research and education, as evidenced by—

“(I) for each of the preceding 5 years, not less than \$2,000,000 in highway or public transportation research expenditures per year;

“(II) for each of the preceding 5 years, not less than 10 graduate degrees awarded in professional fields closely related to highways and public transportation per year; and

“(III) during the preceding 5 years, not less than 5 tenured or tenure-track faculty members who—

“(aa) specialize, on a full-time basis, in professional fields closely related to highways and public transportation; and

“(bb) as a group, have published a total of not less than 50 refereed journal publications on highway or public transportation research.

“(C) RESTRICTIONS.—For each fiscal year, a grant made available under this paragraph shall not exceed \$3,500,000 for each recipient.

“(D) MATCHING REQUIREMENTS.—

“(i) IN GENERAL.—As a condition of receiving a grant under this paragraph, a grant recipient shall match 100 percent of the amounts made available under the grant.

“(ii) SOURCES.—The matching amounts referred to in clause (i) may include amounts made available to the recipient under—

“(I) section 504(b) or 505 of title 23; and

“(II) subject to prior approval by the Secretary, a transportation-related grant from the National Science Foundation.

“(3) TIER 1 UNIVERSITY TRANSPORTATION CENTERS.—

“(A) IN GENERAL.—For each of fiscal years 2012 and 2013 and subject to subparagraph (B), the Secretary shall provide grants to not more than 15 recipients that the Secretary determines best meet the criteria described in subsection (b)(2).

“(B) RESTRICTIONS.—

“(i) IN GENERAL.—For each fiscal year, a grant made available under this paragraph shall not exceed \$3,500,000 for each recipient.

“(ii) FOCUSED RESEARCH.—At least 2 of the recipients awarded a grant under this paragraph shall have expertise in, and focus research on, public transportation issues.

“(C) MATCHING REQUIREMENT.—

“(i) IN GENERAL.—As a condition of receiving a grant under this paragraph, a grant recipient shall match 100 percent of the amounts made available under the grant.

“(ii) SOURCES.—The matching amounts referred to in clause (i) may include amounts made available to the recipient under—

“(I) section 504(b) or 505 of title 23; and

“(II) subject to prior approval by the Secretary, a transportation-related grant from the National Science Foundation.

“(4) TIER 2 UNIVERSITY TRANSPORTATION CENTERS.—

**SA 1668.** Mr. NELSON of Nebraska submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 469, after line 22, add the following:

**SEC. 15. INTERSTATE SYSTEM RECONSTRUCTION AND REHABILITATION PILOT PROGRAM.**

Section 1216 of the Transportation Equity Act for the 21st Century (23 U.S.C. 129 note; 1212 Stat. 212) is amended by striking subsection (b).

**SA 1669.** Mr. MCCAIN (for himself, Mr. REID, Mr. HELLER, and Mr. KYL) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. . AIRCRAFT NOISE ABATEMENT.**

(a) IN GENERAL.—Section 3 of Public Law 100 91 (16 U.S.C. 1a-1 note) is amended—

(1) in subsection (a)—

(A) by striking “(a)” and inserting the following:

“(a) FINDING.—”; and

(B) by inserting “commercial air tour” before “aircraft” each place such term appears; and

(2) in section (b)—

(A) in paragraph (1), by striking “associated with aircraft” inserting “associated with commercial air tour aircraft”; and

(B) in paragraph (2), by striking “air traffic” and inserting “commercial air tour traffic”.

(b) SAVINGS PROVISIONS.—

(1) JURISDICTION OF NATIONAL AIRSPACE.—None of the environmental recommendations for commercial air tour operations required under section 3(b)(1) of Public Law 100-91 (16 U.S.C. 1a-1 note), including raising the flight-free zone altitude ceilings above the ceilings in effect on the date of the enactment of this Act, shall affect the management of the National Airspace System, as determined by the Administrator of the Federal Aviation Administration.

(2) EFFECT OF NEPA DETERMINATIONS.—None of the environmental thresholds, analyses, or impact determinations that are included in the environmental impact statement prepared by the National Park Service for the plan required under section 3(b)(2) of Public Law 100-91 shall have broader application or be given deference beyond the application of such Act.

(c) CONVERSION TO QUIET TECHNOLOGY AIRCRAFT.—

(1) IN GENERAL.—Not later than 15 years after the date of the enactment of this Act, all commercial air tour aircraft operating in the Grand Canyon National Park Special Flight Rules Area shall be required to fully convert to quiet aircraft technology (as determined in accordance with regulations in effect on the day before the date of the enactment of this Act).

(2) CONVERSION INCENTIVES.—Not later than 60 days after the date of the enactment of this Act, the Director of the National Park Service and the Administrator of the Federal Aviation Administration shall provide incentives for commercial air tour operators that convert to quiet aircraft technology (as determined in accordance with the regulations in effect on the day before the date of the enactment of this Act) before the date specified in paragraph (1), such as increasing the flight allocations for such operators on a net basis consistent with section 804 of the National Park Air Tours Management Act of 2000 (title VIII of Public Law 106-181).

(d) REVIEW.—Not later than 90 days after the date of the enactment of this Act, the National Academy of Sciences shall conduct a review of the National Park Service’s noise impact criteria and noise thresholds, and the mitigating impact of quiet technology aircraft in existence on the date of the enactment of this Act on the outdoor environment of Grand Canyon National Park.

**SA 1670.** Mr. CARPER (for himself, Mr. KIRK, and Mr. WARNER) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 469, after line 22, add the following:

**SEC. 15. REMOVAL OF FEDERAL PROGRAM LIMITATIONS.**

(a) INNOVATIVE SURFACE TRANSPORTATION FINANCING METHODS.—

(1) VALUE PRICING PILOT PROGRAM.—Section 1012(b)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended in the second sentence by striking “as many as 15 such

State or local governments or public authorities" and inserting "States, local governments, and public authorities".

(2) INTERSTATE SYSTEM RECONSTRUCTION AND REHABILITATION PILOT PROGRAM.—Section 1216(b)(2) of the Transportation Equity Act for the 21st Century (23 U.S.C. 129 note; 112 Stat. 212) is amended—

(A) in the first sentence, by striking "3" and inserting "10"; and

(B) by striking the second sentence.

(b) EXPRESS LANES DEMONSTRATION PROGRAM.—Section 1604(b)(2) of the SAFETEA-LU (23 U.S.C. 129 note; 119 Stat. 1250) is amended in the matter preceding subparagraph (A)—

(1) by striking "15"; and

(2) by striking "2005 through 2009" and inserting "2012 through 2013".

(c) INTERSTATE SYSTEM CONSTRUCTION TOLL PILOT PROGRAM.—Section 1604(c) of the SAFETEA-LU (23 U.S.C. 129 note; 119 Stat. 1253) is amended—

(1) by striking paragraph (2);

(2) by redesignating paragraphs (9) and (1) as paragraphs (1) and (2), respectively; and

(3) in paragraph (8), by striking "the date of enactment of this Act" and inserting "the date of enactment of the MAP-21".

**SA 1671.** Mr. CARPER submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 141, lines 17 and 18, strike "day before the date of enactment of the MAP-21," and insert "date on which the eligible entity enters into a prime contract or agreement with a State to carry out a covered highway construction project (as defined in section 330(b)(2)).";

On page 152, strike line 22 and insert the following:

"achieve the objectives of that section and ensure that the bid proceeding and award of the contract for any covered highway construction project carried out under that section will be—

"(I) made without regard to the particulate matter emission levels of the fleet of the eligible entity; and

"(II) consistent with existing requirements for full and open competition under section 112.

On page 443, strike lines 16 through 19 and insert the following:

"not meet current model year new engine standards for particulate matter for the applicable engine power group issued by the Environmental Protection Agency, on a covered highway construction project

On page 444, line 17, strike "or".

On page 444, at the end of line 19, insert "or".

On page 444, strike lines 18 through 20 and insert the following:

"(iv) an idle reduction control technology; or

"(v) any combination of the technologies listed in clauses (i) through (iv);

"(B) reduces particulate matter emission from covered".

On page 446, strike lines 3 through 5 and insert the following:

"(C) EXCLUSIONS.—The term 'nonroad diesel equipment' does not include—

"(i) a locomotive or marine vessel; or

"(ii) any project with a total budgeted cost not to exceed \$5,000,000 (which, notwithstanding any other provision of this section,

may be excluded from the requirement to comply with this section by an applicable State or metropolitan planning organization).

On page 446, strike line 19 and insert the following:

"(c) CRITERIA ELIGIBLE ACTIVITIES.—For purposes of subsection (b)(3)(A):

On page 446, line 25, strike "non-road" and insert "nonroad".

On page 447, line 1, strike "non-road" and insert "nonroad".

On page 447, lines 4 through 5, strike "day before the date of enactment of the MAP-21; and" and insert "date on which the eligible entity enters into a prime contract or agreement with a State to carry out a covered highway construction project; and".

On page 447, strike line 10 and insert the following:

duction in particulate matter.

On page 447, line 14, insert "or remanufactured" after "new".

On page 447, line 16, strike "non-road" and insert "nonroad".

On page 447, line 17, strike "non-road" and insert "nonroad".

On page 447, lines 20 through 21, strike "day before the date of enactment of the MAP-21; and" and insert "date on which the eligible entity enters into a prime contract or agreement with a State to carry out a covered highway construction project; and".

On page 448, strike line 2 and insert the following:

particulate matter.

On page 448, line 4, strike "on" and insert "using".

On page 448, strike lines 8 through 14 and insert the following:

the condition that the replaced engine is returned to the supplier for remanufacturing to a more stringent set of engine emissions standards or for use as scrap; and.

On page 448, strike lines 15 through 20 and insert the following:

"(B) certified by the engine manufacturer as meeting a more stringent engine particulate matter emission standard for the applicable engine power group established by the Environmental Protection Agency than the engine particulate matter emission standard applicable to the replaced engine.

On page 449, line 2, strike "non-road" and insert "nonroad".

On page 449, line 3, strike "non-road" and insert "nonroad".

On page 449, lines 6 and 7, strike "day before the date of enactment of the MAP-21; and" and insert "date on which the eligible entity enters into a prime contract or agreement with a State to carry out a covered highway construction project; and".

On page 449, strike line 12 and insert the following:

duction in particulate matter.

"(d) ELIGIBILITY FOR CREDITS.—

"(1) IN GENERAL.—A State may take credit in a State implementation plan for national ambient air quality standards for any emission reductions that result from the implementation of this section.

"(2) CREDITING.—An emission reduction described in paragraph (1) may be credited toward demonstrating conformity of State implementation plans and transportation plans.".

On page 449, line 18, strike "21 years" and insert "1 year".

**SA 1672.** Mr. MERKLEY submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize

Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 180, strike lines 17 through 23 and insert the following:

"(4) OTHER ELIGIBLE COSTS.—In addition to eligible project costs, a State may use funds apportioned under section 104(b)(5) for the necessary costs of—

"(A) conducting analyses and data collection;

"(B) developing and updating performance targets;

"(C) reporting to the Secretary to comply with subsection (i); or

"(D) carrying out diesel retrofits or alternative fuel projects defined under section 149 for class 8 vehicles.

On page 185, strike lines 3 and 4 and insert the following:

"(ii) the total freight tonnage and value of freight moved by all modes of transportation;

On page 186, line 10, strike "or".

On page 186, line 18, strike the period and insert "; or".

On page 186, between lines 18 and 19, insert the following:

"(3) carries a high volume of freight, as measured by total freight tonnage or total value of freight, compared to other rural roads in the State.

On page 187, strike lines 5 through 7 and insert the following:

"(B) an identification of highway bottlenecks on the national freight network that create significant freight congestion problems, based on a quantitative methodology developed by the Secretary for calculating the national economic significance of highway bottlenecks on the national freight network;

**SA 1673.** Mr. LEAHY (for himself and Mr. SANDERS) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. —. TRANSIT-ORIENTED CAR SHARING PROJECTS.**

Section 5302 of title 49, United States Code, as amended by this Act, is amended—

(1) in paragraph (3)—

(A) in subparagraph (K)(ii), by striking "or" at the end;

(B) in subparagraph (L)(ii), by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following:

"(M) transit-oriented car sharing.";

(2) by redesignating paragraphs (20) and (21) as paragraphs (21) and (22), respectively; and

(3) by inserting after paragraph (19) the following:

"(20) TRANSIT-ORIENTED CAR SHARING.—The term 'transit-oriented car sharing', when used with respect to a project, means a project that—

"(A) is designed—

"(i) to achieve local, community-based environmental and social objectives by acquiring or contracting for equipment or a facility for use in providing cars through a membership based service that is available to all qualified drivers in a community, including expenses incidental to such acquisition and

to the marketing of the service (including vehicle acquisition, insurance, and acquiring parking facilities);

“(ii) for use during a short time and for short-distance trips; and

“(iii) as an extension of a public transportation system;

“(B) provides accessible, low-cost vehicles serving many types of individuals; and

“(C) is transit-oriented and promotes walking, biking, and public transportation as primary methods of transportation.”.

**SA 1674.** Mr. CASEY (for himself and Mr. UDALL of New Mexico) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 585, strike line 22 and all that follows through page 586, line 4, and insert the following:

“(1) defines a recommended implementation path for dedicated short-range communications technology and applications;

“(2) includes guidance on the relationship of the proposed deployment of dedicated short-range communications to the National ITS Architecture and ITS Standards; and

“(3) ensures competition by not preferencing the use of any particular frequency for vehicle to infrastructure operations.

**SA 1675.** Mr. CASEY submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 491, strike lines 5 through 8 and insert the following:

“(XVII) studies on the effectiveness of fiber-based additives to improve the durability of surface transportation materials in various geographic regions

“(XVIII) studies of infrastructure resilience and other adaptation measures; and

“(XIX) maintenance of seismic

**SA 1676.** Mr. SANDERS submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 435, strike line 22 and all that follows through page 437, line 10, and insert the following:

(2) by striking subsection (e) and inserting the following:

“(e) **EMERGENCY RELIEF.**—The Federal share payable for any repair or reconstruction provided for by funds made available under section 125 for any project on a Federal-aid highway, including the Interstate System, shall not exceed the Federal share payable on a project on the system as provided in subsections (a) and (b), except that—

“(1) the Federal share payable for eligible emergency repairs to minimize damage, protect facilities, or restore essential traffic accomplished within 180 days after the actual occurrence of the natural disaster or catastrophic failure may amount to 100 percent of the cost of the repairs;

“(2) the Federal share payable for any repair or reconstruction of Federal land trans-

portation facilities and tribal transportation facilities may amount to 100 percent of the cost of the repair or reconstruction;

“(3) the Secretary shall extend the time period in paragraph (1) taking into consideration any delay in the ability of the State to access damaged facilities to evaluate damage and the cost of repair; and

“(4) the Federal share payable for eligible permanent repairs to restore damaged facilities to predisaster condition may amount to 100 percent of the cost of the repairs if the eligible expenses incurred by the State due to natural disasters or catastrophic failures in a Federal fiscal year exceeds the annual apportionment of the State under section 104 for the fiscal year in which the disasters or failures occurred.”;

**SA 1677.** Mr. SANDERS (for himself, Mr. MENENDEZ, Mr. LAUTENBERG, and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 469, after line 22, insert the following:

**SEC. 15. WEATHERIZATION ASSISTANCE PROGRAM FOR LOW-INCOME PERSONS FORMULA.**

Notwithstanding the Consolidated Appropriations Act, 2012 (Public Law 112-74) or any amendment made by that Act, the Secretary of Energy shall distribute amounts allocated for the Weatherization Assistance Program for Low-Income Persons established under part A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6861 et seq.) for fiscal year 2012 in accordance with the allocation formula in section 414(a) of that Act (42 U.S.C. 6864(a)) (as in effect on the day before the date of enactment of the Consolidated Appropriations Act, 2012 (Public Law 112-74)).

**SA 1678.** Mrs. SHAHEEN submitted an amendment intended to be proposed by her to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. . OPERATING COST OF EQUIPMENT AND FACILITIES FOR PUBLIC TRANSPORTATION SYSTEMS THAT OPERATE FEWER THAN 50 BUSES.**

Section 5307(a)(2) of title 49, United States Code, as amended by this Act, is amended—

(1) in subparagraph (A), by striking “75 or fewer” and inserting “a minimum of 50 buses and a maximum of 75”;

(2) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(3) by inserting before subparagraph (B), as so redesignated, the following:

“(A) for public transportation systems that operate fewer than 50 buses during peak service hours, in an amount not to exceed 100 percent of the share of the apportionment which is attributable to such systems within the urbanized area, as measured by vehicle revenue hours;”.

**SA 1679.** Mrs. SHAHEEN (for herself, Ms. MURKOWSKI, Ms. COLLINS, Mr. LEVIN, Ms. KLOBUCHAR, Mr. SANDERS,

Mr. BEGICH, Mr. LEAHY, and Ms. STABENOW) submitted an amendment intended to be proposed by her to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 264, strike line 23 and all that follows through page 267, line 9, and insert the following:

**“(5) SPECIAL RULES FOR SMALL METROPOLITAN PLANNING ORGANIZATIONS.—**

**“(A) IN GENERAL.**—Subject to subparagraph (B), a metropolitan planning organization subject to this section and chapter 53 of title 49 (as in effect on the day before the date of enactment of the MAP-21) shall continue to be designated as a metropolitan planning organization subject to this section (as amended by that Act) if the metropolitan planning organization—

“(i) serves an urbanized area; and

“(ii) the population of the urbanized area is more than 50,000 individuals and less than 200,000 individuals.

**“(B) EXCEPTION.**—Subparagraph (A) shall not apply if the Governor and units of general purpose local government—

“(i) agree to terminate the designation described in subparagraph (A); and

“(ii) together represent at least 75 percent of the population described in subparagraph (A)(ii), based on the latest available decennial census conducted under section 141(a) of title 13, United States Code.

**“(C) TREATMENT.**—A metropolitan planning organization described in subparagraph (A) shall be treated, for purposes of this section and chapter 53 of title 49 as a metropolitan planning organization that is subject to this section (as amended by the MAP-21).

On page 267, line 10, strike “(8)” and insert “(6)”.

**SA 1680.** Mr. BINGAMAN (for himself, and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 45, between lines 3 and 4, insert the following:

**“(C) FURTHER ADJUSTMENT FOR PRIVATIZED HIGHWAYS.—**

**“(i) DEFINITION OF PRIVATIZED HIGHWAY.**—In this subparagraph:

**“(I) IN GENERAL.**—The term ‘privatized highway’ means a highway that was formerly a publically operated toll road that is subject to an agreement giving a private entity—

“(aa) control over the operation of the highway; and

“(bb) ownership over the toll revenues collected from the operation of the highway.

**“(II) EXCLUSION.**—The term ‘privatized highway’ does not include any highway or toll road that was originally—

“(aa) financed and constructed using private funds; and

“(bb) operated by a private entity.

**“(ii) ADJUSTMENT.**—After making the adjustments to the apportionment of a State under subparagraphs (A) and (B), the Secretary shall further adjust the amount to be apportioned to the State by reducing the apportionment by an amount equal to the product obtained by multiplying—



“(I) the amount to be apportioned to the State, as so adjusted under those subparagraphs; and

“(II) the percentage described in clause (iii).

“(iii) PERCENTAGE.—The percentage referred to in clause (ii) is the percentage equal to the sum obtained by adding—

“(I) the product obtained by multiplying—

“(aa)  $\frac{1}{2}$ ; and

“(bb) the proportion that—

“(i) the total number of lane miles on privatized highway lanes on National Highway System routes in a State; bears to

“(BB) the total number of all lane miles on National Highway System routes in the State; and

“(II) the product obtained by multiplying—

“(aa)  $\frac{1}{2}$ ; and

“(bb) the proportion that—

“(AA) the total number of vehicle miles traveled on privatized highway lanes on National Highway System routes in the State; bears to

“(BB) the total number of vehicle miles traveled on all lanes on National Highway System routes in the State.

**SA 1681.** Ms. COLLINS (for herself, Mr. BROWN of Massachusetts, Mr. LEVIN, Mr. KYL, Mr. AKAKA, and Mr. COBURN) submitted an amendment intended to be proposed by her to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ STUDY OF HEALTH EFFECTS OF BACKSCATTER X-RAY MACHINES.**

(a) IN GENERAL.—The Under Secretary for Science and Technology in the Department of Homeland Security shall provide for the conduct of an independent study of the effects on human health caused by the use of backscatter x-ray machines at airline checkpoints operated by the Transportation Security Administration.

(b) REQUIREMENTS FOR STUDY.—

(1) CONDUCT.—The study required under subsection (a) shall be—

(A) initiated not later than 90 days after the date of the enactment of this Act;

(B) conducted by an independent laboratory selected by the Under Secretary, in consultation with the National Science Foundation, from among laboratories with expertise in the conduct of similar studies; and

(C) to the maximum extent practicable, consistent with standard evaluations of radiological medical equipment.

(2) TESTING EQUIPMENT.—In conducting the study, the laboratory shall, to the maximum extent practicable—

(A) use calibration testing equipment developed by the laboratory for purposes of study; and

(B) use commercially-available calibration testing equipment as a control.

(3) ELEMENTS.—In conducting the study, the laboratory shall, to the maximum extent practicable and consistent with recognized protocols for independent scientific testing—

(A) dismantle and evaluate one or more backscatter x-ray machine used at airline checkpoints operated by the Transportation Security Administration in order to determine—

(i) the placement of testing equipment so that radiation emission readings during the testing of such machines are as accurate as possible; and

(ii) how best to measure the dose emitted per scan;

(B) determine the failure rates and effects of use of such machines;

(C) include the use of alternative testing methods in the determination of levels of radiation exposure (such as an examination of enzyme levels after x-ray exposure to determine if there is a biological response to cellular damage caused by such an exposure);

(D) assess the fail-safe mechanisms of such machines in order to determine the optimal operating efficacy of such machines;

(E) ensure that any tests performed are replicable;

(F) obtain peer review of any tests performed; and

(G) meet such other requirements as the Under Secretary shall specify for purposes of the study.

(4) REPORT.—

(A) EVALUATION.—The Under Secretary shall provide for an independent panel, in consultation with the National Science Foundation, with expertise in conducting similar evaluations, to evaluate the data collected under the study to assess the health risks posed by backscatter x-ray machines to individuals and groups of people screened or affected by such machines, including—

(i) frequent air travelers;

(ii) employees of the Transportation Security Administration;

(iii) flight crews;

(iv) other individuals who work at an airport; and

(v) individuals with greater sensitivity to radiation, such as children, pregnant women, the elderly, and cancer patients.

(B) CONSIDERATIONS.—In conducting the evaluation under subparagraph (A), the panel shall—

(i) conduct a literature review of relevant clinical and academic literature; and

(ii) consider the risk of backscatter x-ray technology from a public health perspective in addition to the individual risk to each airline passenger.

(C) REPORTS.—

(i) PROGRESS REPORTS.—Not later than 90 days after the date of the enactment of this Act, and periodically thereafter until the final report is submitted pursuant to clause (ii), the Under Secretary shall submit a report to Congress that contains the preliminary findings of the study conducted under this subsection.

(ii) FINAL REPORT.—Not later than 90 days after the date on which the panel completes the evaluation required under this paragraph, the Under Secretary shall submit a report to Congress that contains the result of the study and evaluation conducted under this subsection.

(c) SIGNAGE REQUIREMENT RELATING TO BACKSCATTER X-RAY MACHINES.—The Administrator of the Transportation Security Administration shall ensure that large, easily readable signs or equivalent electronic displays are placed at the front of airline passenger check point queues where backscatter advanced imaging technology machines are used for screening to inform airline passengers, particularly passengers who may be sensitive to radiation exposure, that they may request to undergo alternative screening procedures instead of passing through a backscatter x-ray machine.

**SA 1682.** Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for

other purposes; which was ordered to lie on the table; as follows:

On page 128, line 9, strike “(2)” and insert the following:

“(2) PRIORITY PROJECTS.—In selecting projects under paragraph (1), priority shall be given to projects that address safety improvement in areas with a high number of pedestrian accidents.

“(3)

**SA 1683.** Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 157, line 8, strike “reduction”.

**SA 1684.** Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 602, between lines 3 and 4, insert the following:

“(3) COTERMINUS OBLIGATIONS.—Since a secured loan under section 603 constitutes Federal aid under this title, the obligations set forth in section 129 shall be coterminous with the successful repayment of such loan.

**SA 1685.** Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ AUTHORIZATION OF LOCAL RESIDENTIAL OR COMMUTER TOLL, USER FEE, OR FARE DISCOUNT PROGRAMS.**

(a) PURPOSE.—The purpose of this section is to expressly authorize the establishment of programs that offer discounted transportation tolls, user fees, and fares for residents in specific geographic areas, as necessary or appropriate.

(b) AUTHORITY TO PROVIDE RESIDENTIAL OR COMMUTER TOLL, USER FEE, OR FARE DISCOUNT PROGRAMS.—

(1) IN GENERAL.—States, counties, municipalities, and multi-jurisdictional transportation authorities that operate or manage roads, highways, bridges, railroads, busses, ferries, or other transportation systems are authorized to establish programs that offer discounted transportation tolls, user fees, or other fares for residents of specific geographic areas in order to reduce or alleviate toll burdens imposed upon such residents.

(2) RETROACTIVE APPLICABILITY.—The authority set forth in paragraph (1) shall apply to residential or commuter toll, user fee, and fare discount programs established before, on, or after the date of the enactment of this Act.

(c) RULEMAKING WITH RESPECT TO THE STATE, LOCAL, OR AGENCY PROVISION OF TOLL, USER FEE, OR FARE DISCOUNT PROGRAMS TO LOCAL RESIDENTS OR COMMUTERS.—States, counties, municipalities, and multi-jurisdictional transportation authorities that operate or manage roads, highways, bridges, railroads, busses, ferries, or other



transportation systems are authorized to enact such rules or regulations that may be necessary to establish the programs authorized under subsection (b).

(d) **RULE OF CONSTRUCTION.**—Nothing in this section may be construed to limit or otherwise interfere with the authority, as of the date of the enactment of this Act, of States, counties, municipalities, and multi-jurisdictional transportation authorities that operate or manage roads, highways, bridges, railroads, busses, ferries, or other transportation systems.

**SA 1686.** Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title I of division C, add the following:

**SEC. 3115. MAXIMUM HOUR REQUIREMENTS.**

Section 13(b)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(b)(1)) is amended by inserting before the semicolon the following: ‘‘, except a driver of an ‘over-the-road bus’ (as defined in section 3038(a)(3) of the Transportation Equity Act for the 21st Century (Public Law 105-178; 49 U.S.C. 5310 note))’’.

**SA 1687.** Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. —. DISCLOSURE OF SAFETY PERFORMANCE RATINGS OF MOTORCOACH SERVICES AND OPERATIONS.**

(a) **IN GENERAL.**—Subchapter I of chapter 141 of title 49, United States Code, is amended by adding at the end the following:

**“§ 14105. Safety performance ratings of motorcoach services and operations**

“(a) **DEFINITIONS.**—In this section:

“(1) **MOTORCOACH.**—

“(A) **IN GENERAL.**—Except as provided in subparagraph (B), the term ‘motorcoach’ has the meaning given to the term ‘over-the-road bus’ in section 3038(a)(3) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note).

“(B) **INCLUSIONS AND EXCLUSIONS.**—The term ‘motorcoach’—

“(i) includes a motor vehicle used to transport passengers that has a gross vehicle weight of at least 10,001 pounds; and

“(ii) does not include—

“(I) a bus used in public transportation that is provided by a State or local government; or

“(II) a school bus (as defined in section 30125(a)(1)), including a multifunction school activity bus.

“(2) **MOTORCOACH SERVICES AND OPERATIONS.**—The term ‘motorcoach services and operations’ means passenger transportation by a motorcoach for compensation.

“(b) **RULEMAKING.**—

“(1) **IN GENERAL.**—Not later than 1 year after the date on which the safety fitness determination rule is implemented, the Secretary shall require, by regulation—

“(A) each motor carrier that owns or leases 1 or more motorcoaches that transport passengers subject to the Secretary’s ju-

risdiction under section 13501 to display prominently in each terminal of departure, on the motorcoach if the motorcoach does not depart from a terminal, and at all points of sale for such motorcoach services and operations, a simple and understandable letter grade rating system that allows motorcoach passengers to compare the safety performance of motorcoach operators; and

“(B) any person who sells tickets for motorcoach services and operations to display the letter grade rating system described in subparagraph (A) at all points of sale for such motorcoach services and operations.

“(2) **ITEMS INCLUDED IN THE RULEMAKING.**—In promulgating safety performance ratings for motorcoaches pursuant to the rulemaking required under paragraph (1), the Secretary shall consider—

“(A) the frequency with which safety performance ratings will be assigned and updated, which updates shall take place at least once per year;

“(B) the specific data elements and sources of information to be utilized in establishing and updating safety performance ratings for motorcoaches;

“(C) the need and extent to which safety performance ratings should be made available in languages other than English; and

“(D) penalties authorized under section 521.

“(3) **INSUFFICIENT INSPECTIONS.**—Any motor carrier for which insufficient safety data is available shall display a label warning of such insufficiency.

“(c) **EFFECT ON STATE AND LOCAL LAW.**—Nothing in this section may be construed to preempt a State, or a political subdivision of a State, from enforcing any requirements concerning the manner and content of consumer information provided by motor carriers that are not subject to the Secretary’s jurisdiction under section 13501.’’.

(b) **CLERICAL AMENDMENT.**—The analysis of chapter 141 of title 49, United States Code, is amended by inserting after the item relating to section 14104 the following:

“Sec. 14105. Safety performance ratings of motorcoach services and operations.’’.

**SA 1688.** Mr. SCHUMER (for himself and Mrs. GILLIBRAND) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. —. CONTROLLING HELICOPTER NOISE POLLUTION IN RESIDENTIAL AREAS.**

(a) **RULEMAKING WITH RESPECT TO REDUCING HELICOPTER NOISE POLLUTION.**—

(1) **NEW YORK NORTH SHORE HELICOPTER ROUTE.**—Not later than 1 year after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall issue a final rule in Docket No. FAA-2010-0302 (The New York North Shore Helicopter Route), without additional notice and comment. The final rule shall include—

(A) a requirement for helicopter operators to utilize the North Shore route, as charted, when operating in that area of Long Island, New York;

(B) a requirement for helicopter operations to enter and exit the west terminus of North Shore Helicopter Route over water at VPROK;

(C) appropriate safeguards for safety and operational necessity, including safeguards

to avoid adverse effects on the safe and efficient use and management of the national airspace system; and

(D) penalties for failing to comply with the requirements described in subparagraph (A).

(2) **LONG ISLAND SOUTH SHORE ROUTE.**—Not later than 18 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall issue a notice of proposed rulemaking to address helicopter noise on the South Shore of Long Island, New York. The proposed rule shall include—

(A) a requirement for helicopter operators to utilize the South Shore route, as charted, when operating in that area of Long Island, New York;

(B) an expansion of the existing route to include linkage east of Orient and Montauk Points to the North Shore Helicopter Route remaining over water;

(C) appropriate safeguards for safety and operational necessity, including safeguards to avoid adverse effects on the safe and efficient use and management of the national airspace system; and

(D) penalties for failing to comply with the requirements described in subparagraph (A).

(3) **LOS ANGELES COUNTY FLIGHT PATHS.**—Not later than 2 years after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall prescribe regulations for helicopter operations in Los Angeles County, California, that include requirements relating to the flight paths and altitudes associated with such operations to reduce helicopter noise pollution in residential areas, increase safety, and minimize commercial aircraft delays.

(b) **EXCEPTIONS FOR EMERGENCY, LAW ENFORCEMENT, BROADCASTING AND MILITARY HELICOPTERS.**—The rules required under subsection (a) shall provide exceptions for helicopter activity related to emergency, law enforcement, broadcast news gathering, or military activities..

(c) **COMPLIANCE MONITORING.**—For the 24 month period following the completion of the rulemakings required in subsection (a), the Administrator of the Federal Aviation Administration shall monitor compliance with the rulemakings required under subsection (a). This monitoring shall include both the route and altitude of helicopter operations.

(d) **CONSULTATIONS.**—In prescribing the regulations under subsection (a)(3), the Administrator of the Federal Aviation Administration shall make reasonable efforts to consult with local communities and local helicopter operators in order to develop regulations that meet the needs of local communities, helicopter operators, and the Federal Aviation Administration.

(e) **REPORT TO CONGRESS.**—Within 60 days of the conclusion of the compliance monitoring required in subsection (c), the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that includes, at minimum—

(1) the compliance rate of helicopter operations;

(2) the average altitude of helicopter operations;

(3) a comparison of North Shore and South Shore route use;

(4) analysis of season, time and day use of the helicopter operations; and

(5) analysis of impact to commercial aircraft arrival and departure flows.

**SA 1689.** Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . INTEROPERABILITY OF ELECTRONIC TOLL COLLECTION SYSTEMS.**

(a) DEFINITIONS.—In this section:

(1) DEMONSTRATION PROGRAM AREA.—The term “demonstration program area” means the toll transportation facilities that are affiliated with the E-ZPass Interagency Group or located in States through which Interstate Highway 95 passes.

(2) ELECTRONIC TOLL COLLECTION.—the term “electronic toll collection” means the collection of tolls based on the identification and classification of vehicles through electronic systems.

(b) DEMONSTRATION PROGRAM.—Not later than 5 years after the date of the enactment of this Act, the operator of any electronic toll collection facility in the demonstration program area shall implement policies and procedures to enable customers with accounts in good standing with any other electronic toll collection system to electronically pass through its toll facilities within the demonstration program area.

(c) INTEROPERABLE ELECTRONIC TOLL COLLECTION SYSTEM.—Not later than 10 years after the date of the enactment of this Act, the operators of all toll transportation facilities located on highways constructed or maintained with financial assistance from the Highway Trust Fund shall jointly implement a comprehensive interoperable electronic toll collection system that—

- (1) promotes interstate commerce;
- (2) enhances public safety;
- (3) improves mobility; and
- (4) protects the environment.

**SA 1690.** Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

In section 403(b)(1) of title 23, United States Code, as amended by section 31103 of this bill, strike subparagraph (D) and insert the following:

“(D) the development of technologies to detect drug impaired drivers; and

“(E) the effect of State laws on any aspects, activities, or programs described in subparagraphs (A) through (D).”

**SA 1691.** Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 487, line 12, insert “and bridge” after “highway”.

On page 489, line 22, insert “and bridge” after “highway”.

**SA 1692.** Mr. WYDEN (for himself, Mr. HOEVEN, and Mr. BEGICH) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and

highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . CREDIT TO HOLDERS OF TRIP BONDS.**

(a) SHORT TITLE.—This section may be cited as the “Transportation and Regional Infrastructure Project Bonds Act of 2012” or “TRIP Bonds Act”.

(b) IN GENERAL.—Subpart I of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

**“SEC. 54G. TRIP BONDS.**

“(a) TRIP BOND.—For purposes of this subpart, the term ‘TRIP bond’ means any bond issued as part of an issue if—

“(1) 100 percent of the available project proceeds of such issue are to be used for expenditures incurred after the date of the enactment of this section for 1 or more qualified projects pursuant to an allocation of such proceeds to such project or projects by a State infrastructure bank,

“(2) the bond is issued by a State infrastructure bank and is in registered form (within the meaning of section 149(a)),

“(3) the State infrastructure bank designates such bond for purposes of this section,

“(4) the term of each bond which is part of such issue does not exceed 30 years,

“(5) the issue meets the requirements of subsection (e),

“(6) the State infrastructure bank certifies that the State meets the State contribution requirement of subsection (h) with respect to such project, as in effect on the date of issuance, and

“(7) the State infrastructure bank certifies that the State meets the requirement described in subsection (i).

“(b) QUALIFIED PROJECT.—For purposes of this section—

“(1) IN GENERAL.—The term ‘qualified project’ means the capital improvements to any transportation infrastructure project of any governmental unit or other person, including roads, bridges, rail and transit systems, ports, and inland waterways proposed and approved by a State infrastructure bank, but does not include costs of operations or maintenance with respect to such project.

“(2) CERTAIN FEDERAL PROJECTS.—Such term may include the Federal share or portion thereof, of a congressionally authorized project where all environmental studies have been completed and the United States Army Corps of Engineers Chief’s Report has been completed successfully.

“(c) APPLICABLE CREDIT RATE.—In lieu of section 54A(b)(3), for purposes of section 54A(b)(2), the applicable credit rate with respect to an issue under this section is the rate equal to an average market yield (as of the day before the date of sale of the issue) on outstanding long-term corporate debt obligations (determined in such manner as the Secretary prescribes).

“(d) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

“(1) IN GENERAL.—The maximum aggregate face amount of bonds which may be designated under subsection (a) by any State infrastructure bank shall not exceed the TRIP bond limitation amount allocated to such bank under paragraph (3).

“(2) NATIONAL LIMITATION AMOUNT.—There is a TRIP bond limitation amount for each calendar year. Such limitation amount is—

“(A) \$10,000,000,000 for 2013,

“(B) \$15,000,000,000 for 2014, and

“(C) except as provided in paragraph (4), zero thereafter.

“(3) ALLOCATIONS TO STATES.—The TRIP bond limitation amount for each calendar year shall be allocated by the Secretary among the States such that each State is allocated 2 percent of such amount.

“(4) CARRYOVER OF UNUSED ISSUANCE LIMITATION.—If for any calendar year the TRIP bond limitation amount under paragraph (2) exceeds the amount of TRIP bonds issued during such year, such excess shall be carried forward to 1 or more succeeding calendar years as an addition to the TRIP bond limitation amount under paragraph (2) for such succeeding calendar year and until used by issuance of TRIP bonds.

“(e) SPECIAL RULES RELATING TO EXPENDITURES.—

“(1) IN GENERAL.—An issue shall be treated as meeting the requirements of this subsection if, as of the date of issuance, the State infrastructure bank reasonably expects—

“(A) at least 100 percent of the available project proceeds of such issue are to be spent for 1 or more qualified projects within the 5-year expenditure period beginning on such date,

“(B) to incur a binding commitment with a third party—

“(i) to spend at least 10 percent of the proceeds of such issue, or

“(ii) to commence construction, with respect to such projects within the 12-month period beginning on such date, and

“(C) to proceed with due diligence to complete such projects and to spend the proceeds of such issue.

“(2) RULES REGARDING CONTINUING COMPLIANCE AFTER 5-YEAR DETERMINATION.—To the extent that less than 100 percent of the available project proceeds of such issue are expended by the close of the 5-year expenditure period beginning on the date of issuance, the State infrastructure bank shall redeem all of the nonqualified bonds within 90 days after the end of such period. For purposes of this paragraph, the amount of the nonqualified bonds required to be redeemed shall be determined in the same manner as under section 142.

“(f) RECAPTURE OF PORTION OF CREDIT WHERE CESSATION OF COMPLIANCE.—If any bond which when issued purported to be a TRIP bond ceases to be such a bond, the State infrastructure bank shall pay to the United States (at the time required by the Secretary) an amount equal to the sum of—

“(1) the aggregate of the credits allowable under section 54A with respect to such bond (determined without regard to section 54A(c)) for taxable years ending during the calendar year in which such cessation occurs and each succeeding calendar year ending with the calendar year in which such bond is redeemed by the bank, and

“(2) interest at the underpayment rate under section 6621 on the amount determined under paragraph (1) for each calendar year for the period beginning on the first day of such calendar year.

“(g) TRIP BONDS TRUST ACCOUNTS.—

“(1) IN GENERAL.—The following amounts shall be held in a TRIP Bonds Trust Account by each State infrastructure bank:

“(A) The proceeds from the sale of all bonds issued by such bank under this section.

“(B) The investment earnings on proceeds from the sale of such bonds.

“(C) 2 percent of the amount described in paragraph (2).

“(D) The amounts described in subsection (h).

“(E) Any earnings on any amounts described in subparagraph (A), (B), (C), or (D).

“(2) APPROPRIATION OF REVENUES.—There is hereby transferred to each TRIP Bonds Trust Account an amount equal to 2 percent of the lesser of—

“(A) the revenues resulting from the imposition of fees pursuant to section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c) for fiscal years beginning after September 30, 2021, or

“(B) \$25,000,000,000.

“(3) USE OF FUNDS.—Amounts in each TRIP Bonds Trust Account may be used only to pay costs of qualified projects and redeem TRIP bonds, except that amounts withdrawn from the TRIP Bonds Trust Account to pay costs of qualified projects may not exceed the proceeds from the sale of TRIP bonds described in subsection (a)(1).

“(4) USE OF REMAINING FUNDS IN TRIP BONDS TRUST ACCOUNT.—Upon the redemption of all TRIP bonds issued by the State infrastructure bank under this section, any remaining amounts in the TRIP Bonds Trust Account held by such bank shall be available to pay the costs of any qualified project in such State.

“(5) APPLICABILITY OF FEDERAL LAW.—The requirements of any Federal law, including titles 23, 40, and 49 of the United States Code, which would otherwise apply to projects to which the United States is a party or to funds made available under such law and projects assisted with those funds shall apply to—

“(A) funds made available under each TRIP Bonds Trust Account for similar qualified projects, other than contributions required under subsection (h), and

“(B) similar qualified projects assisted through the use of such funds.

“(6) INVESTMENT.—Subject to subsections (e) and (f), it shall be the duty of the State infrastructure bank to invest in investment grade obligations such portion of the TRIP Bonds Trust Account held by such Bank as is not, in the judgment of such bank, required to meet current withdrawals. To the maximum extent practicable, investments should be made in securities that support infrastructure investment at the State and local level.

“(h) STATE CONTRIBUTION REQUIREMENTS.—

“(1) IN GENERAL.—For purposes of subsection (a)(6), the State contribution requirement of this subsection is met with respect to any qualified project if the State infrastructure bank has received for deposit into the TRIP Bonds Trust Account held by such bank from 1 or more States, not later than the date of issuance of the bond, the first of 10 equal annual installments constituting one-tenth of the contributions of not less than 20 percent (or such smaller percentage as determined under title 23, United States Code, for such State) of the cost of the qualified project.

“(2) STATE CONTRIBUTIONS MAY NOT INCLUDE FEDERAL FUNDS.—For purposes of this subsection, State contributions shall not be derived, directly or indirectly, from Federal funds, including any transfers from the Highway Trust Fund under section 9503.

“(i) UTILIZATION OF UPDATED CONSTRUCTION TECHNOLOGY FOR QUALIFIED PROJECTS.—For purposes of subsection (a)(7), the requirement of this subsection is met if the appropriate State agency relating to the qualified project is utilizing updated construction technologies.

“(j) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) STATE INFRASTRUCTURE BANK.—

“(A) IN GENERAL.—The term ‘State infrastructure bank’ means a State infrastructure bank established under section 610 of title 23, United States Code, and includes a joint venture among 2 or more State infrastructure banks.

“(B) SPECIAL AUTHORITY.—Notwithstanding any other provision of law, a State infrastructure bank shall be authorized to perform any of the functions necessary to carry out the purposes of this section, including the making of direct grants to qualified projects from available project proceeds of TRIP bonds issued by such bank.

“(2) CREDITS MAY BE TRANSFERRED.—Nothing in any law or rule of law shall be construed to limit the transferability of the credit or bond allowed by this section through sale and repurchase agreements.

“(3) PROHIBITION ON USE OF HIGHWAY TRUST FUND.—Notwithstanding any other provision of law, no funds derived from the Highway Trust Fund established under section 9503 shall be used to pay for credits under this section.”.

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 54A(d) of the Internal Revenue Code of 1986 is amended—

(A) by striking “or” at the end of subparagraph (D),

(B) by inserting “or” at the end of subparagraph (E),

(C) by inserting after subparagraph (E) the following new subparagraph:

“(F) a TRIP bond,” and

(D) by inserting “(paragraphs (3), (4), and (6), in the case of a TRIP bond)” after “and (6)”.

(2) Subparagraph (C) of section 54A(d)(2) of such Code is amended by striking “and” at the end of clause (iv), by striking the period at the end of clause (v) and inserting “, and”, and by adding at the end the following new clause:

“(vi) in the case of a TRIP bond, a purpose specified in section 54G(a)(1).”.

(d) CLERICAL AMENDMENT.—The table of sections for subpart I of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

“Sec. 54G. TRIP bonds.”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after December 31, 2012.

(f) EXTENSION OF CUSTOMS USER FEES.—Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by adding at the end the following:

“(E)(i) Notwithstanding subparagraph (A), fees may be charged under paragraphs (9) and (10) of subsection (a) during the period beginning on October 1, 2021, and ending on October 1, 2029.

“(ii) Notwithstanding subparagraph (B)(i), fees may be charged under paragraphs (1) through (8) of subsection (a) during the period beginning on October 1, 2021, and ending on October 1, 2029.”.

**SA 1693.** Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 1, strike line 4 and all that follows through the end of the bill and, at the appropriate place, insert the following:

## SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Transportation Empowerment Act”.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings and purposes.
- Sec. 3. Limitation on expenditures.
- Sec. 3. Funding for core highway programs.
- Sec. 4. Infrastructure Special Assistance Fund.
- Sec. 5. Return of excess tax receipts to States.
- Sec. 6. Reduction in taxes on gasoline, diesel fuel, kerosene, and special fuels funding Highway Trust Fund.
- Sec. 7. Report to Congress.
- Sec. 8. Effective date contingent on certification of deficit neutrality.

## SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the objective of the Federal highway program has been to facilitate the construction of a modern freeway system that promotes efficient interstate commerce by connecting all States;

(2) that objective has been attained, and the Interstate System connecting all States is near completion;

(3) each State has the responsibility of providing an efficient transportation network for the residents of the State;

(4) each State has the means to build and operate a network of transportation systems, including highways, that best serves the needs of the State;

(5) each State is best capable of determining the needs of the State and acting on those needs;

(6) the Federal role in highway transportation has, over time, usurped the role of the States by taxing motor fuels used in the States and then distributing the proceeds to the States based on the Federal Government’s perceptions of what is best for the States;

(7) the Federal Government has used the Federal motor fuels tax revenues to force all States to take actions that are not necessarily appropriate for individual States;

(8) the Federal distribution, review, and enforcement process wastes billions of dollars on unproductive activities;

(9) Federal mandates that apply uniformly to all 50 States, regardless of the different circumstances of the States, cause the States to waste billions of hard-earned tax dollars on projects, programs, and activities that the States would not otherwise undertake; and

(10) Congress has expressed a strong interest in reducing the role of the Federal Government by allowing each State to manage its own affairs.

(b) PURPOSES.—The purposes of this Act are—

(1) to return to the individual States maximum discretionary authority and fiscal responsibility for all elements of the national surface transportation systems that are not within the direct purview of the Federal Government;

(2) to preserve Federal responsibility for the Dwight D. Eisenhower National System of Interstate and Defense Highways;

(3) to preserve the responsibility of the Department of Transportation for—

(A) design, construction, and preservation of transportation facilities on Federal public land;

(B) national programs of transportation research and development and transportation safety; and

(C) emergency assistance to the States in response to natural disasters;

(4) to eliminate to the maximum extent practicable Federal obstacles to the ability of each State to apply innovative solutions to the financing, design, construction, operation, and preservation of Federal and State transportation facilities; and

(5) with respect to transportation activities carried out by States, local governments, and the private sector, to encourage—

(A) competition among States, local governments, and the private sector; and

(B) innovation, energy efficiency, private sector participation, and productivity.

### SEC. 3. LIMITATION ON EXPENDITURES.

Notwithstanding any other provision of law, if the Secretary of Transportation determines for any fiscal year that the aggregate amount required to carry out transportation programs and projects under this Act and amendments made by this Act exceeds the estimated aggregate amount in the Highway Trust Fund available for those programs and projects for the fiscal year, each amount made available for such a program or project shall be reduced by the pro rata percentage required to reduce the aggregate amount required to carry out those programs and projects to an amount equal to that available for those programs and projects in the Highway Trust Fund for the fiscal year.

### SEC. 4. FUNDING FOR CORE HIGHWAY PROGRAMS.

(a) IN GENERAL.—

(1) FUNDING.—For the purpose of carrying out title 23, United States Code, the following sums are authorized to be appropriated out of the Highway Trust Fund:

(A) INTERSTATE MAINTENANCE PROGRAM.—For the Interstate maintenance program under section 119 of title 23, United States Code, \$5,200,000,000 for fiscal year 2014, \$5,280,000,000 for fiscal year 2015, \$5,360,000,000 for fiscal year 2016, \$5,440,000,000 for fiscal year 2017, and \$5,520,000,000 for fiscal year 2018.

(B) EMERGENCY RELIEF.—For emergency relief under section 125 of that title, \$100,000,000 for each of fiscal years 2014 through 2018.

(C) INTERSTATE BRIDGE PROGRAM.—For the Interstate bridge program under section 144 of that title, \$2,527,000,000 for fiscal year 2014, \$2,597,000,000 for fiscal year 2015, \$2,667,000,000 for fiscal year 2016, \$2,737,000,000 for fiscal year 2017, and \$2,807,000,000 for fiscal year 2018.

(D) FEDERAL LANDS HIGHWAYS PROGRAM.—

(i) INDIAN RESERVATION ROADS.—For Indian reservation roads under section 204 of that title, \$470,000,000 for fiscal year 2014, \$510,000,000 for fiscal year 2015, \$550,000,000 for fiscal year 2016, \$590,000,000 for fiscal year 2017, and \$630,000,000 for fiscal year 2018.

(ii) PUBLIC LANDS HIGHWAYS.—For public lands highways under section 204 of that title, \$300,000,000 for fiscal year 2014, \$310,000,000 for fiscal year 2015, \$320,000,000 for fiscal year 2016, \$330,000,000 for fiscal year 2017, and \$340,000,000 for fiscal year 2018.

(iii) PARKWAYS AND PARK ROADS.—For parkways and park roads under section 204 of that title, \$255,000,000 for fiscal year 2014, \$270,000,000 for fiscal year 2015, \$285,000,000 for fiscal year 2016, \$300,000,000 for fiscal year 2017, and \$315,000,000 for fiscal year 2018.

(iv) REFUGE ROADS.—For refuge roads under section 204 of that title, \$32,000,000 for each of fiscal years 2014 through 2018.

(E) HIGHWAY SAFETY PROGRAMS.—

(i) IN GENERAL.—For highway safety programs under section 402 of that title, \$170,000,000 for each of fiscal years 2014 through 2018.

(ii) HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—For highway safety research and development under section 403 of that title, \$35,000,000 for each of fiscal years 2014 through 2018.

(F) SURFACE TRANSPORTATION RESEARCH.—For cooperative agreements with nonprofit research organizations to carry out applied pavement research under section 502 of that title, \$200,000,000 for each of fiscal years 2014 through 2018.

(G) ADMINISTRATIVE EXPENSES.—For administrative expenses incurred in carrying out the programs referred to in subparagraphs (A) through (F), \$92,890,000 for fiscal year 2014, \$95,040,000 for fiscal year 2015, \$97,190,000 for fiscal year 2016, \$99,340,000 for fiscal year 2017, and \$101,490,000 for fiscal year 2018.

(2) TRANSFERABILITY OF FUNDS.—Section 104 of title 23, United States Code, is amended by striking subsection (g) and inserting the following:

“(g) TRANSFERABILITY OF FUNDS.—

“(1) IN GENERAL.—To the extent that a State determines that funds made available under this title to the State for a purpose are in excess of the needs of the State for that purpose, the State may transfer the excess funds to, and use the excess funds for, any surface transportation (including mass transit and rail) purpose in the State.

“(2) ENFORCEMENT.—If the Secretary determines that a State has transferred funds under paragraph (1) to a purpose that is not a surface transportation purpose as described in paragraph (1), the amount of the improperly transferred funds shall be deducted from any amount the State would otherwise receive from the Highway Trust Fund for the fiscal year that begins after the date of the determination.”.

(3) FEDERAL-AID SYSTEM.—Section 103(a) of title 23, United States Code, is amended by striking “systems are the Interstate System and the National Highway System” and inserting “system is the Interstate System”.

(4) INTERSTATE MAINTENANCE PROGRAM.—Section 104(b) of title 23, United States Code, is amended by striking paragraph (4) and inserting the following:

“(4) INTERSTATE MAINTENANCE COMPONENT.—For each of fiscal years 2014 through 2018, for the Interstate maintenance program under section 119, 1 percent to the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands and the remaining 99 percent apportioned as follows:

“(A)(i) For each State with an average population density of 20 persons or fewer per square mile, and each State with a population of 1,500,000 persons or fewer and with a land area of 10,000 square miles or less, the greater of—

“(I) a percentage share of apportionments equal to the percentage for the State described in clause (ii); or

“(II) a share determined under subparagraph (B).

“(ii) The percentage referred to in clause (i)(I) for a State for a fiscal year shall be the percentage calculated for the State for the fiscal year under section 105(b) of title 23, United States Code.

“(B) For each State not described in subparagraph (A), a share of the apportionments remaining determined in accordance with the following formula:

“(i)  $\frac{1}{2}$  in the ratio that the total rural lane miles in each State bears to the total rural lane miles in all States with an average population density greater than 20 persons per square mile and all States with a population

of more than 1,500,000 persons and with a land area of more than 10,000 square miles.

“(ii)  $\frac{1}{4}$  in the ratio that the total rural vehicle miles traveled in each State bears to the total rural vehicle miles traveled in all States described in clause (i).

“(iii)  $\frac{1}{4}$  in the ratio that the total urban lane miles in each State bears to the total urban lane miles in all States described in clause (i).

“(iv)  $\frac{1}{4}$  in the ratio that the total urban vehicle miles traveled in each State bears to the total urban vehicle miles traveled in all States described in clause (i).

“(v)  $\frac{1}{4}$  in the ratio that the total diesel fuel used in each State bears to the total diesel fuel used in all States described in clause (i).”.

(5) INTERSTATE BRIDGE PROGRAM.—Section 144 of title 23, United States Code, is amended—

(A) in subsection (d)—

(i) by inserting “on the Federal-aid system or described in subsection (c)(3)” after “highway bridge” each place it appears; and

(ii) by inserting “on the Federal-aid system or described in subsection (c)(3)” after “highway bridges” each place it appears;

(B) in the second sentence of subsection (e)—

(i) in paragraph (1), by adding “and” at the end;

(ii) in paragraph (2), by striking the comma at the end and inserting a period; and

(iii) by striking paragraphs (3) and (4);

(C) in the first sentence of subsection (k), by inserting “on the Federal-aid system or described in subsection (c)(3)” after “any bridge”;

(D) in subsection (l)(1), by inserting “on the Federal-aid system or described in subsection (c)(3)” after “construct any bridge”; and

(E) in the first sentence of subsection (m), by inserting “for each of fiscal years 1991 through 2013,” after “of law.”.

(6) NATIONAL DEFENSE HIGHWAYS.—Section 311 of title 23, United States Code, is amended—

(A) in the first sentence, by striking “under subsection (a) of section 104 of this title” and inserting “to carry out this section”; and

(B) by striking the second sentence.

(7) FEDERALIZATION AND DEFEDERALIZATION OF PROJECTS.—Notwithstanding any other provision of law, beginning on October 1, 2013—

(A) a highway construction or improvement project shall not be considered to be a Federal highway construction or improvement project unless and until a State expends Federal funds for the construction portion of the project;

(B) a highway construction or improvement project shall not be considered to be a Federal highway construction or improvement project solely by reason of the expenditure of Federal funds by a State before the construction phase of the project to pay expenses relating to the project, including for any environmental document or design work required for the project; and

(C)(i) a State may, after having used Federal funds to pay all or a portion of the costs of a highway construction or improvement project, reimburse the Federal Government in an amount equal to the amount of Federal funds so expended; and

(ii) after completion of a reimbursement described in clause (i), a highway construction or improvement project described in that clause shall no longer be considered to be a Federal highway construction or improvement project.

(8) REPORTING REQUIREMENTS.—No reporting requirement, other than a reporting requirement in effect as of the date of enactment of this Act, shall apply on or after October 1, 2013, to the use of Federal funds for highway projects by a public-private partnership.

(b) EXPENDITURES FROM HIGHWAY TRUST FUND.—

(1) EXPENDITURES FOR CORE PROGRAMS.—Section 9503(c) of the Internal Revenue Code of 1986 is amended—

(A) in paragraph (1), by striking “Surface Transportation Extension Act of 2011, Part II” and inserting “Transportation Empowerment Act”;

(B) in paragraph (1), by striking “April 1, 2012” and inserting “October 1, 2018”;

(C) in paragraphs (3)(A)(i), (4)(A), and (5), by striking “April 1, 2012” each place it appears and inserting “October 1, 2020”; and

(D) in paragraph (2), by striking “January 1, 2013” and inserting “July 1, 2021”.

(2) AMOUNTS AVAILABLE FOR CORE PROGRAM EXPENDITURES.—Section 9503 of such Code is amended by adding at the end the following:

“(g) CORE PROGRAMS FINANCING RATE.—For purposes of this section—

“(1) IN GENERAL.—Except as provided in paragraph (2)—

“(A) in the case of gasoline and special motor fuels the tax rate of which is the rate specified in section 4081(a)(2)(A)(i), the core programs financing rate is—

“(i) after September 30, 2013, and before October 1, 2014, 18.3 cents per gallon,

“(ii) after September 30, 2014, and before October 1, 2015, 9.6 cents per gallon,

“(iii) after September 30, 2015, and before October 1, 2016, 6.4 cents per gallon,

“(iv) after September 30, 2016, and before October 1, 2017, 5.0 cents per gallon, and

“(v) after September 30, 2017, 3.7 cents per gallon, and

“(B) in the case of kerosene, diesel fuel, and special motor fuels the tax rate of which is the rate specified in section 4081(a)(2)(A)(iii), the core programs financing rate is—

“(i) after September 30, 2013, and before October 1, 2014, 24.3 cents per gallon,

“(ii) after September 30, 2014, and before October 1, 2015, 12.7 cents per gallon,

“(iii) after September 30, 2015, and before October 1, 2016, 8.5 cents per gallon,

“(iv) after September 30, 2016, and before October 1, 2017, 6.6 cents per gallon, and

“(v) after September 30, 2017, 5.0 cents per gallon.

“(2) APPLICATION OF RATE.—In the case of fuels used as described in paragraph (3)(C), (4)(B), and (5) of subsection (c), the core programs financing rate is zero.”

(c) TERMINATION OF TRANSFERS TO MASS TRANSIT ACCOUNT.—Section 9503(e)(2) of the Internal Revenue Code of 1986 is amended by inserting “, and before October 1, 2013” after “March 31, 1983”.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section take effect on October 1, 2013.

(2) CERTAIN EXTENSIONS.—The amendments made by subsection (b)(1) shall take effect on April 1, 2012.

## SEC. 5. INFRASTRUCTURE SPECIAL ASSISTANCE FUND.

(a) BALANCE OF CORE PROGRAMS FINANCING RATE DEPOSITED IN FUND.—Section 9503 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

“(h) ESTABLISHMENT OF INFRASTRUCTURE SPECIAL ASSISTANCE FUND.—

“(1) CREATION OF FUND.—There is established in the Highway Trust Fund a separate

fund to be known as the ‘Infrastructure Special Assistance Fund’ consisting of such amounts as may be transferred or credited to the Infrastructure Special Assistance Fund as provided in this subsection or section 9602(b).

“(2) TRANSFERS TO INFRASTRUCTURE SPECIAL ASSISTANCE FUND.—On the first day of each fiscal year, the Secretary, in consultation with the Secretary of Transportation, shall determine the excess (if any) of—

“(A) the sum of—

“(i) the amounts appropriated in such fiscal year to the Highway Trust Fund under subsection (b) which are attributable to the core programs financing rate for such year, plus

“(ii) the amounts appropriated in such fiscal year to the Highway Trust Fund under subsection (b) which are attributable to taxes under sections 4051, 4071, and 4481 for such year, over

“(B) the amount appropriated under subsection (c) for such fiscal year, and shall transfer such excess to the Infrastructure Special Assistance Fund.

“(3) EXPENDITURES FROM INFRASTRUCTURE SPECIAL ASSISTANCE FUND.—

“(A) TRANSITIONAL ASSISTANCE.—

“(i) IN GENERAL.—Except as provided in clause (iii), during fiscal years 2014 through 2017, \$1,000,000,000 in the Infrastructure Special Assistance Fund shall be available to States for transportation-related program expenditures.

“(ii) STATE SHARE.—Each State is entitled to a share of the amount specified in clause (i) determined in the following manner:

“(I) Multiply the percentage of the amounts appropriated in the latest fiscal year for which such data are available to the Highway Trust Fund under subsection (b) which is attributable to taxes paid by highway users in the State, by the amount specified in clause (i). If the result does not exceed \$15,000,000, the State’s share equals \$15,000,000. If the result exceeds \$15,000,000, the State’s share is determined under subclause (II).

“(II) Multiply the percentage determined under subclause (I), by the amount specified in clause (i) reduced by an amount equal to \$15,000,000 times the number of States the share of which is determined under subclause (I).

“(iii) DISTRIBUTION OF REMAINING AMOUNT.—If after September 30, 2017, a portion of the amount specified in clause (i) remains, the Secretary, in consultation with the Secretary of Transportation, shall, on October 1, 2017, apportion the portion among the States using the percentages determined under clause (ii)(I) for such States.

“(B) ADDITIONAL EXPENDITURES FROM FUND.—

“(i) IN GENERAL.—Amounts in the Infrastructure Special Assistance Fund, in excess of the amount specified in subparagraph (A)(i), shall be available, as provided by appropriation Acts, to the States for any surface transportation (including mass transit and rail) purpose in such States, and the Secretary shall apportion such excess amounts among all States using the percentages determined under clause (ii)(I) for such States.

“(ii) ENFORCEMENT.—If the Secretary determines that a State has used amounts under clause (i) for a purpose which is not a surface transportation purpose as described in clause (i), the improperly used amounts shall be deducted from any amount the State would otherwise receive from the Highway Trust Fund for the fiscal year which begins after the date of the determination.”

(b) EFFECTIVE DATE.—The amendment made by this section takes effect on October 1, 2013.

## SEC. 6. RETURN OF EXCESS TAX RECEIPTS TO STATES.

(a) IN GENERAL.—Section 9503(c) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

“(6) RETURN OF EXCESS TAX RECEIPTS TO STATES FOR SURFACE TRANSPORTATION PURPOSES.—

“(A) IN GENERAL.—On the first day of each of fiscal years 2014, 2015, 2016, and 2017, the Secretary, in consultation with the Secretary of Transportation, shall—

“(i) determine the excess (if any) of—

“(I) the amounts appropriated in such fiscal year to the Highway Trust Fund under subsection (b) which are attributable to the taxes described in paragraphs (1) and (2) thereof (after the application of paragraph (4) thereof) over the sum of—

“(II) the amounts so appropriated which are equivalent to—

“(aa) such amounts attributable to the core programs financing rate for such year, plus

“(bb) the taxes described in paragraphs (3)(C), (4)(B), and (5) of subsection (c), and

“(ii) allocate the amount determined under clause (i) among the States (as defined in section 101(a) of title 23, United States Code) for surface transportation (including mass transit and rail) purposes so that—

“(I) the percentage of that amount allocated to each State, is equal to

“(II) the percentage of the amount determined under clause (i)(I) paid into the Highway Trust Fund in the latest fiscal year for which such data are available which is attributable to highway users in the State.

“(B) ENFORCEMENT.—If the Secretary determines that a State has used amounts under subparagraph (A) for a purpose which is not a surface transportation purpose as described in subparagraph (A), the improperly used amounts shall be deducted from any amount the State would otherwise receive from the Highway Trust Fund for the fiscal year which begins after the date of the determination.”

(b) EFFECTIVE DATE.—The amendment made by this section takes effect on October 1, 2013.

## SEC. 7. REDUCTION IN TAXES ON GASOLINE, DIESEL FUEL, KEROSENE, AND SPECIAL FUELS FUNDING HIGHWAY TRUST FUND.

(a) REDUCTION IN TAX RATE.—

(1) IN GENERAL.—Section 4081(a)(2)(A) of the Internal Revenue Code of 1986 is amended—

(A) in clause (i), by striking “18.3 cents” and inserting “3.7 cents”; and

(B) in clause (iii), by striking “24.3 cents” and inserting “5.0 cents”.

(2) CONFORMING AMENDMENTS.—

(A) Section 4081(a)(2)(D) of such Code is amended—

(i) by striking “19.7 cents” and inserting “4.1 cents”, and

(ii) by striking “24.3 cents” and inserting “5.0 cents”.

(B) Section 6427(b)(2)(A) of such Code is amended by striking “7.4 cents” and inserting “1.5 cents”.

(b) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 4041(a)(1)(C)(iii)(I) of the Internal Revenue Code of 1986 is amended by striking “7.3 cents per gallon (4.3 cents per gallon after March 31, 2012)” and inserting “1.4 cents per gallon (zero after September 30, 2020)”.

(2) Section 4041(a)(2)(B)(ii) of such Code is amended by striking “24.3 cents” and inserting “5.0 cents”.

(3) Section 4041(a)(3)(A) of such Code is amended by striking “18.3 cents” and inserting “3.7 cents”.

(4) Section 4041(m)(1) of such Code is amended—

(A) in subparagraph (A), by striking “April 1, 2012” and inserting “October 1, 2020,”;

(B) in subparagraph (A)(i), by striking “9.15 cents” and inserting “1.8 cents”;

(C) in subparagraph (A)(ii), by striking “11.3 cents” and inserting “2.3 cents”; and

(D) by striking subparagraph (B) and inserting the following:

“(B) zero after September 30, 2020.”.

(5) Section 4081(d)(1) of such Code is amended by striking “4.3 cents per gallon after March 31, 2012” and inserting “zero after September 30, 2020”.

(6) Section 9503(b) of such Code is amended—

(A) in paragraphs (1) and (2), by striking “April 1, 2012” both places it appears and inserting “October 1, 2020”;

(B) in the heading of paragraph (2), by striking “APRIL 1, 2012” and inserting “OCTOBER 1, 2020”;

(C) in paragraph (2), by striking “after March 31, 2012, and before January 1, 2013” and inserting “after September 30, 2020, and before July 1, 2021”; and

(D) in paragraph (6)(B), by striking “April 1, 2012” and inserting “October 1, 2018”.

(c) FLOOR STOCK REFUNDS.—

(1) IN GENERAL.—If—

(A) before October 1, 2017, tax has been imposed under section 4081 of the Internal Revenue Code of 1986 on any liquid; and

(B) on such date such liquid is held by a dealer and has not been used and is intended for sale;

there shall be credited or refunded (without interest) to the person who paid such tax (in this subsection referred to as the “taxpayer”) an amount equal to the excess of the tax paid by the taxpayer over the amount of such tax which would be imposed on such liquid had the taxable event occurred on such date.

(2) TIME FOR FILING CLAIMS.—No credit or refund shall be allowed or made under this subsection unless—

(A) claim therefor is filed with the Secretary of the Treasury before April 1, 2018; and

(B) in any case where liquid is held by a dealer (other than the taxpayer) on October 1, 2017—

(i) the dealer submits a request for refund or credit to the taxpayer before January 1, 2018; and

(ii) the taxpayer has repaid or agreed to repay the amount so claimed to such dealer or has obtained the written consent of such dealer to the allowance of the credit or the making of the refund.

(3) EXCEPTION FOR FUEL HELD IN RETAIL STOCKS.—No credit or refund shall be allowed under this subsection with respect to any liquid in retail stocks held at the place where intended to be sold at retail.

(4) DEFINITIONS.—For purposes of this subsection, the terms “dealer” and “held by a dealer” have the respective meanings given to such terms by section 6412 of such Code; except that the term “dealer” includes a producer.

(5) CERTAIN RULES TO APPLY.—Rules similar to the rules of subsections (b) and (c) of section 6412 and sections 6206 and 6675 of such Code shall apply for purposes of this subsection.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to fuel removed after September 30, 2017.

(2) CERTAIN CONFORMING AMENDMENTS.—The amendments made by subsections (b)(1), (b)(4), (b)(5), and (b)(6) shall apply to fuel removed after September 30, 2011.

#### SEC. 8. REPORT TO CONGRESS.

Not later than 180 days after the date of enactment of this Act, after consultation with the appropriate committees of Congress, the Secretary of Transportation shall submit a report to Congress describing such technical and conforming amendments to titles 23 and 49, United States Code, and such technical and conforming amendments to other laws, as are necessary to bring those titles and other laws into conformity with the policy embodied in this Act and the amendments made by this Act.

#### SEC. 9. EFFECTIVE DATE CONTINGENT ON CERTIFICATION OF DEFICIT NEUTRALITY.

(a) PURPOSE.—The purpose of this section is to ensure that—

(1) this Act will become effective only if the Director of the Office of Management and Budget certifies that this Act is deficit neutral;

(2) discretionary spending limits are reduced to capture the savings realized in devolving transportation functions to the State level pursuant to this Act; and

(3) the tax reduction made by this Act is not scored under pay-as-you-go and does not inadvertently trigger a sequestration.

(b) EFFECTIVE DATE CONTINGENCY.—Notwithstanding any other provision of this Act, this Act and the amendments made by this Act shall take effect only if—

(1) the Director of the Office of Management and Budget (referred to in this section as the “Director”) submits the report as required in subsection (c); and

(2) the report contains a certification by the Director that, based on the required estimates, the reduction in discretionary outlays resulting from the reduction in contract authority is at least as great as the reduction in revenues for each fiscal year through fiscal year 2018.

(c) OMB ESTIMATES AND REPORT.—

(1) REQUIREMENTS.—Not later than 5 calendar days after the date of enactment of this Act, the Director shall—

(A) estimate the net change in revenues resulting from this Act for each fiscal year through fiscal year 2018;

(B) estimate the net change in discretionary outlays resulting from the reduction in contract authority under this Act for each fiscal year through fiscal year 2018;

(C) determine, based on those estimates, whether the reduction in discretionary outlays is at least as great as the reduction in revenues for each fiscal year through fiscal year 2018; and

(D) submit to Congress a report setting forth the estimates and determination.

(2) APPLICABLE ASSUMPTIONS AND GUIDELINES.—

(A) REVENUE ESTIMATES.—The revenue estimates required under paragraph (1)(A) shall be predicated on the same economic and technical assumptions and scorekeeping guidelines that would be used for estimates made pursuant to section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902(d)).

(B) OUTLAY ESTIMATES.—The outlay estimates required under paragraph (1)(B) shall be determined by comparing the level of dis-

cretionary outlays resulting from this Act with the corresponding level of discretionary outlays projected in the baseline under section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 907).

(d) CONFORMING ADJUSTMENT TO DISCRETIONARY SPENDING LIMITS.—On compliance with the requirements specified in subsection (b), the Director shall adjust the adjusted discretionary spending limits for each fiscal year through fiscal year 2013 under section 601(a)(2) of the Congressional Budget Act of 1974 (2 U.S.C. 665(a)(2)) by the estimated reductions in discretionary outlays under subsection (c)(1)(B).

(e) PAYGO INTERACTION.—On compliance with the requirements specified in subsection (b), no changes in revenues estimated to result from the enactment of this Act shall be counted for the purposes of section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902(d)).

**SA 1694.** Mr. BAUCUS (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 40201 and insert the following:

#### SEC. 40201. TEMPORARY INCREASE IN SMALL ISSUER EXCEPTION TO TAX-EXEMPT INTEREST EXPENSE ALLOCATION RULES FOR FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—Subparagraph (G) of section 265(b)(3) of the Internal Revenue Code of 1986 is amended—

(1) by striking “2009 or 2010” in clause (i) and inserting “2009, 2010, 2012, or the period beginning after December 31, 2012, and before July 1, 2013”;

(2) by striking “2009 or 2010” each place it appears in clauses (ii) and (iii) and inserting “2009, 2010, or the period beginning after June 30, 2012, and before July 1, 2013”; and

(3) by striking “2009 AND 2010” in the heading and inserting “2009, 2010, 2012, AND 2013”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after June 30, 2012.

**SA 1695.** Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

In division D, on page 232, strike lines 1 through 5 and insert the following:

“(G) target areas with high rates of unemployment;

“(H) address current or projected workforce shortages in areas that require technical expertise; and

“(I) carry out programs that work with community colleges with experience in developing activities eligible for assistance under subsection (a).”

**SA 1696.** Mr. KOHL submitted an amendment intended to be proposed to amendment SA 1633 proposed by Mr. REID to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:



On page 189, between lines 24 and 25, insert the following:

“(8) DATA REPORTING REQUIREMENTS.—A public transportation service provider that receives assistance under this section or section 5311 for a fiscal year shall report to the Secretary—

“(A) the number of vehicles purchased during the fiscal year using such assistance; and

“(B) the number of rides provided during the fiscal year that are attributable to such assistance.

**SA 1697.** Mr. KOHL submitted an amendment intended to be proposed to amendment SA 1633 proposed by Mr. REID to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 195, line 15, after “agencies” insert the following: “, including any transportation activities carried out by the recipient using a grant under title III of the Older Americans Act of 1965 (42 U.S.C. 3021 et seq.)”.

**SA 1698.** Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . PRIVATE OPERATORS OF INTERCITY BUS SERVICE.**

Section 5311(h)(3) of title 49, United States Code, as amended by this Act, is amended—

(1) in subparagraph (B), by striking “and” at the end;

(2) in subparagraph (C), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(D) in the case of operating costs of connecting rural intercity bus feeder service funded under subsection (f)(1)(E), may be derived from the costs of intercity bus service provided by a private operator, if—

“(i) the project includes both feeder service and a connecting unsubsidized intercity route segment; and

“(ii) the private operator agrees in writing to the use of its unsubsidized costs as an in-kind match.”.

**SA 1699.** Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 68, line 19, insert “(other than amounts suballocated to metropolitan areas and other areas of the State under 133(d))” after “104(b)(2)”.

On page 70, line 25, insert “(other than amounts suballocated to metropolitan areas and other areas of the State under 133(d))” after “104(b)(2)”.

On page 127, line 18, insert “(other than amounts suballocated to metropolitan areas and other areas of the State under 133(d))” after “104(b)(2)”.

**SA 1700.** Mr. CASEY submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize

Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . HIGH-SPEED RAIL EQUIPMENT.**

The Secretary of Transportation shall not preclude the use of Federal funds made available to purchase rolling stock to purchase any equipment used for “high-speed rail” (as defined in section 26106(b)(4) of title 49, United States Code) that otherwise complies with applicable Federal standards, including safety, Buy America, and environmental standards.

**SA 1701.** Mr. WHITEHOUSE (for himself and Mr. REED) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 41, between lines 15 and 16, insert the following:

“(4) PROJECTS OF NATIONAL AND REGIONAL SIGNIFICANCE.—

“(A) APPROPRIATION.—

“(i) IN GENERAL.—Notwithstanding any other provision of law, on October 1, 2012, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary for the cost of the projects of national and regional significance program under section 1118 \$1,000,000,000, to remain available until expended.

“(ii) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under clause (i), without further appropriation.

“(B) OFFSET.—

“(i) IN GENERAL.—Section 251(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)) is amended by adding at the end the following:

“(E) OVERSEAS CONTINGENCY AND RELATED ACTIVITIES.—

“(i) CAP ADJUSTMENT.—If a bill or joint resolution making appropriations for a fiscal year is enacted that specifies an amount for overseas contingency and related activities for that fiscal year, but not to exceed the amounts specified in clause (ii), the adjustments for that fiscal year shall be the additional new budget authority provided in that Act for the activities for that fiscal year.

“(ii) LEVELS.—The levels for overseas contingency and related activities specified in this subparagraph for fiscal year 2013 is \$127,658,000,000 in budget authority.”.

“(ii) BREACH.—Section 251(a) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(a)) is amended by striking paragraph (2) and inserting the following:

“(2) ELIMINATING A BREACH.—

“(A) IN GENERAL.—Each nonexempt account within a category shall be reduced by a dollar amount calculated by multiplying the enacted level of sequesterable budgetary resources in that account by the uniform percentage necessary to eliminate a breach within that category.

“(B) OVERSEAS CONTINGENCIES.—Any amount of budget authority for overseas contingency operations and related activities for fiscal year 2013 in excess of the level established in subsection (b)(2)(E) shall be

counted in determining whether a breach has occurred in the security category and the nonsecurity category on a proportional basis to the total spending for overseas contingency operations in the security category and the nonsecurity category.”.

“(iii) CONFORMING AMENDMENT.—Section 251(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)) is amended by striking subparagraph (A) and inserting the following:

“(A) EMERGENCY APPROPRIATIONS.—If, for any fiscal year, appropriations for discretionary accounts are enacted that Congress designates as emergency requirements in law on an account by account basis and the President subsequently so designates, the adjustment shall be the total of such appropriations in discretionary accounts designated as emergency requirements.”.

**SA 1702.** Mr. CARPER submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . CONSTRUCTION EQUIPMENT AND VEHICLES.**

(a) IN GENERAL.—Chapter 53 of title 49, United States Code, as amended by this Act, is amended by adding at the end the following:

“§ 5341. Construction equipment and vehicles

“(a) IN GENERAL.—In accordance with the obligation process established pursuant to section 149(j)(4) of title 23, a State shall expend amounts required to be obligated for this section to install diesel emission control technology on covered equipment, with an engine that does not meet current model year new engine standards for particulate matter for the applicable engine power group issued by the Environmental Protection Agency, on a covered public transportation construction project within a PM<sub>2.5</sub> non-attainment or maintenance area.

“(b) DEFINITIONS.—In this section, the following definitions apply:

“(1) COVERED EQUIPMENT.—The term ‘covered equipment’ means any nonroad diesel equipment or on-road diesel equipment that is operated on a covered public transportation construction project for not less than 80 hours over the life of the project.

“(2) COVERED PUBLIC TRANSPORTATION CONSTRUCTION PROJECT.—The term ‘covered public transportation construction project’—

“(A) means a public transportation construction project carried out under this chapter, or any other Federal law, which is funded in whole or in part with Federal funds; and

“(B) does not include any project with a total budgeted cost not to exceed \$5,000,000 (which, notwithstanding any other provision of this section, may be excluded from the requirement to comply with this section by an applicable State or metropolitan planning organization).

“(3) DIESEL EMISSION CONTROL TECHNOLOGY.—The term ‘diesel emission control technology’ means a technology that—

“(A) is—

“(i) a diesel exhaust control technology;

“(ii) a diesel engine upgrade;

“(iii) a diesel engine repower;

“(iv) an idle reduction control technology;

or

“(v) any combination of the technologies listed in clauses (i) through (iv);



“(B) reduces particulate matter emission from covered equipment by—

“(i) not less than 85 percent control of any emission of particulate matter; or

“(ii) the maximum achievable reduction of any emission of particulate matter; and

“(C) is installed on and operated with the covered equipment while the equipment is operated on a covered public transportation construction project and that remains operational on the covered equipment for the useful life of the control technology or equipment.

“(4) ELIGIBLE ENTITY.—The term ‘eligible entity’ means an entity (including a subcontractor of the entity) that has entered into a prime contract or agreement with a State to carry out a covered public transportation construction project.

“(5) NONROAD DIESEL EQUIPMENT.—

“(A) IN GENERAL.—The term ‘nonroad diesel equipment’ means a vehicle, including covered equipment, that is—

“(i) powered by a nonroad diesel engine of not less than 50 horsepower; and

“(ii) not intended for highway use.

“(B) INCLUSIONS.—The term ‘nonroad diesel equipment’ includes a backhoe, bulldozer, compressor, crane, excavator, generator, and similar equipment.

“(C) EXCLUSIONS.—The term ‘nonroad diesel equipment’ does not include a locomotive or marine vessel.

“(6) ON-ROAD DIESEL EQUIPMENT.—The term ‘on-road diesel equipment’ means any self-propelled vehicle that—

“(A) operates on diesel fuel;

“(B) is designed to transport persons or property on a street or highway; and

“(C) has a gross vehicle weight rating of at least 14,000 pounds.

“(7) PM<sub>2.5</sub> NONATTAINMENT OR MAINTENANCE AREA.—The term ‘PM<sub>2.5</sub> nonattainment or maintenance area’ means a nonattainment or maintenance area designated under section 107(d)(6) of the Clean Air Act (42 U.S.C. 7407(d)(6)).

“(C) CRITERIA ELIGIBLE ACTIVITIES.—For purposes of subsection (b)(3)(A):

“(1) DIESEL EXHAUST CONTROL TECHNOLOGY.—For a diesel exhaust control technology, the technology shall be—

“(A) installed on a diesel engine or vehicle;

“(B) included in the list of verified or certified technologies for nonroad vehicles and nonroad engines (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)) published pursuant to subsection (f)(2) of section 149 of title 23, as in effect on the date on which the eligible entity enters into a prime contract or agreement with a State to carry out a covered public transportation construction project; and

“(C) certified by the installer as having been installed in accordance with the specifications included on the list referred to in subparagraph (B) for achieving a reduction in particulate matter.

“(2) DIESEL ENGINE UPGRADE.—For a diesel engine upgrade, the upgrade shall be performed on an engine that is—

“(A) rebuilt using new or remanufactured components that collectively appear as a system in the list of verified or certified technologies for nonroad vehicles and nonroad engines (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)) published pursuant to subsection (f)(2) of section 149 of title 23, as in effect on the date on which the eligible entity enters into a prime contract or agreement with a State to carry out a covered public transportation construction project; and

“(B) certified by the installer to have been installed in accordance with the specifica-

tions included on the list referred to in subparagraph (A) for achieving a reduction in particulate matter.

“(3) DIESEL ENGINE REPOWER.—For a diesel engine repower, the repower shall be conducted using a new or remanufactured diesel engine that is—

“(A) installed as a replacement for an engine used in the existing equipment, subject to the condition that the replaced engine is returned to the supplier for remanufacturing to a more stringent set of engine emissions standards or for use as scrap; and

“(B) certified by the engine manufacturer as meeting a more stringent engine particulate matter emission standard for the applicable engine power group established by the Environmental Protection Agency, than the engine particulate matter emission standard applicable to the replaced engine.

“(4) IDLE REDUCTION CONTROL TECHNOLOGY.—For an idle reduction control technology, the technology shall be—

“(A) installed on a diesel engine or vehicle;

“(B) included in the list of verified or certified technologies for nonroad vehicles and nonroad engines (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)) published pursuant to subsection (f)(2) of section 149, as in effect on the date on which the eligible entity enters into a prime contract or agreement with a State to carry out a covered public transportation construction project; and

“(C) certified by the installer as having been installed in accordance with the specifications included on the list referred to in subparagraph (B) for achieving a reduction in particulate matter.

“(d) ELIGIBILITY FOR CREDITS.—

“(1) IN GENERAL.—A State may take credit in a State implementation plan for national ambient air quality standards for any emission reductions that result from the implementation of this section.

“(2) CREDITING.—An emission reduction described in paragraph (1) may be credited toward demonstrating conformity of State implementation plans and transportation plans.”

(b) SAVINGS CLAUSE.—Nothing in this section modifies or otherwise affects any authority or restrictions established under the Clean Air Act (42 U.S.C. 7401 et seq.).

(c) REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works and the Committee on Banking, Housing, and Urban Affairs of the Senate a report that describes the manners in which section 5341 of title 49, United States Code (as added by subsection (a)) has been implemented, including the quantity of covered equipment serviced under those sections and the costs associated with servicing the covered equipment.

(2) INFORMATION FROM STATES.—The Secretary shall require States and recipients, as a condition of receiving amounts under this Act or under the provisions of any amendments made by this Act, to submit to the Secretary any information that the Secretary determines necessary to complete the report under paragraph (1).

(d) TECHNICAL AMENDMENT.—The analysis for chapter 53 of title 49, United States Code, as amended by this Act, is amended by adding at the end the following:

“5341. Construction equipment and vehicles.”

**SA 1703.** Mr. WARNER (for himself and Mr. KIRK) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ PUBLIC-PRIVATE PARTNERSHIP EXPERIMENTAL PROGRAM.**

(a) DEFINITIONS.—In this section—

(1) the term “Administrator” means the Administrator of the Federal Transit Administration;

(2) the term “eligible project” means a project carried out using funding under chapter 53 of title 49, United States Code;

(3) the term “eligible recipient” means a recipient of funding under chapter 53 of title 49, United States Code; and

(4) the term “experimental program” means the public-private partnership experimental program established under subsection (b).

(b) PUBLIC-PRIVATE PARTNERSHIP EXPERIMENTAL PROGRAM.—

(1) PROGRAM ESTABLISHED.—The Administrator shall establish a 6-year public-private partnership experimental program to encourage eligible recipients to carry out tests and experimentation in the project development process that are designed to—

(A) attract private investment in eligible projects; and

(B) increase project management flexibility and innovation, improve efficiency, allow for timely project implementation, and create new revenue streams.

(2) IMPLEMENTATION OF PROGRAM.—The experimental program shall—

(A) except as provided in paragraph (5), identify any provisions of chapter 53 of title 49, United States Code, and any regulations or practices thereunder, that impede greater use of public-private partnerships and private investment in eligible projects; and

(B) develop procedures and approaches that—

(i) address the impediments described in subparagraph (A), in a manner similar to the Special Experimental Project Number 15 of the Federal Highway Administration (commonly referred to as “SEP-15”); and

(ii) protect the public interest and any public investment in eligible projects.

(3) REPORT.—Not later than 2 years after the date of enactment of this Act, and every 2 years thereafter until the termination of the experimental program, the Administrator shall submit to Congress a report on the status of the experimental program.

(4) RULEMAKING.—Not later than 180 days after the date of enactment of this Act, the Administrator shall issue rules to carry out the experimental program.

(5) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to allow the Administrator to waive any requirement under—

(A) section 5333 of title 49, United States Code; or

(B) any other provision of Federal law not described in paragraph (2)(A).

**SA 1704.** Mr. WARNER (for himself and Mr. BEGICH) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other

purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ RECEIPTS FROM PRIVATE PROVIDERS OF PUBLIC TRANSPORTATION ELIGIBLE FOR LOCAL SHARE PILOT PROGRAM.**

(a) **PILOT PROGRAM.**—The Secretary of Transportation (referred to in this section as the “Secretary”) shall establish a pilot program under which the non-Government share of the cost of a capital project carried out by a recipient of funding under section 5307 or 5311 of title 49, United States Code, as amended by this Act, may include an amount equal to the amount that a private provider of public transportation receives from providing public transportation service in the service area of the recipient that is in excess of the operating costs of the service provided, if the rolling stock used to provide the service—

(1) has been privately acquired; and  
(2) has not been acquired using any Government capital assistance.

(b) **OVERSIGHT.**—Each recipient that participates in the pilot program established under subsection (a) shall demonstrate that—

(1) the recipient has provided appropriate oversight of the provision of service by the private provider of public transportation; and

(2) a lack of readily available non-Government funding has limited the expansion of service provided by the recipient.

(c) **APPLICATION.**—An application for participation in the pilot program established under subsection (a) shall—

(1) be submitted by a designated recipient on behalf of a recipient; and

(2) include a certification that the recipient meets the requirements under subsection (b).

(d) **REPORT.**—Not later than September 30, 2013, the Secretary shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that at a minimum shall include a description of—

(1) any new or expanded services that would not have been provided without pilot program established under subsection (a);

(2) the cost effectiveness of any services described in paragraph (1);

(3) the amount of private capital added to the national public transportation system and the impact on job growth from that private capital;

(4) the effect of participation in the pilot program established under subsection (a) on other public transportation services; and

(5) other information that the Secretary determines is necessary.

**SA 1705.** Mr. BENNET (for himself and Mr. WARNER) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ CREDIT FACILITY FOR TRANSIT-ORIENTED DEVELOPMENT.**

(a) **CREDIT FACILITY ESTABLISHED.**—

(1) **DEFINITIONS.**—In this subsection:

(A) **ELIGIBLE IMPROVEMENT.**—The term “eligible improvement” means an infrastructure improvement that—

(i) is located within the station area of an eligible project;

(ii) has a total project cost of not less than \$10,000,000; and

(iii) includes—

(I) the rehabilitation or construction of a street, a transit station, structured parking, a walkway, a bikeway; or

(II) an activity described in section 5302(3)(G)(v) of title 49, United States Code, as amended by this Act.

(B) **ELIGIBLE PROJECT.**—The term “eligible project” has the same meaning as in subsection (b).

(C) **SECRETARY.**—The term “Secretary” means the Secretary of Transportation.

(2) **IN GENERAL.**—The Secretary may make or guarantee a loan for an eligible improvement, at any time before or after the eligible project relating to the eligible improvement begins revenue service.

(3) **PRIORITY.**—In making and guaranteeing loans under this subsection, the Secretary shall give priority to eligible improvements that—

(A) facilitate increased transit ridership and the preservation or creation of long-term affordable housing units; and

(B) are carried out by metropolitan planning organizations, or members of the policy board thereof, that have developed metropolitan transportation plans under section 5303(i)(3) of title 49, United States Code, as amended by this Act.

(4) **TERMS AND CONDITIONS.**—The Secretary shall establish terms and conditions for loans and loan guarantees under this subsection that are consistent with the terms and conditions established under chapter 6 of title 23, United States Code.

(b) **FUNDING.**—Notwithstanding section 5338(a) of title 49, United States Code, as amended by this Act—

(1) of amounts made available under paragraph (1) of such section 5338(a), \$20,000,000 for each of fiscal years 2012 and 2013 shall be available to carry out subsection (a) of this section; and

(2) the amounts described in paragraph (2) of such section 5338(a) shall be reduced by \$20,000,000 on a pro rata basis.

**SA 1706.** Mr. CARDIN submitted an amendment intended to be proposed to amendment SA 1633 proposed by Mr. REID to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of page 477, add the following:

**SEC. 32114. PROGRAM TO IMPROVE AVAILABILITY OF COMMERCIAL DRIVER'S LICENSES TO MEMBERS OF ARMED FORCES.**

(a) **STATE ACCEPTANCE OF TESTING OF MEMBERS OF ARMED FORCES BY SECRETARY OF DEFENSE FOR PURPOSES OF ISSUANCE OF COMMERCIAL DRIVER'S LICENSES.**—Section 3131, as amended by section 32205 and 32303 of this Act, is further amended by adding at the end the following:

“(25) The State shall accept as proof of compliance by an applicant for a commercial driver's license with any knowledge or skills test required under paragraph (1) or (2) or under any provision of law of the State, evidence that the applicant—

“(A) is a member of the Armed Forces; and

“(B) has passed a knowledge or skills test administered by the Secretary of Defense and approved by the Secretary of Transportation for purposes of this paragraph.”.

(b) **EXEMPTION FROM SINGLE LICENSE REQUIREMENT.**—Section 31302 is amended—

(1) by striking “No individual” and inserting the following:

“(a) **IN GENERAL.**—No individual”;

(2) in subsection (a), as designated by paragraph (1), by striking “An individual” and inserting the following:

“(b) **CUMULATIVE NUMBER OF LICENSES.**—

“(1) **IN GENERAL.**—Except as provided in paragraph (2), an individual”;

(3) in subsection (b), as designated by paragraph (2), by adding at the end the following:

“(2) **MEMBERS OF ARMED FORCES.**—An individual who is a member of the Armed Forces operating a commercial motor vehicle may have a driver's license issued by the Secretary of Defense in addition to a commercial driver's license issued by a State.”.

(c) **EXEMPTION FROM ALCOHOL AND CONTROLLED SUBSTANCES TESTING.**—Section 31306(b)(1) is amended by adding at the end the following:

“(C) The regulations required by subparagraph (A) shall exempt members of the Armed Forces from any requirements relating to testing for alcohol or controlled substances.”.

(d) **MODIFICATION OF RESIDENCY REQUIREMENT.**—Paragraph (12) of section 31311(a) is amended—

(1) by striking “except that, under regulations” and inserting the following: “except that—

“(A) under regulations”;

(2) in subparagraph (A), as designated by paragraph (1), by striking the period at the end and inserting “; and”;

(3) by adding at the end the following:

“(B) the State may issue a commercial driver's license to an individual who—

“(i) operates or will operate a commercial motor vehicle;

“(ii) is a member of the Armed Forces; and

“(iii) is not domiciled in the State, but who's permanent duty station is located in the State.”.

(e) **FEDERAL AND STATE WORKING GROUP.**—

(1) **ESTABLISHMENT.**—Not later than 3 months after the date of the enactment of this Act, the Secretary shall, in consultation with the Secretary of Defense and in cooperation with the States, establish a working group to assist members of the Armed Forces to obtain commercial driver's licenses.

(2) **DUTIES.**—The working group established under paragraph (1) shall, at a minimum—

(A) discuss implementation of this section and the amendments made by this section; and

(B) submit to the Secretary such recommendations for legislative or regulatory action as the working group considers advisable to improve the availability of commercial driver's licenses to members of the Armed Forces.

**SA 1707.** Mrs. GILLIBRAND (for herself and Mr. WYDEN) submitted an amendment intended to be proposed by her to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 559, between lines 10 and 11, insert the following:

**SEC. 2214. UNIVERSITY RENEWABLE TRANSPORTATION FUELS PROGRAM.**

(a) **IN GENERAL.**—Subchapter I of chapter 55 of title 49, United States Code, is amended by adding at the end the following:

**“§ 5507. University renewable transportation fuels program**

“(a) DEFINITIONS.—In this section:

“(1) CENTER.—The term ‘center’ means a regional university center of excellence established under this section.

“(2) LAND-GRANT COLLEGES AND UNIVERSITIES.—The term ‘land-grant colleges and universities’ has the meaning given the term in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103).

“(3) SECRETARY.—The term ‘Secretary’ means the Secretary of Transportation.

“(b) PROGRAM.—

“(1) ESTABLISHMENT.—The Secretary shall make competitively awarded grants under this section to nonprofit institutions of higher education to establish a consortium of land-grant colleges and universities to conduct a national program of research on biobased transportation fuels through 5 regional university centers of excellence.

“(2) ROLE OF CENTERS.—The role of the centers shall be—

“(A) to assist in meeting the needs of the United States for secure transportation fuels that are economically viable and environmentally sustainable;

“(B) to conduct research to support the movement and use of biobased transportation fuels, including research on—

“(i) biobased-transportation fuel feedstocks;

“(ii) feedstock preparation and transportation technologies;

“(iii) conversion and distribution technologies; and

“(iv) transportation infrastructure;

“(C) to enhance national energy and transportation security through the development, distribution, and implementation of biobased energy technologies;

“(D) to promote diversification in and the environmental sustainability of biomass feedstock production in the United States through biobased transportation fuels and product technologies;

“(E) to promote economic diversification in rural areas of the United States through biobased transportation fuels and product technologies; and

“(F) to enhance the efficiency of biobased transportation research and development programs through improved coordination and collaboration between the Department of Transportation, other appropriate Federal agencies, and land-grant colleges and universities.

“(3) DUTIES OF CENTERS.—A center established for a region described in subsection (c)(2)(B) shall—

“(A) provide research leadership and support collaboration among the land-grant universities and colleges within the region;

“(B) manage a peer-reviewed competitive grant program in the region that engages the land-grant colleges and universities in the region to address national priorities in the context of the biogeographic and environmental conditions, and transportation infrastructure, in the region; and

“(C) operate the program of research on biobased transportation fuels established under this section in the region.

“(c) GRANTS FROM SECRETARY TO NON-PROFIT INSTITUTIONS OF HIGHER EDUCATION.—

“(1) APPLICATIONS.—To receive a grant under this section, a nonprofit institution of higher education shall submit to the Secretary an application that is in such form and contains such information as the Secretary may require.

“(2) GENERAL SELECTION CRITERIA.—

“(A) IN GENERAL.—Except as otherwise provided in this section, the Secretary shall award grants under this section in nonexclusive candidate topic areas established by the Secretary that address the research priorities described in section 503 of title 23.

“(B) REGIONS.—The Secretary shall establish a national consortium of 5 regional university centers of excellence, with a center established within, and collaborating with land-grant colleges and universities in, each of the following regions:

“(i) NORTH-CENTRAL CENTER OF EXCELLENCE.—A north-central research center for the region composed of the States of Illinois, Indiana, Iowa, Minnesota, Montana, Nebraska, North Dakota, South Dakota, Wisconsin, and Wyoming.

“(ii) NORTHEASTERN CENTER OF EXCELLENCE.—A northeastern research center for the region composed of the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, and West Virginia.

“(iii) SOUTH-CENTRAL CENTER OF EXCELLENCE.—A south-central research center for the region composed of the States of Arkansas, Colorado, Kansas, Louisiana, Missouri, New Mexico, Oklahoma, and Texas.

“(iv) SOUTHEASTERN CENTER OF EXCELLENCE.—A southeastern research center for the region composed of the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia, the Commonwealth of Puerto Rico, and the United States Virgin Islands.

“(v) WESTERN CENTER OF EXCELLENCE.—

“(I) IN GENERAL.—A western research center for the region composed of the States of Arizona, California, Idaho, Nevada, Oregon, Utah, Washington, and the States and insular areas covered by the subcenter described in subclause (II).

“(II) WESTERN INSULAR PACIFIC SUBCENTER.—Within the western research center established under subclause (I), a western insular Pacific research subcenter for the region of Alaska, Hawaii, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.

“(C) CRITERIA.—The Secretary, in coordination with the Administrator of the Federal Highway Administration and the Administrator of the Federal Transit Administration, shall select each recipient of a grant under subsection (b) and this subsection through a competitive process based on the assessment of the Secretary of—

“(i) the demonstrated leadership within the field of biobased transportation fuel research;

“(ii) demonstrated experience in the conduct and management of research on biobased transportation fuel feedstocks; and

“(iii) demonstrated experience in working with multiple Federal agencies;

“(ii) demonstrated experience in awarding and managing not less than \$7,000,000 over a period of at least 5 years in competitive grant expenditures provided to land-grant colleges and universities, and institutions partnering with land-grant colleges and universities to conduct research and education programs in the area of biobased transportation fuels and biobased products that have the potential to reduce the cost of production of biobased fuel production through high-value coproducts;

“(iii) a demonstrated history of working with other land-grant colleges and univer-

sities within the applicable region in the conduct and implementation of field work on biobased transportation fuel feedstocks;

“(iv) a demonstrated history of collaborative efforts to collect and use natural resource and feedstock data for incorporation into geographic information systems and decisionmaking models;

“(v) a history of and working access to biobased feedstock production research stations in each State of the applicable region;

“(vi) the demonstrated ability of the recipient to disseminate results and promote the implementation of transportation research and education programs through national or regional education and outreach programs; and

“(vii) the demonstrated commitment of the recipient to the use of peer review principles and other research best practices in the selection, management, and dissemination of research projects.

“(3) SELECTION.—Not later than 1 year after the date of enactment of the MAP 21, the Secretary, in conjunction with the Administrator of the Federal Highway Administration and the Federal Transit Administration, shall—

“(A) select nonprofit institutions of higher education to receive grants under subsection (b) and this section; and

“(B) make grant amounts available to the selected recipients.

“(d) USE OF GRANTS BY UNIVERSITY CENTERS OF EXCELLENCE AND SUBCENTER.—

“(1) IN GENERAL.—A university center of excellence or subcenter established for a region under subsection (c) shall use 75 percent of the funds made to provide competitive grants to entities that are—

“(A) eligible to receive grants under subsection (b)(7) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i(b)(7)); and

“(B) located in the region.

“(2) ACTIVITIES.—Grants made under this subsection shall be used by the grant recipient to conduct, in a manner consistent with the purposes of this section, multiinstitutional and multistate research, extension, and education programs on technology development implementation.

“(3) ADMINISTRATION.—

“(A) PEER AND MERIT REVIEW.—In making grants under this subsection, a research center or subcenter shall—

“(i) seek and accept proposals for grants;

“(ii) determine the relevance and merit of proposals through a system of scientific peer review; and

“(iii) award grants on the basis of merit, quality, and relevance to advancing the purposes of this section.

“(B) TERM.—A grant awarded by a research center or subcenter shall have a term that does not exceed 5 years.

“(C) MATCHING FUNDS REQUIRED.—As a condition of receiving a grant under this subsection, the research center or subcenter shall require that not less than 20 percent of the cost of an activity described in paragraph (2) be matched with funds (including in-kind contributions) from a non-Federal source.

“(4) RESEARCH, EXTENSION AND EDUCATIONAL ACTIVITIES.—A university center of excellence or subcenter shall use the remainder of the grant funds, after application of paragraph (1), to conduct a regional research, extension, and educational program in a manner consistent with the purposes of this section.

“(5) PLANNING COORDINATION.—Grant funds made available under this subsection may be

used to carry out planning coordination under this subsection.

“(6) MAXIMUM GRANT.—The amount of a grant made to a recipient for a fiscal year under this subsection shall not exceed \$6,000,000.

“(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section \$30,000,000 for each of fiscal years 2012 and 2013.”.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 55 of title 49, United States Code, is amended by adding at the end the following:

“Sec. 5507. University renewable transportation fuels program.”.

**SA 1708.** Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . MOTORCOACH SAFETY STUDY.**

(a) STUDY.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall award a competitive research grant to a qualified, independent research institution to conduct a comprehensive research study of the safe operation of motorcoaches that—

(1) uses naturalistic driving data equipment; and

(2) focuses on driver fatigue, driver distraction, hours of service, and other areas determined by the Secretary to be necessary.

(b) REPORT.—Not later than 9 months after the date on which the research grant is awarded pursuant to subsection (a), the Secretary shall submit a report containing the results of the study conducted under subsection (a) to—

(1) the Committee on Commerce, Science, and Transportation of the Senate; and

(2) the Committee on Transportation and Infrastructure of the House of Representatives.

**NOTICE OF HEARING**

**COMMITTEE ON ENERGY AND NATURAL RESOURCES**

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources. The hearing will be held on Tuesday, March 6, 2012, at 10 a.m., in room SD-366 of the Dirksen Senate Office Building.

The purpose of this hearing is to consider the President's Proposed Budget for fiscal year 2013 for the Forest Service.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, United States Senate, room 304 of the Dirksen Senate Office Building, Washington, DC 20510-6150, or by

email to [Jake\\_McCook@energy.senate.gov](mailto:Jake_McCook@energy.senate.gov).

For further information, please contact Scott Miller (202) 224-5488 or Jake McCook (202) 224-9313.

**AUTHORITY FOR COMMITTEES TO MEET**

**COMMITTEE ON ARMED SERVICES**

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on February 16, 2012, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS**

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on February 16, 2012, at 10 a.m., to conduct a hearing entitled “Examining the European Debt Crisis and Its Implications.”

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON ENERGY AND NATURAL RESOURCES**

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on February 16, 2012, at 9:30 a.m., in room 366 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON FOREIGN RELATIONS**

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on February 16, 2012, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON FOREIGN RELATIONS**

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on February 16, 2012, at 11:30 a.m., to hold a briefing entitled, “Iran's Influence and Activity in Latin America.”

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS**

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet, during the session of the Senate, in order to conduct a hearing entitled “Addressing Workforce Needs at the Regional Level: Innovative Public and Private Partnerships” on February 16, 2012, at 10 a.m. in room 430 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS**

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on February 16, 2012, at 2:30 p.m. in order to conduct a hearing entitled “Securing America's Future: The Cybersecurity Act of 2012.”

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON INDIAN AFFAIRS**

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet during the session of the Senate on February 16, 2012, at 2:15 p.m. in room 628 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON THE JUDICIARY**

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on February 16, 2012, at 10 a.m., in SD-226 of the Dirksen Senate Office Building, to conduct an executive business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

**SUBCOMMITTEE ON WESTERN HEMISPHERE, PEACE CORPS, AND GLOBAL NARCOTICS**

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on February 16, 2012, at 10 a.m., to hold a Western Hemisphere, Peace Corps, and Global Narcotics Affairs subcommittee hearing entitled, “Iran's Influence and Activity in Latin America.”

The PRESIDING OFFICER. Without objection, it is so ordered.

**PRIVILEGES OF THE FLOOR**

Mr. BINGAMAN. Mr. President, I ask unanimous consent that Aoife Delargy, who is an intern in my office, be granted floor privileges during the pendency of S. 1813, the surface transportation bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

**MEASURE READ FOR THE FIRST TIME—S. 2118**

Mr. REID. Mr. President, I understand there is a bill at the desk due for its first reading.

The PRESIDING OFFICER. The clerk will read the bill by title for the first time.

The legislative clerk read as follows:

A bill (S. 2118) to remove unelected, unaccountable bureaucrats from seniors' personal

health decisions by repealing the Independent Payment Advisory Board.

Mr. REID. Mr. President, I now ask for a second reading and, in order to place the bill on the calendar, object to my own request.

The PRESIDING OFFICER. Objection is heard. The bill will be read for the second time on the next legislative day.

#### ORDER OF BUSINESS

Mr. REID. Mr. President, I apologize to the staff and for everyone having to wait, but we have things we have been working on and we have made a lot of headway, a lot of progress. We are still not all the way there, but it appears to me that the House will probably vote on the conference report sometime tomorrow morning. That being the case, we will see what we can do to expedite things here.

I will have the authority now to have the vote on the judge and the cloture vote so we can do that at any time tomorrow. I will talk to the Republican leader to make sure it is a convenient time for everyone. We will come in at 10 tomorrow morning.

#### ORDERS FOR FRIDAY, FEBRUARY 17, 2012

Mr. REID. Mr. President, I ask unanimous consent that the Senate adjourn until 10 a.m. on Friday, February 17, 2012; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, and the time for the two leaders be reserved for their use later in the day; that following any leader remarks, the Senate be in a period of morning business until 11 a.m., with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the Republicans controlling the first half and the majority controlling the final half; that following morning business, the Senate resume consideration of S. 1813, the surface transportation bill; and finally, I ask that the second-degree amendment filing deadline be at 10:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PROGRAM

Mr. REID. Mr. President, there could be up to four votes. If things don't work out, we will have to have some of the votes later in the week, so we hope that can come to be. We will notify Senators the minute we have some way of moving forward with everything. The four votes would be, of course, the cloture vote on the highway bill, the Furman nomination, and we might have to do cloture on the conference

report and final passage of that. So we will notify everyone what agreements we have been able to work on and get in touch with the Republican leader and hopefully move fairly quickly tomorrow morning.

Senators should expect a series of rollcall votes tomorrow on the motion to invoke cloture on the Reid amendment No. 1633 and on the Furman nomination. We also hope to consider the payroll conference report.

#### ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask that it adjourn under the previous order.

There being no objection, the Senate, at 7:57 p.m., adjourned until Friday, February 17, 2012, at 10 a.m.

#### NOMINATIONS

Executive nominations received by the Senate:

##### THE JUDICIARY

JILL A. PRYOR, OF GEORGIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE ELEVENTH CIRCUIT, VICE STANLEY F. BIRCH, JR., RETIRED.

PAUL WILLIAM GRIMM, OF MARYLAND, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF MARYLAND, VICE BENSON EVERETT LEGG, RETIRING.

ELISSA F. CADISH, OF NEVADA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEVADA, VICE PHILIP M. PRO, RETIRED.

MARK E. WALKER, OF FLORIDA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF FLORIDA, VICE STEPHAN P. MICKLE, RETIRED.

##### IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

##### To be brigadier general

COLONEL ONDRA L. BERRY  
COLONEL ALLEN D. BOLTON  
COLONEL WILLIAM D. COBETTO  
COLONEL WADE A. LILLEGARD  
COLONEL THAD L. MYERS

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

##### To be major general

BRIGADIER GENERAL STEVEN A. CRAY  
BRIGADIER GENERAL WILLIAM J. CRISLER, JR.  
BRIGADIER GENERAL JON F. FAGO  
BRIGADIER GENERAL MICHAEL A. LOH  
BRIGADIER GENERAL ERIC W. VOLLMECKE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

##### To be major general

BRIGADIER GENERAL DAVID W. ALLVIN  
BRIGADIER GENERAL HOWARD B. BAKER  
BRIGADIER GENERAL THOMAS W. BERGESON  
BRIGADIER GENERAL CHARLES Q. BROWN, JR.  
BRIGADIER GENERAL DARRYL W. BURKE  
BRIGADIER GENERAL RICHARD M. CLARK  
BRIGADIER GENERAL DWYER L. DENNIS  
BRIGADIER GENERAL MARK C. DILLON  
BRIGADIER GENERAL CARLTON D. EVERHART II  
BRIGADIER GENERAL SAMUEL A. R. GREAVES  
BRIGADIER GENERAL MORRIS E. HAASE  
BRIGADIER GENERAL GARRETT HARENCAK  
BRIGADIER GENERAL PAUL T. JOHNSON  
BRIGADIER GENERAL RANDY A. KEE  
BRIGADIER GENERAL JIM H. KEFFER  
BRIGADIER GENERAL MICHAEL J. KINGSLEY  
BRIGADIER GENERAL JEFFREY G. LOFGREN  
BRIGADIER GENERAL JAMES K. MC LAUGHLIN  
BRIGADIER GENERAL KURT F. NEUBAUER  
BRIGADIER GENERAL JOHN F. NEWELL III  
BRIGADIER GENERAL CRAIG S. OLSON  
BRIGADIER GENERAL JOHN N. T. SHANAHAN  
BRIGADIER GENERAL MICHAEL S. STOUGH  
BRIGADIER GENERAL SCOTT D. WEST

BRIGADIER GENERAL KENNETH S. WILSBACH  
IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

##### To be lieutenant general

MAJ. GEN. RAYMOND P. PALUMBO

##### IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

##### To be rear admiral (lower half)

CAPT. BARBARA W. SWEREDOSKI

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

##### To be rear admiral (lower half)

CAPT. ERIC C. YOUNG

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

##### To be rear admiral (lower half)

CAPT. TIMOTHY W. DORSEY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

##### To be rear admiral (lower half)

CAPT. KIRBY D. MILLER

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

##### To be rear admiral (lower half)

CAPTAIN MICHAEL J. DUMONT  
CAPTAIN ROBERT L. GREENE  
CAPTAIN LAWRENCE B. JACKSON  
CAPTAIN SCOTT B. J. JERABEK

##### IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

##### To be colonel

JENNIFER M. AGULTO  
LORRAINE R. BARTON  
PAMELA K. BEMENT  
KIRSTEN A. BENFORD  
MAUREEN A. CHARLES  
KATHLEEN B. CRAVER  
SUSAN C. DAVIS  
ELIZABETH A. DECKER  
NATHALIE F. ELLIS  
JOANN C. FREY  
DALE G. GREY  
MARIA G. GUEVARA DE MATALOBOS  
GWENDOLYN C. JOHNSON  
ANDREA L. JONES  
IDA L. MC DONALD  
WANDA J. MC FATTER  
PATRICIA N. MEZA  
JACQUELINE A. MUDD  
JILL J. OREAR  
SUSAN M. PERRY  
KEVIN S. POITINGER  
MARCIA A. POTTER  
MELANIE A. PRINCE  
JUDY D. STOLTMANN  
KATHRYN W. WEISS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

##### To be major

MARIO ABEJERO  
CYNTHIA W. ADAMS  
DANA M. ADRIAN  
DANA J. ALBALATE  
KATHLEEN M. AMIRALI  
RENATO B. BACTOL  
JEFFREY L. BARGANIER  
JENNIFER E. BEHAN  
GREGORY D. BELLANCA  
ROSSER P. BIRDSONG  
VINCENT M. BOYLE  
JULIA L. BRADLEY  
TIMOTHY W. BRICKER  
THOMAS G. BROCKMANN  
REGINALD T. BROWN  
JOHN A. CAMACHO AYALA  
LENORE CAPPELLUTI  
SAM R. CHHOEUN  
HEATHER D. COIL  
MUN C. CONNERS  
SHANNAN L. CORBIN  
DIANE K. COX  
JEROME A. CRAWFORD  
LOURDES CRUZ  
ADAM H. DALGLEISH

MICHAEL D. DIXON  
 JEREMY E. DOWNES  
 JOHN F. EGGERT  
 SHANNON D. ELDRIDGE  
 KERRY ANN ELLIOTT  
 HERNAN R. ERAZO  
 TERRI L. FELDER  
 NATHAN K. FERGUSON  
 BONNIE A. FRANCIS  
 MARK L. FRANCIS  
 ELIZABETH A. FROST  
 SONJA P. FURSE  
 SPARKLE M. GRAHAM  
 NICOLE E. GRAMLICK  
 JOHNNY R. GUERRA  
 TINA HALL  
 PAUL F. HAMEL  
 ANDREW P. HANSEN  
 CHINETA D. HARRIS  
 TOMAS C. HERNANDEZ, JR.  
 JEREMY D. HICKS  
 DAWN M. HIGGINS  
 YVONNE R. HILL  
 MARY A. HILLANBRAND  
 SHERI E. HISER  
 MICHELLE M. HUFSTETTLER  
 KIMBERLY N. HUGHES  
 RAMONA F. HUNTER  
 RONSETTA N. HUTCHISON  
 CARL O. IMPASTATO  
 ANGELA J. JOBE  
 CATHERINE H. JORDAN  
 CHRISTA J. JORDAN  
 LAURA K. JORG  
 CANDICE L. KENNEDY  
 SHANNON M. KERNES  
 AARON O. KIBLER  
 JOANNE M. KMETZ  
 CYNTHIA A. LANG  
 DEIDRA D. LYON  
 JENNIFER A. MAHAR  
 CYNTHIA N. MANDACCLARK  
 CHRISTOPHER M. MANJARRES  
 TAMMERA G. MATTIMOE  
 KELLY G. MC CANN  
 JENA LIZABETH MEYER  
 CARMEN A. MILES THANNIE  
 WARREN B. MOORE  
 SARAH E. MORTON  
 HEIDI S. MUZIMUREMA  
 LISA R. PALMER  
 MARTIN R. PAPROCK  
 SHELLY R. PARDINI  
 JANICE M. PECUA  
 ERNEST J. PEREZ  
 COLIN D. PERRY  
 THERESA A. PETERS  
 REGINA D. PETERSON  
 FRANKLIN PORCIL  
 JENNIFER L. PROSSER  
 DINO C. QUIJANO  
 KAWANA A. RAWLS  
 DIANE REKAR  
 JOAN P. ROBINSON  
 KARRI A. ROMAN  
 SHANE S. RUNYON  
 RICHARD S. RUSS  
 DEBRA A. SANTOS  
 TERESITA N. SCOTT  
 ANGELIQUE D. SIMPSON  
 LYNNE C. SMITH  
 JAMES M. SPENCER, JR.  
 SHAMANA J. STEVENS  
 TIMOTHY C. STONER  
 LARRY M. STOWERS  
 MICHELE S. SUGGS  
 BRIAN W. THORNTON  
 DAMON N. TOCZYLOWSKI  
 ERIC I. TOVAR  
 WENDY J. TROGDON  
 DARA J. WARREN  
 THERESA L. WEBER  
 ANDREA K. WHITNEY  
 DOUGLAS L. WILKERSON  
 CRIS WILLIAMS  
 JAY L. WILLIAMS, JR.  
 CARL R. YOUNG, JR.

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT  
 TO THE GRADE INDICATED IN THE UNITED STATES AIR  
 FORCE UNDER TITLE 10, U.S.C., SECTION 624:

*To be colonel*

RICHARD E. AARON  
 FARLEY A. ABDEEN  
 ANTHONY D. ABERNATHY  
 BRYAN E. ADAMS  
 RAY C. ADAMS, JR.  
 FRANK D. ALBERGA  
 JEFFREY N. ALDRIDGE  
 DAVID T. ALLEN  
 RONALD GENE ALLEN, JR.  
 NATHAN A. ALLERHEILIGEN  
 GREGORY J. ANDERSON  
 WILLIAM B. APODACA  
 DAVID G. AUSTIN  
 DAVID G. AVILA  
 JAMES R. BACHINSKY  
 CRAIG R. BAKER  
 PATRICK S. BALLARD  
 MICHAEL S. BALLEK  
 CHRISTOPHER B. BARKER  
 JOHNNY L. BARNES II

WALDEMAR F. BARNES  
 BRIAN A. BARTHEL  
 MARVIN T. BAUGH  
 CARRIE J. BAUSANO  
 STEVEN M. BEASLEY  
 CHARLES S. BEGEMAN  
 BRIAN E. BELL  
 EDWARD A. BELLEM  
 HARRY P. BENHAM  
 AARON K. BENSON  
 JILL M. BERGOVOY  
 ANDREW T. BERNARD  
 DOMINIC J. BERNARDI III  
 SARA A. BEYER  
 STEVEN W. BIGGS  
 ERIC J. BJURSTROM  
 SHEILA G. BLACK  
 WAYNE C. BLANCHETTE  
 COBY D. BLAND  
 SEVERIN J. BLENKUSH II  
 JOSEPH M. BLEVINS  
 ROD B. BLOKER  
 LELAND B. BOHANNON  
 RICHARD K. BOHN, JR.  
 RICHARD T. BOLANOWSKI  
 MATTHEW D. BONAVIDA  
 VANESSA L. BOND  
 ROBERT W. BORJA  
 JAMES P. BOSTER  
 JAMES E. BOWEN, JR.  
 ERIK C. BOWMAN  
 SOLOMON E. BOXX  
 JAY A. H. BOYD  
 SHAWN M. BRENNAN  
 TIMOTHY L. BRESTER  
 WILLIAM E. BROOKS  
 JEFFREY S. BROWN  
 KURT F. BRUESKE  
 TERRY L. BULLARD  
 SHARON K. BURNETT  
 ALVIN F. BURSE  
 CHARLES J. BUTLER  
 PATRICK E. BUTLER  
 KEVIN A. CABANAS  
 MICHAEL J. CALLENDER  
 BRENDA L. CAMPBELL  
 SCOTT C. CAMPBELL  
 MONTE R. CANNON  
 JOEL L. CAREY  
 THOMAS R. CAREY  
 BARRY T. CARGLE  
 DAVID A. CARLSON  
 WILLIAM S. CARPENTER  
 JOHN K. CARTWRIGHT  
 SHANNON W. CAUDILL  
 TODD M. CHENEY  
 RHUDE CHERRY III  
 JAMES L. CHITTENDEN  
 SEAN M. CHOQUETTE  
 GLEN E. CHRISTENSEN  
 FIONA A. CHRISTIANSON  
 MICHAEL S. CHRISTIE  
 JOHN D. CINNAMON  
 CHRISTOPHER S. CLARK  
 JAMES D. CLARK  
 WILLIAM C. CLARK  
 DONALD T. CLOCKSIN  
 DARREN L. COCHRAN  
 BRANNEN C. COHEE  
 CHRISTOPHER R. COLBERT  
 HEATH A. COLLINS  
 JEFFREY A. COLLINS  
 JASON R. COMBS  
 TRAVIS E. CONDON  
 JEFFREY T. COOK  
 WILLIAM L. COOK  
 SHANNON M. COOPER  
 WAYNE A. COOPER  
 JAMES A. COPHER  
 J. H. CORMIER III  
 GARY LYNN CORNN, JR.  
 MICHAEL L. COTE  
 PAUL COTELLESSO  
 DONALD J. COTHERN  
 ANTHONY W. COTTO  
 CHRISTOPHER N. CRANE  
 KATHY A. CRAVER  
 JENNIFER R. CROSSMAN  
 JOHN E. CULTON III  
 DENNIS D. CURRAN  
 BRETT R. CUSKER  
 ROBERT T. DANIEL  
 CHRISTOPHER T. DANIELS  
 ISAAC DAVIDSON  
 ARTHUR D. DAVIS  
 CHRISTOPHER D. DAVIS  
 ANTHONY J. DAVIT  
 MICHAEL L. DAWSON  
 CHRISTOPHER E. DECKER  
 ERIC P. DELANGE  
 DOUGLAS D. DEMAIJO  
 RICHARD W. DEMOUY  
 KIERAN T. DENEHAN  
 ERIC J. DENNY  
 MARNE R. DERANGER  
 JAMES B. DERMER  
 ROBERT L. DIAS  
 JOEL S. DICKINSON  
 MICHAEL A. DICKINSON  
 TIMOTHY J. DICKINSON  
 JEFFREY A. DICKSON  
 TODD L. DIEL

ERIC S. DORMINEY  
 ROBERT L. DOTSON  
 PETER W. DOTY  
 RONNIE G. DOUD  
 JOHN A. DOWNEY II  
 DOUGLAS M. DRAKE  
 DAVID S. DRICHTA  
 TIMOTHY E. DUNSTER  
 NEIL P. EISEN  
 JEAN K. EISENHUT  
 ROY P. FATUR  
 HILARY K. FEASTER  
 JOHN W. FEATHER  
 KEITH N. FELTER, JR.  
 SUSAN A. FERRERA  
 PETER M. FESLER  
 MICHAEL J. FINCH  
 WILLIAM C. FINLEY, JR.  
 JAMES L. FISHER  
 JAMES J. FLATTERY  
 TREVOR W. FLINT  
 DANA T. A. FLOOD  
 PETER J. FLORES  
 TODD A. FOGLE  
 LAURA M. G. FOGLESONG  
 DONALD FREW  
 MICHAEL B. FRYMIRE  
 GREGORY J. GAGNON  
 DAVID B. GASKILL  
 JEFFREY S. GAST  
 BRYAN T. GATES  
 JEFFREY E. GATES  
 GLEN M. GENOVE  
 RICHARD W. GIBBS  
 GREGORY P. GILBREATH  
 MICHAEL E. GIMBRONE  
 TODD L. GLANZER  
 REGINALD O. GODBOLT  
 MICHAEL L. GOODIN  
 KJALL GOPAUL  
 KEVIN J. GORDON  
 TIMOTHY A. GOSNELL  
 CHRISTOPHER S. GOUGH  
 JEFFREY R. GRANGER  
 DONALD R. GRANNAN  
 KEITH GREEN  
 CHRISTOPHER V. GREENE  
 JAMES L. GREER  
 ETHAN C. GRIFFIN  
 RICHARD W. GRIFFIN  
 GEORGE H. GRIFFITHS, JR.  
 MICHAEL W. GRISMER, JR.  
 SCOTT M. GUILBEAULT  
 ANDY GWINNUP  
 JOEL J. HAGAN  
 DARREN B. HALFORD  
 HENRY G. HAMBY IV  
 PHILLIP T. HAMILTON  
 JEFF A. HAMM III  
 ANDREW P. HANSEN  
 MARY E. HANSON  
 HAROLD E. HARDINGE  
 MONTE S. HARNER  
 DEXTER F. HARRISON  
 TRAVIS C. HARSHA  
 DEAN H. HARTMAN  
 MICHAEL L. HASTRITER  
 BERNARD J. HATCH III  
 ROBERT L. HAUG  
 DENNIS A. HAUGHT  
 SCOTT E. HAYFORD  
 KEVIN E. HEAD  
 PAUL E. HENDERSON  
 ANTHONY R. HERNANDEZ  
 DRYSDALE H. HERNANDEZ  
 KEVIN R. HEYBURN  
 JILL R. HIGGINS  
 BRIAN A. HILL  
 DON E. HILL  
 THAD B. HILL  
 GLENN E. HILLIS II  
 RIGEL K. HINCKLEY  
 ANDREW C. HIRD  
 MARK J. HOEHN  
 MARK G. HOELSCHER  
 TODD A. HOHN  
 CHRISTOPHER D. HOLMES  
 MICHAEL J. HOMOLA  
 JAMES R. HOSKINS  
 MICHAEL S. HOUGH  
 FRANKLIN C. HOWARD  
 LARS R. HUBERT  
 MATTHEW L. HUGHBANKS  
 RANDALL S. HUISS  
 BRIAN ALLEN HUMPHREY  
 EMI IZAWA  
 MARK A. JABLOW  
 ERIC A. JACKSON  
 MICHAEL L. A. JACKSON  
 SCOTT K. JACKSON  
 SEAN C. JACKSON  
 SCOTT D. JACOBS  
 JURIS L. JANSONS  
 DANIEL E. JEFFERIES  
 DAVID S. JEFFERY  
 JEFFREY R. JENSSSEN  
 ROBERT S. JOBE  
 BRADFORD T. JOHNSON  
 DANNY P. JOHNSON  
 SHANNON L. C. JOHNSON  
 CARL M. JONES  
 SCOTT H. JONES

KURT W. KAYSER  
DAVID S. KEESEY  
GREGORY S. KEETON  
KEVIN G. KENNELLY  
PATRICK F. KENNERLY  
MICHAEL E. KENSICK  
DENNIS C. KING, JR.  
DAVID A. KIRKENDALL  
WALTER C. KIRSCHMAN III  
SHANNON R. KLUG  
ANDREW S. KOVICH III  
ROBERT J. KRAUS  
JORDAN R. KRISS  
ERIC A. KRYSTKOWIAK  
CHARLES D. KUHLE  
DALE L. LANDIS II  
KENT A. LANDRETH  
STEPHEN K. LANDRY  
REID M. LANGDON  
JUSTIN C. LANGLOIS  
MAX E. LANTZ II  
ANTHONY LANUZO  
JOHN R. LAPORE III  
DANIEL T. LASICA  
DAVID W. LAWRENCE  
MICHAEL C. LAWRENCE  
PHILLIP A. LAYMAN  
TIMOTHY G. LEE  
JOSEPH P. LEHNERD  
JAMES A. LEINART  
RENE M. LEON  
ROBERT J. LEVIN, JR.  
TODD J. LEVINE  
CHERYL L. LEWIS  
DONALD R. LEWIS  
RODNEY D. LEWIS  
TED A. LEWIS  
ROBERT E. LICCIARDI  
RICHARD T. LINDLAN  
BRIAN W. LINDSEY  
JOSEPH W. LOCKE  
JOSEPH D. LOONEY  
JOHN K. LUSSIER  
MARK J. MACDONALD  
SCOTT A. MACKENZIE  
EDWARD J. MADSEN  
MICHAEL D. MADSEN  
BENJAMIN R. MAITRE  
GEOFFREY A. MAKI  
MAX M. MAROSKO III  
MATTEO G. MARTEMUCCI  
JOHNNIE MARTINEZ  
CLAY E. MASON  
KENDRA S. MATHEWS  
ERIC S. MAYHEU  
AMY J. MCCAIN  
BRIAN P. MCCARTHY  
KAPO S. MCCARTNEY  
MICHAEL E. MCCLUNG  
DOUGLAS F. MCCOBB, JR.  
KRISTIN H. MCCOY  
JAMES D. MCCUNE  
JOHN C. MCCURDY  
SEAN R. MCELHANEY PAHIA  
CHARLES B. MCFARLAND  
PETRA MCGREGOR  
DAVID W. MCKEOWN  
MICHAEL S. MCMANUS  
DOUGLAS J. MELLARS  
JOHN R. MELLODY  
WALTER K. MELTON  
PAUL B. MENDY, JR.  
MICHAEL J. MERRITT  
ALEXANDER R. MERZ  
MARK L. MESENBRINK  
KIRSTEN R. MESSER  
MICHAEL G. MESSER  
JONPAUL MICKLE  
CAROLINE M. MILLER  
TONY L. MILLICAN  
CARL C. MISNER  
ROBERT M. MOCIO  
EDUARDO D. MONAREZ  
MICHAEL B. MONGOLD  
ARTHUR MOORE III  
SHAWN D. MOORE  
TARA L. MORRISON  
DAVID R. MOTT  
RALPH J. MULI  
TRACEY L. MURCHISON  
PAUL J. MURRAY  
STEVEN A. MYS  
JERALD H. NARUM  
CHRISTOPHER J. NIEMI

ERIC D. NORTH  
DEREK M. OAKS  
ELENA M. OBERG  
JOHN J. OCONNOR  
MICHAEL M. OCONNOR  
DAVID M. ODELL  
JOSEPH L. OGEEA, SR.  
MARTIN J. OGRADY  
DONNA L. OHARREN  
ERIC P. OLIVER  
KENNETH G. ONEIL  
RICHARD P. PAGLIUCCO  
JOHN L. PARKER IV  
MONICA M. PARTRIDGE  
KELLY S. PASSMORE  
CAROLYN J. PATRICK  
DWIGHT F. PAVEK  
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MATTHEW W. PERKINS  
CORY M. PETERSON  
WILLIAM C. PETERSON  
STUART A. PETTIS  
EVAN L. PETTUS  
PAUL D. PIDGEON  
DONNA M. G. PIKE  
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MATTHEW A. POWELL  
MATTHEW J. POWELL  
JOSEPH L. PRUE  
ANDREA M. PSMITHE  
BRADLEY L. PYBURN  
DAVID M. QUICK  
BRIAN G. QUILLLEN  
CLARK J. QUINN  
TIMOTHY J. RADE  
DAVID F. RADOMSKI  
CHAD D. RADUEGE  
SUSHIL S. RAMRAKHA  
TIMOTHY J. RAPP  
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LISA C. REDINGER  
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CLIFFORD E. RICH  
LARRY G. RIDDICK, JR.  
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RYAN C. ROGERS  
GILBERTO ROSARIO  
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ROBERT J. ROWELL  
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THOMAS A. RUDY  
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JOHN P. RYDLAND  
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GARY L. SALMANS  
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DAVID J. SANFORD  
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ANDREW M. SASSEVILLE  
SCOTT JOSEPH SCHERER  
DAVID A. SCHILLING  
EARL S. SCOTT  
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STAMATIS B. SMELTZ  
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BRIAN N. SMITH  
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MATTHEW T. SMITH  
NATHAN E. SMITH  
SHAWN A. SMITH  
CHRISTOPHER G. SMITHTRO  
JEFFREY C. SOBEL

LAURA A. SOULE  
ADRIAN L. SPAIN  
RANDALL G. SPARKS  
BENJAMIN W. SPENCER  
CHRISTOPHER M. SPIGELMIRE  
LAWRENCE J. SPINETTA  
MICHAEL T. SPRADLEY  
STANLEY A. SPRINGER  
KIRK B. STABLER  
KIRT L. STALLINGS  
GREGORY K. STANKIEWICZ  
ALEX STATHOPOULOS  
AARON W. STEFFENS  
KAREN D. STOFF  
ALESSANDRA STOKSTAD  
DAVID E. STOOKEY  
ROBERT A. STRASSER  
MITCHELL D. STRATTON  
JEFFREY R. STUTZ  
CHRISTOPHER B. SULLIVAN  
JIMMIE E. SULLIVAN, JR.  
JEFFREY P. SUNDBERG  
TIMOTHY J. SUNDVALL  
ANGELA W. SUPLISSON  
MARK A. SURIANO  
ROBERT T. SWANSON, JR.  
STEVEN M. SWEENEY  
FRANCIS J. SWEKOSKY, JR.  
GERALD P. SZYBIST  
FRED D. TAYLOR  
SCOTT A. THATCHER  
KEVIN C. THERRIEN  
JAMES E. THOMPSON  
SCOTT T. THOMPSON  
KENNETH J. TIMKO  
BRIAN A. TOM  
CHARLES A. TOMKO  
ROBERT W. TRAYERS, JR.  
ALICE WARD TREVINO  
DENNIS P. TUCKER, JR.  
DOYLE C. TURNER  
JEREMY D. TURNER  
SEAN K. TYLER  
KRISTIN S. UCHIMURA  
ROBERT K. UMSTEAD III  
CHARLES E. UNDERHILL  
BENJAMIN R. UNGERMAN  
JENNIFER L. UPTMOR  
MARC R. VANDEVEER  
DANIEL A. VASENKO  
JOHN E. VAUGHN  
TODD M. VENEMA  
MICHAEL C. VENERI  
LASZLO A. VERES  
DEANNA L. VIOLETTE  
MICHAEL A. VOGEL  
MICHAEL V. WAGGLE  
RICHARD E. WAGNER  
JOHN C. WALKER  
KENNETH D. WARCHOLIK  
ANNE M. WARNEMENT  
WENDY J. WASIK  
STEPHEN L. WEAVER  
TIMOTHY D. WEST  
SUZANNE L. WHEELER  
JOE L. WHITE, JR.  
RAYMOND C. WIER  
JOHN B. WILBOURNE  
JAMES H. WILKERSON  
SCOTT E. WILLIAMS  
MARK L. WILLIAMSON  
PRESTON L. WILLIAMSON  
MICHAEL J. WINTERS, JR.  
JEFFREY L. WITKOP  
WILLIAM S. WOLFE  
BRYAN T. WOLFORD  
PAMELA L. WOOLLEY  
MARK O. YEISLEY  
AARON A. C. YOUNG  
PATRICK G. YOUNGSON  
SCOTTIE L. ZAMZOW  
ERIC D. ZIMMERMAN

## IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT  
TO THE GRADE INDICATED IN THE RESERVE OF THE  
ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

DWIGHT Y. SHEN  
CAROL J. PIERCE



## HOUSE OF REPRESENTATIVES—Thursday, February 16, 2012

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. WEBSTER).

### DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,  
February 16, 2012.

I hereby appoint the Honorable DANIEL WEBSTER to act as Speaker pro tempore on this day.

JOHN A. BOEHNER,  
*Speaker of the House of Representatives.*

### MORNING-HOUR DEBATE

The SPEAKER pro tempore. Pursuant to the order of the House of January 17, 2012, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning-hour debate.

The Chair will alternate recognition between the parties, with each party limited to 1 hour and each Member other than the majority and minority leaders and the minority whip limited to 5 minutes each, but in no event shall debate continue beyond 11:50 a.m.

### AFGHANISTAN

The SPEAKER pro tempore. The Chair recognizes the gentleman from North Carolina (Mr. JONES) for 5 minutes.

Mr. JONES. Mr. Speaker, I wish all of the Members of the House could take the time to read the National Intelligence Estimate on Afghanistan. It's classified, but I think they would benefit greatly as both parties continue to try to bring our troops home from Afghanistan sooner than 2013.

I do want to compliment the Secretary of Defense, Mr. Panetta. I did yesterday, in a hearing, and thanked him for saying that he would start bringing the combat troops home by 2013.

Mr. Speaker, I've been advised on Afghanistan by a military marine general for the last 3 years. I have great respect for him. He is a man of faith, and he has served our country at the highest rank in this particular type of service. I can't say his name because he asked me not to use his name publicly, but this marine general has been my adviser for 3 years. We exchanged emails last week, and I'd like to share for the House a couple of his thoughts

on the email that he sent to me last week:

Attempting to find a true military and political answer to the problems in Afghanistan would take decades, not years, and drain our Nation of precious resources—with the most precious being our sons and daughters.

Simply put, the United States cannot solve the Afghan problem no matter how brave and determined our troops are.

We need to bring our people home and prepare for the real danger that is growing in the Pacific.

Again, I have the utmost respect for this man, and I think the American people would if I could say his name.

One of our marines who is serving as a Village Stability Operations team leader in Afghanistan—they're known as VSOs—emailed a friend of his recently, and the friend shared the email with me: "If you ask me if it is worth a single American life to build governance here in Afghanistan, I would have to say no." This man is over there trying to help the Afghan people, but obviously he has no faith. He basically said—and I'm paraphrasing now—that he has absolutely no confidence in the Afghans being able to have a functional, successful military or police force.

I thank him for his thoughts, and I've shared them with the House today.

There is Lieutenant Colonel Danny Davis, who some in both parties have met with. He spent 9 months in Afghanistan, and 3 weeks ago, he came out publicly. He is an active duty Army colonel, saying that it's time to get our troops out and that there is nothing we're going to change in Afghanistan.

I want to say that I respect the colonel for trying to tell the American people the truth and for telling Congress the truth, which is that we're spending \$10 billion a month to prop up a corrupt leader, and nothing is going to change. That's why I shared the thoughts of the team leader and also of the retired marine general.

In a long Wall Street Journal article of February 10, titled, "Roads to Nowhere: Program to Win over Afghans Fails," I will quote one paragraph:

Three years and nearly \$270 million later, less than 100 miles of gravel road have been completed, according to American officials. More than 125 people were killed and 250 others were wounded in insurgent attacks aimed at derailing the project, USAID said. The agency shut down the road-building effort in December.

Mr. Speaker, this is what both parties are trying to say: We keep spending money we don't have. We're cutting

programs for children and senior citizens. We can't help with infrastructure, but we can find \$10 billion a month to prop up a corrupt leader.

Does that make any sense? I think not. The American people have said it makes no sense at all.

I have a photograph—well, a poster, actually, Mr. Speaker. This is a beautiful little girl who is 3 years old. Her mother is in tears, and her grandmother is patting the mother on the shoulder. The little girl is looking at a marine officer, who is presenting a folded flag to the mother.

All I can think about as to that little girl is, one day, she will say to her mother, Tell me about my father.

Her mother will say, Well, your father was a wonderful man, and he gave his life in Afghanistan.

Then the little girl will go to school, and she will read the books about the war in Afghanistan. She'll ask, Why did my father die?

He died for nothing. He died for a corrupt leader, and history has said Afghanistan will never, never change.

So I want to thank my colleagues on the Democratic side who have joined me and the few Republicans who have joined me on the Republican side. Let's bring our troops home. Let's spend the money here in America, and let's save the lives of our soldiers and marines and of all those who serve in the military.

Mr. Speaker, I ask God to please bless our men and women in uniform. I ask God, in his loving arms, to hold the families who have given a child dying for freedom in Afghanistan and Iraq. I ask God to please bless the House and Senate that we will do what is right in the eyes of God. I ask God to please bless the President that he will do what is right in the eyes of God for the American people.

And three times, I will say, God please, God please, God please continue to bless America.

### BANKRUPTCY EQUITY ACT

The SPEAKER pro tempore. The Chair recognizes the gentleman from Oregon (Mr. BLUMENAUER) for 5 minutes.

Mr. BLUMENAUER. This week, we watched the settlement unfold between the Department of Justice, the State attorneys general, and the major banks. Twenty-six billion dollars sounds like a lot of money, but given that almost one in four homeowners owe more on their mortgages than the

values of their homes—overall losing some \$700 billion in value. This is a step in the right direction that will help some people but is not really a major correction. There are still far too few real pressures to get the market right.

There is a simple answer that won't cost the taxpayers a dime and which will stabilize the housing depression within a year. It would help reestablish home values and encourage banks to work with their customers whose mortgages are "under water".

The recent decision of American Airlines to pursue bankruptcy is illustrative. This corporate giant could actually pay its bills. It had some \$4 billion in cash and was still taking in revenue, but it made a strategic judgment to use the bankruptcy laws to reposition itself to win market rate loan terms, to modify its union contracts and the pension obligations to its employees because, under the law, a bankruptcy judge can adjust these business relationships to reflect current market conditions—for a business, that is. Curiously, homeowners are treated differently.

A business speculator could buy 10 units in a condominium in south Florida when the housing bubble bursts and could get bankruptcy relief on all 10 units—but not Sally Six-Pack, who bought an identical unit to live in.

What is it about the homeowners that makes them less worthy of relief of the fresh start of bankruptcy than the speculator or American Airlines? The answer is right here on the floor of the House of Representatives.

Congress has decided to look out for business, not the homeowner. The daisy chain of profit we saw collapsing under the weight of colossal greed and bad judgment was protected at the expense of the homeowner, who was trapped, with limited options to renegotiate, with no leverage, who simply faced foreclosure, a short sale, or what is described as jingle mail: send the keys back and walk away.

□ 1010

It's interesting that homeowners have been urged that it's their moral duty, their obligation to pay, even as the Mortgage Bankers Association, itself, reneged on the mortgage on its headquarters and stiffed the lender to the tune of \$30 million. Homeowners are expected to do the right thing, even if we're seeing a cavalcade of financial misdeeds, shortcuts, and, in some cases, outright fraud.

I've been unable to find any good reason that homeowners should be discriminated against in bankruptcy. If it's good enough for business, it should be good enough for the homeowners.

There are lots of reasons to change that policy. First, it's simple equity, the same treatment. In addition, making bankruptcy relief available to

homeowners will make the system respond to reasonable requests for renegotiations, which would be cheaper, faster, and easier than the foreclosure process for everybody. The simple act will stem the flood of foreclosures and uncertainty, which will help stabilize home values currently in free fall, and it will make it harder for another speculative bubble to be created. Knowing that homeowners will be treated the same as business in bankruptcy will make people think twice about aggregating vast numbers of dicey mortgages, simply taking a profit, and passing the package on to others.

I am introducing the Bankruptcy Equity Act to provide bankruptcy judges the power to align the homeowner's mortgage to its current value and terms and put ordinary homeowners on the same playing field as speculators and businesses. It makes sure private and federally insured mortgages are eligible for modification, allowing FHA, VA, and the Department of Agriculture to pay out claims on insured mortgages modified in bankruptcy.

For an immediate solution to the foreclosure crisis, allowing families to stay in their homes, to be treated equitably, and prevent the next bubble from forming, I strongly urge my colleagues to examine the Bankruptcy Equity for Homeowners Act and join me in treating homeowners as fairly as we treat speculators and investors.

#### THE BUDGET

The SPEAKER pro tempore. The Chair recognizes the gentleman from Georgia (Mr. WOODALL) for 5 minutes.

Mr. WOODALL. Mr. Speaker, I've come down here to talk about the budget. I am a freshman on the Budget Committee. The President's budget arrived on Monday of this week. Here in the Budget Committee, we had the acting OMB Director with us yesterday, we have the Treasury Secretary with us today, and we're exploring this budget.

Now, I must tell you, Mr. Speaker, I may be a hard core conservative Republican from the Deep South, but I am grateful to this President for releasing a budget. A budget is a moral document, Mr. Speaker. It is a moral document that talks about what your priorities are for us, as a Nation.

Our rule book for the country is the Constitution of the United States. That's the rule book by which everything we do in this Nation must comply. The rule book for our finances is the budget that we pass each year. As we all know, as it has been said dozens of times before, the Senate has not passed a budget in over 1,000 days. The majority leader has said he was not going to pass a budget again this year. The Democratic Budget Committee chairman said, But I promised to pass a budget this year. The majority leader

said, Well, you can pass a budget, but I'm not going to have it considered on the Senate floor. That's wrong. What the President did in releasing a budget this week, that's right.

I will tell you, there are a couple of things that need to be in a budget, Mr. Speaker. The budget needs to talk about spending restraint. I don't think there's a family in this country that believes the Federal Government is spending too little. Spending restraint must be a component of every budget. The President laid out his ideas this week.

Repairing the safety net, Mr. Speaker, making sure that the safety net that families depend on when hard times come, making sure that that safety net is resilient, that it is, in fact, a spring and not a cushion, that it is a pathway out instead of a lifestyle choice, those things are important. The budget should contain those.

Entitlement reform, Mr. Speaker, and I want to say earned entitlements, because the men and women of this country have been paying 15.3 percent of their income if they're in my generation, a little less in earlier generations, but they have been paying out of their paychecks to gain access to Social Security and Medicare. But those two programs, as we all know, are underfunded, are headed towards financial crisis, and a budget should talk about what your solutions are to restore faith in those programs for all Americans.

And tax reform, Mr. Speaker, tax reform, there's not a person in this country, Mr. Speaker, that likes the Tax Code the way it is. There's not a Congressman in this room who, if they sat down with a blank sheet of paper today, would craft this United States Tax Code to govern our Nation. It's in need of reform, and we can do that.

But, Mr. Speaker, of safety restraint, of repairing the safety net, of entitlement reform, and of tax reform, the President's budget was devoid of any—of any. Nothing to save Medicare for future generations. Nothing to protect Social Security for these generations and further. Nothing to change those safety net programs, Mr. Speaker, to ensure that they are that hand up instead of that handout. Nothing to build upon our work ethic that we have in this country by reforming the Tax Code and bringing businesses back to American shores.

I encourage folks to go and look at that budget. They can see it at [www.omb.gov](http://www.omb.gov). That's the Office of Management and Budget. It's the White House Web site where they can view that budget. I encourage them to tune in to the Budget Committee, Mr. Speaker. We are, again, having hearings on that budget all week and will continue into the future.

And then I encourage folks to look at the process that happens here in this

body, Mr. Speaker, where absolutely any Member of Congress can introduce absolutely any budget that expresses their priorities, an open process where absolutely all budget ideas are considered. It is a hallmark of this institution, Mr. Speaker. I welcomed it last year and was proud of the result of this debate. It was once the PAUL RYAN budget, then the House Budget Committee budget, then the House budget for all of the land. I look forward to that process continuing again this year.

#### AUTOMATIC INDIVIDUAL RETIREMENT ACCOUNT

The SPEAKER pro tempore. The Chair recognizes the gentleman from Massachusetts (Mr. NEAL) for 5 minutes.

Mr. NEAL. Mr. Speaker, I rise today to talk about a piece of legislation that I'm introducing later on in the afternoon, the Automatic Individual Retirement Account Act of 2012.

According to Boston College's Center for Retirement Research, the United States has a retirement income deficit of \$6.6 trillion. This is the gap between what Americans need for retirement and the amount that they've actually saved. This amounts to more than \$90,000 per household. This is a staggering number and demonstrates that we, as Americans, need to do more to prepare for a financially secure retirement. One area that I think we need to focus on is getting more low- and middle-income workers into a retirement savings plan, and the auto IRA would do just that.

It is estimated that 75 million Americans—half the American people who get up and go to work every day—are not in an employer-provided retirement plan or other opportunity to save through workplace contributions. The Auto IRA Act offers a commonsense solution to dramatically expand retirement savings in the U.S. Under this proposal, tens of millions of workers would be eligible to save for retirement through a payroll deduction. And it has been estimated that the auto IRA proposal could raise net national savings by nearly \$8 billion annually.

This legislation would create automatic payroll deposit individual retirement accounts, or auto IRAs, for workers who do not have access to employer-provided qualified retirement plans. The bill would require employers to automatically enroll employees in the auto IRA unless the employee opts out. These are "set it and forget it" payroll deposit accounts.

I am sensitive to the increased burden on small businesses, so the bill provides for a tax credit for employers with less than 100 employees in order to offset the administrative costs of establishing this initiative. Furthermore, only employers with at least 10 em-

ployees, who have been in business for at least 2 years, would be covered by the bill. And the bill does not mandate any matching contributions by employers or other fiduciary responsibilities for the management of the accounts.

It's my hope that once employers start participating in the auto IRA program, they will decide to convert these arrangements to the broader 401(k) plans. The IRA contribution limits are lower than the 401(k) limits, so business owners may see incentives to switch to bigger plans. And we've also enhanced the small employer pension plan startup credit, so if an auto IRA employer switches from auto IRA to 401(k) plans, they would get the credit for 3 years instead of 2.

□ 1020

Listen to this, this proposal was jointly developed working with me through the Brookings Institution and the Heritage Foundation. It has garnered widespread support, including AARP, the United States Black Chamber of Commerce, the Women's Institute For a Secure Retirement, and the Aspen Institute Initiative on Financial Security. You should join in supporting this legislation.

I am also highlighting another retirement plan bill that I'm introducing today, the Retirement Plan Simplification and Enhancement Act. Our current retirement plan rules are very complicated. This bill includes a number of commonsense reforms that will simplify the rules while we still protect participants.

Under current law, small businesses that adopt a new retirement plan are eligible for a tax credit to cover some of their startup costs. We are tripling the credit to \$1,500 to cover all of these expenses. I hope this will encourage more small employers to sponsor retirement plans.

Currently, employers can exclude some part-time workers from participating in their 401(k) plans. As women are more likely to work part-time than men, these rules can be quite harmful to them. So my bill would require employers to allow certain long-term, part-time employees to make elective deferrals to their 401(k) plans.

Both of these bills are commonsense reforms that will help Americans prepare for a good and financially secure retirement. I hope you will join on to the Automatic IRA Act of 2012 and the Retirement Plan Simplification and Enhancement Act.

#### NATIONAL CAREER AND TECHNICAL EDUCATION MONTH

The SPEAKER pro tempore. The Chair recognizes the gentleman from Pennsylvania (Mr. THOMPSON) for 5 minutes.

Mr. THOMPSON of Pennsylvania. Mr. Speaker, I rise today as cochair of

the bipartisan House Career and Technical Education Caucus in order to recognize February as National Career and Technical Education Month.

Career and technical education programs continue to evolve in order to ensure that workers are prepared to hold jobs in high-wage, high-skill, and high-demand career fields like engineering, information technology, health care, and advanced manufacturing for the 21st century.

During this time of economic uncertainty and record high unemployment, career and technical education programs provide a lifeline for the underemployed who look to be in careers alongside young adults just starting out in the rapidly evolving job market.

Career and technical education, while historically undervalued, helps tackle critical workforce shortages and provides an opportunity for America to remain globally competitive while also engaging students in practical, real-world applications of academics, coupled with hands on work experiences.

Together, these programs provide for integrated learning experiences which assist students with skills that promote career readiness. Whether for high school students and adults retraining for a new field or further professional development, career and technical education programs are vital to our country's economic recovery. And while the limited Federal investment has been stagnant for almost a decade, these programs have proven effective to ensure that America can continue to be the world's leading innovator.

As we move toward fiscal year 2013, I join with a bipartisan group of my colleagues in not only recognizing the importance of maintaining these Federal investments for our country's future, but also in saying thank you to the countless men and women who make these programs possible. They share a bold vision for America's future, which breaks from the cookie cutter, straight out of the box education of the past and recognizes that America can and must remain a global leader.

Mr. Speaker, career and technical education serves to ensure that we continue on that path.

#### NO AMERICAN WOMAN SHOULD BE DENIED CONTRACEPTIVE COVERAGE

The SPEAKER pro tempore. The Chair recognizes the gentleman from Illinois (Mr. GUTIERREZ) for 5 minutes.

Mr. GUTIERREZ. One of the many things I love about America is we are a country of second chances. You can fail and still have a chance to get ahead in our Nation of opportunity. There was a time that it looked like Steve Jobs might not make it. He was forced out of his company, and Apple looked like it might become a historical footnote—until Apple realized its mistake and

asked Steve Jobs to return and put him back on top.

Our current basketball sensation, Jeremy Lin, knows a thing or two about second chances. He was undrafted by the NBA, and he was cut twice before landing with the New York Knicks. Other than my hometown Chicago Bulls hero, Derrick Rose, Lin is the most exciting story in sports. America is about second and third and fourth chances, which brings me, of course, to Newt Gingrich.

Now, some might say that Newt being considered at all for President of the United States is a second chance. After all, his reign as Speaker of the House did not end well. It didn't end with good policy for America, good politics for Republicans, or good feelings about his personal reputation. Yet, he's hanging in there in the race for Commander in Chief. Now that's a second chance I'm talking about today.

I'm talking about Newt Gingrich's reaction to President Obama's effort to provide contraceptive coverage to all American women. Mr. Gingrich has been trumpeting his outrage, from "Meet the Press" to CPAC to any town hall meeting that will have him. He said: "President Obama has basically declared war on the Catholic Church."

To be clear: "President Obama has basically declared war on the Catholic Church."

That's the second chance I want to talk about this morning, Newt Gingrich as spokesperson for the Catholic Church. Newt Gingrich as the right man to stand up as a protector of the values of the Catholic faith.

If Newt Gingrich, Catholic spokesperson, is not a generous, forgiving second chance, then I don't think one has ever existed in America.

Now, I'm Catholic. And as a pro-choice legislator who strongly believes that no American woman should be denied contraceptive coverage based on where she works, I don't always see eye to eye with my church, so I don't pretend to be a spokesman or someone who can speak for all Catholics. Good people can disagree on tough issues.

But apparently Newt Gingrich is well-positioned to decide when our President has declared "war" on the Catholic faith. He isn't reluctant to speak on their behalf, even with a personal history that seems to be at odds with some of the teachings of the Catholic Church.

Frankly, I think his personal life is none of our business, but when he wants to dictate morality to the rest of America, when he accuses our President of engaging in "religious persecution," when he demands that his personal values be shared by all American women, he makes his personal life part of the public discourse.

I support the President's call for equity for all American women. I salute him for standing up for fairness in con-

traceptive coverage in all health care plans. I support the President's effort to find a compromise that respects every American's religious beliefs. He did something hard for a leader. He listened to his critics, he worked to find common ground, moderate ground, and he changed. And I applaud him for that.

And I applaud the American people for reminding us that everybody gets a second chance, even a chance for Newt Gingrich to stand up for American Catholics. If Newt Gingrich can speak for American Catholics, then it's true: in America, anything is possible.

Just consider what could happen. Maybe Charlie Sheen can become the spokesperson for the temperance movement. Lou Dobbs can be the face of immigrant rights. LeBron James can be in charge of the Cleveland Chamber of Commerce. And the cast of Jersey Shore can lead a national campaign for manners, humility, and modesty.

If Newt Gingrich can do it, why can't they? In fact, if Newt Gingrich can do it, why can't I?

This is me with Senator Bill Bradley. He's over 6 foot 6, and I'm barely 5 foot 6. He has noticed the difference, and he is giving me a friendly kiss on the top of my head. So I'm pleased to announce today that if Newt Gingrich can speak for all Catholics, I'm going to start speaking for all tall people.

That's right. Five-foot-six Congressman LUIS GUTIERREZ, president of the National Association of Extremely Tall Americans. I'm no expert on being tall. But then again, Newt doesn't really seem to be an expert on the rules of the Catholic Church either, so what's going to stop me?

#### ROLE OF GOVERNMENT

The SPEAKER pro tempore. The Chair recognizes the gentleman from Tennessee (Mr. DUNCAN) for 5 minutes.

Mr. DUNCAN of Tennessee. Mr. Speaker, Tony Blair was the Prime Minister of Great Britain and was considered to be a political liberal, and perhaps his actions didn't always match his words, but I would like to read a statement he made at one point. Mr. Blair said:

The role of government is to stabilize and then get out of the way as quickly as possible. Ultimately, the recovery will be led not by the government but by industry, business, and the creativity, ingenuity, and enterprise of people. If the measures you take in responding to the crisis diminish their incentives, curb their entrepreneurship, and make them feel unsure about the climate in which they are working, the recovery becomes uncertain.

That was Tony Blair.

Then Thomas Donohue, the president of our national Chamber of Commerce, said at a jobs summit about a year and a half ago here in Washington:

The regulatory activity presently going on is so far above and beyond anything we have

ever seen in the history of this country, that we are in danger of becoming a government of, by, and for the regulators instead of a government of, by, and for the people.

□ 1030

I thought of these two things when I read a letter recently from one of my constituents who runs a small bank in east Tennessee. He wrote to me. He said:

One of the single greatest needs of small business is access to capital, and much of that small business lending capital is typically provided by America's more than 6,700 community banks. Yet, community banks are by and large being forced to withhold and constrain lending at the time America needs it most. This is largely due to unprecedented onerous regulatory constraints being placed on community banks by Federal bank examiners.

He goes on and says this:

Never in modern history have banks, especially community banks, been under great pressure by banking regulators. Much of that pressure is unprecedented, virtually ignoring or redefining historic standards and definitions of bank examining. Routinely, banks are being required by bank examiners to classify and put into a nonaccrual status loans that are current on their payments. In many cases, this be can far more than half of all of the classified loan assets. This is enormously inconsistent with historic bank examination practices.

And I go on, quoting from this letter:

In most cases, this results in a bank's capital being constrained and consequently may well lead to a forced merger of these banks by the Fed into the larger banks. Despite acknowledgement by the Fed that the two big banks represent a systemic threat to the U.S. and global banking systems, the big banks seemingly are allowed to keep getting bigger.

That is a serious problem. It was the too-big-to-fail banks that got us into the mess that we got into in the first place, and now many of the smallest banks in this country are being forced out of existence or forced to merge. So the big keep getting bigger and the small and the medium-sized ones are having a real struggle to survive.

Finally, this bank who wrote to me said:

If America is going to have economic recovery and jobs depend on it, banks must not only be allowed to lend, but encouraged to lend. Instead, they are largely being constrained from lending with much of that constraint attributable to overly aggressive bank examination. By and large, most U.S. banks are having to shrink in size in response to the Fed's pressure, which translates into reduced lending.

We have been going through a period of time in which President Bush and his Secretary of the Treasury at the tail end of their administration started saying this and then President Obama and his Secretary of the Treasury then saying it. They have been saying loan, loan, loan, and then the local bank examiners having been saying no, no, no, and it has been holding us back. This country could be booming beyond belief right now, but we're holding it

back in so many ways, and we will never come out and have a full and complete recovery unless that atmosphere changes.

I heard a talk this morning by Governor Mitch Daniels of Indiana, and he said that our employment rate is less than 64 percent now. He says that is the lowest it's been since the era of stay-at-home moms. He said over a third of adult children are now living at home with their parents, which is way above what it has been in the past. In fact, we have an unemployment rate that is far too high, but our underemployment rate is perhaps even much higher. All across this country you have college graduates who are working as waiters and waitresses in restaurants or in other low-paying jobs because they have gotten college degrees and can't find good jobs because we've sent so many good jobs to other countries in recent years and because our regulatory environment is holding this country back and keeping it from booming as it should be right now.

#### ACCELERATE OUR WITHDRAWAL FROM AFGHANISTAN

The SPEAKER pro tempore. The Chair recognizes the gentleman from Vermont (Mr. WELCH) for 5 minutes.

Mr. WELCH. Mr. Speaker, on February 1 of this year, Defense Secretary Leon Panetta said that American forces would step back from a combat role in Afghanistan as early as mid-2013. This is a year faster than had been announced only months previously. He also added that U.S. troops would move into an advise-and-assist role to Afghanistan security forces. I know that most everyone who has joined me on this floor this morning would want a faster transition. To be frank, we wish we could have avoided much of this 10-year nation building altogether. I rise today to express my strong support for the administration's decision to reduce our military footprint on an accelerated timeline.

Mr. Speaker, our soldiers, our men and women in uniform, will do and do whatever it is we ask of them. Indeed, the sacrifices that our soldiers and their families have made have been extraordinary. Just this morning, with Congressman DONNELLY, I met a family who lost their dad, and his son is here who was serving with him in Afghanistan. There is nothing that we can do to adequately express to them our enormous appreciation for their sacrifice.

If we did not have men and women who, at the call of the Commander in Chief, would put on the uniform and report for duty and do what the Commander in Chief and this Congress authorized, we would not have the United States of America. But the obligation we have to the citizens from our districts that are willing to make that

sacrifice is to give them a policy worthy of their willingness to make that sacrifice.

It is time that we do all we can to accelerate our withdrawal from Afghanistan. The reason is this: That's what our national security requires.

There was a very valid reason to go into Afghanistan. It was the home of Osama bin Laden. The Taliban gave him sanctuary. Al Qaeda had free hand. Our policy was right when it was started, but it transformed itself into a nation-building policy where our partner has become a corrupt Afghanistan Government that is unreliable, that is squandering taxpayer money, that is not cooperating with the American military.

The question is: Should the American taxpayer and the American soldier be required to do nation building in Afghanistan, particularly when the threat of terrorism is real, but it is not a nation-centered threat? It is dispersed around the globe. The new American policy of counterterrorism, as opposed to counterinsurgency—that is, going after terrorists where they are as opposed to nation building where some may be—is the right direction for this country to go.

Mr. Speaker, the policy announced by Mr. Panetta to accelerate that withdrawal is overdue and it is timely at this point. I strongly support it and urge my colleagues to do so as well.

#### HIGH-LEVEL NUCLEAR WASTE

The SPEAKER pro tempore. The Chair recognizes the gentleman from Illinois (Mr. SHIMKUS) for 5 minutes.

Mr. SHIMKUS. Mr. Speaker, I come back to the floor again this week to continue to talk about high-level nuclear waste and its location around the country.

This week really saddens me because, in the weeks past when I've identified the U.S. Senators from the appropriate States, usually I would have more in support of moving their high-level nuclear waste out of their State than who wants to vote to keep it in their State. As I go to Connecticut today and the States surrounding Connecticut, it is really amazing how many Senators have gone on record to say, No, it is okay; we will just keep this nuclear waste in our State for 15, 20, 25 more years.

With that, let's look at the options we have here.

The nuclear power plant that I'm addressing today is called Millstone. It is in Connecticut. I always like to compare it to where the high-level nuclear waste should be, which is underneath a mountain, in a desert in Nevada, at Yucca Mountain, where, in 1987, we passed into law and said Yucca Mountain will be the location for our high-level nuclear waste. It is the law of the land.

How have we done? How much nuclear waste is at Yucca Mountain, this mountain in the desert? We don't have any. We've already spent \$15 billion. The waste would be stored 1,000 feet underground. The waste would be stored 1,000 feet above the water table. The waste would be 100 miles from the nearest body of water, which would be the Colorado River.

□ 1040

Well, let's compare it to Millstone in Connecticut. Right now, Millstone has 1,350 million tons of uranium spent nuclear fuel on site. The waste is stored in pools and in dry casts. The waste is 15 to 20 feet from the water table. It is on Niantic Bay, just off Long Island Sound. Here's a picture. Here's the nuclear power plant; here's the bay. It's right next to the water. And without moving forward on Yucca Mountain, this waste will continue to be stored there 15, 20, 25 more years.

So let's look at the Senators from the surrounding States that border this body of water. We have Senator BLUMENTHAL—new. He said in a campaign interview that he opposed Senator REID's fight to prevent Yucca Mountain, so we put him in the "yes" column. Senator LIEBERMAN voted "no" in 2002, so we put him in the "no" column. Senator LAUTENBERG from New Jersey voted "no" on the Senate Appropriations Committee amendment to restore funding, so we put him in the "no" column. Senator MENENDEZ from New Jersey has been a vocal critic, and so he's in the "no" column. KIRSTEN GILLIBRAND, Senator from New York, we have her as undecided. We're kind of waiting for her to take a position. Part of this debate is to at least get Senators on the record somehow to see where they will be on this position.

Senator SCHUMER—obviously fairly close to Connecticut and New York City—he had voted "no" in '02. Senator JACK REED—actually a pretty good friend of mine—from Rhode Island voted "no" in 2002. Senator WHITEHOUSE, a Democrat from Rhode Island, we have as really "undecided." Two "undecided," a whole bunch of "nays," and one "yes."

So how does that do for our totality of where Senators are at this time based upon the information we have? Well, we have 41 Senators who say we need to move high-level nuclear waste out of our State to a desert underneath a mountain. We have 14 that we really have no public record on. We'd like to see the Senate sometime take a vote and figure out where they might be. And we have 15 "nays."

Now, why is this important? The Nuclear Waste Policy Act in 1982 said: Let's find a single repository. The Blue Ribbon Commission, which testified before my committee just last week, said: We need a long-term geological repository. As I quoted in a story yesterday,

Brent Scowcroft, the cochair, said: We're not excluding Yucca Mountain, but we have so much nuclear waste now that we're going to have to find a second location.

So you can continue your fight on Yucca Mountain, but the Blue Ribbon Commission said we need a long-term geological storage centralized. We're just saying we already have one. If we're going to need a second one, then we better start that process of looking at a second one, but we ought to start filling up the first one.

We spent \$15 billion. And why aren't we moving forward? Well, we have the majority leader of the Senate who says no. In fact, my colleague, Mr. CLYBURN, was quoted in a paper as saying: As long as HARRY REID is alive, Yucca is dead.

#### OPPOSING PIONEERS ACT

The SPEAKER pro tempore. The Chair recognizes the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ) for 5 minutes.

Ms. WASSERMAN SCHULTZ. Mr. Speaker, I rise in strong opposition to the so-called PIONEERS Act that, among other things, repeals the Gulf of Mexico Energy Security Act, or GOMESA.

It's hard to believe that the lessons of the Deepwater Horizon oil spill are already being forgotten, less than 2 years after almost 5 million barrels of oil flowed out into the ocean and devastated the gulf region's environment and economy.

Through this horrible tragedy, we learned firsthand the dangers of drilling at extreme ocean depths and the difficulties in stopping a spill once it occurs. We also learned the dangers posed by the powerful Gulf of Mexico loop currents in the eastern gulf. These loop currents are capable of transporting spilled petroleum into the Florida Straits, through the Florida Keys, and onto shorelines up the Atlantic side of my home State, endangering hundreds of miles of coastline in Florida, and beyond up the east coast.

We were extremely lucky that more of Florida was not affected by the Deepwater Horizon spill in 2010 and that the site of the spill was not within these normally-occurring loop currents. Allowing drilling in the eastern Gulf of Mexico would place leasing directly within the strong loop current and is the height of folly.

Even if we didn't have such a powerful precautionary tale as the Deepwater Horizon accident, drilling near Florida's coast simply doesn't add up. Florida's \$65 billion tourism industry relies on pristine beaches. Florida is also home to 85 percent of the United States' coral reefs, which are profoundly sensitive to oil spills.

Coastal resources like mangroves and sea grasses would also be put in harm's

way, as well as Florida's vibrant commercial and recreational fishing industries. That is why so many bipartisan members of Florida's congressional delegation have lined up in opposing drilling near our shores. In fact, a few weeks ago, Congressman JOHN MICA held a field hearing in Miami to discuss the dangers of offshore drilling by Cuba that is within 100 miles of Florida's shores. The Florida Lieutenant Governor—a Republican—Jennifer Carroll stated at the hearing that:

The Deepwater Horizon incident in 2010 has shown that a spill that poses even a potential of impacting Florida's water or land causes a huge negative impact on the economy.

I could not have said it better myself. This is why we simply should not allow drilling in the eastern Gulf of Mexico.

I would welcome a debate weighing the harms against the benefits of expanding offshore exploration off Florida's coastline if the benefits were comparable to the risks, but they're not—not even close. Expanding drilling for oil in the Gulf of Mexico would not lower gas prices or produce enough oil to reduce our dependence on foreign oil.

In short, opening the eastern Gulf of Mexico is not the answer to our energy concerns. If we are serious about weaning our dependence on foreign oil, we need to continue the clean energy policies of the Obama administration and efforts in recent years by Congress. We have more domestic oil production today, right now, than we have ever had. For example, the 2007 bipartisan effort to increase the fuel efficiency of cars over the next decade will have a profound effect on the demand side of the supply-demand equation.

The Natural Resources Defense Council estimates that by 2020 the new auto fuel standards will save consumers \$65 billion in fuel costs by cutting consumption by 1.3 million barrels a day—more than could be produced in the eastern gulf in an entire year.

Finally, a little history lesson on the 2006 law that this bill will repeal. In 2006, Republican leadership in both Houses of Congress enacted GOMESA, which opened 8 million acres for new oil drilling leases off Florida's panhandle in the eastern Gulf of Mexico. In exchange, the 2006 law placed the rest of the eastern gulf under a statutory moratorium until 2022. That agreement should be honored, not tossed aside less than 6 years later.

Our word must be our bond, or negotiations and handshakes are rendered meaningless. In my 19-year legislative career, your word being your bond was always supposed to be paramount. In this case, apparently there are some Members of the Republican leadership that don't believe that and are willing to cast it aside.

Beyond the economic and environmental reasons for honoring the 2006

deal, protecting our military training areas is also important. The military uses the eastern Gulf of Mexico for training operations, and the Pentagon has said that drilling structures and associated development are incompatible with military activities, like missile flights, low-flying drone aircraft, and training. For this reason, the Pentagon has long opposed expanding offshore drilling in the eastern gulf.

The 2006 law incorporates an agreement between the Department of the Interior and the Defense Department to set aside waters east of the "military mission line" to preserve military readiness. On behalf of Florida's tourism industries, fishing industries, and on behalf of the needs of the Defense Department and in the name of military readiness, I urge my colleagues to remove this terrible provision from this legislation.

To add insult to injury, it is unconscionable that House leadership has refused to even allow a vote on a bipartisan amendment that I cosponsored with my Florida colleagues that would have stripped out the GOMESA repeal. If they had the courage of their conviction, they would allow a fair and open debate on this. But when you don't have much to back up your argument, you can't allow a fair fight.

#### COMMEMORATING THE LIFE OF DANNY THOMAS

The SPEAKER pro tempore (Mr. RIBBLE). The Chair recognizes the gentlewoman from Tennessee (Mrs. BLACK) for 5 minutes.

Mrs. BLACK. Mr. Speaker, I'm here today to commemorate the life of a truly wonderful man, Mr. Danny Thomas, who represents so much that is wonderful about our country.

Born to a poor immigrant family, Thomas understood the meaning of hard work from a very young age. He started work at the age of 10 selling newspapers and worked until he moved to Detroit to go into show business. After years of struggling, Thomas achieved unrivaled success with shows like "Make Room for Daddy," the "Andy Griffith Show," and the "Dick Van Dyke Show." It was with this success that Thomas started St. Jude Children's Research Hospital, where no child is turned away because of an inability to pay.

□ 1050

Since it opened in 1962, St. Jude has saved thousands of lives, helped countless families, and forwarded vital research on childhood cancer and other diseases.

This month marks the 50th anniversary of St. Jude, and to commemorate this incredible work done at St. Jude, the U.S. Postal Service is honoring Danny Thomas and St. Jude with a commemorative stamp. I can think of

no one and no charity more worthy for this honor than Thomas and St. Jude. His is a story of hard work, success, and giving.

#### HONORING THE LIFE OF SPECIALIST ROBERT J. TAUTERIS, JR.

The SPEAKER pro tempore (Mr. RIBBLE). The Chair recognizes the gentleman from Indiana (Mr. DONNELLY) for 5 minutes.

Mr. DONNELLY of Indiana. Mr. Speaker, I rise today to solemnly remember and honor the life and dedicated service of Specialist Robert Tauteris, Jr., a native son of Hamlet, Indiana, and a proud member of the 713th Engineer Company based in Valparaiso and assigned to 81st Troop Command.

Specialist Tauteris died, along with three of his fellow soldiers, on January 5, 2012, in Kandahar province, Afghanistan, of wounds sustained when their vehicle was hit by a roadside improvised explosive device as they scouted for bombs and potential problems along a major supply route.

The State of Indiana mourns the loss of the four brave men who took on this dangerous mission to ensure the safety of their fellow soldiers. Specialist Tauteris died, along with his fellow National Guardsmen, Specialist Brian Leonhardt, Specialist Christopher Patterson, and Staff Sergeant Jonathan Metzger. Private Douglas Rachowicz was severely injured in the same incident.

Robert graduated from North Judson High School in 1986 and had worked in manufacturing at Ferro Corporation in Plymouth. Robert Tauteris served one tour in Afghanistan with the National Guard and volunteered for his second deployment when his son, Robert Tauteris III enlisted. Father and son left together for Afghanistan in the fall of 2011. Bobby III accompanied his dad's body home to Dover Air Force Base.

Robert's posthumous awards include the Bronze Star Medal, Purple Heart, Army Good Conduct Medal, and the Army Achievement Medal. He also earned the National Defense Service Medal, Afghanistan Campaign Medal with the Bronze Service Star, Global War on Terrorism Service Medal, Armed Forces Reserve Medal with M Device, Army Service Ribbon, Overseas Service Ribbon, the NATO Medal, Combat Action Badge, Driver and Mechanic Badge, Combat and Special Skill Badge, Basic Marksmanship Qualification Badge, and the Overseas Service Bar. It is an extraordinary record, and he is an extraordinary hero.

Robert will be remembered by his friends, his family, and fellow soldiers as a dedicated, reliable, hardworking man who cared deeply for his family. He is survived by his sons, Robert III

and Matthew; Robert III's wife, Kayla—and they are here with us today—his dad, Robert Tauteris; his sister, Tammy Tauteris Smith; brother, Tom; half-brother, Darrel Ray Minix; and stepmother, Nichelle; as well as extended family and friends who are left to treasure his memory.

It is my solemn duty and humble privilege to honor the life, the service, and the memory of Specialist Robert Tauteris, Jr. He is a testament to the great honor possessed and sacrifices made by our men and women in the Armed Forces. We mourn his passing and offer solemn gratitude for his service and sacrifice.

On behalf of the United States of America, we want to thank your family for your service, for your sacrifice, and for everything you have done.

God bless you.

#### REFORMS TO THE MEDICARE SYSTEM

The SPEAKER pro tempore. The Chair recognizes the gentleman from Pennsylvania (Mr. FITZPATRICK) for 5 minutes.

Mr. FITZPATRICK. Mr. Speaker, I rise today to speak on behalf of the senior citizens in Pennsylvania's Eighth Congressional District who rely on a Medicare system which makes predictable and stable payments to their physicians.

I came to Washington, with one of the largest freshman classes in recent history, to make the difficult decisions that for too long have been deferred and delayed. I'm proud to have joined a bipartisan group of my fellow Representatives last spring in passing a budget resolution which addressed the long-term challenges facing Medicare.

The budget resolution we supported provides fiscal stability to a program which will face severe cuts and drastic changes in the future without serious reform. However, while these basic reforms to the existing system are being debated, we are currently faced with a more pressing issue, the solution to which has already earned widespread support among lawmakers, doctors, and health care industry groups.

The practicality of the sustainable growth formula for Medicare payments has been a subject of much debate in this Chamber since its implementation in 1997. Over the course of the past two decades, Congress has deemed it acceptable to provide for short-term, temporary fixes to ensure that doctors receive adequate payment for the services they provide to Medicare patients. Short-term fixes provide no stability or predictability to these important service providers.

In speaking with a cardiologist in my home of Bucks County, he shared his concerns with me over the way Congress has chosen to handle the SGR. He told me that every time a short-term

extension comes up for a vote, he is faced with the possibility of having to lay off employees and reducing his practice in the face of potential cuts.

The constant threat of cuts to the Medicare reimbursement rate prevents doctors and hospitals from developing new delivery and payment models intended to reduce rising health care costs and denies them the flexibility they need to achieve savings through improved care.

Each time Congress enacts a short-term fix, the scheduled cuts in the SGR formula grow deeper and the cost of a full repeal increases. A full repeal in 2005 would have cost less than \$50 billion. Today's cost is upwards of \$300 billion. In the next 5 years, if nothing is done to correct this predictable crisis, the cost of short-term fixes and the total debt accumulated from the SGR will climb to over \$600 billion.

With the drawdown of the conflicts in Iraq and Afghanistan and the homecoming of many of the brave young men and women who so proudly served our country in those theaters over the course of the past decade, we are presented with a unique opportunity to provide for a permanent fix to the Medicare physician payments, and to do so without adding to our already burdensome national debt. The use of savings from the Overseas Contingency Operations fund to permanently repeal the SGR formula will provide doctors and their patients with the certainty they so desperately need in these difficult economic times.

As with so many of the challenges facing our Nation today, we are presented with two clear options:

We can choose to ignore the problems posed by the SGR formula to doctors, seniors, and to our fiscal health by continuing the practice of short-term fixes and forced draconian cuts to hospitals and health care providers and apply the savings from the OCO funds elsewhere; or

We can choose to use these funds to permanently repeal the SGR and to set our Medicare system on a new path and provide for long-term stability for doctors that promote equality, efficiency, and improved health care services for our Nation's seniors.

I understand that we're presented with another opportunity to provide some breathing room for doctors and their patients as part of the middle class tax cut bill that looks to achieve bipartisan support here this week. Let us use the next 10 months to engage in some honest discussion about the real cost and impact of the SGR. Let's get this right before the end of the year. And I look forward to working with my colleagues on both sides of the aisle to do just that.



BRING THE WAR IN AFGHANISTAN  
TO AN END

The SPEAKER pro tempore. The Chair recognizes the gentlewoman from California (Ms. LEE) for 5 minutes.

Ms. LEE of California. Mr. Speaker, first let me just thank my colleagues, Congressman JONES, Congressman McDERMOTT, Congressman ELLISON and others, for speaking out this morning clearly, saying that it's past time to bring the war in Afghanistan to a swift and orderly end.

There's no military solution in Afghanistan. We need to bring our troops home now, and we need to make sure that we leave no permanent military bases. The American people are sick and tired of the past decade of war, and they want this war to end.

At a time when tens of millions of Americans are unemployed and nearly 50 million Americans are living in poverty, the Pentagon is requesting almost \$100 billion in the President's budget to fund Overseas Contingency Operations, including the wars in Iraq and Afghanistan.

□ 1100

First of all, we all thought the war in Iraq was really supposed to be over. So why in the world are we spending billions of dollars on a war that we are no longer fighting? Mr. Speaker, we've already spent over \$1.3 trillion on the wars in Iraq and Afghanistan, and we cannot afford to blindly continue down this path.

The reason, of course, that I voted against that original resolution in 2001 authorizing the use of military force was because it was a blank check for war against any nation, anywhere, anytime, any organization, and any individual.

The situation we are in right now, being asked to spend another \$100 billion on endless war, is exactly what we should have considered 10 years ago when we went down this path. This war without end must end.

While everyone would like a stable democracy in Afghanistan, the facts on the ground suggest that we are not headed in that direction, yet we've spent hundreds of billions of dollars there. Instead of a stable democracy, we have a corrupt state that relies almost entirely on foreign countries for its budget.

The reality on the ground in Afghanistan stands in stark contrast to the steady reports of progress we have been hearing from those who seek to maintain a military presence in Afghanistan in 2014 and beyond. It's time to bring our troops home from Afghanistan—not in 2014, not next year, but right now.

Later today, some of us will be meeting with the courageous Army officer Colonel Daniel Davis. Colonel Davis wrote a revealing account of the war in Afghanistan after witnessing the huge

gap between what the American public was being told about progress in Afghanistan and the dismal situation on the ground.

Colonel Davis' assessment is backed up by a recently released report from Afghanistan's NGO safety officer. The report warns NGO employees in Afghanistan not to take seriously the message of advances in security coming from the Pentagon.

Mr. Speaker, I ask that this page from the Afghanistan NGO safety officer quarterly data report be inserted into the RECORD.

## AOG INITIATED ATTACKS

AOG initiated attacks grew by 14% over last year and demonstrated an enhanced operational tempo—with 64% of all operations occurring before the end of July (compared to 52% in 2010)—and then trailing off sharply once OP BADR ended over Ramadan.

The tactical portfolio remained consistent with 2010, with close range engagements (SAF/RPG) making up the bulk of operations (55%) and IED/IDF operations at 44%. Suicide attacks remained at just 1% of the total yet caused close to 70% more fatalities this year, including roughly 400 Afghan civilians (230 in 2010).

Throughout the year ISAF made a number of statements claiming a 3% reduction in attacks between Jan–Aug when compared with 2010. We are not in a position to evaluate their data but, obviously, we do not agree with their finding and advise NGOs to simply ignore it as practical security advice—a use for which it was likely never intended in any case. We find their suggestion that the insurgency is waning to be a dangerous political fiction that should be given no consideration in NGO risk assessment for the coming year.

Interestingly, our data does find that this year's 14% growth rate (what you might call the IEA profit margin) is substantially lower than previous years (above right) suggesting that there has indeed been some serious reduction in the effort that the IEA is putting in. Whether this reduction has been forced upon them by ISAF or whether they consciously chose it—on the calculus that there is no point sprinting to the finish if everyone else has dropped out of the race—is unknown to us and, we suspect, to ISAF.

The report reads:

We find their suggestion that the insurgency is waning to be a dangerous political fiction that should be given no consideration in NGO risk assessment for the coming year.

“A dangerous political fiction”—that is how this organization dedicated to ensure the safety of NGO employees in Afghanistan characterizes the rosy reports of steady progress in Afghanistan. Mr. Speaker, if we're going to ask our brave men and women in uniform to continue to risk their lives in Afghanistan, the least we can do is be frank and honest about how we are doing in Afghanistan. Our soldiers deserve to know the truth, and the American people deserve to know the truth after spending the past decade fighting wars.

The war in Afghanistan has already taken the lives of almost 1,900 soldiers and drained our treasury of over \$500 billion in direct costs. Those costs will only go up as we spend trillions of dol-

lars on long-term care for our veterans, which we must do.

We are set to spend an additional \$88 billion in Afghanistan over the next year while domestic cuts in education, health care, roads, bridges, and other essential priorities are sacrificed. Again, I repeat, it is time to bring our troops home from Afghanistan, not in 2014, not next year, but right now.

Let me conclude by saying that as the daughter of a 25-year Army officer who served in two wars, I salute our troops, and I honor our troops. Our service men and women have performed with incredible courage and commitment in Afghanistan. But they have been put in harm's way, and they have performed valiantly. It's time to bring them home.

## ALCATRAZ ELEVEN

The SPEAKER pro tempore. The Chair recognizes the gentleman from Illinois (Mr. DOLD) for 5 minutes.

Mr. DOLD. Mr. Speaker, today I rise to pay tribute to American men and women in uniform, but specifically to an era in the Vietnam conflict that I think did not get as much thanks as it deserves.

On February 11, 1965, flying off of the USS *Coral Sea*, Lieutenant Commander Robert Harper Shumaker, flying an F-8 Crusader, was shot down over North Vietnam. His parachute deployed about 35 feet before he hit the ground. His back was broken upon impact. He was immediately captured and paraded through the streets.

They took him to what became known at that time as the Hoa Lo Prison. This was going to be the main facility that would house POWs over the next several years. This prison was then dubbed by Commander Shumaker as what we know it today, the Hanoi Hilton. This was an area where a number of POWs were tortured on a regular basis.

Lieutenant Commander Shumaker was the second American pilot shot down. At that point in time, it was somewhat of a blessing because the news media actually got pictures and was able to send word back to his family that he was, indeed, alive. That same fate would not be given to many other POWs, which is why the POWs spent time each and every day memorizing the names, the ranks, of all of the other 591 POWs that would go through the halls of the Hanoi Hilton.

The Hanoi Hilton wasn't the only prison, however. Eleven members of the United States military were actually taken out of the Hoa Lo Prison and brought over to what would become known as Alcatraz. These became known as the Alcatraz Eleven. These were considered by the North Vietnamese to be the eleven greatest threats to camp security. We had men like Jeremiah Denton, who was a senator from Alabama, Jim Stockdale,

who was awarded the Congressional Medal of Honor, George Coker, Ron Storz, and I'm pleased to say a Member of this body, SAM JOHNSON.

In Alcatraz, these men spent literally years in solitary confinement in a 3-by-9 foot box with a single lightbulb which was kept on all the time. They were tortured on a regular basis if they were caught communicating. Lieutenant Commander Shumaker was actually known amongst his peers as "the great communicator."

They'd devised a tap code earlier, the tap code which would become famous for those going through POW training, survival training.

It was a 5-by-5 box. Starting in the top row, A, B, C, D, E—they cut out "K" so they could have an even 5-by-5 box. They would communicate unbelievable volumes of knowledge. Lieutenant Commander Shumaker actually taught French through the walls to SAM JOHNSON.

In that solitary confinement, again, if they were caught communicating, they were tortured, so there was a reluctance to communicate. But that's how they kept themselves alive. That's how they exercised the one most important muscle out there, and that was their brain.

Just a couple days ago, Mr. Speaker, marked the 39th anniversary of their release, February 12, 1973. So, although we were not here in this body—we were at home—I felt it appropriate to come up and talk about the anniversary.

Lieutenant Commander Shumaker holds a near and dear place in my heart. He happens to be my uncle. When my wife and I had our first child, we decided to name her Harper after him.

This is an example of the bravery that goes on each and every day for our men and women in uniform. Not a day goes by that I don't thank the good Lord for the men and women that are protecting our Nation each and every day. But I don't look at the picture of my uncle upon his capture and say it's never going to be that bad.

The stories are remarkable, and they continue to come in day and day out because they don't like to talk about them. This was a unique group of individuals that the American public was actually in support of. The Vietnam conflict wasn't very supported, but everybody in America was supportive of the POWs that were putting their lives on the line.

They would resist time and again from giving up information, and yet the North Vietnamese would continue to bring them in to try and torture them for additional information.

Mr. Speaker, we are blessed to have countless American heroes amongst us, but I am proudest of my Uncle Bob Shumaker.

□ 1110

#### HONORING THE COURAGEOUS PATRIOTISM OF ACTIVE DUTY ARMY OFFICER LIEUTENANT COLONEL DANIEL DAVIS

The SPEAKER pro tempore. The Chair recognizes the gentleman from Washington (Mr. McDERMOTT) for 5 minutes.

Mr. McDERMOTT. Mr. Speaker, this country has many faces of bravery, and today I want to recognize the courageous patriotism of active duty Army officer Lieutenant Colonel Daniel Davis, who recently returned from a second tour in Afghanistan.

He traveled thousands of miles throughout the country, patrolled with American troops in eight provinces, and spoke to hundreds of Afghan and American security officials and civilians about conditions on the ground.

Convinced that senior leaders of this war, both uniformed and civilian, have intentionally and consistently misled the American people about the conditions in Afghanistan, Davis wrote an 84-page report challenging the military's assertion that the war in Afghanistan has been a success.

This report, which I read, was written at great risk to Lieutenant Colonel Davis' military career and personal life, and it forces us to confront uncomfortable truths about the war in Afghanistan and about the decision-making that has led us to our current situation.

Davis reports:

Senior-ranking U.S. military leaders have so distorted the truth when communicating with the U.S. Congress and American people in regards to conditions on the ground in Afghanistan that the truth has become unrecognizable.

I strongly encourage every Member of Congress to read this report as soon as possible. It's like the Pentagon papers in its power. After reading it, you will find it impossible not to heed Davis' advice to hold public congressional hearings on the state of the Afghan war.

More than 5,500 Americans were killed or wounded in Afghanistan in 2011 alone. "How many more soldiers," he says, "must die in support of a mission that is not succeeding?" That is his question. Each and every one of us ought to ask himself or herself this difficult question. Even our intelligence agencies are skeptical about the Afghan war—if it is salvageable and if our objectives are realistic.

Last month, a National Intelligence Estimate given to President Obama painted a bleak picture about our efforts in Afghanistan. At current levels of foreign assistance by the U.S. and Europe, which will be hard to sustain under the budgetary pressures, the NIE does not forecast rapid improvements in Afghan security forces or governance or in the removal of the Taliban.

I fear that we have forgotten the difference between respect for our military leaders and unquestioning deference to them. Questioning the war's strategies and objectives and consequences all too often discredits one's patriotism and impugns one's motives. Yet that unflinching assessment is precisely what the lieutenant colonel implores us to do.

After 10 years in Afghanistan, what is the wisest course for us now?

Sadly, we cannot even begin to answer that question because the rampant over-classification of information has made it nearly impossible for Congress to fully oversee, evaluate and to, perhaps, recast our war efforts.

Recently, declassified information about the Afghan war exposed brutal realities that have been withheld from the public—American troops incidentally and accidentally killing Afghan civilians, widespread corruption in the U.S.-backed Karzai government and revelations about Pakistan's assistance to Afghan insurgents, to name just a few.

Not every American has traveled 9,000 miles and witnessed what Lieutenant Colonel Davis has seen, heard, and understood; but we can in this body, and must, begin to investigate the charges of deception and dishonesty in his report. For our democracy to work, congressional officials and the public must have access to this type of information.

The American public, which bears the extraordinary cost of this war both in money and in pain, deserves to know the truth. The ancient Greek playwright Aeschylus cautioned: "In war, truth is the first casualty."

It is time to reclaim the truth of our war in Afghanistan by having congressional hearings. They should begin now. Some of us believe we ought to bring the troops home more quickly than the President, but we have to have hearings so that the American public will understand why it is this action should be taken.

#### THE DANNY THOMAS COMMEMORATIVE STAMP

The SPEAKER pro tempore. The Chair recognizes the gentleman from Tennessee (Mr. COHEN) for 5 minutes.

Mr. COHEN. Mr. Speaker, I rise today to talk about the life and work of Danny Thomas and of the St. Jude Children's Research Hospital, which is located in Memphis, Tennessee.

This year marks the 50th anniversary of St. Jude's hospital and what would have been the 100th birthday of Danny Thomas. Commemorative postage stamps are one of the most visible and enduring ways that our Nation honors organizations and people. Today, the United States Postal Service will be celebrating the life and work of Danny Thomas with the commemorative

stamp in my district of Memphis, Tennessee, at the St. Jude Children's Research Hospital.

Danny Thomas was born on January 6, 1912, in Deerfield, Michigan. After saving enough money, he moved to Detroit to take up a show business career. One of his first jobs was on a radio show called "The Happy Hour Club," which is where he met his wife, Rose Marie Mantell. He met her on the show, and he escorted her home for 3 years, traveling together on a streetcar. Finally, he proposed. They were married in 1936, and they had three children whom the world pretty much knows—Marlo, Tony, and Terre.

When Rose Marie was about to give birth to their first child, Marlo, Danny Thomas was torn between his dedication to work and his responsibilities to his wife and his newborn daughter. Desperately, he sought relief in prayer. He knelt before the statue of St. Jude, the patron saint of hopeless causes, and begged for a sign. Should he or should he not remain in show business? He promised that if St. Jude showed him the way he would erect a shrine in his honor.

Danny went on to become one of the best loved entertainers of his era, starring in many TV shows and movies. From '53 to '64, he received five Emmy nominations for a starring role in "Make Room for Daddy," winning Best Actor Starring in a Regular Series in '53 and '54. The show also received an Emmy for Best New Situation Comedy in '53 and Best Situation Comedy in '54. He also produced comedy programs: "The Dick Van Dyke Show," "The Andy Griffith Show," "The Real McCoys," and "The Mod Squad."

Yet he never forgot his promise to build a shrine to St. Jude. He had conversations with his close friend and mentor, a native of Tennessee and archbishop of Chicago, Cardinal Samuel Stritch. Cardinal Stritch was the cardinal in Toledo when Danny Thomas was in church, and they became close. Cardinal Stritch, who served time in Memphis at St. Patrick's church after he was in Nashville, which was his home, told Danny that the shrine to St. Jude should be a hospital where children should be cared for regardless of race, religion, or ability to pay. He told him that the hospital should be in Memphis, Tennessee.

Cardinal Stritch was a great man for many, many reasons, but this was one of them—the creation of the St. Jude Children's Research Hospital with Danny Thomas. The hospital, located in Memphis, is one of the world's premier centers for research and treatment of pediatric cancer and for other catastrophic children's diseases. It is the first and only pediatric cancer center to be designated as a comprehensive cancer center by the National Cancer Institute.

Children throughout the United States and from around the world come

to Memphis and in through the doors of St. Jude for treatment. Thousands more have benefited from its research, which is shared freely with the world global community. No child is denied treatment because of an inability to pay. The hospital has developed procedures that have pushed the survival rate for childhood cancers from less than 20 percent when the hospital opened to 80 percent today. By U.S. News and World Report, it ranks as the number one children's cancer hospital in the United States. It was the first completely integrated hospital in the South, a condition demanded by both Danny Thomas and Cardinal Stritch. Black doctors treated white patients, and white and black patients were together in the same rooms.

As one of Memphis' largest employers, St. Jude has more than 3,600 employees, supported by a full-time fundraising staff of almost 900 at ALSAC, which is the American Lebanese Syrian Associated Charities. The Shadiac family has a great history in running that charity. ALSAC/St. Jude, the fundraising organization of St. Jude, is the third largest health care charity in America, and it raises money solely to support St. Jude.

□ 1120

Danny Thomas was presented with a Congressional Gold Medal in 1983 by President Reagan in recognition for his work with St. Jude Children's Research Hospital. He died in 1991 at the age of 79. His great accomplishments and altruism make him an American hero worthy of the honor a commemorative stamp imparts. His life perfectly illustrates how the American Dream can be within the reach of anyone, even an immigrant son of Lebanese parents with a humble upbringing.

Mr. Thomas was an extremely compassionate man who certainly deserves nationwide recognition for his dedication to St. Jude and all the children that the hospital has helped over these 50 years. To this day, Danny Thomas is still a part of every child's experience at St. Jude. Children rub the nose of Danny's statue for good luck prior to every treatment, sure proof that he will always be a source of hope and inspiration.

I was pleased to support this effort by leading a letter to Postmaster General Patrick Donahoe, and I commend the United States Postal Service for selecting Danny Thomas.

I urge everyone to contribute and to visit the St. Jude Children's Research Hospital. I congratulate St. Jude and the family of Danny Thomas for this honor and for all that they do for children of the world.

#### AFGHANISTAN AND IRAN

The SPEAKER pro tempore. The Chair recognizes the gentleman from Minnesota (Mr. ELLISON) for 5 minutes.

Mr. ELLISON. Mr. Speaker, President Obama's decision to end combat operations in Afghanistan next year is welcome news. I commend President Obama for making this decision. But we should bring our troops home even sooner than that.

The American people are tired of this war in Afghanistan. Large majorities of them want a safe and orderly withdrawal from Afghanistan as soon as possible. A decade of war has ravaged military families, our Nation's treasury, and our standing in the world.

I commend President Obama for ending the war in Iraq as well. I commend him for trying to end the war in Afghanistan. The courageous truth telling of Lieutenant Colonel Daniel Davis should give us pause. His report and the failure to establish peace in Afghanistan after 10 years of war should remind us that we need a political solution, not a military one.

We have ended the war in Iraq. This is a good thing. We are slowly ending the war in Afghanistan. This is also welcome news. But I suggest to you, Mr. Speaker, that it would be unwise for the United States to enter into a new war just as we're ending two others.

But if you listen to the rhetoric around Washington and the Nation, Mr. Speaker, it is literally impossible to not hear the drumbeat of war with Iran. The rhetoric in Washington about the military strike against Iran leads me to think that we may be sliding into a new war yet.

I would like to be perfectly clear, because whenever you speak against a war, your patriotism is challenged and your courage is challenged until they find out that you were right. So let me be clear:

I strongly oppose nuclear proliferation, and that includes Iran. I have supported sanctions against Iran to help prevent the spread of nuclear weapons. Iran's repression of human rights and support for terrorist groups is appalling.

But the heated rhetoric we hear around our city and the events on the world stage are deeply troubling, Mr. Speaker. News headlines read, "The Coming Attack on Iran." Pundits discuss the possibility with shocking casualness, and I am alarmed by this.

America, we have seen this movie before, and, Mr. Speaker, it doesn't end well. Two months after leaving Iraq, we have already forgotten the consequences of war it appears. If you need a reminder, talk to a veteran or a veteran's widow.

Our military leaders are cautioning against a strike on Iran. Secretary of Defense Leon Panetta said the United States "could possibly be the target of retaliation from Iran, sinking our ships, striking our military bases." He said, "That would not only involve many lives, but I think could consume

the Middle East in a confrontation and a conflict that we would regret." Let me repeat, "a conflict that we would regret."

Mr. Speaker, I wish the United States had never entered Iraq. And before we entered it, the world—not just Americans, but the world—said, "Don't do it." Some people led us to war anyway; and haven't we all regretted—after no weapons of mass destruction, no linkage between Saddam Hussein and Osama bin Laden—that none of these things that were recommended have come to pass, yet we've lost, literally, thousands of American lives and perhaps \$1 trillion.

Israeli intelligence officials have equally dire predictions about a military strike against Iran. Former Israeli Mossad Chief Meir Dagan said that attacking Iran "would mean regional war, and in that case, you would have given Iran the best possible reason to continue the nuclear program."

There is serious concern that a military strike on Iran would hasten Iran's development of a nuclear weapon, not slow it down. A strike would only delay—not end—development. Speaking about what would happen after a military strike, retired General Anthony Zinni said, "If you follow this all the way down, eventually I'm putting boots on the ground somewhere."

America cannot afford another war. We've just gotten out of Iraq. We're getting out of Afghanistan. And diplomacy, diplomacy, diplomacy is what is called for to avoid a new war with Iran.

#### CONSTITUENT IDEAS

The SPEAKER pro tempore. The Chair recognizes the gentleman from Missouri (Mr. CARNAHAN) for 5 minutes.

Mr. CARNAHAN. Mr. Speaker, a few weeks ago, I proposed a simple challenge to my constituents back home in St. Louis. I said: Tell me your ideas for creating more jobs and economic opportunity in 2012, and I'll compile them and not only take them back to Washington but work to turn your ideas into action.

I want to thank the over 600 Missourians I heard from, each offering many of their own commonsense solutions to help our economy continue to grow.

I want to share their message on the floor of the U.S. House of Representatives today. Their message was a clear consensus that we need to invest in our infrastructure, make things here in the U.S., bring manufacturing jobs back from overseas, educate and train our workforce for 21st century opportunities, and work together for the good of the country instead of pulling our country apart at the seams.

My constituents in St. Louis are deeply concerned that our communities will be left behind in this new global economy if we don't act now, right now, without delay.

As Joseph C. expressed best:

Missouri is a great State, but I'm afraid it will be left behind, and manufacturing jobs will go elsewhere.

Chris K., from St. Louis, sent me an email saying:

What would help my personal economic situation and those of many others would be a greater investment in our Nation's infrastructure.

Joseph P., from St. Louis, commented:

Investing in our infrastructure and educational systems will not only create jobs but will also result in long-term economic benefits for the entire Nation.

Karen M. said:

We need to realize how important good carpenters, plumbers, electricians, bricklayers, secretaries, and caregivers are in the long scheme of things. We need to encourage and applaud these jobs.

As Kevin N. put it:

We need to invest in infrastructure for communications and transportation because public infrastructure is the greatest catalyst for economic development.

To create jobs, Diane M. said:

I have long thought that the unions and small businesses that require special skills should provide apprentice programs to students, which would give hope and possibility through real skills to thousands of students who would not be exposed to these trades otherwise.

And Christine A. echoed this sentiment by saying:

I believe it could be helpful to increase job training opportunities in our high schools.

We need to pull together to create economic opportunities across this country and for the good of the country. Marilyn B. wrote to me:

Personally, I'm really frustrated with both sides of the aisle not being willing to work together for the good of all.

As a Member of Congress, I pledge to work with my colleagues to see that these great ideas from America's heartland are developed further. By working together and reaching across the aisle, I'm confident we can grow jobs and economic opportunity across this country.

□ 1130

I look forward to using these commonsense ideas to build a blueprint for putting our economy back on track, to turn these great ideas into action.

#### RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until noon today.

Accordingly (at 11 o'clock and 30 minutes a.m.), the House stood in recess.

□ 1200

#### AFTER RECESS

The recess having expired, the House was called to order by the Speaker at noon.

#### PRAYER

The Chaplain, the Reverend Patrick J. Conroy, offered the following prayer:

Eternal God, through whom we see what we could be and what we can become, thank You for giving us another day.

In these days, our Nation is faced with pressing issues of conscience, constitutional religious and personal rights, and matters of great political importance.

We thank You that so many Americans have been challenged and have risen to the exercise of their responsibilities as citizens to participate in the great debates of these days.

Grant wisdom, knowledge, and understanding to us all, as well as an extra measure of charity.

Send Your spirit upon the Members of this people's House who walk through this valley under public scrutiny. Give them peace and Solomonic prudence in their deliberations.

And may all that is done this day be for Your greater honor and glory.

Amen.

#### THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. QUAYLE. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. QUAYLE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Pursuant to clause 8, rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

#### PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Texas (Mr. POE) come forward and lead the House in the Pledge of Allegiance.

Mr. POE of Texas led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

#### ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain up to 15 requests for 1-minute speeches on each side of the aisle.

### RELIGIOUS LIBERTY: THE CONSTITUTION DEMANDS IT

(Mr. POE of Texas asked and was given permission to address the House for 1 minute.)

Mr. POE of Texas. Mr. Speaker, religious liberty is under attack by the administration.

The right of religious liberty is guaranteed in the First Amendment of the Constitution because it is a foundation for other rights. Yet the administration is forcing religious organizations to violate their conscience by indirectly providing their employees with services that trample on those religious beliefs.

The administration's so-called "promise of accommodation" changes nothing. It is just political word games.

The issue is not about contraception. This is an issue about religious liberty. It affects not just Catholics, but many religions and individuals of faith.

Regardless of where Americans stand on the issue of contraception, sterilization or the morning-after pill, it should be alarming to all who believe the government should not persecute religion or substitute a government secular doctrine and impose it on citizens.

The Constitution does not accommodate for religious liberty, it demands it, whether this administration likes it or not.

And that's just the way it is.

### STUDENT-LOAN BORROWER BILL OF RIGHTS

(Mr. CLARKE of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLARKE of Michigan. Mr. Speaker, I'm speaking directly to the American people today, to all families who are burdened by student-loan debt. A solution is on the way. I am working on bills that will responsibly forgive certain student loans and provide every student-loan borrower with basic consumer protections by enacting a student-loan borrower bill of rights.

I urge every Member of Congress to help our American families get out of this debt so they can live better lives and create jobs for America.

### PRESIDENT'S BUDGET: HIGHER TAXES, MORE DEBT

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, for 3 years, Americans have watched the President as he has tried to borrow and spend his way out of an economic recession. His failed policies have failed this Nation with unemployment still over 8 percent.

The Washington Examiner stated:

What this country needs is an honest leader who will tell the truth about our entitlement spending crisis and identify real reforms. But Obama's latest budget does none of that. Instead, he offers double doses of deficits, tax hikes, and crony capitalism. America deserves better.

Over the past year, House Republicans have passed dozens of pieces of legislation that decrease spending, provide tax cuts, and encourage job creation through private sector job growth. I urge the President and the liberal Senate to work with House Republicans to support legislation that promotes jobs.

In conclusion, God bless our troops, and we will never forget September the 11th in the global war on terrorism.

### MAKE IT IN AMERICA

(Ms. HOCHUL asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. HOCHUL. Mr. Speaker, from Buffalo to Rochester, New York, people in my district want to get back to work. They just need the opportunity. That's why during budget hearings yesterday with the Secretary of Defense and the Secretary of Homeland Security, I posed the question: Can our government be doing more to make sure that our limited Federal procurement dollars are being spent on jobs in manufacturing right back here in America?

The answer is, yes. They want to work with us, and we need to work together to make more of our limited dollars spent in companies that have a higher percentage of the American workforce right here making our defense systems and our products for the Department of Homeland Security. My policy is to give more preferences to those businesses based on the percentage of workers in America.

We need to have a policy that is going to reward those companies and not penalize them. We need to create more opportunities for manufacturing right here in America and in my district in upstate New York.

So I look forward to working collaboratively. I'm going to introduce legislation that I expect to be bipartisan in nature. Who could not agree that we could do more to make it in America?

### BUILDING BETTER BUSINESS PARTNERSHIPS ACT OF 2012

(Mr. SCHILLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHILLING. Mr. Speaker, when small businesses compete for government contracts, the government saves billions of dollars, and thousands of private sector jobs are created through these investments. However, the proc-

ess of contracting can be needlessly time-consuming and onerous for small businesses to navigate. Last year, the Federal Government failed to meet the requirement for contracts awarded to small businesses. This complicated procurement procedure is hindering job creation and slowing our economic recovery.

Last week I introduced—along with my colleague, Representative JUDY CHU from California—H.R. 3985, Building Better Business Partnerships Act of 2012. H.R. 3985 focuses on improving and streamlining mentor-protégé programs which pair new businesses looking to increase their government contracts with more experienced businesses. My bill will make mentor-protégé programs more efficient and successful by placing the SBA in charge of overseeing and setting standards for programs based on what we know works. Ultimately, H.R. 3985 will make it easier for small business firms to compete.

□ 1210

### WE ARE AT A CROSSROAD IN AMERICA

(Mr. BUTTERFIELD asked and was given permission to address the House for 1 minute.)

Mr. BUTTERFIELD. We are at a crossroad in America where we must decide if we're going to continue building economic recovery on the backs of middle- and low-income families, or whether we're going to ask wealthy Americans to join in the sacrifice by paying their fair share.

Too many Americans have already made sacrifices to aid our slow moving economy and reduce the deficit. The military had to scale back, Federal workers had to take a pay freeze, health care providers had to take a pay cut, but we have not required those who can actually afford it to share in the sacrifice.

Changing our Nation's tax policies is not about redistribution of wealth; it's about fairness, doing what's best for the American people. If those who can afford it don't make the sacrifice, the survival of America will be affected.

The President's budget will ensure that those who have been blessed with a portfolio that has multiplied under the Bush tax cuts will no longer be the primary beneficiaries of tax cuts and policies.

I urge my colleagues to insist that all Americans, including the rich, share the pain of this recovery.

### PRESIDENT OBAMA'S PROPOSED BUDGET IS DEBT ON ARRIVAL

(Mr. BUCHANAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUCHANAN. Mr. Speaker, earlier this week, the President released his budget for next year. It fails to reduce the national debt by one penny. That's why it's already being called "debt on arrival."

Under this budget, for the fourth consecutive year, our Nation's deficit will be measured in the trillions of dollars. Let me repeat that. For four consecutive years, trillions of dollars in deficit.

Failure to address our mounting debt crisis puts us on the same course as Greece. We need to act, and act now. Repeating the reckless spending patterns of the past defies common sense.

It's time for Washington to make the tough choices necessary to balance the budget for taxpayers today and future generations. The American people deserve nothing less.

#### COMMENDING PRESIDENT OBAMA'S COMMITMENT TO PROMOTING INNOVATION

(Mr. FALEOMAVAEGA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FALEOMAVAEGA. Mr. Speaker, the catchword is "innovation." President Obama has made it clear that on the road to economic recovery we must also make long-term investments in American innovation.

In his FY 2013 budget proposal, President Obama reasserted his commitment to an agenda that supports startups and small businesses, where new jobs are created. President Obama proposed to expand tax relief while eliminating regulations that prevent aspiring entrepreneurs from getting the financing that is needed to grow.

The President's budget also calls for a \$2.2 billion investment to support advanced manufacturing research and development programs to assist our business community throughout the country. President Obama's budget also creates a manufacturing capacity for vital defense technologies and dramatically improves production and distribution of manufactured goods.

Mr. Speaker, I commend President Obama for his commitment to keeping America the global frontrunner in innovation.

#### PRESIDENT OBAMA'S 2013 BUDGET REQUEST

(Mr. BONNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONNER. Mr. Speaker, earlier this week the President sent his fiscal year 2013 budget request to Congress. It's been roundly panned as being "not serious," "inadequate," and "political."

But, Mr. Speaker, I want the American people to understand, in addition

to all these assessments, the President's budget request is downright dangerous. House Republicans have begun a serious conversation with the American people about our debt, our out-of-control Federal spending, the unsustainability of mandatory spending, as well as our future.

But it's past time for this President and his party in Congress to join us in honestly acknowledging the real challenges facing our Nation and offering realistic solutions to put America back on the path to prosperity to ensure that our best days are still in front of us.

Sadly, the President's lack of leadership on these critical issues endangers not only the current economic recovery but the very future of our great Republic.

#### EFFECTS OF HEALTH CARE REFORM

(Ms. TSONGAS asked and was given permission to address the House for 1 minute.)

Ms. TSONGAS. Mr. Speaker, the health care reform effort signed into law by President Obama in 2010 contains important new benefits for our seniors and Medicare recipients that have already started to take effect.

Nearly 3.6 million seniors in the doughnut hole have already saved \$2.1 billion on their prescription drugs. Twenty-four million people with Medicare have already taken advantage of free preventive services.

Additional reforms such as a prohibition of lifetime caps on insurance expenditures will soon be made available to our seniors, thanks to health care reform. Nothing in health reform reduces Medicare benefits for seniors.

Health care reform achieves Medicare savings by cracking down on inefficiency, fraud, and waste in Medicare, targeted at private health insurance companies and providers, not beneficiaries. This is how government should operate: by demanding efficiency, accountability, and protecting taxpayer dollars.

#### JOB-KILLING REGULATIONS

(Mr. QUAYLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. QUAYLE. Mr. Speaker, in just this past year approximately 79,000 pages of regulations were printed in the Federal Register. The cost to comply with our regulatory enterprise exceeds \$1 trillion per year.

Now this past August, the Department of Labor issued its final rule governing the non-displacement of qualified workers under service contracts. Under this rule, when a government contract is given to a new firm, the company is required to first offer em-

ployment to the previous contractor's workers.

The administration claims this rule will help government efficiency, but it gives a preference to union employees and limits the ability of the firm to negotiate and hire the workers that it actually wants. This rule will impact thousands of employers and billions in government contracting.

By piling on new hoops for employers to jump through, we are simply increasing costs that are passed on to taxpayers. Regulatory compliance costs are a hidden tax borne by us all. The administration must stop this myriad of job-killing regulations.

#### AMERICAN HEART MONTH

(Mrs. CAPPS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CAPPS. Mr. Speaker, I rise today in recognition of American Heart Month. February, you know, is not just about Valentine's Day, but it's also a month designated to raise awareness of heart disease, especially its impact and effects on women.

Heart disease is the number one cause of death for women. And most Americans, including over 90 percent of primary care physicians, are not even aware that heart disease kills more women each year than men.

We have lost far too many of our loved ones to heart disease. I dare say each of us knows someone, a dear friend or a family member, affected by it. And that's why I reintroduced H.R. 3526, the Heart for Women Act, to increase awareness of and access to care for those impacted by heart disease.

I encourage my colleagues to cosponsor this legislation and join me in the battle against heart disease.

#### A GOVERNMENT TAKEOVER

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, why do we say that the President's health care law is a government takeover? Because, under the law, the government can force religious organizations to violate their conscience. Because, under the law, the Independent Payment Advisory Board can cut Medicare reimbursements without the consent of Congress.

This same board could start running with minimal congressional oversight, given the President's attempt to broaden the definition of a recess.

It is a government takeover because the minimum essential benefits package will effectively dictate the level of coverage for every health care plan in

the Nation. It is a government takeover because the United States Preventive Services Task Force will determine what services have to be provided without any copayment.

Finally, when the government can force you to purchase a service that it firmly controls, it's a government takeover. The list could go on and on. Clearly, the Federal Government is now in the driver's seat. The President's health care law is already failing, which is why we need to end it before it's fully implemented.

□ 1220

#### MEDICARE

(Mr. CARNAHAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARNAHAN. Mr. Speaker, on March 1, Medicare physician payments will be slashed by 27 percent, badly impacting seniors' access to health care. We must act now to make sure that doesn't happen.

A few months ago, I had the opportunity to speak to World War II veterans from Missouri who visited Washington to see the memorial to their service. They spoke to me about how, during their crisis, Americans pulled together to meet the great challenges of their time. That's the can-do attitude we need now. We should stop using the lives and health of our seniors as political bargaining chips.

Plain and simple, paying doctors for doing their job, keeping seniors' access to health care should not be a partisan issue. It should be an American value we can all rally around.

I call on my colleagues to work together to keep access to Medicare services strong. That's an American value.

#### NANNY STATES

(Mr. DUNCAN of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNCAN of South Carolina. Mr. Speaker, a year or two ago, some local bureaucrat in Oregon shut down a 7-year-old girl's lemonade stand because she had not paid the \$120 required to get a restaurant license. The bureaucrat's supervisor defended the action because some government officials will never admit a mistake. Fortunately, elected officials got the action rescinded and let the little girl operate her lemonade stand.

I thought about this when I heard that Big Brother had struck once again by not allowing a 4-year-old girl in North Carolina to eat the lunch she had brought to school from home because supposedly it did not meet Federal guidelines. The little girl had brought a very healthy lunch: a turkey

and cheese sandwich, banana, chips, and apple juice. Instead, she ate three chicken nuggets apparently okayed by the government, and the school sent a bill for the lunch to her mother.

This is the Big Government nanny state run amuck. This was not only ridiculous and excessive, it was cruel to tell a 4-year-old child the lunch her mother had sent was bad or not proper. Plus, the little girl went home hungry.

We seem to have, Mr. Speaker, a government of, by, and for the bureaucrats instead of one that is of, by, and for the people.

#### REPUBLICAN TRANSPORTATION BILL

(Ms. PELOSI asked and was given permission to address the House for 1 minute.)

Ms. PELOSI. Mr. Speaker, I rise to address the House in relationship to the transportation bill that we are currently debating in the House this week.

Transportation, as you know, has traditionally and historically been an idea where our two parties have been able to find common ground. Transportation has been an opportunity for Republicans and Democrats, alike, to work to rebuild America, to create jobs, strengthen our economy, move commerce, move people, improve the quality of life, including public safety—that is, up until now; and that is, until this bill.

With the legislation that we are debating today, Republicans put forth the most partisan transportation package in 50 years. It is not just partisan; it's bad for our Nation, destroying more than half a million American jobs. The transportation bill is supposed to be a job-creating bill. It always has been—until now.

Destroying more than half a million jobs, cutting highway investments in 45 States, bankrupting the highway trust fund with a \$78 billion shortfall, and, just the strangest of all, among many shortsighted provisions in the bill, I want to make particular mention of what it does to public transportation. It eliminates all of the dedicated funding for public transportation, leaving millions of riders already faced with service cuts and fare increases out in the cold.

The legislation is so detrimental to our Nation that the Secretary of Transportation, Ray LaHood, a former Member of this body on the Republican side of the aisle, has said:

This is the most partisan transportation bill that I have ever seen, and it is also the most antisafety bill I have ever seen. It hollows out our number one priority, which is safety, and frankly, it hollows out the guts of the transportation efforts that we've been about for the last 3 years. It's the worst transportation bill I've ever seen during 35 years of public service.

In recommending that the President veto this legislation, the administration has said:

The legislation would make America's roads, rails, and transit systems less safe, reduce the transportation options available to America's traveling public, short-circuit local decision making, and turn back the clock on environmental and labor protections.

Mr. Speaker, this is so unfortunate because it's so out of character with the American way, the common sense of the American people about what we should be doing for them.

At the beginning of our country, Thomas Jefferson, when he was President, enlisted his Cabinet officers to build an infrastructure plan for America that involved transportation. In the 1800s, this plan, under Secretary Gallatin, the Secretary of the Treasury, was put forth. It recognized that we had made the Louisiana Purchase, that there were Lewis and Clark expeditions going on, and that we had to build America—build roads and transportation out into these territories so that people would move there, commerce would develop, our country would be strong.

Following this, the Erie Canal, the transcontinental railroad, the Cumberland Road, they were all built after the War of 1812—of course, the transcontinental railroad later than that—when our population was sparse and so was our national treasury.

In my own community of San Francisco, the Golden Gate Bridge and the San Francisco Bay Bridge both were built 75 years ago in the midst of the Great Depression.

President Eisenhower in the mid- to late fifties, not a good economic time either, built and instituted the Interstate Highway System, unifying our country. It was a national security issue to unify our country. It was done at a time when our coffers were low on money, but it created jobs. It did what it was intended to do.

Now we are abdicating our responsibility. Again, 200 years ago, Thomas Jefferson; 100 years later, Teddy Roosevelt, and his initiative for infrastructure centered around our national park system and how we make that part of our national patrimony, and some of that falls under the Transportation Subcommittee of the Congress of the United States. Now, here we are, 100 years later, putting forth a bill that loses jobs, diminishes public safety. It's a missed opportunity, and it's no wonder our Republican colleagues are having so much trouble building support for it in their own caucus.

I just wanted to take a moment to share my views with our colleagues about how wrong this is for the future and how out of keeping it is with our great past, which has seen the strength of our country grow because of our investments in our infrastructure and our bringing people together through transportation.



### BUDGET'S FAILURE TO ADDRESS OUR DEBT CRISIS

(Mr. BILIRAKIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BILIRAKIS. Mr. Speaker, for the fourth year in a row, of course President Obama's budget fails to seriously address our Nation's debt crisis and calls for higher taxes and increased stimulus spending.

This budget punishes small businesses, job creators, and seniors at the expense of the administration's spending addiction. This is not a recipe for long-term economic growth.

Instead, we need credible solutions that simplify the Tax Code, control Federal spending, and preserve valuable services for our seniors. Washington should create a win-win situation for all Americans.

The House continues to take these steps with jobs bill after jobs bill that will put people back to work and allow job creators and entrepreneurs to grow.

Unfortunately, the President's budget spends too much, taxes too much, borrows too much, and picks the winners and losers of our economic recovery. This is not what America needs right now.

□ 1230

### INTRODUCTION OF SUPPLEMENTAL SECURITY INCOME EQUALITY ACT

(Mr. PIERLUISI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PIERLUISI. Mr. Speaker, as a territory, Puerto Rico has always been treated unequally under Federal health programs. While the Affordable Care Act improved the island's treatment under Medicaid, a number of key inequalities remain under both Medicaid and Medicare.

Today, I am reintroducing legislation to eliminate a provision in Federal law that requires Medicare to reimburse Puerto Rico hospitals far less than Stateside hospitals.

Under the current system, Puerto Rico hospitals are paid a base rate that is about 13 percent lower than the base rate for hospitals in the States. Thus, an island hospital will receive substantially less than any urban, suburban, or rural hospital in the States for providing the same inpatient services, making it harder for island hospitals to deliver high-quality care and to remain financially sound.

This is another example of how the people of Puerto Rico are placed at a clear disadvantage in the race of life because of the island's territory status. I hope my colleagues on both sides of the aisle will support my bill.

### HELMETS TO HARDHATS

(Mr. HIGGINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HIGGINS. Mr. Speaker, earlier this month, I met with the executive director of the not-for-profit organization Helmets to Hardhats. Since 2003, Helmets to Hardhats has partnered with the Department of Defense, over 82,000 American businesses, and organized labor to help returning veterans prepare for and find work.

The current unemployment rate for returning veterans under the age of 24 is an unacceptable 38 percent. Helmets to Hardhats gives veterans the tools they need to start long-term careers in the construction trades. In 2008 alone, the organization placed nearly 1,800 military veterans into construction careers.

Mr. Speaker, the last of our combat troops has left Iraq, and we are winding down our military operations in Afghanistan. These veterans have put their lives on the line overseas, and they deserve the assistance of a grateful Nation when they return in order to ensure that they can participate in the economy and in lasting careers.

With that in mind, I congratulate Helmets to Hardhats, and I encourage my colleagues to do the same.

### MEDICAID

(Mr. AL GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. AL GREEN of Texas. If a free society cannot help the many who are poor, it cannot save the few who are rich.

Mr. Speaker, there is an effort afoot to move Medicaid from a needs-based program to a block grant program. This, of course, by some estimates, would save approximately \$180 billion.

Yet the question is not really how much money will it save. The question is, How many people will have their bodies healed by virtue of a reduction in the moneys that would go to Medicaid? How many lives will be saved is the question we have to ask ourselves.

In a country that is the richest in the world, the rich must pay their fair share of taxes so that all can benefit from the tax coffers and so that those who are poor and those who need health care can get a fair amount of health care.

I remind you again of what Kennedy said: If a free society cannot help the many who are poor, it cannot save the few who are rich.

### RELIGIOUS LIBERTY VERSUS CONTRACEPTION COVERAGE

(Ms. HANABUSA asked and was given permission to address the House for 1 minute.)

Ms. HANABUSA. Mr. Speaker, we began today's session with a debate on contraception. It seems to pit the availability and access to care, which I believe is a fundamental right, against whether you can legislate the behavior of religious institutions. It seems like an intractable dilemma that we face, but that's not so.

Mr. Speaker, look to Hawaii. Since the 1970s, Hawaii has led the way in terms of medical plans and medical provisions. We have had prepaid health care since then, and of course, as you can imagine, we've had this debate. We had this debate in 1999. The way the State resolved it—and I was there—was that there was the religious exemption given for religious organizations broadly defined, but the employee was also entitled to buy coverage from the insurer at no extra cost.

What does this mean?

This means that it may have been, maybe, an additional \$2 or \$3 a month. The reality of it is, Mr. Speaker, that they didn't pay anything. The insurers covered it because they knew that it was in their best interests. And guess what? Many of the religious organizations did not opt out.

So don't speculate. See the reality. Look at Hawaii.

### CAREER AND TECHNICAL EDUCATION MONTH

(Mr. LANGEVIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LANGEVIN. Mr. Speaker, I rise to recognize Career and Technical Education Month. I am proud to be able to work with my colleague, G.T. THOMPSON of Pennsylvania, as he and I co-chair the Career and Technical Education Caucus.

In particular, Mr. Speaker, I would like to address the importance of the initiative that President Obama announced recently that supports partnerships between community colleges and expanding industry. It should be a bipartisan priority.

We've heard a lot about the skills gap that we're facing in this country, and businessowners repeatedly tell me that they cannot fill openings because the applicants lack the necessary skills. We need better collaboration between the companies doing the hiring and the educators who are preparing our students.

In my district, National Grid—the primary utility—and the Community College of Rhode Island offer a model program to prepare workers for available high-skilled jobs. Through coursework and hands-on training, students receive a certificate in Energy Utility Technology and can then become new employees.

Unfortunately, community colleges simply can't afford enough of these

programs. The President's Community College to Career Fund is a small price to pay for the resulting benefit. It's a worthwhile program, and I believe that we need to support it.

Mr. Speaker, there are some partisan differences that this Congress, perhaps, cannot overcome, but the idea of multiplying this effort at our community colleges is a commonsense goal if our goal is, in fact, to put Americans back to work.

#### SMALL BUSINESS

(Mrs. DAVIS of California asked and was given permission to address the House for 1 minute.)

Mrs. DAVIS of California. Mr. Speaker, small businesses, from used furniture stores to restaurants to barber-shops, drive our economy, but they've had to take a haircut recently since they've been more subject to the ups and downs of the economy than, perhaps, anyone else.

Just last week, I visited small businesses in the San Diego communities of Lemon Grove and Spring Valley, and the people told me they need more customers walking in the doors with money to spend. Well, increasing consumer demand is a key part of our recovery, but it won't come right away. Yet we can use a more immediate tool to help these businesses grow in the meantime.

In the State of the Union address, the President mentioned 17 tax cuts for small businesses in order to put money in their pockets soon. Tax credits for hiring unemployed Americans and for health care costs will incentivize hiring and ensure that the Affordable Care Act is affordable for businesses to implement. An exemption from capital gains taxes for small business investments will spur small business spending and hiring. Also, the American Jobs Act has a provision which would reduce employers' contributions to the payroll tax for their employees.

I support measures like these to encourage the growth of small businesses in order to reignite the American Dream.

#### COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore (Mr. BASS of New Hampshire) laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,  
HOUSE OF REPRESENTATIVES,  
Washington, DC, February 16, 2012.

Hon. JOHN A. BOEHNER,  
The Speaker, U.S. Capitol, House of Representatives,  
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on February 16, 2012 at 9:48 a.m.:

That the Senate agreed to without amendment H. Con. Res. 99.

Appointments:

Washington's Farewell Address.

With best wishes, I am

Sincerely,

KAREN L. HAAS.

#### RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 12 o'clock and 37 minutes p.m.), the House stood in recess.

□ 1516

#### AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. HASTINGS of Washington) at 3 o'clock and 16 minutes p.m.

#### PROTECTING INVESTMENT IN OIL SHALE THE NEXT GENERATION OF ENVIRONMENTAL, ENERGY, AND RESOURCE SECURITY ACT

The SPEAKER pro tempore. Pursuant to House Resolution 547 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the further consideration of the bill, H.R. 3408.

□ 1517

#### IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H.R. 3408) to set clear rules for the development of United States oil shale resources, to promote shale technology research and development, and for other purposes, with Mr. WOODALL (Acting Chair) in the chair.

The Clerk read the title of the bill.

The Acting CHAIR. When the Committee of the Whole rose on Wednesday, February 15, 2012, amendment No. 12 printed in part A of House Report 112-398, offered by the gentleman from Florida (Mr. DEUTCH), had been disposed of.

AMENDMENT NO. 13 OFFERED BY MR. THOMPSON OF CALIFORNIA

The Acting CHAIR. It is now in order to consider amendment No. 13 printed in part A of House Report 112-398.

Mr. THOMPSON of California. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 954, after line 19, insert the following:  
**SEC. \_\_\_\_ . LIMITATION ON LEASING OFF THE COAST OF NORTHERN CALIFORNIA.**

Section 8(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is amended by adding at the end the following:

“(9) No oil and gas lease may be issued under this Act for any area of the outer Continental Shelf for which the State of California is an affected State under section 2(f)(1) and that is located west of Marin, Sonoma, Mendocino, Humboldt, or Del Norte County, California.”.

The Acting CHAIR. Pursuant to House Resolution 547, the gentleman from California (Mr. THOMPSON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California.

Mr. THOMPSON of California. Mr. Chairman, I yield myself such time as I may consume.

I represent a coastal community and we take seriously threats to our Nation's coastline. The Thompson-Woolsey amendment would clarify that H.R. 3408 would not open drilling along the northern California coast.

Proponents of H.R. 3408 claim that northern California does not meet the minimum production potential to be eligible for offshore drilling; however, I do not simply want to take the House majority's word for it. In a Congress that has seen an unprecedented push to weaken safety standards for our environment, I don't want to leave the door open for alternative interpretations. The people of the north coast of California want to make sure that their environmentally unique and critical coast is protected, period.

Because this amendment is a clarification of the legislation's intent, there is no cost associated with it. It's important to me and to my constituents that H.R. 3408 makes clear that drilling will not occur in the northern California planning area along the coast of Mendocino, Humboldt, Del Norte, Sonoma, and Marin Counties. The coastal area of my district is one of the most productive ecosystems in the world and supports salmon, Dungeness crab, rockfish, sole, and urchin populations.

□ 1520

It also boasts an important and successful tourism industry which represents millions of dollars to the local economies and to the working families of our area. If an oil spill were to occur in this area, the environmental and economic cost would be staggering. Response and cleanup efforts would be hazardous and minimally effective given the rocky shores and rough waters. Drilling for oil or gas off California's north coast would cause serious harm to a unique and productive ecosystem, abundant marine life, and tourism businesses. This amendment will simply clarify that this bill does not require drilling off the north coast of California.

I urge a “yes” vote on the amendment, and I yield 2 minutes to Ms. WOOLSEY.

Ms. WOOLSEY. I thank my friend and neighbor for yielding.

I don't know how many of my colleagues have visited the California north coast that Mr. THOMPSON and I represent. If you haven't, I don't know what you're waiting for. The waters off our shore are quite simply the most abundant and exquisitely beautiful on the face of the Earth. Our commercial fishing industry depends on this thriving marine ecosystem; these waters are invaluable to the research of university scientists; and more than 16,000 tourism jobs in Sonoma County alone depend on these open, beautiful waters. If the majority were truly interested in helping job creators, they would not be supporting a drill-everywhere approach.

Actually, oil and gas resources available off our coasts don't come close to justifying opening this area in the first place to any drilling; and even in parts of the country where there is oil, I believe the costs to our natural environment are much too great when we start punching holes in the ocean floor. We have learned nothing, it would appear, from the Deepwater Horizon disaster if we don't pass this amendment.

We can and we must address our energy security challenges with a stronger commitment to green technologies and to clean and renewable energy sources. And we can start by saying no to drilling in northern California. I strongly urge my colleagues to support the Thompson-Woolsey amendment.

Mr. THOMPSON of California. I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Chairman, I rise in opposition to the amendment.

The Acting CHAIR. The gentleman is recognized for 5 minutes.

Mr. HASTINGS of Washington. I yield myself as much time as I may consume.

Mr. Chairman, I rise to oppose this amendment. Last year, during our offshore debate, an identical amendment was offered, and it failed in the House by a bipartisan vote. In fact, 263 of our colleagues voted "no" on this amendment. Right now, under existing law, the Northern California Planning Area is available for leasing. It's been available since 2008 when gasoline prices hit \$4 per gallon and the President and the Congress at that time lifted the offshore drilling moratoria.

I'll remind the House that in 2008 when gas prices were rising and the Democrats controlled the House, nothing was done regarding these \$4-a-gallon gasoline prices until after the session ended and the President ended his moratoria and the Congress entered that moratoria. So going into 2009, there essentially was no moratoria that existed.

This legislation, then, aims to open up our Federal resources and increase energy production despite President Obama's failure to do just the opposite. This amendment would simply block

additional areas from energy production in the future. The Outer Continental Shelf and the resources it contains are under the jurisdiction of the Federal Government. It belongs to all of the people of the United States.

The State of California—and I need to remind colleagues of this—the State of California's top import is petroleum from overseas. This amendment would block the domestic production potentially of petroleum off their coast—production that could be used to help California consumers and provide California people with jobs.

This amendment would do just the opposite of what the underlying bill intends to do, so I urge my colleagues to vote "no" on the amendment.

I reserve the balance of my time.

Mr. THOMPSON of California. I don't see how this is going to do anything to affect oil production or jobs if your own Web site says that there's little oil there and we wouldn't be drilling there. So you can't have it both ways. Either there's little oil there and we're not going to drill there, or you have something else up your sleeve.

I want to point out that this area is an area that's historically prone to earthquakes, which would make any kind of drilling there extremely dangerous, and that it's one of four major upwellings in the entire world's oceans. This is a critical area to our marine life and the businesses that thrive because of it. And my friend from Washington is 100 percent right on one thing that he said, and that is that this coastline belongs to all the people of the United States of America; and for that reason alone, we ought to break our pick to make sure that we do everything to protect it, to protect the fisheries jobs, the tourism jobs and that beautiful area, so that not only the people today can enjoy it, but for future generations to enjoy, as well.

I yield back the balance of my time.

Mr. HASTINGS of Washington. I yield myself the balance of my time.

I just want to tell my friend that going into 2009, there were no moratoria. And the reason there were no moratoria on the Pacific or the Atlantic coasts was because the American people demanded that we seek areas where there is potential resources of energy.

Why did they demand that of Congress? Because gas prices hit \$4 a gallon and potentially were going higher. We are now in that same situation again. And this underlying legislation, as I mentioned, because the gentleman rightfully said there may not be resources off northern California because this legislation directs the Department of the Interior to offer leases where there are known resources, now, there may be some resources, maybe new technology will find it. We need to keep that option open.

But I think this amendment will start the precedent of blocking off

areas when the American people want to have more American energy, more American energy jobs; and this underlying legislation will do precisely that. And I think this amendment will harm that prospect.

Mr. THOMPSON of California. Will the gentleman yield?

Mr. HASTINGS of Washington. I will yield to the gentleman.

Mr. THOMPSON of California. Do you believe that we should be drilling off the coast of northern California in an area that's one of four major upwellings in the world's oceans, in an area that is prone to earthquakes, in an area that everyone knowledgeable about this particular issue claims that there's not enough resources to drill for?

Mr. HASTINGS of Washington. Reclaiming my time, I believe that we should open all areas where there are potential resources. I would just remind my good friend from California that you could make the same argument in Alaska, and yet we drill off the coast in Alaska. You can make the same case that there are fault lines in southern California, and the gentleman knows very, very well that there are huge potential resources in southern California.

So the answer to the gentleman's question is, yes. I believe that we should keep these resources open for potential, and that's what the underlying bill does.

But I will yield to the gentleman if he wants to comment.

Mr. THOMPSON of California. Thank you. I just want to point out that my amendment doesn't affect southern California. It only affects the area in the counties that I mentioned—Del Norte, Humboldt, Mendocino, Sonoma and Marin—an area that has been designated by the scientists and the people in the oil business that there is not enough oil there to bother with and an area that I pointed out before that is very, very important.

Mr. HASTINGS of Washington. Reclaiming my time, I know that's what the gentleman says. I'm arguing against the precedent, like the precedent yesterday, where there's an attempt to block offshore drilling from essentially northern Maryland north, and that was defeated by the House. So what I'm afraid of in the long term is the precedent, and I believe we should keep these options open.

So with that, Mr. Chairman, I urge rejection of the amendment, and I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from California (Mr. THOMPSON).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mr. THOMPSON of California. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from California will be postponed.

□ 1530

AMENDMENT NO. 14 OFFERED BY MR. HOLT

The Acting CHAIR. It is now in order to consider amendment No. 14 printed in part A of House Report 112-398.

Mr. HOLT. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 954, after line 19, insert the following:  
**SEC. 17603. LAND AND WATER CONSERVATION FUND LOCKBOX.**

Nothing in this subtitle reduces the amount of revenues received by the United States under oil and gas leases of areas of the Outer Continental Shelf that is available for deposit into the Land and Water Conservation Fund.

The Acting CHAIR. Pursuant to House Resolution 547, the gentleman from New Jersey (Mr. HOLT) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New Jersey.

Mr. HOLT. Mr. Chairman, this amendment comes from both sides of the aisle. I'm joined by Mr. MURPHY, Mr. BASS, Mr. GERLACH, Mr. DINGELL, Mr. KIND, and I see Mr. DOLD of Illinois here.

Almost five decades ago, the Land and Water Conservation Fund was created on a sound and fair principle: oil companies who drill on public lands and who therefore are taking a resource that belongs to all citizens of the United States should, in return, out of fairness, give Americans the protection of land so that as they take this resource and refine it and sell it, they preserve these resources—parks, recreation, direct preservation of cultural and land resources.

The bill before us today aims to increase the amount of oil and gas production in Federal waters as a means to raise revenue for transportation funding. These oil fields belong to all Americans. Just as the revenues generated from offshore oil drilling must be shared with all Americans, a portion of these revenues should be used towards conservation and preservation of public lands that belong to all of us. That has been the principle now for four decades, almost five decades, of the Land and Water Conservation Fund.

The LWCF enjoys strong bipartisan and popular support. The program has protected land in every State and has supported more than 41,000 State and local parks and other open-space parcels.

The Trust for Public Land recently conducted an analysis of the return on the investment from LWCF funds. In

an 11-year, 12-year period, going up until about 1 year ago, for the \$537 million invested in conserving 131,000 acres, \$2 billion was generated in economic goods and services. In other words, for every dollar invested in LWCF funds, \$4 was returned in economic value. These are not taxpayer dollars that are invested. This is revenue that comes from the oil companies.

Our amendment would stipulate, simply, that nothing in the bill would reduce the amount of revenue from oil and gas receipts available for deposit into the LWCF.

I urge adoption of this amendment.

Mr. Chairman, I yield 1 minute to the gentleman from Illinois (Mr. DOLD).

Mr. DOLD. Mr. Chairman, I certainly appreciate my friend and colleague from New Jersey yielding me some time.

Today I rise in strong support of this bipartisan amendment.

Since 1964, the Land and Water Conservation Fund has been our Nation's primary program for Federal land conservation. Using a portion of the leases collected from energy production on the Outer Continental Shelf, this fund provides matching grants to State and local governments for the acquisition of land and ensures public land and water conservation projects can move forward.

In my home State of Illinois, the economic benefits of preserved public lands are indeed undeniable. Sportsmen, wildlife watchers, outdoorsmen, and others combine to spend over \$2 billion annually on outdoor recreation in Illinois.

Mr. Chairman, our amendment today is simple. We believe that this Congress should continue its commitment to conservation programs by ensuring that the underlying transportation bill will not reduce the amount of revenue available for the Land and Water Conservation Fund that has supported over 41,000 State and local projects over its 46-year history.

Mr. HOLT. I continue to reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Chairman, I rise to claim the time in opposition to the amendment.

The Acting CHAIR. The gentleman is recognized for 5 minutes.

Mr. HASTINGS of Washington. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment really is not needed because you can look with a magnifying glass through this whole bill and you will see absolutely no mention whatsoever of the Land and Water Conservation Fund. There's nothing in here that impacts that.

I know the gentleman, my good friend from New Jersey, has a real passion for this particular fund—sometimes we don't agree on that, but, nevertheless, he has a real passion for it—

but there is nothing in here at all that even talks about the Land and Water Conservation Fund.

I understand the gentleman wanted to make a statement—I appreciate that—and his desire would be to withdraw the amendment. So with that, I'll reserve my time pending his action.

Mr. HOLT. Mr. Chairman, although the Land and Water Conservation Fund is authorized to receive \$900 million annually from oil and gas leasing revenues, Congress must appropriate those funds after they have been deposited from the revenues.

Taxpayers aren't footing the bill for this program. Oil and gas companies fund the LWCF. The amount they pay is less than 1 percent of the massive profits these companies take each year. It's a small token of what we can do to preserve these other resources as the oil and gas resources are used. Preserving open space is more than a narrow environmental issue. It really is a quality of life issue.

As my friend, the chairman, has assured us, there is nothing in the underlying bill that would reduce the amount of revenue available for the Land and Water Conservation Fund. So with that assurance that the legislation here today will in no way harm the Land and Water Conservation Fund, I ask unanimous consent to withdraw this amendment.

The Acting CHAIR. Without objection, the amendment is withdrawn.

There was no objection.

AMENDMENT NO. 15 OFFERED BY MS. HANABUSA

The Acting CHAIR. It is now in order to consider amendment No. 15 printed in part A of House Report 112-398.

Ms. HANABUSA. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 954, after line 19, add the following new section:

**SEC. 17603. SAFETY REQUIREMENTS.**

The Secretary of the Interior shall require that drilling operations conducted under each lease issued under this subtitle (including the amendments made by this subtitle) meet requirements for—

(1) third-party certification of safety systems related to well control, such as blowout preventers;

(2) performance of blowout preventers, including quantitative risk assessment standards, subsea testing, and secondary activation methods;

(3) independent third-party certification of well casing and cementing programs and procedures;

(4) mandatory safety and environmental management systems by operators on the outer Continental Shelf (as that term is used in the Outer Continental Shelf Lands Act); and

(5) procedures and technologies to be used during drilling operations to minimize the risk of ignition and explosion of hydrocarbons.

The Acting CHAIR. Pursuant to House Resolution 547, the gentlewoman

from Hawaii (Ms. HANABUSA) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Hawaii.

Ms. HANABUSA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chair, April 20, 2010, September 19, 2010, those dates may not mean much to a lot of people, but I will tell you, I was not a Member of this body at that time, but I remember when the BP oil spill started, April 20, 2010, and when we all cheered when it was supposed to be capped on September 19, 2010, almost 5 months of watching it daily, even in Hawaii, of the oil and the attempts and cheering and then being disappointed when they couldn't take care of this oil spill that was devastating, clearly, the coast.

Now, there was an independent BP spill commission that was appointed, and their conclusions were published. They said that it was preventable. They said that corners were cut, bad decisions were made, and stronger safety standards could have prevented the disaster. It also pointed out that the United States has a fatality rate in terms of offshore drilling that is four times that in Europe. They also found that the problems were systemic to this industry.

The amendment that I have before you is a simple one and a very commonsense amendment. It simply states that the Secretary of the Interior shall require, when he does leasing, that each lease must meet the requirements for a third-party certification of safety systems related to well control, such as blowout preventers. It must meet requirements for performance of blowout preventers, including the qualitative risk, as well as subsea testing. It also must meet requirements for an independent third-party certification of well casing and cementing programs and procedures. It must meet requirements for mandatory safety and environmental management system of the operators in the Outer Continental Shelf.

□ 1540

And it must meet requirements of procedures and technologies to be used during drilling operations to minimize the risk of igniting an explosion of hydrocarbons. Anyone who remembers the BP oil spill, watching it on television, as I did, every day, watching the news, all of these points are so relevant to what have occurred.

So, Mr. Chair, I ask that my colleagues vote along with me to pass this very commonsense amendment as we remember what happened in those 5 months, April 2010 to September 2010. We have the opportunity of being the safest offshore oil industry in the world, and this amendment would help us get there. That's what we owe the

people. We owe those people who suffered through this, and we owe the rest of this Nation a sense of being secure and knowing that when we are drilling that we are drilling safely, and we will not see those fatalities again.

I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Chairman, I rise to claim the time in opposition.

The Acting CHAIR. The gentleman is recognized for 5 minutes.

Mr. HASTINGS of Washington. I yield myself as much time as I may consume.

Mr. Chairman, I rise to oppose this amendment. We have seen amendments of this nature multiple times throughout the debates, both in the committee that I have the privilege to chair, the Natural Resources Committee, and here on the House floor. And every single time amendments of this nature have failed, often with bipartisan votes.

The amendment would write into law the imposition of strict safety requirements as part of the lease terms. This amendment would override the judgment of two agencies that have the authority to set and enforce safety regulations. Those agencies are the Bureau of Ocean Energy Management and the Bureau of Safety and Environmental Enforcement. I might add, these agencies within this administration have, on multiple occasions, testified that offshore drilling operations are being done safely. This is post-BP, I might add.

It seems like the effort is to continue to try to divert attention away from the real issue of increasing American energy production, increasing American jobs, lowering energy costs, and improving our national security. How? By lessening our dependence on foreign oil.

Our good friends on the other side, they simply do not want to face the fact that this bill says that we can move forward with responsible oil and natural gas exploration and production here in America while, at the same time, ensuring that increased safety measures are undertaken. These are not mutually exclusive goals.

Republicans want to make U.S. offshore drilling the safest in the world so that we can produce more American energy, thus creating more American jobs and thus strengthening our national security.

As I mentioned, Mr. Chairman, amendments of this nature have repeatedly failed in the House. I hope it will do so again, and I urge opposition to this amendment.

I reserve the balance of my time.

Ms. HANABUSA. Mr. Chair, I yield myself the balance of my time.

Mr. Chair, it becomes quite troubling when we hear that, from the Republican side, the other side of the aisle, that the Obama administration is

doing okay, or they're taking the representations of the Obama administration, when we know continually that that's not the case. So, if anything, this should send up a red flag for everyone to wonder, what is it that's really causing this concession to an agency?

The facts are the facts. We had the BP oil spill. It took five months. There's nothing that's been proposed in concrete as to how to prevent that from happening. That's why we're the Congress of the United States. That's why we're asked to pass laws, because it is only with the passage of laws that we can say, you know, you've got to do this. And if they are doing it, and if they can guarantee that, and they can say that these leases are, in fact, in compliance, it's up to them.

All that we're doing in the statute is giving a format and a framework to say, hey, make sure that these points are met in these leases. They're the ones who are going to determine whether it's met or not.

That's why I think we owe it to the people who died, we owe it to the people who suffered the economic losses, we owe it to everyone in this Nation to make sure that we do not suffer a BP oil spill again.

I yield back the balance of my time.

Mr. HASTINGS of Washington. I yield myself the balance of the time, Mr. Chairman.

I just want to point out to my good friend from Hawaii, after the BP spill we had a committee hearing down in Louisiana, and part of that was to ascertain the economic impacts in that part of the country, but also to work with or seek from the industry what would happen if there were, heaven forbid, another spill like this. The industry has responded by building a consortium, funding a consortium, I should say, in order to respond to a spill like this.

There were two of them that were testifying at the hearing that day. I said, In the event—and hopefully it doesn't happen—if there were an event like BP again, how quickly could you respond to something like that? Because that's what the issue is. You want to make sure that people respond if there is, in fact, another spill. And in both cases, both of them said they could respond immediately and probably cap it, something like this, in less than 3 weeks. That was over a year ago. I suspect now that that technology is even greater than that.

But my point is that we have the regulations. We have to have American energy and the ensuing jobs that that has created, and I'm afraid that adopting this amendment would hinder that. So I would urge my colleagues to reject this amendment.

With that, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentlewoman from Hawaii (Ms. HANABUSA).

The question was taken; and the Acting Chair announced that the ayes appeared to have it.

Mr. HASTINGS of Washington. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from Hawaii will be postponed.

AMENDMENT NO. 16 OFFERED BY MR. HASTINGS  
OF WASHINGTON

The Acting CHAIR. It is now in order to consider amendment No. 16 printed in part A of House Report 112-398.

Mr. HASTINGS of Washington. Mr. Chairman, I have an amendment at the desk made in order under the rule.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

At the end of title XVII add the following:

**Subtitle D—Streamlining Federal Review To  
Facilitate Renewable Energy Projects**

**SEC. 17801. SHORT TITLE.**

This subtitle may be cited as the "Cutting Federal Red Tape to Facilitate Renewable Energy Act".

**SEC. 17802. ENVIRONMENTAL REVIEW FOR RENEWABLE ENERGY PROJECTS.**

(a) COMPLIANCE WITH NEPA FOR RENEWABLE ENERGY PROJECTS.—In complying with the National Environmental Policy Act of 1969 (41 U.S.C. 4321 et seq.) with respect to any action authorizing or facilitating a proposed renewable energy project, at the election of the applicant a Federal agency shall—

(1) consider only the proposed action and the no action alternative;

(2) analyze only the proposed action and the no action alternative; and

(3) identify and analyze potential mitigation measures only for the proposed action and the no action alternative.

(b) PUBLIC COMMENT.—In complying with the National Environmental Policy Act of 1969 with respect to a proposed renewable energy project, a Federal agency shall only consider public comments that specifically address the proposed action or the no action alternative (or both) and are filed within 30 days after publication of a draft environmental assessment or draft environmental impact statement.

(c) DEFINITIONS.—For purposes of this section:

(1) FEDERAL WATERS.—The term "Federal waters" means waters seaward of the coastal zone (as that term is defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)), to the limits of the exclusive economic zone or the Outer Continental Shelf, whichever is farther.

(2) OUTER CONTINENTAL SHELF.—The term "Outer Continental Shelf" has the meaning the term "outer Continental Shelf" has in the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.).

(3) RENEWABLE ENERGY PROJECT.—The term "renewable energy project" means a project on Federal lands or in Federal waters, including a project on the Outer Continental Shelf, using wind, solar power, geothermal power, biomass, or marine and hydrokinetic energy to generate energy, that is constructed encouraging the use of equipment and materials manufactured in the United States.

The Acting CHAIR. Pursuant to House Resolution 547, the gentleman

from Washington (Mr. HASTINGS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Washington.

Mr. HASTINGS of Washington. Mr. Chairman, I yield myself as much time as I may consume.

Mr. Chairman, this amendment passed the House Natural Resources Committee last year in the form of stand-alone legislation on a bipartisan vote. My amendment would accelerate the development of clean, renewable energy projects on Federal lands by streamlining and simplifying government regulations while ensuring thorough environmental reviews.

House Republicans are committed to utilizing America's abundant and diverse energy resources to implement the all-of-the-above American-made energy strategy that we put forth last year. This includes utilizing our public lands for renewable energy projects. These projects have the potential to create thousands of American jobs, to generate economic benefits, and contribute to our energy security.

Unfortunately, renewable energy projects on Federal lands frequently get caught up in bureaucratic red tape. Regulatory roadblocks and burdensome lawsuits continue to plague and delay these projects, sometimes by many years.

This amendment will facilitate the development of clean, renewable energy on Federal lands by providing a clear, simple process for completing important environmental reviews.

The amendment would require an environmental review to be conducted only for the specific location where the renewable energy project would be located, rather than requiring thousands of pages of environmental review for numerous different locations. This would significantly reduce the number of years it takes to develop clean, renewable energy projects.

So I want to stress that this amendment includes no subsidies, only the streamlining of government regulations. America has been blessed with an abundance of energy resources of all kinds. We all know that. And we should be actively looking to use these resources to create jobs and to improve American energy security.

So I urge my colleagues to support the renewable energy development regulatory relief plan I have, and support this amendment.

I reserve the balance of my time.

□ 1550

Mr. HOLT. I rise to claim time in opposition to this amendment.

The Acting CHAIR. The gentleman is recognized for 5 minutes.

Mr. HOLT. Mr. Chairman, you may think that the gentleman from Washington has suddenly decided that he's going to accelerate renewable energy

deployment in the United States; but the fact is, no, he has not gotten religion. This is not intended to accelerate renewable energy. It is to remove protections for the environment.

The amendment really is highly problematic. It has very little upside and significant downside, both in terms of protecting the environment and in producing renewable energy. The measure fundamentally changes public lands policy in a way that could be extremely harmful.

Completely gutting bedrock environmental review processes is not something that should be done lightly. It shouldn't be done with a 10-minute debate on an amendment on a completely separate bill. This \$250 billion transportation bill is not the appropriate place to debate a fundamental shift of public lands policy. We spent nearly a day debating this in committee, and it deserves a debate at least that thorough here on the floor.

Right now, a renewable energy project that's proposed for Federal lands can get a green light, a yellow light, or a red light from the permitting agency. What the gentleman from Washington would do with his amendment is get rid of the yellow light.

By only allowing consideration of the proposed action and not allowing any no-action alternative, you know what that means, Mr. Chairman? Well, it means—and it should be obvious—it means that projects that could be viable will get a red light. The permitting agency requiring more data, requiring care, requiring additional conditions will have to say yes or no. They're going to say no. Let me state that again. Projects that can otherwise get built if their plans were tweaked would now, under this amendment, be killed. That means fewer megawatts of renewable energy production on public lands.

No, the gentleman has not suddenly gotten religion about renewable energy.

We've heard from the Bureau of Land Management, we've heard it from the Renewable Energy Industry, the American Wind Association, the Solar Energy Industry Association, the Geothermal Industry Association. They have not endorsed this proposal.

The way to ensure that our public land managers are able to expeditiously permit renewable energy projects is not to handcuff them, like this amendment would do, but to make sure that they have the resources to do the job. Now, the Republicans last year did the opposite by trying to take \$1 billion out of the Interior Department's budget.

In addition to keeping the land management agencies from doing their job, this amendment would also reduce the ability of the public to participate in the process. If the public is not given meaningful opportunity, say through environmental hearings, you know

what they're going to turn to? They're going to turn to the courts. So this amendment would actually lead to more lawsuits, more delays, less renewable energy on public lands.

This is not endorsed by any renewable energy industry group. That should give you reason to pause.

The representatives of the renewable energy industry have testified that this language could have a perverse effect of forcing agencies to reject projects, of sending projects into court, of preventing the actions we should be taking to develop renewable energies.

I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Chairman, I'm pleased to yield 2 minutes to the gentleman from Colorado (Mr. LAMBORN).

Mr. LAMBORN. Mr. Chairman, I rise in support of the amendment of the committee chairman.

This amendment promotes the Republican all-of-the-above approach to energy policy in this country and will just streamline the NEPA process to ensure the efficient production of energy on public lands.

Right now we don't have a balance. We need to strike a balance. Yes, there are good environmental laws in place that are well-intended and that need to be followed to protect our air and water, but sometimes the threat of litigation or the burdensome application of regulations is used to simply slow down the production of energy, even renewable energy projects on public lands.

So this amendment will allow renewable energy developers to commit their limited resources to a single project and have some certainty that the project will actually take place. They will make the investment necessary, put in the dollars that are required to bring forth wind, solar, geothermal, even tidal types of renewable energy projects that right now will otherwise be held up by burdensome regulations.

These projects have the potential to provide many thousands of American jobs and generate millions of dollars of benefits because right now we're not getting these projects built on public lands. We need some streamlining of the burdensome regulations.

The administration claims to have placed a priority on renewable energy development; and yet roadblocks keep popping up, litigation keeps coming forward, and we don't have anything really happening on public lands. We have to get the ball rolling. That's what this amendment does.

I'm sorry that my colleague from New Jersey doesn't see it that way, but this is intended to bring forth and actually see the realization for once of some of these renewable energy projects. So I would ask for support of this amendment.

Mr. HOLT. May I ask the amount, please, of remaining time.

The Acting CHAIR. Both sides have 1 minute remaining.

Mr. HOLT. I yield myself the balance of my time.

I hope I made it clear that this amendment would slow things down, would throw things into court, would result in rejected projects.

If the Republicans really want to help renewable energy, you don't need to gut environmental safeguards. Ensure Federal financing tools are available, establishing policies that create a market demand for renewable power in the regulated electricity industry, establish policies that create market demand for renewable power, and support smart-from-the-start policies.

If you really want to help renewable energy, don't raise taxes on the wind industry. Extend the production tax credit. That would save, well, let's say 30,000 to 40,000 jobs. Yes, the production tax credit. That would be the way to help the renewable industry, not to gut environmental protections.

Please, I ask my colleagues, don't support this amendment.

I yield back the balance of my time. Mr. HASTINGS of Washington. I yield myself the balance of my time.

Mr. Chairman, this is a good amendment because part of the process of creating American energy jobs is to reduce regulation.

I was struck when my good friend from New Jersey said that this amendment would lead to more litigation. For goodness sakes, when we heard testimony on this issue in front of our committee, the Cape Wind Project off Massachusetts testified something to the effect, and I don't have the exact testimony in front of me, but they are the poster child of litigation. Why? Because that litigation covered a very, very broad area.

This specifies where, if somebody has a problem with it, the regulations would deal with the specific area. This really clarifies the whole process more than anything else. So I urge adoption of the amendment.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Washington (Mr. HASTINGS).

The question was taken; and the Acting Chair announced that the ayes appeared to have it.

Mr. HOLT. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Washington will be postponed.

AMENDMENT NO. 17 OFFERED BY MR. MARKEY

The Acting CHAIR. It is now in order to consider amendment No. 17 printed in part A of House Report 112-398.

Mr. MARKEY. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

At the end of title XVII add the following:

Subtitle D—Miscellaneous Provisions

SEC. 17801. PROHIBITION ON EXPORT OF GAS.

Each oil and gas lease issued under this title (including the amendments made by this title) shall prohibit the export of gas produced under the lease.

The Acting CHAIR. Pursuant to House Resolution 547, the gentleman from Massachusetts (Mr. MARKEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Massachusetts.

□ 1600

Mr. MARKEY. Mr. Chairman, this amendment is very simple. It prohibits the export of the natural gas produced from the leases that are going to be given to oil and gas companies under this bill.

The bottom line is, what the Republicans want to do is open up drilling for natural gas off of the beaches of Florida, off of the beaches of California, off of the beaches of Virginia, off of the beaches of New Jersey and Massachusetts. Then all they say is, Oh, we have to do this; it's for our national security. But right now, over at the Department of Energy, there are eight applications seeking to export 18 percent of our natural gas overseas—to China, to Europe, to Latin America.

Why is that? Well, it's very simple.

The price of natural gas in the United States is six times lower than in Asia. These companies want to make a big profit, not here in America, but by selling our natural gas—drilled for off of our beaches—to other countries. In Europe, it is four times more expensive for natural gas. That's where they want to sell it.

Now, why would we support that?

It's only if there is an oil and gas company agenda because, unlike natural gas, oil has a price which is set on the international marketplace. So, if it's \$100 a barrel in China, it's \$100 a barrel in the United States. Not so, ladies and gentlemen, with natural gas. Natural gas is our greatest asset. It's what's fueling our economic recovery. Manufacturing new jobs have been the highest in the last 5 years. It's very low-priced natural gas which is fueling this revolution in creating new jobs because the price of energy is so low in America for natural gas.

What is the plan of the oil and gas companies?

It's to send this natural gas around the rest of the world.

What would the impact be?

It would increase prices for the American steel industry; increase prices for the chemical industry; increase prices for the plastics industry; increase prices for the utility industries, which generate electricity for American homes and businesses; and it



would ultimately increase prices for consumers in our country.

This amendment, the Markey amendment, is aimed straight at the Strait of Hormuz, and it's saying to them, We've got the natural gas here in America. We're going to drill for it, but we're keeping it here because it's six times lower in price than it is in Asia and in Europe, and that's what we're going to keep here for our American citizens. We're not going to play this game of international markets so that the oil and gas industry can raise the price of natural gas up to the price of oil. They get rich, and ExxonMobil is reporting \$137 billion in profits even as we give them, through the Republicans, \$40 billion worth of tax breaks.

When do American consumers get a break? When do American manufacturers get a break? When do the plastics, the chemical, the steel industries get a break in low energy prices? Is it all a one-way street for ExxonMobil and these big multinationals?

The Markey amendment says that we drill for natural gas off the beaches of this country. That natural gas stays here in this country. It is not exported.

I reserve the balance of my time.

Mr. HASTINGS of Washington. I rise in opposition to the gentleman's amendment.

The Acting CHAIR. The gentleman is recognized for 5 minutes.

Mr. HASTINGS of Washington. Mr. Chairman, I yield myself such time as I may consume.

This amendment was offered in committee markup, and it failed on a bipartisan vote simply because it was a bad idea. This amendment, Mr. Chairman, has one goal—to stop the development of natural gas on Alaska's North Slope. This amendment is completely unnecessary and irrelevant.

Currently, there is no way to export natural gas out of ANWR. There are no liquefying gas facilities on the shore. There is also not a single natural gas pipeline out of ANWR to transport natural gas anywhere in the United States. In fact, there are limited ways to export Alaska natural gas.

One of the preferred methods, of course, would be to build a pipeline to cross the U.S.-Canada border and then back into the United States; but under the gentleman's amendment, this wouldn't be possible. I might add, we all know how the gentleman feels about pipelines in general.

Another method would be to convert gas to LNG and ship it to the United States. I know the gentleman is well aware of this process because his home State gets about 40 percent of its natural gas from countries like Yemen, Egypt, or Trinidad. However, should Alaska choose to convert to LNG and try to ship it to California, this amendment would stop them from considering that because the import terminal in southern California is in Mexico,

where they get their natural gas from Gazprom, which is in Russia.

The transportation of natural gas across Alaska is a tremendous challenge. As with any major pipeline in construction, the investment will be in the billions of dollars, but it would certainly employ tens of thousands of people. It is something that should and can happen. However, without a market for the natural gas, it is unlikely that this pipeline will ever be built. As mentioned, this amendment then would stop gas from reaching the U.S. markets both by pipeline and by ship.

On this side of the aisle, we hope that a pipeline like this can be built for all of the reasons that we have said in the past. We want the gas to come to America. Our hope is that this gas will displace the natural gas shipments from Russia coming into southern California and possibly even the Yemeni shipments to Boston. This is our hope, and that would be a challenge if this amendment were to be adopted.

This amendment goes against the main objective of the bill—American jobs, American energy and American energy security. So I urge my colleagues to vote "no" on the amendment.

I reserve the balance of my time.

Mr. MARKEY. May I ask how much time is remaining on either side?

The Acting CHAIR. The gentleman from Massachusetts has 1 minute remaining. The gentleman from Washington has 2½ minutes remaining.

Mr. MARKEY. At this point, I continue to reserve the balance of my time.

Mr. HASTINGS of Washington. At this time, I am very pleased to yield 30 seconds to the gentleman from Texas (Mr. BRADY).

Mr. BRADY of Texas. Mr. Chairman, America is at its best when we're not hypocritical and when we don't shoot ourselves in the foot. This Markey amendment does both.

We insist that China play by the rules. In fact, they've been hoarding their raw materials and holding them back from export to America, which harms American companies. We just won an important ruling around the world that says China has to stop that. Yet here we are on the House floor, trying to do the exact same thing to our export of natural gas, and we're going to be called on it just like we called it out on China.

Secondly, besides being hypocritical, this is going to kill American jobs. We need not just to buy American; we need to sell American around the world: our cars, our ag products, our electronics, computers, and, yes, our natural gas. That's how we grow America's economy.

I urge defeat.

Mr. MARKEY. I would inquire as to who has the right to close and if the majority is down to its last speaker.

The Acting CHAIR. The gentleman from Washington has the right to close.

Mr. HASTINGS of Washington. Mr. Chairman, I advise my friend from Massachusetts that I have requests from two other Members, so there are three including me.

Mr. MARKEY. Mr. Chair, through you, I would prefer to wait until the final speaker for the majority is about to take the podium.

I continue to reserve the balance of my time.

Mr. HASTINGS of Washington. I am very pleased, Mr. Chairman, to yield 30 seconds to the gentleman from Texas (Mr. FARENTHOLD).

Mr. FARENTHOLD. I also rise in opposition to this amendment. As the chairman has pointed out, there is no market in Alaska, and we know how the other side feels about building pipelines through Canada.

Right now, we've got an historic low price of gas, which is great for America, but it's also great for the rest of the world. This is our opportunity to use our excess capacity. We're producing more than we can consume, hence the low price. We're flaring it through areas of Texas. This is an opportunity to lower our balance of trade and to make some money. Then, as the price goes up, the government gets more in royalties.

I would also like to point out, if we applied this same logic to other commodities—well, let's not export our food so our food prices go down. Let's not export our cars so our car prices go down.

Mr. HASTINGS of Washington. Mr. Chairman, I am very pleased to yield 30 seconds to the gentleman from Texas (Mr. OLSON).

□ 1610

Mr. OLSON. Mr. Chairman, I rise in opposition to the Markey amendment. The gentleman from Massachusetts has displayed a clear lack of understanding of our great Nation's history with his amendment to restrict American exports of natural gas.

Exports have made America a world power. Our country grew stronger economically by providing the products the world demands. No one would get upset if Ford or GM were making enough cars so that they could supply domestic markets and also ship cars overseas. Nobody is proposing to restrict the export of Massachusetts lobsters.

I urge my colleagues to vote "no" on the Markey amendment.

Mr. MARKEY. I yield myself the balance of my time.

The Republican slogan 2 years ago was, "Drill here, drill now, pay less." Today the slogan is, "Drill here, sell to China, pay more in the United States."

If all these terminals get built, the Energy Department says the price is

going to go up by 54 percent for American consumers. Let me tell you what Boone Pickens says. Boone Pickens said something that is very, very clear about exporting natural gas. He said:

"If we do it, we're truly going to go down as America's dumbest generation. It's bad public policy to export natural gas." American energy for American jobs.

Oil and natural gas are not lobsters. They are not toothbrushes. They are our key to the strategic protection of our national security. This is a signal to OPEC that we mean business. We're going to drill for the natural gas. We're going to keep it here. And we're going to tell them we don't need their oil any more than we need their sand.

Vote for the Markey amendment. Keep the natural gas, which we drill for off of the beaches in this country, in our country, and tell them they can keep their sand. We'll keep our natural gas right here in America. Vote "aye" for the Markey amendment.

I yield back the balance of my time. Mr. HASTINGS of Washington. Mr. Chairman, I yield myself the balance of my time.

My friend from Massachusetts makes a great point with great, great passion. I thought that the gentleman was arguing in support of the underlying bill. And the reason I say that is because the underlying bill opens up areas on the Atlantic and Pacific coasts for drilling for oil and gas.

The gentleman said yesterday that he is very much in favor of natural gas. There is natural gas off the north shore of the Atlantic. Shipping costs would be very, very little. I'm somewhat confused. But I don't think that the gentleman's amendment will accomplish what he says. But his rhetoric—I can tell you, Mr. Chairman—will accomplish what the underlying bill says, and that will make us less dependent on foreign sources of energy and create American energy jobs.

With that, I urge rejection of the Markey amendment, and I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Massachusetts (Mr. MARKEY).

The question was taken; and the Acting Chair announced that the yeas appeared to have it.

Mr. MARKEY. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Massachusetts will be postponed.

AMENDMENT NO. 18 OFFERED BY MR. MARKEY

The Acting CHAIR. It is now in order to consider amendment No. 18 printed in part A of House Report 112-398.

Mr. MARKEY. I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

At the end of title XVII add the following:

**Subtitle D—Miscellaneous Provisions**

**SEC. 17801. ELIGIBILITY FOR NEW LEASES AND THE TRANSFER OF LEASES.**

**(a) ISSUANCE OF NEW LEASES.—**

(1) IN GENERAL.—Beginning in fiscal year 2013, the Secretary of the Interior shall not accept bids on any new leases offered pursuant to this title (including the amendments made by this title) from a person described in paragraph (2) unless the person has renegotiated each covered lease with respect to which the person is a lessee, to modify the payment responsibilities of the person to require the payment of royalties if the price of oil and natural gas is greater than or equal to the price thresholds described in clauses (v) through (vii) of section 8(a)(3)(C) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(3)(C)).

(2) PERSONS DESCRIBED.—A person referred to in paragraph (1) is a person that—

(A) is a lessee that—

(i) holds a covered lease on the date on which the Secretary considers the issuance of the new lease; or

(ii) was issued a covered lease before the date of enactment of this Act, but transferred the covered lease to another person or entity (including a subsidiary or affiliate of the lessee) after the date of enactment of this Act; or

(B) any other person that has any direct or indirect interest in, or that derives any benefit from, a covered lease.

**(3) MULTIPLE LESSEES.—**

(A) IN GENERAL.—For purposes of paragraph (1), if there are multiple lessees that own a share of a covered lease, the Secretary may implement separate agreements with any lessee with a share of the covered lease that modifies the payment responsibilities with respect to the share of the lessee to include price thresholds that are equal to or less than the price thresholds described in clauses (v) through (vii) of section 8(a)(3)(C) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(3)(C)).

(B) TREATMENT OF SHARE AS COVERED LEASE.—Beginning on the effective date of an agreement under subparagraph (A), any share subject to the agreement shall not constitute a covered lease with respect to any lessees that entered into the agreement.

(b) TRANSFERS.—A lessee or any other person who has any direct or indirect interest in, or who derives a benefit from, a covered lease shall not be eligible to obtain by sale or other transfer (including through a swap, spinoff, servicing, or other agreement) any new lease offered pursuant to this title (including the amendments made by this title) or the economic benefit of any such new lease, unless the lessee or other person has—

(1) renegotiated each covered lease with respect to which the lessee or person is a lessee, to modify the payment responsibilities of the lessee or person to include price thresholds that are equal to or less than the price thresholds described in clauses (v) through (vii) of section 8(a)(3)(C) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(3)(C)); or

(2) entered into an agreement with the Secretary to modify the terms of all covered leases of the lessee or other person to include limitations on royalty relief based on market prices that are equal to or less than the price thresholds described in clauses (v) through (vii) of section 8(a)(3)(C) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(3)(C)).

(c) DEFINITIONS.—In this section—

(1) COVERED LEASE.—The term "covered lease" means a lease for oil or gas production in the Gulf of Mexico that is—

(A) in existence on the date of enactment of this Act;

(B) issued by the Department of the Interior under section 304 of the Outer Continental Shelf Deep Water Royalty Relief Act (43 U.S.C. 1337 note; Public Law 104-58); and

(C) not subject to limitations on royalty relief based on market price that are equal to or less than the price thresholds described in clauses (v) through (vii) of section 8(a)(3)(C) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(3)(C)).

(2) LESSEE.—The term "lessee" includes any person or other entity that controls, is controlled by, or is in or under common control with, a lessee.

(3) NEW LEASE.—The term "new lease" means a lease issued in a lease sale under this title or the amendments made by this title.

The Acting CHAIR. Pursuant to House Resolution 547, the gentleman from Massachusetts (Mr. MARKEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Massachusetts.

Mr. MARKEY. Mr. Chairman, I yield myself 3 minutes.

Last year, ExxonMobil made \$41 billion in profits. Together, the top five oil companies made a combined \$137 billion in profits. You would think that every time these large oil companies extract oil from public lands offshore in the Gulf of Mexico that they would be required to pay the American people a fee, a royalty to do so, since the lands are owned by the people of the United States. Well, you would be wrong. As a result of an oil company court challenge to a 1995 law, oil companies are not paying any royalties to the American people on leases issued between 1996 and 2000 on public lands of our country.

The Republicans want to drill into the pensions of Federal workers to fund our highways. They want to drill in the Arctic National Wildlife Refuge, America's Serengeti, and off our beaches in California and Florida and New Jersey to fund this transportation bill. But if we are looking for revenue to fund our road projects, we should just start by ending this free ride Big Oil is getting on public land.

In recent years, the amount of free oil these companies have been pumping has gone through the roof as more of these free drilling leases have gone into production. In fact, right now more than 25 percent of all oil produced offshore on Federal lands is produced royalty free, tax free. They don't have to pay any taxes whatsoever. Let me say that again. These companies get a complete windfall profit by paying no taxes for drilling off of the coastline of the United States, owned by the American people. What kind of plan can that be to make sure that we have sufficient funding in order to pay for Medicare, pay for kids going to college, pay for

the research to find a cure for cancer? Of all the companies that should be kicking in their fair share of the dues to run this country, it should be the companies who made \$137 billion last year and are getting away scot-free and not paying taxes for drilling off of the coastlines of our country on public lands.

At this point, I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Chairman, I claim time in opposition.

The Acting CHAIR. The gentleman is recognized for 5 minutes.

Mr. HASTINGS of Washington. Mr. Chairman, this amendment is virtually identical once again to amendments that have failed on the House floor by a bipartisan vote, and I'm speaking specifically of last year.

Let me give a little bit of a history. In 1995, a Democrat Senator and the Clinton White House negotiated the Deep Water Relief Act. The intent was to promote interest in deepwater leases. According to the 1995 law, the royalty relief is on the volume of oil and gas produced on a lease. While other royalty-relief provisions are dependent upon economic hardship, these are solely dependent on volume produced.

While the gentleman's amendment aims to fix the problem by including price thresholds, this issue has been repeatedly settled in courts of law and the courts have determined that including price thresholds to this law would be a violation of the contract law. The U.S. Supreme Court found that the Department did not have the authority to include price thresholds on lease agreements issued under the 1995 law. In fact, the Department of Interior has lost this issue in the district court, the appellate court, and the Supreme Court. Simply stated, including price thresholds on these leases would be illegal. If this amendment passed, the issue would almost certainly be challenged in court, where the Department would again use taxpayer dollars to lose again. Ultimately, this amendment seeks to force U.S. companies to break a contract negotiated under government law or else be denied the opportunity to do business in the United States.

The ranking member aims to back companies into a corner and force them to break an unbreakable contract. I think this is a bad amendment. The House has rejected it in the past, and I would urge the House and my colleagues to again reject it this time.

I reserve the balance of my time.

Mr. MARKEY. May I inquire once again as to how much time is remaining on either side?

The Acting CHAIR. The gentleman from Massachusetts has 2¾ minutes remaining. The gentleman from Washington has 3 minutes remaining.

Mr. MARKEY. I yield myself a minute and three-quarters.

The amendment that I'm offering would give these oil companies a strong incentive to renegotiate their leases and to pay their fair share of royalty taxes. My amendment would offer these oil companies a choice. They can choose to either continue to produce royalty tax-free in the Gulf of Mexico on public lands but not be able to receive any new leases on public lands, or they can agree to pay their fair share and be able to bid on new areas. They can't have it both ways. With oil prices at \$100 a barrel, this free drilling is absolutely unacceptable.

The Congressional Research Service has repeatedly found that this amendment would not be an abrogation of contract or constitute a taking. In 2010, the Congressional Research Service wrote of my amendment:

To reiterate, the amendment imposes no legal compulsion. Just as in *Ruckelshaus*, Congress simply would be posing an election.

□ 1620

This amendment does not require these companies to renegotiate their leases to pay their fair share; it just gives them an incentive to do so. And this amendment would not force companies to give up their leases; it would just impose a condition in issuing future leases.

As CRS has stated, as a general matter, the United States has broad discretion in setting the qualifications of those with whom it contracts. These companies would be perfectly free to choose to continue producing this free windfall oil even if prices climbed well past \$100 a barrel and gas prices go past \$4 a gallon—they can do that. They can hang on to these windfall leases if they want. But if they do, they will not get any new leases from the American people on the public lands of our country.

I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Chairman, I am pleased to yield 1 minute to the gentleman from Texas (Mr. BRADY).

Mr. BRADY of Texas. Mr. Chairman, this amendment has been defeated so many times on the House floor, it's like one of those bad "American Idol" tryouts. And there is good reason for it. It is as Chairman HASTINGS said. In the 1990s, we wanted to encourage more American-made energy, not importing it from the Middle East. So we encouraged companies to explore in deepwater. They did.

American companies invested hundreds of millions of dollars in leases paid to the American Government in new investment, in new equipment, and it worked. They found oil and gas. They pumped it, and they paid billions of dollars in revenue in royalties to us based on how much they pumped. The more they pumped, the more they paid to the American taxpayer.

This outraged our Democrat friends. They've tried to break those American

contracts, force the government to go back on its word. Four times the courts have said, including the Supreme Court, No, the American Government's word means something.

Today, they want to break that word on the House floor, extort our American companies into breaking those contracts.

We're going to say no. The American Government's contract and the words mean something, and we're going to create the jobs that come from American-made energy.

The Acting CHAIR. The time of the gentleman has expired.

Mr. HASTINGS of Washington. I yield the gentleman an additional 1 minute.

Mr. BRADY of Texas. Mr. Chairman, I just want to reiterate the point we've been making. The goal of this amendment is not simply to break America's contract, it's really to stop American companies from investing here in America, and creating jobs from clean natural gas, from oil, from traditional energy that fuels so much of America's economy, to make sure that we are reliant on our energy, not on the Middle East or Venezuela.

And so the goal of this amendment, the reason it has been killed so many times, is it works against America's energy interests. It works against American energy jobs, and it breaks the rule of law. America is not a banana republic. Our contracts mean something, and we're going to uphold them.

Mr. MARKEY. Mr. Chairman, I yield myself the balance of my time.

These oil giants are the most profitable companies in the history of the world. Yet the Republicans are going to give them \$40 billion in tax breaks over the next 10 years. And rather than reclaiming them for our soldiers or for Medicare recipients, they say no, you can't touch that.

And so I turn to them and I say: What about all of the royalty tax-free drilling they're doing? Twenty-five percent of all oil drilled for off of the coastlines of our country on public lands, no taxes. No royalties. No contribution to America. They're not paying their fair share of the dues.

And the gentleman from Texas just said the more they drill, the more they pay. Absolutely not true. The more they drill, the bigger their profits. They don't have to pay a nickel in royalty taxes. They get off scot-free. Everyone else gets tipped upside down by the tax man on April 15 to pick up what they're not willing to pay. It's time for them to pay their fair share of the dues.

That's what the Markey amendment says. Either start renegotiating those leases or you're not drilling any longer on the public lands of the United States of America. Vote "aye."

I yield back the balance of my time.

Mr. HASTINGS of Washington. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, there is a very important principle here, and that is a contract is a contract. You abide by what you negotiate under the existing law. And this existing law has worked its way through the courts all of the way to the Supreme Court. And in every case, the 1995 law in these leases was upheld. Why would we want to jeopardize and send the wrong message to those who would want to take the risk and make the investments under this law? It would send a very, very wrong signal, in my view.

Once again, this amendment has been defeated on this floor a number of times. I urge my colleagues to vote "no" one more time to defeat this amendment.

With that, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Massachusetts (Mr. MARKEY).

The question was taken; and the Acting Chair announced that the ayes appeared to have it.

Mr. HASTINGS of Washington. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Massachusetts will be postponed.

AMENDMENT NO. 19 OFFERED BY MR. LABRADOR

The Acting CHAIR. It is now in order to consider amendment No. 19 printed in part A of House Report 112-398.

Mr. LABRADOR. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

At the end of title XVII add the following:

**Subtitle D—Promotion of Timely Exploration for Geothermal Resources**

**SEC. 17801. SHORT TITLE.**

This subtitle may be cited as the "Exploring for Geothermal Energy on Federal Lands Act".

**SEC. 17802. GEOTHERMAL EXPLORATION NOTICE AND EXCLUSION.**

(a) DEFINITION OF GEOTHERMAL EXPLORATION TEST PROJECT.—In this section the term "geothermal exploration test project" means the drilling of a well to test or explore for geothermal resources on lands leased by the Department of the Interior for the development and production of geothermal resources, that—

- (1) is carried out by the holder of the lease;
- (2) causes—

(A) less than 5 acres of soil or vegetation disruption at the location of each geothermal exploration well; and

(B) not more than an additional 5 acres of soil or vegetation disruption during access or egress to the test site;

- (3) is developed—

(A) no deeper than 2,500 feet;

(B) less than 8 inches in diameter;

(C) in a manner that does not require off-road motorized access other than to and

from the well site along an identified off-road route for which notice is provided to the Secretary of the Interior under subsection (c);

(D) without construction of new roads other than upgrading of existing drainage crossings for safety purposes; and

(E) with the use of rubber-tired digging or drilling equipment vehicles;

(4) is completed in less than 45 days, including the removal of any surface infrastructure from the site; and

(5) requires the restoration of the project site within 3 years to approximately the condition that existed at the time the project began, unless the site is subsequently used as part of energy development on the lease.

(b) NEPA EXCLUSION.—Section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) shall not apply with respect to a project that the Secretary of the Interior determines under subsection (c) is a geothermal exploration test project.

(c) NOTICE OF INTENT; REVIEW AND DETERMINATION.—

(1) REQUIREMENT TO PROVIDE NOTICE.—A leaseholder intending to carry out a geothermal exploration test project shall provide notice to the Secretary of the Interior not later than 30 days prior to the start of drilling under the project.

(2) REVIEW OF PROJECT.—The Secretary shall by not later than 10 days after receipt of a notice of intent under paragraph (1) from a leaseholder—

(A) review the project described in the notice and determine whether it is a geothermal exploration test project under subsection (a); and

(B) notify the leaseholder—

(i) that under subsection (b) of this section, section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) does not apply to the project; or

(ii) that section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) applies to the project, including clear and detailed findings on any deficiencies in the project that preclude the application of subsection (b) of this section to the project.

(3) OPPORTUNITY TO REMEDY.—If the Secretary provides notice under paragraph (2)(B)(ii) that section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) applies to the project, the Secretary shall provide the leaseholder an opportunity to remedy the deficiencies described in the notice prior to the date the leaseholder intended to start of drilling under the project.

The Acting CHAIR. Pursuant to House Resolution 547, the gentleman from Idaho (Mr. LABRADOR) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Idaho.

Mr. LABRADOR. Mr. Chairman, for far too long, the Federal Government has imposed regulatory burdens that have impeded economic growth and limited our access to domestic energy. This legislation, which passed out of the Natural Resources Committee on a bipartisan basis, establishes a common-sense, streamlined policy for the development of clean geothermal energy resources that will create jobs and provide low-cost energy to American families.

In Idaho, we have an abundance of geothermal energy potential that is unavailable due to Federal bureaucratic impediments. Idaho has a unique history of developing geothermal energy. I served for 4 years in the Idaho legislature, where our 100-year-old statehouse is entirely heated by geothermal energy, as are many of our downtown Boise office buildings, old and new. The annual operating costs for generating this abundant heat are essentially zero.

Current law requires each geothermal exploration hole to go through an individual environmental review and approval process, discouraging energy companies from investing in projects and curtailing our access to geothermal energy. Each individual environmental review process can take between 10 months to 2 years to complete.

Now, more than ever, we should encourage private enterprise by removing the regulatory burdens that stall our economic growth. My amendment does just that.

What the legislation does: number one, it improves regulations that hamper geothermal exploration and allows projects to be done without the construction of new roads and without the use of off-road motorized vehicles to ensure minimal environmental damage.

Number two, it protects the environment by requiring the removal of any surface infrastructure to minimize surface impact.

Number three, it sets firm deadlines for permitting to occur, providing the geothermal companies the certainty they need to make appropriate business decisions. This is important.

What my amendment does not do: it does not subsidize geothermal energy. It merely eliminates a regulatory hurdle that is unique to the geothermal development process, allowing increased deployment without a tax credit or other cost to the taxpayers.

It also does not allow geothermal development to occur in any of our pristine areas that are currently off limits to exploration. The bill simply removes bureaucratic layers that companies must endure after they obtain a lease.

I urge my colleagues to support this bipartisan amendment.

I reserve the balance of my time.

Mr. GARAMENDI. Mr. Chairman, I rise in opposition to the amendment.

The Acting CHAIR. The gentleman from California is recognized for 5 minutes.

Mr. GARAMENDI. Thank you.

We're all for geothermal. There's nobody on this side that's opposed to geothermal. We think it is a really good resource. In fact, in my own history way back in California, the first geothermal wells were drilled when I was on the Resources Committee in the State. We did it well. We required an

upfront review of the potential wells, and we continued to do that in California. And it turns out that this particular law would waive the NEPA requirements, simply a categorical exemption for geothermal test wells. It's not necessary, and not wise.

□ 1630

Already the Bureau of Land Management rapidly approves thermal test wells with a very quick environmental review to determine if there's any potential problem in that particular area from that particular well. In fact, about 72 applications had been made, and 47 had been done very quickly. Why were the others not done? There was a potential problem. Perhaps they were near somebody else's resource, perhaps they were in an area that was environmentally sensitive, perhaps they were in an area where you could draw down a naturally occurring hot spring or a geyser.

So there are reasons for the review, and there is no reason for a categorical exemption unless, of course, you want to somehow, bit by bit, terminate NEPA, which seems the strategy of the Republicans here, just nibble away enough so that NEPA has no meaning.

I would draw the attention to the majority here that the natural gas industry obtained an exemption for natural gas fracking from the EPA regulations. The result, at least in Pennsylvania and in New York, was extraordinary trouble for the natural gas industry.

So let's not rush forward here. There's a process in place that provides for an exemption, a very quick process to determine if that particular well is appropriate and allowed to go forward. Where there's trouble, don't do it.

I reserve the balance of my time.

Mr. LABRADOR. Mr. Chairman, I yield 1 minute to the gentleman from Colorado (Mr. LAMBORN).

Mr. LAMBORN. I thank my colleague from Idaho.

I rise in strong support of this amendment. It would streamline the geothermal exploration process to expedite the development of geothermal energy on Federal lands. Being from Colorado, I know well the potential for geothermal energy development. In fact, just last year, the National Renewable Energy Laboratory, NREL, teamed up with IKEA to build the first IKEA store in the United States that is partially powered by geothermal energy.

As our Nation heads down the path of energy security, we should be facilitating the development of renewable energy on Federal land. This is a good amendment that could potentially shave years off the process of geothermal energy exploration and contribute to our increasing domestic energy portfolio in the United States.

I urge your support of the Labrador amendment.

Mr. GARAMENDI. May I ask the remaining time.

The Acting CHAIR. The gentleman from California has 3 minutes remaining.

Mr. GARAMENDI. It sounds good, doesn't it? Until the well happens to destroy the neighbor's well or until the well happens to destroy one of the many hot springs or geysers that exist in public parks, national parks. It sounds good until you begin to understand the implications of what happens when there is no environmental review.

Oh, yeah, it sounds good. But I will guarantee you this, that if this exemption goes forward, it will only be a matter of time before there is a major controversy over the exploration of a well and the effect on surrounding resources. If that's what the majority wants, then go ahead. The result will be a huge blow-up such as we now see with fracking.

We don't need that. What we need to do is rapidly expand our geothermal production in America, and there are many different resources available to us. I would just remind my friend from Colorado that the kind of geothermal he's talking about is not the deep well, hot geothermal, but rather a geothermal that uses the ambient temperature of the soil several feet deep into the ground. That's a different kind of geothermal situation.

What we're talking about here is tapping a hot portion of the Earth and extracting from that the energy that's possible. Do it with care, because there is the potential for very serious problems if you do it incorrectly. Take a look.

And, by the way, to our knowledge, the geothermal industry is not interested in this exemption. There may be some company out there; but in testimony before the committee, it was clear that the geothermal industry said, We don't need this; things are moving along the way we want them to move along.

Understand that there is competition between geothermal companies. One person may be on this side of the geothermal resource, another on the other side, a third entity comes in and tries to extract the oil, the energy in a test well, and, voila, now we've got conflict. Without a review, those things will happen. There is no need for a categorical exemption.

I reserve the balance of my time.

Mr. LABRADOR. Mr. Chairman, may I inquire how much time remains.

The Acting CHAIR. The gentleman has 1½ minutes remaining.

Mr. LABRADOR. I yield 1 minute to the gentleman from Washington (Mr. HASTINGS).

Mr. HASTINGS of Washington. Mr. Chairman, I want to congratulate my friend and colleague from Idaho for this amendment. And let me correct just one statement that was made just

a moment ago. The geothermal industry testified in our committee in favor of this bill. But there seems to be a pattern here when we talk about activity on Federal land, which, of course, is under the jurisdiction of the committee that I have the privilege to chair. And if I hear it once, I hear it dozens of times, and we hear it virtually in all the testimony when we hear of issues that come before our committee, and that is the red tape that you have to go through to utilize our public lands for multiple-purpose use.

Let me just say this, Mr. Chairman. Our public lands were designed, unless Congress sets aside specifically, for multiple use. That means commercial activity and that means recreational activity, a wide variety of activities. But when we have these other laws that inhibit that use, then I think it works against what the American people are trying to accomplish.

This is a very simple process that says, goodness, if you have a lease in an area, why do you have to have so much redundancy to do the same thing over and over again? I think this amendment is a good amendment. As I mentioned, it passed out of committee on a bipartisan vote, and I urge adoption.

Mr. GARAMENDI. I suppose it's time to just finish up this debate, so I yield myself the balance of my time.

A quick quote from Paul Thomsen of Ormat Technologies in committee representing the geothermal industry at the legislative hearing June 23, 2011:

If we can get to an implementation that is consistent with what the current policy currently is, we would be very happy with that and I don't think this necessarily requires a total exemption from NEPA.

Let it be that. We'll go on. They don't need an exemption. And it was just stated that if you've got an area, a resource area, what difference does it make if somebody drills within that area. I can tell you what difference it makes. In California, regarding the geysers—a huge resource, one of the very first in the United States—it makes a great deal of difference where somebody else drills in your neighborhood, because that drilling can dry up your resource.

It is exceedingly important to understand the geology and understand the environmental risks associated with exploratory and then the development. No need for an exemption unless, of course, you want to, once again, nibble away at NEPA until it's not worth having at all, which apparently is the strategy we're seeing from this committee and these numerous amendments.

I yield back the balance of my time.

Mr. LABRADOR. Mr. Chairman, in conclusion, let's correct two statements that were just made. Number one, the Chamber of Commerce and the

geothermal industry testified in our committee that they're for this, and I have letters from them saying that they're for this amendment. And, number two, the bogeyman that they keep using is geyser holes and other things. The EIS for geothermal leasing in the western United States expressly states that the BLM is prohibited from issuing leases on the following lands: lands contained within a unit of the National Park System or that are otherwise administered by the National Park System. They continue to use Yellowstone and all these other bogeymen, and we know that is not true because we cannot do any leasing or any geothermal activity in any of those lands.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Idaho (Mr. LABRADOR).

The question was taken; and the Acting Chair announced that the ayes appeared to have it.

Mr. GARAMENDI. Mr. Chair, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Idaho will be postponed.

□ 1640

AMENDMENT NO. 20 OFFERED BY MR. SCALISE

The Acting CHAIR. It is now in order to consider amendment No. 20 printed in part A of House Report 112-398.

Mr. SCALISE. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

At the end of the bill, add the following (and conform the table of contents accordingly):

#### TITLE XVIII—RESTORE ACT

##### SECTION 18001. SHORT TITLE.

This title may be cited as the "Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012".

##### SEC. 18002. FINDINGS.

Congress finds that—

(1) as a result of decades of oil and gas development in the Gulf of Mexico, producing and nonproducing States in the Gulf Coast region have borne substantial risks of environmental damage and economic harm, all of which culminated with the explosion on, and sinking of, the mobile offshore drilling unit *Deepwater Horizon*;

(2) the discharge of oil in the Gulf of Mexico that began following the explosion on, and sinking of, the mobile offshore drilling unit *Deepwater Horizon* has caused substantial environmental destruction and economic harm to the people and communities of the Gulf Coast region;

(3)(A) in the report entitled "America's Gulf Coast—A Long Term Recovery Plan after the Deepwater Horizon Oil Spill", the Secretary of the Navy stated, "Together, the Gulf's tourism and commercial and recreational fishing industries contribute tens of billions of dollars to the [United States]

economy. More than 90 percent of the [N]ation's offshore crude oil and natural gas is produced in the Gulf, and the [F]ederal treasury receives roughly \$4.5 billion dollars every year from offshore leases and royalties. And it is in the Gulf of Mexico that nearly one third of seafood production in the continental [United States] is harvested. America needs a healthy and resilient Gulf Coast, one that can support the diverse economies, communities, and cultures of the region.";

(B) to address the needs of the Gulf Coast region, the Secretary of the Navy stated, "It is recommended that the President urge Congress to pass legislation that would dedicate a significant amount of any civil penalties recovered under the [Federal Water Pollution Control Act] from parties responsible for the *Deepwater Horizon* oil spill to those directly impacted by that spill.";

(C) to mitigate local challenges and help restore the resiliency of communities adversely affected by the spill, the Secretary of the Navy stated that the legislation described in subparagraph (B) should "[b]uild economic development strategies around community needs, and take particular efforts to address the needs of disadvantaged, underserved, and resource constrained communities";

(4) in a final report to the President, the National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling—

(A) stated, "Estimates of the cost of Gulf restoration, including but not limited to the Mississippi Delta, vary widely, but according to testimony before the Commission, full restoration of the Gulf will require \$15 billion to \$20 billion: a minimum of \$500 million annually for 30 years.";

(B) like the Secretary of the Navy, recommended that, to meet the needs described in subparagraph (A), a substantial portion of applicable penalties under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) be dedicated to long-term restoration of the Gulf of Mexico;

(5) taking into account the risks borne by Gulf Coast States for decades of oil and gas development and the environmental degradation suffered by the Gulf Coast region, the amounts received by the United States as payment of administrative, civil, or criminal penalties in connection with the explosion on, and sinking of, the mobile offshore drilling unit *Deepwater Horizon* should be expended—

(A) to restore the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, barrier islands, dunes, coastal wetlands, and economy of the Gulf Coast; and

(B) to address the associated economic harm suffered by the people and communities of the region;

(6) the projects and programs authorized by this title and the amendments made by this title should be carried out pursuant to contracts awarded in a manner that provides a preference to individuals and entities that reside in, are headquartered in, or are principally engaged in business in a Gulf Coast State; and

(7) Federal, State, and local officials should seek—

(A) to leverage the financial resources made available under this title; and

(B) to the maximum extent practicable, to ensure that projects funded pursuant to this title complement efforts planned or in operation to revitalize the natural resources and economic health of the Gulf Coast region.

##### SEC. 18003. GULF COAST RESTORATION TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund to be known as the "Gulf Coast Restoration Trust Fund" (referred to in this section as the "Trust Fund"), consisting of such amounts as are deposited in the Trust Fund under this section or any other provision of law.

(b) TRANSFERS.—The Secretary of the Treasury shall deposit in the Trust Fund an amount equal to 80 percent of all administrative and civil penalties paid by responsible parties after the date of enactment of this title in connection with the explosion on, and sinking of, the mobile offshore drilling unit *Deepwater Horizon* pursuant to a court order, negotiated settlement, or other instrument in accordance with section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321).

(c) EXPENDITURES.—Amounts in the Trust Fund, including interest earned on advances to the Trust Fund and proceeds from investment under subsection (d), shall be available, pursuant to a future Act of Congress enacted after the date of enactment of this Act—

(1) for expenditure to restore the Gulf Coast region from the *Deepwater Horizon* oil spill for undertaking projects and programs in the Gulf Coast region that would restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, coastal wetlands, and economy of the Gulf Coast region; and

(2) solely to Gulf Coast States and coastal political subdivisions to restore the ecosystems and economy of the Gulf Coast region.

(d) INVESTMENT.—Amounts in the Trust Fund shall be invested in accordance with section 9702 of title 31, United States Code, and any interest on, and proceeds from, any such investment shall be available for expenditure in accordance with this section.

(e) DEFINITIONS.—In this section:

(1) COASTAL POLITICAL SUBDIVISION.—The term "coastal political subdivision" means any local political jurisdiction that is immediately below the State level of government, including a county, parish, or borough, with a coastline that is contiguous with any portion of the United States Gulf of Mexico.

(2) DEEPWATER HORIZON OIL SPILL.—The term "*Deepwater Horizon* oil spill" means the blowout and explosion of the mobile offshore drilling unit *Deepwater Horizon* that occurred on April 20, 2010, and resulting hydrocarbon releases into the environment.

(3) GULF COAST REGION.—The term "Gulf Coast region" means—

(A) in the Gulf Coast States, the coastal zones (as that term is defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)) that border the Gulf of Mexico;

(B) any adjacent land, water, and watersheds, that are within 25 miles of those coastal zones of the Gulf Coast States; and

(C) all Federal waters in the Gulf of Mexico.

(4) GULF COAST STATE.—The term "Gulf Coast State" means any of the States of Alabama, Florida, Louisiana, Mississippi, and Texas.

The Acting CHAIR. Pursuant to House Resolution 547, the gentleman from Louisiana (Mr. SCALISE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Louisiana.



Mr. SCALISE. Mr. Chairman, I yield myself such time as I may consume.

As we approach the 2-year anniversary of the Deepwater Horizon disaster, my amendment sets up the Gulf Coast Restoration Trust Fund and requires that 80 percent of the Clean Water Act fines will be directed to the fund for the purposes of restoring the ecosystems and economies that were directly impacted by the oil spill.

This amendment shares strong bipartisan support and is the first step in ensuring that the Gulf Coast States have the ability to recover from the largest environmental disaster in our country's history.

Mr. Chairman, I reserve the balance of my time.

Ms. CASTOR of Florida. Mr. Chairman, I claim the time in opposition to the amendment.

The Acting CHAIR. The gentlewoman is recognized for 5 minutes.

Ms. CASTOR of Florida. Mr. Chairman, I yield myself 3 minutes.

In the aftermath of the BP Deepwater Horizon disaster, a consensus was reached that 80 percent of the Clean Water Act fines and penalties that BP is required to pay because of the damage go to the gulf coast. President Obama has proposed this, a bipartisan group of lawmakers—lawmakers on both sides of the aisle—agreed to this, a national commission recommended it, businesses, environmentalists, we've all reached consensus that 80 percent of the fines and penalties that BP will be required to pay for violating the Clean Water Act go to Gulf of Mexico recovery and research. But, see, Congress must pass a law to do this.

Everyone has urged the Congress to act on this, but the Congress has not done so, unfortunately. As the cochair of the bipartisan Gulf Coast Caucus, I asked my colleagues not to let the effort languish any longer. The House should act expeditiously to do so and devote 80 percent of the Deepwater Horizon fines and penalties to the Gulf of Mexico.

Unfortunately, the Scalise amendment could be interpreted as an endorsement of a particular piece of legislation, the RESTORE Act. And while the RESTORE Act does devote 80 percent of the fines and penalties to the gulf coast, it is flawed in its current form and does not achieve meaningful recovery for the Gulf of Mexico. So while I urge my colleagues, reluctantly, to defeat this amendment, the time is now for the Congress to pass an 80 percent bill and focus on the economic and environmental recovery of the Gulf of Mexico.

I reserve the balance of my time.

Mr. SCALISE. Mr. Chairman, I would remind my colleague from Florida that this legislation actually is the only instrument available that is germane to

this legislation, that does direct 80 percent of those BP fines to the Gulf Coast States, as the President's commission and many others have called for who support our legislation, the RESTORE Act, by the way.

With that, I yield 45 seconds to the gentleman from Florida (Mr. MILLER).

Mr. MILLER of Florida. I thank the gentleman from Louisiana for the time and for all he has done to bring this forward. I also want to thank all my colleagues from the gulf coast who fought so hard to make sure that this legislation came to the floor.

I would say that, given the time that I have, this amendment is vital. It's important to not only the State of Florida but the entire gulf coast area because it will return a great portion of the fines that will ultimately be paid for the oil spill back to the gulf coast.

The amendment is the first step in a very long process to make sure that BP and the other responsible parties are held responsible, and would start to restore the gulf coast from the damages that were suffered as a result of the worst oil spill in the history of the world. So I urge all my colleagues to support this amendment.

Ms. CASTOR of Florida. Mr. Chairman, at this time I'm pleased to yield 2 minutes to our colleague from Louisiana (Mr. RICHMOND).

Mr. RICHMOND. I thank the gentlewoman from Florida.

I rise today in support of the amendment from my colleague from Louisiana (Mr. SCALISE).

I'd like to just remind the Chair that it was a little less than 2 years ago that the Deepwater Horizon occurred and we lost 11 Americans. We lost the lives of 11 Americans, and over 200 million gallons of oil were spilled into the Gulf of Mexico.

Also, when you look at the damage that occurred, you have to remember that the year of the spill our shrimp supply was down 37 percent, crab was down 39 percent. Every day, when a waitress or a waiter or a bartender went to work, they made less money, business owners were making less money to make ends meet, all because of the Deepwater Horizon oil spill.

So what we want to make sure with this amendment is that those who suffered actually recoup the benefit of it so that they can protect their coast and make sure that they protect their citizens from future hurricanes—not only their citizens, but protect a big investment of this country.

When we talk about our ports, when we talk about the oil and gas industry, I would just remind my colleagues that when Katrina happened, gas prices went up 48 cents around the country. That's because Louisiana was suffering, and we could not produce the oil and gas we normally produce.

So this bill allows us to protect the coast, protect America's energy invest-

ment, and also make sure that we can save the lives of Louisiana citizens.

The last thing that I will add is that we should not let the 200 million gallons of oil and the 11 lives that were lost open up an opportunity for a windfall for the American treasury. We should make sure that these funds go exactly where they should go so that we can help the gulf coast, which is so vital to this country's energy independence and the seafood that we all enjoy.

So I would again just say, Mr. Chairman, that I rise in support of the amendment. It's not perfect, it's not the end all, but this is the best way right now to make sure that the sentiment is established that 80 percent of the fines should go to those coastal communities so that they can help their own recovery.

Mr. SCALISE. Mr. Chairman, I yield 45 seconds to the distinguished gentleman from Alabama (Mr. BONNER).

Mr. BONNER. I thank the gentleman for yielding.

I'm pleased to join my colleagues today in support of this amendment.

Let's be clear: Today's amendment, even if adopted, is not the end of our efforts to make the gulf coast whole after the tragic BP Deepwater Horizon oil spill almost 2 years ago. But make no mistake: This amendment is critically important as a step toward that end.

The creation of the Gulf Coast Restoration Trust Fund is absolutely essential if we're going to ensure that the penalties paid by BP and the other responsible parties are set aside for future expenditure to remediate the long-term environmental and economic damage done to each of the five Gulf Coast States.

Mr. Chairman, the Federal Government should not benefit from the tragedy that occurred in our backyard. And I can't say enough, thanks to Chairman HASTINGS and his leadership for giving us this opportunity with this amendment for this broader effort.

I urge adoption of the amendment.

Ms. CASTOR of Florida. I reserve the balance of my time.

Mr. SCALISE. At this point, Mr. Chairman, I would like to yield 45 seconds to the gentleman from Mississippi (Mr. PALAZZO).

Mr. PALAZZO. I thank my colleague from Louisiana for yielding.

Mr. Chairman, nearly 2 years ago, the Deepwater Horizon explosion took the lives of 11 Americans—and four of those were Mississippians—and caused an oil spill of epic proportions. For 86 days, millions of barrels of oil gushed into the waters of the Gulf of Mexico, washed up on our beaches, and threatened the ecosystems and the economic stability of an entire region of the country.

The road to recovery for the gulf coast has been a long one, and it's not



over. With this amendment, we take a huge step forward in making things right for those most devastated by this spill. These fines are not taxpayer funds. The Federal Government, as my colleague from Alabama said, should not profit from the gulf coast's pain and suffering.

At a time when Congress agrees on so little, this effort has broad bipartisan support in both Houses of Congress, and external, too—conservation and sportsmen. Many agree that restoring and replenishing the gulf coast is more than a responsible decision; it is the right thing to do.

Ms. CASTOR of Florida. Mr. Chairman, I continue to reserve the balance of my time.

Mr. SCALISE. Mr. Chairman, at this time I would like to yield 45 seconds to the gentleman from Florida (Mr. SOUTHERLAND).

Mr. SOUTHERLAND. I'd like to thank the gentleman from Louisiana for yielding. I also would like to commend him on his leadership regarding the work that we have performed on this bipartisan effort to really restore the Gulf of Mexico.

The five States that were affected most, their Representatives here—many who have already spoken today—have worked extremely hard to make sure that the Federal Government never profits from the pain and suffering of those who call the Gulf of Mexico and the gulf coast their home.

This has been a wonderful experience to work across the aisle with many who understand how critical it is that we take care of the hardworking men and women along the gulf coast. I just urge approval and passage of this amendment.

□ 1650

Ms. CASTOR of Florida. I continue to reserve the balance of my time.

Mr. SCALISE. Can I inquire the balance of the time, Mr. Chairman.

The Acting CHAIR. The gentleman has 1¼ minutes remaining.

Mr. SCALISE. I yield 45 seconds to the gentleman from Texas (Mr. OLSON).

Mr. OLSON. Mr. Chairman, I rise in support of the amendment introduced by my friend and colleague on the Energy and Commerce Committee, the gentleman from Louisiana.

In April of 2011, the Deepwater Horizon rig exploded, killing 11 workers and starting the worst oil spill in U.S. history.

While the whole Nation suffered, the five Gulf States were particularly hard hit. Each of our five States suffered differing damages. A moratorium was ordered that sent U.S. jobs overseas with the rigs that went overseas. Tourism on some of our most pristine beaches was lost; the shrimping and fishing industries were unable to bring their catches home.

While the RESTORE Act will not replace the lives lost, it will ensure that

the five States most impacted by the spill get their fair share of the compensation for our damages.

I urge my colleagues to support this amendment and come back to the gulf.

Ms. CASTOR of Florida. I continue to reserve the balance of my time.

Mr. SCALISE. I am prepared to close, Mr. Chairman, so I would reserve and allow the gentlelady from Florida to close.

Ms. CASTOR of Florida. Mr. Chairman, I am very pleased to see so much bipartisan support for legislation to devote 80 percent of the fines and penalties under the Clean Water Act from the BP Deepwater Horizon disaster to the Gulf of Mexico. And I reluctantly have to oppose this amendment because the amendment is entitled RESTORE, and that is one of the pieces of legislation that, on the one hand, does devote 80 percent but, on the other, is completely flawed; and so for that reason, I'm going to have to urge everyone to vote "no."

But let's not lose momentum here. Let's redouble our efforts in this Congress as soon as possible to pass legislation that does devote 80 percent of the fines and penalties to the Gulf of Mexico.

The problems with the RESTORE Act are many. It does not focus on gulf-wide research and recovery. It does not devote the kind of resources to long-term monitoring in the Gulf of Mexico that many other areas in America enjoy. It potentially will duplicate the natural resource damage-assessment billions flowing to the impacted areas.

For those reasons, I urge a "no" vote. I yield back the balance of my time.

Mr. SCALISE. Mr. Chairman, I want to thank the chairman of the Natural Resources Committee, Mr. HASTINGS, for his support and help on this.

Despite the gentlelady from Florida's comments, the RESTORE Act actually has a broad range of support, not only from over 30 Members of Congress from both sides of the aisle, but also from numerous outside groups, both on the environmental side and on the business side.

I will include in the RECORD all of these letters from various business and environmental groups in support of the RESTORE Act.

This amendment is a crucial first step towards ensuring that 80 percent of the BP Clean Water Act fines will be dedicated to help Gulf Coast States, and especially our fragile ecosystems along coastal Louisiana, to fully recover from the Deepwater Horizon disaster.

Just the other day, parish president Billy Nungesser from Plaquemines Parish brought me these pictures that were taken just 2½ weeks ago from south Plaquemines' inner marsh where you can still see clearly dead turtles and oil in the marsh. We're going to be

dealing with these impacts for years to come, Mr. Chairman, and we've seen from other disasters that the proper way to do this is by setting aside those funds to make sure that BP, the responsible parties, not the Federal Government, pay to restore that damage.

THE ASSOCIATED GENERAL

CONTRACTORS OF AMERICA,

Arlington, VA, October 17, 2011.

Re H.R. 3096, the Gulf Coast Restoration Act.

The Hon. STEVE SCALISE,  
House of Representatives,  
Washington, DC.

DEAR REPRESENTATIVE SCALISE: The Associated General Contractors of America (AGC) would like to thank you for supporting the recovery of the Gulf Coast region by introducing H.R. 3096, the Gulf Coast Restoration Act. This legislation will ensure that the penalties the federal government is owed are distributed in the best interest of the coastal communities.

Under current law, the penalties acquired from BP and other responsible parties would go into the U.S. Treasury and the needed Gulf Coast restoration would receive no direct relief from these penalties. This legislation would ensure the vast majority of all civil penalties paid by BP or any other responsible party in connection with the Deepwater Horizon spill would be divided among the five Gulf Coast states most impacted by the spill.

AGC is encouraged this legislation would promote the long-term ecological and economic recovery of the Gulf Coast region through the funding of infrastructure projects, including coastal flood protection, directly affected by coastal wetland losses, beach erosion, or the impacts of the Deepwater Horizon oil spill.

Once again, thank you for your efforts to address the environmental and economic impacts of the Deepwater Horizon oil spill, by providing recovery funds to ensure the restoration of the natural resources in the Gulf Coast region.

Sincerely,

MARCO A. GIAMBERARDINO,

Senior Director, Federal and

Heavy Construction Division.

PARTNERS FOR STENNIS,

Bay St. Louis, MS, October 26, 2011.

Re Support for S. 1400 and H.R. 3096, the RESTORE Act.

Senate Majority Leader HARRY REID,  
522 Hart Senate Office Bldg, Washington, DC.  
Speaker JOHN BOEHNER,

H-232, U.S. Capitol, Washington, DC.

Majority Leader ERIC CANTOR,  
H-329, U.S. Capitol, Washington, DC.

Chairman DOC HASTINGS,  
Committee on Natural Resources, Washington,  
DC.

Chairman JOHN MICA,  
Committee on Transportation and Infrastructure,  
Washington, DC.

Senate Minority Leader MITCH MCCONNELL,  
317 Russell Senate Office Building, Washington,  
DC.

Minority Leader NANCY PELOSI,  
H-204, U.S. Capitol, Washington, DC.

Minority Whip STENY HOYER,  
1705 Longworth House Office Building, Wash-  
ington, DC.

Ranking Member ED MARKEY,  
*Committee on Natural Resources, Washington, DC.*

Ranking Member NICK RAHALL,  
*Committee on Transportation and Infrastructure, Washington, DC.*

DEAR SENATE MAJORITY LEADER HARRY REID, SENATE MINORITY LEADER MITCH MCCONNELL, SPEAKER JOHN BOEHNER, MINORITY LEADER NANCY PELOSI, MAJORITY LEADER ERIC CANTOR, MINORITY WHIP STENY HOYER, CHAIRMAN DOC HASTINGS, RANKING MEMBER ED MARKEY, CHAIRMAN JOHN MICA, AND RANKING MEMBER NICK RAHALL: The undersigned organization enthusiastically support S. 1400 and H.R. 3096, also known as the RESTORE Act, authored by Senator Mary Landrieu, Senator Thad Cochran, Senator Kay Bailey Hutchison, Senator Bill Nelson, Senator Marco Rubio, Senator Jeff Sessions, Senator Richard Shelby, Senator David Vitter, Senator Roger Wicker, Congressman Steve Scalise, Congressman Jo Bonner, Congressman Jeff Miller, Congressman Steve Southerland, Congressman Steven Palazzo, Congressman Pete Olson and other Gulf Coast members. While we recognize that the bills have minor differences, the concept of dedicating at least 80% of BP penalties paid under the Clean Water Act to Gulf Coast states to invest in the long-term health of the coastal ecosystem and its economies provides targeted environmental and economic recovery to the region affected most by the BP Deepwater Horizon Oil Spill.

The penalties that will be assessed exist because of damage inflicted on the Gulf Coast states by the responsible parties. When these penalties and the Oil Spill Liability Trust Fund were created years ago, a spill the magnitude of the BP Deepwater Horizon Oil Spill could not have been anticipated. It only makes sense that the majority of the fines that will be assessed should be directed to the Gulf Coast to help these states recover as they deal with the long-term impacts of the oil spill.

It is not an exaggeration to say that our region's future—economic and otherwise—depends on the restoration of our ecosystems. But even more importantly, the Gulf Coast provides this nation with economic and energy security. Between hosting some of the highest producing ports, a large majority of the oil and gas production in America, and many of the nation's fisheries and top tourism destinations, the Gulf Coast and its sustainability is clearly crucial to the strength of the nation's economy. The Gross Domestic Product (GDP) of the five states of the Gulf Coast region was almost \$2.4 trillion in 2009, representing 30% of the nation's GDP. The Gulf Coast states, if considered an individual country, would rank 7th in global GDP. Failure to restore the Gulf Coast puts our national economy at risk, and with the region still recovering from the effects of the oil spill, we urge you to move the RESTORE Act forward as quickly as possible.

In fact, NASA's Stennis Space Center on the Mississippi Gulf Coast is a federal city uniquely suited to host coastal restoration and recovery efforts. Many of the key federal players involved in response to the Deepwater Horizon oil spill are located at Stennis including the Naval Oceanographic Office, NOAA, EPA Gulf of Mexico Program, USGS along with several state universities. The synergy realized from the multiagency arrangement coupled with the resident technical expertise and geographic location, make Stennis Space Center the best choice to serve as the Headquarters to insure a healthy and resilient Gulf of Mexico.

We believe that enacting the RESTORE Act is vital to the environmental and economic recovery of a region still dealing with the devastating impact of this disaster. We urge Members in the House and Senate to join our support of the RESTORE Act and look forward to working with you to move this legislation forward.

Sincerely,

TISH H. WILLIAMS,

*Executive Director Partners for Stennis.*

U.S. CHAMBER OF COMMERCE,  
CONGRESSIONAL AND PUBLIC AFFAIRS,  
*Washington, DC, February 15, 2012.*

TO THE MEMBERS OF THE HOUSE OF REPRESENTATIVES: The U.S. Chamber of Commerce strongly supports the transportation infrastructure reauthorization legislation that the House has begun to consider. This package of bills, H.R. 7, H.R. 3408 and H.R. 3813, would reinvest in domestic transportation infrastructure, and would help enhance U.S. energy policy by expanding domestic energy production; long term revenues from increased exploration would help ensure long term transportation funding. The Chamber urges you to strongly support this legislation, and urges you to oppose any amendments that would weaken it.

H.R. 7 is a responsible infrastructure investment bill that would extensively reform transportation programs, would make states more accountable for how federal funds are spent, would speed project delivery to reduce overall costs, would provide greater opportunities for private sector investment, and does not contain earmarks. Specifically, the bill would provide for:

Modernization and maintenance of highway, transit and intermodal assets identified as being in the national interest;

Continuing a federal role in ensuring a comprehensive, results-oriented approach to safety;

Focusing on freight to ensure adequate capacity, reduce congestion and increase throughput at key choke points;

Supporting congestion mitigation and improved mobility in urban areas;

Supporting rural connectivity to major economic and population centers;

Speeding project delivery;

Consolidating and simplifying the federal program structure;

Increasing accountability for investment of public funds and expanding performance management;

Supporting research and development toward application of improved technologies; and

Enhancing opportunities for the private sector to partner with the public sector on infrastructure projects.

Although the Chamber believes that the necessary revenues for transportation infrastructure projects should come from a user-fee based source structured to ensure that the purchasing power of revenue sources keeps pace with inflation and is sustainable and predictable, the Chamber recognizes that such an approach lacks consensus in this Congress.

Therefore, the Chamber believes it would be appropriate for Congress to employ general fund resources, including spending reductions, rescissions of authority and other savings measures, to move forward with a multi-year bill and the much needed policy and funding certainty to the states, locals and the private sector provided in this legislation.

The Chamber remains very concerned with provisions of the bill that would make

changes to how transit programs are funded. Unfortunately, such provisions of the bill would create uncertainty and put current and future public transportation investments in jeopardy. We look forward to working with the House, Senate and Administration as the legislative process continues to ensure that transit is provided sustainable and dedicated long term funding levels.

The energy components of the legislation would create long-term jobs and help expand long-term domestic energy security and energy production. These provisions fully restore access to America's offshore oil and gas resources, a move that could provide hundreds of thousands of additional new jobs, hundreds of billions of dollars in cumulative additional revenue for the government, and several million additional barrels oil equivalent per day. The legislation would establish clear rules for the production of domestic oil shale and would remove regulatory barriers that are preventing development of one of America's greatest strategic and economic assets. Furthermore, by opening less than three percent of the North Slope of Alaska to environmentally responsible oil and gas exploration, this legislation would help prolong the life of the Trans-Alaska Pipeline System by ensuring that oil continues to flow through the pipeline while creating important jobs in Alaska and throughout the country. In all, the energy provisions of the legislation would create jobs while adding more stability to energy supplies, a true "win-win" scenario for American consumers.

The Chamber strongly supports efforts by Congress to undo President Obama's rejection of the vital Keystone XL project. This legislation would be an important step towards approval of the proposed 1,600-mile Keystone XL pipeline, which would deliver more than 700,000 barrels of oil per day from Alberta, Canada, through Cushing, Oklahoma, to Gulf Coast refineries. The \$7 billion project is expected to create a more than 20,000 jobs during the manufacturing and construction phases of the project. The pipeline would also reduce need for foreign oil imports from less stable regions of the world. In addition, Keystone XL would provide much need supply distribution infrastructure for American domestic energy producers in the Upper Northwest/Bakken region and in the Southwest.

The Chamber strongly opposes any amendment that would bar exports of petroleum that would pass through the Keystone XL pipeline, or any product refined from such crude. First, such an amendment is unnecessary. Virtually all of the crude that would travel through the Keystone XL pipeline would be refined at American refineries by American workers. Congress should support—not hamper—these American energy workers. Second, such a law would violate commitments the United States has undertaken as a member of the World Trade Organization (WTO). In fact, the United States recently challenged China's export restraints on certain raw materials at the WTO, and the United States won a clear victory in the case. Restricting the re-export of crude or refined product from Keystone XL would violate the same WTO rules.

The U.S. has just begun reversing a two-decade-long decline in energy independence by increasing the proportion of demand met by utilizing all domestic energy sources. America needs a comprehensive energy policy that takes advantage of all domestic energy resources. The Chamber applauds the House for considering legislation that expands production and transmission of oil and

natural gas in this infrastructure legislation. At the same time, we encourage the House to also focus on legislation that expands the development of all other domestic energy sources, including coal and renewables.

The Chamber strongly opposes any amendment to the transportation and energy portions of this legislation that would seek to impose "Buy America" like provisions. Such provisions would have the unintended consequence of delaying the implementation of job-creating projects and greatly diminish competition and efficiency in the contracting process. The direct result would be delayed projects, fewer projects funded, and fewer Americans put back to work. The United States already imposes significant "Buy America" requirements at the federal level that restrict access to procurement markets for countries that have not opened their procurement markets to our exporters, in accordance with the multilateral Government Procurement Agreement. There is no need to expand "Buy America" provisions—doing so would be highly counterproductive, particularly for industry sectors hard hit by the recession.

Additionally, the Chamber supports an amendment offered by Rep. Scalise, which is based on the bipartisan RESTORE Act. This amendment would provide much needed funding to economic and ecosystem restoration efforts in the Gulf Coast solely through the dedication of Clean Water Act penalties collected from the parties responsible for the Deepwater Horizon oil spill.

The U.S. Chamber of Commerce, the world's largest business federation representing the interests of more than three million members and organizations of every size, sector, and region, strongly supports H.R. 7, H.R. 3408 and H.R. 3813. The Chamber will consider including votes on, or in relation to, this legislation in our annual How They Voted scorecard.

Sincerely,

R. BRUCE JOSTEN.

To: Member of Congress.

From: Environmental Defense Fund, National Audubon Society, National Wildlife Federation, The Nature Conservancy, Oxfam America, Coalition to Restore Coastal Louisiana, Lake Pontchartrain Basin Foundation.

Date: February 16, 2012.

Re Urgent information regarding Gulf Coast Restoration.

DEAR MEMBER OF CONGRESS: A very important vote is scheduled this afternoon that could begin critical restoration needed on the Gulf Coast. Reps. Scalise (R-La.) Richmond (D-La.), Bonner (R-Ala.), Miller (R-Fla.), Palazzo (R-Miss.), Olson (R-TX) and Southerland (R-Fla.) will introduce an amendment that sets aside Deepwater Horizon penalty money that is necessary for restoring the Gulf Coast's fragile and damaged ecosystems. We urge you to vote YES on this amendment.

Gulf Coast ecologies are unique and support a wide range of valuable economic activities. After decades of damage—coupled with the impacts of the Deepwater Horizon oil spill—restoration in the Gulf is essential. The Scalise amendment would dedicate penalty money from the oil spill to a trust fund, subject to further legislation directing the expenditure of these funds. Separating and securing the money is an important first step.

Subsequent legislation will need to establish an effective governance structure which will dedicate significant funds specifically

for restoration, protect vulnerable communities and place appropriate limits on the use of funds beyond ecological restoration. Further, restoration funds will be subjected to appropriate operational and spending roles for federal, state, and local partners.

We look forward to working to ensure that the implementing legislation achieves these goals. In the meantime, please establish the trust fund that will allow the Gulf Coast to begin critical restoration. Vote YES on the Scalise amendment.

Sincerely,

ENVIRONMENTAL DEFENSE  
FUND.  
NATIONAL AUDUBON  
SOCIETY.  
NATIONAL WILDLIFE  
FEDERATION.  
THE NATURE CONSERVANCY.  
LAKE PONTCHARTRAIN  
BASIN FOUNDATION.  
OXFAM AMERICA.  
COALITION TO RESTORE  
COASTAL LOUISIANA.

THE AMERICAN SHORE AND BEACH  
PRESERVATION ASSOCIATION,  
*Caswell Beach, NC, February 16, 2012.*

Hon. JOHN A. BOEHNER,

*Speaker, House of Representatives,  
Washington, DC.*

Hon. NANCY PELOSI,

*Minority Leader, House of Representatives,  
Washington, DC.*

DEAR SPEAKER BOEHNER AND MINORITY LEADER PELOSI: The American Shore and Beach Preservation Association (ASBPA) is composed of elected officials from coastal communities throughout the nation, as well as a large contingent of coastal engineers, researchers, scientists, and regulators. Together, we are committed to promoting the health of our country's coastal resources, which play a critical role in perpetuating a robust economy, job creation, and environmental well-being. On behalf of our members, I ask that you support the timely passage of the RESTORE the Gulf Coast States Act (H.R. 3096).

By allocating eighty percent of the Clean Water Act penalties to the five Gulf Coast States, the RESTORE Act creates an essential framework to manage and finance the economic and ecological recovery for years to come. Many communities and businesses are still struggling nearly two years after the spill began and experts fear that the total damage from the spill will not be known for at least a decade. Like the rest of our nation's coastline, the Gulf Coast is comprised of vibrant and productive communities, as well as sensitive ecosystems that have been severely damaged. We believe that this bill balances both the ecological and economic interests of comprehensive restoration.

ASBPA recognizes that the RESTORE Act does not affect collected tax dollars because the Act will only use fines paid by BP and other responsible parties. We do not think that the federal government should profit off of the suffering of the Gulf Coast region, especially when many communities and businesses are not yet back on their feet. A recent study by Duke University shows that the funds from the RESTORE Act will benefit at least 140 firms with 400 employees in thirty-seven states.

Recent news reports indicate that BP and the federal government are likely to settle litigation addressing the 2010 Gulf oil spill. If Congress does not immediately take decisive action before any potential settlement oc-

curs, the economic opportunities created by RESTORE Act could be lost entirely. We urge you to take immediate steps to pass the RESTORE Act, so that the BP oil spill penalties can go where they belong: to ecosystem and economic recovery for the States and communities harmed by the worst environmental disaster in U.S. history.

Sincerely,

HARRY SIMMONS,  
*President.*

I urge support of this amendment, and I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Louisiana (Mr. SCALISE).

The amendment was agreed to.

Mr. HASTINGS of Washington. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. DENHAM) having assumed the chair, Mr. WOODALL, Acting Chair of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 3408) to set clear rules for the development of United States oil shale resources, to promote shale technology research and development, and for other purposes, had come to no resolution thereon.

#### CONFERENCE REPORT ON H.R. 3630, MIDDLE CLASS TAX RELIEF AND JOB CREATION ACT OF 2012

Mr. CAMP submitted the following conference report and statement on the bill (H.R. 3630) to provide incentives for the creation of jobs, and for other purposes:

CONFERENCE REPORT (H. REPT. 112-399)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3630), to provide incentives for the creation of jobs, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) *SHORT TITLE.*—This Act may be cited as the "Middle Class Tax Relief and Job Creation Act of 2012".

(b) *TABLE OF CONTENTS.*—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

#### TITLE I—EXTENSION OF PAYROLL TAX REDUCTION

Sec. 1001. Extension of payroll tax reduction.

#### TITLE II—UNEMPLOYMENT BENEFIT CONTINUATION AND PROGRAM IM- PROVEMENT

Sec. 2001. Short title.

Subtitle A—Reforms of Unemployment Compensation to Promote Work and Job Creation

- Sec. 2101. Consistent job search requirements.
  - Sec. 2102. State flexibility to promote the reemployment of unemployed workers.
  - Sec. 2103. Improving program integrity by better recovery of overpayments.
  - Sec. 2104. Data exchange standardization for improved interoperability.
  - Sec. 2105. Drug testing of applicants.
- Subtitle B—Provisions Relating To Extended Benefits

- Sec. 2121. Short title.
- Sec. 2122. Extension and modification of emergency unemployment compensation program.
- Sec. 2123. Temporary extension of extended benefit provisions.
- Sec. 2124. Additional extended unemployment benefits under the Railroad Unemployment Insurance Act.

Subtitle C—Improving Reemployment Strategies Under the Emergency Unemployment Compensation Program

- Sec. 2141. Improved work search for the long-term unemployed.
- Sec. 2142. Reemployment services and reemployment and eligibility assessment activities.
- Sec. 2143. Promoting program integrity through better recovery of overpayments.
- Sec. 2144. Restore State flexibility to improve unemployment program solvency.

Subtitle D—Short-Time Compensation Program

- Sec. 2160. Short title.
- Sec. 2161. Treatment of short-time compensation programs.
- Sec. 2162. Temporary financing of short-time compensation payments in States with programs in law.
- Sec. 2163. Temporary financing of short-time compensation agreements.
- Sec. 2164. Grants for short-time compensation programs.
- Sec. 2165. Assistance and guidance in implementing programs.
- Sec. 2166. Reports.

Subtitle E—Self-Employment Assistance

- Sec. 2181. State administration of self-employment assistance programs.
- Sec. 2182. Grants for self-employment assistance programs.
- Sec. 2183. Assistance and guidance in implementing self-employment assistance programs.
- Sec. 2184. Definitions.

TITLE III—MEDICARE AND OTHER HEALTH PROVISIONS

Subtitle A—Medicare Extensions

- Sec. 3001. Extension of MMA section 508 reclassifications.
- Sec. 3002. Extension of outpatient hold harmless payments.
- Sec. 3003. Physician payment update.
- Sec. 3004. Work geographic adjustment.
- Sec. 3005. Payment for outpatient therapy services.
- Sec. 3006. Payment for technical component of certain physician pathology services.
- Sec. 3007. Ambulance add-on payments.

Subtitle B—Other Health Provisions

- Sec. 3101. Qualifying individual program.
- Sec. 3102. Transitional medical assistance.

Subtitle C—Health Offsets

- Sec. 3201. Reduction of bad debt treated as an allowable cost.
- Sec. 3202. Rebase Medicare clinical laboratory payment rates.
- Sec. 3203. Rebasement State DSH allotments for fiscal year 2021.
- Sec. 3204. Technical correction to the disaster recovery FMAP provision.
- Sec. 3205. Prevention and Public Health Fund.

TITLE IV—TANF EXTENSION

- Sec. 4001. Short title.
- Sec. 4002. Extension of program.
- Sec. 4003. Data exchange standardization for improved interoperability.
- Sec. 4004. Spending policies for assistance under State TANF programs.
- Sec. 4005. Technical corrections.

TITLE V—FEDERAL EMPLOYEES RETIREMENT

- Sec. 5001. Increase in contributions to Federal Employees' Retirement System for new employees.
- Sec. 5002. Foreign Service Pension System.
- Sec. 5003. Central Intelligence Agency Retirement and Disability System.

TITLE VI—PUBLIC SAFETY COMMUNICATIONS AND ELECTROMAGNETIC SPECTRUM AUCTIONS

- Sec. 6001. Definitions.
- Sec. 6002. Rule of construction.
- Sec. 6003. Enforcement.
- Sec. 6004. National security restrictions on use of funds and auction participation.

Subtitle A—Reallocation of Public Safety Spectrum

- Sec. 6101. Reallocation of D block to public safety.
- Sec. 6102. Flexible use of narrowband spectrum.
- Sec. 6103. 470–512 MHz public safety spectrum.

Subtitle B—Governance of Public Safety Spectrum

- Sec. 6201. Single public safety wireless network licensee.
- Sec. 6202. Public safety broadband network.
- Sec. 6203. Public Safety Interoperability Board.
- Sec. 6204. Establishment of the First Responder Network Authority.
- Sec. 6205. Advisory committees of the First Responder Network Authority.
- Sec. 6206. Powers, duties, and responsibilities of the First Responder Network Authority.
- Sec. 6207. Initial funding for the First Responder Network Authority.
- Sec. 6208. Permanent self-funding; duty to assess and collect fees for network use.
- Sec. 6209. Audit and report.
- Sec. 6210. Annual report to Congress.
- Sec. 6211. Public safety roaming and priority access.
- Sec. 6212. Prohibition on direct offering of commercial telecommunications service directly to consumers.
- Sec. 6213. Provision of technical assistance.

Subtitle C—Public Safety Commitments

- Sec. 6301. State and Local Implementation Fund.
- Sec. 6302. State and local implementation.
- Sec. 6303. Public safety wireless communications research and development.

Subtitle D—Spectrum Auction Authority

- Sec. 6401. Deadlines for auction of certain spectrum.

- Sec. 6402. General authority for incentive auctions.
- Sec. 6403. Special requirements for incentive auction of broadcast TV spectrum.
- Sec. 6404. Certain conditions on auction participation prohibited.
- Sec. 6405. Extension of auction authority.
- Sec. 6406. Unlicensed use in the 5 GHz band.
- Sec. 6407. Guard bands and unlicensed use.
- Sec. 6408. Study on receiver performance and spectrum efficiency.
- Sec. 6409. Wireless facilities deployment.
- Sec. 6410. Functional responsibility of NTIA to ensure efficient use of spectrum.
- Sec. 6411. System certification.
- Sec. 6412. Deployment of 11 GHz, 18 GHz, and 23 GHz microwave bands.
- Sec. 6413. Public Safety Trust Fund.
- Sec. 6414. Study on emergency communications by amateur radio and impediments to amateur radio communications.

Subtitle E—Next Generation 9–1–1 Advancement Act of 2012

- Sec. 6501. Short title.
- Sec. 6502. Definitions.
- Sec. 6503. Coordination of 9–1–1 implementation.
- Sec. 6504. Requirements for multi-line telephone systems.
- Sec. 6505. GAO study of State and local use of 9–1–1 service charges.
- Sec. 6506. Parity of protection for provision or use of Next Generation 9–1–1 services.
- Sec. 6507. Commission proceeding on autodialing.
- Sec. 6508. Report on costs for requirements and specifications of Next Generation 9–1–1 services.
- Sec. 6509. Commission recommendations for legal and statutory framework for Next Generation 9–1–1 services.

Subtitle F—Telecommunications Development Fund

- Sec. 6601. No additional Federal funds.
- Sec. 6602. Independence of the Fund.

Subtitle G—Federal Spectrum Relocation

- Sec. 6701. Relocation of and spectrum sharing by Federal Government stations.
- Sec. 6702. Spectrum Relocation Fund.
- Sec. 6703. National security and other sensitive information.

TITLE VII—MISCELLANEOUS PROVISIONS

- Sec. 7001. Repeal of certain shifts in the timing of corporate estimated tax payments.
- Sec. 7002. Repeal of requirement relating to time for remitting certain merchandise processing fees.
- Sec. 7003. Treatment for PAYGO purposes.

TITLE I—EXTENSION OF PAYROLL TAX REDUCTION

SEC. 1001. EXTENSION OF PAYROLL TAX REDUCTION.

(a) *IN GENERAL.*—Subsection (c) of section 601 of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (26 U.S.C. 1401 note) is amended to read as follows: “(c) *PAYROLL TAX HOLIDAY PERIOD.*—The term ‘payroll tax holiday period’ means calendar years 2011 and 2012.”.

(b) *CONFORMING AMENDMENTS.*—Section 601 of such Act (26 U.S.C. 1401 note) is amended by striking subsections (f) and (g).

(c) *EFFECTIVE DATE.*—The amendments made by this section shall apply to remuneration received, and taxable years beginning, after December 31, 2011.

## **TITLE II—UNEMPLOYMENT BENEFIT CONTINUATION AND PROGRAM IMPROVEMENT**

### **SEC. 2001. SHORT TITLE.**

This title may be cited as the “Extended Benefits, Reemployment, and Program Integrity Improvement Act”.

### **Subtitle A—Reforms of Unemployment Compensation to Promote Work and Job Creation**

#### **SEC. 2101. CONSISTENT JOB SEARCH REQUIREMENTS.**

(a) *IN GENERAL.*—Section 303(a) of the Social Security Act is amended by adding at the end the following:

“(12) A requirement that, as a condition of eligibility for regular compensation for any week, a claimant must be able to work, available to work, and actively seeking work.”.

(b) *EFFECTIVE DATE.*—The amendment made by subsection (a) shall apply to weeks beginning after the end of the first session of the State legislature which begins after the date of enactment of this Act.

#### **SEC. 2102. STATE FLEXIBILITY TO PROMOTE THE REEMPLOYMENT OF UNEMPLOYED WORKERS.**

Title III of the Social Security Act (42 U.S.C. 501 and following) is amended by adding at the end the following:

##### **“DEMONSTRATION PROJECTS**

“SEC. 305. (a) The Secretary of Labor may enter into agreements, with up to 10 States that submit an application described in subsection (b), for the purpose of allowing such States to conduct demonstration projects to test and evaluate measures designed—

“(1) to expedite the reemployment of individuals who have established a benefit year and are otherwise eligible to claim unemployment compensation under the State law of such State; or

“(2) to improve the effectiveness of a State in carrying out its State law with respect to reemployment.

“(b) The Governor of any State desiring to conduct a demonstration project under this section shall submit an application to the Secretary of Labor. Any such application shall include—

“(1) a general description of the proposed demonstration project, including the authority (under the laws of the State) for the measures to be tested, as well as the period of time during which such demonstration project would be conducted;

“(2) if a waiver under subsection (c) is requested, a statement describing the specific aspects of the project to which the waiver would apply and the reasons why such waiver is needed;

“(3) a description of the goals and the expected programmatic outcomes of the demonstration project, including how the project would contribute to the objective described in subsection (a)(1), subsection (a)(2), or both;

“(4) assurances (accompanied by supporting analysis) that the demonstration project would operate for a period of at least 1 calendar year and not result in any increased net costs to the State’s account in the Unemployment Trust Fund;

“(5) a description of the manner in which the State—

“(A) will conduct an impact evaluation, using a methodology appropriate to determine the effects of the demonstration project, including on individual skill levels, earnings, and employment retention; and

“(B) will determine the extent to which the goals and outcomes described in paragraph (3) were achieved;

“(6) assurances that the State will provide any reports relating to the demonstration

project, after its approval, as the Secretary of Labor may require; and

“(7) assurances that employment meets the State’s suitable work requirement and the requirements of section 3304(a)(5) of the Internal Revenue Code of 1986.

“(c) The Secretary of Labor may waive any of the requirements of section 3304(a)(4) of the Internal Revenue Code of 1986 or of paragraph (1) or (5) of section 303(a), to the extent and for the period the Secretary of Labor considers necessary to enable the State to carry out a demonstration project under this section.

“(d) A demonstration project under this section—

“(1) may be commenced any time after the date of enactment of this section;

“(2) may not be approved for a period of time greater than 3 years; and

“(3) must be completed by not later than December 31, 2015.

“(e) Activities that may be pursued under a demonstration project under this section are limited to—

“(1) subsidies for employer-provided training, such as wage subsidies; and

“(2) direct disbursements to employers who hire individuals receiving unemployment compensation, not to exceed the weekly benefit amount for each such individual, to pay part of the cost of wages that exceed the unemployed individual’s prior benefit level.

“(f) The Secretary of Labor shall, in the case of any State for which an application is submitted under subsection (b)—

“(1) notify the State as to whether such application has been approved or denied within 30 days after receipt of a complete application; and

“(2) provide public notice of the decision within 10 days after providing notification to the State in accordance with paragraph (1).

Public notice under paragraph (2) may be provided through the Internet or other appropriate means. Any application under this section that has not been denied within the 30-day period described in paragraph (1) shall be deemed approved, and public notice of any approval under this sentence shall be provided within 10 days thereafter.

“(g) The Secretary of Labor may terminate a demonstration project under this section if the Secretary determines that the State has violated the substantive terms or conditions of the project.

“(h) Funding certified under section 302(a) may be used for an approved demonstration project.”.

#### **SEC. 2103. IMPROVING PROGRAM INTEGRITY BY BETTER RECOVERY OF OVERPAYMENTS.**

(a) *USE OF UNEMPLOYMENT COMPENSATION TO REPAY OVERPAYMENTS.*—Section 3304(a)(4)(D) of the Internal Revenue Code of 1986 and section 303(g)(1) of the Social Security Act are each amended by striking “may” and inserting “shall”.

(b) *USE OF UNEMPLOYMENT COMPENSATION TO REPAY FEDERAL ADDITIONAL COMPENSATION OVERPAYMENTS.*—Section 303(g)(3) of the Social Security Act is amended by inserting “Federal additional compensation,” after “trade adjustment allowances.”.

(c) *EFFECTIVE DATE.*—The amendments made by this section shall apply to weeks beginning after the end of the first session of the State legislature which begins after the date of enactment of this Act.

#### **SEC. 2104. DATA EXCHANGE STANDARDIZATION FOR IMPROVED INTEROPERABILITY.**

(a) *IN GENERAL.*—Title IX of the Social Security Act is amended by adding at the end the following:

##### **“DATA EXCHANGE STANDARDIZATION FOR IMPROVED INTEROPERABILITY**

##### **“Data Exchange Standards**

“SEC. 911. (a)(1) The Secretary of Labor, in consultation with an interagency work group which shall be established by the Office of Management and Budget, and considering State and employer perspectives, shall, by rule, designate a data exchange standard for any category of information required under title III, title XII, or this title.

“(2) Data exchange standards designated under paragraph (1) shall, to the extent practicable, be nonproprietary and interoperable.

“(3) In designating data exchange standards under this subsection, the Secretary of Labor shall, to the extent practicable, incorporate—

“(A) interoperable standards developed and maintained by an international voluntary consensus standards body, as defined by the Office of Management and Budget, such as the International Organization for Standardization;

“(B) interoperable standards developed and maintained by intergovernmental partnerships, such as the National Information Exchange Model; and

“(C) interoperable standards developed and maintained by Federal entities with authority over contracting and financial assistance, such as the Federal Acquisition Regulations Council.

##### **“Data Exchange Standards for Reporting**

“(b)(1) The Secretary of Labor, in consultation with an interagency work group established by the Office of Management and Budget, and considering State and employer perspectives, shall, by rule, designate data exchange standards to govern the reporting required under title III, title XII, or this title.

“(2) The data exchange standards required by paragraph (1) shall, to the extent practicable—

“(A) incorporate a widely accepted, nonproprietary, searchable, computer-readable format;

“(B) be consistent with and implement applicable accounting principles; and

“(C) be capable of being continually upgraded as necessary.

“(3) In designating reporting standards under this subsection, the Secretary of Labor shall, to the extent practicable, incorporate existing nonproprietary standards, such as the eXtensible Markup Language.”.

##### **(b) EFFECTIVE DATES.—**

(1) *DATA EXCHANGE STANDARDS.*—The Secretary of Labor shall issue a proposed rule under section 911(a)(1) of the Social Security Act (as added by subsection (a)) within 12 months after the date of the enactment of this section, and shall issue a final rule under such section 911(a)(1), after public comment, within 24 months after such date of enactment.

(2) *DATA REPORTING STANDARDS.*—The reporting standards required under section 911(b)(1) of such Act (as so added) shall become effective with respect to reports required in the first reporting period, after the effective date of the final rule referred to in paragraph (1) of this subsection, for which the authority for data collection and reporting is established or renewed under the Paperwork Reduction Act.

#### **SEC. 2105. DRUG TESTING OF APPLICANTS.**

Section 303 of the Social Security Act is amended by adding at the end the following:

“(1)(I) Nothing in this Act or any other provision of Federal law shall be considered to prevent a State from enacting legislation to provide for—

“(A) testing an applicant for unemployment compensation for the unlawful use of controlled substances as a condition for receiving such compensation, if such applicant—

“(i) was terminated from employment with the applicant’s most recent employer (as defined

under the State law) because of the unlawful use of controlled substances; or

“(ii) is an individual for whom suitable work (as defined under the State law) is only available in an occupation that regularly conducts drug testing (as determined under regulations issued by the Secretary of Labor); or

“(B) denying such compensation to such applicant on the basis of the result of the testing conducted by the State under legislation described in subparagraph (A).

“(2) For purposes of this subsection—

“(A) the term ‘unemployment compensation’ has the meaning given such term in subsection (d)(2)(A); and

“(B) the term ‘controlled substance’ has the meaning given such term in section 102 of the Controlled Substances Act (21 U.S.C. 802).”.

#### **Subtitle B—Provisions Relating To Extended Benefits**

##### **SEC. 2121. SHORT TITLE.**

This subtitle may be cited as the “Unemployment Benefits Extension Act of 2012”.

##### **SEC. 2122. EXTENSION AND MODIFICATION OF EMERGENCY UNEMPLOYMENT COMPENSATION PROGRAM.**

(a) **EXTENSION.**—Section 4007 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended—

(1) in subsection (a)—

(A) by striking “Except as provided in subsection (b), an” and inserting “An”; and

(B) by striking “March 6, 2012” and inserting “January 2, 2013”; and

(2) by striking subsection (b) and inserting the following:

“(b) **TERMINATION.**—No compensation under this title shall be payable for any week subsequent to the last week described in subsection (a).”.

(b) **MODIFICATIONS RELATING TO TRIGGERS.**—

(1) **FOR SECOND-TIER EMERGENCY UNEMPLOYMENT COMPENSATION.**—Section 4002(c) of such Act is amended—

(A) in the subsection heading, by striking “SPECIAL RULE” and inserting “SECOND-TIER EMERGENCY UNEMPLOYMENT COMPENSATION”; and

(B) in paragraph (1), by striking “At” and all that follows through “augmented by an amount” and inserting “If, at the time that the amount established in an individual’s account under subsection (b) is exhausted or at any time thereafter, such individual’s State is in an extended benefit period (as determined under paragraph (2)), such account shall be augmented by an amount (hereinafter ‘second-tier emergency unemployment compensation’)”; and

(C) by redesignating paragraph (2) as paragraph (4); and

(D) by inserting after paragraph (1) the following:

“(2) **EXTENDED BENEFIT PERIOD.**—For purposes of paragraph (1), a State shall be considered to be in an extended benefit period, as of any given time, if such a period would then be in effect for such State under such Act if—

“(A) section 203(f) of the Federal-State Extended Unemployment Compensation Act of 1970 were applied to such State (regardless of whether the State by law had provided for such application); and

“(B) such section 203(f)—

“(i) were applied by substituting the applicable percentage under paragraph (3) for ‘6.5 percent’ in paragraph (1)(A)(i) thereof; and

“(ii) did not include the requirement under paragraph (1)(A)(ii) thereof.

“(3) **APPLICABLE PERCENTAGE.**—The applicable percentage under this paragraph is, for purposes of determining if a State is in an extended benefit period as of a date occurring in a week ending—

“(A) before June 1, 2012, 0 percent; and

“(B) after the last week under subparagraph (A), 6 percent.”.

(2) **FOR THIRD-TIER EMERGENCY UNEMPLOYMENT COMPENSATION.**—Section 4002(d) of such Act is amended—

(A) in paragraph (2)(A), by striking “under such Act” and inserting “under the Federal-State Extended Unemployment Compensation Act of 1970”; and

(B) in paragraph (2)(B)(ii)(I), by striking the matter after “substituting” and before “in paragraph (1)(A)(i) thereof” and inserting “the applicable percentage under paragraph (3) for ‘6.5 percent’”; and

(C) by redesignating paragraph (3) as paragraph (4); and

(D) by inserting after paragraph (2) the following:

“(3) **APPLICABLE PERCENTAGE.**—The applicable percentage under this paragraph is, for purposes of determining if a State is in an extended benefit period as of a date occurring in a week ending—

“(A) before June 1, 2012, 6 percent; and

“(B) after the last week under subparagraph (A), 7 percent.”.

(3) **FOR FOURTH-TIER EMERGENCY UNEMPLOYMENT COMPENSATION.**—Section 4002(e) of such Act is amended—

(A) in paragraph (2)(A), by striking “under such Act” and inserting “under the Federal-State Extended Unemployment Compensation Act of 1970”; and

(B) in paragraph (2)(B)(ii)(I), by striking the matter after “substituting” and before “in paragraph (1)(A)(i) thereof” and inserting “the applicable percentage under paragraph (3) for ‘6.5 percent’”; and

(C) by redesignating paragraph (3) as paragraph (4); and

(D) by inserting after paragraph (2) the following:

“(3) **APPLICABLE PERCENTAGE.**—The applicable percentage under this paragraph is, for purposes of determining if a State is in an extended benefit period as of a date occurring in a week ending—

“(A) before June 1, 2012, 8.5 percent; and

“(B) after the last week under subparagraph (A), 9 percent.”.

(c) **MODIFICATIONS RELATING TO WEEKS OF EMERGENCY UNEMPLOYMENT COMPENSATION.**—

(1) **NUMBER OF WEEKS IN FIRST TIER BEGINNING AFTER SEPTEMBER 2, 2012.**—Section 4002(b) of such Act is amended—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following:

“(2) **SPECIAL RULE RELATING TO AMOUNTS ESTABLISHED IN AN ACCOUNT AS OF A WEEK ENDING AFTER SEPTEMBER 2, 2012.**—Notwithstanding any provision of paragraph (1), in the case of any account established as of a week ending after September 2, 2012—

“(A) paragraph (1)(A) shall be applied by substituting ‘54 percent’ for ‘80 percent’; and

“(B) paragraph (1)(B) shall be applied by substituting ‘14 weeks’ for ‘20 weeks’.”.

(2) **NUMBER OF WEEKS IN THIRD TIER BEGINNING AFTER SEPTEMBER 2, 2012.**—Section 4002(d) of such Act is amended by adding after paragraph (4) (as so redesignated by subsection (b)(2)(C)) the following:

“(5) **SPECIAL RULE RELATING TO AMOUNTS ADDED TO AN ACCOUNT AS OF A WEEK ENDING AFTER SEPTEMBER 2, 2012.**—Notwithstanding any provision of paragraph (1), if augmentation under this subsection occurs as of a week ending after September 2, 2012—

“(A) paragraph (1)(A) shall be applied by substituting ‘35 percent’ for ‘50 percent’; and

“(B) paragraph (1)(B) shall be applied by substituting ‘9 times’ for ‘13 times’.”.

(3) **NUMBER OF WEEKS IN FOURTH TIER.**—Section 4002(e) of such Act is amended by adding

after paragraph (4) (as so redesignated by subsection (b)(3)(C)) the following:

“(5) **SPECIAL RULES RELATING TO AMOUNTS ADDED TO AN ACCOUNT.**—

“(A) **MARCH TO MAY OF 2012.**—

“(i) **SPECIAL RULE.**—Notwithstanding any provision of paragraph (1) but subject to the following 2 sentences, if augmentation under this subsection occurs as of a week ending after the date of enactment of this paragraph and before June 1, 2012 (or if, as of such date of enactment, any fourth-tier amounts remain in the individual’s account)—

“(I) paragraph (1)(A) shall be applied by substituting ‘62 percent’ for ‘24 percent’; and

“(II) paragraph (1)(B) shall be applied by substituting ‘16 times’ for ‘6 times’.

The preceding sentence shall apply only if, at the time that the account would be augmented under this subparagraph, such individual’s State is not in an extended benefit period as determined under the Federal-State Extended Unemployment Compensation Act of 1970. In no event shall the total amount added to the account of an individual under this subparagraph cause, in the case of an individual described in the parenthetical matter in the first sentence of this clause, the sum of the total amount previously added to such individual’s account under this subsection (as in effect before the date of enactment of this paragraph) and any further amounts added as a result of the enactment of this clause, to exceed the total amount allowable under subclause (I) or (II), as the case may be.

“(ii) **LIMITATION.**—Notwithstanding any other provision of this title, the amounts added to the account of an individual under this subparagraph may not cause the sum of the amounts previously established in or added to such account, plus any weeks of extended benefits provided to such individual under the Federal-State Extended Unemployment Compensation Act of 1970 (based on the same exhaustion of regular compensation under section 4001(b)(1)), to in the aggregate exceed the lesser of—

“(I) 282 percent of the total amount of regular compensation (including dependents’ allowances) payable to the individual during the individual’s benefit year under the State law; or

“(II) 73 times the individual’s average weekly benefit amount (as determined under subsection (b)(3)) for the benefit year.

“(B) **AFTER AUGUST OF 2012.**—Notwithstanding any provision of paragraph (1), if augmentation under this subsection occurs as of a week ending after September 2, 2012—

“(i) paragraph (1)(A) shall be applied by substituting ‘39 percent’ for ‘24 percent’; and

“(ii) paragraph (1)(B) shall be applied by substituting ‘10 times’ for ‘6 times’.”.

(d) **ORDER OF PAYMENTS REQUIREMENT.**—

(1) **IN GENERAL.**—Section 4001(e) of such Act is amended to read as follows:

“(e) **COORDINATION RULE.**—An agreement under this section shall apply with respect to a State only upon a determination by the Secretary that, under the State law or other applicable rules of such State, the payment of extended compensation for which an individual is otherwise eligible must be deferred until after the payment of any emergency unemployment compensation under section 4002, as amended by the Unemployment Benefits Extension Act of 2012, for which the individual is concurrently eligible.”.

(2) **TECHNICAL AND CONFORMING AMENDMENTS.**—Section 4001(b)(2) of such Act is amended—

(A) by striking “or extended compensation”; and

(B) by striking “law (except as provided under subsection (e));” and inserting “law.”.

(e) **FUNDING.**—Section 4004(e)(1) of such Act is amended—



(1) in subparagraph (G), by striking “and” at the end; and

(2) by inserting after subparagraph (H) the following:

“(I) the amendments made by section 2122 of the Unemployment Benefits Extension Act of 2012; and”.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (b), (c), and (d) shall take effect as of February 28, 2012, and shall apply with respect to weeks of unemployment beginning after that date.

(2) WEEK DEFINED.—For purposes of this subsection, the term “week” has the meaning given such term under section 4006 of the Supplemental Appropriations Act, 2008.

#### SEC. 2123. TEMPORARY EXTENSION OF EXTENDED BENEFIT PROVISIONS.

(a) IN GENERAL.—Section 2005 of the Assistance for Unemployed Workers and Struggling Families Act, as contained in Public Law 111–5 (26 U.S.C. 3304 note), is amended—

(1) by striking “March 7, 2012” each place it appears and inserting “December 31, 2012”; and

(2) in subsection (c), by striking “August 15, 2012” and inserting “June 30, 2013”.

(b) EXTENSION OF MATCHING FOR STATES WITH NO WAITING WEEK.—Section 5 of the Unemployment Compensation Extension Act of 2008 (Public Law 110–449; 26 U.S.C. 3304 note) is amended by striking “August 15, 2012” and inserting “June 30, 2013”.

(c) EXTENSION OF MODIFICATION OF INDICATORS UNDER THE EXTENDED BENEFIT PROGRAM.—Section 203 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) is amended—

(1) in subsection (d), by striking “February 29, 2012” and inserting “December 31, 2012”; and

(2) in subsection (f)(2), by striking “February 29, 2012” and inserting “December 31, 2012”.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the Temporary Payroll Tax Cut Continuation Act of 2011 (Public Law 112–78).

#### SEC. 2124. ADDITIONAL EXTENDED UNEMPLOYMENT BENEFITS UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT.

(a) EXTENSION.—Section 2(c)(2)(D)(iii) of the Railroad Unemployment Insurance Act, as added by section 2006 of the American Recovery and Reinvestment Act of 2009 (Public Law 96 111–5) and as amended by section 9 of the Worker, Homeownership, and Business Assistance Act of 2009 (Public Law 111–92), section 505 of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (Public Law 111–312), and section 202 of the Temporary Payroll Tax Cut Continuation Act of 2011 (Public Law 112–78), is amended—

(1) by striking “August 31, 2011” and inserting “June 30, 2012”; and

(2) by striking “February 29, 2012” and inserting “December 31, 2012”.

(b) CLARIFICATION ON AUTHORITY TO USE FUNDS.—Funds appropriated under either the first or second sentence of clause (iv) of section 2(c)(2)(D) of the Railroad Unemployment Insurance Act shall be available to cover the cost of additional extended unemployment benefits provided under such section 2(c)(2)(D) by reason of the amendments made by subsection (a) as well as to cover the cost of such benefits provided under such section 2(c)(2)(D), as in effect on the day before the date of enactment of this Act.

(c) FUNDING FOR ADMINISTRATION.—Out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Railroad Retirement Board \$500,000 for administrative expenses associated with the payment of additional extended unemployment benefits provided

under section 2(c)(2)(D) of the Railroad Unemployment Insurance Act by reason of the amendments made by subsection (a), to remain available until expended.

#### Subtitle C—Improving Reemployment Strategies Under the Emergency Unemployment Compensation Program

##### SEC. 2141. IMPROVED WORK SEARCH FOR THE LONG-TERM UNEMPLOYED.

(a) IN GENERAL.—Section 4001(b) of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended—

(1) by striking “and” at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting “; and”; and

(3) by adding at the end the following:

“(4) are able to work, available to work, and actively seeking work.”.

(b) ACTIVELY SEEKING WORK.—Section 4001 of such Act is amended by adding at the end the following:

“(h) ACTIVELY SEEKING WORK.—

“(1) IN GENERAL.—For purposes of subsection (b)(4), the term ‘actively seeking work’ means, with respect to any individual, that such individual—

“(A) is registered for employment services in such a manner and to such extent as prescribed by the State agency;

“(B) has engaged in an active search for employment that is appropriate in light of the employment available in the labor market, the individual’s skills and capabilities, and includes a number of employer contacts that is consistent with the standards communicated to the individual by the State;

“(C) has maintained a record of such work search, including employers contacted, method of contact, and date contacted; and

“(D) when requested, has provided such work search record to the State agency.

“(2) RANDOM AUDITING.—The Secretary shall establish for each State a minimum number of claims for which work search records must be audited on a random basis in any given week.”.

##### SEC. 2142. REEMPLOYMENT SERVICES AND REEMPLOYMENT AND ELIGIBILITY ASSESSMENT ACTIVITIES.

(a) PROVISION OF SERVICES AND ACTIVITIES.—Section 4001 of such Act, as amended by section 2141(b), is further amended by added at the end the following:

“(i) PROVISION OF SERVICES AND ACTIVITIES.—“(1) IN GENERAL.—An agreement under this section shall require the following:

“(A) The State which is party to such agreement shall provide reemployment services and reemployment and eligibility assessment activities to each individual—

“(i) who, on or after the 30th day after the date of enactment of the Extended Benefits, Reemployment, and Program Integrity Improvement Act, begins receiving amounts described in subsections (b) and (c); and

“(ii) while such individual continues to receive emergency unemployment compensation under this title.

“(B) As a condition of eligibility for emergency unemployment compensation for any week—

“(i) a claimant who has been duly referred to reemployment services shall participate in such services; and

“(ii) a claimant shall be actively seeking work (determined applying subsection (i)).

“(2) DESCRIPTION OF SERVICES AND ACTIVITIES.—The reemployment services and in-person reemployment and eligibility assessment activities provided to individuals receiving emergency unemployment compensation described in paragraph (1)—

“(A) shall include—

“(i) the provision of labor market and career information;

“(ii) an assessment of the skills of the individual;

“(iii) orientation to the services available through the one-stop centers established under title I of the Workforce Investment Act of 1998; and

“(iv) review of the eligibility of the individual for emergency unemployment compensation relating to the job search activities of the individual; and

“(B) may include the provision of—

“(i) comprehensive and specialized assessments;

“(ii) individual and group career counseling;

“(iii) training services;

“(iv) additional reemployment services; and

“(v) job search counseling and the development or review of an individual reemployment plan that includes participation in job search activities and appropriate workshops.

“(3) PARTICIPATION REQUIREMENT.—As a condition of continuing eligibility for emergency unemployment compensation for any week, an individual who has been referred to reemployment services or reemployment and eligibility assessment activities under this subsection shall participate in such services or activities, unless the State agency responsible for the administration of State unemployment compensation law determines that—

“(A) such individual has completed participating in such services or activities; or

“(B) there is justifiable cause for failure to participate or to complete participating in such services or activities, as determined in accordance with guidance to be issued by the Secretary.”.

(b) ISSUANCE OF GUIDANCE.—Not later than 30 days after the date of enactment of this Act, the Secretary shall issue guidance on the implementation of the reemployment services and reemployment and eligibility assessment activities required to be provided under the amendment made by subsection (a).

(c) FUNDING.—

(1) IN GENERAL.—Section 4004(c) of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended—

(A) by striking “STATES.—There” and inserting the following: “STATES.—

“(1) ADMINISTRATION.—There”; and

(B) by adding at the end the following new paragraph:

“(2) REEMPLOYMENT SERVICES AND REEMPLOYMENT AND ELIGIBILITY ASSESSMENT ACTIVITIES.—

“(A) APPROPRIATION.—There are appropriated from the general fund of the Treasury, for the period of fiscal year 2012 through fiscal year 2013, out of the employment security administration account (as established by section 901(a) of the Social Security Act), such sums as determined by the Secretary of Labor in accordance with subparagraph (B) to assist States in providing reemployment services and reemployment and eligibility assessment activities described in section 4001(h)(2).

“(B) DETERMINATION OF TOTAL AMOUNT.—The amount referred to in subparagraph (A) is the amount the Secretary of Labor estimates is equal to—

“(i) the number of individuals who will receive reemployment services and reemployment eligibility and assessment activities described in section 4001(h)(2) in all States through the date specified in section 4007(b)(3); multiplied by

“(ii) \$85.

“(C) DISTRIBUTION AMONG STATES.—Of the amounts appropriated under subparagraph (A), the Secretary of Labor shall distribute amounts to each State, in accordance with section 4003(c), that the Secretary estimates is equal to—

“(i) the number of individuals who will receive reemployment services and reemployment



and eligibility assessment activities described in section 4001(h)(2) in such State through the date specified in section 4007(b)(3); multiplied by

“(ii) \$85.”

(2) **TRANSFER OF FUNDS.**—Section 4004(e) of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended—

(A) in paragraph (1)(G), by striking “and” at the end;

(B) in paragraph (2), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following paragraph:

“(3) to the Employment Security Administration account (as established by section 901(a) of the Social Security Act) such sums as the Secretary of Labor determines to be necessary in accordance with subsection (c)(2) to assist States in providing reemployment services and reemployment eligibility and assessment activities described in section 4001(h)(2).”

**SEC. 2143. PROMOTING PROGRAM INTEGRITY THROUGH BETTER RECOVERY OF OVERPAYMENTS.**

Section 4005(c)(1) of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended—

(1) by striking “may” and inserting “shall”; and

(2) by striking “except that” and all that follows through “made” and inserting “in accordance with the same procedures as apply to the recovery of overpayments of regular unemployment benefits paid by the State”.

**SEC. 2144. RESTORE STATE FLEXIBILITY TO IMPROVE UNEMPLOYMENT PROGRAM SOLVENCY.**

Subsection (g) of section 4001 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) shall not apply with respect to a State that has enacted a law before March 1, 2012, that, upon taking effect, would violate such subsection.

**Subtitle D—Short-Time Compensation Program**

**SEC. 2160. SHORT TITLE.**

This subtitle may be cited as the “Layoff Prevention Act of 2012”.

**SEC. 2161. TREATMENT OF SHORT-TIME COMPENSATION PROGRAMS.**

(a) **DEFINITION.**—

(1) **IN GENERAL.**—Section 3306 of the Internal Revenue Code of 1986 (26 U.S.C. 3306) is amended by adding at the end the following new subsection:

“(v) **SHORT-TIME COMPENSATION PROGRAM.**—For purposes of this part, the term ‘short-time compensation program’ means a program under which—

“(1) the participation of an employer is voluntary;

“(2) an employer reduces the number of hours worked by employees in lieu of layoffs;

“(3) such employees whose workweeks have been reduced by at least 10 percent, and by not more than the percentage, if any, that is determined by the State to be appropriate (but in no case more than 60 percent), are not disqualified from unemployment compensation;

“(4) the amount of unemployment compensation payable to any such employee is a pro rata portion of the unemployment compensation which would otherwise be payable to the employee if such employee were unemployed;

“(5) such employees meet the availability for work and work search test requirements while collecting short-time compensation benefits, by being available for their workweek as required by the State agency;

“(6) eligible employees may participate, as appropriate, in training (including employer-sponsored training or worker training funded under the Workforce Investment Act of 1998) to en-

hance job skills if such program has been approved by the State agency;

“(7) the State agency shall require employers to certify that if the employer provides health benefits and retirement benefits under a defined benefit plan (as defined in section 414(j)) or contributions under a defined contribution plan (as defined in section 414(i)) to any employee whose workweek is reduced under the program that such benefits will continue to be provided to employees participating in the short-time compensation program under the same terms and conditions as though the workweek of such employee had not been reduced or to the same extent as other employees not participating in the short-time compensation program;

“(8) the State agency shall require an employer to submit a written plan describing the manner in which the requirements of this subsection will be implemented (including a plan for giving advance notice, where feasible, to an employee whose workweek is to be reduced) together with an estimate of the number of layoffs that would have occurred absent the ability to participate in short-time compensation and such other information as the Secretary of Labor determines is appropriate;

“(9) the terms of the employer’s written plan and implementation shall be consistent with employer obligations under applicable Federal and State laws; and

“(10) upon request by the State and approval by the Secretary of Labor, only such other provisions are included in the State law that are determined to be appropriate for purposes of a short-time compensation program.”.

(2) **EFFECTIVE DATE.**—Subject to paragraph (3), the amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(3) **TRANSITION PERIOD FOR EXISTING PROGRAMS.**—In the case of a State that is administering a short-time compensation program as of the date of the enactment of this Act and the State law cannot be administered consistent with the amendment made by paragraph (1), such amendment shall take effect on the earlier of—

(A) the date the State changes its State law in order to be consistent with such amendment; or

(B) the date that is 2 years and 6 months after the date of the enactment of this Act.

(b) **CONFORMING AMENDMENTS.**—

(1) **INTERNAL REVENUE CODE OF 1986.**—

(A) Subparagraph (E) of section 3304(a)(4) of the Internal Revenue Code of 1986 is amended to read as follows:

“(E) amounts may be withdrawn for the payment of short-time compensation under a short-time compensation program (as defined under section 3306(v));”.

(B) Subsection (f) of section 3306 of the Internal Revenue Code of 1986 is amended—

(i) by striking paragraph (5) (relating to short-time compensation) and inserting the following new paragraph:

“(5) amounts may be withdrawn for the payment of short-time compensation under a short-time compensation program (as defined in subsection (v)); and”; and

(ii) by redesignating paragraph (5) (relating to self-employment assistance program) as paragraph (6).

(2) **SOCIAL SECURITY ACT.**—Section 303(a)(5) of the Social Security Act is amended by striking “the payment of short-time compensation under a plan approved by the Secretary of Labor” and inserting “the payment of short-time compensation under a short-time compensation program (as defined in section 3306(v) of the Internal Revenue Code of 1986)”.

(3) **UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1992.**—Subsections (b) through (d) of section 401 of the Unemployment Compensation

Amendments of 1992 (26 U.S.C. 3304 note) are repealed.

**SEC. 2162. TEMPORARY FINANCING OF SHORT-TIME COMPENSATION PAYMENTS IN STATES WITH PROGRAMS IN LAW.**

(a) **PAYMENTS TO STATES.**—

(1) **IN GENERAL.**—Subject to paragraph (3), there shall be paid to a State an amount equal to 100 percent of the amount of short-time compensation paid under a short-time compensation program (as defined in section 3306(v) of the Internal Revenue Code of 1986, as added by section 2161(a)) under the provisions of the State law.

(2) **TERMS OF PAYMENTS.**—Payments made to a State under paragraph (1) shall be payable by way of reimbursement in such amounts as the Secretary estimates the State will be entitled to receive under this section for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that the Secretary’s estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

(3) **LIMITATIONS ON PAYMENTS.**—

(A) **GENERAL PAYMENT LIMITATIONS.**—No payments shall be made to a State under this section for short-time compensation paid to an individual by the State during a benefit year in excess of 26 times the amount of regular compensation (including dependents’ allowances) under the State law payable to such individual for a week of total unemployment.

(B) **EMPLOYER LIMITATIONS.**—No payments shall be made to a State under this section for benefits paid to an individual by the State under a short-time compensation program if such individual is employed by the participating employer on a seasonal, temporary, or intermittent basis.

(b) **APPLICABILITY.**—

(1) **IN GENERAL.**—Payments to a State under subsection (a) shall be available for weeks of unemployment—

(A) beginning on or after the date of the enactment of this Act; and

(B) ending on or before the date that is 3 years and 6 months after the date of the enactment of this Act.

(2) **THREE-YEAR FUNDING LIMITATION FOR COMBINED PAYMENTS UNDER THIS SECTION AND SECTION 2163.**—States may receive payments under this section and section 2163 with respect to a total of not more than 156 weeks.

(c) **TWO-YEAR TRANSITION PERIOD FOR EXISTING PROGRAMS.**—During any period that the transition provision under section 2161(a)(3) is applicable to a State with respect to a short-time compensation program, such State shall be eligible for payments under this section. Subject to paragraphs (1)(B) and (2) of subsection (b), if at any point after the date of the enactment of this Act the State enacts a State law providing for the payment of short-time compensation under a short-time compensation program that meets the definition of such a program under section 3306(v) of the Internal Revenue Code of 1986, as added by section 2161(a), the State shall be eligible for payments under this section after the effective date of such enactment.

(d) **FUNDING AND CERTIFICATIONS.**—

(1) **FUNDING.**—There are appropriated, out of moneys in the Treasury not otherwise appropriated, such sums as may be necessary for purposes of carrying out this section.

(2) **CERTIFICATIONS.**—The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this section.

(e) **DEFINITIONS.**—In this section:

(1) **SECRETARY.**—The term “Secretary” means the Secretary of Labor.

(2) **STATE; STATE AGENCY; STATE LAW.**—The terms “State”, “State agency”, and “State law” have the meanings given those terms in section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

**SEC. 2163. TEMPORARY FINANCING OF SHORT-TIME COMPENSATION AGREEMENTS.**

(a) **FEDERAL-STATE AGREEMENTS.**—

(1) **IN GENERAL.**—Any State which desires to do so may enter into, and participate in, an agreement under this section with the Secretary provided that such State’s law does not provide for the payment of short-time compensation under a short-time compensation program (as defined in section 3306(v) of the Internal Revenue Code of 1986, as added by section 2161(a)).

(2) **ABILITY TO TERMINATE.**—Any State which is a party to an agreement under this section may, upon providing 30 days’ written notice to the Secretary, terminate such agreement.

(b) **PROVISIONS OF FEDERAL-STATE AGREEMENT.**—

(1) **IN GENERAL.**—Any agreement under this section shall provide that the State agency of the State will make payments of short-time compensation under a plan approved by the State. Such plan shall provide that payments are made in accordance with the requirements under section 3306(v) of the Internal Revenue Code of 1986, as added by section 2161(a).

(2) **LIMITATIONS ON PLANS.**—

(A) **GENERAL PAYMENT LIMITATIONS.**—A short-time compensation plan approved by a State shall not permit the payment of short-time compensation to an individual by the State during a benefit year in excess of 26 times the amount of regular compensation (including dependents’ allowances) under the State law payable to such individual for a week of total unemployment.

(B) **EMPLOYER LIMITATIONS.**—A short-time compensation plan approved by a State shall not provide payments to an individual if such individual is employed by the participating employer on a seasonal, temporary, or intermittent basis.

(3) **EMPLOYER PAYMENT OF COSTS.**—Any short-time compensation plan entered into by an employer must provide that the employer will pay the State an amount equal to one-half of the amount of short-time compensation paid under such plan. Such amount shall be deposited in the State’s unemployment fund and shall not be used for purposes of calculating an employer’s contribution rate under section 3303(a)(1) of the Internal Revenue Code of 1986.

(c) **PAYMENTS TO STATES.**—

(1) **IN GENERAL.**—There shall be paid to each State with an agreement under this section an amount equal to—

(A) one-half of the amount of short-time compensation paid to individuals by the State pursuant to such agreement; and

(B) any additional administrative expenses incurred by the State by reason of such agreement (as determined by the Secretary).

(2) **TERMS OF PAYMENTS.**—Payments made to a State under paragraph (1) shall be payable by way of reimbursement in such amounts as the Secretary estimates the State will be entitled to receive under this section for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that the Secretary’s estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

(3) **FUNDING.**—There are appropriated, out of moneys in the Treasury not otherwise appro-

priated, such sums as may be necessary for purposes of carrying out this section.

(4) **CERTIFICATIONS.**—The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this section.

(d) **APPLICABILITY.**—

(1) **IN GENERAL.**—An agreement entered into under this section shall apply to weeks of unemployment—

(A) beginning on or after the date on which such agreement is entered into; and

(B) ending on or before the date that is 2 years and 13 weeks after the date of the enactment of this Act.

(2) **TWO-YEAR FUNDING LIMITATION.**—States may receive payments under this section with respect to a total of not more than 104 weeks.

(e) **SPECIAL RULE.**—If a State has entered into an agreement under this section and subsequently enacts a State law providing for the payment of short-time compensation under a short-time compensation program that meets the definition of such a program under section 3306(v) of the Internal Revenue Code of 1986, as added by section 2161(a), the State—

(1) shall not be eligible for payments under this section for weeks of unemployment beginning after the effective date of such State law; and

(2) subject to paragraphs (1)(B) and (2) of section 2162(b), shall be eligible to receive payments under section 2162 after the effective date of such State law.

(f) **DEFINITIONS.**—In this section:

(1) **SECRETARY.**—The term “Secretary” means the Secretary of Labor.

(2) **STATE; STATE AGENCY; STATE LAW.**—The terms “State”, “State agency”, and “State law” have the meanings given those terms in section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

**SEC. 2164. GRANTS FOR SHORT-TIME COMPENSATION PROGRAMS.**

(a) **GRANTS.**—

(1) **FOR IMPLEMENTATION OR IMPROVED ADMINISTRATION.**—The Secretary shall award grants to States that enact short-time compensation programs (as defined in subsection (i)(2)) for the purpose of implementation or improved administration of such programs.

(2) **FOR PROMOTION AND ENROLLMENT.**—The Secretary shall award grants to States that are eligible and submit plans for a grant under paragraph (1) for such States to promote and enroll employers in short-time compensation programs (as so defined).

(3) **ELIGIBILITY.**—

(A) **IN GENERAL.**—The Secretary shall determine eligibility criteria for the grants under paragraphs (1) and (2).

(B) **CLARIFICATION.**—A State administering a short-time compensation program, including a program being administered by a State that is participating in the transition under the provisions of sections 301(a)(3) and 302(c), that does not meet the definition of a short-time compensation program under section 3306(v) of the Internal Revenue Code of 1986 (as added by 211(a)), and a State with an agreement under section 2163, shall not be eligible to receive a grant under this section until such time as the State law of the State provides for payments under a short-time compensation program that meets such definition and such law.

(b) **AMOUNT OF GRANTS.**—

(1) **IN GENERAL.**—The maximum amount available for making grants to a State under paragraphs (1) and (2) shall be equal to the amount obtained by multiplying \$100,000,000 (less the amount used by the Secretary under subsection (e)) by the same ratio as would apply under subsection (a)(2)(B) of section 903 of the Social Se-

curity Act (42 U.S.C. 1103) for purposes of determining such State’s share of any excess amount (as described in subsection (a)(1) of such section) that would have been subject to transfer to State accounts, as of October 1, 2010, under the provisions of subsection (a) of such section.

(2) **AMOUNT AVAILABLE FOR DIFFERENT GRANTS.**—Of the maximum incentive payment determined under paragraph (1) with respect to a State—

(A) one-third shall be available for a grant under subsection (a)(1); and

(B) two-thirds shall be available for a grant under subsection (a)(2).

(c) **GRANT APPLICATION AND DISBURSAL.**—

(1) **APPLICATION.**—Any State seeking a grant under paragraph (1) or (2) of subsection (a) shall submit an application to the Secretary at such time, in such manner, and complete with such information as the Secretary may require. In no case may the Secretary award a grant under this section with respect to an application that is submitted after December 31, 2014.

(2) **NOTICE.**—The Secretary shall, within 30 days after receiving a complete application, notify the State agency of the State of the Secretary’s findings with respect to the requirements for a grant under paragraph (1) or (2) (or both) of subsection (a).

(3) **CERTIFICATION.**—If the Secretary finds that the State law provisions meet the requirements for a grant under subsection (a), the Secretary shall thereupon make a certification to that effect to the Secretary of the Treasury, together with a certification as to the amount of the grant payment to be transferred to the State account in the Unemployment Trust Fund (as established in section 904(a) of the Social Security Act (42 U.S.C. 1104(a))) pursuant to that finding. The Secretary of the Treasury shall make the appropriate transfer to the State account within 7 days after receiving such certification.

(4) **REQUIREMENT.**—No certification of compliance with the requirements for a grant under paragraph (1) or (2) of subsection (a) may be made with respect to any State whose—

(A) State law is not otherwise eligible for certification under section 303 of the Social Security Act (42 U.S.C. 503) or approvable under section 3304 of the Internal Revenue Code of 1986; or

(B) short-time compensation program is subject to discontinuation or is not scheduled to take effect within 12 months of the certification.

(d) **USE OF FUNDS.**—The amount of any grant awarded under this section shall be used for the implementation of short-time compensation programs and the overall administration of such programs and the promotion and enrollment efforts associated with such programs, such as through—

(1) the creation or support of rapid response teams to advise employers about alternatives to layoffs;

(2) the provision of education or assistance to employers to enable them to assess the feasibility of participating in short-time compensation programs; and

(3) the development or enhancement of systems to automate—

(A) the submission and approval of plans; and

(B) the filing and approval of new and ongoing short-time compensation claims.

(e) **ADMINISTRATION.**—The Secretary is authorized to use 0.25 percent of the funds available under subsection (g) to provide for outreach and to share best practices with respect to this section and short-time compensation programs.

(f) **RECOUPMENT.**—The Secretary shall establish a process under which the Secretary shall recoup the amount of any grant awarded under paragraph (1) or (2) of subsection (a) if the Secretary determines that, during the 5-year period

beginning on the first date that any such grant is awarded to the State, the State—

(1) terminated the State's short-time compensation program; or

(2) failed to meet appropriate requirements with respect to such program (as established by the Secretary).

(g) FUNDING.—There are appropriated, out of moneys in the Treasury not otherwise appropriated, to the Secretary, \$100,000,000 to carry out this section, to remain available without fiscal year limitation.

(h) REPORTING.—The Secretary may establish reporting requirements for States receiving a grant under this section in order to provide oversight of grant funds.

(i) DEFINITIONS.—In this section:

(1) SECRETARY.—The term "Secretary" means the Secretary of Labor.

(2) SHORT-TIME COMPENSATION PROGRAM.—The term "short-time compensation program" has the meaning given such term in section 3306(v) of the Internal Revenue Code of 1986, as added by section 2161(a).

(3) STATE; STATE AGENCY; STATE LAW.—The terms "State", "State agency", and "State law" have the meanings given those terms in section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

#### SEC. 2165. ASSISTANCE AND GUIDANCE IN IMPLEMENTING PROGRAMS.

(a) IN GENERAL.—In order to assist States in establishing, qualifying, and implementing short-time compensation programs (as defined in section 3306(v) of the Internal Revenue Code of 1986, as added by section 2161(a)), the Secretary of Labor (in this section referred to as the "Secretary") shall—

(1) develop model legislative language which may be used by States in developing and enacting such programs and periodically review and revise such model legislative language;

(2) provide technical assistance and guidance in developing, enacting, and implementing such programs;

(3) establish reporting requirements for States, including reporting on—

(A) the number of estimated averted layoffs;

(B) the number of participating employers and workers; and

(C) such other items as the Secretary of Labor determines are appropriate.

(b) MODEL LANGUAGE AND GUIDANCE.—The model language and guidance developed under subsection (a) shall allow sufficient flexibility by States and participating employers while ensuring accountability and program integrity.

(c) CONSULTATION.—In developing the model legislative language and guidance under subsection (a), and in order to meet the requirements of subsection (b), the Secretary shall consult with employers, labor organizations, State workforce agencies, and other program experts.

#### SEC. 2166. REPORTS.

(a) REPORT.—

(1) IN GENERAL.—Not later than 4 years after the date of the enactment of this Act, the Secretary of Labor shall submit to Congress and to the President a report or reports on the implementation of the provisions of this subtitle.

(2) REQUIREMENTS.—Any report under paragraph (1) shall at a minimum include the following:

(A) A description of best practices by States and employers in the administration, promotion, and use of short-time compensation programs (as defined in section 3306(v) of the Internal Revenue Code of 1986, as added by section 2161(a)).

(B) An analysis of the significant challenges to State enactment and implementation of short-time compensation programs.

(C) A survey of employers in all States to determine the level of interest in participating in short-time compensation programs.

(b) FUNDING.—There are appropriated, out of any moneys in the Treasury not otherwise appropriated, to the Secretary of Labor, \$1,500,000 to carry out this section, to remain available without fiscal year limitation.

#### Subtitle E—Self-Employment Assistance

#### SEC. 2181. STATE ADMINISTRATION OF SELF-EMPLOYMENT ASSISTANCE PROGRAMS.

(a) AVAILABILITY FOR INDIVIDUALS RECEIVING EXTENDED COMPENSATION.—Title II of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) is amended by inserting at the end the following new section:

##### "AUTHORITY TO CONDUCT SELF-EMPLOYMENT ASSISTANCE PROGRAMS

"SEC. 208. (a)(1) At the option of a State, for any weeks of unemployment beginning after the date of enactment of this section, the State agency of the State may establish a self-employment assistance program, as described in subsection (b), to provide for the payment of extended compensation as self-employment assistance allowances to individuals who would otherwise satisfy the eligibility criteria under this title.

"(2) Subject to paragraph (3), the self-employment assistance allowance described in paragraph (1) shall be paid to an eligible individual from such individual's extended compensation account, as described in section 202(b), and the amount in such account shall be reduced accordingly.

"(3)(A) Subject to subparagraph (B), for purposes of self-employment assistance programs established under this section and section 4001(j) of the Supplemental Appropriations Act, 2008, an individual shall be provided with self-employment assistance allowances under such programs for a total of not greater than 26 weeks (referred to in this section as the 'combined eligibility limit').

"(B) For purposes of an individual who is participating in a self-employment assistance program established under this section and has not reached the combined eligibility limit as of the date on which such individual exhausts all rights to extended compensation under this title, the individual shall be eligible to receive self-employment assistance allowances under a self-employment assistance program established under section 4001(j) of the Supplemental Appropriations Act, 2008, until such individual has reached the combined eligibility limit, provided that the individual otherwise satisfies the eligibility criteria described under title IV of such Act.

"(b) For the purposes of this section, the term 'self-employment assistance program' means a program as defined under section 3306(t) of the Internal Revenue Code of 1986, except as follows:

"(1) all references to 'regular unemployment compensation under the State law' shall be deemed to refer instead to 'extended compensation under title II of the Federal-State Extended Unemployment Compensation Act of 1970';

"(2) paragraph (3)(B) shall not apply;

"(3) clause (i) of paragraph (3)(C) shall be deemed to state as follows:

"(i) include any entrepreneurial training that the State or non-profit organizations may provide in coordination with programs of training offered by the Small Business Administration, which may include business counseling, mentorship for participants, access to small business development resources, and technical assistance; and";

"(4) the reference to '5 percent' in paragraph (4) shall be deemed to refer instead to '1 percent'; and

"(5) paragraph (5) shall not apply.

"(c) In the case of an individual who is eligible to receive extended compensation under this

title, such individual shall not receive self-employment assistance allowances under this section unless the State agency has a reasonable expectation that such individual will be entitled to at least 13 times the individual's average weekly benefit amount of extended compensation and emergency unemployment compensation.

"(d)(1) An individual who is participating in a self-employment assistance program established under this section may elect to discontinue participation in such program at any time.

"(2) For purposes of an individual whose participation in a self-employment assistance program established under this section is terminated pursuant to subsection (a)(3) or who has discontinued participation in such program, if the individual continues to satisfy the eligibility requirements for extended compensation under this title, the individual shall receive extended compensation payments with respect to subsequent weeks of unemployment, to the extent that amounts remain in the account established for such individual under section 202(b)."

(b) AVAILABILITY FOR INDIVIDUALS RECEIVING EMERGENCY UNEMPLOYMENT COMPENSATION.—Section 4001 of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 26 U.S.C. 3304 note), as amended by sections 2141(b) and 2142(a), is further amended by inserting at the end the following new subsection:

##### "(j) AUTHORITY TO CONDUCT SELF-EMPLOYMENT ASSISTANCE PROGRAM.—

"(1) IN GENERAL.—

"(A) ESTABLISHMENT.—Any agreement under subsection (a) may provide that the State agency of the State shall establish a self-employment assistance program, as described in paragraph (2), to provide for the payment of emergency unemployment compensation as self-employment assistance allowances to individuals who would otherwise satisfy the eligibility criteria specified in subsection (b).

"(B) PAYMENT OF ALLOWANCES.—Subject to subparagraph (C), the self-employment assistance allowance described in subparagraph (A) shall be paid to an eligible individual from such individual's emergency unemployment compensation account, as described in section 4002, and the amount in such account shall be reduced accordingly.

"(C) LIMITATION ON SELF-EMPLOYMENT ASSISTANCE FOR INDIVIDUALS RECEIVING EXTENDED COMPENSATION AND EMERGENCY UNEMPLOYMENT COMPENSATION.—

"(i) COMBINED ELIGIBILITY LIMIT.—Subject to clause (ii), for purposes of self-employment assistance programs established under this subsection and section 208 of the Federal-State Extended Unemployment Compensation Act of 1970, an individual shall be provided with self-employment assistance allowances under such programs for a total of not greater than 26 weeks (referred to in this subsection as the 'combined eligibility limit').

"(ii) CARRYOVER RULE.—For purposes of an individual who is participating in a self-employment assistance program established under this subsection and has not reached the combined eligibility limit as of the date on which such individual exhausts all rights to extended compensation under this title, the individual shall be eligible to receive self-employment assistance allowances under a self-employment assistance program established under section 208 of the Federal-State Extended Unemployment Compensation Act of 1970 until such individual has reached the combined eligibility limit, provided that the individual otherwise satisfies the eligibility criteria described under title II of such Act.

"(2) DEFINITION OF 'SELF-EMPLOYMENT ASSISTANCE PROGRAM'.—For the purposes of this section, the term 'self-employment assistance program' means a program as defined under section

3306(t) of the Internal Revenue Code of 1986, except as follows:

“(A) all references to ‘regular unemployment compensation under the State law’ shall be deemed to refer instead to ‘emergency unemployment compensation under title IV of the Supplemental Appropriations Act, 2008’;

“(B) paragraph (3)(B) shall not apply;

“(C) clause (i) of paragraph (3)(C) shall be deemed to state as follows:

“(i) include any entrepreneurial training that the State or non-profit organizations may provide in coordination with programs of training offered by the Small Business Administration, which may include business counseling, mentorship for participants, access to small business development resources, and technical assistance; and”;

“(D) the reference to ‘5 percent’ in paragraph (4) shall be deemed to refer instead to ‘1 percent’; and

“(E) paragraph (5) shall not apply.

“(3) AVAILABILITY OF SELF-EMPLOYMENT ASSISTANCE ALLOWANCES.—In the case of an individual who is eligible to receive emergency unemployment compensation payment under this title, such individual shall not receive self-employment assistance allowances under this subsection unless the State agency has a reasonable expectation that such individual will be entitled to at least 13 times the individual’s average weekly benefit amount of extended compensation and emergency unemployment compensation.

“(4) PARTICIPANT OPTION TO TERMINATE PARTICIPATION IN SELF-EMPLOYMENT ASSISTANCE PROGRAM.—

“(A) TERMINATION.—An individual who is participating in a self-employment assistance program established under this subsection may elect to discontinue participation in such program at any time.

“(B) CONTINUED ELIGIBILITY FOR EMERGENCY UNEMPLOYMENT COMPENSATION.—For purposes of an individual whose participation in the self-employment assistance program established under this subsection is terminated pursuant to paragraph (1)(C) or who has discontinued participation in such program, if the individual continues to satisfy the eligibility requirements for emergency unemployment compensation under this title, the individual shall receive emergency unemployment compensation payments with respect to subsequent weeks of unemployment, to the extent that amounts remain in the account established for such individual under section 4002(b) or to the extent that such individual commences receiving the amounts described in subsections (c), (d), or (e) of such section, respectively.”.

#### **SEC. 2182. GRANTS FOR SELF-EMPLOYMENT ASSISTANCE PROGRAMS.**

(a) IN GENERAL.—

(1) ESTABLISHMENT OR IMPROVED ADMINISTRATION.—Subject to the requirements established under subsection (b), the Secretary shall award grants to States for the purposes of—

(A) improved administration of self-employment assistance programs that have been established, prior to the date of the enactment of this Act, pursuant to section 3306(t) of the Internal Revenue Code of 1986 (26 U.S.C. 3306(t)), for individuals who are eligible to receive regular unemployment compensation;

(B) development, implementation, and administration of self-employment assistance programs that are established, subsequent to the date of the enactment of this Act, pursuant to section 3306(t) of the Internal Revenue Code of 1986, for individuals who are eligible to receive regular unemployment compensation; and

(C) development, implementation, and administration of self-employment assistance programs that are established pursuant to section 208 of

the Federal-State Extended Unemployment Compensation Act of 1970 or section 4001(j) of the Supplemental Appropriations Act, 2008, for individuals who are eligible to receive extended compensation or emergency unemployment compensation.

(2) PROMOTION AND ENROLLMENT.—Subject to the requirements established under subsection (b), the Secretary shall award additional grants to States that submit approved applications for a grant under paragraph (1) for such States to promote self-employment assistance programs and enroll unemployed individuals in such programs.

(b) APPLICATION AND DISBURSAL.—

(1) APPLICATION.—Any State seeking a grant under paragraph (1) or (2) of subsection (a) shall submit an application to the Secretary at such time, in such manner, and containing such information as is determined appropriate by the Secretary. In no case shall the Secretary award a grant under this section with respect to an application that is submitted after December 31, 2013.

(2) NOTICE.—Not later than 30 days after receiving an application described in paragraph (1) from a State, the Secretary shall notify the State agency as to whether a grant has been approved for such State for the purposes described in subsection (a).

(3) CERTIFICATION.—If the Secretary determines that a State has met the requirements for a grant under subsection (a), the Secretary shall make a certification to that effect to the Secretary of the Treasury, as well as a certification as to the amount of the grant payment to be transferred to the State account in the Unemployment Trust Fund under section 904 of the Social Security Act (42 U.S.C. 1104). The Secretary of the Treasury shall make the appropriate transfer to the State account not later than 7 days after receiving such certification.

(c) ALLOTMENT FACTORS.—For purposes of allotting the funds available under subsection (d) to States that have met the requirements for a grant under this section, the amount of the grant provided to each State shall be determined based upon the percentage of unemployed individuals in the State relative to the percentage of unemployed individuals in all States.

(d) FUNDING.—There are appropriated, out of moneys in the Treasury not otherwise appropriated, \$35,000,000 for the period of fiscal year 2012 through fiscal year 2013 for purposes of carrying out the grant program under this section.

#### **SEC. 2183. ASSISTANCE AND GUIDANCE IN IMPLEMENTING SELF-EMPLOYMENT ASSISTANCE PROGRAMS.**

(a) MODEL LANGUAGE AND GUIDANCE.—For purposes of assisting States in establishing, improving, and administering self-employment assistance programs, the Secretary shall—

(1) develop model language that may be used by States in enacting such programs, as well as periodically review and revise such model language; and

(2) provide technical assistance and guidance in establishing, improving, and administering such programs.

(b) REPORTING AND EVALUATION.—

(1) REPORTING.—The Secretary shall establish reporting requirements for States that have established self-employment assistance programs, which shall include reporting on—

(A) the total number of individuals who received unemployment compensation and—

(i) were referred to a self-employment assistance program;

(ii) participated in such program; and

(iii) received an allowance under such program;

(B) the total amount of allowances provided to individuals participating in a self-employment assistance program;

(C) the total income (as determined by survey or other appropriate method) for businesses that have been established by individuals participating in a self-employment assistance program, as well as the total number of individuals employed through such businesses; and

(D) any additional information, as determined appropriate by the Secretary.

(2) EVALUATION.—Not later than 5 years after the date of the enactment of this Act, the Secretary shall submit to Congress a report that evaluates the effectiveness of self-employment assistance programs established by States, including—

(A) an analysis of the implementation and operation of self-employment assistance programs by States;

(B) an evaluation of the economic outcomes for individuals who participated in a self-employment assistance program as compared to individuals who received unemployment compensation and did not participate in a self-employment assistance program, including a comparison as to employment status, income, and duration of receipt of unemployment compensation or self-employment assistance allowances; and

(C) an evaluation of the state of the businesses started by individuals who participated in a self-employment assistance program, including information regarding—

(i) the type of businesses established;

(ii) the sustainability of the businesses;

(iii) the total income collected by the businesses;

(iv) the total number of individuals employed through such businesses; and

(v) the estimated Federal and State tax revenue collected from such businesses and their employees.

(c) FLEXIBILITY AND ACCOUNTABILITY.—The model language, guidance, and reporting requirements developed by the Secretary under subsections (a) and (b) shall—

(1) allow sufficient flexibility for States and participating individuals; and

(2) ensure accountability and program integrity.

(d) CONSULTATION.—For purposes of developing the model language, guidance, and reporting requirements described under subsections (a) and (b), the Secretary shall consult with employers, labor organizations, State agencies, and other relevant program experts.

(e) ENTREPRENEURIAL TRAINING PROGRAMS.—The Secretary shall utilize resources available through the Department of Labor and coordinate with the Administrator of the Small Business Administration to ensure that adequate funding is reserved and made available for the provision of entrepreneurial training to individuals participating in self-employment assistance programs.

(f) SELF-EMPLOYMENT ASSISTANCE PROGRAM.—For purposes of this section, the term “self-employment assistance program” means a program established pursuant to section 3306(t) of the Internal Revenue Code of 1986 (26 U.S.C. 3306(t)), section 208 of the Federal-State Extended Unemployment Compensation Act of 1970, or section 4001(j) of the Supplemental Appropriations Act, 2008, for individuals who are eligible to receive regular unemployment compensation, extended compensation, or emergency unemployment compensation.

#### **SEC. 2184. DEFINITIONS.**

In this subtitle:

(1) SECRETARY.—The term “Secretary” means the Secretary of Labor.

(2) STATE; STATE AGENCY.—The terms “State” and “State agency” have the meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

### TITLE III—MEDICARE AND OTHER HEALTH PROVISIONS

#### Subtitle A—Medicare Extensions

##### SEC. 3001. EXTENSION OF MMA SECTION 508 RECLASSIFICATIONS.

(a) IN GENERAL.—Section 106(a) of division B of the Tax Relief and Health Care Act of 2006 (42 U.S.C. 1395 note), as amended by section 117 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110-173), section 124 of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110-275), sections 3137(a) and 10317 of the Patient Protection and Affordable Care Act (Public Law 111-148), section 102(a) of the Medicare and Medicaid Extenders Act of 2010 (Public Law 111-309), and section 302(a) of the Temporary Payroll Tax Cut Continuation Act of 2011 (Public Law 112-78), is amended by striking “November 30, 2011” and inserting “March 31, 2012”.

##### (b) SPECIAL RULE.—

(1) IN GENERAL.—Subject to paragraph (2), for purposes of implementation of the amendment made by subsection (a), including for purposes of the implementation of paragraph (2) of section 117(a) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110-173), for the period beginning on December 1, 2011, and ending on March 31, 2012, the Secretary of Health and Human Services shall use the hospital wage index that was promulgated by the Secretary of Health and Human Services in the Federal Register on August 18, 2011 (76 Fed. Reg. 51476), and any subsequent corrections.

(2) EXCEPTION.—In determining the wage index applicable to hospitals that qualify for wage index reclassification, the Secretary shall, for the period described in paragraph (1), include the average hourly wage data of hospitals whose reclassification was extended pursuant to the amendment made by subsection (a) only if including such data results in a higher applicable reclassified wage index. Any revision to hospital wage indexes made as a result of this paragraph shall not be effected in a budget neutral manner.

##### (c) TIMEFRAME FOR PAYMENTS.—

(1) IN GENERAL.—The Secretary shall make payments required under subsections (a) and (b) by not later than June 30, 2012.

(2) OCTOBER 2011 AND NOVEMBER 2011 CONFORMING CHANGE.—Section 302(c) of the Temporary Payroll Tax Cut Continuation Act of 2011 (Public Law 112-78) is amended by striking “December 31, 2012” and inserting “June 30, 2012”.

##### SEC. 3002. EXTENSION OF OUTPATIENT HOLD HARMLESS PAYMENTS.

(a) IN GENERAL.—Section 1833(t)(7)(D)(i) of the Social Security Act (42 U.S.C. 1395l(t)(7)(D)(i)), as amended by section 308 of the Temporary Payroll Tax Cut Continuation Act of 2011 (Public Law 112-78), is amended—

##### (1) in subclause (II)—

(A) in the first sentence, by striking “March 1, 2012” and inserting “January 1, 2013”; and

(B) in the second sentence, by striking “or the first two months of 2012” and inserting “or 2012”; and

(2) in subclause (III), in the first sentence, by striking “March 1, 2012” and inserting “January 1, 2013”.

(b) REPORT.—Not later than July 1, 2012, the Secretary of Health and Human Services shall submit to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate a report including recommendations for which types of hospitals should continue to receive hold harmless payments described in subclauses (II) and (III) of section 1833(t)(7)(D)(i) of the Social Security Act (42 U.S.C. 1395l(t)(7)(D)(i)) in order to maintain

adequate beneficiary access to outpatient services. In conducting such report, the Secretary should examine why some similarly situated hospitals do not receive such hold harmless payments and are able to rely only on the prospective payment system for hospital outpatient department services under section 1833(t) of the Social Security Act (42 U.S.C. 1395l(t)).

##### SEC. 3003. PHYSICIAN PAYMENT UPDATE.

(a) IN GENERAL.—Section 1848(d)(13) of the Social Security Act (42 U.S.C. 1395w-4(d)(13)), as added by section 301 of the Temporary Payroll Tax Cut Continuation Act of 2011 (Public Law 112-78), is amended—

(1) in the heading, by striking “FIRST TWO MONTHS OF 2012” and inserting “2012”;;

(2) in subparagraph (A), by striking “the period beginning on January 1, 2012, and ending on February 29, 2012” and inserting “2012”;;

(3) in the heading of subparagraph (B), by striking “REMAINING PORTION OF 2012” and inserting “2013”; and

(4) in subparagraph (B), by striking “for the period beginning on March 1, 2012, and ending on December 31, 2012, and for 2013” and inserting “for 2013”.

##### (b) MANDATED STUDIES ON PHYSICIAN PAYMENT REFORM.—

(1) STUDY BY SECRETARY ON OPTIONS FOR BUNDLED OR EPISODE-BASED PAYMENT.—

(A) IN GENERAL.—The Secretary of Health and Human Services shall conduct a study that examines options for bundled or episode-based payments, to cover physicians’ services currently paid under the physician fee schedule under section 1848 of the Social Security Act (42 U.S.C. 1395w-4), for one or more prevalent chronic conditions (such as cancer, diabetes, and congestive heart failure) or episodes of care for one or more major procedures (such as medical device implantation). In conducting the study, the Secretary shall consult with medical professional societies and other relevant stakeholders. The study shall include an examination of related private payer payment initiatives.

(B) REPORT.—Not later than January 1, 2013, the Secretary shall submit to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under this paragraph. The Secretary shall include in the report recommendations on suitable alternative payment options for services paid under such fee schedule and on associated implementation requirements (such as timelines, operational issues, and interactions with other payment reform initiatives).

##### (2) GAO STUDY OF PRIVATE PAYER INITIATIVES.—

(A) IN GENERAL.—The Comptroller General of the United States shall conduct a study that examines initiatives of private entities offering or administering health insurance coverage, group health plans, or other private health benefit plans to base or adjust physician payment rates under such coverage or plans for performance on quality and efficiency, as well as demonstration of care delivery improvement activities (such as adherence to evidence-based guidelines and patient-shared decision making programs). In conducting such study, the Comptroller General shall consult, to the extent appropriate, with medical professional societies and other relevant stakeholders.

(B) REPORT.—Not later than January 1, 2013, the Comptroller General shall submit to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under this paragraph. Such report shall include an assessment of the applicability of the payer initiatives described in subparagraph (A) to the Medicare program and recommendations on modifications

to existing Medicare performance-based initiatives.

##### SEC. 3004. WORK GEOGRAPHIC ADJUSTMENT.

(a) IN GENERAL.—Section 1848(e)(1)(E) of the Social Security Act (42 U.S.C. 1395w-4(e)(1)(E)), as amended by section 303 of the Temporary Payroll Tax Cut Continuation Act of 2011 (Public Law 112-78), is amended by striking “before March 1, 2012” and inserting “before January 1, 2013”.

(b) REPORT.—Not later than June 15, 2013, the Medicare Payment Advisory Commission shall submit to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate a report that assesses whether any adjustment under section 1848 of the Social Security Act (42 U.S.C. 1395w-4) to distinguish the difference in work effort by geographic area is appropriate and, if so, what that level should be and where it should be applied. The report shall also assess the impact of the work geographic adjustment under such section, including the extent to which the floor on such adjustment impacts access to care.

##### SEC. 3005. PAYMENT FOR OUTPATIENT THERAPY SERVICES.

(a) APPLICATION OF ADDITIONAL REQUIREMENTS.—Section 1833(g)(5) of the Social Security Act (42 U.S.C. 1395l(g)(5)), as amended by section 304 of the Temporary Payroll Tax Cut Continuation Act of 2011 (Public Law 112-78), is amended—

(1) by inserting “(A)” after “(5)”;;

(2) in the first sentence, by striking “February 29, 2012” and inserting “December 31, 2012”;;

(3) in the first sentence, by inserting “and if the requirement of subparagraph (B) is met” after “medically necessary”;;

(4) in the second sentence, by inserting “made in accordance with such requirement” after “receipt of the request”; and

(5) by adding at the end the following new subparagraph:

“(B) In the case of outpatient therapy services for which an exception is requested under the first sentence of subparagraph (A), the claim for such services shall contain an appropriate modifier (such as the KX modifier used as of the date of the enactment of this subparagraph) indicating that such services are medically necessary as justified by appropriate documentation in the medical record involved.

“(C)(i) In applying this paragraph with respect to a request for an exception with respect to expenses that would be incurred for outpatient therapy services (including services described in subsection (a)(8)(B)) that would exceed the threshold described in clause (ii) for a year, the request for such an exception, for services furnished on or after October 1, 2012, shall be subject to a manual medical review process that is similar to the manual medical review process used for certain exceptions under this paragraph in 2006.

“(ii) The threshold under this clause for a year is \$3,700. Such threshold shall be applied separately—

“(I) for physical therapy services and speech-language pathology services; and

“(II) for occupational therapy services.”.

(b) TEMPORARY APPLICATION OF THERAPY CAP TO THERAPY FURNISHED AS PART OF HOSPITAL OUTPATIENT SERVICES.—Section 1833(g) of such Act (42 U.S.C. 1395l(g)) is amended—

(1) in each of paragraphs (1) and (3), by striking “but not described in section 1833(a)(8)(B)” and inserting “but (except as provided in paragraph (6)) not described in subsection (a)(8)(B)”; and

(2) by adding at the end the following new paragraph:

“(6) In applying paragraphs (1) and (3) to services furnished during the period beginning

not later than October 1, 2012, and ending on December 31, 2012, the exclusion of services described in subsection (a)(8)(B) from the uniform dollar limitation specified in paragraph (2) shall not apply to such services furnished during 2012.”.

(c) **REQUIREMENT FOR INCLUSION ON CLAIMS OF NPI OF PHYSICIAN WHO REVIEWS THERAPY PLAN.**—Section 1842(t) of such Act (42 U.S.C. 1395u(t)) is amended—

(1) by inserting “(1)” after “(t)”; and  
(2) by adding at the end the following new paragraph:

“(2) Each request for payment, or bill submitted, for therapy services described in paragraph (1) or (3) of section 1833(g), including services described in section 1833(a)(8)(B), furnished on or after October 1, 2012, for which payment may be made under this part shall include the national provider identifier of the physician who periodically reviews the plan for such services under section 1861(p)(2).”.

(d) **IMPLEMENTATION.**—The Secretary of Health and Human Services shall implement such claims processing edits and issue such guidance as may be necessary to implement the amendments made by this section in a timely manner. Notwithstanding any other provision of law, the Secretary may implement the amendments made by this section by program instruction. Of the amount of funds made available to the Secretary for fiscal year 2012 for program management for the Centers for Medicare & Medicaid Services, not to exceed \$9,375,000 shall be available for such fiscal year and the first 3 months of fiscal year 2013 to carry out section 1833(g)(5)(C) of the Social Security Act (relating to manual medical review), as added by subsection (a).

(e) **EFFECTIVE DATE.**—The requirement of subparagraph (B) of section 1833(g)(5) of the Social Security Act (42 U.S.C. 1395l(g)(5)), as added by subsection (a), shall apply to services furnished on or after March 1, 2012.

(f) **MEDPAC REPORT ON IMPROVED MEDICARE THERAPY BENEFITS.**—Not later than June 15, 2013, the Medicare Payment Advisory Commission shall submit to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and to the Committee on Finance of the Senate a report making recommendations on how to improve the outpatient therapy benefit under part B of title XVIII of the Social Security Act. The report shall include recommendations on how to reform the payment system for such outpatient therapy services under such part so that the benefit is better designed to reflect individual acuity, condition, and therapy needs of the patient. Such report shall include an examination of private sector initiatives relating to outpatient therapy benefits.

(g) **COLLECTION OF ADDITIONAL DATA.**—

(1) **STRATEGY.**—The Secretary of Health and Human Services shall implement, beginning on January 1, 2013, a claims-based data collection strategy that is designed to assist in reforming the Medicare payment system for outpatient therapy services subject to the limitations of section 1833(g) of the Social Security Act (42 U.S.C. 1395l(g)). Such strategy shall be designed to provide for the collection of data on patient function during the course of therapy services in order to better understand patient condition and outcomes.

(2) **CONSULTATION.**—In proposing and implementing such strategy, the Secretary shall consult with relevant stakeholders.

(h) **GAO REPORT ON MANUAL MEDICAL REVIEW PROCESS IMPLEMENTATION.**—Not later than May 1, 2013, the Comptroller General of the United States shall submit to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and to the Com-

mittee on Finance of the Senate a report on the implementation of the manual medical review process referred to in section 1833(g)(5)(C) of the Social Security Act, as added by subsection (a). Such report shall include aggregate data on the number of individuals and claims subject to such process, the number of reviews conducted under such process, and the outcome of such reviews.

**SEC. 3006. PAYMENT FOR TECHNICAL COMPONENT OF CERTAIN PHYSICIAN PATHOLOGY SERVICES.**

Section 542(c) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (as enacted into law by section 1(a)(6) of Public Law 106-554), as amended by section 732 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 1395w-4 note), section 104 of division B of the Tax Relief and Health Care Act of 2006 (42 U.S.C. 1395w-4 note), section 104 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110-173), section 136 of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110-275), section 3104 of the Patient Protection and Affordable Care Act (Public Law 111-148), section 105 of the Medicare and Medicaid Extenders Act of 2010 (Public Law 111-309), and section 305 of the Temporary Payroll Tax Cut Continuation Act of 2011 (Public Law 112-78), is amended by striking “and the first two months of 2012” and inserting “and the first six months of 2012”.

**SEC. 3007. AMBULANCE ADD-ON PAYMENTS.**

(a) **GROUND AMBULANCE.**—Section 1834(l)(13)(A) of the Social Security Act (42 U.S.C. 1395m(l)(13)(A)), as amended by section 306(a) of the Temporary Payroll Tax Cut Continuation Act of 2011 (Public Law 112-78), is amended—

(1) in the matter preceding clause (i), by striking “March 1, 2012” and inserting “January 1, 2013”; and

(2) in each of clauses (i) and (ii), by striking “March 1, 2012” and inserting “January 1, 2013” each place it appears.

(b) **AIR AMBULANCE.**—Section 146(b)(1) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110-275), as amended by sections 3105(b) and 10311(b) of the Patient Protection and Affordable Care Act (Public Law 111-148), section 106(b) of the Medicare and Medicaid Extenders Act of 2010 (Public Law 111-309) and section 306(b) of the Temporary Payroll Tax Cut Continuation Act of 2011 (Public Law 112-78), is amended by striking “February 29, 2012” and inserting “December 31, 2012”.

(c) **SUPER RURAL AMBULANCE.**—Section 1834(l)(12)(A) of the Social Security Act (42 U.S.C. 1395m(l)(12)(A)), as amended by section 306(c) of Temporary Payroll Tax Cut Continuation Act of 2011 (Public Law 112-78), is amended in the first sentence by striking “March 1, 2012” and inserting “January 1, 2013”.

(d) **GAO REPORT UPDATE.**—Not later than October 1, 2012, the Comptroller General of the United States shall update the GAO report GAO 07-383 (relating to Ambulance Providers: Costs and Expected Medicare Margins Vary Greatly) to reflect current costs for ambulance providers.

(e) **MEDPAC REPORT.**—The Medicare Payment Advisory Commission shall conduct a study of—

(1) the appropriateness of the add-on payments for ambulance providers under paragraphs (12)(A) and (13)(A) of section 1834(l) of the Social Security Act (42 U.S.C. 1395m(l)) and the treatment of air ambulance providers under section 146(b)(1) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110-275);

(2) the effect these add-on payments and such treatment have on the Medicare margins of ambulance providers; and

(3) whether there is a need to reform the Medicare ambulance fee schedule under such section and, if so, what should such reforms be, including whether the add-on payments should be included in the base rate.

Not later than June 15, 2013, the Commission shall submit to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate a report on such study and shall include in the report such recommendations as the Commission deems appropriate.

**Subtitle B—Other Health Provisions**

**SEC. 3101. QUALIFYING INDIVIDUAL PROGRAM.**

(a) **EXTENSION.**—Section 1902(a)(10)(E)(iv) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)(iv)), as amended by section 310(a) of the Temporary Payroll Tax Cut Continuation Act of 2011 (Public Law 112-78), is amended by striking “February” and inserting “December”.

(b) **EXTENDING TOTAL AMOUNT AVAILABLE FOR ALLOCATION.**—Section 1933(g) of such Act (42 U.S.C. 1396u-3(g)), as amended by section 310(b) of the Temporary Payroll Tax Cut Continuation Act of 2011 (Public Law 112-78), is amended—

(1) in paragraph (2)—

(A) in subparagraph (P), by striking “and” after the semicolon;

(B) in subparagraph (Q), by striking “February 29, 2012, the total allocation amount is \$150,000,000.” and inserting “September 30, 2012, the total allocation amount is \$450,000,000; and”; and

(C) by adding at the end the following new subparagraph:

“(R) for the period that begins on October 1, 2012, and ends on December 31, 2012, the total allocation amount is \$280,000,000.”; and

(2) in paragraph (3), in the matter preceding subparagraph (A), by striking “or (P)” and inserting “(P), or (R)”.

**SEC. 3102. TRANSITIONAL MEDICAL ASSISTANCE.**

Sections 1902(e)(1)(B) and 1925(f) of the Social Security Act (42 U.S.C. 1396a(e)(1)(B), 1396r-6(f)), as amended by section 311 of the Temporary Payroll Tax Cut Continuation Act of 2011 (Public Law 112-78), are each amended by striking “February 29” and inserting “December 31”.

**Subtitle C—Health Offsets**

**SEC. 3201. REDUCTION OF BAD DEBT TREATED AS AN ALLOWABLE COST.**

(a) **HOSPITALS.**—Section 1861(v)(1)(T) of the Social Security Act (42 U.S.C. 1395x(v)(1)(T)) is amended—

(1) in clause (iii), by striking “and” at the end;

(2) in clause (iv)—

(A) by striking “a subsequent fiscal year” and inserting “fiscal years 2001 through 2012”; and

(B) by striking the period at the end and inserting “, and”; and

(3) by adding at the end the following:

“(v) for cost reporting periods beginning during fiscal year 2013 or a subsequent fiscal year, by 35 percent of such amount otherwise allowable.”.

(b) **SKILLED NURSING FACILITIES.**—Section 1861(v)(1)(V) of such Act (42 U.S.C. 1395x(v)(1)(V)) is amended—

(1) in the matter preceding clause (i), by striking “with respect to cost reporting periods beginning on or after October 1, 2005” and inserting “and (beginning with respect to cost reporting periods beginning during fiscal year 2013) for covered skilled nursing services described in section 1888(e)(2)(A) furnished by hospital providers of extended care services (as described in section 1883)”;

(2) in clause (i), by striking “reduced by” and all that follows through “allowable; and” and inserting the following: “reduced by—



“(I) for cost reporting periods beginning on or after October 1, 2005, but before fiscal year 2013, 30 percent of such amount otherwise allowable; and

“(II) for cost reporting periods beginning during fiscal year 2013 or a subsequent fiscal year, by 35 percent of such amount otherwise allowable.”; and

(3) in clause (ii), by striking “such section shall not be reduced.” and inserting “such section—

“(I) for cost reporting periods beginning on or after October 1, 2005, but before fiscal year 2013, shall not be reduced;

“(II) for cost reporting periods beginning during fiscal year 2013, shall be reduced by 12 percent of such amount otherwise allowable;

“(III) for cost reporting periods beginning during fiscal year 2014, shall be reduced by 24 percent of such amount otherwise allowable; and

“(IV) for cost reporting periods beginning during a subsequent fiscal year, shall be reduced by 35 percent of such amount otherwise allowable.”.

(c) CERTAIN OTHER PROVIDERS.—Section 1861(v)(1) of such Act (42 U.S.C. 1395x(v)(1)) is amended by adding at the end the following new subparagraph:

“(W)(i) In determining such reasonable costs for providers described in clause (ii), the amount of bad debts otherwise treated as allowable costs which are attributable to deductibles and coinsurance amounts under this title shall be reduced—

“(I) for cost reporting periods beginning during fiscal year 2013, by 12 percent of such amount otherwise allowable;

“(II) for cost reporting periods beginning during fiscal year 2014, by 24 percent of such amount otherwise allowable; and

“(III) for cost reporting periods beginning during a subsequent fiscal year, by 35 percent of such amount otherwise allowable.

“(ii) A provider described in this clause is a provider of services not described in subparagraph (T) or (V), a supplier, or any other type of entity that receives payment for bad debts under the authority under subparagraph (A).”.

(d) CONFORMING AMENDMENT FOR HOSPITAL SERVICES.—Section 4008(c) of the Omnibus Budget Reconciliation Act of 1987 (42 U.S.C. 1395 note), as amended by section 8402 of the Technical and Miscellaneous Revenue Act of 1988 and section 6023 of the Omnibus Budget Reconciliation Act of 1989, is amended by adding at the end the following new sentence: “Effective for cost reporting periods beginning on or after October 1, 2012, the provisions of the previous two sentences shall not apply.”.

#### SEC. 3202. REBASE MEDICARE CLINICAL LABORATORY PAYMENT RATES.

Section 1833(h)(2)(A) of the Social Security Act (42 U.S.C. 1395l(h)(2)(A)) is amended—

(1) in clause (i), by striking “paragraph (4)” and inserting “clause (v), subparagraph (B), and paragraph (4)”;

(2) by moving clause (iv), subclauses (I) and (II) of such clause, and the flush matter at the end of such clause 6 ems to the left; and

(3) by adding at the end the following new clause:

“(v) The Secretary shall reduce by 2 percent the fee schedules otherwise determined under clause (i) for 2013, and such reduced fee schedules shall serve as the base for 2014 and subsequent years.”.

#### SEC. 3203. REBASING STATE DSH ALLOTMENTS FOR FISCAL YEAR 2021.

Section 1923(f) of the Social Security Act (42 U.S.C. 1396r-4(f)) is amended—

(1) by redesignating paragraph (8) as paragraph (9);

(2) in paragraph (3)(A) by striking “paragraphs (6) and (7)” and inserting “paragraphs (6), (7), and (8)”;

(3) by inserting after paragraph (7) the following new paragraph:

“(8) REBASING OF STATE DSH ALLOTMENTS FOR FISCAL YEAR 2021.—With respect to fiscal year 2021, for purposes of applying paragraph (3)(A) to determine the DSH allotment for a State, the amount of the DSH allotment for the State under paragraph (3) for fiscal year 2020 shall be equal to the DSH allotment as reduced under paragraph (7).”.

#### SEC. 3204. TECHNICAL CORRECTION TO THE DISTASTER RECOVERY FMAP PROVISION.

(a) IN GENERAL.—Section 1905(aa) of the Social Security Act (42 U.S.C. 1396d(aa)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking “the Federal medical assistance percentage determined for the fiscal year” and all that follows through the period and inserting “the State’s regular FMAP shall be increased by 50 percent of the number of percentage points by which the State’s regular FMAP for such fiscal year is less than the Federal medical assistance percentage determined for the State for the preceding fiscal year after the application of only subsection (a) of section 5001 of Public Law 111-5 (if applicable to the preceding fiscal year) and without regard to this subsection, subsections (y) and (z), and subsections (b) and (c) of section 5001 of Public Law 111-5.”; and

(B) in subparagraph (B), by striking “Federal medical assistance percentage determined for the preceding fiscal year” and all that follows through the period and inserting “State’s regular FMAP for such fiscal year shall be increased by 25 percent of the number of percentage points by which the State’s regular FMAP for such fiscal year is less than the Federal medical assistance percentage received by the State during the preceding fiscal year.”;

(2) in paragraph (2)—

(A) in subparagraph (A)—

(i) by striking “Federal medical assistance percentage determined for the State for the fiscal year” and all that follows through “Act,” and inserting “State’s regular FMAP for the fiscal year”; and

(ii) by striking “subsection (y)” and inserting “subsections (y) and (z)”;

(B) in subparagraph (B), by striking “Federal medical assistance percentage determined for the State for the fiscal year” and all that follows through “Act,” and inserting “State’s regular FMAP for the fiscal year”;

(3) by redesignating paragraph (3) as paragraph (4); and

(4) by inserting after paragraph (2) the following:

“(3) In this subsection, the term ‘regular FMAP’ means, for each fiscal year for which this subsection applies to a State, the Federal medical assistance percentage that would otherwise apply to the State for the fiscal year, as determined under subsection (b) and without regard to this subsection, subsections (y) and (z), and section 10202 of the Patient Protection and Affordable Care Act.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 2013.

#### SEC. 3205. PREVENTION AND PUBLIC HEALTH FUND.

Section 4002(b) of the Patient Protection and Affordable Care Act (42 U.S.C. 300u-11(b)) is amended by striking paragraphs (2) through (6) and inserting the following:

“(2) for each of fiscal years 2012 through 2017, \$1,000,000,000;

“(3) for each of fiscal years 2018 and 2019, \$1,250,000,000;

“(4) for each of fiscal years 2020 and 2021, \$1,500,000,000; and

“(5) for fiscal year 2022, and each fiscal year thereafter, \$2,000,000,000.”.

### TITLE IV—TANF EXTENSION

#### SEC. 4001. SHORT TITLE.

This title may be cited as the “Welfare Integrity and Data Improvement Act”.

#### SEC. 4002. EXTENSION OF PROGRAM.

(a) FAMILY ASSISTANCE GRANTS.—Section 403(a)(1) of the Social Security Act (42 U.S.C. 603(a)(1)) is amended—

(1) in subparagraph (A), by striking “each of fiscal years 1996” and all that follows through “2003” and inserting “fiscal year 2012”;

(2) in subparagraph (B)—

(A) by inserting “(as in effect just before the enactment of the Welfare Integrity and Data Improvement Act)” after “this paragraph” the 1st place it appears; and

(B) by inserting “(as so in effect)” after “this paragraph” the 2nd place it appears; and

(3) in subparagraph (C), by striking “2003” and inserting “2012”.

(b) HEALTHY MARRIAGE PROMOTION AND RESPONSIBLE FATHERHOOD GRANTS.—Section 403(a)(2)(D) of such Act (42 U.S.C. 603(a)(2)(D)) is amended by striking “2011” each place it appears and inserting “2012”.

(c) MAINTENANCE OF EFFORT REQUIREMENT.—Section 409(a)(7) of such Act (42 U.S.C. 609(a)(7)) is amended—

(1) in subparagraph (A), by striking “fiscal year” and all that follows through “2013” and inserting “a fiscal year”; and

(2) in subparagraph (B)(ii)—

(A) by striking “for fiscal years 1997 through 2012.”; and

(B) by striking “407(a) for the fiscal year,” and inserting “407(a).”.

(d) TRIBAL GRANTS.—Section 412(a) of such Act (42 U.S.C. 612(a)) is amended in each of paragraphs (1)(A) and (2)(A) by striking “each of fiscal years 1997” and all that follows through “2003” and inserting “fiscal year 2012”.

(e) STUDIES AND DEMONSTRATIONS.—Section 413(h)(1) of such Act (42 U.S.C. 613(h)(1)) is amended by striking “each of fiscal years 1997 through 2002” and inserting “fiscal year 2012”.

(f) CENSUS BUREAU STUDY.—Section 414(b) of such Act (42 U.S.C. 614(b)) is amended by striking “each of fiscal years 1996” and all that follows through “2003” and inserting “fiscal year 2012”.

(g) CHILD CARE ENTITLEMENT.—Section 418(a)(3) of such Act (42 U.S.C. 618(a)(3)) is amended by striking “appropriated” and all that follows and inserting “appropriated \$2,917,000,000 for fiscal year 2012.”.

(h) GRANTS TO TERRITORIES.—Section 1108(b)(2) of such Act (42 U.S.C. 1308(b)(2)) is amended by striking “fiscal years 1997 through 2003” and inserting “fiscal year 2012”.

(i) PREVENTION OF DUPLICATE APPROPRIATIONS FOR FISCAL YEAR 2012.—Expenditures made pursuant to the Short-Term TANF Extension Act (Public Law 112-35) and the Temporary Payroll Tax Cut Continuation Act of 2011 (Public Law 112-78) for fiscal year 2012 shall be charged to the applicable appropriation or authorization provided by the amendments made by this section for such fiscal year.

(j) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the date of the enactment of this Act.

#### SEC. 4003. DATA EXCHANGE STANDARDIZATION FOR IMPROVED INTEROPERABILITY.

(a) IN GENERAL.—Section 411 of the Social Security Act (42 U.S.C. 611) is amended by adding at the end the following:

“(d) DATA EXCHANGE STANDARDIZATION FOR IMPROVED INTEROPERABILITY.—

“(1) DATA EXCHANGE STANDARDS.—

“(A) DESIGNATION.—The Secretary, in consultation with an interagency work group which shall be established by the Office of Management and Budget, and considering State and tribal perspectives, shall, by rule, designate a



data exchange standard for any category of information required to be reported under this part.

“(B) DATA EXCHANGE STANDARDS MUST BE NONPROPRIETARY AND INTEROPERABLE.—The data exchange standard designated under subparagraph (A) shall, to the extent practicable, be nonproprietary and interoperable.

“(C) OTHER REQUIREMENTS.—In designating data exchange standards under this section, the Secretary shall, to the extent practicable, incorporate—

“(i) interoperable standards developed and maintained by an international voluntary consensus standards body, as defined by the Office of Management and Budget, such as the International Organization for Standardization;

“(ii) interoperable standards developed and maintained by intergovernmental partnerships, such as the National Information Exchange Model; and

“(iii) interoperable standards developed and maintained by Federal entities with authority over contracting and financial assistance, such as the Federal Acquisition Regulatory Council.

“(2) DATA EXCHANGE STANDARDS FOR REPORTING.—

“(A) DESIGNATION.—The Secretary, in consultation with an interagency work group established by the Office of Management and Budget, and considering State and tribal perspectives, shall, by rule, designate data exchange standards to govern the data reporting required under this part.

“(B) REQUIREMENTS.—The data exchange standards required by subparagraph (A) shall, to the extent practicable—

“(i) incorporate a widely-accepted, nonproprietary, searchable, computer-readable format;

“(ii) be consistent with and implement applicable accounting principles; and

“(iii) be capable of being continually updated as necessary.

“(C) INCORPORATION OF NONPROPRIETARY STANDARDS.—In designating reporting standards under this paragraph, the Secretary shall, to the extent practicable, incorporate existing nonproprietary standards, such as the eXtensible Markup Language.”.

(b) EFFECTIVE DATES.—

(1) DATA EXCHANGE STANDARDS.—The Secretary of Health and Human Services shall issue a proposed rule under section 411(d)(1) of the Social Security Act within 12 months after the date of the enactment of this section, and shall issue a final rule under such section 411(d)(1), after public comment, within 24 months after such date of enactment.

(2) DATA REPORTING STANDARDS.—The reporting standards required under section 411(d)(2) of such Act shall become effective with respect to reports required in the first reporting period, after the effective date of the final rule referred to in paragraph (1) of this subsection, for which the authority for data collection and reporting is established or renewed under the Paperwork Reduction Act.

#### SEC. 4004. SPENDING POLICIES FOR ASSISTANCE UNDER STATE TANF PROGRAMS.

(a) STATE REQUIREMENT.—Section 408(a) of the Social Security Act (42 U.S.C. 608(a)) is amended by adding at the end the following:

“(12) STATE REQUIREMENT TO PREVENT UNAUTHORIZED SPENDING OF BENEFITS.—

“(A) IN GENERAL.—A State to which a grant is made under section 403 shall maintain policies and practices as necessary to prevent assistance provided under the State program funded under this part from being used in any electronic benefit transfer transaction in—

“(i) any liquor store;

“(ii) any casino, gambling casino, or gaming establishment; or

“(iii) any retail establishment which provides adult-oriented entertainment in which per-

formers disrobe or perform in an unclothed state for entertainment.

“(B) DEFINITIONS.—For purposes of subparagraph (A)—

“(i) LIQUOR STORE.—The term ‘liquor store’ means any retail establishment which sells exclusively or primarily intoxicating liquor. Such term does not include a grocery store which sells both intoxicating liquor and groceries including staple foods (within the meaning of section 3(r) of the Food and Nutrition Act of 2008 (7 U.S.C. 2012(r))).

“(ii) CASINO, GAMBLING CASINO, OR GAMING ESTABLISHMENT.—The terms ‘casino’, ‘gambling casino’, and ‘gaming establishment’ do not include—

“(I) a grocery store which sells groceries including such staple foods and which also offers, or is located within the same building or complex as, casino, gambling, or gaming activities; or

“(II) any other establishment that offers casino, gambling, or gaming activities incidental to the principal purpose of the business.

“(iii) ELECTRONIC BENEFIT TRANSFER TRANSACTION.—The term ‘electronic benefit transfer transaction’ means the use of a credit or debit card service, automated teller machine, point-of-sale terminal, or access to an online system for the withdrawal of funds or the processing of a payment for merchandise or a service.”.

(b) PENALTY.—Section 409(a) of such Act (42 U.S.C. 609(a)) is amended by adding at the end the following:

“(16) PENALTY FOR FAILURE TO ENFORCE SPENDING POLICIES.—

“(A) IN GENERAL.—If, within 2 years after the date of the enactment of this paragraph, any State has not reported to the Secretary on such State’s implementation of the policies and practices required by section 408(a)(12), or the Secretary determines, based on the information provided in State reports, that any State has not implemented and maintained such policies and practices, the Secretary shall reduce, by an amount equal to 5 percent of the State family assistance grant, the grant payable to such State under section 403(a)(1) for—

“(i) the fiscal year immediately succeeding the year in which such 2-year period ends; and

“(ii) each succeeding fiscal year in which the State does not demonstrate that such State has implemented and maintained such policies and practices.

“(B) REDUCTION OF APPLICABLE PENALTY.—The Secretary may reduce the amount of the reduction required under subparagraph (A) based on the degree of noncompliance of the State.

“(C) STATE NOT RESPONSIBLE FOR INDIVIDUAL VIOLATIONS.—Fraudulent activity by any individual in an attempt to circumvent the policies and practices required by section 408(a)(12) shall not trigger a State penalty under subparagraph (A).”.

(c) ADDITIONAL STATE PLAN REQUIREMENTS.—Section 402(a)(1)(A) of such Act (42 U.S.C. 602(a)(1)(A)) is amended by adding at the end the following:

“(vii) Implement policies and procedures as necessary to prevent access to assistance provided under the State program funded under this part through any electronic fund transaction in an automated teller machine or point-of-sale device located in a place described in section 408(a)(12), including a plan to ensure that recipients of the assistance have adequate access to their cash assistance.

“(viii) Ensure that recipients of assistance provided under the State program funded under this part have access to using or withdrawing assistance with minimal fees or charges, including an opportunity to access assistance with no fee or charges, and are provided information on applicable fees and surcharges that apply to

electronic fund transactions involving the assistance, and that such information is made publicly available.”.

(d) CONFORMING AMENDMENT.—Section 409(c)(4) of such Act (42 U.S.C. 609(c)(4)) is amended by striking “or (13)” and inserting “(13), or (16)”.

#### SEC. 4005. TECHNICAL CORRECTIONS.

(a) Section 404(d)(1)(A) of the Social Security Act (42 U.S.C. 604(d)(1)(A)) is amended by striking “subtitle 1 of Title” and inserting “Subtitle A of title”.

(b) Sections 407(c)(2)(A)(i) and 409(a)(3)(C) of such Act (42 U.S.C. 607(c)(2)(A)(i) and 609(a)(3)(C)) are each amended by striking “403(b)(6)” and inserting “403(b)(5)”.

(c) Section 409(a)(2)(A) of such Act (42 U.S.C. 609(a)(2)(A)) is amended by moving clauses (i) and (ii) 2 ems to the right.

(d) Section 409(c)(2) of such Act (42 U.S.C. 609(c)(2)) is amended by inserting a comma after “appropriate”.

(e) Section 411(a)(1)(A)(ii)(III) of such Act (42 U.S.C. 611(a)(1)(A)(ii)(III)) is amended by striking the last close parenthesis.

#### TITLE V—FEDERAL EMPLOYEES RETIREMENT

##### SEC. 5001. INCREASE IN CONTRIBUTIONS TO FEDERAL EMPLOYEES’ RETIREMENT SYSTEM FOR NEW EMPLOYEES.

(a) DEFINITIONS.—Section 8401 of title 5, United States Code, is amended—

(1) in paragraph (35), by striking “and” at the end;

(2) in paragraph (36), by striking the period and inserting “; and”; and

(3) by adding at the end the following:

“(37) the term ‘revised annuity employee’ means any individual who—

“(A) on December 31, 2012—

“(i) is not an employee or Member covered under this chapter;

“(ii) is not performing civilian service which is creditable service under section 8411; and

“(iii) has less than 5 years of creditable civilian service under section 8411; and

“(B) after December 31, 2012, becomes employed as an employee or becomes a Member covered under this chapter performing service which is creditable service under section 8411.”.

(b) INCREASE IN CONTRIBUTIONS.—Section 8422(a)(3) of title 5, United States Code, is amended—

(1) by striking “The applicable percentage under this paragraph for civilian service” and inserting “(A) The applicable percentage under this paragraph for civilian service by employees or Members other than revised annuity employees”; and

(2) by adding at the end the following:

“(B) The applicable percentage under this paragraph for civilian service by revised annuity employees shall be as follows:

“Employee	9.3	After December 31, 2012.
Congressional employee	9.3	After December 31, 2012.
Member	9.3	After December 31, 2012.
Law enforcement officer, firefighter, member of the Capitol Police, member of the Supreme Court Police, or air traffic controller	9.8	After December 31, 2012.
Nuclear materials courier	9.8	After December 31, 2012.
Customs and border protection officer	9.8	After December 31, 2012.”.

(c) REDUCTION IN CONGRESSIONAL ANNUITIES.—

(1) *IN GENERAL.*—Section 8415 of title 5, United States Code, is amended—

(A) by redesignating subsections (d) through (m) as subsections (e) through (n), respectively; and

(B) by inserting after subsection (c) the following:

“(d) Notwithstanding any other provision of law, the annuity of an individual described in subsection (b) or (c) who is a revised annuity employee shall be computed in the same manner as in the case of an individual described in subsection (a).”.

(2) *TECHNICAL AND CONFORMING AMENDMENTS.*—

(A) Section 8422(d)(2) of title 5, United States Code, is amended by striking “section 8415(l)” and inserting “section 8415(m)”.

(B) Section 8452(d)(1) of title 5, United States Code, is amended by striking “subsection (g)” and inserting “subsection (h)”.

(C) Section 8468(b)(1)(A) of title 5, United States Code, is amended by striking “section 8415(a) through (h)” and inserting “section 8415(a) through (i)”.

(D) Section 805(a)(2)(B) of the Foreign Service Act of 1980 (22 U.S.C. 4045(a)(2)(B)) is amended by striking “section 8415(d)” and inserting “section 8415(e)”.

(E) Section 806(a) of the Foreign Service Act of 1980 (22 U.S.C. 4046(a)) is amended by striking “section 8415(d)” each place it appears and inserting “section 8415(e)”.

(F) Section 855(b) of the Foreign Service Act of 1980 (22 U.S.C. 4071d(b)) is amended—

(i) in paragraph (2)(A), by striking “section 8415(d)(1)” and inserting “section 8415(e)(1)”;

and

(ii) in paragraph (5), by striking “section 8415(f)(1)” and inserting “section 8415(g)(1)”.

(G) Section 303(b)(1) of the Central Intelligence Agency Retirement Act (50 U.S.C. 2153(b)(1)) is amended by striking “section 8415(d)” and inserting “section 8415(e)”.

#### **SEC. 5002. FOREIGN SERVICE PENSION SYSTEM.**

(a) *DEFINITION.*—Section 852 of the Foreign Service Act of 1980 (22 U.S.C. 4071a) is amended—

(1) by redesignating paragraphs (7), (8), and (9) as paragraphs (8), (9), and (10), respectively; and

(2) by inserting after paragraph (6) the following:

“(7) the term ‘revised annuity participant’ means any individual who—

“(A) on December 31, 2012—

“(i) is not a participant;

“(ii) is not performing service which is creditable service under section 854; and

“(iii) has less than 5 years creditable service under section 854; and

“(B) after December 31, 2012, becomes a participant performing service which is creditable service under section 854;”.

(b) *DEDUCTIONS AND WITHHOLDINGS FROM PAY.*—Section 856(a)(2) of the Foreign Service Act of 1980 (22 U.S.C. 4071e(a)(2)) is amended—

(1) by striking “The applicable percentage under this subsection” and inserting “(A) The applicable percentage for a participant other than a revised annuity participant”; and

(2) by adding at the end the following:

“(B) The applicable percentage for a revised annuity participant shall be as follows:

(2) *ANALYSIS OF SUBTITLE III.*—

The table of chapters for subtitle III of title 49, United States Code, is amended by inserting after the item for chapter 61 the following:

“9.85 . . . . .  
After December 31, 2012”.

#### **SEC. 5003. CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM.**

Section 211(a) of the Central Intelligence Agency Retirement Act (50 U.S.C. 2021(a)) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by striking paragraphs (1) and (2) and inserting the following:

“(1) *DEFINITION.*—In this subsection, the term ‘revised annuity participant’ means an individual who—

“(A) on December 31, 2012—

“(i) is not a participant;

“(ii) is not performing qualifying service; and

“(iii) has less than 5 years of qualifying service; and

“(B) after December 31, 2012, becomes a participant performing qualifying service.

“(2) *CONTRIBUTIONS.*—

“(A) *IN GENERAL.*—Except as provided in subsection (d), 7 percent of the basic pay received by a participant other than a revised annuity participant for any pay period shall be deducted and withheld from the pay of that participant and contributed to the fund.

“(B) *REVISED ANNUITY PARTICIPANTS.*—Except as provided in subsection (d), 9.3 percent of the basic pay received by a revised annuity participant for any pay period shall be deducted and withheld from the pay of that revised annuity participant and contributed to the fund.

“(3) *AGENCY CONTRIBUTIONS.*—

“(A) *IN GENERAL.*—An amount equal to 7 percent of the basic pay received by a participant other than a revised annuity participant shall be contributed to the fund for a pay period for the participant from the appropriation or fund which is used for payment of the participant’s basic pay.

“(B) *REVISED ANNUITY PARTICIPANTS.*—An amount equal to 4.7 percent of the basic pay received by a revised annuity participant shall be contributed to the fund for a pay period for the revised annuity participant from the appropriation or fund which is used for payment of the revised annuity participant’s basic pay.”.

#### **TITLE VI—PUBLIC SAFETY COMMUNICATIONS AND ELECTROMAGNETIC SPECTRUM AUCTIONS**

##### **SEC. 6001. DEFINITIONS.**

In this title:

(1) *700 MHZ BAND.*—The term “700 MHz band” means the portion of the electromagnetic spectrum between the frequencies from 698 megahertz to 806 megahertz.

(2) *700 MHZ D BLOCK SPECTRUM.*—The term “700 MHz D block spectrum” means the portion of the electromagnetic spectrum between the frequencies from 758 megahertz to 763 megahertz and between the frequencies from 788 megahertz to 793 megahertz.

(3) *APPROPRIATE COMMITTEES OF CONGRESS.*—Except as otherwise specifically provided, the term “appropriate committees of Congress” means—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

(4) *ASSISTANT SECRETARY.*—The term “Assistant Secretary” means the Assistant Secretary of Commerce for Communications and Information.

(5) *BOARD.*—The term “Board” means the Board of the First Responder Network Authority established under section 6204(b).

(6) *BROADCAST TELEVISION LICENSEE.*—The term “broadcast television licensee” means the licensee of—

(A) a full-power television station; or

(B) a low-power television station that has been accorded primary status as a Class A television licensee under section 73.6001(a) of title 47, Code of Federal Regulations.

(7) *BROADCAST TELEVISION SPECTRUM.*—The term “broadcast television spectrum” means the portions of the electromagnetic spectrum between the frequencies from 54 megahertz to 72 megahertz, from 76 megahertz to 88 megahertz, from 174 megahertz to 216 megahertz, and from 470 megahertz to 698 megahertz.

(8) *COMMERCIAL MOBILE DATA SERVICE.*—The term “commercial mobile data service” means any mobile service (as defined in section 3 of the Communications Act of 1934 (47 U.S.C. 153)) that is—

(A) a data service;

(B) provided for profit; and

(C) available to the public or such classes of eligible users as to be effectively available to a substantial portion of the public, as specified by regulation by the Commission.

(9) *COMMERCIAL MOBILE SERVICE.*—The term “commercial mobile service” has the meaning given such term in section 332 of the Communications Act of 1934 (47 U.S.C. 332).

(10) *COMMERCIAL STANDARDS.*—The term “commercial standards” means the technical standards followed by the commercial mobile service and commercial mobile data service industries for network, device, and Internet Protocol connectivity. Such term includes standards developed by the Third Generation Partnership Project (3GPP), the Institute of Electrical and Electronics Engineers (IEEE), the Alliance for Telecommunications Industry Solutions (ATIS), the Internet Engineering Task Force (IETF), and the International Telecommunication Union (ITU).

(11) *COMMISSION.*—The term “Commission” means the Federal Communications Commission.

(12) *CORE NETWORK.*—The term “core network” means the core network described in section 6202(b)(1).

(13) *EMERGENCY CALL.*—The term “emergency call” means any real-time communication with a public safety answering point or other emergency management or response agency, including—

(A) through voice, text, or video and related data; and

(B) nonhuman-initiated automatic event alerts, such as alarms, telematics, or sensor data, which may also include real-time voice, text, or video communications.

(14) *EXISTING PUBLIC SAFETY BROADBAND SPECTRUM.*—The term “existing public safety broadband spectrum” means the portion of the electromagnetic spectrum between the frequencies—

(A) from 763 megahertz to 768 megahertz;

(B) from 793 megahertz to 798 megahertz;

(C) from 768 megahertz to 769 megahertz; and

(D) from 798 megahertz to 799 megahertz.

(15) *FIRST RESPONDER NETWORK AUTHORITY.*—The term “First Responder Network Authority” means the First Responder Network Authority established under section 6204.

(16) *FORWARD AUCTION.*—The term “forward auction” means the portion of an incentive auction of broadcast television spectrum under section 6403(c).

(17) *INCENTIVE AUCTION.*—The term “incentive auction” means a system of competitive bidding under subparagraph (G) of section 309(j)(8) of the Communications Act of 1934, as added by section 6402.

(18) *INTEROPERABILITY BOARD.*—The term “Interoperability Board” means the Technical Advisory Board for First Responder Interoperability established under section 6203.

(19) *MULTICHANNEL VIDEO PROGRAMMING DISTRIBUTOR.*—The term “multichannel video programming distributor” has the meaning given such term in section 602 of the Communications Act of 1934 (47 U.S.C. 522).

(20) *NARROWBAND SPECTRUM.*—The term “narrowband spectrum” means the portion of

the electromagnetic spectrum between the frequencies from 769 megahertz to 775 megahertz and between the frequencies from 799 megahertz to 805 megahertz.

(21) **NATIONWIDE PUBLIC SAFETY BROADBAND NETWORK.**—The term “nationwide public safety broadband network” means the nationwide, interoperable public safety broadband network described in section 6202.

(22) **NEXT GENERATION 9–1–1 SERVICES.**—The term “Next Generation 9–1–1 services” means an IP-based system comprised of hardware, software, data, and operational policies and procedures that—

(A) provides standardized interfaces from emergency call and message services to support emergency communications;

(B) processes all types of emergency calls, including voice, text, data, and multimedia information;

(C) acquires and integrates additional emergency call data useful to call routing and handling;

(D) delivers the emergency calls, messages, and data to the appropriate public safety answering point and other appropriate emergency entities;

(E) supports data or video communications needs for coordinated incident response and management; and

(F) provides broadband service to public safety answering points or other first responder entities.

(23) **NIST.**—The term “NIST” means the National Institute of Standards and Technology.

(24) **NTIA.**—The term “NTIA” means the National Telecommunications and Information Administration.

(25) **PUBLIC SAFETY ANSWERING POINT.**—The term “public safety answering point” has the meaning given such term in section 222 of the Communications Act of 1934 (47 U.S.C. 222).

(26) **PUBLIC SAFETY ENTITY.**—The term “public safety entity” means an entity that provides public safety services.

(27) **PUBLIC SAFETY SERVICES.**—The term “public safety services”—

(A) has the meaning given the term in section 337(f) of the Communications Act of 1934 (47 U.S.C. 337(f)); and

(B) includes services provided by emergency response providers, as that term is defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101).

(28) **PUBLIC SAFETY TRUST FUND.**—The term “Public Safety Trust Fund” means the trust fund established under section 6413(a)(1).

(29) **RADIO ACCESS NETWORK.**—The term “radio access network” means the radio access network described in section 6202(b)(2).

(30) **REVERSE AUCTION.**—The term “reverse auction” means the portion of an incentive auction of broadcast television spectrum under section 6403(a), in which a broadcast television licensee may submit bids stating the amount it would accept for voluntarily relinquishing some or all of its broadcast television spectrum usage rights.

(31) **STATE.**—The term “State” has the meaning given such term in section 3 of the Communications Act of 1934 (47 U.S.C. 153).

(32) **ULTRA HIGH FREQUENCY.**—The term “ultra high frequency” means, with respect to a television channel, that the channel is located in the portion of the electromagnetic spectrum between the frequencies from 470 megahertz to 698 megahertz.

(33) **VERY HIGH FREQUENCY.**—The term “very high frequency” means, with respect to a television channel, that the channel is located in the portion of the electromagnetic spectrum between the frequencies from 54 megahertz to 72 megahertz, from 76 megahertz to 88 megahertz, or from 174 megahertz to 216 megahertz.

## **SEC. 6002. RULE OF CONSTRUCTION.**

Each range of frequencies described in this title shall be construed to be inclusive of the upper and lower frequencies in the range.

## **SEC. 6003. ENFORCEMENT.**

(a) **IN GENERAL.**—The Commission shall implement and enforce this title as if this title is a part of the Communications Act of 1934 (47 U.S.C. 151 et seq.). A violation of this title, or a regulation promulgated under this title, shall be considered to be a violation of the Communications Act of 1934, or a regulation promulgated under such Act, respectively.

### **(b) EXCEPTIONS.—**

(1) **OTHER AGENCIES.**—Subsection (a) does not apply in the case of a provision of this title that is expressly required to be carried out by an agency (as defined in section 551 of title 5, United States Code) other than the Commission.

(2) **NTIA REGULATIONS.**—The Assistant Secretary may promulgate such regulations as are necessary to implement and enforce any provision of this title that is expressly required to be carried out by the Assistant Secretary.

## **SEC. 6004. NATIONAL SECURITY RESTRICTIONS ON USE OF FUNDS AND AUCTION PARTICIPATION.**

(a) **USE OF FUNDS.**—No funds made available by subtitle B or C may be used to make payments under a contract to a person described in subsection (c).

(b) **AUCTION PARTICIPATION.**—A person described in subsection (c) may not participate in a system of competitive bidding under section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j))—

(1) that is required to be conducted by this title; or

(2) in which any spectrum usage rights for which licenses are being assigned were made available under clause (i) of subparagraph (G) of paragraph (8) of such section, as added by section 6402.

(c) **PERSON DESCRIBED.**—A person described in this subsection is a person who has been, for reasons of national security, barred by any agency of the Federal Government from bidding on a contract, participating in an auction, or receiving a grant.

### **Subtitle A—Reallocation of Public Safety Spectrum**

## **SEC. 6101. REALLOCATION OF D BLOCK TO PUBLIC SAFETY.**

(a) **IN GENERAL.**—The Commission shall reallocate the 700 MHz D block spectrum for use by public safety entities in accordance with the provisions of this Act.

(b) **SPECTRUM ALLOCATION.**—Section 337(a) of the Communications Act of 1934 (47 U.S.C. 337(a)) is amended—

(1) by striking “24” in paragraph (1) and inserting “34”; and

(2) by striking “36” in paragraph (2) and inserting “26”.

## **SEC. 6102. FLEXIBLE USE OF NARROWBAND SPECTRUM.**

The Commission may allow the narrowband spectrum to be used in a flexible manner, including usage for public safety broadband communications, subject to such technical and interference protection measures as the Commission may require.

## **SEC. 6103. 470–512 MHZ PUBLIC SAFETY SPECTRUM.**

(a) **IN GENERAL.**—Not later than 9 years after the date of enactment of this title, the Commission shall—

(1) reallocate the spectrum in the 470–512 MHz band (referred to in this section as the “T-Band spectrum”) currently used by public safety eligibles as identified in section 90.303 of title 47, Code of Federal Regulations; and

(2) begin a system of competitive bidding under section 309(j) of the Communications Act

of 1934 (47 U.S.C. 309(j)) to grant new initial licenses for the use of the spectrum described in paragraph (1).

(b) **AUCTION PROCEEDS.**—Proceeds (including deposits and upfront payments from successful bidders) from the competitive bidding system described in subsection (a)(2) shall be available to the Assistant Secretary to make grants in such sums as necessary to cover relocation costs for the relocation of public safety entities from the T-Band spectrum.

(c) **RELOCATION.**—Relocation shall be completed not later than 2 years after the date on which the system of competitive bidding described in subsection (a)(2) is completed.

### **Subtitle B—Governance of Public Safety Spectrum**

## **SEC. 6201. SINGLE PUBLIC SAFETY WIRELESS NETWORK LICENSEE.**

(a) **REALLOCATION AND GRANT OF LICENSE.**—Notwithstanding any other provision of law, and subject to the provisions of this Act, the Commission shall reallocate and grant a license to the First Responder Network Authority for the use of the 700 MHz D block spectrum and existing public safety broadband spectrum.

### **(b) TERM OF LICENSE.—**

(1) **INITIAL LICENSE.**—The license granted under subsection (a) shall be for an initial term of 10 years from the date of the initial issuance of the license.

(2) **RENEWAL OF LICENSE.**—Prior to expiration of the term of the initial license granted under subsection (a) or the expiration of any subsequent renewal of such license, the First Responder Network Authority shall submit to the Commission an application for the renewal of such license. Such renewal application shall demonstrate that, during the preceding license term, the First Responder Network Authority has met the duties and obligations set forth under this Act. A renewal license granted under this paragraph shall be for a term of not to exceed 10 years.

(c) **FACILITATION OF TRANSITION.**—The Commission shall take all actions necessary to facilitate the transition of the existing public safety broadband spectrum to the First Responder Network Authority.

## **SEC. 6202. PUBLIC SAFETY BROADBAND NETWORK.**

(a) **ESTABLISHMENT.**—The First Responder Network Authority shall ensure the establishment of a nationwide, interoperable public safety broadband network.

(b) **NETWORK COMPONENTS.**—The nationwide public safety broadband network shall be based on a single, national network architecture that evolves with technological advancements and initially consists of—

(1) a core network that—

(A) consists of national and regional data centers, and other elements and functions that may be distributed geographically, all of which shall be based on commercial standards; and

(B) provides the connectivity between—

(i) the radio access network; and

(ii) the public Internet or the public switched network, or both; and

(2) a radio access network that—

(A) consists of all cell site equipment, antennas, and backhaul equipment, based on commercial standards, that are required to enable wireless communications with devices using the public safety broadband spectrum; and

(B) shall be developed, constructed, managed, maintained, and operated taking into account the plans developed in the State, local, and tribal planning and implementation grant program under section 6302(a).

## **SEC. 6203. PUBLIC SAFETY INTEROPERABILITY BOARD.**

(a) **ESTABLISHMENT.**—There is established within the Commission an advisory board to be

known as the "Technical Advisory Board for First Responder Interoperability".

(b) MEMBERSHIP.—

(1) IN GENERAL.—

(A) VOTING MEMBERS.—Not later than 30 days after the date of enactment of this title, the Chairman of the Commission shall appoint 14 voting members to the Interoperability Board, of which—

(i) 4 members shall be representatives of wireless providers, of which—

(I) 2 members shall be representatives of national wireless providers;

(II) 1 member shall be a representative of regional wireless providers; and

(III) 1 member shall be a representative of rural wireless providers;

(ii) 3 members shall be representatives of equipment manufacturers;

(iii) 4 members shall be representatives of public safety entities, of which—

(I) not less than 1 member shall be a representative of management level employees of public safety entities; and

(II) not less than 1 member shall be a representative of employees of public safety entities;

(iv) 3 members shall be representatives of State and local governments, chosen to reflect geographic and population density differences across the United States; and

(v) all members shall have specific expertise necessary to developing technical requirements under this section, such as technical expertise, public safety communications expertise, and commercial network experience.

(B) NON-VOTING MEMBER.—The Assistant Secretary shall appoint 1 non-voting member to the Interoperability Board.

(2) PERIOD OF APPOINTMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), members of the Interoperability Board shall be appointed for the life of the Interoperability Board.

(B) REMOVAL FOR CAUSE.—A member of the Interoperability Board may be removed for cause upon the determination of the Chairman of the Commission.

(3) VACANCIES.—Any vacancy in the Interoperability Board shall not affect the powers of the Interoperability Board, and shall be filled in the same manner as the original appointment.

(4) CHAIRPERSON AND VICE CHAIRPERSON.—The Interoperability Board shall select a Chairperson and Vice Chairperson from among the members of the Interoperability Board.

(5) QUORUM.—A majority of the members of the Interoperability Board shall constitute a quorum.

(c) DUTIES OF THE INTEROPERABILITY BOARD.—

(1) DEVELOPMENT OF TECHNICAL REQUIREMENTS.—Not later than 90 days after the date of enactment of this Act, the Interoperability Board, in consultation with the NTIA, NIST, and the Office of Emergency Communications of the Department of Homeland Security, shall—

(A) develop recommended minimum technical requirements to ensure a nationwide level of interoperability for the nationwide public safety broadband network; and

(B) submit to the Commission for review in accordance with paragraph (3) recommended minimum technical requirements described in subparagraph (A).

(2) CONSIDERATION.—In developing recommended minimum technical requirements under paragraph (1), the Interoperability Board shall base the recommended minimum technical requirements on the commercial standards for Long Term Evolution (LTE) service.

(3) APPROVAL OF RECOMMENDATIONS.—

(A) IN GENERAL.—Not later than 30 days after the date on which the Interoperability Board

submits recommended minimum technical requirements under paragraph (1)(B), the Commission shall approve the recommendations, with any revisions it deems necessary, and transmit such recommendations to the First Responder Network Authority.

(B) REVIEW.—Any actions taken under subparagraph (A) shall not be reviewable as a final agency action.

(d) TRAVEL EXPENSES.—The members of the Interoperability Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Interoperability Board.

(e) EXEMPTION FROM FACAS.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Interoperability Board.

(f) TERMINATION OF AUTHORITY.—The Interoperability Board shall terminate 15 days after the date on which the Commission transmits the recommendations to the First Responder Network Authority under subsection (c)(3)(A).

**SEC. 6204. ESTABLISHMENT OF THE FIRST RESPONDER NETWORK AUTHORITY.**

(a) ESTABLISHMENT.—There is established as an independent authority within the NTIA the "First Responder Network Authority" or "FirstNet".

(b) BOARD.—

(1) IN GENERAL.—The First Responder Network Authority shall be headed by a Board, which shall consist of—

(A) the Secretary of Homeland Security;

(B) the Attorney General of the United States;

(C) the Director of the Office of Management and Budget; and

(D) 12 individuals appointed by the Secretary of Commerce in accordance with paragraph (2).

(2) APPOINTMENTS.—

(A) IN GENERAL.—In making appointments under paragraph (1)(D), the Secretary of Commerce shall—

(i) appoint not fewer than 3 individuals to represent the collective interests of the States, localities, tribes, and territories;

(ii) seek to ensure geographic and regional representation of the United States in such appointments;

(iii) seek to ensure rural and urban representation in such appointments; and

(iv) appoint not fewer than 3 individuals who have served as public safety professionals.

(B) REQUIRED QUALIFICATIONS.—

(i) IN GENERAL.—Each member appointed under paragraph (1)(D) should meet not less than 1 of the following criteria:

(I) PUBLIC SAFETY EXPERIENCE.—Knowledge and experience in the use of Federal, State, local, or tribal public safety or emergency response.

(II) TECHNICAL EXPERTISE.—Technical expertise and fluency regarding broadband communications, including public safety communications.

(III) NETWORK EXPERTISE.—Expertise in building, deploying, and operating commercial telecommunications networks.

(IV) FINANCIAL EXPERTISE.—Expertise in financing and funding telecommunications networks.

(ii) EXPERTISE TO BE REPRESENTED.—In making appointments under paragraph (1)(D), the Secretary of Commerce shall appoint—

(I) not fewer than 1 individual who satisfies the requirement under subclause (II) of clause (i);

(II) not fewer than 1 individual who satisfies the requirement under subclause (III) of clause (i); and

(III) not fewer than 1 individual who satisfies the requirement under subclause (IV) of clause (i).

(C) CITIZENSHIP.—No individual other than a citizen of the United States may serve as a member of the Board.

(c) TERMS OF APPOINTMENT.—

(1) INITIAL APPOINTMENT DEADLINE.—Members of the Board shall be appointed not later than 180 days after the date of the enactment of this title.

(2) TERMS.—

(A) LENGTH.—

(i) IN GENERAL.—Each member of the Board described in subparagraphs (A) through (C) of subsection (b)(1) shall serve as a member of the Board for the life of the First Responder Network Authority.

(ii) APPOINTED INDIVIDUALS.—The term of office of each individual appointed to be a member of the Board under subsection (b)(1)(D) shall be 3 years. No member described in this clause may serve more than 2 consecutive full 3-year terms.

(B) EXPIRATION OF TERM.—Any member whose term has expired may serve until such member's successor has taken office, or until the end of the calendar year in which such member's term has expired, whichever is earlier.

(C) APPOINTMENT TO FILL VACANCY.—Any member appointed to fill a vacancy occurring prior to the expiration of the term for which that member's predecessor was appointed shall be appointed for the remainder of the predecessor's term.

(D) STAGGERED TERMS.—With respect to the initial members of the Board appointed under subsection (b)(1)(D)—

(i) 4 members shall serve for a term of 3 years;

(ii) 4 members shall serve for a term of 2 years; and

(iii) 4 members shall serve for a term of 1 year.

(3) VACANCIES.—A vacancy in the membership of the Board shall not affect the Board's powers, and shall be filled in the same manner as the original member was appointed.

(d) CHAIR.—

(1) SELECTION.—The Secretary of Commerce shall select, from among the members of the Board appointed under subsection (b)(1)(D), an individual to serve for a 2-year term as Chair of the Board.

(2) CONSECUTIVE TERMS.—An individual may not serve for more than 2 consecutive terms as Chair of the Board.

(e) MEETINGS.—

(1) FREQUENCY.—The Board shall meet—

(A) at the call of the Chair; and

(B) not less frequently than once each quarter.

(2) TRANSPARENCY.—Meetings of the Board, including any committee of the Board, shall be open to the public. The Board may, by majority vote, close any such meeting only for the time necessary to preserve the confidentiality of commercial or financial information that is privileged or confidential, to discuss personnel matters, or to discuss legal matters affecting the First Responder Network Authority, including pending or potential litigation.

(f) QUORUM.—Eight members of the Board shall constitute a quorum, including at least 6 of the members appointed under subsection (b)(1)(D).

(g) COMPENSATION.—

(1) IN GENERAL.—The members of the Board appointed under subsection (b)(1)(D) shall be compensated at the daily rate of basic pay for level IV of the Executive Schedule for each day during which such members are engaged in performing a function of the Board.

(2) PROHIBITION ON COMPENSATION.—A member of the Board appointed under subparagraphs (A) through (C) of subsection (b)(1) shall serve without additional pay, and shall not otherwise benefit, directly or indirectly, as a result of their service to the First Responder Network Authority, but shall be allowed a per diem allowance for travel expenses, at rates authorized

for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the First Responder Network Authority.

**SEC. 6205. ADVISORY COMMITTEES OF THE FIRST RESPONDER NETWORK AUTHORITY.**

(a) **ADVISORY COMMITTEES.**—The First Responder Network Authority—

(1) shall establish a standing public safety advisory committee to assist the First Responder Network Authority in carrying out its duties and responsibilities under this subtitle; and

(2) may establish additional standing or ad hoc committees, panels, or councils as the First Responder Network Authority determines are necessary.

(b) **SELECTION OF AGENTS, CONSULTANTS, AND EXPERTS.**—

(1) **IN GENERAL.**—The First Responder Network Authority shall select parties to serve as its agents, consultants, or experts in a fair, transparent, and objective manner, and such agents may include a program manager to carry out certain of the duties and responsibilities of deploying and operating the nationwide public safety broadband network described in subsections (b) and (c) of section 6206.

(2) **BINDING AND FINAL.**—If the selection of an agent, consultant, or expert satisfies the requirements under paragraph (1), the selection of that agent, consultant, or expert shall be final and binding.

**SEC. 6206. POWERS, DUTIES, AND RESPONSIBILITIES OF THE FIRST RESPONDER NETWORK AUTHORITY.**

(a) **GENERAL POWERS.**—The First Responder Network Authority shall have the authority to do the following:

(1) To exercise, through the actions of its Board, all powers specifically granted by the provisions of this subtitle, and such incidental powers as shall be necessary.

(2) To hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the First Responder Network Authority considers necessary to carry out its responsibilities and duties.

(3) To obtain grants and funds from and make contracts with individuals, private companies, organizations, institutions, and Federal, State, regional, and local agencies.

(4) To accept, hold, administer, and utilize gifts, donations, and bequests of property, both real and personal, for the purposes of aiding or facilitating the work of the First Responder Network Authority.

(5) To spend funds under paragraph (3) in a manner authorized by the Board, but only for purposes that will advance or enhance public safety communications consistent with this title.

(6) To take such other actions as the First Responder Network Authority (through the Board) may from time to time determine necessary, appropriate, or advisable to accomplish the purposes of this title.

(b) **DUTY AND RESPONSIBILITY TO DEPLOY AND OPERATE A NATIONWIDE PUBLIC SAFETY BROADBAND NETWORK.**—

(1) **IN GENERAL.**—The First Responder Network Authority shall hold the single public safety wireless license granted under section 6201 and take all actions necessary to ensure the building, deployment, and operation of the nationwide public safety broadband network, in consultation with Federal, State, tribal, and local public safety entities, the Director of NIST, the Commission, and the public safety advisory committee established in section 6205(a), including by, at a minimum—

(A) ensuring nationwide standards for use and access of the network;

(B) issuing open, transparent, and competitive requests for proposals to private sector entities

for the purposes of building, operating, and maintaining the network that use, without materially changing, the minimum technical requirements developed under section 6203;

(C) encouraging that such requests leverage, to the maximum extent economically desirable, existing commercial wireless infrastructure to speed deployment of the network; and

(D) managing and overseeing the implementation and execution of contracts or agreements with non-Federal entities to build, operate, and maintain the network.

(2) **REQUIREMENTS.**—In carrying out the duties and responsibilities of this subsection, including issuing requests for proposals, the First Responder Network Authority shall—

(A) ensure the safety, security, and resiliency of the network, including requirements for protecting and monitoring the network to protect against cyberattack;

(B) promote competition in the equipment market, including devices for public safety communications, by requiring that equipment for use on the network be—

(i) built to open, non-proprietary, commercially available standards;

(ii) capable of being used by any public safety entity and by multiple vendors across all public safety broadband networks operating in the 700 MHz band; and

(iii) backward-compatible with existing commercial networks to the extent that such capabilities are necessary and technically and economically reasonable;

(C) promote integration of the network with public safety answering points or their equivalent; and

(D) address special considerations for areas or regions with unique homeland security or national security needs.

(3) **RURAL COVERAGE.**—In carrying out the duties and responsibilities of this subsection, including issuing requests for proposals, the nationwide, interoperable public safety broadband network, consistent with the license granted under section 6201, shall require deployment phases with substantial rural coverage milestones as part of each phase of the construction and deployment of the network. To the maximum extent economically desirable, such proposals shall include partnerships with existing commercial mobile providers to utilize cost-effective opportunities to speed deployment in rural areas.

(4) **EXECUTION OF AUTHORITY.**—In carrying out the duties and responsibilities of this subsection, the First Responder Network Authority may—

(A) obtain grants from and make contracts with individuals, private companies, and Federal, State, regional, and local agencies;

(B) hire or accept voluntary services of consultants, experts, advisory boards, and panels to aid the First Responder Network Authority in carrying out such duties and responsibilities;

(C) receive payment for use of—

(i) network capacity licensed to the First Responder Network Authority; and

(ii) network infrastructure constructed, owned, or operated by the First Responder Network Authority; and

(D) take such other actions as may be necessary to accomplish the purposes set forth in this subsection.

(c) **OTHER SPECIFIC DUTIES AND RESPONSIBILITIES.**—

(1) **ESTABLISHMENT OF NETWORK POLICIES.**—In carrying out the requirements under subsection (b), the First Responder Network Authority shall develop—

(A) requests for proposals with appropriate—

(i) timetables for construction, including by taking into consideration the time needed to build out to rural areas and the advantages of-

ferred through partnerships with existing commercial providers under paragraph (3);

(ii) coverage areas, including coverage in rural and nonurban areas;

(iii) service levels;

(iv) performance criteria; and

(v) other similar matters for the construction and deployment of such network;

(B) the technical and operational requirements of the network;

(C) practices, procedures, and standards for the management and operation of such network;

(D) terms of service for the use of such network, including billing practices; and

(E) ongoing compliance review and monitoring of the—

(i) management and operation of such network;

(ii) practices and procedures of the entities operating on and the personnel using such network; and

(iii) necessary training needs of network operators and users.

(2) **STATE AND LOCAL PLANNING.**—

(A) **REQUIRED CONSULTATION.**—In developing requests for proposals and otherwise carrying out its responsibilities under this Act, the First Responder Network Authority shall consult with regional, State, tribal, and local jurisdictions regarding the distribution and expenditure of any amounts required to carry out the policies established under paragraph (1), including with regard to the—

(i) construction of a core network and any radio access network build out;

(ii) placement of towers;

(iii) coverage areas of the network, whether at the regional, State, tribal, or local level;

(iv) adequacy of hardening, security, reliability, and resiliency requirements;

(v) assignment of priority to local users;

(vi) assignment of priority and selection of entities seeking access to or use of the nationwide public safety interoperable broadband network established under subsection (b); and

(vii) training needs of local users.

(B) **METHOD OF CONSULTATION.**—The consultation required under subparagraph (A) shall occur between the First Responder Network Authority and the single officer or governmental body designated under section 6302(d).

(3) **LEVERAGING EXISTING INFRASTRUCTURE.**—In carrying out the requirement under subsection (b), the First Responder Network Authority shall enter into agreements to utilize, to the maximum extent economically desirable, existing—

(A) commercial or other communications infrastructure; and

(B) Federal, State, tribal, or local infrastructure.

(4) **MAINTENANCE AND UPGRADES.**—The First Responder Network Authority shall ensure the maintenance, operation, and improvement of the nationwide public safety broadband network, including by ensuring that the First Responder Network Authority updates and revises any policies established under paragraph (1) to take into account new and evolving technologies.

(5) **ROAMING AGREEMENTS.**—The First Responder Network Authority shall negotiate and enter into, as it determines appropriate, roaming agreements with commercial network providers to allow the nationwide public safety broadband network to roam onto commercial networks and gain prioritization of public safety communications over such networks in times of an emergency.

(6) **NETWORK INFRASTRUCTURE AND DEVICE CRITERIA.**—The Director of NIST, in consultation with the First Responder Network Authority and the Commission, shall ensure the development of a list of certified devices and components meeting appropriate protocols and standards for public safety entities and commercial

vendors to adhere to, if such entities or vendors seek to have access to, use of, or compatibility with the nationwide public safety broadband network.

(7) **REPRESENTATION BEFORE STANDARD SETTING ENTITIES.**—The First Responder Network Authority, in consultation with the Director of NIST, the Commission, and the public safety advisory committee established under section 6205(a), shall represent the interests of public safety users of the nationwide public safety broadband network before any proceeding, negotiation, or other matter in which a standards organization, standards body, standards development organization, or any other recognized standards-setting entity addresses the development of standards relating to interoperability.

(8) **PROHIBITION ON NEGOTIATION WITH FOREIGN GOVERNMENTS.**—The First Responder Network Authority shall not have the authority to negotiate or enter into any agreements with a foreign government on behalf of the United States.

(d) **EXEMPTION FROM CERTAIN LAWS.**—Any action taken or decisions made by the First Responder Network Authority shall be exempt from the requirements of—

(1) section 3506 of title 44, United States Code (commonly referred to as the Paperwork Reduction Act);

(2) chapter 5 of title 5, United States Code (commonly referred to as the Administrative Procedures Act); and

(3) chapter 6 of title 5, United States Code (commonly referred to as the Regulatory Flexibility Act).

(e) **NETWORK CONSTRUCTION FUND.**—

(1) **ESTABLISHMENT.**—There is established in the Treasury of the United States a fund to be known as the “Network Construction Fund”.

(2) **USE OF FUND.**—Amounts deposited into the Network Construction Fund shall be used by the—

(A) First Responder Network Authority to carry out this section, except for administrative expenses; and

(B) NTIA to make grants to States under section 6302(e)(3)(C)(iii)(I).

(f) **TERMINATION OF AUTHORITY.**—The authority of the First Responder Network Authority shall terminate on the date that is 15 years after the date of enactment of this title.

(g) **GAO REPORT.**—Not later than 10 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on what action Congress should take regarding the 15-year sunset of authority under subsection (f).

#### **SEC. 6207. INITIAL FUNDING FOR THE FIRST RESPONDER NETWORK AUTHORITY.**

(a) **BORROWING AUTHORITY.**—Prior to the deposit of proceeds into the Public Safety Trust Fund from the incentive auctions to be carried out under section 309(j)(8)(G) of the Communications Act of 1934 or the auction of spectrum pursuant to section 6401, the NTIA may borrow from the Treasury such sums as may be necessary, but not to exceed \$2,000,000,000, to implement this subtitle. The NTIA shall reimburse the Treasury, without interest, from funds deposited into the Public Safety Trust Fund.

(b) **PROHIBITION.**—

(1) **IN GENERAL.**—Administrative expenses of the First Responder Network Authority may not exceed \$100,000,000 during the 10-year period beginning on the date of enactment of this title.

(2) **DEFINITION.**—For purposes of this subsection, the term “administrative expenses” does not include the costs incurred by the First Responder Network Authority for oversight and audits to protect against waste, fraud, and abuse.

#### **SEC. 6208. PERMANENT SELF-FUNDING; DUTY TO ASSESS AND COLLECT FEES FOR NETWORK USE.**

(a) **IN GENERAL.**—Notwithstanding section 337 of the Communications Act of 1934 (47 U.S.C. 337), the First Responder Network Authority is authorized to assess and collect the following fees:

(1) **NETWORK USER FEE.**—A user or subscription fee from each entity, including any public safety entity or secondary user, that seeks access to or use of the nationwide public safety broadband network.

(2) **LEASE FEES RELATED TO NETWORK CAPACITY.**—

(A) **IN GENERAL.**—A fee from any entity that seeks to enter into a covered leasing agreement.

(B) **COVERED LEASING AGREEMENT.**—For purposes of subparagraph (A), a “covered leasing agreement” means a written agreement resulting from a public-private arrangement to construct, manage, and operate the nationwide public safety broadband network between the First Responder Network Authority and secondary user to permit—

(i) access to network capacity on a secondary basis for non-public safety services; and

(ii) the spectrum allocated to such entity to be used for commercial transmissions along the dark fiber of the long-haul network of such entity.

(3) **LEASE FEES RELATED TO NETWORK EQUIPMENT AND INFRASTRUCTURE.**—A fee from any entity that seeks access to or use of any equipment or infrastructure, including antennas or towers, constructed or otherwise owned by the First Responder Network Authority resulting from a public-private arrangement to construct, manage, and operate the nationwide public safety broadband network.

(b) **ESTABLISHMENT OF FEE AMOUNTS; PERMANENT SELF-FUNDING.**—The total amount of the fees assessed for each fiscal year pursuant to this section shall be sufficient, and shall not exceed the amount necessary, to recoup the total expenses of the First Responder Network Authority in carrying out its duties and responsibilities described under this subtitle for the fiscal year involved.

(c) **ANNUAL APPROVAL.**—The NTIA shall review the fees assessed under this section on an annual basis, and such fees may only be assessed if approved by the NTIA.

(d) **REQUIRED REINVESTMENT OF FUNDS.**—The First Responder Network Authority shall reinvest amounts received from the assessment of fees under this section in the nationwide public safety interoperable broadband network by using such funds only for constructing, maintaining, operating, or improving the network.

#### **SEC. 6209. AUDIT AND REPORT.**

(a) **AUDIT.**—

(1) **IN GENERAL.**—The Secretary of Commerce shall enter into a contract with an independent auditor to conduct an audit, on an annual basis, of the First Responder Network Authority in accordance with general accounting principles and procedures applicable to commercial corporate transactions. Each audit conducted under this paragraph shall be made available to the appropriate committees of Congress.

(2) **LOCATION.**—Any audit conducted under paragraph (1) shall be conducted at the place or places where accounts of the First Responder Network Authority are normally kept.

(3) **ACCESS TO FIRST RESPONDER NETWORK AUTHORITY BOOKS AND DOCUMENTS.**—

(A) **IN GENERAL.**—For purposes of an audit conducted under paragraph (1), the representatives of the independent auditor shall—

(i) have access to all books, accounts, records, reports, files, and all other papers, things, or property belonging to or in use by the First Responder Network Authority that pertain to the

financial transactions of the First Responder Network Authority and are necessary to facilitate the audit; and

(ii) be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians.

(B) **REQUIREMENT.**—All books, accounts, records, reports, files, papers, and property of the First Responder Network Authority shall remain in the possession and custody of the First Responder Network Authority.

(b) **REPORT.**—

(1) **IN GENERAL.**—The independent auditor selected to conduct an audit under this section shall submit a report of each audit conducted under subsection (a) to—

(A) the appropriate committees of Congress;

(B) the President; and

(C) the First Responder Network Authority.

(2) **CONTENTS.**—Each report submitted under paragraph (1) shall contain—

(A) such comments and information as the independent auditor determines necessary to inform Congress of the financial operations and condition of the First Responder Network Authority; and

(B) any recommendations of the independent auditor relating to the financial operations and condition of the First Responder Network Authority; and

(C) a description of any program, expenditure, or other financial transaction or undertaking of the First Responder Network Authority that was observed during the course of the audit, which, in the opinion of the independent auditor, has been carried on or made without the authority of law.

#### **SEC. 6210. ANNUAL REPORT TO CONGRESS.**

(a) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, and each year thereafter, the First Responder Network Authority shall submit an annual report covering the preceding fiscal year to the appropriate committees of Congress.

(b) **REQUIRED CONTENT.**—The report required under subsection (a) shall include—

(1) a comprehensive and detailed report of the operations, activities, financial condition, and accomplishments of the First Responder Network Authority under this section; and

(2) such recommendations or proposals for legislative or administrative action as the First Responder Network Authority deems appropriate.

(c) **AVAILABILITY TO TESTIFY.**—The members of the Board and employees of the First Responder Network Authority shall be available to testify before the appropriate committees of the Congress with respect to—

(1) the report required under subsection (a);

(2) the report of any audit conducted under section 6210; or

(3) any other matter which such committees may determine appropriate.

#### **SEC. 6211. PUBLIC SAFETY ROAMING AND PRIORITY ACCESS.**

The Commission may adopt rules, if necessary in the public interest, to improve the ability of public safety networks to roam onto commercial networks and to gain priority access to commercial networks in an emergency if—

(1) the public safety entity equipment is technically compatible with the commercial network;

(2) the commercial network is reasonably compensated; and

(3) such access does not preempt or otherwise terminate or degrade all existing voice conversations or data sessions.

#### **SEC. 6212. PROHIBITION ON DIRECT OFFERING OF COMMERCIAL TELECOMMUNICATIONS SERVICE DIRECTLY TO CONSUMERS.**

(a) **IN GENERAL.**—The First Responder Network Authority shall not offer, provide, or market commercial telecommunications or information services directly to consumers.



(b) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed to prohibit the First Responder Network Authority and a secondary user from entering into a covered leasing agreement pursuant to section 6208(a)(2)(B). Nothing in this section shall be construed to limit the First Responder Network Authority from collecting lease fees related to network equipment and infrastructure pursuant to section 6208(a)(3).

**SEC. 6213. PROVISION OF TECHNICAL ASSISTANCE.**

The Commission may provide technical assistance to the First Responder Network Authority and may take any action necessary to assist the First Responder Network Authority in effectuating its duties and responsibilities under this subtitle.

**Subtitle C—Public Safety Commitments**

**SEC. 6301. STATE AND LOCAL IMPLEMENTATION FUND.**

(a) **ESTABLISHMENT.**—There is established in the Treasury of the United States a fund to be known as the State and Local Implementation Fund.

(b) **AMOUNTS AVAILABLE FOR STATE AND LOCAL IMPLEMENTATION GRANT PROGRAM.**—Any amounts borrowed under subsection (c)(1) and any amounts in the State and Local Implementation Fund that are not necessary to reimburse the general fund of the Treasury for such borrowed amounts shall be available to the Assistant Secretary to implement section 6302.

(c) **BORROWING AUTHORITY.**—

(1) **IN GENERAL.**—Prior to the end of fiscal year 2022, the Assistant Secretary may borrow from the general fund of the Treasury such sums as may be necessary, but not to exceed \$135,000,000, to implement section 6302.

(2) **REIMBURSEMENT.**—The Assistant Secretary shall reimburse the general fund of the Treasury, without interest, for any amounts borrowed under paragraph (1) as funds are deposited into the State and Local Implementation Fund.

(d) **TRANSFER OF UNUSED FUNDS.**—If there is a balance remaining in the State and Local Implementation Fund on September 30, 2022, the Secretary of the Treasury shall transfer such balance to the general fund of the Treasury, where such balance shall be dedicated for the sole purpose of deficit reduction.

**SEC. 6302. STATE AND LOCAL IMPLEMENTATION.**

(a) **ESTABLISHMENT OF STATE AND LOCAL IMPLEMENTATION GRANT PROGRAM.**—The Assistant Secretary, in consultation with the First Responder Network Authority, shall take such action as is necessary to establish a grant program to make grants to States to assist State, regional, tribal, and local jurisdictions to identify, plan, and implement the most efficient and effective way for such jurisdictions to utilize and integrate the infrastructure, equipment, and other architecture associated with the nationwide public safety broadband network to satisfy the wireless communications and data services needs of that jurisdiction, including with regards to coverage, siting, and other needs.

(b) **MATCHING REQUIREMENTS; FEDERAL SHARE.**—

(1) **IN GENERAL.**—The Federal share of the cost of any activity carried out using a grant under this section may not exceed 80 percent of the eligible costs of carrying out that activity, as determined by the Assistant Secretary, in consultation with the First Responder Network Authority.

(2) **WAIVER.**—The Assistant Secretary may waive, in whole or in part, the requirements of paragraph (1) for good cause shown if the Assistant Secretary determines that such a waiver is in the public interest.

(c) **PROGRAMMATIC REQUIREMENTS.**—Not later than 6 months after the date of enactment of this Act, the Assistant Secretary, in consulta-

tion with the First Responder Network Authority, shall establish requirements relating to the grant program to be carried out under this section, including the following:

(1) Defining eligible costs for purposes of subsection (b)(1).

(2) Determining the scope of eligible activities for grant funding under this section.

(3) Prioritizing grants for activities that ensure coverage in rural as well as urban areas.

(d) **CERTIFICATION AND DESIGNATION OF OFFICER OR GOVERNMENTAL BODY.**—In carrying out the grant program established under this section, the Assistant Secretary shall require each State to certify in its application for grant funds that the State has designated a single officer or governmental body to serve as the coordinator of implementation of the grant funds.

(e) **STATE NETWORK.**—

(1) **NOTICE.**—Upon the completion of the request for proposal process conducted by the First Responder Network Authority for the construction, operation, maintenance, and improvement of the nationwide public safety broadband network, the First Responder Network Authority shall provide to the Governor of each State, or his designee—

(A) notice of the completion of the request for proposal process;

(B) details of the proposed plan for buildout of the nationwide, interoperable broadband network in such State; and

(C) the funding level for the State as determined by the NTIA.

(2) **STATE DECISION.**—Not later than 90 days after the date on which the Governor of a State receives notice under paragraph (1), the Governor shall choose whether to—

(A) participate in the deployment of the nationwide, interoperable broadband network as proposed by the First Responder Network Authority; or

(B) conduct its own deployment of a radio access network in such State.

(3) **PROCESS.**—

(A) **IN GENERAL.**—Upon making a decision to opt-out under paragraph (2)(B), the Governor shall notify the First Responder Network Authority, the NTIA, and the Commission of such decision.

(B) **STATE REQUEST FOR PROPOSALS.**—Not later than 180 days after the date on which a Governor provides notice under subparagraph (A), the Governor shall develop and complete requests for proposals for the construction, maintenance, and operation of the radio access network within the State.

(C) **SUBMISSION AND APPROVAL OF ALTERNATIVE PLAN.**—

(i) **IN GENERAL.**—The State shall submit an alternative plan for the construction, maintenance, operation, and improvements of the radio access network within the State to the Commission, and such plan shall demonstrate—

(I) that the State will be in compliance with the minimum technical interoperability requirements developed under section 6203; and

(II) interoperability with the nationwide public safety broadband network.

(ii) **COMMISSION APPROVAL OR DISAPPROVAL.**—Upon submission of a State plan under clause (i), the Commission shall either approve or disapprove the plan.

(iii) **APPROVAL.**—If the Commission approves a plan under this subparagraph, the State—

(I) may apply to the NTIA for a grant to construct the radio access network within the State that includes the showing described in subparagraph (D); and

(II) shall apply to the NTIA to lease spectrum capacity from the First Responder Network Authority.

(iv) **DISAPPROVAL.**—If the Commission disapproves a plan under this subparagraph, the

construction, maintenance, operation, and improvements of the network within the State shall proceed in accordance with the plan proposed by the First Responder Network Authority.

(D) **FUNDING REQUIREMENTS.**—In order to obtain grant funds and spectrum capacity leasing rights under subparagraph (C)(iii), a State shall demonstrate—

(i) that the State has—

(I) the technical capabilities to operate, and the funding to support, the State radio access network;

(II) has the ability to maintain ongoing interoperability with the nationwide public safety broadband network; and

(III) the ability to complete the project within specified comparable timelines specific to the State;

(ii) the cost-effectiveness of the State plan submitted under subparagraph (C)(i); and

(iii) comparable security, coverage, and quality of service to that of the nationwide public safety broadband network.

(f) **USER FEES.**—If a State chooses to build its own radio access network, the State shall pay any user fees associated with State use of elements of the core network.

(g) **PROHIBITION.**—

(1) **IN GENERAL.**—A State that chooses to build its own radio access network shall not provide commercial service to consumers or offer wholesale leasing capacity of the network within the State except directly through public-private partnerships for construction, maintenance, operation, and improvement of the network within the State.

(2) **RULE OF CONSTRUCTION.**—Nothing in this subsection shall be construed to prohibit the State and a secondary user from entering into a covered leasing agreement. Any revenue gained by the State from such a leasing agreement shall be used only for constructing, maintaining, operating, or improving the radio access network of the State.

(h) **JUDICIAL REVIEW.**—

(1) **IN GENERAL.**—The United States District Court for the District of Columbia shall have exclusive jurisdiction to review a decision of the Commission made under subsection (e)(3)(C)(iv).

(2) **STANDARD OF REVIEW.**—The court shall affirm the decision of the Commission unless—

(A) the decision was procured by corruption, fraud, or undue means;

(B) there was actual partiality or corruption in the Commission; or

(C) the Commission was guilty of misconduct in refusing to hear evidence pertinent and material to the decision or of any other misbehavior by which the rights of any party have been prejudiced.

**SEC. 6303. PUBLIC SAFETY WIRELESS COMMUNICATIONS RESEARCH AND DEVELOPMENT.**

(a) **NIST DIRECTED RESEARCH AND DEVELOPMENT PROGRAM.**—From amounts made available from the Public Safety Trust Fund, the Director of NIST, in consultation with the Commission, the Secretary of Homeland Security, and the National Institute of Justice of the Department of Justice, as appropriate, shall conduct research and assist with the development of standards, technologies, and applications to advance wireless public safety communications.

(b) **REQUIRED ACTIVITIES.**—In carrying out the requirement under subsection (a), the Director of NIST, in consultation with the First Responder Network Authority and the public safety advisory committee established under section 6205(a), shall—

(1) document public safety wireless communications technical requirements;

(2) accelerate the development of the capability for communications between currently deployed public safety narrowband systems and



the nationwide public safety broadband network;

(3) establish a research plan, and direct research, that addresses the wireless communications needs of public safety entities beyond what can be provided by the current generation of broadband technology;

(4) accelerate the development of mission critical voice, including device-to-device “talkaround” capability over broadband networks, public safety prioritization, authentication capabilities, and standard application programming interfaces for the nationwide public safety broadband network, if necessary and practical;

(5) accelerate the development of communications technology and equipment that can facilitate the eventual migration of public safety narrowband communications to the nationwide public safety broadband network; and

(6) convene working groups of relevant government and commercial parties to achieve the requirements in paragraphs (1) through (5).

#### **Subtitle D—Spectrum Auction Authority**

#### **SEC. 6401. DEADLINES FOR AUCTION OF CERTAIN SPECTRUM.**

(a) **CLEARING CERTAIN FEDERAL SPECTRUM.**—

(1) **IN GENERAL.**—The President shall—

(A) not later than 3 years after the date of the enactment of this Act, begin the process of withdrawing or modifying the assignment to a Federal Government station of the electromagnetic spectrum described in paragraph (2); and

(B) not later than 30 days after completing the withdrawal or modification, notify the Commission that the withdrawal or modification is complete.

(2) **SPECTRUM DESCRIBED.**—The electromagnetic spectrum described in this paragraph is the 15 megahertz of spectrum between 1675 megahertz and 1710 megahertz identified under paragraph (3).

(3) **IDENTIFICATION BY SECRETARY OF COMMERCE.**—Not later than 1 year after the date of the enactment of this Act, the Secretary of Commerce shall submit to the President a report identifying 15 megahertz of spectrum for reallocation from Federal use to non-Federal use.

(b) **REALLOCATION AND AUCTION.**—

(1) **IN GENERAL.**—Notwithstanding paragraph (15)(A) of section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)), not later than 3 years after the date of the enactment of this Act, the Commission shall, except as provided in paragraph (4)—

(A) allocate the spectrum described in paragraph (2) for commercial use; and

(B) through a system of competitive bidding under such section, grant new initial licenses for the use of such spectrum, subject to flexible-use service rules.

(2) **SPECTRUM DESCRIBED.**—The spectrum described in this paragraph is the following:

(A) The frequencies between 1915 megahertz and 1920 megahertz.

(B) The frequencies between 1995 megahertz and 2000 megahertz.

(C) The frequencies described in subsection (a)(2).

(D) The frequencies between 2155 megahertz and 2180 megahertz.

(E) Fifteen megahertz of contiguous spectrum to be identified by the Commission.

(3) **PROCEEDS TO COVER 110 PERCENT OF FEDERAL RELOCATION OR SHARING COSTS.**—Nothing in paragraph (1) shall be construed to relieve the Commission from the requirements of section 309(j)(16)(B) of the Communications Act of 1934 (47 U.S.C. 309(j)(16)(B)).

(4) **DETERMINATION BY COMMISSION.**—If the Commission determines that the band of frequencies described in paragraph (2)(A) or the band of frequencies described in paragraph

(2)(B) cannot be used without causing harmful interference to commercial mobile service licensees in the frequencies between 1930 megahertz and 1995 megahertz, the Commission may not—

(A) allocate such band for commercial use under paragraph (1)(A); or

(B) grant licenses under paragraph (1)(B) for the use of such band.

(c) **AUCTION PROCEEDS.**—Section 309(j)(8) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)) is amended—

(1) in subparagraph (A), by striking “(D), and (E),” and inserting “(D), (E), (F), and (G),”;

(2) in subparagraph (C)(i), by striking “subparagraph (E)(ii)” and inserting “subparagraphs (D)(ii), (E)(ii), (F), and (G),”;

(3) in subparagraph (D)—

(A) by striking the heading and inserting “PROCEEDS FROM REALLOCATED FEDERAL SPECTRUM.”;

(B) by striking “Cash” and inserting the following:

“(i) **IN GENERAL.**—Except as provided in clause (ii), cash”; and

(C) by adding at the end the following:

“(ii) **CERTAIN OTHER PROCEEDS.**—Notwithstanding subparagraph (A) and except as provided in subparagraph (B), in the case of proceeds (including deposits and upfront payments from successful bidders) attributable to the auction of eligible frequencies described in paragraph (2) of section 113(g) of the National Telecommunications and Information Administration Organization Act that are required to be auctioned by section 6401(b)(1)(B) of the Middle Class Tax Relief and Job Creation Act of 2012, such portion of such proceeds as is necessary to cover the relocation or sharing costs (as defined in paragraph (3) of such section 113(g)) of Federal entities relocated from such eligible frequencies shall be deposited in the Spectrum Relocation Fund. The remainder of such proceeds shall be deposited in the Public Safety Trust Fund established by section 6413(a)(1) of the Middle Class Tax Relief and Job Creation Act of 2012.”; and

(4) by adding at the end the following:

“(F) **CERTAIN PROCEEDS DESIGNATED FOR PUBLIC SAFETY TRUST FUND.**—Notwithstanding subparagraph (A) and except as provided in subparagraphs (B) and (D)(ii), the proceeds (including deposits and upfront payments from successful bidders) from the use of a system of competitive bidding under this subsection pursuant to section 6401(b)(1)(B) of the Middle Class Tax Relief and Job Creation Act of 2012 shall be deposited in the Public Safety Trust Fund established by section 6413(a)(1) of such Act.”.

#### **SEC. 6402. GENERAL AUTHORITY FOR INCENTIVE AUCTIONS.**

Section 309(j)(8) of the Communications Act of 1934, as amended by section 6401(c), is further amended by adding at the end the following:

“(G) **INCENTIVE AUCTIONS.**—

“(i) **IN GENERAL.**—Notwithstanding subparagraph (A) and except as provided in subparagraph (B), the Commission may encourage a licensee to relinquish voluntarily some or all of its licensed spectrum usage rights in order to permit the assignment of new initial licenses subject to flexible-use service rules by sharing with such licensee a portion, based on the value of the relinquished rights as determined in the reverse auction required by clause (ii)(I), of the proceeds (including deposits and upfront payments from successful bidders) from the use of a competitive bidding system under this subsection.

“(ii) **LIMITATIONS.**—The Commission may not enter into an agreement for a licensee to relinquish spectrum usage rights in exchange for a share of auction proceeds under clause (i) unless—

“(I) the Commission conducts a reverse auction to determine the amount of compensation

that licensees would accept in return for voluntarily relinquishing spectrum usage rights; and

“(II) at least two competing licensees participate in the reverse auction.

“(iii) **TREATMENT OF REVENUES.**—Notwithstanding subparagraph (A) and except as provided in subparagraph (B), the proceeds (including deposits and upfront payments from successful bidders) from any auction, prior to the end of fiscal year 2022, of spectrum usage rights made available under clause (i) that are not shared with licensees under such clause shall be deposited as follows:

“(I) \$1,750,000,000 of the proceeds from the incentive auction of broadcast television spectrum required by section 6403 of the Middle Class Tax Relief and Job Creation Act of 2012 shall be deposited in the TV Broadcaster Relocation Fund established by subsection (d)(1) of such section.

“(II) All other proceeds shall be deposited—

“(aa) prior to the end of fiscal year 2022, in the Public Safety Trust Fund established by section 6413(a)(1) of such Act; and

“(bb) after the end of fiscal year 2022, in the general fund of the Treasury, where such proceeds shall be dedicated for the sole purpose of deficit reduction.

“(iv) **CONGRESSIONAL NOTIFICATION.**—At least 3 months before any incentive auction conducted under this subparagraph, the Chairman of the Commission, in consultation with the Director of the Office of Management and Budget, shall notify the appropriate committees of Congress of the methodology for calculating the amounts that will be shared with licensees under clause (i).

“(v) **DEFINITION.**—In this subparagraph, the term ‘appropriate committees of Congress’ means—

“(I) the Committee on Commerce, Science, and Transportation of the Senate;

“(II) the Committee on Appropriations of the Senate;

“(III) the Committee on Energy and Commerce of the House of Representatives; and

“(IV) the Committee on Appropriations of the House of Representatives.”.

#### **SEC. 6403. SPECIAL REQUIREMENTS FOR INCENTIVE AUCTION OF BROADCAST TV SPECTRUM.**

(a) **REVERSE AUCTION TO IDENTIFY INCENTIVE AMOUNT.**—

(1) **IN GENERAL.**—The Commission shall conduct a reverse auction to determine the amount of compensation that each broadcast television licensee would accept in return for voluntarily relinquishing some or all of its broadcast television spectrum usage rights in order to make spectrum available for assignment through a system of competitive bidding under subparagraph (G) of section 309(j)(8) of the Communications Act of 1934, as added by section 6402.

(2) **ELIGIBLE RELINQUISHMENTS.**—A relinquishment of usage rights for purposes of paragraph (1) shall include the following:

(A) Relinquishing all usage rights with respect to a particular television channel without receiving in return any usage rights with respect to another television channel.

(B) Relinquishing all usage rights with respect to an ultra high frequency television channel in return for receiving usage rights with respect to a very high frequency television channel.

(C) Relinquishing usage rights in order to share a television channel with another licensee.

(3) **CONFIDENTIALITY.**—The Commission shall take all reasonable steps necessary to protect the confidentiality of Commission-held data of a licensee participating in the reverse auction under paragraph (1), including withholding the identity of such licensee until the reassignments and reallocations (if any) under subsection (b)(1)(B) become effective, as described in subsection (f)(2).

(4) **PROTECTION OF CARRIAGE RIGHTS OF LICENSEES SHARING A CHANNEL.**—A broadcast television station that voluntarily relinquishes spectrum usage rights under this subsection in order to share a television channel and that possessed carriage rights under section 338, 614, or 615 of the Communications Act of 1934 (47 U.S.C. 338; 534; 535) on November 30, 2010, shall have, at its shared location, the carriage rights under such section that would apply to such station at such location if it were not sharing a channel.

(b) **REORGANIZATION OF BROADCAST TV SPECTRUM.**—

(1) **IN GENERAL.**—For purposes of making available spectrum to carry out the forward auction under subsection (c)(1), the Commission—

(A) shall evaluate the broadcast television spectrum (including spectrum made available through the reverse auction under subsection (a)(1)); and

(B) may, subject to international coordination along the border with Mexico and Canada—

(i) make such reassignments of television channels as the Commission considers appropriate; and

(ii) reallocate such portions of such spectrum as the Commission determines are available for reallocation.

(2) **FACTORS FOR CONSIDERATION.**—In making any reassignments or reallocations under paragraph (1)(B), the Commission shall make all reasonable efforts to preserve, as of the date of the enactment of this Act, the coverage area and population served of each broadcast television licensee, as determined using the methodology described in OET Bulletin 69 of the Office of Engineering and Technology of the Commission.

(3) **NO INVOLUNTARY RELOCATION FROM UHF TO VHF.**—In making any reassignments under paragraph (1)(B)(i), the Commission may not involuntarily reassign a broadcast television licensee—

(A) from an ultra high frequency television channel to a very high frequency television channel; or

(B) from a television channel between the frequencies from 174 megahertz to 216 megahertz to a television channel between the frequencies from 54 megahertz to 88 megahertz.

(4) **PAYMENT OF RELOCATION COSTS.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), from amounts made available under subsection (d)(2), the Commission shall reimburse costs reasonably incurred by—

(i) a broadcast television licensee that was reassigned under paragraph (1)(B)(i) from one ultra high frequency television channel to a different ultra high frequency television channel, from one very high frequency television channel to a different very high frequency television channel, or, in accordance with subsection (g)(1)(B), from a very high frequency television channel to an ultra high frequency television channel, in order for the licensee to relocate its television service from one channel to the other; and

(ii) a multichannel video programming distributor in order to continue to carry the signal of a broadcast television licensee that—

(I) is described in clause (i);

(II) voluntarily relinquishes spectrum usage rights under subsection (a) with respect to an ultra high frequency television channel in return for receiving usage rights with respect to a very high frequency television channel; or

(III) voluntarily relinquishes spectrum usage rights under subsection (a) to share a television channel with another licensee; or

(iii) a channel 37 incumbent user, in order to relocate to other suitable spectrum, provided that all such users can be relocated and that the total relocation costs of such users do not exceed \$300,000,000. For the purpose of this section, the spectrum made available through relocation of

channel 37 incumbent users shall be deemed as spectrum reclaimed through a reverse auction under section 6403(a).

(B) **REGULATORY RELIEF.**—In lieu of reimbursement for relocation costs under subparagraph (A), a broadcast television licensee may accept, and the Commission may grant as it considers appropriate, a waiver of the service rules of the Commission to permit the licensee, subject to interference protections, to make flexible use of the spectrum assigned to the licensee to provide services other than broadcast television services. Such waiver shall only remain in effect while the licensee provides at least 1 broadcast television program stream on such spectrum at no charge to the public.

(C) **LIMITATION.**—The Commission may not make reimbursements under subparagraph (A) for lost revenues.

(D) **DEADLINE.**—The Commission shall make all reimbursements required by subparagraph (A) not later than the date that is 3 years after the completion of the forward auction under subsection (c)(1).

(5) **LOW-POWER TELEVISION USAGE RIGHTS.**—Nothing in this subsection shall be construed to alter the spectrum usage rights of low-power television stations.

(c) **FORWARD AUCTION.**—

(1) **AUCTION REQUIRED.**—The Commission shall conduct a forward auction in which—

(A) the Commission assigns licenses for the use of the spectrum that the Commission reallocates under subsection (b)(1)(B)(ii); and

(B) the amount of the proceeds that the Commission shares under clause (i) of section 309(j)(8)(G) of the Communications Act of 1934 with each licensee whose bid the Commission accepts in the reverse auction under subsection (a)(1) is not less than the amount of such bid.

(2) **MINIMUM PROCEEDS.**—

(A) **IN GENERAL.**—If the amount of the proceeds from the forward auction under paragraph (1) is not greater than the sum described in subparagraph (B), no licenses shall be assigned through such forward auction, no reassignments or reallocations under subsection (b)(1)(B) shall become effective, and the Commission may not revoke any spectrum usage rights by reason of a bid that the Commission accepts in the reverse auction under subsection (a)(1).

(B) **SUM DESCRIBED.**—The sum described in this subparagraph is the sum of—

(i) the total amount of compensation that the Commission must pay successful bidders in the reverse auction under subsection (a)(1);

(ii) the costs of conducting such forward auction that the salaries and expenses account of the Commission is required to retain under section 309(j)(8)(B) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(B)); and

(iii) the estimated costs for which the Commission is required to make reimbursements under subsection (b)(4)(A).

(C) **ADMINISTRATIVE COSTS.**—The amount of the proceeds from the forward auction under paragraph (1) that the salaries and expenses account of the Commission is required to retain under section 309(j)(8)(B) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(B)) shall be sufficient to cover the costs incurred by the Commission in conducting the reverse auction under subsection (a)(1), conducting the evaluation of the broadcast television spectrum under subparagraph (A) of subsection (b)(1), and making any reassignments or reallocations under subparagraph (B) of such subsection, in addition to the costs incurred by the Commission in conducting such forward auction.

(3) **FACTOR FOR CONSIDERATION.**—In conducting the forward auction under paragraph (1), the Commission shall consider assigning licenses that cover geographic areas of a variety of different sizes.

(d) **TV BROADCASTER RELOCATION FUND.**—

(1) **ESTABLISHMENT.**—There is established in the Treasury of the United States a fund to be known as the TV Broadcaster Relocation Fund.

(2) **PAYMENT OF RELOCATION COSTS.**—Any amounts borrowed under paragraph (3)(A) and any amounts in the TV Broadcaster Relocation Fund that are not necessary for reimbursement of the general fund of the Treasury for such borrowed amounts shall be available to the Commission to make the payments required by subsection (b)(4)(A).

(3) **BORROWING AUTHORITY.**—

(A) **IN GENERAL.**—Beginning on the date when any reassignments or reallocations under subsection (b)(1)(B) become effective, as provided in subsection (f)(2), and ending when \$1,000,000,000 has been deposited in the TV Broadcaster Relocation Fund, the Commission may borrow from the Treasury of the United States an amount not to exceed \$1,000,000,000 to use toward the payments required by subsection (b)(4)(A).

(B) **REIMBURSEMENT.**—The Commission shall reimburse the general fund of the Treasury, without interest, for any amounts borrowed under subparagraph (A) as funds are deposited into the TV Broadcaster Relocation Fund.

(4) **TRANSFER OF UNUSED FUNDS.**—If any amounts remain in the TV Broadcaster Relocation Fund after the date that is 3 years after the completion of the forward auction under subsection (c)(1), the Secretary of the Treasury shall—

(A) prior to the end of fiscal year 2022, transfer such amounts to the Public Safety Trust Fund established by section 6413(a)(1); and

(B) after the end of fiscal year 2022, transfer such amounts to the general fund of the Treasury, where such amounts shall be dedicated for the sole purpose of deficit reduction.

(e) **NUMERICAL LIMITATION ON AUCTIONS AND REORGANIZATION.**—The Commission may not complete more than one reverse auction under subsection (a)(1) or more than one reorganization of the broadcast television spectrum under subsection (b).

(f) **TIMING.**—

(1) **CONTEMPORANEOUS AUCTIONS AND REORGANIZATION PERMITTED.**—The Commission may conduct the reverse auction under subsection (a)(1), any reassignments or reallocations under subsection (b)(1)(B), and the forward auction under subsection (c)(1) on a contemporaneous basis.

(2) **EFFECTIVENESS OF REASSIGNMENTS AND REALLOCATIONS.**—Notwithstanding paragraph (1), no reassignments or reallocations under subsection (b)(1)(B) shall become effective until the completion of the reverse auction under subsection (a)(1) and the forward auction under subsection (c)(1), and, to the extent practicable, all such reassignments and reallocations shall become effective simultaneously.

(3) **DEADLINE.**—The Commission may not conduct the reverse auction under subsection (a)(1) or the forward auction under subsection (c)(1) after the end of fiscal year 2022.

(4) **LIMIT ON DISCRETION REGARDING AUCTION TIMING.**—Section 309(j)(15)(A) of the Communications Act of 1934 (47 U.S.C. 309(j)(15)(A)) shall not apply in the case of an auction conducted under this section.

(g) **LIMITATION ON REORGANIZATION AUTHORITY.**—

(1) **IN GENERAL.**—During the period described in paragraph (2), the Commission may not—

(A) involuntarily modify the spectrum usage rights of a broadcast television licensee or reassign such a licensee to another television channel except—

(i) in accordance with this section; or

(ii) in the case of a violation by such licensee of the terms of its license or a specific provision of a statute administered by the Commission, or

a regulation of the Commission promulgated under any such provision; or

(B) reassign a broadcast television licensee from a very high frequency television channel to an ultra high frequency television channel, unless—

(i) such a reassignment will not decrease the total amount of ultra high frequency spectrum made available for reallocation under this section; or

(ii) a request from such licensee for the reassignment was pending at the Commission on May 31, 2011.

(2) **PERIOD DESCRIBED.**—The period described in this paragraph is the period beginning on the date of the enactment of this Act and ending on the earliest of—

(A) the first date when the reverse auction under subsection (a)(1), the reassignments and reallocations (if any) under subsection (b)(1)(B), and the forward auction under subsection (c)(1) have been completed;

(B) the date of a determination by the Commission that the amount of the proceeds from the forward auction under subsection (c)(1) is not greater than the sum described in subsection (c)(2)(B); or

(C) September 30, 2022.

(h) **PROTEST RIGHT INAPPLICABLE.**—The right of a licensee to protest a proposed order of modification of its license under section 316 of the Communications Act of 1934 (47 U.S.C. 316) shall not apply in the case of a modification made under this section.

(i) **COMMISSION AUTHORITY.**—Nothing in subsection (b) shall be construed to—

(1) expand or contract the authority of the Commission, except as otherwise expressly provided; or

(2) prevent the implementation of the Commission's "White Spaces" Second Report and Order and Memorandum Opinion and Order (FCC 08-260, adopted November 4, 2008) in the spectrum that remains allocated for broadcast television use after the reorganization required by such subsection.

#### **SEC. 6404. CERTAIN CONDITIONS ON AUCTION PARTICIPATION PROHIBITED.**

Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended by adding at the end the following new paragraph:

"(17) **CERTAIN CONDITIONS ON AUCTION PARTICIPATION PROHIBITED.**—

"(A) **IN GENERAL.**—Notwithstanding any other provision of law, the Commission may not prevent a person from participating in a system of competitive bidding under this subsection if such person—

"(i) complies with all the auction procedures and other requirements to protect the auction process established by the Commission; and

"(ii) either—

"(I) meets the technical, financial, character, and citizenship qualifications that the Commission may require under section 303(l)(1), 308(b), or 310 to hold a license; or

"(II) would meet such license qualifications by means approved by the Commission prior to the grant of the license.

"(B) **CLARIFICATION OF AUTHORITY.**—Nothing in subparagraph (A) affects any authority the Commission has to adopt and enforce rules of general applicability, including rules concerning spectrum aggregation that promote competition."

#### **SEC. 6405. EXTENSION OF AUCTION AUTHORITY.**

Section 309(j)(11) of the Communications Act of 1934 (47 U.S.C. 309(j)(11)) is amended by striking "2012" and inserting "2022".

#### **SEC. 6406. UNLICENSED USE IN THE 5 GHZ BAND.**

(a) **MODIFICATION OF COMMISSION REGULATIONS TO ALLOW CERTAIN UNLICENSED USE.**—

(1) **IN GENERAL.**—Subject to paragraph (2), not later than 1 year after the date of the enactment

of this Act, the Commission shall begin a proceeding to modify part 15 of title 47, Code of Federal Regulations, to allow unlicensed U-NII devices to operate in the 5350–5470 MHz band.

(2) **REQUIRED DETERMINATIONS.**—The Commission may make the modification described in paragraph (1) only if the Commission, in consultation with the Assistant Secretary, determines that—

(A) licensed users will be protected by technical solutions, including use of existing, modified, or new spectrum-sharing technologies and solutions, such as dynamic frequency selection; and

(B) the primary mission of Federal spectrum users in the 5350–5470 MHz band will not be compromised by the introduction of unlicensed devices.

(b) **STUDY BY NTIA.**—

(1) **IN GENERAL.**—The Assistant Secretary, in consultation with the Department of Defense and other impacted agencies, shall conduct a study evaluating known and proposed spectrum-sharing technologies and the risk to Federal users if unlicensed U-NII devices were allowed to operate in the 5350–5470 MHz band and in the 5850–5925 MHz band.

(2) **SUBMISSION.**—The Assistant Secretary shall submit to the Commission and the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate—

(A) not later than 8 months after the date of the enactment of this Act, a report on the portion of the study required by paragraph (1) with respect to the 5350–5470 MHz band; and

(B) not later than 18 months after the date of the enactment of this Act, a report on the portion of the study required by paragraph (1) with respect to the 5850–5925 MHz band.

(c) **DEFINITIONS.**—In this section:

(1) **5350–5470 MHZ BAND.**—The term "5350–5470 MHz band" means the portion of the electromagnetic spectrum between the frequencies from 5350 megahertz to 5470 megahertz.

(2) **5850–5925 MHZ BAND.**—The term "5850–5925 MHz band" means the portion of the electromagnetic spectrum between the frequencies from 5850 megahertz to 5925 megahertz.

#### **SEC. 6407. GUARD BANDS AND UNLICENSED USE.**

(a) **IN GENERAL.**—Nothing in subparagraph (G) of section 309(j)(8) of the Communications Act of 1934, as added by section 6402, or in section 6403 shall be construed to prevent the Commission from using relinquished or other spectrum to implement band plans with guard bands.

(b) **SIZE OF GUARD BANDS.**—Such guard bands shall be no larger than is technically reasonable to prevent harmful interference between licensed services outside the guard bands.

(c) **UNLICENSED USE IN GUARD BANDS.**—The Commission may permit the use of such guard bands for unlicensed use.

(d) **DATABASE.**—Unlicensed use shall rely on a database or subsequent methodology as determined by the Commission.

(e) **PROTECTIONS AGAINST HARMFUL INTERFERENCE.**—The Commission may not permit any use of a guard band that the Commission determines would cause harmful interference to licensed services.

#### **SEC. 6408. STUDY ON RECEIVER PERFORMANCE AND SPECTRUM EFFICIENCY.**

(a) **IN GENERAL.**—The Comptroller General of the United States shall conduct a study to consider efforts to ensure that each transmission system is designed and operated so that reasonable use of adjacent spectrum does not excessively impair the functioning of such system.

(b) **REQUIRED CONSIDERATIONS.**—In conducting the study required by subsection (a), the Comptroller General shall consider—

(1) the value of—

(A) improving receiver performance as it relates to increasing spectral efficiency;

(B) improving the operation of services that are located in adjacent spectrum; and

(C) narrowing the guard bands between adjacent spectrum use;

(2) the role of manufacturers, commercial licensees, and government users with respect to their transmission systems and the use of adjacent spectrum;

(3) the feasibility of industry self-compliance with respect to the design and operational requirements of transmission systems and the reasonable use of adjacent spectrum; and

(4) the value of action by the Commission and the Assistant Secretary to establish, by rule, technical requirements or standards for non-Federal and Federal use, respectively, with respect to the reasonable use of portions of the radio spectrum that are adjacent to each other.

(c) **REPORT.**—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit a report on the results of the study required by subsection (a) to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(d) **TRANSMISSION SYSTEM DEFINED.**—In this section, the term "transmission system" means any telecommunications, broadcast, satellite, commercial mobile service, or other communications system that employs radio spectrum.

#### **SEC. 6409. WIRELESS FACILITIES DEPLOYMENT.**

(a) **FACILITY MODIFICATIONS.**—

(1) **IN GENERAL.**—Notwithstanding section 704 of the Telecommunications Act of 1996 (Public Law 104–104) or any other provision of law, a State or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station.

(2) **ELIGIBLE FACILITIES REQUEST.**—For purposes of this subsection, the term "eligible facilities request" means any request for modification of an existing wireless tower or base station that involves—

(A) collocation of new transmission equipment;

(B) removal of transmission equipment; or

(C) replacement of transmission equipment.

(3) **APPLICABILITY OF ENVIRONMENTAL LAWS.**—Nothing in paragraph (1) shall be construed to relieve the Commission from the requirements of the National Historic Preservation Act or the National Environmental Policy Act of 1969.

(b) **FEDERAL EASEMENTS AND RIGHTS-OF-WAY.**—

(1) **GRANT.**—If an executive agency, a State, a political subdivision or agency of a State, or a person, firm, or organization applies for the grant of an easement or right-of-way to, in, over, or on a building or other property owned by the Federal Government for the right to install, construct, and maintain wireless service antenna structures and equipment and backhaul transmission equipment, the executive agency having control of the building or other property may grant to the applicant, on behalf of the Federal Government, an easement or right-of-way to perform such installation, construction, and maintenance.

(2) **APPLICATION.**—The Administrator of General Services shall develop a common form for applications for easements and rights-of-way under paragraph (1) for all executive agencies that shall be used by applicants with respect to the buildings or other property of each such agency.

(3) **FEE.**—

(A) **IN GENERAL.**—Notwithstanding any other provision of law, the Administrator of General

Services shall establish a fee for the grant of an easement or right-of-way pursuant to paragraph (1) that is based on direct cost recovery.

(B) **EXCEPTIONS.**—The Administrator of General Services may establish exceptions to the fee amount required under subparagraph (A)—

(i) in consideration of the public benefit provided by a grant of an easement or right-of-way; and

(ii) in the interest of expanding wireless and broadband coverage.

(4) **USE OF FEES COLLECTED.**—Any fee amounts collected by an executive agency pursuant to paragraph (3) may be made available, as provided in appropriations Acts, to such agency to cover the costs of granting the easement or right-of-way.

(C) **MASTER CONTRACTS FOR WIRELESS FACILITY SITINGS.**—

(1) **IN GENERAL.**—Notwithstanding section 704 of the Telecommunications Act of 1996 or any other provision of law, and not later than 60 days after the date of the enactment of this Act, the Administrator of General Services shall—

(A) develop 1 or more master contracts that shall govern the placement of wireless service antenna structures on buildings and other property owned by the Federal Government; and

(B) in developing the master contract or contracts, standardize the treatment of the placement of wireless service antenna structures on building rooftops or facades, the placement of wireless service antenna equipment on rooftops or inside buildings, the technology used in connection with wireless service antenna structures or equipment placed on Federal buildings and other property, and any other key issues the Administrator of General Services considers appropriate.

(2) **APPLICABILITY.**—The master contract or contracts developed by the Administrator of General Services under paragraph (1) shall apply to all publicly accessible buildings and other property owned by the Federal Government, unless the Administrator of General Services decides that issues with respect to the siting of a wireless service antenna structure on a specific building or other property warrant non-standard treatment of such building or other property.

(3) **APPLICATION.**—The Administrator of General Services shall develop a common form or set of forms for wireless service antenna structure siting applications under this subsection for all executive agencies that shall be used by applicants with respect to the buildings and other property of each such agency.

(d) **EXECUTIVE AGENCY DEFINED.**—In this section, the term “executive agency” has the meaning given such term in section 102 of title 40, United States Code.

**SEC. 6410. FUNCTIONAL RESPONSIBILITY OF NTIA TO ENSURE EFFICIENT USE OF SPECTRUM.**

Section 103(b)(2) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 902(b)(2)) is amended by adding at the end the following:

“(U) The responsibility to promote the best possible and most efficient use of electromagnetic spectrum resources across the Federal Government, subject to and consistent with the needs and missions of Federal agencies.”.

**SEC. 6411. SYSTEM CERTIFICATION.**

Not later than 6 months after the date of the enactment of this Act, the Director of the Office of Management and Budget shall update and revise section 33.4 of OMB Circular A-11 to reflect the recommendations regarding such Circular made in the Commerce Spectrum Management Advisory Committee Incentive Subcommittee report, adopted January 11, 2011.

**SEC. 6412. DEPLOYMENT OF 11 GHZ, 18 GHZ, AND 23 GHZ MICROWAVE BANDS.**

(a) **FCC REPORT ON REJECTION RATE.**—Not later than 9 months after the date of the enact-

ment of this Act, the Commission shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the rejection rate for the spectrum described in subsection (c).

(b) **GAO STUDY ON DEPLOYMENT.**—

(1) **IN GENERAL.**—The Comptroller General of the United States shall conduct a study to assess whether the spectrum described in subsection (c) is being deployed in such a manner that, in areas with high demand for common carrier licenses for the use of such spectrum, market forces—

(A) provide adequate incentive for the efficient use of such spectrum; and

(B) ensure that the Federal Government receives maximum revenue for such spectrum through competitive bidding under section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)).

(2) **FACTORS FOR CONSIDERATION.**—In conducting the study required by paragraph (1), the Comptroller General shall take into consideration—

(A) spectrum that is adjacent to the spectrum described in subsection (c) and that was assigned through competitive bidding under section 309(j) of the Communications Act of 1934; and

(B) the rejection rate for the spectrum described in subsection (c), current as of the time of the assessment and as projected for the future, in markets in which there is a high demand for common carrier licenses for the use of such spectrum.

(3) **REPORT.**—Not later than 9 months after the date of the enactment of this Act, the Comptroller General shall submit a report on the study required by paragraph (1) to—

(A) the Commission; and

(B) the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(c) **SPECTRUM DESCRIBED.**—The spectrum described in this subsection is the portions of the electromagnetic spectrum between the frequencies from 10,700 megahertz to 11,700 megahertz, from 17,700 megahertz to 19,700 megahertz, and from 21,200 megahertz to 23,600 megahertz.

(d) **REJECTION RATE DEFINED.**—In this section, the term “rejection rate” means the number and percent of applications (whether made to the Commission or to a third-party coordinator) for common carrier use of spectrum that were not granted because of lack of availability of such spectrum or interference concerns of existing licensees.

(e) **NO ADDITIONAL FUNDS AUTHORIZED.**—Funds necessary to carry out this section shall be derived from funds otherwise authorized to be appropriated.

**SEC. 6413. PUBLIC SAFETY TRUST FUND.**

(a) **ESTABLISHMENT OF PUBLIC SAFETY TRUST FUND.**—

(1) **IN GENERAL.**—There is established in the Treasury of the United States a trust fund to be known as the Public Safety Trust Fund.

(2) **AVAILABILITY.**—Amounts deposited in the Public Safety Trust Fund shall remain available through fiscal year 2022. Any amounts remaining in the Fund after the end of such fiscal year shall be deposited in the general fund of the Treasury, where such amounts shall be dedicated for the sole purpose of deficit reduction.

(b) **USE OF FUND.**—As amounts are deposited in the Public Safety Trust Fund, such amounts shall be used to make the following deposits or payments in the following order of priority:

(1) **REPAYMENT OF AMOUNT BORROWED FOR FIRST RESPONDER NETWORK AUTHORITY.**—An amount not to exceed \$2,000,000,000 shall be

available to the NTIA to reimburse the general fund of the Treasury for any amounts borrowed under section 6207.

(2) **STATE AND LOCAL IMPLEMENTATION FUND.**—\$135,000,000 shall be deposited in the State and Local Implementation Fund established by section 6301.

(3) **BUILDOUT BY FIRST RESPONDER NETWORK AUTHORITY.**—\$7,000,000,000, reduced by the amount borrowed under section 6207, shall be deposited in the Network Construction Fund established by section 6206.

(4) **PUBLIC SAFETY RESEARCH.**—\$100,000,000 shall be available to the Director of NIST to carry out section 6303.

(5) **DEFICIT REDUCTION.**—\$20,400,000,000 shall be deposited in the general fund of the Treasury, where such amount shall be dedicated for the sole purpose of deficit reduction.

(6) **9-1-1, E9-1-1, AND NEXT GENERATION 9-1-1 IMPLEMENTATION GRANTS.**—\$115,000,000 shall be available to the Assistant Secretary and the Administrator of the National Highway Traffic Safety Administration to carry out the grant program under section 158 of the National Telecommunications and Information Administration Organization Act, as amended by section 6503 of this title.

(7) **ADDITIONAL PUBLIC SAFETY RESEARCH.**—\$200,000,000 shall be available to the Director of NIST to carry out section 6303.

(8) **ADDITIONAL DEFICIT REDUCTION.**—Any remaining amounts deposited in the Public Safety Trust Fund shall be deposited in the general fund of the Treasury, where such amounts shall be dedicated for the sole purpose of deficit reduction.

(c) **INVESTMENT.**—Amounts in the Public Safety Trust Fund shall be invested in accordance with section 9702 of title 31, United States Code, and any interest on, and proceeds from, any such investment shall be credited to, and become a part of, the Fund.

**SEC. 6414. STUDY ON EMERGENCY COMMUNICATIONS BY AMATEUR RADIO AND IMPEDIMENTS TO AMATEUR RADIO COMMUNICATIONS.**

(a) **IN GENERAL.**—Not later than 180 days after the date of the enactment of this Act, the Commission, in consultation with the Office of Emergency Communications in the Department of Homeland Security, shall—

(1) complete a study on the uses and capabilities of amateur radio service communications in emergencies and disaster relief; and

(2) submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the findings of such study.

(b) **CONTENTS.**—The study required by subsection (a) shall include—

(1)(A) a review of the importance of emergency amateur radio service communications relating to disasters, severe weather, and other threats to lives and property in the United States; and

(B) recommendations for—

(i) enhancements in the voluntary deployment of amateur radio operators in disaster and emergency communications and disaster relief efforts; and

(ii) improved integration of amateur radio operators in the planning and furtherance of initiatives of the Federal Government; and

(2)(A) an identification of impediments to enhanced amateur radio service communications, such as the effects of unreasonable or unnecessary private land use restrictions on residential antenna installations; and

(B) recommendations regarding the removal of such impediments.

(c) **EXPERTISE.**—In conducting the study required by subsection (a), the Commission shall

use the expertise of stakeholder entities and organizations, including the amateur radio, emergency response, and disaster communications communities.

**Subtitle E—Next Generation 9–1–1  
Advancement Act of 2012**

**SEC. 6501. SHORT TITLE.**

This subtitle may be cited as the “Next Generation 9–1–1 Advancement Act of 2012”.

**SEC. 6502. DEFINITIONS.**

In this subtitle, the following definitions shall apply:

(1) **9–1–1 SERVICES AND E9–1–1 SERVICES.**—The terms “9–1–1 services” and “E9–1–1 services” shall have the meaning given those terms in section 158 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 942), as amended by this subtitle.

(2) **MULTI-LINE TELEPHONE SYSTEM.**—The term “multi-line telephone system” or “MLTS” means a system comprised of common control units, telephone sets, control hardware and software and adjunct systems, including network and premises based systems, such as Centrex and VoIP, as well as PBX, Hybrid, and Key Telephone Systems (as classified by the Commission under part 68 of title 47, Code of Federal Regulations), and includes systems owned or leased by governmental agencies and non-profit entities, as well as for profit businesses.

(3) **OFFICE.**—The term “Office” means the 9–1–1 Implementation Coordination Office established under section 158 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 942), as amended by this subtitle.

**SEC. 6503. COORDINATION OF 9–1–1 IMPLEMENTATION.**

Section 158 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 942) is amended to read as follows:

**“SEC. 158. COORDINATION OF 9–1–1, E9–1–1, AND NEXT GENERATION 9–1–1 IMPLEMENTATION.**

“(a) **9–1–1 IMPLEMENTATION COORDINATION OFFICE.**—

“(1) **ESTABLISHMENT AND CONTINUATION.**—The Assistant Secretary and the Administrator of the National Highway Traffic Safety Administration shall—

“(A) establish and further a program to facilitate coordination and communication between Federal, State, and local emergency communications systems, emergency personnel, public safety organizations, telecommunications carriers, and telecommunications equipment manufacturers and vendors involved in the implementation of 9–1–1 services; and

“(B) establish a 9–1–1 Implementation Coordination Office to implement the provisions of this section.

“(2) **MANAGEMENT PLAN.**—

“(A) **DEVELOPMENT.**—The Assistant Secretary and the Administrator shall develop a management plan for the grant program established under this section, including by developing—

“(i) plans related to the organizational structure of such program; and

“(ii) funding profiles for each fiscal year of the duration of such program.

“(B) **SUBMISSION TO CONGRESS.**—Not later than 90 days after the date of enactment of the Next Generation 9–1–1 Advancement Act of 2012, the Assistant Secretary and the Administrator shall submit the management plan developed under subparagraph (A) to—

“(i) the Committees on Commerce, Science, and Transportation and Appropriations of the Senate; and

“(ii) the Committees on Energy and Commerce and Appropriations of the House of Representatives.

“(3) **PURPOSE OF OFFICE.**—The Office shall—

“(A) take actions, in concert with coordinators designated in accordance with subsection (b)(3)(A)(ii), to improve coordination and communication with respect to the implementation of 9–1–1 services, E9–1–1 services, and Next Generation 9–1–1 services;

“(B) develop, collect, and disseminate information concerning practices, procedures, and technology used in the implementation of 9–1–1 services, E9–1–1 services, and Next Generation 9–1–1 services;

“(C) advise and assist eligible entities in the preparation of implementation plans required under subsection (b)(3)(A)(iii);

“(D) receive, review, and recommend the approval or disapproval of applications for grants under subsection (b); and

“(E) oversee the use of funds provided by such grants in fulfilling such implementation plans.

“(4) **REPORTS.**—The Assistant Secretary and the Administrator shall provide an annual report to Congress by the first day of October of each year on the activities of the Office to improve coordination and communication with respect to the implementation of 9–1–1 services, E9–1–1 services, and Next Generation 9–1–1 services.

“(b) **9–1–1, E9–1–1, AND NEXT GENERATION 9–1–1 IMPLEMENTATION GRANTS.**—

“(1) **MATCHING GRANTS.**—The Assistant Secretary and the Administrator, acting through the Office, shall provide grants to eligible entities for—

“(A) the implementation and operation of 9–1–1 services, E9–1–1 services, migration to an IP-enabled emergency network, and adoption and operation of Next Generation 9–1–1 services and applications;

“(B) the implementation of IP-enabled emergency services and applications enabled by Next Generation 9–1–1 services, including the establishment of IP backbone networks and the application layer software infrastructure needed to interconnect the multitude of emergency response organizations; and

“(C) training public safety personnel, including call-takers, first responders, and other individuals and organizations who are part of the emergency response chain in 9–1–1 services.

“(2) **MATCHING REQUIREMENT.**—The Federal share of the cost of a project eligible for a grant under this section shall not exceed 60 percent.

“(3) **COORDINATION REQUIRED.**—In providing grants under paragraph (1), the Assistant Secretary and the Administrator shall require an eligible entity to certify in its application that—

“(A) in the case of an eligible entity that is a State government, the entity—

“(i) has coordinated its application with the public safety answering points located within the jurisdiction of such entity;

“(ii) has designated a single officer or governmental body of the entity to serve as the coordinator of implementation of 9–1–1 services, except that such designation need not vest such coordinator with direct legal authority to implement 9–1–1 services, E9–1–1 services, or Next Generation 9–1–1 services or to manage emergency communications operations;

“(iii) has established a plan for the coordination and implementation of 9–1–1 services, E9–1–1 services, and Next Generation 9–1–1 services; and

“(iv) has integrated telecommunications services involved in the implementation and delivery of 9–1–1 services, E9–1–1 services, and Next Generation 9–1–1 services; or

“(B) in the case of an eligible entity that is not a State, the entity has complied with clauses (i), (iii), and (iv) of subparagraph (A), and the State in which it is located has complied with clause (ii) of such subparagraph.

“(4) **CRITERIA.**—Not later than 120 days after the date of enactment of the Next Generation 9–

1–1 Advancement Act of 2012, the Assistant Secretary and the Administrator shall issue regulations, after providing the public with notice and an opportunity to comment, prescribing the criteria for selection for grants under this section. The criteria shall include performance requirements and a timeline for completion of any project to be financed by a grant under this section. The Assistant Secretary and the Administrator shall update such regulations as necessary.

“(c) **DIVERSION OF 9–1–1 CHARGES.**—

“(1) **DESIGNATED 9–1–1 CHARGES.**—For the purposes of this subsection, the term ‘designated 9–1–1 charges’ means any taxes, fees, or other charges imposed by a State or other taxing jurisdiction that are designated or presented as dedicated to deliver or improve 9–1–1 services, E9–1–1 services, or Next Generation 9–1–1 services.

“(2) **CERTIFICATION.**—Each applicant for a matching grant under this section shall certify to the Assistant Secretary and the Administrator at the time of application, and each applicant that receives such a grant shall certify to the Assistant Secretary and the Administrator annually thereafter during any period of time during which the funds from the grant are available to the applicant, that no portion of any designated 9–1–1 charges imposed by a State or other taxing jurisdiction within which the applicant is located are being obligated or expended for any purpose other than the purposes for which such charges are designated or presented during the period beginning 180 days immediately preceding the date of the application and continuing through the period of time during which the funds from the grant are available to the applicant.

“(3) **CONDITION OF GRANT.**—Each applicant for a grant under this section shall agree, as a condition of receipt of the grant, that if the State or other taxing jurisdiction within which the applicant is located, during any period of time during which the funds from the grant are available to the applicant, obligates or expends designated 9–1–1 charges for any purpose other than the purposes for which such charges are designated or presented, eliminates such charges, or redesignates such charges for purposes other than the implementation or operation of 9–1–1 services, E9–1–1 services, or Next Generation 9–1–1 services, all of the funds from such grant shall be returned to the Office.

“(4) **PENALTY FOR PROVIDING FALSE INFORMATION.**—Any applicant that provides a certification under paragraph (2) knowing that the information provided in the certification was false shall—

“(A) not be eligible to receive the grant under subsection (b);

“(B) return any grant awarded under subsection (b) during the time that the certification was not valid; and

“(C) not be eligible to receive any subsequent grants under subsection (b).

“(d) **FUNDING AND TERMINATION.**—

“(1) **IN GENERAL.**—From the amounts made available to the Assistant Secretary and the Administrator under section 6413(b)(6) of the Middle Class Tax Relief and Job Creation Act of 2012, the Assistant Secretary and the Administrator are authorized to provide grants under this section through the end of fiscal year 2022. Not more than 5 percent of such amounts may be obligated or expended to cover the administrative costs of carrying out this section.

“(2) **TERMINATION.**—Effective on October 1, 2022, the authority provided by this section terminates and this section shall have no effect.

“(e) **DEFINITIONS.**—In this section, the following definitions shall apply:

“(1) **9–1–1 SERVICES.**—The term ‘9–1–1 services’ includes both E9–1–1 services and Next Generation 9–1–1 services.

“(2) **E9-1-1 SERVICES.**—The term ‘E9-1-1 services’ means both phase I and phase II enhanced 9-1-1 services, as described in section 20.18 of the Commission’s regulations (47 C.F.R. 20.18), as in effect on the date of enactment of the Next Generation 9-1-1 Advancement Act of 2012, or as subsequently revised by the Commission.

“(3) **ELIGIBLE ENTITY.**—

“(A) **IN GENERAL.**—The term ‘eligible entity’ means a State or local government or a tribal organization (as defined in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(l))).

“(B) **INSTRUMENTALITIES.**—The term ‘eligible entity’ includes public authorities, boards, commissions, and similar bodies created by one or more eligible entities described in subparagraph (A) to provide 9-1-1 services, E9-1-1 services, or Next Generation 9-1-1 services.

“(C) **EXCEPTION.**—The term ‘eligible entity’ does not include any entity that has failed to submit the most recently required certification under subsection (c) within 30 days after the date on which such certification is due.

“(4) **EMERGENCY CALL.**—The term ‘emergency call’ refers to any real-time communication with a public safety answering point or other emergency management or response agency, including—

“(A) through voice, text, or video and related data; and

“(B) nonhuman-initiated automatic event alerts, such as alarms, telematics, or sensor data, which may also include real-time voice, text, or video communications.

“(5) **NEXT GENERATION 9-1-1 SERVICES.**—The term ‘Next Generation 9-1-1 services’ means an IP-based system comprised of hardware, software, data, and operational policies and procedures that—

“(A) provides standardized interfaces from emergency call and message services to support emergency communications;

“(B) processes all types of emergency calls, including voice, data, and multimedia information;

“(C) acquires and integrates additional emergency call data useful to call routing and handling;

“(D) delivers the emergency calls, messages, and data to the appropriate public safety answering point and other appropriate emergency entities;

“(E) supports data or video communications needs for coordinated incident response and management; and

“(F) provides broadband service to public safety answering points or other first responder entities.

“(6) **OFFICE.**—The term ‘Office’ means the 9-1-1 Implementation Coordination Office.

“(7) **PUBLIC SAFETY ANSWERING POINT.**—The term ‘public safety answering point’ has the meaning given the term in section 222 of the Communications Act of 1934 (47 U.S.C. 222).

“(8) **STATE.**—The term ‘State’ means any State of the United States, the District of Columbia, Puerto Rico, American Samoa, Guam, the United States Virgin Islands, the Northern Mariana Islands, and any other territory or possession of the United States.”

#### **SEC. 6504. REQUIREMENTS FOR MULTI-LINE TELEPHONE SYSTEMS.**

(a) **IN GENERAL.**—Not later than 270 days after the date of the enactment of this Act, the Administrator of General Services, in conjunction with the Office, shall issue a report to Congress identifying the 9-1-1 capabilities of the multi-line telephone system in use by all Federal agencies in all Federal buildings and properties.

(b) **COMMISSION ACTION.**—

(1) **IN GENERAL.**—Not later than 90 days after the date of the enactment of this Act, the Commission shall issue a public notice seeking com-

ment on the feasibility of MLTS manufacturers including within all such systems manufactured or sold after a date certain, to be determined by the Commission, one or more mechanisms to provide a sufficiently precise indication of a 9-1-1 caller’s location, while avoiding the imposition of undue burdens on MLTS manufacturers, providers, and operators.

(2) **SPECIFIC REQUIREMENT.**—The public notice under paragraph (1) shall seek comment on the National Emergency Number Association’s “Technical Requirements Document On Model Legislation E9-1-1 for Multi-Line Telephone Systems” (NENA 06-750, Version 2).

#### **SEC. 6505. GAO STUDY OF STATE AND LOCAL USE OF 9-1-1 SERVICE CHARGES.**

(a) **IN GENERAL.**—Not later than 60 days after the date of the enactment of this Act, the Comptroller General of the United States shall initiate a study of—

(1) the imposition of taxes, fees, or other charges imposed by States or political subdivisions of States that are designated or presented as dedicated to improve emergency communications services, including 9-1-1 services or enhanced 9-1-1 services, or related to emergency communications services operations or improvements; and

(2) the use of revenues derived from such taxes, fees, or charges.

(b) **REPORT.**—Not later than 18 months after initiating the study required by subsection (a), the Comptroller General shall prepare and submit a report on the results of the study to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives setting forth the findings, conclusions, and recommendations, if any, of the study, including—

(1) the identity of each State or political subdivision that imposes such taxes, fees, or other charges; and

(2) the amount of revenues obligated or expended by that State or political subdivision for any purpose other than the purposes for which such taxes, fees, or charges were designated or presented.

#### **SEC. 6506. PARITY OF PROTECTION FOR PROVISION OR USE OF NEXT GENERATION 9-1-1 SERVICES.**

(a) **IMMUNITY.**—A provider or user of Next Generation 9-1-1 services, a public safety answering point, and the officers, directors, employees, vendors, agents, and authorizing government entity (if any) of such provider, user, or public safety answering point, shall have immunity and protection from liability under Federal and State law to the extent provided in subsection (b) with respect to—

(1) the release of subscriber information related to emergency calls or emergency services;

(2) the use or provision of 9-1-1 services, E9-1-1 services, or Next Generation 9-1-1 services; and

(3) other matters related to 9-1-1 services, E9-1-1 services, or Next Generation 9-1-1 services.

(b) **SCOPE OF IMMUNITY AND PROTECTION FROM LIABILITY.**—The scope and extent of the immunity and protection from liability afforded under subsection (a) shall be the same as that provided under section 4 of the Wireless Communications and Public Safety Act of 1999 (47 U.S.C. 615a) to wireless carriers, public safety answering points, and users of wireless 9-1-1 service (as defined in paragraphs (4), (3), and (6), respectively, of section 6 of that Act (47 U.S.C. 615b)) with respect to such release, use, and other matters.

#### **SEC. 6507. COMMISSION PROCEEDING ON AUTODIALING.**

(a) **IN GENERAL.**—Not later than 90 days after the date of the enactment of this Act, the Commission shall initiate a proceeding to create a

specialized Do-Not-Call registry for public safety answering points.

(b) **FEATURES OF THE REGISTRY.**—The Commission shall issue regulations, after providing the public with notice and an opportunity to comment, that—

(1) permit verified public safety answering point administrators or managers to register the telephone numbers of all 9-1-1 trunks and other lines used for the provision of emergency services to the public or for communications between public safety agencies;

(2) provide a process for verifying, no less frequently than once every 7 years, that registered numbers should continue to appear upon the registry;

(3) provide a process for granting and tracking access to the registry by the operators of automatic dialing equipment;

(4) protect the list of registered numbers from disclosure or dissemination by parties granted access to the registry; and

(5) prohibit the use of automatic dialing or “robocall” equipment to establish contact with registered numbers.

(c) **ENFORCEMENT.**—The Commission shall—

(1) establish monetary penalties for violations of the protective regulations established pursuant to subsection (b)(4) of not less than \$100,000 per incident nor more than \$1,000,000 per incident;

(2) establish monetary penalties for violations of the prohibition on automatically dialing registered numbers established pursuant to subsection (b)(5) of not less than \$10,000 per call nor more than \$100,000 per call; and

(3) provide for the imposition of fines under paragraphs (1) or (2) that vary depending upon whether the conduct leading to the violation was negligent, grossly negligent, reckless, or willful, and depending on whether the violation was a first or subsequent offense.

#### **SEC. 6508. REPORT ON COSTS FOR REQUIREMENTS AND SPECIFICATIONS FOR NEXT GENERATION 9-1-1 SERVICES.**

(a) **IN GENERAL.**—Not later than 1 year after the date of the enactment of this Act, the Office, in consultation with the Administrator of the National Highway Traffic Safety Administration, the Commission, and the Secretary of Homeland Security, shall prepare and submit a report to Congress that analyzes and determines detailed costs for specific Next Generation 9-1-1 service requirements and specifications.

(b) **PURPOSE OF REPORT.**—The purpose of the report required under subsection (a) is to serve as a resource for Congress as it considers creating a coordinated, long-term funding mechanism for the deployment and operation, accessibility, application development, equipment procurement, and training of personnel for Next Generation 9-1-1 services.

(c) **REQUIRED INCLUSIONS.**—The report required under subsection (a) shall include the following:

(1) How costs would be broken out geographically and allocated among public safety answering points, broadband service providers, and third-party providers of Next Generation 9-1-1 services.

(2) An assessment of the current state of Next Generation 9-1-1 service readiness among public safety answering points.

(3) How differences in public safety answering points’ access to broadband across the United States may affect costs.

(4) A technical analysis and cost study of different delivery platforms, such as wireline, wireless, and satellite.

(5) An assessment of the architectural characteristics, feasibility, and limitations of Next Generation 9-1-1 service delivery.

(6) An analysis of the needs for Next Generation 9-1-1 services of persons with disabilities.



(7) Standards and protocols for Next Generation 9–1–1 services and for incorporating Voice over Internet Protocol and “Real-Time Text” standards.

**SEC. 6509. COMMISSION RECOMMENDATIONS FOR LEGAL AND STATUTORY FRAMEWORK FOR NEXT GENERATION 9–1–1 SERVICES.**

Not later than 1 year after the date of the enactment of this Act, the Commission, in coordination with the Secretary of Homeland Security, the Administrator of the National Highway Traffic Safety Administration, and the Office, shall prepare and submit a report to Congress that contains recommendations for the legal and statutory framework for Next Generation 9–1–1 services, consistent with recommendations in the National Broadband Plan developed by the Commission pursuant to the American Recovery and Reinvestment Act of 2009, including the following:

(1) A legal and regulatory framework for the development of Next Generation 9–1–1 services and the transition from legacy 9–1–1 to Next Generation 9–1–1 networks.

(2) Legal mechanisms to ensure efficient and accurate transmission of 9–1–1 caller information to emergency response agencies.

(3) Recommendations for removing jurisdictional barriers and inconsistent legacy regulations including—

(A) proposals that would require States to remove regulatory roadblocks to Next Generation 9–1–1 services development, while recognizing existing State authority over 9–1–1 services;

(B) eliminating outdated 9–1–1 regulations at the Federal level; and

(C) preempting inconsistent State regulations.

**Subtitle F—Telecommunications Development Fund**

**SEC. 6601. NO ADDITIONAL FEDERAL FUNDS.**

Section 309(j)(8)(C)(iii) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(C)(iii)) is amended to read as follows:

“(iii) the interest accrued to the account shall be deposited in the general fund of the Treasury, where such amount shall be dedicated for the sole purpose of deficit reduction.”.

**SEC. 6602. INDEPENDENCE OF THE FUND.**

Section 714 of the Communications Act of 1934 (47 U.S.C. 614) is amended—

(1) by striking subsection (c) and inserting the following:

“(c) **INDEPENDENT BOARD OF DIRECTORS.**—The Fund shall have a Board of Directors consisting of 5 people with experience in areas including finance, investment banking, government banking, communications law and administrative practice, and public policy. The Board of Directors shall select annually a Chair from among the directors. A nominating committee, comprised of the Chair and 2 other directors selected by the Chair, shall appoint additional directors. The Fund’s bylaws shall regulate the other aspects of the Board of Directors, including provisions relating to meetings, quorums, committees, and other matters, all as typically contained in the bylaws of a similar private investment fund.”;

(2) in subsection (d)—

(A) by striking “(after consultation with the Commission and the Secretary of the Treasury)”;

(B) by striking paragraph (1); and

(C) by redesignating paragraphs (2) through (4) as paragraphs (1) through (3), respectively; and

(3) in subsection (g), by striking “subsection (d)(2)” and inserting “subsection (d)(1)”.

**Subtitle G—Federal Spectrum Relocation**

**SEC. 6701. RELOCATION OF AND SPECTRUM SHARING BY FEDERAL GOVERNMENT STATIONS.**

(a) **IN GENERAL.**—Section 113 of the National Telecommunications and Information Adminis-

tration Organization Act (47 U.S.C. 923) is amended—

(1) in subsection (g)—

(A) by striking the heading and inserting “RELOCATION OF AND SPECTRUM SHARING BY FEDERAL GOVERNMENT STATIONS.”;

(B) by amending paragraph (1) to read as follows:

“(1) **ELIGIBLE FEDERAL ENTITIES.**—Any Federal entity that operates a Federal Government station authorized to use a band of eligible frequencies described in paragraph (2) and that incurs relocation or sharing costs because of planning for an auction of spectrum frequencies or the reallocation of spectrum frequencies from Federal use to exclusive non-Federal use or to shared use shall receive payment for such relocation or sharing costs from the Spectrum Relocation Fund, in accordance with this section and section 118. For purposes of this paragraph, Federal power agencies exempted under subsection (c)(4) that choose to relocate from the frequencies identified for reallocation pursuant to subsection (a) are eligible to receive payment under this paragraph.”;

(C) by amending paragraph (2)(B) to read as follows:

“(B) any other band of frequencies reallocated from Federal use to non-Federal use or to shared use after January 1, 2003, that is assigned by competitive bidding pursuant to section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)).”;

(D) by amending paragraph (3) to read as follows:

“(3) **RELOCATION OR SHARING COSTS DEFINED.**—

“(A) **IN GENERAL.**—For purposes of this section and section 118, the term ‘relocation or sharing costs’ means the costs incurred by a Federal entity in connection with the auction of spectrum frequencies previously assigned to such entity or the sharing of spectrum frequencies assigned to such entity (including the auction or a planned auction of the rights to use spectrum frequencies on a shared basis with such entity) in order to achieve comparable capability of systems as before the relocation or sharing arrangement. Such term includes, with respect to relocation or sharing, as the case may be—

“(i) the costs of any modification or replacement of equipment, spares, associated ancillary equipment, software, facilities, operating manuals, training, or compliance with regulations that are attributable to relocation or sharing;

“(ii) the costs of all engineering, equipment, software, site acquisition, and construction, as well as any legitimate and prudent transaction expense, including term-limited Federal civil servant and contractor staff necessary to carry out the relocation or sharing activities of a Federal entity, and reasonable additional costs incurred by the Federal entity that are attributable to relocation or sharing, including increased recurring costs associated with the replacement of facilities;

“(iii) the costs of research, engineering studies, economic analyses, or other expenses reasonably incurred in connection with—

“(I) calculating the estimated relocation or sharing costs that are provided to the Commission pursuant to paragraph (4)(A);

“(II) determining the technical or operational feasibility of relocation to 1 or more potential relocation bands; or

“(III) planning for or managing a relocation or sharing arrangement (including spectrum coordination with auction winners);

“(iv) the one-time costs of any modification of equipment reasonably necessary—

“(I) to accommodate non-Federal use of shared frequencies; or

“(II) in the case of eligible frequencies reallocated for exclusive non-Federal use and as-

signed through a system of competitive bidding under section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) but with respect to which a Federal entity retains primary allocation or protected status for a period of time after the completion of the competitive bidding process, to accommodate shared Federal and non-Federal use of such frequencies for such period; and

“(v) the costs associated with the accelerated replacement of systems and equipment if the acceleration is necessary to ensure the timely relocation of systems to a new frequency assignment or the timely accommodation of sharing of Federal frequencies.

“(B) **COMPARABLE CAPABILITY OF SYSTEMS.**—For purposes of subparagraph (A), comparable capability of systems—

“(i) may be achieved by relocating a Federal Government station to a new frequency assignment, by relocating a Federal Government station to a different geographic location, by modifying Federal Government equipment to mitigate interference or use less spectrum, in terms of bandwidth, geography, or time, and thereby permitting spectrum sharing (including sharing among relocated Federal entities and incumbents to make spectrum available for non-Federal use) or relocation, or by utilizing an alternative technology; and

“(ii) includes the acquisition of state-of-the-art replacement systems intended to meet comparable operational scope, which may include incidental increases in functionality.”;

(E) in paragraph (4)—

(i) in the heading, by striking “RELOCATIONS COSTS” and inserting “RELOCATION OR SHARING COSTS”;

(ii) by striking “relocation costs” each place it appears and inserting “relocation or sharing costs”;

(iii) in subparagraph (A), by inserting “or sharing” after “such relocation”;

(F) in paragraph (5)—

(i) by striking “relocation costs” and inserting “relocation or sharing costs”; and

(ii) by inserting “or sharing” after “for relocation”; and

(G) by amending paragraph (6) to read as follows:

“(6) **IMPLEMENTATION OF PROCEDURES.**—The NTIA shall take such actions as necessary to ensure the timely relocation of Federal entities’ spectrum-related operations from frequencies described in paragraph (2) to frequencies or facilities of comparable capability and to ensure the timely implementation of arrangements for the sharing of frequencies described in such paragraph. Upon a finding by the NTIA that a Federal entity has achieved comparable capability of systems, the NTIA shall terminate or limit the entity’s authorization and notify the Commission that the entity’s relocation has been completed or sharing arrangement has been implemented. The NTIA shall also terminate such entity’s authorization if the NTIA determines that the entity has unreasonably failed to comply with the timeline for relocation or sharing submitted by the Director of the Office of Management and Budget under section 118(d)(2)(C).”;

(2) by redesignating subsections (h) and (i) as subsections (k) and (l), respectively; and

(3) by inserting after subsection (g) the following:

“(h) **DEVELOPMENT AND PUBLICATION OF RELOCATION OR SHARING TRANSITION PLANS.**—

“(I) **DEVELOPMENT OF TRANSITION PLAN BY FEDERAL ENTITY.**—Not later than 240 days before the commencement of any auction of eligible frequencies described in subsection (g)(2), a Federal entity authorized to use any such frequency shall submit to the NTIA and to the Technical Panel established by paragraph (3) a transition plan for the implementation by such



entity of the relocation or sharing arrangement. The NTIA shall specify, after public input, a common format for all Federal entities to follow in preparing transition plans under this paragraph.

“(2) CONTENTS OF TRANSITION PLAN.—The transition plan required by paragraph (1) shall include the following information:

“(A) The use by the Federal entity of the eligible frequencies to be auctioned, current as of the date of the submission of the plan.

“(B) The geographic location of the facilities or systems of the Federal entity that use such frequencies.

“(C) The frequency bands used by such facilities or systems, described by geographic location.

“(D) The steps to be taken by the Federal entity to relocate its spectrum use from such frequencies or to share such frequencies, including timelines for specific geographic locations in sufficient detail to indicate when use of such frequencies at such locations will be discontinued by the Federal entity or shared between the Federal entity and non-Federal users.

“(E) The specific interactions between the eligible Federal entity and the NTIA needed to implement the transition plan.

“(F) The name of the officer or employee of the Federal entity who is responsible for the relocation or sharing efforts of the entity and who is authorized to meet and negotiate with non-Federal users regarding the transition.

“(G) The plans and timelines of the Federal entity for—

“(i) using funds received from the Spectrum Relocation Fund established by section 118;

“(ii) procuring new equipment and additional personnel needed for relocation or sharing;

“(iii) field-testing and deploying new equipment needed for relocation or sharing; and

“(iv) hiring and relying on contract personnel, if any, needed for relocation or sharing.

“(H) Factors that could hinder fulfillment of the transition plan by the Federal entity.

“(3) TECHNICAL PANEL.—

“(A) ESTABLISHMENT.—There is established within the NTIA a panel to be known as the Technical Panel.

“(B) MEMBERSHIP.—

“(i) NUMBER AND APPOINTMENT.—The Technical Panel shall be composed of 3 members, to be appointed as follows:

“(I) One member to be appointed by the Director of the Office of Management and Budget (in this subsection referred to as ‘OMB’).

“(II) One member to be appointed by the Assistant Secretary.

“(III) One member to be appointed by the Chairman of the Commission.

“(ii) QUALIFICATIONS.—Each member of the Technical Panel shall be a radio engineer or a technical expert.

“(iii) INITIAL APPOINTMENT.—The initial members of the Technical Panel shall be appointed not later than 180 days after the date of the enactment of the Middle Class Tax Relief and Job Creation Act of 2012.

“(iv) TERMS.—The term of a member of the Technical Panel shall be 18 months, and no individual may serve more than 1 consecutive term.

“(v) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy shall be filled in the manner in which the original appointment was made.

“(vi) NO COMPENSATION.—The members of the Technical Panel shall not receive any compensation for service on the Technical Panel. If

any such member is an employee of the agency of the official that appointed such member to the Technical Panel, compensation in the member's capacity as such an employee shall not be considered compensation under this clause.

“(C) ADMINISTRATIVE SUPPORT.—The NTIA shall provide the Technical Panel with the administrative support services necessary to carry out its duties under this subsection and subsection (i).

“(D) REGULATIONS.—Not later than 180 days after the date of the enactment of the Middle Class Tax Relief and Job Creation Act of 2012, the NTIA shall, after public notice and comment and subject to approval by the Director of OMB, adopt regulations to govern the workings of the Technical Panel.

“(E) CERTAIN REQUIREMENTS INAPPLICABLE.—The Federal Advisory Committee Act (5 U.S.C. App.) and sections 552 and 552b of title 5, United States Code, shall not apply to the Technical Panel.

“(4) REVIEW OF PLAN BY TECHNICAL PANEL.—

“(A) IN GENERAL.—Not later than 30 days after the submission of the plan under paragraph (1), the Technical Panel shall submit to the NTIA and to the Federal entity a report on the sufficiency of the plan, including whether the plan includes the information required by paragraph (2) and an assessment of the reasonableness of the proposed timelines and estimated relocation or sharing costs, including the costs of any proposed expansion of the capabilities of a Federal system in connection with relocation or sharing.

“(B) INSUFFICIENCY OF PLAN.—If the Technical Panel finds the plan insufficient, the Federal entity shall, not later than 90 days after the submission of the report by the Technical panel under subparagraph (A), submit to the Technical Panel a revised plan. Such revised plan shall be treated as a plan submitted under paragraph (1).

“(5) PUBLICATION OF TRANSITION PLAN.—Not later than 120 days before the commencement of the auction described in paragraph (1), the NTIA shall make the transition plan publicly available on its website.

“(6) UPDATES OF TRANSITION PLAN.—As the Federal entity implements the transition plan, it shall periodically update the plan to reflect any changed circumstances, including changes in estimated relocation or sharing costs or the timeline for relocation or sharing. The NTIA shall make the updates available on its website.

“(7) CLASSIFIED AND OTHER SENSITIVE INFORMATION.—

“(A) CLASSIFIED INFORMATION.—If any of the information required to be included in the transition plan of a Federal entity is classified information (as defined in section 798(b) of title 18, United States Code), the entity shall—

“(i) include in the plan—

“(I) an explanation of the exclusion of any such information, which shall be as specific as possible; and

“(II) all relevant non-classified information that is available; and

“(ii) discuss as a factor under paragraph (2)(H) the extent of the classified information and the effect of such information on the implementation of the relocation or sharing arrangement.

“(B) REGULATIONS.—Not later than 180 days after the date of the enactment of the Middle Class Tax Relief and Job Creation Act of 2012, the NTIA, in consultation with the Director of OMB and the Secretary of Defense, shall adopt regulations to ensure that the information publicly released under paragraph (5) or (6) does not contain classified information or other sensitive information.

“(i) DISPUTE RESOLUTION PROCESS.—

“(1) IN GENERAL.—If a dispute arises between a Federal entity and a non-Federal user regard-

ing the execution, timing, or cost of the transition plan submitted by the Federal entity under subsection (h)(1), the Federal entity or the non-Federal user may request that the NTIA establish a dispute resolution board to resolve the dispute.

“(2) ESTABLISHMENT OF BOARD.—

“(A) IN GENERAL.—If the NTIA receives a request under paragraph (1), it shall establish a dispute resolution board.

“(B) MEMBERSHIP AND APPOINTMENT.—The dispute resolution board shall be composed of 3 members, as follows:

“(i) A representative of the Office of Management and Budget (in this subsection referred to as ‘OMB’), to be appointed by the Director of OMB.

“(ii) A representative of the NTIA, to be appointed by the Assistant Secretary.

“(iii) A representative of the Commission, to be appointed by the Chairman of the Commission.

“(C) CHAIR.—The representative of OMB shall be the Chair of the dispute resolution board.

“(D) VACANCIES.—Any vacancy in the dispute resolution board shall be filled in the manner in which the original appointment was made.

“(E) NO COMPENSATION.—The members of the dispute resolution board shall not receive any compensation for service on the board. If any such member is an employee of the agency of the official that appointed such member to the board, compensation in the member's capacity as such an employee shall not be considered compensation under this subparagraph.

“(F) TERMINATION OF BOARD.—The dispute resolution board shall be terminated after it rules on the dispute that it was established to resolve and the time for appeal of its decision under paragraph (7) has expired, unless an appeal has been taken under such paragraph. If such an appeal has been taken, the board shall continue to exist until the appeal process has been exhausted and the board has completed any action required by a court hearing the appeal.

“(3) PROCEDURES.—The dispute resolution board shall meet simultaneously with representatives of the Federal entity and the non-Federal user to discuss the dispute. The dispute resolution board may require the parties to make written submissions to it.

“(4) DEADLINE FOR DECISION.—The dispute resolution board shall rule on the dispute not later than 30 days after the request was made to the NTIA under paragraph (1).

“(5) ASSISTANCE FROM TECHNICAL PANEL.—The Technical Panel established under subsection (h)(3) shall provide the dispute resolution board with such technical assistance as the board requests.

“(6) ADMINISTRATIVE SUPPORT.—The NTIA shall provide the dispute resolution board with the administrative support services necessary to carry out its duties under this subsection.

“(7) APPEALS.—A decision of the dispute resolution board may be appealed to the United States Court of Appeals for the District of Columbia Circuit by filing a notice of appeal with that court not later than 30 days after the date of such decision. Each party shall bear its own costs and expenses, including attorneys' fees, for any appeal under this paragraph.

“(8) REGULATIONS.—Not later than 180 days after the date of the enactment of the Middle Class Tax Relief and Job Creation Act of 2012, the NTIA shall, after public notice and comment and subject to approval by OMB, adopt regulations to govern the working of any dispute resolution boards established under paragraph (2)(A) and the role of the Technical Panel in assisting any such board.

“(9) CERTAIN REQUIREMENTS INAPPLICABLE.—The Federal Advisory Committee Act (5 U.S.C.

App.) and sections 552 and 552b of title 5, United States Code, shall not apply to a dispute resolution board established under paragraph (2)(A).

“(j) **RELOCATION PRIORITIZED OVER SHARING.**—

“(1) **IN GENERAL.**—In evaluating a band of frequencies for possible reallocation for exclusive non-Federal use or shared use, the NTIA shall give priority to options involving reallocation of the band for exclusive non-Federal use and shall choose options involving shared use only when it determines, in consultation with the Director of the Office of Management and Budget, that relocation of a Federal entity from the band is not feasible because of technical or cost constraints.

“(2) **NOTIFICATION OF CONGRESS WHEN SHARING CHOSEN.**—If the NTIA determines under paragraph (1) that relocation of a Federal entity from the band is not feasible, the NTIA shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives of the determination, including the specific technical or cost constraints on which the determination is based.”.

(b) **CONFORMING AMENDMENT.**—Section 309(j) of the Communications Act of 1934 is further amended by striking “relocation costs” each place it appears and inserting “relocation or sharing costs”.

#### **SEC. 6702. SPECTRUM RELOCATION FUND.**

Section 118 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 928) is amended—

(1) by striking “relocation costs” each place it appears and inserting “relocation or sharing costs”;

(2) by amending subsection (c) to read as follows:

“(c) **USE OF FUNDS.**—The amounts in the Fund from auctions of eligible frequencies are authorized to be used to pay relocation or sharing costs of an eligible Federal entity incurring such costs with respect to relocation from or sharing of those frequencies.”;

(3) in subsection (d)—

(A) in paragraph (2)—

(i) in subparagraph (A), by inserting “or sharing” before the semicolon;

(ii) in subparagraph (B), by inserting “or sharing” before the period at the end;

(iii) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(iv) by inserting before subparagraph (B), as so redesignated, the following:

“(A) unless the eligible Federal entity has submitted a transition plan to the NTIA as required by paragraph (1) of section 113(h), the Technical Panel has found such plan sufficient under paragraph (4) of such section, and the NTIA has made available such plan on its website as required by paragraph (5) of such section.”;

(B) by striking paragraph (3); and

(C) by adding at the end the following:

“(3) **TRANSFERS FOR PRE-AUCTION COSTS.**—

“(A) **IN GENERAL.**—Subject to subparagraph (B), the Director of OMB may transfer to an eligible Federal entity, at any time (including prior to a scheduled auction), such sums as may be available in the Fund to pay relocation or sharing costs related to pre-auction estimates or research, as such costs are described in section 113(g)(3)(A)(iii).

“(B) **NOTIFICATION.**—No funds may be transferred pursuant to subparagraph (A) unless—

“(i) the notification provided under paragraph (2)(C) includes a certification from the Director of OMB that—

“(I) funds transferred before an auction will likely allow for timely implementation of relocation or sharing, thereby increasing net expected

auction proceeds by an amount not less than the time value of the amount of funds transferred; and

“(II) the auction is intended to occur not later than 5 years after transfer of funds; and

“(ii) the transition plan submitted by the eligible Federal entity under section 113(h)(1) provides—

“(I) to the fullest extent possible, for sharing and coordination of eligible frequencies with non-Federal users, including reasonable accommodation by the eligible Federal entity for the use of eligible frequencies by non-Federal users during the period that the entity is relocating its spectrum uses (in this clause referred to as the ‘transition period’);

“(II) for non-Federal users to be able to use eligible frequencies during the transition period in geographic areas where the eligible Federal entity does not use such frequencies;

“(III) that the eligible Federal entity will, during the transition period, make itself available for negotiation and discussion with non-Federal users not later than 30 days after a written request therefor; and

“(IV) that the eligible Federal entity will, during the transition period, make available to a non-Federal user with appropriate security clearances any classified information (as defined in section 798(b) of title 18, United States Code) regarding the relocation process, on a need-to-know basis, to assist the non-Federal user in the relocation process with such eligible Federal entity or other eligible Federal entities.

“(C) **APPLICABILITY TO CERTAIN COSTS.**—

“(i) **IN GENERAL.**—The Director of OMB may transfer under subparagraph (A) not more than \$10,000,000 for costs incurred after June 28, 2010, but before the date of the enactment of the Middle Class Tax Relief and Job Creation Act of 2012.

“(ii) **SUPPLEMENT NOT SUPPLANT.**—Any amounts transferred by the Director of OMB pursuant to clause (i) shall be in addition to any amounts that the Director of OMB may transfer for costs incurred on or after the date of the enactment of the Middle Class Tax Relief and Job Creation Act of 2012.

“(4) **REVERSION OF UNUSED FUNDS.**—Any amounts in the Fund that are remaining after the payment of the relocation or sharing costs that are payable from the Fund shall revert to and be deposited in the general fund of the Treasury, for the sole purpose of deficit reduction, not later than 8 years after the date of the deposit of such proceeds to the Fund, unless within 60 days in advance of the reversion of such funds, the Director of OMB, in consultation with the NTIA, notifies the congressional committees described in paragraph (2)(C) that such funds are needed to complete or to implement current or future relocation or sharing arrangements.”;

(4) in subsection (e)—

(A) in paragraph (1)(B)—

(i) in clause (i), by striking “subsection (d)(2)(A)” and inserting “subsection (d)(2)(B)”;

(ii) in clause (ii), by striking “subsection (d)(2)(B)” and inserting “subsection (d)(2)(C)”;

(B) in paragraph (2)—

(i) by striking “entity’s relocation” and inserting “relocation of the entity or implementation of the sharing arrangement by the entity”;

(ii) by inserting “or the implementation of such arrangement” after “such relocation”;

(iii) by striking “subsection (d)(2)(A)” and inserting “subsection (d)(2)(B)”;

(5) by adding at the end the following:

“(f) **ADDITIONAL PAYMENTS FROM FUND.**—

“(1) **AMOUNTS AVAILABLE.**—Notwithstanding subsections (c) through (e), after the date of the enactment of the Middle Class Tax Relief and

Job Creation Act of 2012, there are appropriated from the Fund and available to the Director of OMB for use in accordance with paragraph (2) not more than 10 percent of the amounts deposited in the Fund from auctions occurring after such date of enactment of licenses for the use of spectrum vacated by eligible Federal entities.

“(2) **USE OF AMOUNTS.**—

“(A) **IN GENERAL.**—The Director of OMB, in consultation with the NTIA, may use amounts made available under paragraph (1) to make payments to eligible Federal entities that are implementing a transition plan submitted under section 113(h)(1) in order to encourage such entities to complete the implementation more quickly, thereby encouraging timely access to the eligible frequencies that are being reallocated for exclusive non-Federal use or shared use.

“(B) **CONDITIONS.**—In the case of any payment by the Director of OMB under subparagraph (A)—

“(i) such payment shall be based on the market value of the eligible frequencies, the timeliness with which the eligible Federal entity clears its use of such frequencies, and the need for such frequencies in order for the entity to conduct its essential missions;

“(ii) the eligible Federal entity shall use such payment for the purposes specified in clauses (i) through (v) of section 113(g)(3)(A) to achieve comparable capability of systems affected by the reallocation of eligible frequencies from Federal use to exclusive non-Federal use or to shared use;

“(iii) such payment may not be made if the amount remaining in the Fund after such payment will be less than 10 percent of the winning bids in the auction of the spectrum with respect to which the Federal entity is incurring relocation or sharing costs; and

“(iv) such payment may not be made until 30 days after the Director of OMB has notified the congressional committees described in subsection (d)(2)(C).

“(g) **RESTRICTION ON USE OF FUNDS.**—No amounts in the Fund on the day before the date of the enactment of the Middle Class Tax Relief and Job Creation Act of 2012 may be used for any purpose except—

“(1) to pay the relocation or sharing costs incurred by eligible Federal entities in order to relocate from the frequencies the auction of which generated such amounts; or

“(2) to pay relocation or sharing costs related to pre-auction estimates or research, in accordance with subsection (d)(3).”.

#### **SEC. 6703. NATIONAL SECURITY AND OTHER SENSITIVE INFORMATION.**

Part B of title I of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 921 et seq.) is amended by adding at the end the following:

#### **“SEC. 119. NATIONAL SECURITY AND OTHER SENSITIVE INFORMATION.**

“(a) **DETERMINATION.**—If the head of an Executive agency (as defined in section 105 of title 5, United States Code) determines that public disclosure of any information contained in a notification or report required by section 113 or 118 would reveal classified national security information, or other information for which there is a legal basis for nondisclosure and the public disclosure of which would be detrimental to national security, homeland security, or public safety or would jeopardize a law enforcement investigation, the head of the Executive agency shall notify the Assistant Secretary of that determination prior to the release of such information.

“(b) **INCLUSION IN ANNEX.**—The head of the Executive agency shall place the information with respect to which a determination was made under subsection (a) in a separate annex to the

notification or report required by section 113 or 118. The annex shall be provided to the subcommittee of primary jurisdiction of the congressional committee of primary jurisdiction in accordance with appropriate national security stipulations but shall not be disclosed to the public or provided to any unauthorized person through any means."

#### **TITLE VII—MISCELLANEOUS PROVISIONS**

##### **SEC. 7001. REPEAL OF CERTAIN SHIFTS IN THE TIMING OF CORPORATE ESTIMATED TAX PAYMENTS.**

The following provisions of law (and any modification of any such provision which is contained in any other provision of law) shall not apply with respect to any installment of corporate estimated tax:

(1) Section 201(b) of the Corporate Estimated Tax Shift Act of 2009.

(2) Section 561 of the Hiring Incentives to Restore Employment Act.

(3) Section 505 of the United States-Korea Free Trade Agreement Implementation Act.

(4) Section 603 of the United States-Colombia Trade Promotion Agreement Implementation Act.

(5) Section 502 of the United State-Panama Trade Promotion Agreement Implementation Act.

##### **SEC. 7002. REPEAL OF REQUIREMENT RELATING TO TIME FOR REMITTING CERTAIN MERCHANDISE PROCESSING FEES.**

(a) **REPEAL.**—The Trade Adjustment Assistance Extension Act of 2011 (title II of Public Law 112-40; 125 Stat. 402) is amended by striking section 263.

(b) **CLERICAL AMENDMENT.**—The table of contents for such Act is amended by striking the item relating to section 263.

##### **SEC. 7003. TREATMENT FOR PAYGO PURPOSES.**

The budgetary effects of this Act shall not be entered on either PAYGO scorecard maintained pursuant to section 4(d) of the Statutory Pay-As-You-Go Act of 2010.

And the Senate agree to the same.

That the Senate recede from its amendment to the title of the bill.

DAVE CAMP,  
FRED UPTON,  
KEVIN BRADY,  
GREG WALDEN,  
TOM PRICE,  
TOM REED,  
RENEE L. ELLMERS,  
NAN A.S. HAYWORTH,  
SANDER M. LEVIN,  
XAVIER BECERRA,  
CHRIS VAN HOLLEN,  
ALLYSON Y. SCHWARTZ,  
HENRY A. WAXMAN,

*Managers on the Part of the House.*

MAX BAUCUS,  
JACK REED,  
BENJAMIN L. CARDIN,  
ROBERT P. CASEY, JR.,

*Managers on the Part of the Senate.*

#### **JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE**

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3630), to provide incentives for the creation of jobs, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate to the text

with an amendment that is a substitute for the House bill and the Senate amendment. The Senate recedes from its amendment to the title. The committee of the conference met on February 16, 2012 (the House chairing) and resolved their differences. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

#### **TITLE**

##### *House bill*

"Middle Class Tax Relief and Job Creation Act of 2011"

##### *Senate bill*

"Temporary Payroll Tax Cut Continuation Act of 2011"

##### *Conference substitute*

"Middle Class Tax Relief and Job Creation Act of 2012"

#### **TITLE I—JOB CREATION INCENTIVES**

##### **SUBTITLE B—EPA REGULATORY RELIEF**

H1102,1103,1104,1105/S—

##### *Current law*

Section 112 of the Clean Air Act (42 U.S.C. 7412) requires the Environmental Protection Agency (EPA) to promulgate Maximum Achievable Control Technology (MACT) standards for "major" sources of emissions of 187 hazardous air pollutants (HAPs) and Generally Available Control Technology (GACT) standards for smaller ("area") sources of HAP emissions. Section 129 of the act (42 U.S.C. 7429) requires EPA to promulgate MACT standards for solid waste combustion units. Under the act, existing boilers would be required to comply with the applicable emission standards within 3 years of the effective date of promulgated regulations, with a possibility of a one-year extension for individual sources if necessary for the installation of controls. Existing solid waste incinerators would be required to meet the standards no later than 5 years after promulgation. On March 21, 2011, EPA finalized four related rules applicable to boilers and commercial and industrial solid waste incinerator (CISWI) units. Three rules established applicable MACT and GACT standards for boilers and MACT standards for CISWI units. The fourth rule (established under authority of the Resource Conservation and Recovery Act) clarified when materials used as fuel in a combustion unit would be defined as "solid waste" (a definition necessary to determine whether a combustion unit would be subject to the CISWI standards rather than the less stringent standards for boilers). EPA stayed the effective date of its major sources and CISWI emission standards pending reconsideration. EPA expects to complete the reconsideration by April 2012. On January 9, 2012, a district court vacated EPA's stay of the major sources and CISWI rules.

##### *House bill*

Sections 1102-1105 apply to EPA's four March 2011 rules. Each rule would be revoked and EPA required to promulgate new standards 15 months after the date of enactment (Section 1102). In establishing the relevant emission standards, the Administrator would be required to choose the "least burdensome" regulatory alternatives. Further, EPA would be required to establish standards that can be met under actual operating conditions consistently and concurrently with other standards (Section 1105). The compliance date for the air emission standards

would be no earlier than 5 years after the date of the new regulation and could take feasibility, cost, and other factors into account in setting the compliance date (Section 1103). In promulgating new rules defining materials that are solid waste when used as a fuel, EPA would be required to adopt the definition of terms promulgated by the agency in a December 2000 CISWI rule (Section 1104).

##### *Senate bill*

No provision.

##### *Conference substitute*

No provision.

#### **TITLE II—EXTENSION OF CERTAIN EXPIRING PROVISIONS AND RELATED MEASURES**

##### **SUBTITLE B—UNEMPLOYMENT COMPENSATION PART 1—REFORMS OF UNEMPLOYMENT COMPENSATION TO PROMOTE WORK AND JOB CREATION**

H2121,2122,2123,2124,2125,2126,2127/S—

##### *Current law*

Federal unemployment law does not contain explicit job search requirements for the receipt of regular state unemployment compensation (UC). Through interpretation of the framework of the Federal unemployment laws contained within the Social Security Act (SSA) and in the Federal Unemployment Tax Act (FUTA), it is generally understood that workers must have lost their jobs through no fault of their own and must be able, available, and willing to work. Variations exist in state law requirements concerning ability and availability to work. All states have work search requirements in state law or regulation in order for an individual to receive regular UC benefits. Most state laws require evidence of ability to work through the filing of claims and registration for work at a public employment office. Availability for work is often translated to mean being ready, willing, and able to work. Meeting the requirement of registration for work at a public employment office may be considered as evidence of availability in some states. There are often particular requirements and/or exceptions for those workers on temporary layoff and for workers that find employment through union hiring halls. Section 202(c)(A)(ii) of the Federal-State Extended Unemployment Compensation Act of 1970 (P.L. 97-373), as amended, does explicitly require active job search. However, the method of determining active job search is left to the determination of the States.

Federal law does not require minimum educational standards as a condition of benefit receipt. Section 303(a)(10) of the SSA requires any claimant who has been referred to reemployment services pursuant to the profiling system under Section 303(j)(1)(B) to participate in such services or in similar services unless the state agency charged with the administration of the state law determines (1) such claimant has completed such services; or (2) there is justifiable cause for such claimant's failure to participate in such services. Section 303(j) requires the state use a system of profiling all new claimants for regular compensation. The profiling system must: (1) identify which claimants will be likely to exhaust regular compensation and will need job search assistance services to make a successful transition to new employment; and (2) refer the identified claimants to reemployment services (including job search assistance services) that are available under any state or Federal law. Section 3304(a)(8) of the Internal Revenue

Code (IRC) requires, as a condition for employers in a state to receive normal credit against the Federal tax, that a state's unemployment benefits laws provide that compensation shall not be denied to an individual for any week because he is in training with the approval of the state agency (or because of the application, to any such week in training, of state law provisions relating to availability for work, active search for work, or refusal to accept work). A recent Training and Employment Guidance Letter (TEGL) No. 21-08, among other items, strongly encouraged states to broaden their definition of approved training for UC beneficiaries during economic downturns.

Section 3304(a)(4) of the IRC and Section 303(a)(5) of the SSA set the withdrawal standards for States to use funds within the State account in the Unemployment Trust Fund (UTF). All funds withdrawn from the unemployment fund of the state shall be used solely in the payment of unemployment compensation, exclusive of expenses of administration. Few exceptions exist; these include, for instance, withholding for tax purposes, for child support payments, to repay UI overpayments or covered unemployment compensation debt, and for benefits for the Self-Employment Assistance program and the Short-Time Compensation program. Section 303(a)(1) requires that the state UC program personnel be merit employees.

Section 3306(t) of the Federal Unemployment Tax Act (FUTA) defines the Self-Employment Assistance (SEA) program. Section 303(a)(5) of the Social Security Act permits the use of expenditures from the Unemployment Trust Fund (UTF) for SEA. The regular UC program generally requires unemployed workers to be actively seeking work and to be available for wage and salary jobs as a condition of eligibility for UC benefits. In states that have opted to create SEA programs under current law, SEA provides allowances in the same amount as regular UC benefits to individuals who (1) would otherwise be eligible for regular UC and (2) have been identified as likely to exhaust regular UC benefits. Under SEA a participating individual is not subject to worker search requirements so long as the individual is participating in entrepreneurial training or other activities.

Section 303(g)(1) of the Social Security Act and Section 3304(a)(4)(D) of the Internal Revenue Code (IRC) allow states but do not require states to offset UC payments by non-fraud overpayments. States may opt in state law to waive deductions if it would be contrary to equity and good conscience.

There are no specific federal laws or regulations related to uniform data elements for improved data matching in the Federal-state unemployment compensation program. Section 303(a)(6) of the SSA requires states to make reports of information and data as required by the U.S. Labor Secretary. But current Federal law contains no precise requirements regarding codes or identifiers attached to UC, Emergency Unemployment Compensation (EUC08), or Extended Benefit (EB) program data or any other data standards.

Federal law does not specifically authorize drug testing of applicants as a condition of UC benefit eligibility. No state currently requires drug tests as a condition of eligibility for unemployment benefits. There are states that do, however, have state law provisions related to disqualification for previously failed drug tests/use of illegal drugs during prior employment.

#### House bill

Section 2121 would add new federal law requirements for state UC eligibility related to

being "able, available, and actively seeking work"—with the latter specifically defined under federal law, including at least (1) registering for employment services within 10 days after initial filing for UC benefits; (2) posting a resume, record, or other application for employment through a state agency database; and (3) applying for work under state requirements [effective for weeks beginning after end of first state legislative session after enactment]. No new funds would be provided for such activities. There would be no exceptions for those on temporary lay-off with expectation of recall, union members, or for those who are striking.

Section 2122 would add new federal law requirements for state UC eligibility: (1) UC claimants must meet minimum education requirements: either earn HS diploma, attain GED, or enroll/make satisfactory progress in classes leading to HS diploma or GED (states would be allowed to waive this educational requirement if state law deems it unduly burdensome); and (2) UC claimants referred to reemployment services must participate. Additionally, the proposal would add a new federal law provision to stipulate that UC may not be denied to an individual enrolled/making satisfactory progress in education or state-approved job training [effective for weeks beginning after end of first state legislative session after enactment].

Section 2123 would authorize under federal law up to 10 state UC demonstration projects a year (lasting up to 3 years). Demonstration projects would test and evaluate measures designed to expedite the reemployment of individuals who establish initial eligibility for regular UC or to improve the effectiveness of state reemployment efforts. States would provide a general description of the proposed demonstration project. The description would include: (1) a description of the proposed project, its authority under State law, and the period during which the project would be conducted; (2) the specifics of any waiver to Federal law and the reason for such waiver; (3) a description of the goals and expected outcomes of the project; (4) assurances and supporting analysis that the project would not result in a net increase cost to the state's Unemployment Trust Fund (UTF); (5) a description of the impact evaluation; and (6) assurances of reports required by the U.S. Labor Secretary. Section 2123 would allow the U.S. Labor Secretary to waive the withdrawal standard and/or merit employee requirements if requested by the state (state UTF funds would be allowed to be used for purposes other than paying unemployment benefits). Authority ends 5 years after date of enactment of the section. Administrative grants to the states for administration of the regular UC program may be used for an approved project.

Section 2124 would require the U.S. Department of Labor (U.S. DOL) to develop and maintain model language for states to use in enacting SEA programs for regular UC claimants (as authorized under current federal law); this model language would be developed through U.S. DOL consultation with employers, labor organizations, state UC agencies, and other relevant program experts; would require U.S. DOL to provide technical assistance and guidance to states in enacting, improving, and administering SEA programs; would require U.S. DOL to establish reporting requirements for state SEA programs, including reporting (1) on the number of jobs and businesses created by SEA programs and (2) the federal and state tax revenues collected from such businesses

and their employees; and would require U.S. DOL to coordinate with the Small Business Administration to ensure adequate funding for the entrepreneurial training of SEA participants in states with SEA programs.

Section 2125 would require states to recover 100% of any erroneous overpayment by reducing up to 100% of the UC benefit in each week until the overpayment is fully recovered. The proposal would not allow states to waive such deduction if it would be contrary to equity and good conscience. Section 2125 also would create authority for states to recover Federal Additional Compensation (FAC) overpayments through deductions to regular unemployment compensation.

Section 2126 would require that the U.S. Labor Secretary designate standard data elements for any information required under title III or title IX of the SSA. This section would require the standard data elements incorporate interoperable standards that have been developed and used by an international standards body (as established by the Office of Management and Budget (OMB) and the U.S. Labor Secretary); intergovernmental partnerships; and Federal entities with contracting and financial assistance authority. In addition, Section 106(a) of this proposal would require the U.S. Labor Secretary, in consultation with an OMB interagency working group and States, to designate standard data elements that, to the extent practicable: (1) Make use of a widely-accepted, non-proprietary, digital, searchable format (2) Are consistent with and use relevant accounting principles (3) Are able to be upgraded on a continual basis (4) Incorporate non-proprietary standards (such as the eXtensible Business Reporting Language).

Section 2127 would clarify federal law to allow (but would not require) drug testing of UC applicants.

#### Senate bill

No provision.

#### Conference substitute

The conference agreement follows the House bill with regard to specifying new federal minimum standards for state unemployment compensation eligibility related to being "able, available, and actively seek work." (See also part 3 of this section with regard to job search requirements related to Federal unemployment benefits.)

The conference agreement follows the House bill with regard to State flexibility (i.e. new waiver authority), but with the following modifications:

(1) Permits a total of no more than 10 States to receive waivers;

(2) Specifies that waivers may only be used to operate programs providing subsidies for employer-provided training or for direct disbursements (such as wage subsidies) to employers who hire individuals receiving UC benefits, not to exceed the weekly benefit amount, to cover part of the cost of their wages, and provided that the overall wage is greater than the unemployment benefit the individual had been receiving;

(3) Limits the operation of State waiver programs to no more than 3 years, and specifies that the waiver programs cannot be extended;

(4) Requires the state to evaluate their waiver programs; and

(5) Requires States to provide assurances that any employment meets the State's suitable work requirement and requirements of section 3304(a)(5) of the Internal Revenue Code and that the waiver programs end by December 31, 2015.

The conference agreement follows the House bill and incorporates S. 1826 with regard to the Self-Employment Assistance

Program, while also authorizing States to operate SEA programs to assist individuals eligible for benefits under the Emergency Unemployment Compensation (EUC) and Extended Benefit (EB) programs, and providing funds to assist States with the administration of such programs.

The conference agreement includes a new provision based on S. 1333 authorizing work sharing programs and providing program and administrative funding for that purpose.

The conference agreement follows the House bill with regard to requiring States to offset current State benefits to recover prior overpayments of State, other States', or Federal unemployment benefits. With regard to efforts to recover overpayments owed to other States and the Federal government, the conference agreement requires each State to apply hardship exceptions and related terms that follow State practice used to recover overpayments of its own State benefit funds.

The conference agreement follows the House bill with regard to the data standardization provisions.

The conference agreement follows the House bill with regard to drug testing provisions, with the modification that drug screening and testing is permitted in any State, but only in cases in which the individual applying for unemployment benefits either (1) was terminated from their prior employment because of unlawful drug use (2) is applying for work for which passing a drug test is a standard eligibility requirement.

#### PART 2—PROVISIONS RELATING TO EXTENDED BENEFITS

H2142,2143,2144/S201,202

##### *Current law*

Under P.L. 110-252, as amended, the authorization of the EUC08 program expires the week ending on or before March 6, 2012. Individuals receiving benefits in any tier of EUC08 would be able to finish out that tier of benefits only (grandfathering for current tier only). No EUC08 benefits—regardless of tier—are payable for any week after August 15, 2012. The current structure of unemployment benefits available through the EUC08 program is: Tier I: up to 20 weeks of unemployment benefits (available in all states); Tier II: up to 14 weeks (available in all states); Tier III: up to 13 weeks (available in states with a total unemployment rate (TUR) of at least 6% or an insured unemployment rate (IUR) of at least 4%); Tier IV: up to 6 weeks (available in states with a TUR of at least 8.5% or an IUR of at least 6%). Section 4001(e) of P.L. 110-252, as amended allows states the option to pay EUC08 before EB.

Under permanent law (P.L. 97-373), EB benefits are financed 50% by the federal government (through federal unemployment taxes; i.e., FUTA) and states fund the other half (50%) of EB benefit costs through their state unemployment taxes (SUTA). ARRA (P.L. 111-5, as amended) temporarily changed the federal-state funding arrangement for the EB program. Currently, the FUTA finances 100% of sharable EB benefits through March 7, 2012. P.L. 111-312 made some temporary technical changes to certain triggers in the EB program, which allow states to temporarily use lookback calculations based on three years of unemployment rate data (rather than the permanent law lookback of two years of data) as part of their EB triggers if states would otherwise trigger off or not be on a period of EB benefits. This temporary option to use three-year EB trigger lookback expires the week ending on or before February 29, 2012.

P.L. 111-5, as amended, temporarily increased the duration of extended unemployment benefits for railroad workers. Railroad workers who previously were not eligible for extended unemployment benefits because they did not have 10 years of service may be eligible for benefits of up to 65 days within an extended period consisting of seven consecutive two-week registration periods. Railroad workers who previously were eligible for extended unemployment benefits of up to 65 days (because they had 10 years of service) may now be eligible for benefits of up to 130 days within an extended period consisting of 13 consecutive two-week registration periods. P.L. 111-312 extended the ARRA provisions by one year to June 30, 2011. Under P.L. 111-312, the special extended unemployment benefit period could begin no later than December 31, 2011. P.L. 112-78 extended the temporary extended railroad unemployment benefit (authorized under ARRA (P.L. 111-5), as amended) for two months through February 29, 2012, to be financed with funds still available under P.L. 111-312.

##### *House bill*

Section 2142 would extend the authorization of Tiers I and III of EUC08 until the week ending on or before January 31, 2013. The duration and conditions for availability of Tier II would be altered. There would be no benefits payable after that date. (There would be no grandfathering of benefits.) Tier I would continue to offer up to 20 weeks in all states, Tier II would offer up to 13 weeks (rather than 14) and would be available in states with at least 6.0% TUR or an IUR of at least 4% (rather than in all states). Tiers III and IV would not be reauthorized. Note: Included in this subsection was an intent to require states to pay EUC08 before any EB entitlement. However, the version passed by the House would require states to pay EB before EUC08 and will need correction to reflect the intended ordering of benefits. (At the time of House passage, the authorization for all EUC08 tiers would have expired on the week ending on or before January 3, 2012 and no EUC08 benefit would have been payable for any week after June 9, 2012.)

Section 2143 would extend the 100% federal financing of EB through January 31, 2013, as well as the option for states to use three-year lookback in their EB triggers until the week ending on or before January 31, 2013. (At the time of House passage, the FUTA financed 100% of sharable EB benefits through January 4, 2012 and the three-year lookback would have expired on the week ending on or before December 31, 2011.)

Section 2144 would extend the temporary extended railroad unemployment benefit (authorized under ARRA (P.L. 111-5), as amended) for 13 months through January 31, 2013, to be financed with funds still available under P.L. 111-312. (At the time of House passage, the special extended unemployment benefit period could begin no later than December 31, 2011.)

##### *Senate bill*

Section 201 would extend the authorization for the EUC08 program (as structured under current law) until the week ending on or before March 6, 2012. No EUC08 benefits—regardless of tier—would be payable for any week after August 15, 2012. (At the time of Senate passage, the authorization for all EUC08 tiers would have expired on the week ending on or before January 3, 2012 and no EUC08 benefit would have been payable for any week after June 9, 2012.) This section would extend the 100% federal financing of EB through March 7, 2012. This section would

also extend the option for states to use the three-year lookback in their EB triggers until the week ending on or before February 29, 2012. (At the time of Senate passage, the FUTA financed 100% of sharable EB benefits through January 4, 2012 and the three-year lookback would have expired on the week ending on or before December 31, 2011.)

Section 202 would extend the temporary extended railroad unemployment benefit (authorized under ARRA (P.L. 111-5), as amended) for two months through February 29, 2012, to be financed with funds still available under P.L. 111-312. (At the time of Senate passage, the special extended unemployment benefit period could begin no later than December 31, 2011.)

##### *Conference substitute*

The conference agreement follows the House bill in continuing the operation of the Federal Emergency Unemployment Compensation (EUC) program beyond its current expiration at the end of February 2012, with the following modifications:

(1) The authorization of the EUC program is extended through the end of December 2012;

(2) The EUC program will not continue to provide benefits after December 2012 (i.e. there will be no "phase-out" of benefits beyond December 2012);

(3) EUC benefits would continue to be payable in up to four tiers as under current law. However, as the table below reflects, in the case of tiers two through four, higher total unemployment rate (TUR) "triggers" will apply from June through December 2012, as follows:

EUC Tier	March through May 2012	June through August 2012	September through December 2012
1 ...	20 weeks in all states.	20 weeks in all states.	14 weeks in all states.
2 ...	14 weeks in all states.	14 weeks in 6% or higher states.	14 weeks in 6% or higher states.
3 ...	13 weeks in 6% or higher states.	13 weeks in 7% or higher states.	9 weeks in 7% or higher states.
4 ...	6 weeks in 8.5% or higher states (16 weeks if not on EB).	6 weeks in 9% or higher states.	10 weeks in 9% or higher states.

(4) Through May 2012 only, individuals who have not already received up to 20 weeks of EB program benefits due to the application of that program's "3-year lookback" would be eligible to receive up to an additional 10 weeks of benefits under Tier 4 of the EUC program (that is, in addition to the six weeks otherwise available), provided they are in a State with an unemployment rate above 8.5%, and with the condition that no such individual could receive a total of more than 99 weeks of benefits from all sources (counting State, EUC and EB programs).

(5) As the table above reflects, weeks of benefits payable in tiers 1, 3 and 4 in September through December 2012 would be adjusted, with tier 1 dropping from 20 to 14 weeks, tier 3 dropping from 13 to 9 weeks, and tier 4 rising from 6 to 10 weeks. In all, these changes will result in the maximum weeks of benefits payable under the EUC program falling from 53 weeks under current law (in the case of States with unemployment rates today at or above 8.5%) to a maximum of up to 47 weeks (in the case of States with an unemployment rate of 9% or higher) from September through December 2012. In each period, an individual's eligibility for a tier of benefits will be determined according to the State's unemployment rate in that period. For example, individuals exhausting tier 2 of benefits will be eligible to begin tier 3 of benefits in the spring only if their State has an unemployment rate of at least 6%,

while those exhausting tier 2 in the summer and fall months can qualify for tier 3 benefits only if they are in a State with an unemployment rate of at least 7%.

The conference agreement specifies that States are required to pay EUC benefits before any benefits under the EB program.

The conference agreement follows the House bill in terms of extending the current temporary 100% Federal financing of EB as well as the three-year lookback used to determine State eligibility for EB, with the modification that in each case the extension would apply through December 2012.

The conference agreement follows the House bill and Senate amendment with regard to the temporary extended railroad unemployment benefit program, with the modification that the extension would apply through December 2012.

#### PART 3—IMPROVING REEMPLOYMENT STRATEGIES UNDER THE EMERGENCY UNEMPLOYMENT COMPENSATION PROGRAM

H2161, 2162, 2163, 2164, 2165/S—

##### *Current law*

Federal unemployment law does not contain explicit job search requirements for the receipt of EUC08 benefits. Federal unemployment law does not require states to have work search requirements in the regular UC program. However, all states have work search requirements in state law or regulation in order for an individual to receive regular UC benefits. Section 202(a)(3)(A)(ii) of the Federal-State Extended Unemployment Compensation Act of 1970 (P.L. 97-373), as amended, explicitly requires active job search for receipt of Extended Benefits (EB). However, the method of determining active job search is left to the determination of the states.

Federal law does not require minimum educational standards or reemployment service participation as a condition of EUC08 benefit receipt.

P.L. 110-252, as amended, requires that all EUC08 benefits be paid directly to the unemployed who have exhausted entitlement to all regular UC benefits. There is no provision for demonstration projects.

Section 4005(c)(1) of P.L. 110-252, as amended allows states but does not require states to offset EUC08 payments by non-fraud overpayments. Any offset under current law may not be more than 50% of total EUC08 benefit.

Section 4001(g) of the Supplemental Appropriations Act of 2008 (P.L. 110-252), as amended, prevents states from decreasing the average weekly benefit amount of regular UC payments. That is, a state is not permitted to pay an average weekly UC benefit that is less than what would have been paid under state law prior to what was in effect on June 2, 2010. This “nonreduction rule” is a condition of the EUC08 Federal-State agreement of P.L. 110-252, as amended.

##### *House bill*

Section 2161 would require active work search for EUC08 entitlement where active work search must require at least the following: individuals to register with reemployment services within 30 days, individuals post a resume, record, or other application for employment on a database required by the state, and individuals apply for work in such a manner as required by the state.

Section 2162 would require EUC08 beneficiaries (1) to participate in reemployment services if referred and (2) to actively search for work, effective on or after 30 days of enactment for those individuals who enter a tier of EUC08. This section would require individuals to meet the minimum educational

requirements (high school degree, GED, or enrolled in program) created earlier in Section 2122 of the proposal (amending Section 303(a)(10)(B) of the SSA). The participation requirement for reemployment services would be waived if individuals have already completed this requirement or if there is “justifiable cause” as specified by guidance to be issued by the U.S. DOL Secretary within 30 days. This section would authorize up to \$5 of an individual’s EUC08 benefit each week to be diverted (at state option) to fund these reemployment services and activities.

Section 2163 would allow for up to 20% of all EUC08 recipients in each state to be diverted into demonstration projects. The demonstration projects would need to be designed to expedite reemployment. Allowable demonstration activities would include: subsidies for employer provided training; work sharing or Short-Time Compensation; enhanced employment strategies and services; SEA programs; services that enhance skills that would assist in obtaining reemployment; direct reimbursements to employers who hire individuals that were receiving EUC08; and other innovative activities not otherwise described. Authority for demonstration projects would end when EUC08 ceases to be payable. Demonstration projects would be required to provide appropriate reemployment services and assurances of no net increase in cost to the EUC08 program. This section would require states to provide information on demonstration projects for reporting and evaluation purposes.

Section 2164 would require states to offset an individual’s EUC08 benefit if they received an unemployment benefit overpayment. States would be required to offset by at least 50% of the EUC08 benefit in any week.

Section 2165 would repeal the “nonreduction rule” in terms of the regular UC benefit amount. This would give states the option to decrease average weekly benefit amounts without invalidating their EUC08 Federal-state agreements.

##### *Senate bill*

No provision.

##### *Conference substitute*

The conference agreement follows the House bill with regard to explicit job search requirements, with several modifications designed to closely align the work search requirements between the EUC and EB programs. In order to be eligible for benefits in any week, the state agency shall find that the individual is able to work, available to work, and making reasonable efforts to secure suitable work.

For purposes of this provision, the term “making reasonable efforts to secure suitable work” means, with respect to an individual, that such individual: (1) Is registered for employment services in such manner and to such extent as prescribed by the state agency; (2) Has engaged in an active search for employment that is appropriate in light of the individual’s skills, capabilities and work history, and includes a number of employer contacts that is consistent with reasonable standards communicated to the individual by the state; (3) Has maintained a record of such work search, including employers contacted, method of contact and date contacted; and (4) When requested, has provided such work search record to the state agency. The Secretary of Labor shall prescribe to each state a minimum number of claims for which work search records must be audited on a random basis in any given week.

The conference agreement follows the House bill with regard to the requirement that EUC recipients participate in reemployment services if referred and as well as actively search for work. The conference agreement follows the Senate amendment with regards to there being no minimum education requirements for individuals receiving EUC benefits.

The conference agreement follows the House bill with regard to the requirement that States provide reemployment services and reemployment and eligibility assessment activities to long-term unemployed individuals who begin receiving EUC benefits and throughout their time collecting EUC benefits. The conference agreement follows the Senate amendment with regard to no State authority to reduce EUC benefits to support the cost of such reemployment services and activities. In its place, the conference agreement provides new one-time funding to States to support the cost of such reemployment services and activities.

The conference agreement follows the Senate amendment with respect to no additional State flexibility to assist the long-term unemployed with improved reemployment services using EUC funds.

The conference agreement follows the House bill with regard to requiring States to offset current Federal benefits to recover prior overpayments of State, other States’, or Federal unemployment benefits. With regard to efforts to recover such overpayments owed to other States and the Federal government, the conference agreement requires each State to apply hardship exceptions and related terms that follow State practice used to recover overpayments of its own State benefit funds.

The conference agreement modifies the House bill with regard to effect of the current “nonreduction rule,” which generally blocks the payment of Federal EUC funds to States that have reduced State unemployment benefits. Several States, in order to address solvency have passed laws to reduce future State benefit amounts, and others may be considering doing the same. Thus, the continued application of the “nonreduction rule” (if not adjusted) would bar such States from receiving EUC funds otherwise provided under this legislation. For this reason, the conference agreement changes the effective date of the non-reduction rule to March 1, 2012 in order to allow for changes states have made (i.e. both those that have already enacted laws changing benefit amounts, as well as those with legislation pending that would do so). This permits States to adjust benefits as they have planned, while remaining eligible for Federal EUC funds throughout CY 2012.

#### SUBTITLE D—TANF EXTENSION

H2302/S312

##### *Current law*

The Temporary Payroll Tax Cut Continuation Act of 2011 (P.L. 112-78) provided program authorization and funding for most Temporary Assistance for Needy Families (TANF) grants through February 29, 2012. It provided authority and funding for state family assistance grants (the basic block grant), healthy marriage and responsible fatherhood grants, mandatory child care grants, tribal work program grants, matching grants for the territories, and research funds. Grants are funded at the same level as in FY2011, and paid on a pro-rated quarterly basis. No funding was provided for TANF supplemental grants. The TANF contingency fund was provided an FY2012 appropriation in legislation enacted in 2010, P.L. 111-242.



*House bill*

Section 2302 provides FY2012 appropriations for TANF state family assistance grants, healthy marriage and responsible fatherhood grants, mandatory child care grants, tribal TANF work programs, matching grants for the territories, and research funds. FY2012 grants are provided at the same level as were provided in FY2011.

*Senate bill*

Section 312 extends program authorization and funding for TANF through February 29, 2012. Grants are funded at the same level as in FY2011, and paid on a pro-rated quarterly basis. (Provision is the same as current law. It is identical to that subsequently enacted in P.L. 112-78.)

*Conference substitute*

The conference agreement follows the House bill with technical corrections to ensure the provisions operate as intended. Section 2302(c)(1) is revised by changing the year to 2013 instead of 2012 to correct a drafting error. Section 2302(c)(2)(A) is revised by changing the year to 2012 instead of 2011 to correct a drafting error. Section 2302(i) is revised by striking “or section 403(b) of the Social Security Act” to reflect the intent that TANF contingency funds are not affected by this bill and that they continue as previously authorized and appropriated for FY 2012, and also to update the provision to add a reference the Temporary Payroll Tax Cut Continuation Act of 2011 which extended TANF through February 29, 2012.

H2303, 2304, 2305/S—

*Current law*

States are required to report case- and individual-level demographic, monthly financial and monthly work participation information to the Department of Health and Human Services (HHS) on a quarterly basis.

There are no relevant provisions in current law regarding Section 2304 of the House bill.

*House bill*

Section 2303 requires HHS to issue a rule designating standard data elements for any category of information required to be reported under TANF. The rule would be developed by HHS in consultation with an interagency workgroup established by the Office of Management and Budget (OMB) and with consideration of state and tribal perspectives. To the extent practicable, the standard data elements required by the rule would be non-proprietary and incorporate the interoperable standards developed and maintained by other recognized bodies. To the extent practicable, the data reporting standards required by the rule would incorporate a widely-accepted, nonproprietary, searchable, computer-readable format; be consistent with and implement applicable accounting principles; be capable of being continually upgraded as necessary; and incorporate existing nonproprietary standards, such as the “eXtensible Business Reporting Language.” The data standardization requirement would take effect on October 1, 2012.

Section 2304 requires states to maintain policies and practices to prohibit TANF assistance from being used in any transaction in liquor stores, casinos and gaming establishments, and strip clubs. States have up to 2 years after enactment to implement such policies and practices. States that fail to report actions they have taken are at risk of being penalized by up to a 5% reduction in their block grant.

Section 2305 makes technical corrections to the TANF statute.

*Senate bill*

No provision.

*Conference substitute*

The conference agreement follows the House bill with the following technical modifications to Section 2303: Section 2303(a) is modified to clarify that the goal of the provision is to standardize the data exchange processes, not standardize data elements. Section 2303(b) is modified to require that the Department of Health and Human Services issue proposed rules for this section within 12 months of the enactment of this section, and that the agency finalize these regulations within 24 months of the enactment of this section.

The conference agreement follows the House bill with the following technical modifications to Section 2304: Section 2304(a)(12)(A) is modified to clarify that States are required to block access to TANF funds provided on electronic benefit transfer cards at ATMs and point-of-sale devices in specified locations. Section 2304(a)(12)(B) is modified by adding a definition of electronic benefit transfer transactions. Section 2304(b)(16)(A) is modified to clarify that each State must provide a report to the Secretary of Health and Human Services regarding their implementation of this provision.

## TITLE III—FLOOD INSURANCE REFORM

## REFORM OF PREMIUM RATE STRUCTURE

H3005(a), 3005(b), 3005(c), 3005(d), 3005(e)/S—

*Current law*

The Federal Emergency Management Agency (FEMA) is authorized to increase chargeable risk premium rates for flood insurance for any properties within any single risk classification 10% annually. 42 U.S.C. 4015 (e)

Full actuarial rates begin on the effective date of a revised Flood Hazard Boundary Map or Flood Insurance Rate Map for a community. § 61.11

FEMA is authorized to establish risk premium rates for flood insurance coverage. The agency is also authorized to offer “chargeable” (subsidized) premium rates for pre-FIRM buildings. Post-FIRM structures (i.e., buildings constructed on or after December 31, 1974) and the effective date of the FIRM, whichever is later, must pay the full actuarial risk premium rates. § 61.8

Pre-FIRM structures continue to receive subsidized premium rates after the lapsed policy provided the policyholder pays the appropriate premium to reinstate the policy.

FEMA is authorized to determine whether a community has made adequate progress on the construction of a flood protection system involving federal funds. Adequate progress means the community has provided FEMA with necessary information to determine that 100% of the cost has been authorized, 60% has been appropriated or 50% has been expended. § 61.12

*House bill*

Section 3005(a) would increase the annual cap on premium increases from 10% to 20%.

Section 3005(b) would clarify that newly mapped properties are phased-in to full actuarial, flood insurance rates at a consistent rate of 20% per year over 5 years and requires that newly mapped property owners pay 100% of actuarial rates at the end of the 5 year phase-in period. For areas eligible for the lower-cost Preferred Risk Policy (PRP) rates, the phase-in begins after the expiration of their PRP rates. For all properties, the phase-in of rates only applies to residential properties occupied by their owner or a bona fide tenant as a primary residence.

Section 3005(c) would require that, beginning one year after enactment, the premium rate subsidies (pre-FIRM discounts) for certain properties in the following categories be phased-out, with annual rate increases limited by a 20 percent annual cap. This would apply to commercial properties, second and vacation homes (i.e., residential properties not occupied by an individual as a primary residence), homes sold to new owners, homes damaged or improved (substantial flood damage exceeding 50 percent or substantial improvement exceeding 30 percent of the fair market value of the property), and properties with multiple flood claims (i.e., statutorily defined severe repetitive loss properties.)

Section 3005(d) would remove the eligibility of property owners who allow their policies to lapse by choice to receive discounted rates on those properties.

Section 3005(e) would update the standards by which FEMA evaluates a community's eligibility for special flood insurance rates by considering state and local funding, in addition to federal funding, of flood control projects.

*Senate bill*

No provision.

*Conference substitute*

No provision.

## MANDATORY PURCHASE REQUIREMENTS

H3003(b)(3), 3003(c), 3004(a), 3007(e), 3014, 3017, 3018/S—

*Current law*

There are no relevant provisions in current law regarding Section 3003(b)(3) of the House bill.

FEMA is authorized to enter into arrangements with individual private sector property insurance companies or other insurers, such as public entity risk sharing organizations. Under this Write-Your-Own company arrangement, such companies may offer flood insurance coverage under the program to eligible applicants. § 62.23

The NFIP requires the purchase of flood insurance on and after March 2, 1974, as a condition of receiving any form of federal or federally-related financial assistance for acquisition or construction purposes with respect to insurable buildings and mobile homes within an identified special flood, mudslide, or flood-related erosion hazard area that is located within any community participating in the NFIP. § 59.2 The mandatory purchase of insurance is required in areas identified as being within designated Zones A, A1-30, AE, A99, AO, AH, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, V1-30, VE, V, VO, M, and E. § 64.3

When FEMA has provided a notice of final flood elevations for one or more special flood hazard areas (SFHA) on the community's FIRM, the community shall require that all new construction and substantial improvements of residential structures within Zones A1-30, AE and AH zones on the community's FIRM have the lowest flood (including basement) elevation to or above the base flood level, unless the community is granted an exception by FEMA for the allowance of basements. § 60.3(a) Structures in SFHAs that receive any form of federal or federally-related financial assistance are required to purchase flood insurance. § 59.2(a)

FEMA is required to provide notice of final base flood elevations within Zones A1-30 and/or AE on the community's FIRM that is available for public viewing by homeowners in SFHAs. § 60.3(e) Structures located in these zones are classified as SFHA and are, therefore, required to purchase flood insurance. § 59.2(a)



The NFIP was established to provide flood insurance protection to property owners in flood-prone areas. However, flood insurance is only available in communities that participate in the NFIP. § 59.2 To qualify for flood insurance availability a community must apply for the entire area within its jurisdiction and shall submit copies of legislative and executive actions indicating a local need for flood insurance and an explicit desire to participate in the NFIP. § 59.22

There are no relevant provisions in current law regarding Section 3018 of the House bill. *House bill*

Section 3003(b)(3) would require lenders or servicing companies to terminate policies purchased on behalf of the homeowner to satisfy the mandatory purchase requirement within 30 days of being notified that the homeowner has purchased another policy. Lenders would be required to refund any premium payments and fees made by the homeowner for the time when both policies were in effect. Moreover, the declaration page in the insurance policy would be considered sufficient to demonstrate having met the mandatory insurance purchase requirements.

Section 3003(c) would require lenders to accept flood insurance from a private company if the policy fulfills all federal requirements for flood insurance.

Section 3004(a) would authorize the Administrator of FEMA to delay mandatory purchase requirement for owners of properties in newly designated special flood hazard areas. The delay would not be longer in duration than 12 months with the possibility of two 12 month extensions at the discretion of FEMA. Eligible areas defined as an area that meets the following three requirements: (1) area with no history of special flood hazards; (2) area with a flood protection system under improvement; or (3) area has filed an appeal of the designation of the area as having special flood hazards. Upon a request submitted from a local government authority, FEMA could suspend the mandatory purchase for a possible fourth and fifth year for certain communities that are making more than adequate progress in their construction of their flood protection systems.

Section 3007(e) would clarify that mandatory purchase requirement would not apply to a property located in an area designated as having a special flood hazard if the owner of such property submits to FEMA an elevation certificate showing that the lowest level of the primary residence is at an elevation that is at least three feet higher than the elevation of the 100-year flood plain. FEMA would be required to accept as conclusive each elevation certificate unless the Administrator conducts a subsequent elevation survey and determines that the lowest level of the primary residence in question is not at an elevation that is at least three feet higher than the elevation of the 100-year flood plain. This section would require FEMA to expedite any requests made by an owner of a property showing that the property is not located within the area having special flood hazards. FEMA would be prohibited from charging a fee for reviewing the flood hazard data with respect to the expedited request and requiring the owner to provide any additional elevation data.

Section 3014 would require the Administrator of FEMA, in consultation with affected communities, to notify annually residents in areas having special flood hazards that they reside in such an area, the geographic boundaries of such areas, the requirements to purchase flood insurance coverage and the estimated cost of flood insurance coverage.

Section 3017 would amend the Real Estate Settlement Procedures Act of 1974 (RESPA) to require mortgage lenders to include specific information about the availability of flood insurance in each good-faith estimate.

Section 3018 would amend RESPA to explicitly state that the escrowing of flood insurance payments is required for many types of loans.

*Senate bill*

No provision.

*Conference substitute*

No provision.

#### REFORM OF COVERAGE TERMS

H3004(a),3004(b),3004(d),3004(e),3015,3016,3021/

S—

*Current law*

There are no relevant provisions in current law regarding Section 3004(a) of the House bill.

The maximum amount of coverage for a single family residential structure is \$250,000 and \$100,000 for personal contents. The limit for nonresidential building structures is \$500,000 and \$500,000 for contents. § 61.6

Insurance coverage under the NFIP is available only for property structures and personal contents. § 61.3

Payment of full policyholder premium must be made at the time of application or renewal. § 61.5

There are no relevant provisions in current law regarding Section 3015 of the House bill.

FEMA is authorized to enter into arrangements with individual private insurers to offer flood coverage to policyholders. § 62.23

The Standard Flood Insurance Policy issued under the NFIP excludes coverage for hot tubs and spas that are not bathroom fixtures, and swimming pools, and their equipment, such as, but not limited to, heaters, filters, pumps, and pipes, wherever located. Appendix A(1) to Part 62.

*House bill*

Section 3004(a) would set the minimum deductible levels at \$1,000 for properties with full-risk rates and \$2,000 for properties with discounted rates. The section would also establish that maximum coverage limits be indexed for inflation, starting in 2012.

Section 3004(b) would authorize insurance coverage under policies issued by the NFIP to be adjusted for inflation since September 30, 1994. This section would clarify that insured or applicants for residential insurance coverage under the NFIP would receive up to an "aggregate liability" of \$250,000 per claim rather than a "total amount" of \$250,000. Nonresidential property owners would be insured for a total of \$500,000 aggregate liability for structure and \$500,000 aggregate liability for content. These amounts would be adjusted or indexed for inflation using the percentage change over the period beginning on September 30, 1994 through the date of enactment of the law.

Section 3004(d) would authorize the Administrator of FEMA to offer optional coverage for additional living expenses, up to a maximum of \$5,000, as well as to offer optional coverage for the interruption of business operations up to a maximum of \$20,000, provided that FEMA: (1) charges full-risk rates for such coverage; (2) makes a finding that a competitive private market for such coverage does not exist; and (3) certifies that the NFIP has the capacity to offer such coverage without the need to borrow additional funds from the U.S. Treasury.

Section 3004(e) would authorize the Administrator of FEMA to offer policyholders the option of paying their premiums for one-year

policies in installments, and authorizes FEMA to impose higher rates or surcharges, or to deny future access to NFIP coverage, if property owners attempt to limit their coverage to coincide only with the annual storm season by neglecting to pay their premiums on schedule.

Section 3015 would require the Administrator of FEMA to notify tenants of a property located in areas having special flood hazard, that flood insurance coverage is available under the NFIP for contents of the unit or structure leased by the tenant, the maximum amount of such coverage for contents, and how to obtain information regarding how to obtain such coverage.

Section 3016 would require the Administrator of FEMA to notify the holders of direct policies managed by FEMA that they could purchase flood insurance directly from an insurance company licensed by FEMA to administer NFIP policies. The coverage provided or the premiums charged to holders of flood insurance policies that are administered by an insurance company are no different from those directly managed by FEMA.

Section 3021 would require under the NFIP that the presence of an enclosed swimming pool located at ground level or in the space below the lowest flood of a building after November 30, and before June 1 of any year, would have no effect on the terms of coverage or the ability to receive coverage for such building if the pool is enclosed with non-supporting breakaway walls.

*Senate bill*

No provision.

*Conference substitute*

No provision.

#### FINANCIAL AND BORROWING AUTHORITY

H3011,3025,3033/S—

*Current law*

FEMA is authorized to carry out a program to provide financial assistance to states and communities, using amounts made available from the National Flood Mitigation Fund for planning and carrying out activities designed to reduce the risk of flood damage to structures. Such assistance shall be made available to states and communities in the form of grants to carry out mitigation activities. 44 U.S.C. 4104c(a)

FEMA is authorized to issue notes or other obligations to the Secretary of the Treasury, without the approval of the President, to finance the flood insurance program. All funds borrowed under this authority shall be deposited in the National Flood Insurance Fund. 42 U.S.C. § 4016(a)

FEMA is authorized to borrow from the U.S. Treasury. Borrowed funds must be repaid with interest. 42 U.S.C. § 4017 (a)(3)

*House bill*

Section 3011 would streamline and reauthorize the Flood Mitigation Assistance Program, the Repetitive Flood Claims Program and the Severe Repetitive Loss Program in order to improve their effectiveness and efficiency. Financial assistance would be made available to states and communities in the form of grants for carrying out mitigation activities, especially with respect to severe repetitive loss structures, repetitive loss structures, and to property owners in the form of direct grants. This section would expand eligibility for mitigation assistance grants from mitigating flood risk to mitigating multiple hazards. Amounts provided could be used only for mitigation activities that are consistent with mitigation plans approved by FEMA. FEMA Administrator

could approve only mitigation activities that are determined to be technically feasible, cost-effective, and result in savings to the NFIF. This section would expand eligibility to include mitigation activities for the elevation, relocation, and flood-proofing of utilities (including equipment that serve structures). The FEMA Administrator is required to consider demolition and rebuilding of properties as eligible activities under the mitigation grant programs. This section establishes a matching requirement for severe repetitive loss structures of up to 100% of all eligible costs and up to 90% for repetitive loss structures. Other mitigation activities would be in an amount up to 75% of all eligible costs. Failure to award a grant within 5 years of receiving a grant application would be considered to be a denial of the application and any funding amounts allocated for such grant applications would remain in the National Flood Mitigation fund. This section authorizes \$40 million in grants to States and communities for mitigation activities, \$40 million in grants to States and communities for mitigation activities for severe repetitive loss structures, and \$10 million in grants to property owners for mitigation activities for repetitive loss structures. This section would eliminate the Grants Program for Repetitive Insurance Claims Properties. (Sec. 3011(b))

Section 3025 would establish a reserve fund requirement to meet the expected future obligations of the National Flood Insurance Program. This section contains phase-in requirements similar to H.R. 3121. For example, this section requires the Fund to maintain a balance equal to 1% of the sum of the total potential loss exposure of all outstanding flood insurance policies in force in the prior fiscal year, or a higher percentage as the Administrator determines to be appropriate. FEMA has the discretion to set the amount of aggregate annual insurance premiums to be collected for any fiscal year necessary to maintain the reserve ratio, subject to any provisions relating to chargeable premium rates and annual increases of such rates.

Section 3033 would require FEMA to submit a report to Congress not later than 6 months after enactment of this Act setting forth a plan for repayment within 10 years on the amounts borrowed from the U.S. Treasury under the NFIP.

#### *Senate bill*

No provision.

#### *Conference substitute*

No provision.

POLICY CLAIMS AND WRITE-YOUR-OWN INSURERS  
H3004,3022,3023,3028,3032/S—

#### *Current law*

The “Exclusions” section “V” of the Standard Flood Insurance Policy stipulates that “We do not insure a loss directly or indirectly caused by a flood that is already in progress at the time and date: (1) the policy term begins; or (2) coverage is added at your request. Appendix A(1) to Part 61. Coverage for a new contract for flood insurance coverage shall become effective upon the expiration of the 30 day period beginning on the date that all obligations for such coverage are satisfactorily completed. § 61.11; 42 U.S.C. 4013(c)

There are no relevant provisions in current law regarding Section 3022 of the House bill.

There are no relevant provisions in current law regarding Section 3023 of the House bill.

There are no relevant provisions in current law regarding Section 3028 of the House bill.

#### *House bill*

Sections 3004 and 3032 would clarify the effective date of insurance policies covering properties affected by floods in progress. Property experiencing a flood during the 30-day waiting period following the purchase of insurance would be covered for damage to the property that occurs after the 30-day period has expired, but only if the property has not suffered damage or loss as a result of such flood before the expiration of such 30-day period. These sections would require FEMA to review the processes and procedures for determining that a flood event has commenced or is in progress for purposes of flood insurance coverage and report to Congress within 6 months.

Section 3022 would require FEMA to grant policy holders the right to request engineering reports and other documents relied on by the Administrator and/or participating WYO companies in determining whether the damage was caused by flood or any other peril (e.g., wind). FEMA would also be required to provide the information to the insured within 30 days of the request for information.

Section 3023 would authorize FEMA to refuse to accept future transfers of policies to the NFIP Direct program.

Section 3028 would require FEMA to submit a report to Congress describing procedures and policies for limiting the number of flood insurance policies that are directly managed by the Agency to not more than 10% of the total number of flood insurance policies in force. After submitting the report to Congress, the Administrator would have 12 months to reduce the number of policies directly managed by the Agency, or by the Agency's direct servicing contractor that is not an insurer, to not more than 10% of the total number of flood insurance policies in force.

#### *Senate bill*

No provision.

#### *Conference substitute*

No provision.

FLOOD RISK ASSESSMENT AND MAPPING  
H3006,3007,3008,3013,3014,3018,3020,3024,3026,  
3030/S—

#### *Current law*

There are no relevant provisions in current law regarding Section 3006 of the House bill.

FEMA is authorized to identify and publish information with respect to all areas within the United States having special flood, mudslide, and flood-related erosion hazards. § 65.1

FEMA will only recognize in its flood hazard and risk mapping effort those levee systems that meet, and continue to meet, minimum design, operation, and maintenance standards that are consistent with the level of protection sought through the comprehensive floodplain management regulations. § 65.10

There are no relevant provisions in current law regarding Section 3013 of the House bill.

FEMA publishes in the Federal Registry a notice of the proposed flood elevation determination sent to the Chief Executive Officer of the community. The agency also publishes a copy of the community's appeal or a copy of its decision not to appeal the proposed flood elevation determination. § 67.3

A Standard Flood Insurance policyholder whose property has become the subject of a Letter of Map Amendment may cancel the policy within the current policy year and receive a premium refund. § 70.8 The policy could be canceled provided (1) the policyholder was required to purchase flood insur-

ance; and (2) the property was located in a SFHA as represented on an effective FIRM when the financial assistance was provided. If no claim under the policy has been paid or is pending, the full premium shall be refunded for the current policy year, and for an additional policy year where the insured had been required to renew the policy. § 62.5

FEMA publishes a notice of the community's proposed flood elevation determination in a prominent local newspaper at least twice during the ten day period immediately following the notification of the CEO. § 67.4

FEMA publishes a notice of the community's proposed flood elevation determination in a prominent local newspaper at least twice during the ten day period immediately following the notification of the CEO. § 67.4 Any owner or lessee of real property, within a community where a proposed flood elevation determination has been made who believes his property rights to be adversely affected by the proposed base flood determination may file a written appeal of such determination with the CEO within 90 days of the second newspaper publication of the FEMA proposed determination. § 67.5

There are no relevant provisions in current law regarding Section 3026 of the House bill.

The NFIP participating community must provide written assurance that they have complied with the appropriate minimum floodplain management regulation. § 60.3

#### *House bill*

Section 3006 would establish the Technical Mapping Advisory Council (Council) to develop and recommend new mapping standards for FIRMs. The Council would include representatives from FEMA, the U.S. Geological Survey (USGS), the U.S. Army Corps of Engineers (USACE), other federal agencies, state and local governments, as well as experts from private stakeholder groups. This section would require that there is adequate number of representatives from the states with coastlines or the Gulf of Mexico and other states containing areas at high-risk for floods or special flood hazard areas. The Council would submit the new mapping standards for 100-year flood insurance rate maps to FEMA and the Congress within 12 months of enactment and would continue to review those standards for four additional years, at which time the Council would be terminated. This section would place a moratorium on the issuance of any updated flood insurance rate maps from the date of enactment until the Council submits to FEMA and Congress the proposed new mapping standards. This section would allow for the revision, update and change of rate maps only pursuant to a letter of map change.

Section 3007 would direct FEMA to establish new standards for FIRMs beginning six months after the Technical Mapping Advisory Council issues its initial set of recommendations. The new standards would delineate all areas located within the 100-year flood plain and areas subject to gradual and other risk levels, as well as ensure the standards reflect the level of protection levees confer. The standard must also differentiate between a property that is located in a flood zone and a structure located on such property that is not at the same risk level for flooding as such property due to the elevation of the structure and provide that such rate maps are developed on a watershed basis. This section would require FEMA to submit a report to Congress specifying which Council recommendations were not implemented and explaining the reasons such recommendations were not adopted. FEMA would have 10 years to update all FIRMs in

accordance with the new standards subject to the availability of appropriated funds. This section would eliminate requirements to more broadly map areas considered to be residual risk.

Section 3008 would prohibit the Administrator of FEMA from issuing flood insurance maps, or make effective updated flood insurance maps, that omit or disregard the actual protection afforded by an existing levee, floodwall, pump or other flood protection feature, regardless of the accreditation status of such feature.

Section 3013 would require the Administrator of FEMA, upon any revision or update of any floodplain area or flood-risk zone and the issuance of a preliminary flood map, to notify in writing the Senators of each state affected and each Member of Congress for each congressional district affected by the flood map revision or update.

Section 3014 would require the Administrator of FEMA to establish projected flood elevations and to notify the chief executive officer of each community affected by the proposed elevation a notice of the elevations, including a copy of the maps for the elevations and a statement explaining the process to appeal for changes in such elevations.

Section 3018 would require the Administrator of FEMA to reimburse owners of any property, or a community in which such property is located, for the reasonable costs involved in obtaining a Letter of Map Amendment (LOMA) and Letter of Map Revision (LOMR) if the change was due to a bona fide error on the part of FEMA. The Administrator would be authorized to determine a reasonable amount of costs to be reimbursed except that such costs would not include legal or attorney fees. The reasonable cost would consider the actual costs to the owner of utilizing the services of an engineer, surveyor or similar services. This section would require FEMA to issue regulation pertaining to the reimbursements.

Section 3020 would require FEMA to provide to a property owner newly included in a revised or updated proposed flood map a copy of the proposed FIRM and information regarding the appeals process at the time the proposed map is issued.

Section 3024 would require FEMA to notify a prominent local television and radio station of projected and proposed changes to flood maps for communities. This section would authorize FEMA to grant an additional 90 days for property owners or a community to appeal proposed flood maps, beyond the original 90 day appeal period, so long as community leaders certify they believe there are property owners unaware of the proposed flood maps and appeal period, and community leaders would use the additional 90 day appeal period to educate property owners on the proposed flood maps and appeal process.

Section 3026 would authorize the use of Community Development Block Grants to supplement state and local funding for local building code enforcement departments and flood program outreach.

Under Section 3030, the Administrator of FEMA would be required to conduct a study regarding the impact, effectiveness, and feasibility of including widely used and nationally recognized building codes as part of FEMA's floodplain management criteria and submit a report to the House Committee on Financial Services and Senate Banking, Housing, and Urban Affairs Committee. The study would assess the regulatory, financial, and economic impacts of such building code requirement on homeowners, states and local

communities, local land use policies, and FEMA.

#### *Senate bill*

No provision.

#### *Conference substitute*

No provision.

#### STUDIES AND REPORTS FOR CONGRESS

H3009(a), 3009(b), 3009(c), 3009(d), 3010, 3025, 3029, 3031/S—

#### *Current law*

There are no relevant provisions in current law regarding Section 3009(a) of the House bill.

FEMA is authorized to encourage insurance companies and other insurers to form, associate, or otherwise join together in a pool to provide the flood insurance coverage authorized under the NFIP. 44 U.S.C. § 4051 (a) FEMA is authorized to take such action as may be necessary in order to make available reinsurance for losses which are in excess of losses assumed by private industry flood insurance pools. 42 U.S.C. § 4055(a)

There are no relevant provisions in current law regarding Section 3009(d) of the House bill.

There are no relevant provisions in current law regarding Section 3010 of the House bill.

There are no relevant provisions in current law regarding Section 3025 of the House bill.

There are no relevant provisions in current law regarding Section 3029 of the House bill.

There are no relevant provisions in current law regarding Section 3031 of the House bill.

#### *House bill*

Section 3009(a) would require the Administrator of FEMA and the Comptroller General of the United States to conduct separate studies to assess a broad range of options, methods, and strategies for privatizing the NFIP. FEMA and GAO would submit reports (within 18 months of the date of the enactment of this Act) to the House Committee on Financial Services and the Senate Banking, Housing, and Urban Affairs Committee that make recommendations for the best manner to accomplish privatization of the NFIP.

Section 3009(b) would authorize the Administrator of FEMA to carry out private risk-management initiatives to determine the capacity of private insurers, reinsurers, and financial markets to assist communities, on a voluntary basis only, in managing the full range of financial risk associated with flooding. The Administrator would assess the capacity of the private reinsurance, capital, and financial markets by seeking proposals to assume a portion of the program's insurance risk and submit to Congress a report describing the response to such request for proposals and the results of such assessment. The Administrator would be required to develop a protocol to provide for the release of data sufficient to conduct the assessment of the insurance capacity of the private sector.

Under Section 3009(c), the Administrator of FEMA would be authorized to secure reinsurance coverage from private market insurance, reinsurance, and capital market sources in an amount sufficient to maintain the ability of the program to pay claims and that minimizes the likelihood of having to borrow from the U.S. Treasury.

Under Section 3009(d), the Administrator would be required to conduct an assessment of the claims-paying ability of the NFIP, including the program's utilization of private sector reinsurance and reinsurance equivalents, with and without reliance on borrowing authority.

Section 3010 would require the Administrator of FEMA to submit an annual report

to the Congress on the financial status of the NFIP, including current and projected levels of claims, premium receipts, expenses, and borrowing under the program.

Under Section 3025, the Administrator of FEMA would be required to conduct a study regarding the impact, effectiveness, and feasibility of including widely used and nationally recognized building codes as part of FEMA's floodplain management criteria and submit a report to the House Committee on Financial Services and Senate Banking, Housing, and Urban Affairs Committee. The study would assess the regulatory, financial, and economic impacts of such building code requirements on homeowners, states and local communities, local land use policies, and FEMA.

Section 3029 would require the Administrator of FEMA and the Comptroller General of the United States to conduct separate studies to assess options, methods, and strategies for offering voluntary community-based flood insurance under the NFIP. The studies would consider and analyze how the policy options would affect communities having varying economic bases, geographic locations, flood hazard characteristics or classification, and flood management approaches. The report and recommendations would be submitted within 18 months after the enactment of this Act to the House Committee on Financial Services and the Senate Banking, Housing, and Urban Affairs Committee.

Section 3031 would require the National Academy of Sciences (NAS) to conduct a study of methods for understanding graduated risk behind levees and the associated land development, insurance, and risk communication dimensions. The NAS would submit a report with recommendations within 12 months of the date of enactment of this Act to the House Committee on Financial Services and Senate Banking, Housing, and Urban Affairs Committee.

#### *Senate bill*

No provision.

#### *Conference substitute*

No provision.

#### MISCELLANEOUS PROVISIONS

H3035/S—

#### *Current law*

There are no relevant provisions in current law regarding Section 3035 of the House bill.

#### *House bill*

Section 3035 would allow state and local governments to use the Army Corps of Engineers to evaluate locally operated levee systems which were either built or designed by the Corps, and which are being reaccredited as part of a NFIP remapping. All costs associated with evaluations would continue to be covered by the state or local government requesting the evaluation.

#### *Senate bill*

No provision.

#### *Conference substitute*

No provision.

#### TITLE IV—JUMPSTARTING OPPORTUNITY WITH BROADBAND SPECTRUM ACT OF 2011

##### SUBTITLE A—SPECTRUM AUCTION AUTHORITY

H4005, 4101, 4102, 4103, 4104, 4105, 4106, 4107/S—

#### *Current law*

There are no relevant provisions in current law regarding Section 4005 of the House bill.

Current law provides for auction of electromagnetic spectrum assigned for federal use but does not establish deadlines for specified

frequencies. Current law provides for a Spectrum Relocation Fund. It requires that spectrum license proceeds be paid to the General Fund except in the case of auctions of federal spectrum being reallocated for commercial use in which case unexpended proceeds are held for 8 years before being deposited in the Treasury.

Current law requires that 24 MHz of spectrum licenses in 700 MHz band be assigned for use by public safety agencies. FCC regulations have designated 12 MHz for use by narrowband radios carrying primarily voice communications and 2 MHz as guard bands to mitigate radio interference. Licenses are administered by state and local authorities. Current law requires that auction proceeds be deposited in the General Fund.

The FCC has broad regulatory powers that might permit it to reallocate TV broadcasting spectrum. Current law requires that auction proceeds be deposited in the General Fund.

There are no relevant provisions in current law regarding Section 4104 of the House bill.

The law requires the FCC to set rules regarding participation in spectrum licenses auctions and for spectrum use (service rules).

Authority of FCC to use competitive bidding systems to assign licenses for the use of designated portions of electro-magnetic spectrum expires September 30, 2012.

There are no relevant provisions in current law regarding Section 4107 of the House bill.

#### *House bill*

Under Section 4005, payments of funds to and access to spectrum license auctions would be prohibited for any person who is barred by a federal agency for reasons of national security.

Section 4101 would set requirements for commercial auctions of electro-magnetic spectrum currently assigned for federal use as described by the bill. With exceptions, process of preparing auctions would begin within three years of enactment. Spectrum license auction proceeds would be distributed to the Spectrum Relocation Fund, which would receive an amount equal to 110% of projected federal agency relocation costs, with the balance deposited with the Public Safety Trust Fund.

Section 4102 would require that these spectrum licenses be released for commercial auction within five years of a decision by a federally appointed Administrator. The decision would be triggered by a declaration by the Administrator that technology was available that would allow the migration of voice communications from the 700 MHz narrowband networks to the 700 MHz broadband network, thereby freeing up the narrowband spectrum for auction to the commercial sector. Would allocate \$1 billion of auction proceeds to a new grant program for states to acquire radio equipment.

Section 4103 would provide the FCC with the authority to establish incentive auctions for television broadcasters, within specified limits. It would create a TV Broadcaster Relocation Fund as a means for broadcasters to receive up to \$3 billion of auction revenue to cover relocation costs and for other purposes. Proceeds above that amount would go to the Public Safety Trust Fund through FY2021, after which funds are to be deposited in the General Fund.

Section 4104 would establish procedures for the FCC to follow in reallocating television broadcasting spectrum licenses for commercial auction.

Section 4105 would set limitations on FCC auction and service rules for future auctions. Would prohibit auction rules that placed new

conditions on prospective bidders (spectrum caps). Would prohibit service rules that restrict licensee's ability to manage network traffic (net neutrality) or that would require providing network access on a wholesale basis.

Section 4106 would extend the FCC's auction authority through FY 2021.

Section 4107 would lay the groundwork to expand commercial use of unlicensed spectrum within the federally managed 5GHz band of wireless spectrum by requiring the FCC to commence a proceeding as described in the bill.

#### *Senate bill*

No provision.

### SUBTITLE B—ADVANCED PUBLIC SAFETY COMMUNICATIONS

#### PART 1—NATIONAL IMPLEMENTATION

H4201, 4202, 4203, 4204, 4205/S—

#### *Current law*

The FCC is empowered to manage public safety use and assign access to spectrum. FCC has assigned a single, nationwide license for 10 MHz of public safety broadband spectrum, which it regulates. The law requires that the D Block be auctioned for commercial purposes, with proceeds deposited in the General Fund.

The Office of Emergency Communications (OEC) within the Department of Homeland Security, as required by law, has prepared a National Emergency Communications Plan. The law also requires the OEC to work with other federal agencies in developing appropriate standards for interoperability, among other requirements. The FCC has used its regulatory authority to create requirements for the use of public safety spectrum at 700 MHz, including interoperability and standard-setting.

Law has required that each state, in order to receive federal funding for certain grants for public safety, must establish a State Communications Interoperability Plan (SCIP) and designate plan administrators at the state or local level. OEC is charged with assisting and overseeing these plans. Each state has submitted a SCIP to the OEC. Law also required the creation of Regional Emergency Communications Centers to facilitate regional planning for interoperability at the regional level.

There are no relevant provisions in current law regarding Section 4204 of the House bill.

#### *House bill*

Section 4201 would assign a total of 20 MHz of 700 MHz spectrum designated for public safety use to an Administrator, competitively chosen by the NTIA. The Administrator would manage the distribution of spectrum capacity to individual states and enforce requirements established in the bill. Specifically, provisions would reallocate 10 MHz (the D Block) from commercial use to public safety use.

Section 4202 would establish requirements for the FCC to create a Public Safety Communications Planning Board. The Board would prepare, and submit to the FCC for approval, a National Public Safety Communications Plan. The Plan would include requirements for interoperability and standards, among other provisions.

Section 4203 would require the NTIA to request proposals for the administration of the Plan. Would establish the duties of the Administrator in working with State Public Safety Broadband Offices to build interoperable networks within each state.

Section 4204 would provide borrowing authority of up to \$40 million for the creation

and initial operation of the Administrator's office, to be repaid from auction revenue received by the Public Safety Trust Fund.

Section 4205 would require the OEC to submit to Congress a study that would: review the importance of amateur radio in responding to disasters; make recommendations for how to enhance the use of amateur radio federally; and to identify impediments to amateur radio such as private land use restrictions on antennas.

#### *Senate bill*

No provision.

#### PART 2—STATE IMPLEMENTATION

H4221, 4222, 4223, 4224, 4225/S—

#### *Current law*

FCC has promulgated regulations and requirements for public safety broadband access.

There are no relevant provisions in current law regarding Section 4222 of the House bill.

There are no relevant provisions in current law regarding Section 4223 of the House bill.

There are no relevant provisions in current law regarding Section 4224 of the House bill.

State and local governments have right to apply zoning law procedures for requests to modify existing cell towers.

#### *House bill*

Section 4221 would require each state seeking to establish a public safety broadband network, using 700 MHz public safety broadband spectrum, to create a Public Safety Broadband Office. Each office would prepare proposals for building networks based on the requirements established through the National Public Safety Communications Plan, including for requests for proposal. The Administrator would work with each state office in preparing and carrying out the plans. In general, states would be required to sign a contract with a commercial mobile provider to build the network to specifications as provided in the bill and in accordance with requirements established by the Public Safety Communications Planning Board and by the Administrator.

Section 4222 would establish a matching grant program to assist state Public Safety Broadband Offices.

Section 4223 would create a State Implementation Fund for the State Implementation Grant Program. The fund would receive up to \$100 million in auction revenue as specified in the bill. Funds remaining at the end of 2021 would be deposited in the General Fund.

Section 4224 would provide grants to states for payments under contracts entered into with the approval of the Administrator.

Section 4225 would require approval of requests for modification of cell towers. This section would provide for federal agencies to grant easements for the placement of antennas on federal property. This section would require the General Services Administration (GSA) to provide a common request form for easements and rights-of-way and to establish fees for this service, based on direct cost recovery. This section would require the GSA to develop one or more contracts for antenna placement and other specifications.

#### *Senate bill*

No provision.

#### PART 3—PUBLIC SAFETY TRUST FUND

H4241/S—

#### *Current law*

There are no relevant provisions in current law regarding Section 4241 of the House bill.

#### *House bill*

Section 4241 would create a fund to receive, hold and disburse all auction proceeds as

provided in the bill except for \$3 billion to be directed to the TV Broadcaster Relocation Fund. Designated uses are: State and Local Implementation, \$100 million; Public Safety Administrator, \$40 million; Public Safety Broadband Network Deployment, \$4.96 billion plus 10% of any remaining amounts deposited in the fund up to \$1.5 billion; Deficit Reduction, \$20.4 billion from fund and balances upon expiration in FY 2021, plus at least 90% of any additional auction revenue.

*Senate bill*

No provision.

PART 4—NEXT GENERATION 9-1-1 ADVANCEMENT ACT

H4265, 4266, 4267, 4268, 4269, 4270, 4271/S—

*Current law*

Similar provisions were in effect through statutes that expired at the end of FY2009. Provisions included requirements for a grant program and for planning for the eventual transition to Next Generation 9-1-1.

There are no relevant provisions in current law regarding Section 4266 of the House bill. Law Requires FCC to study 9-1-1 fee collection and use and issue a report annually.

Law extends similar protection for existing 9-1-1 services.

There are no relevant provisions in current law regarding Section 4269 of the House bill.

There are no relevant provisions in current law regarding Section 4270 of the House bill.

*House bill*

Section 4265 would establish a federal 9-1-1 Coordination Office to advance planning for next-generation 9-1-1 systems and to fund a grant program with an authorization of \$250 million. This section would direct the Assistant Secretary (NTIA) and the Administrator of the National Highway Traffic Safety Administration (NHTSA) to establish a 9-1-1 Implementation Coordination Office to reestablish and extend matching grants, through October 1, 2021, to eligible state or local governments or tribal organizations for the implementation, operation, and migration of various 9-1-1, E9-1-1 (wireless telephone location), Next Generation 9-1-1 (voice, text, video), and IP-enabled emergency services and public safety personnel training. This section would provide immunity and liability protection, to the extent consistent with specified provisions of the Wireless Communications and Public Safety Act of 1999, to various users and providers of Next Generation 9-1-1 and related services, including for the release of subscriber information.

Section 4266 would require GAO to prepare a report on 9-1-1 capabilities of multi-line telephone systems in federal facilities, and would require the FCC to seek comment on the feasibility of improving 9-1-1 identification for calls placed through multi-line telephone systems.

Section 4267 requires GAO to study how states assess fees on 9-1-1 services and how those fees are used.

Section 4268 would provide immunity and liability protection, to the extent consistent with specified provisions of the Wireless Communications and Public Safety Act of 1999, to various users and providers of Next Generation 9-1-1 and related services, including for the release of subscriber information.

Section 4269 would direct the FCC to: (1) initiate a proceeding to create a specialized Do-Not-Call registry for public safety answering points, and (2) establish penalties and fines for autodialing (robocalls) and related violations.

Section 4270 requires an analysis of costs and assessments and analyses of technical uses.

Section 4271 would require the FCC to assess the legal and regulatory environment for development of NG9-1-1 and barriers to that development, including state regulatory roadblocks.

*Senate bill*

No provision.

SUBTITLE C—FEDERAL SPECTRUM RELOCATIONS

H4301, 4302, 4303/S—

*Current law*

Law provides conditions of use and relinquishment of spectrum, and related actions, by federal agencies. Federal agencies that are relocating to new spectrum allocations in order to accommodate commercial users for other uses may be reimbursed for certain costs of relocation from the Spectrum Relocation Fund, established for that purpose.

Spectrum Relocation Fund created by the Commercial Spectrum Enhancement Act of 2004 (P.L. 108-494, Title II).

There are no relevant provisions in current law regarding Section 4303 of the House bill.

*House bill*

Section 4301 would include shared use as an eligible action and expenditures for planning would be newly included among those costs eligible for reimbursement from the Spectrum Relocation Fund. This section would establish a Technical Panel to review a transition plan that the NTIA would be required to prepare in accordance with provisions in the bill. This section would require that the NTIA give priority to options that would reallocate spectrum for exclusive, nonfederal uses assigned through auction.

Section 4302 would address uses of the Fund, as described in Sec. 4301, and would establish requirements regarding transfers of funds in advance of auctions and reversion of unused funds.

Section 4303 would establish provisions under which non-disclosure of information regarding federal spectrum use would be determined.

*Senate bill*

No provision.

SUBTITLE D—TELECOMMUNICATIONS DEVELOPMENT FUND

H4401, 4402/S—

*Current law*

The Telecommunications Development Fund (TDF) was created to provide funding for new ventures in telecommunications. One source of funds comes from the requirement that interest from certain escrow accounts overseen by the FCC be transferred to the TDF.

The law that created TDF requires board members to consult with the FCC and the Treasury before finalizing decisions.

*House bill*

Section 4401 would require that interest accrued in specified accounts be deposited in the General Fund.

Section 4402 eliminates the role of federal agencies in oversight of board activities.

*Senate bill*

No provision.

*Conference substitute*

Title VI—Public Safety Communications and Electromagnetic Spectrum Auctions. The public safety and spectrum provisions of this legislation advance wireless broadband service by clearing spectrum for commercial auction, promoting billions of dollars in private investment, and creating tens of thousands of jobs. These provisions also deliver

on one of the last outstanding recommendations of the 9/11 Commission by creating a nationwide interoperable broadband communications network for first responders and generating billions of dollars of Federal revenue.

TITLE V—OFFSETS

SUBTITLE A—GUARANTEE FEES

H5001/S401, 402

*Current law*

Similar provisions were enacted in Title IV of P.L. 112-78.

*House bill*

Section 5001 increases guarantee fees to reflect risk of loss and cost of capital as if enterprises were fully private regulated institutions. This section requires a minimum increase of 10 basis points (0.10%) greater than average 2011 guarantee fees. To the extent that amounts are received from fee increases imposed under this section that are necessary to comply with the minimum increase required by this subsection, such amounts shall be deposited directly into the United States Treasury, and shall be available only to the extent provided in subsequent appropriations Acts. Such fees shall not be considered a reimbursement to the Federal Government for the costs or subsidy provided to an enterprise. This section provides for a two-year phase-in at discretion of Director of FHFA. This section requires all lenders to be charged a uniform guarantee fee. This section requires an annual FHFA Report to Congress to include information on up-front and annual guarantee fee increases, and changes in riskiness of new mortgages. This section applies to mortgages closed after the date of enactment. This section expires October 1, 2021.

*Senate bill*

Sections 401 and 402 increase guarantee fees to reflect risk of loss and cost of capital as if enterprises were fully private regulated institutions. This section requires a minimum increase of 10 basis points (0.10%) greater than average 2011 guarantee fees. Amounts received from fee increases imposed under this section shall be deposited directly into the United States Treasury, and shall be available only to the extent provided in subsequent appropriations Acts. The fees charged pursuant to this section shall not be considered a reimbursement to the Federal Government for the costs or subsidy provided to an enterprise. This section provides for a two-year phase-in at discretion of Director of FHFA. This section requires all lenders to be charged a uniform guarantee fee. This section requires an annual FHFA Report to Congress to include information on up-front and annual guarantee fee increases, and changes in riskiness of new mortgages. This section applies to mortgages closed after the date of enactment. This section expires October 1, 2021. This section increases guarantee fees on FHA-insured mortgages by 10 basis points (0.10%) with phase-in over two years.

*Conference substitute*

No provision.

TITLE VI—MISCELLANEOUS PROVISIONS

H6002, 6003(a), 6003(b), 6004/S511, 512

*Current law*

Section 263 of the Trade Adjustment Assistance Extension Act of 2011 (P.L. 112-40) requires any fees for processing merchandise entered between October 1 and November 12, 2012, to be paid no later than September 25, 2012, in an amount equivalent to the amount of such fees paid with respect to merchandise

entered between October 1 and November 12, 2011. The section requires the Secretary of the Treasury to refund with interest any overpayment of such fees. The section prohibits any assessment of interest for any underpayments based on the amount of fees paid for merchandise entered between October 1 and November 12, 2012.

Section 601(c) of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (26 U.S.C. 1401 note) specifies the calendar year in which the payroll tax holiday period applies. There is no Senate point of order against the consideration of legislation that would amend this section of the law.

Section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA), as amended by the Budget Control Act of 2011 (BCA), establishes enforceable statutory limits on discretionary spending for each fiscal year covering FY2012–FY2021. Section 251(b)(2)(A)(i) of the BBEDCA provides for these limits to be adjusted to accommodate discretionary spending designated as emergency requirements in statute (i.e., effectively exempting such spending from the limits). Section 314 of the Congressional Budget Act of 1974, as amended by the BCA, allows the chairs of the budget committees in each chamber to make similar adjustments for purposes of congressional enforcement of these and other spending limits during the consideration of spending legislation. The existing Senate point of order against an emergency designation (Section 403 of S. Con. Res. 13, 111th Congress, the FY2010 budget resolution) does not apply to an emergency designation pursuant to the BBEDCA; therefore, there is no current Senate point of order against such a designation.

Under the Statutory Pay-As-You-Go Act of 2010 (Title I of P.L. 111–139), the five-year and 10-year budgetary effects of direct spending and revenue legislation enacted during a session are placed on respective scorecards. At the end of a session of Congress, if either scorecard shows an increase in the deficit, a sequestration of non-exempt budgetary resources is required to eliminate such deficit. Under the law, off-budget effects and discretionary spending effects are not counted.

#### *House bill*

Section 6002 repeals a requirement that importers pre-pay certain fees authorized under the Consolidated Omnibus Budget Reconciliation Act of 1985.

Section 6003(a) creates a Senate point of order against the consideration of any measure that “extends the dates referenced in section 601(c) of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010.” Provides that a two-thirds affirmative vote would be required to waive the point of order.

Section 6003(b) amends the Budget Act to create a point of order against an emergency designation pursuant to the BBEDCA included in any measure. The new point of order is similar to the existing Senate emergency designation point of order: (1) if point of order is made, emergency designation is stricken from the measure; and (2) a three-fifths affirmative vote is required to waive the point of order and to sustain an appeal of the ruling of the chair.

Section 6004 provides that the budgetary effects of H.R. 3630 are not placed on either PAYGO scorecard, as long as the legislation does not increase the deficit over the FY2013–FY2021 period. Also provides that off-budget effects, changes to the statutory discretionary spending limits, and changes in net income to the National Flood Insurance

Program are to be counted in determining the budgetary effects of the legislation.

#### *Senate bill*

The Senate bill does not contain a provision regarding the repeal of a requirement relating to time for remitting certain merchandise processing fees.

Section 511 amends the Budget Act to create a point of order against an emergency designation pursuant to the BBEDCA included in any measure. The new point of order is similar to the existing Senate emergency designation point of order: (1) if point of order is made, emergency designation is stricken from the measure; and (2) a three-fifths affirmative vote is required to waive the point of order and to sustain an appeal of the ruling of the chair.

Section 512 provides that the budgetary effects of H.R. 3630 are not placed on either PAYGO scorecard. Senate provision makes no modifications to the conventional budget scoring of the legislation.

#### *Conference substitute*

Section 7002. Repeal of Requirement Relating to Time for Remitting Certain Merchandise Processing Fees: Repeals a requirement that importers pre-pay certain fees authorized under the Consolidated Omnibus Budget Reconciliation Act of 1985. The provision is identical to that contained in Section 6002 of the House bill.

Section 7003. Points of Order in the Senate: Includes two Senate points of order related to (1) protecting the Social Security Trust Fund and (2) emergency spending. The provision is identical to that contained in Section 6003 of the House bill.

Section 7004. PAYGO Scorecard Estimates: Provides that the budgetary effects of the bill shall not be entered on the statutory PAYGO scorecards provided that the bill is deficit neutral over 10 years. The provision is identical to that contained in Section 6004 of the House bill.

#### FEDERAL CIVILIAN EMPLOYEES PROVISIONS

##### *Current law*

*Pay Freeze:* The Continuing Resolution of December of 2010 included a two-year freeze on all across-the-board, annual pay adjustments for federal civilian employees, January 1, 2011 through December 31, 2012.

*Federal Employee Pensions:* Most federal civilian employees are participants in the Federal Employees Retirement System (FERS), under which they make a contribution toward a defined benefit pension equal to 0.8 percent of basic pay. Their employing agency covers the remainder of the pension cost. At normal retirement age, an employee is entitled to a pension equal to 1 percent (or 1.1 percent for those retiring at age 62 with 20 years of service) of the average of the employee's highest three years' compensation times the employee's years of service. Certain FERS participants retiring prior to age 62 are entitled to the FERS annuity supplement. This benefit is paid in addition to their defined benefit annuity, and equals the Social Security benefit they would receive for their FERS civilian service from the Social Security Administration if eligible to receive Social Security on their date of retirement. Most employees who first entered federal government service before 1987 are covered by the Civil Service Retirement System (CSRS), under which they contribute 7 percent of their pay toward their defined benefit pension. CSRS employees are not covered by Social Security, so, unlike FERS employees, they are not subject to the 6.2 percent Social Security contribution. Under both FERS and CSRS, employee contribu-

tions and benefits for special occupational groups and Members of Congress are higher. Separate but comparable retirement systems exist for Foreign Service and CIA employees.

#### *House bill*

*Pay Freeze:* The House bill would extend the current freeze on across-the-board statutory pay adjustments for federal civilian employees and Members of Congress through December 31, 2013.

*Federal Employee Pensions:* The House bill would increase the employee contribution for both CSRS and FERS employees by 0.5 percentage points each year for three years, beginning in 2013. Corresponding changes would be made to the Foreign Service, CIA, and TVA retirement systems. The House bill would establish new retirement rules for federal employees hired after December 31, 2012, with less than 5 years of service. Their contribution to FERS would increase by 3.2 percentage points. The FERS pension formula salary base for new employees would change to the highest-five years' average salary instead of highest three years. The FERS pension formula multiplier for most new employees would be reduced to 0.7 percent per year of service, instead of 1 percent (or 1.1 percent for those retiring at age 62 with 20 or more years of service). Employees in special occupational groups are subject to a proportional adjustment to the multiplier (0.3 percentage points lower than current law). Finally, the House bill would eliminate the FERS Annuity Supplement for individuals not subject to mandatory retirement, beginning January 1, 2013. Individuals subject to mandatory retirement include certain categories of employees such as law enforcement, fire fighters, air traffic controllers, and nuclear materials couriers.

#### *Senate bill*

No Provision.

#### *Conference substitute*

*Pay Freeze:* No provision.

*Federal Employee Pension:* The Conference Agreement would increase by 2.3 percent the employee pension contribution for federal employees entering service after December 31, 2012, who have less than 5 years of creditable civilian service. Corresponding increases in employee contributions would be made for individuals entering the CIA and Foreign Service pension systems. Members of Congress and congressional employees entering service after December 31, 2012 who have less than 5 years of creditable civilian service would be subject to the same contribution rate and annuity calculation as other federal employees.

#### MEDICARE AND OTHER HEALTH PROVISIONS

Extension of MMA Section 508 Reclassifications

##### *Current law*

Under Medicare's Inpatient Prospective Payment System (PPS), payments are adjusted by a wage index that is intended to reflect the cost of labor in the area where the services are furnished compared to a national average. Hospitals in areas with higher wage costs have higher wage indices and therefore receive higher PPS payments; hospitals in lower wage areas have lower wage indices and receive lower payments.

Recognizing that the indices are not always accurate, Congress in 1989 established a process whereby hospitals could apply to “reclassify” to a nearby area, and receive the higher wage index of that area. While a significant number of hospitals (nearly 40%) have a reclassified wage index, other hospitals have not been able to meet the established criteria.

Section 508 of the Medicare Modernization Act of 2003 (MMA) directed the Centers for Medicare and Medicaid Services (CMS) to develop new criteria that would allow additional hospitals to qualify for a one-time, three-year reclassification.

According to CMS, there were 89 hospitals receiving Section 508 reclassification payments in FY 2011.

#### *House bill*

No provision.

#### *Senate bill*

Section 302 extended the Section 508 reclassification payments for two months (October and November 2011).

#### *Conference substitute*

Section 3001 extends Section 508 reclassification payments through March 31, 2012.

#### *Extension of Outpatient Hold Harmless Payments*

#### *Current law*

In 2000, Medicare implemented a PPS for hospital outpatient services; prior to this time hospitals received cost-based payments. For certain hospitals, primarily those located in rural areas, the outpatient PPS payments were lower than the payments they had received under the prior cost-based system. The Balanced Budget Refinement Act of 1999 (BBRA) mandated that rural hospitals with fewer than 100 beds receive 100% of the difference between OPPS payments and what these hospitals would have received under the cost-based system (thus the name “hold harmless” payments). Over time, Congress has lowered the payment percentage (it currently is 85%) and has expanded the policy to sole community hospitals (SCHs), hospitals that are further than 35 miles from another hospital.

#### *House bill*

No provision.

#### *Senate bill*

Section 308 extended the hold harmless payment to all eligible hospitals for two months (January and February 2012).

#### *Conference substitute*

Section 3002 extends the outpatient hold harmless payments through December 31, 2012, except for SCHs with more than 100 beds. The provision requires a study by the Department of Health and Human Services (HHS) by July 1, 2012, on which types of hospitals should continue to receive hold harmless payments in order to maintain adequate beneficiary access to outpatient services.

#### *Physician Payment Update*

#### *Current law*

The Sustainable Growth Rate (SGR) formula system was established by the Balanced Budget Act of 1997 (BBA) as the mechanism to determine the update to Medicare physician payments beginning in 1999. The formula allows spending to grow at the rate of the economy, adjusted for other factors such as the number of beneficiaries in Medicare fee-for-service. The tally of actual and target expenditures is cumulative in that it is maintained on an on-going basis since the formula's inception. The update adjustment that results from the SGR system is made through the conversion factor. If spending exceeds the target, the adjustment to the conversion factor is negative (physicians payments get reduced). If spending is below the target, the adjustment is positive (physician payments are increased). Physician spending has routinely exceeded the target such that the SGR formula has specified negative updates since 2002. Congress has inter-

vened 13 times to avert the cuts since 2003. The SGR currently calls for a 27.4 percent across-the-board rate cut for physicians to take effect on March 1, 2012.

#### *House bill*

Section 2201 replaced the 27.4 percent cut with a 1 percent rate increase in 2012 and another 1 percent increase in 2013. This section also required reports from the: Medicare Payment Advisory Commission (MedPAC) on aligning private sector initiatives to reward quality, efficiency, and practice improvements with Medicare performance-based initiatives; Government Accountability Office (GAO) on examining private sector initiatives that base or adjust physician payments for quality, efficiency, or care delivery improvement; and Secretary of HHS on options for bundling payments for common physician services. It also required the committees of jurisdiction to provide information to Congress to assist in the development of a long-term replacement to the current Medicare physician payment system.

#### *Senate bill*

Section 301 froze physician payment rates at their 2011 level for two months (January and February 2012).

#### *Conference substitute*

Section 3003 freezes physician payment rates at their current levels until December 31, 2012, averting a 27.4 percent reduction. The provision also requires reports from the Secretary of HHS, due January 1, 2013, that examines bundled or episode-based payments to cover physicians' services for one or more prevalent chronic conditions or major procedures. It also requires a GAO report, due January 1, 2013, that examines private sector initiatives that base or adjust physician payment rates for quality, efficiency, and care delivery improvement, such as adherence to evidence-based guidelines.

#### *Work Geographic Adjustment*

#### *Current law*

Medicare payment for each physician service is made up of three components: 1) physician work (the time, skill and intensity for a physician to provide a service), 2) practice expense (associated overhead costs), and 3) physician liability insurance. Each of these components is adjusted based on the relative costs associated with the geographic area in which the physician practices. Medicare makes these adjustments, known as Geographic Practice Cost Indices (GPCIs), in each of its designated 89 geographic areas. The national average work adjustment is set at a value of 1.0. Thus, geographic areas with an adjustment value greater than 1.0 receive higher work payments than the areas with an adjustment below that threshold. Current law maintains a work adjustment floor—set at the national average value of 1.0—that increases work payments to physicians in the areas that have a value below the national average. This floor increases payments in 54 of 89 geographic areas. The MMA established this policy starting in 2004 and Congress subsequently extended it five times.

#### *House bill*

Section 2204 extended the work GPCI floor through December 31, 2012 and required that MedPAC submit a report by June 1, 2012 that assesses whether any work geographic adjustment is needed, if so, at what level it should be applied, and the impact of the floor on beneficiary access to care.

#### *Senate bill*

Section 303 extended the 1.0 GPCI floor for two months (January and February 2012).

#### *Conference substitute*

Section 3004 extends the 1.0 work GPCI floor through December 31, 2012. It also requires MedPAC to report by June 15, 2013, assessing whether any work geographic adjustment is needed and, if so, at what level it should be applied, and the impact of the floor on beneficiary access to care.

#### *Payment for Outpatient Therapy Services*

#### *Current law*

The BBA imposed two annual per beneficiary payment limits for all outpatient therapy services delivered by non-hospital providers. For 2012, the annual limit on the allowed amount for outpatient physical therapy (PT) and speech-language pathology (SLP) combined is \$1,880. There is a separate \$1,880 limit for occupational therapy (OT). Enforcement of the caps has been blocked by legislation every year since 2000, with the exception of three months in 2003. The Deficit Reduction Act of 2006 (DRA) required the HHS Secretary to implement an exceptions process in 2006 for cases in which the provision of additional therapy services above the cap was determined to be medically necessary. Congress has extended this exceptions process several times.

#### *House bill*

Section 2203 extended the exceptions process through December 31, 2013, and made specific refinements to the exceptions process to ensure that medical necessity is documented and appropriately reviewed. Specifically, the HHS Secretary was required to ensure, through claims processing edits, that appropriate modifiers are on the claims indicating that the responsible providers have documented medical necessity for services paid above the therapy cap threshold. In addition, all Medicare claims for therapy services were required to include the national provider identifier (NPI) for the physician or practitioner (not the therapist rendering services) who periodically reviews the therapy plan of care. The spending cap was permanently expanded to include spending for therapy services provided in hospital outpatient departments. Starting on July 1, 2012, when a beneficiary's annual spending for therapy services furnished in calendar year 2012 reaches \$3,700 in PT and SLP, or \$3,700 in OT, any additional services would be subject to a manual medical review process.

By January 1, 2013, the Secretary was required to collect detailed data on therapy patient conditions and outcomes that could assist in reforming the current therapy payment system. In addition, MedPAC was required to submit a report to the committees of jurisdiction, making recommendations on how to reform the payment system so that the benefit is better designed to reflect individual acuity, condition, and therapy needs of the patient. GAO was required to submit a study to the committees of jurisdiction, examining CMS implementation of the manual review process.

#### *Senate bill*

Section 304 extended the exceptions process for Medicare outpatient therapy caps for two months (January and February 2012).

#### *Conference substitute*

Section 3005 extends the therapy caps exceptions process through December 31, 2012. Starting with services provided on or after October 1, 2012, the Secretary is required to ensure that appropriate modifiers and NPIs are on the Medicare claims and implement a manual medical review process for beneficiaries whose annual spending for therapy services furnished in calendar year 2012



reaches \$3,700 in PT and SLP, or \$3,700 in OT. The spending caps are temporarily expanded (through December 31, 2012) to include spending for therapy services provided in hospital outpatient departments. The conference agreement also requires the Secretary to collect detailed data to assist in refining the therapy payment system and also requires reports from GAO and MedPAC.

#### Payment for Technical Component of Certain Physician Pathology Services

##### *Current law*

Medicare pays for the preparation of pathology lab samples (the “technical component”) as well as the physician interpretation and diagnosis associated with those samples (“professional component”). Prior to 1999, independent labs that performed the technical component (TC) of pathology lab services for hospitals could bill Medicare directly for the TC payment. In 1999, CMS implemented a new rule that prohibited independent laboratories from billing for these services, with the rationale that Medicare payment was already included in the bundled payment to the hospital. Hospitals that had in-house labs were unaffected. Hospitals that had been utilizing independent labs as of July 22, 1999, however, were “grandfathered” in the Benefits Improvement and Protection Act (BIPA) of 2000, allowing them to continue billing Medicare directly.

##### *House bill*

No provision.

##### *Senate bill*

Section 305 extended the TC grandfather policy for two months (January and February 2012).

##### *Conference substitute*

Section 3006 extends the TC grandfather policy until June 30, 2012.

#### Ambulance Add-On Payments

##### *Current law*

In 2002, a fee schedule was established for ground and air ambulance services; it was fully implemented in 2006. Currently, all ground ambulance services receive some type of add-on: 2 percent for urban ground ambulance trips, 3 percent for rural ground ambulance trips, and 22.6 percent for ground ambulance trips that originate in “super rural” areas (those in the lowest quartile in terms of population density).

Under the air ambulance fee schedule, rural providers receive a 50% add-on. In 2006, the Office of Management and Budget (OMB) changed the designation of a number of areas from rural to urban, based on updated Census data, which would have ended the rural add-on for air ambulances originating in the affected areas. The Medicare Improvements for Patients and Providers Act of 2008 (MIPPA) allowed these affected areas to continue to be considered rural so that air ambulances could continue to receive the rural add-on.

##### *House bill*

Section 2202 extended the payment add-ons for ground ambulance services until December 31, 2012.

Additionally, the House bill required GAO to update their 2007 report detailing current ambulance costs. The House bill also required MedPAC to submit a report on the appropriateness of the ambulance fee schedule and whether there is a need to reform the ambulance fee schedule.

##### *Senate bill*

Section 306 extended the add-ons for ground ambulance services and continued

the rural designation for certain air ambulance services for two months (January and February 2012).

##### *Conference substitute*

Section 3007 extends payment add-ons for ground ambulance services and continued the rural designation for certain air ambulance services until December 31, 2012. This provision requires GAO to update its 2007 report by October 1, 2012, to reflect current costs for ambulance providers and requires MedPAC to submit a report by June 15, 2013, on the appropriateness of the ambulance add-on payments and whether there is a need to reform the ambulance fee schedule.

#### Qualifying Individual Program

##### *Current law*

The Qualifying Individual (QI) program is a Medicare savings program for certain low-income Medicare beneficiaries, who are fully eligible for Medicare and receive Medicaid assistance with their Medicare Part B premiums. Unlike full benefit dually-eligible beneficiaries who are fully eligible for both Medicare and Medicaid (known as qualified Medicare beneficiaries (QMBs), or those with incomes below 100 percent of poverty) and specified low-income Medicare beneficiaries (SLMBs, or those with incomes between 100 and 120 percent of poverty), QI is a block grant to states that must be reauthorized each year. Enrollment in QI is limited by federal appropriations, and applications are approved on a first-come, first-served basis. QI beneficiaries must have incomes between 120 and 135 percent of poverty (\$13,404 to \$15,079 for an individual in 2012).

##### *House bill*

Section 2211 extended the QI program through December 31, 2012.

##### *Senate bill*

Section 310 extended the QI program for two months (January and February 2012).

##### *Conference substitute*

Section 3101 extended the QI program through December 31, 2012.

#### Transitional Medical Assistance

##### *Current law*

Congress expanded the Transitional Medical Assistance (TMA) program in 1988 as part of welfare-to-work programs, requiring states to provide TMA to families who lose Medicaid eligibility for work-related reasons for at least six, and up to twelve, months. During the first six months of TMA, states must provide the same benefits the family was receiving or pay for costs of similar employer-based coverage. The second six months of TMA is available for families who continue to have a dependent child at home, meet reporting requirements, and have average gross monthly earnings below 185% of poverty.

Congress created an additional work-related TMA option in the American Recovery and Reinvestment Act of 2009 (ARRA). Under the ARRA option, states may choose to provide work-related TMA for a full twelve-month period rather than two six-month periods. These changes were informed by GAO work that found the reporting requirements to be a substantial paperwork barrier that caused significant numbers of eligible families to lose coverage to which they were entitled. Thirteen states have taken up the ARRA option: Alaska, Colorado, Connecticut, Florida, Idaho, Maryland, Montana, New Mexico, New York, Ohio, Oregon, South Dakota, and Wisconsin.

##### *House bill*

Section 2212 extended TMA, through December 31, 2012. In addition, this provision

contained new income reporting requirements for any month of TMA coverage and limited TMA to only those individuals with incomes below 185 percent of poverty.

##### *Senate bill*

Section 311 extended TMA for two months (January and February 2012).

##### *Conference substitute*

Section 3102 provides for an extension of TMA through December 31, 2012.

#### Modification to Requirements for Qualifying for Exception to Medicare Prohibition on Certain Physician Referrals for Hospitals

##### *Current law*

Physicians are generally prohibited from referring Medicare patients to a health care facility in which they, or an immediate family member, have a financial stake. However, physician-owned hospitals have operated under an exception to anti-trust laws, known as the “whole hospital exception.”

The Affordable Care Act (ACA) amended the “whole hospital exception” by requiring that all hospitals with physician-ownership have a Medicare provider number by December 31, 2010. Any hospital without a Medicare provider number is not permitted to bill Medicare for services provided to beneficiaries under the “whole hospital exception.” Grandfathered physician-owned hospitals, those with Medicare provider numbers by December 31, 2010, may continue to operate. However, they may not alter the proportion of physician-ownership in the hospital. Under current law, a grandfathered hospital may apply to expand the number of operating rooms, procedure rooms and/or beds if it meets five criteria.

##### *House bill*

Section 2213 allowed physician-owned hospitals that were under construction but without a Medicare provider number on December 31, 2010, to open and operate under the “whole hospital exception.” The provision would also allow a grandfathered hospital the ability to utilize the existing expansion process if it certifies that it does not discriminate against beneficiaries in federal health care programs.

##### *Senate bill*

No provision.

##### *Conference substitute*

No provision.

#### Extending Minimum Payment for Bone Mass Measurement

##### *Current law*

Dual energy X-ray absorptiometry (DXA) machines are used to measure bone mass to identify individuals who may have or be at risk of having osteoporosis. For those individuals who are eligible, Medicare will pay for a bone density study once every two years, or more frequently if the procedure is determined to be medically necessary. The DRA capped reimbursement of the technical component for x-ray and imaging services as the lesser rate of the hospital outpatient rate or the physician fee schedule. Additionally, CMS implemented a new methodology for determining resource-based practice expense payments for all services contributed to the reduction in the technical component reimbursement. The ACA set DXA payments at 70 percent of the 2006 reimbursement rates for these services in 2010 and 2011.

##### *House bill*

No provision.

##### *Senate bill*

Section 309 extended the 70 percent of the 2006 payment rate for two months (January and February 2012).

*Conference substitute*

No provision.

**Extension of Physician Fee Schedule Mental Health Add-on Payment***Current law*

Medicare pays for mental health services under the physician fee schedule. MIPPA increased the fee schedule amount for certain mental health service by 5 percent beginning on July 1, 2008. Subsequent legislation extended this add-on.

*House bill*

No provision.

*Senate bill*

Section 307 extended the 5 percent payment add-on for two months (January and February 2012).

*Conference substitute*

No provision.

**Reduction of Bad Debt Treated as an Allowable Cost***Current law*

Medicare reimburses providers for beneficiaries' unpaid coinsurance and deductible amounts after reasonable collection efforts. Medicare currently reimburses 70 percent of beneficiary bad debts in acute care hospitals. Medicare reimburses skilled nursing facilities 100 percent of the allowable bad debt costs for Medicare beneficiaries who are eligible for Medicaid (dual eligibles) and 70 percent of the allowable costs for all other beneficiaries. Medicare reimburses 100 percent of allowable bad debt in critical access hospitals, rural health clinics, federally qualified health clinics, community mental health clinics, health maintenance organizations reimbursed on a cost basis, competitive medical plans, and health care prepayment plans. Medicare also reimburses end stage renal disease facilities 100 percent of allowable bad debt claims, with such payments capped at the facilities' unrecovered costs.

*House bill*

Section 2224 gradually reduced the bad debt reimbursement, beginning in 2013 and over a period of three years, for all providers to 55 percent.

*Senate bill*

No provision.

*Conference substitute*

Section 3201 will reduce bad debt reimbursement for all providers to 65 percent. Providers paid at 100 percent would have a three-year transition of 88 percent in 2013, 76 percent in 2014, and 65 percent in 2015. Providers paid at 70 percent would be reduced to 65 percent in 2013.

**Rebase Medicare Clinical Laboratory Payment Rates***Current law*

Medicare pays for clinical laboratory services under carrier-specific fee schedules subject to national payment limits. Most lab services receive payment at the national limit amount.

*House bill*

No provision.

*Senate bill*

No provision.

*Conference substitute*

Section 3202 resets clinical lab base payment rates by 2 percent in 2013.

**Rebasing State DSH Allotments for Fiscal Year 2021***Current law*

Medicaid Disproportionate Share Hospital (DSH) payments provide additional funding

to hospitals that serve a disproportionate number of low-income patients. States receive an annual DSH allotment to cover the costs of DSH hospitals that provide care to low-income, uninsured patients. This annual allotment is calculated by law and includes requirements to ensure that the DSH payments to individual hospitals are not higher than actual uncompensated care costs. Each state's federal allotment is capped based on either the prior year's allotment plus inflation or twelve percent of the state's total Medicaid benefits payments for the year. Once a state receives its federal allotment, the state has discretion to distribute the funding to hospitals, as long as the state's methodology is based on the Medicaid inpatient utilization rate (exceeding one standard deviation above the mean for all hospitals in the state) or a low-income utilization rate exceeding 25 percent.

The ACA reduced DSH payments between 2014 and 2020, based on a formula that the Secretary of HHS will develop through future regulation.

*House bill*

Section 2225 would rebase the DSH allotments for FY2021 and determine future allotments from the rebased level using current law methodology.

*Senate bill*

No provision.

*Conference substitute*

Section 3203 extends the ACA Medicaid DSH payment reductions in 2021.

**Technical Correction to the Disaster Recovery FMAP Provision***Current law*

The ACA included a provision known as the 'disaster-recovery FMAP' designed to help states adjust to drastic changes in FMAP following a statewide disaster. Once triggered, the policy would provide assistance for as many as seven years following the disaster, as long as the state continued to experience an FMAP drop of more than three percentage points.

During the first year, a state would receive an FMAP increase equal to 50 percent of the difference between the regular FMAP and the artificially lower FMAP. In the second and succeeding years, the FMAP increase would be 25 percent of the difference between the regular FMAP and the adjusted FMAP from the previous year. However, there is an error in the statute for the second and succeeding years. Instead of creating a glide path downward, so that the affected state could adjust to its new, lower FMAP, the 25 percent bump is added to the higher, adjusted FMAP of the previous year rather than the lower, base FMAP. This results in increasing FMAPs for each year of the disaster-recovery period, compounding over time. It also makes it easier for the state to continue to qualify each year because it is easier for there to be a three percentage point difference between the artificially high FMAP and the base FMAP.

*House bill*

No provision.

*Senate bill*

No provision.

*Conference substitute*

Section 3204 would address the error by instituting a lower FMAP in the second and subsequent years.

**Prevention and Public Health Fund***Current law*

The ACA established a Prevention and Public Health Trust Fund to help shift the

focus of the health care system to prevention rather than treatment. The fund provides increasing mandatory direct spending from \$500 million in 2010 to \$2 billion in 2015 and each year thereafter.

*House bill*

Section 2222 reduced trust fund dollars beginning in FY2013, saving \$8 billion.

*Senate bill*

No provision.

*Conference substitute*

Section 3205 reduces trust fund dollars beginning in FY2013, saving \$5 billion.

**Parity in Medicare Payments for Hospital Outpatient Department Evaluation and Management Services***Current law*

When a physician treats a beneficiary in a hospital outpatient department, the physician's services are reimbursed under Medicare's physician fee schedule and the hospital receives a facility payment from Medicare under the outpatient prospective payment system (OPPS). Because of the facility payment, the total payment generally exceeds payments for the same services provided in a physician office.

*House bill*

Section 2223 would reduce hospital facility fee payments for evaluation and management services provided in a hospital outpatient department so that payment for the service in aggregate would not exceed the amount under the Medicare physician fee schedule beginning in 2012. These lower payments would not be considered in the review of different components of Medicare's OPPS to ensure that annual adjustments are budget neutral.

*Senate bill*

No provision.

*Conference substitute*

No provision.

**Increase in Medicare Part B and Part D Premiums for High-Income Beneficiaries***Current law*

The MMA of 2003 established that high-income beneficiaries enrolled in Part B would pay a higher premium. The ACA expanded this provision to the Part D program. Currently, high-income beneficiaries are required to pay a greater share of the Medicare Part B and Part D premiums (35 percent, 50 percent, 65 percent, or 80 percent) depending on their income. For 2012, the income thresholds for those premium shares are \$85,000, \$107,000, \$160,000, and \$214,000, respectively for single filers. For married couples, the corresponding income thresholds are twice those values. Because of a provision in the ACA, the income thresholds for both Medicare Part B and Part D are frozen through 2019.

*House bill*

Sections 5601 and 5602 would increase the applicable premium percentage higher income beneficiaries would pay by 15 percent such that the levels would become 40.25 percent, 57.5 percent, 74.75 percent, and 90 percent in 2017. This provision would also reduce the income thresholds in 2017, to \$80,000, \$100,000, \$150,000 and \$200,000 for single filers (and twice those values for married couples) and extend the freeze of the income thresholds beyond 2019, until 25 percent of all beneficiaries are paying higher income premiums.

*Senate bill*

No provision.

Conference substitute

No provision.

#### TAX PROVISIONS

A. Extension of Payroll Tax Reduction (sec. 2001 of the House bill, sec. 101 of the Senate amendment, and sec. 1001 of the conference agreement)

##### PRESENT LAW

##### *Federal Insurance Contributions Act ("FICA") tax*

The FICA tax applies to employers based on the amount of covered wages paid to an employee during the year.<sup>1</sup> Generally, covered wages means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash.<sup>2</sup> Certain exceptions from covered wages are also provided. The tax imposed is composed of two parts: (1) the old age, survivors, and disability insurance ("OASDI") tax equal to 6.2 percent of covered wages up to the taxable wage base (\$106,800 for 2011 and \$110,100 for 2012); and (2) the Medicare hospital insurance ("HI") tax amount equal to 1.45 percent of covered wages.

In addition to the tax on employers, each employee is generally subject to FICA taxes equal to the amount of tax imposed on the employer (the "employee portion").<sup>3</sup> The employee portion of FICA taxes generally must be withheld and remitted to the Federal government by the employer.

##### *Self-Employment Contributions Act ("SECA") Tax*

As a parallel to FICA taxes, the SECA tax applies to the self-employment income of self-employed individuals.<sup>4</sup> The rate of the OASDI portion of SECA taxes is generally 12.4 percent, which is equal to the combined employee and employer OASDI FICA tax rates, and applies to self-employment income up to the FICA taxable wage base. Similarly, the rate of the HI portion of SECA tax is 2.9 percent, the same as the combined employer and employee HI rates under the FICA tax, and there is no cap on the amount of self-employment income to which the rate applies.<sup>5</sup>

An individual may deduct, in determining net earnings from self-employment under the SECA tax, the amount of the net earnings from self-employment (determined without regard to this deduction) for the taxable year multiplied by one half of the combined OASDI and HI rates.<sup>6</sup>

Additionally, a deduction, for purposes of computing the income tax of an individual, is allowed for one-half of the amount of the SECA tax imposed on the individual's self-employment income for the taxable year.<sup>7</sup>

##### *Railroad retirement tax*

Instead of FICA taxes, railroad employers and employees are subject, under the Railroad Retirement Tax Act ("RRTA"), to taxes equivalent to the OASDI and HI taxes under FICA.<sup>8</sup> The employee portion of RRTA taxes generally must be withheld and remitted to the Federal government by the employer.

##### *Temporary reduced OASDI rates*

Under the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation

Act of 2010,<sup>9</sup> for 2011, the OASDI rate for the employee portion of the FICA tax, and the equivalent employee portion of the RRTA tax, is reduced by two percentage points to 4.2 percent. Similarly, for taxable years beginning in 2011, the OASDI rate for a self-employed individual is reduced by two percentage points to 10.4 percent.

Special rules coordinate the SECA tax rate reduction with a self-employed individual's deduction in determining net earnings from self-employment under the SECA tax and the income tax deduction for one-half of the SECA tax. The rate reduction is not taken into account in determining the SECA tax deduction allowed for determining the amount of the net earnings from self-employment for the taxable year. The income tax deduction allowed for the SECA tax for taxable years beginning in 2011 is 59.6 percent of the OASDI portion of the SECA tax imposed for the taxable year plus one-half of the HI portion of the SECA tax imposed for the taxable year.<sup>10</sup>

The Federal Old-Age and Survivors Trust Fund, the Federal Disability Insurance Trust Fund and the Social Security Equivalent Benefit Account established under the Railroad Retirement Act of 1974<sup>11</sup> receive transfers from the General Fund of the United States Treasury equal to any reduction in payroll taxes attributable to the rate reduction for 2011. The amounts are transferred from the General Fund at such times and in such a manner as to replicate to the extent possible the transfers which would have occurred to the Trust Funds or Benefit Account had the provision not been enacted.

For purposes of applying any provision of Federal law other than the provisions of the Internal Revenue Code of 1986, the employee rate of OASDI tax is determined without regard to the reduced rate for 2011.

Under the Temporary Payroll Tax Cut Continuation Act of 2011,<sup>12</sup> the reduced employee OASDI tax rate of 4.2 percent under the FICA tax, and the equivalent employee portion of the RRTA tax, is extended to apply to covered wages paid in the first two months of 2012. A recapture applies for any benefit a taxpayer may have received from the reduction in the OASDI tax rate, and the equivalent employee portion of the RRTA tax, for remuneration received during the first two months of 2012 in excess of \$18,350.<sup>13</sup> The recapture is accomplished by a tax equal to two percent of the amount of wages (and railroad compensation) received during the first two months of 2012 that exceed \$18,350. The Secretary of the Treasury (or the Secretary's delegate) is to prescribe regulations or other guidance that is necessary and appropriate to carry out this provision.

In addition, for taxable years beginning in 2012, the OASDI rate for a self-employed individual is reduced to 10.4 percent, for self-employment income of up to \$18,350 (reduced by wages subject to the lower OASDI rate for 2012). Related rules for 2011 concerning co-

ordination of a self-employed individual's deductions in determining net earnings from self-employment and income tax also apply for 2012, except that the income tax deduction allowed for the OASDI portion of SECA tax imposed for taxable years beginning in 2012 is computed at the rate of 59.6 percent<sup>14</sup> of the OASDI portion of the SECA tax imposed on self-employment income of up to \$18,350. For self-employment income in excess of this amount, the deduction is equal to half of the OASDI portion of the SECA tax.

Rules related to the OASDI rate reduction for 2011 concerning (1) transfers to the Federal Old-Age and Survivors Trust Fund, the Federal Disability Insurance Trust Fund and the Social Security Equivalent Benefit Account established under the Railroad Retirement Act of 1974, and (2) determining the employee rate of OASDI tax in applying provisions of Federal law other than the Code also apply for 2012.

##### HOUSE BILL<sup>15</sup>

Under the House bill, the reduced employee OASDI tax rate of 4.2 percent under the FICA tax, and the equivalent portion of the RRTA tax, is extended to apply for 2012. Similarly, a reduced OASDI tax rate of 10.4 percent under the SECA tax, is extended to apply for taxable years beginning in 2012.

Related rules concerning (1) coordination of a self-employed individual's deductions in determining net earnings from self-employment and income tax, (2) transfers to the Federal Old-Age and Survivors Trust Fund, the Federal Disability Insurance Trust Fund and the Social Security Equivalent Benefit Account established under the Railroad Retirement Act of 1974, and (3) determining the employee rate of OASDI tax in applying provisions of Federal law other than the Code also apply for 2012.

*Effective date.*—The provision applies to remuneration received, and taxable years beginning, after December 31, 2011.

##### SENATE AMENDMENT<sup>16</sup>

Under the Senate amendment, the reduced employee OASDI tax rate of 4.2 percent under the FICA tax, and the equivalent employee portion of the RRTA tax, applies to covered wages paid up to \$18,350 in the first two months of 2012.<sup>17</sup>

In addition, for taxable years beginning in 2012, the Senate amendment provides that the OASDI rate for a self-employed individual is reduced to 10.4 percent, for self-employment income of up to \$18,350 (reduced by wages subject to the lower OASDI rate for 2012). Related rules for 2011 concerning coordination of a self-employed individual's deductions in determining net earnings from self-employment and income tax also apply for 2012, except that the income tax deduction allowed for the OASDI portion of SECA

<sup>14</sup> This percentage used with respect to the first \$18,350 of self-employment income is necessary to continue to allow the self-employed taxpayer to deduct the full amount of the employer portion of SECA taxes. The employer OASDI tax rate remains at 6.2 percent, while the employee portion falls to a 4.2 percent rate for the first \$18,350 of self-employment income. Thus, the employer share of total OASDI taxes is 6.2 divided by 10.4, or 59.6 percent of the OASDI portion of SECA taxes, for the first \$18,350 of self-employment income.

<sup>15</sup> The House bill passed prior to the enactment of the "Temporary Payroll Tax Cut Continuation Act of 2011", Pub. L. No. 112-78, described above.

<sup>16</sup> The Senate amendment passed prior to the enactment of the "Temporary Payroll Tax Cut Continuation Act of 2011", Pub. L. No. 112-78, described above.

<sup>17</sup> \$18,350 is 1/6 of the 2012 taxable wage base of \$110,100.

<sup>1</sup> Sec. 3111.

<sup>2</sup> Sec. 3121(a).

<sup>3</sup> Sec. 3101. For taxable years beginning after 2012, an additional HI tax applies to certain employees.

<sup>4</sup> Sec. 1401.

<sup>5</sup> For taxable years beginning after 2012, an additional HI tax applies to certain self-employed individuals.

<sup>6</sup> Sec. 1402(a)(12).

<sup>7</sup> Sec. 164(f).

<sup>8</sup> Secs. 3201(a) and 3211(a).

<sup>9</sup> Pub. L. No. 111-312.

<sup>10</sup> This percentage replaces the rate of one half (50 percent) otherwise allowed for this portion of the deduction. The percentage is necessary to allow the self-employed individual to deduct the full amount of the employer portion of SECA taxes. The employer OASDI tax rate remains at 6.2 percent, while the employee portion falls to 4.2 percent. Thus, the employer share of total OASDI taxes is 6.2 divided by 10.4, or 59.6 percent of the OASDI portion of SECA taxes.

<sup>11</sup> 45 U.S.C. 231n-1(a).

<sup>12</sup> Pub. L. No. 112-78, enacted after passage of H.R. 3630 by the House of Representatives and the Senate.

<sup>13</sup> \$18,350 is 1/6 of the 2012 taxable wage base of \$110,100.

tax imposed for taxable years beginning in 2012 is computed at the rate of 59.6 percent<sup>18</sup> of the OASDI portion of the SECA tax imposed on self-employment income of up to \$18,350. For self-employment income in excess of this amount, the deduction is equal to half of the OASDI portion of the SECA tax.

The Senate amendment also contains rules related to the OASDI rate reduction for 2011 concerning (1) transfers to the Federal Old-Age and Survivors Trust Fund, the Federal Disability Insurance Trust Fund and the Social Security Equivalent Benefit Account established under the Railroad Retirement Act of 1974, and (2) determining the employee rate of OASDI tax in applying provisions of Federal law other than the Code also apply for 2012.

*Effective date.*—The provision applies to remuneration received, and taxable years beginning, after December 31, 2011.

#### CONFERENCE AGREEMENT

The conference agreement follows the House bill, providing for a reduced employee OASDI tax rate of 4.2 percent under the FICA tax, and the equivalent portion of the RRTA tax, through 2012. Similarly, a reduced OASDI tax rate of 10.4 percent under the SECA tax applies for taxable years beginning in 2012.

As in the House bill and Senate amendment, related rules concerning (1) coordination of a self-employed individual's deductions in determining net earnings from self-employment and income tax, (2) transfers to the Federal Old-Age and Survivors Trust Fund, the Federal Disability Insurance Trust Fund and the Social Security Equivalent Benefit Account established under the Railroad Retirement Act of 1974, and (3) determining the employee rate of OASDI tax in applying provisions of Federal law other than the Code also apply for 2012.

The conference agreement repeals the present-law recapture provision applicable to a taxpayer who receives the reduced OASDI rate with respect to more than \$18,350 of wages (or railroad compensation) received during the first two months of 2012, and removes the \$18,350 limitation on self-employment income subject to the lower rate for taxable years beginning in 2012.

*Effective date.*—The provision applies to remuneration received, and taxable years beginning, after December 31, 2011.

B. Repeal of Certain Shifts in the Timing of Corporate Estimated Tax Payments (sec. 6001 of the House bill and sec. 7001 of the conference agreement)

#### PRESENT LAW

In general, corporations are required to make quarterly estimated tax payments of their income tax liability.<sup>19</sup> For a corporate whose taxable year is a calendar year, these estimated payments must be made by April 15, June 15, September 15, and December 15. In the case of a corporation with assets of at least \$1 billion (determined as of the end of the preceding taxable year):

(i) payments due in July, August or September, 2012, are increased to 100.5 percent of the payment otherwise due;<sup>20</sup>

(ii) payments due in July, August, or September, 2014, are increased to 174.25 percent of the payment otherwise due;<sup>21</sup>

(iii) payments due in July, August or September, 2015, are increased to 163.75 percent of the payment otherwise due;<sup>22</sup>

(iv) payments due in July, August, or September 2016 are increased to 103.5 percent of the payment otherwise due; and<sup>23</sup>

(v) payments due in July, August or September, 2019, are increased to 106.50 percent of the payment otherwise due.<sup>24</sup>

#### HOUSE BILL

The House bill reduces the applicable percentage for 2012 (100.5 percent), 2014 (174.25 percent), 2015 (163.75 percent), 2016 (103.5 percent), and 2019 (106.5 percent) to 100 percent. Thus corporations will make estimated tax payments in 2012, 2014, 2015, 2016, and 2019 as if the prior legislation had never been enacted or amended.

*Effective date.*—The provision is effective on the date of enactment.

#### SENATE PROVISION

No provision.

#### CONFERENCE AGREEMENT

The conference agreement follows the House bill, providing reductions in the applicable percentages for 2012 (100.5 percent), 2014 (174.25 percent), 2015 (163.75 percent), 2016 (103.5 percent), and 2019 (106.5 percent) to 100 percent. Thus corporations will be required to make estimated tax payments in 2012, 2014, 2015, 2016, and 2019 as if the prior legislation had never been enacted or amended.

C. Extension of 100 Percent Bonus Depreciation (sec. 1201(a) of the House bill and secs. 168(k)(5) and 460(c)(6) of the Code)

#### PRESENT LAW

An additional first-year depreciation deduction is allowed equal to 50 percent of the adjusted basis of qualified property placed in service between January 1, 2008 and September 8, 2010 or between January 1, 2012 and January 1, 2013 (January 1, 2014 for certain longer-lived and transportation property).<sup>25</sup> An additional first-year depreciation deduction is allowed equal to 100 percent of the adjusted basis of qualified property if it meets the requirements for the additional first-year depreciation and also meets the following requirements. First, the taxpayer must acquire the property after September 8,

2010 and before January 1, 2012. Second, the taxpayer must place the property in service after September 8, 2010 and before January 1, 2012 (before January 1, 2013 in the case of certain longer-lived and transportation property). Third, the original use of the property must commence with the taxpayer after September 8, 2010.<sup>26</sup>

The additional first-year depreciation deduction is allowed for both regular tax and alternative minimum tax purposes, but is not allowed for purposes of computing earnings and profits. The basis of the property and the depreciation allowances in the year of purchase and later years are appropriately adjusted to reflect the additional first-year depreciation deduction. In addition, there are no adjustments to the allowable amount of depreciation for purposes of computing a taxpayer's alternative minimum taxable income with respect to property to which the provision applies. The amount of the additional first-year depreciation deduction is not affected by a short taxable year. The taxpayer may elect out of additional first-year depreciation for any class of property for any taxable year.

The interaction of the additional first-year depreciation allowance with the otherwise applicable depreciation allowance may be illustrated as follows. Assume that in 2009, a taxpayer purchased new depreciable property and placed it in service.<sup>27</sup> The property's cost is \$1,000, and it is five-year property subject to the half-year convention. The amount of additional first-year depreciation allowed is \$500. The remaining \$500 of the cost of the property is depreciable under the rules applicable to five-year property. Thus, 20 percent, or \$100, is also allowed as a depreciation deduction in 2009. The total depreciation deduction with respect to the property for 2009 is \$600. The remaining \$400 adjusted basis of the property generally is recovered through otherwise applicable depreciation rules.

Property qualifying for the additional first-year depreciation deduction must meet all of the following requirements. First, the property must be (1) property to which MACRS applies with an applicable recovery period of 20 years or less; (2) water utility property (as defined in section 168(e)(5)); (3) computer software other than computer software covered by section 197; or (4) qualified leasehold improvement property (as defined in section 168(k)(3)).<sup>28</sup> Second, the original use<sup>29</sup> of the property must commence with the taxpayer after December 31, 2007.<sup>30</sup> Third,

<sup>26</sup> See Rev. Proc. 2011-26, 2011-16 I.R.B. 664 (Apr. 18, 2011) for guidance regarding additional first-year depreciation.

<sup>27</sup> Assume that the cost of the property is not eligible for expensing under section 179.

<sup>28</sup> The additional first-year depreciation deduction is not available for any property that is required to be depreciated under the alternative depreciation system of MACRS. The additional first-year depreciation deduction is also not available for qualified New York Liberty Zone leasehold improvement property as defined in section 1400L(c)(2).

<sup>29</sup> The term "original use" means the first use to which the property is put, whether or not such use corresponds to the use of such property by the taxpayer. If in the normal course of its business a taxpayer sells fractional interests in property to unrelated third parties, then the original use of such property begins with the first user of each fractional interest (i.e., each fractional owner is considered the original user of its proportionate share of the property).

<sup>30</sup> A special rule applies in the case of certain leased property. In the case of any property that is originally placed in service by a person and that is sold to the taxpayer and leased back to such person by the taxpayer within three months after the date that the property was placed in service, the property would be treated as originally placed in service by

<sup>18</sup> See footnote 14.

<sup>19</sup> Sec. 6655.

<sup>20</sup> United States-Korea Free Trade Agreement Implementation Act, Pub. L. No. 112-41, sec. 505, and United States-Panama Trade Promotion Agreement Implementation Act of 2011, Pub. L. No. 112-43, sec. 502.

<sup>21</sup> Haiti Economic Lift Program of 2010, Pub. L. No. 111-171, sec. 12(a); Health Care and Education

Reconciliation Act of 2010, Pub. L. No. 111-152, sec. 1410; Hiring Incentives to Restore Employment Act, Pub. L. No. 111-147, sec. 561 (1); Act to extend the Generalized System of Preferences and the Andean Trade Preference Act, and for other purposes, Pub. L. No. 111-124, sec. 4; Worker, Homeownership, and Business Assistance Act of 2009, Pub. L. No. 111-92, sec. 18; Joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003, and for other purposes, Pub. L. No. 111-42, sec. 202(b)(1).

<sup>22</sup> Omnibus Trade Act of 2010, Pub. L. No. 111-344, sec. 10002; Small Business Jobs Act of 2010, Pub. L. No. 111-240, sec. 2131; Firearms Excise Tax Improvements Act of 2010, Pub. L. No. 111-237, sec. 4(a); United States Manufacturing Enhancement Act of 2010, Pub. L. No. 111-227, sec. 4002; Joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003, and for other purposes, No. 111-210, sec. 3; Haiti Economic Lift Program of 2010, Pub. L. No. 111-171, sec. 12(b); Hiring Incentives to Restore Employment Act, Pub. L. No. 111-147, sec. 561(2).

<sup>23</sup> United States-Korea Free Trade Agreement Implementation Act, Pub. L. No. 112-41, sec. 505; United States-Columbia Trade Promotion Agreement Implementation Act, Pub. L. No. 112-42, sec. 603; and United States-Panama Trade Promotion Agreement Implementation Act, Pub. L. No. 112-43, sec. 502.

<sup>24</sup> Hiring Incentives to Restore Employment Act, Pub. L. No. 111-147, sec. 561(3).

<sup>25</sup> Sec. 168(k). The additional first-year depreciation deduction is subject to the general rules regarding whether an item must be capitalized under section 263 or section 263A.

the taxpayer must acquire the property within the applicable time period (as described below). Finally, the property must be placed in service before January 1, 2013. An extension of the placed-in-service date of one year (i.e., January 1, 2014) is provided for certain property with a recovery period of 10 years or longer and certain transportation property.<sup>31</sup> Transportation property generally is defined as tangible personal property used in the trade or business of transporting persons or property.<sup>32</sup>

To qualify, property must be acquired (1) after December 31, 2007, and before January 1, 2013, but only if no binding written contract for the acquisition is in effect before January 1, 2008, or (2) pursuant to a binding written contract which was entered into after December 31, 2007, and before January 1, 2013.<sup>33</sup> With respect to property that is manufactured, constructed, or produced by the taxpayer for use by the taxpayer, the taxpayer must begin the manufacture, construction, or production of the property after December 31, 2007, and before January 1, 2013. Property that is manufactured, constructed, or produced for the taxpayer by another person under a contract that is entered into prior to the manufacture, construction, or production of the property is considered to be manufactured, constructed, or produced by the taxpayer. For property eligible for the extended placed-in-service date, a special rule limits the amount of costs eligible for the additional first-year depreciation. With respect to such property, only the portion of the basis that is properly attributable to the costs incurred before January 1, 2013 ("progress expenditures") is eligible for the additional first-year depreciation deduction.<sup>34</sup>

Property does not qualify for the additional first-year depreciation deduction when the user of such property (or a related party) would not have been eligible for the additional first-year depreciation deduction if the user (or a related party) were treated as the owner. For example, if a taxpayer sells to a related party property that was under construction prior to January 1, 2008, the property does not qualify for the additional first-year depreciation deduction. Similarly, if a taxpayer sells to a related party property that was subject to a binding written contract prior to January 1, 2008, the property does not qualify for the additional first-year depreciation deduction. As a further example, if a taxpayer (the lessee) sells property in a sale-leaseback arrangement,

and the property otherwise would not have qualified for the additional first-year depreciation deduction if it were owned by the taxpayer-lessee, then the lessor is not entitled to the additional first-year depreciation deduction.

The limitation under section 280F on the amount of depreciation deductions allowed with respect to certain passenger automobiles is increased in the first year by \$8,000 for automobiles that qualify (and for which the taxpayer does not elect out of the additional first-year deduction). The \$8,000 increase is not indexed for inflation.

#### *Percentage-of-completion method*

In general, in the case of a long-term contract, the taxable income from the contract is determined under the percentage-of-completion method. Solely for purposes of determining the percentage of completion under section 460(b)(1)(A), the cost of qualified property with a MACRS recovery period of seven years or less is taken into account as a cost allocated to the contract as if bonus depreciation had not been enacted for property placed in service after December 31, 2009 and before January 1, 2011 (January 1, 2012, for certain longer-lived and transportation property). Bonus depreciation is taken into account in determining taxable income under the percentage-of-completion method for property placed in service after December 31, 2010.

#### HOUSE BILL

The House bill increases the additional first-year depreciation deduction from 50 percent to 100 percent of the adjusted basis of qualified property placed in service after December 31, 2011, and before January 1, 2013 (January 1, 2014, for certain longer-lived and transportation property).

The provision provides that solely for purposes of determining the percentage of completion under section 460(b)(1)(A), the cost of qualified property with a MACRS recovery period of seven years or less which is placed in service after December 31, 2011, and before January 1, 2013 (January 1, 2014, for certain longer-lived and transportation property) is taken into account as a cost allocated to the contract as if bonus depreciation had not been enacted.

*Effective date.*—The provision applies to property placed in service after December 31, 2011.

#### SENATE AMENDMENT

No provision.

#### CONFERENCE AGREEMENT

The conference agreement does not include the provision from the House bill.

D. Expansion of Election to Accelerate AMT Credits in Lieu of Bonus Depreciation (sec. 1201(b) of the House bill and sec. 168(k)(4) of the Code)

#### PRESENT LAW

A corporation may elect to claim additional alternative minimum tax ("AMT") credits in lieu of claiming additional first year depreciation ("bonus depreciation") on eligible qualified property<sup>35</sup> placed in service after December 31, 2010, and before January 1, 2013 (January 1, 2014, in the case of certain longer-lived property and transportation property).<sup>36</sup> A corporation making the election (i) forgoes bonus depreciation for eligible qualified property, (ii) uses the straight-line method of depreciation for eli-

gible qualified property, and (iii) increases the limitation on the allowance of AMT credit by the bonus depreciation amount.<sup>37</sup> The increase in the allowable AMT credit by reason of the election is treated as refundable.

The bonus depreciation amount is 20 percent of the difference between (i) the aggregate amount of depreciation for all eligible qualified property placed in service by the corporation that would be allowed if bonus depreciation applied using the most accelerated depreciation method (determined without regard to this provision), and shortest life allowable for each property, and (ii) the amount of depreciation that would be allowed if bonus depreciation did not apply using the same method and life for each property.

The bonus depreciation amount for any taxable year is limited to the lesser of (i) \$30 million, or (ii) six percent of the AMT credit for the year attributable to the adjusted net minimum tax for taxable years beginning before January 1, 2006 (determined by treating credits as allowed on a first-in, first-out basis), reduced by the sum of certain bonus depreciation amounts for prior taxable years.

In the case of an electing corporation that is a partner in a partnership, the corporation's distributive share of partnership items is determined without regard to bonus depreciation and by using the straight-line method of depreciation. No partnership property is taken into account in determining a corporation's bonus depreciation amount.

Generally an election under this provision for a taxable year applies to subsequent taxable years.

All corporations treated as a single employer under section 52(a) are treated as one taxpayer for purposes of the provision and are treated as having made an election under this provision if any of the corporations so elects.

#### HOUSE BILL

The House bill revises the provision allowing a corporation to elect to claim additional AMT credits in lieu of bonus depreciation.<sup>38</sup> The House bill provision follows the substance of present law with the following changes:

Under the House bill, the bonus depreciation amount for any taxable year is limited to the lesser of (i) the AMT credit for the year attributable to the adjusted net minimum tax for taxable years ending before January 1, 2012 (determined by treating credits as allowed on a first-in, first-out basis), or (ii) 50 percent of the AMT credit for the first taxable year ending after December 31, 2011.

In the case of a partnership in which more than 50 percent of the capital and profits interests are owned (directly or indirectly) by one corporation (or by corporations treated as one taxpayer for purposes of this provision), the bonus depreciation amount is computed by treating each partner as having an amount equal to that partner's allocable share of the eligible property for the taxable year (as determined under regulations prescribed by the Secretary).

A corporation may make a separate election for each taxable year.

<sup>37</sup> Sec. 53(c) otherwise limits the allowable AMT credit for a taxable year to the excess of the regular tax liability (reduced by certain credits) over the tentative minimum tax for the taxable year.

<sup>38</sup> The House bill rewrites section 168(k)(4) in order to delete a substantial amount of "deadwood" from the language of present law.

the taxpayer not earlier than the date that the property is used under the leaseback. If property is originally placed in service by a lessor, such property is sold within three months after the date that the property was placed in service, and the user of such property does not change, then the property is treated as originally placed in service by the taxpayer not earlier than the date of such sale.

<sup>31</sup> Property qualifying for the extended placed-in-service date must have an estimated production period exceeding one year and a cost exceeding \$1 million.

<sup>32</sup> Certain aircraft which is not transportation property, other than for agricultural or firefighting uses, also qualifies for the extended placed-in-service date, if at the time of the contract for purchase, the purchaser made a nonrefundable deposit of the lesser of 10 percent of the cost or \$100,000, and which has an estimated production period exceeding four months and a cost exceeding \$200,000.

<sup>33</sup> Property does not fail to qualify for the additional first-year depreciation merely because a binding written contract to acquire a component of the property is in effect prior to January 1, 2008.

<sup>34</sup> For purposes of determining the amount of eligible progress expenditures, it is intended that rules similar to section 46(d)(3) as in effect prior to the Tax Reform Act of 1986, Pub. L. No. 99-514, apply.

<sup>35</sup> The term "eligible qualified property" means property eligible for bonus depreciation, with minor effective date differences.

<sup>36</sup> Sec. 168(k)(4).

*Effective date.*—The provision applies to taxable years ending after December 31, 2011.

For a taxable year which begins before January 1, 2012, and ends after December 31, 2011, the bonus depreciation amount is the sum of the amounts computed separately for each portion of the taxable year by treating each portion as a separate taxable year taking into account property placed in service by the corporation during that portion of the taxable year.

#### SENATE AMENDMENT

No provision.

#### CONFERENCE AGREEMENT

The conference agreement does not include the provision from the House bill.

E. Adjustments to Maximum Thresholds for Recapturing Overpayments Resulting From Certain Federally-subsidized Health Insurance (sec. 2221 of the House bill and sec. 36B of the Code)

#### PRESENT LAW

##### *Premium assistance credit*

For taxable years ending after December 31, 2013, section 36B provides a refundable tax credit (the “premium assistance credit”) for eligible individuals and families who purchase health insurance through an American Health Benefit Exchange. The premium assistance credit, which is refundable and payable in advance directly to the insurer, subsidizes the purchase of certain health insurance plans through an American Health Benefit Exchange.

The premium assistance credit is available for individuals (single or joint filers) with household incomes between 100 and 400 percent of the Federal poverty level (“FPL”) for the family size involved who do not receive health insurance through an employer or a spouse’s employer.<sup>39</sup> Household income is defined as the sum of: (1) the taxpayer’s modified adjusted gross income, plus (2) the aggregate modified adjusted gross incomes of all other individuals taken into account in determining that taxpayer’s family size (but only if such individuals are required to file a tax return for the taxable year). Modified adjusted gross income is defined as adjusted gross income increased by: (1) any amount excluded by section 911 (the exclusion from gross income for citizens or residents living abroad), (2) any tax-exempt interest received or accrued during the tax year, and (3) an amount equal to the portion of the taxpayer’s social security benefits (as defined in section 86(d)) that is excluded from income under section 86 (that is, the amount of the taxpayer’s Social Security benefits that are excluded from gross income).<sup>40</sup> To be eligible for the premium assistance credit, taxpayers who are married (within the meaning of section 7703) must file a joint return. Individuals who are listed as dependents on a return

are ineligible for the premium assistance credit.

As described in Table 1 below, premium assistance credits are available on a sliding scale basis for individuals and families with household incomes between 100 and 400 percent of FPL to help offset the cost of private health insurance premiums. The premium assistance credit amount is determined based on the percentage of income the cost of premiums represents, rising from two percent of income for those at 100 percent of FPL for the family size involved to 9.5 percent of income for those at 400 percent of FPL for the family size involved. After 2014, the percentages of income are indexed to the excess of premium growth over income growth for the preceding calendar year. After 2018, if the aggregate amount of premium assistance credits and cost-sharing reductions<sup>41</sup> exceeds 0.504 percent of the gross domestic product for that year, the percentage of income is also adjusted to reflect the excess (if any) of premium growth over the rate of growth in the consumer price index for the preceding calendar year. For purposes of calculating family size, individuals who are in the country illegally are not included.

TABLE 1.—THE PREMIUM ASSISTANCE CREDIT PHASE-OUT

Household income (expressed as a percent of FPL)	Initial premium (percentage)	Final premium (percentage)
100% up to 133% .....	2.0	2.0
133% up to 150% .....	3.0	4.0
150% up to 200% .....	4.0	6.3
200% up to 250% .....	6.3	8.05
250% up to 300% .....	8.05	9.5
300% up to 400% .....	9.5	9.5

##### *Minimum essential coverage and employer offer of health insurance coverage*

Generally, if an employee is offered minimum essential coverage<sup>42</sup> in the group market, including employer-provided health insurance coverage, the individual is ineligible for the premium assistance credit for health insurance purchased through an exchange.

If an employee is offered unaffordable coverage by his or her employer or the plan’s share of total allowed cost of provided benefits is less than 60 percent of such costs, the employee can be eligible for the premium assistance credit, but only if the employee declines to enroll in the coverage and satisfies the conditions for receiving a premium assistance credit through an American Health Benefit Exchange. Unaffordable coverage, as defined by Federal law, is coverage with a premium required to be paid by the employee that is more than 9.5 percent of the employee’s household income, based on self-only coverage.<sup>43</sup>

##### *Reconciliation*

If the premium assistance credit received through advance payment exceeds the amount of premium assistance credit to which the taxpayer is entitled for the taxable year, the liability for the overpayment must be reflected on the taxpayer’s income tax return for the taxable year subject to a limitation on the amount of such liability. For persons with household income below 400 percent of FPL, the liability for the overpayment for a taxable year is limited to a specific dollar amount (the “applicable dollar amount”) as shown in Table 2 below (one-half of the applicable dollar amount shown in Table 2 for unmarried individuals who are

not surviving spouses or filing as heads of households).<sup>44</sup>

TABLE 2.—RECONCILIATION

Household income (expressed as a percent of FPL)	Applicable dollar amount
Less than 100% .....	\$600
At least 200% but less than 300% .....	1,500
At least 300% but less than 400% .....	2,500

If the premium assistance credit for a taxable year received through advance payment is less than the amount of the credit to which the taxpayer is entitled for the year, the shortfall in the credit is also reflected on the taxpayer’s tax return for the year.

#### HOUSE BILL

The House bill changes the applicable dollar amount, as shown in Table 3 below (one-half of the applicable dollar amount shown in Table 3 for unmarried individuals who are not surviving spouses or filing as heads of households).

TABLE 3.—ADJUSTED RECONCILIATION

Household income (expressed as a percent of FPL)	Applicable dollar amount
Less than 100% .....	\$600
At least 100% but less than 150% .....	800
At least 150% but less than 200% .....	1,000
At least 200% but less than 250% .....	1,500
At least 250% but less than 300% .....	2,200
At least 300% but less than 350% .....	2,500
At least 350% but less than 400% .....	3,200

*Effective date.*—The provision is effective on the date of enactment.

#### SENATE AMENDMENT

No provision.

#### CONFERENCE AGREEMENT

The conference agreement does not include the provision from the House bill.

F. Information for Administration of Social Security Provisions Related to Noncovered Employment (sec. 5101 of the House bill and secs. 6047 and 6103(l) of the Code)

#### PRESENT LAW

The administrator of an employer-sponsored retirement plan, including a plan maintained by a State or local government, is required to comply with reporting requirements prescribed by the IRS.<sup>45</sup> In the case of a distribution to a participant or beneficiary, the amount of the distribution and other required information must be reported to the IRS and the participant or beneficiary on the Form 1099-R.

Tax returns and return information (including information returns) received by the IRS are subject to confidentiality protections and cannot be disclosed, including to another Federal agency, unless specifically authorized.<sup>46</sup> Disclosure of certain returns and return information to the Social Security Administration for specific purposes is so authorized.<sup>47</sup>

#### HOUSE BILL

The House bill amends the reporting requirements applicable to employer-sponsored retirement plans of State and local governments to require the identification of any

<sup>39</sup> Individuals who are lawfully present in the United States but are not eligible for Medicaid because of their immigration status are treated as having a household income equal to 100 percent of FPL (and thus eligible for the premium assistance credit) as long as their household income does not actually exceed 100 percent of FPL.

<sup>40</sup> The definition of modified adjusted gross income used in section 36B is incorporated by reference for purposes of determining eligibility to participate in certain other healthcare-related programs, such as reduced cost-sharing (section 1402 of PPACA), Medicaid for the nonelderly (section 1902(e) of the Social Security Act (42 U.S.C. 1396a(e)) as modified by section 2002(a) of PPACA and the Children’s Health Insurance Program (section 2102(b)(1)(B) of the Social Security Act (42 U.S.C. 1397bb(b)(1)(B)) as modified by section 2101(d) of PPACA).

<sup>41</sup> As described in section 1402 of PPACA.

<sup>42</sup> As defined in section 5000A(f).

<sup>43</sup> The 9.5 percent amount is indexed for calendar years beginning after 2014 to reflect the excess of premium growth over income growth.

<sup>44</sup> Section 36B(f)(2), as amended by section 208 of the Medicare and Medicaid Extenders Act of 2010, Pub. L. No. 111-309 and section 4 of the Comprehensive 1099 Taxpayer Protection and Repayment of Exchange Subsidy Overpayments Act of 2011, Pub. L. No. 112-9.

<sup>45</sup> Sec. 6047(d).

<sup>46</sup> Sec. 6103.

<sup>47</sup> Sec. 6103(h)(5), (l)(1), (l)(5).

distribution based in whole or in part on earnings for service in the employ of the State or local government, to the extent such information is known or should be known.<sup>48</sup> The House bill authorizes disclosure of this information by the IRS to the Social Security Administration for purposes of its administration of the Social Security Act.

**Effective date.**—The provision applies to distributions and disclosures made after December 31, 2012.

## SENATE AMENDMENT

No provision.

## CONFERENCE AGREEMENT

The conference agreement does not include the provision from the House bill.

G. Social Security Number Required to Claim the Refundable Portion of the Child Tax Credit (sec. 5201 of the House bill and sec. 24 of the Code)

## PRESENT LAW

An individual may claim a tax credit for each qualifying child under the age of 17. The maximum amount of the credit per child is \$1,000 through 2012 and \$500 thereafter. A child who is not a citizen, national, or resident of the United States cannot be a qualifying child. If the child tax credit exceeds the taxpayer's tax liability, the taxpayer may be eligible for a refundable credit.

No credit is allowed to any taxpayer with respect to any qualifying child unless the taxpayer includes the name and the taxpayer identification number of the qualifying child on the return of tax for the taxable year. For individual filers, a taxpayer identification number may be either a Social Security number ("SSN"), an IRS individual taxpayer identification number ("ITIN"), or an IRS adoption taxpayer identification number ("ATIN").

## HOUSE BILL

The House bill adds a requirement that the refundable portion of the child tax credit is allowable only if the tax return includes the taxpayer's SSN (or in the case of a joint return, the SSN of either spouse).

**Effective date.**—The provision applies to taxable years beginning after the date of enactment.

## SENATE AMENDMENT

No provision.

## CONFERENCE AGREEMENT

The conference agreement does not include the provision from the House bill.

H. Excise Tax on Unemployment Compensation Benefits of High-Income Individuals (sec. 5301 of the House bill and new sec. 5895 of the Code)

## PRESENT LAW

Gross income includes any unemployment compensation benefits received under the laws of the United States or any State, and is taxed at the applicable individual income tax rate.<sup>49</sup>

## HOUSE BILL

The House bill imposes an excise tax equal to 100 percent on unemployment compensation benefits received by individuals with adjusted gross income above certain thresholds. The adjusted gross income threshold is \$750,000 (\$1,500,000 for married individuals filing joint returns). The excise tax is phased-in ratably over a \$250,000 range (\$500,000 for

married individuals filing joint returns). Therefore unemployment compensation benefits are taxed at a 100 percent rate for individuals with \$1,000,000 or more of adjusted gross income (\$2,000,000 or more of adjusted gross income for married individuals filing joint returns).

The excise tax is not deductible in computing the taxpayer's taxable income.

**Effective date.**—The provision applies to taxable years beginning after December 31, 2011.

## SENATE AMENDMENT

No provision.

## CONFERENCE AGREEMENT

The conference agreement does not include the provision from the House bill.

## TAX COMPLEXITY ANALYSES

The following tax complexity analysis is provided pursuant to section 4022(b) of the Internal Revenue Service Reform and Restructuring Act of 1998, which requires the staff of the Joint Committee on Taxation (in consultation with the Internal Revenue Service ("IRS") and the Treasury Department) to provide a complexity analysis of tax legislation reported by the House Committee on Ways and Means, the Senate Committee on Finance, or a Conference Report containing tax provisions. The complexity analysis is required to report on the complexity and administrative issues raised by provisions that directly or indirectly amend the Internal Revenue Code and that have widespread applicability to individuals or small businesses. For each such provision identified by the staff of the Joint Committee on Taxation, a summary description of the provision is provided along with an estimate of the number and type of affected taxpayers, and a discussion regarding the relevant complexity and administrative issues.

Following the analysis of the staff of the Joint Committee on Taxation are the comments of the IRS and the Treasury Department regarding each of the provisions included in the complexity analysis, including a discussion of the likely effect on IRS forms and any expected impact on the IRS.

## 1. EXTENSION OF THE PAYROLL TAX REDUCTION (SEC. 1001 OF THE CONFERENCE AGREEMENT)

*Summary description of provision*

The conference agreement provides for a reduced employee OASDI tax rate of 4.2 percent under the FICA tax, and the equivalent portion of the RRTA tax, through 2012. Similarly, the reduced OASDI tax rate of 10.4 percent under the SECA tax, is extended to apply for taxable years of self-employed individuals that begin in 2012.

Related rules concerning (1) coordination of a self-employed individual's deductions in determining net earnings from self-employment and income tax, (2) transfers to the Federal Old-Age and Survivors Trust Fund, the Federal Disability Insurance Trust Fund and the Social Security Equivalent Benefit Account established under the Railroad Retirement Act of 1974, and (3) determining the employee rate of OASDI tax in applying provisions of Federal law other than the Code also apply for 2012.

The conference agreement repeals the present-law recapture provision applicable to a taxpayer who receives the reduced OASDI rate with respect to more than \$18,350 of wages received during the first two months of 2012.

The bill is effective after the date of enactment.

*Number of affected taxpayers*

It is estimated that the provision will affect more than 10 percent of individual taxpayers and small businesses.

*Discussion*

It is not anticipated that taxpayers and small businesses will need to keep additional records due to this provision. Extensive additional regulatory guidance will not be necessary to effectively implement the provision. It is not anticipated that the provision will result in an increase in disputes between small businesses and the IRS.

The provision likely will not increase the tax preparation costs for most individuals and small businesses. Affected individuals and small businesses will not be required to perform additional and complex calculations to comply with the provision.

It is anticipated that the Secretary of the Treasury will have to make appropriate revisions to several types of tax forms and instructions.

## DEPARTMENT OF THE TREASURY,

## INTERNAL REVENUE SERVICE,

Washington, DC, February 15, 2012.

THOMAS A. BARTHOLD,  
Chief of Staff, Joint Committee on Taxation,  
Washington, DC

DEAR MR. BARTHOLD: I am responding to your letter dated February 14, 2012, in which you requested a complexity analysis related to the extension of the payroll tax holiday enacted under section 101 of the Temporary Payroll Tax Cut Continuation Act of 2011.

Enclosed are the combined comments of the Internal Revenue Service and the Treasury Department for inclusion in the complexity analysis in the Conference Report on H.R. 3630.

Our comments are based on the description of the provision provided in your letter. The analysis does not include administrative cost estimates for the changes that would be required. Due to the short turnaround time, our comments are provisional and subject to change upon a more complete and in-depth analysis of the provision. The analysis does not cover any other provisions of the bill.

Sincerely,

DOUGLAS H. SHULMAN.

Enclosure.

COMPLEXITY ANALYSIS OF  
CONFERENCE AGREEMENT ON H.R. 3630  
EXTENSION OF THE PAYROLL TAX HOLIDAY

The conference agreement provides for a reduced employee OASDI tax rate of 4.2 percent under the FICA tax, and the equivalent portion of the RRTA tax, through 2012. Similarly, the reduced OASDI tax rate of 10.4 percent under the SECA tax is extended for taxable years of self-employed individuals that begin in 2012.

The agreement provides related rules concerning (1) coordination of a self-employed individual's deductions in determining net earnings from self-employment and income tax, (2) transfers to the Federal Old-Age and Survivors Trust Fund, the Federal Disability Insurance Trust Fund and the Social Security Equivalent Benefit Account established under the Railroad Retirement Act of 1974, and (3) determining the employee rate of OASDI tax in applying provisions of Federal law other than the Code that also apply for 2012.

The conference agreement repeals the present-law recapture provision applicable to a taxpayer who receives the reduced OASDI rate with respect to more than \$18,350 of wages received during the first two months of 2012.

## IRS AND TREASURY COMMENTS

• This provision is an extension of current law (except for the repeal of the recapture of

<sup>48</sup> For this purpose, State includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam and American Samoa.

<sup>49</sup> Sec. 85.



excess benefit) and should not add significant burden to taxpayers and the public in general.

- IRS has taken measures to prepare in case the Temporary Payroll Tax Cut is not extended, including revising forms and instructions and programming systems. If this provision is enacted, the IRS will have to adjust its forms and systems to reflect the extension. Computer software providers and large employers may also have programmed their systems for current law and would need to make similar adjustments.

- No new guidance would be required.

- IRS will have to make small modifications to certain notices to, and publications for, employers.

- There will be minimal impact on IRS training and the Internal Revenue Manual.

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, no provision in this conference report or joint explanatory statement includes a congressional earmark, limited tax benefit, or limited tariff benefit.

DAVE CAMP,  
FRED UPTON,  
KEVIN BRADY,  
GREG WALDEN,  
TOM PRICE,  
TOM REED,  
RENEE L. ELLMERS,  
NAN A.S. HAYWORTH,  
SANDER M. LEVIN,  
XAVIER BECERRA,  
CHRIS VAN HOLLEN,  
ALLYSON Y. SCHWARTZ,  
HENRY A. WAXMAN,

*Managers on the Part of the House.*

MAX BAUCUS,  
JACK REED,  
BENJAMIN L. CARDIN,  
ROBERT P. CASEY, Jr.,

*Managers on the Part of the Senate.*

#### PROTECTING INVESTMENT IN OIL SHALE THE NEXT GENERATION OF ENVIRONMENTAL, ENERGY, AND RESOURCE SECURITY ACT

Mr. HASTINGS of Washington. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative in which to revise and extend their remarks and include extraneous material on H.R. 3408.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The SPEAKER pro tempore. Pursuant to House Resolution 547 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the further consideration of the bill, H.R. 3408.

□ 1655

#### IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H.R. 3408) to set clear rules for the development of United States oil shale resources, to promote shale technology research and development, and for other purposes, with Mr. WOODALL (Acting Chair) in the chair.

The Clerk read the title of the bill.

The Acting CHAIR. When the Committee of the Whole rose earlier today, amendment No. 20 printed in part A of House Report 112-398 offered by the gentleman from Louisiana (Mr. SCALISE) had been disposed of.

Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments printed in part A of House Report 112-398 on which further proceedings were postponed, in the following order:

Amendment No. 13 by Mr. THOMPSON of California.

Amendment No. 15 by Ms. HANABUSA of Hawaii.

Amendment No. 16 by Mr. HASTINGS of Washington.

Amendment No. 17 by Mr. MARKEY of Massachusetts.

Amendment No. 18 by Mr. MARKEY of Massachusetts.

Amendment No. 19 by Mr. LABRADOR of Idaho.

The Chair will reduce to 2 minutes the minimum time for any electronic vote after the first vote in this series.

#### AMENDMENT NO. 13 OFFERED BY MR. THOMPSON OF CALIFORNIA

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from California (Mr. THOMPSON) on which further proceedings were postponed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

#### RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 167, noes 253, not voting 13, as follows:

[Roll No. 64]

AYES—167

Ackerman  
Andrews  
Baldwin  
Bass (CA)  
Becerra  
Berkley  
Berman  
Bilbray  
Bishop (NY)  
Blumenauer  
Bonamici  
Brady (PA)  
Braley (IA)  
Brown (FL)  
Butterfield  
Capps  
Capuano  
Cardoza  
Carnahan  
Carney  
Carson (IN)  
Castor (FL)  
Chu  
Cicilline  
Clarke (MI)  
Clarke (NY)  
Clay  
Clyburn  
Coble  
Cohen

Connolly (VA)  
Conyers  
Costello  
Courtney  
Crowley  
Cummings  
Davis (CA)  
Davis (IL)  
DeFazio  
DeGette  
DeLauro  
Deutch  
Dicks  
Dingell  
Doggett  
Dold  
Doyle  
Edwards  
Ellison  
Engel  
Eshoo  
Farr  
Fattah  
Filner  
Frank (MA)  
Fudge  
Garamendi  
Gonzalez  
Grijalva  
Gutierrez

Hahn  
Hanabusa  
Hastings (FL)  
Heinrich  
Higgins  
Himes  
Hinchey  
Hinojosa  
Hirono  
Holt  
Honda  
Hoyer  
Inlee  
Israel  
Jackson (IL)  
Jackson Lee  
(TX)  
Johnson (GA)  
Johnson, E. B.  
Jones  
Kaptur  
Keating  
Kildee  
Kissell  
Kucinich  
Langevin  
Larsen (WA)  
Larson (CT)  
Lee (CA)  
Levin

Lewis (GA)  
Lipinski  
Loebach  
Lofgren, Zoe  
Lowey  
Lujan  
Lynch  
Maloney  
Markey  
Matsui  
McCollum  
McDermott  
McGovern  
McNerney  
Meeks  
Miller (NC)  
Miller, George  
Moore  
Moran  
Murphy (CT)  
Nadler  
Napolitano  
Neal  
Olver  
Owens  
Pallone  
Pascarella

Pastor (AZ)  
Pelosi  
Perlmutter  
Peters  
Pingree (ME)  
Polis  
Price (NC)  
Quigley  
Rahall  
Reichert  
Reyes  
Richardson  
Richmond  
Rothman (NJ)  
Roybal-Allard  
Ruppersberger  
Rush  
Ryan (OH)  
Sánchez, Linda  
T.  
Sarbanes  
Schakowsky  
Schiff  
Schrader  
Schwartz  
Scott (VA)  
Scott, David

Sewell  
Sherman  
Sires  
Slaughter  
Smith (WA)  
Speier  
Stark  
Sutton  
Thompson (CA)  
Thompson (MS)  
Tierney  
Tonko  
Towns  
Tsongas  
Van Hollen  
Velázquez  
Visclosky  
Wasserman  
Schultz  
Waters  
Watt  
Waxman  
Welch  
Wilson (FL)  
Woolsey  
Yarmuth

#### NOES—253

Emerson  
Farenthold  
Fincher  
Fitzpatrick  
Flake  
Fleischmann  
Fleming  
Flores  
Forbes  
Fortenberry  
Foxy  
Franks (AZ)  
Frelinghuysen  
Gallegly  
Gardner  
Garrett  
Gerlach  
Gibbs  
Gibson  
Gingrey (GA)  
Gohmert  
Goodlatte  
Gowdy  
Granger  
Graves (GA)  
Graves (MO)  
Green, Al  
Green, Gene  
Griffin (AR)  
Griffith (VA)  
Grimm  
Guinta  
Guthrie  
Hall  
Hanna  
Harper  
Harris  
Hartzler  
Hastings (WA)  
Hayworth  
Heck  
Hensarling  
Herger  
Herrera Beutler  
Hochul  
Holden  
Huelskamp  
Huizenga (MI)  
Hultgren  
Hunter  
Hurt  
Issa  
Jenkins  
Johnson (IL)  
Johnson (OH)  
Johnson, Sam  
Jordan  
Kelly  
Kind  
King (IA)  
King (NY)  
Kingston  
Kinzinger (IL)  
Kline  
Labrador  
Lamborn  
Lance  
Landry  
Lankford  
Latham  
LaTourette  
Latta  
Lewis (CA)  
LoBiondo  
Long  
Lucas  
Luetkemeyer  
Lummis  
Lungren, Daniel  
E.  
Manzullo  
Marchant  
Marino  
Matheson  
McCarthy (CA)  
McCarthy (NY)  
McCauley  
McClintock  
McCotter  
McHenry  
McIntyre  
McKeon  
McKinley  
McMorris  
Rodgers  
Meehan  
Mica  
Michaud  
Miller (FL)  
Miller (MI)  
Miller, Gary  
Mulvaney  
Murphy (PA)  
Myrick  
Neugebauer  
Noem  
Nugent  
Nunes  
Nunnelee  
Olson  
Palazzo  
Paulsen  
Pearce  
Pence  
Peterson  
Petri  
Pitts  
Platts  
Poe (TX)  
Pompeo  
Posey  
Price (GA)  
Quayle  
Reed  
Rehberg  
Renacci  
Ribble  
Rigell  
Rivera  
Rohy  
Roe (TN)  
Rogers (AL)

Rogers (KY) Sensenbrenner Turner (OH)  
 Rogers (MI) Sessions Upton  
 Rohrabacher Shimkus Walberg  
 Rokita Shuster Walden  
 Rooney Simpson Walsh (IL)  
 Ros-Lehtinen Smith (NE) Walz (MN)  
 Roskam Smith (NJ) Webster  
 Ross (AR) Smith (TX) West  
 Ross (FL) Southerland Westmoreland  
 Royce Stearns Whitfield  
 Runyan Stivers Wilson (SC)  
 Ryan (WI) Stutzman Wittman  
 Scalise Sullivan Wolf  
 Schilling Terry Womack  
 Schmidt Thompson (PA) Woodall  
 Schock Thornberry Yoder  
 Schweikert Tiberi Young (AK)  
 Scott (SC) Tipton Young (FL)  
 Scott, Austin Turner (NY) Young (IN)

## NOT VOTING—13

Austria Gosar Sanchez, Loretta  
 Bilirakis Mack Serrano  
 Bono Mack Paul Shuler  
 Campbell Payne  
 Cleaver Rangel

□ 1724

Messrs. COFFMAN of Colorado, FLAKE, and BURGESS changed their vote from “aye” to “no.”

Ms. MOORE, Messrs. McDERMOTT, LUJAN, and RYAN of Ohio changed their vote from “no” to “aye.”

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. BILIRAKIS. Mr. Chair, on rollcall No. 64, had I been present, I would have voted “no.”

AMENDMENT NO. 15 OFFERED BY MS. HANABUSA

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentlewoman from Hawaii (Ms. HANABUSA) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

## RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This will be a 2-minute vote.

The vote was taken by electronic device, and there were—ayes 189, noes 228, not voting 16, as follows:

[Roll No. 65]

AYES—189

Ackerman Cardoza Davis (IL)  
 Altmire Carnahan DeFazio  
 Andrews Carney DeGette  
 Baca Carson (IN) DeLauro  
 Baldwin Castor (FL) Dent  
 Barrow Chandler Deutch  
 Bass (CA) Chu Dicks  
 Becerra Cicilline Dingell  
 Berkley Clarke (MI) Doggett  
 Berman Clarke (NY) Dold  
 Bishop (GA) Clay Doyle  
 Bishop (NY) Clyburn Edwards  
 Blumenauer Connolly (VA) Ellison  
 Bonamici Conyers Engle  
 Boswell Cooper Eshoo  
 Brady (PA) Costello Farr  
 Braley (IA) Courtney Fattah  
 Brown (FL) Crowley Filner  
 Butterfield Cuellar Fitzpatrick  
 Capps Cummings Frank (MA)  
 Capuano Davis (CA) Fudge

Garamendi Loeb sack Rothman (NJ)  
 Gibson Lofgren, Zoe Roybal-Allard  
 Gonzalez Lowey Ruppelberger  
 Green, Al Lujan Rush  
 Grijalva Lynch Ryan (OH)  
 Gutierrez Maloney Sanchez, Linda  
 Hahn Markey T.  
 Hanabusa Matsui Sarbanes  
 Hanna McCarthy (NY) Schakowsky  
 Hastings (FL) McCollum Schiff  
 Heinrich McDermott Schrader  
 Higgins McGovern Schwartz  
 Himes McIntyre Scott (VA)  
 Hinchey McNerney Scott, David  
 Hinojosa Meeks Sewell  
 Hiron Michaud Sherman  
 Hohul Miller (NC) Sires  
 Holden Miller, George Slaughter  
 Holt Moore Smith (NJ)  
 Honda Moran Smith (WA)  
 Hoyer Murphy (CT) Speier  
 Insee Nadler Stark  
 Israel Napolitano Sutton  
 Jackson (IL) Neal Thompson (CA)  
 Jackson Lee Olver Thompson (MS)  
 (TX) Owens Tierney  
 Johnson (GA) Pallone Tonko  
 Johnson (IL) Pascrell Towns  
 Johnson, E. B. Pastor (AZ) Tsongas  
 Kaptur Paulsen Van Hollen  
 Keating Pelosi Velázquez  
 Kildee Perlmutter Visclosky  
 Kind Peters Walz (MN)  
 Kissell Pingree (ME) Wasserman  
 Kucinich Polis Schults  
 Langevin Price (NC) Waters  
 Larsen (WA) Quigley Watt  
 Larson (CT) Rahall Waxman  
 Lee (CA) Reichert Welch  
 Levin Reyes Wilson (FL)  
 Lewis (GA) Richardson Woolsey  
 Lipinski Richmond Yarmuth  
 LoBiondo Ros-Lehtinen Young (FL)

## NOES—228

Adams Denham Huizenga (MI)  
 Aderholt DesJarlais Hultgren  
 Akin Diaz-Balart Hunter  
 Alexander Donnelly (IN) Hurt  
 Amash Dreier Issa  
 Amodei Duffy Jenkins  
 Bachmann Duncan (SC) Johnson (OH)  
 Bachus Duncan (TN) Johnson, Sam  
 Barletta Jones  
 Bartlett Emerson Jordan  
 Barton (TX) Farenthold Kelly  
 Bass (NH) Fincher King (IA)  
 Benishek Flake King (NY)  
 Berg Fleischmann Kingston  
 Biggert Fleming Kinzinger (IL)  
 Bilbray Flores Kline  
 Bilirakis Forbes Labrador  
 Bishop (UT) Portenberry Lamborn  
 Black Foxx Lance  
 Blackburn Franks (AZ) Landry  
 Bonner Frelinghuysen Lankford  
 Boren Gallegly Latham  
 Boustany Gardner LaTourette  
 Brady (TX) Garrett Latta  
 Brooks Gerlach Lewis (CA)  
 Broun (GA) Gibbs Long  
 Bucshon Gingrey (GA) Lucas  
 Buerkle Gohmert Luetkemeyer  
 Burgess Goodlatte Lummis  
 Burton (IN) Gosar Lungren, Daniel  
 Calvert Gowdy E.  
 Camp Granger Manzullo  
 Canseco Graves (GA) Marchant  
 Cantor Graves (MO) Marino  
 Capito Green, Gene Matheson  
 Carter Griffin (AR) McCarthy (CA)  
 Cassidy Griffith (VA) McCaul  
 Chabot Grimm McClintock  
 Chaffetz Guinta McCotter  
 Coble McHenry McHenry  
 Coffman (CO) Hall McKeon  
 Cole Harper McKinley  
 Conaway Hartzler McMorris  
 Costa Hastings (WA) Rodgers  
 Cravaack Hayworth Meehan  
 Crawford Heck Mica  
 Crenshaw Hensarling Miller (FL)  
 Critz Herger Miller (MI)  
 Culberson Herrera Beutler Miller, Gary  
 Davis (KY) Huelskamp Murphy (PA)

Myrick Rogers (AL) Stearns  
 Neugebauer Rogers (KY) Stivers  
 Noem Rogers (MI) Stutzman  
 Nugent Rohrabacher Terry  
 Nunes Rokita Thompson (PA)  
 Nunnelee Rooney Thornberry  
 Olson Roskam Tiberi  
 Palazzo Ross (AR) Tipton  
 Pearce Ross (FL) Tipton  
 Pence Royce Turner (NY)  
 Peterson Runyan Turner (OH)  
 Petri Ryan (WI) Upton  
 Pitts Scalise Walberg  
 Platts Schilling Walden  
 Poe (TX) Schmidt Walsh (IL)  
 Pompeo Schock Webster  
 Posey Schweikert West  
 Price (GA) Scott (SC) Westmoreland  
 Quayle Scott, Austin Whitfield  
 Reed Sensenbrenner Wilson (SC)  
 Rehberg Sessions Wittman  
 Renacci Shimkus Wolf  
 Ribble Shuster Womack  
 Simpson Woodall  
 Rivera Smith (NE) Yoder  
 Roby Smith (TX) Young (AK)  
 Southernland Young (IN)

## NOT VOTING—16

Austria Harris Sanchez, Loretta  
 Bono Mack Serrano  
 Buchanan Mulvaney Shuler  
 Campbell Paul Sullivan  
 Cleaver Payne  
 Cohen Rangel

## ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR (during the vote). There are 30 seconds remaining.

□ 1728

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 16 OFFERED BY MR. HASTINGS OF WASHINGTON

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Washington (Mr. HASTINGS) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

## RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This will be a 2-minute vote.

The vote was taken by electronic device, and there were—ayes 250, noes 171, not voting 12, as follows:

[Roll No. 66]

AYES—250

Adams Bishop (GA) Canseco  
 Aderholt Bishop (UT) Cantor  
 Akin Black Capito  
 Alexander Blackburn Cardoza  
 Altmire Bonner Carter  
 Amodei Boren Cassidy  
 Baca Boswell Chabot  
 Bachmann Boustany Chaffetz  
 Bachus Brady (TX) Coble  
 Barletta Brooks Coffman (CO)  
 Barrow Broun (GA) Cole  
 Bartlett Buchanan Conaway  
 Barton (TX) Bucshon Cravaack  
 Benishek Buerkle Crawford  
 Berg Burgess Crenshaw  
 Biggert Burton (IN) Culberson  
 Bilbray Calvert Davis (KY)  
 Bilirakis Camp Denham

Dent  
DesJarlais  
Diaz-Balart  
Donnelly (IN)  
Dreier  
Duffy  
Duncan (SC)  
Duncan (TN)  
Ellmers  
Emerson  
Farenthold  
Fincher  
Fitzpatrick  
Flake  
Fleischmann  
Fleming  
Flores  
Forbes  
Fortenberry  
Foxy  
Franks (AZ)  
Frelinghuysen  
Gallegly  
Gardner  
Garrett  
Gerlach  
Gibbs  
Gibson  
Gingrey (GA)  
Gohmert  
Goodlatte  
Gosar  
Gowdy  
Granger  
Graves (GA)  
Graves (MO)  
Griffin (AR)  
Griffith (VA)  
Grimm  
Guinta  
Guthrie  
Hall  
Hanna  
Harper  
Hartzler  
Hastings (WA)  
Hayworth  
Heck  
Hensarling  
Herger  
Herrera Beutler  
Huelskamp  
Huizenga (MI)  
Hultgren  
Hunter  
Hurt  
Issa  
Jenkins  
Johnson (IL)  
Johnson (OH)  
Johnson, Sam  
Jones  
Jordan  
Kelly  
King (IA)  
King (NY)

## NOES—171

Ackerman  
Amash  
Andrews  
Baldwin  
Bass (CA)  
Bass (NH)  
Becerra  
Berkley  
Berman  
Bishop (NY)  
Blumenauer  
Bonamici  
Brady (PA)  
Braley (IA)  
Brown (FL)  
Butterfield  
Capps  
Capuano  
Carnahan  
Carney  
Carson (IN)  
Castor (FL)  
Chandler  
Chu  
Cicilline  
Clarke (MI)  
Clarke (NY)

Kingston  
Kinzinger (IL)  
Kissell  
Kline  
Labrador  
Lamborn  
Lance  
Landry  
Lankford  
Latham  
LaTourette  
Latta  
Lewis (CA)  
LoBiondo  
Loeback  
Long  
Lucas  
Luetkemeyer  
Lummis  
Lungren, Daniel  
E.  
Manzullo  
Marchant  
Marino  
Matheson  
McCarthy (CA)  
McCauley  
McClintock  
McCotter  
McHenry  
McIntyre  
McKeon  
McKinley  
McMorris  
Rodgers  
Meehan  
Mica  
Miller (FL)  
Miller (MI)  
Miller, Gary  
Mulvaney  
Murphy (PA)  
Myrick  
Neugebauer  
Noem  
Nugent  
Nunes  
Nunnelee  
Olson  
Palazzo  
Paulsen  
Pearce  
Pence  
Perlmutter  
Peterson  
Petri  
Pitts  
Platts  
Poe (TX)  
Polis  
Pompeo  
Posey  
Price (GA)  
Quayle  
Reed  
Rehberg

Reichert  
Renacci  
Reyes  
Ribble  
Rigell  
Rivera  
Roby  
Roe (TN)  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rohrabacher  
Rokita  
Rooney  
Ros-Lehtinen  
Roskam  
Ross (AR)  
Ross (FL)  
Royce  
Runyan  
Ryan (WI)  
Scalise  
Schilling  
Schmidt  
Schock  
Schradler  
Schweikert  
Scott (SC)  
Scott, Austin  
Sensenbrenner  
Sessions  
Shimkus  
Shuster  
Simpson  
Smith (NE)  
Smith (NJ)  
Smith (TX)  
Southerland  
Stearns  
Stivers  
Stutzman  
Sullivan  
Terry  
Thompson (PA)  
Thornberry  
Tiberti  
Tipton  
Turner (NY)  
Turner (OH)  
Upton  
Walberg  
Walden  
Walsh (IL)  
Webster  
West  
Westmoreland  
Whitfield  
Wilson (SC)  
Wittman  
Wolf  
Womack  
Woodall  
Yoder  
Young (AK)  
Young (FL)  
Young (IN)

Inslee  
Israel  
Jackson (IL)  
Jackson Lee  
(TX)  
Johnson (GA)  
Johnson, E. B.  
Kaptur  
Keating  
Kildee  
Kind  
Kucinich  
Langevin  
Larsen (WA)  
Larsen (CT)  
Lee (CA)  
Levin  
Lewis (GA)  
Lipinski  
Lofgren, Zoe  
Lowey  
Lujan  
Lynch  
Maloney  
Markey  
Matsui  
McCarthy (NY)  
McCollum  
McDermott  
McGovern  
McNerney

Austria  
Bono Mack  
Campbell  
Cleaver

Meeks  
Michaud  
Miller (NC)  
Miller, George  
Moore  
Moran  
Murphy (CT)  
Nadler  
Napolitano  
Neal  
Oliver  
Owens  
Pallone  
Pastor (AZ)  
Pelosi  
Peters  
Pingree (ME)  
Price (NC)  
Quigley  
Rahall  
Richardson  
Richmond  
Rothman (NJ)  
Roybal-Allard  
Ruppersberger  
Rush  
Ryan (OH)  
Sanchez, Linda  
T.  
Sarbanes  
Schakowsky

## NOT VOTING—12

Mack  
Pascarell  
Paul  
Payne

Schiff  
Schwartz  
Scott (VA)  
Scott, David  
Sewell  
Sherman  
Sires  
Slaughter  
Smith (WA)  
Speier  
Stark  
Sutton  
Thompson (CA)  
Thompson (MS)  
Tierney  
Tonko  
Towns  
Tsongas  
Van Hollen  
Velázquez  
Viscosky  
Walz (MN)  
Wasserman  
Schultz  
Waters  
Watt  
Waxman  
Welch  
Wilson (FL)  
Woolsey  
Yarmuth

Rangel  
Sanchez, Loretta  
Serrano  
Shuler

Clay  
Clyburn  
Cohen  
Connolly (VA)  
Conyers  
Cooper  
Crowley  
Cummings  
Davis (CA)  
Davis (IL)  
DeFazio  
DeGette  
DeLauro  
Deutch  
Dicks  
Doggett  
Dold  
Donnelly (IN)  
Edwards  
Ellison  
Engel  
Eshoo  
Farr  
Fattah  
Filner  
Fitzpatrick  
Fudge  
Garamendi  
Gerlach  
Gibson  
Green, Al  
Grijalva  
Gutierrez  
Hahn  
Hanabusa  
Hastings (FL)  
Hayworth  
Heinrich  
Higgins  
Hinchey  
Hiron  
Hochul  
Holden  
Holt  
Honda  
Inslee  
Israel  
Jackson (IL)

Jackson Lee  
(TX)  
Johnson (GA)  
Johnson, E. B.  
Jones  
Kaptur  
Keating  
Kildee  
Kind  
Kissell  
Kucinich  
Langevin  
Larson (CT)  
Lee (CA)  
Levin  
Lewis (GA)  
LoBiondo  
Loeback  
Lofgren, Zoe  
Lowey  
Lujan  
Lynch  
Maloney  
Markey  
Matsui  
McCarthy (NY)  
McCollum  
McDermott  
McGovern  
McIntyre  
McNerney  
Meeks  
Michaud  
Miller (NC)  
Miller, George  
Moore  
Moran  
Murphy (CT)  
Nadler  
Napolitano  
Neal  
Oliver  
Owens  
Pallone  
Pascarell  
Pastor (AZ)  
Pelosi  
Peters

## NOES—254

Adams  
Aderholt  
Akin  
Alexander  
Amash  
Amodei  
Bachmann  
Bachus  
Barletta  
Bartlett  
Barton (TX)  
Bass (NH)  
Benishke  
Berg  
Biggert  
Bilbray  
Bilirakis  
Bishop (UT)  
Black  
Blackburn  
Blumenauer  
Bonner  
Boren  
Boustany  
Brady (TX)  
Brooks  
Broun (GA)  
Buchanan  
Bucshon  
Buerkle  
Burgess  
Burton (IN)  
Butterfield  
Calvert  
Camp  
Canseco  
Cantor  
Capito  
Cardoza  
Carter  
Cassidy  
Chabot  
Chaffetz  
Clarke (MI)  
Coble

Coffman (CO)  
Cole  
Conaway  
Costa  
Costello  
Courtney  
Cravaack  
Crawford  
Crenshaw  
Critz  
Cuellar  
Culberson  
Davis (KY)  
Denham  
Dent  
DesJarlais  
Diaz-Balart  
Dingell  
Doyle  
Dreier  
Duffy  
Duncan (SC)  
Duncan (TN)  
Ellmers  
Emerson  
Farenthold  
Fincher  
Flake  
Fleischmann  
Fleming  
Flores  
Forbes  
Fortenberry  
Foxy  
Frank (MA)  
Frank (AZ)  
Frelinghuysen  
Gallegly  
Gardner  
Garrett  
Gibbs  
Gingrey (GA)  
Gohmert  
Gonzalez  
Goodlatte

Gosar  
Gowdy  
Granger  
Graves (GA)  
Graves (MO)  
Green, Gene  
Griffin (AR)  
Griffith (VA)  
Grimm  
Guinta  
Guthrie  
Hall  
Hanna  
Harper  
Harris  
Hartzler  
Hastings (WA)  
Heck  
Hensarling  
Herger  
Herrera Beutler  
Himes  
Hinojosa  
Hoyer  
Huelskamp  
Huizenga (MI)  
Hultgren  
Hunter  
Hurt  
Issa  
Jenkins  
Johnson (IL)  
Johnson (OH)  
Johnson, Sam  
Jordan  
Kelly  
King (IA)  
King (NY)  
Kingston  
Kinzinger (IL)  
Kline  
Labrador  
Lamborn  
Lance  
Landry

ANNOUNCEMENT BY THE ACTING CHAIR  
The Acting CHAIR (during the vote).  
There are 30 seconds remaining.

□ 1734

Messrs. OLIVER, WELCH, CARNEY  
and Ms. ROYBAL-ALLARD changed  
their vote from “aye” to “no.”

Mr. JOHNSON of Illinois changed his  
vote from “no” to “aye.”

So the amendment was agreed to.

The result of the vote was announced  
as above recorded.

AMENDMENT NO. 17 OFFERED BY MR. MARKEY OF  
MASSACHUSETTS

The Acting CHAIR. The unfinished  
business is the demand for a recorded  
vote on the amendment offered by the  
gentleman from Massachusetts (Mr.  
MARKEY) on which further proceedings  
were postponed and on which the noes  
prevailed by voice vote.

The Clerk will redesignate the  
amendment.

The Clerk redesignated the amend-  
ment.

## RECORDED VOTE

The Acting CHAIR. A recorded vote  
has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This will be a 2-  
minute vote.

The vote was taken by electronic de-  
vice, and there were—ayes 168, noes 254,  
not voting 11, as follows:

[Roll No. 67]

## AYES—168

Ackerman  
Altmire  
Andrews  
Baca  
Baldwin  
Barrow  
Bass (CA)  
Becerra  
Berkley

Berman  
Bishop (GA)  
Bishop (NY)  
Bonamici  
Boswell  
Brady (PA)  
Brady (IA)  
Brown (FL)  
Capps

Capuano  
Carnahan  
Carney  
Carson (IN)  
Castor (FL)  
Chandler  
Chu  
Cicilline  
Clarke (NY)

Lankford	Paulsen	Scott (SC)	Bishop (GA)	Gutierrez	Pallone	Herrera Beutler	McMorris	Runyan
Larsen (WA)	Pearce	Scott, Austin	Bishop (NY)	Hahn	Pascarell	Hinojosa	Rodgers	Ryan (WI)
Latham	Pence	Sensenbrenner	Blumenauer	Hanabusa	Pastor (AZ)	Huelskamp	Meehan	Scalise
LaTourette	Perlmutter	Sessions	Bonamici	Hastings (FL)	Pelosi	Huizenga (MI)	Mica	Schilling
Latta	Peterson	Shimkus	Boswell	Heinrich	Perlmutter	Hultgren	Miller (FL)	Schmidt
Lewis (CA)	Petri	Shuster	Brady (PA)	Higgins	Peters	Hunter	Miller (MI)	Schock
Lipinski	Pitts	Simpson	Braley (IA)	Himes	Pingree (ME)	Hurt	Miller, Gary	Schweikert
Long	Poe (TX)	Smith (NE)	Brown (FL)	Hinchey	Platts	Issa	Mulvaney	Scott (SC)
Lucas	Pompeo	Smith (TX)	Buchanan	Hirono	Polis	Jackson Lee	Murphy (PA)	Scott, Austin
Luetkemeyer	Posey	Southerland	Butterfield	Hochul	Price (NC)	(TX)	Myrick	Sensenbrenner
Lummis	Price (GA)	Stearns	Capps	Holden	Quigley	Jenkins	Neugebauer	Sessions
Lungren, Daniel	Quayle	Stivers	Capuano	Holt	Rahall	Johnson (IL)	Noem	Shimkus
E.	Reed	Stutzman	Carnahan	Honda	Reyes	Johnson (OH)	Nugent	Shuster
Manzullo	Rehberg	Sullivan	Carney	Hoyer	Richardson	Johnson, Sam	Nunes	Simpson
Marchant	Reichert	Terry	Carson (IN)	Inslee	Richmond	Jordan	Nunnelee	Smith (NE)
Marino	Renacci	Thompson (MS)	Castor (FL)	Israel	Ros-Lehtinen	Kelly	Olson	Smith (TX)
Matheson	Ribble	Thompson (PA)	Chandler	Jackson (IL)	Rothman (NJ)	King (IA)	Palazzo	Southerland
McCarthy (CA)	Richmond	Thornberry	Chu	Johnson (GA)	Roybal-Allard	King (NY)	Paulsen	Stearns
McCaul	Rigell	Tiberi	Cicilline	Johnson, E. B.	Ruppersberger	Kingston	Pearce	Stivers
McClintock	Rivera	Tipton	Clarke (MI)	Jones	Rush	Kinzinger (IL)	Pence	Stutzman
McCotter	Roby	Turner (NY)	Clarke (NY)	Kaptur	Ryan (OH)	Kline	Peterson	Sullivan
McHenry	Roe (TN)	Turner (OH)	Clay	Keating	Sánchez, Linda	Labrador	Petri	Terry
McKeon	Rogers (AL)	Upton	Clyburn	Kildee	T.	Lamborn	Pitts	Thompson (MS)
McKinley	Rogers (KY)	Walberg	Cohen	Kind	Sarbanes	Lance	Poe (TX)	Thompson (PA)
McMorris	Rogers (MI)	Walden	Connolly (VA)	Kissell	Schakowsky	Landry	Pompeo	Thornberry
Rodgers	Rohrabacher	Walsh (IL)	Conyers	Kucinich	Schiff	Lankford	Posey	Tiberi
Meehan	Rokita	Webster	Cooper	Langevin	Schrader	Latham	Price (GA)	Tipton
Mica	Rooney	West	Costello	Larsen (WA)	Schwartz	LaTourette	Quayle	Turner (NY)
Miller (FL)	Ros-Lehtinen	Westmoreland	Courtney	Larson (CT)	Scott (VA)	Latta	Reed	Turner (OH)
Miller (MI)	Roskam	Whitfield	Critz	Lee (CA)	Scott, David	Lewis (CA)	Rehberg	Upton
Miller, Gary	Ross (AR)	Wilson (SC)	Crowley	Levin	Sewell	Long	Reichert	Walberg
Mulvaney	Ross (FL)	Wittman	Cummings	Lewis (GA)	Sherman	Lucas	Renacci	Walsh (IL)
Murphy (PA)	Royce	Wolf	Davis (CA)	Lipinski	Sires	Luetkemeyer	Ribble	Webster
Myrick	Runyan	Womack	Davis (IL)	LoBiondo	Slaughter	Lummis	Rigell	West
Neugebauer	Ryan (OH)	Woodall	DeFazio	Loeb sack	Smith (NJ)	Lungren, Daniel	Rivera	Westmoreland
Noem	Ryan (WI)	Yoder	DeGette	Lofgren, Zoe	Smith (WA)	E.	Roby	Whitfield
Nugent	Scalise	Young (AK)	DeLauro	Lujan	Speier	Manzullo	Roe (TN)	Wilson (SC)
Nunes	Schilling	Young (FL)	Dent	Lynch	Stark	Marchant	Rogers (AL)	Wittman
Nunnelee	Schmidt	Young (IN)	Deutsch	Maloney	Sutton	Marino	Rogers (KY)	Wolf
Olson	Schock		Dicks	Markey	Thompson (CA)	Matheson	Rogers (MI)	Womack
Palazzo	Schweikert		Dingell	Matsui	Tierney	McCarthy (CA)	Rohrabacher	Woodall
			Doggett	McCarthy (NY)	Tonko	McCaul	Rokita	Yoder
			Dold	McCollum	Towns	McClintock	Rooney	Young (AK)
			Doyle	McDermott	Tsongas	McCotter	Roskam	Young (IN)
			Edwards	McGovern	Van Hollen	McHenry	Ross (AR)	
			Ellison	McIntyre	Velázquez	McKeon	Ross (FL)	
			Engel	McNerney	Visclosky	McKinley	Royce	
			Eshoo	Meeks	Walz (MN)			
			Farr	Michaud	Wasserman			
			Fattah	Miller (NC)	Schultz			
			Filner	Miller, George	Waters			
			Fitzpatrick	Moore	Watt			
			Fortenberry	Moran	Waxman			
			Frank (MA)	Murphy (CT)	Welch			
			Fudge	Nadler	Wilson (FL)			
			Garamendi	Napolitano	Woolsey			
			Gerlach	Olver	Yarmuth			
			Gibson	Owens	Young (FL)			
			Grijalva					

## NOT VOTING—11

Austria	Mack	Sanchez, Loretta
Bono Mack	Paul	Serrano
Campbell	Payne	Shuler
Cleaver	Rangel	

## ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR (during the vote).  
There are 30 seconds remaining.

□ 1738

Mr. RICHMOND changed his vote from “aye” to “no.”

So the amendment was rejected.

The result of the vote was announced as above recorded.

## AMENDMENT NO. 18 OFFERED BY MR. MARKEY OF MASSACHUSETTS

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Massachusetts (Mr. MARKEY) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

## RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This will be a 2-minute vote.

The vote was taken by electronic device, and there were—ayes 183, noes 238, not voting 12, as follows:

[Roll No. 68]

AYES—183

Ackerman	Baldwin	Becerra
Andrews	Bartlett	Berkley
Baca	Bass (CA)	Berman

## NOES—238

Adams	Cantor	Forbes
Aderholt	Capito	Foxx
Akin	Cardoza	Franks (AZ)
Alexander	Carter	Frelinghuysen
Altmire	Cassidy	Gallely
Amash	Chabot	Gardner
Amodei	Chaffetz	Garrett
Bachmann	Coble	Gibbs
Bachus	Coffman (CO)	Gingrey (GA)
Barletta	Cole	Gohmert
Barrow	Conaway	Gonzalez
Barton (TX)	Costa	Goodlatte
Bass (NH)	Cravaack	Gosar
Benishek	Crawford	Gowdy
Berg	Crenshaw	Granger
Biggert	Cuellar	Graves (GA)
Bilbray	Culberson	Graves (MO)
Bilirakis	Davis (KY)	Green, Al
Bishop (UT)	Denham	Green, Gene
Black	DesJarlais	Griffin (AR)
Blackburn	Diaz-Balart	Griffith (VA)
Bonner	Donnelly (IN)	Grimm
Boren	Dreier	Guinta
Boustany	Duffy	Guthrie
Brady (TX)	Duncan (SC)	Hall
Brooks	Duncan (TN)	Hanna
Broun (GA)	Ellmers	Harper
Bucshon	Emerson	Harris
Buerkle	Farenthold	Hartzler
Burgess	Fincher	Hastings (WA)
Burton (IN)	Flake	Hayworth
Calvert	Fleischmann	Heck
Camp	Fleming	Hensarling
Canseco	Flores	Herger

## NOT VOTING—12

Austria	Mack	Rangel
Bono Mack	Neal	Sanchez, Loretta
Campbell	Paul	Serrano
Cleaver	Payne	Shuler

## ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR (during the vote).  
There are 30 seconds remaining.

□ 1742

So the amendment was rejected.

The result of the vote was announced as above recorded.

## AMENDMENT NO. 19 OFFERED BY MR. LABRADOR

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Idaho (Mr. LABRADOR) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

## RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This will be a 2-minute vote.

The vote was taken by electronic device, and there were—ayes 244, noes 177, not voting 12, as follows:

[Roll No. 69]

## AYES—244

Adams Gingrey (GA) Nunes  
Aderholt Gohmert Nunnelee  
Akin Goodlatte Olson  
Alexander Gosar Palazzo  
Amodei Gowdy Paulsen  
Bachmann Granger Pearce  
Bachus Graves (GA) Pence  
Barletta Graves (MO) Peterson  
Barrow Griffin (AR) Petri  
Bartlett Griffith (VA) Pitts  
Barton (TX) Grimm Platts  
Bass (NH) Guinta Poe (TX)  
Benishek Guthrie Polis  
Berg Hall Pompeo  
Biggart Hanna Posey  
Billray Harper Price (GA)  
Bilirakis Harris Quayle  
Bishop (GA) Hartzler Reed  
Bishop (UT) Hastings (WA) Rehberg  
Black Hayworth Reichert  
Blackburn Heck Renacci  
Bonner Hensarling Ribble  
Boren Herger Richardson  
Boswell Herrera Beutler Rigell  
Boustany Huelskamp Rivera  
Brady (TX) Huiizenga (MI) Roby  
Brooks Hultgren Roe (TN)  
Broun (GA) Hunter Rogers (AL)  
Buchanan Hurt Rogers (KY)  
Bucshon Issa Rogers (MI)  
Buerkle Jenkins Rohrabacher  
Burgess Johnson (OH) Rokita  
Burton (IN) Johnson, Sam Rooney  
Calvert Jones Ros-Lehtinen  
Camp Jordan Roskam  
Canseco Kelly Ross (AR)  
Cantor King (IA) Ross (FL)  
Capito King (NY) Royce  
Cardoza Kingston Ryan (WI)  
Carter Kinzinger (IL) Scalise  
Cassidy Kissell Schilling  
Chabot Kline Schmidt  
Chaffetz Labrador Schock  
Coble Lamborn Schweikert  
Coffman (CO) Lance Scott (SC)  
Cole Landry Scott, Austin  
Conaway Lankford Sensenbrenner  
Costa Latham Sessions  
Cravaack LaTourette Shimkus  
Crawford Latta Shuster  
Crenshaw Lewis (CA) Simpson  
Culberson Long Smith (NE)  
Davis (KY) Lucas Smith (TX)  
Denham Luetkemeyer Southerland  
Dent Lummis Stearns  
DesJarlais Lungren, Daniel Stivers  
Diaz-Balart E. Stutzman  
Donnelly (IN) Manzullo Sullivan  
Dreier Marchant Terry  
Duffy Marino Thompson (PA)  
Duncan (SC) Matheson Thornberry  
Duncan (TN) McCarthy (CA) Tiberi  
Ellmers McCaul Tipton  
Emerson McClintock Turner (NY)  
Farenthold McCotter Turner (OH)  
Fincher McHenry Upton  
Fitzpatrick McIntyre Walberg  
Flake McKeon Walden  
Fleischmann McKinley Walsh (IL)  
Fleming McMorris Webster  
Flores Rodgers West  
Forbes Meehan Westmoreland  
Fortenberry Mica Whitfield  
Foxy Miller (FL) Wilson (SC)  
Franks (AZ) Miller (MI) Wittman  
Frelinghuysen Miller, Gary Wolf  
Gallegly Mulvaney Womack  
Gardner Murphy (PA) Woodall  
Garrett Myrick Yoder  
Gerlach Neugebauer Young (AK)  
Gibbs Noem Young (FL)  
Gibson Nugent Young (IN)

## NOES—177

Ackerman Berkley  
Altire Berman  
Amash Bishop (NY)  
Andrews Blumenauer  
Baca Bonamici  
Baldwin Brady (PA)  
Bass (CA) Braley (IA)  
Becerra Brown (FL)

Chu  
Cicilline  
Clarke (MI)  
Clarke (NY)  
Clay  
Clyburn  
Cohen  
Connolly (VA)  
Conyers  
Cooper  
Costello  
Courtney  
Critz  
Crowley  
Cuellar  
Cummings  
Davis (CA)  
Davis (IL)  
DeFazio  
DeGette  
DeLauro  
Deutch  
Dicks  
Dingell  
Doggett  
Dold  
Doyle  
Edwards  
Ellison  
Engel  
Eshoo  
Farr  
Fattah  
Filner  
Frank (MA)  
Fudge  
Garamendi  
Gonzalez  
Green, Al  
Green, Gene  
Grijalva  
Gutierrez  
Hahn  
Hanabusa  
Hastings (FL)  
Heinrich  
Higgins  
Himes  
Hinchey  
Hinojosa  
Hirono  
Hochul  
Holden  
Holt  
Honda  
Hoyer  
Inslee  
Israel  
Jackson (IL)  
Jackson Lee  
(TX)  
Johnson (GA)  
Johnson, E. B.  
Kaptur  
Keating  
Kildee  
Kind  
Kucinich  
Langevin  
Larsen (WA)  
Larson (CT)  
Lee (CA)  
Levin  
Lewis (GA)  
Lipinski  
LoBiondo  
Loeb sack  
Lofgren, Zoe  
Lowey  
Lujan  
Lynch  
Maloney  
Markley  
Matsui  
McCarthy (NY)  
McCollum  
McDermott  
McGovern  
McNerney  
Meeks  
Michaud  
Miller (NC)  
Miller, George  
Moore  
Moran  
Murphy (CT)  
Nadler  
Napolitano  
Neal  
Oliver  
Owens  
Pallone  
Pascarell  
Pastor (AZ)  
Pelosi  
Perlmutter  
Peters  
Pingree (ME)  
Price (NC)  
Quigley  
Rahall  
Reyes  
Richmond  
Rothman (NJ)  
Roybal-Allard  
Runyan  
Ruppersberger  
Rush  
Ryan (OH)  
Sánchez, Linda  
T.  
Sarbanes  
Schakowsky  
Schiff  
Schrader  
Schwartz  
Scott (VA)  
Scott, David  
Sewell  
Sherman  
Sires  
Slaughter  
Smith (NJ)  
Smith (WA)  
Speier  
Stark  
Sutton  
Thompson (CA)  
Thompson (MS)  
Tierney  
Tonko  
Towns  
Tsongas  
Van Hollen  
Velázquez  
Visclosky  
Walz (MN)  
Wasserman  
Schultz  
Waters  
Watt  
Waxman  
Welch  
Wilson (FL)  
Woolsey  
Yarmuth

## NOT VOTING—12

Austria Johnson (IL)  
Bono Mack Rangel  
Campbell Mack Sanchez, Loretta  
Cleaver Paul Serrano  
Payne Shuler

## ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR (during the vote).  
There are 30 seconds remaining.

□ 1746

Mr. CARNAHAN changed his vote  
from “aye” to “no.”

So the amendment was agreed to.

The result of the vote was announced  
as above recorded.

## PERSONAL EXPLANATION

Mr. JOHNSON of Illinois. Mr. Chair, on roll-call No. 69, on the Labrador amendment, I was detained off the floor talking with constituents. Had I been present, I would have voted “present.”

The Acting CHAIR. There being no  
further amendments, under the rule,  
the Committee rises.

Accordingly, the Committee rose;  
and the Speaker pro tempore (Mr.  
YODER) having assumed the chair, Mr.  
WOODALL, Acting Chair of the Com-  
mittee of the Whole House on the state  
of the Union, reported that that Com-  
mittee, having had under consideration  
the bill (H.R. 3408) to set clear rules for  
the development of United States oil  
shale resources, to promote shale tech-

nology research and development, and  
for other purposes, and, pursuant to  
House Resolution 547, reported the bill,  
as amended by that resolution, back to  
the House with sundry further amend-  
ments adopted in the Committee of the  
Whole.

The SPEAKER pro tempore. Under  
the rule, the previous question is or-  
dered.

Is a separate vote demanded on any  
further amendment reported from the  
Committee of the Whole? If not, the  
Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The  
question is on the engrossment and  
third reading of the bill.

The bill was ordered to be engrossed  
and read a third time, and was read the  
third time.

## MOTION TO RECOMMIT

Ms. CASTOR of Florida. Mr. Speaker,  
I have a motion to recommit at the  
desk.

The SPEAKER pro tempore. Is the  
gentlewoman opposed to the bill?

Ms. CASTOR of Florida. I am op-  
posed.

The SPEAKER pro tempore. The  
Clerk will report the motion to recom-  
mit.

The Clerk read as follows:

Ms. CASTOR of Florida moves to recommit  
the bill H.R. 3408 to the Committee on Nat-  
ural Resources with instructions to report  
the same back to the House forthwith with  
the following amendment:

Add at the end the following:

**TITLE —MISCELLANEOUS PROVISIONS**  
**SEC. —. RESTRICTION ON PERMITS AND**  
**LEASES FOR THE GREAT LAKES AND**  
**THE FLORIDA EVERGLADES.**

No Federal or State permit or lease shall  
be issued for new oil and gas slant, direc-  
tional, or offshore drilling in, under, or with-  
in 5 miles of any of the Great Lakes or the  
Florida Everglades.

The SPEAKER pro tempore. The gen-  
tlewoman from Florida is recognized for  
5 minutes.

Ms. CASTOR of Florida. Thank you,  
Mr. Speaker.

Mr. Speaker, the Republican leader-  
ship's transportation package is a dead  
end. It is being panned by businesses,  
Democrats and Republicans alike.  
What we will vote on next is the Re-  
publican funding portion of the pack-  
age and it is a little bit different.

See, this is a special story. In fact, it  
is a love story, the love story of a  
breath-taking display of affection of Big  
Oil by the Republican party. The bill is  
a special Valentine, a love letter of the  
Republicans' undying devotion to Big  
Oil. No others compare.

□ 1750

The problem is that, with the Repub-  
lican congressional leaders' blind pas-  
sion for Big Oil, they correspondingly  
demonstrate an animosity to American  
families and businesses. See, it's been  
less than 2 years since the BP Deep-  
water Horizon disaster, and the Repub-  
licans in Congress now propose to drill  
for oil just about anywhere.

Have safety measures been adopted by this Congress? No. Do they recognize that there are special places across America that are not appropriate for oil drilling? Not really.

For example, the bill would allow drilling right off of the beaches of Florida. Florida's tourism industry, meanwhile, employs more than 1 million people. Tourism and fishing are multi-billion-dollar industries. Drilling closer to our shores puts those jobs at risk. Yet that's what the Republicans propose here. And for what? The CBO says that if you drill off the coast of Florida, that will generate \$100 million. Billion dollars in industry and tourism and fishing or \$100 million?

BP decimated the gulf coast and caused billions of dollars of damage to our economy and our environment. The disaster is estimated to have cost the State of Florida, alone, \$2.2 billion and almost 40,000 jobs.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Members are reminded not to traffic the well when other Members are under recognition.

Ms. CASTOR of Florida. Mr. Speaker, the Republican love letter to Big Oil could be the kiss of death for small businesses, hotels, motels, shrimpers, fishermen, and families that rely on tourism, and that's just in the State of Florida. This bill puts too many jobs at risk in a misguided, love-struck attempt to allow Big Oil to drill just about anywhere, including unique and sensitive areas all across America.

Republican leadership has made it abundantly clear they are willing to sell America to the highest bidder. Well, I'm here to say America is not for sale.

Is nothing sacred in this country anymore? Is nothing off limits? How about Mount Vernon, George Washington's home? Would we drill there if Big Oil could make a few bucks? How about Gettysburg National Battlefield? I hear there may be some natural gas nearby. Why not check Grandma and Grandpa's backyard. You're already trying to take away their Medicare, so why stop there?

There are places in America that are not for sale and should be protected, and my amendment provides a test. Here's the test:

I pick two special areas to put to the test in this Congress. My amendment will prevent drilling within 5 miles of any of the Great Lakes or the Everglades.

Now, don't get me wrong, we must have robust domestic oil production—in fact, that is happening now. We are currently producing in America at higher levels than ever before. We have more domestic production than we import. Last year, U.S. crude oil production reached its highest level since 2003. And the Obama administration has offered and continues to offer mil-

lions of acres of public lands and Federal waters for oil and gas exploration and production.

In 2010, the Department of the Interior offered 37 million acres in the Gulf of Mexico for oil and gas exploration, but the oil companies have only tapped 2.4 million acres. So why are we going to open up even more public lands for drilling when we haven't even used one-fifteenth of what's available? It's a love story. It's a love story.

Last year, although Exxon made \$41 billion, BP made over \$25 billion, the Republicans saw to it that American taxpayers chipped in another \$10 billion from 2002 to 2008.

Well, enough is enough. We are not going to turn the Great Lakes into the "Okay Lakes," and we're not going to turn the Everglades into the "Neverglades." The Great Lakes and Everglades are not just environmental treasures; they are the lifeblood of our local economies. The Great Lakes and Everglades employ many Americans who work in tourism, lodging, fishing, and ecological industries.

I urge my colleagues not to play an enabling role in this tawdry love affair between most Republicans in Congress and Big Oil.

Vote "yes" on this motion and pledge your devotion to our great Nation rather than Big Oil.

I yield back the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman is recognized for 5 minutes.

Mr. HASTINGS of Washington. Mr. Speaker, this is one more example where the other side is playing politics with American energy and American job creation.

At a time, Mr. Speaker, when Iran is threatening a global energy meltdown, the Middle East is undergoing numerous uprisings, China's thirst for oil is growing and our consumers are facing rising prices at the pump, it's time to secure our own future with American-made energy.

The other side talks about energy security. This legislation, the underlying legislation, offers real opportunity to expand our domestic energy production and secure our Nation.

The other side talks about Federal revenue. This legislation would bring in billions of dollars to the Federal and State governments and bring tens of billions of dollars of investment into this country.

Most importantly, Mr. Speaker, while the other side talks about creating jobs for Americans, this legislation will create hundreds of thousands of good-paying jobs for American workers. And while the other side cheapens these jobs by calling them temporary, we call these jobs what they really are—American jobs.

The underlying legislation sets out a commonsense action plan to secure our

future, create jobs, and increase Federal revenue and investment into this country. Oppose this motion to recommit and vote "no," and vote "yes" on the underlying legislation.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Ms. CASTOR of Florida. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 8 and clause 9 of rule XX, this 15-minute vote on the motion to recommit will be followed by 5-minute votes on passage of the bill, if ordered; and approval of the Journal, if ordered.

The vote was taken by electronic device, and there were—ayes 176, noes 241, not voting 16, as follows:

[Roll No. 70]

AYES—176

Ackerman	Frank (MA)	Michaud
Altmire	Fudge	Miller (NC)
Andrews	Garamendi	Miller, George
Baca	Gonzalez	Moore
Baldwin	Green, Al	Moran
Bass (CA)	Grijalva	Murphy (CT)
Becerra	Gutierrez	Nadler
Berkley	Hahn	Napolitano
Berman	Hanabusa	Neal
Bishop (GA)	Hastings (FL)	Oliver
Bishop (NY)	Heinrich	Owens
Blumenauer	Higgins	Pallone
Bonamici	Himes	Pascrell
Brady (PA)	Hinchey	Pastor (AZ)
Braley (IA)	Hinojosa	Pelosi
Brown (FL)	Hirono	Perlmutter
Capps	Hochul	Peters
Capuano	Holden	Pingree (ME)
Cardoza	Holt	Polis
Carnahan	Hoyer	Posey
Carney	Inslee	Price (NC)
Carson (IN)	Israel	Quigley
Castor (FL)	Jackson (IL)	Rahall
Chandler	Jackson Lee	Reyes
Cicilline	(TX)	Richardson
Clarke (MI)	Johnson (GA)	Richmond
Clay	Johnson, E. B.	Rothman (NJ)
Clyburn	Kaptur	Roybal-Allard
Cohen	Keating	Ruppersberger
Connolly (VA)	Kildee	Rush
Conyers	Kind	Ryan (OH)
Cooper	Kissell	Sánchez, Linda
Costello	Kucinich	T.
Courtney	Langevin	Sarbanes
Critz	Larsen (WA)	Schakowsky
Crowley	Larson (CT)	Schiff
Cummings	Lee (CA)	Schrader
Davis (CA)	Levin	Schwartz
Davis (IL)	Lewis (GA)	Scott (VA)
DeFazio	Lipinski	Scott, David
DeGette	Loeback	Serrano
DeLauro	Lofgren, Zoe	Sewell
Deutch	Lowey	Sherman
Dicks	Luján	Sires
Dingell	Lynch	Slaughter
Doggett	Maloney	Smith (WA)
Donnelly (IN)	Markey	Speier
Doyle	Matsui	Stark
Edwards	McCarthy (NY)	Sutton
Ellison	McCollum	Thompson (CA)
Engel	McDermott	Thompson (MS)
Eshoo	McGovern	Tierney
Farr	McIntyre	Tonko
Fattah	McNerney	Towns
Filner	Meeks	Tsongas

Van Hollen  
Velázquez  
Visclosky  
Walz (MN)

Wasserman  
Schultz  
Waters  
Watt  
Waxman

Webster  
Welch  
Wilson (FL)  
Woolsey  
Yarmuth

Paul  
Payne

Rangel  
Sanchez, Loretta  
Shuler  
Smith (TX)

Roe (TN)  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rohrabacher  
Rokita  
Rooney  
Roskam  
Ross (AR)  
Ross (FL)  
Royce  
Runyan  
Ryan (WI)  
Scalise  
Schilling  
Schmidt  
Schock  
Schweikert

Scott (SC)  
Scott, Austin  
Sensenbrenner  
Sessions  
Shimkus  
Shuster  
Simpson  
Smith (NE)  
Smith (TX)  
Stearns  
Stivers  
Stutzman  
Sullivan  
Terry  
Thompson (PA)  
Thornberry  
Tiberi  
Tipton

Turner (NY)  
Turner (OH)  
Upton  
Walberg  
Walden  
Walsh (IL)  
Webster  
Westmoreland  
Whitfield  
Wilson (SC)  
Wittman  
Wolf  
Womack  
Woodall  
Yoder  
Young (AK)  
Young (IN)

## NOES—241

Adams  
Aderholt  
Akin  
Alexander  
Amash  
Amodei  
Bachmann  
Bachus  
Barletta  
Barrow  
Bartlett  
Barton (TX)  
Bass (NH)  
Benishek  
Berg  
Biggert  
Bilbray  
Bilirakis  
Bishop (UT)  
Black  
Blackburn  
Bonner  
Boren  
Boswell  
Boustany  
Brady (TX)  
Brooks  
Broun (GA)  
Buchanan  
Bucshon  
Buerkle  
Burgess  
Burton (IN)  
Calvert  
Camp  
Canseco  
Cantor  
Capito  
Carter  
Cassidy  
Chabot  
Chaffetz  
Coble  
Coffman (CO)  
Cole  
Conaway  
Costa  
Cravaack  
Crawford  
Crenshaw  
Cuellar  
Culberson  
Davis (KY)  
Denham  
Dent  
DesJarlais  
Diaz-Balart  
Dold  
Dreier  
Duffy  
Duncan (SC)  
Duncan (TN)  
Ellmers  
Emerson  
Farenthold  
Fincher  
Fitzpatrick  
Flake  
Fleischmann  
Fleming  
Flores  
Forbes  
Fortenberry  
Fox  
Franks (AZ)  
Frelinghuysen  
Garrett  
Gerlach  
Gibbs

Gibson  
Gingrey (GA)  
Gohmert  
Goodlatte  
Gosar  
Gowdy  
Granger  
Graves (GA)  
Graves (MO)  
Green, Gene  
Griffin (AR)  
Griffith (VA)  
Grimm  
Guinta  
Guthrie  
Hall  
Hanna  
Harper  
Harris  
Hartzler  
Hastings (WA)  
Hayworth  
Heck  
Hensarling  
Herger  
Herrera Beutler  
Huelskamp  
Huizenga (MI)  
Hultgren  
Hunter  
Hurt  
Issa  
Jenkins  
Johnson (IL)  
Johnson (OH)  
Johnson, Sam  
Jones  
Jordan  
Kelly  
King (IA)  
King (NY)  
Kingston  
Kinzinger (IL)  
Kline  
Labrador  
Lamborn  
Lance  
Landry  
Lankford  
Latham  
LaTourette  
Latta  
Lewis (CA)  
LoBiondo  
Long  
Lucas  
Luetkemeyer  
Lummis  
Manzullo  
Marchant  
Marino  
Matheson  
McCarthy (CA)  
McCaul  
McClintock  
McCotter  
McHenry  
McKeon  
McKinley  
McMorris  
Rodgers  
Meehan  
Mica  
Miller (FL)  
Miller (MI)  
Miller, Gary  
Mulvaney  
Murphy (PA)  
Myrick  
Neugebauer  
Noem

Nugent  
Nunes  
Nunnelee  
Olson  
Palazzo  
Paulsen  
Pearce  
Pence  
Peterson  
Petri  
Pitts  
Platts  
Poe (TX)  
Pompeo  
Price (GA)  
Quayle  
Reed  
Rehberg  
Reichert  
Renacci  
Ribble  
Rigell  
Rivera  
Robby  
Roe (TN)  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rohrabacher  
Rokita  
Rooney  
Roskam  
Ross (AR)  
Ross (FL)  
Royce  
Runyan  
Ryan (WI)  
Scalise  
Schilling  
Schmidt  
Schock  
Schweikert

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

## RECORDED VOTE

Mr. MARKEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 237, noes 187, not voting 10, as follows:

[Roll No. 71]

## AYES—237

Aderholt  
Akin  
Alexander  
Altmire  
Amash  
Amodei  
Bachmann  
Bachus  
Barletta  
Barrow  
Bartlett  
Barton (TX)  
Benishek  
Berg  
Biggert  
Bishop (GA)  
Bishop (UT)  
Black  
Blackburn  
Boehner  
Bonner  
Boren  
Boswell  
Boustany  
Brady (TX)  
Brooks  
Broun (GA)  
Bucshon  
Buerkle  
Burgess  
Burton (IN)  
Calvert  
Camp  
Canseco  
Cantor  
Capito  
Carter  
Cassidy  
Chabot  
Chaffetz  
Coble  
Coffman (CO)  
Cole  
Conaway  
Cooper  
Costa  
Cravaack  
Crawford  
Crenshaw  
Critz  
Cuellar  
Culberson  
Davis (KY)  
Denham  
Dent  
DesJarlais  
Donnelly (IN)  
Dreier  
Duffy  
Duncan (SC)  
Duncan (TN)  
Ellmers  
Emerson  
Farenthold  
Fincher  
Fitzpatrick  
Flake  
Fleischmann  
Fleming  
Flores  
Forbes  
Fortenberry  
Fox  
Franks (AZ)  
Frelinghuysen  
Garrett  
Gerlach  
Gibbs

Ackerman  
Adams  
Andrews  
Baca  
Baldwin  
Bass (CA)  
Bass (NH)  
Becerra  
Berkley  
Berman  
Bilbray  
Bilirakis  
Bishop (NY)  
Blumenauer  
Bonamici  
Brady (PA)  
Braley (IA)  
Brown (FL)  
Buchanan  
Butterfield  
Capps  
Capuano  
Cardoza  
Carnahan  
Carney  
Carson (IN)  
Castor (FL)  
Chandler  
Chu  
Cicilline  
Clarke (MI)  
Clarke (NY)  
Clay  
Clyburn  
Cohen  
Connolly (VA)  
Conyers  
Costello  
Courtney  
Crowley  
Cummings  
Davis (CA)  
Davis (IL)  
DeFazio  
DeGette  
DeLauro  
Deutch  
Diaz-Balart  
Dicks  
Dingell  
Doggett  
Dold  
Doyle  
Edwards  
Ellison  
Engel  
Eshoo  
Farr  
Fattah  
Filner  
Frank (MA)  
Frelinghuysen  
Fudge  
Garamendi

## NOES—187

Gonzalez  
Grijalva  
Gutierrez  
Hahn  
Hanabusa  
Hastings (FL)  
Hayworth  
Heinrich  
Higgins  
Himes  
Hinckey  
Hirono  
Holden  
Holt  
Honda  
Hoyer  
Inlee  
Israel  
Jackson (IL)  
Jackson Lee  
(TX)  
Johnson (GA)  
Johnson (IL)  
Johnson, E. B.  
Kaptur  
Keating  
Kildee  
Kind  
Kucinich  
Langevin  
Larsen (WA)  
Larson (CT)  
Lee (CA)  
Levin  
Lewis (GA)  
Lipinski  
LoBiondo  
Loeback  
Lofgren, Zoe  
Lowey  
Lujan  
Lynch  
Maloney  
Markey  
Matsui  
McCarthy (NY)  
McCollum  
McDermott  
McGovern  
McNerney  
Meeks  
Michaud  
Miller (FL)  
Miller (NC)  
Miller, George  
Moore  
Moran  
Murphy (CT)  
Nadler  
Napolitano  
Neal  
Nugent  
Oliver  
Pallone

Austria  
Bono Mack  
Campbell  
Cleaver

## NOT VOTING—10

Mack  
Paul  
Payne  
Rangel

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There is 1 minute remaining.

## NOT VOTING—16

Austria  
Bono Mack  
Butterfield  
Campbell

Lungren, Daniel  
E.  
Mack



□ 1820

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

### THE JOURNAL

The SPEAKER pro tempore. The unfinished business is the question on agreeing to the Speaker's approval of the Journal, which the Chair will put de novo.

The question is on the Speaker's approval of the Journal.

Pursuant to clause 1, rule I, the Journal stands approved.

### RESIGNATION AS MEMBER OF COMMITTEE ON HOMELAND SECURITY

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Homeland Security:

CONGRESS OF THE UNITED STATES,  
HOUSE OF REPRESENTATIVES,  
Washington, DC, February 16, 2012.

Hon. JOHN A. BOEHNER,  
Speaker, House of Representatives,  
Washington, DC.

DEAR SPEAKER BOEHNER: I hereby respectfully submit my resignation from the Committee on Homeland Security effective today, February 16, 2012. I have accepted an assignment to the House Armed Services Committee.

If you and your staff should have any questions or concerns, please feel free to contact me at 202-225-3531.

All the best,

JACKIE SPEIER.

The SPEAKER pro tempore. Without objection, the resignation is accepted. There was no objection.

### RESIGNATION AS MEMBER OF COMMITTEE ON THE BUDGET

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on the Budget:

CONGRESS OF THE UNITED STATES,  
HOUSE OF REPRESENTATIVES,  
Washington, DC, February 16, 2012.

Hon. JOHN BOEHNER,  
Speaker, House of Representatives,  
Washington, DC.

DEAR SPEAKER BOEHNER: I resign my position on the House Committee on the Budget, effective today, Thursday, February 16, 2012.

Sincerely,

PAUL D. TONKO,  
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted. There was no objection.

### COMMUNICATION FROM THE HONORABLE JOHN D. DINGELL, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following commu-

nication from the Honorable JOHN D. DINGELL, Member of Congress:

CONGRESS OF THE UNITED STATES,  
HOUSE OF REPRESENTATIVES,  
Washington, DC, January 10, 2012.

Hon. JOHN A. BOEHNER,  
Speaker, House of Representatives,  
Washington, DC.

DEAR MR. SPEAKER: This is to notify you formally pursuant to rule VIII of the Rules of the House of Representatives that I have been served with a subpoena, issued by the United States District Court for the Eastern District of New York, to produce documents in a criminal case.

After consultation with the Office of General Counsel, I have determined that compliance with the subpoena is inconsistent with the precedents and privileges of the House.

Sincerely,

JOHN D. DINGELL,  
Member of Congress.

### ELECTING MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE OF REPRESENTATIVES

Mr. LARSON of Connecticut. Mr. Speaker, by direction of the Democratic Caucus, I offer a privileged resolution and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 553

*Resolved*, That the following named Members be and are hereby elected to the following standing committees of the House of Representatives:

(1) COMMITTEE ON ARMED SERVICES.—Ms. Speier.

(2) COMMITTEE ON THE BUDGET.—Ms. Bonamici.

(3) COMMITTEE ON NATURAL RESOURCES.—Mr. Tonko.

(4) COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY.—Ms. Bonamici.

The resolution was agreed to.

A motion to reconsider was laid on the table.

### RELIGIOUS FREEDOM

(Mr. FLEMING asked and was given permission to address the House for 1 minute.)

Mr. FLEMING. Mr. Speaker, President Obama's mandate on abortion-inducing drugs and contraceptive services has not gone away—I repeat—has not gone away. It has not been settled. There is no compromise. The administration's assault on the First Amendment continues. The deeply held beliefs of people who oppose abortifacients are still under attack.

Let's be clear. The President remains as determined as ever to force insurance companies and their customers to pay for services which defy the moral fiber of their beings and which are contrary to religious beliefs and sacred teachings.

Let me be clear. Despite what you have heard, no rules have changed. There has been no accommodation. President Obama is simply hoping to

cover this issue with a smokescreen to push it past Election Day so he can still get his way.

That's why this Congress needs to act—and act right now—to put in place conscience protections that the administration cannot violate. We need to safeguard our religious liberties against these attacks by the Obama administration.

### RELIGIOUS FREEDOM

The SPEAKER pro tempore (Mr. HANNA). Under the Speaker's announced policy of January 5, 2011, the gentleman from Colorado (Mr. LAMBORN) is recognized for 60 minutes as the designee of the majority leader.

Mr. LAMBORN. Thank you, Mr. Speaker.

America has a long history of religious freedom.

In the 17th century, colonists fled to what would become the United States of America in search of religious freedom. In 1789, Congress drafted the First Amendment, ensuring the right to the free exercise of religion. Throughout the 20th century, the Supreme Court has repeatedly upheld the rights of individuals to practice their religions according to the dictates of their own consciences. In 2001, President Bush established the Office of Faith-Based and Community Initiatives to "encourage faith-based programs without changing their mission."

But today, the Obama administration's policies threaten that fundamental freedom. President Obama's new health care mandate, despite a flimsy, politically motivated, so-called "compromise," forces religious organizations to pay for contraceptives and abortion-inducing drugs in their health care plans.

So much for over 200 years of religious freedom.

The mandate is an unprecedented act of government trampling over the deeply held beliefs of millions of Americans. I stand with my colleagues tonight in showing our united opposition to any efforts by the Obama administration to flagrantly disregard deeply held religious beliefs.

I am a cosponsor of the Respect for Rights of Conscience Act, introduced by Representative JEFF FORTENBERRY of Nebraska, which would protect the rights of conscience for faith-based organizations and would leave Federal law where it was before the President's divisive health care plan was passed.

A number of Representatives from around the country are very troubled by this unprecedented government intrusion into the First Amendment right of freedom of religion. We are going to take the next 60 minutes to explore just how wrong this decision was, how meaningless the so-called "compromise" is, and how vital to our country freedom of religion is today.

At this point, I would like to yield to the courageous sponsor of the Respect for Rights of Conscience Act, Representative FORTENBERRY of Nebraska.

Mr. FORTENBERRY. First of all, let me thank the gentleman from Colorado for his leadership in holding this discussion tonight. This is a very important discussion because it is about a fundamental American principle.

As you mentioned, over a year ago, we actually began work on the Respect for Rights of Conscience Act in anticipation that the new health care law may actually be used to undermine religious freedom and the moral precepts, the deeply held beliefs, of many Americans in this country.

You had mentioned that this particular bill—hopefully, we'll get it through this House soon, and there is a companion measure, by the way, in the Senate—would not only protect faith-based organizations, which seem to be most perniciously targeted by this new HHS mandate from the strong arm of government, which is forcing them to pay for drugs and procedures that may violate their ethics norms, but it would also protect all Americans because, right now, these institutions, as well as other people of good will, are being asked to choose: to follow your deeply held, reasoned beliefs or to obey President Obama and Secretary of Health and Human Services Kathleen Sebelius' new mandate, which is in violation of your conscience rights.

That's a false choice.

That's un-American.

That violates a deeply held principle of this country, namely religious liberty, which we have held so dear throughout our history.

□ 1830

The Respect for Rights of Conscience Act really does one simple thing: It restores us to where we were a year and a half ago before the new health care law came into being, and it would prevent things such as this new mandate, which is an intrusion of government into the faith life of many Americans, from ever happening.

Again, I'm very pleased for your willingness to hold this hour of discussion with fellow Members. It is a bipartisan bill, by the way. There are Democrats and Republicans on this bill. It is a bicameral bill. There are over 200 House Members who have cosponsored this bill 200, Democrats and Republicans; and there are 37 Members on the companion piece in the United States Senate, dropped by my friend Senator ROY BLUNT from Missouri. In fact, Senator BLUNT has offered this as potential amendments to must-pass legislation in the other body. We haven't seen that go through yet.

So there is tremendous momentum for this piece of legislation because it's not about politics. It's not about partisanship. It's about a principle, a fun-

damental American principle: the rights of conscience and religious liberty, as applied in health care.

I'm pleased by the outpouring of support from Members of both sides of the aisle here. I think that is due to the intensity of concern across America about how this time, the government has gone too far.

Again, I appreciate your willingness to hold a good conversation tonight on this fundamental principle of religious liberty and the rights of conscience for all Americans.

Mr. LAMBORN. Thank you. And I do want to applaud Representative FORTENBERRY of Lincoln, Nebraska, for this courageous move that he has taken, for being a leader on this important issue of protecting the rights of the conscience for Americans. I thank you for your leadership on this issue.

Mr. FORTENBERRY. Well, I appreciate it. I hope that we continue to hold more conversations about this because America needs to know. America is already speaking. And that is evident in the number of Members who are deeply interested in this bill.

Mr. LAMBORN. And I can certainly count that 200 Members is close to the magic number of 218, which is 50 percent of the House. Likewise, 37 is getting close to the magic number of 50 needed over in the Senate. So you're doing great work. And I appreciate that, and many Americans appreciate your work.

Mr. FORTENBERRY. Thank you very much.

Mr. LAMBORN. At this point, I yield to the gentleman from Louisiana, STEVE SCALISE.

Mr. SCALISE. I thank my friend, the gentleman from Colorado, for yielding and for taking the lead on this hour dedicated to standing up for religious freedom.

I also thank my colleague from Nebraska (Mr. FORTENBERRY) for his leadership and for bringing forth legislation, of which I am a proud cosponsor, that would repeal the decision that President Obama came down with that is an attack on religious freedom.

As a Catholic who attends church, it's rare when you see a Catholic priest talking from the pulpit, calling on the parishioners to call Congress, to contact Congress about any issue. Yet I want to applaud the Catholic bishops who have been so vocal in helping bring this issue to light, for standing up and saying, This is something that we will not comply with because it violates our own religious beliefs.

The beauty of the Constitution—and especially when you look at the Bill of Rights—are the rights that it lays out to all Americans. And when you read that First Amendment, there is a reason why freedom of religion is included in the First Amendment placed in the Bill of Rights, because our Founders believed it was a right that was handed

down to us from God through our Founding Fathers and that it was given to all American citizens.

But yet the President came out with this ruling, and he says, Well, we'll tailor a little exemption just for places of worship. Not religious organizations, just places of worship. And everybody else, they're on their own. They've got religious beliefs that—they don't want to have to pay for abortion-inducing drugs, for example, which the President mandated. Then the President basically said, No, you have to do this, even if it violates your religious beliefs. That violates the First Amendment of the Constitution. It violates the Bill of Rights. No President has the ability to violate the Bill of Rights, those constitutional rights we have.

And then the President, just a few days ago, came out with what he called "an accommodation," an accommodation where he said, Okay, we'll carve out a little more exception. It still doesn't apply to an employer, for example, that has those same religious beliefs, so we'll carve out an exemption.

Well, guess what? After the President carved out that exemption, so to speak, they actually issued a final rule. This is the final rule from the Obama administration after he gave a press conference, a political speech. And in the final rule, it says, "These regulations finalize, without change, interim final regulations." In other words, they didn't even put any of the things from the President's press conference where he said he was going to give accommodations. None of that is in the final rule.

The final rule still says, if you're a Catholic school, for example, or a Catholic Church—and I know Colorado Christian University is one of the plaintiffs in a lawsuit because they would face a \$500,000 fine under this rule. Even if the President gave a press conference, you can't go to court and say, Look, I'm not going to comply with this rule, because they're going to say, Well, you have to comply; it's the law. And they will say, Oh, but the President gave a speech saying I don't have to. It's still in the rule.

Again, any President who thinks that he has the power to issue accommodations to the Bill of Rights is a President who thinks he's got the ability to take away that Bill of Rights. He doesn't have that. And that's why I'm so proud to stand here with my colleague from Colorado and so many others that have stood up and said, we are going to stand up and defend those religious freedoms that are so precious, not just for religious organizations, but for all Americans, as is called for in the Bill of Rights. So it's an important issue that we need to keep fighting for because this is all a component of the President's health care law.

I remember back in those days when the President stood right here on this

House floor at that podium and he looked at all Members of Congress and he said, If you like what you have, you can keep it. Do you remember that? All Americans heard that. Time and time again, the President said, If you like the health insurance you have, you can keep it. Guess what: With this ruling, he broke that promise he made to the American people because if you're a religious organization and you like the fact that you don't have to provide—and you are not going to provide—abortion-inducing drugs because it violates your own conscience, the President is now saying, You can't keep it. You have to abide by my ruling. That goes against the will. And if you are a religious organization that is self-insured, they're left out of this too.

There are so many problems with this. I'm glad that they're fighting it in the courts. But the bottom line is, they shouldn't have to go to the court to defend the First Amendment. That should be something that's sacrosanct. The President shouldn't be trying to violate and attack our religious freedoms.

I appreciate the gentleman for his leadership tonight.

Mr. LAMBORN. I thank the gentleman for making his remarks.

And he mentioned Colorado Christian University. The president of that fine institution is former U.S. Senator Bill Armstrong, who served Colorado both in the U.S. House and in the U.S. Senate in such a distinguished manner. And that is not necessarily a Catholic institution. It's more of a Protestant evangelical institution, although people of different Christian backgrounds attend there. But this shows that it's not strictly a "Catholic" issue. All people of faith are concerned about violations of conscience.

You see here this quote from Martin Luther King. February is Black History Month. And I think it's appropriate to look at what he said. He said, There comes a time when one must take a position that is neither safe nor politic nor popular but because conscience tells one it is right. He pointed to the need to listen to our consciences when deciding matters of great importance. And Martin Luther King left a great legacy for this country, and his respect for the conscience of the individual is one of those marks of his legacy.

I now yield to my colleague and friend, the gentleman from Maryland.

Mr. HARRIS. I thank the gentleman.

Mr. Speaker, we have one of the most serious assaults on religious liberty in American history. The President's rule, finalized last Friday, in its unchanged form, as we just heard, violates the individual rights to religious freedom that every American shares.

The Bill of Rights doesn't pertain to organizations. It wasn't written for groups. It was written for individuals,

every individual having the right to exercise their religious belief. The President's rule not only restricts individuals, but it restricts everything except what exists between the walls of a church building. Mr. Speaker, that's not what the First Amendment is about.

□ 1840

My parents, like many immigrants to this country, fled countries where those beliefs weren't held. My parents came from communist countries where we don't find it farfetched to believe that they would imprison, they would punish individuals for their religious beliefs.

Let's look at what the President's Affordable Care Act has turned into.

We knew and America knew when that bill was passed, because the previous Speaker of the House said: We just have to wait to pass it; we'll find out what's in it. Mr. Speaker, we are finding out what's in it, and America doesn't like it, because what's in it is the ability, under the current rule, to restrict individual religious freedom. And if you choose to exercise your religious freedom, you are punished by the government with a fine. And it's not just a few dollars; it's \$2,000 per employee.

If an employer has deeply held religious beliefs, deeply held, it's not up to the President or the Secretary of Health or anyone in the Federal bureaucracy or government to decide if those are appropriate religious beliefs. Yet that is exactly what this rule does. It says if you don't share their religious beliefs or their beliefs in certain types of health care, you are going to pay a fine to the government. Well, that sounds a lot like governments where immigrants have fled from to this country to share in the individual religious belief.

Let's go down the list of what this final rule impairs. It violates the Religious Freedom Restoration Act passed in this Congress two decades ago. It obviously violates the First Amendment Free Exercise Clause because it does place a substantial burden on individuals who choose to exercise religious belief. That's all they're doing. We have made it an effective crime to hold a certain religious belief that this administration disagrees with. That's not America. That describes a whole lot of other countries in the world, but it doesn't describe America.

It violates the First Amendment free exercise rights because it intentionally discriminates—intentionally discriminates—against religious beliefs. It imposes requirements on some religions, not on others. It picks winners and losers. That's exactly what the First Amendment was meant not to do.

And, Mr. Speaker, it's not going to be adequate if we just extend it to religious organizations because, I remind

you, the First Amendment is not about groups or buildings or churches or any institutions; it's about the ability of every American to not violate their conscience. And if their conscience says, It would be wrong for me to provide insurance to an employee that would provide something that my religious belief disagrees with, who are we, as the government, to step in and say, You have to violate your religious beliefs; and if you don't, you pay a fine to the government.

That's not the America we believe in. It never has been; hopefully, it never will be.

We know that the President's final rule, because we just heard it—and, Mr. Speaker, you know, some people listening to us will say, That's not true; that's not true. Go Google the final rule and compare it to the rule last summer, the final rule, issued hours after the President claimed a compromise, and compare it with the interim rule issued last summer. Not a comma is different; not a comma was changed. The smoke and mirrors was: Don't listen to what I say; don't watch my hands as I do this magic.

Go and read the final rule. There was not a single change. There was an accounting gimmick. Americans understand accounting gimmicks. That's why we're in the fiscal mess we're in, because Washington likes them. This time the accounting gimmick attempts to override Americans' religious conscience, and you can't do that. Americans understand there's no such thing as free anything. Somebody pays for it. And if the government is going to mandate that an employer provide insurance that includes provisions that conflict with their conscience beliefs, this is an accounting gimmick to say that somebody else has to pay for the rest of that insurance policy that you provided. Every American knows that's not true. We know specifically for larger institutions that self-insure, they are the insurer. There is no other insurance company. Large bodies, and if they happen to be religious, self-insure. You will now force them to violate their conscience or pay a \$2,000 per person fine.

I want to thank the Representative from Colorado for bringing this point up tonight, reminding the American public to pay attention to the debate. Go look at that final rule and understand that we're in the same situation as we were last week with a violation of religious liberty that we should never tolerate.

Mr. LAMBORN. I thank the gentleman from Maryland for his insight into this issue and his comments.

A couple of organizational things just very quickly. Because of the keen interest to address this important issue, we're going to ask for a 4-minute timeframe for each speaker, and there are several that I need to take out of

the rough order that we have to accommodate tight schedules.

So, as Mr. KELLY comes forward, I will read a quote here from John F. Kennedy. Let me read what John F. Kennedy said about conscience:

I would not look with favor upon a President working to subvert the First Amendment's guarantee of religious liberty.

What a powerful statement.

I now yield to the gentleman from Pennsylvania.

Mr. KELLY. I thank the gentleman.

Mr. Speaker, where I come from in western Pennsylvania, there's an old saying that goes something like this: Fool me once, shame on you; fool me twice, shame on me.

And I think that tonight, my colleagues and I come before you and come before this House to talk about some very egregious action that this administration has just taken. And for the President, who at one time was a professor of constitutional law and who knows better, he relies on constitutional convenience. When it's convenient, he follows the Constitution; when it's not, he follows what he wants to do. And then he looks upon us, saying, You just didn't get it. Maybe I didn't use the right words to frame it.

And so he takes policy that is horrible policy, policy that is against our First Amendment, policy that restricts our free speech, restricts our freedom of religion, and puts an onerous burden on people not to be able to choose what they want but what this administration wants. And he says, You know what? Let me take what I just told you, put it in a little different box, a little different color paper and put a little different bow around it, and this is what we're going to use.

And some people sit back and say, Oh, my gosh, I'm so glad he was accommodating. That is not accommodating.

Now, I'm a Roman Catholic, and I will tell you that for many, many months and for many years I have wondered why our religious leaders, the people we look to for spiritual guidance, have been silent and have taken a back seat and have let things happen that they should not have let happen.

Bishop Zubik from Pittsburgh, Bishop Trautman from Erie, and my priest, Father Steven Neff in Butler, have all spoken up from the pulpit, and they have spoken very clearly about this violation, and they have articulated much better than any of us can. They have done it from the pulpit. They have done it in the papers. They have done it on the radio and on the TV. The American people now know what is going on.

Fool me once, shame on you; fool me twice, shame on me. No way.

And we are here tonight because we have had enough of an administration that continues to trample on our Constitution, marginalize it, and use it only when it's convenient. And when it

doesn't meet their means, we talk about constitutional niceties. We talk about a Constitution that was well written at the time, really doesn't address the needs of today.

I would tell you that the needs of today have nothing to do with the needs of the American people, the rights of the American people, the freedom of the American people in speech or religion. It has to do with an administration that finds it a little too onerous for their agenda.

So I thank the gentleman from Colorado, and I would hope that all Americans, not just Catholics, not just Christians, but all Americans, are outraged by this attempt to violate our First Amendment rights.

□ 1850

Mr. LAMBORN. I thank the gentleman for his remarks.

There are a number of freshmen, including Mr. KELLY, who are making a big impact here in Congress just at 13 months of service.

Another one, who I would like to refer to as speaking next, is ANN MARIE BUERKLE of the State of New York.

Thank you for coming and speaking.

Ms. BUERKLE. I thank my colleague for putting together this hour that is so meaningful and so important not just for Democrats or Republicans but for every American, not just for people of faith but for those who have no faith. This is a First Amendment issue.

I stand here tonight as a health care professional, someone who is so vitally aware of the importance of conscience and the protection of conscience rights.

This HHS rule is the largest intrusion that we have ever seen from the Federal Government on our rights of conscience. Every American—every American—must understand what an insult this is to our constitutional rights.

I want to just take this opportunity, Mr. Speaker, to challenge our media as they listen to this debate, and it is a debate that really encompasses so many unlikely bedfellows, I would say, that you see liberals, conservatives, Catholics, atheists, Christians, and Jews coming together in an outrage because our First Amendment rights have been assaulted and have been attacked by this administration. But I would challenge the media to not be fooled by the red herring that this administration continues to throw out there. Mr. Speaker, this is not about contraception. This is not about women's health. This is not about Catholicism. This is about protecting the most fundamental right that we, as Americans, have.

So many of my colleagues have mentioned about the reasons people came to this country and they continue to want to come to this country, because we ensure that you will not be persecuted for your beliefs, for your reli-

gious beliefs. That's the bedrock of the United States of America. That's why there's such outrage over this HHS rule.

As my colleague from Maryland mentioned, this rule has not been changed. Do not be fooled by the smoke and mirrors of this administration. This rule remains the same. It remains an assault on our First Amendment rights. I plead with America and I plead with the media to understand what's at stake in this debate.

I thank my colleague again for this opportunity.

Mr. LAMBORN. I thank the gentleman for her comments.

There's one other person who has a strong scheduling issue that I would like to come forward, from the State of Kansas, another person in his first term who has impressed me greatly, Representative HUELSKAMP.

Mr. HUELSKAMP. Thank you, Congressman. It's a pleasure to stand with you today. It is a pleasure to be here. But it is a real shock to see what is happening today.

I would agree with the comments of my colleague and many others. I must admit—and I guess in today's environment it is an admission. I must admit I am Roman Catholic. This issue is not about what faith you call your own. This issue is about our religious freedoms, whichever we choose.

Who would have thought of an administration that would identify and select a certain group and say, We are going to violate their conscience? We knew this was coming. We knew this was coming.

I'm reminded of a few quotes that I've heard in the last few months—actually, in the last few years—a famous quote that was already used previously, that we have to pass this bill to find out what's in it, the former Speaker of this House. We're finding out what was in it. We found out many things that we did know were in it.

Actually, when this was debated on the Senate side, there was an attempt by our leadership, Republican leadership, that said, no, let's make certain that this doesn't happen. This was anticipated by this administration, I believe, to attempt to violate the conscience of millions and millions of Americans, and yet they continued forward with that.

We also found out that, once we read the bill and it was passed—or passed and then read it—that this administration, the HHS Secretary who we talk about, Kathleen Sebelius, began to give waivers and said, well, it applies to some groups and not others. If you happen to know the Secretary or happen to be from the right district or happen to work for the right company, you can find a waiver, and I remember speaking out about it. What I didn't anticipate was having to ask a waiver to actually have your beliefs, still hold those in

America. Who would have thought that we'd have to get permission from the President of the United States and his Secretary, Kathleen Sebelius, for permission to believe what I believe? That's shocking.

As I mentioned, I am a Catholic, and Pope Benedict XVI a few months ago said that freedom of religion is the most American of all freedoms. And I think about the thousands of folks that have served in this Chamber, that have walked up here and fought for our freedoms and spoke on the floor for them; they would have never guessed that if you are of a particular group—in this case, Catholic, and others that disagree with this administration—you would have to pay a fine to actually disagree with them.

Congressman, you have showed a real civil rights leader in the history of our country, Martin Luther King. One of his other tremendous quotes was that injustice anywhere is a threat to justice everywhere. That didn't just apply to his beliefs. He thought it applied to all Americans. But what is shocking to me is that we have a President who disregards basic American freedoms and is willing, somehow—it's just shocking to me that he's willing to risk his election, to alienate folks because of what he's attempting to impose. But that's what we expect from ObamaCare. That's what we expect from his health care plan, because it is government mandates. It is government control.

As the Attorney General of Virginia said, the President's health care plan, the debate over that is not about health care. The fundamental issue is liberty. And that's what we're finding out right here.

I call upon this President, I call upon Kathleen Sebelius, please, reach deep down into your soul, and also think about your next election. Because we know if this rolls back, it's about the next election. But we don't care about the next election. Americans care about their freedoms and liberties.

I want to thank my colleague for bringing this to our attention. We've been fighting this on many routes, and I think it's just absolutely critical. I thank you for your efforts, and, hopefully, we will recall those words: An injustice anywhere is a threat to justice everywhere.

Mr. LAMBORN. If I could ask the gentleman, is there any chance that Kathleen Sebelius will issue waivers to religious organizations, not just the labor unions who up until now have been the main ones getting waivers?

Mr. HUELSKAMP. That is an excellent idea I guess we would expect from the administration, but, fundamentally, that is favoritism. That is picking who gets to believe what. And as previous colleagues talked about escaping, immigrants that came to this country came here for this particular reason, to avoid paying a fine for what

they believed. That's exactly what we are being forced to do.

Do we get permission from the President not to pay the fine? Do we get a waiver? Well, how do we accommodate religious freedom, Mr. President? How do we accommodate that, Secretary Sebelius? How do we balance? It doesn't say anywhere in the Constitution we're going to balance what you want with our freedoms.

The First Amendment is very clear. And the first part of the First Amendment is the freedom to believe in the God as we choose. And I appreciate and thank you for that.

I'll do this. Let's ask for a waiver for everybody in America to actually get a waiver so we can believe what we want to believe. I would ask for that as well.

So thank you, Congressman, for your leadership, and we will continue to join you in this effort.

Mr. LAMBORN. I thank the gentleman from Kansas. He's been an excellent addition to the newer Members coming here to Congress, an excellent addition.

Among those who are having scheduling conflicts, unfortunately, is me. I have a committee that's meeting right now that's having a markup. We're having recorded votes on amendments and passage of bills out of committee, so I have to leave in just a moment. As much as I so badly wish I could finish up this discussion and hear the comments that have been moving to me so far, I have to depart.

I yield back the balance of my time. The SPEAKER pro tempore. Under the Speaker's announced policy of January 5, 2011, the gentleman from California (Mr. DANIEL E. LUNGREN) is recognized for the remainder of the hour as the designee of the majority leader.

□ 1900

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, might I make an inquiry as to how much time I have remaining.

The SPEAKER pro tempore. The gentleman has 26 minutes remaining.

Mr. DANIEL E. LUNGREN of California. I thank the Speaker.

At this time, I would recognize the gentleman from Mississippi (Mr. NUNNELEE). We are trying to keep it to about 4 minutes apiece. And I'm not just saying that because you're ready to talk, but that's the time we have.

Mr. NUNNELEE. I want to thank the chairman, the gentleman from California, for your leadership in this area.

Religious freedom in America is under attack, not from some outside source, but from within. And if we've learned anything from history, we should have learned that great civilizations are at a greater risk of destroying themselves from within than they ever are in danger from any outside peril.

Freedom of religion is one of the cornerstones of our society. In 1789, when

James Madison and the rest of the Framers of our Constitution were crafting that great document, their genius created the concepts of separation of powers, checks and balances, limited government. However, when that document was presented to the States, the people said that with all of its genius, that document was inadequate. While it outlined a framework for government, it failed to guarantee individual rights.

So in order to establish the Government of the United States of America as we know it today, our ancestors insisted that our Nation adopt the Bill of Rights—10 amendments to the Constitution that would guarantee rights to every individual. That Bill of Rights begins:

Congress shall make no law respecting the establishment of religion, or prohibiting the free exercise thereof.

Yet the Obama administration has displayed a disturbing contempt for the religious liberty guaranteed in that Bill of Rights. The message coming out of them seems to be: it's okay to have religious beliefs as long as you confine that practice to your church. They just don't get it. They don't seem to grasp the fact that our faith is part of who we are. We don't check it in and check it out when we walk into our places of worship. We take it with us everywhere we go.

Now, defenders of this health mandate are attempting to play a clever political game. They're attempting to frame this as a narrow debate between women's rights and the Catholic Church. The truth is, this is about an outrageous idea that the State can force citizens of this Nation to violate their religious beliefs by some degree or regulation, and that some bureaucrat at Health and Human Services can violate constitutional rights.

All Americans—its individuals, not just religious institutions—should be free to purchase and provide health insurance that does not violate their religious beliefs. This principle is so basic that it's tragic that we even have to introduce legislation to reaffirm it. But it's the position of the Obama administration that has put us in the position we're in today. That's why I'm a proud cosponsor of the Rights of Conscience Act, and I urge its swift passage.

Mr. DANIEL E. LUNGREN of California. I thank the gentleman for his comments.

It is now my pleasure to yield to the gentleman from Indiana (Mr. STUTZMAN).

Mr. STUTZMAN. It's a privilege to be here to stand on the House floor with my colleagues this evening and discuss an issue that is facing Americans today that really we should not be standing here talking about. We face tough economic times, but instead we have to be dealing with the administration's rule that he is implementing

that came out of the health care bill passed several years ago. This is a freedom-of-religion issue. This issue is not about birth control. This issue is about government control.

I'd like to share a couple of lines from our founding documents that I think are very important. I think one thing that has happened over the past couple of years is that Americans have become more familiar with our Constitution, because I believe the Constitution has the answers for the problems that we face today.

Mr. Speaker, I'd like to share this particular line that actually influenced the Bill of Rights and the First Amendment:

All men are equally entitled to the free exercise of religion, according to the dictates of conscience.

That is found in the Virginia Declaration of Rights. The First Amendment says this:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

Mr. Speaker, I come to the floor today and I believe that this is a threat to our freedoms. I stand here as a Baptist, along with my colleagues from many denominations who believe that this is a threat to our freedom of religion. Can you imagine the outcry if the President told journalists what stories they could write? This is no less appalling. The President's decision to force individuals of faith to violate their conscience is a blatant assault on the First Amendment.

One of the things that is so foundational here in America is that we are a people of strong convictions. We are a people of faith. What this rule does is it puts the real American safety net at risk. We have so many faith-based organizations, charities, people that organize to help those who are in need. They are the backbone of the social safety net of this country. I believe that this rule interferes with those core beliefs and that HHS has jeopardized the mission that so many Americans have to help people across this country.

Mr. Speaker, I'd like to share this quote by one of our famous and well-respected Founders and Forefathers of our country, and it is Daniel Webster, who said this in addressing Americans about preserving the principles of the Constitution. He said:

It is hardly too strong to say that the Constitution was made to guard the people against the dangers of good intentions. There are men in all ages who mean to govern well, but they mean to govern. They promise to be good masters, but they mean to be masters.

Mr. Speaker, I'd submit to you today that this administration, past Congresses, has good intentions; but they

are beginning to control and to rule the people in ways that violate our constitutional freedoms and our liberties.

So I want to thank the gentleman for organizing this Special Order because I believe that the people must know that this is a rule that will infringe on their First Amendment rights.

The last quote I'd like to read tonight is a quote from Thomas Jefferson. Thomas Jefferson says:

All tyranny needs to gain a foothold is for people of good conscience to remain silent.

I ask the American people to voice their opinion, to voice their freedom, and to let their Member of Congress know what this ruling does to the freedom of religion.

Mr. DANIEL E. LUNGREN of California. I thank the gentleman for his comments.

It is now a pleasure on my part to be able to recognize for his words the gentleman from Michigan (Mr. WALBERG).

Mr. WALBERG. I appreciate the opportunity from the gentleman from California to stand with my colleagues tonight to speak on an important issue.

It was an amazing experience for me this morning to be part of the Oversight and Government Reform Committee and to have a hearing where we had numerous members of religious organizations, including leaders in the Catholic, the Jewish, and the Protestant faiths, in front of us, men who were appealing for rights that should be taken for granted in this country, the rights of religious freedom.

It brought back to me the thoughts that I experienced just a year ago almost this very day when I was in Israel and had the opportunity to hear from the Prime Minister of Israel as he spoke with glowing admiration for America. He talked about the religious liberty that was unlike any other place in the world in Israel today for all faiths, all religions, based upon, as he said, the experience, the value, and the documents of America and its foundations.

□ 1910

And so, today, to hear our religious leaders speaking for their religious liberty was unreal. Those documents that the Prime Minister of Israel referred to going back to the Declaration of Independence, where it says:

We hold these truths to be self-evident that all men are created equal and endowed with certain unalienable rights, that among these are Life, Liberty and the pursuit of Happiness.

Liberty.

And our First Amendment has been quoted numerous times tonight. The beginning of the Bill of Rights:

Congress shall make no law respecting the establishment of religion or prohibiting the free exercise thereof.

These truly sacred documents, documents that we live by, at least we

should, documents that we can carry and quote from, are under serious attack today. These documents of liberty, liberty, not just for organizations but for individuals, not just for churches, but for parishioners who have businesses, who are body shop owners, who are lawyers, who are doctors and have employees that they want to care for.

We have today a Justice of the Supreme Court who recommends to a country looking for a constitution to write, not America's Constitution, but constitutions of other countries. Unbelievable.

And attorneys, labor attorneys pooh-poohing the opposition to attacks on our own Constitution as constitutional niceties. This is not America that we understand.

And now the attack on the constitutional right of religious conscience, the foundational liberty upon which this great land was birthed, our churches and our individuals.

We would do well to listen, Mr. Speaker, to the warnings of our Framers and Founders.

And with this I close: Jonathan Witherspoon, a minister who signed the Declaration of Independence said:

A republic once equally poised must either preserve its virtue or lose its liberty.

John Adams followed by saying:

Liberty lost once is liberty lost forever.

We would do well also to take the heed of enemy voices who desire the destruction of America and its liberty, lest we unwittingly follow and fall into their advice, advice such as this that was said:

America is like a healthy body and its resistance is threefold; its patriotism, its morality, its spiritual life. If we undermine these three areas, America will collapse from within.

Joseph Stalin.

May God grant us, Mr. Speaker, wisdom so that our President, this Congress, and all of America will never let these words be a prophecy fulfilled.

Mr. DANIEL E. LUNGREN of California. I thank the gentleman for his powerful words.

At this time I would yield to the gentleman from Tennessee, Dr. ROE.

Mr. ROE of Tennessee. I thank the gentleman for yielding, and I thank the gentleman for holding this Special Order tonight.

Mr. Speaker, as a young man, I swore an oath to protect and uphold the Constitution of the United States when I was sworn into the United States military. Literally, millions of young men and women have sworn that oath, shed blood, precious blood, to protect the individual liberties and freedoms that we take for granted in this Nation. And now, no longer, due to the actions of this President, can we take those for granted.

I want to associate my remarks tonight with my colleagues who've so eloquently spoken. Once again, it tells

us why government should be out of these individual decisions that we make. We passed almost 2 years ago, and Mr. LUNGREN remembers this very well, on this House floor we debated this health care bill that now mandates not only what we should buy, an essential benefits package, but what's in it and how it's administered. How ridiculous that is. Individuals have that right and should maintain that right and that freedom to do that.

Our government was established to protect rights of conscience for all Americans, not just some Americans, but all Americans. Neither the HHS nor any other government Department should have the power to force people to violate their conscience. Since 1973, health care and coverage providers—and I am a physician, I am an obstetrician and gynecologist—were granted protections in the law to follow their conscience. This rule that was passed and will be the law of the land cancels those protections. Cancels those protections.

This HHS rule will force individuals and organizations to violate deeply held moral convictions with no opportunity to opt out, no opportunity to opt out. Protection of the rights of conscience is a fundamental American principle, a fundamental liberty, not a marginal consideration to be subordinated or ignored because of Federal mandates. It's guaranteed in this book right here, the Constitution. The freedom of religion is the first one mentioned in the First Amendment of the Bill of Rights.

The HHS rule gives people and me, a provider, an impossible choice: either break the law, or violate your beliefs. This rule is causing buyer's remorse in someone who previously supported the health care reform bill.

Former Representative Kathy Dahlkemper recently said:

I would never have voted for the final version of the bill if I expected the Obama administration to force Catholic hospitals and Catholic colleges and universities to pay for contraception.

Christians cannot distinguish between purely religious activities and provisions of health care. Because of this rule and because of this President, many may have no choice but to stop providing coverage for their employees. And providers like myself and others with conscience clauses may have to stop providing care.

This is not a choice that any of us should have to make. It's a freedom guaranteed by over 200 years of bloodshed for this Nation.

Mr. Speaker, the American people cannot stand by and let this happen.

I appreciate very much the gentleman holding this Special Order tonight.

Mr. DANIEL E. LUNGREN of California. I thank the gentleman for his remarks.

Mr. Speaker, it is my privilege to share the last 9 minutes with the gentleman from New Jersey, the man I call the William Wilberforce of this Congress, Mr. CHRIS SMITH.

Mr. SMITH of New Jersey. I thank my great friend from California for his leadership, former Attorney General of California, one of the most decisive and wonderful debaters in the House of Representatives and a great champion of life.

Mr. Speaker, President Obama's slick public relations offensive this past Friday contained neither an accommodation nor a compromise, nor a change in his coercion rule. It was, instead, a pernicious attack on religious freedom.

The Obama final rule promulgated on Friday is an unprecedented government attack on the conscience rights of religious entities and anyone else, and I repeat that, anyone else who, for moral reasons, cannot and will not pay for abortion-inducing drugs, such as ella, or contraception and sterilization procedures in their private insurance plans.

Mr. Obama is arrogantly using the coercive power of the state to force faith-based charities, hospitals and schools to conform to his will at the expense of conscience.

Mr. Obama's means of coercing compliance, ruinous fines of \$2,000 per employee when faith-based organizations refuse to comply, and they will refuse to comply, will impose incalculable harm on millions of children educated in faith-based schools. It will also impose harm on the poor, sick, disabled, and frail elderly who are served with such extraordinary compassion and dignity by faith-based entities.

For example, Catholic Charities employs 70,000 employees. They will be hit with a fine by the Obama administration of \$140 million per year. That's the fine. That's the penalty: \$2,000 per employee.

Notre Dame has about 5,000 employees. That will be a \$10 million fine on Notre Dame. And so it goes for those faith-based organizations.

Let me just say to my colleagues that vocal apologists of the Obama coercion rule say over and over again that the IOM, the Institute of Medicine, panel that reportedly researched and did recommend the coercion rule was somehow independent. Nothing could be further from the truth.

□ 1920

Journalist Kathryn Jean Lopez reported that the Human Life International organization looked into the members of the panel. You stack the panel, you get a predetermined outcome. They found that it was packed with pro-abortion activists.

For example, member Claire Brindis, member of the organization of NARAL Pro-Choice America; Angela Diaz, member of Physicians for Reproductive

Choice and Health; Paula Johnson, chairwoman of Planned Parenthood League of Massachusetts; Magda Peck, also on the board of directors, or was, of Planned Parenthood of Nebraska and Council Bluffs. She was chair of the board as well as vice chair. If you just stack an IOM or any other panel, you will get a predetermined outcome, and so they did.

Mr. Speaker, finally, the Respect for Rights of Conscience Act reasserts and restores conscience rights by making absolutely clear that no one can be compelled to subsidize so-called services in private insurance plans contrary to their religious beliefs or moral convictions. This legislation must be on the floor soon, and I hope the American people will realize how important this bill offered by Mr. FORTENBERRY is to conscience rights in America.

I thank my good friend for yielding.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would remind Members to avoid personalities with regard to the President, such as accusations of arrogance.

The Chair recognizes the gentleman from California.

Mr. DANIEL E. LUNGREN of California. I thank the gentleman for his comments, and I thank him for his leadership on many, many issues of human rights, not only in the United States but around the world.

I was astounded when I heard the comments of the leader of the minority party in the House of Representatives several days ago when she referred to those who were concerned about this decision by the President of the United States and the secretary of HHS as using religious liberty as an excuse. What an insult to those men and women of good faith who've expressed their concern about how this will require them to either violate their consciences or pay fines in tribute to the Federal Government.

Interestingly enough, Alexis de Tocqueville said this about Catholics:

The American Catholics are faithful to the observance of their religion. Nevertheless, they constitute the most Republican and most Democratic class of citizens which exists in the United States. Although this fact may surprise some observers at first, the causes by which it is occasioned may easily be discovered upon reflection.

What he suggested was the consciences of Catholics who utilized their consciences to bring to the public debate did not undermine America, it fortified America.

We've crossed this bridge before. Unfortunately there were those who claimed to be Republicans in the 1800s who led the fight against men and women of conscience who happened to be Catholic. This caused Abraham Lincoln to say these words in a letter to Joshua Speed in 1855:

As a Nation, we began by declaring that all men are created equal. We now practically



read it "all men are created equal except Negroes." When the Know-Nothings get control, it will read "all men are created equal except Negroes and foreigners and Catholics."

What does it mean? The Know-Nothings feared that Catholics would bring their conscience and their values of faith to the public debate.

We've been across this bridge before. We should not accept it. It's not just Catholics. It is men and women of all religious beliefs and even those of no religious beliefs who understand that a government that commands that you do something against your conscience is a government that can basically take anything away from you, and in this case, perhaps the most precious thing there is in you, your faith.

We cannot let it stand. It is a question of the culture of America, the tradition of America, the first amendment to the Constitution of America.

This is a serious debate because it questions whether anyone, anybody in government, can basically tell you that you must check your religious values at the door.

Interestingly enough, just a week and a half ago, I was present when I heard the President speak at the National Prayer Breakfast and say he does not and we do not and we cannot check our religious values at the door. That's precisely what this edict—and that's what it is—this edict does.

We ought to understand. We speak not just for Catholics, we speak not just for Christians, we speak not just for Jews, for Muslims, for Hindus, for people of faith, and for those who have no faith. We speak for all Americans in understanding that the First Amendment is not made up of mere words; it is made up of first principles. And we cannot allow first principles to be cast aside.

That's why we must stand in unity against this rule, this unprincipled, this unlawful, this unconstitutional rule that has no basis in fact, has no basis in the Constitution, and has no basis in the culture of this country properly understood.

I thank the gentleman for his contribution. I thank all for their contribution.

#### GENERAL LEAVE

Mr. DANIEL E. LUNGREN of California. I would ask, Mr. Speaker, that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on the subject of this Special Order this evening.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DANIEL E. LUNGREN of California. With that, Mr. Speaker, I yield back the balance of my time.

Mrs. SCHMIDT. Mr. Speaker, I'd like to start tonight by continuing our discussion on con-

science protections and our First Amendment rights.

As I did yesterday during the press conference on the same topic, I'd like to read the First Amendment to our Constitution. It states: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or of the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

Our Founding Fathers thought that those specific five tenets were crucial to the citizens of America—so critical that they needed to be guaranteed first and foremost.

The conscience protection debate that started a few weeks ago with the administration's announcement of a new rule regarding contraception, sterilization, and insurance policies is a perfect example of the importance of these rights.

The government cannot, and should not, be forcing any employer, whether they are Catholic charities and schools or an individual businessman, to violate the tenets of their faith.

As this debate continues, it highlights the great need to have a standard that explicitly protects employers from attempts to erode our First Amendment rights.

We need to fight for the standard in H.R. 1179, the Respect for Rights of Conscience Act of 2011, introduced by my good friend from Nebraska, Mr. FORTENBERRY.

It simply protects employers from being forced to violate their religious or moral beliefs by an overreaching mandate from the administration. It takes nothing away from the public, nor does it prohibit women from getting services that are already provided, as some have alleged.

H.R. 1179 is a responsible and reasonable response to clarify what can and cannot be mandated through the healthcare law regarding conscience protections.

We cannot allow the federal government to start going down the slippery slope of eroding our constitutionally protected rights—we took an oath to uphold the Constitution.

As a mother and grandmother, I will do everything in my power to ensure that the rights we enjoy today continue to be guaranteed for my daughter, grandchildren, and generations to come.

#### REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF CONFERENCE REPORT ON H.R. 3630, MIDDLE CLASS TAX RELIEF AND JOB CREATION ACT OF 2012

Mr. SCOTT of South Carolina (during the Special Order of Mr. DANIEL E. LUNGREN of California), from the Committee on Rules, submitted a privileged report (Rept. No. 112-400) on the resolution (H. Res. 554) providing for consideration of the conference report to accompany the bill (H.R. 3630) to provide incentives for the creation of jobs, and for other purposes, which was referred to the House Calendar and ordered to be printed.

#### PROGRESSIVE CAUCUS

The SPEAKER pro tempore. Under the Speaker's announced policy of Jan-

uary 5, 2011, the gentleman from Minnesota (Mr. ELLISON) is recognized for 60 minutes as the designee of the minority leader.

Mr. ELLISON. Mr. Speaker, thank you for the time.

The Progressive Congressional Caucus is that caucus in Congress that comes together to talk about the most important values that our country is founded on—ideas like fairness, inclusion, prosperity for all, protecting our world and the environment that we live in. The Progressive Caucus can be found talking about civil and human rights, standing for an economy that is fair and inclusive and has shared benefits and responsibilities for everybody. The Progressive Caucus is that caucus in Congress that will stand up for peace and diplomacy and also will make the case for the human rights of all people.

We bring you the progressive message to illustrate what's at stake in America today. I'm very pleased that I'm joined by my good friend from the great State of Illinois, JAN SCHAKOWSKY. We're going to bring the progressive message tonight and just talk a little bit about the values that we share.

You know, I want to set up a question I have for you, Congresswoman SCHAKOWSKY, because we have been dealing with this transportation bill over the last several days, and we will be up until the week of February 27.

One of the things about it that I found most galling is that one of the ways that the Republican majority intends to pay for the transportation bill is by charging Federal employees a fee, and really a tax, on their retirement and then using the money that they're going to gain to pay for their transportation bill.

□ 1930

When I think about people who are Federal employees, I'm thinking of people who take care of our veterans—the nurses at the VA. I'm thinking of people who make sure our roads and our parks are safe. I'm thinking about Federal employees who make sure our water and our air is clean. So I just want to ask you:

Do you think it's fair to sort of go after Federal employees, working people, to try to pay for this transportation budget we've been talking about over these last few days?

Ms. SCHAKOWSKY. I thank you for that question and for leading this hour in this important discussion.

No. In fact, our colleagues in the majority want to pay for the legislation in the transportation bill, but what they want to continue to do is to refuse to touch a single hair on the heads of millionaires and billionaires, and they stand firm in their defense of the big oil companies and the corporations that ship their jobs overseas. Instead of asking the wealthiest Americans to

contribute a little bit more, they want to ask Federal workers. Instead of going to the 1 percent, they want to ask people who are solidly in the 99 percent to pay the price.

Federal employees are hardworking, middle class Americans, who work for the Federal Government all across this country, not just in Washington. In fact, only about 30 percent of Federal employees are in Washington. Of course, some of them work in our offices, and they work in this House of Representatives. We all represent Federal workers.

So who are they? You mentioned a few. Yet there are also those benefit specialists who help our seniors get their Social Security and Medicare benefits, and they're the law enforcement professionals who defend our borders and our ports and our skies and us when we're here in the Capitol.

Mr. ELLISON. FBI agents who are protecting us from everything from terrorism to drugs to guns, are these people Federal employees?

Ms. SCHAKOWSKY. Those are called Federal employees, as are the Capitol Police; and they're computer and network specialists who spend their days making sure that we're safe from cyberattacks. They're medical and scientific researchers who are looking for cures for devastating diseases. They're the nurses and doctors who take care of our wounded warriors. They're the men and women who make sure the food supply is safe and that our water is clean enough for our children to drink. They're the hardworking support staff. I just left my office, and I was having my trash and recycling taken away.

Those are all Federal employees. There are 423,000 Federal employees who earn less than \$50,000 a year; and 48 percent of them are women, but 60 percent of the employees earning less than \$50,000 a year are women. They are the people who have seen their pay frozen for 2 years while health care and other costs are going up.

Mr. ELLISON. If I may just ask the gentlelady a question.

Do you mean to tell me and the American people and the Speaker tonight that not only is this transportation bill proposing to cut into and to basically tax Federal employees' retirement benefits, but they've already had a freeze on top of this?

Ms. SCHAKOWSKY. For 2 years. That's about \$30 billion a year in cuts. So they've already given up, really, about \$60 billion from a normal increase in wages just to pay for the cost of things going up. Everybody knows that the cost of food and gasoline and those kinds of things are going up, and still we aren't asking millionaires—or they aren't. The Republicans who propose these cuts, these additional contributions from Federal employees, are not asking millionaires and billionaires to contribute their fair share.

Mr. ELLISON. I will say to the gentlelady that I have brought a document here with me today. I had a great meeting with some Federal employees the other day, and they said, Explain it to me, GOP.

One person, Paul here, says: I earn less than \$45,000 a year. Explain it to me, GOP, how cutting my pay creates jobs. This person, Paul, represents the Tobyhanna Army Depot workers. They do something really important.

Then there is another Federal employee: Twelve percent of my salary I earn caring for veterans goes to my retirement. Explain it to me, GOP, how cutting my retirement puts people to work. That's what Teresa has to say, and she represents nurses at the Minnesota VA hospital.

Then here is Eric Young, and he represents correction officers in Miami, and he says: I pay more than \$9,000 a year for my family health insurance. Explain it to me, GOP, how cutting my take-home pay lowers unemployment.

These are the faces of Federal employees. Sometimes when we talk about, oh, just cut the Federal employees, they're nameless, faceless. Who are these people? But as you pointed out, they are the people who really improve the quality of our lives every single day—people who protect us here in the Capitol but also who protect our veterans, who work in our Federal prisons, and who are Army Depot workers. This is the face of Federal workers, and I just think it's fair to say that they deserve to have somebody speak up for them as they have put their lives on the line to protect all of us.

Ms. SCHAKOWSKY. Let me also say this.

Some argue that, oh, well, it's such a cushy job to work for the Federal Government and that Federal employees actually make more money than in the private sector. Let me explain that.

As for the people who work in the lower-wage jobs for the Federal Government, women actually make more working for government than they do in the private sector because, in the private sector, they make about 70 cents on the dollar, and thank goodness the Federal Government has more equity in what it pays. The same is true for minorities, who earn much less than white men do in the private sector; but when you work for the Federal Government, you have certain protections and certain equity that we've all supported, so they make more money.

When you get to the higher-wage jobs, working for the National Institutes of Health or more, for the higher-skilled jobs, in fact, those workers who work for the Federal Government could make more in the private sector, but they have made a decision to help our government, to help our country by working in the public sector.

So when they say some Federal workers earn more, I say God bless

them because we don't discriminate like many in the private sector do, and we wish that the private sector would not discriminate in pay against women and minorities. It's not as if they should go out there and earn less money.

Mr. ELLISON. What I hear them say is, oh, well, the Federal workers earn more money than the people who pay their salaries in the form of taxes. They say this divisively and in a very smug way. And I think to myself, aren't we a country that should value public service, people working in the public interest for the public good? Does bread cost less for them? Is gasoline cheaper for them? No, it's not. Thank heavens that the Federal Government can pay people fairly and that we don't have these vast disparities in pay between men and women for Federal workers.

Basically, the protections that the people have in working for the Federal Government don't always prevail in the private sector, and that accounts for some of the disparity. Then, of course, as you just pointed out, people at the higher income levels, they could do just as well and be paid much more handsomely if they were to work elsewhere.

Ms. SCHAKOWSKY. It's estimated, actually, that those individuals could probably make as much as 26 percent more working in the private sector, but they want to contribute to the common good and work for all of us. Then, in order to pay for our transportation bill or any other bill, we ask the Federal workers to contribute more.

□ 1940

Take a look around. I say to my colleagues, look around us. Everywhere we go in this Capitol, in our office building, we are looking at Federal employees that, without, this place simply would not run. We are dependent on them and we rely on them for a good reason—because we can count on them. They contribute often as much as anyone here to making our country the great country that it is, and working in the Capitol of the United States of America with enormous pride, I might add.

Mr. ELLISON. I ask the gentlelady, when did it happen that working in the public interest became, in the minds of some people, something less than honorable work to do?

Ms. SCHAKOWSKY. I think there has been a real demonization of all public sector workers lately, and that is why I'm so glad tonight we're able to put a face on these individuals and say who are they, what kind of work are they really doing.

But beyond that, to say, really, this is where we want to get the sacrifice? We're not going to ask one thing more of the oil companies or the gas companies or the businesses that are making

record profits and taking those jobs overseas and outsourcing them and getting a tax break for them? We're not asking the millionaires and the billionaires in this country who have actually benefited from the work of public employees, of Federal employees to get what they need in order to get ahead, we're not asking them to pay any more? No, we're going to take it out of the hides of middle class workers, if they are lucky. Some of them are down at the lower end. We're going to take it from the middle class workers, the middle class families, and ask them to make the sacrifice and pay more for their pensions.

Mr. ELLISON. If the gentle lady will yield.

I actually see this as another wedge. We talk about the wedges. We talk about some folks often are associated with the right-wing conservative philosophy who make arguments that would divide people who were born here versus immigrants, gays versus straights, all these kind of wedges, the "Willie Horton" thing, all this kind of wedge stuff. This is a new wedge, Federal workers versus private sector workers. It seems like they're trying to engender a certain amount of resentment among private sector workers for public sector workers. When are we going to talk about the people at the very tip-top who have been compensated beyond imagination in the oil and gas sector, in the drug sector, in the health care sector, those in private equity, all these folks who have been making so much money on Wall Street? When do we ask them to do more?

Ms. SCHAKOWSKY. Actually, we did, didn't we, in the people's budget that the Progressive Caucus introduced? That budget balances the budget, cuts the deficit, cuts the debt, but doesn't try to take it out of the hide of middle class people in the same way that we see from our colleagues across the aisle.

I know included in that budget is my Fairness in Taxation Act that says that people starting at a million dollars ought to pay a higher tax bracket, ratcheting up to people who make a billion dollars a year. There may be somebody at home saying, oh, nobody makes a billion dollars a year. Yes, they do. Mr. Paulson made \$5 billion in 2010. He probably paid at a rate that may have been lower than his secretary or secretaries.

Mr. ELLISON. I am glad that you raised this point about the people's budget, because that really is the point of the Progressive message, to talk to the Speaker and the American people about there being an alternative in our Congress. Not everybody is carried away with this philosophy that Federal workers need to pay more and get less.

Actually, there are a body of folks in the Democratic Caucus, and particu-

larly the Progressive Caucus, who really want to see a more shared way of paying for the needs of our country.

We recently had a hearing in which we talked about jobs, and we had a group called the Patriotic Millionaires who was there. And this is the interesting thing about your particular tax proposal. A lot of people who are making a lot of money agree that they should pay more. I find this to be very interesting, because patriotic Americans do come from various income strata. I think it's commendable for people at the top end, the people who might pay a higher rate under your bill, who say, Yeah, tax us more because we believe there should be a good public school system; we believe the water should be clean; we believe that Federal workers should be fairly compensated; we have enough. What drives us is not the acquisition of more, but the idea of creating good products and services for Americans, which we charge for, of course, but at the end of the day, everybody has to do their fair share.

I thank you for offering the Buffett Rule before there was a Buffett Rule. Before we were talking about a Buffett Rule, you were out in front of the pack.

Ms. SCHAKOWSKY. One of the themes that the President has underscored over and over again is that everybody should get a fair shot and everybody pay their fair share and everybody play by the same rules.

When we talk about where should the money come from for important things like transportation—of course there are many flaws in that bill. They take mass transportation, mass transit, out of the funding stream. Transportation, I think, has always before been a bipartisan issue, and, of course, we want to be able to pay for that. It creates a lot of jobs. Everybody uses the roads. They use the transit system. They benefit. Everybody needs to pay their fair share, what they are able to pay to contribute to the common good.

The President has talked about having each other's back as kind of a basic philosophy, that we're all in this together, not we're all in this alone. That's one of the early ideas in America.

Picture, now, the covered wagons and the rugged individualism of those people crossing. They were together in a row, each one a rugged individual, but all of them were making sure that they helped to take care of each other so that they could get across safely.

I think that's the vision, that we're a combination of individual freedoms, strong individualism, but we also understand that we all do better when we all do better.

Mr. ELLISON. As my hero Paul Wellstone famously said, "We all do better when we all do better."

But those people you're talking about, those rugged individuals cross-

ing the prairie, when they had to put a barn up, they didn't do it alone, did they? They'd have a barn raising, which was a community event. This idea that we do what we do—what we do, we should do best together, we do those things together. Whatever we can do individually, we certainly have the freedom to do that.

I am concerned about shifting political winds, which sort of ignore the idea that we are in this together, that the road in the transportation system is part of our commonwealth, something that is a benefit to us all, and so we all should pay for it, which is why I was particularly concerned about this transportation bill, H.R. 7. For the first time in about 50 years, the House is going to consider a partisan transportation package. Republicans are breaking the historical tradition of bipartisan action to rebuild infrastructure, create jobs, and strengthen our economy.

This proposal, H.R. 7, would cut about 550,000 American jobs, cuts highway investments in 45 States and D.C.

Ms. SCHAKOWSKY. Everyone needs to hear that again. Would cut?

Mr. ELLISON. Cut.

The GOP proposal cuts 550,000 American jobs, cuts highway investments in 45 States, bankrupts the highway trust fund with a \$78 billion shortfall. As you said, it takes transit funding and puts it in the regular appropriations process, not in the stream of funding.

□ 1950

It gets rid of biking paths; it gets rid of walking paths. The reviews are in, and they all agree; the GOP bill is bad for jobs.

A good friend of mine who happens to be a Republican but works for the Obama administration, Ray LaHood, said, "This is the most partisan transportation bill that I have ever seen." And he's seen a lot of them. He's your home boy from Illinois, right?

Ms. SCHAKOWSKY. That he is.

Mr. ELLISON. Continuing to quote Mr. LaHood:

And it also is the most anti-safety bill I have ever seen. It hollows out our No. 1 priority, which is safety, and frankly, it hollows out the guts of the transportation efforts that we've been about for the last three years. It's the worst transportation bill I've ever seen in 35 years of public service.

Now, that's saying a lot.

Ms. SCHAKOWSKY. That is saying a lot. As I said before, and as Ray LaHood was alluding to, as many differences that may have existed across the aisle, recognizing the importance of transportation for commerce, for business, for everyday Americans getting to work, for linking our country together, for transporting our goods, Democrats and Republicans have always been able to sit down and together craft a piece of legislation on transportation. And to come up with an equitable way to fund it. Everyone has been able to agree.

This time, not only the way the bill is funded—talking about putting the burden on public employees to help fund it, but the elements of the bill itself. The fact, as you read, it is going to actually cost jobs. The transportation bill has always been the place where we have created jobs in our country. I think it's really shameful. I don't see that this piece of legislation is going to pass, but those who proposed it, I think, have made a serious miscalculation in every way.

Mr. ELLISON. Now, you know, it's beyond my ability to comprehend that any American, any American, would do anything other than try to make sure that everybody had enough. We had enough jobs for everybody who wanted to work, and those jobs were well-paying. But I tell you, there has been polling out there on what Americans think. This is not what I think; this is what Americans have said. Half of Americans believe that Republicans are sabotaging our recovery to win an election; 55 percent believe that, and 44 percent believe other than that.

Now, when you hear that this transportation bill is going to cut over half a million jobs, it's difficult to go to Americans and explain that's not what they are doing. Now again, I'm not going to look into the inner recesses of anyone's heart. I don't know what people's motives are. But I do know any bill, when we have unemployment north of 8 percent, which is going to cut jobs, and has been a historic place where we have created jobs, I think Americans have reason to be suspicious, and I hope our Republican majority would come and clarify what they're actually doing because, like I just pointed out, half of Americans believe that the Republicans are sabotaging our recovery to win an election.

Ms. SCHAKOWSKY. Well, let me give you an example.

We have seen the unemployment rate now drop to 8.3 percent, and that's not good, but it's better. We've seen it drop, and we have seen 23 months now of private sector job growth every month, which is a great thing, a great record.

Yes, let everybody look at that chart. The orange-brown part is during the Bush administration when the economic crisis first hit. And then the blue is during the Obama administration, where you see a pretty steady decrease in unemployment, and then you see now we are above the line for many months and creating jobs, and that increase in jobs.

But if the Republicans had not gone after public sector jobs, if there had not been the cut in public sector jobs at the Federal level as well as at the State level, because a lot of Federal dollars were lost to the States, causing the layoffs of many teachers and firefighters and policemen, public sector workers have been laid off, we would

have an unemployment rate of about 7.5 percent if those cuts hadn't happened in the public sector. So, you know, who's really for getting our economy going, putting people back to work, letting them be taxpayers rather than having to receive unemployment benefits, you know, which we better extend because people need them, but they'd rather have a job.

Mr. ELLISON. Absolutely. The gentlelady should note, I had this one chart up, and I would like to let folks know, because what the question was—Washington Post-ABC asked the following statement: President Obama is making a good-faith effort to deal with the country's economic problems, but the Republicans in Congress are playing politics by blocking his proposals and programs.

Or: President Obama has not provided leadership on the economy, and he's just blaming the Republicans in Congress as an excuse for not doing his job.

Fifty percent of the people responded to statement A, the first one. And that is: President Obama is making a good-faith effort to deal with the country's economic problems, but Republicans in Congress are playing politics by blocking his proposals and programs.

Now, I hope that Republicans are reading these, because they're not looking good. The best thing for them to do is to stop making proposals like this transportation bill, H.R. 7, which literally cuts jobs, because the American people are watching this. And quite frankly, I want us all to succeed. I don't think that it's good for the American population to think that one party that is elected to promote the public interest is doing something other than that in order to win an election.

Again, this board here clearly shows that when President Bush was in, this was kind of red. It's kind of bleeding, and then the blue is going up, up, up, and now above the line, and we have been adding 23 consecutive months of private sector job growth, but that public sector job loss, as you pointed out, is literally a drag on the economy, and it's hurting us. We need people to get to work.

I just want to ask the gentlelady a question. Again, I mean, does a public sector paycheck offer less at the local grocery store when the person goes to buy some groceries with that public sector paycheck?

Ms. SCHAKOWSKY. No. It's a job and a paycheck, and you take it to the grocery store. And it resonates throughout the economy. But I'll tell you, it's a pinch. When that wage and that check is frozen for 2 years, people feel that. Prices at the grocery store still go up, and so that very same paycheck doesn't quite buy as much. You know, there may be some lifestyle changes, maybe not such big things but some

little things that add to the quality of life that actually our Federal employees have had to do without because of the freeze. And then, they're asked now, in order to even pay for a transportation bill, to lose money out of their pension fund, to have to pay more of their pension, which is their retirement fund.

Mr. ELLISON. I just want to point you, you and I were just talking about this chart which shows that under the Bush administration, the unemployment rate going up, us losing jobs, and then the steady march back the other way.

This chart shows that GOP proposals would eliminate up to 7.4 million jobs by 2016. So if you look at the proposals that the GOP has been making while they have been in the majority, the transportation bill, H.R. 7, is just one example of job killing. They like to call stuff "job killing." That's their little Frank Luntz talking point. But they have in actuality proposed job-killing legislation. Starting with H.R. 1, The Economist, The Center for American Progress, showed that it would cut a million jobs. Repealing health care reform would cut about 2 million. GOP budget cuts, that's the Ryan budget, cuts to the Federal workforce, their so-called JOBS Act, all the way down the line.

□ 2000

This red is, if they could have their way, this is the bleed of American jobs that would happen. Now, this is a projection. But the fact is this transportation bill is a typical example of their idea of how the economy should operate. And it is very disturbing—17.4 million jobs. Of course, this would simply renew a trend that we were on during the Bush administration. So I think it's time for Republicans to stop offering these bad jobs bills and start offering some things that are going to put Americans back to work. They can begin that process by yanking this H.R. 7.

Ms. SCHAKOWSKY. Let me also just say that you mentioned that the Republicans like to point to the President's proposals or Democratic proposals and say, oh, this is another job-killing measure. Well, the facts are the facts. And the facts are that we have seen 23 months of private sector job creation. Literally millions of jobs have been created. And so I haven't heard too much about the job killing lately because it's pretty hard to talk about every time the job numbers come out and those jobs are increasing.

I want to thank you very much for bringing up an example of a piece of legislation that doesn't address our transportation needs, that does result in job loss, and that is paid for by going after middle class Federal workers as the ones who have to sacrifice in order to fund legislation like this. Thank you.

Mr. ELLISON. I thank the gentleman. I just want to make a few points before we begin to wrap it up. I just want to point out that economist Mark Zandi, who has advised Senator MCCAIN, said by 2014 real GDP is almost \$200 billion lower, and there are 1.7 million fewer jobs under the Ryan approach than is under the case of the President's. That's just one honest economist's estimate.

The Economic Policy Institute's conservative estimate of the Republican budget is 2 billion to 3 billion jobs lost over 5 years. Again, H.R. 1 would cut a couple of hundred thousand jobs. So, I really think, Mr. Speaker, that the American people need to know what kind of a "jobs program" the Republicans are talking about. They're not talking adding jobs; they're talking about cutting them. And H.R. 7 is but a typical example of the kind of damage these Republican majority Members would do to the American economy.

With that, I yield back the balance of my time.

#### WAKE UP, AMERICA

The SPEAKER pro tempore (Mr. BUCSHON). Under the Speaker's announced policy of January 5, 2011, the gentleman from Texas (Mr. GOHMERT) is recognized for 30 minutes.

Mr. GOHMERT. Thank you, Mr. Speaker. These are interesting days in which we live. There is supposed to be an old Chinese curse that says: May you live in interesting times; and it's as if that curse has been placed on us. We certainly live in interesting times.

On 9/11/2001, this country suffered the worst attack in its history on its homeland. It was worse than December 7, 1941. It left thousands dead, it left the Nation reeling from the feeling of vulnerability, and it pushed the Federal Government to respond quickly.

Now, there are a number of things that could be effectuated more effectively in Iraq and Afghanistan. That would be a subject for another time.

I recall after 9/11, Bill Bennett coming to my hometown of Tyler, Texas, and speaking at Tyler Junior College. And there was a huge crowd that turned out. People, in fact, turned out during those few months after 9/11 in record numbers to their churches and to places of worship in record numbers. Because much like the children of Israel after a disaster, they realized they needed to get back closer to our Creator.

The FBI, our intelligence attributes, all of our Justice Department, State Department and all of the Bush administration immediately was pushed into gear to do something to protect us. And in that regard, Bill Bennett speaking there in Tyler said, Some people get offended if they look somewhat like someone who committed the worst

attack in American history and they're searched more thoroughly than perhaps someone else.

And Bill said, I just know that if there was a red-headed Irishman that had attacked the United States, he said, I could anticipate having to go through heightened security checks every time I try to fly, every time I try to go anywhere. And he said, If that were to happen, I would understand because, he said, I love this country. I want people to be safe and feel safe, and since someone who looked like me with red hair and my same heritage had committed that act, even though he was and is a law-abiding citizen, he would understand being subjected to more scrutiny.

There was a time in this country when common sense like that did prevail, when no one would have ever dreamed that in going through security at an airport and somebody like me asking, why did I get pulled aside for the extra inspection and the puffery and all the added scrutiny, and being told, you look like you wouldn't get mad. That told me a lot. I stood there and watched for about 20 minutes. There were a couple of African American businessmen, well dressed, they were pulled aside for the heightened scrutiny. They certainly had no resemblance to anybody that had attacked America on 9/11. A little old lady, one of our seniors, full of vim, vigor and spirit, she was pulled aside. Anyway, interesting times.

I think our Justice Department, some of our folks who are supposed to be looking out for our protection have been lulled into a false sense of security, and they have done what some say would be to respond to the squeaky wheel. The OIC, the 57 Islamic nations that make up the OIC, are the ones that invented the term "Islamophobia," and it was Islamic nations that have funded some of our Ivy League schools, institutions of higher learning yearning for more dollars to accept massive contributions in return for their doing seminars and conferences on Islamophobia and trying to make Americans think there's something wrong with them if they fear the people who brought about 9/11.

□ 2010

Now, I am grateful for my Muslim friends. I am very grateful for the Muslim allies we had—and have, although this administration is throwing them under the bus—that we have in northern Afghanistan, the Northern Alliance, those in the Balochistan area of Pakistan. We've got Muslim friends all over the world. We have Muslim friends in this country who love the freedom here, who don't want to see this country hurt.

But there are those who have contributed to terrorism. There are those who have come here from other coun-

tries who hope to see our demise. My brother, who was living out north of the beltway, was shocked on 9/11, that afternoon, to see in a Muslim area north of the beltway children jumping and yelling and rejoicing over the deaths of Americans in the Pentagon and in the 9/11 towers. There was a time when Americans would have had more sensitivity than that. They would be so grateful to be in America they would not rejoice in the loss of innocent lives by Islamic jihadists.

The 9/11 Commission, bipartisan as it was, came to conclusions—with all of which I don't agree—but they made a very good-faith effort. They came to the conclusion about certain things, and it was clear that the actions of the terrorists that killed over 3,000 Americans were those of Islamic extremists, not rank-and-file, but Islamic extremists who believed that jihad meant the destruction of our way of life here in America, of Americans as infidels because they do not believe the same way.

Who would have believed that 10½ years later the mean people would not be those who have refused to denounce terrorist activities, those groups who have not only refused to denounce terrorist activity but who have actually supported terrorist activity through Hamas and Hezbollah—known terrorist organizations—and against whom there is sufficient evidence, as found by a district court in Texas and by the Federal Fifth Circuit Court of Appeals, sufficient evidence to move forward with the case. That's because the judge in the district court, Judge Solis, and the Fifth Circuit agreed that there was prima facie evidence of Muslim groups here in America who were named but unindicted coconspirators in funding terrorism, "prima facie" meaning adequate evidence to basically go forward. In fact, the words "prima facie" were used by Judge Solis in his decision.

Well, the FBI, over the years, seems to have relaxed in some regards, wanting to avoid being called Islamophobic, as the 57 Islamic states have shoved that notion further and further across our Nation, have pushed to meet one of their 10-year stated goals, as found in the materials of the Muslim Brotherhood archives found across the river in Virginia in a subbasement.

One of those goals was to subvert—actually subject the U.S. Constitution to sharia law; and the way to do that was to force a pronouncement that in America you could burn a Bible, you could put a cross in urine, you could call Christians all kinds of names, blaspheme Jesus Christ, you can burn an American flag, call the American Government all kinds of names, but under no circumstances should anyone defile a Koran.

As a Christian, I do not think anyone should ever abuse a Koran in any way. But the Constitution says if somebody

wants to burn a Bible, that's been interpreted to mean you can burn a Bible. It's a freedom of speech issue. If you want to burn a flag, we're told you can do that.

Well, we had the Director of the FBI come before our Judiciary Committee in the not-too-distant past. And these are some of the documents that have been involved in the prosecution of the Holy Land Foundation in which groups like the Islamic Society of North America, CAIR, others, were named co-conspirators. In any event, Director Mueller, March 16 of last year, before our Judiciary Committee, had testified in answer to a number of questions that, gosh, they viewed the Muslim community as absolutely the same as any other community, even those Muslim communities that rejoiced over 9/11—he didn't say this, but it was clear—that rejoiced over the deaths of Americans on 9/11. They saw them just like every other community. He also testified about the positive outreach that the FBI had been making to Muslim communities.

Well, I don't have a problem with that, but why would the FBI see the need to make positive outreach into any community of a specific nature?

So, after Director Mueller had indicated, yes, we have this wonderful outreach program with the Muslim communities and those communities are exactly like every other community, I said:

You had mentioned earlier—and it is in your written statement—that the FBI has developed extensive outreach to Muslim communities. And in answer to an earlier question, I understood you to say that Muslim communities were like all other communities. So I'm curious, as a result of the extensive outreach program the FBI has had to the Muslim community, how has your outreach program gone with the Baptists and the Catholics?

Mr. Mueller said:

I am not certain of necessarily the thrust of that question. I would say that our outreach to all segments of a particular city or county or society is good.

I said:

Well, do you have a particular program of outreach to Hindus, Buddhists, Jewish community, agnostics, or is it just an extensive outreach program to—

He interrupted and said:

We have outreach to every one of those communities.

I asked how he did that. And he started to filibuster. I said:

I have looked extensively, and I haven't seen anywhere in any one from the FBI's letters information that there has been an extensive outreach program to any other community trying to develop trust in this kind of relationship, and it makes me wonder if there is an issue of trust or some problem like that that the FBI has seen in that particular community.

□ 2020

And just so there's no mistaking, let me just read directly from the judge's

opinion in the Holy Land Foundation case in response to the effort by ISNA, CAIR, NAIT, the Holy Land Foundation, and others.

The judge said:

The government has produced ample evidence to establish the associations of CAIR, ISNA, and NAIT with the Holy Land Foundation, the Islamic Association for Palestine, and with Hamas. While the Court recognizes that the evidence produced by the government largely predates the HLF designation date, the evidence is nonetheless sufficient to show the association of these entities with the Holy Land Foundation, the Islamic Association for Palestine, and Hamas.

There was plenty of evidence to support that, according to the judge. That was affirmed by the Fifth Circuit.

It is important to note that, out of concern for the FBI's outreach program, and the State Department, and the White House, for reaching out and bringing in people who courts have said have supported terrorism, and these people are being brought in—in the military we said brought inside the wire—in this case, brought inside the State Department, brought inside The White House on a regular basis, brought inside the Justice Department, my friend, FRANK WOLF, had this language added to the continuing resolution that was passed, that President Obama signed into law. This is language in the law, and my friend, Mr. WOLF, included it to reference the FBI's policy.

It says, and this is the language in the law:

Conferees support the FBI's policy prohibiting any formal non-investigative cooperation with unindicted coconspirators in terrorism cases. The conferees expect the FBI to insist on full compliance with this policy by FBI field offices, and to report to the Committees on Appropriations regarding any violation of the policy.

Well, guess what? We didn't get this from the FBI. We had to get it from the Islamic Society of North America's own Web site. They reported that on Wednesday, February 8, that's this year, the American Arab Anti-discrimination Committee, the Arab American Institute, the Interfaith Alliance, the Islamic Society of North America, ISNA, which has been pronounced by the Fifth Circuit as having plenty of evidence to support that they fund terrorism and have, and then it mentions other groups, including the Shoulder-to-Shoulder Campaign.

But they, it says:

They had an opportunity to discuss the matter with the Public Affairs Office of the FBI. Director Robert Mueller joined the meeting to discuss these matters with representatives from the organizations.

The conversation with Director Mueller centered on material used by the agency that depicts falsehoods and negative connotations of the Muslim American community. The use of the material was first uncovered by Wired magazine.

And that was uncovered by an organization that seems to be right in there with those who were unindicted but named coconspirators in funding terrorism.

Well, from ISNA they say:

Director Mueller informed the participants that the FBI took the review of the training material very seriously, and he pursued the matter with urgency to ensure that this does not occur again in the future.

ISNA President Imam Magid, who's a frequent visitor to the White House, who the White House consults on speeches, or has, and welcomed to the inner sanctum of the State Department, other Departments here in Washington, Magid stated:

The discovery of FBI training materials that discriminated against Muslims did damage to the trust that was built between dedicated FBI officials and the American Muslim community. We welcome and appreciate Director Mueller's commitment to take positive steps toward eradicating such materials and rebuilding trust in an open dialogue.

The director also informed participants that to date, nearly all related FBI training materials, including more than 160,000 pages of documents, were reviewed by subject matter experts multiple times. Consequently, more than 700 documents, 300 presentations of material, have been deemed unusable by the Bureau and pulled from the training curriculum. Material was pulled from the curriculum if even one component was deemed to include factual errors or be in poor taste or be stereotypical, or lack precision.

I guess stereotypical would mean if they point out that terrorists have had one thing in common, that that would be stereotypical.

Well, ISNA also reports:

It was clear to all meeting participants that the issue of trust between community members and the FBI needs to be taken seriously by all our nation's decisionmakers. It was evident the Bureau must strengthen its efforts to build trust.

How about trust from the other side? How about condemnation of terrorist acts?

How about coming out and making clear all ties have been severed with Hamas and Hezbollah and those who would seek to make terror on innocent people?

Anyway, ISNA's rejoicing because they've gotten the FBI to actually go through and cull material that includes words like jihad, words like Islamist.

And, in fact, and I really do wish, Mr. Speaker, that our Director of the FBI would be as concerned about this law as he is about laws that don't exist, but his concern is about offending people who have been supporting terrorism that has been killing innocent people around the world.

Instead, this is what we have as a result of the efforts by this administration and the Director of the FBI. The 9/11 Commission report mentioned 322 times Islam because the people who were the hijackers, the people that planned the attacks, that hoped that



they would kill tens of thousands of Americans instead of 3,000, those who helped train them in Afghanistan, those who helped plan and participate from other radical Islamist groups, they were Islamists. They believed in Islam. And thank God that they only represent a tiny percentage of Muslims around the world. But let's be realistic. As one intelligence officer said, we are blinding ourselves to being able to see who our enemy is.

Well, our FBI can be very, very proud. No longer in training materials, as the director told the named coconspirator of terrorism, ISNA, no longer are they going to mention Islam, Muslim, jihad, enemy. They don't mention the Muslim Brotherhood. They don't mention Hamas. They don't mention Hezbollah. They don't mention al Qaeda. They don't mention caliphate. They don't mention sharia law.

Those have been wiped clean from our training materials so that new FBI trainees, people coming in, will have no idea exactly what they're facing because they're being told, you must look only at a group as supporting heightened violence. But you cannot examine their books, things that mean very much to them, things that motivate these killers, these terrorists. You can't look at the things and their interpretations, what makes them tick.

How do you defeat an enemy if you cannot look at what makes them think the way they do? I would think that groups, our Muslim friends who want to help keep this country free, instead of demanding that we not realize that these are Islamic jihadists that want to kill us, that they would be out there pointing these people out publicly and condemning them. Instead, they're condemning those who simply want to protect America, who want to live in peace, want to live in freedom.

□ 2030

Imagine what these same kind of groups would have said if they had heard the prayer on D-day, live? Can you imagine these groups hearing Franklin Roosevelt's prayer on radio as he prayed for 6-to-10 minutes publicly, a prayer that you can find online?

Almighty God: Our sons, pride of our Nation, this day have set up on a mighty endeavor, a struggle to preserve our Republic, our religion, and our civilization to set free a suffering humanity.

He goes on and prays for a very long time on D-day as our troops were trying to retake Europe.

He also says in his prayer:

And, O Lord, give us faith. Give us faith in Thee; faith in our sons; faith in each other; faith in our crusade. Let not the keenness of our spirit ever be dulled. Let not the impacts of temporary events, of temporal matters of but fleeting moment—let not these deter us in our unconquerable purpose. With Thy blessing, we shall prevail over the unholy forces of our enemy.

Back then, Roosevelt didn't know you couldn't call your enemy that wanted to take over your Nation, that wanted to kill innocent people, that wanted to take away your liberty, Roosevelt didn't know you couldn't call them unholy forces of our enemy. So he used those terms because he cared about America. He cared about protecting America.

We want to live in peace. We want to live in peace with our Muslim friends, our Hindu friends, our agnostics, our atheists. But for heaven's sake, do not keep blinding our intelligence community, our justice community.

There was a time when in America you could call things just as they were, and in the Revolution one of the most quoted statements was attributed to Voltaire:

I disagree with what you say but will defend to the death your right to say it.

Now, when someone disagrees with what you say, they want to destroy your life, destroy your livelihood.

It's time for America to wake up before we get hit again. We have people in this country who are supporting terrorism. There's prima facie evidence to establish it; the courts have found it. This administration refused to pursue it when the evidence was clearly there, refused to pursue these people; and instead of pursuing the unindicted coconspirators after the convictions and the Holy Land Foundation—oh, sure, this administration says, Well, the Bush administration wasn't going to. The Bush administration was going to pursue the unindicted coconspirators if they got convictions in the Holy Land Foundation trial, which they did, near the end of 2008.

It's this administration that refused to go forward and prosecute anyone further.

So instead of prosecuting people supporting terrorism, this administration calls them into the White House, calls them into the Justice Department and says why can't we be friends.

It's time to wake up. We owe this country a defense with our eyes open, with our arms and heart open to help those who really are helpless, but to stand firm even to the death as our servicemembers are pledged to do, as I did my 4 years on active duty. Let's stand firm together until those who are intent on destroying us and supporting terrorism are made to account and back off and say we're no longer your enemy. Then all communities can worship and love as one.

We've got to protect America.

With that, Mr. Speaker, I yield back the balance of my time.

#### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. BONO MACK (at the request of Mr. CANTOR) for today and February 17

on account of her daughter giving birth.

Mr. CAMPBELL (at the request of Mr. CANTOR) for today and the balance of the week on account of illness.

#### ADJOURNMENT

Mr. GOHMERT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 34 minutes p.m.), the House adjourned until tomorrow, Friday, February 17, 2012, at 9 a.m.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XIV, executive communications were taken from the Speaker's table and referred as follows:

5024. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Amendment of VOR Federal Airways B-81, V-89, and V-169 in the Vicinity of Chadron, Nebraska [Docket No.: FAA-2010-1016; Airspace Docket No. 11-ACE-6] (RIN: 2120-AA66) received January 26, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5025. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Amendment of Restricted Areas R-2104A, B, C, D and E; Huntsville, AL [Docket No.: FAA-2010-0693; Airspace Docket No. 11-ASO-29] (RIN: 2120-AA66) received January 26, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5026. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Amendment of Class E Airspace; Huntington, WV [Docket No.: FAA-2011-1057; Airspace Docket No. 11-AEA-21] received January 26, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5027. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Revocation and Establishment of Compulsory Reporting Point; Alaska [Docket No.: FAA-2011-1238; Airspace Docket No. 11-AAL-20] received January 26, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5028. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Amendment of VOR Federal Airways V-320 and V-440; Alaska [Docket No.: FAA-2011-1014; Airspace Docket No. 11-AAL-19] (RIN: 2120-AA66) received January 26, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5029. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Amendment of Class E Airspace; Anaktuvuk Pass, AK [Docket No.: FAA-2011-0867; Airspace Docket No. 11-AAL-16] received January 26, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5030. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Amendment of Class D and E Airspace; North Philadelphia, PA [Docket No.: FAA-2011-0625; Airspace



Docket No. 11-AEA-16] received January 26, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5031. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Amendment of Class E Airspace; Byron, OH [Docket No.: FAA-2011-0606; Airspace Docket No. 11-AGL-14] received January 26, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5032. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Amendment of Class E Airspace; Spearfish, SD [Docket No.: FAA-2011-0431; Airspace Docket No. 11-AGL-11] received January 26, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5033. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Amendment of Class E Airspace; Sturgis, SD [Docket No.: FAA-2011-0430; Airspace Docket No. 11-AGL-10] received January 26, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5034. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Amendment to and Establishment of Restricted Areas; Warren Grove, NJ [Docket No.: FAA-2011-0104; Airspace Docket No. 11-AEA-2] (RIN: 2120-AA66) received January 26, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5035. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Amendment of Federal Airways; Alaska [Docket No.: FAA-2011-0010; Airspace Docket No. 11-AAL-1] received January 26, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5036. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Amendment of Class E Airspace; Carroll, IA [Docket No.: FAA-2011-0845; Airspace Docket No. 11-ACE-19] received January 26, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5037. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Stuart, IA [Docket No.: FAA-2011-0831; Airspace Docket No. 11-ACE-17] received January 26, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5038. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Amendment of Class E Airspace; Mercury, NV [Docket No.: FAA-2011-0894; Airspace Docket No. 11-AWP-14] received January 26, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. CAMP: Committee report on H.R. 3630. A bill to provide incentives for the creation of jobs, and for other purposes (Rept. 112-399). Ordered to be printed.

Mr. SCOTT of South Carolina: Committee on Rules. House Resolution 554. Resolution

providing for consideration of the conference report to accompany the bill (H.R. 3630) to provide incentives for the creation of jobs, and for other purposes (Rept. 112-400). Referred to the House Calendar.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. JOHNSON of Ohio:

H.R. 4048. A bill to amend title 38, United States Code, to clarify the contracting goals and preferences of the Department of Veterans Affairs with respect to small business concerns owned and controlled by veterans; to the Committee on Veterans' Affairs.

By Mr. NEAL (for himself and Mr. BLUMENAUER):

H.R. 4049. A bill to amend the Internal Revenue Code of 1986 to expand personal saving and retirement savings coverage by enabling employees not covered by qualifying retirement plans to save for retirement through automatic IRA arrangements, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. NEAL:

H.R. 4050. A bill to simplify and enhance qualified retirement plans, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STUTZMAN:

H.R. 4051. A bill to direct the Secretary of Labor to provide off-base transition training, and for other purposes; to the Committee on Veterans' Affairs, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STUTZMAN:

H.R. 4052. A bill to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to establish an honorary Excellence in Veterans Education Award; to the Committee on Veterans' Affairs.

By Mr. TOWNS (for himself, Mr.

PLATTS, Mr. SCHRADER, Mr. CONNOLLY of Virginia, Mr. ALTMIRE, Mr. BARROW, Mr. BISHOP of Georgia, Mr. BOREN, Mr. BOSWELL, Mr. CARDOZA, Mr. COOPER, Mr. DONNELLY of Indiana, Mr. HOLDEN, Mr. MATHESON, Mr. MCINTYRE, Mr. MICHAUD, Mr. PETERSON, Mr. ROSS of Arkansas, Mr. DAVID SCOTT of Georgia, Mr. SHULER, and Mr. THOMPSON of California):

H.R. 4053. A bill to intensify efforts to identify, prevent, and recover payment error, waste, fraud, and abuse within Federal spending; to the Committee on Oversight and Government Reform.

By Mr. WALZ of Minnesota (for himself, Ms. SLAUGHTER, and Mr. QUIGLEY):

H.R. 4054. A bill to amend the Lobbying Disclosure Act of 1995 to require the disclosure of political intelligence activities, to amend title 18, United States Code, to en-

hance the prosecution of public corruption, and for other purposes; to the Committee on the Judiciary.

By Ms. SPEIER (for herself, Mr. JONES, Mr. CUMMINGS, Ms. DELAURO, Mr. QUIGLEY, Mr. COOPER, Mr. GRIJALVA, Mr. HONDA, Mr. POLIS, and Mr. ELLISON):

H.R. 4055. A bill to count revenues from military and veteran education programs toward the limit on Federal revenues that certain proprietary institutions of higher education are allowed to receive for purposes of section 487 of the Higher Education Act of 1965, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committees on Armed Services, and Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BILBRAY (for himself, Mrs. DAVIS of California, Mr. LEWIS of California, Mr. ROYCE, Mr. CALVERT, Mrs. BONO MACK, and Mr. HUNTER):

H.R. 4056. A bill to amend the Federal Food, Drug, and Cosmetic Act to prevent a State or political subdivision thereof from conducting or requiring duplicative inspections of establishments in which a drug or device is manufactured, processed, packed, or held by a manufacturer or wholesale distributor of the drug or device; to the Committee on Energy and Commerce.

By Mr. BILIRAKIS:

H.R. 4057. A bill to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to develop a comprehensive policy to improve outreach and transparency to veterans and members of the Armed Forces through the provision of information on institutions of higher learning, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. BLUMENAUER:

H.R. 4058. A bill to amend title 11 of the United States Code to provide authority to modify certain mortgages on principal residences of debtors to prevent foreclosure; and for other purposes; to the Committee on the Judiciary, and in addition to the Committees on Financial Services, and Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. BONO MACK (for herself, Mr.

INSLER, Mr. COLE, Ms. ESHOO, Mr. GRIJALVA, Mr. KILDEE, and Mr. DEFAZIO):

H.R. 4059. A bill to amend the Communications Act of 1934 to establish a position for a representative of Indian Tribes on the Joint Board overseeing the implementation of universal service, and for other purposes; to the Committee on Energy and Commerce.

By Mr. FLEISCHMANN:

H.R. 4060. A bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to cap the level of Federal spending at \$949 billion for each of fiscal years 2013 through 2021, and for other purposes; to the Committee on the Budget.

By Mr. HUNTER:

H.R. 4061. A bill to support statewide individual-level integrated postsecondary education data systems, and for other purposes; to the Committee on Education and the Workforce.

By Mr. HUNTER (for himself, Mr. MCCLINTOCK, Mr. COSTA, Ms. SPEIER, Mr. BILBRAY, Mr. SCHIFF, Mr. ROYCE, Mr. HERGER, Mr. DENHAM, Mr.

MCNERNEY, Mr. CALVERT, Mr. DANIEL E. LUNGREN of California, Mr. GARAMENDI, Ms. ZOE LOFGREN of California, Ms. LEE of California, Mr. NUNES, Ms. WOOLSEY, Mr. GALLEGLY, Mr. STARK, Ms. RICHARDSON, Mrs. DAVIS of California, Mr. BERMAN, Mr. HONDA, Mr. BACA, Mr. CARDOZA, Ms. LINDA T. SANCHEZ of California, Mr. SHERMAN, Ms. ESHOO, Mr. FILNER, Mrs. NAPOLITANO, Mr. MCKEON, Mr. THOMPSON of California, Mr. WAXMAN, Ms. HAHN, Mr. CAMPBELL, Mrs. CAPPS, Mr. ROHRABACHER, Ms. WATERS, Ms. BASS of California, Mrs. BONO MACK, Ms. CHU, Ms. MATSUI, and Mr. GEORGE MILLER of California):

H.R. 4062. A bill to designate the facility of the United States Postal Service located at 1444 Main Street in Ramona, California, as the "Nelson 'Mac' MacWilliams Post Office Building"; to the Committee on Oversight and Government Reform.

By Mr. McDERMOTT (for himself, Mr. DICKS, Mr. MORAN, Mr. RANGEL, Mr. HONDA, Mr. FARR, Ms. LEE of California, Mrs. MCCARTHY of New York, Mr. PASCRELL, and Mr. GEORGE MILLER of California):

H.R. 4063. A bill to repeal section 512 of the Credit Card Accountability Responsibility and Disclosure Act of 2009 which relates to carrying certain weapons in National Parks; to the Committee on Natural Resources.

By Mr. MULVANEY (for himself, Mr. DUNCAN of South Carolina, Mr. WILSON of South Carolina, Mr. WALSH of Illinois, Mr. CANSECO, Mr. BROUN of Georgia, Mr. FINCHER, Mr. WESTMORELAND, Mr. GRAVES of Georgia, Mr. SCHWEIKERT, Mr. MARCHANT, Mr. FLORES, Mr. ROE of Tennessee, Mr. YODER, and Mr. HUELSKAMP):

H.R. 4064. A bill to amend the Internal Revenue Code of 1986 to repeal certain tax increases; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PIERLUISI (for himself, Mr. SERRANO, Mr. SABLAN, Mrs. CHRISTENSEN, Mr. FALOMAVAEGA, and Ms. VELAZQUEZ):

H.R. 4065. A bill to amend title XVIII of the Social Security Act to provide parity to Puerto Rico hospitals with respect to inpatient hospital payments under the Medicare program; to the Committee on Ways and Means.

By Mr. PRICE of Georgia (for himself and Mr. KIND):

H.R. 4066. A bill to amend titles XVIII and XIX of the Social Security Act to exclude pathologists from incentive payments and penalties under Medicare and Medicaid relating to the meaningful use of electronic health records; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. QUAYLE (for himself and Mr. GOSAR):

H.R. 4067. A bill to approve the settlement of water rights claims of the Navajo Nation, the Hopi Tribe, and the allottees of the Navajo Nation and Hopi Tribe in the State of Arizona, to authorize construction of municipal

water projects relating to the water rights claims, to resolve litigation against the United States concerning Colorado River operations affecting the States of California, Arizona, and Nevada, and for other purposes; to the Committee on Natural Resources.

By Mr. ROGERS of Alabama (for himself, Mr. CHAFFETZ, Mrs. BLACKBURN, and Mr. WALSH of Illinois):

H.R. 4068. A bill to require the Under Secretary for Science and Technology in the Department of Homeland Security to contract with an independent laboratory to study the health effects of backscatter x-ray machines used at airline checkpoints operated by the Transportation Security Administration and provide improved notice to airline passengers; to the Committee on Homeland Security.

By Mr. ROHRABACHER (for himself, Mr. COHEN, Mr. BARTLETT, Mr. STEARNS, Mr. KING of Iowa, Mr. SMITH of New Jersey, Mr. ROYCE, Mr. COBLE, Mr. FARENTHOLD, and Mr. GOHMERT):

H.R. 4069. A bill to award a Congressional Gold Medal to Dr. Shakeel Afridi; to the Committee on Financial Services.

By Mr. TURNER of New York:

H.R. 4070. A bill to clarify certain provisions relating to the interests of Iran in certain assets, and for other purposes; to the Committee on Foreign Affairs, and in addition to the Committees on Financial Services, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GINGREY of Georgia (for himself, Mr. KLINE, Mr. ROONEY, Mr. WESTMORELAND, Mr. JONES, Mrs. BLACKBURN, Mr. LONG, Mr. NUNNELEE, Mr. HUIZENGA of Michigan, Mr. MARCHANT, Mr. PAUL, Mr. BURTON of Indiana, Mr. MILLER of Florida, Mr. BILIRAKIS, Ms. JENKINS, Mr. LANKFORD, Mr. COBLE, Mr. CANSECO, Mr. GOSAR, Mr. LATTA, Mr. MULVANEY, Mr. DUNCAN of South Carolina, Mr. WILSON of South Carolina, Mrs. BLACK, Mr. YODER, Mr. HUELSKAMP, Mr. ROE of Tennessee, Mr. SCHWEIKERT, Mr. COLE, Mr. CULBERSON, Mr. RIBBLE, Mr. WALSH of Illinois, Mr. QUAYLE, Mr. BROOKS, Mr. CONAWAY, Mr. KING of Iowa, Mr. GRAVES of Georgia, Mr. GOHMERT, Mr. WALBERG, Mr. OLSON, Mr. AKIN, Mr. BROUN of Georgia, Mrs. ROBY, Mr. LANDRY, Mrs. MYRICK, Mr. BOUSTANY, Mr. SULLIVAN, Mr. CARTER, Mr. GOWDY, Mr. DUNCAN of Tennessee, Mr. HARRIS, Mr. MACK, Mr. STIVERS, Mr. BUCSHON, Mr. DESJARLAIS, Mr. CALVERT, Mr. ALEXANDER, Mr. KINGSTON, Mr. WOMACK, Mr. AUSTRIA, Mr. GRIFFIN of Arkansas, Mr. SESSIONS, Mr. POMPEO, Mr. PEARCE, and Mr. AUSTIN SCOTT of Georgia):

H.J. Res. 103. A joint resolution providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the National Labor Relations Board relating to representation election procedures; to the Committee on Education and the Workforce.

By Mr. GERLACH (for himself, Mr. NEAL, Mr. BUCHANAN, Mrs. BIGGERT, Mr. SAM JOHNSON of Texas, Mr. ROYCE, Mr. PAUL, Mr. SCHOCK, Mr. PLATTS, Mr. HERGER, Mr. TIBERI, Mr. BILBRAY, Mr. PAULSEN, Ms. JENKINS, Mr. WALBERG, Mr. WESTMORELAND,

Mr. JONES, Mr. HUIZENGA of Michigan, Mr. LOBIONDO, Mr. FITZPATRICK, Mr. TURNER of Ohio, Mr. GARY G. MILLER of California, Mr. STIVERS, Mr. BISHOP of Utah, Mr. PITTS, Mr. WILSON of South Carolina, Mrs. BLACK, Mr. LATHAM, Mr. GUINTA, Mr. AUSTRIA, Mr. KING of Iowa, Mr. NUNES, Mr. CHAFFETZ, Mr. MURPHY of Connecticut, Mr. REICHERT, Mr. DAVIS of Kentucky, Mr. MARCHANT, Mr. GUTHRIE, Mr. LUETKEMEYER, Mr. TERRY, Mr. NEUGEBAUER, Mr. LEWIS of California, Mrs. CAPITO, Mr. CHABOT, Mr. MEEHAN, Mr. BOUSTANY, Mr. THOMPSON of Pennsylvania, Mr. PRICE of Georgia, Mr. DENT, Mr. MCCOTTER, Mr. BASS of New Hampshire, Mr. MILLER of Florida, Mr. DUNCAN of South Carolina, Mr. STUTZMAN, Mr. AKIN, Mr. LATTA, Mr. SCOTT of South Carolina, Mr. MCKEON, Ms. BERKLEY, Mr. LARSON of Connecticut, Mr. RANGEL, Mr. LEWIS of Georgia, Mr. KIND, Mr. CICILLINE, Mr. LANGEVIN, Mr. WELCH, Mr. MICHAUD, Mr. STARK, Mr. PASCRELL, Mr. MORAN, Mrs. MCCARTHY of New York, Ms. SCHWARTZ, Mr. YARMUTH, Ms. PINGREE of Maine, Mr. HEINRICH, Mr. HOLT, Mr. FILNER, Mr. CARSON of Indiana, Mr. ANDREWS, Mr. MATHESSON, Mr. COURTNEY, Mr. LOEBESACK, Mrs. MALONEY, Mr. McDERMOTT, Mr. MCGOVERN, Mr. BISHOP of New York, Mr. THOMPSON of California, Mr. BOSWELL, Mr. CAPUANO, Mr. HOLDEN, Ms. SPEIER, Mr. KEATING, Mr. BACA, Mr. BECERRA, Mr. LYNCH, Ms. WOOLSEY, Ms. LORETTA SANCHEZ of California, Mr. BRALEY of Iowa, Ms. MATSUI, Mr. PERLMUTTER, Mr. PAYNE, Ms. MOORE, Mr. KILDEE, Mr. ALTMIRE, Mr. FRANK of Massachusetts, Mr. CRITZ, and Mr. MARKEY):

H. Con. Res. 101. Concurrent resolution expressing the sense of the Congress that our current tax incentives for retirement savings provide important benefits to Americans to help plan for a financially secure retirement; to the Committee on Ways and Means.

By Mr. RYAN of Ohio (for himself, Mr. KUCINICH, Ms. KAPTUR, Mr. LATOURETTE, Mr. LATTA, Mr. CHABOT, Mr. TIBERI, Ms. SUTTON, and Ms. FUDGE):

H. Con. Res. 102. Concurrent resolution commemorating and praising the Honorable John Glenn on the 50th anniversary of his historic orbital space flight; to the Committee on Science, Space, and Technology.

By Mr. LIPINSKI (for himself, Mr. MANZULLO, Ms. SUTTON, Mr. HOLT, Mr. REYES, Ms. BORDALLO, Mr. HINOJOSA, Ms. ZOE LOFGREN of California, Mr. MCNERNEY, Mr. BARTON of Texas, Mr. PAYNE, Mr. TONKO, Mr. ROHRABACHER, Ms. RICHARDSON, Mr. HONDA, Mr. CALVERT, Mr. MCCAUL, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. GRIJALVA, Mr. CARNAHAN, Mr. MILLER of North Carolina, Mrs. CHRISTENSEN, Mr. MCKINLEY, and Ms. HIRONO):

H. Res. 552. A resolution supporting the goals and ideals of National Engineers Week; to the Committee on Science, Space, and Technology.

By Mr. LARSON of Connecticut:

H. Res. 553. A resolution electing Members to certain standing committees of the House of Representatives; considered and agreed to.

By Mr. PAYNE (for himself, Mr. CONYERS, Ms. JACKSON LEE of Texas, Ms. RICHARDSON, Mr. JACKSON of Illinois,

Mrs. CHRISTENSEN, Mr. DAVIS of Illinois, Mr. MEEKS, Mr. CUMMINGS, Ms. FUDGE, Ms. SEWELL, Mr. RANGEL, Mr. ROTHMAN of New Jersey, Mr. BISHOP of Georgia, Mr. RUSH, Ms. BROWN of Florida, Ms. LEE of California, Ms. WILSON of Florida, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. CLEAVER, and Ms. WATERS):

H. Res. 555. A resolution to commemorate the life and accomplishments of Whitney Elizabeth Houston over the past 48 years; and expressing the condolences of the House of Representatives to her family upon her death; to the Committee on Education and the Workforce.

### CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 7 of rule XII of the Rules of the House of Representatives, the following statements are submitted regarding the specific powers granted to Congress in the Constitution to enact the accompanying bill or joint resolution.

By Mr. LUETKEMEYER:

H.R. 2453.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clause 5 states: "The Congress shall have Power . . . To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures."

By Mr. JOHNSON of Ohio:

H.R. 4048.

Congress has the power to enact this legislation pursuant to the following:

Article I, section 8 of the Constitution of the United States.

By Mr. NEAL:

H.R. 4049.

Congress has the power to enact this legislation pursuant to the following:

Congress has the power to enact this legislation pursuant to Clause 1 of Section 8 of Article I and the 16th Amendment to the U.S. Constitution.

By Mr. NEAL:

H.R. 4050.

Congress has the power to enact this legislation pursuant to the following:

Congress has the power to enact this legislation pursuant to Clause 1 of Section 8 of Article I and the 16th Amendment to the U.S. Constitution.

By Mr. STUTZMAN:

H.R. 4051.

Congress has the power to enact this legislation pursuant to the following:

Article I, section 8 of the Constitution of the United States.

By Mr. STUTZMAN:

H.R. 4052.

Congress has the power to enact this legislation pursuant to the following:

Article I, section 8 of the Constitution of the United States.

By Mr. TOWNS:

H.R. 4053.

Congress has the power to enact this legislation pursuant to the following:

This Bill is enacted pursuant to Article I, Section 8, Clause 3 of the United States Constitution, known as the "Commerce Clause." This provision grants Congress the broad power to "regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes."<sup>1</sup>

By Mr. WALZ of Minnesota:

H.R. 4054.

Congress has the power to enact this legislation pursuant to the following:

This bill is enacted pursuant to the power granted to Congress under Article I, Section 8 of the United States Constitution.

By Ms. SPEIER:

H.R. 4055.

Congress has the power to enact this legislation pursuant to the following:

This bill is enacted pursuant to the power granted to Congress under Article I, Section 8 of the United States Constitution.

By Mr. BILBRAY:

H.R. 4056.

Congress has the power to enact this legislation pursuant to the following:

Article VI, Clause 2: This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

By Mr. BILIRAKIS:

H.R. 4057.

Congress has the power to enact this legislation pursuant to the following:

Article I, section 8 of the United States Constitution (clauses 12, 13, 14, and 16), which grants Congress the power to raise and support an Army; to provide and maintain a Navy; to make rules for the government and regulation of the land and naval forces; and to provide for organizing, arming, and disciplining the militia.

By Mr. BLUMENAUER:

H.R. 4058.

Congress has the power to enact this legislation pursuant to the following:

The Constitution of the United States provides clear authority for Congress to pass legislation to provide equity in the bankruptcy process. Article I, Section 8, Clause 4 of the Constitution provides that Congress has the power to "establish a uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States".

By Mrs. BONO MACK:

H.R. 4059.

Congress has the power to enact this legislation pursuant to the following:

The authority for enactment of this Bill flows from Article I, Section 8, clause 3 of the U.S. Constitution. Congress may prescribe by statute the procedures which are reasonably necessary to effectuate its constitutional purpose of regulating commerce among the several states.

By Mr. FLEISCHMANN:

H.R. 4060.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, clause 1 & 18.

By Mr. HUNTER:

H.R. 4061.

Congress has the power to enact this legislation pursuant to the following:

Article I, section 8, clauses 1 and 18.

By Mr. HUNTER:

H.R. 4062.

Congress has the power to enact this legislation pursuant to the following:

Article I, section 8, clause 7

By Mr. McDERMOTT:

H.R. 4063.

be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof."

Congress has the power to enact this legislation pursuant to the following:

"The Congress will have the Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States" (article IV, section 3).

By Mr. MULVANEY:

H.R. 4064.

Congress has the power to enact this legislation pursuant to the following:

"clause 1 of Section 8 of Article I of the U.S. Constitution."

By Mr. PIERLUISI:

H.R. 4065.

Congress has the power to enact this legislation pursuant to the following:

The constitutional authority on which this bill rests is the power of the Congress to provide for the general welfare of the United States, as enumerated in Article I, Section 8, Clause 1 of the United States Constitution; to make all laws which shall be necessary and proper for carrying into execution such power, as enumerated in Article I, Section 8, Clause 18 of the Constitution; and to make rules and regulations respecting the U.S. territories, as enumerated in Article IV, Section 3, Clause 2 of the Constitution.

By Mr. PRICE of Georgia:

H.R. 4066.

Congress has the power to enact this legislation pursuant to the following:

Current law has created a regulatory structure over the health care system. In order to make this system more compatible with a proper Constitutional structure, this bill will ensure that there is less regulation impeding the ability of pathologists to provide important services to patients and doctors.

By Mr. QUAYLE:

H.R. 4067.

Congress has the power to enact this legislation pursuant to the following:

Article 1, Section 1 of the United States Constitution; Article 1 Section 8 of the United States Constitution, including but not limited to, Clauses 1, 3, 18.

By Mr. ROGERS of Alabama:

H.R. 4068.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clause 1 of the Constitution of the United States

Article I, Section 8, Clause 18 of the Constitution of the United States

By Mr. ROHRBACHER:

H.R. 4069.

Congress has the power to enact this legislation pursuant to the following:

Section 8 of Article 1 of the Constitution

By Mr. TURNER of New York:

H.R. 4070.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clause 9 of the Constitution of the United States:

[The Congress shall have Power] To constitute Tribunals inferior to the supreme Court;

Article I, Section 8, Clause 18 of the Constitution of the United States

The Congress shall have Power to make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States or in any Department or Officer thereof.

By Mr. GINGREY of Georgia:

H.J. Res. 103.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clause 3 of the Constitution that states, "The Congress shall

<sup>1</sup> Please note, pursuant to Article I, section 8, Congress has the power "to make all Laws which shall

have Power . . . To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes”

#### ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 23: Ms. BERKLEY.  
H.R. 121: Mr. YODER.  
H.R. 125: Mr. UPTON.  
H.R. 205: Mr. KIND.  
H.R. 262: Mr. WALZ of Minnesota.  
H.R. 329: Mr. NUGENT and Mr. COURTNEY.  
H.R. 409: Mr. ROSS of Florida and Mr. NUGENT.  
H.R. 458: Mr. POLIS and Ms. MOORE.  
H.R. 511: Mr. FARR and Mr. GALLEGLY.  
H.R. 556: Mr. NUGENT.  
H.R. 587: Ms. WOOLSEY.  
H.R. 601: Ms. CHU.  
H.R. 711: Mr. DOGGETT.  
H.R. 733: Mr. COSTELLO.  
H.R. 769: Ms. PINGREE of Maine.  
H.R. 807: Mr. BRADY of Pennsylvania, Mr. DINGELL, and Mr. LUJÁN.  
H.R. 835: Mr. ALTMIRE.  
H.R. 870: Mr. ELLISON, Mr. CARSON of Indiana, and Mr. MEEKS.  
H.R. 931: Ms. GRANGER, Mr. BROWN of Georgia, Mr. CANSECO, Mr. BRADY of Texas, Mr. KING of Iowa, Mr. CULBERSON, Mr. COLE, Mr. DIAZ-BALART, Mr. PEARCE, Mr. WESTMORELAND, and Mr. WOODALL.  
H.R. 1006: Mr. JORDAN.  
H.R. 1175: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. CRAVAACK, and Mr. RIBBLE.  
H.R. 1179: Mr. LATOURETTE, Mr. AUSTIN SCOTT of Georgia, Mr. GRAVES of Georgia, Ms. ROS-LEHTINEN, Mr. AMASH, Mr. GRIMM, Mr. ROGERS of Kentucky, Mr. STEARNS, Mrs. CAPITO, and Mr. WEST.  
H.R. 1186: Mr. LANKFORD.  
H.R. 1206: Mr. PALAZZO.  
H.R. 1340: Mr. CRAVAACK.  
H.R. 1370: Mr. GRAVES of Georgia.  
H.R. 1381: Mr. SIRES.  
H.R. 1386: Mr. BISHOP of New York and Mr. BERMAN.  
H.R. 1417: Mr. BLUMENAUER.  
H.R. 1479: Ms. LEE of California.  
H.R. 1524: Ms. NORTON.  
H.R. 1558: Mr. SCHWEIKERT.  
H.R. 1681: Mr. CONNOLLY of Virginia.  
H.R. 1684: Mr. BRADY of Pennsylvania.  
H.R. 1704: Mr. SIRES, Ms. BONAMICI, Mr. VAN HOLLEN, Mr. POLIS, Mr. DONNELLY of Indiana, Mr. TIERNEY, and Ms. JACKSON LEE of Texas.  
H.R. 1738: Mr. LUJÁN.  
H.R. 1744: Mr. REHBERG.

H.R. 1895: Mr. RANGEL.  
H.R. 1903: Mr. ELLISON.  
H.R. 1912: Ms. SUTTON.  
H.R. 1955: Mr. RANGEL.  
H.R. 2020: Ms. DEGETTE and Mr. ROSS of Arkansas.  
H.R. 2052: Mr. MANZULLO and Mr. THOMPSON of California.  
H.R. 2088: Ms. NORTON.  
H.R. 2098: Mr. FATTAH, Mr. DAVIS of Illinois, Ms. CLARKE of New York, and Ms. LEE of California.  
H.R. 2179: Mrs. HARTZLER.  
H.R. 2187: Mr. BRADY of Pennsylvania.  
H.R. 2255: Mr. HONDA.  
H.R. 2288: Mr. BOSWELL and Mr. MEEKS.  
H.R. 2299: Mr. FLORES.  
H.R. 2308: Mr. GARY G. MILLER of California.  
H.R. 2310: Mrs. DAVIS of California.  
H.R. 2335: Mr. MCHENRY, Mr. GRIFFIN of Arkansas, Mr. DESJARLAIS, Mr. FRANKS of Arizona, Mr. WALSH of Illinois, Mr. WESTMORELAND, Mr. CULBERSON, Mr. LAMBORN, Mr. KING of Iowa, Mr. MULVANEY, Mrs. LUMMIS, Mr. LANKFORD, Mr. ROE of Tennessee, Mr. HARRIS, Mr. PEARCE, Mr. BISHOP of Utah, Mr. YOUNG of Alaska, and Ms. BUERKLE.  
H.R. 2367: Mr. MCNERNEY.  
H.R. 2387: Mr. RIGELL.  
H.R. 2407: Mr. SCHIFF.  
H.R. 2414: Mr. NUGENT.  
H.R. 2529: Mr. BERG and Mr. ALEXANDER.  
H.R. 2569: Mr. MATHESON, Mr. DEUTCH, Mr. GRIMM, Mr. CRENSHAW, Mr. STARK, and Mr. PIERLUISI.  
H.R. 2595: Mr. GENE GREEN of Texas.  
H.R. 2679: Ms. LEE of California.  
H.R. 2866: Mr. SCHOCK and Mr. CAPUANO.  
H.R. 2954: Mr. TONKO.  
H.R. 3059: Mr. TONKO, Mr. LYNCH, and Mr. HALL.  
H.R. 3068: Mr. CHABOT, Mr. FRANKS of Arizona, and Mrs. LUMMIS.  
H.R. 3096: Mr. BUCHANAN.  
H.R. 3151: Mr. MICHAUD.  
H.R. 3156: Mr. HASTINGS of Florida.  
H.R. 3187: Ms. EDDIE BERNICE JOHNSON of Texas and Mr. MEEKS.  
H.R. 3225: Mr. WATT.  
H.R. 3313: Ms. BROWN of Florida and Ms. HAHN.  
H.R. 3515: Mr. CONYERS, Mrs. CHRISTENSEN, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. DAVIS of Illinois, and Mr. RANGEL.  
H.R. 3523: Mr. SHUSTER, Mr. OLSON, Mr. KLINE, Mrs. BONO MACK, Mr. BACHUS, and Mr. SCHOCK.  
H.R. 3541: Mr. POMPEO.  
H.R. 3551: Mr. FARENTHOLD.  
H.R. 3572: Mr. MORAN and Mr. FILNER.  
H.R. 3586: Mr. SCHOCK.  
H.R. 3590: Mr. SMITH of New Jersey.

H.R. 3596: Mr. TIERNEY, Mr. HONDA, and Mr. BERMAN.  
H.R. 3608: Mr. GARY G. MILLER of California and Mr. BROOKS.  
H.R. 3611: Mr. FORBES.  
H.R. 3618: Ms. WATERS.  
H.R. 3626: Mr. JACKSON of Illinois and Ms. WOOLSEY.  
H.R. 3635: Mr. TOWNS, Mr. RANGEL, and Mr. HINCHEY.  
H.R. 3654: Mr. STARK.  
H.R. 3662: Mr. OLSON, Mr. REHBERG, Mr. KINGSTON, and Mr. MCCAUL.  
H.R. 3674: Mr. MEEHAN.  
H.R. 3676: Mr. KLINE.  
H.R. 3698: Mr. COFFMAN of Colorado.  
H.R. 3767: Ms. BORDALLO.  
H.R. 3790: Mr. BISHOP of Georgia.  
H.R. 3803: Mr. GOSAR.  
H.R. 3805: Mr. RYAN of Wisconsin and Mr. OLSON.  
H.R. 3806: Mr. SCHILLING, Mr. WEST, and Ms. BUERKLE.  
H.R. 3811: Mr. GARY G. MILLER of California.  
H.R. 3820: Ms. CLARKE of New York.  
H.R. 3826: Mr. ISRAEL, Ms. WILSON of Florida, and Mr. TOWNS.  
H.R. 3828: Mr. KLINE.  
H.R. 3860: Ms. KAPTUR.  
H.R. 3866: Mr. MEEKS, Mr. STARK, and Ms. WILSON of Florida.  
H.R. 3895: Mr. LOBIONDO and Mr. FLORES.  
H.R. 3974: Ms. SCHAKOWSKY.  
H.R. 3982: Mr. MARCHANT and Mr. JOHNSON of Ohio.  
H.R. 4010: Ms. PINGREE of Maine, Ms. JACKSON LEE of Texas, and Mr. LUJÁN.  
H.R. 4036: Mr. ROE of Tennessee, Mr. WALSH of Illinois, Mr. COLE, Mr. POSEY, Mrs. LUMMIS, and Mr. PEARCE.  
H.R. 4045: Mr. PAULSEN and Mr. CRAVAACK.  
H.R. 4046: Mrs. MCMORRIS RODGERS and Mr. HULTGREN.  
H.J. Res. 90: Ms. SCHAKOWSKY.  
H.J. Res. 102: Mr. LAMBORN, Mr. POSEY, Mr. FRANKS of Arizona, Mr. ROE of Tennessee, Mr. MULVANEY, Mrs. LUMMIS, and Mrs. SCHMIDT.  
H. Con. Res. 87: Mr. WEST.  
H. Res. 180: Ms. LORETTA SANCHEZ of California.  
H. Res. 253: Mr. SCHILLING.  
H. Res. 271: Mr. JORDAN.  
H. Res. 275: Mr. SHERMAN.  
H. Res. 367: Mr. WEST.  
H. Res. 538: Mr. OWENS, Mr. REED, Mr. JOHNSON of Georgia, Ms. SLAUGHTER, Mr. BURTON of Indiana, Mr. ROTHMAN of New Jersey, and Mr. CARTER.  
H. Res. 543: Mr. ENGEL.

## EXTENSIONS OF REMARKS

RECOGNIZING CATHOLIC PRESS  
MONTH

HON. JOHN A. BOEHNER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 16, 2012*

Mr. BOEHNER. Mr. Speaker, for more than 100 years the Catholic Press Association of the United States has provided news, information, and commentary on an ongoing basis to millions of readers. The CPA's bylaws make clear its commitment to help its members to "serve effectively, through the medium of the printed word, the social, intellectual and spiritual needs of the entire human family, and to spread and support the Kingdom of God." Hundreds of Catholic publications benefit from the CPA, including my local paper, the Catholic Telegraph, which has published since 1831 and is read by 60,000 subscribers throughout the Cincinnati archdiocese.

Today I rise to join the association's celebration of February as Catholic Press Month. I would also note the timeliness of Catholic Press Month and its immediate relevance to some of the important debates taking place in Washington, DC. As CPA President Greg Erlandson noted in his statement, "This year Catholic Press Month comes at a particularly critical moment. Our bishops have made clear their concern with recent government regulations and the threat such regulations pose to religious liberty. It is during challenging times like these that we can best recognize the great blessing that is the Catholic press."

As has been well documented of late, a new mandate advanced by the U.S. Department of Health and Human Services under President Obama's administration would require faith-based employers, individuals, and insurers—including Catholic charities, schools, universities, and hospitals—to provide services they believe are immoral. Those services include sterilization, abortion-inducing drugs and devices, and contraception. The mandate is being implemented as a result of the health care law signed by President Obama in 2010.

In a January 26 letter about this mandate to the Catholic Telegraph, the Archbishop of Cincinnati, the Most Reverend Dennis Schnurr, expressed the frustration of many Ohio Catholics when he declared: "We cannot—we will not—comply with this unjust law. People of faith cannot be made second-class citizens." In a subsequent letter on February 13, after President Obama announced what was called an accommodation, Cardinal Schnurr reiterated the Church's "firm position that the freedom to follow one's conscience and to have access to health care are both fundamental human rights. We will not be forced into a position of choosing between the two."

In imposing this mandate, the federal government has drifted dangerously beyond its constitutional boundaries, encroaching on reli-

gious liberty in a manner that affects millions of Americans and harms some of our nation's most vital institutions. The Catholic Press Association has played a critical role in providing news about this issue to millions of readers throughout our country, in just the most recent demonstration of the service it provides to the Church as well as to our nation, its citizens, and the Constitution upon which our system of government is founded.

As President Erlandson put it, "Only the Catholic press gives Catholic leaders a voice with which to be heard by their people—unmuted, uncensored and independent of the preconceptions and prejudices of too many secular media outlets." I congratulate the Catholic Press Association for the century of contributions it has made and will continue to make through the blessings of liberty in our great country.

TRIBUTE TO MILTON BERNARD  
GREENE

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 16, 2012*

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to a public servant, a civil rights activist and a dear friend. Milton Bernard Greene passed away on February 4, 2012 at the age of 71. His larger than life personality and dedication to his community will be sorely missed. "Duke," as he was affectionately known, was born in Columbia, South Carolina to William Bennett and Bernice Raiford Greene. He was a graduate of C.A. Johnson High School and Benedict College.

While a student at the historically Black Benedict College, he became part of a core group of students who organized protests in Columbia during the civil rights movement of the early 1960s. During that time he became a cohort of Reverend I. DeQuincey Newman, who was the charismatic leader of the South Carolina NAACP. Milton was a fixture in the civil rights movement, but he preferred to remain behind the scenes.

Yet he was thrust into the spotlight when he was arrested along with four other Benedict College students in 1960 during a sit-in at the Taylor Street Pharmacy. They were accused of breaching the peace, but the U.S. Supreme Court later overturned the charge.

Milton went on to serve as a field representative for former U.S. Senator Ernest "Fritz" Hollings of South Carolina. His organizing skills served him well in this capacity. He then took on a position with the South Carolina Department of Social Services from which he ultimately retired.

He was always very politically active, helping in my campaigns for Secretary of State and for Congress. He also served as the poll

manager for the Keels precinct in the Dentsville area of Columbia for 20 years.

Milton was a member of Omega Psi Phi Fraternity, Inc. and was married to his high school sweetheart, Doris Glymph Greene, for 47 years. They had two daughters, Col. Kimberly Greene (U.S. Air Force) of San Antonio, TX, and Professor Wendy Greene of Birmingham AL; and a son, Milton Bernard Franklin Greene of Charleston, SC. And they were also the proud grandparents of four grandchildren, Julian and Morgan Parker; Lauren-Taylor and Joelle Greene.

Mr. Speaker, I ask that you and our colleagues join me in celebrating the life of Milton Greene. This extraordinary man was an unsung hero of his generation, who didn't seek recognition but always sought justice. He was a big man, with a big personality, and he will leave a big hole in the hearts of all who knew him.

IN RECOGNITION OF JAMES L.  
"JIMMY" WEBB

HON. SANFORD D. BISHOP, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 16, 2012*

Mr. BISHOP of Georgia. Mr. Speaker, I rise today to pay tribute to a great American cotton farmer, U.S. agricultural advocate, businessman, administrator, and dedicated community leader from the great State of Georgia, James L. "Jimmy" Webb. Earlier this month, Mr. Webb was elected to serve as President of the Cotton Council International, CCI. CCI is the National Cotton Council's, NCC, export promotions arm and manages programs in more than 50 countries under the prestigious COTTON USA trademark.

Mr. Webb was elected to his new position at CCI's recent board meeting which took place in Fort Worth, Texas during the NCC's 74th Annual Meeting. Previously, Mr. Webb served as CCI's first vice president and he succeeds John D. Mitchell as CCI's newly elected President.

Mr. Webb hails from Leary, Georgia and he began farming with his uncle, Bob McLendon, back in 1980 and he made his first crop in 1986. After graduating from the University of Georgia with a B.S. in Agriculture, Mr. Webb continued to work alongside his uncle until 1994, when he decided to venture out on his own.

Over the last several years, Mr. Webb has played a positively pivotal and instrumental role in advocating for sound agricultural policies that have benefited many of our nation's farmers on regional, national and global platforms. He currently serves as Delegate on the National Cotton Council; Treasurer of the Flint River Water Planning and Policy Center; Director of the Edison Gin Co-op Inc.; Director of

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

the Cotton Council International; President of American Peanut Marketing; and Director of the Southern Cotton Growers.

Due in large part to his successful farming career and his unyielding advocacy on behalf of America's farmers, Mr. Webb has been recognized repeatedly for his agricultural achievements. In 1998, he was selected to participate in the National Cotton Council's prestigious leadership program. A few years later, in 2005, he was selected as the Lancaster Georgia Farmer of the Year at the Sunbelt Agriculture Expo Farm Show in Moultrie, Georgia. Additionally, in 2009, he was named Georgia's Outstanding Young Peanut Farmer of the Year.

Mr. Webb has achieved numerous successes in his life, but none of this would have been possible without the support of his loving wife of more than twenty-five years, Anjie Webb. Mr. and Mrs. Webb are the proud parents of three children—Parker, Devin and Harris.

On a personal note, Mr. Webb has served as an advisor and friend to me for many years and he has frequently given me wise counsel and sound advice.

Mr. Speaker, I ask my colleagues to join me today in paying tribute to Mr. James L. "Jimmy" Webb for his outstanding contributions to America's agricultural industry and his principled advocacy on behalf of our nation's farmers.

#### RECOGNIZING THE THIRTIETH ANNIVERSARY OF THE CITY OF DUBLIN

##### HON. JERRY McNERNEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 16, 2012*

Mr. McNERNEY. Mr. Speaker, I today rise to ask my colleagues to join me in honoring the City of Dublin on the occasion of its Thirtieth Anniversary.

Although Dublin is celebrating its official Thirtieth Anniversary, it can trace its roots back to 1772 when Spanish explorers first journeyed through the region. Dublin continues to preserve and embrace its history and cultural heritage by restoring parks and museums, hosting annual parades, and promoting sustainable methods to build lasting and vital community centers. I have enjoyed my frequent visits to Dublin, including attending several of the city's well-known St. Patrick's Day parades.

The exemplary work and values of Dublin are gaining notice. Even during these tough economic times, Dublin has continued to prosper by attracting new businesses and developing new enterprises. In addition, Dublin received the honor of being named a 2011 "All-America City" by the highly-regarded National Civic League, NCL. Dublin was given this recognition because of its ingenuity and resourcefulness in finding solutions to some of its immediate challenges as well as its continued work to foster civic engagement among residents.

Dublin serves as a model to the rest of the nation, and I am honored to represent this vi-

brant community. I ask my colleagues to join me in applauding Dublin on the occasion of its Thirtieth Anniversary.

#### PERSONAL EXPLANATION

##### HON. EMANUEL CLEAVER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 16, 2012*

Mr. CLEAVER. Mr. Speaker, due to a commitment in my district, I had to miss votes on H.R. 3408. Had I been present, I would have voted "aye" on Amendment 12, "aye" on Amendment 11, and "aye" on Amendment 9.

#### REMEMBERING ORLANDO ZAPATA TAMAYO

##### HON. MARIO DIAZ-BALART

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 16, 2012*

Mr. DIAZ-BALART. Mr. Speaker, next week, we will commemorate the two-year anniversary of the death of Orlando Zapata Tamayo.

Orlando Zapata Tamayo was a member of the pro-democracy organizations Movimiento Alternativa Republicana and the Consejo Nacional de Resistencia Cívica. He was arrested several times; the last arrest occurred on March 20, 2003 during Cuba's notorious "Black Spring," while he was taking part in a hunger strike at the Jesús Yáñez Pelletier Foundation in Havana, to demand the release of Dr. Oscar Biscet and other political prisoners.

Amnesty International began calling for Orlando Zapata Tamayo's release shortly after his arrest and referred to him as a prisoner of conscience who should be released immediately. He spent more than a year in prison before he was actually tried and sentenced in May of 2004. Although he was originally sentenced to three years in prison for "disrespect," "public disorder," and "resistance," the length of his sentence was extended several times so that he was serving a thirty-six year sentence at the time of his death. During his many years in prison, he suffered beatings, humiliation, and long periods of solitary confinement. According to Amnesty International, on October 20, 2003, he was dragged on the floor of Combinado del Este Prison by his jailers after requesting medical attention. The abuse left his back full of lacerations.

Orlando Zapata Tamayo began a hunger strike on December 3, 2009 to protest abhorrent prison conditions and the arbitrary extensions of his sentences. His hunger strike lasted more than 80 days. During that time, he was deprived of water and ultimately developed pneumonia after being kept naked underneath an air conditioner. He died at the hands of the Castro regime on February 23, 2010.

Reina Luisa Tamayo, Orlando Zapata Tamayo's mother, declared that the regime murdered her son and loudly condemned the atrocity. As a consequence, Castro's thugs

punished her with harassment, barbaric acts of repression, and beatings by hateful mobs in the days and weeks following her son's murder.

Sadly, the two years since Orlando Zapata Tamayo's death have been years of increased repression and more murders by the Castro regime. The number of political arrests doubled between 2010 and 2011. Furthermore, since Orlando Zapata Tamayo's death, the Cuban regime has murdered three other brave prisoners of conscience—Juan Wilfredo Soto Garcia (d. May 8, 2011), Laura Pollan, inspirational leader of the Ladies in White (d. October 14, 2011), and Wilman Willar Mendoza (d. January 19, 2012). They are all heroes, and their deaths were all immeasurable losses.

While we continue to mourn the loss of Orlando Zapata Tamayo, and the senseless deaths of so many other brave activists, his spirit and mission have strengthened Cuba's courageous pro-democracy movement. Immediately following his death, other political prisoners picked up his cause and began hunger strikes of their own. Another great pro-democracy activist, Jorge Luis Garcia Perez ("Antunez"), renamed his pro-democracy organization the "Orlando Zapata Tamayo National Front for Civic Resistance and Civil Disobedience," which continues to organize protests and oppose the Castro dictatorship. On June 30, 2011 in Vilnius, Lithuania, the Parliamentary Forum of the Community of Democracies unanimously passed a resolution honoring that organization and acknowledging its importance to the pro-democracy movement in Cuba.

I remain outraged that the regime in Cuba robbed the world of such a remarkable and courageous leader. But, in many ways, Orlando Zapata Tamayo lives. Within the pro-democracy movement that still honors him, and among the courageous activists that were emboldened by his sacrifice, Orlando Zapata Tamayo has become a symbol of perseverance in the face of crushing totalitarianism. His life will forever be a blessing to Cuba's brave pro-democracy movement, and his memory will outlast the horrors of the dying Castro regime. When the Cuban dictatorship is finally relegated to the ash heap of history, Orlando Zapata Tamayo will be remembered as a hero who helped to lead Cuba into freedom.

#### INTRODUCTION OF THE BANKRUPTCY EQUITY ACT

##### HON. EARL BLUMENAUER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 16, 2012*

Mr. BLUMENAUER. Mr. Speaker, when nearly one in four homeowners owe more on their mortgage than their home is worth, I am pleased to introduce the Bankruptcy Equity Act. "Underwater" mortgages are a tremendous source of financial stress for families. While some are able to continue making their payments, others are so overwhelmed by debt that they lose their home to foreclosure, to a "short sale," or by simply walking away. Bankruptcy should offer a legal means to escape

from debt and get a second chance, but ordinary homeowners are denied this opportunity with their mortgages.

Current bankruptcy law prohibits modifying mortgages for people who live in their homes but allows modification for vacation homes or investment properties. For instance, if a speculator whose investment property lost half of its value files for bankruptcy, a judge can modify the loan, including reducing the balance to its fair market value and lowering the interest rates.

The Bankruptcy Equity Act allows a bankruptcy judge to modify a homeowner's mortgage, bringing fairness to ordinary people who cannot afford payments on the inflated value of their homes, but can make payments if their mortgages were fairly valued. It helps keep families in their homes and prevents the foreclosures that are driving down home prices and creating vacant properties that can devastate communities. It will also help prevent the buildup of another housing bubble by encouraging financial institutions to take greater care to ensure they are lending to only responsible borrowers. The securitization of questionable mortgages would not have been possible if homeowners were treated as businesses.

I look forward to working with my colleagues to protect America's homeowners.

#### PERSONAL EXPLANATION

### HON. TOM GRAVES

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 16, 2012

Mr. GRAVES of Georgia. Mr. Speaker, on rollcall vote No. 61, the Bishop Amendment to H.R. 3408, I inadvertently voted "aye," when in fact I intended to vote "no."

#### IN HONOR OF THE NEW YORK GIANTS SUPER BOWL XLVI VICTORY

### HON. MICHAEL G. GRIMM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 16, 2012

Mr. GRIMM. Mr. Speaker, I rise today to honor the New York Giants—the champions of Super Bowl XLVI. I ask that this poem, penned in their honor by Mr. Albert Caswell, be placed into the RECORD.

#### "THE G FORCES"

In nature there are such forces . . .  
As in this sport is!  
That which are so hard to withstand!  
For in the NFL, there are such Giants who dwell!  
Whose strength, size, power, and speed over all others exceed!  
The G-Men, of whom I speak have Gotham Hearts you must heed!  
As it's all here where a team bonds as one to succeed!  
Learning to rely on each other as brothers in arms, their creed!  
With such sacrifice and blood, sweat, and tears, all at speed!

As week by week and all throughout the year  
so grows this seed!  
And some will give up their health in future years indeed!  
As all in their most Gotham hearts so beats!  
A dream to be the best in the NFL . . . the Dream!  
To be the Super Bowl Champions of the World!  
The one that every player has unfurled!  
Perhaps even greater than being in the Hall of Fame  
For above all else, this championship means team!  
And now this moment of truth has come, sixty minutes and it's done!  
To make that dream come true, or so succumb!  
And on this night, the G-Men stood strong and defiant!  
To become the world champions, they are The New York Giants.  
In the battle of two strong guns, two of the Hall's future sons,  
As Eli was coming and Brady was hoping for another one . . .  
Would E lie down or would Brady's dreams come undone?  
The Patriots were favored, but of this the Giants would have none!  
Because, G-Forces are so hard to tolerate, my son!  
And too much exposure will make your dreams come undone!  
All for Myra, the Patriots so wanted this one!  
While on the opening drive their defenses came alive,  
As one of Weatherford's three great punts put the Pats in a bind!  
But, the reversal on the 12 man D left Belichick crying!  
Then, Victor put it into Cruz control with a TD flying!  
Already nine to zip, it was looking like a G-Man Championship!  
Eli was nine for nine,  
But, the Pats did the patriotic thing . . . they never gave up, and they never gave in.  
As Brady completed ten passes straight, on a 96 yard drive . . .  
As Danny Wood used his head on a catch across the line.  
At the half, the Pats look like Giant killers, finally this time!  
As the Pats got the ball and scored seven on a 79 yard drive,  
Even Ochocinco and Brady hooked up, and finally combined.  
And then Hernandez was key when he caught a 12 yard TD . . .  
While in Bean Town a World Championship was coming to mind!  
But little did they know that E would not lie down!  
And in that Gotham City you could hear the hearts pound!  
But the drive died . . . failed, as time was running out . . .  
When, the Pats got the ball back they started to drive . . .  
Looking like the Giants may be going down for the count this time!  
Would Brady take away the G and the I?  
Who would play Batman and Robin this time?  
And as the ball came down to Wes Welker on that 20 yard line . . .  
Surely he'd make that great catch, as he had made a million times!  
Turning the G-Forces into P-forces, and to over them preside!  
But he dropped it, as you could feel him and the Patriots' hearts die

As the G-Men got the ball back with 3:46!  
It was getting close, as time meant the most, do or die!  
As Commissioner Gordon put up the bat signal in the sky,  
While Archie was up in the box as he was about ready to cry!  
And Peyton said "I wish I was on the sideline!"  
"Get me a neck brace; I'm going down there this time!"  
As it was Eli's time to shine, or let his team die!  
"The mountain top, go get in, failure's not an option, can't stop"  
With the play of the game looking like their last Super Bowl fame!  
As a dynamic duo, Batman and Robin somehow combined!  
To snatch the revolution out of these Patriots' hands, one more time!  
With a 38 yard miraculous catch by Manningham . . .  
And it was a thing of beauty, a pure work of art . . .  
That kind of throw and catch that could stop someone's heart!  
With a tap dance and a catch,  
Even Gregory Hines and Raymond Berry would make proud!  
That, in NFL history will now forever sound!  
And then Bradshaw, didn't know if he should score or fall?  
With the Pats strategy to give them some time and back the ball!  
But his G-Forces carried him into the end zone . . .  
As it was now Brady's time to bring it home!  
On another key play, for the second time that day . . .  
Justin, invoked his own version of the Tuck Rule, to Pound!  
With all those hits, Brady must have wondered if?  
The G-Men had a contract on him!  
As he spent more time lying on the field, than the turf in the ground!  
And then the final play by Brady . . . "in the midnight hour"  
But (too bad) his receivers seemed to cower!  
As the ball fell to the ground, as there were tears in Bean Town . . .  
As Coach Belichick caught a bad Coughlin!  
And as Tom said: "Beli-chiek-mate!"  
Enjoy the off season Bill and Brady in Boston!  
For only another Super Bowl ring can this so help erase . . .  
But, the game is in New York next year . . . Where the G-Force is even greater, I hear!  
But the MVP was big E . . .  
Because in the moment of truth . . . E did not lie down!  
Showing us why he has two MVPs and Super Bowl rings now!  
In Peyton's Place, will he forgive?  
As two great families would so clash . . .  
The Mara's and Kraft's, who both stand for class!  
As they all should be so proud!  
As all the TV records that were broken . . .  
The largest crowd ever had so spoken!  
And as those World Champions walked off that field . . .  
You could feel the vibe, so very real!  
In the end the Big Blue,  
Would not be so compliant.  
For there is no way to curtail,  
The heart of a Giant.



## LITHUANIAN INDEPENDENCE

**HON. LOU BARLETTA**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 16, 2012*

Mr. BARLETTA. Mr. Speaker, I rise to mark the 94th anniversary of Lithuanian independence.

Lithuania gained its independence from the Russian Empire at the end of World War I. It was the first time in three centuries that the Lithuanian people were free of the czarist regime. Their newfound liberty lasted only until 1940, when Stalinist Russian troops invaded and annexed Lithuania and the other Baltic states. The Lithuanian people suffered greatly under a brutal Soviet regime, but they never gave up their quest for freedom and self-determination. After decades of struggle, Lithuania finally gained its independence from the Soviet Union on March 11, 1990.

Freedom never came easily for the Lithuanian people. The celebration of Lithuanian independence is a reminder to all Lithuanians of their heroic struggle to obtain and maintain that freedom. Lithuanian Independence Day is a remembrance of the many years Lithuania spent under oppressive foreign rule, and of its people's struggle to be free. Americans of Lithuanian descent commemorate the anniversary of Lithuanian independence with celebrations and festivities throughout the country.

The Knights of Lithuania was organized on April 27, 1913. They believe in their members' dedication by having an appreciation of the Lithuanian language, customs, and culture, and by emphasizing the importance of their Roman Catholic beliefs. They strive to live up to their motto, "For God and Country" through cultural presentations, lectures, trips, and choral and dance groups. They are tremendous advocates of the Lithuanian people and heritage.

Mr. Speaker, the 94th anniversary of Lithuanian independence is a milestone of that nation's freedom. I commend all those of Lithuanian heritage for their dedication to their heritage, their community, and their country.

## RECOGNIZING DR. SULEIMAN

ALIBHAI

**HON. JAMES P. MORAN**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 16, 2012*

Mr. MORAN. Mr. Speaker, I rise today to honor, Dr. Suleiman Alibhai, an outstanding leader committed to helping people in Northern Virginia improve and preserve their sight. Dr. Alibhai is the recipient of this year's Prevention of Blindness Society of Metropolitan Washington's (POB) Professional Service Award.

Dr. Alibhai has spent the past 20 years providing rehabilitative services and support to individuals with low vision in the greater Washington, DC area. He began his career as Director of Low Vision Services at the Retina Group of Washington and now shares his expertise with the National Institutes of Health's

National Eye Institute, the Wilmer Eye Institute at the Johns Hopkins University and in his own private practice. Without his work, many individuals would not have access to the help they need to make the most of their sight.

Dr. Alibhai is also a well known author and lecturer who has given numerous presentations to eye care professionals on issues related to low vision. In addition to these endeavors, Dr. Alibhai is committed to sharing his knowledge with the public. He often speaks at educational events and makes presentations to community groups about low vision.

An active member of the community, Dr. Alibhai has served as a board member for several vision organizations, including POB, and was an examiner for the National Board of Examiners in Optometry. Dr. Alibhai is also a member of the Fairfax Hosts Lions Club District 24-A and played an instrumental role in connecting the club with POB to develop POB's Low Vision Learning Center in Alexandria, VA. Since the center opened in 2010, Dr. Alibhai and his team have helped more than 750 individuals make the most of their sight.

Mr. Speaker, on behalf of Virginia's 8th Congressional District, I want to extend my congratulations to Dr. Alibhai, recognizing him for his leadership, passion and most importantly, his commitment to improving the quality of life for people with low vision. We wish him continued success in his work both with POB and throughout Northern Virginia.

RECOGNIZING JUSTINA PICKARD  
AS THE 2012 WALTON COUNTY,  
FLORIDA SCHOOL RELATED EM-  
PLOYEE OF THE YEAR**HON. JEFF MILLER**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 16, 2012*

Mr. MILLER of Florida. Mr. Speaker, I rise today to recognize Justina Pickard as the 2012 Walton County, Florida School District Related Employee of the Year. Justina Pickard is an Instructional Aide at Maude Saunders Elementary, where she has proudly served for thirteen years.

Mrs. Pickard found her calling for teaching later in life than most. When her son began primary school, she volunteered in his classroom and fell in love with helping children. Even though Mrs. Pickard already possessed a Business Degree, her passion for teaching brought her back to school so that she could earn a degree in Early Childhood Education. Her educational background, passion for teaching, and ability to speak three languages make her among Northwest Florida's finest educators. Education is more than just teaching—it is about inspiring. Mrs. Pickard exemplifies this mantra. When she teaches, Mrs. Pickard bestows in her students that anything is attainable and through hard work, success is always within reach.

Mrs. Pickard attributes her excellence in the classroom to multiple factors with most importance accredited to her family and her church. Her dedication to the Northwest Florida Community, her family, and the First Baptist Church is certainly admirable.

Mr. Speaker, on behalf of the United States Congress, I am proud to recognize Justina Pickard on her achievement and contributions in the Walton County School District. My wife Vicki joins me in congratulating Mrs. Pickard, and we wish her all the best.

TRIBUTE TO JORIE DANIELS  
STEADMAN**HON. JAMES E. CLYBURN**

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 16, 2012*

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to a constituent who was a faithful supporter, and tremendous neighbor, and a fantastic elementary school teacher to two of my three daughters. Mrs. Jorie Daniels Steadman passed away on December 4, 2011, but her remarkable spirit lives on in all those whose lives she touched including my own.

Jorie Daniels Steadman was a South Carolina native; the daughter of the late Joe and Louckrisher Daniels. She graduated from Booker T. Washington High School in Columbia, South Carolina and attended Benedict College where she earned a Bachelor of Arts degree in Education, with a minor in Music. She completed a Master's degree in Education from Indiana University. She was awarded a cosmetology teaching certificate from Florida A&M University. Additional studies were conducted at the University of South Carolina and Columbia College.

She began her 40-year teaching career at Crossroads Elementary. She also taught at Florence C. Benson, Hand Middle School, and W.G. Sanders Middle School in Columbia, South Carolina, where she taught my two youngest daughters, Jennifer and Angela. She also inspired students at Lemon Elementary School, in Marietta, Georgia; Washington High School, Atlanta, GA; and Butler School, Barnwell, South Carolina. After retirement, she guided young minds at V.V. Reid School.

Ms. Steadman became a licensed cosmetologist in 1952. She perfected her craft in several salons before opening Jorie's Beauty Salon in 1959. Jorie had hundreds of clients from professional women to pre-school children. Her appointment book was always full and she never turned customers away. Jorie also shared her talents in the cosmetology industry by writing a weekly column, Beauty Tips, in the Palmetto Times to inspire and motivate young women to be beautiful on the inside and the outside.

She was a political activist in the Greenview neighborhood we shared. She served on the House District 73 Development Council, the Farrow Terrace-Farrow Hills Community Organization, and the Greenview Senior Citizens Club. She also was a precinct worker at my home precinct at Greenview Park. Her other memberships included the North Columbia Civic Club, the Eau Claire Community Council, the Booker T. Washington Alumni Club, the South Carolina Legislative Black Caucus Associate, the American Association of University Women, the National Education Association, the South Carolina Education Association, the Richland County Education Association, and the Richland County Education Association-Retired.

After retirement, Jorie devoted time to her alma mater. She was a member of the Benedict College Alumni Club #2, the Benedict College National Alumni Club, the Benedict College Booster Club, and served as the past president of the Benedict College Parent Advisory Council. She could often be found at Benedict College football games encouraging alumni to support her beloved school "where the golden sunshine falls."

She was a lifelong member of Bethlehem Baptist Church and was actively involved in the Gethsemane Baptist Association Women's Auxiliary and Young People's Christian Assembly. Jorie served as the past president of the Trustee Wives Ministry, past president of Senior Missionary Society, and past president and secretary of the Jubilee Choir. As an accomplished musician, Jorie also served as organist and choir director in churches throughout the Midlands. She offered faithful service at Zion Benevolent Baptist, Veighle Chapel Baptist Church, Greater St. Luke Baptist Church, Second Nazareth Baptist Church, and Antioch Baptist Church.

In 1969, she married to Lee Vince Steadman, with whom she shared 42 years of marriage. The couple had three children: LaVerne Steadman, Melita Steadman Williams, and Lee Vince Steadman, Jr.

Mr. Speaker, I ask you and our colleagues to join me in celebrating the life of Jorie Daniels Steadman. This ordinary citizen did extraordinary things that impacted so many people in her community. She was an extraordinary example of how one person can make a tremendous difference through their service to others. Jorie will be sorely missed, but her legacy lives on in each of those whose lives she affected in a positive way.

**HONORING DAVE WOOD: INDUCTEE  
TO THE CATTLE FEEDERS HALL  
OF FAME**

**HON. JIM COSTA**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 16, 2012*

Mr. COSTA. Mr. Speaker, I rise today to recognize Mr. Dave Wood for being inducted into the Cattle Feeders Hall of Fame. Dave has been a pioneer and true leader for the Cattle Industry for the past 40 years. It is fitting that a man who has dedicated his whole life to bettering an industry be recognized by his peers.

Dave has worked for Harris Ranch since he graduated from Cal Poly-San Luis Obispo in 1970. Originally hired on as a feedyard pen rider, Dave quickly worked his way up to the feedyard manager and then the company's chief operating officer. In 1989, Dave was named chairman of beef operations for Harris Farms and has held that position ever since.

During his time with the company, Dave has helped to build Harris Feed Company into the largest feeder on the West Coast and the 16th largest in the Nation. Annually they finish about 250,000 head of cattle, with a one-time capacity of 120,000 head. Under Dave's leadership, the company has taken great pride in its animal welfare. Harris Feed Company has

invested in the installation of shade structures and automated sprinkler systems to control dust and to help keep the cattle cool.

Maintaining his unwavering devotion to excellence, Dave worked to ensure that Harris Ranch's clients receive only the best quality beef. Dave helped develop the "Partnership for Quality" which was created in response to consumer demand for consistent, high-quality beef. The program now consists of about 70 families, all of whom are dedicated to the highest quality genetics, management practices and calf process and verification strategy. Individuals like Dave Woods have helped make America's beef industry one of the most trusted in the world.

Mr. Speaker, I ask my colleagues to join me in recognizing the hard work and dedication my good friend, Dave Wood, has demonstrated over the past 40 years. His passion and diligence speaks to his character and truly exemplifies the best of what America has to offer. I congratulate Mr. Wood for this great achievement and ask that you join me in wishing him continued success.

**HONORING DAVID SPELLICH**

**HON. THADDEUS G. McCOTTER**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 16, 2012*

Mr. McCOTTER. Mr. Speaker, today I rise to honor and acknowledge David Spellich upon his retirement after 14 years of service with the Livonia Public Schools.

After graduating from Belleville High School in 1970, Dave attended Eastern Michigan University. As often happens, he left EMU to pursue gainful employment. In 1987, Dave returned to Henry Ford Community College where he continued his education, transferring to Eastern Michigan to graduate with a Bachelor of Science in 1990.

Dave began his career as an educator by becoming an instructor in Livonia's Adult Education curriculum and went on to teach in Ferndale, Michigan's alternative education program. He encouraged his students, most of whom had a difficult path to education, to become more than they were. He organized a student prepared annual Thanksgiving Day dinner to be shared with their families and educators.

In 1998, Dave became a Social Studies instructor at Livonia Stevenson High School. He took on the roles of sophomore class sponsor and Chair of the Social Studies Department where he launched the AP Government program in the Livonia Public Schools. Dave then moved to Franklin High School in 2008, becoming the Student Activities Director. While serving in this capacity, he developed the freshman orientation/mentoring program. Returning to teach AP Government Stevenson High School in 2010, Mr. Spellich encouraged his students to contact elected officials to better understand the process of governing and legislation.

Mr. Speaker, David Spellich has faithfully served the students of Livonia, Michigan. As he enters the next phase of his life with Linda, his beloved wife of 38 years and his son

Jason, perhaps he will continue to avidly travel beyond the 50 states of this great Nation, all of which he has visited. He leaves behind a legacy of dedication, integrity, and excellence. Today, I ask my colleagues to join me in congratulating David Spellich upon his retirement and recognizing his years of loyal service to our community and country.

**HONORING DR. AARON SHIRLEY  
FOR HIS COMMITMENT TO SERV-  
ICE TO THE CAUSE OF HEALTH  
CARE**

**HON. BENNIE G. THOMPSON**

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 16, 2012*

Mr. THOMPSON of Mississippi. Mr. Speaker, I rise to honor one of the original pioneers of rural and adolescent health care in the state of Mississippi, Dr. Aaron Shirley. Dr. Shirley has always worked to provide quality and accessible health care for the poor and underserved populations in the state of Mississippi.

Dr. Shirley was born in Gluckstadt, Mississippi on January 3, 1933. In 1951, he began his undergraduate studies at Tougaloo College in Tougaloo, Mississippi, where he received his Bachelor of Science degree in 1955. He received his Medical degree from Meharry Medical College in Nashville, Tennessee in 1959 and later interned at Hubbard Hospital before completing his residency in pediatrics in 1967 at the University of Mississippi Medical Center in Jackson, Mississippi.

Dr. Shirley began private practice in 1960, and for 15 years, practiced general medicine in Vicksburg, Mississippi. From 1963 to 1967, he helped to organize the Mississippi Freedom Democratic Party and served as chairman for Warren County. Following this, Dr. Shirley was the director of the Mississippi Action for Progress, an organization which provided health care and education to children. From the beginning of his career, he has been committed to health care in Mississippi and was a pioneer in providing volunteer health services to Head Start centers at a time when Head Start was a budding program.

In 1970, Dr. Shirley, along with others, developed the largest community health center in the state of Mississippi, which now serves more than 40,000 low income patients annually. In 1979, he initiated a comprehensive health clinic within an inner city school to provide comprehensive health and counseling services for teens. He placed special emphasis on reducing teenage pregnancy, sexually transmitted disease, drug abuse, teenage violence, and mental health problems. This program has since served as a model for other school-based clinics nationwide.

Dr. Shirley's commitment to quality health care led him to be active in the development and/or organization of various agencies and projects which shared his dream of quality, affordable health care for all individuals. Some of those agencies included Mississippi Action for Progress, the Mississippi Association of Community Health Care for the Poor, the Medgar Evers Community Health Center, the

Tufts Delta Health Center, and G.A. Carmichael Community Health Center.

Dr. Shirley has served as a member of the Southern Regional Council in Atlanta, Georgia, the Select Panel for the Promotion of Child Health, the National Health Insurance Advisory Committee, the Institute of Medicine/National Academy of Sciences in Washington, D.C., the Field Foundation in New York City, New York, and most notably, Dr. Shirley served as a working group member with President Bill Clinton's Health Care Reform Task Force in 1993.

During that same year, Dr. Shirley received the MacArthur Fellows Award which recognizes devotion, dedication, and strides made in one's field. He is the recipient of many outstanding awards both locally and nationally.

Currently, Dr. Shirley serves as Chairman of the Board of Directors for the Jackson Medical Mall Foundation, Director of Community Medical Services, and Associate Professor of Pediatrics at the University of Mississippi. His efforts are focused on developing and implementing innovative measures to access quality healthcare for the uninsured and underinsured residents of Mississippi. Dr. Shirley is working closely with the State Division of Medicaid as well as with hospitals and other not for profit agencies to reduce health disparities for Mississippians.

His model for Hinds County is currently being reviewed for possible statewide and national replication, through the Robert Wood Johnson's Communities in Charge Program. In 2005, Dr. Shirley was honored with the endowment of Chair for the Study of Health Disparities at the University of Mississippi Medical Center, and he was selected to serve as a member of the Citizens Health Care Working Group which was mandated by Congress to hold hearings and community meetings across the country on health care coverage and cost issues, and to produce a "Health Report to the American People."

Mr. Speaker, I ask that my colleagues join me in honoring Dr. Aaron Shirley for his tireless commitment and service to the cause of health care throughout the state of Mississippi and abroad.

#### PERSONAL EXPLANATION

##### HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 16, 2012*

Mr. BECERRA. Mr. Speaker, on February 15, 2012 I was unavoidably detained and missed rollcall votes 50, 51, 52, 53, and 54. If present, I would have voted "nay" on rollcall votes 50 and 51, and "yea" on rollcall votes 52, 53, and 54.

#### 125TH ANNIVERSARY OF THE TURLOCK IRRIGATION DISTRICT

##### HON. JEFF DENHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 16, 2012*

Mr. DENHAM. Mr. Speaker, I rise today to acknowledge and honor the Turlock Irrigation

District as it gets ready to celebrate its 125th anniversary this year.

Established in 1887, the Turlock Irrigation District (TID) was the first publicly owned irrigation district in the state. Organized under the Wright Act, the District operated as a special district under the provisions of the California Water Code. In 1893, TID and the neighboring Modesto Irrigation District built La Grange Dam to divert water into their canal systems; and in 1900, Henry Stirling was the first farmer to receive irrigation water from TID canals in Ceres.

Beginning in 1923, TID began a system of expansion to provide electric retail energy, as new dams and powerhouses were constructed. Since then, TID has been able to provide safe, affordable and reliable electricity to a growing retail customer base, which has expanded to include over 98,000 residential, farm, business, industrial and municipal accounts in portions of Stanislaus, Merced, Tuolumne and Mariposa counties. 2003 was a monumental year for TID, when they purchased a 225-square-mile electric service territory from PG&E and designated it the Westside Service Area. In 2005, the Turlock Irrigation District became certified as an independent control area and opened the Walnut Energy Center, a natural gas-fired plant, in 2006. The most recent development occurred in 2009, when TID purchased the Tuolumne Wind Project, a wind generation facility capable of producing 136.6 megawatts, and began installing SMART Meters in its service area.

Currently, TID provides irrigation water to more than 5,800 growers in a 307-square-mile service area that incorporates 149,500 acres of Central Valley farmland. The Tuolumne River is the District's primary source of water, originating at Mt. Lyell in Yosemite National Park. Water for irrigation and hydroelectric power production is kept at Don Pedro Reservoir—about 50 miles east of Turlock in the Sierra Nevada foothills, near the historic gold rush era town of La Grange.

On February 24, 2012, the Turlock Irrigation District will be hosting a VIP showing of the documentary film they helped to produced entitled, *The Irrigationist: The Story of the Turlock Irrigation District*. The documentary will serve as an educational tool to inform people of all ages about the District's rich history and is a wonderful way to involve TID customers in celebration of the District's 125th anniversary, which occurs on June 6, 2012.

Mr. Speaker, please join me in honoring the Turlock Irrigation District on the release of the new documentary film and the upcoming 125th anniversary of athis pioneering institution.

#### CONGRATULATING COUNCILMEMBER JOE BUSCAINO

##### HON. JANICE HAHN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 16, 2012*

Ms. HAHN. Mr. Speaker, I rise to applaud the swearing in of my hometown's newest Los Angeles City Councilmember—Joe Buscaino.

A native son of San Pedro and a first-generation Italian-American, Councilman Buscaino

learned at an early age the importance of hard work, family, community and service. His dedication to these values led him to the Los Angeles Police Department, where he protected and served the community he loves so well for almost 15 years.

There he created the LAPD's first Teen Community Police Advisory board, a program breaking down barriers between teens and the police by bringing youth's perspectives on problem solving to the police department. The program has since been expanded to the whole city—and I am confident this will not be the last innovative initiative he has to share with the City of Angels.

Now Councilman Buscaino's commitment to public service has led him to the chambers of the Los Angeles City Council, where I know he will serve the people of my home Council District 15 and the city of Los Angeles with honor and distinction. We are fortunate to have such an advocate.

#### HONORING WILLIAM H. "BILL" GRAY, III FOR HIS COUNTLESS CONTRIBUTIONS TO EDUCATION AND THE BLACK AMERICAN COMMUNITY

##### HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 16, 2012*

Mr. HASTINGS of Florida. Mr. Speaker, I rise today in honor of a true public servant, educator, community activist, spiritual leader, and my dear friend, William H. "Bill" Gray, III. For nearly five decades, Bill has served the Philadelphia community, African American community, and the American people as a whole in numerous capacities. From education and the ministry to government and the business world, his influential leadership continues to this day.

Bill was born on August 20, 1941 in Baton Rouge, Louisiana. He is the second child of the late Dr. William H. Gray, Jr. and Hazel Yates Gray, and has an older sister, Marion. Bill attended Franklin and Marshall College, where he earned a B.A. in 1963, and received a master's degree in divinity from Drew Theological Seminary in 1966 and a master's degree in theology from Princeton Theological Seminary in 1970. He has served as a faculty member and professor of history and religion at St. Peter's College, Jersey City State College, Montclair State College, Eastern Baptist Theological Seminary, and Temple University. The heir to a legacy of education leaders, his father served as the president of two Black colleges, Florida A&M University and Florida Memorial College. Furthermore, Bill's mother was a dean of Southern University and his grandfather a professor at another historically Black college.

Hailing from a family of ministers as well as educators, Bill began his service in the ministry in 1964, when he pastored his first church, the Union Baptist Church of Montclair, New Jersey. For 35 years, he was pastor of the 5,000-member Bright Hope Baptist Church in Philadelphia, as were his father and grandfather before him since 1925. In 1970, Bill became a community activist while living in

Montclair, after winning a housing discrimination suit against a landlord who denied him an apartment because of his race. He founded the non-profit Union Housing Corporation in Montclair to build affordable homes for low- and moderate-income tenants and co-founded the Philadelphia Mortgage Plan, an organization that helped people in low-income communities obtain mortgages. In 1971, he married Andrea Dash, a marketing consultant. They raised three sons: William IV, Justin, and Andrew.

From 1979 to 1991, Bill served in the U.S. House of Representatives. During his 12 years in Congress, he remained a staunch supporter of education. As the first African American to chair the House Budget Committee in 1985, Bill was a leading advocate for strengthening America's education system. He went on to break further barriers as Chairman of the Democratic Caucus in 1988 and as Majority Whip later that year, becoming the highest-ranking African American ever to serve in Congress. In May 1994, Bill served as the Special Advisor to the President on Haiti. In that role, he assisted the President in developing and carrying out policy to restore democracy to Haiti, and received the Medal of Honor from Haitian President Jean-Bertrand Aristide in 1995.

In 1991, Bill became the president and chief executive officer of the United Negro College Fund (UNCF), America's oldest and most successful Black higher education assistance organization. During his tenure, he led the UNCF to new fund-raising heights while increasing educational assistance to minority students and support of historically Black colleges and universities. In particular, Bill spearheaded a number of bold initiatives to relocate UNCF's headquarters to the Northern Virginia area; develop a new technology center to link UNCF offices and member colleges electronically and thereby facilitate the sharing of scholarship and donor information; and develop the Frederick D. Patterson Research Institute to compile and analyze data on a host of issues affecting African American students from kindergarten through graduate school.

After retiring in 2004, Bill's contributions to public policy were far from over. He went on to serve as Chairman of the Amani Group and, beginning in 2009, Co-Chairman of the consulting and advisory firm GrayLoeffler, LLC. Today, Bill chairs Gray Global Strategies, Inc., a global business consulting and government affairs strategies firm. He also sits on the board of directors for several companies, including Dell, Inc., JPMorgan Chase, Pfizer, and Prudential Financial. Bill's many years of public and community service have earned him numerous awards and distinctions, such as the prestigious Franklin Delano Roosevelt Freedom of Worship Medal. In December 2009, he was listed in *Ebony* magazine as one of the 100 "Most Important Blacks in the World in the 20th Century." Additionally, Bill has also been awarded more than 65 honorary degrees from America's leading colleges and universities.

Mr. Speaker, as we celebrate Black History Month, it is my distinct honor and privilege to recognize one of our own, former Congressman Bill Gray, for his tireless dedication to advancing education and opportunity in this

country. His pioneering efforts have paved the way for future generations of American government, business, and community leaders. Bill's leadership and strength of character are a true inspiration to us all. I am so pleased to pay tribute to my dear friend, and wish him great success for many years to come.

#### HONORING THE NAI

#### HON. KATHY CASTOR

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 16, 2012*

Ms. CASTOR of Florida. Mr. Speaker, I rise today to acknowledge the accomplishments of the National Academy of Inventors, NAI. The NAI was founded at the University of South Florida, USF, in 2010, and has since become an institution that recognizes researchers who translate their findings into inventions that may benefit society. To date there are more than 500 members in the NAI, each being awarded a patent by the United States Patent and Trademark Office.

The NAI provides a valuable role in the translation of science and technology within the university community, and for the benefit of society. It serves to promote creative thinking and originality, encourage the development and utilization of inventions, and offer guidance to new and existing inventor's efforts. Moreover, the NAI has assisted in awarding hundreds of successful patents for universities around the world.

More specifically, USF has progressed into a leading research university with important economic ties to the Tampa Bay community and Florida. The aptitude of the faculty, staff and students are the fundamental components that drive USF's research initiatives. USF lists among 14 universities in the top 300 organizations to receive patents from the U.S. Patent and Trademark Office in 2010 with 83 patents awarded.

Innovation, based on new inventions and technologies, has proven to be a key factor in the industrial and economic development of the world. The support, encouragement and development of technology and innovation are also fundamental to the success of a university, non-profit research organization or federal research institute. Furthermore, in addition to submitting this record, I am honored to introduce a House Joint Resolution recognizing the significance of the NAI.

#### A TRIBUTE IN HONOR OF THE LIFE OF HOWARD M. DASCHBACH, JR.

#### HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 16, 2012*

Ms. ESHOO. Mr. Speaker, I rise today to honor the life and work of a good friend and neighbor, and a highly respected member of our community, Howard M. Daschbach, Jr., who died on February 9, 2012, at the age of 87.

Howard was a man of deep and abiding faith. He was installed as a Knight of Malta in 1982, and a member of Saint Raymond's Church in Menlo Park, California, where he was seen daily, attending Mass. He had a special devotion to the Religious of the Sacred Heart who educated his children, and his Faith carried him through good times as well as difficult times.

Howard grew up in Pittsburgh, Pennsylvania, graduated from Duquesne University, and served his country proudly during World War II. He served with the Army in Europe, the Philippines and Japan, and then moved to California to attend Stanford Law School. Upon graduation, Howard embarked upon his lifelong career of serving the legal needs of hundreds of people.

Howard was a member of the Circus Club and the Serra Club. He was an avid tennis player, an ardent Giants fan and a winning dominos player.

Howard and his beloved wife of 59 years, Leonore, who survives him, were the proud and devoted parents of LeeLee and her husband Steve; Rooney and his wife Claire; Lisa and her husband Rory; Laura and her husband Mark; Mark and his wife Elizabeth; and Michele, who died on October 12, 2011, and her husband Patrick. He adored his 18 grandchildren and two great grand-daughters, and is also survived by his sister Jeanne and sister-in-law Joan.

Mr. Speaker, I ask my colleagues to join me in extending our sincere condolences to the family of Howard Daschbach Jr., and to all those who were privileged to know and love him. He was a wise and good man whom I was proud to call my friend and neighbor. Our country was blessed with his service, strengthened by his faith, and bettered by his devotion to his family, his community and his country.

#### RECOGNIZING RANDELLA LINDSAY AS THE 2013 WALTON COUNTY, FLORIDA SCHOOL TEACHER OF THE YEAR

#### HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 16, 2012*

Mr. MILLER of Florida. Mr. Speaker, I rise today to recognize Mrs. Randella Lindsay as the 2013 Walton County, Florida School Teacher of the Year. For more than 38 years, Mrs. Lindsay has served the students of Northwest Florida, inspiring them to strive for excellence. I am honored to recognize her achievements.

Teachers are amongst our nation's most valuable public servants. They are responsible for mentoring our students and ensuring that our next generation emerges ready to lead our nation in the future. Mrs. Lindsay's assiduous work and unbridled enthusiasm for her profession exemplify the characteristics of a successful teacher. Today, Mrs. Lindsay approaches the challenge of teaching with the same energy and excitement that she has harnessed since she stepped into the classroom in 1973. Her enthusiasm and dedication to her students fosters an atmosphere of success,

where individual students can pursue their education goals at their own pace.

Mrs. Lindsay clearly understands the important position that teachers serve as role models for their students. Being a role model demands an incontrovertible commitment to professionalism in all aspects of life. Mrs. Lindsay treats her students, their parents, faculty, and staff with the utmost respect. She also understands the importance of mentoring young teachers and always seeks to help young people interested in pursuing a career in teaching. By sharing her years of wisdom and experience with all of her fellow colleagues, Mrs. Lindsay improves the quality of her own classroom, as well as the entire school.

Throughout her career, Mrs. Lindsay has been selected to serve in important roles in both her school and her school district. In 1983, while teaching Florida History as part of her 4th grade curriculum in Okaloosa County, Florida, Mrs. Lindsay recognized that the state's Florida studies program did not include any information on Okaloosa County. Over the next two years, she worked with two of her colleagues to research the history of Okaloosa County, and they produced a work book to supplement the Florida History course for future students. Mrs. Lindsay was also chosen to serve as one of three members on a committee responsible for planning the opening of a new elementary school, where she was later selected as their Teacher of the Year.

The importance of teachers is unquantifiable. Each and every teacher should be commended for their commitment to our nation's future. Mrs. Lindsay has proven to be among the many exceptional teachers in our nation. To be selected as Teacher of the Year, chosen from a large pool of extremely qualified applicants, is a reflection of Mrs. Lindsay's tremendous work ethic and steadfast dedication to the students of Northwest Florida.

Mr. Speaker, on behalf of the United States Congress, I am privileged to recognize Randella Lindsay for her accomplishments and her continuing commitment to excellence at Mossy Head Elementary School and in the Walton County School District. My wife Vicki joins me in congratulating Mrs. Lindsay, and we wish her all the best.

#### ZERO G AND I FEEL FINE

### HON. TIM RYAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 16, 2012

Mr. RYAN of Ohio. Mr. Speaker, a long time ago in a galaxy far, far away, a world watched as a lone American sat inside a small capsule on top of an Atlas rocket waiting for blast off. Fifty years ago, after several disappointing and discouraging postponements, all systems were "GO" at Cape Canaveral's launch pad 14, the weather clear, and the countdown pounded as the voice of Astronaut Scott Carpenter at Mission Control wished—"Godspeed John Glenn."

*Friendship 7* lifted off with 360,000 pounds of thrust on its mission to put a man into Earth orbit, observe his reactions in space and safely return to Earth. It was the third Project Mer-

cury manned mission and the first orbital flight. People around the world stopped and held their breath. Glenn felt six times the force of gravity on lift-off and then once in space, we heard his voice crackling over the radio, "Zero-g and I feel fine." "Capsule is turning around. Oh! That view is tremendous!" The space race had begun in 1957 with Sputnik, the sinister Soviet satellite that propelled America into the new space age. Caught from behind, the U.S. scrambled to catch up. The first federal college loans were established under the National Defense Education Act of 1958 and federal support for basic research and development and the space program dramatically increased.

NASA was reorganized from the National Advisory Committee for Aeronautics (NACA) in 1958 and began the manned space program. In 1959, NASA selected 7 military test pilots to fly in space with Project Mercury. In 1961, Soviet Cosmonaut Yuri Gagarin became the first man to orbit the Earth. America was on a mission. The Nation focused in a united cause, identified the challenge, built and organized a plan for that challenge, and rose to meet it. We pulled together. A collection of scientists, soldiers, and contractors, with tremendous public support welded together a national program without an established infrastructure that would later become the Kennedy Space Center and the Johnson Space Center. Flight tests and training occurred at Langley, Virginia, the space capsule was built by McDonnell Douglas in St. Louis, rocket development at Huntsville, Alabama, medical examinations at the Lovelace Clinic in Albuquerque, New Mexico, and Wright Patterson Air Force Base in Dayton, Ohio, the Altas rocket was built by General Dynamics in San Diego, and rocket launches occurred at Cape Canaveral, Florida.

Tom Wolfe described the astronauts in "The Right Stuff" as if they were single combat warriors, our best against their best and they were worshiped as heroes even before the battle for they were sure to die. With a successful splashdown off Gran Turk Island, John Glenn in *Friendship 7* had reached speeds of over 18,000 miles an hour, and in 4 hours 55 minutes and 23 seconds became the first American to orbit the Earth and rocketed the Nation back into the space race and took a vital step on man's journey to the moon. The Post Office issued the first stamp depicting a manned spacecraft. Sales of Tang, the orange flavored powdered soft drink, went through the roof when advertised as first used by Astronaut John Glenn. The number one song was "Duke of Earl" by Gene Chandler—West Side Story was playing in theaters. A television situation comedy, "I Dream of Jeannie" with Barbara Eden and Astronaut Larry Hagman was soon on the air.

John Glenn's incomparable life of service began as a Marine Corps fighter pilot flying the F4U Corsair in the South Pacific in World War II and the F9F Panther and F-86 Sabre-jet in Korea. In 1957, as part of Project Bullet, he made the first supersonic transcontinental flight from California to New York in an F8U Crusader. In 1974 he became a U.S. Senator from Ohio and served for 24 years. In 1997, John Glenn announced his retirement from the Senate stating that there was no cure for the common birthday. Nonetheless, in 1998, he

returned to space aboard the Space Shuttle *Discovery* STS-95 at age 77 to study the effects of space flight on seniors. He worked to establish the John Glenn School of Public Affairs at the Ohio State University and he served as Chairman of the National Commission on Math and Science Teaching for the 21st Century. Recently, he and Astronauts Neil Armstrong, Buzz Aldrin, and Michael Collins were awarded the Congressional Gold Medal.

Project Mercury, followed by Projects Gemini and Apollo, were the stepping stones to extraordinary and monumental accomplishment. America began a new age that day 50 years ago and we were all together. John Glenn, a hero in war, a hero in peace, remains an American hero and legend in our hearts. Once upon a time he helped unify a Nation and led us into the future. Congratulations to John and Annie Glenn.

#### KAHOKS' 2000 WINS

### HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 16, 2012

Mr. SHIMKUS. Mr. Speaker, I proudly rise today to honor the achievement of the boys basketball team from my high school and hometown, my Collinsville Kahoks. On January 21st of this year, the Kahoks recorded their 2000th victory, becoming only the second team in Illinois and the third in the country to reach this great milestone.

This achievement is the result of the combined efforts of more than one hundred years of Collinsville players, coaches, and families. These are today's Collinsville Kahoks: Jaris Wellmaker, J'Vaughn Williams, Jacob Shaffer, Falando Wilkinson, Briley Kellison, Jared Blasingame, Chris Mathes, Devonta Crochrell, Daryn Foster, Jason Kusnerick, Travis Dunnette, Tanner Houck, Caleb Johnson, Sean Davis, Kelyn Conner, and Coaches Darin Lee and Eric Anderson.

These players and coaches have proven beyond a doubt that they can uphold our tradition of success, a tradition forged by past players such as Bob Bone, who set the all-time scoring record at the University of Missouri-St. Louis and also coached the Kahoks for twenty years, and other players such as Kevin Stallings, who went on to play at Purdue and now serves as head coach at Vanderbilt University.

But the one man most responsible for our tradition of excellence was the legendary coach of the Kahoks for thirty-three years, the late Vergil Fletcher. In his tenure, Coach Fletcher amassed 747 victories, leading the team to twenty conference championships and two State titles, one of which included an undefeated season. Coach Fletcher was an excellent coach and an exemplary role model, and we can only imagine how proud he would be today. May we all find the same measure of success.

And so once more I congratulate my Collinsville Kahoks, and I extend my gratitude to all those who helped make this achievement possible. I wish them continued good fortune in their future endeavors.

HONORING THE RETIREMENT OF  
MR. JIM CAVANAUGH**HON. TAMMY BALDWIN**

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 16, 2012*

Ms. BALDWIN. Mr. Speaker, I rise today to honor the career and achievements of Mr. Jim Cavanaugh, President of the South Central Federation of Labor (SCFL), as he retires from his esteemed position after 25 years of service.

For the past three decades, Jim Cavanaugh has guided the local progressive labor movement with an unwavering hand. Jim's tenure is underscored with victories, such as the strike for sick pay against Aramark Laundry in 1999, and his place in labor's history was solidified this month one year ago, when he worked tirelessly to help unite hundreds of thousands of Wisconsinites in solidarity against the repeal of collective bargaining rights. His ability to rise above petty disputes and remain focused on the task at hand resulted in a tremendously successful career.

As President of SCFL, an organization for labor unions in Dane, Dodge, Sauk, Columbia, Jefferson and Iowa counties that represents over 100 labor organizations and more than 45,000 workers, Jim helped bring the struggles of Midwest workers to the forefront of political discussions. Jim recognized the importance of advocating on behalf of all workers and, in 2001, SCFL was recognized as one of the first fourteen central labor councils in the nation to fully achieve the goals of the AFL-CIO Union City program. As a member of the Union City program, SCFL advocates on behalf of both unionized and non-unionized workers to make our community one that provides a living wage and good benefits. Jim also helped expand the role of SCFL by forging new partnerships with existing labor groups like Madison Teachers Inc. (MTI) and reaching out to underserved counties.

Jim cherishes the value of education and understands the need for a highly educated workforce. To help bridge the gap between labor and education, Jim began a vital relationship with the University of Wisconsin-Madison's Student Labor Action Coalition (SLAC). For fifteen years, Jim also served on Madison College's (MATC) board in various capacities and was even nominated for the statewide Board Member of the Year award in 2008. Jim always recognized that a better educated workforce and community was directly correlated to a strong labor movement.

Furthermore, Jim worked to strengthen the local labor community by emphasizing the importance of building labor's diversity. In 1999, Jim began outreach to a plethora of faith-based communities which eventually led to the creation of the Interfaith Coalition for Worker Justice (ICWJ). And as an early and staunch supporter of the immigrant worker movement, Jim successfully organized and fought back after two dozen Latino custodians were fired over questions related to their immigration status, helping to secure a significant settlement for the workers.

From advocating for an increased minimum wage to organizing and mobilizing union vot-

ers, it is nearly impossible to mention everything Jim has accomplished in the past 25 years; it is even harder to overstate the positive impact he has had on our community. It is without a doubt that Jim's work has bettered the lives of countless workers in Wisconsin, the Midwest, and across our great nation. Today, we join together in solidarity to honor Mr. Jim Cavanaugh for his 25 years of fearless leadership of the South Central Federation of Labor. May Jim's unwavering dedication, vision, and lifelong commitment to worker's rights serve as an inspiration for all of us.

CONGRATULATING NORTHEAST  
IOWA COMMUNITY COLLEGE**HON. BRUCE L. BRALEY**

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 16, 2012*

Mr. BRALEY of Iowa. Mr. Speaker, I rise today to congratulate Northeast Iowa Community College (NICC) in my district. NICC was recently named one of the top ten community colleges in the country by the Aspen Institute. This recognition is a high honor and speaks well to the education service that NICC provides in Northeast Iowa.

NICC's success stems from the wide array of education opportunities that are offered by the school. The school does an incredible job with identifying the career goals of each of their students. Many of their students will receive a degree then transfer to a four-year college or university, while others will enter the workforce after graduation. NICC offers degree programs in nursing and other technical education programs. The school has also done a tremendous job of offering job-relevant degrees and certificate programs. NICC partners with local businesses to determine what jobs need to be filled. The school then offers certificate programs for the jobs that have the most demand, such as welding. This approach has been a tremendous success that has put many people back to work in Northeast Iowa.

In selecting their top ten finalists, the Aspen Institute looked for community colleges that were meeting the demands of today's workforce while educating and graduating their students in a timely fashion. NICC easily met these criteria. The Aspen Institute, a non-partisan think tank, is highly regarded as a national leader in identifying successful education models around the country and the world.

NICC has and will continue to provide valuable education opportunities for my constituents in Northeast Iowa. I'm proud to have NICC in my district and congratulate them on this important achievement.

OUR UNCONSCIONABLE NATIONAL  
DEBT**HON. MIKE COFFMAN**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 16, 2012*

Mr. COFFMAN of Colorado. Mr. Speaker, on January 26, 1995, when the last attempt at

a balanced budget amendment passed the House by a bipartisan vote of 300-132, the national debt was \$4,801,405,175,294.28.

Today, it is \$15,391,735,627,010.18. We've added \$10,590,330,451,715.90 dollars to our debt in 16 years. This is \$10 trillion in debt our Nation, our economy, and our children could have avoided with a balanced budget amendment.

INTRODUCTION OF THE GUNS-  
FREE NATIONAL PARKS ACT OF  
2012**HON. JIM McDERMOTT**

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 16, 2012*

Mr. McDERMOTT. Mr. Speaker, I rise today to introduce a firearms bill that will restore a common-sense rule in our national parks. Hundreds of millions of people from across the country and abroad have visited our world-famous national parks. Before 2009, visitors could enjoy our national parks knowing that they were free of loaded guns, thanks to a common-sense policy providing that guns were not to be brought into national parks unless they were unloaded and safely stored.

In fact, this common-sense regulation was enacted by the Reagan Administration. But in 2009, Congress passed the Coburn Amendment, allowing people to carry concealed loaded weapons into national parks if it is permissible under state law—and many states allow just that. I believe that the 2009 Coburn Amendment was a huge step in the wrong direction. That is why I am introducing the Guns-Free National Parks Act of 2012—to repeal it.

I have always believed that loaded weapons have absolutely no place in our national parks, which are natural sanctuaries and some of the last sacred spaces in our country. Last month Margaret Anderson, a park ranger in Mount Rainier National Park in Washington, executed a routine traffic stop in an effort to ensure that a driver was driving safely. The mentally unstable driver then shot and killed the park ranger. This brave public servant was a wife and mother of two young children. My heart goes out to her grieving family. We have too many guns in American society, and too many needless gun-related deaths. As Americans we rightly pride ourselves on the progress we have made over the decades in science, in civil liberties, and our standard of living in general. But rolling back sensible and appropriate public-safety rules is not progress. I am proud that this bill is endorsed by several well respected national and state-level groups that have worked for years on ending gun violence: The Brady Campaign to Prevent Gun Violence, Ceasefire Washington, the Coalition to Stop Gun Violence, and the Violence Policy Center.

HONORING THE MONROEVILLE  
JUNIOR HIGH ROBOTICS TEAM

**HON. JO BONNER**

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 16, 2012*

Mr. BONNER. Mr. Speaker, I am pleased to shine the spotlight on a talented and dedicated group of young people from Southwest Alabama whose hard work and ingenuity have garnered them much-deserved national recognition.

On February 7, 2012, students from Monroeville Junior High School's robotics team participated in the second annual White House Presidential Science Fair where they personally demonstrated their robotic creations for President Obama. From all reports, the President was duely impressed.

Monroeville Junior High was the only Alabama school and the only BEST school robotics team to receive an invitation to this prestigious national event.

Monroeville Junior High is one of 24 Alabama schools currently participating in the Boosting Engineering Science and Technology (BEST) program, which introduces students to engineering and technology and teaches the skills needed for today's high-tech workforce.

Monroeville Junior High has also competed in the Great Freight Robotics Challenge bringing home many awards including the 1st Place Five Star Award (overall winner). They also competed in the Jubilee BEST Robotics Competition in Mobile, winning several awards and qualifying to advance to South's BEST Regional Competition hosted by Auburn University. At that event, the team brought home the 3rd Place Engineering Notebook Award out of 50 champion teams from across the eastern half of the country.

After their visit to the White House last week, the students arrived on Capitol Hill where it was my honor to personally welcome them and talk to them about their achievements. These students have proven that age is no limitation to teamwork and success.

A special congratulations goes to each of the Monroeville Junior High robotics team members: Morgan Ard, Sarah Baker Barnhardt, Andrew Cahill, Laken Cole, Tiara Dean, Jessica Feaster, Lindsay James, Kaitlyn Johnson, Octavia Johnson, Terrance Johnson, Ellissa Kidd, Jadarrius Kidd, Robert Knight, Maggie Ray, Jada Robbins, Desmond Stevens, and Titus Walker.

On behalf of the people of Alabama, a job well done, Monroeville Junior High!

IN HONOR OF TIM KIEDROWSKI  
WHO FOR DECADES HAS WORKED  
TO PRESERVE AND CELEBRATE  
POLISH CULTURE AND HERITAGE

**HON. MARCY KAPTUR**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 16, 2012*

Ms. KAPTUR. Mr. Speaker, entrepreneur Tim Kiedrowski grew up in Lorain, Ohio and is

a proud 1973 graduate of Admiral King High School, named for Fleet Admiral Ernest J. King, a Lorain native and Chief of Naval Operations during WWII. Tim was a drummer in the Admiral King (HS) Admirals band, as well as in numerous local rock-n-roll bands.

Shortly after his high school graduation, in search of employment, Tim was hired by Leonard DeLuca, the owner of DeLuca's Bakery in Downtown Lorain. Len soon entrusted Tim with the responsibility of opening the bakery every morning to start the preparation of baked goods for the day. Tim continued to work at DeLuca's Bakery until 1975 and continued playing drums in area bands.

Tim married his sweetheart, Terri Girz in 1977, and wanting more job security, he became a welder for P.C. Campana, Inc. in 1975 until 1981. A downturn in the local economy caused many layoffs, and Tim was one of the casualties. Terri continued her work as an OB-GYN Registered Nurse at St. Joseph Hospital in Lorain, and Tim became 'Mr. Mom' for their family for the next 2 years.

On Christmas Eve, 1983, Tim was hired as a baker at the Simply Delicious Bakery in Downtown Amherst, Ohio. Tim enjoyed his return to the "dough business", but 1 month into the job, the owner of the bakery declared bankruptcy and asked Tim if he wanted to become chief cook and bottlewasher. Never afraid of a challenge, Tim and Terri took out a small business loan to buy the bakery. Proud of their Polish heritage, the name was officially changed to Kiedrowski's Simply Delicious Bakery as of November, 1984. They remained in Downtown Amherst for 11 years.

Accidents can be disastrous in a bakery, but the "snoogle accident" was a welcome one for the Kiedrowski's. Late one evening in the bakery, Tim was preparing Ladylocks and Terri was working on a batch of cheese Danish. With leftover ingredients, these two happy bakers set out to create something new. A little of this, a little of that, and voila!, the Snoogle was born. These airy, cheese-filled concoctions have become Kiedrowski's biggest seller, and in April, 2011, they were awarded a patent for the Snoogle®. It is not unusual for the bakery to sell 100 dozen over the course of a weekend.

In 1994, Tim and his crew packed up the mixers, ovens and all of the baking ingredients and moved into their current location at 2267 Cooper Foster Park Road in Amherst.

In 1997, again on Christmas Eve, Tim and Terri started brainstorming about ways to get customers into the bakery during the January "slow season." After much discussion with family and friends, Tim proposed to host an old-fashioned Polish wedding (aka The Paczki Ball) just before Lent. Naysayers told Tim he could never organize this type of feast in 6-weeks time, but he set out to prove them wrong. With a few ads on local radio stations WEOL and WOBL as well as word-of-mouth, Tim and Terri hoped to sell 100 tickets to the first Paczki Ball in 1998, held at the Knights of Columbus Hall in Lorain. Party-goers quickly lined up at the door, and after 150 tickets were sold, the remaining guests had to be turned away. Karol Kiedrowski Peltz was crowned the first Paczki Ball Queen. Joseph Girz, Terri's father and well-known as "Dough-boy Joe" (and the inspiration for the

Kiedrowski logo) was crowned the first Paczki Ball King.

The Paczki Ball was moved to Lorain Catholic High School in 1999, a larger venue, and 375 tickets were sold. In 2002, the event moved to DeLuca's Place in the Park, a large party center owned by Tim's former boss, Leonard DeLuca. In 2003, the production of paczki as well as the Paczki Ball were videotaped by Army Armstrong for a film that would debut the following year. In this same year, new entertainment was added at the ball, the "Presentation of the Paczkis", was the hit of the party, and continues to this day. In 2011, Kiedrowski's Bakery sold over 50,000 paczkis during the Lenten season.

Life is never easy as a bakery owner. Tim and Terri had four boys: Matthew, Mark, Michael and Timmy, and there were nights that the boys did their homework and slept at the bakery while their parents did "prep work" for the next day's business. Terri became a self-taught cake decorator, working on birthday, graduation and wedding cakes at night after her shift was done at the hospital. Proud of their Catholic upbringing, Tim and Terri sent their boys to St. Anthony's elementary school followed by Lorain Catholic High School. Tim never had the opportunity to go to college, but encouraged his sons to further their education. Each of the boys went on to college to earn their respective degrees.

At the beginning of the Lenten season in 2011, Tim was notified that he was a finalist for the first-ever "Best Bakery in America" online contest, sponsored by Baking Buyer Magazine and Dawn Foods. With creative brainstorming over the course of 6 weeks, Kiedrowski's Simply Delicious Bakery was declared the winner, with more than 50 percent of the votes cast. Tim remarked that all of his years of hard work provided him with his honorary "Degree of Baking", but the Best Bakery in America Award provided him with the validation.

Kiedrowski's has celebrated its Polish heritage for 28 years through baking, and plans to share their delicious pastries for many years to come as they sweeten America's palate as America's Best Bakery.

TRIBUTE TO PHILIP GIBBS GROSE,  
JR.

**HON. JAMES E. CLYBURN**

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 16, 2012*

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to a great public servant, author and dear friend. Philip Gibbs Grose lost his three year battle with leukemia on February 3, 2012. This South Carolina native contributed to his beloved State's history through his work in public policy and helped to preserve its history through his writings about the people who influenced the times in which he lived.

Phil was born in Greenville, SC to Philip G. Grose, Sr., and Helen Layne Thompson Grose on April 5, 1938. He was raised in Charlotte and was a 1960 graduate of Washington and Lee University. He did graduate work at the University of South Carolina and received an



honorary doctorate of letters from Francis Marion University.

Phil began reporting sports results to the Charlotte Observer in junior high school and went on to write for the Observer during high school and college. He joined the staff fulltime after graduating from Washington and Lee, covering sports and general news. In 1963, after a year in New York as a writer for Broadcasting Magazine, Phil came to Columbia joining the sports staff of The State. He went on to become business editor and governmental affairs editor before leaving his newspaper career to enter the political arena.

In 1968, Phil became a speechwriter for Governor Robert McNair. It was a tumultuous time in South Carolina at the height of the civil rights movement. Phil was greatly affected by the times, and, from his role behind the scenes, began pushing for South Carolina to break the bonds of its Jim Crow past. He continued those efforts when he joined the staff of Governor McNair's successor, John Carl West, as executive assistant for communications and race relations. One of the first actions he persuaded Governor West to take was to hire a young man named JAMES CLYBURN to serve as the first African American advisor to a sitting South Carolina governor. The year was 1971, and since that time Phil and I were fast friends.

Phil went on to hold other positions in state government as deputy director of the Department of Social Services and executive director of the State Reorganization Commission. He was founder and executive director of the Executive Institute that provided leadership training for state government administrators, and I was one of his first recruits and graduated from the Executive Institute when I was serving as South Carolina Human Affairs Commissioner.

After retiring from state government, Phil became a senior fellow at the University of South Carolina's Institute for Southern Studies, where he wrote about subjects he knew well and about which was very passionate—the governorships of Robert McNair and John West. "South Carolina at the Brink: Robert McNair and the Politics of Civil Rights" and "Looking for Utopia: The Life and Times of John C. West" offered great insights into these complicated men and their contributions to South Carolina's rich history. He had recently begun work on a history of Francis Marion University in Florence, South Carolina. Phil and I had also been collaborating on my memoir for several years. He was a member of my inner circle who knew my experiences almost as well as I did myself. His personal insights and his talent for writing were invaluable in helping me with this project.

He was also very active in the community. Phil served on advisory boards of the USC School of Arts and Science, the Journalism School and School of Nursing, and on the board of visitors of Columbia College. He was a president of Workshop Theater and worked in numerous Midlands United Way campaigns. He served four years as the South Carolina representative on the Southern Growth Policies Board and the Council on State Governments. He was a member of the Kosmos Club, a former board member of the Caesar's Head Community Center, a member of

Shandon Presbyterian Church and a devotee of the humor of Robert Benchley.

Phil was married for 47 years to Virginia "Ginny" Maxwell Grose. They had one daughter, Patricia, a son-in-law, John Williams, and two grandsons, Harrison and David Williams.

Mr. Speaker, I ask that you and my colleagues join me in celebrating the life of Phil G. Grose. He was an individual who helped shape history and preserve it for future generations. In addition, he was a great friend, not only to me, but to all who knew him. He will be sorely missed, but his contributions will remain forever.

#### A TRIBUTE TO THE NISEI SOLDIERS OF WORLD WAR II

#### HON. JIM COSTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 16, 2012

Mr. COSTA. Mr. Speaker, I am joined by my colleagues Mr. CARDOZA, Mr. DENHAM, Mr. HONDA, Ms. MATSUI and Mr. SCHIFF, to pay tribute to the outstanding military service and patriotism of the Japanese American men and women who served in the United States military during World War II. Over thirty-thousand second-generation Americans of Japanese ancestry, also known as "Nisei" served in the various branches of the U.S. military while their families were living in barbed-wire enclosed internment camps scattered throughout remote regions of the country.

On February 19, 1942 President Franklin D. Roosevelt signed Executive Order No. 9066, essentially allowing the forcible relocation and internment of Japanese Americans across the United States; citizens and non-citizens alike. As a result, more than 120,000 Americans of Japanese ancestry, mainly from parts of Washington, Oregon, California and Arizona, were detained for nearly three years without charges or trials and without the basic civil liberties guaranteed to all Americans by the Constitution.

Prior to that, on January 19, 1942, six weeks after the Imperial Japanese Navy's attack on Pearl Harbor, Japanese Americans were reclassified by the Selective Service as enemy aliens, ineligible to be drafted. Subsequently, the U.S. Department of War chose to activate the 100th Battalion, a racially-segregated unit composed of Nisei volunteers from Hawaii who passed loyalty tests to fight in the European Theater. This unit became known as the Purple Heart Battalion due to its high casualty rate. With these Japanese-Americans setting the example, the War Department established the 442nd Regimental Combat Team, a racially-segregated unit composed of Nisei volunteers from confinement sites.

The 442nd Regimental Combat Team, which came to include the 100th Infantry Battalion, spearheaded numerous battles, fought valiantly and courageously and is widely regarded as the most decorated unit in American history for its size and length of service, with seven Presidential Unit Citations, 21 Medals of Honor, 29 Distinguished Service Crosses, 560 Silver Stars, 4,000 Bronze Stars

and more than 4,500 Purple Hearts. The 442nd is forever linked to the 36th Texas Division, when it rescued the "lost battalion" in the Vosges Mountains of eastern France during the fall of 1944. Japanese American troops were also part of the advance Allied troops that liberated the Dachau concentration camp.

When the war ended and the United States declared victory, President Harry Truman, presented the 442nd Regimental Combat Team with its seventh President Unit Citation on the White House lawn and aptly observed: "You have fought not only the enemy, but prejudice and you have won."

Along with the 442nd Regimental Combat Team, another cohort of Japanese-Americans served in the Military Intelligence Service ("MIS"), made up of approximately 6,000 Nisei soldiers attached to combat units in the Pacific Theater. These soldiers intercepted radio transmissions, translated enemy documents, interrogated enemy prisoners of war, volunteered for reconnaissance and covert intelligence missions, and persuaded enemy combatants to surrender. Eventually, some of these MIS soldiers went on to serve during the post-war occupation of Japan, assisting with the country's transition to a democratic form of government, and helping to maintain a stable relationship between Japan and the United States.

On October 5, 2010, the United States Congress unanimously passed Public Law 111-254, the law conferring the Congressional Gold Medal, the nation's highest civilian honor, to members of the 100th Battalion, 442nd Regimental Combat Team and Military Intelligence Service. President Obama signed the law, and on November 2, 2011, Members of Congress presented these medals to a number of Nisei veterans at Emancipation Hall in Washington, DC.

Approximately 500 Nisei soldiers from Merced, Madera, Fresno, Kings and Tulare Counties served in the 100th Infantry Battalion, 442nd Regimental Combat Team, Military Intelligence Service, Counter Intelligence Corps, Women's Army Corp and other military units, including:

S. Sgt. Kazuo Komoto of Sanger (MIS), the first Nisei Purple Heart recipient of World War II; Sgt. Mac Nobuo Nagata of Sanger (MIS), Legion of Merit recipient who led the 1st linguist team to Southwest Pacific Command; S. Sgt. Kazuo Otani of Visalia (442 RCT) and PFC Joe Nishimoto of Caruthers (442 RCT), recipients of the Medal of Honor and among 24 Nisei soldiers from Central California killed in action.

PFC Jay Shiroyama of Laton (442 RCT), one of eight men from I Company that first made contact with the 121 men of the 141st Texas Regiment (Lost Battalion); PFC Tom Uyeoka of Salinas (522nd Field Artillery Battalion), settled in Fresno after the war, and helped liberate Jews at the infamous Dachau Concentration Camp; and S. Sgt. Mikio Uchiyama of Fowler (MIS and CIC), an attorney during the war crimes trials in Japan, who later became the first Asian-American judge in Fresno County.

On February 19, 2012, the Central California District Council of the Japanese American Citizens League, the oldest and largest Asian American civil rights organization in

America, with the support of the Clovis Veterans Memorial District, Veterans of Foreign Wars Sierra Nisei Post 8499, Nisei Farmers League and Sun-Maid Growers of California, will host a Day of Remembrance observing the 70th anniversary of Executive Order 9066, and honoring all Nisei veterans of World War II with a local ceremony for the presentation of the Congressional Gold Medal.

Mr. Speaker, we ask our colleagues to join the Central California District Council of the Japanese American Citizens League, to commemorate and pay tribute to all the Nisei soldiers of World War II, who not only fought fascism abroad but prejudice at home, and won.

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HONORING MARYCREST MANOR  
SKILLED NURSING AND REHA-  
BILITATION CENTER

**HON. THADDEUS G. McCOTTER**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 16, 2012*

Mr. McCOTTER. Mr. Speaker, today I rise to honor and acknowledge Marycrest Manor Skilled Nursing and Rehabilitation Center, upon its 50th anniversary. Marycrest Manor stands in my hometown of Livonia, Michigan and is the result of the compassionate dream rooted in the Polish-Catholic community of the 1940's Detroit area and brought to fruition through the efforts of the Franciscan Sisters of St. Joseph.

St. Mary's Home, the initial 25 bed facility, was located at 215 West Grand Boulevard in Detroit. Recognizing the need for more space, the Franciscan Sisters looked to Livonia and petitioned Cardinal Edward Mooney for assistance in their charitable endeavor. Cardinal Mooney purchased and donated 10 acres of land on what is now Middlebelt Road just north of Five Mile Road.

Sadly, Cardinal Mooney passed away in 1958. His successor, Archbishop John Dearden selected the name Marycrest Manor. Celebrated during the Feast of the Holy Name of Mary, the state of the art 55 bed facility was dedicated on September 12, 1962. After being granted licensure as an extended care facility, Marycrest Manor is now one of the most recognized in the State of Michigan.

Seeking to meet the needs of the communities they serve, Marycrest Manor recently extended their ministry by opening a 60 unit facility specifically designed for self-sufficient senior citizens who seek a secure faith-based lifestyle. Plans are being made to open an assisted living facility, thus making Marycrest Manor a continuum of care campus.

Mr. Speaker, for 50 years Marycrest Manor has stood as a tribute to the benevolent work of the Franciscan Sisters of St. Joseph. As the facility celebrates this enormous milestone, it personifies a legacy of excellence, ingenuity and the empathetic spirit of the Franciscan Sisters and the Livonia community. Today, I ask my colleagues to join me in congratulating Marycrest Manor and recognizing their years of loyal service to our community and country.

RECOGNIZING HARRY A. BARTEE,  
SR., FOR HIS DEDICATION TO  
SERVICE AND HEALTH CARE

**HON. BENNIE G. THOMPSON**

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 16, 2012*

Mr. THOMPSON of Mississippi. Mr. Speaker, I rise today to honor a longtime Mississippi resident, Vietnam veteran, civil rights activist, dedicated health care professional, and an overall outstanding public servant, Dr. Harry A. Bartee, Sr. Dr. Bartee has devoted his entire life to public health in Mississippi.

Dr. Bartee was born in Ocean Springs, Mississippi, and moved frequently with his family throughout the state until finally settling in Canton, Mississippi, where they have remained for the last half century. His father was a Methodist Minister and his mother a school teacher. Dr. Bartee attended Rogers High School in Canton, where he was president of his senior class and played on the school's football team.

After high school, Dr. Bartee attended North Carolina A&T College in Greensboro, North Carolina from 1961 to 1965, and served in the ROTC. It was during this time he became part of one of the greatest student movements in this country for Civil Rights, the Greensboro, North Carolina Sit-ins. There he met his wife, Frances, who at the time attended nearby Bennett College and together, they marched and were arrested for their involvement in those demonstrations. At North Carolina A&T College, he received a Bachelors of Science degree in Biology and joined Omega Psi Phi Fraternity, Inc.

After graduating from college, Dr. Bartee was commissioned as a Second Lieutenant in the United States Air Force. While waiting to enter active duty, Dr. Bartee returned to Canton, Mississippi, with his wife of two weeks. While showing her around his native city one evening, he entered an establishment which had at one time been a popular spot for black entertainment, and was attacked by an onslaught of white supremacists. They proceeded to beat him beyond recognition, subsequently requiring him to have surgery at the same hospital where he later received his medical degree.

After that experience, he received orders to report to Mather Air Force Base in Sacramento, California. He spent the next five years as a navigator with the KC-135 Refueling Squadron, part of the Strategic Air Command (SAC) during the Vietnam Conflict. He received an honorable discharge after having obtained the rank of Captain, and the Air Medal for Meritorious Achievement Award while participating in aerial flight.

In 1971, he decided to further his studies and entered the University of Mississippi, as a graduate student in Microbiology. After one year he was admitted to the Medical School, where he served as president of Student National Medical Association. He completed his residency in Family Medicine and became the director of Madison-Yazoo-Leake (MYL) Family Health Center in Canton, Mississippi in 1979.

After later establishing a private practice in Canton, Mississippi, Dr. Bartee expanded his

operations to the underserved areas of Tchula, Lexington, and Goodman, Mississippi. Dr. Bartee served as a member of the Central Sub-advisory committee of the Mississippi Health Systems Agency and a contract physician with the Madison Yazoo Leake Family Health Center in Yazoo City, Mississippi for three years.

Dr. Bartee served as an emergency room physician throughout the state, from the Gulf Coast to North Mississippi including some eastern and western cities. He served as the Medical Director for the Nurse Mid-Wifery Program at Methodist Hospital of Middle Mississippi in Lexington. Prior to his decision to enter semi-retirement this past year, Dr. Bartee remains an Emergency Room Physician in Canton, Mississippi.

Dr. Bartee and his wife Frances have four children and nine grandchildren. Frances is a retired public school teacher, his son Harry A. Bartee, Jr., is a physician, in Tennessee and North Mississippi. His daughter Pamela is a nurse anesthetist, while his younger daughters Anne and Candice, followed their mother's footsteps in education.

Dr. Bartee has always empathized with people who were not privileged to have access to quality health care. He has served many poor and impecunious patients, who have always been more than three-fourths Medicaid/Medicare recipients. His greatest consideration has always been with any aspect of inferior treatment of patients based upon racial, cultural or financial status. Even at the age of 68, he is still practicing.

Mr. Speaker, I ask that our colleagues join me in honoring the life and legacy of Dr. Harry A. Bartee, Sr., a global citizen and champion in the health care profession.

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COMMEMORATING THE MANY AC-  
COMPLISHMENTS OF MS. ALICE  
TREGAY

**HON. JANICE D. SCHAKOWSKY**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 16, 2012*

Ms. SCHAKOWSKY. Mr. Speaker, I rise today to recognize the enormous impact and the many accomplishments of my dear friend, Alice Tregay. Alice has spent almost five decades pouring her heart and soul into promoting social change. Over these years, her activism has taken on many different forms: she has advocated on behalf of the disadvantaged, registered thousands of new voters, managed high profile political campaigns, and more. As a result of her actions, citizens of Illinois and those across the country are better off.

Ms. Tregay's first leap into activism came in 1964, when she joined the protest against Chicago Public Schools Superintendent Willis and his infamous "Willis Wagons." These wagons perpetuated segregation, and the community was energized in opposition. Marching alongside well-known figures such as Al Raby and Dick Gregory, Alice learned just how much of an impact ordinary people could have. In the end, not only were the Willis Wagons shut down, but Superintendent Willis himself was

removed as a result of the community's activities.

This first protest opened a door for Alice, and she leapt through it with her characteristic enthusiasm. She fought housing discrimination in the Chicagoland area, and marched in support of open housing alongside Dr. Martin Luther King, Jr. When Dr. King's Operation Breadbasket began operations in the Chicagoland area, Alice was intimately involved. She worked hand in hand with Rev. Jesse Jackson and Rev. James Bevel to eliminate discrimination and provide jobs for the disadvantaged.

Within Operation Breadbasket, Alice started the Political Education Division. This branch of

the organization trained thousands of students over a five-year period, teaching them how to organize citizens and lead political campaigns. After training a future generation of activists, Alice went even farther. She traveled to the southern United States, registering thousands of voters between Chicago and Mississippi.

Later, she served as an essential staff member on many campaigns, including but not limited to such great leaders as Congressmen Abner Mikva and Jesse Jackson, Mayor Harold Washington, and President Jimmy Carter.

In addition to her campaigning, Alice went on to serve as Director and Chief Lobbyist for the Black Illinois Legislative Lobby. In this role,

she continued to work tirelessly to protect the civil rights of our citizens, and to promote the economic parity of minorities and the poor.

Alice Tregay has impacted untold numbers of lives as an organizer, educator, and change maker. She gave a voice to those who are too frequently ignored. She provided the tools to engage and equip a new generation of activists. Many of her students continue to fight for her ideals, each and every day. On behalf of myself and the many individuals who have benefited from her activities, I extend my heartfelt thanks and love to Alice Tregay for all that she has done.

## HOUSE OF REPRESENTATIVES—Friday, February 17, 2012

The House met at 9 a.m. and was called to order by the Speaker.

### PRAYER

The Chaplain, the Reverend Patrick J. Conroy, offered the following prayer: Almighty God of the universe, we give You thanks for giving us another day.

We pray for the gift of wisdom to all with great responsibility in this House for the leadership of our Nation.

May all the Members have the vision of a world where respect and understanding are the marks of civility and where honor and integrity are the marks of one's character.

As Members take time in the coming week for constituency visits, give them the ability to hear the voices of all in their districts so that when they return, they are focused on the important work to be done.

Bless us this day and every day, and may all that is done within these hallowed Halls be for Your greater honor and glory.

Amen.

### THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. PAULSEN. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. PAULSEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Pursuant to clause 8, rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

### PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Pennsylvania (Mr. ALTMIRE) come forward and lead the House in the Pledge of Allegiance.

Mr. ALTMIRE led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain up to five requests for 1-minute speeches from each side of the aisle.

### THE PRESIDENT'S POLICIES ARE FAILING SMALL BUSINESS OWNERS

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, earlier this week, a Gallup poll was released which sadly stated that 85 percent of small business owners surveyed were not looking for new employees; 66 percent cite the economic recession, 48 percent blame rising health care costs due to the government health care takeover bill, and 46 percent are worried about new government regulations.

These statistics show that the President's policies are failing America's small business owners. The President continues to support policies that are destroying jobs. According to the National Federation of Independent Business, ObamaCare, alone, will destroy 1.6 million jobs.

Over the past year, House Republicans have passed dozens of pieces of legislation that promote job creation and allow small business owners to gain the confidence to begin hiring again. I urge my colleagues in the liberal-controlled Senate and the President to support these initiatives and help put American families back to work.

In conclusion, God bless our troops, and we will never forget September the 11th in the global war on terrorism.

### NO BUDGET, NO PAY

(Mr. ALTMIRE asked and was given permission to address the House for 1 minute.)

Mr. ALTMIRE. Every year around this time, the President submits a budget, the House and Senate debate their own budgets and, well, nothing happens. Congress has not adopted a budget in over 1,000 days, and it's been 15 years since Congress passed all of its appropriations bills on time. This is simply unacceptable, and that's why I

ask my colleagues to join me and the bipartisan cosponsors of the No Budget, No Pay Act.

This bill is simple. It says that if Congress can't complete its work, if the budget and appropriations bills are not done on time, then congressional pay would cease and Members of Congress would not be paid until those bills are enacted. Members could not receive their lost salaries retroactively. Once pay is withheld, it's gone forever.

Somehow, I think if this bill were law, Members would find a new urgency and finally find a way to get their work done on time.

### INFRINGING UPON RELIGIOUS RIGHTS

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. I rise today in support of freedom and liberty, the basic principles our country was founded upon. It's a sad day for America when our President infringes upon our religious rights, a fundamental right protected by the First Amendment.

The President announced he will make a so-called accommodation on the ObamaCare rule requiring religiously affiliated organizations to offer insurance plans that cover contraception.

Even though the President slightly backtracked his attack on religious freedom, he did not go far enough. The new rule still mandates that religious organizations with moral objections will be forced to act against their religious beliefs.

This is not about health care; it's about our rights under the First Amendment. And this is yet another example of why we must repeal ObamaCare in its entirety, adhere to the basic tenets of our Constitution, and stop the administration's severe overreach. The sooner we repeal ObamaCare, the sooner we restore freedom and liberty to all Americans.

### SAME SEX IMMIGRATION BENEFITS

(Mr. WELCH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELCH. Madam Speaker, I rise today to talk about two wonderful

Vermonters from Dummerston: Frances Herbert and Takako Ueda.

They met in college in Michigan more than 30 years ago. Takako, from Japan, was studying English on a student visa; and after completing school, Takako returned to Japan but stayed in touch with Frances. Eventually, Takako returned to the U.S., and she and Frances married. Quite a love story.

Now Frances and Takako face their biggest challenge yet. Takako is being threatened with deportation. Frances and Takako are a same-sex couple. Their marriage is recognized in Vermont, but it's not recognized under Federal law; and without that recognition, Frances and Takako are not eligible for the same immigration benefits as other married couples.

Madam Speaker, these are good people. They have a good relationship. They're good Vermonters. They deserve better.

□ 0910

#### HHS RULING

(Mr. BENISHEK asked and was given permission to address the House for 1 minute.)

Mr. BENISHEK. Madam Speaker, from the 1099 provision, to IPAB, to the hundreds of billions of dollars in cuts to Medicare, it's clear that President Obama's health care law is bad medicine for America. But the recent ruling by the Department of Health and Human Services is the most egregious example of Federal intrusion to date.

Soon after the ruling was announced, I began hearing from citizens across Michigan's First District. Letters and emails came in by the hundreds, with the vast majority in opposition to the administration's position. It is evident from this correspondence that many northern Michiganders are deservedly upset about the administration's blatant attack on our religious freedom enshrined in the First Amendment.

The opposition to this law is not about access to contraception, as my friends on the other side of the aisle would have you believe. Women and men can already access contraception at very low cost. The debate is over the fact that the administration's new rule strikes at the fundamental beliefs of our democracy.

The concept that the Federal Government can force people to pay for actions that violate the teachings of their faith goes against two centuries of American religious freedom. This action represents the very government overreach that the Framers of our Nation fought against and the reason the Bill of Rights was added to the Constitution.

Madam Speaker, like most northern Michigan citizens, I see the right to practice one's religion as a funda-

mental liberty, and I intend to fight this action forever.

#### GETTING COUNTRY BACK ON TRACK

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute.)

Mr. DEFAZIO. Madam Speaker, well, we're going to take up legislation which is targeted to fix the reimbursement for doctors, which is absolutely essential to Medicare. This threat should go away forever. We should make a permanent fix and not pretend that we can just keep dragging this on without jeopardizing seniors.

Unemployment, we need to extend that for people who can't find work. They lost their jobs through no fault of their own. They can't find work; we need to help them out.

But borrowing \$100 billion from the Social Security trust fund under the premise that the consumer spending generated will bring about economic recovery and create jobs, that's the Larry Summers principle from the stimulus era. Look, that doesn't work. You want to create jobs, you want to borrow \$100 billion, let's borrow \$100 billion, finance the transportation bill that the Republicans pulled from the floor this week, and put a few million people to work rebuilding the crumbling infrastructure in this country with all made-in-America goods. That would be an effective way to get this country back on track, not Social Security tax cuts.

#### HONORING LOCAL WORLD WAR II HERO JOHN TEMAN

(Mr. PAULSEN asked and was given permission to address the House for 1 minute.)

Mr. PAULSEN. Madam Speaker, for most Americans, our busy lives make it difficult to reflect as often as we should upon the incredible sacrifices by those heroes who have answered the call to service throughout our Nation's history.

Today, I would like to take a moment to honor the service of one such hero from my home State of Minnesota. Minnesota native and World War II pilot Lieutenant John Teman flew missions in all the major battles in Europe. He flew through flak on the night before D-day in strategic spots over Europe behind enemy lines, and he repeatedly flew missions dropping supplies to the troops trapped at the Battle of the Bulge.

In recognition of his incredible service, John has been awarded seven Bronze Stars, three Air Medals, the Croix de Guerre twice, and on Wednesday he received France's highest recognition and honor, the Legion of Honor.

Madam Speaker, John epitomizes what it means to be a hero. I'd like to

thank him for his service and congratulate him on an honor that's much deserved.

#### REOPENING AMERICAN CAPITAL MARKETS TO EMERGING GROWTH COMPANIES ACT OF 2011

(Mr. CARNEY asked and was given permission to address the House for 1 minute.)

Mr. CARNEY. Madam Speaker, I rise today to encourage my colleagues to support bipartisan legislation to create jobs. In December, Congressman STEPHEN FINCHER and I introduced H.R. 3606, the Reopening American Capital Markets to Emerging Growth Companies Act of 2011.

Our legislation will create jobs by making it easier for emerging growth companies to undertake an IPO. On average, 92 percent of a company's growth occurs after they go public. Unfortunately, in recent years the number of companies going public has fallen dramatically. This legislation will reduce the cost of going public for emerging growth companies by phasing in certain costly regulatory requirements.

Last night, our legislation passed out of the Financial Services Committee with a bipartisan vote of 54-1. We have worked hard to craft this legislation in a way that can pass both the House and the Senate and be signed by the President.

Please join me in supporting this bipartisan legislation that will create jobs and grow the economy.

#### MORE VIEWERS NOTE MEDIA BIAS

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Madam Speaker, according to a Pew Research Center survey conducted last month, more viewers feel the national media are biased than ever before. The survey found that 67 percent of Americans say there is a "fair amount" or a "great deal of bias" in news coverage. Only 10 percent responded that there is "no bias at all" in the national media.

These percentages show a significant increase in the number of Americans who believe that they receive biased coverage of current events by the national media. The national media owe it to the American people to be honest and fair. Americans' distrust of the national media will continue to grow until the media adhere to the highest standards of their profession and provide the American people with facts, balanced stories, and objective coverage of the news.

#### HOUSING CRISIS FACING AMERICANS

(Mr. COSTA asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. COSTA. Madam Speaker, I rise today to talk about the housing crisis facing Americans. In California's San Joaquin Valley, we know firsthand the pain the housing crisis has caused our families and communities as foreclosure rates have continued to hover well above the national average.

The \$25 billion settlement announced last week gives significant relief to homeowners; but it's not the whole-sale, systemic change necessary to put our housing market back on solid ground.

Homeowners are tired of waiting for meaningful change, and tweaks are not enough. Enacting the HOME Act and a homeowner's bill of rights would go a long way toward stabilizing the market and leveling the playing field for the future. We know it's essential to get our economy back on track.

Restoring economic security starts with passing meaningful policies that rebuild the foundation of our communities and the American home. After all, the American home is the single largest investment that the average American family makes in their lifetime. It's part and parcel of the American Dream and the foundation of America's middle class.

#### CONFERENCE REPORT ON H.R. 3630, MIDDLE CLASS TAX RELIEF AND JOB CREATION ACT OF 2012

Mr. SCOTT of South Carolina. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 554 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

#### H. RES. 554

*Resolved*, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 3630) to provide incentives for the creation of jobs, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read. The previous question shall be considered as ordered on the conference report to its adoption without intervening motion except: (1) one hour of debate; and (2) one motion to recommit if applicable.

The SPEAKER pro tempore (Mrs. CAPITO). The gentleman from South Carolina is recognized for 1 hour.

Mr. SCOTT of South Carolina. Madam Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. HASTINGS), pending which I yield myself such time as I may consume.

During consideration of this resolution, all time yielded is for the purpose of debate only.

#### GENERAL LEAVE

Mr. SCOTT of South Carolina. Madam Speaker, I ask unanimous consent that all Members have 5 legisla-

tive days to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

Mr. SCOTT of South Carolina. Madam Speaker, House Resolution 554 provides for consideration of the conference report on H.R. 3630, a bill to extend the payroll tax deduction, protect Medicare payments for doctors, and begin responsible reform of the unemployment benefits system.

Madam Speaker, I rise today in support of this rule. Today, we are taking up legislation that does three things: extend the payroll tax deduction, reform our unemployment benefits system, and protect Medicare payments for doctors.

First, on the bright side, Republicans and Democrats were able to find a compromise to pay for two very important things: much-needed reforms to the unemployment benefits program and protecting Medicare payments to the physicians who serve our seniors.

In regard to the payroll tax deduction, unfortunately our friends on the left did not think it was important to pay for the extension. Spending without making the proper adjustments is a notion I am not fond of. My voting record makes no secret of that. This is what makes this vote so difficult today. You cannot always get exactly what you want; but, today, I applaud both sides for attempting to get fairly close to it.

We cannot continue to pay unemployment benefits for 99 weeks indefinitely. We cannot allow payments to our doctors to be affected, as that will only turn around and affect the care available to those in need.

□ 0920

And we cannot raise taxes on American families. By voting for this rule, we are signaling it is time to move forward, plain and simple.

Once again, Madam Speaker, I rise in support of this rule. I encourage my colleagues to vote "yes" on the rule, and I reserve the balance of my time.

Mr. HASTINGS of Florida. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I thank my good friend from South Carolina for yielding me time.

Millions of Americans all across this country are struggling, and they need our help. What they don't need is more Republican gamesmanship at their expense. The Democrats have literally forced the Republicans to realize that they can't just make policy measures that help the rich while taking away from the poor.

I may support this bill in light of the fact that it will give a payroll tax cut to 160 million Americans. It also extends unemployment insurance to

those Americans who have lost their jobs through no fault of their own, and it will allow seniors access to their physicians under Medicare. And, as a footnote there, we really should do the doc fix permanently and stop piecemealing and playing games with this particular measure.

The bill is not perfect, the pay-for is nowhere near perfect, and the length of the extension is not perfect, but it does contain critical provisions that many Democrats negotiated to keep in the bill. While we were able to compromise today, I do not think that my Republican friends deserve too much credit. Since they regained the majority, the American people have seen firsthand their obstructionist policies in action. In fact, earlier this week, my friends on the right attempted to bring to the floor a transportation bill so flawed that my former colleague and Transportation Secretary and good friend of mine, Ray LaHood, stated:

This is the most partisan transportation bill I've ever seen, and it is also antisafety. It hollows out our number one priority, which is safety. It's the worst transportation bill I've ever seen during 35 years of public service.

The American people want a government that understands the challenges they face daily. Republicans want an economy that works great for the greediest and leaves the neediest out in the cold. Just ask a teacher in my constituency in Belle Glade or Margate or a firefighter in Fort Lauderdale or Pompano Beach and they'll tell you an extra \$1,000 in their pockets makes a huge difference in putting food on the table, gas in the car, and being able to stay in their homes.

We've been forced to strike this compromise because, for decades, Republicans have pushed policies that favor the wealthy. We should not forget that, while we are debating how to pay for this payroll tax cut, unemployment insurance, and payments to Medicare physicians, our Nation's massive deficits are due in large part to Republican tax cuts for the wealthiest in America.

The fact of the matter is that the wealthy have continued to pay less and less taxes. In the 1980s, President Ronald Reagan started to lower tax rates, and then President George Bush slashed capital gains and income tax rates for the wealthy to their now historic lows.

As I travel throughout the constituency that I'm privileged to represent, into areas where the unemployment rate in some places in the Glades is 40 percent, I ask myself: Who's actually benefitting from these tax cuts for the rich? It's certainly not the police officer living in Boynton or the nurse working at the VA hospital or the community health center in West Palm Beach.

Madam Speaker, while I'm pleased that we've come to a compromise to

extend unemployment insurance, I remain deeply concerned that this bill reduces benefits from 99 weeks to as little as 73 weeks through December. I hear daily from constituents who are approaching the end of their unemployment period and are at a loss as to where to turn next.

Although the economy may be starting to recover, what are we supposed to tell those people who have been looking for a job for months and months on end? What kind of compromise are they supposed to strike with unemployment?

The best way to reduce the deficit is to put money into the hands of people who spend it. This is how we support our communities. If we invest more money in Main Street, consumers will have more money in their pockets to spend on putting food on the table, gas in their cars, and, as I said, being able to stay in their homes.

Every American should have the opportunity to succeed. Opportunity should not be limited by geography, race, gender, or the size of one's bank account. Yet thanks to massive gaps in the Tax Code, the rich get richer and the poor get poorer.

The top 1 percent of earners are responsible for 20 percent of the Nation's annual income, up from 10 percent in 1981. The wealthiest CEOs are paid 400 times what the average worker earns. Only 30 years ago, it was 20 times as much.

Americans in the highest tax bracket are supposed to pay 35 percent of their income in taxes. However, since President Bush slashed the capital gains rate to 15 percent, the top 400 wealthiest that we continue to identify, one of about the top 4,000, for example, pay only 15 percent in taxes on 80 percent of their income. As the law is currently written, any wealthy American paying the full 35 percent needs to get a new accountant.

In addition to reducing the term of unemployment insurance coverage, this bill raises an additional \$15 billion by requiring Federal employees to contribute a larger amount to their retirement accounts. My understanding is this is a grandfathered measure that will protect the ones that are Federal workers now; but I'm not sure that this is going to satisfy Members on either the right or left, or the Democrats or Republicans on this measure, since it's addressing Federal employees and there were other ways to get to that \$15 billion.

Federal employees are currently in their second year of a pay freeze, while my colleagues across the aisle only a few weeks ago voted to freeze Federal employees' pay for a third year. Republicans don't think twice about limiting Federal workers' ability to support their families but are more than willing to shut down the government when bankers are asked to pay their fair share of taxes on their bonuses.

How much can we continue to pick on Federal workers? They are not fat cats. They are postal workers, receptionists, janitors, teachers, nurses, social workers, and police officers, to name a few. They are the fundamental underpinning of this Nation. How much can we continue to pile on their backs? We've already broken their bank accounts. How much weight should the wealthiest American, who can afford it, carry?

Investing in America is how we are going to create jobs. Let's build the infrastructure for the coming era of green energy. Let's fix our aging highways and bridges. Please, let's adequately fund our schools so our children can get a good education and can compete on a global level. Doing these kinds of things today will create a brighter America for generations to come.

With that, Madam Speaker, I reserve the balance of my time.

Mr. SCOTT of South Carolina. Madam Speaker, my good friend on the left, Mr. HASTINGS, talks a lot about taxes this morning, and that's probably an appropriate conversation to have.

I will say, however, that as we examine the facts around the capital gains tax, let us not forget that President Clinton lowered the capital gains tax from 28 percent to 20 percent, according to the American Thinker. But we also have to keep in mind that the most tax-driven piece of legislation in the last 3 or 4 years is, in fact, the folks on the left and the national health care reform, a \$500 billion increase of taxes and fees on the middle class.

□ 0930

Let us not get lost on the fact that those on the left continue to find ways to tax the middle class.

When I think about the notion that we're going to have a conversation about taxation, it kind of gets me excited. I'm looking forward to this opportunity to debate the worthiness of the payroll tax deduction and how both sides have come together. This is a good thing; we've found some common ground on the issue of the payroll tax. But where we will not find common ground is on the issue of slicing taxes for the middle class.

My friends on the left, they talk a good game, but they don't walk the talk. Because when you look at the national health care program, you must concede that \$500 billion of new taxes is a bit much for the middle class. You must say that the surtax on investment income—another \$123 billion to start 11 months from now—that is a pain for the middle class. It's a pain for the middle class.

When I think about the excise tax on comprehensive health insurance plans—\$32 billion just a few years ago. When I think about the hike on

Medicare, another payroll tax—\$86 billion of new taxes starting in another 11 months. My friends on the left, they seem to have this concept that if we just wait a little while, the American people will forget who, in fact, is raising the taxes on the middle class.

I would say that my good friend from Georgia wants to chime in on the debate, so I'm going to yield, Madam Speaker, 3 minutes to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY of Georgia. Madam Speaker, I do rise in support of the rule. And of course I want to thank my colleague from South Carolina, the beautiful Lowcountry, for yielding me this time.

While I am, Madam Speaker, supporting the rule, I must also inform my colleagues that I will be opposing the underlying conference report.

In December, this House passed responsible legislation that afforded a full-year extension of the payroll tax holiday. It provided long-overdue reforms to unemployment benefits. And of course it mitigated the looming 27.4 percent physician-reimbursement cut for 2 years so that all seniors would still have access to medical care.

Most importantly, Madam Speaker, that fiscally prudent legislation was completely offset. My colleagues understand that by that we mean it's paid for with spending cuts. Yet when it came time for the other body to stand with us for the American people, it failed; and it forced us into this 2-month extension. So here we are again. Madam Speaker, I thought that this approach was wrong then, and I still believe that it is wrong now.

While I am opposing the conference report, I do need to commend Chairman CAMP for ensuring that necessary unemployment insurance reforms stayed in the bill; and I want to also commend Chairmen UPTON and WALDEN for working diligently to include sensible spectrum auction legislation, as well as for their work to make sure that seniors—at least through the end of this year, 10 months—have the ability to see their doctors.

As a physician, I have and I will continue to fight for the long-term solution to eliminate this flawed SGR system once and for all. However, despite these efforts, I cannot and I will not support legislation that extends the payroll tax holiday without paying for it. This will add \$100 billion to the deficit, and it will create an even greater shortfall within the Social Security trust fund that already has over a \$100 billion shortfall just in the last 2 years. And what is it, \$2.4 trillion that the government owes the trust fund that's not there, just IOUs in a file drawer in West Virginia. We did the right thing in December, and I believe that it is a travesty that we would now reverse that course.



So, Madam Speaker, make no mistake, I support tax relief for hard-working Americans, but by reducing their marginal tax rates. But this legislation is simply an election-year gimmick that jeopardizes our already-fragile Social Security system while literally tricking voters—160 million of them—with the hopes that they believe it's real tax relief.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. SCOTT of South Carolina. I yield the gentleman an additional 30 seconds.

Mr. GINGREY of Georgia. I thank the gentleman.

Madam Speaker, we can do better, and quite frankly, the American people deserve better. It's time to end all of these games—the smoke and mirrors, the bait-and-switch, the political gamesmanship, all with concern for this next election and to the detriment of this current and future generations.

For that reason, Madam Speaker, while I support the rule, and I thank the gentleman for yielding, I will be voting “heck no” against this conference report.

Mr. HASTINGS of Florida. Madam Speaker, I'm very pleased to yield 2 minutes to my very good friend from California, the distinguished gentleman, Ms. MATSUI, a former member of the Rules Committee.

Ms. MATSUI. I'd like to thank the gentleman for yielding me time.

Madam Speaker, this bipartisan agreement will ensure that 160 million Americans will not see a tax increase at a time when so many families are still struggling to make ends meet. The payroll tax cut provides American families an average of \$1,000 annually to help pay their bills and for day-to-day necessities.

I am also pleased that this agreement will extend unemployment insurance. With the unemployment numbers in my district over 12 percent, continued unemployment benefits are important for so many to make ends meet while still trying to find work.

Additionally, providing for a Medicare physician payment fix will ensure that seniors have continued access to care. But I do urge my colleagues to continue working for a long-term solution to this critical issue.

I am supportive of the spectrum provisions in this bill, which will finally provide public safety with a nationwide interoperability network and ensure a path for continued American innovation. However, Madam Speaker, I do have reservations about other ways this package is paid for.

The second-largest job provider in my district behind the State government is the health care sector, employing nearly 30,000 workers. The Medicare bad debt reductions in this bill would seriously hamper the health systems in my district. For example, UC Davis

Medical Center would lose \$4 million over the next few years.

Additionally, I am greatly disappointed by the cuts to the Prevention and Public Health Fund—which I actively worked to get included in the Affordable Care Act—as prevention is the best way to improve public health.

While passage of this bill is critical for America's middle class, unemployed, and seniors, I have strong concerns that it should not be at the expense of our country's health care and Federal workforce.

Mr. SCOTT of South Carolina. Madam Speaker, I yield such time as he may consume to the gentleman from California, Chairman DAVID DREIER.

Mr. DREIER. Madam Speaker, I rise first to congratulate my good friend from north Charleston, a hardworking member of the Rules Committee, for his stellar management of this rule. And on the other side, a pretty fair job is being done by my friend from Fort Lauderdale, I have to say.

Madam Speaker, I will say that I listened to the opening statement of my colleague from Fort Lauderdale. As he talked about the plight of those in Florida, constituents of his who are struggling, I was thinking about the fact that today I deal with in an excess of 14 percent unemployment rate in the Inland Empire, part of the area that I represent in southern California.

When I hear the stories all across this country of people who are suffering, it does resonate. And it leads me to say, Madam Speaker, Why is it that we're here today? Why is it that we're here looking at an extension of unemployment benefits? Why is it that we're here looking at an extension of the payroll tax holiday? The reason is that we have an abysmally low, unacceptable gross domestic product growth rate in this country.

We have a GDP growth rate which is not acceptable. Yes, we've seen some positive signs, and we're all gratified about that. I truly believe that the positive signs that we have seen are in spite of, not because of, anything that has come from Washington, DC. I mean, years ago we passed a stimulus bill that was supposed to guarantee that we wouldn't see an unemployment rate that would exceed 8 percent. We all know what has happened. We've seen a great deal of suffering.

We've looked at the 82 percent increase in nondefense discretionary spending that took place in the 4 years leading up to our winning the majority. That, obviously, didn't play a role in getting our economy growing.

□ 0940

The reason our economy is growing is that there is a great deal of innovation, creativity, diligence, hard work on the part of our fellow Americans, small business men and women, working

Americans who are out there doing it. That's the reason we're seeing these positive signs.

Now, if we did have pro-growth economic policies put into place, if we had those put into place, it's obvious that we would not have to rely on an extension of unemployment benefits. We would not have to look to extending the payroll tax holiday.

We all know that the payroll tax is designed to specifically go to ensure that people who are retirees are able to have those benefits. So we are, obviously, undermining that.

Now, we all argue, certainly on our side, that increasing taxes for anyone during slow economic times is not acceptable policy, and that's the reason that we are doing what it is we're doing, supporting this measure. It's obviously something that is essential because of the fact that we have not seen the kind of GDP growth rate that we can put into place.

That's why I believe that after we move beyond this, it is essential for us to do all that we can to implement the kinds of policies that will, in fact, spur the kind of incentive, create the kind of incentive that our job creators need. And there are a wide range of things that we have talked about. We all know what those are. I hope that we can come together in a bipartisan way to do just that.

I congratulate my friend, DAVE CAMP, and the other conferees who have come to this agreement. It is acceptable to some of us. Some of us are not enthusiastic.

My friend from Marietta, a few minutes ago, was talking about the package that existed last December. That was good public policy. It ended up not being good politics. I'll recognize that. It was the exception to the rule that good public policy is good politics, because what it did is that accepted what it is we're doing today, what the President requested, that we would extend this package for 1 year rather than just 2 months, which is what we had to reluctantly agree to last December.

And I also have to say that, on the sustained growth rate issue, that is, ensuring that hardworking doctors out there have the adequate compensation for their labors, we need to have major reform of the SGR structure; and I think that what we have done today is a step in that direction, and I hope very much that we are going to be able to do that.

So, again, I thank all my colleagues who've been involved in getting us to where we are. Now that we are going to do this, it's essential that we move ahead with very positive pro-growth policies.

Mr. HASTINGS of Florida. Madam Speaker, I am very pleased to yield 2 minutes to my good friend from New Jersey (Mr. PALLONE).

Mr. PALLONE. Madam Speaker, today's payroll tax conference agreement

will provide \$1,000 in the pockets of more than 160 million Americans and ensure that approximately 3.5 million Americans will continue to benefit from much-needed unemployment insurance. We've also protected seniors' ability to see their doctors with an SGR fix through the end of the year.

Despite these critical provisions, though, this is a difficult vote to take. I'm greatly disappointed over how these extensions are offset.

First, the unemployment extension is paid for on the backs of middle class Federal workers. These hardworking men and women continue to be targeted in this Congress, but yet they are not the reason for our Nation's deficit. Meanwhile, my Republican colleagues refuse to require the wealthiest few to pay their fair share.

Secondly, the SGR fix is being paid for with critical health care dollars. In fact, the bill slashes one of the most important investments this country has ever made in preventative health. This is extremely shortsighted. We cannot continue down that path or we'll never address the real cost concerns of our health care system. And, sadly, the bill also manages to cut from one provider, hospitals and nursing homes, to pay for another, physicians. We can't rob Peter to pay Paul, and our health care system can't sustain further provider cuts. Meanwhile, there's still no permanent solution to an ongoing SGR problem that can't continue to be kicked down the road.

I will vote in favor of this bill, but I do so with reservations. I know that on our Democratic side, our conferees fought very hard for the best deal that they could get. So I think we have to vote for this bill because it does a lot of very important things, but I also have to express my reservations.

Mr. SCOTT of South Carolina. Madam Speaker, I yield 2 minutes to the gentleman from Texas, Mr. JOE BARTON.

Mr. BARTON of Texas. I want to thank the gentleman from South Carolina for yielding.

I've been in the House, this is my 28th year, 14 years in the minority and now I'm in my 14th year in the majority. I don't believe I have ever voted against a rule when I was in the majority, but I'm going to vote against this one. I'm also going to vote against the underlying bill.

I'm not saying anything disparaging about the leadership on both sides of the aisle and the leadership in both bodies, but we are taking money away from the Social Security trust fund and we are substituting an IOU that may or may not ever be repaid. So on principle alone, I think we should at least shoot straight with the American people. So I will vote "no" on the underlying bill.

On the rule, when we became the majority, we, the Republicans, we prom-

ised the American people that we would be more open and more transparent than the previous majority that was headed by Speaker PELOSI; and one of our primary promises was that we would give the American people 3 days, or 72 hours, before any bill was voted on the House floor. This rule waives that principle. And I know it's expedient and I know that there is majority support, as you can tell by the debate for both political parties on this bill, but I think to go back on a principle to the American people, that what we vote on, especially bills that are very important, should have enough time that people can look at what's in the bill. I don't think that's something that you compromise for political expediency.

So I will vote "no" against this rule for the first time in my career in the House of Representatives as a member of the majority when a majority rule is up, and I would hope that this is a one-time exception that we violate the principle that we promised when we became the majority.

Mr. HASTINGS of Florida. Madam Speaker, I had hoped that Ms. VELÁZQUEZ or Mr. ENGEL would be here, but I'll say to my friend from South Carolina: Do you have other speakers?

Mr. SCOTT of South Carolina. I do not at this point.

Mr. HASTINGS of Florida. All right. Then I'm in the position of having to go forward. I yield myself such time as I may consume.

When the payroll tax cut and unemployment insurance renewal came before the House just 2 months ago, my friends on the right refused to renew either provision, while Democrats tried to avert a tax hike on the middle class. I believe that Republicans would rather let the payroll tax cut expire and unemployment insurance run out than ask the wealthiest Americans to pay their fair share.

Madam Speaker, if it's at all possible, I'm midway, but I still have the time and, with your permission, I would like to yield 2 minutes to my colleague from New York (Mr. ENGEL).

Mr. ENGEL. I thank my good friend from Florida (Mr. HASTINGS).

Madam Speaker, I rise in support of the legislation being considered today; however, I really just need to say this is not the agreement I would have written.

I recognize the importance of making sure our physicians don't receive a 27 percent pay cut, and I have been very, very vocal on the doc fix. I think it's something that is warranted, is much needed, and is fair and equitable, but I strongly oppose the cut in DSH funding to pay for this package.

As a member of the Health Subcommittee of Energy and Commerce, we fought hard to have DSH in the Affordable Health Care Act. And in my

home city of New York City, teaching hospitals are very important and they help the people who are poor, and that's why DSH funding is so important.

We'll always need a safety net for hospitals to provide that safety net to our most vulnerable citizens, and cutting DSH payments only makes the task harder. This will certainly have a harmful effect on my district. I really just have to say that.

But, ultimately, I'll vote for this agreement because, at a time when the Great Recession is finally showing signs of ebbing and the recovery is taking root, we cannot remove \$1,000 from middle class taxpayers' pockets and expect the recovery to continue.

So I am very glad that we will still have a payroll tax cut. I'm glad that Democrats have been in the forefront, along with the President, of pushing for this payroll tax cut.

We need to do more to help the working people and middle class people in this country, not only the rich. The poor, the middle class, the working class people, they're the ones that need help, and this bill is helping them today.

This conference report is also a slap in the face to our federal work force. Public workers serve their country and without them, our country would not be what it is today. Without their efforts, we would not be the leader in medical research. Seniors would not have their Social Security benefits processed as quickly. People waiting on their tax return would have to wait longer.

Yet, time and again—while asking no sacrifices of large oil companies or the wealthiest income earners—we are asking the federal work force to bear the brunt of paying for extension of unemployment insurance benefits. How can we expect to recruit and retain a qualified, effective federal work force if we continue to decimate their pay and pensions, and attack them for serving their country?

But ultimately, I will vote for this agreement because at a time when the Great Recession is finally showing signs of ebbing, and the recovery is taking root—we cannot remove \$1,000 from middle class taxpayers' pockets and expect the recovery to continue.

This bill also fully extends unemployment insurance benefits. While I strongly disagree with the pay-for, at a time when our country is showing strong signs of recovery, I cannot vote against benefits for those who are still looking for work.

The Bill also creates a nationwide broadband network which fulfills the final recommendation of the 9/11 commission to allow interoperability for first responders.

The Bill also brings our spectrum policies into the 21st century by providing critical access to spectrum and advanced wireless broadband communication to accommodate our growing use of smart phones and tablets.

I urge my colleagues to support this agreement.

□ 0950

Mr. Hastings of Florida. I thank the gentleman.

Madam Speaker, I will continue to close now.

I'll just say again, Madam Speaker, that again this body was able to reach a compromise today. The unfortunate fact is that the Republican Party still seeks to implement policies that unfairly favor the wealthy. Let me identify some of those people.

We would have me in the position of looking in the mirror. We do better than other people in our society, and we ought to pay more in light of that, not just the top 400, but all of us that are doing better so that we don't fall into that category of not taking care of those who have the greatest needs.

It is time to stop playing politics with the livelihoods of those who have been hit the hardest and need our help the most. I urge my colleagues to vote "no" on the rule.

I yield back the balance of my time. Mr. SCOTT of South Carolina. Madam Speaker, it is time for us to move forward in this debate. The conference committee has done their job and brought us a compromise, which is exactly what the American people have been asking for from Congress, and that is for us to work together.

Supporting the rule for the conference report signals that we are ready to finish this debate and move on to the most pressing issue facing our Nation today, and that is creating the environment that creates jobs.

Madam Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. CAMP. Madam Speaker, pursuant to House Resolution 554, I call up the conference report on the bill (H.R. 3630) to provide incentives for the creation of jobs, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 554, the conference report is considered read.

(For conference report and statement, see proceedings of the House of February 16, 2012, at page 1947.)

The SPEAKER pro tempore. The gentleman from Michigan (Mr. CAMP) and the gentleman from Michigan (Mr. LEVIN) each will control 30 minutes.

Mr. HOYER. Madam Speaker, I would inquire of the gentleman from Michigan (Mr. LEVIN) whether or not he is opposed to the conference report.

Mr. LEVIN. I support the conference report.

Mr. HOYER. Madam Speaker, in that event, I claim the time in opposition to the conference report.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XXII, the gentleman from Michigan (Mr. CAMP), the gentleman from Michigan (Mr. LEVIN),

and the gentleman from Maryland (Mr. HOYER) each will control 20 minutes.

The Chair recognizes the gentleman from Michigan (Mr. CAMP).

GENERAL LEAVE

Mr. CAMP. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the conference report to accompany H.R. 3630.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. CAMP. Madam Speaker, I yield myself such time as I may consume.

I come to the floor today in strong support of this conference report as a result of a lot of long hours, hard work, and determination on both sides of the aisle and both sides of the Capitol. This agreement shows the American people that Congress can govern and Washington can work.

First and foremost, this legislation prevents a tax increase on 160 million Americans. As a conservative, I look at the agreement and see some very big wins. Chief among them are the most significant reforms to the Federal unemployment program since it was created in the 1930s, all designated to promote reemployment and paychecks instead of unemployment and benefit checks.

While extending unemployment benefits through the end of the year, this agreement creates a national job-search standard for the first time, covering benefits from beginning to end and requiring every American to look for a job if they receive unemployment benefits.

The agreement allows States to spend unemployment funds on paying people to work instead of just sending them a check when they are out of work. It ensures taxpayer funds are properly spent by permitting drug testing under commonsense rules that help people get ready for a job. It expands work-sharing programs to help avoid layoffs in the first place; and it improves fiscal responsibility by not only recovering more overpayments, which currently total a staggering \$12 billion per year, but also by making sure that this program is fully paid for.

And the last item is something I want to focus on for a moment. All government spending in this agreement is fully paid for, and not with one dime of higher taxes. All spending on unemployment and health care are fully paid for. This is a significant victory for those of us concerned about the national debt and the culture of deficit spending that has gripped Washington for far too long.

For example, the unemployment program has added nearly \$200 billion to our Nation's debt over the last 4 years. No more. We paid for it in December,

we're paying for it today, and we set a clear precedent that Congress must live within its means, no more spending unless its paid for. Period.

Now, I understand this is a compromise, and not everyone likes everything in here. If I had my way, the bill passed by the House in December would be the law. That was the only bill that extended these programs through the end of the year. It was the only bill that was fully paid for, and it was the only bill that ensured seniors and their doctors were protected from dramatic cuts for at least 2 years. But we don't control Washington.

Democrats still control Washington. They control the Senate, and they control the White House. Yet utilizing the process that dates back to our Founding Fathers, House Republicans have scored significant victories in this conference committee. Our Founding Fathers recognized that Washington would not always be united. In their wisdom, they knew that even divided government must still govern, and that's what we're doing here today, governing and providing a solution to the very real problems Americans are facing in their daily lives.

I urge my colleagues on both sides of the aisle to join me in supporting this legislation, which pays for new spending with spending cuts, prevents working Americans from getting hit with a tax increase next month, reforms our employment programs, and ensures seniors continue to have access to their doctors.

Madam Speaker, I come to the floor today to speak in strong support of this conference report. As a result of a lot of long hours, hard work and determination on both sides of the aisle, and both sides of the Capitol, this agreement shows the American people that Congress can govern and Washington can work.

As a conservative, I look at the agreement and see some very big wins. Chief among them are the most significant reforms to Federal unemployment programs since they were created in the 1930s, all designed to promote reemployment and paychecks instead of unemployment and benefit checks. This agreement:

Creates a national job search standard for the first time, covering benefits from beginning to end, and requires every unemployed American to look for a job if they receive unemployment benefits;

The agreement allows States to spend unemployment funds on paying people to work, instead of just sending them a check while they are out of work;

It ensures taxpayer funds are properly spent by permitting drug testing, under commonsense rules that help people get ready for a job;

It expands work-sharing programs to help avoid layoffs in the first place; and

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For example, the unemployment program has added nearly \$200 billion to our Nation's debt over the last 4 years. No more. We paid for it in December, we are paying for it today, and we have set the clear precedent that Congress must live within its means. No more spending unless it is paid for, period.

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And, that is what we are doing here today—governing and providing a solution to the very real problems Americans are facing in their daily lives.

I urge my colleagues on both sides of the aisle to join me in supporting this legislation which pays for new spending with spending cuts; prevents working Americans from getting hit with a tax increase next month; reforms our unemployment programs; and ensures seniors continue to have access to their doctors.

In the Joint Explanatory Statement of the Committee of Conference for H.R. 3630, the description of sec. 7003, Points of Order in the Senate, was erroneously included in the joint statement.

I reserve the balance of my time.

Mr. LEVIN. I yield myself such time as I may consume.

The basic fact is that this legislation is very different from the December House Republican bill, very different, and any efforts to mask that are faults. That House bill was the main bill before the conference committee.

The basic fact is the conference committee made major changes to the House bill that passed in December essentially on a partisan basis. Therefore, this legislation is much better for the American people.

The Speaker said this about this bill:

Let's be honest. This is an economic relief package, not a bill that's going to grow the economy and create jobs.

That's not an honest statement. It's wrong. This is a bill that relates to the economic growth of the United States of America. We're recovering, and this bill will provide a boost to continue that recovery.

□ 1000

It continues the 2 percent payroll tax through the calendar year; and it is not offset, as was true of the House Republican bill in December. It had massive harmful cuts that would have been countercyclical and that would have undermined further economic growth. In that respect, this is very different.

It's also very different in terms of unemployment insurance. Let's be clear about that. The bill that the Republicans passed through the House that was the main bill before the conference committee would have slashed 40 weeks of unemployment insurance for millions of Americans in every State regardless of the unemployment rate in that State. This bill essentially changes what was in the House bill. It extends unemployment insurance through the rest of the year up to—this is the maximum—up to 89 or 99 weeks through May, up to 79 weeks through August, and up to 73 weeks through December, depending on the level of unemployment.

Let me just say, our chairman has talked about job search and now a requirement that people be looking for work. That's already in the law of every State. That isn't a meaningful reform. In terms of job search, everybody not only registers, but also, as I said, is required to look for work. I find it an insult to the unemployed of this country to say, essentially, that we're simply giving them a check instead of a paycheck.

If you talk to the unemployed, through no fault of their own, they are looking for work. They had a paycheck in most cases year after year after year. They worked for their unemployment insurance. To simply label this an effort to get people off of unemployment insurance—unemployment insurance is not a welfare program. People work for it, and they need that subsistence as they look for work.

The bill that passed through the House had a GED requirement. That is out. To say to people you don't get a check if you're not in a GED program when there are 160,000 people in this country who are on waiting lists for education, that's out of here because it deserved to be out of here.

In terms of the drug programs, the effort to test people for drugs, it is so limited. So it is really masking the reality to call this major reform. It freezes the reimbursement for physicians through December.

Let me just close by saying a few words about the limits on this bill, because there are limits.

It would have been much better to treat unemployment insurance as an emergency, as we have for 20 years. This is the highest level of long-term unemployed on record in this country, which is another reason not to blame the unemployed for the unemployment, as the House bill in December did and

some of the rhetoric on this floor continues to do. We were not able to obtain this, and I want to say this in terms of a precedent. In my judgment, it should not serve as a precedent. The precedent is 20 years treating it as an emergency.

Let me also say, it is deeply unfortunate that some on the other side insisted that Federal workers carry a disproportionate share of the cost of this bill, even after there were put forward bipartisan pay-fors that would have covered the cost of UI. In the bill that came through here on a partisan basis in December, there would have been an impact on Federal employees of \$67 billion. This bill has a provision that will apply to pension programs, \$15 billion over 10 years compared to the \$67 billion that was in the bill that the House Republicans passed.

Let me just say in closing, this agreement provides tax relief to working families, certainty for unemployed workers that a framework is in place for the year, and a real commitment—and I emphasize this—by us Democrats to aggressively continue to pursue efforts to strengthen the economy and boost job growth so that those hardest hit by the recession can return to work as they desperately want to.

I just want to reiterate how wrong the Speaker was when he said:

Let's be honest. This is an economic relief package, not a bill that's going to grow the economy and create jobs.

The opposite is true. The provisions in this bill will help to continue economic growth, the payroll tax. Most economists say that. Unemployment insurance people spend, and that is not only good for their subsistence but good for the economy of our country. For all those reasons, I urge support of this conference committee.

Madam Speaker, I reserve the balance of my time.

Mr. HOYER. Madam Speaker, I yield myself 5 minutes.

I have taken the unusual process of claiming time in opposition to this bill. I have done so so I would have sufficient time to place in context the bill that we're considering. I do not rise to necessarily defeat this bill. I'm going to vote against this bill. I'm for almost all of this bill. What we are funding this bill with was unnecessary, unfair, and ought to be rejected.

I want to say at the outset that my friend Mr. CAMP and I had a very positive discussion. I believe that Mr. CAMP and I could have reached an agreement, which would have put me in support of this legislation. We didn't get there. We tried late in the game, and we didn't get there. I regret that. I think Mr. CAMP tried.

I know that everybody on my side would have supported the agreement that Mr. VAN HOLLEN and I put forward. That agreement would say, as the current agreement, that the only

individuals paying for this bill out of 315 million Americans are the 2 million civilian workers who work for us, who work for all of us, who day after day, week after week, month after month make sure that we give services to the people of the United States, protect the United States, ensure that our food is safe, ensure that we have FBI agents on the job, make sure that at the Defense Intelligence Agency we know what other people are doing. These are all our civilian employees, highly skilled, highly trained, highly educated, and, yes, highly motivated. Every day they give outstanding service to the people of the United States. We talk here and we pass laws here, but none of that talk and none of those laws makes a difference unless somebody implements what we say and the policies that we set.

This Congress is on the path to being the most anti-Federal worker Congress that I've served in. I'm going to place that in context for you, which is why I wanted the time.

□ 1010

What is the context we find ourselves in? First of all, we have a very struggling economy. The good news is the economy is coming back, but not fast enough. We need to create more jobs, expand opportunities, and make sure that the American Dream is alive for all working Americans, working Americans like our Federal employees, working Americans like the folks at GM who have just done very well, working Americans who work in the hardware store, the grocery store, the gasoline station, hardworking Americans. And we don't have enough jobs for them. As a result, we have high unemployment.

I congratulate my friend from Michigan (Mr. LEVIN) for his leadership in making sure that the unemployment provision in this bill is sufficient to try to reach those folks and make sure they don't fall off the ledge. We walked away from them in December. I'm glad that we're not walking away from them today.

We also have, as all of us know, a struggling economy; and, therefore, we put into effect giving \$1,000 more to each and every worker. Now, many of your leaders did not support this 2 percent reduction, and I understand that. I won't go into their names. Some are in the Chamber. But the fact of the matter is, it puts an additional \$1,000 into average working Americans' pockets—people who pay FICA, that is, people who are making less than \$106,000. That's an important thing for us to do to try to keep this economy growing. I'm for that. I was for it in December. I'm for it in February. I'm glad that we're going to have consensus on that today.

In addition to that, we are playing a silly little game with the doctors and

with Medicare patients; and this silly little game pretends that we're going to extend SGR for 10 months. That's baloney, and everybody knows it. We're going to continue to extend SGR over and over and over again. We should have done it permanently in this bill. We should have done it last year and in the last Congress, the Congress in which I was the majority leader. We should have done that.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. HOYER. I yield myself 2 additional minutes.

So with respect to SGR, ladies and gentlemen, we're playing a game, and the doctors all over this country and the Medicare recipients all over this country know we're playing a game. We're giving them no certainty, no confidence that, come this September, October, November, we won't have another one of these silly little debates.

Now we also, in that context, have a deep deficit and debt that confronts this Nation that we have to deal with. And we had two commissions that said we had to deal with it. One was Bowles-Simpson—my friend from California (Mr. BECERRA), who sits in the Chamber here with me, sat on that commission—the other was Domenici-Rivlin. And we've had others, including the Gang of Six in the United States Senate. And all of them had as a premise that we needed to deal with the fiscal problem that confronts us. And the other premise was all of us need to contribute to that solution. All of us.

Now what do we see that's being proposed in this Congress, partially in this bill, but only partially in this bill? We have either on the floor proposed or passed over the last 2 years—listen to this, ladies and gentlemen—we are about to cut or propose to cut \$134 billion out of our Federal employees over the next 10 years. Nobody else in this bill—not a millionaire, not a billionaire, not a carried-interest beneficiary, not an oil company—nobody in this bill, other than Federal employees, is asked to pay.

I understand we have hospital cuts. By the way, how do we have \$5 billion of that? Because we just increased by 1 year the cut that they know they got. It's the same for some other things. No individual, other than a Federal employee, is asked to take a cut in this bill.

The SPEAKER pro tempore. The time of the gentleman has again expired.

Mr. HOYER. I yield myself 2 additional minutes.

Now, you will say to me, Oh, it's future Federal employees, so it doesn't really matter. That's \$15 billion of the \$134 billion that has been proposed. They've already paid \$60 billion, \$60 billion. And by the way, your side of the aisle is not going to give them that 0.5 percent that the President asked for,

so that will be \$30 billion. So in 3 years—Mr. and Mrs. America ought to know, Madam Speaker—Federal employees will have paid \$90 billion in contributions to help bring this deficit down. And by the way, Federal employees, as a percentage of our population, are down by a third over the last 20 years. It's not that the bureaucracy has grown. Yes, our population has grown. We are trying to serve them. They are down by a third in numbers.

Now, I know something about Federal employee pay. I represent 60,000 Federal employees. And you could say, Well, HOYER is up there defending his people. You would be right. You would be very right. But most of the Federal employees don't live in the Washington metropolitan area. They live in your districts, all over this country, serving your farmers, serving your drugstores, serving everything that you do.

Do I think it's the private sector that makes this country great? Absolutely. Do I believe they need an energized, high-morale, highly educated Federal workforce as their partner? I do. And you will not have that, ladies and gentlemen, if we keep along this path of every time we come to a bill that's a little bit of trouble, the pay-for is to reach into the Federal employees' pockets. They're pretty much going to say, I'm not with you any longer.

And I want to tell you: in terms of recruiting and retaining, you will not do it. Forty percent of the Federal workforce, ladies and gentlemen, can retire in the next 5 years.

The SPEAKER pro tempore. The time of the gentleman has again expired.

Mr. HOYER. I yield myself 1 additional minute.

Ladies and gentlemen, you are going to be able to recruit those folks only if you have a competitive workforce.

Let me give you a figure that you might find interesting. There are 33,300 employees at Goldman Sachs. Average salary, ladies and gentlemen: \$367,057, the average salary of 33,300 people. You won't be able to compete. You won't be able to get NSA employees, as opposed to Siemens or Microsoft or some of those other corporations, many of which are in Ms. ESHOO's district. You won't be able to recruit them, and you won't retain them to have the best and the brightest defending America and making America the strongest and greatest country on Earth. Do you want America to be an exceptional country? Then you'd better have the best civil service on Earth, as well as the best private sector.

The SPEAKER pro tempore. The time of the gentleman has again expired.

Mr. HOYER. I yield myself 1 additional minute.

Ladies and gentlemen, I don't know whether most of you know this. I saw a gentleman from Florida who's been

here for a couple of months pontificate that I didn't know anything outside of the Beltway.

I was the sponsor of the Federal Employee Pay Comparability Act. And George Bush Sr. signed that act, and we worked with his OMB to get it. And what does it say? Federal employees cannot get a raise unless the private sector gets a raise. We're precluded from getting a raise unless the private sector gets a raise. And what does it further say? That the private sector—which is the economic cost index, by the way, in case you want to know exactly what the statistic is—says, we're going to take a half a point less.

So what have you done in this bill, unnecessarily? Because you're going to freeze their salary for a third year in a row. Bowles-Simpson said do it for three. But Bowles-Simpson said, Everybody ought to share, everybody. We ought to get \$1 trillion in revenues, \$1 trillion in cuts. Everybody.

The SPEAKER pro tempore. The time of the gentleman has again expired.

Mr. HOYER. I yield myself 1 additional minute.

But nobody but Federal employees, nobody is targeted in this bill other than Federal employees. You can tell I'm angry about that because that's not fair, and that's not how you ought to treat our employees, America's employees. America's public servants, we call them. We ought to stop dissing them. We ought to stop demagoguing them. We ought to stop using "bureaucrat" as an epithet. America needs them.

I will have some other things to say in a few minutes, Madam Speaker. But we ought not walk away from our Federal employees any more than we ought to walk away from those 160 million people who need this tax cut or walk away from those 2.4 million who need that unemployment insurance or walk away, as we have, from the doctors who need certainty, long term—not for 10 months, but long term.

I reserve the balance of my time.

□ 1020

Mr. CAMP. Before I yield, I just would like to say to the gentleman that he did characterize our conversations correctly. It was very late. I do look forward to working with him in the future on these issues as we move forward.

With that, I yield 2 minutes to the distinguished gentleman from Oregon (Mr. WALDEN), a conferee.

Mr. WALDEN. Madam Speaker, I thank Mr. CAMP, and I want to thank the gentleman from Michigan for his extraordinary leadership in pulling the House and the Senate together as chairman of our conference.

One of the key elements of this legislation is freeing up an enormous swath of spectrum for use, to grow jobs in

technology and innovation, generate \$15 billion to the treasury to help pay for some of the things that are being discussed today, to extend the middle class tax cut, to provide unemployment for those who are seeking work. And in the process here, there are estimates of building out the 4G network, which will take spectrum like that which will be made available here, could generate somewhere between 300,000 and 700,000 American jobs, and unleash technology and innovation in America.

In addition to doing that, the Republican House, in concert with our colleagues across the aisle and across the Chambers, have come together to finally take care of our public safety officials who, on that terrible day of September 11, discovered that their devices did not communicate well with each other, if at all. So, finally, we have come together to create an interoperable, public safety broadband network that they can operate on wherever they are, wherever disaster may strike, and they'll be able to communicate with each other. We've allocated money to build it out. I think we've put a governance structure in place. While it is not exactly as I hoped would happen, I think it will function. We will see.

So we have built out a public safety network for our public safety officials. That will get underway. This bill will help generate 300,000 to 700,000 American jobs, generate \$15 billion in private sector money coming into the government to help pay for some of this, and protect our over-the-air broadcasters. Our TV broadcasters who will be asked in a voluntary auction if they want to give up their spectrum are protected so that the viewers out there in America will still be able to see and watch their over-the-air public and private broadcasters.

Madam Speaker, this is good legislation, and I hope Members will support it.

Spectrum is increasingly becoming the lifeblood of our communications sector and our economy. U.S. investment in 4G wireless networks could range from \$25 to \$53 billion in the next five years, produce \$73 to \$151 billion in GDP growth, and create 371,000 to 771,000 new jobs, according to a recent study. But that can't happen without spectrum, and a spectrum crunch is looming. Back in December, the House of Representatives tackled the spectrum crunch head on when it passed the Jumpstarting Opportunity with Broadband Spectrum Act of 2011, also known as the JOBS Act.

Title VI of the Middle Class Tax Relief and Job Creation Act follows the spectrum auction framework from the JOBS Act to free up valuable spectrum that when put into service will unleash new technologies. It will help meet the growing demand for mobile broadband, foster private-sector investment, and promote hundreds of thousands of jobs. To raise billions of dollars in federal revenue, it authorizes truly voluntary incentive auctions, ensures that any spectrum cleared with federal funds spectrum

is auctioned, and enables all wireless carriers to compete in open auctions. The FCC should not be picking winners and losers. The market should.

Unleashing the pent-up demand of the commercial sector will drive innovation and help snap our country out of its fiscal doldrums. The innovation of the mobile sector has helped America lead the world in wireless and bring the power of the Internet to every corner of the country. No longer bound by wires to one location, wireless Internet access has spawned the creation of countless new technologies, a proliferation of wireless devices of all shapes and sizes, and even services so revolutionary they fostered actual revolutions. This legislation takes all of that innovation to a new level and creates real private-sector jobs.

The bill also provides the best protection of any competing legislation to make sure American viewers can continue to watch programming and news from the Nation's free, over-the-air broadcasters, who just went through an expensive and difficult federally mandated conversion to digital. And using the money from spectrum auctions, this legislation should generate upwards of \$15 billion in net revenues while also helping build a nationwide, interoperable broadband network for our first responders.

It also includes a priority of my colleague, JOHN SHIMKUS, who has been an ardent and articulate supporter of next-generation 911 services. Thanks to his tireless advocacy, we were able to secure \$115 million for NG911 deployment modeled on the Shimkus-Eshoo NG911 Act, and we did so in a fiscally responsible manner, making sure we hit our revenue targets first before spending the money.

This legislation didn't just drop out of the sky. It is thoughtful and carefully crafted legislation that finds the right balances. Its provisions were improved as a result of the input and counsel from five hearings and 11 months of discussions with members of both sides of the aisle, the FCC and TIA. Throughout this process my staff and I have worked in good faith with broadband providers, broadcasters, and public safety officials.

Our economy needs the help, Americans need new jobs, and we need to generate federal revenue for the American taxpayer. This legislation does all of these things—and it does them well.

Mr. LEVIN. I now yield 2 minutes to Mr. WAXMAN, a member of the conference committee and the ranking member of the Energy and Commerce Committee.

Mr. WAXMAN. Madam Speaker, I'll vote for this bill, but I do so with reservations. We should have done better in meeting our responsibilities to the American people.

There are important provisions in this legislation that will do a lot of good for families and our economy. We are extending the payroll tax reduction for millions of families, extending unemployment insurance, and ensuring that doctors serving seniors will be paid for their services through the end of year, and we are making spectrum available for new innovations in wireless communications.



While these are provisions I support in the conference report, there are significant missed opportunities and poor choices that affect Federal workers and preventive health programs.

Nowhere is this lost opportunity more apparent than our failure to end the Medicare physician payment formula, known as the SGR, and set us on a path to a fair and reasonable physician reimbursement system. Having to settle for another temporary solution, which leaves us at the end of the year even deeper in the hole in terms of a permanent solution, is a real failure and one that fails Medicare beneficiaries and doctors alike. I did not agree with the cuts in reimbursement for hospitals and nursing homes and, unbelievably, in prevention services in order to pay for the physician reimbursement levels at a reasonable rate.

I'm deeply concerned about the Federal employees' provisions. I think that is very unfair.

I do not have similar reservations about the spectrum provisions in the conference report. Our bipartisan, bicameral negotiations resulted in legislation that will make new spectrum available for broadband services, will create a nationwide band of spectrum that can be used for innovative, unlicensed applications, and will provide for the construction of an interoperable broadband network for first responders.

Taken as a whole, I believe we should support this package even with its serious shortcomings.

Madam Speaker, I rise today in support of the conference report for H.R. 3630.

Although I will vote "yes," I do so with reservations. We could and should have done better in meeting our responsibilities to the American people. Nevertheless, I commend the members of this conference for the positive things they achieved.

First and foremost, we are doing a lot of good for families and our economy in this legislation. We are extending the payroll tax reduction for millions of families, helping them in a difficult economic time and providing much-needed stimulus to our economy.

We are extending unemployment insurance, which is a lifeline to those out of work.

We are ensuring that doctors serving seniors will be paid for their services through the end of the year.

And we are making spectrum available for new innovations in wireless communications at the same time as providing public safety with a national broadband network. These spectrum policy decisions will be an engine for economic growth.

While these are the provisions I support in this conference report, there are also significant missed opportunities and poor choices that affect federal workers and preventive health programs.

Nowhere is the lost opportunity more apparent than in our failure to end the Medicare physician payment formula known as the SGR and set us on a path to a fair and reasonable physician reimbursement system. Having to

settle for another temporary solution, which leaves us at the end of the year even deeper in the hole in terms of a permanent solution, is a real failure, and one that fails Medicare beneficiaries and doctors alike.

We had the opportunity to use the war savings from Iraq and Afghanistan to pay for this solution. The Republicans said no. At the minimum, we should have used these savings to pay for the debt caused by previous short-term temporary fixes. The Republican leadership refused to allow that to happen.

As a result, we are, once again, forced to accept a short-term "solution" that simply stops an immediate crisis, but ensures that physicians in Medicare face another emergency a year from now. This is a poor result.

It is not right to ask Medicare beneficiaries to bear the cost of the failure of an arbitrary formula written into the law in 1997. It is not right to ask other providers, particularly safety-net providers serving a disproportionate share of low income seniors and individuals with disabilities, to take cuts in their payments for the same reason. And it certainly is not right to reduce our commitment to prevention by robbing the Prevention and Public Health Fund of critical dollars that could help us keep people healthy instead of paying for them when they are sick.

I am also deeply concerned about the federal employee provisions. It is simply unfair to ask working Americans who happen to serve the taxpayers through their work for the government to pay for half the costs of continuing unemployment benefits for the entire nation. This denigrates public service, and it is unworthy of us to impose such an involuntary sacrifice on them. Moreover, it is a bad precedent to be paying for this emergency economic relief at all. We have not done so previously, and I am sorry we are doing it in this legislation.

Although I have serious reservations about these provisions, I have none recommending that the House adopt the spectrum provisions in the conference report. Our bipartisan, bicameral negotiations have resulted in legislation that will make new spectrum available for smartphones and tablets, will create a nationwide band of spectrum that can be used for Super WiFi and other unlicensed uses, and will provide spectrum to fund the build-out of an interoperable broadband network for first responders. Establishing a nationwide public safety broadband network allows us to complete the major piece of unfinished business from the attacks of 9/11. These provisions will promote innovation and economic growth while contributing \$15 billion to pay for this legislation.

These spectrum provisions are the result of many members' hard work. Two Senators not on the conference made an enormous contribution, Senator ROCKEFELLER, the chair of the Senate Commerce Committee, and Senate Majority Leader REID, and I thank them for their leadership. On the conference, Senator KYL and Chairmen UPTON and WALDEN deserve great credit for their work in crafting this pro-growth, pro-innovation compromise.

Taken as a whole, I believe we should support this package, even with its serious shortcomings. It is not what any of us would have written. This is indeed a compromise.

But the alternative would be worse. Failure to pass this package would let the middle class tax cut lapse and undermine our economic recovery, cause the unemployed to lose their benefits, and slash physician payments in Medicare so that our seniors and disabled lose access to their doctors. It would also mean a halt to progress in developing the wireless superhighways of the future and ensuring we have an emergency broadband network in place to respond to terrorism and urgent events.

That is why I support this conference report and ask my colleagues to do likewise.

HOUSE OF REPRESENTATIVES,  
February 2012.

SUMMARY OF THE SPECTRUM PROVISIONS  
COMMITTEE ON ENERGY AND COMMERCE,  
DEMOCRATIC STAFF

The payroll tax relief conference has reached agreement on landmark bipartisan legislation to ease the nation's growing spectrum shortage, create a nationwide, interoperable broadband network for public safety officials, and raise \$15 billion.

The legislation gives the Federal Communications Commission (FCC) the authority to pay TV broadcasters for underutilized broadcast spectrum and resell it at higher prices to wireless companies to meet the growing spectrum demands of smartphones and tablets. This provision is expected to make a large band of prime spectrum available for auction, raising over \$25 billion. The bill provides \$7 billion in auction proceeds and spectrum worth \$2.75 billion (called the "D Block") to a new "First Responder Network Authority" to build a broadband network for police, firefighters, emergency medical service professionals, and other public safety officials. A key provision in the legislation authorizes the FCC to create guard bands in the broadcast spectrum auctioned to wireless carriers that can be used for innovative unlicensed uses like Super WiFi.

The legislation agreed to by the conferees is based upon two existing pieces of legislation: H.R. 3630, the spectrum provisions passed by the House, and S. 911, the bipartisan legislation approved by the Senate Commerce Committee. The conference report incorporates most of the auction-related provisions included in the House legislation, with changes regarding unlicensed spectrum and FCC auction rules. The public safety provisions are based on the national model outlined in S. 911, with changes to ensure flexibility for states.

THE AUCTION PROVISIONS

The auction provisions in the final legislation are largely the same as those in H.R. 3630 as passed by the House with two significant exceptions: (1) the provisions relating to unlicensed spectrum and (2) the provisions relating to FCC auction authority.

*Unlicensed Spectrum:* Unlicensed spectrum has been an engine of economic innovation and growth, enabling new forms of communication like WiFi and Bluetooth. Many advocate that allowing unlicensed use in the broadcast frequencies could lead to new breakthroughs like Super WiFi. The conference report advances this goal in three ways: (1) it gives the FCC the authority to preserve existing TV white spaces; (2) it gives the FCC the authority to optimize these white spaces for unlicensed use by consolidating them into more optimal configurations through band plans; and (3) it gives the FCC the authority to use part of the spectrum relinquished by TV broadcasters in



the incentive auction to create nationwide guard bands that can be used for unlicensed use, including in high-value markets that currently have little or no white spaces today. Nationwide, unlicensed access to guard bands will enable innovation, promote investment in new wireless services, and enhance the value of licensed spectrum by protecting against harmful interference and allowing carriers to “off-load” data to alleviate capacity concerns.

**FCC Auction Rules:** Under current law, the FCC has broad authority to craft auction rules in the public interest. The agency has used this authority to ensure that communications markets remain competitive and spectrum is not concentrated in the hands of only one or two providers. H.R. 3630 would have restricted the FCC's future ability to limit participation in spectrum auctions, regardless of the size or market dominance of potential bidders. The conference agreement modifies this prohibition by expressly preserving the FCC's ability to ensure competition through spectrum aggregation limits and other rules.

The legislation also drops a provision in the House-passed bill that would have limited the FCC's authority to set license conditions, such as open-internet requirements, on auctioned spectrum.

#### THE PUBLIC SAFETY PROVISIONS

The conference report provides our nation's first responders with access to the spectrum and advanced wireless broadband communications they need to protect the public and to communicate with each other across the country. The legislation provides for the construction of a nationwide public safety broadband network, as envisioned in the Senate bill, with an “opt-out” option for states that demonstrate the capacity to build their own networks and connect them to the national network.

The legislation creates a First Responder Network Authority (FirstNet) within the National Telecommunications and Information Administration (NTIA) and provides FirstNet with \$7 billion and a license to use the “D Block” and adjacent public safety spectrum to build the nationwide public safety network. To ensure national interoperability, the legislation also creates a technical advisory board at the FCC to develop interoperability standards. States that want to construct their own portion of the national public safety network have the option to apply for federal grants to build and operate the radio access network in the state if they can demonstrate to the FCC that the network will meet the interoperability standards and to NTIA that they have the resources and capability to provide comparable coverage and security and maintain ongoing interoperability.

Unlike the House-passed bill, the legislation does not require public safety officials to return the important 700 MHz “narrowband” spectrum to the FCC for auction. Instead, the legislation requires the return of less efficient spectrum known as the “T-band.” This transition occurs 11 years from the date of enactment, and public safety relocation costs will be reimbursed from any auction proceeds.

Finally, the legislation provides funding for critical public safety research and development activities and deployment of Next Generation 9-1-1 services, which will complement the advanced broadband capabilities of the public safety network by enabling the delivery of voice, text, photos, video, and other data to 9-1-1 call centers.

Mr. HOYER. Madam Speaker, I now yield 2½ minutes to the distinguished

gentleman from Maryland (Mr. VAN HOLLEN), the ranking member of the Budget Committee.

Mr. VAN HOLLEN. Madam Speaker, I thank my colleague, Mr. HOYER.

This bill accomplishes three very important objectives: it extends the payroll tax cut for 160 million Americans; it extends unemployment insurance to millions of Americans who are out of work through no fault of their own; and it supports the Medicare program. So I am not here on the floor today to urge my colleagues to vote against this bill. In fact, I'm confident it will pass.

The bill is also significant for what it will not do. Unlike the original Republican House bill which cut compensation for current Federal employees by about \$40 billion, this bill does not cut compensation for any current Federal employee, not one cent. Let me repeat that. I'm pleased that Senator CARDIN and I and other members of the conference committee were successful in holding harmless our hardworking current Federal employees.

That being said, I'm going to vote “no” to send a message that enough is enough when it comes to using the Federal workforce as a piggy bank to fund our various national initiatives. Here's why. While no current employees are impacted by this bill, it does cut compensation for future employees hired starting in January 2013; and that will, as Mr. HOYER said, it will make it much more difficult for us to attract the Federal employees we need to do our national work together as part of our Federal service.

And indeed, one-half, a full half of the 10-month extension for unemployment insurance that benefits the entire country, \$15 billion is financed by cutting compensation for future Federal employees. That is a disproportionate share from the Federal workforce. The Federal workforce has already contributed over \$88 billion toward deficit reduction by the denial of two COLAs and the proposed COLA cut this year, and the Republican transportation bill would cut another \$42 billion from Federal employees to finance our national highways. That's a ridiculous approach.

Federal employees, as Mr. HOYER said, are willing to do their fair share to help reduce our deficit, but stop singling them out and making them scapegoats. They had nothing to do with the financial meltdown on Wall Street. They are not the drivers of our national debt. And I am sick and tired of hearing some Members of Congress bad-mouthing and belittling Federal employees.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. HOYER. I yield the gentleman an additional 30 seconds.

Mr. VAN HOLLEN. They are an easy political target for some, as Mr. HOYER said, but it is irresponsible to denigrate

their good work. These are the men and women who care for our veterans and many of our wounded soldiers. These are the people in our intelligence community who helped track down Osama bin Laden. These are the folks at NIH and elsewhere who help find treatments and cures, that help prevent diseases that plague every American family. They are the folks who protect our borders. They are the folks who help run the Medicare and Social Security system. They're the folks in the Capitol Hill Police that protect this great center of democracy right here.

So while this conference report does many good things, we need to send a message that it's time to stop scapegoating Federal employees and using them as the piggy bank for our national objectives.

Mr. CAMP. I yield 2 minutes to the gentlewoman from North Carolina (Mrs. ELLMERS), a member of the conference committee.

□ 1030

Mrs. ELLMERS. Yesterday afternoon, I happily signed the conference report that was very, very well put together; and I commend Chairman CAMP for the hard work that he did and my fellow conferees. This joint conference committee came together, and it was tasked to negotiate the payroll tax holiday extension.

This is a very important breakthrough and shows that we can actually work together and compromise for the sake of the American people. I would like to thank, again, Chairman CAMP and my fellow conferees once again for the honor and privilege to serve on this committee.

Our report does what is necessary to provide a responsible level of certainty to job creators and ensures that millions of hardworking Americans will be protected. In this Obama economy, it is important that American taxpayers keep more of their money and use it to make ends meet. Gas prices are projected to go up above \$4 a gallon, Madam Speaker, by the summer. If this puts a little more money in individuals' pockets so that they can pay for a half a tank of gas or one-quarter of a tank of gas, then I say I'm all for it.

Furthermore, this deal strikes the most dramatic blow to ObamaCare yet, keeping a promise I made when I first came to Washington. With this agreement, we are cutting spending by more than \$50 billion and using a portion of these savings to pay for the doc fix. What is the doc fix? The doc fix ensures that millions of Medicare patients, our seniors, will receive that medical care. It will prevent the 27.4 percent cut to physicians for Medicare services.

We must now return our focus to the most pressing issue facing our Nation, which is job creation and fixing this economy.

The SPEAKER pro tempore. The time of the gentlewoman has expired.

Mr. CAMP. I yield the gentlewoman an additional 30 seconds.

Mrs. ELLMERS. Madam Speaker, the President has submitted another bloated budget that ignores the economic crisis we are all living through under the Obama economy. It's time to roll up our sleeves and get to work on removing these barriers to prosperity and focus on the one thing that matters most—job creation and continuing to provide certainty to millions of Americans who are looking to us to make concise decisions about their future and the future of their children.

The SPEAKER pro tempore. Just as a reminder, the time remaining is the gentleman from Michigan (Mr. CAMP) has 11¾ minutes remaining, the gentleman from Michigan (Mr. LEVIN) has 10 minutes remaining, and the gentleman from Maryland (Mr. HOYER) has 5 minutes remaining.

Mr. LEVIN. It's now my pleasure to yield 1 minute to our distinguished leader, Ms. PELOSI, from the great State of California.

Ms. PELOSI. Madam Speaker, I thank the gentleman for yielding, and I thank him for his relentless and persistent advocacy on behalf of a thriving middle class in our country and his work to ensure that we would have this payroll tax cut as well as the extension of unemployment insurance that he fought so hard on, as well as on making sure that our seniors are able to see their doctors under Medicare. Congratulations and thank you, Mr. LEVIN.

I rise today, Madam Speaker, in support of this legislation. Of course, I identify with the concerns expressed by our distinguished whip, Mr. HOYER, and of Mr. VAN HOLLEN regarding our public employees.

Before I talk directly about what is in the bill, I do want to say that for our country to thrive and for us to do our very best, we must have a great relationship between the public and the private sector. The private sector is the driving engine of job creation in our country, but it cannot succeed unless we also have an effective and thriving public sector. It's about so many things that relate to our public safety. The courts, the implementation of laws passed in Congress, they don't exist unless the public sector then implements them. So this is a symbiotic relationship that has existed from the beginning of time in our country.

It's not a zero sum game. We cannot say we're going to do this in the private sector at the expense of the public sector. So I salute them for their persistent leadership and recognizing the important role that the public sector plays. It was not necessary for us to go down the path that has been taken in this bill, and I'll get to that in a moment.

First, I want to say that this represents a victory for the middle class

in our country, and I salute President Obama for going out there so strongly and taking this message to the American people that it was very important for us to have a payroll tax cut for the middle class. It's important to those families because it puts \$40 more into a paycheck to buy groceries, to buy gasoline, and to make ends meet—to make ends meet.

In addition to being personally helpful to families, it has a macroeconomic effect because these families will immediately spend that money and inject demand into the economy, and that is a job creator. Any economist will tell you that this is very important to continuing the economic recovery in our country. To have rejected it, as had been in the mix earlier, would have halted, if not turned back, our economic recovery.

So let us recognize that we had three pillars that we insisted be in this package, we on the Democratic side, one that we would have a payroll tax cut for 160 million Americans, preferably unpaid for, and that is the way it is in this bill. What is unfortunate is that we did not use our choice of a pay-for, should it be paid for, the surcharge, to cover the unemployment insurance. That would have been a preferable place to go, the extension of unemployment insurance. It could have also been used to pay for the SGR, the ability for seniors to see their doctors instead of taking money out of the prevention piece of the Affordable Care Act. Prevention makes America healthier, it saves money, and it expands opportunity for people to get in the health care loop. That's unfortunate, and it could have been avoided as well as the unfortunate provision relating to our public employees.

Even on that score, Mr. HOYER said, as Mr. VAN HOLLEN did, there was a further compromise that could have been made that addressed some of the needs of the Republicans to vote for this bill without doing more harm to, as Mr. HOYER said, the recruitment and the retention of public employees, the best—the best—public employees to help implement our laws. And I want to salute all of them for their patriotic duty to our country, to make and keep us safe in every possible way, and to allow commerce to proceed in a very positive way.

Now let's get back to why this is important, this victory for the middle class. This was a fight. Why should it have been a fight? There's something out there in the public, the "ground truth," the common sense coming up from the ground that this was an important thing to do; and the American people overwhelmingly supported it. There's a ground truth out there from the public, common sense coming up from the ground, that in order for us meet our needs and also reduce the deficit, that we should have a surcharge

on the wealthiest people in our country, people making over \$1 million a year—not having a million dollars—making over \$1 million a year.

That was not contained in this bill, but it will be part of the debate as we go forward. So let's take a moment to say that we recognize here on this floor of the House the importance of a thriving middle class to our democracy—to our democracy—and that this action taken today is an important step, but we have much more work to do.

Democrats are committed to reigniting the American Dream, to building ladders of opportunity for all who want to work hard, play by the rules and take responsibility. But we have work to do. In this thriving—this reigniting—American Dream, it's about recognizing the role of entrepreneurialism in our system of small businesses and what they do to grow our economy and how we have a public-private relationship there to encourage small business. And also, again, all of this relates to a thriving middle class.

□ 1040

So I urge my colleagues to be ever-vigilant about every opportunity we can take to support the middle class. Today is a good day in that regard. It's just one piece of it, though. We have much more work to do.

In any bill that comes up, there are things you may not like in it, and you say: Well, I'm not going to vote for it for that reason. On balance, I come down in favor of supporting what the President asked us to do, which we did do, and what the American people want us to do. But I don't want to go forward without registering the concern that we could have done better in this.

One place we can start on our next legislation is to look at the surcharge for the wealthiest people in America instead of taking billions of dollars from preventive care so that we can offset the cost in here. None of it needed to be offset. The payroll tax cut has not been, unemployment insurance has not traditionally been paid for, and we didn't have to do it now. In fact, paying for it diminishes some of its stimulative effect because economists will tell you unemployment insurance benefits paid out are immediately spent back into the Treasury, as the payroll tax cut will be too, and stimulates the economy by injecting demand and creating more jobs.

SGR, we should have gone all the way with it. We should have done it permanently. We could have paid for it with our war savings or with a surcharge at the high end. Republicans said no.

Having said all of that, the fact that we are here today is an admission that this is the right thing to do in terms of the payroll tax cut and unemployment compensation and our seniors. It's a recognition that the American people

are watching, and they have little appetite for us to be fighting over what they know is the right thing to do, which is to take every action we can to grow our economy, focusing on the middle class, small business, entrepreneurial spirit, and the rest. Again, we have important work to do to reignite the American Dream in even bigger ways.

So with that, Madam Speaker, I urge our colleagues to support the legislation.

Mr. HOYER. Madam Speaker, I yield 1½ minutes to the gentleman from Virginia (Mr. CONNOLLY).

Mr. CONNOLLY of Virginia. I thank my colleague.

I support the doc fix in this bill. I support the payroll tax cut extension in this bill. I support the extension of unemployment insurance to so many of our fellow Americans who have suffered in the Great Recession. Sadly, I cannot, however, bring myself to vote for this bill.

I represent the third largest number of Federal employees in the United States. They're asking a simple question: What is the nexus, what is the relationship between their employment and these worthy subjects? And the answer is "none."

Three times this week the Republican majority has attempted to get at benefits and pay and compensation of the Federal workforce, and often it's based on misinformation—a bloated workforce. We entered data into a hearing record just the other day that shows that the Obama administration, in absolute terms, has 350,000 fewer Federal workers than those that served during the administration of President H.W. Bush. As a ratio to thousand population in America, it's the lowest since John Kennedy was in the White House in 50 years.

They've already given \$90 billion to debt reduction through pay freezes and future pay freezes. And of course there is legislation to whack at their pensions, affecting both current and future employees in the pending transportation legislation that I hope will die of its own weight. It is not fair to ask only one group in America to make a sacrifice. Shared sacrifice should mean shared sacrifice.

Mr. CAMP. Mr. Speaker, I yield 2 minutes to a member of the House-Senate conference committee, the gentlewoman from New York (Ms. HAYWORTH).

Ms. HAYWORTH. I thank the chairman.

Madam Speaker, this conference report that we bring to our colleagues for a vote today represents a remarkable good-faith effort by the members of a committee who combined—who worked together, Democrats and Republicans, House and Senate—to act responsibly for the American people and in response to what the American people have asked us to do.

As a physician—and I practiced for 16 years in the Hudson Valley in New York—the importance of extending reimbursement assurance for our seniors who rely on Medicare, for the doctors who care for them who have to keep their doors open is a crucial issue. But not only did we provide that assurance through the end of this year, we also provided for some other crucial provisions for our rural hospitals, for our ambulance services, for a number of other aspects of care that rely on our action and on the responsible action that we take today.

And, yes, we did pay for those extensions in a responsible way, as we must in a time of looming fiscal crisis. We have a debt that extends to \$50,000, roughly, per man, woman and child in this country. It is unconscionable for us to fail to acknowledge that responsibility. For all of us to do our part in that way, we have, yes, asked our Federal employees to help us. Because as the employer, the Federal Government has to take its responsible steps as well.

The hope that all of us have is that we will continue to work through this year. We will move from here with this consensus document and continue to work on the growth that our economy desperately needs and do so together by controlling what the Federal Government does.

Mr. LEVIN. I now yield 2 minutes to another conferee, the gentleman from California (Mr. BECERRA).

Mr. BECERRA. I thank the gentleman for yielding.

In December, this Congress gave 20 conferees three tasks to achieve by February 29: to extend the payroll tax cut for 160 million middle class Americans; to ensure Americans who lost their jobs through no fault of their own receive their unemployment insurance benefits; and to guarantee our seniors on Medicare have access to the doctors of their choice and the care that they need.

We achieved this goal. But let's be clear, this agreement is by no means free of controversy. The gentleman from Maryland (Mr. HOYER) eloquently illustrated that. Our Republican colleagues succeeded in extracting a pound of flesh from middle class working Americans who also serve ably in our Federal Government.

But what was the alternative that we faced? A House Republican bill passed in December that quadrupled the cuts to workers in their salaries and their benefits; that increased the cost of Medicare for millions of seniors; that eliminated and restricted access to physical speech and occupational therapy in hospital settings for Medicare patients; that eliminated the child tax credit for millions of modest-income families; and that eliminated unemployment insurance benefits for nearly 3 million Americans who had lost a job through no fault of their own.

This agreement represents a rejection of the approach in the House Republican bill of December. It is a compromise, free of the controversial and extraneous measures in that Republican bill in December. But it is a bill of controversy because we are asking American workers who work very hard, who give their all and just happen to work for the Federal Government, to pay the cost of helping other Americans who are unemployed.

We could have made this a good bill. We could have asked every American—especially those most able to contribute—to help out. We didn't in this bill, and that's why it's a compromise. It could have been much better, but we faced a deadline by February 29 where 160 million American families would have seen their taxes increase. We would have seen a situation where millions of Americans would have lost their unemployment insurance. We needed to act, and we did.

I urge my colleagues to vote for this compromise measure.

Mr. HOYER. I yield 1½ minutes to the distinguished ranking member of the Government Reform Committee, the gentleman from Maryland (Mr. CUMMINGS).

Mr. CUMMINGS. Madam Speaker, I am very pleased that we are extending the payroll tax cut through the end of the year, which is essential to support our continued economic recovery.

I am also pleased that we are providing unemployment benefits to ensure that millions of Americans have access to benefits they so urgently need and that we are implementing the doc fix to ensure that seniors on Medicare can continue to see the physicians of their choice.

That said, there are a number of provisions in this agreement that deeply disappoint me.

□ 1050

For example, this agreement will reduce by 30 weeks the maximum number of weeks of unemployment insurance available to residents of States with average unemployment rates.

While the unemployment picture certainly improved in January with the creation of 243,000 jobs and a reduction in the unemployment rate of 8.3, there are still 12.8 million people unemployed in this Nation and millions more who work part-time but want full-time work. For millions of our fellow citizens, unemployment benefits are truly a lifeline.

I'm also deeply disappointed that the conference report requires new Federal workers to contribute more to their pensions. Our Federal employees are not a piggy bank. We should not reach into their pockets anytime we need to pay for something.

Federal workers are the backbone of our government. In return for their hard work and dedication, the majority

has rewarded Federal workers with an unprecedented amount of criticism; assault on their compensation and benefits, including proposals to extend their current 2-year pay freeze and to arbitrarily cut the number of Federal employees; and, now, to slash their retirement benefits.

So I'm going to vote against this conference report. It is an important bill to get through, but I have to vote against it in the name of my employees.

Mr. CAMP. I yield 2½ minutes to the gentleman from Michigan (Mr. UPTON), the chairman of the Energy and Commerce Committee and a member of the House/Senate conference.

Mr. UPTON. Madam Speaker, I thank the gentleman from the great State of Michigan for yielding.

I rise, obviously, in support of this conference report. It's not perfect, but it is certainly the right thing to do now.

Our economy is still struggling big time. Families are struggling. In my home State of Michigan, we know better than anywhere else the pain of high unemployment and anemic economic growth. And extending the temporary payroll tax relief and unemployment benefits, it's not the way to fix the economy, but we need to do it now to offer a measure of relief to those in need.

But our long-term goal is certainly much bigger: We've got to fix the economy. We've got to create jobs. We need to return America to a place where these temporary patches are not needed.

In addition to the payroll tax and unemployment health extension, this package includes the doc fix through the end of the year to protect seniors who depend on Medicare and prevent physician reimbursement rates from being slashed by nearly 30 percent. Again, it is but a temporary solution to a long-term problem.

As chairman of the Energy and Commerce Committee, I am absolutely committed to working with my good friend Chairman CAMP to develop a permanent solution to the Medicare physician payment system, one that protects seniors and their doctors in the long term while also protecting taxpayers and making sure that Medicare is efficient, effective, and sustainable.

These temporary solutions are a big part of the package, but, Madam Speaker, it would be a terrible mistake to ignore another part of the package, one that will help support literally hundreds of thousands of jobs, one that will spur billions of dollars of investment in our economy and affect the daily lives of nearly every American. I'm talking about spectrum reform.

Spectrum, it's the airwaves that carry wireless communication. Spectrum is all around us and we sure do use it. With the explosion in

smartphones, tablets, mobile broadband devices, Americans are using more spectrum than ever before. This bill helps our country make more efficient use of those airwaves.

We're clearing large swaths of spectrum for innovative wireless investments, and the upshot is that wireless companies will pay the taxpayers billions of dollars for the right to build the next generation of wireless networks. It's a huge win for consumers and taxpayers.

This package is the culmination of years of effort, bipartisan effort, numerous hearings, extensive stakeholder input, cooperation on both sides of the aisle.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. CAMP. I yield the gentleman an additional 30 seconds.

Mr. UPTON. I want to recognize my good friend and chairman of the Communications and Telecommunications Subcommittee, both GREG WALDEN and ANNA ESHOO from California, for their tireless efforts to push this bill across the finish line.

No qualified bidder can be excluded from the auction, and we're not giving away airwaves that the taxpayers paid to clear. These are good, solid reforms with clear congressional intent, and I appreciate the hard work to get an agreement and advance this wireless future.

I thank all my colleagues on the conference committee. We worked together, we got it done, and the taxpayer's going to be better off.

Mr. LEVIN. I yield 2 minutes to another hardworking member of the conference committee, Mrs. SCHWARTZ from the State of Pennsylvania.

Ms. SCHWARTZ. This conference committee was charged with resolving differences between the House and the Senate so that we could extend middle class tax cuts, protect seniors' access to their doctors, and extend unemployment benefits for Americans looking for work. As a member of the conference committee, I'm pleased we found a compromise to meet these goals and we are able to provide stability for millions of Americans.

Action today means 160 million American taxpayers will be able to keep more of their hard-earned dollars. These are middle class families struggling to pay their mortgages, their food bills, child care costs, and college tuition. This tax cut will better enable them to meet their obligations and contribute to growing the economy.

Action today means that 13 million of our hardest working Americans will receive unemployment benefits and be better able to provide for their families.

There are encouraging measures of economic growth in our country, but recovery is still fragile. We've had 23 consecutive months of private sector

job growth. Unemployment numbers are down, yet millions of Americans are still looking for work. Action today better ensures that losing a job will not mean economic disaster for families who have worked hard and played by the rules.

An action today means that we will keep our promise to 47 million seniors by preventing a drastic 27 percent cut to physicians who care for Medicare beneficiaries. This is a win for American seniors, but it does not relieve us of our responsibility to permanently repeal the SGR and replace it with a new payment system.

For over a decade this failed policy has created uncertainty and instability for patients, for health care providers, and for the Federal budget. Throughout this process, I advocated for both permanent, fiscally responsible repeal of the failed Medicare policy and a path forward to new payment models to improve quality while reducing costs. Despite bipartisan support for this approach, a long-term agreement could not be reached. I will continue to work with my colleagues on both sides of the aisle to end this perennial threat to the promise of Medicare once and for all.

I urge support for middle class families, for America's seniors, and for millions of Americans still searching for a job. I urge support for this conference report.

Mr. HOYER. I yield 1 minute to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN. I thank my good friend from Maryland.

I appreciate the work of the conferees, but I oppose this conference agreement, not out of concern for the welfare of the tens of thousands of Federal employees that I represent, but out of concern for the welfare of the great Nation we serve.

We are blessed with the least corrupt, most effective, least discriminatory, most responsive Federal workforce in the world. And yet how do we repay them? We are requiring them to increase their pension contributions by 400 percent, with no increase in benefits.

So we are sending them a signal: We don't really appreciate what you're doing. You're expendable. It's a signal that will not be lost on the recruits that we desperately need in the future, let alone the hundreds of thousands, really, of Federal employees who could easily be making much more in the private sector.

The whole country is going to pay a price for the signal that this bill sends, and that's why I think we should defeat it.

Mr. CAMP. I reserve the balance of my time.

Mr. LEVIN. I yield 1 minute to the distinguished Representative from California (Ms. ESHOO).

Ms. ESHOO. Madam Speaker, I rise today as the ranking member of the

Communications and Technology Subcommittee on this legislation because I think it's so important. It will define our Nation's ability to lead the world in wireless broadband deployment. It also will define how we finally provide our first responders with a nationwide interoperable broadband network.

This legislation will usher in more competition, enhance innovation, bolster the American economy, and very, very importantly, create jobs, good jobs.

I thank my colleagues on both sides of the aisle and the other Chamber for coming together to develop legislation that promotes the public interest and ensures a return on investment for the taxpayer by supporting unlicensed spectrum, a nationwide interoperable public safety broadband network, and provisions to ensure that our Nation's 911 call centers will have the modern tools needed to improve the quality and the speed of emergency response.

Incentive auctions will ensure that we have the world's leading wireless infrastructure, and the future for unlicensed innovation in the TV band is bright.

□ 1100

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. LEVIN. I yield the gentlewoman an additional 15 seconds.

Ms. ESHOO. Public safety will have the tools to finally build out a critical nationwide interoperable broadband network and the inclusion of provisions to promote and fund Next Generation 911, which will enable the delivery of voice, text, photos, videos, and other data to 911 call centers.

Our country has been counting on us to make smart, bipartisan choices. I'm proud of what we've accomplished and what it represents for American entrepreneurship, competition, and ingenuity.

I thank my colleagues, and I urge them to support the legislation.

Mr. HOYER. I reserve the balance of my time.

Mr. CAMP. I reserve the balance of my time.

Mr. LEVIN. I now yield 1 minute to the distinguished Representative from Maryland (Ms. EDWARDS).

Ms. EDWARDS. I'd like to enter into the RECORD three letters from representatives of public employees and retirees who are wondering why it is that they've had to sacrifice \$60 billion of reductions over the last decade when they didn't create the deficit and yet they're asked to pay for it.

THE NATIONAL  
TREASURY EMPLOYEES UNION,

February 16, 2012.

DEAR REPRESENTATIVE: On behalf of the 150,000 federal employees represented by NTEU, I am writing to urge you to VOTE NO on the conference report on H.R. 3630, the payroll tax extension legislation. This conference report singles out one group—federal

employees—to offset fully half the cost (\$15 out of \$30 billion) of the unemployment insurance extension included in the bill, while there are no offsets included for the payroll holiday extension.

Federal employees are in the second year of a two year pay freeze that is contributing \$60 billion to deficit reduction. It is unconscionable to come back to them for a second \$15 billion hit, while no other group has been asked to sacrifice. Under this agreement, millionaires and billionaires continue to keep their tax cuts and corporations that have shipped jobs overseas keep their tax loopholes, but middle class federal employees who guard our borders, keep our food and water safe and protect our financial systems will get a 2.3% pay cut due to increases in pension contributions with no increase in benefits. While the payroll tax holiday extension and the unemployment insurance extension only last for the next 10 months, the loss to a new federal employee making \$50,000 a year that is \$1,000 per year, every year for the rest of their career.

This is not shared sacrifice, it is targeting one group of middle class workers for an extremely disproportionate burden. We urge you to vote no on the conference report on H.R. 3630. For more information, contact Maureen.Gilman@NTEU.org.

Sincerely,

COLLEEN M. KELLEY,  
National President.

AMERICAN FEDERATION OF  
GOVERNMENT EMPLOYEES, AFL-CIO,  
Washington, DC, February 16, 2012.

DEAR REPRESENTATIVE: On behalf of the American Federation of Government Employees, AFL-CIO, which represents 650,000 federal workers throughout the nation, I am writing to urge you to vote against the Payroll Tax Holiday/Unemployment Insurance extension conference report that pays for the latter by taxing the working and middle class Americans who make up the federal workforce. Forcing new federal employees (hired after 2012) to pay an additional 2.3 percent of their incomes to cover the cost of lengthening the period of eligibility for Unemployment Insurance is not a compromise and it is not a form of shared sacrifice.

For a GS-3 nursing assistant earning \$27,322 while working in a VA hospital psychiatric ward, this will be a \$628 annual tax increase. For a GS-5 USDA meat and poultry inspector earning \$31,825 while protecting Americans from E. Coli and other deadly diseases caused by contaminated meat, this will be a \$732 annual tax increase. For a GS-7 federal penitentiary correctional officer earning \$38,790 while guarding ruthless gang leaders in dangerously understaffed institutions, this will be an \$893 annual tax increase. In short, this "deal" is an outrageous injustice that deserves the vociferous opposition of every Member of Congress with a conscience. Please note the following:

The extension of unemployment insurance is temporary, but the additional 2.3 percent tax on new federal employees in this bill would be permanent.

The 2.3 percent tax on new federal employees will go to a retirement trust fund that is already fully funded; it is not to address any kind of shortfall in federal retirement financing.

According to the Bureau of Labor Statistics' data on private sector defined benefit plans, 96 percent of employers require no funding contribution from their employees, but this plan would force new federal employees to pay 3.1 percent of their incomes for this modest benefit.

This plan is entirely unfair, unnecessary, and undeserved.

There is simply no legitimate rationale for imposing this tax on federal employees. Federal employees are extremely sympathetic to the dire situation of the long-term unemployed. We strongly support the extension of unemployment benefits, but we absolutely oppose placing a full 50 percent of its cost on federal employees, and forcing them to pay these insupportable rates in perpetuity.

If there must be offsets to counter the cost of extending unemployment insurance, let them come from a group that has not already given \$80 billion toward deficit reduction in the form of a two-year pay freeze, and is slated to give \$28 billion more from the plan to withhold salary adjustments in the future. The millionaires and billionaires who have continued to profit during this economic recession haven't been asked to pay one nickel more in taxes. Americans continue to pay massive subsidies to oil companies as well as bail out the banks that started this recession with their shady lending practices that caused millions of Americans to lose their jobs, their homes, and their savings.

Please stand up to this shameful maneuver and vote to oppose the conference report.

Sincerely yours,

BETH MOTEN,  
Legislative and Political Director.

NARFE,  
Alexandria, VA, February 17, 2012.

HOUSE OF REPRESENTATIVES,  
Washington, DC.

DEAR REPRESENTATIVE: On behalf of the 4.6 million federal employees and annuitants represented by the National Active and Retired Federal Employees Association (NARFE), I am writing to urge you to oppose H.R. 3630 because of its cuts to federal retirement benefits.

President Obama has already imposed a two-year pay freeze and proposed only a marginal pay raise for 2013, that together save about \$88 billion. H.R. 3630 would force newly hired federal employees to pay 2.3 percent more, permanently, for retirement benefits. This would save \$15 billion, for a total budget savings from federal employees of \$103 billion over 10 years. No other group of Americans has been asked to sacrifice in this way. I urge you to stop singling out federal employees for unfair cuts.

Even more importantly, these actions undermine the federal government's ability to attract and retain the highest level of skilled talent it needs to deal with the challenges facing us. Singling out federal employees for disparate treatment threatens to do permanent harm to a federal civil service critical to meeting the increasingly complex and deeply important tasks of government. At a time when more is being asked of our government, the American public deserves an engaged and efficient workforce, not one that members of Congress characterize as the source of our country's problems.

Federal employees ensure that the food we eat and the water we drink are safe; they protect our borders and our airways; they take criminals off our streets and keep them behind bars and they care for our veterans and provide the intelligence needed to thwart terrorism. Day after day, they perform the tasks needed to maintain the stability and security of our country. The constant assault on the federal workforce will only undermine the strength of our government and the welfare of our nation.

President John F. Kennedy once said: "Let the public service be a proud and lively career. And let every man and woman who

works in any area of our national government, in any branch, at any level, be able to say with pride and with honor in future years: 'I served the United States Government in that hour of our nation's need.' " We are proud of the service we have given to this country, and we ought to instill that same pride in the next generation of public servants. Sadly, that is not what is happening today.

For these reasons, I urge you to vote against H.R. 3630, and specifically to oppose the provisions unfairly targeting federal employees.

Sincerely,

JOSEPH A. BEAUDOIN,  
President.

I rise in opposition to the conference report on behalf of Federal workers, and I wonder where it is that we will be able to find the next Robert Ball, who lived in my district, who was the architect of Social Security. I wonder whether we will be able to find the national security and intelligence specialists, who live out in my district in Collington, for the next generation. I wonder, Mr. Speaker, whether we will be able to find the next negotiator of a START Treaty, who lives in my district. We won't be able to find them because we've asked Federal workers to continue to sacrifice for a deficit that they didn't create.

With that, I would just say, please let's vote against this legislation, vote against the conference report. Support Federal workers and the talented workforce that we have, for future generations.

Mr. CAMP. I yield 2 minutes to the distinguished gentleman from Oregon (Mr. WALDEN).

Mr. WALDEN. Mr. Speaker, I rise again to support this legislation.

Once again, we're reading about how troubled the economy is. This is the weakest recovery since the Great Depression. It is certainly the kind of economy we all want to improve.

The underlying piece of this legislation frees up spectrum that will generate hundreds of thousands of jobs as 4G is built out. They need spectrum to build out 4G. This provides spectrum.

This is a voluntary incentive auction, so nobody is being forced off the airwaves; but they have the opportunity to leave the airwaves and then repack the bands and then make this spectrum available. People say, What is that? That's what powers your devices, whatever you have on whichever hip, your iPad, your Android, whatever needs this spectrum. In the process, it will generate \$15 billion from the private sector into the government by auctioning off this spectrum to help pay for the middle class tax cut and pay for unemployment extension and the doc fix.

Now, we would have, on our side of the aisle, preferred a 2-year fix for our physicians taking care of seniors on Medicare, but that was not to be, and we know that. But we could not let them fall off the cliff and see their reimbursement rates cut 27.4 percent.

So contained in here are solutions both for the long term and short term we're going to have to revisit.

But the other thing we did that's really important is we're going to build out an interoperable public safety broadband network for our first responders. Our brave men and women, public servants, police and fire, will finally have this Congress answer the call that has been pending since 9/11. Post-9/11, they said you've got to get our public safety people an interoperable broadband network, and it didn't get done until now. So when you vote for this legislation, you're voting to help your public servants and police and fire finally have the tools to keep them safe and do their jobs.

Mr. LEVIN. How much time is there for each?

The SPEAKER pro tempore (Mr. WOMACK). The gentleman from Michigan has 3 minutes remaining, the gentleman from Maryland has 1 minute remaining, and the gentleman from Michigan in support has 4¾ minutes remaining.

Mr. LEVIN. I yield now 1 minute to the very distinguished Representative and a leader in our caucus, the gentleman from South Carolina (Mr. CLYBURN).

Mr. CLYBURN. Mr. Speaker, I thank my friend for yielding me the time.

Mr. Speaker, I support this compromise because it ensures that we will be able to continue tax cuts for millions of American workers, and it preserves vital benefits for unemployed Americans that are essential for the overall economy and safeguards seniors' access to their doctors.

While I will vote "yes," this agreement is not perfect. I have serious objections to the continuing demonization of public servants in the Federal Government. We should not keep cutting their pay and benefits while refusing to ask the top 1 percent to pay one penny more. Federal employees have sacrificed now, and they should be given time to share in the sacrifices. All of us should.

I'm also disappointed that this bill cuts money for prevention which is so important to the health of all Americans. Mr. Speaker, I believe that an ounce of prevention is worth a pound of cheer.

Mr. HOYER. I reserve the balance of my time.

Mr. CAMP. I reserve the balance of my time.

Mr. LEVIN. I reserve the balance of my time.

Mr. CAMP. If we're prepared to close, I will yield 1 minute to the distinguished gentleman from Maryland.

Mr. HOYER. I yield myself 1 minute.

The SPEAKER pro tempore. The gentleman from Maryland is recognized for 2 minutes.

Mr. HOYER. I thank my friend the Speaker. I'm glad that he's in the

chair. He and I have worked together because we understand what needs to be done in order to meet the fiscal crisis that confronts our country. All of us need to participate—not just our Federal employees, but all of us.

In the short term, we need to do what this bill does:

160 million people will get an extra thousand dollars that hopefully will help build our economy, create jobs, and expand opportunity for our people;

The unemployed will make sure that they've had that safety net that is critical for them and their families;

The doctors will have a short period of time to have some confidence that they will be compensated to serve Medicare patients over the next 10 months.

The only people asked to pay for that, as I said before, are Federal employees. That is why I took this 20 minutes, to say to each and every one of us in this House, first of all, Federal employees ought not to be the piggy bank out of which you pretend that we're going to be able to pay the deficit. That's wrong. It's not been recommended by any of our groups.

I've had the opportunity of working with Mr. CAMP, who, in my view, is a very conscientious Member of this body. I'm glad that he's the leader. Actually, I wish Mr. LEVIN were the leader, because he's of my party. But since my party is not in control, I'm glad that Mr. CAMP leads it, a reasonable person.

Ladies and gentlemen of this House, America must know that we all need to contribute. The Federal employee has paid \$60 billion over the last 24 months, over the next 10 years already. This year, they will have their pay reduced from what the law requires another \$30 billion. That's \$90 billion. Forget about this bill. Forget about the highway bill which says \$44 billion in additional reduction in benefits. It's \$134 billion that's on the table. It hasn't passed, but it's on the table.

Let us, as conscientious Members of this Congress, as representatives of our people, come together and have a plan that does not require nickel-and-diming of Federal employees, nickel-and-diming of doctors, nickel-and-diming of Medicare patients, and nickel-and-diming of America. Let us come together and do what America knows what needs to be done.

I yield back the balance of my time.

□ 1110

Mr. LEVIN. How much time is left for Mr. CAMP and myself?

The SPEAKER pro tempore. The gentleman from Michigan has 2 minutes remaining, and the gentleman from Michigan on the proponent's side has 3¾ minutes remaining.

Mr. LEVIN. I yield myself the balance of my time.

I think this has been a healthy discussion, and I think all of us respect



very much the positions that have been put forth. I think we need to look at where we came from.

The main bill before the conference committee was the bill that passed on a partisan basis here in December. It essentially would have countermanded the effort at continued economic growth through the payroll tax bill. It would have required very inimical pay-fors. It would have threatened the pay of 160 million people. That bill also would have drastically cut unemployment insurance.

Cutting unemployment insurance is not reform. It is not reform. People have worked for it. These are people looking for work who can't find it. We have worked so hard—so hard—to defend and to preserve the lifeline of unemployment insurance as best we could; and essentially it does preserve it in major ways through the rest of this year. For seniors, we have made sure that health care and their physicians are available.

With respect to differing points of view, I strongly urge support for this conference committee report. It is said it isn't perfect, and it is often said no bill is perfect; but we have worked to preserve the basic ingredients to promote economic growth and to preserve the unemployment insurance so critical for the unemployed of this country.

I yield back the balance of my time.

Mr. CAMP. I yield myself such time as I may consume.

This conference report extends the payroll tax cut to 160 million working Americans. It prevents a cut in physician payments through the end of the year so that seniors can get the medical treatment and care that they need under Medicare.

This represents about \$800 for working families in America over the next 10 months. Most importantly, this agreement includes no job-killing tax hikes to pay for more government spending. The deficit spending on unemployment stops with this legislation. This agreement firmly establishes that extensions of unemployment benefits must be paid for.

This legislation also includes some of the most significant reforms to unemployment since the 1930s—job-search requirements, drug screening and testing, reemployment programs. These are all critical for work readiness and for reemployment, and these are essential reforms to the unemployment system. We also reauthorize Temporary Assistance for Needy Families with this legislation; but while doing so, we make reforms to that program, as well, by closing the loophole that allowed welfare funds to be accessed at ATMs and in strip clubs, liquor stores, and casinos.

The government spending in this bill is fully offset. Reductions to ObamaCare pay for more than half of

the health spending in this legislation. This also restores to the Congress a process dating back to our Founding Fathers. They knew that, at times, government would be divided and that we wouldn't always agree. This agreement was debated in public while using that time-honored process.

With that, I urge all Members to support this bipartisan House-Senate conference agreement, and I yield back the balance of my time.

Mr. WOLF. Mr. Speaker, what are we doing?

The bill before us today, which would extend the expiring payroll holiday for 10 more months, exemplifies all that is wrong with Washington. No wonder the American peoples' faith in Congress is at an all-time low.

First, the agreement steals \$93 billion from the Social Security Trust Fund to pay for a 10-month extension of a temporary program that was supposed to expire two months ago.

Second, there is no offset for this new spending. It adds \$93 billion to the deficit this year—money we will have to borrow from countries like China, which is spying on us, taking our jobs and has terrible record on human rights.

Third, this bill only asks for sacrifice from a small number of Americans—federal employees and postal workers—to pay for the unemployment insurance extension and the Medicare “doc fix.”

Fourth, this “holiday” has proven to have little impact on economic growth and job creation, while significantly growing our deficit.

Finally, the House Appropriations Committee led efforts to cut \$95 billion in spending in the 2011 and 2012 fiscal year appropriations bills. This bill undoes all of the discretionary spending cuts achieved by the House in one fell swoop.

As chairman of the Commerce-Justice-Science Appropriations subcommittee, I have cut \$11 billion from the budgets of the Commerce and Justice departments since Republicans reclaimed the majority. These were difficult cuts, but necessary to start reining in our unsustainable deficit and debt. And they will be completely undone after today's vote.

Have we already forgotten the debates over the deficit last year?

A year ago, we hoped to consider \$4 trillion in debt reduction under the Bowles-Simpson Commission and the “Gang of Six” proposals. By the summer, we were voting on the Budget Control Act, which established a supercommittee charged with finding an additional \$1.2 trillion in savings over 10 years.

Now, the White House and Congress are going in the other direction and choosing to spend away the \$95 billion in deficit reduction actually achieved last year.

This is shameful.

The American people are right to be disappointed that the President and the Congress have walked away from every serious deficit reduction effort.

They should be appalled that both sides have joined together to spend more money and weaken Social Security.

This agreement is giving away the store. And for what? A payroll “holiday” that most Americans haven't even noticed, according to a recent nationwide poll.

Our country is going broke. The national debt is over \$15 trillion and is projected to reach \$17 trillion by the end of this year and \$21 trillion in 2021. We have annual deficits of over \$1 trillion. We have unfunded obligations and liabilities of \$65 trillion. We are going the way of Greece.

Why are we voting to extend a policy that does nothing more than steal from the Social Security Trust Fund, which is already going broke?

Social Security is unique because it is paid for through a dedicated tax on workers who will receive future benefits. The money paid today funds benefits for existing retirees, and ensures future benefits. Because you pay now, a future worker will pay your benefits. That is why, until December 2010, this revenue stream was considered sacrosanct by both political parties.

Social Security is already on an unsustainable path. Today's medical breakthroughs simply were not envisioned when the system was created in 1935. For example, in 1950, the average American lived for 68 years and 16 workers supported one retiree. Today, the average life expectancy is 78 and three workers support one retiree. Three and a half million people received Social Security in 1950; 55 million receive it today.

Every day since January 1, 2011, over 10,000 baby-boomers turned 65. This trend will continue every day for the next 19 years. Do these numbers sound sustainable to anyone?

The Social Security Actuary has said that by 2036 the trust fund will be unable to pay full benefits. This means that everyone will receive an across-the-board cut of 22 percent, regardless of how much money they paid into the system.

Does it make sense that everyone, regardless of income, will get money from this “stimulus?” Does anyone think that Warren Buffet or Jimmy Buffet changed their buying habits as a result of this temporary suspension?

Or did General Electric's CEO, Jeffery Immelt, the head of President Obama's Council on Jobs and Competitiveness who recently shipped GE's medical imaging division from Wisconsin to China, really benefit from this “holiday?”

We all know what needs to be done to address the deficit and debt and that is why I have supported every serious effort to resolve this crisis, including the Bowles-Simpson recommendations, the Ryan Budget, the “Gang of Six,” the “Cut, Cap and Balance” plan and the Budget Control Act.

I also was among the bipartisan group of 103 members of Congress who urged the supercommittee to “go big” and identify \$4 trillion in savings. I continue to work with my colleagues to advance the Bowles-Simpson report. I voted for the Balanced Budget Amendment. Since 2006, when George Bush was in office, I have introduced my bipartisan legislation, the SAFE Commission, multiple times in hopes of dealing with this problem.

While none of these solutions were perfect, they all took the necessary steps to rebuild and protect our economy. In order to solve this problem, everything must be on the table for consideration: all entitlement spending; all domestic discretionary spending, including defense spending; and tax reform, particularly



changes to make the tax code more simple and fair and to end the practice of tax earmarks and loopholes that cost hundreds of billions of dollars annually.

Some of the pay-fors in today's bill could be better used to address our deficit, such as the profits from the spectrum auction. Another pay-for that was previously proposed, and signed into law last December, raised the rates that mortgage lenders can charge on Fannie Mae and Freddie Mac loans. This 10 basis point increase makes a home loan more expensive for thousands of individuals looking to buy a house, while doing nothing to further reform these two lending entities. But rather than putting these offsets to good use, we're spending them away for a 10-month extension of this "holiday."

But the bill before us now is even worse than what was previously considered because the biggest portion, the \$93 billion cost of the payroll holiday, is not being offset. Once again, only a small segment of our society—federal employees and postal workers—are being used to pay for the other measures wrapped into this proposal.

While there are many federal employees in the Capital region, it is worth noting that more than 85 percent of the workforce is outside of Washington. Eighty five percent. More than 65 percent of all federal employees work in agencies that support our national defense capabilities as we continue to fight the War on Terror.

Has anyone fully considered the impact that this legislation will have on our ability to recruit qualified individuals to the CIA, the NSA, the National Reconnaissance Office and the National Counter Terrorism Center?

Or the impact it will have on the FBI, which has, since 9/11, disrupted scores of terrorist plots against our country?

Or the impact on our military, which is supported by federal employees every day on military bases across the Nation?

Or the impact on VA hospitals across the country, which are treating veterans from World War II to today?

Or the impact on the Border Patrol?

Or the impact on NASA, its astronauts, engineers and scientists?

Or the impact on NIH, and other federal researchers, scientists and doctors?

Federal employees are currently working under President Obama's two-year pay freeze as they do their part to address our deficit. But to ask them to spend the rest of their careers paying for a 10 month policy? That doesn't make sense.

Leadership from both parties has said that extending this payroll "holiday" is paramount. I see what has happened. We all know that the President has used the power of his bully pulpit to push for the policy. Just look at the headline of this morning's National Journal Daily: "Payroll Deal Hands Victory to Obama." But he missed the opportunity to support his own Bowles-Simpson Commission to seriously deal with the deficit.

The fiscal tsunami that is coming demands that we make tough decisions. Should laws be passed just because they are perceived as popular? I regret that months have been spent on this flawed policy instead of tackling the difficult choices to address our nation's massive unfunded spending obligations.

There is never a convenient time to make hard decisions. The longer we put off fixing the problem, the worse the medicine will be and the greater the number of Americans who will be hurt. I understand that many feel they need help. But, as many have said, "there's no such thing as a free lunch."

America is living on borrowed dollars and borrowed time. We must stop leaving piles of debt to our children and grandchildren.

We can't afford this debt financed spending. I voted no on this policy in 2010. I voted no on this policy on December 13. I voted no on December 20. And I vote no today.

Mr. PASCRELL. Mr. Speaker, I am pleased that today, I am witnessing a glimmer of hope that bi-partisanship based around enacting job creating legislation and helping the middle class is possible. This is something that has been sorely missed throughout the 112th Congress.

The actions we take today will put over \$90 billion into the economy. In the Garden State, this means \$100 million into the construction industry, over \$285 million into manufacturing and the creation of almost 1,500 retail jobs. More importantly, this means families in Bergen, Passaic and Hudson counties will receive between \$1,000 and almost \$1,500 directly in their pockets over the course of the next year.

While people say this isn't a lot of real money, I will tell you, every dollar matters when people are in need and every dollar matters to help continue our economic recovery.

Over the last couple of months, we've seen signs that our recovery is accelerating, including 23 month of private sector job growth, 247,000 new jobs in January added, with the highest increase in manufacturing jobs since the late 1990s. This week, initial jobless claims dropped yesterday to their lowest level since March 2008, recent economic surveys showed strong gains in new orders, and the Dow Jones is at its highest level since May 2008.

However, despite this good news, now is not the time to take our foot off the gas. The President has proposed a whole list of job creating ideas contained within the American Jobs Act that will kick this recovery into high gear, including a \$5 billion fund to hire and retain police and firefighters, and a bold plan to invest in American infrastructure, that stands in stark contrast to the politicized and broken bill we are debating in the House.

As we pass this legislation, we mustn't stand here and simply savor this hard fought victory for the middle class, we should use it as the foundation to further economic growth and create more jobs.

Mr. STARK. Mr. Speaker, I rise in support of this bipartisan legislation to extend the payroll tax cut through 2012, delay a massive Medicare physician pay cut until January 1, 2013, and extend unemployment benefits for long-term unemployed workers.

It's not often we get to laud bipartisan legislation these days. Nor did this bill start out that way. The bill the House Republicans passed late last year on this topic was highly partisan. While extending the payroll tax cut for a year and preventing a physician pay cut for two years, it achieved those goals by shifting costs to Medicare beneficiaries and undermining

low-income financial assistance in the Affordable Care Act. It extended unemployment benefits, but the price for that extension was cutting off benefits for the long-term unemployed and mandating onerous new rules such as drug testing and GED requirements. It was standard Republican fare—give with one hand, but take away more with the other.

After an embarrassing debacle to end 2011, House Republicans backed down. Now, with today's legislation, they've backed down even more. That's good news for working families, Medicare beneficiaries, and unemployed workers. But don't be fooled that they're suddenly ready to govern. They are not.

They recognized the political risk of not enacting this legislation and then reluctantly came to the conclusion that they had to work with Democrats to get this done.

Once this bill passes, they'll go right back to the issues they really care about: lambasting President Obama for creating a solution that protects religious institutions while providing free contraceptives to American women; trying to require the building of the Keystone pipeline across our country—putting our environment at risk—in order for Canada to export oil to other countries; and pursuing the most partisan transportation authorization bill in history—one that actually defunds mass transit and eliminates vital safety programs. All the while, doing nothing to create jobs or strengthen our economy.

Mr. CUMMINGS. Mr. Speaker, I rise in opposition to the conference report to accompany H.R. 3630.

I am very pleased that we are extending the payroll tax cut through the end of the year, which is essential to support our continued economic recovery.

I am also pleased that we are providing unemployment benefits to ensure that the millions of Americans have access to the benefits they so urgently need, and that we are implementing the "Doc Fix" to ensure that seniors on Medicare can continue to see the physicians of their choice.

That said, there are a number of provisions in this agreement that deeply disappoint me.

For example, this agreement will reduce by 30 weeks the maximum number of weeks of unemployment insurance available to residents of states with average unemployment rates.

While the unemployment picture certainly improved in January with the creation of 243,000 jobs and a reduction in the unemployment rate to 8.3 percent, there are still 12.8 million people unemployed in this nation—and millions more who work part-time but want full-time work.

For millions of our fellow citizens, unemployment benefits are truly a lifeline.

I am also deeply disappointed that the conference report before us requires new Federal workers to contribute more to their pensions.

Our Federal employees are not a piggy bank. We should not reach into their pockets every time we need to pay for something.

Federal workers are the backbone of our government.

In return for their hard work and dedication, the majority has rewarded federal workers with

an unprecedented assault on their compensation and benefits, including proposals to extend their current two-year pay freeze, to arbitrarily cut the number of federal employees, and now to slash their retirement benefits.

As a result of the current freeze in their pay, Federal workers have already contributed \$60 billion toward the reduction of our Federal deficit.

They are now being asked to pay for unemployment insurance and the “Doc Fix” while we still refuse to ask millionaires and billionaires to contribute one additional penny.

It is time we stop the assault on our Federal workforce. We must implement policies that will ensure that our investments in our nation are a shared national priority.

Ms. VELAZQUEZ. Mr. Speaker, we have before us a less than ideal piece of legislation. All of us recognize it is vital the payroll tax cut be extended. This cut has put money in the pockets of 160 million Americans—17 million of them in the tri-state New York area. These consumers—indeed our entire economy—cannot afford for this measure to lapse.

At the same time, this bill does not go far enough in helping those who have been hurt by the recession. Millions of Americans are seeking employment but still cannot find it. Indeed, our economy would need to create 230,000 jobs each month—for two years—to regain all the jobs lost since December of 2007. This bill makes it more difficult for out-of-work Americans, by shortening the amount of time they may receive unemployment benefits to 73 weeks. At the same time we cut these benefits, our Republican colleagues insist on protecting those “vulnerable millionaires” who continue receiving tax cuts.

Mr. Speaker, I will vote for this bill—but reluctantly. We cannot afford for Unemployment Insurance or the payroll tax cut to expire. Still, it is my hope that in the future we can do more to protect working families who have suffered from this downturn.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today to recognize the importance of extending the payroll tax cuts for middle-class Americans, but with a few concerns regarding the source of its funding.

The recent compromise on H.R. 3630, the Middle Class Tax Relief and Job Creation Act, highlights the critical need to have sensible negotiations with the average American in mind at all times. I believe that it is a success that this Congress was able to extend the payroll tax cut, which will provide a typical middle-class family with an additional thousand dollars in their paychecks over the course of a year. For most low- and middle-class families, a thousand dollars can go a long way to buy food for their family, put gas in their car, and cover minor medical expenses.

The payroll tax cut extension also continues federal Unemployment Insurance programs through the end of 2012, providing job-seeking Americans additional time to find work in a persistently sluggish economy.

I understand that the final version of the payroll tax bill puts off a 27.4 percent reduction in pay to Medicare doctors by making a handful of health care cuts. The nearly \$20 billion cost of the so-called “doc fix” is covered largely by a \$6.9 billion cut to Medicare hospitals, as the federal government decreases

how much they will pay hospitals and doctors when Medicare enrollees fail to pay their premiums and co-pays. It also slashes \$5 billion from a fund earmarked for preventive medicine established in the 2010 health care law, cutting a third of the total money appropriated for the fund under the law.

Mr. Speaker, President Obama has already imposed a two-year pay freeze and proposed only a marginal pay raise for 2013, which together save about \$88 billion over ten years. I am concerned that H.R. 3630 would force newly hired federal employees to pay 1.5 percent more, permanently, for retirement benefits. This would save \$15 billion, for a total budget savings from federal employees of \$103 billion over 10 years. No other group of Americans has been asked to sacrifice in this way. I worry that this action would undermine the federal government's ability to attract and retain the highest level of skilled talent it needs to deal with the challenges facing us. Singling out federal employees for disparate treatment threatens to do permanent harm to a federal civil service critical to meeting the increasingly complex and deeply important tasks of government.

Mr. PENCE. Mr. Speaker, I rise in support of the conference report on H.R. 3630, the Middle Class Tax Relief and Job Creation Act of 2011.

I have never believed in short-term tax policy because uncertainty is the enemy of prosperity. For that reason I have authored the Tax Relief Certainty Act which would make permanent the tax cuts established in 2001 and 2003, repeal the estate tax, and provide permanent relief from the Alternative Minimum Tax.

While I would have preferred this conference report was more than another piecemeal approach to tax relief, the question we face today is whether this Congress is going to avoid a tax increase on working families. During these difficult economic times I believe that we should not allow a tax increase on working families, and therefore, I will support this bill.

I am pleased that this conference report includes important reforms in unemployment benefits. As I travel around Indiana, small business owners in one community after another have told me about the need to reduce dependency on unemployment insurance. I believe we can provide a safety net for those who have fallen on hard times while at the same time protecting the incentive to work.

This legislation takes an important first step toward reforming unemployment insurance by reducing the maximum number of weeks of eligibility for benefits based on a state's unemployment level and creating national job search requirements for everyone collecting state and federal unemployment insurance benefits. I am also pleased that this conference report contains language that will not interfere with Indiana's efforts to return the state's unemployment trust fund to solvency.

The deal before us today is nothing to write home about, but it does avoid a tax increase on working families during these difficult economic times and starts us down the road toward unemployment insurance reform—and I urge my colleagues to support it.

Mrs. MALONEY. Mr. Speaker, I commend my colleagues for reaching an agreement on

a longer term extension of the payroll tax cut. While this bill is not perfect, it does provide the average American middle-class family with an additional \$1,000 over the year through the payroll tax cut extension, it continues Unemployment Insurance through the end of the year, and prevents cuts in Medicare physician payment rates. More than 160 million Americans will benefit from the payroll tax extension and millions of seniors using Medicare will be able to continue to see the doctor of their choice.

Despite the assistance this legislation will provide to millions across the country, I have reservations about a number of problematic provisions. The Republican Majority continues to put the burden of the recession on Federal public servants. By requiring an increase in retirement payments by new employees, this legislation further undermines the Federal Government's ability to attract and retain the best talent. The vital services provided by the more than 2 million civilian employees cannot be compromised. It is time this Congress recognized the service that Federal employees provide to our senior citizens and the disabled, to our military service members and veterans, and to our overall safety and health. In addition, the reduction in weeks of unemployment insurance benefits starting in May will put a hard burden on some of America's hardest hit families. Lastly, the cuts to reimbursements for hospitals who serve large numbers of un-and-under-insured patients will put the load of the cost directly on the hospitals providing care.

Despite these concerns, I support this bill today because the extensions help this country continue on a path of job creation and economic growth. We are well in to the second session of the 112th Congress and still my colleagues on the other side have failed to bring meaningful jobs legislation before the House for a vote. It is time the Republican Majority responded to calls from the American people to strengthen our workforce for middle class families.

Mr. COURTNEY. Mr. Speaker, I voted in favor of the conference agreement on the Middle Class Tax Relief and Job Creation Act of 2012 because I believe it is necessary for our nation's continued economic recovery, which still remains fragile. Economists of every stripe have endorsed the three major components of the bill which will provide some additional confidence for both consumers and business. However, I have serious concerns about parts of the compromise, chiefly the lack of a permanent repeal of the sustainable growth rate (SGR) formula and the funding sources for the ten-month SGR “patch.”

Medicare cuts to community hospitals and skilled nursing facilities included in the compromise threaten the already thin financial margins these institutions are operating on. Also included in the compromise is the elimination of \$5 billion from the Prevention and Public Health Fund created by the Affordable Care Act. These cuts will stifle progress on disease prevention which in the long-term is the best way to reduce health care spending. And, the fact that these programs will be cut to pay for a short term fix of a broken SGR formula that was passed into law nearly two decades ago and has proven to be totally infeasible, is particularly galling.

While the window of opportunity to repeal the SGR permanently in this package has passed for now, Congress still has an obligation to enact a permanent fix to this flawed policy when the ten-month fix expires. We know now that the longer a permanent fix is delayed, the more precarious our system of care for seniors and veterans will become. On a positive note, growing bipartisan, bicameral support for abolishing the SGR is building, paid for with savings from the Overseas Contingency Operations (OCO) funds. The Congressional Budget Office has confirmed these funds are available which provides a promising opportunity in the coming months to repeal the SGR finally once and for all.

Fixing this long standing problem must be a bipartisan priority for this Congress. I look forward to working with my colleagues on both sides of the aisle towards a permanent solution to the SGR that gives our doctors, seniors and veterans the long term certainty they need—and deserve—in their care.

Mr. PRICE of North Carolina. Mr. Speaker, I am proud to stand with the President and working Americans today by supporting this measure, which will add an average of \$1,000 to the paychecks of working North Carolinians this year, extend unemployment benefits for Americans who have lost jobs through no fault of their own, and ensure seniors on Medicare will be able to see their doctors. After a year in which Republicans in Congress took the country from one manufactured crisis to the next, this bipartisan agreement is a step in the right direction and at a time when so many families are still struggling to make ends meet, it may be our last chance to help revive the economy as we head into an election year.

Once again, however, House Republicans are asking us to rob Peter to pay Paul, and the positive economic impact of this measure will be undermined in part by their senseless and misguided insistence that federal employees, hospitals, clinical laboratories, and preventive health programs must bear the cost. Unemployment benefits are paid out during true economic emergencies and should not require offsets. And to the extent we should offset the cost of the other programs extended in this measure, we should do so by asking corporations and the wealthiest Americans to pay their fair share—not by asking middle-class Americans and providers of health care who have already sacrificed in the name of deficit reduction to do even more.

I'm particularly troubled by the demonization of federal workers by Republicans in Congress, which has reached a crescendo of late. To be effective and respond to the needs of the American people, government needs to attract the best and brightest to public service. Federal employees have already been subjected to a pay freeze, and now we are asking them to open their wallets again to pay for unemployment benefits for workers who have lost their jobs.

I cannot in good conscience oppose a measure that puts money in the pockets of American workers, protects our fragile economic recovery, and maintains the safety net for unemployed workers and health care for seniors. But we simply must do better if we are to maintain the promise of expanding opportunity for working and middle class Americans.

Mr. TOWNS. Mr. Speaker, I rise today to express my concerns with a health provision in the Payroll Tax Compromise. Even though we have successfully protected Medicare beneficiaries from significantly increased premiums on Medicare patients with incomes below \$40,000, and prevented attempts to undermine the Affordable Care Act's mission of expanding coverage to millions of Americans, the Payroll Tax compromise still contains provisions that will hurt middle-class and economically disadvantaged Americans. Specifically, I am concerned about the inclusion of cuts to Medicare laboratory services. Under this legislation, clinical lab payment rates will be cut by an additional 2 percent in 2013, on top of the cuts that were included in the health reform law. These new cuts also rebase the lab fee schedule, resulting in lower rates for clinical lab services for years to come.

In some independent clinical laboratories, especially those serving rural communities or nursing home populations, 80 percent or more of their patient-base consists of Medicare beneficiaries. The cuts being faced threaten their practice's existence and no additional cuts—big or small—can be absorbed without adversely impacting patient care. Medicare payment amounts for clinical laboratory services have already been reduced, in real terms, by about 40 percent over the past 20 years. While clinical laboratory testing is less than 2 percent of all Medicare spending, it has been subject to significant freezes in payments and cuts over the last decade.

Clinical laboratories are an important part of the health care system. Their tests inform up to 70 percent of a doctor's medical decision-making. As the first point of intervention, laboratory tests serve as the foundation for the diagnosis and clinical management of conditions like heart disease, cancer, diabetes, kidney disease, and infectious diseases. These clinical laboratories do more than just draw a person's blood. They are a major part of the medical process.

Independent clinical laboratories also are essential for those who must depend on the laboratory's mobility for testing. Medicare beneficiaries in nursing homes rely upon the services provided by independent clinical laboratories that can deploy medical professionals to their place of residence. If these laboratories continue to have their Medicare payments cut, not only will jobs be lost, but patients will suffer.

I urge my colleagues on both sides of the aisle to repeal these cuts.

Mr. HASTINGS of Florida. Mr. Speaker, today I voted against the Conference Report to accompany H.R. 3630, but within this legislation, there are provisions that I do support. I support giving a payroll tax cut to 160 million Americans, extending unemployment insurance to those Americans who have lost their jobs through no fault of their own, and to allow seniors access to their doctors under Medicare. But there is a damaging aspect of this bill that will affect the pensions of future federal employees.

This bill raises an additional \$15 billion to extend unemployment insurance coverage by requiring federal employees to contribute a larger amount to their retirement accounts. Federal employees are currently in their sec-

ond year of a pay freeze while my colleagues across the aisle only a few short weeks ago voted to freeze federal employees' pay for a third year. Republicans don't think twice about limiting federal workers' ability to support their families, but are more than willing to shut down the government when bankers are asked to pay their fair share of taxes on their bonuses.

How much can we continue to pick on federal workers? They are not fat-cats. They are postal workers, janitors, teachers, nurses, social workers, and police officers. When did they become the bad guys? How much can we continue to pile on them before their backs break? How much weight should the wealthiest Americans, who can afford it, carry?

I am also concerned that this compromise to extend unemployment insurance reduces benefits from 99 weeks to as little as 73 weeks through December. I hear daily from constituents who are approaching the end of their 99 weeks and are at a loss as to where to turn next. Although the economy may be starting to recover, what are we supposed to tell those people who have been looking for a job for months and months on end? What kind of compromise are they supposed to strike with unemployment?

Furthermore, this legislation will blow a \$100 billion hole in the deficit by not paying for the measure. It is a precursor from the Republicans for the beginning of the end of Social Security.

Millions of Americans all across this nation are struggling and they need our help. The Republican majority would rather implement policies that unfairly favor the wealthy, while asking the least among us to make enormous sacrifices. I am sick and tired of Republican gamesmanship. I voted against this measure, because 'enough is enough.'

Mr. SMITH of Nebraska. Mr. Speaker, I rise today, with reservations, to support H.R. 3630, the Temporary Payroll Tax Cut Continuation of 2011.

Benefits paid out by Social Security now exceed payroll taxes collected, and with no change the trust funds will run out by 2035. While this conference report would continue our policy of replacing uncollected payroll taxes with funds from general revenue, the \$93 billion cost for ten months of this policy makes clear we cannot afford to continue it for the long term. Our focus on Social Security should be reforming it to ensure its viability for those who have paid in, not infusing it with hundreds of billions of additional dollars we don't have.

However, H.R. 3630 allows Americans to continue to keep more of their paychecks for the rest of the year in this delicate economy. This bill also contains important reforms to Medicare and unemployment insurance and ensures this new, current spending is paid for. We cannot indefinitely pay out 99 weeks of unemployment benefits, and this bill begins phasing out these extended benefits. While I would prefer we permanently reform Medicare, this conference report ensures seniors have access to care through the end of the year by addressing physician reimbursement rates and other payment issues while laying the groundwork for permanent payment reform. We also reform federal employee benefits and will expand access to wireless broadband through

this bill. These are important accomplishments worthy of support.

Because of these achievements, I ask my colleagues to support H.R. 3630. I also ask we continue our work to permanently reform both the tax code and our entitlement programs to provide Americans the long-term certainty they need, rather than continuing our reliance on piecemeal legislation.

Ms. JACKSON LEE of Texas. Mr. Speaker, I rise today in support of the Conference Report on H.R. 3630 "Middle Class Tax Relief and Job Creation Act of 2011." The Conference Report extends the 2 percent payroll tax cut, the Medicare SGR "doc fix" and various Medicare and Medicaid extenders through the end of the year.

There are currently 160 million workers who will benefit from a payroll tax holiday and millions of unemployed workers in desperate need of an extension of unemployment insurance. In addition it would prevent 170,000 Americans from losing their health coverage. It is in consideration of the millions of Americans that will benefit from this legislation that I cast my vote today.

Although certain improvements have been made to this bill that have made it more palatable in the name of compromise, in comparison to the version offered by House Republicans, I still believe we could have done more.

Instead of a temporary fix to the Medicare sustainable growth rate formula (SGR), commonly known as the Doc Fix, we could have had a permanent solution which would have addressed the concerns of doctors across this country and the patients who utilize their services. We cannot continue to rely upon short-term patches that arise every few months. It is time to bring certainty to our system of payment. We must act now—the cost to repeal SGR today would be \$300 billion. If we wait five years that cost will double to \$600 billion. Without addressing the SGR head on and instead continuing to kick the can down the road, it is only making a flawed system more costly to resolve.

Under this Republican led House measures continue to be offered that are being paid for on the backs of federal workers. These workers are responsible for aiding in crafting the legislation that we put forward in this body. They are responsible for implementing and creating regulations that ensure that our system of governance runs smoothly, that our airways, roadways, ports, and food are safe.

These dedicated civilian employees are paid less than they would be in the private sector. Their reward for these dedicated federal servants is for the Republican led House to use their pay and their benefits as a piggy bank, instead of issuing a surcharge on the wealthiest among us, a simple 1 percent increase in taxes on those who earn over one million a year. Instead, we are targeting the federal worker.

Under Republican pressure the fate of 315 million Americans will be borne by the 2 million federal civilian workers who serve them. To be clear, federal employees will be the only people paying for this bill.

Again, under a Republican led House, Republicans have continued to use federal civilian employees as a piggy bank. Which in many ways is an attack on the fabric of the middle class.

In this Congress alone the federal workforce has already contributed \$80 billion to deficit reduction. This was done by freezing their pay, preventing two cost of living increases, and other measures. Which is really code for what a federal employee is making today is less than what she was making two years ago (when you adjust for inflation).

Federal workers are highly skilled, highly trained, and highly educated. We must remember that none of the laws that we pass here today will make a difference without having people around who will implement them.

My Republican colleagues appear to believe that they can continue to target federal workers without repercussions. When we are no longer able to recruit and retain the best and the brightest, then we can look to the measure pushed by my Republican colleagues. Although I support many of the provisions in this bill; I must make clear I am concerned with how this bill is constructed.

#### FEDERAL EMPLOYEE RETIREMENT

I will repeat again that this conference report would require new hires into the federal government to have a significantly higher portion of their wages diverted to pay for their retirement.

Even though it is very uncommon in the private sector for employees to contribute any portion of their pay toward retirement, this conference report would require newly hired federal workers to contribute 3.1 percent of their wages to pay for their pensions, a 2.3 percent increase over current levels that will cost even the lowest paid federal workers hundreds of dollars per year in take home pay. This amounts to a targeted tax on middle class federal workers like VA nurses, border patrol agents, food inspectors, and wild land firefighters. Targeting these middle class workers again as a "pay-for" when the wealthiest Americans have not been asked to contribute anything is unconscionable. Federal workers have already been asked to make significant sacrifices.

As I said before, I will say again being dedicated to this country they accepted a two-year pay freeze (for 2011 and 2012) which has been a great burden to federal employees and their families who are struggling just like everyone else in this tough economy. This sacrifice alone saved American taxpayers \$60 billion.

Treating newly hired federal workers differently than current federal employees is a very disturbing precedent. Federal agencies are only able to recruit the talent they need because, though they do not pay as much, federal government jobs are still considered good jobs.

If we go down this path of taking away key benefits from future federal employees that will no longer be true. The days of federal agencies hoping to attract the best and brightest will be over.

Taking a giant symbolic step in the race to the bottom by undermining middle class federal employees' retirement security is unfair to workers and it is bad policy.

I have repeatedly pushed for a surcharge on individuals who earn over one million dollars a year to pay for this bill. I offered legislation to that effect and in each instance, I did not garner significant Republican support. This would

have protected the middle class and protected civilian workers from having to continue to bare the full brunt of the economic down turn.

Republicans once more protected the interest of the wealthiest among us. Using the benefits of future federal workers as a piggy bank, is just another example of the assault on the middle class.

There is good news in this bill, the Conference Report reauthorizes the Temporary Assistance for Needy Families (TANF) program through the end of the fiscal year. I have been an ardent supporter of a TANF and although I believe more could be done. I am pleased with the compromise that was able to be reached on this point today.

#### UNEMPLOYMENT

Finally Republicans have begun to realize they cannot continue to target the unemployed. There are more than four unemployed Americans for every job opening. Never on record in our nation's history have there been so many unemployed Americans out of work for so long. There is nothing normal about this recession. Republicans were clearly out of touch with the needs of American families. It is about time they recognized that the American people want Members of this body to work together.

I am committed to producing tangible results in suffering communities through legislation that creates jobs, fosters minority business opportunities, and builds a foundation for the future. I believe and have been an advocate for extending unemployment insurance.

Every American deserves the right to be gainfully employed or own a successful business and I know we are all committed to that right and will not rest until all Americans have access to economic opportunity.

According to a report released by the Department of Labor late this afternoon, 3.3 million Americans would lose unemployment benefits as a result of the original House GOP bill compared to a continuation of current law. In the State of Texas alone 227,381 people will lose their sole source of income by the end of January. Under this compromise unemployment insurance programs will be extended until the end of 2012, will be gradually reducing the number of weeks, and with some adjustments in requirements.

Again, I have been a supporter of Unemployment Insurance benefits and I am not fully satisfied with all elements of this provision. Although it retains the current maximum level of 99 weeks of total Unemployment Insurance benefits through May.

I am disappointed that it will reduce the maximum to 79 over the summer, and to 73 in September—depending on a state's unemployment rate. This is a significant compromise when considering the bill the Republicans put forth previously which would have cut federal UI benefits by more than half, with the total number of weeks of unemployment insurance down to 59 weeks for most states by the summer.

I recall when making my decision about this bill, the previous bill that was presented which was a shining example of how the Republicans failed to keep their pledge to the American People. A little over a year ago, Republican leadership released to the public their Pledge to America. In which they told the

American people that they would “end the practice of packaging unpopular bills with ‘must-pass’ legislation to circumvent the will of the American people. [Further] Instead, [Republicans] will advance major legislation one issue at a time.” This is what my colleagues stated less than one year ago. So as I consider the measure before me today, I have to consider how far the Republicans have decided to come on this issue. I have no desire to gamble with the much needed assistance that the American people today.

If there is a single federal program that is absolutely critical to people in communities all across this nation at this time, it would be unemployment compensation benefits. Unemployed Americans must have a means to subsist, while continuing to look for work that in many parts of the country is just not there. Families have to feed children.

Although according to the U.S. Bureau of Labor Statics the state of Texas continues to have the largest year-over-year job increase in the country with a total of 253,200 jobs. However, there are still thousands of Texans like thousands of other Americans in dire need of a job.

#### GED AND DRUG SCREENING REQUIREMENT REMOVED

In the previous Republican package which included drug testing on those who received UI or a requirement for GED/High school Diploma receive. I am glad that by working with Democrats the Republicans were able to remove these poisonous positions.

I am pleased this measure has a more common sense approach to the unemployed, as it drops the draconian provisions which required people to get a GED and allowed a blanket drug testing. Instead, the bill before us today permits states to drug screen and test anyone who (1) lost their job because of drug abuse, or (2) is seeking a job that regularly requires a drug test. Further it codifies current state practices requiring those receiving unemployment benefits at both the state and federal level to look for a job, which is important to ensuring that people know this benefit is given to them to help them while they search for permanent income.

Rather than requiring a GED or requiring people to join an already 160,000 persons waiting list for job training. The measure before us would allow the Department of Labor to approve waivers for up to 10 states for re-employment programs. Although this represents the beginning of the journey as a step in the right direction it is not the end.

I found the drug testing element to be one of the most disturbing parts of the Republican unemployment reforms. It was an insult to the unemployed. Further, the requirement to insist that to qualify for benefits that a person has or is in the process of attaining a GED or a high school diploma would have had a negative impact on minorities who have been hit the hardest during this economic downturn.

We need job training programs that are funded rather than penalties for those who for a multitude of reasons have not attained a high school diploma or GED.

Unemployed workers, many of whom rely on public transportation, need to be able to get to potential employers' places of work. Utility payments must be paid.

People use their unemployment benefits to pay for the basics. No one is getting rich from

unemployment benefits, because the weekly benefit checks are solely providing for basic food, medicine, gasoline and other necessary things many individuals with no other means of income are not able to afford.

Personal and family savings have been exhausted and 401(Ks) have been tapped, leaving many individuals and families desperate for some type of assistance until the economy improves and additional jobs are created. The extension of unemployment benefits for the long-term unemployed is an emergency. You do not play with people's lives when there is an emergency. We are in a crisis. Just ask someone who has been unemployed and looking for work, and they will tell you the same.

With a national unemployment rate of 9.1 percent, preventing and prolonging people from receiving unemployment benefits is a national tragedy. In the City of Houston, the unemployment rate stands at 8.6 percent as almost 250,000 individuals remain unemployed.

Indeed, I cannot tell you how difficult it has been to alleviate the concerns of my constituents who are unemployed that there will be no further extension of unemployment benefits. It is clear that it is more prudent to act immediately to give individuals and families looking for work a means to survive. This Conference Report is reflects changes that are much better for the American people, but it is also flawed measure.

Until the economy begins to create more jobs at a much faster pace, and the various stimulus programs continue to accelerate project activity in local communities, we cannot sit idly and ignore the unemployed, the uninsured, the elderly, and those with a low income and our middle class. I am committed to rebuilding the American dream. I firmly believe that we could have done more than what is before us today.

Mr. UPTON. Mr. Speaker, Congress passed the Middle Class Tax Relief and Job Creation Act of 2012 on February 17, 2012. As House majority conferees, as well as chairmen of the House Energy and Commerce Committee and its Subcommittee on Communications and Technology, we are pleased that the spectrum auction provisions in Title VI, Subtitle D, of the legislation are based on the Jumpstarting Opportunity with Broadband Spectrum, JOBS, Act of 2011. We helped pass the JOBS Act in the House on December 13, 2011, as part of the Middle Class Tax Relief and Job Creation Act of 2011. Like the JOBS Act, Title VI, Subtitle D, of the Middle Class Tax Relief and Job Creation Act of 2012 is designed to spur the next generation of wireless investment and innovation, to bring in federal revenue in the form of auction proceeds, and to promote significant new job creation. Among other things, Subtitle D allows the FCC to share proceeds with licensees, like broadcasters, that voluntarily return spectrum to be re-auctioned to meet the growing demand for commercial mobile broadband services. To prevent the Federal Communications Commission from picking winners and losers, Subtitle D prohibits the agency from excluding qualified bidders from participating in the auctions. To protect taxpayers, Subtitle D also requires the FCC to auction spectrum it has used federal funds to clear. What follows is a section by section ex-

planation of some of Subtitle D's significant spectrum provisions.

Section 6401. This subsection establishes clearing and auction timelines for spectrum in 1915–1920 MHz and 1995–2000 MHz (the PCS H Block), 2155–2180 MHz (the AWS-3 block), 15 MHz from the government spectrum at 1675–1710 MHz, and 15 MHz to be determined by the FCC.

Section 6402. This section amends the Communications Act to grant the FCC authority to conduct incentive auctions under which it shares some of the proceeds with licensees that return spectrum to be re-auctioned for commercial use. Such auctions must have competition on the “reverse” side—the portion of the auction that sets the buy-out price. To do otherwise would provide insufficient market competition to minimize costs and would create little more than a substitute for a license transfer.

Section 6403. This section grants the FCC special authority to conduct an incentive auction for television broadcast spectrum.

Subsection (a) governs the “reverse” side of the auction. Broadcasters may propose to relinquish their licenses to leave the market completely, to share a license with another broadcast licensee, or to move from a UHF channel to a VHF channel. The reverse “bids” they place represent the amount of money they would accept to exit, share, or move from a UHF channel to a VHF channel. The FCC is directed to maintain the confidentiality of auction participants until reassignments and reallocations are complete so as not to prejudice the ongoing business operations and relationships of broadcasters, including broadcasters whose bids may not ultimately be accepted. Spectrum recovered through this mechanism is to be auctioned for licensed services under section 309(j) of the Communications Act. This subsection also defines the retransmission consent and must carry rights of licensees who choose to channel share.

Subsection (b) governs the relocation of broadcast incumbents who do not leave the market through the incentive auction process. This allows the FCC to reorganize the remaining broadcast channels in a way that makes the cleared spectrum most valuable for re-auction, both in terms of monetary value and usefulness for licensed broadband services. To protect broadcasters, however, subsection (b) prohibits the FCC from involuntarily relocating broadcasters from UHF channels to VHF channels. It also requires the FCC to make all reasonable efforts to preserve relocating broadcasters' coverage area and population served. Subsection (b) also qualifies for reimbursement of reasonable relocation costs those broadcasters that are not being compensated through the reverse auction, cable systems that must retune or relocate their systems in order to receive the signals from the newly relocated broadcasters, and channel 37 incumbents (provided the entirety of channel 37 can be cleared for less than \$300 million). Section 6402 limits to \$1.75 billion the amount the FCC can spend to reimburse relocating broadcasters, cable operators, and incumbents on channel 37. Section 6403(b) also provides broadcasters the option of requesting specific regulatory relief in lieu of recovering relocation expenses. Finally, this subsection

makes clear that while low-power broadcasters without class A status cannot participate in the incentive auctions, the incentive auction relocation authority under subsection (b) does not change the rights of low-power broadcasters.

Subsection (c) governs the forward auction of new licenses made available by the reverse auction and relocation process. The spectrum made available by the purchase of licenses through the reverse auction and reallocated under this section must be auctioned for commercial services through the mechanisms detailed in this subsection. This subsection ensures that the auction is both self-funding and generates a profit for the U.S. Treasury. This subsection also encourages the FCC to assign licenses in a variety of geographic sizes.

Subsection (d) allows the FCC to borrow in advance up to \$1 billion of the \$1.75 billion available for relocation costs.

Subsection (e) allows the FCC to conduct only one special incentive auction for the broadcast spectrum. It does so to encourage the FCC and broadcasters to make best efforts to ensure success of the special auction rather than await the results of a first attempt. Broadcasters may still participate in general incentive auctions authorized under Section 6402, although certain offsetting FCC flexibilities and broadcaster protections in Section 6403(b), (g), and (h) do not apply.

Subsection (f) leaves to FCC discretion whether to conduct the reverse and forward broadcast incentive auctions contemporaneously or separately.

Subsections (g) and (h) work in concert with the provisions of subsection (b) to create offsetting FCC flexibilities and broadcaster protections to facilitate the broadcast incentive auction. Subsection (g) creates certain limitations on the FCC's ability to relocate broadcasters or modify their spectrum usage rights during the pendency of the broadcast incentive auction. Subsection (h) limits broadcasters' rights to protest license modifications made pursuant to the broadcast incentive auction provisions.

Subsection (i) clarifies that the FCC's November 8, 2008, "White Spaces" order continues to apply to vacant channels in the reconstituted television broadcast band after the incentive auction, reorganization of the broadcast channels, and re-allocation of spectrum for broadband use.

Section 6404. This section prevents the FCC from excluding qualified bidders from participating in spectrum auctions so long as they abide by the auction procedures. Such "prior restraints" would be antithetical to the notion of open auctions, which use a competitive, market-based approach to allocate spectrum to those entities that will put the spectrum to its highest and best use. By maximizing the amount of spectrum available for auction and offering a variety of geographic licenses and license sizes, the FCC can help ensure all potential bidders—local, national, and regional; urban and rural—have an opportunity to obtain spectrum to address the exponential increase in demand for spectrum caused by the increased use of smartphones and tablets by U.S. consumers.

Under this section, the sole qualifications of bidders are that they abide by the auction pro-

cedures and other requirements to protect the auction process, and that they meet the technical, financial, character, and citizenship requirements under sections 303(1)(1), 308(b), and 310 of the Communications Act at the time of bidding or, if they submit a winning bid, before grant of the license. The phrase "auction procedures" refers to the mechanics of the auction, such as the "activity rule." The phrase "other requirements to protect the auction process" refers to rules to protect auction integrity, such as those restricting collusion.

The FCC should not be picking winners and losers: the market should. As demand for spectrum grows exponentially in the mobile broadband age, all carriers will need additional spectrum, and artificially limiting access to certain entities or skewing auctions to favor them will lead to inefficient outcomes that ultimately hurt consumers. Moreover, recent history demonstrates that attempting to "shape" the market by micromanaging auctions leads to unintended consequences that hinder competition, harm spectrum policy, reduce auction proceeds, and result in valuable spectrum lying fallow for years.

This section also makes clear it is not intended to affect any remaining authority the FCC has to adopt and enforce rules of general applicability, as opposed to rules regarding particular carriers, particular classes of carriers, or particular auctions. The rigor of a notice and comment rulemaking conducted separately from a particular auction better ensures that all interested parties participate, not just parties courting particular spectrum. It also helps ensure that the FCC rigorously examines whether there is any need for action, as well as the pros, cons, and potential unintended consequences of any proposed measures. Conducting such a proceeding separately also ensures parties have a more realistic opportunity for appeal. Challenging rules adopted in the lead up to an auction are logistically challenging in that time is typically short, in that courts are likely reluctant to delay an auction or invalidate it after the fact, and in that if courts do, they potentially affect interests of all the auction participants, not just the challenging party.

It is not intended, however, that the FCC act in a way that would override or undermine the fundamental purpose of this section—ensuring open and wide participation in spectrum auctions in order to put spectrum to its highest and best use and to increase auction revenues. The reference to "rules concerning spectrum aggregation that promote competition" is not meant to confer any new authority on the agency, but merely to illustrate that the FCC retains authority to adopt such rules in an industrywide rulemaking to the extent such authority can be found elsewhere in the Communications Act and does not conflict with the prohibition on excluding bidders.

Section 6405. This section extends the FCC's auction authority through 2022.

Section 6406. This section instructs the FCC and NTIA to pursue additional secondary allocations of spectrum for unlicensed use by evaluating the viability of sharing spectrum with government operations in the 5 GHz band.

Section 6407. This section clarifies that nothing in sections 6402 or 6403 shall be con-

strued to prevent the FCC from using relinquished or other spectrum to implement band plans with guard bands. Such guard bands shall be no larger than is technically reasonable to prevent harmful interference between licensed services outside the guard bands. The FCC may permit unlicensed use in such guard bands. Unlicensed use shall rely on a database or subsequent methodology as determined by the FCC. The FCC may not permit any use of a guard band that would cause harmful interference to licensed services. Thus, this section makes clear that the FCC is free to create guard bands and allow secondary, unlicensed use in spectrum it has cleared with federal funds and auctioned under sections 6402 or 6403, so long as such guard bands are no larger than technically reasonable to prevent harmful interference between licensed services outside the guard bands and the use does not interfere with the licensed uses.

Section 6408. Over the last 20 years, licensees trying to use their spectrum as authorized have started to experience limitations on service because adjacent spectrum users are relying on receivers that are not sufficiently tailored to focus just on the spectrum allocated for their adjacent use. The result has been lower power limits, restricted uses of spectrum, and a proliferation of guard bands. This section requires the GAO to submit a study to Congress not later than one year after the passage of the Middle Class Tax Relief and Job Creation Act of 2012 detailing current spectrum uses and whether changes to receiver performance, changes to operational aspects of existing spectrum uses, and narrowing of existing guard bands can help make more efficient use of the scarce spectrum resource.

Section 6409. This section streamlines the process for siting of wireless facilities by preempting the ability of State and local authorities to delay collocation of, removal of, and replacement of wireless transmission equipment. It also increases access by establishing a uniform process for access to Federal rights-of-way and easements. It establishes a master contract process for siting wireless facilities on Federal Government owned property and buildings.

Section 6410. This section amends the NTIA Organization Act to make efficient use of spectrum by federal agencies one of the NTIA's core responsibilities. As we search for the 500 MHz of spectrum that the National Broadband Plan recommends we find to address the Nation's growing wireless broadband demands, it is critical to ensure that government users maximize the use of the spectrum devoted to their missions. Government users represent a significant portion of the use of spectrum below 3 GHz. Ensuring that agencies use this resource efficiently should be a tenet of the NTIA's stewardship of this important public resource.

Section 6411. This section requires OMB to update section 33.4 of OMB Circular A-11 to reflect recommendations in the January 11, 2011, Commerce Spectrum Management Advisory Committee Incentive Subcommittee report. OMB Circular A-11 currently requires agencies to integrate the cost of spectrum into their capital planning and management process. The CSMAC Incentives Subcommittee

recommended changes to that circular that make the spectrum use analysis more robust, including whether new federal spectrum uses will share spectrum with other systems, a detailed explanation of the efficiency gains compared to the prior use, and consideration of non-spectrum based systems and commercial alternatives. Moreover, agencies must show that the chosen solution is the most spectrum efficient or explain why it is seeking to implement a solution that is less spectrum efficient.

Section 6412. This section requires the GAO to study the use of the 11 GHz, 18 GHz, and 23 GHz microwave bands with a focus on whether the spectrum is being used efficiently and whether commercial alternatives to the FCC licensing of such bands are sufficiently incentivizing efficient use.

Section 6413. This section establishes the Public Safety Trust Fund, where most auction proceeds under this Act are deposited. It also establishes a cascading series of priorities for use of auction proceeds. First priority is given to repayment of funds borrowed against the \$7 billion authorized elsewhere in the title to establish the First Responder Network Authority and the State and local broadband offices. Next in priority is the remainder of the \$7 billion for buildout of the public safety broadband network and \$100 million for research and development related to public safety broadband communications, followed by \$20.4 billion for deficit reduction. From any remaining auction revenues produced above approximately \$27 billion, \$115 million is used to fund the Next Generation 9/11 provisions under subtitle E of this title and an additional \$200 million may be used for further wireless research and development of public safety broadband communications.

Section 6414. This section requires the GAO to study the capabilities and use of amateur radio operators in times of emergency and to make recommendations to improve integration of amateur radio operators in disaster response.

Mr. MARKEY. Mr. Speaker, I rise today in strong support of a provision in H.R. 3630 that will help ensure a competitive, creative, and consumer-friendly wireless marketplace. As more and more Americans use mobile devices to surf the web and communicate with others, it is imperative that they have a choice of providers that have sufficient spectrum to meet these growing demands. Because H.R. 3630 gives the FCC authority to hold voluntary incentive auctions of broadcast spectrum, it is important to ensure that there is no question about the Commission's authority to adopt and enforce rules of general applicability concerning spectrum aggregation that promote competition. Fortunately, the H.R. 3630 conferees included a provision that specifically confirms that authority. As an exception to a provision in the bill that prohibits the FCC from preventing persons from participating in auctions, this savings clause gives the FCC the flexibility to adopt spectrum rules in the manner that most effectively promotes competition—in connection with a particular auction or otherwise. I commend the conferees for including this provision.

Mr. WAXMAN. Mr. Speaker, on February 24, 2012, Rep. FRED UPTON, the Chairman of the Energy and Commerce Committee, in-

serted into the record a section-by-section discussion of the spectrum provisions in H.R. 3630, the Middle Class Tax Relief and Job Creation Act of 2012. This is a one-sided and after-the-fact attempt to influence interpretation of the Act by the Federal Communications Commission (FCC) and reviewing courts. Although there are a number of inaccuracies in the section-by-section analysis, Rep. UPTON's commentary on section 6404, which adds a new paragraph 17 to section 309(j) of the Communications Act addressing participation in auctions, is particularly egregious.

Rep. UPTON made two unsuccessful attempts prior to the passage of this legislation to have the conferees adopt his views on the consensus language in section 6404. First, on February 15, 2012, Rep. UPTON's staff proposed that language be inserted into the Joint Explanatory Statement of the Conference Committee stating that a "full spectrum of bidders" must be allowed to buy spectrum in incentive auctions. The conferees rejected this suggested language. In particular, it did not reflect the provision in the final bill that preserved the authority of the FCC to adopt rules that protect competition in any market, such as by requiring carriers that win licenses at auction to divest spectrum.

The following day, as the Joint Explanatory Statement was being finalized, Rep. UPTON's staff proposed a section-by-section summary of the Act for insertion into the report. This summary was also rejected by the conferees. As a result, the final Joint Explanatory Statement contains a section-by-section summary of only the language in H.R. 3630 as it passed the House, not as it was modified by the conferees. This section-by-section summary of the House-passed language was prepared by the Congressional Research Service as an aid to the conferees.

The conferees, including Rep. UPTON, did agree to include in the Joint Explanatory Statement the following general language to describe the spectrum provisions in the final legislation: "The public safety and spectrum provisions of this legislation advance wireless broadband service by clearing spectrum for commercial auction, promoting billions of dollars in private investment, and creating tens of thousands of jobs. These provisions also deliver on one of the last outstanding recommendations of the 9/11 Commission by creating a nationwide interoperable broadband communications network for first responders and generating billions of dollars of Federal revenue." This is the only summary of the final legislation approved by the conferees.

Accordingly, Rep. UPTON's insertion of his own section-by-section analysis of the bill, offered after passage and without approval by the other conferees, carries no special weight. It is an effort by one member of the Conference Committee to advance an interpretative spin that does not fairly reflect the language of new paragraph 17 and was specifically rejected by the conferees as a whole.

Like Rep. UPTON, I was a conferee. The language in question was negotiated over multiple meetings by the staff of three members of the House and five members of the Senate. The three House members represented in these meetings were all conferees: Rep. UPTON, the Chairman of the House Energy

and Commerce Committee, Rep. WALDEN, the Chairman of the Subcommittee on Communications and Technology, and myself, the Ranking Member of the Energy and Commerce Committee. The five Senators represented were two conferees, Senator BAUCUS, the Chairman of the Senate Finance Committee, and Senator KYL, a member of the Finance Committee and the Republican Whip; two Senators with special expertise in spectrum policy, Senator ROCKEFELLER, the Chairman of the Senate Commerce Committee, and Senator HUTCHINSON, the Ranking Member of the Commerce Committee; and Senate Majority Leader HARRY REID.

My staff in particular played a leading role in writing and negotiating the language in paragraph 17 that ended up in the final bill, including the very savings language Rep. UPTON glosses over, which was inserted specifically to protect FCC authority. I have a very different perspective on the language my staff put forward than the one Rep. UPTON suggests.

Rep. UPTON states that the "sole qualifications" of bidders under paragraph 17 are that they "abide by the auction procedures and other requirements to protect the auction process, and that they meet the technical, financial, character, and citizenship requirements under 303(1)(1), 308(b), and 310 of the Communications Act" either at the time of the bidding or before grant of the license if they submit a winning bid. What this interpretation fails to reflect is that the prohibition in subparagraph 17(A) is only a prohibition on "prevent[ing] a person from participating in a system of competitive bidding." A "system of competitive bidding" under the Communications Act can include multiple groups of licenses or blocks of licenses. It therefore would be permissible for the FCC to set aside blocks of licenses within an auction on which particular bidders may not bid. This would limit a person's participation in the system of competitive bidding, which subparagraph 17(A) allows, but not prevent participation, which subparagraph 17(A) prohibits. For example, a system of competitive bidding in which the FCC established two blocks of licenses, and allowed bidders to bid on either of the two blocks, but not both, would be consistent with subparagraph 17(A).

Rep. UPTON acknowledges that nothing in paragraph 17 affects the FCC's authority to "adopt and enforce rules of general applicability," but suggests that such rules must take their form via "notice and comment rulemaking conducted separately from a particular auction" and with the input of others besides "parties courting particular spectrum." Rep. UPTON is apparently trying to create a distinction—found nowhere in the law—between "rules of general applicability" conducted through separate notice and comment rulemaking and "rules regarding particular carriers, particular classes of carriers, or particular auctions." This interpretation departs greatly from what was agreed to by the conferees. Contrary to the interpretation posited by Rep. UPTON, a "rule of general applicability" is a well-known term used in the definition of a "rule" in the Administrative Procedure Act (APA). The established APA and judicial meaning is that a rule of general applicability is a rule that is not



party-specific or what is known as a “rule of particular applicability.” The term “rule of general applicability” was used in the savings clause in subparagraph 17(B) to ensure that the FCC can adopt and enforce rules that apply to all licenses, apply to auctioned spectrum generally, or apply to spectrum offered in a particular auction. All of these types of rules are enforceable with respect to auctions and auctioned spectrum because they are not literally or effectively party-specific.

Rep. UPTON further states that the phrase “rules concerning spectrum aggregation that promote competition” was inserted in subparagraph 17(B) to “illustrate that the FCC retains authority to adopt such rules in an industry-wide rulemaking” if the authority for the rule “may be found elsewhere in the Communications Act and does not conflict with the prohibition on excluding bidders.” There are multiple problems with this analysis. During negotiations among conferee staff, Rep. UPTON’s staff proposed that the phrase “other, industry-wide” be inserted before “rules of general applicability.” This proposal was considered and rejected. The final language thus preserves the FCC’s authority to issue any rules of general applicability, not just those that apply “industrywide.” It also makes clear that the savings clause in the last sentence preserves all of the FCC’s pre-existing authority to issue rules of general applicability, not just those that address subjects “other” than participation in auctions.

The language of the savings clause provides that “[n]othing in subparagraph (A),” which contains the prohibition on participation in a system of competitive bidding, “affects any authority the Commission has to adopt and enforce rules of general applicability, including rules concerning spectrum aggregation that promote competition.” If Rep. UPTON were correct that the rules of general applicability cannot “conflict with the prohibition on excluding bidders,” the savings clause would be meaningless. The whole point of the savings clause is to preserve the FCC’s pre-existing authority to issue rules of general applicability. The savings language in subparagraph 17(B) limits the reach of the prohibition in subparagraph 17(A), not vice-versa as Rep. UPTON contends.

The purpose of the agreed-upon language is simple: It prohibits the FCC from singling out a specific carrier for exclusion from a system of competitive bidding as long as that carrier complies with all auction procedures and other requirements to protect the auction process established by the Commission and either meets the technical, financial, character, and citizenship qualifications under sections 303(1)(1), 308(b), and 310 or would meet such qualifications before grant of the license. Rep. UPTON is correct in saying that every carrier is eligible to participate in a system of competitive bidding. The FCC, however, is able to require those carriers to come into compliance with applicable spectrum holding limitations, and all other license qualifications of any type, prior to granting a particular license. As adopted by the conferees, subparagraph 17(B) clarifies that Congress intends for the FCC to continue to promote competition through its spectrum policies. The FCC can adopt and enforce, for example, a spectrum

cap through a rule that applies either to all licenses or to spectrum offered in a particular auction, as long as such rules are not party-specific. The agreed-upon savings clause thus preserves the FCC’s ability to require, among other things, the divestiture of specific spectrum, such as spectrum below 1 GHz, in order to promote competition.

I was opposed to the language in paragraph 17 in the House-passed version of the bill. In the conference, I urged that the provision be deleted in its entirety. I was not successful in eliminating the section, but with the support of other conferees, I was successful in significantly limiting its application. Under pre-existing law, the FCC could have barred particular carriers like AT&T and Verizon from bidding on any of the relinquished broadcast spectrum if the FCC determined that excluding them would advance the public interest by promoting competition. Under the final language in paragraph 17, the FCC can no longer single out individual companies and exclude them from participating in a system of competitive bidding, but the FCC can limit their participation to discrete blocks of spectrum that are to be auctioned under the system of competitive bidding. Moreover, the FCC can require a company to divest spectrum it currently holds before awarding the company a license to new spectrum won in an auction. In effect, paragraph 17 gives companies with large spectrum holdings a choice: they can keep their existing spectrum or they can get new spectrum but give up their existing spectrum to preserve competition. Under paragraph 17, companies like AT&T and Verizon will be able to acquire new spectrum in an auction, but if the FCC determines the acquisition of that spectrum would diminish competition, the companies can be required to divest other spectrum before they get a license to the new spectrum.

Prior to introduction of H.R. 3630 in the House, FCC staff was asked to meet with a bipartisan group of staff to review the draft House language. At that meeting, the FCC staff raised concerns regarding flaws in the proposed Republican language on bidder eligibility. Specifically, FCC staff stated that the House Republican language was overly broad and would hinder the Commission’s ability to promote competition. Along with other conferees, I worked to correct these problems and provide the Commission appropriate flexibility. The conferees unequivocally rejected the original House language, which Rep. UPTON seeks to resurrect through his interpretive gloss.

The final language in paragraph 17 was not to everyone’s liking. The conferees tentatively agreed to the language on Sunday, February 12. As the final language leaked out, one company launched an eleventh-hour campaign to change it. According to an article in Politico on February 15, AT&T was “furious with proposed language in the deal that could affect its ability to bid for the spectrum” (David Rogers and Manu Raju, Spectrum Auction A Hold-up on Jobless Benefits Deal, PoliticoPro (Feb. 15, 2012) (online at <https://www.politicopro.com/story/tech/?id=92744>)).

House Republicans, Politico reported, “would like to appease AT&T by refining language its negotiators have already accepted” (id.).

AT&T’s effort failed. As Politico reported the following day, “House Republicans had hoped

to appease AT&T by refining language its negotiators have already accepted—but this effort was finally dropped” (David Rogers and Manu Raju, Payroll Tax Deal Finalized, PoliticoPro (Feb. 16, 2012) (online at <http://politi.co/yHTIM4L>)). If accepted as accurate legislative history, Rep. UPTON’s remarks would give AT&T through the backdoor much of what the company was not able to achieve through the actual legislative process. This effort at revisionism should be rejected by the FCC and reviewing courts interpreting this section.

I also have concerns about the discussion in Rep. UPTON’s remarks of section 6407, which addresses unlicensed use of spectrum in guard bands.

Unlicensed spectrum has been an engine of economic innovation and growth. Many advocate that allowing unlicensed use in the frequencies currently occupied by broadcasters could lead to new innovations like “Super WiFi.” The final legislation advances this goal in three ways: (1) it gives the FCC the authority to preserve TV white spaces; (2) it gives the FCC the authority to optimize existing TV white spaces for unlicensed use by consolidating the existing white spaces into more optimal configurations through band plans; and (3) it gives the FCC the authority to use part of the spectrum relinquished by TV broadcasters in the incentive auction to establish nationwide “guard bands,” including in high value markets that currently have little or no white spaces today, creating additional, new white spaces. Experts believe nationwide, unlicensed access to guard bands will enable innovation and promote investment in new unlicensed technologies.

The relevant language is contained in sections 6402, 6403, and 6407. Section 6402 creates a new subparagraph 309(j)(8) of the Communications Act that authorizes the FCC to pay for the voluntary relinquishment of spectrum “in order to permit the assignment of new initial licenses.” Section 6403(a) provides that the reverse auction to relinquish broadcast television spectrum is conducted “in order to make spectrum available for assignment through a system of competitive bidding.” Section 6407 in turn permits the FCC to use some of the relinquished spectrum to create guard bands and, as detailed below, to allow unlicensed use in those guard bands.

The final legislation does not require that existing white spaces be auctioned. Section 6403(b) gives the FCC discretion in deciding how much spectrum, if any, the agency should auction in addition to the relinquished spectrum. Section 6403(b)(1)(A) requires the FCC to “evaluate the broadcast television spectrum (including spectrum made available through the reverse auction).” Section 6403(b)(1)(B) then specifies that the FCC “may” repack the remaining broadcast spectrum, which would include white spaces, by making “such reassignments of television channels as the Commission considers appropriate.” Section 6403(b)(1)(B) also provides that the FCC “may . . . reallocate such portions of such spectrum as the Commission determines are available for reallocation.” Under section 6403(c), only spectrum that the FCC determines should be “reallocated” under section 6403(b)(1)(B) is required to be auctioned.

The savings clause found in section 6407 provides the FCC authority to use “relinquished or other spectrum” to create “guard bands” in the spectrum to be auctioned and make these guard bands available for “unlicensed use.” Under this authority, the FCC could create new TV white spaces in all markets by creating the guard bands out of spectrum that is relinquished by the broadcasters.

In Rep. UPTON’s summary of section 6407, he states that the section gives the FCC the authority to “create guard bands and allow secondary, unlicensed use in spectrum it has cleared with federal funds.” I agree with Rep. UPTON that the FCC can create guard bands in this spectrum and allow unlicensed use in these guard bands, but such use does not need to be a “secondary” use. During the course of negotiations over section 6407, Rep. UPTON’s staff proposed that the language in section 6407 include the requirement that any unlicensed use of the guard bands be “secondary” to a licensed use of the spectrum in the guard bands. This provision was not accepted by the conferees. As a result, the final language gives the FCC the discretion to decide whether to make unlicensed use the primary or secondary use of the guard bands. Of course, any unlicensed use of the guard bands may not cause harmful interference with licensed uses of the spectrum that is auctioned.

While there are other assertions made by Rep. UPTON’s insertion in the CONGRESSIONAL RECORD that are inaccurate, these examples should serve to show that his statement does not fairly reflect the intent of Congress in adopting the provisions. In light of the fact that the conferees chose not to adopt a detailed summary of the provisions in this portion of the Act, it will fall to the FCC’s open processes to ultimately inform its implementation of the Act’s language.

Ms. ESHOO. Mr. Speaker, as the Ranking Member of the Subcommittee on Communications and Technology, I want to provide an explanation of a key provision in the spectrum title of H.R. 3630, the recently enacted Middle Class Tax Relief and Job Creation Act of 2012, which promotes competition and ensures a vibrant wireless marketplace.

Section 6404 enables participation in a spectrum auction if a person “complies with all the auction procedures and other requirements to protect the auction process established by the Commission” and “meets the technical, financial, character, and citizenship qualifications that the Commission may require under section 303(1)(1), 308(b), or 310” of the Communications Act, or would meet those qualifications by means approved by the Commission prior to the grant of the license.

A similar provision was included in the version of H.R. 3630 passed by the House in December, however, the Conferees made three important modifications. First, they added the requirement that an auction participation must comply with “auction procedures and other requirements to protect the auction process.” This ensures that the FCC can ensure the integrity of each auction.

Second, they added a requirement to ensure the FCC has the authority to design auction rules, such as divestiture plans, and require a winning bidder’s compliance prior to the grant of the license.

Third, and importantly, the Conferees added language stating that none of the limitations on the FCC’s ability to prevent a person from participating in an auction “affects any authority the Commission has to adopt and enforce rules of general applicability, including rules concerning spectrum aggregation that promote competition.” This provision is critical to ensuring that the FCC can meet its statutory obligation to ensure competition in the wireless marketplace by avoiding an excessive concentration of licenses through auction-specific rules.

I’m pleased the Conferees saw fit to balance the original House language with this savings clause. As Americans increasingly depend on wireless services for both voice and data, this legislation makes substantial new spectrum available for auction and ensures that the FCC—by rulemaking—can adopt rules enhancing competition, consumer choice and innovation.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 554, the previous question is ordered.

The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CAMP. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, this 15-minute vote on adopting the conference report will be followed by a 5-minute vote on agreeing to the Speaker’s approval of the Journal, if ordered.

The vote was taken by electronic device, and there were—yeas 293, nays 132, not voting 8, as follows:

[Roll No. 72]

YEAS—293

Alexander  
Altmire  
Amodei  
Andrews  
Austria  
Baca  
Baldwin  
Barletta  
Barrow  
Bartlett  
Bass (CA)  
Bass (NH)  
Becerra  
Benishiek  
Berg  
Berkley  
Berman  
Biggert  
Bilbray  
Bilirakis  
Bishop (GA)  
Bishop (NY)  
Blumenauer  
Bonamici  
Boren  
Boswell  
Brady (PA)  
Brady (TX)  
Brady (IA)  
Buchanan  
Bucshon  
Butterfield  
Calvert  
Camp  
Canseco  
Cantor  
Capito  
Capps

Carnahan  
Carney  
Carson (IN)  
Castor (FL)  
Chandler  
Chu  
Cicilline  
Clarke (MI)  
Clyburn  
Coble  
Coffman (CO)  
Cohen  
Cole  
Conaway  
Conyers  
Costa  
Courtney  
Cravaack  
Crawford  
Crenshaw  
Critz  
Crowley  
Cuellar  
Culberson  
Davis (CA)  
Davis (KY)  
DeGette  
DeLauro  
Denham  
Dent  
Deutch  
Diaz-Balart  
Dicks  
Dingell  
Doggett  
Dold  
Donnelly (IN)  
Doyle

Dreier  
Duffy  
Ellmers  
Emerson  
Engel  
Eshoo  
Fattah  
Fincher  
Fitzpatrick  
Fleischmann  
Flores  
Frank (MA)  
Frelinghuysen  
Garamendi  
Gerlach  
Gibbs  
Gibson  
Gonzalez  
Green, Al  
Green, Gene  
Griffin (AR)  
Grijalva  
Grimm  
Guinta  
Guthrie  
Hahn  
Hanabusa  
Hanna  
Harper  
Hartzler  
Hastings (WA)  
Hayworth  
Heck  
Heinrich  
Hensarling  
Henger  
Herrera Beutler  
Higgins

Himes  
Hinchey  
Hinojosa  
Hirono  
Hochul  
Holden  
Holt  
Honda  
Huelskamp  
Huizenga (MI)  
Hultgren  
Hunter  
Hurt  
Inslee  
Israel  
Issa  
Jackson (IL)  
Jackson Lee  
(TX)  
Jenkins  
Johnson (OH)  
Johnson, Sam  
Jones  
Kaptur  
Keating  
Kelly  
Kildee  
King (NY)  
Kinzinger (IL)  
Kissell  
Kline  
Kucinich  
Lance  
Langevin  
Larsen (WA)  
Larson (CT)  
Latham  
LaTourette  
Latta  
Levin  
Lewis (CA)  
Lewis (GA)  
Lipinski  
LoBiondo  
Loebach  
Lofgren, Zoe  
Long  
Lowey  
Lucas  
Luetkemeyer  
Lujan  
Lungren, Daniel  
E.  
Mack  
Maloney  
Manzullo  
Marchant  
Marino  
Markey  
Matheson  
Matsui  
McCarthy (CA)

McCarthy (NY)  
McCaul  
McCollum  
McGovern  
McHenry  
McIntyre  
McKeon  
McMorris  
Rodgers  
McNerney  
Meehan  
Meeks  
Michaud  
Miller (MI)  
Miller (NC)  
Miller, Gary  
Miller, George  
Moore  
Murphy (CT)  
Murphy (PA)  
Myrick  
Nadler  
Napolitano  
Neal  
Nunes  
Nunnelee  
Oliver  
Owens  
Palazzo  
Pallone  
Pascarelli  
Pastor (AZ)  
Paulsen  
Pelosi  
Pence  
Perlmuter  
Peters  
Pitts  
Platts  
Polis  
Price (GA)  
Price (NC)  
Quigley  
Rahall  
Reed  
Rehberg  
Reichert  
Renacci  
Ribble  
Richardson  
Richmond  
Rigell  
Rivera  
Rogers (KY)  
Rogers (MI)  
Rooney  
Ros-Lehtinen  
Roskam  
Ross (AR)  
Rothman (NJ)  
Roybal-Allard  
Runyan

Ruppersberger  
Rush  
Sánchez, Linda  
T.  
Sanchez, Loretta  
Scalise  
Schakowsky  
Schiff  
Schilling  
Schock  
Schwartz  
Schweikert  
Scott (SC)  
Scott, David  
Serrano  
Sewell  
Sherman  
Shimkus  
Shuster  
Sires  
Slaughter  
Smith (NE)  
Smith (NJ)  
Smith (TX)  
Southerland  
Speier  
Stark  
Stearns  
Stivers  
Stutzman  
Sutton  
Thompson (MS)  
Thompson (PA)  
Tiberi  
Tierney  
Tipton  
Tonko  
Towns  
Tsongas  
Turner (NY)  
Turner (OH)  
Upton  
Velázquez  
Walden  
Walsh (IL)  
Walz (MN)  
Wasserman  
Schultz  
Waters  
Watt  
Waxman  
Webster  
Westmoreland  
Wittman  
Womack  
Yarmuth  
Yoder  
Young (AK)  
Young (FL)  
Young (IN)

NAYS—132

Ackerman  
Adams  
Aderholt  
Akin  
Amash  
Bachmann  
Bachus  
Barton (TX)  
Bishop (UT)  
Black  
Blackburn  
Bonner  
Boustany  
Brooks  
Broun (GA)  
Buerkle  
Burgess  
Burton (IN)  
Capuano  
Cardoza  
Carter  
Cassidy  
Chabot  
Chaffetz  
Clarke (NY)  
Clay  
Cleaver  
Connolly (VA)  
Cooper  
Costello  
Cummings

Davis (IL)  
DeFazio  
DesJarlais  
Duncan (SC)  
Duncan (TN)  
Edwards  
Ellison  
Farenthold  
Farr  
Filner  
Flake  
Fleming  
Forbes  
Fortenberry  
Fox  
Foxx  
Franks (AZ)  
Fudge  
Gallegly  
Gardner  
Garrett  
Gingrey (GA)  
Gohmert  
Goodlatte  
Gowdy  
Granger  
Graves (GA)  
Graves (MO)  
Griffith (VA)  
Gutierrez  
Hall  
Harris

Hastings (FL)  
Hoyer  
Johnson (GA)  
Johnson (IL)  
Johnson, E. B.  
Jordan  
Kind  
King (IA)  
Kingston  
Labrador  
Lamborn  
Landry  
Lankford  
Lee (CA)  
Lummis  
Lynch  
McClintock  
McCotter  
McDermott  
McKinley  
Mica  
Miller (FL)  
Moran  
Mulvaney  
Neugebauer  
Noem  
Nugent  
Olson  
Pearce  
Peterson  
Petri

Pingree (ME)	Ryan (OH)	Thompson (CA)
Poe (TX)	Ryan (WI)	Thornberry
Pompeo	Sarbanes	Van Hollen
Posey	Schmidt	Visclosky
Quayle	Schrader	Walberg
Reyes	Scott (VA)	Welch
Roby	Scott, Austin	West
Roe (TN)	Sensenbrenner	Whitfield
Rogers (AL)	Sessions	Wilson (FL)
Rohrabacher	Simpson	Wilson (SC)
Rokita	Smith (WA)	Wolf
Ross (FL)	Sullivan	Woodall
Royce	Terry	Woolsey

## NOT VOTING—8

Bono Mack	Gosar	Rangel
Brown (FL)	Paul	Shuler
Campbell	Payne	

□ 1140

Messrs. LABRADOR, GRAVES of Missouri, Ms. WILSON of Florida, Messrs. GOODLATTE, OLSON, and HALL changed their vote from “yea” to “nay.”

Messrs. CROWLEY, ALTMIRE and Ms. WASSERMAN SCHULTZ changed their vote from “nay” to “yea.”

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Ms. BROWN of Florida. Mr. Speaker, on rollcall No. 72, had I been present, I would have voted “yea.”

## THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the unfinished business is the question on agreeing to the Speaker's approval of the Journal, which the Chair will put de novo.

The question is on the Speaker's approval of the Journal.

Pursuant to clause 1, rule I, the Journal stands approved.

## REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1380

Mr. BARLETTA. Mr. Speaker, I ask unanimous consent to remove my name as a cosponsor of H.R. 1380.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

□ 1140

## RELATING TO THE MATTER OF REPRESENTATIVE MAXINE WATERS

The SPEAKER pro tempore laid before the House the following communication from the chair of the Committee on Ethics:

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON ETHICS,  
February 17, 2012.

Hon. JOHN BOEHNER,  
Speaker of the House of Representatives,  
Washington, DC.

DEAR MR. SPEAKER: Pursuant to House Rule XI, clause 3(b)(5) and Committee Rule

9(e), and with the unanimous approval of the Committee on Ethics (Committee), I am writing to request the appointment of six substitute Members, necessitated by voluntary recusals, to serve for any Committee proceeding related to the Matter of Representative Maxine Waters (the matter) currently before this Committee.

## TIMING OF RECUSAL

Prior to the end of the 111th Congress, the bipartisan leadership of the Committee/each recognized the need to hire outside counsel to complete this matter. On July 20, 2011, the Committee announced that it voted unanimously to hire Attorney Billy Martin as outside counsel to review, advise and assist the Committee in completing the matter.

A key phase of Mr. Martin's assistance is to review allegations that this Committee violated due process rights or rules attaching to Representative Waters. In addition, Mr. Martin was asked to address whether recusal of any Members of the Committee should be considered and when would be the most appropriate time for his recommendations regarding recusal.

Mr. Martin has informed the Committee that he has reviewed tens of thousands of pages of documents, and has interviewed current and former Committee Members as well as current and former Committee staff. Each current and former Committee Member and current employee, who was requested for interview, fully cooperated with Mr. Martin.

However, Mr. Martin has advised that one necessary witness has refused to appear voluntarily and, when subpoenaed to testify, communicated to the Committee that the witness would refuse to answer questions on the basis of the witness's Fifth Amendment privilege.

The witness's refusal to answer questions prevents the completion of the due process review. While Mr. Martin had advised that the most appropriate time to present his recommendations regarding recusal would be upon the completion of his due process review, he has now counseled the Committee to advance that timing and consider the recusal recommendations prior to considering the witness's refusal to testify.

As the Committee must now determine its next steps in this matter, Mr. Martin has recommended that the leadership of the current Committee/and four Members who served on the Committee in the 111th Congress consider recusal from further proceedings in this matter. After careful consideration, these six Committee Members have requested their voluntary recusal.

## REASONS FOR RECUSAL

Mr. Speaker, the record should note that these recusal requests are not based on any indication of any wrongdoing/or inappropriate partisanship by the Members. In fact, Mr. Martin has advised the Committee that, to date:

1. He has not discovered any evidence to indicate actual bias or partiality by any current Member or staff of the Committee;

2. He has not discovered any evidence that should cause a mandatory recusal of any current Member or staff of the Committee; and

3. There is no conflict which would require the disqualification or recusal of any current Member or staff of the Committee.

Instead, these recusal requests come from Members of the Committee/Who voluntarily cooperated with Mr. Martin's review, voluntarily appeared for interviews with Mr. Martin, and voluntarily produced a voluminous number of documents in their possession. The Members requested recusal because:

1. They believe that, out of an abundance of caution and to avoid even an appearance of unfairness, their voluntary recusal will eliminate the possibility of questions being raised as to the partiality or bias of Committee Members considering this matter;

2. They want to assure the public, the House, and Representative Waters that this investigation is continuing in a fair and unbiased manner; and

3. They want to move this matter forward in a manner that supports the greatest public confidence in the ultimate conclusions of the Committee.

Both the Committee and Mr. Martin recognize that recusal is an extremely rare occurrence and should not be sought without careful consideration by the Members. While the Members believe that they each can render an impartial and unbiased decision in any proceeding related to this matter, the Committee takes this extraordinary measure—in this unique circumstance—to further the best interests of the House and to permit this matter to be brought to a conclusion.

## VOLUNTARY RECUSAL OF SIX MEMBERS

Therefore, Members of the Committee who have requested recusal are: Representative Jo Bonner, Representative Linda T. Sanchez, Representative Michael T. McCaul, Representative K. Michael Conaway, Representative Charles W. Dent, and Representative Gregg Harper. The Committee has unanimously accepted and approved these requests.

Furthermore, outside counsel has discovered no evidence indicating bias or partiality on the part of former Members or requiring the exclusion of any former Members of the Committee from serving as substitute Members. However, out of an abundance of caution and for the same reasons as the current Members volunteering their recusal, Mr. Martin has recommended that no Member who served on the Committee in the 111th Congress should serve as a substitute Member in this matter. In addition, for the same reasons, no current Committee staff who had previously worked on the matter will be involved in further proceedings in the matter.

The Committee has taken these steps, pursuant to House Rule XI, clause 3(b)(5) and Committee Rule 9(e). Accordingly, I request that six substitute Members of the Committee be appointed. These substitute Members will serve the Committee only for the purpose of bringing the Matter of Representative Waters to a fair and just conclusion. The service of the substitute Members will end with the conclusion of the Matter of Representative Waters. I shall remain Chairman of the Committee, Representative Sanchez shall remain the Ranking Member, and all other recused Members will continue to serve on the Committee for all other purposes.

Sincerely,

JO BONNER,  
Chairman.

The SPEAKER pro tempore. Pursuant to clause 3(b)(5) of rule XI, the Chair announces the Speaker's designation of the following Members to act in any proceeding of the Committee on Ethics relating to the Matter of Representative MAXINE WATERS:

Mr. GOODLATTE  
Mr. LATOURETTE  
Mr. SIMPSON  
Mrs. CAPITO  
Mr. GRIFFIN of Arkansas  
Mr. SARBANES

# DIRECTING THE CLERK TO PROVIDE AUDIO BACKUP FILE OF DEPOSITION OF WILLIAM R. CLEMENS

Mr. DREIER. Mr. Speaker, I send to the desk a resolution (H. Res. 558) directing the Clerk of the House of Representatives to provide a copy of the on-the-record portions of the audio backup file of the deposition of William R. Clemens that was conducted by the Committee on Oversight and Government Reform on February 5, 2008, to the prosecuting attorneys in the case of *United States of America v. Clemens*, No. 1:10-cr-00223-RBW (D.D.C.), and ask unanimous consent for its immediate consideration in the House.

The Clerk read the title of the resolution.

THE SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The text of the resolution is as follows:

## H. RES. 558

Whereas on February 5, 2008, William R. Clemens voluntarily appeared in Washington, DC and was deposed by the Committee on Oversight and Government Reform of the House of Representatives in connection with that Committee's investigation into the use of steroids and other performance-enhancing substances in professional sports, and in Major League Baseball in particular;

Whereas the written transcript of Mr. Clemens' deposition, prepared by the Official Reporters of the House, with an Errata Sheet prepared by Mr. Clemens' counsel included as an Appendix, is the official House record of that proceeding;

Whereas this deposition and Mr. Clemens' public appearance before the Committee on Oversight and Government Reform on February 13, 2008, raised significant questions about Mr. Clemens' truthfulness, as a result of which the then Chair and ranking minority member jointly requested, on or about February 27, 2008, that the Department of Justice investigate whether Mr. Clemens committed perjury or knowingly made false statements in the course of the deposition or his February 13, 2008 public appearance;

Whereas the Department of Justice did in fact investigate whether Mr. Clemens committed perjury or knowingly made false statements in the course of his February 5, 2008 deposition and/or his February 13, 2008 public appearance before the Committee;

Whereas as a result of the Department of Justice's investigation, Mr. Clemens subsequently was indicted by a grand jury on one count of obstruction of Congress in violation of sections 1505 and 1515(b) of title 18, United States Code, 3 counts of making false statements in violation of sections 1001(a)(2) and (c)(2) of title 18, United States Code, and 2 counts of perjury in violation of section 1621(1) of title 18, United States Code;

Whereas the Department of Justice has requested via letter that the House voluntarily provide to it a copy of the on-the-record portions of an audio backup file of Mr. Clemens' deposition;

Whereas by the privileges and rights of the House of Representatives, an audio backup file of Mr. Clemens' deposition may not be taken from the possession or control of the

Clerk of the House of Representatives by mandate of process of the article III courts of the United States, and may not be provided pursuant to requests by the court or the parties to *United States of America v. Clemens* except at the direction of the House; and

Whereas it is the judgment of the House of Representatives that, in the particular circumstances of this case, providing a copy of the on-the-record portions of an audio backup file of Mr. Clemens' deposition to the prosecuting attorneys in the case of *United States v. Clemens* would promote the ends of justice in a manner consistent with the privileges and rights of the House: Now, therefore, be it

*Resolved*, That the House of Representatives directs the Clerk of the House to provide for use at trial a copy of the on-the-record portions of the audio backup file of the deposition of William R. Clemens that was conducted by the Committee on Oversight and Government Reform on February 5, 2008, to the prosecuting attorneys in the case of *United States of America v. Clemens*, No. 1:10-cr-00223-RBW (D.D.C.).

The resolution was agreed to.

A motion to reconsider was laid on the table.

□ 1150

## ADJOURNMENT TO TUESDAY, FEBRUARY 21, 2012

Mr. DREIER. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Tuesday, February 21, 2012; when the House adjourns on that day, it adjourn to meet at 10 a.m. on Friday, February 24, 2012; and, when the House adjourns on that day, it adjourn to meet at 2 p.m. on Monday, February 27, 2012.

THE SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

## REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3086

Mr. FRANK of Massachusetts. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 3086.

THE SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

## REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1964

Ms. JENKINS. Mr. Speaker, I ask unanimous consent to remove my name from H.R. 1964, the Conservation Easement Incentive Act of 2011.

THE SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

## NATIONAL THERAPEUTIC RECREATION WEEK

(Mr. THOMPSON of Pennsylvania asked and was given permission to ad-

dress the House for 1 minute and to revise and extend his remarks.)

Mr. THOMPSON of Pennsylvania. Mr. Speaker, recreational therapy embraces a definition of health which includes not only the absence of illness, but extends to enhancement of physical, cognitive, emotional, social, and leisure development. This caring profession touches the lives of individuals all across the Nation.

I have personally witnessed how recreational therapy provides independence and dignity in the lives of those facing life-changing disease and disability.

These services are provided by professionals nationally certified by the National Council for Therapeutic Recreation Certification as Certified Therapeutic Recreation Specialists. Every day, countless individuals face rebuilding lives. These individuals benefit from the compassionate and cost-effective care of a Certified Therapeutic Recreational Specialist.

Recreational therapy ultimately aims to improve an individual's functioning and keep them as active, healthy, and independent as possible. In a time when we need access to cost-effective health care, I urge all my colleagues to support the recognition of recreational therapy services provided by a CTRS specifically in satisfying the inpatient rehab intensity of service requirement.

Mr. Speaker, I congratulate the caring professionals of the therapeutic recreational profession for the services they provide every day.

## LOSS OF RELIGIOUS FREEDOM

(Mr. HARRIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HARRIS. Mr. Speaker, it's day 7 since the loss of religious freedom for Americans guaranteed under the First Amendment. We know that last Friday, when the final rule was issued by the Department of Health, it was identical to the rule issued last September, with no further accommodations for individuals of faith.

Mr. Speaker, yesterday, on day 6 of the loss of religious freedom for Americans guaranteed under the First Amendment, outside the White House a Catholic priest and Presbyterian minister were arrested for protesting that loss of religious freedom when they knelt to pray for the restoration of religious freedom. Yes, Mr. Speaker, it is now illegal in the United States to kneel and pray in front of the White House for the restoration of religious freedom. These Americans had to pay a \$100 fine for exercising their religious freedom in front of the White House.

Mr. Speaker, you know that if they were Occupy protesters, I guess they would just put a tent over them and

they would be immune from anything happening to them. But they weren't Occupy protesters; they were there to kneel and pray for the restoration of religious freedom.

Mr. Speaker, I hope we don't go past day 7 of that loss of freedom.

#### STANDING WITH WOMEN OF OHIO

(Ms. KAPTUR asked and was given permission to address the House for 1 minute.)

Ms. KAPTUR. Mr. Speaker, I rise to join my sisters in the State of Ohio—women elected officials, small business owners, women activists across our State—to speak out against attacks on the ability of women to get full health coverage in this country.

Imagine, we can land an astronaut on the Moon, we can target and eliminate Osama bin Laden, but we can't seem to figure out as a society how to make sure that women have full health choices in the insurance programs of our country.

It seems that some people just want to keep women in the corner and not see the struggles that they have had in preventive health care, in full choice for the medications that they take in order that they be able to live full and productive lives.

You know, our grandmother had 16 children. Several of them died. She lived to the age of 93. In those days, there were almost no medications, and more women died in childbirth than soldiers were lost in World War I.

I think the world has moved beyond closed thinking on women's health. I stand with my sisters in Ohio.

#### SNEAKY HIDDEN TAXES ON FLYING PUBLIC

(Mr. POE of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. POE of Texas. Mr. Speaker, for years the Federal Government keeps sneaking taxes into airline tickets. The airlines cannot put on the ticket all those hidden taxes because the law won't let them do so. For example, when you buy a product, normally you know how much the product is and then you know how much the taxes are, but not so with airlines.

Here's a typical ticket, Mr. Speaker. It starts out with \$200 that's going to the airline, but the Federal Government sneaks in at least 11 taxes, raising the price to \$374.95. Almost another half of the ticket is Federal taxes. That doesn't even count four more taxes they add on to the airlines.

The airline, when they make the ticket, all you see is the \$374.95 because the law won't let the airlines tell the truth about the taxation of our government. When more taxes are added, the ticket price continues to go up. Con-

gressman GRAVES from Georgia has introduced legislation to stop this nonsense.

Let's have transparency. Let's see how much those taxes are on an airline ticket. It's time we stop the hide-and-seek with taxpayer taxes.

And that's just the way it is.

#### THE ACTUAL AIRLINE TICKET

Original Price of Ticket is \$200.00  
Plus Government Taxes:  
Passenger Flight-Segment Tax = \$3.80  
International Departure Tax (IDT) = \$16.70  
International Arrival Tax (IAT) = \$16.70  
Passenger Facility Charge (PFC) (maximum) = \$4.50  
September 11th Fee = \$2.50  
APHIS Passenger Fee = \$5.00  
APHIS Aircraft Fee = \$70.75  
Customs and Border Protection = \$5.50  
Immigration and Customs Enforcement User Fee = \$7.00  
Passenger Ticket (Excise) Tax = 7.5% (\$15.00)  
Frequent-Flyer Tax (on sale of right to award miles) = 7.5% (\$15.00)  
Cargo Waybill Tax = 6.25% (\$12.50)  
Total: \$174.95  
Total Price of Ticket Is \$374.95

#### STANDING WITH IBEW AND IN SUPPORT OF PAYROLL TAX LEGISLATION

(Ms. JACKSON LEE of Texas asked and was given permission to address the House for 1 minute.)

Ms. JACKSON LEE of Texas. Mr. Speaker, I am very proud to stand with IBEW in my district, the Brotherhood of Electrical Workers, when they have challenged a company that is in fact doing poor work in our city, so much so that the city electrical inspector had to shut them down.

When are we going to be for our workers and to help them?

I rise today to indicate my support for the payroll tax legislation that just passed. It was, in essence, after long months of negotiation and pleading for the 160 million people to get payroll tax relief and to get those who are unemployed seeking work to get their due in unemployment insurance. It does have the opportunity for 99 weeks for those in districts that are suffering from unemployment.

It doesn't take any money from Medicare, doesn't raise the benefits. And certainly, it doesn't require those onerous burdens of unemployment—GED and drug testing—except in certain circumstances.

But why in the heck did we have to burden our Federal employees by taking the skin off their back to pay for this bill?

Let's respect and know that our Federal employees serve us. Let's get a better policy to be able to help Americans provide for the unemployment, and yet not put the pain and burden on Federal employees.

I oppose that and will continue to oppose that. But I'm glad that there are those who will get payroll tax relief and unemployment relief.

#### CONGRATULATING DANIEL QUESADA

(Mr. RIVERA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RIVERA. Mr. Speaker, I stand before you to congratulate an outstanding young leader in my community, Daniel Quesada.

In December 2001, when Daniel was only 13 months old, he was diagnosed with cystic fibrosis, an inherited chronic disease that affects the lungs and digestive system of about 30,000 children and adults in the United States. Today, Daniel is a fifth grade student at Our Lady of the Lakes Catholic School and is an accomplished runner who continuously finishes in the top at district races. Daniel continues to amaze doctors every day with how well he runs and his ability to exercise with ease.

Starting March 24, at Amelia Earhart Park in Hialeah, Daniel will participate in a series of 5K races across south Florida, raising awareness for his fight against cystic fibrosis. I'm sure the south Florida community will go out and participate in this event and show support for Daniel in his battle against this disease.

Anyone interested in getting information can log on to [www.runningwithdanny.com](http://www.runningwithdanny.com).

□ 1200

#### THINGS MUST LOOK RIGHT TO BE RIGHT

(Mr. AL GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. AL GREEN of Texas. Mr. Speaker, I rise today to speak in support of the rights of women. I do this, Mr. Speaker, because we live in a world where it's not enough for things to be right. They must also look right. And it doesn't look right for us to conduct a hearing dealing with the rights of women and not, N-O-T, and not have a woman on the panel. We would not dare conduct such a hearing discussing the rights of men and not, N-O-T, not have a man on the panel.

It is not enough for things to be right. They must also look right. Some may argue that was right. I will always argue that it was not, and that it did not look right.

We must make the adjustments so that women can make decisions about their rights.

#### THE IRANIAN REGIME

(Mr. DOLD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOLD. Mr. Speaker, in stopping a nuclear-armed Iran, 2012 will be as

critical a year as ever, and that's a fact. But we here in this Chamber speak as one. With a bipartisan, unambiguous voice, we can drive the conversation all around the world, and that does mean something because the United States must lead the world. It is an abdication of our responsibility and leadership if we leave the Iranian threat to anyone else.

This Iranian regime is already the leading state sponsor of terrorism in the world. They bear responsibility for killing American soldiers in Iraq and Afghanistan. They fuel Assad's slaughter in Syria. They were behind the recently foiled assassination plot right here on American soil in Washington, D.C. Now imagine what they would do under a nuclear umbrella of their own.

This is why we, this Congress, and this administration must anticipate what comes next. We must clearly establish that containment has no place at the table. Such a policy places us at the mercy of a madman, and it would unleash unparalleled consequences the likes of which the world has never seen. This is what's at stake.

#### THE FAILED TRANSPORTATION BILL

(Mr. BLUMENAUER asked and was given permission to address the House for 1 minute.)

Mr. BLUMENAUER. Mr. Speaker, as Congress adjourns for the week for the Presidents Day Recess, I'm hopeful that Members will go back to their districts and talk to them about the failed transportation bill that has mercifully been pulled back from the floor.

My Republican colleagues decided, for the first time in history, to put forth a partisan transportation bill, never had a hearing, that would have gutted transit. It would have reversed 20 years of transportation reform. It would have even eliminated the wildly popular Safe Routes to School program.

I would hope that they go back and they talk to their contractors, their local government officials, parents, and the PTA to understand why those programs are important, why that bill is flawed, why America deserves a better, bipartisan, visionary transportation bill to rebuild and renew America and put our people back to work.

#### CELEBRATING THE BIRTH OF SONNY WILLIAM HRABE

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, it's not difficult to believe that our Florida colleague, CONNIE MACK, could become a grandfather. But what is shocking is that our youthful and beautiful California colleague, MARY BONO MACK, has become a grandmother.

Mr. Speaker, I'm happy to announce to the House that yesterday, to MARY's daughter, Chianna, was born Sonny William Hrabé, who, in fact, is the grandson, also, of our late colleague, Sonny Bono. And what is interesting to note is that, while this 8-pound, 4-ounce baby boy was born on February 16, February 16 was the date of his grandfather's birthday, and February 16 was the date of Sonny Bono's father. So Sonny William Hrabé's great-grandfather and grandfather share the exact same date, February 16, the birthday that he has.

So congratulations go to the parents, Chianna and Mark, and, of course, to all of our colleagues and our friends and the Bono Mack family. And we look forward to having a chance to meet Sonny William sometime soon.

#### "GIT 'ER DONE"

(Mr. MICA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICA. Mr. Speaker, let me speak to transportation and what we're doing in Congress on the Republican side. The other side of the aisle, the Democrat majority, had responsibility over transportation, and huge majorities for 4 years and control for 2 years of the White House, the Senate, the House of Representatives.

This week the President signed it into law, and we got it done. As the Cable Guy says, we're going to "git 'er done." And we're getting her done.

But you wouldn't know that the FAA bill was signed into law by the President. He signed it in the dark. He failed to send me even a bouquet of flowers or candy on Valentine's Day when he did it. He didn't want the American people to know that we succeeded in getting legislation that is responsible for 10 percent of our economy done, and we got it done without tax increases, cutting \$3,700 subsidies for airline tickets. We're going to do the same thing with the transportation bill because it will put people to work and it will lower energy costs.

So, Mr. Speaker, there's more, as Paul Harvey said, there's the rest of the story, and that's part of the story I came to tell you and the rest of the country and the Congress.

#### THE SITUATION IN THE MIDDLE EAST

The SPEAKER pro tempore (Mr. HURT). Under the Speaker's announced policy of January 5, 2011, the gentleman from Texas (Mr. GOHMERT) is recognized for 60 minutes as the designee of the majority leader.

Mr. GOHMERT. Mr. Speaker, a lot of things going on in the Middle East, a lot of things needing to be addressed at this point. I have grave concerns about

the manner in which this administration is handling the things in the Middle East, maybe continuing with the policy on international affairs of this administration, which is, apparently, from what we see them doing, if you've been an ally to the United States, if you have been our friend, if you have fought with us, if you have had friends and family that fought with us and lost their lives, then this administration's message is we're going to throw you under the bus and we're going to negotiate and help your enemy and our enemy.

So it almost looks like the best thing to do for people in the United States that want help from the Federal Government: move to an island, declare war against the United States, and then this administration will send you all kinds of money and help, buy you an office in Qatar, all kinds of things we're willing to do if you're an enemy.

One of the latest things to be occurring, this week we're hearing reports from Egypt, after this administration, through an ally with whom agreements had been signed, negotiations continue to be ongoing with Mubarak in Egypt. The man certainly wasn't a Teddy bear by any stretch of the imagination, but he had had some success in keeping some semblance of peace with Israel.

And yet this administration was quick to tell Mubarak, as our ally, he had to get out. Kind of the way that President Carter failed to support another guy that was not a nice man, but the Shah in Iran. And the Carter administration also welcomed the return from exile of a man commonly called the Ayatollah Khomeini. The Carter administration welcomed him as a man of peace. As a result of that, Americans have lost lives and will continue to lose lives. There was nothing intentional in that fiasco by the Carter administration.

□ 1210

They meant well. They intended good for the country and the Middle East. They just simply didn't know what they were doing.

Right now we're seeing reports this week that the Muslim Brotherhood in Egypt—who certainly made clear from their actions they're not our friends. They are certainly not a friend of Israel. They've been making noise for some time that they did not intend to recognize Israel, they did not want to keep the peace treaty with Israel. In fact, there is an article from February 14, 2011, by Dean Reynolds from CBS Interactive that points out that Egypt's influential Muslim Brotherhood—this was supposedly before the Arab Spring even—never supported the Camp David Accords, and a leading secular politician, Ayman Nur, says they should be renegotiated.

The people that this administration has been so out front and welcoming,



sending people over there—those that have been able to get out and come back that aren't being held by this obviously anti-American government that has taken shape—are indicating, at least those in the administration, gee, we've got to send a bunch of money to Egypt, we're going to try to buy them off and buy their allegiance. I've been saying for many years now every term since I've been here something that should be clear to all Americans: When it comes to all this money that we throw at people around the world that hate our guts, that want to see the United States brought down, places where they laughed when 3,000 Americans were killed on 9/11, we're sending them money. The thing I've been saying ever since I got to Congress is: You don't have to pay people to hate you. They will do it for free.

I've had a U.N. voting accountability bill that I've filed in each Congress. It got over 100 votes at one point, and hopefully that will continue to grow. The bill is very simple and it follows the adage that I have been saying for all these years: You don't have to pay people to hate you. They'll do it for free.

The bill is very simple. Any nation that votes against the United States' position in the U.N. more than 50 percent of the time would get no money, no assistance of any kind from the United States. These countries are autonomous, they're independent, and they're free to make whatever decisions they wish, but if they are going to be anti-American and be against all of the human rights positions that we hold dear, whether it is for religion or gender—as we see women's rights being abused so badly around the world in countries we're pouring in money, as we see in areas in the world where we have poured in hundreds of billions of dollars, and yet they are doing all they can to eliminate churches—some have been successful—to persecute Christians and Jews, yet we continue to pour in money.

Since we've seen the position of this administration being anti-religious here in recent days, it's starting to come together and make more sense that this administration is simply being consistent. We admire consistency; but when they want to send money to countries that persecute Christians and persecute those who want to worship freely, I guess that is consistent with what has been done in the President's ObamaCare bill and the latest pronouncement that Catholics just needed to set aside their religious beliefs because they were inconsistent with what the President wanted done.

We've got an article here from February 18, 2011. This headline from Reuters says: Peace Treaty with Israel is Up to the Egyptian People.

This was a year ago:

Spokesman for Egypt's Muslim Brotherhood responds to U.S. National

Intelligence director, who said he assumed Brotherhood was not in favor of maintaining peace treaty with Israel.

Well, that's a nice thing for this administration to plant in the head of the Egyptians, the Muslim Brotherhood taking control in Egypt, that, gee, we kind of just assumed you wouldn't want to support the treaty with Israel.

Well, that allowed the Egyptian Muslim Brotherhood to say, you know what, gee, we thought you were going to be upset with us if we didn't support the treaty with Israel, but thanks for letting us know that your assumption would be that when you helped us take over that we wouldn't support Israel being there.

Great move. That was the Director of National Intelligence, James Clapper. He said this regarding the Muslim Brotherhood:

I would assess that they are not in favor of the treaty.

What kind of diplomatic fiasco is that?

We go to September 12, 2011. This September 12, 2011 article one day past the 10-year anniversary of 9/11, and the headline reads, Muslim Brotherhood: Egypt-Israel Peace Treaty Needs to be Reviewed.

The subtitle: Muslim Brotherhood tells regional Asharq al-Awsat daily peace treaty is of great importance; says Israel generally does not honor the agreement.

Then they quote Mahmoud Hussein, the group's secretary general, as saying:

And like the other agreements, it needs to be reviewed, and this is in the hands of the parliament.

There are others in which some in a position of power in Egypt have called for the complete elimination of any agreement with Israel. There are those who have said, let's put it up to a national vote, and since the Muslim Brotherhood is all about Israel no longer existing and since the Muslim Brotherhood has taken a slim majority in the government there in Egypt, then it would seem that it's likely their position would prevail.

In all of those years, the one crowning glory that the Carter administration can point to, the Camp David Accords, this administration has even thrown the Carter administration under the bus, just like they have some of our allies like the Northern Alliance in Afghanistan, like those who were loyal to Americans in Iraq, like the Kurds in many ways in northern Iraq, like Israel, for example, in the manner in which we've treated them publicly.

It was May 2 years ago that this administration did what some thought was unthinkable, that this administration or any administration would never do, they voted with all of Israel's enemies in demanding Israel disclose their weaponry, particularly nuclear weapons, any that they have. We had never done that before.

For those that bother to look in the Old Testament or the Jewish Bible—the Old Testament to some of us—you can read the account of Hezekiah welcoming leaders from Babylon. Isaiah was sent to Hezekiah and asked—he knew the answer, but he asked Hezekiah, what have you done? In essence, Hezekiah, King of Israel said: These wonderful leaders—of course this is a Texas paraphrase—these wonderful leaders came over from Babylon and I showed them all our treasure and I showed them all our defenses, our armaments.

□ 1220

In essence, Isaiah basically said, You fool. Because you've done this, you'll lose the country.

Now, it has been hard for some administrations that took the position in thinking, Gee, if you're just completely open, as Hezekiah was, about our defenses and what all we have, if you bring people on and let them review your nuclear submarines, if you let them see the abilities we have, if you bring them into our military bases and show them how we operate, and if you show them our tactics, that they'll just all of a sudden fall in love with us, and that it will make us stronger.

The lesson throughout history, including the one Hezekiah and his sons had to learn the hard way, is that you don't show your enemies all your defenses. You don't climb into political relationships with those who want to destroy you, with those who want to destroy your best friends. It's not a good message.

In an article from Fox News, it reads:

Al Qaeda on the rise in Syria has a "marriage of convenience" with Iran, U.S. intelligence director says.

I would think that was pretty obvious. I'm glad someone with our intelligence department has been able to figure that out. Hopefully, they'll be able to figure that out with regard to Lebanon. Hopefully, our intelligence department will be able to figure that out with regard to Iraq; that the leader in Iraq has shown hostility to this government and to the people in this government.

It's to the point that when five of us were over there, a bipartisan group, we had a couple of questions that Maliki did not particularly appreciate, one about, hey, there were people who were assuring us back in 2001, 2002, 2003 that if we came and got rid of this terrible dictator who hated the United States named Saddam Hussein, that because Iraq was so oil rich, that once we were able to turn the country back over to the Iraqi people after wresting it away from a totalitarian dictator who killed and abused and tortured Iraqi citizens, Iraq would be so grateful once the oil got to flowing that they would help ameliorate some of the vast amounts of treasure that Americans spent to allow



them to elect their own leaders, to allow them to elect a leader like Maliki.

He was deeply offended, it appeared, as he was when I brought up Camp Ashraf and the maltreatment—in fact, the killing—of residents of Camp Ashraf, who were Iranian refugees. The concern was the United States had promised the residents of Camp Ashraf, the Iranian refugees in Iraq, that we would make sure they were protected. When Maliki's government took over from us, he, himself, promised Camp Ashraf residents that he and his government would make sure they were safe. Maliki promised the United States that he would keep them safe.

Yet, apparently, the pressure from Iran and the fear that Iran has instilled in the leadership in Iraq, particularly in Maliki, is so profound that since he knew President Obama had made clear we were pulling out completely and that we weren't going to be around to protect them, to help them, and that we were getting out completely and that we were not going to be around to make sure that our investment of American lives and treasure was not wasted—we were pulling out, leaving everything to him, going to leave everything to chance despite the investment—Maliki showed no gratitude. In fact, he showed hostility.

In fact, when our group of five bipartisan Members of Congress was flying out on one of the luxurious C-130s—I am prone to sarcasm. The C-130s are no better than they were when I was in the Army 30 years ago. You're sitting on web seating just like the paratroopers used back then—and still use—and the back end opens down. They're the same C-130s. We were flying out, and we got word by radio that Maliki's government had told us that our group of five Members of Congress was no longer welcome in his country. The man seems to have thrown in with Iran.

I know we have some brilliant intelligence officers. I've interacted with some of our intelligence community. I'm quite impressed with the intelligence of many of our intelligence officers, and I am hopeful that the intelligence at the lower levels of our intelligence agencies will eventually affect those in top positions in our intelligence agencies so they will begin to realize what others have known for a very long time.

In Afghanistan, I understand President Karzai is not terribly pleased with the position that some of us have taken, but some of us are not terribly pleased with the positions of the Karzai Government in throwing in—well, at least in accommodating—the Taliban, in accommodating those who are supplying the Taliban, and in the Taliban itself, as it continues to plot and kill Americans.

But, in fairness to President Karzai, when you look at his situation, Presi-

dent Obama has made clear that the United States is completely getting out of Afghanistan, and that we're going to leave them just as we did Iraq, just as the Democratic Congress demanded in 1974 from Vietnam. We were going to leave our allies, those who had fought with us and assisted us, who had lost family, friends, treasure to support our position because they were enemies of our enemy. This administration was going to leave them high and dry, and this administration has already shown in Iraq that that's what happens.

So, from President Karzai's position, he has got to be sitting there, going, They're about to leave. The Taliban has gotten stronger and stronger with Pakistan's supplying and assisting them. The United States Government will not be here to protect me. Gee, maybe I'd better start being nicer to the Taliban and the radical elements in the Pakistan Government because that's who's going to determine whether I stay in power or not.

I found out in a meeting with some Afghan officials from the Northern Alliance—and then I've done subsequent research since—that the Government of Afghanistan has about a \$12.5 billion budget. They, themselves, collect enough revenue—taxes and whatnot—in Afghanistan that they're able to supply about \$1.5 billion of their \$12.5 billion budget. The rest comes from other countries, and most of that is from the United States.

It was interesting traveling around Afghanistan before New Year's and after New Year's and going to forward operating bases, talking to some of our troops. We've got some terrific folks on the ground over there, but there is a problem. Those of us who majored in history know and those of us who have bothered to read any history have learned that that is a tough area in which to be an occupier as a foreign country. Foreign countries occupying or trying to occupy in Afghanistan don't do very well. It's not a place we ought to be occupying.

□ 1230

So I hear some, like some in this administration, it sounds like they're throwing up their hands saying, Well, let's just get out and let happen whatever is going to happen, because they know occupying forces don't do well. They're right about that. But by simply withdrawing without using some intelligence and some lessons learned from history means that we may have to fight the Taliban again. And it may, again, be after a massive loss of American lives. And perhaps the next time it will be when they're armed with nuclear weapons where they can kill hundreds of thousands instead of thousands.

Of course, if you read the communications that were intercepted about 9/11, they were hopeful there for a while

that there would be maybe 50,000 people in the Twin Towers that were going to be killed, they hoped were killed when the planes crashed into the Twin Towers in New York City. They didn't care about innocent American lives or all those foreign visiting folks that were in the Twin Towers. They could care less. They wanted to make a point, and make a point by killing tens of thousands.

Well, with the inappropriate strategy of this government, of this administration, the Obama administration, we could end up having this Nation pay a far greater price than has even been paid to date.

Unfortunately, there are consequences for bad decisions. It is important that we select proper leadership in this country. Anybody that reads through the book of Hosea will find a verse—and I had never had it jump out as it did until a few weeks ago. And there are different translations, but I like the translation in which the communication from God to Hosea was:

He was angry with the people of Israel because He said they had chosen leaders who were not God's choice.

There needs to be a lot more praying in this country as we select our leaders, as we select our national leaders for President, for his administration, for those who are elected to Congress, for those who are elected to the Senate, for those who are elected in State and local elections, and a lesson for us in Congress that we elect, within Congress, the proper leaders because, as the Founders believed, we are endowed by our Creator with certain unalienable rights.

One-third of the 56 signers of the Declaration of Independence were not just Christians; they were ordained ministers. One of them has a translation of the Bible—one of the signers of the Declaration—which still can be found in print today. These people understood the lessons from history, and they did not want to make those mistakes.

Here we have, from February 13, an article by Patrick Goodenough entitled, " Hamas Leader Promises Iran Never to Recognize Israel."

Now, we've had some in this country, in this administration, who have indicated privately, you know, we don't really have to worry; Sunnis and Shias hate each other. They're never going to come together. So that can help keep one from getting too much power because there is that conflict. Well, because, in small part—but the small part is growing into a larger part due to some of the actions and inactions of this administration—Shias and Sunnis are coming together.

So here you have a Hamas Gaza leader, Ismail Haniyeh, delivering a speech at a rally in Tehran, Iran, last Saturday, marking the 33rd anniversary of

the Islamic Revolution. He's speaking, and behind him are the portraits of the Supreme Leader Ayatollah Khamenei and his predecessor Ayatollah Khomeini. Here he is in the Gaza Strip as a leader of the terrorist organization Hamas, and he's speaking on behalf of Iranian leaders. We are bringing Shia and Sunni together, like people 10 years ago would never have believed possible, by the ineptitude of what's happening in this administration.

But, the article points out:

Amid growing speculation of a split within the top ranks of Hamas, Iranian leaders at the weekend urged the terrorist group's Gaza leader to continue its campaign of violent resistance and pledged continuing financial support.

This from a terrorist group of leaders who are pledging to support the terrorist Hamas leaders in the Gaza Strip. And the Supreme Leader Ayatollah Khamenei told the Gaza Hamas leader, Ismail Haniyeh, people do not expect anything except endurance from Palestine's resistance.

It's time to wake up to what's going on with this administration and their help for groups that hate America, that hate Israel.

Here's an article from February 12, which says, "Muslim Brotherhood Lawmakers: U.S. Aid to Cairo Assured." Well, isn't that special. He's gotten an assurance from this administration, as he told Al-Hayat, that if the U.S. cut aid to Egypt, it would be a violation of the 1979 peace accords. They've indicated they're not interested in keeping the 1979 peace accords.

Here's an article from February 13, "Muslim Brotherhood Warns U.S. Aid Cut May Affect Egypt's Peace Treaty With Israel." But apparently they're getting assurances—hey, we're going to make sure you keep getting money from us. You hate our guts. You hate Israel. You want Israel gone. So, you know, hey, we're going to keep supporting you.

And, in fact, in another article from February 13 of this year, the headline reads, "Obama Proposes \$800 Million in Aid for 'Arab Spring.'" Well, we've seen what the Arab Spring has done. If you were a Christian while Mubarak was in power, there was some persecution, and it wasn't pretty. But now, all semblance of any efforts to allow Christians to worship freely in Egypt is gone. We saw a headline last year that the last public Christian church in Afghanistan had to be closed. We continue to pour in aid.

Here is a February 8, 2012, headline, "Pentagon Counters Dim Assessment of Afghan War." Then there's another article, "The Afghanistan Report the Pentagon Doesn't Want You to Read," by Michael Hastings. There's one by Lieutenant Colonel Daniel Davis, "Truth, Lies, and Afghanistan: How Military Leaders Have Let Us Down." Here's one from February 10, 2012,

"Roads to Nowhere: Program to Win Over Afghans Fails."

In talking to some of our troops in forward positions in Afghanistan, some were a bit down, particularly those who have been training Afghans to farm, because we are sending around \$3 billion for nothing but projects in Afghanistan, including these types of farming projects, so the people can make their own way.

□ 1240

Yet we were told they were training the Afghans, they have been training the Afghans; but the billions of dollars the United States Government, the Obama administration has sent to Afghanistan to help them develop farming projects, at least in this one region, has never gotten past the corrupt regional government.

So the projects where they could use these farming skills that are being taught don't exist, and they are not anticipated to exist. We set up a corrupt government in Afghanistan. And I don't know how honest anybody in the Karzai regime was before they got there, but there should be a lesson that can be learned from King David, the only person mentioned in the Bible to have had a heart after God's own, that when there is no accountability, even the best among us can do terrible things.

So when you set up a government in Afghanistan and we, the United States, supported their constitution that said sharia law ruled, that meant there were not going to be any more Christian churches in Afghanistan, and now there're not. Not publicly. And Jews have had to flee from Afghanistan. The last report I read said there was one publicly acknowledged Jew in Afghanistan.

With all of the blood and treasure we shed to eliminate the Taliban, the Taliban has now come back, and now this administration has announced to the world and to the Taliban, Look, we will release all of the people we have in detention that have murdered American troops, we will let them come back. They can keep murdering when we let them go. We'll even buy you a wonderful office in Qatar if you'll just come talk to us.

That is the kind of proposal that everyone has heard, and that's what has allowed Taliban leaders, as one of them did in Afghanistan earlier this month, to announce to all of Afghanistan in their largest television station that, look, we're about to be in charge as soon as the American Government leaves.

So here's the deal. The American Government is—they basically acknowledge we've whipped them, they've lost. So they're doing everything they can to get us to negotiate. So here's the situation. If you have not been totally supportive of the Taliban

here in Afghanistan, they say, then it's time to come to us, ask forgiveness, and ask for our providing safety for you. Because if you don't, when we take over, as soon as the U.S. pulls out, you know, you're in trouble. And the result could be the death penalty.

There is a way around totally abandoning the investment we had for a peaceful Afghanistan without a powerful Taliban. It's common sense. You see it throughout history. What you do is support friends who are enemies of your enemy. The Taliban is our enemy. We know that the Taliban can be defeated because they were when we had less than 1,500 American troops in Afghanistan, Special Ops guys, incredibly trained, and some of our best intelligence officers over there from our intelligence agencies, obviously not top intelligence officials because these guys were really competent. And they whipped the Taliban, had them completely on the run. And then we kind of took our eye off the ball in Afghanistan and started looking at Iraq, and the Taliban has made a resurgence, and they have become powerful again in Afghanistan.

In meeting with leaders from the Northern Alliance—even though Secretary Clinton and former Secretary Albright did what they could to keep us from meeting because, apparently, when this administration throws our allies under a bus, this administration wants them to stay under the bus. Some of us believe if somebody has been our ally, has helped fight our enemy, then they need to remain our friends. These are Muslims. These are our friends, and their enemy is our enemy. And I'm told by some of the military, American military leaders, that the Northern Alliance has plenty of weapons; but they don't have all the weapons that they had when they defeated the Taliban before. We do not have to stay in Afghanistan. But if we do not want to have to come back and fight the Taliban again, the thing to do is rearm and reempower the enemy of our enemies.

Afghanistan has never been strong and never had a strong central government. What made us, in our arrogance, think we could force a strong centralized government that would work in that country? It is a very tribal nation. In the northern area, this administration wants to call our allies, our former allies warlords, war criminals, blood on their hands. They were fighting for us and with us. So in this administration's effort to manipulate the U.S. media, they leak all kinds of stories about how terrible our allies were. They're fighting terrible people. They're fighting people who were training others to come kill thousands and thousands of Americans. These are not nice people, and war is not a pleasant thing.

The Northern Alliance leaders had two asks: one, help us get a constitution amended so that we get to elect our regional leaders. Each province in Afghanistan should be able to elect their local governors. Each province should be able to elect the mayors of the towns within that province. Let them select their own police chief. Let them do as the United States came together to do, not so much in 1983 with Articles of Confederation, but in 1987 with our U.S. Constitution that allowed people to elect local government officials, State government officials, and national officials.

We have a constitution that has been set up in Afghanistan that basically lets the Karzai administration appoint the regional governors, the mayors. They select the police chiefs. That is a system fraught with corruption. No matter how honest anybody is going in, including President Karzai, how in the world could you stay honest and above corruption when you have set up a system that lends itself to corruption?

Well, that's what's happening. So it doesn't seem so much to ask, let the Northern Alliance, as every other area of Afghanistan, elect their local leaders, elect their governors, and then those regional areas become strong again.

And then just as States fuss when the Federal Government of the United States tries to get too powerful, as we've seen with ObamaCare, let's empower those regional provincial governments in Afghanistan to be powerful enough to call down their national leaders when they are corrupt. Let's empower them to fix their own problems, and you don't have to have massive numbers of American troops to do that, but you do have to be smart in the way you deal with a country that has lots of your enemies that want to kill you.

So they asked, let us elect our local, regional leaders. Give us enough equipment where we can defeat the Taliban again, for you and for us.

Now, in meeting and talking to people in Afghanistan, they knew, as did the Baluch leaders in southern Pakistan, that the Taliban is being supplied and equipped with armaments. IEDs that are dismembering and killing our soldiers in Afghanistan are being supplied through the southern area of Pakistan.

□ 1250

This is an area of Pakistan that hadn't been Pakistan until 1948 when international leaders arbitrarily took pencils and just drew boundary lines, and they included most of Balochistan in with Pakistan. The Balochistanis did not want to be there. They have a very mineral-rich area that is supplying Pakistan with most of their minerals. And yet the Pakistan Government is so badly mistreating the

Baluch people. They raid, they torture, and they terrorize the Baluch people in southern Pakistan.

And if Pakistan is going to so terribly mistreat our Muslim friends in southern Pakistan, in the Balochistan area of Pakistan, then it's time to push for an independent Balochistan that will be a nation of Muslim friends of the United States, and we will remain their friends because their enemy is our enemy, and we won't have to sacrifice American troops, American lives, and massive amounts of American treasure like we have been doing. You simply empower the enemy of our enemy and let them do the work for us.

That is the solution. That would be in keeping with holding dear the American lives that have been lost in fighting the Taliban in Afghanistan. That would be true to our beliefs and our desire only to fight those who want to destroy what we are and who we are. That would truly honor those who have given so much in honor of this country.

And with that, Mr. Speaker, I have a friend, Mr. MO BROOKS, here. I yield back the balance of my time so Mr. BROOKS can be recognized.

#### PAYROLL TAX DECEPTION

The SPEAKER pro tempore (Mr. CANSECO). Under the Speaker's announced policy of January 5, 2011, the gentleman from Alabama (Mr. BROOKS) is recognized for the remainder of the hour, 15 minutes, as the designee of the majority leader.

Mr. BROOKS. Thank you, Mr. Speaker.

In the House today, H.R. 3630, the so-called "payroll tax holiday," passed. Later it passed the United States Senate, meaning it passed the United States Congress. But on the House floor today, I joined 91 other Republican budget hawks, each of whom shares my concern for the financial stability of our Nation and a risk of a Federal Government insolvency and bankruptcy. Each of us budget hawks voted "no."

In December of 2011, Alabama Senators RICHARD SHELBY and JEFF SESSIONS and I voted "no" on the deceptively named payroll tax bill. I am pleased today that I was part of a united Republican delegation from the State of Alabama to vote "no" on H.R. 3630.

ROBERT ADERHOLT, Republican from Haleyville, voted "no." SPENCER BACHUS, Republican from Birmingham, voted "no." MIKE ROGERS, Republican from Anniston, voted "no." MARTHA ROBY, Republican from Montgomery, voted "no." And JO BONNER, Republican from Mobile, voted "no."

On the Senate side, Alabama Senator RICHARD SHELBY voted "no," and Alabama Senator JEFF SESSIONS voted "no." Each of these individual Congressmen and Senators voted "no,"

again because they share a deep-rooted concern for the financial stability of our country and the impact this legislation can have on that.

In sum, I voted against H.R. 3630 for a variety of reasons, but I'm going to mention three. First, H.R. 3630 disproportionately targets and burdens American Federal workers, takes their hard-earned money and diverts it to those who don't work for it. That's not fair, and that's not good policy.

Second, America's seniors have asked me to protect Social Security and Medicare benefits because they paid for and earned them during their working lifetimes. Americans support Social Security because everyone contributes their fair share to their own Social Security retirement benefits. Social Security is not welfare. Social Security is an earned entitlement.

H.R. 3630 undermines Social Security's and Medicare's foundation by threatening 10 percent funding cuts totaling \$120 billion per year, which will, if continued beyond this fiscal year, breach America's commitment to our elderly and will force significant Social Security and Medicare benefit cuts. We cannot expect the benefits while cutting the revenue that provides those benefits.

Third, and most importantly, the name "Middle Class Tax Relief," which is on the title of H.R. 3630, is deceptive and it is false. There is no tax cut. Rather, Mr. Speaker, I want the American people to understand that it is 100 percent a loan. Let me delve into that a little bit deeper. But as I do so, let me mention this: in the private sector, if a commercial institution had done what Congress did today, it would constitute flagrant violations of truth in advertising, truth in lending, and deceptive practice statutes. But as we all know, Washington is all too often immune from such constraints. H.R. 3630 is false advertising and deceptive because it is not a tax cut. H.R. 3630 is a loan that risks America's solvency and which the American people must pay back with interest.

In this regard, the Congressional Budget Office and Joint Committee on Taxation reports revealed two troubling aspects of H.R. 3630: first, according to the CBO's and JCT's estimates, enacting H.R. 3630 would change revenues and direct spending to produce increases in the deficit of \$101.1 billion in fiscal year 2012—\$101.1 billion in fiscal year 2012—and we are already 4 or 5 months through with this fiscal year. So that gives you an idea of what it's like for the remainder.

Further, H.R. 3630 would direct the Office of Management and Budget to exclude the budgetary effects of H.R. 3630 from its scorecard of balances under its Statutory Pay-As-You-Go Act of 2010. So what is H.R. 3630 doing? Well, it's instructing the Office of Management and Budget to not count the

deficit impact of this legislation on its full scorecard of balances.

In sum, the Congressional Budget Office report confirms that every penny of the so-called “tax cut” must be paid back with interest. Now, where I come from, if you’re given money that you have to pay back with interest, that is called a loan; and that is exactly what the American people will have to do.

My parents taught me about debt. Debt never rests. Debt is working against you 24 hours a day, 7 days a week, 52 weeks a year for however many years it takes you to pay it off in full. Too much debt enslaves you. Your creditors and your debt become your masters, and you become their servant.

This is what debt does to every American family, and it is doing that slowly but surely to America. As you all know, we blew through the \$15 trillion mark in November of 2011, and sometime this year we are going to blow by the \$16 trillion debt mark. That debt is not free. There is no free lunch.

According to the CBO report, H.R. 3630 racks up debt at the rate of over \$12 billion per month in FY 2012. Now, if I had a printed copy of H.R. 3630—but the speed of this place sometimes does not empower you to have that—according to the CBO report, if we were to have printed H.R. 3630 on sheets of gold—which we probably should have done because it costs American taxpayers roughly \$500 million per page in additional debt burden and payments—that’s the cost of that bill per page.

□ 1300

Why would Washington do this to America? What is Washington’s motive for this deception? Why don’t we call things what they are? Why don’t we call a payroll tax a payroll tax rather than a Social Security and Medicare funding tax, which is what it really is? The answer is simple: poll data, pandering to voters, and the 2012 elections.

Why does Washington use the phrase “payroll tax” rather than what so-called “payroll taxes” are—Social Security and Medicare funding taxes? Because polls show voters don’t understand what the payroll tax is, but by golly they know what Social Security and Medicare funding taxes are. Yet, 100 percent of the so-called “tax cuts” in H.R. 3630 are cuts to Social Security and Medicare funding taxes. In other words, Washington politicians use the phrase “payroll tax” because they know using the more accurate phrase “Social Security tax” would cause American voters to rise up to protect our Social Security and Medicare system.

Worse yet, H.R. 3630 deceives America’s working families into believing they are reaping a windfall when in fact they are being saddled with a burden, a burden that will hamstring our children, grandchildren, and America’s

future with another layer of heavy, taxing, onerous debt. What Washington won’t tell the American people is that H.R. 3630 is another debt-busting bill that further empowers China and other American predators to become our master while enslaving America and the American people with generations of oppressive debt burden payments.

Mr. Speaker, America yearns for leadership, leadership that involves adult, mature conversations with American voters about the financial condition we are in and what H.R. 3630 is really about.

There are simply too many in Washington who pander to voters in an election year for political gain. H.R. 3630, Mr. Speaker, I would submit, represents the worst of Washington, not the best, and not what the people deserve.

I cannot speak for other Congressmen, but as for me, today I and 90 other Republican budget hawks stood strong for America’s future. We voted to kill H.R. 3630, stop the deception, stop pandering to voters, and save America from another mountain of oppressive debt that threatens us with insolvency and bankruptcy.

Mr. Speaker, I yield back the balance of my time.

#### MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Brian Tate, one of his secretaries.

#### MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3630) “An Act to provide incentives for the creation of jobs, and for other purposes.”.

#### PEAK OIL

The SPEAKER pro tempore. Under the Speaker’s announced policy of January 5, 2011, the gentleman from Maryland (Mr. BARTLETT) is recognized for 30 minutes.

Mr. BARTLETT. Mr. Speaker, when I looked at the television this morning and at that little crawler across the top of one of our stations, I noticed that oil was \$103 a barrel—\$103 a barrel and we’re in a recession. What’s happening here?

So I’ve got a chart here that goes back a few years—in fact, it ends in, what, 2008. There we have oil at something less than \$100 a barrel. But if you extended this chart out just a little bit, you would see that it had jumped up to \$147 a barrel, and that’s of course aided

by the housing bubble collapse. The economy came tumbling down and the price of oil dropped down to something under about here, \$140 a barrel. Now it has crept back up slowly, slowly, as supply was not able to keep up with demand, until we now have oil at \$103 a barrel and we’re in a recession.

This is an interesting chart because it was maybe predicting something that we were sure was going to happen at some time or other, but we weren’t sure when it was going to happen, and that’s a phenomenon called peak oil. Peak oil is that highest production that you can achieve for a country—it occurs in a country, it occurs in a region, it occurs in the world. That peak for us occurred in 1970.

Today, in spite of all that we have done in the most creative, innovative society in the world, the United States, today we produce half the oil that we did in 1970, and we’ve drilled more oil wells in our country than all the rest of the world put together. Well, here we see that the two entities which do a really good job of tracking the production and consumption—which are the same; we don’t have any big stores anywhere of oil, so the consumption is the same thing as the production of oil—and they looked like they had plateaued. They had been going up and up and up. Every time we needed more oil, we could produce more oil. But we ran out of our ability to do that. And as the production stagnated and the demand kept going up, wow, look what happened to the price. It really spiked in the price, and it went up to \$147 a barrel.

We weren’t sure then that this might not have been just a little ripple in the upswing of production of oil, but we now know that it wasn’t, that the caption up there is right, “Peak Oil, Are We There Yet?” Apparently so, as you will see subsequently.

This is an interesting chart and a very new one. This was produced by Deutsche Bank and their economist there. It is looking now not at the production of oil, but at the rate of increase. The little left-hand bar here I think is quite optimistic—I hope that that happens. I doubt that that will happen as we will see in a few moments. But they’re looking at an increase in production of about 5 billion barrels a day. The world has been stuck now for 5 years at 84 million barrels of oil a day, and this looks at increasing that production by 5. This is capacity by the way, this is capacity at any price. This is how much more you could produce no matter what the price was. Obviously you could produce more oil if it’s \$200 a barrel because you could develop fields that you can’t develop at \$100 a barrel, and you’ll produce more oil if people are willing to pay \$7 a gallon for their gas rather than \$3.80 a gallon for their gas.

So this is their optimistic projection of what capacity increase could be, and

this is a reality of what demand will be. This is the increase in demand—not total demand, because we still are the biggest consumers of energy in the world. But our demand rate is not going up. As a matter of fact it's fallen off a bit. We used to import 21 million barrels a day, that's one-fourth of the world's oil. Now we're importing I think about 18.5 million barrels a day. That's nice that we became more efficient, because the Chinese, in their economic growth, needed more oil. And the fact that we're using less has made more available to them because they're increasing about 6 percent a year in their use of oil.

Well, what this shows is that there is a 20 percent deficit here. This is capacity at any price. If we went full bore—just producing oil everywhere we could produce it—their prognostication is that by 2015 we're going to have a 20 percent shortfall in supply, even if we maximize capacity by having very high prices for oil.

Now the next chart will show you why I think this is an optimistic assumption of what will happen. Let me show you this chart.

There are two charts here. The first one of these, the top one, appeared in 2008, the bottom one appeared in 2010. This is the International Energy Agency, it's the world energy outlook. This is a creature of the OECD in Europe. We have a kindred organization, the EIA, the Energy Information Administration, which is a part of our Department of Energy. And I don't have them with me, but they have very similar charts that are saying essentially the same thing.

The top chart they had on their Web site in 2008, let's take a look at that. It's really a very interesting chart. This bottom dark blue here—if the chart was very long and it went way over to the far wall over there back 100 years ago when we started using oil, it would have started at zero. And every time we needed more oil, we could pump more oil, and so it just kept rising and rising and rising.

□ 1310

And now here we are at a total liquid fuels of 84 million barrels a day. Not all of that is usable in your gas tank. The top one here is natural gas liquids that will increase. We found a lot more natural gas. The price has dropped now to about \$3.

The green one here, which is small now and projected to grow, and that will grow, that's unconventional oil. That's oil that you get from things like the tar sands in Alberta, Canada.

But, as you notice here, they're predicting a fairly precipitous drop-off in production from the fields that we're now pumping. This is crude oil currently producing fields. Up until now, every time we've needed more oil from those fields, all we had to do was to

suck a little harder in the wells and the oil came up. What they're predicting here is that that won't be true for the future, that the world is now going to experience the situation the United States has been in since 1970, that is, no matter what you do, production of oil will drop off from the fields that you're now pumping.

The dark red here is enhanced oil recovery. That really should be a part of the bottom one here because it's just squeezing a little bit more oil out of the fields you're presently pumping by putting live steam down there, or CO<sub>2</sub> down there or seawater. Saudi Arabia uses a lot of seawater to force their oil out. It's easily separated after you've gotten it to the surface.

Now, they're predicting that by 2030, on this chart, that we'll be producing 106 million barrels of oil a day, up from the 84 million barrels of oil that we are producing today. In order to do that, with the production dropping off from the fields that we are pumping now, we're going to have to get oil somewhere else, and there are two somewhere else that they're talking about.

One of those is this light blue, and that's developing fields which we have now discovered which are too difficult and expensive to develop, even with oil at \$100 a barrel, like a big find in the Gulf of Mexico that was under 7,000 feet of water and 30,000 feet of rock. But at some price—and I heard \$111 a barrel, that sounds pretty precise—that at \$111 a barrel, they could begin developing that field.

Then the red here, the bright red is fields yet to be discovered. These are fields we haven't discovered yet, but we will discover them, and they're projecting that we'll be able to develop those fields.

So we have these two big wedges in here that will keep the production of oil going up from the 84 million barrels a day now for liquid fuels to 106 million barrels a day in 2030.

Now, 2 years later, the same organization did another prognostication, and that's the one on the bottom here. This time they go out to 2035 instead of 2030. They go out 5 years further, and now they have reduced their expectations from 106 million barrels of oil a day to just 96 million barrels of oil a day. As they look at the prospects out there, they are persuaded that we're not going to be able to reach that 106 million barrels a day, so now they're prognosticating, 5 years later, only 96 million barrels a day.

The top two curves here are exactly the same thing. They've flipped them, and they've changed the colors. The top one here now is unconventional oil, and the second one is natural gas liquids. Notice here that, even taking the enhanced oil recovery and putting that little wedge down here with the production from the fields currently producing, they have a really precipitous

fall-off. They're looking at those 2 years later and say, Look at them. Wow, they are really decreasing in production faster than we thought they were, so we're going to have even less oil than we thought we would have. So now they have two huge wedges.

If you look at this line, this heavy dark line here, that's the liquid fuels that can go in your gas tank, and that's barely moving up, isn't it? It's just about flat there, and they keep it flat by having these two wedges that are really, really large. By 2035, what, three-fourths of all the liquid fuels that we're producing are going to come from fields that we're producing nothing from now.

Now, I want to go back to the previous chart where they had this prognostication about the growth of 5 billion barrels a day by '15. This goes clear out to '35 and they're only up to 96. But we need to note that that was capacity no matter what the cost, and that may be true. That may be true that could you get there, but, you know, we'd not like to see oil at \$200 a barrel, would we? Our economy would not respond very well to that.

By the way, if you go on their Web site, you may have difficulty finding the lower chart. Some have told me it's not there at all, and you won't find the upper chart. It's a little embarrassing to have these two charts side by side showing how much your predictions changed in just 2 years, from '08 to '10.

The next chart kind of puts this in perspective of the world, and this is a very interesting chart, and it's one—you know the old saying, a picture's worth a thousand words. Boy, this says it, doesn't it?

This is the world according to oil, and this is what the world would look like if the square miles of terrain on a country were equal to the amount of oil they had; what would the world look like?

You see here that Saudi Arabia is dominating the world. They have 22 percent of all the reserves in the world. We're not really sure that's what they have; that's what they tell us they have. But, you know, they won't open their books. None of these OPEC countries—and you see they have the lion's share of all the oil reserves. None of them will open their books, and we don't really know for sure how much oil is there, but we do know that they're still pumping large amounts of oil. And that's what they say they have, and so that's what the chart here depicts.

I want to take just a moment to commend our military. They're taking some flak recently for what they're doing. I think that they're doing exactly the right thing for several different reasons.

They're moving as quickly as they can from fossil fuels, from oil to alternatives, and they're doing that for a

couple of very good reasons. One is, if you can avoid transporting that oil, if you can use the—create the alternatives nearer to where you are using them, you will avoid a huge cost in both treasure and lives, because a significant number of the people killed in these wars are killed in the convoys that are bringing fuel.

I understand that the weight of the fuel that they bring is—about 70 percent of everything they haul to the warfront is fuel. It reminds a little—I understand that in the canal boats on the C&O Canal that about 70 percent of what they carried was food for the mules. And so it hasn't changed a lot, has it? We still—this energy source is about 70 percent of all the weight that we carry.

So I want to take just a moment to commend our military for doing exactly the right thing. They are really forward-looking. For the moment, you know, you may pay a little more for the alternatives, but, you know, since the liquid fuels from conventional sources just aren't going to be there in the future without something happening that almost nobody who's knowledgeable in this field thinks will happen, they're doing exactly the right thing, and I want to commend them for what they are doing.

They are recognizing that the world will inevitably—inevitably—transition from fossil fuels to renewables. The first person that articulated that—although it would seem that anybody would understand, since the Moon isn't made of green cheese and the Earth isn't made of oil, that the fossil fuels are finite and one day they will be gone.

But the first person that I know of who really recognized that, a prominent person, was Hyman Rickover, who made the statement, in the 8,000-year recorded history of man, the age of oil would be but a blip. He had no idea how long it would last, but he said how long it lasted was important in only one regard: The longer it lasted, the more time we would have to find an orderly transition to alternative sources of energy.

Our military is doing exactly that, and they are not totally understood by everybody. And I just wanted to commend them for their foresight and their tenacity in pursuing these programs.

Let's just spend a couple more moments with this chart because it is so meaningful.

Here we are, the United States. We're this yellow color because we use a lot of oil per capita, and we're that size because that's all the oil we have. We represent reserves of about 2 percent of the reserves in the world and we use 25 percent, maybe a whisker less than that now, of oil in the world, and we import about two-thirds of what we use.

Our number one importer, by the way, is Canada, and they have less oil

than we, but they don't have very many people, so they can export. The number two importer was Mexico, but now they have fallen to number three and Saudi Arabia is now our number two importer.

A very interesting experience in Mexico, a fisherman by the name of Cantoral kept bringing his nets into the national oil company saying, Your spilled oil messed up my fishing net; you need to give me a new one. PIMEX is the national company, and so they would give him a new net. He kept bringing them in. They said, Gee, we didn't think we spilled that much oil. Where are you finding this oil? He said, Come, I will show you. And it was kind of bubbling up out of the ocean, and they drilled there, and for a number of years they had the second largest field in the world in terms of production, second only to Garwar, which is the granddaddy of all fields. It's been pumping now for half a century in Saudi Arabia, and I still think it pumps something like 5 million barrels a day, which is about what we pump from our country, and that's from a single field in Saudi Arabia.

The European Union, Europe, is a bit bigger than we are in terms of economy, and let's see if we can find them on the map. Well, there's Norway. It looks pretty big compared to some of the other countries, and here they are with essentially no oil production, totally dependent on liquid fuels from this part of the world.

□ 1320

But even more alarming is looking over there at India and China; 1.3 billion people in China and a billion people in India, and look at the little bit of oil that they have. Here is India; here is China. While collectively they have about as much oil as—less than the United States because we have a big chunk of our oil coming from Alaska up here.

Recognizing this reality, the Chinese are now buying oil all over the world. Not only do they buy oil; they also buy goodwill. What do you need? A hospital? Roads? A soccer stadium? I asked the State Department, you know, we have only 2 percent of the oil in the world, and we are using 25 percent of the oil in the world. How come we aren't buying oil all over the world?

Well, you don't really need to own the oil. It really makes very little difference who owns the oil because the person who comes with the money—and its dollars now, and let's hope it stays dollars or we have a big problem—they go to the global oil auction and they buy oil at the going price. Today it was \$103 a barrel.

So I asked the State Department why is China buying oil and we're not buying any oil. They said, We don't think China understands the marketplace. Well, at that time I think China was

growing at 16 or 18 percent. There was some, I think, some presumptive indication that a country that's growing at 16 or 18 percent kind of understands the marketplace.

So why would China be buying oil?

Let me suggest something—I hope I'm wrong: China has 900 million people in rural areas that through the miracle of communications know the benefits of an industrialized society; and they're saying, Hey, guys, what about us, because they are not sharing in the benefits of an industrialized society. If China can't bring some modicum of the benefits that accrue to a citizen in an industrialized society, they see perhaps their empire unraveling, much as the Soviet empire unraveled, and so they are bending every effort to make sure that they have adequate resources for these 900 million people and the other 600 million people who are in urban areas.

At the same time that China is buying up oil all over the world, they're very aggressively building a blue water navy. A brown water navy is what they're concerned about as protecting their coastal area, and it serves them quite well, by the way; and it is cheaper and more quickly developed. But they're very aggressively building a blue water navy and access-denial technologies that will keep us away if they wish to.

I hope the time doesn't come when the Chinese say, Gee, I'm sorry but it's our oil. And it will be their oil, and they bought it, and we can't share it because right now it doesn't matter who has the oil. It's shared in the global oil auction.

Well, so this map indicates that the future is fraught with some possibilities of some pretty meaningful geopolitical tensions; and, again, I want to commend our military for their foresight recognizing this reality and the reality that oil is \$103 a barrel. By the way, when oil goes up just a dollar a barrel, it makes a big dent in what they can do. They can provide less health care, they can have less people, have less R&D, buy less of platforms when oil goes up because energy is a huge part of the cost of the military. So, again, applaud the military for their foresight and what they're doing.

This is a chart that was predicted in 1956. Here we were in 1956 in the United States. At that time we were the king of oil. We were pumping more oil. We were using more oil. We were exporting more oil than anybody else in the world. Texas had a bigger chunk in that oil, you see, than the rest of the United States here.

On the sixth day of March, 1956, an oil geologist by the name of M. King Hubbert, and I've got his actual curve here in the next chart in just the next moment, made a prediction in 1956—here we are. Get the picture. The United States, king of oil, biggest producer, biggest consumer, and biggest

exporter. He is saying in 14 years, by about 1970, we're going to reach our maximum oil production, and no matter what we do after that, oil production is going to go down. How could he predict that?

What he had done was to notice the production and exhaustion of individual oil fields. By 1956 we had enough of those that he could see there was kind of a bell curve kind of up and then down as you were developing, exploiting, and pumping those fields out.

So he rationalized, gee, if I could add up all the little oil fields that we will have in our country, then I will get one big bell curve and I can predict when it's going to peak. He did that and said it's going to peak about 1970. Sure enough, right on target, it peaked in about 1970.

Now, we shortly found a huge amount of oil in Alaska. Oh, by the way, the top one here is natural gas, liquids again, and we were just learning how to use those, and so they were a meaningful part of our energy availability.

There was a little blip in the slide down the other side of Hubbert's peak with this enormous supply of oil from Alaska for awhile. I don't know what exactly it is today, but a fourth of all of the oil production in our country came from Alaska. Then the fabled discoveries in the Gulf of Mexico; and we see them down here, and they hardly made a ripple in the slide down the other side of what's called Hubbert's peak.

Now, here's a curve. This is kind of a chart that a statistician, I guess, would use. Here we are 1970, and Hubbert said we're going to be sliding down the other side, and Hubbert's peak is the little triangles with the yellow in them. The actual lower 48 production is the green, and the total production adding in Alaska and the Gulf of Mexico is the red. Of course, he didn't include Alaska and the Gulf of Mexico. It was only the lower 48.

A statistician might argue that these two curves are different. I think the average citizen looking at it would say, gee, I think M. King Hubbert got it about right, didn't he.

The next chart is a very good prediction of where we are and the challenge, which is recognized by our military.

This is where we get our energy from today. And this is 2004. It hasn't changed a whole lot since 2004. But coal, this much. Natural gas—natural gas is going up a little more. That's getting bigger because it's now really cheap, and it's pushing some of coal out, and some people are afraid of nuclear, may squeeze a bit of that out. Here's petroleum, about 40 percent of all of our energy.

Here are renewables.

Now, as Hyman Rickover indicated, one day these two things, renewables and nuclear, are going to fill this whole

circle. It is inevitable. It's not tomorrow, by the way, and we are not running out of oil. We have more oil to pump than all the oil that's been pumped in all the history of the world. What we're running out of is our ability to pump this oil as fast as we would like to use it.

Here is a gross breakdown of the renewables. Solar, wow. Look at how small it is there. Wind is growing now, and these two things might be a bit bigger now if we updated this chart. But the important thing here to note is hydroelectric; that's been there for a while. Biomass, and that's primarily burning waste and paper mills and things like that and much of that is not new technology.

Geothermal, that's true geothermal, tapping into the molten core of the Earth. That could be bigger. It should be bigger. Whenever we can do that, we really need to take advantage of that. That's essentially an inexhaustible source of energy.

But this shows us the challenge that we face. We really are up to this challenge, and a part of this, this is green. Now, people who are green-focused, they say we need to be doing more. This is for a couple of reasons. Some because of the carbon footprint, and others because they say, gee, the fossil fuels just aren't going to be there. No matter what your premise is, the solution is exactly the same thing.

So rather than criticizing each other's premise, I would hope we would lock arms and march forward to go to more renewables.

Here is our last chart, because our time is about up today. Five years ago, I led a codet to China. Nine of us went to China, and we spent about a week there, and we went there to talk about energy.

□ 1330

I was stunned—we all were stunned—because China began its discussion of energy by talking about post-oil. Wow. Of course, it would be a post-oil world. I mean, Rickover predicted it. Gee, everything is not oil out there. One day, it will come to an end. Yet this is not tomorrow. This is probably 100, 150 years from now. So this is a really long-term policy. Everybody we talked to—and it wasn't just the energy people—everybody we talked to talked about this post-oil strategy, and here are the five points:

One, conservation: the cheapest oil you will get is the oil you don't use.

Two, domestic sources of energy.

Three, diversify those sources as much as you can.

Number four will surprise you.

Four, be kind to the environment.

They know they aren't, but they have these 900 billion people who are requiring the benefits of an industrialized society, so they're choking on coal-fired power plants that they build

one of each week. They're building, I understand, 100 nuclear power plants, and I'm sure they will retire the coal-fired plants when they get them.

I will close with the fifth point.

Five, they are pleading for international cooperation.

If you think about it for just a moment, we have a real problem here. If the United States really gets serious about conservation and efficiency and about saving energy—and we'd better—some will argue, wow, that will just empower the Chinese more because then they're going to use that energy that we make more available and cheaper, and they're going to compete with us economically, and that's not a good thing.

So from a selfish perspective, unless everybody does it, nobody is going to do it, which is why the Chinese are pleading for international cooperation, because they know that it's not going to have as happy an ending if we don't have international cooperation. Yet while they plead for international cooperation, they have plan B: What if it doesn't happen? We buy up oil in the world, and then we have a navy big enough to make sure that we have access to that oil in the world.

We are the most innovative, creative society in the history of the world, and I can see America once again an exporting country, and it should be green technology. Much of what we're now importing from China and from other places in the world we created here, and then it migrated over there for production. That's why every 15 hours we have another billion-dollar increase in the trade deficit. I want that thing reversed, and I think we can reverse that by recognizing that we have a huge challenge—following the lead of our military and going to renewables as efficiently and as quickly as we can.

Mr. Speaker, I yield back the balance of my time.

#### ECONOMIC REPORT OF THE PRESIDENT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 112-77)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Joint Economic Committee and ordered to be printed:

*To the Congress of the United States:*

One of the fundamental tenets of the American economy has been that if you work hard, you can do well enough to raise a family, own a home, send your kids to college, and put a little money away for retirement. That's the promise of America.

The defining issue of our time is how to keep that promise alive. We can either settle for a country where a shrinking number of people do very



well while a growing number of Americans barely get by, or we can restore an economy where everyone gets a fair shot, everyone does their fair share, and everyone plays by the same set of rules.

Long before the recession that began in December 2007, job growth was insufficient for our growing population. Manufacturing jobs were leaving our shores. Technology made businesses more efficient, but also made some jobs obsolete. The few at the top saw their incomes rise like never before, but most hardworking Americans struggled with costs that were growing, paychecks that were not, and personal debt that kept piling up.

In 2008, the house of cards collapsed. We learned that mortgages had been sold to people who could not afford them or did not understand them. Banks had made huge bets and doled out big bonuses with other people's money. Regulators had looked the other way, or did not have the authority to stop the bad behavior. It was wrong. It was irresponsible. And it plunged our economy into a crisis that put millions out of work, saddled us with more debt, and left innocent, hardworking Americans holding the bag.

In the year before I took office, we lost nearly 5 million private sector jobs. And we lost almost another 4 million before our policies were in full effect.

Those are the facts. But so are these: In the last 23 months, businesses have created 3.7 million jobs. Last year, they created the most jobs since 2005. American manufacturers are hiring again, creating jobs for the first time since the late 1990s. And we have put in place new rules to hold Wall Street accountable, so a crisis like this never happens again.

Some, however, still advocate going back to the same economic policies that stacked the deck against middle-class Americans for way too many years. And their philosophy is simple: We are better off when everybody is left to fend for themselves and play by their own rules.

That philosophy is wrong. The more Americans who succeed, the more America succeeds. These are not Democratic values or Republican values. They are American values. And we have to reclaim them.

This is a make-or-break moment for the middle class, and for all those who are working to get into the middle class. It is a moment when we go back to the ways of the past—to growing deficits, stagnant incomes and job growth, declining opportunity, and rising inequality—or we can make a break from the past. We can build an economy by restoring our greatest test strengths: American manufacturing, American energy, skills for American workers, and a renewal of American values—an economy built to last.

When it comes to the deficit, we have already agreed to more than \$2 trillion in cuts and savings. But we need to do more, and that means choices. Right now, we are poised to spend nearly \$1 trillion more on what was supposed to be a temporary tax break for the wealthiest 2 percent of Americans. Right now, because of loopholes and shelters in the tax code, a quarter of all millionaires pay lower tax rates than millions of middle-class households. I believe that tax reform should follow the Buffett Rule. If you make more than \$1 million a year, you should not pay less than 30 percent in taxes. In fact, if you are earning a million dollars a year, you should not get special tax subsidies or deductions. On the other hand, if you make under \$250,000 a year, like 98 percent of American families do, your taxes should not go up.

Americans know that this generation's success is only possible because past generations felt a responsibility to each other, and to the future of their country. Now it is our turn. Now it falls to us to live up to that same sense of shared responsibility.

This year's Economic Report of the President, prepared by the Council of Economic Advisers, describes the emergency rescue measures taken to end the recession and support the ongoing recovery, and lays out a blueprint for an economy built to last. It explains how we are restoring our strengths as a Nation—our innovative economy, our strong manufacturing base, and our workers—by investing in the technologies of the future, in companies that create jobs here in America, and in education and training programs that will prepare our workers for the jobs of tomorrow. We must ensure that these investments benefit everyone and increase opportunity for all Americans or we risk threatening one of the features that defines us as a Nation—that America is a country in which anyone can do well, regardless of how they start out.

No one built this country on their own. This Nation is great because we built it together. If we remember that truth today, join together in common purpose, and maintain our common resolve, then I am as confident as ever that our economic future is hopeful and strong.

BARACK OBAMA.

THE WHITE HOUSE, February, 2012.

#### THE FACTS ABOUT THE PRESIDENT'S ECONOMIC RECORD

THE SPEAKER pro tempore. Under the Speaker's announced policy of January 5, 2011, the gentleman from Georgia (Mr. WOODALL) is recognized for 30 minutes.

Mr. WOODALL. Thank you, Mr. Speaker. I appreciate you being here with me on a Friday afternoon and for you providing the time.

I tell you, I couldn't have asked for anything better than to have the President's economic message read right before I came down here to the floor, because I have exactly that same thing on my mind.

It is shocking to me—and you will remember, Mr. Speaker, that it was less than a month ago that the entire U.S. House of Representatives was sitting here in this Chamber, that the entire United States Senate was sitting here in this Chamber, the Supreme Court and the Joint Chiefs of Staff, and that the President was standing right here, not 5 feet from where I'm standing today—not 5 feet in front of you, Mr. Speaker—giving his State of the Union speech. What struck me about that speech is that I could have given almost word for word the exact same one.

□ 1340

Mr. Speaker, when we talk about the rhetoric in this country, the rhetoric's the same. Very little divides Republicans and Democrats. The President said in the economic address that the clerk just read, "We need to make choices." We need to make choices about who we are and what we're going to do.

I happen to have behind me, Mr. Speaker, the President's budget. I left the plastic on this one. I have another one that I've poured through. And in fact, for folks who are back in their offices, Mr. Speaker, I would recommend instead of cutting through the plastic to go ahead and go to [www.omb.gov](http://www.omb.gov). That's the President's Office of Management and Budget. The entire Federal budget that he has proposed is there on the Web site for all Americans to see.

It's not a small project to put together, the United States budget, and I applaud the President for taking that step. Of course the United States Senate, Mr. Speaker, 200 yards from where we stand right now, hasn't produced a budget in over 1,000 days. And in fact, the majority leader over there, HARRY REID, said just last week that he's not going to do it again this year. We have time, Mr. Speaker. We have a common set of numbers on which we could base it, and he said, I'm not going to do it. It's not necessary. A reporter said, But it's the law. He said, It's not important; I'm not going to do it. A reporter said, But your Democratic Budget Committee chairman said he's going to mark up a budget in the Budget Committee. And Senate Majority Leader HARRY REID said, Well, they can do what they want in the Budget Committee, but I'm not bringing a budget to the Senate floor.

Mr. Speaker, I have got in my breast pocket here the rule book by which this United States of America is supposed to run, the United States Constitution, this document by which all

of our decisions are judged. One of the only things this document asks us to do here in the U.S. House of Representatives is to pass a budget each and every year. The Budget Act of 1974 asked that same thing of the House and of the Senate. Propose that budget. And the President has done that. To his credit, he's proposed a budget.

But he said in his message that was read moments ago, "We have to make choices." And what you will find, Mr. Speaker, if you go through this budget, as I know families are across this country—folks are curious about what the President is proposing—you will find a budget devoid of tough choices. Hundreds and hundreds and hundreds of pages in my hand, Mr. Speaker, devoid of tough choices.

The President said in his economic address that you read moments ago, that the clerk read moments ago, Mr. Speaker, this is a make-or-break moment for the middle class. Nonsense. Nonsense. This is a make-or-break moment for America. This is a make-or-break moment for this experiment that we call our Republic. This is a make-or-break moment for all of the values that we share as an independent people.

This is not a make-or-break moment for the middle class; this is a make-or-break moment for every single person who calls America home. And if we are going to preserve our Republic, Mr. Speaker, if we are going to protect the opportunity society for which America has become known, we have to make tough choices.

Mr. Speaker, have you thought about it? Because it's plagued me since I was sworn in last January. I have only been here as a Member of Congress a little over a year. What about the old mantra, "Send me your tired, your poor, your huddled masses longing to be free." What about that, Mr. Speaker? "Your tired, your poor, your huddled masses longing to be free." Why aren't the doors of America flung open to every freedom-loving person on this planet? And I know the answer. Because in the days of America when that was the mantra of the land, this was an opportunity society. You came and you succeeded by the power of your ideas and the sweat of your brow. Some folks succeeded, and some folks failed. Failure is a part of all of our lives. If you are not experiencing failure, you are not trying hard enough. If you are pushing yourself to your extremes, you are going to find you will come up short sometimes. You are going to learn from that, and you are going to do better next time.

But, Mr. Speaker, while a safety net is important to America, a safety sponge that sucks you down into it and prevents you from ever escaping and being free is not the principle on which this country was founded. And day after day after day, we let our country go further in that direction.

Let's talk about the economic record that was just discussed in the President's economic address, Mr. Speaker. This is what the President said almost 2 years ago today. In February of 2010 he said this: Jobs will be our number one focus in 2010, and we're going to start where new jobs do, with small businesses. He's absolutely right. More than half of all the jobs that get created in this country get created by small businesses. That's where the entrepreneurship is. That's where the hiring excitement is. That's where the new ideas come from. We love our Home Depots. We love our Deltas. We love our UPS's and our Wal-Marts. But that's not where the job growth comes from. The President is absolutely right. Job growth comes from our small businesses. And 2 years ago almost today, Mr. Speaker, the President knew it. The President knew that if we were going to get this economy back on track, we have to start with the folks who hire. We have to start with the folks who are able to put Americans back to work, our small businesses.

Mr. Speaker, this is a chart that actually came from the General Services Administration, one of the agencies that the President oversees. But it was published in *The Wall Street Journal*. It was titled "Rising Regulation." Let me show you what we see here. You can't see it, Mr. Speaker, but this chart goes from 1995 to 2011. And what it shows is the number of published final rules that cost American businesses more than \$100 million a year. That's what it takes in this country, Mr. Speaker. Before we consider a rule, a really powerful rule, before we consider a rule really detrimental to this country, it has to cost \$100 million. I would tell you if it costs \$1 million, it's important. I would tell you if it costs \$10 million, it's important. But our measuring stick says \$100 million.

This is what we see: on average, about 80 such rules a year. Now I'm a small government conservative from the great State of Georgia, Mr. Speaker. I will tell you, 80 major rules like that a year are sapping freedom from individuals, sapping freedom from communities, sapping freedom from States, and that's too many. But that's kind of what we have as an average over the past 15 years.

But look what happens, Mr. Speaker. The day that NANCY PELOSI gets sworn in as the Speaker of the House, the day President Obama gets sworn in as President of the United States, the number of major rules costing the American economy more than \$100 million a year skyrockets, skyrockets. And by "skyrockets," Mr. Speaker, I mean doubles from the level that President Clinton was imposing. Understand that. This isn't a Republican/Democrat issue. This is an individual philosophy issue. The individual that's in the White House matters. The indi-

vidual that's in the Speaker's chair matters. Those individual philosophies translate into policies. We had a Republican Congress, a Democratic President, and we continued at about a historical average in terms of proposing new rules and regulations. But when we elected NANCY PELOSI to the Speaker's House, when we elected President Obama to the White House, we see the number of major regulations skyrocket. And who do you think pays for that, Mr. Speaker? We do, as the American consumer. Everybody in America pays for that when they go to buy goods at the shop. Or they may pay for that when their job leaves America and travels overseas. They may pay for that when the product they used to be able to buy is no longer manufactured because a new rule or regulation has put that product out of business.

My mom said that about 100 watt light bulbs the other day. She had been hoarding them. We are one of those hoarders, I confess. We need those 100 watt light bulbs. We went to the store and couldn't find them. They were put out of business by a regulatory burden. The President knows he needs to start with small businesses to create jobs. That's what he says. But what he does is preside over the most onerous regulatory burden increase that our Nation has seen in decades.

This chart is particularly troubling to me, Mr. Speaker. It's a measurement of the ease of starting a business. The United States used to be fourth. Today we're 13th. OECD countries, folks looking around the world, Where can entrepreneurs succeed? Where can economies grow, be changed, be vibrant? The U.S. has fallen from 4 to 13. Let me tell you who's in front of us on the world stage now, Mr. Speaker: Macedonia, Georgia—the country, not my home State—Rwanda, Belarus, Saudi Arabia, Armenia.

□ 1350

These are the countries, based on a static list of economic models of rules and regulations and opportunities for economic success, places where it's easier to succeed in today than in America. That's outrageous, Mr. Speaker. The President knows that if we are going to create jobs in this country, we have got to start where most jobs do, with small businesses. That's what he says. But what he does is preside over a decline of opportunity in this country that puts us now below Macedonia, Saudi Arabia, Rwanda, and Belarus on the world economic stage.

Mr. Speaker, from the Department of Labor we see entrepreneurship in America has reached a 17-year low. Entrepreneurship in America is at a 17-year low. Business startups are at the lowest level since data was first collected in 1994; business startups at the lowest level since the data began to be

collected at the Department of Labor in 1994.

Mr. Speaker, this isn't a chart about business success. We all know that starting a business is hard. If you've been out there and you've tried to do it, you've probably had more failures than successes. It's hard to grow a business. This isn't about businesses succeeding. This is about Americans who are willing to try. The number of Americans willing to try has fallen to a 17-year low. And I ask you, Mr. Speaker, is this a measurement that Americans have changed or is this a measurement that the business climate in America has changed?

We are the same proud, independent, hardworking, family-loving people that we have always been when these numbers were started in 1994. We are those same people as a country, Mr. Speaker. But the environment in which we live, the economic marketplace in which we operate, that's changed. That's changed, Mr. Speaker. Since 1994, you see the regulatory burden on small businesses. As we now move to a 17-year low in economic activity, Mr. Speaker, you see our regulatory burdens are at a historic high. That's not a coincidence. That's causative.

Mr. Speaker, faced with these challenges, the President has presented his budget. And I'll say it again. I said it when I opened, but I want to say it again. I appreciate the President taking on that leadership role. It's a role that the law requires that he take it on, and so he takes it on.

That would distinguish him from the United States Senate, where the law also requires that they take it on but they ignore that responsibility year after year after year after year. And the reason they do, Mr. Speaker—and I don't mind sharing this with folks. Folks know it. Folks back in their offices watching, they know why. Because a budget is a moral document. You can't publish hundreds and hundreds and hundreds of pages without telling the American people how you feel about the challenges facing our Nation.

As I said in the beginning, this document tells me the President feels powerless to confront any of the problems facing our Nation because not a single tough decision is made in this entire budget. But at least he put that out there for the American people to see; not so with our colleagues on the Senate side.

This is what happened in the President's budget, Mr. Speaker. He claims \$4 trillion worth of deficit reduction. And again, I want to give him credit for that. There used to be a time when folks would send budgets to Capitol Hill and brag about how much more money they are spending each year. When the President wants to sell this budget to Capitol Hill, he's bragging about how much less he's spending

than previous budgets. He says he's reduced the Federal budget by \$4 trillion over the 10-year window. Kudos. Kudos. Except that's not exactly how the numbers shake out.

Mr. Speaker, of the \$4 trillion that he claims credit for, \$2 trillion has already been passed into law. You'll remember this new freshman class that you and I are a part of, Mr. Speaker, we came in here and we passed the 2011 appropriations bills. We passed the 2012 appropriations bills. We passed the Budget Control Act. We implemented \$2 trillion worth of changes to the Federal budget, \$2 trillion over a 10-year window, moving us back towards black and away from red.

The President claims credit for those \$2 trillion that are already signed into law, that are already being implemented, that are already the practice under which the Federal Government operates. He claims credit for those in this new budget. I understand why he wants to, Mr. Speaker, but I don't think that's being honest with the American people. I think we owe the American people more transparency than that.

So let me say to you, about \$2.03 trillion of the \$4 trillion he claims: already the law of the land.

Down here, Mr. Speaker, we see another \$850 billion in savings that he claims. I am labeling this the war gimmick. And I know "gimmick" is a value-laden word. I might have been in a bad mood when I labeled it that way, but I think it's accurate. So \$850 billion, Mr. Speaker, the President says he's saving the American people. Why? Because wars that were never going to happen, dollars that had never been requested, troops that had never been deployed are, in fact, not going to be deployed. Hear that. This is \$850 billion over the 10-year window, war savings, he claims. Money that was never asked for, never appropriated, never going to be appropriated, and would have had to have been borrowed had we needed it. It's not saved money, Mr. Speaker. It's fictional money that was never out there, and the President claims credit for it. Why? Because he needs it to get to his \$4 trillion figure.

Down here we have debt service gimmicks, Mr. Speaker; money that we would have borrowed but we're not going to borrow because of changes made in the budget. Again, just to be clear, so far we've looked at \$2 trillion already enacted, \$850 billion never requested. We're now claiming debt service savings, savings the President is saying the American people are not going to have to pay on debt service on all of these pots of money that we were never going to have to pay debt service to begin with, Mr. Speaker, because they were never the law of the land. These dollars were never going out the door. We saved these \$2 trillion in enacted legislation. We never passed leg-

islation to spend this \$850 billion out the door, yet we have another \$300 billion in debt savings.

Again, is it good news for the American people that we're not going to have to pay that extra \$300 billion in interest? It's good news. Don't let me be the one to tell you it's not good news. It's just good news; it's just good news because of what this House has already done, because of laws we have already passed, because of decisions we have already made. Not one penny of that comes from any new decision made in these hundreds upon hundreds upon hundreds of pages, Mr. Speaker. Not one penny.

This chart, Mr. Speaker, lays it out. I had to blow up the tip there. You might be able to see just a little bit of green here.

This dotted white line, Mr. Speaker, is the debt of America. The debt, the borrowing that we have all done from our children and grandchildren. You and I were not here in this House when that happened, Mr. Speaker, but we are responsible for it, just like every other American family is responsible for it. We have to pay it back, just like every other American family has to pay it back. Sixteen trillion dollars today, headed over the 10-year budget window that the President has proposed towards \$26 trillion.

Now, Mr. Speaker, what I have here is a dotted white line that shows what current law is, current law. I have a red bar, a red graph that shows you what the President is proposing. This is what you'll see.

The President is proposing that our debt increase in 2013, increase in 2014, increase in 2015 and '16 and '17 and '18 and '19 and '20 and '21. And then, Mr. Speaker, you're not going to be able to see it, but way out here—and I've blown it up just so folks can see it back in their offices—you'll see a little bit of green because those tough decisions, those tough decisions made in these hundreds upon hundreds upon hundreds of pages about how to solve the American debt burden happen—just this much, but happen—in the year 2021. 2021, Mr. Speaker, is when this budget, for the first time, begins to save the American people some bit of debt burden over current law.

□ 1400

We can do better, Mr. Speaker. The President said this is a make-or-break moment for the middle class. This is a make-or-break moment for America. We can do better, and we must.

Mr. Speaker, when I talk about why it is this budget doesn't make any tough choices, you can see it here on this chart. This was actually a chart coming from the Wall Street Journal just a few days ago. It talks about where the money comes from that pays the American bills, the burden here, the moneys that we owe. It talks about

where those dollars go. On this side where the dollars come from, you'll see, Mr. Speaker, about half of it comes from individual income taxes, and about a trillion dollars in annual receipts come from Social Security, Medicare, and retirement receipts. We see a little bit down here for corporate income tax, for excise income taxes, and from duties. This is where the money comes from. But look at where the money goes. And this is important, Mr. Speaker, because when we talk about making tough decisions, when we talk about confronting the mountain of debt that's building, when we talk about doing things that will make certain that the lives that our children will lead will be more prosperous than the lives that we have led, we have to go after those issues that matter.

These orange colors here, Mr. Speaker, is what we call discretionary spending. That's spending that we've taken a trillion dollars out of thus far going forward. It's defense spending in this pie piece, nondefense discretionary spending, and then that takes us to this giant red area, Mr. Speaker. This giant red area has three things in it. The big pie piece is Medicare and Medicaid. That's where the money goes. Money in this country that the Federal Government spends goes to pay health care costs—Medicare and Medicaid, \$1.5 trillion this year. Social Security, folks have been paying into Social Security all their life, they had gum have a right to get that money back. The bill we passed today begins to redefine that commitment for the first time, and I'm concerned about that, but \$820 trillion going to Social Security.

And then \$250 billion—\$250 billion—Mr. Speaker, goes to pay interest on the debt. Now, just to put that in perspective, let's go back, Mr. Speaker. We've got defense spending, we've got Medicaid and Medicare spending, we've got Social Security spending, we've got interest on the debt, and in this pie piece, we have everything else—everything: Our courts, our highways, our environment, our homeland security, our immigration and our parks—everything else.

We spend half as much, Mr. Speaker, half of that amount that goes to everything else, we spend on interest payments alone. Half of the amount that this country spends on everything except Social Security, Medicare, Medicaid, interest on the national debt, national defense—everything else we spend half that amount on interest payments alone this year, when interest rates are at their lowest level in a century. Mr. Speaker, what do you think is going to happen when interest rates are no longer at their lowest level in a century? This bar is going to eclipse everything. So what can we do?

I'll tell you what we can do. The money is in Medicare and Medicaid. The money is in Social Security. Mr.

Speaker, I'm in my 40s, we must—we must—come to people in my age bracket and say, no more. You will not get what your parents got. You've got to say that to me. You will not receive what your parents received. You've got to say that to me.

Will there be a safety net? There will. Can we provide certainty to folks that it will be there? We can. But if you talk to anybody in their 40s, Mr. Speaker, they'll tell you that they expect those programs to be long bankrupt anyway. Why? Because they are. So these are the tough decisions that we have to make: What are we going to tell the next generation? How are we going to protect these benefits from the current generation?

And, Mr. Speaker, this budget does none of that. Not a word, not an idea, not a proposal. There is nothing in the President's 2013 budget that even hints at the direction he would propose that America go to confront these financial challenges.

Do you think we can dodge these challenges, Mr. Speaker? Do you think we can just put these things out of our head and pretend they don't exist?

This is what we're looking at, Mr. Speaker. I wish you could see this. What we have here is the debt in this country as a percentage of GDP, as a percentage of our total economy. We look at places like Greece where the debt has grown so large. This was the debt as the percentage of our economy in World War II—in World War II, Mr. Speaker, when things had gotten so tough and we were having to ration rubber, ration steel, ration sugar and ration salt, when the country had come together to fight a common foe around the globe, this was our debt as a percentage of our economy.

Here we are today, Mr. Speaker. We're not rationing rubber. We're not rationing sugar. We're not taking those common steps of sacrifice because we think our economy is about to go over the cliff. But it is. And this red line, Mr. Speaker; if we continue with this blue budget that the President has sent to us that makes no tough choices about our future, this red line is the debt that's coming. This is what the law of the land spends on behalf of your family, and mine, and every other American family, Mr. Speaker—and spends our Nation into oblivion.

The truth is it's never going to get as bad as this chart. The Congressional Budget Office which does the projections, their computer actually breaks down about halfway through that red line and says that there's just no way the economy can continue to function under these circumstances. America will no longer exist.

So the good news is, Mr. Speaker, it's not really going to get to the end of that line. But that's the challenge that confronts us, and that's the challenge that this budget avoids.

But that's not why you and I ran for Congress, Mr. Speaker. We ran for Congress to make a difference. To a man and a woman in this freshman class, Republicans and Democrats alike, Mr. Speaker, I have not met one that came here because they thought it was a nifty looking business card. I haven't met one that came here because they couldn't do anything else and they thought, why not I run for Congress? To a man and a woman, every Republican and Democrat I've met in this freshman class came to this body because they want to save America from certain demise—certain demise. It's not possible demise. It's not maybe kind of demise. It is certain demise.

And so what we did as a body, Mr. Speaker, when the Senate wouldn't act, when the President couldn't act, what we did as a body is pass the prosperity budget, which is this green line which changes the course of America.

Mr. Speaker, there are two ways to change the course of America. You can change the America that we have always had into something different. That's where current law is taking us. Or you can reclaim the America that we have always dreamed of, that our parents, our grandparents, and our great-grandparents passed down to us, sacrificed for. We can reclaim that America by making tough decisions.

Mr. Speaker, we have to make those tough decisions. And with the American people behind us, we will succeed. I thank you for the time, and I yield back the balance of my time.

#### ADJOURNMENT

Mr. WOODALL. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 8 minutes p.m.), under its previous order, the House adjourned until Tuesday, February 21, 2012, at noon.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XIV, executive communications were taken from the Speaker's table and referred as follows:

5039. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Rolls-Royce plc (RR) RB211-Trent 800 Series Turbofan Engines [Docket No.: FAA-2011-0836; Directorate Identifier 2010-NE-38-AD; Amendment 39-16898; AD 2011-26-08] (RIN: 2120-AA64) received January 26, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5040. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Rolls-Royce plc (RR) RB211-Trent 800 Series Turbofan Engines [Docket No.: FAA-2011-0836; Directorate Identifier 2010-NE-38-AD; Amendment 39-16898; AD 2011-26-08] (RIN: 2120-AA64) received January 26, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the

Committee on Transportation and Infrastructure.

5041. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bell Helicopter Textron Canada (Bell) Model 407 and 427 Helicopters [Docket No.: FAA-2011-1035; Directorate Identifier 2011-SW-038-AD; Amendment 39-16817; AD 2011-15-51] (RIN: 2120-AA64) received January 26, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5042. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; International Aero Engines Turbofan Engines [Docket No.: FAA-2010-0494; Directorate Identifier 2010-NE-20-AD; Amendment 39-16884; AD 2011-25-08] (RIN: 2120-AA64) received January 26, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5043. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; BAE SYSTEMS (Operations) Limited Airplanes [Docket No.: FAA-2011-0911; Directorate Identifier 2010-NM-248-AD; Amendment 39-16883; AD 2011-25-07] (RIN: 2120-AA64) received January 26, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5044. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Lycoming Engines, Fuel Injected Reciprocating Engines [Docket No.: FAA-2007-0218; Directorate Identifier 92-ANE-56-AD; Amendment 39-16894; AD 2011-26-04] (RIN: 2120-AA64) received January 26, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5045. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Rolls-Royce plc (RR) RB211-524 Series Turbofan Engines [Docket No.: FAA-2009-0162; Directorate Identifier 2004-NE-19-AD; Amendment 39-16803; AD 2011-18-21] (RIN: 2120-AA64) received January 26, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5046. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; The Boeing Company Airplanes [Docket No.: FAA-2011-0649; Directorate Identifier 2011-NM-076-AD; Amendment 39-16882; AD 2011-25-06] (RIN: 2120-AA64) received January 26, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5047. A letter from the Senior Regulations Analyst, Department of Transportation, transmitting the Department's final rule — Transportation for Individuals With Disabilities at Intercity, Commuter, and High Speed Passenger Railroad Station Platforms; Miscellaneous Amendments [Docket: OST-2006-23985] (RIN: 2105-AD54) received January 26, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5048. A letter from the Senior Regulations Analyst, Department of Transportation, transmitting the Department's final rule — Grants and Cooperative Agreements to State and Local Governments: DOT Amendments on Regulations on Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals and Other Non-Profit Organizations (RIN: 2105-AD60) received January 26, 2012,

pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5049. A letter from the Director of Regulation Policy and Management, Office of the General Counsel, Department of Veterans Affairs, transmitting the Department's final rule — Parents Eligible for Burial (RIN: 2900-AO12) received January 31, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

5050. A letter from the Director of Regulation Policy and Management, Office of the General Counsel, Department of Veterans Affairs, transmitting the Department's final rule — Medical Foster Homes (RIN: 2900-AN80) received January 31, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

5051. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Damages received on Account of Personal Physical Sickness [TD 9573] (RIN: 1545-BF81) received January 26, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5052. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Restitution Payments under the Trafficking Victims Protection Act of 2000 [Notice 2012-12] received January 26, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5053. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Revenue Ruling: 2010 Prevailing State Assumed Interest Rates (Rev. Rul. 2012-6) received January 13, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5054. A letter from the Director, Office of Management and Budget, transmitting OMB's final sequestration report for fiscal year 2012, pursuant to 2 U.S.C. 904; (H. Doc. No. 112—87); to the Committee on the Whole House on the State of the Union and ordered to be printed.

#### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SMITH of Texas: Committee on the Judiciary. H.R. 1433. A bill to protect private property rights; with an amendment (Rept. 112-401). Referred to the Committee of the Whole House on the state of the Union.

#### PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Ms. BALDWIN (for herself and Mr. RIBBLE):

H.R. 4071. A bill to amend title VII of the Tariff Act of 1930 to provide that the provisions relating to countervailing duties apply to nonmarket economy countries; to the Committee on Ways and Means.

By Mr. MILLER of Florida (for himself and Mr. STUTZMAN):

H.R. 4072. A bill to amend title 38, United States Code, to improve employment services for veterans by consolidating various

programs in the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LAMBORN:

H.R. 4073. A bill to authorize the Secretary of Agriculture to accept the quitclaim, disclaimer, and relinquishment of a railroad right of way within and adjacent to Pike National Forest in El Paso County, Colorado, originally granted to the Mt. Manitou Park and Incline Railway Company pursuant to the Act of March 3, 1875; to the Committee on Natural Resources.

By Mr. BROUN of Georgia (for himself,

Mr. WILSON of South Carolina, and Mr. COBLE):

H.R. 4074. A bill to amend section 1951 of title 18, United States Code (commonly known as the Hobbs Act), and for other purposes; to the Committee on the Judiciary.

By Mr. TURNER of New York (for himself, Mr. GRIMM, Mr. KING of New York, and Mr. PALAZZO):

H.R. 4075. A bill to amend the Internal Revenue Code of 1986 to allow a credit against tax for qualified elementary and secondary education tuition; to the Committee on Ways and Means.

By Mr. FRANK of Massachusetts:

H.R. 4076. A bill to amend the Truth in Lending Act to add a rule of construction relating to certain payments to an employee of a mortgage originator; to the Committee on Financial Services.

By Mr. ROYCE:

H.R. 4077. A bill to authorize the Secretary of State to pay a reward to combat transnational organized crime and for information concerning foreign nationals wanted by international criminal tribunals, and for other purposes; to the Committee on Foreign Affairs.

By Mr. GRIFFIN of Arkansas (for himself, Mr. SMITH of Texas, Mr. COBLE, Mr. GALLEGLY, Mr. CHABOT, Mr. FRANKS of Arizona, Mr. POE of Texas, Mr. CHAFFETZ, Mr. MARINO, Mr. GOWDY, Mr. ROSS of Florida, Mrs. ADAMS, Mr. QUAYLE, Mr. AMODEI, and Mr. CARTER):

H.R. 4078. A bill to provide that no agency may take any significant regulatory action until the unemployment rate is equal to or less than 6.0 percent; to the Committee on Oversight and Government Reform, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MCKINLEY (for himself, Ms.

WATERS, and Mrs. NAPOLITANO):

H.R. 4079. A bill to amend title 38, United States Code, to require recipients of grants and other assistance from the Secretary of Veterans Affairs for the provision of housing and other services for homeless veterans to comply with codes relevant to operations and level of care provided, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. ACKERMAN:

H.R. 4080. A bill to direct the Architect of the Capitol to acquire a statue of "The Unknown Slave" for permanent display in Emancipation Hall in the Capitol Visitor Center, and for other purposes; to the Committee on House Administration.

By Mr. GRAVES of Missouri (for himself and Mr. WEST):

H.R. 4081. A bill to amend the Small Business Act to consolidate and revise provisions relating to contract bundling, and for other purposes; to the Committee on Small Business.

By Mr. HIGGINS (for himself, Mr. MCINTYRE, Mr. MORAN, Mr. MCDERMOTT, Mr. BACA, and Mr. HINCHEY):

H.R. 4082. A bill to amend title VII of the Social Security Act to require the President to transmit the annual budget of the Social Security Administration without revisions to Congress, and for other purposes; to the Committee on Ways and Means.

By Mr. PALLONE (for himself, Mr. LANGEVIN, Ms. NORTON, Ms. PINGREE of Maine, Mr. CICILLINE, Mr. MICHAUD, and Mr. ENGEL):

H.R. 4083. A bill to amend title V of the Social Security Act to extend funding for family-to-family health information centers to help families of children with disabilities or special health care needs make informed choices about health care for their children; to the Committee on Energy and Commerce.

By Mr. TIERNEY (for himself, Ms. SLAUGHTER, Mr. DEFAZIO, Mr. GEORGE MILLER of California, Mr. MCGOVERN, Mr. JACKSON of Illinois, Mr. VISCLOSKEY, Mr. KUCINICH, Mr. WELCH, Ms. KAPTUR, Ms. SCHAKOWSKY, Ms. HIRONO, and Mr. GRIJALVA):

H.R. 4084. A bill to amend the Truth in Lending Act to establish a national usury rate for consumer credit card accounts under open end consumer credit plans, and for other purposes; to the Committee on Financial Services, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WELCH (for himself, Mr. COURTNEY, Mr. OWENS, Ms. HOCHUL, Mr. HIGGINS, and Mr. OLVER):

H.R. 4085. A bill to amend the Food, Conservation, and Energy Act of 2008 to extend and improve the milk income loss contract program; to the Committee on Agriculture.

By Mr. ALEXANDER (for himself, Mr. HARRIS, Mr. BASS of New Hampshire, Mr. CASSIDY, Mr. BOUSTANY, Mr. WITTMAN, Mr. CARTER, Mr. ROKITA, Mr. HARPER, Ms. FOXX, Mr. SCOTT of South Carolina, Mr. TIPTON, Mr. SCALISE, Mr. BENISHEK, and Mr. LANDRY):

H.J. Res. 104. A joint resolution disapproving a rule submitted by the Department of Labor relating to Temporary Non-agricultural Employment of H-2B Aliens in the United States; to the Committee on the Judiciary.

By Mr. BOSWELL (for himself, Mr. CARDOZA, Mr. COSTA, Mr. HOLDEN, Mr. BOREN, Mr. CHANDLER, Mr. DAVID SCOTT of Georgia, Mr. LOESACK, and Mr. BRALEY of Iowa):

H. Con. Res. 103. Concurrent resolution expressing the sense of Congress that the effective Federal tax rate paid by the President and Vice-President of the United States, and Members of the House of Representatives and Senate, should not be less than the effective Federal tax rate paid by middle class Americans; to the Committee on Ways and Means.

By Mr. ROHRABACHER (for himself, Mr. GOHMERT, and Mr. KING of Iowa):

H. Con. Res. 104. Concurrent resolution expressing the sense of Congress that the people of Baluchistan, currently divided be-

tween Pakistan, Iran, and Afghanistan, have the right to self-determination and to their own sovereign country; to the Committee on Foreign Affairs.

By Mr. PITTS (for himself, Mr. FRANKS of Arizona, Mr. SHULER, Mr. WOLF, Mr. MCGOVERN, Mr. ELLISON, and Mr. CARTER):

H. Res. 556. A resolution condemning the Government of Iran for its continued persecution, imprisonment, and sentencing of Youcef Nadarkhani on the charge of apostasy; to the Committee on Foreign Affairs.

By Mr. PASCRELL:

H. Res. 557. A resolution expressing the sense of the House of Representatives that the current property tax deduction on private residences should not be further restricted; to the Committee on Ways and Means.

By Mr. DREIER:

H. Res. 558. A resolution directing the Clerk of the House of Representatives to provide a copy of the on-the-record portions of the audio backup file of the deposition of William R. Clemens that was conducted by the Committee on Oversight and Government Reform on February 5, 2008, to the prosecuting attorneys in the case of United States of America v. Clemens, No. 1:10-cr-00223-RBW (D.D.C.); considered and agreed to.

By Mr. MCKINLEY:

H. Res. 559. A resolution calling for the release of United States citizens being held by the Government of Egypt; to the Committee on Foreign Affairs.

By Ms. LEE of California (for herself, Mr. CARNAHAN, Mr. BURGESS, Mrs. CAPITO, and Mr. YOUNG of Florida):

H. Res. 560. A resolution supporting the goals and ideals of Multiple Sclerosis Awareness Week; to the Committee on Energy and Commerce.

By Mr. GINGREY of Georgia:

H. Res. 561. A resolution recognizing the National Association of Journeymen Linemen and the profession of Journeymen Linemen and the contributions of these brave men and women to protect public safety and expressing support for designation of April 18, 2012, as National Journeymen Linemen Day; to the Committee on Energy and Commerce.

## CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 7 of rule XII of the Rules of the House of Representatives, the following statements are submitted regarding the specific powers granted to Congress in the Constitution to enact the accompanying bill or joint resolution.

By Ms. BALDWIN:

H.R. 4071.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clause 3

By Mr. MILLER of Florida:

H.R. 4072.

Congress has the power to enact this legislation pursuant to the following:

Article I, section 8 of the Constitution of the United States.

By Mr. LAMBORN:

H.R. 4073.

Congress has the power to enact this legislation pursuant to the following:

Article 4, Section 3, Clause 2, relating to the power of Congress to dispose of and make all needful rules and regulations respecting

the territory or other property belonging to the United States.

By Mr. BROUN of Georgia:

H.R. 4074.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clause 3 of the Constitution: "To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes."

By Mr. TURNER of New York:

H.R. 4075.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clause 1 of the Constitution of the United States:

The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

Article I, Section 8, Clause 18 of the Constitution of the United States

The Congress shall have Power to make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States or in any Department or Officer thereof.

By Mr. FRANK of Massachusetts:

H.R. 4076.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8 of the United States Constitution, specifically Clause 1, Clause 3, and Clause 18.

By Mr. ROYCE:

H.R. 4077.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8 of the Constitution

By Mr. GRIFFIN of Arkansas:

H.R. 4078.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 1 of the U.S. Constitution, and Article I, Section 8 of the U.S. Constitution, including, but not limited to, Clauses 1, 3 and 18.

By Mr. MCKINLEY:

H.R. 4079.

Congress has the power to enact this legislation pursuant to the following:

The bill is authorized by Congress' power to "provide for the common Defense and general Welfare of the United States" pursuant to Article I, section 8 of the United States Constitution.

By Mr. ACKERMAN:

H.R. 4080.

Congress has the power to enact this legislation pursuant to the following:

Article I of the Constitution

By Mr. GRAVES of Missouri:

H.R. 4081.

Congress has the power to enact this legislation pursuant to the following:

The Congress enacts this bill pursuant to Clause 1 of Section 8 of Article I of the United States Constitution, which provides Congress with the ability to enact legislation necessary and proper to effectuate its purposes in taxing and spending.

By Mr. HIGGINS:

H.R. 4082.

Congress has the power to enact this legislation pursuant to the following:

Article 1, Section 8 of the United States Constitution

By Mr. PALLONE:

H.R. 4083.

Congress has the power to enact this legislation pursuant to the following:

Clause 18 of Section 8 of Article I of the United States Constitution.

By Mr. TIERNEY:

H.R. 4084.

Congress has the power to enact this legislation pursuant to the following:

Article I, section 8 of the United States Constitution.

By Mr. WELCH:

H.R. 4085.

Congress has the power to enact this legislation pursuant to the following:

Article 1, Section 8, Clause 18: The Congress shall have Power To . . . make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

By Mr. ALEXANDER:

H.J. Res. 104.

Congress has the power to enact this legislation pursuant to the following:

Clause 1 of section 8 of article I of the Constitution, which says "The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States . . ."

#### ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 104: Mr. SCOTT of Virginia.  
 H.R. 210: Mr. AMODEI and Mr. CARNAHAN.  
 H.R. 324: Mr. BOREN.  
 H.R. 420: Mr. CRENSHAW and Mr. YOUNG of Indiana.  
 H.R. 481: Ms. WOOLSEY and Mr. FILNER.  
 H.R. 494: Mrs. LOWEY.  
 H.R. 505: Mrs. LOWEY.  
 H.R. 591: Mr. JACKSON of Illinois.  
 H.R. 592: Mr. STARK.  
 H.R. 605: Mr. TURNER of Ohio.  
 H.R. 708: Mr. PRICE of North Carolina.  
 H.R. 718: Mr. CAPUANO.  
 H.R. 894: Mr. CLAY.  
 H.R. 930: Mr. SCHRADER.  
 H.R. 1004: Mrs. BLACK.  
 H.R. 1179: Mr. PETRI, Mr. QUAYLE, Mr. FLEISCHMANN, Mr. LUCAS, Mr. ROHRBACHER, Mr. GERLACH, Mr. SHIMKUS, and Mr. MCCARTHY of California.  
 H.R. 1404: Mr. PASCRELL.  
 H.R. 1418: Mr. CARSON of Indiana.  
 H.R. 1483: Ms. NORTON.  
 H.R. 1488: Ms. SPEIER and Mr. HIMES.  
 H.R. 1511: Mr. SCHOCK and Mr. LATHAM.

H.R. 1589: Mr. HANNA.  
 H.R. 1639: Mr. WALSH of Illinois.  
 H.R. 1681: Mr. SCOTT of Virginia.  
 H.R. 1781: Ms. WATERS.  
 H.R. 1860: Mr. MILLER of Florida.  
 H.R. 1955: Mrs. CAPPS and Mr. BISHOP of New York.  
 H.R. 2233: Mr. FILNER.  
 H.R. 2245: Ms. HAHN.  
 H.R. 2288: Mr. LOBIONDO.  
 H.R. 2404: Mr. DINGELL.  
 H.R. 2505: Ms. DEGETTE.  
 H.R. 2529: Mrs. BLACK, Mrs. MCMORRIS RODGERS, and Mr. WALSH of Illinois.  
 H.R. 2569: Mr. DIAZ-BALART.  
 H.R. 2595: Mr. RANGEL.  
 H.R. 2669: Mr. BRALEY of Iowa, Mr. ROTHMAN of New Jersey, Mr. GARAMENDI, Mr. LANGEVIN, Mr. COSTELLO, Mr. JACKSON of Illinois, and Mr. BRADY of Pennsylvania.  
 H.R. 2689: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. STARK, Mr. DAVIS of Illinois, Mr. RANGEL, and Mr. CONYERS.  
 H.R. 2697: Mr. HERGER and Mr. SMITH of Washington.  
 H.R. 2888: Mr. MICHAUD.  
 H.R. 2902: Ms. BASS of California and Ms. RICHARDSON.  
 H.R. 2957: Mr. FILNER, Mr. GUTIERREZ, Mr. MORAN, and Mrs. MALONEY.  
 H.R. 2969: Mr. ROSS of Arkansas and Mr. MICHAUD.  
 H.R. 2970: Mr. CLAY.  
 H.R. 3046: Mr. RANGEL, Mrs. CAPPS, Mr. HOLDEN, Mr. DOGGETT, and Mr. KIND.  
 H.R. 3066: Mr. COBLE.  
 H.R. 3074: Mr. HULTGREN.  
 H.R. 3086: Mr. COLE, Mr. YOUNG of Alaska, and Mr. FILNER.  
 H.R. 3283: Ms. HAYWORTH.  
 H.R. 3337: Ms. PINGREE of Maine, Mr. STARK, and Mr. CICILLINE.  
 H.R. 3365: Mr. LABRADOR, Ms. WOOLSEY, and Mr. FILNER.  
 H.R. 3506: Mr. TIBERI.  
 H.R. 3510: Mr. ROSKAM and Mr. MCNERNEY.  
 H.R. 3513: Mr. JACKSON of Illinois, Mr. FILNER, Mr. GRIJALVA, and Mr. COHEN.  
 H.R. 3533: Mr. STARK.  
 H.R. 3545: Mr. HASTINGS of Florida.  
 H.R. 3551: Mr. LAMBORN and Mr. BROUN of Georgia.  
 H.R. 3596: Mr. SARBANES.  
 H.R. 3612: Mr. GUTIERREZ and Mr. MANZULLO.  
 H.R. 3627: Mr. BISHOP of New York, Mr. ROSS of Arkansas, and Mr. BUTTERFIELD.  
 H.R. 3661: Mr. PETERS.  
 H.R. 3695: Ms. LEE OF CALIFORNIA and Ms. MCCOLLUM.  
 H.R. 3709: Mr. AMASH.  
 H.R. 3712: Mr. REYES, Mr. McDERMOTT, and Ms. BORDALLO.

H.R. 3713: Mr. BISHOP of Utah and Mr. MARINO.

H.R. 3770: Mr. McCOTTER.

H.R. 3798: Mr. LEVIN, Mr. CLARKE of Michigan, and Mr. PETERS.

H.R. 3814: Mr. BOUSTANY and Mr. GENE GREEN of Texas.

H.R. 3826: Mr. MILLER of North Carolina, Mr. MCGOVERN, and Mr. LARSEN of Washington.

H.R. 3881: Ms. MOORE.

H.R. 3894: Mr. GUTIERREZ, Mr. JOHNSON of Illinois, Mr. COSTELLO, Mr. RUSH, Mr. DAVIS of Illinois, Mr. SCHOCK, Mr. DOLD, and Ms. SCHAKOWSKY.

H.R. 3994: Mr. LONG.

H.R. 4000: Mr. SCHILLING and Mr. CONAWAY.

H.R. 4010: Mr. HINCHEY, Ms. KAPTUR, and Mr. McDERMOTT.

H.R. 4018: Mr. GERLACH and Mr. HOLT.

H.R. 4032: Mr. TOWNS, Ms. NORTON, Mr. PETERS, Mr. RYAN of Ohio, Ms. LEE of California, Mr. HASTINGS of Florida, and Mr. CARNAHAN.

H.R. 4040: Mr. STIVERS, Mr. RICHMOND, Mr. BASS of New Hampshire, Mr. DOLD, Mr. SIMPSON, Mr. BENISHEK, Mr. GOWDY, Mr. MULVANEY, Mr. SOUTHERLAND, Mr. ACKERMAN, Mr. BECERRA, Mr. BOSWELL, Mr. CAPUANO, Mr. CLAY, Mr. COURTNEY, Mr. CUELLAR, Mr. GENE GREEN of Texas, Mr. GRIJALVA, Mr. GUTIERREZ, Mr. HONDA, Mr. HUNTER, Mr. KIND, Mr. LATOURETTE, Mr. LUJÁN, Mr. LYNCH, Mrs. MCCARTHY of New York, Mr. MCCARTHY of California, Mr. MEEKS, Mr. PASTOR of Arizona, Mr. PERLMUTTER, Mr. REYES, Mr. SHERMAN, Mr. SHIMKUS, Mr. SIRES, Mr. WATT, Mr. YARMUTH, and Mr. YOUNG of Alaska.

H.R. 4062: Mr. GARY G. MILLER of California.

H.J. Res. 78: Mr. MCGOVERN.

H.J. Res. 83: Ms. LORETTA SANCHEZ of California and Ms. LINDA T. SANCHEZ of California.

H. Con. Res. 102: Mr. STIVERS.

H. Res. 474: Ms. NORTON and Mr. CICILLINE.

H. Res. 552: Mr. KILDEE.

#### DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1380: Mr. BARLETTA.

H.R. 1964: Ms. JENKINS.

H.R. 3086: Mr. FRANK of Massachusetts.



**SENATE—Friday, February 17, 2012**

The Senate met at 10 a.m. and was called to order by the Honorable CHRISTOPHER A. COONS, a Senator from the State of Delaware.

**PRAYER**

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal Father, whose goodness and beneficence sustains us, thank You for the challenges of this day and for the opportunity to do Your will on Earth. Lord, we acknowledge that it is from You that we borrow our heartbeats.

Today, guide the steps of our lawmakers so that they will follow Your precepts and fulfill Your purposes. Keep them from temptation, from weakness and sin. Lord, fill them with a vibrant faith that will not shrink though pressed by many a foe. May their moments and their days ever flow in ceaseless praise.

We pray in Your great Name. Amen.

**PLEDGE OF ALLEGIANCE**

The Honorable CHRISTOPHER A. COONS led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

**APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE**

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. INOUE).

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, February 17, 2012.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CHRISTOPHER A. COONS, a Senator from the State of Delaware, to perform the duties of the Chair.

DANIEL K. INOUE,  
*President pro tempore.*

Mr. COONS thereupon assumed the chair as Acting President pro tempore.

**RECOGNITION OF THE MAJORITY LEADER**

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

**ORDER OF PROCEDURE**

Mr. REID. Mr. President, I ask unanimous consent that when the Senate

resumes legislative session following the vote on confirmation of the Furman nomination, the Senate proceed to the consideration of the conference report to accompany H.R. 3630; that there be up to 10 minutes of debate, equally divided between the two leaders or their designees prior to a vote on adoption of the conference report; that there be no motions or points of order in order to the conference report prior to the vote; and that following the vote on the conference report, the majority leader be recognized.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

**SCHEDULE**

Mr. REID. Mr. President, following any leader remarks, the Senate will be in a period of morning business until 11:00 a.m., with the Republicans controlling the first half and the majority controlling the final half. We will not have the full half hour on each side. It will be until 11 a.m. today. My intent is to have the vote on the two pending matters; that is, the Furman nomination and the cloture vote on the surface transportation bill, beginning at 11 o'clock.

I ask unanimous consent that the second vote in order of that sequence be 10 minutes in duration and that—well, I don't need consent; the vote starts at 11 o'clock.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. REID. Following morning business, we will resume consideration of the matters that will be before the Senate. At a time to be determined, there will be at least two rollcall votes.

I am sorry, I will rephrase that. We will have other votes, or vote, to dispense with the conference report. We have to find out what the House does on that matter first.

**MEASURE PLACED ON THE CALENDAR—S. 2118**

Mr. REID. Mr. President, S. 2118 is at the desk and due for a second reading.

The ACTING PRESIDENT pro tempore. The clerk will report the bill by title for the second time.

The legislative clerk read as follows:

A bill (S. 2118) to remove unelected, unaccountable bureaucrats from seniors' personal health decisions by repealing the Independent Payment Advisory Board.

Mr. REID. I object to any further proceedings with respect to this legislation.

The ACTING PRESIDENT pro tempore. Objection having been heard, the bill will be placed on the calendar.

Mr. REID. Mr. President, I have to give a few remarks. They are very short in nature. Then my friend can proceed, but I will maintain the floor for just a few minutes.

**2012 SUPERINTENDENT OF THE YEAR**

Mr. REID. Mr. President, we were notified last night that Dr. Heath Morrison, Superintendent of the Washoe County School District—that is Reno and the metropolitan area there—is being named the 2012 Superintendent of the Year by the American Association of School Administrators.

He is just a good person. He hasn't been there that long, but he came as a superstar and has changed that school district dramatically. He has raised student achievement, and he has improved the graduation rate. He has great teachers, administrators, and the whole staff has done very well.

During the short time he has been there—some 2 years—the graduation rates have increased by almost 25 percent. That is unheard of around this country, and this is a metropolitan area. His success is a testament to the impact quality educators have on school achievement and on students' lives.

I was pleased to submit a letter in support of Dr. Morrison's candidacy for this honor. He certainly deserves this recognition. So I look forward to continuing my work with Dr. Morrison and the Washoe County School District to help improve education for Nevada students. The entire school district, including the school board, is to be commended.

**TRANSPORTATION AND PAYROLL TAX NEGOTIATIONS**

Mr. REID. Mr. President, thanks to bipartisan cooperation, the conference committee reached an agreement to extend the payroll tax cut and unemployment insurance. This compromise effort also protects Medicare patients' right to choose the doctors who take care of them.

I commend the members of the conference committee for their diligence and dedication—for holding a lot more conference sessions. That is the way this place should be. They are hard and difficult, and they are representative of this body. It is hard to arrive at a result, but they did.

The Senate will vote on that conference report as soon as we can today.

Of course, we will need Republican support to pass it. But the statements made by my friend, the Republican leader, make it pretty clear we will get Republican support because, among other things, Senator MCCONNELL said Republicans strongly support extending this tax cut for the rest of the year, and that is good.

Americans are waiting and watching what happens here today. With our economy gaining steam—though still fragile—it is crucial we prevent a tax increase on 160 million Americans, and these are working Americans. It is also important to protect the safety net for millions of Americans who can't find work. We have 3½ million people who are in some stage of unemployment in this great country, and we must protect seniors' access to quality medical care by protecting a drastic pay cut—by preventing a drastic pay cut for the doctors who take care of them.

An agreement to solve these issues was possible because Republicans learned the meaning of the word "compromise." Both sides gave a little to get something done for the American people. We don't have to have a fight on everything. I have said that so many times recently. We need to work together.

We have coming up soon this transportation legislation. I am not happy with the amendments the Republicans have offered. I don't like them. They are not relevant or germane, most of them. But they have a right to offer those amendments, so we will have to work our way through those. I hope my Republican colleagues will understand when we get back that they can't have them all. But I will make an effort to go through those. We will have some votes the Republicans will not want to take either, but we will work through this and get this very important bill done.

Whether it is the State of Iowa, the State of Delaware, or the State of Nevada, it doesn't matter what State we are looking at, this bill is important because it means jobs and it is helping our infrastructure.

Mr. President, we have had thousands of organizations supporting this legislation. Well, that is an exaggeration, but more than 1,000—hundreds and hundreds: AAA, the U.S. Chamber of Commerce, all the construction groups, and labor unions wrote letters to us to get this passed. A number of them have written letters saying: Stop offering these irrelevant, ideological amendments to this bill. These groups believe, as I do, this measure is essential to job creation and economic growth. This legislation is too important for more delays.

Meanwhile, in the House of Representatives, their highway bill is so bad they had to take it down. The view of the Congressional Budget Office was that it would bankrupt the trust fund.

The highway bill has been paid for with a trust fund. People who buy some gasoline or diesel fuel pay a tax, and that goes into this big trust fund and allows us to do the infrastructure. But because of the economy and people's driving habits being different, the trust fund doesn't have enough money. That is why the Finance Committee, on a bipartisan basis, had to report enough out to fill up that trust fund. But it wasn't much money.

But what the Republicans have done is, in effect, place a tax on Federal employees to do that. That will never sell, Mr. President. That just will not work. We have to have bipartisan legislation.

So I hope the House, during its break period, will understand that we have to work together. We are going to send them a bill, and I hope they get one that is better than the one they can't now do and put one together they might be able to do. Then we will have a conference and work this out.

Mr. President, compromise worked for the payroll tax conference committee. It always works. So I look forward to that day and a significant accomplishment for this Congress.

#### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

#### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will be in a period of morning business until 11 a.m., with Senators permitted to speak for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the Republicans controlling the first half and the majority controlling the final half.

The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to speak for 15 minutes in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### POSITION REVERSALS

Mr. GRASSLEY. Mr. President, in recent weeks, we have seen the Obama administration reverse quite a few of its positions on very important issues, so I am going to go through several of those positions that have been reversed to remind people of the number and the consequences of those reversals, and also to remind people that when Presidents make promises, they do not always keep them.

This has continued to be a recurring pattern, where the administration's deeds have not lived up to its words. Here is the record:

The administration reversed its position on employer funding for employee contraception, sterilization, and abortion-inducing drugs under the new health care law. Those of us who opposed the President's law when it was passed in 2009 and 2010 warned Catholic groups that, if it passed—meaning if the health care reform bill passed—religious institutions would be required to pay for these services.

For some religious institutions, payment or providing these services would violate their constitutional right to freely exercise their religion under the first amendment. Sure enough, when the Department of Health and Human Services issued a regulation implementing the President's health care law, religious-affiliated entities, such as colleges, hospitals, and charitable organizations, were required to pay for these services. If these institutions did not pay, then they would face a \$2,000 fine per employee, per year under the health care reform bill.

Many Catholic entities objected. They correctly saw the rule as a threat to their freedom of conscience, protected by the first amendment. But many non-Catholics also were angered. They knew and feared that if the health care reform bill proposed by President Obama allowed the government to run roughshod over some people's freedom to practice their religion, it could do the same for practices of other religions beyond Catholicism. The regulation was a direct assault on freedom of conscience, and the American people knew it.

It was no longer a contraceptive issue. The issue was freedom of religion. So last week the President ordered a change. No longer would the employer, such as religiously affiliated institutions, have to pay for coverage of services to which it conscientiously objected. Instead, the cost supposedly would be paid by insurance companies. Of course, somebody will ultimately have to pay the cost.

After the President's reversal, employers will still pay insurance companies to provide for coverage and, more directly hitting the institutions, those that are self-insured will still have to pay not indirectly but very directly.

Since the substance has not changed, the change appears to be designed to undercut opposition rather than to respond to legitimate objections to the earlier policy. Then we get back to basics: There is no such thing as a free lunch. We have to wonder how carefully the original policy was vetted by the administration.

As a result, President Obama has been accused of waging war on religion. This particular policy violated the rights of religious entities and individuals, and the administration considers the matter somehow to simply be closed by the press announcement 1 week ago. But the Catholic bishops and

many other religious organizations violently disagree. So Congress may have to overturn the policy if we want to abide by the strict words of the Constitution and freedom of religion, because if we don't, I expect the President's new policy will be challenged in the courts on the first amendment, free exercise clause, and the Religious Freedom Restoration Act.

Moving on to another change of policy. Another recent policy shift occurred on a different first amendment issue beyond freedom of religion. Turning to the right of free speech.

The Supreme Court ruled that the first amendment required that corporations and labor unions be allowed to make independent expenditures on behalf of candidates. President Obama severely criticized that ruling of a couple years ago, and right after it was made he even objected in his State of the Union Address right in front of the same Supreme Court Justices. Even the New York Times has said his criticism at that time of the Citizens United decision was probably wrong. Nonetheless, President Obama has repeatedly said he thinks the ruling harms democracy.

But now, President Obama has changed his mind. He is encouraging, under Citizens United, donors to give to a super PAC that supports his candidacy. He now says Democrats need to match the Republicans to tap these sources of campaign funds.

Here, though, he has made more than a 180-degree turn. He has gone beyond simply asking donors to give to super PACs that independently support his candidacy. Under the new policy, even White House staffers and Cabinet Secretaries can attend super PAC events.

At these events, corporations, unions, and wealthy individuals can pay large sums for access to key administration policymakers. These administration officials do not directly ask for money, of course, but they help to raise unlimited funds from corporations and unions. Of course, this is allowed under Citizens United, but it is the very same decision the President criticized and now he is going against his own criticism.

I do not know what principled position would allow a President to condemn a decision and then have his administration officials help corporations and unions capitalize on that decision for his benefit.

I suspect, of course, that the President would say he will still oppose that decision, even if he indirectly obtains the benefits of the Citizens United case. But I think it is very important that we understand letting a President have it both ways is not principled.

Let us consider another issue—the issue of lobbyists. In December 2011, through a fundraising e-mail, President Obama wrote:

We don't take a dime for D.C. lobbyists or special-interest PACs—never have and never will.

But one of his campaign bundlers, former Representative Ron Klein, has raised between \$200,000 and \$500,000 for the Obama campaign. Do you know what. Mr. Klein is a registered Federal lobbyist.

On the 2008 campaign trail, President Obama pledged there would be no revolving door between lobbying and serving in his administration. He issued an Executive order to bar former lobbyists from joining his administration to work at agencies they recently lobbied. Yet he issued a waiver allowing William Lynn, who had been a top lobbyist for a major defense contractor, to manage day-to-day operations at the Pentagon. More recently, he made Cecilia Munoz the head of his Domestic Policy Council. Ms. Munoz was a registered lobbyist through 2008. The administration has admitted to granting waivers for only a few lobbyists. Yet it has declined to identify all lobbyists to whom it granted waivers.

The promise of transparency doesn't apply in this case, evidently. So the President's actual policy is, "No lobbyists in my administration, unless I absolutely want them."

Then there is the President's public commitment to transparency in government. I just mentioned one violation of that transparency. Now we go on to talk about his transparency problem.

President Obama issued an Executive order to department heads. The order reads:

My administration is committed to creating an unprecedented level of openness in government. We will work together to ensure the public trust and establish a system of transparency . . .

But that is not policy the administration followed in responding to Freedom of Information Act requests. The Obama Justice Department advised agencies to tell Freedom of Information Act requesters seeking certain national security- or law enforcement-related documents that those documents did not exist.

He said to tell them these documents do not exist, even if the agency knew the documents did exist.

The process seems to have been to make a grand pronouncement and score political points. Then, when they think no one is paying attention, the policy shifts. I do not know who was responsible for vetting this blatantly dishonest policy, but the predictable firestorm ensued and, thank God, the administration has now backed down.

This is not the only instance of the administration failing to practice what it preached concerning FOIA requests. A different Obama Executive order gave these directions:

The government should not keep information confidential merely because public officials might be embarrassed by disclosure, because errors and failures might be revealed, or because of speculative or abstract fears.

Nondisclosure should never be based on an effort to protect the personal interests of

government officials at the expense of those they are supposed to serve.

That is not how the Department of Homeland Security handled FOIA requests. Homeland Security FOIA requests were sent to the Secretary's office for political appointees to review. Career FOIA staff were not allowed to respond to the requests without the approval of political appointees.

The House Governmental Reform and Oversight Committee has demonstrated these political officials misused FOIA exemptions to prevent the release of embarrassing records. This was in direct violation of the President's promise.

Moving on. As a candidate, President Obama stated that:

[i]t is a clear abuse of power to use [signing] statements as a license to evade law that the President does not like or as an end-run around provisions designed to foster accountability. I will not use signing statements to nullify or undermine congressional instructions as enacted into law.

However, in his first year in office, President Obama signed an omnibus appropriations bill that contained a standard provision that Federal funds could not be used to pay the salary of Federal employees who attempted or threatened to prevent another Federal employee from communicating with Congress.

This provision has always provided important protection for whistleblowers against waste, fraud, and abuse in government, and somehow these whistleblowers, under the President's signing statement, wouldn't dare talk to Senator GRASSLEY or other Senators about waste, fraud, and abuse. So how are we supposed to find out about it? Whistleblowers are very helpful.

It happens that President Obama's signing statement contended that this provision did not detract from his authority to direct department heads to supervise employee communication with Congress. Worse, it said this authority would be used when employee communication would reveal "confidential information."

This signing statement, if carried out, would undermine congressional instructions as enacted into law, and it would harm the ability of Congress to conduct its constitutional duty to conduct oversight of the executive branch.

Then just this week, the President flipped again on yet another subject. In 2009, he said he was "pledging to cut the deficit we inherited in half by the end of my first term in office."

At the time he was sworn in, the deficit was \$1.3 trillion. The fiscal year 2013 budget the President has just proposed would create a \$900 billion deficit—much more than half of the 2009 level that he promised to cut in half. This is true even after he proposes to raise taxes, since the amount of the new government spending he seeks is so enormous.

This is a long list of flip-flops, of failure to keep commitments, and hypocrisy. There are others as well.

I give the President the benefit of the doubt in his altered views of the PATRIOT Act, Guantanamo, and other national security issues. He holds an office in which he sees daily the unrelenting national security threats the country faces. But for the other issues I have raised, the consistency of the Obama administration is its inconsistency.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Indiana.

Mr. COATS. Mr. President, I am not sure what the order is here. I am happy to defer to whatever has been agreed to.

The ACTING PRESIDENT pro tempore. There is 7½ minutes remaining on the Republican side.

Mr. COATS. I will try to do less, and I thank the Chair.

#### THE BUDGET

Mr. COATS. This is the third anniversary of the President's nearly \$1 trillion stimulus bill. But it is not an anniversary worth celebrating.

Back then, the Obama administration promised the American people that the stimulus bill, if passed, would keep unemployment below 8 percent and create 3.5 million jobs. So let's look at where we are today.

The unemployment rate has remained above 8 percent for a record 36 months, and our economy has lost nearly one-half million jobs since the stimulus was passed.

We can't conclude anything else other than the fact that the stimulus has failed—and failed badly. It was a misuse of hard-earned taxpayer dollars, and it proves that when government tries to pick winners, many of their choices such as Solyndra, turn out to be losers and all that at the expense of the American taxpayer.

By looking at the President's budget proposal that we are going to be dealing with this year for the next fiscal year, it appears the administration has not learned from its past mistakes.

Despite some glimmers of hope for improvement in our economy, today millions of Americans awoke across the country without a job.

This morning, millions of Americans are wondering how to make their next mortgage payment, how to pay for their medical bills, and how to fill up their gas tanks without breaking the bank. But little is being done here in Washington to address this. While it is obvious that there are no silver bullets or short-term fixes to this problem, we have not taken the necessary steps to get ahold of our larger fiscal issue and problem—the growing red ink and debt our economy is being burdened with through the policies that are enacted and not enacted here in Washington.

The Obama budget is out of touch with the reality of our fiscal situation. The President's fiscal year 2013 budget increases spending every year, proposes the largest tax increase in history, burdens the country with more debt, and never balances the budget. As we have seen before, the administration's budget principles cannot be anything but spend more, borrow more, and tax more. This is a failed approach, it is dropping us deeper and deeper into debt, and making our solutions more difficult every day that we spend more than we take in.

One of the major things we have not addressed this year because we have not exhibited the will to do so is failure to address entitlements. Entitlements and mandatory spending plus the interest we pay on borrowed debt continue to eat up ever more of our budget, a larger and ever growing percentage which will continue over the next years at a staggering number. It simply is not sustainable. While we must work to save our safety net programs that we have promised the American people, we need to understand that doing nothing makes the situation worse and does not do anything to help retirees. We have to be honest—with those retirees and those nearing retirement and those who are looking to the future—about the solvency of the Social Security trust fund and the solvency of the Medicare trust fund.

Medicare is projected to go broke by 2024. Over the next decade, Social Security spending will grow by 6 percent annually, and by 2026, benefits for all retirees will have to be cut by a minimum of 23 percent if we are to keep the trust fund solvent. The gravest threat to Medicare and Social Security is doing nothing. We in fact are doing nothing.

We will have legislation to vote on here today that further exacerbates the problem of the Social Security trust fund. This is couched as a tax break for American people to be extended as a result of a payroll tax cut on their Social Security contributions. So instead of putting today's requirement of a percentage of your income into the Social Security trust fund for the benefit of retirees and our own retirement when we finish our careers, and the American people's retirement, we are deducting from that trust fund money that is going to have to be paid back. It is a shell game. We are telling the American people they are going to continue for the next year to get a payroll tax cut but the tax cut is taken out of the contribution to the Social Security trust fund. I am amazed that AARP or Save Social Security or all the entities that put ads on the air and send mailers to people around the country that say don't let Congress cut our Medicare funds, don't let cut Congress cut our Social Security—where are they today, saying Congress is robbing our Social

Security trust fund and then they call this a tax cut?

Be honest with the American people. We are simply taking money from the trust fund for retiree benefits, making Social Security come closer and closer to bankruptcy and insolvency, at the same time not telling the American people that this so-called tax cut is robbing that fund.

We will be presented with a vote today to be honest with the American people, saying you have a shell game going on here that will have to be repaired, probably with borrowed dollars, that is going to make our situation worse, yet we go home and say we have extended a tax cut for you. Let's at least be honest with the American people and straight out and tell them we are taking the money out of your Social Security trust fund to extend the program here to give you a so-called tax break. It is a shell game. It is going to have to be repaid.

I think it is clear that we simply have not addressed the fundamental problems underlying the fiscal situation that exists here in the United States. Until we level with the American people and until we have the will to step forward and do what is necessary to save this country from default, to save these social safety net programs from default, we will be continuing what has been done in the past, and that is leaving us in an ever more precarious position.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire.

#### WOMEN'S HEALTH CARE

Mrs. SHAHEEN. Mr. President I come to the floor today with a number of my women Senate colleagues to talk about what happened yesterday at the House Committee on Oversight and Government Reform. They held a hearing on the administration's decision to make sure that women have access to affordable contraception, but guess who was missing. The women. This is a picture of the first panel from yesterday's hearing. Not one woman was seated at this table, not one woman at the table, yet the topic was women's health.

What is more difficult to understand is that when female members of the House committee asked for a woman to testify along with the men, they were denied. Their request was simple: to allow Sandra Fluke, a Georgetown Law School student, to testify on this panel of all men. As a woman she could speak firsthand about how this rule would impact women. But their request was denied because the chairman said Sandra Fluke was unqualified.

How can a woman be unqualified to talk about women's health care? Yet every one of these men on the panel

was deemed to be qualified to talk about women's health care. I am disappointed. I know it is a disappointment that is shared by millions of women across this country. I am saddened that here we are, in 2012, and a House committee would hold a hearing on women's health and deny women the ability to share their perspective.

Time and time again, women have been silenced in this discussion, a discussion about our own very personal health care decisions. In fact, a recent analysis of the leading cable news channels showed that almost twice as many men as women were invited to join the conversation.

I think it is critical to understand that the underlying issue here is about affordable access to contraception—something that is basic to women's health. Birth control is something that most women use at some point in their lifetime and something that the medical community believes is essential to the health of women and their families. Research shows that access to birth control is directly linked to declines in maternal and infant mortality, that it can reduce the risk of ovarian cancer, and that it is linked to overall good health outcomes.

Some women, 14 percent of them, use birth control not as contraceptives but to treat serious medical conditions. That is about 1.5 million women.

When the administration first announced its decision to require employers to offer health insurance coverage for contraception, there was a robust conversation about religious liberty. In response to that, the President modified his decision last week, preserving the religious liberty of those religiously affiliated institutions, such as hospitals or universities, but also protecting the women who work for them. His decision ensured that all women have access to contraceptive coverage, and if a woman's employer has a religious objection, women can get that critical coverage directly from their health plans.

The Catholic Health Association has supported this policy, and yet, as we saw yesterday, some attempt to continue to politicize this issue. We cannot lose sight that this is at the most fundamental level of debate about women's preventive health.

Women deserve a voice in this debate because, after all, in the end this is about our health and it is about a health care decision that is between women, their families, their doctors, and their own faith.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Washington.

Mrs. MURRAY. Mr. President, I thank my colleague from New Hampshire.

For millions of American women, reading the news this morning was like stepping into a time machine and going

back 50 years, seeing the headlines and the photos of this all-male panel in the House talking about a woman's right to access birth control, and no women on the panel. It turns out the chairman of the House oversight committee decided he was not going to allow a young woman who had been asked by the minority to testify and tell her story—actually of a friend who had lost an ovary because of her lack of contraception coverage. So this 19-year-old woman was left to watch, like the rest of us, as all five men addressed the committee about how they supported efforts to restrict access to care.

I am sure by now many of my colleagues here have seen this picture of this all-male panel, the picture that says a thousand words. It is one that most women thought was left behind when pictures only came in black and white.

But this was not the only story this morning that made women feel as if the clock had been turned back on them. The other story comes to us from the Republican Presidential nomination trail. It seems that yesterday, on national television, one of the chief financial backers for Rick Santorum, the Republican candidate who is now surging toward the nomination, suggested that contraception was once as simple as a woman putting aspirin between her knees. Really? Shocking. Appalling. An insult. In fact, both of these stories are enough to make any woman, regardless of her own politics, angry. It certainly does me.

These are things that are happening today and they are enough to make you believe that after years of progress, nothing has changed. For many women and men who are waking up to the news this morning, it may seem this is a swift and sudden attack on women's health care, but I am here on the floor of the Senate today to tell you all there is nothing sudden about it. There is nothing new about these Republican attacks on our family planning decisions. In fact, from the moment they came into power, Republicans in the House of Representatives have been waging a war on women's health. If you do not believe me, look at the first bills they introduced after they arrived here in Washington, DC, and were sworn into office. After campaigning across the country on a platform of jobs and the economy, the first three bills they introduced were direct attacks on women's health in America.

The very first bill, H.R. 1, would have totally eliminated title X funding for family planning and teen pregnancy prevention. It included an amendment that would have completely defunded Planned Parenthood and cut off support for millions of women who count on it.

Another one of their opening round of bills, more than a year ago, would have permanently codified the Hyde

amendment and the DC abortion ban, and the original version of their bill did not even include an exception for the health of the mother.

Finally, they introduced a bill right away that would have rolled back every single one of the gains we worked so hard to get for women in the health care reform bill. It would have removed the caps on out-of-pocket expenses that protect women from losing their homes and their life savings if they get sick. It ended the ban on lifetime limits on coverage. It allowed insurance companies to once again discriminate against women by charging them higher premiums or even denying women access for so-called preexisting conditions—that, by the way, includes pregnancy.

It would have rolled back the guarantee that insurance companies cover contraceptive activities, which will save the overwhelming majority of women who use them hundreds of dollars a year.

In addition to showing their true colors with their very first legislative efforts, Republicans have shown they will go to about any limit to restrict our access to care, even shutting down the Federal Government. It seems extreme? That is exactly what happened last April, when Republicans nearly shuttered the Federal Government over a rider that was another attempt to go after title X and Planned Parenthood.

I remember, I was in those meetings, months and months of negotiations on the numbers in our budget. I was astonished that Republicans, late at night, were willing to throw all that work away to go after women's health. I was the only woman in the room that night. I can remember being personally disgusted that Republicans thought they could get away with making women victims, under the cover of darkness, in the middle of the night, with moments to go before the government was shut down.

But I also remember the resounding “no” when they tried to pull that, first from me, then from my women colleagues joining me today, and then a loud and overwhelming chorus of men and women all across the country. That chorus of women was heard again a few weeks ago after yet another attack on women's health care. This time the attack came cloaked in a sham investigation led by some of the same congressional Republicans who yesterday had this all-male panel talking about women's contraception. It was an investigation of the Susan G. Komen Breast Cancer charity sites to cut off funding for lifesaving breast cancer screenings for women. We know what happened after the outcry followed that decision. I certainly remember going home and standing shoulder to shoulder with women and men in my home State in front of a clinic that provided those breast screening referrals and pledging to safeguard against

any future attacks in the wake of that decision, but I didn't think it would come the very next week. Apparently, Republicans are still not done. Even after the loud rebuke after the Komen decision, they have decided again to pick on women's health.

Just last week, the junior Senator from Missouri introduced an amendment to a job-creating transportation infrastructure bill that is as extreme as anything we have seen. It is an amendment that will allow any employer—a barber, a banker, a multinational corporation—to be given an exemption to not cover contraception or any essential preventive for any religious or moral reason. It is an amendment that would give any employer an unprecedented license to dictate what women can and cannot have covered. It puts your employer smack in the middle between you and your health care. It is politics between women and their health care, and before the news that women across the country awoke to this morning, it was just the most recent in a very long line of attacks on our reproductive rights.

Contraceptive coverage should not be a controversial issue. It is supported by the vast majority of Americans who understand how important it is for women and their families, but let me remind everyone Republicans have made it clear from the start this is not about what is best for women or men or their family-planning decisions, it is apparently a political calculation. This is about their constituency. It is about their continued push to do whatever it takes to push their extreme agenda.

The women of the Senate, the Democratic women, are here to say enough. We are standing today and every day to fight for women and their right to make their own basic health care decisions, not their employer, not an extreme part of the Republican Party, not some men on a panel but themselves. We will continue to do so, and I am proud to stand with the women of the Senate to do just that.

I yield the floor.

Mrs. GILLIBRAND. Mr. President, I ask unanimous consent that I may consume 3 minutes and my colleague from California may also consume 3 minutes before we move on to the next matter.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mrs. GILLIBRAND. Mr. President, I have said it time and time again all across New York State at event after event: We need more women's voices in our decisionmaking process. We need more women at the table in government and in business. When women are at the table, they bring a very different perspective to the same problems, a different set of solutions, a different approach. At the end of the day, the outcomes are better when women's voices are heard.

But just when I thought I couldn't be any more dumbfounded by the debate around here in terms of denying access to women's health services, there was a hearing yesterday in the House of Representatives on the topic of contraception and all the witnesses were male. My colleague, CAROLYN MALONEY, had it quite right when she walked out on that farce.

Let me be clear, once again: 99 percent of all America's women have used contraception at some time in their lifetime. When will they get this simple, nondebatable fact that the power to decide whether a woman will use contraception lies with her, not her boss, not her employer. What is more intrusive than trying to allow an employer to make medical decisions for someone who works for them? This has nothing to do with religious freedom, and you don't have to take it from me. Take it from Supreme Court Justice Antonin Scalia. In the majority decision of the 1990 case on Employment Division v. Smith, Scalia wrote:

We have never held that an individual's religious beliefs excuse him from compliance with an otherwise valid law prohibiting conduct that the State is free to regulate.

It is time to end this ridiculous, ideological fight once and for all and get back to the real business at hand of growing our economy and getting Americans back to work.

But if our Republican colleagues want to continue to take this issue head on, we will stand here as often as is necessary and draw a line in the sand that the women of the Senate will continue to oppose these attacks on women's rights and women's health care.

I yield the floor for my colleague from California.

The ACTING PRESIDENT pro tempore. The Senator from California.

Mrs. BOXER. Mr. President, I wish to associate myself with the remarks of my fellow colleagues this morning. They are eloquent. When I looked at this scene that Senator MURRAY and Senator SHAHEEN had up here and looked at this picture of this panel that is supposed to be speaking about women's health—in particular, birth control—obviously I was stunned. It brought back a memory from 20 years ago when all of America looked at the Senate and saw there was not one woman on the Senate Judiciary Committee, and they realized that year, in 1991, that there were only two women in the entire Senate. It sent shockwaves through the country. Whether one agreed with Anita Hill or Clarence Thomas, that was not the point. We had very strong feelings about that on both sides.

The point of this is that on an issue so critical to this Nation, the next Supreme Court Justice, there was not one woman on the Senate Judiciary Committee, and we had the "Year of the Woman," and we tripled the number of

women in the Senate. It wasn't much, 2 to 6, but it was a start, and now we are at 17, and we are going higher because yesterday this is what America saw, a Republican House of Representatives that is so hostile to women's health that they didn't even think about having a person on there who was a female, nor did they have anyone on there that agreed it is important that women have access to birth control knowing that for many women birth control is medicine, knowing that 99 percent of women, sometime in her lifetime, utilized birth control.

So this picture is worth a thousand words. I have a 16-year-old grandson. I came home, I had this picture in my hand. I went up to him—he's not particularly political—and I said: Zach, what do you notice about this? He said: "It's all dudes." This does not take a degree in political science to see what is going on here. When we come back, we are going to be on the highway bill. There will be some bumps in the road along the way, but at one point we will probably have an amendment to vote on called the Blunt amendment. As we get to that later, I will talk about it.

But Senator BLUNT, a Republican Senator from Missouri, has put forward an amendment that would allow any single employer—regardless of how large or small their operation—to deny essential health care to their employees and preventive health care if they simply say it is a matter of conscience. It is right there. Senator BLUNT says: Oh, no. I heard Senator BROWN defending Senator BLUNT saying: No, no. Oh, yes. Just read it and look at the list of lifesaving and health-saving services that would be denied.

So women of America and the men who care about you, get ready because there is an assault on women, and stand with us.

Thank you very much.

I would yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New York.

Mr. SCHUMER. Mr. President, I wish to thank my colleagues from California, New York, New Hampshire, and Washington State for the great job they have done. Before I speak about our judicial nominee, I wish to say I join them in their remarks and their feelings. This is about women's health, and women and men all over America are scratching their heads and saying: Are we fighting against contraception? Are we turning the clock back 60 or 70 years? It makes no sense.

If a woman wants contraception for either birth control or other health purposes—and most women use it for other health purposes—it is up to that woman, not her employer. That is the bottom line. The vast majority of Americans, men and women, agree with that statement. That is true of every major religion from the polling data I have seen.

Frankly, I don't understand this Republican Party. First, they made war on the Hispanic community, one of the fastest growing segments in America on immigration, and now they are making a war on the majority of America, women. While not every woman feels the way we do, the vast majority of women do. So I don't get it.

Then to take an amendment such as that from my friend from Missouri and expand it even further and say, if someone owns a McDonald's, they can decide to not provide contraceptive services—the real reason might be because they don't want to pay extra or other reasons that are not religiously based—I don't get it.

I hope we do have a vote on the Blunt amendment because I think the American people would not be for that amendment on an overwhelming basis. The more they learn about it, the more that happens, and that is why the tide is moving in that direction.

I wish to thank my colleagues for allowing me to say a few words on that issue.

#### FURMAN NOMINATION

Mr. SCHUMER. Mr. President, I rise in support of Jesse Furman, who is a nominee for the District Court in the Southern District.

I have had the good fortune to present to the President more than 13 nominees for the Federal bench, every one of them is incredibly accomplished. Each represents the best of the bar that the State of New York has to offer. I believe in excellence, moderation, and diversity, which are the three standards I use. But on the standard of excellence, Jesse is no exception to my standard of excellence. In fact, he doesn't just meet it, he shatters it. He is one of the most brilliant lawyers in the country. He is amazing. The fact that he wants to serve our Federal Government on the bench is a tribute to us all. It is a tribute to our country and to him.

How about moderation? This is the issue I wish to speak most to my colleagues about. Who was his protégé in many ways? Judge Mukasey. He worked for Judge Mukasey as a clerk and then as attorney general. A lot of people on this side of the aisle, including myself, have real differences with Judge Mukasey, but if we cannot support Jesse Furman for the nomination, then we cannot support anybody because this nomination could have come from a Democrat, it could have come from a Republican, it could have come from a conservative, it could have come from a liberal. He is truly a mainstream thinker, and so this vote will be indicative. Because if Jesse Furman cannot achieve cloture, then our system is so paralyzed we better go back to the drawing board because it will mean no district court judge can be approved, none.

So I would ask Senators on both sides of the aisle to support him. I know we have a number of our Republican colleagues who have said they might support him, and I hope they will. We had a good vote in the Judiciary Committee on Jesse Furman. Again, he is truly excellent, endorsed by his former clerks on the Supreme Court, including those who clerked for Justices Rehnquist, Thomas, O'Connor, Kennedy, and Scalia.

John Podhoretz, a conservative columnist, wrote that Furman should be confirmed because he is "terrifically knowledgeable, entirely respectful of views that differ from his, and utterly without an axe to grind." That is why he passed without discussion out of the Judiciary Committee without dissent.

Please, colleagues, a vote for Furman will show that we can come together certainly on a judge of such moderation. A vote against him will say the system is irreparably broken.

I thank the Chair.

I yield the floor.

#### CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

#### MOVING AHEAD FOR PROGRESS IN THE 21ST CENTURY ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 1813, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1813) to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

Pending:

Reid amendment No. 1633, of a perfecting nature.

Reid amendment No. 1634 (to amendment No. 1633), to change the enactment date.

Reid motion to recommit the bill to the Committee on Environment and Public Works, with instructions, Reid amendment No. 1635, to change the enactment date.

Reid amendment No. 1636 (to (the instructions) amendment No. 1635), of a perfecting nature.

Reid amendment No. 1637 (to amendment No. 1636), of a perfecting nature.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I rise to urge my colleagues to vote no on cloture on Senator REID's amendment No. 1633 to the highway bill. The bill we are getting ready to vote on puts the other titles into the highway bill from the Commerce Committee, Finance Committee, and Banking Committee.

I am going to object on the grounds that the Commerce Committee title is not the title that should be included in this bill. What happened is that there was a partisan amendment that was added to a markup very late that the

minority had not had a chance to work out before it went to the markup. We thought it wasn't going on the markup, but it did go on the markup before we were able to have the input and work it in a better way, which has been our usual position in the Commerce Committee.

The bill would create an unfunded, unlimited discretionary grant program that has divided the transportation community. It will add a new Assistant Secretary for Freight Planning and Development and a whole new office in the Department of Transportation. This is a part of the bill that certainly none of the Republicans can support, and it caused a party-line vote in the Commerce Committee.

Additionally, the bill that will be before us contains provisions that would create two new programs within the Research and Innovative Technology Administration that would cost taxpayers \$28 million annually to administer, and the CBO estimates the underlying bill would cost \$615 million for 10 years including these two new programs. That would be about double what the levels are for this program in today's terms. So the next 10 years would have been at \$318 million if we had kept it at static levels, which we are doing in most other parts of the highway bill. Instead, the bill we are voting on today would more than double that to \$615 million over the next 10 years for RITA.

We don't have to have this kind of partisan effort on the bill. Our Commerce Committee has been very good at bipartisan work. I see the Senator from California on the floor who has worked in a bipartisan way with the Senator from Oklahoma on the underlying bill. But the Commerce bill that came out was not bipartisan.

We have worked hard with Senator ROCKEFELLER and we have informed all of our Members on both sides to get a consensus, and we got one. We got a consensus that would have taken the Freight Act part of it that set policies for new freight studies—we did that. That part would be in the compromise bill. It keeps the funding in line with current levels in the Research and Innovative Transportation Administration. But those compromise provisions that Senator ROCKEFELLER and all of our staffs of the whole committee worked on are not in the bill we are voting on today.

We worked together relating to the importation of motor vehicles and equipment in the National Highway Traffic Safety Administration reauthorization bill. It would stop unsafe equipment from entering our ports. We worked hard to put forward language that provides inspectors the right tools while at the same time minimizing unnecessary costs and burdens on equipment manufacturers. Again, the modifications are in the bill that we agreed



to with the majority in the Commerce Committee, but they are not in the bill that came out of the committee and the bill that is on the floor today.

The first package of reported bills did not contain a rail title at all. So if the bill that is before us today is accepted and cloture is invoked, we will have a Senate highway bill that does not have a rail provision. We will go to conference without a Senate position on a rail provision, which the House has.

Senator ROCKEFELLER and I have worked together on this rail part. We have worked with all of the stakeholders in the rail industry as well as Amtrak, and we have come forward with a bill the Republicans support and most of the Democrats support on the committee. It will lead to better rail planning at the Department of Transportation, and it will enhance rail economic regulation on the Surface Transportation Board. The rail title would also allow the commuter and freight rails to apply for extensions for implementation of positive train control on an as-needed basis, and it directs the DOT to use the 2015 route map to implement positive train control, as Congress intended when it passed its law in 2008.

All of these important policy gains will be lost if we adopt the cloture vote today. I hope my colleagues will vote no on cloture so we can put the provisions that have been agreed to on a bipartisan basis in the bill so that the Commerce title will reflect the full Commerce Committee, rather than what came out that had not been fully vetted and is not the position of the full Commerce Committee, with Republicans and Democrats together. I hope we will have that chance to put the new version together that would include the compromises that have been made on a bipartisan basis.

Mrs. BOXER. Would the Senator yield? And I ask unanimous consent that she have an additional 60 seconds.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mrs. HUTCHISON. I am happy to yield.

Mrs. BOXER. I just wanted to make the point that I think Senator HUTCHISON has been probably one of the most productive members of the Commerce Committee I have ever seen. I have been on that committee for a very long time. Her relationship with Senator ROCKEFELLER is stellar. I too believe she makes a point when she says they have continued to work together since the bill was reported out and they have come to agreement.

So I guess my question is, as someone who has given flesh, blood, sweat, and tears on this highway bill, knowing that we have a couple of these bumps in the road, should we not invoke cloture today—I personally hope

we do, and we can fix the bill, but if we don't—and if Senator ROCKEFELLER and Senator HUTCHISON are able to take their work and put that in as a substitute, would my friend be back on board here working toward completion of this bill?

Mrs. HUTCHISON. If I understand the question of the Senator from California, if we can substitute at some point the compromise language in the Commerce title, I am going to be absolutely supportive of this bill because I trust Senator ROCKEFELLER. We have worked together. We have both given. He doesn't like parts of this bill, I don't like parts of it, but we have given.

I would say the Senator from California has done a stellar job with the Senator from Oklahoma on the underlying bill. Oh my gosh, what a complicated bill. The Senator from California is the chairman, the ranking member is from Oklahoma, and they have worked for the good of America on this bill. The Banking Committee has a bipartisan title. I believe there is a compromise coming forward in the Finance Committee. I am not familiar with that, but I know the compromise title of the Commerce Committee has been worked through fully with everybody on board, and it will be acceptable, I believe, to the whole Senate.

So I think we are just a little premature today. I think we need to stop cloture. I think we need to make the changes that are required, and I think this bill will sail in the future.

Mrs. BOXER. I thank the Senator.

#### CLOTURE MOTION

The ACTING PRESIDENT pro tempore. Under the previous order, pursuant to rule XXII, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the Reid amendment No. 1633 to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

Harry Reid, John D. Rockefeller IV, Kay R. Hagan, Patrick J. Leahy, Patty Murray, Sheldon Whitehouse, Richard Blumenthal, Herb Kohl, Ben Nelson, Jeff Bingaman, Jeanne Shaheen, Barbara A. Mikulski, Jack Reed, Max Baucus, Frank R. Lautenberg, Robert Menendez, Maria Cantwell.

The ACTING PRESIDENT pro tempore. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on amendment No. 1633, offered by the Senator from Nevada, Mr. REID, to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Mexico (Mr. BINGAMAN) is necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Illinois (Mr. KIRK), the Senator from Kansas (Mr. ROBERTS), and the Senator from Louisiana (Mr. VITTER).

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 54, nays 42, as follows:

[Rollcall Vote No. 20 Leg.]

#### YEAS—54

Akaka	Hagan	Murray
Baucus	Harkin	Nelson (NE)
Begich	Heller	Nelson (FL)
Bennet	Inouye	Pryor
Blumenthal	Johnson (SD)	Reed
Boxer	Kerry	Reid
Brown (MA)	Klobuchar	Rockefeller
Brown (OH)	Kohl	Sanders
Cantwell	Landrieu	Schumer
Cardin	Lautenberg	Shaheen
Carper	Leahy	Stabenow
Casey	Levin	Tester
Conrad	Lieberman	Udall (CO)
Coons	Manchin	Udall (NM)
Durbin	McCaskill	Warner
Feinstein	Menendez	Webb
Franken	Merkley	Whitehouse
Gillibrand	Mikulski	Wyden

#### NAYS—42

Alexander	DeMint	McCain
Ayotte	Enzi	McConnell
Barrasso	Graham	Moran
Blunt	Grassley	Murkowski
Boozman	Hatch	Paul
Burr	Hoeven	Portman
Chambliss	Hutchison	Risch
Coats	Inhofe	Rubio
Coburn	Isakson	Sessions
Cochran	Johanns	Shelby
Collins	Johnson (WI)	Snowe
Corker	Kyl	Thune
Cornyn	Lee	Toomey
Crapo	Lugar	Wicker

#### NOT VOTING—4

Bingaman	Roberts
Kirk	Vitter

The ACTING PRESIDENT pro tempore. On this vote, the yeas are 54, the nays are 42. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Under the previous order, the motion to recommit and amendment No. 1633 are withdrawn.

#### EXECUTIVE SESSION

NOMINATION OF JESSE M. FURMAN TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The assistant legislative clerk read the nomination of Jesse M. Furman, of New York, to be United States District

Judge for the Southern District of New York.

The ACTING PRESIDENT pro tempore. Under the previous order, the cloture motion on this nomination is withdrawn.

There is now 2 minutes equally divided prior to a vote on the nomination.

The Senator from Vermont.

Mr. LEAHY. Mr. President, I appreciate the fact that the filibuster has been dropped on this very good man. This nomination has taken months to get here. I would urge everybody to vote for it.

Mr. LEAHY. Mr. President, I commend the majority leader for pressing forward to obtain a vote on the nomination of Jesse Furman, finally bringing to an end the 5-month Republican filibuster of this nomination. It should not have taken five months and the filing of a cloture petition to secure a vote on this superbly qualified, consensus nominee. When the Judiciary Committee voted on this nomination last September, it had the support of every Democrat and ever Republican on the Committee. Yesterday, I spoke, again, of the dangers posed by this Republican filibuster of a consensus Federal district court nominee. I am glad Senate Republicans have backed away from their misguided effort.

The extended delay in considering the Furman nomination has not only been damaging to the Federal District Court of New York, but also to the people it serves. This has also led to some extreme groups on the far right making scurrilous attacks on the reputation of this good man. I trust that no Senator will credit the mischaracterizations of Mr. Furman's record. His role in filing an amicus brief in a First Amendment case in the Supreme Court on behalf of the Anti-Defamation League when he was in private practice has been misquoted and mischaracterized to the point where you have to wonder if it is intentional. Of course, no lawyer should be disqualified from being a judge for advocating on behalf of client. Were the Senate to go down that road, we would disqualify many outstanding lawyers capable of being excellent judges. Senate Republicans filibustered Judge Jack McConnell of Rhode Island because he represented parents and children exposed to health risks by lead in paint. That error should not be repeated.

I am glad the Senate is finally voting on this nomination. With 21 judicial nominations approved by the Senate Judiciary Committee awaiting a final vote, with one out of every 10 Federal judgeships vacant throughout the country, and with the Senate still more than 40 confirmations behind the pace we set with President Bush, the Senate cannot afford this continuing obstruction and delay of judicial confirmations. This filibuster, like the fili-

buster of Judge Adalberto Jordan that we finally ended earlier this week and others, bring derision upon the Senate, are a colossal waste of the time, and harm our Federal courts and the American people seeking justice.

I, again, urge Senate Republicans to abandon the damaging tactics that led to this unnecessary 5-month filibuster of the Furman nomination, the shameful 4-month and 2-day filibuster of the Jordan nomination, and to abandon their continued stalling of 20 additional judicial nominees ready for final consideration and confirmation. I, again, urge Senate Republicans to join with us to restore the Senate's longstanding practice of considering and confirming consensus nominees without extended delays. The American people deserve no less.

Mr. GRASSLEY. Mr. President, today we turn to the nomination Jesse M. Furman, to be U.S. district judge for the Southern District of New York. Mr. Furman was reported out of the Judiciary Committee last fall by voice vote.

When we considered his nomination last year, a few items of concern were raised. These issues included writings he made while in college on gun control and an amicus brief he drafted opposing a religious club's access to school facilities for meetings.

Based on his hearing testimony and responses to written questions, I was willing to allow Mr. Furman's nomination to move to the full Senate for consideration.

In the interim, conditions have changed which require me to give a closer scrutiny to Mr. Furman's record and to the confirmation process in general.

Generally, I am willing to give the President's nominees the benefit of the doubt when the nominee on the surface meets the requirements I have previously outlined. But as I indicated over the past few weeks, we are not operating under normal circumstances. The atmosphere the President has created with his disregard for Constitutional principles has made it difficult to give his nominees any benefit of the doubt. Given that I did have some doubts about Mr. Furman's record, I oppose his confirmation.

Mr. LEAHY. I yield to the Senator from New York.

The ACTING PRESIDENT pro tempore. The Senator from New York.

Mr. SCHUMER. Mr. President, I thank the chairman and the Judiciary Committee for reporting Jesse Furman out without dissent. Furman is a truly excellent figure. He clerked for the Supreme Court, has the support of all the clerks with whom he served, including those from Scalia and Rehnquist, on both sides of the aisle.

He worked for Attorney General Mukasey and clerked for Mr. Mukasey. He is truly a moderate. He could be

nominated just as easily in the grand tradition of judicial integrity by someone from this side of the aisle or that side of the aisle.

If we cannot approve Mr. Furman and have a close-to-unanimous vote on him, I do not know on whom we can because he is such an excellent, thoughtful, and moderate judge. So I hope all of my colleagues on both sides of the aisle will vote for him. It may begin to mark a new wave, at least, in dealing with district court judges.

Mrs. GILLIBRAND. Mr. President, I would like to offer my support for the confirmation of a highly qualified and accomplished New Yorker, Jesse Furman who has been nominated by President Obama to serve the United States District Court for the Southern District of New York.

Jesse is currently the Assistant United States Attorney in the Southern District of New York where he has served as Deputy Chief Appellate Attorney since 2009. Previously, he worked in the Office of the Attorney General at the Department of Justice where he served as Counselor to the Attorney General. He has also worked in the law firm of Wiggin & Dana. From 2002-2003, he clerked for the Honorable David H. Souter of the Supreme Court and from 1999-2000 for the Honorable Jose A. Cabranes of the United States Court of Appeals for the Second Circuit. He also served as a law clerk for the Honorable Michael B. Mukasey of the United States District Court for the Southern District of New York.

Jesse received his law degree from Yale Law School in 1998 and his bachelor's degree from Harvard University in 1994 where he graduated summa cum laude. He also served as a Henry Fellow at Oxford University.

Because of Jesse's extensive legal career, I am more than confident that he has the experience to serve the Southern District of New York with great competence and fairness.

While Jesse is more than qualified to be appointed to a judgeship, his confirmation has been delayed for 5 months by Senate Republicans. What makes this puzzling is the fact that Jesse's nomination was reported unanimously by the Judiciary Committee without opposition from a single member of the Committee. Not a single member. This is the ninth judicial nominee that Majority Leader REID has had to file cloture on to end a Republican filibuster and secure an up or down vote. It should be noted that Senate Republicans have yet to explain why they refused to consent to Jesse's nomination.

In addition, Jesse's nomination is supported by numerous conservatives including former United States Attorney General under G.W. Bush Michael Mukasey who stated: "My view of him is perhaps best reflected in the fact that he is the first person I sought to

hire after I was confirmed as Attorney General . . . his advice was unerringly sound and his help indispensable.”

Furthermore, former Supreme Court clerks who served at the same time as Mr. Furman, including clerks for conservative Justices such as Chief Justice Rehnquist, Justice Thomas, and Justice Scalia stated that: “Mr. Furman has brought tremendous intellectual rigor, an open mind, and good common sense.”

I want to remind my colleagues that Senate Democrats worked to confirm 100 of President Bush's judicial nominees in 17 months. Blocking Jesse's nomination is highly unusual and incredibly disappointing and quite frankly, irresponsible.

I want to thank Chairman LEAHY for his leadership on the Judiciary Committee in the effort to confirm highly qualified individuals such as Jesse Furman. Jesse's commitment to upholding fairness within our legal system is well regarded and highly respected. I strongly support his nomination and believe that if confirmed, Jesse will be an excellent Judge to serve on the United States District Court for the Southern District of New York and I urge my colleagues to vote favorably for his confirmation.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

Mr. MCCONNELL. Mr. President, I yield back the remainder of our time.

The ACTING PRESIDENT pro tempore. All time is yielded back.

The question is, Will the Senate advise and consent to the nomination of Jesse M. Furman, of New York to be United States District Judge for the Southern District of New York?

Mr. TOOMEY. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Mexico (Mr. BINGAMAN) is necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Illinois (Mr. KIRK), the Senator from Kansas (Mr. ROBERTS), and the Senator from Louisiana (Mr. VITTER).

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 62, nays 34, as follows:

[Rollcall Vote No. 21 Ex.]

YEAS—62

Akaka	Brown (MA)	Conrad
Alexander	Brown (OH)	Coons
Baucus	Cantwell	Corker
Begich	Cardin	Durbin
Bennet	Carper	Feinstein
Blumenthal	Casey	Franken
Boxer	Collins	Gillibrand

Graham	Manchin	Sanders
Hagan	McCain	Schumer
Harkin	McCaskill	Sessions
Inouye	Menendez	Shaheen
Johnson (SD)	Merkley	Snowe
Kerry	Mikulski	Stabenow
Klobuchar	Murkowski	Tester
Kohl	Murray	Udall (CO)
Kyl	Nelson (NE)	Udall (NM)
Landrieu	Nelson (FL)	Warner
Lautenberg	Pryor	Webb
Leahy	Reed	Whitehouse
Levin	Reid	Wyden
Lieberman	Rockefeller	

NAYS—34

Ayotte	Enzi	McConnell
Barrasso	Grassley	Moran
Blunt	Hatch	Paul
Boozman	Heller	Portman
Burr	Hoeven	Risch
Chambliss	Hutchison	Rubio
Coats	Inhofe	Shelby
Coburn	Isakson	Thune
Cochran	Johanns	Toomey
Cornyn	Johnson (WI)	Wicker
Crapo	Lee	
DeMint	Lugar	

NOT VOTING—4

Bingaman	Roberts
Kirk	Vitter

The nomination was confirmed.

The ACTING PRESIDENT pro tempore. Under the previous order, the motion to reconsider is considered made and laid upon the table. The President will be immediately notified of the Senate's action.

#### LEGISLATIVE SESSION

The ACTING PRESIDENT pro tempore. The Senate will resume legislative session.

The Senator from Montana.

#### TAX RELIEF AND JOB CREATION ACT— CONFERENCE REPORT

Mr. BAUCUS. Mr. President, I assume the next business is the vote on the payroll bill. Before that, I will take 1 minute.

As we vote on this bill and prepare to go home, I ask you to remember four numbers: No. 1, 160 million; that is the number of Americans who are helped by this bill. The next number is 1,000; that is \$1,000 that each of those Americans is going to benefit by, by passage of the bill. The next number is 13 million, which is the number of Americans who are unemployed and would be dramatically helped by this bill. Finally, 48 million, which is the number of seniors in America who have doctors take care of their health care needs.

Remember those four numbers and vote for this bill. Remember, the other body passed this bill by a margin of 293 to 132, evenly split between Republicans and Democrats. I urge passage of the bill.

Mr. President, there are a number of mistakes in the Joint Explanatory Statement of the Committee of Conference on H.R. 3630 related to sections 7003 and 7004 and the current law description of those sections:

No. 1, on page 36, in the paragraphs describing current law, the last clause of the last sentence of the third paragraph should read:

A Senate point-of-order against emergency designations under BBEDCA exists pursuant to section 511 of public law 112-78.

No. 2, on page 37, in the paragraphs describing the conference substitute, the description of section 7003 should be deleted, and the paragraph labeled Section 7004 should be re-designated as section “Section 7003” and should read:

Paygo Scorecard Estimates—The budgetary effects of this Act shall not be entered on either PAYGO scorecard maintained pursuant to section 4(d) of the Statutory Pay-As-You-Go Act of 2010.

Mr. ROCKEFELLER. On behalf of myself and Senator BAUCUS, I wish to state that title VI of the conference report to H.R. 3630, the Middle Class Tax Relief and Job Creation Act of 2012, contains landmark bipartisan legislation that more than 10 years after 9/11 will provide police, firefighters, and other first responders with a nationwide, interoperable wireless broadband network for public safety. This legislation will also help ease the Nation's growing spectrum shortage, through the auction of new spectrum to commercial providers. Revenues from these spectrum auctions will fund the public safety network—and contribute \$15.2 billion to the unemployment compensation fund.

Specifically, Title VI of the conference report provides \$7 billion in spectrum auction proceeds as well as D-Block spectrum worth \$2.75 billion to develop a nationwide, interoperable wireless broadband network for public safety officials through a new First Responder Network Authority. The title also directs the Federal Communications Commission, FCC, to auction underutilized spectrum and provides the agency with authority to hold voluntary incentive auctions. These auctions are expected to raise more than \$25 billion in revenue. In addition, the title authorizes the FCC to create guard bands in the broadcast spectrum that can be used for innovative new unlicensed uses like Super Wi-Fi. These efforts will help meet the growing spectrum demands of smartphones and tablets. Moreover, investment in the wireless economy is expected to create hundreds of thousands of new jobs.

The title is based on bipartisan legislation developed by Senator ROCKEFELLER and Senator HUTCHISON, S. 911, and a comparable House bill, H.R. 3630. The public safety provisions are based on the national model first developed in S. 911, with some changes to ensure flexibility for States. The spectrum auction provisions are based on the auction model in H.R. 3630, with some changes regarding unlicensed spectrum and FCC auction rules.

As to public safety provisions, title VI of the conference report provides for the construction of a nationwide, interoperable public safety wireless broadband network. It does this using the D-Block spectrum, which is ideally

located for fostering seamless communication among first responders. It will allow them to take full advantage of broadband functions in emergencies e.g., allowing firefighters to download floor plans to see inside buildings before they enter. It also will promote economies of scale and efficiencies from using the same spectrum nationwide.

The title creates a First Responder Network Authority as an independent entity within the National Telecommunications and Information Administration, NTIA, and provides the Authority with \$7 billion and a license to use the D-Block to build the nationwide public safety network. To ensure efficiency, the title requires that the Authority leverage existing commercial networks in construction. To ensure national interoperability, the title also creates a technical advisory board at the FCC to develop initial interoperability standards. States that want to construct their own portion of the National public safety network have the option to apply for Federal grants to build and operate the radio access network in the State if they can demonstrate to the FCC that the network will meet the interoperability standards and to the NTIA that they have the resources and capability to provide comparable coverage and security and the ability to maintain ongoing interoperability.

Unlike H.R. 3630, the title does not require public safety officials to return the important 700 MHz narrowband spectrum to the FCC for auction. Instead, it requires the return of a more limited amount of spectrum currently used by public safety. This return of a portion of the so-called "T-Band" spectrum occurs 11 years from the date of enactment, and public safety relocation costs will be reimbursed from any auction proceeds. This time frame provides an opportunity for continued assessment of the viability of this transition—and its impact on public safety communications.

The title also authorizes up to \$300 million for critical public safety research and development activities and promotes deployment of Next Generation 9 1-1 services, which will complement the advanced broadband capabilities of the public safety network by enabling the delivery of voice, text, video, and other data to 9 1-1 call centers.

As to the spectrum auction provisions, the auction provisions in Title VI of the conference report are largely the same as those in H.R. 3630, with two significant exceptions—the provisions relating to unlicensed spectrum and FCC auction authority.

Unlicensed spectrum has been an engine of economic innovation and growth. Today, unlicensed uses include Wi-Fi connections for laptops, television remote controls, and cordless

telephones. In the future, unlicensed spectrum is expected to enable new forms of communication, like Super Wi-Fi. The title advances this goal in three ways. First, it gives the FCC the authority to preserve existing television white spaces. Second, it gives the FCC the authority to optimize these white spaces for unlicensed use by consolidating them into more optimal configurations through band plans. Third, it gives the FCC the authority to use part of the spectrum relinquished by television broadcasters in the incentive auction to create nationwide guard bands that can be used for unlicensed use, including in high value markets that currently have little or no white spaces today. Nationwide, unlicensed access to guard bands will enable innovation, promote investment in new wireless services, and enhance the value of licensed spectrum by protecting against harmful interference and allowing carriers to off-load data to alleviate capacity concerns.

Under current law, the FCC has broad authority to craft auction rules in the public interest. The agency has used this authority to ensure that communications markets remain competitive. H.R. 3630 would have restricted the FCC's future ability to limit participation in and set rules for spectrum auctions. Title VI of the conference report modifies this prohibition by expressly preserving the FCC's flexibility to protect competition in the awarding of licenses, and to adopt auction procedures and other rules of general applicability.

Mr. LEAHY. Mr. President, Congress has taken an important step today to address the looming spectrum crunch that our country faces as well as provide first responders with the nationwide network that they undoubtedly need. From cell phones to WiFi to broadcast television and radio, spectrum fuels some of the most critical technologies of the modern age. Empowering the Federal Communications Commission to conduct voluntary auctions in order to recover potentially underutilized spectrum will ensure that the public airwaves are being put to the best possible use. I am particularly pleased to see that this provision contains language that will protect broadcast television stations along the Canadian border.

A potential consequence of the spectrum auctions that Congress has been considering is that the Federal Communications Commission may need to "repack" or move certain television stations to new channels to appropriately free up spectrum. This type of repacking occurred following the transition to digital television and put some broadcast stations in Vermont in the position of having to reduce power to avoid interference with Canadian broadcast signals. Further repacking without appropriate protection could

have serious consequences for stations in Vermont and elsewhere along the border. The language in the bill Congress has passed today makes sure that repacking along our borders is subject to international coordination with Canada and Mexico.

In January, I joined with the other members of Vermont's Congressional delegation in sending a letter to Secretary of State Clinton requesting that the State Department explore a new spectrum coordination agreement with Canada. As Congress moves forward today with approving spectrum auctions, I once again call for a new agreement that will ensure adequate spectrum exists for repacking in Vermont and elsewhere along the border. Broadcast television is critically important to communities across this country, and the steps Congress has taken today will make sure that residents relying on this free service do not see significant disruptions due to a lack of international coordination.

The voluntary spectrum auctions that Congress has approved today are an important step in freeing up the airwaves for new and innovative uses. The auction provision also ensures that public safety will finally have a nationwide broadband network at its disposal, which was a key recommendation of the 9/11 Commission. I am pleased that stakeholders came together to craft a compromise that will help to spur innovation, improve public safety, and preserve access to the free, over-the-air television that is so important our communities.

Mr. LEVIN. Mr. President, I am pleased that today we can approve a full-year extension of the payroll tax cut, important tax relief that is focused on middle-class families who have suffered greatly during the Great Recession, tax relief that will help continue the economic recovery that appears to be under way and that we all hope will strengthen in the months to come.

The controversy over how to offset the cost of this payroll tax relief has twice now nearly derailed this important middle class tax relief. I am glad that we have for the second time avoided such an outcome. But my strong preference would be for our colleagues across the aisle and across the Capitol to accept the reality that added revenue must eventually be a part of our strategy here. Democrats have offered common-sense solutions that would have allowed us to prevent a tax increase on American families without adding to the deficit and without damaging our economic recovery. Rather than take steps such as ask for a small contribution from the wealthiest Americans—those with annual incomes above \$1 million—our Republican colleagues preferred to add to the deficit. That is an unfortunate choice.

Just as important as the extension of middle-class tax relief in this bill is the

extension of emergency unemployment benefits. It is good for Michigan and good for the Nation that we have rejected the approach advocated by some, which would have slashed these important benefits. Emergency jobless benefits have kept food on the table and shelter overhead for millions of families across the country coping with the loss of a job through no fault of their own. Beyond those families, this funding has been an economic lifeline to communities hard-hit by job losses, and it has been an important component in our economic recovery.

I should note here that my own State cannot take full advantage of this extension unless it reverses the decision of the Governor and State Legislature to cut State benefits from 26 weeks to 20 weeks. Because of this decision, from March through May of this year, Michiganians who could be eligible for a total of 89 weeks of benefits will be limited to 69 weeks. For a relatively small investment on the State's part, we could make a major difference for Michigan families if we reverse the State's cuts. I hope the Governor and Legislature will reconsider their position.

The extension of the so-called "doc fix" to prevent major cuts in Medicare reimbursements to health care providers is another important part of this legislation. Year after year we find ourselves toying with the idea of allowing drastic cuts to the providers who serve our nation's elderly and most vulnerable. I am glad we again avoided this outcome; however, we missed yet another important opportunity to fix this growing problem that becomes more expensive the longer we wait to act.

In addition to supporting our nation's health care providers, this bill includes a short-term extension of hospital wage index reclassifications under Section 508 of the Medicare Modernization Act. While I am disappointed we were unable to provide a long-term extension of this provision—which helps remedy an inaccurate Medicare classification—at least we were able to include a retroactive 4-month extension for affected hospitals in my State. And while some of the health care cuts used to pay for these extensions will be very difficult to absorb, I am pleased we successfully pushed back against the most draconian cuts to important safety net providers that House Republicans included in their bill.

The legislation also authorizes the Federal Communications Commission to hold incentive auctions to entice broadcasters to sell some of their unused or underused spectrum to free up spectrum to meet growing demand for wireless broadband technologies and also help public safety officials build a national broadband network to improve communications during emergencies.

Securing adequate spectrum for and building out a nationwide interoperable public safety broadband network is an important public policy goal that is overdue to be implemented as a recommendation of the 9/11 Commission.

One issue related to these auctions of particular interest to me is the uniqueness of our border states when it comes to spectrum signals. Broadcasters, including those in Detroit, Flint, Traverse City, Grand Rapids, and Lansing, have been concerned about potential interference of signals along the border if spectrum allocations were modified from the carefully negotiated existing signals. I am pleased that this has been addressed by requiring that any reassignments of channels be subject to special rules to avoid that interference.

Mr. KERRY. Mr. President, I am pleased that the conference committee was able to reach agreement to provide critical tax relief for American workers and to extend unemployment benefits for out-of-work Americans.

In a letter to conferees earlier this month, I urged the committee to include a permanent repeal of Medicare's sustainable growth rate, SGR, formula and offset the cost with savings from capping a portion of the spending for overseas contingency operations, OCO, below amounts in the Congressional Budget Office, CBO, baseline.

Every Medicare expert knows that the SGR formula is irreparably flawed and needs to be repealed. If the conference committee was unable to reach agreement, doctors serving Medicare beneficiaries would face a 27.4-percent cut on March 1.

While I am disappointed that conference committee was unable to permanently repeal the SGR, I am grateful that they averted the latest crisis by including a 10-month fix, freezing payments to physicians through the end of the year.

However, the latest Medicare physician payment fix comes at a great cost to hospitals, clinical laboratories, and preventive health initiatives.

The conference report offsets the cost of the SGR with \$9.6 billion in Medicare cuts, \$4 billion in Medicaid cuts, and \$7.5 billion in cuts from provisions in the Affordable Care Act, ACA.

Massachusetts hospitals and skilled nursing facilities will be negatively impacted by the cuts to bad debt payments which reimburse providers for beneficiaries' unpaid coinsurance and deductible amounts after reasonable collection efforts. Because of this provision, Massachusetts hospitals will be cut by approximately \$94 million over the next decade.

Clinical laboratories in Massachusetts will also bear disproportionate cuts because of offsets in the conference report. They will see their Medicare payments reduced by 2 percent in 2013 and will see additional reductions in the future. There are over

630 medical laboratories in Massachusetts, and I am concerned that these cuts will delay or deny patient access to lifesaving and life-enhancing innovative diagnostic tests.

The conference report substantially reduces funding for the Prevention and Public Health Fund created in the Affordable Care Act by \$5 billion. Massachusetts supports public health funding solely from grants and has received over \$24 million in grants from the prevention fund since enactment of health reform. Cuts to the prevention fund will jeopardize preventive care initiatives throughout the State, including a program by UMass School of Public Health and Health Sciences to provide diabetes care trainings throughout western Massachusetts.

I am also disappointed that the conference report will eliminate the extension of funds for section 508 hospitals on April 1, 2012. This will cause approximately \$4 to \$7 million in annual cuts to Berkshire Medical Center, the only section 508 hospital in Massachusetts.

However, I am supporting the conference report because it is imperative for Congress to pass tax relief, extend unemployment protections, and prevent damaging cuts to physicians. The Medicare physician payment fix is particularly important to the Massachusetts economy. One in five workers in Massachusetts is employed in health care. Nearly 15 percent of my State's economy is based on health care. This issue directly impacts 20,000 physicians, their 64,724 employees, and every health care constituency which depends on Medicare, including the 187,000 employees of Massachusetts hospitals.

I am concerned about a provision that was included in the conference report that would increase by 2.3 percent retirement contributions for some Federal employees. This provision will reduce pay for Federal workers who have already been faced with a freeze in salary.

I look forward to working with my colleagues to permanently repealing the SGR later this year.

Ms. MIKULSKI. Mr. President, I come to the floor today both volcanic and flabbergasted. I am volcanic that this bill is not fully paid for and that we are using permanent solutions to solve temporary problems. And, I am flabbergasted that Republicans are more willing to protect billionaires than keep our economy rolling and provide a safety net for those going through tough times.

We are asked to make an impossible choice. I want to continue the payroll tax holiday. I want to continue unemployment insurance. And I want to stop a pay cut to doctors that care for the injured and infirm. But I will be darned if I agree to pay for it by cutting payments to hospitals that serve

the poor and by asking civil servants to take it on the chin when billionaires do not have to contribute a dime.

Republicans say they want to cut spending. They say they are serious about reducing the deficit. But the only thing they are serious about is protecting the pampered and prosperous. I will give you an example. Continuing the payroll tax holiday costs about \$100 billion. I want to pay for it by cutting tax breaks for billionaires, tax breaks for oil companies, and tax breaks for big agriculture. But Republicans do not want to pay for it at all. The so-called party of fiscal discipline wants to add \$100 billion to the deficit before asking billionaires to pay more. Some people might call that hypocrisy. I call it a sham.

This bill would block a 27% pay cut to doctors that care for the injured and infirm. I support that but I would like to see a long-term fix to this payment problem and not just a 10-month patch. To pay for this temporary fix, the bill cuts \$10 billion to hospitals that provide care to the poor and Medicare patients. We ask doctors and hospitals to care for the most vulnerable and then we say we would not pay the bill.

The bill also cuts funds for health prevention activities. Republicans like to call it a "slush fund." Since when did efforts to combat our Nation's highest cost diseases and conditions like diabetes, Alzheimer's and heart disease become a "slush fund"? The bill also cuts laboratory services that diagnose illness. We are cutting the "good-guy" institutions to protect the checkbooks of the wealthy.

The bill also sticks it to civil servants who are already operating under a 2-year pay freeze. Congress has already balanced the budget on their backs and saved \$60 billion over 10 years by freezing their pay. Instead of asking billionaires to sacrifice once it asks more than 2 million middle class civil servants to pay more again. It leaves the hedge fund managers alone and takes from the GS-5 earning \$30,000 a year and the GS-7 earning \$40,000.

Across the country there are 2 million civil servants who work for 300 million Americans every day with honesty, integrity and competency. They keep our food safe, our environment clean, our communities protected and our democracy stable. They are at our borders and airports protecting our safety and at Social Security offices helping seniors get their benefits. They are Nobel Prize winners, they create private sector opportunities and they are the economic engine of Maryland. Despite all of this, civil servants have been the target of unending attacks. They have been downsized, furloughed and shut down. They are enduring pay freezes and broken promises on retirement security. Every great democracy needs a civil service. We have one but we can not keep it if we keep up this

toxic environment for our civil servants.

I support a payroll tax holiday. I support extending Unemployment Insurance and I support a long-term doc fix. But these items must be paid for. We cannot let corporations and the wealthy walk away again when the middle class gets stuck with the bill.

Mr. REED. Mr. President, the average Rhode Islander remains worried about the economy and their future. There are some signs that offer hope in the economy, but for too many, good news still eludes them. Congress has the ability and the obligation to reinvigorate the recovery, boost demand, and create jobs. Unfortunately, because of Republican obstructionism, Congress has not been able to act and produce the kind of results the American people and Rhode Islanders are asking for, mainly more jobs. In fact, Republicans have manufactured crises. Last summer they jeopardized the full faith and credit of the United States by refusing to raise the debt ceiling, and in December, they threatened to cut off jobless benefits to millions of out-of-work Americans looking for a job and raised taxes on the middle class by not extending the payroll tax cut.

Fortunately, this conference report avoids last-minute threats of financial calamity or economic ruin. This compromise will continue the payroll tax cut for 160 million working Americans and jobless benefits for millions of unemployed individuals looking for work all through 2012.

What I find most disconcerting in the debate preceding this conference report and the deal that we struck with Republicans is their view of the reasons why Americans are out of work. As economists have shown, Americans are out of work because of the weak economy and the unwillingness by many in this body to do something about it.

Republicans believe that slashing the duration of unemployment benefits will yield jobs. This is a view that is harmful to many in my State. Republicans in the House would have cut benefits immediately from its current maximum of 99 weeks, targeted towards the hardest hit States, to 59 weeks. This would have hurt families and the economy. The relatively small weekly UI benefit can be the difference between paying rent and putting food on the table and ensuring the survival of local businesses.

The White House, as part of a broad jobs plan, which was designed to appreciably reduce the unemployment rate, also proposed to reduce the maximum amount of jobless benefits from 99 to 79 weeks. This proposal made sense as part of a broad package that would help Americans get back to work. However, Republicans blocked that jobs package and cherry-picked the 79 weeks from the President's proposal and presented that as the Democratic

starting point. I and my fellow Democrats during negotiations stressed that existing law is 99 weeks; and, in fact, under this conference report 99 weeks will continue for many States through April and May. Democrats were able to ensure that the ultimate reduction to 73 at the end of the year was gradual and that the maximum aid continued flowing to the highest unemployment States.

Senate and House Democrats were also successful in including important and commonsense reforms to the unemployment insurance system that will bolster reemployment services for the unemployed. There is also a key provision to help prevent the loss of jobs in the first place. My work sharing legislation that was included in this bill will provide \$500 million to enhance and expand the use of a proven initiative to help keep Americans on the job and provide employers with a practical alternative to layoffs that is good for business. This voluntary program has been very successful in Rhode Island, saving over 10,000 jobs. Economist Mark Zandi estimates that temporary financing of work share offers a very high "bang for the buck" of \$1.69. Work sharing allows businesses to retain skilled workers, temporarily cut costs, and maintain employee morale. It keeps people working while receiving a share of unemployment benefits to make up for lost wages and retaining health insurance and retirement benefits. This means workers can continue to pay their mortgages and bills, provide for their families, and support businesses in their local communities. More than 20 States have adopted work-sharing initiatives. By including this provision in the conference report, we are encouraging States with existing layoff prevention systems to utilize them more frequently and incentivizing States without work sharing to create them.

This compromise also improves work search requirements and helps States recover benefit overpayments.

Importantly, we prevented Republican UI proposals that would have required a GED to collect UI benefits; this proposal would have disproportionately and unfairly harmed older workers. And, it could have led to the denial of benefits, despite the efforts of the unemployed worker, because access to a GED program was unavailable. Republican efforts to cut adult education funding have and will continue to limit access to these education services.

In addition, this conference report includes an agreement that will create a critically needed nationwide wireless communications network for public safety, while also allowing the Federal Government to auction off portions of the wireless spectrum that it no longer needs. I fought against language in the House bill that the Department of Defense stated would be damaging to our

Nation's defense capabilities by forcing the Department to withdraw from certain portions of the wireless spectrum that it currently uses. I am pleased that the conference report does not include this language.

The compromise also ensures approximately 181,000 Rhode Islanders on Medicare will continue to have access to health care services by preventing a 27-percent cut in Medicare payments to doctors. And it provides over \$7 million for Rhode Island to help an estimated 4,000 parents and children every month through December retain their Medicaid coverage as they transition to employment and increase their earnings.

While I am pleased that I helped prevent any benefit cuts to seniors on Medicare and other low-income individuals and families to pay for the extension of these health care programs, included in the proposal offered by Republicans in the House, I am disappointed that the compromise includes reductions in Medicare payments to hospitals, nursing facilities, and clinical laboratories.

There was a better way to pay for this legislation. Congress could have closed egregious corporate subsidies and made our tax system fairer. Unfortunately, Republicans refused.

But overall, this compromise continues important policies that help the middle class. But Congress still has much work to do to create jobs and restore economic opportunity and fairness. I will continue to press for passage of innovative job creation strategies to accelerate our economic recovery.

The ACTING PRESIDENT pro tempore. The Republican leader.

Mr. MCCONNELL. Mr. President, I yield back the time on this side.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask unanimous consent that notwithstanding lack of receipt of the papers from the House with respect to the conference report to accompany H.R. 3630, the Senate proceed to vote on adoption of the conference report, as provided under the previous order.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mr. BAUCUS. I yield back all time.

The ACTING PRESIDENT pro tempore. All time having been yielded back, the question is on agreeing to the conference report to accompany H.R. 3630.

Mr. BAUCUS. Mr. President, I request the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Mexico (Mr. BINGAMAN) is necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Illinois (Mr. KIRK), the Senator from Kansas (Mr. ROBERTS), and the Senator from Louisiana (Mr. VITTER).

The PRESIDING OFFICER (Mr. PRYOR). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 60, nays 36, as follows:

[Rollcall Vote No. 22 Leg.]

YEAS—60

Akaka	Graham	Murkowski
Ayotte	Grassley	Murray
Baucus	Hagan	Nelson (NE)
Begich	Heller	Nelson (FL)
Bennet	Hoeven	Pryor
Blumenthal	Inouye	Reed
Boxer	Johnson (SD)	Reid
Brown (MA)	Kerry	Rockefeller
Brown (OH)	Klobuchar	Rubio
Cantwell	Kohl	Schumer
Carper	Landrieu	Shaheen
Casey	Lautenberg	Snowe
Cochran	Leahy	Stabenow
Collins	Levin	Tester
Conrad	Lieberman	Udall (CO)
Coons	Lugar	Udall (NM)
Durbin	McCaskill	Webb
Feinstein	McConnell	Whitehouse
Franken	Menendez	Wicker
Gillibrand	Merkley	Wyden

NAYS—36

Alexander	DeMint	McCain
Barrasso	Enzi	Mikulski
Blunt	Harkin	Moran
Boozman	Hatch	Paul
Burr	Hutchison	Portman
Cardin	Inhofe	Risch
Chambliss	Isakson	Sanders
Coats	Johanns	Sessions
Coburn	Johnson (WI)	Shelby
Corker	Kyl	Thune
Cornyn	Lee	Toomey
Crapo	Manchin	Warner

NOT VOTING—4

Bingaman  
Kirk

Roberts  
Vitter

The conference report was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MOVING AHEAD FOR PROGRESS IN THE 21ST CENTURY ACT—Continued

AMENDMENT NO. 1730 TO S. 1813

Mr. REID. I have an amendment at the desk. I now ask that the clerk report the amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 1730.

Mr. REID. I ask that further reading of the amendment be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

MORNING BUSINESS

Mr. REID. Mr. President, I now ask that we move to a period of morning

business, with Senators allowed to speak until 2 p.m. for up to 10 minutes each.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

SURFACE TRANSPORTATION ACT

Mr. REID. Mr. President, what we have just gone through is an effort to bring the highway bill to be closer to the end.

The amendment I have offered does not have in it the Commerce Committee-reported matter. There has been an effort made by members of the Commerce Committee on a bipartisan basis to have another proposal, and that is what is now in this bill. I would hope that will be accepted—I am told it will—when we get back, which will allow us to start legislating, the Monday we get back, on this bill. We have to move to completion.

As I said earlier today, I don't like a lot of the amendments my Republican colleagues have offered, but they have a right to offer amendments. We are going to have to work through these amendments. I hope we can come up with, the day we get back or at least the next day, a list of finite amendments, Republican amendments and Democratic amendments, and work our way through those. We can't have hundreds of amendments, and I hope we can work that down to a reasonable number. Both sides are going to offer amendments. I am sure it won't be a lot of fun, but that is why we are elected—to make tough decisions.

There are some measures we have to vote on that relate to the bill. I know that may sound a little unusual, but there may be some amendments that are germane or relevant to the matter we are considering. We are going to work through those.

I hope we don't have to file cloture on the bill—that would be nice—because this legislation is important because the surface transportation law that is now in effect expires at the end of March. So we have a lot of work to do in a short period of time.

So Senators understand, we have a lot more to do. We not only have to finish this bill, but it is imperative that we bring to the floor the postal reform legislation. It is extremely important. We also have a lot of nominations we are going to have to deal with, and these are the things we have in the short term. The highway bill and the postal bill are really big, important pieces of legislation.

I would be happy to yield to my friend, the chairwoman of the committee.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Very briefly, I just want to thank my friend so much. He has a lot of ties to the environment



and public works community, and we know every State in the Union is watching us. They want to know that we are going to get our job done on the highway bill. I see Senator THUNE is on the floor. He has been extraordinarily helpful as we have worked our way through this in the most bipartisan fashion.

For people who might be confused with the vote that took place, I just wanted to point out that in the package that was on the floor, what happened was there was a problem in the Commerce Committee. There was a bipartisan problem there which has now been worked out.

So what my colleague has done now is—I ask unanimous consent that I can control the floor for the next 5 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mrs. BOXER. So what my colleague has done by offering this amendment is to offer now the agreed-upon Commerce package and the agreed-upon bill so that we can finally get started and not have us torn asunder.

It was wonderful to interact with Senator HUTCHISON today because she made her point that she is quite satisfied with the compromise that has been worked out between herself and Senator ROCKEFELLER on the new compromised Commerce piece.

So when we come back, here is where we will be: Senator REID has offered that new package, which is 100 percent bipartisan. I have talked with Senator INHOFE. His staff and my staff are going to be working literally—I don't want to say 24/7; that is an exaggeration, but they are going to be working every day, including the weekends, over this work period to take probably 200 amendments—that is usually what happens in these bills—and try to get a few that are simple, that are not controversial, get those agreed upon on a staff level, and bring them back to a lot of principals. We have a lot of principals in this because we have four committees—all working in good faith, I might add.

So I am excited. I know Senator LANDRIEU is on the Senate floor, and she has been doing a wonderful job with Senator NELSON, Senator SHELBY, Senator WICKER, Senator CARPER, and others, on a bipartisan basis on the RESTORE Act. It is an amendment that has been filed, and I am very hopeful that is the type of thing we can get done with good will here, people willing to not filibuster but agree to 60-vote thresholds, if they have to, with time agreements.

Here is the deal, and I will close. Senator REID was exactly right. If we don't do this bill, our entire transportation program expires at the end of March. That is 1.8 million jobs directly impacted by this bill. In the bipartisan

bill we have worked out, we not only protect those jobs, but we create up to 1 million new jobs because we have added a very important piece, the TIFIA piece. So we have made that a major program which has cost very little because the way money is leveraged, it will leverage local funds, State funds, private funds. That means we could see up to 1 million new jobs.

As we leave here today, the good news is that we have made sure that millions of working Americans will be able to count on the payroll tax cut. That is good. We make sure that so many of our unemployed workers can know they will continue to receive unemployment and that our senior citizens know their doctors will not run away from them when they come in with their Medicare card. We have done a good thing on that.

There are things in that bill I don't like. Certainly it was a compromise. We met each other halfway. In the highway bill, we have done that as well. So I am ever so grateful to the leadership in the Senate because they could easily have said: Well, we had a cloture vote, and it went down. Let's forget the bill.

But we are all working together. We knew we had to take this step to get to the next step. So we are at that step. We will come back, and we will begin in earnest to dispose of amendments. I hope we will have a list from the staff of maybe 15, 20 amendments that are not controversial that we can move forward on and then get to some of the difficult issues.

In closing, I urge my colleagues on both side of the aisle—why do we need to have a birth control amendment on a highway bill? Why do we have to have foreign relations amendments? I serve on that committee, Foreign Relations, and I am proud of it, but we shouldn't be bringing controversial, unrelated amendments to the highway bill because 2.8 million jobs are hanging in the balance.

But I leave here with great optimism. A couple of days ago I said I didn't see a path forward for the highway bill and the transit bill. Today I see a very clear path forward. If we all continue to work together, we are going to be proud and we are going to make everyone, from the Chamber of Commerce to the AFL-CIO and every group in between that has joined in a coalition of 1,000 organizations—they are going to be happy, and, most of all, the American people will be happy, because we have to fix those bridges and those highways, and we have to make sure our people have alternatives so they can get into transit.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

PAYROLL TAX CONFERENCE REPORT

Mr. AKAKA. Mr. President, I reluctantly supported the conference agree-

ment because it is absolutely essential that we extend the payroll tax holiday and unemployment insurance benefits. The stakes are too high to do otherwise for our economic recovery and for millions of Americans struggling to make ends meet. We cannot abandon them or reverse progress during this difficult time.

However, I strongly oppose the decision to pick the pockets of Federal workers yet again just to offset the cost of 10 months of unemployment insurance benefits. I am not opposed to offsetting the costs, but I believe shared sacrifice is essential and a simple matter of fairness and decency. Unfortunately, once again, rather than asking millionaires and billionaires to pay their fair share of taxes, some of my colleagues insisted on taxing America's dedicated middle-class public servants.

Future Federal employees will be required to pay an additional 2.3 percent of their income toward their pensions. That means most employees will pay a total of 3.1 percent of their salaries, and that is in addition to the 6.2 percent they pay for Social Security retirement benefits. This agreement effectively lowers the Federal pay scale by 2.3 percent going forward, and this comes after Federal wages already have been frozen for 2 years. Under this agreement, future congressional employees—all of our staffs, who often work long hours for us and are underpaid—will pay more toward their pensions at the same time as we cut their pension benefits by more than one-third. These are permanent changes made to fund just 10 months of unemployment benefits—not a good investment in our Nation's future.

Some of my colleagues would have you believe that Federal employees are overpaid, and that simply is not true. In many critical fields, the Federal Government struggles to compete with the private sector to recruit and retain the skilled people our Nation needs: experts in cyber security and intelligence analysis, doctors and nurses to care for our wounded warriors, accountants who protect taxpayers during billion-dollar defense acquisitions. These are just a few examples. Federal employees handle incredibly complex work. On paper, an analyst might compare the salary of a nuclear submarine mechanic to a car mechanic. We all depend on the important work car mechanics do, but clearly we used to recruit the most sought-after mechanics possible to be our nuclear sub mechanics, and we need to pay them enough to retain them. As the income gap in this country widens and so many hard-working Americans face increasing economic insecurity, I am proud that the Federal Government still pays most employees a living wage.

Many private sector employers are scaling back or eliminating pensions.

Just this week, General Motors announced plans to suspend pension benefits for nearly 20,000 employees who have been with the company for more than 10 years. Long term, this unfortunate trend will rob millions of Americans who have worked hard all their lives of the security retirement they earned and deserve. This trend, tragically, is bound to increase poverty among senior citizens in the coming years.

Some of my colleagues want to follow the private sector and eliminate or dramatically reduce the Federal pension.

Today, this conference agreement will, unfortunately, take the first step in that direction. But I call on my colleagues to prevent the Federal Government from joining this race to the bottom. I fear this shortsighted attack on Federal workers will repeat itself. Every time we need an offset to fund anything, I expect there will be another proposal to cut Federal pay, pensions or other benefits. We must stop and help to protect our Federal workers.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

#### NOAA

Mr. BROWN of Massachusetts. Mr. President, I appreciate the comments of the Senator before me. I wish to rise to inform colleagues and the public of some highly disturbing information that I have just learned about a broken agency within our Federal Government, something actually that Senator CARPER and I have been working on. I know he will have great interest in this issue. I am talking about the National Oceanic and Atmospheric Administration, NOAA.

We all know Washington does not spend our money wisely, the money they collect from individual citizens. They do not spend it wisely. But sometimes it is worth highlighting examples of the corruption and waste that is actually taking place in the Federal Government.

Yesterday morning, I contacted the Commerce Department inspector general to request a copy of their report on NOAA's purchase of a \$300,000 luxury boat. It would be bad enough if they purchased this boat with taxpayer dollars, but they did not. They paid for it with money that should belong to our struggling fishermen. They paid for it out of fines fisherman pay into the pot when they mistakenly catch the wrong kinds of fish. Those dollars are supposed to stay in the fishing community to help the fishermen.

I would like to point out—this is the boat. This is a photo of the actual boat that was purchased. For a government vessel, I would say that is pretty flashy. Let's take a look inside this

boat. This is a fully appointed bar, the latest onboard entertainment systems, the leather furniture complete with the ice check and tackle rack. I think anyone would love to have a boat such as this. NOAA has this boat.

Furthermore, the fines fishermen have been paying are putting fishermen out of business. These stories will break your heart. This story breaks my heart. It is something I speak about regularly when I am with my fishermen in Massachusetts. Let me describe the situation to people who are listening in the gallery and also people who are watching.

NOAA levied totally unreasonable fines against our fishermen. They used that money to buy themselves a luxury boat.

What else did the IG investigation find? Here we go:

According to the IG, NOAA had no reasonable official use for this boat. Let's start there. They didn't need it. Period. They had some story about needing an "undercover vessel" to sneak up on whalewatching vessels. Imagine that—armed Federal agents sneaking up on school groups and tourists trying to learn about nature. The IG found this to be as ridiculous. NOAA officials wanted this useless luxury boat. Then they invented a reason to buy it with fishermen's hard-earned dollars.

So why did NOAA go to such lengths to "manipulate" and "violate" the government purchasing rules to get this boat? NOAA already has many boats and more cars than it has agents, so why add this to the inventory? They apparently didn't need it for official purposes. We know that because the IG says that it was never—I repeat—never—used for official business.

The sad truth is that it was a fishermen-funded party boat for bureaucrats, Mr. President. That's right, while fishermen in Gloucester and New Bedford are struggling to put off foreclosure or mourning the loss of their livelihood because of NOAA's overzealous enforcement, the NOAA office was living the good life on their dime.

NOAA officials used the boat for the following: Trips to dockside restaurants; Hamburger and hotdog BBQs and alcohol-fueled parties and with family and friends; "Pleasure cruises" at high rates of speed, with beer consumed on-board; Even though Federal rules ban non-employees from being on vessels, a NOAA supervisor even told a subordinate that his wife was welcome to "kick back and watch TV" on the boat; They filed expense reports and reimbursed themselves for these trips.

What excuse did NOAA employees give for this behavior? They needed to do all these things to maintain the recreational appearance of this "undercover" boat . . . that was never even used for the "undercover" work that it was supposedly purchased for.

Mr. President, let's be serious: A booze cruise is a booze cruise. One NOAA officer decided to take his family on a weekend trip to a posh resort. He took the undercover NOAA party boat to get there, but he was untrained in how to operate it and blew out a \$30,000 engine. Rather than turn back and write the taxpayers a check, he simply abandoned it and took a marked NOAA law enforcement boat the rest of the way to their resort. Nothing could get between this NOAA employee and a good time. When asked about that incident, the NOAA employee lied to the IG and said there was no family on board. That was just one of many instances of NOAA employees deliberately misleading the IG.

Another NOAA officer used the undercover NOAA boat to take his wife to lunch in Seattle. On this trip, the boat engines stalled in a shipping lane because the boat ran out of fuel due to another operator error. The guy didn't know how to switch the tanks. So they were stuck drifting in a dangerous shipping lane. The officer and his wife apparently found the situation comical. I don't think that the fishermen in New Bedford or Gloucester or Fall River are laughing. Again, the money that belonged to our hard-working fishermen is paying for all this. I cannot fathom that type of behavior, especially in this tough time when we are all in a fiscal emergency.

To this day, no one has been held accountable. No one has been disciplined, fired or even reprimanded for anything having to do with this boat.

As we see today, NOAA has a culture of corruption that has created a chasm of distrust between the agency and the fishing industry. That trust is something that absolutely needs to be reestablished.

I would like to take 1 more minute. My question is addressed to the President—not the Presiding Officer, the real President, President Obama, and to Dr. Lubchenco. What does it take to get fired from NOAA? We have the abusive treatment of fishermen resulting in the decimation of the fleet; investigations motivated by money, shredding parties destroying 75 to 80 percent of the required documents before an investigation, lying to the IG, discouraging cooperation with the IG, misleading Members of the Congress, the \$300,000 party boat purchases, \$12,000 in party boat expenses paid with fishermen's fines, a \$30,000 engine destroyed by a NOAA employee on his weekend vacation and no one is held accountable.

This needs to change. Accountability starts at the top. NOAA's leadership needs to change. I am calling one more time to have President Obama fire NOAA Administrator Jane Lubchenco, and if not now, when? If for not this, then for what? What does it take to get fired at NOAA? Our fishermen and the

American taxpayers deserve better from the Federal Government.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

#### FEDERAL EMPLOYEES

Mr. WARNER. Mr. President, I thank my colleagues on the other side of the aisle. I know we have been switching back and forth. As someone who has the opportunity to preside more often than not on these kind of days, I know they are anxious to speak as well. I will only take a couple moments. I appreciate their courtesy.

A little earlier today we passed a conference report that extended the payroll tax cut. While I am glad the payroll tax cut was extended, I voted against that conference report because, unfortunately, we did not pay for that tax cut. I believe we could have found ways to pay for it—a surcharge on millionaires, tying this to a means test so it could have been more coordinated. But also in that action for those parts of the legislation that we passed that we did pay for, things such as unemployment benefits, we once again targeted a group that I think for too many in Congress becomes the payer of first resort, not payer of last resort; that is, our Federal employees.

Over the last year and a half or so, I have continued a tradition that was started by a colleague, Senator Ted Kaufman from Delaware, where on an occasional basis I come down and recognize the service of Federal employees who, too often, again as we have seen in recent debates, receive the brunt of lots of comments when in reality they are good folks who keep the operations of our Government working, who patrol our streets, catch the terrorists, and in some cases just recently I recognized a Federal employee who actually helps keep the Senate operating on a regular basis.

As we think about how we get our debt and deficit under control and pay for the programs that we will continue to initiate, we need to make sure we have a shared burden approach, where we look both to programs that have outlived their usefulness and the revenue side. Yes, I know Federal employees will make their contribution as well, but as we have seen from their pay freeze, from the threat of repeated furloughs over the last year and a half, and now adding to their pension contribution for new Federal employees, that burden is not always shared with all.

#### TRIBUTE TO JOSEPH LAWRENCE

I am continuing the tradition of recognizing great Federal employees.

Mr. President, today I am pleased to honor a recently retired great federal employee, Joseph Lawrence. He most recently served as the director of transition in the Office of Naval Research within the Department of Defense.

During his time there, he oversaw a \$1 billion research and development portfolio responsible for developing science and technology solutions to problems discovered during war game exercises conducted by the Marine Corps and the Navy.

For example, Mr. Lawrence oversaw the development and delivery of a new type of dressing that can be applied to a battlefield wound to prevent bleeding during transportation to a hospital. This innovation is now found in every Marine's individual first aid kit, as well as products used by U.S. Armed Forces and law enforcement agencies.

Other innovations include a system that protects tactical wheeled vehicles against rocket-propelled grenade and a crane that better transfers containers between ships.

In December 2011, Mr. Lawrence retired after 45 year of service, which began at the U.S. Naval Research lab while he was in college. He has played an important role in the protection of our country and the well-being of our troops.

Dedicated civil servants such as Mr. Lawrence are the lifeblood of the federal government. I admire their patriotism which drives them in their daily work. Too often, their service to the success of the United States does not receive the proper recognition it deserves.

This has been recently exemplified in the systemic problems associated with processing necessary paperwork prior to the disbursement of retirement benefits to all federal employees. Earlier this month, the Senate Homeland Security and Government Affairs Committee investigated problems within the Office of Personnel Management surrounding the processing of retirement and survivor benefits. Too many of our recently retired federal employees—the current estimate is more than 62,000 people—are waiting for more than a year to receive earned retirement benefits.

We are not holding up our end of the bargain with people who commit to public service to their country. To make matters worse, this is not the first time the Congress and OPM recognized the current processing system is broken. I am committed to helping resolve the issue with the current OPM system. But, frankly, the current OPM system, which doesn't have very good technology—when they have invested in technology resources, they have actually come up with goose eggs—is now currently processing these retirement requests with old-fashioned paper and pencil. It makes no sense.

As a matter of fact, there are a number of agencies—the Department of State and others—as they send over the retirement information on an employee to OPM, over 50 percent of the information they send over in terms of the case is not complete. So not only is

this a problem at OPM, but this is a problem in terms of OPM being able to enforce the other 88 Federal agencies actually doing their job.

I believe we need to tackle and fix this problem to ensure that retired Federal employees, such as Mr. Lawrence, who have faithfully served this great Nation, are able to enter retirement and receive that for which they worked so hard.

I hope my colleagues will join me in honoring Mr. Lawrence for the excellent work he has done, and I hope they will join me in making sure that when Federal employees retire, they get their retirement benefits in a timely and efficient manner.

I yield the floor and thank my colleagues for their courtesy.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Mr. President, I ask unanimous consent to enter into a colloquy with the Senator from Kansas for as much time as we may consume.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### CHILD LABOR IN AGRICULTURE

Mr. THUNE. Mr. President, this week the Gallup poll came out with a survey that said 85 percent of small businesses in this country are not hiring. They just are not hiring. When asked why, 50 percent of those small businesses responded that it was the health care law and complying with Federal regulations that were preventing them from hiring. Well, there probably isn't any better example of the overreach, overkill, and excess when it comes to regulations than the Department of Labor regulation on child labor in agriculture. It was put out and public comments were invited on the proposal last September.

Since that time, numerous Senators and outside interest groups have requested a 60-day extension due to the timing of the harvest season, but the Department of Labor only extended that comment period for 30 days. Then 30 Senators—led by the Senator from Kansas who authored the letter—sent a letter that many of us signed onto, basically asking the Secretary of Labor, Hilda Solis, to withdraw those proposed regulations that limit the ability of farmers and ranchers to hire young people to work in agriculture. In February of this year, the Department of Labor announced plans to repropose a portion of the regulation on child labor in agriculture interpreting the “parental exception.” But what is interesting about it is there have been multiple efforts made to try to get a response to the letter, and the Department of Labor didn't respond to a letter from 30 Senators.

It strikes me that with all of the issues that were raised in that letter and the impact this would have on the

very heartland of our country and the ability of farmers and ranchers and their families to sustain themselves and to contribute to feeding the world, it seems they would at least have the courtesy of responding to the points that were raised in that letter. But we have not yet received a response to that letter sent by the Senator from Kansas, Senator MORAN, and 29 other Senators who signed onto that requesting a response to the various issues that were raised. We will get into those in a minute. It strikes me as certainly odd, and perhaps I would have to say demonstrating an arrogance, a power to not respond to 30 Senators who, on behalf of their constituents, raised some issues that are very important to the economy of the heartland of the Midwest and the people I represent, and I know the Senator from Kansas represents.

When you look at what they are proposing and the prescriptive nature of that, the detail they go into in restricting the ability of young people to work on family farm and ranch operations, you have to say: What were these people thinking and what world do they live in? Because there seems to be a parallel universe to think that all of these various regulations and restrictions they would impose on young people working in agriculture wouldn't undermine the very fabric, the very nature, the very foundation of American agriculture.

Farming and ranching is inherently a family enterprise. Young people have contributed for generations in helping that family farm or ranch operation survive and prosper. They contribute. They grow up in that business, and in many cases they take it over. It is amazing to me, and incomprehensible, to think that bureaucrats in Washington, DC, could tell family farmers and ranchers how to run their operations with the kind of detail and the incredible prescription of these regulations and the very activities they would curtail for young people.

I wanted to engage my colleague from Kansas on this subject. As I said, he was the author of the letter that was sent, along with many of us—30 Senators in all—asking the Department of Labor to withdraw, in raising a number of points about various aspects of these regulations. And, as I said, we will touch on those in a minute.

I would ask my colleague from Kansas if he thinks that 85 pages of regulations, which is what this proposal is—do we need 85 pages of regulations that tell family farm and ranch operations and young people who work on those family farm and ranch operations how to go about their business? Is it necessary? Do we have to get this bureaucratic and impose these kinds of regulations, these kinds of costs and these kinds of burdens upon American agri-

culture at a time when—as I mentioned before—there are so many other costs associated with doing business in this country imposed by the government? The ObamaCare, the health care law, and as I mentioned earlier, the Gallup poll was mentioned by half of the small businesses who said it is one of the reasons why they are not hiring. All of these other regulations, many of which come from the EPA, but certainly the Department of Labor in this particular case is guilty of making it more difficult and more expensive to do business in this country and certainly inhibiting the very nature and, from an operation standpoint, the very way that a family farm or ranch operation conducts itself.

I ask my colleague from Kansas his thoughts on this and whether he thinks it is necessary to have 85 pages of regulations having to regulate how family farm and ranch operations do their business.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. MORAN. Mr. President, I share the genuine concern expressed by the Senator from South Dakota. Farmers have so many things to concern themselves with in the ability to earn a living. The weather is not always their friend. Is this the right crop to grow? What are market conditions going to be? How do we predict? How do we have risk management? And always concerned about what the Federal Government, through its regulatory agencies and departments, is going to do, to create one more impediment toward the success of farms and ranches across our Nation, to always be worried about the issues related to the Environmental Protection Agency. And now comes the Department of Labor with a proposed set of rules that will fundamentally alter the nature of farming and ranching.

The Senator from South Dakota said it well when he said that inherently agriculture, farming and ranching, is a family operation, and that is certainly the way it is across the State of Kansas and across the rural portions of America today. I have always been an advocate for the success of farmers and ranchers during my time as a Member of the House of Representatives and now in the Senate. Certainly part of that is the economic viability of that is agriculture determines the ability for communities across my State to survive and to prosper and to bring another generation of young people back to rural communities, back to the rural part of America. But there is also something very special about agriculture. It is the way that historically in our Nation, in the history of our country, we have been able to transmit our character, our values, our integrity from one generation to the next. It is one of the few professions left in which sons and daughters work side by side

with moms and dads, with grandparents, and have that opportunity on an ongoing daily basis to work, to learn something about what is important in life, about personal responsibility, and that you cannot plan your day based upon your own preferences; there are cattle to be fed; there are crops to be harvested; that there is something more important in life than just what you want to do.

Again, this is the way we live our lives. In the process of living this kind of life, we pass on things that are so important to the character of the individual, and over the history of our Nation, the character of who we are as Americans has been molded by the fact that agriculture, farmers and ranchers, have played such an important component in the way Americans have lived their lives.

The Department of Labor announced a few days ago that they are going to repropose a portion of the rule and that they are hoping Americans, farmers and ranchers, Members of Congress look the other way, that they are doing something significant to change the onerous nature of the rules that are proposed. While they have agreed to repropose a portion of the rule related to the definition of family farms, there remain are two significant components important to the way we live our lives—that we pass on to the next generation those inherent characteristics that we desire so much and that we will lose the opportunity to entice a young person to decide agriculture is their means of earning a living as they grow older.

You have to have experience as a child to learn what opportunities are available for you. Students who become teachers have been enthused about becoming a teacher because of an experience in a classroom. Well, it works the same way on a farm in Kansas or South Dakota or in Arkansas. It is the experience that child has, that young person has in working with their families, with neighboring farmers that causes them to think: When I grow up, I want to work on this family farm. I want to earn my living in agriculture.

While a portion of the rule is being reproposed, don't take your eye off the consequences of the remainder of the rule, even if we get a good definition of a family farm in the reproposed rule. What remains is replacing the things that have a time-honored tradition and success in rural communities, in agriculture, in educating our kids—FFA, 4-H, county extension; those things are being replaced and the Department of Labor is going to become the decider of whether a young person has the capabilities to work on a family farm.

The Department says that those things, FFA, 4-H, and county extension, are too local and that we have to have a nationally driven policy from the Department of Labor to decide how

we educate and train and make certain we have safety for young people working on farms.

The other part of the proposed rule that remains, that is not involved in any new modification and is working its way through the process—and we expect the Department of Labor to announce in a few months their final rule—is the definition of farming practices that even if the Department of Labor determines that this young person has the right safety credentials to work on the farm, these things are still prohibited—things such as working 6 feet off the ground. Six feet off the ground is where you are when you are on a tractor or when you are on a combine. So what the Department of Labor is doing is taking away a whole segment of the things that are important to young people on the farm. You cannot work with a wheelbarrow and a shovel to clean out a stall, you cannot herd cattle.

In fact, the proposed regulation says you cannot do anything in animal husbandry that inflicts pain upon the animal. Those are things that are pretty important, such as branding and breeding and dehorning and vaccinating. Certainly young people across Kansas and South Dakota have the opportunity to do those things today and take them away, and it diminishes the opportunities that are important to them in earning a living and saving money for their future, but also takes away those other invaluable characteristics of working side by side with farmers who know the real meaning of life, with moms and dads, grandparents, and neighbors.

I very much appreciate the Senator from South Dakota and the sentiments he expressed.

Just another example to show the overreach of these regulations, one of the proposals by the Department of Labor has sought comments on whether we should limit the exposure of direct sunlight if the temperature reaches a certain limit once you factor in wind velocity and humidity. How is a farmer going to make a decision under those circumstances—whether or not this young person could work on the farm based upon daylight, humidity, temperature? We are going to have to hire a meteorologist to make a determination whether that day it is OK for a 15-year-old to be working on the farm.

I have invited the Secretary of Labor to come to Kansas to experience farm life. That invitation was not accepted. I don't begrudge the Secretary of that. It is not expected necessarily that the Secretary of Labor would come to my State and visit with farmers, although we would love to tell her the story.

We had asked for an opportunity to have a conversation with the Secretary of Labor here in Washington, DC. I was happy to go to her office. That also was denied.

As the Senator from South Dakota indicates, a letter from 30 Members of the Senate, both Republicans and Democrats—it wasn't a partisan issue. Senator NELSON of Nebraska was my colleague in asking the Department to extend the comment period so that farmers, during fall harvest, would have a greater opportunity to comment on this rule. It was a bipartisan letter asking for certain information. We learned again this week that the Department of Labor says that letter from 30 Senators—I don't mean this in an arrogant way, but we represent constituents who have serious concerns with a regulation that we believe will fundamentally alter the way we live our lives in agriculture—the answer was, we are going to treat that just like any other letter, which means we are going to send a form letter really telling, I would guess, not much of anything and certainly not answering our questions.

We have asked folks across the country to take a look at the Web site [keepfamiliesfarming.com](http://keepfamiliesfarming.com), and we are soliciting comments from folks across the country so we can try to submit these to the Department of Labor and make the case known. We would ask the American people, particularly those who understand the importance of this issue, to rise and express their concern and tell the Secretary of Labor, tell the Department of Labor the tremendous consequences of a regulation that changes something that is so important to the character of rural America and the character of our country nationwide.

I appreciate the opportunity to have a conversation with the Senator from South Dakota and would be glad to yield to him.

Mr. THUNE. Mr. President, if the Senator will yield on that point, what the Senator has touched upon I think is something that perhaps people who don't come from farm country don't appreciate as much as we do, and that is just the very nature of farming. Farming is, as we said, very much a family operation. What we are talking about right now with these regulations is, at a time when we have young people who want and need the opportunity to learn responsibility, who need to learn the value of hard work as well as, for that matter, earn a little extra spending money, this regulation would restrict their ability to do all three. It would be really bad for family farming and ranching in the State of South Dakota. I know that.

It is also a regulation that I would say I don't think has gotten as much attention perhaps as some of the other ones that are out there but one that would have profound consequences on production agriculture.

The Senator mentioned a couple of examples of operating farm equipment. If a person is on a tractor, that person

probably, in most cases, would be higher than 6 feet, and this regulation would prevent them from doing things at elevations higher than 6 feet. We could also argue some other things that would fall into that category. How about working on a haystack? A farmer is going to be more than 6 feet above the ground.

Some of the restrictions with regard to working with animals that are more than 6 months old—as the Senator mentioned, being able to herd cattle on the back of a horse—these are all things under these regulations that would be restricted or prevented for many of these young people.

It seems pretty amazing that we would have a Washington bureaucracy dictating with this kind of specificity, with this kind of minutiae, how farm and ranch operations would be conducted. I would argue that the very organizations the Senator from Kansas mentioned—4-H, FFA, extension service—know full well and the families who operate farms know full well what the risks are. They understand. They want to protect their families.

Instead, we have a Washington bureaucracy that thinks it knows best telling family farmers and ranchers how to go about their business in a way that will make it not only more difficult for them to make a living but also I think more difficult for young people to learn the skills and get the experience they will need when hopefully that time comes around that they can take over that operation of farming, ranching in Kansas, as it is in South Dakota. It is very much an intergenerational occupation. And it is more than just an occupation, more than just a vocation. It is a way of life. It is something where values are transmitted from one generation to another—the values of hard work, personal responsibility, integrity, honesty. There are so many character qualities that we value and that young people learn on family farms and ranches. So notwithstanding the economic impact on family farms and ranches, there is certainly a cultural and social impact on our family farms and ranches, and the middle of this country is tremendously impacted by this regulation.

I hope the Senator from Kansas will continue to keep the heat on and continue to keep the pressure on in trying to get a response not only to the letter that he offered and that many of us signed but also to, if possible, get the Secretary of Labor to come to a State such as Kansas or, for that matter, South Dakota and actually see a family farm operation and how it functions because I think they are operating in a bubble, in a vacuum out here where there is very little understanding of the implications of these types of decisions. This is really an example of big government run amok. If we want an

example of big government that has completely lost touch with reality, this is certainly an example of that.

I encourage the Senator from Kansas, and I will support his effort 100 percent, to keep the pressure on and trying to get them to recognize the impact of what they are doing and the impact it would have on rural agriculture and all over the world.

Mr. MORAN. I appreciate those sentiments. I would say that these proposed rules did not come about as a result of Congress passing a piece of legislation or of there being congressional hearings finding a series of problems in regard to safety with young people on farms. In fact, the Department of Labor admits they have no real academic, scientific studies that were compelling them to reach this conclusion. In fact, there are studies out there that show that young people are safer today on farms.

This is a matter that is so important to so many people. Yes, we are probably a significant minority, but we need the help of our colleagues from urban and suburban America to help us hold back this intrusion that will fundamentally alter American agriculture, farming and ranching, and a rural way of life.

I have a letter from a young girl in Stockton, KS. Stockton is a town of probably about 1,500, 1,600 in population. Her point was this: I didn't grow up on a farm, but I love agriculture, and I need a job. There is only a convenience store and a bank and a grain elevator in my town. In the absence of my ability to work on a farm in the neighborhood, my ability to have a job as a teenager is greatly diminished. I think I might be interested in being a farmer or a rancher someday.

I think it is the dream of every farmer, every farm family to be able to say: We are going to pass this farm on to the next generation—to our own kids or to young people.

Farming is this way of life that farmers and ranchers are so proud of and believe they serve—and they do—they serve such a noble profession in feeding and clothing and providing energy to a hungry and cold and difficult world. Agriculture certainly is about economics, but there is an understanding of what farmers and ranchers do that is important to the world, and we need to make certain there is another generation, another set of young people who can step into the shoes of an aging population of farmers and ranchers across the country.

Again, these proposed rules need to be totally withdrawn, and we ought not accept the ruse of a portion of them being proposed.

Mr. THUNE. Mr. President, if the Senator from Kansas will yield quickly in closing on one point, is the Senator aware of any group that was consulted on this? Were there any farm organiza-

tions that were brought into this or had any input into this? As the Senator mentioned, was this solicited by anyone? Was there any rationale based upon data collected about safety or that sort of thing that necessitated that they use such a heavyhanded, big-government approach to addressing what they perceived to be a problem?

Mr. MORAN. Everything I know about this topic suggests that it is otherwise. In fact, the farm organizations and commodity groups of the wide array of those who advocate across the country on behalf of agricultural producers are aligned with us in opposition to these rules. So it can't be that they were involved in the process of developing the rules because they—at least every organization I know that is involved as a commodity group or a farm organization is adamantly opposed to what the Department is suggesting.

Mr. THUNE. I don't know what the Senator's average age of a farmer in Kansas is, but my understanding is, at least nationally, the average age of a farmer in this country is nearing 60 years old, which means one thing: Somebody is going to have to fill those shoes. Somebody is going to have to come along and take over that farm or ranch operation. This is going to make it increasingly difficult to prepare that next generation of farmers and ranchers.

Again, it occurs to me that this is just something that ought to be withdrawn. I hope the Senator in his efforts and those of us who are supporting that effort will succeed. This is a perfect example of a big-government solution to a problem that doesn't exist.

With that, Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. REED). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### RECESS APPOINTMENTS

Mr. LEE. Mr. President, on January 4, 2012, President Obama bypassed the Senate's constitutional right to advise and consent to nominees and, instead, unilaterally made appointments to the Consumer Financial Protection Bureau and to the National Labor Relations Board. He purported to do so under the Constitution's recess appointments clause, even though at the time of the appointments the Senate was holding pro forma sessions roughly every 72 hours.

If allowed to stand, President Obama's unprecedented and unconstitutional recess appointments could re-

sult in Presidents of both parties routinely circumventing the Senate's advice-and-consent function and thus depriving the people and the people's representatives of an essential check on the executive branch.

President Obama's actions also violate the Constitution's fundamental system of separation of powers. He has asserted the unilateral power to override Congress's own determination of when it is in session and when it is in recess. At an absolute minimum, the Senate's institutional prerogatives demand that we be allowed to make our own rules. Yet President Obama's actions would deprive our body of even that basic right.

In the past, I have given pretty broad deference to the President's judicial nominees. Both in the Judiciary Committee and on the floor of the Senate, I have voted in favor of the vast majority of President Obama's nominees, including many with whom I have fundamental disagreements on various points.

But I can do so no more. The Founders expected that each branch of the Federal Government would exercise the necessary constitutional means to resist any encroachments by the other branches. Among those constitutional means is the Senate's advice-and-consent function, which I exercised today by voting against a nominee who otherwise might have received my support. Thirty-three other Senators did exactly the same.

The President cannot expect the Senate's full cooperation at the same time he does violence to this body's constitutional prerogatives. The threshold for confirming President Obama's nominees must change accordingly. Simply put, there is a new standard for confirmations as a result of the President's own actions. I find this unfortunate but ultimately necessary.

Both today and in the coming days, I will join with other Senators to act as a check and a balance on the President's unconstitutional conduct by voting against some nominees. I expect that many of my Republican colleagues, and in time some of our Democratic counterparts, will rise in defense of the Constitution and vote against President Obama's nominees until such time as he takes actions to restore the Senate's full constitutional right to advise and consent to his nominations.

#### THE STIMULUS PACKAGE

Mr. LEE. Mr. President, I now choose to turn to another topic—a topic that is important to many Americans, a topic that relates to an important anniversary we are recognizing.

Today, we are highlighting the third anniversary of President Obama's failed stimulus package.

The President promised 3 years ago that the stimulus would create what he

characterized as millions of jobs. But today, unfortunately, devastatingly, there are nearly 13 million people in America who are still unemployed and many millions more have even given up on looking for jobs.

Three years ago, the White House said that because of the stimulus package, unemployment would not exceed 8 percent. That has not happened. In fact, the unemployment rate has topped 8 percent for 36 straight months now—the longest stretch of high unemployment since the Great Depression. The Congressional Budget Office predicts it is going to go even longer. We will not see sub-8 percent unemployment, according to the CBO, until 2014.

The President sold his stimulus package to the American people by claiming he would make immediate investments in what he characterized as “shovel-ready” jobs. But last June, the President acknowledged that “shovel-ready was not as shovel-ready as we expected.” Nevertheless, a lot of money has been spent, as we have been waiting for these jobs to materialize—jobs that never quite came about.

In fact, some of it was spent in ways that have nothing to do with stimulating the economy. For example, consider some of the ways in which this stimulus money has been spent. Mr. President, \$760,000 was spent on interactive dance software; \$1.2 million was spent on a train museum; \$2 million was spent to study ant behavior; \$762,000 was spent to study improvised music—I am not sure what that is, but I am sure it is lovely, not necessarily deserving of scarce Federal resources—\$300,000 to track weather on other planets—great if one lives on another planet, not so great if one lives on Earth in a country that has accumulated an unprecedented debt exceeding \$15 trillion—\$153,000 for an indoor water park; and \$712,000 to develop a “machine-generated humor” system—in other words, a joke machine.

This big joke is on the American taxpayer. Unfortunately, it is no laughing matter.

In the last 3 years, we have added more than \$4 trillion to the national debt, we have recorded the three largest annual deficits in our Nation's history, and we are on pace for a fourth straight deficit exceeding \$1 trillion.

This week, the President submitted a budget that calls for adding \$11 trillion in new debt over the next decade. His own Treasury Secretary calls the level of spending unsustainable, and it is.

Despite the overwhelming evidence that his stimulus package has failed, the President has called for additional increases in spending.

I know the President is a good man. I also know he faced a difficult economy when he took office. But the President is unwilling to tell the truth to the American people about what lies ahead, about some of the challenges we

face. I think he needs to do so, and he needs to acknowledge the fact that this stimulus package has failed so we can avoid making similar mistakes in the future.

Today we cannot celebrate the anniversary of the President's stimulus. Rather, we must lament a tremendous lost opportunity by this administration to put this country back on the right track over these last 3 years.

For the sake of future generations, I hope it is not too late to change course.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will please call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I ask unanimous consent that I be permitted to finish my speech regardless of the time.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### RELIGIOUS LIBERTY

Mr. HATCH. Mr. President, earlier today, we were treated to some very partisan remarks from one of my colleagues on the preventive services mandate. That is the legal term. Here is what the mandate is in practice.

It is a mandate that will require religious individuals and institutions to purchase abortion-inducing drugs for their employees. It will require that they purchase insurance coverage that provides for sterilizations and the morning-after pill. In doing so, it will require that they violate their most deeply held religious beliefs, in stark contrast to the first amendment's guarantee of religious liberty.

You would not know that from hearing some on the other side talk. You would think that opposition to this mandate was grounded in bigotry and a lack of concern for our fellow citizens.

This is a serious charge—one deserving of a response. My colleague from California suggested earlier today that the reason Republicans are opposed to this mandate—and the reason tens of millions of Americans are opposed to this mandate—is because they are antiwoman.

With due respect, one would be hard pressed to concoct a more insidious and misleading explanation of the opposition to this mandate.

People are opposed to this mandate for one simple reason—because they are in favor of religious liberty. They are opposed to it because it is an affront to our constitutional government, to the first right listed in our first amendment—the right to free exercise of religion.

We would not know that from my colleague's remarks. She did not even mention the Constitution—not once.

As Members of the Senate, we take an oath to support and defend the Constitution. But to hear members of the administration and some Members of Congress talk, it is clear to me that providing abortion-inducing drugs, sterilizations, and the morning-after pill to women is more important than the first amendment we are sworn to the Nation and our constituents to defend.

I do not shock easily, but the cavalier attitude of the President, his administration, and many in Congress to this frontal assault on religious liberty is truly shocking.

There was a time when both parties, liberals and conservatives, could come together on the matter of religious liberty—but not any longer, apparently.

I think it is because for many liberals, religion and the right to practice it freely are not the foundation of our Nation's liberties; rather, they are viewed as a threat to our Nation's liberties. They do not understand religious people. I guess we should have seen this coming when the President ran for the White House in 2008, and he referred pejoratively to these American who cling to their Bibles.

But the fact is, it was people who clung to their Bibles who were at the forefront of some of our Nation's greatest civil rights struggles and have been most committed to advancing the cause of personal liberty. They are at the forefront today serving as a solemn witness of the importance of religious liberty, threatening civil disobedience against the President's unconstitutional abortion mandate that would force them to violate their most cherished moral beliefs.

Instead of treating these powerful witnesses to our founding ideals with the respect they deserve, they are looked at with contempt. This morning, one of my colleagues referred to a panel testifying about this assault on religious liberty as full of “dudes.”

Her suggestion was that the all-male composition of this panel somehow serves as proof that the objection to this abortion mandate is due to hostility to women. Give me a break. Let me tell you who these so called “dudes” were: the Roman Catholic Bishop of Bridgeport, CT; the president of the Lutheran Church, Missouri Synod; the Graves Professor of Moral Philosophy at Union University; the director of the Straus Center for Torah and Western Thought at Yeshiva University, and the chair of the Ethics Department at Southwestern Baptist Theological Seminary.

These men, whom my colleague refers to as “dudes,” came to Congress to testify about the grave impact this Obamacare rule poses to religious freedom. My colleague from California



does not mention these other names because they are inconvenient. She does not mention Margaret Brining, Mary Keys, and Nicole Garnett of the University of Notre Dame. She does not mention Harvard's Mary Ann Glendon or the University of Chicago's Jean Bethke Elshtain or Maria Garlock of Princeton University.

She does not mention Helen Alvare of George Mason University or Maria Aguirre of the Catholic University of America. She does not mention the Mother Superior of the Sisters for Life.

All of these women signed a letter, along with hundreds of other scholars and clergy, stating the obvious truth—that the President's so-called compromise is unacceptable.

Are they all antiwomen too?

These thoughtful citizens, scholars, and religious people deserve our attention not our ridicule. Here is the bottom line: Obamacare is an unconstitutional abomination. It is unconstitutional to its core. The individual mandate is obviously unconstitutional, and the Supreme Court will rule on that soon enough.

But what this episode shows is that Obamacare is unconstitutional in its very DNA. It transfers power over one-sixth of the American economy to the Federal Government, and the government has proven with this episode that individual liberty is threatened by that transfer of power.

If the administration cannot be relied on to protect even religious liberty, the right of persons and churches and synagogues to practice their faith without interference from the State, then nobody is safe. If they are willing to trammel on the first amendment, they are willing to trammel on anything. That is the story.

The story is that earlier this week, Secretary Sebelius acknowledged to me and to the Finance Committee that she never consulted the Roman Catholic bishops before announcing the politically driven compromise that they would be forced to comply with.

The story is that Secretary Sebelius admitted that she never requested any first amendment analysis of this rule from the Department of Justice. The administration has clearly decided this is a political loser for them, so they are trying to change the subject. They send out their surrogates with talking points designed to scare the public into thinking this fight is about contraception. It is not, and the American people will not be fooled. They will not be tricked into thinking that those who oppose this mandate are antiwoman.

Do those who are promoting this spin think we do not have mothers, wives, and daughters? Do they think the women in the Senate and the House representing millions of more women are antiwomen? This is beyond absurd, and the American people will not be duped.

They know this rule exists because the administration is beholden to the pro-abortion lobby. And I can tell you, there is one group that the modern Democratic Party will never cross, never. They will never cross the abortion lobby. So it is no surprise that the Nation's largest abortion provider, Planned Parenthood, came out in support of the so-called compromise.

The Catholic Church and millions of Americans, however, responded that this is unacceptable. I agree with their assessment. The so-called compromise is nothing of the sort. But as bad as this mandate is, keep in mind it is only the beginning. It is only the first step in a fresh assault on the constitutional liberties of the American people. Believe me, the tragedy of Obamacare is only beginning.

The other day, former Speaker PELOSI suggested that even the Roman Catholic Church itself should have to provide abortion-inducing drugs to their employees. Catholic bishops would be forced, in her regime, to subsidize practices that the Church finds morally abhorrent. That is where this is going. The administration might feel cowed into providing a weak exception to their rule for religious institutions right now, but in the long run we know where they want to go. And the resulting loss of liberty would be bad for men and women alike.

Our Constitution protects all of us. By undermining religious liberty, this administration goes down a very dangerous path. In so doing, the officers responsible for this decision, if they knew of the serious constitutional issues and still went ahead with this action for political reasons, violated their oath to uphold the Constitution.

The Congress and the American people are going to hold them accountable. The President and his reelection campaign would prefer that this just go away. Hence, the admonition from the mainstream media that we stop talking about this issue.

Well, I, for one, am not going to stop talking about it, and I am not going away. I am just getting warmed up. We have seen major countries slip down the road toward totalitarianism because they did not stand up for religious liberty. This is not a question about contraception. This is a question about religious liberty and where we are going to stand.

The fact is, once we start down the road of denying the individual rights of personal conscience and religious freedom, and begin to tell churches and synagogues what they must believe, we are on the way to losing the freedoms all of us hold dear.

Religious freedom is the first freedom mentioned in the Bill of Rights. This is important stuff. I am not Catholic. But I would fight to my death for the Catholic people to be able to live their faith. My own faith feels the

same way about many of these issues. No church or person should be forced to make abortion-inducing drugs accessible, as the President's mandate will require them to do.

I do not think any compromise has been suggested so far that would meet the high bar set by our Constitution. There is only one option for the President on this issue. He needs to rescind this unlawful regulation. There is no middle ground. When it comes to the first amendment right to religious liberty, there can be no compromise.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### EXECUTIVE CALENDAR

##### UNANIMOUS CONSENT REQUESTS

Mr. REID. Mr. President, we have about 90 nominations on the Executive Calendar. That is a lot of names—people who have set their lives aside, after having been asked by the President of the United States to do good things for our country. The vast majority are not controversial. There is nothing so about their character, their education, their background. They have, with rare exception, been reported from the committees unanimously. They are being held up out of spite. Nominations on the Executive Calendar have been pending an average of 3 months waiting for the Senate to act. But the Senate can act on these, as we have done in years past, just like that.

Top Department Secretaries pending before the Senate—two to be specific—are very important for their leadership roles at our Federal agencies. For example, Rebecca Blank will fill the No. 2 position at the Department of Commerce. She has a Ph.D. in economics from MIT, one of the finest educational institutes in the world. She served as Acting Commerce Secretary when Secretary Locke left to become Ambassador to China. The Commerce Committee approved her, of course, by voice vote. That means unanimously. Her confirmation is urgently needed because the Commerce Department hasn't had a confirmed deputy since July of 2010 because of the obstructionism of the Republicans here in the Senate.

Maurice Jones has been nominated to be Deputy Secretary at Housing and Urban Affairs. He worked for then-Governor MARK WARNER and at the Treasury Department in the Clinton administration. His nomination was voted out of the Banking Committee last December by voice vote.

Wendy Spencer, President's nominee to lead the Corporation for National

and Community Service, has bipartisan support from a number of Republican Senators, including MARCO RUBIO.

There are also Corporation for National and Community Servicemembers on the calendar that have been waiting for a vote since July of last year. We also have law enforcement positions awaiting confirmation, including Deputy Attorney General for Tax at the Department of Justice and the agency's inspector general. Other important officials at the State Department, Treasury Department, and Homeland Security are ready for the Senate to act on their nominations.

Regrettably, Senate Republicans continue to either block, stall, or obstruct these and other well-qualified nominees. Since this past fall, a Republican Senator has blocked two nominations at the Federal Communications Commission, and today they will block nominees to the Federal Trade Commission.

This week, Senator BINGAMAN asked consent to confirm the various Department of Energy nominees and the Republicans objected. This obstruction is not about the nominees themselves. They are qualified and noncontroversial. Many came out of committee, as I have indicated, by a voice vote or unanimously.

Senate Republicans are blocking nominees for political reasons—and very weak political reasons. Not everything we do here in the Senate should be a fight. Virtually every one of these nominees could be approved today if the Senate Republicans would cooperate.

As I indicated when I started this conversation, these people, with these jobs, have put their lives aside to wait on their confirmation. I have made no secret of the fact that I think the President did the minimal with his recess appointments—the minimal. I think he has waited far too long. If something doesn't break here, I am going to recommend to the President he recess-appoint all these people—every one of them.

That is not unique. The power of the recess appointment is in our Constitution. Theodore Roosevelt, a Republican, felt he was being treated improperly by the Senate. He had 160 nominations that were being held for political reasons, and he did it in a minute—recess-appointed 160 different people. So it is not as if there isn't some way to respond to this.

We are going to have a week here that we will be in recess. And I repeat, if we don't have some significant action during the next work period, I am going to ask the President to appoint them all. I can ask, if I want to. He doesn't have to respond affirmatively. We will do the judges. We will have the fight on the judges ourselves because they are recommendations we make to the President. But these are the Presi-

dent's nominations and he should have the right to have these people working in his administration.

Mr. President, I am going to ask unanimous consent on a large number of nominations. I have been told that on every one of these, the Republicans will object. I was asked whether it was necessary that I have a Republican come here and do it in person. That is not necessary. I take the word of my friend, the Republican leader, that that in fact is the case. So on every one of these I am going to object on behalf of the Republicans. How do you like that?

Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 86, 258, 259, 261, 262, 263, 264, 338, 339, 340, 344, 345, 346, 403, 422, 450, 456, 493, 494, 495, 496, 499, 500, 501, 502, 504, 505, 506, 507, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 541, 542, 543, 544, 546, 547, 548, 549, 550, 551, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 571 and 572.

I am told those nominations that are before the Senate now dealing with the Air Force, Army, Foreign Service, the Marine Corps, and the Navy will be agreed to. I hope that in fact is the case. It is not part of this request.

On the numbers I have read off, I ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be considered made and laid upon the table, with no intervening action or debate; that no further motions be in order to any of the nominations; that any related statements be printed in the RECORD, that President Obama be immediately notified of the Senate's action, and the Senate then resume legislative session.

The PRESIDING OFFICER. Is there objection?

Mr. REID. On behalf of the Republicans, I object.

The PRESIDING OFFICER. Objection is heard.

## EXECUTIVE SESSION

### EXECUTIVE CALENDAR

Mr. REID. I ask unanimous consent that we now proceed to executive session to consider the following nominations: Calendar Nos. 573 to 606—those are the ones I referred to, the military only—and all nominations placed on the Secretary's desk in the Air Force, Army Foreign Service, Marine Corps, and Navy; that the nominations be confirmed en bloc, the motions to reconsider be considered made and laid upon the table, with no intervening action or debate; that no further motions be in order to any of the nominations; that any related statements be printed in the Record; that President Obama be immediately notified of the Senate's action, and the Senate then resume legislative session.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

#### IN THE NAVY

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

#### *To be admiral*

Adm. Samuel J. Locklear, III

#### IN THE AIR FORCE

The following Air National Guard of the United States officer for appointment in the Reserve of the Air Force to the grade indicated under title 10, U.S.C., sections 12203 and 12212:

#### *To be brigadier general*

Col. Michael A. Meyer

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

#### *To be lieutenant general*

Lt. Gen. Michael J. Basla

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

#### *To be lieutenant general*

Maj. Gen. John E. Hyten

The following named officer for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

#### *To be brigadier general*

Col. Sean L. Murphy

The following named officer for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

#### *To be brigadier general*

Col. Charles E. Potter

The following named officer for appointment in the Reserve of the Air Force to the grade indicated under title 10, U.S.C., section 12203:

#### *To be brigadier general*

Col. Harris J. Kline

The following named officer for appointment in the Reserve of the Air Force to the grade indicated under title 10, U.S.C., section 12203:

#### *To be brigadier general*

Col. Richard M. Erikson

The following named officer for appointment in the Reserve of the Air Force to the grade indicated under title 10, U.S.C., section 12203:

#### *To be major general*

Brig. Gen. Robert G. Kenny

The following named officers for appointment in the Reserve of the Air Force to the grade indicated under title 10, U.S.C., section 12203:

#### *To be major general*

Brigadier General Gary M. Batinich  
Brigadier General Richard S. Haddad  
Brigadier General Robert M. Haire  
Brigadier General Michael D. Kim  
Brigadier General Mark A. Kyle  
Brigadier General Kevin E. Pottinger

Brigadier General Robert D. Rego  
Brigadier General George F. Williams

The following named officers for appointment in the Reserve of the Air Force to the grade indicated under title 10, U.S.C., section 12203:

*To be brigadier general*

Colonel Jeffrey K. Barnson  
Colonel Abel Barrientes  
Colonel Kimberly A. Crider  
Colonel Theron G. Davis  
Colonel Christopher L. Eddy  
Colonel Lyman L. Edwards  
Colonel John C. Flournoy, Jr.  
Colonel Kathryn J. Johnson  
Colonel Kenneth D. Lewis, Jr.  
Colonel Vincent M. Mancuso  
Colonel Udo K. McGregor  
Colonel Eric S. Overturf  
Colonel Karen A. Rizzuti  
Colonel Vincent M. Saroni  
Colonel James P. Scanlan

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be lieutenant general*

Maj. Gen. Craig A. Franklin

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be lieutenant general*

Lt. Gen. Stephen P. Mueller

The following Air National Guard of the United States officer for appointment in the Reserve of the Air Force to the grade indicated under title 10, U.S.C., sections 12203 and 12212:

*To be brigadier general*

Col. Robert T. Brooks, Jr.

IN THE ARMY

The following named officer for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

*To be brigadier general*

Col. Susan A. Davidson

The following named officers for appointment to the grade indicated in the United States Army under title 10, U.S.C., section 624:

*To be brigadier general*

Colonel Jon S. Lehr  
Colonel Timothy P. McGuire  
Colonel Burdett K. Thompson

The following Army National Guard of the United States officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., sections 12203 and 12211:

*To be brigadier general*

Col. Wendul G. Hagler, II

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be lieutenant general*

Maj. Gen. Daniel B. Allyn

The following named officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

*To be major general*

Brig. Gen. Leslie A. Purser

The following named officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

*To be brigadier general*

Col. Mary E. Link

The following named officer for appointment in the United States Army to the grade indicated under title 10, U.S.C., sections 156 and 3064:

*To be brigadier general, judge advocate general's corps*

Col. Richard C. Gross

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be lieutenant general*

Lt. Gen. Curtis M. Scaparrotti

The following Army National Guard of the United States officers for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., sections 12203 and 12211:

*To be brigadier general*

Colonel Patricia M. Anslow  
Colonel Jose R. Atencio, III  
Colonel William E. Bartheld  
Colonel Jeffrey M. Breor  
Colonel Michael R. Bresnahan  
Colonel John A. Byrd  
Colonel Sylvester Cannon  
Colonel William J. Coffin  
Colonel Benjamin J. Corell  
Colonel Kurt S. Crytzer  
Colonel Ronald J. Czmowski  
Colonel Rex E. Duncan  
Colonel Gerald L. Dunlap  
Colonel John M. Epperly  
Colonel James C. Ernst  
Colonel John A. Goodale  
Colonel Timothy E. Gowen  
Colonel Paul C. Hastings  
Colonel Percy G. Hurtado, II  
Colonel Jon A. Jensen  
Colonel Craig D. Johnson  
Colonel Maria E. Kelly  
Colonel Eric D. Kerska  
Colonel Kenneth A. Koon  
Colonel William J. Liedner  
Colonel Roy V. McCarty  
Colonel Franklin C. McCauley, Jr.  
Colonel Darlene A. McCurdy  
Colonel David J. Medeiros  
Colonel Walter L. Mercer  
Colonel Allen L. Meyer  
Colonel Mark J. Michie  
Colonel Richard G. Miller  
Colonel Robert A. Moore  
Colonel John R. Mosher  
Colonel David W. Osborn  
Colonel Phillip M. Owens  
Colonel Gregory C. Porter  
Colonel Von C. Presnell  
Colonel Philip T. Pugliese  
Colonel Jessie R. Robinson  
Colonel Paul F. Russell  
Colonel Tracy L. Settle  
Colonel David P. Sheridan  
Colonel Hopper T. Smith  
Colonel Michael D. Turello  
Colonel Daniel Vazquez-Rosa  
Colonel Timothy J. Wojtecki  
Colonel Michael R. Zerbonia

The following Army National Guard of the United States officers for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., sections 12203 and 12211:

*To be major general*

Brigadier General Robbie L. Asher

Brigadier General Glenn A. Bramhall  
Brigadier General Scott E. Chambers  
Brigadier General Alan S. Dohrmann  
Brigadier General Steven W. Duff  
Brigadier General William L. Glasgow  
Brigadier General Wilton S. Gorske  
Brigadier General Lawrence A. Haskins  
Brigadier General Peter C. Hinz  
Brigadier General David F. Irwin  
Brigadier General Theodore D. Johnson  
Brigadier General Harry E. Miller, Jr.  
Brigadier General Renwick L. Payne  
Brigadier General Joseph M. Richie  
Brigadier General James M. Robinson  
Brigadier General Stephen G. Sanders  
Brigadier General Michael C. Swezey  
Brigadier General Scott L. Thoele  
Brigadier General James H. Trogon III  
Brigadier General Charles W. Whittington

The following Army National Guard of the United States officers for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., sections 12203 and 12211:

*To be brigadier general*

Colonel John C. Harris, Jr.  
Colonel Gregory D. Mason  
Colonel Dana L. McDaniel

The following Army National Guard of the United States officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., sections 12203 and 12211:

*To be major general*

Brig. Gen. Timothy A. Reisch

The following Army National Guard of the United States officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., sections 12203 and 12211:

*To be major general*

Brig. Gen. Gregory A. Lusk

The following Army National Guard of the United States officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., sections 12203 and 12211:

*To be brigadier general*

Col. John DiNapoli

IN THE MARINE CORPS

The following named officers for appointment in the United States Marine Corps to the grade indicated under title 10, U.S.C., section 624:

*To be major general*

Brigadier General Steven W. Busby  
Brigadier General Michael G. Dana  
Brigadier General William M. Faulkner  
Brigadier General Walter L. Miller, Jr.  
Brigadier General Joseph L. Osterman  
Brigadier General Christopher S. Owens  
Brigadier General Gregg A. Sturdevant

IN THE NAVY

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be admiral*

Vice Adm. Bruce W. Clingan

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be vice admiral*

Rear Adm. John W. Miller

The following named officer for appointment in the United States Navy to the grade

indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be vice admiral*

Rear Adm. Philip H. Cullom

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be vice admiral*

Rear Adm. Charles W. Martoglio

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be vice admiral*

Vice Adm. William R. Burke

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE AIR FORCE

PN1089 AIR FORCE nominations (73) beginning KIRK W. ALBERTSON, and ending MARSHA M. YASUDA, which nominations were received by the Senate and appeared in the Congressional Record of November 1, 2011.

PN1090 AIR FORCE nominations (27) beginning DAVID M. BARNS, and ending ERIC L. WHITMORE, which nominations were received by the Senate and appeared in the Congressional Record of November 1, 2011.

PN1091 AIR FORCE nominations (113) beginning BARBARA B. ACEVEDO, and ending CHRISTY LYNN ZAHN, which nominations were received by the Senate and appeared in the Congressional Record of November 1, 2011.

PN1094 AIR FORCE nominations (39) beginning CLINTON E. ABELL, and ending STEPHEN P. WOLF, which nominations were received by the Senate and appeared in the Congressional Record of November 1, 2011.

PN1096 AIR FORCE nominations (4) beginning JOHN P. DITTER, and ending STEVEN E. WEST, which nominations were received by the Senate and appeared in the Congressional Record of November 1, 2011.

PN1252 AIR FORCE nominations (3) beginning ALLENA H. E. BURGE SMILEY, and ending JEROME M. TECLAW, which nominations were received by the Senate and appeared in the Congressional Record of January 31, 2012.

PN1253 AIR FORCE nominations (4) beginning LEON S. BARRINGER, and ending PAUL E. SMITH, which nominations were received by the Senate and appeared in the Congressional Record of January 31, 2012.

PN1254 AIR FORCE nominations (4) beginning MARK W. DUFF, and ending KEITH C. TANG, which nominations were received by the Senate and appeared in the Congressional Record of January 31, 2012.

PN1255 AIR FORCE nominations (5) beginning KENNETH D. CARR, and ending GREGORY S. STRINGER, which nominations were received by the Senate and appeared in the Congressional Record of January 31, 2012.

PN1256 AIR FORCE nominations (8) beginning PATRICK MICHAEL CARPENTER, and ending KEVIN N. SMITH, which nominations were received by the Senate and appeared in the Congressional Record of January 31, 2012.

PN1257 AIR FORCE nominations (12) beginning JOSEPH J. ALBANO, and ending RICHARD J. TIPTON, which nominations were received by the Senate and appeared in the Congressional Record of January 31, 2012.

PN1258 AIR FORCE nominations (16) beginning MICHAEL A. BATTLE, and ending

DAVID W. TOOKER, which nominations were received by the Senate and appeared in the Congressional Record of January 31, 2012.

PN1259 AIR FORCE nominations (17) beginning ANN E. ALEXANDER, and ending DAVID L. WELLS, which nominations were received by the Senate and appeared in the Congressional Record of January 31, 2012.

PN1260 AIR FORCE nominations (18) beginning BRENDA K. AMES, and ending JOSEPH A. WENZELL, which nominations were received by the Senate and appeared in the Congressional Record of January 31, 2012.

PN1261 AIR FORCE nominations (25) beginning JAVIER A. ABREU, and ending MARK A. WEISKIRCHER, which nominations were received by the Senate and appeared in the Congressional Record of January 31, 2012.

PN1262 AIR FORCE nominations (32) beginning CARL P. BHEND, and ending ALLYSON M. YAMAKI, which nominations were received by the Senate and appeared in the Congressional Record of January 31, 2012.

PN1263 AIR FORCE nominations (62) beginning BROADUS Z. ATKINS, and ending KENNETH C. Y. YU, which nominations were received by the Senate and appeared in the Congressional Record of January 31, 2012.

PN1264 AIR FORCE nominations (134) beginning STEVEN J. ACEVEDO, and ending HEATHER L. YUN, which nominations were received by the Senate and appeared in the Congressional Record of January 31, 2012.

PN1265 AIR FORCE nominations (197) beginning CARA A. AGHAJANIAN, and ending MICHAEL A. ZACCARDO, which nominations were received by the Senate and appeared in the Congressional Record of January 31, 2012.

PN1266 AIR FORCE nominations (279) beginning MUDASIR A. ABRO, and ending SHAUNA C. ZORICH, which nominations were received by the Senate and appeared in the Congressional Record of January 31, 2012.

PN1314 AIR FORCE nomination of Oscar Fonseca, which was received by the Senate and appeared in the Congressional Record of February 1, 2012.

PN1315 AIR FORCE nominations (2) beginning THOMAS G. DUFFETT, and ending THOMAS S. GARRIDO, which nominations were received by the Senate and appeared in the Congressional Record of February 1, 2012.

PN1316 AIR FORCE nomination of Michael W. Paulus, which was received by the Senate and appeared in the Congressional Record of February 1, 2012.

PN1317 AIR FORCE nomination of Benjamin G. Hughes, which was received by the Senate and appeared in the Congressional Record of February 1, 2012.

PN1318 AIR FORCE nominations (4) beginning MICHELLE S. FLORES, and ending MOLLY F. GEORGE, which nominations were received by the Senate and appeared in the Congressional Record of February 1, 2012.

PN1319 AIR FORCE nominations (12) beginning AMORY S. BALUCATING, and ending RAMOTHEA L. WEBSTER, which nominations were received by the Senate and appeared in the Congressional Record of February 1, 2012.

PN1320 AIR FORCE nominations (47) beginning DARRIN L. BARRITT, and ending KLIS T. ZANNIS, which nominations were received by the Senate and appeared in the Congressional Record of February 1, 2012.

IN THE ARMY

PN1267 ARMY nomination of Judith M. Dickert, which was received by the Senate and appeared in the Congressional Record of January 31, 2012.

PN1268 ARMY nomination of Hazel P. Haynes, which was received by the Senate

and appeared in the Congressional Record of January 31, 2012.

PN1269 ARMY nomination of Larissa G. Coon, which was received by the Senate and appeared in the Congressional Record of January 31, 2012.

PN1270 ARMY nominations (2) beginning STEFANIE D. LAST, and ending TIMOTHY R. TOLBERT, which nominations were received by the Senate and appeared in the Congressional Record of January 31, 2012.

PN1271 ARMY nominations (2) beginning JOSEPH T. NORA, and ending WILLIAM D. O'CONNELL, which nominations were received by the Senate and appeared in the Congressional Record of January 31, 2012.

PN1272 ARMY nominations (4) beginning MARK J. CAPPONE, and ending CHARLES D. ZIMMERMAN, which nominations were received by the Senate and appeared in the Congressional Record of January 31, 2012.

PN1273 ARMY nominations (4) beginning LANCE D. CLAWSON, and ending CHRISTOPHER L. ROZELLE, which nominations were received by the Senate and appeared in the Congressional Record of January 31, 2012.

PN1274 ARMY nominations (5) beginning MARK N. BROWN, and ending BRIAN C. TRAPANI, which nominations were received by the Senate and appeared in the Congressional Record of January 31, 2012.

PN1275 ARMY nominations (43) beginning SCOTT T. AYERS, and ending AMBER J. WILLIAMS, which nominations were received by the Senate and appeared in the Congressional Record of January 31, 2012.

PN1276 ARMY nominations (92) beginning RAYMOND R. ADAMS, III, and ending MAD-ELINE F. YANFORD, which nominations were received by the Senate and appeared in the Congressional Record of January 31, 2012.

PN1277 ARMY nominations (101) beginning STEPHEN K. AITON, and ending D005059, which nominations were received by the Senate and appeared in the Congressional Record of January 31, 2012.

PN1278 ARMY nominations (131) beginning JAMES H. ADAMS, III, and ending G001034, which nominations were received by the Senate and appeared in the Congressional Record of January 31, 2012.

PN1279 ARMY nominations (178) beginning JOSSLYN L. ABERLE, and ending D002143, which nominations were received by the Senate and appeared in the Congressional Record of January 31, 2012.

PN1280 ARMY nomination of Jorge M. Ruano-Rossil, which was received by the Senate and appeared in the Congressional Record of January 31, 2012.

PN1321 ARMY nomination of Scott W. Marlin, which was received by the Senate and appeared in the Congressional Record of February 1, 2012.

PN1322 ARMY nomination of Richard T. Mull, which was received by the Senate and appeared in the Congressional Record of February 1, 2012.

PN1323 ARMY nomination of Kelly E. Carlen, which was received by the Senate and appeared in the Congressional Record of February 1, 2012.

PN1324 ARMY nomination of David C. Hatch, which was received by the Senate and appeared in the Congressional Record of February 1, 2012.

PN1325 ARMY nominations (5) beginning PETER V. HUYNH, and ending MICHAEL J. RAKOW, which nominations were received by the Senate and appeared in the Congressional Record of February 1, 2012.

PN1326 ARMY nominations (3) beginning MICHAEL A. ABELL, and ending BRIAN F. WERTZLER, which nominations were received by the Senate and appeared in the Congressional Record of February 1, 2012.

PN1327 ARMY nominations (4) beginning CHARLES H. BUXTON and ending THOMAS M. VICKERS, JR., which nominations were received by the Senate and appeared in the Congressional Record of February 1, 2012.

PN1328 ARMY nominations (20) beginning THOMAS AUBLE, and ending CHRISTOPHER J. WOOD, which nominations were received by the Senate and appeared in the Congressional Record of February 1, 2012.

PN1329 ARMY nominations (74) beginning PAUL B. ALLEN, SR., and ending D011029, which nominations were received by the Senate and appeared in the Congressional Record of February 1, 2012.

PN1330 ARMY nominations (23) beginning KATIE BARRY, and ending KIMBERLY S. YORE, which nominations were received by the Senate and appeared in the Congressional Record of February 1, 2012.

PN1331 ARMY nominations (157) beginning CAROL H. ADAMS, and ending TOMASZ ZIELINSKI, which nominations were received by the Senate and appeared in the Congressional Record of February 1, 2012.

PN1332 ARMY nominations (177) beginning COREBRIANS A. ABRAHAM, and ending RENEE E. ZMIJSKI, which nominations were received by the Senate and appeared in the Congressional Record of February 1, 2012.

PN1365 ARMY nominations (4) beginning WALLACE S. BONDS, and ending JAMES H. TREECE, which nominations were received by the Senate and appeared in the Congressional Record of February 6, 2012.

PN1366 ARMY nominations (6) beginning DANIEL P. BORDELON, and ending MICHELLE M. ROSE, which nominations were received by the Senate and appeared in the Congressional Record of February 6, 2012.

#### IN THE FOREIGN SERVICE

PN1040-1 FOREIGN SERVICE nominations (41) beginning James A. Bever, and ending John Mark Winfield, which nominations were received by the Senate and appeared in the Congressional Record of October 12, 2011.

PN1111 FOREIGN SERVICE nominations (119) beginning Jason P. Jeffreys, and ending Courtney J. Woods, which nominations were received by the Senate and appeared in the Congressional Record of November 8, 2011.

PN1193 FOREIGN SERVICE nominations (2) beginning Ronald P. Verdonk, and ending Bruce J. Zanin, which nominations were received by the Senate and appeared in the Congressional Record of December 15, 2011.

#### IN THE MARINE CORPS

PN1281 MARINE CORPS nomination of Craig J. Shell, which was received by the Senate and appeared in the Congressional Record of January 31, 2012.

PN1283 MARINE CORPS nomination of Jeffrey S. Lacorte, which was received by the Senate and appeared in the Congressional Record of January 31, 2012.

PN1284 MARINE CORPS nomination of Russell B. Cromley, which was received by the Senate and appeared in the Congressional Record of January 31, 2012.

PN1285 MARINE CORPS nominations (2) beginning CHRISTOPHER P. DOUGLAS, and ending SHAWN A. HARRIS, which nominations were received by the Senate and appeared in the Congressional Record of January 31, 2012.

PN1286 MARINE CORPS nominations (2) beginning RICHARD CANEDO, and ending MATTHEW C. FRAZIER, which nominations were received by the Senate and appeared in the Congressional Record of January 31, 2012.

PN1287 MARINE CORPS nomination of Brian T. Thompson, which was received by the Senate and appeared in the Congressional Record of January 31, 2012.

PN1290 MARINE CORPS nomination of Brian J. Corris, which was received by the Senate and appeared in the Congressional Record of January 31, 2012.

PN1291 MARINE CORPS nomination of Kevin R. Williams, which was received by the Senate and appeared in the Congressional Record of January 31, 2012.

PN1292 MARINE CORPS nomination of Christopher J. Cox, which was received by the Senate and appeared in the Congressional Record of January 31, 2012.

PN1293 MARINE CORPS nominations (2) beginning LEONARD R. DOMITROVITS, and ending ROBERT A. PETERSEN, which nominations were received by the Senate and appeared in the Congressional Record of January 31, 2012.

PN1294 MARINE CORPS nominations (2) beginning JERRY R. COPLEY, and ending JAMES R. TOWNEY, which nominations were received by the Senate and appeared in the Congressional Record of January 31, 2012.

PN1296 MARINE CORPS nominations (4) beginning CHRISTOPHER J. ALBRIGHT, and ending CHRISTOPHER M. OSMUN, which nominations were received by the Senate and appeared in the Congressional Record of January 31, 2012.

PN1297 MARINE CORPS nominations (4) beginning WINSTON D. BOYD, II, and ending MOSES A. THOMAS, which nominations were received by the Senate and appeared in the Congressional Record of January 31, 2012.

PN1298 MARINE CORPS nominations (5) beginning STUART M. BARKER, and ending GREGORY E. WRUBLUSKI, which nominations were received by the Senate and appeared in the Congressional Record of January 31, 2012.

PN1299 MARINE CORPS nominations (6) beginning LADANIEL DAYZIE, and ending AGILEO J. YLANAN, JR., which nominations were received by the Senate and appeared in the Congressional Record of January 31, 2012.

PN1302 MARINE CORPS nominations (4) beginning ARLINGTON A. FINCH, JR., and ending KEVIN M. TSCHERCH, which nominations were received by the Senate and appeared in the Congressional Record of January 31, 2012.

PN1303 MARINE CORPS nomination of Timothy T. Rybinski, which was received by the Senate and appeared in the Congressional Record of January 31, 2012.

#### IN THE NAVY

PN1305 NAVY nomination of Willis E. Everett, which was received by the Senate and appeared in the Congressional Record of January 31, 2012.

PN1306 NAVY nomination of James T. Gilson, which was received by the Senate and appeared in the Congressional Record of January 31, 2012.

PN1307 NAVY nomination of Christopher A. Martino, which was received by the Senate and appeared in the Congressional Record of January 31, 2012.

PN1335 NAVY nominations (2) beginning KENNETH B. HOCKYCKO, and ending ADEJOSE R. MCKOY, which nominations were received by the Senate and appeared in the Congressional Record of February 1, 2012.

PN1336 NAVY nomination of John A. Lang, which was received by the Senate and appeared in the Congressional Record of February 1, 2012.

PN1337 NAVY nomination of David A. Czachorowski, which was received by the Senate and appeared in the Congressional Record of February 1, 2012.

PN1338 NAVY nomination of Kelly P. Coffey, which was received by the Senate and

appeared in the Congressional Record of February 1, 2012.

PN1340 NAVY nominations (43) beginning JASON A. ALTHOUSE, and ending JOSHUA L. WRIGHT, which nominations were received by the Senate and appeared in the Congressional Record of February 1, 2012.

PN1367 NAVY nomination of James Gilford, III, which was received by the Senate and appeared in the Congressional Record of February 6, 2012.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate resumes legislative session.

#### TRIBUTE TO ADMIRAL RICHARD CAMACHO

Mr. INOUE. Mr. President, I wish to say a few words of tribute today on behalf of my friend Admiral Dick Camacho, on the occasion of his retirement from the private sector.

Admiral Camacho's ties to Hawaii go back to the 1870s, when his family emigrated from the Azores and began working on coffee and plantations on the Big Island and Oahu, respectively. His father went through the machinist apprentice program at Pearl Harbor Naval Shipyard and was working there as a supervisor when it was attacked on December 7, 1941. Then eight-year-old Dick Camacho waited for two days before hearing from his father that he was okay and had been working around the clock putting out fires and assessing the damage from the attack.

Dick left the Islands to attend the University of New Mexico via the Naval Reserve Officers program where he graduated with a degree in Naval Engineering. He did post-graduate work in Electrical Engineering at the Naval Postgraduate School in Monterey and later completed Harvard Business School's Management Development Program.

Dick began his distinguished naval career as a junior officer on the USS *Requisite* in about as different a climate as he could find from Hawaii. The ship was deployed to the Arctic to engage on a mapping and survey mission. From there he was ordered to Submarine School in Connecticut.

After graduating from Submarine School, Dick returned to Hawaii to serve as an officer aboard the USS *Gudgeon*, which was home-ported at Pearl Harbor. Admiral Camacho distinguished himself as a leader and was promoted. The Navy also increased his responsibilities, sending him to Naval Sea Systems Command, Submarine Forces Atlantic, Supervisor of Shipbuilding, Pascagoula, Mare Island Naval Shipyard, and Charleston Naval Shipyard where he served as the Shipyard Commander.

In 1984, Dick became the first son of Hawaii to assume command of the Pearl Harbor Naval Shipyard. I had the pleasure of attending a welcome home

reception for Dick and his wife, Norma Jean, where over 1,000 people were present, including members of Hawaii's Congressional delegation and local government representatives. Dick was promoted to Rear Admiral in 1985 and given the additional responsibilities of serving as the Supervisor of Shipbuilding and Commander of Naval Sea Systems West until his retirement in 1986.

Embarking on his private sector career, Dick took a position with a San Diego-based company involved in the repair and modernization of Navy vessels. During this second career, which saw him open numerous shipyards around the country, Dick always stayed close to Hawaii. He returned many times and led the effort to revitalize the State's private sector ship repair business. He convinced his company to purchase a local shipyard and make significant investments in the facility through workforce training and equipment and an unparalleled commitment to workplace safety.

Both the public and private sector owe a great deal to Admiral Dick Camacho and his amazing wife, Norma Jean. Hawaii is a better place for the contributions of these two wonderful people. I wish them both fair winds and following seas.

#### RECOGNIZING THE FAMILY & CHILDREN'S PLACE

Mr. McCONNELL. Mr. President, I rise today to commend an organization in Kentucky that is working to build brighter futures for children by fighting the trauma of child abuse, violence and neglect. The Family & Children's Place, based in my hometown of Louisville, KY, has provided support to families and children in the region for over 127 years.

And I am pleased to report that they are taking a big step forward in being able to accomplish their mission by the construction of a new Child Advocacy Center. This center will be a model for charities with similar missions throughout the southeastern United States by including charity services, law enforcement, child protective services, and prosecutors all in one location.

The Family & Children's Place's mission is to strengthen the community through research-based services that heal the trauma of abuse, violence, and neglect and promote safe, healthy and stable families. They work to educate families to prevent abuse, respond to children on the very day that abuse comes to light, treat victims to reduce damage to their lives, and take steps to protect children from further maltreatment. They have created an array of services to prevent, end and treat these problems.

And they do all this thanks to the generous donations of many notable

Louisville area businesses and sponsors, and under the leadership of the group's president and chief executive officer Mr. Daniel Fox.

Mr. President, I wish to bestow the gratitude of this United States Senate on the Family & Children's Place of Louisville, KY, and wish them continued success for many years to come. Their success can only benefit the youngest and most vulnerable Kentuckians, who need their services the most.

Recently, the newspaper the Louisville Courier-Journal published an article highlighting the new Child Advocacy Center for the Family & Children's Place, and I ask unanimous consent to have printed in the RECORD that particular article.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Courier-Journal, Oct. 25, 2011]

#### FAMILY & CHILDREN'S PLACE HAS MONEY FOR BIG CENTER

(By Sheldon S. Shafer)

Family & Children's Place, a charity dedicated to helping sexually exploited children, has raised the money it needs to proceed with plans for a Child Advocacy Center at the old Salvation Army site near Fifth and Kentucky streets.

The Louisville Metro Police Department's Crimes Against Children Unit and prosecutors from the Jefferson County commonwealth's attorney's office also will have representatives at the center, envisioned as the city's first comprehensive site to help young victims of abuse or violence.

The center "will be a tremendous addition to the neighborhood, a top-notch project, and it will be great for the kids who come through here," said Daniel Fox, president and chief executive officer of the Family & Children's Place.

The organization plans to move its existing Child Advocacy Center from Fourth Street near Muhammad Ali Boulevard to a site near the Old Louisville, Limerick and South Broadway neighborhoods.

Police investigators, prosecutors and contract pediatricians usually have to come to the current office, which is small, to interview or help victims. At times, the arrangement results in multiple interviews and extra stress for the children, Fox said.

Consolidating services, including those of Family & Children's Place's counselors, at the Kentucky Street site should 14 mean help can often be provided more quickly, he said.

"The idea is to get everyone together at one location," Fox said. "We hope to make it a national model for dealing with child sexual-abuse cases."

The agency bought the property at 512 W. Kentucky St. from the Salvation Army in 2009 for \$450,000. The Salvation Army left the site, which has a long history for use as a hospital, rehab facility and command center, when it purchased the old Male High School building four years ago.

Fox said plans call for gutting and refurbishing the 18,000-square-foot structure and building several additions, increasing the space to 22,000 square feet.

The agency hopes to break ground by March and occupy the renovated site by the end of 2012. The project will cost about \$4 million.

In addition, it is spending more than \$700,000 to buy a vacant tract southeast of Fifth and Kentucky streets, behind the former Salvation Army property, from the National Society of the Sons of the American Revolution.

The Family & Children's Place has worked out a land swap with the commission that runs Memorial Auditorium. The commission will give the children's agency a parcel (now an auditorium parking lot) on the corner of Fifth and Kentucky streets to be used for one of its additions.

The children's agency, in turn, will use part of the land it is buying from the Sons of the Revolution to develop parking for the auditorium.

Longer-range plans call for the Family & Children's Place to use most of the rest of the land it is buying from the Sons of the American Revolution to build a 10,000-square-foot family-support center.

The timing of the family center is uncertain, Fox said, but the plan is to move the children's agency's main offices and staff from 2303 River Road to that location. The family center's cost is estimated at more than \$2 million, much of which is yet to be raised.

So far the children's agency's Building Brighter Futures campaign, which began 2008, has about \$7.3 million in donations and pledges, including \$2 million from Kosair Charities and \$1 million from the James Graham Brown Foundation. The eventual target is \$11 million, including money for operations and endowment.

Of the sum raised to date, nearly \$5 million has been earmarked for the Child Advocacy Center project, including land acquisition, and just over \$2 million for agency operations. Most of the balance has been budgeted for the endowment.

The children's agency plans to borrow against the pledges to get enough construction money to start work, Fox said.

He said the agency has tried to keep neighbors apprised of the plans as they have unfolded, including periodic briefings.

Herb Fink, an Old Louisville neighborhood leader, said the neighbors have been working with the children's agency for several years. He said they opposed an initial plan, since shelved, for the agency to use Ben Washer Park, on the north side of Kentucky at Fifth, for part of its Project.

Renovation of the old Salvation Army site "will improve the neighborhood, save an old vacant building and cleanup an eyesore. We want to be very supportive of this (children's services) program that is of national significance," Fink said.

Family & Children's Place provides direct services to about 1,000 exploited children annually.

#### RECOGNIZING F.S. VANHOOSE & COMPANY

Mr. McCONNELL. Mr. President, I rise today to pay tribute to one of the most vital components of the American economy, the family-owned business. For over a century, Kentucky's own F.S. VanHoose & Company has persevered throughout the struggles that many small businesses face, and they are still on top. The company has a rich history of serving the Kentucky communities of Paintsville, Prestonsburg, Louisa, and the surrounding area. Although they have



evolved and changed throughout the years to keep up with their competitors, it is their dedication to the customer and to the employee that still lies at the heart of the organization. And that is something that has never changed—not in the VanHoose family, and not in the VanHoose Company.

Frew S. VanHoose founded the lumber company in 1910. Frew's son Howard VanHoose, who worked briefly for the company after studying at the Kentucky Military Institute, would answer the call to serve his country in 1943. Howard VanHoose was killed in action in Germany in April of 1945, his son Joe Howard VanHoose aged only four at the time.

Frew VanHoose went on to spend 54 years running the company as president and CEO, until he could not manage the business anymore due to his failing health. With the founder of the company stepping down, the course of the company would dramatically change. After a brief 2-week interlude, in 1964, Frew S. VanHoose's grandson Joe Howard VanHoose, then just 23 years old, became the new president of F.S. VanHoose & Company. In over a century of business, F.S. VanHoose & Company has had only two presidents in its entirety.

Joe was perhaps inexperienced and not entirely ready to handle the management of his family's company, which under his grandfather, had grown to become a large, multi-faceted operation. In his own words, Joe described himself as "23 going on 18."

"I thought to myself, Joe, it's either sink or swim. I swam," Joe said.

Today, the company's sales rate is 30 times greater than it was in the mid-1960s. Joe has spent 58 years as the company's president and CEO. The business is financially stable and annually injects great amounts of out-of-county and out-of-state money into the local economy. VanHoose & Company has been listed by various national trade magazines in the top 400 businesses several times.

The secret to this small-town lumber company's success is simple. By treating employees well and keeping turnover rates low, the employees are able and ready to stay at VanHoose & Company for the long haul.

Next, Joe relies heavily on the leadership of his fellow family members throughout the company. He believes it is up to them to carry on the business in the future.

Also, every business needs to be able to change with the times—and sometimes even before the times. Joe remembers VanHoose & Company using computers long before they were the norm. Now he can hardly imagine going a day without them.

Last, but certainly not least, is pride. Each individual involved with the organization cares deeply about the well-being of the company, and reveals it in

their day-to-day display of upstanding character and customer service.

It is my hope that today, my fellow Senators will join me in recognizing the contribution that this company has made and is continuing to make in the Commonwealth of Kentucky. Success stories like that of F.S. VanHoose & Company resonate as examples of what hard work, perseverance, and dedication can lead to in our great country.

There was an article recently printed in the publication "Discover the Power of Southeast Kentucky," published by the Southeast Kentucky Chamber of Commerce in the summer of 2011. I ask unanimous consent that it appear in the RECORD.

There being no objection, the article was ordered to appear in the RECORD, as follows:

[From Discover the Power of Southeast Kentucky, Summer 2011]

#### VANHOOSE LUMBER SINCE 1910

When you meet Joe Howard VanHoose, president and CEO of F.S. VanHoose & Company, you notice first the smile, contagious laughter and friendly demeanor. Under all this congeniality he's a very good businessman who guided the family business from financial straits in the mid-1960s to the celebration of its 101st anniversary, making the company one of the oldest continuing retail businesses in the tri-state region. Joe VanHoose has seen the company through the worst of times and the best of times, with more good times than bad.

F.S. VanHoose & Company was founded in 1910 by Frew S. VanHoose who ran the business until he was into his 80s. "Technically, we have had only two presidents of the company in the 101 years of operation," Joe says with a smile. "My grandfather's failing health in the 1960s changed our course. In 1964 I was nominated as president of our company. I was 23 going on 18. Oh, we had an interim president for two weeks. Frew gave one of his cronies the position with no money changing hands. The man was to get his with what was to come by turning the business around. A 'falling out' over something said to him got him to throw down his keys and go home.

"At that time we had a longtime secretary/treasurer of the company named McKinley Baldwin, also a stockholder in the business, who nominated me as president. I'm pretty sure he was looking out for his own interest as well as the company's when he did that. He knew I was so green and inexperienced I would do whatever he said. I thought to myself, 'Joe, It's either sink or swim.' I swam!" Then he added with a grin, "More out of fear than intelligence."

Joe came from good stock. His father Howard VanHoose had graduated from Paintsville High School in 1935 and attended Kentucky Military Institute before joining his father in the family lumber business as manager of the Louisa operation. He was very active in civic affairs: a member of the Louisa City Council, vice president of the Rotary Club, secretary/treasurer of the Business Men's Club and a member of the I.O.O.F. This was all interrupted in 1943 by a call to service for WWII. Howard VanHoose was killed in action in Germany in April 1945. Joe was but four years old.

When Joe assumed the leadership role, F.S. VanHoose & Company had a hardware store, lumber yard and wholesale department in

Paintsville, a facility in Prestonsburg and a lumber yard in Louisa. To get the company back on solid ground, Joe said he shored up some things and put good practices into place. "We consolidated our Paintsville operations and the Louisa yard."

Joe attributes much of the success of the company to hiring and retaining excellent employees. "We give employees a good benefits package. This is one reason we have so many long-time employees. That, plus we treat them well. Low turnover means a lot to us as well as to our customer base—friendly, familiar faces. Besides our regular career employees, we have family members who have been here a long time. My cousin Scott Craft retired from here about six years ago. He was vice president. His brother Mike retired about two months ago. He was manager of our Prestonsburg operation as well as secretary/treasurer. I have a son, Harry, in the business now, and hopefully the family will carry the business on in the future."

Another crucial move on VanHoose's part was changing with and sometimes before the times. His company utilized computers before it became the norm. "It's so common now," he said "that I wonder how companies ever operated without them."

At one point the growing trend of "chain yards" started getting close to what was considered F.S. VanHoose & Company's market area, which was a 75-to-100-mile radius reaching into three states. "They were getting into Huntington, around the Ashland Oil plant near Catlettsburg and in Ironton, Ohio. They were shifting into our market, and I knew we had to do something. I knew it would be just a matter of time before they were in our face.

"The older way of doing business was by operating off certain margins. We went through a gradual evolution from margin to volume."

Over the years some of the large chains have moved on up the Big Sandy Valley into VanHoose's backdoor. Some stayed around a little while, others longer. "We have taken some hard shots over the years, but we have managed. We have two large sales each year—spring and fall. We promote these sales in 25 newspapers with full-page ads. We use 10 to 12 radio stations and two TV stations, also. We have no outside sales, and this gets our name out there. It brings people in from other markets. We've been doing these sales since the early '70s."

Joe said new facilities are planned for the Prestonsburg store. "Adjacent to where we are now, we are renovating a large former Betsy Ross warehouse and plan a move into it soon. Also in Prestonsburg, we have a new manager since Mike retired. Calhoun Salyer from Paintsville had worked several years for us while going to college . . . probably 25 years ago. After he graduated from UK, he became secretary/treasurer for us and stayed around about five years before going elsewhere. He is back. He had been in management and sales and has brought that expertise with him. He is a good addition.

"We are financially stable now. Sales are 30 times what they were in the mid-1960s. We bring a lot of out-of-county and out-of-state money into this area."

Joe said that higher volume has required expansion of equipment and personnel to handle it. "Today, we have a fleet of a dozen trucks and a maintenance department to keep them running well, a boom truck to handle drywall, 10 forklifts, and half a dozen piggyback trucks with forklifts hanging off the back for special deliveries . . . all to serve our customers. Our total personnel



varies between 37 and 50, depending on the economy."

Another added value that has most certainly contributed to the company's success is also a source of pride. "The amount of expertise that we have to offer to the customer that is free is phenomenal," Joe said. "If a professional contractor wants to know something, he or she comes to us."

"In the 1980s and early '90s, national trade magazines had our little company listed in the top 400 several years in a row. No little feat considering the large amount of lumber companies in this country and their sizes."

Joe grinned, "Can you imagine continuing 101 years in the retail business and having only two presidents of the company during that time?"

When asked how much longer he plans to work, he laughs and answers, "There was a man in Lewisburg, West Virginia, who ran his lumber company and showed up every day until he passed away at 103. I'd like to break his record."

#### REMEMBERING WHITNEY ELIZABETH HOUSTON

Mr. MENENDEZ. Mr. President, today I wish to honor the life of Whitney Elizabeth Houston who passed away on Saturday, February 11, 2012. Whitney Houston was a shining star born in the great city of Newark, NJ, whose life will be celebrated locally and globally by her family and friends.

Whitney followed in the footsteps of her mother and began performing as a soloist in the junior gospel choir at the New Hope Baptist Church in Newark, where her first solo performance was "Guide Me, O Thou Great Jehovah." Later she became the first woman of color to grace the cover of Seventeen Magazine and was also featured in layouts in the pages of Glamour, Cosmopolitan, and Young Miss.

In 1983, Clive Davis, head of Arista Records, helped start Whitney's recording career, and she went on to begin her meteoric rise to fame, with Rolling Stone praising her as "one of the most exciting new voices in years," while the New York Times called her debut, self-titled album "an impressive, musically conservative showcase for an exceptional vocal talent."

In 1986, a year after the initial release of her debut album, Whitney topped the Billboard 200 albums chart and stayed there for 14 weeks with the final single, "Greatest Love of All," which became one of her biggest hits. The album became the first album by a female to yield three No. 1 hits.

Whitney Houston is recognized as the most awarded female musical artist of all time, having received 2 Emmy Awards, 6 Grammy Awards, 22 American Music Awards, and 30 Billboard Music Awards. She also holds numerous other distinctions, including the best selling single by a female artist in music history, first solo act to sell more than 1,000,000 copies of an album within a 1-week period, the only artist to chart 7 consecutive No. 1 Billboard Hot 100 hits. She also had the best sell-

ing movie soundtrack of all time, "The Bodyguard."

Beyond her professional career, Whitney Houston demonstrated her commitment to humanitarianism as a supporter of Nelson Mandela and the antiapartheid movement, refusing to do business with agencies that did business with the then-apartheid South Africa. She also founded the Whitney Houston Foundation for Children, an organization that cared for the homeless and children with cancer and AIDS. And during the 2009-2010 academic school year, the Whitney E. Houston Academy of Creative and Performing Arts became a thriving, arts-focused institution that provides expanded educational opportunities for the student body and surrounding community.

There are many reasons why America will never forget Whitney Houston, but one of the most memorable was her performance of "The Star Spangled Banner" at Super Bowl XXV on January 27, 1991. That performance was so powerful that it was later released as a commercial single and the video of her performance reached the top 20 on the Billboard Hot 100, making her the only person to turn the national anthem into a pop hit of that magnitude.

Mr. President, it is with immense sadness but great honor that I recognize, commend, and celebrate the life and legacy of Whitney E. Houston, a star of New Jersey who went on to shine bright across the globe. I extend my deepest condolences to Whitney's mother Cissy Houston, daughter Bobbi Kristina, her other family members and friends, and to her millions of fans.

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Neiman, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

#### ECONOMIC REPORT OF THE PRESIDENT DATED FEBRUARY 2012 WITH THE ANNUAL REPORT OF THE COUNCIL OF ECONOMIC ADVISERS FOR 2012—PM 41

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Joint Economic Committee:

*To the Congress of the United States:*

One of the fundamental tenets of the American economy has been that if you work hard, you can do well enough to raise a family, own a home, send your kids to college, and put a little money away for retirement. That's the promise of America.

The defining issue of our time is how to keep that promise alive. We can either settle for a country where a shrinking number of people do very well while a growing number of Americans barely get by, or we can restore an economy where everyone gets a fair shot, everyone does their fair share, and everyone plays by the same set of rules.

Long before the recession that began in December 2007, job growth was insufficient for our growing population. Manufacturing jobs were leaving our shores. Technology made businesses more efficient, but also made some jobs obsolete. The few at the top saw their incomes rise like never before, but most hardworking Americans struggled with costs that were growing, paychecks that were not, and personal debt that kept piling up.

In 2008, the house of cards collapsed. We learned that mortgages had been sold to people who could not afford them or did not understand them. Banks had made huge bets and doled out big bonuses with other people's money. Regulators had looked the other way, or did not have the authority to stop the bad behavior. It was wrong. It was irresponsible. And it plunged our economy into a crisis that put millions out of work, saddled us with more debt, and left innocent, hardworking Americans holding the bag.

In the year before I took office, we lost nearly 5 million private sector jobs. And we lost almost another 4 million before our policies were in full effect.

Those are the facts. But so are these: In the last 23 months, businesses have created 3.7 million jobs. Last year, they created the most jobs since 2005. American manufacturers are hiring again, creating jobs for the first time since the late 1990s. And we have put in place new rules to hold Wall Street accountable, so a crisis like this never happens again.

Some, however, still advocate going back to the same economic policies that stacked the deck against middle-class Americans for way too many years. And their philosophy is simple: We are better off when everybody is left to fend for themselves and play by their own rules.

That philosophy is wrong. The more Americans who succeed, the more America succeeds. These are not Democratic values or Republican values. They are American values. And we have to reclaim them.

This is a make-or-break moment for the middle class, and for all those who

are working to get into the middle class. It is a moment when we can go back to the ways of the past—to growing deficits, stagnant incomes and job growth, declining opportunity, and rising inequality—or we can make a break from the past. We can build an economy by restoring our greatest strengths: American manufacturing, American energy, skills for American workers, and a renewal of American values—an economy built to last.

When it comes to the deficit, we have already agreed to more than \$2 trillion in cuts and savings. But we need to do more, and that means making choices. Right now, we are poised to spend nearly \$1 trillion more on what was supposed to be a temporary tax break for the wealthiest 2 percent of Americans. Right now, because of loopholes and shelters in the tax code, a quarter of all millionaires pay lower tax rates than millions of middle-class households. I believe that tax reform should follow the Buffett Rule. If you make more than \$1 million a year, you should not pay less than 30 percent in taxes. In fact, if you are earning a million dollars a year, you should not get special tax subsidies or deductions. On the other hand, if you make under \$250,000 a year, like 98 percent of American families do, your taxes should not go up.

Americans know that this generation's success is only possible because past generations felt a responsibility to each other, and to the future of their country. Now it is our turn. Now it falls to us to live up to that same sense of shared responsibility.

This year's *Economic Report of the President*, prepared by the Council of Economic Advisers, describes the emergency rescue measures taken to end the recession and support the ongoing recovery, and lays out a blueprint for an economy built to last. It explains how we are restoring our strengths as a Nation—our innovative economy, our strong manufacturing base, and our workers—by investing in the technologies of the future, in companies that create jobs here in America, and in education and training programs that will prepare our workers for the jobs of tomorrow. We must ensure that these investments benefit everyone and increase opportunity for all Americans or we risk threatening one of the features that defines us as a Nation—that America is a country in which anyone can do well, regardless of how they start out.

No one built this country on their own. This Nation is great because we built it together. If we remember that truth today, join together in common purpose, and maintain our common resolve, then I am as confident as ever that our economic future is hopeful and strong.

BARACK OBAMA.  
THE WHITE HOUSE, February 2012.

#### MESSAGE FROM THE HOUSE

At 12:10 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3630) to provide incentives for the creation of jobs, and for other purposes.

#### MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 2118. A bill to remove unelected, unaccountable bureaucrats from seniors' personal health decisions by repealing the Independent Payment Advisory Board.

#### EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of nominations were submitted:

By Mr. LEVIN for the Committee on Armed Services.

\*Mark William Lippert, of Ohio, to be an Assistant Secretary of Defense.

\*Navy nomination of Adm. Samuel J. Locklear III, to be Admiral.

Air Force nomination of Col. Michael A. Meyer, to be Brigadier General.

Air Force nomination of Lt. Gen. Michael J. Basla, to be Lieutenant General.

Air Force nomination of Maj. Gen. John E. Hyten, to be Lieutenant General.

Air Force nomination of Col. Sean L. Murphy, to be Brigadier General.

Air Force nomination of Col. Charles E. Potter, to be Brigadier General.

Air Force nomination of Col. Harris J. Kline, to be Brigadier General.

Air Force nomination of Col. Richard M. Erikson, to be Brigadier General.

Air Force nomination of Brig. Gen. Robert G. Kenny, to be Major General.

Air Force nominations beginning with Brigadier General Gary M. Batinich and ending with Brigadier General George F. Williams, which nominations were received by the Senate and appeared in the Congressional Record on December 15, 2011.

Air Force nominations beginning with Colonel Jeffrey K. Barnson and ending with Colonel James P. Scanlan, which nominations were received by the Senate and appeared in the Congressional Record on December 16, 2011. (minus 1 nominee: Colonel Stephen J. Linsenmeyer, Jr.)

Air Force nomination of Maj. Gen. Craig A. Franklin, to be Lieutenant General.

Air Force nomination of Lt. Gen. Stephen P. Mueller, to be Lieutenant General.

Air Force nomination of Col. Robert T. Brooks, Jr., to be Brigadier General.

Army nomination of Col. Susan A. Davidson, to be Brigadier General.

Army nominations beginning with Colonel Jon S. Lehr and ending with Colonel Burdett K. Thompson, which nominations were received by the Senate and appeared in the Congressional Record on June 16, 2011.

Army nomination of Col. Wendul G. Hagler II, to be Brigadier General.

Army nomination of Maj. Gen. Daniel B. Allyn, to be Lieutenant General.

Army nomination of Brig. Gen. Leslie A. Purser, to be Major General.

Army nomination of Col. Mary E. Link, to be Brigadier General.

Army nomination of Col. Richard C. Gross, to be Brigadier General, Judge Advocate General's Corps.

Army nomination of Lt. Gen. Curtis M. Scaparrotti, to be Lieutenant General.

Army nominations beginning with Colonel Patricia M. Anslow and ending with Colonel Michael R. Zerbonia, which nominations were received by the Senate and appeared in the Congressional Record on February 6, 2012.

Army nominations beginning with Brigadier General Robbie L. Asher and ending with Brigadier General Charles W. Whittington, Jr., which nominations were received by the Senate and appeared in the Congressional Record on February 6, 2012.

Army nominations beginning with Colonel John C. Harris, Jr., and ending with Colonel Dana L. McDaniel, which nominations were received by the Senate and appeared in the Congressional Record on February 6, 2012.

Army nomination of Brig. Gen. Timothy A. Reisch, to be Major General.

Army nomination of Brig. Gen. Gregory A. Lusk, to be Major General.

Army nomination of Col. John DiNapoli, to be Brigadier General.

Marine Corps nominations beginning with Brigadier General Steven W. Busby and ending with Brigadier General Gregg A. Sturdevant, which nominations were received by the Senate and appeared in the Congressional Record on January 31, 2012.

Navy nomination of Vice Adm. Bruce W. Clingan, to be Admiral.

Navy nomination of Rear Adm. John W. Miller, to be Vice Admiral.

Navy nomination of Rear Adm. Philip H. Cullom, to be Vice Admiral.

Navy nomination of Rear Adm. Charles W. Martoglio, to be Vice Admiral.

Navy nomination of Vice Adm. William R. Burke, to be Vice Admiral.

Mr. LEVIN. Mr. President, for the Committee on Armed Services I report favorably the following nomination lists which were printed in the RECORD on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Air Force nominations beginning with Kirk W. Albertson and ending with Marsha M. Yasuda, which nominations were received by the Senate and appeared in the Congressional Record on November 1, 2011.

Air Force nominations beginning with David M. Barns and ending with Eric L. Whitmore, which nominations were received by the Senate and appeared in the Congressional Record on November 1, 2011.

Air Force nominations beginning with Barbara B. Acevedo and ending with Christy Lynn Zahn, which nominations were received by the Senate and appeared in the Congressional Record on November 1, 2011.

Air Force nominations beginning with Clinton E. Abell and ending with Stephen P. Wolf, which nominations were received by the Senate and appeared in the Congressional Record on November 1, 2011.

Air Force nominations beginning with John P. Ditter and ending with Steven E. West, which nominations were received by the Senate and appeared in the Congressional Record on November 1, 2011.

Air Force nominations beginning with Allena H. E. Burge Smiley and ending with Jerome M. Teclaw, which nominations were received by the Senate and appeared in the Congressional Record on January 31, 2012.

Air Force nominations beginning with Leon S. Barringer and ending with Paul E. Smith, which nominations were received by the Senate and appeared in the Congressional Record on January 31, 2012.

Air Force nominations beginning with Mark W. Duff and ending with Keith C. Tang, which nominations were received by the Senate and appeared in the Congressional Record on January 31, 2012.

Air Force nominations beginning with Kenneth D. Carr and ending with Gregory S. Stringer, which nominations were received by the Senate and appeared in the Congressional Record on January 31, 2012.

Air Force nominations beginning with Patrick Michael Carpenter and ending with Kevin N. Smith, which nominations were received by the Senate and appeared in the Congressional Record on January 31, 2012.

Air Force nominations beginning with Joseph J. Albano and ending with Richard J. Tipton, which nominations were received by the Senate and appeared in the Congressional Record on January 31, 2012.

Air Force nominations beginning with Michael A. Battle and ending with David W. Tooker, which nominations were received by the Senate and appeared in the Congressional Record on January 31, 2012.

Air Force nominations beginning with Ann E. Alexander and ending with David L. Wells, which nominations were received by the Senate and appeared in the Congressional Record on January 31, 2012.

Air Force nominations beginning with Brenda K. Ames and ending with Joseph A. Wenzell, which nominations were received by the Senate and appeared in the Congressional Record on January 31, 2012.

Air Force nominations beginning with Javier A. Abreu and ending with Mark A. Weiskircher, which nominations were received by the Senate and appeared in the Congressional Record on January 31, 2012.

Air Force nominations beginning with Carl P. Bhend and ending with Allyson M. Yamaki, which nominations were received by the Senate and appeared in the Congressional Record on January 31, 2012.

Air Force nominations beginning with Broadus Z. Atkins and ending with Kenneth C. Y. Yu, which nominations were received by the Senate and appeared in the Congressional Record on January 31, 2012.

Air Force nominations beginning with Steven J. Acevedo and ending with Heather L. Yun, which nominations were received by the Senate and appeared in the Congressional Record on January 31, 2012.

Air Force nominations beginning with Cara A. Aghajanian and ending with Michael A. Zaccardo, which nominations were received by the Senate and appeared in the Congressional Record on January 31, 2012.

Air Force nominations beginning with Mudasir A. Abro and ending with Shauna C. Zorich, which nominations were received by the Senate and appeared in the Congressional Record on January 31, 2012.

Air Force nomination of Oscar Fonseca, to be Major.

Air Force nominations beginning with Thomas G. Duffett and ending with Thomas S. Garrido, which nominations were received by the Senate and appeared in the Congressional Record on February 1, 2012.

Air Force nomination of Michael W. Paulus, to be Major.

Air Force nomination of Benjamin G. Hughes, to be Major.

Air Force nominations beginning with Michelle S. Flores and ending with Molly F. George, which nominations were received by the Senate and appeared in the Congressional Record on February 1, 2012.

Air Force nominations beginning with Amory S. Balucating and ending with Ramothea L. Webster, which nominations were received by the Senate and appeared in the Congressional Record on February 1, 2012.

Air Force nominations beginning with Darrin L. Barritt and ending with Klis T. Zannis, which nominations were received by the Senate and appeared in the Congressional Record on February 1, 2012.

Army nomination of Judith M. Dickert, to be Colonel.

Army nomination of Hazel P. Haynes, to be Colonel.

Army nomination of Larissa G. Coon, to be Major.

Army nominations beginning with Stefanie D. Last and ending with Timothy R. Tolbert, which nominations were received by the Senate and appeared in the Congressional Record on January 31, 2012.

Army nominations beginning with Joseph T. Nora and ending with William D. O'Connell, which nominations were received by the Senate and appeared in the Congressional Record on January 31, 2012.

Army nominations beginning with Mark J. Cappone and ending with Charles D. Zimmerman, which nominations were received by the Senate and appeared in the Congressional Record on January 31, 2012.

Army nominations beginning with Lance D. Clawson and ending with Christopher L. Rozelle, which nominations were received by the Senate and appeared in the Congressional Record on January 31, 2012.

Army nominations beginning with Mark N. Brown and ending with Brian C. Trapani, which nominations were received by the Senate and appeared in the Congressional Record on January 31, 2012.

Army nominations beginning with Scott T. Ayers and ending with Amber J. Williams, which nominations were received by the Senate and appeared in the Congressional Record on January 31, 2012.

Army nominations beginning with Raymond R. Adams III and ending with Madeline F. Yanford, which nominations were received by the Senate and appeared in the Congressional Record on January 31, 2012.

Army nominations beginning with Stephen K. Aiton and ending with D005059, which nominations were received by the Senate and appeared in the Congressional Record on January 31, 2012.

Army nominations beginning with James H. Adams III and ending with G001034, which nominations were received by the Senate and appeared in the Congressional Record on January 31, 2012.

Army nominations beginning with Josslyn L. Aberle and ending with D002143, which nominations were received by the Senate and appeared in the Congressional Record on January 31, 2012.

Army nomination of Jorge M. Ruano-Rossil, to be Lieutenant Colonel.

Army nomination of Scott W. Marlin, to be Colonel.

Army nomination of Richard T. Mull, to be Lieutenant Colonel.

Army nomination of Kelly E. Carlen, to be Major.

Army nomination of David C. Hatch, to be Major.

Army nominations beginning with Peter V. Huynh and ending with Michael J. Rakow, which nominations were received by the Senate and appeared in the Congressional Record on February 1, 2012.

Army nominations beginning with Michael A. Abell and ending with Brian F. Wertzler, which nominations were received by the Senate and appeared in the Congressional Record on February 1, 2012.

Army nominations beginning with Charles H. Buxton and ending with Thomas M. Vickers, Jr., which nominations were received by the Senate and appeared in the Congressional Record on February 1, 2012.

Army nominations beginning with Thomas Auble and ending with Christopher J. Wood, which nominations were received by the Senate and appeared in the Congressional Record on February 1, 2012.

Army nominations beginning with Paul B. Allen, Sr. and ending with D011029, which nominations were received by the Senate and appeared in the Congressional Record on February 1, 2012.

Army nominations beginning with Katie Barry and ending with Kimberly S. Yore, which nominations were received by the Senate and appeared in the Congressional Record on February 1, 2012.

Army nominations beginning with Carol H. Adams and ending with Tomasz Zielinski, which nominations were received by the Senate and appeared in the Congressional Record on February 1, 2012.

Army nominations beginning with Corebrians A. Abraham and ending with Renee E. Zmijski, which nominations were received by the Senate and appeared in the Congressional Record on February 1, 2012.

Army nominations beginning with Wallace S. Bonds and ending with James H. Treece, which nominations were received by the Senate and appeared in the Congressional Record on February 6, 2012.

Army nominations beginning with Daniel P. Bordelon and ending with Michelle M. Rose, which nominations were received by the Senate and appeared in the Congressional Record on February 6, 2012.

Marine Corps nomination of Craig J. Shell, to be Major.

Marine Corps nomination of Jeffrey S. Lacorte, to be Major.

Marine Corps nomination of Russell B. Cromley, to be Major.

Marine Corps nominations beginning with Christopher P. Douglas and ending with Shawn A. Harris, which nominations were received by the Senate and appeared in the Congressional Record on January 31, 2012.

Marine Corps nominations beginning with Richard Canedo and ending with Matthew C. Frazier, which nominations were received by the Senate and appeared in the Congressional Record on January 31, 2012.

Marine Corps nomination of Brian T. Thompson, to be Lieutenant Colonel.

Marine Corps nomination of Brian J. Corris, to be Lieutenant Colonel.

Marine Corps nomination of Kevin R. Williams, to be Lieutenant Colonel.

Marine Corps nomination of Christopher J. Cox, to be Lieutenant Colonel.

Marine Corps nominations beginning with Leonard R. Domitrovits and ending with Robert A. Petersen, which nominations were received by the Senate and appeared in the Congressional Record on January 31, 2012.

Marine Corps nominations beginning with Jerry R. Copley and ending with James R. Towney, which nominations were received by the Senate and appeared in the Congressional Record on January 31, 2012.

Marine Corps nominations beginning with Christopher J. Albright and ending with Christopher M. Osmun, which nominations were received by the Senate and appeared in the Congressional Record on January 31, 2012.

Marine Corps nominations beginning with Winston D. Boyd II and ending with Moses A. Thomas, which nominations were received by the Senate and appeared in the Congressional Record on January 31, 2012.

Marine Corps nominations beginning with Stuart M. Barker and ending with Gregory E. Wrublowski, which nominations were received by the Senate and appeared in the Congressional Record on January 31, 2012.

Marine Corps nominations beginning with Ladaniel Dayzie and ending with Agileo J. Ylanan, Jr., which nominations were received by the Senate and appeared in the Congressional Record on January 31, 2012.

Marine Corps nominations beginning with Arlington A. Finch, Jr. and ending with Kevin M. Tscherch, which nominations were received by the Senate and appeared in the Congressional Record on January 31, 2012.

Marine Corps nomination of Timothy T. Rybinski, to be Lieutenant Colonel.

Navy nomination of Willis E. Everett, to be Lieutenant Commander.

Navy nomination of James T. Gilson, to be Lieutenant Commander.

Navy nomination of Christopher A. Martino, to be Commander.

Navy nominations beginning with Kenneth B. Hockycko and ending with Adejose R. Mckoy, which nominations were received by the Senate and appeared in the Congressional Record on February 1, 2012.

Navy nomination of John A. Lang, to be Lieutenant Commander.

Navy nomination of David A. Czachorowski, to be Lieutenant Commander.

Navy nomination of Kelly P. Coffey, to be Commander.

Navy nominations beginning with Jason A. Althouse and ending with Joshua L. Wright, which nominations were received by the Senate and appeared in the Congressional Record on February 1, 2012.

Navy nomination of James Gilford III, to be Lieutenant Commander.

\*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. MENENDEZ (for himself, Mr. BINGAMAN, Mr. CONRAD, Ms. SNOWE, Mr. WHITEHOUSE, and Mr. LAUTENBERG):

S. 2123. A bill to amend title V of the Social Security Act to extend funding for family-to-family health information centers to help families of children with disabilities or special health care needs make informed choices about health care for their children; to the Committee on Finance.

By Mr. MENENDEZ (for himself and Mr. LAUTENBERG):

S. 2124. A bill to amend title III of the Public Health Service Act to authorize and support the creation of cardiomyopathy education, awareness, and risk assessment materials and resources by the Secretary of Health and Human Services through the Centers for Disease Control and Prevention and the dissemination of such materials and resources by State educational agencies to identify more at-risk families; to the Committee on Health, Education, Labor, and Pensions.

By Mr. WYDEN (for himself, Ms. SNOWE, and Mr. GRASSLEY):

S. 2125. A bill to amend title XVIII of the Social Security Act to modify the designation of accreditation organizations for orthotics and prosthetics, to apply accreditation and licensure requirements to suppliers of such devices and items for purposes of payment under the Medicare program, and to modify the payment rules for such devices and items under such program to account for practitioner qualifications and complexity of care; to the Committee on Finance.

By Mr. LEAHY (for himself and Mr. SANDERS):

S. 2126. A bill to amend the Food, Conservation, and Energy Act of 2008 to extend and improve the milk income loss contract program; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. CASEY:

S. 2127. A bill to protect State and local witnesses from tampering and retaliation, and for other purposes; to the Committee on the Judiciary.

By Mr. TESTER (for himself, Mr. BEGICH, and Mrs. SHAHEEN):

S. 2128. A bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to clarify that all veterans programs are exempt from sequestration, and for other purposes; to the Committee on the Budget.

By Mr. LIEBERMAN (for himself and Mr. WARNER):

S. 2129. A bill to provide for reforming and consolidating agencies of the Federal Government to improve efficiency and effectiveness; to the Committee on Homeland Security and Governmental Affairs.

By Mr. NELSON of Florida:

S. 2130. A bill to direct the Secretary of Interior to establish a veterans conservation corps, and for other purposes; to the Committee on Veterans' Affairs.

#### ADDITIONAL COSPONSORS

S. 546

At the request of Mr. TESTER, the name of the Senator from Hawaii (Mr. INOUE) was added as a cosponsor of S. 546, a bill to extend the Federal recognition to the Little Shell Tribe of Chippewa Indians of Montana, and for other purposes.

S. 1734

At the request of Mr. CORKER, the names of the Senator from Georgia (Mr. CHAMBLISS) and the Senator from Georgia (Mr. ISAKSON) were added as cosponsors of S. 1734, a bill to provide incentives for the development of qualified infectious disease products.

S. 1763

At the request of Mr. AKAKA, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 1763, a bill to decrease the incidence of violent crimes against Indian women,

to strengthen the capacity of Indian tribes to exercise the sovereign authority of Indian tribes to respond to violent crimes committed against Indian women, and to ensure that perpetrators of violent crimes committed against Indian women are held accountable for that criminal behavior, and for other purposes.

S. 1845

At the request of Mr. WYDEN, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 1845, a bill to amend the Internal Revenue Code of 1986 to provide for an energy investment credit for energy storage property connected to the grid, and for other purposes.

S. 1853

At the request of Mr. SANDERS, the names of the Senator from Oregon (Mr. MERKLEY) and the Senator from Minnesota (Mr. FRANKEN) were added as cosponsors of S. 1853, a bill to recalculate and restore retirement annuity obligations of the United States Postal Service, eliminate the requirement that the United States Postal Service pre-fund the Postal Service Retiree Health Benefits Fund, place restrictions on the closure of postal facilities, create incentives for innovation for the United States Postal Service, to maintain levels of postal service, and for other purposes.

S. 1884

At the request of Mr. DURBIN, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 1884, a bill to provide States with incentives to require elementary schools and secondary schools to maintain, and permit school personnel to administer, epinephrine at schools.

S. 1925

At the request of Mr. LEAHY, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 1925, a bill to reauthorize the Violence Against Women Act of 1994.

S. 1981

At the request of Mr. HELLER, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 1981, a bill to provide that Members of Congress may not receive pay after October 1 of any fiscal year in which Congress has not approved a concurrent resolution on the budget and passed the regular appropriations bills.

S. 2122

At the request of Mr. PAUL, the name of the Senator from South Carolina (Mr. DEMINT) was added as a cosponsor of S. 2122, a bill to clarify the definition of navigable waters, and for other purposes.

AMENDMENT NO. 1520

At the request of Mr. BLUNT, the name of the Senator from Idaho (Mr. RISCH) was added as a cosponsor of amendment No. 1520 intended to be proposed to S. 1813, a bill to reauthorize

Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1540

At the request of Mr. BLUNT, the name of the Senator from Missouri (Mrs. McCASKILL) was added as a cosponsor of amendment No. 1540 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1572

At the request of Mr. LEVIN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of amendment No. 1572 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1590

At the request of Mr. DEMINT, the name of the Senator from Florida (Mr. RUBIO) was added as a cosponsor of amendment No. 1590 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1621

At the request of Ms. MURKOWSKI, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of amendment No. 1621 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1678

At the request of Mrs. SHAHEEN, the names of the Senator from Mississippi (Mr. WICKER) and the Senator from Ohio (Mr. BROWN) were added as cosponsors of amendment No. 1678 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1679

At the request of Mrs. SHAHEEN, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of amendment No. 1679 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1701

At the request of Mr. WHITEHOUSE, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of amendment No. 1701 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1707

At the request of Mrs. GILLIBRAND, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of amendment No. 1707 intended to be proposed to S. 1813, a bill

to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

STATEMENTS ON INTRODUCED  
BILLS AND JOINT RESOLUTIONS

By Mr. WYDEN (for himself, Ms. SNOWE, and Mr. GRASSLEY):

S. 2125. A bill to amend title XVIII of the Social Security Act to modify the designation of accreditation organizations for orthotics and prosthetics, to apply accreditation and licensure requirements to suppliers of such devices and items for purposes of payment under the Medicare program, and to modify the payment rules for such devices and items under such program to account for practitioner qualifications and complexity of care; to the Committee on Finance.

Mr. WYDEN, Mr. President, I rise today on behalf of patients, practitioners and the American taxpayer to introduce the Medicare Orthotics and Prosthetics Improvement Act of 2012 with my colleagues, Senators SNOWE and GRASSLEY.

The current orthotics and prosthetics, O&P, market is ripe for fraud and abuse. Unqualified and dishonest practitioners are taking advantage of patients and Medicare by providing substandard O&P products and manipulating the Medicare payment system. No rule has been implemented on the Federal level which would require these practitioners and providers to be licensed or accredited, despite calls from Congress to do so, and therefore all comers are able to bill Medicare on the taxpayer's dime.

Congress and the Centers for Medicare and Medicaid Services have tried to address this issue in the past, but have come up short. In both 2000 and 2003, Congress passed legislation which should have increased the qualification standards for these providers. Unfortunately, nothing came of these efforts and a decade later we have a system in place that does little to discourage fraud and abuse in these fields.

One department, however, has stepped up and taken the lead on this issue: the Department of Veterans Affairs. After a program evaluation showed that VA O&P Laboratories did not meet quality standards they changed their policy so that only accredited laboratories and individuals may fabricate prostheses and orthoses.

The rest of the country must follow the VA's lead in order to ensure that patients from Oregon to Maine have access to high quality orthotics and prosthetics from a trusted source. Our legislation accomplishes this goal through measures that would improve the oversight of O&P practitioners.

The Medicare Orthotics and Prosthetics Improvement Act would get rid of unqualified practitioners by prohibiting CMS from making any Medicare

payment for orthotics and prosthetics to a practitioner who has not secured a license in those states that require licensure. Again, this requirement was issued by CMS in 2005 but has not yet been implemented. Practitioners in states without licensure requirements would need to become accredited in order to continue practicing. The accreditation standard would be identical to the standard adopted by the Veterans Administration in 2004.

The legislation goes a step further by requiring that the Medicare payment is matched to the qualification of the provider and the complexity of the patient's needs and the device provided. This provision will protect patients from suppliers with little or no education and training to provide comprehensive O&P services, while rewarding providers who have secured more advanced training and practice on more complex patients.

These common sense reforms will benefit patients, qualified practitioners and taxpayers. I urge my colleagues to join Senators SNOWE, GRASSLEY and me in supporting this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2125

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Medicare Orthotics and Prosthetics Improvement Act of 2012".

**SEC. 2. MODIFICATION OF REQUIREMENTS APPLICABLE UNDER MEDICARE TO DESIGNATION OF ACCREDITATION ORGANIZATIONS FOR SUPPLIERS OF ORTHOTICS AND PROSTHETICS.**

(a) IN GENERAL.—Section 1834(a)(20)(B) of the Social Security Act (42 U.S.C. 1395m(a)(20)(B)) is amended—

(1) by striking "ORGANIZATIONS.—Not later than" and inserting "ORGANIZATIONS.—

"(i) IN GENERAL.—Subject to clause (ii), not later than"; and

(2) by adding after clause (i), as added by paragraph (1), the following new clauses:

"(ii) SPECIAL REQUIREMENTS FOR ACCREDITATION OF SUPPLIERS OF ORTHOTICS AND PROSTHETICS.—For purposes of applying quality standards under subparagraph (A) for suppliers (other than suppliers described in clause (iii)) of items and services described in subparagraph (D)(ii), the Secretary shall designate and approve an independent accreditation organization under clause (i) only if such organization is a Board or program described in subsection (h)(1)(F)(iv). Not later than January 1, 2013, the Secretary shall ensure that at least one independent accreditation organization is designated and approved in accordance with this clause.

"(iii) EXCEPTION.—Suppliers described in this clause are physicians, occupational therapists, or physical therapists who are licensed or otherwise regulated by the State in which they are practicing and who receive payment under this title, including regulations promulgated pursuant to this subsection."

(b) **EFFECTIVE DATE.**—An organization must satisfy the requirement of section 1834(a)(20)(B)(ii), as added by subsection (a)(2), not later than January 1, 2013, regardless of whether such organization is designated or approved as an independent accreditation organization before, on, or after the date of the enactment of this Act.

**SEC. 3. APPLICATION OF EXISTING ACCREDITATION AND LICENSURE REQUIREMENTS TO CERTAIN PROSTHETICS AND CUSTOM-FABRICATED OR CUSTOM-FITTED ORTHOTICS.**

(a) **IN GENERAL.**—Section 1834(h)(1)(F) of the Social Security Act (42 U.S.C. 1395m(h)(1)(F)) is amended—

(1) in the heading, by inserting “OR CUSTOM-FITTED” after “CUSTOM-FABRICATED”;

(2) in clause (i), by striking “an item of custom-fabricated orthotics described in clause (ii) or for an item of prosthetics unless such item is” and inserting “an item of orthotics or prosthetics, including an item of custom-fabricated orthotics described in clause (ii), unless such item is”;

(3) in clause (ii)(II), by striking “a list of items to which this subparagraph applies” and inserting “a list of items for purposes of clause (i)”;

(4) in clause (iii)(III), by striking “to provide or manage the provision of prosthetics and custom-designed or -fabricated orthotics” and inserting “to provide or manage the provision of orthotics and prosthetics (and custom-designed or -fabricated orthotics, in the case of an item described in clause (ii))”;

(5) by adding at the end the following new clause:

“(v) **EXEMPTION OF OFF-THE-SHELF ORTHOTICS INCLUDED IN A COMPETITIVE ACQUISITION PROGRAM.**—This subparagraph shall not apply to an item of orthotics described in paragraph (2)(C) of section 1847(a) furnished on or after January 1, 2013, that is included in a competitive acquisition program in a competitive acquisition area under such section.”

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall apply to orthotics and prosthetics furnished on or after January 1, 2013.

**SEC. 4. ELIGIBILITY FOR MEDICARE PAYMENT FOR ORTHOTICS AND PROSTHETICS BASED ON PRACTITIONER QUALIFICATIONS AND COMPLEXITY OF CARE.**

Section 1834(h) of the Social Security Act (42 U.S.C. 1395m(h)) is amended—

(1) in paragraph (1)(F)(iii), in the matter preceding subclause (I), by striking “other individual who” and inserting “other individual who, with respect to a category of orthotics and prosthetics care described in clause (i), (ii), (iii), (iv), or (v) of paragraph (5)(C) furnished on or after January 1, 2013, and subject to paragraph (5)(A), satisfies all applicable criteria of the provider qualification designation for such category described in the respective clause, and who”;

(2) in paragraph (1)(F)(iv), by inserting before the period the following: “and, with respect to a category of orthotics and prosthetics care described in clause (i), (ii), (iii), (iv), or (v) of paragraph (5)(C) furnished on or after January 1, 2013, and subject to paragraph (5)(A), satisfies all applicable criteria of the provider qualification designation for such category described in the respective clause”;

(3) by adding at the end the following new paragraph:

“(5) **ELIGIBILITY FOR PAYMENT BASED ON PRACTITIONER QUALIFICATIONS AND COMPLEXITY OF CARE.**—

“(A) **CONSIDERATIONS FOR ELIGIBILITY FOR PAYMENTS.**—

“(i) **IN GENERAL.**—In applying clauses (iii) and (iv) of paragraph (1)(F) for purposes of determining whether payment may be made under this subsection for orthotics and prosthetics furnished on or after January 1, 2013, the Secretary shall take into account the complexity of the respective item and, subject to clauses (ii), (iii), and (iv), the qualifications of the individual or entity furnishing and fabricating such respective item in accordance with this paragraph.

“(ii) **INDIVIDUAL AND ENTITIES EXEMPTED FROM PROVIDER QUALIFICATION DESIGNATION CRITERIA.**—With respect to an item of orthotics or prosthetics described in clause (ii), (iii), (iv) or (v) of subparagraph (C), any criteria for the provider qualification designations under such respective clause, including application of subparagraph (D), shall not apply to physicians, occupational therapists, or physical therapists who are licensed or otherwise regulated by the State in which they are practicing and who receive payment under this title, including regulations promulgated pursuant to this subsection, for the provision of orthotics and prosthetics.

“(iii) **PRACTITIONERS MEDICARE-ELIGIBLE PRIOR TO JANUARY 1, 2013 EXEMPTED.**—In the case of a qualified practitioner or qualified supplier who is eligible to receive payment under this title before January 1, 2013—

“(I) with respect to an item of orthotics or prosthetics described in clause (i) of subparagraph (C), any criteria for the provider qualification designations under such clause, including application of subparagraph (D), shall not apply to such practitioner or supplier, respectively, for the furnishing or fabrication of such an item so described; and

“(II) with respect to an item of orthotics or prosthetics described in clause (ii), (iii), or (iv) of subparagraph (C), any criteria for the provider qualification designations under the respective clause (or a subsequent clause of such subparagraph), including application of subparagraph (D), shall not apply to such practitioner or supplier, respectively, for the furnishing or fabrication of such an item described in such respective (or such subsequent) clause.

“(iv) **DELAYED APPLICATION OF CERTAIN PROVIDER QUALIFICATION DESIGNATION CRITERIA.**—The provider qualification designations under clauses (i), (ii), and (iii) of subparagraph (C), including the application of subparagraph (D) to such clauses, shall not be taken into account with respect to payment made under this subsection for orthotics and prosthetics furnished before January 1, 2014.

“(v) **MODIFICATIONS.**—The Secretary shall, in consultation with the Boards and programs described in paragraph (1)(F)(iv), periodically review the criteria for the provider qualification designation under subparagraph (C)(i)(III) and may implement by regulation any modifications to such criteria, as determined appropriate in accordance with such consultation. Any such modification shall take effect no earlier than January 1, 2015.

“(B) **ASSIGNMENT OF BILLING CODES.**—For purposes of subparagraph (A), the Secretary, in consultation with representatives of the fields of occupational therapy, physical therapy, orthotics, and prosthetics shall utilize and incorporate the set of L-codes listed, as of the date of the enactment of this paragraph, in the Centers for Medicare & Medicaid Services document entitled Transmittal 656 (CMS Pub. 100-04, Change Request 3559, August 19, 2005) and the 2008 Orthotics

and Prosthetics Tripartite Document, a multi-organization compilation of HCPCS codes. Transmittal 656 shall be the controlling source of category, product, and code assignments for the orthotics and prosthetics care described in each of clauses (i) through (v) of subparagraph (C) using the provider qualification designation for each HCPCS code as stated in such document and, in cases in which Transmittal 656 does not include a particular item of orthotics or prosthetics or a related code or in cases in which Transmittal 656 is revoked or abridged, the 2008 Orthotics and Prosthetics Tripartite Document shall be the secondary source for such category, product, and code assignments. In the case that either of the documents described in the previous sentence is updated or reissued, the previous sentence shall be applied with respect to the most recent update or reissuance of such document.

“(C) **CATEGORIES OF ORTHOTIC AND PROSTHETIC CARE DESCRIBED.**—

“(i) **CUSTOM FABRICATED LIMB PROSTHETICS CATEGORY.**—The category of orthotic and prosthetic care described in this clause is a category for artificial legs and arms, including replacements (as described in section 1861(s)(9)) that are made from detailed measurements, images, or models in accordance with a prescription and that can only be utilized by a specific intended patient and for which payment is made under this part. The provider qualification designation for the category shall reflect each of the following, in accordance with subparagraph (D):

“(I) The category of care involves the highest level of complexity with substantial clinical risk.

“(II) The category of care requires a practitioner who satisfies any of the education requirements described in subclause (III), has completed a prosthetic residency accredited by the National Commission on Orthotic and Prosthetic Education (“NCOPE”), and is certified or licensed in prosthetics to ensure the comprehensive provision of prosthetic care.

“(III) The category of care requires a practitioner who has completed any of the following education requirements:

“(aa) A bachelor’s degree or master’s degree in prosthetics as offered by educational institutions accredited by the Commission on Accreditation of Allied Health Education Programs.

“(bb) A bachelor’s degree, plus a certificate in prosthetics as offered by educational institutions accredited by the Commission on Accreditation of Allied Health Education Programs.

“(cc) A foreign degree determined by the World Education Service to be equivalent to an educational program in prosthetics accredited by the Commission on Accreditation of Allied Health Education Programs.

“(ii) **CUSTOM FABRICATED ORTHOTICS CATEGORY.**—The category of orthotics and prosthetics care described in this clause is a category for custom-fabricated orthotics that are made from detailed measurements, images, or models in accordance with a prescription and that can only be utilized by a specific intended patient. The provider qualification designation for the category shall reflect the following, in accordance with subparagraph (D):

“(I) The category of care involves the highest level of complexity with substantial clinical risk.

“(II) The category of care requires a practitioner who satisfies any of the education requirements described in clause (i)(III) (except that for purposes of this subclause such



clause shall be applied by substituting the term 'orthotics' each place the term 'prosthetics' is used), has completed an orthotic residency accredited by the National Commission on Orthotic and Prosthetic Education, and is certified or licensed in orthotics to ensure the appropriate provision of orthotic care.

“(iii) CUSTOM FITTED HIGH ORTHOTICS CATEGORY.—The category of orthotic care described in this clause is a category for prefabricated orthotics that are manufactured with no specific patient in mind, but that are appropriately sized, adapted, modified, and configured (with the required tools and equipment) to a specific patient in accordance with a prescription. The provider qualification designation for the category shall reflect the following, in accordance with subparagraph (D):

“(I) The category of care involves moderate to high complexity with substantial clinical risk.

“(II) The category of care requires a practitioner who either—

“(aa) satisfies any of the education requirements described in clause (i)(III), except that for purposes of this subclause such clause shall be applied by substituting the term 'orthotics' each place the term 'prosthetics' is used; or

“(bb) is certified or licensed in orthotics to ensure the appropriate provision of orthotic care within the practitioner's normal scope of practice.

“(iv) CUSTOM FITTED LOW ORTHOTICS CATEGORY.—The category of orthotics and prosthetics care described in this clause is a category for prefabricated orthotics that are manufactured with no specific patient in mind, but that are appropriately sized and adjusted to a specific patient in accordance with a prescription. The provider qualification designation for the category shall reflect the following:

“(I) The category of care involves a low level of complexity and low clinical risk.

“(II) The category of care requires a supplier that is certified or licensed within a limited scope of practice to ensure appropriate provision of orthotic care. The supplier's education and training shall ensure that basic clinical knowledge and technical expertise is available to confirm successful fit and device compliance with the prescription.

“(v) OFF-THE-SHELF.—The category of orthotic care described in this clause is described in section 1847(a)(2)(C). The provider qualification designation for the category shall reflect that no formal credentialing, clinical education, or technical training is required to dispense such items.

“(D) CARE BASED ON SOUND CLINICAL JUDGMENT AND TECHNICAL EXPERTISE.—Care described in clauses (i), (ii), and (iii) of subparagraph (C) shall be based on sound clinical judgment and technical expertise based on the practitioner's education and clinical training, in order to allow the practitioner to determine—

“(i) with respect to care described in clause (i) or (ii) of subparagraph (C), the device parameters and design, fabrication process, and functional purpose specific to the needs of the patient to maximize optimal clinical outcomes; and

“(ii) with respect to care described in clause (iii) of such subparagraph, the appropriate device relative to the diagnosis and specific to the needs of the patient to maximize optimal clinical outcomes.”.

#### SEC. 5. CONSULTATION.

In implementing the provisions of, and amendments made by, this Act, the Secretary of Health and Human Services shall consult with appropriate experts in orthotics and prosthetics, including practitioners that furnish items within the categories of orthotic and prosthetic care described in section 1834(h)(5)(C) of the Social Security Act, as added by section 4.

#### SEC. 6. REPORTS.

(a) REPORT ON ENFORCING NEW LICENSING AND ACCREDITATION REQUIREMENTS.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to Congress a report on the steps taken by the Department of Health and Human Services to ensure that the State licensure and accreditation requirements under section 1834(h)(1)(F) of the Social Security Act, as amended by section 3, are enforced. Such report shall include a determination of the extent to which payments for orthotics and prosthetics under the Medicare program under title XVIII of such Act are made only to those providers of services and suppliers that meet the relevant accreditation and licensure requirements under such section and a determination of whether additional steps are needed.

(b) REPORT ON FRAUD AND ABUSE.—Not later than 30 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to Congress a report on the effect of the requirements under subsection (a)(20)(B)(ii) of section 1834 of the Social Security Act (42 U.S.C. 1395m), as added by section 2, and subsection (h)(1)(F) of such section, as amended by section 3, on the occurrence of fraud and abuse under the Medicare program under title XVIII of such Act, with respect to orthotics and prosthetics for which payment is made under such program.

#### SEC. 7. REDUCTION IN MEDICARE SPENDING.

(a) PROJECTION OF CUMULATIVE EFFECT ON SPENDING.—Not later than December 31, 2013, the Secretary of Health and Human Services (in this section referred to as the “Secretary”), acting through the Chief Actuary of the Centers for Medicare & Medicaid Services (in this section referred to as the “Chief Actuary”), shall submit to Congress, and have published in the Federal Register, a projection of the effect on cumulative Federal spending under part B of title XVIII of the Social Security Act for the period of years 2013 through 2017 as a result of the implementation of the provisions of, and amendments made by, this Act.

(b) STRENGTHENING STANDARDS APPLICABLE IF SAVINGS NOT ACHIEVED.—

(1) IN GENERAL.—Subject to paragraph (2), if the Chief Actuary projects under subsection (a) that the implementation of the provisions of, and amendments made by, this Act will not result in a cumulative reduction in spending under such part of at least \$250,000,000 for the period of years 2013 through 2017 (using a 2012 baseline), the Secretary shall, in accordance with the Chief Actuary's projection, issue an interim final regulation (to take effect for 2014 and subsequent years) with a period for public comment on such regulation after the date of publication to strengthen the licensure, accreditation, and quality standards applicable to suppliers of orthotics and prosthetics under title XVIII of the Social Security Act, including such standards described in subsections (a)(20) and (h)(1)(F) of section 1834 of such Act (42 U.S.C. 1395m), as amended by this Act, in order to produce such cumulative reduction by December 31, 2017.

(2) EXCEPTION.—The interim final regulation issued under paragraph (1) shall not apply to a qualified physical therapist or qualified occupational therapist (as described in section 1834(h)(1)(F)(iii) of the Social Security Act (42 U.S.C. 1395m(h)(1)(F)(iii))).

#### SEC. 8. NO EFFECT ON PAYMENT BASIS FOR ORTHOTICS AND PROSTHETICS OR COMPETITIVE BIDDING PROGRAMS.

Nothing in the provisions of, or amendments made by, this Act shall have any effect on—

(1) the determination of the payment basis for orthotics and prosthetics under section 1834(h) of the Social Security Act (42 U.S.C. 1395m(h)); or

(2) the implementation of competitive acquisition programs under section 1847 of such Act (42 U.S.C. 1395w-3), including such implementation with respect to off-the-shelf orthotics described in subsection (a)(2)(C) of that section, that are included in a competitive acquisition program in a competitive acquisition area under that section.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 1709. Mr. BENNET (for himself and Mr. MORAN) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table.

SA 1710. Mr. MENENDEZ (for himself and Mr. SANDERS) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1711. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1712. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1713. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1714. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1715. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1716. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1717. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1718. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1719. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1720. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1721. Mr. AKAKA (for himself, Ms. MURKOWSKI, Mr. INOUE, and Mr. BEGICH) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.



SA 1722. Mr. LIEBERMAN (for himself and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1723. Mr. NELSON of Florida (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1724. Mr. BEGICH submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1725. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1726. Mr. BLUMENTHAL submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1727. Mr. BLUMENTHAL submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1728. Mr. BLUMENTHAL submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1729. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1730. Mr. REID proposed an amendment to the bill S. 1813, supra.

SA 1731. Mr. MANCHIN (for himself and Mr. BLUMENTHAL) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1732. Mr. MANCHIN submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1733. Mrs. MURRAY (for herself, Ms. MURKOWSKI, Ms. CANTWELL, Mr. BEGICH, Mrs. GILLIBRAND, and Mr. SCHUMER) submitted an amendment intended to be proposed by her to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1734. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1735. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

#### TEXT OF AMENDMENTS

**SA 1709.** Mr. BENNET (for himself and Mr. MORAN) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

In division D, on page 728, between lines 17 and 18, insert the following:

#### **SEC. \_\_\_\_\_ . EXTENSION OF WIND ENERGY CREDIT.**

Paragraph (1) of section 45(d) of the Internal Revenue Code of 1986 is amended by striking “January 1, 2013” and inserting “January 1, 2014”.

#### **SEC. \_\_\_\_\_ . COST OFFSET FOR EXTENSION OF WIND ENERGY CREDIT, AND DEFICIT REDUCTION, RESULTING FROM DELAY IN APPLICATION OF WORLD-WIDE ALLOCATION OF INTEREST.**

(a) IN GENERAL.—Paragraphs (5)(D) and (6) of section 864(f) of the Internal Revenue Code

of 1986 are each amended by striking “December 31, 2020” and inserting “December 31, 2021”.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

**SA 1710.** Mr. MENENDEZ (for himself and Mr. SANDERS) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end, insert the following:

#### **DIVISION \_\_\_\_\_—CLOSING BIG OIL TAX LOOPHOLES**

##### **SEC. \_\_\_\_\_0001. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This division may be cited as the “Close Big Oil Tax Loopholes Act”.

(b) TABLE OF CONTENTS.—The table of contents of this division is as follows:

#### **DIVISION \_\_\_\_\_—CLOSING BIG OIL TAX LOOPHOLES**

Sec. \_\_\_\_\_0001. Short title; table of contents.

#### **TITLE I—CLOSE BIG OIL TAX LOOPHOLES**

Sec. \_\_\_\_\_0101. Modifications of foreign tax credit rules applicable to major integrated oil companies which are dual capacity taxpayers.

Sec. \_\_\_\_\_0102. Limitation on section 199 deduction attributable to oil, natural gas, or primary products thereof.

Sec. \_\_\_\_\_0103. Limitation on deduction for intangible drilling and development costs.

Sec. \_\_\_\_\_0104. Limitation on percentage depletion allowance for oil and gas wells.

Sec. \_\_\_\_\_0105. Limitation on deduction for tertiary injectants.

#### **TITLE II—OUTER CONTINENTAL SHELF OIL AND NATURAL GAS**

Sec. \_\_\_\_\_0201. Repeal of outer Continental Shelf deep water and deep gas royalty relief.

#### **TITLE III—MISCELLANEOUS**

Sec. \_\_\_\_\_0301. Deficit reduction.

Sec. \_\_\_\_\_0302. Budgetary effects.

#### **TITLE I—CLOSE BIG OIL TAX LOOPHOLES**

##### **SEC. \_\_\_\_\_0101. MODIFICATIONS OF FOREIGN TAX CREDIT RULES APPLICABLE TO MAJOR INTEGRATED OIL COMPANIES WHICH ARE DUAL CAPACITY TAXPAYERS.**

(a) IN GENERAL.—Section 901 of the Internal Revenue Code of 1986 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

“(n) SPECIAL RULES RELATING TO MAJOR INTEGRATED OIL COMPANIES WHICH ARE DUAL CAPACITY TAXPAYERS.—

“(1) GENERAL RULE.—Notwithstanding any other provision of this chapter, any amount paid or accrued by a dual capacity taxpayer which is a major integrated oil company (as defined in section 167(h)(5)(B)) to a foreign country or possession of the United States for any period shall not be considered a tax—

“(A) if, for such period, the foreign country or possession does not impose a generally applicable income tax, or

“(B) to the extent such amount exceeds the amount (determined in accordance with regulations) which—

“(i) is paid by such dual capacity taxpayer pursuant to the generally applicable income tax imposed by the country or possession, or

“(ii) would be paid if the generally applicable income tax imposed by the country or possession were applicable to such dual capacity taxpayer.

Nothing in this paragraph shall be construed to imply the proper treatment of any such amount not in excess of the amount determined under subparagraph (B).

“(2) DUAL CAPACITY TAXPAYER.—For purposes of this subsection, the term ‘dual capacity taxpayer’ means, with respect to any foreign country or possession of the United States, a person who—

“(A) is subject to a levy of such country or possession, and

“(B) receives (or will receive) directly or indirectly a specific economic benefit (as determined in accordance with regulations) from such country or possession.

“(3) GENERALLY APPLICABLE INCOME TAX.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘generally applicable income tax’ means an income tax (or a series of income taxes) which is generally imposed under the laws of a foreign country or possession on income derived from the conduct of a trade or business within such country or possession.

“(B) EXCEPTIONS.—Such term shall not include a tax unless it has substantial application, by its terms and in practice, to—

“(i) persons who are not dual capacity taxpayers, and

“(ii) persons who are citizens or residents of the foreign country or possession.”.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxes paid or accrued in taxable years beginning after the date of the enactment of this Act.

(2) CONTRARY TREATY OBLIGATIONS UPHOLD.—The amendments made by this section shall not apply to the extent contrary to any treaty obligation of the United States.

##### **SEC. \_\_\_\_\_0102. LIMITATION ON SECTION 199 DEDUCTION ATTRIBUTABLE TO OIL, NATURAL GAS, OR PRIMARY PRODUCTS THEREOF.**

(a) DENIAL OF DEDUCTION.—Paragraph (4) of section 199(c) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

“(E) SPECIAL RULE FOR CERTAIN OIL AND GAS INCOME.—In the case of any taxpayer who is a major integrated oil company (as defined in section 167(h)(5)(B)) for the taxable year, the term ‘domestic production gross receipts’ shall not include gross receipts from the production, transportation, or distribution of oil, natural gas, or any primary product (within the meaning of subsection (d)(9)) thereof.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2012.

##### **SEC. \_\_\_\_\_0103. LIMITATION ON DEDUCTION FOR INTANGIBLE DRILLING AND DEVELOPMENT COSTS.**

(a) IN GENERAL.—Section 263(c) of the Internal Revenue Code of 1986 is amended by adding at the end the following new sentence: “This subsection shall not apply to amounts paid or incurred by a taxpayer in any taxable year in which such taxpayer is a major integrated oil company (as defined in section 167(h)(5)(B)).”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2012.

**SEC. 0104. LIMITATION ON PERCENTAGE DEPLETION ALLOWANCE FOR OIL AND GAS WELLS.**

(a) IN GENERAL.—Section 613A of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection: “(f) APPLICATION WITH RESPECT TO MAJOR INTEGRATED OIL COMPANIES.—In the case of any taxable year in which the taxpayer is a major integrated oil company (as defined in section 167(h)(5)(B)), the allowance for percentage depletion shall be zero.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2012.

**SEC. 0105. LIMITATION ON DEDUCTION FOR TERTIARY INJECTANTS.**

(a) IN GENERAL.—Section 193 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection: “(d) APPLICATION WITH RESPECT TO MAJOR INTEGRATED OIL COMPANIES.—This section shall not apply to amounts paid or incurred by a taxpayer in any taxable year in which such taxpayer is a major integrated oil company (as defined in section 167(h)(5)(B)).”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2012.

**TITLE II—OUTER CONTINENTAL SHELF OIL AND NATURAL GAS**

**SEC. 0201. REPEAL OF OUTER CONTINENTAL SHELF DEEP WATER AND DEEP GAS ROYALTY RELIEF.**

(a) IN GENERAL.—Sections 344 and 345 of the Energy Policy Act of 2005 (42 U.S.C. 15904, 15905) are repealed.

(b) ADMINISTRATION.—The Secretary of the Interior shall not be required to provide for royalty relief in the lease sale terms beginning with the first lease sale held on or after the date of enactment of this Act for which a final notice of sale has not been published.

**TITLE III—MISCELLANEOUS**

**SEC. 0301. DEFICIT REDUCTION.**

The net amount of any savings realized as a result of the enactment of this division and the amendments made by this division (after any expenditures authorized by this division and the amendments made by this division) shall be deposited in the Treasury and used for Federal budget deficit reduction or, if there is no Federal budget deficit, for reducing the Federal debt in such manner as the Secretary of the Treasury considers appropriate.

**SEC. 0302. BUDGETARY EFFECTS.**

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go-Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

**SA 1711.** Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page \_\_, between lines \_\_ and \_\_, insert the following:

**SEC. \_\_. NONAPPLICATION OF DAVIS-BACON.**

The wage-rate requirements of subchapter IV of chapter 31 of part A of subtitle II of title 40, United States Code (commonly re-

ferred to as the “Davis-Bacon Act”) shall not apply with respect to any project or program funded with amounts from the Highway Trust Fund.

**SA 1712.** Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

**DIVISION D—FINANCE**

**SEC. 40001. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This division may be cited as the “Highway Investment, Job Creation, and Economic Growth Act of 2012”.

(b) TABLE OF CONTENTS.—The table of contents for this division is as follows:

**DIVISION D—FINANCE**

Sec. 40001. Short title; table of contents.

**TITLE I—EXTENSION OF HIGHWAY TRUST FUND EXPENDITURE AUTHORITY AND RELATED TAXES**

Sec. 40101. Extension of trust fund expenditure authority.

Sec. 40102. Extension of highway-related taxes.

**TITLE II—REVENUE PROVISIONS**

Sec. 40201. Transfer from Leaking Underground Storage Tank Trust Fund to Highway Trust Fund.

Sec. 40202. Portion of Leaking Underground Storage Tank Trust Fund financing rate transferred to Highway Trust Fund.

Sec. 40203. Internal Revenue Service levies and Thrift Savings Plan Accounts.

Sec. 40204. Rescission of funds for the advanced technology vehicles manufacturing incentive program.

Sec. 40205. Rescission of unspent Federal funds.

Sec. 40206. Deposit in highway trust fund.

**DIVISION E—ENERGY DEVELOPMENT**

**TITLE I—EXPANDING OFFSHORE ENERGY DEVELOPMENT**

Sec. 51001. Outer Continental Shelf leasing program.

Sec. 51002. Domestic oil and natural gas production goal.

**TITLE II—CONDUCTING PROMPT OFFSHORE LEASE SALES**

Sec. 52001. Requirement to conduct proposed oil and gas Lease Sale 216 in the Central Gulf of Mexico.

Sec. 52002. Requirement to conduct proposed oil and gas Lease Sale 220 on the Outer Continental Shelf offshore Virginia.

Sec. 52003. Requirement to conduct proposed oil and gas Lease Sale 222 in the Central Gulf of Mexico.

Sec. 52004. Additional leases.

Sec. 52005. Definitions.

**TITLE III—LEASING IN NEW OFFSHORE AREAS**

Sec. 53001. Leasing in the Eastern Gulf of Mexico.

Sec. 53002. Leasing offshore of territories of the United States.

**TITLE IV—OUTER CONTINENTAL SHELF REVENUE SHARING**

Sec. 54001. Disposition of Outer Continental Shelf revenues.

**TITLE V—COASTAL PLAIN**

Sec. 55001. Definitions.

Sec. 55002. Leasing program for lands within the Coastal Plain.

Sec. 55003. Lease sales.

Sec. 55004. Grant of leases by the Secretary.

Sec. 55005. Lease terms and conditions.

Sec. 55006. Coastal Plain environmental protection.

Sec. 55007. Expedited judicial review.

Sec. 55008. Treatment of revenues.

Sec. 55009. Rights-of-way across the Coastal Plain.

Sec. 55010. Conveyance.

**TITLE VI—OIL SHALE AND TAR SANDS LEASING**

Sec. 56001. Effectiveness of oil shale regulations, amendments to resource management plans, and record of decision.

Sec. 56002. Oil shale and tar sands leasing.

**TITLE I—EXTENSION OF HIGHWAY TRUST FUND EXPENDITURE AUTHORITY AND RELATED TAXES**

**SEC. 40101. EXTENSION OF TRUST FUND EXPENDITURE AUTHORITY.**

(a) HIGHWAY TRUST FUND.—Section 9503 of the Internal Revenue Code of 1986 is amended—

(1) by striking “April 1, 2012” in subsections (b)(6)(B), (c)(1), and (e)(3) and inserting “October 1, 2013”; and

(2) by striking “Surface Transportation Extension Act of 2011, Part II” in subsections (c)(1) and (e)(3) and inserting “Moving Ahead for Progress in the 21st Century Act”.

(b) SPORT FISH RESTORATION AND BOATING TRUST FUND.—Section 9504 of the Internal Revenue Code of 1986 is amended—

(1) by striking “Surface Transportation Extension Act of 2011, Part II” each place it appears in subsection (b)(2) and inserting “Moving Ahead for Progress in the 21st Century Act”; and

(2) by striking “April 1, 2012” in subsection (d)(2) and inserting “October 1, 2013”.

(c) LEAKING UNDERGROUND STORAGE TANK TRUST FUND.—Paragraph (2) of section 9508(e) of the Internal Revenue Code of 1986 is amended by striking “April 1, 2012” and inserting “October 1, 2013”.

(d) ESTABLISHMENT OF SOLVENCY ACCOUNT.—Section 9503 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(g) ESTABLISHMENT OF SOLVENCY ACCOUNT.—

“(1) CREATION OF ACCOUNT.—There is established in the Highway Trust Fund a separate account to be known as the ‘Solvency Account’ consisting of such amounts as may be transferred or credited to the Solvency Account as provided in this section or section 9602(b).

“(2) TRANSFERS TO SOLVENCY ACCOUNT.—The Secretary of the Treasury shall transfer to the Solvency Account the excess of—

“(A) any amount appropriated to the Highway Trust Fund before October 1, 2013, by reason of the provisions of, and amendments made by, the Highway Investment, Job Creation, and Economic Growth Act of 2012, over

“(B) the amount necessary to meet the required expenditures from the Highway Trust Fund under subsection (c) for the period ending before October 1, 2013.

“(3) EXPENDITURES FROM ACCOUNT.—Amounts in the Solvency Account shall be available for transfers to the Highway Account (as defined in subsection (e)(5)(B)) and the Mass Transit Account in such amounts as determined necessary by the Secretary to ensure that each account has a surplus balance of \$2,800,000,000 on September 30, 2013.

“(4) TERMINATION OF ACCOUNT.—The Solvency Account shall terminate on September

30, 2013, and the Secretary shall transfer any remaining balance in the Account on such date to the Highway Trust Fund.”.

(e) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on April 1, 2012.

**SEC. 40102. EXTENSION OF HIGHWAY-RELATED TAXES.**

(a) **IN GENERAL.**—

(1) Each of the following provisions of the Internal Revenue Code of 1986 is amended by striking “March 31, 2012” and inserting “September 30, 2015”:

(A) Section 4041(a)(1)(C)(iii)(I).

(B) Section 4041(m)(1)(B).

(C) Section 4081(d)(1).

(2) Each of the following provisions of such Code is amended by striking “April 1, 2012” and inserting “October 1, 2015”:

(A) Section 4041(m)(1)(A).

(B) Section 4051(c).

(C) Section 4071(d).

(D) Section 4081(d)(3).

(b) **EXTENSION OF TAX, ETC., ON USE OF CERTAIN HEAVY VEHICLES.**—Each of the following provisions of the Internal Revenue Code of 1986 is amended by striking “2012” and inserting “2015”:

(1) Section 4481(f).

(2) Subsections (c)(4) and (d) of section 4482.

(c) **FLOOR STOCKS REFUNDS.**—Section 6412(a)(1) of the Internal Revenue Code of 1986 is amended—

(1) by striking “April 1, 2012” each place it appears and inserting “October 1, 2015”;

(2) by striking “September 30, 2012” each place it appears and inserting “March 31, 2016”;

(3) by striking “July 1, 2012” and inserting “January 1, 2016”.

(d) **EXTENSION OF CERTAIN EXEMPTIONS.**—Sections 4221(a) and 4483(i) of the Internal Revenue Code of 1986 are each amended by striking “April 1, 2012” and inserting “October 1, 2015”.

(e) **EXTENSION OF TRANSFERS OF CERTAIN TAXES.**—

(1) **IN GENERAL.**—Section 9503 of the Internal Revenue Code of 1986 is amended—

(A) in subsection (b)—

(i) by striking “April 1, 2012” each place it appears in paragraphs (1) and (2) and inserting “October 1, 2015”;

(ii) by striking “APRIL 1, 2012” in the heading of paragraph (2) and inserting “OCTOBER 1, 2015”;

(iii) by striking “March 31, 2012” in paragraph (2) and inserting “September 30, 2015”;

(iv) by striking “January 1, 2013” in paragraph (2) and inserting “July 1, 2016”;

(B) in subsection (c)(2), by striking “January 1, 2013” and inserting “July 1, 2016”.

(2) **MOTORBOAT AND SMALL-ENGINE FUEL TAX TRANSFERS.**—

(A) **IN GENERAL.**—Paragraphs (3)(A)(i) and (4)(A) of section 9503(c) of such Code are each amended by striking “April 1, 2012” and inserting “October 1, 2015”.

(B) **CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.**—Section 201(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601 11(b)) is amended—

(i) by striking “April 1, 2013” each place it appears and inserting “October 1, 2016”;

(ii) by striking “April 1, 2012” and inserting “October 1, 2015”.

(f) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the amendments made by this section shall take effect on April 1, 2012.

(2) **SUBSECTION (b)(2).**—The amendment made by subsection (b)(2) shall apply to periods beginning after September 30, 2012.

**TITLE II—REVENUE PROVISIONS**

**SEC. 40201. TRANSFER FROM LEAKING UNDERGROUND STORAGE TANK TRUST FUND TO HIGHWAY TRUST FUND.**

(a) **IN GENERAL.**—Subsection (c) of section 9508 of the Internal Revenue Code of 1986 is amended—

(1) by striking “Amounts” and inserting:

“(1) **IN GENERAL.**—Except as provided in paragraph (2), amounts”, and

(2) by adding at the end the following new paragraph:

“(2) **TRANSFER TO HIGHWAY TRUST FUND.**—Out of amounts in the Leaking Underground Storage Tank Trust Fund there is hereby appropriated \$3,000,000,000 to be transferred under section 9503(f)(3) to the Highway Trust Fund.”.

(b) **TRANSFER TO HIGHWAY TRUST FUND.**—

(1) **IN GENERAL.**—Subsection (f) of section 9503 of the Internal Revenue Code of 1986 is amended by inserting after paragraph (2) the following new paragraph:

“(3) **INCREASE IN FUND BALANCE.**—There is hereby transferred to the Highway Trust Fund amounts appropriated from the Leaking Underground Storage Tank Trust Fund under section 9508(c)(2).”.

(2) **CONFORMING AMENDMENTS.**—Paragraph (4) of section 9503(f) of such Code is amended—

(A) by inserting “or transferred” after “appropriated”, and

(B) by striking “APPROPRIATED” in the heading thereof.

**SEC. 40202. PORTION OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE TRANSFERRED TO HIGHWAY TRUST FUND.**

(a) **IN GENERAL.**—Subsection (b) of section 9503 of the Internal Revenue Code of 1986 is amended by inserting after paragraph (2) the following new paragraph:

“(3) **PORTION OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.**—There are hereby appropriated to the Highway Trust Fund amounts equivalent to one-third of the taxes received in the Treasury under—

“(A) section 4041(d) (relating to additional taxes on motor fuels),

“(B) section 4081 (relating to tax on gasoline, diesel fuel, and kerosene) to the extent attributable to the Leaking Underground Storage Tank Trust Fund financing rate under such section, and

“(C) section 4042 (relating to tax on fuel used in commercial transportation on inland waterways) to the extent attributable to the Leaking Underground Storage Tank Trust Fund financing rate under such section.

For purposes of this paragraph, there shall not be taken into account the taxes imposed by sections 4041 and 4081 on diesel fuel sold for use or used as fuel in a diesel-powered boat.”.

(b) **CONFORMING AMENDMENTS.**—

(1) Paragraphs (1), (2), and (3) of section 9508(b) of the Internal Revenue Code of 1986 are each amended by inserting “two-thirds of the” before “taxes”.

(2) Paragraph (4) of section 9503(b) of such Code is amended by striking subparagraphs (A) and (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (A) and (B), respectively.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxes received after the date of the enactment of this Act.

**SEC. 40203. INTERNAL REVENUE SERVICE LEVIES AND THRIFT SAVINGS PLAN ACCOUNTS.**

Section 8437(e)(3) of title 5, United States Code, is amended by inserting “, the enforce-

ment of a Federal tax levy as provided in section 6331 of the Internal Revenue Code of 1986,” after “(42 U.S.C. 659)”.

**SEC. 40204. RESCISSION OF FUNDS FOR THE ADVANCED TECHNOLOGY VEHICLES MANUFACTURING INCENTIVE PROGRAM.**

Effective on the date of enactment of this Act, there are rescinded all unobligated balances of the amounts made available for the advanced technology vehicles manufacturing incentive program established under section 136 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17013).

**SEC. 40205. RESCISSION OF UNSPENT FEDERAL FUNDS.**

(a) **IN GENERAL.**—Notwithstanding any other provision of law, of all available unobligated funds on the date of enactment of this Act, there are rescinded such amounts as are equal to the difference between—

(1) the amounts necessary to carry out this Act; and

(2) the total amount of offsets provided by this title (other than this section) and division E.

(b) **IMPLEMENTATION.**—

(1) **IN GENERAL.**—The Director of the Office of Management and Budget shall determine and identify—

(A) from which appropriation accounts the rescission under subsection (a) shall be made; and

(B) the amount of such rescission that shall be made to each account identified under subparagraph (A).

(2) **REPORT.**—Not later than 60 days after the date of enactment of this Act, the Director of the Office of Management and Budget shall submit a report to the Secretary of the Treasury and Congress of the accounts and amounts determined and identified for rescission under paragraph (1).

(c) **EXCEPTION.**—This section shall not apply to the unobligated funds of the Department of Defense, the Department of Homeland Security, or the Department of Veterans Affairs.

**SEC. 40206. DEPOSIT IN HIGHWAY TRUST FUND.**

There shall be deposited in the Highway Trust Fund

(1) any amounts rescinded under this title; and

(2) any amounts collected by the United States under this title or division E (including an amendment made by this title or division E).

**DIVISION E—ENERGY DEVELOPMENT**

**TITLE I—EXPANDING OFFSHORE ENERGY DEVELOPMENT**

**SEC. 51001. OUTER CONTINENTAL SHELF LEASING PROGRAM.**

Section 18(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1344(a)) is amended by adding at the end the following:

“(5)(A) In each oil and gas leasing program under this section, the Secretary shall make available for leasing and conduct lease sales including—

“(i) at least 50 percent of the available unleased acreage within each outer Continental Shelf planning area considered to have the largest undiscovered, technically recoverable oil and gas resources (on a total btu basis) based upon the most recent national geologic assessment of the outer Continental Shelf, with an emphasis on offering the most geologically prospective parts of the planning area; and

“(ii) any State subdivision of an outer Continental Shelf planning area that the Governor of the State that represents that subdivision requests be made available for leasing.

“(B) In this paragraph the term ‘available unleased acreage’ means that portion of the outer Continental Shelf that is not under lease at the time of a proposed lease sale, and that has not otherwise been made unavailable for leasing by law.

“(6)(A) In the 2012-2017 5-year oil and gas leasing program, the Secretary shall make available for leasing any outer Continental Shelf planning areas that—

“(i) are estimated to contain more than 2,500,000,000 barrels of oil; or

“(ii) are estimated to contain more than 7,500,000,000 cubic feet of natural gas.

“(B) To determine the planning areas described in subparagraph (A), the Secretary shall use the document entitled ‘Minerals Management Service Assessment of Undiscovered Technically Recoverable Oil and Gas Resources of the Nation’s Outer Continental Shelf, 2006’.”

#### SEC. 51002. DOMESTIC OIL AND NATURAL GAS PRODUCTION GOAL.

Section 18(b) of the Outer Continental Shelf Lands Act (43 U.S.C. 1344(b)) is amended to read as follows:

“(b) DOMESTIC OIL AND NATURAL GAS PRODUCTION GOAL.—

“(1) IN GENERAL.—In developing a 5-year oil and gas leasing program, and subject to paragraph (2), the Secretary shall determine a domestic strategic production goal for the development of oil and natural gas as a result of that program. Such goal shall be—

“(A) the best estimate of the possible increase in domestic production of oil and natural gas from the outer Continental Shelf;

“(B) focused on meeting domestic demand for oil and natural gas and reducing the dependence of the United States on foreign energy; and

“(C) focused on the production increases achieved by the leasing program at the end of the 15-year period beginning on the effective date of the program.

“(2) 2012-2017 PROGRAM GOAL.—For purposes of the 2012-2017 5-year oil and gas leasing program, the production goal referred to in paragraph (1) shall be an increase by 2027 of—

“(A) no less than 3,000,000 barrels in the amount of oil produced per day; and

“(B) no less than 10,000,000,000 cubic feet in the amount of natural gas produced per day.

“(3) REPORTING.—The Secretary shall report annually, beginning at the end of the 5-year period for which the program applies, to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate on the progress of the program in meeting the production goal. The Secretary shall identify in the report projections for production and any problems with leasing, permitting, or production that will prevent meeting the goal.”

### TITLE II—CONDUCTING PROMPT OFFSHORE LEASE SALES

#### SEC. 52001. REQUIREMENT TO CONDUCT PROPOSED OIL AND GAS LEASE SALE 216 IN THE CENTRAL GULF OF MEXICO.

(a) IN GENERAL.—The Secretary of the Interior shall conduct offshore oil and gas Lease Sale 216 under section 8 of the Outer Continental Shelf Lands Act (33 U.S.C. 1337) as soon as practicable, but not later than 4 months after the date of enactment of this Act.

(b) ENVIRONMENTAL REVIEW.—For the purposes of that lease sale, the Environmental Impact Statement for the 2007-2012 5 Year OUTER CONTINENTAL SHELF Plan and the Multi-Sale Environmental Impact Statement are deemed to satisfy the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

#### SEC. 52002. REQUIREMENT TO CONDUCT PROPOSED OIL AND GAS LEASE SALE 220 ON THE OUTER CONTINENTAL SHELF OFFSHORE VIRGINIA.

(a) IN GENERAL.—Notwithstanding the inclusion of Lease Sale 220 in the fiscal years 2012 through fiscal year 2017 5 Year Outer Continental Shelf Oil and Gas Leasing Program, the Secretary shall conduct offshore oil and gas Lease Sale 220 under section 8 of the Outer Continental Shelf Lands Act (33 U.S.C. 1337) as soon as practicable, but not later than one year after the date of enactment of this Act.

(b) PROHIBITION ON CONFLICTS WITH MILITARY OPERATIONS.—No person may engage in any exploration, development, or production of oil or natural gas off the coast of Virginia that would conflict with any military operation, as determined in accordance with the Memorandum of Agreement between the Department of Defense and the Department of the Interior on Mutual Concerns on the Outer Continental Shelf signed July 20, 1983, and any revision or replacement for that agreement that is agreed to by the Secretary of Defense and the Secretary of the Interior after that date but before the date of issuance of the lease under which such exploration, development, or production is conducted.

#### SEC. 52003. REQUIREMENT TO CONDUCT PROPOSED OIL AND GAS LEASE SALE 222 IN THE CENTRAL GULF OF MEXICO.

(a) IN GENERAL.—The Secretary shall conduct offshore oil and gas Lease Sale 222 under section 8 of the Outer Continental Shelf Lands Act (33 U.S.C. 1337) as soon as practicable, but not later than September 1, 2012.

(b) ENVIRONMENTAL REVIEW.—For the purposes of that lease sale, the Environmental Impact Statement for the 2007-2012 5 Year OUTER CONTINENTAL SHELF Plan and the Multi-Sale Environmental Impact Statement are deemed to satisfy the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

#### SEC. 52004. ADDITIONAL LEASES.

Section 18 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344) is amended by adding at the end the following:

“(i) ADDITIONAL LEASE SALES.—In addition to lease sales in accordance with a leasing program in effect under this section, the Secretary may hold lease sales for areas identified by the Secretary to have the greatest potential for new oil and gas development as a result of local support, new seismic findings, or nomination by interested persons.”

#### SEC. 52005. DEFINITIONS.

In this title:

(1) The term “Environmental Impact Statement for the 2007-2012 5 Year OUTER CONTINENTAL SHELF Plan” means the Final Environmental Impact Statement for Outer Continental Shelf Oil and Gas Leasing Program: 2007-2012 (April 2007) prepared by the Secretary.

(2) The term “Multi-Sale Environmental Impact Statement” means the Environmental Impact Statement for Proposed Western Gulf of Mexico OUTER CONTINENTAL SHELF Oil and Gas Lease Sales 204, 207, 210, 215, and 218, and Proposed Central Gulf of Mexico OUTER CONTINENTAL SHELF Oil and Gas Lease Sales 205, 206, 208, 213, 216, and 222 (September 2008) prepared by the Secretary.

(3) The term “Secretary” means the Secretary of the Interior.

### TITLE III—LEASING IN NEW OFFSHORE AREAS

#### SEC. 53001. LEASING IN THE EASTERN GULF OF MEXICO.

Section 104 of division C of the Tax Relief and Health Care Act of 2006 (Public Law 109-432; 120 Stat. 3003) is repealed.

#### SEC. 53002. LEASING OFFSHORE OF TERRITORIES OF THE UNITED STATES.

Section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331) is amended, by inserting after “control” the following: “or lying within the United States’ exclusive economic zone and the Continental Shelf adjacent to the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, American Samoa, Guam, or the other territories of the United States”.

### TITLE IV—OUTER CONTINENTAL SHELF REVENUE SHARING

#### SEC. 54001. DISPOSITION OF OUTER CONTINENTAL SHELF REVENUES.

Section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338) is amended—

(1) in the existing text—

(A) in the first sentence, by striking “All rentals,” and inserting the following:

“(c) DISPOSITION OF REVENUE UNDER OLD LEASES.—All rentals,”; and

(B) in subsection (c) (as designated by the amendment made by subparagraph (A) of this paragraph), by striking “for the period from June 5, 1950, to date, and thereafter” and inserting “in the period beginning June 5, 1950, and ending on the date of enactment of the Moving Ahead for Progress in the 21st Century Act”;

(2) by adding after subsection (c) (as so designated) the following:

“(d) NEW LEASING REVENUES DEFINED.—In this section the term ‘new leasing revenues’ means amounts received by the United States as bonuses, rents, and royalties under leases for oil and gas, wind, tidal, or other energy exploration, development, and production that are awarded under this Act after the date of enactment of the Moving Ahead for Progress in the 21st Century Act.”; and

(3) by inserting before subsection (c) (as so designated) the following:

“(a) PAYMENT OF NEW LEASING REVENUES TO COASTAL STATES, GENERALLY.—

“(1) IN GENERAL.—Of the amount of new leasing revenues received by the United States each fiscal year that is described in paragraph (2), 37.5 percent shall be allocated and paid in accordance with subsection (b) to coastal States that are affected States with respect to the leases under which those revenues are received by the United States.

“(2) PHASE-IN.—The amount of new leasing revenues referred to in paragraph (1) is the sum determined by adding—

“(A) 35 percent of new leasing revenues received by the United States in the fiscal year under—

“(i) leases awarded under the first leasing program under section 18(a) that takes effect after the date of enactment of the Moving Ahead for Progress in the 21st Century Act; and

“(ii) other leases issued as a result of the enactment of that Act;

“(B) 70 percent of new leasing revenues received by the United States in the fiscal year under leases awarded under the second such leasing program; and

“(C) 100 percent of new leasing revenues received by the United States under leases awarded under the third such leasing program or any such leasing program taking effect thereafter.

“(b) ALLOCATION OF PAYMENTS TO COASTAL STATES.—

“(1) IN GENERAL.—The amount of new leasing revenues received by the United States with respect to a leased tract that are required to be paid to coastal States in accordance with this subsection each fiscal year shall be allocated among and paid to such States that are within 200 miles of the leased tract, in amounts that are inversely proportional to the respective distances between the point on the coastline of each such State that is closest to the geographic center of the lease tract, as determined by the Secretary.

“(2) MINIMUM AND MAXIMUM ALLOCATION.—The amount allocated to a coastal State under paragraph (1) each fiscal year with respect to a leased tract shall be—

“(A) in the case of a coastal State that is the nearest State to the geographic center of the leased tract, not less than 25 percent of the total amounts allocated with respect to the leased tract; and

“(B) in the case of any other coastal State, not less than 10 percent, and not more than 15 percent, of the total amounts allocated with respect to the leased tract.

“(3) ADMINISTRATION.—Amounts allocated to a coastal State under this subsection—

“(A) shall be available to the State without further appropriation;

“(B) shall remain available until expended; and

“(C) shall be in addition to any other amounts available to the State under this Act.

“(4) USE OF FUNDS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), a coastal State may use funds allocated and paid to it under this subsection for any purpose as determined by State law.

“(B) RESTRICTION ON USE FOR MATCHING.—Funds allocated and paid to a coastal State under this subsection may not be used as matching funds for any other Federal program.”

## TITLE V—COASTAL PLAIN

### SEC. 55001. DEFINITIONS.

In this title:

(1) COASTAL PLAIN.—The term “Coastal Plain” means that area described in appendix I to part 37 of title 50, Code of Federal Regulations.

(2) PEER REVIEWED.—The term “peer reviewed” means reviewed—

(A) by individuals chosen by the National Academy of Sciences with no contractual relationship with or those who have an application for a grant or other funding pending with the Federal agency with leasing jurisdiction; or

(B) if individuals described in subparagraph (A) are not available, by the top individuals in the specified biological fields, as determined by the National Academy of Sciences.

(3) SECRETARY.—The term “Secretary”, except as otherwise provided, means the Secretary of the Interior or the Secretary’s designee.

### SEC. 55002. LEASING PROGRAM FOR LANDS WITHIN THE COASTAL PLAIN.

(a) IN GENERAL.—The Secretary shall take such actions as are necessary—

(1) to establish and implement, in accordance with this title and acting through the Director of the Bureau of Land Management in consultation with the Director of the United States Fish and Wildlife Service, a competitive oil and gas leasing program that will result in the exploration, development,

and production of the oil and gas resources of the Coastal Plain; and

(2) to administer the provisions of this title through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, subsistence resources, and the environment, including, in furtherance of this goal, by requiring the application of the best commercially available technology for oil and gas exploration, development, and production to all exploration, development, and production operations under this title in a manner that ensures the receipt of fair market value by the public for the mineral resources to be leased.

(b) REPEAL OF EXISTING RESTRICTION.—

(1) REPEAL.—Section 1003 of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3143) is repealed.

(2) CONFORMING AMENDMENT.—The table of contents in section 1 of such Act is amended by striking the item relating to section 1003.

(c) COMPLIANCE WITH REQUIREMENTS UNDER CERTAIN OTHER LAWS.—

(1) COMPATIBILITY.—For purposes of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.), the oil and gas leasing program and activities authorized by this section in the Coastal Plain are deemed to be compatible with the purposes for which the Arctic National Wildlife Refuge was established, and no further findings or decisions are required to implement this determination.

(2) ADEQUACY OF THE DEPARTMENT OF THE INTERIOR’S LEGISLATIVE ENVIRONMENTAL IMPACT STATEMENT.—The “Final Legislative Environmental Impact Statement” (April 1987) on the Coastal Plain prepared pursuant to section 1002 of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3142) and section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is deemed to satisfy the requirements under the National Environmental Policy Act of 1969 that apply with respect to prelease activities under this title, including actions authorized to be taken by the Secretary to develop and promulgate the regulations for the establishment of a leasing program authorized by this title before the conduct of the first lease sale.

(3) COMPLIANCE WITH NEPA FOR OTHER ACTIONS.—Before conducting the first lease sale under this title, the Secretary shall prepare an environmental impact statement under the National Environmental Policy Act of 1969 with respect to the actions authorized by this title that are not referred to in paragraph (2). Notwithstanding any other law, the Secretary is not required to identify non-leasing alternative courses of action or to analyze the environmental effects of such courses of action. The Secretary shall only identify a preferred action for such leasing and a single leasing alternative, and analyze the environmental effects and potential mitigation measures for those two alternatives. The identification of the preferred action and related analysis for the first lease sale under this title shall be completed within 18 months after the date of enactment of this Act. The Secretary shall only consider public comments that specifically address the Secretary’s preferred action and that are filed within 20 days after publication of an environmental analysis. Notwithstanding any other law, compliance with this paragraph is deemed to satisfy all requirements for the analysis and consideration of the en-

vironmental effects of proposed leasing under this title.

(d) RELATIONSHIP TO STATE AND LOCAL AUTHORITY.—Nothing in this title shall be considered to expand or limit State and local regulatory authority.

(e) SPECIAL AREAS.—

(1) IN GENERAL.—The Secretary, after consultation with the State of Alaska, the city of Kaktovik, and the North Slope Borough, may designate up to a total of 45,000 acres of the Coastal Plain as a Special Area if the Secretary determines that the Special Area is of such unique character and interest so as to require special management and regulatory protection. The Secretary shall designate as such a Special Area the Sadlerochit Spring area, comprising approximately 4,000 acres.

(2) MANAGEMENT.—Each such Special Area shall be managed so as to protect and preserve the area’s unique and diverse character including its fish, wildlife, and subsistence resource values.

(3) EXCLUSION FROM LEASING OR SURFACE OCCUPANCY.—The Secretary may exclude any Special Area from leasing. If the Secretary leases a Special Area, or any part thereof, for purposes of oil and gas exploration, development, production, and related activities, there shall be no surface occupancy of the lands comprising the Special Area.

(4) DIRECTIONAL DRILLING.—Notwithstanding the other provisions of this subsection, the Secretary may lease all or a portion of a Special Area under terms that permit the use of horizontal drilling technology from sites on leases tracts located outside the Special Area.

(f) LIMITATION ON CLOSED AREAS.—The Secretary’s sole authority to close lands within the Coastal Plain to oil and gas leasing and to exploration, development, and production is that set forth in this title.

(g) REGULATIONS.—

(1) IN GENERAL.—The Secretary shall prescribe such regulations as may be necessary to carry out this title, including regulations relating to protection of the fish and wildlife, their habitat, subsistence resources, and environment of the Coastal Plain, by no later than 15 months after the date of enactment of this Act.

(2) REVISION OF REGULATIONS.—The Secretary shall, through a rule making conducted in accordance with section 553 of title 5, United States Code, periodically review and, if appropriate, revise the regulations issued under subsection (a) to reflect a preponderance of the best available scientific evidence that has been peer reviewed and obtained by following appropriate, documented scientific procedures, the results of which can be repeated using those same procedures.

### SEC. 55003. LEASE SALES.

(a) IN GENERAL.—Lands may be leased under this title to any person qualified to obtain a lease for deposits of oil and gas under the Mineral Leasing Act (30 U.S.C. 181 et seq.).

(b) PROCEDURES.—The Secretary shall, by regulation and no later than 180 days after the date of enactment of this title, establish procedures for—

(1) receipt and consideration of sealed nominations for any area of the Coastal Plain for inclusion in, or exclusion (as provided in subsection (c)) from, a lease sale;

(2) the holding of lease sales after such nomination process; and

(3) public notice of and comment on designation of areas to be included in, or excluded from, a lease sale.

(c) LEASE SALE BIDS.—Lease sales under this title may be conducted through an

Internet leasing program, if the Secretary determines that such a system will result in savings to the taxpayer, an increase in the number of bidders participating, and higher returns than oral bidding or a sealed bidding system.

(d) **SALE ACREAGES AND SCHEDULE.**—

(1) The Secretary shall offer for lease under this title those tracts the Secretary considers to have the greatest potential for the discovery of hydrocarbons, taking into consideration nominations received pursuant to subsection (b)(1).

(2) The Secretary shall offer for lease under this title no less than 50,000 acres for lease within 22 months after the date of the enactment of this Act.

(3) The Secretary shall offer for lease under this title no less than an additional 50,000 acres at 6-, 12-, and 18-month intervals following offering under paragraph (2).

(4) The Secretary shall conduct four additional sales under the same terms and schedule no later than two years after the date of the last sale under paragraph (3), if sufficient interest in leasing exists to warrant, in the Secretary's judgment, the conduct of such sales.

(5) The Secretary shall evaluate the bids in each sale and issue leases resulting from such sales, within 90 days after the date of the completion of such sale.

**SEC. 55004. GRANT OF LEASES BY THE SECRETARY.**

(a) **IN GENERAL.**—The Secretary may grant to the highest responsible qualified bidder in a lease sale conducted under section 55003 any lands to be leased on the Coastal Plain upon payment by the such bidder of such bonus as may be accepted by the Secretary.

(b) **SUBSEQUENT TRANSFERS.**—No lease issued under this title may be sold, exchanged, assigned, sublet, or otherwise transferred except with the approval of the Secretary. Prior to any such approval the Secretary shall consult with, and give due consideration to the views of, the Attorney General.

**SEC. 55005. LEASE TERMS AND CONDITIONS.**

(a) **IN GENERAL.**—An oil or gas lease issued under this title shall—

(1) provide for the payment of a royalty of not less than 12½ percent in amount or value of the production removed or sold under the lease, as determined by the Secretary under the regulations applicable to other Federal oil and gas leases;

(2) provide that the Secretary may close, on a seasonal basis, portions of the Coastal Plain to exploratory drilling activities as necessary to protect caribou calving areas and other species of fish and wildlife based on a preponderance of the best available scientific evidence that has been peer reviewed and obtained by following appropriate, documented scientific procedures, the results of which can be repeated using those same procedures;

(3) require that the lessee of lands within the Coastal Plain shall be fully responsible and liable for the reclamation of lands within the Coastal Plain and any other Federal lands that are adversely affected in connection with exploration, development, production, or transportation activities conducted under the lease and within the Coastal Plain by the lessee or by any of the subcontractors or agents of the lessee;

(4) provide that the lessee may not delegate or convey, by contract or otherwise, the reclamation responsibility and liability to another person without the express written approval of the Secretary;

(5) provide that the standard of reclamation for lands required to be reclaimed under

this title shall be, as nearly as practicable, a condition capable of supporting the uses which the lands were capable of supporting prior to any exploration, development, or production activities, or upon application by the lessee, to a higher or better use as certified by the Secretary;

(6) contain terms and conditions relating to protection of fish and wildlife, their habitat, subsistence resources, and the environment as required pursuant to section 55002(a)(2);

(7) provide that the lessee, its agents, and its contractors use best efforts to provide a fair share, as determined by the level of obligation previously agreed to in the 1974 agreement implementing section 29 of the Federal Agreement and Grant of Right of Way for the Operation of the Trans-Alaska Pipeline, of employment and contracting for Alaska Natives and Alaska Native corporations from throughout the State;

(8) prohibit the export of oil produced under the lease; and

(9) contain such other provisions as the Secretary determines necessary to ensure compliance with this title and the regulations issued under this title.

**SEC. 55006. COASTAL PLAIN ENVIRONMENTAL PROTECTION.**

(a) **NO SIGNIFICANT ADVERSE EFFECT STANDARD TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.**—The Secretary shall, consistent with the requirements of section 55002, administer this title through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that—

(1) ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, and the environment;

(2) require the application of the best commercially available technology for oil and gas exploration, development, and production on all new exploration, development, and production operations; and

(3) ensure that the maximum amount of surface acreage covered by production and support facilities, including airstrips and any areas covered by gravel berms or piers for support of pipelines, does not exceed 10,000 acres on the Coastal Plain for each 100,000 acres of area leased.

(b) **SITE-SPECIFIC ASSESSMENT AND MITIGATION.**—The Secretary shall also require, with respect to any proposed drilling and related activities, that—

(1) a site-specific analysis be made of the probable effects, if any, that the drilling or related activities will have on fish and wildlife, their habitat, subsistence resources, and the environment;

(2) a plan be implemented to avoid, minimize, and mitigate (in that order and to the extent practicable) any significant adverse effect identified under paragraph (1); and

(3) the development of the plan shall occur after consultation with the agency or agencies having jurisdiction over matters mitigated by the plan.

(c) **REGULATIONS TO PROTECT COASTAL PLAIN FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS, AND THE ENVIRONMENT.**—Before implementing the leasing program authorized by this title, the Secretary shall prepare and promulgate regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other measures designed to ensure that the activities undertaken on the Coastal Plain under this title are conducted in a manner consistent with the purposes and environmental requirements of this title.

(d) **COMPLIANCE WITH FEDERAL AND STATE ENVIRONMENTAL LAWS AND OTHER REQUIREMENTS.**—The proposed regulations, lease terms, conditions, restrictions, prohibitions, and stipulations for the leasing program under this title shall require compliance with all applicable provisions of Federal and State environmental law, and shall also require the following:

(1) Standards at least as effective as the safety and environmental mitigation measures set forth in items 1 through 29 at pages 167 through 169 of the "Final Legislative Environmental Impact Statement" (April 1987) on the Coastal Plain.

(2) Seasonal limitations on exploration, development, and related activities, where necessary, to avoid significant adverse effects during periods of concentrated fish and wildlife breeding, denning, nesting, spawning, and migration based on a preponderance of the best available scientific evidence that has been peer reviewed and obtained by following appropriate, documented scientific procedures, the results of which can be repeated using those same procedures.

(3) That exploration activities, except for surface geological studies, be limited to the period between approximately November 1 and May 1 each year and that exploration activities shall be supported, if necessary, by ice roads, winter trails with adequate snow cover, ice pads, ice airstrips, and air transport methods, except that such exploration activities may occur at other times if the Secretary finds that such exploration will have no significant adverse effect on the fish and wildlife, their habitat, and the environment of the Coastal Plain.

(4) Design safety and construction standards for all pipelines and any access and service roads, that—

(A) minimize, to the maximum extent possible, adverse effects upon the passage of migratory species such as caribou; and

(B) minimize adverse effects upon the flow of surface water by requiring the use of culverts, bridges, and other structural devices.

(5) Prohibitions on general public access and use on all pipeline access and service roads.

(6) Stringent reclamation and rehabilitation requirements, consistent with the standards set forth in this title, requiring the removal from the Coastal Plain of all oil and gas development and production facilities, structures, and equipment upon completion of oil and gas production operations, except that the Secretary may exempt from the requirements of this paragraph those facilities, structures, or equipment that the Secretary determines would assist in the management of the Arctic National Wildlife Refuge and that are donated to the United States for that purpose.

(7) Appropriate prohibitions or restrictions on access by all modes of transportation.

(8) Appropriate prohibitions or restrictions on sand and gravel extraction.

(9) Consolidation of facility siting.

(10) Appropriate prohibitions or restrictions on use of explosives.

(11) Avoidance, to the extent practicable, of springs, streams, and river systems; the protection of natural surface drainage patterns, wetlands, and riparian habitats; and the regulation of methods or techniques for developing or transporting adequate supplies of water for exploratory drilling.

(12) Avoidance or minimization of air traffic-related disturbance to fish and wildlife.

(13) Treatment and disposal of hazardous and toxic wastes, solid wastes, reserve pit fluids, drilling muds and cuttings, and domestic wastewater, including an annual



waste management report, a hazardous materials tracking system, and a prohibition on chlorinated solvents, in accordance with applicable Federal and State environmental law.

(14) Fuel storage and oil spill contingency planning.

(15) Research, monitoring, and reporting requirements.

(16) Field crew environmental briefings.

(17) Avoidance of significant adverse effects upon subsistence hunting, fishing, and trapping by subsistence users.

(18) Compliance with applicable air and water quality standards.

(19) Appropriate seasonal and safety zone designations around well sites, within which subsistence hunting and trapping shall be limited.

(20) Reasonable stipulations for protection of cultural and archeological resources.

(21) All other protective environmental stipulations, restrictions, terms, and conditions deemed necessary by the Secretary.

(e) **CONSIDERATIONS.**—In preparing and promulgating regulations, lease terms, conditions, restrictions, prohibitions, and stipulations under this section, the Secretary shall consider the following:

(1) The stipulations and conditions that govern the National Petroleum Reserve-Alaska leasing program, as set forth in the 1999 Northeast National Petroleum Reserve-Alaska Final Integrated Activity Plan/Environmental Impact Statement.

(2) The environmental protection standards that governed the initial Coastal Plain seismic exploration program under parts 37.31 to 37.33 of title 50, Code of Federal Regulations.

(3) The land use stipulations for exploratory drilling on the KIC-ASRC private lands that are set forth in appendix 2 of the August 9, 1983, agreement between Arctic Slope Regional Corporation and the United States.

(f) **FACILITY CONSOLIDATION PLANNING.**—

(1) **IN GENERAL.**—The Secretary shall, after providing for public notice and comment, prepare and update periodically a plan to govern, guide, and direct the siting and construction of facilities for the exploration, development, production, and transportation of Coastal Plain oil and gas resources.

(2) **OBJECTIVES.**—The plan shall have the following objectives:

(A) Avoiding unnecessary duplication of facilities and activities.

(B) Encouraging consolidation of common facilities and activities.

(C) Locating or confining facilities and activities to areas that will minimize impact on fish and wildlife, their habitat, and the environment.

(D) Utilizing existing facilities wherever practicable.

(E) Enhancing compatibility between wildlife values and development activities.

(g) **ACCESS TO PUBLIC LANDS.**—The Secretary shall—

(1) manage public lands in the Coastal Plain subject to of section 811 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3121); and

(2) ensure that local residents shall have reasonable access to public lands in the Coastal Plain for traditional uses.

#### **SEC. 55007. EXPEDITED JUDICIAL REVIEW.**

(a) **FILING OF COMPLAINT.**—

(1) **DEADLINE.**—Subject to paragraph (2), any complaint seeking judicial review—

(A) of any provision of this title shall be filed by not later than 1 year after the date of enactment of this Act; or

(B) of any action of the Secretary under this title shall be filed—

(i) except as provided in clause (ii), within the 90-day period beginning on the date of the action being challenged; or

(ii) in the case of a complaint based solely on grounds arising after such period, within 90 days after the complainant knew or reasonably should have known of the grounds for the complaint.

(2) **VENUE.**—Any complaint seeking judicial review of any provision of this title or any action of the Secretary under this title may be filed only in the United States Court of Appeals for the District of Columbia.

(3) **LIMITATION ON SCOPE OF CERTAIN REVIEW.**—Judicial review of a Secretarial decision to conduct a lease sale under this title, including the environmental analysis thereof, shall be limited to whether the Secretary has complied with this title and shall be based upon the administrative record of that decision. The Secretary's identification of a preferred course of action to enable leasing to proceed and the Secretary's analysis of environmental effects under this title shall be presumed to be correct unless shown otherwise by clear and convincing evidence to the contrary.

(b) **LIMITATION ON OTHER REVIEW.**—Actions of the Secretary with respect to which review could have been obtained under this section shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

(c) **LIMITATION ON ATTORNEYS' FEES AND COURT COSTS.**—No person seeking judicial review of any action under this title shall receive payment from the Federal Government for their attorneys' fees and other court costs, including under any provision of law enacted by the Equal Access to Justice Act (5 U.S.C. 504 note).

#### **SEC. 55008. TREATMENT OF REVENUES.**

Notwithstanding any other provision of law, 50 percent of the amount of bonus, rental, and royalty revenues from Federal oil and gas leasing and operations authorized under this title shall be deposited in the Treasury.

#### **SEC. 55009. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.**

(a) **IN GENERAL.**—The Secretary shall issue rights-of-way and easements across the Coastal Plain for the transportation of oil and gas produced under leases under this title—

(1) except as provided in paragraph (2), under section 28 of the Mineral Leasing Act (30 U.S.C. 185), without regard to title XI of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3161 et seq.); and

(2) under title XI of the Alaska National Interest Lands Conservation Act (30 U.S.C. 3161 et seq.), for access authorized by sections 1110 and 1111 of that Act (16 U.S.C. 3170 and 3171).

(b) **TERMS AND CONDITIONS.**—The Secretary shall include in any right-of-way or easement issued under subsection (a) such terms and conditions as may be necessary to ensure that transportation of oil and gas does not result in a significant adverse effect on the fish and wildlife, subsistence resources, their habitat, and the environment of the Coastal Plain, including requirements that facilities be sited or designed so as to avoid unnecessary duplication of roads and pipelines.

(c) **REGULATIONS.**—The Secretary shall include in regulations under section 55002(g) provisions granting rights-of-way and easements described in subsection (a) of this section.

#### **SEC. 55010. CONVEYANCE.**

In order to maximize Federal revenues by removing clouds on title to lands and clarifying land ownership patterns within the Coastal Plain, the Secretary, notwithstanding section 1302(h)(2) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3192(h)(2)), shall convey—

(1) to the Kaktovik Inupiat Corporation the surface estate of the lands described in paragraph 1 of Public Land Order 6959, to the extent necessary to fulfill the Corporation's entitlement under sections 12 and 14 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611 and 1613) in accordance with the terms and conditions of the Agreement between the Department of the Interior, the United States Fish and Wildlife Service, the Bureau of Land Management, and the Kaktovik Inupiat Corporation dated January 22, 1993; and

(2) to the Arctic Slope Regional Corporation the remaining subsurface estate to which it is entitled pursuant to the August 9, 1983, agreement between the Arctic Slope Regional Corporation and the United States of America.

#### **TITLE VI—OIL SHALE AND TAR SANDS LEASING**

#### **SEC. 56001. EFFECTIVENESS OF OIL SHALE REGULATIONS, AMENDMENTS TO RESOURCE MANAGEMENT PLANS, AND RECORD OF DECISION.**

(a) **REGULATIONS.**—Notwithstanding any other law or regulation to the contrary, the final regulations regarding oil shale management published by the Bureau of Land Management on November 18, 2008 (73 Fed. Reg. 69,414) are deemed to satisfy all legal and procedural requirements under any law, including the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and the Energy Policy Act of 2005 (Public Law 109-58), and the Secretary of the Interior shall implement those regulations, including the oil shale and tar sands leasing program authorized by the regulations, without any other administrative action necessary.

(b) **AMENDMENTS TO RESOURCE MANAGEMENT PLANS AND RECORD OF DECISION.**—Notwithstanding any other law or regulation to the contrary, the November 17, 2008 U.S. Bureau of Land Management Approved Resource Management Plan Amendments/Record of Decision for Oil Shale and Tar Sands Resources to Address Land Use Allocations in Colorado, Utah, and Wyoming and Final Programmatic Environmental Impact Statement are deemed to satisfy all legal and procedural requirements under any law, including the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and the Energy Policy Act of 2005 (Public Law 109-58), and the Secretary of the Interior shall implement the oil shale and tar sands leasing program authorized by the regulations referred to in subsection (a) in those areas covered by the resource management plans amended by such amendments, and covered by such record of decision, without any other administrative action necessary.

#### **SEC. 56002. OIL SHALE AND TAR SANDS LEASING.**

(a) **ADDITIONAL RESEARCH AND DEVELOPMENT LEASE SALES.**—The Secretary of the Interior shall hold a lease sale within 180 days after the date of enactment of this Act offering an additional 10 parcels for lease for research, development, and demonstration of



oil shale or tar sands resources, under the terms offered in the solicitation of bids for such leases published on January 15, 2009 (74 Fed. Reg. 10).

(b) **COMMERCIAL LEASE SALES.**—No later than January 1, 2016, the Secretary of the Interior shall hold no less than 5 separate commercial lease sales in areas considered to have the most potential for oil shale or tar sands development, as determined by the Secretary, in areas nominated through public comment. Each lease sale shall be for an area of not less than 25,000 acres, and in multiple lease blocs.

(c) **REDUCED PAYMENTS TO ENSURE PRODUCTION.**—The Secretary of the Interior may temporarily reduce royalties, fees, rentals, bonus, or other payments for leases of Federal lands for the development and production of oil shale resources as necessary to incentivize and encourage development of such resources, if the Secretary determines that the royalties, fees, rentals, bonus bids, and other payments otherwise authorized by law are hindering production of such resources.

**SA 1713.** Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike titles II and III of division D and insert the following:

#### **TITLE II—REVENUE PROVISIONS**

##### **SEC. 40201. TRANSFER FROM LEAKING UNDERGROUND STORAGE TANK TRUST FUND TO HIGHWAY TRUST FUND.**

(a) **IN GENERAL.**—Subsection (c) of section 9508 of the Internal Revenue Code of 1986 is amended—

(1) by striking “Amounts” and inserting: “(1) **IN GENERAL.**—Except as provided in paragraph (2), amounts”, and

(2) by adding at the end the following new paragraph:

“(2) **TRANSFER TO HIGHWAY TRUST FUND.**—Out of amounts in the Leaking Underground Storage Tank Trust Fund there is hereby appropriated \$3,000,000,000 to be transferred under section 9503(f)(3) to the Highway Trust Fund.”.

(b) **TRANSFER TO HIGHWAY TRUST FUND.**—

(1) **IN GENERAL.**—Subsection (f) of section 9503 of the Internal Revenue Code of 1986 is amended by inserting after paragraph (2) the following new paragraph:

“(3) **INCREASE IN FUND BALANCE.**—There is hereby transferred to the Highway Trust Fund amounts appropriated from the Leaking Underground Storage Tank Trust Fund under section 9508(c)(2).”.

(2) **CONFORMING AMENDMENTS.**—Paragraph (4) of section 9503(f) of such Code is amended—

(A) by inserting “or transferred” after “appropriated”, and

(B) by striking “APPROPRIATED” in the heading thereof.

##### **SEC. 40202. PORTION OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE TRANSFERRED TO HIGHWAY TRUST FUND.**

(a) **IN GENERAL.**—Subsection (b) of section 9503 of the Internal Revenue Code of 1986 is amended by inserting after paragraph (2) the following new paragraph:

“(3) **PORTION OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.**—There are hereby appropriated to the Highway Trust Fund amounts equivalent to one-

third of the taxes received in the Treasury under—

“(A) section 4041(d) (relating to additional taxes on motor fuels),

“(B) section 4081 (relating to tax on gasoline, diesel fuel, and kerosene) to the extent attributable to the Leaking Underground Storage Tank Trust Fund financing rate under such section, and

“(C) section 4042 (relating to tax on fuel used in commercial transportation on inland waterways) to the extent attributable to the Leaking Underground Storage Tank Trust Fund financing rate under such section.

For purposes of this paragraph, there shall not be taken into account the taxes imposed by sections 4041 and 4081 on diesel fuel sold for use or used as fuel in a diesel-powered boat.”.

(b) **CONFORMING AMENDMENTS.**—

(1) Paragraphs (1), (2), and (3) of section 9508(b) of the Internal Revenue Code of 1986 are each amended by inserting “two-thirds of the” before “taxes”.

(2) Paragraph (4) of section 9503(b) of such Code is amended by striking subparagraphs (A) and (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (A) and (B), respectively.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxes received after the date of the enactment of this Act.

##### **SEC. 40203. INTERNAL REVENUE SERVICE LEVIES AND THRIFT SAVINGS PLAN ACCOUNTS.**

Section 8437(e)(3) of title 5, United States Code, is amended by inserting “, the enforcement of a Federal tax levy as provided in section 6331 of the Internal Revenue Code of 1986,” after “(42 U.S.C. 659)”.

##### **SEC. 40204. RESCISSION OF FUNDS FOR THE ADVANCED TECHNOLOGY VEHICLES MANUFACTURING INCENTIVE PROGRAM.**

Effective on the date of enactment of this Act, there are rescinded all unobligated balances of the amounts made available for the advanced technology vehicles manufacturing incentive program established under section 136 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17013).

##### **SEC. 40205. RESCISSION OF UNSPENT FEDERAL FUNDS.**

(a) **IN GENERAL.**—Notwithstanding any other provision of law, of all available unobligated funds on the date of enactment of this Act, there are rescinded such amounts as are equal to the difference between—

(1) the amounts necessary to carry out this Act; and

(2) the total amount of offsets provided by this title (other than this section) and division E.

(b) **IMPLEMENTATION.**—

(1) **IN GENERAL.**—The Director of the Office of Management and Budget shall determine and identify—

(A) from which appropriation accounts the rescission under subsection (a) shall be made; and

(B) the amount of such rescission that shall be made to each account identified under subparagraph (A).

(2) **REPORT.**—Not later than 60 days after the date of enactment of this Act, the Director of the Office of Management and Budget shall submit a report to the Secretary of the Treasury and Congress of the accounts and amounts determined and identified for rescission under paragraph (1).

(c) **EXCEPTION.**—This section shall not apply to the unobligated funds of the Department of Defense, the Department of Home-

land Security, or the Department of Veterans Affairs.

##### **SEC. 40206. DEPOSIT IN HIGHWAY TRUST FUND.**

There shall be deposited in the Highway Trust Fund

(1) any amounts rescinded under this title; and

(2) any amounts collected by the United States under this title or division E (including an amendment made by this title or division E).

#### **DIVISION E—ENERGY DEVELOPMENT TITLE I—EXPANDING OFFSHORE ENERGY DEVELOPMENT**

##### **SEC. 51001. OUTER CONTINENTAL SHELF LEASING PROGRAM.**

Section 18(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1344(a)) is amended by adding at the end the following:

“(5)(A) In each oil and gas leasing program under this section, the Secretary shall make available for leasing and conduct lease sales including—

“(i) at least 50 percent of the available unleased acreage within each outer Continental Shelf planning area considered to have the largest undiscovered, technically recoverable oil and gas resources (on a total btu basis) based upon the most recent national geologic assessment of the outer Continental Shelf, with an emphasis on offering the most geologically prospective parts of the planning area; and

“(ii) any State subdivision of an outer Continental Shelf planning area that the Governor of the State that represents that subdivision requests be made available for leasing.

“(B) In this paragraph the term ‘available unleased acreage’ means that portion of the outer Continental Shelf that is not under lease at the time of a proposed lease sale, and that has not otherwise been made unavailable for leasing by law.

“(6)(A) In the 2012–2017 5-year oil and gas leasing program, the Secretary shall make available for leasing any outer Continental Shelf planning areas that—

“(i) are estimated to contain more than 2,500,000,000 barrels of oil; or

“(ii) are estimated to contain more than 7,500,000,000 cubic feet of natural gas.

“(B) To determine the planning areas described in subparagraph (A), the Secretary shall use the document entitled ‘Minerals Management Service Assessment of Undiscovered Technically Recoverable Oil and Gas Resources of the Nation’s Outer Continental Shelf, 2006’.”.

##### **SEC. 51002. DOMESTIC OIL AND NATURAL GAS PRODUCTION GOAL.**

Section 18(b) of the Outer Continental Shelf Lands Act (43 U.S.C. 1344(b)) is amended to read as follows:

“(b) **DOMESTIC OIL AND NATURAL GAS PRODUCTION GOAL.**—

“(1) **IN GENERAL.**—In developing a 5-year oil and gas leasing program, and subject to paragraph (2), the Secretary shall determine a domestic strategic production goal for the development of oil and natural gas as a result of that program. Such goal shall be—

“(A) the best estimate of the possible increase in domestic production of oil and natural gas from the outer Continental Shelf;

“(B) focused on meeting domestic demand for oil and natural gas and reducing the dependence of the United States on foreign energy; and

“(C) focused on the production increases achieved by the leasing program at the end of the 15-year period beginning on the effective date of the program.

“(2) 2012-2017 PROGRAM GOAL.—For purposes of the 2012-2017 5-year oil and gas leasing program, the production goal referred to in paragraph (1) shall be an increase by 2027 of—

“(A) no less than 3,000,000 barrels in the amount of oil produced per day; and

“(B) no less than 10,000,000,000 cubic feet in the amount of natural gas produced per day.

“(3) REPORTING.—The Secretary shall report annually, beginning at the end of the 5-year period for which the program applies, to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate on the progress of the program in meeting the production goal. The Secretary shall identify in the report projections for production and any problems with leasing, permitting, or production that will prevent meeting the goal.”.

## TITLE II—CONDUCTING PROMPT OFFSHORE LEASE SALES

### SEC. 52001. REQUIREMENT TO CONDUCT PROPOSED OIL AND GAS LEASE SALE 216 IN THE CENTRAL GULF OF MEXICO.

(a) IN GENERAL.—The Secretary of the Interior shall conduct offshore oil and gas Lease Sale 216 under section 8 of the Outer Continental Shelf Lands Act (33 U.S.C. 1337) as soon as practicable, but not later than 4 months after the date of enactment of this Act.

(b) ENVIRONMENTAL REVIEW.—For the purposes of that lease sale, the Environmental Impact Statement for the 2007-2012 5 Year OUTER CONTINENTAL SHELF Plan and the Multi-Sale Environmental Impact Statement are deemed to satisfy the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

### SEC. 52002. REQUIREMENT TO CONDUCT PROPOSED OIL AND GAS LEASE SALE 220 ON THE OUTER CONTINENTAL SHELF OFFSHORE VIRGINIA.

(a) IN GENERAL.—Notwithstanding the inclusion of Lease Sale 220 in the fiscal years 2012 through fiscal year 2017 5 Year Outer Continental Shelf Oil and Gas Leasing Program, the Secretary shall conduct offshore oil and gas Lease Sale 220 under section 8 of the Outer Continental Shelf Lands Act (33 U.S.C. 1337) as soon as practicable, but not later than one year after the date of enactment of this Act.

(b) PROHIBITION ON CONFLICTS WITH MILITARY OPERATIONS.—No person may engage in any exploration, development, or production of oil or natural gas off the coast of Virginia that would conflict with any military operation, as determined in accordance with the Memorandum of Agreement between the Department of Defense and the Department of the Interior on Mutual Concerns on the Outer Continental Shelf signed July 20, 1983, and any revision or replacement for that agreement that is agreed to by the Secretary of Defense and the Secretary of the Interior after that date but before the date of issuance of the lease under which such exploration, development, or production is conducted.

### SEC. 52003. REQUIREMENT TO CONDUCT PROPOSED OIL AND GAS LEASE SALE 222 IN THE CENTRAL GULF OF MEXICO.

(a) IN GENERAL.—The Secretary shall conduct offshore oil and gas Lease Sale 222 under section 8 of the Outer Continental Shelf Lands Act (33 U.S.C. 1337) as soon as practicable, but not later than September 1, 2012.

(b) ENVIRONMENTAL REVIEW.—For the purposes of that lease sale, the Environmental Impact Statement for the 2007-2012 5 Year OUTER CONTINENTAL SHELF Plan and

the Multi-Sale Environmental Impact Statement are deemed to satisfy the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

### SEC. 52004. ADDITIONAL LEASES.

Section 18 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344) is amended by adding at the end the following:

“(i) ADDITIONAL LEASE SALES.—In addition to lease sales in accordance with a leasing program in effect under this section, the Secretary may hold lease sales for areas identified by the Secretary to have the greatest potential for new oil and gas development as a result of local support, new seismic findings, or nomination by interested persons.”.

### SEC. 52005. DEFINITIONS.

In this title:

(1) The term “Environmental Impact Statement for the 2007-2012 5 Year OUTER CONTINENTAL SHELF Plan” means the Final Environmental Impact Statement for Outer Continental Shelf Oil and Gas Leasing Program: 2007-2012 (April 2007) prepared by the Secretary.

(2) The term “Multi-Sale Environmental Impact Statement” means the Environmental Impact Statement for Proposed Western Gulf of Mexico OUTER CONTINENTAL SHELF Oil and Gas Lease Sales 204, 207, 210, 215, and 218, and Proposed Central Gulf of Mexico OUTER CONTINENTAL SHELF Oil and Gas Lease Sales 205, 206, 208, 213, 216, and 222 (September 2008) prepared by the Secretary.

(3) The term “Secretary” means the Secretary of the Interior.

## TITLE III—LEASING IN NEW OFFSHORE AREAS

### SEC. 53001. LEASING IN THE EASTERN GULF OF MEXICO.

Section 104 of division C of the Tax Relief and Health Care Act of 2006 (Public Law 109-432; 120 Stat. 3003) is repealed.

### SEC. 53002. LEASING OFFSHORE OF TERRITORIES OF THE UNITED STATES.

Section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331) is amended, by inserting after “control” the following: “or lying within the United States’ exclusive economic zone and the Continental Shelf adjacent to the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, American Samoa, Guam, or the other territories of the United States”.

## TITLE IV—OUTER CONTINENTAL SHELF REVENUE SHARING

### SEC. 54001. DISPOSITION OF OUTER CONTINENTAL SHELF REVENUES.

Section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338) is amended—

(1) in the existing text—

(A) in the first sentence, by striking “All rentals,” and inserting the following:

“(c) DISPOSITION OF REVENUE UNDER OLD LEASES.—All rentals,”; and

(B) in subsection (c) (as designated by the amendment made by subparagraph (A) of this paragraph), by striking “for the period from June 5, 1950, to date, and thereafter” and inserting “in the period beginning June 5, 1950, and ending on the date of enactment of the Moving Ahead for Progress in the 21st Century Act”;

(2) by adding after subsection (c) (as so designated) the following:

“(d) NEW LEASING REVENUES DEFINED.—In this section the term ‘new leasing revenues’ means amounts received by the United States as bonuses, rents, and royalties under leases for oil and gas, wind, tidal, or other energy exploration, development, and pro-

duction that are awarded under this Act after the date of enactment of the Moving Ahead for Progress in the 21st Century Act.”; and

(3) by inserting before subsection (c) (as so designated) the following:

“(a) PAYMENT OF NEW LEASING REVENUES TO COASTAL STATES, GENERALLY.—

“(1) IN GENERAL.—Of the amount of new leasing revenues received by the United States each fiscal year that is described in paragraph (2), 37.5 percent shall be allocated and paid in accordance with subsection (b) to coastal States that are affected States with respect to the leases under which those revenues are received by the United States.

“(2) PHASE-IN.—The amount of new leasing revenues referred to in paragraph (1) is the sum determined by adding—

“(A) 35 percent of new leasing revenues received by the United States in the fiscal year under—

“(i) leases awarded under the first leasing program under section 18(a) that takes effect after the date of enactment of the Moving Ahead for Progress in the 21st Century Act; and

“(ii) other leases issued as a result of the enactment of that Act;

“(B) 70 percent of new leasing revenues received by the United States in the fiscal year under leases awarded under the second such leasing program; and

“(C) 100 percent of new leasing revenues received by the United States under leases awarded under the third such leasing program or any such leasing program taking effect thereafter.

“(b) ALLOCATION OF PAYMENTS TO COASTAL STATES.—

“(1) IN GENERAL.—The amount of new leasing revenues received by the United States with respect to a leased tract that are required to be paid to coastal States in accordance with this subsection each fiscal year shall be allocated among and paid to such States that are within 200 miles of the leased tract, in amounts that are inversely proportional to the respective distances between the point on the coastline of each such State that is closest to the geographic center of the lease tract, as determined by the Secretary.

“(2) MINIMUM AND MAXIMUM ALLOCATION.—The amount allocated to a coastal State under paragraph (1) each fiscal year with respect to a leased tract shall be—

“(A) in the case of a coastal State that is the nearest State to the geographic center of the leased tract, not less than 25 percent of the total amounts allocated with respect to the leased tract; and

“(B) in the case of any other coastal State, not less than 10 percent, and not more than 15 percent, of the total amounts allocated with respect to the leased tract.

“(3) ADMINISTRATION.—Amounts allocated to a coastal State under this subsection—

“(A) shall be available to the State without further appropriation;

“(B) shall remain available until expended; and

“(C) shall be in addition to any other amounts available to the State under this Act.

“(4) USE OF FUNDS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), a coastal State may use funds allocated and paid to it under this subsection for any purpose as determined by State law.

“(B) RESTRICTION ON USE FOR MATCHING.—Funds allocated and paid to a coastal State under this subsection may not be used as

matching funds for any other Federal program.”.

#### TITLE V—COASTAL PLAIN

##### SEC. 55001. DEFINITIONS.

In this title:

(1) **COASTAL PLAIN.**—The term “Coastal Plain” means that area described in appendix I to part 37 of title 50, Code of Federal Regulations.

(2) **PEER REVIEWED.**—The term “peer reviewed” means reviewed—

(A) by individuals chosen by the National Academy of Sciences with no contractual relationship with or those who have an application for a grant or other funding pending with the Federal agency with leasing jurisdiction; or

(B) if individuals described in subparagraph (A) are not available, by the top individuals in the specified biological fields, as determined by the National Academy of Sciences.

(3) **SECRETARY.**—The term “Secretary”, except as otherwise provided, means the Secretary of the Interior or the Secretary’s designee.

##### SEC. 55002. LEASING PROGRAM FOR LANDS WITHIN THE COASTAL PLAIN.

(a) **IN GENERAL.**—The Secretary shall take such actions as are necessary—

(1) to establish and implement, in accordance with this title and acting through the Director of the Bureau of Land Management in consultation with the Director of the United States Fish and Wildlife Service, a competitive oil and gas leasing program that will result in the exploration, development, and production of the oil and gas resources of the Coastal Plain; and

(2) to administer the provisions of this title through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, subsistence resources, and the environment, including, in furtherance of this goal, by requiring the application of the best commercially available technology for oil and gas exploration, development, and production to all exploration, development, and production operations under this title in a manner that ensures the receipt of fair market value by the public for the mineral resources to be leased.

(b) **REPEAL OF EXISTING RESTRICTION.**—

(1) **REPEAL.**—Section 1003 of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3143) is repealed.

(2) **CONFORMING AMENDMENT.**—The table of contents in section 1 of such Act is amended by striking the item relating to section 1003.

(c) **COMPLIANCE WITH REQUIREMENTS UNDER CERTAIN OTHER LAWS.**—

(1) **COMPATIBILITY.**—For purposes of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.), the oil and gas leasing program and activities authorized by this section in the Coastal Plain are deemed to be compatible with the purposes for which the Arctic National Wildlife Refuge was established, and no further findings or decisions are required to implement this determination.

(2) **ADEQUACY OF THE DEPARTMENT OF THE INTERIOR’S LEGISLATIVE ENVIRONMENTAL IMPACT STATEMENT.**—The “Final Legislative Environmental Impact Statement” (April 1987) on the Coastal Plain prepared pursuant to section 1002 of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3142) and section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C.

4332(2)(C)) is deemed to satisfy the requirements under the National Environmental Policy Act of 1969 that apply with respect to prelease activities under this title, including actions authorized to be taken by the Secretary to develop and promulgate the regulations for the establishment of a leasing program authorized by this title before the conduct of the first lease sale.

(3) **COMPLIANCE WITH NEPA FOR OTHER ACTIONS.**—Before conducting the first lease sale under this title, the Secretary shall prepare an environmental impact statement under the National Environmental Policy Act of 1969 with respect to the actions authorized by this title that are not referred to in paragraph (2). Notwithstanding any other law, the Secretary is not required to identify non-leasing alternative courses of action or to analyze the environmental effects of such courses of action. The Secretary shall only identify a preferred action for such leasing and a single leasing alternative, and analyze the environmental effects and potential mitigation measures for those two alternatives. The identification of the preferred action and related analysis for the first lease sale under this title shall be completed within 18 months after the date of enactment of this Act. The Secretary shall only consider public comments that specifically address the Secretary’s preferred action and that are filed within 20 days after publication of an environmental analysis. Notwithstanding any other law, compliance with this paragraph is deemed to satisfy all requirements for the analysis and consideration of the environmental effects of proposed leasing under this title.

(d) **RELATIONSHIP TO STATE AND LOCAL AUTHORITY.**—Nothing in this title shall be considered to expand or limit State and local regulatory authority.

(e) **SPECIAL AREAS.**—

(1) **IN GENERAL.**—The Secretary, after consultation with the State of Alaska, the city of Kaktovik, and the North Slope Borough, may designate up to a total of 45,000 acres of the Coastal Plain as a Special Area if the Secretary determines that the Special Area is of such unique character and interest so as to require special management and regulatory protection. The Secretary shall designate as such a Special Area the Sadlerochit Spring area, comprising approximately 4,000 acres.

(2) **MANAGEMENT.**—Each such Special Area shall be managed so as to protect and preserve the area’s unique and diverse character including its fish, wildlife, and subsistence resource values.

(3) **EXCLUSION FROM LEASING OR SURFACE OCCUPANCY.**—The Secretary may exclude any Special Area from leasing. If the Secretary leases a Special Area, or any part thereof, for purposes of oil and gas exploration, development, production, and related activities, there shall be no surface occupancy of the lands comprising the Special Area.

(4) **DIRECTIONAL DRILLING.**—Notwithstanding the other provisions of this subsection, the Secretary may lease all or a portion of a Special Area under terms that permit the use of horizontal drilling technology from sites on leases tracts located outside the Special Area.

(f) **LIMITATION ON CLOSED AREAS.**—The Secretary’s sole authority to close lands within the Coastal Plain to oil and gas leasing and to exploration, development, and production is that set forth in this title.

(g) **REGULATIONS.**—

(1) **IN GENERAL.**—The Secretary shall prescribe such regulations as may be necessary

to carry out this title, including regulations relating to protection of the fish and wildlife, their habitat, subsistence resources, and environment of the Coastal Plain, by no later than 15 months after the date of enactment of this Act.

(2) **REVISION OF REGULATIONS.**—The Secretary shall, through a rule making conducted in accordance with section 553 of title 5, United States Code, periodically review and, if appropriate, revise the regulations issued under subsection (a) to reflect a preponderance of the best available scientific evidence that has been peer reviewed and obtained by following appropriate, documented scientific procedures, the results of which can be repeated using those same procedures.

##### SEC. 55003. LEASE SALES.

(a) **IN GENERAL.**—Lands may be leased under this title to any person qualified to obtain a lease for deposits of oil and gas under the Mineral Leasing Act (30 U.S.C. 181 et seq.).

(b) **PROCEDURES.**—The Secretary shall, by regulation and no later than 180 days after the date of enactment of this title, establish procedures for—

(1) receipt and consideration of sealed nominations for any area of the Coastal Plain for inclusion in, or exclusion (as provided in subsection (c)) from, a lease sale;

(2) the holding of lease sales after such nomination process; and

(3) public notice of and comment on designation of areas to be included in, or excluded from, a lease sale.

(c) **LEASE SALE BIDS.**—Lease sales under this title may be conducted through an Internet leasing program, if the Secretary determines that such a system will result in savings to the taxpayer, an increase in the number of bidders participating, and higher returns than oral bidding or a sealed bidding system.

(d) **SALE ACREAGES AND SCHEDULE.**—

(1) The Secretary shall offer for lease under this title those tracts the Secretary considers to have the greatest potential for the discovery of hydrocarbons, taking into consideration nominations received pursuant to subsection (b)(1).

(2) The Secretary shall offer for lease under this title no less than 50,000 acres for lease within 22 months after the date of the enactment of this Act.

(3) The Secretary shall offer for lease under this title no less than an additional 50,000 acres at 6-, 12-, and 18-month intervals following offering under paragraph (2).

(4) The Secretary shall conduct four additional sales under the same terms and schedule no later than two years after the date of the last sale under paragraph (3), if sufficient interest in leasing exists to warrant, in the Secretary’s judgment, the conduct of such sales.

(5) The Secretary shall evaluate the bids in each sale and issue leases resulting from such sales, within 90 days after the date of the completion of such sale.

##### SEC. 55004. GRANT OF LEASES BY THE SECRETARY.

(a) **IN GENERAL.**—The Secretary may grant to the highest responsible qualified bidder in a lease sale conducted under section 55003 any lands to be leased on the Coastal Plain upon payment by the such bidder of such bonus as may be accepted by the Secretary.

(b) **SUBSEQUENT TRANSFERS.**—No lease issued under this title may be sold, exchanged, assigned, sublet, or otherwise transferred except with the approval of the Secretary. Prior to any such approval the Secretary shall consult with, and give due

consideration to the views of, the Attorney General.

**SEC. 55005. LEASE TERMS AND CONDITIONS.**

(a) IN GENERAL.—An oil or gas lease issued under this title shall—

(1) provide for the payment of a royalty of not less than 12½ percent in amount or value of the production removed or sold under the lease, as determined by the Secretary under the regulations applicable to other Federal oil and gas leases;

(2) provide that the Secretary may close, on a seasonal basis, portions of the Coastal Plain to exploratory drilling activities as necessary to protect caribou calving areas and other species of fish and wildlife based on a preponderance of the best available scientific evidence that has been peer reviewed and obtained by following appropriate, documented scientific procedures, the results of which can be repeated using those same procedures;

(3) require that the lessee of lands within the Coastal Plain shall be fully responsible and liable for the reclamation of lands within the Coastal Plain and any other Federal lands that are adversely affected in connection with exploration, development, production, or transportation activities conducted under the lease and within the Coastal Plain by the lessee or by any of the subcontractors or agents of the lessee;

(4) provide that the lessee may not delegate or convey, by contract or otherwise, the reclamation responsibility and liability to another person without the express written approval of the Secretary;

(5) provide that the standard of reclamation for lands required to be reclaimed under this title shall be, as nearly as practicable, a condition capable of supporting the uses which the lands were capable of supporting prior to any exploration, development, or production activities, or upon application by the lessee, to a higher or better use as certified by the Secretary;

(6) contain terms and conditions relating to protection of fish and wildlife, their habitat, subsistence resources, and the environment as required pursuant to section 55002(a)(2);

(7) provide that the lessee, its agents, and its contractors use best efforts to provide a fair share, as determined by the level of obligation previously agreed to in the 1974 agreement implementing section 29 of the Federal Agreement and Grant of Right of Way for the Operation of the Trans-Alaska Pipeline, of employment and contracting for Alaska Natives and Alaska Native corporations from throughout the State;

(8) prohibit the export of oil produced under the lease; and

(9) contain such other provisions as the Secretary determines necessary to ensure compliance with this title and the regulations issued under this title.

**SEC. 55006. COASTAL PLAIN ENVIRONMENTAL PROTECTION.**

(a) NO SIGNIFICANT ADVERSE EFFECT STANDARD TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.—The Secretary shall, consistent with the requirements of section 55002, administer this title through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that—

(1) ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, and the environment;

(2) require the application of the best commercially available technology for oil and

gas exploration, development, and production on all new exploration, development, and production operations; and

(3) ensure that the maximum amount of surface acreage covered by production and support facilities, including airstrips and any areas covered by gravel berms or piers for support of pipelines, does not exceed 10,000 acres on the Coastal Plain for each 100,000 acres of area leased.

(b) SITE-SPECIFIC ASSESSMENT AND MITIGATION.—The Secretary shall also require, with respect to any proposed drilling and related activities, that—

(1) a site-specific analysis be made of the probable effects, if any, that the drilling or related activities will have on fish and wildlife, their habitat, subsistence resources, and the environment;

(2) a plan be implemented to avoid, minimize, and mitigate (in that order and to the extent practicable) any significant adverse effect identified under paragraph (1); and

(3) the development of the plan shall occur after consultation with the agency or agencies having jurisdiction over matters mitigated by the plan.

(c) REGULATIONS TO PROTECT COASTAL PLAIN FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS, AND THE ENVIRONMENT.—Before implementing the leasing program authorized by this title, the Secretary shall prepare and promulgate regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other measures designed to ensure that the activities undertaken on the Coastal Plain under this title are conducted in a manner consistent with the purposes and environmental requirements of this title.

(d) COMPLIANCE WITH FEDERAL AND STATE ENVIRONMENTAL LAWS AND OTHER REQUIREMENTS.—The proposed regulations, lease terms, conditions, restrictions, prohibitions, and stipulations for the leasing program under this title shall require compliance with all applicable provisions of Federal and State environmental law, and shall also require the following:

(1) Standards at least as effective as the safety and environmental mitigation measures set forth in items 1 through 29 at pages 167 through 169 of the "Final Legislative Environmental Impact Statement" (April 1987) on the Coastal Plain.

(2) Seasonal limitations on exploration, development, and related activities, where necessary, to avoid significant adverse effects during periods of concentrated fish and wildlife breeding, denning, nesting, spawning, and migration based on a preponderance of the best available scientific evidence that has been peer reviewed and obtained by following appropriate, documented scientific procedures, the results of which can be repeated using those same procedures.

(3) That exploration activities, except for surface geological studies, be limited to the period between approximately November 1 and May 1 each year and that exploration activities shall be supported, if necessary, by ice roads, winter trails with adequate snow cover, ice pads, ice airstrips, and air transport methods, except that such exploration activities may occur at other times if the Secretary finds that such exploration will have no significant adverse effect on the fish and wildlife, their habitat, and the environment of the Coastal Plain.

(4) Design safety and construction standards for all pipelines and any access and service roads, that—

(A) minimize, to the maximum extent possible, adverse effects upon the passage of migratory species such as caribou; and

(B) minimize adverse effects upon the flow of surface water by requiring the use of culverts, bridges, and other structural devices.

(5) Prohibitions on general public access and use on all pipeline access and service roads.

(6) Stringent reclamation and rehabilitation requirements, consistent with the standards set forth in this title, requiring the removal from the Coastal Plain of all oil and gas development and production facilities, structures, and equipment upon completion of oil and gas production operations, except that the Secretary may exempt from the requirements of this paragraph those facilities, structures, or equipment that the Secretary determines would assist in the management of the Arctic National Wildlife Refuge and that are donated to the United States for that purpose.

(7) Appropriate prohibitions or restrictions on access by all modes of transportation.

(8) Appropriate prohibitions or restrictions on sand and gravel extraction.

(9) Consolidation of facility siting.

(10) Appropriate prohibitions or restrictions on use of explosives.

(11) Avoidance, to the extent practicable, of springs, streams, and river systems; the protection of natural surface drainage patterns, wetlands, and riparian habitats; and the regulation of methods or techniques for developing or transporting adequate supplies of water for exploratory drilling.

(12) Avoidance or minimization of air traffic-related disturbance to fish and wildlife.

(13) Treatment and disposal of hazardous and toxic wastes, solid wastes, reserve pit fluids, drilling muds and cuttings, and domestic wastewater, including an annual waste management report, a hazardous materials tracking system, and a prohibition on chlorinated solvents, in accordance with applicable Federal and State environmental law.

(14) Fuel storage and oil spill contingency planning.

(15) Research, monitoring, and reporting requirements.

(16) Field crew environmental briefings.

(17) Avoidance of significant adverse effects upon subsistence hunting, fishing, and trapping by subsistence users.

(18) Compliance with applicable air and water quality standards.

(19) Appropriate seasonal and safety zone designations around well sites, within which subsistence hunting and trapping shall be limited.

(20) Reasonable stipulations for protection of cultural and archeological resources.

(21) All other protective environmental stipulations, restrictions, terms, and conditions deemed necessary by the Secretary.

(e) CONSIDERATIONS.—In preparing and promulgating regulations, lease terms, conditions, restrictions, prohibitions, and stipulations under this section, the Secretary shall consider the following:

(1) The stipulations and conditions that govern the National Petroleum Reserve-Alaska leasing program, as set forth in the 1999 Northeast National Petroleum Reserve-Alaska Final Integrated Activity Plan/Environmental Impact Statement.

(2) The environmental protection standards that governed the initial Coastal Plain seismic exploration program under parts 37.31 to 37.33 of title 50, Code of Federal Regulations.

(3) The land use stipulations for exploratory drilling on the KIC-ASRC private lands that are set forth in appendix 2 of the August 9, 1983, agreement between Arctic

Slope Regional Corporation and the United States.

(f) **FACILITY CONSOLIDATION PLANNING.**—

(1) **IN GENERAL.**—The Secretary shall, after providing for public notice and comment, prepare and update periodically a plan to govern, guide, and direct the siting and construction of facilities for the exploration, development, production, and transportation of Coastal Plain oil and gas resources.

(2) **OBJECTIVES.**—The plan shall have the following objectives:

(A) Avoiding unnecessary duplication of facilities and activities.

(B) Encouraging consolidation of common facilities and activities.

(C) Locating or confining facilities and activities to areas that will minimize impact on fish and wildlife, their habitat, and the environment.

(D) Utilizing existing facilities wherever practicable.

(E) Enhancing compatibility between wildlife values and development activities.

(g) **ACCESS TO PUBLIC LANDS.**—The Secretary shall—

(1) manage public lands in the Coastal Plain subject to of section 811 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3121); and

(2) ensure that local residents shall have reasonable access to public lands in the Coastal Plain for traditional uses.

**SEC. 55007. EXPEDITED JUDICIAL REVIEW.**

(a) **FILING OF COMPLAINT.**—

(1) **DEADLINE.**—Subject to paragraph (2), any complaint seeking judicial review—

(A) of any provision of this title shall be filed by not later than 1 year after the date of enactment of this Act; or

(B) of any action of the Secretary under this title shall be filed—

(i) except as provided in clause (ii), within the 90-day period beginning on the date of the action being challenged; or

(ii) in the case of a complaint based solely on grounds arising after such period, within 90 days after the complainant knew or reasonably should have known of the grounds for the complaint.

(2) **VENUE.**—Any complaint seeking judicial review of any provision of this title or any action of the Secretary under this title may be filed only in the United States Court of Appeals for the District of Columbia.

(3) **LIMITATION ON SCOPE OF CERTAIN REVIEW.**—Judicial review of a Secretarial decision to conduct a lease sale under this title, including the environmental analysis thereof, shall be limited to whether the Secretary has complied with this title and shall be based upon the administrative record of that decision. The Secretary's identification of a preferred course of action to enable leasing to proceed and the Secretary's analysis of environmental effects under this title shall be presumed to be correct unless shown otherwise by clear and convincing evidence to the contrary.

(b) **LIMITATION ON OTHER REVIEW.**—Actions of the Secretary with respect to which review could have been obtained under this section shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

(c) **LIMITATION ON ATTORNEYS' FEES AND COURT COSTS.**—No person seeking judicial review of any action under this title shall receive payment from the Federal Government for their attorneys' fees and other court costs, including under any provision of law enacted by the Equal Access to Justice Act (5 U.S.C. 504 note).

**SEC. 55008. TREATMENT OF REVENUES.**

Notwithstanding any other provision of law, 50 percent of the amount of bonus, rental, and royalty revenues from Federal oil and gas leasing and operations authorized under this title shall be deposited in the Treasury.

**SEC. 55009. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.**

(a) **IN GENERAL.**—The Secretary shall issue rights-of-way and easements across the Coastal Plain for the transportation of oil and gas produced under leases under this title—

(1) except as provided in paragraph (2), under section 28 of the Mineral Leasing Act (30 U.S.C. 185), without regard to title XI of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3161 et seq.); and

(2) under title XI of the Alaska National Interest Lands Conservation Act (30 U.S.C. 3161 et seq.), for access authorized by sections 1110 and 1111 of that Act (16 U.S.C. 3170 and 3171).

(b) **TERMS AND CONDITIONS.**—The Secretary shall include in any right-of-way or easement issued under subsection (a) such terms and conditions as may be necessary to ensure that transportation of oil and gas does not result in a significant adverse effect on the fish and wildlife, subsistence resources, their habitat, and the environment of the Coastal Plain, including requirements that facilities be sited or designed so as to avoid unnecessary duplication of roads and pipelines.

(c) **REGULATIONS.**—The Secretary shall include in regulations under section 55002(g) provisions granting rights-of-way and easements described in subsection (a) of this section.

**SEC. 55010. CONVEYANCE.**

In order to maximize Federal revenues by removing clouds on title to lands and clarifying land ownership patterns within the Coastal Plain, the Secretary, notwithstanding section 1302(h)(2) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3192(h)(2)), shall convey—

(1) to the Kaktovik Inupiat Corporation the surface estate of the lands described in paragraph 1 of Public Land Order 6959, to the extent necessary to fulfill the Corporation's entitlement under sections 12 and 14 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611 and 1613) in accordance with the terms and conditions of the Agreement between the Department of the Interior, the United States Fish and Wildlife Service, the Bureau of Land Management, and the Kaktovik Inupiat Corporation dated January 22, 1993; and

(2) to the Arctic Slope Regional Corporation the remaining subsurface estate to which it is entitled pursuant to the August 9, 1983, agreement between the Arctic Slope Regional Corporation and the United States of America.

**TITLE VI—OIL SHALE AND TAR SANDS LEASING**

**SEC. 56001. EFFECTIVENESS OF OIL SHALE REGULATIONS, AMENDMENTS TO RESOURCE MANAGEMENT PLANS, AND RECORD OF DECISION.**

(a) **REGULATIONS.**—Notwithstanding any other law or regulation to the contrary, the final regulations regarding oil shale management published by the Bureau of Land Management on November 18, 2008 (73 Fed. Reg. 69,414) are deemed to satisfy all legal and procedural requirements under any law, including the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), the National Environmental

Policy Act of 1969 (42 U.S.C. 4321 et seq.), and the Energy Policy Act of 2005 (Public Law 109-58), and the Secretary of the Interior shall implement those regulations, including the oil shale and tar sands leasing program authorized by the regulations, without any other administrative action necessary.

(b) **AMENDMENTS TO RESOURCE MANAGEMENT PLANS AND RECORD OF DECISION.**—Notwithstanding any other law or regulation to the contrary, the November 17, 2008 U.S. Bureau of Land Management Approved Resource Management Plan Amendments/Record of Decision for Oil Shale and Tar Sands Resources to Address Land Use Allocations in Colorado, Utah, and Wyoming and Final Programmatic Environmental Impact Statement are deemed to satisfy all legal and procedural requirements under any law, including the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and the Energy Policy Act of 2005 (Public Law 109-58), and the Secretary of the Interior shall implement the oil shale and tar sands leasing program authorized by the regulations referred to in subsection (a) in those areas covered by the resource management plans amended by such amendments, and covered by such record of decision, without any other administrative action necessary.

**SEC. 56002. OIL SHALE AND TAR SANDS LEASING.**

(a) **ADDITIONAL RESEARCH AND DEVELOPMENT LEASE SALES.**—The Secretary of the Interior shall hold a lease sale within 180 days after the date of enactment of this Act offering an additional 10 parcels for lease for research, development, and demonstration of oil shale or tar sands resources, under the terms offered in the solicitation of bids for such leases published on January 15, 2009 (74 Fed. Reg. 10).

(b) **COMMERCIAL LEASE SALES.**—No later than January 1, 2016, the Secretary of the Interior shall hold no less than 5 separate commercial lease sales in areas considered to have the most potential for oil shale or tar sands development, as determined by the Secretary, in areas nominated through public comment. Each lease sale shall be for an area of not less than 25,000 acres, and in multiple lease blocs.

(c) **REDUCED PAYMENTS TO ENSURE PRODUCTION.**—The Secretary of the Interior may temporarily reduce royalties, fees, rentals, bonus, or other payments for leases of Federal lands for the development and production of oil shale resources as necessary to incentivize and encourage development of such resources, if the Secretary determines that the royalties, fees, rentals, bonus bids, and other payments otherwise authorized by law are hindering production of such resources.

**SA 1714.** Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 6, strike lines 13 and 14 and insert the following:

(4) **COORDINATED BORDER INFRASTRUCTURE PROGRAM.**—For the coordinated border infrastructure program under section 1303 of the SAFETEA-LU (23 U.S.C. 101 note; 119 Stat. 1207), to be derived and transferred from amounts authorized to be appropriated for each fiscal year under paragraph (1)—

(A) \$210,000,000 for fiscal year 2012; and

(B) \$214,000,000 for fiscal year 2013.

(5) TERRITORIAL AND PUERTO RICO HIGHWAY PROGRAM.—For the territorial and Puerto Rico

**SA 1715.** Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_.** **CONTROLLING HELICOPTER NOISE POLLUTION IN RESIDENTIAL AREAS.**

(a) RULEMAKING WITH RESPECT TO REDUCING HELICOPTER NOISE POLLUTION.—

(1) NEW YORK NORTH SHORE HELICOPTER ROUTE.—Not later than 1 year after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall issue a final rule in Docket No. FAA-2010-0302 (The New York North Shore Helicopter Route), without additional notice and comment. The final rule shall include—

(A) a requirement for helicopter operators to utilize the North Shore route, as charted, when operating in that area of Long Island, New York;

(B) a requirement for helicopter operations to enter and exit the west terminus of North Shore Helicopter Route over water at VPROK;

(C) appropriate safeguards for safety and operational necessity, including safeguards to avoid adverse effects on the safe and efficient use and management of the national airspace system; and

(D) penalties for failing to comply with the requirements described in subparagraph (A).

(2) LONG ISLAND SOUTH SHORE ROUTE.—Not later than 18 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall issue a notice of proposed rulemaking to address helicopter noise on the South Shore of Long Island, New York. The proposed rule shall include—

(A) a requirement for helicopter operators to utilize the South Shore route, as charted, when operating in that area of Long Island, New York;

(B) an expansion of the existing route to include linkage east of Orient and Montauk Points to the North Shore Helicopter Route remaining over water;

(C) appropriate safeguards for safety and operational necessity, including safeguards to avoid adverse effects on the safe and efficient use and management of the national airspace system; and

(D) penalties for failing to comply with the requirements described in subparagraph (A).

(3) LOS ANGELES COUNTY FLIGHT PATHS.—Not later than 2 years after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall prescribe regulations for helicopter operations in Los Angeles County, California, that include requirements relating to the flight paths and altitudes associated with such operations to reduce helicopter noise pollution in residential areas, increase safety, and minimize commercial aircraft delays.

(b) EXCEPTIONS FOR EMERGENCY, LAW ENFORCEMENT, BROADCASTING AND MILITARY HELICOPTERS.—The rules required under subsection (a) shall provide exceptions for helicopter activity related to emergency, law enforcement, broadcast news gathering, or military activities.

(c) COMPLIANCE MONITORING.—For the 24 month period following the completion of the rulemakings required in subsection (a), the Administrator of the Federal Aviation Administration shall monitor compliance with the rulemakings required under subsection (a). This monitoring shall include both the route and altitude of helicopter operations.

(d) CONSULTATIONS.—In prescribing the regulations under subsection (a)(3), the Administrator of the Federal Aviation Administration shall make reasonable efforts to consult with local communities and local helicopter operators in order to develop regulations that meet the needs of local communities, helicopter operators, and the Federal Aviation Administration.

(e) REPORT TO CONGRESS.—Within 60 days of the conclusion of the compliance monitoring required in subsection (c), the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that includes, at minimum—

(1) the compliance rate of helicopter operations;

(2) the average altitude of helicopter operations;

(3) a comparison of North Shore and South Shore route use;

(4) analysis of season, time and day use of the helicopter operations; and

(5) analysis of impact to commercial aircraft arrival and departure flows.

**SA 1716.** Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title II of division C, add the following:

**SEC. 32714.** **DISCLOSURE OF SAFETY PERFORMANCE RATINGS OF MOTORCOACH SERVICES AND OPERATIONS.**

(a) IN GENERAL.—Subchapter I of chapter 141 of title 49, United States Code, is amended by adding at the end the following:

**“§ 14105. Safety performance ratings of motorcoach services and operations**

“(a) DEFINITIONS.—In this section:

“(1) MOTORCOACH.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the term ‘motorcoach’ has the meaning given to the term ‘over-the-road bus’ in section 3038(a)(3) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note).

“(B) INCLUSIONS AND EXCLUSIONS.—The term ‘motorcoach’—

“(i) includes a motor vehicle used to transport passengers that has a gross vehicle weight of at least 10,001 pounds; and

“(ii) does not include—

“(I) a bus used in public transportation that is provided by a State or local government; or

“(II) a school bus (as defined in section 30125(a)(1)), including a multifunction school activity bus.

“(2) MOTORCOACH SERVICES AND OPERATIONS.—The term ‘motorcoach services and operations’ means passenger transportation by a motorcoach for compensation.

“(b) RULEMAKING.—

“(1) IN GENERAL.—Not later than 1 year after the date on which the safety fitness determination rule is implemented, the Secretary shall require, by regulation—

“(A) each motor carrier that owns or leases 1 or more motorcoaches that transport passengers subject to the Secretary’s jurisdiction under section 13501 to display prominently in each terminal of departure, on the motorcoach if the motorcoach does not depart from a terminal, and at all points of sale for such motorcoach services and operations, a simple and understandable letter grade rating system that allows motorcoach passengers to compare the safety performance of motorcoach operators; and

“(B) any person who sells tickets for motorcoach services and operations to display the letter grade rating system described in subparagraph (A) at all points of sale for such motorcoach services and operations.

“(2) ITEMS INCLUDED IN THE RULEMAKING.—In promulgating safety performance ratings for motorcoaches pursuant to the rulemaking required under paragraph (1), the Secretary shall consider—

“(A) the frequency with which safety performance ratings will be assigned and updated, which updates shall take place at least once per year;

“(B) the specific data elements and sources of information to be utilized in establishing and updating safety performance ratings for motorcoaches;

“(C) the need and extent to which safety performance ratings should be made available in languages other than English; and

“(D) penalties authorized under section 521.

“(3) INSUFFICIENT INSPECTIONS.—Any motor carrier for which insufficient safety data is available shall display a label warning of such insufficiency.

“(c) EFFECT ON STATE AND LOCAL LAW.—Nothing in this section may be construed to preempt a State, or a political subdivision of a State, from enforcing any requirements concerning the manner and content of consumer information provided by motor carriers that are not subject to the Secretary’s jurisdiction under section 13501.”

(b) CLERICAL AMENDMENT.—The analysis of chapter 141 of title 49, United States Code, is amended by inserting after the item relating to section 14104 the following:

“Sec. 14105. Safety performance ratings of motorcoach services and operations.”

**SA 1717.** Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_.** **SUBALLOCATION OF FUNDS FOR MULTISTATE URBANIZED AREAS.**

Section 5340(d)(5) of title 49, United States Code, as amended by this Act, is amended by striking the second sentence.

**SA 1718.** Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the amendment, insert the following:



**SEC. \_\_\_\_ . MAXIMUM HOUR REQUIREMENTS.**

Section 13(b)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(b)(1)) is amended by inserting before the semicolon the following: “, except a driver of an ‘over-the-road bus’ (as defined in section 3038(a)(3) of the Transportation Equity Act for the 21st Century (Public Law 105-178; 49 U.S.C. 5310 note))”.

**SA 1719.** Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 350, line 8, strike “and” and all that follows through line 11, insert the following:

“(D) the development of technologies to detect drug impaired drivers; and

“(E) the effect of State laws on any aspects, activities, or programs described in subparagraphs (A) through (D).”

**SA 1720.** Mr. AKAKA submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of division B, add the following:  
**SEC. \_\_\_\_ . COORDINATED PUBLIC TRANSPORTATION PLAN.**

Chapter 53 of title 49, United States Code, as amended by this Act, is amended—

(1) in section 5307(b)(2), in the matter preceding subparagraph (A), by inserting “that receives amounts apportioned for an urbanized area with a population of at least 200,000” after “Each grant recipient under this subsection”;

(2) in section 5310, by striking subsection (e) and inserting the following:

“(e) **REQUIREMENTS.**—A grant under this section shall be subject to the same requirements as a grant under section 5307, to the extent the Secretary determines appropriate.”; and

(3) in section 5311—

(A) in subsection (g)—

(i) by striking paragraph (2); and

(ii) by redesignating paragraph (3) as paragraph (2); and

(B) by adding at the end the following:

“(1) **COORDINATED PUBLIC TRANSPORTATION PLAN.**—

“(1) **IN GENERAL.**—Each State that receives funding under this section, section 5310, or section 5336(a)(1) shall develop a coordinated public transportation plan, in coordination with each recipient of funding under this section, section 5310, or section 5336(a)(1), respectively, in the State—

“(A) to enhance the coordination and efficiency of public transportation service; and

“(B) to improve public transportation service for low-income individuals, individuals with disabilities, and seniors in—

“(i) other than urbanized areas; and

“(ii) urbanized areas with a population of less than 200,000.

“(2) **DEVELOPMENT OF PLAN.**—A coordinated public transportation plan under paragraph (1) shall be developed and approved through a process that includes participation by—

“(A) low-income individuals;

“(B) individuals with disabilities;

“(C) seniors;

“(D) representatives of public, private, and nonprofit transportation and human services providers;

“(E) Indian tribes; and

“(F) the public.”

“(3) **MOBILITY MANAGEMENT.**—Each State shall allocate not more than 1 percent of the amounts made available to the State under each of this section, section 5310, or section 5336(a)(1), as applicable, for mobility management activities, as described in section 5302(3)(K), relating to the development of, or included in, the coordinated public transportation plan.

“(4) **PARTICIPATION IN PLAN.**—Each State that receives amounts made available under this section or section 5310 shall, to the extent practicable, give priority to the allocation of amounts made available under this section or section 5310 to recipients that participated in the development of the coordinated public transportation plan under this subsection.

“(5) **PROJECT SELECTION AND PLAN DEVELOPMENT.**—Each recipient of amounts made available under this section, section 5310, or section 5336(a)(1) shall certify that—

“(A) the projects selected by the recipient to be carried out using amounts made available under such sections were included in the coordinated public transportation plan or otherwise approved by the Governor of the State;

“(B) to the maximum extent feasible, the services funded using amounts made available under such sections are coordinated with transportation services funded by other Federal departments and agencies; and

“(C) any amounts made available under such sections that are allocated to subrecipients are allocated on a fair and equitable basis.”.

**SA 1721.** Mr. AKAKA (for himself, Ms. MURKOWSKI, Mr. INOUE, and Mr. BEGICH) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . DEFINITION OF THE TERM “LOW-INCOME INDIVIDUAL”.**

Section 5302(10) of title 49, United States Code, as amended by this Act, is amended by striking “line, as that term is defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by that section,” and inserting “guidelines updated periodically in the Federal Register by the Department of Health and Human Services under section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))”.

**SA 1722.** Mr. LIEBERMAN (for himself and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 20007 of the amendment and insert the following:

**SEC. 20007. INTERAGENCY AGREEMENT.**

(a) **PURPOSES.**—The purposes of this section are—

(1) to improve coordination between the Department of Transportation and the Department of Homeland Security; and

(2) to expedite the provision of Federal assistance for public transportation systems

for activities relating to a major disaster or emergency declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) (referred to in this subsection as a “major disaster or emergency”).

(b) **AGREEMENT.**—Not later than 180 days after the date of enactment of this Act, the Secretary of Transportation and the Secretary of Homeland Security shall enter into an interagency agreement to coordinate the roles and responsibilities of the Department of Transportation and the Department of Homeland Security in the provision, repair, and restoration of public transportation services in areas for which the President has declared a major disaster or emergency.

(c) **CONTENTS OF AGREEMENT.**—The interagency agreement required under subsection (b) shall—

(1) provide for improved coordination and expeditious use of public transportation, as appropriate, in response to and recovery from a major disaster or emergency;

(2) establish procedures to address—

(A) issues that have contributed to delays in the reimbursement of eligible transportation-related expenses relating to a major disaster or emergency; and

(B) any challenges identified in the review under subsection (d); and

(3) provide for the development and distribution of clear guidelines for State, local, and tribal governments, including public transportation agencies, relating to—

(A) assistance available to public transportation systems for activities relating to a major disaster or emergency—

(i) under the Robert T. Stafford Disaster Relief and Emergency Assistance Act; and

(ii) from other sources, including other Federal agencies; and

(B) reimbursement procedures that speed the process of—

(i) applying for assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act; and

(ii) distributing assistance to public transportation systems under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

(d) **AFTER ACTION REVIEW.**—Before entering into an interagency agreement under subsection (b), the Secretary of Transportation and the Secretary of Homeland Security (acting through the Administrator of the Federal Emergency Management Agency), in consultation with State, local, and tribal governments (including public transportation agencies) that have experienced a major disaster or emergency, shall review after action reports relating to major disasters, emergencies, and exercises, to identify areas where coordination between the Department of Transportation and the Department of Homeland Security and the provision of public transportation services should be improved.

(e) **FACTORS FOR DECLARATIONS OF MAJOR DISASTERS AND EMERGENCIES.**—The Administrator of the Federal Emergency Management Agency shall make available to State, local, and tribal governments, including public transportation agencies, a description of the factors that the President considers in declaring a major disaster or emergency, including any pre-disaster declaration policies.

(f) **BRIEFINGS.**—

(1) **INITIAL BRIEFING.**—Not later than 180 days after the date of enactment of this Act, the Secretary of Transportation and the Secretary of Homeland Security shall jointly brief the Committee on Banking, Housing, and Urban Affairs and the Committee on



Homeland Security and Governmental Affairs of the Senate on the interagency agreement required under subsection (b).

(2) **QUARTERLY BRIEFINGS.**—Each quarter of the 1-year period beginning on the date on which the Secretary of Transportation and the Secretary of Homeland Security enter into the interagency agreement required under subsection (b), the Secretary of Transportation and the Secretary of Homeland Security shall jointly brief the Committee on Banking, Housing, and Urban Affairs and the Committee on Homeland Security and Governmental Affairs of the Senate on the implementation of the interagency agreement.

(g) **TECHNICAL AND CONFORMING AMENDMENT.**—

(1) **REPEAL.**—Section 5306 of title 49, United States Code, is repealed.

(2) **OTHER MATTERS.**—Notwithstanding subsection (b) of section 5338 of title 49, United States Code, as amended by this Act, no amounts are authorized to be appropriated to carry out section 5306 of title 49, United States Code.

**SA 1723.** Mr. NELSON of Florida (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

In division D, on page 728, between lines 17 and 18, insert the following:

**SEC. \_\_\_\_ . ALGAE TREATED AS A QUALIFIED FEEDSTOCK FOR PURPOSES OF THE CELLULOSIC BIOFUEL PRODUCER CREDIT, ETC.**

(a) **IN GENERAL.**—Subclause (I) of section 40(b)(6)(E)(i) of the Internal Revenue Code of 1986 is amended to read as follows:

“(I) is derived by, or from, qualified feedstocks, and”.

(b) **QUALIFIED FEEDSTOCK; SPECIAL RULES FOR ALGAE.**—Paragraph (6) of section 40(b) of the Internal Revenue Code of 1986 is amended by redesignating subparagraphs (F), (G), and (H) as subparagraphs (H), (I), and (J), respectively, and by inserting after subparagraph (E) the following new subparagraphs:

“(F) **QUALIFIED FEEDSTOCK.**—For purposes of this paragraph, the term ‘qualified feedstock’ means—

“(i) any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis, and

“(ii) any cultivated algae, cyanobacteria, or lemna.

“(G) **SPECIAL RULES FOR ALGAE.**—In the case of fuel which is derived by, or from, feedstock described in subparagraph (F)(ii) and which is sold by the taxpayer to another person for refining by such other person into a fuel which meets the requirements of subparagraph (E)(i)(II) and the refined fuel is not excluded under subparagraph (E)(iii)—

“(i) such sale shall be treated as described in subparagraph (C)(i),

“(ii) such fuel shall be treated as meeting the requirements of subparagraph (E)(i)(II) and as not being excluded under subparagraph (E)(iii) in the hands of such taxpayer, and

“(iii) except as provided in this subparagraph, such fuel (and any fuel derived from such fuel) shall not be taken into account under subparagraph (C) with respect to the taxpayer or any other person.”.

(c) **ALGAE TREATED AS A QUALIFIED FEEDSTOCK FOR PURPOSES OF BONUS DEPRECIATION FOR BIOFUEL PLANT PROPERTY.**—

(1) **IN GENERAL.**—Subparagraph (A) of section 168(l)(2) of the Internal Revenue Code of 1986 is amended by striking “solely to produce cellulosic biofuel” and inserting “solely to produce second generation biofuel (as defined in section 40(b)(6)(E))”.

(2) **CONFORMING AMENDMENTS.**—Subsection (1) of section 168 of such Code is amended—

(A) by striking “cellulosic biofuel” each place it appears in the text thereof and inserting “second generation biofuel”,

(B) by striking paragraph (3) and redesignating paragraphs (4) through (8) as paragraphs (3) through (7), respectively,

(C) by striking “CELLULOSIC” in the heading of such subsection and inserting “SECOND GENERATION”, and

(D) by striking “CELLULOSIC” in the heading of paragraph (2) and inserting “SECOND GENERATION”.

(d) **CONFORMING AMENDMENTS.**—

(1) Section 40 of the Internal Revenue Code of 1986, as amended by subsection (b), is amended—

(A) by striking “cellulosic biofuel” each place it appears in the text thereof and inserting “second generation biofuel”,

(B) by striking “CELLULOSIC” in the headings of subsections (b)(6), (b)(6)(E), and (d)(3)(D) and inserting “SECOND GENERATION”, and

(C) by striking “CELLULOSIC” in the headings of subsections (b)(6)(C), (b)(6)(D), (b)(6)(H), (d)(6), and (e)(3) and inserting “SECOND GENERATION”.

(2) Clause (ii) of section 40(b)(6)(E) of such Code is amended by striking “Such term shall not” and inserting “The term ‘second generation biofuel’ shall not”.

(3) Paragraph (1) of section 4101(a) of such Code is amended by striking “cellulosic biofuel” and inserting “second generation biofuel”.

(e) **EFFECTIVE DATES.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the amendments made by this section shall apply to fuels sold or used after the date of the enactment of this Act.

(2) **APPLICATION TO BONUS DEPRECIATION.**—The amendments made by subsection (c) shall apply to property placed in service after the date of the enactment of this Act.

**SA 1724.** Mr. BEGICH submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 87, line 20, strike “50 percent” and insert “62.5 percent”.

On page 88, line 8, strike “50 percent” and insert “37.5 percent”.

**SA 1725.** Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . REVIEW AND REGULATION OF TOLLS.**

(a) **IN GENERAL.**—Section 135 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (33 U.S.C. 508; Public Law 100-17; 101 Stat. 174) is amended to read as follows:

“**SEC. 135. REVIEW AND REGULATION OF TOLLS.**

“(a) **IN GENERAL.**—Tolls for passage or transit over any bridge constructed under

the Act of March 23, 1906 (33 U.S.C. 491 et seq.) (commonly known as the ‘Bridge Act of 1906’), the General Bridge Act of 1946 (33 U.S.C. 525 et seq.), or the International Bridge Act of 1972 (33 U.S.C. 535 et seq.), and over or through any bridge or tunnel constructed on a Federal-aid highway (as defined in section 101(a) of title 23, United States Code) under any other provision of law, shall be—

“(1) just and reasonable; and

“(2) subject to review and regulation by the Secretary, upon complaint or the initiative of the Secretary, including with respect to increases in the amount of tolls.

“(b) **REGULATIONS.**—The Secretary shall promulgate such regulations as are necessary to carry out this section, including regulations that—

“(1)(A) define the term ‘just and reasonable’ for purposes of this section;

“(B) establish a process to determine whether tolls are just and reasonable for purposes of this section; and

“(C) prescribe, when appropriate, the just and reasonable rates of tolls to be charged under this section;

“(2) establish a process for the filing of an administrative complaint to challenge a determination described in paragraph (1)(B);

“(3) authorize the Secretary, or a designated administrative law judge—

“(A) to consider a complaint from any person aggrieved by a toll increase on any bridge or tunnel described in subsection (a); and

“(B) to conduct an investigation and, if appropriate, hold a formal hearing on such a complaint; and

“(4) authorize a person who submitted a complaint described in paragraph (3)(A) to challenge the final administrative determination of the Secretary or administrative law judge on the complaint, after issuance of that determination, in the appropriate United States district court in accordance with subchapter II of chapter 5, and chapter 7, of title 5, United States Code (commonly known as the ‘Administrative Procedure Act’).”.

(b) **CONFORMING AMENDMENT.**—The table of contents for the Surface Transportation and Uniform Relocation Assistance Act of 1987 (23 U.S.C. 101 note; Public Law 100-17) is amended by striking the item relating to section 135 and inserting the following:

“Sec. 135. Review and regulation of tolls.”.

**SEC. \_\_\_\_ . STUDY ON USE OF TOLLS BY INTER-STATE AUTHORITIES.**

As soon as practicable after the date of enactment of this Act, the Comptroller General shall conduct, and submit to the appropriate committees of Congress a report on the results of, a study—

(1) to evaluate the use of tolls by interstate authorities to maintain and improve surface transportation facilities; and

(2) to make recommendations to increase transparency and accountability of the funding decisions by those authorities.

**SA 1726.** Mr. BLUMENTHAL submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . RENTAL TRUCK ACCIDENT STUDY.**

(a) **DEFINITIONS.**—In this section:

(1) **RENTAL EQUIPMENT.**—The term “rental equipment” means any vehicle that has a

gross vehicle weight rating of 10,000 pounds or less that is made available for rental by a rental truck company.

(2) **RENTAL TRUCK.**—The term “rental truck” means a motor vehicle with a gross vehicle weight rating of between 10,000 and 26,000 pounds that is made available for rental by a rental truck company.

(3) **RENTAL TRUCK COMPANY.**—The term “rental truck company” means a person or company that is in the business of renting or leasing rental trucks to the public or for private use.

(b) **STUDY.**—

(1) **IN GENERAL.**—The Secretary shall conduct a study of the safety of rental trucks during the 7-year period ending on December 31, 2012.

(2) **REQUIREMENTS.**—The study conducted under paragraph (1) shall—

(A) identify the number of crashes involving rental trucks or rental equipment occurring during each year of the study and the number of deaths resulting from such crashes during each year;

(B) determine whether the crashes identified under subparagraph (A) were caused by driver error or as a result of vehicle malfunction;

(C) determine the percentage of such crashes resulting from vehicle malfunction that could have been prevented through mandatory vehicle inspections;

(D) evaluate available safety data of fatalities and injuries incurred in crashes involving rental trucks or rental equipment;

(E) review the sources of available safety data of rental truck use, including police accident reports, consumer complaints, and other sources;

(F) estimate the property damage and costs involved in crashes resulting from rental truck operations;

(G) analyze State and local laws regulating rental truck companies, including safety and inspection requirements;

(H) assess rental truck maintenance programs provided by rental truck companies, including the frequency of rental truck maintenance inspections, and compare such programs with inspection requirements for passenger vehicles and commercial motor vehicles;

(I) include any other information available regarding the safety of rental trucks and rental equipment; and

(J) review any other information that the Secretary determines to be appropriate.

(c) **REPORT.**—Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that contains—

(1) the findings of the study conducted pursuant to subsection (b); and

(2) any recommendations for legislation that the Secretary determines to be appropriate.

**SA 1727.** Mr. BLUMENTHAL submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . CONSUMER COMPLAINT INFORMATION DISCLOSURE.**

(a) **IN GENERAL.**—Notwithstanding any other provision of law, the Secretary shall,

not later than 180 days after the date of the enactment of this Act, permit persons who file motor vehicle defect information with the Department of Transportation with regard to safety defects in motor vehicles and motor vehicle equipment, the option to release their personal identification information to the public, to the motor vehicle manufacturer, or both.

(b) **CONSUMER AUTHORIZATION AND INFORMATION RELEASE.**—

(1) **MODIFICATION OF SYSTEMS OF RECORDS AND INFORMATION COLLECTION FORMS.**—The Secretary shall revise any and all systems of records and information collection forms, whether paper or electronic, used by the Department of Transportation to obtain motor vehicle defect information from vehicle owners and consumers, including the vehicle owner's questionnaire, to include 2 separate statements that authorize the Secretary, at the option of the person submitting the defect information form, to release the personal identification information included on the defect information form.

(2) **SEPARATE STATEMENTS.**—The 2 statements required by paragraph (1) shall separately permit the person submitting the form to authorize the Secretary to release the personal identification information contained in the defect information form—

(A) to the public; and

(B) to the manufacturer of the motor vehicle that is the subject of the defect information collection form.

(c) **MANNER AND CONTENT OF DISCLOSURE.**—

(1) **DISCLOSURE TO PUBLIC.**—In the case of a person filing a defect information form that authorizes the Secretary to make the person's personal identification information available to the public, the Secretary shall make the personal identification information on that form, along with the information describing the defect, available on a searchable database that is accessible to the public.

(2) **DISCLOSURE TO MANUFACTURERS.**—In the case of a person filing a defect information form that authorizes the Secretary to make the person's personal identification information available to the manufacturer of the motor vehicle that is the subject of the defect information form, the Secretary shall provide a copy of the safety defect information form, along with the information describing the safety defect and the personal identification information provided by the person filing the defect information form, to such manufacturer.

(3) **CONTENT.**—The personal information of a person filing a defect information form disclosed under this section, at the option of the person filing the defect information form, shall include the following:

(A) The name of the person.

(B) The street address of the person.

(C) The e-mail address of the person.

(D) The telephone number of the person.

(E) The vehicle identification number of the motor vehicle described in the safety defect information form.

(d) **CONSUMER NOTICE.**—The Secretary shall ensure that the statements authorizing the release of personal identification information under subsection (b) provide the person filing the safety defect information form with the following:

(1) A notice of the person's option to authorize the release of the person's personal identification information in a manner that is easily understandable by a typical reader of the notice.

(2) A description of the personal identification information items listed in subsection

(c)(3) that will be released in the event the person filing the safety defect information form authorizes the Secretary to disclose the information.

(e) **INFORMATION FROM STATES AND CONSUMER GROUPS.**—

(1) **IN GENERAL.**—The Secretary shall include in the database required by subsection (c)(1) defect information on individual consumer complaints of motor vehicle defects that are submitted to the Department of Transportation by States and other governmental agencies, and by consumer, safety, and other non-governmental organizations.

(2) **PERSONAL INFORMATION.**—Personal identification information described in subsection (c)(3) that is included in defect information provided to the Department of Transportation by State and other governmental agencies, and by consumer, safety, and other non-governmental organizations, shall be included in the searchable database required by subsection (c)(1) if such information is made public with the consent of the person who provided the information to the State, other governmental agency or consumer, safety, or other non-governmental organization.

**SA 1728.** Mr. BLUMENTHAL submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in division B, insert the following:

**SEC. \_\_\_\_ . ZERO EMISSION BUS DEPLOYMENT PROGRAM.**

(a) **IN GENERAL.**—Section 5307 of title 49, United States Code, as amended by this division, is further amended by adding at the end the following:

“(j) **ZERO EMISSION BUS DEPLOYMENT GRANT PROGRAM.**—

“(1) **IN GENERAL.**—The Secretary shall make grants under this section for the purchase of zero emission buses and the establishment of related fueling infrastructure and facilities.

“(2) **COMPETITIVE PROCESS.**—The Secretary shall solicit grant applications and make grants for eligible projects on a competitive basis.

“(3) **PRIORITY CONSIDERATION.**—In awarding grants under this subsection, the Secretary shall give priority to applications for projects that offer high levels of performance and service with respect to—

“(A) bus utility and performance, including—

“(i) operating range and sustained power;

“(ii) refueling time;

“(iii) passenger capacity;

“(iv) revenue service time;

“(v) operational availability; and

“(vi) route service flexibility;

“(B) maturity of technology, including—

“(i) demonstrated revenue service operation; and

“(ii) any resulting performance data; and

“(C) fuel economy.”

(b) **APPORTIONMENTS.**—Section 5336(h) of title 49, United States Code, as amended by this division, is further amended—

(1) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively;

(2) by inserting after paragraph (1) the following:

“(2) \$35,000,000 shall be set aside to carry out section 5307(j);”;

(3) in paragraph (4), as redesignated, by striking “paragraphs (1) and (2)” and inserting “paragraphs (1) through (3)”; and

(4) in paragraph (5), as redesignated, by striking “paragraphs (1), (2), and (3)” and inserting “paragraphs (1) through (4)”.

**SA 1729.** Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_\_. AGENCY APPROVALS FOR POSITIVE TRAIN CONTROL.**

(a) **COORDINATION.**—The Secretary and the Chairman of the Federal Communications Commission (referred to in this section as the “Chairman”) shall coordinate to expedite approvals of associated technology essential to implementing a positive train control system pursuant to section 20157(a) of title 49, United States Code.

(b) **APPROVAL PROCESS.**—

(1) **IN GENERAL.**—The Chairman shall give priority to all actions essential to implementing the system described in subsection (a).

(2) **SPECTRUM APPLICATIONS.**—The Chairman—

(A) shall approve or deny applications for spectrum necessary to implement positive train control not later than 180 days after the submission of a complete application, unless additional time is sought by the applicant; and

(B) in determining whether to grant an application described in paragraph (1), shall consider the interests of public safety.

(3) **EXTENSION OF TIME FOR APPROVING OR DENYING APPLICATIONS.**—The Chairman may extend the time for approving or denying an application under paragraph (2)(A) for one additional period of 180 days for good cause if the Chairman provides to the applicant—

(A) a statement of the grounds for the extension; and

(B) a target date for approving or denying the application.

(c) **SEMI-ANNUAL REPORT.**—Not later than 90 days after the date of enactment of this Act, and every 6 months thereafter, the Secretary and the Chairman shall jointly submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that describes—

(1) the status of the applications described in subsection (b)(2);

(2) any additional agency approvals or actions that may be necessary; and

(3) the additional agency resources that will be required to facilitate expeditious approvals and actions.

**SA 1730.** Mr. REID proposed an amendment to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; as follows:

**DIVISION B—PUBLIC TRANSPORTATION**

**SEC. 20001. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This division may be cited as the “Federal Public Transportation Act of 2012”.

(b) **TABLE OF CONTENTS.**—The table of contents for this division is as follows:

Sec. 20001. Short title; table of contents.

Sec. 20002. Repeals.

Sec. 20003. Policies, purposes, and goals.

Sec. 20004. Definitions.

Sec. 20005. Metropolitan transportation planning.

Sec. 20006. Statewide and nonmetropolitan transportation planning.

Sec. 20007. Public Transportation Emergency Relief Program.

Sec. 20008. Urbanized area formula grants.

Sec. 20009. Clean fuel grant program.

Sec. 20010. Fixed guideway capital investment grants.

Sec. 20011. Formula grants for the enhanced mobility of seniors and individuals with disabilities.

Sec. 20012. Formula grants for other than urbanized areas.

Sec. 20013. Research, development, demonstration, and deployment projects.

Sec. 20014. Technical assistance and standards development.

Sec. 20015. Bus testing facilities.

Sec. 20016. Public transportation workforce development and human resource programs.

Sec. 20017. General provisions.

Sec. 20018. Contract requirements.

Sec. 20019. Transit asset management.

Sec. 20020. Project management oversight.

Sec. 20021. Public transportation safety.

Sec. 20022. Alcohol and controlled substances testing.

Sec. 20023. Nondiscrimination.

Sec. 20024. Labor standards.

Sec. 20025. Administrative provisions.

Sec. 20026. National transit database.

Sec. 20027. Apportionment of appropriations for formula grants.

Sec. 20028. State of good repair grants.

Sec. 20029. Authorizations.

Sec. 20030. Apportionments based on growing States and high density States formula factors.

Sec. 20031. Technical and conforming amendments.

**SEC. 20002. REPEALS.**

(a) **CHAPTER 53.**—Chapter 53 of title 49, United States Code, is amended by striking sections 5316, 5317, 5321, 5324, 5328, and 5339.

(b) **TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY.**—Section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note) is repealed.

(c) **SAFETEA-LU.**—The following provisions are repealed:

(1) Section 3009(i) of SAFETEA-LU (Public Law 109–59; 119 Stat. 1572).

(2) Section 3011(c) of SAFETEA-LU (49 U.S.C. 5309 note).

(3) Section 3012(b) of SAFETEA-LU (49 U.S.C. 5310 note).

(4) Section 3045 of SAFETEA-LU (49 U.S.C. 5308 note).

(5) Section 3046 of SAFETEA-LU (49 U.S.C. 5338 note).

**SEC. 20003. POLICIES, PURPOSES, AND GOALS.**

Section 5301 of title 49, United States Code, is amended to read as follows:

**“§ 5301. Policies, purposes, and goals**

“(a) **DECLARATION OF POLICY.**—It is in the interest of the United States, including the economic interest of the United States, to foster the development and revitalization of public transportation systems.

“(b) **GENERAL PURPOSES.**—The purposes of this chapter are to—

“(1) provide funding to support public transportation;

“(2) improve the development and delivery of capital projects;

“(3) initiate a new framework for improving the safety of public transportation systems;

“(4) establish standards for the state of good repair of public transportation infrastructure and vehicles;

“(5) promote continuing, cooperative, and comprehensive planning that improves the performance of the transportation network;

“(6) establish a technical assistance program to assist recipients under this chapter to more effectively and efficiently provide public transportation service;

“(7) continue Federal support for public transportation providers to deliver high quality service to all users, including individuals with disabilities, seniors, and individuals who depend on public transportation;

“(8) support research, development, demonstration, and deployment projects dedicated to assisting in the delivery of efficient and effective public transportation service; and

“(9) promote the development of the public transportation workforce.

“(c) **NATIONAL GOALS.**—The goals of this chapter are to—

“(1) increase the availability and accessibility of public transportation across a balanced, multimodal transportation network;

“(2) promote the environmental benefits of public transportation, including reduced reliance on fossil fuels, fewer harmful emissions, and lower public health expenditures;

“(3) improve the safety of public transportation systems;

“(4) achieve and maintain a state of good repair of public transportation infrastructure and vehicles;

“(5) provide an efficient and reliable alternative to congested roadways;

“(6) increase the affordability of transportation for all users; and

“(7) maximize economic development opportunities by—

“(A) connecting workers to jobs;

“(B) encouraging mixed-use, transit-oriented development; and

“(C) leveraging private investment and joint development.”.

**SEC. 20004. DEFINITIONS.**

Section 5302 of title 49, United States Code, is amended to read as follows:

**“§ 5302. Definitions**

“Except as otherwise specifically provided, in this chapter the following definitions apply:

“(1) **ASSOCIATED TRANSIT IMPROVEMENT.**—The term ‘associated transit improvement’ means, with respect to any project or an area to be served by a project, projects that are designed to enhance public transportation service or use and that are physically or functionally related to transit facilities. Eligible projects are—

“(A) historic preservation, rehabilitation, and operation of historic public transportation buildings, structures, and facilities (including historic bus and railroad facilities) intended for use in public transportation service;

“(B) bus shelters;

“(C) landscaping and streetscaping, including benches, trash receptacles, and street lights;

“(D) pedestrian access and walkways;

“(E) bicycle access, including bicycle storage facilities and installing equipment for transporting bicycles on public transportation vehicles;

“(F) signage; or

“(G) enhanced access for persons with disabilities to public transportation.

“(2) **BUS RAPID TRANSIT SYSTEM.**—The term ‘bus rapid transit system’ means a bus transit system—

“(A) in which the majority of each line operates in a separated right-of-way dedicated for public transportation use during peak periods; and

“(B) that includes features that emulate the services provided by rail fixed guideway public transportation systems, including—

“(i) defined stations;

“(ii) traffic signal priority for public transportation vehicles;

“(iii) short headway bidirectional services for a substantial part of weekdays and weekend days; and

“(iv) any other features the Secretary may determine are necessary to produce high-quality public transportation services that emulate the services provided by rail fixed guideway public transportation systems.

“(3) CAPITAL PROJECT.—The term ‘capital project’ means a project for—

“(A) acquiring, constructing, supervising, or inspecting equipment or a facility for use in public transportation, expenses incidental to the acquisition or construction (including designing, engineering, location surveying, mapping, and acquiring rights-of-way), payments for the capital portions of rail track-age rights agreements, transit-related intelligent transportation systems, relocation assistance, acquiring replacement housing sites, and acquiring, constructing, relocating, and rehabilitating replacement housing;

“(B) rehabilitating a bus;

“(C) remanufacturing a bus;

“(D) overhauling rail rolling stock;

“(E) preventive maintenance;

“(F) leasing equipment or a facility for use in public transportation, subject to regulations that the Secretary prescribes limiting the leasing arrangements to those that are more cost-effective than purchase or construction;

“(G) a joint development improvement that—

“(i) enhances economic development or incorporates private investment, such as commercial and residential development;

“(ii) enhances the effectiveness of public transportation and is related physically or functionally to public transportation; or

“(II) establishes new or enhanced coordination between public transportation and other transportation;

“(iii) provides a fair share of revenue that will be used for public transportation;

“(iv) provides that a person making an agreement to occupy space in a facility constructed under this paragraph shall pay a fair share of the costs of the facility through rental payments and other means;

“(v) may include—

“(I) property acquisition;

“(II) demolition of existing structures;

“(III) site preparation;

“(IV) utilities;

“(V) building foundations;

“(VI) walkways;

“(VII) pedestrian and bicycle access to a public transportation facility;

“(VIII) construction, renovation, and improvement of intercity bus and intercity rail stations and terminals;

“(IX) renovation and improvement of historic transportation facilities;

“(X) open space;

“(XI) safety and security equipment and facilities (including lighting, surveillance, and related intelligent transportation system applications);

“(XII) facilities that incorporate community services such as daycare or health care;

“(XIII) a capital project for, and improving, equipment or a facility for an inter-

modal transfer facility or transportation mall; and

“(XIV) construction of space for commercial uses; and

“(vi) does not include outfitting of commercial space (other than an intercity bus or rail station or terminal) or a part of a public facility not related to public transportation;

“(H) the introduction of new technology, through innovative and improved products, into public transportation;

“(I) the provision of nonfixed route paratransit transportation services in accordance with section 223 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12143), but only for grant recipients that are in compliance with applicable requirements of that Act, including both fixed route and demand responsive service, and only for amounts not to exceed 10 percent of such recipient's annual formula apportionment under sections 5307 and 5311;

“(J) establishing a debt service reserve, made up of deposits with a bondholder's trustee, to ensure the timely payment of principal and interest on bonds issued by a grant recipient to finance an eligible project under this chapter;

“(K) mobility management—

“(i) consisting of short-range planning and management activities and projects for improving coordination among public transportation and other transportation service providers carried out by a recipient or subrecipient through an agreement entered into with a person, including a governmental entity, under this chapter (other than section 5309); but

“(ii) excluding operating public transportation services; or

“(L) associated capital maintenance, including—

“(i) equipment, tires, tubes, and material, each costing at least .5 percent of the current fair market value of rolling stock comparable to the rolling stock for which the equipment, tires, tubes, and material are to be used; and

“(ii) reconstruction of equipment and material, each of which after reconstruction will have a fair market value of at least .5 percent of the current fair market value of rolling stock comparable to the rolling stock for which the equipment and material will be used.

“(4) DESIGNATED RECIPIENT.—The term ‘designated recipient’ means—

“(A) an entity designated, in accordance with the planning process under sections 5303 and 5304, by the Governor of a State, responsible local officials, and publicly owned operators of public transportation, to receive and apportion amounts under section 5336 to urbanized areas of 200,000 or more in population; or

“(B) a State or regional authority, if the authority is responsible under the laws of a State for a capital project and for financing and directly providing public transportation.

“(5) DISABILITY.—The term ‘disability’ has the same meaning as in section 3(1) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102).

“(6) EMERGENCY REGULATION.—The term ‘emergency regulation’ means a regulation—

“(A) that is effective temporarily before the expiration of the otherwise specified periods of time for public notice and comment under section 5334(c); and

“(B) prescribed by the Secretary as the result of a finding that a delay in the effective date of the regulation—

“(i) would injure seriously an important public interest;

“(ii) would frustrate substantially legislative policy and intent; or

“(iii) would damage seriously a person or class without serving an important public interest.

“(7) FIXED GUIDEWAY.—The term ‘fixed guideway’ means a public transportation facility—

“(A) using and occupying a separate right-of-way for the exclusive use of public transportation;

“(B) using rail;

“(C) using a fixed catenary system;

“(D) for a passenger ferry system; or

“(E) for a bus rapid transit system.

“(8) GOVERNOR.—The term ‘Governor’—

“(A) means the Governor of a State, the mayor of the District of Columbia, and the chief executive officer of a territory of the United States; and

“(B) includes the designee of the Governor.

“(9) LOCAL GOVERNMENTAL AUTHORITY.—The term ‘local governmental authority’ includes—

“(A) a political subdivision of a State;

“(B) an authority of at least 1 State or political subdivision of a State;

“(C) an Indian tribe; and

“(D) a public corporation, board, or commission established under the laws of a State.

“(10) LOW-INCOME INDIVIDUAL.—The term ‘low-income individual’ means an individual whose family income is at or below 150 percent of the poverty line, as that term is defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by that section, for a family of the size involved.

“(11) NET PROJECT COST.—The term ‘net project cost’ means the part of a project that reasonably cannot be financed from revenues.

“(12) NEW BUS MODEL.—The term ‘new bus model’ means a bus model (including a model using alternative fuel)—

“(A) that has not been used in public transportation in the United States before the date of production of the model; or

“(B) used in public transportation in the United States, but being produced with a major change in configuration or components.

“(13) PUBLIC TRANSPORTATION.—The term ‘public transportation’—

“(A) means regular, continuing shared-ride surface transportation services that are open to the general public or open to a segment of the general public defined by age, disability, or low income; and

“(B) does not include—

“(i) intercity passenger rail transportation provided by the entity described in chapter 243 (or a successor to such entity);

“(ii) intercity bus service;

“(iii) charter bus service;

“(iv) school bus service;

“(v) sightseeing service;

“(vi) courtesy shuttle service for patrons of one or more specific establishments; or

“(vii) intra-terminal or intra-facility shuttle services.

“(14) REGULATION.—The term ‘regulation’ means any part of a statement of general or particular applicability of the Secretary designed to carry out, interpret, or prescribe law or policy in carrying out this chapter.

“(15) SECRETARY.—The term ‘Secretary’ means the Secretary of Transportation.

“(16) SENIOR.—The term ‘senior’ means an individual who is 65 years of age or older.

“(17) STATE.—The term ‘State’ means a State of the United States, the District of

Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

“(18) STATE OF GOOD REPAIR.—The term ‘state of good repair’ has the meaning given that term by the Secretary, by rule, under section 5326(b).

“(19) TRANSIT.—The term ‘transit’ means public transportation.

“(20) URBAN AREA.—The term ‘urban area’ means an area that includes a municipality or other built-up place that the Secretary, after considering local patterns and trends of urban growth, decides is appropriate for a local public transportation system to serve individuals in the locality.

“(21) URBANIZED AREA.—The term ‘urbanized area’ means an area encompassing a population of not less than 50,000 people that has been defined and designated in the most recent decennial census as an ‘urbanized area’ by the Secretary of Commerce.”.

#### SEC. 20005. METROPOLITAN TRANSPORTATION PLANNING.

(a) IN GENERAL.—Section 5303 of title 49, United States Code, is amended to read as follows:

##### “§ 5303. Metropolitan transportation planning

“(a) POLICY.—It is in the national interest—

“(1) to encourage and promote the safe, cost-effective, and efficient management, operation, and development of surface transportation systems that will serve efficiently the mobility needs of individuals and freight, reduce transportation-related fatalities and serious injuries, and foster economic growth and development within and between States and urbanized areas, while fitting the needs and complexity of individual communities, maximizing value for taxpayers, leveraging cooperative investments, and minimizing transportation-related fuel consumption and air pollution through the metropolitan and statewide transportation planning processes identified in this chapter;

“(2) to encourage the continued improvement, evolution, and coordination of the metropolitan and statewide transportation planning processes by and among metropolitan planning organizations, State departments of transportation, regional planning organizations, interstate partnerships, and public transportation and intercity service operators as guided by the planning factors identified in subsection (h) of this section and section 5304(d);

“(3) to encourage and promote transportation needs and decisions that are integrated with other planning needs and priorities; and

“(4) to maximize the effectiveness of transportation investments.

“(b) DEFINITIONS.—In this section and section 5304, the following definitions shall apply:

“(1) EXISTING MPO.—The term ‘existing MPO’ means a metropolitan planning organization that was designated as a metropolitan planning organization as of the day before the date of enactment of the Federal Public Transportation Act of 2012.

“(2) LOCAL OFFICIAL.—The term ‘local official’ means any elected or appointed official of general purpose local government with responsibility for transportation in a designated area.

“(3) MAINTENANCE AREA.—The term ‘maintenance area’ means an area that was designated as an air quality nonattainment area, but was later redesignated by the Administrator of the Environmental Protection Agency as an air quality attainment area,

under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)).

“(4) METROPOLITAN PLANNING AREA.—The term ‘metropolitan planning area’ means a geographical area determined by agreement between the metropolitan planning organization for the area and the applicable Governor under subsection (c).

“(5) METROPOLITAN PLANNING ORGANIZATION.—The term ‘metropolitan planning organization’ means the policy board of an organization established pursuant to subsection (c).

“(6) METROPOLITAN TRANSPORTATION PLAN.—The term ‘metropolitan transportation plan’ means a plan developed by a metropolitan planning organization under subsection (i).

“(7) NONATTAINMENT AREA.—The term ‘nonattainment area’ has the meaning given the term in section 171 of the Clean Air Act (42 U.S.C. 7501).

“(8) NONMETROPOLITAN AREA.—

“(A) IN GENERAL.—The term ‘nonmetropolitan area’ means a geographical area outside the boundaries of a designated metropolitan planning area.

“(B) INCLUSIONS.—The term ‘nonmetropolitan area’ includes a small urbanized area with a population of more than 50,000, but fewer than 200,000 individuals, as calculated according to the most recent decennial census, and a nonurbanized area.

“(9) NONMETROPOLITAN PLANNING ORGANIZATION.—The term ‘nonmetropolitan planning organization’ means an organization that—

“(A) was designated as a metropolitan planning organization as of the day before the date of enactment of the Federal Public Transportation Act of 2012; and

“(B) is not designated as a tier I MPO or tier II MPO.

“(10) REGIONALLY SIGNIFICANT.—The term ‘regionally significant’, with respect to a transportation project, program, service, or strategy, means a project, program, service, or strategy that—

“(A) serves regional transportation needs (such as access to and from the area outside of the region, major activity centers in the region, and major planned developments); and

“(B) would normally be included in the modeling of a transportation network of a metropolitan area.

“(11) RURAL PLANNING ORGANIZATION.—The term ‘rural planning organization’ means a voluntary organization of local elected officials and representatives of local transportation systems that—

“(A) works in cooperation with the department of transportation (or equivalent entity) of a State to plan transportation networks and advise officials of the State on transportation planning; and

“(B) is located in a rural area—

“(i) with a population of not fewer than 5,000 individuals, as calculated according to the most recent decennial census; and

“(ii) that is not located in an area represented by a metropolitan planning organization.

“(12) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM.—The term ‘statewide transportation improvement program’ means a statewide transportation improvement program developed by a State under section 5304(g).

“(13) STATEWIDE TRANSPORTATION PLAN.—The term ‘statewide transportation plan’ means a plan developed by a State under section 5304(f).

“(14) TIER I MPO.—The term ‘tier I MPO’ means a metropolitan planning organization

designated as a tier I MPO under subsection (e)(4)(A).

“(15) TIER II MPO.—The term ‘tier II MPO’ means a metropolitan planning organization designated as a tier II MPO under subsection (e)(4)(B).

“(16) TRANSPORTATION IMPROVEMENT PROGRAM.—The term ‘transportation improvement program’ means a program developed by a metropolitan planning organization under subsection (j).

“(17) URBANIZED AREA.—The term ‘urbanized area’ means a geographical area with a population of 50,000 or more individuals, as calculated according to the most recent decennial census.

#### “(c) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

“(1) IN GENERAL.—To carry out the metropolitan transportation planning process under this section, a metropolitan planning organization shall be designated for each urbanized area with a population of 200,000 or more individuals, as calculated according to the most recent decennial census—

“(A) by agreement between the applicable Governor and local officials that, in the aggregate, represent at least 75 percent of the affected population (including the largest incorporated city (based on population), as calculated according to the most recent decennial census); or

“(B) in accordance with procedures established by applicable State or local law.

“(2) SMALL URBANIZED AREAS.—To carry out the metropolitan transportation planning process under this section, a metropolitan planning organization may be designated for any urbanized area with a population of 50,000 or more individuals, but fewer than 200,000 individuals, as calculated according to the most recent decennial census—

“(A) by agreement between the applicable Governor and local officials that, in the aggregate, represent at least 75 percent of the affected population (including the largest incorporated city (based on population), as calculated according to the most recent decennial census); and

“(B) with the consent of the Secretary, based on a finding that the resulting metropolitan planning organization has met the minimum requirements under subsection (e)(4)(B).

“(3) STRUCTURE.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, a metropolitan planning organization shall consist of—

“(A) elected local officials in the relevant metropolitan area;

“(B) officials of public agencies that administer or operate major modes of transportation in the relevant metropolitan area, including providers of public transportation; and

“(C) appropriate State officials.

“(4) EFFECT OF SUBSECTION.—Nothing in this subsection interferes with any authority under any State law in effect on December 18, 1991, of a public agency with multimodal transportation responsibilities—

“(A) to develop the metropolitan transportation plans and transportation improvement programs for adoption by a metropolitan planning organization; or

“(B) to develop capital plans, coordinate public transportation services and projects, or carry out other activities pursuant to State law.

“(5) CONTINUING DESIGNATION.—A designation of an existing MPO—

“(A) for an urbanized area with a population of 200,000 or more individuals, as calculated according to the most recent decennial census, shall remain in effect—

“(i) for the period during which the structure of the existing MPO complies with the requirements of paragraph (1); or

“(ii) until the date on which the existing MPO is redesignated under paragraph (6); and

“(B) for an urbanized area with a population of fewer than 200,000 individuals, as calculated according to the most recent decennial census, shall remain in effect until the date on which the existing MPO is redesignated under paragraph (6) unless—

“(i) the existing MPO requests that its planning responsibilities be transferred to the State or to another planning organization designated by the State; or

“(ii)(I) the applicable Governor determines not later than 3 years after the date on which the Secretary issues a rule pursuant to subsection (e)(4)(B)(i), that the existing MPO is not meeting the minimum requirements established by the rule; and

“(II) the Secretary approves the Governor's determination.

“(C) DESIGNATION AS TIER II MPO.—If the Secretary determines the existing MPO has met the minimum requirements under the rule issued under subsection (e)(4)(B)(i), the Secretary shall designate the existing MPO as a tier II MPO.

“(6) REDESIGNATION.—

“(A) IN GENERAL.—The designation of a metropolitan planning organization under this subsection shall remain in effect until the date on which the metropolitan planning organization is redesignated, as appropriate, in accordance with the requirements of this subsection pursuant to an agreement between—

“(i) the applicable Governor; and

“(ii) affected local officials who, in the aggregate, represent at least 75 percent of the existing metropolitan planning area population (including the largest incorporated city (based on population), as calculated according to the most recent decennial census).

“(B) RESTRUCTURING.—A metropolitan planning organization may be restructured to meet the requirements of paragraph (3) without undertaking a redesignation.

“(7) DESIGNATION OF MULTIPLE MPOS.—

“(A) IN GENERAL.—More than 1 metropolitan planning organization may be designated within an existing metropolitan planning area only if the applicable Governor and an existing MPO determine that the size and complexity of the existing metropolitan planning area make the designation of more than 1 metropolitan planning organization for the metropolitan planning area appropriate.

“(B) SERVICE JURISDICTIONS.—If more than 1 metropolitan planning organization is designated for an existing metropolitan planning area under subparagraph (A), the existing metropolitan planning area shall be split into multiple metropolitan planning areas, each of which shall be served by the existing MPO or a new metropolitan planning organization.

“(C) TIER DESIGNATION.—The tier designation of each metropolitan planning organization subject to a designation under this paragraph shall be determined based on the size of each respective metropolitan planning area, in accordance with subsection (e)(4).

“(d) METROPOLITAN PLANNING AREA BOUNDARIES.—

“(1) IN GENERAL.—For purposes of this section, the boundaries of a metropolitan plan-

ning area shall be determined by agreement between the applicable metropolitan planning organization and the Governor of the State in which the metropolitan planning area is located.

“(2) INCLUDED AREA.—Each metropolitan planning area—

“(A) shall encompass at least the relevant existing urbanized area and any contiguous area expected to become urbanized within a 20-year forecast period under the applicable metropolitan transportation plan; and

“(B) may encompass the entire relevant metropolitan statistical area, as defined by the Office of Management and Budget.

“(3) IDENTIFICATION OF NEW URBANIZED AREAS.—The designation by the Bureau of the Census of a new urbanized area within the boundaries of an existing metropolitan planning area shall not require the redesignation of the relevant existing MPO.

“(4) NONATTAINMENT AND MAINTENANCE AREAS.—

“(A) EXISTING METROPOLITAN PLANNING AREAS.—

“(i) IN GENERAL.—Except as provided in clause (ii), notwithstanding paragraph (2), in the case of an urbanized area designated as a nonattainment area or maintenance area as of the date of enactment of the Federal Public Transportation Act of 2012, the boundaries of the existing metropolitan planning area as of that date of enactment shall remain in force and effect.

“(ii) EXCEPTION.—Notwithstanding clause (i), the boundaries of an existing metropolitan planning area described in that clause may be adjusted by agreement of the applicable Governor and the affected metropolitan planning organizations in accordance with subsection (c)(7).

“(B) NEW METROPOLITAN PLANNING AREAS.—In the case of an urbanized area designated as a nonattainment area or maintenance area after the date of enactment of the Federal Public Transportation Act of 2012, the boundaries of the applicable metropolitan planning area—

“(i) shall be established in accordance with subsection (c)(1);

“(ii) shall encompass the areas described in paragraph (2)(A);

“(iii) may encompass the areas described in paragraph (2)(B); and

“(iv) may address any appropriate nonattainment area or maintenance area.

“(e) REQUIREMENTS.—

“(1) DEVELOPMENT OF PLANS AND TIPS.—To accomplish the policy objectives described in subsection (a), each metropolitan planning organization, in cooperation with the applicable State and public transportation operators, shall develop metropolitan transportation plans and transportation improvement programs for metropolitan planning areas of the State through a performance-driven, outcome-based approach to metropolitan transportation planning consistent with subsection (h).

“(2) CONTENTS.—The metropolitan transportation plans and transportation improvement programs for each metropolitan area shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation) that will function as—

“(A) an intermodal transportation system for the metropolitan planning area; and

“(B) an integral part of an intermodal transportation system for the applicable State and the United States.

“(3) PROCESS OF DEVELOPMENT.—The process for developing metropolitan transportation plans and transportation improvement programs shall—

“(A) provide for consideration of all modes of transportation; and

“(B) be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation needs to be addressed.

“(4) TIERING.—

“(A) TIER I MPOS.—

“(i) IN GENERAL.—A metropolitan planning organization shall be designated as a tier I MPO if—

“(I) as certified by the Governor of each applicable State, the metropolitan planning organization operates within, and primarily serves, a metropolitan planning area with a population of 1,000,000 or more individuals, as calculated according to the most recent decennial census; and

“(II) the Secretary determines the metropolitan planning organization—

“(aa) meets the minimum technical requirements under clause (iv); and

“(bb) not later than 2 years after the date of enactment of the Federal Public Transportation Act of 2012, will fully implement the processes described in subsections (h) through (j).

“(ii) ABSENCE OF DESIGNATION.—In the absence of designation as a tier I MPO under clause (i), a metropolitan planning organization shall operate as a tier II MPO until the date on which the Secretary determines the metropolitan planning organization can meet the minimum technical requirements under clause (iv).

“(iii) REDESIGNATION AS TIER I.—A metropolitan planning organization operating within a metropolitan planning area with a population of 200,000 or more and fewer than 1,000,000 individuals and primarily within urbanized areas with populations of 200,000 or more individuals, as calculated according to the most recent decennial census, that is designated as a tier II MPO under subparagraph (B) may request, with the support of the applicable Governor, a redesignation as a tier I MPO on a determination by the Secretary that the metropolitan planning organization has met the minimum technical requirements under clause (iv).

“(iv) MINIMUM TECHNICAL REQUIREMENTS.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue a rule that establishes the minimum technical requirements necessary for a metropolitan planning organization to be designated as a tier I MPO, including, at a minimum, modeling, data, staffing, and other technical requirements.

“(B) TIER II MPOS.—

“(i) IN GENERAL.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue a rule that establishes minimum requirements necessary for a metropolitan planning organization to be designated as a tier II MPO.

“(ii) REQUIREMENTS.—The minimum requirements established under clause (i) shall—

“(I) ensure that each metropolitan planning organization has the capabilities necessary to develop the metropolitan transportation plan and transportation improvement program under this section; and

“(II) include—

“(aa) only the staff resources necessary to operate the metropolitan planning organization; and

“(bb) a requirement that the metropolitan planning organization has the technical capacity to conduct the modeling necessary, as appropriate to the size and resources of the metropolitan planning organization, to fulfill the requirements of this section, except that in cases in which a metropolitan planning organization has a formal agreement with a State to conduct the modeling on behalf of the metropolitan planning organization, the metropolitan planning organization shall be exempt from the technical capacity requirement.

“(iii) INCLUSION.—A metropolitan planning organization operating primarily within an urbanized area with a population of 200,000 or more individuals, as calculated according to the most recent decennial census, and that does not qualify as a tier I MPO under subparagraph (A)(i), shall—

“(I) be designated as a tier II MPO; and

“(II) follow the processes under subsection (k).

“(C) CONSOLIDATION.—

“(i) IN GENERAL.—Metropolitan planning organizations operating within contiguous or adjacent urbanized areas may elect to consolidate in order to meet the population thresholds required to achieve designation as a tier I or tier II MPO under this paragraph.

“(ii) EFFECT OF SUBSECTION.—Nothing in this subsection requires or prevents consolidation among multiple metropolitan planning organizations located within a single urbanized area.

“(f) COORDINATION IN MULTISTATE AREAS.—

“(1) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

“(2) COORDINATION ALONG DESIGNATED TRANSPORTATION CORRIDORS.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire designated transportation corridor.

“(3) COORDINATION WITH INTERSTATE COMPACTS.—The Secretary shall encourage metropolitan planning organizations to take into consideration, during the development of metropolitan transportation plans and transportation improvement programs, any relevant transportation studies concerning planning for regional transportation (including high-speed and intercity rail corridor studies, commuter rail corridor studies, intermodal terminals, and interstate highways) in support of freight, intercity, or multistate area projects and services that have been developed pursuant to interstate compacts or agreements, or by organizations established under section 5304.

“(g) ENGAGEMENT IN METROPOLITAN TRANSPORTATION PLAN AND TIP DEVELOPMENT.—

“(1) NONATTAINMENT AND MAINTENANCE AREAS.—If more than 1 metropolitan planning organization has authority within a metropolitan area, nonattainment area, or maintenance area, each metropolitan planning organization shall consult with all other metropolitan planning organizations designated for the metropolitan area, nonattainment area, or maintenance area and the State in the development of metropolitan transportation plans and transportation improvement programs under this section.

“(2) TRANSPORTATION IMPROVEMENTS LOCATED IN MULTIPLE METROPOLITAN PLANNING AREAS.—If a transportation improvement

project funded under this chapter or title 23 is located within the boundaries of more than 1 metropolitan planning area, the affected metropolitan planning organizations shall coordinate metropolitan transportation plans and transportation improvement programs regarding the project.

“(3) COORDINATION OF ADJACENT PLANNING ORGANIZATIONS.—

“(A) IN GENERAL.—A metropolitan planning organization that is adjacent or located in reasonably close proximity to another metropolitan planning organization shall coordinate with that metropolitan planning organization with respect to planning processes, including preparation of metropolitan transportation plans and transportation improvement programs, to the maximum extent practicable.

“(B) NONMETROPOLITAN PLANNING ORGANIZATIONS.—A metropolitan planning organization that is adjacent or located in reasonably close proximity to a nonmetropolitan planning organization shall consult with that nonmetropolitan planning organization with respect to planning processes, to the maximum extent practicable.

“(4) RELATIONSHIP WITH OTHER PLANNING OFFICIALS.—

“(A) IN GENERAL.—The Secretary shall encourage each metropolitan planning organization to cooperate with Federal, State, tribal, and local officers and entities responsible for other types of planning activities that are affected by transportation in the relevant area (including planned growth, economic development, infrastructure services, housing, other public services, environmental protection, airport operations, high-speed and intercity passenger rail, freight rail, port access, and freight movements), to the maximum extent practicable, to ensure that the metropolitan transportation planning process, metropolitan transportation plans, and transportation improvement programs are developed in cooperation with other related planning activities in the area.

“(B) INCLUSION.—Cooperation under subparagraph (A) shall include the design and delivery of transportation services within the metropolitan area that are provided by—

“(i) recipients of assistance under sections 202, 203, and 204 of title 23;

“(ii) recipients of assistance under this title;

“(iii) government agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide nonemergency transportation services; and

“(iv) sponsors of regionally significant programs, projects, and services that are related to transportation and receive assistance from any public or private source.

“(5) COORDINATION OF OTHER FEDERALLY REQUIRED PLANNING PROGRAMS.—The Secretary shall encourage each metropolitan planning organization to coordinate, to the maximum extent practicable, the development of metropolitan transportation plans and transportation improvement programs with other relevant federally required planning programs.

“(h) SCOPE OF PLANNING PROCESS.—

“(1) IN GENERAL.—The metropolitan transportation planning process for a metropolitan planning area under this section shall provide for consideration of projects and strategies that will—

“(A) support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency;

“(B) increase the safety of the transportation system for motorized and non-motorized users;

“(C) increase the security of the transportation system for motorized and non-motorized users;

“(D) increase the accessibility and mobility of individuals and freight;

“(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;

“(F) enhance the integration and connectivity of the transportation system, across and between modes, for individuals and freight;

“(G) increase efficient system management and operation; and

“(H) emphasize the preservation of the existing transportation system.

“(2) PERFORMANCE-BASED APPROACH.—

“(A) IN GENERAL.—The metropolitan transportation planning process shall provide for the establishment and use of a performance-based approach to transportation decision-making to support the national goals described in section 5301(c) of this title and in section 150(b) of title 23.

“(B) PERFORMANCE TARGETS.—

“(i) SURFACE TRANSPORTATION PERFORMANCE TARGETS.—

“(I) IN GENERAL.—Each metropolitan planning organization shall establish performance targets that address the performance measures described in sections 119(f), 148(h), 149(k) (where applicable), and 167(i) of title 23, to use in tracking attainment of critical outcomes for the region of the metropolitan planning organization.

“(II) COORDINATION.—Selection of performance targets by a metropolitan planning organization shall be coordinated with the relevant State to ensure consistency, to the maximum extent practicable.

“(ii) PUBLIC TRANSPORTATION PERFORMANCE TARGETS.—Each metropolitan planning organization shall adopt the performance targets identified by providers of public transportation pursuant to sections 5326(c) and 5329(d), for use in tracking attainment of critical outcomes for the region of the metropolitan planning organization.

“(C) TIMING.—Each metropolitan planning organization shall establish or adopt the performance targets under subparagraph (B) not later than 90 days after the date on which the relevant State or provider of public transportation establishes the performance targets.

“(D) INTEGRATION OF OTHER PERFORMANCE-BASED PLANS.—A metropolitan planning organization shall integrate in the metropolitan transportation planning process, directly or by reference, the goals, objectives, performance measures, and targets described in other State plans and processes, as well as asset management and safety plans developed by providers of public transportation, required as part of a performance-based program, including plans such as—

“(i) the State National Highway System asset management plan;

“(ii) asset management plans developed by providers of public transportation;

“(iii) the State strategic highway safety plan;

“(iv) safety plans developed by providers of public transportation;

“(v) the congestion mitigation and air quality performance plan, where applicable;

“(vi) the national freight strategic plan; and



“(vii) the statewide transportation plan.

“(E) USE OF PERFORMANCE MEASURES AND TARGETS.—The performance measures and targets established under this paragraph shall be used, at a minimum, by the relevant metropolitan planning organization as the basis for development of policies, programs, and investment priorities reflected in the metropolitan transportation plan and transportation improvement program.

“(3) FAILURE TO CONSIDER FACTORS.—The failure to take into consideration 1 or more of the factors specified in paragraphs (1) and (2) shall not be subject to review by any court under this chapter, title 23, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a metropolitan transportation plan, a transportation improvement program, a project or strategy, or the certification of a planning process.

“(4) PARTICIPATION BY INTERESTED PARTIES.—

“(A) IN GENERAL.—Each metropolitan planning organization shall provide to affected individuals, public agencies, and other interested parties notice and a reasonable opportunity to comment on the metropolitan transportation plan and transportation improvement program and any relevant scenarios.

“(B) CONTENTS OF PARTICIPATION PLAN.—Each metropolitan planning organization shall establish a participation plan that—

“(i) is developed in consultation with all interested parties; and

“(ii) provides that all interested parties have reasonable opportunities to comment on the contents of the metropolitan transportation plan of the metropolitan planning organization.

“(C) METHODS.—In carrying out subparagraph (A), the metropolitan planning organization shall, to the maximum extent practicable—

“(i) develop the metropolitan transportation plan and transportation improvement program in consultation with interested parties, as appropriate, including by the formation of advisory groups representative of the community and interested parties that participate in the development of the metropolitan transportation plan and transportation improvement program;

“(ii) hold any public meetings at times and locations that are, as applicable—

“(I) convenient; and

“(II) in compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

“(iii) employ visualization techniques to describe metropolitan transportation plans and transportation improvement programs; and

“(iv) make public information available in appropriate electronically accessible formats and means, such as the Internet, to afford reasonable opportunity for consideration of public information under subparagraph (A).

“(i) DEVELOPMENT OF METROPOLITAN TRANSPORTATION PLAN.—

“(A) DEVELOPMENT.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), not later than 5 years after the date of enactment of the Federal Public Transportation Act of 2012, and not less frequently than once every 5 years thereafter, each metropolitan planning organization shall prepare and update, respectively, a metropolitan transportation plan for the relevant metropolitan planning area in accordance with this section.

“(B) EXCEPTIONS.—A metropolitan planning organization shall prepare or update, as appropriate, the metropolitan transportation

plan not less frequently than once every 4 years if the metropolitan planning organization is operating within—

“(i) a nonattainment area; or

“(ii) a maintenance area.

“(2) OTHER REQUIREMENTS.—A metropolitan transportation plan under this section shall—

“(A) be in a form that the Secretary determines to be appropriate;

“(B) have a term of not less than 20 years; and

“(C) contain, at a minimum—

“(i) an identification of the existing transportation infrastructure, including highways, local streets and roads, bicycle and pedestrian facilities, public transportation facilities and services, commuter rail facilities and services, high-speed and intercity passenger rail facilities and services, freight facilities (including freight railroad and port facilities), multimodal and intermodal facilities, and intermodal connectors that, evaluated in the aggregate, function as an integrated metropolitan transportation system;

“(ii) a description of the performance measures and performance targets used in assessing the existing and future performance of the transportation system in accordance with subsection (h)(2);

“(iii) a description of the current and projected future usage of the transportation system, including a projection based on a preferred scenario, and further including, to the extent practicable, an identification of existing or planned transportation rights-of-way, corridors, facilities, and related real properties;

“(iv) a system performance report evaluating the existing and future condition and performance of the transportation system with respect to the performance targets described in subsection (h)(2) and updates in subsequent system performance reports, including—

“(I) progress achieved by the metropolitan planning organization in meeting the performance targets in comparison with system performance recorded in previous reports;

“(II) an accounting of the performance of the metropolitan planning organization on outlay of obligated project funds and delivery of projects that have reached substantial completion in relation to—

“(aa) the projects included in the transportation improvement program; and

“(bb) the projects that have been removed from the previous transportation improvement program; and

“(III) when appropriate, an analysis of how the preferred scenario has improved the conditions and performance of the transportation system and how changes in local policies, investments, and growth have impacted the costs necessary to achieve the identified performance targets;

“(v) recommended strategies and investments for improving system performance over the planning horizon, including transportation systems management and operations strategies, maintenance strategies, demand management strategies, asset management strategies, capacity and enhancement investments, State and local economic development and land use improvements, intelligent transportation systems deployment, and technology adoption strategies, as determined by the projected support of the performance targets described in subsection (h)(2);

“(vi) recommended strategies and investments to improve and integrate disability-related access to transportation infrastructure, including strategies and investments

based on a preferred scenario, when appropriate;

“(vii) investment priorities for using projected available and proposed revenues over the short- and long-term stages of the planning horizon, in accordance with the financial plan required under paragraph (4);

“(viii) a description of interstate compacts entered into in order to promote coordinated transportation planning in multistate areas, if applicable;

“(ix) an optional illustrative list of projects containing investments that—

“(I) are not included in the metropolitan transportation plan; but

“(II) would be so included if resources in addition to the resources identified in the financial plan under paragraph (4) were available;

“(x) a discussion (developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies) of types of potential environmental and stormwater mitigation activities and potential areas to carry out those activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the metropolitan transportation plan; and

“(xi) recommended strategies and investments, including those developed by the State as part of interstate compacts, agreements, or organizations, that support intercity transportation.

“(3) SCENARIO DEVELOPMENT.—

“(A) IN GENERAL.—When preparing the metropolitan transportation plan, the metropolitan planning organization may, while fitting the needs and complexity of their community, develop multiple scenarios for consideration as a part of the development of the metropolitan transportation plan, in accordance with subparagraph (B).

“(B) COMPONENTS OF SCENARIOS.—The scenarios—

“(i) shall include potential regional investment strategies for the planning horizon;

“(ii) shall include assumed distribution of population and employment;

“(iii) may include a scenario that, to the maximum extent practicable, maintains baseline conditions for the performance targets identified in subsection (h)(2);

“(iv) may include a scenario that improves the baseline conditions for as many of the performance targets under subsection (h)(2) as possible;

“(v) may include a revenue constrained scenario based on total revenues reasonably expected to be available over the 20-year planning period and assumed population and employment; and

“(vi) may include estimated costs and potential revenues available to support each scenario.

“(C) METRICS.—In addition to the performance targets identified in subsection (h)(2), scenarios developed under this paragraph may be evaluated using locally developed metrics for the following categories:

“(i) Congestion and mobility, including transportation use by mode.

“(ii) Freight movement.

“(iii) Safety.

“(iv) Efficiency and costs to taxpayers.

“(4) FINANCIAL PLAN.—A financial plan referred to in paragraph (2)(C)(vii) shall—

“(A) be prepared by each metropolitan planning organization to support the metropolitan transportation plan; and

“(B) contain a description of—

“(i) the projected resource requirements for implementing projects, strategies, and services recommended in the metropolitan

transportation plan, including existing and projected system operating and maintenance needs, proposed enhancement and expansions to the system, projected available revenue from Federal, State, local, and private sources, and innovative financing techniques to finance projects and programs;

“(ii) the projected difference between costs and revenues, and strategies for securing additional new revenue (such as by capture of some of the economic value created by any new investment);

“(iii) estimates of future funds, to be developed cooperatively by the metropolitan planning organization, any public transportation agency, and the State, that are reasonably expected to be available to support the investment priorities recommended in the metropolitan transportation plan; and

“(iv) each applicable project only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

“(5) COORDINATION WITH CLEAN AIR ACT AGENCIES.—The metropolitan planning organization for any metropolitan area that is a nonattainment area or maintenance area shall coordinate the development of a transportation plan with the process for development of the transportation control measures of the State implementation plan required by the Clean Air Act (42 U.S.C. 7401 et seq.).

“(6) PUBLICATION.—On approval by the relevant metropolitan planning organization, a metropolitan transportation plan involving Federal participation shall be, at such times and in such manner as the Secretary shall require—

“(A) published or otherwise made readily available by the metropolitan planning organization for public review, including (to the maximum extent practicable) in electronically accessible formats and means, such as the Internet; and

“(B) submitted for informational purposes to the applicable Governor.

“(7) CONSULTATION.—

“(A) IN GENERAL.—In each metropolitan area, the metropolitan planning organization shall consult, as appropriate, with Federal, State, tribal, and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation concerning the development of a metropolitan transportation plan.

“(B) ISSUES.—The consultation under subparagraph (A) shall involve, as available, consideration of—

“(i) metropolitan transportation plans with Federal, State, tribal, and local conservation plans or maps; and

“(ii) inventories of natural or historic resources.

“(8) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—Notwithstanding paragraph (4), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the metropolitan transportation plan under paragraph (2)(C)(ix).

“(j) TRANSPORTATION IMPROVEMENT PROGRAM.—

“(1) DEVELOPMENT.—

“(A) IN GENERAL.—In cooperation with the applicable State and any affected public transportation operator, the metropolitan planning organization designated for a metropolitan area shall develop a transportation improvement program for the metropolitan planning area that—

“(i) contains projects consistent with the current metropolitan transportation plan;

“(ii) reflects the investment priorities established in the current metropolitan transportation plan; and

“(iii) once implemented, will make significant progress toward achieving the performance targets established under subsection (h)(2).

“(B) OPPORTUNITY FOR PARTICIPATION.—In developing the transportation improvement program, the metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties, in accordance with subsection (h)(4).

“(C) UPDATING AND APPROVAL.—The transportation improvement program shall be—

“(i) updated not less frequently than once every 4 years, on a cycle compatible with the development of the relevant statewide transportation improvement program under section 5304; and

“(ii) approved by the applicable Governor.

“(2) CONTENTS.—

“(A) PRIORITY LIST.—The transportation improvement program shall include a priority list of proposed federally supported projects and strategies to be carried out during the 4-year period beginning on the date of adoption of the transportation improvement program, and each 4-year period thereafter, using existing and reasonably available revenues in accordance with the financial plan under paragraph (3).

“(B) DESCRIPTIONS.—Each project described in the transportation improvement program shall include sufficient descriptive material (such as type of work, termini, length, and other similar factors) to identify the project or phase of the project and the effect that the project or project phase will have in addressing the performance targets described in subsection (h)(2).

“(C) PERFORMANCE TARGET ACHIEVEMENT.—The transportation improvement program shall include, to the maximum extent practicable, a description of the anticipated effect of the transportation improvement program on attainment of the performance targets established in the metropolitan transportation plan, linking investment priorities to those performance targets.

“(D) ILLUSTRATIVE LIST OF PROJECTS.—In developing a transportation improvement program, an optional illustrative list of projects may be prepared containing additional investment priorities that—

“(i) are not included in the transportation improvement program; but

“(ii) would be so included if resources in addition to the resources identified in the financial plan under paragraph (3) were available.

“(3) FINANCIAL PLAN.—A financial plan referred to in paragraph (2)(D)(ii) shall—

“(A) be prepared by each metropolitan planning organization to support the transportation improvement program; and

“(B) contain a description of—

“(i) the projected resource requirements for implementing projects, strategies, and services recommended in the transportation improvement program, including existing and projected system operating and maintenance needs, proposed enhancement and expansions to the system, projected available revenue from Federal, State, local, and private sources, and innovative financing techniques to finance projects and programs;

“(ii) the projected difference between costs and revenues, and strategies for securing additional new revenue (such as by capture of some of the economic value created by any new investment);

“(iii) estimates of future funds, to be developed cooperatively by the metropolitan planning organization, any public transportation agency, and the State, that are reasonably expected to be available to support the investment priorities recommended in the transportation improvement program; and

“(iv) each applicable project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

“(4) INCLUDED PROJECTS.—

“(A) PROJECTS UNDER THIS CHAPTER AND TITLE 23.—A transportation improvement program developed under this subsection for a metropolitan area shall include a description of the projects within the area that are proposed for funding under this chapter and chapter 1 of title 23.

“(B) PROJECTS UNDER CHAPTER 2.—

“(i) REGIONALLY SIGNIFICANT.—Each regionally significant project proposed for funding under chapter 2 of title 23 shall be identified individually in the transportation improvement program.

“(ii) NONREGIONALLY SIGNIFICANT.—A description of each project proposed for funding under chapter 2 of title 23 that is not determined to be regionally significant shall be contained in 1 line item or identified individually in the transportation improvement program.

“(5) OPPORTUNITY FOR PARTICIPATION.—Before approving a transportation improvement program, a metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties in the development of the transportation improvement program, in accordance with subsection (h)(4).

“(6) SELECTION OF PROJECTS.—

“(A) IN GENERAL.—Each tier I MPO and tier II MPO shall select projects carried out within the boundaries of the applicable metropolitan planning area from the transportation improvement program, in consultation with the relevant State and on concurrence of the affected facility owner, for funds apportioned to the State under section 104(b)(2) of title 23 and suballocated to the metropolitan planning area under section 133(d) of title 23.

“(B) PROJECTS UNDER CHAPTER 53.—In the case of projects under this chapter, the selection of federally funded projects in metropolitan areas shall be carried out, from the approved transportation improvement program, by the designated recipients of public transportation funding in cooperation with the metropolitan planning organization.

“(C) CONGESTION MITIGATION AND AIR QUALITY PROJECTS.—Each tier I MPO shall select projects carried out within the boundaries of the applicable metropolitan planning area from the transportation improvement program, in consultation with the relevant State and on concurrence of the affected facility owner, for funds apportioned to the State under section 104(b)(4) of title 23 and suballocated to the metropolitan planning area under section 149(j) of title 23.

“(D) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, approval by the Secretary shall not be required to carry out a project included in a transportation improvement program in place of another project in the transportation improvement program.

“(7) PUBLICATION.—

“(A) IN GENERAL.—A transportation improvement program shall be published or

otherwise made readily available by the applicable metropolitan planning organization for public review in electronically accessible formats and means, such as the Internet.

“(B) ANNUAL LIST OF PROJECTS.—An annual list of projects, including investments in pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation, for which Federal funds have been obligated during the preceding fiscal year shall be published or otherwise made available by the cooperative effort of the State, public transportation operator, and metropolitan planning organization in electronically accessible formats and means, such as the Internet, in a manner that is consistent with the categories identified in the relevant transportation improvement program.

“(k) PLANNING REQUIREMENTS FOR TIER II MPOS.—

“(1) IN GENERAL.—The Secretary may provide for the performance-based development of a metropolitan transportation plan and transportation improvement program for the metropolitan planning area of a tier II MPO, as the Secretary determines to be appropriate, taking into account—

“(A) the complexity of transportation needs in the area; and

“(B) the technical capacity of the metropolitan planning organization.

“(2) EVALUATION OF PERFORMANCE-BASED PLANNING.—In reviewing a tier II MPO under subsection (m), the Secretary shall take into consideration the effectiveness of the tier II MPO in implementing and maintaining a performance-based planning process that—

“(A) addresses the performance targets described in subsection (h)(2); and

“(B) demonstrates progress on the achievement of those performance targets.

“(1) CERTIFICATION.—

“(1) IN GENERAL.—The Secretary shall—

“(A) ensure that the metropolitan transportation planning process of a metropolitan planning organization is being carried out in accordance with applicable Federal law; and

“(B) subject to paragraph (2), certify, not less frequently than once every 4 years, that the requirements of subparagraph (A) are met with respect to the metropolitan transportation planning process.

“(2) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make a certification under paragraph (1)(B) if—

“(A) the metropolitan transportation planning process complies with the requirements of this section and other applicable Federal law;

“(B) representation on the metropolitan planning organization board includes officials of public agencies that administer or operate major modes of transportation in the relevant metropolitan area, including providers of public transportation; and

“(C) a transportation improvement program for the metropolitan planning area has been approved by the relevant metropolitan planning organization and applicable Governor.

“(3) DELEGATION OF AUTHORITY.—The Secretary may—

“(A) delegate to the appropriate State fact-finding authority regarding the certification of a tier II MPO under this subsection; and

“(B) make the certification under paragraph (1) in consultation with the State.

“(4) EFFECT OF FAILURE TO CERTIFY.—

“(A) WITHHOLDING OF PROJECT FUNDS.—If a metropolitan transportation planning process of a metropolitan planning organization is not certified under paragraph (1), the Sec-

retary may withhold up to 20 percent of the funds attributable to the metropolitan planning area of the metropolitan planning organization for projects funded under this chapter and title 23.

“(B) RESTORATION OF WITHHELD FUNDS.—Any funds withheld under subparagraph (A) shall be restored to the metropolitan planning area on the date of certification of the metropolitan transportation planning process by the Secretary.

“(5) PUBLIC INVOLVEMENT.—In making a determination regarding certification under this subsection, the Secretary shall provide for public involvement appropriate to the metropolitan planning area under review.

“(m) PERFORMANCE-BASED PLANNING PROCESSES EVALUATION.—

“(1) IN GENERAL.—The Secretary shall establish criteria to evaluate the effectiveness of the performance-based planning processes of metropolitan planning organizations under this section, taking into consideration the following:

“(A) The extent to which the metropolitan planning organization has achieved, or is currently making substantial progress toward achieving, the performance targets specified in subsection (h)(2), taking into account whether the metropolitan planning organization developed meaningful performance targets.

“(B) The extent to which the metropolitan planning organization has used proven best practices that help ensure transportation investment that is efficient and cost-effective.

“(C) The extent to which the metropolitan planning organization—

“(i) has developed an investment process that relies on public input and awareness to ensure that investments are transparent and accountable; and

“(ii) provides regular reports allowing the public to access the information being collected in a format that allows the public to meaningfully assess the performance of the metropolitan planning organization.

“(2) REPORT.—

“(A) IN GENERAL.—Not later than 5 years after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall submit to Congress a report evaluating—

“(i) the overall effectiveness of performance-based planning as a tool for guiding transportation investments; and

“(ii) the effectiveness of the performance-based planning process of each metropolitan planning organization under this section.

“(B) PUBLICATION.—The report under subparagraph (A) shall be published or otherwise made available in electronically accessible formats and means, including on the Internet.

“(n) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—

“(1) IN GENERAL.—Notwithstanding any other provision of this chapter or title 23, Federal funds may not be advanced in any metropolitan planning area classified as a nonattainment area or maintenance area for any highway project that will result in a significant increase in the carrying capacity for single-occupant vehicles, unless the owner or operator of the project demonstrates that the project will achieve or make substantial progress toward achieving the performance targets described in subsection (h)(2).

“(2) APPLICABILITY.—This subsection applies to any nonattainment area or maintenance area within the boundaries of a metropolitan planning area, as determined under subsection (d).

“(o) EFFECT OF SECTION.—Nothing in this section provides to any metropolitan plan-

ning organization the authority to impose any legal requirement on any transportation facility, provider, or project not subject to the requirements of this chapter or title 23.

“(p) FUNDING.—Funds apportioned under section 104(b)(6) of title 23 and set aside under section 5305(g) of this title shall be available to carry out this section.

“(q) CONTINUATION OF CURRENT REVIEW PRACTICE.—

“(1) IN GENERAL.—In consideration of the factors described in paragraph (2), any decision by the Secretary concerning a metropolitan transportation plan or transportation improvement program shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(2) DESCRIPTION OF FACTORS.—The factors referred to in paragraph (1) are that—

“(A) metropolitan transportation plans and transportation improvement programs are subject to a reasonable opportunity for public comment;

“(B) the projects included in metropolitan transportation plans and transportation improvement programs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

“(C) decisions by the Secretary concerning metropolitan transportation plans and transportation improvement programs have not been reviewed under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) as of January 1, 1997.

“(r) SCHEDULE FOR IMPLEMENTATION.—The Secretary shall issue guidance on a schedule for implementation of the changes made by this section, taking into consideration the established planning update cycle for metropolitan planning organizations. The Secretary shall not require a metropolitan planning organization to deviate from its established planning update cycle to implement changes made by this section. Metropolitan planning organizations shall reflect changes made to their transportation plan or transportation improvement program updates not later than 2 years after the date of issuance of guidance by the Secretary.”

(b) PILOT PROGRAM FOR TRANSIT-ORIENTED DEVELOPMENT PLANNING.—

(1) DEFINITIONS.—In this subsection the following definitions shall apply:

(A) ELIGIBLE PROJECT.—The term “eligible project” means a new fixed guideway capital project or a core capacity improvement project, as those terms are defined in section 5309 of title 49, United States Code, as amended by this division.

(B) SECRETARY.—The term “Secretary” means the Secretary of Transportation.

(2) GENERAL AUTHORITY.—The Secretary may make grants under this subsection to a State or local governmental authority to assist in financing comprehensive planning associated with an eligible project that seeks to—

(A) enhance economic development, ridership, and other goals established during the project development and engineering processes;

(B) facilitate multimodal connectivity and accessibility;

(C) increase access to transit hubs for pedestrian and bicycle traffic;

(D) enable mixed-use development;

(E) identify infrastructure needs associated with the eligible project; and

(F) include private sector participation.

(3) ELIGIBILITY.—A State or local governmental authority that desires to participate in the program under this subsection shall submit to the Secretary an application that contains, at a minimum—

(A) identification of an eligible project;  
 (B) a schedule and process for the development of a comprehensive plan;  
 (C) a description of how the eligible project and the proposed comprehensive plan advance the metropolitan transportation plan of the metropolitan planning organization;  
 (D) proposed performance criteria for the development and implementation of the comprehensive plan; and  
 (E) identification of—  
 (i) partners;  
 (ii) availability of and authority for funding; and  
 (iii) potential State, local or other impediments to the implementation of the comprehensive plan.

#### SEC. 20006. STATEWIDE AND NONMETROPOLITAN TRANSPORTATION PLANNING.

Section 5304 of title 49, United States Code, is amended to read as follows:

##### “§ 5304. Statewide and nonmetropolitan transportation planning

“(a) STATEWIDE TRANSPORTATION PLANS AND STIPs.—

“(1) DEVELOPMENT.—

“(A) IN GENERAL.—To accomplish the policy objectives described in section 5303(a), each State shall develop a statewide transportation plan and a statewide transportation improvement program for all areas of the State in accordance with this section.

“(B) INCORPORATION OF METROPOLITAN TRANSPORTATION PLANS AND TIPS.—Each State shall incorporate in the statewide transportation plan and statewide transportation improvement program, without change or by reference, the metropolitan transportation plans and transportation improvement programs, respectively, for each metropolitan planning area in the State.

“(C) NONMETROPOLITAN AREAS.—Each State shall coordinate with local officials in small urbanized areas with a population of 50,000 or more individuals, but fewer than 200,000 individuals, as calculated according to the most recent decennial census, and nonurbanized areas of the State in preparing the nonmetropolitan portions of statewide transportation plans and statewide transportation improvement programs.

“(2) CONTENTS.—The statewide transportation plan and statewide transportation improvement program developed for each State shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation) that will function as—

“(A) an intermodal transportation system for the State; and

“(B) an integral part of an intermodal transportation system for the United States.

“(3) PROCESS.—The process for developing the statewide transportation plan and statewide transportation improvement program shall—

“(A) provide for consideration of all modes of transportation; and

“(B) be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation needs to be addressed.

“(b) COORDINATION AND CONSULTATION.—

“(1) IN GENERAL.—Each State shall—

“(A) coordinate planning carried out under this section with—

“(i) the transportation planning activities carried out under section 5303 for metropolitan areas of the State; and

“(ii) statewide trade and economic development planning activities and related multistate planning efforts;

“(B) coordinate planning carried out under this section with the transportation planning activities carried out by each nonmetropolitan planning organization in the State, as applicable;

“(C) coordinate planning carried out under this section with the transportation planning activities carried out by each rural planning organization in the State, as applicable; and

“(D) develop the transportation portion of the State implementation plan as required by the Clean Air Act (42 U.S.C. 7401 et seq.).

“(2) MULTISTATE AREAS.—

“(A) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan planning area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

“(B) COORDINATION ALONG DESIGNATED TRANSPORTATION CORRIDORS.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate transportation corridor to provide coordinated transportation planning for the entire designated corridor.

“(C) INTERSTATE COMPACTS.—For purposes of this section, any 2 or more States—

“(i) may enter into compacts, agreements, or organizations not in conflict with any Federal law for cooperative efforts and mutual assistance in support of activities authorized under this section, as the activities relate to interstate areas and localities within the States;

“(ii) may establish such agencies (joint or otherwise) as the States determine to be appropriate for ensuring the effectiveness of the agreements and compacts; and

“(iii) are encouraged to enter into such compacts, agreements, or organizations as are appropriate to develop planning documents in support of intercity or multistate area projects, facilities, and services, the relevant components of which shall be reflected in statewide transportation improvement programs and statewide transportation plans.

“(D) RESERVATION OF RIGHTS.—The right to alter, amend, or repeal any interstate compact or agreement entered into under this subsection is expressly reserved.

“(c) RELATIONSHIP WITH OTHER PLANNING OFFICIALS.—

“(1) IN GENERAL.—The Secretary shall encourage each State to cooperate with Federal, State, tribal, and local officers and entities responsible for other types of planning activities that are affected by transportation in the relevant area (including planned growth, economic development, infrastructure services, housing, other public services, environmental protection, airport operations, high-speed and intercity passenger rail, freight rail, port access, and freight movements), to the maximum extent practicable, to ensure that the statewide and nonmetropolitan planning process, statewide transportation plans, and statewide transportation improvement programs are developed with due consideration for other related planning activities in the State.

“(2) INCLUSION.—Cooperation under paragraph (1) shall include the design and delivery of transportation services within the State that are provided by—

“(A) recipients of assistance under sections 202, 203, and 204 of title 23;

“(B) recipients of assistance under this chapter;

“(C) government agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide nonemergency transportation services; and

“(D) sponsors of regionally significant programs, projects, and services that are related to transportation and receive assistance from any public or private source.

“(d) SCOPE OF PLANNING PROCESS.—

“(1) IN GENERAL.—The statewide transportation planning process for a State under this section shall provide for consideration of projects, strategies, and services that will—

“(A) support the economic vitality of the United States, the State, nonmetropolitan areas, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency;

“(B) increase the safety of the transportation system for motorized and nonmotorized users;

“(C) increase the security of the transportation system for motorized and nonmotorized users;

“(D) increase the accessibility and mobility of individuals and freight;

“(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;

“(F) enhance the integration and connectivity of the transportation system, across and between modes, for individuals and freight;

“(G) increase efficient system management and operation; and

“(H) emphasize the preservation of the existing transportation system.

“(2) PERFORMANCE-BASED APPROACH.—

“(A) IN GENERAL.—The statewide transportation planning process shall provide for the establishment and use of a performance-based approach to transportation decision-making to support the national goals described in section 5301(c) of this title and in section 150(b) of title 23.

“(B) SURFACE TRANSPORTATION PERFORMANCE TARGETS.—

“(i) IN GENERAL.—Each State shall establish performance targets that address the performance measures described in sections 119(f), 148(h), and 167(i) of title 23 to use in tracking attainment of critical outcomes for the region of the State.

“(ii) COORDINATION.—Selection of performance targets by a State shall be coordinated with relevant metropolitan planning organizations to ensure consistency, to the maximum extent practicable.

“(C) PUBLIC TRANSPORTATION PERFORMANCE TARGETS.—For providers of public transportation operating in urbanized areas with a population of fewer than 200,000 individuals, as calculated according to the most recent decennial census, and not represented by a metropolitan planning organization, each State shall adopt the performance targets identified by such providers of public transportation pursuant to sections 5326(c) and 5329(d), for use in tracking attainment of critical outcomes for the region of the metropolitan planning organization.

“(D) INTEGRATION OF OTHER PERFORMANCE-BASED PLANS.—A State shall integrate into the statewide transportation planning process, directly or by reference, the goals, objectives, performance measures, and performance targets described in this paragraph in other State plans and processes, and asset

management and safety plans developed by providers of public transportation in urbanized areas with a population of fewer than 200,000 individuals, as calculated according to the most recent decennial census, and not represented by a metropolitan planning organization, required as part of a performance-based program, including plans such as—

“(i) the State National Highway System asset management plan;

“(ii) asset management plans developed by providers of public transportation;

“(iii) the State strategic highway safety plan;

“(iv) safety plans developed by providers of public transportation; and

“(v) the national freight strategic plan.

“(E) USE OF PERFORMANCE MEASURES AND TARGETS.—The performance measures and targets established under this paragraph shall be used, at a minimum, by a State as the basis for development of policies, programs, and investment priorities reflected in the statewide transportation plan and statewide transportation improvement program.

“(3) FAILURE TO CONSIDER FACTORS.—The failure to take into consideration 1 or more of the factors specified in paragraphs (1) and (2) shall not be subject to review by any court under this chapter, title 23, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a statewide transportation plan, a statewide transportation improvement program, a project or strategy, or the certification of a planning process.

“(4) PARTICIPATION BY INTERESTED PARTIES.—

“(A) IN GENERAL.—Each State shall provide to affected individuals, public agencies, and other interested parties notice and a reasonable opportunity to comment on the statewide transportation plan and statewide transportation improvement program.

“(B) METHODS.—In carrying out subparagraph (A), the State shall, to the maximum extent practicable—

“(i) develop the statewide transportation plan and statewide transportation improvement program in consultation with interested parties, as appropriate, including by the formation of advisory groups representative of the State and interested parties that participate in the development of the statewide transportation plan and statewide transportation improvement program;

“(ii) hold any public meetings at times and locations that are, as applicable—

“(I) convenient; and

“(II) in compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

“(iii) employ visualization techniques to describe statewide transportation plans and statewide transportation improvement programs; and

“(iv) make public information available in appropriate electronically accessible formats and means, such as the Internet, to afford reasonable opportunity for consideration of public information under subparagraph (A).

“(e) COORDINATION AND CONSULTATION.—

“(1) METROPOLITAN AREAS.—

“(A) IN GENERAL.—Each State shall develop a statewide transportation plan and statewide transportation improvement program for each metropolitan area in the State by incorporating, without change or by reference, at a minimum, as prepared by each metropolitan planning organization designated for the metropolitan area under section 5303—

“(i) all regionally significant projects to be carried out during the 10-year period begin-

ning on the effective date of the relevant existing metropolitan transportation plan; and

“(ii) all projects to be carried out during the 4-year period beginning on the effective date of the relevant transportation improvement program.

“(B) PROJECTED COSTS.—Each metropolitan planning organization shall provide to each applicable State a description of the projected costs of implementing the projects included in the metropolitan transportation plan of the metropolitan planning organization for purposes of metropolitan financial planning and fiscal constraint.

“(2) NONMETROPOLITAN AREAS.—With respect to nonmetropolitan areas in a State, the statewide transportation plan and statewide transportation improvement program of the State shall be developed in coordination with affected nonmetropolitan local officials with responsibility for transportation, including providers of public transportation.

“(3) INDIAN TRIBAL AREAS.—With respect to each area of a State under the jurisdiction of an Indian tribe, the statewide transportation plan and statewide transportation improvement program of the State shall be developed in consultation with—

“(A) the tribal government; and

“(B) the Secretary of the Interior.

“(4) FEDERAL LAND MANAGEMENT AGENCIES.—With respect to each area of a State under the jurisdiction of a Federal land management agency, the statewide transportation plan and statewide transportation improvement program of the State shall be developed in consultation with the relevant Federal land management agency.

“(5) CONSULTATION, COMPARISON, AND CONSIDERATION.—

“(A) IN GENERAL.—A statewide transportation plan shall be developed, as appropriate, in consultation with Federal, State, tribal, and local agencies responsible for land use management, natural resources, infrastructure permitting, environmental protection, conservation, and historic preservation.

“(B) COMPARISON AND CONSIDERATION.—Consultation under subparagraph (A) shall involve the comparison of statewide transportation plans to, as available—

“(i) Federal, State, tribal, and local conservation plans or maps; and

“(ii) inventories of natural or historic resources.

“(f) STATEWIDE TRANSPORTATION PLAN.—

“(1) DEVELOPMENT.—

“(A) IN GENERAL.—Each State shall develop a statewide transportation plan, the forecast period of which shall be not less than 20 years for all areas of the State, that provides for the development and implementation of the intermodal transportation system of the State.

“(B) INITIAL PERIOD.—A statewide transportation plan shall include, at a minimum, for the first 10-year period of the statewide transportation plan, the identification of existing and future transportation facilities that will function as an integrated statewide transportation system, giving emphasis to those facilities that serve important national, statewide, and regional transportation functions.

“(C) SUBSEQUENT PERIOD.—For the second 10-year period of the statewide transportation plan (referred to in this subsection as the ‘outer years period’), a statewide transportation plan—

“(i) may include identification of future transportation facilities; and

“(ii) shall describe the policies and strategies that provide for the development and

implementation of the intermodal transportation system of the State.

“(D) OTHER REQUIREMENTS.—A statewide transportation plan shall—

“(i) include, for the 20-year period covered by the statewide transportation plan, a description of—

“(I) the projected aggregate cost of projects anticipated by a State to be implemented; and

“(II) the revenues necessary to support the projects;

“(ii) include, in such form as the Secretary determines to be appropriate, a description of—

“(I) the existing transportation infrastructure, including an identification of highways, local streets and roads, bicycle and pedestrian facilities, public transportation facilities and services, commuter rail facilities and services, high-speed and intercity passenger rail facilities and services, freight facilities (including freight railroad and port facilities), multimodal and intermodal facilities, and intermodal connectors that, evaluated in the aggregate, function as an integrated transportation system;

“(II) the performance measures and performance targets used in assessing the existing and future performance of the transportation system described in subsection (d)(2);

“(III) the current and projected future usage of the transportation system, including, to the maximum extent practicable, an identification of existing or planned transportation rights-of-way, corridors, facilities, and related real properties;

“(IV) a system performance report evaluating the existing and future condition and performance of the transportation system with respect to the performance targets described in subsection (d)(2) and updates to subsequent system performance reports, including—

“(aa) progress achieved by the State in meeting performance targets, as compared to system performance recorded in previous reports; and

“(bb) an accounting of the performance by the State on outlay of obligated project funds and delivery of projects that have reached substantial completion, in relation to the projects currently on the statewide transportation improvement program and those projects that have been removed from the previous statewide transportation improvement program;

“(V) recommended strategies and investments for improving system performance over the planning horizon, including transportation systems management and operations strategies, maintenance strategies, demand management strategies, asset management strategies, capacity and enhancement investments, land use improvements, intelligent transportation systems deployment and technology adoption strategies as determined by the projected support of performance targets described in subsection (d)(2);

“(VI) recommended strategies and investments to improve and integrate disability-related access to transportation infrastructure;

“(VII) investment priorities for using projected available and proposed revenues over the short- and long-term stages of the planning horizon, in accordance with the financial plan required under paragraph (2);

“(VIII) a description of interstate compacts entered into in order to promote coordinated transportation planning in multistate areas, if applicable;

“(IX) an optional illustrative list of projects containing investments that—

“(aa) are not included in the statewide transportation plan; but

“(bb) would be so included if resources in addition to the resources identified in the financial plan under paragraph (2) were available;

“(X) a discussion (developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies) of types of potential environmental and stormwater mitigation activities and potential areas to carry out those activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the statewide transportation plan; and

“(XI) recommended strategies and investments, including those developed by the State as part of interstate compacts, agreements, or organizations, that support intercity transportation; and

“(iii) be updated by the State not less frequently than once every 5 years.

“(2) FINANCIAL PLAN.—A financial plan referred to in paragraph (1)(D)(ii)(VII) shall—

“(A) be prepared by each State to support the statewide transportation plan; and

“(B) contain a description of—

“(i) the projected resource requirements during the 20-year planning horizon for implementing projects, strategies, and services recommended in the statewide transportation plan, including existing and projected system operating and maintenance needs, proposed enhancement and expansions to the system, projected available revenue from Federal, State, local, and private sources, and innovative financing techniques to finance projects and programs;

“(ii) the projected difference between costs and revenues, and strategies for securing additional new revenue (such as by capture of some of the economic value created by any new investment);

“(iii) estimates of future funds, to be developed cooperatively by the State, any public transportation agency, and relevant metropolitan planning organizations, that are reasonably expected to be available to support the investment priorities recommended in the statewide transportation plan;

“(iv) each applicable project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project; and

“(v) aggregate cost ranges or bands, subject to the condition that any future funding source shall be reasonably expected to be available to support the projected cost ranges or bands, for the outer years period of the statewide transportation plan.

“(3) COORDINATION WITH CLEAN AIR ACT AGENCIES.—For any nonmetropolitan area that is a nonattainment area or maintenance area, the State shall coordinate the development of the statewide transportation plan with the process for development of the transportation control measures of the State implementation plan required by the Clean Air Act (42 U.S.C. 7401 et seq.).

“(4) PUBLICATION.—A statewide transportation plan involving Federal and non-Federal participation programs, projects, and strategies shall be published or otherwise made readily available by the State for public review, including (to the maximum extent practicable) in electronically accessible formats and means, such as the Internet, in such manner as the Secretary shall require.

“(5) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—Notwithstanding paragraph (2), a State shall not be required to select any project from the illustrative list of addi-

tional projects included in the statewide transportation plan under paragraph (1)(D)(ii)(IX).

“(g) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAMS.—

“(1) DEVELOPMENT.—

“(A) IN GENERAL.—In cooperation with nonmetropolitan officials with responsibility for transportation and affected public transportation operators, the State shall develop a statewide transportation improvement program for the State that—

“(i) includes projects consistent with the statewide transportation plan;

“(ii) reflects the investment priorities established in the statewide transportation plan; and

“(iii) once implemented, makes significant progress toward achieving the performance targets described in subsection (d)(2).

“(B) OPPORTUNITY FOR PARTICIPATION.—In developing a statewide transportation improvement program, the State, in cooperation with affected public transportation operators, shall provide an opportunity for participation by interested parties in the development of the statewide transportation improvement program, in accordance with subsection (e).

“(C) OTHER REQUIREMENTS.—

“(i) IN GENERAL.—A statewide transportation improvement program shall—

“(I) cover a period of not less than 4 years; and

“(II) be updated not less frequently than once every 4 years, or more frequently, as the Governor determines to be appropriate.

“(ii) INCORPORATION OF TIPS.—A statewide transportation improvement program shall incorporate any relevant transportation improvement program developed by a metropolitan planning organization under section 5303, without change.

“(iii) PROJECTS.—Each project included in a statewide transportation improvement program shall be—

“(I) consistent with the statewide transportation plan developed under this section for the State;

“(II) identical to a project or phase of a project described in a relevant transportation improvement program; and

“(III) for any project located in a nonattainment area or maintenance area, carried out in accordance with the applicable State air quality implementation plan developed under the Clean Air Act (42 U.S.C. 7401 et seq.).

“(2) CONTENTS.—

“(A) PRIORITY LIST.—A statewide transportation improvement program shall include a priority list of proposed federally supported projects and strategies, to be carried out during the 4-year period beginning on the date of adoption of the statewide transportation improvement program, and during each 4-year period thereafter, using existing and reasonably available revenues in accordance with the financial plan under paragraph (3).

“(B) DESCRIPTIONS.—Each project or phase of a project included in a statewide transportation improvement program shall include sufficient descriptive material (such as type of work, termini, length, estimated completion date, and other similar factors) to identify—

“(i) the project or project phase; and

“(ii) the effect that the project or project phase will have in addressing the performance targets described in subsection (d)(2).

“(C) PERFORMANCE TARGET ACHIEVEMENT.—A statewide transportation improvement program shall include, to the maximum ex-

tent practicable, a discussion of the anticipated effect of the statewide transportation improvement program toward achieving the performance targets established in the statewide transportation plan, linking investment priorities to those performance targets.

“(D) ILLUSTRATIVE LIST OF PROJECTS.—An optional illustrative list of projects may be prepared containing additional investment priorities that—

“(i) are not included in the statewide transportation improvement program; but

“(ii) would be so included if resources in addition to the resources identified in the financial plan under paragraph (3) were available.

“(3) FINANCIAL PLAN.—A financial plan referred to in paragraph (2)(D)(ii) shall—

“(A) be prepared by each State to support the statewide transportation improvement program; and

“(B) contain a description of—

“(i) the projected resource requirements for implementing projects, strategies, and services recommended in the statewide transportation improvement program, including existing and projected system operating and maintenance needs, proposed enhancement and expansions to the system, projected available revenue from Federal, State, local, and private sources, and innovative financing techniques to finance projects and programs;

“(ii) the projected difference between costs and revenues, and strategies for securing additional new revenue (such as by capture of some of the economic value created by any new investment);

“(iii) estimates of future funds, to be developed cooperatively by the State and relevant metropolitan planning organizations and public transportation agencies, that are reasonably expected to be available to support the investment priorities recommended in the statewide transportation improvement program; and

“(iv) each applicable project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

“(4) INCLUDED PROJECTS.—

“(A) PROJECTS UNDER THIS CHAPTER AND TITLE 23.—A statewide transportation improvement program developed under this subsection for a State shall include the projects within the State that are proposed for funding under this chapter and chapter 1 of title 23.

“(B) PROJECTS UNDER THIS CHAPTER AND CHAPTER 2.—

“(i) REGIONALLY SIGNIFICANT.—Each regionally significant project proposed for funding under this chapter and chapter 2 of title 23 shall be identified individually in the statewide transportation improvement program.

“(ii) NONREGIONALLY SIGNIFICANT.—A description of each project proposed for funding under this chapter and chapter 2 of title 23 that is not determined to be regionally significant shall be contained in 1 line item or identified individually in the statewide transportation improvement program.

“(5) PUBLICATION.—

“(A) IN GENERAL.—A statewide transportation improvement program shall be published or otherwise made readily available by the State for public review in electronically accessible formats and means, such as the Internet.

“(B) ANNUAL LIST OF PROJECTS.—An annual list of projects, including investments in pedestrian walkways, bicycle transportation

facilities, and intermodal facilities that support intercity transportation, for which Federal funds have been obligated during the preceding fiscal year shall be published or otherwise made available by the cooperative effort of the State, public transportation operator, and relevant metropolitan planning organizations in electronically accessible formats and means, such as the Internet, in a manner that is consistent with the categories identified in the relevant statewide transportation improvement program.

“(6) PROJECT SELECTION FOR URBANIZED AREAS WITH POPULATIONS OF FEWER THAN 200,000 NOT REPRESENTED BY DESIGNATED MPOS.—Projects carried out in urbanized areas with populations of fewer than 200,000 individuals, as calculated according to the most recent decennial census, and that are not represented by designated metropolitan planning organizations, shall be selected from the approved statewide transportation improvement program (including projects carried out under this chapter and projects carried out by the State), in cooperation with the affected nonmetropolitan planning organization, if any exists, and in consultation with the affected nonmetropolitan area local officials with responsibility for transportation.

“(7) APPROVAL BY SECRETARY.—

“(A) IN GENERAL.—Not less frequently than once every 4 years, a statewide transportation improvement program developed under this subsection shall be reviewed and approved by the Secretary, based on the current planning finding of the Secretary under subparagraph (B).

“(B) PLANNING FINDING.—The Secretary shall make a planning finding referred to in subparagraph (A) not less frequently than once every 5 years regarding whether the transportation planning process through which statewide transportation plans and statewide transportation improvement programs are developed is consistent with this section and section 5303.

“(8) MODIFICATIONS TO PROJECT PRIORITY.—Approval by the Secretary shall not be required to carry out a project included in an approved statewide transportation improvement program in place of another project in the statewide transportation improvement program.

“(h) CERTIFICATION.—

“(1) IN GENERAL.—The Secretary shall—

“(A) ensure that the statewide transportation planning process of a State is being carried out in accordance with applicable Federal law; and

“(B) subject to paragraph (2), certify, not less frequently than once every 5 years, that the requirements of subparagraph (A) are met with respect to the statewide transportation planning process.

“(2) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make a certification under paragraph (1)(B) if—

“(A) the statewide transportation planning process complies with the requirements of this section and other applicable Federal law; and

“(B) a statewide transportation improvement program for the State has been approved by the Governor of the State.

“(3) EFFECT OF FAILURE TO CERTIFY.—

“(A) WITHHOLDING OF PROJECT FUNDS.—If a statewide transportation planning process of a State is not certified under paragraph (1), the Secretary may withhold up to 20 percent of the funds attributable to the State for projects funded under this chapter and title 23.

“(B) RESTORATION OF WITHHELD FUNDS.—Any funds withheld under subparagraph (A)

shall be restored to the State on the date of certification of the statewide transportation planning process by the Secretary.

“(4) PUBLIC INVOLVEMENT.—In making a determination regarding certification under this subsection, the Secretary shall provide for public involvement appropriate to the State under review.

“(i) PERFORMANCE-BASED PLANNING PROCESSES EVALUATION.—

“(1) IN GENERAL.—The Secretary shall establish criteria to evaluate the effectiveness of the performance-based planning processes of States, taking into consideration the following:

“(A) The extent to which the State has achieved, or is currently making substantial progress toward achieving, the performance targets described in subsection (d)(2), taking into account whether the State developed meaningful performance targets.

“(B) The extent to which the State has used proven best practices that help ensure transportation investment that is efficient and cost-effective.

“(C) The extent to which the State—

“(i) has developed an investment process that relies on public input and awareness to ensure that investments are transparent and accountable; and

“(ii) provides regular reports allowing the public to access the information being collected in a format that allows the public to meaningfully assess the performance of the State.

“(2) REPORT.—

“(A) IN GENERAL.—Not later than 5 years after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall submit to Congress a report evaluating—

“(i) the overall effectiveness of performance-based planning as a tool for guiding transportation investments; and

“(ii) the effectiveness of the performance-based planning process of each State.

“(B) PUBLICATION.—The report under subparagraph (A) shall be published or otherwise made available in electronically accessible formats and means, including on the Internet.

“(j) FUNDING.—Funds apportioned under section 104(b)(6) of title 23 and set aside under section 5305(g) shall be available to carry out this section.

“(k) CONTINUATION OF CURRENT REVIEW PRACTICE.—

“(1) IN GENERAL.—In consideration of the factors described in paragraph (2), any decision by the Secretary concerning a statewide transportation plan or statewide transportation improvement program shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(2) DESCRIPTION OF FACTORS.—The factors referred to in paragraph (1) are that—

“(A) statewide transportation plans and statewide transportation improvement programs are subject to a reasonable opportunity for public comment;

“(B) the projects included in statewide transportation plans and statewide transportation improvement programs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

“(C) decisions by the Secretary concerning statewide transportation plans and statewide transportation improvement programs have not been reviewed under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) as of January 1, 1997.

“(l) SCHEDULE FOR IMPLEMENTATION.—The Secretary shall issue guidance on a schedule

for implementation of the changes made by this section, taking into consideration the established planning update cycle for States. The Secretary shall not require a State to deviate from its established planning update cycle to implement changes made by this section. States shall reflect changes made to their transportation plan or transportation improvement program updates not later than 2 years after the date of issuance of guidance by the Secretary under this subsection.”

#### SEC. 20007. PUBLIC TRANSPORTATION EMERGENCY RELIEF PROGRAM.

Section 5306 of title 49, United States Code, is amended to read as follows:

##### “§ 5306. Public transportation emergency relief program

“(a) DEFINITION.—In this section the following definitions shall apply:

“(1) ELIGIBLE OPERATING COSTS.—The term ‘eligible operating costs’ means costs relating to—

“(A) evacuation services;

“(B) rescue operations;

“(C) temporary public transportation service; or

“(D) reestablishing, expanding, or relocating public transportation route service before, during, or after an emergency.

“(2) EMERGENCY.—The term ‘emergency’ means a natural disaster affecting a wide area (such as a flood, hurricane, tidal wave, earthquake, severe storm, or landslide) or a catastrophic failure from any external cause, as a result of which—

“(A) the Governor of a State has declared an emergency and the Secretary has concurred; or

“(B) the President has declared a major disaster under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170).

“(b) GENERAL AUTHORITY.—

“(1) CAPITAL ASSISTANCE.—The Secretary may make grants and enter into contracts and other agreements (including agreements with departments, agencies, and instrumentalities of the Government) for capital projects to protect, repair, reconstruct, or replace equipment and facilities of a public transportation system operating in the United States or on an Indian reservation that the Secretary determines is in danger of suffering serious damage, or has suffered serious damage, as a result of an emergency.

“(2) OPERATING ASSISTANCE.—Of the funds appropriated to carry out this section, the Secretary may make grants and enter into contracts or other agreements for the eligible operating costs of public transportation equipment and facilities in an area directly affected by an emergency during—

“(A) the 1-year period beginning on the date of a declaration described in subsection (a)(2); or

“(B) if the Secretary determines there is a compelling need, the 2-year period beginning on the date of a declaration described in subsection (a)(2).

“(c) COORDINATION OF EMERGENCY FUNDS.—

“(1) USE OF FUNDS.—Funds appropriated to carry out this section shall be in addition to any other funds available—

“(A) under this chapter; or

“(B) for the same purposes as authorized under this section by any other branch of the Government, including the Federal Emergency Management Agency, or a State agency, local governmental entity, organization, or person.

“(2) NOTIFICATION.—The Secretary shall notify the Secretary of Homeland Security of the purpose and amount of any grant



made or contract or other agreement entered into under this section.

“(d) **INTERAGENCY TRANSFERS.**—Amounts that are made available for emergency purposes to any other agency of the Government, including the Federal Emergency Management Agency, and that are eligible to be expended for purposes authorized under this section may be transferred to and administered by the Secretary under this section.

“(e) **INTERAGENCY AGREEMENT.**—

“(1) **IN GENERAL.**—The Secretary shall enter into an interagency agreement with the Secretary of Homeland Security which shall provide for the means by which the Department of Transportation, including the Federal Transit Administration, and the Department of Homeland Security, including the Federal Emergency Management Agency, shall cooperate in administering emergency relief for public transportation.

“(2) **CONTENTS.**—The interagency agreement under paragraph (1) shall provide that funds made available to the Federal Emergency Management Agency for emergency relief for public transportation shall be transferred to the Secretary to carry out this section, to the maximum extent possible.

“(f) **GRANT REQUIREMENTS.**—A grant awarded under this section shall be subject to the terms and conditions the Secretary determines are necessary.

“(g) **GOVERNMENT SHARE OF COSTS.**—

“(1) **CAPITAL PROJECTS AND OPERATING ASSISTANCE.**—A grant, contract, or other agreement for a capital project or eligible operating costs under this section shall be, at the option of the recipient, for not more than 80 percent of the net project cost, as determined by the Secretary.

“(2) **NON-FEDERAL SHARE.**—The remainder of the net project cost may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital.

“(3) **WAIVER.**—The Secretary may waive, in whole or part, the non-Federal share required under paragraph (2).”

#### **SEC. 20008. URBANIZED AREA FORMULA GRANTS.**

Section 5307 of title 49, United States Code, is amended to read as follows:

##### **“§ 5307. Urbanized area formula grants**

“(a) **GENERAL AUTHORITY.**—

“(1) **GRANTS.**—The Secretary may make grants under this section for—

“(A) capital projects;

“(B) planning; and

“(C) operating costs of equipment and facilities for use in public transportation in an urbanized area with a population of fewer than 200,000 individuals, as determined by the Bureau of the Census.

“(2) **SPECIAL RULE.**—The Secretary may make grants under this section to finance the operating cost of equipment and facilities for use in public transportation, excluding rail fixed guideway, in an urbanized area with a population of not fewer than 200,000 individuals, as determined by the Bureau of the Census—

“(A) for public transportation systems that operate 75 or fewer buses during peak service hours, in an amount not to exceed 50 percent of the share of the apportionment which is attributable to such systems within the urbanized area, as measured by vehicle revenue hours; and

“(B) for public transportation systems that operate a minimum of 76 buses and a maximum of 100 buses during peak service hours, in an amount not to exceed 25 percent of the share of the apportionment which is attrib-

utable to such systems within the urbanized area, as measured by vehicle revenue hours.

“(3) **TEMPORARY AND TARGETED ASSISTANCE.**—

“(A) **ELIGIBILITY.**—The Secretary may make a grant under this section to finance the operating cost of equipment and facilities to a recipient for use in public transportation in an area that the Secretary determines has—

“(i) a population of not fewer than 200,000 individuals, as determined by the Bureau of the Census; and

“(ii) a 3-month unemployment rate, as reported by the Bureau of Labor Statistics, that is—

“(I) greater than 7 percent; and

“(II) at least 2 percentage points greater than the lowest 3-month unemployment rate for the area during the 5-year period preceding the date of the determination.

“(B) **AWARD OF GRANT.**—

“(i) **IN GENERAL.**—Except as otherwise provided in this subparagraph, the Secretary may make a grant under this section for not more than 2 consecutive fiscal years.

“(ii) **ADDITIONAL YEAR.**—If, at the end of the second fiscal year following the date on which the Secretary makes a determination under subparagraph (A) with respect to an area, the Secretary determines that the 3-month unemployment rate for the area is at least 2 percentage points greater than the unemployment rate for the area at the time the Secretary made the determination under subparagraph (A), the Secretary may make a grant to a recipient in the area for 1 additional consecutive fiscal year.

“(iii) **EXCLUSION PERIOD.**—Beginning on the last day of the last consecutive fiscal year for which a recipient receives a grant under this paragraph, the Secretary may not make a subsequent grant under this paragraph to the recipient for a number of fiscal years equal to the number of consecutive fiscal years in which the recipient received a grant under this paragraph.

“(C) **LIMITATION.**—

“(i) **FIRST FISCAL YEAR.**—For the first fiscal year following the date on which the Secretary makes a determination under subparagraph (A) with respect to an area, not more than 25 percent of the amount apportioned to a designated recipient under section 5336 for the fiscal year shall be available for operating assistance for the area.

“(ii) **SECOND AND THIRD FISCAL YEARS.**—For the second and third fiscal years following the date on which the Secretary makes a determination under subparagraph (A) with respect to an area, not more than 20 percent of the amount apportioned to a designated recipient under section 5336 for the fiscal year shall be available for operating assistance for the area.

“(D) **PERIOD OF AVAILABILITY FOR OPERATING ASSISTANCE.**—Operating assistance awarded under this paragraph shall be available for expenditure to a recipient in an area until the end of the second fiscal year following the date on which the Secretary makes a determination under subparagraph (A) with respect to the area, after which time any unexpended funds shall be available to the recipient for other eligible activities under this section.

“(E) **CERTIFICATION.**—The Secretary may make a grant for operating assistance under this paragraph for a fiscal year only if the recipient certifies that—

“(i) the recipient will maintain public transportation service levels at or above the current service level, which shall be demonstrated by providing an equal or greater

number of vehicle hours of service in the fiscal year than the number of vehicle hours of service provided in the preceding fiscal year;

“(ii) any non-Federal entity that provides funding to the recipient, including a State or local governmental entity, will maintain the tax rate or rate of allocations dedicated to public transportation at or above the rate for the preceding fiscal year;

“(iii) the recipient has allocated the maximum amount of funding under this section for preventive maintenance costs eligible as a capital expense necessary to maintain the level and quality of service provided in the preceding fiscal year; and

“(iv) the recipient will not use funding under this section for new capital assets except as necessary for the existing system to maintain or achieve a state of good repair, assure safety, or replace obsolete technology.

“(b) **ACCESS TO JOBS PROJECTS.**—

“(1) **IN GENERAL.**—A designated recipient shall expend not less than 3 percent of the amount apportioned to the designated recipient under section 5336 or an amount equal to the amount apportioned to the designated recipient in fiscal year 2011 to carry out section 5316 (as in effect for fiscal year 2011), whichever is less, to carry out a program to develop and maintain job access projects. Eligible projects may include—

“(A) a project relating to the development and maintenance of public transportation services designed to transport eligible low-income individuals to and from jobs and activities related to their employment, including—

“(i) a public transportation project to finance planning, capital, and operating costs of providing access to jobs under this chapter;

“(ii) promoting public transportation by low-income workers, including the use of public transportation by workers with non-traditional work schedules;

“(iii) promoting the use of public transportation vouchers for welfare recipients and eligible low-income individuals; and

“(iv) promoting the use of employer-provided transportation, including the transit pass benefit program under section 132 of the Internal Revenue Code of 1986; and

“(B) a transportation project designed to support the use of public transportation including—

“(i) enhancements to existing public transportation service for workers with non-traditional hours or reverse commutes;

“(ii) guaranteed ride home programs;

“(iii) bicycle storage facilities; and

“(iv) projects that otherwise facilitate the provision of public transportation services to employment opportunities.

“(2) **PROJECT SELECTION AND PLAN DEVELOPMENT.**—Each grant recipient under this subsection shall certify that—

“(A) the projects selected were included in a locally developed, coordinated public transit-human services transportation plan;

“(B) the plan was developed and approved through a process that included individuals with low incomes, representatives of public, private, and nonprofit transportation and human services providers, and participation by the public;

“(C) services funded under this subsection are coordinated with transportation services funded by other Federal departments and agencies to the maximum extent feasible; and

“(D) allocations of the grant to subrecipients, if any, are distributed on a fair and equitable basis.

“(3) COMPETITIVE PROCESS FOR GRANTS TO SUBRECIPIENTS.—

“(A) AREAWIDE SOLICITATIONS.—A recipient of funds apportioned under this subsection may conduct, in cooperation with the appropriate metropolitan planning organization, an areawide solicitation for applications for grants to the recipient and subrecipients under this subsection.

“(B) APPLICATION.—If the recipient elects to engage in a competitive process, recipients and subrecipients seeking to receive a grant from apportioned funds shall submit to the recipient an application in the form and in accordance with such requirements as the recipient shall establish.

“(c) PROGRAM OF PROJECTS.—Each recipient of a grant shall—

“(1) make available to the public information on amounts available to the recipient under this section;

“(2) develop, in consultation with interested parties, including private transportation providers, a proposed program of projects for activities to be financed;

“(3) publish a proposed program of projects in a way that affected individuals, private transportation providers, and local elected officials have the opportunity to examine the proposed program and submit comments on the proposed program and the performance of the recipient;

“(4) provide an opportunity for a public hearing in which to obtain the views of individuals on the proposed program of projects;

“(5) ensure that the proposed program of projects provides for the coordination of public transportation services assisted under section 5336 of this title with transportation services assisted from other United States Government sources;

“(6) consider comments and views received, especially those of private transportation providers, in preparing the final program of projects; and

“(7) make the final program of projects available to the public.

“(d) GRANT RECIPIENT REQUIREMENTS.—A recipient may receive a grant in a fiscal year only if—

“(1) the recipient, within the time the Secretary prescribes, submits a final program of projects prepared under subsection (c) of this section and a certification for that fiscal year that the recipient (including a person receiving amounts from a Governor under this section)—

“(A) has or will have the legal, financial, and technical capacity to carry out the program, including safety and security aspects of the program;

“(B) has or will have satisfactory continuing control over the use of equipment and facilities;

“(C) will maintain equipment and facilities;

“(D) will ensure that, during non-peak hours for transportation using or involving a facility or equipment of a project financed under this section, a fare that is not more than 50 percent of the peak hour fare will be charged for any—

“(i) senior;

“(ii) individual who, because of illness, injury, age, congenital malfunction, or other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semiambulatory capability), cannot use a public transportation service or a public transportation facility effectively without special facilities, planning, or design; and

“(iii) individual presenting a Medicare card issued to that individual under title II or

XVIII of the Social Security Act (42 U.S.C. 401 et seq. and 1395 et seq.);

“(E) in carrying out a procurement under this section, will comply with sections 5323 and 5325;

“(F) has complied with subsection (c) of this section;

“(G) has available and will provide the required amounts as provided by subsection (e) of this section;

“(H) will comply with sections 5303 and 5304;

“(I) has a locally developed process to solicit and consider public comment before raising a fare or carrying out a major reduction of transportation;

“(J)(i) will expend for each fiscal year for public transportation security projects, including increased lighting in or adjacent to a public transportation system (including bus stops, subway stations, parking lots, and garages), increased camera surveillance of an area in or adjacent to that system, providing an emergency telephone line to contact law enforcement or security personnel in an area in or adjacent to that system, and any other project intended to increase the security and safety of an existing or planned public transportation system, at least 1 percent of the amount the recipient receives for each fiscal year under section 5336 of this title; or

“(ii) has decided that the expenditure for security projects is not necessary;

“(K) in the case of a recipient for an urbanized area with a population of not fewer than 200,000 individuals, as determined by the Bureau of the Census—

“(i) will expend not less than 1 percent of the amount the recipient receives each fiscal year under this section for associated transit improvements, as defined in section 5302; and

“(ii) will submit an annual report listing projects carried out in the preceding fiscal year with those funds; and

“(L) will comply with section 5329(d); and

“(2) the Secretary accepts the certification.

“(e) GOVERNMENT SHARE OF COSTS.—

“(1) CAPITAL PROJECTS.—A grant for a capital project under this section shall be for 80 percent of the net project cost of the project. The recipient may provide additional local matching amounts.

“(2) OPERATING EXPENSES.—A grant for operating expenses under this section may not exceed 50 percent of the net project cost of the project.

“(3) REMAINING COSTS.—Subject to paragraph (4), the remainder of the net project costs shall be provided—

“(A) in cash from non-Government sources other than revenues from providing public transportation services;

“(B) from revenues from the sale of advertising and concessions;

“(C) from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital;

“(D) from amounts appropriated or otherwise made available to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation; and

“(E) from amounts received under a service agreement with a State or local social service agency or private social service organization.

“(4) USE OF CERTAIN FUNDS.—For purposes of subparagraphs (D) and (E) of paragraph (3), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

“(f) UNDERTAKING PROJECTS IN ADVANCE.—

“(1) PAYMENT.—The Secretary may pay the Government share of the net project cost to a State or local governmental authority that carries out any part of a project eligible under subparagraph (A) or (B) of subsection (a)(1) without the aid of amounts of the Government and according to all applicable procedures and requirements if—

“(A) the recipient applies for the payment;

“(B) the Secretary approves the payment; and

“(C) before carrying out any part of the project, the Secretary approves the plans and specifications for the part in the same way as for other projects under this section.

“(2) APPROVAL OF APPLICATION.—The Secretary may approve an application under paragraph (1) of this subsection only if an authorization for this section is in effect for the fiscal year to which the application applies. The Secretary may not approve an application if the payment will be more than—

“(A) the recipient's expected apportionment under section 5336 of this title if the total amount authorized to be appropriated for the fiscal year to carry out this section is appropriated; less

“(B) the maximum amount of the apportionment that may be made available for projects for operating expenses under this section.

“(3) FINANCING COSTS.—

“(A) IN GENERAL.—The cost of carrying out part of a project includes the amount of interest earned and payable on bonds issued by the recipient to the extent proceeds of the bonds are expended in carrying out the part.

“(B) LIMITATION ON THE AMOUNT OF INTEREST.—The amount of interest allowed under this paragraph may not be more than the most favorable financing terms reasonably available for the project at the time of borrowing.

“(C) CERTIFICATION.—The applicant shall certify, in a manner satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

“(g) REVIEWS, AUDITS, AND EVALUATIONS.—

“(1) ANNUAL REVIEW.—

“(A) IN GENERAL.—At least annually, the Secretary shall carry out, or require a recipient to have carried out independently, reviews and audits the Secretary considers appropriate to establish whether the recipient has carried out—

“(i) the activities proposed under subsection (d) of this section in a timely and effective way and can continue to do so; and

“(ii) those activities and its certifications and has used amounts of the Government in the way required by law.

“(B) AUDITING PROCEDURES.—An audit of the use of amounts of the Government shall comply with the auditing procedures of the Comptroller General.

“(2) TRIENNIAL REVIEW.—At least once every 3 years, the Secretary shall review and evaluate completely the performance of a recipient in carrying out the recipient's program, specifically referring to compliance with statutory and administrative requirements and the extent to which actual program activities are consistent with the activities proposed under subsection (d) of this section and the planning process required under sections 5303, 5304, and 5305 of this title. To the extent practicable, the Secretary shall coordinate such reviews with any related State or local reviews.

“(3) ACTIONS RESULTING FROM REVIEW, AUDIT, OR EVALUATION.—The Secretary may

take appropriate action consistent with a review, audit, and evaluation under this subsection, including making an appropriate adjustment in the amount of a grant or withdrawing the grant.

“(h) TREATMENT.—For purposes of this section, the United States Virgin Islands shall be treated as an urbanized area, as defined in section 5302.

“(i) PASSENGER FERRY GRANT PROGRAM.—

“(1) IN GENERAL.—The Secretary may make grants under this subsection to recipients for passenger ferry projects that are eligible for a grant under subsection (a).

“(2) GRANT REQUIREMENTS.—Except as otherwise provided in this subsection, a grant under this subsection shall be subject to the same terms and conditions as a grant under subsection (a).

“(3) COMPETITIVE PROCESS.—The Secretary shall solicit grant applications and make grants for eligible projects on a competitive basis.

“(4) GEOGRAPHICALLY CONSTRAINED AREAS.—Of the amounts made available to carry out this subsection, \$10,000,000 shall be for capital grants relating to passenger ferries in areas with limited or no access to public transportation as a result of geographical constraints.”.

#### SEC. 20009. CLEAN FUEL GRANT PROGRAM.

Section 5308 of title 49, United States Code, is amended to read as follows:

##### “§ 5308. Clean fuel grant program

“(a) DEFINITIONS.—In this section, the following definitions shall apply:

“(1) CLEAN FUEL BUS.—The term ‘clean fuel bus’ means a bus that is a clean fuel vehicle.

“(2) CLEAN FUEL VEHICLE.—The term ‘clean fuel vehicle’ means a passenger vehicle used to provide public transportation that the Administrator of the Environmental Protection Agency has certified sufficiently reduces energy consumption or reduces harmful emissions, including direct carbon emissions, when compared to a comparable standard vehicle.

“(3) DIRECT CARBON EMISSIONS.—The term ‘direct carbon emissions’ means the quantity of direct greenhouse gas emissions from a vehicle, as determined by the Administrator of the Environmental Protection Agency.

“(4) ELIGIBLE AREA.—The term ‘eligible area’ means an area that is—

“(A) designated as a nonattainment area for ozone or carbon monoxide under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)); or

“(B) a maintenance area, as defined in section 5303, for ozone or carbon monoxide.

“(5) ELIGIBLE PROJECT.—The term ‘eligible project’ means a project or program of projects in an eligible area for—

“(A) acquiring or leasing clean fuel vehicles;

“(B) constructing or leasing facilities and related equipment for clean fuel vehicles;

“(C) constructing new public transportation facilities to accommodate clean fuel vehicles; or

“(D) rehabilitating or improving existing public transportation facilities to accommodate clean fuel vehicles.

“(6) RECIPIENT.—The term ‘recipient’ means—

“(A) for an eligible area that is an urbanized area with a population of fewer than 200,000 individuals, as determined by the Bureau of the Census, the State in which the eligible area is located; and

“(B) for an eligible area not described in subparagraph (A), the designated recipient for the eligible area.

“(b) AUTHORITY.—The Secretary may make grants to recipients to finance eligible projects under this section.

“(c) GRANT REQUIREMENTS.—

“(1) IN GENERAL.—A grant under this section shall be subject to the requirements of section 5307.

“(2) GOVERNMENT SHARE OF COSTS FOR CERTAIN PROJECTS.—Section 5323(j) applies to projects carried out under this section, unless the grant recipient requests a lower grant percentage.

“(d) MINIMUM AMOUNTS.—Of amounts made available by or appropriated under section 5338(a)(2)(D) in each fiscal year to carry out this section—

“(1) not less than 65 percent shall be made available to fund eligible projects relating to clean fuel buses; and

“(2) not less than 10 percent shall be made available for eligible projects relating to facilities and related equipment for clean fuel buses.

“(e) COMPETITIVE PROCESS.—The Secretary shall solicit grant applications and make grants for eligible projects on a competitive basis.

“(f) AVAILABILITY OF FUNDS.—Any amounts made available or appropriated to carry out this section—

“(1) shall remain available to an eligible project for 2 years after the fiscal year for which the amount is made available or appropriated; and

“(2) that remain unobligated at the end of the period described in paragraph (1) shall be added to the amount made available to an eligible project in the following fiscal year.”.

#### SEC. 20010. FIXED GUIDEWAY CAPITAL INVESTMENT GRANTS.

(a) IN GENERAL.—Section 5309 of title 49, United States Code, is amended to read as follows:

##### “§ 5309. Fixed guideway capital investment grants

“(a) DEFINITIONS.—In this section, the following definitions shall apply:

“(1) APPLICANT.—The term ‘applicant’ means a State or local governmental authority that applies for a grant under this section.

“(2) BUS RAPID TRANSIT PROJECT.—The term ‘bus rapid transit project’ means a single route bus capital project—

“(A) a majority of which operates in a separated right-of-way dedicated for public transportation use during peak periods;

“(B) that represents a substantial investment in a single route in a defined corridor or subarea; and

“(C) that includes features that emulate the services provided by rail fixed guideway public transportation systems, including—

“(i) defined stations;

“(ii) traffic signal priority for public transportation vehicles;

“(iii) short headway bidirectional services for a substantial part of weekdays and weekend days; and

“(iv) any other features the Secretary may determine are necessary to produce high-quality public transportation services that emulate the services provided by rail fixed guideway public transportation systems.

“(3) CORE CAPACITY IMPROVEMENT PROJECT.—The term ‘core capacity improvement project’ means a substantial corridor-based capital investment in an existing fixed guideway system that adds capacity and functionality.

“(4) NEW FIXED GUIDEWAY CAPITAL PROJECT.—The term ‘new fixed guideway capital project’ means—

“(A) a new fixed guideway project that is a minimum operable segment or extension to an existing fixed guideway system; or

“(B) a bus rapid transit project that is a minimum operable segment or an extension to an existing bus rapid transit system.

“(5) PROGRAM OF INTERRELATED PROJECTS.—The term ‘program of interrelated projects’ means the simultaneous development of—

“(A) 2 or more new fixed guideway capital projects or core capacity improvement projects; or

“(B) 1 or more new fixed guideway capital projects and 1 or more core capacity improvement projects.

“(b) GENERAL AUTHORITY.—The Secretary may make grants under this section to State and local governmental authorities to assist in financing—

“(1) new fixed guideway capital projects, including the acquisition of real property, the initial acquisition of rolling stock for the system, the acquisition of rights-of-way, and relocation, for fixed guideway corridor development for projects in the advanced stages of project development or engineering; and

“(2) core capacity improvement projects, including the acquisition of real property, the acquisition of rights-of-way, double tracking, signalization improvements, electrification, expanding system platforms, acquisition of rolling stock, construction of infill stations, and such other capacity improvement projects as the Secretary determines are appropriate.

“(c) GRANT REQUIREMENTS.—

“(1) IN GENERAL.—The Secretary may make a grant under this section for new fixed guideway capital projects or core capacity improvement projects, if the Secretary determines that—

“(A) the project is part of an approved transportation plan required under sections 5303 and 5304; and

“(B) the applicant has, or will have—

“(i) the legal, financial, and technical capacity to carry out the project, including the safety and security aspects of the project;

“(ii) satisfactory continuing control over the use of the equipment or facilities; and

“(iii) the technical and financial capacity to maintain new and existing equipment and facilities.

“(2) CERTIFICATION.—An applicant that has submitted the certifications required under subparagraphs (A), (B), (C), and (H) of section 5307(d)(1) shall be deemed to have provided sufficient information upon which the Secretary may make the determinations required under this subsection.

“(3) TECHNICAL CAPACITY.—The Secretary shall use an expedited technical capacity review process for applicants that have recently and successfully completed at least 1 new bus rapid transit project, new fixed guideway capital project, or core capacity improvement project, if—

“(A) the applicant achieved budget, cost, and ridership outcomes for the project that are consistent with or better than projections; and

“(B) the applicant demonstrates that the applicant continues to have the staff expertise and other resources necessary to implement a new project.

“(4) RECIPIENT REQUIREMENTS.—A recipient of a grant awarded under this section shall be subject to all terms, conditions, requirements, and provisions that the Secretary determines to be necessary or appropriate for purposes of this section.

“(d) NEW FIXED GUIDEWAY GRANTS.—

“(1) PROJECT DEVELOPMENT PHASE.—

“(A) ENTRANCE INTO PROJECT DEVELOPMENT PHASE.—A new fixed guideway capital project shall enter into the project development phase when—

“(i) the applicant—

“(I) submits a letter to the Secretary describing the project and requesting entry into the project development phase; and

“(II) initiates activities required to be carried out under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the project; and

“(ii) the Secretary responds in writing to the applicant within 45 days whether the information provided is sufficient to enter into the project development phase, including, when necessary, a detailed description of any information deemed insufficient.

“(B) ACTIVITIES DURING PROJECT DEVELOPMENT PHASE.—Concurrent with the analysis required to be made under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), each applicant shall develop sufficient information to enable the Secretary to make findings of project justification, policies and land use patterns that promote public transportation, and local financial commitment under this subsection.

“(C) COMPLETION OF PROJECT DEVELOPMENT ACTIVITIES REQUIRED.—

“(i) IN GENERAL.—Not later than 2 years after the date on which a project enters into the project development phase, the applicant shall complete the activities required to obtain a project rating under subsection (g)(2) and submit completed documentation to the Secretary.

“(ii) EXTENSION OF TIME.—Upon the request of an applicant, the Secretary may extend the time period under clause (i), if the applicant submits to the Secretary—

“(I) a reasonable plan for completing the activities required under this paragraph; and

“(II) an estimated time period within which the applicant will complete such activities.

“(2) ENGINEERING PHASE.—

“(A) IN GENERAL.—A new fixed guideway capital project may advance to the engineering phase upon completion of activities required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), as demonstrated by a record of decision with respect to the project, a finding that the project has no significant impact, or a determination that the project is categorically excluded, only if the Secretary determines that the project—

“(i) is selected as the locally preferred alternative at the completion of the process required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

“(ii) is adopted into the metropolitan transportation plan required under section 5303;

“(iii) is justified based on a comprehensive review of the project's mobility improvements, environmental benefits, and cost-effectiveness, as measured by cost per rider;

“(iv) is supported by policies and land use patterns that promote public transportation, including plans for future land use and rezoning, and economic development around public transportation stations; and

“(v) is supported by an acceptable degree of local financial commitment (including evidence of stable and dependable financing sources), as required under subsection (f).

“(B) DETERMINATION THAT PROJECT IS JUSTIFIED.—In making a determination under subparagraph (A)(iii), the Secretary shall evaluate, analyze, and consider—

“(i) the reliability of the forecasting methods used to estimate costs and utilization

made by the recipient and the contractors to the recipient; and

“(ii) population density and current public transportation ridership in the transportation corridor.

“(e) CORE CAPACITY IMPROVEMENT PROJECTS.—

“(1) PROJECT DEVELOPMENT PHASE.—

“(A) ENTRANCE INTO PROJECT DEVELOPMENT PHASE.—A core capacity improvement project shall be deemed to have entered into the project development phase if—

“(i) the applicant—

“(I) submits a letter to the Secretary describing the project and requesting entry into the project development phase; and

“(II) initiates activities required to be carried out under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the project; and

“(ii) the Secretary responds in writing to the applicant within 45 days whether the information provided is sufficient to enter into the project development phase, including when necessary a detailed description of any information deemed insufficient.

“(B) ACTIVITIES DURING PROJECT DEVELOPMENT PHASE.—Concurrent with the analysis required to be made under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), each applicant shall develop sufficient information to enable the Secretary to make findings of project justification and local financial commitment under this subsection.

“(C) COMPLETION OF PROJECT DEVELOPMENT ACTIVITIES REQUIRED.—

“(i) IN GENERAL.—Not later than 2 years after the date on which a project enters into the project development phase, the applicant shall complete the activities required to obtain a project rating under subsection (g)(2) and submit completed documentation to the Secretary.

“(ii) EXTENSION OF TIME.—Upon the request of an applicant, the Secretary may extend the time period under clause (i), if the applicant submits to the Secretary—

“(I) a reasonable plan for completing the activities required under this paragraph; and

“(II) an estimated time period within which the applicant will complete such activities.

“(2) ENGINEERING PHASE.—

“(A) IN GENERAL.—A core capacity improvement project may advance into the engineering phase upon completion of activities required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), as demonstrated by a record of decision with respect to the project, a finding that the project has no significant impact, or a determination that the project is categorically excluded, only if the Secretary determines that the project—

“(i) is selected as the locally preferred alternative at the completion of the process required under the National Environmental Policy Act of 1969;

“(ii) is adopted into the metropolitan transportation plan required under section 5303;

“(iii) is in a corridor that is—

“(I) at or over capacity; or

“(II) projected to be at or over capacity within the next 5 years;

“(iv) is justified based on a comprehensive review of the project's mobility improvements, environmental benefits, and cost-effectiveness, as measured by cost per rider; and

“(v) is supported by an acceptable degree of local financial commitment (including evidence of stable and dependable financing sources), as required under subsection (f).

“(B) DETERMINATION THAT PROJECT IS JUSTIFIED.—In making a determination under subparagraph (A)(iv), the Secretary shall evaluate, analyze, and consider—

“(i) the reliability of the forecasting methods used to estimate costs and utilization made by the recipient and the contractors to the recipient;

“(ii) whether the project will adequately address the capacity concerns in a corridor;

“(iii) whether the project will improve interconnectivity among existing systems; and

“(iv) whether the project will improve environmental outcomes.

“(f) FINANCING SOURCES.—

“(1) REQUIREMENTS.—In determining whether a project is supported by an acceptable degree of local financial commitment and shows evidence of stable and dependable financing sources for purposes of subsection (d)(2)(A)(v) or (e)(2)(A)(v), the Secretary shall require that—

“(A) the proposed project plan provides for the availability of contingency amounts that the Secretary determines to be reasonable to cover unanticipated cost increases or funding shortfalls;

“(B) each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable; and

“(C) local resources are available to recapitalize, maintain, and operate the overall existing and proposed public transportation system, including essential feeder bus and other services necessary to achieve the projected ridership levels without requiring a reduction in existing public transportation services or level of service to operate the project.

“(2) CONSIDERATIONS.—In assessing the stability, reliability, and availability of proposed sources of local financing for purposes of subsection (d)(2)(A)(v) or (e)(2)(A)(v), the Secretary shall consider—

“(A) the reliability of the forecasting methods used to estimate costs and revenues made by the recipient and the contractors to the recipient;

“(B) existing grant commitments;

“(C) the degree to which financing sources are dedicated to the proposed purposes;

“(D) any debt obligation that exists, or is proposed by the recipient, for the proposed project or other public transportation purpose; and

“(E) the extent to which the project has a local financial commitment that exceeds the required non-Government share of the cost of the project.

“(g) PROJECT ADVANCEMENT AND RATINGS.—

“(1) PROJECT ADVANCEMENT.—A new fixed guideway capital project or core capacity improvement project proposed to be carried out using a grant under this section may not advance from the project development phase to the engineering phase, or from the engineering phase to the construction phase, unless the Secretary determines that—

“(A) the project meets the applicable requirements under this section; and

“(B) there is a reasonable likelihood that the project will continue to meet the requirements under this section.

“(2) RATINGS.—

“(A) OVERALL RATING.—In making a determination under paragraph (1), the Secretary shall evaluate and rate a project as a whole on a 5-point scale (high, medium-high, medium, medium-low, or low) based on—

“(i) in the case of a new fixed guideway capital project, the project justification criteria under subsection (d)(2)(A)(iii), the policies and land use patterns that support public transportation, and the degree of local financial commitment; and

“(ii) in the case of a core capacity improvement project, the capacity needs of the corridor, the project justification criteria under subsection (e)(2)(A)(iv), and the degree of local financial commitment.

“(B) INDIVIDUAL RATINGS FOR EACH CRITERION.—In rating a project under this paragraph, the Secretary shall—

“(i) provide, in addition to the overall project rating under subparagraph (A), individual ratings for each of the criteria established under subsection (d)(2)(A)(iii) or (e)(2)(A)(iv), as applicable; and

“(ii) give comparable, but not necessarily equal, numerical weight to each of the criteria established under subsections (d)(2)(A)(iii) or (e)(2)(A)(iv), as applicable, in calculating the overall project rating under clause (i).

“(C) MEDIUM RATING NOT REQUIRED.—The Secretary shall not require that any single project justification criterion meet or exceed a ‘medium’ rating in order to advance the project from one phase to another.

“(3) WARRANTS.—The Secretary shall, to the maximum extent practicable, develop and use special warrants for making a project justification determination under subsection (d)(2) or (e)(2), as applicable, for a project proposed to be funded using a grant under this section, if—

“(A) the share of the cost of the project to be provided under this section does not exceed—

“(i) \$100,000,000; or

“(ii) 50 percent of the total cost of the project;

“(B) the applicant requests the use of the warrants;

“(C) the applicant certifies that its existing public transportation system is in a state of good repair; and

“(D) the applicant meets any other requirements that the Secretary considers appropriate to carry out this subsection.

“(4) LETTERS OF INTENT AND EARLY SYSTEMS WORK AGREEMENTS.—In order to expedite a project under this subsection, the Secretary shall, to the maximum extent practicable, issue letters of intent and enter into early systems work agreements upon issuance of a record of decision for projects that receive an overall project rating of medium or better.

“(5) POLICY GUIDANCE.—The Secretary shall issue policy guidance regarding the review and evaluation process and criteria—

“(A) not later than 180 days after the date of enactment of the Federal Public Transportation Act of 2012; and

“(B) each time the Secretary makes significant changes to the process and criteria, but not less frequently than once every 2 years.

“(6) RULES.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue rules establishing an evaluation and rating process for—

“(A) new fixed guideway capital projects that is based on the results of project justification, policies and land use patterns that promote public transportation, and local financial commitment, as required under this subsection; and

“(B) core capacity improvement projects that is based on the results of the capacity needs of the corridor, project justification, and local financial commitment.

“(7) APPLICABILITY.—This subsection shall not apply to a project for which the Secretary issued a letter of intent, entered into a full funding grant agreement, or entered into a project construction agreement before the date of enactment of the Federal Public Transportation Act of 2012.

“(h) PROGRAMS OF INTERRELATED PROJECTS.—

“(1) PROJECT DEVELOPMENT PHASE.—A federally funded project in a program of interrelated projects shall advance through project development as provided in subsection (d) or (e), as applicable.

“(2) ENGINEERING PHASE.—A federally funded project in a program of interrelated projects may advance into the engineering phase upon completion of activities required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), as demonstrated by a record of decision with respect to the project, a finding that the project has no significant impact, or a determination that the project is categorically excluded, only if the Secretary determines that—

“(A) the project is selected as the locally preferred alternative at the completion of the process required under the National Environmental Policy Act of 1969;

“(B) the project is adopted into the metropolitan transportation plan required under section 5303;

“(C) the program of interrelated projects involves projects that have a logical connectivity to one another;

“(D) the program of interrelated projects, when evaluated as a whole, meets the requirements of subsection (d)(2) or (e)(2), as applicable;

“(E) the program of interrelated projects is supported by a program implementation plan demonstrating that construction will begin on each of the projects in the program of interrelated projects within a reasonable time frame; and

“(F) the program of interrelated projects is supported by an acceptable degree of local financial commitment, as described in subsection (f).

“(3) PROJECT ADVANCEMENT AND RATINGS.—

“(A) PROJECT ADVANCEMENT.—A project receiving a grant under this section that is part of a program of interrelated projects may not advance from the project development phase to the engineering phase, or from the engineering phase to the construction phase, unless the Secretary determines that the program of interrelated projects meets the applicable requirements of this section and there is a reasonable likelihood that the program will continue to meet such requirements.

“(B) RATINGS.—

“(i) OVERALL RATING.—In making a determination under subparagraph (A), the Secretary shall evaluate and rate a program of interrelated projects on a 5-point scale (high, medium-high, medium, medium-low, or low) based on the criteria described in paragraph (2).

“(ii) INDIVIDUAL RATING FOR EACH CRITERION.—In rating a program of interrelated projects, the Secretary shall provide, in addition to the overall program rating, individual ratings for each of the criteria described in paragraph (2) and shall give comparable, but not necessarily equal, numerical weight to each such criterion in calculating the overall program rating.

“(iii) MEDIUM RATING NOT REQUIRED.—The Secretary shall not require that any single criterion described in paragraph (2) meet or exceed a ‘medium’ rating in order to advance

the program of interrelated projects from one phase to another.

“(4) ANNUAL REVIEW.—

“(A) REVIEW REQUIRED.—The Secretary shall annually review the program implementation plan required under paragraph (2)(E) to determine whether the program of interrelated projects is adhering to its schedule.

“(B) EXTENSION OF TIME.—If a program of interrelated projects is not adhering to its schedule, the Secretary may, upon the request of the applicant, grant an extension of time if the applicant submits a reasonable plan that includes—

“(i) evidence of continued adequate funding; and

“(ii) an estimated time frame for completing the program of interrelated projects.

“(C) SATISFACTORY PROGRESS REQUIRED.—If the Secretary determines that a program of interrelated projects is not making satisfactory progress, no Federal funds shall be provided for a project within the program of interrelated projects.

“(5) FAILURE TO CARRY OUT PROGRAM OF INTERRELATED PROJECTS.—

“(A) REPAYMENT REQUIRED.—If an applicant does not carry out the program of interrelated projects within a reasonable time, for reasons within the control of the applicant, the applicant shall repay all Federal funds provided for the program, and any reasonable interest and penalty charges that the Secretary may establish.

“(B) CREDITING OF FUNDS RECEIVED.—Any funds received by the Government under this paragraph, other than interest and penalty charges, shall be credited to the appropriation account from which the funds were originally derived.

“(6) NON-FEDERAL FUNDS.—Any non-Federal funds committed to a project in a program of interrelated projects may be used to meet a non-Government share requirement for any other project in the program of interrelated projects, if the Government share of the cost of each project within the program of interrelated projects does not exceed 80 percent.

“(7) PRIORITY.—In making grants under this section, the Secretary may give priority to programs of interrelated projects for which the non-Government share of the cost of the projects included in the programs of interrelated projects exceeds the non-Government share required under subsection (k).

“(8) NON-GOVERNMENT PROJECTS.—Including a project not financed by the Government in a program of interrelated projects does not impose Government requirements that would not otherwise apply to the project.

“(i) PREVIOUSLY ISSUED LETTER OF INTENT OR FULL FUNDING GRANT AGREEMENT.—Subsections (d) and (e) shall not apply to projects for which the Secretary has issued a letter of intent, entered into a full funding grant agreement, or entered into a project construction grant agreement before the date of enactment of the Federal Public Transportation Act of 2012.

“(j) LETTERS OF INTENT, FULL FUNDING GRANT AGREEMENTS, AND EARLY SYSTEMS WORK AGREEMENTS.—

“(1) LETTERS OF INTENT.—

“(A) AMOUNTS INTENDED TO BE OBLIGATED.—The Secretary may issue a letter of intent to an applicant announcing an intention to obligate, for a new fixed guideway capital project or core capacity improvement project, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the

project. When a letter is issued for a capital project under this section, the amount shall be sufficient to complete at least an operable segment.

“(B) TREATMENT.—The issuance of a letter under subparagraph (A) is deemed not to be an obligation under sections 1108(c), 1501, and 1502(a) of title 31, United States Code, or an administrative commitment.

“(2) FULL FUNDING GRANT AGREEMENTS.—

“(A) IN GENERAL.—A new fixed guideway capital project or core capacity improvement project shall be carried out through a full funding grant agreement.

“(B) CRITERIA.—The Secretary shall enter into a full funding grant agreement, based on the evaluations and ratings required under subsection (d), (e), or (h), as applicable, with each grantee receiving assistance for a new fixed guideway capital project or core capacity improvement project that has been rated as high, medium-high, or medium, in accordance with subsection (g)(2)(A) or (h)(3)(B), as applicable.

“(C) TERMS.—A full funding grant agreement shall—

“(i) establish the terms of participation by the Government in a new fixed guideway capital project or core capacity improvement project;

“(ii) establish the maximum amount of Federal financial assistance for the project;

“(iii) include the period of time for completing the project, even if that period extends beyond the period of an authorization; and

“(iv) make timely and efficient management of the project easier according to the law of the United States.

“(D) SPECIAL FINANCIAL RULES.—

“(i) IN GENERAL.—A full funding grant agreement under this paragraph obligates an amount of available budget authority specified in law and may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional amount from future available budget authority specified in law.

“(ii) STATEMENT OF CONTINGENT COMMITMENT.—The agreement shall state that the contingent commitment is not an obligation of the Government.

“(iii) INTEREST AND OTHER FINANCING COSTS.—Interest and other financing costs of efficiently carrying out a part of the project within a reasonable time are a cost of carrying out the project under a full funding grant agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

“(iv) COMPLETION OF OPERABLE SEGMENT.—The amount stipulated in an agreement under this paragraph for a new fixed guideway capital project shall be sufficient to complete at least an operable segment.

“(E) BEFORE AND AFTER STUDY.—

“(i) IN GENERAL.—A full funding grant agreement under this paragraph shall require the applicant to conduct a study that—

“(I) describes and analyzes the impacts of the new fixed guideway capital project or core capacity improvement project on public transportation services and public transportation ridership;

“(II) evaluates the consistency of predicted and actual project characteristics and performance; and

“(III) identifies reasons for differences between predicted and actual outcomes.

“(ii) INFORMATION COLLECTION AND ANALYSIS PLAN.—

“(I) SUBMISSION OF PLAN.—Applicants seeking a full funding grant agreement under this paragraph shall submit a complete plan for the collection and analysis of information to identify the impacts of the new fixed guideway capital project or core capacity improvement project and the accuracy of the forecasts prepared during the development of the project. Preparation of this plan shall be included in the full funding grant agreement as an eligible activity.

“(II) CONTENTS OF PLAN.—The plan submitted under subclause (I) shall provide for—

“(aa) collection of data on the current public transportation system regarding public transportation service levels and ridership patterns, including origins and destinations, access modes, trip purposes, and rider characteristics;

“(bb) documentation of the predicted scope, service levels, capital costs, operating costs, and ridership of the project;

“(cc) collection of data on the public transportation system 2 years after the opening of a new fixed guideway capital project or core capacity improvement project, including analogous information on public transportation service levels and ridership patterns and information on the as-built scope, capital, and financing costs of the project; and

“(dd) analysis of the consistency of predicted project characteristics with actual outcomes.

“(F) COLLECTION OF DATA ON CURRENT SYSTEM.—To be eligible for a full funding grant agreement under this paragraph, recipients shall have collected data on the current system, according to the plan required under subparagraph (E)(ii), before the beginning of construction of the proposed new fixed guideway capital project or core capacity improvement project. Collection of this data shall be included in the full funding grant agreement as an eligible activity.

“(3) EARLY SYSTEMS WORK AGREEMENTS.—

“(A) CONDITIONS.—The Secretary may enter into an early systems work agreement with an applicant if a record of decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been issued on the project and the Secretary finds there is reason to believe—

“(i) a full funding grant agreement for the project will be made; and

“(ii) the terms of the work agreement will promote ultimate completion of the project more rapidly and at less cost.

“(B) CONTENTS.—

“(i) IN GENERAL.—An early systems work agreement under this paragraph obligates budget authority available under this chapter and title 23 and shall provide for reimbursement of preliminary costs of carrying out the project, including land acquisition, timely procurement of system elements for which specifications are decided, and other activities the Secretary decides are appropriate to make efficient, long-term project management easier.

“(ii) CONTINGENT COMMITMENT.—An early systems work agreement may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional amount from future available budget authority specified in law.

“(iii) PERIOD COVERED.—An early systems work agreement under this paragraph shall cover the period of time the Secretary considers appropriate. The period may extend beyond the period of current authorization.

“(iv) INTEREST AND OTHER FINANCING COSTS.—Interest and other financing costs of

efficiently carrying out the early systems work agreement within a reasonable time are a cost of carrying out the agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

“(v) FAILURE TO CARRY OUT PROJECT.—If an applicant does not carry out the project for reasons within the control of the applicant, the applicant shall repay all Federal grant funds awarded for the project from all Federal funding sources, for all project activities, facilities, and equipment, plus reasonable interest and penalty charges allowable by law or established by the Secretary in the early systems work agreement.

“(vi) CREDITING OF FUNDS RECEIVED.—Any funds received by the Government under this paragraph, other than interest and penalty charges, shall be credited to the appropriation account from which the funds were originally derived.

“(4) LIMITATION ON AMOUNTS.—

“(A) IN GENERAL.—The Secretary may enter into full funding grant agreements under this subsection for new fixed guideway capital projects and core capacity improvement projects that contain contingent commitments to incur obligations in such amounts as the Secretary determines are appropriate.

“(B) APPROPRIATION REQUIRED.—An obligation may be made under this subsection only when amounts are appropriated for the obligation.

“(5) NOTIFICATION TO CONGRESS.—At least 30 days before issuing a letter of intent, entering into a full funding grant agreement, or entering into an early systems work agreement under this section, the Secretary shall notify, in writing, the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives of the proposed letter or agreement. The Secretary shall include with the notification a copy of the proposed letter or agreement as well as the evaluations and ratings for the project.

“(k) GOVERNMENT SHARE OF NET CAPITAL PROJECT COST.—

“(1) IN GENERAL.—Based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities, the Secretary shall estimate the net capital project cost. A grant for the project shall not exceed 80 percent of the net capital project cost.

“(2) ADJUSTMENT FOR COMPLETION UNDER BUDGET.—The Secretary may adjust the final net capital project cost of a new fixed guideway capital project or core capacity improvement project evaluated under subsection (d), (e), or (h) to include the cost of eligible activities not included in the originally defined project if the Secretary determines that the originally defined project has been completed at a cost that is significantly below the original estimate.

“(3) MAXIMUM GOVERNMENT SHARE.—The Secretary may provide a higher grant percentage than requested by the grant recipient if—

“(A) the Secretary determines that the net capital project cost of the project is not more than 10 percent higher than the net capital project cost estimated at the time

the project was approved for advancement into the engineering phase; and

“(B) the ridership estimated for the project is not less than 90 percent of the ridership estimated for the project at the time the project was approved for advancement into the engineering phase.

“(4) REMAINDER OF NET CAPITAL PROJECT COST.—The remainder of the net capital project cost shall be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital.

“(5) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as authorizing the Secretary to require a non-Federal financial commitment for a project that is more than 20 percent of the net capital project cost.

“(6) SPECIAL RULE FOR ROLLING STOCK COSTS.—In addition to amounts allowed pursuant to paragraph (1), a planned extension to a fixed guideway system may include the cost of rolling stock previously purchased if the applicant satisfies the Secretary that only amounts other than amounts provided by the Government were used and that the purchase was made for use on the extension. A refund or reduction of the remainder may be made only if a refund of a proportional amount of the grant of the Government is made at the same time.

“(7) LIMITATION ON APPLICABILITY.—This subsection shall not apply to projects for which the Secretary entered into a full funding grant agreement before the date of enactment of the Federal Public Transportation Act of 2012.

“(1) UNDERTAKING PROJECTS IN ADVANCE.—

“(1) IN GENERAL.—The Secretary may pay the Government share of the net capital project cost to a State or local governmental authority that carries out any part of a project described in this section without the aid of amounts of the Government and according to all applicable procedures and requirements if—

“(A) the State or local governmental authority applies for the payment;

“(B) the Secretary approves the payment; and

“(C) before the State or local governmental authority carries out the part of the project, the Secretary approves the plans and specifications for the part in the same way as other projects under this section.

“(2) FINANCING COSTS.—

“(A) IN GENERAL.—The cost of carrying out part of a project includes the amount of interest earned and payable on bonds issued by the State or local governmental authority to the extent proceeds of the bonds are expended in carrying out the part.

“(B) LIMITATION ON AMOUNT OF INTEREST.—The amount of interest under this paragraph may not be more than the most favorable interest terms reasonably available for the project at the time of borrowing.

“(C) CERTIFICATION.—The applicant shall certify, in a manner satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

“(m) AVAILABILITY OF AMOUNTS.—

“(1) IN GENERAL.—An amount made available or appropriated for a new fixed guideway capital project or core capacity improvement project shall remain available to that project for 5 fiscal years, including the fiscal year in which the amount is made available or appropriated. Any amounts that are unobligated to the project at the end of the 5-fiscal-year period may be used by the Secretary for any purpose under this section.

“(2) USE OF DEOBLIGATED AMOUNTS.—An amount available under this section that is deobligated may be used for any purpose under this section.

“(n) REPORTS ON NEW FIXED GUIDEWAY AND CORE CAPACITY IMPROVEMENT PROJECTS.—

“(1) ANNUAL REPORT ON FUNDING RECOMMENDATIONS.—Not later than the first Monday in February of each year, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives a report that includes—

“(A) a proposal of allocations of amounts to be available to finance grants for projects under this section among applicants for these amounts;

“(B) evaluations and ratings, as required under subsections (d), (e), and (h), for each such project that is in project development, engineering, or has received a full funding grant agreement; and

“(C) recommendations of such projects for funding based on the evaluations and ratings and on existing commitments and anticipated funding levels for the next 3 fiscal years based on information currently available to the Secretary.

“(2) REPORTS ON BEFORE AND AFTER STUDIES.—Not later than the first Monday in August of each year, the Secretary shall submit to the committees described in paragraph (1) a report containing a summary of the results of any studies conducted under subsection (j)(2)(E).

“(3) ANNUAL GAO REVIEW.—The Comptroller General of the United States shall—

“(A) conduct an annual review of—

“(i) the processes and procedures for evaluating, rating, and recommending new fixed guideway capital projects and core capacity improvement projects; and

“(ii) the Secretary's implementation of such processes and procedures; and

“(B) report to Congress on the results of such review by May 31 of each year.”

(b) PILOT PROGRAM FOR EXPEDITED PROJECT DELIVERY.—

(1) DEFINITIONS.—In this subsection the following definitions shall apply:

(A) ELIGIBLE PROJECT.—The term “eligible project” means a new fixed guideway capital project or a core capacity improvement project, as those terms are defined in section 5309 of title 49, United States Code, as amended by this section, that has not entered into a full funding grant agreement with the Federal Transit Administration before the date of enactment of the Federal Public Transportation Act of 2012.

(B) PROGRAM.—The term “program” means the pilot program for expedited project delivery established under this subsection.

(C) RECIPIENT.—The term “recipient” means a recipient of funding under chapter 53 of title 49, United States Code.

(D) SECRETARY.—The term “Secretary” means the Secretary of Transportation.

(2) ESTABLISHMENT.—The Secretary shall establish and implement a pilot program to demonstrate whether innovative project development and delivery methods or innovative financing arrangements can expedite project delivery for certain meritorious new fixed guideway capital projects and core capacity improvement projects.

(3) LIMITATION ON NUMBER OF PROJECTS.—The Secretary shall select 3 eligible projects to participate in the program, of which—

(A) at least 1 shall be an eligible project requesting more than \$100,000,000 in Federal fi-

ancial assistance under section 5309 of title 49, United States Code; and

(B) at least 1 shall be an eligible project requesting less than \$100,000,000 in Federal financial assistance under section 5309 of title 49, United States Code.

(4) GOVERNMENT SHARE.—The Government share of the total cost of an eligible project that participates in the program may not exceed 50 percent.

(5) ELIGIBILITY.—A recipient that desires to participate in the program shall submit to the Secretary an application that contains, at a minimum—

(A) identification of an eligible project;

(B) a schedule and finance plan for the construction and operation of the eligible project;

(C) an analysis of the efficiencies of the proposed project development and delivery methods or innovative financing arrangement for the eligible project; and

(D) a certification that the recipient's existing public transportation system is in a state of good repair.

(6) SELECTION CRITERIA.—The Secretary may award a full funding grant agreement under this subsection if the Secretary determines that—

(A) the recipient has completed planning and the activities required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(B) the recipient has the necessary legal, financial, and technical capacity to carry out the eligible project.

(7) BEFORE AND AFTER STUDY AND REPORT.—

(A) STUDY REQUIRED.—A full funding grant agreement under this paragraph shall require a recipient to conduct a study that—

(i) describes and analyzes the impacts of the eligible project on public transportation services and public transportation ridership;

(ii) describes and analyzes the consistency of predicted and actual benefits and costs of the innovative project development and delivery methods or innovative financing for the eligible project; and

(iii) identifies reasons for any differences between predicted and actual outcomes for the eligible project.

(B) SUBMISSION OF REPORT.—Not later than 9 months after an eligible project selected to participate in the program begins revenue operations, the recipient shall submit to the Secretary a report on the results of the study under subparagraph (A).

#### SEC. 20011. FORMULA GRANTS FOR THE ENHANCED MOBILITY OF SENIORS AND INDIVIDUALS WITH DISABILITIES.

Section 5310 of title 49, United States Code, is amended to read as follows:

#### “§ 5310. Formula grants for the enhanced mobility of seniors and individuals with disabilities

“(a) DEFINITIONS.—In this section, the following definitions shall apply:

“(1) RECIPIENT.—The term ‘recipient’ means a designated recipient or a State that receives a grant under this section directly.

“(2) SUBRECIPIENT.—The term ‘subrecipient’ means a State or local governmental authority, nonprofit organization, or operator of public transportation that receives a grant under this section indirectly through a recipient.

“(b) GENERAL AUTHORITY.—

“(1) GRANTS.—The Secretary may make grants under this section to recipients for—

“(A) public transportation capital projects planned, designed, and carried out to meet the special needs of seniors and individuals with disabilities when public transportation is insufficient, inappropriate, or unavailable;



“(B) public transportation projects that exceed the requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

“(C) public transportation projects that improve access to fixed route service and decrease reliance by individuals with disabilities on complementary paratransit; and

“(D) alternatives to public transportation that assist seniors and individuals with disabilities with transportation.

“(2) LIMITATIONS FOR CAPITAL PROJECTS.—

“(A) AMOUNT AVAILABLE.—The amount available for capital projects under paragraph (1)(A) shall be not less than 55 percent of the funds apportioned to the recipient under this section.

“(B) ALLOCATION TO SUBRECIPIENTS.—A recipient of a grant under paragraph (1)(A) may allocate the amounts provided under the grant to—

“(i) a nonprofit organization; or

“(ii) a State or local governmental authority that—

“(I) is approved by a State to coordinate services for seniors and individuals with disabilities; or

“(II) certifies that there are no nonprofit organizations readily available in the area to provide the services described in paragraph (1)(A).

“(3) ADMINISTRATIVE EXPENSES.—

“(A) IN GENERAL.—A recipient may use not more than 10 percent of the amounts apportioned to the recipient under this section to administer, plan, and provide technical assistance for a project funded under this section.

“(B) GOVERNMENT SHARE OF COSTS.—The Government share of the costs of administering a program carried out using funds under this section shall be 100 percent.

“(4) ELIGIBLE CAPITAL EXPENSES.—The acquisition of public transportation services is an eligible capital expense under this section.

“(5) COORDINATION.—

“(A) DEPARTMENT OF TRANSPORTATION.—To the maximum extent feasible, the Secretary shall coordinate activities under this section with related activities under other Federal departments and agencies.

“(B) OTHER FEDERAL AGENCIES AND NON-PROFIT ORGANIZATIONS.—A State or local governmental authority or nonprofit organization that receives assistance from Government sources (other than the Department of Transportation) for nonemergency transportation services shall—

“(i) participate and coordinate with recipients of assistance under this chapter in the design and delivery of transportation services; and

“(ii) participate in the planning for the transportation services described in clause (i).

“(6) PROGRAM OF PROJECTS.—

“(A) IN GENERAL.—Amounts made available to carry out this section may be used for transportation projects to assist in providing transportation services for seniors and individuals with disabilities, if such transportation projects are included in a program of projects.

“(B) SUBMISSION.—A recipient shall annually submit a program of projects to the Secretary.

“(C) ASSURANCE.—The program of projects submitted under subparagraph (B) shall contain an assurance that the program provides for the maximum feasible coordination of transportation services assisted under this section with transportation services assisted by other Government sources.

“(7) MEAL DELIVERY FOR HOMEBOUND INDIVIDUALS.—A public transportation service provider that receives assistance under this section or section 5311(c) may coordinate and assist in regularly providing meal delivery service for homebound individuals, if the delivery service does not conflict with providing public transportation service or reduce service to public transportation passengers.

“(c) APPORTIONMENT AND TRANSFERS.—

“(1) FORMULA.—The Secretary shall apportion amounts made available to carry out this section as follows:

“(A) LARGE URBANIZED AREAS.—Sixty percent of the funds shall be apportioned among designated recipients for urbanized areas with a population of 200,000 or more individuals, as determined by the Bureau of the Census, in the ratio that—

“(i) the number of seniors and individuals with disabilities in each such urbanized area; bears to

“(ii) the number of seniors and individuals with disabilities in all such urbanized areas.

“(B) SMALL URBANIZED AREAS.—Twenty percent of the funds shall be apportioned among the States in the ratio that—

“(i) the number of seniors and individuals with disabilities in urbanized areas with a population of fewer than 200,000 individuals, as determined by the Bureau of the Census, in each State; bears to

“(ii) the number of seniors and individuals with disabilities in urbanized areas with a population of fewer than 200,000 individuals, as determined by the Bureau of the Census, in all States.

“(C) OTHER THAN URBANIZED AREAS.—Twenty percent of the funds shall be apportioned among the States in the ratio that—

“(i) the number of seniors and individuals with disabilities in other than urbanized areas in each State; bears to

“(ii) the number of seniors and individuals with disabilities in other than urbanized areas in all States.

“(2) AREAS SERVED BY PROJECTS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B)—

“(i) funds apportioned under paragraph (1)(A) shall be used for projects serving urbanized areas with a population of 200,000 or more individuals, as determined by the Bureau of the Census;

“(ii) funds apportioned under paragraph (1)(B) shall be used for projects serving urbanized areas with a population of fewer than 200,000 individuals, as determined by the Bureau of the Census; and

“(iii) funds apportioned under paragraph (1)(C) shall be used for projects serving other than urbanized areas.

“(B) EXCEPTIONS.—A State may use funds apportioned to the State under subparagraph (B) or (C) of paragraph (1)—

“(i) for a project serving an area other than an area specified in subparagraph (A)(ii) or (A)(iii), as the case may be, if the Governor of the State certifies that all of the objectives of this section are being met in the area specified in subparagraph (A)(ii) or (A)(iii); or

“(ii) for a project anywhere in the State, if the State has established a statewide program for meeting the objectives of this section.

“(C) LIMITED TO ELIGIBLE PROJECTS.—Any funds transferred pursuant to subparagraph (B) shall be made available only for eligible projects selected under this section.

“(D) CONSULTATION.—A recipient may transfer an amount under subparagraph (B) only after consulting with responsible local

officials, publicly owned operators of public transportation, and nonprofit providers in the area for which the amount was originally apportioned.

“(d) GOVERNMENT SHARE OF COSTS.—

“(1) CAPITAL PROJECTS.—A grant for a capital project under this section shall be in an amount equal to 80 percent of the net capital costs of the project, as determined by the Secretary.

“(2) OPERATING ASSISTANCE.—A grant made under this section for operating assistance may not exceed an amount equal to 50 percent of the net operating costs of the project, as determined by the Secretary.

“(3) REMAINDER OF NET COSTS.—The remainder of the net costs of a project carried out under this section—

“(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and

“(B) may be derived from amounts appropriated or otherwise made available—

“(i) to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation; or

“(ii) to carry out the Federal lands highways program under section 204 of title 23, United States Code.

“(4) USE OF CERTAIN FUNDS.—For purposes of paragraph (3)(B)(i), the prohibition under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) on the use of grant funds for matching requirements shall not apply to Federal or State funds to be used for transportation purposes.

“(e) GRANT REQUIREMENTS.—

“(1) IN GENERAL.—A grant under this section shall be subject to the same requirements as a grant under section 5307, to the extent the Secretary determines appropriate.

“(2) CERTIFICATION REQUIREMENTS.—

“(A) PROJECT SELECTION AND PLAN DEVELOPMENT.—Before receiving a grant under this section, each recipient shall certify that—

“(i) the projects selected by the recipient are included in a locally developed, coordinated public transit-human services transportation plan;

“(ii) the plan described in clause (i) was developed and approved through a process that included participation by seniors, individuals with disabilities, representatives of public, private, and nonprofit transportation and human services providers, and other members of the public; and

“(iii) to the maximum extent feasible, the services funded under this section will be coordinated with transportation services assisted by other Federal departments and agencies.

“(B) ALLOCATIONS TO SUBRECIPIENTS.—If a recipient allocates funds received under this section to subrecipients, the recipient shall certify that the funds are allocated on a fair and equitable basis.

“(f) COMPETITIVE PROCESS FOR GRANTS TO SUBRECIPIENTS.—

“(1) AREAWIDE SOLICITATIONS.—A recipient of funds apportioned under subsection (c)(1)(A) may conduct, in cooperation with the appropriate metropolitan planning organization, an areawide solicitation for applications for grants under this section.

“(2) STATEWIDE SOLICITATIONS.—A recipient of funds apportioned under subparagraph (B) or (C) of subsection (c)(1) may conduct a statewide solicitation for applications for grants under this section.

“(3) APPLICATION.—If the recipient elects to engage in a competitive process, a recipient or subrecipient seeking to receive a grant from funds apportioned under subsection (c) shall submit to the recipient making the election an application in such form and in accordance with such requirements as the recipient making the election shall establish.

“(g) TRANSFERS OF FACILITIES AND EQUIPMENT.—A recipient may transfer a facility or equipment acquired using a grant under this section to any other recipient eligible to receive assistance under this chapter, if—

“(1) the recipient in possession of the facility or equipment consents to the transfer; and

“(2) the facility or equipment will continue to be used as required under this section.

“(h) PERFORMANCE MEASURES.—

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue a final rule to establish performance measures for grants under this section.

“(2) TARGETS.—Not later than 3 months after the date on which the Secretary issues a final rule under paragraph (1), and each fiscal year thereafter, each recipient that receives Federal financial assistance under this section shall establish performance targets in relation to the performance measures established by the Secretary.

“(3) REPORTS.—Each recipient of Federal financial assistance under this section shall submit to the Secretary an annual report that describes—

“(A) the progress of the recipient toward meeting the performance targets established under paragraph (2) for that fiscal year; and

“(B) the performance targets established by the recipient for the subsequent fiscal year.”.

#### **SEC. 20012. FORMULA GRANTS FOR OTHER THAN URBANIZED AREAS.**

Section 5311 of title 49, United States Code, is amended to read as follows:

#### **“§ 5311. Formula grants for other than urbanized areas**

“(a) DEFINITIONS.—As used in this section, the following definitions shall apply:

“(1) RECIPIENT.—The term ‘recipient’ means a State or Indian tribe that receives a Federal transit program grant directly from the Government.

“(2) SUBRECIPIENT.—The term ‘subrecipient’ means a State or local governmental authority, a nonprofit organization, or an operator of public transportation or intercity bus service that receives Federal transit program grant funds indirectly through a recipient.

“(b) GENERAL AUTHORITY.—

“(1) GRANTS AUTHORIZED.—Except as provided by paragraph (2), the Secretary may award grants under this section to recipients located in areas other than urbanized areas for—

“(A) planning, provided that a grant under this section for planning activities shall be in addition to funding awarded to a State under section 5305 for planning activities that are directed specifically at the needs of other than urbanized areas in the State;

“(B) public transportation capital projects;

“(C) operating costs of equipment and facilities for use in public transportation; and

“(D) the acquisition of public transportation services, including service agreements with private providers of public transportation service.

“(2) STATE PROGRAM.—

“(A) IN GENERAL.—A project eligible for a grant under this section shall be included in

a State program for public transportation service projects, including agreements with private providers of public transportation service.

“(B) SUBMISSION TO SECRETARY.—Each State shall submit to the Secretary annually the program described in subparagraph (A).

“(C) APPROVAL.—The Secretary may not approve the program unless the Secretary determines that—

“(i) the program provides a fair distribution of amounts in the State, including Indian reservations; and

“(ii) the program provides the maximum feasible coordination of public transportation service assisted under this section with transportation service assisted by other Federal sources.

“(3) RURAL TRANSPORTATION ASSISTANCE PROGRAM.—

“(A) IN GENERAL.—The Secretary shall carry out a rural transportation assistance program in other than urbanized areas.

“(B) GRANTS AND CONTRACTS.—In carrying out this paragraph, the Secretary may use not more than 2 percent of the amount made available under section 5338(a)(2)(F) to make grants and contracts for transportation research, technical assistance, training, and related support services in other than urbanized areas.

“(C) PROJECTS OF A NATIONAL SCOPE.—Not more than 15 percent of the amounts available under subparagraph (B) may be used by the Secretary to carry out projects of a national scope, with the remaining balance provided to the States.

“(4) DATA COLLECTION.—Each recipient under this section shall submit an annual report to the Secretary containing information on capital investment, operations, and service provided with funds received under this section, including—

“(A) total annual revenue;

“(B) sources of revenue;

“(C) total annual operating costs;

“(D) total annual capital costs;

“(E) fleet size and type, and related facilities;

“(F) vehicle revenue miles; and

“(G) ridership.

“(c) APPORTIONMENTS.—

“(1) PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS.—Of the amounts made available or appropriated for each fiscal year pursuant to section 5338(a)(2)(F) to carry out this paragraph, the following amounts shall be apportioned each fiscal year for grants to Indian tribes for any purpose eligible under this section, under such terms and conditions as may be established by the Secretary:

“(A) \$10,000,000 shall be distributed on a competitive basis by the Secretary.

“(B) \$20,000,000 shall be apportioned as formula grants, as provided in subsection (k).

“(2) APPALACHIAN DEVELOPMENT PUBLIC TRANSPORTATION ASSISTANCE PROGRAM.—

“(A) DEFINITIONS.—In this paragraph—

“(i) the term ‘Appalachian region’ has the same meaning as in section 14102 of title 40; and

“(ii) the term ‘eligible recipient’ means a State that participates in a program established under subtitle IV of title 40.

“(B) IN GENERAL.—The Secretary shall carry out a public transportation assistance program in the Appalachian region.

“(C) APPORTIONMENT.—Of amounts made available or appropriated for each fiscal year under section 5338(a)(2)(F) to carry out this paragraph, the Secretary shall apportion funds to eligible recipients for any purpose eligible under this section, based on the

guidelines established under section 9.5(b) of the Appalachian Regional Commission Code.

“(D) SPECIAL RULE.—An eligible recipient may use amounts that cannot be used for operating expenses under this paragraph for a highway project if—

“(i) that use is approved, in writing, by the eligible recipient after appropriate notice and an opportunity for comment and appeal are provided to affected public transportation providers; and

“(ii) the eligible recipient, in approving the use of amounts under this subparagraph, determines that the local transit needs are being addressed.

“(3) REMAINING AMOUNTS.—

“(A) IN GENERAL.—The amounts made available or appropriated for each fiscal year pursuant to section 5338(a)(2)(F) that are not apportioned under paragraph (1) or (2) shall be apportioned in accordance with this paragraph.

“(B) APPORTIONMENT BASED ON LAND AREA AND POPULATION IN NONURBANIZED AREAS.—

“(i) IN GENERAL.—83.15 percent of the amount described in subparagraph (A) shall be apportioned to the States in accordance with this subparagraph.

“(ii) LAND AREA.—

“(I) IN GENERAL.—Subject to subclause (II), each State shall receive an amount that is equal to 20 percent of the amount apportioned under clause (i), multiplied by the ratio of the land area in areas other than urbanized areas in that State and divided by the land area in all areas other than urbanized areas in the United States, as shown by the most recent decennial census of population.

“(II) MAXIMUM APPORTIONMENT.—No State shall receive more than 5 percent of the amount apportioned under subclause (I).

“(iii) POPULATION.—Each State shall receive an amount equal to 80 percent of the amount apportioned under clause (i), multiplied by the ratio of the population of areas other than urbanized areas in that State and divided by the population of all areas other than urbanized areas in the United States, as shown by the most recent decennial census of population.

“(C) APPORTIONMENT BASED ON LAND AREA, VEHICLE REVENUE MILES, AND LOW-INCOME INDIVIDUALS IN NONURBANIZED AREAS.—

“(i) IN GENERAL.—16.85 percent of the amount described in subparagraph (A) shall be apportioned to the States in accordance with this subparagraph.

“(ii) LAND AREA.—Subject to clause (v), each State shall receive an amount that is equal to 29.68 percent of the amount apportioned under clause (i), multiplied by the ratio of the land area in areas other than urbanized areas in that State and divided by the land area in all areas other than urbanized areas in the United States, as shown by the most recent decennial census of population.

“(iii) VEHICLE REVENUE MILES.—Subject to clause (v), each State shall receive an amount that is equal to 29.68 percent of the amount apportioned under clause (i), multiplied by the ratio of vehicle revenue miles in areas other than urbanized areas in that State and divided by the vehicle revenue miles in all areas other than urbanized areas in the United States, as determined by national transit database reporting.

“(iv) LOW-INCOME INDIVIDUALS.—Each State shall receive an amount that is equal to 40.64 percent of the amount apportioned under clause (i), multiplied by the ratio of low-income individuals in areas other than urbanized areas in that State and divided by the

number of low-income individuals in all areas other than urbanized areas in the United States, as shown by the Bureau of the Census.

“(v) MAXIMUM APPORTIONMENT.—No State shall receive—

“(I) more than 5 percent of the amount apportioned under clause (ii); or

“(II) more than 5 percent of the amount apportioned under clause (iii).

“(d) USE FOR LOCAL TRANSPORTATION SERVICE.—A State may use an amount apportioned under this section for a project included in a program under subsection (b) of this section and eligible for assistance under this chapter if the project will provide local transportation service, as defined by the Secretary of Transportation, in an area other than an urbanized area.

“(e) USE FOR ADMINISTRATION, PLANNING, AND TECHNICAL ASSISTANCE.—The Secretary may allow a State to use not more than 15 percent of the amount apportioned under this section to administer this section and provide technical assistance to a subrecipient, including project planning, program and management development, coordination of public transportation programs, and research the State considers appropriate to promote effective delivery of public transportation to an area other than an urbanized area.

“(f) INTERCITY BUS TRANSPORTATION.—

“(1) IN GENERAL.—A State shall expend at least 15 percent of the amount made available in each fiscal year to carry out a program to develop and support intercity bus transportation. Eligible activities under the program include—

“(A) planning and marketing for intercity bus transportation;

“(B) capital grants for intercity bus shelters;

“(C) joint-use stops and depots;

“(D) operating grants through purchase-of-service agreements, user-side subsidies, and demonstration projects; and

“(E) coordinating rural connections between small public transportation operations and intercity bus carriers.

“(2) CERTIFICATION.—A State does not have to comply with paragraph (1) of this subsection in a fiscal year in which the Governor of the State certifies to the Secretary, after consultation with affected intercity bus service providers, that the intercity bus service needs of the State are being met adequately.

“(g) ACCESS TO JOBS PROJECTS.—

“(1) IN GENERAL.—Amounts made available under section 5338(a)(2)(F) may be used to carry out a program to develop and maintain job access projects. Eligible projects may include—

“(A) projects relating to the development and maintenance of public transportation services designed to transport eligible low-income individuals to and from jobs and activities related to their employment, including—

“(i) public transportation projects to finance planning, capital, and operating costs of providing access to jobs under this chapter;

“(ii) promoting public transportation by low-income workers, including the use of public transportation by workers with non-traditional work schedules;

“(iii) promoting the use of transit vouchers for welfare recipients and eligible low-income individuals; and

“(iv) promoting the use of employer-provided transportation, including the transit pass benefit program under section 132 of the Internal Revenue Code of 1986; and

“(B) transportation projects designed to support the use of public transportation including—

“(i) enhancements to existing public transportation service for workers with non-traditional hours or reverse commutes;

“(ii) guaranteed ride home programs;

“(iii) bicycle storage facilities; and

“(iv) projects that otherwise facilitate the provision of public transportation services to employment opportunities.

“(2) PROJECT SELECTION AND PLAN DEVELOPMENT.—Each grant recipient under this subsection shall certify that—

“(A) the projects selected were included in a locally developed, coordinated public transit-human services transportation plan;

“(B) the plan was developed and approved through a process that included participation by low-income individuals, representatives of public, private, and nonprofit transportation and human services providers, and the public;

“(C) to the maximum extent feasible, services funded under this subsection are coordinated with transportation services funded by other Federal departments and agencies; and

“(D) allocations of the grant to subrecipients, if any, are distributed on a fair and equitable basis.

“(3) COMPETITIVE PROCESS FOR GRANTS TO SUBRECIPIENTS.—

“(A) STATEWIDE SOLICITATIONS.—A State may conduct a statewide solicitation for applications for grants to recipients and subrecipients under this subsection.

“(B) APPLICATION.—If the State elects to engage in a competitive process, recipients and subrecipients seeking to receive a grant from apportioned funds shall submit to the State an application in the form and in accordance with such requirements as the State shall establish.

“(h) GOVERNMENT SHARE OF COSTS.—

“(1) CAPITAL PROJECTS.—

“(A) IN GENERAL.—Except as provided by subparagraph (B), a grant awarded under this section for a capital project or project administrative expenses shall be for 80 percent of the net costs of the project, as determined by the Secretary.

“(B) EXCEPTION.—A State described in section 120(b) of title 23 shall receive a Government share of the net costs in accordance with the formula under that section.

“(2) OPERATING ASSISTANCE.—

“(A) IN GENERAL.—Except as provided by subparagraph (B), a grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.

“(B) EXCEPTION.—A State described in section 120(b) of title 23 shall receive a Government share of the net operating costs equal to 62.5 percent of the Government share provided for under paragraph (1)(B).

“(3) REMAINDER.—The remainder of net project costs—

“(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital;

“(B) may be derived from amounts appropriated or otherwise made available to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation; and

“(C) notwithstanding subparagraph (B), may be derived from amounts made available to carry out the Federal lands highway program established by section 204 of title 23.

“(4) USE OF CERTAIN FUNDS.—For purposes of paragraph (3)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

“(5) LIMITATION ON OPERATING ASSISTANCE.—A State carrying out a program of operating assistance under this section may not limit the level or extent of use of the Government grant for the payment of operating expenses.

“(i) TRANSFER OF FACILITIES AND EQUIPMENT.—With the consent of the recipient currently having a facility or equipment acquired with assistance under this section, a State may transfer the facility or equipment to any recipient eligible to receive assistance under this chapter if the facility or equipment will continue to be used as required under this section.

“(j) RELATIONSHIP TO OTHER LAWS.—

“(1) IN GENERAL.—Section 5333(b) applies to this section if the Secretary of Labor utilizes a special warranty that provides a fair and equitable arrangement to protect the interests of employees.

“(2) RULE OF CONSTRUCTION.—This subsection does not affect or discharge a responsibility of the Secretary of Transportation under a law of the United States.

“(k) FORMULA GRANTS FOR PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS.—

“(1) APPORTIONMENT.—

“(A) IN GENERAL.—Of the amounts described in subsection (c)(1)(B)—

“(i) 50 percent of the total amount shall be apportioned so that each Indian tribe providing public transportation service shall receive an amount equal to the total amount apportioned under this clause multiplied by the ratio of the number of vehicle revenue miles provided by an Indian tribe divided by the total number of vehicle revenue miles provided by all Indian tribes, as reported to the Secretary;

“(ii) 25 percent of the total amount shall be apportioned equally among each Indian tribe providing at least 200,000 vehicle revenue miles of public transportation service annually, as reported to the Secretary; and

“(iii) 25 percent of the total amount shall be apportioned among each Indian tribe providing public transportation on tribal lands on which more than 1,000 low-income individuals reside (as determined by the Bureau of the Census) so that each Indian tribe shall receive an amount equal to the total amount apportioned under this clause multiplied by the ratio of the number of low-income individuals residing on an Indian tribe's lands divided by the total number of low-income individuals on tribal lands on which more than 1,000 low-income individuals reside.

“(B) LIMITATION.—No recipient shall receive more than \$300,000 of the amounts apportioned under subparagraph (A)(iii) in a fiscal year.

“(C) REMAINING AMOUNTS.—Of the amounts made available under subparagraph (A)(iii), any amounts not apportioned under that subparagraph shall be allocated among Indian tribes receiving less than \$300,000 in a fiscal year according to the formula specified in that clause.

“(D) LOW-INCOME INDIVIDUALS.—For purposes of subparagraph (A)(iii), the term ‘low-income individual’ means an individual whose family income is at or below 100 percent of the poverty line, as that term is defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by that section, for a family of the size involved.

“(2) NON-TRIBAL SERVICE PROVIDERS.—A recipient that is an Indian tribe may use funds apportioned under this subsection to finance public transportation services provided by a non-tribal provider of public transportation that connects residents of tribal lands with surrounding communities, improves access to employment or healthcare, or otherwise addresses the mobility needs of tribal members.”.

**SEC. 20013. RESEARCH, DEVELOPMENT, DEMONSTRATION, AND DEPLOYMENT PROJECTS.**

Section 5312 of title 49, United States Code, is amended to read as follows:

**“§ 5312. Research, development, demonstration, and deployment projects**

“(a) RESEARCH, DEVELOPMENT, DEMONSTRATION, AND DEPLOYMENT PROJECTS.—

“(1) IN GENERAL.—The Secretary may make grants and enter into contracts, cooperative agreements, and other agreements for research, development, demonstration, and deployment projects, and evaluation of research and technology of national significance to public transportation, that the Secretary determines will improve public transportation.

“(2) AGREEMENTS.—In order to carry out paragraph (1), the Secretary may make grants to and enter into contracts, cooperative agreements, and other agreements with—

“(A) departments, agencies, and instrumentalities of the Government;

“(B) State and local governmental entities;

“(C) providers of public transportation;

“(D) private or non-profit organizations;

“(E) institutions of higher education; and

“(F) technical and community colleges.

“(3) APPLICATION.—

“(A) IN GENERAL.—To receive a grant, contract, cooperative agreement, or other agreement under this section, an entity described in paragraph (2) shall submit an application to the Secretary.

“(B) FORM AND CONTENTS.—An application under subparagraph (A) shall be in such form and contain such information as the Secretary may require, including—

“(i) a statement of purpose detailing the need being addressed;

“(ii) the short- and long-term goals of the project, including opportunities for future innovation and development, the potential for deployment, and benefits to riders and public transportation; and

“(iii) the short- and long-term funding requirements to complete the project and any future objectives of the project.

“(b) RESEARCH.—

“(1) IN GENERAL.—The Secretary may make a grant to or enter into a contract, cooperative agreement, or other agreement under this section with an entity described in subsection (a)(2) to carry out a public transportation research project that has as its ultimate goal the development and deployment of new and innovative ideas, practices, and approaches.

“(2) PROJECT ELIGIBILITY.—A public transportation research project that receives assistance under paragraph (1) shall focus on—

“(A) providing more effective and efficient public transportation service, including services to—

“(i) seniors;

“(ii) individuals with disabilities; and

“(iii) low-income individuals;

“(B) mobility management and improvements and travel management systems;

“(C) data and communication system advancements;

“(D) system capacity, including—

“(i) train control;

“(ii) capacity improvements; and

“(iii) performance management;

“(E) capital and operating efficiencies;

“(F) planning and forecasting modeling and simulation;

“(G) advanced vehicle design;

“(H) advancements in vehicle technology;

“(I) asset maintenance and repair systems advancement;

“(J) construction and project management;

“(K) alternative fuels;

“(L) the environment and energy efficiency;

“(M) safety improvements; or

“(N) any other area that the Secretary determines is important to advance the interests of public transportation.

“(c) INNOVATION AND DEVELOPMENT.—

“(1) IN GENERAL.—The Secretary may make a grant to or enter into a contract, cooperative agreement, or other agreement under this section with an entity described in subsection (a)(2) to carry out a public transportation innovation and development project that seeks to improve public transportation systems nationwide in order to provide more efficient and effective delivery of public transportation services, including through technology and technological capacity improvements.

“(2) PROJECT ELIGIBILITY.—A public transportation innovation and development project that receives assistance under paragraph (1) shall focus on—

“(A) the development of public transportation research projects that received assistance under subsection (b) that the Secretary determines were successful;

“(B) planning and forecasting modeling and simulation;

“(C) capital and operating efficiencies;

“(D) advanced vehicle design;

“(E) advancements in vehicle technology;

“(F) the environment and energy efficiency;

“(G) system capacity, including train control and capacity improvements; or

“(H) any other area that the Secretary determines is important to advance the interests of public transportation.

“(d) DEMONSTRATION, DEPLOYMENT, AND EVALUATION.—

“(1) IN GENERAL.—The Secretary may, under terms and conditions that the Secretary prescribes, make a grant to or enter into a contract, cooperative agreement, or other agreement with an entity described in paragraph (2) to promote the early deployment and demonstration of innovation in public transportation that has broad applicability.

“(2) PARTICIPANTS.—An entity described in this paragraph is—

“(A) an entity described in subsection (a)(2); or

“(B) a consortium of entities described in subsection (a)(2), including a provider of public transportation, that will share the costs, risks, and rewards of early deployment and demonstration of innovation.

“(3) PROJECT ELIGIBILITY.—A project that receives assistance under paragraph (1) shall seek to build on successful research, innovation, and development efforts to facilitate—

“(A) the deployment of research and technology development resulting from private efforts or federally funded efforts; and

“(B) the implementation of research and technology development to advance the interests of public transportation.

“(4) EVALUATION.—Not later than 2 years after the date on which a project receives as-

sistance under paragraph (1), the Secretary shall conduct a comprehensive evaluation of the success or failure of the projects funded under this subsection and any plan for broad-based implementation of the innovation promoted by successful projects.

“(e) ANNUAL REPORT ON RESEARCH.—Not later than the first Monday in February of each year, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives a report that includes—

“(1) a description of each project that received assistance under this section during the preceding fiscal year;

“(2) an evaluation of each project described in paragraph (1), including any evaluation conducted under subsection (d)(4) for the preceding fiscal year; and

“(3) a proposal for allocations of amounts for assistance under this section for the subsequent fiscal year.

“(f) GOVERNMENT SHARE OF COSTS.—

“(1) IN GENERAL.—The Government share of the cost of a project carried out under this section shall not exceed 80 percent.

“(2) NON-GOVERNMENT SHARE.—The non-Government share of the cost of a project carried out under this section may be derived from in-kind contributions.

“(3) FINANCIAL BENEFIT.—If the Secretary determines that there would be a clear and direct financial benefit to an entity under a grant, contract, cooperative agreement, or other agreement under this section, the Secretary shall establish a Government share of the costs of the project to be carried out under the grant, contract, cooperative agreement, or other agreement that is consistent with the benefit.”.

**SEC. 20014. TECHNICAL ASSISTANCE AND STANDARDS DEVELOPMENT.**

Section 5314 of title 49, United States Code, is amended to read as follows:

**“§ 5314. Technical assistance and standards development**

“(a) TECHNICAL ASSISTANCE AND STANDARDS DEVELOPMENT.—

“(1) IN GENERAL.—The Secretary may make grants and enter into contracts, cooperative agreements, and other agreements (including agreements with departments, agencies, and instrumentalities of the Government) to carry out activities that the Secretary determines will assist recipients of assistance under this chapter to—

“(A) more effectively and efficiently provide public transportation service;

“(B) administer funds received under this chapter in compliance with Federal law; and

“(C) improve public transportation.

“(2) ELIGIBLE ACTIVITIES.—The activities carried out under paragraph (1) may include—

“(A) technical assistance; and

“(B) the development of standards and best practices by the public transportation industry.

“(b) TECHNICAL ASSISTANCE CENTERS.—

“(1) DEFINITION.—In this subsection, the term ‘eligible entity’ means a nonprofit organization, an institution of higher education, or a technical or community college.

“(2) IN GENERAL.—The Secretary may make grants to and enter into contracts, cooperative agreements, and other agreements with eligible entities to administer centers to provide technical assistance, including—

“(A) the development of tools and guidance; and

“(B) the dissemination of best practices.

“(3) COMPETITIVE PROCESS.—The Secretary may make grants and enter into contracts, cooperative agreements, and other agreements under paragraph (2) through a competitive process on a biennial basis for technical assistance in each of the following categories:

“(A) Human services transportation coordination, including—

“(i) transportation for seniors;

“(ii) transportation for individuals with disabilities; and

“(iii) coordination of local resources and programs to assist low-income individuals and veterans in gaining access to training and employment opportunities.

“(B) Transit-oriented development.

“(C) Transportation equity with regard to the impact that transportation planning, investment, and operations have on low-income and minority individuals.

“(D) Financing mechanisms, including—

“(i) public-private partnerships;

“(ii) bonding; and

“(iii) State and local capacity building.

“(E) Any other activity that the Secretary determines is important to advance the interests of public transportation.

“(4) EXPERTISE OF TECHNICAL ASSISTANCE CENTERS.—In selecting an eligible entity to administer a center under this subsection, the Secretary shall consider—

“(A) the demonstrated subject matter expertise of the eligible entity; and

“(B) the capacity of the eligible entity to deliver technical assistance on a regional or nationwide basis.

“(5) PARTNERSHIPS.—An eligible entity may partner with another eligible entity to provide technical assistance under this subsection.

“(c) GOVERNMENT SHARE OF COSTS.—

“(1) IN GENERAL.—The Government share of the cost of an activity under this section may not exceed 80 percent.

“(2) NON-GOVERNMENT SHARE.—The non-Government share of the cost of an activity under this section may be derived from in-kind contributions.”

#### SEC. 20015. BUS TESTING FACILITIES.

Section 5318 of title 49, United States Code, is amended to read as follows:

##### “§ 5318. Bus testing facilities

“(a) FACILITIES.—The Secretary shall certify not more than 4 comprehensive facilities for testing new bus models for maintainability, reliability, safety, performance (including braking performance), structural integrity, fuel economy, emissions, and noise.

“(b) COOPERATIVE AGREEMENT.—The Secretary shall enter into a cooperative agreement with not more than 4 qualified entities to test public transportation vehicles under subsection (a).

“(c) FEES.—An entity that operates and maintains a facility certified under subsection (a) shall establish and collect reasonable fees for the testing of vehicles at the facility. The Secretary must approve the fees.

“(d) AVAILABILITY OF AMOUNTS TO PAY FOR TESTING.—

“(1) IN GENERAL.—The Secretary shall enter into a cooperative agreement with an entity that operates and maintains a facility certified under subsection (a), under which 80 percent of the fee for testing a vehicle at the facility may be available from amounts apportioned to a recipient under section 5336 or from amounts appropriated to carry out this section.

“(2) PROHIBITION.—An entity that operates and maintains a facility described in subsection (a) shall not have a financial interest in the outcome of the testing carried out at the facility.

“(e) ACQUIRING NEW BUS MODELS.—Amounts appropriated or made available under this chapter may be obligated or expended to acquire a new bus model only if—

“(1) a bus of that model has been tested at a facility described in subsection (a); and

“(2) the bus tested under paragraph (1) met—

“(A) performance standards for maintainability, reliability, performance (including braking performance), structural integrity, fuel economy, emissions, and noise, as established by the Secretary by rule; and

“(B) the minimum safety performance standards established by the Secretary pursuant to section 5329(b).”

#### SEC. 20016. PUBLIC TRANSPORTATION WORKFORCE DEVELOPMENT AND HUMAN RESOURCE PROGRAMS.

Section 5322 of title 49, United States Code, is amended to read as follows:

##### “§ 5322. Public transportation workforce development and human resource programs

“(a) IN GENERAL.—The Secretary may undertake, or make grants or enter into contracts for, activities that address human resource needs as the needs apply to public transportation activities, including activities that—

“(1) educate and train employees;

“(2) develop the public transportation workforce through career outreach and preparation;

“(3) develop a curriculum for workforce development;

“(4) conduct outreach programs to increase minority and female employment in public transportation;

“(5) conduct research on public transportation personnel and training needs;

“(6) provide training and assistance for minority business opportunities;

“(7) advance training relating to maintenance of alternative energy, energy efficiency, or zero emission vehicles and facilities used in public transportation; and

“(8) address a current or projected workforce shortage in an area that requires technical expertise.

“(b) FUNDING.—

“(1) URBANIZED AREA FORMULA GRANTS.—A recipient or subrecipient of funding under section 5307 shall expend not less than 0.5 percent of such funding for activities consistent with subsection (a).

“(2) WAIVER.—The Secretary may waive the requirement under paragraph (1) with respect to a recipient or subrecipient if the Secretary determines that the recipient or subrecipient—

“(A) has an adequate workforce development program; or

“(B) has partnered with a local educational institution in a manner that sufficiently promotes or addresses workforce development and human resource needs.

“(c) INNOVATIVE PUBLIC TRANSPORTATION WORKFORCE DEVELOPMENT PROGRAM.—

“(1) PROGRAM ESTABLISHED.—The Secretary shall establish a competitive grant program to assist the development of innovative activities eligible for assistance under subsection (a).

“(2) SELECTION OF RECIPIENTS.—To the maximum extent feasible, the Secretary shall select recipients that—

“(A) are geographically diverse;

“(B) address the workforce and human resources needs of large public transportation providers;

“(C) address the workforce and human resources needs of small public transportation providers;

“(D) address the workforce and human resources needs of urban public transportation providers;

“(E) address the workforce and human resources needs of rural public transportation providers;

“(F) advance training related to maintenance of alternative energy, energy efficiency, or zero emission vehicles and facilities used in public transportation;

“(G) target areas with high rates of unemployment; and

“(H) address current or projected workforce shortages in areas that require technical expertise.

“(d) GOVERNMENT'S SHARE OF COSTS.—The Government share of the cost of a project carried out using a grant under this section shall be 50 percent.

“(e) REPORT.—Not later than 2 years after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report concerning the measurable outcomes and impacts of the programs funded under this section.”

#### SEC. 20017. GENERAL PROVISIONS.

Section 5323 of title 49, United States Code, is amended to read as follows:

##### “§ 5323. General provisions

“(a) INTERESTS IN PROPERTY.—

“(1) IN GENERAL.—Financial assistance provided under this chapter to a State or a local governmental authority may be used to acquire an interest in, or to buy property of, a private company engaged in public transportation, for a capital project for property acquired from a private company engaged in public transportation after July 9, 1964, or to operate a public transportation facility or equipment in competition with, or in addition to, transportation service provided by an existing public transportation company, only if—

“(A) the Secretary determines that such financial assistance is essential to a program of projects required under sections 5303 and 5304;

“(B) the Secretary determines that the program provides for the participation of private companies engaged in public transportation to the maximum extent feasible; and

“(C) just compensation under State or local law will be paid to the company for its franchise or property.

“(2) LIMITATION.—A governmental authority may not use financial assistance of the United States Government to acquire land, equipment, or a facility used in public transportation from another governmental authority in the same geographic area.

“(b) RELOCATION AND REAL PROPERTY REQUIREMENTS.—The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.) shall apply to financial assistance for capital projects under this chapter.

“(c) CONSIDERATION OF ECONOMIC, SOCIAL, AND ENVIRONMENTAL INTERESTS.—

“(1) COOPERATION AND CONSULTATION.—In carrying out the goal described in section 5301(c)(2), the Secretary shall cooperate and consult with the Secretary of the Interior and the Administrator of the Environmental Protection Agency on each project that may have a substantial impact on the environment.

“(2) COMPLIANCE WITH NEPA.—The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall apply to financial assistance for capital projects under this chapter.

“(d) CORRIDOR PRESERVATION.—

“(1) IN GENERAL.—The Secretary may assist a recipient in acquiring right-of-way before the completion of the environmental reviews for any project that may use the right-of-way if the acquisition is otherwise permitted under Federal law. The Secretary may establish restrictions on such an acquisition as the Secretary determines to be necessary and appropriate.

“(2) ENVIRONMENTAL REVIEWS.—Right-of-way acquired under this subsection may not be developed in anticipation of the project until all required environmental reviews for the project have been completed.

“(e) CONDITION ON CHARTER BUS TRANSPORTATION SERVICE.—

“(1) AGREEMENTS.—Financial assistance under this chapter may be used to buy or operate a bus only if the applicant, governmental authority, or publicly owned operator that receives the assistance agrees that, except as provided in the agreement, the governmental authority or an operator of public transportation for the governmental authority will not provide charter bus transportation service outside the urban area in which it provides regularly scheduled public transportation service. An agreement shall provide for a fair arrangement the Secretary of Transportation considers appropriate to ensure that the assistance will not enable a governmental authority or an operator for a governmental authority to foreclose a private operator from providing intercity charter bus service if the private operator can provide the service.

“(2) VIOLATIONS.—

“(A) INVESTIGATIONS.—On receiving a complaint about a violation of the agreement required under paragraph (1), the Secretary shall investigate and decide whether a violation has occurred.

“(B) ENFORCEMENT OF AGREEMENTS.—If the Secretary decides that a violation has occurred, the Secretary shall correct the violation under terms of the agreement.

“(C) ADDITIONAL REMEDIES.—In addition to any remedy specified in the agreement, the Secretary shall bar a recipient or an operator from receiving Federal transit assistance in an amount the Secretary considers appropriate if the Secretary finds a pattern of violations of the agreement.

“(f) BOND PROCEEDS ELIGIBLE FOR LOCAL SHARE.—

“(1) USE AS LOCAL MATCHING FUNDS.—Notwithstanding any other provision of law, a recipient of assistance under section 5307, 5309, or 5337 may use the proceeds from the issuance of revenue bonds as part of the local matching funds for a capital project.

“(2) MAINTENANCE OF EFFORT.—The Secretary shall approve of the use of the proceeds from the issuance of revenue bonds for the remainder of the net project cost only if the Secretary finds that the aggregate amount of financial support for public transportation in the urbanized area provided by the State and affected local governmental authorities during the next 3 fiscal years, as programmed in the State transportation improvement program under section 5304, is not less than the aggregate amount provided by the State and affected local governmental authorities in the urbanized area during the preceding 3 fiscal years.

“(3) DEBT SERVICE RESERVE.—The Secretary may reimburse an eligible recipient for deposits of bond proceeds in a debt service reserve that the recipient establishes pursuant to section 5302(3)(J) from amounts made available to the recipient under section 5309.

“(g) SCHOOLBUS TRANSPORTATION.—

“(1) AGREEMENTS.—Financial assistance under this chapter may be used for a capital project, or to operate public transportation equipment or a public transportation facility, only if the applicant agrees not to provide schoolbus transportation that exclusively transports students and school personnel in competition with a private schoolbus operator. This subsection does not apply—

“(A) to an applicant that operates a school system in the area to be served and a separate and exclusive schoolbus program for the school system; and

“(B) unless a private schoolbus operator can provide adequate transportation that complies with applicable safety standards at reasonable rates.

“(2) VIOLATIONS.—If the Secretary finds that an applicant, governmental authority, or publicly owned operator has violated the agreement required under paragraph (1), the Secretary shall bar a recipient or an operator from receiving Federal transit assistance in an amount the Secretary considers appropriate.

“(h) BUYING BUSES UNDER OTHER LAWS.—Subsections (e) and (g) of this section apply to financial assistance to buy a bus under sections 133 and 142 of title 23.

“(i) GRANT AND LOAN PROHIBITIONS.—A grant or loan may not be used to—

“(1) pay ordinary governmental or non-project operating expenses; or

“(2) support a procurement that uses an exclusionary or discriminatory specification.

“(j) GOVERNMENT SHARE OF COSTS FOR CERTAIN PROJECTS.—A grant for a project to be assisted under this chapter that involves acquiring vehicle-related equipment or facilities required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) or vehicle-related equipment or facilities (including clean fuel or alternative fuel vehicle-related equipment or facilities) for purposes of complying with or maintaining compliance with the Clean Air Act, is for 90 percent of the net project cost of such equipment or facilities attributable to compliance with those Acts. The Secretary shall have discretion to determine, through practicable administrative procedures, the costs of such equipment or facilities attributable to compliance with those Acts.

“(k) BUY AMERICA.—

“(1) IN GENERAL.—The Secretary may obligate an amount that may be appropriated to carry out this chapter for a project only if the steel, iron, and manufactured goods used in the project are produced in the United States.

“(2) WAIVER.—The Secretary may waive paragraph (1) of this subsection if the Secretary finds that—

“(A) applying paragraph (1) would be inconsistent with the public interest;

“(B) the steel, iron, and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality;

“(C) when procuring rolling stock (including train control, communication, and traction power equipment) under this chapter—

“(i) the cost of components and subcomponents produced in the United States is more than 60 percent of the cost of all components of the rolling stock; and

“(ii) final assembly of the rolling stock has occurred in the United States; or

“(D) including domestic material will increase the cost of the overall project by more than 25 percent.

“(3) WRITTEN WAIVER DETERMINATION AND ANNUAL REPORT.—

“(A) WRITTEN DETERMINATION.—Before issuing a waiver under paragraph (2), the Secretary shall—

“(i) publish in the Federal Register and make publicly available in an easily identifiable location on the website of the Department of Transportation a detailed written explanation of the waiver determination; and

“(ii) provide the public with a reasonable period of time for notice and comment.

“(B) ANNUAL REPORT.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, and annually thereafter, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report listing any waiver issued under paragraph (2) during the preceding year.

“(4) LABOR COSTS FOR FINAL ASSEMBLY.—In this subsection, labor costs involved in final assembly are not included in calculating the cost of components.

“(5) WAIVER PROHIBITED.—The Secretary may not make a waiver under paragraph (2) of this subsection for goods produced in a foreign country if the Secretary, in consultation with the United States Trade Representative, decides that the government of that foreign country—

“(A) has an agreement with the United States Government under which the Secretary has waived the requirement of this subsection; and

“(B) has violated the agreement by discriminating against goods to which this subsection applies that are produced in the United States and to which the agreement applies.

“(6) PENALTY FOR MISLABELING AND MISREPRESENTATION.—A person is ineligible under subpart 9.4 of the Federal Acquisition Regulation, or any successor thereto, to receive a contract or subcontract made with amounts authorized under the Federal Public Transportation Act of 2012 if a court or department, agency, or instrumentality of the Government decides the person intentionally—

“(A) affixed a ‘Made in America’ label, or a label with an inscription having the same meaning, to goods sold in or shipped to the United States that are used in a project to which this subsection applies but not produced in the United States; or

“(B) represented that goods described in subparagraph (A) of this paragraph were produced in the United States.

“(7) STATE REQUIREMENTS.—The Secretary may not impose any limitation on assistance provided under this chapter that restricts a State from imposing more stringent requirements than this subsection on the use of articles, materials, and supplies mined, produced, or manufactured in foreign countries in projects carried out with that assistance or restricts a recipient of that assistance from complying with those State-imposed requirements.

“(8) OPPORTUNITY TO CORRECT INADVERTENT ERROR.—The Secretary may allow a manufacturer or supplier of steel, iron, or manufactured goods to correct after bid opening any certification of noncompliance or failure to properly complete the certification (but not including failure to sign the certification) under this subsection if such manufacturer or supplier attests under penalty of perjury that such manufacturer or supplier submitted an incorrect certification as a result of an inadvertent or clerical error. The burden of establishing inadvertent or clerical error is on the manufacturer or supplier.

“(9) ADMINISTRATIVE REVIEW.—A party adversely affected by an agency action under this subsection shall have the right to seek review under section 702 of title 5.

“(l) PARTICIPATION OF GOVERNMENTAL AGENCIES IN DESIGN AND DELIVERY OF TRANSPORTATION SERVICES.—Governmental agencies and nonprofit organizations that receive assistance from Government sources (other than the Department of Transportation) for nonemergency transportation services shall—

“(1) participate and coordinate with recipients of assistance under this chapter in the design and delivery of transportation services; and

“(2) be included in the planning for those services.

“(m) RELATIONSHIP TO OTHER LAWS.—

“(1) FRAUD AND FALSE STATEMENTS.—Section 1001 of title 18 applies to a certificate, submission, or statement provided under this chapter. The Secretary may terminate financial assistance under this chapter and seek reimbursement directly, or by offsetting amounts, available under this chapter if the Secretary determines that a recipient of such financial assistance has made a false or fraudulent statement or related act in connection with a Federal public transportation program.

“(2) POLITICAL ACTIVITIES OF NON-SUPERVISORY EMPLOYEES.—The provision of assistance under this chapter shall not be construed to require the application of chapter 15 of title 5 to any nonsupervisory employee of a public transportation system (or any other agency or entity performing related functions) to whom such chapter does not otherwise apply.

“(n) PREAWARD AND POSTDELIVERY REVIEW OF ROLLING STOCK PURCHASES.—The Secretary shall prescribe regulations requiring a preaward and postdelivery review of a grant under this chapter to buy rolling stock to ensure compliance with Government motor vehicle safety requirements, subsection (k) of this section, and bid specifications requirements of grant recipients under this chapter. Under this subsection, independent inspections and review are required, and a manufacturer certification is not sufficient. Rolling stock procurements of 20 vehicles or fewer made for the purpose of serving other than urbanized areas and urbanized areas with populations of 200,000 or fewer shall be subject to the same requirements as established for procurements of 10 or fewer buses under the post-delivery purchaser's requirements certification process under section 663.37(c) of title 49, Code of Federal Regulations.

“(o) SUBMISSION OF CERTIFICATIONS.—A certification required under this chapter and any additional certification or assurance required by law or regulation to be submitted to the Secretary may be consolidated into a single document to be submitted annually as part of a grant application under this chapter. The Secretary shall publish annually a list of all certifications required under this chapter with the publication required under section 5336(d)(2).

“(p) GRANT REQUIREMENTS.—The grant requirements under sections 5307, 5309, and 5337 apply to any project under this chapter that receives any assistance or other financing under chapter 6 (other than section 609) of title 23.

“(q) ALTERNATIVE FUELING FACILITIES.—A recipient of assistance under this chapter may allow the incidental use of federally funded alternative fueling facilities and equipment by nontransit public entities and private entities if—

“(1) the incidental use does not interfere with the recipient's public transportation operations;

“(2) all costs related to the incidental use are fully recaptured by the recipient from the nontransit public entity or private entity;

“(3) the recipient uses revenues received from the incidental use in excess of costs for planning, capital, and operating expenses that are incurred in providing public transportation; and

“(4) private entities pay all applicable excise taxes on fuel.

“(r) FIXED GUIDEWAY CATEGORICAL EXCLUSION.—

“(1) STUDY.—Not later than 6 months after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall conduct a study to determine the feasibility of providing a categorical exclusion for streetcar, bus rapid transit, and light rail projects located within an existing transportation right-of-way from the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) in accordance with the Council on Environmental Quality implementing regulations under parts 1500 through 1508 of title 40, Code of Federal Regulations, or any successor thereto.

“(2) FINDINGS AND RULES.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue findings and, if appropriate, issue rules to provide categorical exclusions for suitable categories of projects.”.

#### SEC. 20018. CONTRACT REQUIREMENTS.

Section 5325 of title 49, United States Code, is amended—

(1) in subsection (h), by striking “Federal Public Transportation Act of 2005” and inserting “Federal Public Transportation Act of 2012”;

(2) in subsection (j)(2)(C), by striking “, including the performance reported in the Contractor Performance Assessment Reports required under section 5309(1)(2)”;

(3) by adding at the end the following:

“(k) VETERANS EMPLOYMENT.—Recipients and subrecipients of Federal financial assistance under this chapter shall ensure that contractors working on a capital project funded using such assistance give a hiring preference to veterans, as defined in section 2108 of title 5, who have the requisite skills and abilities to perform the construction work required under the contract.”.

#### SEC. 20019. TRANSIT ASSET MANAGEMENT.

Section 5326 of title 49, United States Code, is amended to read as follows:

##### “§ 5326. Transit asset management

“(a) DEFINITIONS.—In this section the following definitions shall apply:

“(1) CAPITAL ASSET.—The term ‘capital asset’ includes equipment, rolling stock, infrastructure, and facilities for use in public transportation and owned or leased by a recipient or subrecipient of Federal financial assistance under this chapter.

“(2) TRANSIT ASSET MANAGEMENT PLAN.—The term ‘transit asset management plan’ means a plan developed by a recipient of funding under this chapter that—

“(A) includes, at a minimum, capital asset inventories and condition assessments, decision support tools, and investment prioritization; and

“(B) the recipient certifies complies with the rule issued under this section.

“(3) TRANSIT ASSET MANAGEMENT SYSTEM.—The term ‘transit asset management system’ means a strategic and systematic process of operating, maintaining, and improving pub-

lic transportation capital assets effectively throughout the life cycle of such assets.

“(b) TRANSIT ASSET MANAGEMENT SYSTEM.—The Secretary shall establish and implement a national transit asset management system, which shall include—

“(1) a definition of the term ‘state of good repair’ that includes objective standards for measuring the condition of capital assets of recipients, including equipment, rolling stock, infrastructure, and facilities;

“(2) a requirement that recipients and subrecipients of Federal financial assistance under this chapter develop a transit asset management plan;

“(3) a requirement that each recipient of Federal financial assistance under this chapter report on the condition of the system of the recipient and provide a description of any change in condition since the last report;

“(4) an analytical process or decision support tool for use by public transportation systems that—

“(A) allows for the estimation of capital investment needs of such systems over time; and

“(B) assists with asset investment prioritization by such systems; and

“(5) technical assistance to recipients of Federal financial assistance under this chapter.

“(c) PERFORMANCE MEASURES AND TARGETS.—

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue a final rule to establish performance measures based on the state of good repair standards established under subsection (b)(1).

“(2) TARGETS.—Not later than 3 months after the date on which the Secretary issues a final rule under paragraph (1), and each fiscal year thereafter, each recipient of Federal financial assistance under this chapter shall establish performance targets in relation to the performance measures established by the Secretary.

“(3) REPORTS.—Each recipient of Federal financial assistance under this chapter shall submit to the Secretary an annual report that describes—

“(A) the progress of the recipient during the fiscal year to which the report relates toward meeting the performance targets established under paragraph (2) for that fiscal year; and

“(B) the performance targets established by the recipient for the subsequent fiscal year.

“(d) RULEMAKING.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue a final rule to implement the transit asset management system described in subsection (b).”.

#### SEC. 20020. PROJECT MANAGEMENT OVERSIGHT.

Section 5327 of title 49, United States Code, is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking “United States” and all that follows through “Secretary of Transportation” and inserting the following: “Federal financial assistance for a major capital project for public transportation under this chapter or any other provision of Federal law, a recipient must prepare a project management plan approved by the Secretary and carry out the project in accordance with the project management plan”; and

(B) in paragraph (12), by striking “each month” and inserting “quarterly”;



(2) by striking subsections (c), (d), and (f);  
(3) by inserting after subsection (b) the following:

“(C) ACCESS TO SITES AND RECORDS.—Each recipient of Federal financial assistance for public transportation under this chapter or any other provision of Federal law shall provide the Secretary and a contractor the Secretary chooses under section 5338(g) with access to the construction sites and records of the recipient when reasonably necessary.”;

(4) by redesignating subsection (e) as subsection (d); and

(5) in subsection (d), as so redesignated—

(A) in paragraph (1), by striking “subsection (c) of this section” and inserting “section 5338(g)”;

(B) in paragraph (2)—

(i) by striking “preliminary engineering stage” and inserting “project development phase”; and

(ii) by striking “another stage” and inserting “another phase”.

#### SEC. 20021. PUBLIC TRANSPORTATION SAFETY.

(a) PUBLIC TRANSPORTATION SAFETY PROGRAM.—Section 5329 of title 49, United States Code, is amended to read as follows:

##### “§ 5329. Public transportation safety program

“(a) DEFINITION.—In this section, the term ‘recipient’ means a State or local governmental authority, or any other operator of a public transportation system, that receives financial assistance under this chapter.

“(b) NATIONAL PUBLIC TRANSPORTATION SAFETY PLAN.—

“(1) IN GENERAL.—The Secretary shall create and implement a national public transportation safety plan to improve the safety of all public transportation systems that receive funding under this chapter.

“(2) CONTENTS OF PLAN.—The national public transportation safety plan under paragraph (1) shall include—

“(A) safety performance criteria for all modes of public transportation;

“(B) the definition of the term ‘state of good repair’ established under section 5326(b);

“(C) minimum safety performance standards for public transportation vehicles used in revenue operations that—

“(i) do not apply to rolling stock otherwise regulated by the Secretary or any other Federal agency; and

“(ii) to the extent practicable, take into consideration—

“(I) relevant recommendations of the National Transportation Safety Board; and

“(II) recommendations of, and best practices standards developed by, the public transportation industry; and

“(D) a public transportation safety certification training program, as described in subsection (c).

“(c) PUBLIC TRANSPORTATION SAFETY CERTIFICATION TRAINING PROGRAM.—

“(1) IN GENERAL.—The Secretary shall establish a public transportation safety certification training program for Federal and State employees, or other designated personnel, who conduct safety audits and examinations of public transportation systems and employees of public transportation agencies directly responsible for safety oversight.

“(2) INTERIM PROVISIONS.—Not later than 90 days after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall establish interim provisions for the certification and training of the personnel described in paragraph (1), which shall be in effect until the effective date of the final rule issued by the Secretary to implement this subsection.

“(d) PUBLIC TRANSPORTATION AGENCY SAFETY PLAN.—

“(1) IN GENERAL.—Effective 1 year after the effective date of a final rule issued by the Secretary to carry out this subsection, each recipient shall certify that the recipient has established a comprehensive agency safety plan that includes, at a minimum—

“(A) a requirement that the board of directors (or equivalent entity) of the recipient approve the agency safety plan and any updates to the agency safety plan;

“(B) methods for identifying and evaluating safety risks throughout all elements of the public transportation system of the recipient;

“(C) strategies to minimize the exposure of the public, personnel, and property to hazards and unsafe conditions;

“(D) a process and timeline for conducting an annual review and update of the safety plan of the recipient;

“(E) performance targets based on the safety performance criteria and state of good repair standards established under subparagraphs (A) and (B), respectively, of subsection (b)(2);

“(F) assignment of an adequately trained safety officer who reports directly to the general manager, president, or equivalent officer of the recipient; and

“(G) a comprehensive staff training program for the operations personnel and personnel directly responsible for safety of the recipient that includes—

“(i) the completion of a safety training program; and

“(ii) continuing safety education and training.

“(2) INTERIM AGENCY SAFETY PLAN.—A system safety plan developed pursuant to part 659 of title 49, Code of Federal Regulations, as in effect on the date of enactment of the Federal Public Transportation Act of 2012, shall remain in effect until such time as this subsection takes effect.

“(e) STATE SAFETY OVERSIGHT PROGRAM.—

“(1) APPLICABILITY.—This subsection applies only to eligible States.

“(2) DEFINITION.—In this subsection, the term ‘eligible State’ means a State that has—

“(A) a rail fixed guideway public transportation system within the jurisdiction of the State that is not subject to regulation by the Federal Railroad Administration; or

“(B) a rail fixed guideway public transportation system in the engineering or construction phase of development within the jurisdiction of the State that will not be subject to regulation by the Federal Railroad Administration.

“(3) IN GENERAL.—In order to obligate funds apportioned under section 5338 to carry out this chapter, effective 3 years after the date on which a final rule under this subsection becomes effective, an eligible State shall have in effect a State safety oversight program approved by the Secretary under which the State—

“(A) assumes responsibility for overseeing rail fixed guideway public transportation safety;

“(B) adopts and enforces Federal law on rail fixed guideway public transportation safety;

“(C) establishes a State safety oversight agency;

“(D) determines, in consultation with the Secretary, an appropriate staffing level for the State safety oversight agency that is commensurate with the number, size, and complexity of the rail fixed guideway public transportation systems in the eligible State;

“(E) requires that employees and other designated personnel of the eligible State

safety oversight agency who are responsible for rail fixed guideway public transportation safety oversight are qualified to perform such functions through appropriate training, including successful completion of the public transportation safety certification training program established under subsection (c); and

“(F) prohibits any public transportation agency from providing funds to the State safety oversight agency or an entity designated by the eligible State as the State safety oversight agency under paragraph (4).

“(4) STATE SAFETY OVERSIGHT AGENCY.—

“(A) IN GENERAL.—Each State safety oversight program shall establish a State safety oversight agency that—

“(i) is an independent legal entity responsible for the safety of rail fixed guideway public transportation systems;

“(ii) is financially and legally independent from any public transportation entity that the State safety oversight agency oversees;

“(iii) does not fund, promote, or provide public transportation services;

“(iv) does not employ any individual who is also responsible for the administration of public transportation programs;

“(v) has the authority to review, approve, oversee, and enforce the implementation by the rail fixed guideway public transportation agency of the public transportation agency safety plan required under subsection (d);

“(vi) has investigative and enforcement authority with respect to the safety of rail fixed guideway public transportation systems of the eligible State;

“(vii) audits, at least once triennially, the compliance of the rail fixed guideway public transportation systems in the eligible State subject to this subsection with the public transportation agency safety plan required under subsection (d); and

“(viii) provides, at least once annually, a status report on the safety of the rail fixed guideway public transportation systems the State safety oversight agency oversees to—

“(I) the Federal Transit Administration;

“(II) the Governor of the eligible State; and

“(III) the board of directors, or equivalent entity, of any rail fixed guideway public transportation system that the State safety oversight agency oversees.

“(B) WAIVER.—At the request of an eligible State, the Secretary may waive clauses (i) and (iii) of subparagraph (A) for eligible States with 1 or more rail fixed guideway systems in revenue operations, design, or construction, that—

“(i) have fewer than 1,000,000 combined actual and projected rail fixed guideway revenue miles per year; or

“(ii) provide fewer than 10,000,000 combined actual and projected unlinked passenger trips per year.

“(5) ENFORCEMENT.—Each State safety oversight agency shall have the authority to request that the Secretary take enforcement actions available under subsection (g) against a rail fixed guideway public transportation system that is not in compliance with Federal safety laws.

“(6) PROGRAMS FOR MULTI-STATE RAIL FIXED GUIDEWAY PUBLIC TRANSPORTATION SYSTEMS.—An eligible State that has within the jurisdiction of the eligible State a rail fixed guideway public transportation system that operates in more than 1 eligible State shall—

“(A) jointly with all other eligible States in which the rail fixed guideway public transportation system operates, ensure uniform safety standards and enforcement procedures that shall be in compliance with this

section, and establish and implement a State safety oversight program approved by the Secretary; or

“(B) jointly with all other eligible States in which the rail fixed guideway public transportation system operates, designate an entity having characteristics consistent with the characteristics described in paragraph (3) to carry out the State safety oversight program approved by the Secretary.

“(7) GRANTS.—

“(A) IN GENERAL.—The Secretary may make a grant to an eligible State to develop or carry out a State safety oversight program, if the eligible State submits—

“(i) a proposal for the establishment of a State safety oversight program to the Secretary for review and written approval before implementing a State safety oversight program; and

“(ii) any amendment to the State safety oversight program of the eligible State to the Secretary for review not later than 60 days before the effective date of the amendment.

“(B) DETERMINATION BY SECRETARY.—

“(i) IN GENERAL.—The Secretary shall transmit written approval to an eligible State that submits a State safety oversight program, if the Secretary determines the State safety oversight program meets the requirements of this subsection and the State safety oversight program is adequate to promote the purposes of this section.

“(ii) AMENDMENT.—The Secretary shall transmit to an eligible State that submits an amendment under subparagraph (A)(ii) a written determination with respect to the amendment.

“(iii) NO WRITTEN DECISION.—If an eligible State does not receive a written decision from the Secretary with respect to an amendment submitted under subparagraph (A)(ii) before the end of the 60-day period beginning on the date on which the eligible State submits the amendment, the amendment shall be deemed to be approved.

“(iv) DISAPPROVAL.—If the Secretary determines that a State safety oversight program does not meet the requirements of this subsection, the Secretary shall transmit to the eligible State a written explanation and allow the eligible State to modify and resubmit the State safety oversight program for approval.

“(C) GOVERNMENT SHARE.—

“(i) IN GENERAL.—The Government share of the reasonable cost of a State safety oversight program developed or carried out using a grant under this paragraph shall be 80 percent.

“(ii) IN-KIND CONTRIBUTIONS.—Any calculation of the non-Government share of a State safety oversight program shall include in-kind contributions by an eligible State.

“(iii) NON-GOVERNMENT SHARE.—The non-Government share of the cost of a State safety oversight program developed or carried out using a grant under this paragraph may not be met by—

“(I) any Federal funds;

“(II) any funds received from a public transportation agency; or

“(III) any revenues earned by a public transportation agency.

“(iv) SAFETY TRAINING PROGRAM.—The Secretary may reimburse an eligible State or a recipient for the full costs of participation in the public transportation safety certification training program established under subsection (c) by an employee of a State safety oversight agency or a recipient who is directly responsible for safety oversight.

“(8) CONTINUAL EVALUATION OF PROGRAM.—The Secretary shall continually evaluate the

implementation of a State safety oversight program by a State safety oversight agency, on the basis of—

“(A) reports submitted by the State safety oversight agency under paragraph (4)(A)(viii); and

“(B) audits carried out by the Secretary.

“(9) INADEQUATE PROGRAM.—

“(A) IN GENERAL.—If the Secretary finds that a State safety oversight program approved by the Secretary is not being carried out in accordance with this section or has become inadequate to ensure the enforcement of Federal safety regulations, the Secretary shall—

“(i) transmit to the eligible State a written explanation of the reason the program has become inadequate and inform the State of the intention to withhold funds, including the amount of funds proposed to be withheld under this section, or withdraw approval of the State safety oversight program; and

“(ii) allow the eligible State a reasonable period of time to modify the State safety oversight program or implementation of the program and submit an updated proposal for the State safety oversight program to the Secretary for approval.

“(B) FAILURE TO CORRECT.—If the Secretary determines that a modification by an eligible State of the State safety oversight program is not sufficient to ensure the enforcement of Federal safety regulations, the Secretary may—

“(i) withhold funds available under this section in an amount determined by the Secretary; or

“(ii) provide written notice of withdrawal of State safety oversight program approval.

“(C) TEMPORARY OVERSIGHT.—In the event the Secretary takes action under subparagraph (B)(ii), the Secretary shall provide oversight of the rail fixed guideway systems in an eligible State until the State submits a State safety oversight program approved by the Secretary.

“(D) RESTORATION.—

“(i) CORRECTION.—The eligible State shall address any inadequacy to the satisfaction of the Secretary prior to the Secretary restoring funds withheld under this paragraph.

“(ii) AVAILABILITY AND REALLOCATION.—Any funds withheld under this paragraph shall remain available for restoration to the eligible State until the end of the first fiscal year after the fiscal year in which the funds were withheld, after which time the funds shall be available to the Secretary for allocation to other eligible States under this section.

“(10) FEDERAL OVERSIGHT.—The Secretary shall—

“(A) oversee the implementation of each State safety oversight program under this subsection;

“(B) audit the operations of each State safety oversight agency at least once triennially; and

“(C) issue rules to carry out this subsection.

“(f) AUTHORITY OF SECRETARY.—In carrying out this section, the Secretary may—

“(1) conduct inspections, investigations, audits, examinations, and testing of the equipment, facilities, rolling stock, and operations of the public transportation system of a recipient;

“(2) make reports and issue directives with respect to the safety of the public transportation system of a recipient;

“(3) in conjunction with an accident investigation or an investigation into a pattern or practice of conduct that negatively affects public safety, issue a subpoena to, and take

the deposition of, any employee of a recipient or a State safety oversight agency, if—

“(A) before the issuance of the subpoena, the Secretary requests a determination by the Attorney General of the United States as to whether the subpoena will interfere with an ongoing criminal investigation; and

“(B) the Attorney General—

“(i) determines that the subpoena will not interfere with an ongoing criminal investigation; or

“(ii) fails to make a determination under clause (i) before the date that is 30 days after the date on which the Secretary makes a request under subparagraph (A);

“(4) require the production of documents by, and prescribe recordkeeping and reporting requirements for, a recipient or a State safety oversight agency;

“(5) investigate public transportation accidents and incidents and provide guidance to recipients regarding prevention of accidents and incidents;

“(6) at reasonable times and in a reasonable manner, enter and inspect equipment, facilities, rolling stock, operations, and relevant records of the public transportation system of a recipient; and

“(7) issue rules to carry out this section.

“(g) ENFORCEMENT ACTIONS.—

“(1) TYPES OF ENFORCEMENT ACTIONS.—The Secretary may take enforcement action against a recipient that does not comply with Federal law with respect to the safety of the public transportation system, including—

“(A) issuing directives;

“(B) requiring more frequent oversight of the recipient by a State safety oversight agency or the Secretary;

“(C) imposing more frequent reporting requirements;

“(D) requiring that any Federal financial assistance provided under this chapter be spent on correcting safety deficiencies identified by the Secretary or the State safety oversight agency before such funds are spent on other projects;

“(E) subject to paragraph (2), withholding Federal financial assistance, in an amount to be determined by the Secretary, from the recipient, until such time as the recipient comes into compliance with this section; and

“(F) subject to paragraph (3), imposing a civil penalty, in an amount to be determined by the Secretary.

“(2) USE OR WITHHOLDING OF FUNDS.—

“(A) IN GENERAL.—The Secretary may require the use of funds in accordance with paragraph (1)(D), or withhold funds under paragraph (1)(E), only if the Secretary finds that a recipient is engaged in a pattern or practice of serious safety violations or has otherwise refused to comply with Federal law relating to the safety of the public transportation system.

“(B) NOTICE.—Before withholding funds from a recipient under paragraph (1)(E), the Secretary shall provide to the recipient—

“(i) written notice of a violation and the amount proposed to be withheld; and

“(ii) a reasonable period of time within which the recipient may address the violation or propose and initiate an alternative means of compliance that the Secretary determines is acceptable.

“(C) FAILURE TO ADDRESS.—If the recipient does not address the violation or propose an alternative means of compliance that the Secretary determines is acceptable within the period of time specified in the written notice, the Secretary may withhold funds under paragraph (1)(E).

“(D) RESTORATION.—

“(i) CORRECTION.—The recipient shall address any violation to the satisfaction of the Secretary prior to the Secretary restoring funds withheld under paragraph (1)(E).

“(ii) AVAILABILITY AND REALLOCATION.—Any funds withheld under paragraph (1)(E) shall remain available for restoration to the recipient until the end of the first fiscal year after the fiscal year in which the funds were withheld, after which time the funds shall be available to the Secretary for allocation to other eligible recipients.

“(E) NOTIFICATION.—Not later than 3 days before taking any action under subparagraph (C), the Secretary shall notify the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of such action.

“(3) CIVIL PENALTIES.—

“(A) IMPOSITION OF CIVIL PENALTIES.—

“(i) IN GENERAL.—The Secretary may impose a civil penalty under paragraph (1)(F) only if—

“(I) the Secretary has exhausted the enforcement actions available under subparagraphs (A) through (E) of paragraph (1); and

“(II) the recipient continues to be in violation of Federal safety law.

“(ii) EXCEPTION.—The Secretary may waive the requirement under clause (i)(I) if the Secretary determines that such a waiver is in the public interest.

“(B) NOTICE.—Before imposing a civil penalty on a recipient under paragraph (1)(F), the Secretary shall provide to the recipient—

“(i) written notice of any violation and the penalty proposed to be imposed; and

“(ii) a reasonable period of time within which the recipient may address the violation or propose and initiate an alternative means of compliance that the Secretary determines is acceptable.

“(C) FAILURE TO ADDRESS.—If the recipient does not address the violation or propose an alternative means of compliance that the Secretary determines is acceptable within the period of time specified in the written notice, the Secretary may impose a civil penalty under paragraph (1)(F).

“(D) NOTIFICATION.—Not later than 3 days before taking any action under subparagraph (C), the Secretary shall notify the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of such action.

“(E) DEPOSIT OF CIVIL PENALTIES.—Any amounts collected by the Secretary under this paragraph shall be deposited into the Mass Transit Account of the Highway Trust Fund.

“(4) ENFORCEMENT BY THE ATTORNEY GENERAL.—At the request of the Secretary, the Attorney General may bring a civil action—

“(A) for appropriate injunctive relief to ensure compliance with this section;

“(B) to collect a civil penalty imposed under paragraph (1)(F); and

“(C) to enforce a subpoena, request for admissions, request for production of documents or other tangible things, or request for testimony by deposition issued by the Secretary under this section.

“(h) COST-BENEFIT ANALYSIS.—

“(1) ANALYSIS REQUIRED.—In carrying out this section, the Secretary shall take into consideration the costs and benefits of each action the Secretary proposes to take under this section.

“(2) WAIVER.—The Secretary may waive the requirement under this subsection if the Secretary determines that such a waiver is in the public interest.

“(i) CONSULTATION BY THE SECRETARY OF HOMELAND SECURITY.—The Secretary of Homeland Security shall consult with the Secretary of Transportation before the Secretary of Homeland Security issues a rule or order that the Secretary of Transportation determines affects the safety of public transportation design, construction, or operations.

“(j) PREEMPTION OF STATE LAW.—

“(1) NATIONAL UNIFORMITY OF REGULATION.—Laws, regulations, and orders related to public transportation safety shall be nationally uniform to the extent practicable.

“(2) IN GENERAL.—A State may adopt or continue in force a law, regulation, or order related to the safety of public transportation until the Secretary issues a rule or order covering the subject matter of the State requirement.

“(3) MORE STRINGENT LAW.—A State may adopt or continue in force a law, regulation, or order related to the safety of public transportation that is consistent with, in addition to, or more stringent than a regulation or order of the Secretary if the Secretary determines that the law, regulation, or order—

“(A) has a safety benefit;

“(B) is not incompatible with a law, regulation, or order, or the terms and conditions of a financial assistance agreement of the United States Government; and

“(C) does not unreasonably burden interstate commerce.

“(4) ACTIONS UNDER STATE LAW.—

“(A) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to preempt an action under State law seeking damages for personal injury, death, or property damage alleging that a party has failed to comply with—

“(i) a Federal standard of care established by a regulation or order issued by the Secretary under this section;

“(ii) its own program, rule, or standard that it created pursuant to a rule or order issued by the Secretary; or

“(iii) a State law, regulation, or order that is not incompatible with paragraph (2).

“(B) EFFECTIVE DATE.—This paragraph shall apply to any cause of action under State law arising from an event or activity occurring on or after the date of enactment of the Federal Public Transportation Act of 2012.

“(5) JURISDICTION.—Nothing in this section shall be construed to create a cause of action under Federal law on behalf of an injured party or confer Federal question jurisdiction for a State law cause of action.

“(k) ANNUAL REPORT.—The Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives an annual report that—

“(1) analyzes public transportation safety trends among the States and documents the most effective safety programs implemented using grants under this section; and

“(2) describes the effect on public transportation safety of activities carried out using grants under this section.”.

(b) BUS SAFETY STUDY.—

(1) DEFINITION.—In this subsection, the term “highway route” means a route where 50 percent or more of the route is on roads having a speed limit of more than 45 miles per hour.

(2) STUDY.—Not later than 180 days after the date of enactment of this Act, the Secretary of Transportation shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on

Transportation and Infrastructure of the House of Representatives a report that—

(A) examines the safety of public transportation buses that travel on highway routes;

(B) examines laws and regulations that apply to commercial over-the-road buses; and

(C) makes recommendations as to whether additional safety measures should be required for public transportation buses that travel on highway routes.

#### SEC. 20022. ALCOHOL AND CONTROLLED SUBSTANCES TESTING.

Section 5331(b)(2) of title 49, United States Code, is amended—

(1) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(2) by inserting before subparagraph (B), as so redesignated, the following:

“(A) shall establish and implement an enforcement program that includes the imposition of penalties for failure to comply with this section;”.

#### SEC. 20023. NONDISCRIMINATION.

(a) AMENDMENTS.—Section 5332 of title 49, United States Code, is amended—

(1) in subsection (b)—

(A) by striking “creed” and inserting “religion”; and

(B) by inserting “disability,” after “sex,”; and

(2) in subsection (d)(3), by striking “and” and inserting “or”.

(b) EVALUATION AND REPORT.—

(1) EVALUATION.—The Comptroller General of the United States shall evaluate the progress and effectiveness of the Federal Transit Administration in assisting recipients of assistance under chapter 53 of title 49, United States Code, to comply with section 5332(b) of title 49, including—

(A) by reviewing discrimination complaints, reports, and other relevant information collected or prepared by the Federal Transit Administration or recipients of assistance from the Federal Transit Administration pursuant to any applicable civil rights statute, regulation, or other requirement; and

(B) by reviewing the process that the Federal Transit Administration uses to resolve discrimination complaints filed by members of the public.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report concerning the evaluation under paragraph (1) that includes—

(A) a description of the ability of the Federal Transit Administration to address discrimination and foster equal opportunities in federally funded public transportation projects, programs, and activities;

(B) recommendations for improvements if the Comptroller General determines that improvements are necessary; and

(C) information upon which the evaluation under paragraph (1) is based.

#### SEC. 20024. LABOR STANDARDS.

Section 5333(b) of title 49, United States Code, is amended—

(1) in paragraph (1), by striking “sections 5307-5312, 5316, 5318, 5323(a)(1), 5323(b), 5323(d), 5328, 5337, and 5338(b)” each place that term appears and inserting “sections 5307, 5308, 5309, 5311, and 5337”; and

(2) in paragraph (5), by inserting “of Labor” after “Secretary”.

**SEC. 20025. ADMINISTRATIVE PROVISIONS.**

Section 5334 of title 49, United States Code, is amended—

(1) in subsection (a)(1), by striking “under sections 5307 and 5309-5311 of this title” and inserting “that receives Federal financial assistance under this chapter”;

(2) in subsection (b)(1)—

(A) by inserting after “emergency,” the following: “or for purposes of establishing and enforcing a program to improve the safety of public transportation systems in the United States,”; and

(B) by striking “chapter, nor may the Secretary” and inserting “chapter. The Secretary may not”;

(3) in subsection (c)(4), by striking “section (except subsection (i)) and sections 5318(e), 5323(a)(2), 5325(a), 5325(b), and 5325(f)” and inserting “subsection”;

(4) in subsection (h)(3), by striking “another” and inserting “any other”;

(5) in subsection (i)(1), by striking “title 23 shall” and inserting “title 23 may”;

(6) by striking subsection (j); and

(7) by redesignating subsections (k) and (l) as subsections (j) and (k), respectively.

**SEC. 20026. NATIONAL TRANSIT DATABASE.**

Section 5335 of title 49, United States Code, is amended by adding at the end the following:

“(c) DATA REQUIRED TO BE REPORTED.—The recipient of a grant under this chapter shall report to the Secretary, for inclusion in the National Transit Database, any information relating to—

“(1) the causes of a reportable incident, as defined by the Secretary; and

“(2) a transit asset inventory or condition assessment conducted by the recipient.”.

**SEC. 20027. APPORTIONMENT OF APPROPRIATIONS FOR FORMULA GRANTS.**

Section 5336 of title 49, United States Code, is amended to read as follows:

**“§ 5336. Apportionment of appropriations for formula grants**

“(a) BASED ON URBANIZED AREA POPULATION.—Of the amount apportioned under subsection (h)(4) to carry out section 5307—

“(1) 9.32 percent shall be apportioned each fiscal year only in urbanized areas with a population of less than 200,000 so that each of those areas is entitled to receive an amount equal to—

“(A) 50 percent of the total amount apportioned multiplied by a ratio equal to the population of the area divided by the total population of all urbanized areas with populations of less than 200,000 as shown in the most recent decennial census; and

“(B) 50 percent of the total amount apportioned multiplied by a ratio for the area based on population weighted by a factor, established by the Secretary, of the number of inhabitants in each square mile; and

“(2) 90.68 percent shall be apportioned each fiscal year only in urbanized areas with populations of at least 200,000 as provided in subsections (b) and (c) of this section.

“(b) BASED ON FIXED GUIDEWAY VEHICLE REVENUE MILES, DIRECTIONAL ROUTE MILES, AND PASSENGER MILES.—(1) In this subsection, ‘fixed guideway vehicle revenue miles’ and ‘fixed guideway directional route miles’ include passenger ferry operations directly or under contract by the designated recipient.

“(2) Of the amount apportioned under subsection (a)(2) of this section, 33.29 percent shall be apportioned as follows:

“(A) 95.61 percent of the total amount apportioned under this subsection shall be apportioned so that each urbanized area with a population of at least 200,000 is entitled to receive an amount equal to—

“(i) 60 percent of the 95.61 percent apportioned under this subparagraph multiplied by a ratio equal to the number of fixed guideway vehicle revenue miles attributable to the area, as established by the Secretary, divided by the total number of all fixed guideway vehicle revenue miles attributable to all areas; and

“(ii) 40 percent of the 95.61 percent apportioned under this subparagraph multiplied by a ratio equal to the number of fixed guideway directional route miles attributable to the area, established by the Secretary, divided by the total number of all fixed guideway directional route miles attributable to all areas.

An urbanized area with a population of at least 750,000 in which commuter rail transportation is provided shall receive at least .75 percent of the total amount apportioned under this subparagraph.

“(B) 4.39 percent of the total amount apportioned under this subsection shall be apportioned so that each urbanized area with a population of at least 200,000 is entitled to receive an amount equal to—

“(i) the number of fixed guideway vehicle passenger miles traveled multiplied by the number of fixed guideway vehicle passenger miles traveled for each dollar of operating cost in an area; divided by

“(ii) the total number of fixed guideway vehicle passenger miles traveled multiplied by the total number of fixed guideway vehicle passenger miles traveled for each dollar of operating cost in all areas.

An urbanized area with a population of at least 750,000 in which commuter rail transportation is provided shall receive at least .75 percent of the total amount apportioned under this subparagraph.

“(C) Under subparagraph (A) of this paragraph, fixed guideway vehicle revenue or directional route miles, and passengers served on those miles, in an urbanized area with a population of less than 200,000, where the miles and passengers served otherwise would be attributable to an urbanized area with a population of at least 1,000,000 in an adjacent State, are attributable to the governmental authority in the State in which the urbanized area with a population of less than 200,000 is located. The authority is deemed an urbanized area with a population of at least 200,000 if the authority makes a contract for the service.

“(D) A recipient’s apportionment under subparagraph (A)(i) of this paragraph may not be reduced if the recipient, after satisfying the Secretary that energy or operating efficiencies would be achieved, reduces vehicle revenue miles but provides the same frequency of revenue service to the same number of riders.

“(c) BASED ON BUS VEHICLE REVENUE MILES AND PASSENGER MILES.—Of the amount apportioned under subsection (a)(2) of this section, 66.71 percent shall be apportioned as follows:

“(1) 90.8 percent of the total amount apportioned under this subsection shall be apportioned as follows:

“(A) 73.39 percent of the 90.8 percent apportioned under this paragraph shall be apportioned so that each urbanized area with a population of at least 1,000,000 is entitled to receive an amount equal to—

“(i) 50 percent of the 73.39 percent apportioned under this subparagraph multiplied by a ratio equal to the total bus vehicle revenue miles operated in or directly serving the urbanized area divided by the total bus vehicle revenue miles attributable to all areas;

“(ii) 25 percent of the 73.39 percent apportioned under this subparagraph multiplied by a ratio equal to the population of the area divided by the total population of all areas, as shown in the most recent decennial census; and

“(iii) 25 percent of the 73.39 percent apportioned under this subparagraph multiplied by a ratio for the area based on population weighted by a factor, established by the Secretary, of the number of inhabitants in each square mile.

“(B) 26.61 percent of the 90.8 percent apportioned under this paragraph shall be apportioned so that each urbanized area with a population of at least 200,000 but not more than 999,999 is entitled to receive an amount equal to—

“(i) 50 percent of the 26.61 percent apportioned under this subparagraph multiplied by a ratio equal to the total bus vehicle revenue miles operated in or directly serving the urbanized area divided by the total bus vehicle revenue miles attributable to all areas;

“(ii) 25 percent of the 26.61 percent apportioned under this subparagraph multiplied by a ratio equal to the population of the area divided by the total population of all areas, as shown by the most recent decennial census; and

“(iii) 25 percent of the 26.61 percent apportioned under this subparagraph multiplied by a ratio for the area based on population weighted by a factor, established by the Secretary, of the number of inhabitants in each square mile.

“(2) 9.2 percent of the total amount apportioned under this subsection shall be apportioned so that each urbanized area with a population of at least 200,000 is entitled to receive an amount equal to—

“(A) the number of bus passenger miles traveled multiplied by the number of bus passenger miles traveled for each dollar of operating cost in an area; divided by

“(B) the total number of bus passenger miles traveled multiplied by the total number of bus passenger miles traveled for each dollar of operating cost in all areas.

“(d) DATE OF APPORTIONMENT.—The Secretary shall—

“(1) apportion amounts appropriated under section 5338(a)(2)(C) of this title to carry out section 5307 of this title not later than the 10th day after the date the amounts are appropriated or October 1 of the fiscal year for which the amounts are appropriated, whichever is later; and

“(2) publish apportionments of the amounts, including amounts attributable to each urbanized area with a population of more than 50,000 and amounts attributable to each State of a multistate urbanized area, on the apportionment date.

“(e) AMOUNTS NOT APPORTIONED TO DESIGNATED RECIPIENTS.—The Governor of a State may expend in an urbanized area with a population of less than 200,000 an amount apportioned under this section that is not apportioned to a designated recipient, as defined in section 5302(4).

“(f) TRANSFERS OF APPORTIONMENTS.—(1) The Governor of a State may transfer any part of the State’s apportionment under subsection (a)(1) of this section to supplement amounts apportioned to the State under section 5311(c)(3). The Governor may make a transfer only after consulting with responsible local officials and publicly owned operators of public transportation in each area for which the amount originally was apportioned under this section.

“(2) The Governor of a State may transfer any part of the State’s apportionment under

section 5311(c)(3) to supplement amounts apportioned to the State under subsection (a)(1) of this section.

“(3) The Governor of a State may use throughout the State amounts of a State’s apportionment remaining available for obligation at the beginning of the 90-day period before the period of the availability of the amounts expires.

“(4) A designated recipient for an urbanized area with a population of at least 200,000 may transfer a part of its apportionment under this section to the Governor of a State. The Governor shall distribute the transferred amounts to urbanized areas under this section.

“(5) Capital and operating assistance limitations applicable to the original apportionment apply to amounts transferred under this subsection.

“(g) PERIOD OF AVAILABILITY TO RECIPIENTS.—An amount apportioned under this section may be obligated by the recipient for 5 years after the fiscal year in which the amount is apportioned. Not later than 30 days after the end of the 5-year period, an amount that is not obligated at the end of that period shall be added to the amount that may be apportioned under this section in the next fiscal year.

“(h) APPORTIONMENTS.—Of the amounts made available for each fiscal year under section 5338(a)(2)(C)—

“(1) \$35,000,000 shall be set aside to carry out section 5307(i);

“(2) 3.07 percent shall be apportioned to urbanized areas in accordance with subsection (j);

“(3) of amounts not apportioned under paragraphs (1) and (2), 1 percent shall be apportioned to urbanized areas with populations of less than 200,000 in accordance with subsection (i); and

“(4) any amount not apportioned under paragraphs (1), (2), and (3) shall be apportioned to urbanized areas in accordance with subsections (a) through (c).

“(i) SMALL TRANSIT INTENSIVE CITIES FORMULA.—

“(1) DEFINITIONS.—In this subsection, the following definitions apply:

“(A) ELIGIBLE AREA.—The term ‘eligible area’ means an urbanized area with a population of less than 200,000 that meets or exceeds in one or more performance categories the industry average for all urbanized areas with a population of at least 200,000 but not more than 999,999, as determined by the Secretary in accordance with subsection (c)(2).

“(B) PERFORMANCE CATEGORY.—The term ‘performance category’ means each of the following:

“(i) Passenger miles traveled per vehicle revenue mile.

“(ii) Passenger miles traveled per vehicle revenue hour.

“(iii) Vehicle revenue miles per capita.

“(iv) Vehicle revenue hours per capita.

“(v) Passenger miles traveled per capita.

“(vi) Passengers per capita.

“(2) APPORTIONMENT.—

“(A) APPORTIONMENT FORMULA.—The amount to be apportioned under subsection (h)(3) shall be apportioned among eligible areas in the ratio that—

“(i) the number of performance categories for which each eligible area meets or exceeds the industry average in urbanized areas with a population of at least 200,000 but not more than 999,999; bears to

“(ii) the aggregate number of performance categories for which all eligible areas meet or exceed the industry average in urbanized areas with a population of at least 200,000 but not more than 999,999.

“(B) DATA USED IN FORMULA.—The Secretary shall calculate apportionments under this subsection for a fiscal year using data from the national transit database used to calculate apportionments for that fiscal year under this section.

“(j) APPORTIONMENT FORMULA.—The amounts apportioned under subsection (h)(2) shall be apportioned among urbanized areas as follows:

“(1) 75 percent of the funds shall be apportioned among designated recipients for urbanized areas with a population of 200,000 or more in the ratio that—

“(A) the number of eligible low-income individuals in each such urbanized area; bears to

“(B) the number of eligible low-income individuals in all such urbanized areas.

“(2) 25 percent of the funds shall be apportioned among designated recipients for urbanized areas with a population of less than 200,000 in the ratio that—

“(A) the number of eligible low-income individuals in each such urbanized area; bears to

“(B) the number of eligible low-income individuals in all such urbanized areas.”.

#### SEC. 20028. STATE OF GOOD REPAIR GRANTS.

Section 5337 of title 49, United States Code, is amended to read as follows:

##### “§ 5337. State of good repair grants

“(a) DEFINITIONS.—In this section, the following definitions shall apply:

“(1) FIXED GUIDEWAY.—The term ‘fixed guideway’ means a public transportation facility—

“(A) using and occupying a separate right-of-way for the exclusive use of public transportation;

“(B) using rail;

“(C) using a fixed catenary system;

“(D) for a passenger ferry system; or

“(E) for a bus rapid transit system.

“(2) STATE.—The term ‘State’ means the 50 States, the District of Columbia, and Puerto Rico.

“(3) STATE OF GOOD REPAIR.—The term ‘state of good repair’ has the meaning given that term by the Secretary, by rule, under section 5326(b).

“(4) TRANSIT ASSET MANAGEMENT PLAN.—The term ‘transit asset management plan’ means a plan developed by a recipient of funding under this chapter that—

“(A) includes, at a minimum, capital asset inventories and condition assessments, decision support tools, and investment prioritization; and

“(B) the recipient certifies that the recipient complies with the rule issued under section 5326(d).

“(b) GENERAL AUTHORITY.—

“(1) ELIGIBLE PROJECTS.—The Secretary may make grants under this section to assist State and local governmental authorities in financing capital projects to maintain public transportation systems in a state of good repair, including projects to replace and rehabilitate—

“(A) rolling stock;

“(B) track;

“(C) line equipment and structures;

“(D) signals and communications;

“(E) power equipment and substations;

“(F) passenger stations and terminals;

“(G) security equipment and systems;

“(H) maintenance facilities and equipment;

“(I) operational support equipment, including computer hardware and software;

“(J) development and implementation of a transit asset management plan; and

“(K) other replacement and rehabilitation projects the Secretary determines appropriate.

“(2) INCLUSION IN PLAN.—A recipient shall include a project carried out under paragraph (1) in the transit asset management plan of the recipient upon completion of the plan.

“(c) HIGH INTENSITY FIXED GUIDEWAY STATE OF GOOD REPAIR FORMULA.—

“(1) IN GENERAL.—Of the amount authorized or made available under section 5338(a)(2)(M), \$1,874,763,500 shall be apportioned to recipients in accordance with this subsection.

“(2) AREA SHARE.—

“(A) IN GENERAL.—50 percent of the amount described in paragraph (1) shall be apportioned for fixed guideway systems in accordance with this paragraph.

“(B) SHARE.—A recipient shall receive an amount equal to the amount described in subparagraph (A), multiplied by the amount the recipient would have received under this section, as in effect for fiscal year 2011, if the amount had been calculated in accordance with section 5336(b)(1) and using the definition of the term ‘fixed guideway’ under subsection (a) of this section, as such sections are in effect on the day after the date of enactment of the Federal Public Transportation Act of 2012, and divided by the total amount apportioned for all areas under this section for fiscal year 2011.

“(C) RECIPIENT.—For purposes of this paragraph, the term ‘recipient’ means an entity that received funding under this section, as in effect for fiscal year 2011.

“(3) VEHICLE REVENUE MILES AND DIRECTIONAL ROUTE MILES.—

“(A) IN GENERAL.—50 percent of the amount described in paragraph (1) shall be apportioned to recipients in accordance with this paragraph.

“(B) VEHICLE REVENUE MILES.—A recipient in an urbanized area shall receive an amount equal to 60 percent of the amount described in subparagraph (A), multiplied by the number of fixed guideway vehicle revenue miles attributable to the urbanized area, as established by the Secretary, divided by the total number of all fixed guideway vehicle revenue miles attributable to all urbanized areas.

“(C) DIRECTIONAL ROUTE MILES.—A recipient in an urbanized area shall receive an amount equal to 40 percent of the amount described in subparagraph (A), multiplied by the number of fixed guideway directional route miles attributable to the urbanized area, as established by the Secretary, divided by the total number of all fixed guideway directional route miles attributable to all urbanized areas.

“(4) LIMITATION.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the share of the total amount apportioned under this section that is apportioned to an area under this subsection shall not decrease by more than 0.25 percentage points compared to the share apportioned to the area under this subsection in the previous fiscal year.

“(B) SPECIAL RULE FOR FISCAL YEAR 2012.—In fiscal year 2012, the share of the total amount apportioned under this section that is apportioned to an area under this subsection shall not decrease by more than 0.25 percentage points compared to the share that would have been apportioned to the area under this section, as in effect for fiscal year 2011, if the share had been calculated using the definition of the term ‘fixed guideway’ under subsection (a) of this section, as

in effect on the day after the date of enactment of the Federal Public Transportation Act of 2012.

“(5) USE OF FUNDS.—Amounts made available under this subsection shall be available for the exclusive use of fixed guideway projects.

“(6) RECEIVING APPORTIONMENT.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), for an area with a fixed guideway system, the amounts provided under this section shall be apportioned to the designated recipient for the urbanized area in which the system operates.

“(B) EXCEPTION.—An area described in the amendment made by section 3028(a) of the Transportation Equity Act for the 21st Century (Public Law 105-178; 112 Stat. 366) shall receive an individual apportionment under this subsection.

“(7) APPORTIONMENT REQUIREMENTS.—For purposes of determining the number of fixed guideway vehicle revenue miles or fixed guideway directional route miles attributable to an urbanized area for a fiscal year under this subsection, only segments of fixed guideway systems placed in revenue service not later than 7 years before the first day of the fiscal year shall be deemed to be attributable to an urbanized area.

“(d) FIXED GUIDEWAY STATE OF GOOD REPAIR GRANT PROGRAM.—

“(1) IN GENERAL.—The Secretary may make grants under this section to assist State and local governmental authorities in financing fixed guideway capital projects to maintain public transportation systems in a state of good repair.

“(2) COMPETITIVE PROCESS.—The Secretary shall solicit grant applications and make grants for eligible projects on a competitive basis.

“(3) PRIORITY CONSIDERATION.—In making grants under this subsection, the Secretary shall give priority to grant applications received from recipients receiving an amount under this section that is not less than 2 percent less than the amount the recipient would have received under this section, as in effect for fiscal year 2011, if the amount had been calculated using the definition of the term ‘fixed guideway’ under subsection (a) of this section, as in effect on the day after the date of enactment of the Federal Public Transportation Act of 2012.

“(e) HIGH INTENSITY MOTORBUS STATE OF GOOD REPAIR.—

“(1) DEFINITION.—For purposes of this subsection, the term ‘fixed guideway motorbus’ means public transportation that is provided on a facility with access for other high-occupancy vehicles.

“(2) APPORTIONMENT.—Of the amount authorized or made available under section 5338(a)(2)(M), \$112,500,000 shall be apportioned to urbanized areas for high intensity motorbus state of good repair in accordance with this subsection.

“(3) VEHICLE REVENUE MILES AND DIRECTIONAL ROUTE MILES.—

“(A) IN GENERAL.—\$60,000,000 of the amount described in paragraph (2) shall be apportioned to each area in accordance with this paragraph.

“(B) VEHICLE REVENUE MILES.—Each area shall receive an amount equal to 60 percent of the amount described in subparagraph (A), multiplied by the number of fixed guideway motorbus vehicle revenue miles attributable to the area, as established by the Secretary, divided by the total number of all fixed guideway motorbus vehicle revenue miles attributable to all areas.

“(C) DIRECTIONAL ROUTE MILES.—Each area shall receive an amount equal to 40 percent

of the amount described in subparagraph (A), multiplied by the number of fixed guideway motorbus directional route miles attributable to the area, as established by the Secretary, divided by the total number of all fixed guideway motorbus directional route miles attributable to all areas.

“(4) SPECIAL RULE FOR FIXED GUIDEWAY MOTORBUS.—

“(A) IN GENERAL.—\$52,500,000 of the amount described in paragraph (2) shall be apportioned—

“(i) in accordance with this paragraph; and

“(ii) among urbanized areas within a State in the same proportion as funds are apportioned within a State under section 5336, except subsection (b), and shall be added to such amounts.

“(B) TERRITORIES.—Of the amount described in subparagraph (A), \$500,000 shall be distributed among the territories, as determined by the Secretary.

“(C) STATES.—Of the amount described in subparagraph (A), each State shall receive \$1,000,000.

“(5) USE OF FUNDS.—A recipient may transfer any part of the apportionment under this subsection for use under subsection (c).

“(6) APPORTIONMENT REQUIREMENTS.—For purposes of determining the number of fixed guideway motorbus vehicle revenue miles or fixed guideway motorbus directional route miles attributable to an urbanized area for a fiscal year under this subsection, only segments of fixed guideway motorbus systems placed in revenue service not later than 7 years before the first day of the fiscal year shall be deemed to be attributable to an urbanized area.”

#### SEC. 20029. AUTHORIZATIONS.

Section 5338 of title 49, United States Code, is amended to read as follows:

#### “§ 5338. Authorizations

“(a) FORMULA GRANTS.—

“(1) IN GENERAL.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5305, 5307, 5308, 5310, 5311, 5312, 5313, 5314, 5315, 5322, 5335, and 5340, subsections (c) and (e) of section 5337, and section 20005(b) of the Federal Public Transportation Act of 2012, \$8,360,565,000 for each of fiscal years 2012 and 2013.

“(2) ALLOCATION OF FUNDS.—Of the amounts made available under paragraph (1)—

“(A) \$124,850,000 for each of fiscal years 2012 and 2013 shall be available to carry out section 5305;

“(B) \$20,000,000 for each of fiscal years 2012 and 2013 shall be available to carry out section 20005(b) of the Federal Public Transportation Act of 2012;

“(C) \$4,756,161,500 for each of fiscal years 2012 and 2013 shall be allocated in accordance with section 5336 to provide financial assistance for urbanized areas under section 5307;

“(D) \$65,150,000 for each of fiscal years 2012 and 2013 shall be available to carry out section 5308, of which not less than \$8,500,000 shall be used to carry out activities under section 5312;

“(E) \$248,600,000 for each of fiscal years 2012 and 2013 shall be available to provide financial assistance for services for the enhanced mobility of seniors and individuals with disabilities under section 5310;

“(F) \$591,190,000 for each of fiscal years 2012 and 2013 shall be available to provide financial assistance for other than urbanized areas under section 5311, of which not less than \$30,000,000 shall be available to carry out section 5311(c)(1) and \$20,000,000 shall be available to carry out section 5311(c)(2);

“(G) \$34,000,000 for each of fiscal years 2012 and 2013 shall be available to carry out research, development, demonstration, and deployment projects under section 5312;

“(H) \$6,500,000 for each of fiscal years 2012 and 2013 shall be available to carry out a transit cooperative research program under section 5313;

“(I) \$4,500,000 for each of fiscal years 2012 and 2013 shall be available for technical assistance and standards development under section 5314;

“(J) \$5,000,000 for each of fiscal years 2012 and 2013 shall be available for the National Transit Institute under section 5315;

“(K) \$2,000,000 for each of fiscal years 2012 and 2013 shall be available for workforce development and human resource grants under section 5322;

“(L) \$3,850,000 for each of fiscal years 2012 and 2013 shall be available to carry out section 5335;

“(M) \$1,987,263,500 for each of fiscal years 2012 and 2013 shall be available to carry out subsections (c) and (e) of section 5337; and

“(N) \$511,500,000 for each of fiscal years 2012 and 2013 shall be allocated in accordance with section 5340 to provide financial assistance for urbanized areas under section 5307 and other than urbanized areas under section 5311.

“(b) EMERGENCY RELIEF PROGRAM.—There are authorized to be appropriated such sums as are necessary to carry out section 5306.

“(c) CAPITAL INVESTMENT GRANTS.—There are authorized to be appropriated to carry out section 5309, \$1,955,000,000 for each of fiscal years 2012 and 2013.

“(d) PAUL S. SARBANES TRANSIT IN THE PARKS.—There are authorized to be appropriated to carry out section 5320, \$26,900,000 for each of fiscal years 2012 and 2013.

“(e) FIXED GUIDEWAY STATE OF GOOD REPAIR GRANT PROGRAM.—There are authorized to be appropriated to carry out section 5337(d), \$7,463,000 for each of fiscal years 2012 and 2013.

“(f) ADMINISTRATION.—

“(1) IN GENERAL.—There are authorized to be appropriated to carry out section 5334, \$108,350,000 for each of fiscal years 2012 and 2013.

“(2) SECTION 5329.—Of the amounts authorized to be appropriated under paragraph (1), not less than \$10,000,000 shall be available to carry out section 5329.

“(3) SECTION 5326.—Of the amounts made available under paragraph (2), not less than \$1,000,000 shall be available to carry out section 5326.

“(g) OVERSIGHT.—

“(1) IN GENERAL.—Of the amounts made available to carry out this chapter for a fiscal year, the Secretary may use not more than the following amounts for the activities described in paragraph (2):

“(A) 0.5 percent of amounts made available to carry out section 5305.

“(B) 0.75 percent of amounts made available to carry out section 5307.

“(C) 1 percent of amounts made available to carry out section 5309.

“(D) 1 percent of amounts made available to carry out section 601 of the Passenger Rail Investment and Improvement Act of 2008 (Public Law 110-432; 126 Stat. 4968).

“(E) 0.5 percent of amounts made available to carry out section 5310.

“(F) 0.5 percent of amounts made available to carry out section 5311.

“(G) 0.5 percent of amounts made available to carry out section 5320.

“(H) 0.75 percent of amounts made available to carry out section 5337(c).

“(2) ACTIVITIES.—The activities described in this paragraph are as follows:

“(A) Activities to oversee the construction of a major capital project.

“(B) Activities to review and audit the safety and security, procurement, management, and financial compliance of a recipient or subrecipient of funds under this chapter.

“(C) Activities to provide technical assistance generally, and to provide technical assistance to correct deficiencies identified in compliance reviews and audits carried out under this section.

“(3) GOVERNMENT SHARE OF COSTS.—The Government shall pay the entire cost of carrying out a contract under this subsection.

“(4) AVAILABILITY OF CERTAIN FUNDS.—Funds made available under paragraph (1)(C) shall be made available to the Secretary before allocating the funds appropriated to carry out any project under a full funding grant agreement.

“(h) GRANTS AS CONTRACTUAL OBLIGATIONS.—

“(1) GRANTS FINANCED FROM HIGHWAY TRUST FUND.—A grant or contract that is approved by the Secretary and financed with amounts made available from the Mass Transit Account of the Highway Trust Fund pursuant to this section is a contractual obligation of the Government to pay the Government share of the cost of the project.

“(2) GRANTS FINANCED FROM GENERAL FUND.—A grant or contract that is approved by the Secretary and financed with amounts appropriated in advance from the General Fund of the Treasury pursuant to this section is a contractual obligation of the Government to pay the Government share of the cost of the project only to the extent that amounts are appropriated for such purpose by an Act of Congress.

“(i) AVAILABILITY OF AMOUNTS.—Amounts made available by or appropriated under this section shall remain available until expended.”

#### **SEC. 20030. APPORTIONMENTS BASED ON GROWING STATES AND HIGH DENSITY STATES FORMULA FACTORS.**

Section 5340 of title 49, United States Code, is amended to read as follows:

#### **“§ 5340. Apportionments based on growing States and high density States formula factors**

“(a) DEFINITION.—In this section, the term ‘State’ shall mean each of the 50 States of the United States.

“(b) ALLOCATION.—Of the amounts made available for each fiscal year under section 5338(a)(2)(N), the Secretary shall apportion—

“(1) 50 percent to States and urbanized areas in accordance with subsection (c); and

“(2) 50 percent to States and urbanized areas in accordance with subsection (d).

“(c) GROWING STATE APPORTIONMENTS.—

“(1) APPORTIONMENT AMONG STATES.—The amounts apportioned under subsection (b)(1) shall provide each State with an amount equal to the total amount apportioned multiplied by a ratio equal to the population of that State forecast for the year that is 15 years after the most recent decennial census, divided by the total population of all States forecast for the year that is 15 years after the most recent decennial census. Such forecast shall be based on the population trend for each State between the most recent decennial census and the most recent estimate of population made by the Secretary of Commerce.

“(2) APPORTIONMENTS BETWEEN URBANIZED AREAS AND OTHER THAN URBANIZED AREAS IN EACH STATE.—

“(A) IN GENERAL.—The Secretary shall apportion amounts to each State under paragraph (1) so that urbanized areas in that State receive an amount equal to the amount apportioned to that State multiplied by a ratio equal to the sum of the forecast population of all urbanized areas in that State divided by the total forecast population of that State. In making the apportionment under this subparagraph, the Secretary shall utilize any available forecasts made by the State. If no forecasts are available, the Secretary shall utilize data on urbanized areas and total population from the most recent decennial census.

“(B) REMAINING AMOUNTS.—Amounts remaining for each State after apportionment under subparagraph (A) shall be apportioned to that State and added to the amount made available for grants under section 5311.

“(3) APPORTIONMENTS AMONG URBANIZED AREAS IN EACH STATE.—The Secretary shall apportion amounts made available to urbanized areas in each State under paragraph (2)(A) so that each urbanized area receives an amount equal to the amount apportioned under paragraph (2)(A) multiplied by a ratio equal to the population of each urbanized area divided by the sum of populations of all urbanized areas in the State. Amounts apportioned to each urbanized area shall be added to amounts apportioned to that urbanized area under section 5336, and made available for grants under section 5307.

“(d) HIGH DENSITY STATE APPORTIONMENTS.—Amounts to be apportioned under subsection (b)(2) shall be apportioned as follows:

“(1) ELIGIBLE STATES.—The Secretary shall designate as eligible for an apportionment under this subsection all States with a population density in excess of 370 persons per square mile.

“(2) STATE URBANIZED LAND FACTOR.—For each State qualifying for an apportionment under paragraph (1), the Secretary shall calculate an amount equal to—

“(A) the total land area of the State (in square miles); multiplied by

“(B) 370; multiplied by

“(C)(i) the population of the State in urbanized areas; divided by

“(ii) the total population of the State.

“(3) STATE APPORTIONMENT FACTOR.—For each State qualifying for an apportionment under paragraph (1), the Secretary shall calculate an amount equal to the difference between the total population of the State less the amount calculated in paragraph (2).

“(4) STATE APPORTIONMENT.—Each State qualifying for an apportionment under paragraph (1) shall receive an amount equal to the amount to be apportioned under this subsection multiplied by the amount calculated for the State under paragraph (3) divided by the sum of the amounts calculated under paragraph (3) for all States qualifying for an apportionment under paragraph (1).

“(5) APPORTIONMENTS AMONG URBANIZED AREAS IN EACH STATE.—The Secretary shall apportion amounts made available to each State under paragraph (4) so that each urbanized area receives an amount equal to the amount apportioned under paragraph (4) multiplied by a ratio equal to the population of each urbanized area divided by the sum of populations of all urbanized areas in the State. For multistate urbanized areas, the Secretary shall suballocate funds made available under paragraph (4) to each State's part of the multistate urbanized area in proportion to the State's share of population of the multistate urbanized area. Amounts apportioned to each urbanized area shall be

made available for grants under section 5307.”

#### **SEC. 20031. TECHNICAL AND CONFORMING AMENDMENTS.**

(a) SECTION 5305.—Section 5305 of title 49, United States Code, is amended—

(1) in subsection (c), by striking “sections 5303, 5304, and 5306” and inserting “sections 5303 and 5304”;

(2) in subsection (d), by striking “sections 5303 and 5306” each place that term appears and inserting “section 5303”;

(3) in subsection (e)(1)(A), by striking “sections 5304, 5306, 5315, and 5322” and inserting “section 5304”;

(4) in subsection (f)—

(A) in the heading, by striking “GOVERNMENT'S” and inserting “GOVERNMENT”; and

(B) by striking “Government's” and inserting “Government”; and

(5) in subsection (g), by striking “section 5338(c) for fiscal years 2005 through 2011 and for the period beginning on October 1, 2011, and ending on March 31, 2012” and inserting “section 5338(a)(2)(A) for a fiscal year”.

(b) SECTION 5313.—Section 5313(a) of title 49, United States Code, is amended—

(1) in the first sentence, by striking “subsections (a)(5)(C)(iii) and (d)(1) of section 5338” and inserting section “5338(a)(2)(H)”; and

(2) in the second sentence, by striking “of Transportation”.

(c) SECTION 5319.—Section 5319 of title 49, United States Code, is amended, in the second sentence—

(1) by striking “sections 5307(e), 5309(h), and 5311(g) of this title” and inserting “sections 5307(e), 5309(k), and 5311(h)”; and

(2) by striking “of the United States” and inserting “made by the”.

(d) SECTION 5325.—Section 5325 of title 49, United States Code, is amended—

(1) in subsection (b)(2)(A), by striking “title 48, Code of Federal Regulations (commonly known as the Federal Acquisition Regulation)” and inserting “the Federal Acquisition Regulation, or any successor thereto”; and

(2) in subsection (e), by striking “Government financial assistance” and inserting “Federal financial assistance”.

(e) SECTION 5330.—Effective 3 years after the effective date of the final rules issued by the Secretary of Transportation under section 5329(e) of title 49, United States Code, as amended by this division, section 5330 of title 49, United States Code, is repealed.

(f) SECTION 5331.—Section 5331 of title 49, United States Code, is amended by striking “Secretary of Transportation” each place that term appears and inserting “Secretary”.

(g) SECTION 5332.—Section 5332(c)(1) of title 49, United States Code, is amended by striking “of Transportation”.

(h) SECTION 5333.—Section 5333(a) of title 49, United States Code, is amended by striking “sections 3141-3144” and inserting “sections 3141 through 3144”.

(i) SECTION 5334.—Section 5334 of title 49, United States Code, is amended—

(1) in subsection (c)—

(A) by striking “Secretary of Transportation” each place that term appears and inserting “Secretary”; and

(B) in paragraph (1), by striking “Committees on Transportation and Infrastructure and Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and Appropriations of the Senate” and inserting “Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations



of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives”;

(2) in subsection (d), by striking “of Transportation”;

(3) in subsection (e), by striking “of Transportation”;

(4) in subsection (f), by striking “of Transportation”;

(5) in subsection (g), in the matter preceding paragraph (1)—

(A) by striking “of Transportation”; and

(B) by striking “subsection (a)(3) or (4) of this section” and inserting “paragraph (3) or (4) of subsection (a)”;

(6) in subsection (h)—

(A) in paragraph (1), in the matter preceding subparagraph (A), by striking “of Transportation”; and

(B) in paragraph (2), by striking “of this section”;

(7) in subsection (i)(1), by striking “of Transportation”; and

(8) in subsection (j), as so redesignated by section 20025 of this division, by striking “Committees on Banking, Housing, and Urban Affairs and Appropriations of the Senate and Committees on Transportation and Infrastructure and Appropriations of the House of Representatives” and inserting “Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives”.

(j) SECTION 5335.—Section 5335(a) of title 49, United States Code, is amended by striking “of Transportation”.

(k) TABLE OF SECTIONS.—The table of sections for chapter 53 of title 49, United States Code, is amended to read as follows:

“Sec.

“5301. Policies, purposes, and goals.

“5302. Definitions.

“5303. Metropolitan transportation planning.

“5304. Statewide and nonmetropolitan transportation planning.

“5305. Planning programs.

“5306. Public transportation emergency relief program.

“5307. Urbanized area formula grants.

“5308. Clean fuel grant program.

“5309. Fixed guideway capital investment grants.

“5310. Formula grants for the enhanced mobility of seniors and individuals with disabilities.

“5311. Formula grants for other than urbanized areas.

“5312. Research, development, demonstration, and deployment projects.

“5313. Transit cooperative research program.

“5314. Technical assistance and standards development.

“5315. National Transit Institute.

“[5316. Repealed.]

“[5317. Repealed.]

“5318. Bus testing facilities.

“5319. Bicycle facilities.

“5320. Alternative transportation in parks and public lands.

“[5321. Repealed.]

“5322. Public transportation workforce development and human resource programs.

“[5324. Repealed.]

“5325. Contract requirements.

“5326. Transit asset management.

“5327. Project management oversight.

“[5328. Repealed.]

“5329. Public transportation safety program.

“5330. State safety oversight.

“5331. Alcohol and controlled substances testing.

“5332. Nondiscrimination.

“5333. Labor standards.

“5334. Administrative provisions.

“5335. National transit database.

“5336. Apportionment of appropriations for formula grants.

“5337. State of good repair grants.

“5338. Authorizations.

“[5339. Repealed.]

“5340. Apportionments based on growing States and high density States formula factors.”.

## **DIVISION C—TRANSPORTATION SAFETY AND SURFACE TRANSPORTATION POLICY** **TITLE I—MOTOR VEHICLE AND HIGHWAY SAFETY IMPROVEMENT ACT OF 2012**

### **SEC. 31001. SHORT TITLE.**

(a) SHORT TITLE.—This title may be cited as the “Motor Vehicle and Highway Safety Improvement Act of 2012” or “Mariah’s Act”.

(b) TABLE OF CONTENTS.—The table of contents for this division is as follows:

## **DIVISION C—TRANSPORTATION SAFETY AND SURFACE TRANSPORTATION POLICY**

### **TITLE I—MOTOR VEHICLE AND HIGHWAY SAFETY IMPROVEMENT ACT OF 2012**

Sec. 31001. Short title.

Sec. 31002. Definition.

#### **Subtitle A—Highway Safety**

Sec. 31101. Authorization of appropriations.

Sec. 31102. Highway safety programs.

Sec. 31103. Highway safety research and development.

Sec. 31104. National driver register.

Sec. 31105. Combined occupant protection grants.

Sec. 31106. State traffic safety information system improvements.

Sec. 31107. Impaired driving countermeasures.

Sec. 31108. Distracted driving grants.

Sec. 31109. High visibility enforcement program.

Sec. 31110. Motorcyclist safety.

Sec. 31111. Driver alcohol detection system for safety research.

Sec. 31112. State graduated driver licensing laws.

Sec. 31113. Agency accountability.

Sec. 31114. Emergency medical services.

#### **Subtitle B—Enhanced Safety Authorities**

Sec. 31201. Definition of motor vehicle equipment.

Sec. 31202. Permit reminder system for non-use of safety belts.

Sec. 31203. Civil penalties.

Sec. 31204. Motor vehicle safety research and development.

Sec. 31205. Odometer requirements definition.

Sec. 31206. Electronic disclosures of odometer information.

Sec. 31207. Increased penalties and damages for odometer fraud.

Sec. 31208. Extend prohibitions on importing noncompliant vehicles and equipment to defective vehicles and equipment.

Sec. 31209. Financial responsibility requirements for importers.

Sec. 31210. Conditions on importation of vehicles and equipment.

Sec. 31211. Port inspections; samples for examination or testing.

#### **Subtitle C—Transparency and Accountability**

Sec. 31301. Improved National Highway Traffic Safety Administration vehicle safety database.

Sec. 31302. National Highway Traffic Safety Administration hotline for manufacturer, dealer, and mechanic personnel.

Sec. 31303. Consumer notice of software updates and other communications with dealers.

Sec. 31304. Public availability of early warning data.

Sec. 31305. Corporate responsibility for National Highway Traffic Safety Administration reports.

Sec. 31306. Passenger motor vehicle information program.

Sec. 31307. Promotion of vehicle defect reporting.

Sec. 31308. Whistleblower protections for motor vehicle manufacturers, part suppliers, and dealership employees.

Sec. 31309. Anti-revolving door.

Sec. 31310. Study of crash data collection.

Sec. 31311. Update means of providing notification; improving efficacy of recalls.

Sec. 31312. Expanding choices of remedy available to manufacturers of replacement equipment.

Sec. 31313. Recall obligations and bankruptcy of manufacturer.

Sec. 31314. Repeal of insurance reports and information provision.

Sec. 31315. Monroney sticker to permit additional safety rating categories.

#### **Subtitle D—Vehicle Electronics and Safety Standards**

Sec. 31401. National Highway Traffic Safety Administration electronics, software, and engineering expertise.

Sec. 31402. Vehicle stopping distance and brake override standard.

Sec. 31403. Pedal placement standard.

Sec. 31404. Electronic systems performance standard.

Sec. 31405. Pushbutton ignition systems standard.

Sec. 31406. Vehicle event data recorders.

Sec. 31407. Prohibition on electronic visual entertainment in driver’s view.

Sec. 31408. Commercial motor vehicle rollover prevention and crash mitigation.

#### **Subtitle E—Child Safety Standards**

Sec. 31501. Child safety seats.

Sec. 31502. Child restraint anchorage systems.

Sec. 31503. Rear seat belt reminders.

Sec. 31504. Unattended passenger reminders.

Sec. 31505. New deadline.

#### **Subtitle F—Improved Daytime and Nighttime Visibility of Agricultural Equipment**

Sec. 31601. Rulemaking on visibility of agricultural equipment.

## **TITLE II—COMMERCIAL MOTOR VEHICLE SAFETY ENHANCEMENT ACT OF 2012**

Sec. 32001. Short title.

Sec. 32002. References to title 49, United States Code.

#### **Subtitle A—Commercial Motor Vehicle Registration**

Sec. 32101. Registration of motor carriers.

Sec. 32102. Safety fitness of new operators.

Sec. 32103. Reincarnated carriers.

Sec. 32104. Financial responsibility requirements.

Sec. 32105. USDOT number registration requirement.

Sec. 32106. Registration fee system.

Sec. 32107. Registration update.

Sec. 32108. Increased penalties for operating without registration.

- Sec. 32109. Revocation of registration for imminent hazard.
- Sec. 32110. Revocation of registration and other penalties for failure to respond to subpoena.
- Sec. 32111. Fleetwide out of service order for operating without required registration.
- Sec. 32112. Motor carrier and officer patterns of safety violations.
- Sec. 32113. Federal successor standard.
- Subtitle B—Commercial Motor Vehicle Safety**
- Sec. 32201. Repeal of commercial jurisdiction exception for brokers of motor carriers of passengers.
- Sec. 32202. Bus rentals and definition of employer.
- Sec. 32203. Crashworthiness standards.
- Sec. 32204. Canadian safety rating reciprocity.
- Sec. 32205. State reporting of foreign commercial driver convictions.
- Sec. 32206. Authority to disqualify foreign commercial drivers.
- Sec. 32207. Revocation of foreign motor carrier operating authority for failure to pay civil penalties.
- Subtitle C—Driver Safety**
- Sec. 32301. Electronic on-board recording devices.
- Sec. 32302. Safety fitness.
- Sec. 32303. Driver medical qualifications.
- Sec. 32304. Commercial driver's license notification system.
- Sec. 32305. Commercial motor vehicle operator training.
- Sec. 32306. Commercial driver's license program.
- Sec. 32307. Commercial driver's license requirements.
- Sec. 32308. Commercial motor vehicle driver information systems.
- Sec. 32309. Disqualifications based on non-commercial motor vehicle operations.
- Sec. 32310. Federal driver disqualifications.
- Sec. 32311. Employer responsibilities.
- Subtitle D—Safe Roads Act of 2012**
- Sec. 32401. Short title.
- Sec. 32402. National clearinghouse for controlled substance and alcohol test results of commercial motor vehicle operators.
- Sec. 32403. Drug and alcohol violation sanctions.
- Sec. 32404. Authorization of appropriations.
- Subtitle E—Enforcement**
- Sec. 32501. Inspection demand and display of credentials.
- Sec. 32502. Out of service penalty for denial of access to records.
- Sec. 32503. Penalties for violation of operation out of service orders.
- Sec. 32504. Minimum prohibition on operation for unfit carriers.
- Sec. 32505. Minimum out of service penalties.
- Sec. 32506. Impoundment and immobilization of commercial motor vehicles for imminent hazard.
- Sec. 32507. Increased penalties for evasion of regulations.
- Sec. 32508. Failure to pay civil penalty as a disqualifying offense.
- Sec. 32509. Violations relating to commercial motor vehicle safety regulation and operators.
- Sec. 32510. Emergency disqualification for imminent hazard.
- Sec. 32511. Intrastate operations of interstate motor carriers.
- Sec. 32512. Enforcement of safety laws and regulations.
- Sec. 32513. Disclosure to State and local law enforcement agencies.
- Subtitle F—Compliance, Safety, Accountability**
- Sec. 32601. Compliance, safety, accountability.
- Sec. 32602. Performance and registration information systems management program.
- Sec. 32603. Commercial motor vehicle defined.
- Sec. 32604. Driver safety fitness ratings.
- Sec. 32605. Uniform electronic clearance for commercial motor vehicle inspections.
- Sec. 32606. Authorization of appropriations.
- Sec. 32607. High risk carrier reviews.
- Sec. 32608. Data and technology grants.
- Sec. 32609. Driver safety grants.
- Sec. 32610. Commercial vehicle information systems and networks.
- Subtitle G—Motorcoach Enhanced Safety Act of 2012**
- Sec. 32701. Short title.
- Sec. 32702. Definitions.
- Sec. 32703. Regulations for improved occupant protection, passenger evacuation, and crash avoidance.
- Sec. 32704. Standards for improved fire safety.
- Sec. 32705. Occupant protection, collision avoidance, fire causation, and fire extinguisher research and testing.
- Sec. 32706. Motorcoach registration.
- Sec. 32707. Improved oversight of motorcoach service providers.
- Sec. 32708. Report on feasibility, benefits, and costs of establishing a system of certification of training programs.
- Sec. 32709. Report on driver's license requirements for 9- to 15-passenger vans.
- Sec. 32710. Event data recorders.
- Sec. 32711. Safety inspection program for commercial motor vehicles of passengers.
- Sec. 32712. Distracted driving.
- Sec. 32713. Regulations.
- Subtitle H—Safe Highways and Infrastructure Preservation**
- Sec. 32801. Comprehensive truck size and weight limits study.
- Sec. 32802. Compilation of existing State truck size and weight limit laws.
- Subtitle I—Miscellaneous**
- PART I—MISCELLANEOUS**
- Sec. 32911. Detention time study.
- Sec. 32912. Prohibition of coercion.
- Sec. 32913. Motor carrier safety advisory committee.
- Sec. 32914. Waivers, exemptions, and pilot programs.
- Sec. 32915. Registration requirements.
- Sec. 32916. Additional motor carrier registration requirements.
- Sec. 32917. Registration of freight forwarders and brokers.
- Sec. 32918. Effective periods of registration.
- Sec. 32919. Financial security of brokers and freight forwarders.
- Sec. 32920. Unlawful brokerage activities.
- PART II—HOUSEHOLD GOODS TRANSPORTATION**
- Sec. 32921. Additional registration requirements for household goods motor carriers.
- Sec. 32922. Failure to give up possession of household goods.
- Sec. 32923. Settlement authority.
- Sec. 32924. Household goods transportation assistance program.
- Sec. 32925. Household goods consumer education program.
- PART III—TECHNICAL AMENDMENTS**
- Sec. 32931. Update of obsolete text.
- Sec. 32932. Correction of interstate commerce commission references.
- Sec. 32933. Technical and conforming amendments.
- TITLE III—SURFACE TRANSPORTATION AND FREIGHT POLICY ACT OF 2012**
- Sec. 33001. Short title.
- Sec. 33002. Establishment of a national surface transportation and freight policy.
- Sec. 33003. Surface transportation and freight strategic plan.
- Sec. 33004. Transportation investment data and planning tools.
- Sec. 33005. Port infrastructure development initiative.
- Sec. 33006. Safety for motorized and non-motorized users.
- TITLE IV—HAZARDOUS MATERIALS TRANSPORTATION SAFETY IMPROVEMENT ACT OF 2012**
- Sec. 34001. Short title.
- Sec. 34002. Definition.
- Sec. 34003. References to title 49, United States Code.
- Sec. 34004. Training for emergency responders.
- Sec. 34005. Paperless Hazard Communications Pilot Program.
- Sec. 34006. Improving data collection, analysis, and reporting.
- Sec. 34007. Loading and unloading of hazardous materials.
- Sec. 34008. Hazardous material technical assessment, research and development, and analysis program.
- Sec. 34009. Hazardous Material Enforcement Training Program.
- Sec. 34010. Inspections.
- Sec. 34011. Civil penalties.
- Sec. 34012. Reporting of fees.
- Sec. 34013. Special permits, approvals, and exclusions.
- Sec. 34014. Highway routing disclosures.
- Sec. 34015. Authorization of appropriations.
- TITLE V—RESEARCH AND INNOVATIVE TECHNOLOGY ADMINISTRATION REAUTHORIZATION ACT OF 2012**
- Sec. 35001. Short title.
- Sec. 35002. National Cooperative Freight Research Program.
- Sec. 35003. Bureau of Transportation Statistics.
- Sec. 35004. 5.9 GHz vehicle-to-vehicle and vehicle-to-infrastructure communications systems deployment.
- Sec. 35005. Administrative authority.
- Sec. 35006. Prize authority.
- Sec. 35007. Transportation research and development.
- Sec. 35008. Use of funds for intelligent transportation systems activities.
- Sec. 35009. Authorization of appropriations.
- TITLE VI—NATIONAL RAIL SYSTEM PRESERVATION, EXPANSION, AND DEVELOPMENT ACT OF 2012**
- Sec. 36001. Short title.
- Sec. 36002. References to title 49, United States Code.
- Subtitle A—Federal and State Roles in Rail Planning and Development Tools**
- Sec. 36101. Rail plans.

Sec. 36102. Improved data on delay.  
 Sec. 36103. Data and modeling.  
 Sec. 36104. Shared-use corridor study.  
 Sec. 36105. Cooperative equipment pool.  
 Sec. 36106. Project management oversight and planning.  
 Sec. 36107. Improvements to the Capital Assistance Programs.  
 Sec. 36108. Liability.  
 Sec. 36109. Disadvantaged business enterprises.  
 Sec. 36110. Workforce development.  
 Sec. 36111. Veterans employment.

#### Subtitle B—Amtrak

Sec. 36201. State-supported routes.  
 Sec. 36202. Northeast corridor infrastructure and operations advisory commission.  
 Sec. 36203. Northeast corridor high-speed rail improvement plan.  
 Sec. 36204. Northeast corridor environmental review process.  
 Sec. 36205. Delegation authority.  
 Sec. 36206. Amtrak inspector general.  
 Sec. 36207. Compensation for private-sector use of Federally-funded assets.  
 Sec. 36208. On-time performance.  
 Sec. 36209. Board of directors.

#### Subtitle C—Rail Safety Improvements

Sec. 36301. Positive train control.  
 Sec. 36302. Additional eligibility for Railroad rehabilitation and improvement financing.  
 Sec. 36303. FCC study of spectrum availability.

#### Subtitle D—Freight Rail

Sec. 36401. Rail line relocation.  
 Sec. 36402. Compilation of complaints.  
 Sec. 36403. Maximum relief in certain rate cases.  
 Sec. 36404. Rate review timelines.  
 Sec. 36405. Revenue adequacy study.  
 Sec. 36406. Quarterly reports.  
 Sec. 36407. Workforce review.  
 Sec. 36408. Railroad rehabilitation and improvement financing.

#### Subtitle E—Technical Corrections

Sec. 36501. Technical corrections.  
 Sec. 36502. Condemnation authority.

#### Subtitle F—Licensing and Insurance

Requirements for Passenger Rail Carriers  
 Sec. 36601. Certification of passenger rail carriers.

### TITLE VII—SPORT FISH RESTORATION AND RECREATIONAL BOATING SAFETY ACT OF 2012

Sec. 37001. Short title.  
 Sec. 37002. Amendment of Federal Aid in Sport Fish Restoration Act.  
 Sec. 37003. Amendment of trust fund code.

#### SEC. 31002. DEFINITION.

In this title, the term “Secretary” means the Secretary of Transportation.

#### Subtitle A—Highway Safety

#### SEC. 31101. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) HIGHWAY SAFETY PROGRAMS.—For carrying out section 402 of title 23, United States Code—

- (A) \$243,000,000 for fiscal year 2012; and
- (B) \$243,000,000 for fiscal year 2013.

(2) HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—For carrying out section 403 of title 23, United States Code—

- (A) \$130,000,000 for fiscal year 2012; and
- (B) \$139,000,000 for fiscal year 2013.

(3) COMBINED OCCUPANT PROTECTION GRANTS.—For carrying out section 405 of title 23, United States Code—

- (A) \$44,000,000 for fiscal year 2012; and
- (B) \$44,000,000 for fiscal year 2013.

(4) STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS.—For carrying out section 408 of title 23, United States Code—

- (A) \$44,000,000 for fiscal year 2012; and
- (B) \$44,000,000 for fiscal year 2013.

(5) IMPAIRED DRIVING COUNTERMEASURES.—For carrying out section 410 of title 23, United States Code—

- (A) \$139,000,000 for fiscal year 2012; and
- (B) \$139,000,000 for fiscal year 2013.

(6) DISTRACTED DRIVING GRANTS.—For carrying out section 411 of title 23, United States Code—

- (A) \$39,000,000 for fiscal year 2012; and
- (B) \$39,000,000 for fiscal year 2013.

(7) NATIONAL DRIVER REGISTER.—For the National Highway Traffic Safety Administration to carry out chapter 303 of title 49, United States Code—

- (A) \$5,000,000 for fiscal year 2012; and
- (B) \$5,000,000 for fiscal year 2013.

(8) HIGH VISIBILITY ENFORCEMENT PROGRAM.—For carrying out section 2009 of SAFETEA-LU (23 U.S.C. 402 note)—

- (A) \$37,000,000 for fiscal year 2012; and
- (B) \$37,000,000 for fiscal year 2013.

(9) MOTORCYCLIST SAFETY.—For carrying out section 2010 of SAFETEA-LU (23 U.S.C. 402 note)—

- (A) \$6,000,000 for fiscal year 2012; and
- (B) \$6,000,000 for fiscal year 2013.

(10) ADMINISTRATIVE EXPENSES.—For administrative and related operating expenses of the National Highway Traffic Safety Administration in carrying out chapter 4 of title 23, United States Code, and this subtitle—

- (A) \$25,581,280 for fiscal year 2012; and
- (B) \$25,862,674 for fiscal year 2013.

(11) DRIVER ALCOHOL DETECTION SYSTEM FOR SAFETY RESEARCH.—For carrying out section 413 of title 23, United States Code—

- (A) \$12,000,000 for fiscal year 2012; and
- (B) \$12,000,000 for fiscal year 2013.

(12) STATE GRADUATED DRIVER LICENSING LAWS.—For carrying out section 414 of title 23, United States Code—

- (A) \$22,000,000 for fiscal year 2012; and
- (B) \$22,000,000 for fiscal year 2013.

(b) PROHIBITION ON OTHER USES.—Except as otherwise provided in chapter 4 of title 23, United States Code, in this subtitle, and in the amendments made by this subtitle, the amounts made available from the Highway Trust Fund (other than the Mass Transit Account) for a program under such chapter—

(1) shall only be used to carry out such program; and

(2) may not be used by a States or local governments for construction purposes.

(c) APPLICABILITY OF SUBTITLE 23.—Except as otherwise provided in chapter 4 of title 23, United States Code, and in this subtitle, amounts made available under subsection (a) for fiscal years 2012 and 2013 shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

(d) REGULATORY AUTHORITY.—Grants awarded under this subtitle shall be in accordance with regulations issued by the Secretary.

(e) STATE MATCHING REQUIREMENTS.—If a grant awarded under this subtitle requires a State to share in the cost, the aggregate of all expenditures for highway safety activities made during any fiscal year by the State and its political subdivisions (exclusive of Federal funds) for carrying out the grant (other than planning and administration) shall be available for the purpose of crediting the State during such fiscal year for

the non-Federal share of the cost of any project under this subtitle (other than planning or administration) without regard to whether such expenditures were actually made in connection with such project.

(f) MAINTENANCE OF EFFORT.—

(1) REQUIREMENT.—No grant may be made to a State under section 405, 408, or 410 of title 23, United States Code, in any fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State will maintain its aggregate expenditures from all State and local sources for programs described in such sections at or above the average level of such expenditures in its 2 fiscal years preceding the date of enactment of this Act.

(2) WAIVER.—Upon the request of a State, the Secretary may waive or modify the requirements under paragraph (1) for not more than 1 fiscal year if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances.

(g) TRANSFERS.—In each fiscal year, the Secretary may transfer any amounts remaining available under paragraphs (3), (4), (5), (6), (9), (11), and (12) of subsection (a) to the amounts made available under paragraph (1) or any other of such paragraphs in order to ensure, to the maximum extent possible, that all funds are obligated.

(h) GRANT APPLICATION AND DEADLINE.—To receive a grant under this subtitle, a State shall submit an application, and the Secretary shall establish a single deadline for such applications to enable the award of grants early in the next fiscal year.

(i) ALLOCATION TO SUPPORT STATE DISTRACTED DRIVING LAWS.—Of the amounts available under subsection (a)(6) for distracted driving grants, the Secretary may expend, in each fiscal year, up to \$5,000,000 for the development and placement of broadcast media to support the enforcement of State distracted driving laws.

#### SEC. 31102. HIGHWAY SAFETY PROGRAMS.

(a) PROGRAMS INCLUDED.—Section 402(a) of title 23, United States Code, is amended to read as follows:

“(a) PROGRAM REQUIRED.—

“(1) IN GENERAL.—Each State shall have a highway safety program, approved by the Secretary, that is designed to reduce traffic accidents and the resulting deaths, injuries, and property damage.

“(2) UNIFORM GUIDELINES.—Programs required under paragraph (1) shall comply with uniform guidelines, promulgated by the Secretary and expressed in terms of performance criteria, that—

“(A) include programs—

“(i) to reduce injuries and deaths resulting from motor vehicles being driven in excess of posted speed limits;

“(ii) to encourage the proper use of occupant protection devices (including the use of safety belts and child restraint systems) by occupants of motor vehicles;

“(iii) to reduce injuries and deaths resulting from persons driving motor vehicles while impaired by alcohol or a controlled substance;

“(iv) to prevent accidents and reduce injuries and deaths resulting from accidents involving motor vehicles and motorcycles;

“(v) to reduce injuries and deaths resulting from accidents involving school buses;

“(vi) to reduce accidents resulting from unsafe driving behavior (including aggressive or fatigued driving and distracted driving arising from the use of electronic devices in vehicles); and

“(vii) to improve law enforcement services in motor vehicle accident prevention, traffic supervision, and post-accident procedures;

“(B) improve driver performance, including—

“(i) driver education;

“(ii) driver testing to determine proficiency to operate motor vehicles; and

“(iii) driver examinations (physical, mental, and driver licensing);

“(C) improve pedestrian performance and bicycle safety;

“(D) include provisions for—

“(i) an effective record system of accidents (including resulting injuries and deaths);

“(ii) accident investigations to determine the probable causes of accidents, injuries, and deaths;

“(iii) vehicle registration, operation, and inspection; and

“(iv) emergency services; and

“(E) to the extent determined appropriate by the Secretary, are applicable to federally administered areas where a Federal department or agency controls the highways or supervises traffic operations.”.

(b) ADMINISTRATION OF STATE PROGRAMS.—Section 402(b)(1) of title 23, United States Code, is amended—

(1) in subparagraph (D), by striking “and” at the end;

(2) by redesignating subparagraph (E) as subparagraph (F);

(3) by inserting after subparagraph (D) the following:

“(E) beginning on October 1, 2012, provide for a robust, data-driven traffic safety enforcement program to prevent traffic violations, crashes, and crash fatalities and injuries in areas most at risk for such incidents, to the satisfaction of the Secretary;” and

(4) in subparagraph (F), as redesignated—

(A) in clause (i), by inserting “and high-visibility law enforcement mobilizations coordinated by the Secretary” after “mobilizations”;

(B) in clause (iii), by striking “and” at the end;

(C) in clause (iv), by striking the period at the end and inserting “; and”; and

(D) by adding at the end the following:

“(v) ensuring that the State will coordinate its highway safety plan, data collection, and information systems with the State strategic highway safety plan (as defined in section 148(a)).”.

(c) APPROVED HIGHWAY SAFETY PROGRAMS.—Section 402(c) of title 23, United States Code, is amended—

(1) by striking “(c) Funds authorized” and inserting the following:

“(c) USE OF FUNDS.—

“(1) IN GENERAL.—Funds authorized”;

(2) by striking “Such funds” and inserting the following:

“(2) APPORTIONMENT.—Except for amounts identified in subsection (1) and section 403(e), funds described in paragraph (1)”;

(3) by striking “The Secretary shall not” and all that follows through “subsection, a highway safety program” and inserting “A highway safety program”;

(4) by inserting “A State may use the funds apportioned under this section, in cooperation with neighboring States, for highway safety programs or related projects that may confer benefits on such neighboring States.” after “in every State.”;

(5) by striking “50 per centum” and inserting “20 percent”; and

(6) by striking “The Secretary shall promptly” and all that follows and inserting the following:

“(3) REAPPORTIONMENT.—The Secretary shall promptly apportion the funds withheld

from a State’s apportionment to the State if the Secretary approves the State’s highway safety program or determines that the State has begun implementing an approved program, as appropriate, not later than July 31st of the fiscal year for which the funds were withheld. If the Secretary determines that the State did not correct its failure within such period, the Secretary shall re-apportion the withheld funds to the other States in accordance with the formula specified in paragraph (2) not later than the last day of the fiscal year.”.

(d) USE OF HIGHWAY SAFETY PROGRAM FUNDS.—Section 402(g) of title 23, United States Code, is amended to read as follows:

“(g) SAVINGS PROVISION.—

“(1) IN GENERAL.—Except as provided under paragraph (2), nothing in this section may be construed to authorize the appropriation or expenditure of funds for—

“(A) highway construction, maintenance, or design (other than design of safety features of highways to be incorporated into guidelines); or

“(B) any purpose for which funds are authorized by section 403.

“(2) DEMONSTRATION PROJECTS.—A State may use funds made available to carry out this section to assist in demonstration projects carried out by the Secretary under section 403.”.

(e) IN GENERAL.—Section 402 of title 23, United States Code, is amended—

(1) by striking subsections (k) and (m);

(2) by redesignating subsections (i) and (j) as subsections (h) and (i), respectively; and

(3) by redesignating subsection (l) as subsection (j).

(f) HIGHWAY SAFETY PLAN AND REPORTING REQUIREMENTS.—Section 402 of title 23, United States Code, as amended by this section, is further amended by adding at the end the following:

“(k) HIGHWAY SAFETY PLAN AND REPORTING REQUIREMENTS.—

“(1) IN GENERAL.—The Secretary shall require each State to develop and submit to the Secretary a highway safety plan that complies with the requirements under this subsection not later than July 1, 2012, and annually thereafter.

“(2) CONTENTS.—State highway safety plans submitted under paragraph (1) shall include—

“(A) performance measures required by the Secretary or otherwise necessary to support additional State safety goals, including—

“(i) documentation of current safety levels for each performance measure;

“(ii) quantifiable annual performance targets for each performance measure; and

“(iii) a justification for each performance target;

“(B) a strategy for programming funds apportioned to the State under this section on projects and activities that will allow the State to meet the performance targets described in subparagraph (A);

“(C) data and data analysis supporting the effectiveness of proposed countermeasures;

“(D) a description of any Federal, State, local, or private funds that the State plans to use, in addition to funds apportioned to the State under this section, to carry out the strategy described in subparagraph (B);

“(E) beginning with the plan submitted by July 1, 2013, a report on the State’s success in meeting State safety goals set forth in the previous year’s highway safety plan; and

“(F) an application for any additional grants available to the State under this chapter.

“(3) PERFORMANCE MEASURES.—For the first highway safety plan submitted under

this subsection, the performance measures required by the Secretary under paragraph (2)(A) shall be limited to those developed by the National Highway Traffic Safety Administration and the Governor’s Highway Safety Association and described in the report, ‘Traffic Safety Performance Measures for States and Federal Agencies’ (DOT HS 811 025). For subsequent highway safety plans, the Secretary shall consult with the Governor’s Highway Safety Association and safety experts if the Secretary makes revisions to the set of required performance measures.

“(4) REVIEW OF HIGHWAY SAFETY PLANS.—

“(A) IN GENERAL.—Not later than 60 days after the date on which a State’s highway safety plan is received by the Secretary, the Secretary shall review and approve or disapprove the plan.

“(B) APPROVALS AND DISAPPROVALS.—

“(i) APPROVALS.—The Secretary shall approve a State’s highway safety plan if the Secretary determines that—

“(I) the plan is evidence-based and supported by data;

“(II) the performance targets are adequate; and

“(III) the plan, once implemented, will allow the State to meet such targets.

“(ii) DISAPPROVALS.—The Secretary shall disapprove a State’s highway safety plan if the Secretary determines that the plan does not—

“(I) set appropriate performance targets; or

“(II) provide for evidence-based programming of funding in a manner sufficient to allow the State to meet such targets.

“(C) ACTIONS UPON DISAPPROVAL.—If the Secretary disapproves a State’s highway safety plan, the Secretary shall—

“(i) inform the State of the reasons for such disapproval; and

“(ii) require the State to resubmit the plan with any modifications that the Secretary determines to be necessary.

“(D) REVIEW OF RESUBMITTED PLANS.—If the Secretary requires a State to resubmit a highway safety plan, with modifications, the Secretary shall review and approve or disapprove the modified plan not later than 30 days after the date on which the Secretary receives such plan.

“(E) REPROGRAMMING AUTHORITY.—If the Secretary determines that the modifications contained in a State’s resubmitted highway safety plan do not provide for the programming of funding in a manner sufficient to meet the State’s performance goals, the Secretary, in consultation with the State, shall take such action as may be necessary to bring the State’s plan into compliance with the performance targets.

“(F) PUBLIC NOTICE.—A State shall make the State’s highway safety plan, and decisions of the Secretary concerning approval or disapproval of a revised plan, available to the public.”.

(g) COOPERATIVE RESEARCH AND EVALUATION.—Section 402 of title 23, United States Code, as amended by this section, is further amended by adding at the end the following:

“(1) COOPERATIVE RESEARCH AND EVALUATION.—

“(1) ESTABLISHMENT AND FUNDING.—Notwithstanding the apportionment formula set forth in subsection (c)(2), \$2,500,000 of the total amount available for apportionment to the States for highway safety programs under subsection (c) in each fiscal year shall be available for expenditure by the Secretary, acting through the Administrator of the National Highway Traffic Safety Administration, for a cooperative research and

evaluation program to research and evaluate priority highway safety countermeasures.

“(2) ADMINISTRATION.—The program established under paragraph (1)—

“(A) shall be administered by the Administrator of the National Highway Traffic Safety Administration; and

“(B) shall be jointly managed by the Governors Highway Safety Association and the National Highway Traffic Safety Administration.”.

(h) TEEN TRAFFIC SAFETY PROGRAM.—Section 402 of title 23, United States Code, as amended by this section, is further amended by adding at the end the following:

“(m) TEEN TRAFFIC SAFETY PROGRAM.—

“(1) PROGRAM AUTHORIZED.—Subject to the requirements of a State’s highway safety plan, as approved by the Secretary under subsection (k), a State may use a portion of the amounts received under this section to implement a statewide teen traffic safety program to improve traffic safety for teen drivers.

“(2) STRATEGIES.—The program implemented under paragraph (1)—

“(A) shall include peer-to-peer education and prevention strategies in schools and communities designed to—

“(i) increase safety belt use;

“(ii) reduce speeding;

“(iii) reduce impaired and distracted driving;

“(iv) reduce underage drinking; and

“(v) reduce other behaviors by teen drivers that lead to injuries and fatalities; and

“(B) may include—

“(i) working with student-led groups and school advisors to plan and implement teen traffic safety programs;

“(ii) providing subgrants to schools throughout the State to support the establishment and expansion of student groups focused on teen traffic safety;

“(iii) providing support, training, and technical assistance to establish and expand school and community safety programs for teen drivers;

“(iv) creating statewide or regional websites to publicize and circulate information on teen safety programs;

“(v) conducting outreach and providing educational resources for parents;

“(vi) establishing State or regional advisory councils comprised of teen drivers to provide input and recommendations to the governor and the governor’s safety representative on issues related to the safety of teen drivers;

“(vii) collaborating with law enforcement;

“(viii) organizing and hosting State and regional conferences for teen drivers;

“(ix) establishing partnerships and promoting coordination among community stakeholders, including public, not-for-profit, and for profit entities; and

“(x) funding a coordinator position for the teen safety program in the State or region.”.

#### SEC. 31103. HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.

Section 403 of title 23, United States Code, is amended to read as follows:

#### “§ 403. Highway safety research and development

“(a) DEFINED TERM.—In this section, the term ‘Federal laboratory’ includes—

“(1) a government-owned, government-operated laboratory; and

“(2) a government-owned, contractor-operated laboratory.

“(b) GENERAL AUTHORITY.—

“(1) RESEARCH AND DEVELOPMENT ACTIVITIES.—The Secretary may conduct research and development activities, including dem-

onstration projects and the collection and analysis of highway and motor vehicle safety data and related information needed to carry out this section, with respect to—

“(A) all aspects of highway and traffic safety systems and conditions relating to—

“(i) vehicle, highway, driver, passenger, motorcyclist, bicyclist, and pedestrian characteristics;

“(ii) accident causation and investigations;

“(iii) communications;

“(iv) emergency medical services; and

“(v) transportation of the injured;

“(B) human behavioral factors and their effect on highway and traffic safety, including—

“(i) driver education;

“(ii) impaired driving;

“(iii) distracted driving; and

“(iv) new technologies installed in, or brought into, vehicles;

“(C) an evaluation of the effectiveness of countermeasures to increase highway and traffic safety, including occupant protection and alcohol- and drug-impaired driving technologies and initiatives; and

“(D) the effect of State laws on any aspects, activities, or programs described in subparagraphs (A) through (C).

“(2) COOPERATION, GRANTS, AND CONTRACTS.—The Secretary may carry out this section—

“(A) independently;

“(B) in cooperation with other Federal departments, agencies, and instrumentalities and Federal laboratories;

“(C) by entering into contracts, cooperative agreements, and other transactions with the National Academy of Sciences, any Federal laboratory, State or local agency, authority, association, institution, foreign country, or person (as defined in chapter 1 of title 1); or

“(D) by making grants to the National Academy of Sciences, any Federal laboratory, State or local agency, authority, association, institution, or person (as defined in chapter 1 of title 1).

“(c) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

“(1) IN GENERAL.—To encourage innovative solutions to highway safety problems, stimulate voluntary improvements in highway safety, and stimulate the marketing of new highway safety related technology by private industry, the Secretary is authorized to carry out, on a cost-shared basis, collaborative research and development with—

“(A) non-Federal entities, including State and local governments, foreign countries, colleges, universities, corporations, partnerships, sole proprietorships, organizations serving the interests of children, people with disabilities, low-income populations, and older adults, and trade associations that are incorporated or established under the laws of any State or the United States; and

“(B) Federal laboratories.

“(2) AGREEMENTS.—In carrying out this subsection, the Secretary may enter into cooperative research and development agreements (as defined in section 12 of the Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3710a)) in which the Secretary provides not more than 50 percent of the cost of any research or development project under this subsection.

“(3) USE OF TECHNOLOGY.—The research, development, or use of any technology pursuant to an agreement under this subsection, including the terms under which technology may be licensed and the resulting royalties may be distributed, shall be subject to the provisions of the Stevenson-Wylder Tech-

nology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

“(d) TITLE TO EQUIPMENT.—In furtherance of the purposes set forth in section 402, the Secretary may vest title to equipment purchased for demonstration projects with funds authorized under this section to State or local agencies on such terms and conditions as the Secretary determines to be appropriate.

“(e) TRAINING.—Notwithstanding the apportionment formula set forth in section 402(c)(2), 1 percent of the total amount available for apportionment to the States for highway safety programs under section 402(c) in each fiscal year shall be available, through the end of the succeeding fiscal year, to the Secretary, acting through the Administrator of the National Highway Traffic Safety Administration—

“(1) to provide training, conducted or developed by Federal or non-Federal entity or personnel, to Federal, State, and local highway safety personnel; and

“(2) to pay for any travel, administrative, and other expenses related to such training.

“(f) DRIVER LICENSING AND FITNESS TO DRIVE CLEARINGHOUSE.—From amounts made available under this section, the Secretary, acting through the Administrator of the National Highway Traffic Safety Administration, is authorized to expend \$1,280,000 between the date of enactment of the Motor Vehicle and Highway Safety Improvement Act of 2012 and September 30, 2013, to establish an electronic clearinghouse and technical assistance service to collect and disseminate research and analysis of medical and technical information and best practices concerning drivers with medical issues that may be used by State driver licensing agencies in making licensing qualification decisions.

“(g) INTERNATIONAL HIGHWAY SAFETY INFORMATION AND COOPERATION.—

“(1) ESTABLISHMENT.—The Secretary, acting through the Administrator of the National Highway Traffic Safety Administration, may establish an international highway safety information and cooperation program to—

“(A) inform the United States highway safety community of laws, projects, programs, data, and technology in foreign countries that could be used to enhance highway safety in the United States;

“(B) permit the exchange of information with foreign countries about laws, projects, programs, data, and technology that could be used to enhance highway safety; and

“(C) allow the Secretary, represented by the Administrator, to participate and cooperate in international activities to enhance highway safety.

“(2) COOPERATION.—The Secretary may carry out this subsection in cooperation with any appropriate Federal agency, State or local agency or authority, foreign government, or multinational institution.

“(h) PROHIBITION ON CERTAIN DISCLOSURES.—Any report of the National Highway Traffic Safety Administration, or of any officer, employee, or contractor of the National Highway Traffic Safety Administration, relating to any highway traffic accident or the investigation of such accident conducted pursuant to this chapter or chapter 301 shall be made available to the public in a manner that does not identify individuals.

“(i) MODEL SPECIFICATIONS FOR DEVICES.—The Secretary, acting through the Administrator of the National Highway Traffic Safety Administration, may—

“(1) develop model specifications and testing procedures for devices, including devices

designed to measure the concentration of alcohol in the body;

“(2) conduct periodic tests of such devices;

“(3) publish a Conforming Products List of such devices that have met the model specifications; and

“(4) may require that any necessary tests of such devices are conducted by a Federal laboratory and paid for by the device manufacturers.”.

#### SEC. 31104. NATIONAL DRIVER REGISTER.

Section 30302(b) of title 49, United States Code, is amended by adding at the end the following: “The Secretary shall make continual improvements to modernize the Register’s data processing system.”.

#### SEC. 31105. COMBINED OCCUPANT PROTECTION GRANTS.

(a) IN GENERAL.—Section 405 of title 23, United States Code, is amended to read as follows:

##### “§ 405. Combined occupant protection grants

“(a) GENERAL AUTHORITY.—Subject to the requirements of this section, the Secretary of Transportation shall award grants to States that adopt and implement effective occupant protection programs to reduce highway deaths and injuries resulting from individuals riding unrestrained or improperly restrained in motor vehicles.

“(b) FEDERAL SHARE.—The Federal share of the costs of activities funded using amounts from grants awarded under this section may not exceed 80 percent for each fiscal year for which a State receives a grant.

“(c) ELIGIBILITY.—

“(1) HIGH SEAT BELT USE RATE.—A State with an observed seat belt use rate of 90 percent or higher, based on the most recent data from a survey that conforms with national criteria established by the National Highway Traffic Safety Administration, shall be eligible for a grant in a fiscal year if the State—

“(A) submits an occupant protection plan during the first fiscal year;

“(B) participates in the Click It or Ticket national mobilization;

“(C) has an active network of child restraint inspection stations; and

“(D) has a plan to recruit, train, and maintain a sufficient number of child passenger safety technicians.

“(2) LOWER SEAT BELT USE RATE.—A State with an observed seat belt use rate below 90 percent, based on the most recent data from a survey that conforms with national criteria established by the National Highway Traffic Safety Administration, shall be eligible for a grant in a fiscal year if—

“(A) the State meets all of the requirements under subparagraphs (A) through (D) of paragraph (1); and

“(B) the Secretary determines that the State meets at least 3 of the following criteria:

“(i) The State conducts sustained (ongoing and periodic) seat belt enforcement at a defined level of participation during the year.

“(ii) The State has enacted and enforces a primary enforcement seat belt use law.

“(iii) The State has implemented countermeasure programs for high-risk populations, such as drivers on rural roadways, unrestrained nighttime drivers, or teenage drivers.

“(iv) The State has enacted and enforces occupant protection laws requiring front and rear occupant protection use by all occupants in an age-appropriate restraint.

“(v) The State has implemented a comprehensive occupant protection program in which the State has—

“(I) conducted a program assessment;

“(II) developed a statewide strategic plan;

“(III) designated an occupant protection coordinator; and

“(IV) established a statewide occupant protection task force.

“(vi) The State—

“(I) completed an assessment of its occupant protection program during the 3-year period preceding the grant year; or

“(II) will conduct such an assessment during the first year of the grant.

“(d) USE OF GRANT AMOUNTS.—Grant funds received pursuant to this section may be used to—

“(1) carry out a program to support high-visibility enforcement mobilizations, including paid media that emphasizes publicity for the program, and law enforcement;

“(2) carry out a program to train occupant protection safety professionals, police officers, fire and emergency medical personnel, educators, and parents concerning all aspects of the use of child restraints and occupant protection;

“(3) carry out a program to educate the public concerning the proper use and installation of child restraints, including related equipment and information systems;

“(4) carry out a program to provide community child passenger safety services, including programs about proper seating positions for children and how to reduce the improper use of child restraints;

“(5) purchase and distribute child restraints to low-income families if not more than 5 percent of the funds received in a fiscal year are used for this purpose;

“(6) establish and maintain information systems containing data concerning occupant protection, including the collection and administration of child passenger safety and occupant protection surveys; and

“(7) carry out a program to educate the public concerning the dangers of leaving children unattended in vehicles.

“(e) GRANT AMOUNT.—The allocation of grant funds under this section to a State for a fiscal year shall be in proportion to the State’s apportionment under section 402 for fiscal year 2009.

“(f) REPORT.—A State that receives a grant under this section shall submit a report to the Secretary that documents the manner in which the grant amounts were obligated and expended and identifies the specific programs carried out with the grant funds. The report shall be in a form prescribed by the Secretary and may be combined with other State grant reporting requirements under chapter 4 of title 23, United States Code.

“(g) DEFINITIONS.—In this section:

“(1) CHILD RESTRAINT.—The term ‘child restraint’ means any device (including child safety seat, booster seat, harness, and excepting seat belts) designed for use in a motor vehicle to restrain, seat, or position children who weigh 65 pounds (30 kilograms) or less, and certified to the Federal motor vehicle safety standard prescribed by the National Highway Traffic Safety Administration for child restraints.

“(2) SEAT BELT.—The term ‘seat belt’ means—

“(A) with respect to open-body motor vehicles, including convertibles, an occupant restraint system consisting of a lap belt or a lap belt and a detachable shoulder belt; and

“(B) with respect to other motor vehicles, an occupant restraint system consisting of integrated lap and shoulder belts.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 4 of title 23, United States Code, is amended by striking the item relating to section 405 and inserting the following:

“405. Combined occupant protection grants.”.

#### SEC. 31106. STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS.

Section 408 of title 23, United States Code, is amended to read as follows:

##### “§ 408. State traffic safety information system improvements

“(a) GENERAL AUTHORITY.—Subject to the requirements of this section, the Secretary of Transportation shall award grants to States to support the development and implementation of effective State programs that—

“(1) improve the timeliness, accuracy, completeness, uniformity, integration, and accessibility of the State safety data that is needed to identify priorities for Federal, State, and local highway and traffic safety programs;

“(2) evaluate the effectiveness of efforts to make such improvements;

“(3) link the State data systems, including traffic records, with other data systems within the State, such as systems that contain medical, roadway, and economic data;

“(4) improve the compatibility and interoperability of the data systems of the State with national data systems and data systems of other States; and

“(5) enhance the ability of the Secretary to observe and analyze national trends in crash occurrences, rates, outcomes, and circumstances.

“(b) FEDERAL SHARE.—The Federal share of the cost of adopting and implementing in a fiscal year a State program described in this section may not exceed 80 percent.

“(c) ELIGIBILITY.—A State is not eligible for a grant under this section in a fiscal year unless the State demonstrates, to the satisfaction of the Secretary, that the State—

“(1) has a functioning traffic records coordinating committee (referred to in this subsection as ‘TRCC’) that meets at least 3 times a year;

“(2) has designated a TRCC coordinator;

“(3) has established a State traffic record strategic plan that has been approved by the TRCC and describes specific quantifiable and measurable improvements anticipated in the State’s core safety databases, including crash, citation or adjudication, driver, emergency medical services or injury surveillance system, roadway, and vehicle databases;

“(4) has demonstrated quantitative progress in relation to the significant data program attribute of—

“(A) accuracy;

“(B) completeness;

“(C) timeliness;

“(D) uniformity;

“(E) accessibility; or

“(F) integration of a core highway safety database; and

“(5) has certified to the Secretary that an assessment of the State’s highway safety data and traffic records system was conducted or updated during the preceding 5 years.

“(d) USE OF GRANT AMOUNTS.—Grant funds received by a State under this section shall be used for making data program improvements to core highway safety databases related to quantifiable, measurable progress in any of the 6 significant data program attributes set forth in subsection (c)(4).

“(e) GRANT AMOUNT.—The allocation of grant funds under this section to a State for a fiscal year shall be in proportion to the State’s apportionment under section 402 for fiscal year 2009.”.

**SEC. 31107. IMPAIRED DRIVING COUNTERMEASURES.**

(a) IN GENERAL.—Section 410 of title 23, United States Code, is amended to read as follows:

**“§ 410. Impaired driving countermeasures**

“(a) GRANTS AUTHORIZED.—Subject to the requirements of this section, the Secretary of Transportation shall award grants to States that adopt and implement—

“(1) effective programs to reduce driving under the influence of alcohol, drugs, or the combination of alcohol and drugs; or

“(2) alcohol-ignition interlock laws.

“(b) FEDERAL SHARE.—The Federal share of the costs of activities funded using amounts from grants under this section may not exceed 80 percent in any fiscal year in which the State receives a grant.

“(c) ELIGIBILITY.—

“(1) LOW-RANGE STATES.—Low-range States shall be eligible for a grant under this section.

“(2) MID-RANGE STATES.—A mid-range State shall be eligible for a grant under this section if—

“(A) a statewide impaired driving task force in the State developed a statewide plan during the most recent 3 calendar years to address the problem of impaired driving; or

“(B) the State will convene a statewide impaired driving task force to develop such a plan during the first year of the grant.

“(3) HIGH-RANGE STATES.—A high-range State shall be eligible for a grant under this section if the State—

“(A)(i) conducted an assessment of the State's impaired driving program during the most recent 3 calendar years; or

“(ii) will conduct such an assessment during the first year of the grant;

“(B) convenes, during the first year of the grant, a statewide impaired driving task force to develop a statewide plan that—

“(i) addresses any recommendations from the assessment conducted under subparagraph (A);

“(ii) includes a detailed plan for spending any grant funds provided under this section; and

“(iii) describes how such spending supports the statewide program;

“(C)(i) submits the statewide plan to the National Highway Traffic Safety Administration during the first year of the grant for the agency's review and approval;

“(ii) annually updates the statewide plan in each subsequent year of the grant; and

“(iii) submits each updated statewide plan for the agency's review and comment; and

“(D) appoints a full or part-time impaired driving coordinator—

“(i) to coordinate the State's activities to address enforcement and adjudication of laws to address driving while impaired by alcohol; and

“(ii) to oversee the implementation of the statewide plan.

“(d) USE OF GRANT AMOUNTS.—

“(1) REQUIRED PROGRAMS.—High-range States shall use grant funds for—

“(A) high visibility enforcement efforts; and

“(B) any of the activities described in paragraph (2) if—

“(i) the activity is described in the statewide plan; and

“(ii) the Secretary approves the use of funding for such activity.

“(2) AUTHORIZED PROGRAMS.—Medium-range and low-range States may use grant funds for—

“(A) any of the purposes described in paragraph (1);

“(B) paid and earned media in support of high visibility enforcement efforts;

“(C) hiring a full-time or part-time impaired driving coordinator of the State's activities to address the enforcement and adjudication of laws regarding driving while impaired by alcohol;

“(D) court support of high visibility enforcement efforts;

“(E) alcohol ignition interlock programs;

“(F) improving blood-alcohol concentration testing and reporting;

“(G) establishing driving while intoxicated courts;

“(H) conducting—

“(i) standardized field sobriety training;

“(ii) advanced roadside impaired driving evaluation training; and

“(iii) drug recognition expert training for law enforcement;

“(I) training and education of criminal justice professionals (including law enforcement, prosecutors, judges and probation officers) to assist such professionals in handling impaired driving cases;

“(J) traffic safety resource prosecutors;

“(K) judicial outreach liaisons;

“(L) equipment and related expenditures used in connection with impaired driving enforcement in accordance with criteria established by the National Highway Traffic Safety Administration;

“(M) training on the use of alcohol screening and brief intervention;

“(N) developing impaired driving information systems; and

“(O) costs associated with a ‘24-7 sobriety program’.

“(3) OTHER PROGRAMS.—Low-range States may use grant funds for any expenditure designed to reduce impaired driving based on problem identification. Medium and high-range States may use funds for such expenditures upon approval by the Secretary.

“(e) GRANT AMOUNT.—Subject to subsection (f), the allocation of grant funds to a State under this section for a fiscal year shall be in proportion to the State's apportionment under section 402(c) for fiscal year 2009.

“(f) GRANTS TO STATES THAT ADOPT AND ENFORCE MANDATORY ALCOHOL-IGNITION INTERLOCK LAWS.—

“(1) IN GENERAL.—The Secretary shall make a separate grant under this section to each State that adopts and is enforcing a mandatory alcohol-ignition interlock law for all individuals convicted of driving under the influence of alcohol or of driving while intoxicated.

“(2) USE OF FUNDS.—Such grants may be used by recipient States only for costs associated with the State's alcohol-ignition interlock program, including screening, assessment, and program and offender oversight.

“(3) ALLOCATION.—Funds made available under this subsection shall be allocated among States described in paragraph (1) on the basis of the apportionment formula under section 402(c).

“(4) FUNDING.—Not more than 15 percent of the amounts made available to carry out this section in a fiscal year shall be made available by the Secretary for making grants under this subsection.

“(g) DEFINITIONS.—In this section:

“(1) 24-7 SOBRIETY PROGRAM.—The term ‘24-7 sobriety program’ means a State law or program that authorizes a State court or a State agency, as a condition of sentence, probation, parole, or work permit, to—

“(A) require an individual who plead guilty or was convicted of driving under the influ-

ence of alcohol or drugs to totally abstain from alcohol or drugs for a period of time; and

“(B) require the individual to be subject to testing for alcohol or drugs—

“(i) at least twice a day;

“(ii) by continuous transdermal alcohol monitoring via an electronic monitoring device; or

“(iii) by an alternate method with the concurrence of the Secretary.

“(2) AVERAGE IMPAIRED DRIVING FATALITY RATE.—The term ‘average impaired driving fatality rate’ means the number of fatalities in motor vehicle crashes involving a driver with a blood alcohol concentration of at least 0.08 for every 100,000,000 vehicle miles traveled, based on the most recently reported 3 calendar years of final data from the Fatality Analysis Reporting System, as calculated in accordance with regulations prescribed by the Administrator of the National Highway Traffic Safety Administration.

“(3) HIGH-RANGE STATE.—The term ‘high-range State’ means a State that has an average impaired driving fatality rate of 0.60 or higher.

“(4) LOW-RANGE STATE.—The term ‘low-range State’ means a State that has an average impaired driving fatality rate of 0.30 or lower.

“(5) MID-RANGE STATE.—The term ‘mid-range State’ means a State that has an average impaired driving fatality rate that is higher than 0.30 and lower than 0.60.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 4 of title 23, United States Code, is amended by striking the item relating to section 410 and inserting the following:

“410. Impaired driving countermeasures.”.

**SEC. 31108. DISTRACTED DRIVING GRANTS.**

(a) IN GENERAL.—Section 411 of title 23, United States Code, is amended to read as follows:

**“§ 411. Distracted driving grants**

“(a) IN GENERAL.—The Secretary shall award a grant under this section to any State that enacts and enforces a statute that meets the requirements set forth in subsections (b) and (c).

“(b) PROHIBITION ON TEXTING WHILE DRIVING.—A State statute meets the requirements set forth in this subsection if the statute—

“(1) prohibits drivers from texting through a personal wireless communications device while driving;

“(2) makes violation of the statute a primary offense;

“(3) establishes—

“(A) a minimum fine for a first violation of the statute; and

“(B) increased fines for repeat violations; and

“(4) provides increased civil and criminal penalties than would otherwise apply if a vehicle accident is caused by a driver who is using such a device in violation of the statute.

“(c) PROHIBITION ON YOUTH CELL PHONE USE WHILE DRIVING.—A State statute meets the requirements set forth in this subsection if the statute—

“(1) prohibits a driver who is younger than 18 years of age from using a personal wireless communications device while driving;

“(2) makes violation of the statute a primary offense;

“(3) requires distracted driving issues to be tested as part of the State driver's license examination;

“(4) establishes—

“(A) a minimum fine for a first violation of the statute; and



“(B) increased fines for repeat violations; and

“(5) provides increased civil and criminal penalties than would otherwise apply if a vehicle accident is caused by a driver who is using such a device in violation of the statute.

“(d) PERMITTED EXCEPTIONS.—A statute that meets the requirements set forth in subsections (b) and (c) may provide exceptions for—

“(1) a driver who uses a personal wireless communications device to contact emergency services;

“(2) emergency services personnel who use a personal wireless communications device while—

“(A) operating an emergency services vehicle; and

“(B) engaged in the performance of their duties as emergency services personnel; and

“(3) an individual employed as a commercial motor vehicle driver or a school bus driver who uses a personal wireless communications device within the scope of such individual’s employment if such use is permitted under the regulations promulgated pursuant to section 31152 of title 49.

“(e) USE OF GRANT FUNDS.—Of the grant funds received by a State under this section—

“(1) at least 50 percent shall be used—

“(A) to educate the public through advertising containing information about the dangers of texting or using a cell phone while driving;

“(B) for traffic signs that notify drivers about the distracted driving law of the State; or

“(C) for law enforcement costs related to the enforcement of the distracted driving law; and

“(2) up to 50 percent may be used for other projects that—

“(A) improve traffic safety; and

“(B) are consistent with the criteria set forth in section 402(a).

“(f) ADDITIONAL GRANTS.—In fiscal year 2012, the Secretary may use up to 25 percent of the funding available for grants under this section to award grants to States that—

“(1) enacted statutes before July 1, 2011, which meet the requirements under paragraphs (1) and (2) of subsection (b); and

“(2) are otherwise ineligible for a grant under this section.

“(g) DISTRACTED DRIVING STUDY.—

“(1) IN GENERAL.—The Secretary shall conduct a study of all forms of distracted driving.

“(2) COMPONENTS.—The study conducted under paragraph (1) shall—

“(A) examine the effect of distractions other than the use of personal wireless communications on motor vehicle safety;

“(B) identify metrics to determine the nature and scope of the distracted driving problem;

“(C) identify the most effective methods to enhance education and awareness; and

“(D) identify the most effective method of reducing deaths and injuries caused by all forms of distracted driving.

“(3) REPORT.—Not later than 1 year after the date of enactment of the Motor Vehicle and Highway Safety Improvement Act of 2012, the Secretary shall submit a report containing the results of the study conducted under this subsection to—

“(A) the Committee on Commerce, Science, and Transportation of the Senate; and

“(B) the Committee on Transportation and Infrastructure of the House of Representatives.

“(h) DEFINITIONS.—In this section:

“(1) DRIVING.—The term ‘driving’—

“(A) means operating a motor vehicle on a public road, including operation while temporarily stationary because of traffic, a traffic light or stop sign, or otherwise; and

“(B) does not include operating a motor vehicle when the vehicle has pulled over to the side of, or off, an active roadway and has stopped in a location where it can safely remain stationary.

“(2) PERSONAL WIRELESS COMMUNICATIONS DEVICE.—The term ‘personal wireless communications device’—

“(A) means a device through which personal wireless services (as defined in section 332(c)(7)(C)(i) of the Communications Act of 1934 (47 U.S.C. 332(c)(7)(C)(i))) are transmitted; and

“(B) does not include a global navigation satellite system receiver used for positioning, emergency notification, or navigation purposes.

“(3) PRIMARY OFFENSE.—The term ‘primary offense’ means an offense for which a law enforcement officer may stop a vehicle solely for the purpose of issuing a citation in the absence of evidence of another offense.

“(4) PUBLIC ROAD.—The term ‘public road’ has the meaning given that term in section 402(c).

“(5) TEXTING.—The term ‘texting’ means reading from or manually entering data into a personal wireless communications device, including doing so for the purpose of SMS texting, e-mailing, instant messaging, or engaging in any other form of electronic data retrieval or electronic data communication.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 4 of title 23, United States Code, is amended by striking the item relating to section 411 and inserting the following:

“411. Distracted driving grants.”.

#### SEC. 31109. HIGH VISIBILITY ENFORCEMENT PROGRAM.

Section 2009 of SAFETEA—LU (23 U.S.C. 402 note) is amended—

(1) in subsection (a)—

(A) by striking “at least 2” and inserting “at least 3”; and

(B) by striking “years 2006 through 2012.” and inserting “fiscal years 2012 and 2013. The Administrator may also initiate and support additional campaigns in each of fiscal years 2012 and 2013 for the purposes specified in subsection (b).”;

(2) in subsection (b) by striking “either or both” and inserting “outcomes related to at least 1”;

(3) in subsection (c), by inserting “and Internet-based outreach” after “print media advertising”;

(4) in subsection (e), by striking “subsections (a), (c), and (f)” and inserting “subsection (c)”;

(5) by striking subsection (f); and

(6) by redesignating subsection (g) as subsection (f).

#### SEC. 31110. MOTORCYCLIST SAFETY.

Section 2010 of SAFETEA—LU (23 U.S.C. 402 note) is amended—

(1) by striking subsections (b) and (g);

(2) by redesignating subsections (c), (d), (e), and (f) as subsections (b), (c), (d), and (e), respectively; and

(3) in subsection (c)(1), as redesignated, by striking “to the satisfaction of the Secretary” and all that follows and inserting “, to the satisfaction of the Secretary, at least 2 of the 6 criteria listed in paragraph (2).”.

#### SEC. 31111. DRIVER ALCOHOL DETECTION SYSTEM FOR SAFETY RESEARCH.

(a) IN GENERAL.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following:

##### “§ 413. In-vehicle alcohol detection device research

“(a) IN GENERAL.—The Administrator of the National Highway Traffic Safety Administration shall carry out a collaborative research effort under chapter 301 of title 49, United States Code, to continue to explore the feasibility and the potential benefits of, and the public policy challenges associated with, more widespread deployment of in-vehicle technology to prevent alcohol-impaired driving.

“(b) REPORTS.—The Administrator shall submit a report annually to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure—

“(1) describing progress in carrying out the collaborative research effort; and

“(2) including an accounting for the use of Federal funds obligated or expended in carrying out that effort.

“(c) DEFINITIONS.—In this title:

“(1) ALCOHOL-IMPAIRED DRIVING.—The term ‘alcohol-impaired driving’ means operation of a motor vehicle (as defined in section 30102(a)(6) of title 49, United States Code) by an individual whose blood alcohol content is at or above the legal limit.

“(2) LEGAL LIMIT.—The term ‘legal limit’ means a blood alcohol concentration of 0.08 percent or greater (as specified by chapter 163 of title 23, United States Code) or such other percentage limitation as may be established by applicable Federal, State, or local law.”.

(b) CLERICAL AMENDMENT.—The analysis for chapter 4 of title 23, United States Code, is amended by inserting after the item relating to section 412 the following:

“413. In-vehicle alcohol detection device research.”.

#### SEC. 31112. STATE GRADUATED DRIVER LICENSING LAWS.

(a) IN GENERAL.—Chapter 4 of title 23, United States Code, as amended by this title, is further amended by adding at the end the following:

##### “§ 414. State Graduated Driver Licensing Incentive Grant

“(a) GRANTS AUTHORIZED.—Subject to the requirements of this section, the Secretary shall award grants to States that adopt and implement graduated driver licensing laws in accordance with the requirements set forth in subsection (b).

“(b) MINIMUM REQUIREMENTS.—

“(1) IN GENERAL.—A State meets the requirements set forth in this subsection if the State has a graduated driver licensing law that requires novice drivers younger than 21 years of age to comply with the 2-stage licensing process described in paragraph (2) before receiving an unrestricted driver’s license.

“(2) LICENSING PROCESS.—A State is in compliance with the 2-stage licensing process described in this paragraph if the State’s driver’s license laws include—

“(A) a learner’s permit stage that—

“(i) is at least 6 months in duration;

“(ii) prohibits the driver from using a cellular telephone or any communications device in a nonemergency situation; and

“(iii) remains in effect until the driver—

“(I) reaches 16 years of age and enters the intermediate stage; or

“(II) reaches 18 years of age;  
 “(B) an intermediate stage that—  
 “(i) commences immediately after the expiration of the learner’s permit stage;  
 “(ii) is at least 6 months in duration;  
 “(iii) prohibits the driver from using a cellular telephone or any communications device in a nonemergency situation;  
 “(iv) restricts driving at night;  
 “(v) prohibits the driver from operating a motor vehicle with more than 1 nonfamilial passenger younger than 21 years of age unless a licensed driver who is at least 21 years of age is in the motor vehicle; and  
 “(vi) remains in effect until the driver reaches 18 years of age; and  
 “(C) any other requirement prescribed by the Secretary of Transportation, including—  
 “(i) in the learner’s permit stage—  
 “(I) at least 40 hours of behind-the-wheel training with a licensed driver who is at least 21 years of age;  
 “(II) a driver training course; and  
 “(III) a requirement that the driver be accompanied and supervised by a licensed driver, who is at least 21 years of age, at all times while such driver is operating a motor vehicle; and  
 “(ii) in the learner’s permit or intermediate stage, a requirement, in addition to any other penalties imposed by State law, that the grant of an unrestricted driver’s license be automatically delayed for any individual who, during the learner’s permit or intermediate stage, is convicted of a driving-related offense, including—  
 “(I) driving while intoxicated;  
 “(II) misrepresentation of his or her true age;  
 “(III) reckless driving;  
 “(IV) driving without wearing a seat belt;  
 “(V) speeding; or  
 “(VI) any other driving-related offense, as determined by the Secretary.  
 “(c) RULEMAKING.—  
 “(1) IN GENERAL.—The Secretary shall promulgate regulations necessary to implement the requirements under subsection (b), in accordance with the notice and comment provisions under section 553 of title 5, United States Code.  
 “(2) EXCEPTION.—A State that otherwise meets the minimum requirements set forth in subsection (b) shall be deemed by the Secretary to be in compliance with the requirement set forth in subsection (b) if the State enacted a law before January 1, 2011, establishing a class of license that permits licensees or applicants younger than 18 years of age to drive a motor vehicle—  
 “(A) in connection with work performed on, or for the operation of, a farm owned by family members who are directly related to the applicant or licensee; or  
 “(B) if demonstrable hardship would result from the denial of a license to the licensee or applicants.  
 “(d) ALLOCATION.—Grant funds allocated to a State under this section for a fiscal year shall be in proportion to a State’s apportionment under section 402 for such fiscal year.  
 “(e) USE OF FUNDS.—Grant funds received by a State under this section may be used for—  
 “(1) enforcing a 2-stage licensing process that complies with subsection (b)(2);  
 “(2) training for law enforcement personnel and other relevant State agency personnel relating to the enforcement described in paragraph (1);  
 “(3) publishing relevant educational materials that pertain directly or indirectly to the State graduated driver licensing law;  
 “(4) carrying out other administrative activities that the Secretary considers rel-

evant to the State’s 2-stage licensing process; and  
 “(5) carrying out a teen traffic safety program described in section 402(m).”.

#### SEC. 31113. AGENCY ACCOUNTABILITY.

Section 412 of title 23, United States Code, is amended—

(1) by amending subsection (a) to read as follows:

“(a) TRIENNIAL STATE MANAGEMENT REVIEWS.—

“(1) IN GENERAL.—Except as provided under paragraph (2), the Secretary shall conduct a review of each State highway safety program at least once every 3 years.

“(2) EXCEPTIONS.—The Secretary may conduct reviews of the highway safety programs of the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands as often as the Secretary determines to be appropriate.

“(3) COMPONENTS.—Reviews under this subsection shall include—

“(A) a management evaluation of all grant programs funded under this chapter;

“(B) an assessment of State data collection and evaluation relating to performance measures established by the Secretary;

“(C) a comparison of State efforts under subparagraphs (A) and (B) to best practices and programs that have been evaluated for effectiveness; and

“(D) the development of recommendations on how each State could—

“(i) improve the management and oversight of its grant activities; and

“(ii) provide a management and oversight plan for such grant programs.”; and

(2) by striking subsection (f).

#### SEC. 31114. EMERGENCY MEDICAL SERVICES.

Section 10202 of Public Law 109-59 (42 U.S.C. 300d-4), is amended by adding at the end the following:

“(b) NATIONAL EMERGENCY MEDICAL SERVICES ADVISORY COUNCIL.—

“(1) ESTABLISHMENT.—The Secretary of Transportation, in coordination with the Secretary of Health and Human Services and the Secretary of Homeland Security, shall establish a National Emergency Medical Services Advisory Council (referred to in this subsection as the ‘Advisory Council’).

“(2) MEMBERSHIP.—The Advisory Council shall be composed of 25 members, who—

“(A) shall be appointed by the Secretary of Transportation; and

“(B) shall collectively be representative of all sectors of the emergency medical services community.

“(3) PURPOSES.—The purposes of the Advisory Council are to advise and consult with—

“(A) the Federal Interagency Committee on Emergency Medical Services on matters relating to emergency medical services issues; and

“(B) the Secretary of Transportation on matters relating to emergency medical services issues affecting the Department of Transportation.

“(4) ADMINISTRATION.—The Administrator of the National Highway Traffic Safety Administration shall provide administrative support to the Advisory Council, including scheduling meetings, setting agendas, keeping minutes and records, and producing reports.

“(5) LEADERSHIP.—The members of the Advisory Council shall annually select a chairperson of the Council.

“(6) MEETINGS.—The Advisory Council shall meet as frequently as is determined necessary by the chairperson of the Council.

“(7) ANNUAL REPORTS.—The Advisory Council shall prepare an annual report to the Sec-

retary of Transportation regarding the Council’s actions and recommendations.”.

#### Subtitle B—Enhanced Safety Authorities

##### SEC. 31201. DEFINITION OF MOTOR VEHICLE EQUIPMENT.

Section 30102(a)(7)(C) of title 49, United States Code, is amended to read as follows:

“(C) any device or an article or apparel, including a motorcycle helmet and excluding medicine or eyeglasses prescribed by a licensed practitioner, that—

“(i) is not a system, part, or component of a motor vehicle; and

“(ii) is manufactured, sold, delivered, or offered to be sold for use on public streets, roads, and highways with the apparent purpose of safeguarding motor vehicles and highway users against risk of accident, injury, or death.”.

##### SEC. 31202. PERMIT REMINDER SYSTEM FOR NON-USE OF SAFETY BELTS.

(a) IN GENERAL.—Chapter 301 of title 49, United States Code, is amended—

(1) in section 30122, by striking subsection (d); and

(2) by amending section 30124 to read as follows:

#### “§ 30124. Nonuse of safety belts

“A motor vehicle safety standard prescribed under this chapter may not require a manufacturer to comply with the standard by using a safety belt interlock designed to prevent starting or operating a motor vehicle if an occupant is not using a safety belt.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 301 of title 49, United States Code, is amended by striking the item relating to section 30124 and inserting the following:

“Sec. 30124. Nonuse of safety belts.”.

##### SEC. 31203. CIVIL PENALTIES.

(a) IN GENERAL.—Section 30165 of title 49, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking “30123(d)” and inserting “30123(a)”;

(ii) by striking “\$15,000,000” and inserting “\$250,000,000”; and

(B) in paragraph (3), by striking “\$15,000,000” and inserting “\$250,000,000”; and

(2) by amending subsection (c) to read as follows:

“(c) RELEVANT FACTORS IN DETERMINING AMOUNT OF PENALTY OR COMPROMISE.—In determining the amount of a civil penalty or compromise under this section, the Secretary of Transportation shall consider the nature, circumstances, extent, and gravity of the violation. Such determination shall include, as appropriate—

“(1) the nature of the defect or noncompliance;

“(2) knowledge by the person charged of its obligation to recall or notify the public;

“(3) the severity of the risk of injury;

“(4) the occurrence or absence of injury;

“(5) the number of motor vehicles or items of motor vehicle equipment distributed with the defect or noncompliance;

“(6) the existence of an imminent hazard;

“(7) actions taken by the person charged to identify, investigate, or mitigate the condition;

“(8) the appropriateness of such penalty in relation to the size of the business of the person charged, including the potential for undue adverse economic impacts;

“(9) whether the person has previously been assessed civil penalties under this section during the most recent 5 years; and

“(10) other appropriate factors.”.

(b) **CIVIL PENALTY CRITERIA.**—Not later than 1 year after the date of the enactment of this Act, the Secretary shall issue a final rule, in accordance with the procedures of section 553 of title 5, United States Code, which provides an interpretation of the penalty factors described in section 30165(c) of title 49, United States Code.

(c) **CONSTRUCTION.**—Nothing in this section may be construed as preventing the imposition of penalties under section 30165 of title 49, United States Code, before the issuance of a final rule under subsection (b).

**SEC. 31204. MOTOR VEHICLE SAFETY RESEARCH AND DEVELOPMENT.**

(a) **IN GENERAL.**—Chapter 301 of title 49, United States Code, is amended by adding at the end the following:

**“SUBCHAPTER V—MOTOR VEHICLE SAFETY RESEARCH AND DEVELOPMENT**

**“§ 30181. Policy**

“The Secretary of Transportation shall conduct research, development, and testing on any area or aspect of motor vehicle safety necessary to carry out this chapter.

**“§ 30182. Powers and duties**

“(a) **IN GENERAL.**—The Secretary of Transportation shall—

“(1) conduct motor vehicle safety research, development, and testing programs and activities, including new and emerging technologies that impact or may impact motor vehicle safety;

“(2) collect and analyze all types of motor vehicle and highway safety data and related information to determine the relationship between motor vehicle or motor vehicle equipment performance characteristics and—

“(A) accidents involving motor vehicles; and

“(B) deaths or personal injuries resulting from those accidents;

“(3) promote, support, and advance the education and training of motor vehicle safety staff of the National Highway Traffic Safety Administration, including using program funds for—

“(A) planning, implementing, conducting, and presenting results of program activities; and

“(B) travel and related expenses;

“(4) obtain experimental and other motor vehicles and motor vehicle equipment for research or testing;

“(5)(A) use any test motor vehicles and motor vehicle equipment suitable for continued use, as determined by the Secretary to assist in carrying out this chapter or any other chapter of this title; or

“(B) sell or otherwise dispose of test motor vehicles and motor vehicle equipment and use the resulting proceeds to carry out this chapter;

“(6) award grants to States and local governments, interstate authorities, and nonprofit institutions; and

“(7) enter into cooperative agreements, collaborative research, or contracts with Federal agencies, interstate authorities, State and local governments, other public entities, private organizations and persons, nonprofit institutions, colleges and universities, consumer advocacy groups, corporations, partnerships, sole proprietorships, trade associations, Federal laboratories (including government-owned, government-operated laboratories and government-owned, contractor-operated laboratories), and foreign governments and research organizations.

“(b) **USE OF PUBLIC AGENCIES.**—In carrying out this subchapter, the Secretary shall

avoid duplication by using the services, research, and testing facilities of public agencies, as appropriate.

“(c) **FACILITIES.**—The Secretary may plan, design, and build a new facility or modify an existing facility to conduct research, development, and testing in traffic safety, highway safety, and motor vehicle safety.

“(d) **AVAILABILITY OF INFORMATION, PATENTS, AND DEVELOPMENTS.**—When the United States Government makes more than a minimal contribution to a research or development activity under this chapter, the Secretary shall include in the arrangement for the activity a provision to ensure that all information, patents, and developments related to the activity are available to the public without charge. The owner of a background patent may not be deprived of a right under the patent.

**“§ 30183. Prohibition on certain disclosures.**

“Any report of the National Highway Traffic Safety Administration, or of any officer, employee, or contractor of the National Highway Traffic Safety Administration, relating to any highway traffic accident or the investigation of such accident conducted pursuant to this chapter or section 403 of title 23, shall be made available to the public in a manner that does not identify individuals.”.

(b) **CONFORMING AMENDMENTS.**—

(1) **AMENDMENT OF CHAPTER ANALYSIS.**—The chapter analysis for chapter 301 of title 49, United States Code, is amended by adding at the end the following:

**“SUBCHAPTER V—MOTOR VEHICLE SAFETY RESEARCH AND DEVELOPMENT**

**“30181. Policy.**

**“30182. Powers and duties.**

**“30183. Prohibition on certain disclosures.”.**

(2) **DELETION OF REDUNDANT MATERIAL.**—Chapter 301 of title 49, United States Code, is amended—

(A) in the chapter analysis, by striking the item relating to section 30168; and

(B) by striking section 30168.

**SEC. 31205. ODOMETER REQUIREMENTS DEFINITION.**

Section 32702(5) of title 49, United States Code, is amended by inserting “or system of components” after “instrument”.

**SEC. 31206. ELECTRONIC DISCLOSURES OF ODOMETER INFORMATION.**

Section 32705 of title 49, United States Code, is amended by adding at the end the following:

“(g) **ELECTRONIC DISCLOSURES.**—Not later than 18 months after the date of enactment of the Motor Vehicle and Highway Safety Improvement Act of 2012, in carrying out this section, the Secretary shall prescribe regulations permitting any written disclosures or notices and related matters to be provided electronically.”.

**SEC. 31207. INCREASED PENALTIES AND DAMAGES FOR ODOMETER FRAUD.**

Chapter 327 of title 49, United States Code, is amended—

(1) in section 32709(a)(1)—

(A) by striking “\$2,000” and inserting “\$10,000”; and

(B) by striking “\$100,000” and inserting “\$1,000,000”; and

(2) in section 32710(a), by striking “\$1,500” and inserting “\$10,000”.

**SEC. 31208. EXTEND PROHIBITIONS ON IMPORTING NONCOMPLIANT VEHICLES AND EQUIPMENT TO DEFECTIVE VEHICLES AND EQUIPMENT.**

Section 30112 of title 49, United States Code, is amended—

(1) in subsection (a), by adding at the end the following:

“(3) Except as provided in this section, section 30114, subsections (i) and (j) of section 30120, and subchapter III, a person may not sell, offer for sale, introduce or deliver for introduction in interstate commerce, or import into the United States any motor vehicle or motor vehicle equipment if the vehicle or equipment contains a defect related to motor vehicle safety about which notice was given under section 30118(c) or an order was issued under section 30118(b). Nothing in this paragraph may be construed to prohibit the importation of a new motor vehicle that receives a required recall remedy before being sold to a consumer in the United States.”; and

(2) in subsection (b)(2)—

(A) in subparagraph (A), by striking “or” at the end;

(B) in subparagraph (B), by adding “or” at the end; and

(C) by adding at the end the following:

“(C) having no reason to know, despite exercising reasonable care, that a motor vehicle or motor vehicle equipment contains a defect related to motor vehicle safety about which notice was given under section 30118(c) or an order was issued under section 30118(b);”.

**SEC. 31209. FINANCIAL RESPONSIBILITY REQUIREMENTS FOR IMPORTERS.**

Chapter 301 of title 49, United States Code, is amended—

(1) in the chapter analysis, by striking the item relating to subchapter III and inserting the following:

**“SUBCHAPTER III—IMPORTING MOTOR VEHICLES AND EQUIPMENT”;**

(2) in the heading for subchapter III, by striking “NONCOMPLYING”; and

(3) in section 30147, by amending subsection (b) to read as follows:

“(b) **FINANCIAL RESPONSIBILITY REQUIREMENT.**—

“(1) **RULEMAKING.**—The Secretary of Transportation may issue regulations requiring each person that imports a motor vehicle or motor vehicle equipment into the customs territory of the United States, including a registered importer (or any successor in interest), provide and maintain evidence, satisfactory to the Secretary, of sufficient financial responsibility to meet its obligations under section 30117(b), sections 30118 through 30121, and section 30166(f). In making a determination of sufficient financial responsibility under this Rule, the Secretary, to avoid duplicative requirements, shall first, to the extent practicable, rely on existing reporting and recordkeeping requirements and other information available to the Secretary, and shall coordinate with other Federal agencies, including the Securities and Exchange Commission, to access information collected and made publicly available under existing reporting and recordkeeping requirements.

“(2) **REFUSAL OF ADMISSION.**—If the Secretary of Transportation believes that a person described in paragraph (1) has not provided and maintained evidence of sufficient financial responsibility to meet the obligations referred to in paragraph (1), the Secretary of Homeland Security shall first offer the person an opportunity to remedy the deficiency within 30 days, and if not remedied thereafter may refuse the admission into the customs territory of the United States of any motor vehicle or motor vehicle equipment imported by the person.

“(3) **EXCEPTION.**—This subsection shall not apply to original manufacturers (or wholly owned subsidiaries) of motor vehicles that, prior to the date of enactment of the—

“(A) have imported motor vehicles into the United States that are certified to comply with all applicable Federal motor vehicle safety standards; and

“(B) have submitted to the Secretary appropriate manufacturer identification information under part 566 of title 49, Code of Federal Regulations; and

“(C) if applicable, have identified a current agent for service of process in accordance with part 551 of title 49, Code of Federal Regulations.”.

**SEC. 31210. CONDITIONS ON IMPORTATION OF VEHICLES AND EQUIPMENT.**

Chapter 301 of title 49, United States Code, is amended—

(1) in the chapter analysis, by striking the item relating to section 30164 and inserting the following:

“30164. Service of process; conditions on importation of vehicles and equipment.”;

and

(2) in section 30164—

(A) in the section heading, by adding “; CONDITIONS ON IMPORTATION OF VEHICLES AND EQUIPMENT” at the end; and

(B) by adding at the end the following:

“(c) IDENTIFYING INFORMATION.—A manufacturer (including an importer) offering a motor vehicle or motor vehicle equipment for import shall provide such information as the Secretary may, by rule, request including—

“(1) the product by name and the manufacturer’s address; and

“(2) each retailer or distributor to which the manufacturer directly supplied motor vehicles or motor vehicle equipment over which the Secretary has jurisdiction under this chapter.

“(d) RULEMAKING.—In issuing a rulemaking, the Secretary shall seek to reduce duplicative requirements by coordinating with Department of Homeland Security. The Secretary may issue regulations that—

“(1) condition the import of a motor vehicle or motor vehicle equipment on the manufacturer’s compliance with—

“(A) the requirements under this section;

“(B) any rules issued with respect to such requirements; or

“(C) any other requirements under this chapter or rules issued with respect to such requirements;

“(2) provide an opportunity for the manufacturer to present information before the Secretary’s determination as to whether the manufacturer’s imports should be restricted; and

“(3) establish a process by which a manufacturer may petition for reinstatement of its ability to import motor vehicles or motor vehicle equipment.

“(e) EXCEPTION.—The requirements of subsections (c) and (d) shall not apply to original manufacturers (or wholly owned subsidiaries) of motor vehicles that, prior to the date of enactment of the—

“(1) have imported motor vehicles into the United States that are certified to comply with all applicable Federal motor vehicle safety standards,

“(2) have submitted to the Secretary appropriate manufacturer identification information under part 566 of title 49, Code of Federal Regulations; and

“(3) if applicable, have identified a current agent for service of process in accordance with part 551 of title 49, Code of Federal Regulations.”.

**SEC. 31211. PORT INSPECTIONS; SAMPLES FOR EXAMINATION OR TESTING.**

Section 30166(c) of title 49, United States Code, is amended—

(1) in paragraph (2), by striking “and” at the end;

(2) in paragraph (3)—

(A) in subparagraph (A), by inserting “(including at United States ports of entry)” after “held for introduction in interstate commerce”; and

(B) in subparagraph (D), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(4) shall enter into a memorandum of understanding with the Secretary of Homeland Security for inspections and sampling of motor vehicle equipment being offered for import to determine compliance with this chapter or a regulation or order issued under this chapter.”.

**Subtitle C—Transparency and Accountability**

**SEC. 31301. IMPROVED NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION VEHICLE SAFETY DATABASE.**

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall improve public accessibility to information on the National Highway Traffic Safety Administration’s publicly accessible vehicle safety databases by—

(1) improving organization and functionality, including modern web design features, and allowing for data to be searched, aggregated, and downloaded;

(2) providing greater consistency in presentation of vehicle safety issues; and

(3) improving searchability about specific vehicles and issues through standardization of commonly used search terms.

(b) VEHICLE RECALL INFORMATION.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall require that motor vehicle safety recall information—

(A) is available to the public on the Internet;

(B) is searchable by vehicle make and model and vehicle identification number;

(C) is in a format that preserves consumer privacy; and

(D) includes information about each recall that has not been completed for each vehicle.

(2) RULEMAKING.—The Secretary may initiate a rulemaking proceeding to require each manufacturer to provide the information described in paragraph (1), with respect to that manufacturer’s motor vehicles, at no cost on a publicly accessible Internet website.

(3) DATABASE AWARENESS PROMOTION ACTIVITIES.—The Secretary, in consultation with the heads of other relevant agencies, shall promote consumer awareness of the information made available to the public pursuant to this subsection.

**SEC. 31302. NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION HOTLINE FOR MANUFACTURER, DEALER, AND MECHANIC PERSONNEL.**

The Secretary shall—

(1) establish a means by which mechanics, passenger motor vehicle dealership personnel, and passenger motor vehicle manufacturer personnel may directly and confidentially contact the National Highway Traffic Safety Administration to report potential passenger motor vehicle safety defects; and

(2) publicize the means for contacting the National Highway Traffic Safety Administration in a manner that targets mechanics, passenger motor vehicle dealership personnel, and manufacturer personnel.

**SEC. 31303. CONSUMER NOTICE OF SOFTWARE UPDATES AND OTHER COMMUNICATIONS WITH DEALERS.**

(a) INTERNET ACCESSIBILITY.—Section 30166(f) of title 49, United States Code, is amended—

(1) by striking “A manufacturer shall give the Secretary of Transportation” and inserting the following:

“(1) IN GENERAL.—A manufacturer shall give the Secretary of Transportation, and make available on a publicly accessible Internet website,”; and

(2) by adding at the end the following:

“(2) NOTICES.—Communications required to be submitted to the Secretary and made available on a publicly accessible Internet website under this subsection shall include all notices to dealerships of software upgrades and modifications recommended by a manufacturer for all previously sold vehicles. Notice is required even if the software upgrade or modification is not related to a safety defect or noncompliance with a motor vehicle safety standard. The notice shall include a plain language description of the purpose of the update and that description shall be prominently placed at the beginning of the notice.

“(3) INDEX.—Communications required to be submitted to the Secretary under this subsection shall be accompanied by an index to each communication, which—

“(A) identifies the make, model, and model year of the affected vehicles;

“(B) includes a concise summary of the subject matter of the communication; and

“(C) shall be made available by the Secretary to the public on the Internet in a searchable format.”.

**SEC. 31304. PUBLIC AVAILABILITY OF EARLY WARNING DATA.**

Section 30166(m) of title 49, United States Code, is amended in paragraph (4), by amending subparagraph (C) to read as follows:

“(C) DISCLOSURE.—

“(i) IN GENERAL.—The information provided to the Secretary pursuant to this subsection shall be disclosed publicly unless exempt from disclosure under section 552(b) of title 5.

“(ii) PRESUMPTION.—In administering this subparagraph, the Secretary shall presume in favor of maximum public availability of information.”.

**SEC. 31305. CORPORATE RESPONSIBILITY FOR NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION REPORTS.**

(a) IN GENERAL.—Section 30166 of title 49, United States Code, is amended by adding at the end the following:

“(o) CORPORATE RESPONSIBILITY FOR REPORTS.—

“(1) IN GENERAL.—The Secretary shall require a senior official responsible for safety in each company submitting information to the Secretary in response to a request for information in a safety defect or compliance investigation under this chapter to certify that—

“(A) the signing official has reviewed the submission; and

“(B) based on the official’s knowledge, the submission does not—

“(i) contain any untrue statement of a material fact; or

“(ii) omit to state a material fact necessary in order to make the statements made not misleading, in light of the circumstances under which such statements were made.

“(2) NOTICE.—The certification requirements of this section shall be clearly stated on any request for information under paragraph (1).”.

(b) CIVIL PENALTY.—Section 30165(a) of title 49, United States Code, is amended—

(1) in paragraph (3), by striking “A person” and inserting “Except as provided in paragraph (4), a person”; and

(2) by adding at the end the following:

“(4) FALSE, MISLEADING, OR INCOMPLETE REPORTS.—A person who knowingly and willfully submits materially false, misleading, or incomplete information to the Secretary, after certifying the same information as accurate and complete under the certification process established pursuant to section 30166(o), shall be subject to a civil penalty of not more than \$5,000 per day. The maximum penalty under this paragraph for a related series of daily violations is \$5,000,000.”.

**SEC. 31306. PASSENGER MOTOR VEHICLE INFORMATION PROGRAM.**

(a) DEFINITION.—Section 32301 of title 49, United States Code, is amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively;

(2) by inserting before paragraph (2), as redesignated, the following:

“(1) ‘crash avoidance’ means preventing or mitigating a crash;”;

(3) in paragraph (2), as redesignated, by striking the period at the end and inserting “; and”.

(b) INFORMATION INCLUDED.—Section 32302(a) of title 49, United States Code, is amended—

(1) in paragraph (2), by inserting “, crash avoidance, and any other areas the Secretary determines will improve the safety of passenger motor vehicles” after “crash-worthiness”; and

(2) by striking paragraph (4).

**SEC. 31307. PROMOTION OF VEHICLE DEFECT REPORTING.**

Section 32302 of title 49, United States Code, is amended by adding at the end the following:

“(d) MOTOR VEHICLE DEFECT REPORTING INFORMATION.—

“(1) RULEMAKING REQUIRED.—Not later than 1 year after the date of the enactment of the , the Secretary shall prescribe regulations that require passenger motor vehicle manufacturers—

“(A) to affix, in the glove compartment or in another readily accessible location on the vehicle, a sticker, decal, or other device that provides, in simple and understandable language, information about how to submit a safety-related motor vehicle defect complaint to the National Highway Traffic Safety Administration;

“(B) to prominently print the information described in subparagraph (A) on a separate page within the owner’s manual; and

“(C) to not place such information on the label required under section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232).

“(2) APPLICATION.—The requirements under paragraph (1) shall apply to passenger motor vehicles manufactured in any model year beginning more than 1 year after the date on which a final rule is published under paragraph (1).”.

**SEC. 31308. WHISTLEBLOWER PROTECTIONS FOR MOTOR VEHICLE MANUFACTURERS, PART SUPPLIERS, AND DEALERSHIP EMPLOYEES.**

(a) IN GENERAL.—Subchapter IV of chapter 301 of title 49, United States Code, is amended by adding at the end the following:

**“§ 30171. Protection of employees providing motor vehicle safety information**

“(a) DISCRIMINATION AGAINST EMPLOYEES OF MANUFACTURERS, PART SUPPLIERS, AND DEALERSHIPS.—No motor vehicle manufac-

turer, part supplier, or dealership may discharge an employee or otherwise discriminate against an employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

“(1) provided, caused to be provided, or is about to provide (with any knowledge of the employer) or cause to be provided to the employer or the Secretary of Transportation information relating to any motor vehicle defect, noncompliance, or any violation or alleged violation of any notification or reporting requirement of this chapter;

“(2) has filed, caused to be filed, or is about to file (with any knowledge of the employer) or cause to be filed a proceeding relating to any violation or alleged violation of any motor vehicle defect, noncompliance, or any violation or alleged violation of any notification or reporting requirement of this chapter;

“(3) testified or is about to testify in such a proceeding;

“(4) assisted or participated or is about to assist or participate in such a proceeding; or

“(5) objected to, or refused to participate in, any activity that the employee reasonably believed to be in violation of any provision of any Act enforced by the Secretary of Transportation, or any order, rule, regulation, standard, or ban under any such Act.

“(b) COMPLAINT PROCEDURE.—

“(1) FILING AND NOTIFICATION.—A person who believes that he or she has been discharged or otherwise discriminated against by any person in violation of subsection (a) may, not later than 180 days after the date on which such violation occurs, file (or have any person file on his or her behalf) a complaint with the Secretary of Labor (hereinafter in this section referred to as the ‘Secretary’) alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify, in writing, the person named in the complaint of the filing of the complaint, of the allegations contained in the complaint, of the substance of evidence supporting the complaint, and of the opportunities that will be afforded to such person under paragraph (2).

“(2) INVESTIGATION; PRELIMINARY ORDER.—

“(A) IN GENERAL.—Not later than 60 days after the date of receipt of a complaint filed under paragraph (1) and after affording the person named in the complaint an opportunity to submit to the Secretary a written response to the complaint and an opportunity to meet with a representative of the Secretary to present statements from witnesses, the Secretary shall conduct an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify, in writing, the complainant and the person alleged to have committed a violation of subsection (a) of the Secretary’s findings. If the Secretary concludes that there is a reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary shall accompany the Secretary’s findings with a preliminary order providing the relief prescribed by paragraph (3)(B). Not later than 30 days after the date of notification of findings under this paragraph, either the person alleged to have committed the violation or the complainant may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Such hearings shall be conducted expeditiously. If a hearing is not requested in

such 30-day period, the preliminary order shall be deemed a final order that is not subject to judicial review.

“(B) REQUIREMENTS.—

“(i) REQUIRED SHOWING BY COMPLAINANT.—The Secretary shall dismiss a complaint filed under this subsection and shall not conduct an investigation otherwise required under subparagraph (A) unless the complainant makes a prima facie showing that any behavior described in paragraphs (1) through (5) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

“(ii) SHOWING BY EMPLOYER.—Notwithstanding a finding by the Secretary that the complainant has made the showing required under clause (i), no investigation otherwise required under subparagraph (A) shall be conducted if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

“(iii) CRITERIA FOR DETERMINATION BY SECRETARY.—The Secretary may determine that a violation of subsection (a) has occurred only if the complainant demonstrates that any behavior described in paragraphs (1) through (5) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

“(iv) PROHIBITION.—Relief may not be ordered under subparagraph (A) if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

“(3) FINAL ORDER.—

“(A) DEADLINE FOR ISSUANCE; SETTLEMENT AGREEMENTS.—Not later than 120 days after the date of conclusion of a hearing under paragraph (2), the Secretary shall issue a final order providing the relief prescribed by this paragraph or denying the complaint. At any time before issuance of a final order, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary, the complainant, and the person alleged to have committed the violation.

“(B) REMEDY.—If, in response to a complaint filed under paragraph (1), the Secretary determines that a violation of subsection (a) has occurred, the Secretary shall order the person who committed such violation—

“(i) to take affirmative action to abate the violation;

“(ii) to reinstate the complainant to his or her former position together with the compensation (including back pay) and restore the terms, conditions, and privileges associated with his or her employment; and

“(iii) to provide compensatory damages to the complainant.

“(C) ATTORNEYS’ FEES.—If such an order is issued under this paragraph, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys’ and expert witness fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, bringing the complaint upon which the order was issued.

“(D) FRIVOLOUS COMPLAINTS.—If the Secretary determines that a complaint under paragraph (1) is frivolous or has been brought in bad faith, the Secretary may award to the prevailing employer a reasonable attorney’s fee not exceeding \$1,000.

“(E) DE NOVO REVIEW.—With respect to a complaint under paragraph (1), if the Secretary of Labor has not issued a final decision within 210 days after the filing of the complaint and if the delay is not due to the bad faith of the employee, the employee may bring an original action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy, and which action shall, at the request of either party to the action, be tried by the court with a jury. The action shall be governed by the same legal burdens of proof specified in paragraph (2)(B) for review by the Secretary of Labor.

“(4) REVIEW.—

“(A) APPEAL TO COURT OF APPEALS.—Any person adversely affected or aggrieved by an order issued under paragraph (3) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation. The petition for review shall be filed not later than 60 days after the date of the issuance of the final order of the Secretary. Review shall conform to chapter 7 of title 5. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order.

“(B) LIMITATION ON COLLATERAL ATTACK.—An order of the Secretary with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

“(5) ENFORCEMENT OF ORDER BY SECRETARY.—Whenever any person fails to comply with an order issued under paragraph (3), the Secretary may file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief, including injunctive relief and compensatory damages.

“(6) ENFORCEMENT OF ORDER BY PARTIES.—

“(A) COMMENCEMENT OF ACTION.—A person on whose behalf an order was issued under paragraph (3) may commence a civil action against the person to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

“(B) ATTORNEY FEES.—The court, in issuing any final order under this paragraph, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines such award is appropriate.

“(C) MANDAMUS.—Any nondiscretionary duty imposed under this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28.

“(d) NONAPPLICABILITY TO DELIBERATE VIOLATIONS.—Subsection (a) shall not apply with respect to an employee of a motor vehicle manufacturer, part supplier, or dealership who, acting without direction from such motor vehicle manufacturer, part supplier, or dealership (or such person's agent), deliberately causes a violation of any requirement relating to motor vehicle safety under this chapter.”.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 301 of title 49, United States Code, is amended by inserting after

the item relating to section 30170 the following:

“30171. Protection of employees providing motor vehicle safety information.”.

**SEC. 31309. ANTI-REVOLVING DOOR.**

(a) AMENDMENT.—Subchapter I of chapter 301 of title 49, United States Code, is amended by adding at the end the following:

**“§ 30107. Restriction on covered motor vehicle safety officials**

“(a) IN GENERAL.—During the 2-year period after the termination of his or her service or employment, a covered vehicle safety official may not knowingly make, with the intent to influence, any communication to or appearance before any officer or employee of the National Highway Traffic Safety Administration on behalf of any manufacturer subject to regulation under this chapter in connection with any matter involving motor vehicle safety on which such person seeks official action by any officer or employee of the National Highway Traffic Safety Administration.

“(b) MANUFACTURERS.—It is unlawful for any manufacturer or other person subject to regulation under this chapter to employ or contract for the services of an individual to whom subsection (a) applies during the 2-year period commencing on the individual's termination of employment with the National Highway Traffic Safety Administration in a capacity in which the individual is prohibited from serving during that period.

“(c) SPECIAL RULE FOR DETAILEES.—For purposes of this section, a person who is detailed from 1 department, agency, or other entity to another department, agency, or other entity shall, during the period such person is detailed, be deemed to be an officer or employee of both departments, agencies, or such entities.

“(d) SAVINGS PROVISION.—Nothing in this section may be construed to expand, contract, or otherwise affect the application of any waiver or criminal penalties under section 207 of title 18.

“(e) EXCEPTION FOR TESTIMONY.—Nothing in this section may be construed to prevent an individual from giving testimony under oath, or from making statements required to be made under penalty of perjury.

“(f) DEFINED TERM.—In this section, the term ‘covered vehicle safety official’ means any officer or employee of the National Highway Traffic Safety Administration—

“(1) who, during the final 12 months of his or her service or employment with the agency, serves or served in a technical or legal capacity, and whose job responsibilities include or included vehicle safety defect investigation, vehicle safety compliance, vehicle safety rulemaking, or vehicle safety research; and

“(2) who serves in a supervisory or management capacity over an officer or employee described in paragraph (1).

“(g) EFFECTIVE DATE.—This section shall apply to covered vehicle safety officials who terminate service or employment with the National Highway Traffic Safety Administration after the date of enactment of the ‘’.

(b) CIVIL PENALTY.—Section 30165(a) of title 49, United States Code, as amended by this subtitle, is further amended by adding at the end the following:

“(5) IMPROPER INFLUENCE.—An individual who violates section 30107(a) is liable to the United States Government for a civil penalty, as determined under section 216(b) of title 18, for an offense under section 207 of that title. A manufacturer or other person

subject to regulation under this chapter who violates section 30107(b) is liable to the United States Government for a civil penalty equal to the sum of—

“(A) an amount equal to not less than \$100,000; and

“(B) an amount equal to 90 percent of the annual compensation or fee paid or payable to the individual with respect to whom the violation occurred.”.

(c) STUDY OF DEPARTMENT OF TRANSPORTATION POLICIES ON OFFICIAL COMMUNICATION WITH FORMER MOTOR VEHICLE SAFETY ISSUE EMPLOYEES.—Not later than 1 year after the date of the enactment of this Act, the Inspector General of the Department of Transportation shall—

(1) review the Department of Transportation's policies and procedures applicable to official communication with former employees concerning motor vehicle safety compliance matters for which they had responsibility during the last 12 months of their tenure at the Department, including any limitations on the ability of such employees to submit comments, or otherwise communicate directly with the Department, on motor vehicle safety issues; and

(2) submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives that contains the Inspector General's findings, conclusions, and recommendations for strengthening those policies and procedures to minimize the risk of undue influence without compromising the ability of the Department to employ and retain highly qualified individuals for such responsibilities.

(d) POST-EMPLOYMENT POLICY STUDY.—

(1) IN GENERAL.—The Inspector General of the Department of Transportation shall conduct a study of the Department's policies relating to post-employment restrictions on employees who perform functions related to transportation safety.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Inspector General shall submit a report containing the results of the study conducted under paragraph (1) to—

(A) the Committee on Commerce, Science, and Transportation of the Senate;

(B) the Committee on Energy and Commerce of the House of Representatives; and

(C) the Secretary of Transportation.

(3) USE OF RESULTS.—The Secretary of Transportation shall review the results of the study conducted under paragraph (1) and take whatever action the Secretary determines to be appropriate.

(e) CONFORMING AMENDMENT.—The table of contents for chapter 301 of title 49, United States Code, is amended by inserting after the item relating to section 30106 the following:

“30107. Restriction on covered motor vehicle safety officials.”.

**SEC. 31310. STUDY OF CRASH DATA COLLECTION.**

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate the Committee on Energy and Commerce of the House of Representatives regarding the quality of data collected through the National Automotive Sampling System, including the Special Crash Investigations Program.

(b) REVIEW.—The Administrator of the National Highway Traffic Safety Administration (referred to in this section as the “Administration”) shall conduct a comprehensive review of the data elements collected

from each crash to determine if additional data should be collected. The review under this subsection shall include input from interested parties, including suppliers, automakers, safety advocates, the medical community, and research organizations.

(c) **CONTENTS.**—The report issued under this section shall include—

(1) the analysis and conclusions the Administration can reach from the amount of motor vehicle crash data collected in a given year;

(2) the additional analysis and conclusions the Administration could reach if more crash investigations were conducted each year;

(3) the number of investigations per year that would allow for optimal data analysis and crash information;

(4) the results of the comprehensive review conducted pursuant to subsection (b);

(5) recommendations for improvements to the Administration's data collection program; and

(6) the resources needed by the Administration to implement such recommendations.

**SEC. 31311. UPDATE MEANS OF PROVIDING NOTIFICATION; IMPROVING EFFICACY OF RECALLS.**

(a) **UPDATE OF MEANS OF PROVIDING NOTIFICATION.**—Section 30119(d) of title 49, United States Code, is amended—

(1) by striking, in paragraph (1), “by first class mail” and inserting “in the manner prescribed by the Secretary, by regulation”;

(2) in paragraph (2)—

(A) by striking “(except a tire) shall be sent by first class mail” and inserting “shall be sent in the manner prescribed by the Secretary, by regulation.”; and

(B) by striking the second sentence;

(3) in paragraph (3)—

(A) by striking the first sentence;

(B) by inserting “to the notification required under paragraphs (1) and (2)” after “addition.”; and

(C) by inserting “by the manufacturer” after “given.”; and

(4) in paragraph (4), by striking “by certified mail or quicker means if available” and inserting “in the manner prescribed by the Secretary, by regulation”.

(b) **IMPROVING EFFICACY OF RECALLS.**—Section 30119(e) of title 49, United States Code, is amended—

(1) in the subsection heading, by striking “SECOND” and inserting “ADDITIONAL”;

(2) by striking “If the Secretary” and inserting the following:

“(1) **SECOND NOTIFICATION.**—If the Secretary”;

(3) by adding at the end the following:

“(2) **ADDITIONAL NOTIFICATIONS.**—If the Secretary determines, after considering the severity of the defect or noncompliance, that the second notification by a manufacturer does not result in an adequate number of motor vehicles or items of replacement equipment being returned for remedy, the Secretary may order the manufacturer—

“(A) to send additional notifications in the manner prescribed by the Secretary, by regulation;

“(B) to take additional steps to locate and notify each person registered under State law as the owner or lessee or the most recent purchaser or lessee, as appropriate; and

“(C) to emphasize the magnitude of the safety risk caused by the defect or noncompliance in such notification.”.

**SEC. 31312. EXPANDING CHOICES OF REMEDY AVAILABLE TO MANUFACTURERS OF REPLACEMENT EQUIPMENT.**

Section 30120 of title 49, United States Code, is amended—

(1) in subsection (a)(1), by amending subparagraph (B) to read as follows:

“(B) if replacement equipment, by repairing the equipment, replacing the equipment with identical or reasonably equivalent equipment, or by refunding the purchase price.”;

(2) in the heading of subsection (i), by adding “OF NEW VEHICLES OR EQUIPMENT” at the end; and

(3) in the heading of subsection (j), by striking “REPLACED” and inserting “REPLACEMENT”.

**SEC. 31313. RECALL OBLIGATIONS AND BANKRUPTCY OF A MANUFACTURER.**

(a) **IN GENERAL.**—Chapter 301 of title 49, United States Code, is amended by inserting the following after section 30120:

**“SEC. 30120A. RECALL OBLIGATIONS AND BANKRUPTCY OF A MANUFACTURER.**

“A manufacturer's filing of a petition in bankruptcy under chapter 11 of title 11, does not negate the manufacturer's duty to comply with section 30112 or sections 30115 through 30120 of this title. In any bankruptcy proceeding, the manufacturer's obligations under such sections shall be treated as a claim of the United States Government against such manufacturer, subject to subchapter II of chapter 37 of title 31, United States Code, and given priority pursuant to section 3713(a)(1)(A) of such chapter, notwithstanding section 3713(a)(2), to ensure that consumers are adequately protected from any safety defect or noncompliance determined to exist in the manufacturer's products. This section shall apply equally to actions of a manufacturer taken before or after the filing of a petition in bankruptcy.”.

(b) **CONFORMING AMENDMENT.**—The chapter analysis of chapter 301 of title 49, United States Code, is amended by inserting after the item relating to section 30120 the following:

“30120a. Recall obligations and bankruptcy of a manufacturer.”.

**SEC. 31314. REPEAL OF INSURANCE REPORTS AND INFORMATION PROVISION.**

Chapter 331 of title 49, United States Code, is amended—

(1) in the chapter analysis, by striking the item relating to section 33112; and

(2) by striking section 33112.

**SEC. 31315. MONRONEY STICKER TO PERMIT ADDITIONAL SAFETY RATING CATEGORIES.**

Section 3(g)(2) of the Automobile Information Disclosure Act (15 U.S.C. 1232(g)(2)), is amended by inserting “safety rating categories that may include” after “refers to”.

**Subtitle D—Vehicle Electronics and Safety Standards**

**SEC. 31401. NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION ELECTRONICS, SOFTWARE, AND ENGINEERING EXPERTISE.**

(a) **COUNCIL FOR VEHICLE ELECTRONICS, VEHICLE SOFTWARE, AND EMERGING TECHNOLOGIES.**—

(1) **IN GENERAL.**—The Secretary shall establish, within the National Highway Traffic Safety Administration, a Council for Vehicle Electronics, Vehicle Software, and Emerging Technologies (referred to in this section as the “Council”) to build, integrate, and aggregate the Administration's expertise in passenger motor vehicle electronics and other new and emerging technologies.

(2) **IMPLEMENTATION OF ROADMAP.**—The Council shall research the inclusion of emerging lightweight plastic and composite technologies in motor vehicles to increase fuel efficiency, lower emissions, meet fuel economy standards, and enhance passenger

motor vehicle safety through continued utilization of the Administration's Plastic and Composite Intensive Vehicle Safety Roadmap (Report No. DOT HS 810 863).

(3) **INTRA-AGENCY COORDINATION.**—The Council shall coordinate with all components of the Administration responsible for vehicle safety, including research and development, rulemaking, and defects investigation.

(b) **HONORS RECRUITMENT PROGRAM.**—

(1) **ESTABLISHMENT.**—The Secretary shall establish, within the National Highway Traffic Safety Administration, an honors program for engineering students, computer science students, and other students interested in vehicle safety that will enable such students to train with engineers and other safety officials for a career in vehicle safety.

(2) **STIPEND.**—The Secretary is authorized to provide a stipend to students during their participation in the program established pursuant to paragraph (1).

(c) **ASSESSMENT.**—The Council, in consultation with affected stakeholders, shall assess the implications of emerging safety technologies in passenger motor vehicles, including the effect of such technologies on consumers, product availability, and cost.

**SEC. 31402. VEHICLE STOPPING DISTANCE AND BRAKE OVERRIDE STANDARD.**

Not later than 1 year after the date of enactment of this Act, the Secretary shall prescribe a Federal motor vehicle safety standard that—

(1) mitigates unintended acceleration in passenger motor vehicles;

(2) establishes performance requirements, based on the speed, size, and weight of the vehicle, that enable a driver to bring a passenger motor vehicle safely to a full stop by normal braking application even if the vehicle is simultaneously receiving accelerator input signals, including a full-throttle input signal;

(3) may permit compliance through a system that requires brake pedal application, after a period of time determined by the Secretary, to override an accelerator pedal input signal in order to stop the vehicle;

(4) requires that redundant circuits or other mechanisms be built into accelerator control systems, including systems controlled by electronic throttle, to maintain vehicle control in the event of failure of the primary circuit or mechanism; and

(5) may permit vehicles to incorporate a means to temporarily disengage the function required under paragraph (2) to facilitate operations, such as maneuvering trailers or climbing steep hills, which may require the simultaneous operation of brake and accelerator.

**SEC. 31403. PEDAL PLACEMENT STANDARD.**

(a) **IN GENERAL.**—The Secretary shall initiate a rulemaking proceeding to consider a Federal motor vehicle safety standard that would mitigate potential obstruction of pedal movement in passenger motor vehicles, after taking into account—

(1) various pedal mounting configurations; and

(2) minimum clearances for passenger motor vehicle foot pedals with respect to other pedals, the vehicle floor (including aftermarket floor coverings), and any other potential obstructions to pedal movement that the Secretary determines to be relevant.

(b) **DEADLINE.**—

(1) **IN GENERAL.**—Except as provided under paragraph (2), the Secretary shall issue a final rule to implement the safety standard described in subsection (a) not later than 3



years after the date of the enactment of this Act.

(2) **REPORT.**—If the Secretary determines that a pedal placement standard does not meet the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code, the Secretary shall submit a report describing the reasons for not prescribing such standard to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

(c) **COMBINED RULEMAKING.**—The Secretary may combine the rulemaking proceeding required under subsection (a) with the rulemaking proceeding required under section 31402.

**SEC. 31404. ELECTRONIC SYSTEMS PERFORMANCE STANDARD.**

(a) **IN GENERAL.**—Not later than 2 years after the date of enactment of this Act, the Secretary shall initiate a rulemaking proceeding to consider prescribing or amending a Federal motor vehicle safety standard that—

(1) requires electronic systems in passenger motor vehicles to meet minimum performance requirements; and

(2) may include requirements for—

(A) electronic components;

(B) the interaction of electronic components;

(C) security needs for those electronic systems to prevent unauthorized access; or

(D) the effect of surrounding environments on those electronic systems.

(b) **DEADLINE.**—

(1) **IN GENERAL.**—Except as provided under paragraph (2), the Secretary shall issue a final rule to implement the safety standard described in subsection (a) not later than 4 years after the date of enactment of this Act.

(2) **REPORT.**—If the Secretary determines that such a standard does not meet the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code, the Secretary shall submit a report describing the reasons for not prescribing such standard to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

(c) **NATIONAL ACADEMY OF SCIENCES.**—In conducting the rulemaking under subsection (a), the Secretary shall consider the findings and recommendations of the National Academy of Sciences, if any, pursuant to its study of electronic vehicle controls.

**SEC. 31405. PUSHBUTTON IGNITION SYSTEMS STANDARD.**

(a) **PUSHBUTTON IGNITION STANDARD.**—

(1) **IN GENERAL.**—The Secretary shall initiate a rulemaking proceeding to consider a Federal motor vehicle safety standard for passenger motor vehicles with pushbutton ignition systems that establishes a standardized operation of such systems when used by drivers, including drivers who may be unfamiliar with such systems, in an emergency situation when the vehicle is in motion.

(2) **OTHER IGNITION SYSTEMS.**—In the rulemaking proceeding initiated under paragraph (1), the Secretary may include any other ignition-starting mechanism that the Secretary determines should be considered.

(b) **PUSHBUTTON IGNITION SYSTEM DEFINED.**—The term “pushbutton ignition system” means a mechanism, such as the push of a button, for starting a passenger motor vehicle that does not involve the physical insertion and turning of a tangible key.

(c) **DEADLINE.**—

(1) **IN GENERAL.**—Except as provided under paragraph (2), the Secretary shall issue a final rule to implement the standard described in subsection (a) not later than 2 years after the date of the enactment of this Act.

(2) **REPORT.**—If the Secretary determines that a standard does not meet the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code, the Secretary shall submit a report describing the reasons for not prescribing such standard to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

**SEC. 31406. VEHICLE EVENT DATA RECORDERS.**

(a) **MANDATORY EVENT DATA RECORDERS.**—

(1) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the Secretary shall revise part 563 of title 49, Code of Federal Regulations, to require, beginning with model year 2015, that new passenger motor vehicles sold in the United States be equipped with an event data recorder that meets the requirements under that part.

(2) **PENALTY.**—The violation of any provision under part 563 of title 49, Code of Federal Regulations—

(A) shall be deemed to be a violation of section 30112 of title 49, United States Code;

(B) shall be subject to civil penalties under section 30165(a) of that title; and

(C) shall not subject a manufacturer (as defined in section 30102(a)(5) of that title) to the requirements under section 30120 of that title.

(b) **LIMITATIONS ON INFORMATION RETRIEVAL.**—

(1) **OWNERSHIP OF DATA.**—Any data in an event data recorder required under part 563 of title 49, Code of Federal Regulations, regardless of when the passenger motor vehicle in which it is installed was manufactured, is the property of the owner, or in the case of a leased vehicle, the lessee of the passenger motor vehicle in which the data recorder is installed.

(2) **PRIVACY.**—Data recorded or transmitted by such a data recorder may not be retrieved by a person other than the owner or lessee of the motor vehicle in which the recorder is installed unless—

(A) a court authorizes retrieval of the information in furtherance of a legal proceeding;

(B) the owner or lessee consents to the retrieval of the information for any purpose, including the purpose of diagnosing, servicing, or repairing the motor vehicle;

(C) the information is retrieved pursuant to an investigation or inspection authorized under section 1131(a) or 30166 of title 49, United States Code, and the personally identifiable information of the owner, lessee, or driver of the vehicle and the vehicle identification number is not disclosed in connection with the retrieved information; or

(D) the information is retrieved for the purpose of determining the need for, or facilitating, emergency medical response in response to a motor vehicle crash.

(c) **REPORT TO CONGRESS.**—Two years after the date of implementation of subsection (a), the Secretary shall study the safety impact and the impact on individual privacy of event data recorders in passenger motor vehicles and report its findings to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives. The report shall include—

(1) the safety benefits gained from installation of event data recorders;

(2) the recommendations on what, if any, additional data the event data recorder should be modified to record;

(3) the additional safety benefit such information would yield;

(4) the estimated cost to manufacturers to implement the new enhancements;

(5) an analysis of how the information proposed to be recorded by an event data recorder conforms to applicable legal, regulatory, and policy requirements regarding privacy;

(6) a determination of the risks and effects of collecting and maintaining the information proposed to be recorded by an event data recorder;

(7) an examination and evaluation of the protections and alternative processes for handling information recorded by an event data recorder to mitigate potential privacy risks.

(d) **REVISED REQUIREMENTS FOR EVENT DATA RECORDERS.**—Based on the findings of the study under subsection (c), the Secretary shall initiate a rulemaking proceeding to revise part 563 of title 49, Code of Federal Regulations. The rule—

(1) shall require event data recorders to capture and store data related to motor vehicle safety covering a reasonable time period before, during, and after a motor vehicle crash or airbag deployment, including a rollover;

(2) shall require that data stored on such event data recorders be accessible, regardless of vehicle manufacturer or model, with commercially available equipment in a specified data format;

(3) shall establish requirements for preventing unauthorized access to the data stored on an event data recorder in order to protect the security, integrity, and authenticity of the data; and

(4) may require an interoperable data access port to facilitate universal accessibility and analysis.

(e) **DISCLOSURE OF EXISTENCE AND PURPOSE OF EVENT DATA RECORDER.**—The rule issued under subsection (d) shall require that any owner's manual or similar documentation provided to the first purchaser of a passenger motor vehicle for purposes other than resale—

(1) disclose that the vehicle is equipped with such a data recorder; and

(2) explain the purpose of the data recorder.

(f) **ACCESS TO EVENT DATA RECORDERS IN AGENCY INVESTIGATIONS.**—Section 30166(c)(3)(C) of title 49, United States Code, is amended by inserting “, including any electronic data contained within the vehicle's diagnostic system or event data recorder” after “equipment.”

(g) **DEADLINE FOR RULEMAKING.**—The Secretary shall issue a final rule under subsection (d) not later than 4 years after the date of enactment of this Act.

**SEC. 31407. PROHIBITION ON ELECTRONIC VISUAL ENTERTAINMENT IN DRIVER'S VIEW.**

(a) **VISUAL ENTERTAINMENT SCREENS IN DRIVER'S VIEW.**—Not later than 2 years after the date of enactment of this Act, the Secretary of Transportation shall issue a final rule that prescribes a Federal motor vehicle safety standard prohibiting electronic screens from displaying broadcast television, movies, video games, and other forms of similar visual entertainment that is visible to the driver while driving.

(b) **EXCEPTIONS.**—The standard prescribed under subsection (a) shall allow electronic

screens that display information or images regarding operation of the vehicle, vehicle surroundings, and telematic functions, such as the vehicles navigation and communications system, weather, time, or the vehicle's audio system.

**SEC. 31408. COMMERCIAL MOTOR VEHICLE ROLL-OVER PREVENTION AND CRASH MITIGATION.**

(a) **RULEMAKING.**—Not later than 3 months after the date of enactment of this Act, the Secretary of Transportation shall initiate a rulemaking proceeding pursuant to section 30111 of title 49, United States Code, to prescribe or amend a Federal motor vehicle safety standard to reduce commercial motor vehicle rollover and loss of control crashes and mitigate deaths and injuries associated with such crashes for air-braked truck tractors and motorcoaches with a gross vehicle weight rating of more than 26,000 pounds.

(b) **REQUIRED PERFORMANCE STANDARDS.**—The rulemaking proceeding initiated under subsection (a) shall establish standards to reduce the occurrence of rollovers and loss of control crashes consistent with stability enhancing technologies, such as electronic stability control systems.

(c) **DEADLINE.**—Not later than 18 months after the date of enactment of this Act, the Secretary shall issue a final rule under subsection (a).

**Subtitle E—Child Safety Standards**

**SEC. 31501. CHILD SAFETY SEATS.**

(a) **PROTECTION FOR LARGER CHILDREN.**—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue a final rule amending Federal Motor Vehicle Safety Standard Number 213 to establish frontal crash protection requirements for child restraint systems for children weighing more than 65 pounds.

(b) **SIDE IMPACT CRASHES.**—Not later than 2 years after the date of enactment of this Act, the Secretary shall issue a final rule amending Federal Motor Vehicle Safety Standard Number 213 to improve the protection of children seated in child restraint systems during side impact crashes.

(c) **FRONTAL IMPACT TEST PARAMETERS.**—

(1) **COMMENCEMENT.**—Not later than 2 years after the date of enactment of this Act, the Secretary shall commence a rulemaking proceeding to amend test parameters under Federal Motor Vehicle Safety Standard Number 213 to better replicate real world conditions.

(2) **FINAL RULE.**—Not later than 4 years after the date of enactment of this Act, the Secretary shall issue a final rule pursuant to paragraph (1).

**SEC. 31502. CHILD RESTRAINT ANCHORAGE SYSTEMS.**

(a) **INITIATION OF RULEMAKING PROCEEDING.**—Not later than 1 year after the date of enactment of this Act, the Secretary shall initiate a rulemaking proceeding to—

(1) amend Federal Motor Vehicle Safety Standard Number 225 (relating to child restraint anchorage systems) to improve the visibility of, accessibility to, and ease of use for lower anchorages and tethers in all rear seat seating positions if such anchorages and tethers are feasible; and

(2) amend Federal Motor Vehicle Safety Standard Number 213 (relating to child restraint systems) or Federal Motor Vehicle Safety Standard Number 225 (relating to child restraint anchorage systems)—

(A) to establish a maximum allowable weight of the child and child restraint for standardizing the recommended use of child restraint anchorage systems in all vehicles; and

(B) to provide the information described in subparagraph (A) to the consumer.

(b) **FINAL RULE.**—

(1) **IN GENERAL.**—Except as provided under paragraph (2), the Secretary shall issue a final rule under subsection (a) not later than 3 years after the date of the enactment of this Act.

(2) **REPORT.**—If the Secretary determines that an amendment to the standard referred to in subsection (a) does not meet the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code, the Secretary shall submit a report describing the reasons for not prescribing such a standard to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

**SEC. 31503. REAR SEAT BELT REMINDERS.**

(a) **INITIATION OF RULEMAKING PROCEEDING.**—Not later than 2 years after the date of enactment of this Act, the Secretary shall initiate a rulemaking proceeding to amend Federal Motor Vehicle Safety Standard Number 208 (relating to occupant crash protection) to provide a safety belt use warning system for designated seating positions in the rear seat.

(b) **FINAL RULE.**—

(1) **IN GENERAL.**—Except as provided under paragraph (2), the Secretary shall issue a final rule under subsection (a) not later than 3 years after the date of enactment of this Act.

(2) **REPORT.**—If the Secretary determines that an amendment to the standard referred to in subsection (a) does not meet the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code, the Secretary shall submit a report describing the reasons for not prescribing such a standard to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

**SEC. 31504. UNATTENDED PASSENGER REMINDERS.**

(a) **SAFETY RESEARCH INITIATIVE.**—Not later than 2 years after the date of enactment of this Act, the Secretary shall complete research into the development of performance requirements to warn drivers that a child or other unattended passenger remains in a rear seating position after the vehicle motor is disengaged.

(b) **SPECIFICATIONS.**—In carrying out subsection (a), the Secretary shall consider performance requirements that—

(1) sense weight, the presence of a buckled seat belt, or other indications of the presence of a child or other passenger; and

(2) provide an alert to prevent hyperthermia and hypothermia that can result in death or severe injuries.

(c) **RULEMAKING OR REPORT.**—

(1) **RULEMAKING.**—Not later than 1 year after the completion of each research and testing initiative required under subsection (a), the Secretary shall initiate a rulemaking proceeding to issue a Federal motor vehicle safety standard if the Secretary determines that such a standard meets the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code.

(2) **REPORT.**—If the Secretary determines that the standard described in subsection (a) does not meet the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code, the Secretary shall submit a report describing the reasons for not prescribing such a standard to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

**SEC. 31505. NEW DEADLINE.**

If the Secretary determines that any deadline for issuing a final rule under this Act cannot be met, the Secretary shall—

(1) provide the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives with an explanation for why such deadline cannot be met; and

(2) establish a new deadline for that rule.

**Subtitle F—Improved Daytime and Nighttime Visibility of Agricultural Equipment**

**SEC. 31601. RULEMAKING ON VISIBILITY OF AGRICULTURAL EQUIPMENT.**

(a) **DEFINITIONS.**—In this section:

(1) **AGRICULTURAL EQUIPMENT.**—The term “agricultural equipment” has the meaning given the term “agricultural field equipment” in ASABE Standard 390.4, entitled “Definitions and Classifications of Agricultural Field Equipment”, which was published in January 2005 by the American Society of Agriculture and Biological Engineers, or any successor standard.

(2) **PUBLIC ROAD.**—The term “public road” has the meaning given the term in section 101(a)(27) of title 23, United States Code.

(b) **RULEMAKING.**—

(1) **IN GENERAL.**—Not later than 2 years after the date of enactment of this Act, the Secretary of Transportation, after consultation with representatives of the American Society of Agricultural and Biological Engineers and appropriate Federal agencies, and with other appropriate persons, shall promulgate a rule to improve the daytime and nighttime visibility of agricultural equipment that may be operated on a public road.

(2) **MINIMUM STANDARDS.**—The rule promulgated pursuant to this subsection shall—

(A) establish minimum lighting and marking standards for applicable agricultural equipment manufactured at least 1 year after the date on which such rule is promulgated; and

(B) provide for the methods, materials, specifications, and equipment to be employed to comply with such standards, which shall be equivalent to ASABE Standard 279.14, entitled “Lighting and Marking of Agricultural Equipment on Highways”, which was published in July 2008 by the American Society of Agricultural and Biological Engineers, or any successor standard.

(c) **REVIEW.**—Not less frequently than once every 5 years, the Secretary of Transportation shall—

(1) review the standards established pursuant to subsection (b); and

(2) revise such standards to reflect the revision of ASABE Standard 279 that is in effect at the time of such review.

(d) **LIMITATIONS.**—

(1) **COMPLIANCE WITH SUCCESSOR STANDARDS.**—Any rule promulgated pursuant to this section may not prohibit the operation on public roads of agricultural equipment that is equipped in accordance with any adopted revision of ASABE Standard 279 that is later than the revision of such standard that was referenced during the promulgation of the rule.

(2) **NO RETROFITTING REQUIRED.**—Any rule promulgated pursuant to this section may not require the retrofitting of agricultural equipment that was manufactured before the date on which the lighting and marking standards are enforceable under subsection (b)(2)(A).

(3) NO EFFECT ON ADDITIONAL MATERIALS AND EQUIPMENT.—Any rule promulgated pursuant to this section may not prohibit the operation on public roads of agricultural equipment that is equipped with materials or equipment that are in addition to the minimum materials and equipment specified in the standard upon which such rule is based.

## **TITLE II—COMMERCIAL MOTOR VEHICLE SAFETY ENHANCEMENT ACT OF 2012**

### **SEC. 32001. SHORT TITLE.**

This title may be cited as the “Commercial Motor Vehicle Safety Enhancement Act of 2012”.

### **SEC. 32002. REFERENCES TO TITLE 49, UNITED STATES CODE.**

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

#### **Subtitle A—Commercial Motor Vehicle Registration**

### **SEC. 32101. REGISTRATION OF MOTOR CARRIERS.**

(a) REGISTRATION REQUIREMENTS.—Section 13902(a)(1) is amended to read as follows:

“(1) IN GENERAL.—Except as otherwise provided in this section, the Secretary of Transportation may not register a person to provide transportation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier unless the Secretary determines that the person—

“(A) is willing and able to comply with—

“(i) this part and the applicable regulations of the Secretary and the Board;

“(ii) any safety regulations imposed by the Secretary;

“(iii) the duties of employers and employees established by the Secretary under section 31135;

“(iv) the safety fitness requirements established by the Secretary under section 31144;

“(v) the accessibility requirements established by the Secretary under subpart H of part 37 of title 49, Code of Federal Regulations (or successor regulations), for transportation provided by an over-the-road bus; and

“(vi) the minimum financial responsibility requirements established by the Secretary under sections 13906, 31138, and 31139;

“(B) has submitted a comprehensive management plan documenting that the person has management systems in place to ensure compliance with safety regulations imposed by the Secretary;

“(C) has disclosed any relationship involving common ownership, common management, common control, or common familial relationship between that person and any other motor carrier, freight forwarder, or broker, or any other applicant for motor carrier, freight forwarder, or broker registration, or a successor (as that term is defined under section 31153), if the relationship occurred in the 5-year period preceding the date of the filing of the application for registration; and

“(D) after the Secretary establishes a written proficiency examination pursuant to section 32101(b) of the Commercial Motor Vehicle Safety Enhancement Act of 2012, has passed the written proficiency examination.”.

(b) WRITTEN PROFICIENCY EXAMINATION.—

(1) ESTABLISHMENT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall establish a written proficiency examination for applicant motor carriers pursuant to section 13902(a)(1)(D) of title 49, United States Code. The written pro-

ficiency examination shall test a person’s knowledge of applicable safety regulations, standards, and orders of the Federal government and State government.

(2) ADDITIONAL FEE.—The Secretary may assess a fee to cover the expenses incurred by the Department of Transportation in—

(A) developing and administering the written proficiency examination; and

(B) reviewing the comprehensive management plan required under section 13902(a)(1)(B) of title 49, United States Code.

(c) CONFORMING AMENDMENT.—Section 210(b) of the Motor Carrier Safety Improvement Act of 1999 (49 U.S.C. 31144 note) is amended—

(1) by inserting “, commercial regulations, and provisions of subpart H of part 37 of title 49, Code of Federal Regulations, or successor regulations” after “applicable safety regulations”; and

(2) by striking “consider the establishment of” and inserting “establish”.

### **SEC. 32102. SAFETY FITNESS OF NEW OPERATORS.**

(a) SAFETY REVIEWS OF NEW OPERATORS.—Section 31144(g)(1) is amended to read as follows:

“(1) SAFETY REVIEW.—

“(A) IN GENERAL.—The Secretary shall require, by regulation, each owner and each operator granted new registration under section 13902 or 31134 to undergo a safety review not later than 12 months after the owner or operator, as the case may be, begins operations under such registration.

“(B) PROVIDERS OF MOTORCOACH SERVICES.—The Secretary may register a person to provide motorcoach services under section 13902 or 31134 after the person undergoes a pre-authorization safety audit, including verification, in a manner sufficient to demonstrate the ability to comply with Federal rules and regulations, as described in section 13902. The Secretary shall continue to monitor the safety performance of each owner and each operator subject to this section for 12 months after the owner or operator is granted registration under section 13902 or 31134. The registration of each owner and each operator subject to this section shall become permanent after the motorcoach service provider is granted registration following a pre-authorization safety audit and the expiration of the 12 month monitoring period.

“(C) PRE-AUTHORIZATION SAFETY AUDIT.—The Secretary may require, by regulation, that the pre-authorization safety audit under subparagraph (B) be completed on-site not later than 90 days after the submission of an application for operating authority.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 1 year after the date of enactment of this Act.

### **SEC. 32103. REINCARNATED CARRIERS.**

(a) EFFECTIVE PERIODS OF REGISTRATION.—

(1) SUSPENSIONS, AMENDMENTS, AND REVOCATIONS.—Section 13905(d) is amended—

(A) by redesignating paragraph (2) as paragraph (4);

(B) by striking paragraph (1) and inserting the following:

“(1) APPLICATIONS.—On application of the registrant, the Secretary may amend or revoke a registration.

“(2) COMPLAINTS AND ACTIONS ON SECRETARY’S OWN INITIATIVE.—On complaint or on the Secretary’s own initiative and after notice and an opportunity for a proceeding, the Secretary may—

“(A) suspend, amend, or revoke any part of the registration of a motor carrier, broker, or freight forwarder for willful failure to comply with—

“(i) this part;

“(ii) an applicable regulation or order of the Secretary or the Board, including the accessibility requirements established by the Secretary under subpart H of part 37 of title 49, Code of Federal Regulations (or successor regulations), for transportation provided by an over-the-road bus; or

“(iii) a condition of its registration;

“(B) withhold, suspend, amend, or revoke any part of the registration of a motor carrier, broker, or freight forwarder for failure—

“(i) to pay a civil penalty imposed under chapter 5, 51, 149, or 311;

“(ii) to arrange and abide by an acceptable payment plan for such civil penalty, not later than 90 days after the date specified by order of the Secretary for the payment of such penalty; or

“(iii) for failure to obey a subpoena issued by the Secretary;

“(C) withhold, suspend, amend, or revoke any part of a registration of a motor carrier, broker, or freight forwarder following a determination by the Secretary that the motor carrier, broker, or freight forwarder failed to disclose, in its application for registration, a material fact relevant to its willingness and ability to comply with—

“(i) this part;

“(ii) an applicable regulation or order of the Secretary or the Board; or

“(iii) a condition of its registration; or

“(D) withhold, suspend, amend, or revoke any part of a registration of a motor carrier, broker, or freight forwarder if the Secretary finds that—

“(i) the motor carrier, broker, or freight forwarder is or was related through common ownership, common management, common control, or common familial relationship to any other motor carrier, broker, or freight forwarder, or any other applicant for motor carrier, broker, or freight forwarder registration that the Secretary determines is or was unwilling or unable to comply with the relevant requirements listed in section 13902, 13903, or 13904; or

“(ii) the person is the successor, as defined in section 31153, to a person who is or was unwilling or unable to comply with the relevant requirements of section 13902, 13903, or 13904.

“(3) LIMITATION.—Paragraph (2)(B) shall not apply to a person who is unable to pay a civil penalty because the person is a debtor in a case under chapter 11 of title 11.”; and

(C) in paragraph (4), as redesignated by section 32103(a)(1)(A) of this Act, by striking “paragraph (1)(B)” and inserting “paragraph (2)(B)”.

(2) PROCEDURE.—Section 13905(e) is amended by inserting “or if the Secretary determines that the registrant failed to disclose a material fact in an application for registration in accordance with subsection (d)(2)(C),” after “registrant,”.

(b) INFORMATION SYSTEMS.—Section 31106(a)(3) is amended—

(1) in subparagraph (F), by striking “and” at the end;

(2) in subparagraph (G), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(H) determine whether a person or employer is or was related, through common ownership, common management, common control, or common familial relationship, to any other person, employer, or any other applicant for registration under section 13902 or 31134.”.

**SEC. 32104. FINANCIAL RESPONSIBILITY REQUIREMENTS.**

(a) **REPORT.**—Not later than 6 months after the date of enactment of this Act, the Secretary shall—

(1) issue a report on the appropriateness of—

(A) the current minimum financial responsibility requirements under sections 31138 and 31139 of title 49, United States Code; and

(B) the current bond and insurance requirements under section 13904(f) of title 49, United States Code; and

(2) submit the report issued under paragraph (1) to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(b) **RULEMAKING.**—Not later than 6 months after the publication of the report under subsection (a), the Secretary shall initiate a rulemaking—

(1) to revise the minimum financial responsibility requirements under sections 31138 and 31139 of title 49, United States Code and

(2) to revise the bond and insurance requirements under section 13904(f) of such title, as appropriate, based on the findings of the report submitted under subsection (a).

(c) **DEADLINE.**—Not later than 1 year after the start of the rulemaking under subsection (b), the Secretary shall—

(1) issue a final rule; or

(2) if the Secretary determines that a rulemaking is not required following the Secretary's analysis, submit a report stating the reason for not increasing the minimum financial responsibility requirements to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(d) **BIENNIAL REVIEWS.**—Not less than once every 2 years, the Secretary shall review the requirements prescribed under subsection (b) and revise the requirements, as appropriate.

**SEC. 32105. USDOT NUMBER REGISTRATION REQUIREMENT.**

(a) **IN GENERAL.**—Chapter 311 is amended by inserting after section 31133 the following:

**“§ 31134. Requirement for registration and USDOT number**

“(a) **IN GENERAL.**—Upon application, and subject to subsections (b) and (c), the Secretary shall register an employer or person subject to the safety jurisdiction of this subchapter. An employer or person may operate a commercial motor vehicle in interstate commerce only if the employer or person is registered by the Secretary under this section and receives a USDOT number. Nothing in this section shall preclude registration by the Secretary of an employer or person not engaged in interstate commerce. An employer or person subject to jurisdiction under subchapter I of chapter 135 of this title shall apply for commercial registration under section 13902 of this title.

“(b) **WITHHOLDING REGISTRATION.**—The Secretary may withhold registration under subsection (a), after notice and an opportunity for a proceeding, if the Secretary determines that—

“(1) the employer or person seeking registration is unwilling or unable to comply with the requirements of this subchapter and the regulations prescribed thereunder and chapter 51 and the regulations prescribed thereunder;

“(2) the employer or person is or was related through common ownership, common management, common control, or common familial relationship to any other person or

applicant for registration subject to this subchapter who is or was unfit, unwilling, or unable to comply with the requirements listed in subsection (b)(1); or

“(3) the person is the successor, as defined in section 31153, to a person who is or was unfit, unwilling, or unable to comply with the requirements listed in subsection (b)(1).

“(c) **REVOCATION OR SUSPENSION OF REGISTRATION.**—The Secretary shall revoke the registration of an employer or person under subsection (a) after notice and an opportunity for a proceeding, or suspend the registration after giving notice of the suspension to the employer or person, if the Secretary determines that—

“(1) the employer's or person's authority to operate pursuant to chapter 139 of this title would be subject to revocation or suspension under sections 13905(d)(1) or 13905(f) of this title;

“(2) the employer or person is or was related through common ownership, common management, common control, or common familial relationship to any other person or applicant for registration subject to this subchapter that the Secretary determines is or was unfit, unwilling, or unable to comply with the requirements listed in subsection (b)(1);

“(3) the person is the successor, as defined in section 31153, to a person the Secretary determines is or was unfit, unwilling, or unable to comply with the requirements listed in subsection (b)(1); or

“(4) the employer or person failed or refused to submit to the safety review required by section 31144(g) of this title.

“(d) **PERIODIC REGISTRATION UPDATE.**—The Secretary may require an employer to update a registration under this section periodically or not later than 30 days after a change in the employer's address, other contact information, officers, process agent, or other essential information, as determined by the Secretary.”.

(b) **CONFORMING AMENDMENT.**—The analysis of chapter 311 is amended by inserting after the item relating to section 31133 the following:

“31134. Requirement for registration and USDOT number.”.

**SEC. 32106. REGISTRATION FEE SYSTEM.**

Section 13908(d)(1) is amended by striking “but shall not exceed \$300”.

**SEC. 32107. REGISTRATION UPDATE.**

(a) **PERIODIC MOTOR CARRIER UPDATE.**—Section 13902 is amended by adding at the end the following:

“(h) **UPDATE OF REGISTRATION.**—The Secretary may require a registrant to update its registration under this section periodically or not later than 30 days after a change in the registrant's address, other contact information, officers, process agent, or other essential information, as determined by the Secretary.”.

(b) **PERIODIC FREIGHT FORWARDER UPDATE.**—Section 13903 is amended by adding at the end the following:

“(c) **UPDATE OF REGISTRATION.**—The Secretary may require a freight forwarder to update its registration under this section periodically or not later than 30 days after a change in the freight forwarder's address, other contact information, officers, process agent, or other essential information, as determined by the Secretary.”.

(c) **PERIODIC BROKER UPDATE.**—Section 13904 is amended by adding at the end the following:

“(e) **UPDATE OF REGISTRATION.**—The Secretary may require a broker to update its registration under this section periodically

or not later than 30 days after a change in the broker's address, other contact information, officers, process agent, or other essential information, as determined by the Secretary.”.

**SEC. 32108. INCREASED PENALTIES FOR OPERATING WITHOUT REGISTRATION.**

(a) **PENALTIES.**—Section 14901(a) is amended—

(1) by striking “\$500” and inserting “\$1,000”;

(2) by striking “who is not registered under this part to provide transportation of passengers.”;

(3) by striking “with respect to providing transportation of passengers,” and inserting “or section 13902(c) of this title.”; and

(4) by striking “\$2,000 for each violation and each additional day the violation continues” and inserting “\$10,000 for each violation, or \$25,000 for each violation relating to providing transportation of passengers”.

(b) **TRANSPORTATION OF HAZARDOUS WASTES.**—Section 14901(b) is amended by striking “not to exceed \$20,000” and inserting “not less than \$25,000”.

**SEC. 32109. REVOCATION OF REGISTRATION FOR IMMINENT HAZARD.**

Section 13905(f)(2) is amended to read as follows:

“(2) **IMMINENT HAZARD TO PUBLIC HEALTH.**—Notwithstanding subchapter II of chapter 5 of title 5, the Secretary shall revoke the registration of a motor carrier if the Secretary finds that the carrier is or was conducting unsafe operations that are or were an imminent hazard to public health or property.”.

**SEC. 32110. REVOCATION OF REGISTRATION AND OTHER PENALTIES FOR FAILURE TO RESPOND TO SUBPOENA.**

Section 525 is amended—

(1) by striking “subpenas” in the section heading and inserting “subpoenas”;

(2) by striking “subpena” and inserting “subpoena”;

(3) by striking “\$100” and inserting “\$1,000”;

(4) by striking “\$5,000” and inserting “\$10,000”; and

(5) by adding at the end the following:

“The Secretary may withhold, suspend, amend, or revoke any part of the registration of a person required to register under chapter 139 for failing to obey a subpoena or requirement of the Secretary under this chapter to appear and testify or produce records.”.

**SEC. 32111. FLEETWIDE OUT OF SERVICE ORDER FOR OPERATING WITHOUT REQUIRED REGISTRATION.**

Section 13902(e)(1) is amended—

(1) by striking “motor vehicle” and inserting “motor carrier” after “the Secretary determines that a”; and

(2) by striking “order the vehicle” and inserting “order the motor carrier operations” after “the Secretary may”.

**SEC. 32112. MOTOR CARRIER AND OFFICER PATTERNS OF SAFETY VIOLATIONS.**

Section 31135 is amended—

(1) by striking subsection (b) and inserting the following:

“(b) **NONCOMPLIANCE.**—

“(1) **MOTOR CARRIERS.**—Two or more motor carriers, employers, or persons shall not use common ownership, common management, common control, or common familial relationship to enable any or all such motor carriers, employers, or persons to avoid compliance, or mask or otherwise conceal non-compliance, or a history of non-compliance, with regulations prescribed under this subchapter or an order of the Secretary issued under this subchapter.

“(2) **PATTERN.**—If the Secretary finds that a motor carrier, employer, or person engaged in a pattern or practice of avoiding compliance, or masking or otherwise concealing noncompliance, with regulations prescribed under this subchapter, the Secretary—

“(A) may withhold, suspend, amend, or revoke any part of the motor carrier’s, employer’s, or person’s registration in accordance with section 13905 or 31134; and

“(B) shall take into account such non-compliance for purposes of determining civil penalty amounts under section 521(b)(2)(D).

“(3) **OFFICERS.**—If the Secretary finds, after notice and an opportunity for proceeding, that an officer of a motor carrier, employer, or owner or operator engaged in a pattern or practice of violating regulations prescribed under this subchapter, or assisted a motor carrier, employer, or owner or operator in avoiding compliance, or masking or otherwise concealing noncompliance, the Secretary may impose appropriate sanctions, subject to the limitations in paragraph (4), including—

“(A) suspension or revocation of registration granted to the officer individually under section 13902 or 31134;

“(B) temporary or permanent suspension or bar from association with any motor carrier, employer, or owner or operator registered under section 13902 or 31134; or

“(C) any appropriate sanction approved by the Secretary.

“(4) **LIMITATIONS.**—The sanctions described in subparagraphs (A) through (C) of subsection (b)(3) shall apply to—

“(A) intentional or knowing conduct, including reckless conduct that violates applicable laws (including regulations); and

“(B) repeated instances of negligent conduct that violates applicable laws (including regulations).”; and

(2) by striking subsection (c) and inserting the following:

“(c) **AVOIDING COMPLIANCE.**—For purposes of this section, ‘avoiding compliance’ or ‘masking or otherwise concealing non-compliance’ includes serving as an officer or otherwise exercising controlling influence over 2 or more motor carriers where—

“(1) one of the carriers was placed out of service, or received notice from the Secretary that it will be placed out of service, following—

“(A) a determination of unfitness under section 31144(b);

“(B) a suspension or revocation of registration under section 13902, 13905, or 31144(g);

“(C) issuance of an imminent hazard out of service order under section 521(b)(5) or section 5121(d); or

“(D) notice of failure to pay a civil penalty or abide by a penalty payment plan; and

“(2) one or more of the carriers is the ‘successor,’ as that term is defined in section 31153, to the carrier that is the subject of the action in paragraph (1).”.

#### **SEC. 32113. FEDERAL SUCCESSOR STANDARD.**

(a) **IN GENERAL.**—Chapter 311 is amended by adding after section 31152, as added by section 32508 of this Act, the following:

##### **“§ 31153. Federal successor standard**

“(a) **FEDERAL SUCCESSOR STANDARD.**—Notwithstanding any other provision of Federal or State law, the Secretary may take an action authorized under chapters 5, 51, 131 through 149, subchapter III of chapter 311 (except sections 31138 and 31139), or sections 31302, 31303, 31304, 31305(b), 31310(g)(1)(A), or 31502 of this title, or a regulation issued under any of those provisions, against a successor of a motor carrier (as defined in section 13102), a successor of an employer (as de-

fined in section 31132), or a successor of an owner or operator (as that term is used in subchapter III of chapter 311), to the same extent and on the same basis as the Secretary may take the action against the motor carrier, employer, or owner or operator.

“(b) **SUCCESSOR DEFINED.**—For purposes of this section, the term ‘successor’ means a motor carrier, employer, or owner or operator that the Secretary determines, after notice and an opportunity for a proceeding, has 1 or more features that correspond closely with the features of another existing or former motor carrier, employer, or owner or operator, such as—

“(1) consideration paid for assets purchased or transferred;

“(2) dates of corporate creation and dissolution or termination of operations;

“(3) commonality of ownership;

“(4) commonality of officers and management personnel and their functions;

“(5) commonality of drivers and other employees;

“(6) identity of physical or mailing addresses, telephone, fax numbers, or e-mail addresses;

“(7) identity of motor vehicle equipment;

“(8) continuity of liability insurance policies;

“(9) commonality of coverage under liability insurance policies;

“(10) continuation of carrier facilities and other physical assets;

“(11) continuity of the nature and scope of operations, including customers;

“(12) commonality of the nature and scope of operations, including customers;

“(13) advertising, corporate name, or other acts through which the motor carrier, employer, or owner or operator holds itself out to the public;

“(14) history of safety violations and pending orders or enforcement actions of the Secretary; and

“(15) additional factors that the Secretary considers appropriate.

“(c) **EFFECTIVE DATE.**—Notwithstanding any other provision of law, this section shall apply to any action commenced on or after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012 without regard to whether the violation that is the subject of the action, or the conduct that caused the violation, occurred before the date of enactment.

“(d) **RIGHTS NOT AFFECTED.**—Nothing in this section shall affect the rights, functions, or responsibilities under law of any other Department, Agency, or instrumentality of the United States, the laws of any State, or any rights between a private party and a motor carrier, employer, or owner or operator.”.

(b) **CONFORMING AMENDMENT.**—The analysis of chapter 311 is amended by inserting after the item related to section 31152, as added by section 32508 of this Act, the following:

“31153. Federal successor standard.”.

#### **Subtitle B—Commercial Motor Vehicle Safety**

#### **SEC. 32201. REPEAL OF COMMERCIAL JURISDICTION EXCEPTION FOR BROKERS OF MOTOR CARRIERS OF PASSENGERS.**

(a) **IN GENERAL.**—Section 13506(a) is amended—

(1) by inserting “or” at the end of paragraph (13);

(2) by striking paragraph (14); and

(3) by redesignating paragraph (15) as paragraph (14).

(b) **CONFORMING AMENDMENT.**—Section 13904(a) is amended by striking “of property” in the first sentence.

#### **SEC. 32202. BUS RENTALS AND DEFINITION OF EMPLOYER.**

Paragraph (3) of section 31132 is amended to read as follows:

“(3) ‘employer’—

“(A) means a person engaged in a business affecting interstate commerce that—

“(i) owns or leases a commercial motor vehicle in connection with that business, or assigns an employee to operate the commercial motor vehicle; or

“(ii) offers for rent or lease a motor vehicle designed or used to transport more than 8 passengers, including the driver, and from the same location or as part of the same business provides names or contact information of drivers, or holds itself out to the public as a charter bus company; but

“(B) does not include the Government, a State, or a political subdivision of a State.”.

#### **SEC. 32203. CRASHWORTHINESS STANDARDS.**

(a) **IN GENERAL.**—Not later than 18 months after the date of enactment of this Act, the Secretary shall conduct a comprehensive analysis on the need for crashworthiness standards on property-carrying commercial motor vehicles with a gross vehicle weight rating or gross vehicle weight of at least 26,001 pounds involved in interstate commerce, including an evaluation of the need for roof strength, pillar strength, air bags, and frontal and back wall standards.

(b) **REPORT.**—Not later than 90 days after completing the comprehensive analysis under subsection (a), the Secretary shall report the results of the analysis and any recommendations to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

#### **SEC. 32204. CANADIAN SAFETY RATING RECIPROCITY.**

Section 31144 is amended by adding at the end the following:

“(h) **RECOGNITION OF CANADIAN MOTOR CARRIER SAFETY FITNESS DETERMINATIONS.**—

“(1) If an authorized agency of the Canadian federal government or a Canadian Territorial or Provincial government determines, by applying the procedure and standards prescribed by the Secretary under subsection (b) or pursuant to an agreement under paragraph (2), that a Canadian employer is unfit and prohibits the employer from operating a commercial motor vehicle in Canada or any Canadian Province, the Secretary may prohibit the employer from operating such vehicle in interstate and foreign commerce until the authorized Canadian agency determines that the employer is fit.

“(2) The Secretary may consult and participate in negotiations with authorized officials of the Canadian federal government or a Canadian Territorial or Provincial government, as necessary, to provide reciprocal recognition of each country’s motor carrier safety fitness determinations. An agreement shall provide, to the maximum extent practicable, that each country will follow the procedure and standards prescribed by the Secretary under subsection (b) in making motor carrier safety fitness determinations.”.

#### **SEC. 32205. STATE REPORTING OF FOREIGN COMMERCIAL DRIVER CONVICTIONS.**

(a) **DEFINITION OF FOREIGN COMMERCIAL DRIVER.**—Section 31301 is amended—

(1) by redesignating paragraphs (10) through (14) as paragraphs (11) through (15), respectively; and

(2) by inserting after paragraph (9) the following:

“(10) ‘foreign commercial driver’ means an individual licensed to operate a commercial motor vehicle by an authority outside the United States, or a citizen of a foreign country who operates a commercial motor vehicle in the United States.”.

(b) STATE REPORTING OF CONVICTIONS.—Section 31311(a) is amended by adding after paragraph (21) the following:

“(22) The State shall report a conviction of a foreign commercial driver by that State to the Federal Convictions and Withdrawal Database, or another information system designated by the Secretary to record the convictions. A report shall include—

“(A) for a driver holding a foreign commercial driver’s license—

“(i) each conviction relating to the operation of a commercial motor vehicle; and

“(ii) a non-commercial motor vehicle; and

“(B) for an unlicensed driver or a driver holding a foreign non-commercial driver’s license, each conviction for operating a commercial motor vehicle.”.

#### SEC. 32206. AUTHORITY TO DISQUALIFY FOREIGN COMMERCIAL DRIVERS.

Section 31310 is amended by adding at the end the following:

“(k) FOREIGN COMMERCIAL DRIVERS.—A foreign commercial driver shall be subject to disqualification under this section.”.

#### SEC. 32207. REVOCATION OF FOREIGN MOTOR CARRIER OPERATING AUTHORITY FOR FAILURE TO PAY CIVIL PENALTIES.

Section 13905(d)(2), as amended by section 32103(a) of this Act, is amended by inserting “foreign motor carrier, foreign motor private carrier,” after “registration of a motor carrier,” each place it appears.

#### Subtitle C—Driver Safety

#### SEC. 32301. ELECTRONIC ON-BOARD RECORDING DEVICES.

(a) GENERAL AUTHORITY.—Section 31137 is amended—

(1) by amending the section heading to read as follows:

“§ 31137. Electronic on-board recording devices and brake maintenance regulations”;

(2) by redesignating subsection (b) as subsection (e); and

(3) by amending (a) to read as follows:

“(a) ELECTRONIC ON-BOARD RECORDING DEVICES.—Not later than 1 year after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, the Secretary of Transportation shall prescribe regulations—

“(1) requiring a commercial motor vehicle involved in interstate commerce and operated by a driver subject to the hours of service and the record of duty status requirements under part 395 of title 49, Code of Federal Regulations, be equipped with an electronic on-board recording device to improve compliance by an operator of a vehicle with hours of service regulations prescribed by the Secretary; and

“(2) ensuring that an electronic on-board recording device is not used to harass a vehicle operator.

“(b) ELECTRONIC ON-BOARD RECORDING DEVICE REQUIREMENTS.—

“(1) IN GENERAL.—The regulations prescribed under subsection (a) shall—

“(A) require an electronic on-board recording device—

“(i) to accurately record commercial driver hours of service;

“(ii) to record the location of a commercial motor vehicle;

“(iii) to be tamper resistant; and

“(iv) to be integrally synchronized with an engine’s control module;

“(B) allow law enforcement to access the data contained in the device during a roadside inspection; and

“(C) apply to a commercial motor vehicle beginning on the date that is 2 years after the date that the regulations are published as a final rule.

“(2) PERFORMANCE AND DESIGN STANDARDS.—The regulations prescribed under subsection (a) shall establish performance standards—

“(A) defining a standardized user interface to aid vehicle operator compliance and law enforcement review;

“(B) establishing a secure process for standardized—

“(i) and unique vehicle operator identification;

“(ii) data access;

“(iii) data transfer for vehicle operators between motor vehicles;

“(iv) data storage for a motor carrier; and

“(v) data transfer and transportability for law enforcement officials;

“(C) establishing a standard security level for an electronic on-board recording device and related components to be tamper resistant by using a methodology endorsed by a nationally recognized standards organization; and

“(D) identifying each driver subject to the hours of service and record of duty status requirements under part 395 of title 49, Code of Federal Regulations.

“(c) CERTIFICATION CRITERIA.—

“(1) IN GENERAL.—The regulations prescribed by the Secretary under this section shall establish the criteria and a process for the certification of an electronic on-board recording device to ensure that the device meets the performance requirements under this section.

“(2) EFFECT OF NONCERTIFICATION.—An electronic on-board recording device that is not certified in accordance with the certification process referred to in paragraph (1) shall not be acceptable evidence of hours of service and record of duty status requirements under part 395 of title 49, Code of Federal Regulations.

“(d) ELECTRONIC ON-BOARD RECORDING DEVICE DEFINED.—In this section, the term ‘electronic on-board recording device’ means an electronic device that—

“(1) is capable of recording a driver’s hours of service and duty status accurately and automatically; and

“(2) meets the requirements established by the Secretary through regulation.”.

(b) CIVIL PENALTIES.—Section 30165(a)(1) is amended by striking “or 30141 through 30147” and inserting “30141 through 30147, or 31137”.

(c) CONFORMING AMENDMENT.—The analysis for chapter 311 is amended by striking the item relating to section 31137 and inserting the following:

“31137. Electronic on-board recording devices and brake maintenance regulations.”.

#### SEC. 32302. SAFETY FITNESS.

(a) SAFETY FITNESS RATING METHODOLOGY.—The Secretary shall—

(1) incorporate into its Compliance, Safety, Accountability program a safety fitness rating methodology that assigns sufficient weight to adverse vehicle and driver performance based-data that elevate crash risks to warrant an unsatisfactory rating for a carrier; and

(2) ensure that the data to support such assessments is accurate.

(b) INTERIM MEASURES.—Not later than March 31, 2012, the Secretary shall take interim measures to implement a similar safe-

ty fitness rating methodology in its current safety rating system if the Compliance, Safety, Accountability program is not fully implemented.

#### SEC. 32303. DRIVER MEDICAL QUALIFICATIONS.

(a) DEADLINE FOR ESTABLISHMENT OF NATIONAL REGISTRY OF MEDICAL EXAMINERS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall establish a national registry of medical examiners in accordance with section 31149(d)(1) of title 49, United States Code.

(b) EXAMINATION REQUIREMENT FOR NATIONAL REGISTRY OF MEDICAL EXAMINERS.—Section 31149(c)(1)(D) is amended to read as follows:

“(D) not later than 1 year after enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, develop requirements for a medical examiner to be listed in the national registry under this section, including—

“(i) the completion of specific courses and materials;

“(ii) certification, including self-certification, if the Secretary determines that self-certification is necessary for sufficient participation in the national registry, to verify that a medical examiner completed specific training, including refresher courses, that the Secretary determines necessary to be listed in the national registry;

“(iii) an examination that requires a passing grade; and

“(iv) demonstration of a medical examiner’s willingness to meet the reporting requirements established by the Secretary”.

(c) ADDITIONAL OVERSIGHT OF LICENSING AUTHORITIES.—

(1) IN GENERAL.—Section 31149(c)(1) is amended—

(A) in subparagraph (E), by striking “and” after the semicolon;

(B) in subparagraph (F), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(G) annually review the implementation of commercial driver’s license requirements by not fewer than 10 States to assess the accuracy, validity, and timeliness of—

“(i) the submission of physical examination reports and medical certificates to State licensing agencies; and

“(ii) the processing of the submissions by State licensing agencies.”.

(2) INTERNAL OVERSIGHT POLICY.—

(A) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall establish an oversight policy and procedure to carry out section 31149(c)(1)(G) of title 49, United States Code, as added by section 32303(c)(1) of this Act.

(B) EFFECTIVE DATE.—The amendments made by section 32303(c)(1) of this Act shall take effect on the date the oversight policies and procedures are established pursuant to subparagraph (A).

(d) ELECTRONIC FILING OF MEDICAL EXAMINATION CERTIFICATES.—Section 31311(a), as amended by sections 32205(b) and 32306(b) of this Act, is amended by adding at the end the following:

“(24) Not later than 1 year after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, the State shall establish and maintain, as part of its driver information system, the capability to receive an electronic copy of a medical examiner’s certificate, from a certified medical examiner, for each holder of a commercial driver’s license issued by the State who operates or intends to operate in interstate commerce.”.

(e) FUNDING.—

(1) **AUTHORIZATION OF APPROPRIATIONS.**—Of the funds provided for Data and Technology Grants under section 31104(a) of title 49, United States Code, there are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary to make grants to States or an organization representing agencies and officials of the States to support development costs of the information technology needed to carry out section 31311(a)(24) of title 49, United States Code, up to \$1 million for fiscal year 2012 and up to \$1 million for fiscal year 2013.

(2) **PERIOD OF AVAILABILITY.**—The amounts made available under this subsection shall remain available until expended.

**SEC. 32304. COMMERCIAL DRIVER'S LICENSE NOTIFICATION SYSTEM.**

(a) **IN GENERAL.**—Section 31304 is amended—

(1) by striking “An employer” and inserting the following:

“(a) **IN GENERAL.**—An employer”; and

(2) by adding at the end the following:

“(b) **DRIVER VIOLATION RECORDS.**—

“(1) **PERIODIC REVIEW.**—Except as provided in paragraph (3), an employer shall ascertain the driving record of each driver it employs—

“(A) by making an inquiry at least once every 12 months to the appropriate State agency in which the driver held or holds a commercial driver's license or permit during such time period;

“(B) by receiving occurrence-based reports of changes in the status of a driver's record from 1 or more driver record notification systems that meet minimum standards issued by the Secretary; or

“(C) by a combination of inquiries to States and reports from driver record notification systems.

“(2) **RECORD KEEPING.**—A copy of the reports received under paragraph (1) shall be maintained in the driver's qualification file.

“(3) **EXCEPTIONS TO RECORD REVIEW REQUIREMENT.**—Paragraph (1) shall not apply to a driver employed by an employer who, in any 7-day period, is employed or used as a driver by more than 1 employer—

“(A) if the employer obtains the driver's identification number, type, and issuing State of the driver's commercial motor vehicle license; or

“(B) if the information described in subparagraph (A) is furnished by another employer and the employer that regularly employs the driver meets the other requirements under this section.

“(4) **DRIVER RECORD NOTIFICATION SYSTEM DEFINED.**—In this section, the term ‘driver record notification system’ means a system that automatically furnishes an employer with a report, generated by the appropriate agency of a State, on the change in the status of an employee's driver's license due to a conviction for a moving violation, a failure to appear, an accident, driver's license suspension, driver's license revocation, or any other action taken against the driving privilege.”.

(b) **STANDARDS FOR DRIVER RECORD NOTIFICATION SYSTEMS.**—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue minimum standards for driver notification systems, including standards for the accuracy, consistency, and completeness of the information provided.

(c) **PLAN FOR NATIONAL NOTIFICATION SYSTEM.**—

(1) **DEVELOPMENT.**—Not later than 2 years after the date of enactment of this Act, the Secretary shall develop recommendations

and a plan for the development and implementation of a national driver record notification system, including—

(A) an assessment of the merits of achieving a national system by expanding the Commercial Driver's License Information System; and

(B) an estimate of the fees that an employer will be charged to offset the operating costs of the national system.

(2) **SUBMISSION TO CONGRESS.**—Not later than 90 days after the recommendations and plan are developed under paragraph (1), the Secretary shall submit a report on the recommendations and plan to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

**SEC. 32305. COMMERCIAL MOTOR VEHICLE OPERATOR TRAINING.**

(a) **IN GENERAL.**—Section 31305 is amended by adding at the end the following:

“(c) **STANDARDS FOR TRAINING.**—Not later than 6 months after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, the Secretary shall issue final regulations establishing minimum entry-level training requirements for an individual operating a commercial motor vehicle—

“(1) addressing the knowledge and skills that—

“(A) are necessary for an individual operating a commercial motor vehicle to safely operate a commercial motor vehicle; and

“(B) must be acquired before obtaining a commercial driver's license for the first time or upgrading from one class of commercial driver's license to another class;

“(2) addressing the specific training needs of a commercial motor vehicle operator seeking passenger or hazardous materials endorsements, including for an operator seeking a passenger endorsement training—

“(A) to suppress motorcoach fires; and

“(B) to evacuate passengers from motorcoaches safely;

“(3) requiring effective instruction to acquire the knowledge, skills, and training referred to in paragraphs (1) and (2), including classroom and behind-the-wheel instruction;

“(4) requiring certification that an individual operating a commercial motor vehicle meets the requirements established by the Secretary; and

“(5) requiring a training provider (including a public or private driving school, motor carrier, or owner or operator of a commercial motor vehicle) that offers training that results in the issuance of a certification to an individual under paragraph (4) to demonstrate that the training meets the requirements of the regulations, through a process established by the Secretary.”.

(b) **COMMERCIAL DRIVER'S LICENSE UNIFORM STANDARDS.**—Section 31308(1) is amended to read as follows:

“(1) an individual issued a commercial driver's license—

“(A) pass written and driving tests for the operation of a commercial motor vehicle that comply with the minimum standards prescribed by the Secretary under section 31305(a); and

“(B) present certification of completion of driver training that meets the requirements established by the Secretary under section 31305(c);”.

(c) **CONFORMING AMENDMENT.**—The section heading for section 31305 is amended to read as follows:

**“§ 31305. General driver fitness, testing, and training”.**

(d) **CONFORMING AMENDMENT.**—The analysis for chapter 313 is amended by striking the item relating to section 31305 and inserting the following:

“31305. General driver fitness, testing, and training.”.

**SEC. 32306. COMMERCIAL DRIVER'S LICENSE PROGRAM.**

(a) **IN GENERAL.**—Section 31309 is amended—

(1) in subsection (e)(4), by amending subparagraph (A) to read as follows:

“(A) **IN GENERAL.**—The plan shall specify—

“(i) a date by which all States shall be operating commercial driver's license information systems that are compatible with the modernized information system under this section; and

“(ii) that States must use the systems to receive and submit conviction and disqualification data.”; and

(2) in subsection (f), by striking “use” and inserting “use, subject to section 31313(a),”.

(b) **REQUIREMENTS FOR STATE PARTICIPATION.**—Section 31311 is amended—

(1) in subsection (a), as amended by section 32205(b) of this Act—

(A) in paragraph (5), by striking “At least” and all that follows through “regulation,” and inserting: “Not later than the time period prescribed by the Secretary by regulation,”; and

(B) by adding at the end the following:

“(23) Not later than 1 year after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, the State shall implement a system and practices for the exclusive electronic exchange of driver history record information on the system the Secretary maintains under section 31309, including the posting of convictions, withdrawals, and disqualifications.”; and

(2) by adding at the end the following:

“(d) **CRITICAL REQUIREMENTS.**—

“(1) **IDENTIFICATION OF CRITICAL REQUIREMENTS.**—After reviewing the requirements under subsection (a), including the regulations issued pursuant to subsection (a) and section 31309(e)(4), the Secretary shall identify the requirements that are critical to an effective State commercial driver's license program.

“(2) **GUIDANCE.**—Not later than 180 days after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, the Secretary shall issue guidance to assist States in complying with the critical requirements identified under paragraph (1). The guidance shall include a description of the actions that each State must take to collect and share accurate and complete data in a timely manner.

“(e) **STATE COMMERCIAL DRIVER'S LICENSE PROGRAM PLAN.**—

“(1) **IN GENERAL.**—Not later than 180 days after the Secretary issues guidance under subsection (d)(2), a State shall submit a plan to the Secretary for complying with the requirements under this section during the period beginning on the date the plan is submitted and ending on September 30, 2016.

“(2) **CONTENTS.**—A plan submitted by a State under paragraph (1) shall identify—

“(A) the actions that the State will take to comply with the critical requirements identified under subsection (d)(1);

“(B) the actions that the State will take to address any deficiencies in the State's commercial driver's license program, as identified by the Secretary in the most recent audit of the program; and



“(C) other actions that the State will take to comply with the requirements under subsection (a).

“(3) PRIORITY.—

“(A) IMPLEMENTATION SCHEDULE.—A plan submitted by a State under paragraph (1) shall include a schedule for the implementation of the actions identified under paragraph (2). In establishing the schedule, the State shall prioritize the actions identified under paragraphs (2)(A) and (2)(B).

“(B) DEADLINE FOR COMPLIANCE WITH CRITICAL REQUIREMENTS.—A plan submitted by a State under paragraph (1) shall include assurances that the State will take the necessary actions to comply with the critical requirements pursuant to subsection (d) not later than September 30, 2015.

“(4) APPROVAL AND DISAPPROVAL.—The Secretary shall—

“(A) review each plan submitted under paragraph (1);

“(B) approve a plan that the Secretary determines meets the requirements under this subsection and promotes the goals of this chapter; and

“(C) disapprove a plan that the Secretary determines does not meet the requirements or does not promote the goals.

“(5) MODIFICATION OF DISAPPROVED PLANS.—If the Secretary disapproves a plan under paragraph (4)(C), the Secretary shall—

“(A) provide a written explanation of the disapproval to the State; and

“(B) allow the State to modify the plan and resubmit it for approval.

“(6) PLAN UPDATES.—The Secretary may require a State to review and update a plan, as appropriate.

“(f) ANNUAL COMPARISON OF STATE LEVELS OF COMPLIANCE.—The Secretary shall annually—

“(1) compare the relative levels of compliance by States with the requirements under subsection (a); and

“(2) make the results of the comparison available to the public.”

(c) DECERTIFICATION AUTHORITY.—Section 31312 is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following:

“(b) DEADLINE FOR COMPLIANCE WITH CRITICAL REQUIREMENTS.—Beginning on October 1, 2016, in making a determination under subsection (a), the Secretary shall consider a State to be in substantial noncompliance with this chapter if the Secretary determines that—

“(1) the State is not complying with a critical requirement under section 31311(d)(1); and

“(2) sufficient grant funding was made available to the State under section 31313(a) to comply with the requirement.”

#### SEC. 32307. COMMERCIAL DRIVER'S LICENSE REQUIREMENTS.

(a) LICENSING STANDARDS.—Section 31305(a)(7) is amended by inserting “would not be subject to a disqualification under section 31310(g) of this title and” after “taking the tests”.

(b) DISQUALIFICATIONS.—Section 31310(g)(1) is amended by deleting “who holds a commercial driver's license and”.

#### SEC. 32308. COMMERCIAL MOTOR VEHICLE DRIVER INFORMATION SYSTEMS.

Section 31106(c) is amended—

(1) by striking the subsection heading and inserting “(1) IN GENERAL.—”; and

(2) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D); and

(3) by adding at the end the following:

“(2) ACCESS TO RECORDS.—The Secretary may require a State, as a condition of an award of grant money under this section, to provide the Secretary access to all State licensing status and driver history records via an electronic information system, subject to section 2721 of title 18.”

#### SEC. 32309. DISQUALIFICATIONS BASED ON NON-COMMERCIAL MOTOR VEHICLE OPERATIONS.

(a) FIRST OFFENSE.—Section 31310(b)(1)(D) is amended by deleting “commercial” after “revoked, suspended, or canceled based on the individual's operation of a,” and before “motor vehicle”.

(b) SECOND OFFENSE.—Section 31310(c)(1)(D) is amended by deleting “commercial” after “revoked, suspended, or canceled based on the individual's operation of a,” and before “motor vehicle”.

#### SEC. 32310. FEDERAL DRIVER DISQUALIFICATIONS.

(a) DISQUALIFICATION DEFINED.—Section 31301, as amended by section 32205 of this Act, is amended—

(1) by redesignating paragraphs (6) through (15) as paragraphs (7) through (16), respectively; and

(2) by inserting after paragraph (5) the following:

“(6) ‘Disqualification’ means—

“(A) the suspension, revocation, or cancellation of a commercial driver's license by the State of issuance;

“(B) a withdrawal of an individual's privilege to drive a commercial motor vehicle by a State or other jurisdiction as the result of a violation of State or local law relating to motor vehicle traffic control, except for a parking, vehicle weight, or vehicle defect violation;

“(C) a determination by the Secretary that an individual is not qualified to operate a commercial motor vehicle; or

“(D) a determination by the Secretary that a commercial motor vehicle driver is unfit under section 31144(g).”

(b) COMMERCIAL DRIVER'S LICENSE INFORMATION SYSTEM CONTENTS.—Section 31309(b)(1)(F) is amended by inserting after “disqualified” the following: “by the State that issued the individual a commercial driver's license, or by the Secretary.”

(c) STATE ACTION ON FEDERAL DISQUALIFICATION.—Section 31310(h) is amended by inserting after the first sentence the following:

“If the State has not disqualified the individual from operating a commercial vehicle under subsections (b) through (g), the State shall disqualify the individual if the Secretary determines under section 31144(g) that the individual is disqualified from operating a commercial motor vehicle.”

#### SEC. 32311. EMPLOYER RESPONSIBILITIES.

Section 31304, as amended by section 32304 of this Act, is amended in subsection (a)—

(1) by striking “knowingly”; and

(2) by striking “in which” and inserting “that the employer knows or should reasonably know that”.

#### Subtitle D—Safe Roads Act of 2012

##### SEC. 32401. SHORT TITLE.

This subtitle may be cited as the “Safe Roads Act of 2012”.

#### SEC. 32402. NATIONAL CLEARINGHOUSE FOR CONTROLLED SUBSTANCE AND ALCOHOL TEST RESULTS OF COMMERCIAL MOTOR VEHICLE OPERATORS.

(a) IN GENERAL.—Chapter 313 is amended—

(1) in section 31306(a), by inserting “and section 31306a” after “this section”; and

(2) by inserting after section 31306 the following:

#### “§ 31306a. National clearinghouse for controlled substance and alcohol test results of commercial motor vehicle operators

“(a) ESTABLISHMENT.—

“(1) IN GENERAL.—Not later than 2 years after the date of enactment of the Safe Roads Act of 2012, the Secretary of Transportation shall establish a national clearinghouse for records relating to alcohol and controlled substances testing of commercial motor vehicle operators.

“(2) PURPOSES.—The purposes of the clearinghouse shall be—

“(A) to improve compliance with the Department of Transportation's alcohol and controlled substances testing program applicable to commercial motor vehicle operators;

“(B) to facilitate access to information about an individual before employing the individual as a commercial motor vehicle operator;

“(C) to enhance the safety of our United States roadways by reducing accident fatalities involving commercial motor vehicles; and

“(D) to reduce the number of impaired commercial motor vehicle operators.

“(3) CONTENTS.—The clearinghouse shall function as a repository for records relating to the positive test results and test refusals of commercial motor vehicle operators and violations by such operators of prohibitions set forth in subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations).

“(4) ELECTRONIC EXCHANGE OF RECORDS.—The Secretary shall ensure that records can be electronically submitted to, and requested from, the clearinghouse by authorized users.

“(5) AUTHORIZED OPERATOR.—The Secretary may authorize a qualified and experienced private entity to operate and maintain the clearinghouse and to collect fees on behalf of the Secretary under subsection (e). The entity shall establish, operate, maintain and expand the clearinghouse and permit access to driver information and records from the clearinghouse in accordance with this section.

“(b) DESIGN OF CLEARINGHOUSE.—

“(1) USE OF FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION RECOMMENDATIONS.—In establishing the clearinghouse, the Secretary shall consider—

“(A) the findings and recommendations contained in the Federal Motor Carrier Safety Administration's March 2004 report to Congress required under section 226 of the Motor Carrier Safety Improvement Act of 1999 (49 U.S.C. 31306 note); and

“(B) the findings and recommendations contained in the Government Accountability Office's May 2008 report to Congress entitled ‘Motor Carrier Safety: Improvements to Drug Testing Programs Could Better Identify Illegal Drug Users and Keep Them off the Road.’

“(2) DEVELOPMENT OF SECURE PROCESSES.—In establishing the clearinghouse, the Secretary shall develop a secure process for—

“(A) administering and managing the clearinghouse in compliance with applicable Federal security standards;

“(B) registering and authenticating authorized users of the clearinghouse;

“(C) registering and authenticating persons required to report to the clearinghouse under subsection (g);

“(D) preventing the unauthorized access of information from the clearinghouse;

“(E) storing and transmitting data;

“(F) persons required to report to the clearinghouse under subsection (g) to timely and accurately submit electronic data to the clearinghouse;

“(G) generating timely and accurate reports from the clearinghouse in response to requests for information by authorized users; and

“(H) updating an individual’s record upon completion of the return-to-duty process described in title 49, Code of Federal Regulations.

“(3) EMPLOYER ALERT OF POSITIVE TEST RESULT.—In establishing the clearinghouse, the Secretary shall develop a secure method for electronically notifying an employer of each additional positive test result or other non-compliance—

“(A) for an employee, that is entered into the clearinghouse during the 7-day period immediately following an employer’s inquiry about the employee; and

“(B) for an employee who is listed as having multiple employers.

“(4) ARCHIVE CAPABILITY.—In establishing the clearinghouse, the Secretary shall develop a process for archiving all clearinghouse records, including the depositing of personal records, records relating to each individual in the database, and access requests for personal records, for the purposes of—

“(A) auditing and evaluating the timeliness, accuracy, and completeness of data in the clearinghouse; and

“(B) auditing to monitor compliance and enforce penalties for noncompliance.

“(5) FUTURE NEEDS.—

“(A) INTEROPERABILITY WITH OTHER DATA SYSTEMS.—In establishing the clearinghouse, the Secretary shall consider—

“(i) the existing data systems containing regulatory and safety data for commercial motor vehicle operators;

“(ii) the efficacy of using or combining clearinghouse data with 1 or more of such systems; and

“(iii) the potential interoperability of the clearinghouse with such systems.

“(B) SPECIFIC CONSIDERATIONS.—In carrying out subparagraph (A), the Secretary shall determine—

“(i) the clearinghouse’s capability for interoperability with—

“(I) the National Driver Register established under section 30302;

“(II) the Commercial Driver’s License Information System established under section 31309;

“(III) the Motor Carrier Management Information System for preemployment screening services under section 31150; and

“(IV) other data systems, as appropriate; and

“(ii) any change to the administration of the current testing program, such as forms, that is necessary to collect data for the clearinghouse.

“(C) STANDARD FORMATS.—The Secretary shall develop standard formats to be used—

“(1) by an authorized user of the clearinghouse to—

“(A) request a record from the clearinghouse; and

“(B) obtain the consent of an individual who is the subject of a request from the clearinghouse, if applicable; and

“(2) to notify an individual that a positive alcohol or controlled substances test result, refusing to test, and a violation of any of the prohibitions under subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations), will be reported to the clearinghouse.

“(d) PRIVACY.—A release of information from the clearinghouse shall—

“(1) comply with applicable Federal privacy laws, including the fair information practices under the Privacy Act of 1974 (5 U.S.C. 552a);

“(2) comply with applicable sections of the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.); and

“(3) not be made to any person or entity unless expressly authorized or required by law.

“(e) FEES.—

“(1) AUTHORITY TO COLLECT FEES.—Except as provided under paragraph (3), the Secretary may collect a reasonable, customary, and nominal fee from an authorized user of the clearinghouse for a request for information from the clearinghouse.

“(2) USE OF FEES.—Fees collected under this subsection shall be used for the operation and maintenance of the clearinghouse.

“(3) LIMITATION.—The Secretary may not collect a fee from an individual requesting information from the clearinghouse that pertains to the record of that individual.

“(f) EMPLOYER REQUIREMENTS.—

“(1) DETERMINATION CONCERNING USE OF CLEARINGHOUSE.—The Secretary shall determine if an employer is authorized to use the clearinghouse to meet the alcohol and controlled substances testing requirements under title 49, Code of Federal Regulations.

“(2) APPLICABILITY OF EXISTING REQUIREMENTS.—Each employer and service agent shall comply with the alcohol and controlled substances testing requirements under title 49, Code of Federal Regulations.

“(3) EMPLOYMENT PROHIBITIONS.—Beginning 30 days after the date that the clearinghouse is established under subsection (a), an employer shall not hire an individual to operate a commercial motor vehicle unless the employer determines that the individual, during the preceding 3-year period—

“(A) if tested for the use of alcohol and controlled substances, as required under title 49, Code of Federal Regulations—

“(i) did not test positive for the use of alcohol or controlled substances in violation of the regulations; or

“(ii) tested positive for the use of alcohol or controlled substances and completed the required return-to-duty process under title 49, Code of Federal Regulations;

“(B)(i) did not refuse to take an alcohol or controlled substance test under title 49, Code of Federal Regulations; or

“(ii) refused to take an alcohol or controlled substance test and completed the required return-to-duty process under title 49, Code of Federal Regulations; and

“(C) did not violate any other provision of subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations).

“(4) ANNUAL REVIEW.—Beginning 30 days after the date that the clearinghouse is established under subsection (a), an employer shall request and review a commercial motor vehicle operator’s record from the clearinghouse annually for as long as the commercial motor vehicle operator is under the employ of the employer.

“(g) REPORTING OF RECORDS.—

“(1) IN GENERAL.—Beginning 30 days after the date that the clearinghouse is established under subsection (a), a medical review officer, employer, service agent, and other appropriate person, as determined by the Secretary, shall promptly submit to the Secretary any record generated after the clearinghouse is initiated of an individual who—

“(A) refuses to take an alcohol or controlled substances test required under title 49, Code of Federal Regulations;

“(B) tests positive for alcohol or a controlled substance in violation of the regulations; or

“(C) violates any other provision of subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations).

“(2) INCLUSION OF RECORDS IN CLEARINGHOUSE.—The Secretary shall include in the clearinghouse the records of positive test results and test refusals received under paragraph (1).

“(3) MODIFICATIONS AND DELETIONS.—If the Secretary determines that a record contained in the clearinghouse is not accurate, the Secretary shall modify or delete the record, as appropriate.

“(4) NOTIFICATION.—The Secretary shall expeditiously notify an individual, unless such notification would be duplicative, when—

“(A) a record relating to the individual is received by the clearinghouse;

“(B) a record in the clearinghouse relating to the individual is modified or deleted, and include in the notification the reason for the modification or deletion; or

“(C) a record in the clearinghouse relating to the individual is released to an employer and specify the reason for the release.

“(5) DATA QUALITY AND SECURITY STANDARDS FOR REPORTING AND RELEASING.—The Secretary may establish additional requirements, as appropriate, to ensure that—

“(A) the submission of records to the clearinghouse is timely and accurate;

“(B) the release of data from the clearinghouse is timely, accurate, and released to the appropriate authorized user under this section; and

“(C) an individual with a record in the clearinghouse has a cause of action for any inappropriate use of information included in the clearinghouse.

“(6) RETENTION OF RECORDS.—The Secretary shall—

“(A) retain a record submitted to the clearinghouse for a 5-year period beginning on the date the record is submitted;

“(B) remove the record from the clearinghouse at the end of the 5-year period, unless the individual fails to meet a return-to-duty or follow-up requirement under title 49, Code of Federal Regulations; and

“(C) retain a record after the end of the 5-year period in a separate location for archiving and auditing purposes.

“(h) AUTHORIZED USERS.—

“(1) EMPLOYERS.—The Secretary shall establish a process for an employer to request and receive an individual’s record from the clearinghouse.

“(A) CONSENT.—An employer may not access an individual’s record from the clearinghouse unless the employer—

“(i) obtains the prior written or electronic consent of the individual for access to the record; and

“(ii) submits proof of the individual’s consent to the Secretary.

“(B) ACCESS TO RECORDS.—After receiving a request from an employer for an individual’s record under subparagraph (A), the Secretary shall grant access to the individual’s record to the employer as expeditiously as practicable.

“(C) RETENTION OF RECORD REQUESTS.—The Secretary shall require an employer to retain for a 3-year period—

“(i) a record of each request made by the employer for records from the clearinghouse; and

“(ii) the information received pursuant to the request.

“(D) USE OF RECORDS.—An employer may use an individual’s record received from the

clearinghouse only to assess and evaluate the qualifications of the individual to operate a commercial motor vehicle for the employer.

“(E) PROTECTION OF PRIVACY OF INDIVIDUALS.—An employer that receives an individual’s record from the clearinghouse under subparagraph (B) shall—

“(i) protect the privacy of the individual and the confidentiality of the record; and

“(ii) ensure that information contained in the record is not divulged to a person or entity that is not directly involved in assessing and evaluating the qualifications of the individual to operate a commercial motor vehicle for the employer.

“(2) STATE LICENSING AUTHORITIES.—The Secretary shall establish a process for the chief commercial driver’s licensing official of a State to request and receive an individual’s record from the clearinghouse if the individual is applying for a commercial driver’s license from the State.

“(A) CONSENT.—The Secretary may grant access to an individual’s record in the clearinghouse under this paragraph without the prior written or electronic consent of the individual. An individual who holds a commercial driver’s license shall be deemed to consent to such access by obtaining a commercial driver’s license.

“(B) PROTECTION OF PRIVACY OF INDIVIDUALS.—A chief commercial driver’s licensing official of a State that receives an individual’s record from the clearinghouse under this paragraph shall—

“(i) protect the privacy of the individual and the confidentiality of the record; and

“(ii) ensure that the information in the record is not divulged to any person that is not directly involved in assessing and evaluating the qualifications of the individual to operate a commercial motor vehicle.

“(3) NATIONAL TRANSPORTATION SAFETY BOARD.—The Secretary shall establish a process for the National Transportation Safety Board to request and receive an individual’s record from the clearinghouse if the individual is involved in an accident that is under investigation by the National Transportation Safety Board.

“(A) CONSENT.—The Secretary may grant access to an individual’s record in the clearinghouse under this paragraph without the prior written or electronic consent of the individual. An individual who holds a commercial driver’s license shall be deemed to consent to such access by obtaining a commercial driver’s license.

“(B) PROTECTION OF PRIVACY OF INDIVIDUALS.—An official of the National Transportation Safety Board that receives an individual’s record from the clearinghouse under this paragraph shall—

“(i) protect the privacy of the individual and the confidentiality of the record; and

“(ii) unless the official determines that the information in the individual’s record should be reported under section 1131(e), ensure that the information in the record is not divulged to any person that is not directly involved with investigating the accident.

“(4) ADDITIONAL AUTHORIZED USERS.—The Secretary shall consider whether to grant access to the clearinghouse to additional users. The Secretary may authorize access to an individual’s record from the clearinghouse to an additional user if the Secretary determines that granting access will further the purposes under subsection (a)(2). In determining whether the access will further the purposes under subsection (a)(2), the Secretary shall consider, among other things—

“(A) what use the additional user will make of the individual’s record;

“(B) the costs and benefits of the use; and

“(C) how to protect the privacy of the individual and the confidentiality of the record.

“(i) ACCESS TO CLEARINGHOUSE BY INDIVIDUALS.—

“(1) IN GENERAL.—The Secretary shall establish a process for an individual to request and receive information from the clearinghouse—

“(A) to determine whether the clearinghouse contains a record pertaining to the individual;

“(B) to verify the accuracy of a record;

“(C) to update an individual’s record, including completing the return-to-duty process described in title 49, Code of Federal Regulations; and

“(D) to determine whether the clearinghouse received requests for the individual’s information.

“(2) DISPUTE PROCEDURE.—The Secretary shall establish a procedure, including an appeal process, for an individual to dispute and remedy an administrative error in the individual’s record.

“(j) PENALTIES.—

“(1) IN GENERAL.—An employer, employee, medical review officer, or service agent who violates any provision of this section shall be subject to civil penalties under section 521(b)(2)(C) and criminal penalties under section 521(b)(6)(B), and any other applicable civil and criminal penalties, as determined by the Secretary.

“(2) VIOLATION OF PRIVACY.—The Secretary shall establish civil and criminal penalties, consistent with paragraph (1), for an authorized user who violates paragraph (2)(B) or (3)(B) of subsection (h).

“(k) COMPATIBILITY OF STATE AND LOCAL LAWS.—

“(1) PREEMPTION.—Except as provided under paragraph (2), any law, regulation, order, or other requirement of a State, political subdivision of a State, or Indian tribe related to a commercial driver’s license holder subject to alcohol or controlled substance testing under title 49, Code of Federal Regulations, that is inconsistent with this section or a regulation issued pursuant to this section is preempted.

“(2) APPLICABILITY.—The preemption under paragraph (1) shall include—

“(A) the reporting of valid positive results from alcohol screening tests and drug tests;

“(B) the refusal to provide a specimen for an alcohol screening test or drug test; and

“(C) other violations of subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations).

“(3) EXCEPTION.—A law, regulation, order, or other requirement of a State, political subdivision of a State, or Indian tribe shall not be preempted under this subsection to the extent it relates to an action taken with respect to a commercial motor vehicle operator’s commercial driver’s license or driving record as a result of the driver’s—

“(A) verified positive alcohol or drug test result;

“(B) refusal to provide a specimen for the test; or

“(C) other violations of subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations).

“(1) DEFINITIONS.—In this section—

“(1) AUTHORIZED USER.—The term ‘authorized user’ means an employer, State licensing authority, National Transportation Safety Board, or other person granted access to the clearinghouse under subsection (h).

“(2) CHIEF COMMERCIAL DRIVER’S LICENSING OFFICIAL.—The term ‘chief commercial driv-

er’s licensing official’ means the official in a State who is authorized to—

“(A) maintain a record about commercial driver’s licenses issued by the State; and

“(B) take action on commercial driver’s licenses issued by the State.

“(3) CLEARINGHOUSE.—The term ‘clearinghouse’ means the clearinghouse established under subsection (a).

“(4) COMMERCIAL MOTOR VEHICLE OPERATOR.—The term ‘commercial motor vehicle operator’ means an individual who—

“(A) possesses a valid commercial driver’s license issued in accordance with section 31308; and

“(B) is subject to controlled substances and alcohol testing under title 49, Code of Federal Regulations.

“(5) EMPLOYER.—The term ‘employer’ means a person or entity employing, or seeking to employ, 1 or more employees (including an individual who is self-employed) to be commercial motor vehicle operators.

“(6) MEDICAL REVIEW OFFICER.—The term ‘medical review officer’ means a licensed physician who is responsible for—

“(A) receiving and reviewing a laboratory result generated under the testing program;

“(B) evaluating a medical explanation for a controlled substances test under title 49, Code of Federal Regulations; and

“(C) interpreting the results of a controlled substances test.

“(7) SECRETARY.—The term ‘Secretary’ means the Secretary of Transportation.

“(8) SERVICE AGENT.—The term ‘service agent’ means a person or entity, other than an employee of the employer, who provides services to employers or employees under the testing program.

“(9) TESTING PROGRAM.—The term ‘testing program’ means the alcohol and controlled substances testing program required under title 49, Code of Federal Regulations.”

(b) CONFORMING AMENDMENT.—The analysis for chapter 313 is amended by inserting after the item relating to section 31306 the following:

“31306a. National clearinghouse for positive controlled substance and alcohol test results of commercial motor vehicle operators.”.

#### SEC. 32403. DRUG AND ALCOHOL VIOLATION SANCTIONS.

Chapter 313 is amended—

(1) by redesignating section 31306(f) as 31306(f)(1); and

(2) by inserting after section 31306(f)(1) the following:

“(2) ADDITIONAL SANCTIONS.—The Secretary may require a State to revoke, suspend, or cancel the commercial driver’s license of a commercial motor vehicle operator who is found, based on a test conducted and confirmed under this section, to have used alcohol or a controlled substance in violation of law until the commercial motor vehicle operator completes the rehabilitation process under subsection (e).”; and

(3) by amending section 31310(d) to read as follows:

“(d) CONTROLLED SUBSTANCE VIOLATIONS.—The Secretary may permanently disqualify an individual from operating a commercial vehicle if the individual—

“(1) uses a commercial motor vehicle in the commission of a felony involving manufacturing, distributing, or dispensing a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance; or

“(2) uses alcohol or a controlled substance, in violation of section 31306, 3 or more times.”.

**SEC. 32404. AUTHORIZATION OF APPROPRIATIONS.**

From the funds authorized to be appropriated under section 31104(h) of title 49, United States Code, up to \$5,000,000 is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary of Transportation to develop, design, and implement the national clearinghouse required by section 32402 of this Act.

**Subtitle E—Enforcement****SEC. 32501. INSPECTION DEMAND AND DISPLAY OF CREDENTIALS.**

(a) **SAFETY INVESTIGATIONS.**—Section 504(c) is amended—

(1) by inserting “, or an employee of the recipient of a grant issued under section 31102 of this title” after “a contractor”; and

(2) by inserting “, in person or in writing” after “proper credentials”.

(b) **CIVIL PENALTY.**—Section 521(b)(2)(E) is amended—

(1) by redesignating subparagraph (E) as subparagraph (E)(i); and

(2) by adding at the end the following:

“(i) **PLACE OUT OF SERVICE.**—The Secretary may by regulation adopt procedures for placing out of service the commercial motor vehicle of a foreign-domiciled motor carrier that fails to promptly allow the Secretary to inspect and copy a record or inspect equipment, land, buildings, or other property.”.

(c) **HAZARDOUS MATERIALS INVESTIGATIONS.**—Section 512(c)(2) is amended by inserting “, in person or in writing,” after “proper credentials”.

(d) **COMMERCIAL INVESTIGATIONS.**—Section 14122(b) is amended by inserting “, in person or in writing” after “proper credentials”.

**SEC. 32502. OUT OF SERVICE PENALTY FOR DENIAL OF ACCESS TO RECORDS.**

Section 521(b)(2)(E) is amended—

(1) by inserting after “\$10,000.” the following: “In the case of a motor carrier, the Secretary may also place the violator’s motor carrier operations out of service.”; and

(2) by striking “such penalty” after “It shall be a defense to” and inserting “a penalty”.

**SEC. 32503. PENALTIES FOR VIOLATION OF OPERATION OUT OF SERVICE ORDERS.**

Section 521(b)(2) is amended by adding at the end the following:

“(F) **PENALTY FOR VIOLATIONS RELATING TO OUT OF SERVICE ORDERS.**—A motor carrier or employer (as defined in section 31132) that operates a commercial motor vehicle in commerce in violation of a prohibition on transportation under section 31144(c) of this title or an imminent hazard out of service order issued under subsection (b)(5) of this section or section 5121(d) of this title shall be liable for a civil penalty not to exceed \$25,000.”.

**SEC. 32504. MINIMUM PROHIBITION ON OPERATION FOR UNFIT CARRIERS.**

(a) **IN GENERAL.**—Section 31144(c)(1) is amended by inserting “, and such period shall be for not less than 10 days” after “operator is fit”.

(b) **OWNERS OR OPERATORS TRANSPORTING PASSENGERS.**—Section 31144(c)(2) is amended by inserting “, and such period shall be for not less than 10 days” after “operator is fit”.

(c) **OWNERS OR OPERATORS TRANSPORTING HAZARDOUS MATERIAL.**—Section 31144(c)(3) is amended by inserting before the period at the end of the first sentence the following: “, and such period shall be for not less than 10 days”.

**SEC. 32505. MINIMUM OUT OF SERVICE PENALTIES.**

Section 521(b)(7) is amended by adding at the end the following:

“The penalties may include a minimum duration for any out of service period, not to exceed 90 days.”.

**SEC. 32506. IMPOUNDMENT AND IMMOBILIZATION OF COMMERCIAL MOTOR VEHICLES FOR IMMINENT HAZARD.**

Section 521(b) is amended by adding at the end the following:

“(15) **IMPOUNDMENT OF COMMERCIAL MOTOR VEHICLES.**—

“(A) **ENFORCEMENT OF IMMINENT HAZARD OUT-OF-SERVICE ORDERS.**—

“(i) The Secretary, or an authorized State official carrying out motor carrier safety enforcement activities under section 31102, may enforce an imminent hazard out-of-service order issued under chapters 5, 51, 131 through 149, 311, 313, or 315 of this title, or a regulation promulgated thereunder, by towing and impounding a commercial motor vehicle until the order is rescinded.

“(ii) Enforcement shall not unreasonably interfere with the ability of a shipper, carrier, broker, or other party to arrange for the alternative transportation of any cargo or passenger being transported at the time the commercial motor vehicle is immobilized. In the case of a commercial motor vehicle transporting passengers, the Secretary or authorized State official shall provide reasonable, temporary, and secure shelter and accommodations for passengers in transit.

“(iii) The Secretary’s designee or an authorized State official carrying out motor carrier safety enforcement activities under section 31102, shall immediately notify the owner of a commercial motor vehicle of the impoundment and the opportunity for review of the impoundment. A review shall be provided in accordance with section 554 of title 5, except that the review shall occur not later than 10 days after the impoundment.

“(B) **ISSUANCE OF REGULATIONS.**—The Secretary shall promulgate regulations on the use of impoundment or immobilization of commercial motor vehicles as a means of enforcing additional out-of-service orders issued under chapters 5, 51, 131 through 149, 311, 313, or 315 of this title, or a regulation promulgated thereunder. Regulations promulgated under this subparagraph shall include consideration of public safety, the protection of passengers and cargo, inconvenience to passengers, and the security of the commercial motor vehicle.

“(C) **DEFINITION.**—In this paragraph, the term ‘impoundment’ or ‘impounding’ means the seizing and taking into custody of a commercial motor vehicle or the immobilizing of a commercial motor vehicle through the attachment of a locking device or other mechanical or electronic means.”.

**SEC. 32507. INCREASED PENALTIES FOR EVASION OF REGULATIONS.**

(a) **PENALTIES.**—Section 524 is amended—

(1) by striking “knowingly and willfully”; and

(2) by inserting after “this chapter” the following: “, chapter 51, subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), 31310(g)(1)(A), or 31502 of this title, or a regulation issued under any of those provisions,”;

(3) by striking “\$200 but not more than \$500” and inserting “\$2,000 but not more than \$5,000”; and

(4) by striking “\$250 but not more than \$2,000” and inserting “\$2,500 but not more than \$7,500”.

(b) **EVASION OF REGULATION.**—Section 14906 is amended—

(1) by striking “\$200” and inserting “at least \$2,000”; and

(2) by striking “\$250” and inserting “\$5,000”; and

(3) by inserting after “a subsequent violation” the following:

“, and may be subject to criminal penalties”.

**SEC. 32508. FAILURE TO PAY CIVIL PENALTY AS A DISQUALIFYING OFFENSE.**

(a) **IN GENERAL.**—Chapter 311 is amended by inserting after section 31151 the following:

**“§ 31152. Disqualification for failure to pay**

“An individual assessed a civil penalty under this chapter, or chapters 5, 51, or 149 of this title, or a regulation issued under any of those provisions, who fails to pay the penalty or fails to comply with the terms of a settlement with the Secretary, shall be disqualified from operating a commercial motor vehicle after the individual is notified in writing and is given an opportunity to respond. A disqualification shall continue until the penalty is paid, or the individual complies with the terms of the settlement, unless the nonpayment is because the individual is a debtor in a case under chapter 11 of title 11, United States Code.”.

(b) **TECHNICAL AMENDMENTS.**—Section 31310, as amended by sections 32206 and 32310 of this Act, is amended—

(1) by redesignating subsections (h) through (k) as subsections (i) through (l), respectively; and

(2) by inserting after subsection (g) the following:

“(h) **DISQUALIFICATION FOR FAILURE TO PAY.**—The Secretary shall disqualify from operating a commercial motor vehicle any individual who fails to pay a civil penalty within the prescribed period, or fails to conform to the terms of a settlement with the Secretary. A disqualification shall continue until the penalty is paid, or the individual conforms to the terms of the settlement, unless the nonpayment is because the individual is a debtor in a case under chapter 11 of title 11, United States Code.”; and

(3) in subsection (i), as redesignated, by striking “Notwithstanding subsections (b) through (g)” and inserting “Notwithstanding subsections (b) through (h)”.

(c) **CONFORMING AMENDMENT.**—The analysis of chapter 311 is amended by inserting after the item relating to section 31151 the following:

“31152. Disqualification for failure to pay.”.

**SEC. 32509. VIOLATIONS RELATING TO COMMERCIAL MOTOR VEHICLE SAFETY REGULATION AND OPERATORS.**

Section 521(b)(2)(D) is amended by striking “ability to pay.”.

**SEC. 32510. EMERGENCY DISQUALIFICATION FOR IMMINENT HAZARD.**

Section 31310(f) is amended—

(1) in paragraph (1) by inserting “section 521 or” before “section 5102”; and

(2) in paragraph (2) by inserting “section 521 or” before “section 5102”.

**SEC. 32511. INTRASTATE OPERATIONS OF INTERSTATE MOTOR CARRIERS.**

(a) **PROHIBITED TRANSPORTATION.**—Section 521(b)(5) is amended by inserting after subparagraph (B) the following:

“(C) If an employee, vehicle, or all or part of an employer’s commercial motor vehicle operations is ordered out of service under paragraph (5)(A), the commercial motor vehicle operations of the employee, vehicle, or employer that affect interstate commerce are also prohibited.”.

(b) **PROHIBITION ON OPERATION IN INTERSTATE COMMERCE AFTER NONPAYMENT OF PENALTIES.**—Section 521(b)(8) is amended—

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) by inserting after subparagraph (A) the following:

“(B) ADDITIONAL PROHIBITION.—A person prohibited from operating in interstate commerce under paragraph (8)(A) may not operate any commercial motor vehicle where the operation affects interstate commerce.”.

**SEC. 32512. ENFORCEMENT OF SAFETY LAWS AND REGULATIONS.**

(a) ENFORCEMENT OF SAFETY LAWS AND REGULATIONS.—Chapter 311, as amended by sections 32113 and 32508 of this Act, is amended by adding after section 31153 the following:

**“§ 31154. Enforcement of safety laws and regulations**

“(a) IN GENERAL.—The Secretary may bring a civil action to enforce this part, or a regulation or order of the Secretary under this part, when violated by an employer, employee, or other person providing transportation or service under this subchapter or subchapter I.

“(b) VENUE.—In a civil action under subsection (a)—

“(1) trial shall be in the judicial district in which the employer, employee, or other person operates;

“(2) process may be served without regard to the territorial limits of the district or of the State in which the action is instituted; and

“(3) a person participating with a carrier or broker in a violation may be joined in the civil action without regard to the residence of the person.”.

(b) CONFORMING AMENDMENT.—The analysis of chapter 311 is amended by inserting after the item relating to section 31153 the following:

“31154. Enforcement of safety laws and regulations.”.

**SEC. 32513. DISCLOSURE TO STATE AND LOCAL LAW ENFORCEMENT AGENCIES.**

Section 31106(e) is amended—

(1) by redesignating subsection (e) as subsection (e)(1); and

(2) by inserting at the end the following:

“(2) IN GENERAL.—Notwithstanding any prohibition on disclosure of information in section 31105(h) or 31143(b) of this title or section 552a of title 5, the Secretary may disclose information maintained by the Secretary pursuant to chapters 51, 135, 311, or 313 of this title to appropriate personnel of a State agency or instrumentality authorized to carry out State commercial motor vehicle safety activities and commercial driver's license laws, or appropriate personnel of a local law enforcement agency, in accordance with standards, conditions, and procedures as determined by the Secretary. Disclosure under this section shall not operate as a waiver by the Secretary of any applicable privilege against disclosure under common law or as a basis for compelling disclosure under section 552 of title 5.”.

**Subtitle F—Compliance, Safety, Accountability**

**SEC. 32601. COMPLIANCE, SAFETY, ACCOUNTABILITY.**

(a) IN GENERAL.—Section 31102 is amended—

(1) by amending the section heading to read:

**“§ 31102. Compliance, safety, and accountability grants”;**

(2) by amending subsection (a) to read as follows:

“(a) GENERAL AUTHORITY.—Subject to this section, the Secretary of Transportation shall make and administer a compliance, safety, and accountability grant program to assist States, local governments, and other

entities and persons with motor carrier safety and enforcement on highways and other public roads, new entrant safety audits, border enforcement, hazardous materials safety and security, consumer protection and household goods enforcement, and other programs and activities required to improve the safety of motor carriers as determined by the Secretary. The Secretary shall allocate funding in accordance with section 31104 of this title.”;

(3) in subsection (b)—

(A) by amending the heading to read as follows:

“(b) MOTOR CARRIER SAFETY ASSISTANCE PROGRAM.—”;

(B) by redesignating paragraphs (1) through (3) as (2) through (4), respectively;

(C) by inserting before paragraph (2), as redesignated, the following:

“(1) PROGRAM GOAL.—The goal of the Motor Carrier Safety Assistance Program is to ensure that the Secretary, States, local government agencies, and other political jurisdictions work in partnership to establish programs to improve motor carrier, commercial motor vehicle, and driver safety to support a safe and efficient surface transportation system by—

“(A) making targeted investments to promote safe commercial motor vehicle transportation, including transportation of passengers and hazardous materials;

“(B) investing in activities likely to generate maximum reductions in the number and severity of commercial motor vehicle crashes and fatalities resulting from such crashes;

“(C) adopting and enforcing effective motor carrier, commercial motor vehicle, and driver safety regulations and practices consistent with Federal requirements; and

“(D) assessing and improving statewide performance by setting program goals and meeting performance standards, measures, and benchmarks.”;

(D) in paragraph (2), as redesignated—

(i) by striking “make a declaration of” in subparagraph (I) and inserting “demonstrate”;

(ii) by amending subparagraph (M) to read as follows:

“(M) ensures participation in appropriate Federal Motor Carrier Safety Administration systems and other information systems by all appropriate jurisdictions receiving Motor Carrier Safety Assistance Program funding”;

(iii) in subparagraph (Q), by inserting “and dedicated sufficient resources to” between “established” and “a program”;

(iv) in subparagraph (W), by striking “and” after the semicolon;

(v) by amending subparagraph (X) to read as follows:

“(X) except in the case of an imminent or obvious safety hazard, ensures that an inspection of a vehicle transporting passengers for a motor carrier of passengers is conducted at a station, terminal, border crossing, maintenance facility, destination, weigh station, rest stop, turnpike service area, or a location where adequate food, shelter, and sanitation facilities are available for passengers, and reasonable accommodation is available for passengers with disabilities; and”;

(vi) by adding after subparagraph (X) the following:

“(Y) ensures that the State will transmit to its roadside inspectors the notice of each Federal exemption granted pursuant to section 31315(b) and provided to the State by the Secretary, including the name of the person

granted the exemption and any terms and conditions that apply to the exemption.”; and

(E) by amending paragraph (4), as redesignated, to read as follows:

“(4) MAINTENANCE OF EFFORT.—

“(A) IN GENERAL.—A plan submitted by a State under paragraph (2) shall provide that the total expenditure of amounts of the lead State agency responsible for implementing the plan will be maintained at a level at least equal to the average level of that expenditure for fiscal years 2004 and 2005.

“(B) AVERAGE LEVEL OF STATE EXPENDITURES.—In estimating the average level of State expenditure under subparagraph (A), the Secretary—

“(i) may allow the State to exclude State expenditures for Government-sponsored demonstration or pilot programs; and

“(ii) shall require the State to exclude State matching amounts used to receive Government financing under this subsection.

“(C) WAIVER.—Upon the request of a State, the Secretary may waive or modify the requirements of this paragraph for 1 fiscal year, if the Secretary determines that a waiver is equitable due to exceptional or uncontrollable circumstances, such as a natural disaster or a serious decline in the financial resources of the State motor carrier safety assistance program agency.”;

(4) by redesignating subsection (e) as subsection (h); and

(5) by inserting after subsection (d) the following:

“(e) NEW ENTRANT SAFETY ASSURANCE PROGRAM.—

“(1) PROGRAM GOAL.—The Secretary may make grants to States and local governments for pre-authorization safety audits and new entrant motor carrier audits as described in section 31144(g).

“(2) RECIPIENTS.—Grants made in support of this program may be provided to States and local governments.

“(3) FEDERAL SHARE.—The Federal share of a grant made under this program is 100 percent.

“(4) ELIGIBLE ACTIVITIES.—Eligible activities will be in accordance with criteria developed by the Secretary and posted in the Federal Register in advance of the grant application period.

“(5) DETERMINATION.—If the Secretary determines that a State or local government is unable to conduct a new entrant motor carrier audit, the Secretary may use the funds to conduct the audit.

“(f) BORDER ENFORCEMENT.—

“(1) PROGRAM GOAL.—The Secretary of Transportation may make a grant for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects.

“(2) RECIPIENTS.—The Secretary of Transportation may make a grant to an entity, State, or other person for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects.

“(3) FEDERAL SHARE.—The Secretary shall reimburse a grantee at least 100 percent of the costs incurred in a fiscal year for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects.

“(4) ELIGIBLE ACTIVITIES.—An eligible activity will be in accordance with criteria developed by the Secretary and posted in the Federal Register in advance of the grant application period.

“(g) HIGH PRIORITY INITIATIVES.—

“(1) PROGRAM GOAL.—The Secretary may make grants to carry out high priority activities and projects that improve commercial motor vehicle safety and compliance with commercial motor vehicle safety regulations, including activities and projects that—

“(A) are national in scope;  
“(B) increase public awareness and education;

“(C) target unsafe driving of commercial motor vehicles and non-commercial motor vehicles in areas identified as high risk crash corridors;

“(D) improve consumer protection and enforcement of household goods regulations;

“(E) improve the movement of hazardous materials safely and securely, including activities related to the establishment of uniform forms and application procedures that improve the accuracy, timeliness, and completeness of commercial motor vehicle safety data reported to the Secretary; or

“(F) demonstrate new technologies to improve commercial motor vehicle safety.

“(2) RECIPIENTS.—The Secretary may allocate amounts to award grants to State agencies, local governments, and other persons for carrying out high priority activities and projects that improve commercial motor vehicle safety and compliance with commercial motor vehicle safety regulations in accordance with the program goals specified in paragraph (1).

“(3) FEDERAL SHARE.—The Secretary shall reimburse a grantee at least 80 percent of the costs incurred in a fiscal year for carrying out the high priority activities or projects.

“(4) ELIGIBLE ACTIVITIES.—An eligible activity will be in accordance with criteria that is—

“(A) developed by the Secretary; and

“(B) posted in the Federal Register in advance of the grant application period.”.

(b) CONFORMING AMENDMENT.—The analysis of chapter 311 is amended by striking the item relating to section 31102 and inserting the following:

“31102. Compliance, safety, and accountability grants.”.

#### **SEC. 32602. PERFORMANCE AND REGISTRATION INFORMATION SYSTEMS MANAGEMENT PROGRAM.**

Section 31106(b) is amended—

(1) by amending paragraph (3)(C) to read as follows—

“(C) establish and implement a process—

“(i) to cancel the motor vehicle registration and seize the registration plates of a vehicle when an employer is found liable under section 31310(j)(2)(C) for knowingly allowing or requiring an employee to operate such a commercial motor vehicle in violation of an out-of-service order; and

“(ii) to reinstate the vehicle registration or return the registration plates of the commercial motor vehicle, subject to sanctions under clause (i), if the Secretary permits such carrier to resume operations after the date of issuance of such order.”; and

(2) by striking paragraph (4).

#### **SEC. 32603. COMMERCIAL MOTOR VEHICLE DEFINED.**

Section 31101(1) is amended to read as follows:

“(1) ‘commercial motor vehicle’ means (except under section 31106) a self-propelled or towed vehicle used on the highways in commerce to transport passengers or property, if the vehicle—

“(A) has a gross vehicle weight rating or gross vehicle weight of at least 10,001 pounds, whichever is greater;

“(B) is designed or used to transport more than 8 passengers, including the driver, for compensation;

“(C) is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or

“(D) is used in transporting material found by the Secretary of Transportation to be hazardous under section 5103 and transported in a quantity requiring placarding under regulations prescribed by the Secretary under section 5103.”.

#### **SEC. 32604. DRIVER SAFETY FITNESS RATINGS.**

Section 31144, as amended by section 32204 of this Act, is amended by adding at the end the following:

“(i) COMMERCIAL MOTOR VEHICLE DRIVERS.—The Secretary may maintain by regulation a procedure for determining the safety fitness of a commercial motor vehicle driver and for prohibiting the driver from operating in interstate commerce. The procedure and prohibition shall include the following:

“(1) Specific initial and continuing requirements that a driver must comply with to demonstrate safety fitness.

“(2) The methodology and continually updated safety performance data that the Secretary will use to determine whether a driver is fit, including inspection results, serious traffic offenses, and crash involvement data.

“(3) Specific time frames within which the Secretary will determine whether a driver is fit.

“(4) A prohibition period or periods, not to exceed 1 year, that a driver that the Secretary determines is not fit will be prohibited from operating a commercial motor vehicle in interstate commerce. The period or periods shall begin on the 46th day after the date of the fitness determination and continue until the Secretary determines the driver is fit or until the prohibition period expires.

“(5) A review by the Secretary, not later than 30 days after an unfit driver requests a review, of the driver’s compliance with the requirements the driver failed to comply with and that resulted in the Secretary determining that the driver was not fit. The burden of proof shall be on the driver to demonstrate fitness.

“(6) The eligibility criteria for reinstatement, including the remedial measures the unfit driver must take for reinstatement.”.

#### **SEC. 32605. UNIFORM ELECTRONIC CLEARANCE FOR COMMERCIAL MOTOR VEHICLE INSPECTIONS.**

(a) IN GENERAL.—Chapter 311 is amended by adding after section 31109 the following:

“§ 31110. Withholding amounts for State non-compliance

“(a) FIRST FISCAL YEAR.—Subject to criteria established by the Secretary of Transportation, the Secretary may withhold up to 50 percent of the amount a State is otherwise eligible to receive under section 31102(b) on the first day of the fiscal year after the first fiscal year following the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012 in which the State uses for at least 180 days an electronic commercial motor vehicle inspection selection system that does not employ a selection methodology approved by the Secretary.

“(b) SECOND FISCAL YEAR.—The Secretary shall withhold up to 75 percent of the amount a State is otherwise eligible to receive under section 31102(b) on the first day of the fiscal year after the second fiscal year following the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012 in which the State uses for at

least 180 days an electronic commercial motor vehicle inspection selection system that does not employ a selection methodology approved by the Secretary.

“(c) SUBSEQUENT AVAILABILITY OF WITHHELD FUNDS.—The Secretary may make the amounts withheld under subsection (a) or subsection (b) available to the State if the Secretary determines that the State has substantially complied with the requirement described under subsection (a) or subsection (b) not later than 180 days after the beginning of the fiscal year in which amounts were withheld.”.

(b) CONFORMING AMENDMENT.—The analysis of chapter 311 is amended by inserting after the item relating to section 31109 the following:

“31110. Withholding amounts for State non-compliance.”.

#### **SEC. 32606. AUTHORIZATION OF APPROPRIATIONS.**

Section 31104 is amended to read as follows:

“§ 31104. Availability of amounts

“(a) IN GENERAL.—There are authorized to be appropriated from Highway Trust Fund (other than the Mass Transit Account) for Federal Motor Carrier Safety Administration programs the following:

“(1) COMPLIANCE, SAFETY, AND ACCOUNTABILITY GRANTS UNDER SECTION 31102.—

“(A) \$249,717,000 for fiscal year 2012, provided that the Secretary shall set aside not less than \$168,388,000 to carry out the motor carrier safety assistance program under section 31102(b); and

“(B) \$253,814,000 for fiscal year 2013, provided that the Secretary shall set aside not less than \$171,813,000 to carry out the motor carrier safety assistance program under section 31102(b).

“(2) DATA AND TECHNOLOGY GRANTS UNDER SECTION 31109.—

“(A) \$30,000,000 for fiscal year 2012; and

“(B) \$30,000,000 for fiscal year 2013.

“(3) DRIVER SAFETY GRANTS UNDER SECTION 31313.—

“(A) \$31,000,000 for fiscal year 2012; and

“(B) \$31,000,000 for fiscal year 2013.

“(4) CRITERIA.—The Secretary shall develop criteria to allocate the remaining funds under paragraphs (1), (2), and (3) for fiscal year 2013 and for each fiscal year thereafter not later than April 1 of the prior fiscal year.

“(b) AVAILABILITY AND REALLOCATION OF AMOUNTS.—

“(1) ALLOCATIONS AND REALLOCATIONS.—Amounts made available under subsection (a)(1) remain available until expended. Allocations to a State remain available for expenditure in the State for the fiscal year in which they are allocated and for the next fiscal year. Amounts not expended by a State during those 2 fiscal years are released to the Secretary for reallocation.

“(2) REDISTRIBUTION OF AMOUNTS.—The Secretary may, after August 1 of each fiscal year, upon a determination that a State does not qualify for funding under section 31102(b) or that the State will not expend all of its existing funding, reallocate the State’s funding. In revising the allocation and redistributing the amounts, the Secretary shall give preference to those States that require additional funding to meet program goals under section 31102(b).

“(3) PERIOD OF AVAILABILITY FOR DATA AND TECHNOLOGY GRANTS.—Amounts made available under subsection (a)(2) remain available for obligation for the fiscal year and the next 2 years in which they are appropriated. Allocations remain available for expenditure in the State for 5 fiscal years after they were

obligated. Amounts not expended by a State during those 3 fiscal years are released to the Secretary for reallocation.

“(4) PERIOD OF AVAILABILITY FOR DRIVER SAFETY GRANTS.—Amounts made available under subsection (a)(3) of this section remain available for obligation for the fiscal year and the next fiscal year in which they are appropriated. Allocations to a State remain available for expenditure in the State for the fiscal year in which they are allocated and for the following 2 fiscal years. Amounts not expended by a State during those 3 fiscal years are released to the Secretary for reallocation.

“(5) REALLOCATION.—The Secretary, upon a request by a State, may reallocate grant funds previously awarded to the State under a grant program authorized by section 31102, 31109, or 31313 to another grant program authorized by those sections upon a showing by the State that it is unable to expend the funds within the 12 months prior to their expiration provided that the State agrees to expend the funds within the remaining period of expenditure.

“(c) GRANTS AS CONTRACTUAL OBLIGATIONS.—Approval by the Secretary of a grant under sections 31102, 31109, and 31313 is a contractual obligation of the Government for payment of the Government's share of costs incurred in developing and implementing programs to improve commercial motor vehicle safety and enforce commercial driver's license regulations, standards, and orders.

“(d) DEDUCTION FOR ADMINISTRATIVE EXPENSES.—

“(1) IN GENERAL.—On October 1 of each fiscal year or as soon after that as practicable, the Secretary may deduct, from amounts made available under—

“(A) subsection (a)(1) for that fiscal year, not more than 1.5 percent of those amounts for administrative expenses incurred in carrying out section 31102 in that fiscal year;

“(B) subsection (a)(2) for that fiscal year, not more than 1.4 percent of those amounts for administrative expenses incurred in carrying out section 31109 in that fiscal year; and

“(C) subsection (a)(3) for that fiscal year, not more than 1.4 percent of those amounts for administrative expenses incurred in carrying out section 31313 in that fiscal year.

“(2) TRAINING.—The Secretary may use at least 50 percent of the amounts deducted from the amounts made available under sections (a)(1) and (a)(3) to train non-Government employees and to develop related training materials to carry out sections 31102, 31311, and 31313 of this title.

“(3) CONTRACTS.—The Secretary may use amounts deducted under paragraph (1) to enter into contracts and cooperative agreements with States, local governments, associations, institutions, corporations, and other persons, if the Secretary determines the contracts and cooperative agreements are cost-effective, benefit multiple jurisdictions of the United States, and enhance safety programs and related enforcement activities.

“(e) ALLOCATION CRITERIA AND ELIGIBILITY.—

“(1) On October 1 of each fiscal year or as soon as practicable after that date after making the deduction under subsection (d)(1)(A), the Secretary shall allocate amounts made available to carry out section 31102(b) for such fiscal year among the States with plans approved under that section. Allocation shall be made under the criteria prescribed by the Secretary.

“(2) On October 1 of each fiscal year or as soon as practicable after that date and after

making the deduction under subsection (d)(1)(B) or (d)(1)(C), the Secretary shall allocate amounts made available to carry out sections 31109(a) and 31313(b)(1).

“(f) INTRASTATE COMPATIBILITY.—The Secretary shall prescribe regulations specifying tolerance guidelines and standards for ensuring compatibility of intrastate commercial motor vehicle safety laws and regulations with Government motor carrier safety regulations to be enforced under section 31102(b). To the extent practicable, the guidelines and standards shall allow for maximum flexibility while ensuring a degree of uniformity that will not diminish transportation safety. In reviewing State plans and allocating amounts or making grants under section 153 of title 23, United States Code, the Secretary shall ensure that the guidelines and standards are applied uniformly.

“(g) WITHHOLDING AMOUNTS FOR STATE NONCOMPLIANCE.—

“(1) IN GENERAL.—Subject to criteria established by the Secretary, the Secretary may withhold up to 100 percent of the amounts a State is otherwise eligible to receive under section 31102(b) on October 1 of each fiscal year beginning after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012 and continuing for the period that the State does not comply substantially with a requirement under section 31109(b).

“(2) SUBSEQUENT AVAILABILITY OF WITHHELD FUNDS.—The Secretary may make the amounts withheld in accordance with paragraph (1) available to a State if the Secretary determines that the State has substantially complied with a requirement under section 31109(b) not later than 180 days after the beginning of the fiscal year in which the amounts are withheld.

“(h) ADMINISTRATIVE EXPENSES.—

“(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary to pay administrative expenses of the Federal Motor Carrier Safety Administration—

“(A) \$250,819,000 for fiscal year 2012; and

“(B) \$248,523,000 for fiscal year 2013.

“(2) USE OF FUNDS.—The funds authorized by this subsection shall be used for personnel costs, administrative infrastructure, rent, information technology, programs for research and technology, information management, regulatory development, the administration of the performance and registration information system management, outreach and education, other operating expenses, and such other expenses as may from time to time be necessary to implement statutory mandates of the Administration not funded from other sources.

“(i) AVAILABILITY OF FUNDS.—

“(1) PERIOD OF AVAILABILITY.—The amounts made available under this section shall remain available until expended.

“(2) INITIAL DATE OF AVAILABILITY.—Authorizations from the Highway Trust Fund (other than the Mass Transit Account) for this section shall be available for obligation on the date of their apportionment or allocation or on October 1 of the fiscal year for which they are authorized, whichever occurs first.”.

#### SEC. 32607. HIGH RISK CARRIER REVIEWS.

(a) HIGH RISK CARRIER REVIEWS.—Section 31104(h), as amended by section 32606 of this Act, is amended by adding at the end of paragraph (2) the following:

“From the funds authorized by this subsection, the Secretary shall ensure that a review is completed on each motor carrier that

demonstrates through performance data that it poses the highest safety risk. At a minimum, a review shall be conducted whenever a motor carrier is among the highest risk carriers for 2 consecutive months.”.

(b) CONFORMING AMENDMENT.—Section 4138 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (49 U.S.C. 31144 note) is repealed.

#### SEC. 32608. DATA AND TECHNOLOGY GRANTS.

(a) IN GENERAL.—Section 31109 is amended to read as follows:

##### “§ 31109. Data and technology grants

“(a) GENERAL AUTHORITY.—The Secretary of Transportation shall establish and administer a data and technology grant program to assist the States with the implementation and maintenance of data systems. The Secretary shall allocate the funds in accordance with section 31104.

“(b) PERFORMANCE GOALS.—The Secretary may make a grant to a State to implement the performance and registration information system management requirements of section 31106(b) to develop, implement, and maintain commercial vehicle information systems and networks, and other innovative technologies that the Secretary determines improve commercial motor vehicle safety.

“(c) ELIGIBILITY.—To be eligible for a grant to implement the requirements of section 31106(b), the State shall design a program that—

“(1) links Federal motor carrier safety information systems with the State's motor carrier information systems;

“(2) determines the safety fitness of a motor carrier or registrant when licensing or registering the registrant or motor carrier or while the license or registration is in effect; and

“(3) denies, suspends, or revokes the commercial motor vehicle registrations of a motor carrier or registrant that was issued an operations out-of-service order by the Secretary.

“(d) REQUIRED PARTICIPATION.—The Secretary shall require States that participate in the program under section 31106 to—

“(1) comply with the uniform policies, procedures, and technical and operational standards prescribed by the Secretary under section 31106(b);

“(2) possess or seek the authority to possess for a time period not longer than determined reasonable by the Secretary, to impose sanctions relating to commercial motor vehicle registration on the basis of a Federal safety fitness determination; and

“(3) establish and implement a process to cancel the motor vehicle registration and seize the registration plates of a vehicle when an employer is found liable under section 31310(j)(2)(C) for knowingly allowing or requiring an employee to operate such a commercial motor vehicle in violation of an out of service order.

“(e) FEDERAL SHARE.—The total Federal share of the cost of a project payable from all eligible Federal sources shall be at least 80 percent.”.

(b) CONFORMING AMENDMENT.—The analysis of chapter 311 is amended by striking the item relating to section 31109 and inserting the following:

“31109. Data and technology grants.”.

#### SEC. 32609. DRIVER SAFETY GRANTS.

(a) DRIVER FOCUSED GRANT PROGRAM.—Section 31313 is amended to read as follows:

##### “§ 31313. Driver safety grants

“(a) GENERAL AUTHORITY.—The Secretary shall make and administer a driver focused grant program to assist the States, local



governments, entities, and other persons with commercial driver's license systems, programs, training, fraud detection, reporting of violations and other programs required to improve the safety of drivers as the Federal Motor Carrier Safety Administration deems critical. The Secretary shall allocate the funds for the program in accordance with section 31104.

“(b) COMMERCIAL DRIVER'S LICENSE PROGRAM IMPROVEMENT GRANTS.—

“(1) PROGRAM GOAL.—The Secretary of Transportation may make a grant to a State in a fiscal year—

“(A) to comply with the requirements of section 31311;

“(B) in the case of a State that is making a good faith effort toward substantial compliance with the requirements of this section and section 31311, to improve its implementation of its commercial driver's license program;

“(C) for research, development demonstration projects, public education, and other special activities and projects relating to commercial driver licensing and motor vehicle safety that are of benefit to all jurisdictions of the United States or are designed to address national safety concerns and circumstances;

“(D) for commercial driver's license program coordinators;

“(E) to implement or maintain a system to notify an employer of an operator of a commercial motor vehicle of the suspension or revocation of the operator's commercial driver's license consistent with the standards developed under section 32304(b) of the Commercial Motor Vehicle Safety Enhancement Act of 2012; or

“(F) to train operators of commercial motor vehicles, as defined under section 31301, and to train operators and future operators in the safe use of such vehicles. Funding priority for this discretionary grant program shall be to regional or multi-state educational or nonprofit associations serving economically distressed regions of the United States.

“(2) PRIORITY.—The Secretary shall give priority, in making grants under paragraph (1)(B), to a State that will use the grants to achieve compliance with the requirements of the Motor Carrier Safety Improvement Act of 1999 (113 Stat. 1748), including the amendments made by the Commercial Motor Vehicle Safety Enhancement Act of 2012.

“(3) RECIPIENTS.—The Secretary may allocate grants to State agencies, local governments, and other persons for carrying out activities and projects that improve commercial driver's license safety and compliance with commercial driver's license and commercial motor vehicle safety regulations in accordance with the program goals under paragraph (1) and that train operators on commercial motor vehicles. The Secretary may make a grant to a State to comply with section 31311 for commercial driver's license program coordinators and for notification systems.

“(4) FEDERAL SHARE.—The Federal share of a grant made under this program shall be at least 80 percent, except that the Federal share of grants for commercial driver license program coordinators and training commercial motor vehicle operators shall be 100 percent.”.

(b) CONFORMING AMENDMENT.—The analysis of chapter 313 is amended by striking the item relating to section 31313 and inserting the following:

“31313. Driver safety grants.”.

#### SEC. 32610. COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS.

Not later than 6 months after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that includes—

- (1) established time frames and milestones for resuming the Commercial Vehicle Information Systems and Networks Program; and
- (2) a strategic workforce plan for its grants management office to ensure that it has determined the skills and competencies that are critical to achieving its mission goals.

#### Subtitle G—Motorcoach Enhanced Safety Act of 2012

##### SEC. 32701. SHORT TITLE.

This subtitle may be cited as the “Motorcoach Enhanced Safety Act of 2012”.

##### SEC. 32702. DEFINITIONS.

In this subtitle:

(1) **ADVANCED GLAZING.**—The term “advanced glazing” means glazing installed in a portal on the side or the roof of a motorcoach that is designed to be highly resistant to partial or complete occupant ejection in all types of motor vehicle crashes.

(2) **BUS.**—The term “bus” has the meaning given the term in section 571.3(b) of title 49, Code of Federal Regulations (as in effect on the day before the date of enactment of this Act).

(3) **COMMERCIAL MOTOR VEHICLE.**—Except as otherwise specified, the term “commercial motor vehicle” has the meaning given the term in section 31132(1) of title 49, United States Code.

(4) **DIRECT TIRE PRESSURE MONITORING SYSTEM.**—The term “direct tire pressure monitoring system” means a tire pressure monitoring system that is capable of directly detecting when the air pressure level in any tire is significantly under-inflated and providing the driver a low tire pressure warning as to which specific tire is significantly under-inflated.

(5) **ELECTRONIC ON-BOARD RECORDER.**—The term “electronic on-board recorder” means an electronic device that acquires and stores data showing the record of duty status of the vehicle operator and performs the functions required of an automatic on-board recording device in section 395.15(b) of title 49, Code of Federal Regulations.

(6) **EVENT DATA RECORDER.**—The term “event data recorder” has the meaning given that term in section 563.5 of title 49, Code of Federal Regulations.

(7) **MOTOR CARRIER.**—The term “motor carrier” means—

(A) a motor carrier (as defined in section 13102(14) of title 49, United States Code); or

(B) a motor private carrier (as defined in section 13102(15) of that title).

(8) **MOTORCOACH.**—The term “motorcoach” has the meaning given the term “over-the-road bus” in section 3038(a)(3) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note), but does not include—

(A) a bus used in public transportation provided by, or on behalf of, a public transportation agency; or

(B) a school bus, including a multifunction school activity bus.

(9) **MOTORCOACH SERVICES.**—The term “motorcoach services” means passenger transportation by motorcoach for compensation.

(10) **MULTIFUNCTION SCHOOL ACTIVITY BUS.**—The term “multifunction school activity bus” has the meaning given the term in section 571.3(b) of title 49, Code of Federal Regu-

lations (as in effect on the day before the date of enactment of this Act).

(11) **PORTAL.**—The term “portal” means any opening on the front, side, rear, or roof of a motorcoach that could, in the event of a crash involving the motorcoach, permit the partial or complete ejection of any occupant from the motorcoach, including a young child.

(12) **PROVIDER OF MOTORCOACH SERVICES.**—The term “provider of motorcoach services” means a motor carrier that provides passenger transportation services with a motorcoach, including per-trip compensation and contracted or chartered compensation.

(13) **PUBLIC TRANSPORTATION.**—The term “public transportation” has the meaning given the term in section 5302 of title 49, United States Code.

(14) **SAFETY BELT.**—The term “safety belt” has the meaning given the term in section 153(i)(4)(B) of title 23, United States Code.

(15) **SECRETARY.**—The term “Secretary” means the Secretary of Transportation.

#### SEC. 32703. REGULATIONS FOR IMPROVED OCCUPANT PROTECTION, PASSENGER EVACUATION, AND CRASH AVOIDANCE.

(a) **REGULATIONS REQUIRED WITHIN 1 YEAR.**—Not later than 1 year after the date of enactment of this Act, the Secretary shall prescribe regulations requiring safety belts to be installed in motorcoaches at each designated seating position.

(b) **REGULATIONS REQUIRED WITHIN 2 YEARS.**—Not later than 2 years after the date of enactment of this Act, the Secretary shall prescribe the following commercial motor vehicle regulations:

(1) **ROOF STRENGTH AND CRUSH RESISTANCE.**—The Secretary shall establish improved roof and roof support standards for motorcoaches that substantially improve the resistance of motorcoach roofs to deformation and intrusion to prevent serious occupant injury in rollover crashes involving motorcoaches.

(2) **ANTI-EJECTION SAFETY COUNTERMEASURES.**—The Secretary shall require advanced glazing to be installed in each motorcoach portal and shall consider other portal improvements to prevent partial and complete ejection of motorcoach passengers, including children. In prescribing such standards, the Secretary shall consider the impact of such standards on the use of motorcoach portals as a means of emergency egress.

(3) **ROLLOVER CRASH AVOIDANCE.**—The Secretary shall require motorcoaches to be equipped with stability enhancing technology, such as electronic stability control and torque vectoring, to reduce the number and frequency of rollover crashes among motorcoaches.

(c) **COMMERCIAL MOTOR VEHICLE TIRE PRESSURE MONITORING SYSTEMS.**—Not later than 3 years after the date of enactment of this Act, the Secretary shall prescribe the following commercial vehicle regulation:

(1) **IN GENERAL.**—The Secretary shall require motorcoaches to be equipped with direct tire pressure monitoring systems that warn the operator of a commercial motor vehicle when any tire exhibits a level of air pressure that is below a specified level of air pressure established by the Secretary.

(2) **PERFORMANCE REQUIREMENTS.**—The regulation prescribed by the Secretary under this subsection shall include performance requirements to ensure that direct tire pressure monitoring systems are capable of—

(A) providing a warning to the driver when 1 or more tires are underinflated;

(B) activating in a specified time period after the underinflation is detected; and

(C) operating at different vehicle speeds.

(d) APPLICATION OF REGULATIONS.—

(1) NEW MOTORCOACHES.—Any regulation prescribed in accordance with subsection (a), (b), or (c) shall apply to all motorcoaches manufactured more than 2 years after the date on which the regulation is published as a final rule.

(2) RETROFIT REQUIREMENTS FOR EXISTING MOTORCOACHES.—

(A) IN GENERAL.—The Secretary may, by regulation, provide for the application of any requirement established under subsection (a) or (b)(2) to motorcoaches manufactured before the date on which the requirement applies to new motorcoaches under paragraph (1) based on an assessment of the feasibility, benefits, and costs of retrofitting the older motorcoaches.

(B) ASSESSMENT.—The Secretary shall complete an assessment with respect to safety belt retrofits not later than 1 year after the date of enactment of this Act and with respect to anti-ejection countermeasure retrofits not later than 2 years after the date of enactment of this Act.

(e) FAILURE TO MEET DEADLINE.—If the Secretary determines that a final rule cannot be issued before the deadline established under this section, the Secretary shall—

(1) submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives that explains why the deadline cannot be met; and

(2) establish a new deadline for the issuance of the final rule.

#### SEC. 32704. STANDARDS FOR IMPROVED FIRE SAFETY.

(a) EVALUATIONS.—Not later than 18 months after the date of enactment of this Act, the Secretary shall initiate the following rulemaking proceedings:

(1) FLAMMABILITY STANDARD FOR EXTERIOR COMPONENTS.—The Secretary shall establish requirements for fire hardening or fire resistance of motorcoach exterior components to prevent fire and smoke inhalation injuries to occupants.

(2) SMOKE SUPPRESSION.—The Secretary shall update Federal Motor Vehicle Safety Standard Number 302 (49 C.F.R. 571.302; relating to flammability of interior materials) to improve the resistance of motorcoach interiors and components to burning and permit sufficient time for the safe evacuation of passengers from motorcoaches.

(3) PREVENTION OF, AND RESISTANCE TO, WHEEL WELL FIRES.—The Secretary shall establish requirements—

(A) to prevent and mitigate the propagation of wheel well fires into the passenger compartment; and

(B) to substantially reduce occupant deaths and injuries from such fires.

(4) AUTOMATIC FIRE SUPPRESSION.—The Secretary shall establish requirements for motorcoaches to be equipped with highly effective fire suppression systems that automatically respond to and suppress all fires in such motorcoaches.

(5) PASSENGER EVACUATION.—The Secretary shall establish requirements for motorcoaches to be equipped with—

(A) improved emergency exit window, door, roof hatch, and wheelchair lift door designs to expedite access and use by passengers of motorcoaches under all emergency circumstances, including crashes and fires; and

(B) emergency interior lighting systems, including luminescent or retroreflectORIZED delineation of evacuation paths and exits, which are triggered by a crash or other

emergency incident to accomplish more rapid and effective evacuation of passengers.

(6) CAUSATION AND PREVENTION OF MOTORCOACH FIRES.—The Secretary shall examine the principle causes of motorcoach fires and vehicle design changes intended to reduce the number of motorcoach fires resulting from those principle causes.

(b) DEADLINE.—Not later than 42 months after the date of enactment of this Act, the Secretary shall—

(1) issue final rules in accordance with subsection (a); or

(2) if the Secretary determines that any standard is not warranted based on the requirements and considerations set forth in subsection (a) and (b) of section 30111 of title 49, United States Code, submit a report that describes the reasons for not prescribing such a standard to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

(c) TIRE PERFORMANCE STANDARD.—Not later than 3 years after the date of enactment of this Act, the Secretary shall—

(1) issue a final rule upgrading performance standards for tires used on motorcoaches, including an enhanced endurance test and a new high-speed performance test; or

(2) if the Secretary determines that a standard is not warranted based on the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code, submit a report that describes the reasons for not prescribing such a standard to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

#### SEC. 32705. OCCUPANT PROTECTION, COLLISION AVOIDANCE, FIRE CAUSATION, AND FIRE EXTINGUISHER RESEARCH AND TESTING.

(a) SAFETY RESEARCH INITIATIVES.—Not later than 2 years after the date of enactment of this Act, the Secretary shall complete the following research and testing:

(1) IMPROVED FIRE EXTINGUISHERS.—The Secretary shall research and test the need to install improved fire extinguishers or other readily available firefighting equipment in motorcoaches to effectively extinguish fires in motorcoaches and prevent passenger deaths and injuries.

(2) INTERIOR IMPACT PROTECTION.—The Secretary shall research and test enhanced occupant impact protection standards for motorcoach interiors to reduce substantially serious injuries for all passengers of motorcoaches.

(3) COMPARTMENTALIZATION SAFETY COUNTERMEASURES.—The Secretary shall require enhanced compartmentalization safety countermeasures for motorcoaches, including enhanced seating designs, to substantially reduce the risk of passengers being thrown from their seats and colliding with other passengers, interior surfaces, and components in the event of a crash involving a motorcoach.

(4) COLLISION AVOIDANCE SYSTEMS.—The Secretary shall research and test forward and lateral crash warning systems applications for motorcoaches.

(b) RULEMAKING.—Not later than 2 years after the completion of each research and testing initiative required under subsection (a), the Secretary shall issue final motor vehicle safety standards if the Secretary determines that such standards are warranted based on the requirements and consider-

ations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code.

#### SEC. 32706. MOTORCOACH REGISTRATION.

(a) REGISTRATION REQUIREMENTS.—Section 13902(b) is amended—

(1) by redesignating paragraphs (1) through (8) as paragraphs (4) through (11), respectively; and

(2) by inserting before paragraph (4), as redesignated, the following:

“(1) ADDITIONAL REGISTRATION REQUIREMENTS FOR PROVIDERS OR MOTORCOACH SERVICES.—In addition to meeting the requirements under subsection (a)(1), the Secretary may not register a person to provide motorcoach services until after the person—

“(A) undergoes a preauthorization safety audit, including verification, in a manner sufficient to demonstrate the ability to comply with Federal rules and regulations, of—

“(i) a drug and alcohol testing program under part 40 of title 49, Code of Federal Regulations;

“(ii) the carrier’s system of compliance with hours-of-service rules, including hours-of-service records;

“(iii) the ability to obtain required insurance;

“(iv) driver qualifications, including the validity of the commercial driver’s license of each driver who will be operating under such authority;

“(v) disclosure of common ownership, common control, common management, common familial relationship, or other corporate relationship with another motor carrier or applicant for motor carrier authority during the past 3 years;

“(vi) records of the State inspections, or of a Level I or V Commercial Vehicle Safety Alliance Inspection, for all vehicles that will be operated by the carrier;

“(vii) safety management programs, including vehicle maintenance and repair programs; and

“(viii) the ability to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), and the Over-the-Road Bus Transportation Accessibility Act of 2007 (122 Stat. 2915);

“(B) has been interviewed to review safety management controls and the carrier’s written safety oversight policies and practices; and

“(C) through the successful completion of a written examination developed by the Secretary, has demonstrated proficiency to comply with and carry out the requirements and regulations described in subsection (a)(1).

“(2) PRE-AUTHORIZATION SAFETY AUDIT.—The pre-authorization safety audit required under paragraph (1)(A) shall be completed on-site not later than 90 days following the submission of an application for operating authority.

“(3) FEE.—The Secretary may establish, under section 9701 of title 31, a fee of not more than \$1,200 for new registrants that as nearly as possible covers the costs of performing a preauthorization safety audit. Amounts collected under this subsection shall be deposited in the Highway Trust Fund (other than the Mass Transit Account).”

(b) SAFETY REVIEWS OF NEW OPERATORS.—Section 3114(g)(1) is amended by inserting “transporting property” after “each operator”.

(c) CONFORMING AMENDMENT.—Section 24305(a)(3)(A)(i) is amended by striking “section 13902(b)(8)(A)” and inserting “section 13902(b)(11)(A)”.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the date of enactment of this Act.

**SEC. 32707. IMPROVED OVERSIGHT OF MOTORCOACH SERVICE PROVIDERS.**

Section 31144, as amended by sections 32204 and 32604 of this Act, is amended by adding at the end the following:

“(j) PERIODIC SAFETY REVIEWS OF PROVIDERS OF MOTORCOACH SERVICES.—

“(1) SAFETY REVIEW.—

“(A) IN GENERAL.—The Secretary shall—

“(i) determine the safety fitness of all providers of motorcoach services registered with the Federal Motor Carrier Safety Administration; and

“(ii) assign a safety fitness rating to each such provider.

“(B) APPLICABILITY.—Subparagraph (A) shall apply—

“(i) to any provider of motorcoach services registered with the Administration after the date of enactment of the Motorcoach Enhanced Safety Act of 2012 beginning not later than 2 years after the date of such registration; and

“(ii) to any provider of motorcoach services registered with the Administration on or before the date of enactment of that Act beginning not later than 3 years after the date of enactment of that Act.

“(2) PERIODIC REVIEW.—The Secretary shall establish, by regulation, a process for monitoring the safety performance of each provider of motorcoach services on a regular basis following the assignment of a safety fitness rating, including progressive intervention to correct unsafe practices.

“(3) ENFORCEMENT STRIKE FORCES.—In addition to the enhanced monitoring and enforcement actions required under paragraph (2), the Secretary may organize special enforcement strike forces targeting providers of motorcoach services.

“(4) PERIODIC UPDATE OF SAFETY FITNESS RATING.—In conducting the safety reviews required under this subsection, the Secretary shall reassess the safety fitness rating of each provider not less frequently than once every 3 years.

“(5) MOTORCOACH SERVICES DEFINED.—In this subsection, the term ‘provider of motorcoach services’ has the meaning given such term in section 32702 of the Motorcoach Enhanced Safety Act of 2012.”

**SEC. 32708. REPORT ON FEASIBILITY, BENEFITS, AND COSTS OF ESTABLISHING A SYSTEM OF CERTIFICATION OF TRAINING PROGRAMS.**

Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that describes the feasibility, benefits, and costs of establishing a system of certification of public and private schools and of motor carriers and motorcoach operators that provide motorcoach driver training.

**SEC. 32709. REPORT ON DRIVER'S LICENSE REQUIREMENTS FOR 9- TO 15-PASSENGER VANS.**

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that examines requiring all or certain classes of drivers operating a vehicle, which is designed or used to transport not fewer than 9 and not more than 15 passengers (including a driver) in interstate commerce, to have a commercial driver's license passenger-carrying endorsement and be tested in accordance with a

drug and alcohol testing program under part 40 of title 49, Code of Federal Regulations.

(b) CONSIDERATIONS.—In developing the report under subsection (a), the Secretary shall consider—

(1) the safety benefits of the requirement described in subsection (a);

(2) the scope of the population that would be impacted by such requirement;

(3) the cost to the Federal Government and State governments to meet such requirement; and

(4) the impact on safety benefits and cost from limiting the application of such requirement to certain drivers of such vehicles, such as drivers who are compensated for driving.

**SEC. 32710. EVENT DATA RECORDERS.**

(a) EVALUATION.—Not later than 1 year after the date of enactment of this Act, the Secretary, after considering the performance requirements for event data recorders for passenger vehicles under part 563 of title 49, Code of Federal Regulations, shall complete an evaluation of event data recorders, including requirements regarding specific types of vehicle operations, events and incidents, and systems information to be recorded, for event data recorders to be used on motorcoaches used by motor carriers in interstate commerce.

(b) STANDARDS AND REGULATIONS.—Not later than 2 years after completing the evaluation required under subsection (a), the Secretary shall issue standards and regulations based on the results of that evaluation.

**SEC. 32711. SAFETY INSPECTION PROGRAM FOR COMMERCIAL MOTOR VEHICLES OF PASSENGERS.**

Not later than 3 years after the date of enactment of this Act, the Secretary shall complete a rulemaking proceeding to consider requiring States to conduct annual inspections of commercial motor vehicles designed or used to transport passengers, including an assessment of—

(1) the risks associated with improperly maintained or inspected commercial motor vehicles designed or used to transport passengers;

(2) the effectiveness of existing Federal standards for the inspection of such vehicles in—

(A) mitigating the risks described in paragraph (1); and

(B) ensuring the safe and proper operation condition of such vehicles; and

(3) the costs and benefits of a mandatory State inspection program.

**SEC. 32712. DISTRACTED DRIVING.**

(a) IN GENERAL.—Chapter 311, as amended by sections 32113, 32508, and 32512 of this Act, is amended by adding after section 31154 the following:

**“§ 31155. Regulation of the use of distracting devices in motorcoaches**

“(a) IN GENERAL.—Not later than 1 year after the date of enactment of the Motorcoach Enhanced Safety Act of 2012, the Secretary of Transportation shall prescribe regulations on the use of electronic or wireless devices, including cell phones and other distracting devices, by an individual employed as the operator of a motorcoach (as defined in section 32702 of that Act).

“(b) BASIS FOR REGULATIONS.—The Secretary shall base the regulations prescribed under subsection (a) on accident data analysis, the results of ongoing research, and other information, as appropriate.

“(c) PROHIBITED USE.—Except as provided under subsection (d), the Secretary shall prohibit the use of the devices described in sub-

section (a) in circumstances in which the Secretary determines that their use interferes with a driver's safe operation of a motorcoach.

“(d) PERMITTED USE.—The Secretary may permit the use of a device that is otherwise prohibited under subsection (c) if the Secretary determines that such use is necessary for the safety of the driver or the public in emergency circumstances.”

(b) CONFORMING AMENDMENT.—The analysis for chapter 311 is amended by inserting after the item relating to section 31154 the following:

“31155. Regulation of the use of distracting devices in motorcoaches.”

**SEC. 32713. REGULATIONS.**

Any standard or regulation prescribed or modified pursuant to the Motorcoach Enhanced Safety Act of 2012 shall be prescribed or modified in accordance with section 553 of title 5, United States Code.

**Subtitle H—Safe Highways and Infrastructure Preservation****SEC. 32801. COMPREHENSIVE TRUCK SIZE AND WEIGHT LIMITS STUDY.**

(a) TRUCK SIZE AND WEIGHT LIMITS STUDY.—Not later than 90 days after the date of enactment of this Act, the Secretary, in consultation with each relevant State and other applicable Federal agencies, shall commence a comprehensive truck size and weight limits study. The study shall—

(1) provide data on accident frequency and factors related to accident risk of each route of the National Highway System in each State that allows a vehicle to operate with size and weight limits that are in excess of the Federal law and regulations and its correlation to truck size and weight limits;

(2) evaluate the impacts to the infrastructure of each route of the National Highway System in each State that allows a vehicle to operate with size and weight limits that are in excess of the Federal law and regulations, including—

(A) an analysis that quantifies the cost and benefits of the impacts in dollars;

(B) an analysis of the percentage of trucks operating in excess of the Federal size and weight limits; and

(C) an analysis that examines the ability of each State to recover the cost for the impacts, or the benefits incurred;

(3) evaluate the impacts and frequency of violations in excess of the Federal size and weight law and regulations to determine the cost of the enforcement of the law and regulations, and the effectiveness of the enforcement methods;

(4) examine the relationship between truck performance and crash involvement and its correlation to Federal size and weight limits, including the impacts on crashes;

(5) assess the impacts that truck size and weight limits in excess of the Federal law and regulations have in the risk of bridge failure contributing to the structural deficiencies of bridges or in the useful life of a bridge, including the impacts resulting from the number of bridge loadings;

(6) analyze the impacts on safety and infrastructure in each State that allows a truck to operate in excess of Federal size and weight limitations in truck-only lanes;

(7) compare and contrast the safety and infrastructure impacts of the Federal limits regarding truck size and weight limits in relation to—

(A) six-axle and other alternative configurations of tractor-trailers; and

(B) safety records of foreign nations with truck size and weight limits and tractor-

trailer configurations that differ from the Federal law and regulations; and

(8) estimate—

(A) the extent to which freight would be diverted from other surface transportation modes to principal arterial routes and National Highway System intermodal connectors if each covered truck configuration is allowed to operate and the effect that any such diversion would have on other modes of transportation;

(B) the effect that any such diversion would have on public safety, infrastructure, cost responsibilities, fuel efficiency, and the environment;

(C) the effect on the transportation network of the United States that allowing each covered truck configuration to operate would have; and

(D) whether allowing each covered truck configuration to operate would result in an increase or decrease in the total number of trucks operating on principal arterial routes and National Highway System intermodal connectors; and

(9) identify all Federal rules and regulations impacted by changes in truck size and weight limits.

(b) REPORT.—Not later than 2 years after the date that the study is commenced under subsection (a), the Secretary shall submit a final report on the study, including all findings and recommendations, to the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

#### **SEC. 32802. COMPILATION OF EXISTING STATE TRUCK SIZE AND WEIGHT LIMIT LAWS.**

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary, in consultation with the States, shall begin to compile—

(1) a list for each State, as applicable, that describes each route of the National Highway System that allows a vehicle to operate in excess of the Federal truck size and weight limits that—

(A) was authorized under State law on or before the date of enactment of this Act; and

(B) was in actual and lawful operation on a regular or periodic basis (including seasonal operations) on or before the date of enactment of this Act;

(2) a list for each State, as applicable, that describes—

(A) the size and weight limitations applicable to each segment of the National Highway System in that State as listed under paragraph (1);

(B) each combination that exceeds the Interstate weight limit, but that the Department of Transportation, other Federal agency, or a State agency has determined on or before the date of enactment of this Act, could be or could have been lawfully operated in the State; and

(C) each combination that exceeds the Interstate weight limit, but that the Secretary determines could have been lawfully operated on a non-Interstate segment of the National Highway System in the State on or before the date of enactment of this Act; and

(3) a list of each State law that designates or allows designation of size and weight limitations in excess of Federal law and regulations on routes of the National Highway System, including nondivisible loads.

(b) SPECIFICATIONS.—The Secretary, in consultation with the States, shall specify whether the determinations under paragraphs (1) and (2) of subsection (a) were made

by the Department of Transportation, other Federal agency, or a State agency.

(c) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit a final report of the compilation under subsection (a) to the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

### **Subtitle I—Miscellaneous PART I—MISCELLANEOUS**

#### **SEC. 32911. DETENTION TIME STUDY.**

(a) STUDY.—Not later than 30 days after the date of enactment of this Act, the Secretary shall task the Motor Carrier Safety Advisory Committee to study the extent to which detention time contributes to drivers violating hours of service requirements and driver fatigue. In conducting this study, the Committee shall—

(1) examine data collected from driver and vehicle inspections;

(2) consult with—

(A) motor carriers and drivers, shippers, and representatives of ports and other facilities where goods are loaded and unloaded;

(B) government officials; and

(C) other parties as appropriate; and

(3) provide recommendations to the Secretary for addressing issues identified in the study.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall provide a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that includes recommendations for legislation and for addressing the results of the study.

#### **SEC. 32912. PROHIBITION OF COERCION.**

Section 31136(a) is amended by—

(1) striking “and” at the end of paragraph (3);

(2) striking the period at the end of paragraph (4) and inserting “; and”; and

(3) adding after subsection (4) the following:

“(5) an operator of a commercial motor vehicle is not coerced by a motor carrier, shipper, receiver, or transportation intermediary to operate a commercial motor vehicle in violation of a regulation promulgated under this section, or chapter 51 or chapter 313 of this title.”

#### **SEC. 32913. MOTOR CARRIER SAFETY ADVISORY COMMITTEE.**

(a) MEMBERSHIP.—Section 4144(b)(1) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (49 U.S.C. 31100 note), is amended by inserting “nonprofit employee labor organizations representing commercial motor vehicle drivers,” after “industry.”

(b) TERMINATION DATE.—Section 4144(d) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (49 U.S.C. 31100 note), is amended by striking “March 31, 2012” and inserting “September 30, 2013”.

#### **SEC. 32914. WAIVERS, EXEMPTIONS, AND PILOT PROGRAMS.**

(a) WAIVER STANDARDS.—Section 31315(a) is amended—

(1) by inserting “and” at the end of paragraph (2);

(2) by striking paragraph (3); and

(3) redesignating paragraph (4) as paragraph (3).

(b) EXEMPTION STANDARDS.—Section 31315(b)(4) is amended—

(1) in subparagraph (A), by inserting “(or, in the case of a request for an exemption from the physical qualification standards for commercial motor vehicle drivers, post on a web site established by the Secretary to implement the requirements of section 31149)” after “Federal Register”;

(2) by amending subparagraph (B) to read as follows:

“(B) UPON GRANTING A REQUEST.—Upon granting a request and before the effective date of the exemption, the Secretary shall publish in the Federal Register (or, in the case of an exemption from the physical qualification standards for commercial motor vehicle drivers, post on a web site established by the Secretary to implement the requirements of section 31149) the name of the person granted the exemption, the provisions from which the person is exempt, the effective period, and the terms and conditions of the exemption.”; and

(3) in subparagraph (C), by inserting “(or, in the case of a request for an exemption from the physical qualification standards for commercial motor vehicle drivers, post on a web site established by the Secretary to implement the requirements of section 31149)” after “Federal Register”.

(c) PROVIDING NOTICE OF EXEMPTIONS TO STATE PERSONNEL.—Section 31315(b)(7) is amended to read as follows:

“(7) NOTIFICATION OF STATE COMPLIANCE AND ENFORCEMENT PERSONNEL.—Before the effective date of an exemption, the Secretary shall notify a State safety compliance and enforcement agency, and require the agency pursuant to section 31102(b)(1)(Y) to notify the State’s roadside inspectors, that a person will be operating pursuant to an exemption and the terms and conditions that apply to the exemption.”

(d) PILOT PROGRAMS.—Section 31315(c)(1) is amended by striking “in the Federal Register”.

(e) REPORT TO CONGRESS.—Section 31315 is amended by adding after subsection (d) the following:

“(e) REPORT TO CONGRESS.—The Secretary shall submit an annual report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives listing the waivers, exemptions, and pilot programs granted under this section, and any impacts on safety.

“(f) WEB SITE.—The Secretary shall ensure that the Federal Motor Carrier Safety Administration web site includes a link to the web site established by the Secretary to implement the requirements under sections 31149 and 31315. The link shall be in a clear and conspicuous location on the home page of the Federal Motor Carrier Safety Administration web site and be easily accessible to the public.”

#### **SEC. 32915. REGISTRATION REQUIREMENTS.**

(a) REQUIREMENTS FOR REGISTRATION.—Section 13901 is amended to read as follows:

##### **“§ 13901. Requirements for registration**

“(a) IN GENERAL.—A person may not provide transportation as a motor carrier subject to jurisdiction under subchapter I of chapter 135 or service as a freight forwarder subject to jurisdiction under subchapter III of such chapter, or be a broker for transportation subject to jurisdiction under subchapter I of such chapter unless the person is registered under this chapter to provide such transportation or service.

“(b) REGISTRATION NUMBERS.—

“(1) IN GENERAL.—If the Secretary registers a person under this chapter to provide transportation or service, including as a motor

carrier, freight forwarder, or broker, the Secretary shall issue a distinctive registration number to the person for each such authority to provide transportation or service for which the person is registered.

“(2) **TRANSPORTATION OR SERVICE TYPE INDICATOR.**—A number issued under paragraph (1) shall include an indicator of the type of transportation or service for which the registration number is issued, including whether the registration number is issued for registration of a motor carrier, freight forwarder, or broker.

“(c) **SPECIFICATION OF AUTHORITY.**—For each agreement to provide transportation or service for which registration is required under this chapter, the registrant shall specify, in writing, the authority under which the person is providing such transportation or service.”.

(b) **AVAILABILITY OF INFORMATION.**—

(1) **IN GENERAL.**—Chapter 139 is amended by adding at the end the following:

**“§ 13909. Availability of information**

“The Secretary shall make information relating to registration and financial security required by this chapter publicly available on the Internet, including

“(1) the names and business addresses of the principals of each entity holding such registration; and

“(2) the electronic address of the entity’s surety provider for the submission of claims.”.

(2) **CONFORMING AMENDMENT.**—The analysis for chapter 139 is amended by adding at the end the following:

“13909. Availability of information.”.

**SEC. 32916. ADDITIONAL MOTOR CARRIER REGISTRATION REQUIREMENTS.**

Section 13902, as amended by sections 32101 and 32107(a) of this Act, is amended

(1) in subsection (a)—

(A) in paragraph (1), by inserting “using self-propelled vehicles the motor carrier owns or leases” after “motor carrier”; and

(B) by adding at the end the following:

“(6) **SEPARATE REGISTRATION REQUIRED.**—A motor carrier may not broker transportation services unless the motor carrier has registered as a broker under this chapter.”; and

(2) by inserting after subsection (h) the following:

“(i) **REGISTRATION AS FREIGHT FORWARDER OR BROKER REQUIRED.**—A motor carrier registered under this chapter

“(1) may only provide transportation of property with self-propelled motor vehicles owned or leased by the motor carrier or interchanges under regulations issued by the Secretary if the originating carrier—

“(A) physically transports the cargo at some point; and

“(B) retains liability for the cargo and for payment of interchanged carriers; and

“(2) may not arrange transportation described in paragraph (1) unless the motor carrier has obtained a separate registration as a freight forwarder or broker for transportation under section 13903 or 13904, as applicable.”.

**SEC. 32917. REGISTRATION OF FREIGHT FORWARDERS AND BROKERS.**

(a) **REGISTRATION OF FREIGHT FORWARDERS.**—Section 13903, as amended by section 32107(b) of this Act, is amended—

(1) in subsection (a)—

(A) by striking “finds that the person is fit” and inserting the following: “determines that the person

“(1) has sufficient experience to qualify the person to act as a freight forwarder; and

“(2) is fit”; and

(B) by striking “and the Board”;

(2) by redesignating subsections (b) and (c) as subsections (d) and (e), respectively;

(3) by inserting after subsection (a) the following:

“(b) **DURATION.**—A registration issued under subsection (a) shall only remain in effect while the freight forwarder is in compliance with section 13906(c).

“(c) **EXPERIENCE OR TRAINING REQUIREMENT.**—Each freight forwarder shall employ, as an officer, an individual who

“(1) has at least 3 years of relevant experience; or

“(2) provides the Secretary with satisfactory evidence of the individual’s knowledge of related rules, regulations, and industry practices.”; and

(4) by amending subsection (d), as redesignated, to read as follows:

“(d) **REGISTRATION AS MOTOR CARRIER REQUIRED.**—A freight forwarder may not provide transportation as a motor carrier unless the freight forwarder has registered separately under this chapter to provide transportation as a motor carrier.”.

(b) **REGISTRATION OF BROKERS.**—Section 13904, as amended by section 32107(c) of this Act, is amended—

(1) in subsection (a), by striking “finds that the person is fit” and inserting the following: “determines that the person

“(1) has sufficient experience to qualify the person to act as a broker for transportation; and

“(2) is fit”;

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (d), (e), (f), and (g) respectively;

(3) by inserting after subsection (a) the following:

“(b) **DURATION.**—A registration issued under subsection (a) shall only remain in effect while the broker for transportation is in compliance with section 13906(b).

“(c) **EXPERIENCE OR TRAINING REQUIREMENTS.**—Each broker shall employ, as an officer, an individual who

“(1) has at least 3 years of relevant experience; or

“(2) provides the Secretary with satisfactory evidence of the individual’s knowledge of related rules, regulations, and industry practices.”; and

(4) by amending subsection (d), as redesignated, to read as follows:

“(d) **REGISTRATION AS MOTOR CARRIER REQUIRED.**—A broker for transportation may not provide transportation as a motor carrier unless the broker has registered separately under this chapter to provide transportation as a motor carrier.”.

**SEC. 32918. EFFECTIVE PERIODS OF REGISTRATION.**

Section 13905(c) is amended to read as follows:

“(c) **EFFECTIVE PERIOD.**—

“(1) **IN GENERAL.**—Except as otherwise provided in this part, each registration issued under section 13902, 13903, or 13904—

“(A) shall be effective beginning on the date specified by the Secretary; and

“(B) shall remain in effect for such period as the Secretary determines appropriate by regulation.

“(2) **REISSUANCE OF REGISTRATION.**—

“(A) **REQUIREMENT.**—Not later than 4 years after the date of the enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, the Secretary shall require a freight forwarder or broker to renew its registration issued under this chapter.

“(B) **EFFECTIVE PERIOD.**—Each registration renewal under subparagraph (A)—

“(i) shall expire not later than 5 years after the date of such renewal; and

“(ii) may be further renewed as provided under this chapter.

“(3) **REGISTRATION UPDATE.**—The Secretary shall require a motor carrier, freight forwarder, or broker to update its registration under this chapter periodically or not later than 30 days after any change in address, other contact information, officers, process agent, or other essential information, as determined by the Secretary and published in the Federal Register.”.

**SEC. 32919. FINANCIAL SECURITY OF BROKERS AND FREIGHT FORWARDERS.**

(a) **IN GENERAL.**—Section 13906 is amended by striking subsections (b) and (c) and inserting the following:

“(b) **BROKER FINANCIAL SECURITY REQUIREMENTS.**—

“(1) **REQUIREMENTS.**—

“(A) **IN GENERAL.**—The Secretary may register a person as a broker under section 13904 only if the person files with the Secretary a surety bond, proof of trust fund, or other financial security, or a combination thereof, in a form and amount, and from a provider, determined by the Secretary to be adequate to ensure financial responsibility.

“(B) **USE OF A GROUP SURETY BOND, TRUST FUND, OR OTHER SURETY.**—In implementing the standards established by subparagraph (A), the Secretary may authorize the use of a group surety bond, trust fund, or other financial security, or a combination thereof, that meets the requirements of this subsection.

“(C) **SURETY BONDS.**—A surety bond obtained under this section may only be obtained from a bonding company that has been approved by the Secretary of the Treasury.

“(D) **PROOF OF TRUST OR OTHER FINANCIAL SECURITY.**—For purposes of subparagraph (A), a trust fund or other financial security may be acceptable to the Secretary only if the trust fund or other financial security consists of assets readily available to pay claims without resort to personal guarantees or collection of pledged accounts receivable.

“(2) **SCOPE OF FINANCIAL RESPONSIBILITY.**—

“(A) **PAYMENT OF CLAIMS.**—A surety bond, trust fund, or other financial security obtained under paragraph (1) shall be available to pay any claim against a broker arising from its failure to pay freight charges under its contracts, agreements, or arrangements for transportation subject to jurisdiction under chapter 135 if

“(i) subject to the review by the surety provider, the broker consents to the payment; and

“(ii) in any case in which the broker does not respond to adequate notice to address the validity of the claim, the surety provider determines that the claim is valid; or

“(iii) the claim is not resolved within a reasonable period of time following a reasonable attempt by the claimant to resolve the claim under clauses (i) and (ii), and the claim is reduced to a judgment against the broker.

“(B) **RESPONSE OF SURETY PROVIDERS TO CLAIMS.**—If a surety provider receives notice of a claim described in subparagraph (A), the surety provider shall

“(i) respond to the claim on or before the 30th day following the date on which the notice was received; and

“(ii) in the case of a denial, set forth in writing for the claimant the grounds for the denial.

“(C) **COSTS AND ATTORNEY’S FEES.**—In any action against a surety provider to recover

on a claim described in subparagraph (A), the prevailing party shall be entitled to recover its reasonable costs and attorney's fees.

“(3) MINIMUM FINANCIAL SECURITY.—Each broker subject to the requirements of this section shall provide financial security of \$100,000 for purposes of this subsection, regardless of the number of branch offices or sales agents of the broker.

“(4) CANCELLATION NOTICE.—If a financial security required under this subsection is canceled

“(A) the holder of the financial security shall provide electronic notification to the Secretary of the cancellation not later than 30 days before the effective date of the cancellation; and

“(B) the Secretary shall immediately post such notification on the public Internet Website of the Department of Transportation.

“(5) SUSPENSION.—The Secretary shall immediately suspend the registration of a broker issued under this chapter if the available financial security of that person falls below the amount required under this subsection.

“(6) PAYMENT OF CLAIMS IN CASES OF FINANCIAL FAILURE OR INSOLVENCY.—If a broker registered under this chapter experiences financial failure or insolvency, the surety provider of the broker shall

“(A) submit a notice to cancel the financial security to the Administrator in accordance with paragraph (4);

“(B) publicly advertise for claims for 60 days beginning on the date of publication by the Secretary of the notice to cancel the financial security; and

“(C) pay, not later than 30 days after the expiration of the 60-day period for submission of claims

“(i) all uncontested claims received during such period; or

“(ii) a pro rata share of such claims if the total amount of such claims exceeds the financial security available.

“(7) PENALTIES.—

“(A) CIVIL ACTIONS.—Either the Secretary or the Attorney General of the United States may bring a civil action in an appropriate district court of the United States to enforce the requirements of this subsection or a regulation prescribed or order issued under this subsection. The court may award appropriate relief, including injunctive relief.

“(B) CIVIL PENALTIES.—If the Secretary determines, after notice and opportunity for a hearing, that a surety provider of a broker registered under this chapter has violated the requirements of this subsection or a regulation prescribed under this subsection, the surety provider shall be liable to the United States for a civil penalty in an amount not to exceed \$10,000.

“(C) ELIGIBILITY.—If the Secretary determines, after notice and opportunity for a hearing, that a surety provider of a broker registered under this chapter has violated the requirements of this subsection or a regulation prescribed under this subsection, the surety provider shall be ineligible to provide broker financial security for 3 years.

“(8) FINANCIAL SECURITY AMOUNT ASSESSMENT.—Every 5 years, the Secretary shall review, with public notice and comment, the amount of the financial security required under this subsection to determine whether such amounts are sufficient to provide adequate financial security, and shall be authorized to increase those amounts, if necessary, based upon that determination.

“(c) FREIGHT FORWARDER FINANCIAL SECURITY REQUIREMENTS.—

“(1) REQUIREMENTS.—

“(A) IN GENERAL.—The Secretary may register a person as a freight forwarder under section 13903 only if the person files with the Secretary a surety bond, proof of trust fund, other financial security, or a combination of such instruments, in a form and amount, and from a provider, determined by the Secretary to be adequate to ensure financial responsibility.

“(B) USE OF A GROUP SURETY BOND, TRUST FUND, OR OTHER FINANCIAL SECURITY.—In implementing the standards established under subparagraph (A), the Secretary may authorize the use of a group surety bond, trust fund, other financial security, or a combination of such instruments, that meets the requirements of this subsection.

“(C) SURETY BONDS.—A surety bond obtained under this section may only be obtained from a bonding company that has been approved by the Secretary of the Treasury.

“(D) PROOF OF TRUST OR OTHER FINANCIAL SECURITY.—For purposes of subparagraph (A), a trust fund or other financial security may not be accepted by the Secretary unless the trust fund or other financial security consists of assets readily available to pay claims without resort to personal guarantees or collection of pledged accounts receivable.

“(2) SCOPE OF FINANCIAL RESPONSIBILITY.—

“(A) PAYMENT OF CLAIMS.—A surety bond, trust fund, or other financial security obtained under paragraph (1) shall be available to pay any claim against a freight forwarder arising from its failure to pay freight charges under its contracts, agreements, or arrangements for transportation subject to jurisdiction under chapter 135 if

“(i) subject to the review by the surety provider, the freight forwarder consents to the payment;

“(ii) in the case the freight forwarder does not respond to adequate notice to address the validity of the claim, the surety provider determines the claim is valid; or

“(iii) the claim—

“(I) is not resolved within a reasonable period of time following a reasonable attempt by the claimant to resolve the claim under clauses (i) and (ii); and

“(II) is reduced to a judgment against the freight forwarder.

“(B) RESPONSE OF SURETY PROVIDERS TO CLAIMS.—If a surety provider receives notice of a claim described in subparagraph (A), the surety provider shall

“(i) respond to the claim on or before the 30th day following receipt of the notice; and

“(ii) in the case of a denial, set forth in writing for the claimant the grounds for the denial.

“(C) COSTS AND ATTORNEY'S FEES.—In any action against a surety provider to recover on a claim described in subparagraph (A), the prevailing party shall be entitled to recover its reasonable costs and attorney's fees.

“(3) FREIGHT FORWARDER INSURANCE.—

“(A) IN GENERAL.—The Secretary may register a person as a freight forwarder under section 13903 only if the person files with the Secretary a surety bond, insurance policy, or other type of financial security that meets standards prescribed by the Secretary.

“(B) LIABILITY INSURANCE.—A financial security filed by a freight forwarder under subparagraph (A) shall be sufficient to pay an amount, not to exceed the amount of the financial security, for each final judgment against the freight forwarder for bodily injury to, or death of, an individual, or loss of, or damage to, property (other than property referred to in subparagraph (C)), resulting

from the negligent operation, maintenance, or use of motor vehicles by, or under the direction and control of, the freight forwarder while providing transfer, collection, or delivery service under this part.

“(C) CARGO INSURANCE.—The Secretary may require a registered freight forwarder to file with the Secretary a surety bond, insurance policy, or other type of financial security approved by the Secretary, that will pay an amount, not to exceed the amount of the financial security, for loss of, or damage to, property for which the freight forwarder provides service.

“(4) MINIMUM FINANCIAL SECURITY.—Each freight forwarder subject to the requirements of this section shall provide financial security of \$100,000, regardless of the number of branch offices or sales agents of the freight forwarder.

“(5) CANCELLATION NOTICE.—If a financial security required under this subsection is canceled

“(A) the holder of the financial security shall provide electronic notification to the Secretary of the cancellation not later than 30 days before the effective date of the cancellation; and

“(B) the Secretary shall immediately post such notification on the public Internet web site of the Department of Transportation.

“(6) SUSPENSION.—The Secretary shall immediately suspend the registration of a freight forwarder issued under this chapter if its available financial security falls below the amount required under this subsection.

“(7) PAYMENT OF CLAIMS IN CASES OF FINANCIAL FAILURE OR INSOLVENCY.—If a freight forwarder registered under this chapter experiences financial failure or insolvency, the surety provider of the freight forwarder shall

“(A) submit a notice to cancel the financial security to the Administrator in accordance with paragraph (5);

“(B) publicly advertise for claims for 60 days beginning on the date of publication by the Secretary of the notice to cancel the financial security; and

“(C) pay, not later than 30 days after the expiration of the 60-day period for submission of claims

“(i) all uncontested claims received during such period; or

“(ii) a pro rata share of such claims if the total amount of such claims exceeds the financial security available.

“(8) PENALTIES.—

“(A) CIVIL ACTIONS.—Either the Secretary or the Attorney General may bring a civil action in an appropriate district court of the United States to enforce the requirements of this subsection or a regulation prescribed or order issued under this subsection. The court may award appropriate relief, including injunctive relief.

“(B) CIVIL PENALTIES.—If the Secretary determines, after notice and opportunity for a hearing, that a surety provider of a freight forwarder registered under this chapter has violated the requirements of this subsection or a regulation prescribed under this subsection, the surety provider shall be liable to the United States for a civil penalty in an amount not to exceed \$10,000.

“(C) ELIGIBILITY.—If the Secretary determines, after notice and opportunity for a hearing, that a surety provider of a freight forwarder registered under this chapter has violated the requirements of this subsection or a regulation prescribed under this subsection, the surety provider shall be ineligible to provide freight forwarder financial security for 3 years.

“(9) FINANCIAL SECURITY AND INSURANCE AMOUNT ASSESSMENT.—Not less frequently than once every 5 years, the Secretary—

“(A) shall review, with public notice and comment, the amount of the financial security and insurance required under this subsection to determine whether such amounts are sufficient to provide adequate financial security; and

“(B) may increase such amounts, if necessary, based upon the determination under subparagraph (A).”.

(b) RULEMAKING.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue regulations to implement and enforce the requirements under subsections (b) and (c) of section 13906 of title 49, United States Code, as amended by subsection (a).

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date that is 1 year after the date of enactment of this Act.

#### SEC. 32920. UNLAWFUL BROKERAGE ACTIVITIES.

(a) IN GENERAL.—Chapter 149 is amended by adding at the end the following:

##### “§ 14916. Unlawful brokerage activities

“(a) PROHIBITED ACTIVITIES.—Any person that acts as a broker, other than a non-vessel-operating common carrier (as defined in section 40102(16) of title 46) or an ocean freight forwarder providing brokerage as part of an international through movement involving ocean transportation between the United States and a foreign port, is prohibited from providing interstate brokerage services as a broker unless that person

“(1) is registered under, and in compliance with, section 13903; and

“(2) has satisfied the financial security requirements under section 13904.

“(b) CIVIL PENALTIES AND PRIVATE CAUSE OF ACTION.—Any person who knowingly authorizes, consents to, or permits, directly or indirectly, either alone or in conjunction with any other person, a violation of subsection (a) is liable

“(1) to the United States Government for a civil penalty in an amount not to exceed \$10,000 for each violation; and

“(2) to the injured party for all valid claims incurred without regard to amount.

“(c) LIABLE PARTIES.—The liability for civil penalties and for claims under this section for unauthorized brokering shall apply, jointly and severally

“(1) to any corporate entity or partnership involved; and

“(2) to the individual officers, directors, and principals of such entities.”.

(b) CLERICAL AMENDMENT.—The analysis for chapter 149 is amended by adding at the end the following:

“14916. Unlawful brokerage activities.”.

#### PART II—HOUSEHOLD GOODS TRANSPORTATION

#### SEC. 32921. ADDITIONAL REGISTRATION REQUIREMENTS FOR HOUSEHOLD GOODS MOTOR CARRIERS.

(a) Section 13902(a)(2) is amended—

(1) in subparagraph (B), by striking “section 13702(c);” and inserting “section 13702(c); and”;

(2) by amending subparagraph (C) to read as follows:

“(C) demonstrates, before being registered, through successful completion of a proficiency examination established by the Secretary, knowledge and intent to comply with applicable Federal laws relating to consumer protection, estimating, consumers’ rights and responsibilities, and options for limitations of liability for loss and damage.”; and

(3) by striking subparagraph (D).

(b) COMPLIANCE REVIEWS OF NEW HOUSEHOLD GOODS MOTOR CARRIERS.—Section 31144(g), as amended by section 32102 of this Act, is amended by adding at the end the following:

“(6) ADDITIONAL REQUIREMENTS FOR HOUSEHOLD GOODS MOTOR CARRIERS.—(A) In addition to the requirements of this subsection, the Secretary shall require, by regulation, each registered household goods motor carrier to undergo a consumer protection standards review not later than 18 months after the household goods motor carrier begins operations under such authority.

“(B) ELEMENTS.—In the regulations issued pursuant to subparagraph (A), the Secretary shall establish the elements of the consumer protections standards review, including basic management controls. In establishing the elements, the Secretary shall consider the effects on small businesses and shall consider establishing alternate locations where such reviews may be conducted for the convenience of small businesses.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 2 years after the date of enactment of this Act.

#### SEC. 32922. FAILURE TO GIVE UP POSSESSION OF HOUSEHOLD GOODS.

(a) INJUNCTIVE RELIEF.—Section 14704(a)(1) is amended by striking “and 14103” and inserting “, 14103, and 14915(c)”.

(b) CIVIL PENALTIES.—Section 14915(a)(1) is amended by adding at the end the following:

“The United States may assign all or a portion of the civil penalty to an aggrieved shipper. The Secretary of Transportation shall establish criteria upon which such assignments shall be made. The Secretary may order, after notice and an opportunity for a proceeding, that a person found holding a household goods shipment hostage return the goods to an aggrieved shipper.”.

#### SEC. 32923. SETTLEMENT AUTHORITY.

(a) SETTLEMENT OF GENERAL CIVIL PENALTIES.—Section 14901 is amended by adding at the end the following:

“(h) SETTLEMENT OF HOUSEHOLD GOODS CIVIL PENALTIES.—Nothing in this section shall be construed to prohibit the Secretary from accepting partial payment of a civil penalty as part of a settlement agreement in the public interest, or from holding imposition of any part of a civil penalty in abeyance.”.

(b) SETTLEMENT OF HOUSEHOLD GOODS CIVIL PENALTIES.—Section 14915(a) is amended by adding at the end the following:

“(4) SETTLEMENT AUTHORITY.—Nothing in this section shall be construed as prohibiting the Secretary from accepting partial payment of a civil penalty as part of a settlement agreement in the public interest, or from holding imposition of any part of a civil penalty in abeyance.”.

#### SEC. 32924. HOUSEHOLD GOODS TRANSPORTATION ASSISTANCE PROGRAM.

(a) JOINT ASSISTANCE PROGRAM.—Not later than 18 months after the date of enactment of this Act, the Secretary shall develop and implement a joint assistance program, through the Federal Motor Carrier Safety Administration—

(1) to educate consumers about the household goods motor carrier industry pursuant to the recommendations of the task force established under section 32925 of this Act;

(2) to improve the Federal Motor Carrier Safety Administration’s implementation, monitoring, and coordination of Federal and State household goods enforcement activities;

(3) to assist a consumer with the timely resolution of an interstate household goods hostage situation, as appropriate; and

(4) to conduct other enforcement activities as designated by the Secretary.

(b) JOINT ASSISTANCE PROGRAM PARTNERSHIP.—The Secretary—

(1) may partner with 1 or more household goods motor carrier industry groups to implement the joint assistance program under subsection (a); and

(2) shall ensure that each participating household goods motor carrier industry group—

(A) implements the joint assistance program in the best interest of the consumer;

(B) implements the joint assistance program in the public interest;

(C) accurately represents its financial interests in providing household goods mover services in the normal course of business and in assisting consumers resolving hostage situations;

(D) does not hold itself out or misrepresent itself as an agent of the Federal government;

(E) abides by Federal regulations and guidelines for the provision of assistance and receipt of compensation for household goods mover services; and

(F) accurately represents the Federal and State remedies that are available to consumers for resolving interstate household goods hostage situations.

(c) REPORT.—The Secretary shall submit a report annually to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives providing a detailed description of the joint assistance program under subsection (a).

(d) PROHIBITION.—The joint assistance program under subsection (a) may not include the provision of funds by the United States to a consumer for lost, stolen, or damaged items.

#### SEC. 32925. HOUSEHOLD GOODS CONSUMER EDUCATION PROGRAM.

(a) TASK FORCE.—The Secretary of Transportation shall establish a task force to develop recommendations to ensure that a consumer is informed of Federal law concerning the transportation of household goods by a motor carrier, including recommendations—

(1) on how to condense publication ESA 03005 of the Federal Motor Carrier Safety Administration into a format that can be more easily used by a consumer; and

(2) on the use of state-of-the-art education techniques and technologies, including the use of the Internet as an educational tool.

(b) TASK FORCE MEMBERS.—The task force shall be comprised of—

(1) individuals with expertise in consumer affairs;

(2) educators with expertise in how people learn most effectively; and

(3) representatives of the household goods moving industry.

(c) RECOMMENDATIONS.—Not later than 1 year after the date of enactment of this Act, the task force shall complete its recommendations under subsection (a). Not later than 1 year after the task force completes its recommendations under subsection (a), the Secretary shall issue regulations implementing the recommendations, as appropriate.

(d) FEDERAL ADVISORY COMMITTEE ACT EXEMPTION.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the task force.

(e) TERMINATION.—The task force shall terminate 2 years after the date of enactment of this Act.



**PART III—TECHNICAL AMENDMENTS****SEC. 32331. UPDATE OF OBSOLETE TEXT.**

(a) Section 31137(e), as redesignated by section 32301 of this Act, is amended by striking “Not later than December 1, 1990, the Secretary shall prescribe” and inserting “The Secretary shall maintain”.

(b) Section 31151(a) is amended—

(1) by removing paragraph (1) to read as follows:

“(1) IN GENERAL.—The Secretary of Transportation shall maintain a program to ensure that intermodal equipment used to transport intermodal containers is safe and systematically maintained.”; and

(2) by striking paragraph (4).

(c) Section 31307(b) is amended by striking “Not later than December 18, 1994, the Secretary shall prescribe” and inserting “The Secretary shall maintain”.

(d) Section 31310(g)(1) is amended by striking “Not later than 1 year after the date of enactment of this Act, the” and inserting “The”.

(e) Section 4123(f) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1736), is amended by striking “Not later than 1 year after the date of enactment of this Act, the” and inserting “The”.

**SEC. 32332. CORRECTION OF INTERSTATE COMMERCE COMMISSION REFERENCES.**

(a) SAFETY INFORMATION AND INTERVENTION IN INTERSTATE COMMERCE COMMISSION PROCEEDINGS.—Chapter 3 is amended—

(1) by repealing section 307;

(2) in the analysis, by striking the item relating to section 307;

(3) in section 333(d)(1)(C), by striking “Interstate Commerce Commission” and inserting “Surface Transportation Board”; and

(4) in section 333(e)—

(A) by striking “Interstate Commerce Commission” and inserting “Surface Transportation Board”; and

(B) by striking “Commission” and inserting “Board”.

(b) FILING AND PROCEDURE FOR APPLICATION TO ABANDON OR DISCONTINUE.—Section 10903(b)(2) is amended by striking “24706(c) of this title” and inserting “24706(c) of this title before May 31, 1998”.

(c) TECHNICAL AMENDMENTS TO PART C OF SUBTITLE V.—

(1) Section 24307(b)(3) is amended by striking “Interstate Commerce Commission” and inserting “Surface Transportation Board”.

(2) Section 24311 is amended—

(A) by striking “Interstate Commerce Commission” and inserting “Surface Transportation Board”;

(B) by striking “Commission” each place it appears and inserting “Board”; and

(C) by striking “Commission’s” and inserting “Board’s”.

(3) Section 24902 is amended—

(A) by striking “Interstate Commerce Commission” each place it appears and inserting “Surface Transportation Board”; and

(B) by striking “Commission” each place it appears and inserting “Board”.

(4) Section 24904 is amended—

(A) by striking “Interstate Commerce Commission” and inserting “Surface Transportation Board”; and

(B) by striking “Commission” each place it appears and inserting “Board”.

**SEC. 32333. TECHNICAL AND CONFORMING AMENDMENTS.**

(a) Section 13905(f)(1)(A) is amended by striking “section 13904(c)” and inserting “section 13904(e)”;

(b) Section 14504a(c)(1) is amended—

(1) in subparagraph (C), by striking “sections” and inserting “section”; and

(2) in subparagraph (D)(ii)(II) by striking the period at the end and inserting “; and”.

(c) Section 31103(a) is amended by striking “section 31102(b)(1)(E)” and inserting “section 31102(b)(2)(E)”.

(d) Section 31103(b) is amended by striking “authorized by section 31104(f)(2)”.

(e) Section 31309(b)(2) is amended by striking “31308(2)” and inserting “31308(3)”.

**TITLE III—SURFACE TRANSPORTATION AND FREIGHT POLICY ACT OF 2012****SEC. 33001. SHORT TITLE.**

This title may be cited as the “Surface Transportation and Freight Policy Act of 2012”.

**SEC. 33002. ESTABLISHMENT OF A NATIONAL SURFACE TRANSPORTATION AND FREIGHT POLICY.**

(a) IN GENERAL.—Subchapter I of chapter 3 of title 49, United States Code, as amended by section 32932 of the Commercial Motor Vehicle Safety Enhancement Act of 2012, is amended—

(1) by redesignating sections 304 through 306 as sections 307 through 309, respectively;

(2) by redesignating sections 308 and 309 as sections 310 and 311, respectively;

(3) by redesignating sections 303 and 303a as sections 305 and 306, respectively; and

(4) by inserting after section 302 the following:

**“§ 303. National surface transportation policy**

“(a) POLICY.—It is the policy of the United States to develop a comprehensive national surface transportation system that advances the national interest and defense, interstate and foreign commerce, the efficient and safe interstate mobility of people and goods, and the protection of the environment. The system shall be built, maintained, managed, and operated as a partnership between the Federal, State, and local governments and the private sector and shall be coordinated with the overall transportation system of the United States, including the Nation’s air, rail, pipeline, and water transportation systems. The Secretary of Transportation shall be responsible for carrying out this policy.

“(b) OBJECTIVES.—The objectives of the policy shall be to facilitate and advance—

“(1) the improved accessibility and reduced travel times for persons and goods within and between nations, regions, States, and metropolitan areas;

“(2) the safety of the public;

“(3) the security of the Nation and the public;

“(4) environmental protection;

“(5) energy conservation and security, including reducing transportation-related energy use;

“(6) international and interstate freight movement, trade enhancement, job creation, and economic development;

“(7) responsible planning to address population distribution and employment and sustainable development;

“(8) the preservation and adequate performance of system-critical transportation assets, as defined by the Secretary;

“(9) reasonable access to the national surface transportation system for all system users, including rural communities;

“(10) the sustainable and adequate financing of the national surface transportation system; and

“(11) innovation in transportation services, infrastructure, and technology.

“(c) GOALS.—

“(1) SPECIFIC GOALS.—The goals of the policy shall be—

“(A) to reduce average per capita peak period travel times on an annual basis;

“(B) to reduce national motor vehicle-related and truck-related fatalities by 50 percent by 2030;

“(C) to reduce national surface transportation delays per capita on an annual basis;

“(D) to improve the access to employment opportunities and other economic activities;

“(E) to increase the percentage of system-critical surface transportation assets, as defined by the Secretary, that are in a state of good repair by 20 percent by 2030;

“(F) to improve access to public transportation, intercity passenger rail services, and non-motorized transportation where travel demand warrants;

“(G) to reduce passenger and freight transportation infrastructure-related delays entering into and out of international points of entry on an annual basis;

“(H) to increase travel time reliability on major freight corridors that connect major population centers to freight generators and international gateways on an annual basis;

“(I) to ensure adequate transportation of domestic energy supplies and promote energy security;

“(J) to maintain or reduce the percentage of gross domestic product consumed by transportation costs; and

“(K) to reduce transportation-related impacts on the environment and on communities.

“(2) BASELINES.—Not later than 2 years after the date of enactment of the Surface Transportation and Freight Policy Act of 2012, the Secretary shall develop baselines for the goals and shall determine appropriate methods of data collection to measure the attainment of the goals.”.

(b) FREIGHT POLICY.—Subchapter I of chapter 3 of title 49, United States Code, as amended by section 33002(a) of this Act, is amended by adding at the end the following:

**“§ 312. National freight transportation policy.**

“(a) NATIONAL FREIGHT TRANSPORTATION POLICY.—It is the policy of the United States to improve the efficiency, operation, and security of the national transportation system to move freight by leveraging investments and promoting partnerships that advance interstate and foreign commerce, promote economic competitiveness and job creation, improve the safe and efficient mobility of goods, and protect the public health and the environment.

“(b) OBJECTIVES.—The objectives of the policy are—

“(1) to target investment in freight transportation projects that strengthen the economic competitiveness of the United States with a focus on domestic industries and businesses and the creation and retention of high-value jobs;

“(2) to promote and advance energy conservation and the environmental sustainability of freight movements;

“(3) to facilitate and advance the safety and health of the public, including communities adjacent to freight movements;

“(4) to provide for systematic and balanced investment to improve the overall performance and reliability of the national transportation system to move freight, including ensuring trade facilitation and transportation system improvements are mutually supportive;

“(5) to promote partnerships between Federal, State, and local governments, the private sector, and other transportation stakeholders to leverage investments in freight transportation projects; and

“(6) to encourage adoption of operational policies, such as intelligent transportation systems, to improve the efficiency of freight-

related transportation movements and infrastructure.”.

(c) CONFORMING AMENDMENTS.—The table of contents for chapter 3 of title 49, United States Code, is amended—

(1) by redesignating the items relating to sections 304 through 306 as sections 307 through 309, respectively;

(2) by redesignating the items relating to sections 308 and 309 as sections 310 and 311, respectively;

(3) by redesignating the items relating to sections 303 and 303a as sections 305 and 306, respectively;

(4) by inserting after the item relating to section 302 the following:

“303. National surface transportation policy.”; and

(5) by inserting after the item relating to section 311 the following:

“312. National freight transportation policy.”.

#### SEC. 33003. SURFACE TRANSPORTATION AND FREIGHT STRATEGIC PLAN.

(a) SURFACE TRANSPORTATION AND FREIGHT STRATEGIC PLAN.—Subchapter I of chapter 3 of title 49, United States Code, as amended by section 33002 of this Act, is amended by inserting after section 303 the following—

#### “§ 304. National surface transportation and freight strategic performance plan.

“(a) DEVELOPMENT.—Not later than 2 years after the date of enactment of the Surface Transportation and Freight Policy Act of 2012, the Secretary of Transportation shall develop and implement a National Surface Transportation and Freight Performance Plan to achieve the policy, objectives, and goals set forth in sections 303 and 312 .

“(b) CONTENTS.—The plan shall include—

(1) an assessment of the current performance of the national surface transportation system and an analysis of the system’s ability to achieve the policy, objectives, and goals set forth in sections 303 and 312;

(2) an analysis of emerging and long-term projected trends, including economic and national trade policies, that will impact the performance, needs, and uses of the national surface transportation system, including the system to move freight;

(3) a description of the major challenges to effectively meeting the policy, objectives, and goals set forth in sections 303 and 312 and a plan to address such challenges;

(4) a comprehensive strategy and investment plan to meet the policy, objectives, and goals set forth in sections 303 and 312, including a strategy to develop the coalitions, partnerships, and other collaborative financing efforts necessary to ensure stable, reliable funding and completion of freight corridors and projects;

(5) initiatives to improve transportation modeling, research, data collection, and analysis, including those to assess impacts on public health, and environmental conditions;

(6) guidelines to encourage the appropriate balance of means to finance the national transportation system to move freight to implement the plan and the investment plan proposed under paragraph (4); and

(7) a list of priority freight corridors and gateways to be improved and developed to meet the policy, objectives, and goals set forth in section 312.

“(c) CONSULTATION.—In developing the plan required by subsection (a), the Secretary shall—

(1) consult with appropriate Federal agencies, local, State, and tribal governments, public and private transportation stake-

holders, non-profit organizations representing transportation employees, appropriate foreign governments, and other interested parties;

(2) consider on-going Federal, State, and corridor-wide transportation plans;

(3) provide public notice and hearings and solicit public comments on the plan, and

(4) as appropriate, establish advisory committees to assist with developing the plan.

“(d) SUBMITTAL AND PUBLICATION.—The Secretary shall—

(1) submit the completed plan to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives; and

(2) post the completed plan on the Department of Transportation’s public web site.

“(e) PROGRESS REPORTS.—The Secretary shall submit biennial progress reports on the implementation of the plan beginning 2 years after the date of submittal of the plan under subsection (d)(1). Each progress report shall—

(1) describe progress made toward fully implementing the plan and achieving the policies, objectives, and goals established under sections 303 and 312;

(2) describe challenges and obstacles to full implementation;

(3) describe updates to the plan necessary to reflect changed circumstances or new developments; and

(4) make policy and legislative recommendations the Secretary believes are necessary and appropriate to fully implement the plan.

“(f) DATA.—The Secretary shall have the authority to conduct studies, gather information, and require the production of data necessary to develop or update this plan, consistent with Federal privacy standards.

“(g) IMPLEMENTATION.—The Secretary shall—

(1) develop appropriate performance criteria and data collections systems for each Federal surface transportation program consistent with this chapter and the Secretary’s statutory authority within these programs to evaluate:

(A) whether such programs are consistent with the policy, objectives, and goals established by sections 303 and 312; and

(B) how effective such programs are in contributing to the achievement of the policy, objectives, and goals established by sections 303 and 312;

(2) using the criteria developed under paragraph (1), periodically evaluate each such program and provide the results to the public;

(3) based on the evaluation performed under paragraph (2), make any necessary changes or improvements to such programs to ensure such consistency and effectiveness consistent with the Secretary’s statutory authority within these programs;

(4) implement this section in a manner that is consistent with sections 302, 5301, 5503, 10101, and 13101 of this title and section 101 of title 23;

(5) review all relevant surface transportation planning requirements to determine whether such regional, State, and local surface transportation planning efforts funded with Federal funds are consistent with the policy, objectives, and goals established by this section; and

(6) require States and metropolitan planning organizations to report on the use of Federal surface transportation funds, consistent with ongoing reporting requirements,

to provide the Secretary with sufficient information to determine—

“(A) which projects and priorities were funded with such funds;

“(B) the rationale and method employed for apportioning such funds to the projects and priorities; and

“(C) how the obligation of such funds is consistent with or advances the policy, objectives, and goals established by sections 303 and 312 and the statutory sections referenced in paragraph (4).”.

(b) CONFORMING AMENDMENT.—The table of contents for chapter 3 of title 49, United States Code, is amended by inserting after the item relating to section 303 the following:

“304. National surface transportation and freight strategic performance plan.”.

#### SEC. 33004. TRANSPORTATION INVESTMENT DATA AND PLANNING TOOLS.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall—

(1) develop new tools or improve existing tools to support an outcome-oriented, performance-based approach to evaluate proposed freight-related and other surface transportation projects. These new or improved tools shall include—

(A) a systematic cost-benefit analysis that supports a valuation of modal alternatives;

(B) an evaluation of external effects on congestion, pollution, the environment, and the public health; and

(C) other elements to assist in effective transportation planning; and

(2) facilitate the collection of transportation-related data to support a broad range of evaluation methods and techniques such as demand forecasts, modal diversion forecasts, estimates of the effect of proposed investments on congestion, pollution, public health, and other factors, to assist in making transportation investment decisions. At a minimum, the Secretary, in consultation with other relevant Federal agencies, shall consider any improvements to the Commodity Flow Survey that reduce identified freight data gaps and deficiencies and help evaluate forecasts of transportation demand.

(b) CONSULTATION.—To the extent practicable, the Secretary shall consult with Federal, State, and local transportation planners to develop, improve, and implement the tools and collect the data under subsection (a).

(c) ESTABLISHMENT OF PILOT PROGRAM.—

(1) ESTABLISHMENT.—To assist in the development of tools under subsection (a) and to inform the National Surface Transportation and Freight Performance Plan required by section 304 of title 49, United States Code, the Secretary shall establish a pilot program under which the Secretary shall conduct case studies of States and metropolitan planning organizations that are designed—

(A) to provide more detailed, in-depth analysis and data collection with respect to transportation programs; and

(B) to apply rigorous methods of measuring and addressing the effectiveness of program participants in achieving national transportation goals.

(2) PRELIMINARY REQUIREMENTS.—

(A) SOLICITATION.—The Secretary shall solicit applications to participate in the pilot program from States and metropolitan planning organizations.

(B) NOTIFICATION.—A State or metropolitan planning organization that desires to participate in the pilot program shall notify the Secretary of such desire before a date determined by the Secretary.

## (C) SELECTION.—

(i) NUMBER OF PROGRAM PARTICIPANTS.—The Secretary shall select to participate in the pilot program—

(I) not fewer than 3, and not more than 5, States; and

(II) not fewer than 3, and not more than 5, metropolitan planning organizations.

(ii) TIMING.—The Secretary shall select program participants not later than 3 months after the date of enactment of this Act.

(iii) DIVERSITY OF PROGRAM PARTICIPANTS.—The Secretary shall, to the extent practicable, select program participants that represent a broad range of geographic and demographic areas (including rural and urban areas) and types of transportation programs.

## (d) CASE STUDIES.—

(1) BASELINE REPORT.—Not later than 6 months after the date of enactment of this Act, each program participant shall submit to the Secretary a baseline report that—

(A) describes the reporting and data collection processes of the program participant for transportation investments that are in effect on the date of the report;

(B) assesses how effective the program participant is in achieving the national surface transportation goals in section 303 of title 49, United States Code;

(C) describes potential improvements to the methods and metrics used to measure the effectiveness of the program participant in achieving national surface transportation goals in section 303 of title 49, United States Code, and the challenges to implementing such improvements; and

(D) includes an assessment of whether, and specific reasons why, the preparation and submission of the baseline report may be limited, incomplete, or unduly burdensome, including any recommendations for facilitating the preparation and submission of similar reports in the future.

(2) EVALUATION.—Each program participant shall work cooperatively with the Secretary to evaluate the methods and metrics used to measure the effectiveness of the program participant in achieving national surface transportation goals in section 303 of title 49, United States Code, including—

(A) by considering the degree to which such methods and metrics take into account—

(i) the factors that influence the effectiveness of the program participant in achieving the national surface transportation goals;

(ii) all modes of transportation; and

(iii) the transportation program as a whole, rather than individual projects within the transportation program; and

(B) by identifying steps that could be used to implement the potential improvements identified under paragraph (1)(C).

(3) FINAL REPORT.—Not later than 18 months after the date of enactment of this section, each program participant shall submit to the Secretary a comprehensive final report that—

(A) contains an updated assessment of the effectiveness of the program participant in achieving national surface transportation goals under section 303 of title 49, United States Code; and

(B) describes the ways in which the performance of the program participant in collecting and reporting data and carrying out the transportation program of the program participant has improved or otherwise changed since the date of submission of the baseline report under subparagraph (A).

**SEC. 33005. PORT INFRASTRUCTURE DEVELOPMENT INITIATIVE.**

Section 50302(c)(3)(C) of title 46, United States Code, is amended to read as follows:

“(C) TRANSFERS.—Amounts appropriated or otherwise made available for any fiscal year for a marine facility or intermodal facility that includes maritime transportation may be transferred, at the option of the recipient of such amounts, to the Fund and administered by the Administrator as a component of a project under the program.”.

**SEC. 33006. SAFETY FOR MOTORIZED AND NON-MOTORIZED USERS.**

(a) IN GENERAL.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following:

**“§ 413. Safety for motorized and non-motorized users**

“(a) IN GENERAL.—Not later than 2 years after the date of enactment of the Surface Transportation and Freight Policy Act of 2012, subject to subsection (b), the Secretary shall establish standards to ensure that the design of Federal surface transportation projects provides for the safe and adequate accommodation, in all phases of project planning, development, and operation, of all users of the transportation network, including motorized and nonmotorized users.

“(b) WAIVER FOR STATE LAW OR POLICY.—The Secretary may waive the application of standards established under subsection (a) to a State that has adopted a law or policy that provides for the safe and adequate accommodation as certified by the State (or other grantee), in all phases of project planning and development, of users of the transportation network on federally funded surface transportation projects, as determined by the Secretary.

**“(c) COMPLIANCE.—**

“(1) IN GENERAL.—Each State department of transportation shall submit to the Secretary, at such time, in such manner, and containing such information as the Secretary shall require, a report describing the implementation by the State of measures to achieve compliance with this section.

“(2) DETERMINATION BY SECRETARY.—On receipt of a report under paragraph (1), the Secretary shall determine whether the applicable State has achieved compliance with this section.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 4 of title 23, United States Code, is amended by adding at the end the following:

“413. Safety for motorized and nonmotorized users.”.

**TITLE IV—HAZARDOUS MATERIALS TRANSPORTATION SAFETY IMPROVEMENT ACT OF 2012****SEC. 34001. SHORT TITLE.**

This title may be cited as the “Hazardous Materials Transportation Safety Improvement Act of 2012”.

**SEC. 34002. DEFINITION.**

In this title, the term “Secretary” means the Secretary of Transportation.

**SEC. 34003. REFERENCES TO TITLE 49, UNITED STATES CODE.**

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

**SEC. 34004. TRAINING FOR EMERGENCY RESPONDERS.**

(a) TRAINING CURRICULUM.—Section 5115 is amended—

(1) in subsection (b)(1)(B), by striking “basic”;

(2) in subsection (b)(2), by striking “basic”; and

(3) in subsection (c), by striking “basic”.

(b) OPERATIONS LEVEL TRAINING.—Section 5116 is amended—

(1) in subsection (b)(1), by adding at the end the following: “To the extent that a grant is used to train emergency responders, the State or Indian tribe shall provide written certification to the Secretary that the emergency responders who receive training under the grant will have the ability to protect nearby persons, property, and the environment from the effects of accidents or incidents involving the transportation of hazardous material in accordance with existing regulations or National Fire Protection Association standards for competence of responders to hazardous materials.”;

(2) in subsection (j)—

(A) by redesignating paragraph (5) as paragraph (7); and

(B) by inserting after paragraph (4) the following:

“(5) The Secretary may not award a grant to an organization under this subsection unless the organization ensures that emergency responders who receive training under the grant will have the ability to protect nearby persons, property, and the environment from the effects of accidents or incidents involving the transportation of hazardous material in accordance with existing regulations or National Fire Protection Association standards for competence of responders to hazardous materials.

“(6) Notwithstanding paragraphs (1) and (3), to the extent determined appropriate by the Secretary, a grant awarded by the Secretary to an organization under this subsection to conduct hazardous material response training programs may be used to train individuals with responsibility to respond to accidents and incidents involving hazardous material.”; and

(3) in subsection (k)—

(A) by striking “annually” and inserting “an annual report”;

(B) by inserting “the report” after “make available”;

(C) by striking “information” and inserting “The report submitted under this subsection shall include information”; and

(D) by striking “The report shall identify” and all that follows and inserting the following: “The report submitted under this subsection shall identify the ultimate recipients of such grants and include—

“(A) a detailed accounting and description of each grant expenditure by each grant recipient, including the amount of, and purpose for, each expenditure;

“(B) the number of persons trained under the grant program, by training level;

“(C) an evaluation of the efficacy of such planning and training programs; and

“(D) any recommendations the Secretary may have for improving such grant programs.”.

**SEC. 34005. PAPERLESS HAZARD COMMUNICATIONS PILOT PROGRAM.**

(a) IN GENERAL.—The Secretary may conduct pilot projects to evaluate the feasibility and effectiveness of using paperless hazard communications systems. At least 1 of the pilot projects under this section shall take place in a rural area.

(b) REQUIREMENTS.—In conducting pilot projects under this section, the Secretary—

(1) may not waive the requirements under section 5110 of title 49, United States Code; and

(2) shall consult with organizations representing—

- (A) fire services personnel;
- (B) law enforcement and other appropriate enforcement personnel;
- (C) other emergency response providers;
- (D) persons who offer hazardous material for transportation;

(E) persons who transport hazardous material by air, highway, rail, and water; and

(F) employees of persons who transport or offer for transportation hazardous material by air, highway, rail, and water.

(c) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall—

(1) prepare a report on the results of the pilot projects carried out under this section, including—

(A) a detailed description of the pilot projects;

(B) an evaluation of each pilot project, including an evaluation of the performance of each paperless hazard communications system in such project;

(C) an assessment of the safety and security impact of using paperless hazard communications systems, including any impact on the public, emergency response, law enforcement, and the conduct of inspections and investigations; and

(D) a recommendation on whether paperless hazard communications systems should be permanently incorporated into the Federal hazardous material transportation safety program under chapter 51 of title 49, United States Code; and

(2) submit a final report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that contains the results of the pilot projects carried out under this section, including the matters described in paragraph (1).

(d) PAPERLESS HAZARD COMMUNICATIONS SYSTEM DEFINED.—In this section, the term “paperless hazard communications system” means the use of advanced communications methods, such as wireless communications devices, to convey hazard information between all parties in the transportation chain, including emergency responders and law enforcement personnel. The format of communication may be equivalent to that used by the carrier.

#### SEC. 34006. IMPROVING DATA COLLECTION, ANALYSIS, AND REPORTING.

(a) ASSESSMENT.—

(1) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Secretary, in coordination with the Secretary of Homeland Security, as appropriate, shall conduct an assessment to improve the collection, analysis, reporting, and use of data related to accidents and incidents involving the transportation of hazardous material.

(2) REVIEW.—The assessment conducted under this subsection shall review the methods used by the Pipeline and Hazardous Materials Safety Administration (referred to in this section as the “Administration”) for collecting, analyzing, and reporting accidents and incidents involving the transportation of hazardous material, including the adequacy of—

(A) information requested on the accident and incident reporting forms required to be submitted to the Administration;

(B) methods used by the Administration to verify that the information provided on such forms is accurate and complete;

(C) accident and incident reporting requirements, including whether such require-

ments should be expanded to include shippers and consignees of hazardous materials;

(D) resources of the Administration related to data collection, analysis, and reporting, including staff and information technology; and

(E) the database used by the Administration for recording and reporting such accidents and incidents, including the ability of users to adequately search the database and find information.

(b) DEVELOPMENT OF ACTION PLAN.—Not later than 9 months after the date of the enactment of this Act, the Secretary shall develop an action plan and timeline for improving the collection, analysis, reporting, and use of data by the Administration, including revising the database of the Administration, as appropriate.

(c) SUBMISSION TO CONGRESS.—Not later than 15 days after the completion of the action plan and timeline under subsection (c), the Secretary shall submit the action plan and timeline to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(d) REPORTING REQUIREMENTS.—Section 5125(b)(1)(D) is amended by inserting “and other hazardous materials transportation incident reporting to the 9-1-1 emergency system or involving State or local emergency responders in the initial response to the incident” before the period at the end.

#### SEC. 34007. LOADING AND UNLOADING OF HAZARDOUS MATERIALS.

(a) RULEMAKING.—Not later than 2 years after date of the enactment of this Act, the Secretary, after consultation with the Department of Labor and the Environmental Protection Agency, as appropriate, and after providing notice and an opportunity for public comment shall prescribe regulations establishing uniform procedures among facilities for the safe loading and unloading of hazardous materials on and off tank cars and cargo tank trucks.

(b) INCLUSION.—The regulations prescribed under subsection (a) may include procedures for equipment inspection, personnel protection, and necessary safeguards.

(c) CONSIDERATION.—In prescribing regulations under subsection (a), the Secretary shall give due consideration to carrier rules and procedures that produce an equivalent level of safety.

#### SEC. 34008. HAZARDOUS MATERIAL TECHNICAL ASSESSMENT, RESEARCH AND DEVELOPMENT, AND ANALYSIS PROGRAM.

(a) IN GENERAL.—Chapter 51 is amended by inserting after section 5117 the following:

##### “§ 5118. Hazardous material technical assessment, research and development, and analysis program

“(a) RISK REDUCTION.—

“(1) PROGRAM AUTHORIZED.—The Secretary of Transportation may develop and implement a hazardous material technical assessment, research and development, and analysis program for the purpose of—

“(A) reducing the risks associated with the transportation of hazardous material; and

“(B) identifying and evaluating new technologies to facilitate the safe, secure, and efficient transportation of hazardous material.

“(2) COORDINATION.—In developing the program under paragraph (1), the Secretary shall—

“(A) utilize information gathered from other modal administrations with similar programs; and

“(B) coordinate with other modal administrations, as appropriate.

“(b) COOPERATION.—In carrying out subsection (a), the Secretary may work cooperatively with regulated and other entities, including shippers, carriers, emergency responders, State and local officials, and academic institutions.”.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 51 is amended by inserting after the item relating to section 5117 the following:

“5118. Hazardous material technical assessment, research and development, and analysis program.”.

#### SEC. 34009. HAZARDOUS MATERIAL ENFORCEMENT TRAINING PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a multimodal hazardous material enforcement training program for government hazardous materials inspectors and investigators—

(1) to develop uniform performance standards for training hazardous material inspectors and investigators; and

(2) to train hazardous material inspectors and investigators on—

(A) how to collect, analyze, and publish findings from inspections and investigations of accidents or incidents involving the transportation of hazardous material; and

(B) how to identify noncompliance with regulations issued under chapter 51 of title 49, United States Code, and take appropriate enforcement action.

(b) STANDARDS AND GUIDELINES.—Under the program established under this section, the Secretary may develop—

(1) guidelines for hazardous material inspector and investigator qualifications;

(2) best practices and standards for hazardous material inspector and investigator training programs; and

(3) standard protocols to coordinate investigation efforts among Federal, State, and local jurisdictions on accidents or incidents involving the transportation of hazardous material.

(c) AVAILABILITY.—The standards, protocols, and findings of the program established under this section—

(1) shall be mandatory for—

(A) the Department of Transportation’s multimodal personnel conducting hazardous material enforcement inspections or investigations; and

(B) State employees who conduct federally funded compliance reviews, inspections, or investigations; and

(2) shall be made available to Federal, State, and local hazardous materials safety enforcement personnel.

#### SEC. 34010. INSPECTIONS.

(a) NOTICE OF ENFORCEMENT MEASURES.—Section 5121(c)(1) is amended—

(1) in subparagraph (E), by striking “and” at the end;

(2) in subparagraph (F), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(G) shall provide to the affected offeror, carrier, packaging manufacturer or tester, or other person responsible for the package reasonable notice of—

“(i) his or her decision to exercise his or her authority under paragraph (1);

“(ii) any findings made; and

“(iii) any actions being taken as a result of a finding of noncompliance.”.

(b) REGULATIONS.—Section 5121(e) is amended by adding at the end the following:

“(3) MATTERS TO BE ADDRESSED.—The regulations issued under this subsection shall address—

“(A) the safe and expeditious resumption of transportation of perishable hazardous

material, including radiopharmaceuticals and other medical products, that may require timely delivery due to life-threatening situations;

“(B) the means by which—

“(i) noncompliant packages that present an imminent hazard are placed out-of-service until the condition is corrected; and

“(ii) noncompliant packages that do not present a hazard are moved to their final destination;

“(C) appropriate training and equipment for inspectors; and

“(D) the proper closure of packaging in accordance with the hazardous material regulations.”.

(c) GRANTS AND COOPERATIVE AGREEMENTS.—Section 5121(g)(1) is amended by inserting “safety and” before “security”.

#### SEC. 34011. CIVIL PENALTIES.

Section 5123 is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking “\$50,000” and inserting “\$75,000”; and

(B) in paragraph (2), by striking “\$100,000” and inserting “\$175,000”; and

(2) by adding at the end the following:

“(h) PENALTY FOR OBSTRUCTION OF INSPECTIONS AND INVESTIGATIONS.—The Secretary may impose a penalty on a person who obstructs or prevents the Secretary from carrying out inspections or investigations under subsection (c) or (i) of section 5121.

“(i) PROHIBITION ON HAZARDOUS MATERIAL OPERATIONS AFTER NONPAYMENT OF PENALTIES.—

“(1) IN GENERAL.—Except as provided under paragraph (2), a person subject to the jurisdiction of the Secretary under this chapter who fails to pay a civil penalty assessed under this chapter, or fails to arrange and abide by an acceptable payment plan for such civil penalty, may not conduct any activity regulated under this chapter beginning on the 91st day after the date specified by order of the Secretary for payment of such penalty unless the person has filed a formal administrative or judicial appeal of the penalty.

“(2) EXCEPTION.—Paragraph (1) shall not apply to any person who is unable to pay a civil penalty because such person is a debtor in a case under chapter 11 of title 11.

“(3) RULEMAKING.—Not later than 2 years after the date of the enactment of this subsection, the Secretary, after providing notice and an opportunity for public comment, shall issue regulations that—

“(A) set forth procedures to require a person who is delinquent in paying civil penalties to cease any activity regulated under this chapter until payment has been made or an acceptable payment plan has been arranged; and

“(B) ensures that the person described in subparagraph (A)—

“(i) is notified in writing; and

“(ii) is given an opportunity to respond before the person is required to cease the activity.”.

#### SEC. 34012. REPORTING OF FEES.

Section 5125(f)(2) is amended by striking “, upon the Secretary’s request,” and inserting “biennially”.

#### SEC. 34013. SPECIAL PERMITS, APPROVALS, AND EXCLUSIONS.

(a) IN GENERAL.—Section 5117 is amended to read as follows:

##### “§ 5117. Special permits, approvals, and exclusions

“(a) AUTHORITY TO ISSUE SPECIAL PERMITS.—

“(1) CONDITIONS.—The Secretary of Transportation may issue, modify, or terminate a

special permit implementing new technologies or authorizing a variance from a provision under this chapter or a regulation prescribed under section 5103(b), 5104, 5110, or 5112 to a person performing a function regulated by the Secretary under section 5103(b)(1) to achieve—

“(A) a safety level at least equal to the safety level required under this chapter; or

“(B) a safety level consistent with the public interest and this chapter, if a required safety level does not exist.

“(2) FINDINGS REQUIRED.—

“(A) IN GENERAL.—Before issuing, renewing, or modifying a special permit or granting party status to a special permit, the Secretary shall determine that the person is fit to conduct the activity authorized by such permit in a manner that achieves the level of safety required under paragraph (1).

“(B) CONSIDERATIONS.—In making the determination under subparagraph (A), the Secretary shall consider—

“(i) the person’s safety history (including prior compliance history);

“(ii) the person’s accident and incident history; and

“(iii) any other information the Secretary considers appropriate to make such a determination.

“(3) EFFECTIVE PERIOD.—A special permit issued under this section—

“(A) shall be for an initial period of not more than 2 years;

“(B) may be renewed by the Secretary upon application—

“(i) for successive periods of not more than 4 years each; or

“(ii) in the case of a special permit relating to section 5112, for an additional period of not more than 2 years.

“(b) APPLICATIONS.—

“(1) REQUIRED DOCUMENTATION.—When applying for a special permit or the renewal or modification of a special permit or requesting party status to a special permit under this section, the Secretary shall require the person to submit an application that contains—

“(A) a detailed description of the person’s request;

“(B) a listing of the person’s current facilities and addresses where the special permit will be utilized;

“(C) a safety analysis prescribed by the Secretary that justifies the special permit;

“(D) documentation to support the safety analysis;

“(E) a certification of safety fitness; and

“(F) proof of registration, as required under section 5108.

“(2) PUBLIC NOTICE.—The Secretary shall—

“(A) publish notice in the Federal Register that an application for a special permit has been filed; and

“(B) provide the public an opportunity to inspect and comment on the application.

“(3) SAVINGS CLAUSE.—This subsection does not require the release of information protected by law from public disclosure.

“(c) COORDINATE AND COMMUNICATE WITH MODAL CONTACT OFFICIALS.—

“(1) IN GENERAL.—In evaluating applications under subsection (b), and making the findings and determinations under subsections (a), (e), and (h), the Administrator of the Pipeline and Hazardous Materials Safety Administration shall consult, coordinate, or notify the modal contact official responsible for the specified mode of transportation that will be utilized under a special permit or approval before—

“(A) issuing, modifying, or renewing the special permit;

“(B) granting party status to the special permit; or

“(C) issuing or renewing the special permit or approval.

“(2) MODAL CONTACT OFFICIAL DEFINED.—In this section, the term ‘modal contact official’ means—

“(A) the Administrator of the Federal Aviation Administration;

“(B) the Administrator of the Federal Motor Carrier Safety;

“(C) the Administrator of the Federal Railroad Administration; and

“(D) the Commandant of the Coast Guard.

“(d) APPLICATIONS TO BE DEALT WITH PROMPTLY.—The Secretary shall—

“(1) issue, modify, renew, or grant party status to a special permit or approval for which a request was filed under this section, or deny the issuance, modification, renewal, or grant, on or before the last day of the 180-day period beginning on the first day of the month following the date of the filing of the request; or

“(2) publish a statement in the Federal Register that—

“(A) describes the reason for the delay of the Secretary’s decision on the special permit or approval; and

“(B) includes an estimate of the additional time necessary before the decision is made.

“(e) EMERGENCY PROCESSING OF SPECIAL PERMITS.—

“(1) FINDINGS REQUIRED.—The Secretary may not grant a request for emergency processing of a special permit unless the Secretary determines that—

“(A) a special permit is necessary for national security purposes;

“(B) processing on a routine basis under this section would result in significant injury to persons or property; or

“(C) a special permit is necessary to prevent significant economic loss or damage to the environment that could not be prevented if the application were processed on a routine basis.

“(2) WAIVER OF FITNESS TEST.—The Secretary may waive the requirement under subsection (a)(2) for a request for which the Secretary makes a determination under subparagraph (A) or (B) of paragraph (1).

“(3) NOTIFICATION.—Not later than 90 days after the date of issuance of a special permit under this subsection, the Secretary shall publish a notice in the Federal Register of the issuance that includes—

“(A) a statement of the basis for the finding of emergency; and

“(B) the scope and duration of the special permit.

“(4) EFFECTIVE PERIOD.—A special permit issued under this subsection shall be effective for a period not to exceed 180 days.

“(f) EXCLUSIONS.—

“(1) IN GENERAL.—The Secretary shall exclude, in any part, from this chapter and regulations prescribed under this chapter—

“(A) a public vessel (as defined in section 2101 of title 46);

“(B) a vessel exempted under section 3702 of title 46 or from chapter 37 of title 46; and

“(C) a vessel to the extent it is regulated under the Ports and Waterways Safety Act of 1972 (33 U.S.C. 1221, et seq.).

“(2) FIREARMS.—This chapter and regulations prescribed under this chapter do not prohibit—

“(A) or regulate transportation of a firearm (as defined in section 232 of title 18), or ammunition for a firearm, by an individual for personal use; or

“(B) transportation of a firearm or ammunition in commerce.

“(g) LIMITATION ON AUTHORITY.—Unless the Secretary decides that an emergency exists, a person subject to this chapter may only be granted a variance from this chapter through a special permit or renewal granted under this section.

“(h) APPROVALS.—

“(1) FINDINGS REQUIRED.—

“(A) IN GENERAL.—The Secretary may not issue an approval or grant the renewal of an approval pursuant to part 107 of title 49, Code of Federal Regulations until the Secretary has determined that the person is fit, willing, and able to conduct the activity authorized by the approval in a manner that achieves the level of safety required under subsection (a)(1).

“(B) CONSIDERATIONS.—In making a determination under subparagraph (A), the Secretary shall consider—

“(i) the person’s safety history (including prior compliance history);

“(ii) the person’s accident and incident history; and

“(iii) any other information the Secretary considers appropriate to make such a determination.

“(2) REQUIRED DOCUMENTATION.—When applying for an approval or renewal or modification of an approval under this section, the Secretary shall require the person to submit an application that contains—

“(A) a detailed description of the person’s request;

“(B) a listing of the persons current facilities and addresses where the approval will be utilized;

“(C) a safety analysis prescribed by the Secretary that justifies the approval;

“(D) documentation to support the safety analysis;

“(E) a certification of safety fitness; and

“(F) the verification of registration required under section 5108.

“(3) SAVINGS PROVISION.—Nothing in this subsection may be construed to require the release of information protected by law from public disclosure.

“(i) NONCOMPLIANCE.—The Secretary may modify, suspend, or terminate a special permit or approval if the Secretary determines that—

“(1) the person who was granted the special permit or approval has violated the special permit or approval or the regulations issued under this chapter in a manner that demonstrates that the person is not fit to conduct the activity authorized by the special permit or approval; or

“(2) the special permit or approval is unsafe.

“(j) RULEMAKING.—Not later than 2 years after the date of the enactment of the Hazardous Materials Transportation Safety Improvement Act of 2012, the Secretary, after providing notice and an opportunity for public comment, shall issue regulations that establish—

“(1) standard operating procedures to support administration of the special permit and approval programs; and

“(2) objective criteria to support the evaluation of special permit and approval applications.

“(k) ANNUAL REVIEW OF CERTAIN SPECIAL PERMITS.—

“(1) REVIEW.—The Secretary shall conduct an annual review and analysis of special permits—

“(A) to identify consistently used and longstanding special permits with an established safety record; and

“(B) to determine whether such permits may be converted into the hazardous materials regulations.

“(2) FACTORS.—In conducting the review and analysis under paragraph (1), the Secretary may consider—

“(A) the safety record for hazardous materials transported under the special permit;

“(B) the application of a special permit;

“(C) the suitability of provisions in the special permit for incorporation into the hazardous materials regulations; and

“(D) rulemaking activity in related areas.

“(3) RULEMAKING.—After completing the review and analysis under paragraph (1) and providing notice and opportunity for public comment, the Secretary shall issue regulations, as needed.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 51 is amended by striking the item relating to section 5117 and inserting the following:

“5117. Special permits, approvals, and exclusions.”.

#### SEC. 34014. HIGHWAY ROUTING DISCLOSURES.

(a) LIST OF ROUTE DESIGNATIONS.—Section 5112(c) is amended—

(1) by striking “In coordination” and inserting the following:

“(1) IN GENERAL.—In coordination”; and

(2) by adding at the end the following:

“(2) STATE RESPONSIBILITIES.—

“(A) IN GENERAL.—Each State shall submit to the Secretary, in a form and manner to be determined by the Secretary and in accordance with subparagraph (B)—

“(i) the name of the State agency responsible for hazardous material highway route designations; and

“(ii) a list of the State’s currently effective hazardous material highway route designations.

“(B) FREQUENCY.—Each State shall submit the information described in subparagraph (A)(i)—

“(i) at least once every 2 years; and

“(ii) not later than 60 days after a hazardous material highway route designation is established, amended, or discontinued.”.

(b) COMPLIANCE WITH SECTION 5112.—Section 5125(c)(1) is amended by inserting “, and is published in the Department’s hazardous materials route registry under section 5112(c)” before the period at the end.

#### SEC. 34015. AUTHORIZATION OF APPROPRIATIONS.

Section 5128 is amended to read as follows:

##### “§ 5128. Authorization of appropriations

“(a) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out this chapter (except sections 5107(e), 5108(g)(2), 5113, 5115, 5116, and 5119)—

“(1) \$42,338,000 for fiscal year 2012; and

“(2) \$42,762,000 for fiscal year 2013.

“(b) HAZARDOUS MATERIALS EMERGENCY PREPAREDNESS FUND.—From the Hazardous Materials Emergency Preparedness Fund established under section 5116(i), the Secretary may expend, during each of fiscal years 2012 and 2013—

“(1) \$188,000 to carry out section 5115;

“(2) \$21,800,000 to carry out subsections (a) and (b) of section 5116, of which not less than \$13,650,000 shall be available to carry out section 5116(b);

“(3) \$150,000 to carry out section 5116(f);

“(4) \$625,000 to publish and distribute the Emergency Response Guidebook under section 5116(i)(3); and

“(5) \$1,000,000 to carry out section 5116(j).

“(c) HAZARDOUS MATERIALS TRAINING GRANTS.—From the Hazardous Materials Emergency Preparedness Fund established pursuant to section 5116(i), the Secretary may expend \$4,000,000 for each of the fiscal years 2012 and 2013 to carry out section 5107(e).

“(d) CREDITS TO APPROPRIATIONS.—

“(1) EXPENSES.—In addition to amounts otherwise made available to carry out this chapter, the Secretary may credit amounts received from a State, Indian tribe, or other public authority or private entity for expenses the Secretary incurs in providing training to the State, authority, or entity.

“(2) AVAILABILITY OF AMOUNTS.—Amounts made available under this section shall remain available until expended.”.

#### TITLE V—RESEARCH AND INNOVATIVE TECHNOLOGY ADMINISTRATION REAUTHORIZATION ACT OF 2012

##### SEC. 35001. SHORT TITLE.

This title may be cited as the “Research and Innovative Technology Administration Reauthorization Act of 2012”.

##### SEC. 35002. NATIONAL COOPERATIVE FREIGHT RESEARCH PROGRAM.

Section 509(d) of title 23, United States Code, is amended by adding at the end the following:

“(6) COORDINATION OF COOPERATIVE RESEARCH.—The National Academy of Sciences shall coordinate research agendas, research project selections, and competitions across all transportation-related cooperative research programs conducted by the National Academy of Sciences to ensure program efficiency, effectiveness, and sharing of research findings.”.

##### SEC. 35003. BUREAU OF TRANSPORTATION STATISTICS.

(a) IN GENERAL.—Subtitle III of title 49, United States Code, is amended by adding at the end the following:

#### “CHAPTER 63—BUREAU OF TRANSPORTATION STATISTICS

##### “SUBCHAPTER I—BUREAU OF TRANSPORTATION STATISTICS

“Sec.

“6301. Establishment.

“6302. Director.

“6303. Responsibilities.

“6304. National Transportation Library.

“6305. Advisory Council on Transportation Statistics.

“6306. Transportation statistical collection, analysis, and dissemination.

“6307. Furnishing information, data, or reports by Federal agencies.

“6308. Prohibition on certain disclosures.

“6309. Data access.

“6310. Proceeds of data product sales.

“6311. Information collection.

“6312. National transportation atlas database.

“6313. Limitations on statutory construction.

“6314. Research and development grants.

“6315. Transportation statistics annual report.

“6316. Mandatory response authority for data collections.

#### “SUBCHAPTER I—BUREAU OF TRANSPORTATION STATISTICS

##### “§ 6301. Establishment

“There is established, in the Research and Innovative Technology Administration, a Bureau of Transportation Statistics (referred to in this subchapter as the ‘Bureau’).

##### “§ 6302. Director

“(a) APPOINTMENT.—The Bureau shall be headed by a Director, who shall be appointed in the competitive service by the Secretary of Transportation.

“(b) QUALIFICATIONS.—The Director shall be appointed from among individuals who are qualified to serve as the Director by virtue of their training and experience in the collection, analysis, and use of transportation statistics.

**§ 6303. Responsibilities**

“(a) DUTIES OF THE DIRECTOR.—The Director, who shall serve as the Secretary of Transportation's senior advisor on data and statistics, shall be responsible for carrying out the following duties:

“(1) Ensuring that the statistics compiled under paragraph (6) are designed to support transportation decisionmaking by the Federal Government, State and local governments, metropolitan planning organizations, transportation-related associations, the private sector (including the freight community), and the public.

“(2) Establishing a program, on behalf of the Secretary—

“(A) to effectively integrate safety data across modes; and

“(B) to address gaps in existing safety data programs of the Department of Transportation.

“(3) Working with the operating administrations of the Department of Transportation—

“(A) to establish and implement the Bureau's data programs; and

“(B) to improve the coordination of information collection efforts with other Federal agencies.

“(4) Continually improving surveys and data collection methods to improve the accuracy and utility of transportation statistics.

“(5) Encouraging the standardization of data, data collection methods, and data management and storage technologies for data collected by the Bureau, the operating administrations of the Department of Transportation, States, local governments, metropolitan planning organizations, and private sector entities.

“(6) Collecting, compiling, analyzing, and publishing a comprehensive set of transportation statistics on the performance and impacts of the national transportation system, including statistics on—

“(A) transportation safety across all modes and intermodally;

“(B) the state of good repair of United States transportation infrastructure.

“(C) the extent, connectivity, and condition of the transportation system, building on the national transportation atlas database developed under section 6312;

“(D) economic efficiency throughout the entire transportation sector;

“(E) the effects of the transportation system on global and domestic economic competitiveness;

“(F) demographic, economic, and other variables influencing travel behavior, including choice of transportation mode and goods movement;

“(G) transportation-related variables that influence the domestic economy and global competitiveness;

“(H) the economic costs and impacts for passenger travel and freight movement;

“(I) intermodal and multimodal passenger movement;

“(J) intermodal and multimodal freight movement; and

“(K) the consequences of transportation for the human and natural environment, sustainable transportation, and livable communities.

“(7) Building and disseminating the transportation layer of the National Spatial Data Infrastructure developed under Executive Order 12906, including—

“(A) coordinating the development of transportation geospatial data standards;

“(B) compiling intermodal geospatial data; and

“(C) collecting geospatial data that is not being collected by others.

“(8) Issuing guidelines for the collection of information by the Department of Transportation that is required for transportation statistics, modeling, economic assessment, and program assessment in order to ensure that such information is accurate, reliable, relevant, uniform and in a form that permits systematic analysis by the Department.

“(9) Reviewing and reporting to the Secretary of Transportation on the sources and reliability of—

“(A) the statistics proposed by the heads of the operating administrations of the Department of Transportation to measure outputs and outcomes, as required by the Government Performance and Results Act of 1993 (Public Law 103-62; 107 Stat. 285); and

“(B) other data collected or statistical information published by the heads of the operating administrations of the Department.

“(10) Making the statistics published under this subsection readily accessible to the public, consistent with applicable security constraints and confidentiality interests.

“(b) ACCESS TO FEDERAL DATA.—In carrying out subsection (a)(2), the Director shall be provided access to—

“(1) all safety data held by any agency of the Department; and

“(2) all safety data held by any other Federal Government agency that is germane to carrying out subsection (a), upon written request and subject to any statutory or regulatory restrictions.

“(c) INTERMODAL TRANSPORTATION DATABASE.—

“(1) IN GENERAL.—In consultation with the Under Secretary for Policy, the Assistant Secretaries, and the heads of the operating administrations of the Department of Transportation, the Director shall establish and maintain a transportation database for all modes of transportation.

“(2) USE OF DATABASE.—The database established under this subsection shall be suitable for analyses carried out by the Federal Government, the States, and metropolitan planning organizations.

“(3) CONTENTS.—The database established under this section shall include—

“(A) information on the volumes and patterns of movement, including local, interregional, and international movement—

“(i) of goods by all modes of transportation and intermodal combinations, and by relevant classification; and

“(ii) of people by all modes of transportation (including bicycle and pedestrian modes) and intermodal combinations, and by relevant classification;

“(B) information on the location and connectivity of transportation facilities and services; and

“(C) a national accounting of expenditures and capital stocks on each mode of transportation and intermodal combination.

**§ 6304. National Transportation Library**

“(a) PURPOSE AND ESTABLISHMENT.—There is established, in the Bureau, a National Transportation Library (referred to in this section as the ‘Library’), which shall—

“(1) support the information management and decisionmaking needs of transportation at Federal, State, and local levels;

“(2) be headed by an individual who is highly qualified in library and information science;

“(3) acquire, preserve, and manage transportation information and information products and services for use of the Department of Transportation, other Federal agencies, and the general public;

“(4) provide reference and research assistance;

“(5) serve as a central depository for research results and technical publications of the Department of Transportation;

“(6) provide a central clearinghouse for transportation data and information in the Federal Government;

“(7) serve as coordinator and policy lead for transportation information access;

“(8) provide transportation information and information products and services to the Department of Transportation, other agencies of the Federal Government, public and private organizations, and individuals, within the United States and internationally;

“(9) coordinate efforts among, and cooperate with, transportation libraries, information providers, and technical assistance centers, in conjunction with private industry and other transportation library and information centers, toward the development of a comprehensive transportation information and knowledge network supporting activities described in subparagraphs (A) through (K) of section 6303(a)(6); and

“(10) engage in such other activities as the Director determines appropriate and as the Library's resources permit.

“(b) ACCESS.—The Director shall publicize, facilitate, and promote access to the information products and services described in subsection (a) to improve—

“(1) the ability of the transportation community to share information; and

“(2) the ability of the Director to make statistics and other information readily accessible under section 6303(a)(10).

“(c) AGREEMENTS.—

“(1) IN GENERAL.—The Director may enter into agreements with, award grants to, and receive funds from any State and other political subdivision, organization, business, or individual for the purpose of conducting activities under this section.

“(2) CONTRACTS, GRANTS, AND AGREEMENTS.—The Library may initiate and support specific information and data management, access, and exchange activities in connection with matters relating to Department of Transportation's strategic goals, knowledge networking, and national and international cooperation by entering into contracts or awarding grants for the conduct of such activities.

“(3) FUNDS.—Amounts received under this subsection for payments for library products and services or other activities shall—

“(A) be deposited in the Research and Innovative Technology Administration's general fund account; and

“(B) remain available to the Library until expended.

**§ 6305. Advisory Council on Transportation Statistics**

“(a) IN GENERAL.—The Director shall maintain an Advisory Council on Transportation Statistics (referred to in this section as the ‘Advisory Council’).

“(b) FUNCTION.—The Advisory Council shall advise the Director on—

“(1) the quality, reliability, consistency, objectivity, and relevance of transportation statistics and analyses collected, supported, or disseminated by the Bureau and the Department of Transportation; and

“(2) methods to encourage cooperation and interoperability of transportation data collected by the Bureau, the operating administrations of the Department, States, local governments, metropolitan planning organizations, and private sector entities.

“(c) MEMBERSHIP.—



“(1) IN GENERAL.—The Advisory Council shall be composed of not fewer than 9 members and not more than 11 members, who shall be appointed by the Director.

“(2) SELECTION.—In selecting members for the Advisory Council, the Director shall appoint individuals who—

“(A) are not officers or employees of the United States;

“(B) possess expertise in—

“(i) transportation data collection, analysis, or application;

“(ii) economics; or

“(iii) transportation safety; and

“(C) represent a cross section of transportation stakeholders, to the greatest extent possible.

“(3) TERMS OF APPOINTMENT.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), members of the Advisory Council—

“(i) shall be appointed to staggered terms not to exceed 3 years; and

“(ii) may be renominated for 1 additional 3-year term.

“(B) CURRENT MEMBERS.—Members serving on the Advisory Council as of the date of the enactment of the Research and Innovative Technology Administration Reauthorization Act of 2012 shall serve until the end of their appointed terms.

“(d) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (except for section 14 of such Act) shall apply to the Advisory Council.

#### “§ 6306. Transportation statistical collection, analysis, and dissemination

“To ensure that all transportation statistical collection, analysis, and dissemination is carried out in a coordinated manner, the Director may—

“(1) utilize, with their consent, the services, equipment, records, personnel, information, and facilities of other Federal, State, local, and private agencies and instrumentalities with or without reimbursement for such utilization;

“(2) enter into agreements with agencies and instrumentalities referred to in paragraph (1) for purposes of data collection and analysis;

“(3) confer and cooperate with foreign governments, international organizations, States, municipalities, and other local agencies;

“(4) request such information, data, and reports from any Federal agency as may be required to carry out the purposes of this section;

“(5) encourage replication, coordination, and sharing among transportation agencies regarding information systems, information policy, and data; and

“(6) confer and cooperate with Federal statistical agencies as needed to carry out the purposes of this section, including by entering into cooperative data sharing agreements in conformity with all laws and regulations applicable to the disclosure and use of data.

#### “§ 6307. Furnishing information, data, or reports by Federal agencies

“Federal agencies requested to furnish information, data, or reports under section 6303(b) shall provide such information to the Bureau as is required to carry out the purposes of this section.

#### “§ 6308. Prohibition on certain disclosures

“(a) IN GENERAL.—An officer, employee, or contractor of the Bureau may not—

“(1) make any disclosure in which the data provided by an individual or organization under section 6303 can be identified;

“(2) use the information provided under section 6303 for a nonstatistical purpose; or

“(3) permit anyone other than an individual authorized by the Director to examine any individual report provided under section 6303.

“(b) COPIES OF REPORTS.—

“(1) IN GENERAL.—A department, bureau, agency, officer, or employee of the United States (except the Director in carrying out this section) may not require, for any reason, a copy of any report that has been filed under section 6303 with the Bureau or retained by an individual respondent.

“(2) LIMITATION ON JUDICIAL PROCEEDINGS.—A copy of a report described in paragraph (1) that has been retained by an individual respondent or filed with the Bureau or any of its employees, contractors, or agents—

“(A) shall be immune from legal process; and

“(B) may not, without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceedings.

“(3) APPLICABILITY.—This subsection shall only apply to reports that permit information concerning an individual or organization to be reasonably determined by direct or indirect means.

“(c) INFORMING RESPONDENT OF USE OF DATA.—If the Bureau is authorized by statute to collect data or information for a nonstatistical purpose, the Director shall clearly distinguish the collection of such data or information, by rule and on the collection instrument, to inform a respondent who is requested or required to supply the data or information of the nonstatistical purpose.

#### “§ 6309. Data access

“The Director shall be provided access to transportation and transportation-related information in the possession of any Federal agency, except—

“(1) information that is expressly prohibited by law from being disclosed to another Federal agency; or

“(2) information that the agency possessing the information determines could not be disclosed without significantly impairing the discharge of authorities and responsibilities which have been delegated to, or vested by law, in such agency.

#### “§ 6310. Proceeds of data product sales

“Notwithstanding section 3302 of title 31, amounts received by the Bureau from the sale of data products, for necessary expenses incurred, may be credited to the Highway Trust Fund (other than the Mass Transit Account) for the purpose of reimbursing the Bureau for such expenses.

#### “§ 6311. Information collection

“As the head of an independent Federal statistical agency, the Director may consult directly with the Office of Management and Budget concerning any survey, questionnaire, or interview that the Director considers necessary to carry out the statistical responsibilities under this subchapter.

#### “§ 6312. National transportation atlas database

“(a) IN GENERAL.—The Director shall develop and maintain a national transportation atlas database that is comprised of geospatial databases that depict—

“(1) transportation networks;

“(2) flows of people, goods, vehicles, and craft over the networks; and

“(3) social, economic, and environmental conditions that affect, or are affected by, the networks.

“(b) INTERMODAL NETWORK ANALYSIS.—The databases developed under subsection (a) shall be capable of supporting intermodal network analysis.

#### “§ 6313. Limitations on statutory construction

“Nothing in this subchapter may be construed—

“(1) to authorize the Bureau to require any other department or agency to collect data; or

“(2) to reduce the authority of any other officer of the Department to independently collect and disseminate data.

#### “§ 6314. Research and development grants

“The Secretary may award grants to, or enter into cooperative agreements or contracts with, public and nonprofit private entities (including State transportation departments, metropolitan planning organizations, and institutions of higher education) for—

“(1) investigation of the subjects specified in section 6303 and research and development of new methods of data collection, standardization, management, integration, dissemination, interpretation, and analysis;

“(2) demonstration programs by States, local governments, and metropolitan planning organizations to coordinate data collection, reporting, management, storage, and archiving to simplify data comparisons across jurisdictions;

“(3) development of electronic clearinghouses of transportation data and related information, as part of the National Transportation Library under section 6304; and

“(4) development and improvement of methods for sharing geographic data, in support of the database under section 6303 and the National Spatial Data Infrastructure.

#### “§ 6315. Transportation statistics annual report

“The Director shall submit to the President and Congress a transportation statistics annual report, which shall include—

“(1) information on items referred to in section 6303(a)(6);

“(2) documentation of methods used to obtain and ensure the quality of the statistics presented in the report; and

“(3) recommendations for improving transportation statistical information.

#### “§ 6316. Mandatory response authority for data collections

“Any individual who, as the owner, official, agent, person in charge, or assistant to the person in charge of any corporation, company, business, institution, establishment, organization of any nature or the member of a household, neglects or refuses, after requested by the Director or other authorized officer, employee, or contractor of the Bureau, to answer completely and correctly to the best of the individual's knowledge all questions relating to the corporation, company, business, institution, establishment, or other organization or household, or to make available records or statistics in the individual's official custody, contained in a data collection request prepared and submitted under section 6303(a)—

“(1) shall be fined not more than \$500, except as provided under paragraph (2); and

“(2) if the individual willfully gives a false answer to such a question, shall be fined not more than \$10,000.”

(b) RULES OF CONSTRUCTION.—In transferring the provisions under section 111 of title 49, United States Code, to chapter 63 of title 49, as added by subsection (a), the following rules of construction shall apply:

(1) For purposes of determining whether 1 provision of law supersedes another based on

enactment later in time, a provision under chapter 63 of title 49, United States Code, is deemed to have been enacted on the date of the enactment of the corresponding provision under section 111 of such title.

(2) A reference to a provision under such chapter 65 is deemed to refer to the corresponding provision under such section 111.

(3) A reference to a provision under such section 111, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision under such chapter 65.

(4) A regulation, order, or other administrative action authorized by a provision under such section 111 continues to be authorized by the corresponding provision under such chapter 65.

(5) An action taken or an offense committed under a provision of such section 111 is deemed to have been taken or committed under the corresponding provision of such chapter 65.

(c) CONFORMING AMENDMENTS.—

(1) REPEAL.—Chapter 1 of title 49, United States Code, is amended—

(A) by repealing section 111; and

(B) by striking the item relating to section 111 in the chapter analysis.

(2) ANALYSIS OF SUBTITLE III.—The table of chapters for subtitle III of title 49, United States Code, is amended by inserting after the item for chapter 61 the following:

“63. Bureau of Transportation  
Statistics ..... 6301”.

**SEC. 35004. 5.9 GHZ VEHICLE-TO-VEHICLE AND VEHICLE-TO-INFRASTRUCTURE COMMUNICATIONS SYSTEMS DEPLOYMENT.**

(a) IN GENERAL.—Subchapter I of chapter 55 of title 49, United States Code, is amended by adding at the end the following:

**“§ 5507. GHz vehicle-to-vehicle and vehicle-to-infrastructure communications systems deployment**

“(a) IN GENERAL.—Not later than 3 years after the date of the enactment of this section, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Energy and Commerce of the House of Representatives that—

“(1) defines a recommended implementation path for Dedicated Short Range Communications (DSRC) technology and applications; and

“(2) includes guidance concerning the relationship of the proposed DSRC deployment to Intelligent Transportation System National Architecture and Standards.

“(b) REPORT REVIEW.—The Secretary shall enter into an agreement for the review of the report submitted under subsection (a) by an independent third party with subject matter expertise.”.

(b) CONFORMING AMENDMENT.—The analysis of chapter 55 of title 49, United States Code, is amended by inserting after the item relating to section 5506, the following:

“5507. 5.9 GHz vehicle-to-vehicle and vehicle-to-infrastructure communications systems deployment.”.

**SEC. 35005. ADMINISTRATIVE AUTHORITY.**

Section 112 of title 49, United States Code, is amended by inserting after subsection (e) the following:

“(f) PROGRAM EVALUATION AND OVERSIGHT.—The Administrator is authorized to expend not more than 1.5 percent of the amounts authorized to be appropriated for each of the fiscal years 2012 and 2013, for nec-

essary expenses for administration and operations of the Research and Innovative Technology Administration for the coordination, evaluation, and oversight of the programs administered by the Administration.

“(g) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

“(1) IN GENERAL.—To encourage innovative solutions to multimodal transportation problems and stimulate the deployment of new technology, the Administrator may carry out, on a cost-shared basis, collaborative research and development with—

“(A) non-Federal entities, including State and local governments, foreign governments, colleges and universities, corporations, institutions, partnerships, sole proprietorships, and trade associations that are incorporated or established under the laws of any State;

“(B) Federal laboratories; and

“(C) other Federal agencies.

“(2) COOPERATION, GRANTS, CONTRACTS, AND AGREEMENTS.—Notwithstanding any other provision of law, the Administrator may directly initiate contracts, grants, other transactions, and cooperative research and development agreements (as defined in section 12 of the Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3710a)) to fund, and accept funds from, the Transportation Research Board of the National Research Council of the National Academy of Sciences, State departments of transportation, cities, counties, universities, associations, and the agents of such entities to conduct joint transportation research and technology efforts.

“(3) FEDERAL SHARE.—

“(A) IN GENERAL.—The Federal share of the cost of activities carried out under a cooperative research and development agreement entered into under this subsection may not exceed 50 percent unless the Secretary approves a greater Federal share due to substantial public interest or benefit.

“(B) NON-FEDERAL SHARE.—All costs directly incurred by the non-Federal partners, including personnel, travel, facility, and hardware development costs, shall be credited toward the non-Federal share of the cost of the activities described in subparagraph (A).

“(4) USE OF TECHNOLOGY.—The research, development, or use of a technology under a cooperative research and development agreement entered into under this subsection, including the terms under which the technology may be licensed and the resulting royalties may be distributed, shall be subject to the Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

“(5) WAIVER OF ADVERTISING REQUIREMENTS.—Section 6101 of title 41 shall not apply to a contract, grant, or other agreement entered into under this chapter.”.

**SEC. 35006. PRIZE AUTHORITY.**

(a) IN GENERAL.—Chapter 3 of title 49, United States Code, is amended by inserting before section 336 the following:

**“SEC. 335. PRIZE AUTHORITY.**

“(a) IN GENERAL.—The Secretary of Transportation may carry out a program, in accordance with this section, to competitively award cash prizes to stimulate innovation in basic and applied research, technology development, and prototype demonstration that have the potential for application to the national transportation system.

“(b) TOPICS.—In selecting topics for prize competitions under this section, the Secretary shall—

“(1) consult with a wide variety of Government and nongovernment representatives; and

“(2) give consideration to prize goals that demonstrate innovative approaches and strategies to improve the safety, efficiency, and sustainability of the national transportation system.

“(c) ADVERTISING.—The Secretary shall encourage participation in the prize competitions through extensive advertising.

“(d) REQUIREMENTS AND REGISTRATION.—For each prize competition, the Secretary shall publish a notice on a public website that describes—

“(1) the subject of the competition;

“(2) the eligibility rules for participation in the competition;

“(3) the amount of the prize; and

“(4) the basis on which a winner will be selected.

“(e) ELIGIBILITY.—An individual or entity may not receive a prize under this section unless the individual or entity—

“(1) has registered to participate in the competition pursuant to any rules promulgated by the Secretary under this section;

“(2) has complied with all the requirements under this section;

“(3)(A) in the case of a private entity, is incorporated in, and maintains a primary place of business in, the United States; or

“(B) in the case of an individual, whether participating singly or in a group, is a citizen or permanent resident of the United States; and

“(4) is not a Federal entity or Federal employee acting within the scope of his or her employment.

“(f) LIABILITY.—

“(1) ASSUMPTION OF RISK.—

“(A) IN GENERAL.—A registered participant shall agree to assume any and all risks and waive claims against the Federal Government and its related entities, except in the case of willful misconduct, for any injury, death, damage, or loss of property, revenue, or profits, whether direct, indirect, or consequential, arising from participation in a competition, whether such injury, death, damage, or loss arises through negligence or otherwise.

“(B) RELATED ENTITY.—In this paragraph, the term ‘related entity’ means a contractor, subcontractor (at any tier), supplier, user, customer, cooperating party, grantee, investigator, or detailee.

“(2) FINANCIAL RESPONSIBILITY.—A participant shall obtain liability insurance or demonstrate financial responsibility, in amounts determined by the Secretary, for claims by—

“(A) a third party for death, bodily injury, or property damage, or loss resulting from an activity carried out in connection with participation in a competition, with the Federal Government named as an additional insured under the registered participant’s insurance policy and registered participants agreeing to indemnify the Federal Government against third party claims for damages arising from or related to competition activities; and

“(B) the Federal Government for damage or loss to Government property resulting from such an activity.

“(g) JUDGES.—

“(1) SELECTION.—For each prize competition, the Secretary, either directly or through an agreement under subsection (h), shall assemble a panel of qualified judges to select the winner or winners of the prize competition on the basis described in subsection (d). Judges for each competition shall include individuals from outside the Administration, including the private sector.

“(2) LIMITATIONS.—A judge selected under this subsection may not—

“(A) have personal or financial interests in, or be an employee, officer, director, or agent of, any entity that is a registered participant in a prize competition under this section; or

“(B) have a familial or financial relationship with an individual who is a registered participant.

“(h) ADMINISTERING THE COMPETITION.—The Secretary may enter into an agreement with a private, nonprofit entity to administer the prize competition, subject to the provisions of this section.

“(i) FUNDING.—

“(1) PRIVATE SECTOR FUNDING.—A cash prize under this section may consist of funds appropriated by the Federal Government and funds provided by the private sector. The Secretary may accept funds from other Federal agencies, State and local governments, and metropolitan planning organizations for the cash prizes. The Secretary may not give any special consideration to any private sector entity in return for a donation under this paragraph.

“(2) AVAILABILITY OF FUNDS.—Notwithstanding any other provision of law, amounts appropriated for prize awards under this section—

“(A) shall remain available until expended; and

“(B) may not be transferred, reprogrammed, or expended for other purposes until after the expiration of the 10-year period beginning on the last day of the fiscal year for which the funds were originally appropriated.

“(3) SAVINGS PROVISION.—Nothing in this subsection may be construed to permit the obligation or payment of funds in violation of the Anti-Deficiency Act (31 U.S.C. 1341).

“(4) PRIZE ANNOUNCEMENT.—A prize may not be announced under this section until all the funds needed to pay out the announced amount of the prize have been appropriated or committed in writing by a private source.

“(5) PRIZE INCREASES.—The Secretary may increase the amount of a prize after the initial announcement of the prize under this section if—

“(A) notice of the increase is provided in the same manner as the initial notice of the prize; and

“(B) the funds needed to pay out the announced amount of the increase have been appropriated or committed in writing by a private source.

“(6) CONGRESSIONAL NOTIFICATION.—A prize competition under this section may offer a prize in an amount greater than \$1,000,000 only after 30 days have elapsed after written notice has been transmitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives.

“(7) AWARD LIMIT.—A prize competition under this section may not result in the award of more than \$25,000 in cash prizes without the approval of the Secretary.

“(j) USE OF DEPARTMENT NAME AND INSIGNIA.—A registered participant in a prize competition under this section may use the Department's name, initials, or insignia only after prior review and written approval by the Secretary.

“(k) COMPLIANCE WITH EXISTING LAW.—The Federal Government shall not, by virtue of offering or providing a prize under this section, be responsible for compliance by registered participants in a prize competition with Federal law, including licensing, export control, and non-proliferation laws, and related regulations.”.

(b) CONFORMING AMENDMENT.—The analysis of chapter 3 of title 49, United States Code, is amended by inserting before the item relating to section 336 the following:

“335. Prize authority.”.

#### SEC. 35007. TRANSPORTATION RESEARCH AND DEVELOPMENT.

Section 508(a) of title 23, United States Code, is amended—

(1) in paragraph (1), by striking “SAFETEA-LU” and inserting “Research and Innovative Technology Administration Reauthorization Act of 2012”; and

(2) by amending paragraph (2)(A) to read as follows:

“(A) describe the primary purposes of the transportation research and development program, which shall include—

“(i) promoting safety;

“(ii) reducing congestion and improving mobility;

“(iii) promoting security;

“(iv) protecting and enhancing the environment;

“(v) preserving the existing transportation system; and

“(vi) improving transportation infrastructure, in coordination with Department of Transportation strategic goals and planning efforts.”.

#### SEC. 35008. USE OF FUNDS FOR INTELLIGENT TRANSPORTATION SYSTEMS ACTIVITIES.

Section 513 of title 23, United States Code, is amended to read as follows:

##### “§ 513. Use of funds for ITS activities

“(a) IN GENERAL.—The Secretary may use not more than \$500,000 of the amounts made available to the Department for each fiscal year to carry out the Intelligent Transportation Systems Program (referred to in this section as ‘ITS’) on intelligent transportation system outreach, websites, public relations, displays, tours, and brochures.

“(b) PURPOSE.—Amounts authorized for use under subsection (a) are intended to develop, administer, communicate, and promote the use of products of research, technology, and technology transfer programs under this section.

“(c) ITS DEPLOYMENT INCENTIVES.—

“(1) IN GENERAL.—The Secretary may develop and implement incentives to accelerate the deployment of ITS technologies and services within all programs receiving amounts appropriated pursuant to section 35009 of the Research and Innovative Technology Administration Reauthorization Act of 2012.

“(2) COMPREHENSIVE PLAN.—The Secretary shall develop a detailed and comprehensive plan to carry out this subsection that addresses how incentives may be adopted, as appropriate, through the existing deployment activities carried out by surface transportation modal administrations.”.

#### SEC. 35009. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account), under the conditions set forth in subsection (b)—

(1) \$27,297,000 for fiscal year 2012; and

(2) \$27,597,000 for fiscal year 2013.

(b) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—

(1) IN GENERAL.—Except as provided in paragraph (2), amounts appropriated pursuant to subsection (a) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

(2) FEDERAL SHARE.—The Federal share of the cost of a project or activity carried out with amounts appropriated pursuant to subsection (a) shall be 50 percent unless another percentage is—

(A) expressly provided under this Act or the amendments made by this Act; or

(B) determined by the Secretary.

(3) AVAILABILITY; TRANSFERABILITY.—Amounts appropriated pursuant to subsection (a) shall remain available until expended and shall not be transferable.

#### TITLE VI—NATIONAL RAIL SYSTEM PRESERVATION, EXPANSION, AND DEVELOPMENT ACT OF 2012

##### SEC. 36001. SHORT TITLE.

This title may be cited as the “National Rail System Preservation, Expansion, and Development Act of 2012”.

##### SEC. 36002. REFERENCES TO TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

##### Subtitle A—Federal and State Roles in Rail Planning and Development Tools

##### SEC. 36101. RAIL PLANS.

(a) LONG-RANGE NATIONAL RAIL PLAN.—Section 103 is amended by amending subsection (j)(2) to read as follows:

“(2) in coordination with the Secretary of Transportation, develop and routinely update a long-range national rail plan pursuant to chapter 227.”.

(b) NATIONAL RAIL PLAN.—Chapter 227 is amended to read as follows:

##### “§ 22701. National Rail Plan

“(a) IN GENERAL.—The Secretary of Transportation shall—

“(1) not later than 1 year after the date of enactment of the —

“(A) develop a long-range national rail plan—

“(i) in coordination with the Administrator of the Federal Railroad Administration and the Surface Transportation Board; and

“(ii) in consultation with Amtrak, freight railroads, nonprofit employee labor organizations, and other rail industry stakeholders; and

“(B) submit the national rail plan under subparagraph (A) to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives;

“(2) routinely update the national rail plan—

“(A) in coordination with the Administrator of the Federal Railroad Administration and the Surface Transportation Board; and

“(B) in consultation with Amtrak, freight railroads, nonprofit employee labor organizations, and other rail industry stakeholders; and

“(3) submit the updated national rail plan under paragraph (2) at the same time as the President's budget submission.

“(b) NATIONAL RAIL PLAN.—The national rail plan shall—

“(1) be subject to refinement by regional and State rail plans;

“(2) be consistent with the rail needs of the Nation and Federal surface transportation or multi-modal policies and plans, as determined by the Secretary;

“(3) promote an integrated, cohesive, safe, efficient, and optimized national rail system

for the movement of goods and people and to support the national economy and other national needs; and

“(4) contain a specific national intercity passenger rail development plan and a freight rail plan that are consistent with other Federal strategy, planning, and investment efforts.

“(c) OBJECTIVES.—The objectives of the national rail plan are—

“(1) to implement a national policy and strategy to support, preserve, improve, and further develop existing and future high-speed and intercity passenger rail transportation and freight rail transportation; and

“(2) to provide a national framework to be refined and implemented by regional rail plans under section 22702 and State rail plans under 22703.

“(d) CONTENTS.—The national rail plan shall include—

“(1) the conditions under which Federal investments in intercity passenger rail and freight rail are justified, including consideration of—

“(A) population size and density;

“(B) projected population and economic growth and changing demographic characteristics;

“(C) connections to local rail and bus transit, alternative transportation options, and multi-modal freight transportation nodes;

“(D) economic profile of specific markets;

“(E) congestion on existing transportation facilities and constraints on future capacity enhancements, in relation to efficient movement of both goods and people;

“(F) distances between markets;

“(G) geographic characteristics;

“(H) demand for present and future freight rail transportation services;

“(I) ability to serve underserved communities and enhance intra-and inter-regional connectivity of mega-regions;

“(J) transportation safety data and analyses;

“(K) travel market size; and

“(L) availability and quality of service from other transportation modes within a market;

“(2) a national map with a prioritized designation of existing and developing markets to be served by specific rail routes and services that meet the criteria described in paragraph (1);

“(3) defined corridor and service categories, including—

“(A) services to be offered;

“(B) peak or average speeds to be achieved;

“(C) frequencies to be offered; and

“(D) populations to be served;

“(4) a schedule and strategy for the phased implementation of corridors and services identified in the plan;

“(5) a discussion of benefits and costs of potential investments in high-speed or intercity passenger rail or freight rail that considers all system user and public benefits and costs from a network perspective, including factors such as potential ridership, travel time reductions and improved reliability, benefits of enhanced mobility of goods and people, environmental benefits, economic development benefits, and other public benefits;

“(6) a strategy for investments in passenger stations, including investment in intermodal stations that are linked to local public transportation, other intercity transportation modes, and non-motorized transportation options, and that connect residential areas, commercial areas, and other nearby transportation facilities that support intercity passenger rail and high-speed rail

service, and in freight-related facilities, that is consistent with other Federal strategy, planning, and investment efforts;

“(7) performance standards for fiscal and operational performance of new and enhanced high-speed and intercity passenger rail services;

“(8) analysis of the environmental impacts of the national rail plan;

“(9) recommendations for project financing, management and implementation for corridor development, station development, freight capacity development, and similar projects;

“(10) recommendations for the integration of freight and passenger service in a manner that provides for mutual and complementary growth;

“(11) a plan for integrating any proposed new services with existing services;

“(12) service design and project execution protocols, including design and construction standards, requirements needed to ensure interoperability, and any other protocols the Secretary deems appropriate; and

“(13) additional factors that the Secretary deems relevant.

#### “§ 22702. Regional rail plans

“(a) IN GENERAL.—The Secretary shall—

“(1) develop a regional rail plan for each region, except the Northeast Corridor, that contains a detailed plan for implementing the national rail plan, including any plans for public investment in projects that contribute to efficient movement and increased capacity for freight by—

“(A) regional rail authorities, as defined by the Secretary; or

“(B) any 2 or more States that have entered into interstate compacts, agreements, or organizations for the purpose of developing such plans; and

“(2) in developing each regional rail plan, coordinate with—

“(A) States;

“(B) local communities;

“(C) railroad infrastructure owners;

“(D) regional air quality planning agencies;

“(E) Amtrak;

“(F) passenger rail service operators;

“(G) freight railroad operators;

“(H) metropolitan planning organizations;

“(I) governing authorities for transit systems or airports;

“(J) tribal governments;

“(K) the general public, including low-income and minority populations, people with disabilities, and older Americans; and

“(L) non-profit labor employee organizations.

“(b) PURPOSES.—The purposes of a regional rail plan shall be to refine and advance the implementation of the national rail plan under section 22701.

“(c) CONTENTS.—A regional rail plan shall include—

“(1) a map—

“(A) that indicates detailed alignment alternatives for any new corridor identified in the national rail plan under section 22701; and

“(B) that identifies the location of each potential new station;

“(2) a phasing plan for developing or upgrading specific segments of the regional network;

“(3) the identification of any environmental impact analyses required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or other laws (including regulations);

“(4) a full capital cost estimate for developing the regional network;

“(5) an analysis of operating financial forecasts;

“(6) a benefit-cost analysis for the regional network that considers both user and public benefits and the costs from a network perspective, including factors such as ridership projections, travel time reductions, enhanced mobility benefits, environmental benefits, economic benefits, and other public benefits;

“(7) an analysis of potential land use policies and strategies for areas near high-speed and intercity passenger rail stations;

“(8) potential non-Federal funding sources, including a detailed consideration of anticipated private sector participation;

“(9) a proposal for the institutional and governance structures that will be necessary to develop the regional network;

“(10) other project implementation considerations, including an analysis of the readiness of specific corridors to proceed for development;

“(11) an examination of multi-modal connections that considers the most cost-effective means for achieving the region's transportation goals and objectives;

“(12) identification of plans for cost-effective, public investment in intercity passenger rail projects that contribute toward the efficient movement and increased capacity for freight rail operations;

“(13) a list of capital projects needed to implement a region's portion of the national rail plan;

“(14) a plan for coordinating service and capital projects with adjacent regions;

“(15) a plan for crossing international borders, as appropriate;

“(16) a plan for integrating any proposed new services with existing service; and

“(17) a description of how the regional rail plan refines and advances the implementation of the national rail plan.

“(d) UPDATES.—Not later than 1 year after the publication of the national rail plan under section 22701 and periodically thereafter, the Secretary shall update each regional rail plan—

“(1) to reflect any material changes to the contents under subsection (c); and

“(2) to include any changes made to the national rail plan under section 22701.

“(e) WAIVER.—The Secretary may waive a content requirement under subsection (c) as necessary to accommodate a unique characteristic or situation in a region.

#### “§ 22703. State rail plans

“(a) IN GENERAL.—A State may prepare and maintain a State rail plan. A State rail plan shall—

“(1) be consistent with the national rail plan under section 22701;

“(2) be consistent with the regional rail plans under section 22702;

“(3) coordinate with other State transportation planning goals and programs, including the statewide transportation plans under section 135 of title 23, and

“(4) set forth rail transportation's role within the State's transportation system.

“(b) PURPOSES.—The purposes of a State rail plan shall be to refine and advance the implementation of the national rail plan and relevant regional rail plan under sections 22701 and 22702.

“(c) OBJECTIVES.—The objectives of a State rail plan shall be—

“(1) to set forth the State's policy on freight and intercity passenger rail transportation, including commuter rail operations, within the State;

“(2) to establish the time period covered by the State rail plan;

“(3) to present the priorities and strategies to enhance rail service within the State that benefits the public; and

“(4) to serve as the basis for Federal and State rail investments within the State.

“(d) REQUIREMENTS.—

“(1) ESTABLISHMENT.—The Secretary shall establish minimum requirements, consistent with sections 22701 and 22702, for the preparation and periodic revision of a State rail plan, including—

“(A) the establishment or designation of a State rail transportation authority to prepare, maintain, coordinate, and administer the State rail plan;

“(B) the establishment or designation of a State approval authority to approve the State rail plan;

“(C) the submission of the State’s approved State rail plan to the Secretary for review and approval; and

“(D) the revision and resubmittal of a State-approved State rail plan for review and approval by the Secretary not less than once every 5 years.

“(2) REVIEW.—The Secretary shall prescribe procedures for a State to submit a State rail plan for review and approval, including standardized format and data requirements.

“(3) COMPLIANCE.—The Secretary shall deem a State rail plan to be in compliance with this chapter if the State rail plan—

“(A) is completed before the date of enactment of the ; and

“(B) substantially meets the requirements of chapter 227 as in effect on the day before the date of enactment of the .

“(4) UPDATES.—A State rail plan that is deemed in compliance under paragraph (3) shall be updated not later than 1 year after the date of enactment of the .

“(e) CONTENTS.—A State rail plan shall include—

“(1) an inventory of the existing overall rail transportation system and rail services and facilities within the State;

“(2) an analysis of the role of rail transportation within the State’s surface transportation system;

“(3) a review of all rail lines within the State, including any proposed high-speed rail corridors and significant rail line segments not currently in service;

“(4) a statement of the State’s passenger rail service objectives, including minimum service levels, for rail transportation routes within the State;

“(5) a general analysis of rail’s transportation, economic, and environmental impacts within the State, including congestion mitigation, trade and economic development, air quality, land-use, energy-use, and community impacts;

“(6) a long-range rail service and investment program for current and future freight and intercity passenger infrastructure within the State that meets the requirements under subsection (f);

“(7) a statement of the public financing issues for rail projects or service within the State, including a list of current and prospective public capital and operating funding resources, public subsidies, State taxation, and other financial policies relating to rail infrastructure development;

“(8) the identification of rail infrastructure issues within the State, after consulting with relevant stakeholders;

“(9) a review of major passenger and freight intermodal rail connections and facilities within the State, including seaports;

“(10) a list of prioritized options to maximize service integration and efficiency be-

tween rail and other modes of transportation within the State;

“(11) a review of publicly funded projects within the State to improve rail transportation safety and security, including major projects funded under section 130 of title 23;

“(12) a performance evaluation of passenger rail services operating in the State, including possible improvements to those services and a description of strategies to achieve the improvements;

“(13) a compilation of studies and reports on high-speed rail corridor development within the State that were not included in a prior plan under this chapter;

“(14) a plan for funding any recommended development of a high-speed rail corridor within the State; and

“(15) a statement that the State is in compliance with the requirements of section 22102.

“(f) LONG-RANGE RAIL SERVICE AND INVESTMENT PROGRAM.—

“(1) CONTENTS.—A long-range rail service and investment program under subsection (e)(6) shall include—

“(A) a prioritized list of any freight or intercity passenger rail capital projects expected to be commenced or supported in whole or in part by the State; and

“(B) a detailed capital and operating funding plan for each rail capital project under subparagraph (A).

“(2) RAIL CAPITAL PROJECTS LIST.—

“(A) CONTENTS.—A list of rail capital projects under paragraph (1)(A) shall include—

“(i) a description of the anticipated public and private benefits of each rail capital project; and

“(ii) a statement of the correlation between—

“(I) public funding contributions for each rail capital project; and

“(II) the public benefits.

“(B) CONSIDERATIONS.—A State rail transportation authority shall consider, when preparing a list of rail capital projects under this subsection—

“(i) contributions made by non-Federal and non-State sources through user fees, matching funds, or other private capital involvement;

“(ii) rail capacity and congestion effects;

“(iii) effects on highway, aviation, and maritime capacity, congestion, and safety;

“(iv) regional balance;

“(v) environmental impact;

“(vi) economic and employment impacts; and

“(vii) projected ridership and other service measures for passenger rail projects.

“(g) A State shall not be eligible to receive financial assistance under chapter 244 or 261 unless the State completes a State rail plan pursuant to this section.

#### “§ 22704. Transparency and coordination

“(a) PREPARATION AND REVIEW.—

“(1) FEDERAL TRANSPARENCY.—The Secretary of Transportation shall provide adequate and reasonable notice and an opportunity for comment to the public, rail carriers, commuter and transit authorities (operating in or affected by rail operations within the region or State), units of local government, and other interested parties when the Secretary prepares or reviews the national rail plan under section 22701 or a regional rail plan under section 22702.

“(2) STATE TRANSPARENCY.—A State shall provide adequate and reasonable notice and an opportunity for comment to the public, rail carriers, commuter and transit authorities (operating in or affected by rail oper-

ations within the region or the State), units of local government, and other interested parties, when the State prepares or reviews a State rail plan under section 22703.

“(b) INTERGOVERNMENTAL COORDINATION.—A State shall—

“(1) review the freight and passenger rail service activities and initiatives by regional planning agencies, regional transportation authorities, and municipalities (within the State or within the region in which the State is located) when preparing a State rail plan; and

“(2) include any recommendations made by the regional planning agencies, regional transportation authorities, and municipalities (within the State or within the region in which the State is located), as deemed appropriate by the State.

#### “§ 22705. Definitions

“In this chapter:

“(1) PRIVATE BENEFIT.—The term ‘private benefit’ means a benefit—

“(A) that is determined on a project-by-project basis, based upon an agreement between the parties;

“(B) that is accrued to a person or private entity, other than Amtrak, that directly improves the economic and competitive condition of the person or private entity through improved assets, cost reductions, service improvements, or other means as defined by the Secretary; or

“(C) that is defined by the Secretary, with advice from the States and rail carriers if the Secretary deems such advice necessary.

“(2) PUBLIC BENEFIT.—The term ‘public benefit’ means a benefit—

“(A) that is determined on a project-by-project basis, based upon an agreement between the parties;

“(B) that is accrued to the public, including Amtrak, in the form of enhanced mobility of people or goods, environmental protection or enhancement, congestion mitigation, enhanced trade and economic development, improved air quality or land use, more efficient energy use, enhanced public safety or security, reduction of public expenditures due to improved transportation efficiency or infrastructure preservation, and any other positive community effects as defined by the Secretary; or

“(C) that is defined by the Secretary, with advice from the States and rail carriers if the Secretary deems such advice necessary.

“(3) STATE.—The term ‘State’ means any of the 50 States and the District of Columbia.

“(4) STATE RAIL TRANSPORTATION AUTHORITY.—The term ‘State rail transportation authority’ means the State agency or official responsible under the direction of the Governor of the State or a State law for the preparation, maintenance, coordination, and administration of the State rail plan.”

#### SEC. 36102. IMPROVED DATA ON DELAY.

Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation, in coordination with Amtrak, freight railroads, and other parties, as appropriate, shall develop guidance for developing improved, including automated, means of measuring on-time performance delays.

#### SEC. 36103. DATA AND MODELING.

(a) DATA.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall conduct a data needs assessment, in consultation with the Surface Transportation Board, Amtrak, freight railroads, and State and local governments, to support the development of an efficient and effective intercity passenger rail network. The data needs assessment shall, among other things—

(1) identify the data needed to conduct cost-effective modeling and analysis for high-speed and intercity passenger rail development programs;

(2) determine limitations to the data used for inputs and develop a strategy to address the limitations;

(3) identify barriers to accessing existing data;

(4) include recommendations regarding whether the authorization of additional data collection for intercity passenger rail travel is warranted; and

(5) determine which entities will be responsible for generating or collecting needed data.

(b) **MODELING.**—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall develop or improve modeling capabilities to support the development of an efficient and effective intercity passenger rail network, including service development, capacity expansion, cost-effectiveness, and ridership estimates.

(c) **BENEFIT-COST ANALYSIS.**—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall enhance the usefulness of assessments of benefits and costs, for both intercity passenger rail and freight rail projects by—

(1) providing ongoing guidance and training on developing benefit and cost information for rail projects;

(2) providing more direct and consistent requirements for assessing benefits and costs across transportation funding programs, including the appropriate use of discount rates;

(3) requiring an applicant to clearly communicate the methodology that is used to calculate the project benefits and costs, including information on assumptions underlying calculations, strengths and limitations of data used, and the level of uncertainty in estimates of project benefits and costs; and

(4) ensuring that an applicant receives clear and consistent guidance on values to apply for key assumptions used to estimate potential project benefits and costs.

(d) **CONFIDENTIAL DATA.**—For the purposes of this section, the Secretary of Transportation shall protect any confidential data from public disclosure and such confidential data shall only be provided on the basis of a voluntary agreement.

#### SEC. 36104. SHARED-USE CORRIDOR STUDY.

(a) **IN GENERAL.**—Not later than 2 years after the date of enactment of this Act, the Secretary shall complete a shared-use corridor study, in consultation with the Surface Transportation Board, Amtrak, freight railroads, States, non-profit employee labor organizations, and other users of the rail system, as appropriate, to evaluate the best means to enhance and support the further development of high-speed and intercity passenger rail service within United States shared-use corridors.

(b) **CONTENTS.**—In conducting the shared-use corridor study, the Secretary shall—

(1) survey the access arrangements for high-speed and intercity passenger rail service for use of rail infrastructure, assets and facilities owned by freight railroads, commuter authorities, or other entities, and standard processes for the resolution of disputes relating to such access;

(2) evaluate the roles and responsibilities of high-speed and intercity passenger rail, freight rail, and commuter rail service providers and infrastructure owners in complying with Federal, State, and local applicable requirements within United States shared-use corridors;

(3) evaluate the roles and responsibilities of Federal, State, and local governments, infrastructure owners, and high speed and intercity passenger rail, freight rail, and commuter rail service providers in supporting both the preservation and expansion of high-speed and intercity passenger rail service, freight transportation, and commuter transportation on shared infrastructure or rights-of-way;

(4) evaluate the roles and responsibilities of high-speed and intercity passenger rail, freight rail, and commuter rail service providers in achieving satisfactory on time performance for passenger and freight rail services in shared use corridors; and

(5) evaluate other issues identified by the Secretary.

(c) **REPORT.**—Not later than 90 days after the date the shared-use corridor study is completed under subsection (a), the Secretary shall—

(1) report the results of the shared-use corridor study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure; and

(2) make the shared-use corridor study available to the public on the Department of Transportation's website.

#### SEC. 36105. COOPERATIVE EQUIPMENT POOL.

(a) **IN GENERAL.**—The Next Generation Corridor Equipment Pool Committee established under section 305 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24101 note) shall continue to implement its authorized functions, as appropriate, and shall maintain and update, as needed, the specifications created by the Committee.

(b) **EQUIPMENT POOLING ENTITY.**—Section 305 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24101 note), is amended by adding at the end the following:

“(f) **EQUIPMENT POOLING ENTITY.**—

“(1) **ESTABLISHMENT.**—Not later than 1 year after the date of enactment of the , the Committee shall create an equipment pooling entity that includes—

“(A) Amtrak;

“(B) States that purchase, with Federal funds, intercity passenger rail rolling stock and equipment that is built in accordance with the specifications created by the Next Generation Corridor Equipment Pool Committee; and

“(C) other States and entities, as appropriate.

“(2) **IN GENERAL.**—The equipment pooling entity—

“(A) may—

“(i) be a corporation or other cooperative entity; and

“(ii) be owned or jointly-owned by Amtrak, a participating State, or other entity; and

“(B) shall be authorized to—

“(i) lease or acquire intercity passenger rail rolling stock and equipment used in State-supported corridor services on routes that are not more than 750 miles between end points, including by entering into agreements for the funding, financing, procurement, remanufacture, ownership, and disposal of the intercity passenger rail rolling stock and equipment;

“(ii) maintain, manage, and allocate intercity passenger rail rolling stock and equipment for use in State-supported corridor services, including by charging appropriate amounts for the use (including depreciation and financing costs) of the intercity passenger rail rolling stock and equipment; and

“(iii) ensure adequate quantity and quality of appropriate intercity passenger rail roll-

ing stock and equipment to support the State-supported corridor services' needs as identified in the national rail plan, regional rail plans, or State rail plans under chapter 227.

“(3) **TRANSFER OF EQUIPMENT.**—Amtrak, after consultation with the Secretary, may sell, lease, or otherwise transfer equipment currently owned or leased by Amtrak to the equipment pooling entity. The operation and utilization of any equipment transferred to the equipment pooling entity shall be covered by section 24405(b).

“(4) **TRANSFER REQUIREMENT.**—A State shall sell, lease, or otherwise transfer equipment built in accordance with the specifications created by the Next Generation Corridor Equipment Pool Committee and purchased with Federal funds to the equipment pooling entity unless the Secretary exempts a State from this requirement.

“(g) **GRANT FUNDING.**—A capital project to carry out this section shall be eligible for grants under chapter 244. The equipment pooling entity shall be an eligible grant recipient under chapter 244.”

#### SEC. 36106. PROJECT MANAGEMENT OVERSIGHT AND PLANNING.

Section 101(d) of the Passenger Rail Investment and Improvement Act of 2008 (122 Stat. 4908) is amended—

(1) by striking “ $\frac{1}{2}$  of”; and

(2) by inserting “and joint capital planning” after “oversight”.

#### SEC. 36107. IMPROVEMENTS TO THE CAPITAL ASSISTANCE PROGRAMS.

(a) **AMENDMENTS TO CHAPTER 244.**—Chapter 244 is amended—

(1) in section 24401(1)—

(A) by striking “or” the first place it appears; and

(B) by striking “service.” and inserting “service, or Amtrak.”;

(2) by amending section 24402(b) to read as follows:

“(b) **PROJECT AS PART OF THE NATIONAL RAIL PLAN, REGIONAL RAIL PLANS, OR STATE RAIL PLANS.**—

“(1) **GRANT APPROVAL.**—The Secretary may not approve a grant for a project under this section unless the Secretary finds that—

“(A) the project is part of the national rail plan, a regional rail plan, or a State rail plan under chapter 227; or

“(B) the project is part of the capital spending plan under section 211 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24902 note); and

“(C) the applicant or recipient has or will have directly or through appropriate agreements with other entities, as approved by the Secretary—

“(i) the legal, financial, and technical capacity to carry out the project;

“(ii) satisfactory continuing control over the use of the equipment or facilities; and

“(iii) the capability and willingness to maintain the equipment or facilities.

“(2) **PROVISION OF INFORMATION.**—An applicant or recipient shall provide sufficient information for the Secretary to make the required findings under this subsection.

“(3) **JUSTIFICATION.**—An applicant or recipient, except for Amtrak, that did not select the proposed operator of its service competitively shall provide written justification to the Secretary substantiating—

“(A) why the proposed operator is the best, taking into account price and other factors; and

“(B) that the use of the proposed operator will not unnecessarily increase the cost of the project.”;

(3) in section 24402(c)—

(A) by amending paragraph (1)(A) to read as follows:

“(1) that the project be part of the national rail plan, a regional rail plan, or a State rail plan under chapter 227, or the capital spending plan under section 211 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24902 note);”;

(B) in paragraph (1)(D), by inserting “, except for Amtrak,” after “an applicant”;

(C) by amending paragraph (1)(F) to read as follows:

“(F) that each project be compatible with and operate in conformance with plans developed pursuant to the requirements of section 135 of title 23, United States Code;”;

(D) in paragraph (2)(C), by striking “and”;

(E) in paragraph (3)(B)(iii), by striking the period and inserting “; and”; and

(F) by adding at the end the following:

“(4) achieve the appropriate mix of projects selected for funding to ensure the advancement of the national rail plan, including both the development of new or expanded routes and services and the maintenance and improvement of the current rail system.”;

(4) by amending section 24402(d) to read as follows:

“(d) **STATE RAIL PLANS.**—State rail plans completed before the date of enactment of the Passenger Rail Investment and Improvement Act of 2008 (122 Stat. 4907) that substantially meet the requirements of chapter 227 as in effect on the day before the date of enactment of the , shall be deemed by the Secretary to have met the requirements of subsection (c)(1)(A) of this section.”;

(5) by amending section 24402(e) to read as follows:

“(e) **PROJECT TRANSFERS.**—The Secretary may permit a recipient under this section to enter into a cooperative agreement to transfer the grant and related responsibilities and requirements to Amtrak to expedite, enhance, or otherwise facilitate the completion of the project and any such transfer shall be subject to the requirements of this chapter.”;

(6) in the heading of section 24402(f), by striking “AND EARLY SYSTEMS WORK AGREEMENTS”;

(7) by amending section 24402(f)(1) to read as follows:

“(1) In implementing this section, the Secretary may issue a letter of intent to an applicant announcing an intention to obligate, for a major capital project under this section, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project.”;

(8) in section 24402(g) by—

(A) amending paragraph (1)(B) to read as follows:

“(B) A grant—

“(i) for a project designated as part of a priority corridor or service by the national rail plan and scheduled within the national rail plan to be implemented within a time frame consistent with the grant application shall not exceed 80 percent of the project net capital cost;

“(ii) for a project to implement a performance improvement plan under section 24710 shall not exceed 100 percent of the net project capital cost; and

“(iii) for any other project shall not exceed 50 percent of the net project capital cost.”;

and

(B) by adding at the end the following:

“(5) When Amtrak is an applicant under this chapter, it may use ticket and other

revenues generated from its operations and other sources to satisfy the non-Federal share requirements under this subsection, except that Amtrak may not use Federal funds authorized under subsections (a) or (c) of section 101 of the Passenger Rail Investment and Improvement Act of 2008 (122 Stat. 4908).”;

(9) in section 24402(h), by striking “2” each place it appears and inserting “3”;

(10) in section 24402(i)(1), by striking “A metropolitan planning organization, State transportation department, or other project sponsor” and inserting “An applicant”;

(11) by amending section 24402(k) to read as follows:

“(k) **SMALL CAPITAL PROJECTS.**—The Secretary shall make not less than 5 percent annually available from the amounts appropriated under section 24406 beginning in fiscal year 2009 for grants for capital projects eligible under this section not exceeding \$10,000,000, including costs eligible under section 209(d) of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24101 note). For grants awarded under this subsection, the Secretary may waive one or more of the requirements of this section, including State rail plan requirements, or of section 24405(c)(1)(B), as appropriate.”;

(12) by amending section 24403(b) to read as follows:

“(b) **SECRETARIAL OVERSIGHT AND PARTICIPATION.**—

“(1) The Secretary may use not more than 1 percent of amounts made available in a fiscal year for capital projects under this chapter to participate in the planning, management, and oversight of the development and implementation of any such projects.

“(2) The Secretary may use amounts available under paragraph (1) to directly undertake or make contracts for project planning and design participation or safety, procurement, management, and financial compliance reviews and audits of a recipient of grants awarded under this chapter.

“(3) The Federal Government shall pay the entire cost of carrying out a contract under this subsection.”;

(13) in section 24405 by adding “or between Amtrak and the railroad” after “railroad” in subsection (c)(1).

(b) **CHAPTER 244 GRANT PROCEDURES.**—Not later than 180 days after the date of enactment of this Act, the Secretary of Transportation shall issue a final rule establishing grant procedures, as required by section 24402(a) of title 49, United States Code.

(c) **AMENDMENTS TO CHAPTER 261.**—Chapter 261 is amended—

(1) in section 26106—

(A) by amending subsection (a) to read as follows:

“(a) **IN GENERAL.**—The Secretary of Transportation shall establish and implement a high-speed rail corridor program consistent with the national rail plan, regional rail plans, and State rail plans required by chapter 227 of title 49, United States Code.”;

(B) by amending subsection (b)(2) to read as follows:

“(2) **CORRIDOR.**—The term ‘corridor’ means—

“(A) a corridor designated by the Secretary pursuant to section 104(d)(2) of title 23; or

“(B) a corridor expected to achieve high-speed service pursuant to section 22701 of title 49.”;

(C) in subsection (e)(2)(A)—

(i) in clause (ii), by inserting “, directly or through appropriate agreements with other entities,” after “have”;

(ii) in clause (v), by inserting “, except for Amtrak,” after “applicant”;

(iii) in clause (vi), by striking “; and” and inserting a semicolon;

(iv) in clause (vii)(II), by striking “(if it is available)”;

and

(v) by adding at the end the following:

“(viii) that the project and the high-speed rail services it supports are coordinated and integrated with existing and planned conventional intercity passenger rail services;

“(ix) that the Secretary, and Amtrak at the Secretary’s request, are permitted to participate in the planning, design, management, and delivery of the project, as necessary to ensure project success and promote interstate commerce; and

“(x) that the Federal government is accorded an appropriate participation, oversight, ownership, or control in the project commensurate with the level of Federal investment as determined by the Secretary.”;

and

(D) in subsection (e)(4), by striking “pursuant to section 22506 of this title”.

(d) **CONGESTION GRANTS.**—Section 24105 is amended—

(1) in subsection (a)—

(A) by striking “in cooperation with States” and “high priority rail corridor”;

(B) by striking “congestion” and inserting “freight or commuter railroad congestion that impacts intercity passenger trains, enhance route performance, preserve service,”;

and

(C) by striking the period and inserting “on routes defined under section 24102(5)(C).”;

(2) in subsection (b)—

(A) by inserting “or the Federal Railroad Administration” after “Amtrak”;

(B) by striking “congestion” and inserting “freight or commuter railroad congestion that impacts intercity passenger trains, enhance route performance, preserve service,”;

(C) by striking “; and” and inserting a period; and

(D) by striking paragraph (3);

(3) in subsection (c), by striking “80” and inserting “100”; and

(4) in subsection (d), by inserting “, except that the Secretary may waive the requirements of section 24405(c)(1)(B), as appropriate, for grants totaling less than \$10,000,000” after “title”.

(e) **ADDITIONAL HIGH-SPEED RAIL PROJECTS.**—The Passenger Rail Investment and Improvement Act of 2008 (122 Stat. 4907) is amended by striking section 502.

#### **SEC. 36108. LIABILITY.**

(a) **CLARIFICATION OF COMMUTER RAIL LIABILITY.**—Section 28103 is amended—

(1) in subsection (a)(2), by inserting “, including commuter rail passengers,” after “rail passengers,”;

(2) by amending subsection (b) to read as follows:

“(b) **CONTRACTUAL OBLIGATIONS.**—A provider of rail passenger transportation may enter into contracts that allocate financial responsibility for claims. Such contracts shall be enforceable notwithstanding any other provision of law, common law, or public policy, or the nature of the conduct giving rise to the damages or liability.”;

(3) in subsection (e)—

(A) by striking “and” at the end of paragraph (2);

(B) by striking the period at the end of paragraph (3) and inserting “; and”; and

(C) by adding at the end the following:

“(4) the term ‘rail passenger transportation’ includes commuter rail transportation.”.



## (b) STUDY.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall conduct a study regarding options for clarifying and improving passenger rail liability requirements and arrangements, including those related to environmental liability, necessary for supporting the continued development and improvement of the national passenger rail system and the furtherance of the national rail plan under chapter 227 of title 49, United States Code. The study shall consider—

(A) whether to expand statutory liability limits to third parties; and

(B) whether to revise the current statutory liability limits based on inflation or other methods to improve the certainty of liability coverage.

(2) REPORT.—Not later than 90 days after the date of completion of the study, the Secretary shall submit the results of the study and any associated recommendations to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

**SEC. 36109. DISADVANTAGED BUSINESS ENTERPRISES.**

## (a) DEFINITIONS.—In this section:

(1) SECRETARY.—The term “Secretary” means the Secretary of Transportation.

(2) SMALL BUSINESS CONCERN.—The term “small business concern” has the meaning given the term in section 3 of the Small Business Act (15 U.S.C. 632), except the term does not include any concern or group of concerns that—

(A) are controlled by the same socially and economically disadvantaged individual or individuals; and

(B) have average annual gross receipts over the preceding 3 fiscal years in excess of \$22,410,000, as adjusted annually by the Secretary for inflation.

(3) SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—

## (A) IN GENERAL.—

(i) SOCIALLY DISADVANTAGED INDIVIDUALS.—The term “socially disadvantaged individuals” has the meaning given the term in section 8(a)(5) of the Small Business Act (15 U.S.C. 637(a)(5)), and relevant subcontracting regulations issued pursuant to that Act.

(ii) ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The term “economically disadvantaged individuals” has the meaning given the term in section 8(a)(6) of the Small Business Act (15 U.S.C. 637(a)(6)), and relevant subcontracting regulations issued pursuant to that Act.

(B) INCLUSIONS.—For purposes of this section, women shall be presumed to be socially and economically disadvantaged individuals.

(b) IN GENERAL.—Except to the extent that the Secretary determines otherwise, not less than 10 percent of the amounts made available for any program under chapter 244, section 24105, or section 26106 of title 49, United States Code, shall be expended through a small business concern owned and controlled by 1 or more socially and economically disadvantaged individuals.

(c) ANNUAL LISTING OF DISADVANTAGED SMALL BUSINESS CONCERNS.—Each State shall annually—

(1) survey each small business concern in the State;

(2) compile a list of all of the small business concerns in the State, including the location of each small business concern in the State; and

(3) notify the Secretary, in writing, of the percentage of the small business concerns that—

(A) are controlled by women;

(B) are controlled by socially and economically disadvantaged individuals (except for women); and

(C) are controlled by individuals who are women and who are socially and economically disadvantaged individuals.

(d) UNIFORM CERTIFICATION.—The Secretary shall establish minimum uniform criteria for State governments to use in certifying whether a small business concern qualifies under this section. The minimum uniform criteria shall include—

(1) an on-site visit;

(2) a personal interview;

(3) a license;

(4) an analysis of stock ownership;

(5) an analysis of bonding capacity;

(6) the listing of equipment;

(7) the listing of work completed; and

(8) a resume of each principal owner, the financial capacity, and the type of work preferred.

(e) REPORTING.—The Secretary shall establish minimum requirements for State governments to use in reporting to the Secretary information concerning disadvantaged business enterprise awards, commitments, and achievements, and such other information as the Secretary determines appropriate for the proper monitoring of the disadvantaged business enterprise program.

(f) COMPLIANCE WITH COURT ORDERS.—Nothing in this section shall limit the eligibility of a person to receive funds made available under chapter 244, section 24105, or section 26106 of title 49, United States Code, if the person is prevented, in whole or in part, from complying with subsection (b) because a Federal court issues a final order in which the court finds that the requirement of subsection (b) or the program established under subsection (b) is unconstitutional.

**SEC. 36110. WORKFORCE DEVELOPMENT.**

Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall, in consultation with the States, local governments, Amtrak, freight railroad, and non-profit employee labor organizations—

(1) complete a study regarding workforce development needs in the passenger and freight rail industry, including what knowledge and skill gaps in planning, financing, engineering, and operating passenger and freight rail systems exist, to assist in creating programs to help improve the rail industry;

(2) make recommendations based on the results of the study; and

(3) report the findings and recommendations to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

**SEC. 36111. VETERANS EMPLOYMENT.**

Not later than 180 days after the date of enactment of this Act, the Secretary of Transportation shall—

(1) conduct a study to evaluate the best means for providing a preference to veterans in the awarding of contracts and subcontracts using amounts made available under chapter 244, and sections 24105 and 26104 of title 49, United States Code;

(2) make recommendations based on the results of the study; and

(3) report the findings and recommendations to the Committee on Commerce, Science, and Transportation of the Senate

and the Committee on Transportation and Infrastructure of the House of Representatives.

**Subtitle B—Amtrak****SEC. 36201. STATE-SUPPORTED ROUTES.**

(a) GRANT AVAILABILITY.—In addition to the uses permitted under section 209(d) of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24101 note), a State may use funds provided under section 24406 of title 49, United States Code, to temporarily pay Amtrak some or all of the operating costs for services identified under section 24102(5)(D) of title 49, United States Code, determined under the methodology established pursuant to section 209 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24101 note), that exceed—

(1) the operating costs (adjusted for inflation) that the State paid Amtrak for the same services in the year prior to the implementation of section 209 of that Act; or

(2) if the services were not fully State-supported in that year, the full cost the State would have paid Amtrak under the State-supported service costing methodology then in effect.

(b) TRANSITION ASSISTANCE GUIDANCE.—Not later than 180 days after the Surface Transportation Board determines the appropriate methodology pursuant to section 209 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24101 note), the Secretary shall develop a transition assistance guidance that includes—

(1) criteria for phasing-out the temporary operating assistance under this section not later than October 1, 2017;

(2) a grant application process that permits—

(A) States to apply for such funds individually or collectively; and

(B) Amtrak to be considered the grant recipient of such funds upon an agreement between a State or States and Amtrak; and

(3) policies governing financial terms, repayment conditions, and other terms of financial assistance.

(c) ELIGIBILITY.—To be eligible for Federal transition assistance, an intercity passenger rail service shall provide high-speed or intercity passenger rail revenue operation on routes that are subject to section 209 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24101 note).

(d) FEDERAL SHARE.—The Federal share of grants under this paragraph for eligible costs may be up to 100 percent of the total costs under subsection (a).

**SEC. 36202. NORTHEAST CORRIDOR INFRASTRUCTURE AND OPERATIONS ADVISORY COMMISSION.**

(a) NORTHEAST CORRIDOR INFRASTRUCTURE AND OPERATIONS ADVISORY COMMISSION IMPROVEMENTS.—Section 24905 is amended—

(1) by amending the section heading to read as follows:

“**SEC. 24905. NORTHEAST CORRIDOR INFRASTRUCTURE AND OPERATIONS ADVISORY COMMISSION IMPROVEMENTS.**”;

(2) by redesignating subsection (e) as subsection (g);

(3) by striking subsections (a), (b), (c), (d), and (f) and inserting before subsection (g), as redesignated, the following:

“(a) NORTHEAST CORRIDOR INFRASTRUCTURE AND OPERATIONS ADVISORY COMMISSION.—

“(1) IN GENERAL.—The Secretary of Transportation shall establish a Northeast Corridor Infrastructure and Operations Advisory Commission (referred to in this section as the ‘Commission’) to foster the creation and implementation of a unified, regional, long-

term investment strategy for the Northeast Corridor and to promote mutual cooperation and planning pertaining to the capital investment, rail operations and related activities of the Northeast Corridor. The Commission shall be made up of—

“(A) members representing Amtrak;

“(B) members representing the Department of Transportation, including the Federal Railroad Administration and the Office of the Secretary;

“(C) 1 member from each of the States (including the District of Columbia) that constitute the Northeast Corridor as defined in section 24102, designated by, and serving at the pleasure of, the chief executive officer thereof; and

“(D) non-voting representatives of freight railroad carriers using the Northeast Corridor selected by the Secretary.

“(2) MEMBERSHIP.—The Secretary shall ensure that the membership belonging to any of the groups enumerated under paragraph (1) shall not constitute a majority of the Commission's memberships.

“(3) MEETINGS.—The Commission shall—

“(A) establish a schedule and location for convening meetings;

“(B) meet not less than 4 times per fiscal year; and

“(C) develop rules and procedures to govern the Commission's proceedings.

“(4) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

“(5) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5.

“(6) CHAIRPERSON.—The Chairperson of the Commission shall be elected by the members.

“(7) PERSONNEL.—The Commission may appoint and fix the pay of such personnel as the Commission considers appropriate.

“(8) DETAILEES.—Upon request of the Commission, the head of any department or agency of the United States may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this section.

“(9) ADMINISTRATIVE SUPPORT.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.

“(10) CONSULTATION WITH OTHER ENTITIES.—The Commission shall consult with other entities as appropriate.

“(b) STATEMENT OF GOALS AND RECOMMENDATIONS.—

“(1) STATEMENT OF GOALS.—The Commission shall develop a statement of goals concerning the future of Northeast Corridor rail infrastructure and operations based on achieving expanded and improved intercity, commuter, and freight rail services operating with greater safety and reliability, reduced travel times, increased frequencies, and enhanced intermodal connections designed to address airport and highway congestion, reduce transportation energy consumption, improve air quality, and increase economic development of the Northeast Corridor region.

“(2) RECOMMENDATIONS.—The Commission shall develop recommendations based on the statement of goals developed under this section addressing, as appropriate—

“(A) short-term and long-term capital investment needs beyond those specified in the

state-of-good-repair plan under section 211 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24902 note);

“(B) future funding requirements for capital improvements and maintenance;

“(C) operational improvements of intercity passenger rail, commuter rail, and freight rail services;

“(D) opportunities for additional non-rail uses of the Northeast Corridor;

“(E) scheduling and dispatching;

“(F) safety and security enhancements;

“(G) equipment design;

“(H) marketing of rail services;

“(I) future capacity requirements; and

“(J) potential funding and financing mechanisms for projects of corridor-wide significance.

“(c) NORTHEAST CORRIDOR HIGH SPEED AND INTERCITY SERVICE DEVELOPMENT PLAN.—

“(1) LONG-RANGE NORTHEAST CORRIDOR SERVICE DEVELOPMENT PLAN.—The Federal Railroad Administration, in coordination with the Commission, Amtrak, the States, and other corridor users, shall complete a long-range Northeast Corridor Service Development Plan not later than December 31, 2014.

“(2) COLLABORATION AND COOPERATION.—The parties comprising the Commission, acting separately and collectively, shall collaborate and cooperate to the maximum extent permitted by law in—

“(A) the preparation of the service development plan;

“(B) the programmatic environmental review process; and

“(C) the subsequent requirements required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), including the development of supporting documentation.

“(d) COMPREHENSIVE LONG-RANGE NORTHEAST CORRIDOR STRATEGY.—

“(1) IN GENERAL.—Not later than 1 year after completion of the service development plan under subsection (c), the Commission shall develop a comprehensive long-range strategy for the future high-speed, intercity, commuter, and freight rail utilization of the Northeast Corridor that considers—

“(A) the statement of goals developed under subsection (b)(1);

“(B) the recommendations developed under subsection (b)(2);

“(C) the economic development report under subsection (h);

“(D) the service development plan and related alternatives developed through the programmatic environmental review for the Northeast Corridor;

“(E) the capital and operating plans of all entities operating on the Northeast Corridor;

“(F) improvement programs and service initiatives planned by corridor owners and users;

“(G) relevant local, State, and Federal transportation plans; and

“(H) other plans, as appropriate.

“(2) STRATEGY COMPONENTS.—The comprehensive long-range strategy shall include—

“(A) a comprehensive program containing a description and the planned phasing of all Northeast Corridor improvement programs, investments, and other anticipated changes;

“(B) the impacts of the comprehensive program on:

“(i) highway and aviation congestion;

“(ii) economic development;

“(iii) job creation; and

“(iv) the environment;

“(C) the potential financing sources for the comprehensive program, including Federal, State, local, and private sector sources;

“(D) new institutional or other structures necessary to implement the comprehensive program;

“(E) the types of collaboration, participation, arrangements, and support between Amtrak and the Federal Government, the State and local governments in the Northeast Corridor, the commuter rail authorities and freight railroads that utilize the Northeast Corridor, the private sector, and others, as appropriate, that are necessary to achieve the comprehensive program; and

“(F) any regulatory or statutory changes necessary to efficiently advance the comprehensive program.

“(e) ACCESS COSTS.—

“(1) DEVELOPMENT OF STANDARDIZED FORMULA.—Not later than September 30, 2013, the Commission shall—

“(A) develop a standardized formula for determining and allocating costs, revenues, and compensation for Northeast Corridor commuter rail passenger transportation (as defined in section 24102) on the Northeast Corridor main line between Boston, Massachusetts, and Washington, District of Columbia, and the Northeast Corridor branch lines connecting to Harrisburg, Pennsylvania, Springfield, Massachusetts, and Spuyten Duyvil, New York, that use Amtrak facilities or services or that provide such facilities or services to Amtrak that ensures that—

“(i) there is no cross-subsidization of commuter rail passenger, intercity rail passenger, or freight rail transportation;

“(ii) each service is assigned the costs incurred only for the benefit of that service, and a proportionate share, based upon factors that reasonably reflect relative use, of costs incurred for the common benefit of more than 1 service; and

“(iii) all financial contributions made by an operator of a service that benefit an infrastructure owner other than the operator are considered, including any capital infrastructure investments and in-kind services;

“(B) develop a proposed timetable for implementing the formula not later than December 31, 2014;

“(C) transmit the proposed timetable to the Surface Transportation Board; and

“(D) at the request of a Commission member, petition the Surface Transportation Board to appoint a mediator to assist the Commission members through non-binding mediation to reach an agreement under this section.

“(2) IMPLEMENTATION.—Amtrak and public authorities providing commuter rail passenger transportation on the Northeast Corridor shall implement new agreements for usage of facilities or services based on the standardized formula under paragraph (1) in accordance with the timetable established therein. If the entities fail to implement the new agreements in accordance with the timetable, the Commission shall petition the Surface Transportation Board to determine the appropriate compensation amounts for such services under section 24904(c). The Surface Transportation Board shall enforce its determination on the party or parties involved.

“(3) REVISIONS.—The Commission may make necessary revisions to the standardized formula developed under paragraph (1), including revisions based on Amtrak's financial accounting system developed under section 203 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24101 note).

“(f) TRANSMISSION OF STATEMENT OF GOALS, RECOMMENDATIONS, AND PLANS.—The Commission shall transmit to the Committee on

Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

“(1) not later than 60 days after the date of enactment of the , the statement of goals under subsection (b);

“(2) annually beginning on December 31, 2012, the recommendations under subsection (b)(2) and the standardized formula and timetable under subsection (e)(1); and

“(3) the comprehensive long-range strategy under this section.”; and

(4) by inserting after subsection (g), as redesignated, the following

“(h) **REPORT ON NORTHEAST CORRIDOR ECONOMIC DEVELOPMENT.**—Not later than September 30, 2013, the Commission shall transmit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on the role of Amtrak’s Northeast Corridor service between Washington, District of Columbia, and Boston, Massachusetts, in the economic development of the Northeast Corridor region. The report shall examine how to enhance the utilization of the Northeast Corridor for greater economic development, including—

“(1) improving real estate utilization;

“(2) improved intercity, commuter, and freight services; and

“(3) improving optimum utility utilization.

“(i) **NORTHEAST CORRIDOR SAFETY COMMITTEE.**—

“(1) **IN GENERAL.**—The Secretary shall establish a Northeast Corridor Safety Committee composed of members appointed by the Secretary. The members shall be representatives of—

“(A) the Department of Transportation, including the Federal Railroad Administration;

“(B) Amtrak;

“(C) freight carriers operating more than 150,000 train miles a year on the main line of the Northeast Corridor;

“(D) commuter rail agencies;

“(E) rail passengers;

“(F) rail labor; and

“(G) other individuals and organizations the Secretary decides have a significant interest in rail safety or security.

“(2) **FUNCTION; MEETINGS.**—The Secretary shall consult with the Committee about safety and security improvements on the Northeast Corridor main line. The Committee shall meet not less than 2 times per year to consider safety and security matters on the main line.

“(3) **REPORT.**—At the beginning of the first session of each Congress, the Secretary shall submit a report to the Commission and to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on the status of efforts to improve safety and security on the Northeast Corridor main line. The report shall include the safety and security recommendations of the Committee and the comments of the Secretary on those recommendations.”.

(b) **CONFORMING AMENDMENT.**—The table of contents for chapter 249 is amended by striking the item relating to section 24905 and inserting the following:

“24905. Northeast corridor infrastructure and operations advisory commission improvements.”.

#### **SEC. 36203. NORTHEAST CORRIDOR HIGH-SPEED RAIL IMPROVEMENT PLAN.**

(a) **PLANS.**—Not later than 180 days after the date of enactment of this Act, Amtrak shall—

(1) complete a refined vision for an integrated program of improvements on the Northeast Corridor that will result in, by 2040—

(A) the development and operation of a new high-speed rail system capable of high capacity, 200 mile-per-hour or greater operation between Washington, District of Columbia and Boston, Massachusetts;

(B) the completion of the improvements identified in the Northeast Corridor Infrastructure Master Plan published by Amtrak on May 19, 2010; and

(C) the continued operation of existing and currently planned intercity, commuter, and freight services utilizing the Northeast Corridor during the implementation of the program; and

(2) complete a business and financing plan to achieve the program under paragraph (1) that identifies the estimated—

(A) benefits and costs of the program, including ridership, revenues, capital and operating costs, and cash flow projections;

(B) implementation schedule, including the phasing of the program into achievable segments that maximize the benefits and support the ultimate completion of the program;

(C) potential financing sources for the program, including Federal, State, local, and private sector sources; and

(D) organization changes, new institutional or corporate arrangements, partnerships, procurement techniques, and other structures necessary to implement the program.

(b) **SUPPORT.**—The Secretary of Transportation shall provide appropriate support, assistance, oversight, and guidance to Amtrak during the preparation of the plans under subsection (a).

(c) **SUBMISSION.**—Amtrak shall submit the refined vision and an appropriate elements of the business and financing plan to the Federal Railroad Administration and the Northeast Corridor Infrastructure and Operations Advisory Commission for use in the development of the Northeast Corridor High Speed and Intercity Service Development Plan and the Comprehensive Long-Range Northeast Corridor Strategy.

#### **SEC. 36204. NORTHEAST CORRIDOR ENVIRONMENTAL REVIEW PROCESS.**

(a) **NORTHEAST CORRIDOR.**—Not later than 90 days after the date of enactment of this Act, the Secretary shall complete a plan and a schedule for the completion of the programmatic environmental review for the Northeast Corridor. The schedule shall require the completion of the programmatic environmental review for the Northeast Corridor not later than 3 years after the date of enactment of this Act.

(b) **COORDINATION WITH THE NORTHEAST CORRIDOR INFRASTRUCTURE AND OPERATIONS ADVISORY COMMISSION.**—The Federal Railroad Administration shall closely coordinate the programmatic environmental review process with the Northeast Corridor Infrastructure and Operations Advisory Commission.

#### **SEC. 36205. DELEGATION AUTHORITY.**

(a) **DELEGATION OF AUTHORITY.**—In carrying out programmatic or project level environmental reviews for high speed and intercity passenger rail programs, projects, or services, the Secretary may delegate to Amtrak any or all of the Secretary’s authority and

responsibility under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470f), section 4(f) of the Department of Transportation Act (80 Stat. 934), section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344), and section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536), and may provide to Amtrak any related funding provided to the Secretary for such purposes as the Secretary deems necessary if—

(1) Amtrak agrees in writing to assume the delegated authority and responsibility;

(2) Amtrak has or can obtain sufficient resources or the Secretary provides such resources to Amtrak to appropriately carry out such authority or responsibility; and

(3) delegating the authority and responsibility will improve the quality or timeliness of the environmental review.

#### **SEC. 36206. AMTRAK INSPECTOR GENERAL.**

(a) **IN GENERAL.**—Chapter 243 is amended by adding after section 24316 the following:

##### **“§ 24317. Inspector general**

“(a) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Office of the Inspector General of Amtrak the following amounts:

“(1) For fiscal year 2009, \$20,000,000.

“(2) For fiscal year 2010, \$21,000,000.

“(3) For fiscal year 2011, \$22,000,000.

“(4) For fiscal year 2012, \$22,000,000.

“(5) For fiscal year 2013, \$23,000,000.

“(b) **AUTHORITY.**—The Inspector General of Amtrak shall have all necessary authority, in carrying out the duties specified in the Inspector General Act of 1978 (5 U.S.C. App.), to investigate allegations of fraud, including false statements to the Government under section 1001 of title 18, by any person or entity that is an employee or contractor of Amtrak.

“(c) **SERVICES.**—The Inspector General of Amtrak may obtain services under sections 502(a) and 602 of title 40, from the Administrator of General Services. The Administrator of General Services may provide services under sections 502(a) and 602 of title 40, to the Inspector General.”.

(b) **MANAGEMENT ASSESSMENT.**—Section 24310 is amended to read as follows:

“(a) **IN GENERAL.**—Not later than 3 years after the date of enactment of the Passenger Rail Investment and Improvement Act of 2008 (122 Stat. 4907) and 2 years thereafter—

“(1) the Inspector General of the Department of Transportation shall complete an overall assessment of the progress made by the Department of Transportation in implementing the provisions of that Act; and

“(2) the Inspector General of Amtrak shall complete an overall assessment of the progress made by Amtrak management in implementing the provisions of the Passenger Rail Investment and Improvement Act of 2008 (122 Stat. 4907).

“(b) **ASSESSMENT.**—The management assessment by the Amtrak Inspector General may include a review of—

“(1) the effectiveness in improving annual financial planning;

“(2) the effectiveness in improving financial accounting;

“(3) Amtrak management’s efforts to implement minimum train performance standards;

“(4) Amtrak management’s progress toward maximizing revenues, minimizing Federal subsidies, and improving financial results; and

“(5) any other aspect of Amtrak operations that the Amtrak Inspector General finds appropriate.”.

(c) INSPECTOR GENERAL POLICIES AND PROCEDURES.—The Amtrak Inspector General and Amtrak shall—

(1) continue to follow the policies and procedures for interacting with one another in a manner that is consistent with the Inspector General Act of 1978 (5 U.S.C. App.), as approved by the Council of the Inspectors General on Integrity and Efficiency; and

(2) work toward establishing proper protocols and firewalls to maintain the Amtrak Inspector General's independence, as appropriate.

(d) IMPROVEMENTS.—The Amtrak Inspector General and Amtrak shall identify any funding needs and authority improvements necessary to effectuate the policies, procedures, protocols, and firewalls under subsection (c) and submit a report of the necessary funding and authority improvements as part of their annual budget requests.

(e) TECHNICAL AMENDMENT.—Section 101 of the Passenger Rail Investment and Improvement Act of 2008 (122 Stat. 4907), is amended by striking subsection (b) and inserting the following:

“(b) [Reserved].”

(f) CLERICAL AMENDMENT.—The table of contents for chapter 243 is amended by adding at the end the following:

“24317. Inspector General.”

**SEC. 36207. COMPENSATION FOR PRIVATE-SECTOR USE OF FEDERALLY-FUNDED ASSETS.**

If capital assets that are owned by a public entity or Amtrak built or improved with Federal funds authorized under subtitle V of title 49, United States Code, are made available for exclusive use by a for-profit entity, except for an entity owned or controlled by the Department of Transportation, for the purpose of providing intercity passenger rail service, the Secretary may require, as appropriate, that the for-profit entity provide adequate compensation, as determined by the Secretary, to the United States for the use of the capital assets in an amount that reflects the benefit of the Federal funding to the for-profit entity.

**SEC. 36208. ON-TIME PERFORMANCE.**

Where the on time performance of any intercity passenger train averages less than 80 percent for any 2 consecutive calendar quarters and the failure to meet such performance levels is solely the responsibility of the host railroad, Amtrak shall not pay the host railroad any incentive payments for on time performance of the subject intercity passenger train during such calendar quarters.

**SEC. 36209. BOARD OF DIRECTORS.**

Section 24302(a)(3) is amended by striking “5” the second place it appears and inserting “4”.

**Subtitle C—Rail Safety Improvements**

**SEC. 36301. POSITIVE TRAIN CONTROL.**

(a) REVIEW AND APPROVAL.—Section 20157(c) is amended to read as follows:

“(c) REVIEW AND APPROVAL.—

“(1) REVIEW.—Not later than 90 days after the Secretary receives a proposed plan, the Secretary shall review and approve or disapprove it. If a proposed plan is not approved, the Secretary shall notify the affected railroad carrier or other entity as to the specific deficiencies in the proposed plan. The railroad carrier or other entity shall correct the deficiencies not later than 30 days after receipt of the written notice.

“(2) AMENDMENTS.—The Secretary shall review any amendments to a plan in the time frame required by section (1).

“(3) ANNUAL REVIEW.—The Secretary shall conduct an annual review to ensure that

each railroad carrier and entity is complying with its plan, including a railroad carrier or entity that elects to fully implement a positive train control system prior to the required deadline.”

(b) REPORT CRITERIA.—Section 20157(d) is amended to read as follows:

“(d) REPORT.—Not later than June 30, 2012, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on the progress of the railroad carriers in implementing the positive train control systems, including—

“(1) the likelihood that each railroad will meet the December 31, 2015 deadline;

“(2) the obstacles to each railroad's successful implementation, including the obstacles identified in the General Accountability Office's report issued on December 15, 2010, and titled ‘Rail Safety: Federal Railroad Administration Should Report on Risks to Successful Implementation of Mandated Safety Technology’ (GAO-11-133); and

“(3) the actions that Congress, railroads, relevant Federal entities, and other stakeholders can take to mitigate obstacles to successful implementation.”

(c) EXTENSION AUTHORITY.—Section 20157 is amended—

(1) by redesignating subsections (h) and (i) as subsections (i) and (j), respectively; and

(2) by inserting after subsection (g), the following:

“(h) EXTENSION.—

“(1) IN GENERAL.—After completing the report under subsection (d), the Secretary may extend in 1 year increments, upon application, the implementation deadline for an entity providing rail freight transportation or regularly scheduled intercity or commuter rail passenger transportation, if the Secretary determines that full implementation will likely be infeasible due to circumstances beyond the control of the entity, including funding availability, spectrum acquisition, and interoperability standards. The Secretary may not extend the deadline for implementation beyond December 31, 2018.

“(2) APPLICATION REVIEW.—The Secretary shall review an application submitted pursuant to paragraph (1) and approve or disapprove the application not later than 10 days after the application is received.”

(d) APPLICABILITY.—Section 20157 is amended by striking “transported;” in subsection (a)(1)(B) and inserting “transported on or after December 31, 2015;”.

**SEC. 36302. ADDITIONAL ELIGIBILITY FOR RAILROAD REHABILITATION AND IMPROVEMENT FINANCING.**

(a) POSITIVE TRAIN CONTROL SYSTEMS.—Section 502(b)(1) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(b)(1)), is amended—

(1) in subparagraph (B) by striking “or”;

(2) in subparagraph (C) by striking “facilities.” and inserting “facilities; or”; and

(3) by adding at the end the following:

“(D) implement a positive train control system, as required by section 20157 of title 49, United States Code.”

(b) POSITIVE TRAIN CONTROL COLLATERAL.—Section 502(h)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(h)(2)), is amended by adding at the end the following:

“For purposes of making a finding under subsection (g)(4) for a loan for positive train control, the total cost of the labor and materials associated with installing positive train control shall be deemed to be equal to the collateral value of that asset.”

**SEC. 36303. FCC STUDY OF SPECTRUM AVAILABILITY.**

(a) SPECTRUM NEEDS ASSESSMENT.—Not later than 120 days after the date of enactment of this Act, the Secretary of Transportation and the Chairman of the Federal Communications Commission shall coordinate to assess spectrum needs and availability for implementing positive train control systems, as defined in section 20157 of title 49, United States Code. In conducting the spectrum needs assessment, the Secretary and the Chairman shall—

(1) evaluate the information provided in the Federal Communications Commission WT 11 79 proceeding;

(2) evaluate the positive train control implementations plans and any subsequent amendments or waivers to those plans provided to the Federal Railroad Administration; and

(3) evaluate individual railroad spectrum demand studies.

(b) RECOMMENDATIONS.—Not later than 90 days after the completion of the spectrum needs assessment under subsection (a), the Secretary and the Chairman shall submit a plan to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, for approximate resolution to any issues that may prevent railroad carriers or entities from complying with the December 31, 2015, positive train control implementation deadline.

**Subtitle D—Freight Rail**

**SEC. 36401. RAIL LINE RELOCATION.**

Section 20154 is amended—

(1) in subsection (b)—

(A) by striking “either”;

(B) by striking “or” at the end of paragraph (1);

(C) by striking the period at the end of paragraph (2) and inserting “; or”; and

(D) by adding at the end the following:

“(3) involves a lateral or vertical relocation of any portion of a road.”;

(2) in subsection (e)(1), by striking “10” and inserting “20”; and

(3) in subsection (h)(3), by inserting “a public agency,” after “of a State.”

**SEC. 36402. COMPILATION OF COMPLAINTS.**

(a) IN GENERAL.—Section 704 is amended—

(1) by striking the section heading and inserting the following:

“§ 704. Reports”;

(2) by inserting “(a) ANNUAL REPORT.—” before “The Board”; and

(3) by adding at the end the following:

“(b) COMPLAINTS.—

“(1) IN GENERAL.—The Board shall establish and maintain a database of complaints received by the Board.

“(2) QUARTERLY REPORT.—The Board shall post a quarterly report of formal and informal service complaints received by the Board during the previous quarter that includes—

“(A) a list of the type of each complaint;

“(B) the geographic region of the complaint; and

“(C) the resolution of the complaint, if appropriate.

“(3) WRITTEN CONSENT.—The quarterly report may identify a complainant that submitted an informal complaint only upon the written consent of the complainant.

“(4) WEBSITE POSTING.—The report shall be posted on the Board's public website.”

(b) CONFORMING AMENDMENT.—The table of contents for chapter 7 is amended by striking the item relating to section 704 and inserting the following:

"704. Reports."

**SEC. 36403. MAXIMUM RELIEF IN CERTAIN RATE CASES.**

(a) IN GENERAL.—The Surface Transportation Board shall revise the maximum amount of rate relief available to railroad shippers in cases brought pursuant to the method developed under section 10701(d)(3) of title 49, United States Code, as that section existed as of the date of enactment of this Act, to be as follows:

(1) \$1,500,000 in a rate case brought using the Surface Transportation Board's "three-benchmark" procedure.

(2) \$10,000,000 in a rate case brought using the Surface Transportation Board's "simplified stand-alone cost" procedure.

(b) PERIODIC REVIEW.—The Board shall periodically review the amounts established by subsection (a) and revise the amounts, as appropriate.

**SEC. 36404. RATE REVIEW TIMELINES.**

In stand-alone cost rate challenges, the Surface Transportation Board shall comply with the following timelines unless it extends them, after a request from any party or in the interest of due process:

(1) For discovery, 150 days after the date on which the challenge is initiated.

(2) For development of the evidentiary record, 155 days after that date.

(3) For submission of parties' closing briefs, 60 days after that date.

(4) For a final Board decision, 180 days after the date on which the parties submit closing briefs.

**SEC. 36405. REVENUE ADEQUACY STUDY.**

(a) REVENUE ADEQUACY STUDY.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Surface Transportation Board shall initiate a study to provide further guidance on how it will apply its revenue adequacy constraint.

(2) CONSIDERATIONS.—In conducting the study, the Surface Transportation Board shall consider whether to apply the revenue adequacy constraint using replacement costs to value the assets of rail facilities and equipment.

(b) PUBLIC NOTICE.—In conducting the study under subsection (a), the Surface Transportation Board shall—

- (1) provide public notice;
- (2) an opportunity for comment; and
- (3) conduct 1 or more public hearings.

(c) REPORT.—Not later than 60 days after the study under subsection (a) is complete, the Surface Transportation Board shall submit the findings of the study to the Commerce, Science, and Transportation Committee of the Senate and the Transportation and Infrastructure Committee of the House of Representatives.

**SEC. 36406. QUARTERLY REPORTS.**

Not later than 60 days after the date of enactment of this Act, the Surface Transportation Board shall provide quarterly reports to the Commerce, Science, and Transportation Committee of the Senate and the Transportation and Infrastructure Committee of the House of Representatives on the Surface Transportation Board's progress toward addressing issues raised in unfinished regulatory proceedings, regardless of whether a proceeding is subject to a statutory or regulatory deadline.

**SEC. 36407. WORKFORCE REVIEW.**

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Chairman of the Surface Transportation Board, in consultation with the Director of the Office of Personnel Management, shall

conduct a review of the Surface Transportation Board workforce to assist in the development of a comprehensive, long-term human capital improvement plan.

(b) PLAN.—Not later than 180 days after the review under subsection (a) is complete, the Chairman shall develop a comprehensive, long-term human capital improvement plan for Surface Transportation Board personnel to identify—

(1) the optimal workforce size of the Surface Transportation Board to address its current and future program needs;

(2) the hiring, training, managing, and compensation needs to recruit and retain qualified personnel, including experts to assess long-standing and emerging railroad industry trends;

(3) the means for improving the current organizational structure and workforce to most efficiently execute the Surface Transportation Board's mission; and

(4) any recommendations for potential coordination with colleges, universities, or other non-profit organizations for training programs to support workforce development.

(c) REPORT.—The Chairman shall submit the plan to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

**SEC. 36408. RAILROAD REHABILITATION AND IMPROVEMENT FINANCING.**

(a) CONDITIONS OF ASSISTANCE.—Section 502(h)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(h)(2)), as amended by section 36302 of this Act, is amended by adding at the end the following:

"The Secretary shall accept, for the purpose of making a finding with regard to adequate collateral for a public entity, the net present value on a future stream of State or local subsidy income or a dedicated revenue as collateral offered to secure a loan."

(b) ELIGIBLE PURPOSES.—Section 502(b)(1) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(b)(1)), as amended by section 36302 of this Act, is further amended—

(1) by striking "or" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting "; or"; and

(3) by adding at the end the following:

"(E) conduct preliminary engineering, environmental review, permitting, or other pre-construction activities."

(c) STUDY.—The Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives detailing recommendations for improving the Railroad Rehabilitation and Improvement Financing program administration, including timely processing of applications, expansion of eligibilities, and other issues that impede passenger and rail carriers from utilizing the program.

**Subtitle E—Technical Corrections**

**SEC. 36501. TECHNICAL CORRECTIONS.**

(a) RAIL SAFETY IMPROVEMENT ACT OF 2008.—

(1) The table of contents in section 1(b) of the Rail Safety Improvement Act of 2008 (122 Stat. 4848) is amended—

(A) by striking the item relating to section 201 and inserting the following:

"Sec. 201. Pedestrian safety at or near railroad passenger stations."; and

(B) by striking the item relating to section 403 and inserting the following:

"Sec. 403. Study and rulemaking on track inspection time; rulemaking on concrete crossties.".

(2) Section 2(a)(1) of the Rail Safety Improvement Act of 2008 (49 U.S.C. 20102 note), is amended by inserting a comma after "railroad tracks at grade".

(3) Section 102(a) of the Rail Safety Improvement Act of 2008 (49 U.S.C. 20101 note), is amended—

(A) by striking " , at a minimum,";

(B) in paragraph (1), by inserting a comma after "railroads"; and

(C) by amending paragraph (6) to read as follows:

"(6) Improving the safety of railroad bridges, tunnels, and related infrastructure to prevent accidents, incidents, injuries, and fatalities caused by catastrophic and other failures of such infrastructure."

(4) Section 108(f)(1) of the Rail Safety Improvement Act of 2008 (49 U.S.C. 21101 note), is amended by striking "requirements for recordkeeping and reporting for Hours of Service of Railroad Employees" and inserting "requirements for record keeping and reporting for hours of service of railroad employees".

(5) Section 201 of the Rail Safety Improvement Act of 2008 (49 U.S.C. 20134 note), is amended—

(A) in the section heading, by striking "PEDESTRIAN CROSSING SAFETY." and inserting "PEDESTRIAN SAFETY AT OR NEAR RAILROAD PASSENGER STATIONS.";

(B) by striking "strategies and methods to prevent pedestrian accidents, incidents, injuries, and fatalities at or near passenger stations, including" and inserting "strategies and methods to prevent train-related accidents, incidents, injuries, and fatalities that involve a pedestrian at or near a railroad passenger station, including"; and

(C) in paragraph (1) by striking "at railroad passenger stations".

(6) Section 206(a) of the Rail Safety Improvement Act of 2008 (49 U.S.C. 22501 note), is amended by striking "Public Service Announcements" and inserting "public service announcements".

(7) Section 403 of the Rail Safety Improvement Act of 2008 (49 U.S.C. 20142 note), is amended—

(A) in the section heading, by striking "TRACK INSPECTION TIME STUDY." and inserting "STUDY AND RULEMAKING ON TRACK INSPECTION TIME; RULEMAKING ON CONCRETE CROSSTIES."; and

(B) in subsection (d)—

(i) by striking "CROSS TIES" in the subsection heading and inserting "CROSSTIES";

(ii) by striking "cross ties" and inserting "crossties"; and

(iii) in paragraph (2), by striking "cross tie" and inserting "crosstie".

(8) Section 405 of the Rail Safety Improvement Act of 2008 (49 U.S.C. 20103 note), is amended—

(A) in subsection (a), by striking "cell phones" and inserting "cellular telephones"; and

(B) in subsection (d)—

(i) by striking "of Transportation"; and

(ii) by striking "cell phones" and inserting "cellular telephones".

(9) Section 411(a) of the Rail Safety Improvement Act of 2008 (49 U.S.C. 5103 note), is amended—

(A) by striking "5101(a)" and inserting "5105(a)"; and

(B) by striking "5101(b)" and inserting "5105(b)".

(10) Section 412 of the Rail Safety Improvement Act of 2008 (49 U.S.C. 20140 note), is amended by striking "of Transportation".

(11) Section 414(2) of the Rail Safety Improvement Act of 2008 (49 U.S.C. 20103 note), is amended—

(A) by striking “parts” and inserting “sections”; and

(B) by striking “part” and inserting “section”.

(12) Section 416 of the Rail Safety Improvement Act of 2008 (49 U.S.C. 20107 note), is amended—

(A) by striking “of Transportation”;

(B) in paragraphs (3) and (4), by striking “Federal Railroad Administration” and inserting “Secretary”; and

(C) in paragraph (4), by striking “subsection” and inserting “section”.

(13) Section 417(c) of the Rail Safety Improvement Act of 2008 (49 U.S.C. 20103 note), is amended by striking “each railroad” and inserting “each railroad carrier”.

(14) Section 503 of the Rail Safety Improvement Act of 2008 (49 U.S.C. 1139 note), is amended—

(A) in subsection (a), by striking “rail accidents” and inserting “rail passenger accidents”;

(B) in subsection (b)—

(i) by striking “passenger rail accidents” and inserting “rail passenger accidents”; and

(ii) by striking “passenger rail accident” each place it appears and inserting “rail passenger accidents”; and

(C) by adding at the end the following:

“(d) DEFINITIONS.—In this section, the terms ‘passenger’, ‘rail passenger accident’, and ‘rail passenger carrier’ have the meanings given the terms in section 1139 of title 49, United States Code.”

“(e) FUNDING.—Out of the funds appropriated pursuant to section 20117(a)(1)(A) of title 49, United States Code, there shall be made available to the Secretary of Transportation \$500,000 for fiscal year 2009 to carry out this section. Amounts made available pursuant to this subsection shall remain available until expended.”

(b) PASSENGER RAIL INVESTMENT AND IMPROVEMENT ACT OF 2008.—

(1) Section 206(a) of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24101 note), is amended by inserting “of this division” after “302”.

(2) Section 211 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24902 note), is amended—

(A) in subsection (d), by inserting “of this division” after “101(c)”; and

(B) in subsection (e), by inserting “of this division” after “101(d)”.

(c) TITLE 49 OF THE UNITED STATES CODE.—

(1) Section 1139 is amended—

(A) in subsection (a)(1), by striking “phone number” and inserting “telephone number”;

(B) in subsection (a)(2), by striking “post trauma” and inserting “post-trauma”;

(C) in subsections (h)(1)(A) and (h)(2)(A)—

(i) by striking “interstate”; and

(ii) by striking “such term is”;

(D) in subsection (g)(1), by striking “board” in the heading and inserting “BOARD”;

(E) in subsections (h)(1)(B) and (h)(2)(B)—

(i) by striking “interstate or intrastate”; and

(ii) by striking “such term is”;

(F) in subsection (j)(1)—

(i) by striking “(other than subsection (g))” and inserting “(except for subsections (g) and (k))”; and

(ii) by striking “railroad passenger accident” and inserting “rail passenger accident”;

(G) in subsection (j)(2), by striking “railroad passenger accident” and inserting “rail passenger accident”.

(2) Section 10909(b) is amended—

(A) by striking “Railroad” and inserting “Railroads”; and

(B) in paragraph (2), by inserting a comma after “comment”.

(3) Section 20109 is amended—

(A) in subsection (c)(1), by striking “the railroad shall promptly arrange” and inserting “the railroad carrier shall promptly arrange”;

(B) in subsection (d)(2)(A)(i), by striking “(d)” and inserting “paragraph” after “under”;

(C) in subsection (d)(2)(A)(iii), by inserting “section” after “set forth in”; and

(D) in subsection (d)(4)(i), by striking “must” and inserting “shall”.

(4) Section 20120(a) is amended—

(A) by striking “(a) IN GENERAL” and inserting “Not”;

(B) in paragraph (2)(G), by inserting “and” after the semicolon;

(C) in paragraph (4), by striking “provide” and inserting “provides”;

(D) in paragraph (5)(B), by striking “Administrative Hearing Officer or Administrative Law Judge” and inserting “administrative hearing officer or administrative law judge”; and

(E) in paragraph (7), by striking “its” and inserting “the Secretary’s or the Federal Railroad Administrator’s”.

(5) Section 20151(d)(1) is amended by striking “to drive around a grade crossing gate” and inserting “to drive through, around, or under a grade crossing gate”.

(6) Section 20152(b) is amended by striking “rail carriers” and inserting “railroad carriers”.

(7) Section 20156 is amended—

(A) in subsection (c), by inserting a comma after “In developing its railroad safety risk reduction program”; and

(B) in subsection (g)(1), by striking “non-profit” and inserting “nonprofit”.

(8) Section 20157(a)(1) is amended—

(A) by striking “Class I railroad carrier” and inserting “Class I railroad”; and

(B) by striking “parts” and inserting “sections”.

(9) Section 20158(b)(3) is amended by striking “20156(e)(2)” and inserting “20156(e)”.

(10) Section 20159 is amended by inserting “of Transportation” after “the Secretary”.

(11) Section 20160 is amended—

(A) in subsection (a)(1), by striking “or with respect to” and inserting “with respect to”;

(B) in subsection (b)(1), by striking “On a periodic basis beginning not” and inserting “Not”; and

(C) in subsection (b)(1)(A), by striking “or with respect to” and inserting “with respect to”.

(12) Section 20162(a)(3) is amended by striking “railroad compliance with Federal standards” and inserting “railroad carrier compliance with Federal standards”.

(13) Section 20164(a) is amended by striking “Railroad Safety Enhancement Act of 2008” and inserting “Rail Safety Improvement Act of 2008”.

(14) Section 21102(c)(4) is amended by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(15) Section 22106(b) is amended by striking “interest thereof” and inserting “interest thereon”.

(16) Section 24101(b) is amended by striking “subsection (d)” and inserting “subsection (c)”.

(17) Section 24316 is amended by striking subsection (g).

(18) The item relating to section 24316 in the table of contents for chapter 243 is

amended by striking “assist” and inserting “address needs of”.

(19) Section 24702(a) is amended by striking “not included in the national rail passenger transportation system”.

(20) Section 24706 is amended—

(A) in subsection (a)(1), by striking “a discontinuance under section 24704 or or”;

(B) in subsection (a)(2), by striking “section 24704 or”; and

(C) in subsection (b), by striking “section 24704 or”.

(21) Section 24709 is amended by striking “The Secretary of the Treasury and the Attorney General,” and inserting “The Secretary of Homeland Security.”

#### SEC. 36502. CONDEMNATION AUTHORITY.

Section 24311(c) is amended—

(1) in paragraph (1), by striking “Interstate Commerce Commission” and inserting “Surface Transportation Board”;

(2) in paragraph (2), by striking “Commission’s” and inserting “Board’s”; and

(3) by striking “Commission” each place it appears and inserting “Board”.

#### Subtitle F—Licensing and Insurance Requirements for Passenger Rail Carriers

#### SEC. 36601. CERTIFICATION OF PASSENGER RAIL CARRIERS.

(a) Section 10901 is amended by adding at the end the following:

“(e) Not later than 2 years after the date of enactment of the National Rail System Preservation, Expansion, and Development Act of 2012, the Board shall establish a certification process to authorize a person to provide passenger rail transportation over a railroad line that is subject to the jurisdiction of the Board, except that such certification shall not be required for or apply to a freight railroad providing or hosting passenger rail transportation over its own railroad line.

“(f) After the certification process is established under subsection (e), no person may provide passenger rail transportation over a railroad line subject to the jurisdiction of the Board unless the person is granted a certificate under subsection (e).

“(g) The certification process under subsection (e) shall—

“(1) permit a person to initiate a proceeding for a certificate by filing an application with the Board; and

“(2) require the Board to provide reasonable public notice that a proceeding was initiated, including notice to the Governor of any affected State, not later than 30 days after receipt of the application under paragraph (1).

“(h) The Board may grant a certificate under subsection (e) if the Board determines after consultation with the Secretary of Transportation or the Secretary of Homeland Security, as appropriate, that the applicant—

“(1) has or will have in effect a voluntary agreement with the infrastructure owner over which the passenger rail transportation will be provided or contractual or statutory authority that provides for access to such infrastructure;

“(2) demonstrates sufficient financial capacity and operating experience to provide passenger rail transportation;

“(3) meets all applicable safety and security requirements under the law;

“(4) maintains a total minimum liability coverage for claims through insurance and self-insurance of not less than the amount required by section 28103(a)(2) per accident or incident; and

“(5) complies with any additional requirements the Board determines are appropriate, including reporting requirements to ensure continued compliance with this section.

“(i) A certificate granted under subsection (e) shall specify the person to provide or authorize to provide passenger rail transportation, if different from the applicant.

“(j) The Board may promulgate regulations—

“(1) for determining the adequacy of liability insurance coverage, including self-insurance; and

“(2) for suspending or canceling a certificate if the person to provide or authorize to provide passenger rail transportation fails to comply with subsection (h).

“(k) This section shall not apply to tourist, historical, or excursion passenger rail transportation or other rail carrier that has already obtained construction or operating authority from the Board.”.

(b) Section 24301(c) is amended by adding “10901(e),” after “sections” in the first sentence.

(c) Section 10501(c)(3)(A) is amended—

(1) in clause (ii), by striking “and”;

(2) in clause (iii), by striking the period at the end and inserting “; and”;

(3) by adding at the end the following:

“(iv) section 10901(e).”.

(d) Section 14901 is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively;

(2) by inserting after subsection (e) the following:

“(f) CERTIFICATION REQUIRED.—A person shall be subject to a penalty of \$300 for each passenger transported if the person—

“(1) provides passenger rail transportation subject to jurisdiction under section 10501(a); and

“(2) does not hold a certificate required under section 10901(e).”; and

(3) in subsection (g), as redesignated, by striking “through (e)” and inserting “through (f)”.

(e) Section 10502(g) is amended to read as follows:

“(g) The Board may not exercise its authority under this section to relieve a rail carrier of its obligation to protect the interests of employees as required by this part, or of the requirements of section 10901(g).”.

## **TITLE VII—SPORT FISH RESTORATION AND RECREATIONAL BOATING SAFETY ACT OF 2012**

### **SEC. 37001. SHORT TITLE.**

This title may be cited as the “Sport Fish Restoration and Recreational Boating Safety Act of 2012”.

### **SEC. 37002. AMENDMENT OF FEDERAL AID IN SPORT FISH RESTORATION ACT.**

Section 4 of the Federal Aid in Fish Restoration Act (16 U.S.C. 777c) is amended—

(1) in subsection (a), by striking “of fiscal years 2006 through 2011 and for the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “fiscal year through 2013,”; and

(2) in subsection (b)(1)(A), by striking “of fiscal years 2006 through 2011 and for the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “fiscal year through 2013,”.

### **SEC. 37003. AMENDMENT OF TRUST FUND CODE.**

Section 9504(d)(2) of the Internal Revenue Code of 1986 is amended by striking “April 1, 2012” and inserting “October 1, 2013”.

## **DIVISION D—FINANCE**

### **SEC. 40001. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This division may be cited as the “Highway Investment, Job Creation, and Economic Growth Act of 2012”.

(b) TABLE OF CONTENTS.—The table of contents for this division is as follows:

## **DIVISION D—FINANCE**

Sec. 40001. Short title; table of contents.

## **TITLE I—EXTENSION OF HIGHWAY TRUST FUND EXPENDITURE AUTHORITY AND RELATED TAXES**

Sec. 40101. Extension of trust fund expenditure authority.

Sec. 40102. Extension of highway-related taxes.

## **TITLE II—OTHER PROVISIONS**

Sec. 40201. Temporary increase in small issuer exception to tax-exempt interest expense allocation rules for financial institutions.

Sec. 40202. Temporary modification of alternative minimum tax limitations on tax-exempt bonds.

Sec. 40203. Issuance of TRIP bonds by State infrastructure banks.

Sec. 40204. Extension of parity for exclusion from income for employer-provided mass transit and parking benefits.

Sec. 40205. Exempt-facility bonds for sewage and water supply facilities.

## **TITLE III—REVENUE PROVISIONS**

Sec. 40301. Transfer from Leaking Underground Storage Tank Trust Fund to Highway Trust Fund.

Sec. 40302. Portion of Leaking Underground Storage Tank Trust Fund financing rate transferred to Highway Trust Fund.

Sec. 40303. Transfer of gas guzzler taxes to Highway Trust Fund.

Sec. 40304. Revocation or denial of passport in case of certain unpaid taxes.

Sec. 40305. 100 percent continuous levy on payments to Medicare providers and suppliers.

Sec. 40306. Transfer of amounts attributable to certain duties on imported vehicles into the Highway Trust Fund.

Sec. 40307. Treatment of securities of a controlled corporation exchanged for assets in certain reorganizations.

Sec. 40308. Internal Revenue Service levies and Thrift Savings Plan Accounts.

Sec. 40309. Depreciation and amortization rules for highway and related property subject to long-term leases.

Sec. 40310. Extension for transfers of excess pension assets to retiree health accounts.

Sec. 40311. Transfer of excess pension assets to retiree group term life insurance accounts.

Sec. 40312. Pension funding stabilization.

## **TITLE I—EXTENSION OF HIGHWAY TRUST FUND EXPENDITURE AUTHORITY AND RELATED TAXES**

### **SEC. 40101. EXTENSION OF TRUST FUND EXPENDITURE AUTHORITY.**

(a) HIGHWAY TRUST FUND.—Section 9503 of the Internal Revenue Code of 1986 is amended—

(1) by striking “April 1, 2012” in subsections (b)(6)(B), (c)(1), and (e)(3) and inserting “October 1, 2013”; and

(2) by striking “Surface Transportation Extension Act of 2011, Part II” in subsections (c)(1) and (e)(3) and inserting “Moving Ahead for Progress in the 21st Century Act”.

(b) SPORT FISH RESTORATION AND BOATING TRUST FUND.—Section 9504 of the Internal Revenue Code of 1986 is amended—

(1) by striking “Surface Transportation Extension Act of 2011, Part II” each place it appears in subsection (b)(2) and inserting “Moving Ahead for Progress in the 21st Century Act”; and

(2) by striking “April 1, 2012” in subsection (d)(2) and inserting “October 1, 2013”.

(c) LEAKING UNDERGROUND STORAGE TANK TRUST FUND.—Paragraph (2) of section 9508(e) of the Internal Revenue Code of 1986 is amended by striking “April 1, 2012” and inserting “October 1, 2013”.

(d) ESTABLISHMENT OF SOLVENCY ACCOUNT.—Section 9503 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(g) ESTABLISHMENT OF SOLVENCY ACCOUNT.—

“(1) CREATION OF ACCOUNT.—There is established in the Highway Trust Fund a separate account to be known as the ‘Solvency Account’ consisting of such amounts as may be transferred or credited to the Solvency Account as provided in this section or section 9602(b).

“(2) TRANSFERS TO SOLVENCY ACCOUNT.—The Secretary of the Treasury shall transfer to the Solvency Account the excess of—

“(A) any amount appropriated to the Highway Trust Fund before October 1, 2013, by reason of the provisions of, and amendments made by, the Highway Investment, Job Creation, and Economic Growth Act of 2012, over

“(B) the amount necessary to meet the required expenditures from the Highway Trust Fund under subsection (c) for the period ending before October 1, 2013.

“(3) EXPENDITURES FROM ACCOUNT.—Amounts in the Solvency Account shall be available for transfers to the Highway Account (as defined in subsection (e)(5)(B)) and the Mass Transit Account in such amounts as determined necessary by the Secretary to ensure that each account has a surplus balance of \$2,800,000,000 on September 30, 2013.

“(4) TERMINATION OF ACCOUNT.—The Solvency Account shall terminate on September 30, 2013, and the Secretary shall transfer any remaining balance in the Account on such date to the Highway Trust Fund.”.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 2012.

### **SEC. 40102. EXTENSION OF HIGHWAY-RELATED TAXES.**

(a) IN GENERAL.—

(1) Each of the following provisions of the Internal Revenue Code of 1986 is amended by striking “March 31, 2012” and inserting “September 30, 2015”:

(A) Section 4041(a)(1)(C)(iii)(I).

(B) Section 4041(m)(1)(B).

(C) Section 4081(d)(1).

(2) Each of the following provisions of such Code is amended by striking “April 1, 2012” and inserting “October 1, 2015”:

(A) Section 4041(m)(1)(A).

(B) Section 4051(c).

(C) Section 4071(d).

(D) Section 4081(d)(3).

(b) EXTENSION OF TAX, ETC., ON USE OF CERTAIN HEAVY VEHICLES.—Each of the following provisions of the Internal Revenue Code of 1986 is amended by striking “2012” and inserting “2015”:

(1) Section 4481(f).

(2) Subsections (c)(4) and (d) of section 4482.

(c) FLOOR STOCKS REFUNDS.—Section 6412(a)(1) of the Internal Revenue Code of 1986 is amended—

(1) by striking “April 1, 2012” each place it appears and inserting “October 1, 2015”;

(2) by striking “September 30, 2012” each place it appears and inserting “March 31, 2016”; and

(3) by striking “July 1, 2012” and inserting “January 1, 2016”.

(d) EXTENSION OF CERTAIN EXEMPTIONS.—Sections 4221(a) and 4483(i) of the Internal



Revenue Code of 1986 are each amended by striking “April 1, 2012” and inserting “October 1, 2015”.

(e) **EXTENSION OF TRANSFERS OF CERTAIN TAXES.**—

(1) **IN GENERAL.**—Section 9503 of the Internal Revenue Code of 1986 is amended—

(A) in subsection (b)—

(i) by striking “April 1, 2012” each place it appears in paragraphs (1) and (2) and inserting “October 1, 2015”;

(ii) by striking “APRIL 1, 2012” in the heading of paragraph (2) and inserting “OCTOBER 1, 2015”;

(iii) by striking “March 31, 2012” in paragraph (2) and inserting “September 30, 2015”; and

(iv) by striking “January 1, 2013” in paragraph (2) and inserting “July 1, 2016”; and

(B) in subsection (c)(2), by striking “January 1, 2013” and inserting “July 1, 2016”.

(2) **MOTORBOAT AND SMALL-ENGINE FUEL TAX TRANSFERS.**—

(A) **IN GENERAL.**—Paragraphs (3)(A)(i) and (4)(A) of section 9503(c) of such Code are each amended by striking “April 1, 2012” and inserting “October 1, 2015”.

(B) **CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.**—Section 201(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601 11(b)) is amended—

(i) by striking “April 1, 2013” each place it appears and inserting “October 1, 2016”; and

(ii) by striking “April 1, 2012” and inserting “October 1, 2015”.

(f) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the amendments made by this section shall take effect on April 1, 2012.

(2) **SUBSECTION (b)(2).**—The amendment made by subsection (b)(2) shall apply to periods beginning after September 30, 2012.

## TITLE II—OTHER PROVISIONS

### SEC. 40201. TEMPORARY INCREASE IN SMALL ISSUER EXCEPTION TO TAX-EXEMPT INTEREST EXPENSE ALLOCATION RULES FOR FINANCIAL INSTITUTIONS.

(a) **IN GENERAL.**—Subparagraph (G) of section 265(b)(3) of the Internal Revenue Code of 1986 is amended—

(1) by striking “2009 or 2010” in clause (i) and inserting “2009, 2010, or 2012”;

(2) by striking “2009 or 2010” each place it appears in clauses (ii) and (iii) and inserting “2009, 2010, or the period beginning after the date of the enactment of the Highway Investment, Job Creation, and Economic Growth Act of 2012 and before January 1, 2013”; and

(3) by striking “2009 AND 2010” in the heading and inserting “2009, 2010, AND 2012”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

### SEC. 40202. TEMPORARY MODIFICATION OF ALTERNATIVE MINIMUM TAX LIMITATIONS ON TAX-EXEMPT BONDS.

(a) **INTEREST ON PRIVATE ACTIVITY BONDS NOT TREATED AS TAX PREFERENCE ITEMS.**—Clause (vi) of section 57(a)(5)(C) of the Internal Revenue Code of 1986 is amended—

(1) in subclause (I) by inserting “, or after the date of enactment of the Highway Investment, Job Creation, and Economic Growth Act of 2012 and before January 1, 2013” after “January 1, 2011”;

(2) in subclause (III) by inserting “before January 1, 2011” after “which is issued”; and

(3) by striking “AND 2010” in the heading and inserting “, 2010, AND PORTIONS OF 2012”.

(b) **NO ADJUSTMENT TO ADJUSTED CURRENT EARNINGS.**—Clause (iv) of section 56(g)(4)(B)

of the Internal Revenue Code of 1986 is amended—

(1) in subclause (I) by inserting “, or after the date of enactment of the Highway Investment, Job Creation, and Economic Growth Act of 2012 and before January 1, 2013” after “January 1, 2011”;

(2) in subclause (III) by inserting “before January 1, 2011” after “which is issued”; and

(3) by striking “AND 2010” in the heading and inserting “, 2010, AND PORTIONS OF 2012”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to obligations issued after the date of enactment of this Act.

### SEC. 40203. ISSUANCE OF TRIP BONDS BY STATE INFRASTRUCTURE BANKS.

Section 610(d) of title 23, United States Code, is amended—

(1) by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively,

(2) by inserting after paragraph (3) the following new paragraph:

“(4) **TRIP BOND ACCOUNT.**—

“(A) **IN GENERAL.**—A State, through a State infrastructure bank, may issue TRIP bonds and deposit proceeds from such issuance into the TRIP bond account of the bank.

“(B) **TRIP BOND.**—For purposes of this section, the term ‘TRIP bond’ means any bond issued as part of an issue if—

“(i) 100 percent of the available project proceeds of such issue are to be used for expenditures incurred after the date of the enactment of this paragraph for 1 or more qualified projects pursuant to an allocation of such proceeds to such project or projects by a State infrastructure bank,

“(ii) the bond is issued by a State infrastructure bank and is in registered form (within the meaning of section 149(a) of the Internal Revenue Code of 1986),

“(iii) the State infrastructure bank designates such bond for purposes of this section, and

“(iv) the term of each bond which is part of such issue does not exceed 30 years.

“(C) **QUALIFIED PROJECT.**—For purposes of this subparagraph, the term ‘qualified project’ means the capital improvements to any transportation infrastructure project of any governmental unit or other person, including roads, bridges, rail and transit systems, ports, and inland waterways proposed and approved by a State infrastructure bank, but does not include costs of operations or maintenance with respect to such project.”.

(3) by adding at the end of paragraph (5), as redesignated by paragraph (1), the following new subparagraph:

“(D) **TRIP BOND ACCOUNT.**—Funds deposited into the TRIP bond account shall constitute for purposes of this section a capitalization grant for the TRIP bond account of the bank.”, and

(4) by adding at the end the following new paragraph:

“(8) **SPECIAL RULES FOR TRIP BOND ACCOUNT FUNDS.**—

“(A) **IN GENERAL.**—The State shall develop a transparent competitive process for the award of funds deposited into the TRIP bond account that considers the impact of qualified projects on the economy, the environment, state of good repair, and equity.

“(B) **APPLICABILITY OF FEDERAL LAW.**—The requirements of any Federal law, including this title and titles 40 and 49, which would otherwise apply to projects to which the United States is a party or to funds made available under such law and projects assisted with those funds shall apply to—

“(i) funds made available under the TRIP bond account for similar qualified projects, and

“(ii) similar qualified projects assisted through the use of such funds.”.

### SEC. 40204. EXTENSION OF PARITY FOR EXCLUSION FROM INCOME FOR EMPLOYER-PROVIDED MASS TRANSIT AND PARKING BENEFITS.

(a) **IN GENERAL.**—Paragraph (2) of section 132(f) of the Internal Revenue Code of 1986 is amended by striking “January 1, 2012” and inserting “January 1, 2013”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to months after December 31, 2011.

### SEC. 40205. EXEMPT-FACILITY BONDS FOR SEWAGE AND WATER SUPPLY FACILITIES.

(a) **BONDS FOR WATER AND SEWAGE FACILITIES TEMPORARILY EXEMPT FROM VOLUME CAP ON PRIVATE ACTIVITY BONDS.**—Subsection (g) of section 146 of the Internal Revenue Code of 1986 is amended—

(1) by striking “and” at the end of paragraph (3),

(2) by striking the period at the end of paragraph (4) and inserting “, and”, and

(3) by inserting after paragraph (4) the following new paragraph:

“(5) any exempt facility bonds issued before January 1, 2018, as part of an issue described in paragraph (4) or (5) of section 142(a).”.

(b) **CONFORMING CHANGE.**—Paragraphs (2) and (3)(B) of section 146(k) of the Internal Revenue Code of 1986 are both amended by striking “paragraph (4), (5), (6), or (10) of section 142(a)” and inserting “paragraph (4) or (5) of section 142(a) with respect to bonds issued after December 31, 2017, or paragraph (6) or (10) of section 142(a)”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

## TITLE III—REVENUE PROVISIONS

### SEC. 40301. TRANSFER FROM LEAKING UNDERGROUND STORAGE TANK TRUST FUND TO HIGHWAY TRUST FUND.

(a) **IN GENERAL.**—Subsection (c) of section 9508 of the Internal Revenue Code of 1986 is amended—

(1) by striking “Amounts” and inserting:

“(1) **IN GENERAL.**—Except as provided in paragraph (2), amounts”, and

(2) by adding at the end the following new paragraph:

“(2) **TRANSFER TO HIGHWAY TRUST FUND.**—Out of amounts in the Leaking Underground Storage Tank Trust Fund there is hereby appropriated \$3,000,000,000 to be transferred under section 9503(f)(3) to the Highway Trust Fund.”.

(b) **TRANSFER TO HIGHWAY TRUST FUND.**—

(1) **IN GENERAL.**—Subsection (f) of section 9503 of the Internal Revenue Code of 1986 is amended by inserting after paragraph (2) the following new paragraph:

“(3) **INCREASE IN FUND BALANCE.**—There is hereby transferred to the Highway Trust Fund amounts appropriated from the Leaking Underground Storage Tank Trust Fund under section 9508(c)(2).”.

(2) **CONFORMING AMENDMENTS.**—Paragraph (4) of section 9503(f) of such Code is amended—

(A) by inserting “or transferred” after “appropriated”, and

(B) by striking “APPROPRIATED” in the heading thereof.

**SEC. 40302. PORTION OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE TRANSFERRED TO HIGHWAY TRUST FUND.**

(a) IN GENERAL.—Subsection (b) of section 9503 of the Internal Revenue Code of 1986 is amended by inserting after paragraph (2) the following new paragraph:

“(3) PORTION OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—There are hereby appropriated to the Highway Trust Fund amounts equivalent to one-third of the taxes received in the Treasury under—

“(A) section 4041(d) (relating to additional taxes on motor fuels),

“(B) section 4081 (relating to tax on gasoline, diesel fuel, and kerosene) to the extent attributable to the Leaking Underground Storage Tank Trust Fund financing rate under such section, and

“(C) section 4042 (relating to tax on fuel used in commercial transportation on inland waterways) to the extent attributable to the Leaking Underground Storage Tank Trust Fund financing rate under such section.

For purposes of this paragraph, there shall not be taken into account the taxes imposed by sections 4041 and 4081 on diesel fuel sold for use or used as fuel in a diesel-powered boat.”

(b) CONFORMING AMENDMENTS.—

(1) Paragraphs (1), (2), and (3) of section 9508(b) of the Internal Revenue Code of 1986 are each amended by inserting “two-thirds of the” before “taxes”.

(2) Paragraph (4) of section 9503(b) of such Code is amended by striking subparagraphs (A) and (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (A) and (B), respectively.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxes received after the date of the enactment of this Act.

**SEC. 40303. TRANSFER OF GAS GUZZLER TAXES TO HIGHWAY TRUST FUND.**

(a) IN GENERAL.—Paragraph (1) of section 9503(b) of the Internal Revenue Code of 1986 is amended by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively, and by inserting after subparagraph (B) the following new subparagraph:

“(B) section 4064 (relating to gas guzzler tax).”

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxes received after the date of the enactment of this Act.

**SEC. 40304. REVOCATION OR DENIAL OF PASSPORT IN CASE OF CERTAIN UNPAID TAXES.**

(a) IN GENERAL.—Subchapter D of chapter 75 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

**“SEC. 7345. REVOCATION OR DENIAL OF PASSPORT IN CASE OF CERTAIN TAX DELINQUENCIES.**

“(a) IN GENERAL.—If the Secretary receives certification by the Commissioner of Internal Revenue that any individual has a seriously delinquent tax debt in an amount in excess of \$50,000, the Secretary shall transmit such certification to the Secretary of State for action with respect to denial, revocation, or limitation of a passport pursuant to section 4 of the Act entitled ‘An Act to regulate the issue and validity of passports, and for other purposes’, approved July 3, 1926 (22 U.S.C. 211a et seq.), commonly known as the ‘Passport Act of 1926’.

“(b) SERIOUSLY DELINQUENT TAX DEBT.—For purposes of this section, the term ‘seri-

ously delinquent tax debt’ means an outstanding debt under this title for which a notice of lien has been filed in public records pursuant to section 6323 or a notice of levy has been filed pursuant to section 6331, except that such term does not include—

“(1) a debt that is being paid in a timely manner pursuant to an agreement under section 6159 or 7122, and

“(2) a debt with respect to which collection is suspended because a collection due process hearing under section 6330, or relief under subsection (b), (c), or (f) of section 6015, is requested or pending.

“(c) ADJUSTMENT FOR INFLATION.—In the case of a calendar year beginning after 2012, the dollar amount in subsection (a) shall be increased by an amount equal to—

“(1) such dollar amount, multiplied by

“(2) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, determined by substituting ‘calendar year 2011’ for ‘calendar year 1992’ in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of \$1,000, such amount shall be rounded to the next highest multiple of \$1,000.”

(b) CLERICAL AMENDMENT.—The table of sections for subchapter D of chapter 75 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

“Sec. 7345. Revocation or denial of passport in case of certain tax delinquencies.”

(c) AUTHORITY FOR INFORMATION SHARING.—

(1) IN GENERAL.—Subsection (1) of section 6103 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(23) DISCLOSURE OF RETURN INFORMATION TO DEPARTMENT OF STATE FOR PURPOSES OF PASSPORT REVOCATION UNDER SECTION 7345.—

“(A) IN GENERAL.—The Secretary shall, upon receiving a certification described in section 7345, disclose to the Secretary of State return information with respect to a taxpayer who has a seriously delinquent tax debt described in such section. Such return information shall be limited to—

“(i) the taxpayer identity information with respect to such taxpayer, and

“(ii) the amount of such seriously delinquent tax debt.

“(B) RESTRICTION ON DISCLOSURE.—Return information disclosed under subparagraph (A) may be used by officers and employees of the Department of State for the purposes of, and to the extent necessary in, carrying out the requirements of section 4 of the Act entitled ‘An Act to regulate the issue and validity of passports, and for other purposes’, approved July 3, 1926 (22 U.S.C. 211a et seq.), commonly known as the ‘Passport Act of 1926’.”

(2) CONFORMING AMENDMENT.—Paragraph (4) of section 6103(p) of such Code is amended by striking “or (22)” each place it appears in subparagraph (F)(ii) and in the matter preceding subparagraph (A) and inserting “(22), or (23)”.

(d) REVOCATION AUTHORIZATION.—The Act entitled “An Act to regulate the issue and validity of passports, and for other purposes”, approved July 3, 1926 (22 U.S.C. 211a et seq.), commonly known as the “Passport Act of 1926”, is amended by adding at the end the following:

**“SEC. 4. AUTHORITY TO DENY OR REVOKE PASSPORT.**

“(a) INELIGIBILITY.—

“(1) ISSUANCE.—Except as provided under subsection (b), upon receiving a certification described in section 7345 of the Internal Rev-

enue Code of 1986 from the Secretary of the Treasury, the Secretary of State may not issue a passport or passport card to any individual who has a seriously delinquent tax debt described in such section.

“(2) REVOCATION.—The Secretary of State shall revoke a passport or passport card previously issued to any individual described in subparagraph (A).

“(b) EXCEPTIONS.—

“(1) EMERGENCY AND HUMANITARIAN SITUATIONS.—Notwithstanding subsection (a), the Secretary of State may issue a passport or passport card, in emergency circumstances or for humanitarian reasons, to an individual described in subsection (a)(1).

“(2) LIMITATION FOR RETURN TO UNITED STATES.—Notwithstanding subsection (a)(2), the Secretary of State, before revocation, may—

“(A) limit a previously issued passport or passport card only for return travel to the United States; or

“(B) issue a limited passport or passport card that only permits return travel to the United States.”

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2013.

**SEC. 40305. 100 PERCENT CONTINUOUS LEVY ON PAYMENTS TO MEDICARE PROVIDERS AND SUPPLIERS.**

(a) IN GENERAL.—Paragraph (3) of section 6331(h) of the Internal Revenue Code of 1986 is amended by striking the period at the end and inserting “, or to a Medicare provider or supplier under title XVIII of the Social Security Act.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after the date of the enactment of this Act.

**SEC. 40306. TRANSFER OF AMOUNTS ATTRIBUTABLE TO CERTAIN DUTIES ON IMPORTED VEHICLES INTO THE HIGHWAY TRUST FUND.**

Section 9503(b) of the Internal Revenue Code of 1986, as amended by this Act, is amended by adding at the end the following new paragraph:

“(8) CERTAIN DUTIES ON IMPORTED VEHICLES.—There are hereby appropriated to the Highway Trust Fund amounts equivalent to the amounts received in the Treasury that are attributable to duties collected on or after October 1, 2011, and before October 1, 2016, on articles classified under subheading 8703.22.00 or 8703.24.00 of the Harmonized Tariff Schedule of the United States.”

**SEC. 40307. TREATMENT OF SECURITIES OF A CONTROLLED CORPORATION EXCHANGED FOR ASSETS IN CERTAIN REORGANIZATIONS.**

(a) IN GENERAL.—Section 361 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(d) SPECIAL RULES FOR TRANSACTIONS INVOLVING SECTION 355 DISTRIBUTIONS.—In the case of a reorganization described in section 368(a)(1)(D) with respect to which stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under section 355—

“(1) this section shall be applied by substituting ‘stock other than nonqualified preferred stock (as defined in section 351(g)(2))’ for ‘stock or securities’ in subsections (a) and (b)(1), and

“(2) the first sentence of subsection (b)(3) shall apply only to the extent that the sum of the money and the fair market value of the other property transferred to such creditors does not exceed the adjusted bases of such assets transferred (reduced by the

amount of the liabilities assumed (within the meaning of section 357(c)).”

(b) **CONFORMING AMENDMENT.**—Paragraph (3) of section 361(b) is amended by striking the last sentence.

(c) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the amendments made by this section shall apply to exchanges after the date of the enactment of this Act.

(2) **TRANSITION RULE.**—The amendments made by this section shall not apply to any exchange pursuant to a transaction which is—

(A) made pursuant to a written agreement which was binding on February 6, 2012, and at all times thereafter;

(B) described in a ruling request submitted to the Internal Revenue Service on or before February 6, 2012; or

(C) described on or before February 6, 2012, in a public announcement or in a filing with the Securities and Exchange Commission.

**SEC. 40308. INTERNAL REVENUE SERVICE LEVIES AND THRIFT SAVINGS PLAN ACCOUNTS.**

Section 8437(e)(3) of title 5, United States Code, is amended by inserting “, the enforcement of a Federal tax levy as provided in section 6331 of the Internal Revenue Code of 1986,” after “(42 U.S.C. 659)”.

**SEC. 40309. DEPRECIATION AND AMORTIZATION RULES FOR HIGHWAY AND RELATED PROPERTY SUBJECT TO LONG-TERM LEASES.**

(a) **ACCELERATED COST RECOVERY.**—

(1) **IN GENERAL.**—Section 168(g)(1) of the Internal Revenue Code of 1986 is amended by striking “and” at the end of subparagraph (D), by redesignating subparagraph (E) as subparagraph (F), and by inserting after subparagraph (D) the following new subparagraph:

“(E) any applicable leased highway property.”

(2) **RECOVERY PERIOD.**—The table contained in subparagraph (C) of section 168(g)(2) of such Code is amended by redesignating clause (iv) as clause (v) and by inserting after clause (iii) the following new clause:

“(iv) Applicable leased highway property ..... 45 years.”

(3) **APPLICABLE LEASED HIGHWAY PROPERTY DEFINED.**—

(A) **IN GENERAL.**—Section 168(g) of such Code is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

“(7) **APPLICABLE LEASED HIGHWAY PROPERTY.**—For purposes of paragraph (1)(E)—

“(A) **IN GENERAL.**—The term ‘applicable leased highway property’ means property to which this section otherwise applies which—

“(i) is subject to an applicable lease, and

“(ii) is placed in service before the date of such lease.

“(B) **APPLICABLE LEASE.**—The term ‘applicable lease’ means a lease or other arrangement—

“(i) which is between the taxpayer and a State or political subdivision thereof, or any agency or instrumentality of either, and

“(ii) under which the taxpayer—

“(I) leases a highway and associated improvements,

“(II) receives a right-of-way on the public lands underlying such highway and improvements, and

“(III) receives a grant of a franchise or other intangible right permitting the taxpayer to receive funds relating to the operation of such highway.”

(B) **CONFORMING AMENDMENT.**—Subparagraph (F) of section 168(g)(1) (as redesignated

by subsection (a)(1)) is amended by striking “paragraph (7)” and inserting “paragraph (8)”.

(b) **AMORTIZATION OF INTANGIBLES.**—Section 197(f) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(11) **INTANGIBLES RELATING TO APPLICABLE LEASED HIGHWAY PROPERTY.**—In the case of any amortizable section 197 intangible property which is acquired in connection with an applicable lease (as defined in section 168(g)(7)(B)), the amortization period under this section shall not be less than the term of the applicable lease. For purposes of the preceding sentence, rules similar to the rules of section 168(i)(3)(A) shall apply in determining the term of the applicable lease.”

(c) **NO PRIVATE ACTIVITY BOND FINANCING OF APPLICABLE LEASED HIGHWAY PROPERTY.**—Section 147(e) of the Internal Revenue Code of 1986 is amended by inserting “, or to finance any applicable leased highway property (as defined in section 168(g)(7)(A))” after “premises”.

(d) **EFFECTIVE DATES.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the amendments made by this section shall apply to leases entered into after the date of the enactment of this Act.

(2) **NO PRIVATE ACTIVITY BOND FINANCING.**—The amendment made by subsection (c) shall apply to bonds issued after the date of the enactment of this Act.

**SEC. 40310. EXTENSION FOR TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.**

(a) **IN GENERAL.**—Paragraph (5) of section 420(b) of the Internal Revenue Code of 1986 is amended by striking “December 31, 2013” and inserting “December 31, 2021”.

(b) **CONFORMING ERISA AMENDMENTS.**—

(1) Sections 101(e)(3), 403(c)(1), and 408(b)(13) of the Employee Retirement Income Security Act of 1974 are each amended by striking “Pension Protection Act of 2006” and inserting “Highway Investment, Job Creation, and Economic Growth Act of 2012”.

(2) Section 408(b)(13) of such Act (29 U.S.C. 1108(b)(13)) is amended by striking “January 1, 2014” and inserting “January 1, 2022”.

(c) **EFFECTIVE DATE.**—The amendments made by this Act shall take effect on the date of the enactment of this Act.

**SEC. 40311. TRANSFER OF EXCESS PENSION ASSETS TO RETIREE GROUP TERM LIFE INSURANCE ACCOUNTS.**

(a) **IN GENERAL.**—Subsection (a) of section 420 of the Internal Revenue Code of 1986 is amended by inserting “, or an applicable life insurance account,” after “health benefits account”.

(b) **APPLICABLE LIFE INSURANCE ACCOUNT DEFINED.**—

(1) **IN GENERAL.**—Subsection (e) of section 420 of the Internal Revenue Code of 1986 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

“(4) **APPLICABLE LIFE INSURANCE ACCOUNT.**—The term ‘applicable life insurance account’ means a separate account established and maintained for amounts transferred under this section for qualified current retiree liabilities based on premiums for applicable life insurance benefits.”

(2) **APPLICABLE LIFE INSURANCE BENEFITS DEFINED.**—Paragraph (1) of section 420(e) of such Code is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

“(D) **APPLICABLE LIFE INSURANCE BENEFITS.**—The term ‘applicable life insurance

benefits’ means group-term life insurance coverage provided to retired employees who, immediately before the qualified transfer, are entitled to receive such coverage by reason of retirement and who are entitled to pension benefits under the plan, but only to the extent that such coverage is provided under a policy for retired employees and the cost of such coverage is excludable from the retired employee’s gross income under section 79.”

(3) **COLLECTIVELY BARGAINED LIFE INSURANCE BENEFITS DEFINED.**—

(A) **IN GENERAL.**—Paragraph (6) of section 420(f) of such Code is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

“(D) **COLLECTIVELY BARGAINED LIFE INSURANCE BENEFITS.**—The term ‘collectively bargained life insurance benefits’ means, with respect to any collectively bargained transfer—

“(i) applicable life insurance benefits which are provided to retired employees who, immediately before the transfer, are entitled to receive such benefits by reason of retirement, and

“(ii) if specified by the provisions of the collective bargaining agreement governing the transfer, applicable life insurance benefits which will be provided at retirement to employees who are not retired employees at the time of the transfer.”

(B) **CONFORMING AMENDMENTS.**—

(i) Clause (i) of section 420(e)(1)(C) of such Code is amended by striking “upon retirement” and inserting “by reason of retirement”.

(ii) Subparagraph (C) of section 420(f)(6) of such Code is amended—

(I) by striking “which are provided to” in the matter preceding clause (i),

(II) by inserting “which are provided to” before “retired employees” in clause (i),

(III) by striking “upon retirement” in clause (i) and inserting “by reason of retirement”, and

(IV) by striking “active employees who, following their retirement,” and inserting “which will be provided at retirement to employees who are not retired employees at the time of the transfer and who”.

(c) **MAINTENANCE OF EFFORT.**—

(1) **IN GENERAL.**—Subparagraph (A) of section 420(c)(3) of the Internal Revenue Code of 1986 is amended by inserting “, and each group-term life insurance plan under which applicable life insurance benefits are provided,” after “health benefits are provided”.

(2) **CONFORMING AMENDMENTS.**—

(A) Subparagraph (B) of section 420(c)(3) of such Code is amended—

(i) by redesignating subclauses (I) and (II) of clause (i) as subclauses (II) and (III) of such clause, respectively, and by inserting before subclause (II) of such clause, as so redesignated, the following new subclause:

“(I) separately with respect to applicable health benefits and applicable life insurance benefits,” and

(ii) by striking “for applicable health benefits” and all that follows in clause (ii) and inserting “was provided during such taxable year for the benefits with respect to which the determination under clause (i) is made.”

(B) Subparagraph (C) of section 420(c)(3) of such Code is amended—

(i) by inserting “for applicable health benefits” after “applied separately”, and

(ii) by inserting “, and separately for applicable life insurance benefits with respect to

individuals age 65 or older at any time during the taxable year and with respect to individuals under age 65 during the taxable year" before the period.

(C) Subparagraph (E) of section 420(c)(3) of such Code is amended—

(i) in clause (i), by inserting "or retiree life insurance coverage, as the case may be," after "retiree health coverage", and

(ii) in clause (ii), by inserting "FOR RETIREE HEALTH COVERAGE" after "COST REDUCTIONS" in the heading thereof, and

(iii) in clause (ii)(II), by inserting "with respect to applicable health benefits" after "liabilities of the employer".

(D) Paragraph (2) of section 420(f) of such Code is amended by striking "collectively bargained retiree health liabilities" each place it occurs and inserting "collectively bargained retiree liabilities".

(E) Clause (i) of section 420(f)(2)(D) of such Code is amended—

(i) by inserting "and each group-term life insurance plan or arrangement under which applicable life insurance benefits are provided," in subclause (I) after "applicable health benefits are provided",

(ii) by inserting "or applicable life insurance benefits, as the case may be," in subclause (I) after "provides applicable health benefits",

(iii) by striking "group health" in subclause (II), and

(iv) by inserting "or collectively bargained life insurance benefits" in subclause (II) after "collectively bargained health benefits".

(F) Clause (ii) of section 420(f)(2)(D) of such Code is amended—

(i) by inserting "with respect to applicable health benefits or applicable life insurance benefits" after "requirements of subsection (c)(3)", and

(ii) by adding at the end the following: "Such election may be made separately with respect to applicable health benefits and applicable life insurance benefits. In the case of an election with respect to applicable life insurance benefits, the first sentence of this clause shall be applied as if subsection (c)(3) as in effect before the amendments made by such Act applied to such benefits."

(G) Clause (iii) of section 420(f)(2)(D) of such Code is amended—

(i) by striking "retiree" each place it occurs, and

(ii) by inserting "collectively bargained life insurance benefits, or both, as the case may be," after "health benefits" each place it occurs.

(d) COORDINATION WITH SECTION 79.—Section 79 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

"(f) EXCEPTION FOR LIFE INSURANCE PURCHASED IN CONNECTION WITH QUALIFIED TRANSFER OF EXCESS PENSION ASSETS.—Subsection (b)(3) and section 72(m)(3) shall not apply in the case of any cost paid (whether directly or indirectly) with assets held in an applicable life insurance account (as defined in section 420(e)(4)) under a defined benefit plan."

(e) CONFORMING AMENDMENTS.—

(1) Section 420 of the Internal Revenue Code of 1986 is amended by striking "qualified current retiree health liabilities" each place it appears and inserting "qualified current retiree liabilities".

(2) Section 420 of such Code is amended by inserting "or an applicable life insurance account," after "a health benefits account" each place it appears in subsection (b)(1)(A), subparagraphs (A), (B)(i), and (C) of sub-

section (c)(1), subsection (d)(1)(A), and subsection (f)(2)(E)(ii).

(3) Section 420(b) of such Code is amended—

(A) by adding the following at the end of paragraph (2)(A): "If there is a transfer from a defined benefit plan to both a health benefits account and an applicable life insurance account during any taxable year, such transfers shall be treated as 1 transfer for purposes of this paragraph.", and

(B) by inserting "to an account" after "may be transferred" in paragraph (3).

(4) The heading for section 420(c)(1)(B) of such Code is amended by inserting "OR LIFE INSURANCE" after "HEALTH BENEFITS".

(5) Paragraph (1) of section 420(e) of such Code is amended—

(A) by inserting "and applicable life insurance benefits" in subparagraph (A) after "applicable health benefits", and

(B) by striking "HEALTH" in the heading thereof.

(6) Subparagraph (B) of section 420(e)(1) of such Code is amended—

(A) in the matter preceding clause (i), by inserting "(determined separately for applicable health benefits and applicable life insurance benefits)" after "shall be reduced by the amount",

(B) in clause (i), by inserting "or applicable life insurance accounts" after "health benefit accounts", and

(C) in clause (i), by striking "qualified current retiree health liability" and inserting "qualified current retiree liability".

(7) The heading for subsection (f) of section 420 of such Code is amended by striking "HEALTH" each place it occurs.

(8) Subclause (II) of section 420(f)(2)(B)(ii) of such Code is amended by inserting "or applicable life insurance account, as the case may be," after "health benefits account".

(9) Subclause (III) of section 420(f)(2)(E)(i) of such Code is amended—

(A) by inserting "defined benefit" before "plan maintained by an employer", and

(B) by inserting "health" before "benefit plans maintained by the employer".

(10) Paragraphs (4) and (6) of section 420(f) of such Code are each amended by striking "collectively bargained retiree health liabilities" each place it occurs and inserting "collectively bargained retiree liabilities".

(11) Subparagraph (A) of section 420(f)(6) of such Code is amended—

(A) in clauses (i) and (ii), by inserting "in the case of a transfer to a health benefits account," before "his covered spouse and dependents", and

(B) in clause (ii), by striking "health plan" and inserting "plan".

(12) Subparagraph (B) of section 420(f)(6) of such Code is amended—

(A) in clause (i), by inserting "and collectively bargained life insurance benefits," after "collectively bargained health benefits",

(B) in clause (ii)—

(i) by adding at the end the following: "The preceding sentence shall be applied separately for collectively bargained health benefits and collectively bargained life insurance benefits.", and

(ii) by inserting "applicable life insurance accounts," after "health benefit accounts", and

(C) by striking "HEALTH" in the heading thereof.

(13) Subparagraph (E) of section 420(f)(6) of such Code, as redesignated by subsection (b), is amended—

(A) by striking "bargained health" and inserting "bargained",

(B) by inserting "or a group-term life insurance plan or arrangement for retired employees," after "dependents", and

(C) by striking "HEALTH" in the heading thereof.

(14) Section 101(e) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(e)) is amended—

(A) in paragraphs (1) and (2), by inserting "or applicable life insurance account" after "health benefits account" each place it appears, and

(B) in paragraph (1), by inserting "or applicable life insurance benefit liabilities" after "health benefits liabilities".

(f) TECHNICAL CORRECTION.—Clause (iii) of section 420(f)(6)(B) is amended by striking "416(I)(1)" and inserting "416(i)(1)".

(g) REPEAL OF DEADWOOD.—

(1) Subparagraph (A) of section 420(b)(1) of the Internal Revenue Code of 1986 is amended by striking "in a taxable year beginning after December 31, 1990".

(2) Subsection (b) of section 420 of such Code is amended by striking paragraph (4) and by redesignating paragraph (5), as amended by this Act, as paragraph (4).

(3) Paragraph (2) of section 420(b) of such Code, as amended by this section, is amended—

(A) by striking subparagraph (B), and

(B) by striking "PER YEAR.—" and all that follows through "No more than" and inserting "PER YEAR.—No more than".

(4) Paragraph (2) of section 420(c) of such Code is amended—

(A) by striking subparagraph (B),

(B) by moving subparagraph (A) two ems to the left, and

(C) by striking "BEFORE TRANSFER.—" and all that follows through "The requirements of this paragraph" and inserting the following: "BEFORE TRANSFER.—The requirements of this paragraph".

(5) Paragraph (2) of section 420(d) of such Code is amended by striking "after December 31, 1990".

(h) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to transfers made after the date of the enactment of this Act.

(2) CONFORMING AMENDMENTS RELATING TO PENSION PROTECTION ACT.—The amendments made by subsections (b)(3)(B) and (f) shall take effect as if included in the amendments made by section 841(a) of the Pension Protection Act of 2006.

#### SEC. 40312. PENSION FUNDING STABILIZATION.

(a) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.—

(1) IN GENERAL.—Subparagraph (C) of section 430(h)(2) of the Internal Revenue Code of 1986 is amended by adding at the end the following new clause:

"(iv) SEGMENT RATE STABILIZATION.—If a segment rate described in clause (i), (ii), or (iii) with respect to any applicable month (determined without regard to this clause) is less than 85 percent, or more than 115 percent, of the average of the segment rates (determined on an annual basis by the Secretary) described in such clause for years in the 10-year period ending with September 30 of the calendar year preceding the calendar year in which the plan year begins, then the segment rate described in such clause with respect to the applicable month shall be equal to 85 or 115 percent of such average, whichever is closest."

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (6) of section 404(o) of such Code is amended by inserting "(determined by not taking into account any adjustment under clause (iv) of subsection (h)(2)(C) thereof)" before the period.

(B) Subparagraph (F) of section 430(h)(2) of such Code is amended by inserting "and the averages determined under subparagraph (C)(iv)" after "subparagraph (C)".

(C) Subparagraphs (C) and (D) of section 417(e)(3) of such Code are each amended by striking "section 430(h)(2)(C)" and inserting "section 430(h)(2)(C) (determined by not taking into account any adjustment under clause (iv) thereof)".

(b) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) IN GENERAL.—Subparagraph (C) of section 303(h)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1083(h)(2)) is amended by adding at the end the following new clause:

"(iv) SEGMENT RATE STABILIZATION.—If a segment rate described in clause (i), (ii), or (iii) with respect to any applicable month (determined without regard to this clause) is less than 85 percent, or more than 115 percent, of the average of the segment rates (determined on an annual basis by the Secretary of the Treasury) described in such clause for years in the 10-year period ending with September 30 of the calendar year preceding the calendar year in which the plan year begins, then the segment rate described in such clause with respect to the applicable month shall be equal to 85 or 115 percent of such average, whichever is closest."

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (F) of section 303(h)(2) of such Act (29 U.S.C. 1083(h)(2)) is amended by inserting "and the averages determined under subparagraph (C)(iv)" after "subparagraph (C)".

(B) Clauses (ii) and (iii) of section 205(g)(3)(B) of such Act (29 U.S.C. 1055(g)(3)(B)) are each amended by striking "section 303(h)(2)(C)" and inserting "section 303(h)(2)(C) (determined by not taking into account any adjustment under clause (iv) thereof)".

(C) Clause (iv) of section 4006(a)(3)(E) of such Act (29 U.S.C. 1306(a)(3)(E)) is amended by striking "section 303(h)(2)(C)" and inserting "section 303(h)(2)(C) (notwithstanding any regulations issued by the corporation, determined by not taking into account any adjustment under clause (iv) thereof)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning after December 31, 2011.

(d) TRANSFER TO HIGHWAY TRUST FUND.—Subsection (f) of section 9503 of the Internal Revenue Code of 1986, as amended by this Act, is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) ADDITIONAL APPROPRIATION TO FUND.—Out of money in the Treasury not otherwise appropriated, there is hereby appropriated \$1,588,000,000 to the Highway Trust Fund."

**SA 1731.** Mr. MANCHIN (for himself and Mr. BLUMENTHAL) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title I of division C, add the following:

**SEC. 31115. NATIONAL YELLOW DOT PROGRAM.**

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the National Highway Traffic Safety Administration of the Department of Transportation.

(2) COORDINATOR.—The term "Coordinator" means the national coordinator of the Yellow Dot Program, who has been so designated by the Administrator.

(3) PROGRAM PARTICIPANT.—The term "program participant" means a person who has agreed to participate in the Yellow Dot Program.

(4) YELLOW DOT PROGRAM.—The term "Yellow Dot Program" means the Yellow Dot Program established under subsection (b).

(b) YELLOW DOT PROGRAM.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The Administrator shall establish a national Yellow Dot Program to assist law enforcement and emergency services personnel to efficiently gather relevant medical information in the event of a motor vehicle accident or other medical emergency involving motor vehicles.

(B) COORDINATOR.—

(i) DESIGNATION.—The Administrator shall designate a person within the Department of Transportation to serve as Coordinator of the Yellow Dot Program.

(ii) RESPONSIBILITIES.—The Coordinator shall—

(I) provide information, training, and materials for the Yellow Dot Program to assist the State officials designated pursuant to subparagraph (C)(ii) in the implementation of the Yellow Dot Program;

(II) compile national statistics on Yellow Dot Program participation rates, broken down by State and age; and

(III) collaborate with States that have programs similar to the Yellow Dot Program to improve national consistency in training materials, participant forms and information, and subsequent data collection methods.

(C) STATE PARTICIPATION.—Each State that elects to participate in the Yellow Dot Program shall—

(i) notify the Coordinator of such election;

(ii) designate a State official to oversee the Yellow Dot Program throughout the State; and

(iii) comply with the requirements set forth in paragraph (2).

(2) STATE RESPONSIBILITIES.—Each participating State shall—

(A) work with local law enforcement and emergency services agencies to publicize the Yellow Dot Program throughout the State;

(B) distribute to program participants—

(i) for each motor vehicle in which the program participant anticipates regularly driving or riding, a yellow sticker and a yellow folder; and

(ii) for each driver or passenger, a blank form with space to enter medical conditions of, prescriptions taken by, and other vital information of the program participant;

(C) instruct local law enforcement and emergency services personnel about the purposes and requirements of the Yellow Dot Program; and

(D) submit an annual report to the Coordinator that identifies the number of program participants in the State, broken down by age.

(3) PROGRAM PARTICIPANT RESPONSIBILITIES.—Each program participant shall—

(A) place the sticker distributed pursuant to paragraph (2)(B)(i) in the bottom left corner of the rear window of each vehicle in which the program participant anticipates regularly driving or riding;

(B) place the completed form distributed pursuant to paragraph (2)(B)(ii) in the folder distributed pursuant to paragraph (2)(B)(i); and

(C) place the folder with the relevant completed forms in the glove compartment of

each vehicle in which the program participant anticipates regularly driving or riding.

**SA 1732.** Mr. MANCHIN submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 469, after line 22, add the following:

**SEC. 15. POLICIES APPLICABLE TO ECONOMICALLY SIGNIFICANT ARC ROAD PROJECTS.**

(a) APPLICABILITY OF SECTION.—This section and the amendments made by this section apply to any road project (including a road project under development as of the date of enactment of this Act) that—

(1) is carried out within the territory of the Appalachian Regional Commission; and

(2) as determined by each State in which the road project is located, will have a direct and significant economic impact.

(b) STATE WATER QUALITY STANDARDS.—

(1) STATE WATER QUALITY STANDARDS.—Section 303(c)(4) of the Federal Water Pollution Control Act (33 U.S.C. 1313(c)(4)) is amended—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(B) by striking "(4)" and inserting "(4)(A)";

(C) in the matter following subparagraph (A)(ii) (as redesignated by subparagraphs (A) and (B)), by striking "The Administrator shall promulgate" and inserting the following:

"(iii) The Administrator shall promulgate"; and

(D) by adding at the end the following:

"(B) Notwithstanding subparagraph (A)(ii), the Administrator may not promulgate a revised or new standard for a pollutant in any case in which the State has submitted to the Administrator and the Administrator has approved a water quality standard for that pollutant, unless the State concurs with the determination of the Administrator that the revised or new standard is necessary to meet the requirements of this Act."

(2) FEDERAL LICENSES AND PERMITS.—Section 401(a) of the Federal Water Pollution Control Act (33 U.S.C. 1341(a)) is amended by adding at the end the following:

"(7) NO SUPERSEDING ACTION.—With respect to any discharge, if a State or interstate agency having jurisdiction over the navigable waters at the point at which the discharge originates or will originate determines under paragraph (1) that the discharge will comply with the applicable provisions of sections 301, 302, 303, 306, and 307, the Administrator may not take any action to supersede the determination."

(3) STATE NPDES PERMIT PROGRAMS.—Section 402(c) of the Federal Water Pollution Control Act (42 U.S.C. 1342(c)) is amended by adding at the end the following:

"(5) LIMITATION ON AUTHORITY OF ADMINISTRATOR TO WITHDRAW APPROVAL OF STATE PROGRAMS.—The Administrator may not withdraw approval of a State program under paragraph (3) or (4), or limit Federal financial assistance for the State program, on the basis that the Administrator disagrees with the State regarding—

"(A) the implementation of any water quality standard that has been adopted by the State and approved by the Administrator under section 303(c); or

“(B) the implementation of any Federal guidance that directs the interpretation of the water quality standards of the State.”.

(4) **LIMITATION ON AUTHORITY OF ADMINISTRATOR TO OBJECT TO INDIVIDUAL PERMITS.**—Section 402(d) of the Federal Water Pollution Control Act (33 U.S.C. 1342(d)) is amended by adding at the end the following:

“(5) **PROHIBITION ON OBJECTIONS.**—The Administrator may not object under paragraph (2) to the issuance of a permit by a State on the basis of—

“(A) the interpretation by the Administrator of a water quality standard that has been adopted by the State and approved by the Administrator under section 303(c); or

“(B) the implementation of any Federal guidance that directs the interpretation of the water quality standards of the State.”.

(c) **PERMITS FOR DREDGED OR FILL MATERIAL.**—

(1) **AUTHORITY OF EPA ADMINISTRATOR.**—Section 404(c) of the Federal Water Pollution Control Act (33 U.S.C. 1344(c)) is amended—

(A) by striking “(c) The Administrator” and inserting the following:

“(c) **RESTRICTIONS ON DISPOSAL SITES.**—

“(1) **IN GENERAL.**—The Administrator”; and

(B) by adding at the end the following:

“(2) **EXCEPTION.**—Paragraph (1) shall not apply to any permit if the State in which the discharge originates or will originate does not concur with the determination of the Administrator that the discharge will result in an unacceptable adverse effect as described in paragraph (1).”.

(2) **STATE PERMIT PROGRAMS.**—The first sentence of section 404(g)(1) of the Federal Water Pollution Control Act (33 U.S.C. 1344(g)(1)) is amended by striking “The Governor of any State desiring to administer its own individual and general permit program for the discharge” and inserting “The Governor of any State desiring to administer an individual and general State permit program for some or all of the discharges”.

**SA 1733.** Mrs. MURRAY (for herself, Ms. MURKOWSKI, Ms. CANTWELL, Mr. BEGICH, Mrs. GILLIBRAND, and Mr. SCHUMER) submitted an amendment intended to be proposed by her to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title I, insert the following:

**SEC. \_\_\_\_ . CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.**

(a) **IN GENERAL.**—The repeal of section 147 of title 23, United States Code, under subsections (b) and (c)(1) of section 1516 shall have no force or effect.

(b) **CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.**—Section 147 of title 23, United States Code, is amended by striking subsections (c), (d), and (e) and inserting the following:

“(c) **DISTRIBUTION OF FUNDS.**—Of the amounts made available to ferry systems and public entities responsible for developing ferries under this section in a fiscal year, 100 percent shall be allocated in accordance with the formula set forth in subsection (d).

“(d) **FORMULA.**—Of the amounts allocated pursuant to subsection (c)—

“(1) 50 percent shall be allocated among eligible entities in the ratio that—

“(A) the number of ferry passengers carried by each ferry system in the most recent fiscal year; bears to

“(B) the number of ferry passengers carried by all ferry systems in the most recent fiscal year;

“(2) 25 percent shall be allocated among eligible entities in the ratio that—

“(A) the number of vehicles carried by each ferry system in the most recent fiscal year; bears to

“(B) the number of vehicles carried by all ferry systems in the most recent fiscal year; and

“(3) 25 percent shall be allocated among eligible entities in the ratio that—

“(A) the total route miles serviced by each ferry system; bears to

“(B) the total route miles serviced by all ferry systems.

“(e) **FUNDING.**—

“(1) **IN GENERAL.**—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) \$100,000,000 for each of the fiscal years 2012 through 2013 to carry out this section.

“(2) **PERIOD OF AVAILABILITY.**—Notwithstanding section 118(b), amounts apportioned to carry out this section shall remain available until expended.”.

**SEC. \_\_\_\_ . ELIGIBILITY OF FERRIES FOR CLEAN FUELS GRANT PROGRAM.**

Section 5308 of title 49, United States Code, is amended—

(1) in subsection (a)(2)—

(A) in clause (i), by inserting “, or ferries” before the semicolon at the end; and

(B) in clause (iii), by inserting “or ferries” before the semicolon at the end; and

(2) in subsection (c)—

(A) in the subsection heading, by inserting “AND FERRIES” after “BUSES”; and

(B) by inserting “or ferries” before the period at the end.

**SEC. \_\_\_\_ . FERRY JOINT PROGRAM OFFICE.**

(a) **ESTABLISHMENT AND PURPOSE.**—

(1) **ESTABLISHMENT.**—The Secretary shall establish within the Department of Transportation a Ferry Joint Program Office (referred to in this section as the “Office”) for the purposes described in paragraph (2).

(2) **PURPOSES.**—The purposes of the Office shall be—

(A) to coordinate Federal programs affecting ferry and ferry facility construction, maintenance, operations, and security; and

(B) to promote transportation by ferry as a component of the United States transportation system.

(b) **FUNCTIONS.**—The head of the Office shall—

(1) coordinate programs related to ferry transportation carried out by—

(A) the Department of Transportation, including programs carried out by the Federal Highway Administration, the Federal Transit Administration, the Maritime Administration, and the Research and Innovative Technology Administration;

(B) the Department of Homeland Security; and

(C) other Federal and State agencies, as appropriate;

(2) ensure resource accountability for programs carried out by the Secretary related to ferry transportation;

(3) provide strategic leadership for research, development, testing, and deployment of technologies related to ferry transportation;

(4) promote ferry transportation as a means to reduce social, economic, and environmental costs associated with traffic congestion; and

(5) develop energy efficient operating models to reduce carbon emissions associated with ferry transportation.

**SEC. \_\_\_\_ . NATIONAL FERRY DATABASE.**

Section 1801(e) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (23 U.S.C. 129 note; Public Law 109-59) is amended—

(1) in paragraph (2), by inserting “, including any Federal, State, and local government funding sources,” after “sources”; and

(2) in paragraph (4)—

(A) in subparagraph (B), by striking “and” at the end;

(B) by redesignating subparagraph (C) as subparagraph (D);

(C) by inserting after subparagraph (B), the following:

“(C) ensure that the database is consistent with the national transit database maintained by the Federal Transit Administration; and”; and

(D) in subparagraph (D) (as redesignated by subparagraph (B)), by striking “2009” and inserting “2018”.

**SA 1734.** Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 134, between lines 7 and 8, insert the following:

“(3) **OLDER DRIVERS.**—If the fatality and serious injury rates for drivers and pedestrians over the age of 65 in a State increases during the most recent 2-year period for which data are available, that State shall be required to file a corrective action based on the recommendations included in the publication of the Federal Highway Administration entitled ‘Highway Design Handbook for Older Drivers and Pedestrians’ (FHWA-RD-01-103), and dated May 2001, or any version of that publication that is revised and updated pursuant to section 103.

**SA 1735.** Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 469, after line 22, add the following:

**SEC. 15 \_\_\_\_ . MILITARY FACILITIES LOCATED ON EVACUATION ROUTES.**

Each State shall give priority consideration to improvements to evacuation routes and to the transportation needs of facilities operated by the armed forces (as defined in section 101(a) of title 10, United States Code) located on or adjacent to evacuation routes when allocating funds apportioned to the State under title 23, United States Code, for the construction of Federal-aid highways.

**UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR**

Mr. REID. Mr. President, I ask unanimous consent that on Monday, February 27, 2012, at 4:30 p.m., the Senate proceed to executive session to consider the following nomination: Calendar No. 409; that there be 60 minutes for debate equally divided in the usual form; that upon the use or yielding back of that time, the Senate proceed to vote without intervening action or



debate on that nomination, the motion to reconsider be considered made and laid upon the table, with no intervening action or debate, and that there be no further motions in order; that any related statements be printed in the Record; that the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

#### RECOGNIZING THE 2012 WORLD CHOIR GAMES

Mr. REID. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further action on S. Res. 325.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 325) recognizing the 2012 World Choir Games in Cincinnati, Ohio, as a global event of cultural significance to the United States and expressing support for designation of July 2012 as World Choir Games Month in the United States.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 325) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 325

Whereas the World Choir Games, the largest choral competition in the world, takes place every 2 years, is known as the "Olympics of choral music", and has the goal of uniting people from all countries through singing in peaceful competition;

Whereas, from July 4 through July 14, 2012, Cincinnati, Ohio, will be first city in the United States to host the World Choir Games;

Whereas the Seventh World Choir Games are expected to include more than 400 choirs from more than 70 countries, 20,000 official participants, including performers, event officials, delegations, and international jury members, and up to 200,000 spectators;

Whereas choirs will compete in 23 different musical genres evaluated by an impartial international jury of choral music experts;

Whereas the genres of barbershop and show choir will be added as competition categories for the first time in recognition of their popularity in the United States;

Whereas the uniting of the people of the world through singing in peaceful competition in the United States in 2012 affirms the commitment of the United States to global cultural awareness, understanding, and appreciation; and

Whereas it is appropriate to designate July 2012 as World Choir Games Month in the United States: Now, therefore, be it

*Resolved*, That the Senate—

(1) recognizes the global significance of the Seventh World Choir Games to be hosted in Cincinnati, Ohio, from July 4 through July 14, 2012;

(2) recognizes Interkultur, the Cincinnati Organizing Committee for the Seventh World Choir Games, the Cincinnati USA Convention and Visitors Bureau, the city of Cincinnati, and the State of Ohio for their efforts to secure and host the World Choir Games;

(3) expresses appreciation to all people of the world who will participate in the World Choir Games, either in competition or as visitors, and to all of the volunteers who will welcome the participants and other visitors to the United States;

(4) supports the designation of July 2012 as World Choir Games Month in the United States; and

(5) renews the commitment of the United States to world peace and friendship and increasing global cultural understanding through singing in peaceful competition.

#### CONDEMNING VIOLENCE BY THE GOVERNMENT OF SYRIA AGAINST THE SYRIAN PEOPLE

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 325, S. Res. 379.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 379) condemning violence by the Government of Syria against the Syrian people.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### APPOINTMENT AUTHORITY

Mr. REID. Mr. President, I ask unanimous consent that notwithstanding the upcoming recess or adjournment of the Senate, the President pro tempore, and the majority and minority leaders be authorized to make appointments to commissions, committees, boards, conferences or interparliamentary conferences authorized by law, by concurrent action of the two Houses or by order of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SIGNING AUTHORITY

Mr. REID. I ask unanimous consent that from Friday, February 17, through Monday, February 27, 2012, the majority leader be authorized to sign duly enrolled bills or joint resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### CONDEMNING VIOLENCE BY THE GOVERNMENT OF SYRIA AGAINST THE SYRIAN PEOPLE

Mr. REID. Mr. President, if we could return to Calendar No. 325, S. Res. 379, I ask unanimous consent the action just taken be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. We are still on that matter; is that correct?

The PRESIDING OFFICER. We are still on that matter.

The question is on agreeing to the resolution and its preamble.

The resolution (S. Res. 379) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 379

Whereas the Syrian Arab Republic is a party to the International Covenant on Civil and Political Rights (ICCPR), adopted at New York December 16, 1966, the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984;

Whereas Syria voted in favor of the Universal Declaration of Human Rights, adopted at Paris, December 10, 1948;

Whereas, in March 2011, peaceful demonstrations in Syria began against the authoritarian rule of Bashar al-Assad;

Whereas, in response to the demonstrations, the Government of Syria launched a brutal crackdown, which has resulted in gross human rights violations, use of force against civilians, torture, extrajudicial killings, arbitrary executions, sexual violence, and interference with access to medical treatment;

Whereas the United Nations, as of January 25, 2012, estimated that more than 5,400 people in Syria have been killed since the violence began in March 2011;

Whereas, on February 4, 2012, President Barack Obama stated that President Bashar al-Assad "has no right to lead Syria, and has lost all legitimacy with his people and the international community";

Whereas the Department of State has repeatedly condemned the Government of Syria's crackdown on its people, including on January 30, 2012, when Secretary of State Hillary Clinton stated "The status quo is unsustainable . . . The longer the Assad regime continues its attacks on the Syrian people and stands in the way of a peaceful transition, the greater the concern that instability will escalate and spill over throughout the region.";

Whereas President Obama, on April 29, 2011, designated 3 individuals subject to sanctions for human rights abuses in Syria: Maher al-Assad, the brother of Syrian President Bashar al-Assad and brigade commander in the Syrian Army's 4th Armored Division; Atif Najib, the former head of the Political Security Directorate for Daraa Province and a cousin of Bashar al-Assad; and Ali Mamluk, director of Syria's General Intelligence Directorate;

Whereas, on May 18, 2011, President Obama issued an executive order sanctioning senior



officials of the Syrian Arab Republic and their supporters, specifically designating 7 people: President Bashar al-Assad, Vice President Farouk al-Shara, Prime Minister Adel Safar, Minister of the Interior Mohammad Ibrahim al-Shaar, Minister of Defense Ali Habib Mahmoud, Head of Syrian Military Intelligence Abdul Fatah Qudsiya, and Director of Political Security Directorate Mohammed Dib Zaitoun;

Whereas President Obama, on August 17, 2011, issued Executive Order 13582, blocking property of the Government of Syria and prohibiting certain transactions with respect to Syria;

Whereas, on December 1, 2011, the Department of the Treasury designated 2 individuals, Aus Aslan and Muhammad Makhluaf, under Executive Order 13573 and 2 entities, the Military Housing Establishment and the Real Estate Bank of Syria, under Executive Order 13582;

Whereas, on May 6, 2011, the European Union's 27 countries imposed sanctions on the Government of Syria for the human rights abuses, including asset freezes and visa bans on members of the Government of Syria and an arms embargo on the country;

Whereas, on November 12, 2011, the League of Arab States voted to suspend Syria's membership in the organization;

Whereas, on December 2, 2011, the United Nations Human Rights Council passed Resolution S-18/1, which deplores the human rights situation in Syria, commends the League of Arab States, and supports implementation of its Plan of Action;

Whereas the League of Arab States approved and implemented a plan of action to send a team of international monitors to Syria, which began December 26, 2011;

Whereas, on January 28, 2012, the League of Arab States decided to suspend its international monitoring mission due to escalating violence within Syria;

Whereas, on February 4, 2012, the Russian Federation and People's Republic of China vetoed a United Nations Security Council Resolution in support of the League of Arab States' Plan of Action;

Whereas, on February 14, 2012, General Martin Dempsey, Chairman of the Joint Chiefs of Staff, testified before the Committee on Armed Services of the Senate that Syria "is a much different situation than we collectively saw in Libya," presenting a "very different challenge" in which "we also know that other regional actors are providing support" as a part of a "Sunni majority rebelling against an oppressive Alawite-Shia regime";

Whereas the Governments of the Russian Federation and the Islamic Republic of Iran remain major suppliers of military equipment to the Government of Syria notwithstanding that government's violent repression of demonstrators;

Whereas the gross human rights violations perpetuated by the Government of Syria against the people of Syria represent a grave risk to regional peace and stability; and

Whereas the Committee on Foreign Relations of the Senate will immediately schedule a hearing to take place as soon as the Senate reconvenes to assess the situation in Syria and all the international options available to address this crisis: Now, therefore, be it

*Resolved*, That the Senate—

(1) strongly condemns the Government of Syria's brutal and unjustifiable use of force against civilians, including unarmed women and children and its violations of the fundamental human rights and dignity of the people of Syria;

(2) expresses its solidarity with the people of Syria, who have exhibited remarkable courage and determination in the face of unspeakable violence to rid themselves of a brutal dictatorship;

(3) expresses strong disappointment with the Governments of the Russian Federation and the People's Republic of China for their veto of the United Nations Security Council resolution condemning Bashar al-Assad and the violence in Syria and urges them to reconsider their votes;

(4) encourages the members of the United Nations Security Council to continue to pursue a resolution in support of a political solution to the crisis in Syria;

(5) commends the League of Arab States' efforts to bring about a peaceful resolution in Syria;

(6) regrets that the League of Arab States observer mission was not able to monitor the full implementation of the League of Arab States' Action Plan of November 2, 2011, due to the escalating violence in Syria; and

(7) urges the international community to review legal processes available to hold officials of the Government of Syria accountable for crimes against humanity and gross violations of human rights.

#### ORDERS FOR TUESDAY, FEBRUARY 21 THROUGH MONDAY, FEBRUARY 27, 2012

Mr. REID. I ask unanimous consent that when the Senate completes its business for the day, it adjourn until Tuesday, February 21, at 12 p.m., and convene for a pro forma session only with no business conducted and that following the pro forma session the Senate adjourn until Friday, February 24, at 11 a.m. and convene for a pro forma session only with no business conducted, and that following the pro forma session, the Senate adjourn until 2 p.m., on Monday, February 27; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, and the time for the two leaders be reserved for their use later in the day; that Senator SHAHEEN be recognized to deliver Washington's Farewell Address; further, that upon the conclusion of the reading, the Senate be in morning business until 4:30 p.m., with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PROGRAM

Mr. REID. Following that morning business, the Senate will proceed to executive session under the previous order.

The next rollcall vote, then, will be at 5:30 p.m., on Monday, February 27, on the Brodie nomination.

#### ADJOURNMENT UNTIL TUESDAY, FEBRUARY 21, 2012

Mr. REID. If there is no further business to come before the Senate, I ask unanimous consent the Senate adjourn under the previous order.

There being no objection, the Senate, at 2:27 p.m., adjourned until Tuesday, February 21, 2012, at 12 noon.

#### NOMINATIONS

Executive nominations received by the Senate:

##### MISSISSIPPI RIVER COMMISSION

MAJOR GENERAL JOHN PEABODY, UNITED STATES ARMY, TO BE A MEMBER AND PRESIDENT OF THE MISSISSIPPI RIVER COMMISSION.

##### TENNESSEE VALLEY AUTHORITY

C. PETER MAHURIN, OF KENTUCKY, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE TENNESSEE VALLEY AUTHORITY FOR A TERM EXPIRING MAY 18, 2016, VICE ROBERT M. DUNCAN, TERM EXPIRED.

##### DEPARTMENT OF STATE

MARK A. PEKALA, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF LATVIA.

RICHARD B. NORLAND, OF IOWA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO GEORGIA.

JEFFREY D. LEVINE, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ESTONIA.

MAKILA JAMES, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF SWAZILAND.

CARLOS PASCUAL, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF STATE (ENERGY RESOURCES), VICE JOHN STERN WOLF.

##### DEPARTMENT OF LABOR

ERICA LYNN GROSHEN, OF NEW YORK, TO BE COMMISSIONER OF LABOR STATISTICS, DEPARTMENT OF LABOR, FOR A TERM OF FOUR YEARS, VICE KEITH HALL, TERM EXPIRED.

#### CONFIRMATIONS

Executive nominations confirmed by the Senate February 17, 2012:

##### THE JUDICIARY

JESSE M. FURMAN, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK.

##### IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

##### To be admiral

ADM. SAMUEL J. LOCKLEAR III

##### IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

##### To be brigadier general

COL. MICHAEL A. MEYER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

##### To be lieutenant general

LT. GEN. MICHAEL J. BASLA

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

##### To be lieutenant general

MAJ. GEN. JOHN E. HYTEN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

##### To be brigadier general

COL. SEAN L. MURPHY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be brigadier general*

COL. CHARLES E. POTTER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be brigadier general*

COL. HARRIS J. KLINE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be brigadier general*

COL. RICHARD M. ERIKSON

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be major general*

BRIG. GEN. ROBERT G. KENNY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be major general*

BRIGADIER GENERAL GARY M. BATINICH  
BRIGADIER GENERAL RICHARD S. HADDAD  
BRIGADIER GENERAL ROBERT M. HAIRE  
BRIGADIER GENERAL MICHAEL D. KIM  
BRIGADIER GENERAL MARK A. KYLE  
BRIGADIER GENERAL KEVIN E. POTTINGER  
BRIGADIER GENERAL ROBERT D. REGO  
BRIGADIER GENERAL GEORGE F. WILLIAMS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be brigadier general*

COLONEL JEFFREY K. BARNSON  
COLONEL ABEL BARRIENTES  
COLONEL KIMBERLY A. CRIDER  
COLONEL THERON G. DAVIS  
COLONEL CHRISTOPHER L. EDDY  
COLONEL LYMAN L. EDWARDS  
COLONEL JOHN C. FLOURNOY, JR.  
COLONEL KATHRYN J. JOHNSON  
COLONEL KENNETH D. LEWIS, JR.  
COLONEL VINCENT M. MANCUSO  
COLONEL UDO K. MCGREGOR  
COLONEL ERIC S. OVERTURF  
COLONEL KAREN A. RIZZUTI  
COLONEL VINCENT M. SARONI  
COLONEL JAMES P. SCANLAN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. CRAIG A. FRANKLIN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

LT. GEN. STEPHEN P. MUELLER

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

*To be brigadier general*

COL. ROBERT T. BROOKS, JR.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be brigadier general*

COL. SUSAN A. DAVIDSON

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

*To be brigadier general*

COLONEL JON S. LEHR  
COLONEL TIMOTHY P. MCGUIRE  
COLONEL BURDETT K. THOMPSON

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

*To be brigadier general*

COL. WENDUL G. HAGLER II

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED

WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. DANIEL B. ALLYN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be major general*

BRIG. GEN. LESLIE A. PURSER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be brigadier general*

COL. MARY E. LINK

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 156 AND 3064:

*To be brigadier general, judge advocate general's corps*

COL. RICHARD C. GROSS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

LT. GEN. CURTIS M. SCAPAROTTI

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

*To be brigadier general*

COLONEL PATRICIA M. ANSLOW  
COLONEL JOSE R. ATENCIO III  
COLONEL WILLIAM E. BARTHELD  
COLONEL JEFFREY M. BREOR  
COLONEL MICHAEL R. BRESNAHAN  
COLONEL JOHN A. BYRD  
COLONEL SYLVESTER CANNON  
COLONEL WILLIAM J. COFFIN  
COLONEL BENJAMIN J. CORELL  
COLONEL KURT S. CRYTZER  
COLONEL RONALD J. CZMOWSKI  
COLONEL REX E. DUNCAN  
COLONEL GERALD L. DUNLAP  
COLONEL JOHN M. EPPERLY  
COLONEL JAMES C. ERNST  
COLONEL JOHN A. GOODALE  
COLONEL TIMOTHY E. GOWEN  
COLONEL PAUL C. HASTINGS  
COLONEL PERCY G. HURTADO II  
COLONEL JON A. JENSEN  
COLONEL CRAIG D. JOHNSON  
COLONEL MARIA E. KELLY  
COLONEL ERIC D. KERSKA  
COLONEL KENNETH A. KOON  
COLONEL WILLIAM J. LIDDER  
COLONEL ROY V. MCCARTY  
COLONEL FRANKLIN C. MCCAULEY, JR.  
COLONEL DARLENE A. MCCURDY  
COLONEL DAVID J. MEDEIROS  
COLONEL WALTER L. MERCER  
COLONEL ALLEN L. MEYER  
COLONEL MARK J. MICHIE  
COLONEL RICHARD G. MILLER  
COLONEL ROBERT A. MOORE  
COLONEL JOHN R. MOSHER  
COLONEL DAVID W. OSBORN  
COLONEL PHILLIP M. OWENS  
COLONEL GREGORY C. PORTER  
COLONEL VON C. PRESNELL  
COLONEL PHILIP T. PUGLIESE  
COLONEL JESSIE R. ROBINSON  
COLONEL PAUL F. RUSSELL  
COLONEL TRACY L. SETTLE  
COLONEL DAVID P. SHERIDAN  
COLONEL HOPPER T. SMITH  
COLONEL MICHAEL D. TURELLO  
COLONEL DANIEL VAZQUEZ-ROSA  
COLONEL TIMOTHY J. WOJTECKI  
COLONEL MICHAEL R. ZERBONIA

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

*To be major general*

BRIGADIER GENERAL ROBBIE L. ASHER  
BRIGADIER GENERAL GLENN A. BRAMHALL  
BRIGADIER GENERAL SCOTT E. CHAMBERS  
BRIGADIER GENERAL ALAN S. DOHRMANN  
BRIGADIER GENERAL STEVEN W. DUFF  
BRIGADIER GENERAL WILLIAM L. GLASGOW  
BRIGADIER GENERAL WILTON S. GORSKE  
BRIGADIER GENERAL LAWRENCE A. HASKINS  
BRIGADIER GENERAL PETER C. HINZ  
BRIGADIER GENERAL DAVID F. IRWIN  
BRIGADIER GENERAL THEODORE D. JOHNSON  
BRIGADIER GENERAL HARRY E. MILLER, JR.  
BRIGADIER GENERAL RENWICK L. PAYNE  
BRIGADIER GENERAL JOSEPH M. RICHIE  
BRIGADIER GENERAL JAMES M. ROBINSON  
BRIGADIER GENERAL STEPHEN G. SANDERS

BRIGADIER GENERAL MICHAEL C. SWEZEY  
BRIGADIER GENERAL SCOTT L. THOELE  
BRIGADIER GENERAL JAMES H. TROGDON III  
BRIGADIER GENERAL CHARLES W. WHITTINGTON, JR.

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

*To be brigadier general*

COLONEL JOHN C. HARRIS, JR.  
COLONEL GREGORY D. MASON  
COLONEL DANA L. MCDANIEL

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

*To be major general*

BRIG. GEN. TIMOTHY A. REISCH

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

*To be major general*

BRIG. GEN. GREGORY A. LUSK

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

*To be brigadier general*

COL. JOHN DINAPOLI

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be major general*

BRIGADIER GENERAL STEVEN W. BUSBY  
BRIGADIER GENERAL MICHAEL G. DANA  
BRIGADIER GENERAL WILLIAM M. FAULKNER  
BRIGADIER GENERAL WALTER L. MILLER, JR.  
BRIGADIER GENERAL JOSEPH L. OSTERMAN  
BRIGADIER GENERAL CHRISTOPHER S. OWENS  
BRIGADIER GENERAL GREGG A. STURDEVANT

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be admiral*

VICE ADM. BRUCE W. CLINGAN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be vice admiral*

REAR ADM. JOHN W. MILLER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be vice admiral*

REAR ADM. PHILIP H. CULLOM

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be vice admiral*

REAR ADM. CHARLES W. MARTOGLIO

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be vice admiral*

VICE ADM. WILLIAM R. BURKE

FOREIGN SERVICE

FOREIGN SERVICE NOMINATIONS BEGINNING WITH JAMES A. BEVER AND ENDING WITH JOHN MARK WINFIELD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 12, 2011.

FOREIGN SERVICE NOMINATIONS BEGINNING WITH JASON P. JEFFREYS AND ENDING WITH COURTNEY J. WOODS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 8, 2011.

FOREIGN SERVICE NOMINATIONS BEGINNING WITH RONALD P. VERDONK AND ENDING WITH BRUCE J. ZANIN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON DECEMBER 15, 2011.

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING WITH KIRK W. ALBERTSON AND ENDING WITH MARSHA M. YASUDA,

WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 1, 2011.

AIR FORCE NOMINATIONS BEGINNING WITH DAVID M. BARNES AND ENDING WITH ERIC L. WHITMORE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 1, 2011.

AIR FORCE NOMINATIONS BEGINNING WITH BARBARA B. ACEVEDO AND ENDING WITH CHRISTY LYNN ZAHN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 1, 2011.

AIR FORCE NOMINATIONS BEGINNING WITH CLINTON E. ABELL AND ENDING WITH STEPHEN P. WOLF, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 1, 2011.

AIR FORCE NOMINATIONS BEGINNING WITH JOHN P. DITTER AND ENDING WITH STEVEN E. WEST, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 1, 2011.

AIR FORCE NOMINATIONS BEGINNING WITH ALLENA H. E. BURGE SMILEY AND ENDING WITH JEROME M. TECLAW, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 31, 2012.

AIR FORCE NOMINATIONS BEGINNING WITH LEON S. BARRINGER AND ENDING WITH PAUL E. SMITH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 31, 2012.

AIR FORCE NOMINATIONS BEGINNING WITH MARK W. DUFF AND ENDING WITH KEITH C. TANG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 31, 2012.

AIR FORCE NOMINATIONS BEGINNING WITH KENNETH D. CARR AND ENDING WITH GREGORY S. STRINGER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 31, 2012.

AIR FORCE NOMINATIONS BEGINNING WITH PATRICK MICHAEL CARPENTER AND ENDING WITH KEVIN N. SMITH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 31, 2012.

AIR FORCE NOMINATIONS BEGINNING WITH JOSEPH J. ALBANO AND ENDING WITH RICHARD J. TIPTON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 31, 2012.

AIR FORCE NOMINATIONS BEGINNING WITH MICHAEL A. BATTLE AND ENDING WITH DAVID W. TOOKER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 31, 2012.

AIR FORCE NOMINATIONS BEGINNING WITH ANN E. ALEXANDER AND ENDING WITH DAVID L. WELLS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 31, 2012.

AIR FORCE NOMINATIONS BEGINNING WITH BRENDA K. AMES AND ENDING WITH JOSEPH A. WENSZELL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 31, 2012.

AIR FORCE NOMINATIONS BEGINNING WITH JAVIER A. ABREU AND ENDING WITH MARK A. WEISKIRCHER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 31, 2012.

AIR FORCE NOMINATIONS BEGINNING WITH CARL P. BHEND AND ENDING WITH ALLYSON M. YAMAKI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 31, 2012.

AIR FORCE NOMINATIONS BEGINNING WITH BROADUS Z. ATKINS AND ENDING WITH KENNETH C. Y. YU, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 31, 2012.

AIR FORCE NOMINATIONS BEGINNING WITH STEVEN J. ACEVEDO AND ENDING WITH HEATHER L. YUN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 31, 2012.

AIR FORCE NOMINATIONS BEGINNING WITH CARA A. AGHAJANIAN AND ENDING WITH MICHAEL A. ZACCARDO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 31, 2012.

AIR FORCE NOMINATIONS BEGINNING WITH MUDASIR A. ABRO AND ENDING WITH SHAUNA C. ZORICH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 31, 2012.

AIR FORCE NOMINATION OF OSCAR FONSECA, TO BE MAJOR.

AIR FORCE NOMINATIONS BEGINNING WITH THOMAS G. DUFFETT AND ENDING WITH THOMAS S. GARRIDO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 1, 2012.

AIR FORCE NOMINATION OF MICHAEL W. PAULUS, TO BE MAJOR.

AIR FORCE NOMINATION OF BENJAMIN G. HUGHES, TO BE MAJOR.

AIR FORCE NOMINATIONS BEGINNING WITH MICHELLE S. FLORES AND ENDING WITH MOLLY F. GEORGE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 1, 2012.

AIR FORCE NOMINATIONS BEGINNING WITH AMORY S. BALUCATING AND ENDING WITH RAMOTHEA L. WEBSTER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 1, 2012.

AIR FORCE NOMINATIONS BEGINNING WITH DARRIN L. BARRITT AND ENDING WITH KLIS T. ZANNIS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 1, 2012.

#### IN THE ARMY

ARMY NOMINATION OF JUDITH M. DICKERT, TO BE COLONEL.

ARMY NOMINATION OF HAZEL P. HAYNES, TO BE COLONEL.

ARMY NOMINATION OF LARISSA G. COON, TO BE MAJOR.

ARMY NOMINATIONS BEGINNING WITH STEFANIE D. LAST AND ENDING WITH TIMOTHY R. TOLBERT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 31, 2012.

ARMY NOMINATIONS BEGINNING WITH JOSEPH T. NORA AND ENDING WITH WILLIAM D. O'CONNELL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 31, 2012.

ARMY NOMINATIONS BEGINNING WITH MARK J. CAPPONE AND ENDING WITH CHARLES D. ZIMMERMAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 31, 2012.

ARMY NOMINATIONS BEGINNING WITH LANCE D. CLAWSON AND ENDING WITH CHRISTOPHER L. ROZELLE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 31, 2012.

ARMY NOMINATIONS BEGINNING WITH MARK N. BROWN AND ENDING WITH BRIAN C. TRAPANI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 31, 2012.

ARMY NOMINATIONS BEGINNING WITH SCOTT T. AYERS AND ENDING WITH AMBER J. WILLIAMS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 31, 2012.

ARMY NOMINATIONS BEGINNING WITH RAYMOND R. ADAMS III AND ENDING WITH MADELINE F. YANFORD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 31, 2012.

ARMY NOMINATIONS BEGINNING WITH STEPHEN K. AITON AND ENDING WITH D006569, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 31, 2012.

ARMY NOMINATIONS BEGINNING WITH JAMES H. ADAMS III AND ENDING WITH G001034, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 31, 2012.

ARMY NOMINATIONS BEGINNING WITH JOSSLYN L. ABERLE AND ENDING WITH D002143, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 31, 2012.

ARMY NOMINATION OF JORGE M. RUANO-ROSSIL, TO BE LIEUTENANT COLONEL.

ARMY NOMINATION OF SCOTT W. MARLIN, TO BE COLONEL.

ARMY NOMINATION OF RICHARD T. MULL, TO BE LIEUTENANT COLONEL.

ARMY NOMINATION OF KELLY E. CARLEN, TO BE MAJOR.

ARMY NOMINATION OF DAVID C. HATCH, TO BE MAJOR. ARMY NOMINATIONS BEGINNING WITH PETER V. HUYNH AND ENDING WITH MICHAEL J. RAKOW, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 1, 2012.

ARMY NOMINATIONS BEGINNING WITH MICHAEL A. ABELL AND ENDING WITH BRIAN F. WERTZLER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 1, 2012.

ARMY NOMINATIONS BEGINNING WITH CHARLES H. BUXTON AND ENDING WITH THOMAS M. VICKERS, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 1, 2012.

ARMY NOMINATIONS BEGINNING WITH THOMAS AUBLE AND ENDING WITH CHRISTOPHER J. WOOD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 1, 2012.

ARMY NOMINATIONS BEGINNING WITH PAUL B. ALLEN, SR. AND ENDING WITH D011029, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 1, 2012.

ARMY NOMINATIONS BEGINNING WITH KATIE BARRY AND ENDING WITH KIMBERLY S. YORE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 1, 2012.

ARMY NOMINATIONS BEGINNING WITH CAROL H. ADAMS AND ENDING WITH TOMASZ ZIELINSKI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND AP-

PEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 1, 2012.

ARMY NOMINATIONS BEGINNING WITH COREBRIANS A. ABRAHAM AND ENDING WITH RENEE E. ZMIJSKI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 1, 2012.

ARMY NOMINATIONS BEGINNING WITH WALLACE S. BONDS AND ENDING WITH JAMES H. TREECE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 6, 2012.

ARMY NOMINATIONS BEGINNING WITH DANIEL P. BORDELON AND ENDING WITH MICHELLE M. ROSE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 6, 2012.

#### IN THE MARINE CORPS

MARINE CORPS NOMINATION OF CRAIG J. SHELL, TO BE MAJOR.

MARINE CORPS NOMINATION OF JEFFREY S. LACORTE, TO BE MAJOR.

MARINE CORPS NOMINATION OF RUSSELL B. CROMLEY, TO BE MAJOR.

MARINE CORPS NOMINATIONS BEGINNING WITH CHRISTOPHER P. DOUGLAS AND ENDING WITH SHAWN A. HARRIS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 31, 2012.

MARINE CORPS NOMINATIONS BEGINNING WITH RICHARD CANEDO AND ENDING WITH MATTHEW C. FRAZIER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 31, 2012.

MARINE CORPS NOMINATION OF BRIAN T. THOMPSON, TO BE LIEUTENANT COLONEL.

MARINE CORPS NOMINATION OF BRIAN J. CORRIS, TO BE LIEUTENANT COLONEL.

MARINE CORPS NOMINATION OF KEVIN R. WILLIAMS, TO BE LIEUTENANT COLONEL.

MARINE CORPS NOMINATION OF CHRISTOPHER J. COX, TO BE LIEUTENANT COLONEL.

MARINE CORPS NOMINATIONS BEGINNING WITH LEONARD R. DOMITROVITS AND ENDING WITH ROBERT A. PETERSEN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 31, 2012.

MARINE CORPS NOMINATIONS BEGINNING WITH JERRY R. COLEY AND ENDING WITH JAMES R. TOWNEY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 31, 2012.

MARINE CORPS NOMINATIONS BEGINNING WITH CHRISTOPHER J. ALBRIGHT AND ENDING WITH CHRISTOPHER M. OSMUN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 31, 2012.

MARINE CORPS NOMINATIONS BEGINNING WITH WINSTON D. BOYD II AND ENDING WITH MOSES A. THOMAS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 31, 2012.

MARINE CORPS NOMINATIONS BEGINNING WITH STUART M. BARKER AND ENDING WITH GREGORY E. WRUBLUSKI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 31, 2012.

MARINE CORPS NOMINATIONS BEGINNING WITH LADANIEL DAYZIE AND ENDING WITH AGILEO J. YLANAN, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 31, 2012.

MARINE CORPS NOMINATIONS BEGINNING WITH ARINGTON A. FINCH, JR. AND ENDING WITH KEVIN M. TSCHERCH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 31, 2012.

MARINE CORPS NOMINATION OF TIMOTHY T. RYBINSKI, TO BE LIEUTENANT COLONEL.

#### IN THE NAVY

NAVY NOMINATION OF WILLIS E. EVERETT, TO BE LIEUTENANT COMMANDER.

NAVY NOMINATION OF JAMES T. GILSON, TO BE LIEUTENANT COMMANDER.

NAVY NOMINATION OF CHRISTOPHER A. MARTINO, TO BE COMMANDER.

NAVY NOMINATIONS BEGINNING WITH KENNETH B. HOCKYCKO AND ENDING WITH ADEJOSE R. MCKOY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 1, 2012.

NAVY NOMINATION OF JOHN A. LANG, TO BE LIEUTENANT COMMANDER.

NAVY NOMINATION OF DAVID A. CZACHOROWSKI, TO BE LIEUTENANT COMMANDER.

NAVY NOMINATION OF KELLY P. COFFEY, TO BE COMMANDER.

NAVY NOMINATIONS BEGINNING WITH JASON A. ALTHOUSE AND ENDING WITH JOSHUA L. WRIGHT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 1, 2012.

NAVY NOMINATION OF JAMES GILFORD III, TO BE LIEUTENANT COMMANDER.

## EXTENSIONS OF REMARKS

CELEBRATING THE 50TH WEDDING  
ANNIVERSARY OF REVEREND  
AND MRS. R.T. MITCHELL

**HON. PETER J. VISCLOSKY**

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Friday, February 17, 2012*

Mr. VISCLOSKY. Mr. Speaker, it is with sincere respect that I rise to congratulate Reverend R.T. Mitchell, Pastor of New Revelation Missionary Baptist Church in Gary, Indiana, and his wife, Mrs. Irene Robinson Mitchell, on the occasion of their 50th wedding anniversary. The members of New Revelation will be honoring Reverend and Mrs. Mitchell with a celebration of their anniversary and the renewal of their marriage vows on Saturday, February 25, 2012, at The Chateau in Merrillville, Indiana.

Reverend Mitchell was born in Pittsview, Alabama, and graduated from Glenville High School. He continued his education at Moody Bible Institute and Indiana Christian Bible College, graduating with a degree in External Bible Study. The Pastor also holds a Bachelor of Theology degree and has pursued significant additional Evangelical studies.

Reverend Mitchell was called into the ministry in May 1975 before being ordained on April 6, 1977. On January 22, 1978, Reverend Mitchell became the Pastor of New Revelation Missionary Baptist Church and has served in that capacity for the past thirty-four years. During his time at New Revelation, Pastor Mitchell has taken on many responsibilities and had much success. He has served as President of the Baptist Ministers' Conference of Gary and Vicinity and as President of the Martin Luther King, Jr. Memorial Baptist State Convention of Indiana. Reverend Mitchell has also served on numerous boards and committees for organizations in Gary and throughout Northwest Indiana including: the Northwest Indiana Food Bank, the Thelma Marshall Children's Home, the Second Chance Foundation of Gary, and the Calumet Project. He currently serves on the City of Gary Zoning Board, and he has served as President of the Interfaith Federation Clergy Caucus and as a Chaplain of the Gary Police Department. Throughout the years, Reverend Mitchell has also been heavily involved with ministering to the incarcerated in his community. For his outstanding contributions to the community and his commitment to civil rights, in 2010, Reverend Mitchell was honored with the prestigious Drum Major Award by the Gary Frontiers Service Club at its annual Martin Luther King, Jr. Memorial Breakfast.

Mrs. Irene Mitchell, was born and raised in East Chicago, Indiana. As the youngest child of Albert Ervin and Mary Jane Robinson, she was born into a family that loved the Lord and served Him with joy. As a young person, Irene was a member of Ebenezer Baptist Church,

where she participated in various organizations. Later on, she went on to serve as the President of the Gospel Chorus and was involved in Sunday School and with the Nurses.

Education has always been important to Mrs. Mitchell. Following her graduation from East Chicago Roosevelt High School, Mrs. Mitchell later attended Indiana University through its extension located in East Chicago and has earned her Certificate of Completion from Moody Bible Institute. Additionally, Mrs. Mitchell's devout faith and eagerness to learn has since led her to participate in numerous seminars and religious classes.

Mrs. Mitchell has served as President of the Minister Wives Coterie of Gary and as Secretary of the Martin Luther King, Jr. Memorial Baptist State Convention of Indiana, Women's Department. At New Revelation, she has also served as President of the General Mission and as Chairperson of New Revelation Youth Ministry, and she has also been involved with the Men and Women Day Service and One Church One School. In addition to various ministries in the community, Mrs. Mitchell is currently the Sunday School teacher at New Revelation and is a member of Ruth Circle and Christian Education.

Reverend and Mrs. Mitchell are the proud parents of two daughters, Arlene and Artice, and six adoring grandchildren: Robert, Jerrel, Jeremy, Christian, Ashton, and Isaiah.

My colleagues, Pastor and Mrs. Mitchell have led lives dedicated to Our Lord, to each other, and to their family. They have tirelessly ministered to their congregation and have selflessly given of themselves, their time, and their talents to the greater community of Northwest Indiana. Few remain untouched by their generous natures and limitless devotion to be of service. I am very fortunate and proud to consider them friends.

Mr. Speaker, I am proud to consider Reverend R.T. Mitchell and his wonderful life companion, Irene, as my friends. At this time I ask that you and my other distinguished colleagues join me in congratulating Reverend and Mrs. Mitchell as they celebrate their 50th wedding anniversary. Their unselfish and lifelong dedication to their church, their community, and to each other, is worthy of our admiration, and I wish them many more happy years to come.

HONORING MR. ELROY ANTHONY  
JAMES

**HON. CEDRIC L. RICHMOND**

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Friday, February 17, 2012*

Mr. RICHMOND. Mr. Speaker, I rise today to honor the continued achievements of Mr. Elroy Anthony James, a native and product of my hometown of New Orleans, Louisiana.

Today, I wish to congratulate Mr. James as he is honored with the title of 97th King of Zulu, an organization that he has proudly served for nearly two decades. He has participated on various committees, including the Zulu Ensemble, Picnic, Souvenir Booklet, Public Relations, Anniversary, Budget and Finance and Lundi Gras Committees. Mr. James has been a leader in Zulu due to a love of the tradition, merriment and ceremony of this historic organization. His newest honor is one that will forever remain among his many high accomplishments.

In addition his role as an active member and leader of the Zulu Social Aid & Pleasure Club since 1992, Mr. James is a life-member of Alpha Phi Alpha Fraternity and a member of the Louisiana State Bar Association, the American Bar Association, the Federal Bar Association and the New Orleans and Baton Rouge Bar Associations. Mr. James' honors and achievements are testaments to his value as a brother, a leader, and as an esteemed professional in the many organizations to which he devotes his time. Mr. James also volunteers with the Leona Tate Foundation for Change Inc., where he provides legal advice to individuals who have made the pursuit for social justice their lives' work.

Mr. James is the youngest child of Ms. Mary L. James of Kentwood, Louisiana. He is an alumnus of Southern University Agricultural and Mechanical College and the Southern University Law Center, where he received his Juris Doctorate and was associate editor of the Southern University Law Review. He is also an alumnus of Georgetown University Law Center, where he earned a Master of Laws (LL.M.) in Taxation with a Certificate in Employee Benefits. I hold Mr. James in the highest regard for his dedication to family, friends, colleagues, and his community. An inspiration to all whose lives he touches, Mr. James represents the best of what New Orleans has to offer. His commitment to the city and the future of the city brings hope and promise to ensuring that New Orleans remains one of the most empowered and unique places in the world.

I wish to congratulate Mr. Elroy James on his coronation on February 17th, 2012 as the 97th King of Zulu.

RECOGNIZING THE ACHIEVEMENTS  
OF ANDREW W. CHAMBERS

**HON. JIM GERLACH**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, February 17, 2012*

Mr. GERLACH. Mr. Speaker, I rise today to congratulate Andrew W. Chambers of Chester County, Pennsylvania on his retirement after 30 years of law enforcement service with the Tredyffrin Township Police Department.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Chief Chambers began his law enforcement career with Tredyffrin Township in 1982 as a police officer assigned to patrol. After 9 years, Chambers worked his way up the ranks as a sergeant, lieutenant and captain before being appointed Superintendent of Police in 2008.

Chief Chambers has also served as commander of a Regional Special Operations (SWAT) team, known as the Northeast Chester County Emergency Response Team, which serves nine municipalities in Chester County for police high risk incident response. He is a member of the Pennsylvania Chiefs of Police Association, International Association of Chiefs of Police, Chester County Chiefs of Police Association and the Southeastern Pennsylvania Chiefs of Police Association.

Additionally, Chief Chambers has been a volunteer firefighter and EMT for over 30 years and is a certified Public Safety Diver. He is a member of the Board of Directors of the Chester County Emergency Medical Services Council and serves as Vice President and co-founder of the Chester County Police and Fire Hero Fund, which was created to raise funds for police officers and emergency workers killed or disabled in the line of duty.

Mr. Speaker, in light of his years of exemplary service to his community and litany of sterling accomplishments too long to record, I ask that my colleagues join me today in recognizing Chief Andrew W. Chambers for his invaluable contributions to the quality of life of the citizens of Tredyffrin Township, Chester County, Pennsylvania and our entire Nation.

#### COMMEMORATING THE 20TH ANNIVERSARY OF THE KHOJALY TRAGEDY

##### HON. DAN BOREN

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

*Friday, February 17, 2012*

Mr. BOREN. Mr. Speaker, as the Co-Chairman of the House Azerbaijan Caucus, I rise today to bring attention to the tragedy that took place in Khojaly, Azerbaijan, a town and townspeople that were destroyed on February 26, 1992.

Sadly, today there is little attention or interest paid to the plight of Khojaly outside of Azerbaijan. However, one of our greatest strengths as elected officials is the opportunity to bring to light truths that are little known and command recognition. As a friend of Azerbaijan, I am proud to remind my colleagues that we must never forget the tragedy that took place at Khojaly.

At the time, the Khojaly tragedy was widely covered by the international media, including the Boston Globe, Washington Post, New York Times, Financial Times, and many other European and Russian news agencies.

Khojaly, a town in the Nagorno-Karabakh region of Azerbaijan, now under the control of Armenian forces, was the site of the largest killing of ethnic Azerbaijani civilians. With a population of approximately 7,000, Khojaly was one of the largest urban settlements of the Nagorno-Karabakh region of Azerbaijan and was destroyed after the attack. Hundreds were killed or injured.

Twenty years later, the cause of this conflict has not yet been resolved. As the Presidents of the United States, Russia and France underlined in their statement at the Deauville Summit in May 26, 2011, the current status quo is unacceptable.

Azerbaijan has been a strong strategic partner and friend of the United States. The tragedy of Khojaly was a crime against humanity and I urge my colleagues to join me in standing with Azerbaijanis as they commemorate this tragedy.

#### FURTHER HUMAN RIGHTS VIOLATIONS IN CASTRO'S CUBA: THE CONTINUED ABUSE OF POLITICAL PRISONERS

##### HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Friday, February 17, 2012*

Mr. SMITH of New Jersey. Mr. Speaker, yesterday I chaired a joint hearing of the Subcommittee on Africa, Global Health, and Human Rights and the Subcommittee on the Western Hemisphere to focus on just one aspect—though a deeply troubling one—of the overall abysmal human rights record of the dictatorship in Cuba.

The hearing examined the ongoing violations of the human rights of Cuban political prisoners—from the arrest, prosecution, and persecution of political opponents of the Castro regime to the deplorable conditions of their imprisonment—to the terms under which they are released.

The announcement of the release of some prisoners in late December, in conjunction with the release over the past two years of more than three dozen political prisoners, has been described as a public relations move designed to portray a loosening of Cuba's political repression of opponents. Those of us who have had the privilege of knowing and working with Cuba's human rights champions for decades, and have heard first-hand of the brutality of the Castro government, are not so easily persuaded or deceived.

Cuba has been a totalitarian state with the Cuban Communist Party as the sole legal political party for more than half a century. Upon his seizure of power in Cuba in 1959, Fidel Castro promised a return to constitutional rule and democratic elections with social reforms. However, Castro's control over the military and government structures allowed his regime to crush dissent, marginalize resistance leaders and imprison or execute thousands of opponents. Between 1959 and 1962 alone, it is estimated that the Castro regime executed 3,200 people. Hundreds of thousands of Cubans fled an increasingly radical government. Those who remained in Cuba faced a repressive regime that denied basic human rights.

More than fifty years after Castro's assumption of power in Cuba, the U.S. Department of State human rights report on Cuba describes a government that still denies its citizens the right to change their government; threatens, harasses and beats its opponents through state security forces and government-organized mobs; sentences opponents to harsh

and life-threatening prison conditions; arbitrarily detains human rights advocates and members of independent organizations, and selectively prosecutes perceived opponents and then denies them a fair trial.

Cuba's political prisoners are held, together with the rest of the prison population, in substandard and unhealthy conditions, where they face physical and sexual abuse. Most prisoners suffer from malnutrition and reside in overcrowded cells without appropriate medical attention. In fact, political prisoners face selective denial of medical care. Cuban prisons fail to segregate those held in pre-trial detention from long-term violent inmates, and minors are often mixed in with adults. Such are the conditions opponents of the Castro regime have faced over the years—some of them for decades.

Armando Valladares, who unfortunately couldn't join us yesterday, but who will appear at a future hearing, was a Cuban Postal Bank employee who was arrested for refusing to display a sign on his desk that promoted communism. Mr. Valladares was imprisoned in 1960 at age 23, and spent 22 years in prison. Like many freed political prisoners, Mr. Valladares moved to the United States.

In 1988, President Ronald Reagan appointed him to serve as the United States Ambassador to the United Nations Commission on Human Rights, a position in which he served for two years. I was with Ambassador Valladares in Geneva when he succeeded in bringing Cuba before the commission for human rights violations and authorizing a U.N. fact-finding trip to Cuba to investigate prison conditions.

I have read Mr. Valladares' memoir—*Against All Hope*—a book that chronicles his experiences and that of others in Cuba's gulags. Mr. Valladares systematically describes the torture, cruelty, and degrading treatment by Cuban prison guards. Yet, like so many other heroic Cuban dissidents, he persisted and overcame.

Our surprise witness yesterday was the brilliant, humanitarian Dr. Óscar Elías Biscet. A medical doctor and courageous human rights advocate, Dr. Biscet was one of more than two dozen dissidents who were arrested and detained by Cuban police in August 1999 for organizing meetings in Havana and Matanzas. He was released after five days but was re-arrested three more times. The second time he was arrested, later in 1999, he spent three years in prison. His third arrest in December 2002 resulted in a beating, but not imprisonment. Upon his fourth arrest in March 2003, he was sentenced to 25 years in prison. Along with more than 50 other dissidents, Dr. Biscet was released in March 2011 with the help of the Catholic Church. He has courageously remained in Cuba, where he continues to advocate for human rights. For his extraordinary bravery and commitment to freedom for the Cuban people, many of us have twice recommended Dr. Biscet for the Nobel Peace Prize.

Other political prisoners have not had the ability to choose where they live following their release. Normando Hernández González, an independent writer and journalist, was arrested in March 2003 along with 74 other dissidents in Camaguey and was sentenced to 25 years

in prison. As a result of his serious abuse in prison, Mr. Hernández eventually was diagnosed with several diseases of the digestive system and later tuberculosis. Due to his deteriorating medical condition, Mr. Hernández was released from prison in July 2010 and taken to the Havana Airport, where he was briefly reunited with his wife and daughter before being forced to board an overnight flight to Spain. He later emigrated to Miami, where he currently resides.

I extend the gratitude of the subcommittee to our distinguished witnesses for joining us yesterday. My good friend and colleague DAN BURTON, Chairman of the Subcommittee on Europe and Eurasia, testified about U.S. policy toward Cuba. In particular, we are deeply appreciative that Dr. Biscet took the serious risk that he will suffer retaliation for speaking with us publicly. The Castro regime should know that there will be a price to pay if that should happen. It is our sincere hope that it does not, and that this hearing and the spotlight that it will shine on Cuban political prisoners will contribute to authentic freedom and respect for the human rights of all the people of Cuba.

REMEMBERING THE ARMENIAN  
VICTIMS OF THE SUMGAIT,  
KIROVABAD, AND BAKU PO-  
GROMS

**HON. GARY C. PETERS**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Friday, February 17, 2012*

Mr. PETERS. Mr. Speaker, I rise today to remember the Armenian victims of the Sumgait, Kirovabad, and Baku pogroms who were killed in Azerbaijan in the late 1980s and early 1990s. As the United States stood as a beacon for freedom around the world, the Soviet Union suffered from ethnic strife and internal unrest. Communist ideology and a command economy could not hold together the Soviet republics and their diverse ethnic groups. The Soviet Union—despite its rhetoric—failed to protect and ensure the rights of its ethnic minorities, especially the ethnic Armenians who were targeted in pogroms in Azerbaijan.

In February 1988 hundreds of Armenians were singled out, driven from their homes, and murdered by Azerbaijani rioters. Despite Sumgait's proximity to security forces in the capital city, the riots and destruction continued for three days unabated. Credible sources report that hundreds of Armenians were killed or wounded; Soviet officials at the time acknowledged 30 deaths and 200 injured.

This tragedy did not go unrecognized at the time. Several U.S. Senators rose to speak out against this violence. They sent letters to the government of the Soviet Union. The Senate unanimously passed an amendment urging the Soviet government to respect the aspirations of the Armenian people and urging it to discontinue its serious violations of human rights.

In Kirovabad later that same year Armenians were once again targeted. My friend and colleague from Michigan, Representative SANDER LEVIN, joined 11 other members of the

House and Senate to write to Soviet Premier Mikhail Gorbachev in advance of his historic trip to the United States urging him to protect the Armenians living in Azerbaijan.

Unfortunately, in January 1990 in the Azerbaijani capital of Baku, Armenians were once again targeted in a weeklong pogrom. Civil society called upon the Azerbaijan government to respect the rights of, and prevent crimes against, its Armenian minority population.

Today, I rise to remember the victims and honor their memories. America has always stood for democratic freedom and human rights—whether then during the Cold War—or today during the historic transition in the Middle East. Democracies cannot flourish without respecting the rights of the minority. Twenty-four years later it is important that we not forget the victims of Sumgait, Kirovabad, and Baku. I call upon the countries in the region to respect the human rights of all residents—whether majority or minority—and to ensure that these events never happen again.

UNITED TECHNOLOGIES

**HON. JOHN B. LARSON**

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Friday, February 17, 2012*

Mr. LARSON of Connecticut. Mr. Speaker, I rise today to honor United Technologies on a monumental achievement—spending more than \$1 billion on education and training for their employees. Since its inception under the leadership of George David 15 years ago, the Employee Scholars Program has been a vital source of ongoing education for UTC employees to obtain a degree, advance their skill sets, or gain knowledge in any number of fields. It provides for the costs of tuition, books, and fees up-front and allows employees to pursue their education at any accredited institution of higher education.

Through promoting a culture of lifelong learning, UTC has set an example for the entire corporate community of how to provide a benefit that will have lasting results for their employees, the company, and I daresay the economy. Over 30,000 employees have earned a degree through the Employee Scholars Program, and many others have been able to access coursework to improve their skills. The unique, and in my opinion exemplary aspect of this program is that the company does not require that the employee pursue education directly related to their current position. This allows UTC employees the freedom to choose what they want to study, whether they think it will help them in their current position, a future position, or an entirely different field altogether. It is my belief that ongoing learning leads to more productive workers and a more productive society.

I applaud UTC again for their sustained commitment to lifelong learning and commend them on the milestone accomplishment.

RECOGNIZING THE 50TH ANNIVERSARY OF THE SEMINOLE VOCATIONAL EDUCATION CENTER

**HON. C.W. BILL YOUNG**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Friday, February 17, 2012*

Mr. YOUNG of Florida. Mr. Speaker, I rise today to honor the 50th anniversary of the Seminole Vocational Education Center, SVEC, which I have the privilege to represent. This facility is truly an example of how one citizen's vision can be brought to life through the efforts of an entire community. Originally named the "Ag Farm" the facility first opened its doors in 1961. In the past 50 years, this facility has grown from one square acre of land managed by a few staff members and 60 students, to one that now spans 42 acres and provides training to over 450 students.

It all began with Seminole resident Bill Moore, who had a vision for an agricultural education center in Pinellas. After acquiring an acre of land he, the staff, and students cleared the land together and the facilities were built. Through partnerships with businesses in the community the center has grown to offer multiple courses in a wide variety of areas. Students can receive technical certificates in everything from carpentry to commercial art. The center even offers math, English, and science courses as a part of a program that targets at risk youth in order to prevent students from dropping out of school.

The SVEC has been receiving recognition for decades. Their students have proven themselves as award winners at the state, regional, and national levels, not to mention the dozens of newspaper articles that track their growth and accomplishments throughout the years. The ambition of the staff and students at the SVEC has made it a facility that has not only lasted 50 years, but has gotten better each year.

In closing, I am honored to represent the teachers, students, and community members who have taken part in the SVEC. Their dedication has made an invaluable impact on our community and its residents. I ask my colleagues to join with me today in recognizing this important milestone and to wish the center continued success in the years to come.

PERSONAL EXPLANATION

**HON. JUDY BIGGERT**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Friday, February 17, 2012*

Mrs. BIGGERT. Mr. Speaker, yesterday, on rollcall No. 64, I inadvertently voted "no." I would like to be recorded as "aye" for rollcall No. 64.

SUPPORTING TAIWAN'S REQUEST  
FOR PURCHASE OF F-16 C/Ds**HON. KENNY MARCHANT**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, February 17, 2012*

Mr. MARCHANT. Mr. Speaker, as a long-time member of the Congressional Taiwan Caucus and as a Member of Congress who has frequent interaction with the Taiwanese American constituents in my district, I rise today to bring an issue to your attention, which can no longer be delayed.

I would like to comment on how our relationship with Taiwan intermingles with the local economy of North Texas.

Taiwan seeks to procure more than five dozen F-16 C/Ds from the United States that are proudly built in North Texas. These negotiations have been underway since 2006. It is important that this deal not be further delayed. The Administration has resisted the sale and has rather suggested selling Taiwan upgrades for its older F-16 A/Bs. I find this to be a very inadequate position that jeopardizes Taiwan's future defensive capabilities and will result in a hit to the North Texas economy.

Taiwan seeks the F-16 C/Ds solely for defensive purposes. This is very apparent given the increasing number of short and medium-range ballistic missiles aimed at the island by its neighbor, the People's Republic of China. At current there are more than 1,400 missiles aimed at Taiwan from the other side of the Taiwan Strait. I am afraid that China continues to add to the number of missiles pointed at Taiwan and that this number is only expected to increase over time.

The 1979 Taiwan Relations Act (TRA), which has been the cornerstone of United States-Taiwan relations for decades, declares that it is the policy of the United States "to consider any effort to determine the future of Taiwan by other than peaceful means, including by boycotts or embargoes, a threat to the peace and security of the Western Pacific area and of grave concern to the United States." We need to abide by our TRA commitments and support the defensive capabilities of Taiwan.

I would like to call attention to legislation introduced by my colleague, Congresswoman KAY GRANGER, which seeks to remedy this situation. I ask my fellow colleagues to join me in cosponsoring H.R. 2992, the Taiwan Airpower Modernization Act of 2011. Senator JOHN CORNYN has introduced a companion bill in the Senate. This bipartisan legislation will direct the President to authorize the sale of no fewer than 66 F-16 C/Ds to Taiwan. We cannot continue to delay on this issue, as the production line for F-16s will only remain open for a limited additional amount of time. Once the F-16 production line closes, then we will have missed this opportunity to increase the defensive capabilities of Taiwan and provide a significant economic boost to the North Texas economy.

I will continue to work towards increasing our already strong relations with the people of Taiwan. I believe that the best way forward for improving these relations and helping our North Texas economy is to approve the sale of the F-16 C/Ds to Taiwan.

## HONORING THE LIFE OF MR. ROBERT C. MANTS, JR.—CIVIL RIGHTS ACTIVIST AND COMMUNITY ORGANIZER

**HON. BENNIE G. THOMPSON**

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

*Friday, February 17, 2012*

Mr. THOMPSON of Mississippi. Mr. Speaker, I rise today to honor the life of Mr. Robert C. Mants, Jr. of Lowndes County, Alabama. Mr. Mants will most notably be remembered as one of the four civil rights leaders of the "Bloody Sunday" march in Selma, Alabama on March 7, 1965. He was also a very well known and respected community organizer and activist.

Mr. Mants was born and raised in Atlanta, Georgia in 1943. While in the 11th grade, at the age of 16, he was the youngest member of the Committee on Appeal for Human Rights, an Atlanta student movement. During this time, he also volunteered at the Student Non-Violent Coordinating Committee Headquarters (SNCC) in Atlanta. After graduating from high school in 1961, he briefly attended Morehouse College before deciding to dedicate one hundred percent of his time to the Civil Rights Movement.

By the summer of 1964, Mr. Mants was working for SNCC in Americus, Georgia. While working with the SNCC Southwest Georgia Project, he met his future wife, Joann Christian. In early 1965, he went to work in Lowndes County, Alabama, and was instrumental in the planning of the Selma-to-Montgomery March in March 1965. The march was organized at the request of Dr. Martin Luther King, Jr., with the goal to lead protestors to Montgomery and ask Governor George Wallace for protection for black voter registrants. The march was led by Mr. Mants, Mr. JOHN LEWIS, Mr. Albert Turner, and Reverend Hosea Williams.

On "Bloody Sunday," Mr. Mants was in the front ranks of an estimated 600 marchers as they crossed the Edmund Pettus Bridge in Selma, Alabama. Waiting for them on the other side of the bridge was a wall of Alabama state troopers. Subsequently, the demonstrators were brutally attacked with nightsticks and fired upon with tear gas. Seventeen marchers were hospitalized, and the day was nicknamed "Bloody Sunday." Televised images of the brutal attacks presented people with horrifying images of marchers left bloodied and severely injured, and roused support for the United States Civil Rights Movement. Two weeks later, Mr. Mants helped lead thousands of activists from around the country on a weeklong march from Selma to Montgomery to urge state officials to end practices aimed at keeping black Alabamians from voting.

Mr. Mants could have easily bypassed the growing civil rights movement of the 1960s by remaining at Morehouse College and pursuing "a well-worn path" to success. Instead, he became involved in the movement during its early stages and established a leadership reputation that put him on the Edmund Pettus Bridge in Selma on March 7, 1965.

Shortly after the marches, Mr. Mants moved to nearby Lowndes County, Alabama to con-

tinue his work with the SNCC. Although the Lowndes County population was roughly 80 percent African-American, no black had successfully registered to vote in more than 60 years, as the county was controlled by 86 white families who owned 90 percent of the land. As a result, the SNCC created the Lowndes County Freedom Organization (LCFO) in 1965. The LCFO was a political party that formed to represent African-Americans in the central Alabama Black Belt (17) counties.

The LCFO was also known as the "Black Panther Party." The Party's goal was to promote and place its own candidates in political offices throughout the Alabama Black Belt. In 1966, while their attempts were unsuccessful, they continued to fight and their goal and motto of "black power" spread outside of Alabama. The movement spread all over the Nation. Two black Californians, Huey P. Newton and Bobby Seale, asked for permission to use the Black Panther emblem that the LCFO had adopted for their newly formed Black Panther Party. The Oakland-based Black Panther Party became a much more prominent organization than the LCFO. Thus few people remember the origins of this powerful symbol with impoverished African-Americans in a rural Alabama County.

Mr. Mants continued to live and work in Lowndes County until his untimely death in December 2011. Although he was known more as a civil rights leader and community organizer, Mr. Mants also served as a Lowndes County Commissioner for many years, and was Chairman of the nonprofit "Lowndes County Friends of the Historic Trail." Mr. Mants is survived by his wife of 45 years, Joann Christian Mants, and three children—Kadisha, Kumasi, and Katanga.

Mr. Speaker, I ask that our colleagues join me in honoring the life and legacy of Mr. Robert C. Mants, Jr., a global citizen and activist for civil rights.

## HONORING SERVICE MEMBERS

**HON. JEFF DENHAM**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, February 17, 2012*

Mr. DENHAM. Mr. Speaker, it is to the honor of our service members that when they wear the uniform, they do so with the full knowledge that their engagement for our Nation will take them on long, sometimes dangerous missions far from home. Each one is conscious of these dangers but chooses to confront them in the defense of our values. As a veteran I understand that this choice to serve is not just personal, it is shared with their families who must also accept the risks, the absences and in the ultimate circumstance—the loss of the one they love. It is to you the families that I now turn my thoughts to express with humility, my gratitude and respect.

It is fitting that the symbol chosen to mark this shared sacrifice is a Gold Star—fitting because we do not remember simply to mourn but rather to hold high the example of their courage, their willing abnegation. A star, fixed



always in the firmament of heroes that we have been blessed to know.

Outside my office door, unique to the halls of Congress is a flag displaying one such star. It stands in tribute to the son of a staff member of mine who gave the fullest proof of his love for our Nation. That flag reminds me of my duty as a Congressman to ensure that those who fight for our country and their families receive the support and care that they earned through their service.

As the original author of the California Gold Star License Plate Bill, these families have a very special place in my heart and I am humbled to continue my support and commitment in their premium sacrifice being recognized.

Allow me once again to express my respect and fervent prayer that the strength we witness in you affirms in each of us the courage to serve our country in all ways we are able.

#### KHOJALY, AZERBAIJAN TRAGEDY

### HON. BILL SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, February 17, 2012*

Mr. SHUSTER. Mr. Speaker, as the Co-Chairman of the House Azerbaijan Caucus, I rise today to bring attention to the tragedy that took place in Khojaly, Azerbaijan, a town and townspeople that were destroyed on February 26, 1992.

This month we will mark the 20th anniversary of that devastating and heartbreaking day. Sadly, today there is little attention or interest paid to the plight of Khojaly outside of Azerbaijan. However, one of our greatest strengths as elected officials is the opportunity to bring to light truths that are little known and command recognition. As a friend of Azerbaijan, I am proud to remind my colleagues that we must never forget the tragedy that took place at Khojaly.

At the time, the Khojaly tragedy was widely covered by the international media, including the Boston Globe, Washington Post, New York Times, Financial Times, and many other European and Russian news agencies.

Khojaly, a town in the Nagorno-Karabakh region of Azerbaijan, now under the control of Armenian forces, was the site of the largest killing of ethnic Azerbaijani civilians. With a population of approximately 7,000, Khojaly was one of the largest urban settlements of the Nagorno-Karabakh region of Azerbaijan.

According to Human Rights Watch and other international observers the massacre was committed by the ethnic Armenian armed forces, reportedly with the help of the Russian 366th Motor Rifle Regiment. Human Rights Watch described the Khojaly Massacre as "the largest massacre to date in the conflict" over Nagorno-Karabakh. In a 1993 report, the watchdog group stated "there are no exact figures for the number of Azeri civilians killed because Karabakh Armenian forces gained control of the area after the massacre" and "while it is widely accepted that 200 Azeris were murdered, as many as 500—1,000 may have died."

Azerbaijan has been a strong strategic partner and friend of the United States. The trag-

edy of Khojaly was a crime against humanity and I urge my colleagues to join me in standing with Azerbaijanis as they commemorate this tragedy.

#### HONORING LEON C. JOHNSON, SR.

### HON. CORRINE BROWN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Friday, February 17, 2012*

Ms. BROWN of Florida. Mr. Speaker, I rise today to pay tribute and honor the life of Mr. Leon C. Johnson, Sr.

Mr. Johnson was born in Columbia, South Carolina, on August 13, 1936, to Maceo P. and Ella L. Johnson, and passed on January 17, 2012. As a young man he was tagged with the nickname of "Lion," denoting strength of character, leadership, determination and pride. This mantle he wore with pride and resolve, which he ably demonstrated as head of the family after the passing of his father and following his tour of duty during the Korean Conflict. Leon Johnson served from that point forward as the father figure and big brother for his younger siblings, Josephine, David, Theodore and Kenneth, as well as the co-leader of the Johnson family with his elder brother Maceo. Together, they instilled the virtues of family unity, sibling pride, honor, respect and drive to succeed. And each member held true to those life learning tenets and did achieve to those professional heights of success and service. All accomplished under the loving and watchful gaze of their mother, Ella Johnson and aunt, Annie Baisden, two women of strength, courage and determination, who vowed to raise the finest "gentlemen and lady" in the Johnson family tradition, both of whom preceded Leon in death, but left an indelible mark on everyone.

Leon graduated from Stanton High School in 1954 and attended Edward Waters College in Jacksonville, was a proud veteran who served his country in the Army during the Korean Conflict and began his professional career with the United States Postal System where he served in a variety of managerial positions until his retirement. He continued his service to the postal system and its many employees as a long time member of the Postal Credit Union Board of Directors. Leon is survived by his loving and caring wife of 52 years, Barbara Green Johnson; his son, Leon C. Johnson, Jr., and daughter Michelle, 5 grandchildren and 3 great grandchildren, and a host of aunts, nephews, nieces and special friends.

His passing marks a very special moment, which is reflected in the depth of loss felt and hope renewed. Leon was a loving, caring family man and a dear friend to so many. It is said that his was an infectious personality touching all whom he met. His legendary sense of humor was a joy and a comfort, adeptly conveying his care, concern and passion for others and it was limitless in its reach into the heart, soul and mind of those who bore witness to this wonderful and selfless man. His love of family and friends formed an unbreakable bond which withstood and weathered all manner of life's success and challenges, those

of his own and of his loved ones and friends. This pure and deep love influenced his pledge to each of them to love, support, help and guide them through life, to celebrate their achievements and embrace their challenges. He stood proudly by his family and gave his best so that each would achieve and in so doing, give unto others the best of themselves in service to mankind. He gave so much, yet every sacrifice was meant to empower those whom he loved and in so doing he gained immeasurably in pride, stature and humility. His service to and love of family was a willing sacrifice willingly undertaken and richly rewarded as evidenced by his unabridged pride in all of his family's accomplishments and their resultant service to their communities. Never at a loss for words was Leon, through his humor, his compassion, his leadership, his fierce and determined support and his sheer love of family. This was a man of genuine love and compassion, and in his passing, a true celebration of life was held to remember and hold in highest esteem this man, this father, this husband, this brother and this friend.

Mr. Speaker, today I ask that you join me in honoring the life of a man who leaves behind a record of service that speaks volumes about his life.

#### HONORING MUHAMMAD ALI ON THE OCCASION OF HIS 70TH BIRTHDAY

### HON. SHELLEY BERKLEY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

*Friday, February 17, 2012*

Ms. BERKLEY. Mr. Speaker, today I urge my colleagues to join me in recognizing the achievements of Muhammad Ali on the occasion of his 70th birthday, being celebrated by the Cleveland Clinic Lou Ruvo Center for Brain Health, Keep Memory Alive, and the Muhammad Ali Center at the 2012 Power of Love Gala as they all join together to help alleviate memory, brain and movement disorders.

As a boxer, Muhammad Ali is renowned as the first three-time Heavy Weight Champion of the World with 56 wins, 5 losses, and 37 knockouts. Leading up to his world championships, Mr. Ali won an Olympic Gold Medal, Golden Gloves, and an Amateur Athletic Union Championship. Among the hundreds of accolades, Mr. Ali has received over the years, he has been recognized by Sports Illustrated as "Sportsman of the Century," GQ Magazine as "Athlete of the Century," the BBC as "Sports Personality of the Century," and the World Sports Award for "World Sportsman of the Century."

More than 50 years after winning the Gold Medal at the 1960 Rome Olympics, Muhammad Ali remains an endearing figure of both strength and compassion, known and beloved throughout the world.

Internationally, championing the issues of the developing world has become a major focus of Muhammad's life. For this, he has received many awards and accolades, including Messenger of Peace by the United Nations 1998–2008 for his work with developing nations, Amnesty International's Lifetime

Achievement Award, Germany's 2005 Otto Hahn Peace Medal for his involvement in the United Nations and the U.S. Civil Rights Movement, and he was named International Ambassador of Jubilee 2000, a global organization dedicated to relieving debt in developing nations. Muhammad has also been instrumental in providing over 232 million meals to the world's hungry.

In 2005, Muhammad Ali was presented with the Presidential Medal of Freedom, our country's highest civilian award, for his life's work. Along with his charitable work around the globe, Muhammad has been dedicated to helping charities at home as well, including the Muhammad Ali Center in Louisville, Kentucky, founded by Muhammad and his wife, Lonnie. The Muhammad Ali Center is a cultural and international education center that is inspired by his ideals. The Center serves as the global hub for championing the six prevailing core values of his life: respect, confidence, conviction, dedication, giving and spirituality. Much more than a place to tell the story of one man's incredible 70-year journey, the Muhammad Ali Center reaches beyond its physical walls to fulfill its mission—in 2012, the Center's activities will ensure that future generations understand and actively adopt Muhammad's core values to create a powerful new movement: Generation Ali.

In addition to his many philanthropic endeavors, Muhammad Ali is also celebrated for the awareness he has brought to Parkinson's disease through his own personal battle with the disease. His aim is to dramatically accelerate the understanding of Parkinson's disease and the pursuit of effective treatments.

As the Representative for Nevada's First Congressional district, it gives me immense pride to celebrate the 70th birthday of Muhammad Ali, the Cleveland Clinic Lou Ruvo Center for Brain Health, Keep Memory Alive, and the Muhammad Ali Center, as they fight to put memory, brain and movement disorders down for a final 10-count.

#### PERSONAL EXPLANATION

### HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, February 17, 2012*

Mr. SERRANO. Mr. Speaker, unfortunately I was absent from the House on Tuesday, February 14th, Wednesday, February 15th, and part of Thursday, February 16th due to a death in my family. Had I been present, I would have voted "yes" on rollcall votes 49, 52–61, 63, 64, 65, 67, and 68, and I would have voted "no" on rollcall votes 50, 51, 62, 66, 69.

#### HONORING DR. PAUL STANTON

### HON. DAVID P. ROE

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Friday, February 17, 2012*

Mr. ROE of Tennessee. Mr. Speaker, I rise today to honor the extraordinary career and

work of Dr. Paul Stanton, president of East Tennessee State University for the past fifteen years. Dr. Stanton first came to ETSU in 1985, as director of the Division of Peripheral Vascular Surgery for the Veterans Administration Medical Center and ETSU's James H. Quillen College of Medicine. Over the next twelve years he devoted himself to ETSU, and for his dedication and hard work, he was named president in 1997. Under Dr. Stanton's leadership, ETSU markedly increased its percentage of residential students, built two large new dorms, and celebrated its centennial anniversary. Under his stewardship Princeton Review has named ETSE as one of America's best value colleges, and one of the top schools in the Southeast. Speaking as a physician, his most important achievement may have been the construction and completion of the Bill Gatton College of Pharmacy. During Dr. Stanton's tenure, the Quillen College of Medicine has consistently been named as one of the top rural medical schools in the country, educating the next generation of physicians who more often than not stay and practice in East Tennessee, in addition to serving similar rural communities around the country.

Through his sound leadership, Dr. Stanton, has strengthened the foundation of an important educational institution in East Tennessee. My daughter Whitney is a proud alumna of this distinguished public university.

Along with providing transformative leadership for one of East Tennessee's most important academic institutions, Dr. Paul Stanton has long been a devoted and caring physician, family man, grandfather, teacher, scientist, mentor, true gentleman and a fellow Methodist. Throughout it all his beautiful and terrific wife Nancy has supported him and undertaken a great deal of community involvement herself. Though I know he will miss ETSU, I am sure Dr. Stanton will find a way to keep himself busy between golf, grandchildren, and continued service to the community.

I thank Dr. Stanton for his service and wish him all the best in his well-deserved retirement.

#### PERSONAL EXPLANATION

### HON. JAMES B. RENACCI

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Friday, February 17, 2012*

Mr. RENACCI. Mr. Speaker, on rollcall No. 50, Wednesday afternoon, I was participating in an important subcommittee meeting and was unable to make the first vote of the series. Had I been present, I would have voted "yea."

#### PASSING OF NEW YORK TIMES CORRESPONDENT ANTHONY SHADID

### HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, February 17, 2012*

Mr. SCHIFF. Mr. Speaker, I rise today to honor the life and legacy of Anthony Shadid,

a New York Times correspondent who died yesterday while reporting from Syria.

As a foreign correspondent for many different papers over the years, Anthony informed our world view, gave us insights no other journalist could, and bore witness to history being made in the Middle East.

We learned of world events from his dispatches from the other side of the globe—from the fall of Sadaam Hussein, to the Arab Spring, and most recently the turmoil ranking Syria and Libya. There were always other stories, but his were the gold standard.

But what I admired most about Anthony Shadid was his persistence, even in the face of mortal peril. He exemplified what a free press should strive to be. During his assignments in the Middle East, Anthony was shot, harassed, hounded, arrested . . . abused. But those acts of violence could not deter him, and he continued to report on the events shaping our world.

Jill Abramson, the Executive Director of the New York Times, put it best—"his empathy for its citizens' struggles and his deep understanding of their culture and history set his writing apart. He was their poet and their champion."

Anthony's intrepid spirit and story-telling ability is irreplaceable, and will live on. My heart goes out to his wife, son and daughter, and parents.

#### U.S. COAST GUARD PORT SECURITY UNIT 307 HONORED WITH 2011 DOD RESERVE FAMILY READINESS AWARD

### HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Friday, February 17, 2012*

Mr. YOUNG of Florida. Mr. Speaker, I rise to salute the men and women of U.S. Coast Guard Port Security Unit 307 who are being honored this morning at the Pentagon with the 2011 Department of Defense Reserve Family Readiness Award.

This award recognizes that the readiness of our military units to deploy anywhere in the world is only as good as the support they receive from and the support they provide to the families they leave behind. Port Security Unit 307, from Clearwater, Florida which I proudly represent, has excelled at taking care of its families. Commissioned in May 1999, Port Security Unit 307 knows the meaning of readiness. They are charged with being ready to deploy anywhere in the world within 96 hours and they are the only Port Security Unit to meet this standard in the international arena.

They also know about deployments as they have been deployed repeatedly to help secure our domestic ports following 9–11, to support the ports we operate from abroad, and even to provide port security operations for humanitarian operations such as those in Haiti after the devastating earthquake in 2010. In fact, Port Security Unit 307, under the leadership of its commanding officer Commander James Wallace, just returned last month from a six-month deployment to the Middle East in support of Operations New Dawn and Enduring

Freedom. There they provided security for port locations around the North Arabian Gulf to ensure the free flow of personnel, equipment and commerce in the region. The unit worked side-by-side with the Navy and its Maritime Expeditionary Squadron Three to provide strategic support in the U.S. Central Command area of responsibility.

It takes months of training and preparation for a unit to ready itself for a deployment of this magnitude. Most important though to Commander Wallace and his unit is the preparation they provide to ready the families for their deployment. Port Security Unit 307 has been a key participant in the Yellow Ribbon Reintegration Program. This is a Department of Defense-wide effort to help the members of National Guard and Reserve units and their families to locate resources available to them and their families before, during and after deployments. In addition to these services, the families of Port Security Unit 307 also participated in a mid-deployment Yellow Ribbon event to assist families.

The unit's leadership stayed in touch with the families throughout the deployment by producing regular newsletters outlining its missions and responsibilities. They also host an annual Family Day and Open House each summer so the families can interact with each other. Commander Wallace says the most important part of that weekend is the opportunity for him and his leaders to say thank you to the families and their friends for the invaluable support they provide their loved ones.

Mr. Speaker, we can never fully repay the men and women who serve our nation in uniform and the families they leave behind as they go into harm's way. We can, however, salute the units that have excelled at taking care of their loved ones during their deployments and no unit does it better than U.S. Coast Guard Port Security Unit 307. I commend their record of service to my colleagues here in the House and I hope you will join me in saying thank you to each one of them for a job well done.

#### RINGHAUSEN FAMILY WINS 23RD ANNUAL ILLINOIS CIDER AND NATIONAL CIDER CONTEST

**HON. TIMOTHY V. JOHNSON**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Friday, February 17, 2012*

Mr. JOHNSON of Illinois. Mr. Speaker, I rise today to recognize the Joe Ringhausen Orchard and Apple House of Fieldon, Illinois in winning the 23rd Annual Illinois Cider and National Cider Contests on January 12–13, 2012. Joe and his wife Sina, along with son Dennis and other family members, exemplify excellence in their business and contribute to the overall economic success of their community. The orchard makes between 500 and 700 gallons per week during peak season. The Ringhausen Orchard is well known for their award-winning ciders. Joe's experience in cider-making spans forty years.

It should be noted that the judges conducted blind evaluations to eliminate bias and the Ringhausen Orchard beat out other ciders

from apple-producing states like Michigan and Washington.

I want to also thank the Illinois State Horticultural Society for sponsoring the event in conjunction with Illinois Specialty Crop, Agritourism and Organic Conference, Illinois Department of Agriculture, and the University of Illinois Extension Service. Each provides an invaluable service to farmers in Illinois for guidance, resources, and a clearinghouse of information.

I want to congratulate the Ringhausen family and join the Illinois House members in wishing them continued success at their orchard.

THE TELEGRAPH.COM

Ringhausen, who has been making cider for approximately 40 years, has won awards before but never the "triple crown" of Illinois cider.

National awards are open to all U.S. producers, and Illinois awards are open to all Illinois producers. "I'm so surprised by this," he said.

Ringhausen's son, Dennis, was in Springfield to accept the awards on behalf of the orchard. The Ringhausen cider beat out about 25 other varieties to win the Illinois title and growers from both Washington and Michigan to win the national title.

The orchard entered its signature sweet cider, which is blended from equal amounts of tart apples, such as Jonathans, and sweet apples, like Fujis.

The sweet cider is a mainstay at the Apple House from September until Christmas time, routinely selling out by the first of the year.

"I think we'll put the trophies and plaques in the market," said Ringhausen, whose family purchased the extensive orchards in 1929.

Unlike sweet cider, hard cider has an alcoholic content; sugar is added to the sweet cider to initiate fermentation. Joe's wife, Sina, supervises this process. They don't have a license to sell the hard cider, so they gift it to family and friends for their personal enjoyment.

The annual Hard Cider Contest, in its 10th year, awards points based on characteristics including clarity, color, bouquet, balance of alcohol, acidity, sweetness, body and flavor, among other criteria. Judges evaluated the entries using a 25-point rating scale for cider quality characteristics, awarding the top scores to Ringhausen's entries.

The Illinois State Horticultural Society sponsors the event in conjunction with the Illinois Specialty Crops, Agritourism and Organic Conference held in Springfield.

The Illinois Department of Agriculture and the University of Illinois Extension Service also participate. Edwardsville Extension Center Specialist Elizabeth Wahle served as cider contest coordinator. The Illinois State Horticultural Society was formed in 1857 for the purpose of representing fruit tree producers, sharing research findings and promoting the industry to consumers. The Society is one of the oldest continuously operating membership organizations in the state of Illinois.

#### RECOGNIZING JIM MAXEY—RECIPIENT OF THE E. FLOYD FORBES AWARD

**HON. JIM COSTA**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, February 17, 2012*

Mr. COSTA. Mr. Speaker, I rise today to recognize Jim Maxey for receiving the E. Floyd Forbes Award, which is the National Meat Association's highest honor. Established in 1946, the National Meat Association has been instrumental to the success of the meat industry by providing a number of services to its members, including one-on-one regulatory assistance and legislative representation.

The National Meat Association's E. Floyd Forbes Award is named after the president of the National Meat Association's predecessor organization, the Western States Meat Packers Association. Each year, the E. Floyd Forbes Award is given to an individual of exemplary moral character, who has provided impressive and unrelenting service to the National Meat Association, as well as the meat and poultry industry.

Jim Maxey's advocacy and passion for agricultural issues, specifically the meat and poultry industry has made him a distinguished community and industry leader. A native son of California's agriculturally rich San Joaquin Valley, Jim understands firsthand the value of hard work and has a deep understanding of what it means to build and run a successful business.

Jim grew up on a small family cattle ranch in Fresno, California. It was at this time that he was able to gain an intimate grasp of the inner workings of the meat industry—both the live and processing sides of the business. Upon graduating from California State University, Fresno, Jim became an invaluable part of the family business, and was involved in all aspects, including: beef packing, beef processing, and cattle feeding. His love of agriculture led to a fulfilling career, one where he was able to serve his community and colleagues at the same time.

Jim has served as President and Board Chairman of the National Meat Association. Currently, he is serving as a member of the Cattlemen Beef Board. Jim's breadth of experience gives him a unique combination of intellect and enthusiasm, which has allowed him to serve the National Meat Association admirably.

Mr. Speaker, I ask my colleagues to join me in recognizing Jim Maxey for being the recipient of the National Meat Association's E. Floyd Forbes Award. His consistent devotion to providing quality products and exceptional service should be commended. His is truly a source of pride for our community and our nation.

#### PERSONAL EXPLANATION

**HON. DONNA F. EDWARDS**

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Friday, February 17, 2012*

Ms. EDWARDS. Mr. Speaker, due to a previously scheduled doctor's appointment, I was

absent from votes in the House last Thursday (February 9th) and missed rollcall votes 47 and 48. Had I been present, I would have voted "aye" on both rollcall votes—47 (the House Amendment to S. 2038—the STOCK Act) and 48 (motion to Instruct Conferees on H.R. 3630—the Temporary Payroll Tax Cut Continuation Act).

IN HONOR OF ANN PORTER FOR  
BLACK HISTORY MONTH

**HON. KATHY CASTOR**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Friday, February 17, 2012*

Ms. CASTOR of Florida. Mr. Speaker, I rise today to honor the life and accomplishments of Mrs. Ann R. Porter and to acknowledge her contributions to education, social progress, and the Tampa Bay community.

Mrs. Porter, a product of Hillsborough County Public Schools, attended Tampa's Middleton and Blake Senior High Schools and graduated from the University of South Florida. After graduating from USF with a Bachelor of Arts Degree in Political Science, Mrs. Porter continued her studies at Nova Southeastern earning a Master of Science in Human Services and a Master's certification in Business and Entrepreneurship.

After returning to Tampa Mrs. Porter began her career as an administrative secretary of the Tampa Urban League. During the War on Poverty years, Mrs. Porter started her career as one of Hillsborough County's first Social Service Planners at the Tampa Economic Opportunity Council, which became the Community Action Agency of Hillsborough County. As a Social Service Planner, Mrs. Porter was responsible for writing federal and state programs favorable to the Tampa Bay community. She was also the first Head Start director under the Board of Hillsborough County Commissioners. On January 1, 2000, after 32 years of holding a variety of positions under the Hillsborough County Administrator's Office, Mrs. Porter retired.

Since retirement Mrs. Porter has kept busy by volunteering throughout Tampa Bay. She served as President of the Tampa Urban League Guild and coordinated its first youth group. Shortly after, she was appointed as a Commissioner of the Tampa Housing Authority by the Mayor of Tampa. However, a majority of Mrs. Porter's volunteer time has been with the NAACP. During Mrs. Porter's time with the NAACP's Tampa branch she served in every official capacity, including the president. After working to merge Hillsborough County's Tampa and Plant City branches, Mrs. Porter became the first president of the NAACP's combined Hillsborough County branch. Proudly, she is a founder of the Hillsborough County Martin Luther King Scholarship Fund and the Robert W. Saunders Library Foundation Board, Inc.

Currently, Mrs. Porter, a mother of four children, one son, three daughters and six grandchildren, serves in several capacities including membership on the City of Tampa's Community Development Corporation, Head Start Community Foundation Board, and the Com-

mission on the Status of Women. Mrs. Porter is also a member of Alpha Kappa Alpha Sorority and serves as AKA Connection Chairman in the Gamma Theta Omega Chapter.

Moreover, Mrs. Porter was a member of the Greater New Salem Primitive Baptist Church for more than 60 years and served in various capacities. She is a member of Beulah Baptist Institutional Church where she serves in several capacities including the Chairlady of the Mother's Board Ministry.

Ann Porter is a tremendous role model for our youth and an inspiration to our community. She selflessly devoted her life to others and not only helped numerous individuals, she helped an entire community. That is why I rise today to honor Ann Porter.

IN HONOR OF ALBERT PHILLIPS  
REICHERT

**HON. SANFORD D. BISHOP, JR.**

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, February 17, 2012*

Mr. BISHOP of Georgia. Mr. Speaker, it is with a heavy heart and solemn remembrance that I come to the House Floor today to pay tribute to one of Macon, Georgia's most renowned attorneys and respected community leaders, the late Albert Phillips Reichert. Mr. Reichert passed away on Thursday, February 16, 2012 at the age of 98 years old. A memorial service will be held in his honor at Vineville United Methodist Church at 11 a.m. on Tuesday, February 21, 2012, with Dr. Marcus Tripp and Reverend James Duke officiating.

A Georgia native, Mr. Reichert was born on January 25, 1914, in Columbus, Georgia, the son of Jacob and Ann Phillips Reichert. He graduated from Lanier High School in Macon and enrolled at Emory University in 1932, where he worked various jobs to help pay his way through college. After finishing his undergraduate studies, he attended Duke University and on December 22, 1936, married Elizabeth Walton Bowen from Macon, who was then also a student at Duke. Mr. Reichert received his Master's Degree in Philosophy from Duke in 1937.

Following his marriage and his graduation from Duke University, Mr. Reichert served as an officer in the United States Navy during World War II in the Atlantic and Pacific Theaters. After the war, he worked for the Central of Georgia Railway in Macon while attending Mercer University's Walter F. George School of Law, where he graduated cum laude in 1948.

After graduating from law school, Mr. Reichert embarked on what would be a tenured and highly successful legal career. He began his professional legal career as an attorney with the firm of Anderson, Anderson & Walker, which later became Anderson, Walker & Reichert.

Over the course of his distinguished legal career, Mr. Reichert received several awards and recognitions for his many notable legal achievements. The General Practice and Trial Section of the State Bar of Georgia awarded him the Tradition of Excellence Award. Mercer

University awarded him the Algernon Sidney Sullivan Award and the Outstanding Alumnus Award. It is also worth noting that Mr. Reichert handled many pro bono cases throughout his career and he was listed in Best Lawyers in America.

Mr. Reichert also played a very pro-active role in several community service initiatives throughout the State of Georgia, including serving as president and as campaign chair for the United Givers Fund (now United Way). As a youth, he was a Boy Scout and reached the rank of Eagle Scout. As an adult, he was Scoutmaster of Troop 19 in Macon and served as chair of the Central Georgia Council, and received the Silver Beaver Award.

He is survived by his wife of 75 years, Elizabeth Walton Bowen Reichert; his son, Albert Phillips Reichert, Jr. and Albert's wife, Burnam "Bebe" Walker Reichert; his son, Stephen Allan Reichert; his son, Robert Adger Bowen Reichert and Robert's wife, Adele Dunwoody Reichert; his grandchildren, Albert Phillips Reichert, III and Albert's wife, Dr. Gillian Tracy Braulik, John Walker Reichert, Elizabeth Bowen Reichert, and Thomas Dunwoody Reichert; and his great-grandchildren, Eden Pape Reichert, Luna Walker Reichert, and Sarana Burnam Reichert; his sister, Mary Louise Reichert Earnhardt, and his sister, Beverly Reichert Kennon.

I would like to ask my colleagues to join me in paying homage to Albert Phillips Reichert. He lived a full life and the people of Middle Georgia will always be indebted to him for his high legal acumen and years of dedicated community service. Our thoughts and prayers are with his family, friends and the Macon, Georgia community at this time of great loss.

UNIVERSITY OF ILLINOIS' JAMES  
COLEMAN ELECTED TO NA-  
TIONAL ACADEMY OF ENGINEER-  
ING

**HON. TIMOTHY V. JOHNSON**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Friday, February 17, 2012*

Mr. JOHNSON of Illinois. Mr. Speaker, James J. Coleman, professor of materials science and engineering at the University of Illinois, was one of 66 to be elected into the National Academy of Engineering. A pioneer of photonics and semiconductor lasers, Coleman will join the 2254-member, 206 foreign associates Academy. He was elected for his contributions to the fields of technology and engineering.

Coleman, who earned his bachelor's, master's and doctoral degrees from the University of Illinois, is a researcher in the Micro and Nanotechnology Lab and the Coordinated Science Lab.

"Dr Coleman's research has added considerable knowledge to the field of semiconductor lasers and photonic devices, and his many successful patents and contributions to the engineering literature remain a testament of those achievements," comments Ilesanmi Adesida, dean of the College of Engineering. "He is also an Illinois alumnus, so we are doubly proud of his achievements."

[From SemiconductorToday.com]

Photonics and semiconductor laser pioneer James J. Coleman (the Intel Alumni Endowed Chair in Electrical and Computer Engineering and a professor of materials science and engineering at the University of Illinois) is one of 66 people newly elected to membership of the U.S. National Academy of Engineering (NAE), along with new 10 foreign associates (joining the existing 2254 members and 206 foreign associates, distinguished by outstanding contributions to the fields of technology and engineering).

Coleman, a researcher in the Micro and Nanotechnology Lab and the Coordinated Science Lab, was cited for his work in semiconductor lasers and photonic materials. His research focuses on materials for optoelectronics. Having helped to develop metal-organic chemical vapor deposition (MOCVD), as the director of the Semiconductor Laser Laboratory at Illinois he oversees research using MOCVD growth of III-V semiconductors to explore applications in lasers, quantum dots and other optical structures.

"Dr Coleman's research has added considerable knowledge to the field of semiconductor lasers and photonic devices, and his many successful patents and contributions to the engineering literature remain a testament of those achievements," comments Ilesanmi Adesida, dean of the College of Engineering. "He is also an Illinois alumnus, so we are doubly proud of his achievements."

Coleman earned his bachelor's, master's and doctoral degrees in electrical engineering from the University of Illinois. He worked at Bell Laboratories and Rockwell International before joining the faculty in 1982. He has published more than 400 journal articles and holds seven patents. Coleman is a fellow of the Institute of Electrical and Electronics Engineers (IEEE), the Optical Society of America (OSA), SPIE (the international society for optics and photonics), the American Association for the Advancement of Science (AAAS), and the American Physical Society (APS).

Also among the new members and foreign associates announced by the NAE was Illinois engineering alumnus Supriyo Datta (MS 1977, PhD 1979, Electrical Engineering), who is the Thomas Duncan Distinguished Professor of Electrical and Computer Engineering at Purdue University in West Lafayette, Indiana (cited for "quantum transport modeling in nanoscale electronic devices").

## 70TH ANNIVERSARY OF THE DAY OF REMEMBRANCE

### HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, February 17, 2012

Mr. HONDA. Mr. Speaker, February 19, 2012 marks the seventieth anniversary of President Franklin Delano Roosevelt's signing of Executive Order (EO) 9066, authorizing the relocation of 120,000 men, women, and children of Japanese descent living in the United States—my family included—to internment camps. As I look back on the past seventy years, I cannot help but reflect on the bravery and courage of three men whose intertwined stories shaped my inherent values and life's work: Fred Korematsu, Gordon Hirabayashi, and my own father, Giichi "Byron" Honda.

At the outbreak of World War II, Gordon was studying at the University of Washington. Fred tried to enlist in the U.S. National Guard and U.S. Coast Guard to serve his country but was turned away because of his Japanese ancestry. My father was pursuing his dream of becoming a doctor by working as a truck driver in order to pay his way through community college.

All three men's lives and dreams were shattered when President Roosevelt signed EO 9066. Once the West Coast was declared as a military zone, my family and I were hauled to the Merced Assembly Center and then incarcerated at the Amache internment camp in southeast Colorado. While my family lived behind barbed wire, my father was recruited into the U.S. Military Intelligence Service at the University of Colorado Boulder, where he taught Japanese.

Although this gross injustice propelled my family into years of separation, it would also unknowingly propel both Fred and Gordon—two ordinary men—to become preeminent Asian American and Pacific Islander civil rights leaders. Believing that the executive order violated the freedoms guaranteed by the Constitution, Fred refused to comply with it, was subsequently arrested, convicted and sent to an internment camp in Utah. Gordon was also arrested, convicted and sent to an Arizona prison.

In the face of these challenges, Fred and Gordon still maintained their core belief in the American justice system and equality. With the help of the American Civil Liberties Union, both appealed their cases all the way to the Supreme Court. The Court, however, ruled unfavorably to both, declaring the incarceration a "military necessity," justified by the Army's claims.

Although Fred and Gordon's fights to overturn their convictions took more than four decades, American justice and equality did ultimately prevail. Fred's conviction was overturned in 1983, and Gordon's in 1987. Fred and Gordon's resistance paved the way for the eventual passage of the Civil Liberties Act of 1988, which granted reparations to Japanese Americans and was a fundamental step in acknowledging the injustices of the government's actions.

Mr. Speaker, on today's Day of Remembrance, exactly seventy years after the signing of EO 9066, it is important to remember and share the lessons of those who bravely stood their ground against discrimination. Fred and Gordon's stories remind us that all individuals have the potential to do extraordinary deeds in extraordinary times by simply standing up for what is right, even if it feels like all forces are against us. Although life in Amache taught me that being Japanese in America was bad, my father reminded me that I should never feel ashamed of my heritage and that I should continue to work hard in order to be recognized.

It is important to revisit the lessons that Fred Korematsu, Gordon Hirabayashi, my father, and other civil rights heroes have taught us because their stories are ones that transcend race, class and politics. They taught us that we must face discrimination and xenophobia with strong resolution or else we are vulnerable to repeating the egregious mistakes of the past.

Discrimination is always lurking just below the surface and often reveals itself in trying times, but as all three men showed, ordinary Americans are capable of achieving extraordinary feats for themselves, their families, and their country. In the end, I learned that the highest respect and honor we can bestow upon those who struggled for a more perfect union is to continue their legacies, apply their unwavering principles, and make sure history, as in the case of EO 9066, does not repeat itself.

## RECOGNIZING JEREMY HILTON FOR HIS ADVOCACY OF MILITARY FAMILIES AFFECTED BY DISABILITIES

### HON. GERALD E. CONNOLLY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, February 17, 2012

Mr. CONNOLLY of Virginia. Mr. Speaker, I rise to honor Jeremy Hilton, of Burke, a U.S. Air Force finalist for the 2012 Military Spouse of the Year. Mr. Hilton is a graduate of the United States Air Force Academy and a Navy veteran. In 2002, Mr. Hilton was stationed in Navy Yard Washington, D.C. when his daughter, Kate, was born with significant medical issues. Given the longer deployments required of naval officers, Mr. Hilton chose to separate in order to care for Kate, his two-year-old son, Jack, and support his wife, Renae, who is stationed at Andrews AFB.

Mr. Hilton has made it his mission to advocate for military families impacted by a disability, and he has taken on several leadership roles to help military and non-military families on issues including medical care, long-term care, Medicaid, and special education. He spends much of his free time speaking and advocating for legislation. Mr. Hilton has become a respected authority on issues involving military families with special needs and disabilities. He has briefed the White House, the Congressional Military Family Caucus, and the staff for several Congressional committees.

Mr. Hilton was instrumental in bringing attention to major inadequacies in the U.S. Air Force Exceptional Family Member Program. He and fifteen other Air Force families organized support for a Department of Defense Inspector General report that played a major role in reforming the program. Mr. Hilton also worked with Congressional staff on provisions in the 2011 National Defense Authorization Act to institute feedback from disability-impacted military families to the Department of Defense, establishing the Military Exceptional Family Member Panel. Currently, Mr. Hilton is working to gather support on H.R. 2288, the "Caring for Military Kids with Autism Act."

When not caring for his family or working to improve the lives of other families, Mr. Hilton spends the remaining hours of the day working toward a graduate degree at the George Washington University and producing a video series titled Creating Access for All, which encourages churches to start disability ministries.

Mr. Speaker, I ask my colleagues to join me in recognizing Jeremy Hilton and his sacrifice,

service and passionate advocacy for both military and non-military families impacted by disabilities. I believe there to be few others more deserving of the 2012 Military Spouse of the Year.

#### PERSONAL EXPLANATION

### HON. MICK MULVANEY

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Friday, February 17, 2012*

Mr. MULVANEY. Mr. Speaker, on rollcall No. 65, I missed rollcall 65 on February 16, 2012. Had I been present, I would have voted "no."

#### TRIBUTE TO ROBERT M. O'NEIL

### HON. JOHN W. OLVER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Friday, February 17, 2012*

Mr. OLVER. Mr. Speaker, I rise today to pay tribute to the life's work of Robert M. O'Neil, a lifelong resident of Pittsfield, Massachusetts who has served his community in many capacities, including service Pittsfield residents as a teacher at Taconic High School since 1996. He and his beloved wife, Betty O'Neil, raised one daughter, Angela, and enjoyed the company of 22 nephews and nieces.

Mr. O'Neil started a long career as a girls' basketball coach at the Catholic Youth Center, Pittsfield Boys and Girls Club and with AAU teams. He also refereed countless games since 1987 and was Assistant Girls Basketball Coach at Pittsfield High School from 1995 until 2005. At various times his Pittsfield teams won the City Championship, League Championship, Berkshire County Championship, Western Massachusetts Championship, and appeared in the Massachusetts State Championship Final. He then became Head Girls Basketball Coach at Taconic High School in 2005 and served in that capacity until 2011. During his career, he was named the recipient of the Berkshire County Sportsman of the Year and radio station WBEC's Girls Coach of the Year, and on two different occasions was named Girls Basketball Coach of the Year by his peers.

Robert M. O'Neil has unselfishly devoted his life to improving the lives of students and basketball players and their families. On February 21, 2012, his life will be celebrated, and he will be given a Certificate of Recognition and the Key to the City of Pittsfield in deep appreciation for his distinguished service, and that date will be known forever as Robert M. O'Neil Day in Pittsfield. Mr. Speaker, I join my friends, colleagues and neighbors in commemorating his life and wonderful accomplishments.

#### RED TAIL PILOTS TRIBUTE EVENT HOSTED BY THE YMCA OF CENTRAL FLORIDA AND LOCKHEED MARTIN

### HON. CORRINE BROWN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Friday, February 17, 2012*

Ms. BROWN of Florida. Mr. Speaker, I rise today to congratulate the Central Florida YMCA for their "Red Tail Pilots Tribute" event to congratulate the Tuskegee Airmen.

I am very pleased to talk about the pioneers who laid the groundwork for what we as African Americans have been able to accomplish over the last 70 years. In fact, when President Roosevelt began training African American troops, the Tuskegee Airmen excelled in protecting the bombers attacking enemy positions better than any other units in the United States Army Air Force.

And every single one of the first class of pilots of what became known as the Tuskegee Airmen had a college degree. One of them was Benjamin O. Davis, a graduate of the United States Military Academy at West Point, who became the first African American to earn 3 stars in the United States Air Force.

In 1940, the Selective Service and Training Service Act, enacting the first peacetime draft in the United States' history was signed into law by President Franklin D. Roosevelt. Under the Act, all American males between the ages of twenty-one and thirty-five years had to register for the draft . . . and it went on to say "there shall be no discrimination against any person on account of race or color."

Following this, the first aviation class at the Tuskegee Institute with 13 cadets began in 1941. In March 1942, five of the 13 cadets in the first class completed the Army Air Corps pilot training program and earned their silver wings and became the nation's first black military pilots.

Soon afterwards, the newly formed United States Air Force began plans to integrate its units as early as 1947, and in 1948, President Harry Truman enacted Executive Order Number 9981, which directed equality of treatment and opportunity to all in the United States Armed Forces. This order, in time, led to the end of racial segregation in the military forces. This was also the first step toward racial integration in the United States of America.

Beyond a doubt, the positive experience, the outstanding record of accomplishments and the superb behavior of the black airmen during World War II, and after, were important factors leading up to the historical social change that led to racial equality in America.

The Tuskegee Airmen will live on forever in the pages of history because they accepted the challenge proudly, and succeeded in proving to the world that blacks could fly. These men fought two wars—one against a military enemy force overseas and another one against racism at home.

I am reminded of the words of the first President of the United States, George Washington, whose words are worth repeating at this time:

"The willingness with which our young people are likely to serve in any war, no matter

how justified, shall be directly proportional as to how they perceive the veterans of earlier wars were treated and appreciated by their country."

Thank you for your service for your country and your continued service for your fellow veteran in these difficult times we all endure.

#### PERSONAL EXPLANATION

### HON. EMANUEL CLEAVER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Friday, February 17, 2012*

Mr. CLEAVER. Mr. Speaker, due to a commitment in my district, I had to miss votes on H.R. 3408. Had I been present, I would have voted "aye" on Amendment 13, "aye" on Amendment 15, "no" on Amendment 16, "aye" on Amendment 17, "aye" on Amendment 18, "no" on Amendment 19, "aye" on the Motion to Recommit, and "no" on Final Passage.

PROCLAIMING THE STATE OF NEVADA RECOGNIZE DR. HEATH MORRISON'S ACCOMPLISHMENT AS THE 2012 NATIONAL SUPERINTENDENT OF THE YEAR, AS AWARDED BY THE AMERICAN ASSOCIATION OF SCHOOL ADMINISTRATORS ON FEBRUARY 16, 2012

### HON. MARK E. AMODEI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

*Friday, February 17, 2012*

Mr. AMODEI. Mr. Speaker, I rise today to recognize Dr. Heath Morrison as the 2012 National Superintendent of the Year award winner at the American Association of School Administrators' National Conference on Education on February 16, 2012, in Houston, Texas.

Dr. Morrison came to the Washoe County School District in 2009 after serving as a community superintendent in Montgomery County Public Schools in Maryland. Prior to serving as superintendent, he served as a middle and high school principal and a teacher in Charles County, Maryland. Dr. Morrison holds a Ph.D. in Educational Policy and Planning, a Masters of Educational Administration from the University of Maryland, and a Bachelor of Arts in Government from the College of William and Mary.

The American Association of School Administrators bases its selection of Superintendent of the Year on four criteria: leadership in learning, communication, professionalism, and community involvement. Dr. Morrison led the development and implementation of the District's five-year strategic plan to enhance the quality of education for the District's 63,000 students and to reduce the dropout rate. With his leadership, between 2009 and 2011, the Washoe County School District's graduation rate jumped from 56 percent to 70 percent across all student groups. This was due in no small part to Dr. Morrison's commitment to go

door-to-door, finding children who have dropped out of school or are regularly truant and working with them to return. He has also established a Parent University to engage parents in their children's education and created the Community Compact, a program that involves the local community in the success of its students. Washoe County has also achieved significant test score gains, has narrowed the achievement gap in many subject areas, and has made great strides to ensure all students graduate ready to pursue college and highly skilled careers during his tenure. Dr. Morrison truly lives out the school district's motto of "Every child, by name and face, to graduation."

Other awards and honors received by Dr. Morrison include the 2012 Leadership through Communication Award from the American Association of School Administrators, the National School Public Relations Association, and Blackboard Connect, as well as the Distinguished Educational Leader Award from the Washington Post.

I know that my fellow Nevadans and I believe the selection of Dr. Heath Morrison as the American Association of School Administrators 2012 National Superintendent of the Year is a fitting recognition of his many accomplishments as the Superintendent of Washoe County School District. Educators significantly and permanently influence the lives of our children. Dr. Morrison's vision and leadership in the Washoe County Schools illustrates that when parents, teachers, and the local community all work together, there is nothing they cannot accomplish. Mr. Speaker, I ask that my colleagues join me in praising the accomplishments of Dr. Heath Morrison and recognizing his actions to be an exemplary model for all those teaching America's youth today.

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HONORING THE MEMORY OF MICRON TECHNOLOGY CEO STEVE APPLETON

**HON. GERALD E. CONNOLLY**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, February 17, 2012*

Mr. CONNOLLY of Virginia. Mr. Speaker, I rise to honor the life and accomplishments of Micron Technology Chairman and Chief Executive Officer Steve Appleton, who died in an aircraft accident on February 3, 2012.

Mr. Appleton, 51, began his career at Micron Technology in 1983 working the nightshift on the company's chip fabrication line. As was the case with many of Mr. Appleton's pursuits, his work for Micron Technology was tireless and done with a steadfast devotion to the highest levels of performance. Mr. Appleton quickly climbed through the ranks of a highly competitive corporate structure at Micron Technology. He was named chairman, CEO and president at age 34, making him the third youngest CEO of a Fortune 500 company at the time.

Under his leadership, Micron Technology grew to over 23,000 employees in 20 countries, producing annual revenues of \$8.9 billion. The company employs more than 1,800 Virginians, and the work performed at its Prince William County facility has helped make semiconductors the Commonwealth's largest manufactured export. His efforts earned him the recognition of his industry colleagues. In 2011, Mr. Appleton received the Robert N. Noyce Award, the highest honor bestowed by the Semiconductor Industry Association.

Mr. Appleton is described by friends and family as a fierce competitor who valued personal relationships. For a CEO of a Fortune 500 company who remained on a first name basis with many of his employees, this balance was second nature to Mr. Appleton. In his limited spare time, he became an accomplished pilot and motocross racer. He is survived by his wife and four children.

Mr. Speaker, I ask that my colleagues join me in extending our condolences to Steve Appleton's friends, family and colleagues at Micron Technology Inc. They have lost an incredibly talented and devoted leader. Mr. Appleton's achievements cannot be overstated. He always strived to be the best.

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OUR UNCONSCIONABLE NATIONAL DEBT

**HON. MIKE COFFMAN**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Friday, February 17, 2012*

Mr. COFFMAN of Colorado. Mr. Speaker, on January 26, 1995, when the last attempt at a balanced budget amendment passed the House by a bipartisan vote 300-132, the national debt was \$4,801,405,175,294.28.

Today, it is \$15,413,030,984,842.14. We've added \$10,611,625,809,547.86 dollars to our

debt in 16 years. This is \$10 trillion in debt our nation, our economy, and our children could have avoided with balanced budget amendment.

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PERSONAL EXPLANATION

**HON. MARTIN HEINRICH**

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

*Friday, February 17, 2012*

Mr. HEINRICH. Mr. Speaker, on February 14, 2012, I unfortunately missed rollcall vote 49. If I had been present, I would have voted in favor of rollcall vote 49, on approving the Journal.

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HONORING ELIZABETH JOANNE SHUPE

**HON. DAVID P. ROE**

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Friday, February 17, 2012*

Mr. ROE of Tennessee. Mr. Speaker, I rise today to bring recognition to a special lady who hails from the same section of Appalachia as I do. Elizabeth Joanne Shupe was born February 11, 1932, in Russell County, Virginia, just across the border from northeast Tennessee. Through her life she has observed the transformation of this beautiful area we call home.

The proud mother of four children, Mrs. Shupe worked remarkably hard to support her family after the death of her second husband. Later in her career she found her calling as a nurse, putting herself through school while raising a son on her own. She kept nursing until just a few years ago at the age of 75.

Since retirement she has kept active, campaigning for her son (and city alderman) Jantry Shupe, teaching ceramic painting at an assisted living community, or pursuing her hobby of taking photographs with celebrities. Mrs. Shupe's vibrant spirit continues to shine as it has her entire life.

As of February 11, Mrs. Shupe is now 80 years young, and I am proud to honor her on the occasion of this milestone birthday.



**SENATE—Tuesday, February 21, 2012**

The Senate met at 12 and 7 seconds p.m., and was called to order by the Honorable CARL LEVIN, a Senator from the State of Michigan.

APPOINTMENT OF ACTING  
PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. INOUE).

The bill clerk read as follows:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
*Washington, DC, February 21, 2012.*

*To the Senate:*

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CARL LEVIN, a Senator from the State of Michigan, to perform the duties of the Chair.

DANIEL K. INOUE,  
*President pro tempore.*

Mr. LEVIN thereupon assumed the chair as Acting President pro tempore.

ADJOURNMENT UNTIL 11 A.M.,  
FRIDAY, FEBRUARY 24, 2012

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate stands adjourned until 11 a.m. on Friday, February 24, 2012.

Thereupon, the Senate, at 12 and 31 seconds p.m., adjourned until Friday, February 24, 2012, at 11 a.m.

## HOUSE OF REPRESENTATIVES—Tuesday, February 21, 2012

The House met at noon and was called to order by the Speaker pro tempore (Mr. HARRIS).

### DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,  
February 21, 2012.

I hereby appoint the Honorable ANDY HARRIS to act as Speaker pro tempore on this day.

JOHN A. BOEHNER,  
*Speaker of the House of Representatives.*

### PRAYER

Reverend Alisa Lasater Walloo, Capitol Hill United Methodist Church, Washington, DC, offered the following prayer:

God of perfect power and endless love, within these walls decisions are made that influence the whole world, but it is within the human heart that You do some of Your very best work.

So open each heart here to You;

Tune each set of ears to hear Your still small voice within;

Open each pair of eyes to see You in one another and especially in those with whom we disagree;

Protect each soul from predictable and unexpected temptations;

And excite each mind to the vastness of Your great possibility so that our work here today will reflect the breadth of Your love for each child we represent from our own districts and each individual around the globe without any representation.

We ask these things with abundant gratitude for the awesome opportunity to be used as instruments of Your healing and hope.

Amen.

### THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

### PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The Chair will lead the House in the Pledge of Allegiance.

The SPEAKER pro tempore led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### ADJOURNMENT

The SPEAKER pro tempore. Without objection, the House stands adjourned until 10 a.m. on Friday, February 24, 2012.

There was no objection.

Accordingly (at 12 o'clock and 2 minutes p.m.), under its previous order, the House adjourned until Friday, February 24, 2012, at 10 a.m.

### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XIV, executive communications were taken from the Speaker's table and referred as follows:

5055. A letter from the Secretary, Commodity Futures Trading Commission, transmitting the Commission's final rule — Registration of Swap Dealers and Major Swap Participants (RIN: 3038-AC95) January 26, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5056. A letter from the Secretary, Commodity Futures Trading Commission, transmitting the Commission's "Major" final rule — Protection of Cleared Swaps Customer Contracts and Collateral; Conforming Amendments to the Commodity Broker Bankruptcy Provisions (RIN: Number 3038-AC99) received February 7, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5057. A letter from the Director, Program Dev. and Regulatory Analysis, Rural Development Utilities Program, Department of Agriculture, transmitting the Department's final rule — Electric Engineering, Architectural Services, Design Policies and Construction Standards (RIN: 0572-AC20) received January 31, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5058. A letter from the Acting Administrator, Department of Agriculture, transmitting the Department's final rule — National Dairy Promotion and Research Program; Amendments to the Order [Document No.: AMS-DA-11-0007; DA-11-02] received January 31, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5059. A letter from the Acting Administrator, Department of Agriculture, transmitting the Department's final rule — Irish potatoes Grown in Colorado; Modification of the Handling Regulation for Area No. 3 [Doc. No.: AMS-FV-11-0051; FV11-948-1 FR] received January 31, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5060. A letter from the Chairman and Chief Executive Officer, Farm Credit Administration, transmitting the Administration's final rule — Disclosure to Investors in System-wide and Consolidated Bank Debt Obliga-

tions of the Farm Credit System (RIN: 3052-AC77) received January 31, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5061. A letter from the Administrator, Rural Housing Service, Department of Agriculture, transmitting the Department's final rule — Direct Single Family Housing Loans and Grants (RIN: 0575-AC81) received January 3, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

5062. A letter from the General Counsel, Federal Housing Finance Agency, transmitting the Agency's final rule — Privacy Act Implementation (RIN: 2590-AA46) received January 31, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

5063. A letter from the General Counsel, Federal Housing Finance Agency, transmitting the Agency's final rule — Freedom of Information Act Implementation (RIN: 2590-AA44) received January 31, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

5064. A letter from the Acting Chief, Planning and Regulatory Affairs Branch, Department of Agriculture, transmitting the Department's "Major" final rule — Nutrition Standards in the National School Lunch and School Breakfast Programs [FNS-2007-0038] (RIN: 0584-AD59) received February 15, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

5065. A letter from the Assistant Secretary, Employee Benefits Security Administration, Department of Labor, transmitting the Department's "Major" final rule — Reasonable Contract or Arrangement Under Section 408(b)(2) — Fee Disclosure (RIN: 1210-AB08) received February 6, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

5066. A letter from the Assistant Secretary for Employment and Training, Department of Labor, transmitting the Department's "Major" final rule — Senior Community Service Employment Program; Final Rule, Additional Indicator on Volunteer Work (RIN: 1205-AB60) received February 6, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

5067. A letter from the Assistant General Counsel for Legislation, Regulation and Energy Efficiency, Department of Energy, transmitting the Department's final rule — Energy Conservation Program for Consumer Products: Test Procedures for Refrigerators, Refrigerator-Freezers, and Freezers [Docket No.: EERE-2009-BT-TP-0003] (RIN: 1904-AB92) received January 25, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5068. A letter from the Assistant General Counsel for Legislation, Regulation and Energy Efficiency, Department of Energy, transmitting the Department's final rule — Energy Conservation Program: Test Procedures for General Service Fluorescent Lamps, General Service Incandescent Lamps, and Incandescent Reflector Lamps [Docket No.: EERE-2011-BT-TP-0012] (RIN: 1904-AC45) received January 31, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

5069. A letter from the Director of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule — Revision 1 to the Safety Evaluation by the Office of Nuclear Reactor Regulation Materials Reliability Program: Pressurized Water Reactor Internals Inspection and Evaluations Guidelines (MRP-227, Revision 0) Project No. 669 received January 31, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5070. A letter from the Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule — New Mexico Regulatory Program [SATS No.: NM-048-FOR; Docket ID OSM-2010-0014] received January 25, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

5071. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Annual Catch Limits and Accountability Measures [Docket No.: 100902424-1331-03] (RIN: 0648-BA23) received January 31, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

5072. A letter from the Deputy Assistant Administrator, Department of Justice, transmitting the Department's final rule — Technical Amendments and Corrections to DEA Regulations [Docket No.: DEA-356] received January 31, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

5073. A letter from the Director of Regulation Policy and Management, office of the General Counsel, Department of Veterans Affairs, transmitting the Department's final rule — Dental Conditions (RIN: 2900-AN28) received January 31, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

5074. A letter from the Director, Regulation Policy and Management, Office of the General Counsel, Department of Veterans Affairs, transmitting the Department's final rule — Tribal Veterans Cemetery Grants (RIN: 2900-AN90) received January 31, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

#### ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 1063: Mrs. NOEM and Ms. SCHAKOWSKY.

H.R. 1166: Mr. NUGENT.

H.R. 1175: Mr. LANKFORD, Mr. LUCAS, and Mr. GENE GREEN of Texas.

H.R. 1426: Mr. DIAZ-BALART.

H.R. 1488: Ms. SCHAKOWSKY and Mr. KUCINICH.

H.R. 2071: Mr. SMITH of Washington.

H.R. 2834: Mr. MCINTYRE and Mr. SCHWEIKERT.

H.R. 2866: Mr. HULTGREN.

H.R. 3059: Mr. BOREN.

H.R. 3068: Mr. MANZULLO.

H.R. 3216: Mr. BROUN of Georgia.

H.R. 3498: Mr. HASTINGS of Florida and Mr. PASCRELL.

H.R. 3612: Mr. SCHILLING and Mr. FITZPATRICK.

H.R. 3662: Mr. MACK and Mr. DIAZ-BALART.

H.R. 3769: Ms. BUERKLE.

H. R. 3783: Mr. FORBES, Mr. FARENTHOLD, Mrs. SCHMIDT, Mr. SCOTT of South Carolina, Mr. CHABOT, Mr. GRIFFIN of Arkansas, Mr. ROHRBACHER, and Mr. GALLEGLY.

H.R. 3808: Mr. GARY G. MILLER of California.

H.R. 3877: Mr. PAULSEN and Mrs. BLACK.

H.R. 3897: Mr. JOHNSON of Ohio and Mr. MARCHANT.

H.R. 3988: Mr. DINGELL.

H.R. 4070: Mr. BROUN of Georgia and Mr. SHERMAN.

H. Res. 298: Ms. LEE of California.

## EXTENSIONS OF REMARKS

HONORING JAMES "JIM" SCHRANZ

## HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 21, 2012*

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today to honor James "Jim" Schranz for his tireless efforts to promote and expand retirement security for all Americans. Jim has played an integral role in the formation of the Employee-owned S Corporations of America, ESCA.

Next week, he officially will step down as Treasurer so that he and his wife, Nancy, can fully enjoy their retirement. Jim began working at Austin Industries after completing his MBA from the Cox School of Business at Southern Methodist University. At Austin Industries, Jim worked his way up the ranks, rising to Vice President of Human Resources. Since 1998, he has used his knowledge of the importance of this unique retirement savings vehicle to help protect and expand it to other businesses across Texas and the United States.

Through ESCA's efforts, Members of Congress have become better educated about retirement savings benefits created by private, employee-owned companies for their employee-owners. Jim has been instrumental in the fight to prevent inadvertent harm to S corporation ESOPs, particularly in the days of pension reform. His retirement is well-deserved.

Mr. Speaker, please join me in honoring Jim and wishing him all the best as he retires.

IN HONOR OF THE MEMORY OF  
ORIGINAL MONTFORD POINT MARINE  
SGT. EARL EVANS, JR.,  
USMC

## HON. CORRINE BROWN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 21, 2012*

Ms. BROWN of Florida. Mr. Speaker, I rise today to honor the memory of original Montford Point Marine Sgt. Earl Evans, Jr., USMC.

I was honored to host Mr. Evans here in the Capitol the day the House voted on the Congressional Gold Medal for the Montford Point Marines. I was lucky enough to have lunch with him that day and was able to listen to how proud he was to have served his nation. A picture from that day sits on my desk right now. He was in the House gallery when the final vote of 415-0 was completed and all the Members of this body turned to give him and other Montford Point Marines a standing ovation.

Deacon Earl Evans, Jr., son of the late Earl J. Evans and Delcie Alston Ogburn, was born

on September 25, 1929, in Greensboro, North Carolina. He departed this life on February 14, 2012.

Earl received his formal education in the Greensboro, North Carolina, public school system. Because of his love for the military, he joined the United States Marine Corps in September 1946. During his years of active service, he attained the rank of Sergeant and deployed to places such as Guam and Korea. Earl's plans as a career Marine ended in 1953 due to injuries sustained while in combat. He received numerous awards and citations including the Purple Heart Medal, Navy Unit Commendation Medal, Good Conduct Medal, World War II Victory Medal, National Defense Service Medal, Korea Service Medal with one Silver Star, Republic of Korea Presidential Unit Award, United Nations Service Medal, and the Combat Action Ribbon. He retired from the Marine Corps on July 8, 1953, with an Honorable Discharge.

Upon being discharged from military service and returning home, he met and married the love of his life Madie Louise Vines of Greensboro, North Carolina. This union was blessed with two daughters, Ramona and Frenita.

Earl dedicated over 34 years of Federal Service which included seven years as a Special Policeman for the District Government and 25 years with the Veterans' Benefits Office in Washington, DC, from which he retired.

Earl was a fervent believer in Christ. He joined Bethesda Baptist Church on October 26, 1958, and served in the following ministries: Male Chorus, Sunday School, Williams Memorial Bible Class, Men's Ministry, Leader of Prayer Group 22, Baptist Training Union, Vacation Bible School, Club 66, the Old Timer's Quartet and numerous activities. He was ordained as a Deacon under the late Pastor, Reverend John D. Bussey.

Earl truly loved life and possessed many talents. He was a creative and intellectual person. He memorized Bible verses and always found things to invent around the house. His other gifts included sewing, cooking, singing, composing music, playing instruments, writing many poems and speeches, often at the request of others. He was an avid fisherman and gardener.

He always stayed involved in one activity or another. Earl volunteered locally at his neighborhood Ardmore Village Association as a Block Captain. He was a life member of the Disabled American Veterans, H Chapter 7 of Bowie, Maryland, and the Montford Point Marine Association, Chapter 6 of Washington, DC.

Earl leaves to cherish his memory, a devoted wife, Madie; two daughters, Ramona Reed-Sellman of Capital Heights, Maryland, Frenita (Clarence) Hope of Silver Spring, Maryland; nine grand-children and twelve great-grandchildren. Also, he leaves behind, a sister-in-law and brother-in-law, Lavelle and Hugo Hendricks of Palm Coast, Florida, and

Reverend Chester (Beverly) Burke, Jr., and a host of other relatives and friends.

HONORING DANNY THOMAS

## HON. MARSHA BLACKBURN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 21, 2012*

Mrs. BLACKBURN. Mr. Speaker, his parents sought this country and the great promise of America. As the child of immigrants, ingrained in Danny Thomas' very core was the belief that Americans should thank the United States for the gift of freedom. The life and legacy of Danny Thomas is marked by his fidelity to faith and his dedication to those who might lose hope.

Danny Thomas' legacy is one of acting, sports, family, and faith. An Emmy-winning actor, Thomas starred in one of the most successful and honored comedy shows, "Make Room for Daddy." An original owner of the Miami Dolphins, he was, as well, an avid golfer and two PGA championships bore his name. Moved by the faithfulness of the Almighty, and Thomas' belief that no child should be turned away from medical care regardless of race, religion, or ability to pay, Danny began raising money for St. Jude Children's Center in the early 1950s. Pope Paul VI named Thomas a Knight Commander of the Order of the Holy Sepulchre and President Ronald Reagan presented him with a Congressional Gold Medal of Honor. But Thomas' true legacy isn't the awards bestowed on him by world leaders, but the grateful thanks given by children around the world.

St. Jude is a place where children afflicted with disease, and parents burdened by lost hope, can find healing and the promise of tomorrow. Countless children, parents, families, and friends will forever be grateful for Danny Thomas and his vision as they receive superior medical care, the benefits of cutting-edge research, and an environment colored with optimism. As we celebrate Thomas' 100th birthday, and the 50 years of St. Jude Children's hospital, by unveiling a postage stamp in his honor, we celebrate his dedication to serving the most vulnerable among us. I rise today to honor Danny Thomas and ask my colleagues to join me in celebrating all those whose noble work brings healing and hope.

HONORING DEWZ RESTAURANT

## HON. JEFF DENHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 21, 2012*

Mr. DENHAM. Mr. Speaker, I rise today to acknowledge and honor Dewz Restaurant in

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

its success as an OpenTable Diner's Top 100 "Best Overall" restaurants in the nation for 2011.

This prestigious award comes from the OpenTable Diner's Choice "2011 Annual Winners—Best Overall Top 100 Restaurant List," based on the reviews of more than 10 million users surveying 20,000 restaurants nationwide. This year, this fine Modesto establishment was one of only ten California restaurants to receive this award.

The Aspesi family, Judy and her son Scott, opened Dewz in 1997, and shortly after, teamed up with executive chef Vicente Alvarado. Since then, Mr. Alvarado has enriched Dewz Restaurant with exceptional recipes.

Dewz Restaurant's unique twist on combining American cuisine with Asian and French influence has made it a well known place for dining in the Central Valley. The restaurant is known for its fresh food as well as its extensive wine selection, which features varieties from around the world.

Mr. Speaker, please join me in commending Dewz Restaurant for this prestigious recognition and in wishing them great success in their future endeavors.

REGARDING THE ELEVATION OF THE ARCHBISHOP OF BALTIMORE, EDWIN F. O'BRIEN TO THE COLLEGE OF CARDINALS BY POPE BENEDICT XVI

### HON. ANDY HARRIS

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 21, 2012*

Mr. HARRIS. Mr. Speaker, I rise today to congratulate the Archbishop of Baltimore, Edwin F. O'Brien on his recent selection to serve in the College of Cardinals by Pope Benedict XVI. We in the Archdiocese of Baltimore have been blessed by his service and

leadership as the 15th Archbishop of the nation's oldest See, the city of Baltimore. We applaud the Pope's decision to recognize his leadership in serving Him and His mission in Baltimore by elevating the Archbishop to serve in the College of Cardinals.

Archbishop O'Brien, we thank you for your devotion to God and for your service to the Roman Catholic Church in Maryland and we congratulate you as our newest Cardinal.

IN MEMORY OF THE LATE  
ELIZABETH CONNER DEAN MILLER

### HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 21, 2012*

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I stand here today to pay tribute to a loving mother, supportive wife, and adoring grandmother, Elizabeth "Libba" Conner Dean Miller, who passed away on February 9, 2012.

The Dallas community has lost a distinguished civic leader and compassionate mother whose presence made a tremendous impact on the lives of many, especially those whom she befriended in the neighborhood. Mrs. Elizabeth Dean Miller's dedication to her family, and unselfish service to the greater Dallas community cannot be imitated. From her work alongside her charitable late husband, Dr. William Berry Dean, to her relationship with the church, Mrs. Dean epitomized what it means to have a true altruistic spirit.

Mr. Speaker, it is a privilege for me to pay my last respects to a lady who gave so much of herself to her community, her church, and her family. Libba will be missed by all whose lives she touched.

HONORING THE ADAMSVILLE JUNIOR-SENIOR HIGH SCHOOL BAND

### HON. MARSHA BLACKBURN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 21, 2012*

Mrs. BLACKBURN. Mr. Speaker, music is in the very heart and soul of the Tennessee 7th. We rise and sleep to rhythms played by our neighbors that are heard throughout the world. Simply put, musical excellence is commonplace in our corner of the country, but from time to time, remarkable sounds come along. I rise today to honor one such group of remarkable sound, the Adamsville Junior-Senior High School Band.

Capturing their seventh Division One State Championship title since 1999, the Adamsville Band knows a thing or two about hard work, flawless performances, and perfect sound. This group of high school musicians routinely brings home superior ratings in both the quality of their music and the caliber of their performance. This past season brought a new record-high score for the band with a score of 95.24 in the finals. Under the direction of Frank Congiardo, the young men and women of the Adamsville Junior-Senior High School Band are led with dedication, heart, and pride.

The Tennessee 7th is home to outstanding singers, songwriters, producers, and performers, but we are only as strong as the next generation of dedicated musicians. The artists who take the field under the banner of the Adamsville High School Band are proving that our legacy of great sound is safe in their hands. I rise today to thank the talented students, countless supporters, and the professional leadership of Frank Congiardo for their outstanding success. I ask my colleagues to join with me in honoring these students as they add another note to the soundtrack of America.

**SENATE—Friday, February 24, 2012**

The Senate met at 11 and 27 seconds a.m., and was called to order by the Honorable JIM WEBB, a Senator from the Commonwealth of Virginia.

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APPOINTMENT OF ACTING  
PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. INOUE).

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
*Washington, DC, February 24, 2012.*

*To the Senate:*

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JIM WEBB, a Senator from the Commonwealth of Virginia, to perform the duties of the Chair.

DANIEL K. INOUE,  
*President pro tempore.*

Mr. WEBB thereupon assumed the chair as Acting President pro tempore.

—————

ADJOURNMENT UNTIL MONDAY,  
FEBRUARY 27, 2012, AT 2 P.M.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate stands adjourned until Monday, February 27, 2012, at 2 p.m.

Thereupon, the Senate, at 11 and 54 seconds a.m., adjourned until Monday, February 27, 2012, at 2 p.m.

## HOUSE OF REPRESENTATIVES—Friday, February 24, 2012

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. LATOURETTE).

### DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,  
February 24, 2012.

I hereby appoint the Honorable STEVEN C. LATOURETTE to act as Speaker pro tempore on this day.

JOHN A. BOEHNER,  
*Speaker of the House of Representatives.*

### PRAYER

Reverend Aaron Damiani, Church of the Resurrection, Washington, D.C., offered the following prayer:

Almighty God, we the people lay before You our anxieties. The trials we face are real and intractable, and we confess our temptation to lose heart in their presence.

We ask You to take away the spirit of fear and in its place give our Nation the courage of Daniel, who faced the lion's den with humble confidence and lived to see a new dawn.

Do not let us cower before the menacing problems of our day, but instead let us stand before them with the spirit of power and love and self-control. Steel our leaders with the courage to confront all that is wrong, dysfunctional and evil. Give them the courage to talk to each other, and give them the courage to lead.

O God, make speed to save us. In the name of the Father, the Son and the Holy Spirit, Amen.

### THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

### PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The Chair will lead the House in the Pledge of Allegiance.

The SPEAKER pro tempore led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 4 of rule I, the following enrolled bill was signed by Speaker pro tempore HARRIS on Tuesday, February 21, 2012:

H.R. 3630, to provide incentives for the creation of jobs, and for other purposes.

### ENROLLED BILL SIGNED

Karen L. Haas, Clerk of the House, reported and found truly enrolled a bill of the House of the following titles, which was thereupon signed by the Speaker pro tempore, Mr. HARRIS, on Tuesday, February 21, 2012.

H.R. 3630. An act to provide incentives for the creation of jobs, and for other purposes.

### ADJOURNMENT

The SPEAKER pro tempore. Without objection, the House stands adjourned until 2 p.m. on Monday, February 27, 2012.

There was no objection.

Accordingly (at 10 o'clock and 2 minutes a.m.), under its previous order, the House adjourned until Monday, February 27, 2012, at 2 p.m.

### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XIV, executive communications were taken from the Speaker's table and referred as follows:

5075. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulations Supplement; Business Systems-Definition and Administration (DFARS Case 2009-D038) (RIN: 0750-AG58) received February 15, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

5076. A letter from the Attorney-Advisor, Division of Legislation and Regulations, Department of Transportation, transmitting the Department's final rule — Retrospective Review under E.O. 13563: Shipping — Deletion of Obsolete Regulations [Docket No.: MARAD 2010-0004] (RIN: 2133-AB80) received February 9, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

5077. A letter from the Chief Counsel, Department of Homeland Security, transmitting the Department's final rule — Suspension of Community Eligibility [Docket ID: FEMA-2011-0002] [Internal Agency Docket No. FEMA-8213] received February 2, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

5078. A letter from the Chief Counsel, Department of Homeland Security, transmit-

ting the Department's final rule — Suspension of Community Eligibility [Docket ID: FEMA-2011-0002] [Internal Agency Docket No. FEMA-8211] received February 2, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

5079. A letter from the Director, Department of the Treasury, transmitting the Department's final rule — Financial Crimes Enforcement Network; Anti-Money Laundering Program and Suspicious Activity Report Filing Requirements for Residential Mortgage Lenders and Originators (RIN: 1506-AB02) received February 8, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

5080. A letter from the Secretary, Department of Education, transmitting the Department's final rule — Family Educational Rights and Privacy [Docket ID: ED-2011-OM-0002] (RIN: 1880-AA86) received February 2, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

5081. A letter from the Assistant Secretary, Employee Benefits Security Administration, Department of Labor, transmitting the Department's final rule — Group Health Plans and Health Insurance Issuers Relating to Coverage of Preventive Services Under the Patient Protection and Affordable Care Act (RIN: 1210-AB44) received February 15, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

5082. A letter from the Counsel for Regulatory and External Affairs, Federal Labor Relations Authority, transmitting the Authority's final rule — Procedures of the Panel; Impasses Arising Pursuant to Agency Determinations Not to Establish or to Terminate Flexible or Compressed Work Schedules received February 15, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

5083. A letter from the Secretary, Department of Education, transmitting the Department's final rule — Race to the Top Fund Phase 3 [Docket ID: ED-2011-OS-0008] (RIN: 1894-AA01) received February 2, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5084. A letter from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting the Department's final rule — Further Amendments to General Regulations of the Food and Drug Administration to Incorporate Tobacco Products [Docket No.: FDA-2011-N-0121] (RIN: 0910-AG60) received February 8, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5085. A letter from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting the Department's final rule — Revisions to Labeling Requirements for Blood and Blood Components, Including Source Plasma; Correction [Docket No.: FDA-2003-N-0097; Formerly 2003N-0211] received February 15, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5086. A letter from the General Counsel, Federal Energy Regulatory Commission, transmitting the Commission's final rule — Storage Reporting Requirements of Interstate and Intrastate Natural Gas Companies

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

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[Docket No.: RM11-4-000; Order No. 757] received February 2, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5087. A letter from the Deputy Director for Policy, Pension Benefit Guaranty Corporation, transmitting the Corporation's final rule — Benefits Payable in Terminated Single-Employer Plans; Interest Assumptions for Paying Benefits received February 2, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5088. A communication from the President of the United States, transmitting a declaration of a national emergency with respect to blocking the property of certain persons with respect to Libya, pursuant to 50 U.S.C. 1703(b); (H. Doc. No. 112—88); to the Committee on Foreign Affairs and ordered to be printed.

5089. A communication from the President of the United States, transmitting notification that the national emergency with respect to the Government of Cuba's destruction of two unarmed U.S.-registered civilian aircraft in international airspace north of Cuba on February 24, 1996, as amended and expanded on February 26, 2004, is to continue in effect beyond March 1, 2012, pursuant to 50 U.S.C. 1622(d); (H. Doc. No. 112—89); to the Committee on Foreign Affairs and ordered to be printed.

5090. A letter from the Acting Deputy Assistant Administrator, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Taking and Importing Marine Mammals; U.S. Navy Training in 12 Range Complexes and U.S. Air Force Space Vehicle and Test Flight Activities in California [Docket No.: 111019636-2033-02] (RIN: 0648-BB53) received February 8, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

5091. A letter from the Secretary of the Commission, Federal Trade Commission, transmitting the Commission's final rule — Revised Jurisdictional Threshold for Section 7A of the Clayton Act received February 2, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

5092. A letter from the Senior Program Analyst, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments [Docket No.: 30824; Amdt. No. 3462] received February 9, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5093. A letter from the Senior Program Analyst, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments [Docket No.: 30825; Amdt. No. 3463] received February 13, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5094. A letter from the Assistant Administrator for Strategic Infrastructure, National Aeronautics and Space Administration, transmitting the Administration's final rule — Procedures for Implementation the National Environment Policy Act [Notice (12-004)] (RIN: 2700-AD71) received February 2, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science, Space, and Technology.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. CHABOT (for himself, Mr. CONYERS, Mr. SMITH of Texas, and Mr. COHEN):

H.R. 4086. A bill to amend chapter 97 of title 28, United States Code, to clarify the exception to foreign sovereign immunity set forth in section 1605(a)(3) of such title; to the Committee on the Judiciary.

By Mr. MARKEY:

H.R. 4087. A bill to provide for the development and dissemination of best practices to ensure that visually-impaired and blind individuals in the United States have safe, consistent, reliable, and independent access to the information in prescription drug labeling; to the Committee on Energy and Commerce.

By Mr. QUAYLE:

H.R. 4088. A bill to amend the securities laws to establish certain thresholds for shareholder registration, and for other purposes; to the Committee on Financial Services.

## CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 7 of rule XII of the Rules of the House of Representatives, the following statements are submitted regarding the specific powers granted to Congress in the Constitution to enact the accompanying bill or joint resolution.

By Mr. CHABOT:

H.R. 4086.

Congress has the power to enact this legislation pursuant to the following:

The constitutional authority on which this legislation is based is found in article I, section 8, clause 9; article III, section 1, clause 1; and article III, section 2, clause 2, of the Constitution, which grant Congress authority over federal courts.

By Mr. MARKEY:

H.R. 4087.

Congress has the power to enact this legislation pursuant to the following:

Article I Section 8.

By Mr. QUAYLE:

H.R. 4088.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clauses 1 (“The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defense and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States”), 3 (“To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes”), and 18 (“To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof”).

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 531: Mr. DOGGETT.

H.R. 931: Mr. MACK.

H.R. 1321: Mr. CRAVAACK.

H.R. 1332: Mr. LANGEVIN.

H.R. 1385: Mr. LATTI.

H.R. 1738: Ms. BASS of California, Ms. WOOLSEY, and Mr. YARMUTH.

H.R. 1755: Mr. DUFFY.

H.R. 2179: Mr. FARENTHOLD, Mr. REYES, and Mr. HINOJOSA.

H.R. 2404: Mr. LEVIN.

H.R. 2479: Ms. SCHAKOWSKY.

H.R. 2524: Mr. BLUMENAUER.

H.R. 2978: Mr. LATTI.

H.R. 3307: Ms. ZOE LOFGREN of California and Mr. SCOTT of Virginia.

H.R. 3461: Mr. COFFMAN of Colorado, Mr. FRELINGHUYSEN, Mr. KLINE, Mr. TURNER of Ohio, Mr. MCKINLEY, and Mrs. MYRICK.

H.R. 3612: Mr. ROTHMAN of New Jersey, Mr. BOSWELL, Mr. ACKERMAN, Mr. BASS of New Hampshire, and Mrs. MALONEY.

H.R. 3662: Mr. HANNA.

H.R. 3767: Mr. GARAMENDI, Mr. ROGERS of Kentucky, Mr. SCHILLING, Mr. CALVERT, Mr. SHUSTER, and Mr. HINOJOSA.

H.R. 3769: Mr. TURNER of New York.

H.R. 3811: Mr. MCCOTTER.

H.R. 3860: Mr. BOSWELL.

H.R. 3877: Mr. MEEHAN, Mr. FORBES, and Mr. GOSAR.

H.R. 3992: Mr. POE of Texas and Mr. GALLAGLY.

H.R. 4000: Mrs. BLACKBURN and Mr. PENCE.

H. Res. 526: Mr. POE of Texas and Mrs. EMERSON.

H. Res. 556: Mr. ADERHOLT, Mr. MORAN, Mr. CONYERS, Mr. WHITFIELD, Mr. ROE of Tennessee, Mr. KING of Iowa, Mr. GOWDY, Mr. PENCE, Mr. McDERMOTT, Mr. HARPER, Mr. MURPHY of Pennsylvania, Mr. BILIRAKIS, Mr. FORBES, Mr. LANCE, Ms. JENKINS, Mr. BURTON of Indiana, Mr. HULTGREN, Mr. BACHUS, Mr. MCCOTTER, Mr. LAMBORN, Mr. HERGER, and Mrs. BACHMANN.

## EXTENSIONS OF REMARKS

## RECOGNIZING THE 50TH ANNIVERSARY OF HIGHLINE COMMUNITY COLLEGE

**HON. JIM McDERMOTT**

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Friday, February 24, 2012*

Mr. McDERMOTT. Mr. Speaker, I rise today to commemorate the 50th anniversary of Highline Community College, which is located in Des Moines, Washington, south of Seattle.

Highline was founded in 1961 as the first community college in King County. Since then, it has served as Washington State's most diverse community college, educating over 17,000 students, of which almost two-thirds are students of color.

Today, Highline serves as the hub of innovative education and training opportunities, supporting students, the community, and the King County economy. In 2010 alone, Highline supported 800 local entrepreneurs through programs and services, helped launch 12 new businesses, and generated \$9 million in investments. International students bring an additional \$7.7 million to King County's economy annually.

As the co-chair of the Congressional Indonesia Caucus, I have been following Highline's State Department-funded initiative with Indonesian community colleges with particular interest. Indonesia is home to over 230 million people and faces acute challenges in making education accessible for all. Highline's work is important in that regard.

As we celebrate the 50th anniversary of Highline Community College, I want to express my strong support for Highline's commitment to education and in ushering students toward a pathway to the American Dream. Thank you.

## HONORING ANTHONY HERZOG

**HON. TOM MARINO**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, February 24, 2012*

Mr. MARINO. Mr. Speaker, I rise today in honor of my constituent, Mr. Anthony Herzog, who will be honored this weekend for his dedication to the Wayne County community.

Upon his graduation from Lackawanna Junior College and the University of New Haven, Mr. Herzog began his 33-year tenure with Herzog Trucking Co., Inc., where he ultimately served as President from 1982–2004.

Until his retirement last year, Mr. Herzog was dedicated to serving his community honorably as a Wayne County Commissioner for the past 24 years. His accomplishments as a Commissioner are too numerous to list, but Mr. Herzog has been instrumental in the com-

pletion of several major initiatives in Wayne County, including construction of the Wayne County Emergency Management Operations Center, the expansion of the Area Agency on Aging, and the creation of the Wayne County Mental Health/Mental Retardation Agency.

In 1998, Governor Tom Ridge appointed Mr. Herzog to the Pennsylvania Department of Transportation Advisory Committee. Mr. Herzog continues to serve in that capacity today.

Mr. Herzog's local involvement includes organizations such as the Honesdale Lions Club, the Fraternal Order of Eagles, the Wayne County Family Center Board, the NEPA Alliance, and the Wayne County Board of Elections, where he serves as current Chairman. He is also an active member of St. John's and St. Mary's Parish.

With his wife Sharon, Mr. Herzog is the father of two: Andrea and Steven, and the grandfather to three: Emma, Brady, and Heather.

Mr. Speaker, I rise today to honor my constituent, Mr. Anthony Herzog, and ask my colleagues to join me in praising his commitment to community, country, and family.

HONORING MR. PETER SHIPMAN  
UPON THE OCCASION OF HIS RETIREMENT**HON. DANIEL E. LUNGREN**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, February 24, 2012*

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, on the occasion of his retirement on March 2, we rise to thank Peter Shipman for his 32 years of outstanding service to the U.S. House of Representatives.

Peter graduated from Virginia Commonwealth University in 1976 with a degree in furniture design and subsequently worked for Gift Construction building decks.

Peter came to the House November 1, 1979, when he was hired by the Cabinet Shop. His first task was to repair broken chairs from various House offices and over time he demonstrated his remarkable talent for constructing new House furniture.

Over the next several years he artfully designed, built, and repaired numerous pieces of House furniture. By 1996, Peter had worked his way up to Assistant Foreman and eventually became Foreman. His list of accomplishments include the construction of the Speaker's chair for the House Floor, the construction of a beautiful hand-painted "Hummingbird Desk" for one particular Member, and two special display cabinets for another. He was also responsible for the design and supervision of the House Floor elevating lecterns, a sideboard for the Speaker, and a workstation for one of our House Officers. He has trained

many employees over his tenure as a master cabinet maker teaching furniture design as well as construction and repair techniques. For the last four years, he has served as the Manager of the House Cabinet Shop where he passed on his wealth of knowledge and talent to his employees and mentored the staff.

On a more personal note, he has always been interested in team sports and played with many of his co-workers on the House Rockers softball team during the 80s in the Congressional Softball League. After retirement, Peter plans to continue with his woodworking and spend more time with his family.

On behalf of the U.S. House of Representatives, we personally congratulate Peter on his retirement and thank him for all he has done for this institution. We wish Peter the best in all his future endeavors.

REMEMBERING MARIANNE C.  
RAPHAELY OF CHERRY HILL, NJ**HON. ROBERT E. ANDREWS**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Friday, February 24, 2012*

Mr. ANDREWS. Mr. Speaker, I rise today to honor the beloved Marianne C. Raphaely of Cherry Hill, NJ, who passed away on Sunday, February 5, 2012. With her passing, South Jersey lost one of its most devoted philanthropists. It is today that we remember a loving mother, grandmother, teacher, and tireless contributor to the community.

Born and raised in Trumbull, CT, she graduated from Mary Washington College in 1959 with a bachelor's degree in Psychology and Education. After college, she began teaching grade school in Connecticut and then in California while her husband served as a physician in Vietnam until settling in Cherry Hill with her family in 1968. She served as the Vice President of the Board of the Technical Schools of Camden County from 1999 to 2003 and as a member of the Cherry Hill Board of Education for 9 years.

In addition to her work as a teacher, Marianne volunteered countless hours of her time to many artistic, health care, and educational organizations throughout the Philadelphia area. As the Chairperson of Art in City Hall, she led the effort to place local artists' works throughout Philadelphia's City Hall. Marianne served as a trustee for the Rock School of Dance Education, the Coriell Institute of Medical Research, The Please Touch Museum, and several other charities. She was recognized for her charity work by receiving the Association of Fundraising Professionals' Volunteer of the Year Award for 2005–2006 and the Please Touch Museum's Great Friends to Kids Lifetime Achievement Award.

With a passion for teaching children, natural leadership abilities, a deep sense of responsibility to her community and a love for all things

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

social, she developed close working relationships and friendships with scores of people from all walks of life. She understood the real passion that children have for learning and worked tirelessly to represent that ideal. Although she was so involved, nothing could take away the powerful relationship she had

with her family. She and her husband of 50 years raised two sons in Cherry Hill, traveled the world together, and more recently, spent cherished time with their grandchildren.

She is survived by her husband, Dr. Russell of Cherry Hill, NJ, her two sons, Christopher

and James, a sister, Kathryn Sirico, and five grandchildren.

Mr. Speaker, it is at this time that we remember Marianne Raphaely and keep her family in our hearts and prayers. She was a wonderful woman of remarkable measures who will truly be missed by many.

## SENATE—Monday, February 27, 2012

The Senate met at 2 p.m. and was called to order by the Honorable RICHARD BLUMENTHAL, a Senator from the State of Connecticut.

### PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Today I will read George Washington's "Prayer for the United States of America," exactly as it appears in the chapel at Valley Forge.

Almighty God: We make our earnest prayer that Thou wilt keep the United States in Thy holy protection; that Thou wilt incline the hearts of the citizens to cultivate a spirit of subordination and obedience to the government, and entertain a brotherly affection and love for one another and for their fellow citizens of the United States at large. And finally that Thou wilt most graciously be pleased to dispose us all to do justice, to love mercy, and to demean ourselves with that charity, humility, and pacific temper of mind which were the characteristics of the Divine Author of our blessed religion, and without a humble imitation of whose example in these things, we can never hope to be a happy Nation. Grant our supplication, we beseech Thee, through Jesus Christ our Lord. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable RICHARD BLUMENTHAL led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. INOUE).

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, February 27, 2012.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable RICHARD BLUMENTHAL, a Senator from the State of Connecticut, to perform the duties of the Chair.

DANIEL K. INOUE,  
President pro tempore.

Mr. BLUMENTHAL thereupon assumed the chair as Acting President pro tempore.

### RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

### ORDER OF BUSINESS

Mr. REID. Mr. President, following leader remarks, Senator SHAHEEN will be recognized to deliver Washington's Farewell Address. This is the 150th anniversary of that tradition, and we are very pleased that Senator SHAHEEN is going to do this. No one could be more exemplary of his service than she.

### SCHEDULE

Mr. REID. Mr. President, following the address, the Senate will be in morning business until 4:30 p.m. today.

At 4:30 p.m., the Senate will proceed to executive session to consider the nomination of Margo Brodie to be United States District Judge for the Eastern District of New York. At 5:30 p.m., the Senate will vote on confirmation of the Brodie nomination.

I ask unanimous consent that following the vote and resumption of legislative session, the Senate be in a period of morning business for up to 1 hour, with the time equally divided and controlled between Senators PRYOR and ALEXANDER or their designees.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

### REMEMBERING SENATOR RAGGIO

Mr. REID. Mr. President, last week Nevada lost a great statesman and I lost a friend and mentor. William Raggio was the longest serving State senator in Nevada's history. He died last week while traveling in Australia. My heart is with his wife Dale, whom I spoke with, children Leslie and Tracy and, of course, my thoughts go to Mark, the son Bill lost in 2004, six grandchildren, and they have a great-grandchild.

I hope it is some small comfort to know that all of Nevada mourns the loss of this very effective and fine Nevada citizen.

He was a second-generation Nevadan born and raised in Reno, NV. Senator Randolph Townsend said, "Bill was part of the fabric of the city." That is true. He lived to serve.

In addition to his four decades of service in the State legislature, he volunteered to serve in the Armed Forces during World War II. He enlisted in the Navy at age 17, but the war ended before he graduated from officer training school.

When he finished his service, he attended the University of Nevada, and then went to law school in California. But he continued to serve in the U.S.

Marine Corps as a United States Navy Reservist.

He was the district attorney of Washoe County, which is the Reno metropolitan area, for 18 years, including 3 terms before he became a State legislator. He was president of the National DAs Association.

He rooted out corruption wherever he served. There was nothing more corrupt, in his mind, and the minds of all Nevadans, than an illegal brothel. That illegal brothel went on by virtue of Joe Conforte being able to pass out money to people for a long time. Bill Raggio, as DA, picked a fight with him, and that fight is legend. Bill got the last word. Conforte spent 22 months in prison for trying to bribe Bill Raggio. And in 1965, Bill Raggio, to get the last word, had the local authorities declare that facility a nuisance and burn it down. He was there watching the fire as it destroyed that place.

It wasn't until 1972 that Bill brought his integrity and dedication to the State House as a member of the Nevada State Senate. So for 38 years, there wasn't a piece of legislation that passed the Nevada legislature that didn't have his imprint on it in some way. He worked to help pass thousands of different pieces of legislation. He was an expert in the process. Nobody knew how to craft a budget better than Bill Raggio.

He was a Republican who believed government should be "lean but not mean." He was never afraid to work with Democratic members, even though he was Republican leader for several terms. Here is what he said recently: I think the present leadership of the Republican Party is a little too radical and has been taken over by what I think is a radical element.

He went on to say in an interview, after he decided to retire:

The party has to reshape itself, or it won't win general elections down the road.

That is Bill Raggio, speaking as we should all speak—not as a Republican but as a Nevadan and an American. So it is no surprise to see the outpouring of grief of Democrats and Republicans at his passing.

"No one has ever loved this state more or has had a more passionate desire to make things better for the people who live here," said Democratic Assembly Speaker John Ocegera.

If there was a Mount Rushmore of Nevada politics, Bill Raggio's image would forever be carved there. The Nevada family has lost a great patriarch.

That was what Republican Governor Brian Sandoval said.

Mr. President, I ask unanimous consent to have printed in the RECORD four

pages of statements made by Nevada-elected and appointed officials, and citizens of Nevada about Bill Raggio.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Las Vegas Sun]

REACTION TO DEATH OF FORMER STATE SEN.  
BILL RAGGIO  
(Associated Press)

Reaction to the death of retired state Sen. Bill Raggio, R-Reno, Nevada's longest-serving state senator:

If there was a Mount Rushmore of Nevada politics, Bill Raggio's image would forever be carved there. The Nevada family has lost a great patriarch; may God rest his soul as we remember all that he meant to our state.—Gov. Brian Sandoval, R-Nevada.

I have known Bill for decades; he has been a mentor to me. He always fought for Nevada and his invaluable contributions and service to our state will live on. . . . His important voice will be missed.—U.S. Senate Majority Leader Harry Reid, D-Nevada.

Clearly, he was one of the state's greatest and most accomplished public servants. He was also a helluva good guy who possessed a wonderful sense of humor. . . . (H)e had an exceptional legal mind and was a knowledgeable, courageous and fair-minded DA who helped root out organized crime in Northern Nevada.—Former U.S. Sen. Paul Laxalt, R-Nevada.

Bill was a true public servant and his sole agenda was simply to make Nevada a better place. He has left an unmatched political footprint upon our state, and the citizens will reap the rewards of this gifted and decent gentleman for many years to come.—Lt. Gov. Brian Krolicki, R-Nevada.

Sen. Raggio was an icon, a consummate statesman and one of the most knowledgeable and pragmatic legislators ever to serve the people of Nevada. His absence from the Legislature with his retirement was keenly felt. His passing on Thursday ends a chapter in Nevada history.—Nevada Supreme Court Chief Justice Nancy Saitta.

The passing of Bill Raggio is a tragic loss for Nevadans. For those of us in the law enforcement community, we fondly recall and continue to tell stories about Bill standing up to perpetrators to ensure a safe community. Bill will always be remembered for his impassioned service and dedication.—Nevada state Attorney General Catherine Cortez Masto.

Bill Raggio was the type of elected official I strive to become. In an era of intense partisanship, he upheld a statesman's voice of reason.—Nevada Secretary of State Ross Miller, via Twitter.

There are no words to describe his dedication to the state of Nevada and I wish to express my deepest condolences and prayers for his wife Dale, and his family. Bill was a true statesman who dedicated his life to making Nevada a better place to live. His legacy will be remembered for generations to come.—U.S. Sen. Dean Heller, R-Nevada.

He was nothing short of a giant in Nevada politics and a fierce advocate for the state he loved, especially the north. His dedicated

public service has improved the lives of thousands of Nevada families and his tireless work on higher education has left a permanent mark on this state.—Rep. Shelley Berkley, D-Las Vegas.

Bill Raggio was the consummate statesman and a dedicated public servant. He was a mentor of mine and it was an honor to work under him in the state senate while he was Majority Leader. He will truly be missed.—U.S. Rep. Joe Heck, R-Henderson.

This is the end of an era in Nevada. Bill was an icon of legislative public service and it was a privilege to serve with him in the state senate. My condolences go out to his wife Dale and his two daughters.—U.S. Rep. Mark Amodei, R-Carson City.

Last year, I was honored to induct Senator Raggio into the Senate Hall of Fame for his unwavering commitment to our state. From his service as a District Attorney to becoming one of the longest serving legislators in Nevada history, Senator Raggio always put the people of Nevada first. . . . Nevada has truly lost one of its finest statesmen.—Nevada Senate Majority Leader Steven Horsford, D-Las Vegas.

Senator Raggio epitomized the term "public servant." . . . He was a tireless advocate for higher education, believing that it was the gateway to a better life for any Nevadan. With so many accomplishments and such universal respect, it's impossible to do justice and honor to the life of such a man.—Nevada Senate Republican Caucus.

Saddened by the passing of Senator Bill Raggio. A true statesman. My thoughts & prayers are with his family.—Nevada Sen. Ruben Kihuen, D-Las Vegas, via Twitter.

Feels odd to tweet about Bill Raggio but odd not to. He was my friend and a mentor. A great loss 4 Nev but, oh what a life he lived!—Nevada Assemblywoman Debbie Smith, D-Reno, via Twitter.

For those of us in higher education, indeed the whole education community, we pause to thank this man who came from humble immigrant roots and rose to great power, in part by public education. He never forgot the contribution of education to his life. We have lost a member of our family today—indeed, our patriarch and champion.—Board of Regents, Nevada System of Higher Education.

Raggio was a champion for our Airport Authority and he had the vision to create a transportation entity that plays a vital role in the economy of our region. He was also a wonderful mentor to me and I will miss his sage advice and wise counsel. The legacy of his forward thinking will be felt in our community for years to come.—Krys Bart, president and CEO of the Reno-Tahoe Airport Authority.

He championed our state's heritage and he made our values a priority. He ensured that protecting our environment was a non-partisan position in Carson City as he worked across the aisle to support conservation funding and wildlife. Regardless of your politics, Bill Raggio was a great leader and he will be missed.—Nevada Conservation League.

Those who have followed NPRI's work over the years know that we have both agreed and

disagreed with Mr. Raggio's views on various policy issues. But there was never any doubt as to his love for Nevada and his commitment to making it a better place to live. For that, he will always have our respect and our admiration.—Andy Matthews, president of Nevada Policy Research Institute.

He was every bit as good and as genuine and as committed to public service as what's described. That's the real person. It's a huge loss.—Nevada Sen. Greg Brower, R-Reno.

No one has ever loved this state more or had a more passionate desire to make things better for the people who live here. His ability to bring people together to get things done was legendary. . . . At times, he may have been an adversary on a particular issue, but he was always a true leader, a teacher and a friend.—Nevada Speaker of the Assembly John Ocegueda, D-Las Vegas.

He was one of the greatest friends and a true mentor to me. Our great state is better because of his leadership and service. He will be sorely missed.—Reno Mayor Bob Cashell.

The thing that was great about Senator Raggio and the time that I spent with him in the Legislature was his ability to bring the two sides together and get things done. He was a master at doing that.—Reno City Manager Andrew Clinger.

He understood that politics is really filled with compromise. The public still owns this process and they send people of all stripes, different backgrounds, different sections of the state. He knew in order to move things forward, you had to compromise.—Former Nevada Sen. Randolph Townsend, R-Reno.

Today Nevada Republicans across the state mourn the loss of a great leader and the loss of an even greater friend. While it is a sad day for all Nevadans, it is only appropriate to remember the legacy and leadership he left behind for us to follow. A loss of a true icon in Nevada politics will not be forgotten. . . . We will miss you.—Nevada Republican Party Chairman James Smack.

Shocked to hear of Sen Raggio's passing—last time we spoke, he ranted about legislators needing to put aside politics & work together.—Nevada Sen. Sheila Leslie, D-Reno, via Twitter.

Rest in peace Senator Raggio. You will be missed, but never forgotten.—Nevada Sen. Michael Roberson, R-Henderson, via Twitter.

But Raggio also saw his Republican Party transform around him. In 2003, when a group of Assembly Republicans refused to vote for a tax plan, Raggio didn't hesitate to excavate a pejorative from earlier in his storied career: He called them "John Birchers." By 2008, he was battling ex-Assemblywoman Sharron Angle in a primary fight for the district he'd held comfortably since 1972.

When Raggio exercised his legendary independence—and a good deal of personal pique—and endorsed Democrat Harry Reid over Angle in the 2010 U.S. Senate race, his party finally left him. He was ousted from his leadership position by Fallon Republican Mike McGinness, and he tendered his resignation from the Legislature for good.

"I think the present leadership of the Republican Party is a little too radical and has been taken over by what I think is a radical element," Raggio said in an interview after

he quit, using a true conservative's worst pejorative. "The party has to reshape itself or it won't win general elections down the road."

Mark his words for November.

Back in January 2011, Raggio told me in an interview that the state would go on without him. "Nobody is irreplaceable. You will find that out," he said.

I hope Raggio will forgive me one last time if I simply don't agree.

Mr. REID. He believed in doing what was right for Nevada, even when it wasn't right for his political party. I admired him and respected him. I respected him even when he and I disagreed, and that happened. But we agreed far more than we disagreed.

I can remember the first time I met him. The person I worked for had worked as a deputy district attorney for Bill Raggio. He came to visit me in our law office, and he was always very funny, very articulate, and somebody I admired and, as I indicated, was my mentor. But I can remember him being in that office as if it were 10 minutes ago.

Upon his retirement last year, Bill told a local reporter, "Nobody is irreplaceable. You will see." It seems, once again, though, Bill and I disagreed. No one can replace Bill Raggio. The mark he left on Nevada politics could never be erased, but his powerful political voice and his true personal friendship will be missed.

Senator Raggio was an effective legislator and leader in part because of his willingness to cooperate with those with whom he disagreed. It would serve this Chamber well to emulate his bipartisan approach.

#### WORKING TOGETHER

We have a great deal to accomplish this work period. We need to consider postal reform legislation. It is mandatory that we do that. We have a pressing cyber-security piece of legislation that the Pentagon says is the most important thing we can do for our country. We have to clear a backlog of judicial nominees that threatens the effectiveness of our court system. But first, we must complete one of the most important tasks facing this Congress: strengthening our economy by rebuilding our Nation's crumbling infrastructure.

Today we will resume progress on the Transportation bill that will put 2 million Americans back to work rebuilding roads, bridges, trains, and their tracks.

The House is also considering transportation legislation. I was glad to see that House Republicans have moved away from that extreme proposal they were considering a few weeks ago. They are going to now try to pass something similar to our bipartisan legislation. This is bipartisan legislation.

Too much rests on our success to let this jobs measure be bogged down by partisanship. President Dwight Eisenhower, a Republican, was the original

champion of national infrastructure investment a half century ago. He once said:

Only strength can cooperate. Weakness can only beg.

He was right that it takes strength to work together. But working together also makes us strong. I look forward to working together with my colleagues on both sides as we complete transportation legislation that will make our economy strong.

We have 5 weeks during this work period. We have a lot to do. I hope we can work together to get it done.

#### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

#### READING OF WASHINGTON'S FAREWELL ADDRESS

The ACTING PRESIDENT pro tempore. Pursuant to the order of the Senate of January 24, 1901, as amended by the order of February 14, 2012, the Senator from New Hampshire, Mrs. SHAHEEN, will now read Washington's Farewell Address.

Mrs. SHAHEEN, at the rostrum, read the Farewell Address, as follows:

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### WASHINGTON'S FAREWELL ADDRESS

##### TO THE PEOPLE OF THE UNITED STATES

Friends and Fellow-Citizens: The period for a new election of a citizen to administer the executive government of the United States being not far distant, and the time actually arrived when your thoughts must be employed in designating the person who is to be clothed with that important trust, it appears to me proper, especially as it may conduce to a more distinct expression of the public voice, that I should now apprise you of the resolution I have formed, to decline being considered among the number of those out of whom a choice is to be made.

I beg you at the same time to do me the justice to be assured that this resolution has not been taken without a strict regard to all the considerations appertaining to the relation which binds a dutiful citizen to his country—and that, in withdrawing the tender of service which silence in my situation might imply, I am influenced by no diminution of zeal for your future interest, no deficiency of grateful respect for your past kindness, but am supported by a full conviction that the step is compatible with both.

The acceptance of, and continuance hitherto in, the office to which your suffrages have twice called me have been a uniform sacrifice of inclination to the opinion of duty and to a deference for what appeared to be your desire. I constantly hoped that it would have been much earlier in my power, consistently with motives which I was not at liberty to disregard, to return to that retirement from which I had been reluctantly drawn. The strength of my inclination to do this, previous to the last election, had even led to the preparation of an address to declare it to you; but mature reflection on the

then perplexed and critical posture of our affairs with foreign nations, and the unanimous advice of persons entitled to my confidence, impelled me to abandon the idea.

I rejoice that the state of your concerns, external as well as internal, no longer renders the pursuit of inclination incompatible with the sentiment of duty or propriety and am persuaded, whatever partiality may be retained for my services, that in the present circumstances of our country you will not disapprove my determination to retire.

The impressions with which I first undertook the arduous trust were explained on the proper occasion. In the discharge of this trust, I will only say that I have, with good intentions, contributed towards the organization and administration of the government the best exertions of which a very fallible judgment was capable. Not unconscious in the outset of the inferiority of my qualifications, experience in my own eyes, perhaps still more in the eyes of others, has strengthened the motives to diffidence of myself, and every day the increasing weight of years admonishes me more and more that the shade of retirement is as necessary to me as it will be welcome. Satisfied that if any circumstances have given peculiar value to my services, they were temporary, I have the consolation to believe that, while choice and prudence invite me to quit the political scene, patriotism does not forbid it.

In looking forward to the moment which is intended to terminate the career of my public life, my feelings do not permit me to suspend the deep acknowledgment of that debt of gratitude which I owe to my beloved country for the many honors it has conferred upon me, still more for the steadfast confidence with which it has supported me and for the opportunities I have thence enjoyed of manifesting my inviolable attachment by services faithful and persevering, though in usefulness unequal to my zeal. If benefits have resulted to our country from these services, let it always be remembered to your praise and as an instructive example in our annals that, under circumstances in which the passions agitated in every direction were liable to mislead, amidst appearances sometimes dubious, vicissitudes of fortune often discouraging, in situations in which not unfrequently want of success has countenanced the spirit of criticism, the constancy of your support was the essential prop of the efforts and a guarantee of the plans by which they were effected. Profoundly penetrated with this idea, I shall carry it with me to my grave as a strong incitement to unceasing vows that Heaven may continue to you the choicest tokens of its beneficence; that your union and brotherly affection may be perpetual; that the free constitution, which is the work of your hands, may be sacredly maintained; that its administration in every department may be stamped with wisdom and virtue; that, in fine, the happiness of the people of these states, under the auspices of liberty, may be made complete by so careful a preservation and so prudent a use of this blessing as will acquire to them the glory of recommending it to the applause, the affection, and adoption of every nation which is yet a stranger to it.

Here, perhaps, I ought to stop. But a solicitude for your welfare, which cannot end but with my life, and the apprehension of danger natural to that solicitude, urge me on an occasion like the present to offer to your solemn contemplation, and to recommend to your frequent review, some sentiments which are the result of much reflection, of no inconsiderable observation, and which appear to me all important to the permanency

of your felicity as a people. These will be offered to you with the more freedom as you can only see in them the disinterested warnings of a parting friend, who can possibly have no personal motive to bias his counsel. Nor can I forget, as an encouragement to it, your indulgent reception of my sentiments on a former and not dissimilar occasion.

Interwoven as is the love of liberty with every ligament of your hearts, no recommendation of mine is necessary to fortify or confirm the attachment.

The unity of government which constitutes you one people is also now dear to you. It is justly so; for it is a main pillar in the edifice of your real independence, the support of your tranquility at home, your peace abroad, of your safety, of your prosperity, of that very liberty which you so highly prize. But as it is easy to foresee that, from different causes and from different quarters, much pains will be taken, many artifices employed, to weaken in your minds the conviction of this truth; as this is the point in your political fortress against which the batteries of internal and external enemies will be most constantly and actively (though often covertly and insidiously) directed, it is of infinite moment that you should properly estimate the immense value of your national Union to your collective and individual happiness; that you should cherish a cordial, habitual, and immovable attachment to it; accustoming yourselves to think and speak of it as of the palladium of your political safety and prosperity; watching for its preservation with jealous anxiety; discountenancing whatever may suggest even a suspicion that it can in any event be abandoned; and indignantly frowning upon the first dawning of every attempt to alienate any portion of our country from the rest, or to enfeeble the sacred ties which now link together the various parts.

For this you have every inducement of sympathy and interest. Citizens by birth or choice of a common country, that country has a right to concentrate your affections. The name of American, which belongs to you in your national capacity, must always exalt the just pride of patriotism more than any appellation derived from local discriminations. With slight shades of difference, you have the same religion, manners, habits, and political principles. You have in a common cause fought and triumphed together. The independence and liberty you possess are the work of joint councils and joint efforts—of common dangers, sufferings, and successes.

But these considerations, however powerfully they address themselves to your sensibility, are greatly outweighed by those which apply more immediately to your interest. Here every portion of our country finds the most commanding motives for carefully guarding and preserving the Union of the whole.

The North, in an unrestrained intercourse with the South, protected by the equal laws of a common government, finds in the productions of the latter great additional resources of maritime and commercial enterprise and precious materials of manufacturing industry. The South in the same intercourse, benefitting by the agency of the North, sees its agriculture grow and its commerce expand. Turning partly into its own channels the seamen of the North, it finds its particular navigation invigorated; and while it contributes, in different ways, to nourish and increase the general mass of the national navigation, it looks forward to the protection of a maritime strength to which itself is unequally adapted. The East, in a

like intercourse with the West, already finds, and in the progressive improvement of interior communications by land and water will more and more find a valuable vent for the commodities which it brings from abroad or manufactures at home. The West derives from the East supplies requisite to its growth and comfort—and what is perhaps of still greater consequence, it must of necessity owe the secure enjoyment of indispensable outlets for its own productions to the weight, influence, and the future maritime strength of the Atlantic side of the Union, directed by an indissoluble community of interest as one nation. Any other tenure by which the West can hold this essential advantage, whether derived from its own separate strength or from an apostate and unnatural connection with any foreign power, must be intrinsically precarious.

While then every part of our country thus feels an immediate and particular interest in union, all the parts combined cannot fail to find in the united mass of means and efforts greater strength, greater resource, proportionably greater security from external danger, a less frequent interruption of their peace by foreign nations; and, what is of inestimable value! they must derive from union an exemption from those broils and wars between themselves which so frequently afflict neighboring countries not tied together by the same government, which their own rivalships alone would be sufficient to produce, but which opposite foreign alliances, attachments, and intrigues would stimulate and embitter. Hence likewise they will avoid the necessity of those overgrown military establishments, which under any form of government are inauspicious to liberty, and which are to be regarded as particularly hostile to republican liberty. In this sense it is, that your Union ought to be considered as a main prop of your liberty, and that the love of the one ought to endear to you the preservation of the other.

These considerations speak a persuasive language to every reflecting and virtuous mind and exhibit the continuance of the Union as a primary object of patriotic desire. Is there a doubt whether a common government can embrace so large a sphere? Let experience solve it. To listen to mere speculation in such a case were criminal. We are authorized to hope that a proper organization of the whole, with the auxiliary agency of governments for the respective subdivisions, will afford a happy issue to the experiment. It is well worth a fair and full experiment. With such powerful and obvious motives to union affecting all parts of our country, while experience shall not have demonstrated its impracticability, there will always be reason to distrust the patriotism of those who in any quarter may endeavor to weaken its bands.

In contemplating the causes which may disturb our Union, it occurs as matter of serious concern that any ground should have been furnished for characterizing parties by geographical discriminations—northern and southern—Atlantic and western; whence designing men may endeavor to excite a belief that there is a real difference of local interests and views. One of the expedients of party to acquire influence within particular districts is to misrepresent the opinions and aims of other districts. You cannot shield yourselves too much against the jealousies and heart burnings which spring from these misrepresentations. They tend to render alien to each other those who ought to be bound together by fraternal affection. The

inhabitants of our western country have lately had a useful lesson on this head. They have seen in the negotiation by the executive—and in the unanimous ratification by the Senate—of the treaty with Spain, and in the universal satisfaction at that event throughout the United States, a decisive proof how unfounded were the suspicions propagated among them of a policy in the general government and in the Atlantic states unfriendly to their interests in regard to the Mississippi. They have been witnesses to the formation of two treaties, that with Great Britain and that with Spain, which secure to them everything they could desire, in respect to our foreign relations, towards confirming their prosperity. Will it not be their wisdom to rely for the preservation of these advantages on the Union by which they were procured? Will they not henceforth be deaf to those advisers, if such there are, who would sever them from their brethren and connect them with aliens?

To the efficacy and permanency of your Union, a government for the whole is indispensable. No alliances, however strict, between the parts can be an adequate substitute. They must inevitably experience the infractions and interruptions which all alliances in all times have experienced. Sensible of this momentous truth, you have improved upon your first essay by the adoption of a Constitution of government better calculated than your former for an intimate Union and for the efficacious management of your common concerns. This government, the offspring of our own choice uninfluenced and unawed, adopted upon full investigation and mature deliberation, completely free in its principles, in the distribution of its powers uniting security with energy, and containing within itself a provision for its own amendment, has a just claim to your confidence and your support. Respect for its authority, compliance with its laws, acquiescence in its measures, are duties enjoined by the fundamental maxims of true liberty. The basis of our political systems is the right of the people to make and to alter their constitutions of government. But the Constitution which at any time exists, until changed by an explicit and authentic act of the whole people, is sacredly obligatory upon all. The very idea of the power and the right of the people to establish government presupposes the duty of every individual to obey the established government.

All obstructions to the execution of the laws, all combinations and associations under whatever plausible character with the real design to direct, control, counteract, or awe the regular deliberation and action of the constituted authorities, are destructive of this fundamental principle and of fatal tendency. They serve to organize faction; to give it an artificial and extraordinary force; to put in the place of the delegated will of the nation the will of a party, often a small but artful and enterprising minority of the community; and, according to the alternate triumphs of different parties, to make the public administration the mirror of the ill concerted and incongruous projects of faction, rather than the organ of consistent and wholesome plans digested by common councils and modified by mutual interests. However combinations or associations of the above description may now and then answer popular ends, they are likely, in the course of time and things, to become potent engines by which cunning, ambitious, and unprincipled men will be enabled to subvert the power of the people and to usurp for themselves the reins of government, destroying



afterwards the very engines which have lifted them to unjust dominion.

Towards the preservation of your government and the permanency of your present happy state, it is requisite not only that you steadily discountenance irregular oppositions to its acknowledged authority but also that you resist with care the spirit of innovation upon its principles, however specious the pretexts. One method of assault may be to effect in the forms of the Constitution alterations which will impair the energy of the system and thus to undermine what cannot be directly overthrown. In all the changes to which you may be invited, remember that time and habit are at least as necessary to fix the true character of governments as of other human institutions, that experience is the surest standard by which to test the real tendency of the existing constitution of a country, that facility in changes upon the credit of mere hypotheses and opinion exposes to perpetual change from the endless variety of hypotheses and opinion; and remember, especially, that for the efficient management of your common interests in a country so extensive as ours, a government of as much vigor as is consistent with the perfect security of liberty is indispensable; liberty itself will find in such a government, with powers properly distributed and adjusted, its surest guardian. It is indeed little else than a name, where the government is too feeble to withstand the enterprises of faction, to confine each member of the society within the limits prescribed by the laws, and to maintain all in the secure and tranquil enjoyment of the rights of person and property.

I have already intimated to you the danger of parties in the state, with particular reference to the founding of them on geographical discriminations. Let me now take a more comprehensive view and warn you in the most solemn manner against the baneful effects of the spirit of party, generally.

This spirit, unfortunately, is inseparable from our nature, having its root in the strongest passions of the human mind. It exists under different shapes in all governments, more or less stifled, controlled, or repressed; but in those of the popular form it is seen in its greatest rankness and is truly their worst enemy.

The alternate domination of one faction over another, sharpened by the spirit of revenge natural to party dissension, which in different ages and countries has perpetrated the most horrid enormities, is itself a frightful despotism. But this leads at length to a more formal and permanent despotism. The disorders and miseries which result gradually incline the minds of men to seek security and repose in the absolute power of an individual; and sooner or later the chief of some prevailing faction, more able or more fortunate than his competitors, turns this disposition to the purposes of his own elevation on the ruins of public liberty.

Without looking forward to an extremity of this kind (which nevertheless ought not to be entirely out of sight) the common and continual mischiefs of the spirit of party are sufficient to make it the interest and the duty of a wise people to discourage and restrain it.

It serves always to distract the public councils and enfeeble the public administration. It agitates the community with ill founded jealousies and false alarms, kindles the animosity of one part against another, foment occasionally riot and insurrection. It opens the door to foreign influence and corruption, which find a facilitated access to

the government itself through the channels of party passions. Thus the policy and the will of one country are subjected to the policy and will of another.

There is an opinion that parties in free countries are useful checks upon the administration of the government and serve to keep alive the spirit of liberty. This within certain limits is probably true—and in governments of a monarchical cast patriotism may look with indulgence, if not with favor, upon the spirit of party. But in those of the popular character, in governments purely elective, it is a spirit not to be encouraged. From their natural tendency, it is certain there will always be enough of that spirit for every salutary purpose. And there being constant danger of excess, the effort ought to be by force of public opinion to mitigate and assuage it. A fire not to be quenched, it demands a uniform vigilance to prevent its bursting into a flame, lest instead of warming it should consume.

It is important, likewise, that the habits of thinking in a free country should inspire caution in those entrusted with its administration to confine themselves within their respective constitutional spheres, avoiding in the exercise of the powers of one department to encroach upon another. The spirit of encroachment tends to consolidate the powers of all the departments in one and thus to create, whatever the form of government, a real despotism. A just estimate of that love of power and proneness to abuse it which predominates in the human heart is sufficient to satisfy us of the truth of this position. The necessity of reciprocal checks in the exercise of political power, by dividing and distributing it into different depositories and constituting each the guardian of the public weal against invasions by the others, has been evinced by experiments ancient and modern, some of them in our country and under our own eyes. To preserve them must be as necessary as to institute them. If in the opinion of the people the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed. The precedent must always greatly overbalance in permanent evil any partial or transient benefit which the use can at any time yield.

Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports. In vain would that man claim the tribute of patriotism who should labor to subvert these great pillars of human happiness, these firmest props of the duties of men and citizens. The mere politician, equally with the pious man, ought to respect and to cherish them. A volume could not trace all their connections with private and public felicity. Let it simply be asked where is the security for property, for reputation, for life, if the sense of religious obligation desert the oaths, which are the instruments of investigation in courts of justice? And let us with caution indulge the supposition that morality can be maintained without religion. Whatever may be conceded to the influence of refined education on minds of peculiar structure, reason and experience both forbid us to expect that national morality can prevail in exclusion of religious principle.

It is substantially true that virtue or morality is a necessary spring of popular government. The rule indeed extends with more

or less force to every species of free government. Who that is a sincere friend to it can look with indifference upon attempts to shake the foundation of the fabric?

Promote then, as an object of primary importance, institutions for the general diffusion of knowledge. In proportion as the structure of a government gives force to public opinion, it is essential that public opinion should be enlightened.

As a very important source of strength and security, cherish public credit. One method of preserving it is to use it as sparingly as possible, avoiding occasions of expense by cultivating peace, but remembering also that timely disbursements to prepare for danger frequently prevent much greater disbursements to repel it; avoiding likewise the accumulation of debt, not only by shunning occasions of expense, but by vigorous exertions in time of peace to discharge the debts which unavoidable wars may have occasioned, not ungenerously throwing upon posterity the burden which we ourselves ought to bear. The execution of these maxims belongs to your representatives, but it is necessary that public opinion should cooperate. To facilitate to them the performance of their duty, it is essential that you should practically bear in mind that towards the payment of debts there must be revenue; that to have revenue there must be taxes; that no taxes can be devised which are not more or less inconvenient and unpleasant; that the intrinsic embarrassment inseparable from the selection of the proper objects (which is always a choice of difficulties) ought to be a decisive motive for a candid construction of the conduct of the government in making it, and for a spirit of acquiescence in the measures for obtaining revenue which the public exigencies may at any time dictate.

Observe good faith and justice towards all nations; cultivate peace and harmony with all; religion and morality enjoin this conduct, and can it be that good policy does not equally enjoin it? It will be worthy of a free, enlightened, and, at no distant period, a great nation, to give to mankind the magnanimous and too novel example of a people always guided by an exalted justice and benevolence. Who can doubt that in the course of time and things the fruits of such a plan would richly repay any temporary advantages which might be lost by a steady adherence to it? Can it be, that Providence has not connected the permanent felicity of a nation with its virtue? The experiment, at least, is recommended by every sentiment which ennobles human nature. Alas! is it rendered impossible by its vices?

In the execution of such a plan nothing is more essential than that permanent, inveterate antipathies against particular nations and passionate attachments for others should be excluded and that in place of them just and amicable feelings towards all should be cultivated. The nation which indulges towards another an habitual hatred, or an habitual fondness, is in some degree a slave. It is a slave to its animosity or to its affection, either of which is sufficient to lead it astray from its duty and its interest. Antipathy in one nation against another disposes each more readily to offer insult and injury, to lay hold of slight causes of umbrage, and to be haughty and intractable when accidental or trifling occasions of dispute occur. Hence frequent collisions, obstinate, envenomed, and bloody contests. The nation, prompted by ill will and resentment, sometimes impels to war the government, contrary to the best calculations of policy. The government

sometimes participates in the national propensity and adopts through passion what reason would reject; at other times, it makes the animosity of the nation subservient to projects of hostility instigated by pride, ambition and other sinister and pernicious motives. The peace often, sometimes perhaps the liberty, of nations has been the victim.

So likewise, a passionate attachment of one nation for another produces a variety of evils. Sympathy for the favorite nation, facilitating the illusion of an imaginary common interest in cases where no real common interest exists and infusing into one the enmities of the other, betrays the former into a participation in the quarrels and wars of the latter, without adequate inducement or justification. It leads also to concessions to the favorite nation of privileges denied to others, which is apt doubly to injure the nation making the concessions, by unnecessarily parting with what ought to have been retained and by exciting jealousy, ill will, and a disposition to retaliate in the parties from whom equal privileges are withheld. And it gives to ambitious, corrupted, or deluded citizens (who devote themselves to the favorite nation) facility to betray or sacrifice the interests of their own country without odium, sometimes even with popularity, gilding with the appearances of a virtuous sense of obligation, a commendable deference for public opinion, or a laudable zeal for public good, the base or foolish compliances of ambition, corruption, or infatuation.

As avenues to foreign influence in innumerable ways, such attachments are particularly alarming to the truly enlightened and independent patriot. How many opportunities do they afford to tamper with domestic factions, to practice the arts of seduction, to mislead public opinion, to influence or awe the public councils! Such an attachment of a small or weak towards a great and powerful nation dooms the former to be the satellite of the latter.

Against the insidious wiles of foreign influence (I conjure you to believe me, fellow citizens) the jealousy of a free people ought to be constantly awake, since history and experience prove that foreign influence is one of the most baneful foes of republican government. But that jealousy to be useful must be impartial; else it becomes the instrument of the very influence to be avoided, instead of a defense against it. Excessive partiality for one foreign nation and excessive dislike of another cause those whom they actuate to see danger only on one side, and serve to veil and even second the arts of influence on the other. Real patriots, who may resist the intrigues of the favorite, are liable to become suspected and odious, while its tools and dupes usurp the applause and confidence of the people to surrender their interests.

The great rule of conduct for us in regard to foreign nations is, in extending our commercial relations, to have with them as little political connection as possible. So far as we have already formed engagements, let them be fulfilled with perfect good faith. Here let us stop.

Europe has a set of primary interests, which to us have none or a very remote relation. Hence she must be engaged in frequent controversies, the causes of which are essentially foreign to our concerns. Hence therefore it must be unwise in us to implicate ourselves, by artificial ties, in the ordinary vicissitudes of her politics or the ordinary combinations and collisions of her friendships or enmities.

Our detached and distant situation invites and enables us to pursue a different course.

If we remain one people under an efficient government, the period is not far off when we may defy material injury from external annoyance; when we may take such an attitude as will cause the neutrality we may at any time resolve upon to be scrupulously respected; when belligerent nations, under the impossibility of making acquisitions upon us, will not lightly hazard the giving us provocation; when we may choose peace or war, as our interest guided by justice shall counsel.

Why forgo the advantages of so peculiar a situation? Why quit our own to stand upon foreign ground? Why, by interweaving our destiny with that of any part of Europe, entangle our peace and prosperity in the toils of European ambition, rivalship, interest, humor, or caprice?

It is our true policy to steer clear of permanent alliances with any portion of the foreign world—so far, I mean, as we are now at liberty to do it, for let me not be understood as capable of patronizing infidelity to existing engagements (I hold the maxim no less applicable to public than to private affairs, that honesty is always the best policy)—I repeat it therefore, let those engagements be observed in their genuine sense. But in my opinion it is unnecessary and would be unwise to extend them.

Taking care always to keep ourselves, by suitable establishments, on a respectably defensive posture, we may safely trust to temporary alliances for extraordinary emergencies.

Harmony, liberal intercourse with all nations, are recommended by policy, humanity, and interest. But even our commercial policy should hold an equal and impartial hand: neither seeking nor granting exclusive favors or preferences; consulting the natural course of things; diffusing and diversifying by gentle means the streams of commerce but forcing nothing; establishing with powers so disposed—in order to give to trade a stable course, to define the rights of our merchants, and to enable the government to support them—conventional rules of intercourse, the best that present circumstances and mutual opinion will permit, but temporary, and liable to be from time to time abandoned or varied, as experience and circumstances shall dictate; constantly keeping in view, that it is folly in one nation to look for disinterested favors from another—that it must pay with a portion of its independence for whatever it may accept under that character—that by such acceptance it may place itself in the condition of having given equivalents for nominal favors and yet of being reproached with ingratitude for not giving more. There can be no greater error than to expect or calculate upon real favors from nation to nation. It is an illusion which experience must cure, which a just pride ought to discard.

In offering to you, my countrymen, these counsels of an old and affectionate friend, I dare not hope they will make the strong and lasting impression I could wish—that they will control the usual current of the passions or prevent our nation from running the course which has hitherto marked the destiny of nations. But if I may even flatter myself that they may be productive of some partial benefit, some occasional good, that they may now and then recur to moderate the fury of party spirit, to warn against the mischiefs of foreign intrigue, to guard against the impostures of pretended patriotism—this hope will be a full recompense for the solicitude for your welfare by which they have been dictated.

How far in the discharge of my official duties I have been guided by the principles which have been delineated, the public records and other evidences of my conduct must witness to you and to the world. To myself, the assurance of my own conscience is that I have at least believed myself to be guided by them.

In relation to the still subsisting war in Europe, my proclamation of the 22d of April 1793 is the index to my plan. Sanctioned by your approving voice and by that of your representatives in both houses of Congress, the spirit of that measure has continually governed me, uninfluenced by any attempts to deter or divert me from it.

After deliberate examination with the aid of the best lights I could obtain, I was well satisfied that our country, under all the circumstances of the case, had a right to take—and was bound in duty and interest to take—a neutral position. Having taken it, I determined, as far as should depend upon me, to maintain it with moderation, perseverance, and firmness.

The considerations which respect the right to hold this conduct it is not necessary on this occasion to detail. I will only observe that, according to my understanding of the matter, that right, so far from being denied by any of the belligerent powers, has been virtually admitted by all.

The duty of holding a neutral conduct may be inferred, without anything more, from the obligation which justice and humanity impose on every nation, in cases in which it is free to act, to maintain inviolate the relations of peace and amity towards other nations.

The inducements of interest for observing that conduct will best be referred to your own reflections and experience. With me, a predominant motive has been to endeavor to gain time to our country to settle and mature its yet recent institutions and to progress without interruption to that degree of strength and consistency which is necessary to give it, humanly speaking, the command of its own fortunes.

Though in reviewing the incidents of my administration I am unconscious of intentional error, I am nevertheless too sensible of my defects not to think it probable that I may have committed many errors. Whatever they may be, I fervently beseech the Almighty to avert or mitigate the evils to which they may tend. I shall also carry with me the hope that my country will never cease to view them with indulgence and that, after forty-five years of my life dedicated to its service with an upright zeal, the faults of incompetent abilities will be consigned to oblivion, as myself must soon be to the mansions of rest.

Relying on its kindness in this as in other things, and actuated by that fervent love towards it which is so natural to a man who views in it the native soil of himself and his progenitors for several generations, I anticipate with pleasing expectation that retreat, in which I promise myself to realize without alloy the sweet enjoyment of partaking in the midst of my fellow citizens the benign influence of good laws under a free government—the ever favorite object of my heart, and the happy reward, as I trust, of our mutual cares, labors and dangers.

GEO. WASHINGTON,  
*United States,*  
19th September 1796.

Mrs. SHAHEEN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will be in a period of morning business until 4:30 p.m. with Senators permitted to speak for up to 10 minutes each.

#### ENERGY PRICES

Ms. MURKOWSKI. Mr. President, I rise today to speak about what people all across the country are talking about; that is, the high price of energy, what people are paying at the pump. I just returned from a week in Alaska. It is fair to say that in a State such as ours, that is as rich as we are with energy wealth, we are being killed by energy prices.

So I wanted to comment on some of the statements the President made over the weekend and Friday when he spoke to the country about energy. I have to tell you, I was pleased to hear the President say he is joining us in an "all-of-the-above approach" to energy. I think that is good news. It is certainly something I have been saying ever since I arrived in the Senate.

It is about domestic production, it is about efficiencies and conservation, and it is about renewables. So that is good. We heard the President say we need to be doing more with oil and gas. You are not going to find any disagreement with me. Wind and solar, nuclear, biofuels, efficiency, this is all good, but the problem we are seeing is the words coming from President Obama are not matching his actions when it comes to what we can be doing with our own domestic production.

I will speak specifically to oil and gas. The actions coming out of the administration, whether through this budget or through some of the other proposals pushing for higher taxes, higher royalties on the industry, when we think about what goes on with the oil and gas leases in the gulf, we have certainly seen the impact flow down there.

In Alaska, we have been pushing, pushing aggressively for 4 years now to get the OCS leases advanced through exploration with Shell, not only 4 years in the process but billions of dollars into a process. We are getting closer, but we are not there yet. With the National Petroleum Reserve Alaska, an area that has been designated by the Congress to explore for production activity, it took almost 2 years to get a bridge across the CD-5, an area where

we have an opportunity to continue our exploration—but 2 years to get a simple permit for a bridge.

We all know ANWR has been locked up for decades now. There is incredibly wealthy potential there. Look at the decision on the Keystone XL Pipeline coming out of this administration. When it comes to other areas that are supposedly in "all of the above," nuclear—as much as we might have hoped that this was enjoying a renaissance, we have seen the decision on the shutdown of Yucca Mountain from this administration, the issues as they relate to access to uranium in certain parts of the country.

The rhetoric is not necessarily matching what we are seeing coming out of the administration. This is what is so disturbing to a person like me who comes from an area where we have so much to give, so much to offer.

The President, in his words, said, "There are no quick fixes to this problem." I agree. I absolutely agree. That is why instead of focusing on what could be perceived as a quick fix, such as releasing oil from the Strategic Petroleum Reserve, we need to be focusing on the long-term solution. I keep going back to 1995 when the House and the Senate passed ANWR. It was vetoed by the President shortly thereafter.

Prices at the pump back then were \$1.07 at the pump. The average price today is \$3.65. Think about where we would be if that action had not been vetoed; if the Alaska pipeline, which is now less than half filled, were at full capacity with oil coming out of ANWR.

Just yesterday a colleague of ours from New York sent a letter to Secretary Clinton asking her to pressure Saudi Arabia to pump more oil. In his letter to the Secretary, he said,

I urge the State Department to work with the Government of Saudi Arabia to increase its oil production, as they are currently producing well under their capacity.

Well, our pipeline is certainly well under capacity at 600,000 barrels a day. When we were pushing it through at full tilt, we were over 2 million barrels a day. That is exactly what the Senator from New York has asked Saudi Arabia to do. We could be doing it from Alaska. We could be doing it from this country with our people gaining access to our resources, and we are not doing that.

The President said the Republican plan is just to drill, drill, drill. He said: We hear this every year. Well, why do we hear this every year? We hear it because it is part of the solution. It is not the whole solution, but it is part of the solution, in addition to conservation, efficiency, renewables, and other areas of our domestic production. But drilling is part of the solution. It should not just be part of the rhetoric.

The President said, and I would agree:

The American people are not stupid on this. They know that we are not just going

to be able to snap our fingers and have oil coming out of ANWR or having oil coming out of the OCS in the Chukchi or the Beaufort.

They know it takes a while. They know in some cases it might take decades to come. So why would we not start now? If we had started in 1995, think about where we would have been.

He said, "There are no short-term silver bullets." Once again, I agree. But there is a long silver bullet in Alaska, and that is our Trans-Alaska Pipeline that has been moving oil for 30 years now for this country. That silver bullet could be filled, and it would be helping this country just as we are asking for help from Saudi Arabia.

The statement that I think most upset me this weekend was the statement that the President made when he said: Some politicians see this—being higher oil prices—as a political opportunity. He repeated a quote that "Republicans are licking their chops," and stated, "Only in politics do people root for bad news."

Well, the people of my State are not rooting for bad news when it comes to higher energy prices. I will tell you, I am a little offended by the President's statement. I would invite him to come to Alaska, spend a week with me, go to where I was last Saturday in Fairbanks where people are paying \$4.29 for their home heating oil. My sister pays over \$1,000 a month for home heating fuel to fill her tanks. She lives within 20 minutes of the Trans-Alaska Pipeline. You can see it. You can drive by it, this line that is half full, and it is not, again, because we are running out of resources. It is because we have been locked out of ANWR, we have been delayed on NPRA, and we are still waiting on OCS. There are certainly plenty of leases out there. But it is getting the permits out of this administration that has been holding us back from doing more, from doing more to help the people of Alaska and to help the people of this country.

Last month I was out in Bethel in southwest Alaska. There was a native elder who came to a little gathering we had. He is from Eek, AK. He was telling me that he pays \$7.46 for home heating fuel in the village of Eek. That is how they stay warm. When I was there in January, the average temperature for that month was about 20 degrees below zero. He said he has to buy his fuel 10 gallons at a time because that is all he can afford. Then when he does not have any more money, he goes out looking for fire wood for he and his wife. This gentleman, as I said, is an elder, probably 70 years old. But that is how he is living. High energy prices for him are not an opportunity.

Go up to Nome. All eyes of the Nation were on Nome several weeks back when the Coast Guard cutter was escorting the Russian fuel tanker, the Renda, to get to Nome to provide fuel

for the community of Nome and the surrounding villages because the winter ice had come in and the winter barge had not been able to make it in with the fuel.

When I was in Nome that afternoon, the price for gas at the pump was \$5.43; the price for diesel was \$5.99.

But it was projected that if they weren't able to fill their tanks, they would see the prices go up to over \$9 a gallon. Think of what that does to your ability to live. Thankfully, the Coast Guard and the fine men and women there were able to see that the community and the villages were taken care of.

I was in Yakutat on Wednesday, a small community that is not accessible by road, as most of our communities aren't. There in Yakutat, they are paying 54 cents a kilowatt hour for energy. Most of their power is diesel-generated power—54 cents. That is for the businesses that get a subsidy from the State of Alaska for 30 cents a kilowatt hour. The small grocery store we visited paid \$10,000 for its energy prices in January alone—\$10,000 a month for a little grocery store. They are paying \$5.19 a gallon right now, but it is going up with the next fuel barge that comes in.

Alaskans in villages who rely on diesel for their power can pay between 40 and 45 percent of their income for their energy costs. Compare that to the rest of the country, where you are looking at between 3 and 6 percent of your income going toward energy. We are paying almost 50 percent in some of our villages.

Mr. President, I don't view high oil prices as a political opportunity and neither do my constituents. What we view as an opportunity is the resource our State holds—a resource that we continue to be denied access to that opportunity. We learned late last week that the USGS has come back with an estimate that the shale oil in Alaska would come close to 2 billion barrels of oil. ANWR's estimate is about 10.6 billion barrels. In the OCS, we anticipate over 26 billion barrels of oil. We have the resources. We have the ability to access the resources and to do so in an environmentally safe way. This needs to be part of an all-of-the-above solution, in addition to everything we do with renewables and our efficiencies and conservation. We must be doing more domestically. Alaska holds the opportunity.

Again, I agree with the President that there is no short-term fix, but if we don't get started today, there is not going to be a tomorrow for communities such as Yakutat and Eek and Bethel and Fairbanks. We have to get started today.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, first let me commend my colleague from Alaska who is seeing this battle of the high price of gasoline firsthand in a State that could contribute greatly to the country's solution to the problem if the President and administration would but let it. I was led on a trip by her father several years ago to the northern part of Alaska, where there are huge untapped reserves that literally, if they had been allowed to be sent to the lower 48 at that time, could have significantly ameliorated the problem we have today. I appreciate her comments. We will talk more about that.

#### EARNED SUCCESS

Mr. KYL. Mr. President, President Obama has ignited a national debate about the meaning of fairness and American values. In his campaign narrative, "fairness" means greater redistribution of income by the Federal Government, and expanding government control over the economy represents what he calls a "renewal of American values." He argues that income inequality is the "defining issue of our time"—his words—and that it prevents many Americans from enjoying their right to pursue happiness.

While the President cloaks his rhetoric in the language of liberty—and often misconstrues quotations from Presidents Lincoln and Reagan in the process—his interpretations of key American concepts and values are shallow, materialistic, and distortive of the true American dream.

We don't need more government interventionist and redistributionist policies, which reduce freedom, in order to achieve greater measures of fairness and to pursue happiness. Having the government arbitrarily decide how much money should be taken from person A and given to person B is not fair in any sense of the word, nor does it make Americans happier. Indeed, even though America has become a much wealthier country during the last few decades and average income is higher, studies show that happiness levels have remained unchanged. In 1972, for example, 30 percent of Americans described themselves as happy. In 2004, 31 percent of Americans described themselves that way. That is because, contrary to what President Obama suggests, the key determinant of lasting happiness and satisfaction is not income; rather, it is what American Enterprise Institute president Arthur Brooks calls "earned success." People are happiest when they have earned their income, whatever the level. When the government tries to take all of the trouble out of life by taking care of our every need, it makes earned success that much harder to achieve.

In his 2010 book "The Battle," Brooks describes the connection between earned success and happiness:

Earned success gives people a sense of meaning about their lives. And meaning also is key to human flourishing. It reassures us that what we do in life is of significance and value, for ourselves and those around us. To truly flourish, we need to know that the ways in which we occupy our waking hours are not based on mere pursuit of pleasure or money or any other superficial goal. We need to know that our endeavors have a deeper purpose.

Earned success is attained not simply through one's vocation but also through raising children, donating time to charitable or religious causes, and cultivating strong relationships with friends and family. That is why successful parents and more religious people tend to be very happy.

The earned success that comes from doing a job also explains why self-made millionaires and billionaires continue to work hard after they have earned their fortunes. These people are driven by the satisfaction that comes from creating, innovating, and solving problems. In many cases, they are making products or providing services that improve our quality of life. They are not content merely to rest on their laurels and enjoy their wealth; they want to continue experiencing the pride and satisfaction that comes from earned success.

The importance of earned success also explains why people who win the lottery usually wind up depressed when they discover that the excitement of being rich and buying things wears off fast. The same is true of recipients of other sources of unearned income. Studies show that welfare programs don't make people happier. We need them to help some people to subsist, but they don't yield true happiness or satisfaction because the money is not earned.

If earned success is the path to happiness, public policies should be geared toward promoting opportunity and freedom for everyone. No economic system does more to promote earned success and freedom than free market capitalism. As social scientist Charles Murray writes in his new book, "Coming Apart":

All the good things in life . . . require freedom in the only way that freedom is meaningful: freedom to act in all arenas of life, coupled with responsibility for the consequences for those actions.

In a true free market system, everyone is guaranteed equal rights and opportunities under the law, all individuals and institutions play by the same rules, and the government acts primarily as a neutral umpire, not a redistributor of income or a venture capitalist. Property rights are upheld, contracts are enforced, and hard work is rewarded. As Brooks points out, free enterprise is the only economic system that addresses the root causes of poverty by enlarging the economic pie rather than allowing government officials and bureaucrats to decide how to slice the existing one.

The President's concept of fairness is different from what most believe. I recently read an anecdote that helps illustrate the fundamental disagreement about the difference between "fair" and "earned." Two siblings are fighting about who gets the last cookie. The brother says he should get it because his sister has already had two and that is not fair. The sister responds that she helped make the cookies, so she earned it. The brother believes it is fair to equalize rewards, regardless of effort. The sister believes in meritocratic fairness—that forced equality is unfair. Those of us who believe in the ultimate fairness of the free market subscribe to the sister's view of meritocratic fairness. She earned it.

Free market capitalism is the most fair system in the world—and the most moral. It is premised on voluntary transactions that make both sides happy by meeting their needs. Unfortunately, the past few years have shown us what unfair economic policies look like.

When the government picks winners and losers in the marketplace, it is being unfair. When it rewards certain companies or industries for ideological reasons while effectively punishing and demonizing others, it is being unfair. That is crony capitalism. When it shapes a corporate bailout to favor organized labor over secured debtholders, as the Obama administration did in the Chrysler bailout, it is being unfair. When it plays venture capitalist and gives a taxpayer-funded \$545 million loan guarantee to a doomed company such as Solyndra, it is being unfair. When it makes the Tax Code even more complex and even more tilted in favor of special interests, it is being unfair. When it adopts financial regulations that institutionalize "too big to fail," putting taxpayers on the hook, it is being unfair. I could go on, but you get the point. Does anyone really think America's economic system is "fairer" today than in January 2009?

Is it fair that, after the first 3 years of the Obama administration, the poor are poorer, the poverty rate is rising, the middle class is losing income, and 5.5 million fewer Americans have jobs to do than in 2007? Is it fair that the three counties with the highest median family income happen to be located in the Washington, DC, area? Finally, is it fair that the wealthiest 1 percent of Americans are constantly being attacked by the President even though they now pay nearly 40 percent of all Federal income taxes and the richest 10 percent pay two-thirds of all Federal taxes? These are some of the questions Stephen Moore recently posed in the *Wall Street Journal*.

If the President wants to continue claiming that his policies are fostering economic "fairness" and ignoring the virtues of the free enterprise system, then let the debate begin.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CASEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MANCHIN). Without objection, it is so ordered.

#### TRIBUTE TO WILLIAM H. GRAY, III

Mr. CASEY. Mr. President, I rise this afternoon to honor William H. Gray, III.

As I have every year since my election to the Senate, starting back in January 2007, I have come to the floor at this time of the year in commemoration of Black History Month.

This year we are privileged to honor a man whose outstanding accomplishments are of vital importance to African Americans as well as to all of America. For his entire life Bill Gray has been a minister and a shepherd for his congregation, his constituents, historically Black colleges and universities, and to all Americans in need of a stronger voice. I have known Bill Gray for a quarter of a century, and I know his life's work is a testament to a single principle, one that has infused all of his work at the Bright Hill Baptist Church in Philadelphia, as a Member and leader in Congress, and with the United Negro College Fund.

Bill believes in the principle of a "whole ministry," that the church must tend to all the needs of its entire congregation. Bill grew up learning that the ministry was not just something one did on Sunday morning but, rather, the action one took in the streets on issues ranging from housing to economic justice to excellence in education. Bill has called his position as pastor of the Bright Hope Baptist Church the most important job he has ever had, one that cultivated the skills and priorities that have shaped his life's work.

Today, I am proud to share some of the achievements that have resulted from Bill Gray's dedication to a "whole ministry."

Bill grew up in a family of educators and ministers who taught him the value of both professions to empower others. He was born in the State of Louisiana to parents who were both educators. His father was president of two historically Black colleges: Florida Normal and Industrial College and Florida Agricultural and Mechanical School. His mother was both a high school teacher and served as dean of Southern University in Baton Rouge, LA.

When Bill was 8 years old, his grandfather passed away and the family moved from Louisiana back to Philadelphia, PA. There in Philadelphia,

Bill's father assumed his own father's position as pastor of the Bright Hope Baptist Church in north Philadelphia, and Bill cemented his roots in that community. He has spoken of the powerful impact of those years, moving from a region where Jim Crow laws reigned to a large northern city where his family had strong ties to other clergy and community leaders. Because of de facto segregation in housing at the time, north Philadelphia was a neighborhood with African Americans from all walks of life, including many role models for the young Bill Gray.

Hobson Reynolds across the street was the leader of the Elks. Cecil B. Moore, a future member of the city council and head of the NAACP of Philadelphia, lived two doors down from Bill's family at the time. Other neighbors included the renowned architect Frederick Messiah and Sadie Alexander, the first woman of any race to obtain a Ph.D. in economics in the United States of America.

Of course, Dr. Martin Luther King, Jr. was a frequent visitor to Bill Gray's home at that time, as were Dr. King's parents who were close family friends of Bill Gray's family. Both the elder and younger Kings as well as other ministers influenced Bill's understanding of the "whole ministry" and encouraged his education and career as a minister.

Bill graduated from Simon Gratz High School and went on to Franklin and Marshall College. When Bill considered leaving Franklin and Marshall before graduation to join civil rights protests in the South, Dr. King encouraged him to stay in school and to hone the skills necessary to continue the struggle later in life. This idea of education as a key to African-American advancement would guide Bill for the rest of his life.

Bill graduated from Franklin and Marshall, and in 1966 he obtained a master's degree in divinity at Drew Theological Seminary and in 1970 a master's degree in theology from Princeton Theological Seminary. While at Drew, Bill's talents were recognized by the prestigious Union Baptist Church in Montclair, NJ, and he was later chosen to be a pastor there as well. The King family presided over the installation ceremony.

In his first parish, Bill Gray worked to serve the "whole community," advocating aggressively for the needs of his congregation and the community's most vulnerable members. As the city of Montclair undertook urban renewal, he helped to form a development corporation to ensure that relocation resulted in safe, decent housing for his parishioners and their neighbors. This issue of housing hit Bill Gray personally when he tried to rent an apartment while studying at Princeton and was told the unit was unavailable. He sensed immediately that it was because

of his race, and he found a friend who was White who volunteered to go look at the apartment, at which point the landlord said it was open.

Bill filed a lawsuit and for the first time sought damages for the psychological impact of discrimination. While the monetary award was small, his victory in the suit set a precedent that those who discriminated based on race could be held liable for monetary damages.

In 1971 Bill married Andrea Dash, with whom he has raised three sons, William IV, Justin, and Andrew. In 1972 Bill's father died unexpectedly and tragically, and the congregation of Bright Hope Baptist Church called on Bill to return home as the new pastor. Bill was reluctant to go back as the preacher's son, but two church elections finally convinced him to return. He became the third generation of his family to serve as pastor of Bright Hope. Under his leadership, the congregation quickly grew to over 4,000 souls.

Bill also taught as a professor at Jersey City State College from 1968 to 1969, St. Peter's College in Jersey City from 1970 to 1974, Montclair State College from 1970 to 1972, and Rutgers University in 1971. He also continued his important advocacy on fair access to housing, and he cofounded the Philadelphia mortgage plan to help low-income individuals obtain homes.

This dedication to helping his community and concern about their welfare led him back to the political world. In 1976 Bill ran an underdog campaign to challenge Congressman Robert N.C. Nix, a long-time congressional incumbent. Despite a close defeat in 1976, Bill launched another campaign in 1978 and successfully earned nomination and election to Congress.

The U.S. House of Representatives provided another pulpit from which Bill could pursue his "whole ministry," and he did not squander the opportunity. He said:

If you can pastor a black Baptist Church, maneuvering in Congress is easy. It's nothing compared to the choir, the usher board, the deacon board. You run a volunteer organization and you run it on persuasion.

Despite his lack of previous formal political experience, after winning the 1978 primary election Bill started working to persuade other Members of Congress from his party to support him in committee elections. Through dogged determination, thoughtful strategy, and a clear explanation of his goals, Bill earned himself the freshman seat on the policy and steering committee which sets committee assignments for the party and influences policy. This established him as a rising star and a friend to many other incoming Members of Congress whom he helped land desirable committee spots.

Bill obtained seats on the following committees: the District of Columbia

Committee, the Budget Committee, the Foreign Affairs Committee, and later a seat on the Appropriations Committee, the Joint Committee on Deficit Reduction, and the House Administration Committee. Leaders of the Congressional Black Caucus elected Bill Gray as its secretary, and in his second term he served as the vice chairman of the caucus.

In Congress, he acquired a reputation as a thoughtful, honest, and effective leader in a diverse party, often building surprising alliances as he maintained his commitment to budgets that provided for the neediest Americans.

Bill rose quickly through the ranks of leadership during his 12 years in Congress. In 1985 he assumed the chairmanship of the Budget Committee just 6 years after the time he was elected. Just a few years later, in 1988, he was elected to chair his party's House caucus, and then in 1999 he became the House majority whip, the third ranking leadership in the House of Representatives.

While serving in Congress, Bill remained an active minister, tightly connected with his district in Philadelphia through his actions on the issues for which he fought. I just happened to be a constituent of Bill's in 1982 and 1983 when I was serving in the Jesuit Volunteer Corps in north Philadelphia, and I know at that time he returned to Bright Hope Baptist Church twice a month to preach, and in Congress he supported the programs upon which his constituents and his congregation relied.

In a time of concern about fiscal discipline, Bill believed that compassionate spending was also critical and said:

A balanced budget is good for the country, poor and the affluent alike. I seek a budget that doesn't sacrifice programs for the poor and minorities, one that is fair and equitable.

He produced budgets in line with his priorities, challenging opponents to produce spending cuts that did not hit the most vulnerable. On the Foreign Affairs Committee, Bill championed aid for Africa and sponsored a bill to provide aid to African villages as well as appropriations to ensure minority-owned business participation in African aid programs. Bill took a strong and early stand against the Ethiopian Government and its role in making the famine worse. He was also a prominent critic of the South African apartheid regime.

In 1991 Bill Gray made a bold transition to minister in a new way on a topic of paramount importance to him, his family, and others. Of course, that topic was higher education.

He said at the time, and I am quoting:

Woodrow Wilson used to say, "My constituency is the next generation," and, you know, that's why I left Congress, because my constituency, really, is the next generation.

He accepted the position as president and CEO of the United Negro College Fund, the so-called UNCF, a philanthropic organization that helps more than 60,000 minority students each year to obtain a higher education. The United Negro College Fund not only manages 400 scholarship and internship programs which benefit 10,000 students but also provides operating funds for 38 historically Black colleges and universities. Tuition at these colleges averages 30 percent less than tuition at similar universities.

Bill Gray has said he wanted to support historically Black colleges and universities during a period when Black students were choosing to attend a wider range of colleges. During Bill's 12 years as president and CEO of the United Negro College Fund, his success in supporting these institutions was unprecedented—and that is an understatement. Bill sought innovative ways to attract new investment and increase existing funding. By the time he left the United Negro College Fund 12 years later, Bill and his team had raised more than \$1.54 billion. To put this in context, UNCF had raised a total of \$3.3 billion in its 67-year history.

He found new ways to solicit donations, increase the amount of in-kind contributions, and solicited from previously untapped foundations and individuals.

In 1999, Bill Gray secured a \$1 billion grant from the Bill and Melinda Gates Foundation to advance minority students' access to higher education in the science, math, engineering, and education fields. This grant created the Gates Millennium Scholarship Program and marked the largest philanthropic donation in the history of higher education in the United States of America. Bill's success at the United Negro College Fund put higher education within reach and ensured brighter futures for thousands of students across America.

We know, and those who know him know, that Bill Gray has never rested and he is never satisfied with one job at a time. While leading the United Negro College Fund, he was asked by President Clinton in 1994 to lead the efforts to restore democracy in Haiti. His work there earned him the Medal of Honor from the President of Haiti.

After leaving the Fund in the year 2004, Bill started Gray Global Strategies, Inc., and has served as director on multiple corporate boards including Dell, JPMorgan Chase, and Pfizer. He has also served as vice chairman for the Pew Commission on Children in Foster Care and has served on the United States Holocaust Memorial Council. He is currently the chairman of Gray Global Strategies, a worldwide business consulting and government affairs strategies firm.

Bill Gray has said that he has "always been taught by my folk, parents,

grandparents, that service is a sort of the rent you pay for the space you occupy. And so, what I've tried to do is direct my life towards service based on faith and commitment and social justice."

Well said by a great leader, Bill Gray.

In the Senate today we express our gratitude for the excellent work of Rev. Bill Gray, Congressman Bill Gray, and you could add a few other titles as well. We express that gratitude for the excellent work of his "whole ministry," a commitment that has touched literally millions of men, women, and children across the world. His vision and achievements have reached far beyond the walls of his church and the Capitol where we stand today. We honor him on behalf of the people of the Bright Hope Baptist Church, the U.S. Congress, historically Black colleges and universities, and many more people around the world. We commend Bill Gray today. I congratulate him. We look forward to seeing him with us today.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. TESTER). Without objection, it is so ordered.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

#### EXECUTIVE SESSION

#### NOMINATION OF MARGO KITSY BRODIE TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF NEW YORK

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nomination which the clerk will report.

The assistant editor of the Daily Digest read the nomination of Margo Kitsy Brodie, of New York, to be United States District Judge for the Eastern District of New York.

Mr. LEAHY. Mr. President, am I correct that the order is such that the vote will be at 5:30?

The PRESIDING OFFICER. The order is actually for 60 minutes of debate.

Mr. LEAHY. Mr. President, I ask unanimous consent that the vote be at 5:30.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, certainly if the ranking member comes to the floor and wishes to change that, I would not object.

Earlier this month the Senate finally ended a four-month and two-day filibuster of the confirmation of Judge Adalberto Jordan and he is now the first Cuban-American to serve on the Eleventh Circuit. We also finally ended the five-month filibuster of the nomination of Jesse Furman, a former counselor to Attorney General Mukasey, and he is now a confirmed Federal trial judge in the Southern District of New York.

The Majority Leader should not have had to file cloture petitions for the Senate to vote on these outstanding judicial nominations. Senate Republicans have filibustered nine of President Obama's judicial nominations despite the fact that he has reached out to both Republican and Democratic home state Senators and nominated qualified, ideologically moderate men and women to fill vacancies on our Federal courts.

Before I turn to the nomination of Margo Brodie, another nomination that should have been confirmed last year after being reported by the Senate Judiciary Committee unanimously in October, I want to spend a moment reflecting on Senate Republicans' treatment of Jesse Furman. Judge Furman was a Federal prosecutor who also served as a top legal advisor to Attorney General Michael Mukasey during the George W. Bush administration. He was involved with the prosecutions of the Times Square bomber, the infamous Russian spies, and a Pakistani scientist with ties to Al Qaeda whose actions were responsible for the 1998 bombings of the U.S. embassies in Kenya and Tanzania. He has impeccable credentials including having clerked for Justice David Souter on the United States Supreme Court. Based on his superior qualifications and bipartisan support, the Senate Judiciary Committee reported his nomination last September unanimously, without a single Republican Senator dissenting.

His nomination, like so many others, was then subjected to obstruction and delay. From the start of his term, Republican Senators have applied a double standard to President Obama's nominees. Senate Republicans have chosen to depart dramatically from the long tradition of deference to home state Senators on district court nominees. Instead, an unprecedented number of President Obama's highly-qualified district court nominees have been targeted for opposition and obstruction. That approach is a serious break from the Senate's practice of advice and consent. Since 1945, the Judiciary Committee has reported more than 2,100 district court nominees to the Senate. Of these 2,100 nominees, only six have been reported by party-line

votes—only six total in the last 65 years. Five of those six party-line votes have been by Republican Senators against President Obama's highly-qualified district court nominees. In fact, only 22 of those 2,100 district court nominees were reported by any kind of split roll call vote at all, and eight of those, more than a third, have been by Republican Senators choosing to oppose President Obama's nominees. President Obama's nominees are being treated differently than those of any President, Democratic or Republican, before him.

Despite his qualifications and bipartisan supporters, Jesse Furman's nomination was stalled for more than five months by Senate Republicans. When the Majority Leader was able to break through and schedule debate and a vote, I saw something else I have not seen until recently. Republican Senators who had supported the nomination after studying it for months when it was before the Judiciary Committee for a hearing and vote, flipped and changed their votes.

In total, 34 Republican Senators voted against this highly-qualified nominee. I am at a loss as to why. It appears that Senators decided to ignore Jesse Furman's record and be swayed by mischaracterizations of a brief he had written in a religious freedom case or by something he wrote as an 18-year old freshman in college. I urge Senators, as I have for years, not to listen to the extreme special interests but to make their own judgments. I suspect that in this case it was the last-minute campaign by narrow special interests groups that accounted for the number of negative votes.

Today the Senate will vote on the confirmation of another highly-qualified, consensus nominee to the Federal bench. Margo Brodie has practiced law for 20 years including working as a Federal prosecutor in Brooklyn for the last 12. She has risen from the ranks of Assistant U.S. Attorney to Deputy Chief of General Crimes to Deputy Chief of the Criminal Division. Ms. Brodie has successfully prosecuted numerous cases on matters ranging from violent crimes and drug offenses to white collar crimes. She has also led public corruption cases, successfully prosecuting criminals who embezzled funds and tried to bribe government agencies in her home state of New York.

Ms. Brodie has the support of both her home state Senators and was reported by the Senate Judiciary Committee on October 6, 2011, without a single dissent. She has demonstrated her commitment to the rule of law, her legal abilities and knowledge of the law. It is past time for the Senate to confirm this outstanding African-American woman to the Federal bench.

Margo Brodie is one of 20 judicial nominations approved by the Senate



Judiciary Committee still awaiting a final vote. Fifteen of these nominations have been pending since last year and should have been confirmed before the end of last year. Eighteen of these nominees received strong bipartisan support from the Senate Judiciary Committee.

These nominees should be confirmed without further delay. Now in the fourth year of President Obama's first term, the number of judicial vacancies remains at 85. That is nearly double what they were at this point in President Bush's administration. One hundred and thirty million Americans live in circuits or districts with a judicial vacancy that could be filled if Senate Republicans would vote on judicial nominees that have already been voted on by the Senate Judiciary Committee and are stalled awaiting final Senate consideration.

The Senate is more than 40 confirmations behind the pace we set confirming President Bush's judicial nominees in 2001 through 2004. For the second year in a row, the Senate Republican leadership ignored long-established precedent and refused to allow votes before the December recess on the nearly 20 consensus judicial nominees who had been favorably reported by the Judiciary Committee.

Ultimately, it is the American people who pay the price for Senate Republican's unnecessary and harmful delay in confirming judges to our Federal courts. It is unacceptable for hard-working Americans who are seeking their day in court to find seats on one in 10 of those courts vacant. When an injured plaintiff sues to help cover the cost of medical expenses, that plaintiff should not have to wait for years before a judge hears his or her case. When two small business owners disagree over a contract, they should not have to wait years for a court to resolve their dispute.

I, again, urge Senate Republicans to stop the destructive delays that have plagued our nominations process. I urge them to stop the slow-walking of highly-qualified, consensus nominees. The American people deserve no less.

Mr. GRASSLEY. Mr. President, today we turn to the nomination of Margo Brodie to be U.S. District judge for the Eastern District of New York. This will be the 69th judicial nominee of President Obama which the Senate has confirmed during this Congress. Overall, more than 70 percent of President Obama's judicial nominees have been confirmed.

We continue, on the Senate floor and in the Judiciary Committee, to work together to reduce the number of judicial vacancies. We have held 21 nominations hearings during this Congress, with 80 judicial nominees appearing at those hearings. All in all, over 85 percent of President Obama's judicial nominees have received a hearing. We

will hear from additional judicial nominees later this week.

So even as we continue to hear concerns about the judicial vacancy rate and claims of obstructionism, I would note we are making progress as we continue to confirm judicial nominees. But let me emphasize again that for more than half of the vacancies, including those designated as "judicial emergencies," the President has failed to submit a nomination. So critics need to look at the beginning of the process when commenting on vacancies.

I would like to say a little about our nominee today. Ms. Brodie earned a BA from St. Francis College in 1988, and her JD from the University of Pennsylvania School of Law in 1991. She began her legal career as an assistant corporation counsel for the City of New York in 1991. In this role, she defended city agencies and officials in the performance of their duty to manage municipal affairs.

In 1994, Ms. Brodie became an associate with Carter, Ledyard & Milburn, representing clients in various types of civil litigation.

Since 1999, Ms. Brodie has served as an assistant U.S. attorney with the Eastern District Court of New York. From May 2005 to March 2006, she served as a legal advisor to the Independent Corrupt Practices and Other Related Offices Commission, ICPC, in Nigeria. From 2006 to 2009, she supervised new AUSAs in the General Crimes Section in roles as deputy chief and chief. In October 2009, she became the counselor to the Criminal Division of the U.S. Attorney's Office. In her current position as deputy chief of the Criminal Division, she supervises over 100 Criminal Division AUSAs in the areas of public corruption, civil rights, terrorism, organized crime, gang violence, narcotics trafficking, and business and securities fraud. She also advises the office on legal policy and management issues.

Ms. Brodie has received a majority: "Qualified;" minority: "Well Qualified" rating from the American Bar Association's Standing Committee on the Federal Judiciary.

Mr. SCHUMER. Mr. President. I rise today in strong support of the historic confirmation of Margo K. Brodie to the United States District Court for the Eastern District of New York.

Frankly, at this point, all of our nominees deserve special attention. With one out of 10 seats on the Federal bench still vacant, and with 14 nominees with strong bi-partisan support pending since last year, we should be focused today on confirming more than one nominee. However, Margo Brodie's nomination is of singular importance to my fellow New Yorkers, and to this country.

First—to put it simply her presence is desperately needed on one of the

busiest benches in the country, one that handles some of our most important cases.

Second, Margo Brodie will be, by all accounts, the first Caribbean-born nominee in our Nation's history to be confirmed to an Article III court.

As I've said many times, I look for three qualities in judicial candidates: excellence, moderation, and diversity. When excellence and moderation are both present in a candidate—as they are with Ms. Brodie—diversity is a bonus: a bonus that benefits the bench, the community, and Americans everywhere who might otherwise think that this kind of public service, or even a law degree, was beyond their reach. In fact, I think that a candidate like Ms. Brodie is especially well-qualified for a lifetime appointment to the court.

She has chosen to make her home in this country, and in the neighborhoods served by this court in the Eastern District of New York—and she has already graced her community with outstanding and dedicated service. In 1996, Ms. Brodie became a citizen of the United States in the very court house where she would serve as a judge. I can't think of a more fitting candidate to serve the people in Brooklyn, Queens, Long Island, and all the communities in between than someone who pledged her allegiance to this country just footsteps from where she will uphold the rule of law in her chosen country.

Ms. Brodie's story is a classic immigrant's story—one that is born from our country's finest and deepest traditions. It's a story that speaks to our acceptance of people from all over the world who want to come to the United States to work hard, prosper, and become a part of our social fabric.

Ms. Brodie was born in St. John, Antigua. She and her brother Euan were raised by a single mother, with the help of her mother's parents and 14 siblings. After graduating from high school at the age of 16, she attended St. Francis College in Brooklyn, where she worked full time and graduated magna cum laude.

She went on to the University of Pennsylvania Law School. After graduating from law school, Ms. Brodie worked for the New York City Law Department for three years, where she learned how to litigate cases. She then spent five years at Carter, Ledyard & Milburn, founded in 1854 and known for alumni that include Franklin D. Roosevelt.

Ms. Brodie returned to public service in 1999 by joining the United States Attorney's Office in the Eastern District of New York, one of the preeminent U.S. Attorney's offices in the Nation.

She rose to become Deputy Chief and then Chief of the General Crimes Unit, where she trained more than half of the

current AUSA's in the Eastern District. Since 2010, she has been the deputy chief of the Criminal Division, supervising all 100-plus criminal AUSAs in cases involving public corruption, civil rights, business and securities fraud, terrorism, organized crime, narcotics, and many other areas.

Ms. Brodie has also lent her considerable talents to training prosecutors and law enforcement officers on the rule of law in many developing countries. She spent 10 months in Nigeria as a legal advisor on behalf of the DOJ's overseas training program, and has conducted and assisted in human trafficking training for prosecutors in the Bahamas, Jordan, Swaziland, and Tanzania.

In a short while, Ms. Brodie will be confirmed as a Federal judge—an honor she deserves and a position that she has more than earned. I am proud to have supported her nomination, and to vote for her today.

Mr. LEAHY. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not.

Mr. LEAHY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Margo Kitsy Brodie, of New York, to be United States District Judge for the Eastern District of New York.

The clerk will call the roll.

The assistant editor of the Daily Digest called the roll.

Mr. DURBIN. I announce that the Senator from Iowa (Mr. HARKIN), the Senator from Hawaii (Mr. INOUE), the Senator from Louisiana (Ms. LANDRIEU), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Missouri (Mrs. MCCASKILL), and the Senator from Michigan (Ms. STABENOW), are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Oklahoma (Mr. COBURN), the Senator from Oklahoma (Mr. INHOFE), the Senator from Illinois (Mr. KIRK), the Senator from Arizona (Mr. MCCAIN), the Senator from Ohio (Mr. PORTMAN), and the Senator from Louisiana (Mr. VITTER).

The PRESIDING OFFICER (Mrs. HAGAN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 86, nays 2, as follows:

[Rollcall Vote No. 23 Ex.]

YEAS—86

Akaka	Blunt	Casey
Alexander	Boozman	Chambliss
Ayotte	Boxer	Coats
Barrasso	Brown (MA)	Cochran
Baucus	Brown (OH)	Collins
Begich	Burr	Conrad
Bennet	Cantwell	Coons
Bingaman	Cardin	Corker
Blumenthal	Carper	Cornyn

Crapo	Kyl	Roberts
Durbin	Leahy	Rockefeller
Enzi	Levin	Rubio
Feinstein	Lieberman	Sanders
Franken	Lugar	Schumer
Gillibrand	Manchin	Sessions
Graham	McConnell	Shaheen
Grassley	Menendez	Shelby
Hagan	Merkley	Snowe
Hatch	Mikulski	Tester
Heller	Moran	Thune
Hoeven	Murkowski	Toomey
Hutchison	Murray	Udall (CO)
Isakson	Nelson (NE)	Udall (NM)
Johanns	Nelson (FL)	Warner
Johnson (SD)	Paul	Webb
Johnson (WI)	Pryor	Whitehouse
Kerry	Reed	Wicker
Klobuchar	Reid	Wyden
Kohl	Risch	

NAYS—2

DeMint

Lee

NOT VOTING—12

Coburn	Kirk	McCaskill
Harkin	Landrieu	Portman
Inhofe	Lautenberg	Stabenow
Inouye	McCain	Vitter

The nomination was confirmed.

The PRESIDING OFFICER (Mrs. HAGAN). Under the previous order, a motion to reconsider is considered made and laid on the table. The President will be immediately notified of the Senate's action.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate shall resume legislative session.

#### MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will be a period of morning business up to 60 minutes, equally divided and controlled by Senators PRYOR and ALEXANDER.

The Senator from Tennessee.

Mr. ALEXANDER. Madam President, I ask unanimous consent that Senator PRYOR and I and designated Senators be allowed to speak in a colloquy.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### MAKING THE SENATE WORK

Mr. ALEXANDER. Madam President, some of the Senators on the Republican side have other appointments to make, so I am going to defer my remarks until the end of the colloquy.

What I will do is first state why we are here; second, go to Senator ISAKSON, then we will go to Senator PRYOR, and then back to Senator COLLINS, if we may.

Madam President, our leaders—the Democratic leader, the majority leader and the Republican leader—sometimes get criticized. They have hard jobs, and we recognize that. We also recognize that they can't do their jobs unless we do our jobs well. So tonight what some of us thought we would do, on the Democratic side and the Republican side, is apply a management principle that is called "catching people doing things right."

We believe the majority leader and the minority leader, Senator INOUE, the chairman of the Appropriations Committee, and Senator COCHRAN, the ranking member, are doing things exactly right when they say it is their intention to try to move all 12 of our appropriations bills through the Appropriations Committee and get them to the floor so we can deal with them before the next fiscal year starts. We are here not just to compliment them but to pledge to them our support in helping them achieve that goal.

There are many important reasons we should do that, but basically it is our constitutional responsibility to appropriate money. It is a time when we need to save every penny we can. This is our best opportunity for oversight, and it is also good management, and it allows the Senate to do what the Senate ought to do, which is consider legislation, have a hearing, ask questions, cut out what ought to be cut out, add what ought to be added, vote on it, bring it to the floor, amend it, debate on it, and pass it or defeat it. That is what we should be doing. Only twice since 2000 has this Senate actually considered every single one of the 12 appropriations bills. Only twice, in 2001 and 2005. So it has been 7 years since we considered every single one of the appropriation bills, which is our most basic responsibility: appropriate and oversight.

That is why we are here tonight. Our leaders have said this is what their intention is. We are here to say: You are right. Congratulations. We compliment you, and we are here to help you succeed. Because it is very difficult for our leaders to succeed if they don't have any followers making it possible for them to achieve their goals.

I would defer to Senator ISAKSON and then to Senator PRYOR.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. ISAKSON. I thank Senator ALEXANDER for giving me a moment on the floor.

It is ironic that when I received the call last week asking if I would participate in this colloquy, I was traveling my State doing townhall meetings. I was near Ooltewah, TN, on Thursday night, north of Dalton, GA, and Murray County. We had a townhall meeting, and this fellow in the back of the room raised his hand when it came time for questions.

He said: Mr. ISAKSON, I have got a question for you. I said: What is that? He said: Last night, my wife and I amended our budget that we established in December for this year because some things have not gone so well, and we had to recast how we are spending our money so we wouldn't go any further in debt than we already are. Why can't you all do the same thing? "You all," talking about us.

A few days earlier in Dublin, GA, a great, prosperous town in south Georgia, a similar question was asked by a Chamber of Commerce director who couldn't understand why the Federal Government and the Congress of the United States could not wrap their arms around fiscal responsibility, have a budget, and have appropriations acts that come to the floor, are debated, are amended, and the spending of the United States of America's government is spent like the households of the United States of America have to spend their money.

So I commend Senator ALEXANDER and Senator PRYOR for bringing this to the floor, and I want to commend our leaders for making affirmative statements about the desire to bring the 12 appropriations bills to the floor of the Senate, debate them, let us amend them, and let us bring them together.

If you think about it, in the last 3 years we have had a situation where we either had continuing resolutions or omnibus appropriations. During a difficult period of time where we have had deficits of \$1.3 trillion to \$1.5 trillion, we haven't taken the time to debate how we are spending our money, where we are spending our money, and doing it in the context of what we call on the floor regular order. In fact, it is not hard to understand why only 11 percent of the American people view the Congress as favorable, because they can't understand our inability to do what they have to do themselves. The IRS doesn't take excuses on April 15 if you are not ready. You have got to be ready. If you are a business and you file as an LLC or a sub S corporation, on the 15th of January, the 15th of April, the 15th of June, and the 15th of September, you file a quarterly tax return; and if you don't, you are held accountable.

We are now going into our fourth year, and it looks as though for the first time in the last 3 years we are going to have debate on the floor of how we spend the American people's money. I commend Senator ALEXANDER and Senator PRYOR, and I thank our leadership for making the statement of the desire to do so. I have already seen Senator INOUE and I have already seen Senator COCHRAN working diligently in the basic appropriations subcommittees to see to it that those bills come to the floor. I think it is time we do our business just as the American people do their business, and I commend Senator ALEXANDER and Senator PRYOR for calling for this colloquy tonight.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Madam President, since we have other Senators on the floor, what I would like to do is withhold my comments until a few of our other colleagues have a chance to speak, if that would be permissible to Senator ALEXANDER?

Mr. ALEXANDER. Madam President, I appreciate the courtesy of the Senator from Arkansas. The Senator from Maine is here. She has another appointment, and I await hearing what she has to say.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Madam President, first let me thank the Senator from Arkansas and the Senator from Tennessee for their usual courtesies but also for organizing this colloquy on the Senate floor this evening. I am very pleased to join my colleagues as we talk about the goal of taking up the fiscal year 2013 appropriations bills in what we in the Senate call the regular order.

What does that mean? As the Presiding Officer is well aware, that means we would bring up each of the individual bills, they would be open to full and fair debate, they would be amended, they would be voted on, and we would avoid having some colossal bill at the end of the year that combines all the appropriations bills. Those bills are often thousands of pages in length. A lot of times some of the provisions have not had the opportunity to be thoroughly vetted. They really are not very transparent. They contribute to the public's concern about the way we do business here in Washington.

I too join in commending the majority leader, the Republican leader, the chairman of the Appropriations Committee, and the vice chairman of the Appropriations Committee for their commitment to try to work together in a bipartisan fashion so each and every one of the appropriations bills can be brought before the full Senate so that we can work our will on each of these bills. I suggest that it is important to the Senate as an institution that we achieve this goal. It is also important for the American people to see that we can carry out our constitutional responsibility. Most of all, it is important for restoring trust in government that we work together in an open and bipartisan manner to establish priorities, to make the tough spending decisions that will be required, and to complete on time the work the Constitution requires of us.

I believe it is important to remember that these bills make important investments in research, economic development, infrastructure, our national defense, education, and health care, and that these bills not only create jobs now when they are needed most but also establish the foundations for future growth.

Just as important to our economic future is the need to rein in Federal spending. Our work must continue toward the goal of getting our national debt under control.

The best way for us to achieve these goals is for each and every one of the appropriations bills to come before the full Senate and for us to work our will

on those bills. That is the way the Senate should operate. It is the way we must operate in order to restore the faith of the American people in this institution.

Let me conclude my remarks by thanking Senator ALEXANDER and Senator PRYOR for initiating this colloquy tonight. This is the way we can come together, and America will be better for it.

Mr. ALEXANDER. Madam President, I see the Senator from Virginia, Mr. WARNER, has arrived. He, with Senator PRYOR, has been very active in the last several months in working across party lines to try to make the Senate function more effectively. I would leave it to Senator PRYOR as to what comes next.

Mr. PRYOR. If it is agreeable with the Senator from Tennessee, I will ask the Senator from Virginia to say a few words. We understand he has a pressing engagement. I don't think there is anything more pressing than when it is your wife's birthday, so he would like to say a few words, if that is agreeable to the Senator from Tennessee.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Madam President, I thank the Senator from Arkansas and my good friend from Tennessee for initiating this effort. Again, as a relatively new Senator—in fact, I jumped the line. I apologize. As the Presiding Officer would support, it is only in the interest of family values; if I were not getting to my wife's birthday in about 30 minutes, I would be able to give more extended remarks.

As a Senator who has only had the opportunity to serve in this body for 3 years, I hear my more senior colleagues talk about the old days or the days when the Senate took up in an orderly fashion the business of the people and debated it in vigorous fashion but came to conclusion on issues that confronted the country. We have done some of that in the years when I came in with the Presiding Officer. There were issues of major importance that we have debated. But too often in recent times, we have not had the favor of those kinds of debates.

While we can disagree about many of the grave issues of the day, as a former businessperson, I know there is nothing more important than to give predictability to the enterprise we call the Federal Government. The way we do that is by passing spending bills—the appropriations bills—where hard choices are made about which programs to fund, which programs not to fund.

Like my friend the Senator from Tennessee and both Senators from Arkansas and the Presiding Officer, I have enormous concerns about our debt and deficit. We are going to have to make hard choices. But if we are going to make those choices, we need a full

and vigorous debate, a debate where amendments are offered, where procedural tactics are not used to slow that debate, and where the will of the Senate is enacted.

I understand that the majority leader and the Republican leader have reached some accommodation to try to start a new way of business, and the first step of that business should be having us, in a fair and orderly process, debate appropriations bills, make those hard choices, and move on.

I again thank my colleagues for their courtesy but particularly thank the Senator from Tennessee and the senior Senator from Arkansas for bringing us together on the floor to lend our voices. This might even be like a volunteer fire department where Members of the Senate can rush down on an issue of importance. I heard the call that there were Senators down here talking on this important issue, and I am glad to add my voice to it.

I yield the floor.

Mr. ALEXANDER. I congratulate the Senator from Virginia, who has worked in many different ways to try to get a result here. People say: I see your goal is to try to be more bipartisan. My goal is not to be more bipartisan, my goal is to get a result. I learned in the public schools of Maryville, TN, how to count, and if you need 60 votes to succeed and we have only 47 over here and only 53 over there, we have to find some things we agree on if we are ever going to get a result. We can start with these appropriations bills, which are our basic work.

Not only is the senior Senator from Arkansas here today, having been a part of these discussions to try to help the Senate be a more effective institution, so is the other Senator from Arkansas. I look forward to hearing his remarks. I thank him for his leadership.

Mr. BOOZMAN. Madam President, I am also here tonight to compliment my Senate colleagues, Senators INOUE and COCHRAN, and the members of the Appropriations Committee as well as Majority Leader REID and Republican Leader MCCONNELL as they commit to do their best to pass all 13 appropriations bills. I also thank the senior Senator from Tennessee and my senior Senator from Arkansas for making this possible.

I do think it is very important. Each one of us in this Chamber owes it to the American people to work together to help our country today and build a path for success in the future. Our Founding Fathers laid the foundation that allows the Senate to function effectively and efficiently, but it requires working together. The American people are tired of the finger-pointing that has stalled much of the work they sent us here to do, but today I am hopeful that we are seeing the light at the end of the tunnel which starts with

trying to enact all 13 appropriations bills through a regular process this year.

I again applaud Majority Leader REID, Republican Leader MCCONNELL, Senators INOUE and COCHRAN, and also the members of the Appropriations Committee for agreeing to do their very best to move the appropriations bills forward.

Determining how we spend our hard-earned taxpayer dollars is the basic responsibility for Congress. We know tough choices will have to be made on the appropriations bills, but moving forward is the right decision. This is an important step to reducing government spending and helping to balance our budget while investing in programs upon which Americans have come to rely. Moving forward on these bills returns the Senate to its proper function and provides a framework of spending so the American people can see and understand where their hard-earned money is going, as the Senator from Georgia alluded to earlier.

In recent days Members of Congress have worked together to find solutions to the troubles Americans are facing. This level of cooperation was evident in headlines. One newspaper reported that "Washington is talking again." This should not be the exception. This needs to be the rule.

I am hopeful that the agreement on moving forward with the appropriations bills through our regular process sets a new trend that will become a standard. I can see from the people who have spoken before me tonight and those who are waiting to talk that there is widespread bipartisan support for these efforts to continue.

Our leaders' efforts show the proper way for the Senate to function, and I encourage all of my colleagues to come together, not only to help move forward on these bills, but also, as we work through regular order of the Senate, that will help us get our economy and our country back on track.

I again thank our senior Senator from Tennessee and my senior Senator from Arkansas.

Mr. ALEXANDER. Madam President, before we go to the senior Senator from Arkansas, I wish to thank Senator BOOZMAN for his comments and his attitude. I am not a bit surprised that, since he arrived here, he has been a very constructive force in the Senate, interested in results. He was a member of the University of Arkansas football team back in the early 1970s, and he knows what a team is. He knows that if the quarterback calls a play and everybody runs in a different direction, nobody scores.

It is good to have him here. He is an excellent Member of the Senate. I thank him for his participation tonight and yield to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BOOZMAN. The only thing I would say is that Senator PRYOR reminds me that I was a Razorback two stadiums ago.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Madam President, I likewise wish to thank Senator BOOZMAN. He keeps calling me the senior Senator. We are partners. He does great work for the State of Arkansas, and I appreciate his leadership. Although he has been here a short time, his presence has definitely been felt in the Senate already, and I look forward to working with him as long as we are both here. I really appreciate him being here tonight because the hour is late in Washington. It is after 6:30 now, and I appreciate him carving out some time.

Article I, section 9 of the U.S. Constitution simply states that "no money shall be drawn from the Treasury, but in consequence of appropriations made by law." Like a lot of things in the Constitution, it is a fairly simple statement, but it is loaded with importance. We can all talk about this clause as a power given to Congress in the Constitution, and I think that is true, but I also classify it as a responsibility.

As a congress, it is our responsibility to write annual appropriations laws to fund the government's commitments to its citizens. It is our responsibility to do that. The principle of an appropriation is a basic rule of governing, and I think a lot of people would agree that we have lost sight of many of the basics around here. I believe the basics are important, and I would like to get back to them, which includes the Senate—and hopefully the House—passing the annual appropriations bills through what we call the regular order.

This is where I wish to thank the two leaders, Senator MCCONNELL and Senator REID, because they have a commitment. They have committed to each other—with the chairman and the ranking member of the Appropriations Committee—that we will try to get back to regular order and do things the way we should be doing them around here and should have been doing them around here all along.

Regular order is something we talk about in this Chamber, but it is something many Members of the Senate, unfortunately, have never experienced. Last year the Senate Appropriations Committee dutifully passed all 12 individual appropriations bills. Yet, when they came to the floor, gridlock struck and the Senate was not able to pass these one by one as we should have. In fact, the last time we passed them one by one was in the year 2006, and even in that year the Congress did not get them done on time.

What the leaders are talking about now is getting them moving through the appropriations subcommittee and the full committee and bringing them

to the floor. As we say in regular order, let the Senate debate, amend, and vote on these as we go. Hopefully we will get all of these done on time and in the normal order, as we should. The last time Congress completed all of the appropriations bills one by one and on time was in fiscal year 1995. So we have not done a very good job, and this is one of the things that I think really frustrate the American people. It is beyond time that we get serious about this responsibility.

Here again I wish to thank Senators REID and MCCONNELL for their leadership. I think we see our leaders acting like leaders and trying to get things moving for the fiscal year 2013 appropriations bills, but I must say we all recognize this is easier said than done. We all know that. I want them to know they have many, many of their colleagues who support them in this goal of getting all of the appropriations bills done as we should.

We have two very respected and accomplished Senate leaders here on the floor, but we also have two very accomplished and respected Senators who run the Appropriations Committee. We could all talk a long time tonight about the chairman and ranking member, and I am confident that if as a Chamber we stand behind them and stand behind the two leaders, we can break this cycle of inaction here in the Senate.

The good news for this year is that we have already enacted into law our top-line spending number—in technical terms, people call that a 302-A allocation—so we know how much money we can spend on discretionary programs under the law. We passed that law last year. Even though we didn't pass a budget resolution, we did pass the Budget Control Act, and that total for spending is \$1.047 trillion, and that is \$686 billion for security building and \$361 billion for nonsecurity. This was supported by 74 Members in this Chamber, 269 Members down the hall in the House, and it was signed into law by the President. It is now the law of the land, so we now have our top-line spending numbers in law, and hopefully that will help us jump-start the fiscal 2013 spending appropriations process regardless of what happens to the budget resolution, which, by the way, totally supports getting a budget resolution passed. Nonetheless, we have this already in law for this year.

I would like to end by saying that I believe we can pass all 12 appropriations bills this year, and I think we can do it in a way that gives us ample opportunity for input, debate, and a chance to amend. Whether or not we will pass all 12 spending bills on time this year will depend on whether Members of Congress will have the will to get it done. I think the American people want us to get it done. They want to see us work together.

Madam President, if I could ask a question of the Senator from Tennessee through the Chair, I would like to get his reflections, because Senator ALEXANDER has been around this place for a long time, going back to Senator Howard Baker, who was one of the legends in the Senate, and Senator ALEXANDER was able to work with him and for him and see the Senate as it ran differently back in those days.

Madam President, I would like to ask through the Chair why Senator ALEXANDER thinks it is so important that we get our appropriation bills back on track.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Madam President, I thank the Senator from Arkansas for his leadership. I will answer his question to the best of my ability.

I suppose some people may be watching and say what we are talking about is a lot of "inside baseball." Well, it would be like telling a bunch of people that talking about singing at the Grand Ole Opry is "inside baseball." This is what we do.

I went out to see Johnny Cash at the House of Cash when I was Governor of Tennessee many years ago, and I didn't know quite what to say to him, and so I said: Johnny, how many nights do you appear on the road?

With that big-old deep voice of his, he said: Oh, about 200.

I said: My goodness. Why do you do that?

He looked at me and said: That is what I do.

Well, this is what we do or at least what we are supposed to do. I mean, we are elected by the people from Arkansas, Tennessee, North Carolina, and all over this country expecting us to get results. They sent us up here to put the country first, put our States next, and try to lead us in the right direction. We have our partisan differences, but in the end one of the things we are supposed to do is to appropriate dollars. It says in the Constitution, section 9, article I, that "no money shall be drawn from the Treasury, but in consequence of appropriations made by law." That is us. So this is what we do.

In addition to that, we are supposed to oversee the spending of that money. This is not the whole budget, this is only about 38 percent of it, but it is over \$1 trillion. And at a time when we are borrowing 40 cents of every dollar we spend, maybe the people of this country have a right to expect that we take up each one of these 12 appropriations bills, that we have our hearings on them, and that we oversee the spending. If we want to add to nuclear modernization, we vote on that, and if we want to cut Solyndra, we vote on that, but we do our job of appropriations, and we do our job of oversight.

Now, Senator PRYOR, the senior Senator from Arkansas, asked me what my

reflection was upon this Senate. I have seen it for a long time. I came here in January of 1967 as a very young man with a newly elected Republican Senator from Tennessee, Howard Baker, and I watched him for a long time. There are many lessons in having watched the Senate for a long time, but one of the lessons is that the leaders cannot lead without any followers. This is a body that operates by unanimous consent. If one of us wants to grease the tracks, the train runs off the tracks. That is the way it works. So the leaders are not going to be able to complete what their stated intention is, which is to take these 12 appropriations bills, bring them through the committees by late April, early May—the House is doing the same thing, we understand—and then bring them to the floor so that we have a chance to consider them, to expose them to the light of day, amend them, vote on them, and pass them or reject them. That is what we do, as Johnny Cash said about his 200 nights on the road, and we should be doing it.

The idea that we have not taken these 12 appropriations bills and brought them to the floor but 2 times since the year 2000 is a bad commentary on this body. It means it doesn't function the way it should function. I do think it functioned better in the 1970s and 1980s. When Senator Byrd and Senator Baker were the Democratic and Republican leaders, they would get unanimous consent agreements to bring bills to the floor. The minority would allow that, and the majority would allow a lot of amendments until people got tired of voting. But they could not have done that just by themselves. Senator Byrd and Senator Baker were very good leaders, but they could not have gotten that done if the Senators themselves didn't make it possible for the leaders to succeed.

So I am delighted to see this discussion. I see the Senator from North Carolina is here, and I would be interested in her comments. My feeling is that there are a large number of Republicans—and I believe a large number of Democrats—who prefer to see the Senate work together to get results. I mean, we worked pretty hard to get here, and the people of Tennessee, Arkansas, and North Carolina expect us to get results, so here is a chance for us to do that. I believe our leaders are saying: OK, let's get this done. And we are saying: Senator REID, Senator MCCONNELL, Senator INOUE, Senator COCHRAN, we are going to help. We know it will not always be peaches and cream. There will be problems, but, as Senator WARNER talked about a volunteer fire department, maybe when the bell rings and we all show up, we will make the Senate more effective and we will be more effective.

Let me stop my remarks for a moment and yield to the Senator from

North Carolina, who has been a regular participant in the discussions we have had about how we can make the Senate be a more effective institution.

The PRESIDING OFFICER (Mr. PRYOR). The Senator from North Carolina.

Mrs. HAGAN. Mr. President, I am pleased to join this colloquy and to hear the Senator from Tennessee and the senior Senator from Arkansas work together on this issue. I think it is something of prime importance. Just as Senator ISAKSON went across Georgia this past week, I was in many cities and communities in North Carolina, and people are concerned, as he said, with such a low approval rating of the Congress. They are asking us: Why can't you work together? And, as the Senator from Tennessee said, when we have 47 Members in one party and 53 Members in the other party and today we need 60 votes in order to get something done, we are going to have to work together in this Chamber. That also means the Senate and the House are going to have to come together and have conferences that actually work so we can get legislation passed—in the case we are talking about right now, getting the 12 appropriations bills passed.

When I was in the North Carolina Senate, I was one of the cochairs of the Budget Committee. We know how to do this. We know how to get things done. Obviously this is a much bigger piece of the pie up here, but it is important to the people throughout our country that we work together to get these bills passed. So I am very pleased to hear this debate and colloquy and the commitment we have standing here and talking about and pledging to work together.

I am pleased that Senator INOUE, the chairman of this committee, and the ranking member, Senator COCHRAN, are putting this together and bringing this forward. I applaud both the Senator from Tennessee and the Senator from Arkansas for holding this colloquy and bringing this out so the American people can hear what we are talking about and the commitment to move forward.

I thank the Chair. We are here to make this place work, to make our country work better every day. We are going to have our differences of opinion. The way the Senate is structured, we should bring the bill to the floor and offer amendments. Let's have a vote. Let's have our differences of opinion. When we don't do that, we are not doing our job.

I see the Senator from South Carolina has arrived. I wish to say this to him: For the last 45 minutes, we have had a stream of Democratic and Republican Senators who have come to the floor and who have congratulated the majority leader, the Republican leader, and the chairman and the ranking

member of the Appropriations Committee, for saying we should take all 12 appropriations bills this year, bring them through committee properly, have all of our hearings, do our oversight, bring them to the floor, and then let's pass them.

More than that, we have said we know our leaders can't be leaders if they don't have any followers, and it is part of our job to create an environment in which they can succeed. So we have come to the floor to say that, to pledge we are going to do that. It is not just those who come tonight. We represent a preponderance of Senators on our side of the aisle and, I am told, a preponderance of the Democrats as well.

I would say to the Senator from South Carolina that the Senator from Virginia, Mr. WARNER, was here a little earlier and he said the exercise tonight reminded him of a volunteer fire department. I believe I first heard those words from the Senator from South Carolina. The Senator from South Carolina has seen the House of Representatives and he has seen the Senate and he has seen the condition of our country. I wish to yield to him in this colloquy for his thoughts on what we are doing here tonight.

The PRESIDING OFFICER (Mrs. HAGAN). The Senator from South Carolina.

Mr. GRAHAM. Madam President, my first thought is that the American people are not very impressed with what we are doing up here. We have a congressional approval rating of about 10 to 15 percent. I think it would help all of us if we could go back home and say: This coming week we are going to be talking about the Department of Education budget; we are going to be talking about Veterans Affairs; we are going to be talking about Energy and Water.

We want to be able to tell our mayors and people—county council, city council, our constituents—we are going to be debating how much money we will allocate for different parts of the government, even knowing we are broke. I think that would resonate, I say to the Senator from Tennessee.

This whole idea of a volunteer fire department, when we think about it—particularly in the South, and I am sure it is true everywhere—volunteer fire departments have citizens who have a lot of things to do but feel as though if they work together to protect each others' homes from devastation by fire, that would be a good thing. They are all volunteers. They don't get any money. They lower everybody's insurance premiums by having a volunteer fire department. I think a lot of Members of the Senate feel very frustrated, as does the average person on the street. We want to do better. So we are volunteering our services here to the body so that if we

will do things that make sense to the American people, count us in to kind of push the ball up the hill.

The good news, I say to my colleague, is our leaderships have committed to this. Without "followship," it doesn't matter what they say. This is going to take discipline in this body. I expect those on the other side of the aisle to take votes they won't like, and I expect those on this side of the aisle to take votes we won't like. But we have to have some discipline about it. We want the bills to get done in an orderly fashion, and we want the Senate to be a Senate.

This comes about because Senator WARNER spent a lot of time getting us all together. This volunteer fire department idea we have, the Senator from Tennessee and Senator WARNER have made this happen. We had several dinners among the people here tonight to try to find a way to get the Senate back to doing business. I am convinced that if we could bring one appropriations bill to the floor, have an honest debate about how much we should spend on that part of the government, have amendments relevant and not relevant but in an orderly fashion, that would be momentum to get the Senate back to being the Senate. That would help us all and it would help the country.

I want to tell Senator REID and Senator MCCONNELL: Don't let this moment pass. We have your back and we want to conduct the Senate in a way that is more traditional than is going on today.

I came here to do things. I think everybody who has spoken here tonight is telling the public and telling each other: Enough is enough. This is a lousy way—to appropriate a couple three trillion dollars at the end of the year in a big bill nobody reads. If you think that is a broken system, we agree. We don't like the idea of passing a bill in the last week of the fiscal year—3,000, 4,000 pages, whatever it is—and nobody knows what is in it, but that is the only way we can run the government if we didn't go back to the normal course of business. So for those who want better government, this will give us better government. If you want to do something constructive, this gives us an opportunity. For those who want to set priorities, this allows you to do it.

To the leaders of the Senate: If you will follow through with this, it will pay enormous dividends for the body. And to Senators ALEXANDER, PRYOR, and others who have been in the volunteer fire department, I think this is a good moment for the Senate and I am proud to be associated with it, and if it happens, it will be because of what they have done.

Mr. ALEXANDER. Madam President, before we go back to the Senator from Arkansas, I have a question I wish to

ask the Senator from South Carolina. First, I am not sure he was here when I referred to the Grand Ole Opry. I haven't been doing that because it is in Nashville. But it has occurred to me over the last several months that there is a lot about what we do that is like the Grand Ole Opry. I know a lot of performers of the Opry, members of the Opry. They sing and pick in every little bar in the South for 20 years until finally, by skill and by accident, they get an invitation to join the Grand Ole Opry. What would they think if they joined the Grand Ole Opry and then they weren't allowed to sing?

That is kind of the way we are in the Senate. We are lucky to be here. We are political accidents in a sense. But we worked hard to be here—almost all of us on both sides. So the idea of coming here, working hard to be here, being elected by the people who sent us, and then not being allowed to amend or vote or debate is unacceptable. That is what we want to do with these 12 bills.

The Senator from South Carolina reminded me of a specific example of that—the deep ports in the United States. If we are going to export American-made goods and create more jobs in our country, we are going to have to have deep ports. We have a real problem in the way we finance that in the Federal Government, and we would be a stronger country if we could discuss that in the Appropriations Committee. If we don't fix it there, we should bring it to the floor and have amendments and have a debate and let people see what is going on.

Would the Senator agree that would be a perfect example of what we should be doing?

Mr. GRAHAM. I think the Senator from Tennessee picked the best example I can think of simply because the Charleston harbor deepening is probably the No. 1 issue for the State of South Carolina.

The Panama Canal is going to be widened and the cargo ships that are going to be on the oceans of the world in the next few years are three times the size of the cargo ships that exist today. Shipping as we know it is going to change. What does that mean? It means harbors such as Savannah and Charleston—just name a harbor on the east coast—are going to have to be deeper to accept these ships.

What does it mean for shipping? Ships that would normally deposit their goods in California can now access the east coast. So east coast ports, based on common sense and merit, have to be deepened. If we brought the Energy and Water appropriations bill through the committee and to the floor, it would make us all think about that. Because when I hear the President say we want to double exports in the next 5 years, count me in. It would be thousands of jobs—millions of jobs—

created in America. How do we get those products to the customers overseas if our ports are not modernized to adjust to the change in shipping? Then it is a statement that will not bear fruit. Go to Shanghai, go to Hong Kong and other ports, go to Mideast ports, and we are 20 years behind.

This is a good example of how, if we took the Energy and Water appropriations bill, among ourselves we could create a national vision to deepen ports to adjust to shipping changes. If we keep continuing to appropriate in the last week of the session in a bill that nobody reads, not only will our fellow citizens think poorly of us, we won't have a vision. So this is a good example of why if we took every appropriations bill, put it through committee and brought it to the floor, we could come up with ways to make smart decisions.

I guess what we are talking about is that spending \$2 trillion or \$3 trillion in a week where only four of five people know what is in the bill is not smart. We all did come here to have our say, and I have a thousand ideas about ports.

So, my friend in Arkansas, if the port of Charleston is deepened and other east coast ports are deepened and the cargo containers are three times the volume we have today, what does that mean for the Mississippi River? It means it has to be widened and deepened. Because the cargo we unload on the east coast has to get to the interior of the country. I want to have a vision for interior ports, because one thing could affect the other. And the only way the Senate can make smart decisions is to break the government into 12 parts, as we have been doing for a long time, and get back to doing business in a more traditional fashion.

This is a classic example: If we brought the Energy and Water appropriations bill to the floor, people other than me would have a say about what to do, given the change in shipping. And if we don't do it in the normal course of business—if we keep doing this in the last week of the session—we are going to be left behind as a Nation.

This is a great example of why we should do appropriations bills in the normal course of business. If we can pull this off in 2012, it will not be a lost year; it will be where we can do some good for the public.

So I thank you very much. I yield the floor.

Mr. PRYOR. Madam President, I have one thing to say in closing while my two colleagues are still on the floor: Today, Senator SHAHEEN read Washington's Farewell Address which we have been doing in the Senate since 1888. One of the reasons we do that is because President Washington calls to us through history to do our best.

We talk about this issue in South Carolina—deepening the port of Charleston. Certainly President Wash-

ington knew about the port of Charleston. It was a huge asset for this fledgling Nation of ours. He had no idea about a Panama Canal. He had no idea about goods coming over from China. He certainly had no idea about goods coming in from the west coast because at that point he was hoping we would get to Appalachia. He had no idea what was going to happen here. But he calls to us from history to do our job and accept the challenges that come our way.

The appropriations bills shouldn't be a challenge. That is nuts-and-bolts good government.

This week in Arkansas we had five townhall meetings and they were great. I got lots of good questions; a few pointed questions. My colleagues know how it goes because they have participated in those as well. It was great. It is democracy in action. When people can show up in a community and ask their Senator questions, that means the system is working. It is working back home, but we need to get it to work up here. That is what I heard over and over this week in Arkansas, is the expectations for this Congress are very low for this year. We talk about a 10-percent approval rating. I am sometimes surprised it is that high.

Mr. GRAHAM. Madam President, if the Senator will yield, here is the good news: It wouldn't take much to exceed expectations. But I want to say to the west coast Senators that their ports need to be modernized too. They need transportation hubs around their ports. The whole infrastructure regarding export opportunities in this country has deteriorated because of a lack of vision.

Wal-Mart is a pretty good model of how business works. They get thousands of millions of products a day out to stores all over the country. They do it in a business fashion: FedEx—Federal Express—UPS. The Federal Government is stuck in the 1950s and we need to change that. I think the appropriations process is the right vehicle to do it.

Mr. PRYOR. That does go back to the appropriations process, because obviously those things require money, they take investment in our future. But the truth is if we are stymied in our appropriations process, there are a lot of good things that we can't get done. But when they go through, we can take care of the challenges that present themselves around the country. We have a lot of need in this country. I am certainly a promoter of investing in infrastructure, and the ports are very important to our Nation.

With that, I yield to the Senator from Tennessee.

Mr. ALEXANDER. Madam President, I wish to thank the Senator from South Carolina for his leadership in helping to make the Senate work and for his good example and for his giving



us a specific example—the deep ports—as to why it is important that we set out to do what we are elected to do, which is to say, the Port of Charleston and the Port of Savannah have to be deepwater ports if we want to keep our jobs. That needs to be said in the Senate. It needs to be said in the subcommittee and in the full committee, and it needs to be said on the floor.

It is encouraging to me when Senators such as the Senator from North Carolina and Arkansas and Virginia from that side of the aisle, and the Senator from South Carolina and the Senator from Maine and the junior Senator from Arkansas and the Senator from Georgia on this side of the aisle—I think we would all say firmly that while we are only several Senators, the words we speak are the same feelings that a large number of Senators on both sides of the aisle feel.

We want to get results. We want to do our jobs. We want to create an environment in which our leaders can succeed. We know that if we want to, we can do that. And we should do it because it is our constitutional responsibility, because oversight is our responsibility, because it is lazy management if we allow it to go to the end of the year and end up with a great big pile of bills in an omnibus or a continuing resolution, which is worse.

We need to go over spending item by item. I am on six subcommittees. All three of us are on the Appropriations Committee. We will probably have 30 hearings in the next 2 or 3 months. We will have a good opportunity to go through \$1 trillion of discretionary spending and try to spend it wisely and to save money wherever we can.

One last thing: When these spending bills come to the floor and we debate them and approve them, we can show the American people that discretionary spending is not the biggest problem we have with spending in this country. Discretionary spending is 38 percent of the budget, and according to the Congressional Budget Office it is scheduled to go up over the next 10 years at the rate of inflation. The rest of the budget, which is largely our entitlement programs, is scheduled to grow up to four times the rate of inflation. If it does that, we will be a bankrupt country after about 10 or 12 years. So there is every reason in the world for us to bring these bills to the floor.

My concluding sentence is this: We congratulate the Democratic and Republican leaders and the chairman and ranking member of the Appropriations Committee. We believe our job is to bring all 12 bills through committee and to the floor and pass them before the fiscal year starts. We, on both sides of the aisle—those of us who have spoken and many others who feel the same way—pledge our support to help our leaders achieve that result.

I yield the floor.

The PRESIDING OFFICER (Mr. BEGICH). The Senator from Arkansas.

Mr. PRYOR. Mr. President, I thank Senator ALEXANDER from Tennessee for his leadership on this issue. He is the one who wanted to come here and praise the two leaders for their leadership. Again, they are demonstrating leadership by reaching this agreement and trying to change recent practice around here. They want to set a new standard for getting it done as we are supposed to get it done.

So I thank my friend and colleague from Tennessee for all of his hard work, and this is just the tip of the iceberg. He is working on many ways to try to make this institution run better and to make the American people proud of the Senate. So I thank the Senator for that.

#### TRIBUTE TO THOMAS CULBERTSON

Mr. PORTMAN. Mr. President, I rise to recognize Thomas Culbertson of Fremont, OH, for many years of outstanding leadership and service to The Rutherford B. Hayes Presidential Center. A former college librarian and stockbroker, Mr. Culbertson began his service to the center in 1988 as a manuscripts curator and rose to the position of executive director in 2004.

Mr. Culbertson was instrumental in developing two workshop series for educators. The first series, "History Links: A Partnership to Teach American History," helped 300 area schoolteachers implement State standards for social studies that focused on American history. The second series included three workshops for more than 200 community college faculty that focused on America's Gilded Age. Mr. Culbertson also led the effort to gain accreditation for the Hayes Museum from the American Association of Museums in 2002.

Of utmost importance to Mr. Culbertson's legacy is the \$1.2 million restoration of the first floor of the Hayes home to how it looked when our 19th President and his wife, Lucy, lived there. With the help of the late U.S. Representative Paul Gillmor, the Hayes Center was awarded a \$400,000 Save America's Treasures grant through the U.S. Department of Interior. In addition, the center received \$500,000 in State capital funding, and Mr. Culbertson helped raise \$300,000 in donations to pay for the restoration. The project included replicating wallpaper, carpets, and other features that had been altered over the years. The home renovation will be completed in July 2012.

For his commitment to public service and the many contributions he has made to the Hayes Presidential Center, I would like to recognize and thank Mr. Culbertson for his years of service and wish him well in his retirement.

#### ADDITIONAL STATEMENTS

##### TRIBUTE TO WILLIE O'REE

• Mr. KERRY. Mr. President, Willie O'Ree made history on the night of January 18, 1958, but for too long the significance of what he accomplished that night went largely unacknowledged. Every American should know Willie O'Ree for his rightful place in history: he is the Jackie Robinson of hockey—the first player of African heritage to play in the National Hockey League.

Unlike Jackie Robinson's widely heralded debut with the Brooklyn Dodgers 11 years earlier, Willie O'Ree's appearance on the ice for the Boston Bruins 54 years ago got little notice in the press. The New York Times simply reported: "The Boston Bruins, with a Negro, Billy O'Ree, in the line-up for the first time in National Hockey League history, scored once in every period tonight to beat the first-place Montreal Canadiens for the first time in eight games, 3-0." Sports Illustrated had even less to say in its Scoreboard column: "Boston made history by bringing up Quebec's Billy O'Ree, first Negro to play in NHL."

But it was a milestone for hockey—and a dream come true for the 22-year-old Willie O'Ree, who had spent his boyhood in New Brunswick, Canada—the youngest of 13 children—idolizing such NHL legends as Gordie Howe and Maurice Richard. He liked baseball, too, landing a tryout with the Milwaukee Braves minor league team in Waycross, GA, in 1956. He even got to meet Jackie Robinson on a trip his baseball team made to New York in 1949.

Willie was as good at shortstop as he was at second base. He was good at the plate, too. And with his speed, he stole a lot of bases. But to him, baseball was just a way to stay in shape for hockey. To him, "there was just something about hockey," he always said. He started skating when he was 2 years old and began playing organized hockey when he was 5.

He explains his love of hockey in words all of us who share his passion for the game can appreciate. "When I put a pair of skates on and a hockey stick in my hand and started maneuvering the puck," he says, "I just became obsessed with it. I had that burning desire within me."

That burning desire—that deep ambition—drove Willie O'Ree through almost two minor league seasons with the Quebec Aces before being called up by the Boston Bruins for that historic game in Montreal against the Canadiens in 1958. But after that memorable night, he would play only one more game with Boston before being sent back to the minors for the rest of the season.

But in 1960, Willie O'Ree was back with the Bruins for 43 games, including

one memorable game at the Boston Garden in which he scored the winning goal in a 3-2 victory over Montreal. It came in the third period. Willie broke away from his check, got a perfect pass from Leo Boivin, stick handled past two Canadiens players, then from 10 feet out fired a shot past goaltender Charlie Hodge. More than 13,000 Bruins fans jumped to their feet and gave Willie a 2-minute standing ovation.

That year, Willie had a total of four goals and 10 assists with the Bruins, but that was the end of his NHL career. He spent the next six seasons in the Western Hockey League, then nine more seasons in the Pacific Hockey League until he retired in 1979 at the age of 44. Most seasons were productive despite the fact that at 19 he had suffered an injury that left him blind in his right eye. Doctors said he would never play hockey again. They were wrong. With aggressiveness, fearlessness and speed, he scored nearly 500 goals in his 21 years playing professional hockey.

His own impairment was no obstacle to Willie O'Ree. Neither was the blind bigotry of those who filled his mailbox with anonymous death threats, those who screamed racial epithets at him from the stands, those who even tossed black cats out on the ice, even those players who took countless cheap shots at him, in a time when players did not wear helmets or face shields. Willie responded the same way as Jackie Robinson had in 1947 when he broke the color barrier in baseball—with quiet strength and calm dignity. "I just want to be a hockey player," he said, "and if they couldn't accept that fact, that was their problem, not mine."

It wasn't until 1974 that another black player, Washington's Mike Marson, made it to the NHL. It is undeniable that Willie O'Ree—his talent and his character—opened the NHL to other minorities. But Willie's groundbreaking days are far from over. For the last 14 years, he has served as the NHL's Director of Youth Development and ambassador for NHL Diversity, part of the NHL Foundation supporting hockey programs for boys and girls throughout North America. He is constantly on the go, running clinics and speaking at schools all across the continent, teaching not only hockey but also how to live life off the ice. He continues to spread the word that "hockey is for everyone."

We have recognized and celebrated ambassadors from all over the world. We should also honor Willie O'Ree who is the ultimate ambassador not just for hockey, but for dignity and respect and even courage in the world of sports. The world weathers so many storms and so much uncertainty, but at the center of each we find people of character who revive our hope and give us strength. Willie O'Ree is such a man, and we are all blessed to have his strength as an example.●

## RECOGNIZING NATIONAL HISTORY DAY

● Mrs. MURRAY. Mr. President, I would like to take this opportunity to recognize National History Day, a yearlong academic program focused on improving the teaching and learning of history for 6th to 12th grade students, for receiving a 2011 National Humanities Medal. The National Humanities medals honor achievements in history, literature, education, and cultural policy. For the first time ever, a K-12 education program has received this prestigious award. National History Day was recognized as "a program that inspires in American students a passion for history."

Each year more than half a million students, encouraged by thousands of teachers nationwide, participate in the yearlong National History Day program. Students choose historical topics related to a theme and conduct extensive primary and secondary research through libraries, archives, museums, oral history interviews, and historic sites. After analyzing and interpreting their sources and drawing conclusions about the significance of their topics in history, students present their work in original papers, Web sites, exhibits, performances, and documentaries. These products are entered into competitions in the spring, at local, State, and national levels where they are evaluated by professional historians and educators. The program culminates in a national competition each June. National History Day programs operate in all 50 States, the District of Columbia, and the U.S. territories, engaging students with its unique approach to the hands-on learning of history.

In addition to discovering the exciting world of the past, National History Day also helps students develop the attributes that are critical to make them college and career ready. This includes: critical thinking and problem-solving skills, research and reading skills, oral and written communication and presentation skills, self-esteem and confidence, and a sense of responsibility for and involvement in the democratic process. With schools spending more resources and time focusing on English language arts and mathematics education, it is important that programs like National History Day are recognized and supported to ensure students receive a quality history and civics education.

The impact of National History Day is also supported by data. A recent comprehensive study by Rockman et al found that students who participate in National History Day develop a range of college and career-ready skills, and outperform their peers on State standardized tests across all subjects—including science and mathematics.

National History Day is much more than a day, it is an evidence-based his-

tory education program that gives our young people skills to succeed in school and post secondary careers as well as a valuable understanding of how the world they live in has been shaped by people and events of the past. National History Day is a unique program that has benefited over 15 million students since 1982. I congratulate them on winning the 2011 National Humanities Medal and wish them many more years of continued success.●

## MESSAGE FROM THE HOUSE RECEIVED DURING ADJOURNMENT

ENROLLED BILL SIGNED

Under the authority of the order of January 5, 2011, the Secretary of the Senate, on February 21, 2012, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker pro tempore had signed the following enrolled bill:

H.R. 3630. An act to provide incentives for the creation of jobs, and for other purposes.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. REID).

## MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 1173. An act to repeal the CLASS program.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-5055. A communication from the Chairman and Chief Executive Officer, Farm Credit Administration, transmitting, pursuant to law, the report of a rule entitled "Disclosure to Investor in System-wide and Consolidated Bank Debt Obligations of the Farm Credit System" (RIN3052-AC77) received in the Office of the President of the Senate on February 15, 2012; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5056. A communication from the Acting Chief of the Planning and Regulatory Affairs Branch, Food and Nutrition Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Nutritional Standards in the National School Lunch and School Breakfast Programs" (RIN0584-AD59) received in the Office of the President of the Senate on February 15, 2012; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5057. A communication from the Acting Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Dairy Product Mandatory Reporting" ((Docket No. AMS DA 10 0089; DA-11-01) (RIN0581-AD12)) received in the Office of the President of the Senate on February 16, 2012; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5058. A communication from the Acting Administrator, Agricultural Marketing

Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Marketing Order Regulating the Handling of Spearmint Oil Produced in the Far West; Revision of the Salable Quantity and Allotment Percentage for Class 1 (Scotch) and Class 3 (Native) Spearmint Oil for the 2011-2012 Marketing Year" (Docket No. AMS-FV-10-0094; FV11-985-1A-FIR) received in the Office of the President of the Senate on February 16, 2012; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5059. A communication from the Acting Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "National Organic Program (NOP); Amendments to the National List of Allowed and Prohibited Substances (Crops and Processing)" (Docket No. AMS-NOP-10-0079; NOP-09-02FR) (RIN0581-AD06) received in the Office of the President of the Senate on February 16, 2012; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5060. A communication from the Acting Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Revision of Cotton Futures Classification Procedures" (Docket No. AMS-CN-10-0073; CN-10-005) (RIN0581-AD16) received in the Office of the President of the Senate on February 16, 2012; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5061. A communication from the Under Secretary of Defense (Intelligence), transmitting, pursuant to law, the report of a request for an extension of the delivery date of an annual report on the current and future military strategy of Iran; to the Committee on Armed Services.

EC-5062. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency with respect to Iran as declared in Executive Order 12957; to the Committee on Banking, Housing, and Urban Affairs.

EC-5063. A communication from the Associate General Counsel for Legislation and Regulations, Office of Public and Indian Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Removal of the Indian HOME Investment Partnerships Program Regulation" (RIN2577-AC87) received in the Office of the President of the Senate on February 16, 2012; to the Committee on Banking, Housing, and Urban Affairs.

EC-5064. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determinations" ((44 CFR Part 67) (Docket No. FEMA-2011-0002)) received in the Office of the President of the Senate on February 15, 2012; to the Committee on Banking, Housing, and Urban Affairs.

EC-5065. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determinations" ((44 CFR Part 67) (Docket No. FEMA-2011-0002)) received in the Office of the President of the Senate on February 15, 2012; to the Committee on Banking, Housing, and Urban Affairs.

EC-5066. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of

a rule entitled "Final Flood Elevation Determinations" ((44 CFR Part 67) (Docket No. FEMA-2011-0002)) received in the Office of the President of the Senate on February 15, 2012; to the Committee on Banking, Housing, and Urban Affairs.

EC-5067. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Suspension of Community Eligibility" ((44 CFR Part 64) (Docket No. FEMA-2012-0003)) received in the Office of the President of the Senate on February 15, 2012; to the Committee on Banking, Housing, and Urban Affairs.

EC-5068. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Suspension of Community Eligibility" ((44 CFR Part 64) (Docket No. FEMA-2012-0003)) received during adjournment of the Senate in the Office of the President of the Senate on February 23, 2012; to the Committee on Banking, Housing, and Urban Affairs.

EC-5069. A communication from the President of the United States, transmitting, pursuant to law, a report relative to the continuation of the national emergency that was declared with respect to the Government of Cuba's destruction of two unarmed U.S.-registered civilian aircraft; to the Committee on Banking, Housing, and Urban Affairs.

EC-5070. A communication from the President of the United States, transmitting, pursuant to law, a report relative to the continuation of the national emergency with respect to Libya declared in Executive Order 13566; to the Committee on Banking, Housing, and Urban Affairs.

EC-5071. A communication from the Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Amendment to Existing Validated End-User Authorizations for Applied Materials (China), Inc., Boeing Tianjin Composites Co. Ltd., CSMC Technologies Corporation, Lam Research Corporation, and Semiconductor Manufacturing International Corporation in the People's Republic of China, and for GE India Industrial Pvt. Ltd. in India" (RIN0694-AF26) received during adjournment of the Senate in the Office of the President of the Senate on February 23, 2012; to the Committee on Banking, Housing, and Urban Affairs.

EC-5072. A communication from the Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Updated Statements of Legal Authority To Reflect Continuation of Emergency Declared in Executive Orders 12947 and 13244" (RIN0694-AF30) received during adjournment of the Senate in the Office of the President of the Senate on February 21, 2012; to the Committee on Banking, Housing, and Urban Affairs.

EC-5073. A communication from the Secretary, Division of Investment Management, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Investment Advisers Performance Compensation" (RIN3235-AK71) received in the Office of the President of the Senate on February 17, 2012; to the Committee on Banking, Housing, and Urban Affairs.

EC-5074. A communication from the Deputy General Counsel, Federal Energy Regu-

latory Commission, transmitting, pursuant to law, the report of a rule entitled "Interpretation of Protection System Reliability Standard" (RIN1902-AE21) (Docket No. RM10-5-000) received during adjournment of the Senate in the Office of the President of the Senate on February 22, 2012; to the Committee on Energy and Natural Resources.

EC-5075. A communication from the Acting Assistant Secretary, National Park Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Special Regulations, Areas of the National Park System, Cape Cod National Seashore" (RIN1024-AD88) received in the Office of the President of the Senate on February 15, 2012; to the Committee on Energy and Natural Resources.

EC-5076. A communication from the Director of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "International Nuclear and Radiological Event Scale (INES) Participation" (NRC Management Directive 5.12) received in the Office of the President of the Senate on February 17, 2012; to the Committee on Energy and Natural Resources.

EC-5077. A communication from the Chief of the Trade and Commercial Regulations Branch, Customs and Border Protection, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Duty-Free Treatment of Certain Visual and Auditory Materials" (RIN1515-AD75) received in the Office of the President of the Senate on February 17, 2012; to the Committee on Finance.

EC-5078. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Determination of Housing Cost Amounts Eligible for Exclusion or Deduction for 2012" (Notice 2012-19) received in the Office of the President of the Senate on February 15, 2012; to the Committee on Finance.

EC-5079. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Work Opportunity Tax Credit—Vow to Hire Heroes Act" (Notice 2012-13) received in the Office of the President of the Senate on February 14, 2012; to the Committee on Finance.

EC-5080. A communication from the Program Manager, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Group Health Plans and Health Insurance Issuers Relating to Coverage of Preventive Services Under the Patient Protection and Affordable Care Act" (RIN0938-AQ74) received in the Office of the President of the Senate on February 14, 2012; to the Committee on Finance.

EC-5081. A communication from the Program Manager, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Summary of Benefits and Coverage and Uniform Glossary—Templates, Instructions, and Related Materials; and Guidance for Compliance" (CMS-9982-FN) received in the Office of the President of the Senate on February 14, 2012; to the Committee on Finance.

EC-5082. A communication from the Program Manager, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Summary of Benefits and Coverage and Uniform

Glossary" (RIN1545-BJ94, RIN1210-AB52, and RIN0938-AQ73) received in the Office of the President of the Senate on February 14, 2012; to the Committee on Finance.

### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROCKEFELLER, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 179. A bill to expand the boundaries of the Gulf of the Farallones National Marine Sanctuary and the Cordell Bank National Marine Sanctuary, and for other purposes (Rept. No. 112-149).

By Mr. ROCKEFELLER, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 646. A bill to reauthorize Federal natural hazards reduction programs, and for other purposes (Rept. No. 112-150).

By Mr. ROCKEFELLER, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 962. A bill to reauthorize the Northwest Straits Marine Conservation Initiative Act to promote the protection of the resources of the Northwest Straits, and for other purposes (Rept. No. 112-151).

By Mr. BAUCUS, from the Committee on Finance, without amendment:

S. 2132. An original bill to amend the Internal Revenue Code of 1986 to provide for the extension of highway-related taxes and trust fund expenditures, to provide revenues for highway programs, and for other purposes (Rept. No. 112-152).

### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. CASEY:

S. 2131. A bill to reauthorize the Rivers of Steel National Heritage Area, the Lackawanna Valley National Heritage Area, and the Delaware and Lehigh National Heritage Corridor; to the Committee on Energy and Natural Resources.

By Mr. BAUCUS:

S. 2132. An original bill to amend the Internal Revenue Code of 1986 to provide for the extension of highway-related taxes and trust fund expenditures, to provide revenues for highway programs, and for other purposes; from the Committee on Finance; placed on the calendar.

By Mr. HARKIN:

S. 2133. A bill to reauthorize the America's Agricultural Heritage Partnership in the State of Iowa; to the Committee on Energy and Natural Resources.

By Mr. BLUMENTHAL:

S. 2134. A bill to amend title 10, United States Code, to provide for certain requirements relating to the retirement, adoption, care, and recognition of military working dogs, and for other purposes; to the Committee on Armed Services.

### ADDITIONAL COSPONSORS

S. 17

At the request of Mr. HATCH, the name of the Senator from Ohio (Mr.

PORTMAN) was added as a cosponsor of S. 17, a bill to repeal the job-killing tax on medical devices to ensure continued access to life-saving medical devices for patients and maintain the standing of United States as the world leader in medical device innovation.

S. 64

At the request of Mr. INOUE, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 64, a bill to establish a fact-finding Commission to extend the study of a prior Commission to investigate and determine facts and circumstances surrounding the relocation, internment, and deportation to Axis countries of Latin Americans of Japanese descent from December 1941 through February 1948, and the impact of those actions by the United States, and to recommend appropriate remedies, and for other purposes.

S. 296

At the request of Ms. KLOBUCHAR, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. 296, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide the Food and Drug Administration with improved capacity to prevent drug shortages.

S. 424

At the request of Mr. SCHUMER, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 424, a bill to amend title XVIII of the Social Security Act to preserve access to ambulance services under the Medicare program.

S. 491

At the request of Mr. PRYOR, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 491, a bill to amend title 38, United States Code, to recognize the service in the reserve components of the Armed Forces of certain persons by honoring them with status as veterans under law, and for other purposes.

S. 807

At the request of Mr. ENZI, the names of the Senator from Kansas (Mr. MORAN) and the Senator from North Dakota (Mr. HOEVEN) were added as cosponsors of S. 807, a bill to authorize the Department of Labor's voluntary protection program and to expand the program to include more small businesses.

S. 1004

At the request of Mr. HARKIN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1004, a bill to support Promise Neighborhoods.

S. 1167

At the request of Mr. JOHNSON of South Dakota, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1167, a bill to amend the Public Health Service Act to improve the diagnosis and treat-

ment of hereditary hemorrhagic telangiectasia, and for other purposes.

S. 1299

At the request of Mr. MORAN, the name of the Senator from Hawaii (Mr. INOUE) was added as a cosponsor of S. 1299, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centennial of the establishment of Lions Clubs International.

S. 1421

At the request of Mr. PORTMAN, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1421, a bill to authorize the Peace Corps Commemorative Foundation to establish a commemorative work in the District of Columbia and its environs, and for other purposes.

S. 1425

At the request of Mr. DEMINT, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 1425, a bill to amend the National Labor Relations Act to ensure fairness in election procedures with respect to collective bargaining representatives.

S. 1577

At the request of Mr. BAUCUS, the name of the Senator from Massachusetts (Mr. BROWN) was added as a cosponsor of S. 1577, a bill to amend the Internal Revenue Code of 1986 to increase and make permanent the alternative simplified research credit, and for other purposes.

S. 1591

At the request of Mrs. GILLIBRAND, the names of the Senator from Louisiana (Mr. VITTER) and the Senator from Utah (Mr. LEE) were added as cosponsors of S. 1591, a bill to award a Congressional Gold Medal to Raoul Wallenberg, in recognition of his achievements and heroic actions during the Holocaust.

S. 1665

At the request of Mr. BEGICH, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1665, a bill to authorize appropriations for the Coast Guard for fiscal years 2012 and 2013, and for other purposes.

S. 1884

At the request of Mr. DURBIN, the names of the Senator from New York (Mr. SCHUMER), the Senator from Connecticut (Mr. BLUMENTHAL) and the Senator from Rhode Island (Mr. WHITEHOUSE) were added as cosponsors of S. 1884, a bill to provide States with incentives to require elementary schools and secondary schools to maintain, and permit school personnel to administer, epinephrine at schools.

S. 1925

At the request of Mr. LEAHY, the names of the Senator from Florida (Mr. NELSON), the Senator from Delaware (Mr. CARPER) and the Senator from

West Virginia (Mr. MANCHIN) were added as cosponsors of S. 1925, a bill to reauthorize the Violence Against Women Act of 1994.

S. 1930

At the request of Mr. TOOMEY, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 1930, a bill to prohibit earmarks.

S. 1967

At the request of Mr. JOHNSON of South Dakota, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 1967, a bill to amend title XVIII of the Social Security Act to provide for the treatment of certain physician pathology services under the Medicare Program.

S. 1981

At the request of Mr. HELLER, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1981, a bill to provide that Members of Congress may not receive pay after October 1 of any fiscal year in which Congress has not approved a concurrent resolution on the budget and passed the regular appropriations bills.

S. 1990

At the request of Mr. LIEBERMAN, the names of the Senator from Maryland (Mr. CARDIN) and the Senator from Kansas (Mr. MORAN) were added as cosponsors of S. 1990, a bill to require the Transportation Security Administration to comply with the Uniformed Services Employment and Reemployment Rights Act.

S. 2005

At the request of Mr. BROWN of Massachusetts, the name of the Senator from Pennsylvania (Mr. TOOMEY) was added as a cosponsor of S. 2005, a bill to authorize the Secretary of State to issue up to 10,500 E-3 visas per year to Irish nationals.

S. 2046

At the request of Ms. MIKULSKI, the name of the Senator from Connecticut (Mr. BLUMENTHAL) was added as a cosponsor of S. 2046, a bill to amend the Immigration and Nationality Act to modify the requirements of the visa waiver program and for other purposes.

S. 2084

At the request of Ms. SNOWE, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 2084, a bill to require the Secretary of Transportation to establish accelerated licensing procedures to assist veterans to acquire commercial driver's licenses, and for other purposes.

S. 2127

At the request of Mr. CASEY, the names of the Senator from New York (Mr. SCHUMER) and the Senator from Minnesota (Ms. KLOBUCHAR) were added as cosponsors of S. 2127, a bill to protect State and local witnesses from tampering and retaliation, and for other purposes.

S. RES. 380

At the request of Mr. GRAHAM, the names of the Senator from Mississippi (Mr. WICKER) and the Senator from West Virginia (Mr. MANCHIN) were added as cosponsors of S. Res. 380, a resolution to express the sense of the Senate regarding the importance of preventing the Government of Iran from acquiring nuclear weapons capability.

AMENDMENT NO. 919

At the request of Mr. ROBERTS, the names of the Senator from South Dakota (Mr. THUNE), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Indiana (Mr. LUGAR), the Senator from Mississippi (Mr. COCHRAN), the Senator from Iowa (Mr. GRASSLEY), the Senator from Nebraska (Mr. JOHANNES), the Senator from North Dakota (Mr. HOEVEN) and the Senator from Arkansas (Mr. BOOZMAN) were added as cosponsors of amendment No. 919 intended to be proposed to H.R. 872, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act and the Federal Water Pollution Control Act to clarify Congressional intent regarding the regulation of the use of pesticides in or near navigable waters, and for other purposes.

AMENDMENT NO. 1599

At the request of Mr. MERKLEY, the names of the Senator from Ohio (Mr. BROWN) and the Senator from Rhode Island (Mr. WHITEHOUSE) were added as cosponsors of amendment No. 1599 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1601

At the request of Mr. MERKLEY, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of amendment No. 1601 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1606

At the request of Mr. MERKLEY, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of amendment No. 1606 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1647

At the request of Mr. BROWN of Ohio, the names of the Senator from Vermont (Mr. SANDERS) and the Senator from Oregon (Mr. MERKLEY) were added as cosponsors of amendment No. 1647 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1652

At the request of Mr. HARKIN, the name of the Senator from Vermont (Mr. SANDERS) was added as a cospon-

sor of amendment No. 1652 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1660

At the request of Ms. COLLINS, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of amendment No. 1660 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 1736. Mr. PORTMAN (for himself and Mr. COBURN) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table.

SA 1737. Mr. COBURN (for himself and Mr. UDALL of Colorado) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1738. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1739. Mrs. MURRAY submitted an amendment intended to be proposed to amendment SA 1730 proposed by Mr. REID to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1740. Mrs. MURRAY submitted an amendment intended to be proposed to amendment SA 1730 proposed by Mr. REID to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1741. Mr. LEVIN (for himself and Mr. CONRAD) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

## TEXT OF AMENDMENTS

**SA 1736.** Mr. PORTMAN (for himself and Mr. COBURN) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

### Subtitle—State Transportation Flexibility

#### SEC. 01. SHORT TITLE.

This subtitle may be cited as the "State Transportation Flexibility Act".

#### SEC. 02. DIRECT FEDERAL-AID HIGHWAY PROGRAM.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code (as amended by section 1115(a)), is amended by adding at the end the following:

#### “§ 168. Direct Federal-aid highway program

“(a) ELECTION BY STATE NOT TO PARTICIPATE.—Notwithstanding any other provision of law, a State may elect not to participate in any Federal program relating to highways, including a Federal highway program

under the SAFETEA-LU (Public Law 109-59; 119 Stat. 1144), this title, or title 49.

“(b) DIRECT FEDERAL-AID HIGHWAY PROGRAM.—

“(1) IN GENERAL.—Beginning in fiscal year 2011, the Secretary shall carry out a direct Federal-aid highway program in accordance with the requirements of this section under which the legislature of a State may elect, not fewer than 90 days before the beginning of a fiscal year—

“(A) to waive the right of the State to receive amounts apportioned or allocated to the State under the Federal-aid highway program for the fiscal year to which the election relates; and

“(B) to receive an amount for that fiscal year that is determined in accordance with subsection (e) for that fiscal year.

“(2) EFFECT.—On making an election under paragraph (1), a State—

“(A) assumes all Federal obligations relating to each program that is the subject of the election; and

“(B) shall fulfill those obligations using the amounts transferred to the State under subsection (e).

“(c) STATE RESPONSIBILITY.—

“(1) IN GENERAL.—The Governor of a State making an election under subsection (b) shall—

“(A) agree to maintain the Interstate System in accordance with the current Interstate System program;

“(B) submit a plan to the Secretary describing—

“(i) the purposes, projects, and uses to which amounts received under the program will be put; and

“(ii) which programmatic requirements of this title the State elects to continue;

“(C) agree to obligate or expend amounts received under the direct Federal-aid highway program exclusively for projects that would be eligible for funding under section 133(b) if the State was not participating in the program; and

“(D) agree to report annually to the Secretary on the use of amounts received under the direct Federal-aid highway program and to make the report available to the public in an easily accessible format.

“(2) NO FEDERAL LIMITATION ON USE OF FUNDS.—Except as provided in paragraph (1), the expenditure or obligation of funds received by a State under the direct Federal-aid highway program shall not be subject to any Federal regulation under this title (except for this section), title 49, or any other Federal law.

“(3) ELECTION IRREVOCABLE.—An election under subsection (b) shall be irrevocable during the applicable fiscal year.

“(d) EFFECT ON PREEXISTING COMMITMENTS.—The making of an election under subsection (b) shall not affect any responsibility or commitment of the State under this title for any fiscal year with respect to—

“(1) a project or program funded under this title (other than under this section); or

“(2) any project or program funded under this title in any fiscal year for which an election under subsection (b) is not in effect.

“(e) TRANSFERS.—

“(1) IN GENERAL.—The amount to be transferred to a State under the direct Federal-aid highway program for a fiscal year shall be the portion of the taxes appropriated to the Highway Trust Fund under section 9503 of the Internal Revenue Code of 1986, other than for the Mass Transit Account, for that fiscal year that is attributable to highway users in that State during that fiscal year, reduced by a pro rata share withheld by the Sec-

retary to fund contract authority for programs of the National Highway Traffic Safety Administration and the Federal Motor Carrier Safety Administration.

“(2) TRANSFERS UNDER PROGRAM.—

“(A) IN GENERAL.—Transfers under the program—

“(i) shall be made at the same time as deposits to the Highway Trust Fund are made by the Secretary of the Treasury; and

“(ii) shall be made on the basis of estimates by the Secretary, in consultation with the Secretary of the Treasury, based on the most recent data available, and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of, or less than, the amounts required to be transferred.

“(B) LIMITATION.—An adjustment under subparagraph (A)(ii) to any transfer may not exceed 5 percent of the transferred amount to which the adjustment relates. If the adjustment required under subparagraph (A)(ii) exceeds that percentage, the excess shall be taken into account in making subsequent adjustments under subparagraph (A)(ii).

“(f) APPLICATION WITH OTHER AUTHORITY.—Any contract authority under this chapter (and any obligation limitation) authorized for a State for a fiscal year for which an election by that State is in effect under subsection (b)—

“(1) shall be rescinded or canceled; and

“(2) shall not be reallocated or distributed to any other State under the Federal-aid highway program.

“(g) MAINTENANCE OF EFFORT.—

“(1) IN GENERAL.—Not later than 30 days after the date on which an amount is distributed to a State or State agency under the State Highway Flexibility Act or an amendment made by that Act, the Governor of the State shall certify to the Secretary that the State will maintain the effort of the State with regard to State funding for the types of projects that are funded by the amounts.

“(2) AMOUNTS.—As part of the certification, the Governor shall submit to the Secretary a statement identifying the amount of funds the State plans to expend from State sources during the covered period, for the types of projects that are funded by the amounts.

“(h) TREATMENT OF GENERAL REVENUES.—For purposes of this section, any general revenue funds appropriated to the Highway Trust Fund shall be transferred to a State under the program in the manner described in subsection (e)(1).”

(b) CONFORMING AMENDMENT.—The analysis for title 23, United States Code (as amended by section 1115(b)), is amended by inserting after the item relating to section 149 the following:

“168. Direct Federal-aid highway program”.

#### SEC. 03. ALTERNATIVE FUNDING OF PUBLIC TRANSPORTATION PROGRAMS.

(a) IN GENERAL.—Chapter 53 of title 49, United States Code (as amended by section 20030), is amended by adding at the end the following:

##### “§ 5341. Alternative funding of public transportation programs

“(a) DEFINITIONS.—In this section—

“(1) ‘ALTERNATIVE FUNDING PROGRAM.’—The term ‘alternative funding program’ means the program established under subsection (c).

“(2) COVERED PROGRAMS.—The term ‘covered programs’ means the programs authorized under—

“(A) sections 5305, 5307, 5308, 5309, 5310, 5311, 5316, 5317, 5320, 5335, 5339, and 5340; and

“(B) section 3038 of the Federal Transit Act of 1998 (49 U.S.C. 5310 note).

“(b) ELECTION BY STATE NOT TO PARTICIPATE.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, a State may elect not to participate in all Federal programs relating to public transportation funded under the Mass Transit Account of the Highway Trust Fund, including the Federal public transportation programs under the SAFETEA-LU (Public Law 109-59; 119 Stat. 1144), title 23, or this title.

“(2) EFFECT.—On making an election under paragraph (1), a State—

“(A) assumes all Federal obligations relating to each program that is the subject of the election; and

“(B) shall fulfill those obligations using the amounts transferred to the State under subsection (e).

“(c) PUBLIC TRANSPORTATION PROGRAM.—

“(1) PROGRAM ESTABLISHED.—Beginning in fiscal year 2011, the Secretary shall carry out an alternative funding program under which the legislature of a State may elect, not fewer than 90 days before the beginning of a fiscal year—

“(A) to waive the right of the State to receive amounts apportioned or allocated to the State under the covered programs for the fiscal year to which the election relates; and

“(B) to receive an amount for that fiscal year that is determined in accordance with subsection (e).

“(2) PROGRAM REQUIREMENTS.—

“(A) IN GENERAL.—The Governor of a State that participates in the alternative funding program shall—

“(i) submit a plan to the Secretary describing—

“(I) the purposes, projects, and uses to which amounts received under the alternative funding program will be put; and

“(II) which programmatic requirements of this title the State elects to continue;

“(ii) agree to obligate or expend amounts received under the alternative funding program exclusively for projects that would be eligible for funding under the covered programs if the State was not participating in the alternative funding program; and

“(iii) submit to the Secretary an annual report on the use of amounts received under the alternative funding program, and to make the report available to the public in an easily accessible format.

“(B) NO FEDERAL LIMITATION ON USE OF FUNDS.—Except as provided in subparagraph (A), the expenditure or obligation of funds received by a State under the alternative funding program shall not be subject to the provisions of this title (except for this section), title 23, or any other Federal law.

“(3) ELECTION IRREVOCABLE.—An election under paragraph (1) shall be irrevocable during the applicable fiscal year.

“(d) EFFECT ON PREEXISTING COMMITMENTS.—Participation in the alternative funding program shall not affect any responsibility or commitment of the State under this title for any fiscal year with respect to—

“(1) a project or program funded under this title (other than under this section); or

“(2) any project or program funded under this title in any fiscal year for which the State elects not to participate in the alternative funding program.

“(e) TRANSFERS.—

“(1) IN GENERAL.—The amount to be transferred to a State under the alternative funding program for a fiscal year shall be the portion of the taxes transferred to the Mass Transit Account of the Highway Trust Fund under section 9503(e) of the Internal Revenue



Code of 1986, for that fiscal year, that is attributable to highway users in that State during that fiscal year.

“(2) TRANSFERS.—

“(A) IN GENERAL.—Transfers under the program—

“(i) shall be made at the same time as transfers to the Mass Transit Account of the Highway Trust Fund are made by the Secretary of the Treasury; and

“(ii) shall be made on the basis of estimates by the Secretary, in consultation with the Secretary of the Treasury, based on the most recent data available, and proper adjustments shall be made in amounts subsequently transferred, to the extent prior estimates were in excess of, or less than, the amounts required to be transferred.

“(B) LIMITATION.—An adjustment under subparagraph (A)(ii) to any transfer may not exceed 5 percent of the transferred amount to which the adjustment relates. If the adjustment required under subparagraph (A)(ii) exceeds that percentage, the excess shall be taken into account in making subsequent adjustments under subparagraph (A)(ii).

“(f) CONTRACT AUTHORITY.—There shall be rescinded or canceled any contract authority under this chapter (and any obligation limitation) authorized for a State for a fiscal year for which the State elects to participate in the alternative funding program.

“(g) MAINTENANCE OF EFFORT.—

“(1) IN GENERAL.—Not later than 30 days after the date on which an amount is distributed to a State or State agency under the State Highway Flexibility Act or an amendment made by that Act, the Governor of the State shall certify to the Secretary that the State will maintain the effort of the State with regard to State funding for the types of projects that are funded by the amounts.

“(2) AMOUNTS.—The certification under paragraph (1) shall include a statement identifying the amount of funds the State plans to expend from State sources for projects funded under the alternative funding program, during the fiscal year for which the State elects to participate in the alternative funding program.

“(h) TREATMENT OF GENERAL REVENUES.—For purposes of this section, any general revenue funds appropriated to the Highway Trust Fund shall be transferred to a State under the program in the manner described in subsection (e).”.

(b) CONFORMING AMENDMENT.—The analysis for title 49, United States Code (as amended by section 20031(k)), is amended by adding after the item relating to section 5340 the following:

“5341. Alternative funding of public transportation programs”.

**SA 1737.** Mr. COBURN (for himself and Mr. UDALL of Colorado) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . PREVENTING DUPLICATIVE AND OVERLAPPING GOVERNMENT PROGRAMS.**

(a) SHORT TITLE.—This section may be cited as the “Preventing Duplicative and Overlapping Government Programs Act”.

(b) REPORTED LEGISLATION.—Paragraph 11 of rule XXVI of the Standing Rules of the Senate is amended—

(1) in subparagraph (c), by striking “and (b)” and inserting “(b), and (c)”;

(2) by redesignating subparagraph (c) and subparagraph (d); and

(3) by inserting after subparagraph (b) the following:

“(c) The report accompanying each bill or joint resolution of a public character reported by any committee (including the Committee on Appropriations and the Committee on the Budget) shall contain—

“(1) an analysis by the Congressional Research Service to determine if the bill or joint resolution creates any new Federal program, office, or initiative that would duplicate or overlap any existing Federal program, office, or initiative with similar mission, purpose, goals, or activities along with a listing of all of the overlapping or duplicative Federal program or programs, office or offices, or initiative or initiatives; and

“(2) an explanation provided by the committee as to why the creation of each new program, office, or initiative is necessary if a similar program or programs, office or offices, or initiative or initiatives already exist.”.

(c) SENATE.—Rule XVII of the Standing Rules of the Senate is amended by inserting at the end thereof the following:

“6. (a) It shall not be in order in the Senate to proceed to any bill or joint resolution unless the committee of jurisdiction has prepared and posted on the committee website an overlapping and duplicative programs analysis and explanation for the bill or joint resolution as described in subparagraph (b) prior to proceeding.

“(b) The analysis and explanation required by this subparagraph shall contain—

“(1) an analysis by the Congressional Research Service to determine if the bill or joint resolution creates any new Federal program, office, or initiative that would duplicate or overlap any existing Federal program, office, or initiative with similar mission, purpose, goals, or activities along with a listing of all of the overlapping or duplicative Federal program or programs, office or offices, or initiative or initiatives; and

“(2) an explanation provided by the committee as to why the creation of each new program, office, or initiative is necessary if a similar program or programs, office or offices, or initiative or initiatives already exist.

“(c) This paragraph may be waived by joint agreement of the Majority Leader and the Minority Leader of the Senate upon their certification that such waiver is necessary as a result of—

“(1) a significant disruption to Senate facilities or to the availability of the Internet; or

“(2) an emergency as determined by the leaders.”.

**SA 1738.** Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . CONSOLIDATING UNNECESSARY DUPLICATIVE AND OVERLAPPING GOVERNMENT PROGRAMS.**

Notwithstanding any other provision of law and not later than 150 days after the date of enactment of this Act, the Director of the Office of Management and Budget shall co-

ordinate with the heads of the relevant department and agencies to—

(1) use available administrative authority to eliminate, consolidate, or streamline Government programs and agencies with duplicative and overlapping missions identified in the—

(A) March 2011 Government Accountability Office report to Congress entitled “Opportunities to Reduce Potential Duplication in Government Programs, Save Tax Dollars, and Enhance Revenue” (GAO-11-318SP); and

(B) February 2012 Government Accountability Office report to Congress entitled “2012 Annual Report: Opportunities to Reduce Potential Duplication in Government Programs, Save Tax Dollars, and Enhance Revenue” (GAO-12-342SP);

(2) identify and report to Congress any legislative changes required to further eliminate, consolidate, or streamline Government programs and agencies with duplicative and overlapping missions identified in the—

(A) March 2011 Government Accountability Office report to Congress entitled “Opportunities to Reduce Potential Duplication in Government Programs, Save Tax Dollars, and Enhance Revenue” (GAO-11-318SP); and

(B) February 2012 Government Accountability Office report to Congress entitled “2012 Annual Report: Opportunities to Reduce Potential Duplication in Government Programs, Save Tax Dollars, and Enhance Revenue” (GAO-12-342SP);

(3) determine the total cost savings that shall result to each agency, office, and department from the actions described in paragraph (1); and

(4) rescind from the appropriate accounts and apply the savings towards deficit reduction the amount greater of—

(A) \$10,000,000,000; or

(B) the total amount of cost savings estimated by paragraph (3).

**SA 1739.** Mrs. MURRAY submitted an amendment intended to be proposed to amendment SA 1730 proposed by Mr. REID to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 6, strike lines 15 through 17, and insert the following:

“(A) in which a substantial portion of each line operates in a separated right-of-way that is semi-dedicated for public transportation use during peak periods;

**SA 1740.** Mrs. MURRAY submitted an amendment intended to be proposed to amendment SA 1730 proposed by Mr. REID to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 13, line 24, insert “and other high occupancy vehicles” before the semicolon at the end.

**SA 1741.** Mr. LEVIN (for himself and Mr. CONRAD) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:



**DIVISION —CUT LOOPHOLES****SECTION 001. SHORT TITLE; ETC.**

(a) **SHORT TITLE.**—This division may be cited as the “Cut Unjustified Tax Loopholes Act” or “CUT Loopholes Act”.

(b) **AMENDMENT OF 1986 CODE.**—Except as otherwise expressly provided, whenever in this division an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) **TABLE OF CONTENTS.**—The table of contents of this division is as follows:

**DIVISION —CUT LOOPHOLES**

Sec. 001. Short title; etc.

**TITLE I—ENDING OFFSHORE TAX ABUSES****Subtitle A—Deterring the Use of Tax Havens for Tax Evasion**

Sec. 101. Authorizing special measures against foreign jurisdictions, financial institutions, and others that impede United States tax enforcement.

Sec. 102. Strengthening the Foreign Account Tax Compliance Act (FATCA).

Sec. 103. Treatment of foreign corporations managed and controlled in the United States as domestic corporations.

Sec. 104. Reporting United States beneficial owners of foreign owned financial accounts.

Sec. 105. Swap payments made from the United States to persons offshore.

Sec. 106. Tax on income of controlled foreign corporation deposited in financial account located in the United States.

**Subtitle B—Other Measures to Combat Tax Haven and Tax Shelter Abuses**

Sec. 111. Country-by-country reporting.

Sec. 112. Penalty for failing to disclose offshore holdings.

Sec. 113. Deadline for anti-money laundering rule for private funds and venture capital funds.

Sec. 114. Anti-money laundering requirements for formation agents.

Sec. 115. Strengthening John Doe summons proceedings.

Sec. 116. Improving enforcement of foreign financial account reporting.

**Subtitle C—Combating Tax Shelter Promoters**

Sec. 121. Penalty for promoting abusive tax shelters.

Sec. 122. Penalty for aiding and abetting the understatement of tax liability.

Sec. 123. Prohibited fee arrangement.

Sec. 124. Preventing tax shelter activities by financial institutions.

Sec. 125. Information sharing for enforcement purposes.

Sec. 126. Disclosure of information to Congress.

Sec. 127. Tax opinion standards for tax practitioners.

**Subtitle D—Reformation of U.S. International Tax System**

Sec. 131. Allocation of expenses and taxes on basis of repatriation of foreign income.

Sec. 132. Excess income from transfers of intangibles to low-taxed affiliates treated as subpart F income.

Sec. 133. Limitations on income shifting through intangible property transfers.

Sec. 134. Limitation on earnings stripping by expatriated entities.

**TITLE II—ENDING EXCESSIVE CORPORATE TAX DEDUCTIONS FOR STOCK OPTIONS**

Sec. 201. Consistent treatment of stock options by corporations.

Sec. 202. Application of executive pay deduction limit.

**TITLE I—ENDING OFFSHORE TAX ABUSES****Subtitle A—Deterring the Use of Tax Havens for Tax Evasion****SEC. 101. AUTHORIZING SPECIAL MEASURES AGAINST FOREIGN JURISDICTIONS, FINANCIAL INSTITUTIONS, AND OTHERS THAT IMPEDE UNITED STATES TAX ENFORCEMENT.**

(a) **IN GENERAL.**—Section 5318A of title 31, United States Code, is amended—

(1) by striking the section heading and inserting the following new heading:

“§ 5318A. Special measures for jurisdictions, financial institutions, or international transactions that are of primary money laundering concern or impede United States tax enforcement”;

(2) in subsection (a), by striking all before paragraph (1) and inserting the following:

“(a) **SPECIAL MEASURES TO COUNTER MONEY LAUNDERING AND EFFORTS TO IMPEDE UNITED STATES TAX ENFORCEMENT.**—”;

(3) in subsection (c), by striking all before paragraph (1) and inserting the following:

“(c) **CONSULTATIONS AND INFORMATION TO BE CONSIDERED IN FINDING JURISDICTIONS, INSTITUTIONS, TYPES OF ACCOUNTS, OR TRANSACTIONS TO BE OF PRIMARY MONEY LAUNDERING CONCERN OR TO BE IMPEDING UNITED STATES TAX ENFORCEMENT.**—”;

(4) in subsection (a)(1), by inserting “or is impeding United States tax enforcement” after “primary money laundering concern”;

(5) in subsection (a)(4)—

(A) in subparagraph (A)—

(i) by inserting “in matters involving money laundering,” before “shall consult”;

(ii) by striking “and” at the end;

(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting after subparagraph (A) the following new subparagraph:

“(B) in matters involving United States tax enforcement, shall consult with the Commissioner of the Internal Revenue Service, the Secretary of State, the Attorney General of the United States, and in the sole discretion of the Secretary, such other agencies and interested parties as the Secretary may find to be appropriate; and”;

(6) in each of paragraphs (1)(A), (2), (3), and (4) of subsection (b), by inserting “or to be impeding United States tax enforcement” after “primary money laundering concern” each place that term appears;

(7) in subsection (b), by striking paragraph (5) and inserting the following new paragraph:

“(5) **PROHIBITIONS OR CONDITIONS ON OPENING OR MAINTAINING CERTAIN CORRESPONDENT OR PAYABLE-THROUGH ACCOUNTS OR AUTHORIZING CERTAIN PAYMENT CARDS.**—If the Secretary finds a jurisdiction outside of the United States, 1 or more financial institutions operating outside of the United States, or 1 or more classes of transactions within or involving a jurisdiction outside of the United States to be of primary money laundering concern or to be impeding United States tax enforcement, the Secretary, in consultation

with the Secretary of State, the Attorney General of the United States, and the Chairman of the Board of Governors of the Federal Reserve System, may prohibit, or impose conditions upon—

“(A) the opening or maintaining in the United States of a correspondent account or payable-through account; or

“(B) the authorization, approval, or use in the United States of a credit card, charge card, debit card, or similar credit or debit financial instrument by any domestic financial institution, financial agency, or credit card company or association, for or on behalf of a foreign banking institution, if such correspondent account, payable-through account, credit card, charge card, debit card, or similar credit or debit financial instrument, involves any such jurisdiction or institution, or if any such transaction may be conducted through such correspondent account, payable-through account, credit card, charge card, debit card, or similar credit or debit financial instrument.”;

(8) in subsection (c)(1), by inserting “or is impeding United States tax enforcement” after “primary money laundering concern”;

(9) in subsection (c)(2)(A)—

(A) in clause (ii), by striking “bank secrecy or special regulatory advantages” and inserting “bank, tax, corporate, trust, or financial secrecy or regulatory advantages”;

(B) in clause (iii), by striking “supervisory and counter-money” and inserting “supervisory, international tax enforcement, and counter-money”;

(C) in clause (v), by striking “banking or secrecy” and inserting “banking, tax, or secrecy”; and

(D) in clause (vi), by inserting “, tax treaty, or tax information exchange agreement” after “treaty”;

(10) in subsection (c)(2)(B)—

(A) in clause (i), by inserting “or tax evasion” after “money laundering”; and

(B) in clause (iii), by inserting “, tax evasion,” after “money laundering”; and

(11) in subsection (d), by inserting “involving money laundering, and shall notify, in writing, the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives of any such action involving United States tax enforcement” after “such action”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date of the enactment of this Act.

**SEC. 102. STRENGTHENING THE FOREIGN ACCOUNT TAX COMPLIANCE ACT (FATCA).**

(a) **REPORTING ACTIVITIES WITH RESPECT TO PASSIVE FOREIGN INVESTMENT COMPANIES.**—Section 1298(f) is amended by inserting “, or who directly or indirectly forms, transfers assets to, is a beneficiary of, has a beneficial interest in, or receives money or property or the use thereof from,” after “shareholder of”.

(b) **WITHHOLDABLE PAYMENTS TO FOREIGN FINANCIAL INSTITUTIONS.**—Section 1471(d) is amended—

(1) by inserting “or transaction” after “any depository” in paragraph (2)(A), and

(2) by striking “or any interest” and all that follows in paragraph (5)(C) and inserting “derivatives, or any interest (including a futures or forward contract, swap, or option) in such securities, partnership interests, commodities, or derivatives.”.

(c) **WITHHOLDABLE PAYMENTS TO OTHER FOREIGN FINANCIAL INSTITUTIONS.**—Section 1472 is amended—

(1) by inserting “as a result of any customer identification, anti-money laundering,

anti-corruption, or similar obligation to identify account holders," after "reason to know," in subsection (b)(2), and

(2) by inserting "as posing a low risk of tax evasion" after "this subsection" in subsection (c)(1)(G).

(d) DEFINITIONS.—Clauses (i) and (ii) of section 1473(2)(A) are each amended by inserting "or as a beneficial owner" after "indirectly".

(e) SPECIAL RULES.—Section 1474(c) is amended—

(1) by inserting " , except that information provided under sections 1471(c) or 1472(b) may be disclosed to any Federal law enforcement agency, upon request or upon the initiation of the Secretary, to investigate or address a possible violation of United States law" after "shall apply" in paragraph (1), and

(2) by inserting " , or has had an agreement terminated under such section," after "section 1471(b)" in paragraph (2).

(f) INFORMATION WITH RESPECT TO FOREIGN FINANCIAL ASSETS.—Section 6038D(a) is amended by inserting "ownership or beneficial ownership" after "holds any".

(g) ESTABLISHING PRESUMPTIONS FOR ENTITIES AND TRANSACTIONS INVOLVING NON-FATCA INSTITUTIONS.—

(1) PRESUMPTIONS FOR TAX PURPOSES.—

(A) IN GENERAL.—Chapter 76 is amended by inserting after section 7491 the following new subchapter:

**"Subchapter F—Presumptions for Certain Legal Proceedings**

"Sec. 7492. Presumptions pertaining to entities and transactions involving non-FATCA institutions.

**"SEC. 7492. PRESUMPTIONS PERTAINING TO ENTITIES AND TRANSACTIONS INVOLVING NON-FATCA INSTITUTIONS.**

"(a) CONTROL.—For purposes of any United States civil judicial or administrative proceeding to determine or collect tax, there shall be a rebuttable presumption that a United States person (other than an entity with shares regularly traded on an established securities market) who, directly or indirectly, formed, transferred assets to, was a beneficiary of, had a beneficial interest in, or received money or property or the use thereof from an entity, including a trust, corporation, limited liability company, partnership, or foundation (other than an entity with shares regularly traded on an established securities market), that holds an account, or in any other manner has assets, in a non-FATCA institution, exercised control over such entity. The presumption of control created by this subsection shall not be applied to prevent the Secretary from determining or arguing the absence of control.

"(b) TRANSFERS OF INCOME.—For purposes of any United States civil judicial or administrative proceeding to determine or collect tax, there shall be a rebuttable presumption that any amount or thing of value received by a United States person (other than an entity with shares regularly traded on an established securities market) directly or indirectly from an account or from an entity (other than an entity with shares regularly traded on an established securities market) that holds an account, or in any other manner has assets, in a non-FATCA institution, constitutes income of such person taxable in the year of receipt; and any amount or thing of value paid or transferred by or on behalf of a United States person (other than an entity with shares regularly traded on an established securities market) directly or indirectly to an account, or entity (other than an entity with shares regularly traded on an established securities market) that holds an account, or in any other manner has assets,

in a non-FATCA institution, represents previously unreported income of such person taxable in the year of the transfer.

"(c) REBUTTING THE PRESUMPTIONS.—The presumptions established in this section may be rebutted only by clear and convincing evidence, including detailed documentary, testimonial, and transactional evidence, establishing that—

"(1) in subsection (a), such taxpayer exercised no control, directly or indirectly, over account or entity at the time in question, and

"(2) in subsection (b), such amounts or things of value did not represent income related to such United States person.

Any court having jurisdiction of a civil proceeding in which control of such an offshore account or offshore entity or the income character of such receipts or amounts transferred is an issue shall prohibit the introduction by the taxpayer of any foreign based document that is not authenticated in open court by a person with knowledge of such document, or any other evidence supplied by a person outside the jurisdiction of a United States court, unless such person appears before the court."

(B) The table of subchapters for chapter 76 is amended by inserting after the item relating to subchapter E the following new item:

**"SUBCHAPTER F—PRESUMPTIONS FOR CERTAIN LEGAL PROCEEDINGS"**

(2) DEFINITION OF NON-FATCA INSTITUTION.—Section 7701(a) is amended by adding at the end the following new paragraph:

"(51) NON-FATCA INSTITUTION.—The term 'non-FATCA institution' means any financial institution that does not meet the reporting requirements of section 1471(b)."

(3) PRESUMPTIONS FOR SECURITIES LAW PURPOSES.—Section 21 of the Securities Exchange Act of 1934 (15 U.S.C. 78u) is amended by adding at the end the following new subsection:

"(j) PRESUMPTIONS PERTAINING TO CONTROL AND BENEFICIAL OWNERSHIP.—

"(1) CONTROL.—For purposes of any civil judicial or administrative proceeding under this title, there shall be a rebuttable presumption that a United States person (other than an entity with shares regularly traded on an established securities market) who, directly or indirectly, formed, transferred assets to, was a beneficiary of, had a beneficial interest in, or received money or property or the use thereof from an entity, including a trust, corporation, limited liability company, partnership, or foundation (other than an entity with shares regularly traded on an established securities market), that holds an account, or in any other manner has assets, in a non-FATCA institution (as defined in section 7701(a)(51) of the Internal Revenue Code of 1986), exercised control over such entity. The presumption of control created by this paragraph shall not be applied to prevent the Commission from determining or arguing the absence of control.

"(2) BENEFICIAL OWNERSHIP.—For purposes of any civil judicial or administrative proceeding under this title, there shall be a rebuttable presumption that securities that are nominally owned by an entity, including a trust, corporation, limited liability company, partnership, or foundation (other than an entity with shares regularly traded on an established securities market), and that are held in a non-FATCA institution (as so defined), are beneficially owned by any United States person (other than an entity with shares regularly traded on an established securities market) who directly or indirectly exercised control over such entity. The pre-

sumption of beneficial ownership created by this paragraph shall not be applied to prevent the Commission from determining or arguing the absence of beneficial ownership."

(4) PRESUMPTION FOR REPORTING PURPOSES RELATING TO FOREIGN FINANCIAL ACCOUNTS.—Section 5314 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(d) REBUTTABLE PRESUMPTION.—For purposes of this section, there shall be a rebuttable presumption that any account with a non-FATCA institution (as defined in section 7701(a)(51) of the Internal Revenue Code of 1986) contains funds in an amount that is at least sufficient to require a report prescribed by regulations under this section."

(5) REGULATORY AUTHORITY.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury and the Chairman of the Securities and Exchange Commission shall each adopt regulations or other guidance necessary to implement the amendments made by this subsection. The Secretary and the Chairman may by regulation or guidance provide that the presumption of control shall not extend to particular classes of transactions, such as corporate reorganizations or transactions below a specified dollar threshold, if either determines that applying such amendments to such transactions is not necessary to carry out the purposes of such amendments.

(h) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date which is 180 days after the date of the enactment of this Act, whether or not regulations are issued under subsection (g)(5).

**SEC. 103. TREATMENT OF FOREIGN CORPORATIONS MANAGED AND CONTROLLED IN THE UNITED STATES AS DOMESTIC CORPORATIONS.**

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

"(p) CERTAIN CORPORATIONS MANAGED AND CONTROLLED IN THE UNITED STATES TREATED AS DOMESTIC FOR INCOME TAX.—

"(1) IN GENERAL.—Notwithstanding subsection (a)(4), in the case of a corporation described in paragraph (2) if—

"(A) the corporation would not otherwise be treated as a domestic corporation for purposes of this title, but

"(B) the management and control of the corporation occurs, directly or indirectly, primarily within the United States, then, solely for purposes of chapter 1 (and any other provision of this title relating to chapter 1), the corporation shall be treated as a domestic corporation.

"(2) CORPORATION DESCRIBED.—

"(A) IN GENERAL.—A corporation is described in this paragraph if—

"(i) the stock of such corporation is regularly traded on an established securities market, or

"(ii) the aggregate gross assets of such corporation (or any predecessor thereof), including assets under management for investors, whether held directly or indirectly, at any time during the taxable year or any preceding taxable year is \$50,000,000 or more.

"(B) GENERAL EXCEPTION.—A corporation shall not be treated as described in this paragraph if—

"(i) such corporation was treated as a corporation described in this paragraph in a preceding taxable year,

"(ii) such corporation—

"(I) is not regularly traded on an established securities market, and

“(II) has, and is reasonably expected to continue to have, aggregate gross assets (including assets under management for investors, whether held directly or indirectly) of less than \$50,000,000, and

“(iii) the Secretary grants a waiver to such corporation under this subparagraph.

“(C) EXCEPTION FROM GROSS ASSETS TEST.—Subparagraph (A)(ii) shall not apply to a corporation which is a controlled foreign corporation (as defined in section 957) and which is a member of an affiliated group (as defined section 1504, but determined without regard to section 1504(b)(3)) the common parent of which—

“(i) is a domestic corporation (determined without regard to this subsection), and

“(ii) has substantial assets (other than cash and cash equivalents and other than stock of foreign subsidiaries) held for use in the active conduct of a trade or business in the United States.

“(3) MANAGEMENT AND CONTROL.—

“(A) IN GENERAL.—The Secretary shall prescribe regulations for purposes of determining cases in which the management and control of a corporation is to be treated as occurring primarily within the United States.

“(B) EXECUTIVE OFFICERS AND SENIOR MANAGEMENT.—Such regulations shall provide that—

“(i) the management and control of a corporation shall be treated as occurring primarily within the United States if substantially all of the executive officers and senior management of the corporation who exercise day-to-day responsibility for making decisions involving strategic, financial, and operational policies of the corporation are located primarily within the United States, and

“(ii) individuals who are not executive officers and senior management of the corporation (including individuals who are officers or employees of other corporations in the same chain of corporations as the corporation) shall be treated as executive officers and senior management if such individuals exercise the day-to-day responsibilities of the corporation described in clause (i).

“(C) CORPORATIONS PRIMARILY HOLDING INVESTMENT ASSETS.—Such regulations shall also provide that the management and control of a corporation shall be treated as occurring primarily within the United States if—

“(i) the assets of such corporation (directly or indirectly) consist primarily of assets being managed on behalf of investors, and

“(ii) decisions about how to invest the assets are made in the United States.”

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning on or after the date which is 2 years after the date of the enactment of this Act, whether or not regulations are issued under section 7701(p)(3) of the Internal Revenue Code of 1986, as added by this section.

#### **SEC. 104. REPORTING UNITED STATES BENEFICIAL OWNERS OF FOREIGN OWNED FINANCIAL ACCOUNTS.**

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 is amended by inserting after section 6045B the following new sections:

##### **“SEC. 6045C. RETURNS REGARDING UNITED STATES BENEFICIAL OWNERS OF FINANCIAL ACCOUNTS LOCATED IN THE UNITED STATES AND HELD IN THE NAME OF A FOREIGN ENTITY.**

“(a) REQUIREMENT OF RETURN.—If—

“(1) any withholding agent under sections 1441 and 1442 has the control, receipt, cus-

tody, disposal, or payment of any amount constituting gross income from sources within the United States of any foreign entity, including a trust, corporation, limited liability company, partnership, or foundation (other than an entity with shares regularly traded on an established securities market), and

“(2) such withholding agent determines for purposes of titles 14, 18, or 31 of the United States Code that a United States person has any beneficial interest in the foreign entity or in the account in such entity's name (hereafter in this section referred to as ‘United States beneficial owner’),

then the withholding agent shall make a return according to the forms or regulations prescribed by the Secretary.

“(b) REQUIRED INFORMATION.—For purposes of subsection (a) the information required to be included on the return shall include—

“(1) the name, address, and, if known, the taxpayer identification number of the United States beneficial owner,

“(2) the known facts pertaining to the relationship of such United States beneficial owner to the foreign entity and the account,

“(3) the gross amount of income from sources within the United States (including gross proceeds from brokerage transactions), and

“(4) such other information as the Secretary may by forms or regulations provide.

“(c) STATEMENTS TO BE FURNISHED TO BENEFICIAL OWNERS WITH RESPECT TO WHOM INFORMATION IS REQUIRED TO BE REPORTED.—A withholding agent required to make a return under subsection (a) shall furnish to each United States beneficial owner whose name is required to be set forth in such return a statement showing—

“(1) the name, address, and telephone number of the information contact of the person required to make such return, and

“(2) the information required to be shown on such return with respect to such United States beneficial owner.

The written statement required under the preceding sentence shall be furnished to the United States beneficial owner on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made. In the event the person filing such return does not have a current address for the United States beneficial owner, such written statement may be mailed to the address of the foreign entity.

##### **“SEC. 6045D. RETURNS BY FINANCIAL INSTITUTIONS REGARDING ESTABLISHMENT OF ACCOUNTS IN NON-FATCA INSTITUTIONS.**

“(a) REQUIREMENT OF RETURN.—Any financial institution directly or indirectly opening a bank, brokerage, or other financial account for or on behalf of an offshore entity, including a trust, corporation, limited liability company, partnership, or foundation (other than an entity with shares regularly traded on an established securities market), in a non-FATCA institution (as defined in section 7701(a)(51)) at the direction of, on behalf of, or for the benefit of a United States person shall make a return according to the forms or regulations prescribed by the Secretary.

“(b) REQUIRED INFORMATION.—For purposes of subsection (a) the information required to be included on the return shall include—

“(1) the name, address, and taxpayer identification number of such United States person,

“(2) the name and address of the financial institution at which a financial account is opened, the type of account, the account

number, the name under which the account was opened, and the amount of the initial deposit,

“(3) if the account is held in the name of an entity, the name and address of such entity, the type of entity, and the name and address of any company formation agent or other professional employed to form or acquire the entity, and

“(4) such other information as the Secretary may by forms or regulations provide.

“(c) STATEMENTS TO BE FURNISHED TO UNITED STATES PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED TO BE REPORTED.—A financial institution required to make a return under subsection (a) shall furnish to each United States person whose name is required to be set forth in such return a statement showing—

“(1) the name, address, and telephone number of the information contact of the person required to make such return, and

“(2) the information required to be shown on such return with respect to such United States person.

The written statement required under the preceding sentence shall be furnished to such United States person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

“(d) EXEMPTION.—The Secretary may by regulations exempt any class of United States persons or any class of accounts or entities from the requirements of this section if the Secretary determines that applying this section to such persons, accounts, or entities is not necessary to carry out the purposes of this section.”

(b) PENALTIES.—

(1) RETURNS.—Section 6724(d)(1)(B) is amended by striking “or” at the end of clause (xxiv), by striking “and” at the end of clause (xxv), and by adding after clause (xxv) the following new clauses:

“(xxvi) section 6045C(a) (relating to returns regarding United States beneficial owners of financial accounts located in the United States and held in the name of a foreign entity), or

“(xxvii) section 6045D(a) (relating to returns by financial institutions regarding establishment of accounts at non-FATCA institutions), and”.

(2) PAYEE STATEMENTS.—Section 6724(d)(2) is amended by striking “or” at the end of subparagraph (GG), by striking the period at the end of subparagraph (HH), and by inserting after subparagraph (HH) the following new subparagraphs:

“(II) section 6045C(c) (relating to returns regarding United States beneficial owners of financial accounts located in the United States and held in the name of a foreign entity),

“(JJ) section 6045D(c) (relating to returns by financial institutions regarding establishment of accounts at non-FATCA institutions).”

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6045B the following new items:

“Sec. 6045C. Returns regarding United States beneficial owners of financial accounts located in the United States and held in the name of a foreign entity.

“Sec. 6045D. Returns by financial institutions regarding establishment of accounts at non-FATCA institutions.”

(d) ADDITIONAL PENALTIES.—

(1) **ADDITIONAL PENALTIES ON BANKS.**—Section 5239(b)(1) of the Revised Statutes (12 U.S.C. 93(b)(1)) is amended by inserting “or any of the provisions of section 6045D of the Internal Revenue Code of 1986,” after “any regulation issued pursuant to.”

(2) **ADDITIONAL PENALTIES ON SECURITIES FIRMS.**—Section 21(d)(3)(A) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)(3)(A)) is amended by inserting “any of the provisions of section 6045D of the Internal Revenue Code of 1986,” after “the rules or regulations thereunder.”

(e) **REGULATORY AUTHORITY AND EFFECTIVE DATE.**—

(1) **REGULATORY AUTHORITY.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury shall adopt regulations, forms, or other guidance necessary to implement this section.

(2) **EFFECTIVE DATE.**—Section 6045C of the Internal Revenue Code of 1986 (as added by this section) and the amendment made by subsection (d)(1) shall take effect with respect to amounts paid into foreign owned accounts located in the United States after December 31 of the year of the date of the enactment of this Act. Section 6045D of such Code (as so added) and the amendment made by subsection (d)(2) shall take effect with respect to accounts opened after December 31 of the year of the date of the enactment of this Act.

**SEC. 105. SWAP PAYMENTS MADE FROM THE UNITED STATES TO PERSONS OFFSHORE.**

(a) **TAX ON SWAP PAYMENTS RECEIVED BY FOREIGN PERSONS.**—Section 871(a)(1) is amended—

(1) by inserting “swap payments (as identified in section 1256(b)(2)(B)),” after “annuities,” in subparagraph (A), and

(2) by adding at the end the following new sentence: “In the case of swap payments, the source of a swap payment is determined by reference to the location of the payor.”

(b) **TAX ON SWAP PAYMENTS RECEIVED BY FOREIGN CORPORATIONS.**—Section 881(a) is amended—

(1) by inserting “swap payments (as identified in section 1256(b)(2)(B)),” after “annuities,” in paragraph (1), and

(2) by adding at the end the following new sentence: “In the case of swap payments, the source of a swap payment is determined by reference to the location of the payor.”

**SEC. 106. TAX ON INCOME OF CONTROLLED FOREIGN CORPORATION DEPOSITED IN FINANCIAL ACCOUNT LOCATED IN THE UNITED STATES.**

Section 952(a) is amended by adding at the end the following new sentence: “Notwithstanding section 956(c)(2)(A), any property (as defined in section 317(a)) of such controlled foreign corporation that is deposited and maintained, directly or indirectly, for or on behalf of such corporation in a financial account located in the United States, including in a correspondent account of a financial institution, is a constructive distribution with respect to the stock which such United States shareholder owns.”

**Subtitle B—Other Measures to Combat Tax Haven and Tax Shelter Abuses**

**SEC. 111. COUNTRY-BY-COUNTRY REPORTING.**

(a) **IN GENERAL.**—Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended by adding at the end the following new subsection:

“(r) **DISCLOSURE OF FINANCIAL PERFORMANCE ON A COUNTRY-BY-COUNTRY BASIS.**—

“(1) **DEFINITIONS.**—In this subsection—

“(A) the term ‘issuer group’ shall mean the issuer, each subsidiary of the issuer, and each entity under the control of the issuer;

“(B) the term ‘country of operation’ shall mean each country in which a member of the issuer group is incorporated or organized, or maintains employees or conducts business activities; and

“(C) the term ‘world-wide allocation of group members’ shall mean each member of the issuer group listed according to their country of operation.

“(2) **COUNTRY-BY-COUNTRY REPORTING.**—The Commission shall issue rules that require each issuer to include in an annual report filed by the issuer with the Commission information indicative of financial performance on a country-by-country basis during the covered period, including—

“(A) a list of each country of operation;

“(B) the world-wide allocation of group members;

“(C) the financial performance of each member of the issuer group in each country of operation, without exception, including, and set forth according to—

“(i) total number of employees physically working in the country of operation;

“(ii) total sales by the member of the issuer group to third parties;

“(iii) total sales by the member of the issuer group to other members of the issuer group and total sales to each such member;

“(iv) total purchases by the member of the issuer group from third parties;

“(v) total purchases by the member of the issuer group from other members of the issuer group and total purchases from each such member;

“(vi) total financing payments made by the member of the issuer group to third parties;

“(vii) total financing payments made by the member of the issuer group to other members of the issuer group and total financing payments made to each such member;

“(viii) pre-tax gross revenues of the member of the issuer group;

“(ix) pre-tax net revenues of the member of the issuer group; and

“(x) such other financial information as the Commission may determine is indicative of the financial performance of the issuer;

“(D) the tax paid by each member of the issuer group in each country of operation, without exception, including, and set forth according to—

“(i) total Federal, regional, local, and other tax assessed against each member of the issuer group with respect to each country of operation during the covered period;

“(ii) after taking into account any tax deductions, tax credits, tax forgiveness, or other tax benefits or waivers, total amount of tax paid from the treasury of the member of the issuer group to the government of each country of operation during the covered period; and

“(iii) such other financial information as the Commission may determine is necessary or appropriate to inform the public of the tax obligations of and payments by each member of the issuer group; and

“(E) such other financial information as the Commission may determine is necessary or appropriate in the public interest or for the protection of investors.”

(b) **RULEMAKING.**—

(1) **DEADLINES.**—Not later than 180 days after the date of the enactment of this Act, the Commission shall issue a proposed rule to carry out this section and, not later than 270 days after the date of the enactment of this Act, shall issue a final rule to carry out this section.

(2) **CONSULTATION.**—In issuing the rules under this section, the Commission shall

consult with the Secretary of the Treasury and the Commissioner of Internal Revenue and, to the extent practicable and in furtherance of its obligation to protect investors, shall issue rules that support Federal efforts to reduce offshore tax evasion and abuses.

(3) **INTERACTIVE DATA FORMAT.**—The rules issued under this section shall require that the information provided by issuers in their annual reports be submitted in an interactive data format as provided in section 13(q)(2)(D) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(q)(2)(D)), and to the extent practicable, the Commission shall make available online, to the public, a compilation of such information.

(4) **AGGREGATE DATA.**—The rules may allow issuers to provide the financial information required under section 13(r) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(r)), as added by this section, aggregated at the level of each country of operation instead of with respect to each member of the issuer group individually, provided that the Commission retains the authority, at its discretion, to require further disaggregation.

(5) **EFFECTIVE DATE.**—Each issuer shall be required to comply with the requirements of section 13(r) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(r)), as added by this section, not later than the date on which the issuer must file with the Commission its first annual report that is due not later than 1 year after the date on which the Commission issues a final rule under this section.

**SEC. 112. PENALTY FOR FAILING TO DISCLOSE OFFSHORE HOLDINGS.**

(a) **SECURITIES EXCHANGE ACT OF 1934.**—Section 21(d)(3)(B) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)(3)(B)) is amended by adding at the end the following:

“(iv) **FOURTH TIER.**—Notwithstanding clauses (i), (ii), and (iii), the amount of the penalty for each such violation shall not exceed \$1,000,000 for any person if the violation described in subparagraph (A) involved a knowing failure to disclose any holding or transaction involving equity or debt instruments of an issuer and known by such person to involve a foreign entity, including any trust, corporation, limited liability company, partnership, or foundation that is directly or indirectly controlled by such person, and which would have been otherwise subject to disclosure by such person under this title.”

(b) **SECURITIES ACT OF 1933.**—Section 20(d)(2) of the Securities Act of 1933 (15 U.S.C. 77t(d)(2)) is amended by adding at the end the following:

“(D) **FOURTH TIER.**—Notwithstanding subparagraphs (A), (B), and (C), the amount of penalty for each such violation shall not exceed \$1,000,000 for any person, if the violation described in paragraph (1) involved a knowing failure to disclose any holding or transaction involving equity or debt instruments of an issuer and known by such person to involve a foreign entity, including any trust, corporation, limited liability company, partnership, or foundation, directly or indirectly controlled by such person, and which would have been otherwise subject to disclosure by such person under this title.”

(c) **INVESTMENT COMPANY ACT OF 1940.**—Section 9(d)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a-9(d)(2)) is amended by adding at the end the following:

“(D) **FOURTH TIER.**—Notwithstanding subparagraphs (A), (B), and (C), the amount of penalty for each such violation shall not exceed \$1,000,000 for any person, if the violation described in paragraph (1) involved a knowing failure to disclose any holding or transaction involving equity or debt instruments

of an issuer and known by such person to involve a foreign entity, including any trust, corporation, limited liability company, partnership, or foundation, directly or indirectly controlled by such person, and which would have been otherwise subject to disclosure by such person under this title.”.

(d) INVESTMENT ADVISERS ACT OF 1940.—Section 203(i)(2) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3(i)(2)) is amended by adding at the end the following:

“(D) FOURTH TIER.—Notwithstanding subparagraphs (A), (B), and (C), the amount of penalty for each such violation shall not exceed \$1,000,000 for any person, if the violation described in paragraph (1) involved a knowing failure to disclose any holding or transaction involving equity or debt instruments of an issuer and known by such person to involve a foreign entity, including any trust, corporation, limited liability company, partnership, or foundation, directly or indirectly controlled by such person, and which would have been otherwise subject to disclosure by such person under this title.”.

**SEC. 113. DEADLINE FOR ANTI-MONEY LAUNDERING RULE FOR PRIVATE FUNDS AND VENTURE CAPITAL FUNDS.**

(a) IN GENERAL.—

(1) PROPOSED RULE.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury, in consultation with the Chairman of the Securities and Exchange Commission and the Chairman of the Commodity Futures Trading Commission, shall publish a proposed rule in the Federal Register requiring any private fund (as defined in paragraph (29) of section 202(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)) or venture capital fund (within the meaning of subsection (1) of section 203 of such Act (15 U.S.C. 80b-3) to establish anti-money laundering programs and submit suspicious activity reports under subsections (g) and (h) of section 5318 of title 31, United States Code.

(2) FINAL RULE.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury shall publish a final rule in the Federal Register on the matter described in paragraph (1).

(b) CONTENTS.—The final rule published under this section shall require, at a minimum, that to safeguard against terrorist financing and money laundering, any such private fund or venture capital fund shall—

(1) use risk-based due diligence policies, procedures, and controls that are reasonably designed to ascertain the identity of any foreign person (including the nominal and beneficial owner or beneficiary of a foreign corporation, partnership, trust, or other foreign entity) planning to supply or supplying funds to be invested with the advice or assistance of such private fund or venture capital fund; and

(2) be subject to section 5318(k)(2) of title 31, United States Code.

**SEC. 114. ANTI-MONEY LAUNDERING REQUIREMENTS FOR FORMATION AGENTS.**

(a) ANTI-MONEY LAUNDERING OBLIGATIONS FOR FORMATION AGENTS.—Section 5312(a)(2) of title 31, United States Code, is amended, by—

(1) in subparagraph (Y), by striking “or” at the end;

(2) by redesignating subparagraph (Z) as subparagraph (AA); and

(3) by inserting after subparagraph (Y) the following:

“(Z) persons engaged in the business of forming new corporations, limited liability companies, partnerships, trusts, or other legal entities; or”.

(b) DEADLINE FOR ANTI-MONEY LAUNDERING RULE FOR FORMATION AGENTS.—

(1) PROPOSED RULE.—Not later than 120 days after the date of the enactment of this Act, the Secretary of the Treasury, in consultation with the Attorney General of the United States, the Secretary of Homeland Security, and the Commissioner of Internal Revenue, shall publish a proposed rule in the Federal Register requiring persons described in section 5312(a)(2)(Z) of title 31, United States Code, as added by this section, to establish anti-money laundering programs under subsections (g) and (h) of section 5318 of that title.

(2) FINAL RULE.—Not later than 270 days after such date of enactment, the Secretary of the Treasury shall publish a final rule in the Federal Register on the matter described in paragraph (1).

(3) EXCLUSIONS.—Any rule promulgated under this subsection shall exclude from the category of persons engaged in the business of forming new corporations or other entities—

(A) any government agency; and

(B) any attorney or law firm that uses a paid formation agent operating within the United States to form such corporations or other entities.

**SEC. 115. STRENGTHENING JOHN DOE SUMMONS PROCEEDINGS.**

(a) IN GENERAL.—Subsection (f) of section 7609 is amended to read as follows:

“(f) ADDITIONAL REQUIREMENT IN THE CASE OF A JOHN DOE SUMMONS.—

“(1) GENERAL RULE.—Any summons described in subsection (c)(1) which does not identify the person with respect to whose liability the summons is issued may be served only after a court proceeding in which the Secretary establishes that—

“(A) the summons relates to the investigation of a particular person or ascertainable group or class of persons,

“(B) there is a reasonable basis for believing that such person or group or class of persons may fail or may have failed to comply with any provision of any internal revenue law, and

“(C) the information sought to be obtained from the examination of the records or testimony (and the identity of the person or persons with respect to whose liability the summons is issued) is not readily available from other sources.

“(2) EXCEPTION.—Paragraph (1) shall not apply to any summons which specifies that it is limited to information regarding a United States correspondent account (as defined in section 5318A(e)(1)(B) of title 31, United States Code) or a United States payable-through account (as defined in section 5318A(e)(1)(C) of such title) of a financial institution that is held at a non-FATCA institution (as defined in section 7701(a)(51)).

“(3) PRESUMPTION IN CASES INVOLVING NON-FATCA INSTITUTIONS.—For purposes of this section, in any case in which the particular person or ascertainable group or class of persons have financial accounts in or transactions related to a non-FATCA institution (as defined in section 7701(a)(51)), there shall be a presumption that there is a reasonable basis for believing that such person or group or class of persons may fail or may have failed to comply with provisions of internal revenue law.

“(4) PROJECT JOHN DOE SUMMONSES.—

“(A) IN GENERAL.—Notwithstanding the requirements of paragraph (1), the Secretary may issue a summons described in paragraph (1) if the summons—

“(i) relates to a project which is approved under subparagraph (B),

“(ii) is issued to a person who is a member of the group or class established under subparagraph (B)(i), and

“(iii) is issued within 3 years of the date on which such project was approved under subparagraph (B).

“(B) APPROVAL OF PROJECTS.—A project may only be approved under this subparagraph after a court proceeding in which the Secretary establishes that—

“(i) any summons issues with respect to the project will be issued to a member of an ascertainable group or class of persons, and

“(ii) any summons issued with respect to such project will meet the requirements of paragraph (1).

“(C) EXTENSION.—Upon application of the Secretary, the court may extend the time for issuing such summonses under subparagraph (A)(i) for additional 3-year periods, but only if the court continues to exercise oversight of such project under subparagraph (D).

“(D) ONGOING COURT OVERSIGHT.—During any period in which the Secretary is authorized to issue summonses in relation to a project approved under subparagraph (B) (including during any extension under subparagraph (C)), the Secretary shall report annually to the court on the use of such authority, provide copies of all summonses with such report, and comply with the court's direction with respect to the issuance of any John Doe summons under such project.”.

(b) JURISDICTION OF COURT.—

(1) IN GENERAL.—Paragraph (1) of section 7609(h) is amended by inserting after the first sentence the following new sentence: “Any United States district court in which a member of the group or class to which a summons may be issued resides or is found shall have jurisdiction to hear and determine the approval of a project under subsection (f)(2)(B).”.

(2) CONFORMING AMENDMENT.—The first sentence of section 7609(h)(1) is amended by striking “(f)” and inserting “(f)(1)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to summonses issued after the date of the enactment of this Act.

**SEC. 116. IMPROVING ENFORCEMENT OF FOREIGN FINANCIAL ACCOUNT REPORTING.**

(a) CLARIFYING THE CONNECTION OF FOREIGN FINANCIAL ACCOUNT REPORTING TO TAX ADMINISTRATION.—Paragraph (4) of section 6103(b) is amended by adding at the end the following new sentence:

“For purposes of subparagraph (A)(i), section 5314 of title 31, United States Code, and sections 5321 and 5322 of such title (as such sections pertain to such section 5314), shall be considered related statutes.”.

(b) SIMPLIFYING THE CALCULATION OF FOREIGN FINANCIAL ACCOUNT REPORTING PENALTIES.—Section 5321(a)(5)(D)(ii) of title 31, United States Code, is amended by striking “the balance in the account at the time of the violation” and inserting “the highest balance in the account during the reporting period to which the violation relates”.

(c) CLARIFYING THE USE OF SUSPICIOUS ACTIVITY REPORTS UNDER THE BANK SECRECY ACT FOR CIVIL TAX LAW ENFORCEMENT.—Section 5319 of title 31, United States Code, is amended by inserting “the civil and criminal enforcement divisions of the Internal Revenue Service,” after “including”.

**Subtitle C—Combating Tax Shelter Promoters**

**SEC. 121. PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS.**

(a) PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS.—Section 6700 is amended—

(1) by redesignating subsections (b) and (c) as subsections (d) and (e), respectively,

(2) by striking “a penalty” and all that follows through the period in the first sentence of subsection (a) and inserting “a penalty determined under subsection (b)”, and

(3) by inserting after subsection (a) the following new subsections:

“(b) AMOUNT OF PENALTY; CALCULATION OF PENALTY; LIABILITY FOR PENALTY.—

“(1) AMOUNT OF PENALTY.—The amount of the penalty imposed by subsection (a) shall not exceed 150 percent of the gross income derived (or to be derived) from such activity by the person or persons subject to such penalty.

“(2) CALCULATION OF PENALTY.—The penalty amount determined under paragraph (1) shall be calculated with respect to each instance of an activity described in subsection (a), each instance in which income was derived by the person or persons subject to such penalty, and each person who participated in such an activity.

“(3) LIABILITY FOR PENALTY.—If more than 1 person is liable under subsection (a) with respect to such activity, all such persons shall be jointly and severally liable for the penalty under such subsection.

“(c) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.”

(b) CONFORMING AMENDMENT.—Section 6700(a) is amended by striking the last sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to activities after the date of the enactment of this Act.

#### SEC. 122. PENALTY FOR AIDING AND ABETTING THE UNDERSTATEMENT OF TAX LIABILITY.

(a) IN GENERAL.—Section 6701(a) is amended—

(1) by inserting “the tax liability or” after “respect to,” in paragraph (1),

(2) by inserting “aid, assistance, procurement, or advice with respect to such” before “portion” both places it appears in paragraphs (2) and (3), and

(3) by inserting “instance of aid, assistance, procurement, or advice or each such” before “document” in the matter following paragraph (3).

(b) AMOUNT OF PENALTY.—Subsection (b) of section 6701 is amended to read as follows:

“(b) AMOUNT OF PENALTY; CALCULATION OF PENALTY; LIABILITY FOR PENALTY.—

“(1) AMOUNT OF PENALTY.—The amount of the penalty imposed by subsection (a) shall not exceed 150 percent of the gross income derived (or to be derived) from such aid, assistance, procurement, or advice provided by the person or persons subject to such penalty.

“(2) CALCULATION OF PENALTY.—The penalty amount determined under paragraph (1) shall be calculated with respect to each instance of aid, assistance, procurement, or advice described in subsection (a), each instance in which income was derived by the person or persons subject to such penalty, and each person who made such an understatement of the liability for tax.

“(3) LIABILITY FOR PENALTY.—If more than 1 person is liable under subsection (a) with respect to providing such aid, assistance, procurement, or advice, all such persons shall be jointly and severally liable for the penalty under such subsection.”

(c) PENALTY NOT DEDUCTIBLE.—Section 6701 is amended by adding at the end the following new subsection:

“(g) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.”

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to activities after the date of the enactment of this Act.

#### SEC. 123. PROHIBITED FEE ARRANGEMENT.

(a) IN GENERAL.—Section 6701, as amended by this Act, is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively,

(2) by striking “subsection (a).” in paragraphs (2) and (3) of subsection (g) (as redesignated by paragraph (1)) and inserting “subsection (a) or (f).”, and

(3) by inserting after subsection (e) the following new subsection:

“(f) PROHIBITED FEE ARRANGEMENT.—

“(1) IN GENERAL.—Any person who makes an agreement for, charges, or collects a fee which is for services provided in connection with the internal revenue laws, and the amount of which is calculated according to, or is dependent upon, a projected or actual amount of—

“(A) tax savings or benefits, or

“(B) losses which can be used to offset other taxable income,

shall pay a penalty with respect to each such fee activity in the amount determined under subsection (b).

“(2) RULES.—The Secretary may issue rules to carry out the purposes of this subsection and may provide exceptions for fee arrangements that are in the public interest.”

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to fee agreements, charges, and collections made after the date of the enactment of this Act.

#### SEC. 124. PREVENTING TAX SHELTER ACTIVITIES BY FINANCIAL INSTITUTIONS.

(a) EXAMINATIONS.—

(1) DEVELOPMENT OF EXAMINATION TECHNIQUES.—Each of the Federal banking agencies and the Commission shall, in consultation with the Internal Revenue Service, develop examination techniques to detect potential violations of section 6700 or 6701 of the Internal Revenue Code of 1986, by depository institutions, brokers, dealers, and investment advisers, as appropriate.

(2) IMPLEMENTATION.—Each of the Federal banking agencies and the Commission shall implement the examination techniques developed under paragraph (1) with respect to each of the depository institutions, brokers, dealers, or investment advisers subject to their enforcement authority. Such examination shall, to the extent possible, be combined with any examination by such agency otherwise required or authorized by Federal law.

(b) REPORT TO INTERNAL REVENUE SERVICE.—In any case in which an examination conducted under this section with respect to a financial institution or other entity reveals a potential violation, such agency shall promptly notify the Internal Revenue Service of such potential violation for investigation and enforcement by the Internal Revenue Service, in accordance with applicable provisions of law.

(c) REPORT TO CONGRESS.—The Federal banking agencies and the Commission shall

submit a joint written report to Congress in 2013 on their progress in preventing violations of sections 6700 and 6701 of the Internal Revenue Code of 1986, by depository institutions, brokers, dealers, and investment advisers, as appropriate.

(d) DEFINITIONS.—For purposes of this section—

(1) the terms “broker”, “dealer”, and “investment adviser” have the same meanings as in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c);

(2) the term “Commission” means the Securities and Exchange Commission;

(3) the term “depository institution” has the same meaning as in section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c));

(4) the term “Federal banking agencies” has the same meaning as in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)); and

(5) the term “Secretary” means the Secretary of the Treasury.

#### SEC. 125. INFORMATION SHARING FOR ENFORCEMENT PURPOSES.

(a) PROMOTION OF PROHIBITED TAX SHELTERS OR TAX AVOIDANCE SCHEMES.—Section 6103(h) is amended by adding at the end the following new paragraph:

“(7) DISCLOSURE OF RETURNS AND RETURN INFORMATION RELATED TO PROMOTION OF PROHIBITED TAX SHELTERS OR TAX AVOIDANCE SCHEMES.—

“(A) WRITTEN REQUEST.—Upon receipt by the Secretary of a written request which meets the requirements of subparagraph (B) from the head of the United States Securities and Exchange Commission, an appropriate Federal banking agency as defined under section 1813(q) of title 12, United States Code, or the Public Company Accounting Oversight Board, a return or return information shall be disclosed to such requestor’s officers and employees who are personally and directly engaged in an investigation, examination, or proceeding by such requestor to evaluate, determine, penalize, or deter conduct by a financial institution, issuer, or public accounting firm, or associated person, in connection with a potential or actual violation of section 6700 (promotion of abusive tax shelters), 6701 (aiding and abetting understatement of tax liability), or activities related to promoting or facilitating inappropriate tax avoidance or tax evasion. Such disclosure shall be solely for use by such officers and employees in such investigation, examination, or proceeding. In the discretion of the Secretary, such disclosure may take the form of the participation of Internal Revenue Service employees in a joint investigation, examination, or proceeding with the Securities Exchange Commission, Federal banking agency, or Public Company Accounting Oversight Board.

“(B) REQUIREMENTS.—A request meets the requirements of this subparagraph if it sets forth—

“(i) the nature of the investigation, examination, or proceeding,

“(ii) the statutory authority under which such investigation, examination, or proceeding is being conducted,

“(iii) the name or names of the financial institution, issuer, or public accounting firm to which such return information relates,

“(iv) the taxable period or periods to which such return information relates, and

“(v) the specific reason or reasons why such disclosure is, or may be, relevant to such investigation, examination or proceeding.

“(C) FINANCIAL INSTITUTION.—For the purposes of this paragraph, the term ‘financial



institution' means a depository institution, foreign bank, insured institution, industrial loan company, broker, dealer, investment company, investment advisor, or other entity subject to regulation or oversight by the United States Securities and Exchange Commission or an appropriate Federal banking agency."

(b) FINANCIAL AND ACCOUNTING FRAUD INVESTIGATIONS.—Section 6103(i) is amended by adding at the end the following new paragraph:

"(9) DISCLOSURE OF RETURNS AND RETURN INFORMATION FOR USE IN FINANCIAL AND ACCOUNTING FRAUD INVESTIGATIONS.—

"(A) WRITTEN REQUEST.—Upon receipt by the Secretary of a written request which meets the requirements of subparagraph (B) from the head of the United States Securities and Exchange Commission or the Public Company Accounting Oversight Board, a return or return information shall be disclosed to such requestor's officers and employees who are personally and directly engaged in an investigation, examination, or proceeding by such requester to evaluate the accuracy of a financial statement or report, or to determine whether to require a restatement, penalize, or deter conduct by an issuer, investment company, or public accounting firm, or associated person, in connection with a potential or actual violation of auditing standards or prohibitions against false or misleading statements or omissions in financial statements or reports. Such disclosure shall be solely for use by such officers and employees in such investigation, examination, or proceeding.

"(B) REQUIREMENTS.—A request meets the requirements of this subparagraph if it sets forth—

"(i) the nature of the investigation, examination, or proceeding,

"(ii) the statutory authority under which such investigation, examination, or proceeding is being conducted,

"(iii) the name or names of the issuer, investment company, or public accounting firm to which such return information relates,

"(iv) the taxable period or periods to which such return information relates, and

"(v) the specific reason or reasons why such disclosure is, or may be, relevant to such investigation, examination or proceeding."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to disclosures and to information and document requests made after the date of the enactment of this Act.

#### SEC. 126. DISCLOSURE OF INFORMATION TO CONGRESS.

(a) DISCLOSURE BY TAX RETURN PREPARER.—

(1) IN GENERAL.—Subparagraph (B) of section 7216(b)(1) is amended to read as follows: "(B) pursuant to any 1 of the following documents, if clearly identified:

"(i) The order of any Federal, State, or local court of record.

"(ii) A subpoena issued by a Federal or State grand jury.

"(iii) An administrative order, summons, or subpoena which is issued in the performance of its duties by—

"(I) any Federal agency, including Congress or any committee or subcommittee thereof, or

"(II) any State agency, body, or commission charged under the laws of the State or a political subdivision of the State with the licensing, registration, or regulation of tax return preparers."

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to disclosures made after the date of the enactment of this Act pursuant to any document in effect on or after such date.

(b) DISCLOSURE BY SECRETARY.—Paragraph (2) of section 6104(a) is amended to read as follows:

"(2) INSPECTION BY CONGRESS.—

"(A) IN GENERAL.—Upon receipt of a written request from a committee or subcommittee of Congress, copies of documents related to a determination by the Secretary to grant, deny, revoke, or restore an organization's exemption from taxation under section 501 shall be provided to such committee or subcommittee, including any application, notice of status, or supporting information provided by such organization to the Internal Revenue Service; any letter, analysis, or other document produced by or for the Internal Revenue Service evaluating, determining, explaining, or relating to the tax exempt status of such organization (other than returns, unless such returns are available to the public under this section or section 6103 or 6110); and any communication between the Internal Revenue Service and any other party relating to the tax exempt status of such organization.

"(B) ADDITIONAL INFORMATION.—Section 6103(f) shall apply with respect to—

"(i) the application for exemption of any organization described in subsection (c) or (d) of section 501 which is exempt from taxation under section 501(a) for any taxable year and any application referred to in subparagraph (B) of subsection (a)(1) of this section, and

"(ii) any other papers which are in the possession of the Secretary and which relate to such application, as if such papers constituted returns."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to disclosures and to information and document requests made after the date of the enactment of this Act.

#### SEC. 127. TAX OPINION STANDARDS FOR TAX PRACTITIONERS.

Section 330(d) of title 31, United States Code, is amended to read as follows:

"(d) The Secretary of the Treasury shall impose standards applicable to the rendering of written advice with respect to any listed transaction or any entity, plan, arrangement, or other transaction which has a potential for tax avoidance or evasion. Such standards shall address, but not be limited to, the following issues:

"(1) Independence of the practitioner issuing such written advice from persons promoting, marketing, or recommending the subject of the advice.

"(2) Collaboration among practitioners, or between a practitioner and other party, which could result in such collaborating parties having a joint financial interest in the subject of the advice.

"(3) Avoidance of conflicts of interest which would impair auditor independence.

"(4) For written advice issued by a firm, standards for reviewing the advice and ensuring the consensus support of the firm for positions taken.

"(5) Reliance on reasonable factual representations by the taxpayer and other parties.

"(6) Appropriateness of the fees charged by the practitioner for the written advice.

"(7) Preventing practitioners and firms from aiding or abetting the understatement of tax liability by clients.

"(8) Banning the promotion of potentially abusive or illegal tax shelters."

#### Subtitle D—Reformation of U.S. International Tax System

#### SEC. 131. ALLOCATION OF EXPENSES AND TAXES ON BASIS OF REPATRIATION OF FOREIGN INCOME.

(a) IN GENERAL.—Part III of subchapter N of chapter 1 is amended by inserting after subpart G the following new subpart:

#### "Subpart H—Special Rules for Allocation of Foreign-Related Deductions and Foreign Tax Credits

"Sec. 975. Deductions allocated to deferred foreign income may not offset United States source income.

"Sec. 976. Amount of foreign taxes computed on overall basis.

"Sec. 977. Application of subpart.

#### "SEC. 975. DEDUCTIONS ALLOCATED TO DEFERRED FOREIGN INCOME MAY NOT OFFSET UNITED STATES SOURCE INCOME.

"(a) CURRENT YEAR DEDUCTIONS.—For purposes of this chapter, foreign-related deductions for any taxable year—

"(1) shall be taken into account for such taxable year only to the extent that such deductions are allocable to currently-taxed foreign income, and

"(2) to the extent not so allowed, shall be taken into account in subsequent taxable years as provided in subsection (b).

Foreign-related deductions shall be allocated to currently taxed foreign income in the same proportion which currently taxed foreign income bears to the sum of currently taxed foreign income and deferred foreign income.

"(b) DEDUCTIONS RELATED TO REPATRIATED DEFERRED FOREIGN INCOME.—

"(1) IN GENERAL.—If there is repatriated foreign income for a taxable year, the portion of the previously deferred deductions allocated to the repatriated foreign income shall be taken into account for the taxable year as a deduction allocated to income from sources outside the United States. Any such amount shall not be included in foreign-related deductions for purposes of applying subsection (a) to such taxable year.

"(2) PORTION OF PREVIOUSLY DEFERRED DEDUCTIONS.—For purposes of paragraph (1), the portion of the previously deferred deductions allocated to repatriated foreign income is—

"(A) the amount which bears the same proportion to such deductions, as

"(B) the repatriated income bears to the previously deferred foreign income.

"(c) DEFINITIONS AND SPECIAL RULE.—For purposes of this section—

"(1) FOREIGN-RELATED DEDUCTIONS.—The term 'foreign-related deductions' means the total amount of deductions and expenses which would be allocated or apportioned to gross income from sources without the United States for the taxable year if both the currently-taxed foreign income and deferred foreign income were taken into account.

"(2) CURRENTLY-TAXED FOREIGN INCOME.—The term 'currently-taxed foreign income' means the amount of gross income from sources without the United States for the taxable year (determined without regard to repatriated foreign income for such year).

"(3) DEFERRED FOREIGN INCOME.—The term 'deferred foreign income' means the excess of—

"(A) the amount that would be includible in gross income under subpart F of this part for the taxable year if—

"(i) all controlled foreign corporations were treated as one controlled foreign corporation, and



“(ii) all earnings and profits of all controlled foreign corporations were subpart F income (as defined in section 952), over

“(B) the sum of—

“(i) all dividends received during the taxable year from controlled foreign corporations, plus

“(ii) amounts includible in gross income under section 951(a).

“(4) PREVIOUSLY DEFERRED FOREIGN INCOME.—The term ‘previously deferred foreign income’ means the aggregate amount of deferred foreign income for all prior taxable years to which this part applies, determined as of the beginning of the taxable year, reduced by the repatriated foreign income for all such prior taxable years.

“(5) REPATRIATED FOREIGN INCOME.—The term ‘repatriated foreign income’ means the amount included in gross income on account of distributions out of previously deferred foreign income.

“(6) PREVIOUSLY DEFERRED DEDUCTIONS.—The term ‘previously deferred deductions’ means the aggregate amount of foreign-related deductions not taken into account under subsection (a) for all prior taxable years (determined as of the beginning of the taxable year), reduced by any amounts taken into account under subsection (b) for such prior taxable years.

“(7) TREATMENT OF CERTAIN FOREIGN TAXES.—

“(A) PAID BY CONTROLLED FOREIGN CORPORATION.—Section 78 shall not apply for purposes of determining currently-taxed foreign income and deferred foreign income.

“(B) PAID BY TAXPAYER.—For purposes of determining currently-taxed foreign income, gross income from sources without the United States shall be reduced by the aggregate amount of taxes described in the applicable paragraph of section 901(b) which are paid by the taxpayer (without regard to sections 902 and 960) during the taxable year.

“(8) COORDINATION WITH SECTION 976.—In determining currently-taxed foreign income and deferred foreign income, the amount of deemed foreign tax credits shall be determined with regard to section 976.

**“SEC. 976. AMOUNT OF FOREIGN TAXES COMPUTED ON OVERALL BASIS.**

“(a) CURRENT YEAR ALLOWANCE.—For purposes of this chapter, the amount taken into account as foreign income taxes for any taxable year shall be an amount which bears the same ratio to the total foreign income taxes for that taxable year as—

“(1) the currently-taxed foreign income for such taxable year, bears to

“(2) the sum of the currently-taxed foreign income and deferred foreign income for such year.

The portion of the total foreign income taxes for any taxable year not taken into account under the preceding sentence for a taxable year shall only be taken into account as provided in subsection (b) (and shall not be taken into account for purposes of applying sections 902 and 960).

“(b) ALLOWANCE RELATED TO REPATRIATED DEFERRED FOREIGN INCOME.—

“(1) IN GENERAL.—If there is repatriated foreign income for any taxable year, the portion of the previously deferred foreign income taxes paid or accrued during such taxable year shall be taken into account for the taxable year as foreign taxes paid or accrued. Any such taxes so taken into account shall not be included in foreign income taxes for purposes of applying subsection (a) to such taxable year.

“(2) PORTION OF PREVIOUSLY DEFERRED FOREIGN INCOME TAXES.—For purposes of para-

graph (1), the portion of the previously deferred foreign income taxes allocated to repatriated deferred foreign income is—

“(A) the amount which bears the same proportion to such taxes, as

“(B) the repatriated deferred income bears to the previously deferred foreign income.

“(c) DEFINITIONS AND SPECIAL RULE.—For purposes of this section—

“(1) PREVIOUSLY DEFERRED FOREIGN INCOME TAXES.—The term ‘previously deferred foreign income taxes’ means the aggregate amount of total foreign income taxes not taken into account under subsection (a) for all prior taxable years (determined as of the beginning of the taxable year), reduced by any amounts taken into account under subsection (b) for such prior taxable years.

“(2) TOTAL FOREIGN INCOME TAXES.—The term ‘total foreign income taxes’ means the sum of foreign income taxes paid or accrued during the taxable year (determined without regard to section 904(c)) plus the increase in foreign income taxes that would be paid or accrued during the taxable year under sections 902 and 960 if—

“(A) all controlled foreign corporations were treated as one controlled foreign corporation, and

“(B) all earnings and profits of all controlled foreign corporations were subpart F income (as defined in section 952).

“(3) FOREIGN INCOME TAXES.—The term ‘foreign income taxes’ means any income, war profits, or excess profits taxes paid by the taxpayer to any foreign country or possession of the United States.

“(4) CURRENTLY-TAXED FOREIGN INCOME AND DEFERRED FOREIGN INCOME.—The terms ‘currently-taxed foreign income’ and ‘deferred foreign income’ have the meanings given such terms by section 975(c)).

**“SEC. 977. APPLICATION OF SUBPART.**

“This subpart—

“(1) shall be applied before subpart A, and

“(2) shall be applied separately with respect to the categories of income specified in section 904(d)(1).”.

(b) CLERICAL AMENDMENT.—The table of subparts for part III of subpart N of chapter 1 is amended by inserting after the item relating to subpart G the following new item:

“SUBPART H. SPECIAL RULES FOR ALLOCATION OF FOREIGN-RELATED DEDUCTIONS AND FOREIGN TAX CREDITS.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

**SEC. 132. EXCESS INCOME FROM TRANSFERS OF INTANGIBLES TO LOW-TAXED AFFILIATES TREATED AS SUBPART F INCOME.**

(a) IN GENERAL.—Subsection (a) of section 954 is amended by inserting after paragraph (3) the following new paragraph:

“(4) the foreign base company excess intangible income for the taxable year (determined under subsection (f) and reduced as provided in subsection (b)(5)), and”.

(b) FOREIGN BASE COMPANY EXCESS INTANGIBLE INCOME.—Section 954 is amended by inserting after subsection (e) the following new subsection:

“(f) FOREIGN BASE COMPANY EXCESS INTANGIBLE INCOME.—For purposes of subsection (a)(4) and this subsection:

“(1) FOREIGN BASE COMPANY EXCESS INTANGIBLE INCOME DEFINED.—

“(A) IN GENERAL.—The term ‘foreign base company excess intangible income’ means, with respect to any covered intangible, the excess of—

“(i) the sum of—

“(I) gross income from the sale, lease, license, or other disposition of property in which such covered intangible is used directly or indirectly, and

“(II) gross income from the provision of services related to such covered intangible or in connection with property in which such covered intangible is used directly or indirectly, over

“(ii) 150 percent of the costs properly allocated and apportioned to the gross income taken into account under clause (i) other than expenses for interest and taxes and any expenses which are not directly allocable to such gross income.

“(B) SAME COUNTRY INCOME NOT TAKEN INTO ACCOUNT.—If—

“(i) the sale, lease, license, or other disposition of the property referred to in subparagraph (A)(i)(I) is for use, consumption, or disposition in the country under the laws of which the controlled foreign corporation is created or organized, or

“(ii) the services referred to in subparagraph (A)(i)(II) are performed in such country, the gross income from such sale, lease, license, or other disposition, or provision of services, shall not be taken into account under subparagraph (A)(i).

“(2) EXCEPTION BASED ON EFFECTIVE FOREIGN INCOME TAX RATE.—

“(A) IN GENERAL.—Foreign base company excess intangible income shall not include the applicable percentage of any item of income received by a controlled foreign corporation if the taxpayer establishes to the satisfaction of the Secretary that such income was subject to an effective rate of income tax imposed by a foreign country in excess of 5 percent.

“(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the term ‘applicable percentage’ means the ratio (expressed as a percentage), not greater than 100 percent, of—

“(i) the number of percentage points by which the effective rate of income tax referred to in subparagraph (A) exceeds 5 percentage points, over

“(ii) 10 percentage points.

“(C) TREATMENT OF LOSSES IN DETERMINING EFFECTIVE RATE OF FOREIGN INCOME TAX.—For purposes of determining the effective rate of income tax imposed by any foreign country—

“(i) such effective rate shall be determined without regard to any losses carried to the relevant taxable year, and

“(ii) to the extent the income with respect to such intangible reduces losses in the relevant taxable year, such effective rate shall be treated as being the effective rate which would have been imposed on such income without regard to such losses.

“(3) COVERED INTANGIBLE.—The term ‘covered intangible’ means, with respect to any controlled foreign corporation, any intangible property (as defined in section 936(h)(3)(B))—

“(A) which is sold, leased, licensed, or otherwise transferred (directly or indirectly) to such controlled foreign corporation from a related person, or

“(B) with respect to which such controlled foreign corporation and one or more related persons has (directly or indirectly) entered into any shared risk or development agreement (including any cost sharing agreement).

“(4) RELATED PERSON.—The term ‘related person’ has the meaning given such term in subsection (d)(3).”.

(c) SEPARATE BASKET FOR FOREIGN TAX CREDIT.—Subsection (d) of section 904 is amended by redesignating paragraph (7) as

paragraph (8) and by inserting after paragraph (6) the following new paragraph:

“(6) SEPARATE APPLICATION TO FOREIGN BASE COMPANY EXCESS INTANGIBLE INCOME.—

“(A) IN GENERAL.—Subsections (a), (b), and (c) of this section and sections 902, 907, and 960 shall be applied separately with respect to each item of income which is taken into account under section 954(a)(4) as foreign base company excess intangible income.

“(B) REGULATIONS.—The Secretary may issue such regulations or other guidance as is necessary or appropriate to carry out the purposes of this subsection, including regulations or other guidance which provides that related items of income may be aggregated for purposes of this paragraph.”.

(d) CONFORMING AMENDMENTS.—

(1) Paragraph (4) of section 954(b) is amended by inserting “foreign base company excess intangible income described in subsection (a)(4) or” before “foreign base company oil-related income” in the last sentence thereof.

(2) Subsection (b) of section 954 is amended by adding at the end the following new paragraph:

“(7) FOREIGN BASE COMPANY EXCESS INTANGIBLE INCOME NOT TREATED AS ANOTHER KIND OF BASE COMPANY INCOME.—Income of a corporation which is foreign base company excess intangible income shall not be considered foreign base company income of such corporation under paragraph (2), (3), or (5) of subsection (a).”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

#### SEC. 133. LIMITATIONS ON INCOME SHIFTING THROUGH INTANGIBLE PROPERTY TRANSFERS.

(a) CLARIFICATION OF DEFINITION OF INTANGIBLE ASSET.—Clause (vi) of section 936(h)(3)(B) is amended by inserting “(including any section 197 intangible described in subparagraph (A), (B), or (C)(i) of subsection (d)(1) of such section)” after “item”.

(b) CLARIFICATION OF ALLOWABLE VALUATION METHODS.—

(1) FOREIGN CORPORATIONS.—Paragraph (2) of section 367(d) is amended by adding at the end the following new subparagraph:

“(D) REGULATORY AUTHORITY.—For purposes of the last sentence of subparagraph (A), the Secretary may require—

“(i) the valuation of transfers of intangible property on an aggregate basis, or

“(ii) the valuation of such a transfer on the basis of the realistic alternatives to such a transfer,

in any case in which the Secretary determines that such basis is the most reliable means of valuation of such transfers.”.

(2) ALLOCATION AMONG TAXPAYERS.—Section 482 is amended by adding at the end the following: “For purposes of the preceding sentence, the Secretary may require the valuation of transfers of intangible property on an aggregate basis or the valuation of such a transfer on the basis of the realistic alternatives to such a transfer, in any case in which the Secretary determines that such basis is the most reliable means of valuation of such transfers.”.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to transfers in taxable years beginning after the date of the enactment of this Act.

(2) NO INFERENCE.—Nothing in the amendment made by subsection (a) shall be construed to create any inference with respect to the application of section 936(h)(3) of the Internal Revenue Code of 1986, or the author-

ity of the Secretary of the Treasury to provide regulations for such application, on or before the date of the enactment of such amendment.

#### SEC. 134. LIMITATION ON EARNINGS STRIPPING BY EXPATRIATED ENTITIES.

(a) IN GENERAL.—Subsection (j) of section 163 is amended—

(1) by redesignating paragraph (9) as paragraph (10), and

(2) by inserting after paragraph (8) the following new paragraph:

“(9) SPECIAL RULES FOR EXPATRIATED ENTITIES.—

“(A) IN GENERAL.—In the case of a corporation to which this subsection applies which is an expatriated entity, this subsection shall apply to such corporation with the following modifications:

“(i) Paragraph (2)(A) shall be applied without regard to clause (ii) thereof.

“(ii) Paragraph (1)(B) shall be applied—

“(I) without regard to the parenthetical, and

“(II) by substituting ‘in the 1st succeeding taxable year and in the 2nd through 10th succeeding taxable years to the extent not previously taken into account under this subparagraph’ for ‘in the succeeding taxable year’.

“(iii) Paragraph (2)(B) shall be applied—

“(I) without regard to clauses (ii) and (iii), and

“(II) by substituting ‘25 percent of the adjusted taxable income of the corporation for such taxable year’ for the matter of clause (i)(II) thereof.

“(B) EXPATRIATED ENTITY.—For purposes of this paragraph—

“(i) IN GENERAL.—With respect to a corporation and a taxable year, the term ‘expatriated entity’ has the meaning given such term by section 7874(a)(2), determined as if such section and the regulations under such section as in effect on the first day of such taxable year applied to all taxable years of the corporation beginning after July 10, 1989.

“(ii) EXCEPTION FOR SURROGATES TREATED AS A DOMESTIC CORPORATION.—The term ‘expatriated entity’ does not include a surrogate foreign corporation which is treated as a domestic corporation by reason of section 7874(b).”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

#### TITLE II—ENDING EXCESSIVE CORPORATE TAX DEDUCTIONS FOR STOCK OPTIONS

##### SEC. 201. CONSISTENT TREATMENT OF STOCK OPTIONS BY CORPORATIONS.

(a) CONSISTENT TREATMENT FOR WAGE DEDUCTION.—

(1) IN GENERAL.—Section 83(h) is amended—

(A) by striking “In the case of” and insert-

ing:

“(1) IN GENERAL.—In the case of”, and

(B) by adding at the end the following new paragraph:

“(2) STOCK OPTIONS.—In the case of property transferred to a person in connection with a stock option, any deduction related to such stock option shall be allowed only under section 162(q) and paragraph (1) shall not apply.”.

(2) TREATMENT OF COMPENSATION PAID WITH STOCK OPTIONS.—Section 162 is amended by redesignating subsection (q) as subsection (r) and by inserting after subsection (p) the following new subsection:

“(q) TREATMENT OF COMPENSATION PAID WITH STOCK OPTIONS.—

“(1) IN GENERAL.—In the case of compensation for personal services that is paid with

stock options, the deduction under subsection (a)(1) shall not exceed the amount the taxpayer has treated as compensation cost with respect to such stock options for the purpose of ascertaining income, profit, or loss in a report or statement to shareholders, partners, or other proprietors (or to beneficiaries), and shall be taken into account in the same period that such compensation cost is recognized for such purpose.

“(2) SPECIAL RULES FOR CONTROLLED GROUPS.—The Secretary may prescribe rules for the application of paragraph (1) in cases where the stock option is granted by—

“(A) a parent or subsidiary corporation (within the meaning of section 424) of the taxpayer, or

“(B) another corporation.”.

(b) CONSISTENT TREATMENT FOR RESEARCH TAX CREDIT.—Section 41(b)(2)(D) is amended by inserting at the end the following new clause:

“(iv) SPECIAL RULE FOR STOCK OPTIONS.—The amount which may be treated as wages for any taxable year in connection with the issuance of a stock option shall not exceed the amount allowed for such taxable year as a compensation deduction under section 162(q) with respect to such stock option.”.

(c) APPLICATION OF AMENDMENTS.—The amendments made by this section shall apply to stock options exercised after the date of the enactment of this Act, except that—

(1) such amendments shall not apply to stock options that were granted before such date and that vested in taxable periods beginning on or before June 15, 2005,

(2) for stock options that were granted before such date of enactment and vested during taxable periods beginning after June 15, 2005, and ending before such date of enactment, a deduction under section 162(q) of the Internal Revenue Code of 1986 (as added by subsection (a)(2)) shall be allowed in the first taxable period of the taxpayer that ends after such date of enactment,

(3) for public entities reporting as small business issuers and for non-public entities required to file public reports of financial condition, paragraphs (1) and (2) shall be applied by substituting “December 15, 2005” for “June 15, 2005”, and

(4) no deduction shall be allowed under section 83(h) or section 162(q) of such Code with respect to any stock option the vesting date of which is changed to accelerate the time at which the option may be exercised in order to avoid the applicability of such amendments.

##### SEC. 202. APPLICATION OF EXECUTIVE PAY DEDUCTION LIMIT.

(a) IN GENERAL.—Subparagraph (D) of section 162(m)(4) is amended to read as follows:

“(D) STOCK OPTION COMPENSATION.—The term ‘applicable employee remuneration’ shall include any compensation deducted under subsection (q), and such compensation shall not qualify as performance-based compensation under subparagraph (C).”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to stock options exercised or granted after the date of the enactment of this Act.

#### NOTICES OF HEARINGS

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. HARKIN. Mr. President, I wish to announce that the Subcommittee on Primary Health and Aging of the Committee on Health, Education, Labor,

and Pensions will meet in open session on Wednesday, February 29, 2012, at 10 a.m. in SD-430 Dirksen Senate Office Building to conduct a hearing entitled Dental Crisis in America: The Need to Expand Access.

For further information regarding this meeting, please contact the subcommittee on (202) 224-5480.

COMMITTEE ON HEALTH, EDUCATION, LABOR,  
AND PENSIONS

Mr. HARKIN. Mr. President, I wish to announce that the Committee on Health, Education, Labor, and Pensions will meet in open session on Thursday, March 1, 2012, at 10 a.m. in SD-430 Dirksen Senate Office Building to conduct a hearing entitled The Key to America's Global Competitiveness: A Quality Education.

For further information regarding this meeting, please contact the committee on (202) 224-5501.

COMMITTEE ON HEALTH, EDUCATION, LABOR,  
AND PENSIONS

Mr. HARKIN. Mr. President, I wish to announce that the Senate HELP Committee hearing previously scheduled for March 1, 2012, entitled "The Key to America's Global Competitiveness: A Quality Education" has been postponed until Thursday, March 8, 2012 at 10 a.m. in room 430 of the Dirksen Senate Office Building.

For further information regarding this meeting, please contact the committee on (202) 224-5501.

COMMITTEE ON ENERGY AND NATURAL  
RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before Subcommittee on National Parks. The hearing will be held on Wednesday, March 7, 2012, at 2:30 p.m. in room SD-366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on the following bills:

S. 29, a bill to establish the Sacramento-San Joaquin Delta National Heritage Area;

S. 1150, a bill to establish the Susquehanna Gateway National Heritage Area in the State of Pennsylvania;

S. 1191, a bill to direct the Secretary of the Interior to carry out a study regarding the suitability and feasibility of establishing the Naugatuck River Valley National Heritage Area in Connecticut;

S. 1198, a bill to reauthorize the Essex National Heritage Area;

S. 1215, a bill to provide for the exchange of land located in the Lowell National Historical Park;

S. 1589, a bill to extend the authorization for the Coastal Heritage Trail in the State of New Jersey;

S. 1708, a bill to establish the John H. Chafee Blackstone River Valley National Historical Park;

H.R. 1141, to authorize the Secretary of the Interior to study the suitability and feasibility of designating prehistoric, historic,

and limestone forest sites on Rota, Commonwealth of the Northern Mariana Islands, as a unit of the National Park System.

H.R. 2606, to authorize the Secretary of the Interior to allow the construction and operation of natural gas pipeline facilities in the Gateway National Recreation Area, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, United States Senate, 304 Dirksen Senate Office Building, Washington, DC 20510-6150, or by email to Jake\_McCook@energy.senate.gov.

For further information, please contact David Brooks (202) 224-9863 or Jake McCook (202) 224-9313.

COMMITTEE ON INDIAN AFFAIRS

Mr. AKAKA. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Thursday, Thursday, March 8, 2012, at 2:15 p.m. in room 628 of the Dirksen Senate Office Building to conduct an oversight hearing on the President fiscal year 2013 Budget for Native Programs.

Those wishing additional information may contact the Indian Affairs Committee at (202) 224-2251.

COMMITTEE ON ENERGY AND NATURAL  
RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Senate Committee on Energy and Natural Resources. The hearing will be held on Tuesday, March 13, 2012, at 10 a.m., in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the "Report of the Independent Consultant's Review with Respect to the Department of Energy Loan and Loan Guarantee Portfolio."

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510-6150, or by email to Abigail\_Campbell@energy.senate.gov.

For further information, please contact Michael Carr at 202-224-8164 or Colin Hayes at (202) 224-4797 or Abigail Campbell at 202-224-1219.

PRIVILEGES OF THE FLOOR

Mr. LEAHY. Mr. President, I ask unanimous consent that Ed Chung, a Department of Justice detailee on my Judiciary Committee staff, be given Senate floor privileges for the duration of the 112th Congress.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE READ THE FIRST  
TIME—H.R. 1173

Mr. PRYOR. Mr. President, I understand there is a bill at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill by title for the first time.

The legislative clerk read as follows:

A bill (H.R. 1173) to repeal the CLASS program.

Mr. PRYOR. I now ask for a second reading and, in order to place the bill on the calendar under the provisions of rule XIV, I object to my own request.

The PRESIDING OFFICER. Objection is heard.

The bill will be read for the second time on the next legislative day.

ORDERS FOR TUESDAY,  
FEBRUARY 28, 2012

Mr. PRYOR. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until Tuesday, February 28, 2012, at 10 a.m.; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, and the time for the two leaders be reserved for their use later in the day; that the Senate be in a period of morning business until 12:30 p.m., with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first half hour and the Republicans controlling the second half hour; further, that the Senate recess from 12:30 p.m. until 2:15 p.m. to allow for the weekly caucus meetings.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 10 A.M.  
TOMORROW

Mr. PRYOR. If there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 7:05 p.m., adjourned until Tuesday, February 28, 2012, at 10 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate February 27, 2012:

THE JUDICIARY

MARGO KITSY BRODIE, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF NEW YORK.

## HOUSE OF REPRESENTATIVES—Monday, February 27, 2012

The House met at 2 p.m. and was called to order by the Speaker pro tempore (Mr. DENHAM).

### DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,  
February 27, 2012.

I hereby appoint the Honorable JEFF DENHAM to act as Speaker pro tempore on this day.

JOHN A. BOEHNER,  
*Speaker of the House of Representatives.*

### PRAYER

The Chaplain, the Reverend Patrick J. Conroy, offered the following prayer: Compassionate and merciful God, we give You thanks for giving us another day.

Bless the Members of this people's House as they return from busy days away from the Capitol.

Give them strength, fortitude, and patience. Fill their hearts with charity, their minds with understanding, their wills with courage to do the right thing for all of America.

In the work to be done now, may they rise together to accomplish what is best for our great Nation and, indeed, for all the world. For You have blessed us with many graces and given us the responsibility of being a light shining on a hill.

May all that is done this day be for Your greater honor and glory.

Amen.

### THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

### PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from South Carolina (Mr. WILSON) come forward and lead the House in the Pledge of Allegiance.

Mr. WILSON of South Carolina led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### COMMENDING DETROIT CATHOLIC CENTRAL HIGH SCHOOL

(Mr. MCCOTTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MCCOTTER. Mr. Speaker, today I rise to commend my alma mater, Detroit Catholic Central High School, for winning Michigan's 2012 Division I State Wrestling Championship. It is the team's ninth State wrestling championship.

After winning the Catholic High School League title, CC dominated the district and regional meets; and, in the finals, defeated Oxford to cap a 25-3-0 season.

Coach Mitch Hancock's team not only claimed their second title in 3 years, they are sending 10 Shamrock wrestlers to the individual State finals. Truly, the toil and devotion of every CC teammate is inspiring and well reflects upon the entire Catholic Central family, which celebrates these student-athletes' achievement.

Mr. Speaker, I ask my colleagues to join me in recognizing Coach Hancock's Catholic Central Shamrocks for having earned the 2012 State wrestling title and for exemplifying the Basilian Fathers' teachings of goodness, discipline, and knowledge.

Live and die for CC High.

### NEW PARTNERSHIP WITH KYRGYZSTAN

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, last week, I was grateful to be part of a Congressional delegation, led by Chairman DAVID DREIER, that established a partnership with the parliament of Kyrgyzstan, the Jogorku Kenesh. We traveled as members of the House Democracy Partnership, which works with parliaments in new democracies to build stronger legislatures.

Following parliamentary elections in 2010, the Kyrgyz Republic last year completed the first peaceful democratic transition of Presidential power in Central Asia after an open and competitive election. New President Almazbek Atambayev is committed to parliamentary democracy.

Under the leadership of Speaker Asylbek Jeenbekov, the parliament and HDP will work together to strengthen committee operations, budget analyses, constituent relations, and other institutional reforms.

Kyrgyzstan is a bright star in Central Asia, with a growing economy, dedicated President, the prestigious American University of central Asia, and dynamic parliamentarians working with an engaged population to establish a democracy.

In conclusion, God bless our troops, and we will never forget September the 11th in the global war on terrorism.

### SAY YES TO DOMESTIC ENERGY

(Mr. POE of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. POE of Texas. Mr. Speaker, when the President took office, gasoline cost \$1.96. Now it's almost \$4 a gallon. Spring breakers in Disney World can expect to pay nearly \$6 a gallon to fill up their individual cars.

Americans have no choice but to pay the higher price because the government is stonewalling a domestic energy policy. Deana from Huffman, Texas, put it best:

I go to work to make money to pay for the gas just to get to work.

The President's energy policy is "nothing from below"—nothing from below the ground, nothing from below the sea.

We're the only Nation in the world that places most of our offshore territory off limits to oil and gas exploration. Meanwhile, the government continues to subsidize failed green energy projects.

We should be saying yes to all types of American energy: Yes to more offshore drilling; yes to ANWR; yes to faster approval of permits; and yes to the Keystone XL pipeline.

Let's make gasoline affordable for Deana and all Americans.

And that's just the way it is.

### DOCUMENTARY FILM "UNDEFEATED" WINS OSCAR

(Mr. COHEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COHEN. Mr. Speaker, this weekend many of us watched the Oscars, and among the winners of an Oscar was a documentary film called "Undeclared."

"Undeclared" was about a football team at Manassas High School in Memphis, Tennessee, and a gentleman named Bill Courtney, who was a volunteer coach there. He went to Manassas

during their 2009–2010 season to try to help the kids, help them get through and have a better life. It's in a tough part of the city—a lot of poverty and a lot of one-parent households and a lot of things to overcome.

They had a football player named O.C. Brown, who was an outstanding offensive tackle. He got a scholarship eventually, because of this, to go to Southern Mississippi. He's a great ball player. Coach Courtney worked with him and others to make sure that he got an opportunity to advance.

It's a lot like "The Blind Side," except that it was a story about Coach Courtney and O.C. Brown of Manassas. It won an Oscar, and it deserved it. It's about people not giving up and making a success of things. In just under half a semester, O.C. Brown was able to achieve a 3.0 grade point average and get that scholarship at Southern Mississippi.

Manassas High School is filled with talented young people. We wish them good luck.

This hat belonged to Isaac Hayes, a proud alumnus of Manassas High School.

#### HONORING THE LIFE OF CHARLIE PEAVYHOUSE

(Mr. FLEISCHMANN asked and was given permission to address the House for 1 minute.)

Mr. FLEISCHMANN. Mr. Speaker, I rise today to honor the memory of a great man who lived in my district.

Charlie Peavyhouse was born in Detroit and raised in Rhea County, Tennessee. A committed Methodist, Charlie earned his associates degree from Tennessee Wesleyan College and maintained a lifelong relationship with the institution. He also received degrees from East Tennessee State University and Vanderbilt.

After completing his education, Charlie went to work as a teacher and principal. Charlie touched many young lives in his career as an educator, which included serving as principal at Bachman and Falling Water Elementary until his retirement in 1990.

I got to know Charlie Peavyhouse through his work in local politics. Charlie was always a presence, whether as the Hamilton County Republican chair, a campaign manager, or a delegate to the Republican National Convention. He also served as Tennessee's wildlife commissioner under two Governors.

Last April, I joined many in Chattanooga to pay tribute to a man who inspired so many to serve. I was honored to call him my mentor.

Charlie passed away February 19 and is survived by his wife, Eula Mae, and daughters, Jane and Carol.

□ 1410

#### IN SUPPORT OF H.R. 1433, THE PRIVATE PROPERTY RIGHTS PROTECTION ACT OF 2012

(Mr. PALAZZO asked and was given permission to address the House for 1 minute.)

Mr. PALAZZO. Mr. Speaker, I rise today in support of H.R. 1433, the Private Property Rights Protection Act of 2012. This bill represents a return of basic property rights to the American people, rights we are guaranteed in the U.S. Constitution. In 2005, these rights came under attack when the U.S. Supreme Court ruled in favor of a corporation taking individual homes in the name of economic development. As a result, people lost their homes to false promises of jobs and tax revenue.

Now, instead of a booming business, there is only a city dump where the homes once stood.

I agree with Supreme Court Justice Clarence Thomas when he wrote in his dissenting opinion:

Something has gone seriously awry with this Court's interpretation of the Constitution. Though citizens are safe from the government in their homes, the homes themselves are not safe.

That is also why I supported an eminent domain amendment to the Mississippi Constitution, Mississippi Initiative 31, which 73 percent of Mississippi voters approved last November. I urge my colleagues to support property rights to the Constitution in H.R. 1433.

#### NATIONAL INSTITUTES OF HEALTH OBSERVES RARE DISEASE DAY

(Mr. BURGESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURGESS. Mr. Speaker, this week is Rare Disease Day, which will take place on February 29. I want to acknowledge the work of the National Institutes of Health in their efforts to bring down rare diseases. I also want to acknowledge the thousands of Americans who are afflicted with diseases whose systems are so complex that they simply remain undiagnosed. The majority of these disorders have genetic causes, and over half affect children.

The National Institutes of Health has joined a worldwide effort with more than 40 countries to recognize and seek better ways to diagnose and treat patients. On February 29, the NIH is observing the fifth annual Rare Disease Day and hosting a daylong program of activities highlighting the rare disease research community.

In conjunction with that, NIH Director Dr. Francis Collins will announce the launch of the Genetic Testing Registry. This is an online tool developed

by NIH scientists providing health care providers and patients access to information on genetic tests. I also have legislation that would expand on these efforts.

This Wednesday, February 29, the rarest of days on the calendar, we will pause to honor those who are working hard to research, diagnose, treat, and empower patients with the rarest of rare diseases. I want to acknowledge the work of the NIH. I'm grateful that they're organizing an event like Rare Disease Day.

#### TRANSPORTATION INVESTMENT

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute.)

Mr. DEFAZIO. Last December, the Speaker told us that the Republican signature jobs bill was going to be the surface transportation reauthorization. Yet, under pressure from the extreme right in his caucus 2 weeks ago, he said in the Republican caucus that this transportation bill is not a jobs bill. And they wrote for the first time since the founding of the Dwight D. Eisenhower National Highway System a purely partisan transportation bill in the hope of jamming it through.

Well, it's all fallen apart now. Yet there are 150,000 bridges falling apart in the Federal system. Forty percent of the pavement on the national system needs to be restored, and there's a \$70 billion backlog for critical equipment in our transit systems. These could be jobs—Made in America jobs.

But we need to work together. Transportation is not, never has been, and should not be a partisan issue. By trying to make it partisan, they've stalled and failed. It's time to go back to the drawing board and put together a bill that's good for America. We don't have to have partisan politics on every issue, and transportation investment should not be one of those.

#### PAYING TRIBUTE TO DR. LAWRENCE NEWMAN

(Mr. CALVERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CALVERT. Mr. Speaker, I rise today to pay tribute to Dr. Lawrence Newman, a beloved educator, writer, and deaf advocate who passed away on July 4, 2011.

In 1953, Lawrence joined the faculty of the California School for the Deaf in Riverside. He distinguished himself as a talented and devoted teacher, becoming the first deaf person to be awarded the California Teacher of the Year Award in 1968.

Lawrence's contributions extend far beyond the classroom. As two-term president of the National Association of the Deaf, Lawrence was a tireless

public advocate for deaf students, raising awareness of their unique needs and fighting for reforms in the law to support residential schools. He also fought for change from within the deaf community, encouraging sign language and total communication.

Perhaps Lawrence's most important role, however, was that of father of five and husband to Betty, his wife of 61 years. He is missed and will always be remembered for his contributions to the deaf community.

## RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 4 p.m. today.

Accordingly (at 2 o'clock and 14 minutes p.m.), the House stood in recess.

□ 1600

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. POE of Texas) at 4 p.m.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote incurs objection under clause 6 of rule XX.

Record votes on postponed questions will be taken after 6:30 p.m. today.

## FEDERAL RESTRICTED BUILDINGS AND GROUNDS IMPROVEMENT ACT OF 2011

Mr. SMITH of Texas. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 347) to correct and simplify the drafting of section 1752 (relating to restricted buildings or grounds) of title 18, United States Code.

The Clerk read the title of the bill.

The text of the Senate amendment is as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

### SECTION 1. SHORT TITLE.

*This Act may be cited as the "Federal Restricted Buildings and Grounds Improvement Act of 2011".*

### SEC. 2. RESTRICTED BUILDING OR GROUNDS.

Section 1752 of title 18, United States Code, is amended to read as follows:

#### "§ 1752. Restricted building or grounds

"(a) Whoever—

"(1) knowingly enters or remains in any restricted building or grounds without lawful authority to do so;

"(2) knowingly, and with intent to impede or disrupt the orderly conduct of Government busi-

ness or official functions, engages in disorderly or disruptive conduct in, or within such proximity to, any restricted building or grounds when, or so that, such conduct, in fact, impedes or disrupts the orderly conduct of Government business or official functions;

"(3) knowingly, and with the intent to impede or disrupt the orderly conduct of Government business or official functions, obstructs or impedes ingress or egress to or from any restricted building or grounds; or

"(4) knowingly engages in any act of physical violence against any person or property in any restricted building or grounds;

or attempts or conspires to do so, shall be punished as provided in subsection (b).

"(b) The punishment for a violation of subsection (a) is—

"(1) a fine under this title or imprisonment for not more than 10 years, or both, if—

"(A) the person, during and in relation to the offense, uses or carries a deadly or dangerous weapon or firearm; or

"(B) the offense results in significant bodily injury as defined by section 2118(e)(3); and

"(2) a fine under this title or imprisonment for not more than one year, or both, in any other case.

"(c) In this section—

"(1) the term 'restricted buildings or grounds' means any posted, cordoned off, or otherwise restricted area—

"(A) of the White House or its grounds, or the Vice President's official residence or its grounds;

"(B) of a building or grounds where the President or other person protected by the Secret Service is or will be temporarily visiting; or

"(C) of a building or grounds so restricted in conjunction with an event designated as a special event of national significance; and

"(2) the term 'other person protected by the Secret Service' means any person whom the United States Secret Service is authorized to protect under section 3056 of this title or by Presidential memorandum, when such person has not declined such protection."

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. SMITH) and the gentleman from Georgia (Mr. JOHNSON) each will control 20 minutes.

The Chair recognizes the gentleman from Texas.

## GENERAL LEAVE

Mr. SMITH of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous materials on the Senate amendment to H.R. 347, currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. SMITH of Texas. Mr. Speaker, I yield myself such time as I may consume.

H.R. 347, the Federal Restricted Buildings and Grounds Improvement Act of 2011, introduced by Congressman TOM ROONEY, makes commonsense improvements to an existing Federal law that prohibits unlawful access to the White House, the Vice President's residence, and other restricted areas.

Current law prohibits unlawful entries upon any restricted building or ground where the President, Vice President, or other protectee is tempo-

rarily visiting. However, there is no Federal law that expressly prohibits unlawful entry to the White House and its grounds or the Vice President's residence and its grounds. The United States Secret Service must therefore rely upon a provision in the District of Columbia Code, which addresses only minor misdemeanor infractions when someone attempts to or successfully climbs the White House fence or, worse, breaches the White House, itself.

H.R. 347 remedies this problem. It specifically includes the White House, the Vice President's residence, and their respective grounds in the definition of restricted buildings and grounds. The bill also clarifies that the penalties in section 1752 of title 18 apply to those who knowingly enter or remain in any restricted building or grounds without lawful authority to do so. Current law does not include this important element.

The House passed this bill 1 year ago by a vote of 399-3. Earlier this month, the Senate passed the bill by unanimous consent. The Senate also clarified that the revised law applies to individuals the Secret Service is required to protect by statute or by Presidential memorandum.

H.R. 347 ensures that the President, the First Family, the Vice President, and others are protected whether they are in the White House or attending an event in a convention center or meeting hall.

I commend my colleague from Florida (Mr. ROONEY) for sponsoring this legislation, which enjoys overwhelming bipartisan and bicameral support.

I urge my colleagues to support this bill, and I reserve the balance of my time.

Mr. JOHNSON of Georgia. Mr. Speaker, I yield myself such time as I may consume.

I support H.R. 347, as amended by the Senate, which will assist the Secret Service in performing its protective duties.

The bill before us today will help the Secret Service carry out its role in protecting the President, Vice President, and other dignitaries. Current Federal law prohibits individuals from entering or remaining in areas cordoned off as "restricted" because of protection being provided by the Secret Service.

This bill would simply clarify that the prohibition under the existing statute only applies to those who do not have lawful authority to be in those areas. The bill would also add the White House and Vice President's residence to the definition of restricted areas protected under current law.

The Senate made minor changes to the bill, including expanding the bill's protections to areas in which the Secret Service is protecting a person by the direction of a Presidential memorandum.

I support this amendment. This bill will assist the Secret Service, which did not have this protective function when it was created.

□ 1610

The role of the Secret Service has expanded greatly since it was established in 1865 to fight the counterfeiting of U.S. currency.

The Service became part of the Treasury Department in 1883 and took on many additional investigative responsibilities with respect to safeguarding the payment and financial systems of the United States. It wasn't until 1894 that the Secret Service first started protecting our Presidents; and that protective role with respect to the President, Vice President, and other dignitaries has grown substantially since that time.

The men and women of the Secret Service conduct themselves with valor and professionalism while carrying out the protective function of their agency. They provide protection for a variety of people and events, including the President and national special security events.

The Secret Service has other important functions which also deserve recognition. For example, the investigative role of the Secret Service has expanded greatly from protecting the currency against counterfeiting to investigating a variety of crimes related to this country's financial institutions and credit systems.

I commend the gentleman from Florida, Representative TOM ROONEY, for his work on this bill, and I urge my colleagues to support H.R. 347.

I reserve the balance of my time.

Mr. SMITH of Texas. Mr. Speaker, I yield as much time as he may consume to the gentleman from Florida (Mr. ROONEY), who is a sponsor of this legislation and also a member of the Armed Services and a former member of the Judiciary Committee.

Mr. ROONEY. Mr. Speaker, the protections provided by the United States Secret Service are vital to assessing security threats and providing a secure environment for our Nation's leaders.

One key aspect of the Service's mission is to secure buildings and grounds where our leaders work and live, including the White House and the Naval Observatory. My bill would explicitly protect these residences of the President and the Vice President from intruders and would clarify current law to distinguish between those who are able to enter the grounds lawfully, like the Secret Service, and those who enter without permission.

This bipartisan bill would improve existing criminal law to ensure that the Secret Service can continue to implement strategies that prevent potentially catastrophic security breaches. I urge my colleagues to join me in supporting this commonsense, bipartisan

piece of legislation to protect our Nation's leaders and national security.

I thank Mr. SMITH from Texas for his leadership on this issue, the Judiciary Committee, and Mr. JOHNSON of Georgia.

Mr. JOHNSON of Georgia. Mr. Speaker, I yield back the balance of my time.

Mr. SMITH of Texas. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. SMITH) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 347.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. SMITH of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

## RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 6:30 p.m. today.

Accordingly (at 4 o'clock and 14 minutes p.m.), the House stood in recess.

□ 1830

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. DENHAM) at 6 o'clock and 30 minutes p.m.

## REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2117, PROTECTING ACADEMIC FREEDOM IN HIGHER EDUCATION ACT

Ms. FOXX, from the Committee on Rules, submitted a privileged report (Rept. No. 112-404) on the resolution (H. Res. 563) providing for consideration of the bill (H.R. 2117) to prohibit the Department of Education from overreaching into academic affairs and program eligibility under title IV of the Higher Education Act of 1965, which was referred to the House Calendar and ordered to be printed.

## FEDERAL RESTRICTED BUILDINGS AND GROUNDS IMPROVEMENT ACT OF 2011

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the unfinished business is the vote on the motion to suspend the rules and concur in the Senate amendment to the bill (H.R. 347) to correct and simplify the drafting of section 1752 (relating to re-

stricted buildings or grounds) of title 18, United States Code, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. SMITH) that the House suspend the rules and concur in the Senate amendment.

The vote was taken by electronic device, and there were—yeas 388, nays 3, not voting 42, as follows:

[Roll No. 73]

## YEAS—388

Ackerman	Cravaack	Hastings (FL)
Adams	Crawford	Hastings (WA)
Aderholt	Crenshaw	Hayworth
Alexander	Critz	Heck
Altmire	Crowley	Heinrich
Andrews	Cuellar	Hensarling
Austria	Cummings	Herger
Baca	Davis (CA)	Herrera Beutler
Bachmann	Davis (IL)	Higgins
Bachus	Davis (KY)	Himes
Baldwin	DeFazio	Hinchee
Barletta	DeGette	Hinojosa
Barrow	DeLauro	Hochul
Bartlett	Denham	Holden
Barton (TX)	Dent	Holt
Bass (CA)	DesJarlais	Honda
Bass (NH)	Deutch	Hoyer
Becerra	Diaz-Balart	Huelskamp
Benishek	Dicks	Huizenga (MI)
Berg	Doggett	Hultgren
Berkley	Dold	Hunter
Berman	Donnelly (IN)	Hurt
Biggert	Doyle	Israel
Bilirakis	Dreier	Issa
Bishop (GA)	Duffy	Jackson Lee
Bishop (NY)	Duncan (SC)	(TX)
Bishop (UT)	Duncan (TN)	Jenkins
Black	Edwards	Johnson (GA)
Blackburn	Ellmers	Johnson (OH)
Blumenauer	Emerson	Johnson, E. B.
Bonamici	Engel	Johnson, Sam
Bonner	Eshoo	Jones
Bono Mack	Farenthold	Jordan
Boren	Farr	Keating
Boswell	Fattah	Kelly
Boustany	Fincher	Kildee
Brady (PA)	Fitzpatrick	Kind
Brady (TX)	Flake	King (IA)
Braley (IA)	Fleischmann	King (NY)
Brooks	Fleming	Kinzinger (IL)
Buchanan	Flores	Kissell
Bucshon	Forbes	Kline
Buerkle	Fortenberry	Labrador
Burgess	Fox	Lamborn
Burton (IN)	Frank (MA)	Lance
Butterfield	Frelinghuysen	Lankford
Calvert	Fudge	Larsen (WA)
Camp	Galleghy	Larson (CT)
Canseco	Garamendi	Latham
Cantor	Gardner	LaTourette
Capito	Garrett	Latta
Capps	Gerlach	Levin
Capuano	Gibbs	Lewis (CA)
Cardoza	Gibson	Lewis (GA)
Carney	Gingrey (GA)	Lipinski
Carson (IN)	Gohmert	LoBiondo
Carter	Gonzalez	Loebach
Cassidy	Goodlatte	Lofgren, Zoe
Castor (FL)	Gosar	Long
Chabot	Gowdy	Lowey
Chaffetz	Granger	Lucas
Chandler	Graves (GA)	Luetkemeyer
Chu	Graves (MO)	Lujan
Ciulline	Green, Al	Lummis
Clarke (MI)	Green, Gene	Lungren, Daniel
Clyburn	Griffin (AR)	E.
Coble	Griffith (VA)	Lynch
Coffman (CO)	Grimm	Mack
Cohen	Guinta	Maloney
Cole	Guthrie	Manzullo
Conaway	Hahn	Markey
Connolly (VA)	Hall	Matheson
Conyers	Hanabusa	Matsui
Cooper	Hanna	McCarthy (CA)
Costa	Harper	McCarthy (NY)
Costello	Harris	McCaul
Courtney	Hartzler	McClintock



McCollum	Price (GA)	Sewell
McCotter	Price (NC)	Sherman
McDermott	Quayle	Shimkus
McGovern	Quigley	Shuster
McHenry	Rahall	Simpson
McIntyre	Reed	Sires
McKeon	Rehberg	Slaughter
McKinley	Reichert	Smith (NE)
McMorris	Renacci	Smith (NJ)
Rodgers	Reyes	Smith (TX)
McNerney	Ribble	Southerland
Meehan	Richardson	Stearns
Meeks	Richmond	Stivers
Mica	Rigell	Stutzman
Michaud	Rivera	Sullivan
Miller (FL)	Roby	Sutton
Miller (MI)	Roe (TN)	Terry
Miller (NC)	Rogers (AL)	Thompson (CA)
Miller, Gary	Rogers (KY)	Thompson (MS)
Miller, George	Rogers (MI)	Thompson (PA)
Moore	Rohrabacher	Tiberti
Moran	Rokita	Tipton
Mulvaney	Rooney	Tonko
Murphy (CT)	Ros-Lehtinen	Tsongas
Murphy (PA)	Roskam	Turner (NY)
Myrick	Ross (AR)	Turner (OH)
Nadler	Ross (FL)	Upton
Napolitano	Rothman (NJ)	Van Hollen
Neal	Roybal-Allard	Velázquez
Neugebauer	Royce	Visclosky
Noem	Runyan	Walberg
Nugent	Ruppersberger	Walden
Nunes	Ryan (OH)	Walsh (IL)
Nunnelee	Ryan (WI)	Walz (MN)
Olson	Sánchez, Linda	Wasserman
Olver	T. Schultz	Waters
Owens	Sanchez, Loretta	Watt
Palazzo	Sarbanes	Waxman
Pallone	Scalise	Webster
Pastor (AZ)	Schakowsky	Welch
Paulsen	Schiff	West
Pearce	Schilling	Westmoreland
Pelosi	Schmidt	Whitfield
Pence	Schock	Wilson (FL)
Perlmutter	Schrader	Wilson (SC)
Peters	Schwartz	Wittman
Peterson	Schweikert	Wolf
Petri	Scott (SC)	Womack
Pingree (ME)	Scott (VA)	Woodall
Pitts	Scott, Austin	Yarmuth
Poe (TX)	Scott, David	Yoder
Polis	Sensenbrenner	Young (FL)
Pompeo	Serrano	Young (IN)
Posey	Sessions	

## NAYS—3

Amash	Broun (GA)	Ellison
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## NOT VOTING—42

Akin	Gutierrez	Paul
Amodei	Hirono	Payne
Blibray	Inslee	Platts
Brown (FL)	Jackson (IL)	Rangel
Campbell	Johnson (IL)	Rush
Carnahan	Kaptur	Shuler
Clarke (NY)	Kingston	Smith (WA)
Clay	Kucinich	Speier
Cleaver	Landry	Stark
Culberson	Langevin	Thornberry
Dingell	Lee (CA)	Tierney
Filner	Marchant	Towns
Franks (AZ)	Marino	Woolsey
Grijalva	Pascrell	Young (AK)

□ 1854

Messrs. BARLETTA and JONES changed their vote from “nay” to “yea.”

So (two-thirds being in the affirmative) the rules were suspended and the Senate amendment was concurred in.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. PASCRELL. Mr. Speaker, on February 27, 2012, I missed the one rollcall vote of the day.

Had I been present I would have voted “yea” on rollcall vote No. 73, on the Motion to

Concur in the Senate Amendment to H.R. 347—Federal Restricted Buildings and Grounds Improvement Act of 2011.

Mr. FILNER. Mr. Speaker, on rollcall 73, I was away from the Capitol due to prior commitments to my constituents. Had I been present, I would have voted “yea.”

## PERSONAL EXPLANATION

Mr. JOHNSON of Illinois. Mr. Speaker, on Monday, February 27, 2012 I had a previously scheduled meeting with constituents in Urbana, Illinois. As a result, I am unable to attend votes. Had I been present, I would have voted “aye” on the Senate Amendments to H.R. 347, the Federal Restricted Buildings and Grounds Improvement Act of 2011.

## REMEMBERING FORMER U.S. REPRESENTATIVE KATIE HALL

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute.)

Mr. BURTON of Indiana. Mr. Speaker, I would like to ask for a moment of silence. We just lost a former Member of Congress, Katie Hall, from Gary, Indiana. After that, Mr. Speaker, if you would be so kind, we would like to have a moment or two to make some comments about Ms. Hall.

The SPEAKER pro tempore (Mr. PALAZZO). The gentleman from Indiana will please suspend. The House will be in order.

The gentleman from Indiana is recognized.

Mr. BURTON of Indiana. Thank you, Mr. Speaker.

Let me just start off real quickly, before I yield to my colleague from Gary, Indiana, and say that Katie Hall, who was a Member of this body, died just this last few days from an unknown illness. She was 73 years old.

She came from very humble beginnings in Mound Bayou, Mississippi. She grew up on her grandfather's cotton farm, and she was a teacher for more than 30 years. She was a very fine teacher.

She moved, in 1962, to Gary, Indiana, where she became a very good friend of Richard Hatcher, the mayor. When a good friend of mine, Adam Benjamin, who was once a Member of this body, died, Mayor Hatcher appointed her as the nominee of the Democrat Party to succeed him. She also served in the Indiana Senate. I served with her there.

She was a very fine person. During her time in the Congress, she sponsored, along with others, but she was one of the key sponsors, in 1983, of a national holiday in remembrance of Dr. Martin Luther King. She was credited for playing a very key role in getting that bill passed after it had stalled in the House for over 14 years.

Let me just say that she was a great lady and a great Congresswoman, and she will be missed. We want to extend our deepest sympathy to her family and her friends.

With that, I will be happy to yield to my colleague, the senior Member from Gary, Indiana.

Mr. VISCLOSKY. I would express my appreciation to the dean of our delegation, Mr. BURTON, for asking for a moment of silence and the Speaker's indulgence.

Mr. BURTON rightfully pointed out Mrs. Hall's ascendancy into the Congress and the sponsorship of the legislation that led to Dr. King's birthday being declared a national holiday. But I would also point out to my colleagues that Mrs. Hall also served in the Indiana House as well as the Indiana Senate, and following her service in the United States Congress also served as clerk for the City of Gary for 15 years, from 1988 to 2003.

She does leave a granddaughter, two daughters, and a husband. My sympathies, and all of ours, go out to the family, as well.

I also think that Mrs. Hall probably would want to be most remembered for her role as an educator who taught young people in the Gary public school system. She certainly always served her family, she always served those she taught and represented, and she certainly has served her country.

Again, our sympathies go to the family, and I deeply appreciate the respect shown by the gentleman from Indiana.

Mr. Speaker, it is with deep sadness and great respect that I take this time to remember one of northwest Indiana's most valued citizens and my predecessor, former Congresswoman, Katie Beatrice Hall. Throughout her prestigious career, Katie's contributions to the people of northwest Indiana and across the Nation are exemplary, and she is worthy of the highest praise. Mrs. Hall passed away on Monday, February 20, 2012, but her legacy will live on forever in the hearts and minds of those she served.

Congresswoman Hall grew up in Mound Bayou, Mississippi, during the pre-civil rights era. Segregation laws were strict in the South during that time, and she learned early in life how to succeed despite great opposition. In 1960, Katie earned a bachelor's degree from Mississippi Valley State University. Later, she moved to Indiana and continued her education, earning a master's degree from Indiana University, Bloomington, in 1968.

The Congresswoman's involvement in politics began when she campaigned for former Mayor of Gary Richard Hatcher. Her work on the campaign further fueled her desire to serve others and inspired her to run for elected office. Prior to becoming a Member of Congress, she served in the Indiana House of Representatives from 1974 to 1976 and was then elected to the Indiana Senate, serving from 1976 to 1982. As a member of the Indiana General Assembly, Mrs. Hall was influential in establishing the Genesis Center, Hudson-Campbell Fitness Center, and the Adam Benjamin Metro Center, in Gary. Katie also served as the Chair for the Lake County Democratic Committee from 1978 to 1980 and for the Indiana Democratic Convention in 1980. In 1982, following the untimely passing of United States Congressman Adam Benjamin, Jr., Katie won the special election to complete his term in office and to represent

the First Congressional District of Indiana in the 98th Congress, becoming the first African American from Indiana elected to serve in the United States House of Representatives. While in office, Katie served as chairwoman of the Post Office and Civil Services Subcommittee on Census and Population. During her time in Congress, Representative Hall made a truly historic contribution through her sponsorship of the bill that made Reverend Dr. Martin Luther King, Jr.'s birthday a national holiday. This bill had been stalled in the House for fourteen years, and through her passion and persistence, Katie was successful in establishing this recognition of Dr. King. Mrs. Hall was a trailblazer for the Civil Rights Movement and a devoted public servant to her community, state, and Nation. In the years following her term, Katie continued her life of public service as city clerk for Gary, Indiana from 1988 to 2003.

Katie Hall leaves behind a loving family. She is survived by her cherished husband, John Henry Hall, as well as her adoring daughters, Jacqueline and Junifer, and her beloved granddaughter, Kristina. She also leaves behind many other dear friends and family members, as well as a saddened community and a grateful nation.

Mr. Speaker, I respectfully ask that you and my other distinguished colleagues join me in remembering the Honorable Katie Hall for her tremendous contributions to the people of her community, the State of Indiana, and the United States of America. Her life of public service is to be admired. Her legacy will serve as an inspiration to us all.

Mr. BURTON of Indiana. I thank the gentleman for his remarks, and I would be very happy to yield to my colleague from Indianapolis.

Mr. CARSON of Indiana. Mr. Speaker, I would like to take a moment to join my colleagues to honor the life of former Congresswoman Katie Hall who passed last week at the age of 73. I met her as a young man. In fact, I had a chance to spend some time with her in the early eighties in San Francisco during the Democratic National Convention.

□ 1900

But she quickly made a name for herself, to my colleague's point, not only as a strong advocate and leader in the State of Indiana, but as an educator. She knew that America's children were suffering, and she supported alternative education, Mr. Speaker. She understood that children had different needs, and she made sure that she was an advocate of different educational models to meet those needs.

So my deepest sympathies go out to her family and friends who are mourning her passing. And we know that Indiana politics will not be the same.

I thank my colleague for acknowledging me.

Mr. BURTON of Indiana. Mr. Speaker, Katie Hall will be missed. And once again, our sympathy goes out to her family and all of her loved ones.

#### HONORING SERGEANT T.J. CONRAD

(Mr. GRIFFITH of Virginia asked and was given permission to address the House for 1 minute.)

Mr. GRIFFITH of Virginia. Mr. Speaker, on Thursday, February 23, Virginia and our Nation lost a true hero. Sergeant T.J. Conrad was killed in action in the Nangarhar Province of Afghanistan in the rioting there.

Sergeant Conrad, just 22 years old, was a husband, a father, a son, and a brother. Outgoing, determined, and a man of true grit, Sergeant Conrad truly personified the Army's old slogan, "Be All You Can Be."

Born in Newport News and raised in Roanoke County, Sergeant Conrad grew up attending Masons Cove Elementary School, Northside Middle School, and Northside High School. In high school, he was an outstanding wrestler. In his senior year, he helped lead his team to the Blue Ridge District titles for both the regular season and the tournament.

Today, I wish to extend my prayers and our prayers and condolences to Sergeant Conrad's wife, Holly; his infant son, Bentley; his parents, his relatives, and his friends. His father has stated that he will always be remembered for his great sense of humor, his infectious smile, his kind heart, and his desire to brighten anyone's day.

On behalf of a grateful Nation, we grieve the loss of our warrior brother, but we honor Sergeant Conrad for his courage, his sacrifice, and his selfless commitment to duty, honor, and country. He gave his all in service for the sake of our safety, our freedom, and our liberty.

#### MINNETONKA 2A GIRLS HOCKEY TITLE

(Mr. PAULSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAULSEN. Mr. Speaker, I rise today to congratulate the Minnetonka girls high school hockey team on winning their second consecutive Minnesota 2A State title this weekend at the Xcel Energy Center in St. Paul.

Mr. Speaker, after winning last year's championship in a nail-biting game, the Minnetonka Skippers this year defeated the Roseville Raiders 3-0. The first goal came early in the first period by defender Holly Korn, who scored on a power play. After that, forward Diana Drayaard followed up with a second goal late in the third period. And then finally, there was a third goal by junior Laura Bowman, who scored the final goal. Of course this victory could not have happened were it not for the outstanding goaltending of goalie Sydney Rossman, who blocked 23 shots in the shutout.

Mr. Speaker, I just want to congratulate all the girls on the Minnetonka

Skippers hockey team, as well as their coaches. I also want to thank them and recognize their hard work, their training, their perseverance, and their commitment because it really paid off. We're proud of these student athletes, and so is our entire community.

#### GET OUR TROOPS OUT OF AFGHANISTAN

(Ms. JACKSON LEE of Texas asked and was given permission to address the House for 1 minute.)

Ms. JACKSON LEE of Texas. Mr. Speaker, I serve on the Homeland Security Committee and have the privilege of serving on the committee dealing with foreign affairs here in the House.

I rise today to, as usual, offer our deepest sympathy for all of our soldiers that have fallen in battle. But I am particularly outraged at the incidents that are occurring around the unfortunate burning of the Koran—for which our President appropriately extended his apology, as we would want if someone had burned Bibles. But it is outrageous for our soldiers to be in harm's way, for them to lose their life. It is time now for the Afghan national security forces to stand up and be security forces. It's time for President Karzai to indicate that he will not be driven out by the Taliban. And it's time for us not to allow the Taliban again to grip ahold of the Afghan people.

This is a tragic and horrible situation. None of us would have wanted it to occur. But we cannot stand for our soldiers to be in the eye of the storm and be shot for something that they did not do, intentionally or individually.

So I would ask that our soldiers be taken out of harm's way around any Afghan national security forces that we cannot vet and ensure that they are intending to do the right thing. We need to hear from President Karzai in a way that denounces this horrible action. And we must stand up to the Taliban and have a transition out of Afghanistan in which the Afghan national security forces are protecting their people, and they're allowed, in essence, to have a nation that protects women and children and families, and has the adherence to the law that requires human decency.

#### HOUSE REPUBLICANS ON JOB CREATION

The SPEAKER pro tempore. Under the Speaker's announced policy of January 5, 2011, the gentleman from Arkansas (Mr. GRIFFIN) is recognized for 60 minutes as the designee of the majority leader.

Mr. GRIFFIN of Arkansas. Mr. Speaker, I came here to the floor tonight to talk with some of my colleagues and the American people about

what I believe is the most pressing issue facing our country.

A lot of us have been home working in our districts over the last week, seeing our constituents, speaking at local Rotary clubs, visiting with constituents in the office and around the district. It is clear to me that the top priority for the American people over the last year remains the same, and that is jobs. People back home are encouraged and are optimistic about the future, but they need some signs that jobs are increasing here in the United States. Jobs remain the number one issue.

Since I got here a little over a year ago with some of my freshman colleagues, a lot of us have made jobs our sole focus. There are a lot of different things that we can do to encourage job creation. My focus has been on the private sector. Private sector job creation, in my view, is the way that we get our economy going again, not through government stimulus. We've tried that to the tune of about \$1 trillion—almost \$1 trillion—and it has not done what the President promised.

□ 1910

It seems to me the best approach is to create an environment here in this country where the private sector can flourish, where people want to take risks, where they want to invest and compete with other countries. How do we do that? There are a variety of ways and that's why we're here tonight, to talk about some of these.

I'm joined by some of my colleagues, and I think that they would agree that one of the ways that we can encourage the private sector to grow and create jobs is through fundamental tax reform. Another way is regulatory reform. Job creators around my district tell me what a lot of us know and that is that not regulation but overregulation, not regulation but excessive regulation, is a tax on businesses and it is a tax on job creators. So we need tax reform and we need regulatory reform.

We need to further pursue our energy resources here in the United States. We need to construct, for example, the Keystone XL pipeline that the President first delayed and then denied. Thirdly, we need to further explore our energy resources. Fourthly, we need to live within our means as a government. That means dealing with our spending problem, our spending addiction, our debt, our trillion-plus-dollar deficit.

If you were to ask me what is your plan, what would you do, what are you trying to do, what have you been fighting for over a year to try to encourage the private sector to grow jobs in this country with, I would say tax reform, regulatory reform, increased energy exploration and development here in the United States, and making the Federal Government live within our means. Those four things, if we can address them in bold ways, we can change the

course of this country's fiscal situation and the economy and ultimately grow this economy and create jobs.

I'm going to turn now and yield to the gentleman from Virginia if he'd like to comment on some of this.

Mr. GRIFFITH of Virginia. Thank you, Congressman GRIFFIN, I do. I agreed with what you had to say and wholeheartedly support your concepts and where we need to be moving this country.

Let me say to each and every one of you that the American worker is second to none in this world. When you look at our workers, they are the most innovative workers in the world, and they are the hardest workers in the world. Statistics, different reports continue to show us this point.

We will never compete with the Chinese and other countries on wages; nor do we want to. But our advantage, Congressman GRIFFIN, is that we have the ability to use our energy resources in a way that we can create jobs, and we can fight for American jobs by having affordable energy. That's our trump card. For some reason, those in the administration want to tie our hands behind our backs and not allow our businesses to use our trump card to keep jobs in the United States and bring jobs back, and that is that we have great energy resources in this country.

The President was recently in Florida, and he mockingly described the Republican plan on energy and getting gas prices down. He said step one is drill, step two is drill, step three is drill. The President is just wrong. We have a true all-of-the-above policy. I like to describe it this way: it is drill. That's step one. Step two, dig. Step three, discover. Step four, deregulate.

Let me explain a little bit. Drill is easy. We have vast untapped resources in oil, and we have huge resources in natural gas. If we're allowed to drill for natural gas and for oil, we can turn around a lot of the things that are happening in this country.

Let's talk about gas prices because that affects jobs. Listen, some of this has to do with looking at the world market. If we signaled immediately that we were ready to start using our resources, the prices would come down because those people who are speculating that oil is not going to be available in the future and the not-so-distant future, but also even 2 or 3 years from now, would realize that the giant in the world of energy was finally awaked from its slumber and ready to go on the march for jobs. So I think it is important that we look at drilling. I don't think we should be mocking it.

Dig. Obviously we have a lot of coal resources in this country. My district has a lot of coal. It also has natural gas. We are number one in the world in coal resources. Everybody else in the world is using the coal. We are the ones who refuse to use it. As I said before,

we have our hands tied behind our backs. Ladies and gentlemen, I've got to tell you something. We need to have reasonable regulations, but we've got to untie our hands and be ready to use our coal. The Chinese are now buying our coal to use our coal to make the products, the goods that we used to make in this country.

Guess what, a lot of times folks say we don't want to use coal because it has pollution and it creates problems; but a NASA study has shown us that if we have the Chinese using our coal to make the products we used to make, they get the money for those products, their people have the jobs. And guess what happens to the pollutants in the air? It takes roughly 10 days to get from the middle of the Gobi Desert to the eastern shore of my beloved Virginia. Just 10 days. We know that a significant portion of the mercury in our air is coming from foreign sources. Not our plants, but foreign sources.

Mr. GRIFFIN of Arkansas. I would like to comment on something the gentleman just said. I think it is a great point.

A lot of times some of us think about this country and pollution here. I think what I hear you saying—it is a very good point—is that this is one world and we in this country through the processes and the regulatory structure that we have, we burn coal cleaner and we are a better steward of the Earth when it comes to using some of these traditional energy sources. What I hear you saying is—and I think it makes a lot of sense—if you believe that coal will not be used if we do not use it here, then that's not exactly accurate. Somebody is going to burn it. The question is: Do we do a better job with some of these traditional energy sources? Do we do a better job than other countries that will burn it if we don't? The Chinese can burn the same coal, yet regulate it in a way where they do a lot more damage to the environment.

That brings me actually to the Keystone pipeline. The President first delayed it, then he denied it so that the extreme environmentalists would be happy with him. If you apply what you are talking about, it seems to me we would rather be refining the oil sands from Canada in this country instead of the alternative that Canada has talked about, which is shipping it to China for refining. Why? Because we refine cleaner, we refine safer, and we do a better job.

□ 1920

Those oil sands are going to be refined. The issue is not if we don't refine them, no one will. The fact is they will be refined. The issue is do we refine them or do the Chinese refine them? I think what you're saying, and I wholeheartedly agree, we do a better job here.

Mr. GRIFFITH of Virginia. Absolutely. I would have to say we do a much better job here.

It's almost like I can remember when I was much younger, liberals always said to conservatives, Well, you all act like the United States is the only country in the world, and we have to look at the whole world. Now the liberals are looking at it and saying, Well, the United States is the only country in the world. We have to only look at the United States and we don't look at the big picture.

I think, inadvertently, even with good intentions, there are, in fact, greater pollution risks by us not using our energy than there are with us using our energy with the reasonable regulations that have been in place for some time.

That being said, let's take a look at how that impacts on jobs. Not only do we get the pollution, but we don't get the jobs. We don't get the money.

You talked about living within our means and so forth. Let's take a look at my district.

AEP, American Electric Power, is the biggest power provider in my district. There are others. They have estimated, with new regulations, energy costs are going to go up 10 to 15 percent as they spend an additional \$6 billion to \$8 billion. Ten to 15 percent on hardworking American families is tough, but when you look at the job component, when you look at that job component, that means it's going to cost more in my district to make potato chips. It's going to cost more in my district to work the family farm. It's going to cost more in my district to make furniture. It's going to cost more in my district to make paper products, whiteboard. I just touched on the surface.

Every single retail establishment, every single business has to use electricity; but when you raise the cost of manufacturing goods or using electricity to manufacture goods by 10 to 15 percent over the course of the next few years, you're making us less competitive in the world, and we lose more jobs and we have more people who are unemployed and more people who aren't able to go out and buy products, which then means more people lose their jobs because they're not selling those Fords down at the Ford place. They're not selling washing machines and TVs and all of the products that are out there. We lose even more jobs because of the failure to recognize that the regulations are killing our jobs, and our jobs are going elsewhere.

I have to say, getting back to what I call the four Ds—drill, dig, discover, and deregulate—I'm not saying we don't look at all of the above. The President was in Florida. He said we only wanted to drill, drill, drill, and he was talking about algae. I'm not one of those people who's going to criticize

the President for looking at algae. I think algae actually has a positive future, but it's a positive future that is probably 15 to 50 years away. We need energy now. We need affordable energy now. We need jobs now.

To be looking at something, I think it's absolutely right. That's the "discover" part of those four Ds. We need to encourage discovery. But one of the ways to encourage discovery is to deregulate and let people make a product without having all kinds of regulations put on top of them.

It's interesting how folks want to do all of these things, and then they come up with regulations and they find out that the new start-up companies oftentimes have difficulty creating the new alternative energies because they run into other regulations that prohibit them from going forward.

So I think we need to make sure that we look at drill, dig, discovery, looking at those alternatives, finding more ways that we can be efficient and finding new alternative energies. Then let's not regulate our industries out of existence, which is where we're headed at this point. When you do that, we continue to lose jobs, we continue to have a flat economy.

The unemployment situation has gotten better, but we're still in the neighborhood of 8 percent. I don't think that's anything to celebrate. I'm glad it's better, but I don't think it's something that you go out and go, woo hoo, we've solved our problems. I believe that we have not solved our problems at this point. We're working on it, and that's good.

The economy in this country, because of our hardworking Americans, because they're innovative and because they work harder than anybody else, is not going to just roll over and die, but at the same time it could be doing so much better, and we need to maintain that we are the number one economic power in the world. The way to do that is to keep our jobs by keeping our energy and our energy sources and our energy costs at a reasonable level so that we can, in fact, compete with the low-wage countries of the world. We don't want the low wages, but to do so, to make sure that we can still compete, we have to keep our energy affordable.

Mr. GRIFFIN of Arkansas. I want to comment a little bit on the all-of-the-above strategy that you were talking about.

I'm an advocate for an all-of-the-above strategy. We've heard the President mention that, but we here in the House have been advocating for that. I have since I got here. That includes alternate energy sources, renewable energy sources, biodiesel, wind, solar. I'm for those things. But I'm also for the traditional energy sources and, in addition, nuclear. We have a clean, safe nuclear energy plant, power plant in Ar-

kansas that we count on to provide safe, affordable energy. We also have coal plants, other sorts of energy sources.

In my district, we make the windmill blades that go on these massive windmills. We also have Welspun Tubular in my district, in the Second Congressional District of Arkansas, and they've recently been in the news because there has been a lot of uncertainty about their future as a result of the President killing the Keystone pipeline, or denying the permit. The happy news that I have to report is that Welspun is doing some diversifying. They did have to lay some people off after the Keystone pipeline was delayed, but they're doing some diversifying so they can make some other sorts of pipe, and they're actually going to expand. I believe we will ultimately win the battle on the Keystone pipeline; and once we get the Keystone pipeline in full swing, the construction in full swing, then that will further help Welspun.

So I'm for all-of-the-above, but I know that in my lifetime we are still going to be using a lot of these traditional energy sources. It's not an either/or. We can continue to pursue wind and continue to pursue solar and continue to pursue biodiesel and alternate energies, renewable energy sources, but at the same time pursue the traditional sources, particularly, natural gas.

Natural gas is abundant and, best of all, it's American—and, in my case, it's Arkansan. We've got a lot of natural gas in my district and other districts in Arkansas. It is abundant and it is cheap. Where ethanol can increase the wear on a traditional car engine, natural gas can extend the life of that engine.

I want to turn the conversation over to my friend from the Third District of Arkansas, Congressman STEVE WOMACK. He's got a lot of natural gas in his district as well.

Before I do, I just want to recap.

We have jobs as our main goal. And there are pillars under that goal of jobs, and those pillars are: tax reform, regulatory reform, further energy exploration, and getting our spending under control so that we deal with our debt and we live within our means. Those are four pillars. They're not separate from job creation. They are a critical part of encouraging private sector job creation and giving certainty to job creators.

Now I'd like to yield to my friend from Arkansas.

Mr. WOMACK. I thank the gentleman, and I do appreciate his leadership in this discussion about job creation in America.

I've said many, many times that if there is an elixir out there to fix the problems, the challenges facing our country today, it's job creation.

What the gentleman from Arkansas has been articulating in the last several minutes has been a very good discussion about the four things, and I couldn't agree more, the four things that are part and parcel to our country creating jobs and putting itself on a different fiscal path.

He's talked about overregulation. I'll come back to that in a moment. He's talked about the threat of higher taxes and the need for comprehensive tax reform in our Nation; he's talked about the need for a solid energy policy that allows our country to access its own resources, American energy resources to solve America's energy challenges; and, of course, he's talked about the deficits and the debt.

□ 1930

Now, if you look at the plight that we're in today insofar as job creation—one greater than 8 percent unemployment, sustained unemployment of over 8 percent—and when you look at the fact that people are out here scrambling to find work—meaningful jobs as they want to be productive and want to contribute to American exceptionalism—then the way you do that is not by taking a welfare check; it's by having a paycheck. If you're looking at this plight today like you would an impending storm, it's a dark, dark cloud of uncertainty that hangs over the job creators.

I submit to you that the reason so many people are sitting on trillions of dollars of cash, those who would like to get into the game and create jobs and expand the American economy, is that they have a difficult time computing their input costs. They don't know how energy is going to affect their ability to create jobs. They don't know how the next regulation, the next rule that is going to come down from Washington, is going to impact their ability to earn a profit. As evidenced by the downgrade that we had last year by the S&P, they're not confident that Congress, these people who gather in this Chamber every day, is capable of making the decisions, of having the courage to make the decisions to put America on a different fiscal path. It's a dark, dark cloud of uncertainty. I don't blame them for sitting on the sidelines right now, but there is a lot of cash ready to get in the game if we'll just do some of the right things.

The gentlemen who have spoken tonight talked about regulation, but that's not why I came to the floor tonight, and that's not what I wanted to talk about primarily. I came from a meeting right before votes today that talked about an issue totally unrelated to my district and unrelated to most of America. It's out in California.

Later this week, we're going to vote on H.R. 1837, the San Joaquin Valley Water Reliability Act. I heard my colleague from California talking passion-

ately about this issue, as he has done a number of times from the well of this House, in that, back in 2009, Federal regulations to protect a 3-inch fish, the delta smelt, led to the deliberate diversion of over 300 billion gallons of water away from the San Joaquin Valley and its farmers. It cost thousands of farm workers their jobs; it inflicted up to 40 percent unemployment in certain communities; and it fallowed hundreds of thousands of acres of fertile farmland.

Those were real people.

Those were real jobs.

Because of Federal regulations and this desire on the part of this Congress—of this Federal Government, I should say—to protect a 3-inch fish, we turned our backs on American workers. In so doing, we affected millions of people nationwide because, when you affect the fertile farmlands of California the way we have by diverting this water, you have, indeed, taken a step toward increasing the price of food.

The bill that we will consider later this week is a comprehensive solution that would restore water deliveries that have been cut off through the Federal regulations and environmental lawsuits and through a plethora of things facing the California farmers.

Mr. GRIFFIN of Arkansas. I hear what the gentleman is saying. I agree wholeheartedly. Correct me if I'm wrong, but what you're saying is that the issue is not regulation. The issue is excessive regulation. The issue is overregulation.

I've got a 2-year-old and a 4-year-old. I love them dearly and hate to get on that plane when I have to come up here from Arkansas and have to leave them back at the house. I want them to have clean air and clean water, and I don't know anyone—the folks here tonight included—who are against all regulation. Regulation when used properly protects us, the kids, et cetera.

This is not about whether to regulate or not. This is about excessive regulation, overregulation, the regulatory process that does not consider cost-benefit, that does not consider the impact on jobs, that does not employ common sense, Washington regulators who don't speak with folks impacted on the ground, well-intentioned though they may be, who don't look at the impact and at the potential impact of their overregulation. That's what I hear from my colleagues.

I agree wholeheartedly, and I think that is a critical distinction to point out because we always hear folks saying, You just want no regulation.

That's a false choice. That's a straw man. That's not anyone's argument that I've heard. The issue is one of overregulation, of excessive regulation.

Mr. WOMACK. Let me take it a step further because I can relate to what the gentleman is talking about and can relate it back to my home district.

I think the gentleman would agree that, over the last several years in Ar-

kansas, there has been phenomenal rate of growth in the northwest part of our State, the area that I happen to represent, which is the great Third District of Arkansas. It's known for its incredible growth over the last several years. Now, it is home to some pretty well-known companies, companies like Wal-Mart and J.B. Hunt trucking and Tyson Foods.

If you look at northwest Arkansas, there is really no compelling reason why prior to the establishment of those major companies that northwest Arkansas would be an area where you would have this unprecedented growth. But for the entrepreneurial spirit and drive of guys like Sam Walton and Don Tyson and J.B. Hunt—and I could go down another list of people who have provided jobs and who have created and expanded businesses and who have made a meaningful impact on the greater mid-South and the entire Nation—northwest Arkansas would be kind of an average area with no great infrastructure, until recently there, and with no real compelling reason why it would be anything special.

Yet we're fighting an issue in the greater northwest Arkansas area that could, indeed, impact our ability to continue to grow. I'm talking about EPA's desire, insatiable appetite, to put a total maximum daily load, a TMDL, if you would, on phosphorus loading in the Illinois River watershed, which flows into Oklahoma, because of a loading standard imposed on northwest Arkansas by our neighboring State, a standard that many say is not even achievable.

So all of the great development and job creation and the elevated quality of life is in jeopardy. The future is in jeopardy as a result of a Federal agency imposing on the region a standard that may or may not even be able to be achieved.

I bring that up for this reason: back when I was a mayor of a city in northwest Arkansas, I challenged EPA to give us the science, to show us exactly how they can calculate that this standard has been impacted by the farmers and ranchers of northwest Arkansas and those who manage the point sources of pollution, the municipalities. I happened to be the mayor who presided over one of those. As I understand it, the science was a collection of data from about 20 streams somewhere in America, streams not known to us. They took, I think, the 75th percentile of the average phosphorus loading into those streams. I doubt seriously that they used streams and rivers that were similar to what we were dealing with in northwest Arkansas.

I bring up this subject only because we're talking about job creation tonight, and our ability to continue to expand the economy in northwest Arkansas is dependent on our ability to have a good, clean water supply and to

be able to treat our wastewater and to be able to discharge it properly and sufficiently in order to be able to create growth.

Yet I'm afraid, one day, we're going to look up, and because of these standards imposed on us by the Federal bureaucracy, this overregulation that we've talked about, that we're not going to have an opportunity to grow because we're going to be into moratoria on growth and development in our area as a result of these unfair standards. But that's a whole other story.

I really came tonight to talk with my colleague about tax reform because, as we've indicated, the threat of higher taxes, or the tax structure as we now know it, is, in my strongest opinion, one of the great barriers to job creation.

□ 1940

You know, just the other day, in this very Chamber, the President of the United States stood on the dais and he talked to this Congress about the need for comprehensive tax reform. In his proposal to reform the corporate tax code, I was pleased to see the President showing some leadership in that regard, and I look forward to working with the administration and my colleagues in the House and Senate to do something that in my strong opinion is long overdue.

I, along with many of my colleagues, agree on the need for corporate tax reform. The U.S. has one of the highest corporate tax structures in the world, second only to Japan. This discourages job growth and job creation in the United States.

It's time to broaden the base, time to get the government out of the business of picking winners and losers, time to eliminate special interest loopholes, and it's time to lower the corporate tax rate once and for all. But corporate tax reform is not the only piece of the puzzle. There are many other pieces. If we are going to grow the economy and give our job creators the certainty they need to invest, we also should look at the individual rates—not just the corporate rates, but the individual structure as well.

There's an opportunity to simplify the individual tax code. In December of 2010, according to the Compendium of Tax Expenditures prepared by the Congressional Research Service that we all use, there were more than 300 tax expenditures in the form of special exclusions, exemptions, deductions, credits, rates, and deferrals. We need to re-evaluate every single one of these expenditures.

There are many other benefits of comprehensive tax reform. For example more than 90 percent of the Treasury's budget goes to the IRS. If we simplify the Tax Code and make it easier to follow and enforce, the IRS doesn't need the resources it currently needs.

What's more, IRS reported, and I think these numbers were back in 2006, hundreds of billions—I think some were just short of \$400 billion—of what we call a tax gap. Again, simplification of the Tax Code makes it easier to follow and enforce, and we can significantly narrow that gap.

I thank my colleagues from both sides of the aisle who are looking forward to working on comprehensive tax reform. I believe in my heart that it is, as my colleague from Arkansas has indicated, one of four things, four basic things, four basic issues facing America today that can help put our job creators back into the business of doing what they do best. And that is having ideas, incubating those ideas, making those ideas come to reality, taking the necessary risks, having access to the capital to help support those businesses, to expand those businesses by hiring people, by growing things, by making things.

And as my friend from Virginia said a moment ago, we have proven that the American worker is the most productive worker in the world. And that's what we need to do: Corporate tax reform; ending this excessive over-regulatory environment that we're in; to access American energy solutions to solve America's energy challenges; and once and for all doing something about the extraordinary deficits—four straight trillion-plus-dollar deficits—facing America, and nearly trillion-dollar deficits as far as the eye can see, based on the current glide path; to do those things necessary to get our deficit under control, to begin to whittle down that debt and save future generations of the burdens that we have in an almost immoral way put on their shoulders.

With that, I thank you for the opportunity to speak tonight.

Mr. GRIFFIN of Arkansas. I thank my friend from the Third District of Arkansas and appreciate his comments here tonight.

I'd like to continue a little bit tonight talking about tax reform since Representative WOMACK was talking about some aspects of the President's proposal. I think most of us around here are certainly excited that the President has even started discussing fundamental tax reform. Unfortunately, I think that the President's proposal has a lot of aspects that would be burdensome to the businesses and the job creators that he purports to be trying to help, and so I don't think that it has much chance in the House or the Senate, and I think he knew that when he proposed it. But at least he is having that conversation. That's a start, that's a start.

As we talked about, whether you are talking about tax reform, energy exploration, regulatory reform, our commonsense budgeting, making the Federal Government live within its means,

all of those relate to jobs. They all are directly related to encouraging private sector job creation.

We've been working on a highway bill recently. Infrastructure is a critical part of this equation. That's part of the spending our money wisely under the budgeting side of things because we need a strong infrastructure so that we can compete with other countries, continue to have economic development in this country. So that's a critical part of it.

But with regard to the President's tax plan, it raises taxes at least a dollar for every dollar in tax cuts that he provides to simplify the corporate tax code. It creates a whole new category of taxes for our companies that do business overseas.

And most glaringly, it doesn't do anything to address individual tax rates, the tax rates that you pay at home, I pay. And why is that important for job creation? Well, for a number of reasons. First of all, the code we have now is complex. It doesn't always reward hard work. In fact, sometimes it punishes it.

But one of the real specific reasons why we must deal with the individual tax rates to grow jobs is because many businesses pay their taxes, particularly LLCs, sole proprietorships, partnerships, mom and pop businesses all around the country in Arkansas and in my district, they pay their taxes using the individual income tax brackets. So you can't just address corporate tax code, although the President's corporate tax "reform" has got a lot of tax hikes in it that will make our businesses, our job creators in this country, less competitive.

But you can't just reform the Tax Code by dealing with corporate tax reform. You've got to look at individual tax reform, corporate tax reform across the board. You have to make it simpler, fairer, and flatter. Some of the terms that we've talked about, we've certainly advocated for that in our budget last year, and we are going to do it again this year.

It's critical, not only for job creation by larger businesses but by small business, mom and pop businesses. So tax reform is a critical part of what we need to do to get jobs going.

As I've talked about earlier, some of my colleagues talked about, there are a number of reforms that we have been pursuing for over a year now that relate directly to private sector job creation.

□ 1950

As I indicated earlier, it's tax reform. It's regulatory reform. It's more energy development. It's living within our means. Individually, these issues may not have jobs in the title, but they are the columns, the supports, that hold up the private sector job building, if you will.



I want to say a couple of things about the regulatory issue because I've just introduced a bill, H.R. 4078, Regulatory Freeze for Jobs Act. Again, as a lot of us said, I'm not antiregulation. I don't know anyone that's against regulations across the board. What I'm against is the Federal Government failing to apply common sense when regulating. What I'm against are excessive regulations, overly burdensome regulations.

I'll give you an example. I had a jobs conference down in my district in Little Rock at the Clinton Presidential Library. We had a jobs conference. We invited a number of job creators. It seems to me if you want to know what to do to create private sector jobs or encourage private sector job creation, you'd ask someone who had actually created them, folks from the private sector, experts on this issue. We invited them in and said, Hey, what's the biggest obstacle to job creation? We had Democrats and Republicans both. And we asked them just point blank, and the number one answer was regulatory uncertainty.

What does that mean? Well, it means that folks have money that they might want to invest, but they hold on tight to that money because they're not quite sure what's going to happen. They're not sure whether we're going to get our debt under control or not. They're not sure how much ObamaCare, the President's health care law, is going to cost them. They're not sure whether the regulations that they've heard proposed by the EPA as potentially being proposed, they're not sure whether those are going to be implemented or not. It's just uncertainty everywhere. And I had someone say to me the other night, Well, there's always uncertainty.

Yes, there is always uncertainty. If you're a farmer, there's uncertainty whether there will be enough rain for the crops that year. There will always be some uncertainty in life because we don't have crystal balls. I get that. But what we don't want is a Federal Government that needlessly creates additional uncertainty.

You know, sometimes we say, I had enough problems before this came along. Well, that's what we're talking about. You have enough to deal with naturally. You have enough uncertainty as it is. You don't need the Federal Government creating more uncertainty.

If you talk to community banks who have been impacted by the President's Dodd-Frank law, they've got a lot of uncertainty. They're having to hire new folks to comply with the law. What are the new regulations going to be? We don't know yet, just know they're coming. Don't know what they're going to be yet, just know they're coming and they're going to be burdensome. The same with the health care law.

Here's a quote from, actually, a well-known Democrat businessman, commissioner on the Arkansas Highway Commission appointed by our Democrat Governor in Arkansas, former chairman of the Arkansas Economic Development Commission, John Burkhalter. He said at my jobs conference:

Every project I look at now, I've got to wonder if I'm going to get to build it because, are the regulations going to stop me? I've got to admit that I pass on over 50 percent of the projects that I would like to do because of the burden, the hurdle of the regulations.

Now, the President recently said in his State of the Union Address that he has approved fewer regulations in the first 3 years of his Presidency than his Republican predecessor did in his. Well, the President said that, sitting right here on the floor of the House during the State of the Union this year, so I think it deserves some attention.

Well, is that true? If you just look at the numbers, it's true, if you just look at the number of regulations. But if you look at the number of what are called major regulations and the burden that it puts, the cost of the regulations, what this President has done far exceeds what we've seen before.

The previous administration issued an average of 63 major regulations per year. This administration has issued an average of 88, an increase of 40 percent. Under President Bush, the Office of Information and Regulatory Affairs reviewed an average of 77 economically significant regulations biennially. These are the ones that really impact business. I'm not talking about a minor regulation here or there. We're talking about the ones that really impact job creators. Under President Bush, his Office of Regulatory Affairs reviewed about 77 every 2 years. Under this President, it's 125. Not quite doubled, but not far from it. If the administration maintains its current pace, it would add nearly \$150 billion annually in new regulatory costs over 8 years.

I'm going to yield to my friend from Virginia, but before I do, I just want to mention that I have proposed the Regulatory Freeze for Jobs Act, H.R. 4078. What it would do, it would basically freeze the introduction and progression of major regulations, those having an impact of \$100 billion or more. It would freeze those with exceptions for emergencies, health issues, what have you. There are exceptions in the bill. But it would freeze them until our unemployment rate gets down to 6 percent to show that we're getting our footing, because what the regulatory environment is doing to our job creators is stifling their ability to create jobs.

I'm going to yield now to my colleague from Virginia.

Mr. GRIFFITH of Virginia. I thank you so much.

I stuck around just because I wanted to hear more about your Regulatory

Freeze for Jobs Act. I think that is a great concept. I look forward to reading it. It is the way and the direction that we ought to be going, because I'm willing to bet that those regulations that have been approved are probably, if you looked at the inches of the regulations, it might only be one reg, but I would be willing to bet that this administration beats the Bush administration on inches of regulation by a mile.

That being said, I have to also say that I go out and talk to not only the Rotary Clubs and other civic organizations, but I like talking to high school students, because what we do here in Washington will be a far greater impact on their lives than what we do on our own lives. It's our children.

You indicated you have young children. I have an 11-year-old, a 6-year-old, and a 4-year-old, and I'm concerned about them.

But the high school students get it. When I start talking about the regulations and I talk about what would you do if you were a factory that was faced with having to pay big fines because you couldn't comply—couldn't comply, not didn't want to—couldn't physically and timewise comply with an EPA regulation, what happens to those jobs? You know what they say? I don't have to teach them this. They already know it. Those jobs go somewhere else, usually to China.

Mr. GRIFFIN of Arkansas. Sure.

Mr. GRIFFITH of Virginia. And they know, and we talk about the money issue. You talked about that, and you're absolutely right. They know that if we create a regulatory environment that's conducive to creation of jobs—not no regulations, but conducive to creating jobs—that we end up with more jobs. If you end up with more jobs, you have more taxpayers. If you have more taxpayers, you have more taxes. And guess what. Just like in our households, if you have more money coming in, it's a whole lot easier to pay your bills going out.

And so when we talk about living within our means, we can live within our means at a higher level if we just have the ability for the American entrepreneurial spirit and the American entrepreneur to go out and take the normal risks that are associated with any business enterprise and create the jobs, the jobs that over the last centuries we, as Americans, have worked hard to create, and in a mere 200 years created the greatest economic system, the greatest economic country ever seen on this planet.

I have to say, it comes back, and you talked about Dodd-Frank and banks, community banks in particular, and I come from a very rural district compared to a lot of the others, and the community banks are the heart and soul of those communities; and yet they are afraid to lend money to people



they know are going to stay there and fight to keep those jobs and to fight for their communities, but they are hesitant to lend the money because they don't know what the regulatory scheme is going to be.

□ 2000

Not only do you have the entrepreneur who doesn't know, but the banker doesn't know, so he doesn't know if he can lend money even to that entrepreneur.

Mr. GRIFFIN of Arkansas. I have heard story after story from small-town bankers, community bankers, who say that not only are they deciding not to loan to folks based on character and based on relationship, but they're being told they can't. They're being told they can't. They are community banks, the sources of credit. The source of money for small-town America are being told who they can and cannot lend to. Their judgment is being taken away from them, and they're saying, Look, you don't have to decide. We're going to regulate that. We'll tell you who you can loan to and who you can't loan to, never mind the fact that you've known them for 20, 30, 40 years, generation after generation. We're going to control this from Washington.

This President talks about his financial reform bill going after Wall Street. Actually, the folks on Wall Street backed it. What it ended up doing is hurting the folks that had nothing to do with the financial collapse in the first place. Small-town community banks got the brunt of a lot of this because the big banks can afford the extra regulation and compliance. The small banks cannot. So, what the President's bill did is it ignored Fannie and it ignored Freddie—the problems—and then it went after banks. It made Wall Street happy in many ways. Many of them got on board and endorsed it. And then who took the brunt of the burden, the regulatory burden? Small-town banks. Small-town banks.

Mr. GRIFFITH of Virginia. You said that Wall Street backed it, but I can guarantee you, Main Street didn't back it. Main Street had problems with it. I feel personal about this because as a young lawyer right out of law school, I took some risks. I had to go to the bank. The bank that I had been dealing with wouldn't work with me on buying a building. But one of my community banks stepped up to the plate, and they said, do you know what? We know that as long as you're alive, you'll pay this loan. Even if business isn't good, we count on you because we have known you since you were a kid, and we know exactly that you're going to be there, and you're going to do things.

Without that money, I daresay that I wouldn't have had a successful law practice for 28 years. A lot of times people don't think of lawyers as businessmen, but if you're a sole practi-

tioner like I was for many, many years, you've got to make the payroll, you've got to pay your loans, and you've got to do the things that you have got to do. Well, guess what's happening? That loan wouldn't have been made to me today.

Another young man in a situation like I was in who wanted to go out and practice on his own and make his way in his hometown wouldn't be allowed to do that under the current regulatory scheme—and that's that job plus the jobs of all the people who I had working for me in that office as I went forward with my practice. So you're absolutely right in what you say.

Further, I have to get back to your Regulatory Freeze for Jobs Act. I have said for some time I wish I had introduced the bill. But I have said for some time that if we would put a freeze on new regulations and say to the American entrepreneur, the business people out there if you invest in the United States now, we will give you a window where you don't have to worry about any new regulations, we would turn this economy around like that, and we would see that unemployment rate not just drop by point one or point two, but we would see it drop down to your 6 percent that you've put in there, and I think we would even see it drop below that 6 percent if people knew that they could count on having, not no regulation, but reasonable regulations, and not have to worry about new regulations during this time of economic stress.

Mr. GRIFFIN of Arkansas. I thank the gentleman from Virginia. I know we're running short on time, so I just want to say to the folks listening out there, wherever you may be, these are not new ideas. Some of the ideas you've heard tonight on tax reform, regulatory reform, energy exploration and making the Federal Government live within its means and investing in infrastructure, these are not ideas that just came up this week. You may ask yourself, why haven't we passed these a long time ago? Why haven't we worked on this before? Why are we just talking about it now? We have been for over a year. For over a year we have been working on these issues.

Many of these ideas we've passed. Let's take tax reform. We talked about that in our budget over a year ago—it will be a year, I guess, in April. Regulatory reform, I can't count the number of bills—not including mine, I just introduced mine—but we have passed bill after bill after bill that deals with regulatory reform. What about energy exploration? I literally can't count the number of bills that we've passed that deal with energy exploration, particularly the Keystone pipeline, bill after bill after bill.

If there's any softening in the President's position on the Keystone XL pipeline, you can bet it's because we

have been relentless in this House—relentless in this House—pushing the President to allow for the construction of that pipeline. We've got a long way to go, but we'll keep pushing.

On the issue of the budget and living within our means, we've been fighting this battle for over a year. So none of this is brand spanking new. A lot of these ideas we've been fighting for for over a year, and we'll continue to. But we've got to keep talking about them, keep talking about them.

So what's happened after we passed them? Well, a significant number, about 30 or so, have passed this House, and they go right down to the other side of the building, and they sit in the Senate. Many of us grew up in the 1970s and saw the little cartoon, "Schoolhouse Rock," the little bill sitting on the Capitol Hill steps out here somewhere. That little cartoon taught me the fundamentals of our democracy, how a bill becomes law. It passes this House, and then what happens? Well, it has to go down to the Senate.

Unfortunately, they haven't passed a budget out of the Senate in over a thousand days. So you can bet they haven't passed our bills, either. So we've addressed a lot of this stuff. And we're going to keep talking about it and keep pushing and keep pushing. But a lot of it is sitting right down there in the Senate waiting for action, going nowhere. So if you're wondering what's happened to these ideas, that's where they are. And we are continuing to work on them here, continuing to pressure the Senate and the President to try to work with us to get this stuff done, because these pillars—tax reform, regulatory reform, energy exploration, getting the Federal Government to live within its means and having a commonsense budget, and as part of that, addressing our infrastructure issues, all those together, they all relate to jobs. So we'll keep fighting for jobs.

I yield back the balance of my time.

□ 2010

#### FREEDOM UNDER ASSAULT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 5, 2011, the gentleman from Texas (Mr. GOHMERT) is recognized for 30 minutes.

Mr. GOHMERT. Thank you, Mr. Speaker.

These are the best of times and in some ways the worst of times. Our freedoms are under assault, and some people in places of leadership do not appreciate the threat to our freedoms and therefore are naively assisting those who would take them away.

We know that in recent days in Afghanistan we had some soldiers who were given the responsibility to burn Korans which were being used by prisoners to write messages of an incendiary nature to other prisoners. Well,

it's my understanding of shari'a law that to write in such a Koran could be considered a desecration; yet there's been no protest, no outrage over prisoners using the Koran to pass inflammatory messages to other prisoners.

We've also seen the death of Americans as a result. Two officers, along with others, have been killed and injured. Our Commander in Chief has seen fit to apologize to those who house the killers of our two American officers.

When I think about the feelings of the family members of the two American officers who were serving, to have a commander not do as Lincoln and so many Commanders in Chief have done in the past wherein they sent those troubling letters to grieving families to thank them for their service and to truly grieve with the families, no, in this case, the Commander in Chief sent messages instead to the home of the killer.

Now, we're led to believe by some internationally that, gee, it just overwhelmed the killer of the two officers. But then we hear that he may have taken a silencer with him to work. Well, where I come from, courts that I've been in to prosecute, my court as a judge, my region as a chief justice, that would be considered evidence of premeditation, of first degree murder; and yet we apologize to those who think like the murderer.

I haven't heard a demand for an apology from Afghanistan and from the leaders of Afghanistan, who would not be in office but for the lives and sacrifice of American soldiers. They wouldn't be there but for American soldiers, yet no apology from Afghanistan. So I think we have to look a little deeper at what is really going on here.

We know that in the United States it's been deemed to be just fine to stick a cross that symbolizes the death and sacrifice of Jesus Christ in a beaker of urine. Now, some of us believe that anybody that would do such a thing without repenting before they leave this life will have a special price to pay by the Judge of all judges, by that same Creator which gave us our inalienable rights. But not only was that done; it was funded by the United States Government NEA funds.

We've been told repeatedly that there is nothing unconstitutional about burning an American flag, that flag for which so many millions of Americans have given the last full measure of devotion. We're told that it doesn't violate our Constitution to burn American Bibles, that that's just fine under our Constitution. Yet we even have great Americans who have risked their life for this country, who see the death and loss of lives, say you know what, maybe we ought to have a law that says you can't burn a Koran or you can't shoot at a Koran.

Some may recall that on May 22, 2008, there was a U.S. soldier that shot at a Koran. That sparked unrest, and there were two civilians and a Lithuanian that were killed as a result of that. Some people may remember last year when a pastor in Florida burned a Koran; it sparked rioting and 11 were killed, including seven U.N. workers.

What's really going on here? Well, I think it's important to look back to the Organization of Islamic—what used to be Islamic Conference—now it's been changed to Islamic Cooperation—and we can find some things. I've got a chart here to show.

This is from the Third Extraordinary Session of the Islamic Summit. It outlines the 10-year Program of Action to Meet the Challenges Facing the Muslim Ummah in the 21st Century. This is the Islamic Summit Conference results. It's important to note that the term "Islamophobia" was invented for just such occasions to try to demonize Americans—or so-called "Westerners"—who might try to say there's such a thing as freedom of speech, freedom of religion, who would seek to subjugate our First Amendment rights to the Islamic Conference, their rules and shari'a law.

The plan, the 10-year plan from December 2005, the plan is, here at number two:

Affirm the need to counter Islamophobia through the establishment of an observatory at the OIC General Secretariat to monitor all forms of Islamophobia, issue an annual report thereon, and ensure cooperation with the relevant governmental and non-governmental organizations, NGOs, in order to counter Islamophobia.

Endeavor to have the United Nations adopt an international resolution to counter Islamophobia, and call upon all States to enact laws to counter it, including deterrent punishments.

That's right. This is in compliance with the 10-year plan from 2005 to subjugate Americans' First Amendment rights under our Constitution to shari'a law.

□ 2020

It's not a terribly complicated effort, but it is brutal. It has cost so many lives, all in an effort to not only show disdain for actions of Westerners regarding the Koran, but also to push to get the U.N. and all states such as the United States to adopt laws to punish what shari'a would consider any inappropriate use or abuse of a Koran.

I happen to think as a Christian it's terribly inappropriate to abuse a Koran. I would encourage people not to do so. I would likewise say that it is a terrible thing to abuse a Bible and to abuse a flag. It shouldn't be done. As a servicemember, prosecutor, judge, chief justice, I took an oath to support and defend the Constitution of the United States, and that means all rights under our Constitution.

Just so people don't forget, I think it is appropriate to remember what is in the First Amendment:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

We're supposed to have the right to freedom of speech. The Supreme Court has said that means you can burn a flag, you can burn a Bible, you can burn a Koran. But there is a movement in all 57 states—that's right, 57 states of the OIC—to get the U.N. and all countries to subjugate their freedoms to shari'a law. Sure it's okay to burn a Bible, burn a flag, but not a Koran. It's wrong to do so, but it's not illegal.

We're told as of today that the Taliban says the airport blast in Afghanistan was revenge for Koran burnings. This article today points out that 40 people have been killed in protests and related attacks since the incident became known this past Tuesday, including four U.S. soldiers. NATO, France, Britain, and the U.S. have pulled their advisers from Afghan ministries out of concern that the anti-foreigner anger might erupt again. After all we've done, it's not over. These people feel they still must subjugate our First Amendment rights to shari'a law.

The First Amendment should be pretty clear. It should be noted that until the 1950s when Lyndon Johnson basically got tired of churches yapping at him over what they deemed as moral issues, he shut them up by adding an additional provision added to the tax laws that basically forbade any church or such organization from getting involved in politics. My children were surprised, based on what they had been taught in public school, that for most of this country's history, churches were the bedrock, churches were involved in every great movement that occurred, both in the Revolution, in the civil rights movement that resulted in the abolition of slavery, in the civil rights movement of the 1950s and '60s. Lest we forget, Martin Luther King, Jr., was an ordained Christian minister. He knew and espoused the true way, truth and light.

The Cairo Declaration on Human Rights in Islam was established in 1990. When we hear about the cause for human rights under shari'a law, it is important to understand what that means. This is from the Cairo Declaration on Human Rights in Islam from August of 1990. Article 24 says:

All the rights and freedoms stipulated in this Declaration are subject to the Islamic shari'a.

Article 25:

Islamic shari'a is the only source of reference for the explanation or clarification of any of the articles of this Declaration.

That's what we're talking about. When the term "human rights" is utilized, it's important for people to understand that under this declaration of

human rights that is still being forwarded today and thrust at us, it's important to note that those are considered human rights only under the definition of shari'a.

When we're told about the OIC believing and pushing human rights, that means no one has the right to desecrate a Koran in any way, although they can burn Bibles and American flags all day long. It means no one has the freedom of speech to draw a cartoon about Mohammed because if they do, they have the human right to be executed.

If someone is a Muslim and they pronounce that Jesus Christ has become their Lord, then they have the human right to be executed. If someone is a woman testifying under the laws of shari'a, she has the right to have her testimony only count as half that of a man. Under these terms, if a woman inherits from a male, she has the human right to receive just one-half of the inheritance that a man would. Under shari'a, as to those women on whose part you fear disloyalty and ill conduct, admonish them first, next refuse to share their beds, and, last, beat them. If a husband is displeased with his wife, the woman has the human right to be beaten.

This goes on and on. I'm surprised that the women's rights movement has not been more assertive in pointing out the inequalities that occur in countries that espouse shari'a and the threat that it imposes to women's rights all over the world and in America.

Under shari'a, to bring a claim of rape, a Muslim woman must present four male Muslim witnesses in good standing. Islam places the burden of avoiding illicit sexual encounters entirely on the woman. In fact, under shari'a, women who bring a claim of rape without being able to produce four male Muslim witnesses, admitting to having had illicit sex, if she or the man is married, this amounts to an admission of adultery and she should be punished. Some believe she should be stoned to death and at a minimum flogged if she is raped and can't produce four men of Muslim good standing on her behalf.

□ 2030

She has the human right to be flogged or in some eyes to be stoned to death.

There are those who are saying we should get out of Afghanistan now. Actually, we could have done that a long time ago if a different course had been pursued. It is not inappropriate to note that in so many circumstances the enemy of our enemy should be considered our friend.

Along with DANA ROHRABACHER and STEVE KING, we met twice with Northern Alliance leaders, and although these brave leaders and their soldiers, their horse soldiers, did what some in-

telligence and special ops individuals have indicated, performed acts of heroism and gallantry such as they'd never seen before on their behalf and on behalf of America.

The Taliban was initially defeated, people forget, when we had initially less than 200, at no point more than 1,500, American special ops and intelligence just embedded with the Northern Alliance, assisting them as the enemy of the Taliban.

Our friends, the Northern Alliance, they're Muslim. They're our Muslim friends. But they did not want the intolerance of the Taliban and were willing to pay any price, just as the Founders were, to prevent having the Taliban take them over and, as they had done before, burn films, burn books, burn art, dictate to the women, prevent their freedoms. The Northern Alliance helped us by basically being the people who defeated the Taliban. We provided them the arms to do it, we provided them the aerial support, and they did it.

We disarmed them, told them they had nothing to worry about. We added over 100,000 troops and became occupiers. We tried to nation build. We gave them a constitution that provides for shari'a law.

Where is the apology to Afghan Christians for us getting them a constitution that does not permit public churches? The last Christian church in Afghanistan has closed. At last account, I'd seen there was one acknowledged Jewish person living in Afghanistan.

Now there's intolerance. We have a \$12.5 billion government in Afghanistan. That's their budget, and they provide about \$1.5 billion of their own. You know what happens to that government when we pull out? That's why the Taliban is telling people, even on Afghan television, We're going to be in charge as soon as the U.S. pulls out.

There are ways to deal with this issue. If you just look at the map, you get a good idea what we're talking about.

During a recent trip to Afghanistan and meeting with Baluch people—let's first look at the map itself.

Afghanistan, Pakistan, Iran, India. Now, before 1948, this area in here was Baluchistan. In 1948, the arbitrary lines that were drawn put Baluchistan in with Pakistan. This used to be a Baluch area. As a recent Pakistan Daily News editorial pointed out, most of Pakistan's natural resources come from this area. As people have advised us in Afghanistan when I was over there recently, the Taliban are being supported by supplies, arms. They're getting their support from southern Pakistan into southern Afghanistan. They're coming through the Baluch area.

The Baluch don't want that. They're Muslim. They're our friends. They

want to be our friends. They would be wonderful friends. They have been terrorized by the Pakistani Government for decades, and we've stood by and didn't seem to care, the world has.

Well, perhaps it is time to recognize an independent Baluchistan, where we'd have a friend who would not keep supplying the enemy of America, those people that helped train and prepare for 9/11 to kill as many thousands of Americans as they could.

We don't want to leave Afghanistan in the hands of the Taliban and all of the American life and treasure be for nothing. But there is an easy answer. We leave, but we empower the enemy of our enemy, the Northern Alliance and the Baluch people. Let them take care of their own area. Let them prevent the Taliban from taking over. Let them prevent Pakistan from becoming such a focused enemy as they have unabated. Let them worry.

India wants to be our friend.

If we look at the area of Pakistan, well, this shows the different major ethnic groups. Pink here is the Baluch people; green is the Pashtun. And, of course, only a tiny percentage of the Pashtun people make up the Taliban, but virtually all of the Taliban is made up of Pashtun. They do come over here into Pakistan. Then we have brown as the Punjabi and the yellow as the Sindi.

Northern Alliance is up here. You've got a number of different groups up there, including Uzbeks. But these are people who do not want the Taliban to ever take over. They're the enemy of our enemy, and that's where we can do some real good. It's time to stop the support of those who would take away our First Amendment rights.

There's an article, this is from CNN, May 20, 2009:

Military personnel threw away, and ultimately burned, confiscated Bibles that were printed in the two most common Afghan languages amid concerns that they would be used to try to convert Afghans, a Defense Department spokesman said Tuesday.

The unsolicited Bibles sent by a church in the United States were confiscated about a year ago at Bagram Air Base in Afghanistan because military rules forbid troops of any religion from proselytizing while deployed there.

Such religious outreach can endanger American troops and civilians in the devoutly Muslim nation.

Why would it endanger civilians if they have the rights that Americans say we're fighting for? Why? We're burning Bibles, the American military did, back in 2009?

I was given this Bible by my aunt, told that it was provided during World War II to my uncle, says, "May the Lord be with you." It's a New Testament, and inside the front cover it says:

As Commander in Chief, I take pleasure in commending the reading of the Bible to all who serve in the Armed Forces of the United

States. Throughout the centuries, men of many faiths and diverse origins have found in the sacred book words of wisdom, counsel, and inspiration. It is a fountain of strength, and now, as always, an aid in attaining the highest aspirations of the human soul.

Signed by President Franklin D. Roosevelt.

That wasn't signed by President Obama. It was signed by Franklin Roosevelt, and it was given to our soldiers.

Mr. Speaker, in conclusion, let me just say, if the President takes more action to demean the American rights and to eliminate our own rights, then it's time for the President to apologize, not to Afghanistan but to the American people.

With that, I yield back the balance of my time.

#### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. JACKSON of Illinois (at the request of Ms. PELOSI) for today on account of business in the district.

Mr. BILBRAY (at the request of Mr. CANTOR) for today on account of a family medical issue.

Mr. CULBERSON (at the request of Mr. CANTOR) for today on account of illness.

#### ADJOURNMENT

Mr. GOHMERT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 40 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, February 28, 2012, at 10 a.m. for morning-hour debate.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XIV, executive communications were taken from the Speaker's table and referred as follows:

5095. A letter from the Acting Under Secretary, Department of Defense, transmitting a letter on the approved retirement of Admiral Robert F. Willard, United States Navy, and his advancement to the grade of admiral on the retired list; to the Committee on Armed Services.

5096. A letter from the Acting Under Secretary, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General John D. Gardner, United States Army, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

5097. A letter from the Associate General Counsel for Legislation and Regulations, Department of Housing and Urban Development, transmitting the Department's final rule — Federal Housing Administration (FHA) Single Family Lender Insurance Process: Eligibility, Indemnification, and Termination [Docket No.: FR-5156-F-02] (RIN: 2502-AI58) received February 6, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

5098. A letter from the Associate General Counsel for Legislation and Regulations, Department of Housing and Urban Development, transmitting the Department's final rule — Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity [Docket No.: FR 5359-F-02] (RIN: 2501-AD49) received February 15, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

5099. A letter from the Assistant Secretary, Employee Benefits Security Administration, Department of Labor, transmitting the Department's final rule — Group Health Plans and Health Insurance Issuers Relating to Coverage of Preventive Services Under the Patient Protection and Affordable Care Act (RIN: 1210-AB44) received February 15, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

5100. A letter from the Assistant Secretary, Employee Benefits Security Administration, Department of Labor, transmitting the Department's final rule — Summary of Benefits and Coverage and Uniform Glossary — Templates, Instructions, and Related Materials; and Guidance for Compliance received February 15, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

5101. A letter from the Assistant Secretary, Employee Benefits Administration, Department of Labor, transmitting the Department's final rule — Summary of Benefits and Coverage and Uniform Glossary (RIN: 1210-AB52) received February 15, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

5102. A letter from the Director, Defense Security Cooperation Agency, transmitting Transmittal No. 11-54, pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended; to the Committee on Foreign Affairs.

5103. A letter from the Director, International Cooperation, Department of Defense, transmitting Pursuant to Section 27(f) of the Arms Export Control Act and Section 1(f) of Executive Order 11958, Transmittal No. 1-12 informing of an intent to sign a Project Agreement with the United Kingdom of Great Britain and Northern Ireland; to the Committee on Foreign Affairs.

5104. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting a message from the Speaker of the National Assembly of the Republic of Korea; to the Committee on Foreign Affairs.

5105. A letter from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting report prepared by the Department of State concerning international agreements other than treaties entered into by the United States to be transmitted to the Congress within the sixty-day period specified in the Case-Zablocki Act; to the Committee on Foreign Affairs.

5106. A letter from the Secretary, Department of Treasury, transmitting as required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), a six-month periodic report on the national emergency that was declared in Executive Order 13581 of July 24, 2011; to the Committee on Foreign Affairs.

5107. A letter from the Program Manager, Department of Health and Human Services, transmitting the Department's final rule — Guidelines for Determining Probability of Causation under the Energy Employees Occupational Illness Compensation Program Act of 2000; Revision of Guidelines on Non-

Radiogenic Cancers [Docket Number: NIOSH-209] (RIN: 0920-AA39) received February 6, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

5108. A letter from the Assistant Secretary for Employment and Training, Department of Labor, transmitting the Department's final rule — Wage Methodology for the Temporary Non-Agricultural Employment H-2B Program; Delay of Effective Date (RIN: 1205-AB61) received February 6, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

5109. A letter from the President and Chief Executive Officer, Little League Baseball, transmitting the Annual Report of Little League Baseball, Incorporated for the fiscal year ending September 30, 2011, pursuant to 36 U.S.C. 1084(b); to the Committee on the Judiciary.

5110. A letter from the Assistant Secretary of the Army, Civil Works, Department of Defense, transmitting Sabine-Neches Waterway Channel Improvement Project Southeast Texas and Southwest Louisiana Final Environmental Impact Statement and Ocean Dredged Material Disposal Sites Final Environmental Impact Statement; (H. Doc. No. 112—90); to the Committee on Transportation and Infrastructure and ordered to be printed.

5111. A letter from the Director, Regulations Policy and Management Staff, Office of the General Counsel, Department of Veterans Affairs, transmitting the Department's final rule — Schedule for Rating Disabilities; AL Amyloidosis (Primary Amyloidosis) (RIN: 2900-AN75) received February 8, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

5112. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Foreign Tax Credit Splitting Events [TD 9577] (RIN: 1545-BK50) received February 15, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5113. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Summary of Benefits and Coverage and Uniform Glossary [TD 9575] (RIN: 1545-BJ94) received February 14, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5114. A letter from the Secretary, Department of Health and Human Services, transmitting the Medicare Ombudsman report to Congress for the year 2010; jointly to the Committees on Energy and Commerce and Ways and Means.

#### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ISSA: Committee on Oversight and Government Reform. H.R. 665. A bill to establish a pilot program for the expedited disposal of Federal real property; with an amendment (Rept. 112—402). Referred to the Committee of the Whole House on the state of the Union.

Mr. HASTINGS of Washington: Committee on Natural Resources. H.R. 1837. A bill to address certain water-related concerns on the San Joaquin River, and for other purposes; with an amendment (Rept. 112—403). Referred to the Committee of the Whole House on the state of the Union.

Ms. FOXX: Committee on Rules. House Resolution 563. A resolution providing for consideration of the bill (H.R. 2117) to prohibit the Department of Education from overreaching into academic affairs and program eligibility under title IV of the Higher Education Act of 1965 (Rept. 112-404). Referred to the House Calendar.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. MILLER of Florida (for himself, Mr. BENISHEK, Mr. FLAKE, Mr. YOUNG of Alaska, Mr. ROSS of Arkansas, Mr. BOREN, Mr. LATTA, and Mr. SHULER):

H.R. 4089. A bill to protect and enhance opportunities for recreational hunting, fishing and shooting; to the Committee on Natural Resources, and in addition to the Committees on Agriculture, and Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CARNAHAN:

H.R. 4090. A bill to reauthorize the National Dam Safety Program Act, and for other purposes; to the Committee on Transportation and Infrastructure.

By Ms. DEGETTE:

H.R. 4091. A bill to assist low-income individuals in obtaining medically recommended dental care; to the Committee on Energy and Commerce.

By Mr. GIBSON:

H.R. 4092. A bill to amend the National Defense Authorization Act for Fiscal Year 2012 to provide clarification of the relationship of certain constitutional rights to provisions of law relating to the military detention of certain covered person; to the Committee on Armed Services, and in addition to the Committee on Foreign Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. SEWELL (for herself and Mrs. ROBY):

H. Res. 562. A resolution directing the Office of the Historian to compile oral histories from current and former Members of the House of Representatives involved in the historic and annual Selma to Montgomery, Alabama, marches, as well as the civil rights movement in general, for the purposes of expanding or augmenting the historic record and for public dissemination and education; to the Committee on House Administration.

By Ms. SCHAKOWSKY (for herself, Mr. BACA, Mr. BRADY of Pennsylvania, Mrs. CHRISTENSEN, Mr. CICILLINE, Mr. CLARKE of Michigan, Mr. CLEAVER, Mr. CONYERS, Mr. COURTNEY, Mr. DAVIS of Illinois, Ms. DELAURO, Mr. ELLISON, Mr. FRANK of Massachusetts, Ms. FUDGE, Mr. GRIJALVA, Mr. GUTIERREZ, Mr. HASTINGS of Florida, Mr. HOLT, Mr. HONDA, Ms. JACKSON LEE of Texas, Ms. KAPTUR, Mr. KUCINICH, Ms. LEE of California, Mr. LEWIS of Georgia, Mr. MCGOVERN, Ms. MOORE, Ms. NORTON, Ms. RICHARDSON, Mr. SABLAN, Mr. SERRANO, Ms. SPEIER, Ms. WOOLSEY, and Mr. WELCH):

H. Res. 564. A resolution recognizing the critical importance of the supplemental nutrition assistance program (SNAP), formerly

called the food stamp program; to the Committee on Agriculture.

By Mr. WEST (for himself, Mr. ROONEY, Mr. RIVERA, Mr. DIAZ-BALART, Mr. HASTINGS of Florida, and Mr. MILLER of Florida):

H. Res. 565. A resolution commemorating the 100th anniversary of the Palm City Community in Martin County, Florida; to the Committee on Oversight and Government Reform.

## CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 7 of rule XII of the Rules of the House of Representatives, the following statements are submitted regarding the specific powers granted to Congress in the Constitution to enact the accompanying bill or joint resolution.

By Mr. MILLER of Florida:

H.R. 4089.

Congress has the power to enact this legislation pursuant to the following:

Article IV, Section 3, Clause 2 ; Article I, Section 8, Clause 3

By Mr. CARNAHAN:

H.R. 4090.

Congress has the power to enact this legislation pursuant to the following:

Article I. Section 1. "All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and a House of Representatives."

By Ms. DEGETTE:

H.R. 4091.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clause 3 of the United States Constitution and Article I, Section 8, Clause 18 of the United States Constitution.

By Mr. GIBSON:

H.R. 4092.

Congress has the power to enact this legislation pursuant to the following:

Article I, section 8 of the United States Constitution (clauses 10, 11, 14, and 18), which grants Congress the power to define and punish offenses against the law of nations, to make rules concerning captures on land and water; to make rules for the government and regulation of the land and naval forces; and to make all laws necessary and proper for carrying out the foregoing powers.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 12: Mr. OLVER.  
H.R. 23: Mr. ROTHMAN of New Jersey.  
H.R. 32: Mr. REYES.  
H.R. 104: Mr. LANGEVIN and Ms. BALDWIN.  
H.R. 205: Mr. PEARCE.  
H.R. 207: Mr. BACA.  
H.R. 218: Mr. HINOJOSA.  
H.R. 329: Mr. BROOKS, Mr. DOGGETT, and Mr. RANGEL.  
H.R. 385: Ms. SCHAKOWSKY and Mr. JACKSON of Illinois.  
H.R. 409: Mr. BURGESS.  
H.R. 452: Mr. KLINE and Mr. PASCRELL.  
H.R. 459: Mr. LIPINSKI and Mr. CONAWAY.  
H.R. 481: Mr. MURPHY of Connecticut.  
H.R. 511: Mr. BERMAN and Mr. PIERLUISI.  
H.R. 631: Mr. GENE GREEN of Texas and Mr. ROTHMAN of New Jersey.  
H.R. 640: Ms. SCHWARTZ.

H.R. 757: Mr. DEUTCH.  
H.R. 777: Mr. BISHOP of New York and Ms. BERKLEY.  
H.R. 799: Ms. LEE of California, Mr. JACKSON of Illinois, Mr. GONZALEZ, Mr. WEST, and Mr. ROTHMAN of New Jersey.  
H.R. 807: Mr. STARK.  
H.R. 812: Mr. SCHILLING.  
H.R. 876: Mr. LANGEVIN.  
H.R. 892: Mr. KUCINICH.  
H.R. 930: Mr. RYAN of Ohio.  
H.R. 931: Mr. NUNNELEE.  
H.R. 1004: Mr. BERG.  
H.R. 1114: Mr. CAPUANO.  
H.R. 1164: Mr. FINCHER.  
H.R. 1167: Mr. CONAWAY.  
H.R. 1206: Mr. RUNYAN, Mr. DESJARLAIS, and Mr. GIBBS.  
H.R. 1330: Mr. GUTIERREZ.  
H.R. 1332: Ms. DELAURO and Mr. DOYLE.  
H.R. 1340: Mrs. BLACK.  
H.R. 1342: Mr. MEEHAN.  
H.R. 1370: Mr. HUELSKAMP.  
H.R. 1386: Mr. RANGEL.  
H.R. 1404: Mr. GARAMENDI.  
H.R. 1418: Mr. GENE GREEN of Texas.  
H.R. 1505: Mr. RUNYAN.  
H.R. 1558: Mr. MURPHY of Pennsylvania.  
H.R. 1581: Mr. CRAVAAK.  
H.R. 1588: Mr. FORBES.  
H.R. 1672: Mr. STEARNS, Mr. ANDREWS, Mr. RYAN of Ohio, and Mr. PLATTS.  
H.R. 1681: Ms. BASS of California.  
H.R. 1738: Mr. DOYLE.  
H.R. 1895: Mr. MORAN, Mr. CLAY, and Mrs. NAPOLITANO.  
H.R. 1912: Mr. HONDA.  
H.R. 2071: Ms. BONAMICI.  
H.R. 2085: Mr. TIERNEY and Mr. CAPUANO.  
H.R. 2131: Mr. HARRIS.  
H.R. 2168: Mr. CLARKE of Michigan.  
H.R. 2179: Mr. BENISHEK.  
H.R. 2245: Mr. FITZPATRICK, Mr. BLUMENAUER, and Mr. COURTNEY.  
H.R. 2267: Mr. FORBES, Mr. KISSELL, Mr. SIREN, Mr. GONZALEZ, Mr. KEATING, Mr. JACKSON of Illinois, and Mr. BACA.  
H.R. 2288: Mrs. CAPPS, Ms. ZOE LOFGREN of California, Ms. SLAUGHTER, and Ms. HAHN.  
H.R. 2328: Mr. LANGEVIN.  
H.R. 2353: Mr. KIND.  
H.R. 2404: Mrs. DAVIS of California.  
H.R. 2437: Mr. FATTAH.  
H.R. 2446: Mr. MEEKS and Mr. MCCOTTER.  
H.R. 2499: Mr. PAYNE, Mr. ELLISON, and Mr. POSEY.  
H.R. 2513: Mr. MORAN and Mrs. DAVIS of California.  
H.R. 2529: Mrs. LUMMIS.  
H.R. 2634: Ms. PINGREE of Maine and Mr. MCGOVERN.  
H.R. 2657: Mr. CLAY.  
H.R. 2738: Mr. FARR and Ms. MATSUI.  
H.R. 2896: Mr. LANCE, Mr. ROTHMAN of New Jersey, Mr. HOLT, Mr. SIREN, Mr. ANDREWS, Mr. FRELINGHUYSEN, Mr. PALLONE, and Mr. RUNYAN.  
H.R. 2955: Ms. SUTTON.  
H.R. 2969: Mr. GENE GREEN of Texas.  
H.R. 3014: Mr. MARKEY.  
H.R. 3059: Mrs. NAPOLITANO.  
H.R. 3066: Mr. WILSON of South Carolina.  
H.R. 3083: Mr. ROTHMAN of New Jersey.  
H.R. 3086: Mr. ROTHMAN of New Jersey, Mr. AL GREEN of Texas, Mr. QUIGLEY, Ms. LINDA T. SANCHEZ of California, Mr. HONDA, Mr. THOMPSON of Mississippi, Mrs. DAVIS of California, and Mr. VISCLOSKEY.  
H.R. 3207: Mr. MEEHAN.  
H.R. 3269: Mr. TONKO, Mr. WOMACK, Mr. KIND, Mr. YOUNG of Indiana, Mrs. CAPITO, Mr. SCHRADER, Ms. ZOE LOFGREN of California, Ms. SCHAKOWSKY, and Mr. RYAN of Ohio.  
H.R. 3275: Mrs. MYRICK.

H.R. 3324: Mr. COHEN.  
 H.R. 3353: Mr. PRICE of North Carolina.  
 H.R. 3356: Mr. SAM JOHNSON of Texas, Mr. WEST, and Mr. BILBRAY.  
 H.R. 3364: Mr. BRALEY of Iowa and Mr. LOEBSACK.  
 H.R. 3373: Ms. MOORE, Ms. CHU, Ms. LEE of California, and Ms. SPEIER.  
 H.R. 3462: Mr. KILDEE.  
 H.R. 3464: Mr. JACKSON of Illinois.  
 H.R. 3476: Mr. CONNOLLY of Virginia.  
 H.R. 3485: Mr. HEINRICH.  
 H.R. 3496: Mr. HOLT.  
 H.R. 3506: Mr. BLUMENAUER.  
 H.R. 3523: Mr. ROE of Tennessee, Mr. FLEISCHMANN, and Mr. BACA.  
 H.R. 3526: Mr. CLAY, Mrs. McMORRIS RODGERS, Ms. LEE of California, Ms. KAPTUR, Mr. PLATTS, Ms. WASSERMAN SCHULTZ, and Mr. MCGOVERN.  
 H.R. 3528: Ms. LEE of California.  
 H.R. 3566: Ms. BASS of California.  
 H.R. 3612: Mr. LEWIS of Georgia and Ms. CHU.  
 H.R. 3626: Ms. LEE of California.  
 H.R. 3627: Mr. KISSELL.  
 H.R. 3643: Mr. OWENS, Mr. PAUL, and Mr. ROKITA.  
 H.R. 3676: Mr. UPTON.  
 H.R. 3679: Mr. GRIJALVA.  
 H.R. 3702: Mr. BISHOP of Utah.  
 H.R. 3704: Mr. HIMES.  
 H.R. 3723: Mr. MANZULLO.  
 H.R. 3767: Mr. COURTNEY and Mr. WEST.  
 H.R. 3770: Mr. DUNCAN of Tennessee.  
 H.R. 3783: Mr. CRAVAACK and Mr. GOSAR.  
 H.R. 3805: Mr. LAMBORN.  
 H.R. 3821: Mr. BLUMENAUER and Mr. COURTNEY.  
 H.R. 3827: Mr. WHITFIELD.  
 H.R. 3828: Mr. FINCHER.  
 H.R. 3831: Mr. PAUL.

H.R. 3855: Mr. ENGEL, Mr. McDERMOTT, and Mr. ROTHMAN of New Jersey.  
 H.R. 3860: Mr. RANGEL.  
 H.R. 3863: Mr. RIBBLE.  
 H.R. 3877: Mr. NUGENT.  
 H.R. 3893: Mr. CHABOT and Mr. GRAVES of Missouri.  
 H.R. 3895: Mr. BARLETTA, Mr. ROTHMAN of New Jersey, Mr. NUGENT, Mr. JOHNSON of Ohio, and Mr. FILNER.  
 H.R. 3914: Mr. HANNA.  
 H.R. 3974: Mr. DOGGETT and Mr. PRICE of North Carolina.  
 H.R. 3981: Ms. MCCOLLUM and Mr. COURTNEY.  
 H.R. 3984: Mr. DOYLE, Mr. RUSH, and Ms. SLAUGHTER.  
 H.R. 3989: Mr. KELLY.  
 H.R. 3990: Mr. KELLY.  
 H.R. 3991: Mr. DUNCAN of Tennessee.  
 H.R. 3992: Mr. PENCE, Ms. LINDA T. SANCHEZ of California, Mr. NADLER, and Mr. POLIS.  
 H.R. 3994: Mrs. BLACK, Mr. ROSS of Florida, and Mr. PAUL.  
 H.R. 4010: Mr. HINOJOSA, Mr. COSTELLO, Mr. DOGGETT, Mr. ROTHMAN of New Jersey, Mr. RYAN of Ohio, Ms. CLARKE of New York, Mr. DOYLE, Mr. KUCINICH, and Mr. NEAL.  
 H.R. 4038: Mr. POLIS.  
 H.R. 4045: Mr. BOSWELL, Ms. MCCOLLUM, and Mr. WALZ of Minnesota.  
 H.R. 4046: Mr. MANZULLO and Mr. ROE of Tennessee.  
 H.R. 4061: Mr. ANDREWS.  
 H.R. 4065: Ms. BORDALLO.  
 H.R. 4078: Mr. GOODLATTE.  
 H.R. 4080: Ms. EDDIE BERNICE JOHNSON of Texas.  
 H.R. 4082: Mr. PIERLUISI.  
 H.J. Res. 103: Mr. ROSS of Florida and Mr. FINCHER.

H. Res. 111: Mrs. MALONEY, Mr. HINCHEY, Mr. GUTIERREZ, Mr. MARINO, Mr. GOODLATTE, Mr. PEARCE, Mr. FITZPATRICK, Mr. MARCHANT, and Mr. MORAN.  
 H. Res. 130: Ms. EDDIE BERNICE JOHNSON of Texas.  
 H. Res. 262: Mr. MCGOVERN.  
 H. Res. 351: Mr. STARK.  
 H. Res. 484: Ms. ZOE LOFGREN of California, Mr. CONNOLLY of Virginia, Mr. ROYCE, Mr. MARKEY, Mr. MORAN, and Mr. STARK.  
 H. Res. 542: Mr. ROTHMAN of New Jersey.  
 H. Res. 555: Mr. PASCRELL.  
 H. Res. 556: Mr. NUNNELEE, Mr. JORDAN, Mrs. HARTZLER, Mr. POMPEO, Mr. MARINO, Mr. KINZINGER of Illinois, Mr. KELLY, Mr. DUNCAN of Tennessee, Mr. SMITH of Texas, Mr. ROSS of Florida, Mr. SMITH of New Jersey, Mr. PEARCE, Mr. LATHAM, Mr. WILSON of South Carolina, Mr. LANKFORD, Ms. FOXX, Mr. GENE GREEN of Texas, and Mrs. McMORRIS RODGERS.  
 H. Res. 560: Mrs. DAVIS of California.

#### CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, OR LIMITED TARIFF BENEFITS

Under clause 9 of rule XXI, lists or statements on congressional earmarks, limited tax benefits, or limited tariff benefits were submitted as follows:

The amendment to be offered by Representative RAÚL M. GRIJALVA, or a designee to H.R. 2117 the Protecting Academic Freedom in Higher Education Act, does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

## EXTENSIONS OF REMARKS

HONORING EAST TEXAS BAPTIST UNIVERSITY FOR ITS 100TH ANNIVERSARY

### HON. LOUIE GOHMERT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 27, 2012*

Mr. GOHMERT. Mr. Speaker, tucked away in northeast Texas is the historic city of Marshall, Texas. As the seat of Harrison County, Marshall is also home to East Texas Baptist University, a respected institution of higher learning. In its one hundred year history, student enrollment at ETBU has grown from a few hundred students to a vibrant, bustling campus filled with more than twelve hundred young men and women seeking a college degree. This year marks the one hundredth anniversary of the trustees' application for a charter from the State of Texas in 1912 to begin what was then known as the College of Marshall, and it is a great privilege to recognize this momentous centennial event.

In 1944 the College of Marshall, under the direction of the Baptist General Convention, changed its name to East Texas Baptist College. Then in 1957, the Southern Association of Colleges and Schools granted accreditation to the institution which helped establish its enduring academic credibility. The University Charter was revised in 1984, changing the institutional name to what we now know as East Texas Baptist University.

ETBU boasts a number of notable alumni including two former members of this esteemed body: John Dowdy, Texas, Member of the United States House of Representatives (1967–1973) and Sam B. Hall, Member of the United States House of Representatives (1976–85) and United States District Judge (1985–94).

ETBU stands by its commitment to the “development of intellectual inquiry, social consciousness, wellness, and skills for a contemporary society, global awareness, and Christian character.” Its focus is on “quality academic programs in the humanities, natural and social sciences, fine arts, and selected professional areas.” Staff and faculty of ETBU “affirm that the liberal arts form the surest foundation for education and that the Christian faith provides the surest foundation for life.”

As a Baptist university, ETBU is committed to the integration of learning and Christian faith in the pursuit of truth. The beautiful campus of ETBU is located at the highest elevation in Harrison County, and represents a beacon of higher learning to students who venture to the piney woods of east Texas in pursuit of a quality, upper level, truly Christian based liberal arts education.

It is an enormous honor to represent the students and faculty of ETBU, so it brings me great pride today that to recognize East Texas Baptist University on its century of instilling

academic excellence while integrating faith with learning. Following the years of loyal service by Dr. Samuel W. “Dub” Oliver as President, ETBU is well poised for continued success in the future.

Heartfelt congratulations are extended to the faculty, staff, students and alumni of East Texas Baptist University, as their legacy of distinction is now recorded in the CONGRESSIONAL RECORD that will endure as long as there is a United States of America. Their excellence in faithfully sustaining the ethical, spiritual and intellectual foundations of a God centered education makes it my great honor to be their servant in the United States House of Representatives.

COMMEMORATING THE SUMGAIT POGROMS AGAINST AZERBAIJANI ARMENIANS

### HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 27, 2012*

Ms. ESHOO. Mr. Speaker, February 27th marks the 24th anniversary of a violent and horrific attack against Azerbaijani citizens of Armenian descent. The 1988 attacks began in the town of Sumgait in Soviet Azerbaijan. Dozens of Armenians were killed, and hundreds more were wounded. During what even the Soviet government officially described as a “pogrom”—an organized massacre of helpless people—Armenian women and children were raped, and people were set on fire and beaten to death, all while police stood by.

Tragically, the events in Sumgait presaged further pogroms in Kirovabad in November of 1988 and Baku in January of 1990. This violence initiated a broader attack against Azerbaijan's Armenian population, resulting in thousands of deaths. The conflict persists today, and the Azeri military blockade of the Nagorno-Karabakh Republic and other aggression sadly continues.

For me, it is also a very personal remembrance. My own family fled the slaughter of the Armenian Genocide under the Ottomans, and when we learned of the massacres against Armenians in 1988, we saw history repeating itself. These vicious acts of murder targeted at ethnic groups, must be forcefully condemned whenever and wherever we see them. Yet 96 years after the slaughter of Armenians, the U.S. House of Representatives has yet to officially recognize the Armenian genocide.

Without our recognition and our forceful condemnation, the cycle of violence will continue. Today, Christians and other minority groups are being driven from Iraq by extremists, and the once large and diverse ethnic communities are being eradicated. Without our attention and action by the world community,

there will be no end to this senseless violence around the world.

Today, let us remember the Armenians who lost their lives in Azerbaijan in 1988, and pray that the world will finally take greater account of these atrocities and work together. Let us take up the work that our principles demand of us, standing united against ethnic violence, discrimination, extremism and brutality, wherever we find it.

RECOGNIZING THE ACHIEVEMENTS OF JOHN R. BAILEY

### HON. JIM GERLACH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 27, 2012*

Mr. GERLACH. Mr. Speaker, I rise today to congratulate John R. Bailey of Chester County, Pennsylvania on his retirement after 34 years of law enforcement service with the Tredyffrin Township Police Department.

Detective Sergeant Bailey began his law enforcement career with Tredyffrin Township on December 5, 1977. In 1986, he joined the Detective Division and became Detective Supervisor in 1994, eventually being promoted to Detective Sergeant in 2002.

In June 2002, Detective Sergeant Bailey founded the Tri-County Regional Investigators group, a network of law enforcement agencies who work together by sharing information about criminal activity resulting in the successful resolution of crimes that would otherwise remain unsolved. A graduate of the FBI National Academy Session #223, he has served as an Adjunct Professor at Wilmington University, Delaware County Community College and Immaculata University.

Recently elected to the position of Magisterial District Judge after being certified by the Pennsylvania Minor Judiciary Board, Detective Sergeant Bailey holds a Masters Degree in Administrative Science from Farleigh Dickinson University.

Mr. Speaker, in light of his years of exemplary service to his community and litany of sterling accomplishments too long to record, I ask that my colleagues join me today in recognizing Detective Sergeant John R. Bailey for his invaluable contributions to the quality of life of the citizens of Tredyffrin Township, Chester County, Pennsylvania and our entire nation.

REMEMBERING FORMER CONGRESSWOMAN KATIE HALL

### HON. PETER J. VISCLOSKEY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 27, 2012*

Mr. VISCLOSKEY. Mr. Speaker, it is with deep sadness and great respect that I take

● This “bullet” symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.



this time to remember one of Northwest Indiana's most valued citizens and my predecessor, former Congresswoman Katie Beatrice Hall. Throughout her prestigious career, Katie's contributions to the people of Northwest Indiana and across the nation are exemplary, and she is worthy of the highest praise. Mrs. Hall passed away on Monday, February 20, 2012, but her legacy will live on forever in the hearts and minds of those she served.

Congresswoman Hall grew up in Mound Bayou, Mississippi, during the pre-civil rights era. Segregation laws were strict in the South during that time, and she learned early in life how to succeed despite great opposition. In 1960, Katie earned a bachelor's degree from Mississippi Valley State University. Later, she moved to Indiana and continued her education, earning a master's degree from Indiana University, Bloomington, in 1968.

The Congresswoman's involvement in politics began when she campaigned for former Mayor of Gary Richard Hatcher. Her work on the campaign further fueled her desire to serve others and inspired her to run for elected office. Prior to becoming a Member of Congress, she served in the Indiana House of Representatives from 1974 to 1976 and was then elected to the Indiana Senate, serving from 1976 to 1982. As a member of the Indiana General Assembly, Mrs. Hall was influential in establishing the Genesis Center, Hudson-Campbell Fitness Center, and the Adam Benjamin Metro Center, in Gary. Katie also served as the Chair for the Lake County Democratic Committee from 1978 to 1980 and for the Indiana Democratic Convention in 1980. In 1982, following the untimely passing of United States Congressman Adam Benjamin, Jr., Katie won the special election to complete his term in office and to represent the First Congressional District of Indiana in the 98th Congress, becoming the first African American from Indiana elected to serve in the United States House of Representatives. While in office, Katie served as Chairwoman of the Post Office and Civil Services Subcommittee on Census and Population. During her time in Congress, Representative Hall made a truly historic contribution through her sponsorship of the bill that made Reverend Dr. Martin Luther King, Jr.'s birthday a national holiday. This bill had been stalled in the House for fourteen years, and through her passion and persistence, Katie was successful in establishing this recognition of Dr. King.

Mrs. Hall was a trailblazer for the Civil Rights Movement and a devoted public servant to her community, state, and nation. In the years following her term, Katie continued her life of public service as City Clerk for Gary, Indiana, from 1988 to 2003.

Katie Hall leaves behind a loving family. She is survived by her cherished husband, John Henry Hall, as well as her adoring daughters, Jacqueline and Junifer, and her beloved granddaughter, Kristina. She also leaves behind many other dear friends and family members, as well as a saddened community and a grateful nation.

Mr. Speaker, I respectfully ask that you and my other distinguished colleagues join me in remembering the Honorable Katie Hall for her tremendous contributions to the people of her community, the State of Indiana, and the

United States of America. Her life of public service is to be admired. Her legacy will serve as an inspiration to us all.

#### A TRIBUTE TO KALE RYAN RENDER

#### HON. TOM LATHAM

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 27, 2012*

Mr. LATHAM. Mr. Speaker, I rise today to recognize and congratulate Kale Render of Indianola for achieving the rank of Eagle Scout.

The Eagle Scout rank is the highest advancement rank in scouting. Only about five percent of Boy Scouts earn the Eagle Scout Award. The award is a performance-based achievement with high standards that have been well-maintained over the years.

To earn the Eagle Scout rank, a Boy Scout is obligated to pass specific tests that are organized by requirements and merit badges, as well as completing an Eagle Project to benefit the community. Kale's project included landscaping and renovating Indianola's National Balloon Classic Launch Field. The work ethic Kale has shown in this project, and every other project leading up to his Eagle Scout rank, speaks volumes of his commitment to serving a cause greater than himself.

Mr. Speaker, the example set by this young man and his supportive family demonstrates the rewards of hard work, dedication and perseverance. I am honored to represent Kale and his family in the United States Congress. I know that all of my colleagues in the House will join me in congratulating him on obtaining the Eagle Scout ranking, and will wish him continued success in his future education and career.

#### A TRIBUTE TO GAVINA GAUDARRAMA

#### HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 27, 2012*

Mr. TOWNS. Mr. Speaker, I rise today to pay tribute and to honor Mrs. Gavina Guadarrama on her 101st birthday. Mrs. Guadarrama has been fortunate that God has graced her with good health and her full faculties to reach this wonderful centennial.

Mrs. Guadarrama was born in Hato Tejas, Puerto Rico on February 19, 1911 as the eldest daughter of Jose and Victoria Acevedo. Raised in a household of 10 siblings, many of the responsibilities fell upon her as her parents worked. Those siblings still alive tell stories of how special she made each one of them feel with the little she had to share.

Mrs. Guadarrama would marry her husband Juan Guadarrama at the age of 29 and begin a life together that would span close to 50 years. They had two lovely daughters—Maria and Honoria—and built a lovely house with a full veranda in their hometown. Years later due to the economy, they would move to

Brooklyn, New York where she gave birth to her youngest daughter Rosie. Mrs. Guadarrama would remain in Brooklyn for the rest of her life as she raised and schooled her children.

Mrs. Guadarrama had a true skill for sewing and had always dreamed of being a fashion designer. She created patterns from brown bags and made designer dresses for herself and her daughters—always receiving high praise and recognition for her talents. Most of her career was as a homemaker, caring for her husband, children, and seven grandchildren.

In 1988, Mrs. Guadarrama lost the love of her life, Juan, to lung cancer. They had a loving relationship that spanned nearly half a century. Even with the loss of her husband, Mrs. Guadarrama continues to maintain the strong familial bonds that have spanned four generations. Mrs. Guadarrama is blessed to have her family and the gracious home attendants that care for her with love and respect.

Mr. Speaker, I would like to recognize Mrs. Guadarrama for her extraordinary strength as the anchor of her family and on the celebration of her 101st birthday.

#### CONGRATULATORY REMARKS FOR OBTAINING THE RANK OF EAGLE SCOUT—TREVOR PHILIP CONTE

#### HON. SANDY ADAMS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 27, 2012*

Mrs. ADAMS. Mr. Speaker, I would like to congratulate Trevor Philip Conte for achieving the rank of Eagle Scout.

Throughout the history of the Boy Scouts of America, the rank of Eagle Scout has only been attained through dedication to concepts such as honor, duty, country and charity. By applying these concepts to daily life, Trevor has proven his true and complete understanding of their meanings, and thereby deserves this honor.

I offer my congratulations on a job well done and best wishes for the future.

#### CELEBRATING THE 100TH BIRTH- DAY OF HADASSAH OF GREATER BALTIMORE

#### HON. JOHN P. SARBANES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 27, 2012*

Mr. SARBANES. Mr. Speaker, I rise today to celebrate the 100th birthday of Hadassah of Greater Baltimore. Hadassah, founded in 1912, is a volunteer women's organization that strives to enhance the quality of American and Jewish life through educational programs, promoting health awareness, and aiding the personal enrichment and growth of its members and surrounding communities.

Established in 1912 by Henrietta Szold, the daughter of a rabbi at Temple Oheb Shalom in Baltimore, Hadassah has over 300,000 members and is the largest Jewish organization in America and one of the largest women's volunteer organizations in the world.

Upon returning from a trip to Israel, Ms. Szold took it upon herself to create an organization that could aid the people of the region who were afflicted with starvation and disease. By 1918, Hadassah had sent an entire medical unit to Israel where they helped to develop the beginning of the Israeli healthcare system.

In 1934, Hadassah helped to create Youth Aliyah, a child rescue program that saved tens of thousands of children from war torn Eastern Europe. Today Youth Aliyah is helping to resettle children of the Ethiopian and Russian migrations as well as Israeli children who are living on the streets.

Throughout World War II, the organization sold \$200 million in war bonds and was rewarded with 100 Air Force bombers who were given the names of different Hadassah chapters. By 1942 the U.S. State Department named Hadassah one of the largest contributors to overseas relief, especially due to the efforts of Ms. Szold to rescue thousands of children from Nazi Germany.

Over the years, Hadassah has established itself as a powerful voice for change. They have argued for federal and state funding of stem cell research and called for legislation that supports medical privacy and freedom from genetic discrimination by insurance companies and employers. In Israel, they have established and maintained two state-of-the-art medical centers, created the Hadassah College Jerusalem, and run the country's largest touring and residency program for American Jewish youth.

Today, the hundreds of thousands of women in Hadassah have upheld Henrietta Szold's commitment to improving the world we live in today. I hope my fellow Members will join me in congratulating them on their 100th birthday and thanking them for the wonderful contributions they've made in Baltimore and throughout the world.

#### IN RECOGNITION OF LAVADA DILLARD

#### HON. PHIL GINGREY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 27, 2012*

Mr. GINGREY of Georgia. Mr. Speaker, in celebration of Black History Month, I rise today to recognize Lavada Dillard, an African-American from Georgia's 11th Congressional District who has had a major impact on her community.

At the age of 16, Lavada displayed great courage when she carried out a successful downtown lunch counter sit-in demonstration.

Jailed for 5 days for this act, Ms. Dillard never ceased advocating for equal rights for all individuals.

She has been honored twice by the Southern Christian Leadership Conference and most recently compiled the history of Rome's Civil Rights Movement for the permanent community archives.

Mr. Speaker, I ask my colleagues to join me in recognizing Ms. Dillard's outstanding accomplishments and her unwavering commitment to civil rights.

#### HONORING BERTRAND DAVID MATHIEU

#### HON. MICHAEL H. MICHAUD

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 27, 2012*

Mr. MICHAUD. Mr. Speaker, I rise today to recognize Bertrand David Mathieu of Lewiston, Maine for his decades of work in Maine's shoe industry.

Bert was born in 1922 in Lewiston, Maine. By the time he was 16 years old, he had already started working with heavy industrial equipment in a shoe factory. Bert earned his place in the "Greatest Generation" when he answered the call to service during World War II. Originally joining the Maine National Guard in 1939, he would go on to serve in the European theater and fight in the Battle of the Bulge.

After the war, Bert returned to the shoe manufacturing career that would be a part of his life for more than seven decades. With little formal training, he mastered his craft by listening, asking questions and vigilantly researching the technical aspects of the job. A committed family man, Bert also repaired televisions on the side for nearly 50 years in order to help pay for the schooling of his daughters.

I've always known that Mainers are of sturdy stock, and I strongly suspect that our healthy Maine air and peaceful surroundings have something to do with it. Today at the age of 90, Bert still displays the hard work, creativity and ingenuity which have sustained him throughout his life. You can still find him working at Pamco Shoe Machinery in Lewiston, sorting and organizing machine parts. His energy and his positive attitude remain an inspiration to all who know him.

Mr. Speaker, please join me again in recognizing Bertrand David Mathieu for his many years of good work.

#### RECOGNIZING PAUL BASCOMB, A 2011 FBI DIRECTOR'S COMMUNITY LEADERSHIP AWARD RECIPIENT

#### HON. ADAM SMITH

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 27, 2012*

Mr. SMITH of Washington. Mr. Speaker, I rise to honor Mr. Paul Bascomb for being named a recipient of the 2011 FBI Director's Community Leadership Award in recognition of his work on crime prevention.

Since 1990, the FBI has honored local leaders and organizations with the Director's Community Leadership Award. Honorees are recognized for their efforts in making extraordinary strides in the areas of crime prevention, violence prevention, and education in their communities. Every year, each FBI field office selects one individual or organization to receive this prominent award.

As the chair of the African-American Community Advisory Council to the Seattle Police Department and a board member for the East Precinct Crime Prevention Coalition, Mr. Bascomb has been a leader for cooperation

between the African-American community and local law enforcement. Through open and considerate conversation, Mr. Bascomb and the African-American Community Advisory Council work with the Seattle Police Department to give diverse communities access to the police department and promote cultural competency training for officers.

Mr. Bascomb served as a correctional officer for more than 16 years in the Washington State juvenile justice system. In 2011, he completed the rigorous Citizen's Academy Program, which gives community leaders an overview of the FBI. This in-depth study includes practical exercises, discussion of case studies and legal issues, and presentations from specialized units.

Mr. Speaker, it is with great honor that I recognize the accomplishments of Mr. Paul Bascomb. His dedication to improving the relationship between law enforcement and local African-American communities sets a positive example for everyone who works for crime prevention.

#### HONORING WILLARD "BILL" LINEWEAVER

#### HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 27, 2012*

Mr. WOLF. Mr. Speaker, today I rise to recognize and honor Willard "Bill" Lineweaver, who served as a mayor and councilman of Warrenton, VA. Mr. Lineweaver passed away on February 15, at the age of 89.

Bill Lineweaver was a great public servant, model citizen and a personal friend of mine. He will be honored and remembered by many, especially his wife, Elizabeth "Bizz", his three daughters Beth, Babs, and Bitsy, his many friends, colleagues and all who knew him.

Mr. Speaker I submit the following obituary.

[From Fauquier.com, Feb. 16, 2012]

FORMER WARRENTON MAYOR LINEWEAVER  
DIES AT AGE 89

Retired Warrenton businessman J. Willard "Bill" Lineweaver, who served on the Warrenton Town Council from 1959 until 1974, then was mayor from 1974 until 1998, died Feb. 15.

Lineweaver, 89, had recently fallen at his home on Winchester Street, suffering a head injury. He was taken first to Fauquier Hospital before being transferred to the ICU at the University of Virginia Medical Center in Charlottesville.

He was later taken to a rehabilitation facility in Lexington, Va., near the home of his daughter, Beth Knapp.

News of his death has shocked the community, as there was great hope and expectation for his recovery and return to Warrenton.

Lineweaver's nearly 40 years as a councilman and mayor of Warrenton was unprecedented. In fact, he ran unopposed for his last three terms on town council, as well as all six terms as mayor.

He led the town through periods of great change, and after his last term as mayor, he continued to be involved with other important issues, including the acquisition and reuse of Vint Hill Farms Station, the U.S. Army post east of Warrenton.

Originally from the Shenandoah Valley, Lineweaver came to Fauquier County when he was six years old. His father managed Whitewood Farm near The Plains, and Lineweaver grew up on the farm and attended public schools.

On Dec. 7, 1942, he enlisted in the U.S. Army. After Basic Training, he was sent to Ft. Benning, Ga., where he received training as a communications specialist and was promoted to the rank of sergeant.

Home on leave, Lineweaver married the former Elizabeth "Bizz" Carter of Warrenton in May 1943.

His training complete, Sgt. Lineweaver was assigned to the Antitank Company of the 393rd Infantry Regiment of the 99th Infantry Division, and mid-October 1944, his unit was sent to fight in the European Theater of Operations.

Shortly after arriving, the 99th was positioned along the Siegfried Line near Krinkelt, Belgium, defending a 19-mile front from advancing German forces.

On Dec. 16, 1944, the Germans launched what became known as the Battle of the Bulge, a massive assault on the Allied lines.

Sgt. Lineweaver's unit was pushed back to the hills west of Krinkelt, where they held the line until the weather cleared and Allied airpower stopped the attack.

Later, the 99th was involved in the battle for the Remagen Bridge and the clean up of German resistance in the Rhur Pocket during March and April 1945.

He was awarded the Bronze Star medal with three battle stars and other military decorations for his combat service.

Returning home to Warrenton after the war, Lineweaver got into the retail business, operating the H.B. Carter furniture store on Main Street for many years.

In 1959, he was convinced by then-Mayor Richard Marriott to run for town council and won, beginning a long career representing the people of Warrenton, and later providing vision and leadership as mayor.

In his role as mayor, Lineweaver became well known in the commonwealth, serving on a number of statewide boards and committees, and working with mayors of other towns and cities sharing his response to the problems and opportunities as he encountered in Warrenton.

He served as president of the Virginia Municipal League in 1988-89.

Celebrating their 68th wedding anniversary last May, Mr. and Mrs. Lineweaver were the proud parents of three daughters, six grandchildren and six great-grandchildren.

He was a long-time member of St. James Episcopal Church and served as a vestryman for many years. He also belonged to the Warrenton Rotary Club and the Fauquier Club.

Lineweaver's funeral will be held at 11 a.m., Monday, Feb. 20, at St. James Episcopal Church. The family will receive friends from 1 to 3 p.m., Sunday, Feb. 19, at Moser Funeral Home.

#### RECOGNIZING THE 65TH COMMEMORATION OF TAIWAN'S "2-28 MASSACRE"

##### HON. SCOTT GARRETT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, February 27, 2012

Mr. GARRETT. Mr. Speaker, I rise today to recognize the 65th commemoration of Taiwan's "2-28 Massacre."

On February 28, 1947, the brutal arrest of a female civilian in Taipei led to large-scale protests by the native Taiwanese against the repression of Chiang Kai-shek's Chinese Nationalists, who occupied Taiwan on behalf of the Allied Forces after Japan's defeat in 1945.

During the following days, Chiang's government sent troops from mainland China to the island. The Chinese soldiers began capturing and executing leading Taiwanese lawyers, doctors, students, and other citizens.

It is estimated that at least 18,000 people lost their lives during the turmoil. During the following four decades, the Chinese Nationalists continued to rule Taiwan under a martial law system that lasted until 1987.

The 2-28 Massacre has had far-reaching implications. Over the next half-century, the Taiwanese democracy movement that grew out of the incident helped pave the way for Taiwan's momentous transformation from a dictatorship under the Chinese Nationalists to a thriving and pluralistic democracy.

I urge other Members to join me in commemorating this important historical event.

#### SAN FRANCISCO STATE UNIVERSITY PRESIDENT ROBERT A. CORRIGAN

##### HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 27, 2012

Ms. PELOSI. Mr. Speaker, on behalf of my constituents in San Francisco, I am proud to honor Dr. Robert A. Corrigan in his final year as president of San Francisco State University. He has been a visionary leader in higher education and has made enormous contributions to San Francisco, California, and indeed, to our entire Nation.

During his 24-year tenure, President Corrigan transformed San Francisco State University into a premier urban university that reflects the diversity of the city it serves, works on behalf of social justice, and educates a 21st century workforce.

President Corrigan has studied and taught at a number of prominent universities; how proud we were when he chose to come to San Francisco State University.

President Corrigan was an early pioneer for diversity in education. At San Francisco State, he made a steadfast commitment to diversity of background, ethnicity, and gender in faculty hiring. He established groundbreaking initiatives to incorporate women and minorities into the faculty, resulting in one of the most diverse faculties of any U.S. university.

Under President Corrigan's direction and guidance, San Francisco State evolved into the "College with a Conscience," boasting a multicultural campus, and a faculty and student body that are actively engaged in public service. San Francisco State's Institute for Civic and Community Service is recognized as a national model. In 2001, San Francisco State assumed management of the City's Head Start Program, one of the few universities to do so, serving 1,800 low-income children.

Corrigan made access to a quality education a priority of his presidency. With his

wife, he established the Robert and Joyce Corrigan SF Promise Endowed Scholarship Fund that places higher education within reach of students from underserved, low-income neighborhoods. Joining forces with the city of San Francisco, they created an initiative that ensures admission and financial assistance to qualified San Francisco high school graduates, many of whom are the first in their family to attend college. Indeed, San Francisco State boasts one of the highest percentage of first-generation college students in the nation.

President Corrigan's visionary leadership has been recognized by many. Most notably, he was handpicked by President Bill Clinton to chair the Steering Committee of College and University Presidents for the "America Reads Challenge" and "America Counts" initiatives.

President Corrigan has been an educator, a role model, and a dynamic leader. On behalf of many of my constituents, I express gratitude for his 24 years of service at San Francisco State University.

#### RECOGNIZING THE INNOVATIVE AND LIFE-SAVING EFFORTS OF THE WOODBURY FIRE DEPARTMENT OF WOODBURY, MINNESOTA

##### HON. MICHELE BACHMANN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 27, 2012

Mrs. BACHMANN. Mr. Speaker, I rise today to acknowledge the innovative efforts of the Woodbury Fire Department. Throughout America's history, firefighters have always been our hometown heroes, and I am happy to share with this body the unique efforts of the Woodbury Fire Department.

Woodbury firefighters keep track of their ability to respond to various scenarios in training or real emergencies on a scorecard. Since the department relies on a small number of full-time firefighters as well as crossed-trained police officers to meet their requests, these scorecards allow each individual to have an instant and uniform way of measuring the best practices for each situation. Most importantly, it minimizes the human risk in new and potentially dangerous conditions.

Innovation has always been a priority for firefighters. While prevention is the best way to improve a home's safety, Woodbury firefighters take fire control one step further using a method called Positive Pressure Attack. This method allows fans to generate pressure to remove heat, smoke and dangerous gases before firefighters enter a burning building. Not only is this beneficial for firefighters, it helps to keep hazardous elements away from anyone who may be trapped inside.

The Woodbury Fire Department has consistently won 100 percent approval from its citizens, and it is easy to see why. They are the model of professional development and technological innovation. Mr. Speaker, I am proud to represent such a fine group of people in my district and I ask this body to join me in recognizing their achievements.

IN RECOGNITION OF MARVIN  
WILLIAMS

**HON. PHIL GINGREY**

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 27, 2012*

Mr. GINGREY of Georgia. Mr. Speaker, in celebration of Black History Month, I rise today to recognize Marvin Williams, an African-American from Georgia's 11th Congressional District who has had a major impact on his community.

Quality teachers are vital to ensuring children are afforded the best education possible. Mr. Williams is one such educator.

For the past 30 years, Mr. Williams has worked as a teacher to inspire children and help them reach their full potential.

Marvin currently serves as the Superintendent of the Polk County School District and I am grateful for his expertise as a member of my Education Advisory Board.

A gifted musician, Mr. Williams also serves as Minister of Music for Thankful Baptist Church in Rome.

Mr. Speaker, I ask my colleagues to join me in recognizing the contributions and accomplishments of this great community and church leader.

HONORING LORRAINE BROWN

**HON. MICHAEL H. MICHAUD**

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 27, 2012*

Mr. MICHAUD. Mr. Speaker, I rise today to recognize Lorraine Brown of Leeds, Maine for her years of work in the shoe industry.

Born in 1933, Lorraine grew up with her three siblings between Auburn and Lewiston. Her father had passed away when she was still very young, and as a result Lorraine was primarily raised by her mother, her grandmother and her aunts. At the age of 15, she and her girlfriends started working in the shoe industry to pay for a set of roller skates. Lorraine met her future husband on those roller skates at the Beacon Roller Rink on Park Street.

Lorraine has spent over 50 years in the shoe industry, stitching for Koss, Hammon, Eastland, LL Bean, Knapp, and most recently, Falcon shoes. In a 2010 interview for the Shoe Industry Oral History Project, Lorraine tells the story of what it was like to work for these companies with a particular focus on the people in her life. Whether it was a childhood friend who never missed a birthday card, a boss who lent her his car because they used to skate together, or the new friendships she forged with her coworkers, it is clear that Lorraine has been a special person to a great many individuals.

Before he passed away, Lorraine's husband told her to keep working so she wouldn't go "downhill". Today, she is still stitching fire boots for Falcon Shoes, a company she has been with since the birth of her great granddaughter. Through good times and bad, Lorraine's kindness and energy have been an inspiration to the whole community.

Mr. Speaker, please join me again in recognizing Lorraine Brown for her years of work in the shoe industry.

HONORING THOMAS L. HARVEY

**HON. LEE TERRY**

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 27, 2012*

Mr. TERRY. Mr. Speaker, it is my pleasure to rise during Black History Month to remember the important contributions that African Americans have made to our nation—and to honor the extraordinary people who continue to help shape my community of Omaha. Today, I would like to pay special tribute to Thomas L. Harvey, one of the thousands of successful and talented African Americans in the Second Congressional District of Nebraska.

Thomas Harvey always wanted to be a positive influence in children's lives. He first did so as a fifth grade elementary school teacher in Monroe, Louisiana; later, in addition to teaching, he took on school football and basketball coaching duties. An Omaha Public Schools Recruiter was encouraged by Teacher Corp's positive evaluation of Thomas, to convince Thomas that his work could be continued in Omaha, where an underserved youth community could truly benefit from his presence.

Mr. Harvey moved to Omaha, and the rest is history. He went on to become the principal of Omaha North High's magnet school. After his time at the magnet school, Mr. Harvey served as a principal at the Omaha area's first magnet middle school, McMillan, and he later returned to North High to serve as the principal of its general student body. Under his guidance and direction, the magnet school programs at these schools quickly went from initial planning stages to implementation and success. These days, Harvey is well known for being a motivational educator who has contributed greatly to his schools' rise to excellence, as well as an inspirational leader in the community.

During Mr. Harvey's tenure as principal of North High School, the school was cited for its excellent academic programs—in both Newsweek and Redbook magazines—and was featured as a premiere high school on numerous television shows, including NBC's Nightly News. Under Mr. Harvey's management, North High was deemed a Magnet School of Excellence in 1997, by the Magnet Schools of America. Mr. Harvey continues to promote excellence in education—currently serving as the Assistant Superintendent of Student and Community Services for Omaha Public Schools.

In addition to his service to students, Mr. Harvey is active in several local, state, and national organizations. He is a board member of Magnet Schools of America, and Communities in Schools of Omaha. He also serves as a member of the Site Visitation Team for the U.S. Department of Secondary Education, and is a member of the Metropolitan Community College Advisory Committee.

I am proud to recognize and honor this highly esteemed and dedicated educator for

his four and a half decades of selfless service to the Omaha Community.

CONGRATULATORY REMARKS FOR  
OBTAINING THE RANK OF EAGLE  
SCOUT—JACK EHRHARDT, JR.

**HON. SANDY ADAMS**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 27, 2012*

Mrs. ADAMS. Mr. Speaker, I would like to congratulate Jack Ehrhardt, Jr., for achieving the rank of Eagle Scout.

Throughout the history of the Boy Scouts of America, the rank of Eagle Scout has only been attained through dedication to concepts such as honor, duty, country and charity. For his Eagle Scout Project Jack labeled over 400 storm drains to educate the community about the potential hazards of pollution to local waterways and wetlands. By applying these concepts to daily life, Jack has proven his true and complete understanding of their meanings, and thereby deserves this honor.

I offer my congratulations on a job well done and best wishes for the future.

MR. MIKE DOLAN

**HON. LOU BARLETTA**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 27, 2012*

Mr. BARLETTA. Mr. Speaker, I rise today to honor Mr. Mike Dolan as the Elk of the Year for 2011–2012 at Hazleton BPO Elks Lodge #200. The Elks Lodge was founded in 1868 and is one of the leading fraternal orders in the United States, with almost 1 million members. Elks invest in their communities through programs that help children grow up healthy and drug-free, through projects that address unmet needs, and through honoring the service and sacrifice of our veterans.

Mr. Dolan has been a member of Hazleton BPO Elks Lodge #200 for 23 years, and he was its exalted ruler in 2008. He graduated in the last class of St. Gabriel's High School and studied electrical engineering at Temple University where he worked on ENIAC—the world's first computer. After joining the Dryfoos Insurance Agency in 1975, he received the coveted Insurance Designation of Chartered Property Casualty Underwriter from the CPCU Society in San Antonio, Texas, in 1987, and he was named the agency's vice president in 1988.

Mr. Dolan has also served as Lecturing Knight, Loyal Knight, and Leading Knight. The Veteran's and Fallen Heroes Monument at the Hazleton lodge originated during Mike's term as exalted ruler. Mike has chaired the Elks Basketball Hoop Shoot Committee for the past 10 years and serves on the Youth, Veterans, Soccer Shoot, Community Activities, Orientation, DARE, House, and Breakfast committees.

Today, Mr. Dolan is very active with community service groups such as the Hazleton Chapter of the American Red Cross. He is a

charter member of the Quinn Foundation, and serves as an usher at Holy Annunciation Parish at St. Gabriel's Church. He is also highly involved in coaching youth sports including Hazle Township Little League for five years, the Greater Hazleton Youth Soccer Association for six years, and the junior high boys' basketball team at Holy Family Academy for 13 years.

Mr. Speaker, Mr. Mike Dolan stands as a pillar of the community in Hazleton, Pennsylvania. I commend him for his years of dedicated service to the Elks Lodge #200, the community, and the country.

HONORING WILT CHAMBERLAIN  
FOR HIS 100-POINT GAME 50  
YEARS AGO

**HON. CHAKA FATTAH**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 27, 2012*

Mr. FATTAH. Mr. Speaker, I call to the attention of my colleagues—and not just those who are basketball fans—that on March 2 in Philadelphia we will celebrate a once-in-the-universe athletic feat that occurred precisely 50 years ago.

On March 2, 1962, in a game between the Philadelphia Warriors and the New York Knicks on a neutral court in Hershey, Pennsylvania, Wilt Chamberlain—perhaps the greatest and most influential player in basketball history—scored exactly 100 points. No one had done it before. No one has done it since. No one ever will.

But for Wilton Norman Chamberlain, born in Philadelphia August 21, 1936, and already a national superstar when he played for Overbrook High School in the early 1950s, astonishing feats on the hardwood were the commonplace. Basketball has been utterly and permanently changed since he first attracted notice on—and above—the courts of West Philly in neighborhoods I have been privileged to represent in Congress.

Even in the quintessential big man's game of basketball, Wilt Chamberlain towered over his on-court contemporaries and truly loomed larger than life. These days, "game changer" has become a cliché. Wilt might as well have authored the term. Not just 7-foot-1 but agile, competitive and creative, he transformed "the city game." He invented and perfected a style that has become another cliché: "above the rim."

The Warriors-Knicks game that historic day was otherwise unremarkable. The Knicks were in last place. The "crowd" in Hershey was 4,124. There was no TV or video, and press coverage was scant. The Warriors' statistician Harvey Pollack was drafted to cover the game for the Philadelphia Inquirer and two wire services—and he's the guy who penciled "100" onto scrap paper for the iconic post-game photo that's gone 'round the world. Wilt said later he had been up all night the night before, and was a bit embarrassed to have taken 63 shots to reach 100, with teammates feeding him the ball and Knicks fouling him at every opportunity.

It seemed like no big deal at the time—Wilt scored at least 70 points five other times, and

that season averaged 50.4 a game. But it's a big deal now in his home town, the subject of ESPN and NBA TV specials, and exalted wherever fans gather. Philadelphia's team, the Sixers, will be hosting Wilt's old team, now the Golden State Warriors, on the night of March 2, with an amazing giveaway—two-inch squares of the long abandoned Hershey Sports Arena oak-wood court where Chamberlain scored those 100 points.

Leading the tributes in Philadelphia is Donald Hunt, the respected and tireless sportswriter for the Philadelphia Tribune, who has led efforts to commemorate the game and have Wilt Chamberlain honored on a U.S. postage stamp. Keep putting up those shots, Donald.

Basketball has come a long way since that evening a half century ago. The American game has gone global, from Belarus to China, from Argentina to Zaire, at the Olympics, on aircraft carriers, against garage walls and on a million playgrounds, wherever a hoop can hang and a roundball sent skyward. Its heroes and innovators are figures of historic and cultural import. Wilt Chamberlain, take a bow.

OUR UNCONSCIONABLE NATIONAL  
DEBT

**HON. MIKE COFFMAN**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 27, 2012*

Mr. COFFMAN of Colorado. Mr. Speaker, on January 26, 1995, when the last attempt at a balanced budget amendment passed the House by a bipartisan vote of 300–132, the national debt was \$4,801,405,175,294.28.

Today, it is \$15,437,987,849,460.91. We've added \$10,636,582,674,166.63 to our debt in 16 years. This is \$10 trillion in debt our nation, our economy, and our children could have avoided with a balanced budget amendment.

A TRIBUTE TO ATTORNEY ED  
HALES

**HON. EDOLPHUS TOWNS**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 27, 2012*

Mr. TOWNS. Mr. Speaker, I rise today to pay tribute to and honor Attorney Ed Hales. A native of Kiskimere, Pennsylvania, Attorney Hales has a long history of mediation and arbitration between unions and other labor groups and their employers. He has also contributed greatly to the administration of higher education and been active in many civic responsibility groups.

It all started when Mr. Hales was a high-schooler at Vandergrift High School, in Vandergrift, Pennsylvania where he was a three letter sports player in football, basketball and baseball for the Vandergrift Lancers. Educationally speaking, it took one of his teachers, Mr. Bernardo to help him realize his talents and potential, thus paving the way for Mr. Hales to attend the historically white "University of Nevada" in Reno on a football scholar-

ship. After the football team was deemphasized, he transferred to Baldwin-Wallace College where he graduated with a bachelor's degree in Government and History. Once seeing what he could accomplish, he went into law school at the University of Wisconsin in Madison where he joined the Alpha Phi Alpha fraternity while earning his law degree. He went on to become a practicing lawyer in Wisconsin and had a long and prodigious career, until his retirement in 2000.

As an attorney, he worked tirelessly to mediate between labor groups and their employers. He filled such roles as Permanent Umpire for the Ford Motor Co. and United Auto Workers, Panel Member for U.S. Steel Corp. and United Steel Workers; Panel Member for U.S. Postal Service and National Association of Letter Carriers; and Panel Member for the City of Los Angeles and Los Angeles Public Employees Union.

In addition to his work as an arbitrator and mediator, he was affiliated with many civic and educational organizations in various capacities. Attorney Hales served as the Chairman of the Board of Regents at the University of Wisconsin in Madison, the Director of the Association of Governing Boards of Universities and Colleges in Washington, D.C. and the Board of Attorneys Professional Responsibility in Madison, WI as well as with several other esteemed organizations.

Mr. Speaker, I would like to recognize Attorney Ed Hales for his lifelong contributions to higher education, civic responsibility, and his work to resolve conflict and mediate difficult issues within the labor industry.

Mr. Speaker, I urge my colleagues to join me in paying tribute to Attorney Ed Hales.

HONORING DR. AND MRS. DICK  
C.E. DAVIS

**HON. LEE TERRY**

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 27, 2012*

Mr. TERRY. Mr. Speaker, it is my pleasure to rise during Black History Month—to acknowledge the important contributions that African-Americans have made, and continue to make to American society. Today, I honor some of the extraordinary citizens who have shaped Nebraska's Second District, and our great nation. Let's pay special tribute to Dr. and Mrs. Dick C.E. Davis, two highly respected and successful members of my community of Omaha.

This couple has long been recognized as dedicated supporters of projects and causes that improve the lives of Nebraskans—particularly those hit hardest by poverty and the declining economic heft of our minority communities. Late last year, the couple celebrated the 40th anniversary of Davis Companies: a family business that has long been recognized as a pillar in Omaha's business community, recently being acknowledged as one of the ten fastest-growing Omaha businesses.

Rather than resting on the success of Davis Companies, the Davis family has turned a laser-like focus to restoring a vibrant economic renaissance in Omaha's minority sectors.

In 1989, the Davis family pioneered the State's first public/private funding allocated to addressing the underrepresentation of all minority students—in every sector of public post-secondary education. Since its inception, the Davis-Chambers scholarship fund has grown to a more than 3 million dollar endowment. It has fully funded undergraduate educations for more than 300 of Nebraska's "best and brightest" minority students.

Dr. Davis also helped acquire and disperse more than \$385 thousand dollars in grants—to test a groundbreaking entrepreneurship education program in Omaha's public schools.

On the business front, the couple has spearheaded a private capital fund to provide seed money for minority-owned small businesses. The program identifies promising small businesses, coaches them through growth, provides initial start-up funds, and stands behind them as they grow into their own creditworthiness and financial maturity. More than 86 businesses have gone through the process, and in the initial run, reported a default rate of less than 3 percent—an excellent rate, considering that the national trend shows over half of these type of loans failing.

These are just a sample of the myriad achievements and selfless actions in education, community service, and wealth-building endeavors that the couple has undertaken to leave an indelible mark on the economy and future of my hometown. I am proud to recognize and honor Dr. Dick C.E. Davis and Mrs. Sharon Davis for their service to our community, and the nation.

#### RECOGNIZING THE MT. VIEW- EDGEWOOD WATER COMPANY

#### HON. ADAM SMITH

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 27, 2012*

Mr. SMITH of Washington. Mr. Speaker, I rise to honor the Mt. View-Edgewood Water Company, of Edgewood, Washington and its General Manager, Marc Marcantonio, for winning the gold medal at the National Great American Water Taste Test and being judged the best tasting water in the United States.

Each year, the National Rural Water Association sponsors the Great American Water Taste Test to honor small community drinking water supplies from across the United States who provide the public with safe, clean, and affordable water. The goal of the competition is to judge great tasting water that comes directly from the tap.

Prior to the national contest, water providers participate in state events. The Mt. View-Edgewood Water Company competed against 19 other water samples from all over the State of Washington to be named the Washington State winner at the Evergreen Rural Water of Washington Fall Conference and Tradeshow. The company was honored for the water's clarity, bouquet, and taste.

The Mt. View-Edgewood Water Company has now earned itself the honor of winning the gold medal at the National competition against 40 other water companies. Judges tasted unidentified samples of water and ranked the

samples based on clarity, bouquet, and taste before naming the Mt. View-Edgewood Water Company the 2012 Winner of the Great American Water Taste Test.

Mr. Speaker, it is with great pleasure that I recognize the Mt. View-Edgewood Water Company and Marc Marcantonio for winning this national competition and providing customers with the best tasting water in the United States.

#### IN RECOGNITION OF TIM HOUSTON

#### HON. PHIL GINGREY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 27, 2012*

Mr. GINGREY of Georgia. Mr. Speaker, in celebration of Black History Month, I rise today to recognize Tim Houston, an African-American from Georgia's 11th Congressional District who has had a major impact on his community.

As a native of Acworth and pastor of Joshua Gospel Tabernacle, Tim has dedicated his life to helping others.

In his outreach with the Acworth Community Revitalization program, Tim works to improve his local communities and make Georgia a better place for families to thrive and prosper. In his free time, Tim supports the Acworth Football and Baseball Association, as well as the local after-school enrichment programs.

Mr. Speaker, I ask my colleagues to join me in recognizing Tim Houston's contributions to his community and church.

#### HONORING THE TOWN OF PHILLIPS

#### HON. MICHAEL H. MICHAUD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 27, 2012*

Mr. MICHAUD. Mr. Speaker, I rise today to celebrate the bicentennial of the town Phillips, Maine. Two hundred years ago, local families petitioned the General Court of the Commonwealth of Massachusetts for the right to become a township and determine their future. Phillips was incorporated on February 25, 1812.

At the time of its incorporation, Phillips was home to more than 50 families. With all the advantages the Sandy River and its valley offered, the town quickly grew and the people of Phillips established a community which flourished. Among other things, Phillips is especially known as being the birthplace of Cornelia "Fly Rod" Crosby, Maine's first registered guide, as well as being the headquarters and hub of the Sandy River and Rangeley Lakes Railroad.

Today, the more than 1,000 proud residents of Phillips celebrate the bicentennial of their town filled with the same spirit and sense of common purpose that filled the founding families as they petitioned to have their community recognized. These individuals embody the hardworking people of Maine who throughout our history have embraced the challenges and opportunities of living in our state.

It is an honor and a privilege to represent the people of Phillips, and I am pleased to have the opportunity to help this community celebrate its 200th anniversary.

Mr. Speaker, please join me in wishing all the citizens of Phillips well on this joyous occasion.

#### CONGRATULATING COLONEL DAVID CHESSER FOR HIS YEARS OF SERVICE AT FORT MCCOY, WISCONSIN

#### HON. RON KIND

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 27, 2012*

Mr. KIND. Mr. Speaker, I rise today to honor the distinguished service of Colonel David E. Chesser, whose tenure as Garrison Commander at Fort McCoy, Wisconsin, concludes February 29, 2012. Colonel Chesser assumed his duties as Garrison Commander on April 3, 2008.

Colonel Chesser's 30 years of dedicated service in the U.S. Army is noteworthy in every respect. He is a graduate of the Infantry Officer Basic Course, U.S. Army Airborne School, Engineer Officer Advanced Course, Combined Arms and Services Staff School, Command and General Staff Officer Course, the Army Management Staff College Sustaining Base Leadership & Management Course, and the Army War College.

Colonel Chesser has committed his life to serving our country and has received many deserving awards and decorations, including the Bronze Star, Meritorious Service Medal with seven Oak Leaf Clusters, Army Commendation Medal with two Oak Leaf Clusters, Army Achievement Medal with Oak Leaf Cluster, the Bronze Order of the de Fleury Medal, the Presidents Hundred Tab, the Distinguished Rifleman Badge, the Combat Action Badge, and the Meritorious Unit Citation, as well as various campaign and service medals.

Under Colonel Chesser's outstanding leadership, Fort McCoy became one of the most capable and desirable Reserve Component training installations in the Army, providing stellar base operations support to over 120,000 Soldiers annually. During his tenure, Colonel Chesser launched and led one of the most dramatic community transformations in the installation's history, propelling Fort McCoy to win the FY09 Army Communities of Excellence competition and again in FY10; a direct reflection of his leadership, strategic planning and thinking. He took an installation that had one of the most difficult records for food service and within one year improved it through sound management and leadership technique which led to the Garrison's Connelly Food Service Awards in 2009, 2010 and 2011. Fort McCoy was also recognized as one of the Army's best in maintenance of military equipment, having won the Army Maintenance of Excellence Award in 2009 and achieving first runner-up in 2010. Colonel Chesser transformed an underperforming mobilization training center into one recognized as one of the Army's best and most effective of the seven active Army Power Projection Platforms.

It has been an honor for me to serve as U.S. Representative for Wisconsin's Third Congressional District during Colonel Chesser's tenure at Fort McCoy. I know Colonel Chesser's leadership will be greatly missed at the base and surrounding communities, but I am thankful for his leadership and contributions to ensuring that Fort McCoy remains a shining star in the nation's military training infrastructure.

On behalf of my constituents in Wisconsin and a grateful nation, I would like to thank and commend Colonel David Chesser for his years of dedicated service in the U.S. Army and in particular as Garrison Commander at Fort McCoy.

#### RECOGNIZING ROBERT FOY

#### HON. WALLY HERGER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 27, 2012*

Mr. HERGER. Mr. Speaker, I rise today to recognize the work and accomplishments of Robert Foy, as he prepares to retire this year as Chairman of the California Water Service Group's Board. The California Water Service Group (CWSG) provides water utility services to over two million people in five states, including the cities of Chico, Marysville and Wilows, which are located in the Northern California congressional district I represent.

Mr. Foy is a fourth-generation Californian and was born in San Francisco. He attended San Jose University and served our nation in the U.S. Army. Following the Army he worked for Pacific Storage and Moving where he eventually took over as head. On January 1, 1996, he was named as Chairman of the CWSG where he worked to streamline the utility's operations and improve customer service. One project was the construction and consolidation of the CWSG's customer and operations service center in Chico, which I was able to tour upon its completion in 2002. The utility's operations were previously spread among multiple facilities. The consolidation benefited the California Water Service Group's customers in Chico by allowing them to go to one central location for resolving their service issues.

Mr. Foy also served as Chairman of the Government Relations Committee for the National Association of Water Companies (NAWC) for four years. In the NAWC's Annual Report to Congress, the organization presents their comments on the numerous issues facing private water utilities across the country.

Mr. Foy continues to be an extraordinary individual who has made significant and lasting contributions to our community through his exemplary leadership and service as Chairman of the California Water Service Group's Board.

I am extremely grateful for Bob Foy's service to our nation and community-at-large. I am pleased to celebrate and honor the accomplishments of this impressive American as he retires this year.

#### HONORING JANET BALL FOR 30 YEARS OF VOLUNTEER SERVICE

#### HON. GERALD E. CONNOLLY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 27, 2012*

Mr. CONNOLLY of Virginia. Mr. Speaker, I wish to include an article in the Fairfax Times from May 6, 2011, recognizing the tremendous service Janet Ball has given to the Fairfax County community for 30 years. I have known Janet for years, and have seen her dedication to helping others firsthand. She is an unbelievable example of the value of volunteerism.

GREENSPRING RESIDENT HONORED FOR 30 YEARS OF VOLUNTEER SERVICE  
(By Kali Shumitz, Staff Writer)

During her 29-year career working for the Department of Defense, Janet Ball said she never did much to give back to her community.

So, soon after retiring, she responded to an ad in the Golden Gazette that said the Fairfax County Juvenile and Domestic Relations Court was looking for volunteers.

Now 90, Ball is still going strong as a volunteer office assistant for the court system. She also volunteers to sort mail at the Greenspring Retirement Village in Springfield, where she now resides, and helps out at her church.

"I'm one that likes to keep busy," she said. "If I had to sit around doing nothing, I would be going to St. Elizabeth's," referring to the psychiatric hospital in Washington, D.C.

Last month, the court staff honored her for 30 years of volunteer service.

Her supervisor at the courthouse, Loida Gibbs, described Ball as "the admin assistant of the century."

Ball also used to volunteer to do office work for U.S. Rep. Gerald Connolly (D-Dist. 11) when he represented the Providence District on the Fairfax County Board of Supervisors.

After he was elected board chairman, she asked him, "Do I get a promotion?" Indeed, she continued to volunteer for Connolly doing office work until he was elected to Congress.

When Ball began volunteering for the court, there were only two judges and the juvenile court operated out of a small building behind the historic county courthouse building. The Juvenile and Domestic Relations Court now has eight judges and recently moved into the remodeled main court building.

Her first volunteer job was collecting contact information and other details from families as they exited the courtroom, a task designed to save probation officers time.

For the past decade, Ball has volunteered for the Volunteer Interpreter Program, logging the hours and types of cases for which interpreters are requested, and producing a monthly report on volunteer contributions.

"In the courthouse, there is more work than even staff can do," said Gibbs, coordinator of the Volunteer Interpreter Program. "Without [volunteers], it would get done, but it would take double the time."

Ball said the mostly Spanish-speaking volunteers tease her sometimes because she is the only person involved with the program who is not bilingual. But Gibbs sees that as an asset, because her skilled volunteer interpreters often get pulled to other tasks.

"I have told her she's not allowed to learn any other language," Gibbs joked.

When Ball had double bypass surgery about five years ago, Gibbs recalled, court staff and volunteers visited her at the hospital every day. They also threw a big surprise party for her when she turned 90.

"It's my family away from home," Ball said.

TRIBUTE TO DR. WILLIAM F. OWEN, JR., PRESIDENT AND CEO, UMDNJ

#### HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 27, 2012*

Mr. PAYNE. Mr. Speaker, I rise today to offer my best wishes to Dr. William F. Owen as he concludes his tenure at the University of Medicine and Dentistry of New Jersey. It is my distinct pleasure to thank Dr. Owen for all he has done for the students, staff and the Greater Newark community for the past four years in his capacity as President and CEO of UMDNJ. I am proud to add my congratulations to that of his family, friends and colleagues as they celebrate in honor of a man who has been an integral part of the changing landscape of Newark. For all the leadership he has shown and the contributions he has made, Dr. Owen is a worthy recipient of the accolades he received on February 22, 2012 during a reception held in his honor.

Fortunately, my office has always been able to collaborate with Dr. Owen and his staff to bring informative programs to residents of the 10th Congressional District at various events including the bi-annual Health and Wellness Expo hosted by the Congressional Black Caucus Foundation. Dr. Owen's involvement was instrumental in making the 2011 Expo a success. Dr. Owen also guided UMDNJ through a tumultuous period of instability. His leadership was key in bringing the institution back to a prominent position within the Newark Collegiate and Healthcare Community.

Although Dr. Owen was very successful during his tenure at UMDNJ, there was one partner who was an invaluable assistant, his wife Alice Owen. Through their combined efforts, they were able to work with the UMDNJ Hospital Auxiliary to help raise funds for several new rooms. These additions helped patients and families have a more pleasant and comfortable experience during their time at the hospital. The greater Newark community as well as the UMDNJ family will truly miss this wonderful team.

Mr. Speaker, I know my fellow members of the House of Representatives agree that Dr. William F. Owen has been an integral part of UMDNJ. He has had a stellar career here in Newark and we wish him well in his future endeavors.

#### SUMGAIT POGROMS

#### HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 27, 2012*

Mr. BERMAN. Mr. Speaker, two of the least noticed and most dangerous trends of recent



years have been Azerbaijan's rapidly growing military budget and its increasing bellicosity toward Armenian-populated Nagorno-Karabakh. Last June, during Azerbaijan's largest military parade since the Soviet era, President Aliyev vowed to avenge the deaths of Azerbaijani soldiers killed during the 1988–1994 Nagorno-Karabakh war and declared that “the war isn't over yet; only the first stage is over.” He then boasted that Azerbaijan's defense budget is twenty times larger than it was just eight years previously and larger, in fact, than the entire budget of Armenia.

Mr. Speaker, it is particularly appropriate that today, February 27—the anniversary of the 1988 Azerbaijani pogrom directed against its own Armenian population in Sumgait—that we commit ourselves to stopping these ugly threats. Armenian history is drenched in tragedy. Everybody knows about the Armenian Genocide, even if, sadly, only a minority of my colleagues has been willing to recognize it officially. But fewer know about the hundreds of thousands of Armenians murdered under the Ottoman regime in the nineteenth century. And fewer still, it seems, know about the pogroms and ethnic cleansing that Armenians living in Azerbaijan suffered at the hands of Azerbaijanis as the Soviet Union was breaking up.

The Sumgait pogrom that we recall today lasted three days and resulted in the murder of hundreds of Armenian civilians. Other anti-Armenian pogroms took place in Kirovobad November 21–27, 1988, and in the Azerbaijani capital Baku January 13–19, 1990. During this era, there were media reports of Armenians being hunted down and killed in their homes. The systematic pattern of all these attacks suggested that something even more sinister than a mob uprising was at work.

Mr. Speaker, Azerbaijan seems bent on destroying every last vestige of the Armenian presence in Azerbaijan. For example, there is videotaped evidence of the Azerbaijani government's December 2005 systematic desecration and destruction of an ancient Armenian cemetery, including thousands of intricately-carved grave-stones in Djulfa, in a section of Azerbaijan near the Turkish border. I believe our State Department still has not adequately examined this incident, and I call on it to do so.

Today is a solemn day as we recall this history of murder, displacement, and destruction, but it is this very history that underscores the importance of self-determination for Nagorno-Karabakh. I call on the Administration to press the Azerbaijani government to cease its bellicose rhetoric and to stop its headlong rush to war now and to adhere strictly to the principled basis of the Minsk Process, namely, the search for a peaceful, negotiated solution for Nagorno-Karabakh. I likewise call on the Administration to redouble its efforts to achieve a solution for Nagorno-Karabakh. And, on this day when we once again reflect on the brutality Armenians have suffered, and endured, for centuries, I once again call on the Administration simply to acknowledge history and to recognize the Armenian Genocide.

# RECOGNIZING PAUL JOHN SANDOVAL

## HON. DIANA DeGETTE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, February 27, 2012

Ms. DEGETTE. Mr. Speaker, I would like to recognize the wonderful life and exceptional accomplishments of a remarkable man in the 1st Congressional District of Colorado. It is both fitting and proper that we recognize this distinguished citizen for his impressive record of civic leadership and invaluable service. It is to commend this eminent citizen that I rise to honor Senator Paul John Sandoval.

Paul John Sandoval says that he is, “just a tamale maker.” And indeed, he is a wonderful tamale maker. I have had the opportunity to bring some of those fine tamales to this fair city. But he is much more than just a tamale maker. He has worn so many other hats in his distinguished life: salesman, entrepreneur, politician, elected official, family man, confidant and a person of the utmost integrity. Paul believes, “a person should be true to his word and look after the people.” Looking after people is something that Paul has been doing his entire life.

Paul John Sandoval was born on June 29, 1944, to Jerry and Camilla Sandoval, the ninth of 11 children. Born in North Denver, he learned early a strong work ethic. His first enterprise was selling newspapers and his most notable customer was President Eisenhower. Paul, having tracked down the President to get his famous sale, was rewarded with a 5 dollar bill from the President himself. Never one to miss an additional opportunity, Paul asked the President to sign the bill, which he did. Then he promptly sold that five dollar bill for 10 dollars, doubling his money. Paul graduated from high school in 1962 and got a scholarship to Louisiana State University—New Orleans, where he studied Russian, hoping to go into the Foreign Service. He returned to Colorado a year later and earned his degree in international affairs in 1968. Although he never served in the Foreign Service, his life has been dedicated to looking after the people. Among other endeavors, Paul fought for fair housing as part of the federal War on Poverty and with the Chicano Education Project, which pushed for voter registration and bilingual education. Paul's first language growing up was Spanish.

Throughout his whole life, Paul has made many friends and they have become part of his network. As one person put it, “Paul was Facebook before Facebook existed.” Paul was elected to the Colorado State Senate and the Denver School Board, making more friends and connections along the way. Paul's negotiation skills are legendary. Talk to anyone who has worked with him and you will be told stories of Paul's ability to build coalitions and get things done. He is the go-to person for personal and political advice. He has been a mentor to Senators, Governors, Congress people and our own current Secretary of the Interior, Ken Salazar. But his advice is not just to famous or high-elected officials; it is warmly available to anyone who asks.

He is also involved in quiet philanthropy. He has personally been responsible for numerous

scholarships for students at local high schools as well as supporting many school events. And he is a family man; he is the one who is there for his 5 children and his brothers and sisters, never giving them less than he gives to his business and his community.

Politics and education are a significant part of his make-up—and that tamale shop. When you talk to Paul, you talk about history, education and politics. In that tamale shop, where everyone gathers to eat, talk and get advice, you can count on getting two things: wonderful tamales and straight-forward advice from a man who will tell you exactly what he thinks, a man who cares about people, a man who is true to his word.

The contributions of Senator Paul Sandoval are numerous, and on behalf of the citizens of the 1st Congressional District of Colorado, I wish to express our gratitude. His service and accomplishments command our respect and admiration. Please join me in paying tribute to Senator Paul Sandoval, a distinguished citizen.

# IN RECOGNITION OF DR. KENNETH L. HALL

## HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, February 27, 2012

Mr. SESSIONS. Mr. Speaker, I rise today to recognize Dr. Kenneth L. Hall as his family, friends, and colleagues gather to celebrate his retirement and 19 years of dedicated service at Buckner International.

After earning his bachelor's degree from the University of Texas at Tyler, Dr. Hall attended Southwestern Baptist Theological Seminary and graduated with Master of Divinity and Doctor of Ministry degrees. Prior to his leadership role at Buckner, Dr. Hall served as Pastor for four churches in Texas. In 1994, he joined Buckner as President and Chief Executive Officer.

Founded in 1879, Buckner International has devoted itself to helping orphans, vulnerable children, and their families. As a global Christian ministry, they annually serve over 400,000 people in 69 countries. They offer a variety of family, empowerment, and community programs, as well as retirement services, and humanitarian aid. Under Dr. Hall's leadership, Buckner extended its reach outside of the borders of Texas for the first time. In 1996, Buckner launched its international ministry, supporting children living in orphanages in other countries. Aside from his duties at Buckner, Dr. Hall has also devoted himself to serving his local community. He has served as a Board Member for numerous organizations, including Children's Medical Center, the Alliance for Children and Families, and Baylor Specialty Health Centers. Dr. Hall's legacy reflects his selfless service, enduring faith, and commitment to caring for those in need.

Mr. Speaker, I ask my esteemed colleagues to join me in congratulating Dr. Hall on his retirement and 19 years of service to Buckner International. I wish him all the best in his future endeavors.

RECOGNIZING JEFFREY PRIBBLE  
AS THE 2013 ESCAMBIA COUNTY,  
FLORIDA TEACHER OF THE  
YEAR

**HON. JEFF MILLER**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 27, 2012*

Mr. MILLER of Florida. Mr. Speaker, I rise today to recognize Mr. Jeffrey Pribble as the 2013 Escambia County, Florida Teacher of the Year. Mediocre teachers tell, good teachers explain, excellent teachers demonstrate, and the best teachers inspire. As portrayed by today's award and his students' achievements, Mr. Pribble is someone who has been an inspiration to his students, driving them to realize their potential and achieve excellence, and I am proud to recognize the accomplishments that place him among the best of Northwest Florida.

Mr. Pribble has been an educator for 16 years and currently serves his students, parents, and community as the AP English Literature and Composition, Dual Enrollment English, and Multimedia Communications Instructor at Escambia High School. During his tenure at EHS, Mr. Pribble has excelled in teaching students from diverse backgrounds, while also helping to facilitate the publication of the school's yearbook and newspaper. As someone who has the uncanny ability to combine a force of intellect with superb interpersonal, problem solving, and leadership skills, he has exceeded expectations.

With a vast list of accomplishments, it is hard to highlight them all. In the classroom, he increased 2011 Florida Comprehensive Assessment Test (FCAT) scores by 79 percent with his standardized classes and 67 percent with his advanced classes. Outside of the classroom, his yearbook and newspaper staff has received numerous accolades. The National Journalism Education Association awarded Mr. Pribble and his multimedia students 18 National Edition and Featured Video Awards for their work. Mr. Pribble and his students have also produced and screened films. Last May, he organized a formal screening of one of his class's student films, *Never Miss a Beat*, where over 300 students, parents, teachers, and community members attended.

On a personal level, Mr. Pribble does not believe in settling, and he strives to constantly evolve as a teacher, mentor, and motivator. While some are defensive to constructive criticism, Mr. Pribble welcomes it as a way to improve his efficacy. Likewise, while some teachers are unwilling to take academic risks, Mr. Pribble attributes some of his greatest successes to the use of a novel approach. He incorporates innovative teaching practices such as the use of technology and multimedia tools to supplement daily lessons. Mr. Pribble's ambition and willingness to accept challenges motivates his students to strive for excellence in their academic life.

Mr. Pribble's greatness lies well beyond his title as Escambia County Teacher of the Year—it lies in the hearts and minds of those who have been deeply affected. Teachers such as Mr. Pribble leave a perpetual impact on their schools, and due to Mr. Pribble's am-

bition and success, Escambia High School is initiating a multimedia academy for 2012–2013. The multimedia academy will help ensure that his legacy will continue to be felt by Escambia High students for years to come. Great teachers are an invaluable asset to our nation's students, and to be honored as Teacher of the Year is a reflection of Mr. Pribble's inexorable dedication to the students of Escambia County. He has proven himself to be among the most exceptional teachers in our nation.

Mr. Speaker, on behalf of the United States Congress, I take great pride in recognizing Jeffrey Pribble's enthusiasm for teaching, talent for inspiring, and commitment to excellence. My wife Vicki joins me in congratulating Mr. Pribble, and we wish him all the best as he continues to be an exemplary role model to others who follow in his footsteps.

TRIBUTE TO THE NATIONAL ASSO-  
CIATION OF REAL ESTATE BRO-  
KERS (NAREB) ON THEIR 65TH  
ANNUAL MID-WINTER CON-  
FERENCE

**HON. FREDERICA S. WILSON**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 27, 2012*

Ms. WILSON of Florida. Mr. Speaker, I rise today to pay tribute to the National Association of Real Estate Brokers (NAREB) on their 65th Annual Mid-Winter Conference.

The National Association of Real Estate Brokers was formed in 1947 by twelve pioneer African American real estate professionals from seven states across the country: Nanie Black, Detroit, Michigan; Macco Crutcher, Detroit, Michigan; Carleton Gains, Detroit, Michigan; W.D. Morrison, Jr., Detroit, Michigan; O.B. Cobbins, Jackson, Mississippi; W.H. Hollins, Birmingham, Alabama; George W. Powell, Jacksonville, Florida; J.R. Taylor, Miami, Florida; F. Henry Williams, Jacksonville, Florida; Horace Sudduth, Cincinnati, Ohio; J.W. Sanford, Oklahoma City, Oklahoma; A. Maceo Smith, Dallas, Texas. NAREB was formed out of a need to secure the right to equal housing opportunities regardless of race, creed, or color.

The goal of NAREB is to bring together the Nation's minority professionals in the real estate industry to promote the meaningful exchange of ideas about their business and how best to serve the community. NAREB strives to create an environment where creativity flourishes in both the workplace and the marketplace.

NAREB is the oldest minority trade association in America. Since 1948, when the first Conference was held in Atlantic City, New Jersey, NAREB has continued to voice their opinions and take stands against inequity and injustice in housing.

This year's conference theme, "A New Era of Leadership" signifies NAREB's commitment to creating a better tomorrow for the real estate industry and for our economy as a whole. It is exciting to know that this year's conference will be held in sunny South Florida. I thank them for their advocacy over the years and wish NAREB a successful conference.

RECOGNIZING PAUL KREBBS

**HON. NITA M. LOWEY**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 27, 2012*

Mrs. LOWEY. Mr. Speaker, I rise today to recognize Mr. Paul Krebs for a life's work in Catholic education that has had a significant impact on countless students, families, and fellow educators. On Wednesday, January 25, 2012, Mr. Krebs was honored by the White House as a "Champion of Change," and today it is our privilege to echo this commendation.

For nine years, Paul Krebs has served his community with distinction as the President of All Hallows High School in the Bronx, New York. In his capacity as President, Mr. Krebs has also served as the institution's CEO and has worked tirelessly to maintain the standards of excellence that have come to be associated with All Hallows High School. All Hallows routinely places its entire graduating class, which is 98% students of color, into four-year colleges.

During Mr. Krebs's tenure at All Hallows, the school's academic standards and Catholic identity have been maintained while enrollment has steadily increased. Meanwhile, the school has become financially stable and self-sufficient.

Beyond All Hallows, Mr. Krebs has contributed his passion for education by founding the Office of Educational Development at the Archdiocese of New York. As the White House declared last month, champions like Mr. Krebs, "inspire all of us to build up our communities and our Nation's young people."

Mr. Speaker, I am proud to recognize my constituent, Paul Krebs, for his remarkable service to All Hallows High School and his lifelong commitment to enriching the lives of others through education and self-betterment. I urge my colleagues to join me in honoring his accomplishments and thanking him for his tremendous contributions.

PAYING TRIBUTE TO THE LIFE OF  
UNA MULZAC

**HON. CHARLES B. RANGEL**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 27, 2012*

Mr. RANGEL. Mr. Speaker, it is with great sadness that I rise to honor the life of Una Mulzac, a small business owner and political activist from my district. Una was a civil rights leader and an active educator in her community.

Born in Baltimore on April 19, 1923, Una inherited a fighting spirit from her father, Hugh Mulzac, who became the first African American to command a ship in the United States merchant marines. In 1961, Hugh's political beliefs were investigated by the House Committee on Un-American Activities.

After graduating from Girls High School in Brooklyn, Una worked as a secretary at Ransom House and developed a strong passion for publishing. She combined a love of books with a commitment to political activism, and

moved to Guyana in 1963 to open a bookstore and to help with the revolution. While in her store one day, Una was severely wounded when a package containing a bomb exploded, killing a colleague.

Una eventually returned to New York, and in 1967 opened Liberation Bookstore in Harlem to promote causes aimed at ending South African apartheid. Her establishment quickly became a Harlem landmark, and provided the community with a vast collection of literature. For four decades, Una was an inspiration to the people of Harlem and her bookstore became the destination for generations of people interested in race. On one side of the door to her bookstore, a sign stated, "If you don't know, learn." On the other side: "If you know, teach."

Mr. Speaker, I ask that you and my colleagues join me in paying tribute to the life of this very honorable woman. She is the definition of a true Harlemitte, and her presence will be missed in my district.

#### RECOGNIZING HARDYSTON TOWNSHIP, NEW JERSEY

**HON. SCOTT GARRETT**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 27, 2012*

Mr. GARRETT. Mr. Speaker, today I recognize Hardyston Township, New Jersey, in beautiful Sussex County, upon the momentous occasion of the Township's 250th anniversary.

In late October, 1761, a ship traveling from Europe ended its trans-Atlantic voyage in New York. On that ship was Josiah Hardy, eldest son of Sir Charles Hardy and his wife, Elizabeth Burchett, and brother to five siblings. Just a few months earlier, Josiah had been "appointed Captain General and Governor in Chief of His Majesty's Province of New Jersey. . . ." Hardy would hold this position for fewer than two years, yielding his title to William Franklin in February 1763 and setting sail for England in September of that same year. While Governor Hardy's tenure was brief, it saw the formation by Royal Charter of Hardyston Township in 1762.

Today, little is known of Josiah Hardy, but his name and legacy live on in the Township of Hardyston.

Throughout its history, Hardyston has played a central role not only in the story of Sussex County but also in the story of America. During the Revolutionary War, General George Washington and the Continental Army camped in Hardyston. And in the Township's earliest days, the work of farmers, millers, and blacksmiths signaled the building of the nascent nation.

Today, Hardyston Township residents contribute in areas ranging from finance, education, and construction to health care, entertainment, and retail services, to name just a few. The Township offers diverse recreational opportunities and is home to scenes of pristine beauty that undoubtedly mirror the beauty of Hardyston's earliest days. Additionally, Hardyston holds the distinction of being the discovery place of Hardystonite, a fluorescent mineral discovered in 1899 in the Franklin Furnace Mine.

Two hundred fifty years after its formation, Hardyston Township continues to be a vibrant community that invites residents and visitors alike to enjoy all that it offers and to become a part of its ongoing history.

As Hardyston Township Celebrates its 250th Anniversary, I offer my congratulations and my heartfelt wish for a future for Hardyston Township that is as bright as—and even brighter than—its rich and notable past.

#### HONORING THE LIFE OF NORTH- WEST FLORIDA'S BELOVED JO- SEPH CRONA

**HON. JEFF MILLER**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 27, 2012*

Mr. MILLER of Florida. Mr. Speaker, on behalf of the United States Congress it is an honor for me to rise today to recognize the life of Northwest Florida's beloved Joseph Crona.

Mr. Crona was a native of Pensacola, Florida and a longtime leader in the Northwest Florida community. He was a true patriot. After graduating from Pensacola High School, Mr. Crona answered the call of duty, serving with honor and distinction during World War II in the European Theater. When he returned home, Mr. Crona attended Florida State University, where he played offense, defense, and special teams on Florida State University's inaugural football team. He continued to follow his beloved Seminoles, taking in games around the country, and he was honored by the University as part of a special ceremony recognizing the Fiftieth Anniversary of the school's first football team.

After graduating from FSU with a degree in economics, Mr. Crona moved back to his hometown where he translated his success in the classroom and on the football field to the boardroom. He began working in the Trust Department at Citizens and Peoples National Bank, rising to become a Trust Officer. In 1971, he joined Commercial National Bank as Executive Vice-President, and shortly thereafter, Mr. Crona became President of Commercial National Bank. He went on to serve as President of Charter National, Century National and finally Sun Bank, where he worked as President/CEO until his retirement in 1994.

Mr. Crona was an avid sportsman, and he pursued his passion for the outdoors through years hunting and fishing. As an active member of the Pensacola Sports Association, Mr. Crona helped to bring world class sporting events to Northwest Florida. He served as President and Tournament Director of the Pensacola Open, which saw world class PGA golfers, including legendary winners such as Arnold Palmer, Gary Player and Pensacola's own Jerry Pate, compete at the highest level in front of Northwest Florida's passionate fans.

In addition to his tireless efforts promoting sports throughout the area, Mr. Crona was an active member of Northwest Florida's civic society. He was a member of the Pensacola Chamber of Commerce, the United Way, Navy League and numerous Mardi Gras organizations. He served as President of the Fiesta of Five Flags, which commemorates Pensacola's

founding as the first European settlement in America, and in 1989 he wore the mask of Don Tristan De Luna, as the ceremonial head of the festivities.

As a patriot and a veteran, Mr. Crona also recognized the importance of honoring and thanking the brave men and women who sacrifice so much so that we may be free, and he was a part of a small group who secured financing and oversaw the construction of the World War II Memorial at Veterans Memorial Park in Pensacola.

Mr. Crona is survived by Diane, his wife of 57 years; his daughter, Susan Smart; as well as two grandchildren, Joseph and Sydney Smart. To some Joseph Crona will be remembered as a patriot and a leader in the Northwest Florida community. To others he will be remembered as a lifelong Florida State Seminole. To his friends and family, he will most fondly be remembered as a loving and devoted family man. His tireless work and immense contributions to his community cannot be overstated. Northwest Florida has truly suffered a great loss with his passing.

Mr. Speaker, on behalf of the United States Congress, it gives me great pride to honor the life of Joseph Crona. My wife Vicki joins me in extending our most sincere condolences to the entire Crona family.

#### RECOGNIZING JEANNE MILSTEIN

**HON. JOE COURTNEY**

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 27, 2012*

Mr. COURTNEY. Mr. Speaker, I rise today to recognize the retirement of Connecticut's Child Advocate, Jeanne Milstein, and celebrate her years of service to the State and, more importantly, to Connecticut's children and their families.

For over a decade, Jeanne has headed the Office of the Child Advocate (OCA), which oversees the protection and care of the State's most vulnerable children. Under Jeanne's leadership, the OCA has reviewed and acted on thousands of requests for assistance ranging from safety and health to education. Most recently, the OCA participated in the Children and Recession Task Force, leading an effort on transitioning young adults leaving the care of the state Department of Children and Families. OCA has also led oversight on children in congregate care settings and transitional supports for confined youth. Beyond overseeing the care and protection of Connecticut's children, Jeanne and the OCA have been fierce watchdogs of taxpayer resources.

Jeanne's hard work and dedication have been an invaluable resource for Connecticut and should serve as an example for all those in public service. Again, I ask that my colleagues join me in applauding Jeanne's service and recognizing her retirement.

CONGRATULATING SERGEANT  
FIRST CLASS CHRISTINE K.  
TULLOCH ON HER RETIREMENT  
FROM THE UNITED STATES  
ARMY

### HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 27, 2012*

Mr. HASTINGS of Florida. Mr. Speaker, I rise today and ask my colleagues to join me in congratulating SFC Christine K. Tulloch for her retirement from the United States Army after 22 years of devoted service. She has also been nominated for the Legion of Merit Award to commemorate her faithful and courageous service. I am honored to recognize SFC Tulloch today for these accomplishments and also take a moment to acknowledge her birthday she recently celebrated on February 17th.

During her distinguished career, SFC Tulloch displayed thrift and foresight in her position as a Movement Supervisor conducting rail, airport, and sea operations. This position required SFC Tulloch to oversee supply chains in order to facilitate the movement of goods and services across significant distances. This work is a vital component of any successful military operation. She performed this duty from 2001 to 2002 in Fort Eustis, Virginia; from 2002 to 2004 in Bamberg, Germany; and from 2004–2005 in Tallahassee, Florida, where she also served as Training NCO.

Throughout her career, SFC Tulloch demonstrated an admiral commitment to the efficiency and effectiveness of military activities. For example, in December 2002 when her team was deployed as an advanced party in support of Operation Iraqi Freedom, she administered the safe receipt and transit of more than 5,000 containers. In a conflict as hazardous as the war in Iraq, this was a logistical feat and one that she would repeat many times. In March 2003, her team would preside over the reception, staging and movement of over 40,000 combat and support troops. This would be an influential movement just prior to the second invasion.

SFC Tulloch also served in the U.S. Army Human Resources department where she administered assignments for as many as 12,000 soldiers. It was also necessary to coordinate the Joint Domicile and Married Couple's Program in which SFC Tulloch demonstrated her compassion as well as a high level of competence in arranging over 1,300 personal assignments a year. From 2009 to 2010, SFC Tulloch was promoted to Chief Movement Supervisor for the U.S. Armed forces in CENTCOM in Doha, Qatar. Her performance was such that she meticulously managed the transfer of millions of dollars worth of resources without waste or inaccuracy.

What made the work of SFC Tulloch exceptional was her ability to see opportunities to eliminate excessive bureaucracy in order to maximize the impact of expenditures. For instance, during her time in Iraq, SFC Tulloch was able to investigate some 2,000 overdue invoices and credit card purchases which meant that more than \$3 million dollars was refunded to the U.S. Government. While being

posted in Afghanistan, SFC Tulloch was placed in charge of equipment and vehicles valued above \$24.6 million dollars. She was able to direct the movement of these resources in a timely manner, even when given limited notice in which to organize herself and her team.

Mr. Speaker, on June 1, 2012 Sergeant First Class Christine K. Tulloch will retire from the United States Army. She should be proud of the fact that her record of accomplishments is truly commendable. Throughout her career, SFC Tulloch was able to execute the tasks assigned to her in a capable manner in spite of conditions that were often pressurized and hostile. It is my great honor to recognize SFC Tulloch and I wish her all the best in her retirement and hope that she may continue to use her talents to the betterment of those around her.

### RESEARCH WORKS ACT

### HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 27, 2012*

Mrs. MALONEY. Mr. Speaker, I rise today to offer the following statement along with my colleague from California, Rep. DARRELL ISSA:

The introduction of H.R. 3699 has spurred a robust, expansive debate on the topics of scientific and scholarly publishing, intellectual property protection, and public access to federally funded research. Since its introduction, we have heard from numerous stakeholders and interested parties on both sides of this important issue.

As the costs of publishing continue to be driven down by new technology, we will continue to see a growth in open access publishers. This new and innovative model appears to be the wave of the future. The transition must be collaborative, and must respect copyright law and the principles of open access. The American people deserve to have access to research for which they have paid. This conversation needs to continue and we have come to the conclusion that the Research Works Act has exhausted the useful role it can play in the debate. As such, we want Americans concerned about access to research and other participants in this debate to know we will not be taking legislative action on H.R. 3699, the Research Works Act. We do intend to remain involved in efforts to examine and study the protection of intellectual property rights and open access to publicly funded research.

### HONORING THE VICTIMS OF SUMGAI

### HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 27, 2012*

Mr. SCHIFF. Mr. Speaker, I rise today to commemorate the scores of Armenian lives lost in the vicious attacks perpetrated by Azerbaijani pogroms against Armenian civilians in

the town of Sumgait, Azerbaijan 24 years ago. Beginning on February 27, 1988 and for three days, Azerbaijani mobs assaulted and killed Armenians. Hundreds of Armenians were wounded, women and young girls were brutally raped, and victims of all ages were beaten and tortured and eventually burned to death. Thousands were driven from their homes and forced to become refugees. Armenian homes and businesses were left to be looted and destroyed.

In the years that followed this heinous event, Armenians living in Kirovabad and Baku suffered a similar fate. These pogroms were only part of a pattern of anti-Armenian activities occurring throughout Azerbaijan, setting the stage for two decades of aggression during which the Azerbaijani government initiated a war against the people of Nagorno-Karabakh. Thousands of people lost their lives and hundreds of thousands of Armenians were displaced as a result of the fighting. A once thriving population of 450,000 Armenians living in Azerbaijan virtually disappeared.

A cease-fire agreement, brokered in 1994, remains in place today. However, Azerbaijan's continued war-mongering, recent cease-fire violations, and dramatic increase of its military budget threaten to destabilize the Nagorno-Karabakh peace talks. In January 2008, Azerbaijani President Ilham Aliyev warned Armenians living in Nagorno-Karabakh, "We are reinforcing our army because we must be ready to free our lands . . . at any moment and by any means." Such rhetoric is detrimental to the peace process and is further evidence that this conflict is ongoing and must be resolved. It is my sincerest hope that a democratic and peaceful resolution can be reached, and Nagorno-Karabakh's right to self-determination affirmed.

This April will mark the 97th anniversary of the Armenian Genocide, an event the Turkish government, Azerbaijan's closest ally, goes to great and tragic lengths to deny. We must not let such crimes against humanity go unrecognized. Today, let us pause to remember the victims of the atrocities of the Sumgait pogroms. Mr. Speaker, it is our moral obligation to condemn crimes of hatred and to remember the victims, in hope that history will not be repeated.

### RECOGNIZING DUSCHA ROSS AS THE 2012 OKALOOSA COUNTY, FLORIDA TEACHER OF THE YEAR

### HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 27, 2012*

Mr. MILLER of Florida. Mr. Speaker, I rise today to recognize Ms. Duscha Ross as the 2012 Okaloosa County, Florida Teacher of the Year. Good teachers educate, but the best teachers make a difference and inspire. For eleven years, Ms. Ross has made a significant impact in the lives of her students, colleagues, and community. I am proud to recognize her achievements.

Ms. Ross joined the Okaloosa County, Florida School District in 2002, with a background

in Political Science and Military Studies from Pennsylvania State University. Her career as a teacher and mentor began at the Department of Juvenile Justice in Okaloosa County where she taught Language and Reading. Since then she has served the Okaloosa County School District in various capacities as a 3rd, 4th, and 5th grade teacher and a Remedial and Advanced Reading teacher at Northwood Elementary School. Ms. Ross has proudly served as a 5th grade teacher at Mary Esther Elementary School for the past two years.

Ms. Ross makes a difference by never settling for mediocrity. While some are afraid of change and are unwilling to take risks, Ms. Ross attributes some of her greatest successes in the classroom to the use of a novel approach. She incorporates innovative teaching practices, such as the use of the Balanced Literacy Model, Discovery Education Assessment (DEA) Probes, and technology to supplement daily lessons. Using these methods, she is able to better address the needs of her students and provide them a pathway to success. She strives to share teaching methods with her colleagues to ensure that all can benefit from these successful techniques. She also combines education with community involvement and often invites various community members, including members of the military and local Kiwanis Clubs, to participate in her lessons and interact with other members of Mary Esther Elementary School.

Out of her passion for teaching and her love for children, Ms. Ross sets high standards for all of her students and works with them to achieve their goals and the desired results of the overall academic performance of the class. She is the positive force behind each student's growth of mind, by giving them the confidence, knowledge, and inspiration needed to succeed. Teachers like Ms. Ross leave a perpetual impact on their schools and community.

Mr. Speaker, on behalf of the United States Congress, I take great pride in recognizing Ms. Duscha Ross as one of Northwest Florida's finest educators, and I congratulate her on her recent accolade as Okaloosa County, Florida Teacher of the Year. This is an outstanding achievement, and her service to the area should stand as an example to those who follow in her footsteps. My wife Vicki joins me in wishing her all the best for continued success.

HONORING DR. EDUARDO JOSE  
PADRON

**HON. FREDERICA S. WILSON**  
OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES  
*Monday, February 27, 2012*

Ms. WILSON of Florida. Mr. Speaker, on the occasion of the Greater Miami Chamber of Commerce's Sand In My Shoes Commitment to the Community award ceremony tonight, I rise to recognize and honor one of our nation's top education leaders, Dr. Eduardo Jose Padron. For nearly 20 years, Dr. Padron has served as the president of Miami Dade College, MDC, the nation's largest higher education institution. He has garnered recognition for his leadership from six American presi-

dents and from organizations throughout the world.

Dr. Padron was born on June 26, 1944, in Santiago, Cuba. After arriving in the United States as a refugee at the age of 15, Dr. Padron capitalized on his educational opportunities by earning a Ph.D. in Economics from the University of Florida. A decade later, Dr. Padron would become the president of Miami Dade College's Wolfson Campus. There, he implemented revolutionary initiatives that earned him a stellar reputation and propelled him to the presidency of our nation's largest higher education institution.

President Padron's transformational undertakings at Miami Dade College, resulting in 174,000 students enrolled, greater student access, retention, graduation and overall achievement, have been hailed as the model for innovation in higher education. Currently, MDC enrolls the most minorities nationally—including the most African Americans and Hispanics. The recent list of awards applauding MDC's achievements includes the 2011 Council for Higher Education Accreditation "Award for Outstanding Institutional Practice in Student Learning Outcomes" and the "U.S. President's Higher Education Community Service Honor Roll."

President Padron's achievements in higher education have earned him hundreds of coveted awards, commendations and appointments. Six American presidents have nominated him to nationally prominent posts. Recently, President Obama selected him to represent the United States at the UNESCO's World Conference on Higher Education and appointed him as chair of the White House Commission on Educational Excellence for Hispanic Americans. President Clinton named him one of America's foremost educators and President George W. Bush nominated him to the National Institute for Literacy Advisory Board and the National Economic Summit. Among his list of prestigious awards are the "2008 Charles Kennedy Equity Award," "2008 Reginald Wilson Diversity Leadership Award," and the "2008 Innovator of the Year" from the League for Innovation.

Please join me in honoring Miami Dade College President Eduardo J. Padron for his commitment to making quality education accessible to minorities and for his revolutionary contributions to higher education.

#### RESEARCH WORKS ACT

**HON. DARRELL E. ISSA**  
OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES  
*Monday, February 27, 2012*

Mr. ISSA. Mr. Speaker, I rise today to offer the following statement along with my colleague from New York and the original co-sponsor of H.R. 3699, Representative CAROLYN B. MALONEY:

The introduction of H.R. 3699 has spurred a robust, expansive debate on the topics of scientific and scholarly publishing, intellectual property protection, and public access to federally funded research. Since its introduction, we have heard from numerous stakeholders and interested parties on both sides of this important issue.

As the costs of publishing continue to be driven down by new technology, we will continue to see a growth in open access publishers. This new and innovative model appears to be the wave of the future. The transition must be collaborative, and must respect copyright law and the principles of open access. The American people deserve to have access to research for which they have paid. This conversation needs to continue and we have come to the conclusion that the Research Works Act has exhausted the useful role it can play in the debate. As such, we want Americans concerned about access to research and other participants in this debate to know we will not be taking legislative action on H.R. 3699, the Research Works Act. We do intend to remain involved in efforts to examine and study the protection of intellectual property rights and open access to publicly funded research.

#### H.R. 1433, THE PRIVATE PROPERTY RIGHTS PROTECTION ACT OF 2012

**HON. EARL BLUMENAUER**  
OF OREGON

IN THE HOUSE OF REPRESENTATIVES  
*Monday, February 27, 2012*

Mr. BLUMENAUER. Mr. Speaker, I strongly oppose H.R. 1433, the "Private Property Rights Protection Act of 2012." This bill is a solution in search of a problem. Its sweeping prohibition against the use of eminent domain for economic development that would cripple community efforts at a time when they're needed more than ever.

There are time honored principles for the exercise of eminent domain by State and local governments. I support the Constitutional protections already in place to prevent taking of private property without fair compensation. Governments should certainly exercise great care in using eminent domain.

Many major economic and ecological initiatives would be difficult, if not impossible, without eminent domain. I believe economic development is a legitimate use of this tool; my community has used it for a number of critical developments, including key high tech projects that have laid the foundation for decades of prosperity.

I would support action to prevent abuse and capricious use of eminent domain. But this bill would make it nearly impossible for communities to use it. This bill is too restrictive and will become an impediment to economic development. Its financial penalties could bankrupt communities and even the risk of potential future violation of the law could affect a jurisdiction's borrowing power today.

I urge my colleagues to reject this bill.

**PATRICK H. DALY, JR.**

**HON. ANDY HARRIS**  
OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES  
*Monday, February 27, 2012*

Mr. HARRIS. Mr. Speaker, today I offer my sincerest thanks and appreciation to my District Director, Patrick H. Daly, Jr., for his seven

years of service to me. Pat has been a vital part of my staff from before I was even elected to Congress, serving in my Maryland State Senate office as a Legislative Assistant. As District Director to a House freshman, he took on the many logistical challenges of setting up my three district offices in Kent Island, Salisbury, and Bel Air. He also oversaw my casework operations, which provided help to 1,200 constituents in the last year. He coordinated many constituent events and town hall meetings to keep me in tune with my District and hear the voice of the people. Simply put, Pat has always been there to see that the job is done, no matter how large or small the task may be. Pat has crossed the First Congressional District too many times to count in the name of constituent service, and provided goodwill among its residents that is immeasurable. I offer my very best wishes to Pat and his family for his bright future ahead.

RECOGNIZING JEFFREY BAUGUS  
AS THE 2013 SANTA ROSA COUNTY,  
FLORIDA TEACHER OF THE  
YEAR

**HON. JEFF MILLER**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 27, 2012*

Mr. MILLER of Florida. Mr. Speaker, I rise today to recognize Jeffrey A. Baugus as the 2013 Santa Rosa County, Florida Teacher of the Year and the first Santa Rosa County Middle School teacher to ever win the award.

Benjamin Franklin once said, "Tell me, and I forget. Teach me, and I remember. Involve me, and I learn." It is with great honor that I recognize Jeffrey Baugus for his ability to not only teach, but to involve and inspire those around him. The best teachers are those who not only educate, but those who strive every day to actively engage their pupils. Mr. Baugus embodies this spirit. By supplementing lessons with humor and advanced technology, Mr. Baugus gives mathematics a whole new meaning to his students. Through his innovative teaching practices, he gives his students the tools to succeed.

Mr. Baugus's impact is felt both inside and outside the classroom. He proves that education is never ending, and teaches his students there is always room for improvement. Following this mantra, in 2010, Mr. Baugus completed a Masters in Education in Curriculum and Instruction with an emphasis in Middle School Mathematics. In addition to his role teaching Algebra I, he is also an active member of the National Council of Teachers of Mathematics, the Florida Council of Teachers of Mathematics, the Air Force Association, and the Santa Rosa County Council of Teachers of Mathematics, where he serves as President. Today's award is not Mr. Baugus's first, and I am sure it will not be his last. Over the last few years, he was awarded the 2009 Air Force Association (Hurlburt Chapter) Teacher of the Year, the 2009 Santa Rosa County Middle School Math Teacher of the Year, the 2009 QWBMS Rookie of the Year, and 2012 Teacher of the Year for Woodlawn Beach Middle School.

The title of Teacher of the Year is an immense honor and is evidence of Mr. Baugus's tireless work and dedication to his students and his profession. Mr. Baugus has proven himself to be among Northwest Florida's finest teachers. The Santa Rosa County, Florida School District is honored to have him as one of its own.

Mr. Speaker, on behalf of the United States Congress, I am proud to recognize Jeffrey Baugus on this achievement and his exemplary service in the Santa Rosa County School District. My wife Vicki joins me in congratulating Mr. Baugus, and we wish him and his family all the best.

HONORING COMMANDER PAUL B.  
SPOHN, USN

**HON. LARRY BUCSHON**

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 27, 2012*

Mr. BUCSHON. Mr. Speaker, I rise today to offer my most heartfelt congratulations to Commander Paul B. Spohn, United States Navy, for a distinguished career. Commander Spohn recently retired as the Commanding Officer, Naval Support Activity Crane, one of the many command posts throughout his career. I would like to especially recognize Commander Spohn for his leadership at NSA Crane, the world's third largest Naval Installation, based in Indiana's 8th Congressional District.

Commander Spohn began his 35 year career by enlisting in the Navy as a Boiler Technician in January 1977 and received his commission in June 1990 through the Limited Duty Officer Program.

His many achievements in academics and the Navy have made him an officer that all sailors and citizens should emulate. His dedication to our nation has spanned many decades and many posts and for that I would like to thank Commander Spohn.

HONORING THE ESTABLISHMENT  
OF THE USO CENTER AT THE  
TAMPA INTERNATIONAL AIR-  
PORT

**HON. RICHARD B. NUGENT**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 27, 2012*

Mr. NUGENT. Mr. Speaker, on January 18th, 2012 the USO Board of Governors voted to approve the establishment of the USO Center at the Tampa International Airport.

This has been a long process, but thanks to a hardworking team of volunteers, the USO in Tampa is excited about serving the roughly 40,000 active military and their families living in the Tampa Bay area that may use Tampa International Airport as well as the approximately 300,000 that fly in and out of the Tampa International Airport on a yearly basis.

As both a Congressman and a father of three sons in the U.S. Army, I know how important the USO services are to our men and women in uniform. When I visit with the vet-

erans in my district, I hear their stories of watching Bob Hope in the USO Concerts and receiving packages with urgent supplies from the USO on Christmas. Today's USO centers give our active duty heroes a place to relax, if only for a few minutes.

The new facility in the Tampa International Airport will allow members of our local communities the opportunity to recognize the service and sacrifice of this Nation's proud active duty servicemembers and their families.

I am a proud supporter of this outstanding institution and welcome its arrival in the Tampa International Airport.

azerbaijan

**HON. VIRGINIA FOXX**

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 27, 2012*

Ms. FOXX. Mr. Speaker, since declaring its independence from the Soviet Union, Azerbaijan has been a valuable ally to the United States in a turbulent region. In the true spirit of friendship, it seems appropriate for Congress to note the 20th anniversaries of two important events in their country's history which take place in late-February.

February 26 marked the 20th anniversary of the Khojaly Tragedy which is the largest of Azerbaijani civilians in the country's history.

The town of Khojaly is located in the Nagorno-Karabakh region of Azerbaijan and was then home to some 7,000 Azerbaijani citizens. On February 25–26, 1992, in a period of less than 12 hours, 613 citizens were slain at the hands of Armenian forces.

In the wake of these atrocities, Human Rights Watch described the advancing forces as committing "unconscionable acts of violence against civilians as they fled." Given our deepening ties with Azerbaijan it is important for American citizens to remember this event.

February 28 is the 20th anniversary of the establishment of Azerbaijani-American diplomatic relations, which is an event forming a partnership which of importance to both countries.

The initial focus of these relations was on trade between the two countries and, in particular, Azerbaijan's abundant natural resources. Today, Azerbaijan is a full partner to the United States, working with us and our allies to safeguard our combined security and prosperity.

One of the most telling examples of their commitment to this partnership came in the wake of the terrorist attacks of September 11, 2001, when Azerbaijan pledged to stand by the United States as in our efforts to secure the homeland and bring justice to the perpetrators of this tragedy.

True to its word, Azerbaijan has supported allied efforts in the War on Terror by allowing unrestricted access to its territory for American aircraft, troops and supplies, as well as committing its own troops to fight alongside our own.

As these two important anniversaries come to pass, I join Azerbaijan in mourning those who died in Khojaly, celebrating 20 years of shared diplomatic relations, and hoping for the

continued security and prosperity of our nations in an ever-more dangerous world.

**HONORING DWIGHT AND SHARON POAGE AND THE MAYAN FAMILIES**

**HON. STEVE STIVERS**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 27, 2012*

Mr. STIVERS. Mr. Speaker, I rise today to honor and thank Dwight and Sharon Poage and the Mayan Families for their extraordinary passion for causes that have made enduring positive differences in people's lives in the Lake Atitlan region of Guatemala.

This record recognizes the Mayan Families' strong partnership with the Upper Arlington Rotary Club in jointly creating sustainable humanitarian focused projects that provide opportunities, hope and a future for the indigenous and impoverished people in Guatemala.

Your commitment to potable water, children and adult nutrition, education and improving basic essential living conditions in the underserved communities has had a profound impact. On behalf of the citizens of Ohio's 15th Congressional District I commend your dedicated efforts for the families of Guatemala.

**HONORING THE LIVES OF CAPTAIN RYAN P. HALL OF COLORADO SPRINGS, COLORADO; CAPTAIN NICHOLAS S. WHITLOCK OF NEWNAN, GEORGIA; FIRST LIEUTENANT JUSTIN J. WILKENS, OF BEND, OREGON; AND SENIOR AIRMAN JULIAN S. SCHOLTEN OF UPPER MARLBORO, MARYLAND**

**HON. JEFF MILLER**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 27, 2012*

Mr. MILLER of Florida. Mr. Speaker, it is with deep sympathy and solemn gratitude that I rise to pay tribute to four of our nation's fallen heroes: Captain Ryan P. Hall of Colorado Springs, Colorado; Captain Nicholas S. Whitlock of Newnan, Georgia; First Lieutenant Justin J. Wilkens, of Bend, Oregon; and Senior Airman Julian S. Scholten of Upper Marlboro, Maryland.

These four brave, young men paid the ultimate price in defense of our nation's freedom when their U-28 aircraft went down near Djibouti, Africa on Saturday, February 18, 2012. They were members of the United States Air Force Special Operations Command. Of their dedication to duty, courage of heart, and commitment to their nation, there can be no doubt. They were living examples of the Airman's Creed, "I am an American Airman, guardian of freedom and justice, my nation's sword and shield, its sentry and avenger. I defend my Country with my life." Upon the altar of freedom, they have fulfilled their vow to defend their country and paid the ultimate price.

The report of this tragic incident pierced the hearts of their families, friends, and the AFSOC community. It reminds us that there is no greater sacrifice than that in which one gives his life for others.

While there are no words that we can say here on the floor today that will bring back Ryan, Nicholas, Justin, and Julian to those who love them and know them best, we can and will honor their service and sacrifice. We have heard many times and know in our hearts the truth that Freedom often demands of us a heavy and at times unbearable price. It is a burden of loss that rests heavily upon those who love them.

Mr. Speaker, on behalf of a grateful United States Congress, I stand here today to honor these four men and all of the heroes we have lost. My wife, Vicki joins me in offering our deepest, most sincere condolences and prayers to their families and friends. May God continue to bless them, the AFSOC community, and the United States Armed Forces.

**HONORING THE LIFE OF DAVID N. BODDIE**

**HON. DONNA F. EDWARDS**

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 27, 2012*

Ms. EDWARDS. Mr. Speaker, I rise to pay tribute and honor the life of David N. Boddie, a resident of Bowie in the Fourth Congressional District of Maryland, who passed away on February 16th. As he is interred at Arlington National Cemetery today, I want to remember the legacy he leaves behind.

For more than 40 years, Dave—as he was affectionately known to his colleagues—was an employee of the U.S. Government Printing Office (GPO), which supplies us with the CONGRESSIONAL RECORD and the documents to conduct the business of this House.

Before arriving at the GPO, Dave Boddie served as a U.S. Marine in Vietnam, where he was seriously wounded in combat and received the Purple Heart. After returning home, he worked at the Afro-American Newspaper Company in Baltimore.

Dave joined the GPO in 1970 as an apprentice and three years later was converted to a career employee. In 1976, he was promoted to a new position as a Photocomposition Machine Operator, taking his place within one of the greatest technology changes in the GPO's history, as the agency converted from hot metal typesetting to electronic photocomposition. Two years later, Dave entered the management and supervisory ranks at GPO, and he became a Foreperson in 1987. In August 1999, Dave was named Foreperson-in-Charge, and in 2003, he was promoted to Assistant to the Production Manager, Night Operations, on the second shift. He continued to rise through the management ranks, becoming Printing Officer and Assistant Production Manager in December 2005.

In 2006, Dave was named the third-shift Assistant Production Manager, effectively becoming GPO's Night Production Manager, with the key responsibility for ensuring the completion of the CONGRESSIONAL RECORD and other con-

gressional work by morning. Dave was the first African American employee ever named to this position in GPO's 150-year history of service to Congress and this Nation. He retired from Federal service in 2011.

Dave Boddie's record of service to our country, both as a Marine and through his accomplished career as a Federal employee at GPO, was characterized by sacrifice, by hard work and dedication to duty, and most of all by achievement, which was recognized by his promotions leading ultimately to one of the most critically important positions of leadership within GPO. He leaves behind a legacy of service that others can aspire to.

Now that his time on earth has come to an end, it is my hope that David N. Boddie has found the peace he has earned. On behalf of this House, I extend our sincere condolences to his wife, Kim and daughter Monica, and the thanks of a grateful Nation.

**TRIBUTE TO DR. SUNEDRA KUMAR KAUSHIK**

**HON. NITA M. LOWEY**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 27, 2012*

Mrs. LOWEY. Mr. Speaker, I rise today to pay tribute to Dr. Sunedra Kumar Kaushik, the founder and chairman of the Mrs. Helena Kaushik Women's College in Rajasthan, India, and a constituent in the 18th Congressional district of New York. On March 2, Dr. Kaushik will be honored by the Indian Consul General in New York after receiving the Pravasi Bharatiya Diwas Samman Award, India's highest honor for natives living overseas, from President Pratibha Patil. For decades, Dr. Kaushik's work as a Professor of Finance at Pace University and his exceptional leadership at Mrs. Helena Kaushik Women's College have made an extraordinary impact at home, in the Lower Hudson Valley, and abroad, in his native India.

For more than 35 years, Dr. Kaushik has led a distinguished academic career, shaping the minds of generations of young Americans at Pace, Boston University, Northeastern University, Babson College and other institutions. Over this period of time, Dr. Kaushik has published an impressive number of academic works in economics and finance.

While completing his PhD at Boston University, Dr. Kaushik met the love of his life, Helena Pokotnicki, of Detroit, Michigan, and the two were married in September of 1973. For decades, Mrs. Kaushik employed her skills as a health professional to promote children's health and education issues in India. On her very first day in India, Mrs. Kaushik wasted no time making her voice heard, lobbying the head of the World Health Organization in Delhi on the need to improve health conditions in India and to mitigate the adverse effects of open sewers on the Indian population at large.

In 1991, Mrs. Kaushik tragically suffered a devastating stroke and since has been cared for by her husband at their home in Westchester County, New York. Inspired by his wife's commitment and work on behalf of the children and women of India, Dr. Kaushik



founded the Mrs. Helena Kaushik Women's College in Rajasthan, India, in 1999. Watching his wife in action, Dr. Kaushik understood the tremendous impact hard-working women could have on their communities across the globe. In his native Rajasthan, one of the most poverty-stricken regions of India, Dr. Kaushik was concerned by the lack of educational opportunities for women. He was especially upset by the fact that his hometown of Malsisar, Rajasthan, lacked even a male or co-ed college within a 35 kilometer radius.

For over a decade, the Mrs. Helena Kaushik Women's College has empowered countless women from rural India, training them to become integral parts of the Indian economy and Indian society. Since its establishment, over 900 of the college's graduates have gone on to serve their communities as teachers and civil servants, and in an array of other critical professions. Moreover, by operating solely on generous private donations and not charging any tuition fees, the Mrs. Helena Kaushik Women's College has made obtaining a higher education possible for numerous low-income women.

Given Dr. Kaushik's inspiring work, it comes as no surprise that President Patil has awarded him one of India's highest honors and that his achievements have been celebrated by both the New York State Assembly and the New Jersey General Assembly. It is time for Congress to also recognize Dr. Kaushik's extraordinary efforts both at home and abroad, and I urge my colleagues to join me in doing so.

#### TRIBUTE TO CLARENCE LEONARD EDWARDS

#### HON. FREDERICA S. WILSON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 27, 2012*

Ms. WILSON of Florida. Mr. Speaker, I rise today to pay tribute to Mr. Clarence Leonard Edwards, a lifelong South Florida community activist, U.S. Soldier, entrepreneur, pioneer, beloved son, husband, father, neighbor and friend.

Mr. Edwards was born in Jacksonville, Florida on March 3rd, 1930. After attending Edward Waters College in Jacksonville, he moved to Miami. At the age of twenty, he began a career of community service that spanned decades.

Following his service in the U.S. Army, during the Korean War, Mr. Edwards and his first wife of 38 years, Olivia Love, settled in Overtown and became instrumental in community organizing, voter registration and mentoring youth. For thirty six years, they ran a community pharmacy that served as a long-standing community gathering place.

Mr. Edwards had a forty year career with the Seaboard Coastline Railroad (Amtrak). He is also noted for pioneering blacks in the sport of race car driving. He has received numerous local, state and national awards for community and political service including: Governors recognition for his service during Hurricane Andrew, Florida Annual Civil Rights Conference Community Relations award, Proclamation of

Clarence Edwards Day from Dade County Mayor, Stephen Clark and City of Opa Locka Mayor, Robert Ingram. Mr. Edwards has also received several letters of appreciation from Presidents, Congressmen and State Representatives.

We, the citizens of the 17th Congressional District, pay tribute to Mr. Clarence Leonard Edwards for his stellar service to the people of Miami-Dade County.

#### SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, February 28, 2012 may be found in the Daily Digest of today's RECORD.

#### MEETINGS SCHEDULED

FEBRUARY 29

9:30 a.m.

##### Appropriations

Department of the Interior, Environment, and Related Agencies Subcommittee  
To hold hearings to examine proposed budget estimates for fiscal year 2013 for the Department of the Interior.

SD-124

10 a.m.

##### Budget

To hold hearings to examine putting health care spending on a sustainable path.

SD-608

##### Health, Education, Labor, and Pensions

Primary Health and Aging Subcommittee  
To hold hearings to examine dental crisis in America, focusing on the need to expand access.

SD-430

##### Judiciary

To hold hearings to examine the "Due Process Guarantee Act", focusing on banning indefinite detention of Americans.

SD-226

##### Veterans' Affairs

To hold hearings to examine the President's proposed budget request for fiscal year 2013 for Veterans' Programs.

SR-418

10:30 a.m.

##### Appropriations

##### Department of Defense Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2013 for the Department of the Army.

SD-192

11 a.m.

##### Foreign Relations

To receive a closed briefing on the crisis in Syria.

SVC-217

2:30 p.m.

##### Judiciary

To hold hearings to examine the nominations of Richard Gary Taranto, of Maryland, to be United States Circuit Judge for the Federal Circuit, Gershwin A. Drain, to be United States District Judge for the Eastern District of Michigan, and Robin S. Rosenbaum, to be United States District Judge for the Southern District of Florida.

SD-226

#### MARCH 1

9:30 a.m.

##### Armed Services

To hold hearings to examine U.S. European Command and U.S. Africa Command in review of the Defense Authorization request for fiscal year 2013 and the Future Years Defense Program; with the possibility of a closed session in SVC-217 following the open session.

SH-216

10 a.m.

##### Banking, Housing, and Urban Affairs

To hold hearings to examine the semi-annual Monetary Policy Report to the Congress.

SD-538

##### Budget

To hold hearings to examine tax reform to encourage growth, reduce the deficit, and promote fairness.

SD-608

##### Commerce, Science, and Transportation

To hold an oversight hearing to examine the cruise ship industry, focusing on if current regulations are sufficient to protect passengers and the environment.

SR-253

##### Foreign Relations

To hold hearings to examine Syria, focusing on the crisis and its implications.

SD-419

##### Judiciary

Business meeting to consider S. 1002, to prohibit theft of medical products, and the nominations of Andrew David Hurwitz, of Arizona, to be United States Circuit Judge for the Ninth Circuit, Patty Schwartz, of New Jersey, to be United States Circuit Judge for the Third Circuit, Jeffrey J. Helmick, to be United States District Judge for the Northern District of Ohio, Mary Geiger Lewis, to be United States District Judge for the District of South Carolina, Timothy S. Hillman, to be United States District Judge for the District of Massachusetts, and Thomas M. Harigan, of New York, to be Deputy Administrator of Drug Enforcement, Department of Justice.

SD-226

##### Appropriations

Transportation and Housing and Urban Development, and Related Agencies Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2013 for the Department of Housing and Urban Development.

SD-138

2:30 p.m.

## Appropriations

## Legislative Branch Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year for 2013 for the Office of the Architect of the Capitol, the Library of Congress, the Office of Compliance, and the Open World Leadership Center.

SD-138

## Intelligence

To hold closed hearings to examine certain intelligence matters.

SH-219

## MARCH 6

9:30 a.m.

## Armed Services

To hold hearings to examine U.S. Central Command and U.S. Special Operations Command in review of the Defense Authorization request for fiscal year 2013 and the Future Years Defense Program; with the possibility of a closed session in SVC-217 following the open session.

SH-216

10 a.m.

## Budget

To hold hearings to examine perspectives on the President's proposed budget request for fiscal year 2013 for the Department of Defense.

SD-608

## Energy and Natural Resources

To hold hearings to examine the President's proposed budget request for fiscal year 2013 for the Forest Service.

SD-366

## Finance

To hold hearings to examine tax reform options, focusing on incentives for capital investment and manufacturing.

SD-215

10:30 a.m.

## Homeland Security and Governmental Affairs

To hold hearings to examine the nomination of Tony Hammond, of Missouri, to be a Commissioner of the Postal Regulatory Commission.

SD-342

2:30 p.m.

## Foreign Relations

To hold hearings to examine the President's proposed budget request for fiscal year 2013 for international development priorities.

SD-419

## Homeland Security and Governmental Affairs

To hold hearings to examine the nominations of Mark A. Robbins, of California, to be a Member of the Merit Systems Protection Board, and Roy Wallace McLeese III, to be an Associate Judge of the District of Columbia Court of Appeals.

SD-342

## MARCH 7

9:30 a.m.

## Agriculture, Nutrition, and Forestry

To hold hearings to examine healthy food initiatives, local production, and nutrition.

SH-216

10 a.m.

## Agriculture, Nutrition, and Forestry

To hold hearings to examine risk management and commodities in the 2012 farm bill.

SH-216

## Veterans' Affairs

To hold joint hearings to examine a legislative presentation from the Veterans of Foreign Wars (VFW).

SD-G50

2:30 p.m.

## Energy and Natural Resources

## National Parks Subcommittee

To hold hearings to examine S. 29, to establish the Sacramento-San Joaquin Delta National Heritage Area, S. 1150, to establish the Susquehanna Gateway National Heritage Area in the State of Pennsylvania, S. 1191, to direct the Secretary of the Interior to carry out a study regarding the suitability and feasibility of establishing the Naugatuck River Valley National Heritage Area in Connecticut, S. 1198, to reauthorize the Essex National Heritage Area, S. 1215, to provide for the exchange of land located in the Lowell National Historical Park, S. 1589, to extend the authorization for the Coastal Heritage Trail in the State of New Jersey, S. 1708, to establish the John H. Chafee Blackstone River Valley National Historical Park, H.R. 1141, to authorize the Secretary of the Interior to study the suitability and feasibility of designating prehistoric, historic, and limestone forest sites on Rota, Commonwealth of the Northern Mariana Islands, as a unit of the National Park System, and H.R. 2606, to authorize the Secretary of the Interior to allow the construction and operation of natural gas pipeline facilities in the Gateway National Recreation Area.

SD-366

## MARCH 8

9:30 a.m.

## Armed Services

To hold hearings to examine the Department of the Army in review of the Defense Authorization request for fiscal year 2013 and the Future Years Defense Program.

SD-106

10 a.m.

## Health, Education, Labor, and Pensions

To hold hearings to examine the key to America's global competitiveness, focusing on a quality education.

SD-430

2:15 p.m.

## Indian Affairs

To hold hearings to examine the President's proposed budget request for fiscal year 2013 for Native Programs.

SD-628

## MARCH 13

9:30 a.m.

## Armed Services

To hold hearings to examine U.S. Southern Command and U.S. Northern Command in review of the Defense Authorization request for fiscal year 2013 and the Future Years Defense Program; with the possibility of a closed session in SVC-217 following the open session.

SD-G50

10 a.m.

## Energy and Natural Resources

To hold hearings to examine the report of the Independent Consultant's Review with Respect to the Department of Energy Loan and Loan Guarantee Portfolio.

SD-366

10:30 a.m.

## Homeland Security and Governmental Affairs

## Contracting Oversight Subcommittee

To hold hearings to examine contractors, focusing on how much they are costing the government.

SD-342

## Judiciary

To hold hearings to examine the Freedom of Information Act, focusing on safeguarding critical infrastructure information and the public's right to know.

SD-226

## MARCH 14

10 a.m.

## Veterans' Affairs

To hold hearings to examine ending homelessness among veterans, focusing on Veterans' Affairs progress on its five year plan.

SR-418

2 p.m.

## Armed Services

## Personnel Subcommittee

To hold hearings to examine the Active, Guard, Reserve, and civilian personnel programs in review of the Defense Authorization request for fiscal year 2013 and the Future Years Defense Program.

SR-232A

## MARCH 15

9:30 a.m.

## Armed Services

To hold hearings to examine the Department of the Navy in review of the Defense Authorization request for fiscal year 2013 and the Future Years Defense Program; with the possibility of a closed session in SVC-217 following the open session.

SD-G50

2:15 p.m.

## Indian Affairs

To hold an oversight hearing to examine Indian water rights, focusing on promoting the negotiation and implementation of water settlements in Indian country.

SD-628

## MARCH 20

9:30 a.m.

## Armed Services

To hold hearings to examine the Department of the Air Force in review of the Defense Authorization request for fiscal year 2013 and the Future Years Defense Program; with the possibility of a closed session in SVC-217 following the open session.

SD-G50

## MARCH 21

10 a.m.

## Veterans' Affairs

To hold joint hearings to examine the legislative presentations of the Military Order of the Purple Heart, Iraq and Afghanistan Veterans of America (IAVA), Non Commissioned Officers Association, American Ex-Prisoners of War, Vietnam Veterans of America, Wounded Warrior Project, National Association of State Directors of Veterans Affairs, and The Retired Enlisted Association.

SD-G50

SR-232A

**SENATE—Tuesday, February 28, 2012**

The Senate met at 10 a.m. and was called to order by the Honorable CHRISTOPHER A. COONS, a Senator from the State of Delaware.

**PRAYER**

The PRESIDING OFFICER. Today's prayer will be offered by Chaplain Gerald Theriot, American Legion National Chaplain.

The guest Chaplain offered the following prayer:

Let us join in the spirit of prayer.

Heavenly Father, we humbly gather in united prayer, giving thanks for Your blessings to this body. In Your holy Name, I ask that the wise use of the gift of reasoning that You have granted to all be strengthened within this Chamber so that the opportunities and paths to cooperation with just solutions will be realized.

Our Nation has been blessed with the establishment and the appreciation for a system of government that is unlike any other. As we have been blessed with the privilege of selecting a few to represent many, it is in them we place our trust that they will seek Your counsel and do what is best for us all.

Dear God, bless them during their research and in their deliberations, and have them to know that all things are possible through Your grace. As we enjoy the freedoms that we have and the privilege of supporting the way in which our government operates, we ask Your blessings on the shapers and protectors of these freedoms—our Congress, our President, our military, our first responders, and our Nation.

Amen.

**PLEDGE OF ALLEGIANCE**

The Honorable CHRISTOPHER A. COONS led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

**APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE**

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. INOUE).

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, February 28, 2012.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CHRISTOPHER A.

COONS, a Senator from the State of Delaware, to perform the duties of the Chair.

DANIEL K. INOUE,  
President pro tempore.

Mr. COONS thereupon assumed the chair as Acting President pro tempore.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

**RECOGNITION OF THE MAJORITY LEADER**

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

**SCHEDULE**

Mr. REID. Mr. President, following leader remarks the Senate will be in a period of morning business until 12:30. The majority will control the first 30 minutes and the Republicans will control the second 30 minutes.

The Senate will recess from 12:30 to 2:15 today for our weekly caucus meetings.

**MEASURE PLACED ON CALENDAR—H.R. 1173**

Mr. REID. Mr. President, I am told H.R. 1173 is due for a second reading.

The ACTING PRESIDENT pro tempore. The clerk will read the bill by title for the second time.

The legislative clerk read as follows:

A bill (H.R. 1173) to repeal the CLASS program.

Mr. REID. I would object to any further proceedings at this time to this piece of legislation.

The ACTING PRESIDENT pro tempore. Objection is heard. The bill will be placed on the calendar.

**MAKING THE SENATE WORK**

Mr. REID. Mr. President, last evening in an hour set aside at the request of Senators PRYOR and ALEXANDER, a very good conversation took place on the Senate floor.

Senators PRYOR and ALEXANDER are exemplary in trying to work things out; they are good legislators because they understand no side gets their way.

I have been here a long time, and I have been fortunate to get pieces of legislation passed that I sponsored and worked toward, but I have never ever had a piece of legislation that I introduced that wound up with that piece of legislation; always there are changes. That is the legislative process.

That is what Senator PRYOR and ALEXANDER talked about yesterday evening. It was important. They talked about the need to bring bills to the floor. They focused on appropriations bills—and rightfully so. I am a longtime member of the Appropriations Committee, as is the Republican leader, and we understand the importance of working on these bills.

In the last number of years, we haven't been able to do individual appropriations bills, except on rare occasions. We have done these omnibus and minibuses, and we are trying to get away from that. I think the framework laid last night was extremely important.

The Republican leader and I have talked individually, personally, away from everyone, about the need to get this done for the integrity of the Senate, and the colloquy last night helped what I think the Republican leader and I wish to get done. We need the agreement of Senate Republicans and Democrats that we will work together to complete this important work, and they talked about appropriations bills.

Senator WARNER and Senator HAGAN joined Senator PRYOR; Senators ISAKSON, COLLINS, BOOZMAN, and GRAHAM joined Senator ALEXANDER. So it was a significant number of Senators who talked about wanting to do the same thing and I commend and applaud their work.

Mr. MCCONNELL. Will my friend yield for me to make a couple observations on what he just said?

Mr. REID. I will yield.

Mr. MCCONNELL. We have negotiated the top line for the discretionary spending for this coming fiscal year. That process is normally done by the passage of a budget by the House and a budget by the Senate, with some reconciliation between the two bodies on the top line. But we already have that number. I wish to second what my friend the majority leader said. There is no good reason for this institution not to move forward with an appropriations process that avoids what we have done so frequently under both parties for years and years: either continuing resolutions or omnibus appropriations.

We have an opportunity to avoid that this year. It is the basic work of Congress. I wish to second what the majority leader said and congratulate Senator ALEXANDER and Senator PRYOR for their leadership on this issue. I hope we can join together and do the basic work of government this year and do it in a timely fashion.

I commend the majority leader and associate myself with his comments.

Mr. REID. I have spoken to Senator INOUE, the chairman of the Appropriations Committee. He is beginning, with Senator COCHRAN, the hearing process where administration officials come in and report to the individual appropriations subcommittees.

Senator INOUE thinks that, come late April, we can start moving some of these bills to the floor. We have to wait until the House does something because otherwise we get into procedural hurdles. But the House, I am told, wants to move these quickly also. I hope we can get these bills done.

The first real good experience I had in the Senate was working as a conferee on individual appropriations bills. That is fun. That is what legislation is all about and we have gotten away from that and I hope we can get back to doing some good things in that regard.

#### THE AUTO INDUSTRY

Mr. President, when President Obama took office 3 years ago, the auto industry was on a life support system. It was in very bad shape. I am sorry to say the life support system the Detroit auto industry was surviving on, Republicans wanted to pull the plug.

One man who is now seeking the Republican nomination for President of the United States said, "We should kiss the American automobile industry good-bye." We can't make up stuff like that. That is what he actually said. He called the death of American auto manufacturers "virtually guaranteed." "Virtually guaranteed" is another direct quote. So he argued we should let Detroit go bankrupt. But he wasn't alone. If he were alone, that would be a lone wolf crying in the wilderness, but that is not the way it was. Republicans in this Chamber agreed. Many of them agreed.

Democrats, though, weren't willing to give up on American manufacturing because saving the automobile industry wasn't about saving corporations; it was about saving millions of Americans who work for these corporations. It wasn't about saving the people who own race cars; it was about saving the people who work on assembly lines making the parts to keep those race cars running.

There is no way Democrats would walk away from millions of Americans whose jobs were on the line. Americans working in dealerships and distribution centers and manufacturing plants across the country were depending on

us to do something, and we did. We didn't give up the fight to save the auto industry. We didn't give up even when one Senate Republican called the efforts "a road to nowhere."

Here, the verdict is in. We were right. The American auto industry has added 160,000 jobs in the last 24 months alone. Last year, General Motors reported record profits and sold more vehicles than any other car company in the world. Chrysler is profitable again. People are boasting about the quality of American cars, and Chrysler is growing faster in the United States than any other major automobile manufacturer.

So when a Republican Presidential frontrunner said we should kiss the American automobile industry good-bye, he couldn't have been more wrong. We all make mistakes. We all get one wrong occasionally. The test of character is admitting when we make that mistake, and it is time for Republicans to recognize that saving the American automobile manufacturing industry and millions of middle-class jobs was the right thing to do.

There is good news from the auto industry: Twenty-four months of private sector job growth is evidence our country is headed in the right direction. But too many Americans are still hurting financially and struggling to find work, and it is crucial Congress continue efforts to create jobs and rebuild our economy. So Democrats are moving forward with a bipartisan package of bills that will spur small business growth.

These measures will improve innovators' access to capital—that is so important—and will streamline how companies sell stocks through initial public offerings or, as they are called, IPOs. These pieces of legislation will also protect the rights of investors.

Next week, Chairman JOHNSON, the senior Senator from South Dakota, will hold a Banking Committee hearing on this issue. It will be the third hearing on these measures since December. Senate Democrats have been working on these measures for a long time, and I am so happy to have read that House Republicans are joining Democrats to move this legislation. Commonsense issues such as these should not have to turn into knock-down, drag-out fights. This is something on which we should agree.

These companies need the ability to get cash to innovate, to grow, to build. This legislation that is being promulgated in the Banking Committee and the hearing that takes place there is very important to our country. I look forward to moving these measures and our economy forward with the help of my Republican colleagues.

The ACTING PRESIDENT pro tempore. The Republican leader.

#### ENERGY POLICY

Mr. McCONNELL. Mr. President, over the past few weeks, the American people have begun to feel the painful effects of President Obama's energy policy.

Make no mistake, the rising price of gasoline isn't simply the result of forces we can't control. It is, to a large extent, the result of a vision this President laid out even before he was elected to office. That vision was on clear display just last week.

As millions of Americans groaned at the rising cost of a gallon of gasoline, the President took to the microphones to talk about a far-off day when Americans might be able to use algae as a substitute for gas. Then, dusting off the same talking points Democrats have been using for decades, he claimed there is no short-term solution to the problem.

In other words, he kicked the can down the road for another day, another time, abdicating leadership on yet another issue of national significance.

This morning, I think it is worthwhile to take a step back from the rhetoric and look at what this President has actually done about this problem and what his energy policies would mean for the future because, according to numerous private and public energy experts, gas prices are only going to keep rising in the weeks and months ahead, going up and up. Some say the average price for a gallon of gasoline could hit \$4 by late spring, early summer, and could reach \$5 or even \$6 in some areas of our country. When that moment comes, Americans should know what the administration had to do with it.

For starters, let's not forget that as a candidate the President himself said he preferred what he called a "gradual adjustment" to gas prices—in other words, higher prices that went up slowly so people did not feel the pinch quite as acutely. Let's also recall that after his election the President chose an Energy Secretary who said he wanted gas prices more in line with those over in Europe, where folks pay about \$8 a gallon for gas. That is what they pay for gas over in Europe, where the Energy Secretary said we should be looking to establish gas prices. Let's not forget that the President chose as Interior Secretary a man who, as a U.S. Senator, objected to increased oil and gas drilling here at home even if the price of gas exceeded \$10 a gallon—right here on the Senate floor. So no one should be surprised at the fact that we are well on the road to European gas prices when the President and the two Cabinet officials he chose to deal with the issue are all on record supporting them.

Let's be honest, the only problem the President sees in all of this is the political blowback he is getting for it, and that is why last week he gave another

speech—this time to absolve himself from any of the blame for high gas prices even as he sought to take credit for the actions of the private sector and that his predecessors took to increase energy production here at home.

It is kind of interesting—the President seems to blame his predecessor on a weekly basis for the problems we face today, but when he finds something he likes, he doesn't commend him but claims it as an achievement for himself. Yes, oil production is at an all-time high in this country, thanks to the decisions that were made before this President took office.

But let's be very clear about something: The actions of this President are driving down oil production, and here is how. This President continues to limit offshore areas of energy production and is granting fewer leases to public land for oil drilling. His administration is imposing regulations that will further drive up the cost of gasoline for the consumer. He wants to raise taxes on oil and gas—a proposal the Congressional Research Service tells us will increase the price of oil and gas and, by the way, send jobs overseas. And he alone rejected the Keystone XL Pipeline—a potentially game-changing domestic energy project that promises not only energy independence from Middle Eastern oil but tens of thousands of private sector jobs.

The President has done all of those things, all the while claiming there are not any silver bullets. The fact is this President's policies are designed and intended to drive up energy prices, reduce domestic oil production, increase our demand on foreign sources of oil, and drive high-paying American jobs overseas. Those are the direct results of the policies of this administration. So forget the rhetoric; that is this President's record. It is in perfect keeping with the vision he set out at the beginning of his administration. This President will go to any length to drive up gas prices and pave the way for his ideological agenda. That is this President's notion of fairness, that struggling Americans pay more at the pump while their tax dollars go to prop up solar companies like Solyndra and the executives who run them into the ground.

I do not think it is particularly fair—speaking of fairness—for people who are out there trying to scrape a living together to subsidize bonuses for folks who would not even have a business without a taxpayer handout. That is not my definition of fairness, but that is the economy this President wants. That is what his policies lead to. That is his vision. So, in my view, reversing this President's wrongheaded energy policies is the silver bullet.

Look, the President can taunt his critics for suggesting that we actually use the resources we have, but I think

the American people realize that a President who is out there talking about algae when they are having to choose between whether to buy groceries or fill up the tank is the one who is out of touch. Americans get this issue. They understand it fully. They get that we need to increase oil production right here at home, not simply by relying on pipedreams—pipedreams like algae—or by wasting billions of taxpayer dollars on more failed clean energy projects like Solyndra, especially at a time when we are running trillion-dollar deficits. We cannot afford it.

It is time for the President to join with Republicans and put American energy and economic security ahead of his own ideological agenda.

I yield the floor.

#### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

#### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period of morning business until the hour of 12:30 p.m., with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled by the leaders or their designees, with the majority controlling the first hour and the Republicans the second hour.

The Senator from Illinois.

#### JUDICIAL NOMINATIONS

Mr. DURBIN. Mr. President, I was heartened by the dialog between Senators REID and MCCONNELL this morning, talking about more bipartisan cooperation, civility, and cooperation to try to deal with appropriations bills. I would like to commend to the Republican leader not just those important issues but the equally important issue of judicial nominations. It is no secret that the Senate's process for considering nominations has deteriorated under the Obama administration because of resistance from the Republican side of the aisle.

It is a long-honored tradition in America that a President of the United States fills vacancies on the Federal courts with the advice and consent of the Senate. That has been the process since the beginning of this Republic. Yet today we find stacked on our calendar literally 19 judicial nominees pending on the Senate floor. Fourteen of these nominees were reported from the Judiciary Committee last year, some of them as far back as October. They have been sitting here for months. Seventeen of the nominees were reported out of committee with

broad bipartisan support, 12 of them unanimously. Ten nominees, incidentally, are supported by their Republican home State Senators.

The bottom line is that judicial nominees with no controversy and with widespread bipartisan approval are being held up on the Senate calendar and not approved. Why? I can tell you why. It is fairly clear. It is part of a strategy that says: If you hold up the judicial nominees as long as possible, in comes that moment of the so-called Thurmond rule or Thurmond tradition. This relates to Senator Strom Thurmond of South Carolina, who basically said when we are engaged in the depths of a Presidential campaign, the Senate should stop approval of judicial nominees.

There is nothing in the law that requires that. There is certainly nothing in the Constitution. In fact, we have in our own way found exceptions in the past. But what we are seeing now is an effort by the Republicans to hold up or stop judicial nominees in the hopes that the positions will be left vacant through the entire calendar year and then, if they have their way at the polls, a Republican President will fill the vacancies a year from now with new nominees. That is crass. It is unfair.

The men and women who submit their names to be considered as judicial nominees go through a rigorous background check at many different levels—first by the Senators who would nominate them, then by the White House, then the routine examination by the Federal Bureau of Investigation, then once reported to the Senate Judiciary Committee for further investigation and hearing. Their lives are on hold during this process. They wait on the Senate. Once they have cleared these hurdles and finally reach the calendar, many of them believe they can breathe a sigh of relief. A unanimous vote or a strong bipartisan vote in the Judiciary Committee used to be a signal of success on the floor. Not anymore. At this point they reach the ultimate roadblock: they are stopped on the Senate floor by the Republican minority.

It is not just unfair to judicial nominees—men and women of quality, many of whom have been proposed by Republican Senators—it is fundamentally unfair to our court system. You see, many of these nominees are filling vacancies that are absolutely essential.

Last week I received a letter from the chief judge of the Northern District of Illinois, Judge Jim Holderman. His district is one that has been declared a judicial emergency, meaning the backlog of cases is stacking up and the vacancies need to be filled. He was writing to me and Senator KIRK asking that we do everything in our power to move two noncontroversial, strongly supported nominees through the Judiciary Committee. They are moved

through. These two, who came through a bipartisan process, are now sitting on the Senate calendar. They are John Lee and Jay Tharp. John Lee is my nominee, and Jay Tharp is Senator KIRK's nominee. A bipartisan agreement by a bipartisan committee has led to their selection. No one has questioned their ability to serve well on the Federal court.

This is what Judge Holderman wrote:

The vacancies [that they would fill] have been declared judicial emergencies by the Administrative Office of the U.S. Courts. More than a thousand cases that would have been addressed by judges in those positions have been delayed. The other judges of the district have worked to resolve these cases as promptly as possible along with our other assigned cases, but we need help. . . .

He went on to say:

Recently, two other active judges [in the Northern District] were in the hospital and remain unable to take new assignments. New civil case filings in our district court have increased. . . .

Judge Holderman concludes by saying, " . . . the people of the northern district of Illinois need your assistance," he writes to Senator KIRK and myself, and the full Senate should "promptly confirm the nominees Jay Tharp and John Lee."

This is a classic illustration. Well-qualified individuals, having cleared the hurdle, receiving strong bipartisan support in the Senate Judiciary Committee, are mired down on the Senate calendar. Time after time we see when we can finally spring one of these nominations that will have 80 or 90 votes of Senators who approve it. They are noncontroversial. It is clearly a slowdown strategy, so the other side of the aisle, saying their prayers that they can replace President Obama, will literally leave these vacancies for a year or more in the hopes that another President will pick another person. That is unfair to the process. It is certainly unfair to the nominees. It is unfair to this system of government where we are shirking our responsibility to advise and consent for critical vacancies to be filled so our Federal courts can operate in the best interests of justice across America.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New York.

#### JUDICIAL NOMINATIONS

Mr. SCHUMER. Mr. President, I thank my colleague from Illinois for his usual articulate and prescient comments about our judicial crisis, and that is what we have here in the Senate and in the third branch of government.

I rise today, along with many of my colleagues, to address a serious problem for which there is an easy solution. We have a crisis in our third independent branch of government, and it is one that only we in the Senate can

solve. We can solve it. We need to come together as we have in the past and confirm judges to our article III courts and dispense with petty politics and hostage-taking.

Let me give just one example of how our process has broken down. In December, for the second year in a row, my colleagues across the aisle refused to consent to confirm even a single judicial nomination before the end of the Senate session. This senseless rejection of the Senate's longstanding practice of confirming consensus nominees is starting to do real damage to our Federal courts. One out of 10 on the Federal bench, 1 out of 10 seats on the Federal bench is currently vacant. Judicial vacancies are double, two times what they were at this point in President Bush's first term. We have confirmed only 3 judicial nominees this session, only 5 in the past 2 months, and only 11 in the last 90 days. And of the three judges we have confirmed this session, we had to file cloture on two of them. This is not a responsible use of the Senate's advice and consent powers; rather, this is a handful of people—plain and simple—using the Senate's procedures to thwart the will of the majority of Americans. The vast majority of Americans want us to confirm good, moderate, pragmatic judges to the U.S. district courts. After all, judges on the district court don't make law, they follow law. They are not supposed to make law at all. Courts of appeal have a little more latitude, and, of course, the Supreme Court can make law, although they are supposed to follow tradition and precedent, and they claim they do. We can discuss that a different day.

A few outside groups are trying to accomplish in the third branch of government what they have been unable to accomplish in the other branches of government by making sure that judges with moderate, pragmatic credentials don't get confirmed in the hopes they can fill the bench with people who meet their narrow ideology at some point in the future.

Now, to be sure, my colleagues have offered a wide variety of reasons to explain their inability to consent to votes on district court judges. Some have said they are upset about the President's improper use of his recess appointment powers, powers about which five experts can give five different opinions. What that has to do with the judicial appointments is beyond me. Some have said they are upset about the ability to get floor time on something that is not even germane to judicial nominations.

To hold the third branch of government hostage because they have a different beef on a legislative issue is virtually unprecedented, at least certainly to the extent it has been done here. Some have given into terrible, misleading, and sometimes even vi-

cious attacks on pending nominees. I have seen material circulated by outside groups that appear ready to oppose nominees using any and all tactics. Some of them—not all, not most, but some, and any one is too many—can only be described as bigoted. I have seen it. I have seen the letters to our colleagues here in an attempt to pressure them.

This behavior needs to be stopped, and it certainly needs to stop having an effect on any Member in this body. I have seen material that twists a candidate's record beyond all recognition. In fact, just before recess one group circulated patently inaccurate quotes that were supposed to be from a brief written by now Judge Jesse Furman for a client.

I have said time and time again—and I will say once more today—the Senate certainly has an obligation to take a hard look at the President's judicial nominees. My view is that ideology does matter and every Senator here has the right to make sure a President's judicial nominees are within the mainstream. I would even admit that some definitions of mainstream are different from others, but when nominee after nominee—many of whom were reported unanimously out of the Judiciary Committee, which has some very conservative as well as some very liberal members—are held up by a handful of people, we are not talking about views outside of the mainstream. We are talking about something larger and, frankly, less defensible.

There will always be nominees, especially to the courts of appeals, about whom we will disagree. There will be those whom some of us view as so extreme that we will refuse to give consent to holding an up-or-down vote. But let's be clear; that is not what is going on today.

What is going on today is obstruction, plain and simple—obstruction against anybody, any nominee, and obstruction at unprecedented levels. The total number of Federal circuit and district judges confirmed during the first 3 years of the Obama administration is far less than for previous Presidents. The Senate is more than 40 confirmations behind the pace we set confirming President Bush's nominees between 2001 and 2004. The sheer amount of resistance to President Obama's district court judges indicates the level of obstruction we are facing.

In 3 years President Obama's nominees have received five times as many no votes as President Bush's district court nominees did over 8 years. Isn't that incredible?

The proof is in the pudding. The President's nominees for district court are not out of the mainstream. Almost all of them have logged years in public service or worked in law firms or excelled in other ways that characterized the nominees of previous Presidents.



The issue is that the standard has changed. It is no longer, will this judge be good for the country and meet the standards we demand from an article III judge. Now, it is, did I personally approve of this judge; and if I didn't, what can I get by voting for him or her or I am going to block that judge and tie the Senate in a knot so judges only in my narrow viewpoint can be appointed, even though the President is of a different party and of a different philosophy, even though the majority of the Senate on both sides of the aisle are of a different philosophy. This is nothing short of tragic.

I implore my colleagues to think about what they are doing. Let's come together, as I know we can, and confirm qualified district court judges without further gamesmanship, without further obstruction, and without the further view: It is my way or the highway, and if I don't get my way, I am going to try and cripple 1 out of 10 vacancies and cripple the article III branch of government. It is getting close to that.

There are emergencies on many circuits. The future of our courts and even this body could well depend on it. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I heard the remarks of the distinguished Senator from New York, and, obviously, I agree and I guess I would like to add my 2 cents to the arguments presented.

I am a 19-year member of the Judiciary Committee, so I have had a front-row seat for judicial nominations for a long time. Over 800 judges have been confirmed since I came to the Senate.

Now, it was not so long ago that liberals and conservatives could easily win confirmation as long as they were well qualified, fair-minded, and had judicial temperament. They were confirmed. It may even surprise some that Justice Ruth Bader Ginsburg was confirmed by a vote of 96 to 3, and Justice Antonin Scalia was confirmed 98 to 0. That was a different time.

Today partisanship has stalled even the most uncontroversial judicial appointments. Senate Republicans allowed no nominees to be confirmed at the end of the last session and have allowed only five so far this year. In this environment even those reported out of committee by voice vote without any controversy are unable to receive a floor vote for many months if they ever receive one at all.

Let me give a recent example, a judge I recommended to the President. Judge Cathy Bencivengo's nomination to the Southern District of California was approved by the Judiciary Committee by voice vote. Yet she waited 4 months for a floor vote. Then she was ultimately confirmed 90 to 6, showing that there simply was no need to hold

up the nomination in the first place. This level of obstruction is relatively new and has impeded the confirmation process for both judicial and executive branch nominees.

Let's do a quick comparison. Nearly 80 percent of President George W. Bush's judicial nominees during his first term were confirmed—80 percent. In contrast, less than 60 percent of President Obama's judicial nominees have been confirmed. As a result, the judicial vacancy rate stands at nearly 10 percent. That is double what it was when President Bush left office.

Similarly, during the first session of the 112th Congress, the confirmation rate of President Obama's executive branch appointments was only 51 percent. President George W. Bush and Bill Clinton each had a confirmation rate of over 70 percent during comparable periods in their Presidency.

So, clearly, there has been a change post-Bush, and I think that is what we are talking about. This is not good for the judiciary, it is not good for this body, and it is not good as standard operating practice of the Senate. It is clear we are seeing a degree of obstruction that is unprecedented and that hampers the ability of the judicial and executive branches to perform their constitutional functions. It is preventing us, the legislative branch, from fulfilling the responsibility that we owe to the two other branches of government.

In my State we have three nominees, each for positions the judicial conference has declared to be judicial emergencies, which means extraordinarily heavy caseloads. These should win confirmation without delay.

I will give you one: Judge Jacqueline Nguyen, a nominee for the Ninth Circuit. She is a remarkable jurist with an impeccable record. She was confirmed to the district court 97 to 0 in 2009. She was approved by the Judiciary Committee for the Ninth Circuit by a bipartisan voice vote. Yet her nomination has been pending on the floor for nearly 3 months. This is an easy one: unanimously passed, has served as a district court judge, could be voted for and passed if not by 100 percent, very close to it. The Ninth Circuit, which has by far more pending cases per appellate panel than any other appellate court, needs her to be confirmed without further delay.

There is a reason for this. I think Republicans don't like some of the appellate courts; therefore, what they try to do, candidly, is keep the positions vacant and hope that after the election there will be a Republican President and they will get their nominees through. Well, what is sauce for the goose is sauce for the gander, and this is not a good way to handle judicial appointments.

Let me give another one: Paul Watford should be confirmed quickly

to the Ninth Circuit. He is eminently qualified. He clerked for conservative Ninth Circuit Judge Alex Kozinski and Justice Ruth Bader Ginsburg. He served as a Federal prosecutor, and he has been a distinguished practitioner of appellate law in California for many years. He is uncontroversial. He has been endorsed by the former president of the Los Angeles Chapter of the Federalist Society by conservative law professor Eugene Volokh and by the general counsels of several major corporations that he has represented in appellate cases. The Senate should confirm him without delay.

Michael Fitzgerald, a nominee to the Central District of California, should also be confirmed quickly. This is a court that ranks as the ninth busiest in the Nation in terms of filings per judgeship. Mr. Fitzgerald is an extraordinarily qualified nominee with 25 years of experience as a Federal prosecutor and as a lawyer in private practice. His nomination was also reported by the Judiciary Committee by a bipartisan voice vote. Yet his nomination has been waiting for a vote on the floor for nearly 4 months. All of this is unnecessary. They could go through by unanimous consent.

Now, I understand that some of my Republican colleagues believe President Obama's recent recess appointments are a reason to delay needed confirmations to overburdened courts around the country. I would simply remind my colleagues of a bit of history and ask them to think carefully about whether they want to go down this very dangerous path.

Many will recall that President Bush made two controversial recess appointments to the Eleventh Circuit and the Fifth Circuit in early 2004. Like Republicans now, Democrats were upset about the President's appointments. Nevertheless, in the months that followed, Democrats permitted numerous circuit court and district court nominees to be confirmed. The Senate continued to act on such nominees until September of 2004—2 months before the Presidential election.

So I say to my colleagues—and say this respectfully—take a step back. Do not obstruct every judicial nomination from this President. Our judicial system depends on a Senate willing to do its constitutional duty and provide advice and consent on judicial nominees. Most pending nominees are well-qualified, consensus choices for courts that urgently need them to begin their service. We should confirm them without delay.

Our job is to vote. Our job is not to obstruct, to delay. It is to vote. We function on a majority system. If you do not think someone is qualified, if you do not believe they have the judicial temperament, if you do not believe they have enough experience, if you do not like them for any reason, vote no.

That is entirely within the prerogative of a Senator. But to hold them up, despite judicial emergencies, despite high caseloads, is to impact the system of justice.

I think this 10-percent vacancy factor now indicates that the condition of justice is, in fact, being affected throughout our country, particularly in the Ninth Circuit and in California as well as in many other States.

I thank the Acting President pro tempore and yield the floor.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COONS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. FEINSTEIN). Without objection, it is so ordered.

Mr. COONS. Madam President, I rise today to continue to address an issue which I have just had the joy of hearing the Presiding Officer and the Senators from New York and Illinois speak to, and that concern I raise today is the ongoing crisis in our courts, the nearly 10-percent vacancy rate in judicial positions all across the United States.

I rise today as the junior Senator from Delaware but also as a member of the Delaware Bar and as a former Federal court clerk, and as someone who has, I think, a personal sense, from that experience and my service on the Judiciary Committee, of the consequences of these delays—the consequences of steadily climbing caseloads, significant judicial vacancies, judicial emergencies in districts across our great country, including in the State of California, and what that means for people, for companies, for communities for whom justice is being delayed and thus denied.

Earlier this month I attended the investiture ceremony of Judge Richard Andrews who was sworn into the U.S. District Court for Delaware. This is the first time in 6 years the very busy District Court of Delaware has had a full complement of district court judges.

Although I am relieved and the people of Delaware are grateful to have a full bench, and although Judge Andrews is an extremely talented lawyer and a devoted public servant and utterly nonpartisan—just the sort of district court nominee about whom the Presiding Officer just spoke—his nomination took nearly 6 months to be confirmed by the Senate.

I am glad Judge Andrews has made it through because in the Senate the confirmation process seems to be more broken this year than last. When I joined the Senate in 2010, judicial nominations had slowed to a crawl. I watched with dismay as folks whom I viewed as highly qualified were blocked.

Goodwin Liu, for example—a brilliant and qualified legal scholar, a nominee twice to the Ninth Circuit—could not overcome a GOP filibuster, in part payback for a view, I believe, on the other side of the aisle of the rough handling of Miguel Estrada, whose nomination was defeated during the Bush Presidency.

What I have been most concerned about as a freshman Senator is how the history lying about this Chamber seems to steadily pile up session after session, and the process seems to be weighed down by this burden of history.

But next, Caitlin Halligan—an extremely competent attorney without a single partisan blemish on her record—was nominated to the DC Circuit, and her nomination, in my view, was also blocked based on a grotesque misrepresentation of her actual record. The major talking point against her nomination, if I recall right, was that the DC Circuit already had more than enough judges.

Judge Halligan would have been the 9th judge on that court. Notably, all the GOP Members who spoke against her had no qualms when the Senate confirmed the 10th and 11th judges to sit on that very same circuit during the Bush nomination period. But I think these sorts of fine points of history are lost on the people, the communities, and the companies across our Nation who go to the courthouse seeking justice and find none.

In 2012, as some of the previous Senators have stated, we have so far confirmed just five judges. Today, there are 19 nominees on the floor, 12 of whom came out of our Judiciary Committee unanimously, who are now languishing on our Executive Calendar. Republicans have not stated objection to these nominees but refuse to grant consent for a vote to be scheduled.

President Obama's nominees have waited four times longer after committee approval than did President Bush's nominees at this point in his first term, and the Senate is more than 40 confirmations behind the pace set during the Bush administration.

It is not just judges who have been the subject of this ongoing weighting down. The Executive Calendar, which I have the privilege to flip through every time I preside, is filled with nominees for vacancies in every major department and in every major independent agency in this government. It is more than a dozen pages long of nominations that have sat for months and months.

Last month, in response to the Republican obstructionism in moving this Executive Calendar and in filling these administrative vacancies, President Obama made recess appointments: the Consumer Financial Protection chief, Richard Cordray, and members of the National Labor Relations Board. Some of us on both sides of the aisle do agree

that Congress, and not the President, has the right to declare when the Senate is in recess. But whatever one's view of these appointments, there is no questioning that in either case, Republicans forced the issue through their unprecedented refusal to vote the President's nominees up or down and allow him to proceed with the progress of our Nation.

As Senators, we have a responsibility to advise the President as to his nominations and, where we agree, to consent; where we do not, each of us is free to vote no. Some Senators have suggested they will oppose all nominations in opposition to the President's recess appointments. In my opinion, a pledge to oppose all nominations is a pledge not to do his or her job. In my view, we ought not to make such a pledge. In my view, while so many Americans are out of work, and so many of us are here on the public payroll, we can, we should, and we must move forward with the judicial nominees.

This morning, this session began with a very encouraging moment of harmony between the majority leader and the Republican leader on the concept of moving ahead with appropriations. It is my hope and prayer we will do the same on judicial nominations as well.

I call upon my colleagues on the other side to rethink this strategy of obstruction at all costs because it is the American people who pay the price in the end.

With that, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Texas is recognized.

#### ORDER OF PROCEDURE

Mrs. HUTCHISON. Mr. President, I ask unanimous consent to enter into a colloquy with my Republican colleagues for up to 30 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### DOMESTIC ENERGY

Mrs. HUTCHISON. Mr. President, I think it is obvious all around our country that Americans are struggling right now with gasoline prices. The average American family spent more than \$4,000 on gasoline last year, and it will be more this year, with the additional devastating price increases we are seeing now that will wreak havoc on our economy.

The national average price of a gallon of gasoline has gone up every single day for the last 3 weeks. In many parts of our country, prices at the pump are around \$4 a gallon. But instead of encouraging an "all-of-the-above" approach, which the administration has said it is doing, the administration, instead, has been frustrating every domestic source of energy production

that does not conform to a narrow view of alternative fuels.

The President is opposed to increased drilling in the Arctic National Wildlife Reserve and opening additional areas of the Outer Continental Shelf off the Alaskan coast.

The people of Alaska have voted to support the ANWR drilling because they know ANWR is an area that is the size, approximately, of the State of South Carolina, and the part that would be drilled is approximately the size of Washington National Airport. So they know this would be good jobs for Alaska, and it would not harm the environment at all because the drilling area is so very small in this vast wildlife reserve.

The President has also restricted drilling on Federal lands, opposes the development of shale gas and coal, and will not open additional areas of the Outer Continental Shelf in the lower 48 States. Even though some State legislatures, such as Virginia, have said they would like to do it, the President has shut that down.

The President opposes further drilling in the Gulf of Mexico, and nuclear energy is also now on the list, I guess, of moratoria. He has rejected the Keystone XL Pipeline.

What the President does favor is the Saudis increasing oil production and increased use of solar, wind, and algae at home.

Does that substitute for an energy policy? Is that something Americans can count on to increase the supply of energy in our country?

Last week, the President said: We cannot drill our way to lower gas prices. This statement is inaccurate. Increased domestic production will go a long way toward stabilizing gas prices. Why does this President want to turn his back on critical sources of domestic energy which seems incomprehensible to anyone looking at this issue?

So I have colleagues on the Senate floor who come from different States—States where unemployment is high and people are looking for jobs and looking for alternatives.

I would like to turn to the Senator from the great State of Missouri, Mr. BLUNT, and ask the Senator from Missouri if he has a view. Is he hearing from his constituents in Missouri?

Mr. BLUNT. Well, I do. I think I will quickly yield to my good friend from Ohio and then speak again.

Actually, I just met with disabled veterans who are here in town today. I told them I was going to be talking about energy, and they said the long-term effort of the Veterans' Administration to get veterans to their health care appointments is dramatically impacted by these high gas prices—just like for veterans and retirees of all kinds with the number of dollars going into their gas tanks.

As they see the price of that tank of gas go up \$10, maybe they decide: I am going to have to quit because that is all the money I have with me or I am going to fill up the tank and see it go to \$40, \$50, \$60.

As families look at that, as retirees look at that, as veterans look at that, they have got to be thinking as that gas tank number changes, something else they were going to do that week is something they are not going to be able to do. This has dramatic impact on families; it has dramatic impact on the way we live; it has dramatic impact on the confidence people have in our economy.

If you look at any charts of gas prices going up, you see consumer confidence going down. It happens in States such as the Senator's or in States in the middle of the country such as Missouri or Senator PORTMAN's State of Ohio. I know we have all been home. I am sure you cannot have been home and not have heard a lot about gas prices.

Mr. PORTMAN. The Senator is absolutely right. I say to my colleagues from Texas and Missouri, they are right on in terms of the impact on Ohio families. I was home last week. In fact, I drove from Ohio to Washington last night. I had to fill up a couple of times on the way, and the price was over \$3.70 a gallon. According to AAA, the average price now is over \$2.70 a gallon.

This is impacting families. I have met with people who were in the trucking business and small operators who are trying to make ends meet. They are saying: ROB, I do not know how this is going to work because our gas prices keep going up at a time when our expenses are going up as well. They are getting squeezed out. Of course, higher prices for gas affect all of us as families, they affect everything we buy, because that cost is embedded there. So this is hurting our economy in very fundamental ways.

Record levels for this time of year. This is not just a seasonal issue. This is a longer term failure of an energy policy by the Obama administration. That is something we all need to focus on, not to just be critical of bad policies which have gotten us here, but how do we get out of it? What do we do? That is what I wish to talk about for a minute today.

Let me give you a couple of interesting numbers. The price of gas has increased by 94 percent in the last 3½ years, during the Obama administration. So you are talking about almost a 100-hundred percent increase in the cost of gasoline.

There was an all-time high last year of \$2.53 a gallon, and again over \$3.70 this year already. By the way, last year the average amount spent by a family in America for gasoline at the pump—over \$4,000. So this is a big part of people's budgets. We have been hit hard.

At a time when millions of Americans are struggling amid a continuing weak economy, it is particularly tough because budgets are already stretched thin.

We need to produce more, in my view. If you produce more, you are going to see prices come down. It is sort of the basic law of supply and demand. So right now we have demand around the world maybe picking up a little bit, and yet we are not producing as much as we should be. And, frankly, we are producing less than we have.

Let me give you some interesting numbers here that actually surprised me in terms of what the President is saying versus the facts. The President says we are producing more than we have in the past. The production of natural gas on public lands and waters went down 11 percent last year; decline in oil production, 14 percent. In the Gulf of Mexico, there was a 17-percent drop from 618 million barrels in 2010 to 514 in 2011.

The Senator from Texas talked about this. We are not seeing an increase; we are seeing a decrease. This is at a time when all of us, I hope, realize that we have to be focused on producing more here at home, one, so we can get prices down, and, two, so we can get less dependent on these dangerous and volatile parts of the world. If we do not do that, we are going to be subject to what happens in Libya or Iran and see gas prices spike up as we are seeing now. We have got to produce more and we have got to produce it here at home to get away from the OPEC cartel. Washington wastes time by not acting now to immediately expand that production.

The White House says you cannot immediately expand production because it takes some time. Well, all the more reason to get started with it, as the Senator from Texas has said. If we had started a few years ago, we would be in much better shape. But also the price of gasoline reflects what people think it is going to be in the future. So even if we made a commitment today to get busy on more domestic production, oil and natural gas, it would affect the price because it would affect what folks are thinking about what the future prices are going to be.

Mrs. HUTCHISON. Would the Senator from Ohio yield.

I think the Senator from Ohio is making such a good point, because here the President is saying producing more will not lower prices. Does that seem like the fundamental supply-and-demand explanation that most economists have adopted in our country, that if you supply more the price will go down? Does not that seem like a non sequitur?

Mr. PORTMAN. It does. I think most people get it. Because even if you do not have a degree in economics, and I do not, we understand the law of supply

and demand works. So if you are going to cut the supply, as has happened, you are going to see prices go up.

Let me give you an example. In 2010, the President cancelled leases in the Gulf of Mexico and the Mid-Atlantic. In 2011, he put forward a 5-year lease plan that reinstitutes a moratorium in the Atlantic, Pacific, halves the number of lease sales in the old plan. So, again, if supply is going down, you are likely to see prices go up. That is exactly what has happened. He slowed down permits for deepwater and shallow water drilling in the gulf. He is now set to impose severe new regulations on oil refiners. That is going to further raise prices.

Speaking of oil refineries, that is a big part of the cost of gasoline. About 11 percent of the cost, according to the American Petroleum Institute, of the price of gasoline comes from refining. By putting more and more regulations and costs on refining, you are going to have an impact on prices as well that is negative and hurting our families.

The EPA, the cap-and-trade regime, did not get through the Congress. So they are moving ahead through regulations, causing a lot of uncertainty, a lack of construction of refineries. The first new refinery in a generation, in fact, has been delayed because of it.

This actually brings us to the second problem, I say to my colleagues from Missouri and Texas. This is not just about gas prices, as important as that is; it is about jobs. Because by stopping the construction of a refinery, we are putting new regulations on not allowing the kind of drilling we want to do in the State of Ohio to bring jobs, and you are hurting the very jobs Americans need to be able to pay their gas bill. These are good-paying jobs. They tend to be jobs that pay well, have good benefits. So a pro-growth energy strategy does not just result in a more secure energy source, more reliable energy, it also results in more jobs, which we need desperately.

The President seems to be saying he is going to reverse course. In his State of the Union Address, he says he is for an all-of-the-above strategy. By the way, a week after that, do you know what he did? He rejected the Keystone XL Pipeline, which—talk about all of the above—we certainly should be from our strong ally to the North getting oil we need for our refineries to get the cost down.

By the way, that pipeline also picks up American oil. I bet you that our colleague from North Dakota is going to talk about that in a little while, because he has been Governor of North Dakota and understands the importance of the Keystone XL Pipeline. So whether it is the offshore drilling we talked about, moving ahead with drilling onshore, and exploration that can help create jobs and energy security, whether it is the Keystone XL Pipeline, whether, as I talked about in

terms of the regulations on our refineries, there are things we can do and should do and do immediately, if we do these things to have more domestic energy production, yes, we will begin to see these prices go down and stabilize.

I come from Ohio. As the Senator from Missouri said, we have a tradition of producing oil and gas. It goes back to the turn of the century, the last century. Then we kind of got away from it for a while and people in Texas started producing a lot more oil and gas. We are back in the business, thanks to these shale finds. The Marcellus shale—it is the Utica shale, it is natural gas. But it is also oil and what they call wet gas, which is very valuable.

I will tell you, having spent a lot of time in eastern Ohio over the last several days, people are excited about this. It is bringing back good-paying jobs, allowing people to stay in these communities and be able to raise their families with not just a living wage but real hope for the future.

It also will have an effect on our gas prices. We have an opportunity, before things get worse, to come up with a different solution, a sensible national energy policy that stops our dangerous dependence on foreign oil and leads to more domestic production and therefore prices we can afford at the pump.

Mrs. HUTCHISON. I want to say to the Senator from Ohio that I am very pleased Ohio is getting back into the drilling business. That is creating jobs in a State that I know has had high unemployment. It is so clearly in America's best interests to have our people working.

And, of course, the Keystone Pipeline, which our colleague from North Dakota is going to talk about in a few minutes, is the perfect place to create jobs; instant jobs with not one dime of taxpayer dollars. This would be private dollars invested in a pipeline that would bring oil from our friends in Canada all the way through the United States to the refineries in Texas, which it is estimated would produce 830,000 barrels of oil into gasoline a day—a day. Think of what that would do to the price.

The Secretary of Energy has actually made the statement that we want gasoline prices to increase along the lines of Europe. Oh, really? I wish to ask my friend from Missouri, how would the working people in his State feel about \$8 or \$9 per gallon, which is what they pay in Europe, as a cost at the pump? What would that do to the economy of Missouri? What would that do to the unemployment in Missouri?

Mr. BLUNT. I was asked the other day when I was home: Does the administration have a plan? I said: Well, if you listen to what they say, this is their plan, for these gas prices to go up. We are not Europe. In spite of what the Secretary of Energy may have said

the month before he was named as Secretary, that our big problem was our gas was not as high as gasoline in Europe, that was, according to him, our big problem.

The President who appointed him said a few weeks before that, at the San Francisco Chronicle editorial board: Under my energy policies, energy prices will skyrocket. So apparently they are well along on the plan.

As I mentioned a couple of times already, gasoline is twice as high as it was in January of 2009. We are not Europe. We are a big country that is dependent on transportation. We drive farther to go to work than most Europeans do. We transport our goods more than most Europeans do. We have this big agricultural economy that feeds a whole lot of the world and only works with affordable energy.

There are two points both Senators have made that I wish to drive home. One is that more American energy means more American jobs, and not just the jobs to build something such as the Keystone Pipeline but also the jobs at the refinery when that 800,000 barrels of oil a day gets to our refinery. They are American workers running that refinery.

If our economy is prosperous, there are more people working in manufacturing and transportation and all of the things that we do for a living. The shortest path to more American jobs is more American energy. We should be working on that, and then the impact on families. You know, as families see what is happening at the gas pump, as I said earlier, they give up on other things they would hope to do.

The President said at the State of the Union that he was for an all-of-the-above strategy. Apparently the regulators do not know about this. The regulators the President has appointed seem to have no clue that the all-of-the-above strategy of coal, of natural gas, of oil, needs to be part of what we are doing as we invest in the future.

Nobody is opposed to looking for what comes next after fossil fuel. The concern is we are not there. Even if we knew we were going there, we would not get there for a long time. Even if we knew what would power our cars 30 years from now, most cars 20 or 25 years from now will still be pulling up to a gas pump. Most trucks will still be pulling up to a gas pump.

Frankly, the economy could not absorb it any other way. And we do not know yet what is the likely next thing. I am for seeing us invest in that. I am for conservation so we use our energy more wisely. But let me say, the poorest people are the last ones who get the new high-mileage vehicles or the energy-efficient refrigerator or the new windows. Retired Americans, Americans struggling to get by, are going to be the last people to benefit, in most cases, from those ideas.

Let's conserve our way out of this or let's price our way out of this. More American energy is good for us. Energy from our friend and next-door neighbor is the next best thing to energy we produce ourselves. We ought to do all we can to produce all the competitive energy we can on our own. We then ought to do all we can to encourage our closest trading partner, our most equitable trading partner. When we send them a dollar, they send us almost a dollar back every single time. Regarding energy security, the odds that we are going to have a problem with our Canadian neighbor are a lot less than the odds that something will happen in the Middle East that will be a problem for us. Because of these new finds in gas shale, oil shale, tar sands, and other things, we can now use small platforms to access it that would not be disruptive in a significant way; a small drilling platform doesn't do that.

I thank our good friend, Senator HUTCHISON from Texas, for putting this discussion together and for being such a leader on energy issues. Senator HOEVEN, when he was Governor, saw what could happen in the economy of a State when we decide we are going to make the most of our natural resources. The economy of North Dakota changed dramatically while he was Governor because it became an energy producer and is now one of the biggest energy producers in our country. He wants to talk about the Keystone Pipeline, and I wish to hear that if the Senator is ready. We can go back to the Senator from Texas, and then we will hear from Senator HOEVEN.

The PRESIDING OFFICER (Mr. MANCHIN). The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I thank the Senator from Missouri for the point he made about trading with Canada, our ally and closest neighbor, our biggest trading partner, as opposed to having Canada ship the oil they are now producing in the Alberta sands over to China or over someplace else, and sometimes it would be shipped back in or we would be taking oil from the Middle East, and all the things that can happen when oil is being shipped from the Middle East to America are risks we would have to take.

Mr. BLUNT. Mr. President, if I may make a final point. Every other country in the world looks at its natural resources, and the first two words they think of are "economic advantage" or "economic opportunity." That is what the Canadians are doing. Only in the United States do we have any significant number of leaders who look at our natural resources, and the first words they think of are "environmental hazard" and "what is the worst thing that could happen?" And "what if that happened every day?"

The Canadian Prime Minister was in China just in the last month talking about selling their oil to the Chinese,

who want to buy it. That is what the Canadians should be doing. They would prefer to sell it to us. We should buy it. But they are not going to decide that if our most logical partner doesn't want it, we will just let our economy suffer and not do anything with it. Nobody else looks at energy resources that way. We should not either, and we should not expect the Canadians to do that.

That pipeline is either going to go south to our refinery or west to the coast, where they will ship that oil to Asia. We should not let that happen. They don't want it to happen. We should not be upset with them if we will not buy it and they decide they are going to benefit from their own resources, as they should.

Mrs. HUTCHISON. The Senator makes the exact right point. Of course, they should look for markets so their people can be employed. The folly is that America would not be the logical place to say, yes, we want it, of course. Let me give a statistic, and I will ask the Senator from North Dakota his opinion. Frankly, he has been the leader in the Senate to try to get the Keystone Pipeline approved by the State Department and the White House. He has been the leader. I was amazed just yesterday that the White House did a kind of a double backflip with a twist. The Wall Street Journal said it best: "Obama's Keystone Jujitsu." What the administration did, in a mind-numbing kind of logic, was say: We said no after more than 3 years of environmental studies that all approved the Keystone Pipeline coming from Canada down through Oklahoma and into the refineries in Texas. Instead of approving it after more than 3 years of good environmental studies that came out positive, the President said no.

But yesterday, the President said: We will approve and say it is a good idea to do the pipeline from Oklahoma down to Texas. That is not bad; it is great to have that, but the problem is, if we do the 830,000 barrels a day that would come from Canada all the way down to the refineries in Texas, it would produce 34 million gallons of oil a day, or the equivalent of more than 16 million gallons of gasoline.

I ask the Senator from North Dakota, who could be bypassed with this new plan, how is that going to affect the rest of America—not the America between Oklahoma and Texas but the rest of America, including the State of North Dakota? Why would he think the President would think that is a solution?

I wish to make sure the Senator has up to 10 minutes, so I ask unanimous consent for that.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. I yield to the Senator from North Dakota for up to 10 minutes. I ask him, how on Earth does

this affect the price of gasoline when we could be putting 34 million gallons of oil, or more than 16 million gallons of gasoline a day into people's tanks? How could the President say that would not lower the price?

Mr. HOEVEN. Mr. President, I thank the Senator from Texas for organizing this colloquy with the Senator from Missouri and the Senator from Ohio on this very important issue.

We have our American consumers paying more than \$3.70 at the pump today. Actually, today the price is \$3.72. That is the right question because that hits every single American. As the Senator from Texas and the other Senators have pointed out, when the administration took office, the price of gasoline per gallon was about \$1.85. Today, it is \$3.70. Actually, again, this chart is already old; today the average price is \$3.72. In some places, it is already well over \$4. The projection is that by Memorial Day, gasoline will be \$4 a gallon and by later this summer it could be as much as \$5 a gallon.

Let's put that into perspective for just a minute, following up on the question by the Senator from Texas. Recently, the President wanted a payroll tax cut, and the Congress passed that payroll tax cut. As the President liked to point out, that was about \$1,000 a year. The benefit of that payroll tax averaged about \$1,000 a year for the American worker or about \$40 a paycheck. People get a paycheck every week, so it would be \$40 a paycheck for the average working American. That is about \$20 a week.

When we are paying between \$4 and \$5 a gallon for gas at the pump, we more than pay that additional \$20 we got in that payroll tax, don't we? In other words, it costs us more than that. In essence, we have gone back because of the high price of gasoline.

What is the administration doing? As the Senator from Missouri just pointed out, the administration has an all-of-the-above strategy. What is that? That means we produce more energy from all our resources—oil, gas, biofuels, solar, wind, nuclear, and biomass. I agree with that. We should produce all our energy resources and have an all-of-the-above strategy. The problem is the administration is saying that, but they are not doing it. They are saying we should have an all-of-the-above strategy, but they are not doing it. Not only are they not doing it, they are actually blocking oil and gas development in our country, and they are blocking our ability to get oil from our closest ally and trading partner, Canada.

The Keystone XL Pipeline, which they have turned down, is a great example of that. That is 830,000 barrels a day that we are not getting from Canada, because after 3½ years of study, the administration turned down the project. The Keystone XL Pipeline and

projects similar to it are very important parts of the solution. We still get 30 percent of our crude from the Middle East and Venezuela. Oil prices are going up because of instability in the Middle East. That creates a risk premium to the price of gasoline, which we could reduce substantially by producing more oil and gas here at home and with our closest friend and trading partner, Canada.

Ironically, the President wanted a payroll tax cut to stimulate our economy, he said, and to help the American worker. Then he more than takes away any benefit from that payroll tax cut by blocking our ability to develop oil and gas in this country and to get oil from Canada. In my State of North Dakota, not only can we not get our oil to market because we cannot put it into the Keystone XL Pipeline and get it to refineries, we cannot get the oil from Canada either, and our consumers, working Americans, pay the price at the pump. Why would the administration do that? Why?

I think some insight is provided by Ted Turner's letter on the CNN Web site. He has a letter on that Web site, and everyone can check it out. Mr. Turner cites a number of arguments as to why we should not get oil from Canada. First, he says: That oil we get from Canada—we will just export it, so it will not reduce gas prices in the United States. But in a recent Department of Energy report, dated June 22, 2011, the U.S. Department of Energy says just the opposite; that the crude we bring in from Canada will be refined in the United States, and it will lower gas prices in the United States on the east coast, the gulf coast, and in the Midwest—not “may” reduce gas prices but “will” reduce them on the east coast, the gulf coast, and in the Midwest. Mr. Turner's letter says the pipeline will leak and, gee, we don't want a pipeline that leaks.

As my second chart shows, this is the second Keystone Pipeline. This first Keystone Pipeline has already been built. He says that Keystone Pipeline leaked, so we cannot build a second one. The first one had no underground leaks. The leaks he refers to were minor leaks at some of the joints as they constructed the thing, which is normal and they were quickly and readily handled and they were no problem. That is functioning today just fine, and there are no underground leaks. So that is not accurate either, is it?

As a matter of fact, let's take a look at this chart. Those are not the only two pipelines we have in the United States. There are others. We have thousands of oil and gas pipelines across the country. But somehow building one more that will bring in 830,000 barrels a day to help reduce the price of gas is a problem. Really? That doesn't make much sense.

The other argument he uses is that we are producing that oil in Canada in the oil sands, and that is not good because we have to excavate to do it. What is the reality with producing oil sands? It does have somewhat higher greenhouse gas emissions. How much? About 6 percent. That is how much more greenhouse gas emission we get. But we are moving from excavating to produce that oil and gas to in situ. In situ is drilling just like we do for conventional oil. That means the same amount of greenhouse gas, the same footprint. Eighty percent is in situ. It has the same amount of greenhouse gas. We have deployed new technologies and produce more energy and do it with better environmental stewardship. So these arguments aren't accurate.

But the reality is this: Folks like Mr. Turner, rich and famous, I guess they can pay \$4 for gasoline. They can pay \$5 for gasoline or a lot more. That isn't a problem for them. The problem is for hard-working Americans who have to pay that price at the pump every single day. So the administration has to decide who they are going to side with on this issue. Who are they going to side with on this issue? Are they going to continue to side with, I guess rich and powerful interests that want to see those gasoline prices go higher, and for whom the price of gasoline at the pump really isn't an issue or with hard-working Americans for whom this creates real hardship? That is the issue we have here with this vote that we will be having on the Keystone XL Pipeline.

The reality is this: We can have North American energy security. We can do it. Right now, between Canada and the United States, with some help from Mexico, we produce about 70 percent of our crude. The Keystone XL project alone would take us up over 75 percent. And with other sources, which some of my colleagues have referred to, such as shale and the in situ drilling I have talked about, we can easily meet our needs. In fact, if we include the work we are doing with natural gas, with biofuels, and with energy efficiency, I believe we can truly have North American energy security—meaning we can supply the energy needs in the United States and North America, with our friends in Canada, within 5 to 7 years. But we have to get started. We have to get started.

So let's get started, Mr. President. Let's start by approving the Keystone XL Pipeline project. Let's show the world we are serious about getting this done. Asking the Saudis for more oil, as some of my colleagues have done, doesn't solve the problem. Nor does taking oil out of the Strategic Petroleum Reserve. That doesn't solve the problem. We solve the problem by truly producing all of the above—not saying it but doing it.

It is ironic the administration praises TransCanada for moving for-

ward on building the only portion of this pipeline they can build without a Presidential permit. He praises them for moving forward at the very time the administration is blocking the project. And while they are blocking it, that means not one more drop of oil is coming into this country from Canada, not one more drop of oil is coming from my State of North Dakota down to the refineries to help reduce the price of gasoline at the pump. That is not an all-of-the-above energy policy. That is not helping American workers. And that is exactly why gasoline is \$3.70 a gallon and going higher.

It is time for Congress to act.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Maryland.

#### SURFACE TRANSPORTATION REAUTHORIZATION

Mr. CARDIN. First, let me express my disappointment that we are not here debating the surface transportation reauthorization bill. We had a bill that came out of the Environment and Public Works Committee and came out of several other of our committees by unanimous vote, so it is a bipartisan bill. It is a bill that will save jobs and create jobs here in America. It will reinvest in our own infrastructure to make America more competitive. And, as I said, it has been done in a bipartisan manner thanks to the hard work of many people.

I see Senator BOXER on the floor. Thanks to her incredible leadership, we have an agreed path forward from the point of view of the relevant amendments. So what is holding up the process? It is these amendments that have absolutely nothing to do with the transportation programs of this country. We are talking about policy in Egypt, which has nothing to do with our transportation needs. I would start by saying how disappointed I am that we haven't yet started the real debate on our transportation reauthorization bill which will create jobs, save jobs, modernize America, and make us more competitive.

Let me yield for a moment, if I could, to my colleague from California, Senator BOXER.

Mrs. BOXER. If my friend would yield for a question and keep the floor—and I ask unanimous consent that the time for this colloquy not be taken off his time, or does he have unlimited time?

Mr. CARDIN. It is 10 minutes.

Mrs. BOXER. Well, let me say thank you to my friend. I know he is here to talk about judges, which is a critical issue. I am very happy he is going to do that. The lack of action on these qualified nominees is hurting our people.

But I wanted to thank him for his comments. The Senator from Maryland, Mr. CARDIN, is a senior member of



the Environment and Public Works Committee and has worked so hard, along with our invaluable staff, and provided an invaluable contribution to the Transportation bill. I guess the question I will get to is this one: With 2.8 million jobs on the line—that is 1.8 million jobs we have currently attached to a highway bill and then an additional 1 million jobs which will be created because of some of the work we did on TIFIA to leverage the jobs—does not my friend believe this is the time to move a jobs bill, when we are in the process of seeing this economy finally turn around? The turnaround is not as fast as we want, but does my friend believe the timing of this couldn't be better; and that if we pass this bill, which is so bipartisan, it will kick this economic recovery into higher gear?

Mr. CARDIN. The Senator is absolutely correct. We need more jobs in America. I congratulate the Obama administration for turning our economy around. We have had 23 consecutive months of private sector job growth, but we don't have enough jobs yet. We have to create more jobs. Now is the time to be bold on looking for responsible programs that can move this country forward and creating more jobs, not only initially in road construction, in bridge construction and transit construction, but making us more competitive for the future and creating permanent job growth for America, jobs that cannot be exported. That is what we should be doing, and that is why the surface transportation bill is so important for us to bring up and debate and pass.

And, quite frankly, the Senator from California had performed something unprecedented—well, not unprecedented but unusual here—in that she got bipartisan support from three committees, and we are working on the fourth now. Senator BOXER has gotten all the committees together, and so it is time to move this bill forward for jobs throughout America.

Mrs. BOXER. My very last question. I hope my friend is aware that right now the leadership is working very hard to take this very unwieldy list of amendments and get it down to some responsible number so we can begin, finally, in earnest. I have to point out that I don't understand how my Republican friends think it is appropriate to add to a highway bill the issue of birth control. I don't know how my friends on the other side think it is appropriate to repeal environmental laws on this highway bill. I don't understand, as my friend from Maryland pointed out, how they can say they can see a connection between a highway bill and what is happening in Egypt.

We care about all these issues, and the Senate will address these issues, but this is a jobs bill, a bipartisan jobs bill. So I want to end by thanking my friend for yielding to me, and I look

forward to his remarks on judges, and I look forward to getting back to our transportation bill, which I am hopeful will happen at some point today.

Mr. CARDIN. I thank Senator BOXER.

Mr. President, I ask unanimous consent to speak for up to 10 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### RUSSELL NOMINATION

Mr. CARDIN. Mr. President, I rise today to urge the Senate to confirm Judge George Levi Russell, III, of Maryland to be a United States District Judge for the District of Maryland.

The nomination of Judge Russell was reported out of the Judiciary Committee on February 16 by a voice vote, as the Acting President of the Senate knows. Judge Russell currently sits as a trial judge in the Baltimore City Circuit Court.

I take seriously the obligation of the Senate in terms of the advice and consent role we play. I am concerned that our judicial confirmation process in the Senate has broken down due to partisanship, particularly for non-controversial judges. Judge Russell's nomination now joins a long list of backlogged, noncontroversial judicial nominations that are stuck on the Senate floor. As of yesterday, the Senate calendar contained 20 judicial nominations approved by the Senate Judiciary Committee which are still awaiting a final vote. Fifteen of these nominees have been pending since last year, and 18 of them have received strong bipartisan support from the Senate Judiciary Committee. These are non-controversial nominees that are due the up-or-down vote on the floor of the Senate, and there is no justification for the delay in the Senate's carrying out its constitutional responsibilities.

The Senate is responsible for the rising vacancy rate in our Nation's article III courts. The victims here are not only the nominee and his or her family, who are waiting on final Senate action, but the American people are also victims. They face increasing delays in courts that are overburdened and understaffed. A higher vacancy rate means lack of timely hearings and decisions by our Federal courts, affecting our citizens' access to justice and a fair and impartial resolution of their complaints.

In Maryland, we are trying to fill a vacancy that was created during the end of President Bush's term of office when Judge Peter Messitte took senior status in 2008. So this vacancy has been there for a long time. It is time for us to act. Judge Russell is an excellent candidate. He received bipartisan support in the Judiciary Committee and is ready to take office upon being confirmed by the Senate. The time for action is now.

Judge Russell brings a wealth of experience to this position in both State and Federal courts. Earlier in his career, he served as a Federal prosecutor and as an attorney in a private law firm. He now sits as a State trial judge court in Maryland. He has the experience.

He graduated from Morehouse College with a B.A. in political science in 1988 and a J.D. from Maryland Law School in 1991. He passed the bar examination and was admitted to practice law in Maryland in 1991. He then clerked for Chief Judge Robert Bell on the Maryland Court of Appeals, our State's highest court.

He worked as a litigation associate for 2 years at Hazel, Thomas, and then briefly at Whiteford, Taylor. He then served as an assistant U.S. attorney for the District of Maryland from 1994 to 1999, handling civil cases. In that capacity, he represented various Federal Government agencies in discrimination, accident, and medical malpractice cases. He then worked as an associate at the Peter Angelos law firm for 2 years.

In 2002, he went back to the U.S. Attorney's Office handling criminal cases until 2007. He represented the United States in the criminal prosecution of violent crime and narcotics cases during the investigatory stage, at trial, and on appeal. This included the initiation and monitoring of wiretaps to infiltrate and break up violent gangs in Baltimore City. He also served as the Project Safe Neighborhood coordinator for the office from 2002 until 2005. He participated in community outreach programs, including attending community meetings on behalf of the office, and attending meetings with the Baltimore State's Attorney's Office to reduce violent crime in Baltimore neighborhoods.

In January 2007, Governor Ehrlich, who I am sure you are aware was the Republican Governor of our State, appointed Judge Russell to serve as an associate judge of the Baltimore City Circuit Court for a term of 15 years. As a trial judge, Judge Russell has presided over hundreds of trials that have gone to verdict or judgment and has experience in handling jury trials, bench trials, civil cases, and criminal cases. He has the professional experience which has been recognized by a Republican Governor and a Democratic President. He should receive a vote on the floor of this body and he should be confirmed.

Judge Russell has strong roots, legal experience, and community involvement in the State of Maryland. He was born and raised in Baltimore City, and has extended family who live in Baltimore. He serves as director and trustee on the board of the Enoch Pratt Free Library, which serves the disadvantaged throughout the State of Maryland. He served on the board of directors of the Community Law Center,



which is an organization designed to help neighborhood organizations improve the quality of life for their residents. So he brings experience as a community activist as well as his professional experience.

He has also served as a board member of several organizations that devote substantial resources to helping the disadvantaged, including Big Brothers and Big Sisters of Maryland. I know he has often spoken to young people in schools about the obligation, duty, and mandate of a judge, and tries to demystify the role of a judge in a black robe. Judge Russell is particularly concerned with addressing the drug violence and mental health problems that plague Baltimore City.

The reason I went through all of his qualifications right now, even though his nomination is not pending, is that we have to put a face on the people who are being denied the opportunity for an up-or-down vote before the Senate. You hear the numbers; I have mentioned them—20—backed up. That is a large number when you look at the vacancy rates on our courts. When you look at this vacancy that has been pending now for the people of Maryland for 3 years, they have a right to action on the floor of the Senate. They have a right to have these nominees heard in regular order. But I want the people to know about this one individual and how qualified he is to assume the position on the District Court of Maryland.

I urge my colleagues to do everything they can. Let's carry out our responsibility. I am absolutely confident that Judge Russell possesses the qualifications, temperament, and passion for justice that will make him an outstanding United States District Court judge for the District of Maryland. He will serve the people very well in this position. I therefore urge my colleagues not only to allow us to vote on Judge Russell's confirmation, but let us vote on the 20 nominees who have been reported out of the Judiciary Committee, and show the American people we are ready to carry out our responsibilities.

I ask my colleagues on the other side of the aisle, my Republican friends: It is way past time for us to carry out our responsibility. Stop putting filibusters or holds on these judicial nominations. Let's vote on them and carry out our responsibilities as Senators.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

Ms. KLOBUCHAR. Mr. President, recently I came to the floor of the Senate to talk about the lack of faith the American people have in the political system and in our government. My focus that day was on campaign finance laws and the impact of the Citizens United decision by the Supreme Court 2 years ago.

Today I am here to discuss, along with my colleagues, another dynamic

of Capitol Hill that is making people lose faith in Washington: the apparent inability of Congress to get routine business done; specifically, the failure of the Senate to fill the dozens of judicial vacancies that exist around the country.

This doesn't need to be a partisan debate. I know Senators on each side have their own reasons why it is the other party's fault. But we need to put those arguments behind us and agree to do the people's business.

We have actually done a good job, as Senator CARDIN has pointed out, on the Judiciary Committee with having a number of judges who have come through that committee and are waiting approval on the floor. But often, we approve judges and they don't get floor votes for months and months. Also, the vast majority of judges who get approved, get approved unanimously in committee. That was my experience with the judge I recommended from Minnesota who now is a judge. So we got her done, but there are so many more, as you know, and so many jurisdictions with heavy caseloads which are awaiting judges.

Once these judges get to the floor, almost all of them get a handful of no votes. Why is that? They have been vetted. They have been vetted, their records have been looked at, they have gone through a committee hearing, they have been looked at by Senators on both sides of the aisle in the Judiciary Committee. And if they have reached that point of being on the floor of the Senate, it is no surprise that they might get a few no votes. So I don't see this as a partisan issue, but it is an issue we must get done.

If almost all the Senators support almost all the judges, this isn't about pushing one side's agenda or judicial philosophy. These are extremely qualified judges who Senators believe will be fair, impartial jurists, committed to objectively interpreting the law. But the fact is that we are lagging way behind in the confirmation pace under previous Presidents of both parties and with the Senate controlled by either party. By this time in the Presidency of Bill Clinton, the Senate had confirmed 183 judges. By this time in the Presidency of George W. Bush, the Senate had confirmed 170 judges. And yet as of today, we have only confirmed 129 judicial nominees of President Obama.

It is important to note that President Bush actually ended up getting five more judges approved in his first term than President Clinton. So we don't have a case where there has suddenly been a decline over time with the judges' approval. In fact, it went up after Clinton and now, as we can see, it is going down. There doesn't seem to be any indication at this very moment in time that we are speeding up the process. While earlier in the year we did confirm a number of judges, there was

an agreement. There are still way too many out there, and we need to move on them now.

Typically, the Senate will approve noncontroversial judicial nominees before the end of the session in December. But that did not happen this past year, and we have not made too much progress since returning in January. It doesn't take too long to approve a judge on the floor. Often, we have an hour or two of debate and then vote on two or three judges. So we can get these judges confirmed quickly if both sides consent.

Some people listening are probably thinking there must be an explanation; that I am somehow leaving out key numbers when I have just explained that we only need an hour or two for each of these 20-some pending judges. Maybe they are thinking there aren't as many vacancies as under previous Presidents. But, no, under President Clinton there were about 53 vacancies at this point in his Presidency. Under President Bush, there were 46 vacancies. Right now, under President Obama, there are in fact 85 judicial vacancies.

Maybe people at home are thinking the slow process is a result of controversial nominees but, no, it is not that, either. As I mentioned earlier, most of the judicial nominees awaiting a floor vote were approved unanimously by the Senate Judiciary Committee. That is not a committee, as the President knows from serving on that committee, of shrinking violets. There are people with very diverse views. And most of these nominees, as I explained, came through with all of their support. In fact, 16 of the 19 nominees waiting for a floor vote received unanimous votes in committee. They were approved by every single member of the Judiciary Committee from both parties.

Most of those unanimous judges have been waiting for a vote for months. We should confirm them right away. We should confirm them this week. We can have a vote so that the few people on the other side of the aisle who do not agree with those nominees can register their objection and vote no. But there is no reason to hold up all of these nominees for all of these jurisdictions across the country.

For the judges who have come out of committee more recently, I understand that Senators need time to look at their records and qualifications. That is an important part of the process. But after a reasonable period of time, let's move on to confirm the newer judges as well. Let's vote up or down on all of the judges and get them on the bench.

I also want to point out that the judicial nomination process is bipartisan. That may surprise some people watching at home. They may think I am making that up. But the truth is that

nominees don't move forward in the Judiciary Committee unless both of the home State Senators sign off. So whether it is two Democrats or two Republicans or one from each party, both Senators have effective veto power over the judicial nominees from their State. And usually the judges proposed by the President first are recommended by Senators. So it is not a question of President Obama picking whomever he wants and appointing them to the judiciary. He has to pick people who are okay with both Senators regardless of party. It forces a President of either party to choose high-quality, well-respected mainstream judges.

I remain hopeful we can rectify this situation and start getting judges approved in a timely manner and catch up to where we were under previous Presidents. But it is not about keeping some scorecard from President to President, as much as I have loved using these statistics today, or from Congress to Congress. In truth, it is about justice. And we all know that. We are constantly hearing complaints about the slow pace of Federal courts. Those delays are real, and they impact people—real people—every day. Whether we are talking about people seeking to protect their rights under the Americans With Disability Act or companies trying to resolve commercial disputes—I have a few of them in my State—unreasonable delays in court proceedings undermine our system of justice, and things won't get any better if we understaff our Federal judiciary.

There are many problems facing our country that do not have simple solutions. There are many problems for which the two parties have vastly different solutions. But in this case with judicial vacancies, there is only one solution, and it is well within our grasp given that so many of these judges were noncontroversial.

This is the solution, Mr. President. It is two words: Let's vote. Let's vote on all of the pending nominees, and let's continue to vote as more nominees emerge from the Judiciary Committee. If a Senator wants to vote no on a particular nominee, if he or she wants to give a long and glorious speech about why they are opposed to the nominee, please let them do that. Let them do that today. All we are asking for is a vote.

Mr. UDALL of New Mexico. Mr. President, I come to the floor today to discuss our broken judicial confirmation process. I know many of my colleagues will discuss individual nominees and how long they have languished on the executive calendar without a vote. We can point to many statistics about the length of time it takes to confirm President Obama's nominees versus President Bush's and how many nominees each had confirmed in their first term.

This is an important argument to make. And while these statistics are

helpful in highlighting the problem, they are merely the symptoms of a much larger disease—a broken Senate. Since joining the Senate in 2009, I've said repeatedly that we must take decisive action to reform our rules in order to restore deliberativeness to this body.

At the beginning of this Congress, Senators HARKIN, MERKLEY, and I tried to do that. Ultimately, our success was limited. We didn't achieve the broad reforms we wanted. But we did initiate a debate that highlighted some of the most egregious abuses of the rules, including how the rules are manipulated to obstruct the confirmation process for judges and executive branch nominees.

There was some hope that the debate we had, along with the modest reforms that were adopted, would encourage both sides of the aisle to restore the respect and comity that is often lacking in today's Senate. Unfortunately, any goodwill rapidly deteriorated and the partisan rancor and political brinksmanship quickly returned.

That is why we are here again today, talking about yet another aspect of this body's dysfunction—the broken judicial confirmation process.

This is not a new problem, nor is it one on which either side can claim to be innocent. For about the past decade, the minority party—whether Republicans or Democrats—has gone to inexcusable lengths to slow or block judicial nominees who have strong majority support. This has led to a new norm in the Senate—the need for any nominee to get at least 60 votes for confirmation. This directly conflicts with the Founders' intent and a plain reading of the Constitution.

The arguments my colleagues and I make today—that judicial nominees who have been approved by the Judiciary Committee deserve a vote by the full Senate—are the same arguments my Republican colleagues made when President Bush's nominees were held up by a Democratic minority.

In April 2003, the freshmen members of the 108th Congress sent a letter to Majority Leader Frist and Minority Leader Daschle. That freshman class was made up of nine Republicans and one Democrat. I'd like to read part of that letter. The senators wrote:

[W]e write to express our concerns about the state of the federal judicial nomination and confirmation process. The apparent breakdown in this process reflects poorly on the ability of the Senate and the Administration to work together in the best interests of our country. The breakdown also disservices the qualified nominees to the federal bench whose confirmations have been delayed or blocked, and the American people who rely on our federal courts for justice. . . . We seek a bipartisan solution that will protect the integrity and independence of our nation's courts, ensure fairness for judicial nominees, and leave the bitterness of the past behind us.

Regrettably, the rest of the Senate did not heed their advice and the con-

firmation process remained dysfunctional. Two years later, Senator HATCH, a former chairman of the Judiciary Committee, wrote an op-ed in the *National Review Online* that clearly outlined the problem. Senator HATCH's commentary began with the following:

Judicial nominations will be one of the most important issues facing the Senate in the 109th Congress and the question is whether we will return to the tradition of giving nominations reaching the Senate floor an up or down vote. The filibusters used to block such votes have mired the judicial-confirmation process in a political and constitutional crisis that undermines democracy, the judiciary, the Senate, and the Constitution.

He then went on to argue that there was a solution to address this crisis—using the Constitutional Option to amend the Senate rules. Just as I argued last year at the start of the session, Senator HATCH stated that at the beginning of a new Congress, a simple majority can invoke cloture and change the Senate rules. The rules weren't amended then, and they weren't amended last year, either. This is why we are here today, having the same debate about judicial nominations that the Republicans had when they were in the majority and President Bush's nominees were stalled.

It's time we stop having this debate and actually fix the process. Both sides have acknowledged the problem and offered solutions when they were in the majority. In the 108th Congress, Senator Frist introduced a resolution to change Rule XXII that would have gradually reduced the cloture threshold on nominations after successive votes over the course of several days of debate. That resolution was cosponsored by Senators MCCONNELL, KYL, and CORNYN—all members of the current minority leadership.

Last year, at the beginning of this Congress, Senators HARKIN, MERKLEY, and I introduced a resolution to reform the rules. It included reforms that would have addressed the broken confirmation process, including reducing the post-cloture time on nominees from thirty hours to two and requiring real debate in order to sustain a filibuster. Unfortunately, neither of these resolutions was adopted.

During the debate on our resolution last year, Senator HARKIN made a very good point. He said, "I believe each Senator needs to give up a little of our pride, a little of our prerogatives, and a little of our power for the good of this Senate and the good of this country." Let's hope that someday enough of our colleagues will agree with him and we finally institute the reforms necessary to restore the Senate's reputation as the "World's Greatest Deliberative Body."

I ask unanimous consent that the letter from the freshman class of the 108th Congress and Senator HATCH's *National Review* op-ed be printed in the *RECORD*.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,  
Washington, DC, April 30, 2003.

DEAR SENATORS FRIST AND DASCHLE: As the ten newest members of the United States Senate, we write to express our concerns about the state of the federal judicial nomination and confirmation process. The apparent breakdown in this process reflects poorly on the ability of the Senate and the Administration to work together in the best interests of our country. The breakdown also disrespects the qualified nominees to the federal bench whose confirmations have been delayed or blocked, and the American people who rely on our federal courts for justice.

We, the ten freshmen of the United States Senate for the 108th Congress, are a diverse group. Among our ranks are former federal executive branch officials, members of the U.S. House of Representatives, and state attorneys general. We include state and local officials, and a former trial and appellate judge. We have different viewpoints on a variety of important issues currently facing our country. But we are united in our commitment to maintaining and preserving a fair and effective justice system for all Americans. And we are united in our concern that the judicial confirmation process is broken and needs to be fixed.

In some instances, when a well qualified nominee for the federal bench is denied a vote, the obstruction is justified on the ground of how prior nominees—typically, the nominees of a previous President—were treated. All of these recriminations, made by members on both sides of the aisle, relate to circumstances which occurred before any of us arrived in the United States Senate. None of us were parties to any of the reported past offenses, whether real or perceived. None of us believe that the ill will of the past should dictate the terms and direction of the future.

Each of us firmly believes that the United States Senate needs a fresh start. And each of us believes strongly that we were elected to this body in order to do a job for the citizens of our respective states—to enact legislation to stimulate our economy, protect national security, and promote the national welfare, and to provide advice and consent, and to vote on the President's nominations to important positions in the executive branch and on our nation's courts.

Accordingly, the ten freshmen of the United States Senate for the 108th Congress urge you to work toward improving the Senate's use of the current process or establishing a better process for the Senate's consideration of judicial nominations. We acknowledge that the White House should be included in repairing this process.

All of us were elected to do a job. Unfortunately, the current state of our judicial confirmation process prevents us from doing an important part of that job. We seek a bipartisan solution that will protect the integrity and independence of our nation's courts, ensure fairness for judicial nominees, and leave the bitterness of the past behind us.

Yours truly,

John Cornyn; Mark Pryor; Lisa Murkowski; Lindsey Graham; Elizabeth Dole; Saxby Chambliss; Norm Coleman; James Talent; Lamar Alexander; John E. Sununu.

[From the National Review Online, January 12, 2005]

CRISIS MODE—A FAIR AND CONSTITUTIONAL  
OPTION TO BEAT THE FILIBUSTER GAME  
(By Senator Orrin G. Hatch)

Judicial nominations will be one of the most important issues facing the Senate in the 109th Congress and the question is whether we will return to the tradition of giving nominations reaching the Senate floor an up or down vote. The filibusters used to block such votes have mired the judicial confirmation process in a political and constitutional crisis that undermines democracy, the judiciary, the Senate, and the Constitution. The Senate has in the past changed its procedures to rebalance the minority's right to debate and the majority's right to decide and it must do so again.

Newspaper editorials condemning the filibusters outnumber supporting ones by more than six-to-one. Last November, South Dakotans retired former Senate Minority Leader Tom Daschle, in no small part, because he led the filibuster forces. Yet within hours of his election to succeed Senator Daschle as Minority Leader, Senator Harry Reid took to the Senate floor to defend them. Hope is fading that the shrinking Democratic minority will abandon its destructive course of using filibusters to defeat majority supported judicial nominations. Their failure to do so will require a deliberate solution.

If these filibusters were part of the Senate's historical practice or, as a recent NRO editorial put it, merely made confirming nominees more difficult, a deliberate solution might not be warranted. But this is a crisis, not a problem of inconvenience.

Senate rules reflect an emphasis on deliberation and debate. Either by unanimous agreement or at least 60 votes on a motion to invoke cloture under Rule 22, the Senate must end debate before it can vote on anything. From the Spanish filibustero, a filibuster was a mercenary who tries to destabilize a government. A filibuster occurs most plainly on the Senate floor when efforts to end debate fail, either by objection to unanimous consent or defeat of a cloture motion. During the 108th Congress, Senate Democrats defeated ten majority-supported nominations to the U.S. Court of Appeals by objecting to every unanimous consent request and defeating every cloture motion. This tactic made good on then-Democratic Leader Tom Daschle's February 2001 vow to use "whatever means necessary" to defeat judicial nominations. These filibusters are unprecedented, unfair, dangerous, partisan, and unconstitutional.

These are the first filibusters in American history to defeat majority supported judicial nominations. Before the 108th Congress, 13 of the 14 judicial nominations on which the Senate took a cloture vote were confirmed. President Johnson withdrew the 1968 nomination of Abe Fortas to be Supreme Court chief justice the day after a failed cloture vote showed the nomination did not have clear majority support. In contrast, Democrats have now crossed the confirmation Rubicon by using the filibuster to defeat judicial nominations which enjoy clear majority support.

Focusing on President Clinton's judicial nominations in 1999, I described what has been the Senate's historical standard for judicial nominations: "Let's make our case if we have disagreement, and then vote." Democrats' new filibusters abandons this tradition and is unfair to senators who must provide the "advice and consent" the Constitution requires of them through a final up

or down vote. It is also unfair to nominees who have agreed, often at personal and financial sacrifice, to judicial service only to face scurrilous attacks, trumped up charges, character assassination, and smear campaigns. They should not also be held in permanent filibuster limbo. Senators can vote for or against any judicial nominee for any reason, but senators should vote.

These unprecedented and unfair filibusters are distorting the way the Senate does business. Before the 108th Congress, cloture votes were used overwhelmingly for legislation rather than nominations. The percentage of cloture votes used for judicial nominations jumped a whopping 900 percent during President Bush's first term from the previous 25 years since adoption of the current cloture rule. And before the 108th Congress, the few cloture votes on judicial nominations were sometimes used to ensure up or down votes. Even on controversial nominees such as Richard Paez and Marsha Berzon, we invoked cloture to ensure that we would vote on confirmation. We did, and both are today sitting federal judges. In contrast, these new Democratic filibusters are designed to prevent, rather than secure, an up or down vote and to ensure that targeted judicial nominations are defeated rather than debated.

These filibusters are also completely partisan. The average tally on cloture votes during the 108th Congress was 53-43, enough to confirm but not enough to invoke cloture and end debate. Democrats provided every single vote against permitting an up or down vote. In fact, Democrats have cast more than 92 percent of all votes against cloture on judicial nominations in American history.

Unprecedented, unfair, and partisan filibusters that distort Senate procedures constitute a political crisis. By trying to use Rule 22's cloture requirement to change the Constitution's confirmation requirement, these Democratic filibusters also constitute a constitutional crisis.

The Constitution gives the Senate authority to determine its procedural rules. More than a century ago, however, the Supreme Court unanimously recognized the obvious maxim that those rules may not "ignore constitutional restraints." The Constitution explicitly requires a supermajority vote for such things as trying impeachments or overriding a presidential veto; it does not do so for confirming nominations. Article II, Section 2, even mentions ratifying treaties and confirming nominees in the very same sentence, requiring a supermajority for the first but not for the second. Twisting Senate rules to create a confirmation supermajority undermines the Constitution. As Senator Joseph Lieberman once argued, it amounts to "an amendment of the Constitution by rule of the U.S. Senate."

But don't take my word for it. The same senators leading the current filibuster campaign once argued that all filibusters are unconstitutional. Senator Lieberman argued in 1995 that a supermajority requirement for cloture has "no constitutional basis." Senator Tom Harkin insisted that "the filibuster rules are unconstitutional" because "the Constitution sets out . . . when you need majority or supermajority votes in the Senate." And former Senator Daschle said that because the Constitution "is straightforward about the few instances in which more than a majority of the Congress must vote. . . . Democracy means majority rule, not minority gridlock." He later applied this to judicial nomination filibusters: "I find it simply baffling that a Senator would vote against even voting on a judicial nomination." That each of these senators voted for

every judicial-nomination filibuster during the 108th Congress is baffling indeed.

These senators argued that legislative as well as nomination filibusters are unconstitutional. Filibusters of legislation, however, are different and solving the current crisis does not require throwing the entire filibuster baby out with the judicial nomination bathwater. The Senate's authority to determine its own rules is greatest regarding what is most completely within its jurisdiction, namely, legislation. And legislative filibusters have a long history. Rule 22 itself did not even potentially apply to nominations until decades after its adoption. Neither America's founders, nor the Senate that adopted Rule 22 to address legislative gridlock, ever imagined that filibusters would be used to hijack the judicial appointment process.

Liberal interest groups, and many in the mainstream media, eagerly repeat Democratic talking points trying to change, rather than address, the subject. For example, they claim that, without the filibuster, the Senate would be nothing more than a "rubberstamp" for the president's judicial nominations. Losing a fair fight, however, does not rubberstamp the winner; giving up without a fight does. Active opposition to a judicial nomination, especially expressed through a negative vote, is the best remedy against being a rubberstamp.

They also try to change the definition of a filibuster. On March 11, 2003, for example, Senator Patrick Leahy, ranking Judiciary Committee Democrat, used a chart titled "Republican Filibusters of Nominees." Many individuals on the list, however, are today sitting federal judges, some confirmed after invoking cloture and others without taking a cloture vote at all. Invoking cloture and confirming nominations is no precedent for not invoking cloture and refusing to confirm nominations.

Many senators once opposed the very judicial nomination filibusters they now embrace. Senator Leahy, for example, said in 1998: "I have stated over and over again . . . that I would object and fight against any filibuster on a judge, whether it is somebody I opposed or supported." Since then, he has voted against cloture on judicial nominations 21 out of 26 times. Senator Ted Kennedy, a former chairman of the Judiciary Committee, said in 1995 that "Senators who believe in fairness will not let a minority of the Senate deny [the nominee] his vote by the entire Senate." Since then, he has voted to let a minority of the Senate deny judicial nominees a vote 18 out of 23 times.

Let me put my own record on the table. I have never voted against cloture on a judicial nomination. I opposed filibusters of Carter and Clinton judicial nominees, Reagan and Bush judicial nominees, all judicial nominees. Along with then-Majority Leader Trent Lott, I repeatedly warned that filibustering Clinton judicial nominees would be a "travesty" and helped make sure that every Clinton judicial nomination reaching the full Senate received a final confirmation decision. That should be the permanent standard, no matter which party controls the Senate or occupies the White House.

The Senate has periodically faced the situation where the minority's right to debate has improperly overwhelmed the majority's right to decide. And we have changed our procedures in a way that preserves the minority's right to debate, and even to filibuster legislation, while solving the crisis at hand.

The Senate's first legislative rules, adopted in 1789, directly reflected majority rule.

Rule 8 allowed a simple majority to "move the previous question" and proceed to vote on a pending matter. Invoked only three times in 17 years, however, Rule 8 was dropped in the Senate rules revision of 1806, meaning unanimous consent was then necessary to end debate. Dozens of reform efforts during the 19th century tried to rein in the minority's abuse of the right to debate. In 1917, President Woodrow Wilson described what had become of majority rule: "The Senate of the United States is the only legislative body in the world which cannot act when its majority is ready for action. . . . The only remedy is that the rules of the Senate shall be altered." Leadership turned gridlock into reform, and that year the Senate adopted Rule 22, by which  $\frac{2}{3}$  of Senators present and voting could invoke cloture, or end debate, on a pending measure.

Just as the minority abused the unanimous consent threshold in the 19th century, the minority abused the  $\frac{2}{3}$  threshold in the 20th century. A resolution to reinstate the previous question rule was introduced, and only narrowly defeated, within a year of Rule 22's adoption. A steady stream of reform attempts followed, and a series of modifications made until the current 60-vote threshold was adopted in 1975. The point is that the Senate has periodically rebalanced the minority's right to debate and the majority's right to decide. Today's crisis, with constitutional as well as political dimensions and affecting all three branches of government, presents an even more compelling case to do so.

These filibusters are an unprecedented shift in the kind, not just the degree, of the minority's tactics. After a full, fair, and vigorous debate on judicial nominations, a simple majority must at some point be able to proceed to a vote. A simple majority can achieve this goal either by actually amending Rule 22 or by sustaining an appropriate parliamentary ruling.

The Senate exercises its constitutional authority to determine its procedural rules either implicitly or explicitly. Once a new Congress begins, operating under existing rules implicitly adopts them "by acquiescence." The Senate explicitly determines its rules by formally amending them, and the procedure depends on its timing. After Rule 22 has been adopted by acquiescence, it requires 67 votes for cloture on a rules change. Before the Senate adopts Rule 22 by acquiescence, however, ordinary parliamentary rules apply and a simple majority can invoke cloture and change Senate rules.

Some object to this conclusion by observing that, because only a portion of its membership changes with each election, the Senate has been called a "continuing body." Yet language reflecting this observation was included in Senate rules only in 1959. The more important, and much older, sense in which the Senate is a continuing body is its ongoing constitutional authority to determine its rules. Rulings by vice presidents of both parties, sitting as the President of the Senate, confirm that each Senate may make that decision for itself, either implicitly by acquiescence or explicitly by amendment. Both conservative and liberal legal scholars, including those who see no constitutional problems with the current filibuster campaign, agree that a simple majority can change Senate rules at the beginning of a new Congress.

An alternative strategy involves a parliamentary ruling in the context of considering an individual nomination. This approach can be pursued at any time, and would not actually amend Rule 22. The

precedent it would set depends on the specific ruling it produces and the facts of the situation in which it arises.

Speculation, often inaccurate, abounds about how this strategy would work. One newspaper, for example, offered a common description that this approach would seek "a ruling from the Senate parliamentarian that the filibuster of executive nominations is unconstitutional." Under long-standing Senate parliamentary precedent, however, the presiding officer does not decide such constitutional questions but submits them to the full Senate, where they are debatable and subject to Rule 22's 60-vote requirement. A filibuster would then prevent solving this filibuster crisis. Should the chair rule in favor of a properly framed non-debatable point of order, Democrats would certainly appeal, but the majority could still sustain the ruling by voting for a non-debatable motion to table the appeal.

Democrats have threatened that, if the majority pursues a deliberate solution to this political and constitutional crisis, they will bring the entire Senate to a screeching halt. Perhaps they see this as way to further escalate the confirmation crisis, as the Senate cannot confirm judicial nominations if it can do nothing at all. No one, however, seriously believes that, if the partisan roles were reversed, Democrats—the ones who once proposed abolishing even legislative filibusters—would hesitate for a moment before changing Senate procedures to facilitate consideration of judicial nominations they favored.

The United States Senate is a unique institution. Our rules allowing for extended debate protect the minority's role in the legislative process. We must preserve that role. The current filibuster campaign against judicial nominations, however, is the real attack on Senate tradition and an unprecedented example of placing short-term advantage above longstanding fundamental principles. It is not simply annoying or frustrating, but a new and dangerous kind of obstruction which threatens democracy, the Senate, the judiciary, and even the Constitution itself. As such, it requires a more serious and deliberate solution.

While judicial appointments can be politically contentious and ideologically divisive, the confirmation process must still be handled through a fair process that honors the Constitution and Senate tradition. If the fight is fair and constitutional, let the chips fall where they may. As it has before, the Senate must change its procedures to properly balance majority rule and extended debate. That way, we can vigorously debate judicial nominations and still conduct the people's business.

Mr. UDALL of New Mexico. Mr. President, I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The ACTING PRESIDENT pro tempore. The Senator from Illinois.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I ask unanimous consent to speak in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

### HEALTH CARE REFORM

Mr. DURBIN. Mr. President, we were engaged in lengthy debate for months—maybe years—about health care in the United States, and I believe we passed a historic bill that addresses some of the most fundamental issues about health care: first, to address affordability because if you can't afford it, it doesn't matter how good medical care is; second, to make sure it was successful for people rich and poor alike; third, to make sure the basic health insurance policies being offered in America covered the most important things in a person's life. That was part of the debate, and an important part of it.

A fundamental principle of health care reform is to ensure Americans have access to a comprehensive package of health services—we call them essential benefits under the law—which includes maternity care, vaccinations, and preventive care.

Many years ago when I was a new lawyer working in the Illinois State Senate, someone approached me and said: Are you aware of the fact that you can buy a health insurance plan that covers a family and literally covers a newborn but exempts coverage for the first 30 days of their life in Illinois? I said: No, that is impossible.

He said: No, that kind of health care is for sale, and it is a little cheaper because we all know that if a baby is born with a serious problem, the first 30 days can be extremely expensive.

They were literally selling health insurance plans that left that family and baby vulnerable for 30 days. We changed the law in Illinois and said: You can't offer a health insurance plan that covers maternity and newborns unless you cover them from the moment they are born. So it was written into the law as a protection against consumers who unwittingly would sign up for the cheaper policy that would never be there when they needed it.

When we talked about the Federal standards when it came to health insurance, we wanted to make certain that some of the most basic things—the essential services—were covered, and that includes maternity care, vaccinations, and preventive care for women.

There is an amendment we will consider this week offered by Senator BLUNT of Missouri that I am afraid will threaten the vital consumer protections in the health reform law. These protections ensure that women, men, and children have access to basic health care. The amendment by Senator BLUNT would allow any employer or insurance company to deny health insurance for any essential or preventive health care service they object to

on the basis of "undefined" religious or moral convictions. That means an employer can not only deny access to family planning and birth control, but they could deny access to any health care services required under our new Federal health care reform law.

Many supporters of this amendment stress how the amendment will protect employers with religious objections to things such as coverage for contraception, but in reality this amendment goes much further: it would allow employers to deny coverage for any health service. For example, under the Blunt amendment, if an employer objects morally to vaccinations, then their insurance policy would not have to cover potentially lifesaving vaccinations for the children of that employer's workers or if an employer has religious objections to mental health care, their employees would not have access to basic health care services that we fought to protect. The Blunt amendment will have a harmful effect on all people and would undermine our Nation's effort to ensure that everyone in this country has access to a basic standard of health coverage.

Who opposes the Blunt amendment? It is not just women's groups, as you might expect, but the American Academy of Pediatrics, AIDS United, the American Nurses Association, and the American Congress of Obstetricians and Gynecologists.

Mr. President, I know your personal background and field of study has included theology and religious training, in that area, and I know this particular debate was brought on because of President Obama's decision when it came to the health care coverage offered by religious colleges, universities, and charities. The President's offer at this point says that no religious-sponsored institution, such as a college, university, hospital, or charity, will be forced to offer health services that violate their basic principles and values, their religious values. The President goes on to say, though, that the employees of that institution would have the right, on their own initiative, to a service not provided to them under the hospital or university policy that they could secure by going directly to the insurance company. It removes the church-sponsored, religious-sponsored institution from making the initial decision that might run counter to their values but gives the freedom to the individual employee to pursue the health care under the law which they consider to be essential, such as family planning. Some say this is unacceptable. I think it strikes the right balance—the balance between respecting the conscience and religious values of certain institutions while still protecting the freedom of individuals.

There has been a lot of talk in this Presidential campaign about religion,

and much of it has come from a former Senator from Pennsylvania. I would like to remind him and those who have not followed it closely that there are exactly three provisions in the U.S. Constitution when it comes to religion. One of them says that we have the freedom of religion, religious belief, which gives us the right to believe what we want to believe or to believe nothing. That is guaranteed under the Constitution. Secondly, the government will not pick a religion. I have heard candidates say we are a Christian nation. No. We are an American nation, which includes many Christians but also others of different religious beliefs, and the Constitution says the government will never pick its religion. The third point that is often overlooked—and I would refer to the Senator from Pennsylvania—it is in the Constitution that there will be no religious test for office. In other words, we could not establish under the law, if anyone cared to, that only Christians or Jewish people could be elected to the Senate or the House. That is strictly unconstitutional.

Those three principles have guided us well, and it is important for us to make sure as we tackle the issues of the day that we apply the principles that have endured. In this circumstance, we have to understand that militant secularization is as intolerant as militant desecularization. We have to try to strike that balance.

I recommend to those who are following my remarks and would like to read more an article that was published in the New York Times on February 24 by Joe Nocera entitled "A Revolutionary Idea." Mr. Nocera is a thoughtful writer, and he traces the history of this. His opening remarks include the following: "Rick Santorum is John Winthrop"—referring, of course, to Mr. Winthrop who joined with the Puritans in trying to assert that our government needed to stand for puritanical values and beliefs. That debate, which even predates the Constitution, is one that molded our country and makes it what it is today. There emerged from that debate over the Puritans and what they would do a feeling that there had to be a separation between church and state, religious belief and secular administration of our government. That is the debate that continues today.

This generation, regardless of the issue of the day, needs to preserve the same basic values that led to this debate in the early Colonies and ultimately to our constitutional principles. As we find countries all over the world bitterly and violently divided over religion, we need to take care in our generation that we protect the basics. The President's decision when it comes to health care through the insurance policies protects those basic values.

I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## RECESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate stands in recess until 2:15 p.m. today.

Thereupon, the Senate, at 12:31 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. WEBB).

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FRANKEN). Without objection, it is so ordered.

## MOVING AHEAD FOR PROGRESS IN THE 21ST CENTURY ACT—Resumed

Mr. REID. Mr. President, would you state the pending business.

The PRESIDING OFFICER. The pending business is S. 1813, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1813) to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

Pending:

Reid amendment No. 1730, of a perfecting nature.

## ORDER OF PROCEDURE

Mr. REID. Mr. President, at the beginning of this month—in fact, February 7—I moved to proceed to the surface transportation bill that is before us today—an extremely important bill, a bipartisan bill. This effort has been led by two fine Senators—one quite progressive and the other very conservative—Senators BOXER and INHOFE, the chairman and ranking member of the very important Environment and Public Works Committee. This is a vital job-creating measure. The bill would create and maintain up to 2.8 million jobs.

On February 9, 2 days after I moved to this bill, the Senate voted 85 to 11 to invoke cloture on the motion to proceed. The bill has broad bipartisan support. But immediately after the Senate moved to the bill on February 9, Sen-

ator BLUNT asked unanimous consent that it be in order to offer his amendment on contraception and women's health. I was stunned. I couldn't believe this. I said, What is going on here? I objected at the time. I didn't see why this surface transportation jobs bill was the appropriate place for an amendment on contraception and women's health.

But the Republican leader and others on the Republican side of the aisle have made it very clear the Senate is not going to be able to move forward on this important surface transportation bill unless we vote on contraception and women's health. My friend the Republican leader said it on national TV on "Face the Nation" with Bob Schieffer. Senator MCCONNELL said, "The issue will not go away."

So I believe it is vital to get this jobs bill done. What is standing in the way is the Republicans' insistence on having a vote on a measure that would deny women access to health services such as contraception and even prenatal screenings. So after discussing it with numerous Senators, I decided we should set up a vote on the one amendment, on contraception and women's health. There has been enough delay on this bill. So we will have a vote on this Blunt amendment on Thursday. After that, we hope to be able to work out an agreement to have votes on a number of nongermane amendments on each side. Maybe we will need to have some side-by-sides, the Republicans may need some side-by-sides on our amendments. That is fine, but let's move forth.

Meanwhile, the managers have made tremendous progress on clearing more than 25 agreed-to amendments. I know the managers will want to work on clearing even additional germane amendments. So I believe this process will be the most constructive way to move the bill forward. I hope this will help us be in a position to work through to completing the transportation bill by the end of next week.

I ask unanimous consent that it be in order for the Blunt amendment No. 1520 to be called up; that on Thursday, March 1, at a time to be determined by the majority leader, after consultation with the Republican leader, the Senate proceed to vote in relation to the Blunt amendment; further, that no other amendments be in order prior to the vote in relation to the Blunt amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 1520 TO AMENDMENT NO. 1730

Mr. REID. Mr. President, I call up the Blunt amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] for Mr. BLUNT, for himself and Mr. MCCONNELL,

Mr. JOHANNES, Mr. WICKER, Mr. HATCH, Ms. AYOTTE, Mr. RUBIO, and Mr. NELSON of Nebraska, proposes an amendment numbered 1520 to amendment No. 1730.

Mr. REID. I ask unanimous consent that further reading of the amendment be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To amend the Patient Protection and Affordable Care Act to protect rights of conscience with regard to requirements for coverage of specific items and services)

At the appropriate place, insert the following:

## SEC. \_\_\_\_ RESPECT FOR RIGHTS OF CONSCIENCE.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—Congress finds the following:

(A) As Thomas Jefferson declared to New London Methodists in 1809, "[n]o provision in our Constitution ought to be dearer to man than that which protects the rights of conscience against the enterprises of the civil authority".

(B) Jefferson's statement expresses a conviction on respect for conscience that is deeply embedded in the history and traditions of our Nation and codified in numerous State and Federal laws, including laws on health care.

(C) Until enactment of the Patient Protection and Affordable Care Act (Public Law 111-148, in this section referred to as "PPACA"), the Federal Government has not sought to impose specific coverage or care requirements that infringe on the rights of conscience of insurers, purchasers of insurance, plan sponsors, beneficiaries, and other stakeholders, such as individual or institutional health care providers.

(D) PPACA creates a new nationwide requirement for health plans to cover "essential health benefits" and "preventive services" (including a distinct set of "preventive services for women"), delegating to the Department of Health and Human Services the authority to provide a list of detailed services under each category, and imposes other new requirements with respect to the provision of health care services.

(E) While PPACA provides an exemption for some religious groups that object to participation in Government health programs generally, it does not allow purchasers, plan sponsors, and other stakeholders with religious or moral objections to specific items or services to decline providing or obtaining coverage of such items or services, or allow health care providers with such objections to decline to provide them.

(F) By creating new barriers to health insurance and causing the loss of existing insurance arrangements, these inflexible mandates in PPACA jeopardize the ability of individuals to exercise their rights of conscience and their ability to freely participate in the health insurance and health care marketplace.

(2) PURPOSES.—The purposes of this section are—

(A) to ensure that health care stakeholders retain the right to provide, purchase, or enroll in health coverage that is consistent with their religious beliefs and moral convictions, without fear of being penalized or discriminated against under PPACA; and

(B) to ensure that no requirement in PPACA creates new pressures to exclude those exercising such conscientious objection from health plans or other programs under PPACA.

(b) RESPECT FOR RIGHTS OF CONSCIENCE.—



(1) IN GENERAL.—Section 1302(b) of the Patient Protection and Affordable Care Act (Public Law 111-148; 42 U.S.C. 18022(b)) is amended by adding at the end the following new paragraph:

“(6) RESPECTING RIGHTS OF CONSCIENCE WITH REGARD TO SPECIFIC ITEMS OR SERVICES.—

“(A) FOR HEALTH PLANS.—A health plan shall not be considered to have failed to provide the essential health benefits package described in subsection (a) (or preventive health services described in section 2713 of the Public Health Service Act), to fail to be a qualified health plan, or to fail to fulfill any other requirement under this title on the basis that it declines to provide coverage of specific items or services because—

“(i) providing coverage (or, in the case of a sponsor of a group health plan, paying for coverage) of such specific items or services is contrary to the religious beliefs or moral convictions of the sponsor, issuer, or other entity offering the plan; or

“(ii) such coverage (in the case of individual coverage) is contrary to the religious beliefs or moral convictions of the purchaser or beneficiary of the coverage.

“(B) FOR HEALTH CARE PROVIDERS.—Nothing in this title (or any amendment made by this title) shall be construed to require an individual or institutional health care provider, or authorize a health plan to require a provider, to provide, participate in, or refer for a specific item or service contrary to the provider's religious beliefs or moral convictions. Notwithstanding any other provision of this title, a health plan shall not be considered to have failed to provide timely or other access to items or services under this title (or any amendment made by this title) or to fulfill any other requirement under this title because it has respected the rights of conscience of such a provider pursuant to this paragraph.

“(C) NONDISCRIMINATION IN EXERCISING RIGHTS OF CONSCIENCE.—No Exchange or other official or entity acting in a governmental capacity in the course of implementing this title (or any amendment made by this title) shall discriminate against a health plan, plan sponsor, health care provider, or other person because of such plan's, sponsor's, provider's, or person's unwillingness to provide coverage of, participate in, or refer for, specific items or services pursuant to this paragraph.

“(D) CONSTRUCTION.—Nothing in subparagraph (A) or (B) shall be construed to permit a health plan or provider to discriminate in a manner inconsistent with subparagraphs (B) and (D) of paragraph (4).

“(E) PRIVATE RIGHTS OF ACTION.—The various protections of conscience in this paragraph constitute the protection of individual rights and create a private cause of action for those persons or entities protected. Any person or entity may assert a violation of this paragraph as a claim or defense in a judicial proceeding.

“(F) REMEDIES.—

“(i) FEDERAL JURISDICTION.—The Federal courts shall have jurisdiction to prevent and redress actual or threatened violations of this paragraph by granting all forms of legal or equitable relief, including, but not limited to, injunctive relief, declaratory relief, damages, costs, and attorney fees.

“(ii) INITIATING PARTY.—An action under this paragraph may be instituted by the Attorney General of the United States, or by any person or entity having standing to complain of a threatened or actual violation of this paragraph, including, but not limited to, any actual or prospective plan sponsor,

issuer, or other entity offering a plan, any actual or prospective purchaser or beneficiary of a plan, and any individual or institutional health care provider.

“(iii) INTERIM RELIEF.—Pending final determination of any action under this paragraph, the court may at any time enter such restraining order or prohibitions, or take such other actions, as it deems necessary.

“(G) ADMINISTRATION.—The Office for Civil Rights of the Department of Health and Human Services is designated to receive complaints of discrimination based on this paragraph and coordinate the investigation of such complaints.

“(H) ACTUARIAL EQUIVALENCE.—Nothing in this paragraph shall prohibit the Secretary from issuing regulations or other guidance to ensure that health plans excluding specific items or services under this paragraph shall have an aggregate actuarial value at least equivalent to that of plans at the same level of coverage that do not exclude such items or services.”

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be effective as if included in the enactment of Public Law 111-148.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, as the majority leader is leaving the floor, I wish to say I am pleased he has decided to take us forward on this highway bill.

So where do we stand? We are in a situation, here in the 21st century, where in order to move forward on a highway bill—a bill that funds our highways, our roads, our bridges, and our transit systems—in order to move forward on a jobs bill—where 2.8 million jobs are at stake in this great Nation—we have to have a vote on birth control. I want to say to my friends on the other side of the aisle, What are you thinking? But if this is what you want to do, fine.

I want to make it clear to the people who are listening that the Blunt amendment would say that any insurance company and any employer for any reason could deny coverage to their employees. But it is not just about birth control; it is any service.

Now, Mr. President, you serve proudly on the HELP Committee, and you were very instrumental in working through the essential services that are covered, the preventive services that are covered. It is very important that we note what those are. We have a list of the essential services and the preventive services, and what I am going to do is to read them. As I read them, I want people who are listening to this to think about whether these services are important, and to understand that under the Blunt amendment any one of these services can be denied by any employer, any insurance company, for any reason.

So I am going to list these services: Emergency services, hospitalization, maternity and newborn care, mental health treatment, preventive and wellness services, pediatric services, prescription drugs, ambulatory patient

services, rehabilitative services and devices, and laboratory services.

Those are the categories of essential health benefits this Senate voted to make sure are covered under insurance plans. That is the law. The Blunt amendment would allow any insurer and any employer to deny any of these services for any reason. All they have to say is they have a moral objection.

Let's take maternity and newborn care. If somebody works for you, and they are not married and they are pregnant and are having this child, you can say: From now on, I am not covering anybody who works for me who isn't married because I have a moral objection.

Mental health treatment. You could say: I don't consider this a disease. I think if God decided that somebody has mental health problems, that is just the way it is. I deny that.

It goes on and on.

Emergency services. If some employer believes if you have a heart attack it is God's will, that is their moral belief. That is it. They can deny that kind of coverage.

Now we go to preventive health, and I am going to read these. The Blunt amendment would also say any employer, any insurance company can deny any of these benefits to anybody at any time.

So listen to these services which came, again, out of your committee. Breast cancer screenings. Maybe an employer doesn't believe that is necessary. They could deny it. Cervical cancer screenings, hepatitis A and B vaccines, measles, mumps vaccine—there is some controversy over vaccines. Somebody could say: Well, I have a moral problem. I am not going to offer these vaccines in my plan.

Colorectal cancer screenings. We found out those save lives, a huge number of lives. They say the death rates are going down, because of colorectal cancer screenings, by 50 percent. An employer or an insurance company could deny that kind of screening.

Diabetes screening, cholesterol screening, blood pressure screening, obesity screening, tobacco cessation, autism screening, hearing screening for newborns, sickle cell screening for newborns, fluoride supplements, tuberculosis testing, depression screening, osteoporosis screening, flu vaccines for children and the elderly, contraception—there. That is what started all of this, contraception.

By the way, 15 percent of women who take contraceptives take them to prevent cancer, to prevent debilitating monthly pain, and it is even taken to prevent serious skin problems that are very debilitating. But there is no mention of that in the Blunt amendment. No, no.

HIV screening, STD screening, HPV testing, well woman visits, breast feeding support, domestic violence screening, and gestational diabetes screening,



which is the kind of diabetes some women get when they are pregnant.

So here is where we are. The Blunt amendment would take this list of preventive health benefits, this list of essential health benefits, and send a very clear, unequivocal message to every insurer in this country and every employer that regardless of any other laws, if they decide they have a moral objection or religious objection, they do not have to offer this coverage.

Remember what we are talking about. We are talking about coverage. We are not saying people have to do all of these things. If I have an objection to doing any of these things, as an employee I don't have to do it. But I have coverage if I decide to do it. That is the beauty of the health care bill we passed. It says: Here are essential health benefits; here are preventive health benefits. Employers and insurers, you have to offer this coverage. If people want to take it, they can, and what will happen is good.

Now, when we hear the other side describe the Blunt amendment, they will not tell you what it is. But I have a very clear take on what it is because I printed it out, and it says: A health plan shall not be considered to have failed to provide the essential health benefits package described in subsection (a) or preventive health services described in section 2713 if they decide they have a moral or religious objection.

That is the basis of it. So we take that and say: OK, here are the essential health benefits. They no longer have any meaning. Here is the list of preventive health benefits. Those are at the whim of the employer, the whim of the insurance company, and it is really disturbing.

Mr. President, you have some great career in your life, and you are a great Senator now. Before that you told a lot of great stories and a lot of great jokes. I have to tell you that Jon Stewart took this issue on and said: Well, I will tell you something. I love the Blunt amendment because I am an employer and I believe humor is the best medicine. Humor is the best medicine, he said.

So he said: So that is what I am going to do. I have an example.

Then this guy comes on to the stage with a very bad cold and flu and he is sneezing. He says: Mr. Stewart, do I have to have another treatment now?

He says: Yes. And he takes a seltzer bottle and sprays it all over the guy. That was his treatment because it was funny, and he was supposed to laugh and that was supposed to cure this person.

He said: Not another treatment.

So in the darkest moments one finds consolation in humor. But just think, there are people who believe and have a strong moral and religious conviction that they don't want to take medicine.

They just believe they are in the hands of God. I personally respect it 100 percent, and people die for their right to have that view, and I think that is appropriate. We should respect religion, everybody's religion. So the way to deal with that is if that individual doesn't want to ever be treated, that is their choice. But, frankly, if they put at risk a child who has cancer—and we have had cases like this in America where a parent said they didn't believe in medicine—a child could be cured with some cancer treatment, people have stepped in and said: We are going to make sure the child gets treatment.

So all we are saying in our health care bill is, here is a list of essential health services and preventive health services that scientists and doctors have told us will save our families pain and suffering and cost and all the rest, and we make them available through the insurer and the employer. That is all. People don't have to take them, but they are available.

Under the Blunt amendment, if your boss happens to be a person who doesn't believe in medicine, he can just say: Sorry, I am not a believer. You can have an insurance plan that may have nothing behind it—no services, none of these services that we worked so hard to put into law.

So it is stunning that in this year we would be on a highway bill anticipating a vote on Thursday on an amendment that has to do with women's health. There is a lot of concern out there because we saw when this whole thing started there was a hearing in the House of Representatives where they had a panel on women's health that dealt with, especially, access to birth control. Not one woman was on that panel, and the men decided it was wrong that women should have access to birth control without a copay even when the doctors and the scientists have said it is so important.

When our families are planned, what happens? There are fewer abortions. It is not even arguable. Fewer abortions. I would think we could be in agreement on that. Fewer problems for our families, fewer economic problems when they plan their families.

Now, if you don't want to plan your family, that is just fine. You don't have to take that coverage. You don't have to take that contraception.

So the President, in his decision, I thought, struck a great compromise. What he said was, because the experts, the medical experts—the Institute of Medicine told us contraception is a very important choice for people because 15 percent of them use it not just for birth control but to fight disease, cancer, and cysts on their ovaries and such. Because that is important, we put it in this list of essential benefits, preventive benefits. But if you are a church, you don't have to offer it to your employees. That is what the President said.

There are 335,000 religious institutions that are exempted from having to offer this through insurance. The religious-affiliated hospitals and universities were uncomfortable because they wanted to be able to not be directly connected to the contraception, and the President struck what I thought was a good compromise. He said to those institutions: OK. It will be offered to your people, but it will be done by a third party.

Almost everyone applauded it. Catholic Charities applauded it, the Catholic Health Association applauded it. They represent thousands of providers. Catholics United applauded it, and the bishops were still unhappy. But the institutions that provide the service felt the President struck a good bargain.

So we were all pleased. We thought this was fine because everybody's religious freedom should be respected, and that is what the President did. But now we have the Blunt amendment. Not only does this open a Pandora's box, it opens a very dangerous policy. It allows insurers and employers to simply say they have a moral problem with something and they don't have to offer a list of services. Maybe they will do it because they really have a moral conviction, but you can't really prove it. Maybe they will do it because they want to save some money. We don't know. But it opens a very bad situation. We have to table or beat this Blunt amendment. It is very dangerous.

How about having it on a highway bill? I still can't get over it. When I first heard about it, I thought: What does it have to do with highways? Maybe it says you can't take a birth control pill when you are driving on a highway. I mean, there was no connection, and there is no connection.

But the majority leader is right to get a vote. I will tell you why: It is holding up our highway bill. We can't get off dead center. We have been on this bill days and we can't get off dead center because my Republican friends want to vote on contraception and women's health care on a highway bill.

So we are going to do it and, hopefully, that will signal our goodwill to move forward with this bill. There are 2.8 million jobs at stake. Our bridges are in desperate need of fixing. We have 70,000 bridges that are in very bad condition, and 50 percent of our roads are not up to standard. We have had stories of bridges crumbling, and we have had stories of highways in trouble. So we shouldn't be stuck on this bill.

I could proudly say that Senator INHOFE and I worked in the most remarkable bipartisan way to get a great bill out of our committee. The Banking Committee did the same, Senators JOHNSON and SHELBY. The Commerce Committee got a little stuck, but they are getting unstuck, and we are moving forward on that piece. Finance has

done an excellent job of finding the funds for us to fill the trust fund.

I want you to think in your mind's eye of a football stadium that hosts the Super Bowl. Think of what it looks like when it is jam packed with people. It is about 100,000 seats. Fifteen of those stadiums could be filled with unemployed construction workers. So think about what that would look like, 15 Super Bowl stadiums sold out, every seat filled. That is how many unemployed construction workers we have because of the housing crisis.

This bill will put them back to work. In a bipartisan fashion we have protected the 1.8 million jobs, and we create up to another 1 million jobs. So I can't believe we are discussing birth control on a highway bill, but such is life. That is the way it is. If that is what we need to move this bill forward, I am happy.

If we have to move on some other issues that are not germane to the bill, I am even willing to do that, because that is really what is at stake. What is at stake is construction jobs. What is at stake is falling bridges. I do not have to tell my friend the effect of a falling bridge. We know it happens. Senator INHOFE is eloquent on the point. He lost a constituent who was taking a walk and a huge piece of a bridge fell and killed her. This is not the way to run a country that is the No. 1 economic power in the world.

I tell you, if we want to stay the No. 1 economic power in the world, we cannot be stuck in traffic and have all that congestion. Billions of hours and billions of dollars are lost because we are not keeping up with the image that was painted for us by Dwight Eisenhower way back when I was a kid when he said we need to have a network of highways that run seamlessly across our Nation and connect us, one to the other—a national highway system. We cannot lose that vision.

There are some people who say: Why do we need a national system? Let's just have the States do it.

No. This is one Nation under God, indivisible. We need to be connected. When the imports come in from all the various countries, from the Asian nations into Los Angeles—and 40 percent of our imports come in there—we take those, we put them on trains and trucks, and they get shipped out all across America to every State in the Union. That is commerce. That is called commerce, interstate commerce. We need the roads to be ready and able to take that kind of traffic and not have a situation where so much is added to the cost of transport because there is so much congestion that we begin to lose our effectiveness as an economic power. That, frankly, is where we are. Not only do we import, we export, so we have to take the exports to the coasts, the east coast and west coast. We have a lot of oppor-

tunity to go to the gulf coast. If we do not keep up with this national system of highways, we are in trouble.

This is a great bill. This bill is a reform bill. You take it down from a lot of titles to just a couple dozen titles. We do not overspend. We keep spending at current levels. The Finance Committee has done its job to help us build a trust fund for 2 years.

The last point I would make before yielding the floor because I know my friend from Georgia is here, and he is my very good friend—I know he has some remarks he might have on this subject or another subject, and he is going to talk to me as the chairman. We have some work we want to do, so I am going to close it here.

What I want to say is that this is really close to an emergency, and I do not overstate it. The entire transportation program expires on March 31. That means all of our States are going to be hit with the end of a program that is essential to their people, to their businesses. That is why we have 1,000 organizations representing millions of people—from the chambers of commerce, to the AFL-CIO, to the granite people, to the cement people, to the general contractors; seriously, the AAA—it goes on and on from A to Z, 1,000 organizations that are behind our bill. They are not going to look kindly on a situation we could come to, which is that we do not have a bill. You cannot just extend this bill because the money is not in the trust fund anymore. It is not like past years where you could extend it. The money is not in the trust fund. If we have to cut one-third, we are talking about hundreds of thousands of workers who would be laid off.

I again thank the majority leader, Senator REID, because he is getting us off center here. He is getting us off that line. We are moving forward.

Mr. President, I ask unanimous consent that there be no motions in order other than a motion to table prior to the vote in relation to amendment No. 1520.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant editor of the Daily Digest proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMEMBERING DR. YOUNG WOO KANG

Mr. DURBIN. Mr. President, the march of progress in America can be marked by the expansion of freedom.

Slaves who were denied full citizenship under our Constitution were given their rights with amendments after our Civil War. Civil rights legislation in the 1960s helped African Americans and others claim their rightful place in our society. And women, denied a vote in America for generations, finally won that right early in the 20th century.

Yet it took us until nearly the end of the 20th century to acknowledge the rights of another group of Americans who have suffered discrimination throughout history: people with disabilities. I would like to take a moment to recognize one of the heroes of the disability rights movement who passed away this past Thursday at the age of 68.

Dr. Young Woo Kang was a champion for people with disabilities in America, his native South Korea, and throughout the world. Born in a small farming village in South Korea under the shadow of the Korean war, Young Woo Kang overcame adversity to become the first blind South Korean to earn a Ph.D.

Dr. Kang's life reminds us that disability can happen to anyone at anytime. When he was 14 years old, a soccer injury cost him his eyesight. He spent the next 2 years in the hospital and endured several surgeries before learning that he would never regain his sight.

That was in 1960. At that time, there were only two professions in South Korea open to the blind: masseur and fortune teller. But Young Woo Kang had other plans. When he was refused admission to college because of his disability, he challenged the system and won. And when he was allowed to take the college entrance exam, he scored in the top ten—out of hundreds of students. Dr. Kang became the first blind person to graduate—with highest honors—from Yonsei University, South Korea's oldest and most prestigious university.

He planned to earn a post-graduate degree in special education from the University of Pittsburgh. In fact, he had already been accepted at the university when he learned that South Korean policy prohibited its citizens with disabilities from studying abroad.

He lobbied successfully to have this policy changed—not only for himself but also for the thousands of other South Koreans with disabilities.

In 1976, after obtaining his Ph.D., Dr. Kang taught international affairs at Taegu University in South Korea and became a disability rights advocate.

He urged the passage of legislation in Korea similar to the Americans with Disabilities Act and helped develop the first Braille alphabet for the Korean language. He also founded Goodwill in Korea, which provides job training and career services to people with disabilities.

Dr. Kang and his wife Kyoung, or "Kay," as she is known, were blessed

with two sons, Paul and Chris. Dr. Kang and his wife both worked in the Gary, Indiana, public school district for decades—he as a supervisor for special education and she as a teacher for visually impaired students. He also served as an adjunct professor for Northeastern University in my home State of Illinois.

In 2002, Dr. Kang was nominated by President George W. Bush to serve on the prestigious National Council on Disability, an independent federal agency that advises the President and Congress on issues affecting the 54 million Americans with disabilities.

A moment ago I mentioned Dr. Kang's sons. Dr. Paul Kang is an ophthalmologist and has served as the President of the Washington, DC Metropolitan Ophthalmological Society. Chris Kang, a familiar name to many in this Chamber, was a member of my Senate staff for 7 years. Like his father, Chris is brilliant and hard-working.

After graduating from the University of Chicago and the Duke University Law School, Chris came to work for me answering constituents' letters and emails. Chris says he was drawn to public service by the example of his father, who taught him that government can limit people, but it can also help people.

He rose quickly through the office ranks, moving from answering letters to serving as one of my Judiciary counsels. He became my chief floor counsel and served 4 years negotiating legislation, helping me better understand Senate procedure, and conducting important whip counts.

Three years ago, Chris Kang accepted a position as Special Assistant to the President on the White House legislative affairs team. He has made history in his own right by helping to pass such historic laws as the American Recovery and Reinvestment Act, the Affordable Care Act, and the Fair Sentencing Act. Last year, Chris moved into a new position, a promotion, as senior counsel in the White House Counsel's office, where he is now the President's top advisor on judicial nominations.

How's that for an American success story—an immigrant father appointed by a Republican president and his American-born sons, a doctor and Senior Counsel to a Democratic President?

The great humanitarian Helen Keller, who lost her hearing and her sight as a young child, was asked once whether she could imagine any fate worse than losing one's sight. She replied, "Yes, losing one's vision."

Like Helen Keller, Dr. Young Woo Kang lost his sight due to an injury. But he was blessed with vision. That vision enabled him to create a life for himself that was almost unimaginable in the world in which he grew up. He had a vision of an America and a world in which people were measured by their

abilities, not their disabilities. His vision and courage helped to expand our own vision and make us a better nation.

I offer my deepest condolences to his wife Kay, his sons, Paul and Chris, and his extended family, friends and colleagues. Dr. Kang lived a life of accomplishment and inspiration. His legacy will live on through his sons and four grandchildren, including 4-month-old Katie, a source of great pride for Dr. Kang. And his mission will live on through the good he achieved and the doors he opened for people with disabilities in Korea and America and around the world.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant editor of the Daily Digest proceeded to call the roll.

Mr. FRANKEN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. SHAHEEN). Without objection, it is so ordered.

#### AMENDMENT NO. 1520

Mr. FRANKEN. Madam President, I would like to talk for a moment about religious freedom. Our country was founded on the belief that all Americans should have the right to practice their religious beliefs as long as their faith does not infringe on the rights of others. This concept, which is, I have the freedom to stretch out my hand as far as I can unless I punch Hannah here in the face—I do not have the freedom to do that; that is impinging on Hannah's rights—actually pertains to more than just freedom of religion but our basic concepts of what people's rights are, and this is an idea that is woven through our Constitution and our Bill of Rights. I have the right to choose my profession, where I live, and I have a right to choose my doctor according to my own faith, but I do not have the right to choose yours.

When we wrote the health reform bill, we made sure to account for this balance. The health reform law required insurance companies to cover preventive health benefits without copays, and we asked the Institute of Medicine to study which preventive health benefits should be included. Last summer, the IOM—the Institute of Medicine—recommended to the Department of Health and Human Services that contraceptives should be covered, along with cancer screening, screening for domestic violence, and many other services that have been shown to improve women's health.

A number of religious institutions objected to being required to cover contraceptive services as a preventive health benefit for their employees. President Obama heeded their concerns, and he created an exception for churches and other religious institu-

tions. The President went even further by saying that religiously affiliated organizations will not have to pay for contraceptive coverage for their employees. I will say that again. A religiously affiliated, nonprofit employer will not have to pay for contraceptives for their employees—and that was applauded by a lot of Catholic groups, for example—but the employees would have the right to contraception, to exercise their religious rights. And very often, contraception is used as a medical preventive—I think 15 percent of all use of contraception is to prevent maladies women have.

I believe all Americans should be able to freely and fully practice their religious beliefs to the extent their practice does not infringe on the freedom of others. I believe this freedom is at the heart of our society in America.

I applaud the President for finding a solution that protects religious freedoms while also providing health care to nearly all women. However, my friend Senator BLUNT, with whom I am actually working on a separate transportation amendment, has filed a non-germane amendment that goes much further than the President's accommodation of religious employers.

His amendment says that any employer or health insurer could opt out of any essential benefit or preventive service required by the Affordable Care Act. All they have to do is say that their objection is on religious or moral grounds. This amendment would upend how our entire insurance system works. It would allow any employer to opt out of covering any health care service guaranteed to Americans by the Affordable Care Act. This is an unprecedented proposal, one that could change the structure of health care in our country much for the worse.

The President found a balanced approach that maintains women's access to health care, while allowing religiously affiliated organizations to opt out of paying for it. On the other hand, Senator BLUNT's amendment would allow employers to prohibit health plans from providing preventive health services guaranteed by the Affordable Care Act. For example, under this amendment, an employer could object to covering vaccines for children. There are people in this country—I am sure many of them are employers—who have a moral objection to vaccines, so the plan would not be required to cover it or an employer could choose not to allow an insurer to cover maternity care for a single woman. There are people with moral objections to people having children outside marriage. So the woman would have to pay for her prenatal care and her maternity care out of pocket, if the employer just says: Oh, nope. I have a moral problem with that.

Of course, Senator BLUNT's amendment ignores the religious freedom of

women to be able to access contraceptives. The President's accommodation a couple weeks ago protected the religious freedom of religious organizations, while also protecting the religious freedom of the women who are their employees. Remember, the employees have religious freedom too.

The Blunt amendment violates the freedom of women to receive the kind of scientifically proven health care that she chooses—she chooses. This proposal does not simply put women's access to birth control in the hands of their employers, it does not simply allow politics to get between women and their doctors, it changes the way health care is provided in our country. It violates a core belief in our society that our religious decisions are our own and that each of us, every woman and man in our society, has the right to make decisions about our own health for ourselves and for our families.

Over the last decade, we have seen proposal after proposal that would politicize the decisions that women make with their doctors. Now we are seeing an all-out attack on women's rights to protect their health by using contraceptives, something that almost all women in this country use at some point in their lives. These women choose to do that. It conforms with their own beliefs about what is best for them.

I think we all believe, or almost all of us believe that women should have that right. This seems to be a clear case of one person's religious beliefs impinging on the rights of others. It is a deeply worrying case of one person's hand meeting another's face.

I rise to urge my colleagues to fight back against these assaults. I urge my friends on both sides of the aisle to think about this, to respect the decisions that each woman makes about her health care, to protect each woman's religious freedom, her liberty, and to oppose Senator BLUNT's amendment to undermine this basic freedom.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. SANDERS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### DENTAL CRISIS IN AMERICA

Mr. SANDERS. Madam President, I am here for Senator BOXER, in terms of the Transportation bill, but before I get into transportation, I wanted to say a word on another issue that does not get the attention it deserves, and that is why, as chairman of the Subcommittee on Primary Health Care, I will be holding a hearing on the dental crisis in America.

As I think many Americans know—although they do not hear a whole lot about it—we as a Nation are in the midst of a very severe dental crisis. More than 47 million Americans live in places where it is difficult to get dental care. About 17 million low-income children received no dental care in 2009. One quarter of adults in the United States ages 65 or older have lost all of their teeth. Low-income adults are almost twice as likely as higher income adults to have gone without a dental checkup in the previous year.

I should tell you that bad dental health impacts overall health care. When you talk about dental care, you are talking about health care in general. If people have bad teeth or no teeth, they are unable to digest their food, which causes digestive problems. People who have poor teeth can get infections leading to very serious health problems. And, in fact, there are instances where people have actually died because of poor teeth and infections. Furthermore, the risk for diabetes, heart disease, and poor birth outcomes are also significant if people are not having their teeth well maintained.

Since 2006, there were over 830,000 visits to emergency rooms across the country because we have a lot of low-income people who are in severe pain and they can't find a dentist. So they go into an emergency room, and I suspect maybe they get their tooth extracted or get some pain killer. But that is certainly not an adequate substitute for providing the dental care that all Americans need.

Almost 60 percent of children ages 5 to 17 have cavities, making tooth decay 5 times more common than asthma among children of this age. In fact, as I understand it, the single most prevalent reason for children being absent from school is, in fact, dental problems.

In the midst of the severe need for more dentists, what is happening is our dentists in our dental communities are becoming older and many of them are retiring. In fact, we need a lot more new dentists to replace those who are retiring. The sad truth is that more dentists retire each year than there are dental school graduates to replace them.

One of the other problems we are facing is that only 20 percent of the Nation's practicing dentists provide care to people with Medicaid. So that is a serious problem. We need more dentists but, equally important, we need to make sure that dentists are providing service to the people who need it the most. And one of the sad realities of contemporary dental life is that only 20 percent of the Nation's practicing dentists provide care to people who are on Medicaid, and only an extremely small percentage devote a substantial part of their practice to caring for those who are underserved.

The current access problem is exacerbated by the fact that private practices are often located in middle-class and wealthy suburbs. What we need is to bring dentists into those areas where people need dental care the most. That is certainly something we need to do.

Further, we need to expand Medicaid and other dental insurance coverage. One-third of Americans do not have dental coverage. Traditional Medicare for seniors does not cover dental services. States can choose whether their Medicaid Programs provide coverage for dental care for adults, and the truth is many of them do not.

Let me give some good news, though, in terms of where we are making some progress. Recently—and I have been active in this effort—there has been an expansion of federally qualified community health centers. Community health centers provide health and dental care to anybody in the area regardless of their ability to pay. We now have a situation where community health centers are providing dental services to over 3½ million people across the country.

I am happy to say in the State of Vermont, in recent years, we have seen a very significant increase not only in community health centers in general but in community health centers that are providing state-of-the-art dental care. We have beautiful new facilities located in Richford, in the northern part of our State; in Plainfield, VT, in the central part of our State; and in Rutland. Burlington is just developing a beautiful new dental facility.

Furthermore, one of the areas where I think we are seeing some progress not only in Vermont but around the country—and which I think has huge potential—is putting dental offices right in schools. I know in Burlington, VT, we helped bring that about some years ago, and we have kids from all over the city of Burlington getting their dental care at one particular school. It is working phenomenally well, and we have similar programs in Bennington and Richford.

I did want to mention that I think the time is now for the Congress to begin addressing this issue. One of the things I have done recently on my Web site—which is [sandersonsenate.gov](http://sandersonsenate.gov)—I have asked people in Vermont and all over the country to tell us their stories in terms of what happens if they do not or if members of their family don't have access to dental care. We have received more than 1,200 stories from Vermont and all over this country. Those stories are heartbreaking because they tell the tales of people who are suffering every day because they simply don't have the money to go to a dentist to take care of their dental needs. These are parents who are worried about their kids and pointing out how hard it is to find affordable dental care in their communities. So if people

want to write my office, they can go to my Web site, [sanders.senate.gov](http://sanders.senate.gov), and we would love to hear from them. Because I think there are a lot of stories out there that are not being told.

What I wish to do now is to read from a publication that we have just produced called "Dental Crisis in America: The Need to Expand Access." This will be distributed and released tomorrow at our hearing, but I did want to read a few stories which I think speak to the experience that a whole lot of people from one end of this country to the other are having regarding lack of access to dental care.

This is from a woman named Heather Getty, who lives in East Fairfield, VT, in the northern part of our State. This is what she says:

My husband and I and our four kids are the working poor. We have to think about rent and electricity before we think about dental care. My wisdom teeth have been a problem for over a decade now. I take ibuprofen and just keep on going. My husband has not seen a dentist since he was a teenager. He's afraid of the costs if they find something. So it's been 20 years. Because of Vermont's Dr. Dynasaur program, at least my children have been lucky enough to have regular cleanings, but I have to comb through the Yellow Pages to find an office who will accept their coverage. One time I missed an appointment because my car broke down, and when I called to reschedule, they told me that we had been blacklisted and that no one from my family could be seen by that office again. We've learned over the years how important dental care is. If you get preventive care early, you are less likely to have problems later on.

That is from Heather Getty in East Fairfield, VT.

Let me read a statement from Shawn Jones in Brattleboro, VT.

Last year, I had a toothache that was so painful, I had trouble eating and sleeping. My girlfriend is also covered by Medicaid so I called her dentist, but they wouldn't see me. So I called 12 more dentists in the area, but they all said the same thing: They weren't taking new Medicaid patients. A few said to call back in three months, which seems like a long time to live with a bad toothache. Finally, someone from Office of Vermont Health Access helped me get an emergency voucher to get my tooth pulled. I'm just grateful that my girlfriend had a car to get me there.

That is just a couple of the statements that came from Vermont, and in fact from all over the country. But let me read a statement from Dr. David Nash, who is the William R. Willard Professor of Dental Education, Professor of Pediatric Dentistry, College of Dentistry, University of Kentucky in Lexington. Dr. Nash writes:

Society has granted the profession of dentistry the exclusive right and privilege of caring for the oral health of the nation's children. Unfortunately, the dental delivery system in place today does not provide adequate access to care for our children. In many instances it is because few dentists will accept Medicaid payments. In other countries of the world, children's oral health is cared for by dental therapists, primarily

in school-based programs. This results in an overwhelming majority of children being able to receive care. Dental therapists as utilized internationally do not create a two-tiered system of care. They have extensive training in caring for children, significantly more than the typical graduate of our nation's dental schools. International research supports the high quality of care dental therapists provide. The time has arrived for the United States to develop a new workforce model to care for our children's oral health.

What Dr. Nash is talking about is another issue we will be discussing tomorrow in the hearing; that is, it is clear from international studies and, in fact, from some States in the United States that there are well-trained people who can take care of certain types of dental problems who are not dentists. I think that is an area we need to explore—how can we expand the dental profession to include people who do not graduate dental school but who have the qualifications to take care of a variety of dental problems?

Let me read another story that comes from Vermont regarding what happens if you don't have dental care. It is from Kiah Morris from Bennington, VT.

When I was pregnant, I had a tooth infection that had gotten into my lymph nodes and I needed a root canal, but adult Medicaid has a \$495 cap, which wasn't enough. Dental care shouldn't be a luxury.

What she is saying is that in Vermont and in many other States where you do have Medicaid helping out for dental care for low-income people, there is often a cap, and that cap is much too low to provide the services many folks need.

So the bottom line is that we have a crisis in terms of access to dental care in this country. We lag behind many other countries around the world in that regard. We have many people who have no dental insurance at all. Some who do have dental insurance, such as my family, have very limited coverage—I think it is about \$1,000 a year. Meanwhile, the cost of dental care is sky-high, and we are also going to explore why that is so. I am not sure I understand or many people understand why dental care is as expensive as it is. What I do know is that there is a city in northern Mexico whose function in life is to provide dental care for Americans who go down below the border because they can't afford dental care in this country.

There is a serious problem. People don't have dental insurance. Low-income people don't have access to dental care. We have many dentists out there who are not accepting Medicaid patients or, if they are accepting Medicaid patients, they are accepting very few of them.

The population of our dentists in general is getting older, and we are losing more of them to retirement than we are seeing graduates of dental

school. Even the dentists who are graduating are often not migrating to the areas where we need them the most. Many dentists are involved in making our teeth white and shiny and our smiles very beautiful, but meanwhile in those communities there are people who are seeing the teeth in their mouth rot away, there are kids who have dental problems, and they are not getting the treatment they need.

I hope that tomorrow at the hearing we are going to bring forth some great panelists. We will be talking about the issue. I intend, as soon as we can, to introduce comprehensive legislation to make sure every person in this country has access to affordable and decent-quality dental care.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CASEY). The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. SANDERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SANDERS. Mr. President, we are debating the Transportation bill, so let me say a few words about transportation.

I think everybody in this country—or at least anybody who gets into an automobile and drives around—understands that we have a major infrastructural crisis in this country and that it is becoming more dire each passing year.

The American Society of Civil Engineers has reported that we should be investing \$2.2 trillion over the next 5 years simply to get our roads, bridges, transit, and aviation to a passable condition. This is more than eight times the annual rate of spending proposed in the bill under consideration.

The first point I think we should acknowledge is that the legislation before us, which I support and which is significantly a step forward, is a very modest proposal going nowhere near as far as we should be going.

Clearly, I see when I go home to Vermont, and I am sure you see when you go home to Pennsylvania, the very apparent infrastructural needs we as a nation face. In my State of Vermont, just under one-third of Vermont's bridges are structurally deficient or functionally obsolete. About one-third of Vermont's bridges are structurally deficient or functionally obsolete. Thirty-six percent of our Federal aid roads are in need of major repairs. In fact, a recent national report ranked Vermont's rural roads as the worst in the Nation, and that was before the very terrible storm we experienced, Tropical Storm Irene, which caused hundreds of millions of additional dollars of damage to our roads.

I think the point here is not a complicated point. I was a mayor for 8

years, and I had to deal with the roads and the water system in the city of Burlington, and I think I speak for every mayor in the world when I tell you that infrastructure does not get better all by itself. I think we can all agree that if you do nothing, if you do not invest in repairs, it is just not going to get better. In fact, it will get worse.

It is really dumb that we as a nation end up spending a lot more money than we should in repairing our roads and bridges and water systems because we don't adequately fund maintenance. If you keep up good repair, it will end up costing you less money. If you ignore them and they deteriorate and you need to massively rebuild them, it ends up being a much more expensive proposition.

So as a nation what we should be doing is properly maintaining our infrastructure, investing a certain sum every single year. And I should tell you that compared to the rest of the world, we do not do a particularly good job of that. Right now, the United States invests just 2.4 percent of our GDP on infrastructure. Europe invests twice that amount, and China invests almost four times our rate. Roughly 9 percent of their GDP goes to infrastructure. So in terms of our own needs, we are falling behind. Internationally, other countries are doing a lot better than we are.

Equally important is that we are in the midst of the worst economic downturn since the Great Depression. If you look at those people who have given up looking for work, those people who are working part time or want to work full time, real unemployment in this country is not just the official 8.2 percent, it is closer to 15 percent. And what economists tell us is that if we are serious about creating jobs, investing in infrastructure is probably the best way to do that. It is the easiest way to create meaningful, decent-paying jobs. For every \$1 billion of Federal funds spent, we can create or maintain nearly 35,000 jobs. Given the economic crisis we face, that is exactly what we should be doing.

In addition to preserving more than 1.8 million jobs, the legislation we are dealing with today, which is being presented by Senators BOXER and INHOFE, will create up to 1 million new jobs by expanding the TIFIA Program—a measure championed by Chairperson BOXER. This is an extremely important issue. It is important for our productivity because when you have a crumbling infrastructure, productivity suffers. It is important in terms of international competition. It is important in terms of job creation. It is important in order to provide a basic need for millions of Americans.

People do not want to drive on roads which are falling apart, that have huge potholes. People want to make sure when they go over a bridge, that bridge

will not collapse. People want to make sure we have a strong rail system, not a rail system which, in fact, is far behind those of Europe, Japan, and China.

This bill, while modest in terms of our needs, is a step forward. It is a bipartisan bill. I hope we can get to it and pass it as quickly as possible because the infrastructure needs of this country are great, and they must be addressed.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BENNET. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### MORNING BUSINESS

Mr. BENNET. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SENATE YOUTH PROGRAM

Mr. REID. Mr. President, I rise today to honor the achievements of the U.S. Senate Youth Program, USSYP, an organization that has molded some of our Nation's brightest students to become the next generation of public servants.

This year marks 50 years of a commitment to educate and nurture talented young leaders interested in serving their communities. The USSYP hails from a strong family that valued bipartisanship and democratic lawmaking. William Randolph Hearst's sons, George R. Hearst and Randolph A. Hearst, envisioned this program and brought it to life with the collaboration of then-Senators Tom Kuchel, R-CA, Mike Mansfield, D-MT, Everett Dirksen, R-Ill., and Hubert Humphrey, D-MN.

The USSYP was created by S. Res. 324 in 1962 "to increase young Americans' understanding of the interrelationships of the three branches of government, the caliber and responsibilities of federally elected and appointed officials, and the vital importance of democratic decision making not only for America but for people around the world."

I would also like to commend the State departments of education across the country that select the outstanding students each year and the Department of Defense, which provides competitively selected military officers from every service branch to serve

as guides and mentors to the students during the program. The Hearst Foundations have continued to administer and fund the program since inception, including college scholarships for each student given with the encouragement to continue their studies in history and government.

This year, 104 impressive student delegates were selected because of their outstanding leadership abilities and volunteer work by the chief educational officer from each State to travel to Washington and serve as young "senators" from their respective States for 1 week. They will keep a busy schedule attending meetings and briefings with Senators and congressional staff, the President, a Justice of the Supreme Court, leaders of Cabinet agencies, an ambassador to the United States, and top members of the national media.

The USSYP has a proud roster of more than 5,000 alumni of the program who continue to use the skills they learned from their experience as delegates and many of whom have become public servants.

I am proud to serve as an honorary cochair of the program, and I send my best wishes to each of the students selected to represent their States during Washington Week. I especially send my sincere congratulations to the two Nevada delegates, Daniel Waqar of Las Vegas and Benjamin Link of Eureka.

#### ADDITIONAL STATEMENTS

##### REMEMBERING JUDGE ROGER J. MINER

• Mrs. GILLIBRAND. Mr. President, today I wish to honor a truly brilliant and dedicated jurist who served New York and the Nation as a public servant his entire life. On Saturday, February 18, 2012, I was heartbroken to learn that my mentor and friend, Judge Roger J. Miner, a U.S. Court of Appeals judge for the Second Circuit, passed away of natural causes in his home in Hudson, NY.

I was extremely fortunate to have had the privilege to work with Judge Miner as a law clerk, when he served in the Northern District of New York. I cherished his confidence and support in all my endeavors and I feel blessed to have been able to call him a personal friend and mentor. He not only taught me clear legal analysis, but also inspired me with his integrity, fairness, and great love of public service. I will always remember his generosity, kindness and great intellect that taught me so much.

Born in Hudson, Judge Miner received his bachelor's degree from State University of New York at Albany and his law degree from New York Law School with honors in 1956, where he served as managing editor of the Law Review.



Judge Miner was admitted to practice in New York and in the U.S. Court of Military Appeals in 1956. Serving on active military duty from 1956 to 1959, Judge Miner was awarded the Commendation Ribbon with Medal Pendant for his work on the revision of the Manual for Courts-Martial. He was admitted to the Bar of the Republic of Korea in 1958. Judge Miner later was honorably discharged in October 1964 with the rank of captain in the Judge Advocate General's Corps, in the U.S. Army Reserve.

Judge Miner wrote Ohio State Law Journal Volume 67 in 2006 where he describes his defense of a person he believes to be the last civilian tried by court martial. The trial was conducted in Korea in 1958 during Judge Miner's service as an officer in the Judge Advocate General's Corps of the U.S. Army. Although a challenge to the jurisdiction of the court martial was rejected and the civilian defendant's conviction was set aside for another reason at trial—the Supreme Court ultimately decided that courts-martial have no jurisdiction over civilians. This development also led to the passage of the Military Extraterritorial Jurisdiction Act to allow for prosecution in U.S. District Courts of civilians employed by or accompanying the Armed Forces overseas.

After leaving active duty, he returned to Hudson, NY, to practice law with his father, and served as the city's corporation counsel from 1961 to 1964.

Judge Miner served as an assistant district attorney of Columbia County, and soon after became district attorney of Columbia County until 1975. The following year, he was elected as justice of the New York State Supreme Court, Third Judicial District, where he served for five years.

Judge Miner was nominated in 1981 by President Ronald Reagan to the U.S. District Court for the Northern District of New York. In 1985, President Reagan promoted Judge Miner to the U.S. Court of Appeals for the Second Circuit, where he served for nearly three decades.

Judge Miner was one of three finalists considered to fill a seat on the U.S. Supreme Court in the late 1980s, but ultimately was not nominated because he openly supported a woman's right to choose. As his wife Jacqueline has recalled she urged him to lie and say he was opposed to choice. He said, "My reputation is too big a price to pay for a seat on the U.S. Supreme Court." This is an example of one of the many courageous choices he made throughout his life, where he put his integrity and what was right ahead of personal ambition or political expediency.

Judge Miner was an adjunct professor for his alma mater, New York Law School, and for Albany Law School. He also served as a member of the board of trustees of the Practicing Law Insti-

tute. He held honorary degrees from New York Law School, Albany Law School, and Syracuse University.

Judge Miner is survived by his wonderful wife of 36 years Jacqueline, four sons, Larry, Ronald, Ralph, and Mark; his brother Lance, six grandchildren, a nephew and a niece, and his extended family. My thoughts and prayers are with his family.

Mr. President, I ask all members of this esteemed body to join me as we honor the life and legacy of Judge Roger J. Miner. Our country has lost a great leader, and a fine jurist who will be deeply missed in New York and across the Nation.●

#### RECOGNIZING ARKANSAS CHILDREN'S HOSPITAL CENTENNIAL

● Mr. PRYOR. Mr. President, it is my distinct honor and privilege to recognize the work of Arkansas Children's Hospital, ACH, on the occasion of its centennial celebration. Founded in 1912, ACH has been at the forefront of pediatric medicine in Arkansas and across the Nation for the last century. Friends and supporters of ACH will gather on March 5, 2012, to celebrate 100 years of ACH history and care to the children of Arkansas, and I join with them in congratulating Arkansas Children's Hospital on its 100th birthday.

Designed originally to serve as an orphanage for the underprivileged children in Arkansas, the Arkansas Children's Home Society was established on March 2, 1912, with a mission to provide and care for the neediest children in Arkansas. Dr. Orlando P. Christian became the first superintendent of the society and soon laid out a vision to build a children's hospital. Kicking off a fundraising campaign for the new hospital in 1919, Dr. Christian stirred attendees with a moving speech and concluded by asking, "The question is no longer what shall we do, but how and when shall we begin our task?"

It took only 7 years for this goal to become a reality when the hospital opened on March 9, 1926, with only two beds but a fully equipped operating room. In the years following, Arkansas Children's Home and Hospital, as it was then known, would face various challenges and triumphs as it continued to add new facilities and services in support of its mission. When Dr. Christian retired in 1933, Mrs. Ruth Olive Beall became the new superintendent. Her 27-year tenure brought the facility through the difficulties of the Great Depression and World War II and saw the institution formally become Arkansas Children's Hospital.

The Burn Center opened in 1953 and continues to be the only center of its kind in the State, treating over 2,000 adults and children every year. The Heart Center at ACH is one of the premier centers in the country. In 2011,

doctors at the Heart Center performed an astonishing total of 31 heart transplants, bringing new life and hope to dozens of children and families. In an effort to expand medical care across the State, ACH added a helicopter to its transport services in 1985. Now, more than 1,200 children each year are brought safely to ACH through the Angel One transport helicopters. This addition had a significant impact on the State's infant mortality rate and continues to provide children across the State expanded access to the excellent medical care at Arkansas Children's Hospital. As they like to say, "Arkansas Children's Hospital and Angel One are dedicated to providing Care, Love and Hope . . . at 180 miles per hour."

With each passing year, ACH continues to reinvent itself and add vital services necessary for the care of its patients. This summer, the new South Wing will give ACH its largest expansion to date, with a brandnew ER, NICU, Cardiovascular Intensive Care Unit, and multiple new clinic spaces. This wing will bring ACH to a total of 370 patient rooms. For a facility that started with only two beds, Dr. Christian would be proud of the century of progress made at Arkansas Children's Hospital.

Mr. President, when the original orphanage was established in 1912, it had a simple mission: to provide and care for the neediest children in Arkansas. A century later, Arkansas Children's Hospital continues to hold fast to that mission and provide world-class care to every child, without regard to the family's ability to pay. I am proud of the work ACH and its staff does for the children in Arkansas and across our Nation. My State is truly blessed to have such great care, and I am excited to see the ways this institution will continue to expand in the years to come. I ask my colleagues to join me today in congratulating Arkansas Children's Hospital on 100 years of service in Arkansas and in wishing ACH another 100 years of success.●

#### PRESIDENTIAL POLICY DIRECTIVE ESTABLISHING PROCEDURES TO IMPLEMENT SECTION 1022 OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2012—PM 42

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Armed Services:

*To the Congress of the United States:*

Attached is the text of a Presidential Policy Directive establishing procedures to implement section 1022 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81)



(the “Act”), which I hereby submit to the Congress, as required under section 1022(c)(1) of the Act. The Directive also includes a written certification that it is in the national security interests of the United States to waive the requirements of section 1022(a)(1) of the Act with respect to certain categories of individuals, which I hereby submit to the Congress in accordance with section 1022(a)(4) of the Act.

BARACK OBAMA.  
THE WHITE HOUSE, February 28, 2012.

#### MESSAGE FROM THE HOUSE

At 11:09 a.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 347) to correct and simplify the drafting of section 1752 (relating to restricted buildings or grounds) of title 18, United States Code.

#### MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

H.R. 1173. An act to repeal the CLASS program.

#### EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-5083. A communication from the Manager of the BioPreferred Program, Office of Procurement and Property Management, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled “Redesignation of the BioPreferred Program” (RIN0503-AA41) received during adjournment of the Senate in the Office of the President of the Senate on February 23, 2012; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5084. A communication from the Secretary of the Commission, Division of Enforcement, Commodity Futures Trading Commission, transmitting, pursuant to law, the report of a rule entitled “Business Conduct Standards for Swap Dealers and Major Swap Participants With Counterparties” (RIN3038-AC25) received in the Office of the President of the Senate on February 17, 2012; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5085. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Pyrooxasulfone; Pesticide Tolerances” (FRL No. 9334-2) received during adjournment of the Senate in the Office of the President of the Senate on February 23, 2012; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5086. A communication from the Assistant Secretary, Bureau of Political-Military Affairs, Department of State, transmitting, pursuant to law, an addendum to a certification, transmittal number: DDTC-12-018, of

the proposed sale or export of defense articles and/or defense services to a Middle East country regarding any possible affects such a sale might have relating to Israel’s Qualitative Military Edge over military threats to Israel; to the Committee on Armed Services.

EC-5087. A communication from the Assistant Secretary of Defense (Homeland Defense and Americas’ Security Affairs), transmitting, pursuant to law, a report entitled “Mitigation of Power Outage Risks for Department of Defense Facilities and Activities”; to the Committee on Armed Services.

EC-5088. A communication from the Secretary of the Army, transmitting, pursuant to law, a report entitled “Army Fisher House Program Fiscal Year 2011 Annual Report to Congress”; to the Committee on Armed Services.

EC-5089. A communication from the Assistant Secretary of Defense (Reserve Affairs), transmitting, pursuant to law, a report relative to the modernization priority assessments provided by the Chiefs of the Reserve and National Guard components; to the Committee on Armed Services.

EC-5090. A communication from the Acting Under Secretary of Defense (Personnel and Readiness), transmitting a report on the approved retirement of Lieutenant General Richard P. Zahner, United States Army, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

EC-5091. A communication from the Acting Under Secretary of Defense (Personnel and Readiness), transmitting the report of two (2) officers authorized to wear the insignia of the grade of brigadier general in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

EC-5092. A communication from the Acting Assistant Secretary of Defense (Reserve Affairs), transmitting, pursuant to law, a report relative to a proposed change to the Fiscal Year 2010 National Guard and Reserve Equipment Appropriation (NGREA) procurement; to the Committee on Armed Services.

EC-5093. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled “Defense Federal Acquisition Regulation Supplement; Extension of the Department of Defense Mentor-Protégé Pilot Program” ((RIN0750-AH59) (DFARS Case 2012-D024)) received in the Office of the President of the Senate on February 17, 2012; to the Committee on Armed Services.

EC-5094. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled “Defense Federal Acquisition Regulation Supplement; Extension of the Test Program for Negotiation of Comprehensive Small Business Subcontracting Plans” ((RIN0750-AH60) (DFARS Case 2012-D026)) received in the Office of the President of the Senate on February 17, 2012; to the Committee on Armed Services.

EC-5095. A communication from the Director of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled “List of Approved Spent Fuel Storage Casks: Holtec International HI-STORM 100 Cask System, Revision 8” (RIN3150-AJ05) received during adjournment of the Senate in the Office of the President of the Senate on February 23, 2012; to the Committee on Environment and Public Works.

EC-5096. A communication from the Director of Congressional Affairs, Nuclear Regu-

latory Commission, transmitting, pursuant to law, the report of a rule entitled “Thermal Overload Protection for Electric Motors on Motor Operated Valves” (Regulatory Guide 1.106, Revision 2) received during adjournment of the Senate in the Office of the President of the Senate on February 23, 2012; to the Committee on Environment and Public Works.

EC-5097. A communication from the Chief of the Listing Branch, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled “Endangered and Threatened Wildlife and Plants; Endangered Status and Designations of Critical Habitat for Spikedace and Loach Minnow” (RIN1018-AX17) received during adjournment of the Senate in the Office of the President of the Senate on February 21, 2012; to the Committee on Environment and Public Works.

EC-5098. A communication from the Chief of the Listing Branch, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled “Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for the Rayed Bean and Snuffbox Mussels Throughout Their Ranges” (RIN1018-AV96) received during adjournment of the Senate in the Office of the President of the Senate on February 21, 2012; to the Committee on Environment and Public Works.

EC-5099. A communication from the Chief of the Listing Branch, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled “Endangered and Threatened Wildlife and Plants; Reissuance of Interim Special Rule for the Polar Bear” (RIN1018-AY34) received during adjournment of the Senate in the Office of the President of the Senate on February 21, 2012; to the Committee on Environment and Public Works.

EC-5100. A communication from the Acting Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Marine Mammals; Subsistence Taking of Northern Fur Seals; Harvest Estimates” (RIN0648-BB09) received in the Office of the President of the Senate on February 17, 2012; to the Committee on Environment and Public Works.

EC-5101. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report relative to the construction of navigation improvements for the Sabine-Neches Waterway (SNWW) channel in Southeast Texas and Southwest Louisiana; to the Committee on Environment and Public Works.

EC-5102. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Approval and Promulgation of Implementation Plans; Arkansas; Regional Haze State Implementation Plan; Interstate Transport State Implementation Plan to Address Pollution Affecting Visibility and Regional Haze” (FRL No. 9637-4) received during adjournment of the Senate in the Office of the President of the Senate on February 23, 2012; to the Committee on Environment and Public Works.

EC-5103. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Approval of Air Quality Implementation Plans; California; San Joaquin Valley;

Attainment Plan for 1997 8-hour Ozone Standards" (FRL No. 9624-5) received during adjournment of the Senate in the Office of the President of the Senate on February 23, 2012; to the Committee on Environment and Public Works.

EC-5104. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval of Air Quality Implementation Plans; California; South Coast; Attainment Plan for 1997 8-hour Ozone Standards" (FRL No. 9624-6) received during adjournment of the Senate in the Office of the President of the Senate on February 23, 2012; to the Committee on Environment and Public Works.

EC-5105. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; District of Columbia, Maryland, and Virginia; Determinations of Attainment of the 1997 8-Hour Ozone National Ambient Air Quality Standard for the Washington, DC-MD-VA 8-Hour Ozone Moderate Nonattainment Area" (FRL No. 9634-6) received during adjournment of the Senate in the Office of the President of the Senate on February 23, 2012; to the Committee on Environment and Public Works.

EC-5106. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Transportation Conformity Rule: MOVES Regional Grace Period Extension" (FRL No. 9636-5) received during adjournment of the Senate in the Office of the President of the Senate on February 23, 2012; to the Committee on Environment and Public Works.

EC-5107. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Idaho: Final Approval of State Underground Storage Tank Program" (FRL No. 9640-1) received during adjournment of the Senate in the Office of the President of the Senate on February 23, 2012; to the Committee on Environment and Public Works.

EC-5108. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Tennessee: Prevention of Significant Deterioration; Greenhouse Gas Tailoring Rule Revision" (FRL No. 9635-6) received during adjournment of the Senate in the Office of the President of the Senate on February 23, 2012; to the Committee on Environment and Public Works.

EC-5109. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Delegation of National Emission Standards for Hazardous Air Pollutants for Source Categories; State of Nevada, Nevada Division of Environmental Protection" (FRL No. 9635-7) received during adjournment of the Senate in the Office of the President of the Senate on February 23, 2012; to the Committee on Environment and Public Works.

EC-5110. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, Antelope Valley Air

Quality Management District and San Joaquin Valley Unified Air Pollution Control District" (FRL No. 9634-3) received during adjournment of the Senate in the Office of the President of the Senate on February 23, 2012; to the Committee on Environment and Public Works.

EC-5111. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Tennessee: Prevention of Significant Deterioration; Greenhouse Gases-Automatic Rescission Provisions" (FRL No. 9636-8) received during adjournment of the Senate in the Office of the President of the Senate on February 23, 2012; to the Committee on Environment and Public Works.

EC-5112. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; State of Missouri" (FRL No. 9634-8) received during adjournment of the Senate in the Office of the President of the Senate on February 23, 2012; to the Committee on Environment and Public Works.

EC-5113. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Marine Sanitation Devices (MSDs): Regulation to Establish a No Discharge Zone (NDZ) for California State Marine Waters" (FRL No. 9633-9) received during adjournment of the Senate in the Office of the President of the Senate on February 23, 2012; to the Committee on Environment and Public Works.

EC-5114. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; New York; Motor Vehicle Enhanced Inspection and Maintenance Program" (FRL No. 9635-4) received during adjournment of the Senate in the Office of the President of the Senate on February 23, 2012; to the Committee on Environment and Public Works.

EC-5115. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the Hawaii State Implementation Plan" (FRL No. 9634-1) received during adjournment of the Senate in the Office of the President of the Senate on February 21, 2012; to the Committee on Environment and Public Works.

EC-5116. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Designation of Hazardous Substances; Designation, Reportable Quantities, and Notification" (FRL No. 9635-9) received during adjournment of the Senate in the Office of the President of the Senate on February 21, 2012; to the Committee on Environment and Public Works.

EC-5117. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to Federal Implementation Plans To Reduce Interstate Transport of Fine Particulate Matter and Ozone" (FRL No. 9631-8) received during adjournment of the Senate in the Office of the President of

the Senate on February 21, 2012; to the Committee on Environment and Public Works.

EC-5118. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to Federal Implementation Plans to Reduce Interstate Transport of Fine Particulate Matter and Ozone: Part II" (FRL No. 9632-8) received during adjournment of the Senate in the Office of the President of the Senate on February 21, 2012; to the Committee on Environment and Public Works.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mrs. MURRAY (for herself and Ms. MIKULSKI):

S. 2135. A bill to amend the Child Care and Development Block Grant Act of 1990 to authorize a national toll-free hotline and website, to develop and disseminate child care consumer education information for parents and to help parents access child care in their community, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Ms. LANDRIEU (for herself and Ms. SNOWE):

S. 2136. A bill to increase the maximum amount of leverage permitted under title III of the Small Business Investment Act of 1958, and for other purposes; to the Committee on Small Business and Entrepreneurship.

By Mrs. BOXER:

S. 2137. A bill to prohibit the issuance of a waiver for commissioning or enlistment in the Armed Forces for any individual convicted of a felony sexual offense; to the Committee on Armed Services.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. REID (for himself and Mr. MCCONNELL):

S. Res. 381. A resolution authorizing the taking of a photograph in the Chamber of the United States Senate; considered and agreed to.

## ADDITIONAL COSPONSORS

S. 20

At the request of Mr. HATCH, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 20, a bill to protect American job creation by striking the job-killing Federal employer mandate.

S. 25

At the request of Mrs. SHAHEEN, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 25, a bill to phase out the Federal sugar program, and for other purposes.

S. 91

At the request of Mr. WICKER, the name of the Senator from South Carolina (Mr. DEMINT) was added as a cosponsor of S. 91, a bill to implement

equal protection under the 14th article of amendment to the Constitution for the right to life of each born and unborn human person.

S. 277

At the request of Mr. BURR, the name of the Senator from Massachusetts (Mr. BROWN) was added as a cosponsor of S. 277, a bill to amend title 38, United States Code, to furnish hospital care, medical services, and nursing home care to veterans who were stationed at Camp Lejeune, North Carolina, while the water was contaminated at Camp Lejeune, and for other purposes.

S. 414

At the request of Mr. DURBIN, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 414, a bill to protect girls in developing countries through the prevention of child marriage, and for other purposes.

S. 418

At the request of Mr. HARKIN, the names of the Senator from Wyoming (Mr. BARRASSO) and the Senator from Louisiana (Mr. VITTER) were added as cosponsors of S. 418, a bill to award a Congressional Gold Medal to the World War II members of the Civil Air Patrol.

S. 1002

At the request of Mr. SCHUMER, the names of the Senator from Utah (Mr. LEE) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 1002, a bill to prohibit theft of medical products, and for other purposes.

S. 1214

At the request of Mrs. GILLIBRAND, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1214, a bill to amend title 10, United States Code, regarding restrictions on the use of Department of Defense funds and facilities for abortions.

S. 1251

At the request of Mr. CARPER, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 1251, a bill to amend title XVIII and XIX of the Social Security Act to curb waste, fraud, and abuse in the Medicare and Medicaid programs.

S. 1297

At the request of Mr. BURR, the name of the Senator from Pennsylvania (Mr. TOOMEY) was added as a cosponsor of S. 1297, a bill to preserve State and institutional authority relating to State authorization and the definition of credit hour.

S. 1460

At the request of Mr. BAUCUS, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 1460, a bill to grant the congressional gold medal, collectively, to the First Special Service Force, in recognition of its superior service during World War II.

S. 1512

At the request of Mr. CARDIN, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 1512, a bill to amend the Internal Revenue Code of 1986 and the Small Business Act to expand the availability of employee stock ownership plans in S corporations, and for other purposes.

S. 1755

At the request of Mr. TESTER, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 1755, a bill to amend title 38, United States Code, to provide for coverage under the beneficiary travel program of the Department of Veterans Affairs of certain disabled veterans for travel for certain special disabilities rehabilitation, and for other purposes.

S. 1843

At the request of Mr. ISAKSON, the name of the Senator from Pennsylvania (Mr. TOOMEY) was added as a cosponsor of S. 1843, a bill to amend the National Labor Relations Act to provide for appropriate designation of collective bargaining units.

S. 1925

At the request of Mr. LEAHY, the name of the Senator from Colorado (Mr. UDALL) was added as a cosponsor of S. 1925, a bill to reauthorize the Violence Against Women Act of 1994.

S. 1935

At the request of Mrs. HAGAN, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 1935, a bill to require the Secretary of the Treasury to mint coins in recognition and celebration of the 75th anniversary of the establishment of the March of Dimes Foundation.

S. 1990

At the request of Mr. COBURN, his name was added as a cosponsor of S. 1990, a bill to require the Transportation Security Administration to comply with the Uniformed Services Employment and Reemployment Rights Act.

S. 2065

At the request of Mr. KYL, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 2065, a bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to modify the discretionary spending limits to take into account savings resulting from the reduction in the number of Federal employees and extending the pay freeze for Federal employees.

S. 2099

At the request of Mr. JOHNSON of South Dakota, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 2099, a bill to amend the Federal Deposit Insurance Act with respect to information provided to the Bureau of Consumer Financial Protection.

S.J. RES. 19

At the request of Mr. HATCH, the name of the Senator from Kansas (Mr. MORAN) was added as a cosponsor of S.J. Res. 19, a joint resolution proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States.

S. RES. 310

At the request of Ms. MIKULSKI, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. Res. 310, a resolution designating 2012 as the "Year of the Girl" and congratulating Girl Scouts of the USA on its 100th anniversary.

S. RES. 380

At the request of Mr. GRAHAM, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. Res. 380, a resolution to express the sense of the Senate regarding the importance of preventing the Government of Iran from acquiring nuclear weapons capability.

AMENDMENT NO. 1549

At the request of Mr. CARDIN, the name of the Senator from Colorado (Mr. BENNET) was added as a cosponsor of amendment No. 1549 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1613

At the request of Mr. BEGICH, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of amendment No. 1613 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1666

At the request of Mr. CARPER, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of amendment No. 1666 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1736

At the request of Mr. PORTMAN, the names of the Senator from Georgia (Mr. ISAKSON) and the Senator from Indiana (Mr. COATS) were added as cosponsors of amendment No. 1736 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 381—AUTHORIZING THE TAKING OF A PHOTOGRAPH IN THE CHAMBER OF THE UNITED STATES SENATE

Mr. REID (for himself and Mr. MCCONNELL) submitted the following

resolution; which was considered and agreed to:

S. RES. 381

*Resolved*, That paragraph 1 of rule IV of the Rules for the Regulation of the Senate Wing of the United States Capitol and Senate Office Buildings (prohibiting the taking of pictures in the Senate Chamber) be temporarily suspended for the sole and specific purpose of permitting the Senate Photographic Studio to photograph the United States Senate in actual session on Tuesday, March 20, 2012, at the hour of 2:15 p.m.

SEC. 2. The Sergeant at Arms of the Senate is authorized and directed to make the necessary arrangements therefore, which arrangements shall provide for a minimum of disruption to Senate proceedings.

### AMENDMENTS SUBMITTED AND PROPOSED

SA 1742. Mr. PORTMAN submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table.

SA 1743. Mr. BLUNT submitted an amendment intended to be proposed to amendment SA 1730 proposed by Mr. REID to the bill S. 1813, *supra*; which was ordered to lie on the table.

SA 1744. Mr. KOHL (for himself, Mr. LEAHY, Mr. GRASSLEY, Mr. SCHUMER, Mr. BLUMENTHAL, Mr. BROWN of Ohio, Mr. FRANKEN, and Mr. MANCHIN) submitted an amendment intended to be proposed by him to the bill S. 1813, *supra*; which was ordered to lie on the table.

SA 1745. Mr. HATCH submitted an amendment intended to be proposed to amendment SA 1730 proposed by Mr. REID to the bill S. 1813, *supra*; which was ordered to lie on the table.

SA 1746. Mr. LEVIN (for himself and Mr. CONRAD) submitted an amendment intended to be proposed by him to the bill S. 1813, *supra*; which was ordered to lie on the table.

SA 1747. Mr. CORKER submitted an amendment intended to be proposed by him to the bill S. 1813, *supra*; which was ordered to lie on the table.

SA 1748. Mr. HOEVEN submitted an amendment intended to be proposed by him to the bill S. 1813, *supra*; which was ordered to lie on the table.

SA 1749. Mrs. FEINSTEIN (for herself and Mrs. BOXER) submitted an amendment intended to be proposed to amendment SA 1730 proposed by Mr. REID to the bill S. 1813, *supra*; which was ordered to lie on the table.

SA 1750. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 1730 proposed by Mr. REID to the bill S. 1813, *supra*; which was ordered to lie on the table.

### TEXT OF AMENDMENTS

SA 1742. Mr. PORTMAN submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 469, after line 22, add the following:

SEC. 15. NONHIGHWAY USES IN REST AREAS.

(a) IN GENERAL.—A State may permit any nonhighway use in any rest area along any

highway (as defined in section 101 of title 23, United States Code), including any commercial activity that does not impair the highway or interfere with the full use and safety of the highway.

(b) PRIVATE PARTIES.—A State may permit any private party to carry out a nonhighway use described in subsection (a).

(c) REVENUES GENERATED BY NONHIGHWAY USES.—A State may use any revenues generated by a nonhighway use described in subsection (a) to carry out any project (as defined in section 101 of title 23, United States Code).

SA 1743. Mr. BLUNT submitted an amendment intended to be proposed to amendment SA 1730 proposed by Mr. REID to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 813, strike line 1 and all that follows through page 816, line 23.

SA 1744. Mr. KOHL (for himself, Mr. LEAHY, Mr. GRASSLEY, Mr. SCHUMER, Mr. BLUMENTHAL, Mr. BROWN of Ohio, Mr. FRANKEN, and Mr. MANCHIN) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. \_\_\_\_ NO OIL PRODUCING AND EXPORTING CARTELS ACT OF 2012.

(a) SHORT TITLE.—This section may be cited as the “No Oil Producing and Exporting Cartels Act of 2012” or “NOPEC”.

(b) SHERMAN ACT.—The Sherman Act (15 U.S.C. 1 et seq.) is amended by adding after section 7 the following:

“SEC. 7A. OIL PRODUCING CARTELS.

“(a) IN GENERAL.—It shall be illegal and a violation of this Act for any foreign state, or any instrumentality or agent of any foreign state, to act collectively or in combination with any other foreign state, any instrumentality or agent of any other foreign state, or any other person, whether by cartel or any other association or form of cooperation or joint action—

“(1) to limit the production or distribution of oil, natural gas, or any other petroleum product;

“(2) to set or maintain the price of oil, natural gas, or any petroleum product; or

“(3) to otherwise take any action in restraint of trade for oil, natural gas, or any petroleum product;

when such action, combination, or collective action has a direct, substantial, and reasonably foreseeable effect on the market, supply, price, or distribution of oil, natural gas, or other petroleum product in the United States.

“(b) SOVEREIGN IMMUNITY.—A foreign state engaged in conduct in violation of subsection (a) shall not be immune under the doctrine of sovereign immunity from the jurisdiction or judgments of the courts of the United States in any action brought to enforce this section.

“(c) INAPPLICABILITY OF ACT OF STATE DOCTRINE.—No court of the United States shall decline, based on the act of state doctrine, to make a determination on the merits in an action brought under this section.

“(d) ENFORCEMENT.—

“(1) IN GENERAL.—The Attorney General of the United States may bring an action to enforce this section in any district court of the United States as provided under the anti-trust laws.

“(2) NO PRIVATE RIGHT OF ACTION.—No private right of action is authorized under this section.”.

(c) SOVEREIGN IMMUNITY.—Section 1605(a) of title 28, United States Code, is amended—

(1) in paragraph (6), by striking “or” after the semicolon;

(2) in paragraph (7), by striking the period and inserting “; or”; and

(3) by adding at the end the following:

“(8) in which the action is brought under section 7A of the Sherman Act.”.

SA 1745. Mr. HATCH submitted an amendment intended to be proposed to amendment SA 1730 proposed by Mr. REID to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike titles II and III of division D and insert the following:

### TITLE II—REVENUE PROVISIONS

#### SEC. 40201. TRANSFER FROM LEAKING UNDERGROUND STORAGE TANK TRUST FUND TO HIGHWAY TRUST FUND.

(a) IN GENERAL.—Subsection (c) of section 9508 of the Internal Revenue Code of 1986 is amended—

(1) by striking “Amounts” and inserting:

“(1) IN GENERAL.—Except as provided in paragraph (2), amounts”, and

(2) by adding at the end the following new paragraph:

“(2) TRANSFER TO HIGHWAY TRUST FUND.—Out of amounts in the Leaking Underground Storage Tank Trust Fund there is hereby appropriated \$3,000,000,000 to be transferred under section 9503(f)(3) to the Highway Trust Fund.”.

(b) TRANSFER TO HIGHWAY TRUST FUND.—

(1) IN GENERAL.—Subsection (f) of section 9503 of the Internal Revenue Code of 1986 is amended by inserting after paragraph (2) the following new paragraph:

“(3) INCREASE IN FUND BALANCE.—There is hereby transferred to the Highway Trust Fund amounts appropriated from the Leaking Underground Storage Tank Trust Fund under section 9508(c)(2).”.

(2) CONFORMING AMENDMENTS.—Paragraph (4) of section 9503(f) of such Code is amended—

(A) by inserting “or transferred” after “appropriated”, and

(B) by striking “APPROPRIATED” in the heading thereof.

#### SEC. 40202. PORTION OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE TRANSFERRED TO HIGHWAY TRUST FUND.

(a) IN GENERAL.—Subsection (b) of section 9503 of the Internal Revenue Code of 1986 is amended by inserting after paragraph (2) the following new paragraph:

“(3) PORTION OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—There are hereby appropriated to the Highway Trust Fund amounts equivalent to one-third of the taxes received in the Treasury under—

“(A) section 4041(d) (relating to additional taxes on motor fuels),

“(B) section 4081 (relating to tax on gasoline, diesel fuel, and kerosene) to the extent attributable to the Leaking Underground

Storage Tank Trust Fund financing rate under such section, and

“(C) section 4042 (relating to tax on fuel used in commercial transportation on inland waterways) to the extent attributable to the Leaking Underground Storage Tank Trust Fund financing rate under such section.

For purposes of this paragraph, there shall not be taken into account the taxes imposed by sections 4041 and 4081 on diesel fuel sold for use or used as fuel in a diesel-powered boat.”.

(b) CONFORMING AMENDMENTS.—

(1) Paragraphs (1), (2), and (3) of section 9508(b) of the Internal Revenue Code of 1986 are each amended by inserting “two-thirds of the” before “taxes”.

(2) Paragraph (4) of section 9503(b) of such Code is amended by striking subparagraphs (A) and (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (A) and (B), respectively.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxes received after the date of the enactment of this Act.

#### **SEC. 40203. INTERNAL REVENUE SERVICE LEVIES AND THRIFT SAVINGS PLAN ACCOUNTS.**

Section 8437(e)(3) of title 5, United States Code, is amended by inserting “, the enforcement of a Federal tax levy as provided in section 6331 of the Internal Revenue Code of 1986,” after “(42 U.S.C. 659)”.

#### **SEC. 40204. RESCISSION OF FUNDS FOR THE ADVANCED TECHNOLOGY VEHICLES MANUFACTURING INCENTIVE PROGRAM.**

Effective on the date of enactment of this Act, there are rescinded all unobligated balances of the amounts made available for the advanced technology vehicles manufacturing incentive program established under section 136 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17013).

#### **SEC. 40205. RESCISSION OF UNSPENT FEDERAL FUNDS.**

(a) IN GENERAL.—Notwithstanding any other provision of law, of all available unobligated funds on the date of enactment of this Act, there are rescinded such amounts as are equal to the difference between—

(1) the amounts necessary to carry out this Act; and

(2) the total amount of offsets provided by this title (other than this section) and division E.

(b) IMPLEMENTATION.—

(1) IN GENERAL.—The Director of the Office of Management and Budget shall determine and identify—

(A) from which appropriation accounts the rescission under subsection (a) shall be made; and

(B) the amount of such rescission that shall be made to each account identified under subparagraph (A).

(2) REPORT.—Not later than 60 days after the date of enactment of this Act, the Director of the Office of Management and Budget shall submit a report to the Secretary of the Treasury and Congress of the accounts and amounts determined and identified for rescission under paragraph (1).

(c) EXCEPTION.—This section shall not apply to the unobligated funds of the Department of Defense, the Department of Homeland Security, or the Department of Veterans Affairs.

#### **SEC. 40206. DEPOSIT IN HIGHWAY TRUST FUND.**

There shall be deposited in the Highway Trust Fund

(1) any amounts rescinded under this title; and

(2) any amounts collected by the United States under this title or division E (including an amendment made by this title or division E).

### **DIVISION E—ENERGY DEVELOPMENT**

#### **TITLE I—EXPANDING OFFSHORE ENERGY DEVELOPMENT**

##### **SEC. 51001. OUTER CONTINENTAL SHELF LEASING PROGRAM.**

Section 18(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1344(a)) is amended by adding at the end the following:

“(5)(A) In each oil and gas leasing program under this section, the Secretary shall make available for leasing and conduct lease sales including—

“(i) at least 50 percent of the available unleased acreage within each outer Continental Shelf planning area considered to have the largest undiscovered, technically recoverable oil and gas resources (on a total btu basis) based upon the most recent national geologic assessment of the outer Continental Shelf, with an emphasis on offering the most geologically prospective parts of the planning area; and

“(ii) any State subdivision of an outer Continental Shelf planning area that the Governor of the State that represents that subdivision requests be made available for leasing.

“(B) In this paragraph the term ‘available unleased acreage’ means that portion of the outer Continental Shelf that is not under lease at the time of a proposed lease sale, and that has not otherwise been made unavailable for leasing by law.

“(6)(A) In the 2012–2017 5-year oil and gas leasing program, the Secretary shall make available for leasing any outer Continental Shelf planning areas that—

“(i) are estimated to contain more than 2,500,000,000 barrels of oil; or

“(ii) are estimated to contain more than 7,500,000,000 cubic feet of natural gas.

“(B) To determine the planning areas described in subparagraph (A), the Secretary shall use the document entitled ‘Minerals Management Service Assessment of Undiscovered Technically Recoverable Oil and Gas Resources of the Nation’s Outer Continental Shelf, 2006’.”.

##### **SEC. 51002. DOMESTIC OIL AND NATURAL GAS PRODUCTION GOAL.**

Section 18(b) of the Outer Continental Shelf Lands Act (43 U.S.C. 1344(b)) is amended to read as follows:

“(b) DOMESTIC OIL AND NATURAL GAS PRODUCTION GOAL.—

“(1) IN GENERAL.—In developing a 5-year oil and gas leasing program, and subject to paragraph (2), the Secretary shall determine a domestic strategic production goal for the development of oil and natural gas as a result of that program. Such goal shall be—

“(A) the best estimate of the possible increase in domestic production of oil and natural gas from the outer Continental Shelf;

“(B) focused on meeting domestic demand for oil and natural gas and reducing the dependence of the United States on foreign energy; and

“(C) focused on the production increases achieved by the leasing program at the end of the 15-year period beginning on the effective date of the program.

“(2) 2012–2017 PROGRAM GOAL.—For purposes of the 2012–2017 5-year oil and gas leasing program, the production goal referred to in paragraph (1) shall be an increase by 2027 of—

“(A) no less than 3,000,000 barrels in the amount of oil produced per day; and

“(B) no less than 10,000,000,000 cubic feet in the amount of natural gas produced per day.

“(3) REPORTING.—The Secretary shall report annually, beginning at the end of the 5-year period for which the program applies, to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate on the progress of the program in meeting the production goal. The Secretary shall identify in the report projections for production and any problems with leasing, permitting, or production that will prevent meeting the goal.”.

#### **TITLE II—CONDUCTING PROMPT OFFSHORE LEASE SALES**

##### **SEC. 52001. REQUIREMENT TO CONDUCT PROPOSED OIL AND GAS LEASE SALE 216 IN THE CENTRAL GULF OF MEXICO.**

(a) IN GENERAL.—The Secretary of the Interior shall conduct offshore oil and gas Lease Sale 216 under section 8 of the Outer Continental Shelf Lands Act (33 U.S.C. 1337) as soon as practicable, but not later than 4 months after the date of enactment of this Act.

(b) ENVIRONMENTAL REVIEW.—For the purposes of that lease sale, the Environmental Impact Statement for the 2007–2012 5 Year OUTER CONTINENTAL SHELF Plan and the Multi-Sale Environmental Impact Statement are deemed to satisfy the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

##### **SEC. 52002. REQUIREMENT TO CONDUCT PROPOSED OIL AND GAS LEASE SALE 220 ON THE OUTER CONTINENTAL SHELF OFFSHORE VIRGINIA.**

(a) IN GENERAL.—Notwithstanding the inclusion of Lease Sale 220 in the fiscal years 2012 through fiscal year 2017 5 Year Outer Continental Shelf Oil and Gas Leasing Program, the Secretary shall conduct offshore oil and gas Lease Sale 220 under section 8 of the Outer Continental Shelf Lands Act (33 U.S.C. 1337) as soon as practicable, but not later than one year after the date of enactment of this Act.

(b) PROHIBITION ON CONFLICTS WITH MILITARY OPERATIONS.—No person may engage in any exploration, development, or production of oil or natural gas off the coast of Virginia that would conflict with any military operation, as determined in accordance with the Memorandum of Agreement between the Department of Defense and the Department of the Interior on Mutual Concerns on the Outer Continental Shelf signed July 20, 1983, and any revision or replacement for that agreement that is agreed to by the Secretary of Defense and the Secretary of the Interior after that date but before the date of issuance of the lease under which such exploration, development, or production is conducted.

##### **SEC. 52003. REQUIREMENT TO CONDUCT PROPOSED OIL AND GAS LEASE SALE 222 IN THE CENTRAL GULF OF MEXICO.**

(a) IN GENERAL.—The Secretary shall conduct offshore oil and gas Lease Sale 222 under section 8 of the Outer Continental Shelf Lands Act (33 U.S.C. 1337) as soon as practicable, but not later than September 1, 2012.

(b) ENVIRONMENTAL REVIEW.—For the purposes of that lease sale, the Environmental Impact Statement for the 2007–2012 5 Year OUTER CONTINENTAL SHELF Plan and the Multi-Sale Environmental Impact Statement are deemed to satisfy the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

##### **SEC. 52004. ADDITIONAL LEASES.**

Section 18 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344) is amended by adding at the end the following:

“(i) ADDITIONAL LEASE SALES.—In addition to lease sales in accordance with a leasing program in effect under this section, the Secretary may hold lease sales for areas identified by the Secretary to have the greatest potential for new oil and gas development as a result of local support, new seismic findings, or nomination by interested persons.”.

#### SEC. 52005. DEFINITIONS.

In this title:

(1) The term “Environmental Impact Statement for the 2007–2012 5 Year OUTER CONTINENTAL SHELF Plan” means the Final Environmental Impact Statement for Outer Continental Shelf Oil and Gas Leasing Program: 2007–2012 (April 2007) prepared by the Secretary.

(2) The term “Multi-Sale Environmental Impact Statement” means the Environmental Impact Statement for Proposed Western Gulf of Mexico OUTER CONTINENTAL SHELF Oil and Gas Lease Sales 204, 207, 210, 215, and 218, and Proposed Central Gulf of Mexico OUTER CONTINENTAL SHELF Oil and Gas Lease Sales 205, 206, 208, 213, 216, and 222 (September 2008) prepared by the Secretary.

(3) The term “Secretary” means the Secretary of the Interior.

#### TITLE III—LEASING IN NEW OFFSHORE AREAS

##### SEC. 53001. LEASING IN THE EASTERN GULF OF MEXICO.

Section 104 of division C of the Tax Relief and Health Care Act of 2006 (Public Law 109–432; 120 Stat. 3003) is repealed.

##### SEC. 53002. LEASING OFFSHORE OF TERRITORIES OF THE UNITED STATES.

Section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331) is amended, by inserting after “control” the following: “or lying within the United States’ exclusive economic zone and the Continental Shelf adjacent to the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, American Samoa, Guam, or the other territories of the United States”.

#### TITLE IV—OUTER CONTINENTAL SHELF REVENUE SHARING

##### SEC. 54001. DISPOSITION OF OUTER CONTINENTAL SHELF REVENUES.

Section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338) is amended—

(1) in the existing text—

(A) in the first sentence, by striking “All rentals,” and inserting the following:

“(c) DISPOSITION OF REVENUE UNDER OLD LEASES.—All rentals.”; and

(B) in subsection (c) (as designated by the amendment made by subparagraph (A) of this paragraph), by striking “for the period from June 5, 1950, to date, and thereafter” and inserting “in the period beginning June 5, 1950, and ending on the date of enactment of the Moving Ahead for Progress in the 21st Century Act”;

(2) by adding after subsection (c) (as so designated) the following:

“(d) NEW LEASING REVENUES DEFINED.—In this section the term ‘new leasing revenues’ means amounts received by the United States as bonuses, rents, and royalties under leases for oil and gas, wind, tidal, or other energy exploration, development, and production that are awarded under this Act after the date of enactment of the Moving Ahead for Progress in the 21st Century Act.”; and

(3) by inserting before subsection (c) (as so designated) the following:

“(a) PAYMENT OF NEW LEASING REVENUES TO COASTAL STATES, GENERALLY.—

“(1) IN GENERAL.—Of the amount of new leasing revenues received by the United States each fiscal year that is described in paragraph (2), 37.5 percent shall be allocated and paid in accordance with subsection (b) to coastal States that are affected States with respect to the leases under which those revenues are received by the United States.

“(2) PHASE-IN.—The amount of new leasing revenues referred to in paragraph (1) is the sum determined by adding—

“(A) 35 percent of new leasing revenues received by the United States in the fiscal year under—

“(i) leases awarded under the first leasing program under section 18(a) that takes effect after the date of enactment of the Moving Ahead for Progress in the 21st Century Act; and

“(ii) other leases issued as a result of the enactment of that Act;

“(B) 70 percent of new leasing revenues received by the United States in the fiscal year under leases awarded under the second such leasing program; and

“(C) 100 percent of new leasing revenues received by the United States under leases awarded under the third such leasing program or any such leasing program taking effect thereafter.

“(b) ALLOCATION OF PAYMENTS TO COASTAL STATES.—

“(1) IN GENERAL.—The amount of new leasing revenues received by the United States with respect to a leased tract that are required to be paid to coastal States in accordance with this subsection each fiscal year shall be allocated among and paid to such States that are within 200 miles of the leased tract, in amounts that are inversely proportional to the respective distances between the point on the coastline of each such State that is closest to the geographic center of the lease tract, as determined by the Secretary.

“(2) MINIMUM AND MAXIMUM ALLOCATION.—The amount allocated to a coastal State under paragraph (1) each fiscal year with respect to a leased tract shall be—

“(A) in the case of a coastal State that is the nearest State to the geographic center of the leased tract, not less than 25 percent of the total amounts allocated with respect to the leased tract; and

“(B) in the case of any other coastal State, not less than 10 percent, and not more than 15 percent, of the total amounts allocated with respect to the leased tract.

“(3) ADMINISTRATION.—Amounts allocated to a coastal State under this subsection—

“(A) shall be available to the State without further appropriation;

“(B) shall remain available until expended; and

“(C) shall be in addition to any other amounts available to the State under this Act.

“(4) USE OF FUNDS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), a coastal State may use funds allocated and paid to it under this subsection for any purpose as determined by State law.

“(B) RESTRICTION ON USE FOR MATCHING.—Funds allocated and paid to a coastal State under this subsection may not be used as matching funds for any other Federal program.”.

#### TITLE V—COASTAL PLAIN

##### SEC. 55001. DEFINITIONS.

In this title:

(1) COASTAL PLAIN.—The term “Coastal Plain” means that area described in appen-

dix I to part 37 of title 50, Code of Federal Regulations.

(2) PEER REVIEWED.—The term “peer reviewed” means reviewed—

(A) by individuals chosen by the National Academy of Sciences with no contractual relationship with or those who have an application for a grant or other funding pending with the Federal agency with leasing jurisdiction; or

(B) if individuals described in subparagraph (A) are not available, by the top individuals in the specified biological fields, as determined by the National Academy of Sciences.

(3) SECRETARY.—The term “Secretary”, except as otherwise provided, means the Secretary of the Interior or the Secretary’s designee.

##### SEC. 55002. LEASING PROGRAM FOR LANDS WITHIN THE COASTAL PLAIN.

(a) IN GENERAL.—The Secretary shall take such actions as are necessary—

(1) to establish and implement, in accordance with this title and acting through the Director of the Bureau of Land Management in consultation with the Director of the United States Fish and Wildlife Service, a competitive oil and gas leasing program that will result in the exploration, development, and production of the oil and gas resources of the Coastal Plain; and

(2) to administer the provisions of this title through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, subsistence resources, and the environment, including, in furtherance of this goal, by requiring the application of the best commercially available technology for oil and gas exploration, development, and production to all exploration, development, and production operations under this title in a manner that ensures the receipt of fair market value by the public for the mineral resources to be leased.

(b) REPEAL OF EXISTING RESTRICTION.—

(1) REPEAL.—Section 1003 of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3143) is repealed.

(2) CONFORMING AMENDMENT.—The table of contents in section 1 of such Act is amended by striking the item relating to section 1003.

(c) COMPLIANCE WITH REQUIREMENTS UNDER CERTAIN OTHER LAWS.—

(1) COMPATIBILITY.—For purposes of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.), the oil and gas leasing program and activities authorized by this section in the Coastal Plain are deemed to be compatible with the purposes for which the Arctic National Wildlife Refuge was established, and no further findings or decisions are required to implement this determination.

(2) ADEQUACY OF THE DEPARTMENT OF THE INTERIOR’S LEGISLATIVE ENVIRONMENTAL IMPACT STATEMENT.—The “Final Legislative Environmental Impact Statement” (April 1987) on the Coastal Plain prepared pursuant to section 1002 of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3142) and section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is deemed to satisfy the requirements under the National Environmental Policy Act of 1969 that apply with respect to prelease activities under this title, including



actions authorized to be taken by the Secretary to develop and promulgate the regulations for the establishment of a leasing program authorized by this title before the conduct of the first lease sale.

(3) **COMPLIANCE WITH NEPA FOR OTHER ACTIONS.**—Before conducting the first lease sale under this title, the Secretary shall prepare an environmental impact statement under the National Environmental Policy Act of 1969 with respect to the actions authorized by this title that are not referred to in paragraph (2). Notwithstanding any other law, the Secretary is not required to identify non-leasing alternative courses of action or to analyze the environmental effects of such courses of action. The Secretary shall only identify a preferred action for such leasing and a single leasing alternative, and analyze the environmental effects and potential mitigation measures for those two alternatives. The identification of the preferred action and related analysis for the first lease sale under this title shall be completed within 18 months after the date of enactment of this Act. The Secretary shall only consider public comments that specifically address the Secretary's preferred action and that are filed within 20 days after publication of an environmental analysis. Notwithstanding any other law, compliance with this paragraph is deemed to satisfy all requirements for the analysis and consideration of the environmental effects of proposed leasing under this title.

(d) **RELATIONSHIP TO STATE AND LOCAL AUTHORITY.**—Nothing in this title shall be considered to expand or limit State and local regulatory authority.

(e) **SPECIAL AREAS.**—

(1) **IN GENERAL.**—The Secretary, after consultation with the State of Alaska, the city of Kaktovik, and the North Slope Borough, may designate up to a total of 45,000 acres of the Coastal Plain as a Special Area if the Secretary determines that the Special Area is of such unique character and interest so as to require special management and regulatory protection. The Secretary shall designate as such a Special Area the Sadlerochit Spring area, comprising approximately 4,000 acres.

(2) **MANAGEMENT.**—Each such Special Area shall be managed so as to protect and preserve the area's unique and diverse character including its fish, wildlife, and subsistence resource values.

(3) **EXCLUSION FROM LEASING OR SURFACE OCCUPANCY.**—The Secretary may exclude any Special Area from leasing. If the Secretary leases a Special Area, or any part thereof, for purposes of oil and gas exploration, development, production, and related activities, there shall be no surface occupancy of the lands comprising the Special Area.

(4) **DIRECTIONAL DRILLING.**—Notwithstanding the other provisions of this subsection, the Secretary may lease all or a portion of a Special Area under terms that permit the use of horizontal drilling technology from sites on leases tracts located outside the Special Area.

(f) **LIMITATION ON CLOSED AREAS.**—The Secretary's sole authority to close lands within the Coastal Plain to oil and gas leasing and to exploration, development, and production is that set forth in this title.

(g) **REGULATIONS.**—

(1) **IN GENERAL.**—The Secretary shall prescribe such regulations as may be necessary to carry out this title, including regulations relating to protection of the fish and wildlife, their habitat, subsistence resources, and environment of the Coastal Plain, by no

later than 15 months after the date of enactment of this Act.

(2) **REVISION OF REGULATIONS.**—The Secretary shall, through a rule making conducted in accordance with section 553 of title 5, United States Code, periodically review and, if appropriate, revise the regulations issued under subsection (a) to reflect a preponderance of the best available scientific evidence that has been peer reviewed and obtained by following appropriate, documented scientific procedures, the results of which can be repeated using those same procedures.

#### SEC. 55003. LEASE SALES.

(a) **IN GENERAL.**—Lands may be leased under this title to any person qualified to obtain a lease for deposits of oil and gas under the Mineral Leasing Act (30 U.S.C. 181 et seq.).

(b) **PROCEDURES.**—The Secretary shall, by regulation and no later than 180 days after the date of enactment of this title, establish procedures for—

(1) receipt and consideration of sealed nominations for any area of the Coastal Plain for inclusion in, or exclusion (as provided in subsection (c)) from, a lease sale;

(2) the holding of lease sales after such nomination process; and

(3) public notice of and comment on designation of areas to be included in, or excluded from, a lease sale.

(c) **LEASE SALE BIDS.**—Lease sales under this title may be conducted through an Internet leasing program, if the Secretary determines that such a system will result in savings to the taxpayer, an increase in the number of bidders participating, and higher returns than oral bidding or a sealed bidding system.

(d) **SALE ACREAGES AND SCHEDULE.**—

(1) The Secretary shall offer for lease under this title those tracts the Secretary considers to have the greatest potential for the discovery of hydrocarbons, taking into consideration nominations received pursuant to subsection (b)(1).

(2) The Secretary shall offer for lease under this title no less than 50,000 acres for lease within 22 months after the date of the enactment of this Act.

(3) The Secretary shall offer for lease under this title no less than an additional 50,000 acres at 6-, 12-, and 18-month intervals following offering under paragraph (2).

(4) The Secretary shall conduct four additional sales under the same terms and schedule no later than two years after the date of the last sale under paragraph (3), if sufficient interest in leasing exists to warrant, in the Secretary's judgment, the conduct of such sales.

(5) The Secretary shall evaluate the bids in each sale and issue leases resulting from such sales, within 90 days after the date of the completion of such sale.

#### SEC. 55004. GRANT OF LEASES BY THE SECRETARY.

(a) **IN GENERAL.**—The Secretary may grant to the highest responsible qualified bidder in a lease sale conducted under section 55003 any lands to be leased on the Coastal Plain upon payment by the such bidder of such bonus as may be accepted by the Secretary.

(b) **SUBSEQUENT TRANSFERS.**—No lease issued under this title may be sold, exchanged, assigned, sublet, or otherwise transferred except with the approval of the Secretary. Prior to any such approval the Secretary shall consult with, and give due consideration to the views of, the Attorney General.

#### SEC. 55005. LEASE TERMS AND CONDITIONS.

(a) **IN GENERAL.**—An oil or gas lease issued under this title shall—

(1) provide for the payment of a royalty of not less than 12½ percent in amount or value of the production removed or sold under the lease, as determined by the Secretary under the regulations applicable to other Federal oil and gas leases;

(2) provide that the Secretary may close, on a seasonal basis, portions of the Coastal Plain to exploratory drilling activities as necessary to protect caribou calving areas and other species of fish and wildlife based on a preponderance of the best available scientific evidence that has been peer reviewed and obtained by following appropriate, documented scientific procedures, the results of which can be repeated using those same procedures;

(3) require that the lessee of lands within the Coastal Plain shall be fully responsible and liable for the reclamation of lands within the Coastal Plain and any other Federal lands that are adversely affected in connection with exploration, development, production, or transportation activities conducted under the lease and within the Coastal Plain by the lessee or by any of the subcontractors or agents of the lessee;

(4) provide that the lessee may not delegate or convey, by contract or otherwise, the reclamation responsibility and liability to another person without the express written approval of the Secretary;

(5) provide that the standard of reclamation for lands required to be reclaimed under this title shall be, as nearly as practicable, a condition capable of supporting the uses which the lands were capable of supporting prior to any exploration, development, or production activities, or upon application by the lessee, to a higher or better use as certified by the Secretary;

(6) contain terms and conditions relating to protection of fish and wildlife, their habitat, subsistence resources, and the environment as required pursuant to section 55002(a)(2);

(7) provide that the lessee, its agents, and its contractors use best efforts to provide a fair share, as determined by the level of obligation previously agreed to in the 1974 agreement implementing section 29 of the Federal Agreement and Grant of Right of Way for the Operation of the Trans-Alaska Pipeline, of employment and contracting for Alaska Natives and Alaska Native corporations from throughout the State;

(8) prohibit the export of oil produced under the lease; and

(9) contain such other provisions as the Secretary determines necessary to ensure compliance with this title and the regulations issued under this title.

#### SEC. 55006. COASTAL PLAIN ENVIRONMENTAL PROTECTION.

(a) **NO SIGNIFICANT ADVERSE EFFECT STANDARD TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.**—The Secretary shall, consistent with the requirements of section 55002, administer this title through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that—

(1) ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, and the environment;

(2) require the application of the best commercially available technology for oil and gas exploration, development, and production on all new exploration, development, and production operations; and

(3) ensure that the maximum amount of surface acreage covered by production and



support facilities, including airstrips and any areas covered by gravel berms or piers for support of pipelines, does not exceed 10,000 acres on the Coastal Plain for each 100,000 acres of area leased.

(b) **SITE-SPECIFIC ASSESSMENT AND MITIGATION.**—The Secretary shall also require, with respect to any proposed drilling and related activities, that—

(1) a site-specific analysis be made of the probable effects, if any, that the drilling or related activities will have on fish and wildlife, their habitat, subsistence resources, and the environment;

(2) a plan be implemented to avoid, minimize, and mitigate (in that order and to the extent practicable) any significant adverse effect identified under paragraph (1); and

(3) the development of the plan shall occur after consultation with the agency or agencies having jurisdiction over matters mitigated by the plan.

(c) **REGULATIONS TO PROTECT COASTAL PLAIN FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS, AND THE ENVIRONMENT.**—Before implementing the leasing program authorized by this title, the Secretary shall prepare and promulgate regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other measures designed to ensure that the activities undertaken on the Coastal Plain under this title are conducted in a manner consistent with the purposes and environmental requirements of this title.

(d) **COMPLIANCE WITH FEDERAL AND STATE ENVIRONMENTAL LAWS AND OTHER REQUIREMENTS.**—The proposed regulations, lease terms, conditions, restrictions, prohibitions, and stipulations for the leasing program under this title shall require compliance with all applicable provisions of Federal and State environmental law, and shall also require the following:

(1) Standards at least as effective as the safety and environmental mitigation measures set forth in items 1 through 29 at pages 167 through 169 of the “Final Legislative Environmental Impact Statement” (April 1987) on the Coastal Plain.

(2) Seasonal limitations on exploration, development, and related activities, where necessary, to avoid significant adverse effects during periods of concentrated fish and wildlife breeding, denning, nesting, spawning, and migration based on a preponderance of the best available scientific evidence that has been peer reviewed and obtained by following appropriate, documented scientific procedures, the results of which can be repeated using those same procedures.

(3) That exploration activities, except for surface geological studies, be limited to the period between approximately November 1 and May 1 each year and that exploration activities shall be supported, if necessary, by ice roads, winter trails with adequate snow cover, ice pads, ice airstrips, and air transport methods, except that such exploration activities may occur at other times if the Secretary finds that such exploration will have no significant adverse effect on the fish and wildlife, their habitat, and the environment of the Coastal Plain.

(4) Design safety and construction standards for all pipelines and any access and service roads, that—

(A) minimize, to the maximum extent possible, adverse effects upon the passage of migratory species such as caribou; and

(B) minimize adverse effects upon the flow of surface water by requiring the use of culverts, bridges, and other structural devices.

(5) Prohibitions on general public access and use on all pipeline access and service roads.

(6) Stringent reclamation and rehabilitation requirements, consistent with the standards set forth in this title, requiring the removal from the Coastal Plain of all oil and gas development and production facilities, structures, and equipment upon completion of oil and gas production operations, except that the Secretary may exempt from the requirements of this paragraph those facilities, structures, or equipment that the Secretary determines would assist in the management of the Arctic National Wildlife Refuge and that are donated to the United States for that purpose.

(7) Appropriate prohibitions or restrictions on access by all modes of transportation.

(8) Appropriate prohibitions or restrictions on sand and gravel extraction.

(9) Consolidation of facility siting.

(10) Appropriate prohibitions or restrictions on use of explosives.

(11) Avoidance, to the extent practicable, of springs, streams, and river systems; the protection of natural surface drainage patterns, wetlands, and riparian habitats; and the regulation of methods or techniques for developing or transporting adequate supplies of water for exploratory drilling.

(12) Avoidance or minimization of air traffic-related disturbance to fish and wildlife.

(13) Treatment and disposal of hazardous and toxic wastes, solid wastes, reserve pit fluids, drilling muds and cuttings, and domestic wastewater, including an annual waste management report, a hazardous materials tracking system, and a prohibition on chlorinated solvents, in accordance with applicable Federal and State environmental law.

(14) Fuel storage and oil spill contingency planning.

(15) Research, monitoring, and reporting requirements.

(16) Field crew environmental briefings.

(17) Avoidance of significant adverse effects upon subsistence hunting, fishing, and trapping by subsistence users.

(18) Compliance with applicable air and water quality standards.

(19) Appropriate seasonal and safety zone designations around well sites, within which subsistence hunting and trapping shall be limited.

(20) Reasonable stipulations for protection of cultural and archeological resources.

(21) All other protective environmental stipulations, restrictions, terms, and conditions deemed necessary by the Secretary.

(e) **CONSIDERATIONS.**—In preparing and promulgating regulations, lease terms, conditions, restrictions, prohibitions, and stipulations under this section, the Secretary shall consider the following:

(1) The stipulations and conditions that govern the National Petroleum Reserve-Alaska leasing program, as set forth in the 1999 Northeast National Petroleum Reserve-Alaska Final Integrated Activity Plan/Environmental Impact Statement.

(2) The environmental protection standards that governed the initial Coastal Plain seismic exploration program under parts 37.31 to 37.33 of title 50, Code of Federal Regulations.

(3) The land use stipulations for exploratory drilling on the KIC-ASRC private lands that are set forth in appendix 2 of the August 9, 1983, agreement between Arctic Slope Regional Corporation and the United States.

(f) **FACILITY CONSOLIDATION PLANNING.**—

(1) **IN GENERAL.**—The Secretary shall, after providing for public notice and comment, prepare and update periodically a plan to govern, guide, and direct the siting and construction of facilities for the exploration, development, production, and transportation of Coastal Plain oil and gas resources.

(2) **OBJECTIVES.**—The plan shall have the following objectives:

(A) Avoiding unnecessary duplication of facilities and activities.

(B) Encouraging consolidation of common facilities and activities.

(C) Locating or confining facilities and activities to areas that will minimize impact on fish and wildlife, their habitat, and the environment.

(D) Utilizing existing facilities wherever practicable.

(E) Enhancing compatibility between wildlife values and development activities.

(g) **ACCESS TO PUBLIC LANDS.**—The Secretary shall—

(1) manage public lands in the Coastal Plain subject to of section 811 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3121); and

(2) ensure that local residents shall have reasonable access to public lands in the Coastal Plain for traditional uses.

#### **SEC. 55007. EXPEDITED JUDICIAL REVIEW.**

(a) **FILING OF COMPLAINT.**—

(1) **DEADLINE.**—Subject to paragraph (2), any complaint seeking judicial review—

(A) of any provision of this title shall be filed by not later than 1 year after the date of enactment of this Act; or

(B) of any action of the Secretary under this title shall be filed—

(i) except as provided in clause (ii), within the 90-day period beginning on the date of the action being challenged; or

(ii) in the case of a complaint based solely on grounds arising after such period, within 90 days after the complainant knew or reasonably should have known of the grounds for the complaint.

(2) **VENUE.**—Any complaint seeking judicial review of any provision of this title or any action of the Secretary under this title may be filed only in the United States Court of Appeals for the District of Columbia.

(3) **LIMITATION ON SCOPE OF CERTAIN REVIEW.**—Judicial review of a Secretarial decision to conduct a lease sale under this title, including the environmental analysis thereof, shall be limited to whether the Secretary has complied with this title and shall be based upon the administrative record of that decision. The Secretary's identification of a preferred course of action to enable leasing to proceed and the Secretary's analysis of environmental effects under this title shall be presumed to be correct unless shown otherwise by clear and convincing evidence to the contrary.

(b) **LIMITATION ON OTHER REVIEW.**—Actions of the Secretary with respect to which review could have been obtained under this section shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

(c) **LIMITATION ON ATTORNEYS' FEES AND COURT COSTS.**—No person seeking judicial review of any action under this title shall receive payment from the Federal Government for their attorneys' fees and other court costs, including under any provision of law enacted by the Equal Access to Justice Act (5 U.S.C. 504 note).

#### **SEC. 55008. TREATMENT OF REVENUES.**

Notwithstanding any other provision of law, 50 percent of the amount of bonus, rental, and royalty revenues from Federal oil and

gas leasing and operations authorized under this title shall be deposited in the Treasury.

**SEC. 55009. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.**

(a) **IN GENERAL.**—The Secretary shall issue rights-of-way and easements across the Coastal Plain for the transportation of oil and gas produced under leases under this title—

(1) except as provided in paragraph (2), under section 28 of the Mineral Leasing Act (30 U.S.C. 185), without regard to title XI of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3161 et seq.); and

(2) under title XI of the Alaska National Interest Lands Conservation Act (30 U.S.C. 3161 et seq.), for access authorized by sections 1110 and 1111 of that Act (16 U.S.C. 3170 and 3171).

(b) **TERMS AND CONDITIONS.**—The Secretary shall include in any right-of-way or easement issued under subsection (a) such terms and conditions as may be necessary to ensure that transportation of oil and gas does not result in a significant adverse effect on the fish and wildlife, subsistence resources, their habitat, and the environment of the Coastal Plain, including requirements that facilities be sited or designed so as to avoid unnecessary duplication of roads and pipelines.

(c) **REGULATIONS.**—The Secretary shall include in regulations under section 55002(g) provisions granting rights-of-way and easements described in subsection (a) of this section.

**SEC. 55010. CONVEYANCE.**

In order to maximize Federal revenues by removing clouds on title to lands and clarifying land ownership patterns within the Coastal Plain, the Secretary, notwithstanding section 1302(h)(2) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3192(h)(2)), shall convey—

(1) to the Kaktovik Inupiat Corporation the surface estate of the lands described in paragraph 1 of Public Land Order 6959, to the extent necessary to fulfill the Corporation's entitlement under sections 12 and 14 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611 and 1613) in accordance with the terms and conditions of the Agreement between the Department of the Interior, the United States Fish and Wildlife Service, the Bureau of Land Management, and the Kaktovik Inupiat Corporation dated January 22, 1993; and

(2) to the Arctic Slope Regional Corporation the remaining subsurface estate to which it is entitled pursuant to the August 9, 1983, agreement between the Arctic Slope Regional Corporation and the United States of America.

**TITLE VI—OIL SHALE AND TAR SANDS LEASING**

**SEC. 56001. EFFECTIVENESS OF OIL SHALE REGULATIONS, AMENDMENTS TO RESOURCE MANAGEMENT PLANS, AND RECORD OF DECISION.**

(a) **REGULATIONS.**—Notwithstanding any other law or regulation to the contrary, the final regulations regarding oil shale management published by the Bureau of Land Management on November 18, 2008 (73 Fed. Reg. 69,414) are deemed to satisfy all legal and procedural requirements under any law, including the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and the Energy Policy Act of 2005 (Public Law 109-58), and the Secretary of the Interior shall implement those regulations, including

the oil shale and tar sands leasing program authorized by the regulations, without any other administrative action necessary.

(b) **AMENDMENTS TO RESOURCE MANAGEMENT PLANS AND RECORD OF DECISION.**—Notwithstanding any other law or regulation to the contrary, the November 17, 2008 U.S. Bureau of Land Management Approved Resource Management Plan Amendments/Record of Decision for Oil Shale and Tar Sands Resources to Address Land Use Allocations in Colorado, Utah, and Wyoming and Final Programmatic Environmental Impact Statement are deemed to satisfy all legal and procedural requirements under any law, including the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and the Energy Policy Act of 2005 (Public Law 109-58), and the Secretary of the Interior shall implement the oil shale and tar sands leasing program authorized by the regulations referred to in subsection (a) in those areas covered by the resource management plans amended by such amendments, and covered by such record of decision, without any other administrative action necessary.

**SEC. 56002. OIL SHALE AND TAR SANDS LEASING.**

(a) **ADDITIONAL RESEARCH AND DEVELOPMENT LEASE SALES.**—The Secretary of the Interior shall hold a lease sale within 180 days after the date of enactment of this Act offering an additional 10 parcels for lease for research, development, and demonstration of oil shale or tar sands resources, under the terms offered in the solicitation of bids for such leases published on January 15, 2009 (74 Fed. Reg. 10).

(b) **COMMERCIAL LEASE SALES.**—No later than January 1, 2016, the Secretary of the Interior shall hold no less than 5 separate commercial lease sales in areas considered to have the most potential for oil shale or tar sands development, as determined by the Secretary, in areas nominated through public comment. Each lease sale shall be for an area of not less than 25,000 acres, and in multiple lease blocs.

(c) **REDUCED PAYMENTS TO ENSURE PRODUCTION.**—The Secretary of the Interior may temporarily reduce royalties, fees, rentals, bonus, or other payments for leases of Federal lands for the development and production of oil shale resources as necessary to incentivize and encourage development of such resources, if the Secretary determines that the royalties, fees, rentals, bonus bids, and other payments otherwise authorized by law are hindering production of such resources.

**SA 1746.** Mr. LEVIN (for himself and Mr. CONRAD) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

**TITLE —STOP TAX HAVEN ABUSE**

**SEC. —. AUTHORIZING SPECIAL MEASURES AGAINST FOREIGN JURISDICTIONS, FINANCIAL INSTITUTIONS, AND OTHERS THAT IMPEDE UNITED STATES TAX ENFORCEMENT.**

Section 5318A of title 31, United States Code, is amended—

(1) by striking the section heading and inserting the following:

**“§ 5318A. Special measures for jurisdictions, financial institutions, or international transactions that are of primary money laundering concern or impede United States tax enforcement”;**

(2) in subsection (a), by striking the subsection heading and inserting the following: “(a) SPECIAL MEASURES TO COUNTER MONEY LAUNDERING AND EFFORTS TO IMPEDE UNITED STATES TAX ENFORCEMENT.—”;

(3) in subsection (c), by striking the subsection heading and inserting the following: “(c) CONSULTATIONS AND INFORMATION TO BE CONSIDERED IN FINDING JURISDICTIONS, INSTITUTIONS, TYPES OF ACCOUNTS, OR TRANSACTIONS TO BE OF PRIMARY MONEY LAUNDERING CONCERN OR TO BE IMPEDING UNITED STATES TAX ENFORCEMENT.—”;

(4) in subsection (a)(1), by inserting “or is impeding United States tax enforcement” after “primary money laundering concern”;

(5) in subsection (a)(4)—

(A) in subparagraph (A)—

(i) by inserting “in matters involving money laundering,” before “shall consult”; and

(ii) by striking “and” at the end;

(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting after subparagraph (A) the following:

“(B) in matters involving United States tax enforcement, shall consult with the Commissioner of the Internal Revenue, the Secretary of State, the Attorney General of the United States, and in the sole discretion of the Secretary, such other agencies and interested parties as the Secretary may find to be appropriate; and”;

(6) in each of paragraphs (1)(A), (2), (3), and (4) of subsection (b), by inserting “or to be impeding United States tax enforcement” after “primary money laundering concern” each place that term appears;

(7) in subsection (b), by striking paragraph (5) and inserting the following:

“(5) **PROHIBITIONS OR CONDITIONS ON OPENING OR MAINTAINING CERTAIN CORRESPONDENT OR PAYABLE-THROUGH ACCOUNTS OR AUTHORIZING CERTAIN PAYMENT CARDS.**—If the Secretary finds a jurisdiction outside of the United States, 1 or more financial institutions operating outside of the United States, or 1 or more classes of transactions within or involving a jurisdiction outside of the United States to be of primary money laundering concern or to be impeding United States tax enforcement, the Secretary, in consultation with the Secretary of State, the Attorney General of the United States, and the Chairman of the Board of Governors of the Federal Reserve System, may prohibit, or impose conditions upon—

“(A) the opening or maintaining in the United States of a correspondent account or payable-through account; or

“(B) the authorization, approval, or use in the United States of a credit card, charge card, debit card, or similar credit or debit financial instrument by any domestic financial institution, financial agency, or credit card company or association, for or on behalf of a foreign banking institution, if such correspondent account, payable-through account, credit card, charge card, debit card, or similar credit or debit financial instrument, involves any such jurisdiction or institution, or if any such transaction may be conducted through such correspondent account, payable-through account, credit card, charge card, debit card, or similar credit or debit financial instrument.”; and

(8) in subsection (c)(1), by inserting “or is impeding United States tax enforcement” after “primary money laundering concern”;

(9) in subsection (c)(2)(A)—

(A) in clause (ii), by striking “bank secrecy or special regulatory advantages” and inserting “bank, tax, corporate, trust, or financial secrecy or regulatory advantages”;

(B) in clause (iii), by striking “supervisory and counter-money” and inserting “supervisory, international tax enforcement, and counter-money”;

(C) in clause (v), by striking “banking or secrecy” and inserting “banking, tax, or secrecy”; and

(D) in clause (vi), by inserting “, tax treaty, or tax information exchange agreement” after “treaty”;

(10) in subsection (c)(2)(B)—

(A) in clause (i), by inserting “or tax evasion” after “money laundering”; and

(B) in clause (iii), by inserting “, tax evasion,” after “money laundering”; and

(11) in subsection (d), by inserting “involving money laundering, and shall notify, in writing, the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives of any such action involving United States tax enforcement” after “such action”.

**SA 1747.** Mr. CORKER submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

In division D, at the end, add the following:

**SEC. 40313. TRANSFER OF ALL UNOBLIGATED FUNDS WITHIN THE ALTERNATIVE TECHNOLOGY VEHICLES MANUFACTURING (ATVM) LOAN GUARANTEE PROGRAM AT THE DEPARTMENT OF ENERGY INTO THE HIGHWAY TRUST FUND.**

Subsection (f) of section 9503 of the Internal Revenue Code of 1986, as amended by this Act, is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

“(5) TRANSFER OF ALL UNOBLIGATED FUNDS WITHIN THE ALTERNATIVE TECHNOLOGY VEHICLES MANUFACTURING (ATVM) LOAN GUARANTEE PROGRAM AT THE DEPARTMENT OF ENERGY INTO THE HIGHWAY TRUST FUND.—All unobligated funds within the Alternative Technology Vehicles Manufacturing (ATVM) loan guarantee program established under section 136 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17013) are rescinded on the date of the enactment of the Highway Investment, Job Creation, and Economic Growth Act of 2012 and out of money in the Treasury not otherwise appropriated, there are hereby appropriated to the Highway Trust Fund amounts equivalent to the amount of such rescission.”.

**SEC. 40314. TRANSFER OF 1 PERCENT OF AMOUNTS ATTRIBUTABLE TO CUSTOMS DUTIES INTO THE HIGHWAY TRUST FUND.**

Section 9503(b) of the Internal Revenue Code of 1986, as amended by this Act, is further amended by adding at the end the following:

“(9) ADDITIONAL CUSTOMS DUTIES.—In addition to the amounts appropriated pursuant to paragraph (8), there are hereby appropriated to the Highway Trust Fund amounts equivalent to 1 percent of amounts received in the Treasury that are attributable to duties collected on or after the date of the enactment of the Highway Investment, Job Creation, and Economic Growth Act of 2012, on articles classified under all subheadings of the Harmonized Tariff Schedule of the

United States other than subheadings 8703.22.00 and 8703.24.00.”.

**TITLE IV—REAL PROPERTY**

**SEC. 40401. EXPEDITED DISPOSAL OF EXCESS FEDERAL PROPERTY.**

(a) IN GENERAL.—Chapter 5 of subtitle I of title 40, United States Code, is amended by adding at the end the following:

**“SUBCHAPTER VII—EXPEDITED DISPOSAL OF REAL PROPERTY**

**“§ 621. Definitions**

“In this subchapter:

“(1) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator of General Services.

“(2) EXPEDITED DISPOSAL OF REAL PROPERTY.—The term ‘expedited disposal of real property’ means a sale of real property for cash that is conducted by public auction.

“(3) PROGRAM.—The term ‘program’ means the Federal Real Property Disposal Program established and carried out by the Administrator under this subchapter.

**“§ 622. Federal Real Property Disposal Program**

“(a) ESTABLISHMENT OF PROGRAM.—The Administrator shall establish and carry out a program, to be known as the ‘Federal Real Property Disposal Program’, under which excess real property that is not meeting Federal Government needs may be disposed of through an expedited disposal of real property, in accordance with this subchapter.

“(b) CRITERIA FOR PROGRAM.—For purposes of this subchapter, the Administrator shall identify criteria for use in determining whether real property is not meeting Federal Government needs.

“(c) PROCEEDS REQUIREMENT.—For each fiscal year, beginning with fiscal year 2013, the Administrator shall dispose of real property generating proceeds of not less \$3,000,000,000 under the program.

**“§ 623. Selection of real properties**

“(a) IN GENERAL.—The head of each executive agency shall recommend candidate disposition properties to the Administrator for participation in the program.

“(b) SELECTION.—After receiving recommendations for candidate disposition properties under subsection (a), the Administrator, consistent with the criteria established under section 622, shall—

“(1) select candidate properties for participation in the program; and

“(2) notify the recommending agency accordingly.

**“§ 624. Expedited disposal requirements**

“(a) FAIR MARKET VALUE REQUIREMENT.—

“(1) IN GENERAL.—Real property under the program may not be sold for less than the fair market value of the real property, as determined by the Administrator, in consultation with the head of the executive agency.

“(2) COSTS.—Costs associated with disposal may not exceed the fair market value of the property unless the Administrator approves incurring such costs.

“(b) MONETARY PROCEEDS REQUIREMENT.—

“(1) IN GENERAL.—Real property may be sold under the program only if the sale will generate monetary proceeds to the Federal Government, as provided in subsection (a).

“(2) PROHIBITION ON NONCASH TRANSACTIONS.—A disposal of real property under the program may not include any exchange, trade, transfer, acquisition of like-kind property, or other noncash transactions as part of the disposal.

“(c) LEASE BACK PROHIBITION.—Real property sold under the program may not be leased back to the Federal Government.

“(d) CONSTRUCTION.—Except as provided in subsection (e), nothing in this subchapter terminates or limits any authority that is otherwise available to agencies under other provisions of law to dispose of Federal real property.

“(e) EXPEDITED DISPOSAL OF REAL PROPERTY EXCEPTIONS.—Any expedited disposal of a real property conducted under this subchapter shall not be subject to—

“(1) subchapter IV;

“(2) sections 550 and 553;

“(3) section 501 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411);

“(4) any other provision of law authorizing the no-cost conveyance of real property owned by the Federal Government; or

“(5) any congressional notification requirement other than that in section 545.

**“§ 625. Asset Proceeds and Space Management Fund**

“(a) IN GENERAL.—There is established within the Federal Buildings Fund established under section 592 an account to be known as the ‘Asset Proceeds and Space Management Fund’, to be administered by the Administrator.

“(b) AMOUNTS IN FUND.—Notwithstanding section 3307, the following amounts shall be deposited in the Asset Proceeds and Space Management Fund and are appropriated and shall remain available until expended for the following specified purposes:

“(1) APPROPRIATED AMOUNTS.—Such amounts as are provided in appropriations Acts, to remain available until expended, for—

“(A) expedited disposal of property described in this subchapter;

“(B) the consolidation, colocation, exchange, redevelopment, and reconfiguration of space; and

“(C) other actions.

“(2) GROSS PROCEEDS.—

“(A) IN GENERAL.—Gross proceeds shall be divided between the general fund of the Treasury and the Asset Proceeds and Space Management Fund within the Federal Buildings Fund as described in subparagraph (B).

“(B) DISTRIBUTION.—At the end of each fiscal year, the Director of the Office of Management and Budget, in consultation with the Administrator, shall determine how gross proceeds shall be distributed, through transfer, between the general fund and the Asset Proceeds and Space Management Fund, except that—

“(i) the general fund shall receive 100 percent of the gross proceeds for a fiscal year until the total amount of net proceeds under this subchapter for that fiscal year exceeds \$50,000,000;

“(ii) the Asset Proceeds and Space Management Fund shall receive 10 percent of the gross proceeds for a fiscal year after application of clause (i); and

“(iii) the general fund shall receive the remainder of proceeds for a fiscal year after applying the reductions under clauses (i) and (ii).”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 5 of subtitle I of title 40, United States Code, is amended by inserting after the items relating to subchapter VI the following:

**“SUBCHAPTER VII—EXPEDITED DISPOSAL OF REAL PROPERTY**

“621. Definitions.

“622. Federal Real Property Disposal Program.

“623. Selection of real properties.

“624. Expedited disposal requirements.

“625. Asset Proceeds and Space Management Fund.”.

(c) AMENDMENT TO THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT OF 1980.—Section 120(h)(3)(C)(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)(3)(C)(i)) is amended—

(1) by striking “, with the concurrence of the Governor of the State in which the facility is located (in the case of real property at a Federal facility that is listed on the National Priorities List), or the Governor of the State in which the facility is located (in the case of real property at a Federal facility not listed on the National Priorities List)”;

(2) by adding “and” at the end of subclause (II);

(3) by striking subclause (III); and

(4) by redesignating subclause (IV) as subclause (III).

**SEC. 40402. DOWNWARD CAP ADJUSTMENTS TO ENFORCE SALES OF FEDERAL CIVILIAN REAL PROPERTY.**

Section 251(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following new subparagraph:

“(E) SALES OF FEDERAL CIVILIAN REAL PROPERTY.—

“(i) If—

“(I) the total cash proceeds from Sales of Federal civilian real property at the end of fiscal year 2013 are less than \$2,000,000,000, then there shall be a downward adjustment in the discretionary category for fiscal year 2014 by the amount of such shortfall; and

“(II) for each of fiscal years 2014 through 2020, the total cash proceeds from sales of Federal civilian real property are less than \$7,000,000,000, then there shall be a downward adjustment in the discretionary category by the amount of such shortfall in the following fiscal year.

“(ii) If the discretionary spending limits set forth in subsection (c) have been revised pursuant to section 251A, adjustments made pursuant to clause (i) shall only be made to the revised non-security category set forth for each of fiscal years 2014 through 2021.

“(iii)(I) As used in this subparagraph, the term ‘Federal civilian real property’ refers to Federal real property assets, including Federal buildings as defined in section 3301 of title 40, United States Code, occupied and improved grounds, leased space, or other physical structures under the custody and control of any Federal agency.

“(II) Subclause (I) shall not be construed as including any of the following types of property:

“(aa) Properties that are excluded for reasons of national security by the Secretary of Defense.

“(bb) Properties that are excepted from the definition of ‘property’ under section 102(9) of title 40, United States.”.

**SA 1748.** Mr. HOEVEN submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 469, after line 22, add the following:

**SEC. 15. RECYCLING AND USE OF FLY ASH.**

(a) FINDINGS.—Congress finds that—

(1) concrete is a major transportation construction material in the United States;

(2) 25 percent of the Interstate System is paved in concrete;

(3) concrete has been used to construct 65 percent of the bridges in the United States;

(4) concrete represents approximately 15 percent of the total cost of constructing and maintaining the transportation infrastructure of the United States each year;

(5) more than 75 percent of that concrete, a quantity worth approximately \$9,900,000,000, uses fly ash as a partial cement replacement blend;

(6) in some States, including California, Florida, Louisiana, New Mexico, Nevada, Texas, and Utah, fly ash is used for virtually all concrete projects;

(7) fly ash concrete has a number of very significant, well-documented benefits that make fly ash concrete a mixture of choice for many State and local transportation departments and transportation engineers; and

(8) the most prevalent use of fly ash is in transportation construction projects.

(b) USE OF FLY ASH.—Not later than 180 days after the date of enactment of this Act, the Secretary shall issue a statement encouraging the beneficial use of fly ash in transportation construction projects (including transportation construction projects involving the use of asphalt) that are carried out, in whole or in part, using Federal funds.

**SA 1749.** Mrs. FEINSTEIN (for herself and Mrs. BOXER) submitted an amendment intended to be proposed to amendment SA 1730 proposed by Mr. REID to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 792, line 5, strike the end quote and insert the following:

“(3) EXCEPTION.—

“(A) IN GENERAL.—The Secretary may not extend the deadline under paragraph (1) with respect to segments of track that the Secretary determines pose the greatest safety risk to the public and railroad employees, based upon the areas of track that have been identified in the entity’s positive train control implementation plan under section 236.1011(a)(4) of title 49, Code of Federal Regulations.

“(B) FACTORS.—In determining whether segments of track pose the greatest safety risk to the public and railroad employees, the Secretary shall consider the following factors with respect to such segments:

“(i) Traffic volume, including tonnage and number of trains.

“(ii) The presence of mixed passenger and freight traffic, and the frequency, separation, and direction of travel of such traffic.

“(iii) The amount of poisonous inhalation hazards and other hazardous materials.

“(iv) The permissible operating speeds.

“(v) Any topographical features that increase operational risks.

“(vi) The presence of technologies that reduce the risks, such as automatic cab signal, automatic train stop, or automatic train control systems.

“(vii) Any special operating procedures that will be utilized by the carrier to reduce risks.”.

**SA 1750.** Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 1730 proposed by Mr. REID to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 791, strike lines 14 through 25 and insert the following:

“(1) IN GENERAL.—After completing the report under subsection (d), the Secretary may, upon application, extend, in 1 year increments ending on or before December 31, 2018, the implementation deadline for an entity providing rail freight transportation or regularly scheduled intercity or commuter rail passenger transportation if the Secretary determines that—

“(A) full implementation is infeasible due to circumstances beyond the control of the entity;

“(B) the entity has demonstrated good faith in implementing its positive train control implementation plan;

“(C) the entity has taken the actions to mitigate risks to successful implementation that were identified by the Secretary in the Secretary’s 2012 report to Congress; and

“(D) the entity has presented a revised positive train control implementation plan describing how it will fully implement a positive train control system as soon as feasible, and not later than December 31, 2018.”.

**NOTICES OF HEARINGS**

**COMMITTEE ON ENERGY AND NATURAL RESOURCES**

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public of an addition to a previously announced hearing before the Subcommittee on National Parks. The hearing will be held on Wednesday, March 7, 2012, at 2:30 p.m. in room SD-366 of the Dirksen Senate Office Building.

In addition to the other measures previously announced, the Committee will also consider:

S. 2131, a bill to reauthorize the Rivers of Steel National Heritage Area, the Lackawanna Valley National Heritage Area, and the Delaware and Lehigh National Heritage Corridor; and

S. 2133, a bill to reauthorize the America’s Agricultural Heritage Partnership in the State of Iowa.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, United States Senate, 304 Dirksen Senate Office Building, Washington, DC 20510-6150, or by email to [Jake\\_McCook@energy.senate.gov](mailto:Jake_McCook@energy.senate.gov).

For further information, please contact David Brooks (202) 224-9863 or Jake McCook (202) 224-9313.

**COMMITTEE ON INDIAN AFFAIRS**

Mr. AKAKA. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Thursday, March 15, 2012, at 2:15 p.m. in room 628 of the Dirksen Senate Office Building to conduct a hearing entitled “Indian Water Rights: Promoting the Negotiation and Implementation of Water Settlements in Indian Country.”

Those wishing additional information may contact the Indian Affairs Committee at (202) 224-2251.

# AUTHORITIES FOR COMMITTEES TO MEET

## COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on February 28, 2012, at 10 a.m. in room SH 216 of the Hart Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

## COMMITTEE ON ARMED SERVICES

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on February 28, 2012, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

## COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on February 28, 2012, at 10 a.m., to conduct a hearing entitled "State of the Housing Market: Removing Barriers to Economic Recovery, Part II."

The PRESIDING OFFICER. Without objection, it is so ordered.

## COMMITTEE ON ENERGY AND NATURAL RESOURCES

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on February 28, 2012, at 10 a.m., in room 366 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

## COMMITTEE ON FOREIGN RELATIONS

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on February 28, 2012, at 2 p.m., to hold a hearing entitled, "National Security and Foreign Policy Priorities in the FY 2013 International Affairs Budget."

The PRESIDING OFFICER. Without objection, it is so ordered.

## COMMITTEE ON VETERANS' AFFAIRS

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session on February 28, 2012, to conduct a Joint hearing with the House Committee on Vet-

erans' Affairs on the legislative presentation of the Disabled American Veterans. The Committee will meet in room 345 of the Cannon House Office Building beginning at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

## SELECT COMMITTEE ON INTELLIGENCE

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on February 28, 2012, at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

## SUBCOMMITTEE ON WATER AND WILDLIFE

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that the Subcommittee on Water and Wildlife of the Committee on Environment and Public Works be authorized to meet during the session of the Senate on February 28, 2012, at 10 a.m. in Dirksen 406 to conduct a hearing entitled, "Local Government Perspectives on Water Infrastructure."

The PRESIDING OFFICER. Without objection, it is so ordered.

## PRIVILEGES OF THE FLOOR

Mrs. BOXER. Mr. President, I ask unanimous consent that the following staff of the Finance Committee be allowed the privilege of the floor for the duration of the debate on S. 1813: Harun Dogo, Avital Barnea, Elizabeth Snyder, Christopher Tausanovitch, Andrea Chapman, Amanda Bartmann, and Claire Green.

The PRESIDING OFFICER. Without objection, it is so ordered.

## AUTHORIZING THE TAKING OF A CHAMBER PHOTOGRAPH

Mr. BENNET. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 381, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 381) authorizing the taking of a photograph in the Chamber of the United States Senate.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BENNET. Mr. President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. 381) was agreed to, as follows:

## S. RES. 381

*Resolved*, That paragraph 1 of rule IV of the Rules for the Regulation of the Senate Wing of the United States Capitol and Senate Office Buildings (prohibiting the taking of pictures in the Senate Chamber) be temporarily suspended for the sole and specific purpose of permitting the Senate Photographic Studio to photograph the United States Senate in actual session on Tuesday, March 20, 2012, at the hour of 2:15 p.m.

SEC. 2. The Sergeant at Arms of the Senate is authorized and directed to make the necessary arrangements therefore, which arrangements shall provide for a minimum of disruption to Senate proceedings.

## ORDERS FOR WEDNESDAY, FEBRUARY 29, 2012

Mr. BENNET. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until Wednesday, February 29, at 9:30 a.m., that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, and the time for the two leaders be reserved for their use later in the day; that the Senate be in a period of morning business for 1 hour with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the Republicans controlling the first half hour and the majority controlling the second half; and that following morning business, the Senate resume consideration of S. 1813, the surface transportation bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. BENNET. Mr. President, tomorrow we will continue to work on a process to complete action on the surface transportation bill.

## ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. BENNET. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 5:37 p.m., adjourned until Wednesday, February 29, 2012, at 9:30 a.m.

## HOUSE OF REPRESENTATIVES—Tuesday, February 28, 2012

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. FITZPATRICK).

### DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,  
February 28, 2012.

I hereby appoint the Honorable MICHAEL G. FITZPATRICK to act as Speaker pro tempore on this day.

JOHN A. BOEHNER,  
*Speaker of the House of Representatives.*

### MORNING-HOUR DEBATE

The SPEAKER pro tempore. Pursuant to the order of the House of January 17, 2012, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning-hour debate.

The Chair will alternate recognition between the parties, with each party limited to 1 hour and each Member other than the majority and minority leaders and the minority whip limited to 5 minutes each, but in no event shall debate continue beyond 11:50 a.m.

### AFRICAN AMERICAN INVENTORS

The SPEAKER pro tempore. The Chair recognizes the gentleman from North Carolina (Mr. WATT) for 5 minutes.

Mr. WATT. Mr. Speaker, one of the few important accomplishments of the 112th Congress thus far has been the passage of the America Invents Act, a comprehensive reform of the United States patent system which was signed into law by President Barack Obama on September 16, 2011. There's little disagreement that patent reform was long overdue, and even those who voted against the bill recognized how important it was to the American inventor and to American innovation to update and streamline the patent system.

Our country has always respected and admired inventors. As young children, we were taught about famous inventors such as Thomas Edison, Alexander Graham Bell, Henry Ford, and many others. Frequently overlooked in the discussion of important inventors, however, have been the accomplishments of African American inventors. Until this year's publication of the children's book, "What Color is My World? The Lost History of African-

American Inventors" by basketball legend Kareem Abdul-Jabbar, we've done little to teach children about the outstanding contributions African American inventors have made to innovation.

I therefore would like to use this time during Black History Month to pay tribute to some of the many, many contributions African American inventors have made. I'm not the first Member of this body to take to the floor of the House to acknowledge the long legacy of inventiveness in the African American community. On August 10, 1894, Representative George Washington Murray, the only African American in the House of Representatives at the time and himself the holder of eight patents on agricultural implements, read the names of 92 African Americans who held patents and described the inventions on the House floor.

Had time allowed, Representative Murray would likely have highlighted the achievements of even more patent holders—inventors such as Thomas L. Jennings, a free person of color and one of the earliest African Americans to patent an invention, who in 1821 was awarded a patent for developing an early drycleaning process to remove dirt and grease from clothing. Or James Forten, another freeborn man who invented a contraption to handle the sails on a sailboat. Or Judy W. Reed, the first known woman of color to receive a patent, who created an improved dough kneader and roller. Or Henry Blair, an inventor who received utility patents on a seed and cotton planter.

If Representative Murray had continued to be a Member of Congress, he would, no doubt, have come to the floor of the House many more times to brag about African American inventors and to acknowledge the major significance of their inventions. He would have reported that by the year 1900, African Americans had patented 357 inventions. And I'm certain that he would have been especially moved to share with this body that by the early to mid-20th century, African American inventors had obtained patents for innovations in countless industries, including medical, chemical, aviation, automotive, grocery, cosmetic, and apparel.

For example, Garrett Morgan invented the gas mask to protect firemen and other rescuers from breathing smoke and poisonous gas when entering dangerous fires and other situations, and he was also awarded a patent

for the three-way electric traffic signal. Charles Drew created a method to mass-produce blood plasma, which led to the formation of blood banks to store plasma for victims of life-threatening emergencies. Unfortunately, he bled to death following an automobile accident which occurred in my native State of North Carolina, and his injuries were too severe for the process he invented to be used to save his life.

Frederick McKinley Jones was the first African American member of the American Society of Refrigeration Engineers. He developed a means to refrigerate perishables being transported long distances. Jack Johnson, who was best known as the great African American boxer, received two patents: One for an improvement to the monkey wrench and the other for a theft prevention device for vehicles. I suspect that my good friend and our colleague Representative DARRELL ISSA might be surprised to learn that Jack Johnson, an African American inventor, developed a device to prevent people from stealing cars long before Representative ISSA got into the business.

I encourage my colleagues to look at the books on African American invention.

Mr. Speaker, one of the few important accomplishments of the 111th Congress thus far has been the passage of H.R. 1249, the "America Invents Act," a comprehensive reform of the United States patent system which was signed into law by President Barack Obama on September 16, 2011. H.R. 1249 authorized the transition from a first-to-invent process to a first-to-file process for obtaining a patent, expanded the prior user rights defense and addressed to some extent (although not to my satisfaction) the diversion of fees collected by the Patent and Trademark Office to the general fund. There is little disagreement that patent reform was long overdue and even those who voted against H.R. 1249 recognized how important it was to the American inventor and to American innovation to update and streamline the patent system.

Our country has always respected and admired inventors. As young children we were taught about famous inventors such as Thomas Edison, Alexander Graham Bell, Henry Ford and many others. Frequently overlooked in discussions of important inventors, however, have been the accomplishments of African American inventors. Until this year's publication of the children's book, "What Color is My World? The Lost History of African American Inventors," by basketball legend Kareem Abdul-Jabbar, we've done little to teach children about the outstanding contributions African American inventors have made to innovation. I would, therefore, like to use this time during

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.



Black History Month to pay tribute to some of the many, many contributions African-American inventors have made.

I am not the first member of this body to take to the floor of this House to acknowledge the long legacy of inventiveness in the African-American community. On August 10, 1894, Rep. George Washington Murray, the only African-American in the House of Representatives at that time and himself the holder of eight patents on agricultural implements, read the names of ninety-two African-Americans who held patents and described their inventions on the House floor. Had time allowed, Rep. Murray would likely have highlighted the achievements of even more patent holders, inventors such as: Thomas L. Jennings (1791–1859), a free person of color and one of the earliest African-Americans to patent an invention, who in 1821 was awarded a patent for developing an early dry-cleaning process to remove dirt and grease from clothing; James Forten, another free born man who invented a contraption to handle the sails on a sail boat; Judy W. Reed (the first known woman of color to receive a patent), who created an improved dough kneader and roller; and Henry Blair, an inventor who received utility patents on a seed and cotton planter.

If Rep. Murray had continued to be a member of Congress he would no doubt have come to the floor of the House many more times to brag about African-American inventors and to acknowledge the major significance of their inventions. He would have reported that by the year 1900 African-Americans had patented 357 inventions. And I am certain that he would have been especially moved to share with this body that by the early to mid-twentieth century, African-American inventors had obtained patents for innovations in countless industries, including medical, chemical, aviation, automotive, grocery, cosmetics and apparel. For example:

Garrett Morgan (1877–1963) invented the gas mask to protect fireman and other rescuers from breathing smoke and poisonous gas when entering dangerous fires and other situations and he was also awarded a patent for the three-way electric traffic signal.

Charles Drew (1904–1950) created a method to mass-produce blood plasma which led to the formation of blood banks to store plasma for victims of life-threatening emergencies. Unfortunately, he bled to death following an automobile accident which occurred in my native state of North Carolina and his injuries were too severe for the process he invented to be used to save his life.

Frederick McKinley Jones (1893–1961) was the first African-American member of the American Society of Refrigeration Engineers. He developed a means to refrigerate perishables being transported long distances.

Jack Johnson (1878–1946), best known as the great African-American boxer, received two patents, one for an improvement to the monkey wrench and the other for a theft-prevention device for vehicles. I suspect that my good friend and our colleague Rep. Darrell Issa might be surprised to learn that Jack Johnson, an African-American inventor, developed a device to prevent people from stealing cars long before Rep. Issa got into the business.

Norbert Rillieux (1806–1894) invented a sugar processing evaporator that provided a safer, cheaper, and easier way of evaporating sugar cane juice and made the refinement of sugar more efficient. It is still used for the production of sugar, gelatin, condensed milk and glue, among other things.

Annie Minerva Turnbo Malone (1869–1957) was the first African-American beauty entrepreneur to manufacture a line of beauty products for African-American women. In the late 1800s and the early 1900s she manufactured and sold her products door-to-door. Mme. C.J. Walker, who is often credited with starting the African-American beauty business, was actually one of her sales agents.

Dr. Lloyd Augustus Hall (1894–1971), a pioneer in the area of food chemistry, developed preservative chemicals that were used to keep food fresh without sacrificing flavor. In the 1930s he introduced “flash-dried” salt crystals that revolutionized the meat packing industry.

Percy Lavon Julian (1899–1975) developed synthetic cortisone, which provided cheaper relief from rheumatoid arthritis. In 1954 he founded Julian Laboratories to research steroids and in 1961 he sold his company to Smith, Kline and French.

By the start of the 21st century and on into the present day, African-Americans have also been awarded patents in many other categories, including the technology and engineering fields. For instance:

Dr. Mark Dean holds more than twenty domestic patents and was a key developer of computer architecture for IBM.

Dr. George H. Simmons obtained a patent for creating a fiber-optic extension of an optic local area network and another for designing a system to eliminate the unwanted pulses in a dial pulse stream on telephones.

Dr. James E. West is the well-regarded co-inventor of foil-electret transducers, which are the devices used to change sound into electrical signals and are used in items such as lapel microphones, hearing aids and portable tape recorders.

Lonnie Johnson invented the popular “Super Soaker” water gun.

I could go on ad infinitum about these and countless other examples of African-American ingenuity, but my time is limited. So I will instead encourage you to investigate for yourselves and learn more about the unique role that African-American inventors have played in the rich history of American inventiveness. For that purpose I direct you to an outstanding book called *The Inventive Spirit of African Americans* by Patricia Carter Sluby which details the many examples I have discussed, as well as many other outstanding innovations and patents by African-Americans. It is probably the most thorough and best researched and written history of African-American inventiveness available today. I also direct my colleagues to Kareem Abdul Jabbar’s recent book written especially for children, entitled *What Color is My World?: The Lost History of African-American Inventors*. I commend these resources to my colleagues as we honor the exemplary achievements of African-Americans during Black History Month and throughout the year.

## WE NEED TO MOVE TOWARD ENERGY INDEPENDENCE

The SPEAKER pro tempore. The Chair recognizes the gentleman from Indiana (Mr. BURTON) for 5 minutes.

Mr. BURTON of Indiana. Mr. Speaker, I watched the President on television the other night defending his energy policy, and he said, “The Republicans say drill, drill, drill, drill, baby, but that’s not the answer.”

The fact is that the people of this country are suffering under severe energy prices that are rising at a rapid rate. Everything that we buy is affected by energy prices. I went to the store the other day to buy some apples and some tomatoes. We got three tomatoes for \$5, and I think we got four apples for \$5. Now, the reason those prices are going up so rapidly is because when you transport those across the country, or you use energy to produce those products, it costs more.

If you talk to the guys that drive these tractor-trailer units, they’ll tell you how expensive it is to transport goods and services, clothes, food, and everything else that we buy. So we really need to move toward energy independence.

Now, the administration has had the ability to help other countries explore for oil. We sent I think \$2 billion or \$3 billion down to Brazil for deepwater drilling, but we cut back on the permits that we could get to drill in the Gulf of Mexico. Because of the environmental “nut cases,” as I call them, the President has restricted the ability of the American energy sector to drill for oil in the gulf. We cannot drill for oil in the ANWR in Alaska. I’ve been up there and talked to the gentleman who represents Alaska in the Congress, DON YOUNG. He’ll tell you there’s nothing up there that’s going to be damaged if we drill, and besides that, you can do it in an environmentally safe way. But we can’t drill offshore because they’ve limited permits. The President is now saying he’ll allow some permits, but they are very minimal.

□ 1010

We can’t drill on the Continental Shelf. We can’t drill in the ANWR. We can’t do anything to explore really for additional energy. We have probably a couple hundred years’ supply of natural gas that we can drill for and use the fracking procedure, but a lot of the environmentalists are trying to stop that as well.

Our dependency on the Middle East is unbelievable. There’s a potential for a major war over there because of Iran’s nuclear development program, and we continue to depend on energy from that Persian Gulf area, from the Saudis. They’re using a lot of our money to support Wahhabism and the madrassas over there that create radical Islam. So we need to move away from dependency on foreign oil.



In South America, President Chavez in Venezuela—who doesn't like us—is working with Tehran. He's selling his oil to China, and yet we buy an awful lot of our oil from him because we're dependent on him. We need to move toward energy independence.

The President will not allow the gulf pipeline, the pipeline from Canada down to Texas, because of environmental concerns. That's been looked at for 3 years. There's other ways around the potential problem, but he won't let it happen because of environmentalists, the radicals.

Now, we can depend in the future, to a degree, on wind, solar, geothermal, and nuclear, but that's going to take a long time. Even if we use all of those technologies today, it will only be a drop in the bucket as far as our energy needs are concerned. You know who's demanding more and more energy all the time? China and India buy thousands and thousands of barrels of oil a day, so that oil that's coming out of other parts of the world is going to be gobbled up more and more and more by China and India. We need to move to energy independence.

The President says, oh, you know, we can't solve the problem by drilling. The fact is we can. There's a lot of things we can do: the pipeline from Canada, drill offshore, drill in the gulf, drill in the Continental Shelf, use more natural gas, do away with all the regulations that are strangling the private sector as far as energy development. So what does he want to do? He says we've got to raise taxes on energy exploration, on the oil companies. That's going to be passed on to the consumer in higher prices.

This administration, nice guy, good smile, gives a great speech, but he's not solving our problems, and our dependency continues to increase on foreign energy. We need to move toward energy independence, and we need to do it now and not wait until after the election.

#### CORPORATE PERSONHOOD

The SPEAKER pro tempore. The Chair recognizes the gentleman from Oregon (Mr. BLUMENAUER) for 5 minutes.

Mr. BLUMENAUER. Mr. Speaker, it's interesting listening to the fantasy Republican talking points. The fact is we are now drilling more oil in the United States than ever before. The inconvenient facts get in the way of political talking points. But what is not a fantasy is what is happening on the political screen.

In the final 3 months of 2011, the campaign to reelect President Obama and the Democratic National Committee raised \$68 million, an impressive sum, all the more impressive because it was donated by 583,000 Americans who gave an average of \$55 each.

But earlier this month, at a retreat at the exclusive Renaissance Esmeralda Resort in southern California, the conservative billionaire Koch brothers said they would donate a combined \$60 million to super PACs to defeat President Obama. Two billionaire brothers with opinions radically at variance with most of America are poised to cancel out the efforts of half a million American citizens.

To understand this gross perversion of the political process, we don't have to wait for the general election and the avalanche of negative campaign ads against the President. We can look right now at the primary election for the Republican Presidential nomination, where we've seen a handful of billionaires and their super PACs outspend all the Republican candidates and help turn that contest into a circus.

The sad reality is that the super PACs have shaped the political campaign more than the candidates. That's the world we live in since the Supreme Court's tragic decision in *Citizens United*, which overturned a century of settled law and opened this floodgate of unlimited campaign spending, drowning out small donors and individuals that most of us learned in school were the cornerstone of our democracy. This Supreme Court ruling was based on the perverse idea that the Court's out-of-touch majority somehow felt corporations should enjoy the same constitutional rights as people. This threatens the integrity of the political process, not just from the appearance of corruption, but actually, blatantly, distorting the process.

As companies and sham independent organizations that are actually run by candidates' friends and employees blanket the airwaves with an avalanche of vicious negative advertising, now somehow they are protected under a First Amendment right of free speech which would be beyond the comprehension of our Founding Fathers. Mitt Romney may believe that corporations are people, but do the rest of us need a comedian like Steven Colbert to remind us that only people are people?

There's an outside chance of relief from a century-old Montana law banning corporate corruption in their political landscape, which was passed after the most egregious and well-documented abuse in Montana. A case about this law would provide the Supreme Court a lifeline to climb down from the precarious and dangerous constitutional ledge, a ledge that they have not only crawled out onto, but they dragged the American people and the political process with them with their *Citizens United* decision.

There's a chance that the Supreme Court will use this Montana law to reestablish the basic parameters protecting the political process from the corruption of vast sums of unregulated

corporate money. But in the meantime, it's important that we advance a constitutional amendment that would eliminate the notion of corporate personhood, explicitly stating that the rights of natural persons may only be afforded to real people, not corporations.

As we work to overturn *Citizens United* and ban corporate personhood, people should not have to wait to judge whether a candidate is representing the public or representing their benefactors. We should pass the DISCLOSE Act, H.R. 4010, to require political spending by corporations and individuals to be fully transparent. We should be unstinting in other efforts in the regulatory and legal process to make sure that shareholders of corporations have an opportunity to at least know, and maybe even have a say, about what the corporations that they are supposed to own are doing on their behalf. We should support H.R. 1404, the Fair Elections Now Act, to promote public campaign financing to ensure the public's voice is not drowned out by moneyed special interests.

The Supreme Court's decision on *Citizens United* was based on fantasy, the fantasy that vast sums of money from hidden special interest are not inherently corrupted; the fantasy that corporations should be afforded all the rights of citizens; the fantasy that super PACs run by individuals who are the closest allies, friends, and employees of candidates are somehow independent.

What is not a fantasy is what we see right now on the political landscape, the terrifying effect of super PACs and the flood of money hopelessly distorting the campaigns. We should all fight to change it.

#### AFGHANISTAN

The SPEAKER pro tempore. The Chair recognizes the gentleman from North Carolina (Mr. JONES) for 5 minutes.

Mr. JONES. Mr. Speaker, today the Republicans held a conference—the Democrats do the same thing during the week, talk about issues—and I had a couple of minutes to remind our Speaker of the House, JOHN BOEHNER, whom I like, think the world of him, that as he was talking about the domestic policies of the President and how many of them seem to be failed policies, I said, well, how about the failed policy in Afghanistan?

I had written the Speaker back in November asking him to please take just a few minutes to talk to a retired marine general who has been my adviser on Afghanistan for 3 years. He agrees with me, the general does, that we're not going to win anything there; we just let our precious resources, our children, go there and lose their legs and lives, for what, we don't know.

I asked the Speaker—we did it in a bipartisan way. In fact, the gentleman from Tennessee (Mr. DUNCAN), who will be speaking shortly after me, we did a bipartisan letter, three Democrats and three Republicans, asking Mr. BOEHNER and also Ms. PELOSI to go read the National Intelligence Estimate on Afghanistan that came out in December.

□ 1020

If they would read it, they would be better informed and better understand those of us who want to get out.

I had emailed the commandant of the Marine Corps who has been my adviser. He is retired now. Right before the burning of the Koran in Afghanistan—what I'm going to share for the record is an email that happened before the burning of the Koran. I quote the general:

Attempting to find a true military and political answer to the problems in Afghanistan would take decades, not years, and drain our Nation of precious resources—with the most precious being our sons and daughters.

Simply put, the United States cannot solve the Afghan problem, no matter how brave and determined our troops are. We need to bring our people home and prepare for the real danger that is growing in the Pacific.

Mr. Speaker, I read that today in the conference. As you know, Mr. Speaker, we only have 1 minute and a lot of Members want to speak on different subjects. In addition, I did get time to read from a VSO team leader. The VSO team leader happens to be a young marine officer. VSO means village stability operation. This young marine, this team leader, emailed a friend of mine who emailed to me:

If you ask me if it's worth a single American life to build governance here in Afghanistan, I would have to say no.

Sometimes it is very perplexing to me in terms of just where is the outrage in this country. I've seen so many wounded from my district of Camp Lejeune, of marines and soldiers who have lost legs and arms. I have even seen four young men that have no body parts below their waist. They are living and they will live, but they have nothing below their waist.

I don't know where the Congress is, quite frankly. We're going to be there until 2014 unless we get out sooner. I've got a feeling we'll probably be there a little bit longer than 2015, knowing the way both parties feel about this. There's nothing we're going to change. Karzai half the time doesn't like us; the other half he does. It is all about the \$10 billion a month. He wants that money to buy some roads and fur caps and stick some money in foreign countries so when his administration collapses in Afghanistan, he's got some money to fall back on.

Mr. Speaker, I'm just going to take another minute and then I'm going to close.

In Marine Times recently there was an article called: "TriCare Costs Would Jump in Budget Plan." If we forget our veterans of yesterday and our veterans of today, I think God will punish America. These young men and women and now the older veterans are older men and women and did so much for America to make it the greatest Nation in the world because they were willing to sacrifice and give of themselves. But if we're going to continue to borrow money from China to send \$10 billion a month to Karzai, \$120 billion a year, that to me is a sin, quite frankly.

We need to wake up in this country and figure out if we're going to fix our problems. We should start right here in America and fix our problems before we worry about the world's problems. Seventy-two of our servicepeople have been killed by the trainees in Afghanistan that they were trying to train to be policemen or soldiers. Seventy-two have been shot or killed by the people they were training. Where in the world does that make any sense? It doesn't make any sense. It is time for America to wake up and demand that Congress get our troops out now, not in 2014.

Before I close, as I always do, I ask God to please bless our men and women in uniform. I ask God to please bless the families of our men and women in uniform. I ask God in His loving arms to hold the families who have given a child dying for freedom in Afghanistan and Iraq. I ask God to bless the House and Senate, that we will do what is right in the eyes of God for His people here in the United States of America. I ask God to please bless the President of the United States, that he will do what is right in the eyes of God for God's people here in the United States.

And I close three times: God, please, God, please, God, please continue to bless America.

CONGRESS OF THE UNITED STATES,  
Washington, DC, February 10, 2012.

Hon. JOHN BOEHNER,  
Speaker, House of Representatives, U.S. Capitol,  
Washington, DC.

Hon. NANCY PELOSI,  
Democratic Leader, The Capitol, Washington,  
DC.

DEAR MR. SPEAKER AND DEMOCRATIC LEADER: I would like to bring your attention to Lieutenant Colonel Daniel Davis' recent assessment of the situation in Afghanistan that was published in the New York Times on February 6, 2012 (attached). It is vastly different than the one that the U. S. Congress has been receiving from the Obama Administration. Many of us have read the National Intelligence Estimate (NIE) for December 2011 and found it supports Lieutenant Colonel Davis' analysis. We encourage you to read the NIE as well.

Therefore, we think that Lieutenant Davis' analysis merits attention by the relevant committees of jurisdiction in the U. S. House of Representatives and we respectfully request that you encourage the relevant Chairmen to hold hearings as soon as possible and invite Lieutenant Colonel Davis to be a witness. As we withdraw from Afghanistan, it is vital that the Congress hear another perspec-

tive from what we have heard for over ten years. Thank you for your careful consideration of our request.

Sincerely,

WALTER B. JONES,  
Member of Congress.  
JIMMY DUNCAN,  
Member Congress.  
JIM MCGOVERN,  
Member of Congress.  
JOHN GARAMENDI,  
Member of Congress.  
TIMOTHY V. JOHNSON,  
Member of Congress.  
BARBARA LEE,  
Member of Congress.

#### WOMEN'S HEALTH IN THE TWILIGHT ZONE

The SPEAKER pro tempore. The Chair recognizes the gentlewoman from Wisconsin (Ms. MOORE) for 5 minutes.

Ms. MOORE. Mr. Speaker, lately, I along with many other women have felt like we're a mere supporting cast in an episode of "The Twilight Zone." I can just hear the narration of the show saying:

You're traveling through another dimension, a dimension not only of sight and sound, but of mind. That is the signpost up ahead: Your next stop, the Twilight Zone.

The rhetoric espoused over the last few weeks by many conservatives has me feeling as if I'm in an alternative political universe where men say the most oddly absurd things about what women should be doing with their bodies. In this universe, the House Committee on Government Oversight and Reform holds hearings on women's health and contraception with a panel made up completely of men.

This may seem odd to you folks out there in the real world; but in this alternate reality, it makes perfectly good sense that a bunch of middle-aged men, devoid of ovaries and uteruses, would be experts on women's reproductive health. In this alternate universe, you wouldn't dare ask a woman to testify on women's health and what it means to be a woman. You wouldn't invite them to talk about what it means to be susceptible to pregnancy for approximately 30 years of their lives and how important birth control is to women who wish to prevent unintended pregnancies and to preserve their health. You surely wouldn't ask a woman to testify about how birth control has helped them prevent various diseases or manage diseases like endometriosis.

While it would be nice to believe we're in the twilight zone, the recent plays of Republicans against women's health are all frighteningly too real. In reality, this hearing did take place with the House Government Oversight and Reform Committee blocking the testimony of women, women like Georgetown University law student Sandra Fluke, who later testified during a special hearing convened by Democratic Minority Leader NANCY

PELOSI of a fellow female student at Georgetown University who had been denied contraception coverage because of the university's Catholic affiliation. Her friend experienced complications stemming from ovarian cysts that could have been treated with birth control. Sadly, due to nontreatment, doctors eventually were forced to remove her ovary.

There are so many stories just like this that need to be told; but, sadly, you won't hear them on Capitol Hill if my Republican colleagues in the majority have anything to do with it. They are too busy silencing women's voices on these very critical issues.

What if there was a hearing held on access to Viagra or vasectomies with a panel of experts being a group of six women? Could you imagine the outrage if women were allowed to legislate what happens to men's bodies? The horror.

Ladies and gentlemen, Mr. Speaker, this twilight zone is real. This attack on women's health is real, but the battle is not over. We cannot and will not allow a few to silence the voices of millions of women across this country. We must continue to stand up for women and their reproductive health.

#### LEAVE AFGHANISTAN

The SPEAKER pro tempore. The Chair recognizes the gentleman from Tennessee (Mr. DUNCAN) for 5 minutes.

Mr. DUNCAN of Tennessee. Mr. Speaker, I voted to go to war in Afghanistan, but I did not vote for a forever, permanent war that has now lasted almost three times as long as World War II. We should have ended our involvement in Afghanistan many years ago, and many young American lives would have been saved.

The first war against Iraq and Kuwait lasted just 7 months. With the recent killings of four more Americans and with massive anti-American demonstrations being conducted by hundreds of thousands of Afghani citizens, we need to greatly speed up our withdrawal. We need to leave Afghanistan the sooner the better.

We've spent hundreds of billions there over the last decade, a great amount of which has really been just pure foreign aid. We've built schools and medical facilities and helped their farmers. We have trained their police and military and have had thousands of Afghani on our payroll.

□ 1030

We've had to borrow approximately 41 percent of all of these mega-billions we have spent to help the Afghan people. No country has done nearly as much, Mr. Speaker, for another country in the entire history of the world as we have done for Afghanistan.

Now, the people there have made it very clear that they do not appreciate

what we have done for them. In fact, not only are they ungrateful, but they are showing, through their actions, that they have anger or even hatred toward us. We should stop spending all these billions of taxpayer dollars just as soon as we possibly can.

I did not criticize President Obama when he apologized for the burning of the Korans. However, I did not think it was something that rose to the level that required a Presidential apology. Some person or persons made a mistake in burning the Korans. They should have apologized, or the commander of the Air Force base, or perhaps our Ambassador.

However now, where is the apology from the Afghan leadership about the Americans who have been killed or for all of the hatred and anger directed toward our country? Where is the gratitude for all that America and Americans have done for the Afghan people over the last 10 or 11 years?

We have a national debt of over \$15 trillion that is headed far higher at a more rapid rate than ever before. It is far past the time that we should have been taking care of our own country and putting our own citizens first.

We need to let the Afghan people run Afghanistan, and we need to stop trying to be everything to everybody all over the world. We simply cannot afford it, and we are jeopardizing the future of ourselves, our children, and our grandchildren if we continue trying to run the whole world.

#### RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until noon today.

Accordingly (at 10 o'clock and 31 minutes a.m.), the House stood in recess.

□ 1200

#### AFTER RECESS

The recess having expired, the House was called to order by the Speaker at noon.

#### PRAYER

Reverend Adam McHugh, Vitas Hospice Center, Covina, California, offered the following prayer:

Gracious God, we acknowledge and praise You on this day that You have made.

We are reminded that all power and authority ultimately come from You. We do not wield our own power, but we are stewards who have been entrusted with a greater power.

May the work that is done today in the Halls of the powerful be done on behalf of the powerless. Would You open our ears to listen to the needs and the

cries of those who are seldom heard. May the strong voices today speak out for the sake of those with no voice.

Would You grant our leaders courage and wisdom to do what is right, and would You pour out on them a spirit of peace, love, kindness, and gentleness.

Amen.

#### THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

#### PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Virginia (Mr. CONNOLLY) come forward and lead the House in the Pledge of Allegiance.

Mr. CONNOLLY of Virginia led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

#### RESIGNATION AS PARLIAMENTARIAN OF THE HOUSE OF REPRESENTATIVES

The SPEAKER laid before the House the following resignation as Parliamentarian of the House of Representatives:

CONGRESS OF THE UNITED STATES,  
HOUSE OF REPRESENTATIVES, OFFICE OF THE PARLIAMENTARIAN,  
Washington, DC, February 28, 2012.

Hon. JOHN A. BOEHNER,  
*The Speaker, House of Representatives,*  
Washington, DC.

DEAR MR. SPEAKER: As you know, the skill and dedication of the team with whom I serve in the Office of the Parliamentarian and the Office of Compilation of Precedents are unsurpassed. In my judgment they are ready to continue their commitment to excellence in the procedural practice of the House without me. I appreciate your allowing me to lead the office to this juncture. Please now accept my resignation effective March 31, 2012.

I am grateful to you and your predecessors, Mr. Speaker, for supporting the exercise of independent professional judgment by your parliamentarians. It is a credit to the House that its presiding officers shed their partisan cloaks and follow our considered advice.

It has been my honor to serve in the Office of the Parliamentarian for 25 years. To whatever extent I have made good of the opportunity, I credit the steady support of my wife, Nancy Sands Sullivan, and the inspiration of our children, Michael, Margaret, and Matthew.

Sincerely,

JOHN V. SULLIVAN,  
*Parliamentarian.*

#### APPOINTMENT AS PARLIAMENTARIAN OF THE HOUSE OF REPRESENTATIVES

The SPEAKER. Pursuant to section 287(a) of title 2, United States Code, the

Chair appoints Thomas J. Wickham, Jr., as Parliamentarian of the House of Representatives to succeed John V. Sullivan, resigned.

#### WELCOMING REVEREND ADAM MCHUGH

The SPEAKER. Without objection, the gentleman from California (Mr. DREIER) is recognized for 1 minute.

There was no objection.

Mr. DREIER. Mr. Speaker, let me first extend my congratulations to John Sullivan for his extraordinary service to this institution over the last quarter century. We're going to have a chance to talk about one of the greatest, most incisive minds in this place—and the bar is not too high for that. He has been extraordinary. I want to congratulate Mr. Wickham as well, Mr. Speaker.

With that, I rise to say, on the 28th of June 1787, Benjamin Franklin, in the midst of the Constitutional Convention, said that they should call on the assistance of Heaven and have a prayer every day as the assembly began. That's a tradition that continues today, and it's one that has just been utilized by Reverend Adam McHugh, who is a very, very capable and thoughtful guy, who is from Upland, California. He is a prolific writer as well as serving as chaplain at the Vitas Hospice Center in Covina, California.

I've got to say also, Mr. Speaker, that I believe that we are making history here in that both the Chaplain of the United States House of Representatives—our dear friend, Father Patrick Conroy—and Reverend McHugh's wife, Lindsay, and I are all graduates of a very small institution just to the east of Los Angeles known as Claremont McKenna College.

I believe that hearing from Reverend McHugh was wonderful, and I have a copy of his book that he has just given me here. I would like to enter into the RECORD, Mr. Speaker, a list of the publications that he has put forward and to say that he has one coming next year. We all look forward to that, and I hope I get an autographed copy of that one as well.

#### PUBLICATIONS BOOKS

Introverts in the Church: Finding Our Place in an Extroverted Culture (InterVarsity Press, 2009)

The Listening Life (InterVarsity Press, 2013)

#### ARTICLES

"Profile of Father Patrick Conroy, Chaplain of the U.S. House," CMC Magazine, November '11.

"Hospitality for Those Who Would Rather Stay 'In,'" Conversations Journal, December 2011.

"The Introverted Leader," Leadership Journal, August 2011.

"The Phases of Writing," The Ooze, June 2011

"A Mere Lump of Humanity?" Internet Monk, June 2011

"Why Pastors Should Get Their Heads Examined," Patheos, May 2011

"The Introvert Brand," Patheos, March '11

"Why Most Pastors Won't Tell the Truth," Church Leaders, Mar '11

"The Writer as Madman and Mystic," Crosswalk, Dec '10

"Are Happy Churchgoers Good News? The Washington Post, Dec '10

A Counter-Cultural Quiet in Advent," Patheos Dec '10

"Meals that Change Your Life," Relevant Magazine Nov '10

"Introverts in Evangelical America," The Washington Post Sept '10

"Conversations with the Saints," Patheos Aug '10

"The Ancient Art of Listening," Patheos June '10

"Can Introverts Thrive in the Church?" Catalyst Space May '10

"Introverts in the Church," Ministry Today, January '10

"Can Introverts Lead? Breaking Down Stereotypes," The Christian Century Nov '09

#### SPEAKING HIGHLIGHTS

Westmont College Chapel, Santa Barbara, CA, April 2012.

Laity Lodge, Kearney, TX, July 2011.

Glenkirk Church, Glendora, CA, March 2011.

Irvine Presbyterian Church, Irvine, CA, September 2010.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. MILLER of Michigan). The Chair will entertain up to 15 further requests for 1-minute speeches on each side of the aisle.

#### HONORING MR. TROPHY

(Mr. FLEISCHMANN asked and was given permission to address the House for 1 minute.)

Mr. FLEISCHMANN. Madam Speaker, I rise today to honor a small business in my district, a business I was proud to give an Economic Excellence Award to last week.

Mr. Trophy, based in Red Bank, Tennessee, is a great small business which embodies the American values of hard work and success. Founded in 1972, Mr. Trophy is still a family business. It is currently owned by Dorris Prevou and is managed by her daughter Linda Herrmann.

A staple of the Chattanooga community, Mr. Trophy is well-known for both customer service and community involvement. Mr. Trophy has designed trophies, plaques, and custom awards for over 40 years, creating jobs while often weathering difficult times. Having run a business with my wife for 24 years, I can understand the challenges that have faced Mr. Trophy along the way.

Not only has Mr. Trophy met these challenges, but they have found success with their business and have become a pillar of their community. I hope that

you will join me in honoring Mr. Trophy for their well-earned Economic Excellence Award.

#### PASS H.R. 3826 AND PROTECT COLLEGE AFFORDABILITY

(Mr. COURTNEY asked and was given permission to address the House for 1 minute.)

Mr. COURTNEY. Madam Speaker, 124 days. That's how many days between today and July 1 when the interest rates for the Stafford Student Loan program are going to double from 3.4 percent to 6.8 percent unless Congress acts. I, Congressman PETERS, and Senator JACK REED in the Senate have filed legislation to lock in those rates at 3.4 percent. This Chamber must act.

Today, student loan debt now exceeds credit card debt in the United States of America—a milestone which is a disaster and a formula for failure in this country. We have fallen from number one in the world in terms of graduation rates to number 12, which is a threat in terms of our future economic vitality.

As young people will be all across this Capitol over the next 2 months or so, I hope Members of Congress will look those kids in the eyes and will do the right thing to protect college affordability. Pass H.R. 3826.

#### SOARING GAS PRICES

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. For 21 days in a row, gas prices have risen to average now \$3.70 per gallon—a 30-cent increase in only 1 month. At this rate, Americans could be forking over four bucks for a gallon of gas in no time. That's insane.

American families and businesses are already struggling in this economy, so I'm calling on the IRS to provide relief for businesses by increasing the standard mileage rate like it did after Hurricane Katrina and again in 2005 and 2011. With gas prices rising higher and faster than ever, the administration and Congress need to take action now: beginning with the Keystone XL pipeline, estimated to bring 830,000 barrels of oil every day to U.S. refineries, and Keystone would create nearly 20,000 new American jobs.

Let's pursue a real all-of-the-above energy strategy, and let's give Americans the security and relief that they want, need, and deserve.

□ 1210

#### PREVENT CLOSING POSTAL FACILITIES

(Mr. HIGGINS asked and was given permission to address the House for 1 minute.)

Mr. HIGGINS. Madam Speaker, like many Members of our body, I represent a community with a postal facility that has been slated for closure. In Buffalo, 700 workers stand to lose their jobs if the United States Postal Service goes forward with the closure of the William Street mail processing facility. The good news is there is legislation that could have an immediate impact.

My friend and colleague, Representative STEVE LYNCH, has introduced H.R. 1351, which would recalculate the Postal Service's pension funding, easing the budget strains that necessitate this drastic facility closure proposal. Last week I sent a letter, along with my western New York colleagues, Representative LOUISE SLAUGHTER and Representative KATHY HOCHUL, urging Republican leadership to bring this bill to the floor for immediate consideration. Madam Speaker, this legislation is bipartisan and currently has 228 cosponsors, more than half the House.

Though broader reforms will be needed, this bill is what will keep the Postal Service afloat in the short term. It's time for Congress to step up, put aside politics, and do what's right for small business, working families, and postal customers nationwide.

#### FLORIDA KEYS OUTREACH COALITION CELEBRATES 20TH ANNIVERSARY

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Madam Speaker, I'm so pleased to recognize the 20th anniversary of the Florida Keys Outreach Coalition.

For 20 years, Reverend Stephen Brad-dock and the Florida Keys Outreach Coalition have worked to empower individuals and families, assisting them in reaching their full potential by providing the resources and support they need to become self-sufficient.

In its mission to, very simply, eliminate homelessness in the Keys, Monroe County, the Florida Keys Outreach Coalition has become a model human services organization in reaching this goal. Its goal has become a reality for many families who have transitioned from homelessness into permanent housing.

I've had the great privilege of seeing their work firsthand, and it is nothing short of inspirational. I've witnessed the effectiveness of their outreach efforts, and I have seen the benefits of their emergency shelter and transitional housing programs.

I applaud everyone at the Florida Keys Outreach Coalition for their selfless efforts as they strive to better the future for the homeless. Thank you for 20 years of service to our south Florida community.

#### OSCAR COULD HAVE GONE TO THE HOUSE

(Mr. CONNOLLY of Virginia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONNOLLY of Virginia. Madam Speaker, a silent movie won this year's Oscar for Best Picture. That award just as easily could have gone here to the House, because the House Republicans continue to be silent on job creation and seem intent on dragging America back to 1929 when the last silent film won the Oscar.

When Republicans recently held a hearing on contraception, they did their best to silence female voices, inviting five men and zero women to testify on the topic of female reproductive health.

Since they gained the majority, House Republicans have been painfully silent about actually creating jobs. In 2011, they voted for a budget that would have cut 700,000 of them. This year, they proposed a transportation bill that would cut another 550,000 of them. As Americans ask for real job proposals, Republicans remain silent.

It's time that someone actually started speaking up for the American people. Despite 23 straight months of job growth, there are still almost 8 million people trying to reenter the workforce. Unlike this year's Best Picture winner, this continued silent treatment from the Republican majority offers Americans no entertainment and, sadly, no employment.

#### FOSTERING JOB GROWTH

(Ms. FOXX asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. FOXX. Madam Speaker, my colleague from Virginia needs to redirect his comments about silent response to the Democrat-controlled Senate, the party of which he is a member. Fostering job growth for the American people continues to be the number one job for House Republicans, and we have a record to prove it.

With unemployment and underemployment at above 15 percent for the past 36 months, the Obama economy continues to produce the Nation's worst jobless record since the Great Depression. So far, by following the House Republican Plan for America's Job Creators, the House passed more than 30 bipartisan jobs bills on behalf of the American people.

Each of these bills is aimed at unleashing the power of our private sector to freely and confidently build, invest, innovate, and expand again—and put millions of Americans back to work. Unfortunately, the vast majority of these bipartisan House-passed jobs bills are being ignored or blocked in the Democrat-controlled Senate.

The American people are tired of waiting. It's time for Democrats in the Senate and the White House to put politics aside and pass these jobs bills.

#### COMMENDING JEREMY LIN

(Mr. FALEOMAVAEGA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FALEOMAVAEGA. Madam Speaker, Linsanity is here with us today. On behalf of over 18 million Asian Pacific Americans, and as a member of the Asian Pacific Congressional Caucus, I rise today to commend rising NBA star Jeremy Lin.

A son of immigrants from Taiwan and the first American NBA player of Chinese or Taiwanese ancestry, Jeremy is the first, first Harvard—economics major, 4.0 GPA—graduate to play for the league since the 1950s. Since playing as the Knicks' point guard, he has scored the highest point total in his first five games—136 points—for any player since the 1970s.

In the history of Asian Pacific American participation in the NBA, Japanese American Wataru Misaka broke the color barrier when he played for the Knicks in the 1940s. Following Misaka, we have Japanese American Rex Walters; Filipino American Raymond Townsend; Samoan American Wally Aliifua Rank; and, currently, Samoan American James Johnson, who plays for the Toronto Raptors; and Hawaiian American Jason Kapono, who now plays for the L.A. Lakers.

Along with these pioneers, Jeremy Lin's rise to international stardom has broken ethnic stereotypes in our society.

I commend Jeremy for this tremendous achievement and for his example to the world and what America is all about: You work hard, you be true to your principles of fairness and equity, things will come your way.

#### CONTRACEPTION

(Mr. PETERS asked and was given permission to address the House for 1 minute.)

Mr. PETERS. Madam Speaker, I rise today in outrage and disbelief that my Republican colleagues believe that they are more qualified to determine what a woman can do with her own body than she is.

Republicans say that they are on the side of freedom and personal responsibility. They also say that they are against Big Government intrusion. But when it comes to women in this country, it's nothing but a bunch of empty rhetoric.

Let's be clear: the debate about contraception is really about Republicans' deep-seated opposition to women making decisions about their own bodies. It is an outrage; it is unconscionable; it is

insulting; and it is un-American to treat women, by virtue of their gender, as second-class citizens by denying their ability to control their own destinies.

To my Republican colleagues, shame on you for waging your hypocritical war on women.

#### AMERICAN POLITICS IS BECOMING MORE CORRUPT BY THE DOLLAR

(Mr. YARMUTH asked and was given permission to address the House for 1 minute.)

Mr. YARMUTH. Madam Speaker, it's been more than 2 years since the Supreme Court rendered its Citizens United decision, and American politics is becoming more corrupt by the dollar.

Election season is flooded with special-interest money, confirming the deep skepticism of an American public that is estranged from and fed up with its government. In the past 2 years alone, super PACs have raised approximately \$181 million, an increase of more than 1,200 percent, in outside spending during a Presidential election.

Our system allows for corporations and extremely wealthy individuals to influence elections without any accountability, and this must change. That's why I'm a cosponsor and strong supporter of the DISCLOSE 2012 Act, which would shine a light on the secret money in political campaigns.

The DISCLOSE 2012 Act requires public reporting by super PACs, corporations, unions, and outside groups within 24 hours of making a campaign expenditure. It forces leaders of other corporations and other outside groups to stand by their campaign ads by appearing in them and stating that they approve this message.

Madam Speaker, I urge Republican leadership to bring the DISCLOSE 2012 Act up for a vote. Until we get Big Money out of politics, we will never be able to responsibly address the major issues facing American families.

□ 1220

#### EPIDEMIC OF HUNGER

(Ms. FUDGE asked and was given permission to address the House for 1 minute.)

Ms. FUDGE. Madam Speaker, today I rise to address the epidemic of hunger in this Nation. Nearly 49 million people in the United States suffer from hunger. That is one in six in the U.S. population, including more than one in five children.

Feeding America recently reported that 46 percent of households served by its agencies must choose between paying for utilities or heating fuel and paying for food. Thirty-nine percent of households said they must choose be-

tween paying their mortgage or rent and paying for food.

Hunger is real in this country. We know that, yet some still demonize SNAP and other feeding programs. Preventing hunger is a moral imperative that should be shared by people in every party, every demographic, and every religion.

I encourage my colleagues to visit a local food bank in their district, or take the SNAP Challenge. Find out what it is like to live for just 1 day or 1 week as someone who struggles with hunger.

#### INVESTING IN ELECTRIC VEHICLES

(Ms. HAHN asked and was given permission to address the House for 1 minute.)

Ms. HAHN. Madam Speaker, Californians drive a lot, so when gas prices jump, we feel it first and the most. Back home, gas has jumped 26 cents in the last week and 57 cents since this time last year. We are paying on the average \$4.30 a gallon.

Our constituents need our help. They also understand the definition of insanity is doing the same thing over and over and expecting a different result.

I happen to drive a Nissan Leaf, an all-electric vehicle, which will be built right here in America in Tennessee in the near future. This gives me the benefit of driving past gas stations, but I don't have to fill up my tank to be shocked by the prices at the pump. And if given the opportunity, I think most Americans would jump at the chance to join me in driving right past those high gas prices and stop sending hundreds of billions of dollars to the Middle East.

"Drill, baby, drill" won't lower gas prices today or tomorrow, but it will feed our addiction to dirty fossil fuels which are quickly running out. Let's work together to invest in infrastructure for electric vehicles to make them more affordable and convenient. We will create jobs, take hold of the economy of the future, and end our dependence on oil.

#### JOBS AND THE ECONOMY

(Ms. EDDIE BERNICE JOHNSON of Texas asked and was given permission to address the House for 1 minute.)

Ms. EDDIE BERNICE JOHNSON of Texas. Madam Speaker, with the unemployment rate now at 8.3 percent, we continue to see positive signs that the U.S. economy is on the road to recovery. Now more than ever it is absolutely imperative that we continue to make critical investments in infrastructure, advanced manufacturing, and high-tech research and development. By doing so, we will address our crumbling roads and bridges, create jobs, and provide future generations

with the robust economic foundation on which to build a stronger America.

The President's budget has reflected the desire to make these important investments in our economy, and I urge my colleagues to also recognize the decisions we make today will have unavoidable consequences tomorrow.

While our economy is recovering, it is still fragile. Now is not the time to be making arbitrary cuts to key components of our economy. We all bear the burden of such cuts, and we are all ultimately responsible for the country's well-being.

#### GET OUR NATION BACK TO WORK

(Ms. CLARKE of New York asked and was given permission to address the House for 1 minute.)

Ms. CLARKE of New York. Madam Speaker, the American people's patience is wearing thin. A majority of the American people believe that jobs should be the number one priority of the 112th Congress. However, over a year has passed since the Republican majority took control of the people's House, and we have still not passed a single significant jobs bill.

To avoid any confusion, let's discuss what a jobs bill is not. A jobs bill is not a tax cut for the multimillionaires and billionaires. A jobs bill is not protecting subsidies for corporations that ship jobs overseas. And a jobs bill is not, Madam Speaker, dismissing out of hand the President's plan for reviving American manufacturing and creating a stronger and a more skilled workforce.

As our economy continues to recover from the recent economic downturn, it is past time for the Republican majority to work with the President and get our Nation back to work.

#### PROTECTING ACADEMIC FREEDOM IN HIGHER EDUCATION ACT

Ms. FOXX. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 563 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 563

*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2117) to prohibit the Department of Education from overreaching into academic affairs and program eligibility under title IV of the Higher Education Act of 1965. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chair and ranking minority member of the Committee on Education and the Workforce. After general debate the bill shall be considered for

amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Education and the Workforce now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentlewoman from North Carolina is recognized for 1 hour.

Ms. FOXX. Madam Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

GENERAL LEAVE

Ms. FOXX. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from North Carolina?

There was no objection.

Ms. FOXX. House Resolution 563 provides for a structured rule providing for consideration of H.R. 2117, which repeals the Department of Education's State authorization regulation and the Federal definition of a credit hour.

I think most people on both sides of the aisle would agree that our higher education system is the envy of the world. The bill we will consider today, H.R. 2117, the Protecting Academic Freedom in Higher Education Act, passed the House Education and Workforce Committee with bipartisan support on June 15, 2011, and I'm very, very proud of that.

□ 1230

A lot of Americans believe Members of Congress can't work together, but

H.R. 2117 shows the opposite. I appreciate the opportunity to work with my colleagues across the aisle to pass this legislation and hope we can find more ways to work together.

In 2010, the Department of Education issued a series of regulations purportedly aimed at improving the integrity of Federal student aid programs. Included in these regulations was a new "State authorization" rule that imposes a one-size-fits-all Federal mandate on institutions of higher education and infringes on the rights of States to regulate their higher education systems. Institutions are already required to be authorized by the State in which they're located. However, the Federal Department of Education was not satisfied leaving these decisions solely to States and added several Federal criteria to existing State authorization processes which would unnecessarily complicate the process for institutions and further burden already strapped State governments by increasing their workload.

In addition, it is unclear whether the regulation would require online education programs to be authorized in every State in which they have students. One online university reports the State authorization regulations could cost the institution \$700,000 initially, plus an additional \$400,000 annually. H.R. 2117 also repeals the Federal definition of a credit hour. This definition has historically been the jurisdiction of accrediting agencies and institutions. And again, the process has worked very well. There have been no complaints about it.

Last year, Excelsior College president John Ebersole testified in front of the Subcommittee on Higher Education and Workforce Training about this regulation, stating it inserts the Department of Education into academic judgments that should be made at the institution level and could destroy accelerated learning programs that allow students to complete their education more quickly.

These regulations will restrict innovation, limit flexibility, and pave the way for additional Federal overreach into higher education.

Madam Speaker, with that, I reserve the balance of my time.

Mr. MCGOVERN. Madam Speaker, I want to thank the gentlewoman from North Carolina, my good friend, Dr. FOXX, for yielding me the customary 30 minutes.

I yield myself such time as I may consume.

Madam Speaker, here we go again. Another day in the House of Representatives and another day without a jobs bill. It's almost March, and my Republican colleagues who control this House still have not put a meaningful jobs bill on the floor. In fact, their best chance of passing a jobs bill could have been the highway reauthorization bill,

but they screwed that up so badly that they had to yank it off the floor before an embarrassing bipartisan defeat.

So what are we doing today? Well, Madam Speaker, today, we're considering a bill targeting Department of Education regulations defining credit hours and setting minimum requirements that all higher education institutions must meet to be considered authorized by a State. We're targeting Department of Education regulations. We're not considering a jobs bill. There's no new, bipartisan highway bill. There's no bill that helps put cops, firefighters, and librarians back to work. And there's no new bill that helps train workers for the future.

The economy may be inching along, recovering slowly, but it still needs some help. We need a real, comprehensive jobs package. Instead, we just get a bill to dismantle a few regulations with no attempt to make our education system better. This is no way to run the House of Representatives.

Let's look at where we've been. They started off the new Congress with their health care repeal and replace, but we're still waiting on the replace part. To be clear, Republicans voted to take away health protections for seniors, they voted to take away health care protections for young people under 26, and they voted to take away health care protections for those with pre-existing conditions, but they haven't proposed anything to replace those important provisions.

Since then, the Republican leadership has played legislative Russian roulette with our economy by holding the debt limit discussions hostage, by holding up the payroll tax cut and unemployment insurance extensions multiple times, and, most recently, by proposing the most partisan highway reauthorization bill I think in the history of this Congress.

On top of that, the Republican leadership has wasted our time by debating resolutions to defund National Public Radio and Planned Parenthood. We have debated resolutions making it easier for unsafe people to carry concealed weapons across State lines. We've spent a good period of time on this House floor debating a bill to reaffirm our national motto. And soon we'll probably vote on a bill to restrict contraception, another attack on women's health by this Republican-controlled House.

Madam Speaker, there are more important things we should be doing, and, yes, education should be something we debate. I'm all for bills improving our education system. In fact, I'd welcome the opportunity to act in a bipartisan way to improve our school systems across the board. What we should be talking about today is college affordability. What we should be talking about today are ways to ensure that



every single American student has access to a quality education. And despite what Republican Senator Rick Santorum might think, it's not snobby to try to make sure our students have access to the best education possible.

What we should be considering on the floor of the House today is legislation to extend the tax deduction for tuition and fees that families across this country rely on to help bear the incredible burden of rising tuition costs. This deduction, Madam Speaker, of up to \$4,000 expired at the end of last year, and congressional action is required to extend this tax benefit past the 2011 tax year. But that is not what we are considering today on the House floor.

We should also be considering legislation to prevent the looming increase in subsidized Stafford student loan rates—from 3.4 percent to 6.8 percent—that will occur if Congress does not act before July 1, 2012. These need-based loans are critical for students who might otherwise be unable to attend college, and we should act now on legislation to stop the doubling of their interest rates. But, Madam Speaker, that is not what we are doing today.

Republican Governors, including the head of the Republican Governors Association, Virginia Governor Bob McDonnell, overwhelmingly support President Obama's college education agenda. But in the House of Representatives, all we see is an effort to attack and dismantle the President's initiatives and no attempt to actually make college more accessible and more affordable.

Madam Speaker, this is just another squandered opportunity by this Republican Congress. I can't say I'm surprised, but I am disappointed. It is time for us to work in a bipartisan way to focus on how to get this economy moving again and to focus on jobs. And when we focus on education, let's focus on issues that will make a real difference in the lives of our young people.

I reserve the balance of my time.

Ms. FOXX. Madam Speaker, I know my colleague is a very hardworking Member of Congress, and I know that he pays close attention to what's going on in the Congress. I'm sure he simply forgot the fact that we have passed over 30 bills in the House and sent them to the Senate, and the Senate has not acted on them. These 30 bills—we've actually passed hundreds of bills—but those 30 bills, in particular, were focused on creating jobs. Now, my colleague seems to have forgotten that. He seems also to have forgotten the fact that the Senate is controlled by his colleagues in the Democratic Party, and that's where the problem is with jobs bills.

Also, most of those 30 bills that we've passed, or a great number of them, had energy components, Madam Speaker, which would help bring down the cost

of gasoline, which would help improve our energy resources in this country. So we get a twofer for most of those bills. However, again, those bills are languishing in the Senate.

We have focused on creating jobs in the House, and one of the ways that we could truly create jobs is to reduce our deficit and reduce our debt. Republicans have been very much focused on that here in the House of Representatives, and in most cases, again, we get bipartisan support for those efforts.

□ 1240

In fact, the 30 jobs bills that have passed the House have had bipartisan support. So there are ways for us to work together.

I think the focus of my colleague is to increase spending, increase Federal Government involvement; and we know that that goes against the grain. We know from history that that does not improve the economy, does not create jobs.

We have an underemployment rate of over 15 percent, created beginning with the Democrats' takeover of the Congress in January of 2007, going through their 4 years. Then it really skyrocketed when President Obama was elected and was there for 2 years with a Democrat-controlled Congress.

So I'd just like to remind my colleague that he goes back a little ways in history in talking about things that we have done here, but he fails to mention some of the effects of what he and his colleagues had.

With that, I reserve the balance of my time.

Mr. MCGOVERN. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I would point out to my friend from North Carolina that the problem with the transportation bill, which had the potential to create millions of jobs in this country, was not the United States Senate. The problem with the transportation bill was the extreme right here in the House of Representatives that insisted that their leadership bring to the floor one of the most partisan, one of the most awful transportation bills we have ever, ever seen.

The sad thing is that transportation bills used to be bipartisan. In fact, they've always been bipartisan, where Democrats and Republicans would come together. This bill was so partisan that even a number of Republicans couldn't support it. So they yanked it from the House floor because they were fearful of an embarrassing defeat.

A good, robust surface transportation bill is a good jobs bill. We need to invest in our infrastructure in this country. We need to invest in our roads and our bridges and in mass transit. The transportation bill that the Republicans brought to the floor gutted mass

transit, just gutted it. So that's not a problem with the United States Senate; it's a problem with the leadership here in the House of Representatives.

My colleague talks about jobs. The President of the United States came to this Chamber and addressed the Nation on the need to create more jobs, on the need to help create a climate where more private sector jobs could happen. He submitted to us a plan. We cannot even get an up-or-down vote on the President's jobs plan. We can't even get a vote on it.

So when my friends talk about jobs, you know, we have this opportunity to at least vote on a jobs bill. If you don't want to vote for jobs, that's one thing; but at least give us the opportunity to vote up or down on it.

Just one other thing about the deficit and the debt. I don't know of a single economist who would disagree with the statement that this debt crisis that we're currently in began with the passage of the Bush tax cuts, which were not paid for. Then the prescription drug bill—that was a lot more expensive than my Republican colleagues advertised—wasn't paid for. Add on to that two wars, Afghanistan and Iraq, not paid for. The last time this country didn't pay for a war was when we borrowed money from the French to fight the British. I mean, we're going to war and asking the brave young men and women who serve in our military to put their lives on the line, and we're not even willing to pay for it. So that's how we got in this mess.

Add to that the greed on Wall Street which brought this economy to a halt, and here we are trying to struggle to get our economy back on its feet. But I'm going to tell you that we're not going to get this economy back on its feet unless we invest in the American people, unless we invest in education, unless we invest in our infrastructure, unless we invest in medical research, unless we invest in the innovation economy so that we can compete in the global economy in the years to come.

So I don't want to hear any lectures about deficits and debt. It is not even credible for my friends on the other side to point the finger on that, given the fact that when Bill Clinton left office we had record surpluses. We know how we started in this decline, and now we need to figure out a way to dig ourselves out.

So, again, I wish we were debating a transportation bill on the floor of the House today. I wish we were debating a bill to be able to address the fact that interest rates on student loans are going to increase unless we do something. We ought to make education more affordable for people. No one in this country who wants a college education ought not to get one because they can't afford it.

Those are the things we should be talking about here today. Instead, they

pulled the transportation bill and we're doing this today. And we'll be out of here on Thursday before noon, I'm told. The American people want us to work on their behalf.

I regret the fact that this bill, however well-intentioned, to me is not the legislation we should be debating right now. This is not the urgent need. We ought to be talking about jobs; and my friends on the other side of the aisle, when it comes to jobs, have an absolutely lousy record.

I reserve the balance of my time.

Ms. FOXX. Madam Speaker, there's so much to refute and so little time.

I would like to point out to my colleague that he mentions the Bush tax cuts. He conveniently forgets to mention that they actually should be called the Obama-Pelosi tax cuts because those tax cuts were extended in 2010 when President Obama was President and NANCY PELOSI was Speaker of this House. So they should no longer be called the Bush tax cuts. They should rightfully be called the Obama-Pelosi tax cuts because even those two people understood that we should not raise taxes in the middle of a horrible recession—brought on, I might say, by our colleagues across the aisle.

I'd also like to point out to my colleague from Massachusetts that—let's assume that those tax increases were allowed to go into effect. We would still have a \$400 billion deficit in this country. We know that if we took away every penny of wealth that those millionaires and billionaires—that they so desperately want to tax, if we took away every penny of their wealth—not just increased their taxes, but took all their wealth away from them, it would amount to a little over \$1 trillion. And then it wouldn't be available. There would be no tax increases available on those people in the future, and we still wouldn't have solved our problem.

Now, our colleagues across the aisle want to make it worse by continuing to spend money. I know my colleague is not on the Education Committee, and maybe he isn't aware of the fact that the Department of Education has the third largest share of our discretionary spending of all the Departments in the Federal Government. Only the Departments of Defense and Health and Human Services have larger budgets than the Department of Education, but it's still not enough money. And what have we got to show for all of that money? Test scores, absolutely flat; no improvement since 1965 for over \$2 trillion spent on education. Madam Speaker, I'm sorry, again, I can't allow my colleague to rewrite history in his own terms.

I'd also like to point out that when President Obama had both the House and the Senate in his control—60 votes in the Senate and 255 votes here—did he propose a jobs bill? No. He waited until he had been in office 3 years before he proposed a jobs bill.

My colleagues across the aisle were in charge of this body and the Senate for 4 years. Did they reauthorize the transportation bill? Did they reauthorize ESEA? No.

□ 1250

So I am sorry—I believe in that old saying, People who live in glass houses should not throw stones.

With that, I reserve the balance of my time, and I would advise my colleague from Massachusetts that I have no further speakers, and I am prepared to close.

Mr. MCGOVERN. Madam Speaker, I yield myself such time as I may consume.

Let me respond, Madam Speaker, by reminding my colleagues that when President Obama became President of the United States, he inherited the worst economy since the Great Depression. My colleagues don't like to hear that, but that's just the facts.

This has been a very difficult time not only for the U.S. economy but for the global economy. The President has been trying with little or no help from this House to get this economy back on the right track. The good news is that in spite of all the obstructionism here in the House of Representatives by my Republican colleagues, the economy is slowly but surely getting better little by little.

We could help that if we actually talked about jobs and actually voted on bills that were about investing in people and creating jobs, putting people back to work. We could accelerate this recovery, but the obstructionism continues. I should point out, Madam Speaker, that those of us on the Democratic side have nothing against rich people, millionaires or billionaires. It's fabulous that in this country people can accrue enormous wealth. Where we have problems is when Warren Buffett's secretary pays a higher tax rate than Warren Buffett. There's something fundamentally wrong with our tax system that puts all the burden on middle class families and basically provides a whole bunch of loopholes so that a lot of the wealthiest people and a lot of the wealthiest corporations in this country can escape paying taxes.

I think what people want is fairness. It's not about soaking the rich; it's about fairness. I'm going to tell you this tax system that we have right now isn't fair to middle class families at all. I would also say to my colleague, we talk about our deficits and we talk about our debt—don't exclude these wars that we're fighting. We borrow \$10 billion a month for Afghanistan alone. We borrow; we don't ask anyone to pay for it. It goes on our credit card. How is that being responsible? How is that doing the right thing? I want these wars ended. I think the war in Iraq was a mistake, and I want us to get out of Afghanistan as soon as humanly pos-

sible. But whether you're for or against these wars, you ought to pay for them. If you don't, it goes onto our credit card. We pay \$10 billion a month for Afghanistan alone.

Madam Speaker, I would also just say that one of the ways to get out of this deficit and out of this debt we have right now is to grow the economy, to put people back to work. The more people working, they pay taxes, and we can put it toward lowering our debt. What I fear and what has bothered me about my colleagues on the other side of the aisle is they have used the deficit as an excuse to go after programs like Medicare and Social Security and Medicaid, programs that provide a circle of protection for people in our country, our senior citizens who are the most vulnerable. Rather than going down that way, and rather than debating the bill that we're debating today, I wish we were debating the President's jobs bill. I wish we were debating something that we could send over to the Senate that would help put people back to work, that would help this economy grow faster. That's not what we're doing. We're doing the same old same old, which is not much of anything. This is a place, unfortunately, where trivial issues get debated passionately and important ones not at all.

With that, I yield back the balance of my time.

Ms. FOXX. Madam Speaker, I yield myself such time as I may consume.

I have to point out again to my colleague that the Democrats took control of the House of Representatives and also the Senate in January of 2007. When they did, the unemployment rate in this country was 4.5 percent. We were projected at that time to have a surplus in our budget of about \$450 billion. In just 2 short years, the unemployment rate skyrocketed and the deficit skyrocketed. The Democrats were in control of Congress when the President took office. That's why he inherited a rotten economy. He didn't inherit a rotten economy from President Bush. He inherited a rotten economy from his own party, and he's frankly done nothing to make it any better.

I would also like to point out to my colleague across the aisle that the stimulus that he voted for, which the President promised would do so much for the economy, was \$1 trillion, which is 9 years' worth of spending on national defense for the war in Iraq given his figures alone.

Madam Speaker, the American people have heard a lot recently about exploding college costs, the burden of student debt. President Obama highlighted these issues in his State of the Union address. Therefore, it is ironic that the Department of Education, which reports to him, is increasing the cost of higher education with unnecessary rules and regulations.

At the Subcommittee on Higher Education's hearing on college costs in November, we heard many suggestions on how colleges and universities could cut costs. We heard from colleges who have cut their operating budgets, offered expedited degree programs, and encouraged dual enrollment for high school students.

Students and families are struggling to make ends meet, and higher education institutions must find ways to cut costs. Imposing onerous rules and regulations at the Federal level is a disincentive to the schools to do that. It's also a major disincentive to one of the major innovations in education: distance learning. As I mentioned earlier, these unnecessary Federal regulations mean increased regulatory burdens for institutions, and in turn, greater compliance costs trickle down to increase expenses for students and their families.

The Federal Government's involvement in elementary and secondary education illustrates what happens when Washington gets too big. The most recent reauthorization of ESEA, the No Child Left Behind Act, is a perfect example of good intentions at the Federal level adrift in a feckless sea of red tape and overregulation. This law is a classic example of Federal top-down attempts to improve education in America's schools. It's a noble goal, but it has completely failed.

If we can agree on anything, it is that our children should be well educated and prepared for a life of productive citizenship. However, the Federal Government's ability to accomplish this is in serious doubt. As history has shown time and again, Federal meddling has resulted in a one-size-fits-all approach that neglects local concerns and produces a grotesque layer of wasteful bureaucracy. Right now my colleagues in the House Education and the Workforce Committee are working on the reauthorization of No Child Left Behind. While my colleagues across the aisle won't support all of our revisions, we did find consensus on charter school legislation last year. H.R. 2218 received bipartisan support in committee and passed the House by a bipartisan vote of 365–54 in September.

Although we may not always agree, I hope we can continue to find ways to work with our colleagues across the aisle to improve education in this country. Thomas Jefferson once said:

Were we directed from Washington when to sow and when to reap, we should soon want bread.

Madam Speaker, I urge my colleagues to vote for the rule and the underlying bill, which would repeal a small part of the burdensome and unnecessary Federal regulations that we're struggling with and take one step toward reducing Federal intrusion in higher education.

I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MCGOVERN. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 244, nays 171, not voting 18, as follows:

[Roll No. 74]

YEAS—244

Adams	Franks (AZ)	McHenry
Aderholt	Frelinghuysen	McIntyre
Alexander	Gallegly	McKeon
Amash	Gardner	McKinley
Amodei	Garrett	Meehan
Austria	Gerlach	Mica
Bachmann	Gibbs	Michaud
Bachus	Gibson	Miller (FL)
Barletta	Gingrey (GA)	Miller (MI)
Bartlett	Gohmert	Miller, Gary
Barton (TX)	Goodlatte	Mulvaney
Bass (NH)	Gosar	Murphy (CT)
Benish	Gowdy	Murphy (PA)
Berg	Granger	Myrick
Biggart	Graves (GA)	Neugebauer
Bilbray	Graves (MO)	Noem
Bilirakis	Griffin (AR)	Nugent
Bishop (NY)	Griffith (VA)	Nunes
Bishop (UT)	Grimm	Nunnelee
Black	Guinta	Olson
Blackburn	Guthrie	Palazzo
Bonner	Hall	Paul
Bono Mack	Hanna	Paulsen
Boustany	Harper	Pearce
Brady (TX)	Harris	Pence
Brooks	Hartzler	Petri
Broun (GA)	Hastings (WA)	Pitts
Buchanan	Hayworth	Platts
Buchson	Heck	Poe (TX)
Buerkle	Hensarling	Pompeo
Burgess	Herger	Posey
Burton (IN)	Herrera Beutler	Price (GA)
Calvert	Holt	Quayle
Camp	Huelskamp	Reed
Campbell	Huizenga (MI)	Rehberg
Canseco	Hultgren	Reichert
Cantor	Hunter	Renacci
Capito	Hurt	Ribble
Carter	Issa	Rigell
Cassidy	Jenkins	Rivera
Chabot	Johnson (IL)	Roby
Chaffetz	Johnson (OH)	Roe (TN)
Coble	Johnson, Sam	Rogers (AL)
Coffman (CO)	Jones	Rogers (KY)
Cole	Jordan	Rogers (MI)
Conaway	Kelly	Rohrabacher
Cravaack	King (IA)	Rokita
Crawford	King (NY)	Ros-Lehtinen
Crenshaw	Kingston	Roskam
Culberson	Kinzinger (IL)	Ross (AR)
Davis (KY)	Kissell	Ross (FL)
Denham	Kline	Royce
Dent	Labrador	Runyan
DesJarlais	Lamborn	Ryan (WI)
Diaz-Balart	Lance	Scalise
Dold	Latham	Schilling
Donnelly (IN)	LaTourette	Schmidt
Dreier	Latta	Schock
Duffy	Lewis (CA)	Schweikert
Duncan (SC)	LoBiondo	Scott (SC)
Duncan (TN)	Long	Scott, Austin
Ellmers	Lucas	Sensenbrenner
Emerson	Luetkemeyer	Sessions
Farenthold	Lummis	Shimkus
Fincher	Mack	Shuler
Fitzpatrick	Manzullo	Shuster
Flake	Marchant	Simpson
Fleischmann	Marino	Smith (NE)
Fleming	Matheson	Smith (NJ)
Flores	McCarthy (CA)	Smith (TX)
Forbes	McCaul	Southerland
Fortenberry	McClintock	Stearns
Fox	McCotter	Stivers

Stutzman	Upton	Wittman
Sullivan	Walberg	Wolf
Terry	Walden	Womack
Thompson (PA)	Walsh (IL)	Woodall
Thornberry	Webster	Yoder
Tiberi	West	Young (FL)
Tipton	Westmoreland	Young (IN)
Turner (NY)	Whitfield	
Turner (OH)	Wilson (SC)	

NAYS—171

Ackerman	Frank (MA)	Olver
Altmire	Fudge	Owens
Andrews	Garamendi	Pallone
Baca	Gonzalez	Pascarelli
Baldwin	Green, Al	Pastor (AZ)
Barrow	Green, Gene	Pelosi
Bass (CA)	Grijalva	Peters
Becerra	Gutierrez	Peterson
Berkley	Hahn	Pingree (ME)
Berman	Hanabusa	Polis
Bishop (GA)	Hastings (FL)	Price (NC)
Blumenauer	Heinrich	Quigley
Bonamici	Higgins	Rahall
Boren	Himes	Reyes
Boswell	Hinchey	Richardson
Brady (PA)	Hinojosa	Richmond
Braley (IA)	Hirono	Rothman (NJ)
Brown (FL)	Hochul	Roybal-Allard
Butterfield	Holden	Ruppersberger
Capps	Honda	Rush
Capuano	Hoyer	Ryan (OH)
Carney	Inslie	Sánchez, Linda
Carson (IN)	Israel	T.
Castor (FL)	Jackson Lee	Sanchez, Loretta
Chandler	(TX)	Sarbanes
Chu	Johnson (GA)	Schakowsky
Cicilline	Johnson, E. B.	Schiff
Clarke (MI)	Keating	Schrader
Clarke (NY)	Kildee	Schwartz
Clyburn	Kind	Scott (VA)
Cohen	Kucinich	Scott, David
Connolly (VA)	Langevin	Serrano
Conyers	Larsen (WA)	Sewell
Cooper	Larson (CT)	Sherman
Costa	Levin	Sires
Costello	Lewis (GA)	Slaughter
Courtney	Lipinski	Smith (WA)
Critz	Loebuck	Speier
Crowley	Lofgren, Zoe	Stark
Cuellar	Lowey	Sutton
Cummings	Lujan	Thompson (CA)
Davis (CA)	Maloney	Thompson (MS)
Davis (IL)	Markey	Tierney
DeFazio	Matsui	Tonko
DeGette	McCarthy (NY)	Towns
DeLauro	McCollum	Tsongas
Deutch	McDermott	Van Hollen
Dicks	McGovern	Velázquez
Dingell	McNerney	Vislosky
Doggett	Meeks	Walz (MN)
Doyle	Miller (NC)	Wasserman
Edwards	Miller, George	Schultz
Ellison	Moore	Waters
Engel	Moran	Watt
Eshoo	Nadler	Welch
Farr	Napolitano	Wilson (FL)
Fattah	Neal	Woolsey
Filner		Yarmuth

NOT VOTING—18

Akin	Lankford	Payne
Cardoza	Lee (CA)	Perlmutter
Carnahan	Lungren, Daniel	Rangel
Clay	E.	Rooney
Cleaver	Lynch	Waxman
Jackson (IL)	McMorris	Young (AK)
Landry	Rodgers	

□ 1326

Mr. CAPUANO changed his vote from "yea" to "nay."

Mr. BISHOP of New York changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. AKIN. Mr. Speaker, on rollcall No. 74, I was delayed and unable to vote. Had I been present I would have voted "yea."

Mr. ROONEY. Mr. Speaker, on rollcall No. 74 I was unavoidably detained. Had I been present, I would have voted "yea."

GENERAL LEAVE

Ms. FOXX. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 2117.

The SPEAKER pro tempore (Mr. NUGENT). Is there objection to the request of the gentlewoman from North Carolina?

There was no objection.

The SPEAKER pro tempore. Pursuant to House Resolution 563 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the consideration of the bill, H.R. 2117.

□ 1326

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 2117) to prohibit the Department of Education from overreaching into academic affairs and program eligibility under title IV of the Higher Education Act of 1965, with Mrs. MILLER of Michigan in the chair.

The Clerk read the title of the bill.

The CHAIR. Pursuant to the rule, the bill is considered read the first time.

The gentlewoman from North Carolina (Ms. FOXX) and the gentleman from California (Mr. GEORGE MILLER) each will control 30 minutes.

The Chair recognizes the gentlewoman from North Carolina.

Ms. FOXX. Madam Chair, I yield such time as he may consume to the distinguished gentleman from Minnesota (Mr. KLINE), chairman of the House Education and the Workforce Committee.

Mr. KLINE. I thank the gentlelady, Ms. FOXX, for yielding.

Madam Chair, I rise in support of H.R. 2117, the Protecting Academic Freedom in Higher Education Act.

The legislation before us today is driven by a simple goal: to ensure Washington isn't adding to the burden of rising college costs by imposing burdensome regulations.

Last year, tuition and fees at public 4-year colleges and universities increased over 8 percent. The average 4-year public college student now graduates with roughly \$22,000 in debt.

Helping more students realize the dream of an affordable higher education is a shared goal. However, solving a problem like rising college costs starts with recognizing that, as is so often the case, Washington is part of the problem.

Each year, the average higher education institution spends a significant amount of time and money complying with Federal regulations and reporting requirements, costs that can trickle down to students' tuitions and fees.

H.R. 2117 will eliminate two unnecessarily burdensome regulations advanced by the Department of Education in late 2010. The credit-hour and State authorization regulations were part of a so-called "program integrity" package that significantly increased Federal intrusion in academic affairs.

□ 1330

The credit-hour regulation attempts to measure student learning at the Federal level, and restricts colleges from offering outside coursework and creative learning opportunities that could help students save money and graduate early.

The State authorization regulation is even more troubling as it will lead to thousands of dollars in additional costs for colleges and universities across the Nation. In my home State of Minnesota, schools must spend between \$2,000 and \$3,500 per program, depending on the level of degree offered, to comply with this extreme regulation.

In order to best prepare today's students to join tomorrow's workforce, we must not overwhelm schools with poorly conceived regulations that lead to wasted time and money. H.R. 2117 will repeal two particularly problematic regulations, protecting academic institutions and prospective students from significant financial and bureaucratic burdens.

Madam Chair, I urge my colleagues to support the Protecting Academic Freedom in Higher Education Act.

Mr. GEORGE MILLER of California. Madam Chair, I yield myself 5 minutes.

Madam Chair and Members of the House, we are now considering legislation that would significantly compromise the Department of Education's ability to oversee and safeguard our Federal investment in higher education and safeguard and protect the taxpayers who are paying for that investment in higher education.

This legislation couldn't be more ill-timed. In this tough budget environment, we should be concerned with how the Federal Government spends the limited resources we dedicate to Federal student aid. During the 2009–2010 school year, students relied on nearly \$200 billion in Federal student aid to prepare for jobs for today and jobs for tomorrow. That's the money that they borrowed, and that's the money that was given to them in grants. If that money is not spent in a responsible way, and if it's not protected, it goes down the drain. It's lost forever, and the students are left with the debt.

Two years ago, the Department of Education's inspector general exposed a loophole that allowed a higher education institution to award more credits to get more student financial aid than was appropriate. They were charging for nine units a day that they said was graduate work. It turned out when the accreditors went through and

looked at it, they deemed it was really the equivalent of 3 hours of credit work, and the level of work was at the undergraduate level. But they were able to charge the students, students had to borrow money, and at the end of the day they ended up with units that were worth nothing. Students attending this institution, many of whom were relying on Federal aid programs, were paying double the price because the school inflated the number of credits charged.

In response to the inspector general's findings and recommendations, the Department of Education promulgated rules defining a credit hour and providing other protections for students, including ensuring students have access to a complaint process if there's fraud involved. What the Department of Education did was necessary and narrowly targeted to address a very costly problem.

However, the bill before us today seeks to prevent the Department from protecting taxpayers and students. It would blow open the loophole that the inspector general concluded led to the inappropriate Federal spending. In other words, Mr. Chairman, the bill before us today explicitly increases the risk of fraud, waste, and abuse in our Federal student aid programs.

At a time when the higher education market is in so much flux, with new kinds of programs popping up around the country and online, this is the wrong time to open this loophole against the taxpayers' best interest.

The Department of Education should have tools to ensure that students who are eligible to receive Federal student aid are receiving it, and that the institutions that serve these students are upholding the integrity of the programs. This seems like a simple proposition: making sure taxpayers and students aren't getting ripped off.

This legislation eliminates those important consumer protections, and it does so under the banner of academic freedom. But the Department's protections do not interfere with academic freedom. Colleges and universities will continue to be free under the Department's rule to set whatever higher standards they see fit for their students as long as the accreditors agree. In this economy, millions of students rely on Federal student aid programs to make the college dream a reality. This is exactly why the Department of Education has moved to ensure greater accountability and taxpayer protection. And it's exactly why the legislation is misguided.

Now more than ever, we need accountability in higher education that works in the best interests of students who use Federal aid programs.

In the last Congress, Democrats worked to make sure that our student aid programs worked in the best interest of students, families, and taxpayers. We also worked hard to make

higher education more accessible for families for whom degrees may have been out of reach.

One way we helped to make higher education more accessible and affordable and financially manageable for students and families was to lower the interest rates on loans. Specifically, we lowered the interest rate on need-based student loans to 3.4 percent, almost cutting the cost to those borrowers in half. The interest rate reduction is scheduled to end this summer. It will bounce back to where it was before the Democrats acted to reduce it. For the sake of our students, low rates should be extended. If Congress fails to act, interest rates on need-based student loans for more than 7 million students will double this July. This increase will cost an average borrower almost \$2,800 in additional interest payments.

At a time when our economy is on fragile footing, we shouldn't be building more hurdles for young people to get the education and the skills they need to succeed. When interest rates are at historic lows, we should not be asking students to pay more on their student loan debt just because Congress failed to act.

Earlier this month, Mr. HINOJOSA and I asked the committee's majority to take immediate action on this important issue. The President has called for action as well. But just like with other economic issues that are vitally important to the American people, those requests have been met with silence.

So today, instead of saving students from interest rate hikes, we are here debating a bill that will take away the tools the Department of Education needs to oversee and protect our investment in higher education, to protect those students who are borrowing money to go to college.

I urge my colleagues to vote against this legislation. I urge the majority to take up a bill to make sure that interest rates don't double come July.

I reserve the balance of my time.

Ms. FOXX. Madam Chair, I yield 3 minutes to the distinguished gentleman from Tennessee (Mr. ROE).

Mr. ROE of Tennessee. Madam Chair, I rise today in support of the Protecting Academic Freedom in Higher Education Act, H.R. 2117. This bipartisan legislation will prevent the Department of Education from defining a college credit hour, something that is best left to our institutions of higher learning and their accrediting agencies. It will also block a cumbersome new rule that will require States to use Federally set, one-size-fits-all criteria to regulate higher education. If these two rules were allowed to go into effect, it would create tremendous new burdens and additional cost for students.

The exploding cost of higher education is already putting the opportunity of a college education and di-

ploma out of reach for too many Americans. Last year, tuition and fees at public, 4-year schools increased by 8.3 percent. More regulations will lead to more administrative staff, and ultimately larger tuition bills. And I might add, the fact that one institution or several institutions break the law—we have laws against robbing banks, and people do that. There are unscrupulous people out there. But this is putting a burdensome regulation on the folks that are following the rules.

The average debt of a college graduate today is approximately \$22,000. When I went to medical school, I started in 1967 and graduated in 3 years in 1970. My father was a factory worker. I was able to work in medical school and graduate with no debt from college and medical school. That's unheard of today. Today, students are so far in debt that they'll spend much of their working life paying off these exorbitant loans that they have.

There is much that we can do to improve access to higher education and lower costs. Issuing new regulations, however, takes us in the opposite direction. I've taken hundreds of hours of college credit, and not one of them has been approved by the Federal Government, and yet I am a board certified physician. I think this goes way too far. Again, I urge my colleagues to support this legislation.

Mr. GEORGE MILLER of California. Madam Chair, I yield 3 minutes to the gentleman from Texas (Mr. HINOJOSA), the senior Democrat on the Higher Education Subcommittee.

Mr. HINOJOSA. Madam Chair, I rise today to express my opposition to H.R. 2117, the Protecting Academic Freedom in Higher Education Act, misguided legislation that repeals efforts to protect students' and taxpayers' investment in higher education.

Every year, the Federal Government spends billions of dollars on student financial aid, and we must account for these Federal investments. As ranking member of the Subcommittee on Higher Education and Workforce Training, I am deeply concerned that H.R. 2117 would undermine the Secretary of Education's ability to oversee and safeguard our Federal investment in higher ed.

In my view, strong regulations strengthen the accountability and review of institutions of higher education that participate in Federal student aid programs, and help to maintain program integrity.

In a globally competitive world, our students deserve to get what they pay for—high quality educational programs that prepare them for the demands of the 21st century workforce—and nothing less.

□ 1340

H.R. 2117 repeals the U.S. Department of Education's credit-hour regu-

lation, which sets a minimum standard for the work needed to equal a credit hour for the purposes of the Federal Student Aid program. To avoid having institutions overstate credit hours or inflate the Federal student aid paid for students attending those programs, we must have consistent measures for credit hours. The credit-hour definition provided by the Department is consistent with standard industry practice and provides needed flexibility for innovative programs.

H.R. 2117 also repeals the requirement that higher education institutions be legally authorized in the States they operate in and that they have a process in place for handling student complaints when an institution fails to live up to its promises. Repealing this regulation is clearly unacceptable. Students need to be protected from unscrupulous actors.

Most importantly, I am very disappointed that we are not using our time today to focus on making college more affordable. We must ensure that interest rates for need-based undergraduate student loans do not double from 3.4 percent to 6.8 percent in July of this year. If Congress fails to act, more than 7 million students will face approximately \$2,800 in higher loan repayment costs. Now, more than ever, American students need Congress' help to afford the cost of a college education.

In closing, I urge my colleagues to vote against H.R. 2117 because Congress and the Department of Education must provide strong oversight for Federal student aid dollars and do everything possible to put students and taxpayers first and protect them from the risk of fraud, waste, and abuse in our Federal student aid programs.

Ms. FOXX. Madam Chairman, I'd like to yield 2 minutes to the distinguished gentleman from Texas (Mr. CARTER).

Mr. CARTER. I thank my friend, Ms. FOXX, for yielding to me on this important issue.

Madam Chairman, I rise today to voice my strong support for this important legislation, H.R. 2117. Recently, bureaucrats at the Department of Education promulgated a rule which would require institutions that offer distance education programs to meet State requirements in every State in which they have a distance education student. This legislation that we have here would repeal that rule, a rule that negatively affects hundreds of colleges and thousands of students around this country.

Specifically, in my district, I'm very proud that I have Central Texas College. Central Texas College may be the largest community college in the United States, possibly the world; and it consistently has students of 75,000-plus every year. They provide both on-campus and distance education for thousands of American warfighters,

soldiers, sailors, airmen, and marines around the world. These folks who are in any place you could imagine are taking courses from Central Texas College, and they would be specifically impacted if the rule the bureaucrats have put upon us is not repealed. This is very important to the future of the educated warfighters.

Under this rule, only colleges that maintain significant resource reserves would be able to comply with these State authorization requirements.

Just let me point out that Central Texas College is a small public school doing great work for educating our soldiers around the world. We shouldn't let the bureaucrats in Washington take away the opportunity for an education for thousands of soldiers and other students that rely on distance education. This little school that sits on the edge of Fort Hood in Killeen, Texas, is educating soldiers around the world on shipboard and in military posts, and we need to make sure that this H.R. 2117 is passed to protect their education.

Mr. GEORGE MILLER of California. I yield 2 minutes to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. I thank my friend for yielding.

First, let me say I agree with my friend from California that the highest priority in higher education ought to be avoiding that doubling of student loan rates this summer. We should get to work on that.

Second, I rise in support of this bill, and let me tell you why. There is no question that avoiding fraudulent or wrongful credit hours is something we need to do. If someone pays for a credit hour, it ought to really be worth what they're paying for. And certainly, if the Federal taxpayers are paying for this through a Pell Grant or a student loan, it certainly ought to be worth what we're paying for.

The question is, Who is best positioned to make that determination? For years in American higher education, we've had a system where a combination of institutions, their regional accrediting bodies—which are peer accreditors—and to some extent State governments have decided the answer to that question. Without question, there have been some abuses. Without question, there have been some wrong answers. I don't think that those abuses or wrong answers justify adding another layer of decision-making to the system, which would be the Department of Education.

I certainly do think it is worth the attention of the committee, the Congress, and the administration to think about ways to root out the bad practices that we have seen; but I think yet another level of rulemaking is the wrong way to go.

The other objection that I would make to the rule is that I think that we've fallen into a pattern here, par-

ticularly in higher education, where too few decisions are being made in a statutory way by this body and too many decisions are being made by the Department of Education through the regulatory process. As a result of these objections, a broad coalition of educators across the country is in support of this bill, and I am pleased to join that coalition and urge a "yes" vote on the bill here today.

Ms. FOXX. Madam Chairman, I would like to thank Mr. ANDREWS for his pointing out that this is a very bipartisan bill, supported by a coalition of many groups.

I now would like to yield 2 minutes to my distinguished colleague from Pennsylvania (Mr. FITZPATRICK).

Mr. FITZPATRICK. Madam Chairman, I rise today in strong support of H.R. 2117, the Protecting Academic Freedom in Higher Education Act. This important legislation aims to repeal two of the Department of Education's packages of regulations that will hinder colleges and universities from making decisions that best serve their students.

These Federal regulations handed down from the Department of Education are not only proving to be costly, but they're intruding into areas best handled by academic institutions individually and also States.

Today, I urge my colleagues to join me in support of H.R. 2117 to repeal two regulations specifically that affect State authorization of academic institutions and the definition of credit hours. These provisions allow the Federal Government to reach further into the educational authority of the States. The State authorization provision requires institutions offering distance-education programs to meet requirements in every State in which they have a distance-education student. This regulation threatens programs like those offered by Penn State's World Campus and limits access to quality education.

Many programs have already started to identify States where they will no longer be able to offer distance education. The credit-hour provision establishes a Federal definition of a credit hour, hindering institutions of higher education from making innovative and sensible core academic decisions related to their curriculum and imposing a one-size-fits-all approach.

While I was home in Bucks County last week, Madam Chairman, I had the opportunity to meet with the president of a local college. He was worried specifically about the impact these burdensome regulations would have on his students; and more than 60 higher-education associations and accrediting organizations have joined him in expressing their support for the repeal of these costly regulations.

Over the course of the last decade, we've seen the cost of higher education

skyrocket, with the rise in tuitions and fees at public 4-year colleges and universities outpacing inflation by 5 percent. The rising cost of higher education will not be solved through more Federal mandates and programs. We must return flexibility to academic institutions and prevent Federal overreach into higher education by passing this bill.

Mr. GEORGE MILLER of California. I yield 2 minutes to the gentleman from New Jersey (Mr. HOLT).

Mr. HOLT. Madam Chair, I thank my friend from California. And here I join the New Jersey Presidents Council, which represents all the institutions of higher education in New Jersey, in support of this legislation, as well as the Association of Independent Colleges and Universities in New Jersey who support this bill, as well as the American Council on Education, which represents 1,600 college presidents around the country in support of this bill.

□ 1350

Clearly, there have been abuses in some businesses and some institutions and those abuses have to be addressed, but this legislation I think makes sure that we go about it in the right way.

I'd like to quote from one of my constituents, President Shirley Tilghman of Princeton University. She writes:

Unlike many nations elsewhere in the world, the United States has nurtured a vibrant and vigorous respect for academic freedom. Under such a system, American higher education has flourished.

She goes on:

But if recent trends continue, in which the staff at accrediting agencies seek to substitute their own judgments about what mission an institution should pursue and about how the institutions can best achieve that mission and measure success, we risk damaging the country's leading institutions.

In other words, the Department's rules strike at the heart of our excellent higher education. But whether these rules are in effect or not doesn't matter if students can't afford to go to college.

My amendment to this legislation to require Pell Grants be maintained at at least the current level of \$5,500 was not made in order. Now, in New Jersey, 213,000 students use Pell Grants to make college affordable.

There's bipartisan agreement on Ms. Foxx's bill, but unfortunately this is a partisan matter.

The CHAIR. The time of the gentleman has expired.

Mr. GEORGE MILLER of California. I yield the gentleman an additional 30 seconds.

Mr. HOLT. The Republicans in the House have three times approved a budget that would slash the maximum Pell Grant award to \$3,040, the lowest since 1998. Slashing Pell Grants would put college out of reach for thousands of students.

I call on the Republicans, because this is a partisan matter, to protect

Pell Grants and not roll them back to their 1998 levels in their budget this year.

Ms. FOXX. Madam Chairman, I yield myself such time as I may consume.

I rise in support of H.R. 2117. Today's debate on the Protecting Academic Freedom in Higher Education Act affords us a valuable opportunity to discuss challenges facing our higher education system.

I think that we all agree that we have a higher education system that's the envy of the world, and we all want to see it continue to enjoy the recognition that it enjoys now. But this also provides us an opportunity to show bipartisan support for the issue before us.

I want to thank my colleagues on both sides of the aisle for understanding the danger to the higher education community that the regulations are presenting to us and that they will stall the efforts in our country to make higher education more accessible and more affordable to everyone in the country.

There's no denying the cost of college is skyrocketing. Last year, tuition and fees at public 4-year colleges and universities increased 8.3 percent, even as inflation rose only by approximately 3 percent.

In recent months, students and families have urged Congress to take action on the issue of rising college costs. The administration has proposed several programs and initiatives that they claim will reduce student loan debt and rein in tuition. However, these initiatives only further entrench the Federal Government in the affairs of States and institutions. Rather than getting the Federal Government more involved in higher education, we can start by working together to remove harmful regulations that pile unnecessary financial burdens on colleges and universities.

The legislation before us today will eliminate two onerous regulations advanced by the Department of Education in October of 2010. The credit-hour and State authorization regulations will restrict innovation, limit flexibility, and pave the way for additional Federal overreach into higher education.

The State authorization regulation sets Federal requirements States must follow to grant colleges and universities permission to operate within the State, infringing on a State's ability to regulate in the way it chooses. For institutions that offer distance learning courses, this could mean meeting authorization requirements and paying authorization fees in all 50 States.

One online university reports the State authorization regulation could cost the institution \$700,000 initially, plus an additional \$400,000 required annually. Faced with this astronomical sum, the university could be forced to

pass these costs along to students in the form of higher tuition or new fees, or discontinue academic programs in some States. Either way, students will be the victims of this harmful regulation.

Higher education officials are also crying foul over a regulation that establishes a Federal definition of a credit hour. Last spring, Excelsior College President John Ebersole testified to the Subcommittee on Higher Education and Workforce Training about this regulation, stating it inserts the Department of Education into academic judgments that should be made at the institution level and could destroy accelerated learning programs that allow students to complete their education more quickly. As a result, students will have fewer opportunities to graduate early with a smaller loan burden, and schools will have less incentive to offer creative courses that promote learning outside the classroom.

I urge my colleagues on both sides of the aisle to continue to support this positive legislation, and I reserve the balance of my time.

Mr. GEORGE MILLER of California. I yield 3 minutes to the gentleman from New York (Mr. BISHOP).

Mr. BISHOP of New York. I thank Mr. MILLER for yielding.

I rise in opposition to this legislation, and I'm going to focus my remarks on the credit-hour piece of the legislation.

The Department of Education has established a minimum standard for the credit hour. This is being derided as taking away institutional flexibility. It's being described as a Federal overreach. It's being described as onerous. It's being described as dangerous.

Let's read the regulation. The regulation says that a credit hour is an amount of work represented in intended learning outcomes and verified by evidence of student achievement that is—here's the part I want us to pay attention to—an institutionally established equivalency that reasonably approximates not less than 1 hour of classroom instruction for 15 weeks per credit hour.

An institutionally established equivalency; that places the responsibility for determining what a credit hour is where it belongs—with the faculty and with the accreditor of that particular institution, so long as it complies with a minimum Federal baseline or minimum Federal standard.

Now, with respect to overreach, with respect to how dangerous this is, with respect to how onerous this is, let's be clear: this very definition of a credit hour has been the law in the State of New York since 1976. We have some pretty good institutions in New York that have managed to survive even in the face of this so-called "onerous" regulation. Columbia University is one

of the best universities in the world; so, also, is NYU; so, also, is Fordham; so, also, is Syracuse. This has been the law.

I administered a school in the State of New York. Our cost of compliance for complying with the credit-hour regulation was exactly zero, and we were able to create all kinds of innovative programs—a semester at sea, cooperative education, internships, truncated courses that met in accelerated time formats for 4 and 5 weeks—all because we established an institutional equivalency that was agreed to by our faculty and agreed to by our accreditors. That's all this regulation does.

So for us to describe it as if it's going to end higher education as we know it and it's going to stifle innovation and be onerous to students and add to the length of time for their degree program simply is not true. We have a 35-year experience in New York that says that this regulation works just fine.

Lastly, let me say we define an academic year as consisting of 24 to 36 credit hours. That's what the Federal Government says. We say that you need to take at least 6 credit hours in order to be minimally eligible for financial aid, and yet we don't define the credit hour. So we base a great many of our judgments on what a credit hour is, yet we don't define it.

Let's vote against this piece of legislation.

□ 1400

Ms. FOXX. Madam Chairman, I would just like to point out very briefly to my colleague, Mr. BISHOP, that institutions have always had the authority to do institutionally approved equivalency. It isn't something that we needed the Federal Government to give us. As a former assistant dean, I did that all the time, approved institutional equivalence to courses. We have always had that approval. We didn't need the Federal Government to write it into rules and regulations.

Madam Chairman, I now yield 2 minutes to the distinguished gentleman from Indiana (Mr. ROKITA).

Mr. ROKITA. I thank the gentleman from North Carolina for yielding me the time, and not just for the time but for her continued leadership on the floor of this House and in the Halls of Congress. It is steady, it is dignified, it is common sense, and it is certainly a great reflection of the people she represents.

I rise this afternoon to give my strong support to this measure.

During this time of economic uncertainty and high unemployment, it is more important than ever to make sure the Federal Government does not stand in the way of Americans who wish to continue their education and gain the skills necessary for a more prosperous future. It's pretty simple. I believe a strong higher education system is critical to preparing American



graduates for an increasingly competitive workforce.

In Indiana, my students are not just competing with other students in Fort Wayne and Evansville. They are competing with students from places all over the world whose names we can barely pronounce. That requires a different strategy. However, the regulatory initiatives put forth by the Department of Education will only add strain and undue burden on our colleges and universities.

One of these regulations pertains to the authorization that a college or university must obtain from a State when operating within that State. For institutions providing online education programs, which is becoming the new norm, this regulation could require them to obtain authorization in every State where enrolled students reside in order to participate in the Federal student aid programs. This regulation will only serve to negatively impact States and institutions of higher education across the country and inject the Federal Government once again into an issue that is best left to the States and the postsecondary institutions themselves.

I heard from many outstanding institutions in Indiana on this regulatory change. They are facing hundreds and potentially thousands of additional administrative hours just because they offer online programming. That is not fair. That is not American. Not only that, but if this rule goes into effect, they will likely deny entrance to students in States where they are not approved and deny financial aid to any current students living in those States, as well.

For all these reasons, I urge my colleagues to adopt this measure.

Mr. GEORGE MILLER of California. I yield 2 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Madam Chair, we've just spent the last few hours in an Education and Workforce Committee markup debating the disastrous Republican rewrite of the Elementary and Secondary Education Act. Not content to undermine K-12 education, the majority adjourned the markup so they could come down here and inflict damage on higher education, as well.

Through the repeal of two important Department of Education regulations, H.R. 2117 undercuts college students' ability to be assured a quality education for their investment. Congresswoman Foxx's bill repeals two Department of Education regulations intended to protect consumers, students, taxpayers, and the money that we invest in higher education because it doesn't hold the spending accountable to ensure that there's real progress for the dollars that we invest.

This bill doesn't do anything to solve the problem of how to make college more affordable for more people. Why

are we doing this? Why aren't we addressing the absolutely looming student loan interest rate hike that will drastically increase the cost of college? If Congress doesn't act by July, more than 7 million students will face an increase of approximately \$2,800 in higher costs.

At a time when a sluggish economy is making it hard for young people to find work, why aren't we standing here talking about cutting the barriers to higher education? Why aren't we opening a pathway to the American Dream? Why are we restricting access to a college education? Why aren't we working for these kids instead of against them? I don't understand this. We should be working together to increase accountability. We should be protecting taxpayer investments. We should be opening the door to higher education. Instead we're debating this wasteful partisan piece of legislation.

I urge all Members to vote "no."

Ms. FOXX. Madam Chairman, I yield 3 minutes to the distinguished gentleman from Ohio (Mr. AUSTRIA).

Mr. AUSTRIA. I thank the chairwoman for her hard work on this bill.

A year ago I spoke on the House floor urging this committee to introduce legislation repealing the program integrity regulations. Today I speak in support of H.R. 2117, which repeals two of these regulations.

While we must ensure that our small number of schools who have acted in bad faith are dealt with accordingly, the credit-hour and State licensing regulations are an overreaction with vast unintended consequences. First, these regulations will significantly alter the Federal role in the accrediting and licensing of institutions of higher education. Second, they will also drastically limit student access to educational programs and negatively impact all schools.

Let me give you an example of a school located in the Midwest in my district—Ohio Christian University—as an example of a school that will be adversely affected by these regulations. OCU is located in Pickaway County, which is a typical county in southeastern Ohio and mirrors that of many across the Midwest. It is struggling with this difficult economy. It has lost over 2,500 jobs, and only 11 percent of the residents in this county have a bachelor's degree.

In contrast, Ohio Christian University has created 150 jobs in just 5 years while graduating thousands of students since its founding in 1948. In addition to offering traditional undergraduate degrees, OCU offers an online degree program. Currently, more than 1,000 students from over 15 States are enrolled in that program. Because of the high costs and administrative burdens required to get licensing in every State where an online student resides, OCU will be forced to un-enroll at least half

of its online students and lay off a large number of staff. Further, as part of the adult degree program, OCU offers a limited number of credit hours for prior learning and work experiences. This program allows nontraditional students the ability to return to school and earn their degree. To comply with the credit-hour regulation, the university will be forced to eliminate that program, which would be a significant disincentive for older students. The regulation will also negatively impact traditional students by setting a strict definition of credit hour, and this will eliminate the school's ability to credit innovative courses which provide students with the cutting-edge skills and knowledge required for future employees.

Today I urge my colleagues to protect our schools, States, and students from these burdensome, overreaching regulations by supporting H.R. 2117.

Mr. GEORGE MILLER of California. Madam Chair, I yield 2 minutes to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Thank you very much, Mr. MILLER.

I rise in opposition to H.R. 2117, the Protecting Academic Freedom in Higher Education Act.

This legislation would remove critical safeguards ensuring that American taxpayer dollars are used responsibly in our higher education system. For example, unregulated for-profit colleges are targeting our veterans, targeting low-income students, and targeting minorities. These institutions receive a high percentage of their revenue from Federal student loan dollars, yet they're failing to properly educate their students. As a result, the students who need the most support are failing to get it. They are more likely to drop out, graduate without a degree and without the proper training they need to obtain gainful employment. And in turn, they're unable to pay back their student loan debt. H.R. 2117 would let the for-profit colleges off the hook.

We must start focusing our efforts on making college more affordable for all students. We must stop the interest rates from doubling on student loans and provide for innovative ways to help students pay back their loans rather than condemning them to early lives of debt.

□ 1410

We need to increase the maximum Pell Grant and broaden the eligibility for them. We need to invest in programs at community colleges that train students to enter into our workforce. We need to refocus our attention on assisting young Americans to obtain the education they need and deserve instead of repealing regulations that protect our investment in their future.

I urge my colleagues to join me in opposing this bill.

Ms. FOXX. Madam Chairman, I reserve the balance of my time.

Mr. GEORGE MILLER of California. Madam Chairman, I yield 2 minutes to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Madam Chairman, I rise in opposition to this legislation which will enable even more fraud and abuse in the for-profit college industry.

Right now, many for-profit colleges are engaged in the same sorts of predatory lending schemes that we saw in the housing market. According to Holly Petraeus at the Consumer Financial Protection Bureau, recruiters from for-profit colleges have been signing up marines with serious brain injuries, marines who cannot even remember what they signed up for, in order to inflate their profits.

According to a 2009 Pew study, even though only 1 in 14 students, or 7 percent, attend these proprietary schools, they make up nearly half, 44 percent, of the default rate on student loans.

So, if anything, we need more comprehensive oversight over for-profit colleges. Instead, this bill repeals regulations that are already on the books and makes it easier for the institutions to commit fraud at the expense of students and taxpayers.

What the bill does is it overturns regulations for awarding the Federal student aid that are aimed at ensuring accountability and reducing fraud. It removes the ability of the Secretary of Education to define a credit hour without providing an alternative. It removes the Federal Government's ability to protect students from being overcharged and ultimately overcome by costly student loans. By getting rid of the State authorization requirement, it opens the door to billions of taxpayer dollars going to institutions that are openly flouting the law. It's about manipulating credit hours in order to receive more Federal aid.

Instead of deregulating for-profit colleges, we should be working to ensure that these institutions are fulfilling their obligations to their students. We should work to fix the real problems that students face right now: growing student debt and the upcoming interest rate increase on student loans. This bill will only cause more fraud and abuse in a sector that is already rife with it, and I urge my colleagues to oppose it.

Ms. FOXX. Madam Chairman, I would like to point out that this bill, again, has bipartisan support.

We have a letter from the National Governors Association, which talks about the need to strengthen higher education, not give more Federal control; and a letter from the American Council on Education, signed by Molly Corbett Broad and 98 institutions from across the country, mostly public and private institutions.

This is not a for-profit or a public issue. This is all institutions of higher

education who are concerned with this issue.

NATIONAL  
GOVERNORS ASSOCIATION,  
Washington, DC, July 1, 2011.

Hon. HARRY REID,  
Majority Leader, U.S. Senate,  
Washington, DC.

Hon. JOHN BOEHNER,  
Speaker of the House, House of Representatives,  
Washington, DC.

Hon. MITCH MCCONNELL,  
Minority Leader, U.S. Senate,  
Washington, DC.

Hon. NANCY PELOSI,  
Minority Leader, House of Representatives,  
Washington, DC.

DEAR MAJORITY LEADER REID, SENATOR MCCONNELL, SPEAKER BOEHNER, AND REPRESENTATIVE PELOSI: On behalf of the nation's governors, we write in support of H.R. 2117, the "Protecting Academic Freedom in Higher Education Act." In June, the U.S. House Education and the Workforce Committee passed H.R. 2117 on a bipartisan basis. We urge Senate and House leadership to take action to approve this important legislation to preserve the autonomy and strength of America's higher education system.

H.R. 2117 would repeal two federal regulations issued by the U.S. Department of Education that are highly problematic for states, institutions of higher education, and our students. Specifically, the bill would repeal the new federal definition of a credit hour and a new requirement that erects federal hurdles for states to authorize higher education programs. Additionally, the bill prohibits future action by the U.S. Department of Education to promulgate new federal mandates, rules, or regulations with respect to a federal definition of a credit hour.

Perhaps at no other time in history has the quality of our higher education system been so vital to students and our national economic interests. At the same time, across the country, governors are pursuing innovative higher education reforms to expand opportunities for students, create and retain jobs, enhance state competitiveness, and expand economic development. The new federal regulations could have a chilling effect on innovation and productivity in higher education.

Governors urge your support of H.R. 2117. We look forward to working with you to continually strengthen our nation's higher education system.

Sincerely,

GOVERNOR JEREMIAH W.  
(JAY) NIXON,  
Chair, Education,  
Early Childhood and  
Workforce Com-  
mittee.

GOVERNOR ROBERT F.  
MCDONNELL,  
Vice Chair, Education,  
Early Childhood and  
Workforce Com-  
mittee.

AMERICAN COUNCIL ON EDUCATION,  
Washington, DC, February 27, 2012.

DEAR REPRESENTATIVE: On behalf of the higher education associations and accrediting organizations listed below, I urge you to vote for H.R. 2117, which would repeal two highly problematic and prescriptive regulations initiated by the Department of Education (ED).

The credit hour definition and state authorization regulations took effect on July 1, 2011. They are the product of a larger at-

tempt by ED to curb abuse and bring greater integrity to the federal student aid programs. These efforts are laudable, and many portions of the regulatory package ED produced will be effective in achieving their intended goals. However, given the almost total lack of evidence of a problem in the context of credit hour or state authorization, these two portions of the package miss their mark. We see no justification for two regulations that so fundamentally alter the relationships among the federal government, states, accreditors and institutions. We believe the outcome of this unprecedented regulatory overreach will be inappropriate federal interference in campus-based decisions in which the faculty play a central role. The end result will be a curtailment of student access to high-quality education opportunities.

A federal credit hour definition opens the door to federal interference in the core academic decisions surrounding curriculum, which is the exact type of interference expressly prohibited in the act that created ED. It sets in motion the basis for perpetual regulatory intervention in multiple institutional and accreditation decisions associated with the credit hour. Moreover, the federal definition at issue poses serious challenges for institutions as they review tens of thousands of courses in an effort to ensure consistency with it. Accreditors face similar burdens as they attempt to develop or revise their own policies and practices to review institutions' credit policies for consistency with the definition. Finally, the definition places accreditors in the untenable position of being required to put aside the academic judgments of the traditional peer review process and instead substitute the federal government's judgment about a critical component of the academic enterprise.

The state authorization regulation intrudes upon prerogatives properly reserved to the states, potentially upsetting recognition and complaint resolution procedures that have functioned effectively for decades. It has also generated enormous confusion in the distance education arena and has created a market for definitive legal compilations of the extensive number of statutory requirements within each of the states with which institutions must comply. Having no way to accurately predict or control student mobility, most institutions will need to pursue authorization in all 50 states even before knowing from which states their students may ultimately enroll. State policies vary widely. They can be complex, are often ambiguous and may be accompanied by fees that may be cost-prohibitive for many public and non-profit institutions. At the end of the day, the most pernicious consequence of the state authorization regulation might be that institutions that have been exploring the expansion of their online courses in order to lower the costs of tuition will not find it economically feasible to continue down this path.

It is important to note that neither of these regulations was developed in response to underlying legislation indicating a desire by Congress to regulate colleges and universities in these areas. To the contrary, as we have noted, the credit hour definition conflicts with ED's enabling legislation which prohibits interference in core academic matters.

We believe these regulations are misguided and will have far-reaching negative consequences for higher education. We strongly

support H.R. 2117, and we ask you to vote in favor of its adoption.

Sincerely,

MOLLY CORBETT BROAD,  
*President.*

On behalf of:

#### HIGHER EDUCATION ASSOCIATIONS

ACPA-College Student Educators International; American Association of Colleges for Teacher Education; American Association of Colleges of Nursing; American Association of Colleges of Osteopathic Medicine; American Association of Community Colleges; American Council on Education; American Dental Education Association; American Indian Higher Education Consortium; American Psychological Association; Appalachian College Association.

Association of American Medical Colleges; Association of American Universities; Association of Benedictine Colleges and Universities; Association of Catholic Colleges and Universities; Association of Chiropractic Colleges; Association of Community College Trustees; Association of Governing Boards of Universities and Colleges; Association of Independent Colleges and Universities in New Jersey; Association of Independent Colleges and Universities of Ohio; Association of Independent Colleges of Art & Design.

Association of Independent Kentucky Colleges and Universities; Association of Jesuit Colleges and Universities; Association of Presbyterian Colleges and Universities; Commission on Independent Colleges and Universities in New York; Conference for Mercy Higher Education; Council for Christian Colleges & Universities; Council for Higher Education Accreditation; Council for Opportunity in Education; Council of Graduate Schools; Council of Independent Colleges.

EDUCAUSE; Federation of Independent Illinois Colleges & Universities; Georgia Independent College Association; Hispanic Association of Colleges and Universities; Independent Colleges and Universities of Texas; Independent Colleges of Washington; Independent Colleges of Indiana; Kansas Independent College Association; Louisiana Association of Independent Colleges and Universities; NASPA-Student Affairs Administrators in Higher Education.

National Association of College and University Business Officers; National Association of Independent Colleges and Universities; National Association of Student Financial Aid Administrators; New American Colleges and Universities; South Carolina Independent Colleges and Universities; Tennessee Independent Colleges and Universities Association; University Professional & Continuing Education Association; Wisconsin Association of Independent Colleges and Universities; Women's College Coalition; Work Colleges Consortium.

#### REGIONAL ACCREDITATION ORGANIZATIONS

Accrediting Commission for Community and Junior Colleges, Western Association of Schools and Colleges, Accrediting Commission for Senior Colleges and Universities, Western Association of Schools and Colleges; Commission on Institutions of Higher Education, New England Association of Schools and Colleges; Middle States Commission on Higher Education; Northwest Commission on Colleges and Universities; Southern Association of Colleges and Schools Commission on Colleges; The Higher Learning Commission of the North Central Association of Colleges and Schools.

#### OTHER ACCREDITATION ORGANIZATIONS

ABET; Accreditation Council for Pharmacy Education; Accreditation Review Com-

mission on Education for the Physician Assistant; Accrediting Commission of Career Schools and Colleges; Accrediting Council for Independent Colleges and Schools; Accrediting Council on Education in Journalism and Mass Communications; American Board for Accreditation in Psychoanalysis, Inc.; American Board of Funeral Services Education; American Dental Association Commission on Dental Accreditation; American Occupational Therapy Association—Accreditation Council for Occupational Therapy Education.

American Speech-Language-Hearing Association; Association for Biblical Higher Education; Commission on Accreditation; Association of Advanced Rabbinical and Talmudic Schools; Association of Specialized and Professional Accreditors; Commission on Accreditation for Marriage and Family Therapy Education; Commission on Accreditation in Physical Therapy Education/American Physical Therapy Association; Commission on Accreditation of Allied Health Education Programs; Commission on Accreditation of Healthcare Management Education; Commission on Accrediting of the Association of Theological Schools; Commission on Collegiate Nursing Education.

Council for Accreditation of Counseling and Related Educational Programs; Council of Arts Accrediting Associations, including: National Association of Schools of Art and Design; National Association of Schools of Dance; National Association of Schools of Music; National Association of Schools of Theatre; Council on Academic Accreditation in Audiology and Speech-Language Pathology; Council on Accreditation of Nurse Anesthesia Educational Programs; Council on Chiropractic Education; Council on Education for Public Health.

Council on Naturopathic Medical Education; Council on Podiatric Medical Education; Council on Rehabilitation Education; Council on Social Work Education; Distance Education and Training Council; Joint Review Committee on Education in Radiologic Technology; Joint Review Committee on Educational Programs in Nuclear Medicine Technology; National Accrediting Agency for Clinical Laboratory Sciences; National League for Nursing Accrediting Commission; Teacher Education Accreditation Council; Transnational Association of Christian Colleges and Schools.

With that, I reserve the balance of my time.

Mr. GEORGE MILLER of California. Madam Chair, I yield 2 minutes to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Madam Chairman, I rise today in opposition to H.R. 2117, the Protecting Academic Freedom in Higher Education Act.

This legislation will simply wipe out all of the credit-hour and State authorization program integrity rules. These rules are so important and crucial because this is what prevents the widespread rip-off, fraud, and abuse in this industry.

H.R. 2117 would repeal the Department of Education's State authorization regulation, which gives States the ability to enforce their right to require that all colleges operating within their jurisdictions be authorized to do so. Without this State authorization rule, States have no way of knowing which

colleges operate within their State unless they operate on physical campuses.

The State authorization rule simply requires that, as a condition for a receipt of Federal aid, colleges verify that they have authorization from the States in which they operate and are in adherence to their State education laws.

This legislation also aims to overturn the rule creating a sweeping Federal definition of credit hour. Currently, there is no common understanding of what colleges mean when they use the word "credit."

The most egregious result of this provision's repeal is the abuses of for-profit colleges, like the American Intercontinental University, who has been charged with inflating their credit hours to a point when they offered nine college credits for courses that were only 5 weeks long.

The Federal definition of a credit hour is imperative to directly address colleges that have been inflating their credits to acquire more Federal student financial aid dollars.

This rule will also help mitigate the widespread problems students face in transferring credits from one institution to another by articulating a more precise measure of educational concept attainment represented by credits a student earned.

The Acting CHAIR (Mrs. EMERSON). The time of the gentlewoman has expired.

Mr. GEORGE MILLER of California. I yield the gentlewoman an additional 30 seconds.

Ms. WATERS. This program's integrity rules have been put in place to ensure that all students receive a fair shake in their quest to obtain a higher education. Instead of working against the Department of Education and Secretary Duncan, policymakers should be working with them to implement these rules in a sensible way, not trying to repeal them altogether.

Ladies and gentlemen, what is happening with private postsecondary schools is the next biggest scandal. You think the subprime meltdown was big, when American taxpayers find out how much of their tax dollars are being ripped off by these private postsecondary schools who have a Joe Blow school for computer learning with no computers, teachers who are not accredited, credit hours that are distorted, and students who don't get trained, don't get education, can't transfer anything, and end up with a lot of debt, I ask you to please reject this legislation.

I have the greatest respect for the legislator who's introduced this, but this is wrong. This is a rip-off, and we should be against it.

Ms. FOXX. Madam Chairman, I appreciate the comment of my colleague from California, and I continue to reserve the balance of my time.

Mr. GEORGE MILLER of California. We have no further speakers, Madam Chair, and I yield myself such time as I may consume.

Madam Chairman, I would just conclude that I think, when you consider the \$200 billion that the taxpayers of this country provide through the Federal Government student aid programs to the institutions of higher education all across the country, all of different dynamics, that before we throw out what modest accounting system we have for trying to make sure that we buy value for each and every student who spends their money, the money that they borrow, the money that their parents borrow to try to provide them the educational opportunities so that they can participate in the greater American opportunity all across this country, we ought not to be throwing this system out.

As Mr. BISHOP pointed out, this is a minimum requirement. It's a requirement that many people will recognize. When you sign up for a three-unit course, very often you find you spend 3 hours a week in that class. If you sign up for a five-unit course, you're spending more time.

The question really becomes—now as we see a lot of different institutions mixing into this space and receiving and living off almost 85 to 90 percent of their revenues that come from the Federal taxpayers—do these courses really have value? Are they giving the student the value for which they're signing up?

The record is replete that in many instances that's not the case, that in many instances the students have been defrauded. In many instances, it was represented that this was all transferable to the State colleges and to the university systems when, in fact, it turned out not to be true.

I think that we ought to make sure that we don't throw out that current accounting system to make sure that taxpayers and students are getting value for the money that they spend and the money that they work hard to pay back at a time when we have nothing to take its place.

The idea now that in the future you need no accreditation in a State to start up an institution and then you have access to all of the revenues you can grab from the Federal Government makes no sense to me at all. We ought to have accountability in this system, and that accountability runs to the students and it runs to the taxpayers in this country. I would hope that we would reject this legislation.

I yield back the balance of my time.

□ 1420

The Acting CHAIR. The gentlewoman from North Carolina has 12 minutes remaining.

Ms. FOXX. Madam Chairman, I yield myself the remainder of my time.

No one in this body believes more in accountability than I do. However, increasing Federal control over our lives and over institutions of higher education is not the way to go. As Jefferson said—and I paraphrase—if we allow Washington to tell us when to sow and when to reap, we should soon want bread.

In order to make postsecondary education more affordable and accessible for students, we need to encourage innovation on our college campuses and allow institution leaders to develop and implement their own solutions to drive down the costs for students. However, this cannot happen if the Federal Government continues to attempt to micromanage our higher-education system by imposing more regulations.

The Protecting Academic Freedom in Higher Education Act repeals two onerous regulations that give the Federal Government unnecessary control over the academic affairs of colleges and universities. H.R. 2117 will ensure institutions can continue to develop innovative programs and course options to meet students' needs. We have letters of support from colleges, higher-education associations, and the National Governors Association on this legislation.

When the Education and the Workforce Committee held a markup of H.R. 2117 last summer, I was also pleased to have the support of many of my colleagues on the other side of the aisle. I hope we can continue to work together by approving this legislation to help students and colleges. I strongly urge my colleagues to support the Protecting Academic Freedom in Higher Education Act.

I yield back the balance of my time.

Mr. HERGER. Madam Chair, the federal government's overreach into education is doing more harm than good for our schools and universities. The bill before us today, the Protecting Academic Freedom in Higher Education Act, would repeal some of the more heavy-handed regulations created by the Department of Education. I am concerned that states becoming actively involved in the accreditation process could adversely affect private universities in Northern California and throughout the U.S. by adding another layer of costly mandates and bureaucratic interference. I also do not believe the federal government should micromanage universities through actions such as defining the credit hour, which interferes with the academic authority of university leaders. I strongly support this legislation ending both of those harmful and unnecessary rules, and I hope the Senate will join us in eliminating these excessive regulations.

Mr. McKEON. Madam Chair, I rise in strong support of H.R. 2117, the Protecting Academic Freedom in Higher Education Act. I want to first thank the gentlewoman from North Carolina for sponsoring this important piece of legislation and Chairman KLINE for giving H.R. 2117 the attention it deserves.

In October of 2010, the Department of Education introduced a regulatory package that

aimed to improve the integrity of student financial aid programs, such as Pell Grants and federal student loans. However, the outcome was an introduction of two new burdensome rules, the credit hour and state authorization regulations. Two more prime examples of the current Administration's overreaching regulatory agenda. I have deep concerns about the impact these regulations will have on college affordability.

Under the new credit hour regulation, federal student aid would be awarded to students based on the number of credits they take each term with the federal government defining a credit hour. This would discredit and negatively impact the traditional role of colleges and universities. Not only would this undermine colleges and universities but it would also overrule a state's determination of whether an educational program is a credit hour. In turn, this could lead to students receiving less federal aid or taking a slower path to graduation which results in fewer choices for students looking for postsecondary options to further their education. Overall students should be measured by how much they learn in the classroom instead of how much time they spend in the classroom.

The State Authorization regulation would impose a one-size fits all approach to America's higher education community and weaken what is currently a strong and diverse community of institutions, each with their own unique missions. This new management style would result in unnecessary and excessive costs not only on states and universities but as well as the students. Furthermore, it would give states unprecedented authority over private and religious institutions.

H.R. 2117 puts the right foot forward by repealing these burdensome regulations and instead focuses on the student and fosters an environment that enables them to learn and grow in a cost-effective manner. This legislation not only protects the student but also the academic institutions enabling them to focus on the individual by helping them excel in the academic community rather than having to worry about big government and its regulations.

Mr. VAN HOLLEN. Madam Chair, I rise to oppose H.R. 2117, which would repeal important consumer and taxpayer protections without providing an alternate solution to safeguard students.

Under the Higher Education Act, the federal government, states, and accrediting agencies share responsibility to ensure that students receive a high quality education. As the federal government invests billions in federal student assistance, this "triad" must also work together to protect taxpayers from fraud and abuse. The Department of Education issued regulations intended to clarify the state's responsibility to authorize institutions and ensure that they have a system in place to address student complaints.

The regulations also create a uniform definition of a credit hour, which is used on the federal level to allocate student aid dollars. The Department's Inspector General has advised that the failure to define the credit hour has hampered the Department's ability to address waste and fraud in the student aid program.

Finally, the regulations clarify existing requirements that institutions offering distance

learning programs be authorized according to the laws of every state in which they operate. I appreciate the concerns of many schools that authorizing in multiple states could be costly and duplicative. For this reason, I strongly support efforts on the State level to establish reciprocity agreements to ease this burden while still ensuring that students receive a quality education.

However, in repealing the regulations entirely, this bill ignores the advice of the Inspector General and leaves billions of dollars of student aid vulnerable to waste, fraud, and abuse. It also eliminates basic consumer protections for students.

We have a responsibility to ensure that students receive a high quality education and taxpayer dollars are spent wisely. By repealing the Department's efforts but offering no alternate plan, this bill abdicates that responsibility. I urge my colleagues to vote against it.

Mrs. ROBY. Madam Chair, I rise today to highlight the passage of H.R. 2117, the Protecting Academic Freedom in Higher Education Act (H.R. 2117). The House of Representatives approved this legislation on February 28, 2012.

I am a proud cosponsor and a Member of the Education and the Workforce Committee, which debated and reported this bill out of Committee with a bipartisan vote last summer.

If enacted, this legislation would remove costly and burdensome regulations from colleges and universities across the country. In a time of federal government expansion, H.R. 2117 would help curtail the Department of Education's overreach into the rules and regulations governing institutions of higher learning. The bill contains two provisions that would repeal recent Department of Education mandates. These provisions relate to the federal definition of a credit hour and to the way states authorize and license institutions of higher education.

Historically, each institution of higher learning maintained the ability to determine what constitutes a credit hour subject to the oversight of accrediting agencies that would determine the specific number of credit hours to assign each course. Over time the federal government became more involved in the process. I strongly believe that the federal government should not impose a one-size-fits-all approach to determine standard credit hours for all colleges and universities. This decision should be made at the state and institutional levels.

Burdensome federal regulation of institutions of higher learning slow innovative learning and increase costs for students. Federal government regulations should not control a states' decision whether to grant a college or university permission to operate within that state.

Madam Chair, I have heard from numerous institutions across Alabama regarding these challenges. Please allow me to submit a letter into the CONGRESSIONAL RECORD from the president of Spring Hill College, which is located in my home state of Alabama, for support of H.R. 2117. This letter explains how the Department's intrusive regulations are hampering growth of Spring Hill College. The letter

also notes that the high cost associated with federal regulations stifle educational opportunities when those costs must be transferred to students. The federal government must not impede the work of our colleges and universities. When this happens, students are the ones most negatively affected.

Removing federal standards and granting states and institutions more flexibility is the key for expanding learning for all students. By allowing institutions to determine the educational needs of its students and by releasing states from these new mandates, we can move our system forward. I look forward to continued bipartisan support of the Protecting Academic Freedom in Higher Education Act, and I encourage our friends in the Senate to give H.R. 2117 serious consideration in the coming months.

HON. MARTHA ROBY,  
*House of Representatives, U.S. Congress, Cannon House Office Building, Washington, DC.*

DEAR CONGRESSWOMAN ROBY: As I know you are aware, the House of Representatives has now scheduled H.R. 2117 to be discussed on the house floor this week. As president of one of the 28 Jesuit colleges and universities in the United States, I urge you to lend your support to this important legislation.

H.R. 2117 addresses regulatory overreach by rescinding regulations on credit hour and state authorization, imposed by the Department of Education that became effective July 1, 2011. I, along with my fellow Jesuit college presidents, believe these regulations are intrusive and inappropriate.

Determining credit hour requirements has been and should be determined by the institution of higher education that awards credit for fulfilling academic work. National higher education accrediting agencies through long established peer review processes oversee how colleges and universities award college credit, and that is the way it should be. Spring Hill College, for example, is an accredited member of the Southern Association of Colleges and Schools (SACS.)

The current federal regulatory definition interferes with the integrity of awarding college credits with a one size fits all approach. This approach hinders course creativity and academic autonomy.

This regulation also impacts institutions that provide distance education courses by mandating unnecessary filings in states that result in more costs of time and money for many institutions. As I'm sure you recall, testimony given by several college presidents to the House Subcommittee on Postsecondary and Workforce Training pointed out that "unnecessary federal regulations will impose additional regulatory burdens on colleges and universities, which could lead to higher costs being passed down to low-income and disadvantaged students. H.R. 2117, the Protecting Academic Freedom in Higher Education Act, ensures that colleges and universities are able to focus their energy and resources on educating students. Congress and the Administration should focus on increasing educational opportunities for students and streamlining federal regulations that inhibit innovation in higher education," according to the subcommittee's summary. Therefore, I ask for your support of H.R. 2117.

I can also assure you that Spring Hill College continues to implement and seek fur-

ther ways to hold down college costs while staying true to our mission to form leaders engaged in learning, faith, justice and service for life.

Thank you for all you do for our Alabama and for your support of Spring Hill College and our important mission. We look forward to welcoming you to our campus when your schedule permits.

May God Bless you.

Sincerely,

RICHARD P. SALMI, S.J.,  
*President, Spring Hill College.*

The Acting CHAIR. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

The text of the committee amendment in the nature of a substitute is as follows:

#### H.R. 2117

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

*This Act may be cited as the "Protecting Academic Freedom in Higher Education Act".*

#### SEC. 2. REPEAL OF REGULATIONS RELATING TO STATE AUTHORIZATION AND DEFINING CREDIT HOUR.

##### (a) REGULATIONS REPEALED.—

(1) REPEAL.—*The following regulations (including any supplement or revision to such regulations) are repealed and shall have no legal effect:*

(A) STATE AUTHORIZATION.—*Sections 600.4(a)(3), 600.5(a)(4), 600.6(a)(3), 600.9, and 668.43(b) of title 34, Code of Federal Regulations (relating to State authorization), as added or amended by the final regulations published by the Department of Education in the Federal Register on October 29, 2010 (75 Fed. Reg. 66832 et seq.).*

(B) DEFINITION OF CREDIT HOUR.—*The definition of the term "credit hour" in section 600.2 of title 34, Code of Federal Regulations, as added by the final regulations published by the Department of Education in the Federal Register on October 29, 2010 (75 Fed. Reg. 66946), and subsection (k)(2)(ii) of section 668.8 of such title, as amended by such final regulations (75 Fed. Reg. 66949 et seq.).*

(2) EFFECT OF REPEAL.—*To the extent that regulations repealed by paragraph (1) amended regulations that were in effect on June 30, 2011, the provisions of the regulations that were in effect on June 30, 2011, and were so amended are restored and revived as if the regulations repealed by paragraph (1) had not taken effect.*

(b) REGULATIONS DEFINING CREDIT HOUR PROHIBITED.—*The Secretary shall not promulgate or enforce any regulation or rule that defines the term "credit hour" for any purpose under the Higher Education Act of 1965 on or after the date of enactment of this section.*

The Acting CHAIR. No amendment to the committee amendment is in order except those printed in House Report 112-404. Each such amendment

may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

AMENDMENT NO. 1 OFFERED BY MR. GRIJALVA

The Acting CHAIR. It is now in order to consider amendment No. 1 printed in House Report 112-404.

Mr. GRIJALVA. Madam Chair, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

In subparagraph (A) of section 2(a)(1) of the bill as reported—

(1) strike “Sections 600.4(a)(3), 600.5(a)(4), 600.6(a)(3),” and insert “Except as provided in paragraph (3), section”; and

(2) strike “, and 668.43(b)”.

At the end of subsection (a) of section 2 of the bill as reported, add the following:

(3) PRESERVATION OF STUDENT PROTECTION PROCESS.—The repeal of section 600.9 of title 34, Code of Federal Regulations, in paragraph (1)(A) shall not apply with respect to the following provisions of such section:

(A) The first sentence of paragraph (a)(1) through the term “State laws”.

(B) Paragraph (a)(2).

(C) Paragraph (b).

The Acting CHAIR. Pursuant to House Resolution 563, the gentleman from Arizona (Mr. GRIJALVA) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Arizona.

Mr. GRIJALVA. The bill we are debating today, H.R. 2117, eliminates the entire State authorization rule, including the establishment of a process for States to review and appropriately act on student complaints concerning an institution. This amendment would make sure that those student-complaint provisions are retained.

Up until now in many States, a student who discovered that the program she is enrolled in is not providing the preparation she paid for or is not preparing her in the way that they suggested or has treated her unfairly would have little recourse in the way of complaint. Not all States have a complaint process in place, but these recently implemented rules established a State-based process for students to lodge a complaint.

This provision is a good idea. This process will help to shine light on programs and will give students and families an opportunity for recourse when they feel they have been misled or mistreated by an institution or a program. The vast majority of institutions work in a student's best interest and will seek to guide students and address concerns when they arise. This amendment ensures that students have a

place to air their concerns when that is not the case.

I think we should maintain the student-protecting provision in the regulations by removing the provision that eliminates it in this bill. My amendment protects students and taxpayers by ensuring that each State has a process in place to receive and review student complaints and by promoting good practices and addressing abuses.

Last Congress, we worked hard to protect consumers from bad practices at credit card companies and banks. We should do the same for students. I urge my colleagues to support this amendment.

I reserve the balance of my time.

Ms. FOXX. Madam Chairman, I rise in opposition.

The Acting CHAIR. The gentlewoman from North Carolina is recognized for 5 minutes.

Ms. FOXX. Under the Higher Education Act, accrediting agencies are already required to have a system for individuals to give complaints about a college or a university. Under current practice, many States have well-established complaint processes that are serving students.

I am also concerned about the burden this regulation will place on States. While the economic situation in our country has shown modest improvements recently, States are struggling with huge budgetary challenges. They have limited staff and may not be able to handle new and unnecessary changes required under this proposal.

During a time when States, institutions, parents, and students are worried about ways to increase college affordability, I think it would be better for States to put their limited resources towards helping colleges and universities keep their tuitions down rather than adding another layer of State bureaucracy.

For these reasons and others, I urge my colleagues to oppose this amendment.

I reserve the balance of my time.

Mr. GRIJALVA. Madam Chair, I yield such time as he may consume to the ranking member of the Education and the Workforce Committee, the gentleman from California (Mr. MILLER).

Mr. GEORGE MILLER of California. I thank the gentleman for yielding.

Just quickly, you can't have it both ways. You can't say, well, a lot of States are already doing this, but now we don't want to add a burden. This simply says the State has to have a process. If the State has a process, it's over, it's done. So why would we take away that voice in those States that don't have a process?

Let's make sure that students have a place to go. As we know, many of these financial scandals have been brought to us by students because they can't get redress anywhere else. I urge an “aye” vote on this amendment.

Ms. FOXX. I continue to reserve the balance of my time.

Mr. GRIJALVA. In closing, the underlying legislation, H.R. 2117, stacks the deck against due process and the ability for families and students to seek redress when institutions or programs deny them or mistreat them regarding the services that they've purchased and the education that they're seeking.

By inserting that provision, we allow families and students to have redress, to have due process and to have a fair and balanced look at complaints they might have. It is simple, it is direct, and it merits remaining in the legislation.

With that, I yield back the balance of my time.

Ms. FOXX. Madam Chairman, I will say once again that I believe this is unnecessary, and I urge my colleagues to oppose the amendment.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Arizona (Mr. GRIJALVA).

The question was taken; and the Acting Chair announced that the yeas appeared to have it.

Mr. GRIJALVA. Madam Chair, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Arizona will be postponed.

AMENDMENT NO. 2 OFFERED BY MS. FOXX

The Acting CHAIR. It is now in order to consider amendment No. 2 printed in House Report 112-404.

Ms. FOXX. Madam Chairman, I offer an amendment.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 5, line 13, strike “subsection (k)(2)(ii)” and insert “clauses (i)(A), (ii), and (iii) of subsection (k)(2)”.

Page 5, line 24, insert “of Education” after “Secretary”.

The Acting CHAIR. Pursuant to House Resolution 563, the gentlewoman from North Carolina (Ms. FOXX) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from North Carolina.

Ms. FOXX. I rise in support of my amendment to H.R. 2117, the Protecting Academic Freedom in Higher Education Act.

In the months since the Education and the Workforce Committee approved H.R. 2117, States and institutions have expressed concerns about interpretations of the clock-hour provisions in the credit-hour regulation. The regulation would prevent some programs from converting to a credit-hour program even though the conversion is permitted under State law. This change could alter the manner in



which colleges and universities disburse Federal student aid, and it could harm students' abilities to progress sufficiently in their coursework.

My amendment would prevent the Federal Government from reinterpreting a State's laws or regulations to require credit-hour programs to convert back to clock-hour programs. The State should be the final judge of its own laws and regulations. This is a necessary step to correct the Department of Education's interpretation of a clock-hour program, and it will reaffirm our intent that the discretion for determining clock-hour programs should remain with States' accrediting agencies and institutions.

Madam Chairman, the amendment improves the underlying legislation and ensures colleges and students are protected from the harmful Federal intrusion into academic affairs. I urge my colleagues to lend their support, and I reserve the balance of my time.

□ 1430

Mr. GEORGE MILLER of California. I rise in opposition to the amendment. The Acting CHAIR. The gentleman is recognized for 5 minutes.

Mr. GEORGE MILLER of California. I thank the Chair.

This amendment is absolutely consistent with this legislation. What it does is just simply make it easier for any institution to maximize the amount of Federal aid they get.

Under this amendment, they would be able to choose whether or not they want to be a clock-hour or a credit-hour institution, and that would depend really on how they could game the reimbursement that's available to them again without checking whether or not this provision allows for the student to receive value for that money which they borrow to pay for their education. I oppose this amendment.

I yield back the balance of my time. Ms. FOXX. I yield back the balance of my time, urging my colleagues to support the amendment.

The Acting CHAIR. The question is on the amendment offered by the gentlewoman from North Carolina (Ms. FOXX).

The amendment was agreed to.

AMENDMENT NO. 3 OFFERED BY MR. POLIS

The Acting CHAIR. It is now in order to consider amendment No. 3 printed in House Report 112-404.

For what purpose does the gentleman from Colorado rise?

Mr. POLIS. Thank you.

I have an amendment at the desk. This will be amendment No. 5.

The Acting CHAIR. It is now in order to consider amendment No. 3. Does the gentleman wish to offer it?

Mr. POLIS. I have an amendment at the desk. The amendment is numbered No. 3.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

At the end of subsection (a) of section 2, add the following:

(3) STATE AUTHORIZATION REGULATIONS FOR CERTAIN INSTITUTIONS.—

(A) REGULATIONS REQUIRED.—Notwithstanding section 482(c) or section 492 of the Higher Education Act of 1965 or the repeals under paragraph (1)(A) of this section, not later than 6 months after the date of enactment of this Act, the Secretary of Education shall issue regulations that apply the regulations repealed under paragraph (1)(A) to any institution of higher education that has—

(i) a graduation rate that is below the national average for its sector, as defined in the common education data developed by the National Center for Education Statistics;

(ii) a cohort default rate that is higher than the national average for its sector; or

(iii) a completion rate that is below the national average for its sector, as determined pursuant to section 668.8 of title 34, Code of Federal Regulations.

(B) RULE OF CONSTRUCTION.—Notwithstanding any other provision of law, nothing in subparagraph (A) shall be construed as limiting or otherwise affecting the applicability of section 101(a)(2) of the Higher Education Act of 1965.

The Acting CHAIR. Pursuant to House Resolution 563, the gentleman from Colorado (Mr. POLIS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Colorado.

Mr. POLIS. Madam Chair, Congress should be the taxpayers' advocate to root out waste, fraud, and abuse wherever it occurs; and this is particularly true when it comes to student financial aid.

Both of my amendments pertain to this category of making sure we have the right structure in place to in one case incentivize and in another case have a strategy to combat waste, fraud, and abuse. Every dollar we lose to fraud and waste is a dollar that's not invested in our young people, a dollar of deficit spending, of government spending that is not producing the desired outcome of education or youth preparation of our workforce for jobs in the 21st century and improving our economic strength.

If we are eliminating some of the basic protections that are categorically applied under the bill, it's very important that we require institutions that are failing students to prove their value. And if schools have a chronically low graduation rate, a low completion rate or a high loan default rate they, in fact, should be required to be recognized by the State in which they are operating as a backstop against fraud, waste, and abuse to ensure that the students' complaints and questions are at least heard by their own State if they believe that they have been treated unfairly or unjustly by a college or university.

That's what my amendment would do. It would provide an incentive for colleges and universities to produce better outcome for students.

In both of my remarks, I am going to be talking a little bit about Carnegie units and how we determine time. Frankly, this bill is a very limited piece. What we need to do more broadly when we reauthorize the Higher Education Act is really look at outcome-based measurements for learning in higher education.

I think the Secretary, with his rules regarding gainful employment, provided some useful indicators around outcome-based measurements. There are many others that we should look at. That part of what we need to accomplish is freeing good-performing institutions up from the input restraints, the input barriers.

If they can effectively teach something that normally takes 2 hours in 5 minutes, that institution should be rewarded for that and encouraged to do that.

What a great way to invest our taxpayer money in some innovative institution of higher education that has figured out how to get 2 hours of legacy Carnegie credit into 5 minutes of rapid instruction. What a wonderful accomplishment, and I am hopeful that that and more can be accomplished.

My amendment would provide an incentive for colleges and universities to produce better outcomes. Where they are not performing, they would be subject to their State. Where they are performing, they would have the additional flexibility under this act, and I think that that's something we should encourage in higher education.

I reserve the balance of my time.

Ms. FOXX. Madam Chair, I rise in opposition to the amendment.

The Acting CHAIR. The gentlewoman from North Carolina is recognized for 5 minutes.

Ms. FOXX. Thank you, Madam Chairman.

This amendment is simply unnecessary, and I oppose it. Since the day the President took office, members of his administration have been issuing one heavy-handed regulation after another, primarily in the name of program integrity. However, the regulations simply bring increased Federal intrusion into all aspects of our lives and do not provide the kind of accountability that we need to have throughout our Federal Government. Therefore, I oppose the amendment.

I reserve the balance of my time.

Mr. POLIS. Madam Chairman, in what other government program would we somehow say it's all right to keep fuddling taxpayer money without accountability. Specifically, my amendment would retain State authorization requirements for institutions that have below-average graduation rates, below-average annual completion rates and above-average loan-default rates, free up the good-performing institutions to experiment and not holding them accountable to the Carnegie units that



continue to reach out and prevent innovation in the education sector.

I believe the regulations are reasonable and a relatively low burden on colleges. I think by providing this incentive we could make sure that universities and institutions of higher education that are good custodians of our public dollars are freed up to engage in the kind of innovation that can produce a 21st-century workforce and drive education innovation into the new century. Those that continue that have below-average graduation rates, completion rates, and high default rates will make sure that there is a recourse, a recourse with their States, for those institutions.

I strongly urge a "yes" vote on this amendment, and I yield back the balance of my time.

Ms. FOXX. Madam Chairman, again, I want to state my opposition to this amendment, and I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Colorado (Mr. POLIS).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

The Acting CHAIR. For what purpose does the gentleman from Colorado seek recognition?

Mr. POLIS. I have an amendment at the desk, amendment No. 5.

The Acting CHAIR. Does the gentleman request a recorded vote on amendment No. 3?

Mr. POLIS. No.

The Acting CHAIR. The amendment is not agreed to.

AMENDMENT NO. 4 OFFERED BY MR. BISHOP OF NEW YORK

The Acting CHAIR. It is now in order to consider amendment No. 4 printed in House Report 112-404.

Mr. POLIS. I have an amendment at the desk. It's amendment No. 5.

The Acting CHAIR. Is the gentleman attempting to offer amendment No. 4, which is the next amendment in order?

For what purpose does the gentleman from New York rise?

Mr. BISHOP of New York. Madam Chair, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Strike subsection (b) of section 2 of the bill.

The Acting CHAIR. Pursuant to House Resolution 563, the gentleman from New York (Mr. BISHOP) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New York.

Mr. BISHOP of New York. Madam Chair, this amendment simply strips the language from the underlying bill that permanently constrains the Secretary from promulgating a regulation

or a rule that defines a credit hour, permanently constrains the Secretary from promulgating a regulation or a rule.

And I would suggest that this would represent very, very poor public policy. We provide over \$200 billion in Federal student aid, either in the form of grants or in the form of guarantees; and the basis, at least in part, on which we provide that is students' adherence to the minimum number of credit hours that they must take and institutions' adherence to that which they define as a credit hour.

□ 1440

We have no idea what's going to happen 10 years from now, 15 years from now, 20 years from now with respect to whether institutions will be in compliance. We have no idea whether or not shortcuts will be taken. We have no idea with the ongoing proliferation of online instruction and other nontraditional means of instruction whether or not we will be dealing with a higher education universe that is maintaining the appropriate quality controls and maintaining the appropriate protections against the kind of abuse that would ensue if students are able to take courses where the credit hour is not as demanding as reasonable people would suggest it would be, where the semester might be shorter as a result of lack of adherence to what a reasonable definition of a credit hour is. To put the Secretary of Education in a position where he or she would be unable to act in that circumstance is simply unwise, and to impose on the Congress the responsibility to fix a situation that could be much more easily fixed by regulatory or administrative action is also unwise.

So this is very straightforward. It is very simple. I would urge my colleagues to support this amendment, and I reserve the balance of my time.

Ms. FOXX. Madam Chair, I rise in opposition to the amendment.

The Acting CHAIR. The gentlewoman from North Carolina is recognized for 5 minutes.

Ms. FOXX. Madam Chair, the creation of a Federal definition of credit hour is a prime example of Federal overreach into an area that should be left to colleges and universities. This has worked from the beginning of our country. Our accrediting bodies, our colleges and universities, have done their jobs. There have been no complaints about this. There was one minor episode that occurred, one isolated event, and it was addressed through the accrediting body. This is a typical example of the overreach of this administration, and particularly the Department of Education.

If a need arose in the future to create a Federal definition or put some additional parameters around this section of the law, then it should be done

through the legislative process where the implications of such a definition can be thoroughly examined.

Madam Chair, the Founders were very, very wise when they created the Constitution. They delineated exactly what the Federal Government should and should not be doing. The word "education" is no place in the Constitution, but article I, section 1 does talk about the House of Representatives and the Congress. That's where the Founders wanted the power to lie, where the authority is to lie. We are accountable to the people whom we represent. We are the people's House. We should not be abrogating our responsibility to unelected bureaucrats. I'm almost embarrassed that any Member would want to do that. We need this responsibility. We have the time to take care of it if there is such a need.

With that, I reserve the balance of my time.

Mr. BISHOP of New York. I would simply point out that my friend from North Carolina continues to use words like "intrusion" and "overreach"; and yet a few moments ago, in response to comments I had made during general debate, she said that as an academic dean, the gentlelady was able to exercise discretion and define a credit hour and define a course and define a semester. There is absolutely nothing in the regulation that the Department of Education has promulgated that would prevent the gentlelady or someone in her position from continuing to exercise that discretion because in the regulation it says that institutionally determined equivalents are perfectly permissible and perfectly acceptable. So the discretion that the gentlelady quite correctly utilized while she was a dean remains in the toolbox of every college administrator in this country.

And so I would urge defeat of the underlying bill, I would urge passage of this amendment, and I yield back the balance of my time.

Ms. FOXX. Madam Chair, the gentleman is correct; deans and assistant deans and others at colleges and universities have that authority right now. They've had it since the beginning of the creation of institutions of higher education, and we don't need the Federal Government meddling in places it has no business meddling.

I oppose the amendment, and I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from New York (Mr. BISHOP).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mr. BISHOP of New York. Madam Chair, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New York will be postponed.

AMENDMENT NO. 5 OFFERED BY MR. POLIS

The Acting CHAIR. It is now in order to consider amendment No. 5 printed in House Report 112-404.

Mr. POLIS. Madam Chair, I have amendment No. 5 at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

At the end of the bill, add the following:

**SEC. 3. EFFECTIVE AND EFFICIENT USE OF TAXPAYER DOLLARS AND PROTECTION FROM POTENTIAL WASTE, FRAUD, AND ABUSE.**

Not later than 60 days after the date of the enactment of this Act, the Secretary of Education shall provide a proposal to Congress on how the Secretary will, through the authority of the Secretary to promulgate regulations related to institutional eligibility for participation under title IV of the Higher Education Act of 1965, prevent waste, fraud, and abuse of Federal financial aid dollars by institutions of higher education under such Act to ensure the effective and efficient use of taxpayer dollars.

The Acting CHAIR. Pursuant to House Resolution 563, the gentleman from Colorado (Mr. POLIS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Colorado.

Mr. POLIS. Madam Chair, I think that the gentlelady from North Carolina has put together a good bill. It has some good parts and some bad parts. I am very hopeful that she will accept this amendment.

I believe that the intent of the bill, specifically around making sure that we don't have an overarching implementation of Carnegie units—and again, where does this stem from? It stems from a U.S. Department of Education Office of Inspector General report that found that there is not an established definition of credit hour or minimum requirement. The Secretary, working within those constraints, tried to provide a definition. I don't think that is a productive road to go down, so I strongly support the general thrust of this bill.

But where we need to move is toward outcome-based measurements. We have this same discussion in K-12 education as well. And the conclusion that I've come to, and I've come to the same conclusion in higher education, is we need to free institutions up with regard to the inputs to promote innovation and make sure that we hold institutions accountable for the outputs where taxpayer money is at stake.

One component of the bill that I hope the gentlelady from North Carolina can work with me on in accepting this amendment, and I think it is a very pragmatic amendment that would improve the bill, since we are removing many of the specifics that currently combat waste, fraud, and abuse—and I don't think we want to combat waste, fraud, and abuse by applying an overly rigid hour-is-an-hour standard with no

wriggle room because what we care about is whether kids are learning, not whether they spend 5 minutes or 2 hours doing it. I've talked to folks who use apprenticeships, who use online education, and we should hold them accountable for results where there is taxpayer money at hand, but at the same time we want to make sure that there's a backstop for what I think folks on both side agree exist, which is waste, fraud, and abuse in the system. What my amendment would do is replace the specifics of these regulations with a directive to the Department of Education to come up with an alternative plan that protects taxpayer dollars and students' rights.

This would make sure that we can deal with many of the issues raised by the inspector general, not by providing an overly arching and rigid definition of time that's a necessary part of education but, rather, by requesting and requiring that the Secretary come up with ideas that are consistent with the future of education towards combating waste, fraud, and abuse.

I reserve the balance of my time.

Ms. FOXX. Madam Chair, I rise in opposition to the amendment.

The Acting CHAIR. The gentlewoman from North Carolina is recognized for 5 minutes.

Ms. FOXX. Madam Chair, I appreciate the very positive comments that my colleague from Colorado has made about the underlying bill. I hope very much that he will support it. I appreciate, actually, serving with him on the Rules Committee and the often commonsense approaches that he brings to legislation that we're reviewing. However, I have to say reluctantly that I am opposing his amendment.

I don't think, again, that we need to ask the Department of Education to present more plans or more rules and regulations. It is certainly doing a lot to present rules and regulations that are totally unnecessary.

Next year we will have the reauthorization of the higher education bill. As I think most people know, the Speaker has asked all the committees, all the subcommittees to exercise their oversight responsibilities, and we are certainly doing that and will continue to do that. Therefore, I think that the gentleman from Colorado's amendment is unnecessary, and I oppose it.

I reserve the balance of my time.

□ 1450

Mr. POLIS. Madam Chair, I think that, again, my amendment would provide sufficient flexibility to accommodate alternative higher-education settings. The reason we're talking about rules and preventing fraud, waste, and abuse is not somehow the government is going someplace that's unwarranted; but these are Federal student loans, these are Federal programs we're talking about. We do not want taxpayers to

be ripped off, and we do not want students to be ripped off. I believe that directing the Secretary to come up with an alternative plan to the one we're stripping out would go a long way toward accomplishing that.

And I agree with the gentlewoman from North Carolina. Fundamentally, many of these issues need to be discussed during the reauthorization of the Higher Education Act; and I hope that she will join me at that point, yes, on freeing up the inputs-based measurements, but equally, if not more important, making sure we hold the recipients of taxpayer-funded programs accountable for the outcomes.

And there is no perfect outcome-based measurement—we know this from K-12 education as well—but even a mediocre one is better than none. And I think it will fall upon this Congress to do that. I think that this bill facilitates that discussion; but should it become law, I would certainly hope that my colleagues on both sides of the aisle can join me in supporting this commonsense directive to ensure that waste, fraud, and abuse do not enter the system along with freeing up innovation and thoughtful new ways to educate kids.

I urge my colleagues to join me on voting "yes" on this amendment, and I yield back the balance of my time.

Ms. FOXX. Madam Chairman, again, I appreciate the sentiments of my colleague from Colorado; but I would say to him that there is absolutely nothing to prevent the Secretary of Education from coming to the Education and Workforce Committee and presenting his ideas on where there is waste, fraud, and abuse. We would be more than happy to do that. Most of what we hear from the administration is spend, spend, spend, not how can we save money, but spend, spend, spend.

All of us want to make sure that every dime of taxpayers' money is well spent, and I can assure you that members of my committee want to see that the money is well spent, and we'll be working on that issue as we have been working on it, as will all the Republican majorities in the House do that.

Madam Chairman, I yield back the balance of my time and urge my colleagues to vote "no" on the amendment.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Colorado (Mr. POLIS).

The question was taken; and the Acting Chair announced that the ayes appeared to have it.

Ms. FOXX. Madam Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Colorado will be postponed.

Ms. FOXX. Madam Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Ms. FOXX) having assumed the chair, Mrs. EMERSON, Acting Chair of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 2117) to prohibit the Department of Education from overreaching into academic affairs and program eligibility under title IV of the Higher Education Act of 1965, had come to no resolution thereon.

#### RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 2 o'clock and 53 minutes p.m.), the House stood in recess.

□ 1515

#### AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. BENISHEK) at 3 o'clock and 15 minutes p.m.

#### PROTECTING ACADEMIC FREEDOM IN HIGHER EDUCATION ACT

The SPEAKER pro tempore. Pursuant to House Resolution 563 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the further consideration of the bill, H.R. 2117.

□ 1516

#### IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H.R. 2117) to prohibit the Department of Education from overreaching into academic affairs and program eligibility under title IV of the Higher Education Act of 1965, with Mrs. EMERSON (Acting Chair) in the chair.

The Clerk read the title of the bill.

The Acting CHAIR. When the Committee of the Whole rose earlier today, a request for a recorded vote on amendment No. 5 printed in House Report 112-404 by the gentleman from Colorado (Mr. POLIS) had been postponed.

Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments printed in House Report 112-404 on which further proceedings were postponed, in the following order: Amendment No. 1 by Mr. GRIJALVA of Arizona.

Amendment No. 4 by Mr. BISHOP of New York.

Amendment No. 5 by Mr. POLIS of Colorado.

The Chair will reduce to 2 minutes the minimum time for any electronic vote after the first vote in this series.

#### AMENDMENT NO. 1 OFFERED BY MR. GRIJALVA

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Arizona (Mr. GRIJALVA) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

#### RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 170, noes 247, not voting 16, as follows:

[Roll No. 75]

AYES—170

Ackerman  
Altmire  
Andrews  
Baca  
Baldwin  
Barrow  
Bass (CA)  
Becerra  
Berkley  
Berman  
Bishop (GA)  
Bishop (NY)  
Blumenauer  
Boswell  
Brady (PA)  
Braley (IA)  
Brown (FL)  
Butterfield  
Capps  
Capuano  
Carnahan  
Carney  
Carson (IN)  
Castor (FL)  
Chandler  
Chu  
Cicilline  
Clarke (MI)  
Clarke (NY)  
Clyburn  
Cohen  
Connolly (VA)  
Conyers  
Cooper  
Costa  
Courtney  
Crowley  
Cuellar  
Cummings  
Davis (CA)  
DeFazio  
DeGette  
DeLauro  
Deutch  
Dicks  
Dingell  
Doggett  
Doyle  
Edwards  
Ellison  
Engel  
Eshoo  
Farr  
Fattah  
Filner  
Frank (MA)  
Fudge  
Garamendi

Gonzalez  
Green, Al  
Green, Gene  
Grijalva  
Gutierrez  
Hahn  
Hanabusa  
Hastings (FL)  
Heinrich  
Higgins  
Himes  
Hinchey  
Hirono  
Hochul  
Holden  
Holt  
Honda  
Hoyer  
Inslie  
Israel  
Jackson Lee  
(TX)  
Johnson (GA)  
Johnson, E. B.  
Keating  
Kildee  
Kind  
Kissell  
Kucinich  
Langevin  
Larsen (WA)  
Larson (CT)  
Levin  
Lewis (GA)  
Lipinski  
Loebbeck  
Lofgren, Zoe  
Lujan  
Maloney  
Markey  
Matsui  
McCarthy (NY)  
McCollum  
McDermott  
McGovern  
McIntyre  
McNerney  
Meeks  
Michaud  
Miller (NC)  
Miller, George  
Moore  
Moran  
Murphy (CT)  
Nadler  
Napolitano  
Neal

Oliver  
Pallone  
Pascarella  
Pastor (AZ)  
Pelosi  
Perlmutter  
Peters  
Peterson  
Pingree (ME)  
Polis  
Price (NC)  
Quigley  
Rahall  
Reyes  
Richardson  
Richmond  
Rothman (NJ)  
Roybal-Allard  
Ruppersberger  
Rush  
Ryan (OH)  
Sanchez, Linda  
T.  
Sanchez, Loretta  
Sarbanes  
Schakowsky  
Schiff  
Schwartz  
Scott (VA)  
Scott, David  
Serrano  
Sewell  
Sherman  
Shuler  
Sires  
Slaughter  
Smith (WA)  
Lowey  
Speier  
Stark  
Sutton  
Thompson (CA)  
Thompson (MS)  
Tierney  
Tonko  
Tsongas  
Van Hollen  
Velázquez  
Visclosky  
Wasserman  
Schultz  
Waters  
Watt  
Waxman  
Welch  
Wilson (FL)  
Woolsey  
Yarmuth

Bonner  
Bono Mack  
Boren  
Boustany  
Brady (TX)  
Brooks  
Broun (GA)  
Buchanan  
Bucshon  
Buerkle  
Burgess  
Burton (IN)  
Calvert  
Camp  
Campbell  
Canseco  
Cantor  
Capito  
Carter  
Cassidy  
Chabot  
Chaffetz  
Coble  
Coffman (CO)  
Cole  
Conaway  
Costello  
Cravaack  
Crawford  
Crenshaw  
Critz  
Culberson  
Davis (KY)  
Denham  
Dent  
DesJarlais  
Diaz-Balart  
Dold  
Donnelly (IN)  
Dreier  
Duffy  
Duncan (SC)  
Duncan (TN)  
Ellmers  
Emerson  
Farenthold  
Fincher  
Fitzpatrick  
Flake  
Fleischmann  
Fleming  
Flores  
Forbes  
Fortenberry  
Fox  
Franks (AZ)  
Frelinghuysen  
Gallegly  
Gardner  
Garrett  
Gerlach  
Gibbs  
Gibson  
Gingrey (GA)  
Gohmert  
Goodlatte  
Gowdy  
Granger  
Graves (GA)  
Graves (MO)  
Griffin (AR)  
Griffith (VA)  
Guinta  
Guthrie  
Hall  
Hanna

Harper  
Harris  
Hartzler  
Hastings (WA)  
Hayworth  
Heck  
Hensarling  
Herger  
Herrera Beutler  
Huelskamp  
Huizenga (MI)  
Hultgren  
Hunter  
Hurt  
Issa  
Jenkins  
Johnson (IL)  
Johnson (OH)  
Johnson, Sam  
Jones  
Jordan  
Kelly  
King (IA)  
King (NY)  
Kingston  
Kinzinger (IL)  
Klaine  
Labrador  
Lamborn  
Lance  
Lankford  
Latham  
LaTourette  
Latta  
Lewis (CA)  
LoBiondo  
Long  
Lucas  
Luetkemeyer  
Lummis  
Lungren, Daniel  
E.  
Mack  
Manzullo  
Marchant  
Marino  
Matheson  
McCarthy (CA)  
McCaul  
McClintock  
McCotter  
McHenry  
McKeon  
McKinley  
McMorris  
Rodgers  
Meehan  
Mica  
Miller (FL)  
Miller (MI)  
Miller, Gary  
Mulvaney  
Murphy (PA)  
Myrick  
Neugebauer  
Noem  
Nugent  
Nunes  
Nunnelee  
Olson  
Owens  
Palazzo  
Paul  
Paulsen  
Pearce  
Pence

Petri  
Pitts  
Platts  
Poe (TX)  
Pompeo  
Posey  
Price (GA)  
Quayle  
Reed  
Rehberg  
Reichert  
Renacci  
Ribble  
Rigell  
Rivera  
Roby  
Roe (TN)  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rohrabacher  
Rokita  
Rooney  
Ros-Lehtinen  
Roskam  
Ross (AR)  
Ross (FL)  
Royce  
Runyan  
Ryan (WI)  
Scalise  
Schilling  
Schmidt  
Schock  
Schradler  
Schweikert  
Scott (SC)  
Scott, Austin  
Sensenbrenner  
Sessions  
Shimkus  
Shuster  
Simpson  
Smith (NE)  
Smith (NJ)  
Smith (TX)  
Southerland  
Stearns  
Stivers  
Stutzman  
Sullivan  
Terry  
Thompson (PA)  
Thornberry  
Tiberi  
Tipton  
Towns  
Turner (NY)  
Turner (OH)  
Upton  
Walberg  
Walden  
Walsh (IL)  
Walz (MN)  
Webster  
West  
Westmoreland  
Whitfield  
Wilson (SC)  
Wittman  
Wolf  
Womack  
Woodall  
Yoder  
Young (FL)  
Young (IN)

#### NOT VOTING—16

Akin  
Cardoza  
Clay  
Cleaver  
Davis (IL)  
Gosar

Grimm  
Hinojosa  
Jackson (IL)  
Kaptur  
Landry  
Lee (CA)

Lynch  
Payne  
Rangel  
Young (AK)

□ 1543

Mr. STIVERS, Ms. BONAMICI, and Messrs. OWENS and HARRIS changed their vote from "aye" to "no."

Messrs. HINCHEY, CUELLAR, CARSON of Indiana, Ms. EDWARDS, and Mr. KEATING changed their vote from "no" to "aye."

NOES—247

Adams  
Aderholt  
Alexander  
Amash  
Amodei  
Austria  
Bachmann

Bachus  
Barletta  
Bartlett  
Barton (TX)  
Bass (NH)  
Benishek  
Berg

Biggert  
Bilbray  
Bilirakis  
Bishop (UT)  
Black  
Blackburn  
Bonamici

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated for:

Mr. HINOJOSA. Madam Chair, on rollcall No. 75, had I been present, I would have voted "aye."

(By unanimous consent, Mr. LATOURETTE was allowed to speak out of order.)

Mr. LATOURETTE. I thank my colleagues for their attention.

Madam Chair, sadly, in a set of occurrences that is becoming all too frequent in our country, yesterday, at 7:40 a.m., in the town of Chardon, Ohio—for those of you that aren't familiar with our part of the world, about 25 miles east of Cleveland—allegedly, a student brought a gun into the cafeteria of the high school, opened fire and shot five of the students.

As I stand here today, three of those students have succumbed to the injuries received and have passed away. Two continue to be under medical care.

I would indicate that in these tragedies there are also items of heroism. An assistant coach at Chardon High School, Frank Hall, chased the gunman out of the high school at great risk to himself, but perhaps saving further tragedy.

So, Madam Chair, on behalf of all of my colleagues, Republicans and Democrats in the State of Ohio, I would ask the House to observe a moment of silence in honor of the fallen, the staff at the school, their families, and the city of Chardon.

AMENDMENT NO. 4 OFFERED BY MR. BISHOP OF NEW YORK

The Acting CHAIR. Without objection, 2-minute voting will continue.

There was no objection.

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from New York (Mr. BISHOP) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This is a 2-minute vote.

The vote was taken by electronic device, and there were—ayes 160, noes 255, not voting 18, as follows:

[Roll No. 76]

AYES—160

Ackerman	Berman	Brown (FL)
Altmire	Bishop (GA)	Butterfield
Baca	Bishop (NY)	Capps
Baldwin	Blumenauer	Capuano
Barton (TX)	Bonamici	Carney
Bass (CA)	Boswell	Carson (IN)
Becerra	Brady (PA)	Castor (FL)
Berkley	Braley (IA)	Chu

Cicilline	Hirono	Price (NC)
Clarke (MI)	Honda	Quigley
Clarke (NY)	Hoyer	Rahall
Clyburn	Israel	Reyes
Cohen	Jackson Lee	Richardson
Connolly (VA)	(TX)	Richmond
Conyers	Johnson (GA)	Rothman (NJ)
Cooper	Johnson, E. B.	Roybal-Allard
Costa	Keating	Ruppersberger
Costello	Kildee	Rush
Courtney	Kind	Ryan (OH)
Crowley	Kucinich	Sánchez, Linda
Cuellar	Langevin	T.
Cummings	Larsen (WA)	Sanchez, Loretta
Davis (CA)	Larson (CT)	Sarbanes
Davis (IL)	Levin	Schakowsky
DeFazio	Lewis (GA)	Schiff
DeGette	Lipinski	Schwartz
DeLauro	Lofgren, Zoe	Scott (VA)
Deutch	Lowey	Scott, David
Dicks	Lujan	Serrano
Dingell	Lynch	Sewell
Doggett	Maloney	Sherman
Donnelly (IN)	Markey	Slaughter
Doyle	Matsui	Smith (WA)
Edwards	McCarthy (NY)	Speier
Ellison	McCollum	Stark
Eshoo	McDermott	Sutton
Farr	McGovern	Thompson (CA)
Fattah	McNerney	Thompson (MS)
Filner	Meeke	Tierney
Frank (MA)	Michaud	Tonko
Fudge	Miller (NC)	Tsongas
Garamendi	Miller, George	Van Hollen
Gonzalez	Moore	Velázquez
Green, Al	Moran	Visclosky
Green, Gene	Murphy (CT)	Wasserman
Grijalva	Nadler	Schultz
Gutierrez	Napolitano	Waters
Hahn	Neal	Watt
Hanabusa	Oliver	Waxman
Hastings (FL)	Pallone	Welch
Heinrich	Pastor (AZ)	Wilson (FL)
Higgins	Pelosi	Woolsey
Himes	Perlmutter	Yarmuth
Hinchee	Peters	
Hinojosa	Pingree (ME)	

NOES—255

Adams	Cravaack	Guinta
Aderholt	Crawford	Guthrie
Alexander	Crenshaw	Hall
Amash	Critz	Hanna
Amodei	Culberson	Harper
Andrews	Davis (KY)	Harris
Austria	Denham	Hartzler
Bachmann	Dent	Hastings (WA)
Bachus	DesJarlais	Hayworth
Barletta	Diaz-Balart	Heck
Barrow	Dold	Hensarling
Bartlett	Dreier	Herger
Bass (NH)	Duffy	Herrera Beutler
Benishak	Duncan (SC)	Hochul
Berg	Ellmers	Holden
Biggert	Emerson	Holt
Bilbray	Engel	Huelskamp
Bilirakis	Farenthold	Huizenga (MI)
Bishop (UT)	Fincher	Hultgren
Black	Fitzpatrick	Hunter
Blackburn	Flake	Hurt
Bonner	Fleischmann	Inslee
Bono Mack	Fleming	Issa
Boren	Flores	Jenkins
Boustany	Forbes	Johnson (IL)
Brooks	Fortenberry	Johnson (OH)
Broun (GA)	Fox	Johnson, Sam
Buchanan	Franks (AZ)	Jones
Bucshon	Frelinghuysen	Jordan
Buerkle	Galleghy	Kelly
Burgess	Gardner	King (IA)
Burton (IN)	Garrett	King (NY)
Calvert	Gerlach	Kingston
Camp	Gibbs	Kinzinger (IL)
Campbell	Gibson	Kissell
Canseco	Gingrey (GA)	Kline
Capito	Gohmert	Labrador
Carter	Goodlatte	Lamborn
Cassidy	Gosar	Lance
Chabot	Gowdy	Lankford
Chaffetz	Granger	Latham
Chandler	Graves (GA)	LaTourette
Coble	Graves (MO)	Latta
Coffman (CO)	Griffin (AR)	Lewis (CA)
Cole	Griffith (VA)	LoBiondo
Conaway	Grimm	Loeback

Long	Pence	Scott, Austin
Lucas	Peterson	Sensenbrenner
Luetkemeyer	Petri	Sessions
Lummis	Pitts	Shimkus
Lungren, Daniel	Platts	Shuler
E.	Poe (TX)	Simpson
Mack	Polis	Sires
Manzullo	Pompeo	Smith (NE)
Marchant	Posey	Smith (NJ)
Marino	Price (GA)	Smith (TX)
Matheson	Quayle	Southerland
McCarthy (CA)	Reed	Stearns
McCaul	Rehberg	Stivers
McClintock	Reichert	Stutzman
McCotter	Renacci	Sullivan
McHenry	Ribble	Thompson (PA)
McIntyre	Rigell	Thornberry
McKeon	Rivera	Tiberi
McKinley	Roby	Tipton
McMorris	Roe (TN)	Towns
Rodgers	Rogers (AL)	Turner (NY)
Meehan	Rogers (KY)	Turner (OH)
Mica	Rogers (MI)	Upton
Miller (FL)	Rohrabacher	Walberg
Miller (MI)	Rokita	Walden
Miller, Gary	Rooney	Walsh (IL)
Mulvaney	Ros-Lehtinen	Walz (MN)
Murphy (PA)	Roskam	Webster
Myrick	Ross (AR)	West
Neugebauer	Ross (FL)	Westmoreland
Noem	Royce	Whitfield
Nugent	Runyan	Wilson (SC)
Nunes	Ryan (WI)	Wittman
Nunnelee	Scalise	Wolf
Olson	Schilling	Womack
Owens	Schmidt	Woodall
Palazzo	Schock	Yoder
Paul	Schrader	Young (FL)
Paulsen	Schweikert	Young (IN)
Pearce	Scott (SC)	

NOT VOTING—18

Akin	Cleaver	Pascarell
Brady (TX)	Duncan (TN)	Payne
Cantor	Jackson (IL)	Rangel
Cardoza	Kaptur	Shuster
Carnahan	Landry	Terry
Clay	Lee (CA)	Young (AK)

ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR (during the vote). There is 1 minute remaining.

□ 1552

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 5 OFFERED BY MR. POLIS

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Colorado (Mr. POLIS) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This is a 2-minute vote.

The vote was taken by electronic device, and there were—ayes 199, noes 217, not voting 17, as follows:

[Roll No. 77]

AYES—199

Ackerman	Becerra	Blumenauer
Altmire	Berkley	Bonamici
Baca	Berman	Boren
Baldwin	Biggert	Boswell
Barrow	Bishop (GA)	Brady (PA)
Bass (CA)	Bishop (NY)	Braley (IA)

Brown (FL)  
Butterfield  
Capito  
Capps  
Capuano  
Carney  
Carson (IN)  
Castor (FL)  
Chandler  
Chu  
Cicilline  
Clarke (MI)  
Clarke (NY)  
Clyburn  
Coffman (CO)  
Cohen  
Connolly (VA)  
Conyers  
Cooper  
Costa  
Costello  
Courtney  
Critz  
Crowley  
Cuellar  
Cummings  
Davis (CA)  
Davis (IL)  
DeFazio  
DeGette  
DeLauro  
Dent  
Deutch  
Dicks  
Dingell  
Doggett  
Dold  
Donnelly (IN)  
Doyle  
Edwards  
Ellison  
Engel  
Eshoo  
Farr  
Fattah  
Filner  
Fitzpatrick  
Fudge  
Garamendi  
Gardner  
Gerlach  
Gibson  
Gonzalez  
Green, Al  
Green, Gene  
Grijalva  
Gutierrez  
Hahn  
Hanabusa  
Hanna  
Hastings (FL)  
Heinrich

## NOES—217

Adams  
Aderholt  
Alexander  
Amash  
Amodel  
Andrews  
Austria  
Bachmann  
Bachus  
Barletta  
Bartlett  
Barton (TX)  
Bass (NH)  
Benishek  
Berg  
Billray  
Bilirakis  
Bishop (UT)  
Black  
Blackburn  
Bonner  
Bono Mack  
Boustany  
Brady (TX)  
Brooks  
Broun (GA)  
Buchanan  
Bucshon  
Buerkle  
Burgess  
Burton (IN)

Higgins  
Himes  
Hinchey  
Hinojosa  
Hirono  
Hochul  
Holden  
Holt  
Honda  
Hoyer  
Inslee  
Israel  
Jackson Lee  
(TX)  
Johnson (GA)  
Johnson, E. B.  
Keating  
Kildee  
Kind  
Kingston  
Kissell  
Kucinich  
Lance  
Langevin  
Larsen (WA)  
Larson (CT)  
Levin  
Lewis (GA)  
Lipinski  
Loeb sack  
Lofgren, Zoe  
Lowey  
Lujan  
Lynch  
Maloney  
Markey  
Matheson  
Matsui  
McCarthy (NY)  
McClintock  
McDermott  
McGovern  
McIntyre  
McNerney  
Meehan  
Meeks  
Michaud  
Miller (MI)  
Miller (NC)  
Miller, George  
Moore  
Moran  
Murphy (CT)  
Nadler  
Napolitano  
Neal  
Oliver  
Owens  
Pallone  
Pascrell  
Pastor (AZ)  
Paulsen

Pelosi  
Perlmutter  
Peters  
Peterson  
Pingree (ME)  
Polis  
Price (NC)  
Quigley  
Rahall  
Reyes  
Richardson  
Richmond  
Rigell  
Ross (AR)  
Rothman (NJ)  
Roybal-Allard  
Rush  
Ryan (OH)  
Sánchez, Linda  
T.  
Sanchez, Loretta  
Sarbanes  
Schakowsky  
Schiff  
Schilling  
Schrader  
Schwartz  
Scott (VA)  
Scott, David  
Serrano  
Sewell  
Sherman  
Sires  
Slaughter  
Smith (WA)  
Speier  
Stark  
Stearns  
Sutton  
Thompson (CA)  
Thompson (MS)  
Tierney  
Tipton  
Tonko  
Towns  
Tsongas  
Upton  
Van Hollen  
Velázquez  
Visclosky  
Walz (MN)  
Wasserman  
Schultz  
Waters  
Watt  
Waxman  
Welch  
Wilson (FL)  
Woolsey  
Yarmuth

Huelskamp  
Huizenga (MI)  
Hultgren  
Hunter  
Hurt  
Issa  
Jenkins  
Johnson (IL)  
Johnson (OH)  
Johnson, Sam  
Jones  
Jordan  
Kelly  
King (IA)  
King (NY)  
Kinzinger (IL)  
Kline  
Labrador  
Lamborn  
Lankford  
Latham  
LaTourette  
Latta  
Lewis (CA)  
LoBiondo  
Long  
Lucas  
Luetkemeyer  
Lummis  
Lungren, Daniel  
E.  
Mack  
Mansullo  
Marchant  
Marino  
McCarthy (CA)  
McCaul  
McCotter  
McHenry  
McKeon  
McKinley  
McMorris  
Rodgers

## NOT VOTING—17

Akin  
Cantor  
Cardoza  
Carnahan  
Clay  
Cleaver

□ 1557

Messrs. GRIFFIN of Arkansas and CAMP changed their vote from “aye” to “no.”

Mr. TIPTON changed his vote from “no” to “aye.”

So the amendment was rejected.

The result of the vote was announced as above recorded.

## PERSONAL EXPLANATION

Mr. AKIN. Madam Chair, on rollcall Nos. 75, 76 and 77, I was delayed and unable to vote. Had I been present I would have voted “no” on all three.

The Acting CHAIR. The question is on the committee amendment in the nature of a substitute, as amended.

The amendment was agreed to.

The Acting CHAIR. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. CHAFFETZ) having assumed the chair, Mrs. EMERSON, Acting Chair of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 2117) to prohibit the Department of Education from overreaching into academic affairs and program eligibility under title IV of the Higher Education Act of 1965, and, pursuant to House Resolution 563, reported the bill back to the House with an

amendment adopted in the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the amendment reported from the Committee of the Whole?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

## MOTION TO RECOMMIT

Mrs. CAPPS. Mr. Speaker, I have a motion to recommit at the desk.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mrs. CAPPS. Yes, I am opposed.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mrs. Capps moves to recommit the bill H.R. 2117 to the Committee on Education and the Workforce with instructions to report the same back to the House forthwith, with the following amendment:

At the end of the bill add the following:

(c) PROTECTING STUDENTS FROM HIGHER LOAN COSTS AND A DEVALUED EDUCATIONAL DEGREE.—Nothing in subsection (b) shall limit the authority of the Secretary of Education to promulgate or enforce any regulation or rule under title IV of the Higher Education Act of 1965—

(1) for the purpose of reducing the cost of higher education for students; or

(2) during any year in which the interest rate for subsidized Direct Federal Stafford Loans used to purchase credit hours under such title is higher than 3.4 percent.

The SPEAKER pro tempore. The gentleman from California is recognized for 5 minutes.

Mrs. CAPPS. Mr. Speaker, there are many times when we come to this floor and engage in heated debate, and we've heard some heated debate on this bill. But my final amendment offers us the opportunity to come together and to do something extraordinarily important: to contain the escalating cost of higher education. I want to be clear: passing this amendment will not prevent the passing of the underlying bill. If it's adopted, my amendment will be incorporated into the bill, and the bill will be immediately voted upon. Regardless of how one feels about the bill, we should all agree on a major problem facing students and their families.

□ 1600

I'm talking about the skyrocketing cost of higher education putting the American Dream way out of reach for far too many students.

Mr. Speaker, my final amendment is very simple. It says that nothing in this bill should limit the Secretary's

ability to reduce the cost of higher education for students.

In 2007, Democrats, working with President Bush, lowered the interest rates on need-based student loans to 3.4 percent at no cost to taxpayers. This change is saving college graduates thousands of dollars in student loan payments. But unless we act soon, the interest rates on these loans will double this summer. That will cost more than 7 million student borrowers at colleges and universities across the country more than \$2,800 in additional interest payments.

Mr. Speaker, students cannot afford graduating from college with mortgage-size debt. Student loan debt now surpasses overall credit card debt. We can do something about this.

We need our graduates to be developing the next clean energy source and discovering the cures for life-threatening diseases. We need them to fill vital jobs in our communities, such as nurses, teachers, firefighters, and police. We don't need them to leave school overwhelmed by student loan payments, and we don't want them avoiding higher education in the first place due to the threat of crushing debt. Instead, we should make sure they are prepared for good-paying jobs in the global marketplace, and we can do that by making college more affordable.

But, incredibly, this bill limits the Education Secretary's ability to protect students and taxpayers from higher education costs. With more than \$200 billion in aid distributed each year, the Secretary must have the tools to lower costs for students and their families and to protect our Nation's investment in education. We shouldn't be tying the Secretary's hands at a time when we must be utilizing every tool available to keep college costs down. In particular, we should not do this while students face a potential doubling of interest rates on their loans, which will happen this summer if Congress doesn't take action now. The cost of borrowing for a student loan is already too high. Let's not make the problem worse.

Again, my amendment simply states that nothing in the bill shall limit the Secretary's ability to reduce the cost of higher education for students, something we can all agree upon.

So I urge a vote to lower costs for students and hardworking American families, and I'm pleased to yield to my distinguished colleague from California (Mr. GEORGE MILLER).

Mr. GEORGE MILLER of California. I thank the gentlewoman for yielding, and I thank her for offering this motion to recommit.

I say to my colleagues here in the House, this is a very simple proposition. If Congress fails to act in July of this year, interest rates on student loans will double. And if those interest

rates on student loans double, that means that the average borrower will pay another \$2,800, almost \$3,000, in additional interest.

At a time when families and students will be paying higher interest rates than any time in the recent past, we ought to make sure that the Secretary has the authority to make—that they understand that they get value for what they're buying, that they don't get overcharged, and that they're not the subject of fraud, abuse, and waste in the system when people try to overcharge them for the number of units that they are offering them. We cannot let these students go into areas unprotected when interest rates are about to double.

Congress can solve this problem by retaining the interest rates at three-quarters percent and be done with this issue, and the legislation will go forward. But if we don't protect the students and their families from the increase in interest rates, then the Secretary retains the authority to make sure that they are not subject to waste, fraud, and abuse when they are borrowing money to pay for their education.

I thank the gentlewoman for introducing her legislation.

Mrs. CAPPS. I urge a "yes" vote on the motion to recommit, and I yield back the balance of my time.

Ms. FOXX. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentlewoman from North Carolina is recognized for 5 minutes.

Ms. FOXX. Mr. Speaker, we don't need this motion to recommit. My colleagues should all vote against it. We have a situation where our colleagues across the aisle want to take the Secretary of Education and make him a Czar of Education.

We, on our side of the aisle, are very much concerned about the cost of a college education, and we've done a lot to make college accessible and affordable for students in this country. Mr. Speaker, Republicans are very much concerned about the cost of going to college ourselves. We want to reduce the cost of going to college. Our subcommittee has had hearings on this. There are many ways to do this. But having the Federal Government establish price controls is not the way to do it.

The Federal Government, in fact, has encouraged too much borrowing. Because the Federal Government has been such a big borrower itself, it has established that kind of mentality across the country.

So we'd like to see the level of borrowing reduced. We'd like to see the level of debt and deficit go down so that the economy would rebound, people could get jobs, and those who do have debt would be able to better deal with that debt.

We do not need more government rules and regulations. We don't need the Federal Government picking winners and losers, and we don't need this kind of authority ceded to the Secretary of the Department of Education. The Congress needs to be dealing with these issues. We are dealing with the issues. The underlying bill deals with the issues because we reduced the role of the Federal Government and rules and regulations.

Higher education has policed itself very well over the years. We need to pass the underlying bill and reject the motion to recommit.

With that, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

#### RECORDED VOTE

Mrs. CAPPS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—ayes 176, noes 241, not voting 16, as follows:

[Roll No. 78]

#### AYES—176

Ackerman	Davis (IL)	Johnson (GA)
Altmire	DeFazio	Johnson, E. B.
Andrews	DeGette	Kaptur
Baca	DeLauro	Keating
Baldwin	Deutch	Kildee
Bass (CA)	Dicks	Kind
Becerra	Dingell	Kissell
Berkley	Doggett	Kucinich
Berman	Donnelly (IN)	Langevin
Bishop (GA)	Doyle	Larsen (WA)
Bishop (NY)	Edwards	Larson (CT)
Blumenauer	Ellison	Levin
Bonamici	Eshoo	Lewis (GA)
Boren	Farr	Lipinski
Boswell	Fattah	Loeb sack
Brady (PA)	Filner	Lofgren, Zoe
Braley (IA)	Frank (MA)	Lowe y
Brown (FL)	Fudge	Lujan
Butterfield	Garamendi	Lynch
Capps	Gonzalez	Maloney
Capuano	Green, Al	Markey
Carnahan	Green, Gene	Matsui
Carney	Grijalva	McCarthy (NY)
Carson (IN)	Gutierrez	McCollum
Castor (FL)	Hahn	McDermott
Chandler	Hanabusa	McGovern
Chu	Hastings (FL)	McIntyre
Cicilline	Heinrich	McNerney
Clarke (MI)	Higgins	Meeks
Clarke (NY)	Himes	Michaud
Clyburn	Hinchey	Miller (NC)
Cohen	Hinojosa	Miller, George
Connolly (VA)	Hirono	Moore
Conyers	Hochul	Moran
Cooper	Holden	Murphy (CT)
Costello	Holt	Nadler
Courtney	Honda	Napolitano
Critz	Hoyer	Neal
Crowley	Inslee	Olver
Cuellar	Israel	Pallone
Cummings	Jackson Lee	Pascarell
Davis (CA)	(TX)	Pastor (AZ)

Pelosi  
Perlmutter  
Peters  
Pingree (ME)  
Polis  
Price (NC)  
Quigley  
Rahall  
Reyes  
Richardson  
Richmond  
Ross (AR)  
Rothman (NJ)  
Roybal-Allard  
Ruppersberger  
Rush  
Ryan (OH)

Sánchez, Linda T.  
Sanchez, Loretta  
Sarbanes  
Schakowsky  
Schiff  
Schwartz  
Scott (VA)  
Scott, David  
Serrano  
Sewell  
Sherman  
Shuler  
Slaughter  
Smith (WA)  
Speier  
Stark  
Sutton

Thompson (CA)  
Thompson (MS)  
Tierney  
Tonko  
Towns  
Tsongas  
Van Hollen  
Velázquez  
Visclosky  
Walz (MN)  
Wasserman  
Schultz  
Waters  
Watt  
Waxman  
Welch  
Wilson (FL)  
Woolsey

## NOES—241

Adams  
Aderholt  
Alexander  
Amash  
Amodei  
Austria  
Bachmann  
Bachus  
Barletta  
Barrow  
Bartlett  
Barton (TX)  
Bass (NH)  
Benishek  
Berg  
Biggert  
Bilbray  
Bilirakis  
Bishop (UT)  
Black  
Blackburn  
Bonner  
Bono Mack  
Boustany  
Brady (TX)  
Brooks  
Broun (GA)  
Buchanan  
Bucshon  
Buerkle  
Burgess  
Burton (IN)  
Calvert  
Camp  
Campbell  
Canseco  
Cantor  
Capito  
Carter  
Chabot  
Chaffetz  
Coble  
Coffman (CO)  
Cole  
Conaway  
Costa  
Cravaack  
Crawford  
Crenshaw  
Culberson  
Davis (KY)  
Denham  
Dent  
DesJarlais  
Diaz-Balart  
Dold  
Dreier  
Duffy  
Duncan (SC)  
Duncan (TN)  
Ellmers  
Emerson  
Engel  
Farenthold  
Fincher  
Fitzpatrick  
Flake  
Fleischmann  
Fleming  
Flores  
Forbes  
Fortenberry  
Foxy  
Franks (AZ)  
Frelinghuysen

Gallegly  
Gardner  
Garrett  
Gerlach  
Gibbs  
Gibson  
Gingrey (GA)  
Gohmert  
Goodlatte  
Gosar  
Gowdy  
Granger  
Graves (GA)  
Graves (MO)  
Griffin (AR)  
Griffith (VA)  
Grimm  
Guinta  
Guthrie  
Hanna  
Harper  
Harris  
Hartzler  
Hastings (WA)  
Hayworth  
Heck  
Hensarling  
Herger  
Herrera Beutler  
Huelskamp  
Huizenga (MI)  
Hultgren  
Hunter  
Hurt  
Issa  
Jenkins  
Johnson (IL)  
Johnson (OH)  
Johnson, Sam  
Jones  
Jordan  
Kelly  
King (IA)  
King (NY)  
Kingston  
Kline  
Labrador  
Lamborn  
Lance  
Latham  
LaTourette  
Latta  
Lewis (CA)  
LoBiondo  
Long  
Lucas  
Luetkemeyer  
Lummis  
Lungren, Daniel  
E.  
Mack  
Manzullo  
Marchant  
Marino  
Matheson  
McCarthy (CA)  
McCaul  
McClintock  
McCotter  
Meehan  
Mica

Miller (FL)  
Miller (MI)  
Miller, Gary  
Mulvaney  
Murphy (PA)  
Myrick  
Neugebauer  
Noem  
Nugent  
Nunes  
Nunnelee  
Olson  
Owens  
Palazzo  
Paul  
Paulsen  
Pearce  
Pence  
Peterson  
Petri  
Pitts  
Platts  
Poe (TX)  
Pompeo  
Posey  
Price (GA)  
Quayle  
Reed  
Rehberg  
Reichert  
Renacci  
Ribble  
Rigell  
Rivera  
Roby  
Roe (TN)  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rohrabacher  
Rokita  
Rooney  
Ros-Lehtinen  
Ross (FL)  
Royce  
Runyan  
Ryan (WI)  
Scalise  
Schilling  
Schmidt  
Schock  
Schneider  
Schweikert  
Scott (SC)  
Scott, Austin  
Sensenbrenner  
Sessions  
Shimkus  
Shuster  
Simpson  
Sires  
Smith (NE)  
Smith (TX)  
Southernland  
Stearns  
Stutzman  
Sullivan  
Tipton  
Turner (NY)

Turner (OH)  
Upton  
Walberg  
Walden  
Walsh (IL)  
Webster

West  
Westmoreland  
Whitfield  
Wilson (SC)  
Wittman  
Wolf

Womack  
Woodall  
Yoder  
Young (FL)  
Young (IN)

Akin  
Cardoza  
Cassidy  
Clay  
Cleaver  
Hall

Jackson (IL)  
Landry  
Lankford  
Lee (CA)  
McMorris  
Rodgers

Payne  
Rangel  
Smith (NJ)  
Yarmuth  
Young (AK)

## NOT VOTING—16

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining.

□ 1624

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. CASSIDY. Mr. Speaker, on rollcall No. 78, I was unavoidably detained. Had I been present, I would have voted “no.”

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

## RECORDED VOTE

Mr. KLINE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 303, noes 114, not voting 16, as follows:

[Roll No. 79]

## AYES—303

Adams  
Aderholt  
Alexander  
Altmire  
Amash  
Amodei  
Andrews  
Austria  
Baca  
Bachmann  
Bachus  
Baldwin  
Barletta  
Barrow  
Bartlett  
Barton (TX)  
Bass (NH)  
Clyburn  
Coble  
Coffman (CO)  
Cole  
Conaway  
Connolly (VA)  
Costa  
Costello  
Cravaack  
Crenshaw  
Critz  
Cuellar  
Culberson  
Davis (KY)  
DeFazio  
Denham  
Dent  
DesJarlais  
Diaz-Balart  
Dicks  
Dold  
Donnelly (IN)  
Doyle  
Dreier  
Duffy

Burton (IN)  
Butterfield  
Calvert  
Camp  
Campbell  
Canseco  
Cantor  
Capito  
Capuano  
Carney  
Carson (IN)  
Carter  
Cassidy  
Chabot  
Chaffetz  
Chandler  
Clyburn  
Coffman (CO)  
Cole  
Conaway  
Connolly (VA)  
Costa  
Costello  
Cravaack  
Crenshaw  
Critz  
Cuellar  
Culberson  
Davis (KY)  
DeFazio  
Denham  
Dent  
DesJarlais  
Diaz-Balart  
Dicks  
Dold  
Donnelly (IN)  
Doyle  
Dreier  
Duffy

Duncan (SC)  
Duncan (TN)  
Ellmers  
Emerson  
Engel  
Farenthold  
Fincher  
Fitzpatrick  
Flake  
Fleischmann  
Fleming  
Flores  
Forbes  
Fortenberry  
Foxen  
Franks (AZ)  
Frelinghuysen  
Gallegly  
Gardner  
Garrett  
Gerlach  
Gibbs  
Gibson  
Gingrey (GA)  
Gohmert  
Goodlatte  
Gosar  
Gowdy  
Granger  
Graves (GA)  
Graves (MO)  
Griffin (AR)  
Griffith (VA)  
Grimm  
Guinta  
Guthrie  
Hanabusa  
Hanna  
Harper  
Harris  
Hartzler

Hastings (FL)  
Hastings (WA)  
Hayworth  
Heck  
Hensarling  
Herger  
Herrera Beutler  
Higgins  
Hinchey  
Hochul  
Holden  
Holt  
Huelskamp  
Huizenga (MI)  
Hultgren  
Hurt  
Inslee  
Issa  
Jenkins  
Johnson (IL)  
Johnson (OH)  
Johnson, Sam  
Jones  
Jordan  
Kelly  
Kind  
King (IA)  
King (NY)  
Kingston  
Kinzinger (IL)  
Kissell  
Kline  
Labrador  
Lamborn  
Lance  
Lankford  
Larsen (WA)  
Latham  
LaTourette  
Latta  
Lewis (CA)  
Lipinski  
LoBiondo  
Loebach  
Long  
Lowey  
Lucas  
Luetkemeyer  
Lummis  
Lungren, Daniel  
E.  
Mack  
Manzullo  
Marchant  
Marino  
Matheson  
McCarthy (CA)  
McCarthy (NY)  
McCaul  
McClintock  
McCotter

McIntyre  
McKeon  
McKinley  
McMorris  
Rodgers  
Meehan  
Mica  
Michaud  
Miller (FL)  
Miller (MI)  
Miller, Gary  
Moore  
Mulvaney  
Murphy (PA)  
Myrick  
Neugebauer  
Noem  
Nugent  
Nunes  
Nunnelee  
Olson  
Owens  
Palazzo  
Pascarell  
Pastor (AZ)  
Paul  
Paulsen  
Pearce  
Pence  
Perlmutter  
Peterson  
Petri  
Pitts  
Platts  
Poe (TX)  
Polis  
Pompeo  
Posey  
Price (GA)  
Quayle  
Rahall  
Reed  
Rehberg  
Reichert  
Renacci  
Reyes  
Ribble  
Rigell  
Rivera  
Roby  
Roe (TN)  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rohrabacher  
Rokita  
Rooney  
Ros-Lehtinen  
Roskam  
Ross (AR)  
Ross (FL)

Royce  
Runyan  
Ruppersberger  
Ryan (OH)  
Ryan (WI)  
Scalise  
Schilling  
Schmidt  
Schock  
Schneider  
Schweikert  
Scott (SC)  
Scott, Austin  
Sensenbrenner  
Sessions  
Shimkus  
Shuler  
Shuster  
Simpson  
Sires  
Smith (NE)  
Smith (NJ)  
Smith (TX)  
Smith (WA)  
Southernland  
Stearns  
Stivers  
Stutzman  
Sullivan  
Sutton  
Terry  
Thompson (MS)  
Thompson (PA)  
Thornberry  
Tiberi  
Tipton  
Tonko  
Towns  
Turner (NY)  
Turner (OH)  
Upton  
Visclosky  
Walberg  
Walden  
Walsh (IL)  
Walz (MN)  
Webster  
Welch  
West  
Westmoreland  
Whitfield  
Wilson (SC)  
Wittman  
Wolf  
Womack  
Woodall  
Yoder  
Young (FL)  
Young (IN)

## NOES—114

Ackerman  
Bass (CA)  
Becerra  
Berman  
Bishop (NY)  
Blumenauer  
Brady (PA)  
Brown (FL)  
Capps  
Carnahan  
Castor (FL)  
Chu  
Cicilline  
Clarke (MI)  
Clarke (NY)  
Cohen  
Conyers  
Cooper  
Courtney  
Crowley  
Cummings  
Davis (CA)  
Davis (IL)  
DeGette  
DeLauro  
Deutch  
Dingell  
Doggett  
Edwards  
Ellison  
Eshoo  
Farr

Fattah  
Filner  
Frank (MA)  
Fudge  
Garamendi  
Gonzalez  
Green, Al  
Green, Gene  
Grijalva  
Gutierrez  
Hahn  
Heinrich  
Himes  
Hinojosa  
Hirono  
Honda  
Hoyer  
Jackson Lee  
(TX)  
Johnson (GA)  
Johnson, E. B.  
Kaptur  
Keating  
Kildee  
Kucinich  
Langevin  
Larson (CT)  
Levin  
Lewis (GA)  
Lofgren, Zoe  
Lujan  
Lynch

Maloney  
Markey  
Matsui  
McCollum  
McDermott  
McGovern  
McNerney  
Meeks  
Miller (NC)  
Miller, George  
Moran  
Nadler  
Napolitano  
Neal  
Oliver  
Pallone  
Pelosi  
Peters  
Pingree (ME)  
Price (NC)  
Quigley  
Richardson  
Richmond  
Rothman (NJ)  
Roybal-Allard  
Rush  
Sánchez, Linda T.  
Sanchez, Loretta  
Sarbanes  
Schakowsky  
Schiff



Schwartz	Thompson (CA)	Watt
Scott (VA)	Tierney	Waxman
Scott, David	Tsongas	Wilson (FL)
Serrano	Van Hollen	Woolsey
Sherman	Velázquez	Yarmuth
Slaughter	Wasserman	
Speier	Schultz	
Stark	Waters	

## NOT VOTING—16

Akin	Hunter	Murphy (CT)
Cardoza	Israel	Payne
Clay	Jackson (IL)	Rangel
Cleaver	Landry	Young (AK)
Crawford	Lee (CA)	
Hall	McHenry	

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There is 1 minute remaining.

□ 1631

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. CRAWFORD. Mr. Speaker, on rollcall No. 79, I was unavoidably detained. Had I been present, I would have voted "aye."

Mr. McHENRY. Mr. Speaker, on rollcall No. 79, I was unavoidably detained. Had I been present, I would have voted "aye."

## PERSONAL EXPLANATION

Mr. AKIN. Mr. Speaker, on rollcall Nos. 78 and 79, I was delayed and unable to vote. Had I been present, I would have voted "no" on No. 78, and "aye" on No. 79.

## REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1837, SACRAMENTO-SAN JOAQUIN VALLEY WATER RELIABILITY ACT

Mr. BISHOP of Utah, from the Committee on Rules, submitted a privileged report (Rept. No. 112-405) on the resolution (H. Res. 566) providing for consideration of the bill (H.R. 1837) to address certain water-related concerns on the San Joaquin River, and for other purposes, which was referred to the House Calendar and ordered to be printed.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on the motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote incurs objection under clause 6 of rule XX.

Any record vote on the postponed question will be taken later.

## PRIVATE PROPERTY RIGHTS PROTECTION ACT OF 2012

Mr. SMITH of Texas. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1433) to protect private property rights, as amended.

The Clerk read the title of the bill.  
The text of the bill is as follows:

H.R. 1433

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

## SECTION 1. SHORT TITLE.

This Act may be cited as the "Private Property Rights Protection Act of 2012".

## SEC. 2. PROHIBITION ON EMINENT DOMAIN ABUSE BY STATES.

(a) IN GENERAL.—No State or political subdivision of a State shall exercise its power of eminent domain, or allow the exercise of such power by any person or entity to which such power has been delegated, over property to be used for economic development or over property that is used for economic development within 7 years after that exercise, if that State or political subdivision receives Federal economic development funds during any fiscal year in which the property is so used or intended to be used.

(b) INELIGIBILITY FOR FEDERAL FUNDS.—A violation of subsection (a) by a State or political subdivision shall render such State or political subdivision ineligible for any Federal economic development funds for a period of 2 fiscal years following a final judgment on the merits by a court of competent jurisdiction that such subsection has been violated, and any Federal agency charged with distributing those funds shall withhold them for such 2-year period, and any such funds distributed to such State or political subdivision shall be returned or reimbursed by such State or political subdivision to the appropriate Federal agency or authority of the Federal Government, or component thereof.

(c) OPPORTUNITY TO CURE VIOLATION.—A State or political subdivision shall not be ineligible for any Federal economic development funds under subsection (b) if such State or political subdivision returns all real property the taking of which was found by a court of competent jurisdiction to have constituted a violation of subsection (a) and replaces any other property destroyed and repairs any other property damaged as a result of such violation. In addition, the State must pay applicable penalties and interest to regain eligibility.

## SEC. 3. PROHIBITION ON EMINENT DOMAIN ABUSE BY THE FEDERAL GOVERNMENT.

The Federal Government or any authority of the Federal Government shall not exercise its power of eminent domain to be used for economic development.

## SEC. 4. PRIVATE RIGHT OF ACTION.

(a) CAUSE OF ACTION.—Any (1) owner of private property whose property is subject to eminent domain who suffers injury as a result of a violation of any provision of this Act with respect to that property, or (2) any tenant of property that is subject to eminent domain who suffers injury as a result of a violation of any provision of this Act with respect to that property, may bring an action to enforce any provision of this Act in the appropriate Federal or State court. A State shall not be immune under the 11th Amendment to the Constitution of the United States from any such action in a Federal or State court of competent jurisdiction. In such action, the defendant has the burden to show by clear and convincing evidence that the taking is not for economic development. Any such property owner or tenant may also seek an appropriate relief through a preliminary injunction or a temporary restraining order.

(b) LIMITATION ON BRINGING ACTION.—An action brought by a property owner or tenant under this Act may be brought if the property is used for economic development following the conclusion of any condemnation proceedings condemning the property of such property owner or tenant, but shall not be brought later than seven years following the conclusion of any such proceedings.

(c) ATTORNEYS' FEE AND OTHER COSTS.—In any action or proceeding under this Act, the court shall allow a prevailing plaintiff a reasonable attorneys' fee as part of the costs, and include expert fees as part of the attorneys' fee.

## SEC. 5. REPORTING OF VIOLATIONS TO ATTORNEY GENERAL.

(a) SUBMISSION OF REPORT TO ATTORNEY GENERAL.—Any (1) owner of private property whose property is subject to eminent domain who suffers injury as a result of a violation of any provision of this Act with respect to that property, or (2) any tenant of property that is subject to eminent domain who suffers injury as a result of a violation of any provision of this Act with respect to that property, may report a violation by the Federal Government, any authority of the Federal Government, State, or political subdivision of a State to the Attorney General.

(b) INVESTIGATION BY ATTORNEY GENERAL.—Upon receiving a report of an alleged violation, the Attorney General shall conduct an investigation to determine whether a violation exists.

(c) NOTIFICATION OF VIOLATION.—If the Attorney General concludes that a violation does exist, then the Attorney General shall notify the Federal Government, authority of the Federal Government, State, or political subdivision of a State that the Attorney General has determined that it is in violation of the Act. The notification shall further provide that the Federal Government, State, or political subdivision of a State has 90 days from the date of the notification to demonstrate to the Attorney General either that (1) it is not in violation of the Act or (2) that it has cured its violation by returning all real property the taking of which the Attorney General finds to have constituted a violation of the Act and replacing any other property destroyed and repairing any other property damaged as a result of such violation.

(d) ATTORNEY GENERAL'S BRINGING OF ACTION TO ENFORCE ACT.—If, at the end of the 90-day period described in subsection (c), the Attorney General determines that the Federal Government, authority of the Federal Government, State, or political subdivision of a State is still violating the Act or has not cured its violation as described in subsection (c), then the Attorney General will bring an action to enforce the Act unless the property owner or tenant who reported the violation has already brought an action to enforce the Act. In such a case, the Attorney General shall intervene if it determines that intervention is necessary in order to enforce the Act. The Attorney General may file its lawsuit to enforce the Act in the appropriate Federal or State court. A State shall not be immune under the 11th Amendment to the Constitution of the United States from any such action in a Federal or State court of competent jurisdiction. In such action, the defendant has the burden to show by clear and convincing evidence that the taking is not for economic development. The Attorney General may seek any appropriate relief through a preliminary injunction or a temporary restraining order.

(e) LIMITATION ON BRINGING ACTION.—An action brought by the Attorney General

under this Act may be brought if the property is used for economic development following the conclusion of any condemnation proceedings condemning the property of an owner or tenant who reports a violation of the Act to the Attorney General, but shall not be brought later than seven years following the conclusion of any such proceedings.

(f) **ATTORNEYS' FEE AND OTHER COSTS.**—In any action or proceeding under this Act brought by the Attorney General, the court shall, if the Attorney General is a prevailing plaintiff, award the Attorney General a reasonable attorneys' fee as part of the costs, and include expert fees as part of the attorneys' fee.

#### **SEC. 6. NOTIFICATION BY ATTORNEY GENERAL.**

(a) **NOTIFICATION TO STATES AND POLITICAL SUBDIVISIONS.**—

(1) Not later than 30 days after the enactment of this Act, the Attorney General shall provide to the chief executive officer of each State the text of this Act and a description of the rights of property owners and tenants under this Act.

(2) Not later than 120 days after the enactment of this Act, the Attorney General shall compile a list of the Federal laws under which Federal economic development funds are distributed. The Attorney General shall compile annual revisions of such list as necessary. Such list and any successive revisions of such list shall be communicated by the Attorney General to the chief executive officer of each State and also made available on the Internet website maintained by the United States Department of Justice for use by the public and by the authorities in each State and political subdivisions of each State empowered to take private property and convert it to public use subject to just compensation for the taking.

(b) **NOTIFICATION TO PROPERTY OWNERS AND TENANTS.**—Not later than 30 days after the enactment of this Act, the Attorney General shall publish in the Federal Register and make available on the Internet website maintained by the United States Department of Justice a notice containing the text of this Act and a description of the rights of property owners and tenants under this Act.

#### **SEC. 7. REPORTS.**

(a) **BY ATTORNEY GENERAL.**—Not later than 1 year after the date of enactment of this Act, and every subsequent year thereafter, the Attorney General shall transmit a report identifying States or political subdivisions that have used eminent domain in violation of this Act to the Chairman and Ranking Member of the Committee on the Judiciary of the House of Representatives and to the Chairman and Ranking Member of the Committee on the Judiciary of the Senate. The report shall—

(1) identify all private rights of action brought as a result of a State's or political subdivision's violation of this Act;

(2) identify all violations reported by property owners and tenants under section 5(c) of this Act;

(3) identify the percentage of minority residents compared to the surrounding non-minority residents and the median incomes of those impacted by a violation of this Act;

(4) identify all lawsuits brought by the Attorney General under section 5(d) of this Act;

(5) identify all States or political subdivisions that have lost Federal economic development funds as a result of a violation of this Act, as well as describe the type and amount of Federal economic development funds lost in each State or political subdivision and the Agency that is responsible for withholding such funds; and

(6) discuss all instances in which a State or political subdivision has cured a violation as described in section 2(c) of this Act.

(b) **DUTY OF STATES.**—Each State and local authority that is subject to a private right of action under this Act shall have the duty to report to the Attorney General such information with respect to such State and local authorities as the Attorney General needs to make the report required under subsection (a).

#### **SEC. 8. SENSE OF CONGRESS REGARDING RURAL AMERICA.**

(a) **FINDINGS.**—The Congress finds the following:

(1) The founders realized the fundamental importance of property rights when they codified the Takings Clause of the Fifth Amendment to the Constitution, which requires that private property shall not be taken "for public use, without just compensation".

(2) Rural lands are unique in that they are not traditionally considered high tax revenue-generating properties for State and local governments. In addition, farmland and forest land owners need to have long-term certainty regarding their property rights in order to make the investment decisions to commit land to these uses.

(3) Ownership rights in rural land are fundamental building blocks for our Nation's agriculture industry, which continues to be one of the most important economic sectors of our economy.

(4) In the wake of the Supreme Court's decision in *Kelo v. City of New London*, abuse of eminent domain is a threat to the property rights of all private property owners, including rural land owners.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that the use of eminent domain for the purpose of economic development is a threat to agricultural and other property in rural America and that the Congress should protect the property rights of Americans, including those who reside in rural areas. Property rights are central to liberty in this country and to our economy. The use of eminent domain to take farmland and other rural property for economic development threatens liberty, rural economies, and the economy of the United States. The taking of farmland and rural property will have a direct impact on existing irrigation and reclamation projects. Furthermore, the use of eminent domain to take rural private property for private commercial uses will force increasing numbers of activities from private property onto this Nation's public lands, including its National forests, National parks and wildlife refuges. This increase can overburden the infrastructure of these lands, reducing the enjoyment of such lands for all citizens. Americans should not have to fear the government's taking their homes, farms, or businesses to give to other persons. Governments should not abuse the power of eminent domain to force rural property owners from their land in order to develop rural land into industrial and commercial property. Congress has a duty to protect the property rights of rural Americans in the face of eminent domain abuse.

#### **SEC. 9. DEFINITIONS.**

In this Act the following definitions apply:

(1) **ECONOMIC DEVELOPMENT.**—The term "economic development" means taking private property, without the consent of the owner, and conveying or leasing such property from one private person or entity to another private person or entity for commercial enterprise carried on for profit, or to increase tax revenue, tax base, employment, or

general economic health, except that such term shall not include—

(A) conveying private property—

(i) to public ownership, such as for a road, hospital, airport, or military base;

(ii) to an entity, such as a common carrier, that makes the property available to the general public as of right, such as a railroad or public facility;

(iii) for use as a road or other right of way or means, open to the public for transportation, whether free or by toll; and

(iv) for use as an aqueduct, flood control facility, pipeline, or similar use;

(B) removing harmful uses of land provided such uses constitute an immediate threat to public health and safety;

(C) leasing property to a private person or entity that occupies an incidental part of public property or a public facility, such as a retail establishment on the ground floor of a public building;

(D) acquiring abandoned property;

(E) clearing defective chains of title;

(F) taking private property for use by a public utility, including a utility providing electric, natural gas, telecommunications, water, and wastewater services, either directly to the public or indirectly through provision of such services at the wholesale level for resale to the public; and

(G) redeveloping of a brownfield site as defined in the Small Business Liability Relief and Brownfields Revitalization Act (42 U.S.C. 9601(39)).

(2) **FEDERAL ECONOMIC DEVELOPMENT FUNDS.**—The term "Federal economic development funds" means any Federal funds distributed to or through States or political subdivisions of States under Federal laws designed to improve or increase the size of the economies of States or political subdivisions of States.

(3) **STATE.**—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or any other territory or possession of the United States.

#### **SEC. 10. SEVERABILITY AND EFFECTIVE DATE.**

(a) **SEVERABILITY.**—The provisions of this Act are severable. If any provision of this Act, or any application thereof, is found unconstitutional, that finding shall not affect any provision or application of the Act not so adjudicated.

(b) **EFFECTIVE DATE.**—This Act shall take effect upon the first day of the first fiscal year that begins after the date of the enactment of this Act, but shall not apply to any project for which condemnation proceedings have been initiated prior to the date of enactment.

#### **SEC. 11. SENSE OF CONGRESS.**

It is the policy of the United States to encourage, support, and promote the private ownership of property and to ensure that the constitutional and other legal rights of private property owners are protected by the Federal Government.

#### **SEC. 12. BROAD CONSTRUCTION.**

This Act shall be construed in favor of a broad protection of private property rights, to the maximum extent permitted by the terms of this Act and the Constitution.

#### **SEC. 13. LIMITATION ON STATUTORY CONSTRUCTION.**

Nothing in this Act may be construed to supersede, limit, or otherwise affect any provision of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

#### **SEC. 14. RELIGIOUS AND NONPROFIT ORGANIZATIONS.**

(a) **PROHIBITION ON STATES.**—No State or political subdivision of a State shall exercise

its power of eminent domain, or allow the exercise of such power by any person or entity to which such power has been delegated, over property of a religious or other nonprofit organization by reason of the nonprofit or tax-exempt status of such organization, or any quality related thereto if that State or political subdivision receives Federal economic development funds during any fiscal year in which it does so.

(b) **INELIGIBILITY FOR FEDERAL FUNDS.**—A violation of subsection (a) by a State or political subdivision shall render such State or political subdivision ineligible for any Federal economic development funds for a period of 2 fiscal years following a final judgment on the merits by a court of competent jurisdiction that such subsection has been violated, and any Federal agency charged with distributing those funds shall withhold them for such 2-year period, and any such funds distributed to such State or political subdivision shall be returned or reimbursed by such State or political subdivision to the appropriate Federal agency or authority of the Federal Government, or component thereof.

(c) **PROHIBITION ON FEDERAL GOVERNMENT.**—The Federal Government or any authority of the Federal Government shall not exercise its power of eminent domain over property of a religious or other nonprofit organization by reason of the nonprofit or tax-exempt status of such organization, or any quality related thereto.

**SEC. 15. REPORT BY FEDERAL AGENCIES ON REGULATIONS AND PROCEDURES RELATING TO EMINENT DOMAIN.**

Not later than 180 days after the date of the enactment of this Act, the head of each Executive department and agency shall review all rules, regulations, and procedures and report to the Attorney General on the activities of that department or agency to bring its rules, regulations and procedures into compliance with this Act.

**SEC. 16. SENSE OF CONGRESS.**

It is the sense of Congress that any and all precautions shall be taken by the government to avoid the unfair or unreasonable taking of property away from survivors of Hurricane Katrina who own, were bequeathed, or assigned such property, for economic development purposes or for the private use of others.

**SEC. 17. DISPROPORTIONATE IMPACT ON MINORITIES.**

If the court determines that a violation of this Act has occurred, and that the violation has a disproportionately high impact on the poor or minorities, the Attorney General shall use reasonable efforts to locate and inform former owners and tenants of the violation and any remedies they may have.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. SMITH) and the gentleman from New York (Mr. NADLER) each will control 20 minutes.

The Chair recognizes the gentleman from Texas.

**GENERAL LEAVE**

Mr. SMITH of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous materials on H.R. 1433, as amended, currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. SMITH of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank Congressman SENSENBRENNER and Congresswoman WATERS for introducing 1433, the Private Property Rights Protection Act, to restore vital property rights protections following the Supreme Court's decision in *Kelo v. City of New London*.

This bipartisan legislation passed the House during the 109th Congress by a vote of 376-38 with 99 percent of Republicans and 81 percent of Democrats present voting in favor of final passage. Unfortunately, the bill was never voted on in the Senate. Today, over 6 years later, the *Kelo* decision continues to call out for congressional action.

Our Founders realized the fundamental importance of property rights. Property rights protections are enshrined throughout the Constitution, including in the Fifth Amendment, which provides that private property shall not be taken for public use without just compensation.

Despite these protections, in *Kelo* the Supreme Court held that the government may take private property from one owner and transfer it to another for private economic development. The dissenting Justices sharply criticized the Court's decision, writing that the result of the majority opinion was:

Effectively to delete the words "for public use" from the takings clause of the Fifth Amendment. The specter of condemnation hangs over all property. The government now has license to transfer property from those with few resources to those with more. The Founders cannot have intended this perverse result.

This legislation essentially reverses this result and prohibits State and local governments that receive Federal economic development funds from abusing eminent domain for private economic development. It also prohibits the Federal Government from using eminent domain for economic development purposes.

This bill restores Americans' faith in their ability to build, own, and keep their property without fear of the government taking their homes, farms, or businesses to give to other people. It tells commercial developers that they should seek to obtain property through private negotiation, not by public force.

Too many Americans have lost homes and small businesses to eminent domain abuse, forced to watch as private developers replace them with luxury condominiums and other upscale uses. Local governments often approve the use of eminent domain for private economic development in order to expand their tax basis.

Federal law currently allows Federal funds to be used to support condemnations for the benefit of private developers, which encourages this abuse nationwide.

As the Institute for Justice's witness observed during our hearing on this bill:

Using eminent domain so that another richer, better-connected person may live or work on the land you used to own tells Americans that their hopes, dreams, and hard work do not matter as much as money and political influence. The use of eminent domain for private development has no place in a country built on traditions of independence, hard work, and protection of property rights.

Americans' homes are their castles. Federal taxpayer dollars should not be used to fund the battering ram of eminent domain abuse.

I urge my colleagues to support this bipartisan legislation to restore the Constitution's broad protections for private property rights.

I reserve the balance of my time.

The SPEAKER pro tempore (Mr. CRAWFORD). Without objection, the gentleman from Michigan (Mr. CONYERS) controls 20 minutes.

There was no objection.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

I reluctantly rise in opposition to the measure before us, the so-called Private Property Rights Protection Act. Now, while the goal of this legislation to protect property owners and tenants from the abuse of eminent domain is laudable and important, it would, in reality, supplant the work States have already done to respond to the Supreme Court's decision in *Kelo v. The City of New London* in the 7 years since the Court handed down that decision.

Most importantly, whatever the concerns my colleagues may have about the *Kelo* decision, the use and abuse of the power of eminent domain, I hope that every Member would look very carefully at the penalty it will impose on States, counties, cities, and towns across the country. Even if they never take a single piece of property, even if a jurisdiction never uses eminent domain at all, the mere possibility that some future administration would use eminent domain in a prohibited manner would cast a permanent cloud over the jurisdiction's finances.

The risk of the catastrophic penalties being imposed over the life of a 10-year or 20-year bond would be enough to destroy or mitigate a city or State's ability to float bonds at any time for any reason. At the very least, our cities and States would be forced to pay a risk premium that would make us envy Greece.

While it would destroy the finances of every community in the country, it would still allow some of the most flagrant abuses of eminent domain today. One glaring example is that the Keystone XL pipeline, and all pipelines, specifically is exempted. Even now, when a Canadian company is threatening farm families with eminent domain for a project that hasn't even been approved, this bill would give

TransCanada a free pass. Whatever your concerns, this bill is not the right answer to a very important question.

You see, since 2005, there have been new developments that call into question whether Congress should even act at this point. When this House last considered similar legislation, the Kelo decision was new, and there was real concern that the Supreme Court had opened floodgates to abusive takings of homes, businesses, churches, and farms. The States responded, which is their role in our Federal system. They responded to the concerns of the people who live in those communities to restrain State power and safeguard property rights. In some cases, the State courts have acted to restrain State governments in ways that the Federal law would not.

□ 1640

In response to the Kelo decision, States have moved aggressively to reconsider and amend their own eminent domain laws. More than 40 States have acted, and States have considered carefully the implications of this decision and the needs of their citizens.

Congress should not now come charging in after 7 years of work and presume to sit as a national zoning board, arrogating to our national government the right to decide which States have gotten the balance right and deciding which projects are or are not appropriate. Yet my colleagues who decry an intrusive Federal Government, who exalt States' rights, and who demand that the courts defer to the elected branches of government to make important decisions are not satisfied. They want the courts to interfere. They want a one-size-fits-all, Washington-knows-best solution. They don't want to respect the way States have dealt with this issue.

The power of eminent domain is an extraordinary one, and it should be used rarely and with great care. All too often, it has been abused for private gain or to benefit some at the expense of others.

Has this bill drawn the appropriate line between permissible and impermissible uses of eminent domain? I think that is one of the questions we will really need to consider. We all know the easy cases. As the majority in Kelo said:

The City would no doubt be forbidden from taking petitioners' land for the purpose of conferring a private benefit on a particular private party . . . nor would the City be allowed to take property under the mere pretext of a public purpose when its actual purpose was to bestow a private benefit.

But which projects are appropriate and which are not can sometimes be a difficult call.

Historically, eminent domain has been used to destroy communities for projects having nothing to do with economic development as prohibited by this bill. For example, highways have

cut through neighborhoods, destroying them. I know about that. Many of these communities have been low-income and minority communities, and many of them have yet to recover from the wrecker's ball. Yet this bill would permit those projects to go forward, using eminent domain, as if nothing had happened. Other projects that have genuine public purposes would, nonetheless, be prohibited.

There is no rhyme or reason for this legislation. I believe, as I did in 2005, that this bill is the incorrect approach to a very serious problem.

With that, Mr. Speaker, I reserve the balance of my time.

Mr. SMITH of Texas. Mr. Speaker, I yield 6 minutes to the gentleman from Wisconsin (Mr. SENSENBRENNER), who is the sponsor of this legislation and also a former chairman of the Judiciary Committee.

After that, Mr. Speaker, I ask unanimous consent that the gentleman from Virginia (Mr. GOODLATTE) be allowed to control the remainder of the time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. SENSENBRENNER. I thank the gentleman from Texas for yielding me the time.

Mr. Speaker, I want to state at the beginning that I deeply appreciate my cosponsor of this legislation, the gentlewoman from California (Ms. WATERS). This is a Sensenbrenner-Waters bill. You will never see another Sensenbrenner-Waters bill, and that is probably one of the best reasons to vote in favor of it.

Yet, on the merits, I am pleased that the House of Representatives today is considering H.R. 1433, the Private Property Rights Protection Act. This legislation will prevent economic development from being used as a justification for exercising the power of eminent domain.

I first introduced a version of this bill after the 2005 Supreme Court's ruling in *Kelo v. City of New London*. In this decision, the Court held 5-4 that "economic development" can be a "public use" under the Fifth Amendment's Takings Clause, justifying the government's taking of private property and giving it to a private business for use in the interest of creating a more lucrative tax base. As a result of this ruling, the Federal Government's power of eminent domain has become almost limitless, providing citizens with few means to protect their property.

Under the decision, farmers in my State of Wisconsin are particularly vulnerable. The fair market value of farmland is less than that of residential or commercial property, which means it doesn't generate as much property tax as homes or offices. Uncle Sam can condemn one family's house

only because another private entity would pay more in tax revenue.

This bill is needed to restore to all Americans the property rights the Supreme Court took away. Although several States have independently passed legislation to limit their power of eminent domain and even though the Supreme Courts of Illinois, Michigan, and Ohio have barred the practice under their State constitutions, these laws exist on a varying degree.

The Private Property Rights Protection Act will provide American citizens in every State of this country with the means to protect their private property from exceedingly unsubstantiated claims of eminent domain. Under the legislation, if a State or a political subdivision of a State uses its eminent domain power to transfer private property to other private parties for economic development, the State is ineligible to receive Federal economic development funds for 2 fiscal years following a judicial determination that the law has been violated. Additionally, the bill prohibits the Federal Government from using eminent domain for economic development purposes.

The protection of property rights is one of the most important tenets of our government. I am mindful of the long history of eminent domain abuses, particularly in low-income and often predominantly minority neighborhoods, and of the need to stop it. I am also mindful of the reasons we should allow the government to take land when the way in which the land is being used constitutes an immediate threat to public health and safety. This bill accomplishes both of those goals.

The need to ensure that property rights are returned to all Americans is as strong now as it was when Kelo was decided. Congress must play a pivotal role in reforming the use and abuse of eminent domain. I urge my colleagues to join me in protecting property rights for all Americans and in limiting the dangerous effects of the Kelo decision on the most vulnerable in society.

Mr. CONYERS. It is my pleasure to yield such time as she may consume to a senior member of the Judiciary Committee, my longstanding friend and supporter for many years, the gentlewoman from California, the Honorable MAXINE WATERS.

Ms. WATERS. Mr. CONYERS, I want to thank you for not only granting me this time but for being my friend for many years. It is odd for me to be on the opposite side of you. This may be the first time, certainly, in my career that we have ever disagreed on anything.

Mr. SENSENBRENNER is correct in that this will be the only time we will probably come together around an issue, but we've been together on this one for a long time.

With that, Mr. Speaker, I rise in strong support of H.R. 1433, the Private

Property Rights Protection Act of 2012. This legislation on which I joined with Representative SENSENBRENNER will restore the property rights of all Americans and prevent the Federal Government or any authority of the Federal Government from using economic development as a justification for exercising its power of eminent domain. Economic development condemnations have all too often been used by powerful interest groups to acquire land at the expense of the poor and politically weak.

As the dissent in the Kelo case pointed out:

To reason, as the Court does, that the incidental public benefits resulting from the subsequent ordinary use of private property render economic development takings “for public use” is to wash out any distinction between private and public use of property. The beneficiaries are likely to be those citizens with disproportionate influence and power in the political process, including large corporations and development firms. As for the victims, the government now has license to transfer property from those with fewer resources to those with more. The Founders cannot have intended this perverse result.

Few protested the Kelo ruling more ardently than the National Association for the Advancement of Colored People, the NAACP. In an amicus brief filed in the case, it argued “the burden of eminent domain has and will continue to fall disproportionately upon racial and ethnic minorities, the elderly and economically disadvantaged.” Unfettered eminent domain authority, the NAACP concluded, is a “license for government to coerce individuals on behalf of society’s strongest interests.”

□ 1650

The Private Property Rights Protection Act of 2011 will discourage eminent domain abuse by denying local governments that take private property for economic development access to Federal economic development funds for a period of 2 years.

One of the basic constitutional functions of American government is the protection of private property rights. H.R. 1433 will protect homes, communities, churches, and other privately owned property from predatory takers under the guise of “economic development.”

Private developers and local governments that have a genuine project should be able to acquire the land or property they need through legitimate, voluntary purchases. If the project really is more valuable than the current use of the same land, then they should be willing to negotiate with property owners who are willing to sell.

Eminent domain abuse impacts both urban and rural communities, and it is past time that Congress acted affirmatively to protect the private property rights of all Americans, who all too

often are not evenly matched to challenge private companies in lengthy litigation. Where the Supreme Court created ambiguity with its Kelo ruling, Congress must be clear: There should never be a legal question concerning the rights individuals have to be secure in their homes and communities.

With that, let me just wrap this up by saying I have been engaged for the past several years with the subprime meltdown in this country that caused so many families to be in foreclosure, and I have been engaged on that subject because I consider the home the most precious asset, the most precious possession that any American can have.

And so whether it’s trying to protect people who got involved in mortgages that they did not understand, mortgages where they were suckered into signing on the dotted line because we had exotic products that had been put into the marketplace which caused them to lose that home, or whether it is the pure question of eminent domain, property ownership is the basis of our American government and protected, should be always, by the Constitution and the Members who are elected to come to Congress to uphold the Constitution and protect our citizens.

And so today I join with Congressman SENSENBRENNER and others on the opposite side of the aisle in ways that I don’t normally do, and probably won’t have the opportunity to do for a long time to come, but today is important. We join together in the interest of American citizens who simply want to be able to own their home without their government intervening in their lives and taking their property and saying they are doing it in the name of economic development.

Mr. GOODLATTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, private ownership of property is vital to our freedom and our prosperity, and it is one of the most fundamental principles embedded in our Constitution. The Founders realized the importance of property rights when they codified the takings clause of the Fifth Amendment to the Constitution, which requires that private property shall not be taken “for public use without just compensation.”

This clause created two conditions to the government taking private property: that the subsequent use of the property is for the public, and that the government give the property owners just compensation.

However, the Supreme Court’s 5–4 decision in *Kelo v. City of New London* was a step in the opposite direction. This controversial ruling expanded the ability of State and local governments to exercise eminent domain powers to seize property under the guise of “economic development” when the public

use is as incidental as generating tax revenues or creating jobs, even in situations where the government takes property from one private individual and gives it to another private entity.

By defining “public use” so expansively, the court essentially erased any protection for private property as understood by the Founders of our Nation. In the wake of this decision, State and local governments can use eminent domain powers to take the property of any individual for nearly any reason. Cities may now bulldoze private citizens’ homes, farms, and small businesses to make way for shopping malls or other developments.

For these reasons, I joined with Chairman SENSENBRENNER to introduce H.R. 1433, the Private Property Rights Protection Act.

I am pleased that H.R. 1433 incorporates many provisions from legislation I coauthored in the 109th Congress, the STOPP Act. Specifically H.R. 1433 would prohibit all Federal economic development funds for a period of 2 years for any State or local government that uses economic development as a justification for taking property from one person and giving it to another private entity.

In addition, this legislation would allow State and local governments to cure violations by giving the property back to the original owner. Furthermore, this bill specifically grants adversely affected landowners the right to use appropriate legal remedies to enforce the provisions of the bill.

H.R. 1433 also includes a carefully crafted definition of economic development that protects traditional uses of eminent domain, such as taking land for public uses like roads, while prohibiting abuses of eminent domain powers. No one should have to live in fear of the government snatching up their home, farm or business, and the Private Property Rights Protection Act will help create the incentives to ensure that these abuses do not occur in the future.

I urge my colleagues to support this important piece of legislation.

I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the distinguished gentlelady from Texas (Ms. JACKSON LEE).

Ms. JACKSON LEE of Texas. I thank the distinguished chairman and the manager of the legislation, the distinguished gentleman from Virginia, and look forward to joining in supporting this legislation, H.R. 1433.

This is legislation that has been long in coming. It is a bipartisan initiative, and I think it is particularly important, when we speak to our colleagues who are representing the American public, to be able to say that property is valuable, that the Bill of Rights that requires due process before a taking is being reinforced by this legislation.

H.R. 1433 would prohibit a State or political subdivision from exercising

its power of eminent domain, or allowing the exercise of such power by delegation, over property to be used for economic development, or of a property that is used for economic development, within 7 years after that exercise if the State or political subdivision receives Federal economic development funds during any fiscal year in which the property is so used or intended to be used.

Texas has faced a number of incidences, Mr. Speaker. One, in particular, is after the aftermath of Hurricane Ike. Although there are different laws dealing with coastal property, I saw the pain in a number of beach owners's faces as their property was condemned, even though they were trying to anxiously save it.

This bill establishes a private cause of action for any private property owner or tenant who suffers injury as a result of violation of this act. This helps the little guy—someone who owns property can actually have a remedy to stand up and challenge the taking of their property.

The bill prohibits State immunity in Federal or State court and sets the statute of limitations at 7 years. Although I offered an amendment to extend that to 10 years, I was willing to compromise at 7, as well as requiring the Attorney General to bring an action to enforce this act in certain circumstances, but prohibits an action brought later than 7 years following the conclusion of any condemnation proceedings.

□ 1700

And maybe as it makes its way through, we'll have an opportunity to expand that 7-year period. These are the efforts of Mr. SENSENBRENNER and Congresswoman WATERS, along with the rest of us who cosponsored this amendment.

The three amendments I offered to the bill, some of them were accepted. My first amendment requires that a study be conducted to identify the number of minorities versus non-minorities who will be impacted by the act, in addition to the median incomes of those who are mostly highly affected.

My second amendment requires the United States Attorney General to locate and inform members of minority communities if it is determined that the act has a disproportionate impact. Both of those amendments, I believe, were accepted.

The SPEAKER pro tempore. The time of the gentlewoman has expired.

Mr. CONYERS. Mr. Speaker, I yield the gentlelady 3 additional minutes.

Ms. JACKSON LEE of Texas. I thank the gentleman.

I also offered an amendment to ensure that States are required to pay penalties and interest in cases where they run afoul of this bill.

I am well aware of the needs of local communities and the needs of economic development; but I am glad that this Congress seeks today to stand up on behalf of private property rights and owners. I am delighted that in the course of working in particular with this issue, we have a fair and balanced approach. Let me just give you a very brief example, and I thank the gentleman for his courtesy.

The history of eminent domain is rife with abuse specifically targeting racial and ethnic and poor neighborhoods. Now, redlining may not be equated to condemning neighborhoods or eminent domain; but when you don't allow a neighborhood to refurbish itself, to re-finance, you are putting it in the line quickly for being a target of eminent domain. A 2004 study estimated that 1,600 African American neighborhoods were destroyed by municipal projects in Los Angeles. In San Jose, California, 95 percent of the properties targeted for economic redevelopment are Hispanic or Asian owned, despite the fact that only 30 percent of businesses in that area are owned by racial or ethnic minorities.

In Mount Holly Township, New Jersey, officials have targeted for economic development a neighborhood in which the percentage of African American residents, 44 percent, is twice that of the entire township and nearly triple that of Burlington County. Lastly, according to a 1989 study, 90 percent of the 10,000 families displaced by highway projects in Baltimore were African Americans.

In my own home State of Texas, I remember a very well-stocked neighborhood of teachers and various blue collar workers. We called it Third Ward, Riverside, a thriving area. Its schools were schools like E.O. Smith and Jack Yates High School. And in the course of trying to develop a major highway, in fact, that neighborhood was ultimately, in essence, diminished—diminished greatly.

So as growth comes, I understand it, but I think this is an excellent balance. I want economic development. I want to see growth, but I would like it to support and encourage thriving neighborhoods of all backgrounds and diversity.

This legislation will help in doing so, and I believe it will correct decisions made previously and allow Texans, allow Californians, New Yorkers, Midwesterners, Southerners, Northerners, Easterners and Westerners to have a fair balance when the government comes and says it's time to take your property. I ask my colleagues to support this legislation.

Mr. Speaker, I rise today to debate H.R. 1433. I appreciate this opportunity to explain my support for H.R. 1433, "Private Property Rights Protection Act of 2011." First I would like to thank the Chairman of the Judiciary Committee, who accepted three of the four

amendments I offered to H.R. 1433 during the Committee markup.

H.R. 1433 would prohibit a state or political subdivision from exercising its power of eminent domain, or allowing the exercise of such power by delegation, over property to be used for economic development or over property that is used for economic development within seven years after that exercise, if the state or political subdivision receives federal economic development funds during any fiscal year in which the property is so used or intended to be used.

In addition, it prohibits the federal government from exercising its power of eminent domain for economic development. Also, establishes a private cause of action for any private property owner or tenant who suffers injury as a result of a violation of this Act. The bill prohibits state immunity in federal or state court and sets the statute of limitations at seven years, as well as requiring the Attorney General, DOJ, to bring an action to enforce this Act in certain circumstances, but prohibits an action brought later than seven years following the conclusion of any condemnation proceedings.

This bill has been the product of a tremendous effort by Representative MAXINE WATERS. I, along, with Representative WATERS have worked for nearly a decade on this issue. During Committee markup, I added several changes to this bill that I believe have enhanced this bill.

The three amendments that I have offered to the bill would ensure that both minorities and non-minorities will have additional protections under this measure. My first amendment requires that a study be conducted to identify the number of minorities versus non-minorities who will be impacted by the Act, in addition to the median incomes of those who are most highly affected.

My second amendment requires the United States Attorney General to locate and inform members of minority communities, if it is determined that this Act has a disproportionate impact on them.

My final amendment to this measure will ensure that states are required to pay penalties and interest in cases where they run afoul of this bill. The purpose of my amendment was to ensure that both small businesses and low-income homeowners are protected as well, those who might not have the ability to engage in drawn-out and expensive litigation.

The Private Property Rights Protection Act prohibits state and local governments that receive federal economic development funds from using eminent domain to transfer private property from one private owner to another for the purpose of economic development.

The history of eminent domain is rife with abuse specifically targeting racial and ethnic minority and poor neighborhoods. A 2004 study estimated that 1,600 African American neighborhoods were destroyed by municipal projects in Los Angeles.

In San Jose, California, 95 percent of the properties targeted for economic redevelopment are Hispanic or Asian-owned, despite the fact that only 30 percent of businesses in that area are owned by racial or ethnic minorities.

In Mt. Holly Township, New Jersey, officials have targeted for economic redevelopment a



neighborhood in which the percentage of African American residents, 44 percent, is twice that of the entire township and nearly triple that of Burlington County.

Lastly, according to a 1989 study 90 percent of the 10,000 families displaced by highway projects in Baltimore were African Americans.

Thousands of Texans, from Houston to San Antonio to El Paso, now live under the threat of eminent domain abuse. These minority home and business owners have well-founded fears that their property may soon be taken from them to make way for private redevelopment projects cooked up by developers and city officials.

The threatened homes and businesses are important parts of functioning communities, many of which have been there since the earliest days of Texas' history as an independent nation. Their only fault is that they are located on land coveted by developers and government officials.

In Justice O'Connor's dissent in *Kelo*, she predicted, "Any property may now be taken for the benefit of another private party, but the fallout from this decision will not be random. The beneficiaries are likely to be those citizens with disproportionate influence and power in the political process, including large corporations and development firms. As for the victims, the government now has license to transfer property from those with fewer resources to those with more."

Following the decision in *Kelo*, Texans, and minorities in particular, remain tremendously vulnerable to eminent domain abuse by ambitious cities and developers.

Hours after *Kelo* was decided, the city of Freeport, Texas, urged its attorneys to redouble their efforts to take a family-owned seafood business for a private marina development project. This so outraged the Texas legislature that Texas became the second state—out of 43 so far—to reform its eminent domain laws.

In El Paso, a neighborhood called El Segundo Barrio (which has been called the "Ellis Island of the Southwest") is being targeted by a large consortium of developers and business owners who want to remake the U.S.-Mexico border area for the overwhelming benefit of private parties.

In San Antonio, the city wants to expand its famed River Walk northward again, to be filled with private businesses owned by people other than the current land owners.

In Houston, the threat is everywhere. One little noticed part of the city's light rail plan allows the rail authority to condemn any property within a quarter mile of any light rail station to facilitate something called "transit-oriented development."

Municipalities often look for areas with low property values when deciding where to pursue redevelopment projects because it costs the condemning authority less and thus the state or local government gains more, financially, when they replace areas of low property values with those with higher property values.

This abuse can happen anywhere in the United States. Eminent domain abuses affecting racial minorities and those in the relatively low income bracket must be stopped.

My amendment permits judicial review, to determine if this Act has a disproportionate im-

pact on minorities, and for the Attorney General to locate those affected and inform them of their rights.

The displacement of African Americans and urban renewal projects are so intertwined that "urban renewal" was often referred to as "Black Removal."

There are vast disparities of African Americans or other racial or ethnic minorities that have been removed from their homes due to eminent domain actions are well documented and must continue to be judicially reviewed.

When an area is taken for "economic development," low-income families are driven out of their communities and find that they cannot afford to live in the "revitalized" neighborhoods.

The remaining "affordable" housing in the area is almost certain to become less so. When the goal is to increase the area's tax base, it only makes sense that the previous low-income residents will not be able to remain in the area.

This is borne out not only by common sense, but also by statistics: One study for the mid-1980s showed that 86 percent of those relocated by an exercise of the eminent domain power were paying more rent at their new residences, with the median rent almost doubling.

I am keenly aware that my colleagues on the other side of the aisle see this bill as the reversal of the *Kelo* decision from an ideologically different window but I hope that this bill can be used as a marker to help support the rights of property owners who do not have access to the "Big Litigation."

Mr. CONYERS. Mr. Speaker, I have no further speakers, and so I yield back the balance of my time.

Mr. GOODLATTE. Mr. Speaker, I yield myself such time as I may consume to say that I urge my colleagues to adopt this bipartisan legislation to restore meaning to the Fifth Amendment to the Constitution. As Justice Sandra Day O'Connor noted in her dissent in that opinion, the *Kelo* decision effectively renders meaningless the protections under this law because, as the interpretation exists, as the Court ruling exists, State and local governments can seize property for almost any reason under the context of calling it for purposes of economic development, and we need to change that.

We need to make sure that private property is what people think it is, and that is something that they have the right to own and not be interfered with by the government except for real purposes of eminent domain, taking land for pure public uses like roads and utilities and schools and other clearly public uses.

I urge my colleagues to support the legislation, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. SMITH) that the House suspend the rules and pass the bill, H.R. 1433, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

#### COMMUNICATION FROM DISTRICT REPRESENTATIVE, THE HONORABLE STEVE KING, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from Sandra Hanlon, District Representative, the Honorable STEVE KING, Member of Congress:

FEBRUARY 24, 2012.

Hon. JOHN A. BOEHNER,  
*Speaker, House of Representatives,*  
*Washington, DC.*

DEAR MR. SPEAKER, this is to notify you formally, pursuant to rule VIII of the Rules of the House of Representatives, that I have been served with a trial subpoena ad testificandum issued by the United States District Court for the Northern District of Iowa.

After consultation with the Office of General Counsel, I will determine whether compliance with the subpoena is consistent with the privileges and rights of the House.

Sincerely,

SANDRA HANLON,  
*District Representative,*  
*Congressman Steve King.*

#### MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Brian Pate, one of his secretaries.

#### RELIGIOUS FREEDOM IS BEING BULLIED

(Mr. POE of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. POE of Texas. Mr. Speaker, the administration is bullying religions. Yes, the government has required some religious organizations to violate their tenets and provide certain health care coverage for their employees—or else.

After an immediate backlash by the American public, the administration promised that it would make some changes; but the same day that it made this promise, it finalized the original mandate as-is with no changes. The original edict is now in effect. The big announcement about a change resulted in nothing, only more words.

The administration said it had the power to issue this order because it was implementing ObamaCare. If the administration has the power to infringe upon a constitutionally protected right, what will follow? What individual freedom will be trampled next, all in the name of "we're the government, we know what's best"?

The Constitution is being insulted and violated. We should fear this type of unyielding power and religious persecution. After all, the Constitution was written to protect us from this type of government.



And that's just the way it is.

#### TRIBUTE TO MARYLYN SCHMIDT

(Mr. CONYERS asked and was given permission to address the House for 1 minute.)

Mr. CONYERS. Mr. Speaker, I rise today in memory of Marylyn Schmidt, a resident of the State of Michigan, who dedicated her life to the goal of achieving true universal health care for all Americans.

She spent countless hours, day in and day out, organizing, mobilizing, and educating the citizens of Michigan in order to build grass-roots support for passage of a single-payer bill in Congress, H.R. 676. She passionately believed that every person in America should have access to quality, affordable, and accessible health care as a fundamental civil and human right.

I knew Mrs. Schmidt for almost two decades. I had a profound respect for her unique leadership in advocating for human rights, universal health care, and protecting Social Security and Medicare. She belonged to numerous community and social-justice organizations, including the Michigan Improved Medicare for All, the Michigan Alliance to Strengthen Social Security and Medicare, the Michigan Universal Healthcare Access Network, and the Oakland County Welfare Rights Organization. For over 20 years, she fought for the human, economic, and civil rights of the voiceless and the vulnerable citizens of Michigan who wanted nothing more than a better life for themselves and their children.

Thank you, Marylyn Schmidt, for remaining steadfast in your belief that health care should be a fundamental human right in this country. The people of Michigan and all of those you helped and fought for will always remember your kindness, your courage, and dedication to this just cause.

□ 1710

#### MAKE IT IN AMERICA: MANUFACTURING MATTERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 5, 2011, the gentleman from California (Mr. GARAMENDI) is recognized for 60 minutes as the designee of the minority leader.

Mr. GARAMENDI. Mr. Speaker, I look forward to this hour with my colleagues to talk about jobs. How do we create jobs in America? We are now well over 14 months of the Republican control of this House, and not one significant bill has passed this House that would create new jobs. There are many bills to wipe out environmental laws, many bills to wipe out regulations that protect the citizens of the United States from pollution and contamination of one sort or another, but where

are the jobs bills? We absolutely have to create the jobs in America.

Today, we are going to take about an hour to discuss how we can create jobs in America. One of the principal ways is to Make It in America: Manufacturing Matters. Manufacturing was the heart and soul of and the foundation for the great middle class, the rise of the middle class here in the United States. It wasn't too long ago that manufacturing in the United States was a big deal. About 20, 23 years ago, we had almost 20 million Americans in manufacturing. It also happened to coincide with the largest percentage of Americans that were in the middle class.

Over the intervening years, we've seen the slow decline until we hit this period of 2000 to 2009, and we saw a precipitous drop to just over 11 million manufacturing jobs in America. That coincided with the decline of the middle class in the United States.

So what we want to do today is to focus on, how can we rebuild the American middle class? One of the principal ways of doing it is to focus on manufacturing and to focus specifically on rebuilding the great manufacturing sector in the United States. There are many, many ways to do this.

My colleague from Oregon is here to join us, and I know that there are many things that are happening in Oregon that speak directly to this, one of which is competition between Oregon and California for the manufacturing of light railcars. I'll let my colleague from Oregon go first, and then I'll pound on him that California is a better place to manufacture light railcars than Oregon. But either way, they're made in America, and that's to the benefit of all Americans.

Please join me, and let's see where we can take this.

Mr. BLUMENAUER. Thank you. I deeply appreciate your courtesy in permitting me to speak, and I appreciate your leadership in focusing on the need to rebuild and renew this country, putting Americans back to work, being able to not just revitalize our economy, but our neighborhoods and strengthen our families. It is true that there are some areas where there are some great opportunities for healthy competition. The gentleman may be referencing the fact that recently we have started manufacturing a streetcar in the United States for the first time in 58 years, and it's being manufactured in Portland, Oregon. But I would note that that project, manufacturing streetcars, includes the work of subcontractors across the country, including 40 in the Midwest that had been so hard hit by some of the decline in manufacturing activity.

The point is that being able to make goods in this country, whether it's light rail, streetcar, heavy rail, whether we're dealing with fabricating steel

for bridges and roads or rebuilding the power grid, these are all areas that are a tremendous source of family-wage jobs. I find no amount of irony that one of the major Republican candidates for President somehow thought that President Obama was being—and I'm using his direct word—"elitist" by advocating that young people have the chance for a college education or going to a community college. My goodness, how out of touch can you possibly be? I don't know any American that doesn't want his or her child to be able to have the opportunity for further education and training. This is part of an agenda here. I look forward to the conversations this evening.

At one point, I'd like to cycle back to the spectacle we had on the floor of the House the week before we recessed for Presidents Day where we had the most partisan transportation bill in the history of the House—narrow in focus, small in vision, dividing the various elements of transportation—that was so bad that our Republican friends were embarrassed to even have a hearing on it. Never before in the history of the House have we had a major surface transportation reauthorization that never even had a hearing.

Well, mercifully, our Republican friends have decided that that wasn't getting them anywhere. The outcry from transit agencies across the country, from cyclists, even from the people who advocate safe routes to school, the program designed for our children to be able to get back and forth to school safely that they eliminated—so they've put that on the back burner. But the point is, you are right. We've enjoyed, if I can use that term, their Republican leadership of the House for 14 months. We have no economic development plan, we have no transportation bill, and we continue to have an opportunity to rebuild and renew America languishing.

Mr. GARAMENDI. Thank you so very much for circling back to the transportation issue. That issue is still before this House. There has been no hearing, and the bill that was put forth by the Republicans simply has gone nowhere. In fact, it hit the brick wall. I'm sure one of the reasons it hit the brick wall is that there is no way to create a modern transportation system in that bill. For example, we both talked about streetcars and light-rail cars. In California, there is a factory near Sacramento that makes light-rail cars. I'm delighted there's a factory now in Portland, Oregon, that is building streetcars. And the factory in Sacramento is also building locomotives.

The reason this is happening is that the Democrats, in their recovery legislation, the stimulus bill that gets such bad press—totally undeserved, I might add—actually had a clause in it that American taxpayers' money was going to be used to Make It in America. And

that started or propelled both of these operations as cities decided they would use some of their own money, some State money, and some of the Federal money to enhance their public transportation programs.

However, the transportation bill that you brought up just a moment ago totally removes the public transportation sector from the bill. Now I don't know how we're ever going to build buses, trains, and light rail, Amtrak, without the support of the Federal Government.

□ 1720

I know you were deeply involved in this. I heard you talk about this once before—with a little bit of animation. You may want to circle back and pick that up again.

Mr. BLUMENAUER. Well, I appreciate the invitation.

You know, today, as we speak, the people in Michigan are voting in a Presidential primary to help determine the Republican nominee. I just mentioned one of them. My friend and former colleague here, Rick Santorum, with whom I served in the House, is the person who thinks it's elitist that American families have an opportunity for their kids to go to school. The other major contender, the gentleman who is likely to even win the ballot in Michigan today, more Republican votes, has been quoted as saying one of his top targets, if he's elected President, would be to eliminate Amtrak.

Mr. GARAMENDI. Seriously? I've heard him say a lot of things, but—

Mr. BLUMENAUER. Yesterday he was on the trail. This is one of his top five projects.

Mr. GARAMENDI. Is this Mr. Romney?

Mr. BLUMENAUER. Mr. Romney wants to eliminate the funding for Amtrak. This is one of his targets.

Well, the United States is—in the past, I have actually been brought up short when I've talked about the United States having a third world rail passenger system, because I've ridden railroads in places like Malaysia or Thailand, and we do an injustice to their rail systems.

The United States is the only major country in the world that does not have higher-speed rail passenger service. It is the only major country that has no plan to move forward. The President, to his credit, put forth \$14 billion to be able to strengthen our rail passenger system, some of which, several billion would have helped with a California vision; the California voters have approved an opportunity to go forward.

It is frustrating for me because there is no doubt that Americans will have higher-speed rail over the course of the next quarter century, no doubt. But the question is, coming back to the point that you have so relentlessly and

eloquently developed on the floor here, Congressman GARAMENDI, is the notion of: Where will America's rail system come from? Because the path we're on, if we follow it with Romney, who would zero it out, with Republicans who have fought these investments every chance they get, the high-speed rail we'll have will be built and operated by the Chinese. They will design it; they will build it. The value will be added in another country, and we'll pay for the privilege.

The alternative is to invest here in the United States in the tracks, the signals, the equipment, to be able to revitalize a vital system of transportation, taking pressure off of airports and roads. But, as I say, the choice is whether or not we're going to build it, we're going to own it, and it will accrue to the benefit of the American public.

Mr. GARAMENDI. Well, you're right on an issue that is very close to my own policies, which is, if it's American taxpayer money that's being used to buy a bus, a light railcar, a streetcar, a locomotive, or a train set for BART in California or the Metro system here in Washington, D.C., then our money must be used to buy American-made equipment. Plain and simple, those are American jobs.

We had a terrible example of bad policy in California. The San Francisco Bay Bridge, Oakland-San Francisco Bay Bridge, a multibillion-dollar project, the steel in that bridge went up to bid. It's \$1 billion or so of steel for the bridge. One contractor put in two bids. One bid was 10 percent cheaper, and that was Chinese steel. The other bid was American steel, and it was 10 percent more. So the bridge authority, in its wisdom, selected the cheaper.

It turns out that cheaper is not necessarily better and, ultimately, not cheaper. It turned out that it was far more expensive. There were serious flaws in the steel, in the welding, and 6,000 to 8,000 jobs were in China rather than in the United States. Ultimately, the cost was higher, and we did not benefit in the United States, even in California, from the increased economic activity that would have occurred if the direct jobs in manufacturing and welding and fabricating that steel were in the United States.

We don't want that ever again. If it's our taxpayer money, from whatever source, then make it in America. Use our money to buy domestic-made buses and trains and steel. We've got work to do.

I put this one up here, not to get away from the transit systems and the public transportation systems, which are critically important, but we've got 150,000 miles of road that need repair. The transportation bill that had been offered by our colleagues on the Republican side doesn't even get close to

keeping up with what we need in the highway system and repairing the bridges that are falling down or could fall down across America. We have work to do.

We need to reignite the American Dream, and part of that dream has been the world's best transportation system. Unfortunately, over the last decade or two, we have seen that decline in American status in transportation. Whether we're in the third world or the second world, we're surely not in the first world for highway transportation or for the public transportation system.

We have work to do to reignite the American Dream. This transportation bill that ultimately we must pass, the Senate and the House, we must come together and pass a bill that is adequately funded, that provides for public transportation as well as for the road transportation. Our Republican colleagues are not even close to that. They've got a \$75 billion hole in their wallet not filled by the programs that have been put forward.

I know that you've been serving on this committee. You're far more familiar than I am with it. So let's just continue with this for a little while.

Mr. BLUMENAUER. One of your points about the impact, that one piece of the bridge project, the \$400 million element of steel, it wasn't just the steel itself. Had we been developing that portion of the steel for the project in the United States, there would have been thousands of other jobs that would have been related to it to support that effort, in terms of the manufacturing, the development, the people who provide the equipment to manufacture the steel and put it in place, and the tools. It is a dramatic ripple effect.

You referenced 150,000 miles of road in critical need of repair. What's under the surface is even in worse shape. We have, in the United States, every day 6 billion gallons of water that leaks from water mains that are old, in some cases unsafe and unhealthy. That's the equivalent of 9,000 Olympic-size swimming pools. Lined end to end, it would go from Washington, D.C., to Pittsburgh, Pennsylvania.

Mr. GARAMENDI. That's a lot of swimming.

Mr. BLUMENAUER. It's a lot of water that's wasted.

It is a problem in terms of undermining roads. We've all seen these terrible pictures of sinkholes that develop. I used to keep them and use them for presentations. I stopped when one of the sinkholes was actually in my old neighborhood of Portland, Oregon, that opened up in the middle of the street and swallowed a maintenance truck. This is serious business.

The American Society of Civil Engineers, every 5 years, does a report card on the state of American infrastructure. Their most recent report card

showed that we have \$2.3 trillion unmet need, and the grades ranged from C-minus to an F in terms of water, the electrical grid, transit, roads and bridges. This is serious business in terms of American quality of life. And think about the hundreds of thousands of family-wage jobs if we were investing in rebuilding and renewing America.

□ 1730

I know you appear to have a little statistic here.

Mr. GARAMENDI. I would like to have handed this to you as you were talking about the expansion that occurs when you invest in infrastructure. I ran over to get this, but I didn't want to interrupt your discussion.

For every dollar invested in infrastructure investments, \$1.57 is pumped into the American economy. That's the multiplier effect that occurs when you invest in this. These are investments that pay dividends year after year. This is the immediate turnaround. You described it so very well. It's the small business that is fabricating, it's the steel mill, and on and on. \$1.50. If we invest a dollar today, we get \$1.50 back in economic activity, people paying taxes. We recoup much of that dollar investment. That is just the immediate multiplier effect.

Let's say we have an investment in a water system in Portland, Oregon, that is old and needs to be replaced. That's now in the ground, and it's going to serve year one, two, three, and probably for the next century. So it's not something that is used up. I suppose if we were to invest in an artillery shell, and we shoot it off in Afghanistan, well, okay, that is a one-off, one time, and it is gone. Perhaps to good purpose, but gone. You invest in infrastructure in America, you get an immediate return, and it is there for the next generation and the generation beyond.

Mr. BLUMENAUER. That's a very important point. The Society of American Civil Engineers has produced another fascinating report about what the cost will be if we don't invest in the water infrastructure. They have documented tens of billions of dollars of extra cost if we do not take care of these problems. It is not a problem that is unknown to American homeowners, who quickly find out if you don't fix the hole in the roof, you end up with massive structural damage.

Mr. GARAMENDI. Excuse me. You're getting too close to my roof. Move on. Don't focus on roofs, because I didn't fix it, and, yes, I got to repair the inside as well as the roof.

Mr. BLUMENAUER. The damage that you mentioned earlier in terms of the roads that are in need of critical repair, the cost to the American motorists in terms of the damage to car suspension systems and tires, that

wear and tear wears out cars more rapidly. Delays in traffic for something like UPS—a 5-minute delay I think translates to something like \$100 million of costs to them over the course of a year. This \$1.57 of economic impact for every dollar invested translates into over 25,000 jobs for each billion dollars that is spent on infrastructure. A far greater rate of return than on military spending, on a lot of the other things—tax cuts, for Heaven's sake. This is real economic benefit, particularly when we've got a building trade sector where unions are looking at 20, 30, 40 percent or more unemployment. These are opportunities to put people to work tomorrow on things that people in America need today.

Mr. GARAMENDI. We ought not dance around one of the issues involved in this infrastructure. That's, where is the money coming from? How are you going to pay for this stuff?

Our colleague ROSA DELAURO for more than 15 years has made a proposal here in this House that we create what Europe has had for the last almost 30 years now, an infrastructure bank, a way to finance those projects that have a cash flow, the specific ones that you're talking about. The bridge has a toll, has the ability to pay off a loan. The water system has a fee associated with the delivery of water, the sanitation system. All of those are what I call cash-flow projects.

ROSA DELAURO from Connecticut has proposed an infrastructure bank in which the Federal Government provides the initial capital, say a 10-year note. We could borrow at the Federal level for less than 2 percent now on a 10-year note, put that in the bank, go to the pension funds around the Nation, and they all invest in the bank. We may have \$25 billion, \$30 billion, \$50 billion. And in some cases, depending on how robust you want to go, you could have \$100 billion of capital available in the infrastructure bank to finance the kinds of projects that have a cash flow associated with them: toll roads, water systems, sanitation systems, airports, bridges.

All of those things are possible. In doing that, you not only create the opportunity to finance those projects and obtain this kind of economic stimulation, but you also have taken off of the general fund of the Federal Government and some State and local governments, taken off their general fund the burden of financing those and are freeing up money for those infrastructure projects that do not have a cash flow associated with them, such as, for example, many of the highways and biways and county roads throughout America where there's no fee associated with them.

We have the opportunity to finance these things if we could just get off the dime. Please, the leadership in this House, move us forward, give us a

project that we can actually put in place, an infrastructure bank, and other kinds of projects that will actually create jobs.

Mr. BLUMENAUER. The gentleman is absolutely correct. There are lots of ways of going about this.

Ronald Reagan in 1982 understood that the gas tax, a user fee, could be used to help the country, which at that point was in a serious economic recession. Ronald Reagan signed into law a nickel-a-gallon increase in the gas tax that helped spur economic development activity.

If you don't want to raise a tax, there are unnecessary tax benefits that are flowing, for instance, to the largest oil companies that no longer need these tax breaks. In fact, George Bush the younger was famously quoted as saying when oil prices got to \$50 a barrel that oil companies didn't need incentives to drill for the most profitable commodity on the face of the planet. Where we've watched it go to \$100 a barrel or more, we could completely capitalize the infrastructure bank the gentleman talked about just by unnecessary tax benefits to oil companies, which the majority of the American public would approve in a heartbeat. There are also the expiring tax provisions on the wealthiest of Americans where just half of that would enable us to fully fund the transportation gap over the next 10 years.

I have bipartisan legislation that would deal with a water trust fund that would leverage close to a trillion dollars because of what the gentleman said—that there are other funds flowing for infrastructure like that, a trillion dollars of development over the next 20 years. There are opportunities here for us to step up and meet the needs of America and to rebuild and renew it.

Mr. GARAMENDI. We have work to do, and Americans want to go to work and they want things made in America.

I was interested in what you were saying about the use of our Tax Code. The Big Five oil companies in America—Exxon, Chevron, BP, and the other two—have in the last decade made a trillion dollars of profit. Yet at the same time, those Big Five get \$4 billion a year in tax subsidies. Our tax money is going to those companies as if they don't have enough of our money already. They do. If we dial that back and bring that back into the system for infrastructure investment, you could use it, as you say, for transportation because it's associated with transportation. You could use it for clean energy. Let's say you take 3 years of that and suddenly got \$12 billion, we could capitalize an infrastructure bank. All of these things are possible if we get away from the notion of continuing to help the oil industry.

□ 1740

The wealthiest industry in the world doesn't need our tax money as a subsidy, and we ought to reel that money back in and use it for things that really create investments in America.

There are other ways we can do this. We had what are called bonds, Build America Bonds. Those have expired, but those were extraordinarily useful for small cities, big cities, and counties to build infrastructure. Many, many things that could be done, but unfortunately we are now 12, 14 months into the current control of the House by Republicans and not one of these things have come to the floor to rebuild the American economy. We have work to do. And we can do it.

I want to just point out that the Democratic Caucus, our colleagues on the Democratic side, have introduced 36 Make It In America bills, different kinds of ways to do it.

My two bills deal with our tax money for transportation. The gasoline tax, use it to buy American-made steel, equipment, buses, and the other one I have is using our tax money. If we're going to subsidize wind turbines and solar cells, we buy American made, and this is a way of keeping the jobs in America.

I know you have some additional thoughts on this, and let's continue on.

Mr. BLUMENAUER. Well, it is one of the very real problems we are facing in terms of building it in America. We are in the process of constructing a wind energy in the United States. It's been remarkably successful over the course of the last 20 years.

We've watched the price per kilowatt-hour produced by wind drop dramatically. At the same time, we are watching these wind turbine farms—you have them in California. We have them in the Pacific Northwest. They're in the Midwest. They're in Texas. They are providing revenue to rural America. Farmers and ranchers are being able to harvest the wind, literally.

Mr. GARAMENDI. With the cows and sheep beneath the turbines.

Mr. BLUMENAUER. At the same time, this is low carbon. This is not adding to our greenhouse gas effect. It's not something that is being exported overseas, giving money to people who don't like us very much.

At the same time, it is building this infrastructure: people who are now manufacturing wind turbines in the United States; people who are putting up, fabricating these towers; people dealing with the transmission capacity.

But I will say that one of the things this Congress should do is to extend the production tax credit. We've talked about benefits that flow to the oil industry long past time that they were necessary to provide incentives for them to develop oil resources, but we have provided a little bit of an incen-

tive to help get the wind energy business competitive.

Well, that production tax credit expires at the end of the year. Already, we are watching investment patterns start to pull back because people are uncertain that they can go ahead with large-scale projects, investing tens of millions of dollars not certain that they will continue to have this tax benefit. That's outrageous.

Of the \$4 trillion of tax provisions that are going to expire at the end of the year, the opportunity for us to actually have deficit savings by recalibrating some of those—at a minimum, we ought to step up, and we ought to step up now, to be clear that the production tax credit is, in fact, going to continue so we don't shut down the wind energy industry, we don't lose the manufacturing and the construction, to say nothing of clean, renewable energy. That would be a tragedy.

We have bipartisan legislation I've introduced with my friend from Seattle, Congressman REICHERT. We have a number of very distinguished cosponsors, including yourself. This is something that shouldn't be languishing. There's a bipartisan interest in making sure that the wind energy industry doesn't shut down and that we continue making it in America.

Mr. GARAMENDI. Thank you very, very much for bringing that issue up. It's one that is extremely important in my district because I do have the two major northern California wind farms in my district, one in the Solano County area and the other one in the Altamont Pass area.

My own history in this goes back to 1978, when I authored the first State law to provide a tax credit for those companies that built the wind turbines way back in 1978. So we've come a long, long way on this, and we ought to get it going.

I notice that you're going to have to go, and I'm going to wrap up shortly after you leave.

We've gone through a lot of things here. I'm going to just bring one more issue, and that has to do with the price of fuel in America today.

Thank you so very much, my colleague from Oregon, bringing us the Northwest perspective on this.

I went out and purchased gasoline this last week when I was back in California, and it was something around the range of \$4.15 in one station, another, \$4.25. I said, What's going on here? Why are we seeing this sudden rise when, in fact, in the Midwest of the United States, there is actually a surplus of oil? What's happening here?

I think we can look to several different things that are taking place.

One thing we know that is taking place is speculation. Because of the Dodd-Frank legislation, the government now has the power to deal with speculators, and I know the President

picked this issue up when he was in Florida last week and said that this is something that a special task force has been set up in the Department of Justice to ferret out the speculation that's taking place in the gasoline markets.

I've also said I'd heard a rumor that the United States is actually exporting gasoline. In fact, we are. We're exporting over 26 million gallons of gasoline a day. You heard that right. The energy companies say, well, the price is going up because of a shortage of gasoline. What are you selling me? There's a shortage when we're actually exporting gasoline? Why are we doing that? Well, we do import gasoline, too, but your imports are balanced by exports. So how does that help America? I don't think it does.

Speculation, the export of gasoline, and you wonder why the prices are going up?

Well, certainly the speculation has to do with the question of Iran and whether we're going to shut down the Strait of Hormuz or not. Well, that's speculation. But the reality today is there's a glut of oil in the Midwest that ought to be used for refining gasoline and diesel in the United States. We ought to make it in the United States and keep it in the United States.

Twenty-six million gallons a day being exported? We'd like to have that in California. We'd like to have that drive down the price in California.

There's not a shortage. There may be a shortage of wisdom. There may be an excess of market-driven policies here, but we have a crisis in the United States, and it is certainly the price of gasoline.

A lot of discussion about "drill, baby, drill."

Okay. Let's understand that we are now drilling and producing more oil in the United States this year than in the previous 8 years. That's right. Right back to the Republican administration, when George W. Bush was in power and the Republicans controlled both Houses, the drilling of oil was at an all-time low. As we've come into this period of time, we've seen the production increase to the highest it's been in the last 8 years, and more to come.

But the opening of the Outer Continental Shelf, the Alaska National Wildlife Refuge and others will have nothing to do with the near term, that is in the next 5 to 10 years, because of the length of time it takes to produce from those new areas.

By the way, you don't need to waive every environmental law in the Nation or in the State to go get that oil. Off the coast of California, with directional drilling, you don't even need to get onto the ocean to get to the oil. You can drill from the land, reducing the risk to the marine environment to near zero and access oil that's 6 miles offshore. We ought to be looking at those things.

□ 1750

There is one other thing, and I think I will wrap with this so that my Republican colleagues, if they need a little time to get here for their next hour, have fair warning.

Natural gas, it's an extraordinary asset for America. Natural gas is readily available. We're producing more natural gas in America now than ever before, and we're discovering that we can get even more. We're looking at an extraordinary asset. This is an American asset. It is a strategic asset. It is leading to the creation of jobs in America right now.

In my own district that I share with Representative GEORGE MILLER, in Pittsburg and on the Antioch city boundary line, we're seeing Dow Chemical coming home, bringing jobs back to America, investing large sums of money—millions and millions of dollars—in that facility because of the low price on natural gas. All across this winter in every part of America we've seen homeowners' heating bills, not soar, but actually decline. Yes, it has been a warm winter, but the price of natural gas for heating in the North Atlantic States, in the New England States, across the Midwest, and even in California is at an all-time low. The average last year was \$4.30 when, just 5 years before, it was in the \$10 to \$12 range.

So we're seeing an incredible opportunity for America. Energy is the foundation of our economy. When you have a ready supply in abundance, you ought to recognize that as a strategic asset. Yet in committee after committee, in my own Natural Resources Committee, I've seen my Republican colleagues put forth bills that would export natural gas, that would take this strategic asset and send it overseas because the energy companies can get a higher price overseas. They don't need a higher price. They're doing quite well, thank you. What we need is a reliable, low-cost energy source in America.

Do not allow—do not allow—by legislation or by executive order the export of natural gas from the United States. There is a little bit that now goes to Canada or to Mexico under the NAFTA agreements, all of that in pipeline; but just this last week, one of the big Wall Street hedge funds decided to invest \$2 billion in a Texas scheme to build a liquefied natural gas export facility. Well, I suppose it's nice to build it; but by golly, that's America's strategic asset that's going to be sent overseas.

Be aware of what's happening here. If you send that gas overseas in any large quantity, you're going to drive up the price of natural gas in America. So American farmers are going to pay more for their fertilizers, and we're going to see home-heating prices throughout the Nation rise as those exports of this strategic asset rise. We're

going to see that Dow Chemical is going to make a different decision about whether to come back to America to take advantage of the low cost of natural gas or whether it's going to say, okay, America is so screwed up in that it's taking one of its most basic strategic assets and selling it for the highest price.

I think back on the story of Esau, in the Bible, when he sold out his birthright for a bowl of porridge. We ought not do this. We need an energy supply in America that we do have available to us.

So, with that, if my Republican colleagues are anywhere nearby, they can claim their hour.

We've gone through some very, very important things here—the Make It in America agenda and 36 Democratic bills that would build our economy, that would cause us to come back and rebuild our great manufacturing sector. It will happen. It's government policies that over the last 25 years have caused the American manufacturing base to erode, policies such as tax breaks for American companies that would send their jobs offshore. We stopped nearly all of that before the Democrats lost power here in Congress.

So we ask our Republicans to work with us in putting into law these 36 bills that will cause us to rebuild the American middle class, to reignite the American Dream and to give the middle class the opportunity to engage in manufacturing.

Mr. Speaker, with that, I yield back the balance of my time.

#### PROCEDURES IMPLEMENTING SECTION 1022 OF NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2012—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 112-91)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Armed Services and ordered to be printed:

*To the Congress of the United States:*

Attached is the text of a Presidential Policy Directive establishing procedures to implement section 1022 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81) (the "Act"), which I hereby submit to the Congress, as required under section 1022(c)(1) of the Act. The Directive also includes a written certification that it is in the national security interests of the United States to waive the requirements of section 1022(a)(1) of the Act with respect to certain categories of individuals, which I hereby submit to the Congress in accordance with section 1022(a)(4) of the Act.

BARACK OBAMA.

THE WHITE HOUSE, February 28, 2012.

#### BORDER SECURITY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 5, 2011, the gentleman from Utah (Mr. BISHOP) is recognized for 60 minutes as the designee of the majority leader.

Mr. BISHOP of Utah. I thank you, Mr. Speaker.

I am here tonight to talk about one of the issues that is of extreme significance. In fact, in every town hall meeting I've ever held, one of the first questions that's asked, if not the first question, is about illegal entry into this country and is about, specifically, border security.

So in talking about what the issue is before us, this is a map of the United States that is divided into the Border Patrol sectors, the areas that the Border Patrol has. As you will see, if you can, from the numbers, there is a vast difference in the numbers of people coming illegally into this country based on the sectors.

If you go to the sector of the State of Maine, the last time we had verifiable figures, the last time we had complete figures from the Border Patrol and from the Department of Homeland Security, only 56 illegals were apprehended trying to get into Maine, which has to tell you that there are not a whole lot of people from Nova Scotia who are trying to come over here and take hockey jobs. In fact, I have to think they probably looked at them as tourists.

But if you look down here in the area in blue, the Tucson, Arizona, sector, which is only part of Arizona—it's not the entire State of Arizona—in the last 2 years for which we have complete data, 51 percent, or a quarter of a million people, came through Arizona. In fact, 51 percent of all of the people who illegally came into the United States and who were apprehended came through the Tucson, Arizona, sector and were apprehended in the Tucson, Arizona, sector. This has to bring about the simple question of why.

Why is this part of Arizona the obvious entrance of choice of those trying to get into this country illegally? I really think the answer lies in the next chart.

This is the borderland along our southern border. The black line is 100 miles from the border, which is, by definition, both by statute and judicial decision, the legal jurisdiction of our Border Patrol. The area in red is the area that is owned by the Federal Government in those areas. You'll see that that specific area of Arizona—almost 80 percent of that—is owned by the Federal Government. That's almost 21 million acres of land owned by the Federal Government, which is in sharp contrast to, say, the Texas border and especially the northern border. Of that roughly 21 million acres, an area the size of the States of Connecticut and Delaware

combined is wilderness area, and that doesn't include also areas that are endangered species habitats.

Those areas that are red are where we find the Federal Government prohibiting the Border Patrol from doing its job. The Border Patrol actually has access in the white areas—private property—to do their job. It is only when the Federal Government stops the Federal Border Patrol from doing their job on Federal property that we seem to have a problem.

Unfortunately, those coming into the country seem to realize that this area where the Federal Government stops the Federal Border Patrol on Federal land, as unusual and bizarre as that seems, becomes the entrance of choice for their coming into this country. I'm not just talking about immigrants, people who are coming over here to try to find jobs in some particular way. This is the entrance of choice of the drug cartels. The Border Patrol will tell you privately that their best estimate—only an estimate—is that 40 percent of those coming into this area of Arizona, in fact, into the country, are part of the drug cartel.

□ 1800

They don't care if the economy is going up and down. They don't care if there is E-Verify or not. They are still trying to come into this country. They will tell you, roughly 80 percent of the illegal drugs coming into this country are still coming by the drug cartel area.

What is worse, it is not just the drug cartel. This is also the kind of human degradation that is taking place.

There is a Seattle Times story that ran in 2009, and the title was, "Pacific pair accused of smuggling, enslaving illegal Mexican immigrants." The story was about the human trafficking we have that is a very serious problem and the kinds of violent acts that are used against women and children on this Federal property. The Seattle Times went on to illustrate the kinds of violent acts against humanity that are happening right here on American soil, the kinds of numerous accounts of rape and other violent acts that are taking place against women and children here.

The counties—and I have been down there on the border and I have seen evidence of this—have ample evidence, if you go along these trafficking routes, of rape trees in which the drug cartel members, sometimes other illegal immigrants, will rape females and then force the victim to leave an article of clothing, usually an undergarment, on the trees and make this as if it is a type of monument to the horrible activity that is taking place on government land. Yet still we do not give the Border Patrol access on government land that they have on private property.

We are a sovereign country and, by definition, a sovereign country con-

trols its borders, and that should be what we are doing. Unfortunately, we are not doing that at all.

This is what the border down there in Arizona will look like from the air. You see, going along here is a fence—the fence doesn't go all the way up the mountainside; there are some areas in which fencing does not make sense and cannot be done—and there is one road that goes along the fence. That is the access that our Border Patrol has in this particular area, and in some cases that becomes the sole access.

If you talk to the Border Patrol agents by themselves, when they will be honest with you, they will clearly tell you they don't need more money to fight this problem on the border. They don't necessarily need more personnel. What they need is access, east-west access so they can go somewhere other than along the one road that follows the border line and the border fence. That is what becomes extremely significant.

What is so bizarre, what is so bizarre in that is that the Border Patrol must obtain permission or a permit from Federal land management agencies before its agents can maintain roads or install surveillance equipment on the lands or do what we ask them to do; and that, frankly, is simply wrong and, once again, ludicrous.

Now, you see, it's one of those odd things that we stop the Border Patrol from doing their job and, instead, we find that environmental degradation is taking place, but not by the Border Patrol, not by any other American citizens, but by those who are illegally coming across.

This simply is one of the pictures of the kinds of trash that is left behind on private property and on public property, tons of which must be picked up, resulting from the fact that we do not have a Border Patrol that does have ability to patrol these particular areas. That's what's left behind.

I hate to say this, but the drug cartel who was coming over doesn't care about wilderness designation. They don't care about endangered species habitat. They don't care about the endangered species—unless it can be eaten. What they do is simply leave behind all of the trash as they are coming through. There is something wrong with that.

This is another picture of what takes place there on the border. The cactus, this time being cacti along the border, is an endangered species that has been cut down by the drug cartels. If any other American did that, that becomes a felony. For them, all this is is a nice roadblock along one of the few roads that is there. So when somebody else comes down there in a vehicle and stops, they are a perfect target for mugging and robbing and anything they want. You will find some of the cacti that's down there has graffiti on

it, which shows certain areas where the cartel is in operation.

The last couple of years, there have been some major fires down there along the southern border. The last large fire that went through Arizona and spilled over into New Mexico was a fire that started in two parts. The part up in northern Arizona probably was started by a camper, but in southern Arizona, that wasn't it. The Forest Service has yet to determine who started that fire that spilled over into New Mexico and cost hundreds of millions of dollars in damage. They have ruled out everyone except, well, illegal aliens that happened to be close to the known smuggling trails where the fire actually started.

You see, what happens down there is there are three types of fires that are started, two of them on purpose:

One is a distress fire, in which case if somebody coming across the border is in a dire situation, lost their ability to go any further and they need rescuing, you start a fire, because then obviously the firefighters will come in and you will get rescued.

There are also diversion fires started specifically. A diversion fire is to make sure that when the fire starts over here and everyone runs over there to stop the fire, it means over here is now open for your entry into this country. The drug cartels have this down to a habit and a style all of their own.

The third part is simply an accidental fire. I think the assumption is that the last fires that were done down there were probably accidental fires, started indeed by those coming across the border illegally, but definitely not for a diversion and not for a distraction, just it was a problem that caused us an enormous amount of loss of public wealth and public time in trying to fix that particular problem.

The Department of the Interior claims that the 1964 Wilderness Act takes precedence over everything else that is taking place on this property. They say that their duties are to fulfill this particular act, not necessarily to control the border. In fact, one of the letters that they sent reads very carefully. It says:

Issues remain, and we seek your (the Border Patrol's) assistance in resolving them as quickly as possible in order to prevent the significant, and perhaps irreversible, environmental damage we believe is imminent. Specifically, we are concerned with operating vehicles anywhere other than roads, road dragging, and other activities that could cause erosion and mobilize fragile hydric soil characteristic of the San Bernadino Wildlife Refuge.

What that says, in simple terms, is it doesn't really matter what the Border Patrol does; you don't want them to disturb the soil even if it means being able to apprehend somebody illegal, especially the drug cartels coming over there. They would rather have the soil

not bothered than actually find somebody who is entering this country illegally, especially part of the drug cartels.

This is where I started. This is a response, once again, from the Department of the Interior to the Border Patrol on this area:

The issue of emergency vehicle access by the U.S. Customs and Border Protection on San Bernadino Wildlife Refuge has been in dispute over the past few months. The recent exchange of letters from our respective offices failed to clearly identify the needs of our two agencies and reach agreement on how to best proceed.

Now, once again, from my point of view, the way to best proceed is to stop the drug cartels from smuggling illegal drugs over here, not necessarily what took place. In fact, what they decided then, it says the Federal land managers believe it is their duty to enforce restrictive laws associated with the Wilderness Act, even if it helps the drug cartel in their drug trafficking and the human smuggling and other criminal activities that are occurring as they cross into the United States.

The chief also went on to say:

"Emergency circumstances exist"—that's nice of them—"when human life, health, and safety of persons within this area must be immediately addressed. Access to the refuge by the Border Patrol will be limited to the use of established administrative roads. However, you may access on foot to patrol or apprehend suspects."

□ 1810

Managers of the land are dictating to the Border Patrol how they will do their job. I might add that this definition of what considers the chance of a Border Patrol actually going in and doing something rapidly is not what the memo of understanding between the Department of the Interior and the Department of Homeland Security actually said. They came up with their own definition to stop the Border Patrol from doing it.

Now, under this recommendation, the Border Patrol has to drive around this refuge, which adds hours to get to the other side, which obviously, if you're trying to capture somebody, something just doesn't work.

So since that's what's taking place, how does the Department of the Interior decide to solve the problem? It's easy; they put up gates. That was the result of that exchange on how to solve the problem of controlling our southern border. What the Department of the Interior simply did is they put up a gate with a lock on it on the San Bernadino National Wildlife Refuge.

It's amazing that they thought this solves the problem, because what this gate does is block out the Border Patrol from going into this area. It doesn't lock out anyone else. It doesn't lock out the drug cartel, the human traffickers, or anyone else from trying to come into this particular area.

Early on when Janet Napolitano became head of Homeland Security, we received a couple of letters from her. They actually said what the issue was down there on the border with the Border Patrol. She wrote:

"One issue affecting the efficacy of the Border Patrol operations within wilderness is prohibitions against mechanical conveyances"—that's like four-wheelers—or in the air. "The U.S. Border Patrol regularly depends on these conveyances, the removal of such advantage being generally detrimental to its ability to accomplish the national security missions."

In simple language, if you stop us from going on motorized vehicles into these areas, we can't catch the bad guys.

This includes that these types of restrictions can impact the efficacy of operations and be a hindrance to the maintenance of officer safety.

It makes their job more difficult and it puts them at risk. She continued:

For example, it may be inadvisable for officer safety to wait for the arrival of horses for pursuit purposes, or to attempt to apprehend smuggling vehicles within the wilderness with a less capable form of transportation.

In simple words, again, if the idea is of the Department of the Interior that the Border Patrol, when they come to one of these special areas, have to go on foot, they have to chase them down on foot or wait till a horse arrives so they can chase them down on horse, while the drug cartels are using motorized vehicles, that flat out does not make sense. But that is, indeed, what is happening down there.

She continued on with a different correspondence to say that it illustrates that in areas where the Border Patrol has been given access, the regrowth and rehabilitation of the land has improved.

But "overall, the removal of cross-border violators"—stopping the drug cartel from coming across the border—"from public lands is a value to the environment as well as to the mission of the land managers. The validity of this statement was evidenced recently when the vehicle fence project south of the Buenos Aires National Wildlife Refuge received praise from a Fish and Wildlife biologist. The biologist was encouraged by the regrowth and rehabilitation taking place naturally to the north of the vehicle fence subsequent to its installation."

Now, what she was saying very simply is, when you stop the Border Patrol from being able to do their job, they don't do their job and the bad guys come across. And the bad guys don't care at all about the environment or what the laws are or what the rules are. And if you are able to stop them, then all of the degradation that takes place by the drug cartel coming across the border can be fixed, and can be fixed well.

Now, I have to admit that was early on in her administration with the Department of Homeland Security. I have to admit also, of late, that the Department of Homeland Security has been told to simply tell us everything is going fine down there on the border. Things are getting better. We are working together nicely.

It's not quite the same story I got on the trips down there to the border when I talked to the people. In fact, one of the things that is actually disturbing is our committee staff has been refused access to even talk to the Department of Homeland Security personnel ever since we started making this particular kind of push.

My assumption is there is a reason the drug cartels are trying to go through this Arizona sector. The reason relates to the kinds of lands that are down there and how we treat those lands. And the reason simply says, if we allow the Border Patrol to do their job, we will all be much more secure. And the concept of stopping the Border Patrol from doing their job on Federal property is simply unacceptable, and yet that is, indeed, what we are doing right now.

To the Department of the Interior's response to that, they said the following in a memo in 2008:

"Congress has directed construction of these facilities"—meaning the public lands—"and there is a compelling national security issue, but these towers and buildings and associated equipment and motorized activities within congressionally designated wilderness would be contrary to protecting the primeval character of wilderness; and, hence, contrary to the intent of Congress."

Contrary to the intent of Congress? Do they really want us to believe that Congress wants to have a porous border? that Congress actually welcomes with open arms the drug cartels coming into this country? that the illegal drugs coming in here that are destroying the lives of our children we welcome with open arms? that the kind of human degradation, the kind of victim crimes, crimes against humanity, are something Congress really wants to perpetuate? That's really what they want us to believe?

Further on in this memo:

"The Department of Homeland Security's proposals would not preserve natural conditions"—this is once again Interior's memo—"would make the imprint of man's work substantially noticeable, and would substantially reduce opportunities for solitude, or a primitive and unconfined type of recreation and would impair these areas for their future use and enjoyment of the American people as wilderness. The DHS proposals do not fall under the exemptions of the prohibitions for use in section 4(c) of the Wilderness Act and, therefore, are prohibited."



Reduce opportunities for solitude? Unconfined type of recreation? Maybe they do have a point. I'd say that the drug cartel operatives, armed with AK-47s, would pretty much reduce the solitude in a pretty serious way along the border. But, unfortunately, that is the approach; that is the attitude.

So what does the Department of the Interior propose for this? Rather than allowing the Border Patrol to do their job and trying to control our border, which a sovereign country would naturally do, you put up a sign to tell Americans that travel is not recommended. The goal is to stay away from these particular areas. The approach was simply this: Since the areas of American land on the American border are unsafe, let's do whatever we can to stop Americans from going down there and, in so doing, cede over these areas to the drug cartels. That will be one of the ways of solving the problem.

Since that's not a terribly, terribly politically correct approach, to warn the public of the danger of traveling through American territory, perhaps you can put up a softer and gentler sign, which is a travel caution: Smuggling and illegal immigration may be encountered in this area. Proceed at your own risk.

I'm sorry. This may be the approach, but it's the wrong approach. And I wish this were just limited to the Arizona border. The same line was used in the Big Bend National Park, and it has been used on other lands around the border. We simply know it is not safe to go into these areas where criminal activity is taking place, and the problem is no one is doing anything about it.

Almost all of the Organ Pipe National Monument was closed to visitors. That's along the Arizona border. Recently I saw an article in which a portion—a portion—of Organ Pipe was opened up to visitors. That's wonderful. However, if you went there, you still had to go with an armed guard. There's an article that was written only 8 hours ago talking about the opportunity of people going down there where the park ranger, wearing a bulky, dark green bulletproof vest, told the tourists last week that they would be going on their travel in a van and a hike. He told them that there would be some law enforcement officers hiding in the hills and closely watching their 2-hour nature hike, while another pair of armed rangers would follow the tourists closely from the ground. They'll all have M14s at hand, he said. Please don't be worried.

□ 1820

As the group loaded into the vans, one woman from Idaho whispered to her husband:

Does it make you worried? They get chest protections, and we don't get none of them.

Homeland Security is saying that in this park, things are getting better. I

think they are because finally they allowed Homeland Security to put up nine surveillance towers in the park, making it easier for the agents to detect new foot traffic so that drug-runners are no longer simply hiding in the hills waiting to succeed where the towers cannot contact them.

You see, that's what we're doing, and that's simply not a viable approach to it.

Let me try to tell you this way. Obviously, a fence by itself is not enough to secure the border. We do need electronic tracking devices. This is a picture of one of our mobile tracking devices. It's very high tech, it's very wonderful, and if you will notice, it's a truck with a traffic device on it.

In the Organ Pipe National Monument, they tried to move this from point A to point B, and the end result was that after 6 months, the land managers finally said, okay, you can move this truck from point A to point B. By that time, it wasn't worth it. It's a truck. Now, if the land manager had studied this issue for 6 months and then said, all right, look, the land is too precious in that part where you want to go, you can't go at all, maybe I could understand that. I wouldn't like it, but I could understand it. But that's not what he said. He said, you're going to wait 6 months, I'll review it for 6 months, and 6 months later he said, okay, go ahead and back up the truck and move it.

These devices are essential for our controlling the border, but it is essential that if it is a mobile device, it has to be mobile. It has to have the ability to back up the truck and move it to somewhere else.

There is another example of the pronghorn antelope that is there, the Sonoran pronghorn antelope, in the area. A BLM official wrote in an email to the Department of Homeland Security regarding testing for replacement of equipment that they could do the following: A biological monitor shall be present—a person—shall be present at the proposed location of these traffic monitors for the Sonoran pronghorn prior to any disturbance. The monitor must have experience with observing pronghorns. The monitor will scan the area for pronghorn, and, if observed, any kind of activity will be delayed until the pronghorn moves of its own volition. The pronghorn cannot be encouraged to vacate an area. And if by any chance the Border Patrol were to run across a group of these, its job was then to back up—not turn around—but to back up no faster than 15 miles an hour until you were out of that particular area.

One of the things that we have found out that is taking place down there is basically the Department of the Interior is insisting on mitigation—I think there are some other words I would rather use—mitigation funds coming

from the Department of Homeland Security.

The calculations we conducted a couple of years ago say that, as of that date, \$10 million of Federal money has gone to the Border Patrol, supposedly to protect our border, and then instead been reverted over to the Department of the Interior to hire things like the pronghorn monitor or buy other property for other purposes in the name of mitigation of the environmental damage caused by the Border Patrol. Unfortunately, there is no way to mitigate against the environmental damage caused by the drug cartels and the human smugglers coming in here, nor does the Department of the Interior seem to care about that.

I'm joined here by a good friend from Arizona who knows this full well. This is where he lives, and he understands it. He also sits on the committee that talks about these particular areas and has introduced an amendment to the reauthorization bill that comes from his committee. So the Representative, Mr. QUAYLE, I will yield to him what time he needs. If he would like to enter right now, and then I'll pick it up whenever you're done.

Mr. QUAYLE. I thank the gentleman for yielding. I really want to thank him for his leadership on this issue and for working with me to put in similar provisions within the Homeland Security Reauthorization, which we hope will come to the floor in August because it's a serious issue. As the gentleman from Utah was talking about, the amount of destruction, both on the environmental side and just on the human side, from these drug smugglers and human smugglers in very environmentally sensitive areas in the Sonoran Desert is devastating.

If you think about the amount of carnage that has happened just south of the border—you have over 30,000 people that have been killed by drug cartel violence in the last 5 years. Last year, I was with other members of our Arizona delegation. We were going down to the border and seeing what was going on, and we were at the Douglas point of entry. And the night before they had videos of this, which was about 70 yards from the border, where a fake police cruiser that was disguised by the drug cartels stopped just south of the port of entry, entered into an establishment, unloaded hundreds of rounds of ammunition in there, killing a handful and wounding dozens of people.

Now these are the same types of people who are taking advantage of the weak spots within our border. If you look at Arizona specifically, the Arizona border, there are about 305 miles of Federal lands in Arizona. About 83 percent of the 370-mile Arizona-Mexico border is Federal lands.

Right now, the Border Patrol agents do not have the ability to actually go onto those Federal lands unless they

abide by the Memorandum of Understanding, which says they have different definitions of when they can actually go and apprehend somebody. But the fact of the matter is that these drug cartels, these human smuggling operations, are nimble. They are watching every move that our Border Patrol agents are making. They are noting where the weak spots are and where the surveillance equipment is. And for our Border Patrol agents to actually go and move it to areas where the traffic has increased, they have to go to the Department of the Interior to get prior permission. There's a GAO study that said at one point in some instances that could take up to 4 months—4 months for our Border Patrol agents to actually move a piece of surveillance equipment or to move motorized vehicles onto various areas of Federal lands.

Now, I understand the need to protect the delicate Sonoran Desert, but it is getting decimated—absolutely decimated—by these human traffickers and drug traffickers, who do not care about it. I personally believe that our Border Patrol agents and customs officials will do a much better job in actually being sensitive to these areas while trying to actually protect the citizens of this country from the violence that's going to be streaming across the border.

This is such a big and serious issue that not that many people know about, and Mr. BISHOP of Utah has really taken the lead on this, and I commend him for it. I look forward to working with you on these issues going forward because we need to get a handle on our border, and the violence is going to spill over. In order to do that, we have to allow our agents the ability to have the unfettered access to our Federal lands so they can actually do their job and protect the borders.

Again, Mr. BISHOP, thank you very much.

Mr. BISHOP of Utah. I thank you for that, and I appreciate your joining me here because, once again, you live in that State, your constituents know the fear that is taking place, Americans who live on that particular border, the danger that is down there. And, once again, this is not just an issue that will go away if the economy goes sour. These are the drug cartels. These are the human traffickers. These are the worst kinds of people, and we don't want them here. And as a country, if we're going to be a sovereign country, we have to control the border, if for no other reason than we have to be able to control the border. Whether the total number coming across is getting less or is increasing—we don't have definite figures yet—it doesn't matter. As long as one drug cartel is still coming across the border with illegal drugs, that's one too many, and we have to do something about it.

So I appreciate it very much, and I realize you have another obligation to go to. Thank you for coming down. You're welcome to stay if you would like to.

But he also added a premise into where we're going, because what is taking place, quite frankly, is the violence that is taking place on the Arizona border. We all know about Fast and Furious and what a silly idea this was, how ludicrous a program to arm the drug cartel and to find out that those arms they were given by the Federal Government are coming back to harm us. But along the border, we have had a specific row of people who have been not just harassed by the drug cartel but have been killed by the drug cartel.

Starting in 2002, Park Ranger Kris Eggle was shot and killed in the line of duty while pursuing a member of the Mexican drug cartel who had crossed the United States border into Organ Pipe National Monument, which is off limits to Americans. In 2008, Border Patrol Agent Luis Aguilar was killed in the line of duty after being hit by a vehicle that had crossed illegally into the United States through the Imperial Sand Dunes, which is BLM ground, where the Border Patrol has restrictions. What hurts me, as well, is Rob Krentz, a rancher, a multigenerational rancher, on his own property in Arizona.

□ 1830

See, Rob Krentz over there was actually out patrolling, going through his property. He had just had a hip replacement, was ready to have a knee replacement—or vice versa. He was on an ATV vehicle with his dog. He came across a group of illegals who were there—part of the cartel, again, is the assumption. Usually what happens is there is flight, but in this case there was no flight. He was not physically able to fly, and so what happened was both he and his dog were shot.

The one we assume did the shooting came across that wildlife refuge where the gate was locked to prohibit the Border Patrol from going in there and doing their job. Then we assume his exit back into Mexico was a circuitous route that went back out of his way so he could go back through that same area that was off limits to the Border Patrol from totally doing their job. He lost his life because of our policies that don't make sense.

December 10, 2010, Border Patrol Agent Brian Terry was shot and killed—once again on Forest Service land—with guns that were obtained through the Fast and Furious program.

One of the other committees of our Congress has on their Web site the statement that a now-sealed Federal grand jury indictment in the death of Border Patrol Agent Terry says the cartel operatives were patrolling this rugged desert area with the intent of

intentionally and forcibly assaulting Border Patrol agents. And it happened because we are not taking control of our border.

As sad as that is, this is still another look at the border. You know you're looking at the border because you can see the fence is still running along and the one road along the fence is still running along. Unfortunately, there's a gap in the fence. That gap is an endangered species habitat right-of-way so the species can go from one side of the border to the other. Unfortunately, I will tell you that it's not just an endangered species that goes from one side of the border to the other. That is endemic of the situation we have down there where our border policies, our land policies take precedence over border security. That is simply what we ought not or should not be doing.

Our solution is, I think, very simple. It's House bill 1505, the National Security and Federal Lands Protection Act. The simple answer of what this bill does is simply it allows the Federal Border Patrol to do on Federal property what it already can do on private property. It says our number one priority should be controlling our borders for stopping the drugs and the violence that is taking place in Arizona. This bill protects legal use of the land—such as mining and hunting and camping and fishing—in an effort to try and make sure that we can protect American property for American use, not for drug cartel use.

There were simpler versions of this that simply said you can't stop the Border Patrol from doing what they need to do to meet their needs. Unfortunately, some of the administration in these Departments laughed at us and said, That's not going to work. You can't tell us what won't happen. So we wrote the bill to be proactive and tell what the Border Patrol can do.

It also had to put in there specific—and this is, once again, from the Department of the Interior insisting it—we put down the specific environmental laws that can be abridged only for the purpose of protecting the border. It is the same list that was done about 5 years ago when the Department of the Interior insisted that as Congress we had to list specific environmental laws that could be broached in order to complete some of the fencing along our southern border. Same rules, same laws, same element so the Border Patrol can do their job. That's what it simply does.

There is one group that was opposed to it because they said the Border Patrol is found 15 to 20 miles north of the border. Yeah, their jurisdiction is up to 100 miles north of the border. They also said that surveillance status shows that there are nearly 8,000 miles—some estimate 20,000 miles—of illegal wildcat roads cutting through some of this border area. I want you to know it is not

the Border Patrol—even though this group tried to blame the Border Patrol for these 20,000—if indeed it's that high—miles of illegal roads. They're not the ones creating that. It is the drug cartels that are cutting roads through our habitat, through wilderness areas so that they can use them for their drug-smuggling activities.

If you go down there, you can simply see on the ground where these trails are. If you fly above it, you can see where they are. If you go up to the high points, you can see where their nests are. So you can see very clearly and very easily where they have their lookout spots.

Actually, I went to one of those. It was just over the border into Mexico. I was actually unimpressed because I found out that amongst the things they were leaving behind in the trash is they drank only Diet Coke. If they had done Dr. Pepper, I would have been impressed by their taste, but it was only Diet Coke.

I have also heard all sorts of rumors about what we are trying to do with this bill, trying to make sure that this border is secure so Americans can go back into American property and be secure. I have heard rumors that we are trying to limit public access. That's not true. What we are trying to do is make public access safe. That's the job of the government is to make our borders secure.

I have been told that this is a simple land grab. Some groups out there who simply don't understand what's going on tried to label this as a giant land grab. I don't know how you can call it a land grab when the Federal Government is simply trying to allow the Border Patrol to do its job on Federal land. We're not expending any more power or opportunity to the Border Patrol. We're simply saying Federal land should not stop them from doing their job. There are some that will simply say, well, if we ignore this, it will simply go away. This problem is not going to go away. It is too deep; it is too severe to simply go away.

There is one last reason why this approach is extremely important, and I'm saying this in conclusion. As I said in the beginning, almost every town hall meeting that I have they talk about immigration. Immigration issues are complex. Sometimes they are going to be complicated and will require compromise and consideration. Right now out there there's a great deal of anger and anxiety in a lot of people simply because we are not controlling our borders and American lands are not safe, and there is too much violence taking place. And it's simply wrong to prohibit our Border Patrol in favor of allowing the drug cartels and those doing human trafficking to have free access into this country.

If indeed we are serious about long-term immigration, the first thing you

have to do is reduce the anger and reduce the anxiety level. The first way to do that is to be able to look at the American people with a clear conscience and in truth, look them in the eye and say our borders are secure. We control who comes into this country and who does not come into this country because that is what a sovereign Nation does.

Our hope is that we can pass this bill and take the first step to controlling the border, which is simply to allow the Border Patrol access to where the Border Patrol needs to be, to give them the same opportunity on public lands that they have on private lands. Because it is very clear, Border Patrol knows what they are doing. They are doing a good job.

Where they are allowed the freedom and flexibility to do their jobs, the issue of illegal immigration and illegal entry into this country of all kinds, but especially illegal entry into this country by the bad guys who are trying to put illegal drugs and other kinds of crimes and bring them into this country, where they are allowed to do their job, they are successful.

What we have to do is now look on Federal property where the Federal rules prohibit the Border Patrol from doing their job and change that, simply allow them to do their job. House bill 1505 does that. Until we do that, we will never move forward into a larger solution to our immigration problem. And we will continue to have illegal drugs and other kinds of crimes against humanity taking place on American soil, and it will not stop. That's why this bill is so important.

With that, Mr. Speaker, with gratitude for allowing me this moment to go through this particular issue, I yield back the balance of my time.

□ 1840

#### FREEDOMS THAT MADE THIS COUNTRY GREAT

The SPEAKER pro tempore (Mr. DUFFY). Under the Speaker's announced policy of January 5, 2011, the gentleman from Texas (Mr. GOHMERT) is recognized for 30 minutes.

Mr. GOHMERT. Mr. Speaker, I always learn something when I hear from my friend, Professor BISHOP.

It has been staggering to hear the testimony over the last several years as to what has gone on at our border. We used to be a law-and-order country where the law meant something, but we've seen that eroded.

I heard our Democratic friends, before Mr. BISHOP spoke, speaking of selling our birthright, and I enjoyed hearing them talk about how we ought to use our energy in this country. Well, welcome to the Republican position. That was great to hear. That's just fabulous to hear from our Democratic

friends because, as we know, and one of the things that Mr. BISHOP pointed out, there have been regulations and government bureaucracies used to not only prevent us from enforcing our immigration laws, but also to prevent us from utilizing our own resources over and over and over. For heaven's sake, if somebody has got 800 safety violations like BP had, prohibit them from drilling, but don't prevent everybody from drilling.

The things that the government should be allowing entities to do, like providing the energy that we have—we've got more energy than any country in the world. Relative to the size of other countries, we're not the biggest, but we have more natural resources than any other country in the world has been blessed with. It's amazing. In this administration, and even before this administration, we had our Democratic friends prohibiting, through bureaucracies, through laws passed, using our own energy, which has been just an outrage.

It's the poor single moms, those struggling to make it through the month with what's left on the limits of their credit card so they can still buy gas to get to their job so they can get a paycheck and pay down their credit cards enough to buy gas for the next month, that are hurting the most. Ironically, the people that donate to Democrats 4 to 1 over Republicans, as they did to Obama over McCain 4 to 1, are the Wall Street executives, the big bank executives. All they have to do is endure some name-calling from the President and they get richer than they could have ever hoped.

Yet we get back to freedoms that made this country the greatest country in history. I believe that. Prominent among our freedoms you can find in the First Amendment. It doesn't say States can't, because there were some States that required religious tests, but "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

There is no mention of separation of church and State. There is no mention of a wall of separation. That was in a letter Thomas Jefferson wrote to the Danbury Baptists. This is the same Thomas Jefferson that came to church every day he was in Washington, D.C., while President. He came to church right down the hall in the House of Representatives and at times had the Marine Band come play the hymns. He didn't see that as a problem for the Constitution's prohibition against establishment of religion, but he certainly never would have dreamed of prohibiting any Christian from practicing their religion, as this administration has now done and attempted to do, or the freedom of the press.

We know the press is free to slant the news however they wish. For example,

when gas prices were going up in 2008, the mainstream press, mainstream media had 4 to 1 more stories about the price of gas going up then than they do now, and the prices now are higher than they were then. Gee, could it be that the mainstream media has a vested interest in keeping the President that they put in office in office, keeping him there? But they've got that freedom of the press. They can keep slanting their stories as they wish.

Or the right of people to peaceably assemble and to petition the government for a redress of grievances. The First Amendment, that's it.

There is a great big grievance that a majority of Americans have, and it's with the President's health care bill. This is front and back. It is very thin paper so you can get all of the President's ObamaCare in here. This says 2,407 pages. There you are, the President's health care bill. It's interesting.

Here is a story that Edward White filed February 16, maybe from our friends at ACLJ, but it points out last month DOJ again argued that the penalty is a tax—talking about the penalty in the health care bill—is a tax when it filed its opening brief with the Supreme Court in the ObamaCare case the Court will consider this March.

We know February 16, in response to a question from the great Representative SCOTT GARRETT of New Jersey, he asked Director Zients whether the individual mandate penalty for failing to buy health care is a tax. Zients answered that it is not a tax. Today we had Secretary Sebelius, the Secretary of Health and Human Services that is overseeing the implementation of ObamaCare. Secretary Sebelius also indicated it's not a tax. Yet the DOJ has argued basically that the minimum coverage provision is well within Congress' commerce power.

The DOJ contends that Congress has broad power under the Commerce Clause and the Necessary and Proper Clause to enact economic regulation. The DOJ contends the minimum coverage provision is an integral part of a comprehensive scheme of economic regulation, and the provision itself regulates the economic conduct with a substantial effect on interstate commerce.

It certainly has had an effect on interstate commerce. It's doggone near killing it.

The minimum coverage provision is independently authorized by Congress' taxing power contingent of the DOJ. The DOJ argues that the provision operates as a tax law. Validity of an assessment under Congress' taxing power does not depend on whether it's denominated a tax.

Anyway, interesting time. That is from the National Law Review, that assessment. Today the question was to Secretary Sebelius, and she disagrees with DOJ as well.

There are just a number of issues here with this bill. And the recent demand by the administration that the Catholic Church, Catholic hospitals provide free contraceptives was not about contraceptives. If anybody needs contraceptives, they can get them. It's not an issue.

□ 1850

It shouldn't be. People that want them can get them. It's not an issue, although some are trying to make it out to be. It's about the prohibition of the free exercise of religion.

It's incredible that a White House would decide that they get to tell the Catholic Church which parts of their religious beliefs that this White House will allow them to practice. Even coming back after the White House had all of these people come in and meet and decide and discuss, they should have come back and said, Sorry, you were right. We never intended to indicate we had the power to tell you you could not practice your religious beliefs.

It's not what the White House came back and said. The White House came back and said, in effect, Well, we still obviously have the power to tell you what parts of your religion you cannot practice. But listen, Catholic Church, we're going to do you a favor. Even though we have the power to prohibit you from practicing your religious beliefs, we're going to require the insurance companies to provide this feature even though it goes against your religious beliefs. We'll require the insurance companies to provide that.

Now, how stupid do you have to be to not understand that when a requirement of an insurance company policy is dictated by the government, there is going to have to be a recouping of that expense from the people that buy those insurance policies? So that was no remedy.

The Church, the Catholic hospitals are still going to have to provide those policies that provided that. They just weren't going to be required to tell the insurance companies to do that because the government did it for them. What a ridiculous end-run to do the same thing.

But the White House did not even address a real core issue.

I'm a Baptist. I don't have the same beliefs about contraceptives; but this is so dangerous, this is such a violation of our First Amendment. For this White House to think for a moment they have the authority to tell any religious group, and here's the kicker, any religious person that they cannot practice an important tenet of their religious beliefs is unconscionable.

Now, the administration says, Oh, Catholic Church, Catholic hospital, we'll work with you. What about Catholic individuals who believe with all their heart the things that are taught by Catholic schools, by the

Catholic Church, and expounded by the Pope himself?

How powerful a Pope does the White House or the President, any President, have to be to dictate that what the Pope says is not going to be observed in America by any individuals who are here in the United States?

We hadn't heard a lot of discussion about the freedom of the individuals, but this was not talking about the freedom of the Church or a hospital. It was talking about the freedom of individuals; and even if the White House tries to accommodate some hospital, some church, what about the beliefs of an individual? A Catholic in America who's told, Sorry, this President is going to trump your Pope, and you're going to have to pay for what you believe is against your religious beliefs, it's unconscionable.

Do you think the Founders would have put up with that? As Dennis Miller said, they were willing to go to war and die and risk everything over a tax on their breakfast drink. Do you think they wouldn't be willing to fight for their right to practice their religious beliefs?

Good grief. They came—so many of the early settlers came here to get away from the prejudice and discrimination against Christian beliefs: Protestants, Catholics. They came to America hoping to have freedom of worship.

It's been interesting to hear in Israel that the Muslims who are most free to practice their Islamic beliefs as they feel led them to actually be in Israel, because depending on which administration is in charge in Iran, Syria, Egypt, wherever, you better not get too far afield from what the administration of that country believes.

Here in America, people are free to practice Islam, Christianity, Buddhism, atheism, so long as it does not threaten this Nation as a whole.

You know, we were told by the President there was no chance any Federal money would ever go for abortion. And some of our friends actually bought into that representation. Turns out, it wasn't true. Some of us tried to explain back then. You can't bind with an executive order what the law says specifically. It sets out requirements for health care providers, clinics, insurance policies. There are those that will provide abortions and ultimately there will be tax dollars, since dollars are fungible, that will be used for abortions under ObamaCare.

We keep coming back to this. If ObamaCare is constitutional and the mandates in ObamaCare are constitutional, there is nothing the Federal Government cannot dictate.

As I've said from here many times, this ObamaCare, 2,407 pages, was about the GRE. It's what it's all about. This bill is about the GRE, the government

running everything. Because if the government has the right to control everyone's health care in America, they do have the right then to tell your children what they can or can't eat, to tell your children that their parents or parent is not fit because they don't know how to feed a child because it disagrees with what the government says.

They have the right to tell you what you can put in a vending machine. They have a right to tell you whether or not you're exercising enough. They have a right to tell you you use too much butter when you should have used something else in cooking.

They have a right to do that if they have a right to control your health care.

If this is constitutional, the government has a right to tell every Supreme Court Justice how they can live, and if any Supreme Court Justice thinks they'll be immune from this government telling them how they can live, what they can eat, what they can do, what they cannot do, then they are amusing themselves frivolously because that day will be coming.

Sure, this administration knows they stacked the deck with Justice Kagan. Of course, anybody that would send an email all excited about having the votes to pass ObamaCare, how wonderful that is, it's just amazing.

□ 1900

We keep wondering how many emails have not been provided. The noble thing would be to recuse oneself.

We should have known this when liberal groups that want the government to control everybody's lives were so adamant in throwing stones at Justice Thomas. It's clear we've seen this method before. What that means is they were nervous about somebody else who was a shoo-in to vote for the President's bill to have that issue raised about her. That's the way they always do.

So as soon as I saw these ridiculous allegations about Justice Thomas because his wife had an opinion, boy, I didn't see any liberals screaming about somebody with the ACLU whose husband had taken strong positions on different issues that she wasn't qualified or should recuse herself because her husband had an opinion; but some of these same liberals, so-called, took the position that, gee, if Clarence Thomas' wife has a position, he must be disqualified.

The hypocrisy goes on and on.

Hopefully, Justice Kagan will tell us all of the emails, allow us to see all of the emails that were sent, all of the consultations in which she was a part. Then we'll see the truth.

This bill required the spending of \$105 billion at a time we didn't have \$105 billion. We're having to borrow over \$42 billion, \$43 billion, \$44 billion of that from other places, including from

China. China doesn't mind seeing this happen. I think they realize it will bring down this Nation financially.

The President said it would cost less than \$1 trillion to implement. Well, the first CBO score came back over \$1 trillion. The Director of CBO called over to the White House. He comes back and says, You know, it's more like \$800 billion. Then once it gets in place, he says, You know what, we had a mathematical error or two. It's actually over \$1 trillion.

That's why CBO deserves to have a margin of error of 25 percent, plus or minus.

We keep coming back to this one thing, that this bill is not nearly as much about health care as it is about the government's running everything—running individual lives. Sam Adams, John Adams, Thomas Jefferson, those who gave their lives for our freedoms, would never have stood for this. The government's running everything? But it's true. If the Federal Government can do this, there is nothing that is closed to the government's direction and law. If the government has the right to direct everyone's health care, then this opens the bedroom to Federal Government jurisdiction like nothing ever has, not immediately but eventually.

Is that what people want? Do you want the Federal Government being able to say, This practice is okay. This one in the bedroom is not okay because, see, we're in charge of your health care, and we've seen that it ends up costing more if you do this, that or the other, so we're going to prohibit that?

If they can direct against someone's religious beliefs and that certain bedroom practices will be allowed, they can direct which ones can't be. If they can direct what the Catholic Church or Catholic individual has to provide or pay for, they can sure tell them what they can't engage in as well. This opens a door to the government's running everything like never before.

This month marks 2 years that it has been passed against the will of the American people, against the will of most State legislatures, against the Constitution. Is it a tax? Is it not a tax? It appears this administration will say whatever it has to say to try to get this held as constitutional. I can say unequivocally, if the Supreme Court were to hold this bill and its mandates and its intrusions into every area of personal being as constitutional, it will give me no satisfaction to someday say to a Justice of the Supreme Court whose religious beliefs have been violated, I told you so. None.

It will break many of our hearts that there was such blindness, but I have that hope that spring is eternal in the human breast, that there is still enough reliance on the Constitution, itself, and on our Supreme Court that

they will recognize the door that is open, that they will recognize the inconsistencies of this administration in trying to come up with some argument to justify these violations of our freedoms.

Some say that States require you to have auto insurance. That's only if you're going to drive on their roads. If you're going to participate in that privilege, then, yes; but nobody is required to have auto insurance if they're not going to drive a car on their highways. In fact, the only insurance that has been required by any State mandatorily is insurance to cover others who might be harmed by an individual's driving and harming them. I don't know of a State that requires insurance on individuals hurting themselves while they're driving, only liability.

Now, we do have the problem in Massachusetts where Massachusetts basically had a mandate. Other than that mandate in Massachusetts, no State has ever been able or even thought of or tried to require the purchase of a product.

Oh, this is going to be for the working poor.

Look, we already have Medicare and Medicaid. Until this administration, with the help of Speaker PELOSI and Leader REID in the Senate, gutted \$500 billion out of Medicare, until that happened, there was not going to be any damage to Medicare. We were going to take care of our seniors and take care of our poor. But if you look in this bill as I have—and I've been through the whole thing—you will find out, if you are just above the poverty line—if you're working, if you're doing everything you can to get by, to make it with your family, but can't afford as good an insurance policy as is mandated by the Federal Government—that this administration wants you to have an additional tax on your income as if that's going to help.

This hurts the working poor. It devastates Medicare by pitting people against our seniors, taking \$500 billion away from Medicare. It's time for America to rise up again and make clear: This is unconstitutional. And I think even the Supreme Court would hear that, when Americans rise up and say, You're not governing every aspect of my personal life like this opens the door to doing.

With that, Mr. Speaker, I yield back the balance of my time.

#### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. JACKSON of Illinois (at the request of Ms. PELOSI) for today on account of business in the district.

**BILL PRESENTED TO THE  
PRESIDENT**

Karen L. Haas, Clerk of the House reports that on February 22, 2012 she presented to the President of the United States, for his approval, the following bill.

H.R. 3630. To provide incentives for the creation of jobs, and for other purposes.

**ADJOURNMENT**

Mr. GOHMERT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 10 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, February 29, 2012, at 10 a.m. for morning-hour debate.

**EXECUTIVE COMMUNICATIONS,  
ETC.**

Under clause 2 of rule XIV, executive communications were taken from the Speaker's table and referred as follows:

5115. A letter from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Closed Captioning of Internet Protocol-Delivered Video Programming: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010 [MB Docket No.: 11-154] received February 2, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5116. A letter from the Chairperson, National Committee on Vital and Health Statistics, transmitting the Tenth Annual Report to Congress on the Implementation of the Administrative Simplification Provisions of the Health Insurance Portability and Accountability Act (HIPAA); to the Committee on Energy and Commerce.

5117. A letter from the Assistant Secretary for Export Administration, Department of Commerce, transmitting the Department's final rule — Amendment to the Export Administration Regulations: Addition of a Reference to a Provision of the Iran Sanctions Act of 1996 (ISA) and Statement of the Licensing Policy for Transactions Involving Persons Sanctioned under the ISA [Docket No.: 110718395-1482-01] (RIN: 0694-AF30) received February 6, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Foreign Affairs.

5118. A letter from the Director, International Cooperation, Department of Defense, transmitting Pursuant to Section 27(f) of the Arms Export Control Act and Section 1(f) of Executive Order 11958, Transmittal No. 22-11 informing of an intent to sign the Memorandum of Understanding with Australia; to the Committee on Foreign Affairs.

5119. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting a report pursuant to Section 804 of the PLO Commitments Compliance Act of 1989 (title VIII, Foreign Relations Authorization Act, FY 1990 and 1991 (Pub. L. 101-246)), and Sections 603-604 (Middle East Peace Commitments Act of 2002) and 699 of the Foreign Relations Authorization Act, FY 2003 (Pub. L. 107-228), the functions of which have been delegated to the Department of State; to the Committee on Foreign Affairs.

5120. A letter from the Deputy Secretary, Department of the Treasury, transmitting as

required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and pursuant to Executive Order 13313 of July 31, 2003, a six-month periodic report on the national emergency with respect to persons undermining democratic processes or institutions in Zimbabwe that was declared in Executive Order 13288 of March 6, 2003; to the Committee on Foreign Affairs.

5121. A letter from the Acting Director, Office of Management and Budget, transmitting a legislative proposal entitled, "Reforming and Consolidating Government Act of 2012"; to the Committee on Oversight and Government Reform.

5122. A letter from the Acting Deputy Assistant Administrator for Regulatory Programs, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Endangered and Threatened Species: Designation of Critical Habitat for Cook Inlet Beluga Whale [Docket No.: 090224232-0457-04] (RIN: 0648-AX50) received February 6, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

5123. A letter from the Assistant Administrator for Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Endangered and Threatened Species: Final Rule To Revise the Critical Habitat Designation for the Endangered Leatherback Sea Turtle [Docket No.: 0808061067-1664-03] (RIN: 0648-AX06) received February 6, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

5124. A letter from the Secretary, Department of Health and Human Services, transmitting the Department's determination on a petition on behalf of workers from the Linde Ceramics Plant in Tonawanda, New York, to be added to the Special Exposure Cohort (SEC), pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA); to the Committee on the Judiciary.

5125. A letter from the Secretary, Department of Health and Human Services, transmitting the Department's determination on a petition on behalf of workers from the Hooker Electrochemical Corporation in Niagara Falls, New York, to be added to the Special Exposure Cohort (SEC), pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA); to the Committee on the Judiciary.

5126. A letter from the Assistant Secretary of the Army, Civil Works, Department of Defense, transmitting the combined monthly report on allocations and obligations by the Army Corps of Engineers; to the Committee on Transportation and Infrastructure.

5127. A letter from the Senior Program Analyst, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments [Docket No.: 30821; Amdt. No. 3460] received February 16, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5128. A letter from the Senior Program Analyst, Department of Transportation, transmitting the Department's final rule — FAA-Approved Portable Oxygen Concentrators; Technical Amendment [Docket No.: FAA-2011-1343; Amdt. No. 121-358] received February 13, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5129. A letter from the Senior Program Analyst, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments [Docket No.: 30822; Amdt. No. 3461] received February 16, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5130. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Rollover from qualified defined contribution plan to qualified defined benefit plan to obtain additional annuity (Rev. Rul. 2012-4) received February 7, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

**REPORTS OF COMMITTEES ON  
PUBLIC BILLS AND RESOLUTIONS**

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BISHOP of Utah: Committee on Rules. House Resolution 566. Resolution providing for consideration of the bill (H.R. 1837) to address certain water-related concerns on the San Joaquin River, and for other purposes (Rept. 112-405). Referred to the House Calendar.

**PUBLIC BILLS AND RESOLUTIONS**

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. CHAFFETZ (for himself, Mr. ALTMIRE, and Mr. GOWDY):

H.R. 4093. A bill to amend the Act of August 25, 1958, commonly known as the "Former Presidents Act of 1958", with respect to the monetary allowance payable to a former President, and for other purposes; to the Committee on Oversight and Government Reform.

By Mr. JONES:

H.R. 4094. A bill to authorize pedestrian and motorized vehicular access in Cape Hatteras National Seashore Recreational Area, and for other purposes; to the Committee on Natural Resources, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CASSIDY (for himself and Mr. ROSS of Arkansas):

H.R. 4095. A bill to amend the Federal Food, Drug, and Cosmetic Act to improve the safety of Internet pharmacies; to the Committee on Energy and Commerce.

By Mr. GIBSON (for himself and Mr. THOMPSON of California):

H.R. 4096. A bill to amend the Internal Revenue Code of 1986 to provide for an energy investment credit for energy storage property connected to the grid, and for other purposes; to the Committee on Ways and Means.

By Mr. MICA (for himself, Mr. DENHAM, and Ms. NORTON):

H.R. 4097. A bill to amend the John F. Kennedy Center Act to authorize appropriations for the John F. Kennedy Center for the Performing Arts, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. CONYERS (for himself, Mr. CLARKE of Michigan, Mr. PETERS, Mr. SCOTT of Virginia, Ms. JACKSON LEE of Texas, Ms. WATERS, Mr. COHEN, Mr. JOHNSON of Georgia, and Ms. CHU):

H.R. 4098. A bill to improve public safety through increased law enforcement presence and enhanced public safety equipment and programs, and for other purposes; to the Committee on the Judiciary.

By Mr. DENT (for himself, Mr. TONKO, Mr. BARLETTA, Mrs. CHRISTENSEN, Mr. CONNOLLY of Virginia, Mr. CRITZ, Mr. DINGELL, Mr. DOYLE, Mr. ENGEL, Mr. FITZPATRICK, Mr. GERLACH, Mr. GIBSON, Mr. GRIJALVA, Mr. HANNA, Ms. HAYWORTH, Mr. HINCHAY, Mr. HOLDEN, Mr. HOLT, Mr. JOHNSON of Georgia, Ms. KAPTUR, Mr. LATOURRETTE, Mrs. LOWEY, Mr. MARINO, Mr. MEEHAN, Mr. PLATTS, Mr. RYAN of Ohio, Mr. TIERNEY, Ms. TSONGAS, Mr. PASTOR of Arizona, and Mr. MCGOVERN):

H.R. 4099. A bill to authorize a National Heritage Area Program, and for other purposes; to the Committee on Natural Resources.

By Ms. BORDALLO (for herself, Mr. GUINTA, Mr. FARR, Mr. SABLAN, Mr. PIERLUISI, Mr. FALEOMAVAEGA, and Mrs. CHRISTENSEN):

H.R. 4100. A bill to strengthen enforcement mechanisms to stop illegal, unreported, and unregulated fishing, to amend the Tuna Conventions Act of 1950 to implement the Antigua Convention, and for other purposes; to the Committee on Natural Resources.

By Mr. FRANK of Massachusetts:

H.R. 4101. A bill to amend the Fair Debt Collection Practices Act to exempt a debt collector from liability when leaving certain voice mail messages for a consumer with respect to a debt as long as the debt collector follows regulations prescribed by the Bureau of Consumer Financial Protection on the appropriate manner in which to leave such a message, and for other purposes; to the Committee on Financial Services.

By Mr. ISRAEL:

H.R. 4102. A bill to amend the Small Business Act to establish a loan program to assist and provide incentives for manufacturers to reinvest in making products in the United States, and for other purposes; to the Committee on Small Business.

By Mr. JONES:

H.R. 4103. A bill to amend title 10, United States Code, to provide for certain requirements relating to the retirement, adoption, care, and recognition of military working dogs, and for other purposes; to the Committee on Armed Services.

By Mr. RENACCI:

H.R. 4104. A bill to require the Secretary of the Treasury to mint coins in recognition and celebration of the Pro Football Hall of Fame; to the Committee on Financial Services.

By Ms. HANABUSA (for herself and Ms. HIRONO):

H. Con. Res. 105. Concurrent resolution authorizing the use of Emancipation Hall in the Capitol Visitor Center for an event to celebrate the birthday of King Kamehameha; to the Committee on House Administration.

tives, the following statements are submitted regarding the specific powers granted to Congress in the Constitution to enact the accompanying bill or joint resolution.

By Mr. CHAFFETZ:

H.R. 4093.  
Congress has the power to enact this legislation pursuant to the following:

This law is enacted pursuant to Article I Section 8 Clause 18 of the United States Constitution which states: The Congress shall have Power To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by the Constitution in the Government of the United States, or in any Department or Officer thereof.

By Mr. JONES:

H.R. 4094.  
Congress has the power to enact this legislation pursuant to the following:

Article IV, Section 3 of the U.S. Constitution, which states that "Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States."

By Mr. CASSIDY:

H.R. 4095.  
Congress has the power to enact this legislation pursuant to the following:

Article 1, Section 8, Clause 3

By Mr. GIBSON:

H.R. 4096.  
Congress has the power to enact this legislation pursuant to the following:

Article 1, Section 8, Clause 1: The Congress shall have Power to lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States.

By Mr. MICA:

H.R. 4097.  
Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8 of the United States Constitution, specifically Clause 1 (relating to providing for the general welfare of the United States) and Clause 18 (relating to the power to make all laws necessary and proper for carrying out the powers vested in Congress) and clause 17 (relating to authority over the district as the seat of government), and Article IV, Section 3, Clause 2 (relating to the power of Congress to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States).

By Mr. CONYERS:

H.R. 4098.  
Congress has the power to enact this legislation pursuant to the following:

Article 1, section 8, clauses 1 and 18.

By Mr. DENT:

H.R. 4099.  
Congress has the power to enact this legislation pursuant to the following:

Article 1, Section 8 of the U.S. Constitution

By Ms. BORDALLO:

H.R. 4100.  
Congress has the power to enact this legislation pursuant to the following:

This bill is enacted pursuant to the power granted Congress under Article 1, Section 8 of the United States Constitution.

By Mr. FRANK of Massachusetts:

H.R. 4101.  
Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8 of the United States Constitution, Clause 3.

By Mr. ISRAEL:

H.R. 4102.  
Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clauses 3 and 8.

By Mr. JONES:

H.R. 4103.  
Congress has the power to enact this legislation pursuant to the following:

The power of Congress to make rules for the government and regulation of the land and naval forces, as enumerated in Article I, Section 8, Clause 14 of the United States Constitution.

By Mr. RENACCI:

H.R. 4104.  
Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clause 5 states "The Congress shall have Power . . . To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures."

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 58: Mr. CRENSHAW.  
H.R. 104: Mr. WALSH of Illinois.  
H.R. 135: Mr. CLAY.  
H.R. 178: Mr. POLIS and Ms. CHU.  
H.R. 191: Ms. NORTON and Mr. SERRANO.  
H.R. 192: Mr. GARAMENDI and Mr. MCGOVERN.  
H.R. 210: Mr. REYES.  
H.R. 303: Ms. CHU and Mr. JONES.  
H.R. 374: Mr. BONNER.  
H.R. 456: Mr. JOHNSON of Illinois.  
H.R. 498: Mr. BISHOP of Utah.  
H.R. 587: Mr. INSLEE and Mr. LUJÁN.  
H.R. 687: Ms. CHU.  
H.R. 733: Mrs. BIGGERT.  
H.R. 769: Mr. HONDA and Mr. VISCLOSKEY.  
H.R. 860: Ms. SPEIER.  
H.R. 891: Mr. TOWNS.  
H.R. 964: Mrs. MCCARTHY of New York.  
H.R. 1110: Ms. CHU.  
H.R. 1175: Mr. REYES.  
H.R. 1179: Mr. LOBIONDO, Mr. RUNYAN, Mr. CHAFFETZ, Mr. HENSARLING, and Mr. GALLAGLY.  
H.R. 1195: Mr. GOSAR.  
H.R. 1206: Mr. SCHILLING.  
H.R. 1267: Ms. HANABUSA and Mr. DEFAZIO.  
H.R. 1297: Ms. CHU.  
H.R. 1340: Mrs. MYRICK.  
H.R. 1426: Ms. LINDA T. SÁNCHEZ of California.  
H.R. 1474: Mr. ROSS of Arkansas.  
H.R. 1509: Mrs. DAVIS of California.  
H.R. 1546: Mr. DIAZ-BALART.  
H.R. 1614: Ms. SEWELL.  
H.R. 1621: Mr. PETERSON.  
H.R. 1639: Mr. CANSECO.  
H.R. 1676: Mr. BLUMENAUER.  
H.R. 1697: Mr. MCCOTTER and Mr. UPTON.  
H.R. 1744: Mr. HASTINGS of Washington.  
H.R. 1748: Mr. ACKERMAN.  
H.R. 1755: Mr. NUGENT.  
H.R. 1789: Mr. ROTHMAN of New Jersey.  
H.R. 1895: Mr. COURTNEY and Mr. TIERNEY.  
H.R. 1912: Ms. ROYBAL-ALLARD.  
H.R. 1955: Mrs. DAVIS of California and Mr. PRICE of North Carolina.  
H.R. 1957: Mr. SCHOCK.  
H.R. 1964: Mr. TIERNEY and Mr. QUIGLEY.  
H.R. 1971: Ms. CASTOR of Florida and Mr. BRALEY of Iowa.  
H.R. 1984: Ms. LEE of California and Mr. PERLMUTTER.  
H.R. 1997: Mr. HUNTER.

## CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 7 of rule XII of the Rules of the House of Representa-



H.R. 2016: Ms. HAHN.  
 H.R. 2139: Ms. SLAUGHTER, Ms. HANABUSA, Mr. BOSWELL, Mr. WESTMORELAND, and Ms. CAPITO.  
 H.R. 2148: Mr. DEFazio.  
 H.R. 2152: Ms. CASTOR of Florida, Mr. POLIS, Mr. AL GREEN of Texas, and Mr. RAHALL.  
 H.R. 2194: Ms. MOORE.  
 H.R. 2195: Mr. PRICE of North Carolina and Mr. CONNOLLY of Virginia.  
 H.R. 2299: Mr. SCHWEIKERT.  
 H.R. 2310: Ms. HAHN, Mr. QUIGLEY, and Mr. JACKSON of Illinois.  
 H.R. 2313: Mr. MURPHY of Pennsylvania.  
 H.R. 2335: Mr. QUAYLE, Mr. SCHWEIKERT, and Mr. CALVERT.  
 H.R. 2429: Mr. SMITH of Nebraska.  
 H.R. 2435: Mr. CULBERSON.  
 H.R. 2499: Mr. COURTNEY.  
 H.R. 2505: Mr. PRICE of North Carolina.  
 H.R. 2554: Mr. AL GREEN of Texas.  
 H.R. 2600: Mr. FATTAH and Ms. ROS-LEHTINEN.  
 H.R. 2674: Mr. GENE GREEN of Texas.  
 H.R. 2902: Mr. CLAY and Mr. SABLAN.  
 H.R. 2959: Mr. SULLIVAN.  
 H.R. 3001: Mr. KILDEE, Mr. ALTMIRE, Mr. ANDREWS, Mr. BACA, Mr. BARROW, Ms. BERKLEY, Mr. BISHOP of New York, Mr. BOSWELL, Mr. CAPUANO, Mr. CARDOZA, Mr. CARSON of Indiana, Mr. CHANDLER, Mr. CICILLINE, Mr. COOPER, Mr. COURTNEY, Mr. DINGELL, Mr. DONNELLY of Indiana, Mr. FILNER, Mr. HIGGINS, Mr. HINCHEY, Mr. HONDA, Mr. KIND, Mr. LYNCH, Mr. McDERMOTT, Mr. PALLONE, Mr. PASCRELL, Mr. SCHIFF, Ms. SLAUGHTER, Ms. SPEIER, Mrs. BIGGERT, Mr. NEAL, and Mr. KINZINGER of Illinois.  
 H.R. 3059: Mr. CASSIDY, Mr. NADLER, and Mr. TURNER of New York.  
 H.R. 3102: Ms. BROWN of Florida.  
 H.R. 3125: Ms. LORETTA SANCHEZ of California, Ms. SPEIER, Ms. CHU, Mr. GARAMENDI, Mr. SCHIFF, and Mr. COSTA.  
 H.R. 3145: Mr. SARBANES and Mr. CUMMINGS.  
 H.R. 3162: Mr. PALAZZO.  
 H.R. 3173: Mrs. BIGGERT, Mr. GRIMM, and Mr. GENE GREEN of Texas.  
 H.R. 3187: Mr. INSLEE and Mr. GRIJALVA.  
 H.R. 3238: Mr. KEATING, Mr. FRANK of Massachusetts, and Mr. CARNEY.  
 H.R. 3306: Mr. GOWDY.  
 H.R. 3308: Mrs. ADAMS.  
 H.R. 3368: Mr. PAYNE.  
 H.R. 3399: Mr. FORBES and Mr. ROSS of Arkansas.  
 H.R. 3435: Mr. DOYLE.  
 H.R. 3506: Mr. ROGERS of Alabama.  
 H.R. 3510: Mr. KILDEE and Mrs. CAPPS.  
 H.R. 3523: Mr. BOSWELL and Mrs. NOEM.

H.R. 3528: Mr. GUTIERREZ and Mr. STARK.  
 H.R. 3534: Mr. GOWDY.  
 H.R. 3558: Mr. PAUL.  
 H.R. 3561: Mr. WALZ of Minnesota.  
 H.R. 3596: Mrs. NAPOLITANO, Mr. DOGGETT, Mr. BRALEY of Iowa, Ms. LORETTA SANCHEZ of California, Mr. CAPUANO, and Mr. COURTNEY.  
 H.R. 3606: Mr. LARSEN of Washington, Mr. SCHILLING, and Mr. MANZULLO.  
 H.R. 3652: Mr. NUNNELEE.  
 H.R. 3667: Mrs. LUMMIS.  
 H.R. 3676: Mr. SCALISE.  
 H.R. 3684: Mr. TURNER of New York.  
 H.R. 3713: Mr. HANNA, Mr. BONNER, Mr. CONNOLLY of Virginia, and Ms. HIRONO.  
 H.R. 3737: Mr. ROTHMAN of New Jersey, Mr. ANDREWS, Ms. VELÁZQUEZ, and Mr. BARTLETT.  
 H.R. 3760: Mr. HIMES.  
 H.R. 3767: Mrs. NOEM and Mr. LANGEVIN.  
 H.R. 3826: Mr. HIGGINS, Ms. SLAUGHTER, Mr. GARAMENDI, Mr. GONZALEZ, Mr. BUTTERFIELD, Mrs. NAPOLITANO, Mr. LUJÁN, Ms. CLARKE of New York, and Mr. RYAN of Ohio.  
 H.R. 3848: Mr. BROUN of Georgia, Mr. RIBBLE, Mr. POMPEO, Mrs. BLACK, Mr. COBLE, Mr. JONES, Mr. DUNCAN of Tennessee, and Mrs. HARTZLER.  
 H.R. 3849: Mr. FITZPATRICK and Mr. DUNCAN of Tennessee.  
 H.R. 3850: Mr. CHABOT, Mrs. ELLMERS, Mr. MULVANEY, and Mr. WALSH of Illinois.  
 H.R. 3851: Mr. CHABOT, Mr. MULVANEY, and Mr. WALSH of Illinois.  
 H.R. 3866: Ms. BROWN of Florida.  
 H.R. 3877: Mr. MCCOTTER.  
 H.R. 3895: Mrs. NOEM, Mr. OLSON, and Mr. ROONEY.  
 H.R. 3916: Mr. GRIMM, Ms. BASS of California, Ms. RICHARDSON, Mr. FARR, Mr. FILNER, Ms. SLAUGHTER, Ms. NORTON, Mr. HASTINGS of Florida, Ms. JACKSON LEE of Texas, Mr. GRIJALVA, Mr. REYES, Mr. CLAY, Ms. SEWELL, and Mr. RANGEL.  
 H.R. 3980: Mr. GRAVES of Missouri, Mr. MULVANEY, Mr. CHABOT, and Mr. WALSH of Illinois.  
 H.R. 3982: Mr. KINGSTON.  
 H.R. 3985: Mr. CHABOT, Mr. GRAVES of Missouri, Mr. MULVANEY, and Mr. WALSH of Illinois.  
 H.R. 3992: Mr. DEUTCH.  
 H.R. 3993: Mr. MCCOTTER, Mr. BLUMENAUER, and Mr. UPTON.  
 H.R. 4018: Mr. WELCH.  
 H.R. 4035: Mr. GERLACH.  
 H.R. 4045: Mr. PETERSON.  
 H.R. 4046: Mr. NUNNELEE and Mr. CANSECO.  
 H.R. 4049: Mr. STARK, Mr. MCGOVERN, and Mr. HONDA.

H.R. 4055: Ms. LEE of California and Mr. KUCINICH.  
 H.R. 4058: Mr. KUCINICH.  
 H.R. 4060: Mrs. BLACKBURN, Mr. DUNCAN of Tennessee, Mr. HARRIS, and Mr. AMODEI.  
 H.R. 4064: Mr. GOWDY and Mr. MILLER of Florida.  
 H.R. 4070: Mr. ANDREWS and Mr. POSEY.  
 H.R. 4077: Mr. BERMAN, Mr. BURTON of Indiana, Mr. SHERMAN, Mr. CHABOT, and Mr. SCHOCK.  
 H.R. 4081: Mr. CHABOT, Mr. MULVANEY, and Mr. WALSH of Illinois.  
 H.J. Res. 90: Mr. CONNOLLY of Virginia and Mr. KEATING.  
 H.J. Res. 104: Mrs. MYRICK, Mr. LANKFORD, and Mr. PALAZZO.  
 H. Con. Res. 87: Ms. BORDALLO, Mr. COURTNEY, and Mr. BRADY of Pennsylvania.  
 H. Res. 19: Mr. GUTIERREZ.  
 H. Res. 25: Ms. HAHN.  
 H. Res. 134: Mr. KILDEE.  
 H. Res. 262: Mr. ROSS of Arkansas.  
 H. Res. 298: Mr. MCGOVERN, Mr. COHEN, Mr. GIBSON, and Mr. PRICE of North Carolina.  
 H. Res. 494: Mr. CLAY.  
 H. Res. 526: Mr. MARINO.  
 H. Res. 546: Mr. DOLD.  
 H. Res. 556: Mrs. ELLMERS, Mr. CONAWAY, Mr. MCINTYRE, Mr. BERMAN, Mr. DUNCAN of South Carolina, Mr. HUELSKAMP, Mr. BROUN of Georgia, Mr. KLINE, Mr. HARRIS, Mr. GARY G. MILLER of California, Mr. SMITH of Nebraska, Mr. ROYCE, Mr. BROOKS, Mr. SCOTT of South Carolina, Ms. ROS-LEHTINEN, Mr. PALAZZO, Mr. BUCSHON, Mr. JOHNSON of Ohio, Mrs. NOEM, Mr. REED, Mr. CANSECO, Mr. CHABOT, Mrs. SCHMIDT, Mr. QUAYLE, Mr. HASTINGS of Florida, and Mr. SHERMAN.  
 H. Res. 560: Mr. SERRANO.  
 H. Res. 564: Mr. DEUTCH, Mr. GENE GREEN of Texas, Ms. BROWN of Florida, and Mr. MORAN.

#### CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, OR LIMITED TARIFF BENEFITS

Under clause 9 of rule XXI, lists or statements on congressional earmarks, limited tax benefits, or limited tariff benefits were submitted as follows:

The amendment to be offered by Representative McCLINTOCK, or a designee, to H.R. 1837, Sacramento-San Joaquin Valley Water Reliability Act, does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

## EXTENSIONS OF REMARKS

### RECOGNIZING THE THREE YEARS OF SERVICE OF AMBASSADOR HAN DUK-SOO

**HON. PETER J. ROSKAM**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 28, 2012*

Mr. ROSKAM. Mr. Speaker, it is my pleasure to offer a tribute to His Excellency Han Duk-soo, the Ambassador of the Republic of Korea to the United States, who is leaving his post in Washington after three years of representing and serving his country here.

Before arriving in Washington in March 2009, Ambassador Han served as his country's Prime Minister, Deputy Prime Minister, and Minister of Finance and Economy, after previous service as ambassador to the OECD and in the Ministry of Foreign Affairs and Trade.

The past three years have been particularly busy for him, culminating in the ratification of the Korea-U.S. Free Trade Agreement, which takes effect next month.

During Ambassador Han's tenure in Washington, he also dealt with sensitive and timely issues like security matters in Northeast Asia. I am particularly reminded of his thoughtful and steady leadership during the challenges Korea faced in the wake of the attacks on the Cheonan Naval Vessel and on Yeonpyeong Island in 2010.

Mr. Speaker, the Republic of Korea has a special place in my heart.

My father fought in Korea. I grew up hearing stories from him about the horrid conditions, and I know he carried his battle-scars with him throughout his life. Yet he never wavered in his pride for having served his country.

In November 2010, my father and I visited Korea, where we were treated with utmost hospitality and—in my father's case—gratitude. It was a memorable trip and Ambassador Han and his embassy staff helped make it possible.

Where we once forged a relationship on the battlefield together, building a secure environment for the nation to prosper over the last 60 years, today we attempt to forge a new economic and strategic bond for the future prosperity of our two nations. A country once ravaged by war, Korea received a substantial amount of foreign aid, but now enjoys an advanced and dynamic economy, and is itself today a generous donor of foreign aid. We work closely with Korea, maintaining a considered influence in that region as a deterrent to North Korean aggression and a counter to Chinese dominance.

The United States and Korea hold a forward-looking relationship. Every year, in so many ways, the United States and the Republic of Korea grow closer and closer together. The implementation this year of the Korea-U.S. Free Trade agreement is just one further

symbol of the strength of our countries' friendship.

Mr. Speaker, I urge my colleagues to join me in extending best wishes to my dear friend, Ambassador Han. We thank him for his service as South Korea's top diplomat in the United States and wish him every success as Chairman of the Korea International Trade Association.

### HONORING DUCKS UNLIMITED FOR 75 YEARS OF CONSERVATION SUCCESS

**HON. REID J. RIBBLE**

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 28, 2012*

Mr. RIBBLE. Mr. Speaker, I rise today to recognize Ducks Unlimited's 75 years of tireless efforts to promote conservation and wilderness protection.

Mr. Speaker, please join me in commending the Ducks Unlimited founders, members, supporters, partners and volunteers in Wisconsin and across the nation. Ducks Unlimited has had a positive impact on communities throughout America by helping to improve our culture and environment.

I congratulate Ducks Unlimited for the dedication of their volunteers and supporters, as well as the partners who time and time again have helped them succeed in their mission. This landmark anniversary represents the true legacy of this great organization and I applaud their efforts in conservation.

### HONORING TONI AND BRUCE CORWIN

**HON. HENRY A. WAXMAN**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 28, 2012*

Mr. WAXMAN. Mr. Speaker, it is my great pleasure to congratulate my dear friends Toni and Bruce Corwin as they are honored by Temple Emanuel of Beverly Hills at the 5th Annual Beverly Hills Purim Ball where they will be presented with the synagogue's Humanitarian Award on February 29, 2012.

I cannot imagine a more deserving couple to receive this award. For decades the Corwins have worked tirelessly within the Los Angeles Jewish community and our community at large. In addition to admiring their remarkable work, my wife, Janet, and I are personally grateful for the many years of friendship we have shared with Toni and Bruce.

Toni and Bruce have truly accumulated more than a lifetime's worth of professional and personal achievements. They have proven time and again that passion, commitment,

and persistence can turn ideas into reality. Their longtime work on behalf of the Jewish community ranks them among the very top supporters and advocates in Los Angeles, and they have been an inspirational voice in higher education for decades.

Toni and Bruce are being honored by Temple Emanuel of Beverly Hills for the extraordinary leadership they have demonstrated for many years. In addition to providing a strong religious foundation, the synagogue, under their guidance, has developed many secular programs dealing with immigration, health insurance, the Middle East, Jewish-Muslim relations, art, dance and intergenerational theater.

Beyond the achievements Toni and Bruce have reached at Temple Emanuel, they have been recognized in the community as well. Their leadership has included membership on Mayor Tom Bradley's Blue Ribbon Committee of 40, presidency of the Coro Foundation National Board of Governors, serving as a trustee of the California Community Foundation and receiving the prestigious Pioneer of the Year Award from the Foundation of Motion Picture Pioneers.

I am delighted to congratulate my dear friends, Toni and Bruce Corwin, and ask that my colleagues join me in sending our very best wishes on this great occasion.

### IN HONOR OF JACI PAPPAS

**HON. SAM FARR**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 28, 2012*

Mr. FARR. Mr. Speaker, I rise today to honor the public service of a true community pillar of California's Central Coast. Jaci Pappas is a fifth generation Californian who grew up in Stockton, California. But it has been in Big Sur where she has found her life's calling as champion volunteer. And while she has never sought out accolades, her neighbors have seen fit to honor her on March 2, 2012, as "Volunteer Extraordinaire." They have all benefited from Jaci's efforts to realize her life's theme: "Always give back to your community in whatever way you can."

Jaci earned a Business Administration degree from Mills College in Oakland, California. Soon after, she began her public service career in Sacramento as assistant to my good friend Assemblyman Willie Brown while he served as chair of the Assembly Ways and Means Committee. In 1973, after twelve years in the Capitol, Jaci was appointed City Clerk for the City of Sacramento—the first woman to hold the position since Sacramento's founding in 1850.

In 1979, Jaci married architect Steve Pappas, and together they bought property and moved to Big Sur. She established herself as a bookkeeper working for various small

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

businesses in Big Sur. Her volunteer work began in 1980 when she took on the unpaid position of secretary and then treasurer of the Coast Property Owners Association. She later held the same positions with the Big Sur Historical Society, and also served a number of years as head of the local Election Board, encouraging participation by all community members in the election process.

In addition to these leadership roles, Jaci has devoted countless hours giving her business and administrative skills to help community groups accomplish their work. Jaci has voluntarily handled the bookkeeping for the Big Sur River Run since its inception in 1981. That event has raised more than \$800,000 for the Big Sur Health Center and the Big Sur Volunteer Fire Brigade, two organizations for which Jaci also handles the bookkeeping. Other causes that she has helped in this way include the Big Sur Historical Society, Big Sur Jazz Festival, Big Sur Hidden Gardens Tour, Big Sur Grange, the Big Sur Community Emergency Response Team, the Big Sur Natural History Association, the Henry Miller Memorial Library, the Big Sur Public Library, and the Big Sur Food & Wine Festival. She also contributes her time as the editor of the Big Sur Grange, and the Round Up newsletters. She is even co-chair of the Big Sur Book Club.

Mr. Speaker, I know I speak for the whole House as I acknowledge and congratulate Jaci Pappas, Big Sur's "Volunteer Extraordinaire," for her record of stellar public service, and wish her many happy years ahead in which I know she will continue to teach us all how to live life well in voluntary service to others.

**HONORING ATHLETICO AND ITS  
FOUNDER, MARK KAUFMAN**

**HON. DANIEL LIPINSKI**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 28, 2012*

Mr. LIPINSKI. Mr. Speaker, I rise today to congratulate and thank AthletiCo Physical and Occupational Therapy for serving the greater Chicagoland region for more than twenty years. AthletiCo is a rapidly expanding rehabilitation, outreach, and fitness center enterprise that has grown in size and now has over 60 facilities.

When founder Mark Kaufman first opened for business in 1991, AthletiCo had only one employee and two clients. Two decades later, AthletiCo operates throughout Northeastern Illinois, Milwaukee, and Northwest Indiana and employs more than 1,100 clinical and administrative staff. Mr. Kaufman's team has expanded over the years to include physical and occupational therapists, certified athletic trainers, personal trainers, strength and conditioning specialists, and massage therapists.

AthletiCo currently serves a large clientele of workers on disability, assisting their recovery and helping injured people get back to work. AthletiCo also closely associates with over 150 local high schools, colleges, and professional sports teams including Illinois' own Bears, Cubs, White Sox, Blackhawks, and Bulls, helping athletes stay in shape and recover from injury.

Mr. Kaufman also has a reputation for treating his employees well, allowing him to retain a happy and effective staff. AthletiCo prioritizes continuing education for its employees and also provides post-professional education through in-house training, tuition reimbursements, and orthopedic clinical residency programs.

I am proud to have this business in my district, and I look forward to its continuing positive impact. I am grateful for the services Mr. Kaufman and AthletiCo provide in Chicagoland and the surrounding areas. Please join me in celebrating AthletiCo as they continue to pursue their mission of improving the health and wellbeing of local men, women, and children.

**IN HONOR OF MAYOR JIM  
RIDENOUR**

**HON. DENNIS A. CARDOZA**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 28, 2012*

Mr. CARDOZA. Mr. Speaker, it is with great pride and the deepest respect that I ask you to join me in honoring one of the Central Valley's most distinguished citizens, Mayor Jim Ridenour, as he ends his successful tenure as the Mayor of Modesto, California.

Mayor Ridenour epitomizes what is best about Modesto and has shown a selfless commitment to his community. A life-long resident of Modesto, Mayor Ridenour had a successful business career in the ambulance industry. He served five terms as Chairman of the California Ambulance Association, and received many awards and honors from the association and state legislators. He also served as a reserve deputy sheriff for Stanislaus and Santa Barbara counties.

During his eight years in office, Mayor Ridenour has shown a tireless commitment to help Modesto enrich and empower its citizens, families, businesses and schools. He has shown leadership in encouraging regional cooperation on important issues through initiatives such as the "Mayor's Working Group" which brings together the nine Mayors of Stanislaus County to share information and work together on central issues such as transportation. With the City Council's diligent work, he has provided leadership in consistently developing a balanced budget and in doing so has put Modesto in a far better financial position than many other cities in the surrounding area.

Mayor Ridenour has strived to make local government more user-friendly and accessible to the citizens of Modesto. He created a web-based citizen action center where citizens can report problems, ask questions and track responses and response times. He has also made applications for citizens' advisory committees available online. Mayor Ridenour has made an effort to make local government more transparent by developing a comprehensive Salary & Compensation webpage where the public can view Councilmembers' pay, Charter Officer contracts and pay, Department Director pay as well as all salary schedules and job descriptions as well as labor contracts. He has always been described as a man of the people.

Mayor Ridenour assumed an important leadership role as the President of the League of California Cities in 2010, a critical time for California's cities. As President and in his subsequent service as a member of the League's executive committee, Mayor Ridenour proved to be a powerful player in the fight for redevelopment and California's future.

Mayor Ridenour is married to his beautiful wife Renee for forty years and together they have three children and numerous grandchildren.

Mr. Speaker, I ask that my colleagues join me in congratulating my good friend, Mayor Jim Ridenour and the Ridenour family as he celebrates his successful service as Modesto's Mayor.

**HONORING HOLT HICKMAN AT THE  
TEXAS INDEPENDENCE DAY IN  
FORT WORTH**

**HON. KAY GRANGER**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 28, 2012*

Ms. GRANGER. Mr. Speaker, I rise today to honor a man who has preserved Fort Worth's unique history and has made sure it is available for future generations; Holt Hickman. This Weatherford native is being honored at the Texas Independence Day in Fort Worth, and I couldn't think of a better Cowtown honoree.

While Holt is being recognized for his commitment to Fort Worth's past, his business career has been about innovation and looking to the future. Holt is responsible for helping bring air conditioning to automobiles turning the feature from a luxury to a necessity. The first Japanese cars sold to the U.S. market had air conditioning only because Holt convinced the auto makers this was the future. Holt is not only a successful businessman who has had local, national and international reach, he has also been one of the many tenacious civic leaders in our community who have made Fort Worth what it is today.

Holt helped save and preserve the Fort Worth Stockyards in what was one of the largest historic preservation projects in the country. He accomplished this in part by working with passionate and committed partners. Because of his efforts, the Stockyards are one of the most visited and beloved areas of the city today. As Mayor, I was privileged to have Holt as a partner and that friendship has continued throughout my career. His energy, generosity, and vision will continue to enhance our city's cowboy heritage for generations to come. I couldn't think of a more deserving Texan to be honored on the day of our state's independence.

**HONORING ETHAN NELSON**

**HON. SAM GRAVES**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 28, 2012*

Mr. GRAVES of Missouri. Mr. Speaker, I proudly pause to recognize Ethan Nelson.

Ethan is a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 206, and earning the most prestigious award of Eagle Scout.

Ethan has been very active with his troop, participating in many scout activities. Over the many years Ethan has been involved with scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community. Most notably, Ethan has also contributed to his community through his Eagle Scout project.

Mr. Speaker, I proudly ask you to join me in commending Ethan Nelson for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

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IN RECOGNITION OF JOHN LEE

**HON. JACKIE SPEIER**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 28, 2012*

Ms. SPEIER. Mr. Speaker, I rise to honor San Mateo City Councilmember John Lee as he ends his 12 years of service to the people of San Mateo. John was first elected to the city council in 1999 and was re-elected by substantial margins in both 2003 and 2007. He is a 28-year resident of San Mateo and has been actively involved in public affairs on the San Francisco Peninsula for many decades.

John Lee served the residents of San Mateo County as a Board Member and Chair of the San Mateo County Transportation Authority. The authority makes tough choices about how to spend taxpayer money on public road and transit improvements. In his role on the authority, John voted on public improvements that speed the travel of millions of county and regional residents, annually. It takes a savvy board member to rank projects according to their merit and to resist the temptation to simply cast a vote to please a special interest. John had no trouble saying "yes" to the public's interest in all the votes that he cast.

Over several decades, John has been vigorous in community affairs as an active member of at least two Chambers of Commerce: Redwood City and San Mateo. Quite unusually for a person who also had a growing business, John Lee found time to serve as President of both Chambers of Commerce during his service on their boards. In his community service and private sector public policy positions, John worked on legislative affairs and membership development, and he could always be relied upon to work well with my office and those of any elected official.

John is a 31-year member of the San Mateo Rotary Club and has been a board member of Jobs for Youth and the American Heart Association. He has been a passionate advocate for housing the less fortunate in San Mateo County, and in his job as councilmember he has served as the city's liaison to Housing Our People Effectively (HOPE). He can be counted on to attend any groundbreaking for affordable housing, and has spoken forcefully about the need to house teachers, firefighters, clerks,

and others who need affordable shelter, during his public and private sector service.

As a past board member of the San Mateo County Economic Development Association (SAMCEDA), John helped this public policy group nurture San Mateo County's entrepreneurial culture. He also was a cofounder of Telogy, a high technology company. Telogy eventually employed 450 persons with John serving as Senior Vice President of Operations prior to his retirement.

There are many characteristics of John Lee that mark him as a man of quite greatness, but I must close my remarks by noting John's devotion to this Nation through his 22 years in the United States Marine Corps. John served in both the Korean and Vietnam wars. He rarely raises his distinguished service to this Nation, but you can learn all that you need to learn about his devotion to America by watching him while he says the pledge of allegiance and listens to the Star Spangled Banner. A handful of people feel these moments so deeply that their eyes tear up. John is one of these amazing few.

With honor, in dignity, and at many times with valor, John Lee has served his fellow citizens over decades that spanned two centuries. Like other Americans who are local heroes, John Lee will be remembered as a strong, articulate man who exemplifies this Nation's quiet courage and great resourcefulness in the face of all challenges. I salute him upon his latest retirement, this time from the City Council of the City of San Mateo, California.

Mr. Speaker, let us always remember John Lee. America has been built by him, and by other men and women like him, who preserve this nation's liberty through their daily examples of duty to God, country and community. We are all greatly blessed by the contributions of retiring city councilmember John Lee, an American in heart and soul.

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HONORING NEIGHBORHOOD BOYS  
AND GIRLS CLUB OF CHICAGO

**HON. MIKE QUIGLEY**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 28, 2012*

Mr. QUIGLEY. Mr. Speaker, it is with great pride that I rise today to commemorate the 80th anniversary of the Neighborhood Boys and Girls Club of Chicago, a local organization that promotes leadership and scholarship for boys and girls between the ages of 6 and 18.

In the autumn of 1931, Robert Buehler and Richard Valentin had their very first event, a football game involving local children that ended in a 13-13 tie. While watching the game, the spirit and teamwork of the participants showed the two founders that this organization could be a positive force for change. Since then, the club has been a staple of the Homer Park neighborhood. It currently serves over 1200 children each year, building character, cultivating leadership and encouraging teamwork.

The NBGC mainly achieves these goals through sports, academics and art. Within the floor hockey, basketball, baseball, volleyball

and other sports programs, every child plays in every game, enjoying a positive and encouraging atmosphere and learning to provide the same for their teammates.

Additionally, the NBGC has fostered an extensive volunteer and parent network. The coaches, teachers and mentors provide the club with the engine to power the vehicle of growth and learning that children in the area have enjoyed for generations. They have led by example that it truly takes a village to raise a child.

Mr. Speaker, it gives me great pleasure to congratulate the Neighborhood Boys and Girls Club for 80 years of nurturing strong values in Chicago's youth, as well as developing a strong community throughout the area. I wish them even greater success in the years to come.

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HONORING RICHARD LUKE  
LANNING

**HON. SAM GRAVES**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 28, 2012*

Mr. GRAVES of Missouri. Mr. Speaker, I proudly pause to recognize Richard Luke Lanning. Richard is a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 314, and earning the most prestigious award of Eagle Scout.

Richard has been very active with his troop, participating in many scout activities. Over the many years Richard has been involved with scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community. Most notably, Richard has also contributed to his community through his Eagle Scout project.

Mr. Speaker, I proudly ask you to join me in commending Richard Luke Lanning for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

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IN RECOGNITION OF SISTER  
WILLIAM EILEEN DUNN

**HON. JACKIE SPEIER**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 28, 2012*

Ms. SPEIER. Mr. Speaker, I rise to honor Sister William Eileen Dunn, a dear friend who is leaving Seton Medical Center after 30 years of compassionate care and service. Her dedication to the Daly City community and to the health and betterment of the sick and less fortunate has been deeply inspirational. It is impossible to not feel blessed by her presence and her healing touch.

Sister William Eileen was born in San Francisco as one of two twin sisters to the late William and Eileen Dunn. She attended St. John's Ursuline grade and high school and then earned her R.N. diploma from Mary's Help School of Nursing in San Francisco. The

school was sponsored and operated by the Daughters of Charity of St. Vincent de Paul. She then entered the Daughters of Charity religious community and earned her BSN from Marillac College in St. Louis, Missouri.

Her assignments from the Daughters of Charity took Sister Eileen across the country. In 1964, she started out as a staff nurse at St. Joseph's Hospital in Alton, Illinois and continued on to Hotel Dieu Hospital in El Paso, Texas as the supervisor of OB/GYN and emergency services. In 1968 she came back to California and worked as supervisor of emergency services at Mary's Help Hospital—today's Seton Medical Center—in Daly City. In 1978 she transferred to O'Connor Hospital in Campbell as patient advocate, then as administrative coordinator of the chemical abuse unit, emergency and outpatient/OR services, and subsequently as director of the pastoral care department.

In 1984, Sister William Eileen moved south to Los Angeles and became the patient advocate at St. Vincent's Medical Center. Three years later she returned to the Bay Area as the administrator of Laboure Residence in Los Altos Hills and in 1992, she became chair of the board of directors at O'Connor Hospital. Simultaneously, she managed the St. Vincent de Paul free dining room in Oakland from 1992–2002.

In 2002, Sister William Eileen returned to Seton Medical Center and the following year started serving as Vice-President of Mission Integration, a position she held until today. She will now move on to Villa Sienna in Mountain View and serve as the mission leader at this Daughters of Charity assisted living facility.

This year she celebrates 50 years as a Daughter of Charity of St. Vincent de Paul. Last year she was awarded the Lifetime Achievement Award from the Daly City/Colma Chamber of Commerce. In 2008, she received the Daly City Mayor's Citizen of the Year Award.

It may come as a surprise that Sister William Eileen—or Sister Miscellaneous as she calls herself—is an avid sports fan. She barely misses a game on TV. Every year she kicks off the annual Seton golf tournament and is known to have promised divine intervention—for a certain fee.

About four years ago, Sister William Eileen and Kathy King, executive director of Seton, got wind that Jerry Rice would be playing a golf tournament at the Ritz Carlton in Half Moon Bay. They may have had some heavenly help and found out exactly when Jerry Rice was playing. Both of them literally ran up a hill, chasing him and asking to have their picture taken with him. It's a true story! Sister has the photo to prove it.

Mr. Speaker, I ask this body to rise with me to honor the selfless service of Sister William Eileen Dunn, a guardian angel for every person she befriends, and wish her the best for her new assignment at Villa Sienna.

## HONORING JEANNE MILSTEIN ON THE OCCASION OF HER RETIREMENT FROM STATE SERVICE

**HON. ROSA L. DeLAURO**

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 28, 2012*

Ms. DELAURO. Mr. Speaker, it is with deep thanks and appreciation that I rise today to pay tribute to my good friend, Jeanne Milstein, as she steps down after serving nearly twelve years as Connecticut's Child Advocate where she oversaw the protection and care of Connecticut's most vulnerable and youngest citizens.

First appointed Child Advocate by former Governor John G. Rowland and, while the Office of the Child Advocate is an independent agency, has been reappointed and served in three different administrations. Guided by the simple adage, "if you are not outraged, you are not paying attention," Jeanne has been an outstanding advocate and has become one of Connecticut's foremost authorities on issues impacting children.

Jeanne has dedicated her entire professional career to advocating for our young people—giving a voice to those who all too often cannot be heard. In fact, in 2009, she served as the representative from the United States at the 2008 Summit of Ombudsmen for Children from G–8 countries. Prior to her service as Child Advocate, Jeanne was Director of Government Relations for the Connecticut Department of Children and Families and Legislative Director for the Connecticut Commission on Children. Earlier in her career, she was responsible for child care in the Connecticut Department of Human Resources and previously served as Executive Director of the Women's Center of Southeastern Connecticut and Legislative Director of the Permanent Commission of the Status of Women.

With her extraordinary passion and commitment, Jeanne has not only identified the failures of state agencies and public policies to care for our children, but has authored numerous reports on how to make them work for those they are supposed to protect. During her tenure, she oversaw the investigation and resolution of thousands of complaints, concerns, or reports by citizens about the welfare of children in the community and in state or private institutions. She has also spoken frequently on many of the most difficult issues facing today's children ranging from conditions at the state's juvenile corrections and residential facilities to the quality of child protection and the delivery of children's mental health services as well as services to children with special health care needs or disabilities. Jeanne has been a champion in every sense and we have been fortunate to benefit from her outstanding service.

On a more personal note, I am glad to have this opportunity to extend my thanks and appreciation to Jeanne for her many years of friendship and support. I have often sought her expertise and her door has always been open.

Jeanne was the third person to serve as Child Advocate in Connecticut but it can be said that she has helped shape the position

into the dynamic, respected office that it has become. She leaves a lasting legacy that will continue to influence public policy for years to come. I am proud to join all of those gathered today to thank Jeanne Milstein for her outstanding service to our state and especially our children. I have no doubt that though she is closing this chapter, she will find new opportunities to continue her good work.

## PERSONAL EXPLANATION

**HON. W. TODD AKIN**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 28, 2012*

Mr. AKIN. Mr. Speaker, on rollcall No. 73, I was delayed and unable to vote. Had I been present I would have voted "aye."

## HONORING RYAN THOMAS

**HON. SAM GRAVES**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 28, 2012*

Mr. GRAVES of Missouri. Mr. Speaker, I proudly pause to recognize Ryan Thomas. Ryan is a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 314, and earning the most prestigious award of Eagle Scout.

Ryan has been very active with his troop, participating in many scout activities. Over the many years Ryan has been involved with scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community. Most notably, Ryan has also contributed to his community through his Eagle Scout project.

Mr. Speaker, I proudly ask you to join me in commending Ryan Thomas for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

## IN RECOGNITION OF BRAD LEWIS

**HON. JACKIE SPEIER**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 28, 2012*

Ms. SPEIER. Mr. Speaker, I rise to commend San Carlos City Council Member Brad Lewis who is leaving the council after filling the remaining time in the term of the late and much-beloved Mayor Omar Ahmad. Councilman Lewis is an idealist, an artist and a pragmatist all rolled into one.

Mr. Lewis is an idealistic community leader. For example, he served for five years on the Parks and Recreation Commission wrestling with exploding participation in youth sports activities. The city has little ability to find new fields or play space, but Mr. Lewis worked diplomatically with residents to ensure that children had a chance to participate in sports despite the constraints.

In part due to his skills as a Commissioner, he was elected to serve four years on the San Carlos City Council from 2005 through 2009. In 2006 his colleagues elected him as Vice Mayor, and in 2007 they elected him Mayor. It was in these positions that he showed his skills as a pragmatist.

For example, during his first term on the city council San Carlos took a major step forward in meeting regional medical needs with the approval of a new hospital. When the economy nosedived in the wake of the global credit crunch of 2008, Mr. Lewis and his colleagues on the council took prudent, painful and necessary steps to balance the city's budget. He also participated in many other decisions leading to economic development within the city, resulting in projects that will bear fruit in the years ahead.

In 2011, San Carlos' Mayor passed away unexpectedly and the city council reached out to a seasoned resident—Brad Lewis—to fill the remaining months of Mayor Ahmad's term. There is no question that the council chose wisely because it took no time at all for Brad Lewis to learn the status of current issues and to adapt to council business. He is to be highly commended for serving these past few months in this challenging, basically volunteer position.

Mr. Lewis is an artist at heart and as a professional. While Mayor in 2007, he found time to win an Oscar for producing the Pixar film *Ratatouille*. He co-directed the 2011 Pixar hit *Cars 2* and has to his credit two Emmys and two Clio Awards. This is a man of unusual talents, and obviously one who cuts ribbons opening new businesses in town all the while cutting a swath through Hollywood.

In fact, Mr. Lewis' career has spanned decades in the television and animation business, having worked for Pacific Data Images, PDI, for over 13 years as vice president of productions, Pixar Animation Studios starting in November 2001, and Digital Domain's Tradition Studios division in Florida as of July 2011 where he is serving as director for a project set to release in 2014.

As Mr. Lewis said in an interview just a few weeks ago, he moved to San Carlos because a close friend lived in the city and because as a father he wanted to reduce a lot of the unknowns related to raising a child. He has two children, Jackson, age 22, and Ella, age 8½. His wife, Regina, has been an enormous source of support to him during his public service.

Mr. Speaker, San Carlos is a wonderful place to raise children, and Mr. Lewis has directly contributed to that family spirit through his leadership. He is now leaving the council and, at least for a time, leaving San Carlos as he makes his way in this next phase of his career. We have no doubt that he will return, however, to full-time residence and to the city that he has helped to shape for the betterment of all.

HONORING CATHY HUGHES AS A  
DISTINGUISHED RECIPIENT OF  
THE 2012 NAACP CHAIRMAN'S  
AWARD

### HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 28, 2012*

Mr. HASTINGS of Florida. Mr. Speaker, I rise today to recognize and congratulate an outstanding human being and my dear friend, Ms. Cathy Hughes, on receiving this year's National Association for the Advancement of Colored People, NAACP, Chairman's Award, the highest honor the NAACP has to offer. Cathy is a true symbol of American entrepreneurship and success. From her humble beginnings growing up in an Omaha housing project to becoming a leader in the media industry, Cathy embodies the spirit of determination and hard work.

Cathy's story is nothing short of remarkable. Born Catherine Elizabeth Woods in 1947, Cathy was the eldest of four children. By the age of 17, Cathy had dropped out of high school and become a single mother. Although she attended two universities in Nebraska, she did not have the opportunity to graduate. Despite these challenges, Cathy knew that she wanted a career in radio from a very young age and, in 1969 at the age of 22, began volunteering at KOWH, an African American owned radio station based out of Omaha, Nebraska. There, she excelled in the radio business and caught the attention of the Howard University School of Communications in Washington, D.C., where she was offered a position as a lecturer and assistant dean. By 1978, Cathy had become the vice-president and general manager of WYCB-AM and, a year later, along with her former husband, founded Radio One and purchased her first radio station in Washington D.C., WOL 1450.

Times were not easy at WOL 1450. Because of the lack of funding, Cathy had to give up her apartment and live with her son at the station. She also filled several roles as owner, producer, radio personality, and DJ, since she could not afford to pay personnel. But her perseverance and determination to see her dream succeed kept her going. Today Radio One is the largest African American owned and operated radio broadcast network, with over 65 radio stations in every major market in the United States and the seventh largest network in the nation. In 2004, Cathy launched TV One, a cable television channel dedicated to capturing the rich and diverse experience of African American life, history, and culture.

On February 17, 2012, Ms. Hughes was honored at the 43rd NAACP Image Awards, the premier multicultural awards show that recognizes the achievements of people of color in the fields of television, music, literature, film, and creative social justice. Cathy's name has been added to an illustrious list of past honorees, such as U.S. Surgeon General, Dr. Regina Benjamin, Former Vice-President Al Gore, then Senator Barack Obama, and Aretha Franklin. And no one could be more deserving.

Mr. Speaker, as we celebrate Black History Month, it is my distinct honor and privilege to

recognize a pioneer in the media industry, a leader in the African American community, and my dear friend, Ms. Cathy Hughes. I commend her for her tireless dedication to empowering the disenfranchised and for continuing to be a powerful voice for those who too often remain unheard. Cathy, I wish you all the best for many years to come.

IN RECOGNITION OF HERBERT  
ADAMS

### HON. JAMES P. MCGOVERN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 28, 2012*

Mr. MCGOVERN. Mr. Speaker, I rise today to ask the House of Representatives to join me in recognizing Herbert Adams of Worcester, MA. Herbert is being honored on March 13, 2012 by the Worcester City Council Chamber for his volunteer service to his community. Herbert was born in Maine, where he was adopted by an uncle after the tragic deaths of his parents. When the United States entered WWII, he repeatedly attempted to volunteer for the service, finally discovering that he was exempted from the military due to his job in the shipyards. Herbert applied just one more time—this time claiming to be unemployed. Once in the Army, Herbert again tenaciously fought his way into the line of fire. With determination and a little luck, he qualified as a paratrooper in time to take part in some of the most ferocious fighting of the war.

Like many paratroopers, Mr. Adams time and time again found himself in crucial battles. From North Africa he was shipped to Italy and fought on the beaches at Anzio. After Italy he went to the Western Front and took part in Operation Market Garden, where he was temporarily reported as missing in action to his wife, Beverly. A month later he fought in the Battle of the Bulge, playing a key role in the capture of an entire German company. After the German surrender Herbert was assigned as a personal bodyguard to General Dwight D. Eisenhower. He would meet President Eisenhower once more, when he visited Worcester during his presidential campaign.

Mr. Adams' military service, for which he was awarded two Bronze Stars and a Purple Heart, is deserving of recognition on its own. But he has also carried his lifetime of public service into his civilian life. Herbert has been recognized for his exemplary four decades with the scouts and works endlessly to maintain Worcester's parks and monuments. Every American can aspire to imitate his lifetime of heroism and sacrifice. Today I ask the House of Representatives to join me in honoring Mr. Herbert Adams.

HONORING CHRISTOPHER MORGAN

### HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 28, 2012*

Mr. GRAVES of Missouri. Mr. Speaker, I proudly pause to recognize Christopher Morgan. Christopher is a very special young man

who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 214, and earning the most prestigious award of Eagle Scout.

Christopher has been very active with his troop, participating in many scout activities. Over the many years Christopher has been involved with scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community. Most notably, Christopher has also contributed to his community through his Eagle Scout project.

Mr. Speaker, I proudly ask you to join me in commending Christopher Morgan for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

IN RECOGNITION OF THE SERVICE  
LEAGUE OF SAN MATEO COUNTY

**HON. JACKIE SPEIER**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 28, 2012*

Ms. SPEIER. Mr. Speaker, I rise to honor the Service League of San Mateo County which for a half-century has provided services and created hope for thousands of county jail inmates and their families. The compassionate volunteers and staff work tirelessly to make certain inmates and former inmates have access to programs, services and support networks they need to re-enter the community as contributing citizens and responsible family members.

Every day the Service League helps individuals who have lost their way get a step closer to productive lives and benefits our entire community by reducing criminal activity and recidivism. I am privileged to be a member of the Advisory Board of this great organization.

Under the outstanding leadership of executive director Mike Nevin, the Service League continues to offer a broad range of programs covering humanitarian, educational, substance abuse, recovery, spiritual and personal growth services. While some of the needs of inmates may seem obvious, such as contact with attorneys, probation officers and employers, the Service League also the less obvious needs. The "Jury Trial Clothes" program, for example, levels the playing field for inmates who are unable to afford clothing suitable for court appearances, jail procedures, or facility programs. The Service League solicits donations and dresses inmates for trial. "Inmate Orientations" are held twice weekly to provide information to newly-jailed individuals about the correctional process and facility programs, such as AA, NA, and church services. "Outreach to Families" of inmates provides friendly support, referral, advocacy and emergency assistance. The County Office of Education offers GED tutoring and testing at some facilities and the Service League supports this effort by training volunteers to tutor inmates one on one.

The Service League also operates six Hope Houses, two residential homes for women, two transitional homes for women and two transitional homes for men. Those facilities truly live

up to their name! Karen Francone-Hart, director of the Service League, started the first six-bed Hope House in 1990. Thinking back to that time, Karen reflects that "each day, each step reminded me of nurturing a new infant."

Hope Houses provide a 180-day residential treatment program for women who are involved in the criminal justice program. These women are prepared to become responsible, productive and independent members of the community while living in a safe, nurturing and clean environment. After completing the 180-day treatment program, the women are allowed to move into a transitional living program—Hope House II—as long as they stay employed or are attending school. The success of this program speaks for itself: 85% of the women who complete the program are reunited with their children, 70% remain clean, sober and crime free and 60% become gainfully employed.

Diane Joiner is one of the women who found her path through Hope House. While she was in jail, she participated in the "Hope Inside" program, a group led by the Hope House staff. When she was released, she sought residential treatment at a Hope House. She graduated from the 180-day program and is now happily employed by Goodwill Industries where she received a promotion shortly after being hired. Diane was given a second chance, regained her life and is now a proud, productive member of our community.

Mr. Speaker, the volunteers and staff of the Service League of San Mateo County recognize the humanity in every single member of our society. I ask this body to rise with me to honor their passion to build a better tomorrow for all of us.

COMMEMORATING THE UNVEILING  
OF STONE MARKER ACKNOWLEDGING  
THE ROLE OF ENSLAVED AFRICAN AMERICANS  
IN CONSTRUCTING THE CAPITOL  
OF THE UNITED STATES

**HON. LAURA RICHARDSON**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 28, 2012*

Ms. RICHARDSON. Mr. Speaker, today we honor enslaved African Americans with the unveiling of this great stone and marker once quarried by them for The Capitol of the United States. This dedicated marker will serve as a reminder to all who enter The Capitol of the hands and hearts that built this great place that fosters democracy at the highest level.

I include a poem penned in honor of those enslaved African Americans by Albert Caswell.

The poem is entitled,

AND FROM THESE HANDS

And . . .  
And from these hands . . .  
As now so stands  
A Temple to Liberty so very grand  
One of Freedom, for every child, woman, and man  
From these hands  
For out of their blood, sweat, and tears  
As upon this Hill as now so appears  
Is but a shrine to democracy so very clear  
From these hands

Whether Captain Pointer, pointing the way  
Guiding those ships,  
As upon them this most sacred marble and stone so lay  
Or at the very top,  
How poignant, Reid so helped Freedom to keep watch  
Now both night and day  
So listen so closely here,  
As to heart speaks so clear  
Of what it took to build this great temple here  
And To Be Free  
Much effort and sacrifice indeed  
And as you enter your heart skips a beat  
Into the great Rotunda at night, as like a prayer  
Can you but not feel their very souls in there?

All because these fine men, who once so per-severed  
Oh how ironic as was this fate  
That this Temple of Freedom,  
Was so once built by slaves!  
From . . . These . . . Hands . . . which gave!  
As their souls are so now etched everywhere  
But look at what they so made  
As generations have so come to pass  
And new hands in this temple have labored steadfast  
All in our nation's struggle to so ask  
The ones, who have so fought against hatred so clear  
Trying to vanquish discrimination year after year

Can you but not feel Martin's tears?  
And today, if they could all be here  
Would they but not so shed a tear?  
All at what they so see here  
So say a prayer, and all of these  
Who but with their hands and hearts,  
And souls so built this great Temple of Liberty

The ones who so placed this great stone  
All in that fight  
All in Freedom's home,  
So one day we could all be here  
Free  
So on this day  
This marker of remembrance we now place  
All for what they so taught us,  
So gave  
As we see their great efforts all etched into this stone  
They made  
Like quarried stone, Freedom too does not come so easy!  
Only through such blood, sweat, and tears can this all be!  
In our lives, what have we made  
From . . . these . . . hands . . .

PERSONAL EXPLANATION

**HON. KEITH ELLISON**

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 28, 2012*

Mr. ELLISON. Mr. Speaker, during final consideration of H.R. 347, the Federal Restricted Buildings and Grounds Improvement Act of 2011, I inadvertently voted "nay" on rollcall vote 73 when I intended to vote "aye". I would like the RECORD to reflect that I support the bill, which creates sensible penalties for knowingly breaching the security of locations such as the White House and its grounds.



## IN RECOGNITION OF RICK WYKOFF

**HON. JACKIE SPEIER**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 28, 2012*

Ms. SPEIER. Mr. Speaker, I rise to honor Foster City Councilmember Rick Wykoff for his decades of public service on the occasion of his retirement on December 5, 2011. He served on the City Council for the last ten years and was city manager from 1977–1994.

I have known Rick for over 30 years and have witnessed his dedication to, and passion for, our community. He thrived in the many positions he has held over the years throughout California.

Foster City is extraordinarily fortunate that Rick offered his experience as city manager, his wisdom and talent to the city council for the last decade. On his watch, the council oversaw multiple public and private development projects, among them the building of City Hall, the Teen Centre Vibe, the North Peninsula Jewish Community Center, the redevelopment of Miramar and Marlin Cove and the redevelopment of the Gilead Science Campus, the Pilgrim/Triton and Chess/Hatch projects. Everyone in Foster City has benefitted from Rick's outstanding work.

Rick was born in Sacramento. He earned his Bachelor and Masters Degrees in Public Administration from San Diego State University and the University of Southern California respectively.

Before attending college, Rick worked as a beach life guard for the United States Coast Guard from 1960–64. While attending San Diego State University, he became an administrative intern in Oceanside in San Diego County in February 1968. That was clearly where he caught the public service bug. The same year Rick became the administrative assistant to the city manager of Yorba Linda in Orange County where he stayed for two years. From 1970–73, he was assistant manager and administrative assistant in Buena Park, Orange County, until he became the manager for this city of 62,000 residents.

In 1977 Rick moved north to the San Francisco Peninsula to assume his position as city manager of Foster City. He successfully dealt with past political and administrative turmoil and put in place a professional team that managed the needs of the city. Rick also served as manager of the Estero Municipal Improvement District and as executive director to the Redevelopment Agency.

From 1994–95, he served as interim public works director of South San Francisco where he oversaw a freeway interchange and railroad grade separation. He returned to the department in 1997 as a special Projects coordinator. The same year he became interim director of Community Redevelopment in Morgan Hill and acting public works director in Daly City. During his time in Daly City, Mother Nature presented Rick with a special challenge: an "El Nino" that year with heavy rains, wind and mudslides made his work overseeing streets and storm drains no picnic, but of course he saw the city through this most difficult of times.

From 1999–2000, Rick served as interim public works director in San Bruno. He was

deeply involved in the negotiations regarding the BART station and the extension of underground lines through the city.

Rick has also served on the boards of directors of numerous organizations including the Industrial Emergency Council, the ABAG Plan Corp., the Bay Area Water Supply and Conservation Agency and the San Mateo County Advance Life Support Joint Powers Authority. Additionally he has 30 years of experience as a volunteer fire fighter.

Rick married his wife Judie 48 years ago and they raised two children, Carey and Dennis.

Mr. Speaker, I ask this body to rise with me to honor the work of Rick Wykoff, my friend and an extraordinary public servant who has improved the lives of tens of thousands of Californians.

## HONORING THE LOS ANGELES SELECTS HOCKEY PEEWEE AAA TEAM

**HON. DANA ROHRBACHER**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 28, 2012*

Mr. ROHRBACHER. Mr. Speaker, I would like to commend the members of the Los Angeles Selects Hockey Pee wee AAA team for winning the prestigious Pee wee World Championship Tournament in Quebec on February 19, 2012. In the 53-year history of the tournament, this accomplishment marks the first time that a California team has won the event at the highest level of competition.

The L.A. Selects defeated the Vancouver North Shore Hockey Club in the championship game tournament by a score of 4–2 in hockey's equivalent of the Little League World Series. The Selects defeated teams from Russia, Slovakia, Detroit and Canada on their way to the title.

Over 100 teams comprised of 12- and 13-year old hockey players and representing 14 countries competed in the event. Over 10,000 people watched the championship game that took place in the Quebec Colisee, home of the former NHL Quebec Nordiques. Many NHL stars, such as Wayne Gretzky and Mario Lemieux, played in this tournament as youngsters. Since 1960, the Quebec tournament is the pinnacle of hockey competition where nearly 200,000 hockey fans attend the twelve-day event.

The L.A. Selects Pee wee AAA Championship Roster included constituents from my district as well as a number of other high caliber players from the surrounding area: Cooper Haar (Huntington Beach), Jordan Bonner (Huntington Beach), Brett Rudy (Huntington Beach), Dexter Russo (Laguna Beach), Cayla Barnes (Corona), Jacob McGrew (Orange), Jack St. Ivany (Manhattan Beach), Vanya Lodnia (Anaheim), Cole Guttman (Northridge), Brandon McDonald (Valencia), Rhett Bruckner (Las Vegas), Brannon McManus (Upland), Nikolai Gruzdev (Valencia), Jesse Lycan (Escondido), Lukas Uhler (Upland).

Finally, Mr. Speaker, I submit the following article, from Youth1.com about the team and the tournament.

## LA SELECTS WIN QUEBEC INTERNATIONAL PEEWEE HOCKEY TOURNAMENT

(By Dan Lio)

The No. 5 LA Selects rebounded from their opening game loss to win five straight games en route to capturing the tournament title at the 53rd Annual Quebec International Pee wee Hockey Tournament, a tournament that lasted over a week long.

In their opening game on Monday, the Selects gave up a 3rd period lead, falling 3–2 to the St. Louis Blues. After the loss, their offense was in full force in their next game last Wednesday as they defeated Bratislava 14–0. In the win the Selects received hat tricks from three different players, including Jake McGrew, Cole Guttman and Vanya Lodnia. Also scoring in the win were Cayla Barnes, Brannon McManus, Jesse Lycan, Lukas Uhler and Brett Rudy. The Selects were back in action the following day to take on No. 4 ranked Compuware. In a well-played game by both team the Selects defeated Compuware 3–2 behind two goals from McManus and one from Guttman. Picking up the win inbetween the pipes was Rhett Bruckner. The Selects blew out Russia Forward in their next game, defeating them 8–1. Offensively, McManus led the way with four goals and one assist, while Guttman pitched in with two goals and an assist. Both Jake McGrew and Cooper Haar also found the back of the net in the win, while goalie Brandon McDonald picked up his second win of the tournament.

The Selects battled the Whitby Wildcats in their next game, with the winner advancing to the championship game. It was all Selects from the get go as they eventually took home the 6–2 win. In the win they received goals from six different players, including McGrew, Lodnia, Guttman, Haar, Lycan and Jordan Bonner.

In the championship game the Selects took on the previously undefeated North Shore Winter Club. In a total team effort, the Selects were able to double up North Shore, taking home the 4–2 victory to win the championship. Brannon McManus and Vanya Lodnia each had two goals and an assist in the win, while Jake McGrew and Cayla Barnes each pitched in with an assist. Playing phenomenal in net was Rhett Bruckner as he picked up his third straight win.

Congratulations to all members of the team, including coaches Shawn Pitcher, Greg Chinarian, Andrew Cohen, Igor Nikulin, Barry McManus and players Brandon McDonald, Rhett Bruckner, Jack St. Ivany, Jake McGrew, Vanya Lodnia, Dexter Russo, Cole Guttman, Jordan Bonner, Cayla Barnes, Brannon McManus, Cooper Haar, Nikolai Gruzdev, Jesse Lycan, Lukas Uhler and Brett Rudy.

## HONORING GREGORY BLAKE TAYLOR

**HON. SAM GRAVES**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 28, 2012*

Mr. GRAVES of Missouri. Mr. Speaker, I proudly pause to recognize Gregory Blake Taylor. Gregory is a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 354, and earning the most prestigious award of Eagle Scout.

Gregory has been very active with his troop, participating in many scout activities. Over the many years Gregory has been involved with scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community. Most notably, Gregory has also contributed to his community through his Eagle Scout project.

Mr. Speaker, I proudly ask you to join me in commending Gregory Blake Taylor for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

IN RECOGNITION OF BRUCE  
HAMILTON

**HON. JACKIE SPEIER**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 28, 2012*

Ms. SPEIER. Mr. Speaker, I rise to honor Bruce Hamilton who is retiring as Executive Director of HIP Housing after eight years of outstanding leadership.

I share many things with Bruce: a deep friendship, a birthday and a passion for his organization that has enabled thousands of San Mateo County residents to live independently and self-sufficiently in safe, low-cost homes.

Attending a HIP Housing graduation officiated by Bruce Hamilton is a bit like attending a revivalist meeting. Men, women and children traipse to the microphone for over an hour and tell stories of how HIP Housing and their own will power set them on the straight and narrow. A man just down on his luck found a home in which he can be both an aide and a friend to the homeowner. Rent? Sure, it's important to the homeowner, but in the world of Bruce and HIP Housing, what matters most is that yet another man became a success. A young mother with an abusive husband found a safe haven for herself and her three children. Another woman explained how she came to HIP and developed her life and parenting skills, earned her GED and landed a job. Bruce beamed like a proud dad. We often proclaim that we should "Make it in America". Well, Bruce Hamilton and HIP Housing make human dignity by the boatload in America, every day and all year long. Now that's a product worth making.

Before Bruce joined HIP Housing, he held an impressive variety of positions all over the country. He was the Executive Director of the Alliance on Aging in Monterey, California, Administrator at the Unitarian Church in Palo Alto, California; Executive Director of the State Bar of Arizona/Arizona Bar Foundation in Phoenix, Arizona, Director of the State Bar of California in San Francisco, California, County Supervisor in Lancaster County, Nebraska, Partner in the Law Offices of Hamilton, German & Robinson in Lincoln, Nebraska, Assistant Director of the American Bar Association in Chicago, Illinois and Public Defender at the Legal Aid Agency in Washington, DC.

Bruce's career is a clear testament to his passion for public service, justice and our democracy and so are his commitments in his spare time. He has volunteered for a long list of organizations including the Peace Corp in

Ethiopia, the Housing Leadership Council, Thrive, HEART, Meals on Wheels, Community Health Care Corporation, Work Force Investment Board and United Way in Monterey County.

Bruce was born in 1942 in Lincoln, Nebraska. He received his BS in Secondary Education and his J.D. Degree from the University of Nebraska.

He is the proud father of his son Alfred and grandfather of Ashley and Lindsey.

Mr. Speaker, Bruce Hamilton personifies the old adage, "Walk a mile in my shoes." Bruce has walked many miles in the shoes of many of his clients over the years of his service to our community, and it is due to his capacity to empathize that he is being honored upon his retirement. His is a life's work well done.

75TH ANNIVERSARY OF THE  
INDIANAPOLIS SYMPHONIC CHOIR

**HON. ANDRÉ CARSON**

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 28, 2012*

Mr. CARSON of Indiana. Mr. Speaker, this year marks the 75th Anniversary of the Indianapolis Symphonic Choir, one of our nation's most active and dynamic symphonic choruses.

The Choir performs for tens of thousands of my constituents annually at storied venues, including this year's Super Bowl. I was fortunate to witness the Choir's incomparable artistry during this year's Celebration Gospel Festival, a moving tribute to Dr. King's legacy.

Under the leadership of a phenomenal Board of Directors, as well as the guiding hands of artistic director Dr. Eric Stark, executive director Michael Pettry, General Manager Andrew Lannerd, and Operations Manager Stephanie Derybowski, the Choir adds to the cultural richness of the 7th District and provides invaluable inspiration to Hoosiers of all ages, races, and backgrounds.

Since 1937, the Symphonic Choir has partnered with the venerable Indianapolis Symphony Orchestra. This collaboration of successful independent arts organizations has entertained generations of music lovers throughout Central Indiana. I also commend the Symphonic Choir for spearheading educational initiatives benefitting students and teachers within Indianapolis Public Schools.

Finally, I want to congratulate the 160 volunteer singers who tirelessly dedicate themselves to mastering their craft. Their selfless devotion to community enrichment is awe-inspiring.

Mr. Speaker, I ask my colleagues to join me in congratulating the Indianapolis Symphonic Choir on 75 years of music and wishing them continued success for decades to come.

PERSONAL EXPLANATION

**HON. LYNN C. WOOLSEY**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 28, 2012*

Ms. WOOLSEY. Mr. Speaker, on February 27, 2012, I was unavoidably detained and was

unable to record my vote for rollcall No. 50. Had I been present I would have voted:

Rollcall No. 73: "yes"—Federal Restricted Buildings and Grounds Improvement Act of 2011.

RECOGNIZING STEVE TRUMAN

**HON. SANDER M. LEVIN**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 28, 2012*

Mr. LEVIN. Mr. Speaker, I rise today to recognize a dedicated, compassionate and effective public servant, Steve Truman, who is retiring after serving the people of the City of Roseville, Michigan, for 32 years, the last eight as City Manager.

Mr. Truman graduated from Eastern Michigan University with a Bachelor of Science Degree in Secondary Education and he also earned a Masters Degree in Urban Planning from Wayne State University.

Mr. Truman began his career in the private sector as a city planning consultant. He started working for the City of Roseville in 1979 as the Executive Director for the Roseville Housing Commission. In 1983 he was appointed as the Director of Building and Inspections, and in March 2005 he became City Manager and has served in the capacity successfully to the present date.

Although City Manager is not an elected position, Mr. Truman truly devoted himself to the community and was constantly visible everywhere throughout the city. He is a member of the Roseville Optimist Club, as well as a number of other community and professional organizations. Mr. Truman made it his goal to improve the City's financial future, and under his leadership, the City has continued on a path of sound financial footing despite immense economic challenges, while still providing quality services to residents.

It has been a true pleasure for my staff and me to work with Mr. Truman on collaborative efforts that have resulted in some important local initiatives. On one such occasion we worked together on a project to combine three municipal police and fire dispatch centers to consolidate and form one regional police and fire dispatch authority that provides greater efficiency and increased productivity. This type of forward and creative thinking has saved the City of Roseville \$2.5 million over a five-year period and is just one example of Mr. Truman's abilities as an effective leader.

In addition to his dedication to providing quality government service, Mr. Truman has also been a passionate advocate for education, serving on the Utica School Board for almost a decade. Since 2010 he has been a member of the Utica Schools Foundation for Educational Excellence.

Mr. Speaker, I ask my colleagues to join me in recognizing the dedicated public service of Steve Truman and his numerous achievements over a 32-year career. I am so pleased to join with the entire community in paying tribute to his achievements, and thanking him for years of talented service. I am confident he will continue to play an important role in the community where he is highly thought of, in

addition to enjoying a bit of retirement. Importantly, he and his wife Pam now get to enjoy spending time visiting their four children and three grandchildren Ben, Jack and Avery.

ARTHUR GENSLER

HON. JACKIE SPEIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 28, 2012*

Ms. SPEIER. Mr. Speaker, I rise to honor Arthur Gensler who today is receiving the 2011 Silver Spur Award from San Francisco Planning and Urban Research (SPUR). This award recognizes a lifetime of civic achievement of a San Franciscan.

San Francisco is not alone in benefitting from Mr. Gensler's vision, creativity and leadership; his impact is global. In 1965 he founded Gensler, a San Francisco based architecture and design firm, that has grown from a three-person office to a 3000-person firm with over 30 offices worldwide. Mr. Gensler transformed interior design into a recognized profession and his firm serves as a model for design professions in the 21st century.

Gensler designed the stunning new Terminal 2 at SFO, located in my district, and Terminal B at Norman Mineta International Airport in San Jose. Other notable projects include the Toys R Us store at Times Square in New York, the Avenue of the Stars CAA building in Los Angeles, Jet Blue Terminal 5 at JFK, Gaylord National Convention Center in National Harbor, Maryland, the first LEED certified car dealership in McKinney, Texas and Shanghai Tower in Shanghai, China which is currently under construction. Among the many Awards Gensler received are the American Institute of Architects' IDP Outstanding Firm Award, Contract Magazine's Legend Award, Interior Design Hall of Fame, U.S. Green Building Council Leadership Award, the Lifetime Achievement award from Ernst & Young LLP, and AIA's Architecture Firm Award, the highest honor that AIA can bestow on an architecture firm for consistently producing distinguished architecture.

Mr. Gensler is a graduate of Cornell University, which named him "Cornell Entrepreneur of the Year" in 1995. Today he serves on the Advisory Council of Cornell's College of Architecture, Art and Planning. Mr. Gensler has also been a Visiting Professor at Arizona State University, Cornell, and the University of California at Berkeley, where he is on the Advisory Board of the Haas School of Business. He is a Trustee of the National Building Museum, Washington, DC, and the Buck Institute for Aging, Novato, California. Mr. Gensler is a Fellow of both the American Institute of Architects (FAIA) and the International Interior Design Association (IIDA), which honored him with its Star Award. He is also a professional member of the Royal Institute of British Architects, and a co-founder of the AIA's National Interior Architecture Committee.

Mr. Gensler and his wife of over six decades, Drue Gensler, live in Mill Valley. They are the proud parents of four sons and ten grandchildren.

Mr. Speaker, I ask this body to rise with me to acknowledge the craft, talent and lasting impressions of Art Gensler.

## CONGRATULATING NATIONAL HISTORY DAY

HON. CHRIS VAN HOLLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 28, 2012*

Mr. VAN HOLLEN. Mr. Speaker, I rise today to congratulate National History Day, a year-long academic program focused on improving the teaching and learning of history for 6th to 12th grade students, for receiving a 2011 National Humanities Medal presented on February 13 at the White House by President Obama. Inaugurated in 1997, the National Humanities Medal honors individuals or groups whose work has deepened the nation's understanding of the humanities, broadened citizens' engagement, or helped preserve and expand Americans' access to important resources in the humanities. I am proud to recognize National History Day as the first K-12 education program that has received this honor "for sparking passion for history in students across our country."

National History Day is a program that can be integrated into any social studies or history classroom, as it helps teachers expand and enrich the existing curriculum. With schools spending more resources and time focusing on reading and math education, it is important that we also recognize and support programs that help to provide a well-rounded education that raises the bar for students and strengthens the instructional practice of teachers.

In every state and in hundreds of communities around the country, National History Day affiliates work with classroom teachers and students who choose historical topics related to a theme and conduct extensive primary and secondary research through libraries, archives, museums, oral history interviews and historic sites. In my own state of Maryland, the Maryland National History Day program is sponsored by the Maryland Humanities Council. Last year about 19,000 students from 158 different middle and high schools participated across the state at the local, state and national levels. The program is an outstanding example of outcome-based and performance-based learning.

I am also proud that each June students travel from all 50 states, the District of Columbia, and the U.S. territories to participate in the culminating four-day event held at the University of Maryland at College Park where professional historians and educators evaluate their projects. Attending the National History Day national contest where students are working in groups as well as individually to make history come alive is truly a unique experience. Each student is able to become an expert on a chosen topic while they further develop college- and career-ready skills such as critical thinking, problem-solving and oral and written communication. More than 5 million students have gone on to careers in business, law, medicine and countless other disciplines where they are putting into practice what they learned through National History Day.

As legislators, we are all interested in promoting increased student achievement and a deeper understanding of the impact of history on our everyday lives. For 30 years, the Na-

tional History Day program has been transforming the way history is taught and learned in classrooms all over the country improving education every day.

## THE ILLEGAL, UNREPORTED, AND UNREGULATED FISHING ENFORCEMENT ACT OF 2011

HON. MADELEINE Z. BORDALLO

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 28, 2012*

Ms. BORDALLO. Mr. Speaker, today I reintroduce legislation to strengthen enforcement mechanisms to stop illegal, unreported, and unregulated, IUU, fishing. Illegal fishing threatens the economic and social infrastructure of fishing communities around the world by decreasing opportunities for legitimate and conscientious fishermen. While the United States is recognized for its commitment to domestic fisheries conservation and as an international voice in science-based ocean conservation, the failure of other nations to adopt similar approaches has both economic and conservation implications for U.S. industry and management. Additional action is needed from Congress if we are to be successful in combating IUU fishing and the depletion of fish stocks worldwide. Last Congress, I sponsored similar legislation and it passed the House without opposition by voice vote. This year, I am glad to be joined by Congressman FRANK GUINTA from New Hampshire as a bipartisan original cosponsor.

Recent reports have documented that IUU fishing accounts for between 10 and 22 percent of the reported global fish catch, or \$9.24 billion in gross revenues each year (MRAG, 2009; Sumaila et al., 2006 and Agnew et al., 2009). This undermines the United States' conservation focused approach to fisheries management and the efforts of fishermen, and has implications for sustainable international fisheries that benefit the world's Marine ecosystems. Unsustainable fishing practices by foreign fishing fleets adversely affect stocks that migrate between the U.S. Exclusive Economic Zone (EEZ) and the high seas. This problem can be particularly acute in places like Guam, where the EEZ is vast, and where the United States Coast Guard, despite its best efforts, will never have sufficient resources to patrol all of our waters.

The "Illegal, Unreported, Unregulated Fishing Enforcement Enhancement Act of 2011," which I introduced today, further enhances the enforcement authority of NOAA and the U.S. Coast Guard to regulate IUU fishing. This bill would amend the High Seas Driftnet Fishing Moratorium Protection Act, HSDMPA, and other international and regional fishery management organization, RFMO, agreements to incorporate the civil penalties, permit sanctions, criminal offenses, civil forfeitures and enforcement sections of the Magnuson-Stevens Fishery Conservation and Management Act. It would strengthen enforcement authority of NOAA and the U.S. Coast Guard to inspect conveyances, facilities, and records involving the storage, processing, transport and trade of fish and fish products, and to detain fish and

fish products for up to five days while an investigation is ongoing.

In addition, this bill makes technical adjustments to allow NOAA to more effectively carry out current IUU identification mandates, including extending the duration of time for identification of violators from the preceding two years to the preceding three years. This bill broadens data sharing authority to enable NOAA to share information with foreign governments and clarifies that all information collected may be shared with international organizations and foreign governments for the purpose of conducting enforcement. These amendments promote the conservation and sound management of fish stocks internationally and in a manner consistent with the expectations placed on U.S. fishermen. This bill would establish an international cooperation and assistance program to provide funding and technical expertise to other nations to help them address IUU fishing. This bill, however, does not authorize new funding or appropriations.

Finally, this bill implements the Antigua Convention, an important international agreement that provides critical updates to the principles, functions, and processes of the Inter-American Tropical Tuna Commission, IATTC, to manage fisheries in the eastern Pacific Ocean. The Antigua Convention modernizes the IATTC and increases its capacity to combat IUU fishing and illegal imports of tuna product. Without implementing legislation, the U.S. does not have the authorities necessary to satisfy its commitments under the Antigua Convention, including addressing IUU in the eastern Pacific Ocean.

IUU fishermen are "free riders" who benefit unfairly from the sacrifices made by U.S. fishermen and others for the sake of proper fisheries conservation and management. I would like to thank Rep. GUINTA, Rep. FARR, Rep. FALEOMAVAEGA, Rep. CHRISTENSEN, Rep. PIERLUISI and Rep. SABLAN for joining me as original cosponsors and I look forward to working with my colleagues on both sides of the aisle to advance this important bill through the legislative process.

HONORING SAXTON T. WATSON

**HON. SAM GRAVES**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 28, 2012*

Mr. GRAVES of Missouri. Mr. Speaker, I proudly pause to recognize Saxton T. Watson. Saxton is a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 314, and earning the most prestigious award of Eagle Scout.

Saxton has been very active with his troop, participating in many scout activities. Over the many years Saxton has been involved with scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community. Most notably, Saxton has also contributed to his community through his Eagle Scout project.

Mr. Speaker, I proudly ask you to join me in commending Saxton T. Watson for his accomplishments with the Boy Scouts of America

and for his efforts put forth in achieving the highest distinction of Eagle Scout.

COMMENDING THE HUNTERDON  
CENTRAL REGIONAL HIGH  
SCHOOL VARSITY CHEER-  
LEADING SQUAD

**HON. LEONARD LANCE**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 28, 2012*

Mr. LANCE. Mr. Speaker, I rise today to recognize the Hunterdon Central Regional High School Varsity Cheerleading Squad for winning the 2012 Universal Cheerleaders Association High School National Championship. After a week of competition in Orlando, Florida, this talented group of young women defeated the defending national champions to become the first team from Hunterdon Central Regional High School to bring home a national championship title.

Last year the team took second place, but the squad returned motivated this year to take home the championship. Supporters, friends and family refer to the winning performance as "The Perfect Routine." I congratulate Superintendent Christina Steffner, Principal Tim O'Brien, Head Coach Heather Buterbaugh and Assistant Coach Julie Strober for their hard work and dedication to the team. This marks another proud accomplishment for the Hunterdon Central Regional High School Athletics Department.

These talented young women should be proud of their hard work and I congratulate them on the outstanding achievement of bringing their "Perfect Routine" to the national stage.

IN COMMEMORATION OF THE 90TH  
BIRTHDAY OF ROSARIO PEREZ-  
PENIA

**HON. ELIOT L. ENGEL**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 28, 2012*

Mr. ENGEL. Mr. Speaker, I would like to commemorate the 90th birthday of Rosario Perez-Pena, who was born in San Juan, Puerto Rico on February 28, 1922.

Rosario was married to the late Luis-Perez Soto, who was an accountant, writer, poet, playwright, musician, artist and actor. Together, they had four children, and she is now the proud grandmother of eight and great-grandmother of 18. She has spent most of her life in Puerto Rico, but also lived in New York for 24 years. She has designed and made most of her own clothes, and has been an active reader and voter throughout her life.

I join her family in wishing her a very happy birthday on this special day.

A TRIBUTE TO HIS EXCELLENCY  
AMBASSADOR HAN DUK-SOO

**HON. EDOLPHUS TOWNS**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 28, 2012*

Mr. TOWNS. Mr. Speaker, I rise to offer thanks and respect to His Excellency Han Duk-soo, who is departing Washington after three years as Ambassador of the Republic of Korea to the United States.

Before his appointment in March 2009, Ambassador Han had served as his country's Prime Minister. The fact that President Lee Myung-bak chose a man of such distinguished credentials to be his country's Ambassador to Washington demonstrates the high regard with which he holds the longstanding friendship of South Korea and the United States.

In addition to his service as Prime Minister and Ambassador to the United States, Ambassador Han has also been Deputy Prime Minister, Minister of Finance and Economy, Ambassador to the OECD, and a senior diplomat in the Ministry of Foreign Affairs and Trade.

The three years of Ambassador Han's tenure in Washington have been marked by great success and achievement in strengthening the U.S.-Korea alliance.

Last October, at the invitation of this body, President Lee addressed a joint meeting of the House and Senate. It was emblematic of not only the importance of our bilateral alliance, but a reflection of Ambassador Han's diligence and the many friends he has cultivated on Capitol Hill.

Mr. Speaker, nearly six decades have come and gone since the armistice that ended the Korean War, and the United States and the Republic of Korea remain partners dedicated to peace, freedom, democracy, and global stability. Our two countries' soldiers have fought side by side not only in Korea but also in Vietnam, Afghanistan, and Iraq.

In recent years, the Korean government has sponsored visits by American veterans to the place where they served and fought. Many Korean War veterans are getting up in years. There will not be many opportunities for them to revisit the battlefields of sixty years ago. The Korean people are most generous, and most gracious, in making these trips possible.

Ambassador Han has made a point of visiting with groups of Korean War veterans as he travels the United States. His personal expressions of gratitude have been touching, and most appreciated.

The friendship of the United States and Korea goes well beyond a military alliance, and well beyond our shared past on the battlefield.

Our countries are major trading partners. Our students study in each other's universities. We share numerous cultural exchanges. Ambassador Han has done much in his time here to strengthen and deepen the longstanding relationship between the United States and Korea. He will be sorely missed.

Mr. Speaker, I ask my colleagues to join me in paying tribute to Ambassador Han Duk-soo, wishing him well in his future endeavors as the Chairman of the Korea International Trade Association. I thank him for his service and most especially his friendship.

HONORING CAPTAIN ROBERT C. GRANT

**HON. MARIO DIAZ-BALART**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 28, 2012*

Mr. DIAZ-BALART. Mr. Speaker, I rise today to honor Captain Robert C. Grant, and to congratulate him on his retirement. Captain Grant is an outstanding individual who served as the Deputy Chief of Staff of the Seventh Coast Guard District since coming on Active Duty in April of 1998.

Captain Grant first entered military service as a medic in the U.S. Air Force Reserve in December 1966, serving at both Tyndall Air Force Base near Panama City, FL and Homestead Air Force Base in South Florida. In April 1974, he received a Direct Commission in the U.S. Coast Guard Reserve and served as a drilling Reservist in various Coast Guard Reserve Units in the Seventh District until coming on Active Duty in April 1998. Most notable of his Reserve Unit assignments was his three year tour as Commanding Officer of U.S. Coast Guard Reserve Unit Marine Safety Office Miami, during which the majority of the 90-member unit was activated in support of Operation Desert Shield/Desert Storm.

During his tenure as Deputy Chief of Staff, Captain Grant served as a senior advisor to eight Admirals. He was the primary District liaison to Congressional Members and their staffs from South Carolina, Georgia, Florida, and Puerto Rico. His efforts assisted Congress in passing legislation that has proved instrumental in addressing new maritime smuggling tactics that constitute a threat to the United States.

Among his many achievements, Captain Grant was active in strengthening the relationship between the Coast Guard and the South Florida Hispanic and Haitian communities through a dedicated public outreach initiative. In the wake of the devastating 2010 earthquake near Port-au-Prince, Haiti, he also supported such large-scale responses as Operation Unified Response and Operation South-east Watch—Haiti, which led to the evacuation of over 1,150 US citizens, 250 medical evacuations, the transport of over 715 first responders, and the delivery of over 1.1 million pounds of critically-needed relief cargo and equipment by Coast Guard aircraft.

Mr. Speaker, I am honored to pay tribute to Captain Robert C. Grant for his continued service to our nation, and more specifically South Florida and I ask my colleagues to join me in recognizing this outstanding individual.

RECOGNIZING THE SPOTSYLVANIA REGIONAL MEDICAL CENTER

**HON. ROBERT J. WITTMAN**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 28, 2012*

Mr. WITTMAN. Mr. Speaker, I rise today to recognize the many achievements of the Spotsylvania Regional Medical Center (SRMC). Since the hospital opened in June of 2010, its

staff and volunteers have served their community selflessly, assisting patients with everyday illnesses as well as after tragic incidents such as the August 2011 earthquake that was centered just 25 miles from SRMC. With over 50,000 total hours of volunteer service performed in less than two years, these individuals have shown an extraordinary devotion to their community, and their compassion and friendly service certainly played a part in SRMC's high patient satisfaction ratings in 2011.

In a perfect world, there would be no need for hospitals; however, it is reassuring to know that there are great medical centers such as SRMC should we ever require medical assistance. I'd like to commend the doctors, nurses, administrators, and volunteers who make up the impressive team at SRMC on their stellar performance in the brief amount of time since the hospital's inception, and I look forward to following the continued service of the great folks at the Spotsylvania Regional Medical Center in the future.

PERSONAL EXPLANATION

**HON. BARBARA LEE**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 28, 2012*

Ms. LEE of California. Mr. Speaker, I was not present for rollcall vote 73. Had I been able to vote, I would have voted "yes" on the Motion to Concur in the Senate Amendment to H.R. 347.

IN CELEBRATION OF AMERICA'S BLOOD CENTERS' 50TH ANNIVERSARY

**HON. WALLY HERGER**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 28, 2012*

Mr. HERGER. Mr. Speaker, America's Blood Centers is North America's largest network of community-based, independent, non-profit blood centers. I congratulate ABC on its half-century anniversary and applaud its continued mission to help member blood centers serve their communities.

BloodSource is the blood center in Northern California. A regional, non-profit organization, BloodSource provides blood and services in ten counties within California's Second Congressional District and sixteen other counties in the state. In my district, BloodSource operates two major regional blood centers and one community donor center. Every day BloodSource conducts multiple blood donor drives to assure a safe and plentiful blood supply for the people who receive care in thirteen hospitals I represent.

I am proud to be a BloodSource blood donor and honored to represent 90,000 BloodSource blood donors. I have had the privilege of sponsoring BloodSource blood drives for several years. I applaud the efforts of BloodSource to make certain that every patient has the blood and blood components needed, wherever and whenever the need.

I join BloodSource in celebrating the 50th anniversary of ABC. Together with its members, ABC provides half of the American and a quarter of the Canadian blood supply to more than 150 million patients who receive care in 3,500 hospitals and healthcare facilities across North America. The work of ABC members impacts all of us.

Congratulations to America's Blood Centers. Because of their work, lives are being saved in cities and towns across the nation.

IN RECOGNITION OF DALE MINAMI

**HON. JACKIE SPEIER**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 28, 2012*

Ms. SPEIER. Mr. Speaker, I rise to honor Dale Minami who today is receiving the 2011 Silver Spur Award from San Francisco Planning and Urban Research (SPUR). This award recognizes a lifetime of civic achievement of a San Franciscan.

Mr. Minami is one of the country's pre-eminent attorneys recognized for his civil rights leadership. He is best known for heading the legal team in *Korematsu v. United States*, the legendary Supreme Court case that overturned the wrongful criminal conviction of Fred Korematsu who refused internment during World War II.

Mr. Minami is a personal injury attorney with Minami Tamaki LLP and has made significant contributions to the advancement of the rights of Asian-Americans. Minami is a co-founder of the Asian Law Caucus, the Asian-American Bar Association of the Greater Bay Area, the Asian Pacific Bar of California and the Coalition of Asian-Pacific Americans.

Other landmark decisions he was involved in include *United Filipinos for Affirmative Action v. California Blue Shield*, the first class action employment lawsuit brought by Asian-Pacific Americans on behalf of Asian-Pacific Americans; *Spokane JACL v. Washington State University* which established an Asian American Studies program at the Washington State University; and *Nakanishi v. UCLA*, a claim for unfair denial of tenure which resulted in the granting of tenure after multiple hearings and widespread publicity over discrimination in academia.

Mr. Minami has been involved in the judicial appointment process and in public policy. He was a member of the California Fair Employment and Housing Commission and chaired the California Attorney General's Asian Pacific Advisory Committee. He served as a commissioner on the California State Bar Association's Commission on Judicial Nominees' Evaluation and Senator Barbara BOXER's Judicial Screening Committee. President Clinton appointed him chair of the Civil Liberties Public Education Fund in 1996. Mr. Minami specializes in personal injury and entertainment law and has represented well known clients such as Kristi Yamaguchi, Philip Kan Gotanda and Steven Okazaki. He is counsel to the Asian American Journalists Association and has also represented many of San Francisco's best known faces on television, including Sydnie Kohara, Lawrence Karnow, Vic Lee, Heather Ishimaru and David Louie.

He received his B.A. in Political Science from the University of Southern California in 1968 and his J.D. from Boalt Hall School of Law at UC Berkeley in 1971. He was admitted to the California Bar in 1972. In 1982, he was admitted to practice in the U.S. Supreme Court.

Among his many awards and recognitions, Mr. Minami received the American Bar Association's 2003 Thurgood Marshall Award, the 2003 ACLU Civil Liberties Award, and the State Bar President's Pro Bono Service Award. A dormitory at UC Santa Cruz was named Queen Liliuokalani-Minami Dormitory. Mr. Speaker, I ask this body to rise with me to acknowledge Dale Minami's extraordinary work and lasting contributions to justice and equality in the Asian American community and our community at large.

#### OUR UNCONSCIONABLE NATIONAL DEBT

**HON. MIKE COFFMAN**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 28, 2012*

Mr. COFFMAN of Colorado. Mr. Speaker, on January 20, 2009, the day President Obama took office, the national debt was \$10,626,877,048,913.08.

Today, it is \$15,438,518,062,690.37. We've added \$4,811,641,013,777.29 dollars to our debt in 3 years. This is \$5 trillion in debt our nation, our economy, and our children could have avoided with a balanced budget amendment.

#### RECOGNITION OF LESLIE LEWIS

**HON. EDOLPHUS TOWNS**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 28, 2012*

Mr. TOWNS. Mr. Speaker, I rise today to pay tribute and to honor Leslie Lewis. A native of the Bronx, New York, Mr. Lewis is an outspoken highly respected advocate for the community.

Mr. Lewis was born and raised in the Bronx, New York but eventually spent a large part of his life in Scarsdale, New York. In Scarsdale, Mr. Lewis raised his two sons, Robert and Mark. Mr. Lewis first moved to Brooklyn in 1982, when he settled into a home on Wyckoff Street—between the Gowan Housing Projects and the Wyckoff Housing Projects. Shortly after moving there, he joined the precinct community council.

Mr. Lewis worked for 30 years in the exhibition business, becoming president of the Greyhound Exposition Company in the process. Along with national trade shows, Mr. Lewis maintained his concern for minority areas. He developed his "Job Power" concept as a way to bring employers to unemployed urban minorities. This concept was recognized by then President Nixon, who transformed it into the modern day job fair.

These experiences led Mr. Lewis towards recognizing his talent for bringing the concerns

of regular people to their elected officials. Upon moving to Brooklyn, he developed a relationship with the district attorney's office in an effort to improve community relations. In his capacity of police liaison, as well as council president of the 84th Precinct, Mr. Lewis serves as a switchboard between Borough President Markowitz, the Brooklyn district attorney's office, the police and his 2.5 million constituents.

Mr. Lewis gathers complaints from the public and then communicates them to the police, making sure that something gets done about them. Crime has seen a dramatic decrease in the 84th Precinct. Since 1990, it's gone down over 90%, according to NYPD statistics. Because of efforts of community leaders like Mr. Lewis, Brooklyn neighborhoods have a high quality of life, are more walkable and real estate is more valuable.

Mr. Speaker, I urge my colleagues to join me in recognizing Leslie Lewis for his lifelong effort to bring additional resources into our local institutions, communities and neighborhoods, and helping to improve employment opportunities for needy Brooklyn residents.

#### HONORING THE SERVICE OF REVEREND LAWRENCE A. DAVIES

**HON. ROBERT J. WITTMAN**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 28, 2012*

Mr. WITTMAN. Mr. Speaker, I rise today to recognize a man who has made an unforgettable mark on his community over the last fifty years. Since becoming Pastor of Shiloh Baptist Church (Old Site) on March 4, 1962, Rev. Lawrence A. Davies has lived a life full of dedicated service, guiding his church and his community through five decades of struggle and success. Rev. Davies will retire from his post on March 4, 2012, 50 years to the day after he began his tenure.

A native of Houston, Rev. Lawrence A. Davies was elected to City Council shortly after arriving in Fredericksburg, and in 1976, he became the city's first African American mayor. During the 20 years he spent as mayor of Fredericksburg, Rev. Davies led the city through many economic development projects, including revitalizations of the city's downtown and the establishment of the city's first low-income housing complex. His tenure also saw the creation of a regional public transit system that successfully provided low-cost transportation to citizens.

Rev. Davies' service has extended to his private exploits as well. Having been directly impacted by the tragic effects of sickle cell anemia on his family, he and his wife, Janice, have worked tirelessly to increase attention of and advocacy for the victims of this debilitating disease. Rev. Davies also founded Citizens United for Action, a group that promoted civic activism, racial tolerance, and voter education, and his guidance and leadership in the city undoubtedly helped to preserve peace during the Civil Rights era. He has served on numerous boards during his time in Fredericksburg, including the Mary Washington College Board of Directors, the Rappahannock Area Commu-

nity Services Board, and the Virginia Department of Transportation.

As pastor of Shiloh Baptist Church (Old Site), Rev. Davies has served as an anchor of his community over the last fifty years. Under his leadership, the church has flourished, with continued growth in membership and a focus on the development of innovative ways to help the homeless and provide community outreach. I have worshipped with Rev. Davies and his congregation on multiple occasions, and his insightful, energetic sermons are full of spiritual encouragement and inspirational teachings. Rev. Davies' contributions to the Fredericksburg area since his arrival in 1962 have impacted the entire fabric of the region, and I greatly admire his selflessness, faith, and compassion for his fellow citizens. As he celebrates his retirement with friends and family on March 4, I wish him many years of happiness. I know that he will continue to set the standard for selfless service in Fredericksburg for many years to come, and I look forward to our continued friendship.

#### IN RECOGNITION OF ELMER "BOB" EASTMAN

**HON. JACKIE SPEIER**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 28, 2012*

Ms. SPEIER. Mr. Speaker, I rise to honor Sergeant Elmer "Bob" Eastman for his 29 years of service with the South San Francisco Police Department. He will be missed by his fellow officers who praise him as a go-getter, team player, leader, master detective and trainer.

Sergeant Eastman started at the South San Francisco Police Department as an officer in May 1982 and was promoted to sergeant in February 1998. He served as a special agent with the San Mateo County Narcotics Task Force and was a founding member of the San Mateo County's North-Central Regional SWAT Team.

He remembers 1998 as one of the best times in his life. He weighed 219 pounds. To get on the SWAT team he had to lose 50–60 pounds—and he did by running with a buddy every single day.

Sergeant Eastman's perseverance is matched by his optimism and sense of humor. He came close to being killed in the line of duty twice, once in a shootout on El Camino Real, the other time when a suspect in a drug case tried to run him over with a car, or as he puts it, "Bob's on the hood."

From 1992–95, he worked as an undercover agent in San Mateo County. He says he bought any drug imaginable and looked like Charles Manson. His wife was not fond of that look. In fact she banished him to the back of the church in those days.

Sergeant Eastman volunteered for 16 years as the original drill instructor for the county's Peninsula Explorer Academy and he was the president of the South San Francisco Police Activity League from 1987 to 1989.

He was born in New Jersey in 1958, but spent his childhood in Sydney, Australia. He attended Ku-Ring-Gai High School before

transferring to Menlo-Atherton High School when his family moved to the Bay Area in 1974.

Before he started his career in law enforcement, Sergeant Eastman served as a First Lieutenant in the U.S. Army National Guard.

Sergeant Eastman and his wife Kerry will celebrate their 25th wedding anniversary next year. They have two children, David and Janelle. In his retirement he will no doubt enjoy more time with his family and friends and find ways to keep his quick wit and creativity engaged.

He applies the same optimism he has applied to his work to his life. Faced with serious health challenges, Sergeant Eastman says life is wonderful and he is going to live every day to the fullest.

Mr. Speaker, I ask this body to rise with me to honor Sergeant Elmer "Bob" Eastman for his decades of dedication to public service and for keeping the residents of South San Francisco safe.

**HONORING THE NEW HAVEN FREE  
PUBLIC LIBRARY AS THEY CELE-  
BRATE THEIR 125TH ANNIVER-  
SARY**

**HON. ROSA L. DeLAURO**

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 28, 2012*

Ms. DeLAURO. Mr. Speaker, it gives me great pleasure to rise today to join community leaders, literacy advocates, and the many members of the New Haven Free Public Library as they gather to celebrate the organization's 125th Anniversary. This is an extraordinary milestone for this very special City landmark.

Following the passage of legislation authorizing its establishment and with a funding allocation of only twelve thousand dollars, the New Haven Free Public Library opened its doors on February 21, 1887 offering twenty-six newspapers and eight periodicals to its first patrons. By June of that same year, circulation of the Library's thirty-five hundred volumes began—and they have gone strong ever since.

Libraries are an integral part of our communities. Most of us can remember that unique feeling of holding your first library card and checking out your first book. Over the course of time, libraries became central gathering places for community members—in fact, in many towns across the country libraries are still home to town meetings and social gatherings. The New Haven Free Public Library is no different.

Housing scores of volumes from biographies to fiction, science to current events, libraries have always been a place where adults and children alike can allow their imaginations to run wild. Over the course of its 125-year history, the New Haven Free Public Library has not only been home to a growing collection of literary work, but within its walls the doors of opportunity have been opened to many. Lit-

eracy programs, computer learning classes, and many more innovative programs and services have been offered to support the members of our community.

The New Haven Free Public Library represents the very best of our community. That they are celebrating their 125th Anniversary—that the community has always ensured its availability to its citizens—is testament to its special place in all of our lives. It is part of our past, present and future and I am proud to join all of those gathered today in celebrating this very special occasion. I have no doubt that the New Haven Free Public Library will continue to serve our community well for generations to come.

**STATEMENT ON H.R. 2117**

**HON. EARL BLUMENAUER**

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 28, 2012*

Mr. BLUMENAUER. Mr. Speaker, today I voted against H.R. 2117, the "Protecting Academic Freedom in Higher Education Act." This bill infringes on the duties of the Department of Education and it undermines efforts to reduce fraud and waste within the federal financial aid system.

The legislation would prohibit the Department of Education from issuing regulations regarding the definition of a credit hour and regulations requiring institutions of higher education to comply with the state laws in which they offer educational services. In effect, it undermines efforts to demand accountability in the federal financial aid system. There is a clear federal interest in establishing consistent definitions for a credit-hour, the underlying unit used to determine federal financial aid benefits.

In addition, requiring institutions of higher education to continue to register with the state where they teach distance or correspondence classes will help ensure that basic accountability standards are being met. We have a responsibility to taxpayers to ensure that the institutions receiving support through the financial aid system are in compliance with state laws. This bill restricts the Department of Education's attempts to reduce fraud and waste within the financial aid system, and makes it difficult to ensure that our financial aid systems support the institutions that are effectively educating tomorrow's workforce.

The institutions in my district will benefit from a more fair financial aid system, as it will ensure long term viability of the system and protect their students' access to the very important financial aid benefits.

**IN RECOGNITION OF STEVEN W.  
WALDO**

**HON. JACKIE SPEIER**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 28, 2012*

Ms. SPEIER. Mr. Speaker, I rise to honor Brisbane City Councilmember Steven W.

Waldo for his 18 years of service to the people of Brisbane. During his four terms as the Mayor and five terms as the Mayor Pro Tem, Steve used a keen and analytical mind on every issue that he confronted. He has the rare skill of bringing discussions to a vote.

I met Steve in 1989 when he first ran for City Council and have witnessed his years of tireless dedication to our community and to public affairs on the San Francisco Peninsula. He personifies the can-do attitude of the residents of Brisbane who love their small town.

Steve has been a driving force in maintaining Brisbane's character and the quality of life for all residents. He has worked hard to balance Brisbane's thriving economy with the preservation of the town's natural beauty.

Steve deeply appreciates the pristine open space on San Bruno Mountain. One of his long-lasting accomplishments was the preservation of over 3000 acres of open space to protect the endangered Calippe Silverspot and Mission Blue butterflies. The City Council revised the design for 37 single-family homes on the Northeast Ridge after weeks of public input and discussions with the council and the planning department. It was the first time a community in the United States had developed a habitat conservation plan, HCP, and it served as a model for an amendment to the Endangered Species Act.

In the early 1990s the town was proposing to build a city hall in the center of town. Steve advocated successfully to create a community park instead. Today that park is a popular location for picnics and concerts that are bringing the community together.

Around the same time a proposal for a casino on Sierra Point didn't sit well with Steve. He campaigned against it and the proposal was soundly defeated.

Steve is also an enthusiastic and tenacious advocate for education. He has fought for the local schools and worked closely with the school district to ensure that future generations had access to quality education.

Steve, a native of Palo Alto, graduated cum laude from Harvard College in 1970 and earned a law degree from Hastings College of Law in 1974. He worked for 24 years at the law firm of Severson & Werson in San Francisco and for 10 years as chief legal officer of CPP, Inc., a publishing company in Mountain View.

Steve and his wife of 30 years, Patricia Franklin Waldo, have three daughters, Amanda, Rebecca and Hilary, and one son, Lloyd Stevens Waldo.

Mr. Speaker, I ask this body to rise with me to honor the life and work of Steve Waldo who has made the city of Brisbane a better place for residents and visitors alike.



## SENATE—Wednesday, February 29, 2012

The Senate met at 9:30 a.m. and was called to order by the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York.

### PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal God, our comfort and guide, as we begin this day in the forward march of history, we acknowledge Your sovereignty. Your unfailing love and mercy continue to sustain us, and we put our hope in You.

Today, fill our lawmakers with Your wisdom, enabling them to shoulder the demands of decisions, the strain of conflict, and the uncertainties about tomorrow. Let Your justice guide their thoughts and Your righteousness direct their steps. Fill them with Your joy and use them for Your glory.

Make each of us a blessing and not a burden, a lift and not a load, a delight and not a drag.

We pray in the Name of our Lord and Savior. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable KIRSTEN E. GILLIBRAND led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. INOUE).

The assistant legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, February 29, 2012.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York, to perform the duties of the Chair.

DANIEL K. INOUE,  
President pro tempore.

Mrs. GILLIBRAND thereupon assumed the chair as Acting President pro tempore.

### RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

### SCHEDULE

Mr. REID. Madam President, following leader remarks, the Senate will be in a period of morning business for 1 hour. The Republicans will control the first half and the majority will control the second half.

Following morning business, the Senate will resume consideration of the highway bill. We continue to work on a process to complete action on this bill. We are going to have to do that. If we can't get an agreement to move forward on this bill, I have no alternative but to try to stop the filibuster that is taking place. I hope we don't have to do that. We have agreed to work on amendments that are relevant and germane. Senator DURBIN, the whip, has worked on side-by-sides and other amendments, so we are ready to move forward, but we can't do it unless we get some basic cooperation, and it will be a shame if we can't move forward on this bipartisan bill.

### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will be in a period of morning business for 1 hour, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the Republicans controlling the first half and the majority controlling the second half.

The Senator from Illinois.

### ORDER OF BUSINESS

Mr. DURBIN. Madam President, will the time be running on the minority party's first half hour?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. DURBIN. Madam President, I suggest the absence of a quorum until a member of the minority appears.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THUNE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

### ENERGY POLICY

Mr. THUNE. Madam President, back in 2008 then-Senator Obama said that under his policies energy costs would necessarily "skyrocket" and that he would "have preferred a gradual adjustment to higher gasoline prices." He indicated at the time that under his policies energy prices were going to go up. He mentioned that he would like a more gradual adjustment, but when he talked about those policies, he said energy costs would necessarily "skyrocket."

I think we now know which of the campaign promises the President has kept because we have seen energy prices skyrocket for most Americans. In fact, gasoline prices have doubled under President Obama's watch. If you look at January 2009, the price per gallon of gasoline was \$1.85. Today it is \$3.73, and some analysts are predicting \$5-a-gallon gasoline by May of this year. Today marks the 24th straight day of gasoline price increases.

The problem with all this is that the President rhetorically, when he goes out and talks about energy, says that he wants an all-of-the-above strategy. We always say that imitation is the sincerest form of flattery, and obviously that is a phrase many of us as Republicans have been using for some time. We talk about an all-of-the-above strategy that includes oil and gas and clean coal and nuclear and biofuels and solar and wind—all of those. The problem with what the President says is that his actions say he really means "none of the above." He says "all of the above," but he means "none of the above" because the President has taken unprecedented steps to restrict access to America's affordable and reliable sources of oil and natural gas.

President Obama's energy policies are increasing the cost of gasoline in this country. His administration is pursuing new regulations that will increase the cost of domestic energy production and destroy jobs. More domestic production of energy in this country equals lower prices at the pump and more American jobs.

The President's statements have been punctuated or reinforced by members of his administration. I go back to 2008, Dr. Steven Chu, who is now President Obama's Energy Secretary, who said at the time:

Somehow, we have to figure out how to boost the price of gasoline to the levels in Europe.

Think about that: that somehow we have to figure out how to boost the price of gasoline to the levels in Europe. If we look at the levels in Europe,

I think even at that time we are talking about \$9 to \$10-per-gallon gasoline. So we have members of this very administration suggesting, even back then, that part of the strategy, the energy strategy, was to increase prices. Think about that, having an energy strategy that is actually going to drive up the cost of energy to people in this country.

Yesterday, in testimony before the House Appropriations Committee, now-Secretary Chu, who said back in 2008, "Somehow we have to figure out how to boost the price of gasoline to the levels in Europe," was asked: But is the overall goal to get our price of gasoline down? That was asked by a Member of the House of Representatives, again, as Secretary Chu was testifying in front of the House Appropriations Committee. Is the overall goal to get our price of gasoline down?

This is what the Secretary said:

No, the overall goal is to decrease our dependency on oil, to build and strengthen our economy.

When we are literally doubling the price per gallon of gasoline, how does that strengthen your economy? Small businesses are faced every single day with the high costs of energy. It is an important component of running a business in this country. Energy is probably one of the most important costs people are going to deal with. It certainly is in my part of the country, where I represent an agricultural economy. American families are looking at gasoline prices that literally have doubled since this President took office. Yet here is the Secretary of Energy, the very guy who was to guide energy policy in this country, in front of a House committee as recently as yesterday, when asked about the overall goal, whether the overall goal is to get the price of gasoline down, he said no. It squares perfectly with what he said 4 years ago when he indicated that we need to figure out how to somehow boost the price of gasoline to the levels in Europe.

That is an amazing statement. I think it is almost incomprehensible to the American people in terms of what it means to their daily lives because they are the people who ultimately, in their pocketbooks, have to deal with the consequences of bad policies—bad policies that raise the price of energy and make it more difficult for them to balance their budgets and to be able to continue to enjoy the standard of living and quality of life in this country.

Yesterday Secretary of the Interior Ken Salazar defended the Obama administration's failure of an energy policy when testifying before the Senate Energy and Natural Resources Committee. He said:

We have an energy strategy and a policy that we have been working on from day one, and we believe it continues to show good results.

Think about that.

We have an energy strategy and a policy that we have been working on from day one, and we believe it continues to show good results.

I don't know how you can argue that doubling the price for a gallon of gasoline is a good result. And literally taking areas out of production in this country that could be yielding energy, that would help reduce the dependence we have on foreign sources of energy, drive down the price at the pump and create American jobs is a good result? I don't know how you can argue that what has happened during this administration's time in office has been anything but disastrous for the American people, for American business, and for the continued dependency we have on foreign sources of energy.

President Obama rejected the Keystone XL Pipeline which would have created 20,000 shovel-ready jobs and delivered up to 830,000 barrels of oil per day from Canada, America's largest trading partner.

President Obama has reduced the number of offshore leases by half. President Obama has blocked exploration and production on 97 percent of offshore areas; 97 percent of those areas that could be useful in helping meet America's energy needs have been put off limits by this President, by his policies that blocked exploration and production in those very areas.

Under the Obama administration, new permits to drill in Federal onshore and offshore areas have declined by 40 to 50 percent.

That is the President's record on energy. How his Secretary of the Interior can say their energy strategy shows good results is beyond me. It is completely at odds with the reality and with the facts.

The Obama administration is implementing a national backdoor energy tax through unprecedented regulation of greenhouse gas emissions under the Clean Air Act, specifically targeting the oil and gas industry with new regulations, such as new source performance standards, Boiler MACT, and tier 3 gasoline standards that could drive up the cost of gasoline production by 25 cents, raise the refining industry's operating costs by \$5 to \$7 billion annually, lead to a 7- to 14-percent reduction in gasoline supplies from U.S. refiners, and force as many as seven U.S. refineries to shut down. That is the tier 3 gasoline standard the Obama administration is proposing. Time after time, opportunity after opportunity is missed.

This President continues to put policies in place that make it more difficult and more expensive to create jobs and raises the cost of doing business by raising the cost of energy and raising the costs that every American consumer has to deal with in the form of higher gasoline prices.

When he says he supports an "all-of-the-above" energy plan, his policies tell a very different story because his policies have discouraged increased production of oil, and high oil costs are indeed a key driver of gasoline costs. Republicans support a real all-of-the-above strategy, and that includes production in all sources of energy. It includes support of projects such as the Keystone XL Pipeline that will strengthen America's energy security, and we have to have a robust energy plan focused on increasing those areas of domestic production that will send a strong signal to energy markets around the world to make America less vulnerable to skyrocketing gasoline prices.

It is interesting the response on Capitol Hill to this spike in gasoline prices we have seen over the past several days is along these lines. There was a letter from Senator SCHUMER to Secretary Clinton a couple of days ago in which he talked about the skyrocketing fuel prices and directly linked those to the global energy market but suggested that the solution should be urging the State Department to work with the Government of Saudi Arabia to increase its oil production to its actual capacity of 12.5 million barrels to help stabilize markets.

Instead of developing American resources and actually doing something that would lessen the dependence we have on these foreign sources of energy, the solution proposed by some of our colleagues—at least some of our Democratic colleagues—is to have Secretary of State Hillary Clinton go to the Saudis, hat in hand, and beg them to increase daily production by 2.5 million barrels, ironically at the very time they are blocking policies that would help generate that same 2.5 million barrels a day right here in the United States and stabilize world markets.

In fact, if we look at many of these areas that are off limits to production today—the North Slope of Alaska, the Atlantic Outer Continental Shelf, the eastern Gulf of Mexico, the Pacific Outer Continental Shelf, the Keystone XL Pipeline—if we add up the amount of production that will bring to our country, it adds up to 4.5 million barrels a day, 4.5 million barrels per day of additional energy production that we could be benefiting from and enjoying at a time when we are seeing gas prices literally double.

Of course, in accordance with the President's promise when he was running for office that prices were going to skyrocket, it should not come as any surprise. But these energy policies implemented by this administration have literally created a situation where we are now having to go and ask the Saudis: Please, would you please give us an additional 2.5 million barrels of oil a day instead of opening the areas that could generate up to 4.5 million

barrels per day if we would simply develop the resources we have in this country and quit blocking the access to these important energy resources.

This is a fairly straightforward issue for the American people, No. 1, because it hits very squarely in their daily lives. The pocketbook issues, the bread-and-butter issues, the issues people discuss around their tables every day are the issues that I think are most important to America right now, particularly with a down economy and high unemployment rates. Certainly, what we are seeing in terms of energy costs makes that situation worse for American families. In fact, the payroll tax holiday which was extended a couple of weeks ago will actually be eaten up, any savings that might be achieved to the American family's pocketbook will literally be eaten up simply by paying the higher costs of gasoline that are going to be imposed on every American family as a result of these higher prices, again, that simply are the result of us not having enough supply.

This is a market situation. Gasoline is a global commodity. When we have more supply, it brings the price down. When we have more domestic production, it means two things: it means lower prices at the pump for American consumers, and it means more jobs for American workers. Blocking access to American sources of energy production means higher prices at the pump for American consumers and fewer jobs for American workers. It is that straightforward. It is that simple.

The American people understand that. That is why the policies this administration is pursuing—and, clearly, from the statements that are being made by these members of the President's administration, from Secretary Chu to Secretary Salazar to the President himself—suggest, if you can believe this—unfathomable, I am sure, to many Americans—that it is intentional to actually push those prices higher.

That is what Secretary Chu said back in 2008: We need to boost our prices to the level they are seeing in places such as Europe.

I think the American people believe differently about that. I believe they deserve better. They want policies that lower the cost of energy and make America less dependent upon dangerous foreign regimes. I know many of us—Republicans in the Senate—are ready to go to work putting those policies in place if the President and his allies in the Senate will give us that opportunity.

I yield the floor.

#### RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

#### ENERGY POLICY

Mr. MCCONNELL. Madam President, I want to associate myself with the remarks of the Senator from South Dakota and follow up in that regard.

Yesterday I came to the Senate floor and explained how the President's ideological outlook and the policies that have grown out of it will only continue to drive up the cost of gasoline at the pump. After I spoke, the President's Energy Secretary seemed to confirm it when he told a congressional panel that the Department of Energy isn't working to drive down the price of gas. They are working to wean us off of it altogether, and high gas prices add urgency to those efforts.

In other words, high gas prices actually help the administration achieve what it is trying to achieve. What I suggested yesterday and what I am suggesting again this morning is that we look at statements such as this and many others from the President and some of his top advisers in the past, along with the President's actual policies when it comes to assessing the current situation at the pump—not the speeches he gives when he starts feeling the political heat for it because he can't have it both ways.

Once again, here are the facts. The President continues to limit off-shore areas to energy production and is granting fewer leases on public land for oil drilling. At the same time, he has encouraged other countries such as Brazil to move forward with their off-shore drilling projects. The Obama administration continues to impose burdensome regulations on the domestic energy sector that will further drive up the cost of gasoline for the consumer. He is proposing raising taxes on the energy sector, a move that the Congressional Research Service has said would drive up costs.

As we all know, he flatly rejected the Keystone XL Pipeline, a potentially game-changing domestic energy project that promises not only greater independence from Middle Eastern oil but tens of thousands of private sector jobs.

All of these policies help drive up the cost of gasoline and increase our dependence on foreign sources of oil, but perhaps none is as emblematic of the President's simplistic and punitive approach to energy policy as the last one. The President simply cannot claim to support a comprehensive approach to energy while at the same time standing in the way of the Keystone Pipeline. It doesn't make any sense. It is either one or the other.

Most Americans understand that. That is why many of us were pleased when the company that is responsible for building Keystone said it plans to move forward with the southern portion of the pipeline, despite the administration's decision to block the northern portion to alleviate a bottleneck in

Cushing, OK. They are just not going to let this administration punish them or the rest of those who want to build this pipeline.

Asked about the impact of delays, the company's President and CEO said they were partly to blame for the recent spike in gas prices, which is presumably why the White House came out in support of the move. But the hypocrisy is quite stunning.

How could a White House that is single-handedly blocking one-half of the pipeline to appease an extreme segment of its political base now claim to support the southern half of the same pipeline? Well, the short answer is they don't have the authority to block the southern half, so they think that by claiming to support it, then they can get credit from people for being on both sides of the issue. But if Keystone is good for America and good for jobs, the President should just come out and support the whole pipeline. With gas prices literally skyrocketing and growing turmoil in the Middle East, we can't afford another year of foot-dragging. It is time for the President to move quickly to approve the entire Keystone XL Pipeline. This is literally a no-brainer.

An overwhelming majority of Americans support the Keystone XL Pipeline in its entirety. The President should listen to them. Instead of lecturing the American people about his idea of fairness, he should spend a little more time thinking about what most Americans think is fair. Most Americans don't think it is particularly fair that the President of the United States is blocking them from tapping into our natural resources even as he uses their tax dollars to prop up failing solar companies like Solyndra and to hand out bonuses to the executives who drive them literally into the ground. Most Americans don't think it is fair that their President would want to drive up the cost of gasoline they need to get around every day and build their families and their businesses and their lives even as he is directing more and more of their money to risky solar schemes in his own administration—risky solar schemes his own administration says sometimes fail.

Well, the American people don't ask for much, but they do expect to be able to go out there every day and try to build a future for themselves and their families without their own President throwing sand in the gears. And whether it is high gas prices or government regulations or higher debt, the American people are tired of bearing the burden so this President can build an economy in which Washington calls all the shots. Yes, Americans want lower gas prices, and, yes, this President's policies are hurting. But let's be clear about something: This debate is not just about gas prices, it is about a President who wants to impose a definition of "fairness" on the American

people, yet most of them simply do not accept.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Utah.

Mr. HATCH. Madam President, I ask unanimous consent that I be permitted to finish my remarks and that I be granted enough time to do so.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HATCH. Madam President, the first 3 years of President Obama's administration were a frenzy of activity. He pushed the stimulus, he spent over a year pursuing his health care law, and he forced through Dodd-Frank, imposing historic regulations on the banking industry. Even *The Economist* magazine has found fault with that. Yet, at a time when the Nation was in economic free fall, the President chose an agenda of more regulation and higher taxes.

The President ignored private sector job creation and the primacy of economic growth, and nowhere was this more evident than with respect to energy policy. President Obama has failed entirely to address one of the greatest obstacles to economic growth; that is, high energy prices.

Today he claims he is for an all-of-the-above approach to energy. All of a sudden, facing \$5-a-gallon gasoline, weak job creation, and a Presidential election, he claims to have found religion on energy production. But whether we look at oil, natural gas, or the Keystone Pipeline, the American people are not buying this conversion story, and I certainly agree with our distinguished minority leader and his comments here this morning.

This failure by the President to tackle our energy needs is a national crisis for which the American people should hold him accountable. Yet his inability to put jobs ahead of his radical and unrepresentative environmental base has particular implications for the citizens of my State of Utah as well. Days after announcing in his State of the Union an "all-of-the-above strategy that develops every available source of American energy," the administration cut access to Federal lands in the West for oil shale development by 75 percent and proposed a 50 percent royalty hike on domestic energy production on public lands.

Whether it is closing off more Federal lands to American energy production or saying no to the Keystone Pipeline, this White House has shown it is more focused on appeasing its extremist ideological allies than putting forward an energy policy that works for Utahans and Americans everywhere. With gas prices and home heating costs on the rise, the American people deserve action, not more campaign speeches—and I might add, from the most anti-American energy administration in our Nation's history.

When it comes to energy policy, the President is a man divided. On almost all economic policy, his answer is, tax the rich more. Taxing the rich more is his go-to option for reducing the deficit, paying for Obamacare, and paying for new roads and bridges. Higher taxes are a matter of fundamental fairness, the President claims, but when it comes to gas prices, the President sides with the 1 percent.

The folks who would benefit most from increased energy production are blue-collar workers and middle-class families. High energy prices hit the wallets of lower income Americans the hardest. Middle-class Americans are more likely to have longer commutes and bigger cars than wealthy urban citizens. The passthrough cost of high fuel prices hits the grocery budgets of all Americans. The jobs that never materialize due to the failure to develop energy resources undermines every blue-collar American.

The President claims to be for fairness and an egalitarian economic policy, but his energy policy is incredibly regressive, putting the burden of his environmental agenda on the backs of the middle class. The situation got no better with the budget the President recently submitted or with this long-delayed proposal for business tax reform.

Rather than advance an energy agenda that would spur production, lower prices, and create jobs, the President continues to advocate for increased taxes on oil and gas production in the United States.

On March 3 of last year, the Congressional Research Service concluded that the President's proposals would "make oil and natural gas more expensive for U.S. consumers and likely increase foreign dependence." The same holds true today. These decisions are based in political appeals to his elitist base rather than any interest in developing sound energy policy. For example, in his budget the President cites the following as his reason for repealing tax incentives for oil and gas production:

Special tax treatment of working interests in oil and gas properties . . . distorts markets by encouraging more investment in the oil and gas industry than would occur under a neutral system.

Give me a break. The reason the President opposes current tax policy for oil and gas is because he opposes distorting markets?

The Energy Information Administration reports that in fiscal year 2010, \$14.7 billion in energy-specific subsidies went to advance renewable energy compared to \$4.2 billion in energy-related subsidies that went to advance fossil fuels. In other words, there are three times as many government subsidies going to renewable energy as there are going to oil, gas, and coal combined. Now, that is what you call distorting the market.

Contrary to the President's presentation, these are not tax loopholes that need to be closed. The term "tax loophole" implies that a tax incentive is susceptible to an exploitation of an unintended benefit. While the Tax Code has some tax loopholes that we must clearly eliminate, the tax expenditures that benefit oil and gas companies were intended to incentivize a particular activity or behavior. For instance, section 199 of the Internal Revenue Code includes an incentive for the domestic production of oil and gas. This is no loophole. Congress, on a bipartisan basis, understands that without this incentive, we could see an enormous reduction in employment, and it is simply inaccurate to state that this incentive adds little to our economic or energy security.

The American people need to understand that repeal of this policy will only increase our dependence on foreign-produced oil. But this does not seem to bother the President one bit. On March 20 of last year, the President told a group of political and business leaders in Brazil that we "want to help with technology and support to develop these oil reserves safely, and when you're ready to start selling, we want to be one of your best customers."

As hard as it is to believe, the administration does not even seem to share the desire of the American people for lower energy prices. The President's Secretary of Energy, Secretary Steven Chu, stated: "We have to figure out how to boost the price of gasoline to the levels in Europe." Gas prices in Europe are \$8 to \$10 a gallon, and that is where the administration and environmental activists want gas prices to be for Americans. Even President Obama stated in 2008 that he would prefer a gradual adjustment to high gasoline prices, just maybe not a quick spike.

The President claims he is for an all-of-the-above energy policy so long as it does not include offshore drilling, drilling on our western lands, the development of energy in Alaska, and the Keystone Pipeline. My reading of his all-of-the-above approach is some-of-the-above and only those that are poll-tested and approved by environmental activists.

This is terrible tax policy, it is terrible energy policy, and it is terrible economic policy. Unfortunately, it is all we have from this administration.

The reality is that our country relies upon oil and gas because it is dependable, abundant, affordable, and domestic. Raising taxes on American companies that produce oil and gas will be felt by all Americans not only at the pump but also through a decrease in dividends to many middle-class shareholders. This is the wrong prescription for our ailing economy.

For this administration, the goal remains not lower energy prices but the liberal dream of getting America off of

oil. Just the other day, the President's Secretary of Energy acknowledged that the overall goal of his Department is not to lower the cost of traditional energy but to decrease dependency on oil.

For what it is worth, this commitment to restricting domestic production is a policy that divides my colleagues on the other side of the aisle. They know the President is putting the preferred lifestyle policies of wealthy urbanites ahead of the needs of blue-collar and union workers and middle-class Americans. They know the decision by the President to kill the Keystone Pipeline put environmental interest groups ahead of the needs of workers, commuters, and families.

President Obama has traded in the hardhat-and-lunch-bucket heritage of the Democratic Party for a hipster fedora and a double-skim latte. He has put liberal environmental dreams ahead of the economic reality that working-class Americans have been struggling with for years. The Nation's unemployment rate has been above 8 percent for 36 straight months. The average duration of unemployment was 40.1 weeks in January 2012. Yet the President and his allies in the Senate have helped to kill projects that would undeniably lead to the creation of hundreds of thousands of high-paying American jobs.

Gas prices have now risen for 20 straight days. Gas prices are now up 30 cents over the last month and 18 cents in the past 2 weeks. We are cruising toward \$5-a-gallon gas, and the President resists any long-term solutions to these rising energy prices.

The American people deserve better than this. They have waited 3 long years for a serious energy agenda from this President, and if he does not address this energy crisis soon, in less than a year the American people will be looking to another President to promote an energy program that will finally create jobs and lower the cost of energy for all Americans. Look, we have energy within our country's boundaries. We have energy that is just begging to be developed, that would help us to make it through these trying times. We need the lowest cost energy we can possibly have, and we are not going to get it under this President. We are not going to get it under this administration. I hope my colleagues on both sides of the aisle wake up and realize we are putting our country right down the drain.

I saw, sometime over the last couple of weeks, *The Economist* magazine. The front page of that magazine criticizes us for the overregulatory nature of our economy and of our government. We are making it so it is almost impossible for businesses to expand and create high-paid jobs.

We can solve our own energy needs. We have between 800 billion and 1.6 trillion barrels of recoverable oil in oil

shale in Utah, Colorado, and Wyoming alone. We have billions of barrels of oil in ANWR up in Alaska and billions of barrels of oil at other sites in Alaska. Fortunately, we found oil in the Bakken claim in North Dakota, but the only reason we have been able to drill there is because it is private land. Fortunately, we found some places down in Texas, but again they are on private land. We can't get the permits and the ability to drill on public land or even develop oil shale on public land. Yes, it would cost us more per barrel to develop that oil, but it would also bring down the intense problems we have in trying to find enough oil and gas to keep our country moving ahead as the greatest country in the world. We have to simply get this administration to wake up and realize there are many ways we can solve our energy problems—many ways.

We are also awash in natural gas. A lot of people have been saying we need to develop our natural gas. We need to develop more of our energy resources than we are developing now. And we can do it. America can do it if we get the government off the backs of those who produce energy. I hope and pray that Democrats and Republicans alike will lock arms, get together, and solve the problems facing our country, regardless of this President, who doesn't seem to know what to do or how to do it.

This is a crucial time for our country. There is no excuse for us to be in the mess we are in. But unfortunately, we are here because of the poor energy policies of this administration.

Madam President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

#### STOCK OPTION LOOPHOLE

Mr. LEVIN. Madam President, there has been a great deal of conversation recently about the need to close tax loopholes. This is a welcome development for those of us who have gone after these loopholes for years. It is particularly timely as the public is focusing more and more on how tax loopholes distort economic incentives and often benefit the wealthiest among us at the expense of most U.S. taxpayers.

Last week, President Obama released a framework for business tax reform that took aim at many corporate tax loopholes. I look forward to working with the administration and with our colleagues in the Senate to make real reform a reality—reform that brings greater fairness to the Tax Code, eliminates incentives for moving jobs and assets overseas, restores revenue lost to unjustified tax loopholes, and helps us reduce the deficit without damaging vital programs for education, transportation, health care, and national security.

One recent and very public announcement illustrates dramatically our Tax

Code's distortions and the need for reform. At the center of this story is Facebook and its founder and CEO Mark Zuckerberg. Mr. Zuckerberg and his company have become a remarkable American business success story. As part of that success, Facebook is in the process of making its initial public offering of stock. The public documents that Facebook is required to file as part of that offering tell another compelling story about one of our Tax Code's unjustified corporate loopholes.

According to its filings, when Facebook goes public, Mr. Zuckerberg plans to exercise options to purchase 120 million shares of stock for 6 cents a share. Obviously, Mr. Zuckerberg's shares are going to be worth a great deal more than 6 cents each—a total of about \$7 million. They will apparently be worth in the neighborhood of \$5 billion.

Here is where the tax loophole comes in. Under current law, Facebook can, perfectly legally, tell investors and the public and regulators that the stock options he received cost the company a mere 6 cents a share. That is the expense shown on the company's books. But the company can also, perfectly legally, later on file a tax return claiming that those same options cost the company something close to what the shares actually sell for later on—perhaps \$40 a share. The company can take a tax deduction for that far larger amount. So the books show a highly profitable company—profitable, in part, because of the relatively small expense the company shows on its books for the stock options it grants to its employees—but when it comes time to pay taxes, to pay Uncle Sam, the loophole in the Tax Code allows the company to take a tax deduction for a far larger expense than they have shown on their books.

In addition, Facebook is allowed by law to carry back the so-called loss arising from this deduction for 2 years into the past, which means it can claim a tax refund for the income tax it has paid over the past 2 years—a refund that the company estimates at \$½ billion. So instead of paying taxes to the Treasury, this profitable company will claim a hefty refund on the taxes already paid.

But that is not all. The company says it will, as allowed by law, also carry forward the so-called losses arising from this tax deduction for over 20 years into the future, thereby reducing any taxes that it owes in the years ahead. Over the years, this loophole could give a tax break of up to \$3 billion. The end result is that a profitable U.S. corporation—a success story—could end up paying no taxes at all for years, even decades.

I emphasize that Facebook's actions are within the law. As with so much of our Tax Code, it is not the law-breaking that shocks the conscience, it is

the stuff that is perfectly legal. For years, my Permanent Subcommittee on Investigations has identified this stock option loophole and tried to explain its cost, its unfairness, and why it should be closed. Facebook's \$3 billion tax break brings the issue into sharp focus.

Again, the stock option loophole allows corporations to compensate their executives with stock options, report a specific stock option expense to their shareholders, and then later take a tax deduction for typically a much higher amount. Stock option grants are the only kind of compensation where the Tax Code allows companies to claim a higher expense for tax purposes than it shows on its books. Our subcommittee found that the difference between what U.S. corporations tell the public and what they told the IRS was as much as \$61 billion in 1 year.

Facebook's use of this loophole is the most pointed illustration yet of the cost of this loophole. It is difficult to get our minds around a \$3 billion tax break for a single corporation. Just how big is it? Well, consider this: In 2009, the most recent year for which IRS data is available, taxpayers from 11 States in our Union sent less than \$3 billion in individual income tax revenue to the Treasury. How does this make any sense? After all, American taxpayers are going to have to make up for what Facebook's tax deduction costs the Treasury. That \$3 billion is either going to come out of the pockets of American families now or it will add to the deficit they are going to have to pay for later.

What could our Nation do with the \$3 billion it will lose when Facebook exploits the stock option loophole? We could reduce the Federal deficit or we could pay for programs that protect our seniors, put cops on the beat or teachers in classrooms. The \$3 billion Facebook will get in tax deductions would more than triple the budget of the Small Business Administration, which seeks to help American entrepreneurs create jobs and grow the economy. Three billion dollars would pay for the Pentagon's budget for housing our military families for nearly 2 full years. It would pay the budget of the National Institute of Science and Technology for 4 full years. It would more than triple what we plan to spend helping homeless veterans next year. It would pay 6 times over for the 24 Reaper unmanned aerial vehicles the Air Force plans to buy next year.

Some are going to argue that Facebook's tax break is offset by the fact that Mr. Zuckerberg himself, as well as the other executives who are receiving stock options, will pay taxes as individuals. As various news reports indicate, Mr. Zuckerberg will face a substantial tax bill on the \$5 billion in compensation he is about to receive—perhaps in the neighborhood of a \$2 bil-

lion tax bill. But it is unlikely that the individual taxes Mr. Zuckerberg pays will offset the tax revenues lost to this loophole. What the Treasury receives from Mr. Zuckerberg on the one hand, it will return, and then some, to his company with the other hand. We also should remember that Mr. Zuckerberg's financial future is closely tied to that of his company. The value of the options and his retained interest make that clear. To the extent that his corporation benefits—and as I have shown, Facebook will benefit handsomely from the use of this loophole—Mr. Zuckerberg stands to benefit as well. Put simply, some of that big tax bill he faces right now will come back to him through the corporation he will still own a huge part of and will control.

Our tax system is built on the principle that businesses as well as individuals ought to help pay our Nation's bills. Corporations impose plenty of costs on society, from environmental disasters, financial bailouts, product recalls, and more. Businesses also want and need government services, including efficient transportation systems, patent protections, even Federal loan guarantees. Paying those costs is why we have a corporate income tax to begin with. Both businesses and individuals are required by law to contribute, and should do so, to meet their civic obligations and to pay their fair share. There is no reason Facebook and the other corporations that use this tax loophole should continue to receive these windfall tax deductions.

Senator CONRAD and I earlier this month introduced S. 2075, the Cut Unjustified Tax Loopholes Act, or CUT Loopholes Act. This bill, similar to the legislation I have introduced in the past few Congresses, would close this loophole. Under our bill, corporations would no longer be allowed to claim tax deductions for options that are larger than the expense they report to their shareholders and to people considering buying their stock. It would also subject stock options to the same \$1 million cap on deductions for executive compensation that now applies to other forms of compensation. At the same time—and this is important to know—our bill would leave unchanged the way the law applies to individuals who receive stock options, and it would leave unchanged incentive stock options that are offered by startup companies. We would not affect that.

The stock option loophole should have been closed long before Mr. Zuckerberg's extraordinarily lucrative options became public. But surely the case of Facebook illustrates to the Senate, to the Congress, and to the American people that we must close this loophole.

I have spoken today about one corporate tax loophole, but there are many more. The momentum has never

been stronger for tax reform that brings more fairness to the Tax Code, restores revenue lost to unjustified tax loopholes, reduces the deficit, and protects important priorities. I look forward to working with our colleagues and with the administration to turn that momentum into real reform.

Madam President, I thank the Chair, I yield the floor, and I note the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SCHUMER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### BLUNT AMENDMENT

Mr. SCHUMER. Madam President, I rise today to discuss the amendment to the surface transportation bill offered by my friend and colleague from Missouri, Senator BLUNT.

For reasons beyond me, the other side has demanded a vote on birth control. It seems they wish to debate whether we should take away access to contraception for millions of women.

Cooler heads are not prevailing on the other side of the aisle these days. There are some wiser voices on their side who do seem to regret they are having this debate, but they are the minority.

Just this morning, the senior Senator from Alaska is quoted in the New York Times expressing exasperation. Of her party's push to roll back access to contraception, she says:

I don't know where we are going with this issue.

I sympathize with the frustration shown by my friend from Alaska. There is no good answer about where the other side is going with this issue—except, perhaps, back to the 19th century.

This whole debate is an anachronism. Our country progressed beyond the issue of whether to allow birth control a long time ago. Yet here we are in 2012 and some in the Republican Party suddenly want to turn back the clock and take away contraception from millions of women.

Make no mistake, that is what this debate is about, as backward as it is. I keep hearing this measure being referred to as the Blunt amendment, named after its sponsor, my friend, the Senator from Missouri. We should, instead, call it for what it will be: an attempt to take away for millions of women birth control.

If this amendment passes, it would ban contraception coverage for any woman in America whose boss has a personal objection to it. The measure would force women to surrender control of their own health decisions to

their bosses. That concept is not merely quaint or old-fashioned, it is dangerous, and it is wrong.

According to the Department of Health and Human Services, some 20 million American women could be cut off from health services by this proposal. The other side does not want the debate framed in those terms because they know it makes them look silly. So instead, they are spinning.

In the last week, there have been op-eds penned by the minority leader, the junior Senator from Massachusetts, and the junior Senator from Missouri, all seeking to frame this as about protecting religious liberty.

The debate may have been about religious liberty for a time, but now some on the other side have overplayed their hand. They may have started seeking protections for religious-affiliated employers, but now they sense a ripe time to make headway on a far-right social agenda.

The debate reminds me of a famous quote that our former colleague Dale Bumpers used to invoke. It was a quote by H.L. Mencken, who said:

When someone says it's not about the money, it's usually about the money.

Well, when the other side tries so hard to claim this is not a debate about contraception, that is how you know this debate is precisely about contraception.

The amendment is not about religious liberty. The truth is religious institutions have always been exempt under the law from certain coverage requirements. Under the President's compromise, an even larger set of employers—those with a religious affiliation such as certain hospitals and schools—also will not have to pay for contraception coverage. It will, instead, be covered by the insurance company. The President's compromise has been widely embraced, including by many of the same church-affiliated organizations that expressed concern originally.

The administration is working on a solution for self-insured employers. I am confident they will find a way that works for everyone.

The amendment being voted on tomorrow is not responsive to any real concerns about religious freedom. Its reach extends far beyond church organizations that legitimately seek considerations based on conscience. It wants to let any employer in the country decide to cut off services for any reason whatsoever.

Under the guise of religious liberty, some on the hard right are trying to accomplish a political goal: banning contraception more widely. This is a goal the other side has been pursuing for a while now at the State level. At the heart of many of the personhood proposals being advanced in State legislatures is an attempt to cut off women's access to certain forms of contraception.

Some Republicans in the Senate now seem to want to nationalize this fringe debate over whether contraception should be allowed. It is not a political winner. Even the House Republicans seem to have the good sense not to bring up the amendment on the floor of their Chamber. But here the other side is pushing ahead with the ban.

It is so far-reaching, it has stirred a wide collection of health organizations to speak out against it. These are groups such as the American Academy of Pediatrics, the American Congress of Obstetricians and Gynecologists, the March of Dimes, and Easter Seals. These are groups with no agenda other than protecting the health of those they serve.

In a letter these groups sent earlier this week, they pointed out the wide variety of services that an employer could decline to provide, such as child vaccinations and mammograms.

It is true that all these services and more are threatened by this amendment. But are Republicans against child vaccinations and mammograms? I doubt it. So let's admit what this debate is really about and what Republicans want to take away from millions of American women. It is contraception. We should call this debate and this amendment for what it will be for millions of women whose boss may have a personal objection: This is a contraception ban.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Maryland.

#### BICENTENNIAL OF THE WAR OF 1812

Mr. CARDIN. Madam President, I rise today to commemorate the 200th anniversary of the War of 1812 and the "Star Spangled Banner," and to honor the memory of all Americans who came together in America's "Second War of Independence," particularly those fallen heroes who gave their lives during the conflict.

It is important Americans recognize the service and sacrifice of all those who have worn the uniform of this Nation. On behalf of the Senate, I thank the millions of brave men and women who have served in the U.S. Armed Forces and risked their lives for our Nation, including during the War of 1812.

The War of 1812 confirmed America's independence from Great Britain in the eyes of the world. Before the war, the British had been routinely imposing on American sovereignty. They had impressed American merchant seamen into the British Royal Navy, enforced illegal and unfair trade rules with the United States, and allegedly offered assistance to American Indian tribes that were attacking frontier settlements. In response, the United States declared war on Great Britain to protest these

violations of free trade, sailors' rights, and sanctioning raids on American land.

After 2½ years of conflict, the British Navy sailed up the heart of the Chesapeake Bay with combined military and naval forces, and in August 1814 attacked Washington, DC, burning to the ground the U.S. Capitol, the White House, and much of the rest of our capital city. Less than 3 weeks later, the British set their eyes upon the next prize: the strategic port city of Baltimore, MD.

American forces, primarily made up of citizens of Baltimore, prepared Baltimore City's defenses. Marylanders fought the British army during the Battle of North Point and helped repulse the British Navy from Fort McHenry during the now infamous Battle of Baltimore. I want to point out that the American forces during the Battle of North Point were volunteer militia. In the battle, just 250 members of the 5th Brigade of the Maryland Militia, heavily outnumbered by the highly trained British infantry, managed to delay the British forces long enough for 10,000 reinforcements to arrive, preventing a land attack against Baltimore.

The British assault also failed at sea. Following 25 hours of intense British naval bombardment at Fort McHenry, the American defenders refused to yield, and the British were forced to depart. During the bombardment, an American lawyer, Francis Scott Key, who was being held onboard an American flag-of-truce vessel in Baltimore Harbor, beheld, by the dawn's early light, the American flag still flying atop Fort McHenry.

Key realized then that the Americans had survived the battle and stopped the enemy advance. Moved by the sight of the American flag flying over Fort McHenry, he composed the poem called "The Defense of Fort McHenry," which was later set to music, becoming "The Star Spangled Banner" that officially became the National Anthem on March 3, 1931. We will be celebrating this weekend the 82nd anniversary of the "Star Spangled Banner" becoming the official national anthem of our country. The flag that flew over Fort McHenry during that fateful night is now a national treasure on display at the Smithsonian Institution—an inspiration to all Americans—a very short distance from where we are today.

The War of 1812 confirmed the legitimacy of the Revolution and served as a critical test for the U.S. Constitution and our newly established democratic government. Our young Nation battled against the largest, most powerful military on Earth at the time and emerged with an enhanced standing among the countries of the world. A new generation of Americans too young to remember the victory of the Revolutionary War were inspired by



Francis Scott Key's poem to take pride in our Nation's flag, which embodies our universal feelings of patriotism and courage.

As a Marylander, I am proud of the role my State played in the War of 1812, and I have been involved in legislative efforts to bring greater attention to this bicentennial celebration. My colleague Congressman RUPPERSBERGER and I were sponsors of the Star Spangled Banner Commemorative Coin Act, signed into law by President Obama in August 2010, directing the U.S. Mint to create coins commemorating this important anniversary.

These gold and silver coin designs are emblematic of the War of 1812, particularly the Battle of Baltimore that formed the basis for the lyrics to our National Anthem. The coins are set to go on sale in March and will be sold only during this year. The surcharges from these commemorative coins will provide support to the Maryland War of 1812 Bicentennial Commission to conduct bicentennial activities, assist in educational outreach, and preserve sites and structures relating to the War of 1812.

I am also planning to introduce with my colleagues Senator PORTMAN, Senator KERRY, and Senator MIKULSKI a resolution to mark this occasion, to celebrate the heroism of the American people during the conflict, and to recognize the various organizations involved in organizing commemorative events in Maryland and throughout the United States in the coming years, including the U.S. Armed Forces, the National Park Service, and the Maryland War of 1812 Bicentennial Commission.

As we recognize all these ongoing efforts during this commemorative period, I encourage all Americans to remember the sacrifice of those who gave their lives to defend our Nation's freedom and democracy, and to join in the bicentennial celebration of our victory in the War of 1812.

With that, I yield the floor.

The PRESIDING OFFICER (Mr. SCHUMER). The Senator from California is recognized.

#### ORDER OF BUSINESS

Mrs. BOXER. Mr. President, could the Presiding Officer tell me what the pending business is? Are we on the Transportation bill at this time?

The PRESIDING OFFICER. The majority has 4 minutes in morning business.

Mrs. BOXER. All right. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. GILLIBRAND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New York is recognized.

#### WOMEN'S HEALTH CARE

Mrs. GILLIBRAND. Mr. President, it is with great disappointment and bafflement that I stand here yet again in the year 2012 to draw a line in the sand against another outrageous attempt to roll back women's access to basic health care services.

After insisting that we debate the long-settled concept of provided access to birth control, when 99 percent of American women use this medication at some point in their life, many of whom use it not even for contraception, Republicans have chosen to take another extreme step to roll back all women's health care rights. So instead of talking about how to grow our economy, we are wasting time on the latest overreach and intrusion into women's lives. When will my colleagues understand this very nondebatable fact, that the decisions of whether a woman takes one medicine or another, or what type of health care she should have access to, should not be the decision of her boss—a commonsense, simple principle, that bosses and employers should not make these very personal decisions. What could be more intrusive than that?

Let me be clear. This debate, as the Presiding Officer said in his remarks, has nothing to do with religious freedom. You do not have to take it from me. Take it from the Supreme Court. Take it from Justice Antonin Scalia, one of the most conservative Justices of our Supreme Court.

In the majority decision in 1990, *Employment Division v. Smith*, Justice Scalia wrote, "We have never held that an individual's religious beliefs excuse him from compliance with an otherwise valid law prohibiting that the State is free to regulate." And that is exactly what we are seeing here. Employers cannot pick or choose what laws they are going to follow. Employers cannot pick or choose if they want to follow this labor law or that labor law. They have to follow the law.

This extreme amendment Republicans are bringing up for a vote tomorrow makes it clear that this is a political and ideological overreach, not a religious issue. The fact that they want to exempt all businesses from providing any preventive care for a woman is outrageous and a clear, callous disregard for the health and well-being of America's women.

The Blunt amendment would allow any insurer or employer to refuse coverage for any health care service otherwise required under the Affordable Care Act, jeopardizing vital and necessary health care services for millions of Americans, services such as prenatal care that help our babies survive; fertility treatments; testing for HIV;

mental health services; screening for cervical cancer; screening for type 2 diabetes; vaccinations.

Coverage for any or all of these services and countless others could be denied to any person under this radically broad amendment. This amendment is not just dangerous for women, it is also dangerous to our children, and children's health groups are opposing this amendment because vaccines could be denied on the basis of personal belief. Denying childhood preventive care could negatively influence their health as adults, adding billions of dollars in additional health care costs throughout the lives of these children as they grow.

We will not stand for these attempts to undermine the ability of a woman to make her own decision about what is best for her and what is best to protect her children. If our Republican colleagues want to continue to take this issue head on, we will stand here as often as necessary to draw a line in the sand and to make it known that in the Senate we oppose these attacks on women's rights and women's health. And even if House Republicans are not going to allow women's voices to be heard in their hearings, women's voices will surely be heard all across our country.

It is time to agree that women deserve access to preventive health care services regardless of where they work and who their boss is. It is time to agree to get back to work on legislation that can create jobs and get our economy moving. That is what the American people want us to be debating. That is what our mission should be here in Congress, and that is where our sole focus should be, not on undermining protection and well being for America's women.

I yield the floor.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

#### MOVING AHEAD FOR PROGRESS IN THE 21ST CENTURY ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 1813, which the clerk will report by title.

The legislative clerk read as follows:

A bill (S. 1813) to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

Pending:

Reid amendment No. 1730, of a perfecting nature.

Reid (for Blunt) amendment No. 1520 (to amendment No. 1730), to amend the Patient Protection and Affordable Care Act to protect rights of conscience with regard to requirements for coverage of specific items and services.

Mrs. BOXER. As the senior Senator from New York relinquishes the chair to his colleague from New York, I want to thank both of them for their amazing leadership in every issue we turn to today.

Senator SCHUMER's work to help us bring this transportation bill to the floor is exemplary. And Senator SCHUMER knows, as Senator GILLIBRAND knows and every one of us knows, we cannot have a strong economy if we cannot move goods, if we cannot move people, if commerce comes to a halt. So we have to pass a transportation bill to make sure our highways are adequate, our bridges are safe, our commerce can move, and our transit systems can carry people from one place to another.

I want to say to my colleague who is now sitting in the chair, Senator GILLIBRAND, that I listened to her remarks. I am very touched by them. She talked about women's voices, and she is dedicated to ensuring they are heard. Let me assure my friend that her voice has been heard on this and so many other important issues. And it is an effective voice. She was the one who came to me when the Republicans started to say they did not think it was necessary for women to have access to birth control with no copay through their insurance, and said: BARBARA, do you understand that a full 15 percent of women are prescribed birth control pills because they want to avoid ovarian cancer, they want to make sure that a cyst on an ovary does not get out of control, they want to avoid debilitating monthly pain, and even it is used for terrible skin conditions?

So when we hear our colleagues talk about birth control as if it is some unnecessary prescription—although you never hear them say it when it comes to Viagra, I would note—let me point out it is necessary. We will be on our feet day after day, month after month, hour after hour, and minute after minute, because we are not going to let them take away medicine from women. Oh, no. They are not. They will not. And the women of this country will not have it. They are engaged in this debate. They understand it. My friend from New York has been an incredible voice.

So here we are. We are on the highway bill. You may wonder, why is it that the Senator from New York came and talked about the issue of birth control and women's health when we are on a highway bill? Well, here is the news: My Republican colleagues are so intent on taking away women's rights, rights to health care, that they insisted on having a vote to take away these rights before they would allow the highway bill to move forward. Can you imagine?

I think it appropriate that at this point I pay tribute to my colleague, Senator OLYMPIA SNOWE, who has been

an amazing colleague, who has been a voice of reason, a voice of progress, over the many years she has served. I have served with her in the House and the Senate, I do not know, decades. I will miss OLYMPIA SNOWE. But let's listen to what she said. She said: This place has become so polarized, so partisan we cannot move forward.

I would submit to you that the situation we find ourselves in at this moment is exhibit A on why someone such as OLYMPIA SNOWE is saying this has been a privilege and a wonderful thing, but I think I am going to move on. Because here we have a highway bill that is completely bipartisan. And again, my colleague in the chair from New York, Senator GILLIBRAND, is a very important member of the Environment and Public Works Committee. We passed a bill out of our committee with a vote of 18 to 0. We had 100 percent support in a polarized time because everybody understands we have to make sure we have a No. 1 transportation system, a class A transportation system in this great country of ours, a vision that was first brought to us by Dwight Eisenhower in the 1950s when he said, we have to be able to have a network of national highways.

So here is a bill that comes out of the EPW Committee 100 percent bipartisan. The section that dealt with banking comes out of the Banking Committee 100 percent bipartisan. It comes out of the Finance Committee very bipartisan, not 100 percent but very. And in Commerce it had a problem, which we have rectified, and it is now bipartisan.

So four committees have done their work on the transportation highway bill, and all of them have been bipartisan. So we come to the floor—I think this is now the third week or the second week on the bill—the second week on the bill—and we have gone nowhere, because in order for us to move forward, the Republicans are insisting on a vote to take away women's health care. So Senator REID said to them: Fine. We will vote on it Thursday morning. But let it be known throughout this land what is going on.

Sometimes people tune in and they say: Oh, it is so complicated, I cannot follow it. It is not complicated. Here is where we are: We have a bipartisan bill, 2.8 million jobs are at stake. We have to do it. The transportation bill is going to expire, the authorization, so we will not have any program in place March 31. We have to do this work, and we cannot move forward unless we have a vote on a polarizing amendment—a polarizing amendment.

How did it come about, this polarizing amendment? It came about because we passed the health care law that made some incredible breakthroughs. Two of the biggest breakthroughs, I think, in that bill is that we for the first time said to insurance companies and employers: When you

provide insurance for your people, it must include a list of essential health care benefits and preventive health care benefits.

Let me read you the list of essential health care benefits that people of America are going to have unless the Blunt amendment passes and takes this away. This is the list of essential benefits the Blunt amendment would take away: Emergency services, hospitalization, maternity and newborn care, mental health treatment, preventive and wellness services, pediatric services, prescription drugs, ambulatory patient services, rehabilitative services and devices, and laboratory services.

These are categories of services that health insurance plans must cover under health care reform. But if the Blunt amendment passes—and we know it started because of birth control, but it has reached beyond that to every single essential health benefit that any employer in this Nation, if Blunt passes, could say: I do not want to do any of these. I do not want to do some of these, because I have a moral objection.

So if you worked for an employer who believes that prayer is what we need to cure illness—and by the way, that is their right. I would fight for their right to believe that. They would be able, however, to tell you that that is your alternative, and they do not have to provide any of those essential health benefits in their insurance plan.

The other thing the Blunt amendment does is it says that no more preventive health benefits will be required. Under the law, these are the preventive health benefits that are required to be offered to you. You do not have to take them if you are an employee who has an objection to any of these things. You do not have to do it, but they have to be offered to you: Breast cancer screenings, cervical cancer screenings, hepatitis A and B vaccines, measles and mumps vaccine, colorectal cancer screening, diabetes screening, cholesterol screening, blood pressure screening, obesity screening, tobacco cessation, autism screening, hearing screening for newborns, sickle cell screening, fluoride supplements, tuberculosis testing for children, depression screening, osteoporosis screening, flu vaccines for children and the elderly, contraception.

Contraception is a preventive health benefit because we know it prevents unintended pregnancies and prevents abortion and prevents illness. Fifteen percent of people take it to prevent illness. Also, well-woman visits, HPV testing, STD screening, HIV screening, breast feeding support, domestic violence screening, and gestational diabetes screening—all of these have to be provided. But if you don't want to take contraception, you can say, no; I am not interested in that. If you don't

want to have your child to have a vaccine—personally, I think that is terrible—but you don't have to. But that is what is required.

Under the Blunt amendment, let's be clear. Any employer who simply says they have a moral objection can say: Sorry, see this list. We are not going to do 6, 7, 8, 9, or 10 things here. For example, obesity screening, we believe that is your problem, and we have a moral objection to that. Colorectal cancer screening, I have an objection to that because, again, my religion says it doesn't do any good.

This is why Blunt is so dangerous. It is about denying women the absolute right to have contraception offered to them—it does that, but it does a lot more than that. Again, we are on a highway transportation bill. It is 2.8 million jobs. It came out of four committees, and it is bipartisan. It will keep this country moving. It will keep this economy going.

Madam President, I want you to imagine one Super Bowl stadium filled with people. Think about what that looks like in your mind's eye. Every seat in that stadium is filled. Now imagine 15 of those stadiums filled. That is how many unemployed construction workers there are in this great country today.

Yes, we are making progress. Yes, President Obama took us out of the worst recession since the Great Depression that he inherited. Yes, he turned it around. But he and we say, we have to do more. We cannot just say, because we are creating jobs now, it is enough. The President knows it; we know it. We were bleeding 800,000 jobs when he took over, and now we have stemmed it and we are creating a couple hundred jobs a month—100,000, 200,000—thank goodness. We have created, in the last 6 months or so, hundreds and hundreds of thousands of jobs.

Here is the point: Why on Earth would we take a U-turn as we are on the road to economic recovery, as we are on the road to a bill that is absolutely necessary, and take up the issue of women's health? I am telling you, I believe it is radical. I believe it is taking us backward. I believe it is hurtful to women. I call on every woman, regardless of political party, to make your voice heard against the Blunt amendment. You are being attacked.

What the President did in dealing with the issue of contraception showed the wisdom of Solomon. He basically said: If you are a religious institution and you have an objection to offering contraception, you don't have to do it. So 335,000 churches are exempt. I feel sorry for the employees who may not agree with the church, but they work for the church and therefore that is the rule.

Religiously affiliated hospitals and universities raised a question—you

know, they serve a broad array of people. They hire a broad array of people, not just people of one faith but of many faiths and of many points of view. They raised the question, saying: We don't feel comfortable. The President came up with a compromise that has been embraced by Catholic Charities, Catholics United, and the Catholic Health Association. The only group that doesn't support him are the bishops.

If I could respectfully say to them, they don't deliver the health care services; Catholic Charities does, and the Catholic Health Association does. They represent thousands of providers. So they have embraced the President's compromise. But not my Republican friends. They didn't. They want to cause trouble and take away the ability for women to have access to contraception, without a copay—while they support supplying Viagra to men. It is stunning.

I think this is rippling across the land. I don't know if we have the photo—I don't think we have it on the floor—of the last panel that was held in the House, and my friend from New York talked about it. We do have it.

This is a picture. A picture is worth 1,000 words. This is a panel on women's health focused on contraception. Where are the women? Where are the women? One, two, three, four, five men; they are talking about women's health care. Not one of them ever had a baby. Not one of them ever had a monthly cramp. They are talking about women's health care like they know all about it.

The chairman, Chairman ISSA, didn't see immediately that there was a problem. There was a woman sitting there, and she asked to be heard. She said, "I have a story to tell this panel." Oh, no, he didn't want to hear from her. He said she wasn't qualified. Do you know what her story was? It was about how a friend of hers who was denied the contraceptive pill and instead developed a terrible tumor on her ovary. He didn't think that was worthy of discussion.

This issue is rippling through the land. It says everything to me. We women in the Senate are not going to allow this to go unnoticed. That is a symbol of what is happening to women in this country. In the very States that are passing legislation that some have dubbed "State rape," because it would require a woman to be subjected to an invasive vaginal probe without her consent, now they are backing off. That was the bill that almost passed in the Virginia Legislature. Now they have said: OK, it is a sonogram. There is another way to do it. It took women crying out and saying: Wait a minute. Are you kidding? And they are backing off.

Well, they better back up overall because this is the 21st century. Women should be trusted and respected and honored and believed. When you tell a

woman she needs to be lectured by some stranger on her own personal decisions, right away you are questioning her worth. So the issue goes so far beyond the ability to obtain birth control pills. The issue goes so far beyond that. It really does. You can stand up here and say it is not about women's health, it is really about religious freedom, but as PATTY MURRAY, my colleague from Washington, has said: When they say it is not about contraception, it is about contraception.

Others have said: When they say it is not really about the money, it is really about the money. When they say it is not really about politics, it is about politics.

This is about contraception, making it difficult for women who don't have the means to have some sense of control over their reproductive lives and to be able to access a pill that could help them live a healthier life and live longer and free of pain.

So they will come and say: Oh, Senator BOXER, this isn't about contraception; it is about religious freedom. The President has taken care of the religious objection. I described how he did it, and I will say it again. He said if you are a religious institution, you don't have to provide contraception. If you are a religiously affiliated institution, there will be a way for a third party to deal with it. The Catholic health organizations support it, Catholic Charities. He has come up with a compromise. There is no reason to have this polarizing debate. Everybody should have religious freedom, including the employees, including the boss, including everybody. So no one under the President's plan is forced to do something they don't want to do. We just want to make sure when the Institute of Medicine tells us that availability to contraception saves lives and protects health, women get a chance to get it if they want. If they don't want it, they don't have to get it. Of course not.

Again, I will end where I started, talking about my colleague OLYMPIA SNOWE, who is retiring, not running again, because she said we are so polarized. This is exhibit 1. We are on a transportation bill that is bipartisan, but the other side can't let it rest, cannot move forward on it, and cannot move to make sure our businesses and our workers have a brighter future. Oh, no, they have to delay it.

By the way, it is not only with this birth control amendment and women's health amendment but with other amendments that have nothing to do with the subject. It is what makes the American people wonder what we are doing here.

I want to show some charts that deal with transportation issues right now. I will continue talking about OLYMPIA SNOWE for a minute. I went through some of the issues that I worked on

with her. I want to talk about them. She and I wrote the Airline Passenger Bill of Rights Act. We were very strong because we knew our constituents were getting stuck on aircraft hour after hour, stuck on the tarmac, with no food, kids screaming, nightmare scenarios, 9, 10 hours on the runway. We thought passengers deserved a bill of rights.

We worked with outside groups, some wonderful people. Lo and behold, it passed as part of the FAA bill that finally got enacted. We didn't get 100 percent of what we wanted, but we got 90 percent. I was proud to work with her.

In 2009, following a tragic Buffalo commuter plane crash, which I know the occupant of the chair remembers, Senator OLYMPIA SNOWE wrote a bill to implement the recommendations of the National Transportation Safety Board to make sure these pilots get enough rest and that they are well-trained. We were very pleased that moved forward. We worked together—OLYMPIA and I—on the Purple Heart for POWs to make sure the Purple Heart included prisoners of war who died in captivity and they could get that to bless their memory.

We worked together against the global gag rule.

We worked together and wrote a letter to the President—President Obama—asking him to appoint a woman to replace Justice David Souter.

I ask unanimous consent to have printed in the RECORD this letter I will be quoting from.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,  
Washington, DC, May 11, 2009.

The PRESIDENT,  
The White House,  
Washington, DC.

DEAR MR. PRESIDENT: The announced retirement of United States Supreme Court Justice David Souter—an outstanding jurist—has left you with the crucial task of nominating someone for a lifetime appointment to our nation's highest bench.

The most important thing is to nominate an exceptionally well-qualified, intelligent person to replace Justice Souter—and we are convinced that person should be a woman.

Women make up more than half of our population, but right now hold only one seat out of nine on the United States Supreme Court. This is out of balance. In order for the Court to be relevant, it needs to be diverse and better reflect America.

Mr. President, we look forward with great anticipation to your choice for the Supreme Court vacancy.

Sincerely,

BARBARA BOXER,  
U.S. Senator.  
OLYMPIA J. SNOWE,  
U.S. Senator.

Mrs. BOXER. I am so proud of this letter we wrote together. In the letter, we said:

The most important thing is to nominate an exceptionally well-qualified, intelligent

person to replace Justice Souter. . . . Women make up more than half of our population, but right now hold only one seat out of nine. . . . This is out of balance. In order for the Court to be relevant, it needs to be diverse and better reflect America.

Then, of course, the President nominated Sonia Sotomayor and we were very excited about that.

So it was wonderful to work with her on that, and we worked together on respecting human rights in Tibet and led 27 Senators in a letter to Chinese leader Hu Jintao asking that Tibetans be respected. Regarding women in Afghanistan, we worked together to ask Afghan leaders to revise a law that would legalize marital rape and impose other Taliban restrictions on Shiite women in Afghanistan.

This is just a partial list of issues I have worked on with OLYMPIA SNOWE, and I will do a longer tribute for the record at a later time.

But, again, as I heard this news, I was first filled with worry about her health, and I hoped she was OK. But she has clarified she absolutely is. So I wish her nothing but the best. I know she will always work on issues because she is so good at looking at a problem and solving it and not thinking first whether it is Democratic or it is Republican or where it falls on the political scales. So I have appreciated working with her on so many of these important issues that have come before us.

I think the Senate should take a minute to think about this in relation to this bill. The whole world is watching us. When I say that, I don't mean the whole world literally, but I think the country is watching us. Why do I say that? Because 1,000 groups have endorsed our moving ahead with this bill—a coalition of 1,075 organizations from all 50 States. Here is what they said about this Transportation bill:

There are few Federal efforts that rival the potential of critical transportation infrastructure investments for sustaining and creating jobs and economic activity.

This is what they wrote. So they know this is the way to sustain and revive economic activity. This is what is at stake: Right now, 1.8 million jobs are created because we have a transportation bill. That bill ends March 31. So 1.8 million jobs are at stake if we don't act. Because of the way we wrote our bill, we leveraged funding, and this gained great bipartisan support. We have greatly increased the TIFIA Program, which is the transportation infrastructure financing program, which leverages funds by 30 times. Because of this, we believe we will see another 1 million jobs created. So we are talking 2.8 million jobs that are at stake. Yet we have an amendment on women's health. I just keep coming back to how insane that is.

I also wish to note again the many unemployed construction workers. Remember, I said 15 stadiums could be

filled with unemployed construction workers. This is the number: 1.48 million construction industry workers unemployed. The unemployment rate is 17.7 percent among construction industry workers; whereas, the national unemployment rate is 8.3 percent. We know the housing sector is still having major problems getting out of the funk it is in. It is tough. So we have to do this bill.

I have a picture, just in case your mind's eye wasn't able to conjure it up. Here is a picture of a stadium filled with about 100,000 people. So 15 of these stadiums would basically reflect all the unemployed construction workers.

Which are the groups that are supporting us and are they bipartisan? Oh, my goodness. I don't think I could share with everyone a more bipartisan list of organizations than the AAA, the American Association of State Highway and Transit Officials, the American Bus Association, the American Concrete Pavement Association, the American Council of Engineering Companies, the American Highway Users Alliance, the American Moving & Storage Association, the American Public Transportation Association, the American Road and Transportation Builders Association, the American Society of Civil Engineers—and it goes on and on—the trucking association, the Metropolitan Transportation Organizations, Commercial Vehicle Safety Alliance, Governors Highway Safety Association, International Union of Operating Engineers, Motor & Equipment Manufacturers Association, National Asphalt Pavement Association, National Association of Development Organizations, U.S. Chamber of Commerce, National Stone, Sand & Gravel Association, National Construction Alliance.

Oh, it goes on. That is just a partial list of those 1,000-plus organizations.

When we started our bill the Presiding Officer will remember we made history because we had Richard Trumka, the head of the AFL CIO, sitting next to Tom Donohue, the head of the U.S. Chamber of Commerce. Donohue and Trumka, the odd couple. They are fighting and arguing on everything. Yet they came together in front of our committee because they know we will all benefit. All of America benefits when we do a bill such as this.

I think I have shared a lot, but there is one more point. If we allow this bill to go away, and we are stuck with an extension because the transportation fund is not collecting enough gas tax revenues—and there is a good-news reason for that, which is we are getting better fuel economy and we are using public transit a lot more, so the gas tax is not coming in at the rate it normally does—we will be down 35 percent in the fund. So right away—right away—631,000 jobs are gone. But what

is so great about our bill is that four committees, including the Finance Committee, filled the gap in a way that was bipartisan.

Our story is a great story to tell. If I had to tell my grandkids a story, I would say: Once upon a time in America, we didn't have a national road system. But a Republican President named Dwight Eisenhower had a vision. He was a general. He knew it was important to move things in a reliable way, and he had a vision of a national transportation system, and everybody in the country said: What a great idea. So we started to have a bill every few years to authorize a highway fund. Then somebody came up with the notion of it being funded by the users, so that the gas tax would go—part of it—to this fund and we would have enough in that fund to build our highways and our bridges, and then, later on, our transit systems. People said: We have a lot of wear and tear on the roads. What if a lot of people took public transit and got out of their cars? It would be better for the air quality. It would be better for everybody and for the state of the roads, and so they were married up, highways and transit and bridges.

Now we have to live up to that legacy and not bog this bill down with birth control amendments and women's health amendments and amendments about Egypt or anything else. There is time for that. We don't mind those battles but not on this bill. Infrastructure is the name of the game. We all know it—Republicans and Democrats.

So I say, let's stop playing games with this bill, please. Let's dispose of this birth control amendment, this women's health amendment. It doesn't belong on here. But if that is what it takes to get us off dead center, fine, let's go. To coin OLYMPIA SNOWE's phrase, it will be polarizing. It will not be pretty, but we will dispose of that and then we will move on and dispose of this bill.

I hope we will not have to face 5, 10, 20, 30 unrelated amendments. I hope we can get it down to a small number and move on. Let's pass this bill, lift the workers and lift our businesses. Every dollar, almost—most of the dollars—goes straight to the private sector through our States, through our local entities.

Then let's hold our head up high when we go home. So when I go to the supermarket I don't have people coming to me and saying: What is going on over there? Birth control on a highway bill. What, are you kidding? I don't want to have those conversations every time I go to the supermarket. What are these guys thinking, they say. I say: I don't know. I can't speak for them. I think it is an agenda that appeals to the far right of this Nation. It is not a mainstream way to go.

In closing now, for those who say Republicans and Democrats never work

together, that is not true. Senator INHOFE and I are as far away from each other politically as two human beings can get, but we teamed up and put aside our ideologies, put aside our pet peeves, put aside things that, perhaps in our hearts, we truly wanted to do on this bill, and we met in the middle. He was over here and I was over here and we ended up right in the middle. We said: We can do this, and we proved we could do it. It was a challenge that was put to us by the leadership of both our parties and we met that test and other committees met that test.

So here we are. Are we now to say to committee chairs and ranking members, Republicans and Democrats alike, forget about it? It is not worth it. Work your heart out.

I pay tribute to my staff, my Democratic staff, and to Senator INHOFE's Republican staff. They worked night after night after night to come together on this bill. Then we were given an assignment 2 weeks ago to resolve the germane amendments and they have come together and they have resolved I don't know how many but dozens of amendments. So is the message, work your little hearts out, have your staff give up their nights with their families and come up with a bipartisan bill and all of a sudden have it subjected to some polarizing amendments that have nothing to do with the subject?

Please, let's not see this bill go down. Because if this bill goes down, let me tell you, I, for one, will go to as many cities as I can and counties in this country and tell the truth about what happened. There is no reason for us not to get this done, especially when we have the Chamber of Commerce working with the AFL CIO, we have Republican-leaning business organizations working with Democratic-leaning worker organizations all throughout this country—over 1,000 of them. I talk to them every week to say thank you to them for keeping the pressure on all of us to keep moving forward. When we have that kind of bipartisanship in our committees, when we have that type of bipartisan bill on the floor, when we have that type of bipartisan support in the country, it is time to move forward and get the job done for the American people.

I thank the Chair, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BARRASSO. Madam President, I ask unanimous consent that the quorum calm be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### A SECOND OPINION

Mr. BARRASSO. Madam President, I come to the floor today as I do week

after week to talk about the health care law and offer a doctor's second opinion about this health care law. I do that as someone who has practiced medicine in Wyoming, taking care of families across the Cowboy State for about a quarter of a century, and I do it today because we are now approaching the second anniversary of the President's health care law, and, as predicted by many on my side of the aisle, the negative results continue to roll in and billions of taxpayer dollars continue to roll out.

Each week we learn more about how this law is going to break another one of the President's promises. He made a lot of promises, one of which is he said it would not add a dime to the deficit. It is now clear that the White House and Democrats in Congress completely underestimated—possibly intentionally but certainly vocally underestimated—how much the President's new entitlement program is going to cost the American people.

I come week after week because NANCY PELOSI said, "First you have to pass it before you get to find out what is in it." This past week a story came out that talks about the high-risk pools, designed and established to cover people who were not able to buy health insurance in the individual market prior to the health care law. The goal was admirable. The plan, though, they came out with was horrible.

First, the new Obama high-risk plans created more bureaucracy, more government, and undermined what States like mine, Wyoming, were already successfully doing.

Next, the White House and the Democrats who crammed this bill through Congress and down the throats of the American people set aside \$5 billion for this program. The money was supposed to last, they said, until 2014—no problems. The bad news is that the Medicare's Chief Actuary, the official who actually tracks the spending that goes on as a result of this law, estimates now that the funding could run out much earlier than expected.

Last week the Washington Post explained how this could happen. It reported that "medical costs for enrollees in the health-care law's high-risk insurance pools are expected to more than double initial predictions"—more than double the initial predictions by the Democrats who voted for this health care law. So the cost for enrollees are expected to be more than double what the White House and the Democrats predicted when they drafted the law, as the American people remember, behind closed doors.

The President promised this would be open—C-SPAN—people would be able to see the discussions and the debates. Everything was done behind closed doors. Yet our debt as a nation continues to skyrocket. It is completely unsustainable, and it is irresponsible.

You know, it could have been prevented if the White House and Congress had just let the American people participate in the process.

So here we are, 2 years later, a second anniversary coming up of a health care law, a law that the American people are now learning what is in it because, as NANCY PELOSI said, "First you have to pass it before you get to find out what is in it."

The American people also know that this administration and this President and this Congress used about every budget trick and accounting gimmick in the book to turn it into law. They ignored the real costs, they ignored the red flags, and they ignored reality. Two years later, the American people understand that we cannot afford the high cost of the President's health care law and health care mandates. The longer it stays in place, the more expensive it will get.

That is one of the reasons Americans from both sides of the aisle are speaking out against this health care law. When I say both sides of the aisle, I want to talk about a recent USA TODAY/Gallup Poll. This was Monday's—Monday, February 27—USA TODAY, front-page story, right at the top: "Health Care Law Hurts Obama."

My concern is that the health care law is hurting the American people. That is what the impact of this law is. It is hurting the American people.

What the poll shows is that a clear majority of registered voters call the bill's passage "a bad thing." They support its repeal if a Republican wins the White House in November.

Eleven percent of voters in battleground States have said the law has actually helped their families, but 15 percent say it has hurt them. Looking ahead, they predict by a number of 42 percent to 20 percent, so two to one, that the law will make things worse rather than better for their families and for their lives.

Americans overwhelmingly believe the individual mandate, which is a key part of the Obama health care law, is unconstitutional, the mandate that every American must buy insurance. Americans believe it is unconstitutional by a margin of 72 percent to only 20 percent. An overwhelming number of Americans believe that what this Senate and the House, under Democratic control, and the President in the White House, Barack Obama, have forced on the American people—they believe, and I agree with them—is unconstitutional. Even a majority of Democrats and a majority of those who think the health care law is a good thing believe that provision—that people across the country be forced to buy health insurance or to buy any product—is unconstitutional.

Instead of heaping more debt on the backs of the American people, we need to repeal the law. We need to replace it

with health care reform that allows Americans to have a bigger say, a patient-centered health care approach.

It is interesting. When you look at this USA TODAY article, there is a picture of a family, a father and mother and three children. Robert Hargrove of Sanford, NC, said: You have to have insurance or pay a penalty? "That is not the way the country was set up."

That tells the story I heard around the State of Wyoming last week as I traveled, as other Members traveled around their home communities, their home States. They remember the President's promises. He promised, No. 1, that the cost of insurance for families would go down. The President promised it would go down by \$2,500 per family per year. That is not what the American people have seen in the last 2 years since it has been passed. They remember the President promising that if you like the care you have and the insurance you have, you can keep it. That is not what American families are finding. Broken promise after broken promise.

Now, with the Chief Actuary coming out this past week in the Washington Post, reporting that the high-risk pool is doubling the costs that were predicted—once again, the President promised that it would not add a dime to the deficit—another broken Obama promise.

Here we are. I go to townhall meetings, visit with people, and ask for a show of hands: How many of you believe that under the President's new health care law, your costs are going to go up? Every hand goes up. Obviously, they do not believe what the President has told them.

How many of you believe that as a result of the new health care law, actually the quality of your care and the availability of your care will go down? Again, every hand goes up.

It is not what the President promised the people of this country.

That is why, when the USA TODAY headline on Monday says "Health Care Law Hurts Obama," my concern is that it is hurting the American people. People asked for health care reform in this country. What they asked for was the care they need, from the doctor they want, at a cost they can afford. This health care law has provided none of those things. This health care law is bad for patients, it is bad for providers—the nurses and the doctors who take care of those patients—and it is terrible for the American taxpayers. That is why I come to the floor week after week with a doctor's second opinion, saying it is time to replace this health care law with reforms that will put health care under the control of patients—not insurance companies, not government, but under the control of patients.

Madam President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. FRANKEN). The clerk will call the roll. The bill clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. BROWN of Massachusetts. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### CROWDFUNDING

Mr. BROWN of Massachusetts. Good morning to you, Mr. President, and everybody in the gallery. I wanted to thank Majority Leader REID for highlighting next week's Banking Committee hearing on small business growth. It is something all of us have a very dear and great concern with. One of the issues that will be discussed is a concept called crowdfunding. People may be saying: What is crowdfunding? Well, if you ever wished that you had the opportunity to invest in a Facebook or a Google or new idea before they hit it big, wouldn't that be nice? We would all be multibillionaires. My Democratizing Access to Capital bill, S. 1791, would expand entrepreneurs' access to capital by democratizing access to startup investing so they can have the funds to grow and create jobs.

The House passed a crowdfunding bill 407 to 17. So you know they must be on to something when they can pass something in such a bipartisan manner. The President referenced it in his State of the Union. He supports crowdfunding, and public support for crowdfunding is, in fact, exploding.

On Monday I hosted a roundtable in Boston at City Hall on small business access to capital, and I listened to small business owners and entrepreneurs and investors to get their thoughts and concerns about business growth, about investing, about the access to capital, and it was a very successful event. They all had one thing to say and that was: If we can't get behind the bipartisan, commonsense idea of crowdfunding, then what can we actually agree upon and how can we expect small businesses to grow?

With such strong support, I believe we should put, once again, partisan politics aside and focus on what we can do to help small businesses as we have done with the 1099 fix, the 3-percent withholding, the Hire a Hero Act, the most recent insider trading STOCK Act. All of my bills, all the things I have worked on, we did in a bipartisan manner. When the leader let them come to the floor and allowed us to work them through, they passed 96 to 3 and 100 to 0. It shows that the Senate can work together regardless of our political differences, our geographical locations, our belief on where we are because we are Americans first. These are things the business communities are



looking at to move our country forward.

Next Monday I am hosting a roundtable with an entity called Wefunder, a group of innovators who started a petition for my bill to discuss crowdfunding. Their petition currently has 2,500 supporters who would invest over \$6 million today if businesses had the opportunity to participate in crowdfunding, but right now it is illegal.

My bill is a commonsense bill, and I want to note that Senator MERKLEY has also introduced a different crowdfunding bill. It is a good start, but we can do a little bit more. I have reached out to his staff, and I have asked my staff to continue to do that. So I think we can work together as Senator GILLIBRAND and I have, and Senator COCHRAN and Senator COLLINS worked on the recent insider trading bill. We can do the same with Senator MERKLEY if he is willing and if the leader allows us to put those political party differences aside and actually work on something for the benefit of our country.

Today I am going to talk about some important principles that I believe are critical to making crowdfunding legislation a success. For crowdfunding to actually work, we need a national framework, which my bill creates. If we require entrepreneurs to comply with every separate State securities law mandate, filing the appropriate paperwork alone would cost over \$15,000. That is the reason we don't have this type of situation. In my bill we don't have small business owners being able to give up to \$1,000 per person, up to \$1 million to invest in that next new idea with minimal SEC filings and minimal secretary of state filings. It is something that makes sense. We should not be burdening our startup businesses, which is where the largest growth is in this country right now, with costly quarterly reporting requirements. We might as well go through the whole process of the full SEC filings. It is not appropriate, especially until they are fully off the ground.

The point of crowdfunding is to allow entrepreneurs to flourish, not to bog them down in an avalanche of paperwork and bureaucracy and redtape. That is why we are in this mess somewhat, because of the overregulation, the continued regulatory and tax uncertainty when it comes to planning and growing businesses.

In addition, I believe our existing fraud laws are solid; we just need to enforce them. Exposing startup founders to new personal liability is not going to work. It will create a real wet blanket on everything we are trying to do here from thousands of investors who are investing only a maximum of \$500 to \$1,000 and to have them also put in a personal guarantee for a \$500 investment. How does that make any sense whatsoever, a quarterly filing, a personal liability guarantee for a \$500 in-

vestment? This makes no sense at all. This will cause investors to use crowdfunding only when there is no other option available and will leave them to switch out crowdfunding investors for venture capital firms at the first opportunity, therefore, I believe, stifling that crowdfunding opportunity.

There was a recent article I read in which Canada's Government is deeply concerned about us actually doing this because they are fearful that Canadian money will be flowing into the United States. Wouldn't it be nice for once to have money flowing into the United States on something that will actually create small business growth in our great country? So recognizing that investors need protection, my bill does require entrepreneurs to offer their securities through regulated crowdfunding intermediaries.

In addition, my bill requires intermediaries to facilitate communication between investors and the offerors. I believe Senator MERKLEY and I have the same concerns in this regard which I believe can be addressed without creating a private right of action. It is not necessary especially for the amount of money we are talking about and the new business growth opportunities we can actually stimulate.

Crowdfunding depends on small investments by many, which is why we must exempt crowdfunding securities from the 500 shareholder cap so we don't create additional redtape for startups. It makes total sense. Everyone talks about overregulation of small business and how that is hurting their growth. I see it, you see it where you live, Mr. President, and in legalizing—let me repeat—in legalizing crowdfunding I believe we can still provide for the appropriate level of regulation but also give small businesses the access to capital they so desperately need.

This is a home run all over the place, and once again I am very pleased the majority leader has taken an additional step to call for the hearing on crowdfunding. When he talked about this issue, he referenced Senator MERKLEY's bill. I also have a bill. So why don't we do it as we did it with the insider trading bill, the Hire a Hero, the 3-percent withholding, the 1099, the Arlington Cemetery bill? All of those things, when we were allowed to work in a truly bipartisan manner, we were able to get done. With all due respect, there is no Republican bill that is going to pass right now, and I know that shocks some people. There is no Democratic bill that is going to pass either. It needs to be a bipartisan, bicameral bill that the President is going to sign. That is what I offer, is that olive branch, that one good deed that begets another good deed and moves us forward to addressing our very real problems in a truly bipartisan manner as Americans first and not as Republicans or Democrats.

I would ask the majority leader to also include my bill when he is moving forward because otherwise I am fearful nothing will move forward. So I am looking forward to not only working with Senator MERKLEY but working with the majority leader and his team. When I was working on the insider trading bill, which was my bill and Senator GILLIBRAND's bill that we combined, we found that common ground. We worked together, we managed the floor, we had an open amendment process. Everybody walked out of here saying: That was nice. When was the last time we did that? Remember? That was unbelievable. Everyone had a role. Even Senator KIRK, who is recovering, had a role to play and it was good to see him. We can even do it in this bill.

Mr. President, I thank you for the time. I yield the floor at this time. I see that we have a speaker all ready to go as well.

The PRESIDING OFFICER. The Senator from Virginia.

AMENDMENT NO. 1520

Mr. WEBB. Mr. President, I ask unanimous consent that the time from 2 to 4 p.m. be equally divided, with Senator BLUNT or his designee in control of the first hour and the majority side controlling the second hour.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEBB. Mr. President, I wish to say a few words today about the amendment that is being called the Blunt amendment, the purpose of which I will read from the amendment, to amend the Patient Protection and Affordable Care Act, to provide rights of conscience with regard to requirements for coverage of specific items and services.

I oppose this amendment, and I wish to be very clear today as to why I oppose this amendment. This is not a bill that attempts to address the necessary divide between church and state.

Let me say that a little more specifically. This is not an amendment that addresses the necessary divide between the establishment of religion or the free exercise thereof as outlined in the first amendment of our Constitution, which is a concept I care deeply about.

This amendment, by definition, attempts to widen the restrictions on our laws from the necessary divide between church and state into the unknown and often indefinable provinces of an individual's personal definition of conscience. The amendment is clear on this point. It is a preamble in which it lists its findings, talks repeatedly about the rights of conscience, not the separation of church and state. It invokes Thomas Jefferson's view of the rights of conscience against the enterprise of civil authority. It addresses the purported flaws of the current health care law in terms of governmental infringement on the rights of conscience of insurers, purchasers of



insurance, planned sponsors, beneficiaries, and other stakeholders. It then mandates that the right to provide, purchase, or enroll in health care coverage must be consistent with the religious beliefs or the moral convictions of these stakeholders.

Again, let me be clear: This language goes well beyond the constitutional requirement of separation of church and state into the area of legislative discretion. Quite frankly, it would be the same thing as Congress saying that not only should religious establishments be exempted from taxation under the doctrine of separation of church and state, but also that anyone who has a moral objection that they can define to paying taxes should not be required to pay them either. There is a place for this type of conduct in our legal framework. It has a long history. It is called civil disobedience. The act of civil disobedience is protected by our Constitution, but the ramifications are not. Unless there are clear constitutional protections, legal accountability remains.

The effect of this amendment on its face would be that any stakeholder could decide to deny health care benefits to any individual on the very loose definition that to provide such care somehow would violate a personal definition of one's moral convictions. In other words, any provider could potentially deny a wide range of benefits to anybody.

This is a vaguely drafted and potentially harmful amendment. It is not about protecting religious institutions or protecting the clear objective and understandable parameters of religious belief. It should not be approved.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. TESTER. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### FARM LABOR

Mr. TESTER. Mr. President, I thank the Presiding Officer. I also thank the floor managers of the highway bill for allowing me a couple minutes and to let them know how appreciative I am of their efforts to move forward on an important piece of legislation—the highway legislation. Nothing creates jobs and makes our economy stronger in the long run than responsibly investing in our infrastructure. So I thank Senator BOXER and Senator INHOFE for their good work and, hopefully, that good work will come to fruition very soon.

Last September, the Department of Labor published new child labor regulations. They would have the effect of restricting how young folks are able to work on farms. I am deeply concerned about these new rules which will keep teenagers from working on farms and ranches.

As the Senate's only working farmer, I know how important it is for young people to have the opportunity to work on farms and ranches. I am not alone in that belief. There are many folks here who understand the value of family farm agriculture. Growing up on the same farm that my grandparents homesteaded nearly a century ago—well, it was a century ago this year—my brothers and I were expected to bail the hay, pick rocks, feed the livestock, do field work, and the list goes on and on. That work ethic that was instilled in us as youngsters is a big part of my success today. It was that work ethic that built this Nation and that work ethic which I think is critical to the future of America. The skills young people learn from working on a family farm translate into a healthy work ethic that will serve them their entire lives, whether they choose to be in agriculture or in some other business.

Family farm agriculture is one of the foundations of this country, and irresponsibly regulating the ability of young people to fully experience and grow from it will be detrimental to this country's future. I know firsthand that agriculture is uniquely a family industry in the United States, in Montana, and throughout rural America. Young people are expected to help out on the family farm or ranch. That is part of the economics of family agriculture. For smaller farms and ranches to survive, it has to be everybody pitching in. By participating in production agriculture, young people learn the value of a day's work. They also learn that grain doesn't come from a box or vegetables don't come from a bag or meat doesn't come from a package. They truly get educated about where our food comes from while they build that work ethic.

These new rules get in the way of that education. That is because these rules were not written with a solid understanding of how family production agriculture works today. We are losing family farms every day in my hometown of Big Sandy, for example. In that community, I went to school with about 40 kids or so in my high school class. Today there are about 60 kids in the entire high school. That is because family farms are getting bigger, and there are fewer folks living in rural America. We ought to encourage beginning farmers and ranchers, preparing them to be our next generation of food producers in this country.

The proposed rules would expand restrictions on what duties teenagers can perform on farms, limiting them. Under these new rules, all animal operations would be off limits until a person reaches 16 years of age. That is a sad day, a missed opportunity, and a loss of an opportunity for our young folks to learn.

I am calling on the Department of Labor to withdraw this proposal as it

applies to family farm agriculture and allow this country's youth to learn a solid work ethic. The common sense that goes with that work ethic is so critically important to our Nation's future.

With that, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. VITTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). Without objection, it is so ordered.

The Senator from Louisiana is recognized.

Mr. VITTER. I thank the Chair.

(The remarks of Mr. VITTER pertaining to the introduction of S. 2138 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I would ask, what is the pending business before the Senate?

The PRESIDING OFFICER. The Blunt amendment No. 1520.

Mr. BAUCUS. Mr. President, I rise to object to the Blunt amendment. I believe this amendment is extreme and it would undermine the delicate balance between religious freedom and a woman's health. It would be a mistake. It goes too far. It would allow any employer to prevent a woman's access to mammograms, prenatal care, even vaccinations or any other form of preventive care. In Montana, my State, 62,000 women could lose access to preventive care. I am here to say that is wrong, and I am going to go to bat for them. I think a woman should decide for herself and her family what preventive care makes the most sense for her.

As Americans, we believe in individual liberties and equal access to health care. Current policy upholds those values. It preserves the integrity of a woman's freedom and the right to access all health care services. It protects the religious liberties that so many Americans, including myself, value. And that is why both faith-based and health communities support this policy—not the Blunt amendment but the current policy. The Blunt amendment would overturn this. It would allow any corporation or health plan to deny women and their families access to preventive health care for almost any reason. It is written so broadly that an employer or an insurance company could deny access to preventive care for virtually any reason. That is not right.

I urge my colleagues to vote against the Blunt amendment. I urge them to protect the health of all Americans. That includes our mothers, wives, sisters, and daughters in Montana and across the country.

In Montana, we are very proud to have sent the first woman to Congress—Ms. Jeannette Rankin—in 1916. We have a very strong tradition in our State of respecting women—women who are not only the hearts of our families but are also those providing the fabric of our communities. When we support women's health, we are supporting healthy communities that could be strong for our kids and our grandkids.

Let's uphold our values of liberty. Let women choose for themselves individually. It is their responsibility what preventive care they think makes the most sense for them. And let's treat all Americans fairly. Let's defend against discriminatory health insurance practices, and let's do so while protecting everyone's fundamental rights.

Mr. President, on another matter, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. In "Common Sense," the American patriot Thomas Paine wrote in 1776 as follows:

The landholder, the farmer, the manufacturer, the merchant, the tradesman, and every occupation, prospers by the aid which each receives from the other, and from the whole. Common interest regulates their concerns, and forms their law. Common interest produces common security.

In the 240 years since Paine's pamphlet helped define who we are as Americans, our transportation system has become the cornerstone of our common interest. There are few things under the Sun that are not impacted by our highways, our roads and bridges, and our transit systems, yet we can too easily take our network for granted.

A recent Rockefeller Foundation survey found that two-thirds of all respondents believe America should invest more in infrastructure. It is a common interest. That same survey found that two-thirds of all Americans believe they should not have to pay any more for this increase in infrastructure investment. That means we have to rise to the challenge in Congress to come up with a highway bill that invests in infrastructure without asking folks to pay more than their fair share.

According to the U.S. Chamber of Commerce Transportation Performance Index, we could lose nearly \$340 billion in potential economic growth over the next 5 years if we do not pass a highway bill and provide the certainty our economy needs. Let me make that statement again. We could lose \$340 billion in potential economic growth over the next 5 years if we do not pass a highway bill and provide the certainty our economy needs.

Our transportation system depends on substantial investments from the Federal Government. This investment consistently yields a big return for

American jobs. In my home State of Montana, the last highway bill created or sustained more than 18,000 good-paying jobs, and nationwide it put approximately 35,000 people to work for every \$1 billion invested. So for every \$1 billion invested, it created 35,000 jobs. These are not just statistics, these numbers represent families able to put food on the table. They are good jobs. These numbers represent small businesses able to attract new customers.

I know these types of investments work because I spent a day working alongside a road construction crew on Amsterdam Road in Bozeman. They showed me the ropes of running a road grader, a paver, and an excavator. I might say, the grader was really up to date. All I had to do was get in the grader, move forward, and it was guided by a GPS system that raised the blade, turned the blade, tilted the blade at exactly the right location, and it was a perfect line I made down that road, whereas if I had had to do it by myself, it would have been a mess. The GPS made it work. During the workday, I talked to about a dozen workers who said their families depended on the project for their livelihood. It was very impressive. Their work also had a major impact on the community because Amsterdam Road is one of the most traveled roads in the area.

Investing in our transportation infrastructure is investing in our families and our economy. It is an investment. It yields great returns. It pays dividends. This bill seeks to maintain that investment through 2013; that is, the underlying bill that is before us—not the Blunt amendment but the underlying bill. I would prefer a longer period of time in the underlying bill to provide greater certainty. We are already 2 years past due. We have had lots of extensions. We must work together now to get something done at least until the end of next year, and a 2-year bill provides the compromise we need to get there.

I have worked on this bill for about 4 years from the leadership perspective of two different Senate committees: the Environment and Public Works Committee, which provided the authorization for roads, highways, bridges, and various forms of nonmotorized transportation, and the Finance Committee, which provided the money so we can have the proceeds and the resources to pay for these highways.

From the perspective of investment, I can tell you firsthand that this bill specifically focuses on those programs that are truly in our shared national interest. It consolidates nearly 90 road programs down to approximately 30. Consolidating 90—lots of individual, separate programs that kind of divide our country, didn't bring us together—to 30—30 programs that rely on the highway trust fund.

This bill also focuses on dramatically improving our national capacity for

data-gathering and data-sharing—desperately needed. We sought to enable States to address safety and mobility difficulties by seeing what solutions have worked in other States. More data will help them better answer those questions. For example, why in some States—my State of Montana—is the highway fatality rate 2½ times the national average? There are a lot of ideas, but what are the real reasons? We need data to find out.

This bill creates for the first time a dedicated freight program to address interstate commerce.

The bill extends a program called TIFIA. That is a lending program that leverages private sector investment, good investment, building roads and bridges. History tells us that every \$1 we put in can leverage \$30 in private sector investment.

This bill has no earmarks—no earmarks. Senators BOXER, INHOFE, VITTER, and I worked hard to achieve agreements, and I thank my colleagues who serve on the Environment and Public Works Committee for unanimously approving this bill and its reforms—unanimously.

I especially would like to applaud Chairman BOXER and Ranking Member INHOFE for their leadership. They worked very hard, and they worked together. Sometimes people think Washington can't work together. Let me tell you, I have watched these two people work very closely together. They were a team to get a highway bill here before the Senate.

Next, from the perspective of the Finance Committee, the bill provides the highway trust fund with sufficient funding to last at least until the end of fiscal year 2013. The highway trust fund simply does not bring in enough revenue from traditional funding sources, such as the fuel tax, to meet our national needs. As a result, Democrats and Republicans on the committee had to look elsewhere to ensure for the short term that we could maintain current levels of Federal investment. In the long term, we should use the opportunity to decide what we want for a transportation network in the 21st century. So we are going to pass this short-term bill, and while we are passing this short-term bill, we have to give a lot of thought to what we want to do for the long term. We should use that opportunity to decide what makes the most sense for the 21st century. Where we could apply unused fuel tax money that currently goes to the leaking underground storage tank trust fund surplus, the Finance Committee did so with support from Democrats and Republicans. And where we transferred money from the general fund to the highway trust fund, we sought to backfill the general fund by closing tax gaps or focusing on tax scofflaws.

It is important that we make sure the highway bill stays focused on supporting the economy. In Montana, our highways are our lifeblood. We are a highway State. We log a lot of hours at the wheel. It is a part of who we are. We are the fourth largest State in the Nation for land mass, but we have fewer residents than Rhode Island, the smallest State in size.

My friend the former Senator Mike Mansfield said in 1967:

Montanans are formed by the vastness of a state whose mountains rise to 12,000 feet in granite massives, piled one upon another as though by some giant hand. To drive across the state is to journey, in distances, from Washington, DC, north to Toronto, or south to Florida. In area, we can accommodate Virginia, Maryland, Delaware, Pennsylvania and New York, and still have room for the District of Columbia. Yet, in all this vastness, we are . . . less than a million people.

A few weeks ago, we just tipped the needle on 1 million residents. I might say, I am not sure we are happy about that. Some of us want to be under 1 million in population and some kind of like 1 million. It is a big debate in our State: Should we be 1 million or less than 1 million? Nonetheless, we lack the population to make the necessary investments in Federal aid roads and interstates by ourselves, and we shouldn't have to do so. Montana alone could not support the Interstate Highway System—we couldn't do it—or the other national highways in our State. We don't have the people. With more than 10 million visitors annually and with the majority of our truck traffic originating and ending out of State, we rely on the Federal program with good reason: It is in our common interest—in the interest of Montana, in the interest of all those folks who transport freight across our State, and in the interest of people who want to visit Glacier Park or Yellowstone Park. It is in our common interest.

I am here to say that the more we keep our eye on the ball, with a transportation bill that keeps our common interests in mind, the more successful we will be.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The assistant majority leader.

Mr. DURBIN. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### MIDWEST STORMS

Mr. DURBIN. Mr. President, overnight and early this morning parts of

my home State of Illinois and our adjoining State of Missouri were pummeled by severe storms and tornadoes. While the total extent of the damage is not yet known, it is clear that southeastern Illinois was hit hard by at least one tornado and heavy storms. The towns of Harrisburg in Saline County and Ridgway in Gallatin County have suffered terrible damage. Several people in Harrisburg have died as a result of these tornadoes. The earliest reports suggest 10 deaths. The exact number will not be known for some time. More than 100 other people in this area are reported to have suffered serious injury.

This is an indication of some of the damage and devastation in Harrisburg. Between 250 and 300 homes in nearby Gallatin County have also been damaged. An estimated 25 Harrisburg-area businesses are damaged or destroyed, including a Walmart and a strip mall that were hit by the tornado.

This next photograph is an indication of some of the terrible devastation that took place. Three bodies have been recovered from the field behind the Walmart, and survivors are still being pulled from the wreckage of the building. Most roads in Harrisburg have been closed. People are going door to door to check. The reports are positive in terms of the accountability.

The Harrisburg Hospital has received damage itself. Yet the personnel have done a heroic job in setting up triage stations throughout the hospital after this devastation. Hospital officials are asking that all nonemergency cases that are unrelated to the severe weather go to other hospitals. The hospitals are only taking in those who are injured and asking family members to wait outside because of the limited facilities available. Patients in the hospital's B wing, which suffered heavy damage, are being evacuated to Evansville, Indiana's Deaconess Hospital, which has called in all available staff.

The First Baptist Church in Harrisburg is being used as a shelter, and I am sure everyone in that community—a wonderful community in southern Illinois—is pitching in to give a helping hand. Harrisburg schools, obviously, are canceled for the week. Ridgway is nearby, and no one is being allowed to visit the town at this point. Between 50 and 60 homes in Gallatin County have been destroyed.

I have an early photograph of some of the scenes there that show the damage to this historic church. Historic St. Joseph Church, and at least one business, the Gallatin County Tin Shoppe, have been leveled by this tornado.

This last photograph is of the same church before the storm, which is an indication of what happened. This is an historic church which many of us are well aware of. It has served the Catholics in this community for many years.

Between 9,000 and 13,000 people are without electricity because of the

storm damage. The Illinois Emergency Management Agency is hard at work clearing debris and roads. Governor Pat Quinn has activated a state emergency operations center to help with the damage, and he and Jonathan Monken of the Illinois Emergency Management Agency are on their way to the scene this afternoon.

My heart goes out to all of the people in Harrisburg who have lost loved ones. We are keeping in close contact with the people on the ground, working together with my colleague Senator MARK KIRK's office here in Washington. They share our concern for the devastation, damage, suffering, and death associated with this, and both Senator KIRK and I have extended to the State of Illinois our willingness to help in any way possible.

My thoughts are with the residents of these hard-hit towns, with the first responders, and the Red Cross volunteers who are always on the scene and who are working to assess the damage and help those who have been injured. Jonathan Monken had a conference call with many members of the Illinois congressional delegation a short time ago. He assures us that all requests for State and FEMA assistance are being met at this moment. We will continue to make the promise that that will be true in the future as well.

My staff and I are in contact with local officials, including Harrisburg Mayor Eric Gregg; the mayor of Ridgway, Becky Mitchell; State Senator Gary Forby; and State Representative Brandon Phelps. I, along with Senator MARK KIRK, am committed to help do everything possible to help communities respond to and help with this disaster.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. CARDIN). The Senator from Missouri.

Mr. BLUNT. Mr. President, my colleague, the Senator from Illinois, and I live in a part of the country where these terrible weather events—tornadoes and other things—are not unusual for us. But as Senator DURBIN has pointed out, we did have them last night in a number of places in southern Missouri, including Branson, the tourism strip, at one theater and one tourism location after another, as well as in Branson, Lebanon, Dallas County, and other places in southern Missouri. We had way too much experience with this last year.

As my friend has pointed out, the Federal Emergency Management people are quickly there. We had a year of experience with this, particularly after the Joplin tornado. They were terrific. We want to remember too the first responders are always our neighbors, and neighbors are coming forward to help families whose houses were lost and possessions were scattered, and even in this particular case where there are occasions where people are injured and lives have been lost as well.

Senator McCASKILL and I join with Senator KIRK and Senator DURBIN in their efforts in this regard.

AMENDMENT NO. 1520

Mr. President, I ask unanimous consent to engage in a colloquy with my Republican colleagues for 60 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BLUNT. Mr. President, I wish to talk about an amendment that has had lots of attention. It is an amendment that I offered on the floor a couple of weeks ago. We weren't able—the leader didn't want to get to it at the time, but the majority leader brought it up for me yesterday, and I am glad he did. I am glad we are able to talk about it.

This is an amendment that would allow religious belief or moral conviction to be an important factor in whether people comply with new health care mandates. We have long had this exemption for hiring mandates. In fact, when I served in the House of Representatives, I had been the president of a Southern Baptist university and I understood the importance of these institutions, I thought, in maintaining their faith distinctions as part of why they provide education and health care and daycare and other things. So I have long been an advocate of the principle that the Supreme Court upheld a few weeks ago 9 to 0 that there is a difference in these faith-based institutions. Now that we have health care mandates being complied with by these institutions, all this amendment does is extend the same privilege to them and others who have a religious belief or a moral conviction so that they would be able to defend their moral conviction.

We don't do anything about the mandate itself. It is important to understand that the administration—this one or any other—if the Affordable Health Care Act is still in force, can issue all the mandates that the act would allow. In fact, if a person doesn't comply with those mandates, they would have the penalties that the act would allow. But the difference is if the government wouldn't recognize a person's religious belief or moral conviction, as I think they would likely do. For example, the archdiocese in Washington, DC, is saying this is something we have long held as a tenet of our faith that we don't believe should happen, we shouldn't be a part of, and we don't want it to be a part of the insurance policies of our schools, our hospitals. My guess is if we pass this amendment, without any question, the Justice Department would say, Well, you are certainly going to be able to defend that because that has been your belief for centuries, the belief of your faith.

This amendment doesn't mention any procedure of any kind. In fact, this morning we had a reporter call the office who said we can't find the word

"contraception" in this amendment anywhere. How is this a vote on contraception? Of course we were able to say, as we have said for 4 days, the word "contraception" is not in there because this is not about a specific procedure, it is about a faith principle that the first amendment guarantees.

This exact language of religious belief or moral conviction was first used in 1973 in the Public Health Services Act. It was brought to the Senate floor by Senator Church from Idaho, who I believe was considered one of the liberals of the Senate at the time, protecting health care providers from having to be involved in procedures they didn't agree with. It is part of the Legal Services Corporation limitation in 1974, the foreign aid funding limitation in 1986, the refusal to participate in executions or prosecutions of capital crimes in 1994, the vaccination bill wherein a person comes to this country as a nonresident and they don't want to have vaccinations that are otherwise required, they don't have to have them if they have a religious belief or moral conviction against them.

The list goes on and on: The Medicare and Medicaid Counseling Act, the Federal Employees Health Benefits Plan of 1998, the contraception coverage for federal employees in 1999, the DC contraception mandate in 2000, the United States Leadership Against AIDS Act in 2003.

Then this exact same language even more specifically has been in bills that weren't passed. In 1994, Senator Moynihan from New York brought a bill to the floor that Mrs. Clinton—later Senator Clinton, now Secretary Clinton—was very involved in, this 1994 health discussion. That bill said: Nothing in this title shall be construed to prevent any employer from contributing to the purchase of a standard benefits package which excludes coverage for abortion or other services if the employer objects to such services on the basis of religious belief or moral conviction.

This is Senator Moynihan less than 20 years ago in what was considered a liberal piece of legislation, putting what the country had thought since the beginning of government-paid health care was a natural part of every health care bill. In fact, the bill we are talking about that this amendment would impact is the first time the Federal Government has passed a health care bill that didn't include this language—the first time it didn't include this language. If one is not offended by the current mandate that some religions are, I think it is important to think of what one would be offended by. What in one's faith would be an offensive thing to be told one had to be a part of, and then imagine the government saying, no, a person has to be a part of that? Even if a person doesn't do it themselves, they have to pay for it, or they have to be sure that a per-

son's employees, their associates, are a part of this thing that is offensive to that person because of religious belief or moral conviction.

Before I yield to my good friend Senator JOHANNES, who understands this issue so well, let me also say that, as I said, we didn't eliminate a mandate, so we can still have a mandate. The Federal Government can still come in and say: You are not offering these services so you have to pay a penalty, and then you have to go to court and prove that you have a long-held belief that this is wrong. The Court, in 1965, when this particular phrase became the boilerplate language for the law, said, You can't become a conscientious objector the day you get your draft notice, in essence; you have to have these two principles. You have to have a religious belief, a strong moral conviction, and you have to be able to go to court and prove that.

All of the fiction writers out there, in fundraising letters and otherwise, saying things such as women who have contraceptive services today wouldn't have them, of course that is not true. Of course that is not true. The women who have those services today either have them because they have found a way to pay for them themselves or they have an employer who is providing that as part of health care. That employer is not going to be able to turn around and say, I am not for that anymore because I object for some religious reason that I didn't have all the time I was providing it.

This is an important issue. It is a first amendment issue. It is an issue that group after group after group thinks violates the Religious Freedom Act—RFRA. There are six lawsuits already. I suspect they have a good chance of prevailing because it does exactly what the religious freedom law says you can't do and it needlessly forces people to participate in activities that are against their moral principles, their religious principles.

The circumstance in the country is we have 220 years of history on this. We have almost 50 years of history of government-paid health care for one group or another that always included an exemption such as this exemption. To not do this assumes that the government can make people do things that Thomas Jefferson and George Washington and others specifically said were among the rights we should defend the most vigorously; that we should hold the most dear; that we should not let a government interfere in these basic rights of conscience, a phrase of Thomas Jefferson when he wrote the New London Methodist in 1809. These rights of conscience are an area that we should not let the government get between the American people and their religious beliefs. Our laws since then, whether it is for hiring or in the case of any health care discussion, have always anticipated the protection of this

first amendment right—not a specific thing but, again, if you are not offended by the things that some people are concerned about today, it is important to think about what you would be offended by, what your religious belief leads you to believe would be wrong and how you would feel if the government says now you have to be a part of that activity.

I wish to turn to my good friend from Nebraska who has been a real advocate in understanding the importance of the first amendment and the role it plays in our society.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. JOHANNES. Mr. President, let me start this afternoon by thanking my colleague from Missouri for taking on this issue and putting this legislation together. Let me also thank my colleague for telling the real story of this legislation. It is critically important we understand the history that brings us here this afternoon and, ultimately, to a vote on this legislation I am proud to cosponsor.

My colleague just so ably pointed out that what has changed is, the Obama administration, working with our colleagues on the other side of the aisle, took this important language out of this health care legislation. For decades—for decades—this important protection was in legislation, and it was supported by Democrats, Republicans, Independents, liberals, conservatives. That was the history of our country until all of a sudden this change came about where that conscience protection was taken out of the health care legislation that was passed a couple years ago.

But let's look back even further in our history. The first freedom in our Bill of Rights is the liberty to exercise any religion we might choose, or for that matter not participate in any religion whatsoever. That is what this United States of America is based upon, this concept that we have the freedom to choose what faith we will belong to, what teachings we will follow, and, as I said, we have the choice to not participate at all, if we choose, in this country.

Yet the President and my colleagues from across the aisle want to force—want to force—religious institutions, for the first time in the history of our country, to violate their strong moral convictions. And they go even further. They want to somehow shroud this and veil it as a woman's health issue.

Let me set the record straight. This debate is not about that, as some would have us believe. It certainly is not about contraceptives. What this debate is about is fundamental to our freedom as citizens of this great country. It is religious liberty we are talking about.

It is an American issue that dates back to our very Founders who looked

at the war they had just fought and said to themselves: We are never going to allow our country to force us to attend a certain church or to participate in a certain faith—not at all. And it was written in one of our most sacred documents, the Bill of Rights. Yet the President of the United States is trampling on this religious freedom and attempting to convince Americans that it is something else.

His power grab is forcing religious institutions to go against their deeply held beliefs. If they stay true to their beliefs, the Congressional Research Service reports these religious insurers and employers may face Federal fines of \$100 per day per plan.

So let me give an example of how that will work in my State. For a self-insured institution such as Creighton University in Nebraska, a Jesuit institution—I happen to have graduated from there—they have about 6,000 health care plans. So the cost to Creighton University in Omaha, NE, to exercise their religious liberty will be an annual pricetag of \$24 million. That is the price of exercising their religious liberty in the President's world. Unbelievable.

Well, I went on the Internet. I ask unanimous consent to have printed in the RECORD an open letter to the President that is being signed by women all over this country.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OPEN LETTER TO PRESIDENT OBAMA, SECRETARY SEBELIUS AND MEMBERS OF CONGRESS

DON'T CLAIM TO SPEAK FOR ALL WOMEN

We are women who support the competing voice offered by Catholic institutions on matters of sex, marriage and family life. Most of us are Catholic, but some are not. We are Democrats, Republicans and Independents. Many, at some point in our careers, have worked for a Catholic institution. We are proud to have been part of the religious mission of that school, or hospital, or social service organization. We are proud to have been associated not only with the work Catholic institutions perform in the community—particularly for the most vulnerable—but also with the shared sense of purpose found among colleagues who chose their job because, in a religious institution, a job is always also a vocation.

Those currently invoking “women's health” in an attempt to shout down anyone who disagrees with forcing religious institutions or individuals to violate deeply held beliefs are more than a little mistaken, and more than a little dishonest. Even setting aside their simplistic equation of “costless” birth control with “equality,” note that they have never responded to the large body of scholarly research indicating that many forms of contraception have serious side effects, or that some forms act at some times to destroy embryos, or that government contraceptive programs inevitably change the sex, dating and marriage markets in ways that lead to more empty sex, more non-marital births and more abortions. It is women who suffer disproportionately when these things happen.

No one speaks for all women on these issues. Those who purport to do so are simply attempting to deflect attention from the serious religious liberty issues currently at stake. Each of us, Catholic or not, is proud to stand with the Catholic Church and its rich, life-affirming teachings on sex, marriage and family life. We call on President Obama and our Representatives in Congress to allow religious institutions and individuals to continue to witness to their faiths in all their fullness.

HELEN M. ALVARÉ, JD,  
Associate Professor of Law,  
George Mason University (VA).

KIM DANIELS, JD,  
Former Counsel,  
Thomas More Law Center (MD).

Mr. JOHANNES. Women have signed this, and one of the things they say is, they are proud to work for institutions that contribute to their community.

Let me quote from that letter. They value “the shared sense of purpose found among colleagues who choose their job because, in a religious institution, a job is . . . also a vocation.”

These women are Americans who believe this mandate by the Federal Government, interfering with religious liberty, is wrong.

I will wrap up my piece of this colloquy by again thanking the Senator from Missouri for his leadership in this area. The President has said he offered an accommodation. The accommodation is, woe, lo and behold, this is going to be free.

Now, I would like to know what legal authority he relies upon that the President could ever order anyone to offer a service or an item for free. He has no such authority. This is not the Soviet Union; this is the United States of America. We do not believe that for a moment. Of course we are going to be paying for this through our insurance premiums.

Well, my hope is we will read our Constitution and we will stand as a united front upholding religious freedom, which is being violated by this mandate.

I thank the Chair.

Mr. BLUNT. Mr. President, I thank my friend for those good additions to what we are talking about.

I might say, also, even if there is some accounting issue that makes this appear that maybe someone you are hiring is paying for it instead of you, if this is something you are opposed to for religious grounds, it is not about the cost; it is about the fact that this is something you do not believe you should be part of.

In my particular faith, the contraception part of this is not troublesome for me. But it does not mean I should be less troubled that it bothers others or that I should care less about their religious freedom than I do mine or that I should not care about the government using the heavy hand of these fines to force people to do something.

The other point I would like to make, before I go to my friend from Idaho, is,

if the government chooses to fine people, people actually have to go to court and prove they have a deep religious belief. I do not think that would be very hard for Creighton University. The entire history of the university is founded on the principles of faith that would say: This is something we do not want to be part of. If that is the case, maybe that Justice Department would not take them to court or would not make them go to court rather than pay the fine. But they could. We are not saying that anybody can do anything they want to do. We are just creating a way that we can assert your first amendment rights if we choose to do that.

As the Governor of Idaho, Senator RISCH was responsible for lots of people who worked for the State of Idaho. He knows about this both from a faith perspective and an employer's perspective, and I am glad he came down to the floor.

Mr. RISCH. Mr. President, I thank the Senator very much.

Fellow Senators, I am going to speak briefly on this issue, and I thank those who have actually put this on the table for us to talk about.

Every single American should watch the debate on this issue. This debate strikes to the heart of the freedoms we as Americans enjoy. Why do we have these freedoms? We have them because in 1776 the people decided they were sick and tired of the King telling them they had to do this and they had to do that and had totally wiped out a number of freedoms they had—not the least of which was speech and religion.

We will remember, these people operated under a King who was so powerful—the Monarchy was so powerful, it established a religion and said: You must belong to this religion if you are a citizen of this country.

When we fought to be free of that, when we fought to be a free people, the Founding Fathers put together a document that specified very clearly the freedoms we would have.

We have come many years since then, but we will lose these freedoms if we do not guard them when even a little chip comes out of it. That is what they are doing here. Think about this for a minute. We have gotten to the point where this government has gotten so big and so powerful that it has said: Look, we do not care about what you believe in your religion because what we are doing is a good thing and, therefore, you must do what we are telling you because the ends justify the means—the means is to chip away at the religious freedoms we as Americans enjoy.

It is wrong. It is the way we lose our freedoms. If we turn our back and let a government do this to us, this is how we lose our freedoms.

This government is big. It is getting bigger by the day. It is getting more

powerful by the day. When they sat around the table in 1776, they had just fought with a government that had been terribly oppressive. They argued amongst themselves: Well, what are we going to do? We are going to create a government.

They knew from a historical perspective, and they knew from their recent experience, that any government they create needed to be distrusted, needed to be watched, needed to have shackles on it because if they did not, that government would abuse them—just as every government had throughout history.

So that is why they drew the document we live under today, the Constitution we have. They not only gave us one government, they gave us three governments. They gave us a legislative branch, an executive branch, and a judicial branch—each with the duty to watch the other and beat the other over the head if, indeed, they got out of line. They were so afraid of a government that they did everything they possibly could to see that government did not abuse them.

Well, we learn frequently that their fears were well founded. Today we see, once again, their fears were well founded. What we have is a government that is saying: We do not care what your religious beliefs are; you must do what we are telling you to do because we think it is the right thing to do regardless of your religious beliefs.

It is wrong. It has to be fought. It must be reversed.

I thank the Senator for bringing this issue to the attention of everyone.

I yield the floor.

Mr. BLUNT. Mr. President, I thank the Senator.

There are a number of waivers on this. The administration has given over 1,700 waivers to 4 million people. If you have a plan that is better than the government plan, if you have a plan that might be taxed under the law because it has been negotiated as part of collective bargaining, if you are a fast food institution that has insurance but, apparently, with high deductibles—those were all reasons to create a waiver. You would think that a faith-based belief would also be a reason that a waiver could have been granted.

This amendment just assures that we can have the same kind of opportunity to exercise our religious beliefs going forward as every American has in health care, in labor, in hiring, and other areas up until right now.

I would like to turn to my friend, the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I want to express my gratitude to the Senator from Missouri for his leadership on this issue.

This used to be a topic that was a bipartisan issue dating back to the pas-

sage of the Religious Freedom Restoration Act of 1993.

But just so people can refresh their memories, there have been a number of allusions made to the language of the Constitution. But let me just read the first amendment to the Constitution, part of our Bill of Rights, the fundamental law of the land that cannot be abridged or changed by a mere act of Congress, which is what we are concerned about; that the President's health care bill, the Affordable Care Act, so-called, purports to change the Constitution, which it cannot do. When there is a conflict between the Constitution and a law passed by Congress, that law falls as unconstitutional.

But the first amendment to the Constitution says:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof . . .

Let me repeat that:

Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof . . .

That is what we are talking about is the free exercise of religion. I agree with Senator RISCH that one of the biggest problems with this legislation, the President's health care bill, the so-called affordable care act, which we have come to learn is not so affordable, is that it forces each individual in this country to buy a government-approved product according to the dictates of Congress. That is one of the issues the Supreme Court will be ruling on, whether that is even within the scope of congressional power under the commerce clause.

But Senator RISCH makes a very good point; that is, the basic problem with this legislation generally is it is too big, it is too expensive, and it is too intrusive on the individual choices and freedoms of American citizens.

As I said, it used to be that religious freedom was a bipartisan issue. That is why I am so concerned this has turned into a purely partisan issue. It is very obvious to me that some of our colleagues on the floor believe they can make political hay by scaring people, by misleading people; that this is somehow about denying women access to contraception when that is not the issue.

This is about protecting our sacred constitutional freedoms. When I said religious freedom used to be a bipartisan issue, I was referring to the Religious Freedom Restoration Act of 1993. I think it is interesting to see who the sponsors were and people who were some of the principal proponents of the bill. That demonstrates it was bipartisan.

The lead sponsor in the House was Senator CHUCK SCHUMER, now a Member of the Senate. Cosponsors included then-Representative MARIA CANTWELL, now in the Senate; then-Representative BEN CARDIN, who is presiding today; and former Speaker NANCY PELOSI.

In the Senate it had 60 cosponsors. Ted Kennedy was the lead sponsor. We have heard Senator BROWN from Massachusetts saying the position he is taking on this issue of religious freedom is exactly the same position Senator Kennedy took during his lifetime. But 60 other Members of the Senate cosponsored this, including Senator BOXER, Senator FEINSTEIN, Senator KERRY, Senator LAUTENBERG, Senator LEAHY, Senator LEVIN, Senator MURRAY, and Senator REID, the majority leader of the Senate today.

It was signed into law by then-President Clinton, demonstrating that religious freedom was not a partisan issue, it was a bipartisan concern of Congress and the reason why this bipartisan legislation passed to protect religious freedom.

So similar to members of the Catholic Church who are concerned about being forced to provide coverage for surgical sterilization or drugs that induce abortions or other forms of contraception, members of the Muslim faith, if they are a woman, need not be concerned about restrictions on their ability or desire to wear a head scarf in public or in government buildings or dietary rules practiced by observant Jews or that Christians would not be somehow interfered with when it came to wearing religious symbols such as crosses or rosaries. This is not about those rules or those items of clothing or religious symbols, this is about religious freedom, over which Congress shall pass no law, under the words of our Constitution.

I am somewhat disappointed we now find ourselves—that the lines seem to have been drawn so sharply in a partisan way on an issue that used to enjoy such broad bipartisan support. It is my hope our colleagues will reconsider because it is not good for the country, it is not good for our Constitution, it is not good for the preservation of our liberties, for the very fundamental law of our land, the Bill of Rights, to become a partisan issue.

But if there is a fight, if there is a disagreement, I believe it is our responsibility to speak in defense of religious freedom and to remind our colleagues that Congress shall pass no law restricting religious freedom. That is what we are talking about.

I thank my colleague from Missouri for being the leader on this important amendment. I am pleased to have had the opportunity to voice the reasons for my support, and I hope our colleagues who are opposed to the amendment or have already publicly stated their opposition will reconsider.

Mr. BLUNT. I do too. I hope we find out now that while we do not have as much bipartisan support as we would like to have, we will have some. Senator BEN NELSON from Nebraska, along with Senator AYOTTE from New Hampshire and Senator RUBIO from Florida

and I introduced this bill in August of last year. This is not just something we came up with recently.

Members who were in the Senate when the health care act, the affordable health care act passed, said they believed if it had passed in a more normal way, this would have been in the final bill, that would have been an understanding, as it was in the Patients' Bill of Rights draft and legislation that was introduced in 1994 or the health care bill in 1999. This same language was an accepted and bipartisan part of who we are as a country enforcing the first amendment.

In fact, in the Religious Freedom Restoration Act, it says: "Government shall not substantially burden a person's exercise of religion even if the burden results from a rule of general applicability." Even a rule that would generally apply, the government should not burden a person's exercise of religion unless it demonstrates a burden that it is in the furtherance of a compelling government interest.

I cannot imagine—nobody has had to do this ever before. Why would suddenly defining insurance policies beyond the faith beliefs of individuals and groups that were long held, why is that a sudden compelling government interest or it is the least restrictive means of furthering that government interest? Surely not.

Again, I am going to repeat for what may be the third or fourth time: We do not do anything in this amendment that would end the mandate. That is for another debate at another time. The government can still have a mandate. The government can still say: Here is what we are telling you a health care plan has to look like. But this allows people who have a faith-based first amendment right to object to that to have a way to do it.

One of the original cosponsors of the bill; that is, the amendment we are debating today, has joined us and that is Senator AYOTTE from New Hampshire. She is an advocate of the first amendment, as a former attorney general. I am glad she is here.

Ms. AYOTTE. I thank the Senator. I appreciate the opportunity to be here to rise in support of the pending amendment that is based upon, as Senator BLUNT mentioned, a piece of legislation that was introduced on a bipartisan basis earlier in the year called the Respect for Rights of Conscience Act, which I was proud to cosponsor.

During the past few weeks, we have heard certainly impassioned arguments from both sides of the aisle about this issue. Certainly, it has been a robust and important exchange of views, which I have appreciated. However, I think it is regrettable that similar to so much else that happens around here, this issue has been used as an election-year tactic to score political points, and in some cases there have been the

facts of what this amendment and our bill hope to accomplish have been supplanted by mischaracterizations and distortions.

That is unfortunate because what we are here to talk about is incredibly important. This is a fundamental matter of religious freedom and the proper role of our Federal Government. It is about who we are as Americans and renewing our commitment to the principles upon which this Nation was founded.

This debate comes down to the legacy left behind by our Founding Fathers and over 200 years of American history. We have a choice between being responsible stewards of their legacy, as reflected in the first amendment to the Constitution, or allowing the Federal Government to interfere in religious life in an unprecedented way. The first amendment to the Constitution starts with: "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof."

Just last month, we saw our Supreme Court unanimously uphold, under the establishment and free exercise clauses of our Constitution, a ruling in the *Hosanna-Tabor* case that the Federal Government may not infringe on the rights of religious institutions in their hiring practices. To do so, they ruled on a unanimous basis, would interfere with the internal governance of the church.

Protecting religious freedom and conscience rights has in the past been, as was mentioned here, a bipartisan issue. No less than Ted Kennedy himself, a liberal icon of the Senate, wrote in 2009 to the Pope: "I believe in a conscience protection for Catholics in the health care field and will continue to advocate for it."

Senator Kennedy had previously pushed for the inclusion of conscience protections in legislation he proposed in 1997 as well as in his Affordable Health Care for all Americans Act proposed in 1995. These are the same protections our amendment seeks to restore.

In 1994, provisions aimed at protecting conscience rights were included in the recommendations made by the Task Force on National Health Care Reform, led by then-First Lady Hillary Clinton. In 1993, when President Bill Clinton signed the bipartisan Religious Freedom Restoration Act into law, he said: "The government should be held to a very high level of proof before it interferes with someone's free exercise of religion."

Protecting religious freedoms was once an issue that bound Americans together. It certainly is a very important issue as we take the oath of office here to uphold the Constitution of the United States. I believe this effort which is so fundamental to our national character must bring us together once more on a bipartisan basis.



I would like to make one very important point about this amendment. Unfortunately, many have tried to characterize this amendment as denying women access to contraception. That is a red herring, and it is false. We are talking about government mandates that are interfering with conscience protections that have long been engrained in our law.

To be clear, women had access to these services before the President passed the Affordable Care Act, and after this amendment would be passed, they would still have access to these important services. Contrary to what some of my friends on the other side of the aisle have asserted, this measure simply allows health care providers and companies to have the same conscience rights they had before the President's health care bill took effect.

We are not breaking any new ground. In fact, we are respecting what is contained within our first amendment to the Constitution and what has long been a bipartisan effort to respect the conscience rights of all Americans, whatever their religious views are.

This vote goes to the heart of who we are. If we allow the government to dictate the coverage and plans paid for by religious institutions, that is the first step down a slippery slope. When religious liberty has been threatened in the past, Members of both sides of the aisle of Congress have taken action to preserve our country's cherished freedoms. We must do so again now or risk compromising a foundational American principle.

I hope my colleagues on both sides of the aisle will give this amendment careful consideration and appreciate that it is an amendment that will respect the conscience rights of all religions and will certainly not deny women access to services they need and deserve.

I appreciate the Senator having me here today. I hope my colleagues will support this important amendment.

Mr. BLUNT. I thank the Senator for her leadership and from the beginning of this discussion back in August when Senator AYOTTE, Senator RUBIO, Senator NELSON from Nebraska and I introduced this bill, we have been joined in this amendment by three dozen or more other sponsors, one of whom actually I mentioned a piece of legislation he was involved in the first time he was in the Senate. It protected the religious rights of people who were temporarily in the country, with exactly this same language, who might have some religious belief or moral conviction that meant they didn't want to get the vaccines we would require a visitor to have. In 1996 Senator COATS put this in a law that virtually every Member of the Senate serving today, in both parties, voted for, as they have time after time when this issue was brought up. This language

was understood to be an important defense of the first amendment in a health care piece of legislation.

I am glad Senator COATS has joined us today. Whenever I researched this, I saw that he had used this very language 15 years ago in a piece of legislation. I know the Senator is an important advocate of religious freedom.

Mr. COATS. Mr. President, I thank the Senator from Missouri. I thank him also for his willingness to engage with this amendment, to put it in play here for us to debate and discuss. It is a very fundamental principle of our Constitution that is at stake, and it deserves debate, and it deserves this body putting their yea or nay on the line relative to how we are going to go forward. I commend him for his leadership, and I am pleased to join him, as well as many others, in this colloquy.

This is an issue that is as old as this Nation. We are all blessed to live in this Nation and are blessed by the wisdom of our Founding Fathers, guaranteeing our rights. The very first right they guaranteed in the Constitution was the right to religious freedom. Many of the earliest settlers came here because of that right and their desire to come to a country where their religious beliefs, tenets, and principles would be respected and honored, where they would not be dictated to by a government like they lived under before they came here, but it would be protected and preserved as a basic fundamental right. It was a transformational idea at the time. Yet, now for well more than 220 years or so, it has been maintained throughout the history of this country. It stands as a bulwark against government interference with personal beliefs and government trying to dictate how we exercise the religious freedoms we are all so privileged to have.

It has been said—and I want to repeat it—that the debate today is not about access to contraception. This is not about whether it is appropriate to use contraception. It is not about a woman's right to contraception. As a pro-life Christian and a Protestant, I am not against contraception, but I also believe it is a decision individuals must make in accordance with their own faith and beliefs, not a decision to be made by the Federal Government.

What this is about is whether Congress is going to sit by and idly allow this administration to trample our freedom of religion—that core American principle—or whether we will stand and protect what our Founding Fathers put their lives on the line for and what millions of Americans today will defend. We cannot pick and choose when to adhere to the Constitution and when to cast it aside in order to achieve political prerogatives. We must consistently stand for our timeless constitutional principles. The debate that is taking place is a stand to pro-

tect an inalienable right, the right of conscience established in our Nation's founding days and sustained for over 200 years.

I regret that this issue has been reframed for political purposes into a woman's right to choose, to deny women the opportunity to exercise their right to make a choice. That is not what this is about at all. Yet some have said it has been so successfully reframed that, politically, those who defend this as a matter of religious conscience and freedom are on the losing side of the political argument. Well, we may be or we may not be. I think it is up to this body to decide that with a thorough debate and vote that puts our yeas and nays on the line.

Nevertheless, whether it is a winner or a loser politically, it is irrelevant to the argument. It should be irrelevant to the debate because this clearly is a fundamental principle of religious freedom that needs to be protected regardless of the political consequences. So those of us standing up to debate this are setting aside any kind of political risks, any advice that basically says: You don't want to touch this because it has been reframed in a way that the American people don't understand it. We are here to say that we stand to protect the liberties that are granted to us by our Constitution and, regardless of political consequences, we will continue to do that.

Mr. President, I again thank Senator BLUNT and all those who are willing to address this issue and trust that our colleagues will see this as a fundamental breach of a constitutional provision provided to us by the people who sacrificed their lives to do so.

I yield the floor.

Mr. BLUNT. I thank the Senator.

Mr. President, I want to go next to my neighbor in the Congress, and now my neighbor in the Senate, and my neighbor in real life from northwest Arkansas. I am from southwest Missouri. I am glad Senator BOOZMAN came down to discuss this issue.

Mr. BOOZMAN. Mr. President, I thank the Senator from Missouri, and I appreciate his hard work and his leadership in bringing this amendment forward.

President Obama's accommodation of religious liberty in his revised health care mandate covering contraceptives, sterilizations, and medicines causing abortion raises more questions than it answers. Perhaps the most troublesome part is that even with this revision, the President's mandate refuses to acknowledge that the Constitution guarantees conscience protections. He instead tries to run around them. You don't "accommodate" religious liberties, you respect them. That is why they are enshrined in the Constitution.

Those constitutional protections should prevent the President from trampling the conscience rights of

Americans and religious institutions that hold a strong belief that contraceptives, sterilizations, and drugs causing abortion are wrong. Clearly, however, these constitutional protections are not enough. President Obama's "accommodation" shows that he considers conscience rights to be an inconvenience in his effort to remake America in his vision. That is why we need the Respect for Rights of Conscience Act. The Respect for Rights of Conscience Act—introduced by my colleague from Missouri, Senator ROY BLUNT—seeks to restore conscience protections that existed before President Obama's health care law. These are the same protections—and I think this is important—that have existed for more than 220 years, since the first amendment was ratified.

The amendment of the Senator from Missouri has been offered to the surface transportation act, and we expect to vote on it as early as tomorrow. The amendment's goal is commendable, and I look forward to supporting it. It is simply asking the President to respect the religious liberties of Americans.

Many longstanding Federal health care conscience laws protect conscientious objections to certain types of medical services. The President could have just as easily followed that course when he issued a mandate requiring almost all private health insurance policies—including those issued by religious institutions, such as hospitals, schools, and nonprofits—to cover sterilizations and contraceptives, including emergency contraceptives at no cost to policyholders, but he did not.

Now Congress must step up and protect the religious liberties of all Americans. We can do this by passing Senator BLUNT's amendment. I certainly encourage all of my colleagues to take a close look at this—this is so important—and restore the conscience protections we have always stood for as a nation. I commend the Senator from Missouri and look forward to supporting his amendment.

Mr. BLUNT. I thank the Senator.

Mr. President, let me conclude in the next few minutes by first saying that a growing list of groups support this amendment: Home School Legal Defense Association, Family Research Council, Southern Baptist Convention, Americans United for Life, American Center for Law and Justice, Susan B. Anthony List, Becket Fund for Religious Liberty, U.S. Conference of Catholic Bishops, Focus on the Family, Christian Medical Association, National Right to Life, National Association of Evangelicals, Orthodox Union of Jewish Congregations, Concerned Women for America, Eagle Forum, Religious Freedom Coalition, CatholicVote.org, American Family Association, Catholic Advocate, Traditional Values Coalition, Christus Medicus Foundation, Alliance Defense

Fund, Christian Coalition, Advanced USA, American Association of Christian Schools, American Principles Project, Wallbuilders, Let Freedom Ring Liberty Consulting, Liberty Counsel Action, Free Congress Foundation, Council for Christian Colleges and Universities, Students for Life of America, Heritage Action, and there are others that are supporting this amendment.

We can go back to 1965 and a Supreme Court case where the determination of how a conscientious objection would be defined was clearly established in ways that led to this religious belief and moral conviction becoming the standard. It is not just something we came up with for this amendment, it has been the standard since that 1965 case. It said: These are the elements you have to have. You cannot suddenly decide you have a religious conviction. This is a conviction that has to be a provable part of who you are.

The Public Health Service Act in 1973, where Senator Church brought this language into the public health arena, is really the first major legislation after Medicare and the Medicaid discussion. There was also the Legal Services Corporation limitation, the foreign aid funding limitation, and the refusal to participate in executions or in prosecutions of capital crimes limitation. This language was good enough for those things, and almost every Member of the current Senate, if they were there then, voted for these, and since, including the action Senator COATS talked about earlier. The Medicare and Medicaid Counseling and Referral Act, the Federal Employees Health Benefits Plan, contraceptive coverage for Federal employees in 1999, the DC contraceptive mandate in 2000, and the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act in 2003 all included this language. We had to get to the affordable health care act, which passed the Senate, and then suddenly it wasn't possible to go through the final process of legislating here. There was no conference committee, no House bill. My belief is that almost nobody who voted for that act originally thought that would be the final bill.

Frankly, I think that if we had ever had a more normal process, this normal element of protecting the first amendment would have been added, as it was every other time. This is about the first amendment. I understand the fundraising ability to make it about something else. I understand the PR ability to make it about something else. But it is not about anything else.

A minute ago, we had three Protestants on the floor on the contraception issue who probably have no religious problem at all. There may be other elements I have problems with, but it doesn't matter if I have a problem. What matters is that I represent lots of

people who do have a problem with it, and the Constitution is specifically designed to protect those strongly held religious views.

As Senator COATS said, it was the first thing in the first amendment. It was exact in its duplication in 1994 in the great health care effort made then, whether it was the protection of religious freedom or the Patients' Bill of Rights or the effort First Lady Clinton worked hard to do. This wasn't even really a debatable item then because everybody understood this was a necessary part of protecting the first amendment to the Constitution.

Again, I would say if these two or three things that are most objectionable to the Catholic community right now—and many of the people who are opposed to this are opposed to this because they wonder what they could be opposed to that the government would decide they had to participate in, they had to be a provider of, they had to pay the bill for. I would ask my colleagues to think of something in their religious view that they would not want to be forced by the government to be part of, and let's give all Americans that same capacity who have these strongly held religious beliefs.

I would encourage my colleagues to support the first amendment. I am grateful for those groups around the country that have rallied around the first amendment. Freedom of religion defines who we are and has defined who we are since the very beginning of constitutional government, where the first thing added to the Constitution was the Bill of Rights. And the first thing in the Bill of Rights is respect for religion. We need to not give that away just to prove that everybody has to do what the government says because the government knows best rather than our conscience and our personal views.

This is not about whether people provide health care or not, it is about whether they are required to provide elements of health care they believe are fundamentally wrong, and how the government can force people to do things they believe and have a provable religious conviction are fundamentally wrong.

Mr. President, I think we have used the hour we had, but this debate will go on. There will be a vote tomorrow, but this debate will go on until this important freedom is soundly protected in health care, in hiring, in all of the elements that create that faith distinctive in our individuals and institutions that make us uniquely who we are.

I yield the floor.

The PRESIDING OFFICER (Mr. MERKLEY). The Senator from Maryland.

Mr. CARDIN. Mr. President, I had the opportunity to listen to my colleague from Missouri as he talked about his amendment. I know he is very sincere in his efforts to protect the first

amendment, and if that is what this amendment was about, he would have my support. But let me try to go over the amendment and put in context how it is drafted, because this amendment goes well beyond that.

I would agree with my colleague that the genesis of this amendment was because of contraceptive services and the request from religious institutions not to have to provide coverage for those services. The amendment we have before us, however, would allow an employer—any employer—or any insurance company to deny essential medical services coverage based upon a religious or moral objection. So the concern with this amendment is that it would allow any employer in this country to deny coverage of essential medical services in the plan that employer provides. And that could cover women's health care issues; it could cover contraceptive issues, mammography screenings, prenatal screenings, cervical cancer screenings. An employer could very well say, I am against the moral issue concerning providing that coverage.

I don't believe the historical interpretations my colleague went through apply to those types of circumstances. This amendment would go well beyond one particular service and would cover any medical service. In fact, it says if an employer or insurance plan had any religious or moral objection to a service it can choose to exclude that service from the essential benefit package or the preventive services provisions of the Affordable Care Act. Yes, it would affect women's health care. There is no question about that. It would also affect the health care of men and of children.

The Affordable Care Act guarantees that all plans offered in the individual small group market must cover a minimum set of essential health benefits, including maternity and newborn care; pediatric services, including oral and vision care; rehabilitative services and devices; and mental health and substance use disorder services, including behavioral health treatment.

Under the Blunt amendment, any employer could say, look, I don't want to cover rehabilitative services, for whatever reason—I have a moral objection to it—and they could exclude that service. Preventive care would be at risk, prenatal care would be at risk, life-saving immunization could be at risk, developmental screening, mental health assessments, and hearing and vision tests. Any employer could make it a judgment not to cover any one of those services. Any insurance company could, based upon a "moral objection." That is a very broad standard.

That is why pediatricians and advocates for children across the Nation oppose it. The American Academy of Pediatrics, the American Congress of Obstetricians oppose it, the Association

of Maternal and Child Health Programs, the Children's Dental Health Project, Easter Seals, Genetic Alliance, the March of Dimes, and the National Association of Pediatric Nurse Practitioners oppose it. These are not political groups, these are health care groups. They know this amendment could put at risk what we were attempting to achieve in the Affordable Care Act, and that is to make sure we have coverage for essential health services for all the people in this country.

Well, what if an employer could say, I don't want to cover preventive services based on a moral objection? That could happen. This amendment would allow employers to decline to offer life-saving screenings for prostate cancer screenings by simply citing a moral objection, even though one in six men in the United States will be diagnosed with prostate cancer during their lifetime. Last year, 33,000 Americans died from prostate cancer.

An employer who claims a moral objection to cigarette smoking could, under the Blunt amendment, deny employees coverage for smoking cessation programs or treatment for lung cancer. I have a moral objection to smoking; I am not going to cover in my health care plans treatment for lung cancer. More people die from lung cancer than any other type of cancer. More than 200,000 people are diagnosed with lung cancer each year and more than 150,000 die from it. Last year, 85,000 were men.

An employer who claims a moral objection to alcohol consumption could, under the Blunt amendment, deny coverage for substance abuse or rehabilitation or for medical treatment for liver disease, if it is found to be the result of alcohol abuse.

Nowhere in the Affordable Care Act does it stipulate any American must take advantage of the expanded preventive health services. Here is where we have an agreement. We have an agreement that we are not trying to tell anyone what they have to do. I have been a defender of the first amendment my entire legislative career. If you have a religious objection to this, then don't use the services. Nowhere in the Affordable Care Act does it require a woman to use contraception or a man to have cancer screening or a child to receive well-baby visits. What the Affordable Care Act requires is that every American have access to these services so they can decide for themselves, with the advice of their physician, whether they are appropriate and healthy to utilize. If the Blunt amendment were used by employers to deny access to care, we are denying the people in this country the right to make that choice themselves.

I agree it is not just contraceptive services, it is the choice to be able to have preventive services—to take care of your children, to have the screenings for early detection of cancer or to have

treatment for serious diseases. All that could be put at risk. The Affordable Care Act views health care as a right, not a privilege, and it expands the freedoms available to American workers and their families rather than limits them.

I understand the intentions may be very pure. And if we want to have a resolution saying we support the first amendment, you will have all of us in agreement on that. But when you say you are using that to remove from the Affordable Care Act the essential health coverage for services that I think all of us agree should be available to every person in this country, to make a decision whether he or she wants that health care, then this amendment could be used to deny them that ability to get that health care. Whether it is women's health care issues, which was the genesis of this amendment originally, in the debate we had a couple of weeks ago, or whether it is the care of our children or the care of each American, this amendment puts that at risk by allowing an individual employer or insurance company to make a decision to eliminate essential health service coverage. I don't believe we want to do that, and I urge my colleagues to reject the Blunt amendment.

With that, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MERKLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CARDIN). Without objection, it is so ordered.

Mr. MERKLEY. Mr. President, I rise today to talk about the attack on women's health care that has been taking place over the last few weeks. There has been a heated debate in Washington about access to contraception for all women, regardless of her employer. There is a fundamental question here: Do women get control over their health care or do a small handful of people—the presidents of companies and the presidents of insurance companies—get to choose for a woman whether she has access to birth control?

First, I think it is important to note that 98 percent of all women have relied on contraception at some point in their lives. The nonpartisan scientists and experts at the Institute of Medicine who first recommended covering contraception without a copay did so because there are tremendous health benefits that come from use. But now some in this Chamber are holding up this transportation bill, a bill that would create more than 1 million jobs across the country and 7,000 jobs in Oregon, because, apparently, it is a higher priority to take away women's

health choices, to come between a woman and her doctor.

How is this relevant to a transportation bill? The answer: It is not. But regardless, we are going to vote on an amendment to this bill that would allow those CEOs of companies and insurance companies the right to refuse coverage not just of contraception but of any health care service they consider in violation of their personal convictions. So the personal convictions of one will be imposed on the dozens or hundreds of thousands of employees of that company. That is an incredible philosophy.

I wish one of my Republican colleagues was on the floor to have a little conversation about it, because I would simply ask the question: Please explain why you think that the CEO of a company should get to come between a woman and her doctor and choose what health care she has access to.

We talk a lot about big government. Well, this is big government. This is big government, giving power to an individual who runs a company, making choices for dozens or hundreds or thousands of their employees. Not only are we talking about contraception but any health care service.

A company CEO could deny access to HIV or AIDS treatment, to mammograms, to cancer screenings, to maternity care, to blood transfusions. The list goes on and on.

The Blunt amendment would allow an employer who objected to premarital sex to deny an unmarried pregnant woman maternity care. Is that right, that an employer should make that choice for all the employees who work for him or her? The Blunt amendment would allow an employer to deny children of employees access to vaccines because the CEO has a conviction that the vaccine poses a risk. Is that right, that the leader of a company should make that decision for Americans, coming between them and their doctors? The Blunt amendment would deny all health coverage if a CEO believes that physical health problems are simply God's will. That is the imposition of one's religion on those who work for you, making it their religious requirement. That is not the way the Constitution is designed. The Constitution is designed to allow us to all follow our own course, not to impose our course on everyone else through an employment relationship.

The Blunt amendment would allow a CEO to say we are not going to cover end-of-life care because, in that conviction of that CEO—whether it be a man or a woman, the CEO believes that such end-of-life care is interfering with God's will. The Blunt amendment would allow an employer to deny access of folks who suffer from obesity to health care-related obesity programs because they believe that obesity comes from a moral failing.

I think we can all understand with these examples that this is simply wrong—simply wrong—that a CEO should be able to take their personal convictions and impose them on their employees.

This amendment is just the latest in a litany of extraordinary and extreme efforts by my Republican colleagues to curtail women's access to health care services. In the last year alone, Republicans nearly shut down the government over Planned Parenthood, tried to eliminate title X funding for low-income women's health, and tried to take away preventive services such as cancer screenings for women because of ideological objections.

What this amendment is all about is that a few powerful CEOs dictate health coverage for the rest of America. If this, giving the powerful few the ability to dictate coverage for everyone else, isn't an overreach by an overly intrusive government, I don't know what is.

Some have said that blocking women's coverage of contraception through their insurance doesn't affect access. They say that contraception doesn't cost that much; that, in the words of one Republican House Member, there is not one person who has not ever been able to afford contraception because of the price. Well, tell that to our young women between age 18 and age 34 who actually know what contraception costs. More than half of women struggle to afford it at some point. Tell that to a young couple struggling to figure out how they can afford to buy their birth control and put food on the table for their children. Tell that to a college student deciding whether to buy textbooks or fill her prescription. The truth is, contraception is hugely expensive without insurance. Based on information compiled by the Center for American Progress, the cost to an average woman using birth control pills continuously between age 18 and menopause would be more than \$66,000 over the course of her lifetime if she had to pay out of pocket.

I think this point bears reinforcement, because I would never have imagined that that is the price of birth control. I think the House Member I was quoting probably had no idea of what contraception costs, \$66,000 for a woman between the age of 18 and menopause. Where I come from, that is a lot of money. A lot of money. That is 5.5 years of groceries for a family of four. That is putting two kids through the University of Oregon with 4-year degrees, not including the cost of room and board. That is a downpayment on a nice family home. In fact, where I come from, that is a third of the price of a nice family home. I think a lot of families would wish they had extra cash in their pockets right now. And I certainly have heard from many women in Oregon who are extremely

concerned about the impact this amendment would have on their pocketbooks and on their health.

Therese from Washington County writes to me:

As one of your constituents, and a practicing Catholic woman on birth control, I am urging you to please back up the President on this most recent decision requiring contraception coverage for all of their employees . . .

There are many, many reasons women use the pill in addition to preventing pregnancy. I have issues with pre-menopause. There are lots of women I know who have heavy periods, horrible acne, endometriosis, debilitating cramps . . . the list goes on. And to not treat these ailments because the treatment also prevents pregnancy is to allow women to suffer.

Bridget from Multnomah County writes:

This amendment does not protect religious freedom. Rather, it empowers insurance companies and businesses to impose their religious views on their employees and the insured. It is an example of government intrusion into the personal lives of millions of women who would prefer to privately make their own choice about family planning, without politicians interfering.

It is incredibly, vitally important to me that you do not support this amendment. I happily attended a Catholic college and cannot imagine what I would have done had I found out that my health insurance did not cover birth control. . . . This would be a disastrous decision.

It is not Congress's job, it is not an employer's job, to impose our beliefs on others. Let's let women and families make their own health care decisions without the heavy hand of government intrusion being provided from my colleagues across the aisle. Let's not put government between women and their doctors or between men and their doctors or between families and their doctors.

I am committed to fighting for women's health and will do whatever I can to defeat this amendment—this amendment, which is so wrong on health care and so wrong on imposing religious views of one or personal convictions of one on the many.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mrs. SHAHEEN. Mr. President, I am pleased to join Senator MERKLEY, the Presiding Officer, and the others of my colleagues who will come to the floor this afternoon to speak out against the Blunt amendment.

Over the past year, we have come to the floor many times to speak out against the attacks on women's health. Since this Congress began, we have seen assaults on Planned Parenthood, on Federal funding for family planning and on contraception. But now we are facing the Blunt amendment which is even more extreme and far reaching than we have seen in all those other attempts to politicize women's health.

This proposal would affect health care not just for women but for all

Americans. It will affect the care of our children, of our husbands, and our wives. In short, the Blunt amendment would let your boss make your health care decisions instead of you and your doctor. The amendment would empower corporations or any other employer to deny virtually any preventive or essential health service to any American based on any religious or moral objection. I would point out that in the bill, religious and moral objections are not defined. So it can be whatever anybody interprets it to mean.

Under the amendment, an employer could claim a moral or religious basis in order to deny things such as coverage for HIV/AIDS screenings or counseling, prenatal care for single mothers, mammograms, vaccinations for children, or even screenings for diabetes if the employer claims a moral objection to a perceived unhealthy lifestyle.

While this amendment could affect men, women, and children, make no mistake; at the most fundamental level, this debate is about a woman's access to contraception. Supporters of the amendment want to turn back the clock on women's health. They want to deny women access to preventive health services.

Birth control is something most women use sometime in their lifetime, and it is something that the medical community believes is essential to the health of a woman and her family. I would point out the decision that the Blunt amendment claims to be addressing is one that was made not for political reasons but for medical reasons by the Institute of Medicine, and it was made because contraception is important to women's health. It prevents unintended pregnancies. The United States has the highest rate of unintended pregnancy in the developed world. Approximately one-half of all pregnancies here in America are unintended. Contraception can help women and families address this.

Access to birth control is directly linked to declines in maternal and infant mortality. In fact, the National Commission to Prevent Infant Mortality has estimated that 10 percent of infant deaths could be prevented if all pregnancies were planned.

For some 1.5 million women, birth control pills are not used for contraception but for medical reasons. As the Presiding Officer pointed out in that poignant letter from your constituents who pointed out all of the reasons that women could take contraceptives, it could reduce the risk of some cancers, and it is linked to overall good health outcomes.

As Governor of New Hampshire, I was proud to sign a law back in 1999 that requires health care plans to cover contraception. At that time, we heard little controversy, little uproar, virtually

no concerns about religious exemptions to the law. The bill in New Hampshire back in 1999 passed the Republican-led State legislature with overwhelming bipartisan support. In fact, in the House, almost as many Republicans voted for the bill as Democrats. I think that was because it was understood by people on both sides of the aisle of all religious faiths that requiring contraceptive coverage was about women's health and it was about basic health care coverage.

For 12 years, that law in New Hampshire has been in place with little opposition because it has worked. And it is particularly unfortunate, as we are having this debate about women's health, thinking about what happened back in New Hampshire, to see this debate become so politicized. It is not right. It is not what is the best interest of women's health, and I urge my colleagues to oppose the Blunt amendment.

The decision about a woman's health care should be between her, her doctor, her family, and her faith. Let's not turn back the clock on women's access to health care.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. MERKLEY). The Senator from California.

Mrs. BOXER. Mr. President, do we have a specific order here for speaking?

The PRESIDING OFFICER. The Democrats currently have 30 minutes of time.

Mrs. BOXER. Mr. President, I am on the floor here today, as I was earlier, to talk about the dangers of this Blunt amendment.

Senator BLUNT says it has nothing to do with providing health care to women; it has nothing to do with that. It is just about freedom of religion, he says. Well, as many people say, when someone comes up to you and says it is not about the money, it is about the money. And when someone says it is not about access to women's health, it is about religious freedom, it is about access to women's health care. Why do I say that? Because that is what this debate is all about. And we see it all over the country with rightwing Republicans trying to take away women's health care. Why are they trying to do this? You would have to ask them. But we are here to say no.

The thing about the Blunt amendment is, it would not only say that any insurer or any employer for any reason could stop women from getting access to contraception; it could also stop all of our families from getting access to essential health care services and preventive health care services.

Why do I say that? Let's take a look at the Blunt amendment. Enough of this chatter. Let's take a look at it. Here is what it says: A health care plan shall not be considered to have failed to provide the essential health care

benefits package described in our law or preventive health care services described in our law if they exercise what they call a moral objection.

So say someone has a moral objection to someone who has smoked, and the person wants to give up smoking and they want to get a smoking cessation program as part of their insurance. If the insurer says, That is your fault, you are not getting it; or someone may have diabetes and the employer or the insurer says, You know what? That was your problem. You ate too much sugar as a kid. Too bad.

That is what the Blunt amendment does and that is a fact. Here it is. I placed it here because this is the amendment. That is what it says.

I wish to show a list of preventive services and essential health care services that the Blunt amendment threatens. Remember, the Blunt amendment says there is a new clause that now says any insurer or any employer can deny any one of these benefits: emergency services, hospitalization, maternity and newborn care, mental health treatment, pediatric services, rehabilitative services—that is just some.

Here is the list of the preventive health care benefits that any insurer or any employer could deny: breast cancer screenings, cervical cancer, hepatitis A and B vaccines, yes—contraception, HIV screening, autism screening, hearing screening for newborns.

This is the list. Why do I show this list? Particularly because I know the Senator served on the HELP Committee and helped put this together. This is the list of services that was put together by the expert physicians in the Institute of Medicine, this list, preventive health care, and this list, essential health benefits.

I was stunned to come on the floor and hear Senator AYOTTE invoke the name of our dear colleague and our dearly missed colleague, Ted Kennedy. She tried to imply that he would support the Blunt amendment.

She is not the first Republican to do it. I am calling on my Republican friends to stop right now because there are several reasons why they are wrong to do that. First of all, Ted Kennedy, in one of his last acts, voted for the health care bill. He voted for the health care bill that came out of the HELP Committee. He helped to write the preventive section. He helped to write the essential health benefits section. He would never ever—as his son has said—support the Blunt amendment that would say to every employer in this country if they don't feel like offering any of these, they don't have to.

He fought hard for these. He wouldn't give an exception to an insurance company or a nonreligious employer, never.

How else do I know that to be the case? I ask unanimous consent to have

printed in the RECORD a list of bills that Senator Kennedy cosponsored.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 766, Equity in Prescription Insurance and Contraceptive Coverage Act of 1997.

S. 1200, Equity in Prescription Insurance and Contraceptive Coverage Act of 1999.

S. 104, Equity in Prescription Insurance and Contraceptive Coverage Act of 2001.

S. 1396, Equity in Prescription Insurance and Contraceptive Coverage Act of 2003.

S. 1214, Equity in Prescription Insurance and Contraceptive Coverage Act of 2005.

S. 21, Prevention First Act (110th Congress).

S. 21, Prevention First Act (111th Congress).

Mrs. BOXER. What are these bills? These are bills that called for equity for women to get contraceptive coverage. If they were given other coverage, they had the right to get contraceptive coverage. Ted Kennedy was a leader. He is a cosponsor on all these bills. Do you know for how many years? Thirteen years. For thirteen years, Ted Kennedy fought for women to get access to contraceptive coverage in their insurance.

I say to my Republican friends, don't come to the floor and invoke the name of our dear colleague. I was so proud that the first thing I did when I came to the Senate, he asked me if I would help him work on a bill to protect people who were going to clinics, women's clinics, who were being harassed at the clinic door. You know what. I worked it for him. I helped him on the floor, and I was so proud we won that. Now there is a safety zone for women when they go to a clinic for their health care, their reproductive health care. That was Ted Kennedy.

Yes, Ted Kennedy supported a conscience clause—we all do, and President Obama has taken care of that. He has stated clearly in his compromise that if you are a religious institution, you do not have to offer birth control coverage. If you are a religiously affiliated institution, you don't have to cover it directly but you do indirectly. That was a Solomon-like decision by our President. But that is not enough for my Republican colleagues. They have to fight about everything.

I ask unanimous consent also to have printed in the RECORD the letter Patrick Kennedy wrote to Senator BROWN.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FEBRUARY 26, 2012.

Hon. SCOTT BROWN,  
Suite 100, 337 Summer Street,  
Boston, Massachusetts.

DEAR SENATOR BROWN: In your current radio ad and in many news reports, I hear you claim my father would have joined you in supporting an extreme proposal now before the U.S. Senate that threatens health care coverage for women and everyone. Your claims are misleading and untrue.

Providing health care to every American was the work of my father's life. The Blunt

Amendment you are supporting is an attack on that cause.

My father believed that health care providers should be allowed a conscience exemption from performing any service that conflicted with their faith. That's what was in his 1995 law and what he referenced to the Pope. That is completely different than the broad language of the Blunt Amendment that will allow any employer, or even an insurance company, to use vague moral objections as an excuse to refuse to provide health care coverage. My father never would have supported this extreme legislation.

You are entitled to your own opinions, of course, but I ask that, moving forward, you do not confuse my father's positions with your own. I appreciate the past respect you have expressed for his legacy, but misstating his positions is no way to honor his life's work.

I respectfully request that you immediately stop broadcast of this radio ad and from citing my father any further.

Sincerely,

PATRICK J. KENNEDY.

Mrs. BOXER. In that letter, he said: "You are entitled to your own opinions but I ask that, moving forward, you do not confuse my father's position with your own."

He said: "I appreciate the past respect you have expressed for his legacy, but misstating his positions is no way to honor his life's work."

I ask my colleagues in this debate, come and state their own views, but don't misstate the views of a dear departed colleague who for 13 years supported a woman's right to have access to contraception.

I think people watching this today have to be a bit confused because when they look up at the screen it says we are on a transportation bill. Indeed we are. Indeed we have been on it for almost 3 weeks now. I say to my colleagues who know the importance of this bill: Please, let us get to it. Let us get to the heart of the matter. We have a huge unemployment rate among construction workers. The unemployed construction workers could fill 15 Super Bowl stadiums. That is how many are unemployed. We need to get to this bill.

It is important to our businesses. It is important to our workers. It is important to our communities. It is important for our safety. It is important to fix the bridges and the highways. It is important to carry out the vision of Republican President Dwight Eisenhower, who said it was key that we be able to move people and goods through our great Nation.

When OLYMPIA SNOWE, our very respected colleague from Maine, told us yesterday she would not seek reelection, she said it was because there is so much polarization here. I said this morning, this bill is exhibit 1. Here we have an underlying bill that came out of four committees in a bipartisan way. It means we can save 1.8 million jobs, create up to 1 million new jobs, and guess what. The first amendment is birth control, women's health, an at-

tack on women's health. We have to come to the floor and stand on our feet and fight back.

You know what. I am proud to do it. I am proud of the men and women who have stood on this floor and have come to press conferences and been on conference calls fighting for women's rights. But this issue was decided a long time ago. We know access to contraception is critical for people. A full 15 percent of women who use it use it to fight debilitating monthly pain or to make sure tumors do not grow any larger or for severe skin conditions, and the rest use it to plan their families.

When families are planned do you know what happens? The babies are healthier. The families are ready. Abortions go down in number. It is a win-win. We all know that and I always thought we could reach across the aisle and work together to make sure there was family planning. But today just proves the opposite, our colleagues on the other side, the Republicans, are bound and determined to go after women's health.

I stand opposing the Blunt amendment, thanking my colleagues for their eloquence, and hoping we can dispose of it, defeat it, and get back to our Transportation bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. MENENDEZ. Mr. President, I rise to oppose the Blunt amendment which simply goes way too far. The President has struck the right balance in his decision to address religious institutions' concerns when it comes to providing women's health services, but this amendment gives all employers shockingly broad discretion to make moral decisions for their employees, fundamental decisions about some of the most personal issues an individual faces—the health care needs of themselves and their families, a woman's decision about contraception and family planning, decisions about whether their child gets a blood transfusion for deadly disease, decisions regarding the use of prescription drugs, decisions on who to treat and how to treat them—based entirely on an employer's moral views, not an individual's moral beliefs.

The bottom line is health services should not be provided at the moral discretion of an employer but on the medical determination of the employee and their doctor. According to the Department of Health and Human Services, 1.7 million New Jerseyans, almost 500,000 children, over 600,000 women and over 600,000 men benefit from the expanded preventive service coverage from their private insurers that we created under the law: screenings for colon cancer, mammograms for women, well child visits, flu shots, a host of other routine procedures. All



these could be taken away under this proposed amendment should their employer determine it is against their personal beliefs or convictions.

Every day, millions of Americans who are worried about a health condition go to see their doctor. Millions of women go for necessary screening and access to legal medical procedures. Their doctor evaluates their condition and recommends a course of treatment and that can range from simple preventive measures, such as exercise and diet, to a prescription drug regimen, to major surgery. The last thing a woman or her doctor should have to concern themselves with is whether their employer will deem their medical treatment to be immoral based on their employer's personal beliefs, regardless of their own beliefs or needs. The last thing they need is to be denied coverage by an employer who would be allowed, under this amendment, to effectively practice a form of morality medicine that has nothing to do with accepted medical science or the affected individual's personal beliefs.

Under the language of this amendment, that is exactly what would happen. It would allow employers simply to deny coverage based on a particular religious doctrine or moral belief, regardless of the science, medical evidence or the legality of the prescribed treatment. Put simply, we expect our health insurers, no matter where we work, no matter what our faith, to cover basic benefits and necessary medical procedures recommended by our doctor and then we as individuals should have the right to decide which of those benefits we use based on our own personal beliefs, our medical diagnosis, and our treatment options. Just because one person makes one decision or holds one belief doesn't mean someone else will do the same. That is what freedom is all about.

The arbitrary denial of coverage based on anything other than good science and rational medical therapy was the driving force behind the need for health care reforms that ensured that if one paid their premiums, they would be covered, freeing families from having to choose between putting food on the table, paying their mortgage or using their savings to pay for medical treatment because an insurer, based on their own rules, refused to cover them.

With this amendment, we are turning back the clock and allowing the arbitrary denial of coverage based on someone else's sense of morality. That is not what America is about. It is not what freedom of religion is about.

In a system predicated on employer-based health insurance coverage, in which workers often forgo other benefits such as wage increases in exchange for coverage, it is vitally important to ensure families can count on their coverage to provide the treatments and benefits they need. We can continue

doing so, as we have for many years, while respecting people's personal moral beliefs.

Supporters of this amendment claim it is about protecting religious freedom. They are wrong. Supporters of this amendment claim that recent regulations guaranteeing a woman's access to preventive health care services is a governmental overreach. They are wrong. What supporters of this amendment are actually trying to accomplish has nothing to do with either of those issues. It has to do with trying to dismantle health care reform to score cheap political points and throw America's mothers, daughters, and sisters under the bus in the process.

This amendment is not about religious freedom. The President rightly addressed that concern with a recent compromise he announced for religious institutions. No, it is about allowing morality-based medicine to deny coverage for neonatal care for unwed women, to deny access to lifesaving vaccines for children, to refuse to cover medications for HIV and other sexually transmitted diseases or even deny coverage for diabetes or hypertension because of an unhealthy lifestyle. The scope of this amendment is unlimited.

If it were truly about religious freedom or about contraceptives, then why have so many nationally respected organizations that have nothing to do with birth control, reproductive issues or religion, such as the Easter Seals, the March of Dimes, the Spina Bifida Association, come out in such strong opposition? The answer is simple, because the amendment isn't about birth control and it isn't about religious freedom. The amendment is about fundamentally undermining our system of patient protections, especially for women, and leads us backward to a time when insurance companies and employers could play life-or-death games with insurance coverage. Supporters of this amendment will stop at nothing to undermine the progress made thanks to health care reform, progress that says insurance companies can no longer deny coverage because of a preexisting condition, can no longer impose arbitrary caps on the coverage you can receive or cancel a policy because of a diagnosis they deem too expensive to cover. In my view, it is shameful that they are using women's health and access to vital preventive services as a scapegoat for a larger anti-health agenda. Any attempt to say otherwise is wrong.

Let me close by saying to allow any employer the ability to deny any service for any reason is doing a disservice to the people we represent. We would be turning the Constitution on its head to favor a morality-based medical decision over good science and over the relationship between a patient and their doctor. This is an incredibly overreaching amendment with radical con-

sequences, and I urge my colleagues to oppose it and preserve the progress we made on trying to level the playing field for workers and patients in this country.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I rise to thank the distinguished Senator from New Jersey for his remarks, and most particularly for the remarks of my friend and colleague from California. She has fought this fight along with the dean of our women, Senator MIKULSKI, year after year and time after time.

Before I speak about the Blunt amendment, I wanted to express that the retirement or announced prospective retirement of Senator OLYMPIA SNOWE is, for me, a heartbreak. I have regarded her as one of the most impressive Senators in our body. She still has many good years ahead of her. I have had the pleasure of working with her on a number of bills. Most importantly, we did really the only fuel economy improvement that had been done in 20 years in the 10-over-10 bill. What is interesting about it is it was a bipartisan bill and it got passed thanks to Senator Ted Stevens who was Vice-Chairman of the Commerce Committee at the time and it was put in his bill. So it was really quite wonderful to see that happen.

This is my 20th year here, along with my friend and colleague Senator BOXER, and over the last 10 years what I have seen is more and more attacks on women and women's health, stemming largely from the abortion debates, but not only that. We have fought—and Senator MIKULSKI has led the way—for equal pay, we have fought against discrimination, attacks on Title X Family Planning grants, attempts to defund Planned Parenthood, and attempts to limit access to preventive health care such as contraception. These attacks to limit a woman's right to make her own reproductive health care choices have now escalated to an unprecedented level. I am not going to go into the specifics of some of them, but trust me, I never thought I would see people in public office put forward some of the bills out there. I believe strongly that all women should have access to comprehensive reproductive care, and should be able to decide for themselves how to use that care regardless of where they work or what insurance they have.

The other side of the aisle has tried to take away access not only to contraception but also primary and preventive screenings for low-income women that are provided by the Title X Family Planning program and by Planned Parenthood. Title X programs serve over 5 million Americans nationwide, Planned Parenthood almost 3 million. They are not minor, they are major,



and for many individuals it is their only source of care. And now here we are defending not just women's rights but the rights of all Americans to have access to essential and preventive health care benefits.

I strongly oppose this latest attack in the form of the Blunt amendment, and I join my colleagues on the floor to speak about the harm that this amendment will do.

I think it was stated by Senator MENENDEZ that the amendment is vague. In its vagueness it becomes a predicate for any provider, employer, or insurer to decline to provide to cover a myriad of health care benefits simply on the basis of religious beliefs or moral conviction. There is no statement in the legislation as to what the religious belief or moral conviction has to be, when it begins, or when it ends. It is an excuse as to why they do not want to do something.

What does this mean? Well, what it means in reality is 20 million women could be denied any preventive health care benefits, including contraception, mammograms, prenatal screenings, and cervical cancer screenings. In addition, 14 million children—and this is right—could be denied, under this Blunt amendment, access to recommended preventive services including routine immunizations, necessary preventive health screenings for infants, and developmental screenings.

In my State alone an estimated 6.2 million individuals—2.3 women, 1.6 million children, and 2 million men—could be denied access to the preventive health services afforded to them by the health reform law, which incidentally is four typewritten pages, single spaced, a list of preventive health services. This debate is not about religious freedom. It is about allowing providers and employers the right to deny access to care for autism screening, STD and cancer screenings, and well-baby exams for any reason. All they have to say is they have a moral concern with it, that their conscience bothers them.

For instance, any employer could refuse to cover screening for type 2 diabetes because of moral objections to a perceived unhealthy lifestyle. A health plan could refuse to cover maternity coverage for an interracial couple because they have a religious or moral objection to such a relationship. The only thing this amendment does is protect the right to deny. It doesn't give anything. It allows denial. It does nothing to protect the rights of employees to access fundamental health care.

The radical wing of the Republican Party does not speak for most of the women in this country. About 100 organizations nationwide oppose this amendment, including the National Partnership for Women and Families, National Physicians Alliance, Human Rights Campaign, and the American Public Health Association.

Earlier we heard from an intensive care nurse who had worked 37 years in intensive care in a Boston hospital who said people get the best care essentially when the politicians stay away, and I believe that. I have heard to date—and I am sure Senator BOXER has heard from a similar number—from 11,500 constituents in my State, Senator BOXER's State, who oppose this amendment and have grave concerns about its implications. I don't need to tell the women in this body that we have had to fight for our rights. No one has given women anything without a fight. We had to fight for our right to inherit property, our right to go to college, our right to vote, and for the last 10 years, the right to control our own reproductive systems. We will continue to fight the Blunt amendment and other attempts to roll back the clock.

I urge my colleagues to think carefully about the long-reaching implications of this amendment and oppose it. Senator BOXER shared with me a letter, and she indicated that she had read one part of it. I wish to read another part of it. This is a letter from Patrick Kennedy to SCOTT BROWN, and I want to read this paragraph because it involves someone everybody on this floor knows sat right over there at that desk for years and was known as the lion of the Senate. When he stood on his feet, everyone listened. Here is what Patrick Kennedy said:

My father believed that health care providers should be allowed a conscience exemption from performing any service that conflicted with their faith. That's what was in his 1995 law and what he referenced to the Pope. That is completely different than the broad language of the Blunt amendment that will allow any employer, or even an insurance company, to use vague moral objections as an excuse to refuse to provide health care coverage. My father never would have supported this extreme legislation.

It is signed Patrick Kennedy, and I believe Senator BOXER put the letter in the RECORD so anyone who wishes to see the whole letter has access to it. But I hope this amendment is defeated on the floor.

I see the distinguished Senator from the neighboring State, Maryland, the dean of the women, is on the floor.

I will yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Thank you very much, Mr. President.

Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The majority has 1½ minutes remaining.

Ms. MIKULSKI. Mr. President, I ask unanimous consent to extend the time on the Democratic side for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. Thank you very much. I want to thank my colleagues who have spoken on this amendment, particularly those who oppose the amendment.

I come to the floor today with sadness in my heart. I come because over the weekend one of our Maryland National Guards was killed in Afghanistan. He was one of two men working in a building in which he was attacked by someone he trusted at the Interior Service, and it appears that he was assassinated. I talked to his widow. We are sad. We are sad that somebody who went to defend freedom was killed in such a terrible way.

I am sad because last night I spoke to a dear friend of mine whose husband is very ill from the ravages of brain cancer, and we remembered so many good times we had together, but those good times don't seem possible in the future. I want so much for her to be with her husband and not think about the consequences of costs and so on.

Last night we learned that our very dear friend and colleague, Senator OLYMPIA SNOWE, is going to retire not because she is tired but because she is sick and tired of the partisanship. Senator SNOWE is not tired. She is sick and tired of the partisanship. And you know what. So am I.

We have a highway bill here. We have an unemployment problem. We could solve America's problems and get it rolling again, and if we pass the highway bill—with the appropriate debate on amendments germane to the bill—we could do it. So I am really sad.

I am sad that I have to come to the floor to debate an amendment that has no relevance to the highway bill. And I am sad because we are so tied up in partisan politics and scoring political points that we don't look at how we can get our troops out of Afghanistan. How can we make sure we have a budget that can fund the cure for cancer and at the same time make sure any family hit by that dreaded C word doesn't go bankrupt during care?

I am devastated that a dear friend and extraordinary public servant is so fed up with how toxic we have become that she chooses not to run for office again. So I want to be serious, and therefore you need to know I am really sad about this, but I also am frustrated about this. So I want to talk about this Blunt amendment because we have heard nothing but mythology, smoke-screens, and politics masquerading as morality all day long.

Let me tell you what the Blunt amendment is not. It is not about religious organizations providing health care and the government saying what the benefits should be. It is not about affiliated religious organizations and the government saying what the service is to be. This amendment is about nonreligious insurance companies and nonreligious employers. It is about secular insurance companies and it is about secular employers. The Blunt amendment allows that any—any—health insurer or employer can deny coverage for any health service they

choose based on something called religious beliefs and moral convictions.

Now, there is a body of knowledge that defines religious beliefs, but what is a moral conviction? That is not doctrine. That is a person's personal opinion. A moral conviction, no matter how heartfelt, no matter how sincere, no matter how fully based upon ethical principles, is still a person's personal opinion. So we are going to allow the personal opinions of insurance companies and the personal opinions of employers to determine what health care a person gets. What happened to doctors? What happened to the definition of essential health care? So this is not about religious freedom; this is not about religious liberty because it is not even about religious institutions. So let's get real clear on this Blunt amendment.

This amendment is politics masquerading as morality. Make no mistake. The politics is rooted in wanting to derail and dismember the Affordable Care Act and our preventive health care amendment.

So what the Blunt amendment does, as I said, is allow any insurer or any employer to deny coverage based on religious beliefs or moral convictions. Well, what that essentially means is this: Let's look at examples. If an employer has a conviction, a personal opinion, against smoking, they can refuse to cover treatment for lung cancer or emphysema. If an employer has a personal opinion that they call a moral conviction that doesn't approve of drinking alcohol, they can refuse to cover any program for alcohol treatment or substance abuse.

Let's say there is an employer who doesn't believe in divorce and they say: I will not cover health care for anybody who is divorced because I have a moral conviction against that. Suppose a person says—there are some schools of thought that say: I have a moral conviction that a woman can only see a woman doctor, and I will not cover anything where she is seen by a male physician. Where are we heading? These are not ridiculous examples. It puts the personal opinion of employers and insurers over the practice of medicine.

This is outrageous. This is vague. It is going to end up with all kinds of lawsuits—let's speak about lawsuits. While some have been pounding their chests talking about religious freedom and the Constitution, what is also in the Blunt amendment is this whole idea that gives employers access to Federal courts if they believe they can't exercise the amendment. This is a new lawyers full employment bill.

I am shocked because the other party is always trashing lawyers. They are always trashing the trial lawyers associations. Now they have created a whole new right—or an opportunity—for Federal court action, clogging the courts on this particular issue.

This is why Americans are so fed up. They want us to focus on health care. They want us to focus on how to lead better lives.

Let me talk about how we got here in the first place. Do my colleagues remember why we had health reform legislation? I remember because it still exists: 42 million Americans are uninsured; 42 million Americans are uninsured for health care.

This is the fifth anniversary of a little boy in Prince George's County who died because he could not have access to dental care. His infection was so bad, so severe, and there was nobody to see him. His mother was too poor to be able to pay for it. That little boy, in the shadow of the Capitol of the United States, died.

Now, that is why we work for the Affordable Care Act. People can call it ObamaCare. I don't care what people call it. I call it an opportunity for the American people to get what a great democratic society should provide.

Then, we not only looked at what was uninsured, we also looked at the issues around women. Senator STABENOW held a hearing, and I held a hearing, and guess what we found. Women pay more for their health insurance than men of equal age and equal health status. Nobody said that is a social justice issue. Well, I have a moral conviction about that. I have a really deeply felt moral conviction that if you are a woman, you shouldn't be discriminated against by your insurance company.

We also found that women were denied health care because of preexisting conditions. We found that in eight States, if a person was a victim of domestic violence, they were doubly abused—not only by their spouse, but they couldn't get insurance coverage because they said the cost of physical and mental health care would be too much. Well, I had a moral conviction. I had a moral conviction that if you are a victim of domestic violence, you shouldn't be denied health care. I had a real strong moral conviction about that.

Then, during my hearing, I heard a bone-chilling story. It wasn't just me; it was all who attended. There was a woman who testified that she had a medically mandated C-section. Then she was told by her insurance company, in writing, that she had to get sterilized in order to receive health insurance. The insurance company was mandating sterilization for her to get coverage. I nearly went off my chair.

At that hearing there was a representative of the insurance company. They had no moral reaction to that. They had no moral reaction to that. I had a reaction. I had a really big one. That is why we got the amendments we did, where you could not deny health care on the basis of preexisting conditions. So I have a lot of moral convictions about this: that in the United

States of America no child should die because of the absence of health care; no woman should be discriminated against in the health care system; and, at the same time, a person needs to be able to have the opportunity to get the services their doctor says they need.

The other thing on our agenda was to not only save lives, but to save money, and we knew that prevention was the way to go. I came to the floor and offered the preventive health amendment. It was a great day. Many women spoke for it. It was primarily oriented toward women, but it was going to cover men as well. It was going to make sure that early detection and early screening would save lives. We spoke about the necessity for mammograms. We spoke about the necessity for screening for diabetes and heart disease and the kinds of things that, if detected early, could save lives. That bipartisan amendment passed.

Then, after it was passed, and after the bill passed, the Secretary of Health and Human Services said: Preventive benefits should be defined not by politicians and not by a bureaucrat at HHS but by the medical community. So she requested the Institute of Medicine to define the preventive health care benefit. The preventive benefits we are talking about that Senator BLUNT says an employer doesn't have to provide came from the Institute of Medicine. It didn't come from the Congress. It didn't come from bureaucracy at HHS. It came from a learned, prestigious society that we turn to—the Institute of Medicine. This is what they said are the essential preventive services that would save lives as well as save money.

So this is where this came from. Now, some are on the floor saying: If you have a moral conviction against what the Institute of Medicine says is an essential benefit, you could go ahead and do it. Again, we are not talking about religious institutions who are employers; we are not talking about religious-affiliated institutions; we are talking about nonreligious institutions.

Ordinarily I would call this amendment folly, but this is a masquerade. I think it is just one more excuse to opt out of the Affordable Care Act. It is one more excuse to opt out of ObamaCare. They want to opt out, but I think it is a cop-out, and we have to stop masquerading that this is about morality or the first amendment or someone's religious beliefs.

So I hope we defeat this Blunt amendment. Most of all, I wish we could get back to talking about the serious issues affecting the American people. I am going to bring those troops home. I sure want to find that cure for cancer and help come up with the resources so we can do it. I am going to be sure that no little boy ever goes through what Deamonte Driver and his family had to suffer.

Let's defeat the Blunt amendment. Let's get back to the highway bill. Let's get America rolling—and how about let's start functioning as an institution that focuses on civility and finding the sensible center that America has been known for in other years when we had the ability to govern.

I yield the floor.

The PRESIDING OFFICER (Ms. KLOBUCHAR). The Senator from California.

Mrs. BOXER. Madam President, before the Senator from Maryland leaves the floor, I think it is an opportunity to thank her so much for speaking the truth today on the floor of the Senate—just the facts—and what the Blunt amendment is about and isn't about. Also, I watched her recite the history of trying to bring preventive care and essential health care benefits to our people, realizing that she was in that pivotal position in the HELP Committee.

I remember her looking at me one day—because we are very close friends; we are not on that particular committee together—and she said to me: Senator Kennedy asked me—I just get the chills when I think of it—to take on this issue of prevention and work with TOM HARKIN and Chris Dodd and step to the plate on these essential benefits and on preventive benefits. She literally raised this issue, particularly on the prevention side—I don't know if the Presiding Officer remembers—in caucuses, on the floor, in the committee, at press conferences, that we could have a new day in health care in this country because although we spend more than any country in the world, we are not getting the same results because we haven't invested in prevention.

As she said, it is not up to politicians to decide what prevention should look like; it is up to the doctors. Under the Senator's leadership and that of Senators HARKIN and Dodd and all the wonderful members of the HELP Committee, as well as the Finance Committee—and, yes, Ted Kennedy in the background because he was quite ill, but he sent his messages, and his staff helped—they came up with a list of essential health care services that nobody could ever quarrel with. They also came up with a list of preventive health care services that were so critical to all of us, particularly to women. The great news: Proving to us that when we invest in prevention, we save so much down the line. We all know this is a fact.

Access to contraception, by the way, was put on the list not by politicians but by the Institute of Medicine because it is known that if the individual chooses that route to plan their families, that means we have fewer abortions and it means we will have healthier families, healthier babies. And many people take the birth control pill as medicine to prevent debili-

tating monthly pain. It is prescribed for skin diseases. It is prescribed to make sure cysts on ovaries do not keep growing and growing and possibly lose an ovary.

But what has happened—and I guess I want to ask my friend one question before she leaves—is that the Blunt amendment would say that anybody, for any reason, any day, could cancel out that whole list of preventive and essential health care services that she fought so hard for.

So when they say this is about religious freedom, no, no, no; that has been taken care of by our President. In terms of any provider that is religious or religiously affiliated, they do not have to provide contraception directly. Even Catholic Charities' response was "We are hopeful that this is a step in the right direction . . .", the Catholic Health Association supports the compromise, and so on. So I want to ask my friend, is she aware that when Congressman ISSA held a hearing on women's health care, there was not one woman on the panel, on that first panel? Did she see those photos of that panel that was called to speak on women's health?

Ms. MIKULSKI. Oh, I sure did, and it was *deja vu* all over again, I say to my colleague from California, because it was like the Anita Hill hearings. The Senator remembers what happened there.

Mrs. BOXER. Yes, I do.

Ms. MIKULSKI. During that time, there was not one woman on the Judiciary Committee.

Mrs. BOXER. Absolutely.

Ms. MIKULSKI. This is not new. The discrimination against women has been around a long time. I consider discrimination against women one of the great social justice issues, whether you are a secular humanist or you have core beliefs in an organized religion.

I found not only the picture appalling, but I want to reiterate what we have been saying here: There is a systematic war against women. We do not get equal pay for equal work. We are often devalued in the workplace. We worry more about parking lot slots for our cars than childcare slots for our children. Then, when it comes to health care, what was so great about the preventive amendment was, first of all, we talked not only about family planning, where women could have the children they knew they could care for, but we talked about prenatal care. We talked about making sure our children had the opportunity for viability and survivability at birth.

So, yes, it was both a picture of us not being included, but it shows we need to be able to fight to be heard. The issue is, women's voices are not being heard, and I am saying today the voices of women are being heard and the voices of good men who support us. I am telling you—not you, Senator

BOXER, but I am saying out loud—if this Blunt amendment passes, I believe the voices of women will be heard. They will be heard on the Internet. They will be heard in streets and communities. Most of all, they will be heard in the voting booth.

Mrs. BOXER. Madam President, I just want to thank my colleague from Maryland for her eloquence and for her fighting spirit. The year I came here was following on the Anita Hill issue, when the world saw and this country saw we had no women on the Judiciary Committee. Now, our Presiding Officer sits on that committee. Senator FEINSTEIN and Senator Moseley-Braun were the two women to serve on that committee after we saw there were no women, and they paved the way for my good friend to bring her fabulous background and expertise to the table.

But when Congressman ISSA, the chairman of the committee that had no women on a panel talking about women's health—imagine, no women. Do we have that photo, Cerin? Do we have the photo of the five men testifying about women's health, talking about women's access to contraception, talking about birth control? Not one of those men ever gave birth as far as I know, unless they are a medical miracle. This photo I have in the Chamber I think is changing this country this year because a picture is worth thousands of words. Look at this picture, and we see over on the House side on that Republican side, that is who they want to hear from. When a woman in the audience said to the chair of that committee: Can I speak? I think I have some important information, he said she was not qualified. So I suppose if a person wants to be qualified to speak about women's health, they have to be a man. Her story she wanted to share was of a friend who was unable to get access to birth control because her employer did not offer it, and she was too financially strapped to purchase it. As a result, a cyst on an ovary became so large and so complicated she lost her ovary.

Now, I just want to say to my colleagues, we are on a highway bill. We have to be kidding that we have now wasted 3 weeks because we are so consumed with attacking women's health. Get over it. We are not going to go back. The women of this country will not allow it.

Look what happened in Virginia. They had a plan. They were going to mandate an invasive procedure, a humiliating procedure, a medically unnecessary procedure to women. In Virginia the women said: What? And the Governor said: Whoops, I have some ambitions to do more than this. I better change.

I just want to say to my colleagues: Vote this down. Table this amendment, this Blunt amendment. This is not going to get us anywhere. What does it

do to create one job—except new jobs for attorneys, as it sets up a whole no right of action. I am sure the trial lawyers are going to love the Republicans for this bill. It sets up a whole new right of action because somebody is going to say: I have a moral objection against giving cancer treatment to a child because I think prayer is the answer. Somebody will sue, and that employer will sue, and they will sue and they will sue and there will be money, money, money going to lawyers. Great. What did that do to help one child? What did that do to make somebody feel better? What did that do to create one job?

I know the leaders on both sides are trying to figure out a pathway forward on this highway bill. I am just saying, we better have a pathway forward. I want to say to the Presiding Officer sitting in the chair, who was a proud member of the Environment and Public Works Committee—and I hated to lose her, but everybody wanted her on their committee, so I lost her—she knows how it is. She lives in a State where a bridge collapsed. She fought hard to get that bridge rebuilt in record time. She knows how important it is to protect people by making sure our bridges are safe, that we have safe roads to schools, that we have good transit alternatives, that we fix our roads and our highways.

Madam President, 70,000 of our bridges are deficient, 50 percent of our roads are not up to standard, and we are voting on birth control? Come on. What is next? Egypt? They have a whole list of things that have nothing to do with the highway bill. Bring it on. Let the people see who is stopping progress, who is stopping this bill because at the end of March do you know what happens. We run out on the authorization of the highway bill. We run out on the authorization of the Transportation bill. We run out, and we will lose 630,000 jobs right then and there.

Instead, we can get this bill done. It is terrifically bipartisan. It came out of the committee 18 to 0. It came out of other committees with a bipartisan vote. We can get on with it, protect 1.8 million jobs, and create up to another 1 million jobs. Madam President, 2.8 million jobs are at stake, and we are debating birth control.

I think this is resonating in the country. All of a sudden, people wake up and they say: What are they doing there? What is happening there? When they see this, it is going to be very clear we have a bill that has been stuck on the floor for 3 weeks because the Republicans are demanding votes on matters that have nothing to do with the highway bill. The first one is on birth control. They are talking about something on Egypt. They are talking about something on—oh, this is a good one—repealing an environmental law that is keeping arsenic, lead, and mercury out

of the air. They want to repeal that law. Great. That is great. That will really do something to make us safe.

So I am ready for these amendments. Come on to the floor. Give us a time agreement. Let's get on with it. Let's then allow the germane amendments to be offered.

The last comment I will close with is this because it is haunting me: The picture of 15 football stadiums, with every seat filled, would equal the number of unemployed construction workers we have out there today. Well over 1 million suffering because they cannot find construction work.

So I can only say, it is time to get this birth control amendment behind us. Let's beat it. Let's beat the Blunt amendment. It is a disaster. It is dangerous. It is hurtful. It is irrelevant to this bill, and it is dangerous for the country. Stop invoking the name of a departed colleague. Respect his family. Respect his memory. Let's get this vote over with. Let's go to the business at hand and create the jobs the American people are crying for.

I am very pleased to see a colleague has arrived, so I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

MR. KOHL. Madam President, I come here today to speak about my amendment No. 1591, which is a bipartisan amendment to repeal the freight railroad industry's undeserved exemptions to the antitrust laws, exemptions that result in higher prices to hundreds of businesses and millions of consumers every day. These outmoded exemptions do damage to numerous industries across our country—industries that are vital to our economy and to the job market.

From power companies that rely on coal shipped by rail, to farmers shipping grain, to chemical companies that rely on rail to transport raw materials, to paper companies that ship their finished products via rail, the railroad's antitrust exemption leads to higher prices and renders rail shippers at the mercy of rail monopolies engaged in anticompetitive practices.

The railroads enjoy these antitrust immunities despite the industry's very high levels of concentration—with four freight railroads controlling nearly 90 percent of the market as measured by revenue and dividing up the country so that they face very little, if any, rail competition in many areas of our country.

This amendment is very simple. Wherever the law provides freight railroads with an antitrust exemption, this amendment repeals it. In this way, the railroads will have to abide by the same rules of free competition as virtually every other industry. This amendment is identical to the Railroad Antitrust Enforcement Act, bipartisan legislation that has passed the Judiciary Committee by overwhelming mar-

gins in this Congress as well as in the past two.

Virtually no industry—other than baseball and insurance—enjoys the sweeping nature of the antitrust exemptions as does the freight railroad industry. Yet, paradoxically, the consolidated nature of the freight railroad industry makes full application of antitrust law even more necessary.

Just three decades ago there were more than 40 class I freight railroads in the United States. But today, after massive waves of consolidation, nearly 90 percent of industry revenues are controlled by just four railroads. Many areas of the country are served by only one, leaving their shippers captive to rate increases and anticompetitive measures.

The effects of these antitrust exemptions protecting monopoly behavior are easy to see. Increased concentration, combined with a lack of antitrust scrutiny, have had clear price effects. A September 2010 staff report of the Senate Commerce Committee stated:

The four Class I railroads that today dominate the U.S. rail shipping market are achieving returns on revenue and operating ratios that rank them among the most profitable businesses in the U.S. economy.

Since 2004, this report found “Class I railroads have been raising prices by an average of 5% a year above inflation.”

The four largest railroads nearly doubled their collective profit margins in the last decade to 13 percent, ranking the railroad industry the fifth most profitable industry as ranked by Fortune Magazine. A 2006 GAO report furthermore found that shippers in many geographical areas “may be paying excessive rates due to a lack of competition in these markets.” Given the industry's concentration and pricing power, the case for full-fledged application of the antitrust laws is plain.

It is more than just railroad shippers who pay the price of a railroad industry unchecked by antitrust oversight. These unjustified cost increases cause consumers to suffer higher electricity bills because a utility must pay for the high cost of transporting coal, higher prices for goods produced by manufacturers who rely on railroads to transport raw materials, as well as higher food prices for everyone.

Railroad monopoly conduct ripples through the economy, causing pain in countless corners of commerce. The current antitrust exemptions protect a wide range of railroad industry conduct from antitrust scrutiny. Unlike virtually every other regulated industry, the Justice Department cannot bring suit to block anticompetitive mergers—a fact that has greatly aided the sharp industry consolidation I have already described.

Private parties and State attorneys general cannot bring private antitrust lawsuits to obtain injunctive relief, leaving pernicious industry practices

such as bottlenecks and paper barriers exempt from antitrust review. Railroad practices subject to the jurisdiction of the Surface Transportation Board are effectively immunized from antitrust remedies. Our amendment will eliminate these exemptions once and for all. Railroads will be fully subject to antitrust law and will have to play by the same rules of free competition that all other businesses do.

The rail industry's widespread grant of antitrust exemptions has its origin decades ago when the industry was subject to extensive regulation by the long-ago abolished Interstate Commerce Commission. But no good reason exists today for these exemptions to continue.

While railroad legislation in recent decades, including, most notably, the Staggers Rail Act of 1980, deregulated much railroad rate-setting from the oversight of the Surface Transportation Board, these obsolete antitrust exemptions remained in place, insulating a consolidating industry from obeying the rules of fair competition. There is no reason to treat railroads any differently than dozens of other regulated industries in our economy that are fully subject to antitrust.

When this amendment was filed a couple of weeks ago, the railroad industry responded by claiming this amendment "goes way beyond antitrust laws and looks to create new regulatory law on matters unrelated to antitrust, and in so doing treats [railroads] differently than other regulated industries."

These arguments are completely without merit. Nothing in this amendment goes "way beyond antitrust law" or "looks to create new regulatory law." In fact, this amendment creates absolutely no new regulatory law whatsoever. It simply repeals all of the antitrust exemptions enjoyed by the freight railroad industry.

This amendment would not treat railroads any differently than other regulated industries. The mere fact that an industry is regulated does not exempt it from antitrust law. Many other regulated industries, including the telecommunications sector regulated by the FCC and the aviation and trucking industries regulated by the Department of Transportation, are fully subject to antitrust law.

This amendment simply seeks to end the special exemption from antitrust law enjoyed by freight railroads—an exemption which is both wholly unwarranted and raises prices to shippers and consumers every day.

Dozens of organizations and trade groups representing industries affected by monopolistic railroad conduct have endorsed the Railroad Antitrust Enforcement Act, which is identical to this amendment. Supporters of the legislation have included 20 State attorneys general in 2009; the leading trade

associations for the electrical, agricultural, chemical, and paper industries; the National Industrial Transportation League; and the Nation's leading consumer groups.

In sum, by clearing out this thicket of outmoded antitrust exemptions, this amendment will cause railroads to be subject to the same laws as the rest of our economy. Government antitrust enforcers will finally have the tools to prevent anticompetitive transactions and practices by railroads. Likewise, private parties will be able to utilize the antitrust laws to deter anticompetitive conduct and to seek redress for their injuries.

In the antitrust subcommittee, we have seen that in industry after industry vigorous application of our Nation's antitrust laws is the best way to eliminate barriers to competition, to end monopolistic behavior, and to keep prices low and quality of service high. The railroad industry is no different. All those who rely on railroads to ship their products, whether it is an electric utility for its coal, a farmer to ship grain, or a factory to acquire its raw materials or ship out its finished product, deserve the full application of the antitrust laws to end the anticompetitive abuses all too prevalent in this industry today.

I urge my colleagues to support this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Madam President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### TRIBUTE TO WILBUR K. HOFFMAN

Mr. ALEXANDER. Madam President, my late friend, the late Alex Haley, the author of "Roots," lived his life by these six words: Find the Good and Praise it.

I am here today to praise a remarkable hero who served in one of the most difficult battles in our Nation's history and who today at 90 years old lives a quiet life in Memphis with his family.

Wilbur K. Hoffman, or "Bill" to his fellow Rangers, was a member of the Dog Company of the 2nd Ranger Battalion, which in 1944 was among the select few companies that stormed the cliffs at Pointe du Hoc on D-day and turned the war around for the Allies.

Forty years after Bill Hoffman and his fellow 2nd Battalion Rangers clambered up the rocky cliffs on the shoreline of France, President Reagan returned to the windswept spot to pay tribute. President Reagan called them "the boys of Pointe du Hoc." The President said:

These are the men who took the cliffs. These are the champions who helped free a continent. These are the heroes who helped end a war.

This is Bill Hoffman, a hero who helped free a continent and end a war.

Bill volunteered to join the Army in 1942. A year later he volunteered to join the Rangers, a select group that were charged with special missions. Bill says that because of all of their special training, they would simply "get the mission done."

Bill got out of the Army in 1945, after the war, but took a look at the job market and said, "I think I'll go back in." Bill served in the Army for 24 years. Bill likes to say, "Everything that happened, I volunteered for." And if you happen to ask how he feels when he looks back, he will say just as plainly, "No regrets."

This year the Army has awarded Bill a Purple Heart. But not for the first time. During World War II, the Army tried. But Bill, in an Army ward surrounded by soldiers who had lost arms and legs in fighting, believed his wounds did not measure up, and so he said, "I don't think so."

Bill's son David, more than 60 years after his father first declined the Purple Heart, contacted the Army about trying again. Capturing his father's humility in declining the medal decades ago, David calls his dad "the nicest guy you'll ever meet. Friendly and outgoing but by the same token, he doesn't like to talk about himself" says the son.

Bill is the father of seven children, and nearly all of them who could join the service did or married someone who did.

Bill is not a native Tennessean. He was born in Newark, NJ. He came to Tennessee first as a Ranger in training. The Rangers came from all over the country and assembled in Camp Forrest in Tullahoma for training. Bill's wife came down to visit him there for a couple of days during training, and it must have had a real effect on her, because more than 30 years later, after Bill was out of the Army after 24 years of service, and they were living in New York State, Bill's wife said to him, "I want to go to Tennessee. I like it down there." So they packed up the U-Haul and moved to Ashland City, along the Cumberland River.

Today Bill is one of only three Rangers left from the original 2nd Battalion Dog Company. While the Ranger reunions used to occur once every 2 years, the guys are getting old, Bill says, and now they are doing them every year. "Good bunch of guys," Bill calls his fellow heroes. "They say Ranger friendships are forever. It's true."

Bill turns 91 on Friday. It is an honor for me to wish this American hero a happy birthday.

Congratulations, Bill Hoffman. We're proud of you. Your Nation is proud of you. "Find the good and praise it."

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. Madam President, I rise today to speak in support of

the Transportation reauthorization bill that is currently before the Senate. It is called the Moving Ahead for Progress in the 21st Century Act, so we call it by its acronym, MAP-21. It is a critical piece of legislation that will put Americans back to work and lay the foundation for future economic growth.

Our transportation infrastructure has long been at the heart of America's success, from the transcontinental railroad to the interstate highway. Yet, across the country, the infrastructure that helped build our great economy has been allowed to fall into disrepair.

For evidence of our Nation's crumbling infrastructure, one need look no further than my home State of Rhode Island. Anyone who drives to work or school in our State sees the problems—bridges that are subject to weight restrictions, highways with lane closures, and roads everywhere marked with potholes. Only one-third of our highway miles are rated in fair or good condition; the majority are poor or mediocre. According to a recent report, one in five bridges in Rhode Island is structurally deficient—the fourth highest figure for any State. You look nationwide, and the picture does not improve.

The American Society of Civil Engineers rates our national transportation systems as near failing. They give our roads and highways a D-minus, our bridges a C, our freight and passenger rail a C-minus, and our transit systems a D. This is not the kind of report card you want to post at home on your refrigerator, and it is not one our great Nation should tolerate.

Instead of committing ourselves to solving our infrastructure deficit, however, we continue to fall short. The civil engineers estimate that we would need to dedicate \$250 billion each year to bring our transportation systems into a state of good repair. At current levels, the United States spends only 2.4 percent of GDP on infrastructure, compared with European nations at 5 percent and China and India at about 9 percent.

Let's recall why it is so important that we invest in transportation. Our economy relies on the ability to get goods and services to where they are needed. An entrepreneur cannot start a business if his employees cannot get to work. A manufacturer cannot stay in business if its products cannot reach its customers. A free market can only operate if supply can actually get to demand. Our roads, trains, and buses are what allow this to happen.

If we don't make the necessary investment, our global competitors nevertheless will. MAP-21 represents a downpayment that will fund important highway, transit, and rail projects to repair our aging transportation infrastructure and help ensure that America can succeed, as it has since we first

broke ground on the Interstate Highway System.

As important as this bill is to our long-term prosperity and our global economic position, MAP-21 also provides immediate support to local construction projects and the quality jobs that go along with them.

It is estimated that MAP-21 will protect 1.8 million existing jobs around the country, with the potential to create up to a million more new jobs. This is particularly important given the high level of unemployment in the construction industry. In my home State of Rhode Island, this bill would support an estimated 8,100 jobs. At a time when our State's unemployment rate hovers stubbornly around 10 percent, those jobs are absolutely crucial.

Given the decrepit state of our transportation systems, it should be obvious that we will have to address our infrastructure needs at some point. We need to do this work sooner or later, and there is no better time to make that investment than now, with so many workers ready to get to work and so many projects ready to get underway. I know that in Rhode Island there is no shortage of workers or worthwhile transportation projects. In fact, Secretary of Transportation LaHood was in Providence today, and I invited him to tour one of the most significant of Rhode Island's transportation projects, and that is the Providence viaduct. That viaduct is an overland highway bridge that carries Interstate 95 for nearly a quarter mile through downtown Providence, our capital city. It is one of the busiest stretches of the entire I-95 corridor.

The viaduct runs north and south over U.S. Route 6 and State Route 10, the Amtrak northeast corridor, commuter, and freight rail lines, and over the Woonasquatucket River. It provides access to downtown Providence, four universities, Rhode Island Hospital, our convention center and arena, and the Providence Place Mall, not to mention the north-south traffic along the eastern seaboard that traffics through this area.

What Secretary LaHood saw on his tour today is a bridge that is quite literally crumbling. The viaduct was built in 1964, and it is showing its age. Its deck is badly deteriorated, steel girders are cracked and don't meet minimum specifications for brittleness, and our State department of transportation has installed these wooden planks under the I-beams to keep concrete from falling through onto the cars, pedestrians, and even the trains that travel underneath the highway. You can also see here where a section of the concrete has fallen through the supports, exposing the steel reinforcement, which is now rusting out in the open.

While the viaduct remains safe for travel today, it is a weak link in the

critical I-95 corridor. It is a potential safety hazard for the 160,000 vehicles that travel on it each and every day, as well as to the cars and trains that pass underneath. The bridge is inspected on a regular basis, just as a precaution. If the viaduct were to fail or simply require posted weight limits, it would cause substantial regional disruptions to traffic and commerce and trade.

Clearly, this is a problem that needs to be addressed. The cost of repairing the Providence viaduct is estimated at roughly \$140 million. This is a reasonable investment to help ensure the flow of commerce through the entire Northeast, but it represents a very significant financial burden for a small State such as Rhode Island. Fixing the viaduct would take out almost two-thirds of the money that Rhode Island would get from this bill. Rhode Island simply isn't big enough and doesn't have the resources to tackle this important project and still meet our other transportation obligations.

I have filed an amendment to MAP-21 to fund the program for the Projects of National and Regional Significance Program. The Projects of National and Regional Significance Program is a competitive grant program that is designed to support critical, high-cost transportation projects that are difficult to complete with existing funding sources. This program can help us address those big infrastructure projects around the country—ones such as the viaduct—that are currently being kicked down the road because the State DOTs cannot scrape enough money together to get them underway.

The Projects of National and Regional Significance Program is authorized in MAP-21. We got that done in the Environment and Public Works Committee. Now we need to get that authorized program funded. I am pleased to have the support of my senior Senator, JACK REED, and Senator MERKLEY on this amendment. I look forward to working with them and other Senators so that we can start the important work of rebuilding critical infrastructure projects, such as the viaduct, that are so important to our economy.

While I am thanking other Senators, let me recognize Senator OLYMPIA SNOWE for her work on another amendment that would grant States limited flexibility to use congestion mitigation and air quality funds toward their transit systems. This is an important issue for Rhode Island, as we begin to scale up our new South County commuter rail.

I introduced a version of this amendment in committee and continue to believe that increased flexibility in the Congested Mitigation and Air Quality Program, or CMAQ, would promote State-level transit options that we so critically need.

Let me thank our chairwoman, Senator BOXER, and her ranking member,

Senator INHOFE, for their consideration of our amendment and, more important, for their hard work on this bill overall. As a member of the Environment and Public Works Committee, I can testify that the leadership of Chairman BOXER and Ranking Member INHOFE, working together, is what has made the difference for this transportation reauthorization. Through their efforts, we were able to unanimously vote the bill out of committee, making the important statement that investment in our Nation's infrastructure has strong, bipartisan support. They have set an example that I hope ultimately will be followed by the handful of Senators who are obstructing progress on this transportation bill, and our colleagues on the other side of this building. The American people deserve better than efforts to gut transportation jobs and slash infrastructure programs, or to slow down progress on this bill with irrelevant amendments.

With our economy struggling to get back on its feet, with our roads and bridges in desperate need of repair, now is not the time to be debating unpopular and misguided efforts to roll back protections for women's health. Now is not the time, and this is not the bill, to debate whether we should undermine rules that protect our environment or fast track a pipeline project that is clearly not ready for prime time. We have a bipartisan bill before us. We have a bill that will create jobs. We have a bill that will get our economy moving forward. That should be our priority. We should get to the business of legislating on this bill.

This is a country that does big things. We built highways and rail systems connecting Americans from coast to coast. We built skyscrapers and airplanes and rockets to take us to the Moon and back. Big things are part of America's national identity. Just as important, they are a vital source of jobs during this trying economic time.

Let's keep doing big things. Let's give the people in Rhode Island and across the country a transportation infrastructure they can be proud of, and let's not cut funding and retreat. We cannot afford to go backward. The infrastructure is what supports our economy. We need to refocus on the job of getting America moving ahead, and MAP-21 is a step forward.

I thank the Chair and yield the floor.

Mrs. BOXER. Madam President, I thank Senator WHITEHOUSE of Rhode Island for his words. Also, he is an exceptional member of the Environment and Public Works committee. First and foremost, he brings us the point of view of his State and he fights on every issue every day. He brings national leadership to the floor on the issue of infrastructure and the need to keep up with our incredible failing infrastructure—the fact that we have to fix these bridges, 70,000 of which are insufficient,

and 50 percent of the roads that are not up to par. In Rhode Island, we have serious problems, and the Senator has brought those to the floor. He is a leader on a clean and healthy environment, protecting the air and water for his people.

The Senator could not be more eloquent. He is making a point that we could come up with very difficult amendments and slow things up and gum up the works, et cetera, but doesn't my friend think that with so many construction workers out of work—they have well over 15 percent unemployment in the construction industry, which is about twice the national rate, which is too high as it is—we have a chance to protect 1.8 million jobs and create another million jobs, and isn't it time to say that birth control was an issue that was resolved decades ago and let's move on to the task at hand and put people back to work?

Mr. WHITEHOUSE. It doesn't make sense. I thank her for getting us to this point. I know how much frustration she must feel, having worked so hard and in such a bipartisan way to get us to this point and to now have a process that would get this bill moving forward and get funding out there, get infrastructure repaired, put men and women to work in good, solid, high-paying jobs, only to be all snarled up so that a small group of people can score points with a political issue that has nothing to do with transportation, infrastructure, or highways.

If people want to have a fight about whether women should get access to contraceptive medicine, I suppose that is their right in the Senate. But the idea to stop a highway bill to forge that fight is what to me is irresponsible.

Mrs. BOXER. I know my colleague worked very hard on the health care bill, am I right on that?

Mr. WHITEHOUSE. Yes.

Mrs. BOXER. I remember him being so proud of the prevention piece he brought to us. He made the case to us publicly, and privately in caucus, that it would save so much money for the American people. Right now, we know, for example—and I just read this—if you have colorectal screening, you are 50 percent less likely to die of colorectal cancer. This is a screening test.

We certainly know about mammography and all of this. Is my colleague aware that what the Blunt amendment says is that any employer, religious or not, any insurance company, religious or not, can withhold any one of those preventive services from being offered to employees if they had some kind of vague moral objection? Is my colleague aware that all the work he put in on making sure that insurers cover our people for preventive services, such as mammography, colorectal screening, HIV screening, and all of these impor-

tant benefits, plus a list of essential benefits just as important, that all of that could come to nothing if the Blunt amendment passed and an employer woke up and said: I know how to save money, I will have a moral objection and not offer anything? Is my friend aware of how deep this Blunt amendment reaches into health care reform?

Mr. WHITEHOUSE. I thank my chairman, and yes, it is kind of astonishing, the breadth and the scope of this amendment. As if CEOs don't have enough power over their workforce, as if they haven't done enough to send jobs from American factories offshore to factories overseas, now they would be able to dictate what kind of health care their employees can receive, and not based on marketplace considerations, not based even on health considerations, but based on their own unchecked moral or religious beliefs.

Mrs. BOXER. Exactly.

Mr. WHITEHOUSE. I think it is a terrible mistake to go down that road, but I think it is a double mistake: it is wrong to go down that road in the first instance, but it is also wrong while we need jobs so urgently, while our highways crumble and our bridges deteriorate and water works continue to fail and we have the ability to put people to work in America at good jobs. You can't offshore a job building an American highway; you have to do it right here in this country. These are important jobs and this is important work. We should be getting about this.

I think it sends a terrible signal to the American people when the Senate, taking up this piece of legislation, has to be led off into all these other battles that have nothing to do with highways, that have nothing to do with infrastructure, that have nothing to do with jobs, but are simply an exercise in political gamesmanship.

Mrs. BOXER. Right.

Mr. WHITEHOUSE. It is unfortunate, when there are real stakes for real families on the table and real time slipping by, that we don't get this done. We get jacked up enough around here, but as hard as the chairman has worked to bring this to the floor and to be ready, here we are, stopped again, dealing with irrelevant issues again, and all for the entertainment and distraction of people. It is not about jobs, it is not about the economy, it is not about our infrastructure, it is not about laying the foundation for future prosperity, and so it is frustrating that we have to go through this exercise.

Mrs. BOXER. I thank my friend. When I looked at him, I thought, He is one of the few people who have such a personal stake in two issues that have been merged together, unfortunately: the Blunt amendment, which would allow anyone to opt out from providing so many of the services my friend worked to make sure the American people have, plus 3 weeks we are now



delayed on a bill my friend helped me with so strongly and so powerfully. So I wanted to make sure people in his State understood that he has worked so hard to make sure people have access to health care, and the Blunt amendment would drive a big Mack truck through this—not to use a kind of funny analogy on the highway bill, but that is what it would do, in the meantime stopping us from getting on to our work in creating all these jobs.

My feeling is we will defeat the Blunt amendment tomorrow. I am very hopeful. But with that in mind, Madam President, I ask unanimous consent to have printed in the RECORD a number of letters speaking to the Blunt amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICAN CANCER SOCIETY,  
CANCER ACTION NETWORK,  
Washington, DC, February 29, 2012.

DEAR SENATOR: On behalf of millions of cancer patients, survivors and their families, we write to express our opposition to the amendment proposed by Senator Roy Blunt to the Moving Ahead for Progress in the 21st Century Act that would permit employers to refuse employee insurance coverage for any health benefit guaranteed by the Affordable Care Act if the employer raises a religious or moral objection to those benefits.

Annually, seven out of ten deaths among Americans are attributed to chronic diseases such as cancer, diabetes, heart disease and stroke. The Affordable Care Act made significant strides to stem this epidemic by ensuring patients would have access to essential care that could address prevention, early detection, and treatment—all necessary elements to improve the health and well-being of our nation.

Unfortunately, the expansive nature of the proposed Blunt amendment would directly undercut this progress. Specifically, it would allow any health insurance plan or employer, with a religious affiliation or not, to exclude any service required by the Affordable Care Act if they object based on undefined “religious beliefs or moral convictions.” The implications of this provision could result in coverage denials of lifesaving preventive services such as mammograms or tobacco cessation based on employer discretion. Consider the reality that under the amendment a tobacco manufacturer could refuse coverage of tobacco cessation benefits for its employees.

We urge all members of the Senate to consider the undefined impact this amendment could have on employee health care coverage, and to please vote against it. Thank you for your consideration of this request.

Sincerely,

CHRISTOPHER W. HANSEN,  
President.

TRUST FOR AMERICA'S HEALTH,  
Washington, DC, February 14, 2012.  
SENATOR BARBARA BOXER,  
Chairman, Committee on Environment & Public  
Works, Hart Senate Office Building, Wash-  
ington, DC.

DEAR CHAIRMAN BOXER, I am writing to express my deep concern over the Blunt Amendment, which is expected to be offered during the debate over S. 1813, Moving Ahead for Progress in the 21st Century (MAP-21).

This amendment would undermine the Affordable Care Act's guarantee that all insurance plans cover preventive services and would do serious harm to our efforts to reduce the rate of chronic disease in this country.

One of the most important provisions in the Affordable Care Act (ACA) was the requirement that preventive services be covered with no cost-sharing. Chronic diseases—such as heart disease, cancer, stroke, and diabetes—are responsible for 7 out of 10 deaths among Americans each year and account for 75 percent of the nation's health spending. Including preventive services within essential health benefits represents a critical opportunity to ensure that millions of Americans have access to prevention-focused health care and community-based preventive services. This is essential if we are to address risk factors for chronic diseases—such as tobacco use, poor diet, and physical inactivity—which will allow us to improve the health of Americans and reduce health costs over the long term.

The Blunt Amendment would allow any health insurance plan or employer, religious or not, to exclude any preventive service if they object based on undefined “religious beliefs or moral convictions.” This is an extraordinarily broad provision which could result in coverage denials for virtually any preventive service. Americans should be able to count on a minimum level of coverage no matter where they work, and this amendment sets a dangerous precedent.

Transportation legislation is an opportunity to expand access to healthy transportation choices, such as walking and cycling, which will keep our communities moving by providing healthy, safe, and accessible transportation options. It should not be a forum for re-opening the ACA and reversing gains we have made in prevention and public health. I hope the Senate will defeat the Blunt Amendment and instead focus on amendments to MAP-21 that would promote good health and 21st century transportation policy.

Sincerely,

JEFFREY LEVI, PH.D.  
Executive Director.

FEBRUARY 13, 2012.

DEAR SENATOR, on behalf of the more than 2.1 million members of the Service Employees International Union (SEIU), I urge you to oppose an amendment offered by Senator Blunt (S. Amdt. 1520) to the surface transportation, reauthorization bill (S. 1813) that would allow employers to deny coverage for contraception and other critical health care services.

The Affordable Care Act, in an enormous step forward for working women and their families, requires all new health insurance plans to cover certain preventive healthcare services with no cost-sharing or co-pays, including mammograms, pap smears, and well-woman yearly exams. Starting this August, most health insurance plans will be required to cover women's preventive services, including contraception. This is a tremendous milestone for women's health and equality in our country.

Unfortunately, the Blunt Amendment is an extreme proposal that turns back the clock on this important advance, allowing employers to impose their beliefs on their employees and take away the health care benefits their employees would otherwise be entitled to receive. The Blunt Amendment allows any employer to deny insurance coverage for any essential health benefit or preventive service

to which the employer has a religious or moral objection, including contraception, as well as many other health services.

As the nation's largest union of nurses, doctors, and healthcare workers, we know that women's healthcare choices are too often driven by the reality that the cost for gas and groceries comes first. Contraceptive use is the rule, not the exception, for women who can afford it. In fact, 99 percent of women overall and 98 percent of Catholic women use contraception at some point in their lives. Women should have the freedom to make personal, private decisions about their families and their future with their doctor and their loved ones. An employer has no place in that decision-making process.

We urge you to oppose the Blunt Amendment when it comes up for a vote on the Senate floor. SEIU may add votes on this amendment to our scorecard, located at [www.seiu.org](http://www.seiu.org). Should you have any questions or concerns, contact Steph Sterling, Legislative Director, at [steph.sterling@seiu.org](mailto:steph.sterling@seiu.org) or at 202-730-7232.

Sincerely,

MARY KAY HENRY,  
International President.

FEBRUARY 29, 2011.

FRIENDS, this week the Senate may consider an amendment by Senator Blunt (R-MO) that would eliminate access to essential health benefits for millions of Americans. The Human Rights Campaign (HRC) strongly urges your boss to vote no on the Blunt Amendment. HRC will consider this a key vote.

When Congress passed the Affordable Care Act in March of 2010, the intent was to ensure that all Americans had access to health insurance. More specifically, it required that a core set of benefits be covered, including preventive care specially designed for women and children. The essential health benefits package was carefully crafted to respect religious interests and individual conscience. To that end the ACA includes a strong exemption, allowing approximately 335,000 churches/houses of worship to refuse to provide birth control for their employees. In response to concerns raised by religiously-affiliated hospitals, universities and other facilities, the President has proposed additional protections that would allow those entities—which operate as businesses and serve and employ the broader public—not to provide birth control coverage, but still ensure that their employees have access to that benefit.

HRC respects the right of religious groups to maintain their beliefs and the important role religious organizations play in providing important health, education and social services. The ACA and the President's proposed compromise strike a respectful balance between religious interests and the health needs of women. However, HRC is particularly concerned by efforts to go even further and permit the religious or moral beliefs of individuals or private businesses to limit nondiscrimination protections and equal access to services and benefits. When the balance shifts too far in that direction, all too often, lesbian, gay, bisexual and transgender (LGBT) individuals are negatively impacted.

The Blunt Amendment would go far beyond the President's reasonable step and dramatically expand the ACA's religious exemption, permitting any employer to opt-out of providing coverage for an essential health benefit or preventive service by asserting it violates its “religious beliefs or moral convictions,” regardless of whether that employer is in any way a religious organization.

This language would undermine the entire healthcare law by allowing employers to cherry-pick what is covered by their health insurance. While the amendment comes in response to recent debate over the coverage of birth control, it would be all too easy for employers to decide to drop other benefits, like HIV testing, or limit coverage for specific medical conditions, based on a purported religious or moral objection. If enacted, the Blunt Amendment would place the moral objections of any employer over the health of millions of Americans, including members of the LGBT community. For these reasons, HRC strongly urges you to oppose the Blunt Amendment.

Should you have any questions at all please feel free to contact me at (202) 216-1515 or [allison.herwitta@hrc.org](mailto:allison.herwitta@hrc.org) or Andrea Levario at (202) 216-1520 or [andrea.levario@ahrc.org](mailto:andrea.levario@ahrc.org).

ALLISON HERWITT,  
*Legislative Director.*

TO MEMBERS OF THE UNITED STATES SENATE: The undersigned organizations are opposed to the amendment introduced by Senator Roy Blunt (R-MO) that would jeopardize quality health insurance coverage for millions of people in this country.

The Blunt Amendment #1520 to S. 1813, the Surface Transportation bill, allows any employer or insurance company, religious or not, to deny health insurance coverage for any essential or preventive health care law, service that they object to on the basis of religious beliefs or moral convictions. That means employers and insurance companies can not only deny access to birth control, they can deny access to any health care service required under the new health care law including maternity care for unmarried women, vaccines for children, blood transfusions, HIV/AIDS treatment, or type II diabetes screenings. This expansive control over employees' coverage will have a harmful impact on all people, and it will discriminate against those who need access to essential health services the most.

In short, the Blunt amendment would eviscerate critical protections in the Affordable Care Act and completely undermine a fundamental principle of the health care law—that everyone in this country deserves a basic standard of health insurance coverage.

We urge you to reject the Blunt amendment and oppose all efforts to undermine peoples' access to health care.

Sincerely,

Advocates for Youth; The AIDS Institute; AIDS United; America Votes; American Academy of Pediatrics; American Association of University Women; American Civil Liberties Union; American College of Nurse-Midwives; American Congress of Obstetricians and Gynecologists; American Federation of State, County and Municipal Employees; American Medical Student Association; American Medical Women's Association; American Nurses Association; American Public Health Association; Asian Communities for Reproductive Justice; Association of Reproductive Health Professionals; Black Women's Health Imperative; Catholics for Choice; Center for Health and Gender Equity; Center for Reproductive Rights.

Center for Women Policy Studies; Coalition of Labor Union Women; Choice USA; Concerned Clergy for Choice; Doctors for America; EQUAL Health Network; Feminist Majority; Gay

Men's Health Crisis (GMHC); Hadassah, The Women's Zionist Organization of America, Inc.; Health Care for America Now; Healthy Teen Network; HIV Medicine Association; Human Rights Campaign; International Union, United Automobile, Aerospace & Agricultural Implement Workers of America, UAW; International Women's Health Coalition; Jewish Women International; Justice and Witness Ministries of the United Church of Christ; Law Students for Reproductive Justice; MergerWatch; Methodist Federation for Social Action.

MoveOn.org Political Action; NARAL Pro Choice America; National Abortion Federation; National Alliance on Mental Illness; National Asian Pacific American Women's Forum; National Center for Transgender Equality; National Coalition for LGBT Health; National Coalition of STD Directors; National Council of Jewish Women; National Council of Women's Organizations; National Education Association; National Family Planning & Reproductive Health Association; National Gay and Lesbian Task Force Action Fund; National Health Law Program; National Immigration Law Center; National Latina Institute for Reproductive Health; National Organization for Women; National Partnership for Women & Families; National Physicians Alliance; National Women's Law Center.

New Evangelical Partnership for the Common Good; Physicians for Reproductive Choice and Health; Planned Parenthood Federation of America; Population Connection; Progressive Majority; Raising Women's Voices for the Health Care We Need; Religious Coalition for Reproductive Choice; Religious Institute; Reproductive Health Technologies Project; Service Employees International Union; Sexuality Information and Education Council of the United States; SisterSong NYC; Society for Adolescent Health and Medicine; The National Alliance to Advance Adolescent Health; The National Campaign to Prevent Teen and Unplanned Pregnancy; Trust Women/Silver Ribbon Campaign; Union for Reform Judaism; Unitarian Universalist Association of Congregations; United Methodist Church, General Board of Church & Society; U.S. Positive Women's Network and Women Organized to Respond to Life-threatening Diseases; Women Donors Network.

— FEBRUARY 27, 2012.

DEAR SENATOR: As organizations dedicated to the health, safety, and well-being of infants, children, adolescents, and young adults, we strongly urge you to oppose Sen. Blunt's amendment, S. Amdt. 1520, to the Moving Ahead for Progress in the 21st Century Act, S. 1813. Our organizations oppose this amendment that will hinder access to necessary preventive health screenings for infants, children, and their families.

The Affordable Care Act made significant progress in prioritizing preventive care, health promotion, and disease prevention in our health care system. The law includes a number of provisions that safeguard children's access to and remove disincentives from accessing preventive health care services. Specifically, the ACA establishes Sec. 2713 of the Public Health Services Act, which

requires that individual and group health plans cover preventive health services without any cost-sharing to the patient, including evidence-based services recommended by the United States Preventive Services Task Force; immunizations recommended by the CDC's Advisory Committee on Immunization Practices; and preventive care and screenings supported by the Health Resources and Services Administration (HRSA), which are outlined in the American Academy of Pediatrics' Bright Futures handbook.

Children's health is the foundation of health across the lifespan and preventive health services are the bedrock of pediatric care. All adults once were children, and their health is significantly influenced by preventive care during their early years. Denying childhood preventive care could result in billions of dollars of extra expenditures in adult health care, as we continue the unsustainable system of paying for adult conditions that could have been inexpensively prevented during childhood. Life-saving immunizations, developmental screenings, autism screenings, other behavioral and mental health assessments, hearing and vision testing, body mass index (BMI) measurements, oral health risk assessments, identification of special health care needs, solicitation of parental and child health concerns, and anticipatory guidance are all essential components of a pediatric well-child visit and are all required to be covered without cost-sharing under the ACA. This amendment would undermine efforts to promote pediatric preventive health and would jeopardize the health of infants, children, adolescents and young adults by denying them access to these clinically appropriate services and treatments.

Before the law's passage, pediatricians reported that their patients were often required to provide co-pays or provide other cost sharing for preventive health screenings. Co-pays and other cost sharing are often imposed by insurers to decrease health service utilization, even though families already pay a monthly premium. Our organizations have argued that imposing cost sharing is completely inappropriate in the context of pediatric preventive services, as cost sharing has the aggregate effect of limiting clinically appropriate interactions between children and their health providers. Indeed, one of the main reasons that the Academy cautions families to seriously consider alternatives to Consumer-Directed Health Plans is that these plans often do not provide "first dollar" coverage for preventive services.

Unfortunately, S. Amdt. 1520 would create a substantial loophole in the requirements for preventive health services because insurance plans would not be required to offer the appropriate array of pediatric preventive services and due to the cost sharing disincentive discussed above. Specifically, S. Amdt. 1520 would allow any employer or insurance company to deny health insurance coverage for any service that it finds objectionable on the basis of personal beliefs. The amendment would not only allow employers and insurance companies to deny access to contraception, but would include all preventive health services covered by Sec. 2713 of the Public Health Service Act. For instance, if an employer objects to childhood vaccines on the basis of personal beliefs, he or she could purchase insurance that would not be required to cover these life-saving medical interventions. Our organizations are seriously concerned that if this amendment passes, children will not receive the preventive services

they need as a result of the personal beliefs of a single individual, employer, or insurance company.

Our organizations urge Congress to oppose S. Amdt. 1520 to the Moving Ahead for Progress in the 21st Century Act and protect children's access to preventive services, including vaccines, well-child check-ups, and other essential health benefits that help children grow to be healthy, productive adults. If you have questions or concerns, please contact Kristen Mizzi with the American Academy of Pediatrics at 202/347-8600 or kmizzi@aap.org.

Sincerely,

Academic Pediatric Association; American Academy of Pediatrics; American Pediatric Society; Association of Medical School Pediatric Department Chairs; The Society for Adolescent Health and Medicine; Society for Pediatric Research.

DEAR SENATOR BOXER: As organizations committed to the health and wellbeing of infants, children, adolescents, and pregnant women, we urge you to oppose the amendment offered by Senator Roy Blunt (R MO), Senate Amendment 1520, to the Moving Ahead for Progress in the 21st Century Act (S. 1813).

Senate Amendment 1520 threatens to undermine crucial clinical and preventive health services by allowing plans, employers, providers, and beneficiaries to refuse coverage for any service currently required under Section 2713 of the Public Health Service Act and Section 1302 of the Public Health Service Act, if deemed objectionable to them on moral or religious grounds. The Amendment would give expansive and explicit license to any employer, health plan, provider, or beneficiary to exclude any health service from insurance coverage. For instance, a small employer or health plan could ban maternity care for women due to religious convictions regarding out-of-wedlock pregnancies. Likewise, a health plan or small employer that objects to childhood immunizations, newborn screening for life-threatening genetic disorders, other components of well-child visits, or prenatal care would be fully within the law to deny coverage for any and all of these vital services.

The Affordable Care Act has made significant gains toward providing critical health services for infants, children, adolescents, and women of childbearing age. Section 1302 of the Affordable Care Act guarantees that all plans offered in the individual and small group markets must cover a minimum set of "essential health benefits," including maternity and newborn care, pediatric services, including oral and vision care, rehabilitative and habilitative services and devices, and mental health and substance use disorder services, including behavioral health treatment. Section 2713 of the Public Health Service Act requires that all new health plans cover, without cost-sharing, certain preventive services, including evidence-based services recommended by the United States Preventive Services Task Force; immunizations recommended by the Advisory Committee on Immunization Practices; preventative care and screening services for children contained in Bright Futures: Guidelines for Health Supervision of Infants, Children and Adolescents; and preventive health care services for women developed by the Institute of Medicine and promulgated by the U.S. Health Resources and Services Administration, such as prenatal care, well woman visits, and breast cancer screening.

If passed, Senate Amendment 1520 could limit access to necessary health services well beyond contraceptive coverage, putting infants, children, adolescents, and pregnant women in danger of not receiving even the most basic health care and preventive services. We urge you to oppose Senate Amendment 1520 to the Moving Ahead for Progress in the 21st Century Act. If you have any questions, please contact Michelle Sternthal at msternthal@marchofdimes.com.

Sincerely,

American Academy of Pediatrics; American Congress of Obstetricians and Gynecologists; American Federation of State, County and Municipal Employees; Asian Pacific Islander American Health Forum; Association of Maternal & Child Health Programs.

Association of University Centers on Disabilities; CHILD Inc.; Children's Dental Health Project; Children's Healthcare Is a Legal Duty; Easter Seals; Families USA; Family Voices; First Focus Campaign for Children; Genetic Alliance; National Association for Children's Behavioral Health.

National Association of Pediatric Nurse Practitioners; National Association of Social Workers; National Alliance on Mental Illness; Planned Parenthood Federation of America; Service Employees International Union; Society for Adolescent Health and Medicine; Spina Bifida Association; Voices for America's Children.

Mrs. BOXER. Madam President, the first letter is from the Cancer Action Network asking us to vote no on the Blunt amendment.

On-behalf of millions of cancer patients, survivors and their families, we write to express our opposition to the amendment proposed by Senator ROY BLUNT.

They talk about the fact that it would permit employers to refuse employees insurance coverage for any health care benefit guaranteed by health reform. And they are very strong on this issue. They say:

The implications of this provision could result in coverage denials of lifesaving preventive services such as mammograms or tobacco cessation based on employer discretion.

That is a new letter, dated today.

Then we got a letter from the Trust for America's Health. They say:

The Blunt amendment would allow any health insurance plan or employer, religious or not, to exclude any preventive service. . . .

The SEIU—Service Employees International—calls the Blunt amendment "an extreme proposal that turns back the clock."

The Human Rights Campaign Letter: . . . The Blunt amendment would place the moral objections of any employer over the health of millions of Americans. . . .

Eighty organizations signed a letter, and, referring to the Blunt amendment, part of that letter says:

That means employers and insurance companies can not only deny access to birth control, they can deny access to health care service. . . .

That is signed by Advocates for Youth, America Votes, the AIDS Insti-

tute, American Association of University Women, American College of Nurses and Midwives, American Congress of Obstetricians and Gynecologists, American Medical Students, Black Women's Health Imperative, Catholics for Choice, Reproductive Rights Center, Center for Women Policy Studies, Coalition of Labor Union Women, Choice USA, Concerned Clergy for Choice, Doctors for America, EQUAL Health Network—I mean, this goes on and on—the National Latina Institute for Reproductive Health, Planned Parenthood, Population Connection, Progressive Majority, Society of Adolescent Health and Medicine, National Alliance to Advance Adolescent Health, National Campaign to Prevent Teen and Unplanned Pregnancy, Trust Women/Silver Ribbon Campaign, Union for Reformed Judaism, Unitarian Universalist Association of Congregations. This is a long list of organizations that oppose the Blunt amendment.

This letter came in from the Academic Pediatric Association and a number of other youth organizations. They urge us to oppose the Blunt amendment because it doesn't protect children's access to preventive services.

This is another letter signed by many more organizations, including the Spina Bifida Association, Voices for America's Children, Children's Healthcare Is a Legal Duty, Easter Seals, Family Voices, First Focus Campaign for Children—it goes on and on—American Federation of State, County and Municipal Employees, American Association of Maternal and Child Health Programs, Association of University Centers on Disabilities, CHILD, Inc. All these organizations have come together, and they say:

As-organizations committed to the health and well-being of infants, children, adolescents, and pregnant women, we urge you to oppose the amendment offered by Senator Roy Blunt. . . .

So all you are going to hear from the other side is misstatements about how the Blunt amendment is nothing more than what we have always done. Then why are you doing it? It is because it reaches so far.

We all support an exemption for religious providers. We all support that. We do not support the ability of any insurance company, nonreligious, or any employer, nonreligious, to stand up and say: You know what, I don't believe vaccines work; therefore, I don't think they should be made available to my people. And when you ask why, they say: I have a moral conviction. I have a moral conviction that people should have known better before they took that first cigarette when they were 11 or 12; therefore, I am not going to give any treatment. Too bad. They will just get lung cancer.

I mean, seriously. That is what the Blunt amendment will do. It will allow

anyone—nonreligious—to say they have an objection and not offer a host of preventive and essential health care services, including contraception.

So tomorrow is our time. We are going to defeat the Blunt amendment, and when we defeat the Blunt amendment, we are going to move on to the highway bill. Hooray. And maybe, just maybe people will listen to Senator OLYMPIA SNOWE, who said we should not get tied up in knots over these controversial things and we should do what is right for the American people. I certainly support that.

There is just one more thing I want to put in the RECORD.

Madam President, I ask unanimous consent to have printed in the RECORD the testimony of a woman who tried very hard to be allowed to speak with a panel of men at a congressional hearing.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Law Students for Reproductive Justice Chapter]

TESTIMONY FROM LAW STUDENT BARRED FROM HOUSE HEARING

Members of Congress, good morning, and thank you for allowing me to testify. My name is Sandra Fluke, and I'm a third year student at Georgetown Law, a Jesuit school. I'm also a past president of Georgetown Law Students for Reproductive Justice or LSRJ. I'd like to acknowledge my fellow LSRJ members and allies and thank them for being here today.

Georgetown LSRJ is here today because we're so grateful that this regulation implements the nonpartisan, medical advice of the Institute of Medicine. I attend a Jesuit law school that does not provide contraception coverage in student health plans. Just as we students have faced financial, emotional, and medical burdens as a result, employees at religiously affiliated hospitals and universities across the country have suffered similar burdens. We are all grateful for the new regulation that will meet the critical health care needs of so many women. Simultaneously, the recently announced adjustment addresses any potential conflict with the religious identity of Catholic and Jesuit institutions.

As I have watched national media coverage of this debate, it has been heartbreaking to see women's health treated as a political football. When I turn off the TV and look around my campus, I instead see the faces of the women affected, and I have heard more and more of their stories. You see, Georgetown does not cover contraceptives in its student insurance, although it does cover contraceptives for faculty and staff. On a daily basis, I hear from yet another woman who has suffered financial, emotional, and medical burdens because of this lack of contraceptive coverage. And so, I am here to share their voices and ask that you hear them.

Without insurance coverage, contraception can cost a woman over \$3,000 during law school. For a lot of students who, like me, are on public interest scholarships, that's practically an entire summer's salary. Forty percent of female students at Georgetown Law report struggling financially as a result of this policy. One told us of how embar-

assed and powerless she felt when she was standing at the pharmacy counter, learning for the first time that contraception wasn't covered, and had to walk away because she couldn't afford it. Students like her have no choice but to go without contraception. Just on Tuesday, a married female student told me she had to stop using contraception because she couldn't afford it any longer.

You might respond that contraception is accessible in lots of other ways. Unfortunately, that's not true. Women's health clinics provide vital medical services, but as the Guttmacher Institute has documented, clinics are unable to meet the crushing demand for these services. Clinics are closing and women are being forced to go without. How can Congress consider allowing even more employers and institutions to refuse contraceptive coverage and then respond that the non-profit clinics should step up to take care of the resulting medical crisis, particularly when so many legislators are attempting to defund those very same clinics?

These denials of contraceptive coverage impact real people. In the worst cases, women who need this medication for other medical reasons suffer dire consequences. A friend of mine, for example, has polycystic ovarian syndrome and has to take prescription birth control to stop cysts from growing on her ovaries. Her prescription is technically covered by Georgetown insurance because it's not intended to prevent pregnancy. At many schools, it wouldn't be, and under Senator Blunt's amendment, Senator Rubio's bill, or Representative Fortenberry's bill, there's no requirement that an exception be made for such medical needs. When they do exist, these exceptions don't accomplish their well-intended goals because when you let university administrators or other employers, rather than women and their doctors, dictate whose medical needs are good enough and whose aren't, a woman's health takes a back seat to a bureaucracy focused on policing her body.

In sixty-five percent of cases, our female students were interrogated by insurance representatives and university medical staff about why they need these prescriptions and whether they're lying about their symptoms. For my friend, and 20% of women in her situation, she never got the insurance company to cover her prescription, despite verification of her illness from her doctor. Her claim was denied repeatedly on the assumption that she really wanted the birth control to prevent pregnancy. She's gay, so clearly polycystic ovarian syndrome was a much more urgent concern than accidental pregnancy. After months of paying over \$100 out of pocket, she just couldn't afford her medication anymore and had to stop taking it. I learned about all of this when I walked out of a test and got a message from her that in the middle of her final exam period she'd been in the emergency room all night in excruciating pain. She wrote, "It was so painful, I woke up thinking I'd been shot." Without her taking the birth control, a massive cyst the size of a tennis ball had grown on her ovary. She had to have surgery to remove her entire ovary. She's not here this morning. She's in a doctor's office right now. Since last year's surgery, she's been experiencing night sweats, weight gain, and other symptoms of early menopause as a result of the removal of her ovary. She's 32 years old. As she put it: "If my body is indeed in early menopause, no fertility specialist in the world will be able to help me have my own children. I will have no chance at giving my mother her desperately desired grandbabies,

simply because the insurance policy that I paid for totally unsubsidized by my school wouldn't cover my prescription for birth control when I needed it." Now, in addition to facing the health complications that come with having menopause at an early age—increased risk of cancer, heart disease, osteoporosis, she may never be able to be a mom.

Perhaps you think my friend's tragic story is rare. It's not. One student told us doctors believe she has endometriosis, but it can't be proven without surgery, so the insurance hasn't been willing to cover her medication. Last week, a friend of mine told me that she also has polycystic ovarian syndrome. She's struggling to pay for her medication and is terrified to not have access to it. Due to the barriers erected by Georgetown's policy, she hasn't been reimbursed for her medication since last August. I sincerely pray that we don't have to wait until she loses an ovary or is diagnosed with cancer before her needs and the needs of all of these women are taken seriously.

This is the message that not requiring coverage of contraception sends. A woman's reproductive healthcare isn't a necessity, isn't a priority. One student told us that she knew birth control wasn't covered, and she assumed that's how Georgetown's insurance handled all of women's sexual healthcare, so when she was raped, she didn't go to the doctor even to be examined or tested for sexually transmitted infections because she thought insurance wasn't going to cover something like that, something that was related to a woman's reproductive health. As one student put it, "this policy communicates to female students that our school doesn't understand our needs." These are not feelings that male fellow students experience. And they're not burdens that male students must shoulder.

In the media lately, conservative Catholic organizations have been asking: what did we expect when we enrolled at a Catholic school? We can only answer that we expected women to be treated equally, to not have our school create untenable burdens that impede our academic success. We expected that our schools would live up to the Jesuit creed of cura personalis, to care for the whole person, by meeting all of our medical needs. We expected that when we told our universities of the problems this policy created for students, they would help us. We expected that when 94% of students opposed the policy, the university would respect our choices regarding insurance students pay for completely unsubsidized by the university, especially when the university already provides contraceptive coverage to faculty and staff. We did not expect that women would be told in the national media that if we wanted comprehensive insurance that met our needs, not just those of men, we should have gone to school elsewhere, even if that meant a less prestigious university. We refuse to pick between a quality education and our health, and we resent that, in the 21st century, anyone thinks it's acceptable to ask us to make this choice simply because we are women.

Many of the students whose stories I've shared are Catholic women, so ours is not a war against the church. It is a struggle for access to the healthcare we need. The President of the Association of Jesuit Colleges has shared that Jesuit colleges and universities appreciate the modification to the rule announced last week. Religious concerns are addressed and women get the healthcare they need. That is something we can all agree on. Thank you.

Mrs. BOXER. Madam President, this is a panel of men who were called by House Republican Chairman ISSA to testify about women's health—not one woman there, but they were the experts. They denied this woman the chance to speak. If she had been allowed to speak, this is what she wanted to say:

She had a friend who went to the doctor, and the friend had a cyst on her ovary. The doctor said: You have to take birth control. That is going to help. Those pills are going to help reduce the size of that cyst.

She couldn't afford the birth control pills and her employer wouldn't cover them, so she couldn't take them. She is a student. She wrote her friend saying that the cyst "was so painful, I woke up thinking I'd been shot."

I will quote part of the friend's testimony relaying what her friend told her.

Without taking the birth control, a massive cyst the size of a tennis ball had grown on her ovary. She had to have surgery to remove her entire ovary. She's not here this morning. She's in a doctor's office right now. Since last year's surgery, she has been experiencing night sweats, weight gain, and other symptoms of early menopause as a result of the removal of her ovary. She's 32 years old. As she put it, "If my body is indeed in early menopause, no fertility specialist in the world will be able to help me have my own children. I will have no chance of giving my mother her desperately desired grandbabies, simply because the insurance policy that I paid for totally unsubsidized by my school wouldn't cover my prescription for birth control when I needed it."

And so her friend says:

Now, in addition to facing the health complications that come with having menopause at an early age—increased risk of cancer, heart disease, osteoporosis—she may never be able to be a mom.

So when we talk about the Blunt amendment, we are not talking about some obtuse issue, we are not talking about some philosophical issue. What we are talking about when we talk about the Blunt amendment is a young woman, a student at law school who couldn't afford to pay for the birth control pills which would have saved her fertility, which would have saved her horrific pain—a painful operation where she lost her ovary simply because she couldn't have access to her birth control pills.

This is not about some argument that doesn't have real consequences for our people. The Presiding Officer's constituents and my constituents deserve to have access to preventive care. They deserve to have access to essential health care. The Blunt amendment will take that away from them. It will take that away from them. And all on a highway bill. All on a highway bill.

So let's keep the Blunt amendment away from this highway bill. This highway bill is a product of strong bipartisanship, as the Presiding Officer has told the Senate. Let's keep it clean.

Let's keep out these extraneous amendments that will roll back environmental laws that are cleaning up the air, that will keep the arsenic and the mercury out of the air and the lead out of the air. Let's not roll back these laws on a highway bill. Let's get the highway bill done. When we have other arguments about other issues, let's put those issues on a relevant bill.

This is the time now for us to pull together, not pull apart. The Nation needs us to work together. It is an election year, and it is a difficult time. There is a lot of name-calling going on out there on the campaign trail, but we are still here, last I checked, and we are supposed to be doing our work for the American people. We have a chance to do it on this highway bill. Let's defeat the Blunt amendment in the morning.

I thank my friends for coming over to the floor and speaking so eloquently today against this dangerous, precedent-setting Blunt amendment that will turn back the clock on women's health and on our families' health.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. WHITEHOUSE). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. KLOBUCHAR. Mr. President, I rise to join my colleagues in opposition to the amendment offered by Senator BLUNT.

It is discouraging that when we should be having a debate on our Nation's infrastructure and surface transportation needs, we are instead talking about women's health and contraception. As the Senator from California noted earlier, my State is a State that understands the importance of upgrading our infrastructure and investing in surface transportation. I live just a few blocks from the bridge that collapsed in the middle of that river on that sunny day in Minnesota, an eight-lane highway, in the Mississippi River. So we understand the importance of investment in infrastructure, and that is what we should be focusing on in this bill. Instead, we have taken a different turn.

I understand there are many different perspectives and opinions when it comes to issues related to contraception and women's health; however, we shouldn't be talking about them when we are supposed to be talking about infrastructure, highway, roads, and bridges. People are free to give speeches, they are free to talk about whatever they want, but this amendment doesn't belong on this bill. Nevertheless, it is here, and I think it is very

important that we address it and the American people understand what it would mean.

Unfortunately, this amendment impacts more than just contraception. This amendment ultimately limits our ability to address our health care challenges through prevention and wellness. Chronic conditions such as diabetes, heart disease, and cancer can be avoided through prevention, early detection, and treatment. We all know that. That is pretty common knowledge in our country.

During health care reform, we made great strides in improving the health and well-being of our Nation by strengthening preventive services. We addressed prohibitive costs by eliminating copays and cost sharing for essential services such as mammograms and colonoscopies. We addressed access issues by ensuring coverage for preventive autism or cholesterol screenings, to name a few. I also fought to include the EARLY Act, which promoted early detection for breast cancer for young women. These types of preventive and early detection services are vital to so many people in this country.

As a cochair of the Congressional Wellness Caucus, a bipartisan caucus, I have also heard from numerous employers that understand a healthy workforce only increases productivity and output. It would be unfortunate if we eliminated access to prevention and wellness services that keep our Nation's workforce strong and productive. Because of the necessity of these services and the benefits they provide to men, women, and children, including contraception, I asked my colleagues to oppose the Blunt amendment.

The Blunt amendment would allow any employer or insurance company to refuse to cover any of the prevention services, any essential health benefit or any other health service required under the health care law, allowing these entities to deny critical health care to the millions who rely on these entities for insurance. The consequences of this provision could mean employers and other organizations for any reason refusing to offer coverage of lifesaving preventive services such as mammograms or tobacco cessation would be based on employer discretion. That is why I don't think it is a surprise that organizations such as the American Cancer Society, the American Academy of Pediatrics, the American Public Health Association, and the March of Dimes oppose this amendment.

I think we all know the American Cancer Society, March of Dimes, American Academy of Pediatrics, and these groups tend not to get involved in contraception issues, and that goes to show us right now this amendment is much broader than just talking about contraception.

According to the American Cancer Society:

Annually, seven out of ten deaths among Americans are attributed to chronic diseases such as cancer, diabetes, heart disease and stroke. The Affordable Care Act made significant strides to stem this epidemic by ensuring patients would have access to essential care that could address prevention, early detection, and treatment—all necessary elements to improve the health and well-being of our nation. Unfortunately, the expansive nature of the proposed Blunt amendment would directly undercut this progress.

I am concerned the broad-based nature of this amendment would prevent men, women, and children from getting the preventive services they need as a result of the personal beliefs of a single individual or an employer or an insurance company. I do not believe this is the way to protect Americans in need of health care services, and I urge my colleagues to oppose this amendment.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BLUMENTHAL. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BLUMENTHAL. Mr. President, I come to the floor today with sadness and reluctance because we are actually debating an extraordinarily worthwhile, even historic bill that would not only improve our infrastructure—our roads and bridges and highways in the State of Connecticut and throughout the country—but also provide jobs, enable more economic growth, and promote the effort to put Connecticut and our country back to work. My reluctance is we are debating an amendment that distracts from that essential task, the work that the Nation elected us to do, to make our priority creating jobs and promoting economic growth.

We are debating an amendment that seems fundamentally flawed. I am respectful, as is everyone in this body, of the moral convictions and religious beliefs that others may hold. I believe this amendment is unconstitutionally overbroad and vague. It is unacceptably flawed in the way it is written because it essentially gives every employer—anytime, anywhere, with respect to any medical condition, any form of treatment—the right to deny that essential health care and those services based on his or her undefined religious beliefs or moral convictions—quoting from the language itself, “religious beliefs” or “moral convictions”—without any defining limits.

Insurance companies can even deny a person coverage for mental health treatment or cancer screening or HIV and AIDS screening simply because that employer or insurance company may believe the causes of those conditions somehow violate his or her religious beliefs or moral convictions. This

amendment would threaten access to a number of clinical preventive services such as diabetes screening, vaccinations or cancer screenings, essential preventive services that have been proved to reduce health care costs and save lives. Those services should be guaranteed to every American without cost.

In my home State of Connecticut, one of the smallest States in the country, approximately 270,000 women would lose access to preventive care if this amendment is agreed to. Around the country some 20 million women would lose that kind of access to preventive care. That is a result that simply is unacceptable. The amendment goes too far. It would endanger the lives of millions of Americans, would completely undermine the progress—and we have made progress—in providing crucial health care services to millions of individuals.

I oppose this amendment because of its practical implications, because of its apparent unconstitutionality, and because it flies in the face of sound public policy. At a time when we are considering a bill, the transportation measure that deservedly has broad, widespread, bipartisan support in this Chamber and across the country, we are again polarized, Republican against Democrat, regrettably divided and potentially gridlocked because of an amendment that has nothing to do with transportation or putting America back to work. That should be our task. It is my priority. It should be the priority of this Chamber at this historic moment when we are reviving a still struggling economy, when people are hurting, striving to find work, and when we should be doing everything in our power to put America and Connecticut back to work and enable economic growth.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. Mr. President, I ask unanimous consent that the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. AKAKA. Mr. President, I ask unanimous consent to speak before the Senate for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. AKAKA. Mr. President, I rise to urge my colleagues to oppose the Blunt amendment, which could lead to devastating health outcomes for over 20 million women across our country. Just 2 weeks ago, I applauded the Obama administration's decision to require health insurance plans to provide coverage of FDA-approved contracep-

tion needed for women's health care without copays beginning this August. The final rule issued by the Department of Health and Human Services was a tremendous step toward improving the health of our Nation's women and their families—a step that was long overdue and one made with due respect for all Americans' religious freedom.

Tomorrow, we will be voting on an amendment that would not only undo that progress, it would move us backward. What is especially frightening is that this amendment goes much further than just reversing the rule because it is not limited to religiously affiliated entities. The proposal would allow any employer or health plan issuer to refuse coverage of any service for any reason, not just religious objections. If an employee had any moral objection, it would be permitted to refuse coverage for critical care such as alcohol and other substance abuse counseling, prenatal care for single women, and mental health care too. The way this measure is worded, employees could deny screening and treatment for cervical cancer because it is related to HPV or refuse HIV-AIDS testing and treatment due to an objection to ways the viruses can be transmitted. They could even refuse to cover certain FDA-approved drugs and treatments because they object to the research that led to the drug's development.

Major national pediatric organizations recently voiced their concern that if this amendment becomes law, employers who say they object to childhood vaccines on the basis of personal beliefs could refuse to cover these lifesaving and otherwise costly medical services. In short, this amendment allows corporations nationwide to overrule the religious and ethical decisions made by the people they employ and to trump the health care advice of their doctors.

If this amendment passes, it will discriminate against most of those who need financial support, and that is not right. All Americans deserve access to health care. We cannot allow partisan ideology to hurt the health of our women and children. If we do, our sisters, daughters, and granddaughters will pay the price. If we defeat this amendment, the final rule will save most American women who use contraceptives hundreds of dollars each year in health care costs. Health experts agree that birth control helps to save lives, prevent unintended pregnancies, improve outcomes for children, and reduce the incidence of abortion.

Another point raised by my colleagues, Senators GILLIBRAND and BOXER—and I thank them for promoting awareness on this issue—is that 14 percent of women who use birth control pills, and that is 1.5 million American women, use them to treat serious



medical conditions. Some of these conditions include endometriosis, ovarian cysts, debilitating monthly pain, and irregular cycles.

Religious principles are deeply important to me as a Christian, so I am glad the current rule accommodates conscience objections and exempts religiously affiliated organizations from both offering and paying for birth control coverage for their employees. At the same time, the core principle of ensuring all women's access to fundamental preventive health care remains protected because the care will be offered directly by the insurance companies. To deny any women access to affordable health care—as this amendment would do—is unconscionable. It could have devastating effects not only on her health but her family's as well.

In speaking with women's health advocates and providers in Hawaii and across the country, one of the most common recommendations I hear for improving women's health outcomes is to ensure access to effective contraception. Across the State of Hawaii about 150,000 women seek access to birth control every year, and almost half of them depend on financial assistance to obtain it. Right now, women in States that do not have plans that cover birth control face costs of around \$600 per year. Women and families who cannot afford it can end up facing tens of thousands of dollars in costs arising from complications from unintended pregnancies and other health care problems, costs that taxpayers often end up supporting.

With these facts in mind, I am not surprised that a survey has shown that 71 percent of American voters—including 77 percent of Catholic women voters—support the administration's requirement to make birth control available to all women. I firmly believe religious liberty is protected under the new rule, while access to preventive care does not discriminate against anyone, no matter whom they work for or what their occupation is.

I urge my colleagues to join me in voting against this dangerous amendment, which would set back improvements in preventive services and women's health care in this country.

I yield back the remainder of my time and suggest a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, tomorrow morning, the Senate will vote on a measure which is controversial and has

gathered a lot of attention across America. It is an amendment offered by the Senator from Missouri, Mr. BLUNT, and it relates to the health services that will be available to people across America and it calls into question an issue which we have debated since the earliest colonists came to this country; that is, the appropriate role of religion and government in America. It is an issue which has been hotly debated and contested in the earliest days of our Nation and was finally resolved by our Constitution in a manner that has served us well for over two centuries.

The Constitution speaks to the issue of religion in three specific places. It states in the first amendment that we each have the freedom of religion; that is, the freedom to believe or not to believe. It says there will be no official State religion; whereas, in England they chose the Church of England, but in our government there will be no choice of any religion.

Finally, there is a provision which says that there shall be no religious test for office. These are all constitutional provisions which, though sparing in language, have guided us carefully through over 200 years of history. We see around the world where other countries have not been as fortunate to come together in basic principles that have kept a diversity of religious belief alive in the country. Time and again we have seen differences when it comes to religion lead to conflict and death. We see it today in many places around the world. So when our government is called on to make a decision relative to the role of religion in American life, we should take care to stick to those basic principles that have guided us for over two centuries.

The issue before us today is what will be the requirements of health insurance that is offered by employers across America. What we have tried to establish are the essentials and basics of health insurance and health care. We are mindful of the fact that if the market were to dictate health insurance plans and policies, they may not be fair to the people of this country. I recall an instance before I came to Congress while working in Illinois where we learned that health insurance companies were offering policies which refused to cover newborn babies in the first 30 days of their life. Of course, that was done for economic reasons, because children born with a serious illness can be extremely expensive in that 30-day period. We changed the law in Illinois and said, if you want to cover a maternity, if you want to cover a child, it is from the moment of birth. That became the policy: to establish basic standards so that families buying these policies would have the most basic protections.

This issue we are debating with the Blunt amendment is what will be re-

quired of health insurance policies across America when it comes to preventive care. We asked the experts: What basics in preventive care should be included to make certain we don't overlook something that is fundamental to a person's survival or life? One of the things they said is when it comes to preventive care, to offer to women across America family planning services. That, of course, is the nub of the controversy, the center of it.

Some religions—the Catholic religion in particular—have strongly held beliefs about family planning. They have been opposed to what they call artificial forms of birth control from the beginning. At this point, the controversy came up—although those religious institutions that are strictly religious, such as the church rectory, the convent, and the like, are exempted from any requirements when it comes to health insurance—what of those religious-sponsored institutions such as universities, hospitals, and charities? What should their requirements be when it comes to health insurance for their employees? So the Obama administration said their employees should also receive the most essential and basic services, including preventive care for women, including family planning, and that is when the controversy lit up.

The President came to what I thought was a reasonable compromise, and here is what it says: A religious-sponsored university hospital, charity, or the like will not be required to offer health services such as family planning if it violates their basic religious beliefs. Their health insurance policy will not be required to cover those services. However, if an individual employee of that religious-sponsored institution chooses on their own initiative to go forward to the health insurance company, they can receive that service without charge. So the women will be offered these preventive care services, which are essential to their health, and yet there will be no requirement of the sponsoring institution to include those services. It is strictly a matter of the employee opting for that coverage.

Now comes the Blunt amendment. Senator BLUNT of Missouri said we should go beyond that and allow employers and insurance companies across America to decide the limitations of health insurance policies if those limitations follow the conscience and values of the employer. Keep in mind, we have gone way beyond religious-sponsored institutions; we are talking about individual employers making that decision.

Think of the diversity of opinion and belief across America, and imagine, then, what we will come up with. We have heard many things mentioned on the floor. My colleagues have made reference to individuals who may have a particular religious belief, and own a



business that has no connection at all to a religion otherwise, and decide then that under the Blunt amendment they will limit health insurance coverage accordingly. We can think of possibilities. Someone believes in conscience that a woman should never use birth control and says, then, that it will be prohibited from being offered by the health insurance policy of that employer. At the end of the day we would have a patchwork quilt of health insurance coverage and many people in this country—men and women—denied basic health coverage in their health insurance because the employer believes in conscience it shouldn't be offered. That is an impossible situation. It goes beyond the freedom of religion, to imposing someone's religious belief on another, in a situation that could endanger their lives.

The Blunt amendment would be a step in the wrong direction for this country. I think what the President has seized on is a reasonable course of action, to allow religious-sponsored institutions to follow their moral dictates when it comes to the health insurance they offer, but to still protect the right of individuals to seek the protection they need. I know it is going to be a controversial vote, but it is one that is important, because I think it strikes the right balance. I think it reflects back on decisions and values we have established as a country and that we should work to protect, even in the midst of a Presidential campaign when the rhetoric involved in it is very hot and inflammatory.

SYRIA

Mr. President, I rise to speak of the atrocities that are being committed every day by the Syrian Government against its own citizens—thousands who have stood bravely month after month against unspeakable violence simply to ask for basic political freedoms we take for granted in this country. And I rise to speak of the indefensible and inexplicable support of this brutal regime by Russia.

It has now been almost one full year since the Syrian uprising began in March 2011. By some reports, over 6,000 innocent people—civilians—have lost their lives in Syria. The exact number may never be known. Humanitarian groups have been prohibited from even assisting the wounded, and reporters prohibited from telling the story to the world. Syria's third largest city, Homs, has been bombarded with rockets and bombs by the Syrian military for over 3 weeks with scores of deaths, shortages of food and medical supplies.

One report describes rockets—11 rockets—slamming into a single apartment building in the space of 2 minutes. As soon as the barrage stopped and people started to rush to get away, it started again, killing even more. The result: a horrific trail of death and dying in this building from the fifth floor on down.

Those killed in Syria include two western journalists. Some suspect they might have been targeted. The murder of a well-known video blogger, Rami el-Sayed, supports that claim.

In this photo, my colleagues can see the results of the Syrian Government's bombardment of the city of Homs. Sadly, this is likely one of the many burial ceremonies that the people of that city have had to endure recently. Just a few days ago, it was reported that the bodies of 64 men were uncovered in a mass grave on the outskirts of the city. The women and children who were with them have gone missing.

The Independent National Commission of Inquiry on Syria, working with the U.N., submitted its most recent report on February 26. It said the Syrian Government has accelerated the killing of its own people, particularly in Homs, resulting in the deaths of nearly 800 civilians in the first 2 weeks of February alone. From the report:

On several occasions in January and February 2012, entire families—children and adults—were brutally murdered in Homs.

It is also noted that protesters have been arrested without cause, tortured, and even summarily executed.

In October, Senators CARDIN, MENENDEZ, BOXER, and I sent a letter to the Ambassador to the United Nations from the United States, Susan Rice, urging that the Syrian Government be referred to the International Criminal Court for possible indictment for war crimes. Certainly the evidence for such charges is overwhelming and continues to this day.

Assad has paid lip service to reforms such as the sham constitutional referendum last Sunday. The document's most important changes included giant caveats that they would, in effect, maintain the status quo as it exists in Syria.

One example is Assad's introduction of Presidential term limits to 2 terms of 7 years each, but the clock wouldn't start until Assad's current term expires in 2014, giving him 14 more years in office, a total of 28 years. Incomprehensible.

Secretary Clinton aptly described the referendum as a cynical ploy, to say the least.

On February 17, the Senate unanimously passed a resolution that:

Strongly condemns the government of Syria's brutal and unjustifiable use of force against civilians, including unarmed women and children and its violations of the fundamental human rights and dignity of the people of Syria.

Additionally, the U.N. General Assembly on February 16 passed a resolution by a vote of 137 to 12:

Strongly condemning continuing widespread and systematic human rights violations by the Syrian authorities.

Last Friday, more than 60 governments and organizations gathered in

Tunis under the auspices of the Friends of Syria rubric and they called for an immediate cease-fire, the provision of humanitarian aid, and a U.N. peace-keeping force.

The international community has coalesced in support of the Syrian people. I wish to recognize once again the leadership of the Arab League in building this consensus against the bloodshed. Even some U.N. Security Council members such as India and South Africa, that early on had concerns about speaking out, can no longer stand by silently as the killing continues. In the most recent U.N. Security Council vote earlier this month, they chose to do the right thing and to vote in favor of the latest resolution backing the Arab League peace plan.

However, as sad as it is to report, this resolution was vetoed by Russia and China. The exceptions to the international solidarity and support of the Syrian people have been Iran, China, and Russia. While both Iran and China's support for the Assad regime is deplorable, it is even worse in the case of Russia, for it is Russia that has the most blood of innocent Syrian women and children on its hands. Russia is not only protecting President Assad as he kills his own people, but it continues to supply him with the weapons to do it. How can any responsible nation take such action?

In an interview following the Friends of Syria meeting, Secretary of State Clinton said:

It's quite distressing to see two permanent members of the Security Council using their veto when people are murdered: Women, children, brave young men. It's just despicable. And I ask, whose side are they on?

Russia has chosen to align itself with a murderous regime, to impede democratic reform, and to facilitate the killing of innocent people by putting more and more weapons into the hands of those eager to pull the trigger.

Despite 6,000 innocent civilians dying, despite the overwhelming international consensus that Assad has lost legitimacy to lead the Syrian people, Russia continues to sell arms to Syria. According to media reports:

Shipping data shows at least four cargo ships since December that left the Black Sea port of Otkryabsk—used by Russian arms exporters for arms shipments have headed for or reached the Syrian port of Tartous. Separately was the Chariot, a Russian ship which docked at the Cypriot port of Limassol during stormy weather in mid-January. It promised to change its destination in accordance with a European Union ban on weapons to Syria but, hours after leaving Limassol, reset its course for Syria.

The Russian arming of the Syrian murderers continues.

A Cypriot source said that ship was carrying a load of ammunition and a European security source said the ship was hauling ammunition and sniper rifles of the kind used increasingly by Syrian Government forces against protesters.

I want to show one other photograph I have here in the Chamber. This photo is of one of those Russian warships—an aircraft carrier—docked at the Syrian port of Tartous on January 8. What we could not turn into a poster is the video clip showing the Russian warship captains being greeted like royalty by the Syrian Minister of Defense who went out to personally welcome their ship.

Rebel soldiers and an official who defected from the Government of Syria say Moscow's small-arms trade with Damascus is booming, and that the government doubled its military budget in 2011 to pay for the brutal response to this opposition.

That said, Russia is in a unique position. It has President Assad's trust and confidence—maybe more than any other country. Should Russia choose, it could use this power and influence to constructively broker a real transition and an end to this bloodshed.

The longer President Assad holds power in Syria, the more innocent people will die. The window for a more peaceful transition and ending is closing. Now is the time for Russia to lead in the right direction—to be a responsible global partner, and to be part of a solution in ending the carnage, bloodshed, and death in Syria.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. BENNET). The Senator from West Virginia. TRIBUTE TO SOUTHERN WEST VIRGINIA COMMUNITY AND TECHNICAL COLLEGE

Mr. MANCHIN. Mr. President, I rise today to recognize two pillars of West Virginia—an educational institution that is educating the people of our State for good-paying jobs they are going to need and a beloved figure who put our State at the forefront of advances in mental health.

First, please allow me to recognize Southern West Virginia Community and Technical College for its distinguished ranking as the 14th best community college in the Nation because of all the work its staff and students have done together to develop the skills necessary to compete in the workplace.

All of us in my great State know about Southern's dedication to active and collaborative learning, and we are so proud that Washington Monthly recognized the school's achievements in its most recent rankings.

This accomplishment is not the work of any one person, but a shared commitment to excellence from the school's leadership, faculty, staff, and students. I applaud everyone who is involved at Southern for their focus on improving educational quality through strengthened student engagement and student success.

In addition, I am so pleased that Southern is thriving under the steadfast leadership of President Joanne Jaeger Tomblin, who is also serving

the public as West Virginia's First Lady. For more than 12 years, Joanne has been the visionary and the driving force behind many of these accomplishments. Her unwavering enthusiasm and tireless dedication transcend geographical barriers to bring extraordinary educational opportunities to all of southern West Virginia.

I tell young people all the time that they cannot sit on the sidelines and watch life happen. They have to get in the game and start making the calls. The same goes for those students who are returning to school for training or who are taking the initiative to take their careers to the next level.

Southern helps all students—those who are just starting out and those who are in the middle of their careers—build critical skills and get an education to become a workforce that will meet our needs in the 21st century and beyond. Every day, these students and their teachers are doing the hard work that will make our great State and country competitive by finding new ways to create good jobs and rebuild our economy.

Again, I am so proud of this accomplishment at Southern, and it is just one example of what we can achieve when we all work together.

REMEMBERING DR. MILDRED MITCHELL-BATEMAN

Mr. President, I also rise today to recognize the accomplishments and life of a mental health pioneer and a most beautiful and true West Virginia hero, who we were so sad to lose last month. It is only fitting to honor her today on the last day of Black History Month.

Dr. Mildred Mitchell-Bateman leaves behind a remarkable legacy. She transformed care for mentally ill patients by working tirelessly to provide hope to people who were once believed to be untreatable. Her work emphasized the importance of family and community—two values we hold so dear in West Virginia—and she put a high priority on making sure people received care near their homes.

Mildred Mitchell made West Virginia her home in 1946, when she was hired as a staff physician at West Virginia's Lakin State Hospital, which at the time was a hospital for mentally ill patients who were African American. There she met and married her husband William L. Bateman, a therapist at Lakin and a native West Virginian.

Throughout her 89 years, Mildred Mitchell-Bateman remained committed to serving those without a voice in our community. After leaving Lakin to practice medicine privately, Mildred returned to the hospital as the clinical director, and 3 years later was promoted to superintendent. In 1962, Mildred was named as the director of the State's Department of Mental Health, becoming the first African-American woman to lead a West Virginia State agency.

Mildred's vision for psychiatric care extended beyond West Virginia, earning her national recognition and requests for service. In 1973, she became the first Black woman to serve as vice president of the American Psychiatric Association. A short time later, she was appointed to the President's Commission on Mental Health, where she played an important role in the creation of the 1980 Mental Health Systems Act.

Dr. Mitchell-Bateman was a doctor, a teacher, and a pioneer. Her accomplishments are made even more remarkable by the adversity she faced. Her life serves as a powerful example to us all of what one can accomplish with conviction, dedication, and true West Virginia grit.

Mildred Mitchell-Bateman will forever be remembered for her many years of dedicated service to the Mountain State, her passion and dedication to the mental health community, and for touching the lives of so many patients. On top of that, she was also a loving mother to seven children, and a very proud grandmother to ten wonderful grandchildren.

Gayle and I are keeping the Mitchell-Bateman families in our hearts and prayers. While we know that Mildred Mitchell-Bateman is gone, her legacy and service to the people of West Virginia will keep her alive in our hearts forever.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHUMER. Mr. President, we have had a long discussion today on the amendment to the surface transportation bill offered by my colleague and friend from Missouri, Senator BLUNT. I think the discussion has shown pretty clearly that the amendment by the Senator from Missouri is both way beyond the scope of what most people envisioned and is extreme. It is way beyond the scope because it would cause the deprivation of certain types of health care to perhaps millions of Americans in areas that go way beyond contraception.

All an employer would have to do is say they have a moral objection to providing vaccinations and they would not have to provide health care. Maybe the employees could sue or go to court for 10 years and figure this out, but that is not what we want. So it would be a giant step backward in terms of health care.

It is also a giant step backward in terms of depriving millions of American women of contraception. In a

sense, this is a ban on contraception, at least for the millions of American women whose employers would say they do not want to provide contraception. Some might be motivated by religious beliefs, some might be motivated by simply saving money, and we would never know except after long and costly litigation. Again, that would deprive the employee of contraception for a very long time.

I think if people listened in on this debate, they would say this was a debate occurring not in 2012 but maybe in 1912 or even 1812 because issues such as a woman's right to contraception without the employer making a determination have long been decided by this country. We have seen the statistics. The overwhelming majority of Americans of every faith believe contraception should be available.

So the debate has been pretty clear. I think the other side is making a huge mistake—certainly substantively, and in my judgment politically—so much so that today the leading Presidential candidate on the Republican side, when asked whether he supported the Blunt amendment said, no; he did not think Congress should be getting involved in contraception. Mr. Romney said we should not be doing this amendment, and he did not support it, unequivocally and clearly.

A few hours later, of course, his folks walked that back, probably because of political pressure. He is facing Republican primaries where this issue is debated seriously, even if the rest of America does not believe that it should be debated. But what it shows is even when a leading candidate of the other side who is seeking votes from the hard right has doubts about whether this is a good idea, those doubts are real.

The other side should make a retreat. Our Republican colleagues should not make the same mistake they made on the payroll tax deduction by appealing to an extreme group. They should back off this amendment. They should vote with us, and we should move on and debate the highway bill and put millions of Americans to work and update our infrastructure.

Mr. LEVIN. Mr. President, the amendment we are considering today represents a direct assault on access to preventive health care services for millions of women in this country. The ostensible purpose of this proposal is to protect the rights of conscience of any employer or healthcare insurer, religious or secular, who may have a religious or moral objection to providing family planning services free of charge to their employees. I respect and will defend the moral values of employers and insurance companies. But I also respect the moral values of people who need medical services. So we will end up deciding whether or not to deny access to critical and possibly lifesaving health services for millions of people in

this country, not whose religious or moral values have precedence.

As drafted, Senator BLUNT's amendment would grant employers and health insurance companies the power to deny access to not just preventive healthcare services for women, but any healthcare service, for anyone, regardless of its nature. This means any employer could choose to deny employees insurance coverage for such things as children's immunizations; mammograms; lifesaving cancer treatments; or blood transfusions simply because that employer may find these or any other healthcare services morally objectionable.

For the Senate to pass such a policy would be indefensible. It would go far beyond nullifying the administration's rule to implement provisions in the Affordable Care Act requiring access to some preventive services at no cost. Instead, this amendment would codify infringement on personal healthcare decisions, would grant an employer the right to substitute his moral convictions for those of his employees, and would effectively deny access to critical healthcare services.

Considering that some of my colleagues vociferously defend the idea of personal liberties, I am truly surprised they would support a policy to undermine those same liberties by handing power over an individual's personal healthcare decisions to that individual's employer or his insurance company.

This body took a bold and historic step by enacting healthcare reform in 2010. We accomplished something that had eluded the country and the Congress for decades. The law recognizes that women have specific medical needs and that gaps have historically existed in preventive care for women. And it correctly called for specific steps to address that. We should not now support policies that would not only walk these advances back, but take giant leaps backwards in access to healthcare services for everyone. I urge our colleagues to vote against this amendment.

Mr. LEAHY. Mr. President, I am proud to join Senator KOHL and have long supported the No Oil Producing and Exporting Cartels Act, NOPEC. We were able to pass this NOPEC bill as a response to the OPEC oil cartel by a vote of 70 to 23 a few years ago. The Senate should pass it again. This time, the House should also adopt this sensible application of our antitrust laws to those who fix prices and manipulate the oil market to the detriment of American consumers.

We should be doing what we can to ensure that oil prices are not artificially inflated. That affects gas prices at the pump. This NOPEC amendment will hold accountable the collusive behavior that artificially reduces supply and increases the price of fuel. The rise

and fall of oil and gas prices has a direct impact on American consumers and our economy. We should increase accountability and take away the profits of those who manipulate prices and supply to their benefit and unfairly prey upon consumers.

On Monday, the U.S. Energy Information Administration reported that prices for regular gas rose 13 cents per gallon last week to a nationwide average of \$3.78. Gasoline pump prices are up 34 cents a gallon over last year. The Senate Judiciary Committee held a hearing on the skyrocketing price of oil in May 2008, but these recent increases in price have led to renewed calls for investigation into their causes. We already know one significant cause: anticompetitive conduct by oil cartels.

The artificial pricing scheme enforced by OPEC affects all of us. Fuel prices are on the rise and American consumers and businesses are feeling the pain at the pump. This week Vermonters are paying \$ 3.79 for a gallon of regular gasoline; last week, Vermonters were paying \$3.70—a price jump of 9 cents in just 1 week. In 2011, the price for certain fuels rose by as much as one-third from 2010, according to the Vermont Department of Public Service. These prices affect everyone. These high fuel prices hit Vermonters especially hard in even the most mild of winters.

In rural States such as Vermont, the cost of simply getting to work or to the grocery store because of high gas prices can further hurt already strapped household incomes. Vermont farmers shoulder the burden of surging fuel prices year-round, regardless of the season. Higher fuel prices can add thousands of dollars in yearly costs to a 100-head dairy operation in the Northeast.

As we head into the summer months, when gas prices typically increase, soaring prices at the pump can affect the tourism industry, an economic driver in vacation destinations such as Vermont. As our summer months approach, many families in and around Vermont are going to find that OPEC has put an expensive crimp in their plans. Some are likely to stay home, others will pay more to drive or to fly so that they can visit their families or take their well-deserved vacations.

American consumers should not be held as economic hostages to the whim of those who collude unfairly for their gain. We should not permit anyone to manipulate oil prices in an anticompetitive manner. The collusive behavior of certain oil producing nations has artificially and drastically reduced the supply and inflated the price of fuel. Put simply, the behavior of these oil cartels, which would be illegal under antitrust laws, harms American consumers and businesses and our recovering economy.

Authorizing action against illegal oil price fixing and taking that action without delay is one thing we can do without additional obstruction or delay. Our amendment would allow the Justice Department to crack down on illegal price manipulation by oil cartels. This bill will allow the Federal Government to take legal action against any foreign state, including members of OPEC, for price fixing and artificially limiting the amount of available oil. While OPEC actions remain sheltered from antitrust enforcement, the ability of the governments involved to wreak havoc on the American economy remains unchecked.

Our antitrust laws have been called the "Magna Carta of free enterprise." If OPEC were simply a foreign business engaged in this type of behavior, it would already be subject to them. It is wrong to let OPEC producers off the hook just because their anticompetitive practices come with the seal of approval of national governments.

In the past, our NOPEC legislation has had bipartisan support. A few years ago it passed overwhelmingly. By passing this legislation, we can say no to OPEC.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MERKLEY.) The clerk will call the roll. The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators allowed to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### TRIBUTE TO MS. PAULINE WHITE

Mr. MCCONNELL. Mr. President, I rise to pay tribute to a woman who has answered a call to service, and given so freely of herself over the course of her fruitful lifetime. Ms. Pauline White of Cumberland, KY, has not ceased giving to her fellow man, even though she is entering her 80s. Contrary to what one may think, Ms. White has not let her age stop her from participating in the missionary work that is so dear to her heart.

Ms. White, who was working as a missionary in Sebring, FL, at the Association for Retarded Citizens in 2002, felt that she was called by God to come and bring aid to eastern Kentucky. She put up a "For Sale" sign in her yard, and called a few of her lady friends to come over and help her begin to pack

her belongings. Just a few hours later a couple knocked on the door, asked about the price of the house, and ended up buying the house in cash later that day. Ms. White did not worry about selling her house for long, which she believed was just another sure sign from God that her journey to Kentucky was part of His plans.

Ms. White is now the director of Shepherd's Pantry, an outreach program in Cumberland, KY, that provides food for 500 to 900 low-income families on the second Wednesday of each month. Families that participate in the program are assigned appointments to come to the pantry and receive what Ms. White and her volunteers have worked so hard to prepare for them. At the pantry, the families are given food, personal hygiene items, and treats for their children. But according to Ms. White, the most important thing the families receive from Shepherd's Pantry is the Gospel of Jesus Christ. The volunteers at the pantry drop gospel tracts in each of the bags that the families receive, and then they wait for the Lord to move. The staff is always available to provide those in need with spiritual counseling.

Along with their aid of food to families in need, Shepherd's Pantry also distributes government commodities to low-income families, supplies breakfast for schoolchildren, and provides snacks to mission groups throughout the area.

Shepherd's Pantry has attracted volunteers from as far as Florida, and as close as London, KY. The volunteers come to witness God's work in the community. And according to Ms. White, they have yet to be disappointed. She says that God performs miracles week after week.

Ms. White recalls one instance when the computer wiped out all of the names of the Pantry's clients and addresses. The staff tried just about everything to get the computer to turn back on, but nothing seemed to help. After much praying, the computer miraculously booted up and printed all 500 names, addresses, and emails. Upon hearing about the phenomenon, the mail station company said "No way!" Ms. White responded with, "Yes, God's way!"

Ms. White has no intentions of ending her mission work anytime soon. She has handpicked a Bible verse in Psalms Chapter 91, Verse 11, which is very dear to her heart: "For he will command his angels concerning you to guard you in all your ways." In Sebring, FL, in 2002, Ms. White heard a preacher speak of a lady who was still serving the Lord at 86 years old. She thought to herself, "I still have 14 years to go!" Ms. White offers this advice to other "old folks": "When he calls, I think you need to consider his call and not your age."

The service and good works of Ms. Pauline White and Shepherd's Pantry

have contributed mightily to the town of Cumberland, the surrounding region, and the entire Commonwealth of Kentucky. Ms. White is providing nourishment not just for her neighbors' bellies, but also for their spirits. Mr. President, at this time I would like to ask my colleagues in the U.S. Senate to join me in commemorating the great service of Ms. Pauline White.

Mr. President, I yield the floor.

#### ADDITIONAL STATEMENTS

##### RECOGNIZING OUTSTANDING STUDENT VOLUNTEERS

• Mr. AKAKA. Mr. President, I rise today to congratulate Candonino Agusen and Jackson Button, two students from my State, who were named as top youth volunteers for 2012 by the Prudential Spirit of Community Awards. The awards were created in 1995 through a partnership between Prudential and the National Association of Secondary School Principals to honor middle and high school students for outstanding service to others at the local, State, and national levels.

Every year, the top high school and middle school youth volunteers from each State and the District of Columbia are selected as State Honorees. Each honoree receives a \$1,000 award, an engraved silver medallion, and an all-expense paid trip to Washington, D.C. for several days of national recognition events. In addition, other noteworthy students from each State are named Distinguished Finalists and receive a bronze medallion for their contributions.

After the natural disasters in Japan in 2011, Candonino, a junior at Kealakehe High School, recruited others to help him purchase temporary housing kits for the victims displaced by the earthquake and tsunami. These kits included a tent, survival equipment, and a month of supplies for up to 10 people. His team raised more than \$64,000, enough to take care of 640 earthquake victims for a month. Candonino contributed another \$2,000 by making and sending 1,000 paper origami cranes to Japan as a symbol of support.

Jackson, a middle school student at Hawaii Technology Academy, co-founded a nonprofit organization with his sisters that has raised nearly \$100,000 to support a wide variety of projects aiding children in Africa, Mexico, and the United States. Some of the projects funded by the organization include scholarships for children who have lost a parent to cancer or other diseases, a solar heater for a Mexican orphanage, and school supplies for underprivileged students in Hawaii. Through the nonprofit, Jackson and his sisters even arranged for a van to take HIV/AIDS orphans in Uganda to medical appointments, and bought four acres of land in

that country to grow food and build a new orphanage.

I would also like to recognize Scott Fetz of Kailua-Kona and Jessica Sonson of Ewa Beach who were named the 2012 Distinguished Finalists from Hawaii, as well as the many other individuals who contribute to the improvement of our communities every day. Our Nation is a better place because of people like these young leaders, who are making a difference in their communities and around the world. These students, like many volunteers, do not perform these services for recognition. I am grateful for awards that acknowledge their selflessness so that these role models can serve as inspiration for others. I am proud of all that these students have accomplished, and I wish them the best in their bright futures.●

#### RECOGNIZING MEDSTAR ST. MARY'S HOSPITAL

● Mr. CARDIN. Mr. President, I wish to recognize the 100th anniversary of MedStar St. Mary's Hospital in Leonardtown, MD. When St. Mary's Hospital was founded in 1912, it was Leonardtown's first community health care center, located in a modest two-story home. The surrounding population was small and rural, and the hospital's running water was heralded in a local newspaper. The new health care center was the first of many institutions that marked the beginning of St. Mary's County's transformation into the modern, thriving region it is today.

As the county has grown and evolved from humble beginnings, so has the hospital. Today, St. Mary's is a full-service hospital facility which offers state-of-the-art emergency, acute inpatient and outpatient care. The emergency room serves over 50,000 patients per year, and St. Mary's is leading the way in using cutting-edge medical technology. St. Mary's was the first hospital in southern Maryland to achieve full certification as a stroke center and won the prestigious Delmarva Foundation Excellence Award five times for consistent improvements in patient safety and clinical outcomes. The hospital's fully integrated electronic medical records system is ranked among the top 5 percent nationally.

St. Mary's is committed to a "patients first" philosophy, which is evident in consistently high patient satisfaction scores. At St. Mary's, treating every patient with respect and compassion is an essential part of the healing process. The hospital offers dignity, comfort, and support to each and every patient and his or her family.

In 2009, St. Mary's joined the MedStar Health System. This partnership helps St. Mary's meet the expanding medical needs of the southern Maryland community and offer the re-

gion greater access to specialty care. A new name that blends the hospital's history and future—MedStar St. Mary's Hospital—has been unveiled to celebrate its centennial.

I ask my colleagues to join me in congratulating MedStar St. Mary's Hospital on 100 years of providing outstanding patient-centered care to the residents of Leonardtown and the southern Maryland region.●

#### RECOGNIZING ST. PAUL'S PARISH

● Mr. CASEY. Mr. President, it is with great pleasure that I wish to recognize St. Paul Roman Catholic Church of the Diocese of Scranton, PA, as it celebrates its 125th anniversary. Saint Paul's church and school have been a place of worship and education for my family for generations.

St. Paul's Parish, of the Green Ridge Section of Scranton, was created by Bishop Reverend William O'Hara in 1887 as the sprawl from the center city of Scranton commenced with growth in the anthracite coal industry in Northeastern Pennsylvania. The first mass, on March 1, 1887, was attended by 300 people.

A more permanent church, which included classroom space and an auditorium, was built just 3 years later in 1890. In 1892, the Sisters of the Immaculate Heart of Mary began teaching at the school and continue to do so today. A convent was built for the sisters in 1898.

After 38 years, the building that housed the church and school became insufficient, and in 1928, St. Paul School was built and is still in operation. As Green Ridge's population continued to grow, the parish built St. Clare School in 1952, St. Clare Church in 1955, and St. Clare Convent in 1958. Finally, St. Paul's current church was built in 1952 and was renovated in 1999 2000.

Under the current leadership of Monsignor William Feldcamp, St. Paul's Parish remains vibrant with over 4,500 members.

I wish the entire St. Paul community my best as Bishop Joseph C. Bambera celebrates the 125th anniversary mass on Sunday, March 4, 2012.●

#### RECOGNIZING CHEYNEY UNIVERSITY

● Mr. CASEY. Mr. President, I wish to recognize the 175th anniversary of Cheyney University. Founded on February 25, 1837, as the Institute for Colored Youth, Cheyney University is the oldest of the Nation's historically black colleges and universities.

Born in an era that legally and commonly defined African Americans as property, the Institute for Colored Youth sought to provide a pathway for educational enrichment to a community wherein few opportunities existed.

Established through the donation of Richard Humphreys, a Quaker philanthropist who settled in Philadelphia in 1764, the Institute for Colored Youth sought to prepare African Americans to educate their communities as teachers. Recognizing that African Americans lacked both means and access to higher education, the Institute for Colored Youth provided classes in classical education to young students at no cost in the first years of its creation.

Over time, the vision of the Institute for Colored Youth grew into what we now know as Cheyney University. Today, Cheyney University offers a diverse array of academic programming, including bachelor of arts and bachelor of science degrees in more than 30 fields, master of science and master of education, master of arts in teaching, and master of public administration. The ongoing evolution of Cheyney University is evidenced in continuous efforts to identify new methods and opportunities to prepare their students to succeed.

As we celebrate African-American achievement and extraordinary accomplishments this month, we must also pay tribute to the institutions that are the foundations of these successes. Cheyney University's legacy of academic achievement spans throughout the Civil War, Reconstruction, the era of Jim Crow and the Civil Rights movement and continues today. Cheyney University, having grown from the darker chapters of American history, has served as a true instrument of change in the quest for equal access to opportunities. It is both an honor and a privilege to commemorate Cheyney University and its tremendous impact throughout Pennsylvania and across the Country.●

#### REMEMBERING BILL RAGGIO

● Mr. HELLER. Mr. President, I wish to pay tribute to the life and work of Bill Raggio, a steadfast Nevadan, my mentor, and dedicated public servant who passed away on February 23, 2012. Our State has lost a truly devoted leader and influential icon in Nevada politics. We mourn the passing of a dear friend and celebrate the life of a man who lived and fought for the betterment of our State.

The loss of Bill is something that will be felt all across Nevada. He was truly a giant in every sense of the word. His recordbreaking 38 years in the Nevada State Senate can only be described as selfless. Over the course of 10 terms, Bill was dedicated beyond question. He not only demonstrated a tactful leadership style but also devoted himself to fiscal responsibility. His ability to compromise and his willingness to work across party lines helped him to overcome partisan differences and legislative hurdles to meet the needs of the great State of

Nevada. Bill influenced my work, and for that I am forever thankful.

Never afraid to tackle the difficult problems, Bill pledged his commitment to dutifully protecting the citizens of northern Nevada as the Washoe County district attorney. He was a great man who fought hard for Nevadans and was respected by many. We are fortunate and proud to remember Bill, a second-generation Nevadan and Reno native.

Bill touched the lives of tens of thousands of Nevada families, spanning generations. He served Nevadans with honor and devotion, and we are blessed by Bill's enduring and undeniable passion for public service. I ask my colleagues to join me today in celebrating the life of a great statesman who will always be remembered for his unwavering commitment to Nevada. His passing is a tremendous loss, and his legacy will be cherished for generations to come. I wish to extend my deepest sympathies and condolences to Bill's wife Dale and the entire Raggio family.●

#### RECOGNIZING PENBAY SOLUTIONS

● Ms. SNOWE. Mr. President, as ranking member of the Senate Committee on Small Business and Entrepreneurship, I have the privilege of hearing countless small business success stories from hard-working entrepreneurs across the country. Today I wish to recognize and commend the extraordinary achievements of PenBay Solutions, an award-winning geographic information systems, GIS, firm headquartered in Brunswick, ME.

Since its inception in 1999, PenBay has grown to become a leader in the expanding GIS industry while spurring job creation. Today, the company employs 26 people in Maine, many of which graduated from the University of Maine system, a premier education institution for GIS. Additionally, PenBay employs several individuals working remotely around the country as well as in their New York and Washington D.C. offices.

As a technology leader, PenBay Solutions provides geographic information to help clients economize space, cut costs, comply with building codes, and make better decisions across the board. While GIS is an emerging technology, PenBay has been a forerunner in providing businesses with this vital asset and has distinguished themselves among clients in a breadth of industries including: education, health care, government, and more.

Among their many achievements, PenBay has undertaken several complex and fascinating projects of note. In 2006, PenBay assisted the Fire Department of New York, FDNY, in complying with a New York City law that required the FDNY to review certain buildings and evaluate compliance with new building codes and evacu-

ation procedures. PenBay played an instrumental role in helping the Department achieve this goal by automating over 16,000 floor plans for simple retrieval and evaluation. With PenBay's support, the FDNY was able to meet its goals and concentrate on its main mission: protecting and saving New York City residents' lives.

In addition to working with the FDNY, PenBay has been awarded many other government contracts. In late 2008, PenBay assisted the 6th Civil Engineering Squadron of MacDill Air Force Base, 6CES, with a maintenance contract of 130 government buildings. In this instance, 6CES lacked the significant in-building data necessary to make informed decisions about the space and floor materials within each building. With minimal disruption to facility operations and within a remarkable turnaround time of 9 days, PenBay Solutions was able to complete Phase 1 of the project and provide the necessary geospatial data for over 1.7 million square feet of building space.

As a result of the company's valuable work, Stuart Rich, PenBay's Chief Technology Officer, was honored by the Technology Association of Maine with their 2011 CxO of the Year Award in recognition of his innovation in the geographic information systems industry. Mr. Rich was also inducted into the University of Maine's Francis Crowe Society in 2010. This tremendous honor is bestowed upon University of Maine engineering graduates who have made substantial contributions to the engineering profession.

I applaud PenBay Solutions for being a hallmark example of an innovative American small business. Their incredible contributions to geospatial technology truly demonstrate the entrepreneurial spirit and remarkable talent found in my home State of Maine. I am proud to extend my congratulations to everyone at PenBay Solutions, and offer my best wishes for their continued success.●

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Pate, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

#### MESSAGES FROM THE HOUSE

At 11:26 a.m., a message from the House of Representatives, delivered by

Mrs. Cole, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1433. An act to protect private property rights.

H.R. 2117. An act to prohibit the Department of Education from overreaching into academic affairs and program eligibility under title IV of the Higher Education Act of 1965.

The message also announced that pursuant to section 287a of title 2, United States Code, the Speaker appoints Thomas J. Wickham, Jr., as Parliamentarian of the House of Representatives to succeed John V. Sullivan, resigned.

#### ENROLLED BILL SIGNED

At 12:43 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 347. An act to correct and simplify the drafting of section 1752 (relating to restricted buildings or grounds) of title 18, United States Code.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mrs. GILLIBRAND).

#### MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1433. An act to protect private property rights; to the Committee on the Judiciary.

H.R. 2117. An act to prohibit the Department of Education from overreaching into academic affairs and program eligibility under title IV of the Higher Education Act of 1965; to the Committee on Health, Education, Labor, and Pensions.

#### EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-5119. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Flazasulfuron; Pesticide Tolerances" (FRL No. 8883-1) received during adjournment of the Senate in the Office of the President of the Senate on February 21, 2012; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5120. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Fluopyram; Pesticide Tolerances" (FRL No. 9336-9) received during adjournment of the Senate in the Office of the President of the Senate on February 21, 2012; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5121. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Metaflumizone; Pesticide Tolerances" (FRL No. 9333-4) received during adjournment of the Senate in the Office of the



President of the Senate on February 21, 2012; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5122. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Mevinphos; Order Revoking Tolerances" (FRL No. 9338-3) received during adjournment of the Senate in the Office of the President of the Senate on February 21, 2012; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5123. A communication from the Under Secretary of Defense (Comptroller), transmitting, pursuant to law, a report relative to a violation of the Antideficiency Act that occurred within the Navy Working Capital Fund (NWCF) account 97 X 4930 during fiscal year 2007 at the Naval Facilities Engineering Command, Mid-Atlantic and was assigned Navy case number 11-05; to the Committee on Appropriations.

EC-5124. A communication from the Under Secretary of Defense (Comptroller), transmitting, pursuant to law, a report relative to a violation of the Antideficiency Act that occurred within the Military Personnel, Air National Guard (ANG), Air Force, account 57 9 5850 during fiscal year 2009 at the ANG Readiness Center and was assigned Air Force case number 10 06; to the Committee on Appropriations.

EC-5125. A communication from the Secretary of the Army, transmitting, pursuant to law, a report relative to the U.S. Army Audit Agency's review of an audit of the American National Red Cross's Annual Statement; to the Committee on Armed Services.

EC-5126. A communication from the Assistant Secretary of Defense (Special Operations/Low-Intensity Conflict), transmitting, pursuant to law, the fiscal year 2011 annual report on the Regional Defense Combating Terrorism Fellowship Program; to the Committee on Armed Services.

EC-5127. A communication from the Assistant Secretary of Defense (Homeland Defense and Americas' Security Affairs), transmitting, pursuant to law, a report entitled "Combating Terrorism Activities Fiscal Year 2013 Budget Estimates"; to the Committee on Armed Services.

EC-5128. A communication from the Principal Deputy Assistant Secretary of the Army (Acquisition, Logistics and Technology), transmitting, pursuant to law, a report relative to Army Industrial Facilities Cooperative Activities with Non-Army Entities for fiscal year 2011; to the Committee on Armed Services.

EC-5129. A communication from the Chairman and President of the Export-Import Bank, transmitting, pursuant to law, a report relative to transactions involving U.S. exports to Ireland; to the Committee on Banking, Housing, and Urban Affairs.

EC-5130. A communication from the Associate General Counsel for Legislation and Regulations, Office of Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Federal Housing Administration (FHA): Suspension of Section 238(c) Single-Family Mortgage Insurance in Military Impacted Areas" (RIN2502-AJ01) received during adjournment of the Senate in the Office of the President of the Senate on February 24, 2012; to the Committee on Banking, Housing, and Urban Affairs.

EC-5131. A communication from the Assistant Director for Policy, Office of Foreign Assets Control, Department of the Treasury,

transmitting, pursuant to law, the report of a rule entitled "Iranian Financial Sanctions Regulations" (31 CFR Part 561) received during adjournment of the Senate in the Office of the President of the Senate on February 24, 2012; to the Committee on Banking, Housing, and Urban Affairs.

EC-5132. A communication from the Assistant Secretary, Office of Electricity Delivery and Energy Reliability, Department of Energy, transmitting, pursuant to law, a report entitled "2010 Smart Grid System Report"; to the Committee on Energy and Natural Resources.

EC-5133. A communication from the Assistant General Counsel for Legislation, Regulation and Energy Efficiency, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "Energy Conservation Program: Test Procedure for Commercial Refrigeration Equipment" (RIN1904-AC40) received during adjournment of the Senate in the Office of the President of the Senate on February 21, 2012; to the Committee on Energy and Natural Resources.

EC-5134. A communication from the Board of Trustees, National Railroad Retirement Investment Trust, transmitting, pursuant to law, an annual management report relative to its operations and financial condition; to the Committee on Finance.

EC-5135. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Section 911(d)(4)—2011 Update" (Rev. Proc. 2012-21) received during adjournment of the Senate in the Office of the President of the Senate on February 22, 2012; to the Committee on Finance.

EC-5136. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Rewards and Awards for Information Relating to Violations of Internal Revenue Laws" ((RIN1545-BJ89) (TD 9580)) received during adjournment of the Senate in the Office of the President of the Senate on February 22, 2012; to the Committee on Finance.

EC-5137. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Source of Income from Qualified Fails Charges" ((RIN1545-BJ78) (TD 9579)) received during adjournment of the Senate in the Office of the President of the Senate on February 22, 2012; to the Committee on Finance.

EC-5138. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "United States and Area Median Gross Income Figures" (Rev. Proc. 2012-16) received during adjournment of the Senate in the Office of the President of the Senate on February 22, 2012; to the Committee on Finance.

EC-5139. A communication from the Program Manager, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicaid Program: Review and Approval Process for Section 1115 Demonstrations" (RIN0938-AQ46) received in the Office of the President of the Senate on February 27, 2012; to the Committee on Finance.

EC-5140. A communication from the Program Manager, Centers for Medicare and Medicaid Services, Department of Health

and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicaid Program: Application, Review, and Reporting Process for Waivers for State Innovation" (RIN0938-AQ75; RIN1505-AC30) received in the Office of the President of the Senate on February 27, 2012; to the Committee on Finance.

EC-5141. A communication from the Director, Office of Regulations, Social Security Administration, transmitting, pursuant to law, the report of a rule entitled "Protecting the Public and Our Employees in Our Hearing Process" (RIN0960-AH29) received during adjournment of the Senate in the Office of the President of the Senate on February 21, 2012; to the Committee on Finance.

EC-5142. A communication from the Director, Office of Regulations, Social Security Administration, transmitting, pursuant to law, the report of a rule entitled "How We Collect and Consider Evidence of Disability" (RIN0960-AG89) received during adjournment of the Senate in the Office of the President of the Senate on February 21, 2012; to the Committee on Finance.

EC-5143. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, a report certifying for fiscal year 2012 that no United Nations agency or United Nations affiliated agency grants any official status, accreditation, or recognition to any organization which promotes and condones or seeks the legalization of pedophilia, or which includes as a subsidiary or member any such organization; to the Committee on Foreign Relations.

EC-5144. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to overseas surplus property; to the Committee on Foreign Relations.

EC-5145. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to Executive Order 12163, as amended by Executive Order 13346, a report relative to a waiver of the restrictions contained in Section 907 of the FREEDOM Support Act of 1992; to the Committee on Foreign Relations.

EC-5146. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, a report prepared by the Department of State on progress toward a negotiated solution of the Cyprus question covering the periods October 1, 2011 through November 30, 2011; to the Committee on Foreign Relations.

EC-5147. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to the Case-Zablocki Act, 1 U.S.C. 112b, as amended, the report of the texts and background statements of international agreements, other than treaties (List 2012-0012-2012-0016); to the Committee on Foreign Relations.

EC-5148. A communication from the Director of the Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the Corporation's Buy American Act Report for fiscal year 2011; to the Committee on Health, Education, Labor, and Pensions.

EC-5149. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to the Food and Drug Administration's (FDA) Foreign Field Offices; to the Committee on Health, Education, Labor, and Pensions.

EC-5150. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a performance report relative to the Animal Generic Drug



User Fee Act for fiscal year 2011; to the Committee on Health, Education, Labor, and Pensions.

EC-5151. A communication from the Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, a report relative to a vacancy in the position of Commissioner of the Bureau of Labor Statistics, Department of Labor, received in the Office of the President of the Senate on February 15, 2012; to the Committee on Health, Education, Labor, and Pensions.

EC-5152. A communication from the Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, (2) reports relative to vacancy announcements within the Department; to the Committee on Health, Education, Labor, and Pensions.

EC-5153. A communication from the Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, (3) reports relative to vacancy announcements within the Department; to the Committee on Health, Education, Labor, and Pensions.

### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. VITTER (for himself and Mr. NELSON of Florida):

S. 2138. A bill to establish a pilot program to evaluate the cost-effectiveness and project delivery efficiency of non-Federal sponsors as the lead project delivery team for authorized civil works flood control and navigation construction projects of the Corps of Engineers; to the Committee on Environment and Public Works.

By Mrs. MCCASKILL (for herself and Mr. WEBB):

S. 2139. A bill to enhance security, increase accountability, and improve the contracting of the Federal Government for overseas contingency operations, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. BROWN of Ohio (for himself and Mrs. GILLIBRAND):

S. 2140. A bill to amend the Public Works and Economic Development Act of 1965 to modify the period used to calculate certain unemployment rates, to encourage the development of business incubators, and for other purposes; to the Committee on Environment and Public Works.

By Mr. GRASSLEY (for himself, Mr. CONRAD, Mr. JOHNSON of South Dakota, and Mr. HARKIN):

S. 2141. A bill to amend the Packers and Stockyards Act, 1921, to make it unlawful for a packer to own, feed, or control livestock intended for slaughter; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. CASEY:

S. 2142. A bill to permit employees to request, and to ensure employers consider requests for, flexible work terms and conditions, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Ms. STABENOW:

S. 2143. A bill to amend the Internal Revenue Code of 1986 to clarify that paper which is commonly recycled does not constitute a qualified energy resource under the section 45 credit for renewable electricity production; to the Committee on Finance.

By Ms. STABENOW:

S. 2144. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income of individual taxpayers discharges of indebtedness attributable to certain foreign residential mortgage obligations; to the Committee on Finance.

### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. REED (for himself and Ms. COLLINS):

S. Res. 382. A resolution designating March 2, 2012, as "Read Across America Day"; considered and agreed to.

By Mr. BROWN of Ohio (for himself and Mr. BARRASSO):

S. Res. 383. A resolution designating February 29, 2012, as "Rare Disease Day"; considered and agreed to.

By Mr. SCHUMER (for himself and Mrs. GILLIBRAND):

S. Res. 384. A resolution designating the first Tuesday in March as "National Public Higher Education Day"; to the Committee on the Judiciary.

### ADDITIONAL COSPONSORS

S. 555

At the request of Mr. FRANKEN, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 555, a bill to end discrimination based on actual or perceived sexual orientation or gender identity in public schools, and for other purposes.

S. 605

At the request of Mr. GRASSLEY, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 605, a bill to amend the Controlled Substances Act to place synthetic drugs in Schedule I.

S. 665

At the request of Mr. BROWN of Ohio, the name of the Senator from Connecticut (Mr. BLUMENTHAL) was added as a cosponsor of S. 665, a bill to promote industry growth and competitiveness and to improve worker training, retention, and advancement, and for other purposes.

S. 775

At the request of Mr. CASEY, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 775, a bill to direct the Secretary of Health and Human Services to encourage research and carry out an educational campaign with respect to pulmonary hypertension, and for other purposes.

S. 998

At the request of Mr. AKAKA, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 998, a bill to amend title IV of the Employee Retirement Income Security Act of 1974 to require the Pension Benefit Guaranty Corporation, in

the case of airline pilots who are required by regulation to retire at age 60, to compute the actuarial value of monthly benefits in the form of a life annuity commencing at age 60.

S. 1299

At the request of Mr. MORAN, the names of the Senator from South Dakota (Mr. THUNE) and the Senator from Indiana (Mr. COATS) were added as cosponsors of S. 1299, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centennial of the establishment of Lions Clubs International.

S. 1728

At the request of Mr. BROWN of Massachusetts, the names of the Senator from Nevada (Mr. HELLER) and the Senator from Montana (Mr. TESTER) were added as cosponsors of S. 1728, a bill to amend title 18, United States Code, to establish a criminal offense relating to fraudulent claims about military service.

S. 1770

At the request of Mrs. GILLIBRAND, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1770, a bill to prohibit discrimination in adoption or foster case placements based on the sexual orientation, gender identity, or marital status of any prospective adoptive or foster parent, or the sexual orientation or gender identity of the child involved.

S. 1884

At the request of Mr. DURBIN, the names of the Senator from Alaska (Mr. BEGICH) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. 1884, a bill to provide States with incentives to require elementary schools and secondary schools to maintain, and permit school personnel to administer, epinephrine at schools.

S. 1945

At the request of Mr. DURBIN, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 1945, a bill to permit the televising of Supreme Court proceedings.

S. 1956

At the request of Mr. THUNE, the name of the Senator from Nebraska (Mr. JOHANNES) was added as a cosponsor of S. 1956, a bill to prohibit operators of civil aircraft of the United States from participating in the European Union's emissions trading scheme, and for other purposes.

S. 2046

At the request of Ms. MIKULSKI, the name of the Senator from Idaho (Mr. RISCH) was added as a cosponsor of S. 2046, a bill to amend the Immigration and Nationality Act to modify the requirements of the visa waiver program and for other purposes.

S. 2121

At the request of Ms. KLOBUCHAR, the name of the Senator from Minnesota

(Mr. FRANKEN) was added as a cosponsor of S. 2121, a bill to modify the Department of Defense Program Guidance relating to the award of Post-Deployment/Mobilization Respite Absence administrative absence days to members of the reserve components to exempt any member whose qualified mobilization commenced before October 1, 2011, and continued on or after that date, from the changes to the program guidance that took effect on that date.

S. 2122

At the request of Mr. PAUL, the names of the Senator from Wisconsin (Mr. JOHNSON), the Senator from Oklahoma (Mr. COBURN), the Senator from Pennsylvania (Mr. TOOMEY) and the Senator from Utah (Mr. HATCH) were added as cosponsors of S. 2122, a bill to clarify the definition of navigable waters, and for other purposes.

S.J. RES. 19

At the request of Mr. HATCH, the name of the Senator from Idaho (Mr. RISCHE) was added as a cosponsor of S.J. Res. 19, a joint resolution proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States.

S. RES. 310

At the request of Ms. MIKULSKI, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. Res. 310, a resolution designating 2012 as the "Year of the Girl" and congratulating Girl Scouts of the USA on its 100th anniversary.

S. RES. 380

At the request of Mr. GRAHAM, the names of the Senator from North Carolina (Mr. BURR), the Senator from Kansas (Mr. MORAN), the Senator from Idaho (Mr. CRAPO), the Senator from Illinois (Mr. KIRK) and the Senator from North Carolina (Mrs. HAGAN) were added as cosponsors of S. Res. 380, a resolution to express the sense of the Senate regarding the importance of preventing the Government of Iran from acquiring nuclear weapons capability.

At the request of Mr. GRASSLEY, his name was added as a cosponsor of S. Res. 380, *supra*.

AMENDMENT NO. 1537

At the request of Mr. HOEVEN, the name of the Senator from West Virginia (Mr. MANCHIN) was added as a cosponsor of amendment No. 1537 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1542

At the request of Mr. CARDIN, the names of the Senator from Alaska (Mr. BEGICH) and the Senator from Minnesota (Mr. FRANKEN) were added as cosponsors of amendment No. 1542 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1549

At the request of Mr. CARDIN, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of amendment No. 1549 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1599

At the request of Mr. MERKLEY, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of amendment No. 1599 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1606

At the request of Mr. MERKLEY, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of amendment No. 1606 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1648

At the request of Mrs. GILLIBRAND, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of amendment No. 1648 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1661

At the request of Ms. KLOBUCHAR, the names of the Senator from Colorado (Mr. BENNET) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of amendment No. 1661 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1736

At the request of Mr. PORTMAN, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of amendment No. 1736 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1737

At the request of Mr. JOHNSON of Wisconsin, his name was added as a cosponsor of amendment No. 1737 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

At the request of Mr. COBURN, the names of the Senator from Arizona (Mr. MCCAIN) and the Senator from Kentucky (Mr. PAUL) were added as cosponsors of amendment No. 1737 intended to be proposed to S. 1813, *supra*.

AMENDMENT NO. 1738

At the request of Mr. JOHNSON of Wisconsin, his name was added as a cosponsor of amendment No. 1738 intended to be proposed to S. 1813, a bill

to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

At the request of Mr. COBURN, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of amendment No. 1738 intended to be proposed to S. 1813, *supra*.

AMENDMENT NO. 1739

At the request of Mrs. MURRAY, the names of the Senator from Washington (Ms. CANTWELL) and the Senator from Colorado (Mr. BENNET) were added as cosponsors of amendment No. 1739 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1740

At the request of Mrs. MURRAY, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of amendment No. 1740 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1748

At the request of Mr. HOEVEN, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of amendment No. 1748 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. VITTER (for himself and Mr. NELSON of Florida):

S. 2138. A bill to establish a pilot program to evaluate the cost-effectiveness and project delivery efficiency of non-Federal sponsors as the lead project delivery team for authorized civil works flood control and navigation construction projects of the Corps of Engineers; to the Committee on Environment and Public Works.

Mr. VITTER. Mr. President, I come to the Senate floor to talk about important and bipartisan legislation that I am introducing today, along with Senator BILL NELSON of Florida. It is about the Corps of Engineers, and it is intended, and will once passed, to make a real impact in terms of lessening the delays, the bureaucracy, and the hurdles all of us must go through in terms of seeing important Corps of Engineers projects through to fruition. It is called the U.S. Army Corps of Engineers Flood Control and Navigation Project Pilot Program.

Let us get right to the heart of the matter. The U.S. Army Corps of Engineers is a broken bureaucracy. In several significant respects, it is simply a badly broken bureaucracy. Let me say upfront that there are many smart, qualified people who work there. They are dedicated. They work long, hard

hours in so many cases, and I applaud their efforts. But the overall structure and the overall bureaucracy within which we all must work to get important Corps of Engineers work done is simply broken.

It takes, on average, about 6 years—6 years—for the Corps not to do a project but to perform a preliminary study that might lead to an important flood control or navigation project. Then, when we actually talk about the engineering work, the construction work, it takes at least 20 years, on average, to accomplish any meaningful project. That is simply too long.

There are many reasons for this, and let me say at the outset that not all those are the Corps of Engineers' fault. We in Congress, the public, the country put so many demands and burdens on them that they are simply swamped. They have a backlog that, to some extent, is unavoidable, and that backlog for active projects—not projects being studied or considered but the backlog for active approved projects—is currently \$59.6 billion. But even considering that—even considering that avalanche of demands and that backlog—the Corps of Engineers' bureaucracy is broken, and it adds to those problems and magnifies them enormously by extending the time and the cost of any given project.

Of course, when projects get extended in time and are delayed, when costs grow over time. Then the initial problem—the backlog, that initial avalanche of demands—explodes and is multiplied tenfold. This is the situation Senator NELSON and I are trying to address in a focused, proactive, positive way.

Our bill would do one thing to address this. It would establish a pilot program whereby the Corps of Engineers selects certain significant flood control and/or navigation projects and moves project management authority, responsibility for those projects, from the Corps of Engineers down to the State and/or local sponsors. What do I mean by that? Every project we are talking about, every Corps project, whether it is a flood control project or a navigation project, the Corps of Engineers doesn't do it alone. They have partners. On the governmental side, they specifically have State and/or local partners who almost always pay a significant cost share of the project—usually about 35 percent. So those entities are already involved in a very meaningful way in these projects.

Our pilot program would tell the Corps to take certain select projects which have been delayed, which are sitting on the shelf, with costs and timelines growing, and move the project manager responsibility out of the Corps of Engineers down to the State and local sponsors. The States and localities are the folks on the ground who have even more of a vested

interest and a need to actually get this work done. They have the desire to cut through delays and the bureaucracy to get it done in a more aggressive way. So I am absolutely convinced, if we can move this responsibility in a careful, thoughtful way down to the State and local sponsors, in virtually all cases that will cut delays, that will cut timeframes, and in doing so it will significantly cut costs.

Again, this is not a radical idea. For one thing, these State and local entities I am talking about are already intimately involved in these projects. They already have significant capacity to be proactively involved in these projects and they already have a stake in the game—in most cases paying 35 percent of the project cost.

Secondly, the actual design, engineering and construction work is not done by any of these entities anyway. In almost all cases, the huge majority, or 100 percent, of that work—design, engineering, construction—is done by private business hired by the Corps, hired by the State and locals to get this done. That will remain the same. So the professionals doing the design, engineering, and construction work will remain the same. That is not changing at all.

Third, the reason this idea is not a radical concept but is actually a proven model is that what I am describing is more or less exactly what we do for Federal highway projects. It just so happens we are debating a highway bill on the Senate floor, and that is a useful model to look to in this context. When we do highway projects, we have a Federal Highway Administration and we have significant Federal funds that go to these highway projects, but the Federal agency—in that case the Federal Highway Administration—is not the lead project manager, is not intimately involved day to day, week to week, and year to year in moving those projects along. Quite to the contrary, they are shipped and the dollars are shipped to the States and locals. In the huge majority of cases, the States and/or locals are the lead project manager entity taking control and leading the way.

So that is a proven model. That model works better compared to the way the U.S. Army Corps of Engineers works; that is, broad brush, exactly the model we are adopting. It will save time, and in doing so it will save significant money.

To ensure the Corps does not feel threatened by this, built into the bill, Senator NELSON and I have identified an offset. So even though these projects that will be included in the pilot program have money that has been allocated for them, we have an offset so that amount of money can be spent on those projects without diminishing what will remain as the U.S. Army Corps of Engineers' budget.

In fact, the Corps itself faces a win-win with this situation. They will get rid of some of their responsibility and some of their work, but there will not be any Federal U.S. Army Corps of Engineers money that will leave them alone with that responsibility and with that work. Quite honestly, the Corps welcomes this, particularly in light of their backlog and particularly in light of the avalanche of demands that are placed on them.

For all these reasons, I hope all our colleagues in the Senate, Democrats and Republicans, will look carefully at this legislation and join Senator BILL NELSON of Florida and myself. This is something that needs to be done, because as I said at the beginning, the U.S. Army Corps of Engineers, unfortunately, is a badly broken bureaucracy in many respects. It needs to be fixed. We need to respond to these flood control and navigation needs on a real-time basis, not with 20, 30 years' delay. We can't continue to compete in a global economy with this sort of delay for vital navigation or vital flood control projects. We need to cut through the bureaucracy and do a lot more with less. This legislation will help us get there.

I invite, and Senator BILL NELSON invites, all of our colleagues, Democrats and Republicans, to look at this legislation. We invite all of our colleagues to join us in this very important reform of the Corps of Engineers.

In closing, let me also say that independent of this legislation, I am also pursuing a GAO audit of the Corps. I have already requested that in writing and have received assurances that audit will happen. I think that will be an additional and very helpful and necessary tool for us to see how the Corps does or doesn't effectively do its business and to make other needed reforms in the U.S. Army Corps of Engineers' bureaucracy.

I look forward to pursuing that audit, getting the results of that, and seeing where that leads in terms of other necessary Corps reforms in the near future.

By Mr. GRASSLEY (for himself, Mr. CONRAD, Mr. JOHNSON of South Dakota, and Mr. HARKIN):

S. 2141. A bill to amend the Packers and Stockyards Act, 1921, to make it unlawful for a packer to own, feed, or control livestock intended for slaughter; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. GRASSLEY. Mr. President, today I am introducing legislation designed to help family farmers across this nation have a more level playing field when it comes to livestock markets. The bill would prohibit meat packers from owning livestock. The ownership of livestock by packers compromises the marketplace and hinders

the ability of the farmer to receive a fair price. It is simple, as one meat-packing executive once told me, packers own livestock so that when prices are high, they slaughter their own livestock. When prices are low, they buy from farmers.

I would love to say opportunities for independent producers have gotten better since the last time we debated this bill during the 2008 Farm Bill. But that simply isn't the case. We are to the point where most farmers have to deliver their livestock to one of a few very large packers. Farmers' bargaining power is diminished by the sheer size and economic position of the packers. But beyond that, farmers have to compete with the livestock owned by the packing plant itself. The packer ban would make sure the forces of the marketplace work for the benefit of the farmer as much as it does for the slaughterhouse.

I am sure there will be folks in the packing industry that point out that farmers are doing okay right now, and that's great that farmers are experiencing a good period. I am pleased anytime the hard work of livestock farmers results in a good price. But I don't want my colleagues here in the Senate to be lulled to sleep and think just because prices are good right now means we don't have competition issues in the livestock industry that need to be addressed. This is about ensuring farmers are able to get fair prices for years to come. We need to work today, and implement this reform, to ensure the next generation of independent farmers has an opportunity to raise livestock and receive fair prices as a result of their hard work.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2141

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. PROHIBITION ON PACKERS OWNING, FEEDING, OR CONTROLLING LIVESTOCK.**

(a) IN GENERAL.—Section 202 of the Packers and Stockyards Act, 1921 (7 U.S.C. 192), is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by inserting after subsection (e) the following:

“(f) Own or feed livestock directly, through a subsidiary, or through an arrangement that gives the packer operational, managerial, or supervisory control over the livestock, or over the farming operation that produces the livestock, to such an extent that the producer is no longer materially participating in the management of the operation with respect to the production of the livestock, except that this subsection shall not apply to—

“(1) an arrangement entered into within 7 days (excluding any Saturday or Sunday) before slaughter of the livestock by a packer, a

person acting through the packer, or a person that directly or indirectly controls, or is controlled by or under common control with, the packer;

“(2) a cooperative or entity owned by a cooperative, if a majority of the ownership interest in the cooperative is held by active cooperative members that—

“(A) own, feed, or control livestock; and

“(B) provide the livestock to the cooperative for slaughter;

“(3) a packer that is not required to report to the Secretary on each reporting day (as defined in section 212 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1635a)) information on the price and quantity of livestock purchased by the packer; or

“(4) a packer that owns 1 livestock processing plant; or”.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by subsection (a) take effect on the date of enactment of this Act.

(2) TRANSITION RULES.—In the case of a packer that on the date of enactment of this Act owns, feeds, or controls livestock intended for slaughter in violation of section 202(f) of the Packers and Stockyards Act, 1921 (as amended by subsection (a)), the amendments made by subsection (a) apply to the packer—

(A) in the case of a packer of swine, beginning on the date that is 18 months after the date of enactment of this Act; and

(B) in the case of a packer of any other type of livestock, beginning as soon as practicable, but not later than 180 days, after the date of enactment of this Act, as determined by the Secretary of Agriculture.

## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 382—DESIGNATING MARCH 2, 2012, AS “READ ACROSS AMERICA DAY”

Mr. REED (for himself and Ms. COLLINS) submitted the following resolution; which was considered and agreed to:

S. RES. 382

Whereas reading is a basic requirement for quality education and professional success, and is a source of pleasure throughout life;

Whereas the people of the United States must be able to read if the United States is to remain competitive in the global economy;

Whereas Congress has placed great emphasis on reading intervention and on providing additional resources for reading assistance, including through the programs authorized by the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) and through annual appropriations for library and literacy programs; and

Whereas more than 50 national organizations concerned about reading and education have joined with the National Education Association to designate March 2, the anniversary of the birth of Theodor Geisel (also known as Dr. Seuss), as a day to celebrate reading: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates March 2, 2012, as “Read Across America Day”;

(2) honors Theodor Geisel, also known as Dr. Seuss, for his success in encouraging children to discover the joy of reading;

(3) honors the 15th anniversary of “Read Across America Day”;

(4) encourages parents to read with their children for at least 30 minutes on “Read Across America Day” in honor of the commitment of the Senate to building a country of readers; and

(5) encourages the people of the United States to observe “Read Across America Day” with appropriate ceremonies and activities.

### SENATE RESOLUTION 383—DESIGNATING FEBRUARY 29, 2012, AS “RARE DISEASE DAY”

Mr. BROWN of Ohio (for himself and Mr. BARRASSO) submitted the following resolution; which was considered and agreed to:

S. RES. 383

Whereas rare diseases and disorders are those diseases and disorders that affect a small patient population, which in the United States is typically a population of fewer than 200,000 people;

Whereas, as of the date of approval of this resolution, nearly 7,000 rare diseases affect 30,000,000 people and their families in the United States;

Whereas children with rare genetic diseases account for more than half of the population affected by rare diseases in the United States;

Whereas many rare diseases are life-threatening and lack an effective treatment;

Whereas rare diseases and disorders include epidermolysis bullosa, progeria, sickle cell anemia, Tay-Sachs disease, cystic fibrosis, many childhood cancers, and fibrodysplasia ossificans progressiva;

Whereas people with a rare disease experience challenges that include difficulty in obtaining an accurate diagnosis, limited treatment options, and difficulty finding a physician or treatment center with expertise in the disease;

Whereas great strides have been made in research and treatment for rare diseases as a result of the Orphan Drug Act (21 U.S.C. 360aa et seq.);

Whereas both the Food and Drug Administration and the National Institutes of Health have established special offices to advocate for rare disease research and treatments;

Whereas the National Organization for Rare Disorders, an organization established in 1983 to provide services to, and advocate on behalf of, patients with rare diseases, was a primary force behind the enactment of the Orphan Drug Act and remains a critical public voice for people with rare diseases;

Whereas the National Organization for Rare Disorders sponsors Rare Disease Day in the United States to increase public awareness of rare diseases;

Whereas Rare Disease Day has become a global event that occurs annually on the last day of February;

Whereas Rare Disease Day was observed in the United States for the first time on February 28, 2009; and

Whereas Rare Disease Day is expected to be observed globally in years to come, providing hope and information for rare disease patients around the world: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates February 29, 2012, as “Rare Disease Day”;

(2) recognizes the importance of improving awareness and encouraging accurate and early diagnosis of rare diseases and disorders; and

(3) supports the commitment of the United States and all countries to improving access to, and developing, new treatments, diagnostics, and cures for rare diseases and disorders.

# SENATE RESOLUTION 384—DESIGNATING THE FIRST TUESDAY IN MARCH AS “NATIONAL PUBLIC HIGHER EDUCATION DAY”

Mr. SCHUMER (for himself and Mrs. GILLIBRAND) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 384

Whereas the economic strength of the United States and its ability to create jobs and compete globally requires a skilled workforce educated for a 21st century economy;

Whereas according to the Department of Education, over 14,000,000 students attend public postsecondary degree-granting institutions across every State in the United States, comprising almost ¾ of postsecondary students in the United States;

Whereas the Federal Reserve Bank of St. Louis has found that publicly supported community colleges “enroll almost half of all U.S. undergraduate students and are essential for work force training and retraining”;

Whereas according to the Center for Measuring University Performance, ½ of the top 50 research universities in the United States are public institutions, from Virginia to Washington, Texas to Minnesota, Ohio to Colorado, and many more;

Whereas according to the Department of Veterans Affairs, during the 2009–2010 academic year, public universities made up 2 of the top 5 most popular choices for students who used benefits from the Post-9/11 Veterans Educational Assistance Act of 2008 (38 U.S.C. 3301 et seq.); and

Whereas the first Tuesday in the month of March is an appropriate day to designate as National Public Higher Education Day: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates the first Tuesday in the month of March as “National Public Higher Education Day”;

(2) recognizes the importance of public higher education for growing a skilled domestic workforce, promoting research and innovation, and advancing the global competitiveness of the United States; and

(3) calls upon the people of the United States to observe National Public Higher Education Day with appropriate ceremonies and activities.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 1751. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 1730 proposed by Mr. REID to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table.

SA 1752. Ms. SNOWE (for herself, Mr. CARDIN, Ms. KLOBUCHAR, Mr. RUBIO, Mr. ROCKEFELLER, Mr. WICKER, Mr. MERKLEY, Mr. BLUMENTHAL, and Mr. TESTER) submitted an amendment intended to be proposed by her to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1753. Ms. KLOBUCHAR (for herself and Mr. ALEXANDER) submitted an amendment

intended to be proposed by her to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1754. Mr. ROCKEFELLER (for himself and Mr. MANCHIN) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1755. Mr. ROCKEFELLER (for himself and Mr. MANCHIN) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1756. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

## TEXT OF AMENDMENTS

**SA 1751.** Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 1730 proposed by Mr. REID to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 586, line 10, strike “Section” and insert the following:

(a) SAFETY REVIEWS.—Section

On page 586, line 20, insert “through a simple and understandable rating system that allows motorcoach passengers to compare the safety performance of motorcoach operators” before the semicolon.

On page 587, line 25, strike “shall reassess” and insert the following “shall—

“(A) reassess

On page 588, line 2, strike the period at the end and insert the following: “; and

“(B) annually assess the safety fitness of certain providers of motorcoach services that serve primarily urban areas with high passenger loads.

On page 588, between lines 7 and 8, insert the following:

(b) DISCLOSURE OF SAFETY PERFORMANCE RATINGS OF MOTORCOACH SERVICES AND OPERATIONS.—

(1) IN GENERAL.—Subchapter I of chapter 141 of title 49, United States Code, is amended by adding at the end the following:

“§ 14105. Safety performance ratings of motorcoach services and operations

“(a) DEFINITIONS.—In this section:

“(1) MOTORCOACH.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the term ‘motorcoach’ has the meaning given to the term ‘over-the-road bus’ in section 3038(a)(3) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note).

“(B) EXCLUSIONS.—The term ‘motorcoach’ does not include—

“(i) a bus used in public transportation that is provided by a State or local government; or

“(ii) a school bus (as defined in section 30125(a)(1)), including a multifunction school activity bus.

“(2) MOTORCOACH SERVICES AND OPERATIONS.—The term ‘motorcoach services and operations’ means passenger transportation by a motorcoach for compensation.

“(3) POINT OF SALE.—The term ‘point of sale’ means any website, telephonic transaction, or ticket window through which the sale of transportation occurs or where broker service is provided.

“(b) DISPLAY OF MOTOR CARRIER IDENTIFICATION.—

“(1) REQUIREMENT.—Beginning on the date that is 1 year after the date of the enactment of the Moving Ahead for Progress in the 21st Century Act, no person may sell or offer to sell interstate motorcoach transportation services, or provide broker services related to such transportation, unless the person, at the point of sale or provision of broker services, conspicuously displays or, in the case of telephonic transactions, verbally provides—

“(A) the legal name and USDOT number of the single motor carrier responsible for the transportation and for compliance with the Federal Motor Carrier Safety Regulations under parts 350 through 399 of title 49, Code of Federal Regulations; and

“(B) the URL for the Federal Motor Carrier Safety Administration’s public website where the Administration has posted motor carrier and commercial motor vehicle driver scores in the Safety Measurement System.

“(2) CIVIL PENALTIES.—A person who violates paragraph (1) shall be liable for civil penalties to the same extent as a person who does not prepare a record in the form and manner prescribed under section 14901(a).

“(c) RULEMAKING.—

“(1) IN GENERAL.—Not later than 2 years after the date on which the safety fitness determination rule is implemented, the Secretary shall require, by regulation—

“(A) each motor carrier that owns or leases 1 or more motorcoaches that transport passengers subject to the Secretary’s jurisdiction under section 13501 to prominently display the safety fitness rating assigned under section 31144(j)(1)(A)(ii)—

“(i) in each terminal of departure;

“(ii) in the motorcoach and visible from a position exterior to the vehicle at the point of departure, if the motorcoach does not depart from a terminal; and

“(iii) at all points of sale for such motorcoach services and operations; and

“(B) any person who sells tickets for motorcoach services and operations to display the rating system described in subparagraph (A) at all points of sale for such motorcoach services and operations.

“(2) ITEMS INCLUDED IN THE RULEMAKING.—In promulgating safety performance ratings for motorcoaches pursuant to the rulemaking required under paragraph (1), the Secretary shall consider—

“(A) the need and extent to which safety performance ratings should be made available in languages other than English; and

“(B) penalties authorized under section 521.

“(3) INSUFFICIENT INSPECTIONS.—Any motor carrier for which insufficient safety data is available shall display a label that states that the carrier has sufficiently passed the preauthorization safety audit required under section 13902(b)(1)(A).

“(d) EFFECT ON STATE AND LOCAL LAW.—Nothing in this section may be construed to preempt a State, or a political subdivision of a State, from enforcing any requirements concerning the manner and content of consumer information provided by motor carriers that are not subject to the Secretary’s jurisdiction under section 13501.”

(2) CLERICAL AMENDMENT.—The analysis of chapter 141 of title 49, United States Code, is amended by inserting after the item relating to section 14104 the following:

“Sec. 14105. Safety performance ratings of motorcoach services and operations.”

**SA 1752.** Ms. SNOWE (for herself, Mr. CARDIN, Ms. KLOBUCHAR, Mr. RUBIO, Mr. ROCKEFELLER, Mr. WICKER, Mr. MERKLEY, Mr. BLUMENTHAL, and Mr.

TESTER) submitted an amendment intended to be proposed by her to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. —. IMPROVING AND EXPEDITING SAFETY ASSESSMENTS IN THE COMMERCIAL DRIVER'S LICENSE APPLICATION PROCESS FOR MEMBERS AND FORMER MEMBERS OF THE ARMED FORCES.**

**(a) STUDY.—**

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary of Transportation, in coordination with the Secretary of Defense, and in consultation with the States and other relevant stakeholders, shall commence a study to assess Federal and State regulatory, economic, and administrative challenges faced by members and former members of the Armed Forces who received safety training and operated qualifying motor vehicles during their service in obtaining commercial driver's licenses (as defined in section 31301(3) of title 49, United States Code).

**(2) REQUIREMENTS.—**The study shall—

(A) identify written and behind-the-wheel safety training, qualification standards, knowledge and skills tests, or other operating experience members of the Armed Forces must meet that satisfy the minimum standards prescribed by the Secretary of Transportation for the operation of commercial motor vehicles under section 31305 of title 49, United States Code;

(B) compare the alcohol and controlled substances testing requirements for members of the Armed Forces with those required for holders of a commercial driver's license;

(C) evaluate the cause of delays in reviewing applications for commercial driver's licenses of members and former members of the Armed Forces;

(D) identify duplicative application costs;

(E) identify residency, domicile, training and testing requirements, and other safety or health assessments that affect or delay the issuance of commercial driver's licenses to members and former members of the Armed Forces; and

(F) other factors the Secretary deems appropriate to meet the requirements of the study.

**(b) REPORT.—**

(1) IN GENERAL.—Not later than 180 days after the commencement of the study under subsection (a), the Secretary of Transportation shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that provides findings and recommendations on the study.

(2) ELEMENTS.—The report under paragraph (1) shall include—

(A) findings related to the study requirements under subsection (a)(2);

(B) recommendations for the Federal and State legislative, regulatory, and administrative actions necessary to address challenges identified in subparagraph (A); and

(C) a plan to implement the recommendations for which the Secretary of Transportation has authority.

(c) IMPLEMENTATION.—Upon completion of the report under subsection (b), the Secretary of Transportation shall implement the plan under subsection (b)(2)(C).

**SA 1753.** Ms. KLOBUCHAR (for herself and Mr. ALEXANDER) submitted an amendment intended to be proposed by her to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 326, strike lines 9 through 17, and insert the following:

“(A) IN GENERAL.—Each State shall provide to—

“(i) nonmetropolitan local elected officials an opportunity to participate in accordance with subparagraph (B)(i); and

“(ii) affected individuals, public agencies, and other interested parties notice and a reasonable opportunity to comment on the statewide transportation plan and statewide transportation improvement program.

“(B) METHODS.—In carrying out this paragraph, the State shall—

“(i) develop and document a consultative process to carry out subparagraph (A)(i) that is separate and discrete from the public involvement process developed under clause (ii);”.

Beginning on page 326, line 18, through page 327, line 14, redesignate clauses (i) through (iv) as clauses (ii) through (v), respectively.

On page 348, lines 14 and 15, strike “applicable Federal law” and insert “this section and applicable Federal law (including rules and regulations)”.

On page 348, line 16, insert “not later than 180 days after the date of enactment of the MAP-21 and” after “certify.”.

On page 348, line 17, insert “thereafter” after “years”.

On page 349, strike lines 20 through 23 and insert the following:

“(4) PUBLIC INVOLVEMENT.—

“(A) IN GENERAL.—In making a determination regarding certification under this subsection, the Secretary shall ensure that a State—

“(i) reviews and solicits comments from nonmetropolitan local elected officials and other interested parties for a period of not less than 60 days regarding the effectiveness of the consultation process and any proposed modifications to the process as part of the certification under paragraph (1)(B); and

“(ii) provides an opportunity for other public involvement that is appropriate to the State under review.

“(B) MODIFICATIONS.—

“(i) IN GENERAL.—The State may adopt any modification to the consultation process proposed under subparagraph (A).

“(ii) RATIONALE FOR NONADOPTION.—If the State elects not to adopt a proposed modification under subparagraph (A), the State shall make publicly available a description of the rationale of the State for not adopting the proposed modification.”.

**SA 1754.** Mr. ROCKEFELLER (for himself and Mr. MANCHIN) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 89, line 7, insert “and for local access roads under section 14501 of title 40” after “subsection (c)”.

On page 93, line 8, strike the closing quotation marks and the following period.

On page 93, between lines 8 and 9, insert the following:

“(i) APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM.—

“(1) IN GENERAL.—For each of fiscal years 2012 and 2013, of the amounts apportioned to a State under section 104(b)(2), the State shall obligate for the Appalachian development highway system not less the amount that was apportioned by the Appalachian Regional Commission to the State for the construction of designated corridors of the Appalachian development highway system in the State for fiscal year 2010.

“(2) ACCESS ROADS.—Funds obligated under subsection (c)(1) shall be available to construct highways and access roads in accordance with section 1116 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1177).”.

**SA 1755.** Mr. ROCKEFELLER (for himself and Mr. MANCHIN) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 89, line 7, insert “and for local access roads under section 14501 of title 40” after “subsection (c)”.

On page 93, line 8, strike the closing quotation marks and the following period.

On page 93, between lines 8 and 9, insert the following:

“(i) APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM.—

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of the MAP-21, each State represented on the Appalachian Regional Commission shall establish a plan for the completion of the designated corridors of the Appalachian development highway system within the State, including annual performance targets, with a target completion date of not later than January 1, 2035.

“(2) PERFORMANCE TARGETS.—If the Secretary determines that a State has not met or made significant progress toward meeting the performance targets of the State established by the plan of the State under paragraph (1) for a fiscal year, the State shall obligate for the subsequent fiscal year for construction of the Appalachian development highway system within the State an amount equal to at least 105 percent of the amount of funds the State received for the Appalachian development highway system for fiscal year 2009.

“(3) ACCESS ROADS.—Funds obligated under subsection (c)(1) shall be available to construct highways and access roads in accordance with section 1116 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1177).”.

**SA 1756.** Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 1, strike line 4 and all that follows through the end of the bill and, at the appropriate place, insert the following:

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the “Transportation Empowerment Act”.



(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings and purposes.
- Sec. 3. Limitation on expenditures.
- Sec. 3. Funding for core highway programs.
- Sec. 4. Infrastructure Special Assistance Fund.
- Sec. 5. Return of excess tax receipts to States.
- Sec. 6. Reduction in taxes on gasoline, diesel fuel, kerosene, and special fuels funding Highway Trust Fund.
- Sec. 7. Report to Congress.
- Sec. 8. Effective date contingent on certification of deficit neutrality.

## SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the objective of the Federal highway program has been to facilitate the construction of a modern freeway system that promotes efficient interstate commerce by connecting all States;

(2) that objective has been attained, and the Interstate System connecting all States is near completion;

(3) each State has the responsibility of providing an efficient transportation network for the residents of the State;

(4) each State has the means to build and operate a network of transportation systems, including highways, that best serves the needs of the State;

(5) each State is best capable of determining the needs of the State and acting on those needs;

(6) the Federal role in highway transportation has, over time, usurped the role of the States by taxing motor fuels used in the States and then distributing the proceeds to the States based on the Federal Government's perceptions of what is best for the States;

(7) the Federal Government has used the Federal motor fuels tax revenues to force all States to take actions that are not necessarily appropriate for individual States;

(8) the Federal distribution, review, and enforcement process wastes billions of dollars on unproductive activities;

(9) Federal mandates that apply uniformly to all 50 States, regardless of the different circumstances of the States, cause the States to waste billions of hard-earned tax dollars on projects, programs, and activities that the States would not otherwise undertake; and

(10) Congress has expressed a strong interest in reducing the role of the Federal Government by allowing each State to manage its own affairs.

(b) PURPOSES.—The purposes of this Act are—

(1) to return to the individual States maximum discretionary authority and fiscal responsibility for all elements of the national surface transportation systems that are not within the direct purview of the Federal Government;

(2) to preserve Federal responsibility for the Dwight D. Eisenhower National System of Interstate and Defense Highways;

(3) to preserve the responsibility of the Department of Transportation for—

(A) design, construction, and preservation of transportation facilities on Federal public land;

(B) national programs of transportation research and development and transportation safety; and

(C) emergency assistance to the States in response to natural disasters;

(4) to eliminate to the maximum extent practicable Federal obstacles to the ability

of each State to apply innovative solutions to the financing, design, construction, operation, and preservation of Federal and State transportation facilities; and

(5) with respect to transportation activities carried out by States, local governments, and the private sector, to encourage—

(A) competition among States, local governments, and the private sector; and

(B) innovation, energy efficiency, private sector participation, and productivity.

## SEC. 3. LIMITATION ON EXPENDITURES.

Notwithstanding any other provision of law, if the Secretary of Transportation determines for any fiscal year that the aggregate amount required to carry out transportation programs and projects under this Act and amendments made by this Act exceeds the estimated aggregate amount in the Highway Trust Fund available for those programs and projects for the fiscal year, each amount made available for such a program or project shall be reduced by the pro rata percentage required to reduce the aggregate amount required to carry out those programs and projects to an amount equal to that available for those programs and projects in the Highway Trust Fund for the fiscal year.

## SEC. 4. FUNDING FOR CORE HIGHWAY PROGRAMS.

(a) IN GENERAL.—

(1) FUNDING.—For the purpose of carrying out title 23, United States Code, the following sums are authorized to be appropriated out of the Highway Trust Fund:

(A) INTERSTATE MAINTENANCE PROGRAM.—For the Interstate maintenance program under section 119 of title 23, United States Code, \$5,200,000,000 for fiscal year 2014, \$5,280,000,000 for fiscal year 2015, \$5,360,000,000 for fiscal year 2016, \$5,440,000,000 for fiscal year 2017, and \$5,520,000,000 for fiscal year 2018.

(B) EMERGENCY RELIEF.—For emergency relief under section 125 of that title, \$100,000,000 for each of fiscal years 2014 through 2018.

(C) INTERSTATE BRIDGE PROGRAM.—For the Interstate bridge program under section 144 of that title, \$2,527,000,000 for fiscal year 2014, \$2,597,000,000 for fiscal year 2015, \$2,667,000,000 for fiscal year 2016, \$2,737,000,000 for fiscal year 2017, and \$2,807,000,000 for fiscal year 2018.

(D) FEDERAL LANDS HIGHWAYS PROGRAM.—

(i) INDIAN RESERVATION ROADS.—For Indian reservation roads under section 204 of that title, \$470,000,000 for fiscal year 2014, \$510,000,000 for fiscal year 2015, \$550,000,000 for fiscal year 2016, \$590,000,000 for fiscal year 2017, and \$630,000,000 for fiscal year 2018.

(ii) PUBLIC LANDS HIGHWAYS.—For public lands highways under section 204 of that title, \$300,000,000 for fiscal year 2014, \$310,000,000 for fiscal year 2015, \$320,000,000 for fiscal year 2016, \$330,000,000 for fiscal year 2017, and \$340,000,000 for fiscal year 2018.

(iii) PARKWAYS AND PARK ROADS.—For parkways and park roads under section 204 of that title, \$255,000,000 for fiscal year 2014, \$270,000,000 for fiscal year 2015, \$285,000,000 for fiscal year 2016, \$300,000,000 for fiscal year 2017, and \$315,000,000 for fiscal year 2018.

(iv) REFUGE ROADS.—For refuge roads under section 204 of that title, \$32,000,000 for each of fiscal years 2014 through 2018.

(E) HIGHWAY SAFETY PROGRAMS.—

(i) IN GENERAL.—For highway safety programs under section 402 of that title, \$170,000,000 for each of fiscal years 2014 through 2018.

(ii) HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—For highway safety research and

development under section 403 of that title, \$35,000,000 for each of fiscal years 2014 through 2018.

(F) SURFACE TRANSPORTATION RESEARCH.—For cooperative agreements with nonprofit research organizations to carry out applied pavement research under section 502 of that title, \$200,000,000 for each of fiscal years 2014 through 2018.

(G) ADMINISTRATIVE EXPENSES.—For administrative expenses incurred in carrying out the programs referred to in subparagraphs (A) through (F), \$92,890,000 for fiscal year 2014, \$95,040,000 for fiscal year 2015, \$97,190,000 for fiscal year 2016, \$99,340,000 for fiscal year 2017, and \$101,490,000 for fiscal year 2018.

(2) TRANSFERABILITY OF FUNDS.—Section 104 of title 23, United States Code, is amended by striking subsection (g) and inserting the following:

“(g) TRANSFERABILITY OF FUNDS.—

“(1) IN GENERAL.—To the extent that a State determines that funds made available under this title to the State for a purpose are in excess of the needs of the State for that purpose, the State may transfer the excess funds to, and use the excess funds for, any surface transportation (including mass transit and rail) purpose in the State.

“(2) ENFORCEMENT.—If the Secretary determines that a State has transferred funds under paragraph (1) to a purpose that is not a surface transportation purpose as described in paragraph (1), the amount of the improperly transferred funds shall be deducted from any amount the State would otherwise receive from the Highway Trust Fund for the fiscal year that begins after the date of the determination.”.

(3) FEDERAL-AID SYSTEM.—Section 103(a) of title 23, United States Code, is amended by striking “systems are the Interstate System and the National Highway System” and inserting “system is the Interstate System”.

(4) INTERSTATE MAINTENANCE PROGRAM.—Section 104(b) of title 23, United States Code, is amended by striking paragraph (4) and inserting the following:

“(4) INTERSTATE MAINTENANCE COMPONENT.—For each of fiscal years 2014 through 2018, for the Interstate maintenance program under section 119, 1 percent to the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands and the remaining 99 percent apportioned as follows:

“(A)(i) For each State with an average population density of 20 persons or fewer per square mile, and each State with a population of 1,500,000 persons or fewer and with a land area of 10,000 square miles or less, the greater of—

“(I) a percentage share of apportionments equal to the percentage for the State described in clause (ii); or

“(II) a share determined under subparagraph (B).

“(ii) The percentage referred to in clause (i)(I) for a State for a fiscal year shall be the percentage calculated for the State for fiscal year 2009 under section 105(b) of title 23, United States Code.

“(B) For each State not described in subparagraph (A), a share of the apportionments remaining determined in accordance with the following formula:

“(i)  $\frac{1}{2}$  in the ratio that the total rural lane miles in each State bears to the total rural lane miles in all States with an average population density greater than 20 persons per square mile and all States with a population of more than 1,500,000 persons and with a land area of more than 10,000 square miles.



“(ii)  $\frac{1}{2}$  in the ratio that the total rural vehicle miles traveled in each State bears to the total rural vehicle miles traveled in all States described in clause (i).

“(iii)  $\frac{1}{2}$  in the ratio that the total urban lane miles in each State bears to the total urban lane miles in all States described in clause (i).

“(iv)  $\frac{1}{2}$  in the ratio that the total urban vehicle miles traveled in each State bears to the total urban vehicle miles traveled in all States described in clause (i).

“(v)  $\frac{1}{2}$  in the ratio that the total diesel fuel used in each State bears to the total diesel fuel used in all States described in clause (i).”

(5) INTERSTATE BRIDGE PROGRAM.—Section 144 of title 23, United States Code, is amended—

(A) in subsection (d)—

(i) by inserting “on the Federal-aid system or described in subsection (c)(3)” after “highway bridge” each place it appears; and

(ii) by inserting “on the Federal-aid system or described in subsection (c)(3)” after “highway bridges” each place it appears;

(B) in the second sentence of subsection (e)—

(i) in paragraph (1), by adding “and” at the end;

(ii) in paragraph (2), by striking the comma at the end and inserting a period; and

(iii) by striking paragraphs (3) and (4);

(C) in the first sentence of subsection (k), by inserting “on the Federal-aid system or described in subsection (c)(3)” after “any bridge”;

(D) in subsection (l)(1), by inserting “on the Federal-aid system or described in subsection (c)(3)” after “construct any bridge”; and

(E) in the first sentence of subsection (m), by inserting “for each of fiscal years 1991 through 2013,” after “of law.”

(6) NATIONAL DEFENSE HIGHWAYS.—Section 311 of title 23, United States Code, is amended—

(A) in the first sentence, by striking “under subsection (a) of section 104 of this title” and inserting “to carry out this section”; and

(B) by striking the second sentence.

(7) FEDERALIZATION AND DEFEDERALIZATION OF PROJECTS.—Notwithstanding any other provision of law, beginning on October 1, 2013—

(A) a highway construction or improvement project shall not be considered to be a Federal highway construction or improvement project unless and until a State expends Federal funds for the construction portion of the project;

(B) a highway construction or improvement project shall not be considered to be a Federal highway construction or improvement project solely by reason of the expenditure of Federal funds by a State before the construction phase of the project to pay expenses relating to the project, including for any environmental document or design work required for the project; and

(C)(i) a State may, after having used Federal funds to pay all or a portion of the costs of a highway construction or improvement project, reimburse the Federal Government in an amount equal to the amount of Federal funds so expended; and

(ii) after completion of a reimbursement described in clause (i), a highway construction or improvement project described in that clause shall no longer be considered to be a Federal highway construction or improvement project.

(8) REPORTING REQUIREMENTS.—No reporting requirement, other than a reporting re-

quirement in effect as of the date of enactment of this Act, shall apply on or after October 1, 2013, to the use of Federal funds for highway projects by a public-private partnership.

(b) EXPENDITURES FROM HIGHWAY TRUST FUND.—

(1) EXPENDITURES FOR CORE PROGRAMS.—Section 9503(c) of the Internal Revenue Code of 1986 is amended—

(A) in paragraph (1), by striking “Surface Transportation Extension Act of 2011, Part II” and inserting “Transportation Empowerment Act”;

(B) in paragraph (1), by striking “April 1, 2012” and inserting “October 1, 2018”;

(C) in paragraphs (3)(A)(i), (4)(A), and (5), by striking “April 1, 2012” each place it appears and inserting “October 1, 2020”; and

(D) in paragraph (2), by striking “January 1, 2013” and inserting “July 1, 2021”.

(2) AMOUNTS AVAILABLE FOR CORE PROGRAM EXPENDITURES.—Section 9503 of such Code is amended by adding at the end the following:

“(g) CORE PROGRAMS FINANCING RATE.—For purposes of this section—

“(1) IN GENERAL.—Except as provided in paragraph (2)—

“(A) in the case of gasoline and special motor fuels the tax rate of which is the rate specified in section 4081(a)(2)(A)(i), the core programs financing rate is—

“(i) after September 30, 2013, and before October 1, 2014, 18.3 cents per gallon,

“(ii) after September 30, 2014, and before October 1, 2015, 9.6 cents per gallon,

“(iii) after September 30, 2015, and before October 1, 2016, 6.4 cents per gallon,

“(iv) after September 30, 2016, and before October 1, 2017, 5.0 cents per gallon, and

“(v) after September 30, 2017, 3.7 cents per gallon, and

“(B) in the case of kerosene, diesel fuel, and special motor fuels the tax rate of which is the rate specified in section 4081(a)(2)(A)(iii), the core programs financing rate is—

“(i) after September 30, 2013, and before October 1, 2014, 24.3 cents per gallon,

“(ii) after September 30, 2014, and before October 1, 2015, 12.7 cents per gallon,

“(iii) after September 30, 2015, and before October 1, 2016, 8.5 cents per gallon,

“(iv) after September 30, 2016, and before October 1, 2017, 6.6 cents per gallon, and

“(v) after September 30, 2017, 5.0 cents per gallon.

“(2) APPLICATION OF RATE.—In the case of fuels used as described in paragraph (3)(C), (4)(B), and (5) of subsection (c), the core programs financing rate is zero.”

(c) TERMINATION OF TRANSFERS TO MASS TRANSIT ACCOUNT.—Section 9503(e)(2) of the Internal Revenue Code of 1986 is amended by inserting “, and before October 1, 2013” after “March 31, 1983”.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section take effect on October 1, 2013.

(2) CERTAIN EXTENSIONS.—The amendments made by subsection (b)(1) shall take effect on April 1, 2012.

## SEC. 5. INFRASTRUCTURE SPECIAL ASSISTANCE FUND.

(a) BALANCE OF CORE PROGRAMS FINANCING RATE DEPOSITED IN FUND.—Section 9503 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

“(h) ESTABLISHMENT OF INFRASTRUCTURE SPECIAL ASSISTANCE FUND.—

“(1) CREATION OF FUND.—There is established in the Highway Trust Fund a separate fund to be known as the ‘Infrastructure Spe-

cial Assistance Fund’ consisting of such amounts as may be transferred or credited to the Infrastructure Special Assistance Fund as provided in this subsection or section 9602(b).

“(2) TRANSFERS TO INFRASTRUCTURE SPECIAL ASSISTANCE FUND.—On the first day of each fiscal year, the Secretary, in consultation with the Secretary of Transportation, shall determine the excess (if any) of—

“(A) the sum of—

“(i) the amounts appropriated in such fiscal year to the Highway Trust Fund under subsection (b) which are attributable to the core programs financing rate for such year, plus

“(ii) the amounts appropriated in such fiscal year to the Highway Trust Fund under subsection (b) which are attributable to taxes under sections 4051, 4071, and 4481 for such year, over

“(B) the amount appropriated under subsection (c) for such fiscal year,

and shall transfer such excess to the Infrastructure Special Assistance Fund.

“(3) EXPENDITURES FROM INFRASTRUCTURE SPECIAL ASSISTANCE FUND.—

“(A) TRANSITIONAL ASSISTANCE.—

“(i) IN GENERAL.—Except as provided in clause (iii), during fiscal years 2014 through 2017, \$1,000,000,000 in the Infrastructure Special Assistance Fund shall be available to States for transportation-related program expenditures.

“(ii) STATE SHARE.—Each State is entitled to a share of the amount specified in clause (i) determined in the following manner:

“(I) Multiply the percentage of the amounts appropriated in the latest fiscal year for which such data are available to the Highway Trust Fund under subsection (b) which is attributable to taxes paid by highway users in the State, by the amount specified in clause (i). If the result does not exceed \$15,000,000, the State’s share equals \$15,000,000. If the result exceeds \$15,000,000, the State’s share is determined under subclause (II).

“(II) Multiply the percentage determined under subclause (I), by the amount specified in clause (i) reduced by an amount equal to \$15,000,000 times the number of States the share of which is determined under subclause (I).

“(iii) DISTRIBUTION OF REMAINING AMOUNT.—If after September 30, 2017, a portion of the amount specified in clause (i) remains, the Secretary, in consultation with the Secretary of Transportation, shall, on October 1, 2017, apportion the portion among the States using the percentages determined under clause (ii)(I) for such States.

“(B) ADDITIONAL EXPENDITURES FROM FUND.—

“(i) IN GENERAL.—Amounts in the Infrastructure Special Assistance Fund, in excess of the amount specified in subparagraph (A)(i), shall be available, as provided by appropriation Acts, to the States for any surface transportation (including mass transit and rail) purpose in such States, and the Secretary shall apportion such excess amounts among all States using the percentages determined under clause (ii)(I) for such States.

“(ii) ENFORCEMENT.—If the Secretary determines that a State has used amounts under clause (i) for a purpose which is not a surface transportation purpose as described in clause (i), the improperly used amounts shall be deducted from any amount the State would otherwise receive from the Highway Trust Fund for the fiscal year which begins after the date of the determination.”

(b) **EFFECTIVE DATE.**—The amendment made by this section takes effect on October 1, 2013.

#### SEC. 6. RETURN OF EXCESS TAX RECEIPTS TO STATES.

(a) **IN GENERAL.**—Section 9503(c) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

“(6) **RETURN OF EXCESS TAX RECEIPTS TO STATES FOR SURFACE TRANSPORTATION PURPOSES.**—

“(A) **IN GENERAL.**—On the first day of each of fiscal years 2014, 2015, 2016, and 2017, the Secretary, in consultation with the Secretary of Transportation, shall—

“(i) determine the excess (if any) of—

“(I) the amounts appropriated in such fiscal year to the Highway Trust Fund under subsection (b) which are attributable to the taxes described in paragraphs (1) and (2) thereof (after the application of paragraph (4) thereof) over the sum of—

“(II) the amounts so appropriated which are equivalent to—

“(aa) such amounts attributable to the core programs financing rate for such year, plus

“(bb) the taxes described in paragraphs (3)(C), (4)(B), and (5) of subsection (c), and

“(ii) allocate the amount determined under clause (i) among the States (as defined in section 101(a) of title 23, United States Code) for surface transportation (including mass transit and rail) purposes so that—

“(I) the percentage of that amount allocated to each State, is equal to

“(II) the percentage of the amount determined under clause (i)(I) paid into the Highway Trust Fund in the latest fiscal year for which such data are available which is attributable to highway users in the State.

“(B) **ENFORCEMENT.**—If the Secretary determines that a State has used amounts under subparagraph (A) for a purpose which is not a surface transportation purpose as described in subparagraph (A), the improperly used amounts shall be deducted from any amount the State would otherwise receive from the Highway Trust Fund for the fiscal year which begins after the date of the determination.”.

(b) **EFFECTIVE DATE.**—The amendment made by this section takes effect on October 1, 2013.

#### SEC. 7. REDUCTION IN TAXES ON GASOLINE, DIESEL FUEL, KEROSENE, AND SPECIAL FUELS FUNDING HIGHWAY TRUST FUND.

(a) **REDUCTION IN TAX RATE.**—

(1) **IN GENERAL.**—Section 4081(a)(2)(A) of the Internal Revenue Code of 1986 is amended—

(A) in clause (i), by striking “18.3 cents” and inserting “3.7 cents”; and

(B) in clause (iii), by striking “24.3 cents” and inserting “5.0 cents”.

(2) **CONFORMING AMENDMENTS.**—

(A) Section 4081(a)(2)(D) of such Code is amended—

(i) by striking “19.7 cents” and inserting “4.1 cents”, and

(ii) by striking “24.3 cents” and inserting “5.0 cents”.

(B) Section 6427(b)(2)(A) of such Code is amended by striking “7.4 cents” and inserting “1.5 cents”.

(b) **ADDITIONAL CONFORMING AMENDMENTS.**—

(1) Section 4041(a)(1)(C)(iii)(I) of the Internal Revenue Code of 1986 is amended by striking “7.3 cents per gallon (4.3 cents per gallon after March 31, 2012)” and inserting “1.4 cents per gallon (zero after September 30, 2020)”.

(2) Section 4041(a)(2)(B)(ii) of such Code is amended by striking “24.3 cents” and inserting “5.0 cents”.

(3) Section 4041(a)(3)(A) of such Code is amended by striking “18.3 cents” and inserting “3.7 cents”.

(4) Section 4041(m)(1) of such Code is amended—

(A) in subparagraph (A), by striking “April 1, 2012” and inserting “October 1, 2020,”;

(B) in subparagraph (A)(i), by striking “9.15 cents” and inserting “1.8 cents”;

(C) in subparagraph (A)(ii), by striking “11.3 cents” and inserting “2.3 cents”; and

(D) by striking subparagraph (B) and inserting the following:

“(B) zero after September 30, 2020.”.

(5) Section 4081(d)(1) of such Code is amended by striking “4.3 cents per gallon after March 31, 2012” and inserting “zero after September 30, 2020”.

(6) Section 9503(b) of such Code is amended—

(A) in paragraphs (1) and (2), by striking “April 1, 2012” both places it appears and inserting “October 1, 2020”; and

(B) in the heading of paragraph (2), by striking “APRIL 1, 2012” and inserting “OCTOBER 1, 2020”;

(C) in paragraph (2), by striking “after March 31, 2012, and before January 1, 2013” and inserting “after September 30, 2020, and before July 1, 2021”; and

(D) in paragraph (6)(B), by striking “April 1, 2012” and inserting “October 1, 2018”.

(c) **FLOOR STOCK REFUNDS.**—

(1) **IN GENERAL.**—If—

(A) before October 1, 2017, tax has been imposed under section 4081 of the Internal Revenue Code of 1986 on any liquid; and

(B) on such date such liquid is held by a dealer and has not been used and is intended for sale;

there shall be credited or refunded (without interest) to the person who paid such tax (in this subsection referred to as the “taxpayer”) an amount equal to the excess of the tax paid by the taxpayer over the amount of such tax which would be imposed on such liquid had the taxable event occurred on such date.

(2) **TIME FOR FILING CLAIMS.**—No credit or refund shall be allowed or made under this subsection unless—

(A) claim therefor is filed with the Secretary of the Treasury before April 1, 2018; and

(B) in any case where liquid is held by a dealer (other than the taxpayer) on October 1, 2017—

(i) the dealer submits a request for refund or credit to the taxpayer before January 1, 2018; and

(ii) the taxpayer has repaid or agreed to repay the amount so claimed to such dealer or has obtained the written consent of such dealer to the allowance of the credit or the making of the refund.

(3) **EXCEPTION FOR FUEL HELD IN RETAIL STOCKS.**—No credit or refund shall be allowed under this subsection with respect to any liquid in retail stocks held at the place where intended to be sold at retail.

(4) **DEFINITIONS.**—For purposes of this subsection, the terms “dealer” and “held by a dealer” have the respective meanings given to such terms by section 6412 of such Code; except that the term “dealer” includes a producer.

(5) **CERTAIN RULES TO APPLY.**—Rules similar to the rules of subsections (b) and (c) of section 6412 and sections 6206 and 6675 of such Code shall apply for purposes of this subsection.

(d) **EFFECTIVE DATES.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the amendments made by this section shall apply to fuel removed after September 30, 2017.

(2) **CERTAIN CONFORMING AMENDMENTS.**—The amendments made by subsections (b)(1), (b)(4), (b)(5), and (b)(6) shall apply to fuel removed after September 30, 2011.

#### SEC. 8. REPORT TO CONGRESS.

Not later than 180 days after the date of enactment of this Act, after consultation with the appropriate committees of Congress, the Secretary of Transportation shall submit a report to Congress describing such technical and conforming amendments to titles 23 and 49, United States Code, and such technical and conforming amendments to other laws, as are necessary to bring those titles and other laws into conformity with the policy embodied in this Act and the amendments made by this Act.

#### SEC. 9. EFFECTIVE DATE CONTINGENT ON CERTIFICATION OF DEFICIT NEUTRALITY.

(a) **PURPOSE.**—The purpose of this section is to ensure that—

(1) this Act will become effective only if the Director of the Office of Management and Budget certifies that this Act is deficit neutral;

(2) discretionary spending limits are reduced to capture the savings realized in devolving transportation functions to the State level pursuant to this Act; and

(3) the tax reduction made by this Act is not scored under pay-as-you-go and does not inadvertently trigger a sequestration.

(b) **EFFECTIVE DATE CONTINGENCY.**—Notwithstanding any other provision of this Act, this Act and the amendments made by this Act shall take effect only if—

(1) the Director of the Office of Management and Budget (referred to in this section as the “Director”) submits the report as required in subsection (c); and

(2) the report contains a certification by the Director that, based on the required estimates, the reduction in discretionary outlays resulting from the reduction in contract authority is at least as great as the reduction in revenues for each fiscal year through fiscal year 2018.

(c) **OMB ESTIMATES AND REPORT.**—

(1) **REQUIREMENTS.**—Not later than 5 calendar days after the date of enactment of this Act, the Director shall—

(A) estimate the net change in revenues resulting from this Act for each fiscal year through fiscal year 2018;

(B) estimate the net change in discretionary outlays resulting from the reduction in contract authority under this Act for each fiscal year through fiscal year 2018;

(C) determine, based on those estimates, whether the reduction in discretionary outlays is at least as great as the reduction in revenues for each fiscal year through fiscal year 2018; and

(D) submit to Congress a report setting forth the estimates and determination.

(2) **APPLICABLE ASSUMPTIONS AND GUIDELINES.**—

(A) **REVENUE ESTIMATES.**—The revenue estimates required under paragraph (1)(A) shall be predicated on the same economic and technical assumptions and scorekeeping guidelines that would be used for estimates made pursuant to section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902(d)).

(B) **OUTLAY ESTIMATES.**—The outlay estimates required under paragraph (1)(B) shall be determined by comparing the level of discretionary outlays resulting from this Act

with the corresponding level of discretionary outlays projected in the baseline under section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 907).

(d) CONFORMING ADJUSTMENT TO DISCRETIONARY SPENDING LIMITS.—On compliance with the requirements specified in subsection (b), the Director shall adjust the adjusted discretionary spending limits for each fiscal year through fiscal year 2013 under section 601(a)(2) of the Congressional Budget Act of 1974 (2 U.S.C. 665(a)(2)) by the estimated reductions in discretionary outlays under subsection (c)(1)(B).

(e) PAYGO INTERACTION.—On compliance with the requirements specified in subsection (b), no changes in revenues estimated to result from the enactment of this Act shall be counted for the purposes of section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902(d)).

#### NOTICE OF INTENT TO SUSPEND THE RULES

Mr. COBURN. Mr. President, I submit the following notice in writing: In accordance with Rule V of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to offer an amendment to the Standing Rules of the Senate, by proposing Amendment No. 1737 to S. 1813.

#### AUTHORITY FOR COMMITTEES TO MEET

##### COMMITTEE ON FOREIGN RELATIONS

Mrs. BOXER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on February 29, 2012, at 11 a.m., to hold a briefing entitled, "Update on the Crisis in Syria."

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mrs. BOXER. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet, during the session of the Senate, to conduct a hearing entitled "Dental Crisis in America: The Need to Expand Access" on February 29, 2012, at 10 a.m., in room 430 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON THE JUDICIARY

Mrs. BOXER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on February 29, 2012, at 10 a.m., in room SD-226 of the Dirksen Senate Office Building, to conduct a hearing entitled "The Due Process Guarantee Act: Banning Indefinite Detention of Americans."

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON THE JUDICIARY

Mrs. BOXER. Mr. President, I ask unanimous consent that the Com-

mittee on the Judiciary be authorized to meet during the session on February 29, 2012, at 2:30 p.m., in room SD-226 of the Dirksen Senate Office Building, to conduct a hearing entitled "Nominations."

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON VETERANS' AFFAIRS

Mrs. BOXER. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session on February 29, 2012. The Committee will meet in room 418 of the Senate Russell Office Building beginning at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PRIVILEGES OF THE FLOOR

Mr. REID. Mr. President, I ask consent that floor privileges be granted to Andy Remo and Jesse Haladay, two of Senator CARDIN's legislative staff members, during today's session of the Senate.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the following staff of the Finance Committee be allowed on the Senate floor for the duration of the debate on S. 1813: Johannes Echeverri, Whitney Lott, Samson Chen, Edward Torres, Derrick Riggins, Elizabeth Samson, Amanda Summers, and Danielle Dellerson.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### READ ACROSS AMERICA DAY

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 382.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The bill clerk read as follows:

A resolution (S. Res. 382) designating March 2, 2012, as "Read Across America Day."

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 382) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

##### S. RES. 382

Whereas reading is a basic requirement for quality education and professional success, and is a source of pleasure throughout life;

Whereas the people of the United States must be able to read if the United States is to remain competitive in the global economy;

Whereas Congress has placed great emphasis on reading intervention and on providing additional resources for reading assistance, including through the programs authorized by the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) and through annual appropriations for library and literacy programs; and

Whereas more than 50 national organizations concerned about reading and education have joined with the National Education Association to designate March 2, the anniversary of the birth of Theodor Geisel (also known as Dr. Seuss), as a day to celebrate reading: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates March 2, 2012, as "Read Across America Day";

(2) honors Theodor Geisel, also known as Dr. Seuss, for his success in encouraging children to discover the joy of reading;

(3) honors the 15th anniversary of "Read Across America Day";

(4) encourages parents to read with their children for at least 30 minutes on "Read Across America Day" in honor of the commitment of the Senate to building a country of readers; and

(5) encourages the people of the United States to observe "Read Across America Day" with appropriate ceremonies and activities.

#### RARE DISEASE DAY

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 383.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The bill clerk read as follows:

A resolution (S. Res. 383) designating February 29, 2012, as "Rare Disease Day."

There being no objection, the Senate proceeded to consider the resolution.

Mr. BROWN of Ohio. Mr. President, since 2009 the last day of February has been observed as Rare Disease Day. Each rare disease affects a small patient population—less than 200,000 people—but there are more than 7,000 rare diseases that, combined, affect 30 million Americans. Sadly, children with rare genetic diseases account for more than half of the rare disease population.

Patients with rare diseases—such as Duchenne muscular dystrophy, Tay-Sachs, epidermolysis bullosa, sickle cell anemia, cystic fibrosis, and many childhood cancers—face unique challenges. Too many of these conditions lack effective treatments and cures, and too often people with rare diseases experience challenges in obtaining an accurate diagnosis. In addition, there is often difficulty finding physicians or treatment centers with the necessary expertise in rare diseases or disorders.

Great strides have been made in research and treatment as the result of the Orphan Drug Act, but more must be done to prevent, identify, combat, and treat rare diseases. By designating

February 29, 2012, as Rare Disease Day, I hope we create greater awareness of these conditions, encourage accurate and early diagnosis of rare diseases and disorders, and help demonstrate and support a national and global commitment to improve treatment options for individuals with rare diseases and disorders.

Mr. REID. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 383) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 383

Whereas rare diseases and disorders are those diseases and disorders that affect a small patient population, which in the United States is typically a population of fewer than 200,000 people;

Whereas, as of the date of approval of this resolution, nearly 7,000 rare diseases affect 30,000,000 people and their families in the United States;

Whereas children with rare genetic diseases account for more than half of the population affected by rare diseases in the United States;

Whereas many rare diseases are life-threatening and lack an effective treatment;

Whereas rare diseases and disorders include epidermolysis bullosa, progeria, sickle cell anemia, Tay-Sachs disease, cystic fibrosis, many childhood cancers, and fibrodysplasia ossificans progressiva;

Whereas people with a rare disease experience challenges that include difficulty in obtaining an accurate diagnosis, limited treatment options, and difficulty finding a physician or treatment center with expertise in the disease;

Whereas great strides have been made in research and treatment for rare diseases as a result of the Orphan Drug Act (21 U.S.C. 360aa et seq.);

Whereas both the Food and Drug Administration and the National Institutes of Health have established special offices to advocate for rare disease research and treatments;

Whereas the National Organization for Rare Disorders, an organization established in 1983 to provide services to, and advocate on behalf of, patients with rare diseases, was a primary force behind the enactment of the Orphan Drug Act and remains a critical public voice for people with rare diseases;

Whereas the National Organization for Rare Disorders sponsors Rare Disease Day in the United States to increase public awareness of rare diseases;

Whereas Rare Disease Day has become a global event that occurs annually on the last day of February;

Whereas Rare Disease Day was observed in the United States for the first time on February 28, 2009; and

Whereas Rare Disease Day is expected to be observed globally in years to come, providing hope and information for rare disease patients around the world: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates February 29, 2012, as “Rare Disease Day”;

(2) recognizes the importance of improving awareness and encouraging accurate and early diagnosis of rare diseases and disorders; and

(3) supports the commitment of the United States and all countries to improving access to, and developing, new treatments, diagnostics, and cures for rare diseases and disorders.

#### TRANSPORTATION BILL

Mr. REID. Mr. President, before I start the closing script, I want it to be spread on the record that we have tried all day to come up with an agreement to move forward on this legislation, and we have been unsuccessful.

This is a piece of legislation that is as bipartisan as is humanly possible. We have one of the most progressive Members of the Senate, Senator BOXER, and one of the most conservative Members of the Senate, JIM INHOFE, who are cosponsoring this legislation. It is a piece of legislation that continues the highway program, the surface transportation program. It is so needed.

Yesterday, I had the director of the department of transportation in Nevada, Susan Martinovich, come in. I am confident that most Senators have had someone from their States here and had a conference. It will bring construction in Nevada to a standstill on our highways and bridges and some of the mass transit programs if we don't move forward. But we can't even get on the bill.

I have agreed to do this unrelated amendment. My caucus agreed we will do these. We don't want to; they are not productive. They are message amendments, and they are not germane or relevant. But we will do a limited number of these bad amendments. There have been over 100 of them filed.

I am at a loss for words as to what the Republicans expect me to do—stand around for another week and look at each other?

We started moving to this bill on February 7. The amendment we are going to vote on tomorrow, out of nowhere, on a transportation bill, is dealing with contraception. We have agreed to have votes on it. They will not let us have votes. Yesterday, I had to bring up a Republican amendment they didn't even bother to file. They just wanted to talk about it and hold press conferences on the issue.

Unless something changes, I am going to have to file cloture on this bill, and we are going to have to find out if the Republicans really want destruction all across the 50 States and have another hit to our economy by not doing highway construction, especially as the weather is getting better. In the Presiding Officer's State of Oregon, which is just like Nevada, where

unemployment has not been good, a lot can go on. I have no alternative but to file cloture to stop the filibuster. It is one of these roving filibusters where all these phantom people will not let us move forward on this legislation.

I am almost embarrassed to be saying this in front of the Presiding Officer. I say that because at the beginning of the year the Presiding Officer, along with the junior Senator from New Mexico, thought maybe we should change how this place operates. A number of us, in good conscience, believed the few changes we had made would be sufficient to establish a better working situation. It hasn't been better. In fact, I am sorry to say, it is worse.

So we are going to—unless something happens—have a vote tomorrow. Can you imagine, I created a vote because they would not allow us to have a vote? So I don't see what choice I have.

#### ORDERS FOR THURSDAY, MARCH 1, 2012

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until Thursday, March 1, at 9:30 a.m.; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, and the time for the two leaders be reserved for their use later in the day; that following any leader remarks, the Senate resume consideration of S. 1813, the surface transportation bill, with the time until 11 a.m. equally divided and controlled between the two leaders or their designees; that at 11 a.m. the Senate proceed to vote in relation to the Blunt amendment No. 1520; and that all provisions under the previous order remain in effect.

I am going to say this now—I will ask consent in the morning, Mr. President—I want to have the full hour and a half to have this matter debated. We will come in tomorrow at 9:30, so there will be an hour and a half. I want to make sure we have that full time. So I will ask unanimous consent that the statements of Senator MCCONNELL and myself not count against the hour and a half, but I will do that tomorrow.

I now ask the Chair to approve my earlier request.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PROGRAM

Mr. REID. Mr. President, at 11 a.m. tomorrow the Senate will proceed to vote in relation to the Blunt amendment No. 1520 on contraception and health care. Tomorrow we will continue to work on a path forward on the Transportation bill, as I have outlined previously.

## ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 6:56 p.m., adjourned until Thursday, March 1, 2012, at 9:30 a.m.

## NOMINATIONS

Executive nominations received by the Senate:

### THE JUDICIARY

JOHN E. DOWDELL, OF OKLAHOMA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF OKLAHOMA, VICE TERRY C. KERN, RETIRED.

BRIAN J. DAVIS, OF FLORIDA, TO BE UNITED STATES DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF FLORIDA, VICE RICHARD A. LAZZARA, RETIRED.

### FOREIGN SERVICE

THE FOLLOWING-NAMED PERSONS OF THE DEPARTMENT OF STATE FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASSES STATED.

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS FOUR, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA,

KATHRYN E. ABATE, OF NEW JERSEY  
JANICE ANDERSON, OF CALIFORNIA  
JOSEPH GEORGE BERGEN, OF VIRGINIA  
DARREN PAUL BOLOGNA, OF FLORIDA  
PETER BROADBENT, OF TEXAS  
JACOB KYUNG-HWOON CHOI, OF UTAH  
SUNG W. CHOI, OF THE DISTRICT OF COLUMBIA  
DONALD R. COLEMAN, OF CALIFORNIA  
LAURA SUSAN CONAWAY, OF FLORIDA  
CYNTHIA LAUREN COOK, OF THE DISTRICT OF COLUMBIA  
MARJORIE M. CORLETT, OF FLORIDA  
ETHAN K. CURBOW, OF GEORGIA  
BRIDGET M. DAVIS, OF NEW YORK  
DUSTIN FRANCIS DEGRANDE, OF WISCONSIN  
DAMON DUBORD, OF THE DISTRICT OF COLUMBIA  
LUKE THOMAS DURKIN, OF ILLINOIS  
TERESA FERGERSON, OF FLORIDA  
RONALD A. FERRY, OF KENTUCKY  
KELLY ELIZABETH FOLIARD, OF FLORIDA  
JEREMY J. FOWLER, OF MASSACHUSETTS  
KIMBERLY R. FURNISH, OF FLORIDA  
CHRISTINE I. GETZLER VAUGHAN, OF ARIZONA  
CARISSA EILEEN GONZALEZ, OF TEXAS  
JOHN CHARLES HEINBECK, OF MICHIGAN  
ANDREA SMITH HILLYER, OF FLORIDA  
WINIFRED L. HOFSTETTER, OF COLORADO  
CHARLES PHILLIP HORNOSTEL, OF VIRGINIA  
SANDRA MARIE JACOBS, OF FLORIDA  
JAMAL JOSEPH JAFARI, OF THE DISTRICT OF COLUMBIA  
LOUISE A. JOHNSON, OF NEW HAMPSHIRE  
JERRY KALARICKAL, OF TEXAS  
ELIZABETH ANN KEENE, OF TEXAS  
SYLBETH A. KENNEDY, OF CALIFORNIA  
BROOKE G. KIDD, OF VIRGINIA  
MARGARET GRACE MACLEOD, OF NEW YORK  
KRISTINE ANN MARSH, OF NEW YORK  
VALERIE J. MARTIN, OF CONNECTICUT  
BEVERLY E. MATHER-MARCUS, OF CALIFORNIA  
THERESA JEAN MATTHEWS, OF VIRGINIA  
ANDREA LAUREN MCFEELY, OF KANSAS  
MARK IAN MISHKIN, OF CALIFORNIA  
LISA ANN MOOTY, OF GEORGIA  
YOMARIS C. NUNEZ, OF NEW YORK  
JAMES PATRICK O'BRIEN, OF VIRGINIA  
ABRAM WIL PALEY, OF CONNECTICUT  
PAUL A. PAVWOSKI, OF THE DISTRICT OF COLUMBIA  
BENJAMIN JOSEPH PERACCHIO, OF NORTH CAROLINA  
BRANDON POSSIN, OF FLORIDA  
DELIA DAY QUICK, OF TEXAS  
AMY J. REARDON, OF WASHINGTON  
ALISSA MEREDITH REDMOND, OF THE DISTRICT OF COLUMBIA  
RICHARD N. REILLY, OF FLORIDA  
MARISSA K.E. ROLLENS, OF VIRGINIA  
ROBERT A. ROMANOWSKI, OF GEORGIA  
RYAN R. RUTA, OF TEXAS  
BENJAMIN SAND, OF NEW YORK  
MARIA W. SAND, OF NEW YORK  
JAMES-MICHAEL SAXTON-RUIZ, OF VIRGINIA  
SETH E. SCHLEICHER, OF VIRGINIA  
JACOB TAYLOR SCHULTZ, OF FLORIDA  
FRANK ERICK SELLIN, OF VIRGINIA  
AMI U. SHAH, OF NEW JERSEY  
ROSEMARIE SKELLY MENDOZA, OF VIRGINIA  
SARA VELDHIJZEN STEALY, OF IOWA  
INEKE MARGARET STONEHAM, OF THE DISTRICT OF COLUMBIA  
NIKHIL P. SUDAME, OF CONNECTICUT  
DINA LUCIA TAMBURRINO, OF FLORIDA  
COLLEEN M. TRAUGHBER, OF MINNESOTA  
NEAL W. TURNER, OF MAINE  
MARY EUGENIA VARGAS, OF CALIFORNIA  
MARLAN C. WALKER, OF UTAH

NICOLE D. WARIN, OF CALIFORNIA  
BENJAMIN A. YATES, OF TEXAS  
ZAINAB ZAID, OF MARYLAND  
MATTHEW J. ZAMARY, OF VIRGINIA

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE TO BE CONSULAR OFFICERS OR CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

TOLULOPE O. ABATAN, OF VIRGINIA  
MICHAEL J. ABEL, OF VIRGINIA  
WILLIAM BRADFORD ADAMS IV, OF VIRGINIA  
CLARISSA ADAMSON, OF CALIFORNIA  
INAKI ALANIS-CUE, OF THE DISTRICT OF COLUMBIA  
AAMIR ALAVI, OF THE DISTRICT OF COLUMBIA  
PEDRO R. ALICEA, OF VIRGINIA  
JAMES THOMAS ALLMAN-GULINO, OF VIRGINIA  
ZOHRA ATMAR, OF VIRGINIA  
MICHAEL PERRY BALL, OF VIRGINIA  
JOSEPH S. BARGHOUT, OF THE DISTRICT OF COLUMBIA  
ZACHARY ISAAC BARTER, OF COLORADO  
COLLEEN M. BARTLETT, OF MICHIGAN  
STEPHEN C. BATES, OF VIRGINIA  
AMY E. BENEDETTO, OF VIRGINIA  
MEGAN B. BRADSHAW, OF VIRGINIA  
NANCY J. BRANT, OF RHODE ISLAND  
AARON S. BROWN, OF THE DISTRICT OF COLUMBIA  
JASON F. BROWN, OF THE DISTRICT OF COLUMBIA  
CYNTHIA ROCHELLE CAPLAN, OF CALIFORNIA  
AMELIA CASTLEBERRY, OF ALABAMA  
MICHAEL CHOI, OF VIRGINIA  
KAREN CHU, OF VIRGINIA  
ALYSSA L. CLAPP, OF FLORIDA  
BRIDGET M. COONEY, OF VIRGINIA  
CHERYL L. COWAN, OF ARKANSAS  
MARY E. COWAN, OF VIRGINIA  
BENJAMIN CROMBE, OF VIRGINIA  
VANESSA R. DE BRUYN, OF WASHINGTON  
DUSTIN DOCKIEWICZ, OF CALIFORNIA  
AMANDA DORGAN, OF VIRGINIA  
DAVID R. DUNN, OF VIRGINIA  
ALEXANDER JAMES DUNOYE, OF THE DISTRICT OF COLUMBIA  
JOSEPH R. DURAN, OF OKLAHOMA  
HANNAH EAGLETON, OF MINNESOTA  
DEKE K. EGGER, OF VIRGINIA  
ERIK VOLKER ERNST EISELE, OF MARYLAND  
JASON TOLLEFSEN ELLIOTT, OF CALIFORNIA  
JASON A. FABBRICANTE, OF VIRGINIA  
RAYNA K. FARNSWORTH, OF ARIZONA  
BILAL FARUQI, OF NEW YORK  
TANYA FRAIKIN, OF MARYLAND  
HANNA Y. FREIJ, OF VIRGINIA  
JOHN W. GAYLES, OF VIRGINIA  
MEGAN F. GIBSON, OF VIRGINIA  
CALEB JAMES GODDARD, OF CALIFORNIA  
STEPHANIE P. GORMAN, OF VIRGINIA  
CHRISTOPHER W. GREGG, OF VIRGINIA  
THOMAS E. GRIFFITH, JR., OF VIRGINIA  
ADAM B. HALL, OF VIRGINIA  
WILLIAM C. HARFORD, OF VIRGINIA  
ERIN G. HATHAWAY, OF VIRGINIA  
THOMAS L. HAYES, OF TENNESSEE  
AMY HEBERT, OF COLORADO  
KENISE DANIELLE HILL, OF MICHIGAN  
ANDREW WILLIAM HUDSON, OF FLORIDA  
MATTHEW R. HUNT, OF VIRGINIA  
GREGORY G. INDRISANO, OF VIRGINIA  
JULIE GIBSON JAMIESON, OF VIRGINIA  
KIMBERLEY A. JAMOUNEAU, OF VIRGINIA  
MARK J. JAMOUNEAU, OF VIRGINIA  
JAHAAAN K. JOHNSON, OF THE DISTRICT OF COLUMBIA  
PETER EDMOND JOHNSON, OF NEW YORK  
KELLY G. JONES, OF VIRGINIA  
BARRY H. JUNKER, OF CONNECTICUT  
VAUGHN K. KASTEN, OF VIRGINIA  
MAUREN M. KENG, OF THE DISTRICT OF COLUMBIA  
CHRIS S. KENNER, OF VIRGINIA  
MICHAEL T. KENNEY, OF VIRGINIA  
PHILIP D. KERNS, OF VIRGINIA  
KENNETH KOSAKOWSKI, OF THE DISTRICT OF COLUMBIA  
MATTHEW T. KOSTELNIK, OF VIRGINIA  
THOMAS KURTZ, OF FLORIDA  
MATTHEW H. KUSTEL, OF CALIFORNIA  
SUN KWON, OF VIRGINIA  
MARIA FUMIKO LAGHEZZA, OF VIRGINIA  
FABIENNE A. LAUGHLIN, OF VIRGINIA  
DOUGLAS A. LAUX, OF FLORIDA  
JEREMY PAUL LITTLE, OF VIRGINIA  
MEREDITH L. LYNCH, OF VIRGINIA  
BRIAN A. MADDERN, OF VIRGINIA  
LISA N. MADDOX, OF VIRGINIA  
ELIZABETH A. MANAGAN, OF MARYLAND  
MARY RODEGHIER MARTIN, OF ILLINOIS  
MICHELLE LYNN-PAULIN MARTINEZ, OF VIRGINIA  
AMELIA S. MATIAS, OF VIRGINIA  
JULIA MARIE MCCLENNON, OF VIRGINIA  
ROBERT M. MCDONALD, OF CALIFORNIA  
TODD MICHAEL MCGEE, OF FLORIDA  
ROSS A. MCKIM, OF MARYLAND  
ARIADNE C. MEDLER, OF HAWAII  
REAZ MEHDI, OF VIRGINIA  
MATTHEW S. MELANSON, OF VIRGINIA  
ELIZABETH POTTER MEYER, OF VIRGINIA  
THERESA A. MEYER, OF TEXAS  
JON E. ORTIZ, OF VIRGINIA  
VINCE D. PEACOCK, OF VIRGINIA  
DANIELLE PERRY, OF VIRGINIA  
GREGORY PORTER, OF PENNSYLVANIA  
ALISON C. RAFTER, OF VIRGINIA  
MICHAEL ANDREW REED, OF VIRGINIA  
PERLA J. ROFFE, OF VIRGINIA  
GEORGE B. ROTHENBUESCHER, OF THE DISTRICT OF COLUMBIA

JOHN JACOB RUTHERFORD IV, OF CALIFORNIA  
GEORGE SALAZAR, OF FLORIDA  
BRADLEY S. SAUNDERS, OF VIRGINIA  
JOZLYN J. SCHROEDER, OF VIRGINIA  
PETER R. SCHROEDER, OF VIRGINIA  
DIANNA SCHWEGMAN, OF OHIO  
ALEXANDRA G. SHEMA, OF VIRGINIA  
SHANE A. SIEGEL, OF NEW YORK  
JOHN ALLAN SIMMONS, OF MISSOURI  
JOSHUA AARON BLANC SMITH, OF CALIFORNIA  
MICHAEL R. SMITH, OF NORTH CAROLINA  
SYDNEY S. SMITH, OF MICHIGAN  
GREGORY S. STAFF, OF VIRGINIA  
J. WARREN STEMBRIDGE, OF VIRGINIA  
JUSTIN M. STEVENS, OF VIRGINIA  
NATALIA SUSAK, OF VIRGINIA  
BENJAMIN ANDRI SWANSON, OF SOUTH DAKOTA  
JOSEPH T. SWIECKI, OF VIRGINIA  
JONATHAN E. TARTER, OF VIRGINIA  
LAUREN A. TRINER, OF THE DISTRICT OF COLUMBIA  
DUKE V. TRUONG, OF THE DISTRICT OF COLUMBIA  
JOHAN VAN DER RENST, OF VIRGINIA  
NHU VU, OF CALIFORNIA  
AMANDA G. WALLIS, OF VIRGINIA  
ADAM J. WEISE, OF WISCONSIN  
ASHLEY M. WHITE, OF OHIO  
LILLA A. WHITE, OF VIRGINIA  
LINDSEY K. WHITEHEAD, OF FLORIDA  
WILLIAM WHITWORTH, OF VIRGINIA  
LINDA K. WILDE, OF MARYLAND  
GARY T. WILLIAMS, OF VIRGINIA  
DANIEL S. WONG, OF MARYLAND  
SUSANNAH T. WOOD, OF NORTH CAROLINA  
LAUREN WOODS, OF VIRGINIA  
COURTNEY ERIN WRIGHT, OF VIRGINIA  
TERRY W. WYRICK, OF VIRGINIA  
J.B. YOUNG—ANGLIM, OF THE DISTRICT OF COLUMBIA  
MATTHEW H. ZIEMS, OF ILLINOIS  
YETTA JOY ZIOLKOWSKI, OF THE DISTRICT OF COLUMBIA  
CONSULAR OFFICER OF THE UNITED STATES OF AMERICA:

LINDA SWARTZ TAGLIALATELA, OF VIRGINIA

THE FOLLOWING-NAMED CAREER MEMBER OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED, EFFECTIVE JANUARY 1, 2012:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

COLIN CLEARY, OF NEW YORK  
MARIE CHRISTINE DAMOUR, OF NEW HAMPSHIRE  
JOHN PAUL DESROCHER, OF THE DISTRICT OF COLUMBIA  
MELISSA GARTH FORD, OF INDIANA  
DAVID A. HODGE, OF TEXAS  
RICHARD HOLTZAPPEL, OF CALIFORNIA  
JAMES L. HUSKEY, OF MARYLAND  
PAMELA J. MANSFIELD, OF CALIFORNIA  
SHERRIE L. MARAFINO, OF VIRGINIA  
FRANCISCO LUIS PALMIERI, OF CONNECTICUT  
LYNNE G. PLATT, OF FLORIDA  
LYNNE M. TRACY, OF OHIO  
JONITA I. WHITTAKER, OF CALIFORNIA

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, AND CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

JAMES E. BARCLAY, OF TEXAS  
MARIAN J. COTTER, OF TEXAS  
NAJIB MAHMOOD, OF VIRGINIA  
TIMOTHY J. RILEY, OF GEORGIA

THE FOLLOWING-NAMED PERSONS OF THE DEPARTMENT OF AGRICULTURE FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASSES STATED.

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS THREE, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

MORGAN D. HAAS, OF MINNESOTA  
STEPHEN L. WIXOM, OF IDAHO

THE FOLLOWING-NAMED PERSONS OF THE DEPARTMENT OF STATE FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASSES STATED.

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE TO BE CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

JEFFREY B. JUSTICE, OF NORTH CAROLINA  
DONALD TOWNSEND, OF FLORIDA

THE FOLLOWING-NAMED CAREER MEMBER OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

ENRIQUE G. ORTIZ, OF FLORIDA

## NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

SUBJECT TO QUALIFICATIONS PROVIDED BY LAW, THE FOLLOWING FOR TEMPORARY APPOINTMENT TO THE GRADE INDICATED IN THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.

*To be rear admiral (lower half)*

DAVID A. SCORE

IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

*To be brigadier general*

COLONEL STEVEN M. BALSER  
COLONEL MARK H. BERRY  
COLONEL ROBERT C. BOLTON  
COLONEL WALTER A. BRYAN, JR.  
COLONEL GREGORY S. CHAMPAGNE  
COLONEL SEAN T. COLLINS  
COLONEL JOHN L. D'ERRICO  
COLONEL DAWNE L. DESKINS  
COLONEL SCOTT A. DOLD  
COLONEL GARY L. EBBEN  
COLONEL KENNETH L. GAMMON  
COLONEL BRUCE R. GUERDAN  
COLONEL LEONARD W. ISABELLE, JR.  
COLONEL CLIFFORD W. LATTA, JR.  
COLONEL PAUL C. MAAS, JR.  
COLONEL EDWARD P. MAXWELL  
COLONEL DAVID M. MCMINN  
COLONEL THOMAS C. PATTON  
COLONEL BRADEN K. SAKAI  
COLONEL JANET I. SESSUMS  
COLONEL PETER J. SIANA  
COLONEL JEFFREY M. SILVER  
COLONEL JAMES K. VOGEL  
COLONEL SALLIE K. WORCESTER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE UNITED STATES AIR FORCE WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

LT. GEN. CLYDE D. MOORE II

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED

WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

LT. GEN. ROBERT P. LENNOX

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be rear admiral*

REAR ADM. (LH) TERRY B. KRAFT

IN THE AIR FORCE

THE FOLLOWING NAMED INDIVIDUALS FOR APPOINTMENT TO THE GRADES INDICATED IN THE REGULAR AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531(A):

*To be colonel*

MATTHEW R. GEE

*To be lieutenant colonel*

VICTOR G. SOTO

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

*To be colonel*

ROBERT H. MCCARTHY III

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT TO THE GRADE INDICATED IN THE REGULAR ARMY DENTAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

*To be major*

SHANE T. TAYLOR

THE FOLLOWING NAMED INDIVIDUALS FOR APPOINTMENT TO THE GRADES INDICATED IN THE REGULAR ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

*To be lieutenant colonel*

PATRICIA A. LOVELESS  
MATTHEW R. PLYMYER

*To be major*

JEROME M. BENAVIDES

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT TO THE GRADE INDICATED IN THE REGULAR ARMY MEDICAL SERVICE CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

*To be major*

ROBERT S. TAYLOR

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE GRADE INDICATED IN THE REGULAR ARMY UNDER TITLE 10, U.S.C., SECTION 531:

*To be major*

CASEY D. SHUFF

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be commander*

GUILLERMO A. NAVARRO

THE FOLLOWING NAMED INDIVIDUALS FOR APPOINTMENT TO THE GRADE INDICATED IN THE REGULAR NAVY UNDER TITLE 10, U.S.C., SECTION 531:

*To be lieutenant commander*

JAY R. FRIEDMAN  
SONY C. MARKOSE  
DONNA RAJA

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT TO THE GRADE INDICATED IN THE REGULAR NAVY UNDER TITLE 10, U.S.C., SECTION 531:

*To be lieutenant commander*

STEVEN J. PORTER

## HOUSE OF REPRESENTATIVES—Wednesday, February 29, 2012

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. WOODALL).

### DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,  
February 29, 2012.

I hereby appoint the Honorable ROB WOODALL to act as Speaker pro tempore on this day.

JOHN A. BOEHNER,  
*Speaker of the House of Representatives.*

### MORNING-HOUR DEBATE

The SPEAKER pro tempore. Pursuant to the order of the House of January 17, 2012, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning-hour debate.

The Chair will alternate recognition between the parties, with each party limited to 1 hour and each Member other than the majority and minority leaders and the minority whip limited to 5 minutes each, but in no event shall debate continue beyond 11:50 a.m.

### THE END OF AN ERA IN CONGRESS

The SPEAKER pro tempore. The Chair recognizes the gentleman from California (Mr. DREIER) for 5 minutes.

Mr. DREIER. Mr. Speaker, what I'm about to announce will not come as much of a surprise. But we all know that this institution has an abysmally low approval rating, and the American people are asking for change in Congress. And so I'm announcing today that I will leave the Congress at the end of this year.

Now, I take the unusual step of announcing it from here in the well of the House because I am a proud institutionalist. I believe that this institution is as great as it has ever been. Mr. Speaker, I announce it from here because, between the Rules Committee upstairs where you serve with me, Mr. Speaker pro tem, and the House floor, this is where the people of California sent me to represent them.

Now, as we look at the challenges that lie ahead, they are very, very great. I deliberated over this decision, and I have to say that 3 years ago I contemplated leaving at the end of that Congress, but ultimately made a

decision that I wanted to continue to serve through this term. I wanted to do so in hopes that we would win the majority, with a goal of pursuing the four-point platform that I had always run on, that being the pursuit of a free economy, limited government, a strong national defense, and personal freedom. Mr. Speaker, I wanted to work with not just my Republican colleagues, but my Democratic colleagues as well, working in a bipartisan way to accomplish a number of things.

First, it was absolutely essential that we do everything to end the course that we had been on that ultimately brought us an 82 percent increase in nondefense discretionary spending. I'm happy to say that we've turned the corner on that.

Second, after years of languishing, we were finally able to pass three trade agreements that will create good jobs for union and nonunion workers in this country by virtue of having passed the Panama, Colombia, and South Korea free trade agreements.

I also believe that it's very important for us to recognize, as we look at our national security, the notion of people all over the world who are seeking to determine their own futures has created a wonderful opportunity for us. The House Democracy Partnership, another strong bipartisan organization, has just now partnered with its 17th country in central Asia to help the legislative body strengthen and have the kind of independence and oversight of their executive branch that we have a tendency to take for granted here.

Fourth, Mr. Speaker, I feel very strongly—again, working in a bipartisan way—that it was essential to ensure that both Democrats and Republicans have the opportunity to have their ideas heard through their amendments on the floor of the House of Representatives.

Now, I do believe, again, Mr. Speaker, that this is the greatest deliberative body known to man. We've got a great deal of work that lies ahead throughout this year. But I'm looking forward to following the Madisonian directive—that Members of Congress, after serving here, should go out and live with the laws that have passed. I will say that, as passionate as we've been pursuing a pro-growth jobs-creating agenda, I look forward to doing that myself as I move into the private sector next year.

Mr. Speaker, I will say that I want to express my appreciation. I want to express my appreciation, Mr. Speaker, to

lots of people. Of course the volunteers, family and friends, supporters, and the people who have offered prayers for our country on a regular basis. I also want to, most important, express my appreciation, Mr. Speaker, to the people of California who, back in 1978, when I was 25 years old living in a dormitory at my alma mater, Claremont McKenna College, they gave me the nomination for my party, and it's been a very, very exciting time.

I also want to say, Mr. Speaker, that I express my appreciation to the very, very dedicated public servants in my office in California and my offices here in Washington for their commitment to do the best job possible to help me represent the people of California.

### WELCOMING PUBLIC BROADCASTING COMMUNITY TO CAPITOL HILL THIS WEEK

The SPEAKER pro tempore. The Chair recognizes the gentleman from Oregon (Mr. BLUMENAUER) for 5 minutes.

Mr. BLUMENAUER. Mr. Speaker, yesterday, Senator OLYMPIA SNOWE announced that she wouldn't run for reelection—not that she couldn't win, but that she didn't want to, not in this environment. This storied representative will be a loss to the institution here. But it doesn't have to be that way, Mr. Speaker.

This week on Capitol Hill we have friends who have joined us from the public broadcasting community, representing public television stations across the country. Today, the Women's Garden Club of America are here in force.

Now, these are people that have an approach that can help us unwind the problems that we have here in Congress. Public broadcasting is America's voice, and for most of America it's the only locally owned and managed source of news and local interest. It's commercial free. It is focused on our kids, our culture, our environment.

Last year, amidst the Tea Party effort to defund public broadcasting, we had a poll that showed 78 percent of Americans wanted the funding to remain the same or be increased. Two-thirds of Republicans wanted it to be held steady or increased. Now, from this year's budget it hopefully appears that we've dodged that bullet—maybe some people have come to their senses. Americans were heard from coast to coast: Don't play games with public broadcasting.



We've got a few minor holes in the President's budget, but I hope we can come together in a bipartisan way, listen to Americans, listen to these representatives, and do it right.

With the Women's Garden Club of America, we have a group—primarily women—who are focused not just on a garden club, but a fight for civic improvement through the connection to nature and to one another. Their work in policy is broad and deep. Their position papers on supporting clean air, clean water, climate change, public lands take issues that around here get lost in a partisan theological fog and make clear why they're important, how to represent American interests, and not the narrow theological, the partisan that get us bogged down.

□ 1010

Mr. Speaker, I hope that Members will listen to groups like our public broadcasting supporters and the Garden Club about simple, commonsense approaches to support fundamental American values and get off the partisan merry-go-round. We should listen to them. We should work with them. America will be a better place, and so will Congress.

#### HONORING FIRST LADY PATRICIA NIXON

The SPEAKER pro tempore. The Chair recognizes the gentleman from New Jersey (Mr. LANCE) for 5 minutes.

Mr. LANCE. I rise today to celebrate the centennial of the birth of First Lady Patricia Nixon. The Nixon library in southern California will present a major exhibit about Mrs. Nixon's life opening March 16, and the National Archives here in Washington will host a forum on Mrs. Nixon's work in the international arena in April.

Thelma Catherine Ryan was born on the eve of St. Patrick's Day on March 16, 1912, in Ely, Nevada, a mining town. Her father, William Ryan, called her his St. Patrick's babe in the morn, so she was called Pat within hours of her birth. The Ryans moved to southern California for a better life and settled on a small truck farm in Artesia near Los Angeles. Orphaned early, her mother, Kate Halberstadt Bender Ryan, died in 1924, and her father in 1929, the year she was graduated from high school.

A young person of tremendous courage and determination, Mrs. Nixon had her heart set on higher education and worked continually to secure the necessary funds. She drove an elderly couple to the east coast and worked as an X-ray technician in New York. Returning west, she was graduated cum laude from the University of Southern California in 1937.

While attending USC, she held part-time jobs on campus and was a department store sales clerk and a Hollywood

extra, appearing in several motion pictures, including the 1935 film, "Becky Sharp."

Mrs. Nixon taught at Whittier High School in the late 1930s, where she met her husband, who had returned to his hometown to practice law after graduating from Duke Law School. Patricia Ryan and Richard Nixon were married in 1940 and, as was true of so many couples their age, she worked here at home while her husband served in the military in World War II as a naval officer in the Pacific.

Mrs. Nixon campaigned with her husband as he was elected to the House of Representatives in 1946 and 1948 and to the United States Senate in 1950. There's a charming photograph of the Nixons with their infant daughter, Tricia, taken at the Tidal Basin with the cherry blossoms in bloom in the spring of 1947. Julie, their younger daughter, was born the following year.

With her husband's election as Vice President on Dwight Eisenhower's ticket in 1952, Mrs. Nixon became the Second Lady of the land. The Nixons traveled extensively, including for more than 2 months in Asia and the Pacific in 1953, and to South America in 1958, where the couple demonstrated tremendous courage in Caracas while being attacked by a Communist mob, and to the Soviet Union in 1959.

Mrs. Nixon campaigned gallantly in 1960, returning to private life in California and then New York and proudly held the Nixon family Bible when Richard Nixon was inaugurated the 37th President in 1969.

During the Presidential years, the First Lady was truly our Ambassador of Goodwill, visiting South Vietnam, an active combat zone, in 1969; an earthquake-ravaged Peru in 1970; and China, in the groundbreaking trip of 1972. Mrs. Nixon was responsible for the gift from the Chinese of the two giant pandas to the American people. She traveled to more than 80 countries and five continents during her life.

As First Lady, Mrs. Nixon encouraged volunteer service, the spirit of people helping people. She added 600 paintings and antiques to the White House collection, illuminated the White House at night, and opened the White House gardens to the public.

Mrs. Nixon's service to the Nation extended over many years. Only Dolly Madison, Eleanor Roosevelt, and Hillary Clinton, among our First Ladies, have served the country as long as Patricia Nixon.

Laid to rest in 1993 on the grounds of the Nixon library at Yorba Linda, California, Mrs. Nixon's grave marker reads: "Even when people can't speak your language, they can tell if you have love in your heart." Patricia Ryan Nixon had love in her heart and now, at her 100th birthday, we remember her for her devotion to family, her grace and perseverance, and her patriotism to the United States of America.

#### HONORING STANLEY ELLSWORTH PETERSON

The SPEAKER pro tempore. The Chair recognizes the gentleman from Iowa (Mr. BOSWELL) for 5 minutes.

Mr. BOSWELL. Mr. Speaker, today I stand before the 112th Congress to recognize and honor Mr. Stanley E. Peterson for his 40 years of service to the United States as an officer in the United States Navy, and as a supervisor in the Federal Bureau of Investigation, and as the chief of police in Youngstown, Ohio.

My intention is to enter into the CONGRESSIONAL RECORD the true history of this great American patriot and dismiss the lies and innuendoes told by an expelled former Member, dismissed by the 107th Congress for his conviction in Federal court of taking bribes and kickbacks.

Stanley E. Peterson was the youngest recruit to the Federal Bureau of Investigation under Director J. Edgar Hoover in 1947. Like his fellow special agents, he lived his life according to the motto of the FBI: "Fidelity, Bravery and Integrity," and its core values: rigorous obedience to the Constitution of the United States; respect for the dignity of those protected; compassion; fairness; uncompromising personal integrity and institutional integrity; accountability by accepting responsibility for his actions and decisions, as well as consequences for his actions and decisions; leadership, both personal and professional.

Stan Peterson—he was often called Stan—was an intelligent, disciplined, legendary investigator renowned for his likability and tenacity in his work. When organized crime and its surrogates attacked him, he did not compromise; instead, he protected ongoing investigations, remaining loyal to the core values of the FBI up to the day he died, December 31, 2001, in Des Moines, Iowa.

Stanley Ellsworth Peterson was born July 24, 1923, to Eben Caleb and Lutie Strandquist Peterson in Glencoe, Minnesota. His grandparents and their cousins emigrated from Sweden before the turn of the century, looking for opportunities in the United States. Like so many others, the Peterson family struggled during the Great Depression in southern Minnesota. His father, an honored combat veteran of World War I, farmed and drove a delivery truck to keep his family from receiving welfare. His mother taught him humility, honesty, faithfulness, and to always do his best, work hard, never quit, and to be charitable.

Stan was brilliant in his studies, graduated from Glencoe High School at the age of 16, and adventurous, working for a traveling circus as a bookkeeper during the summer months. He attended and received his diploma from Gustavus Adolphus College, St. Peter, Minnesota. But after the attack on

Pearl Harbor, December 7, 1941, he enlisted in the U.S. Navy and was sent to Columbia University for midshipman training, earning the rank of Ensign. He served in the U.S. Navy during World War II in the Pacific aboard LST 711. By the end of the war, he was the youngest Ensign to captain LST 911.

After World War II, Stan Peterson was selected to join the FBI, and he married Kathryn Rose Thomas. His first assignment as a special agent was Richland, Washington, the home of the "Manhattan Project" facility. In 1947, Richland was a federally controlled atomic energy, top-secret community with restricted access. Remarkably, even their mail was postmarked "Seattle" to avoid identification.

□ 1020

After 1 year, he was transferred to Chicago, then Cleveland, and eventually Youngstown, Ohio, the bedlam of organized crime and famous for gangland slayings, illegal gambling, and corruption throughout the city government and the judicial system.

In 1961, the United States Attorney General, Robert Kennedy, directed J. Edgar Hoover and the Department of Justice to take action, initiating the war on organized crime. Stan Peterson became the agent in charge of the expanding regional FBI office with direct communication with the Director and the Attorney General. During his assignment, he received several letters of commendation for his crime-fighting achievements.

After an unprecedented 20 years at the same assignment, he was transferred to Memphis, Tennessee, a few years before his retirement from the FBI in 1975. A few years later, Youngstown Mayor Phillip Richley asked Stanley E. Peterson to become chief of police. This was the first time in the city's history that a chief would be appointed from outside of the department. As a matter of fact, the succeeding mayor, based upon Peterson's record, asked him to remain as chief, charging him to stamp out corruption both on city streets and within city hall.

Stan Peterson withstood police strikes, vigilantism, and personal attacks from all sides as the former G-man fought crime. As a result of Peterson's actions, the county sheriff signed a confession for taking bribes, and city workers, judges, and politicians were convicted of Federal crimes. In the midst of these events, the local newspaper did not recognize the achievements nor investigate but, rather, chose to parrot cacophony from organized crime figures and their surrogates.

After 8 years, Stanley E. Peterson retired as chief of police and eventually was asked to join an investigation with a former U.S. attorney into monopolies involving the railroads and trucking industry.

At his funeral, he was remembered for his living example as a man who prioritized his life by his dedication and relationship with God, his wife and family. He is remembered today for his integrity and service to our Nation.

In closing, I am pleased to note that Stan's son, Dr. Gregory Peterson, and his beautiful wife, Ramona, are in the gallery. I am happy that Dr. Peterson is present as we honor and enter into the RECORD the memory and history of this great American patriot, Stanley E. Peterson.

#### MORE REGULATION

The SPEAKER pro tempore. The Chair recognizes the gentleman from Michigan (Mr. WALBERG) for 5 minutes.

Mr. WALBERG. With Michigan's unemployment rate consistently higher than the national average, I remain committed to thoroughly reviewing the implications of burdensome regulations that have the potential to overwhelm my State's and country's job creators.

A current effort by the Department of Labor is a new standard being considered by the Occupational Safety and Health Administration called the Injury and Illness Prevention Program, or I2P2. The standard will require all employers to implement safety and health programs to "find and fix" all hazards in their workplace, even those not otherwise regulated.

This regulation could potentially impact every employer covered by OSHA unless OSHA exempts small employers or those with less hazardous workplaces. Many employers who voluntarily issued safety and health programs have improved their workplaces' safety culture, but there are serious problems about this standard that OSHA has not addressed.

The moment this regulation gets issued, safety and health programs will go from being a good idea to a legal requirement, which means employers will have to meet OSHA's standards rather than what works best for them and their employees and what is indicated as best in best practices.

OSHA will have the authority to come in and second-guess an employer about how well they have implemented their program. Not surprisingly then, job creators see the I2P2 regulation as just another OSHA enforcement tool rather than something that will help them enhance their safety practices.

But they're not the only ones.

A recent RAND study found that California's I2P2 regulation, which has been in place since 1991, has not prevented workplace fatalities and barely made a dent in total injury prevention. Many job creators are worried that OSHA will double dip on citations, issuing one citation for a hazard and another citation because the safety and health program failed to detect and

correct the hazard. Talk about double jeopardy.

Finally, another problem is whether employers will be required to find and fix ergonomics hazards. The Clinton administration issued an ergonomic regulation in 2000 that was shot down, thankfully, by Congress.

OSHA will soon hold a small business panel to ask job creators across the country their opinion and insight on I2P2. I hope the Obama administration, against its pattern, listens to the concerns of these business owners instead of imposing a costly regulation that we have proof will not improve worker safety. Imposing a new and costly safety and health program standard will only serve to increase OSHA enforcement with no visible improvement to worker safety and safe health.

As Ronald Reagan once said:

It is not my intention to do away with government. It is, rather, to make it work for us, not over us; to stand by our side, not ride on our back.

It's my hope we remain committed to this principle and ensure that regulations ensure both productivity and job creation and true health and safety of our workforce.

#### LATINOS IN AMERICA

The SPEAKER pro tempore. The Chair recognizes the gentleman from Illinois (Mr. GUTIERREZ) for 5 minutes.

Mr. GUTIERREZ. As my colleagues know, Latinos are America's fastest growing population. So if you are a Presidential candidate and you want to make sure that every single Latino in America knows you strongly oppose sensible and fair immigration reform, you have to work pretty hard at it. It takes a lot of time and determination. After all, the Latino population increased more than 40 percent between 2000 and 2010. A lot more Latinos, a lot more Latino citizens, and a lot more Latino voters.

A lot of us live in swing States. We are about 30 percent of the population in Arizona, about 25 percent in Colorado, Florida, and Nevada. Indiana alone has 350,000 Latinos. Not so many, you say; but when you remember that President Obama only won Indiana by 26,000 votes in 2008, his Latino support was the margin of victory.

The truth is we're growing everywhere. One-quarter of all of the children in America are Latino; 500,000 Latinos turn 18, and they all become eligible to vote every year. More than 50 million Latinos live in America. Most of them, 9 out of 10, are citizens of the United States.

Fifty million is a lot of people to keep track of, especially if you want to offend each and every one of them, but that is apparently what Mitt Romney is trying to accomplish.

To appeal to the most extreme elements of his party, last week he called

Arizona's harsh immigration law a model for America. Well, he's partially right. Arizona's anti-immigration law is definitively a model. It's just not a model for immigration policy, but it's a model for an awful lot of other things. Let's just count them.

One, if you're a politician, Arizona's law is a model for how to achieve early retirement. State Senator Russell Pearce was an author and lead sponsor of Arizona's draconian anti-immigration law. He talked about little else. His constituents weren't pleased, though, so Senator Pearce became the first State legislator in the history of Arizona to be recalled from office. The biggest backer of Mitt Romney's immigration model is now unemployed.

Two, if you want to wreck your local economy, Arizona's law is a model for lost jobs and tax revenue. The purchasing power of Latinos in Arizona in 2009 was nearly \$35 billion. That's right. One study estimated that undocumented immigrants alone paid \$443 million in local taxes. Another study estimates that Arizona would lose nearly 150,000 jobs if all undocumented workers were removed from the State.

Three, Arizona's law is a model for how to energize Latino voters. In 2004, George W. Bush, when running for President, received nearly 45 percent of the Latino vote in Arizona. That's pretty good. How did anti-immigrant Jan Brewer do for Governor in 2010, 2 years later? More than 70 percent of the Latino voters voted against her. But wait. In 2011, Hispanic voter mobilization led to the election of two Latinos to the Phoenix City Council for the first time ever.

□ 1030

In Daniel Valenzuela's district, Latino voter turnout increased fivefold, 500 percent.

Four—and I'll stop at four because my time is limited—Arizona's law is a model on how to make decent people suffer.

Alabama followed the Arizona model, and a judge advised a woman facing domestic abuse that, if she sought a restraining order against her abuser husband, she would be asked to prove her immigration status and face deportation—while her husband laughed.

In both Arizona and Alabama, citizens and legal immigrants have been harassed and detained because they look suspicious or cannot immediately prove their citizenship status.

So let's review.

Mitt Romney's model for America: has an author who was kicked out of office; means lost jobs and tax revenue for everyone, not just immigrants; has mobilized Latino voters and pushed them away from the Republican Party; and has caused good, hardworking people—immigrants and nonimmigrants alike, documented and undocumented—to live in fear.

Maybe Mitt Romney and I have different ideas of what "model" means. Maybe he thinks Bernie Madoff is a "model" investment banker or adviser. I think "model" means something you can be proud of, something that makes America better and stronger, more just and fair, something that shows America the way to the future.

By that standard, Arizona's law is a perfect model. It shows America exactly the policy to avoid on immigration, and it shows Americans exactly the type of candidate to avoid for President of the United States.

#### IN HONOR OF THE LIFE AND BRAVERY OF MICHAEL COLALILLO

The SPEAKER pro tempore. The Chair recognizes the gentleman from Minnesota (Mr. CRAVAACK) for 5 minutes.

Mr. CRAVAACK. About 450 U.S. soldiers, sailors, and pilots received the Nation's highest combat award during World War II. One of these was a former soldier from West Duluth, who earned the medal during the closing days of the war.

Michael Colalillo was born on December 1, 1925, in Hibbing, Minnesota, the son of an Italian immigrant father who worked in the iron mines. Michael was one of nine children, and at 18, he was drafted into the United States Army.

On April 7, 1945, a month before the war in Europe ended, Colalillo's unit came under heavy fire in a small, rural town in Germany. Pinned on the ground, Colalillo and his fellow soldiers were in a death trap. Lying on the ground, bullets and shells flying everywhere, Colalillo decided something had to be done, and he was the guy who had to do it.

Even though he was a private and not in command, Colalillo rose up and yelled to the other soldiers to follow his lead. Inspired by his confidence, the soldiers advanced in the face of savage enemy fire. When Colalillo stood up that fateful day, he marched forward into America's military history. Mr. Colalillo surged towards the Germans, firing his submachine gun until it was knocked from his hands by shrapnel. He then ran toward an American tank to take control of the machine gun mounted above its cannon turret. Bullets clanged off the tank's armor and zipped by his body as Mr. Colalillo responded to the onslaught of German enemy fire.

"It was a rough time and I was scared," Mr. Colalillo said, "but I had to do what I had to do."

Mr. Colalillo blasted at one enemy position "with such devastating accuracy," the Medal of Honor citation read, that he killed or wounded 25 German soldiers and silenced a machine gun nest. After this gun jammed, Mr. Colalillo dismounted from the tank and grabbed another submachine gun

to continue his assault on foot. When ordered to withdraw, Mr. Colalillo stayed behind and carried a wounded soldier over his shoulder through open enemy terrain while artillery and mortar rounds pulverized the ground around him.

A few weeks later, he was approached by two military police officers, who escorted him to a nearby headquarters. He was informed that the tank's commander had nominated him for the Medal of Honor, which he received in December 1945 at a White House ceremony.

In an interview in 2008 with the 100th Infantry Division Association newsletter, Colalillo recalled "the good Lord was with me" during that battle. "I could see our guys getting shot . . . I could see the muzzle flashes of the Germans shooting at us, and I aimed at them."

Mr. Colalillo died on December 30 at a nursing home facility in Duluth, Minnesota. He was 86 years old. Mr. Colalillo is survived by his son, Al, of Hayward, Wisconsin, and by his daughter, Michele, of Meadowlands, Minnesota.

In Minnesota, we have a track record of military excellence. According to the Medal of Honor Society, 46 Minnesotans have received our Nation's highest award for bravery. In the Eighth District, we honor those who have served, and for Michael Colalillo, the Medal of Honor Park in Duluth bears his name. We are forever grateful for his service to our great country.

Thank you, Mr. Colalillo. You make us all proud to be Americans. May God's peace be with you.

#### TOO SILENT ON SUDAN

The SPEAKER pro tempore. The Chair recognizes the gentleman from Massachusetts (Mr. MCGOVERN) for 5 minutes.

Mr. MCGOVERN. Mr. Speaker, once again, the world is standing by, silent and passive, while the Government of Sudan wages war on its own people.

We have been here before when hundreds of thousands of people perished in Darfur before the international community finally woke up and took action to try to protect innocent civilians from their own government's brutality. The humanitarian crisis continues in Darfur. There is no peace, and villagers, refugees, and humanitarian personnel still live and work under the constant peril of attack. President Bashir has expelled many humanitarian workers from Darfur—and even today, threatens to shut down their lifesaving operations.

Last May, we witnessed the ruthless ethnic cleansing of Abyei by the Sudanese people. More than 100,000 people of the Dinka indigenous population were forcibly displaced. They fled to South Sudan, seeking safe haven, where they

remain today in very, very poor conditions. When Sudanese President Bashir saw that the world was indifferent to this brutal assault, he began military operations in June against insurgents in South Kordofan and, more generally, against the Nuba people.

And still the world stood silent.

So, in September, Khartoum launched attacks on another border region. This time, the state of Blue Nile was under siege with attacks by the Sudanese Army and the bombings of civilians. Thousands fled to the neighboring countries of Ethiopia and South Sudan for safety, joining the desperate refugees from South Kordofan.

So Sudan has undertaken a bloodbath against its own people in the states of South Kordofan and Blue Nile—house-to-house arrests and killings, rape, the merciless bombings of civilians.

For nearly 8 months, Khartoum has blocked all humanitarian aid to South Kordofan and Blue Nile. It has not only continued to bomb in those states, but it has crossed the border and has bombed refugee camps and towns inside South Sudan, where tens of thousands had hoped to find food and shelter.

Here are some photos of some people in refugee camps in South Sudan:

Saleh Kora is from the Angolo tribe in South Kordofan. The government dropped bombs on her fields when she was trying to plant. Then the government dropped six bombs on her village. This poor woman here grabbed her children and hid in a nearby ditch. After the bombings stopped, Sudanese soldiers moved into the village and burned several homes. When they began shooting people, Saleh ran and hid with her children. The soldiers didn't care if you were an unarmed civilian, a woman or a child. She fled with her children across the border in January to the Yida refugee camp in South Sudan.

This woman over here to my far right and her little girl are from the Nuba Mountains. She is married to a man who fled the nightmare of Darfur in 2005. Both were suffering from malnutrition when they arrived at the refugee camps.

The people of South Kordofan and Blue Nile are being subjected to bombings, murder, rape, scorched earth, and starvation. This should come as no surprise when Ahmed Haroun, the Sudanese official wanted by the International Criminal Court for crimes against humanity in Darfur, is now the governor of South Kordofan.

Mr. Speaker, we are fast approaching the month of March, the point at which the Famine Early Warning Systems Network, or FEWS NET, has predicted that South Kordofan and Blue Nile will reach emergency levels of food insecurity. This is just one level short of all-out famine. Yet Khartoum still denies food and medical relief to the suffering people of these regions.

Last week, the United Nations Security Council called on the Sudanese Government and the armed rebels to allow unhindered access for humanitarian aid and for both sides to return to talks and to cease hostilities.

□ 1040

President Bashir said “no.” The United States and the international community, including China, Russia, and others, must increase the pressure on Sudan to allow the delivery of aid to the suffering people of South Kordofan and the Blue Nile, and to reach agreement on a cease-fire. The safety and security of the Sudanese people, whether in Darfur, Abyei, South Kordofan, Blue Nile, or elsewhere, must be our first priority.

Mr. Speaker, we have been silent for too long.

[From the New York Times, Feb. 15, 2012]

IN SUDAN, SEEING ECHOES OF DARFUR

(By Nicholas D. Kristof)

YIDA, SOUTH SUDAN.—A great humanitarian catastrophe and vicious ethnic cleansing is unfolding here in the remote and impoverished region where Sudan and South Sudan come together.

For some in the Nuba Mountains, living in thatched huts far from electricity or paved roads, the sharpest acquaintance they are making with 21st-century technology is to be bombed by Sudanese aircraft.

Bombings, ground attacks and sexual violence—part of Sudan's scorched earth counterinsurgency strategy—have driven hundreds of thousands of people from their homes in South Kordofan, the Sudanese state where the Nuba Mountains are located. In some ways, the brutality here feels like an echo of what Sudan did in Darfur, only now it is Nubans who are targets.

“They said that they want to finish off the black people; they said they want to kill them all,” recalled Elizabeth Kafi, a 22-year-old Nuban who said she was kidnapped in December by Sudanese uniformed soldiers. She and others say that the mostly Arab Sudanese soldiers scorn Nubans partly for their darker skin, partly because some are Christian, but mostly because many Nubans back an armed uprising against decades of Sudanese misrule. In 23 days of captivity, she said she saw the soldiers use guns to execute several Nuban men, including her grandfather and brother-in-law. She described watching soldiers gang rape and then cut the throat of a young Nuban woman, and also stab to death the woman's 3-year-old son.

Kafi said that she also saw 20 to 25 soldiers hold down two Nuban girls, who she guessed to be about 14 or 15 years old, and gang rape them. The girls died from the rapes and beatings, she said.

It's impossible to confirm Kafi's full story, but others verified that she had been kidnapped. And many other Nubans recount similar attacks, or describe similar racial epithets. As in Darfur, the Sudanese soldiers often call their darker-skinned victims their “slaves.” Ahmed Haroun, a Sudanese official wanted by the International Criminal Court for committing crimes against humanity in Darfur, is now the governor of South Kordofan, and he seems to be employing similar tactics here.

While the Sudanese government is trying to suppress an armed rebellion in the Nuba Mountains, it is civilians who bear the brunt

of the suffering. In an apparent effort to starve the rebels, Sudan is blocking aid groups and food assistance from reaching the area, and the United Nations Security Council a few days ago expressed “deep and growing alarm” at rising hunger levels there. Some 28,000 Nubans have sneaked out and settled in a new refugee camp here in Yida, South Sudan, just south of the border with Sudan. Scores more straggle in most days, many half-starved.

“I came because I was starving,” said Muhasin Kuwa, a 24-year-old woman who just arrived at the refugee camp. Both her parents had starved to death, along with seven small children in her small village, she said.

The Sudanese military has tried to block access routes, making escape perilous. I spoke to members from a group of 16 who had crowded into a car, paying \$45 each for what they hoped would be a flight to safety in the refugee camp. But then, the day before I interviewed them, they came to a checkpoint manned by Sudanese soldiers.

“They called us over,” said the vehicle's owner, Haroun Suleiman, 42. “Then they shot at us with guns.”

Two male passengers, ages 41 and 25, were shot dead, he said. Two women, one with a month-old baby, are still missing. The others ran frantically into the bush and escaped, eventually making their way to the refugee camp.

The Sudanese government bombed this refugee camp in November, and, just a week ago, it bombed the nearby town of Jau, in South Sudan. Fears are growing of a new all-out war between Sudan and South Sudan, in part because of an oil dispute. South Sudan separated from the rest of the country just in July, and the two sides can't agree on the oil pipeline fees that the South should pay. The South then shut off oil production, so both countries are now facing an economic crisis. Some experts warn that the North may try to seize oil wells from the South.

Nuban children are already growing up in war. When kids surrounded me in the refugee camp, I asked them how many had lost a brother or sister in the war. About one-third raised their hands.

When the food runs out in the Nuba Mountains, perhaps in two or three months, there will be a risk of mass starvation. I saw one 4-year-old girl at a feeding center run by Samaritan's Purse, the aid group, who weighed only 22 pounds. Unless outside countries enforce humanitarian access into the Nuba Mountains, we can expect more famished children like her.

The Sudanese armed forces try to keep aid workers and journalists out, so the story of suffering has not received much international attention. I'm going to try to slip into the Nuba Mountains and report back. Stay tuned.

#### BELL STREET MIDDLE SCHOOL SCIENCE OLYMPIAD TEAM

The SPEAKER pro tempore. The Chair recognizes the gentleman from South Carolina (Mr. DUNCAN) for 5 minutes.

Mr. DUNCAN of South Carolina. Mr. Speaker, I rise today to recognize an exceptional group of students, teachers, and parents of the Bell Street Middle School Science Olympiad Team, which just won its 10th consecutive Science Olympiad State Championship.

Let me repeat that: 10th consecutive Science Olympiad Championship.

The Science Olympiad program is one of the premiere science competitions in the Nation, providing rigorous standards-based challenges to nearly 6,200 teams in 50 States. Science Olympiad's continuously changing event lineup exposes students to a variety of career choices and gives them an opportunity to meet participating and practicing scientists, as well as the opportunity to have life-changing mentors.

Science Olympiad was founded in 1982, and Bell Street Middle School, there in Clinton, South Carolina, began competing in that in 1986. The Science Olympiad Team at Bell Street was formed by three very inspirational teachers: Rosemary Wicker; Dr. David O'Shields, who is a close personal friend; and Michael Mack. Mr. Mack and Dr. O'Shields still work in the school district in Clinton today. Michael Mack is a member of the science faculty at Clinton High School, and Dr. David O'Shields is currently the superintendent of Lawrence County School District 56. Both continue to be active event coaches for the incredibly successful Bell Street Science Olympiad Team. Many of the Bell Street Middle School's Science Olympiad alumni have gone on to become extremely successful in the areas of science and technology.

One example is the gentleman Dedric Carter. Dedric was a former member of the Bell Street Middle School Science Olympiad Team who went on to enroll at MIT for college. He later became MIT's assistant dean for engineering and a lecturer in the Department of Electrical Engineering and Computer Science. He is currently the senior adviser for strategic initiatives to the Director of the National Science Foundation.

Another one, Jarrett Campbell, is also an alum of Bell Street Middle School's Science Olympiad Team. After competing in the Science Olympiad teams in middle and high school, Jarrett went on to complete a doctorate degree in chemical engineering at the University of Texas at Austin. Jarrett worked for Advanced Micro Devices, where he was awarded over 25 patents in the area of semiconductor technology. Today, Jarrett works as a global energy management specialist for a U.S. company in Paris, France. When he was asked about his experience with the Science Olympiad, Dr. Campbell said this:

Not only did the teacher, coaches, and parent volunteers pique my interest in science and math, they continually challenged me to expand my knowledge by competing in new disciplines. Looking back, I see how important the camaraderie, teamwork, and constant desire to excel, along with the examples set by these role models leading the team, was exceptional in setting the stage for my career in engineering and energy management.

I believe this statement sums up how valuable this program is to our Nation's youth.

Finally, I would like to take time to congratulate all of the coaches and the members of this year's State championship Science Olympiad Team from District 56's Bell Street Middle School. This year's team included: Mike Beasley, Stephanie Braswell, Jalen Carter, Lawrence Coleman, Terry Craig, Andrew Gann, Karl Gustafson, Dalton Langston, Beth Meadors, Zack Ray, Jonathan Shiflet, Kyle Smith, Bowen Tiller, Nathan Vondergeest, Clay Wright, Triston Moon, Daniel Moore, Luke Ragin, Jacob Wesson, Audrey Atkinson, Chris Cannon, Justin Easter, Dawson Green, Jack Harkins, Tara Hiller, Ami Meadors, Jill Meadors, Olivia Moore, Brianna Motte, Jakob Pountain, Michael Richey, Justin Shockley, Dillon Snead, and Bailey Stephens. Those are the students, but the teachers and the parents that volunteer need to be singled out as well. I don't have them by name, but let them know that we certainly appreciate their efforts.

These are the future scientists. These are the new innovators coming along. I'm excited that at middle school they're challenging these students to be the best they can.

May God continue to bless those students, teachers, and parents. May God continue to bless Bell Street Middle School, and may God continue to bless America.

#### ENGAGING AFGHANISTAN PEACEFULLY, NOT FORCIBLY

The SPEAKER pro tempore. The Chair recognizes the gentlewoman from California (Ms. WOOLSEY) for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, it is February 29, a date that exists only once every 4 years, and yet this is the third February 29, the third leap day, that we've been at war in Afghanistan.

I have my granddaughter here with me. She's 8 years old. She's not lived in the United States when we were not at war.

Last week in particular, we were exposed to the grave dangers and the fundamental flaws of our Afghanistan strategy. The week started with the burning, accidentally, of several copies of the Koran by U.S. troops. That sparked days of violence and protests throughout the country. Angry Afghans tried to storm U.N. compounds and other Western installations.

At our largest military base, thousands, including many who worked at the base, gathered to throw rocks and shout "Death to America." Days later came the killing of two NATO soldiers, shot in the back of the head while working at their desks inside the Afghan interior ministry. The killer was

apparently a Taliban insurgent who had infiltrated the government security forces and penetrated what is supposed to be one of the most secure buildings in Kabul.

Mr. Speaker, it is clear that police officers, the ones we are supporting and training to keep militants at bay, are losing patience with our continued military occupation of their country. One of them told *The Washington Post*:

Afghans and the world's Muslims should rise against the foreigners. We have no patience left. We will attack the military foreign people.

In response to all of this, General John Allen has ordered the removal of all NATO personnel from Afghan government ministries in and around Kabul. Out in the field, some U.S. soldiers have been instructed not to engage too directly with Afghan security forces, even though the training of these forces is at the heart of our very mission in Afghanistan.

Mr. Speaker, can there be any doubt, given what has happened over the last week or so and the last 10 years, that our 10-year military occupation is losing and not winning over there? The hearts and the minds of the Afghans have been lost to the United States.

The amazing thing is there is talk that the recent unrest might delay the withdrawal of our troops from Afghanistan. If anything, we need to accelerate that withdrawal. It's this war that has sewn the seeds of resentment and mistrust. It's this war that has increased instability and strengthened the insurgency. It's this war that is fraying the partnership and heightening the tension.

Mr. Speaker, what if we engaged Afghanistan in a different way—peacefully, rather than forcibly, not in war? What if we sent—at a fraction of the cost and pennies on the dollar, I might add—what if we sent civilian experts to help rebuild Afghanistan and invest in its people?

□ 1050

What if we focused on humanitarian aid instead of military aggression? That's the SMART Security philosophy that I've been advocating for many years now.

I'm convinced that such an approach would show the way to greater peace, greater security and prosperity in Afghanistan. We can't begin to do this soon enough. Despite everything that's happened—not just this past week but over the last decade—the Pentagon continues to tell us the Afghanistan strategy is sound and it is succeeding. Do they think we're not paying attention?

It couldn't be clearer that what we're doing isn't working. It's time for SMART Security, Mr. Speaker. It's time to bring our troops home, and the time is now.

## THE GREAT RULER PAGE II

The SPEAKER pro tempore. The Chair recognizes the gentleman from Texas (Mr. POE) for 5 minutes.

Mr. POE of Texas. Mr. Speaker, the country cannot afford the great ruler, his administration, and especially his policies.

He costs too much.

He spends too much.

He blames others too much.

He violates the Constitution too much.

He blames George Bush too much.

He infringes on religious liberty too much.

He ignores our border security too much.

He divides the people too much.

He refuses to assume responsibility too much.

He misleads the poor too much.

He sues States too much.

He refuses to compromise too much.

He blames the rich too much.

He subsidizes failed green energy projects too much.

He encourages people to depend on the government too much.

He vilifies capitalism too much.

He preaches government intervention too much.

He regulates too much.

He campaigns too much.

He blames businesses too much.

He blames George Bush too much.

He taxes too much.

He punishes people who pay taxes too much.

He promises "free stuff" to non-taxpayers too much.

He likes the word "debt" too much.

He regulates our lives too much.

He likes big government too much.

He blames oil companies too much.

His budget hurts veterans too much.

He likes high gasoline prices too much.

He blocks offshore drilling too much. He stonewalls domestic energy too much.

He gambles taxpayer money on unproven energy projects too much.

He sends money to countries who hate us too much.

He despises the Keystone XL pipeline too much.

He apologizes for America too much.

He blames George Bush too much.

He cuts benefits to our veterans too much.

He blames the Tea Party too much.

He blames Congress too much.

He preaches America's best days are behind us too much.

He blames conservatives too much.

He likes the word "czar" too much.

He turns his back on Israel too much.

He treats our enemies better than our friends too much.

He blames our problems on Greece too much.

He blames our problems on the Europeans too much.

He ignores individual freedom too much.

He is anti-free market too much.

He cuts defense spending too much.

He infringes on personal liberty too much.

He has to have it his way too much.

He tramples on states' rights too much.

He blames Congress too much.

He blames George Bush too much.

And he really, really, really despises Texas too much.

Mr. Speaker, we no longer can afford the great ruler, his administration, and especially his policies.

And that's just the way it is.

## HONORING SHERRY STINEBISER

The SPEAKER pro tempore. The Chair recognizes the gentleman from Pennsylvania (Mr. THOMPSON) for 5 minutes.

Mr. THOMPSON of Pennsylvania. Mr. Speaker, today I rise to recognize Sherry Stinebiser for decades of service to the communities of northwestern Pennsylvania.

On June 25, 2011, Sherry was elected to a 1-year term as president of the ladies auxiliary to the Department of Pennsylvania Veterans of Foreign Wars, the VFW. Like every task Sherry has taken on in her long career of service, her primary goal as president has been serving others.

Joining the Ladies Auxiliary in 1996, Sherry is a life member of Cleo Bargerstock Auxiliary 1424 in Marienville, Pennsylvania, which is located within the Pennsylvania Fifth Congressional District.

Outside of the auxiliary, Sherry has worked for more than 30 years as a licensed practical nurse. She has volunteered her spare time as an emergency medical technician and serves as a board member of a group called Experience Incorporated, a local organization in Warren and Forest Counties dedicated to providing services to elderly citizens.

Albert Einstein once said: Only a life lived for others is worth living.

A model citizen who has committed her life to serving others, I believe Sherry would agree.

Thank you for your service, Sherry.

## KEYSTONE UPDATE

The SPEAKER pro tempore. The Chair recognizes the gentleman from Texas (Mr. OLSON) for 5 minutes.

Mr. OLSON. Mr. Speaker, I rise to give the American people an update on the Keystone XL pipeline.

Monday, President Obama took the first step to get out of the way and bring tar sands oil from Canada to my home, southeast Texas. It's the yellow pipeline line here on this chart.

The administration agreed to build the first segment from Cushing, Oklahoma, right here, to southeast Texas, the Port of Houston and the Port of

Port Arthur. In announcing the administration's changed position, White House spokesman Jay Carney said:

Moving oil from the Midwest to the world-class, state-of-the-art refineries on the gulf coast will modernize our infrastructure, create jobs, and encourage American production.

Amen.

430 miles down, 1,223 to go. But there is no new oil with this pipeline being built. None. So, Houston, we still have a problem. And that problem is exploding prices for gasoline.

Since the day President Obama took office—and he took office on January 20, 2009—since that time, gasoline prices have doubled, from \$1.84 per gallon to over \$3.70 per gallon. Doubled. This hits Texas families hard. If you have a pickup truck with a 24-gallon gas tank and fill it up every 2 weeks, that's a \$90 increase in gas expenses per month. There goes the \$1,000 every American got by the payroll tax cut extension, something we fought for 2 months here in Congress, just thrown away.

In a speech in Miami, our President said there was "no magic bullet" to lower gas prices, and there's some truth to that statement. The President is limited in what he can do to lower gas prices, but there's a lot a President can do to increase gas prices. Unfortunately, President Obama's policies have put us on a path to the worst summer for gas prices in our country's history. We enter this summer with the highest gas prices in our country's history at this time of the year. They're only going to go up. And the President had a knee-jerk reaction to the Gulf of Mexico spill. He shut the gulf down for nearly a year. That's at least 10 American rigs that left the gulf for overseas, taking American energy with them, and American jobs.

□ 1100

He chose Hollywood elitists and radical environmentalists over American unions and the American people by putting the Keystone pipeline in limbo. And while a small portion of the 20,000 jobs the full pipeline would have created are going to be kept by this new decision—4,000 of them—we still have no new oil. Eighty thousand barrels a day flowing through the Keystone XL pipeline is not going to happen. We're just basically building another lane on the freeway.

The most alarming thing to me is that the Obama administration has spent 3 years watching Iran export terror and develop their own nuclear weapons to destroy Israel. Now that the House and Senate, followed by the European Union, have imposed sanctions on Iran over their nuclear ambitions, the Iranians are threatening to shut down the Strait of Hormuz.

This is a map of the Strait of Hormuz, and as a former naval aviator



who deployed for 6 months to the region in 1994 and flew low-level missions through the strait, I can tell you that the Iranian threat to shut it down is real—very real. It's a narrow body of water, 30 miles wide at some points. It's worse because, as you can see, the sea lanes where the ships go through and commerce goes through are very close to Iran. This island over here, Abu Musa, that is an Iranian military base.

There is an old saying that "a picture is worth a thousand words." And this is our President as a candidate in 2008 at a gas station in Indianapolis. What's missing? Action to support low gas prices at that time.

I urge the President to listen to the American people and to fully approve the Keystone XL pipeline. Do it now, and put America back in business.

#### PRESIDENT OBAMA ENERGY MYTHS AND FACTS

The SPEAKER pro tempore. The Chair recognizes the gentlewoman from North Carolina (Ms. FOXX) for 5 minutes.

Ms. FOXX. Mr. Speaker, I know I'm going to repeat some of the things that my colleague from Texas has gone over as it relates to energy in our country and the response of the Obama administration. But, Mr. Speaker, these facts bear repeating because the media has been complicit with the Obama administration in hiding the facts from the American people about the extraordinarily negative impact that the President and his administration have had on the American people as it relates to energy prices.

Let me say, again, that on his inauguration date in 2009, the average price of gasoline in this country was \$1.84. The average price of gasoline today is \$3.73. That is a 102 percent increase. By spring, the estimates by Barrons are that the price of gasoline will be \$4.50. This is a tremendous burden on the hardworking American taxpayers. We hear the President and his people in his administration talking about how they want to be fair—fair to the middle class. Well, what's not fair to hardworking American taxpayers is the President's inability to see how the price of gasoline is hurting those hardworking American taxpayers.

A 1-cent increase in the cost of gas equals \$1 billion out of our economy and is a \$4 million per day cost to consumers. A 50-cent increase in gasoline equals a \$70 billion yearly loss to the U.S. economy. Again, how does it affect the average family? In 2009, it cost them \$173.80 more; in 2010, \$281.06; in 2011, \$368.09.

The Republicans have a plan to do something about this, but again, we have to explain to the American people we're only one-half of one-third of the Federal Government. We've passed five

bills in the House to increase energy production from the abundant supply of natural resources we have in this country.

Mr. Speaker, we could be energy independent in this country, but the President and the people who work for him and the Senate are stopping us from being that way. We've passed legislation to ensure construction of the Keystone pipeline. Together with the Keystone pipeline and the other bills we've passed, we'd decrease our reliance on Middle Eastern oil and stabilize gas prices. They will create hundreds of thousands of good American jobs and make our Nation more secure.

But what is the Obama administration saying? And they are being helped to perpetuate these myths by the lamestream media. They claim they are not responsible for the increased prices and that there's nothing they can do. But they are trying to take credit for previous Presidents Clinton and Bush pro-energy policies. The reason oil production is up today is because of development on private and State lands. North Dakota alone produced almost 16 million barrels of oil in January 2011 compared to only a little more than 2 million in January 2012, the majority of which is on State and private lands.

The Obama administration is not opening new offshore areas for energy production. The President and the administration claim to be opening more than 75 percent of offshore lands for energy exploration. This is absolutely false.

The Obama administration has blocked energy production on Federal lands, and the Obama administration denies the potential of domestic oil production. So everywhere we turn, the President and the people who work for him are keeping us from becoming energy independent.

Let me give you some quotes from the President. January 2008:

Under my plan of a cap-and-trade system, electricity rates would necessarily skyrocket.

We all remember that.

Energy Secretary Steven Chu, December 2008:

Somehow we have to figure out how to boost the price of gasoline to the levels in Europe.

And another one:

Mr. Chu has called for gradually ramping up gasoline taxes over the next 15 years to coax consumers into buying more efficient cars and living in neighborhoods closer to work.

Mr. Speaker, we Republicans have a plan. We need the Senate to act on that plan.

#### DOMESTIC OIL EXPLORATION

The SPEAKER pro tempore. The Chair recognizes the gentleman from Pennsylvania (Mr. MURPHY) for 5 minutes.

Mr. MURPHY of Pennsylvania. Mr. Speaker, while we are all aware of the debt this country has hanging over our heads, over \$15.3 trillion, we have to also be aware of what it takes to grow our way out of this debt. Part of the way of growing us out of this debt is by having jobs. But there is also another burden hanging over our heads, and that is the cost of gasoline to American families, which adds to their own personal debt.

Bear in mind at the last inauguration in 2009, the price of gasoline was \$1.83 a gallon. Now, it's approaching \$4 a gallon. Think about what that means to the average family where they're spending a couple thousand dollars more per year for gasoline and no end in sight. It's expected that prices will go up to well over \$4, perhaps \$5, per gallon in some States in the coming months. It is a burden that families, unfortunately, have to bear when they find themselves needing to travel to and from work or to and from other important activities and they cannot avoid this, especially in areas where public transportation is weak or not available.

Now, we have put forth a plan in this House to open up some other areas for drilling for our own oil. It has been criticized by some who say it would take too long for that oil to get to market and by others who say it wouldn't have that much of a price difference on oil. I beg to differ. Four or 5 years ago when I put forth a bill, a bipartisan bill with many of my colleagues, to open up the Outer Continental Shelf for drilling, we had noted at that time the impact that would have upon our economy. It's anticipated that there's about \$8 trillion worth of oil and natural gas off our coast, and that would lead, if that were invested in our infrastructure, to over 1 million new jobs per year for the next few years.

□ 1110

The Federal revenue that would come from that over the next 20 years would be about \$2.5 trillion to \$3.7 trillion. Even when you're talking about our national debt, those are large numbers. If we invest that in America's infrastructure, noting that for every \$1 billion we invest it's about 30,000 to 35,000 jobs, that's a lot of jobs, and it takes care of our many unemployed and underemployed in this country.

Well, for those who say it will not lower gas prices, I beg to differ. Certainly, there are studies in the past that have been flawed when they look at only the impact of Alaska in terms of what that would mean. But I would like to put forth some other numbers that are important and that is, if you open up the Outer Continental Shelf also, it has a big impact.

Right now, we import perhaps 60 percent or more of our oil. Some of that



comes from Canada and Mexico, our North American neighbors; but much of that oil also comes from OPEC nations. Further, OPEC has stated time and time again they would like to see gasoline and oil prices go up so much that oil is at \$200 a barrel. It's critical for their economies. And when OPEC leaders get together, it also includes some countries that are not very friendly to us, such as Iran and Venezuela, and other countries which we have defended with our blood and treasure over the years, which has cost us more. But look at this, in terms of international policy, of using our own oil versus OPEC.

In 2011, our trade deficit with OPEC was \$127 billion. In 2010, it was \$96 billion. In 2009, it was \$62 billion. And in 2008, the last time we had a big oil price jump, it was \$177 billion. That means we're buying more oil from OPEC than they're buying of our own goods. But it goes beyond that. There is also the cost of blood.

In our first Iraq war in Desert Storm, one Army group in my district, the Quartermaster Unit, was hit by a scud missile, and it killed many of those soldiers. How do you put a price on that cost of war? And clearly we are battling Iraq because they also invaded Kuwait and were attempting to control more oil fields in the market. Yes, it was about dealing with Saddam Hussein; but, yes, it was also about dealing with control of oil.

Look what we're doing now with the costs—patrolling the Strait of Hormuz with our 5th and 6th Navy Fleet out there to patrol the Mediterranean and the Persian Gulf to make sure Iran doesn't cut off world oil supplies and cause more problems.

But look also at the lives cost in the Iraq war in Operation Iraqi Freedom. Sixty-three Pennsylvanians have been killed, including many from my own district, whose lives were lost defending our causes in Iraq. There are also, in Pennsylvania, 553 wounded. But overall, 4,484 have died up to 2011 in Operation Iraqi Freedom—Americans. Pennsylvania has certainly paid a high price on that; but also know between 224,000 and 258,000 civilians were killed in Iraq directly from warfare.

Now, although other countries may have paid us back in dollars for what we spent in first Desert Storm, gulf war, we are bearing the costs of Operation Iraqi freedom. And we can never, ever return to the families the lives of their loved ones, their wives and sons and daughters and mothers.

Let's remember that opening up our own oil fields in America is not just about paying the price for families and what it cost them, but also making sure we know we will never have to pay again the price of blood. That reason and that reason alone is enough to say let's be drilling for our own oil.

## RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until noon today.

Accordingly (at 11 o'clock and 13 minutes a.m.), the House stood in recess.

□ 1200

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. YODER) at noon.

## PRAYER

Reverend Gerald Theriot, The American Legion, Schriever, Louisiana, offered the following prayer:

Most gracious and all-enabling God, awaken within our hearts and minds the ability to reason and discuss differences so that we may realize reasonable, fair, and just solutions to the issues that are before us.

Allow our legislators to meet the desires of those who support them and, at the same time, to do what is best for all in our Nation.

We know that we all must meet the obligations of the trust that is placed upon us, and we therefore come to You in faith seeking courage and strength to perform our tasks well.

Dear God, as I stand here today, I am thankful for and ask for Your continued blessing on this House as they endeavor to perform their duties.

We ask Your blessing on our Nation and the defenders of our freedoms, both civilian and military.

Amen.

## THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. LANCE. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER pro tempore. The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LANCE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

## PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Arkansas (Mr. CRAWFORD) come forward and lead the House in the Pledge of Allegiance.

Mr. CRAWFORD led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## WELCOMING REVEREND GERALD THERIOT

The SPEAKER pro tempore. Without objection, the gentleman from Louisiana (Mr. LANDRY) is recognized for 1 minute.

There was no objection.

Mr. LANDRY. Mr. Speaker, I rise today to thank our guest chaplain, Mr. Gerald Theriot, for his dedicated life of public service.

Chaplain Theriot is a retired veteran of the United States Air Force, a cryptologic linguist specializing in French, Vietnamese, and Korean. Mr. Theriot rose through the ranks and retired as a first sergeant. Following his military service, Mr. Theriot served his Louisiana neighbors in the Department of Social Services.

Chaplain Theriot is a loyal member of American Legion Post 513 in Thibodaux, Louisiana, where he has served as a vice commander, historian, service officer, and chaplain. He has also served as Louisiana's department chaplain since 1997. And on September 1, 2011, Mr. Theriot was appointed the national chaplain of The American Legion.

Chaplain Theriot is the proud husband of Mrs. Ethel Theriot, father of four, and grandfather of our State's future leaders.

On behalf of Louisiana's Third Congressional District and the United States House of Representatives, I applaud Mr. Gerald Theriot for his sacrifice and service and commitment to our country.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain up to 15 further requests for 1-minute speeches on each side of the aisle.

## PRESIDENT FULFILLS PROMISE TO INCREASE GAS PRICES

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, in his 2008 campaign, during an interview with the San Francisco Chronicle, the President promised energy rates "would necessarily skyrocket" under his policies. Since February 2009, the price of gas has jumped

from \$1.92 per gallon to an outrageous \$3.72 per gallon. Hardworking Americans continue to watch as a substantial amount of each paycheck is diverted by rising energy costs destroying jobs.

Although the President claims to have changed his policies, his decision to terminate the Keystone pipeline project from Canada shows that he remains dedicated to his campaign promise. House Republicans are focused on helping Americans feel relief at the pump by supporting legislation that expands supply and allows for the continuation of the Keystone pipeline.

I urge the President to put party politics aside and work with House Republicans to find ways to lower energy costs, which is necessary for American families.

In conclusion, God bless our troops, and we will never forget September the 11th in the global war on terrorism.

#### LET'S WORK TOGETHER

(Mr. BACA asked and was given permission to address the House for 1 minute.)

Mr. BACA. Mr. Speaker, it's been over 400 days since the Republicans took control of the House of Representatives and they still have not put forward a jobs agenda.

Instead of focusing on creating new jobs, Republicans have been working on a partisan agenda that would end Medicare as we know it, protect tax breaks for companies that send jobs overseas, and cut jobs, including 550,000 jobs that would be lost in the Republican transportation bill.

Now prices at the pump are on the rise across the Nation. American families are hurting. It's time for Republicans to stop political games and work with Democrats on all-of-the-above energy solutions that stop the speculators who are inflating oil prices, extend production tax credits to create over 37,000 new jobs in solar energy, and cut \$40 billion in tax breaks for oil over the next decade. Let's work together on a responsible energy plan to lower gas prices and create new jobs at home.

Before I close, I would just like to announce that I'm having a woman's health conference next month, March 15.

#### LOWERING GAS PRICES AND CREATING JOBS

(Mr. JOHNSON of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHNSON of Ohio. Mr. Speaker, here's the sign at a gas station at the corner of Pike Street and I-77 in Marietta, Ohio: \$3.69 for a gallon of unleaded regular. It's one example of surging gas prices across southeastern Ohio.

When President Obama took office, the price for a gallon of gas was \$1.86. It has now doubled, and some estimate that it will be around 5 bucks by this summer. This is just one indicator that President Obama's energy policies have failed America and are continuing to make our economy worse.

He says that he wants an all-of-the-above approach to energy, but his actions do the exact opposite. In fact, President Obama cut oil production on Federal lands by 11 percent last year and he blocked the Keystone XL pipeline.

We can't afford President Obama's destructive energy policies anymore. Not only will increased energy production lower the price at the gas pump, but it will create much-needed jobs right now. Hardworking Americans need both, not more of the same from President Obama.

□ 1210

#### KICKOFF OF WOMEN'S HEALTH WEDNESDAY

(Ms. DEGETTE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DEGETTE. Mr. Speaker, today I rise to announce the inaugural Women's Health Wednesday. Starting today and continuing for every Wednesday, Members of this distinguished body will take to the floor to talk about mammograms, about comprehensive family planning, and, yes, even about birth control.

Mr. Speaker, I would like to kick off this first Women's Health Wednesday by reminding everybody this is 2012, not the dark ages. So it amazes me that the debate we've been having lately, both in the Halls of this Congress and out in the political scene, is about birth control. Birth control.

Ninety-nine percent of women have used birth control at some point in their lives, including 98 percent of Catholic women; and 1.5 million women in this country rely on birth control for noncontraceptive purposes to treat a variety of medical conditions. The Institute of Medicine has determined, based upon science, that birth control is a fundamental part of women's preventive care. Yet here we are, debating about birth control.

Mr. Speaker, over the next coming weeks, we will have many conversations, and I'm excited to talk about women's health.

#### PASTOR YUCEF

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, this evening the House will consider H. Res. 556,

condemning Iran for their persecution, imprisonment, and sentencing to death of Christian Pastor Youcef Nadarkhani. Pastor Youcef has been in prison for 2½ years now under the charges of apostasy and condemned to death by hanging. His wife, too, was arrested and condemned to life in prison, but later released.

Christians and other religious minorities are under assault in Iran today. Hundreds have been imprisoned and many have been executed on trumped-up charges. In fact, while the official charges against Pastor Youcef are apostasy and evangelism, the state media said that he has been charged with rape and extortion.

The authorities in Iran know that they are violating both their own constitution and the Universal Declaration of Human Rights in their treatment of Pastor Youcef and other minorities.

This week, the House will call on Iran to respect these agreements and to release Pastor Youcef so that he, his wife, and children may practice their religion freely and not according to the dictates of the state.

#### WOMEN'S HEALTH WEDNESDAY

(Ms. CHU asked and was given permission to address the House for 1 minute.)

Ms. CHU. Mr. Speaker, today I'm thinking about the 99 percent of American women who have used birth control. Today, I'm thinking about the 98 percent of Catholic women who have used birth control.

Birth control is a necessity for many women, and it is unfair that women have to pay 68 percent more for it in out-of-pocket costs than men because it is not covered by all health insurance plans.

It is especially unfair to the women who use birth control pills to save their lives. In fact, these pills have prevented 200,000 ovarian cancers and 100,000 deaths.

The nurses, secretaries, and janitors who work at religiously affiliated hospitals and universities should not have to pay more for their health care costs and be punished because of where they work. That's not fair. The Obama administration's policy changes this and is fair. It's about time that women get a break for all that they do to raise children in this world.

#### TRIBUTE TO CHRIS PARR

(Mr. CRAWFORD asked and was given permission to address the House for 1 minute.)

Mr. CRAWFORD. Mr. Speaker, I rise today to honor the memory of Christine Parr. Although Chris passed away earlier this month, her memory will live on with her family and friends.

For nearly 40 years, Chris was married to husband Al Parr. Together, they

built a life and family in Harrisburg, Arkansas. Chris and Al have two children, Will and Angela. Chris joined Al in being active members of the Harrisburg Church of Christ where Al serves as pulpit minister.

Chris was a homemaker and a collector of souvenir spoons, bears, and Russian stacking dolls, among other things. Years ago she also operated a sewing business and day care from her home. She enjoyed anything to do with a needle and thread and over the years has made many clothes and quilts for her family and friends.

I will always remember Chris and the kindness that she showed my family and me. Chris had a passion for America. She loved people; and once she committed herself to a cause, she and Al devoted themselves completely and worked tirelessly.

My thoughts and prayers are with Chris's family. As a person of great faith, I know that Chris is now in Heaven with her Lord and Savior Jesus Christ. While her presence here on Earth will be missed, her example will be a guide for her family and friends for years to come.

God bless Chris Parr, and God bless her family.

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#### WOMEN'S HEALTH AND CONTRACEPTIVES

(Mrs. MCCARTHY of New York asked and was given permission to address the House for 1 minute.)

Mrs. MCCARTHY of New York. Mr. Speaker, I rise today to speak about the importance of ensuring coverage for contraceptives and the impact this has on women's health.

For centuries, important aspects of women's health care have been treated as a political football by advocates on all sides of the issue. In politicians' efforts to score political points, women suffer because of a lack of access to coverage, a lack of reliable information about health care choices, and because many women are vilified for some of the health care choices they make.

It's time to take politics out of women's health, and it's time to ensure that women's health coverage includes full access to contraception. Birth control can have significant health care benefits for women and their families. It can significantly reduce health care costs. And it's one of the most commonly taken drugs in the United States.

We need to stop playing games with people's health and instead live up to our responsibilities to protect the right of women to make the health care choices that are right for them. I look forward to working every Wednesday to talk about women's health.

#### FIFTH ANNUAL INTERNATIONAL RARE DISEASE DAY

(Mr. LANCE asked and was given permission to address the House for 1 minute.)

Mr. LANCE. Mr. Speaker, today, February 29, marks the fifth annual International Rare Disease Day, a day devoted to bringing attention to the needs of those with rare diseases.

There are nearly 7,000 rare diseases. Research opportunities remain difficult; and approved therapies are scarce, despite the fact that rare or orphan diseases afflict nearly one in 10 Americans. Bureaucratic hurdles and a lack of research incentives add to the challenges of those with rare or orphan diseases and the organizations that serve them.

As cochairman of the Rare Disease Caucus with my colleague, Congressman JOSEPH CROWLEY, I am committed to working in a bipartisan capacity with like-minded Members, policy advocates, and families across the Nation to increase awareness and education of rare diseases.

It is through greater awareness that we are able to bring hope to those who suffer from rare and orphan diseases.

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#### GAS PRICES

(Mrs. DAVIS of California asked and was given permission to address the House for 1 minute.)

Mrs. DAVIS of California. Mr. Speaker, I represent San Diego, California, which has the dishonor of being home to the highest gas prices in the Nation. The most expensive gas in San Diego was going for \$4.75 a gallon, and that hurts my constituents.

My friends on the other side of the aisle believe the solution is simple—more production means lower prices. However, our Nation's oil production is the highest it has been in years. And yet so are gas prices. The conclusion? More drilling does not mean lower prices.

Independent analysis has pointed to Wall Street speculators as a culprit for the rise in gas prices. Mr. Speaker, we've heard this story before: Wall Streeters gaming markets to make big bucks at the expense of consumers.

Another culprit? There is nothing truly competing against gasoline. Prices will go down when there are alternative fuels and real transportation choices to compete with oil.

There are two things that Congress can do to relieve the pain at the pump: an innovative 21st-century approach to our energy problems, and we need to tame the speculative markets.

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#### JOB CREATION

(Mr. BUCSHON asked and was given permission to address the House for 1 minute.)

Mr. BUCSHON. Mr. Speaker, I rise today in support of commonsense policies that will help create jobs.

I had the pleasure of meeting with one of my constituents, Jon David of Evansville, Indiana. Jon owns a small business, David Enterprises, an asphalt contractor and concrete supplier. He would like to expand his business, but onerous regulations are preventing him from doing it.

When I sat down with Jon, he talked about how EPA rules—such as emissions controls, dust regulations, the permitting process for oil refining, and wetlands designations on his property—these regulations, he tells me, are keeping him from selling his product and services that would allow him to expand his business and hire more employees. Instead, he spends his time dealing with regulations that increase his costs and prevent him from expanding.

The EPA under this administration should take note of how rules and regulations are hurting job creation. This is unacceptable. The House has passed bills to help out Jon and others like him, but the Senate has ignored them. There are 27 bills, at least, that we've passed here that we've sent to the Senate that would help Jon so he could quit spending his days fighting regulations so his business can survive.

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#### HONORING REACH OUT AND READ RHODE ISLAND

(Mr. CICILLINE asked and was given permission to address the House for 1 minute.)

Mr. CICILLINE. Mr. Speaker, I rise today to honor Reach Out and Read Rhode Island, a program that works with doctors to encourage young patients and their families to read.

In honor of the upcoming Read Across America Day, I wish to recognize the contributions this program makes in my home State, where it reaches 35,000 infant-to-preschool-aged children each year in 44 locations. Reach Out and Read Rhode Island provides free books through pediatricians' offices for children between the ages of 6 months and 5 years old, creating a small library for children and emphasizing the importance of reading.

Reach Out and Read Rhode Island helps to distribute 60,000 books each year to young children and their families, working to build a foundation for when a child enters school. Reach Out and Read Rhode Island should take great pride in the contributions it makes to our young children. I congratulate Reach Out and Read Rhode Island on its success.

□ 1220

## EXPAND DOMESTIC ENERGY PRODUCTION TO REDUCE GAS PRICES

(Mr. HULTGREN asked and was given permission to address the House for 1 minute.)

Mr. HULTGREN. Mr. Speaker, last week, I heard from my constituents about the impact rising gas prices are having on their families and on their small businesses.

Congress must act to protect our constituents from even higher gas prices by expanding our Nation's domestic energy production. The solution is pretty simple—let's expand American energy production. This will reduce the cost of gas, putting money back in the wallets of every American, and it will create the kind of good-paying jobs that so many people need and would help get our economy moving again.

The House has already passed four bills to expand domestic energy production. It's time for the Senate to pass those bills and send them to President Obama so that he can show us whether his commitment to an all-of-the-above energy policy is mere rhetoric.

Creating jobs, saving our constituents money, and helping our economy should be bipartisan goals, and we can achieve them by expanding American energy production.

## ASSAD'S ATROCITIES

(Ms. KAPTUR asked and was given permission to address the House for 1 minute.)

Ms. KAPTUR. Mr. Speaker, first, I join with my female colleagues in supporting full health coverage for every single woman in our Nation.

I also rise to condemn the actions of Syria's Assad government, which are truly appalling. America and this House should not be sitting silent as thousands of Syrian civilians are slaughtered by their government. Assad is not a man of peace, as some in this body have asserted. He is an international war criminal. His blood-stained hands should be shunned the world over.

The United Nations now believes that over 100 civilians are being murdered daily, including women and children. Estimates vary as to how many civilians have been killed since Assad's regime launched its brutal crackdown down on peaceful demonstrators in Syria in the spring of last year. CNN is reporting as many as 9,000 people have been killed in the last year, yet the leadership of this House remains silent. The Senate passed a resolution in mid-February. Why haven't we?

I and my colleague, Congressman KEITH ELLISON, have introduced a resolution identical to the bill the Senate

just passed on a bipartisan basis. And I urge my colleagues to speak out against the unspeakable violations that take place every moment.

Doing right is long overdue. Let's stop the horrors and mobilize the world to stop the killing.

## CABOT GUNS AND PENN UNITED TECHNOLOGIES

(Mr. KELLY asked and was given permission to address the House for 1 minute.)

Mr. KELLY. Mr. Speaker, I recently had the pleasure of visiting with an outstanding new company in western Pennsylvania called Cabot Guns, a company whose belief in American exceptionalism and dedication to uncompromising quality have resulted in a new standard of precision-made handguns. In fact, Cabot Guns are already being described as the finest pistols in the world by the Blue Book of Guns. Cabot Guns embodies the best of what this great Nation's finest machinists, engineers, and master craftsmen have to offer, and is proof of the enduring prowess of the American dream.

These highly prized firearms provide a new industry for my district and are made in collaboration with Penn United Technologies, a pioneering manufacturer of precision components for the defense, aerospace, medical, energy, and nuclear industries that was founded 40 years ago by the great innovator and patriot, Carl Jones, a man whose legacy lives on through Cabot Guns and Penn United's strong belief in family, God, and country and a firm commitment to our Second Amendment.

## CONTRACEPTIVE COVERAGE

(Ms. BONAMICI asked and was given permission to address the House for 1 minute.)

Ms. BONAMICI. Mr. Speaker, contraceptive coverage is an issue of women's health, access to health care, and affordability that affects our entire health care system. As we deliberate this important issue, it's imperative that we consider all of the benefits of access to contraceptives, starting with the prevention of unplanned pregnancies.

One thing about which we should all agree is that we need to reduce the number of abortions. Now, access to contraceptives plays a critical role in that goal, but the benefits don't stop there. Contraceptives are often prescribed for certain medical conditions that, untreated, could keep women from work, lead to more serious health problems, or otherwise impact the quality of their lives. These negative consequences are easy to prevent with access to preventive health care, which can help with unnecessary costs, both intangible and tangible.

Unfortunately, too many women across the country suffer every day because they don't have access to health care that includes contraceptives. This is an issue of access, of affordability, and of the rights of women to receive quality health care. I urge my colleagues to make that their focus.

## ENERGY SECURITY

(Mr. STUTZMAN asked and was given permission to address the House for 1 minute.)

Mr. STUTZMAN. Mr. Speaker, Hoosiers across northeast Indiana paid \$3.85 for a gallon of gasoline this morning. Gas prices are skyrocketing, and people in my district are looking for long-term solutions.

Unfortunately, for the past 3 years, President Obama has rejected serious efforts to promote American energy security. By failing to put forward a responsible energy policy, this administration is making things worse at the pump.

In 2008, Energy Secretary Steven Chu said, "Somehow we have to figure out how to boost the price of gasoline to the levels in Europe."

Well, if something doesn't change, Hoosiers could see those prices soon.

In January, President Obama rejected the bipartisan Keystone XL pipeline and blocked the flow of over 800,000 barrels of oil each day. The President's decision does nothing to lower prices or protect us from uncertainty in the Middle East. It's a serious blow to Hoosier families already struggling in the real economy.

Hoosiers deserve a true all-of-the-above approach. The House has already passed five energy bills that are being held up in the Senate. It's time to promote real energy security.

## WOMEN'S HISTORY MONTH

(Mr. CARNAHAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARNAHAN. Mr. Speaker, today I rise to honor the start of Women's History Month, which starts tomorrow. This month gives us all the opportunity to recognize the important and glass ceiling-shattering work women across our country and around the world have done and continue to do. Despite the tremendous progress that has been made over the past century towards gender equality, more still needs to be done.

Over the last 14 months, we've seen the rights of women come under attack again and again in this body. Though I firmly believe in encouraging healthy debate, the attacks that we have seen are an affront to the rights and health of women around this country. That's why I was so heartened by the recent compromise on contraceptive care.

While I have deep respect for the religious and moral beliefs of all Americans, I am pleased with this compromise because these guidelines increase access to contraceptive services for women while respecting religious liberty. It protects the beliefs and health of all American women and families.

In the spirit of Women's History Month, I ask that we put an end to this partisan bickering and focus on achieving better women's health.

#### STOP DEFICIT SPENDING

(Mr. CHAFFETZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHAFFETZ. For 4 consecutive years, President Obama has introduced a budget with a \$1 trillion deficit—4 years in a row. This has never happened in our Nation's history.

Well, how much is \$1 trillion? If you spent \$1 million a day every day, it would take you almost 3,000 years to get to \$1 trillion. No longer can we do this. We're paying more than \$733 million a day in interest on our national debt. We deficit spend something like \$4 billion a day.

Ladies and gentlemen, we cannot sustain the spending that we have. Our Nation is going bankrupt. It is imperative that this Congress get a grip on its fiscal future and put forward a budget that is responsible and over the course of time will actually balance our books and pay off the national debt.

□ 1230

#### ATTACKS ON WOMEN'S HEALTH

(Mrs. CAPPS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CAPPS. Mr. Speaker, I rise today in opposition to the extensive attacks made on women's health in recent weeks.

We have seen an almost unprecedented number of attacks on women's access to health care, reproductive options, and even prenatal care. From a hearing on women's health that included a panel with no women witnesses, to public statements diminishing the importance of women's access to a full range of preventive health services, to accusations that prenatal testing is in some way a pathway to abortions, it has been open season on women's health. This is not acceptable.

We need to trust women to know what is best for their families and for themselves, and those of us in Congress should always have their best interests in mind. Women do not deserve to have their health used as a political football.

#### WOMEN'S HEALTH CARE

(Ms. LINDA T. SÁNCHEZ of California asked and was given permission to address the House for 1 minute.)

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, former New York Governor Mario Cuomo, a man who saw the duality in being a legislator and a man of faith, once noted that "all religiously based values don't have an a priori place in our public morality." I think my colleagues have forgotten that message in recent days when it comes to women's health, ignoring the important impacts that access to contraceptives can mean for women.

Contrary to what some of my colleagues may believe, contraception is not a cheap, easily accessible solution for all women. An objective, non-partisan panel developed recommendations for contraceptive coverage paid for by religiously affiliated employers. The Obama administration adopted new regulations based on these recommendations.

These regulations were not designed to jeopardize anyone's religious freedom. These regulations were designed to protect the health needs of women, period. We should be doing everything possible to support women's health, not attacking women for demanding better health care.

#### ACCESS TO CONTRACEPTION

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, 25 years ago I was diagnosed with ovarian cancer. I was lucky, had excellent doctors who detected the cancer by chance in Stage 1. I am alive today by the grace of God and biomedical research. Many women today are not so lucky.

Ten women in the U.S. are diagnosed with a gynecological cancer every hour, and yet we know that using contraception for a year reduces the risk of ovarian cancer by 10 to 12 percent, using it for 5 years reduces that risk by roughly 50 percent. Twenty-six thousand women will die from these terrible cancers each and every year. This is just one of the ways that access to contraception is beneficial to women's health.

Improved access to birth control is directly linked to declines in maternal and infant mortality and helps to reduce unintended pregnancies. It significantly reduces a woman's risk of endometrial cancer. That is why, after an impartial and comprehensive review of the scientific data, the Institute of Medicine made the decision to include contraception among covered preventive services under the Affordable Care Act because contraception is very much part of women's health. It can help prevent ovarian cancer. It can save women's lives.

#### SAN JOAQUIN RIVER RELIABILITY ACT

(Ms. SPEIER asked and was given permission to address the House for 1 minute.)

Ms. SPEIER. Mr. Speaker, I rise today in strong opposition to H.R. 1837, the so-called San Joaquin River Reliability Act. This bill should be called the San Joaquin River Runs Dry Act. It will literally divert water from fishing and farming communities in California and send it right into the open arms of agribusiness.

The author and backers of this bill don't want a sustainable water policy for California. Instead, they want to overturn a century of California law that protects healthy waterways for fish, crops, and drinking supplies.

This bill should be called the GRAB Act, Give Rights to Agribusiness. It represents an unprecedented intrusion on States' water rights by the Federal Government. This goes beyond California and would affect water policy across the Western States.

Taking water away from farmers and fishermen struggling to make ends meet is bad for our economy and bad for our country. I urge my colleagues to protect States' rights, to support farming and fishing families, and vote against this extreme overreach of a bill.

#### ACCESS TO WOMEN'S HEALTH SAVES LIVES

(Ms. JACKSON LEE of Texas asked and was given permission to address the House for 1 minute.)

Ms. JACKSON LEE of Texas. Yesterday, Mr. Speaker, I had the privilege of meeting with leaders who treat women as OB/GYNs from Baylor College of Medicine and from St. Joseph Hospital in Houston, Texas. They acknowledged the importance of access to women's health care.

In a hearing in Judiciary, a very renowned doctor, an OB/GYN, indicated that thousands of women are impacted with respect to cervical cancer by having access to contraceptives and to be able to be treated properly.

Let me be very clear: Now, with the established compromise, no religious institution will have to pay any money. One of the witnesses who happened to be a bishop said, That's fine; I'm not interfering with what some woman does elsewhere.

So why do we have this crisis? We have a settlement to resolve—the protection of religious liberty and the protection of women's rights.

May I quickly indicate that just recently I introduced H.R. 83 that has to do with preventing bullying. And with the tragic incidences of the last 48 hours—now three young people dead—it's time again for this House to move again on a bill that deals with best practices to help our schools understand how to help our children.

I look forward to this legislation moving forward. I also look forward to acknowledging that access to women's health saves lives. Let's save lives.

#### MAKING IN ORDER CONSIDERATION OF HOUSE RESOLUTION 562, DIRECTING OFFICE OF HISTORIAN TO COMPILE ORAL HISTORIES FROM MEMBERS INVOLVED IN ALABAMA CIVIL RIGHTS MARCHES

Mr. BISHOP of Utah. Mr. Speaker, I ask unanimous consent that it shall be in order at any time through the legislative day of March 1, 2012, to consider in the House House Resolution 562; the resolution be considered as read; and the previous question be considered as ordered on the resolution and preamble to adoption without intervening motion or demand for division of the question except 1 hour of debate equally divided and controlled by the majority leader and the minority leader or their respective designees.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

#### PROVIDING FOR CONSIDERATION OF H.R. 1837, SACRAMENTO-SAN JOAQUIN VALLEY WATER RELIABILITY ACT

Mr. BISHOP of Utah. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 566 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 566

*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1837) to address certain water-related concerns on the San Joaquin River, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chair and ranking minority member of the Committee on Natural Resources. After general debate the bill shall be considered for amendment under the five-minute rule. In lieu of the amendment in the nature of a substitute recommended by the Committee on Natural Resources now printed in the bill, it shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule an amendment in the nature of a substitute consisting of the text of Rules Committee Print 112 15. That amendment in the nature of a substitute shall be considered as read. All points of order against that amendment in the nature of a substitute are waived. No amendment to that amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the

order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Utah is recognized for 1 hour.

Mr. BISHOP of Utah. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Colorado (Mr. POLIS), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

This resolution provides a structured rule for the consideration of H.R. 1837. It's entitled the Sacramento-San Joaquin Valley Water Reliability Act and provides for 1 hour of general debate, equally divided and controlled by the chairman and the ranking member of the Committee on Natural Resources.

This is a bipartisan bill that came from our committee on a bipartisan vote.

□ 1240

In like manner, the Rules Committee has decided to make this a bipartisan amendment process because we made in order all amendments filed at the Rules Committee which were germane, which complied with the House rules. I think this is very fair, and it's a generous rule to talk about a bill that has support on both sides of the aisle.

With that, I reserve the balance of my time.

Mr. POLIS. Mr. Speaker, I thank the gentleman for yielding me the 30 minutes, and I yield myself such time as I may consume.

I'd like to begin by acknowledging the service of DAVID TIMOTHY DREIER to this House of Representatives and to this country. There will be many more opportunities prior to his departure to acknowledge his work for his country, but our chairman today announced that he will be retiring at the end of this session. Chairman DREIER said:

We all know that this institution has an abysmally low approval rating, and the American people are asking for a change in Congress. So I am announcing today that I will leave Congress at the end of the year.

I would like to reassure my chairman that the change the American people,

my constituents, and our country had in mind was not, in fact, his retirement. That will be a tremendous loss to this body.

DAVID DREIER is a proud institutionalist, somebody who has capably served the country, has been a friend and mentor to me, first as ranking member and now chair of the powerful Rules Committee, and somebody that I've had the opportunity and the privilege to work with on a number of bipartisan issues around trade and U.S.-Mexico relations.

His retirement will constitute the loss of not only a wealth of knowledge but of a tireless and dedicated and honorable public servant, and I hope that he continues to find opportunities to serve the public, as he truly has much more to give and is too young to call it quits. I hope that, at the end of this session, his retirement from this body will be a new beginning for our chair.

I rise today with great concern over this bill's impact on my home State and its number one resource and scarcest resource in issue, water. You know, we have an old saying in the West that "whiskey is for drinking and water is for fighting."

I think, Mr. Speaker, we're going to see some of that fighting here on the floor of the House tonight, and I would argue that this isn't the appropriate venue to settle inter-California disputes that have long been settled through case law and settlements.

Water fights are long, expensive, tiring, but, you know, they've led to an established and workable framework within which States and localities have operated for years.

Mr. Speaker, this bill is not just about California. This bill has far-reaching implications for nearly 17 other States, including my own State of Colorado. This bill would override the century-long legacy whereby the Bureau of Reclamation respects each State's legal ability to control, appropriate, use, and distribute irrigation water. Because of this, more than several dozens letters from stakeholders in opposition to this legislation, including the nonpartisan Western States Water Council and the States of Colorado, Wyoming, and Oregon, have all been received by the Natural Resources Committee.

Mr. Speaker, I submit for the RECORD a letter in opposition from my home State of Colorado.

COLORADO DEPARTMENT  
OF NATURAL RESOURCES,  
Denver, CO, August 19, 2011.

Hon. TOM MCCLINTOCK, Chairman,  
Subcommittee on Water and Power, House Committee on Natural Resources, Longworth House Office Building, Washington, DC.

Hon. GRACE NAPOLITANO, Ranking Member,  
Subcommittee on Water and Power, House Committee on Natural Resources, Longworth House Office Building, Washington, DC.

DEAR CHAIRMAN AND RANKING MINORITY MEMBER, COMMITTEE ON NATURAL RESOURCES:

The State of Colorado would like to join with the Western States Water Council (WSWC) in an expression of unified opposition to House Resolution 1837, the "San Joaquin Water Reliability Act". The State concurs that this Act is an "unwarranted intrusion on the rights of the states to allocate and administer rights to the use of state water resources." Furthermore, in light of the current atmosphere of cooperation and amiability between the Western states and Federal agencies, this Act could detract from the hard work and efforts that have gone into the evolution of Western water law and policy.

The development of water law in the arid West has been a long incremental process, involving ratification of treaties, negotiation of interstate compacts, and litigation before the United States Supreme Court. To allow this Act to proceed would have the effect of throwing a proverbial "monkey wrench in the machinery", especially in regards to current projects, such as the Bay Delta Conservation Plan, a bipartisan deal reached by the California Legislature.

The testimony on June 2 of John Laird, Secretary for the Natural Resources Agency of California, reminded the Subcommittee of Justice Rehnquist's opinion in the 1978 case *California v. United States*: "The history of the relationship between the Federal Government and the States in the reclamation of the arid lands of the Western States is both long and involved, but through it runs the consistent thread of purposeful and continued deference to state water law by Congress."

For these reasons, and the reasons stated in the Western States Water Council correspondence and resolution passed on July 29, 2011, the State of Colorado opposes the passage of House Resolution 1837.

Regards,

MIKE KING,

*Executive Director,*

*Colorado Department of Natural Resources.*

In this letter that I submitted to the RECORD from my home State of Colorado, our Natural Resources Department wrote:

The development of water law in the arid West has been a long incremental process, involving ratification of treaties, negotiation of interstate compacts, and litigation before the United States Supreme Court. To allow this Act to proceed would have the effect of throwing a proverbial "monkey wrench in the machinery."

And so today, under this rule, this House will be considering, with one broad, sweeping stroke of the Federal legislative brush, numerous unintended consequences that will undo the existing framework, wiping away decades of settled water law, wiping away relative certainty, to the detriment of our Western States and to the sole benefit of attorneys.

Mr. Speaker, I know that many of us in this body are concerned about frivolous lawsuits and States rights. Anybody who shares my concerns about States rights and frivolous lawsuits should join me in opposing this bill. This legislation will open up a century of water law to new litigation across the West. If you ask me, that's the definition of needlessly frivolous lawsuits.

This bill imposes Federal law over bipartisan local agreements, in this case

those reached by the California legislature on the Bay-Delta, all while imposing unintended consequences and burdens on other States. This bill simply isn't true to our values of local control.

Unfortunately, Mr. Speaker, the committee has refused to address many issues with this bill and how it will impact the West. Now, that's not because the committee was unaware of the problems. In fact, the testimony on June 2 of John Laird, the Secretary for the Natural Resources Agency of California, reminded the subcommittee of Justice Rehnquist's opinion in the 1978 case, *California v. United States*, where Justice Rehnquist wrote:

The history of the relationship between the Federal Government and the States in the reclamation of the arid lands of the Western States is both long and involved, but through it runs the consistent thread of purposeful and continued deference to State water law by Congress.

Mr. Speaker, this bill does the exact opposite. The Western States Water Council wrote to express their strong opposition to H.R. 1837 as an "unwarranted intrusion on the rights of States to allocate and administer rights to the use of State water resources."

Mr. Speaker, this bill would set a dangerous precedent of preempting State water rights, leaving other States vulnerable to this kind of Federal infringement, effectively letting Representatives from New York, from Michigan, from Florida and from Texas vote on California water. And I know as the Representative from Colorado, I wouldn't want the shoe to be on the other foot and having Representatives from across the country deciding what we do with our water.

Finally, this bill would erode any efforts in the multistate work to recover listed salmon species along the West Coast, with immense impact to local economies and fisheries. It would preempt California State law, which is why the California Natural Resources Secretary has written in opposition to this bill, and why the California Attorney General is also opposed.

I encourage my colleagues to join me in a "no" vote on the rule and the underlying legislation.

I reserve the balance of my time.

Mr. NUNES. Mr. Speaker, will the gentleman yield for a colloquy, please?

The SPEAKER pro tempore. The gentleman from Colorado controls the time.

Mr. POLIS. I reserve the balance of my time.

Mr. BISHOP of Utah. Mr. Speaker, at this time, I yield 5 minutes to the gentleman from California (Mr. NUNES), who is the sponsor of this bipartisan piece of legislation, to talk about his particular underlying bill.

Mr. NUNES. Mr. Speaker, I was asking my good friend from Colorado to enter into a colloquy with me, and that's okay. But I do want to say that

the gentleman from Colorado and myself work in a bipartisan manner. We're both cochairs of the Mexico-U.S. Caucus. We've worked hard on that, and I would hope that the gentleman from Colorado would listen to the debate today because I think after we listen to the debate—I understand some of the concerns that he raises.

But as Mr. BISHOP pointed out, the Rules Committee was very gracious to allow all the amendments on the Democrat side and the Republican side to be offered and accepted to be debated here on the floor. So I would just urge my colleague, with whom we work together on numerous other issues in this Congress, that we find today a way to come together in a bipartisan manner. Hopefully, the gentleman from Colorado will listen to all the facts as they're presented.

Mr. Speaker, after decades of California water being controlled by the Federal Government, Congress can conclude one thing: flushing water into the San Francisco Bay is not helping to recover species, and people are suffering needlessly.

We're going to hear a lot from opponents about this bill, about science. I want to start right off the bat and make one thing clear: we're supporting sound science with H.R. 1837, and we are rejecting junk science that has long been foisted on the people of California, junk science the Federal court has labeled the unlawful work of zealots.

It is important for me to impress upon the House, the opponents of H.R. 1837 do not possess scientific high ground, as they are all but certain to allege. Their experts, and the activists masquerading as experts who support them, have been biased from the beginning and have molded their work to produce the findings that best suit their radical agenda.

□ 1250

We can say this with certainty that this agenda has not improved the fish populations. If that were true, we would not be here today.

Mr. Speaker, the U.S. District Court has thrown out the biological decisions used to justify the horrible regulations that cut off water supplies to families throughout California. The court's decision was a shocking indictment of the kind of government operating in America today when it comes to our environmental laws. The U.S. District Court judge said, I've never seen anything like it. He went on to say that government scientists acted like zealots and had attempted to mislead and to deceive the court into accepting junk science.

These are powerful statements by the Federal court and should give anyone who believes in due process, open government, and justice a cause for concern.



But the band has marched on without missing a beat; and instead of disciplining these scientists, the Fish and Wildlife Service actually gave them an award for outstanding service under pressure.

The arrogant disregard for public trust didn't stop there. Just yesterday, the President issued a veto threat, essentially doubling down on the dishonest smear campaign accusing House Republicans, and I believe many Democrats, of doing just the sort of thing that his administration has been found guilty of by a Federal court.

Mr. Speaker, we are not ignoring the latest science in favor of special interests. We are not the people who are sending zealots into the Federal court to lie in the defense of junk science. We are not the people rigging regulations to favor a small minority of special interest groups.

The agenda of junk science governing the bay delta is indefensible. Just as the Federal court had said, it's dishonest.

Congress needs to ask itself, who are these people that come up with these things? Who are they?

I think the Congress will be interested to find out that one of the leaders just weeks ago, a guy by the name of Dr. Peter Gleick, he spent his career trying to dry up farmland in rural communities throughout California; and, in fact, he's even testified before Congress to this. But Dr. Gleick is an activist. He's an activist who poses as a scientist.

Just a few weeks ago, he admitted to impersonating another person and stealing information from a nonprofit. He then mingled that stolen information with a fake memo in an effort to discredit his intellectual critics. Radicals like Dr. Gleick lie; they make it their mission to destroy scientists who do not agree with their twisted, anti-human views.

Meanwhile, they are used by some in this House as an excuse to take people's water away, to take their private property rights away, to dry up farm land and, worst of all, to justify human suffering.

Mr. Speaker, people in our Nation's bread basket are standing in food lines, and they're getting carrots that have been imported from China.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. BISHOP of Utah. I yield the gentleman an additional 30 seconds.

Mr. NUNES. Mr. Speaker, their sacrifices have done nothing to improve the environment. Fish populations have declined, and I think what we will prove today here in the Congress is that there is a better path forward, and H.R. 1837 provides that path forward.

So I would urge not only my Republican colleagues but also my Democrat colleagues to listen to the evidence, and I would urge them to vote for this

rule so we can move on to the debate so we can finally restore sanity to California's water system.

Mr. POLIS. Mr. Speaker, it's my honor to yield 3 minutes to the gentlewoman from California, a former member of the Rules Committee, Ms. MATSUI.

Ms. MATSUI. I thank the gentleman for yielding me time.

Mr. Speaker, I rise in strong opposition to this rule and to this bill. The issue of water in California has been debated for many decades because it is such a critical issue for our States. As a daughter of a California Central Valley farmer, I grew up on a farm; and I deeply understand the value of and the controversy over water.

Being able to plan the next growing season is critical for farmers. Unless they can count on the water being provided, there is no assurance for their crops. Now, in northern California, we have balanced our watershed. We have provided water for our farms, our cities, and our sensitive habitats in a way that we can have sustainability. But this legislation throws out the ability of the people of California to decide their own water future.

Mr. Speaker, any real solution to California's water issues will need to be crafted with consensus within California, not in a partisan manner on the House floor the way H.R. 1837 has been written.

This legislation purports to have the support of northern California, but I'm here to tell you that nothing could be further from the truth. My district, the Sacramento region as a whole, the five delta counties, are among countless others who oppose this bill, and the list continues to grow.

Some of the strong concerns include the loss of the State's right to manage its own water, the decimation of environmental protections for our Sacramento-San Joaquin Delta, the ability to manage the Folsom Dam reservoir for the benefit of the lower American River, and, most importantly, the overall instability that this bill would create in California. The idea of usurping the rights of States to control their own water is incredibly damaging, not only to the Sacramento area but to California and even to our country.

For those of our colleagues who represent areas outside of California and plan to support the bill because they may not impact your State, I have news for you. This is not just about California. H.R. 1837 will set a precedent that will create a domino effect so that it could happen next in Utah, Colorado, Nevada, Texas, and so forth. We don't need Federal legislation that only creates more problems for an already intractable problem. We cannot afford to give up California's right to control its own water future. The stakes are just too high.

I urge my colleagues to strongly reject this legislation.

Mr. BISHOP of Utah. Mr. Speaker, I had the honor of attending a public hearing in California with the gentleman to my right from California. It was an honor to listen to these people, and I'm pleased to yield 5 minutes to the chairman of the subcommittee that worked through this bipartisan bill, Mr. MCCLINTOCK.

Mr. MCCLINTOCK. I thank the gentleman for yielding.

Mr. Speaker, in 2009 and again in 2010, hundreds of billions of gallons of contracted water were expropriated from California farms and instead dumped into the Pacific Ocean in the name of the delta smelt.

This tragic policy fallowed hundreds of thousands of acres of some of the most fertile and productive farmland in America. It threw thousands of hardworking families into unemployment. It devastated communities throughout the region, and it created the spectacle of unemployed farm workers standing in food lines to receive carrots imported from China in a region that, just a short time before, had produced much of American-grown fruits and vegetables; and it contributed to rising grocery prices that families felt far beyond the congressionally created dust bowl of California's Central Valley.

In the last Congress, the then-minority Republicans begged and pleaded for hearings to address this catastrophe. The majority turned a deaf ear.

Last year, we returned as the new House majority to take testimony on what could be done to correct this disaster. The result of those hearings is the bill by Mr. NUNES that this rule brings to the floor.

This bill restores the water allocations established under the historic Bay-Delta Accord in 1994. When that agreement, commanding broad bipartisan support, was signed, Interior Secretary Bruce Babbitt assured all parties:

A deal is a deal. And if it turns out that there is a need for additional water, it will come at the expense of the Federal Government.

The water diversions shattered that promise. This bill redeems it.

The Federal Central Valley Project is part of a coordinated operating agreement with the State Water Project at California's request and consent. The two are inseparable. In order to protect the water rights of every Californian, this bill brings the full force of Federal law to protect those rights so that there is no ambiguity. This protection has earned this provision the support of the Northern California Water Association, representing the water districts that serve the farms and communities and families throughout the areas of origin in California.

My opponents just said this preempts State water rights. It doesn't preempt State water rights. It specifically invokes and protects State water rights

against infringement by any bureaucracy—local, State, or Federal—a legitimate constitutional function of the Federal Government established under the 14th Amendment and made essential by the terms of the State-approved joint operating agreement of these intertwined water systems.

□ 1300

The bill also restores common sense and practicality to protections for endangered native species like salmon and the delta smelt. One of the greatest threats to these endangered native species is nonnative invasive predators like the striped bass. Indeed, it is common to find striped bass in the Sacramento Delta gorged with endangered salmon smolts and delta smelt. This bill allows open season on these predators, and it encourages the use of fish hatcheries to assure the perpetuation of thriving native populations of salmon and smelt.

It replaces the cost-prohibitive provisions of the San Joaquin River Settlement Act, which contemplates spending an estimated \$1 billion to achieve the stated goal of establishing a population of 500 salmon below the Friant Dam. That comes to \$2 million per individual fish. This bill replaces the absurd mandate of a year-round cold water fishery on the hot valley floor with a warm water fishery that actually acts in concert with the habitat. It removes disincentives in current law that discourage groundwater banking in wet years. It allows for the recycling of environmental flows by communities once they've achieved their environmental purpose.

Mr. Speaker, the movement for stronger environmental protections began over legitimate concerns to protect our vital natural resources; but like many movements, as it succeeded in its legitimate ends, it also attracted a self-interested constituency that has driven far past the borders of common sense and into the realms of political extremism and outright plunder.

This bill replaces the cost-prohibitive and unachievable dictates that caused so much human suffering in California with workable, affordable, and realistic measures based on real science and not on what one Federal judge rightly called the "ideological zealotry" of rogue bureaucrats.

This debate will determine if we are about to enter a new era when common sense can be restored to our public policy and when a sensible balance can be restored between environmental and human needs. I welcome that debate, and I ask for the adoption of the rule to bring it forth.

Mr. POLIS. It is my honor to yield 2 minutes to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. I thank my friend for yielding.

174 days ago, the President of the United States came to this floor and

made a series of proposals to help small businesses and big businesses create jobs for the American people.

Only one element of that jobs plan has been dealt with, belatedly, which is the extension of the middle class tax cut. There has been no vote on a bill to create construction jobs, on the rebuilding of our libraries and schools; no vote on a bill to cut taxes for small businesses that create jobs; no vote on bills that would put our police officers and firefighters back on the job or our teachers back in the classroom.

Nothing.

Now, the bill that is before us today is very important, not just for California but for the country, and it is something that needs to be taken up. I respect all views on all sides, but I think it's time that the House leadership respected the urgent economic problems of this country.

Since the President came here, there has been another increasingly urgent economic problem, which is the manipulation of gasoline prices by speculators, and Americans are seeing the consequences of this at the pump every day. Members on our side have some ideas to stop this speculation and to stop the pillaging of the wallets of American consumers at the gas pumps every day. Not surprisingly, that's not coming up for a vote either.

The priorities of the House are misaligned with the priorities of the American people. Let's put on this floor legislation that creates jobs and that gives relief to our people at the fuel pumps.

Mr. BISHOP of Utah. I appreciate the gentleman from New Jersey's comments. I would remind him also that the CVPIA, the bill that started this problem, was actually authored by the Senator from New Jersey at the time, and I appreciate that. This is one of those things we are trying to fix.

I gladly yield 1 minute to the gentleman from Nebraska (Mr. TERRY).

Mr. TERRY. First, I want to mention to my friend from New Jersey that we have several bills, including that of the Keystone pipeline, sitting over in the Senate. They're bills that will create tens of thousands of jobs, maybe hundreds of thousands of jobs. Yet it does not seem that HARRY REID would like to bring those to the floor, so we are doing our job here.

Mr. Speaker, this bill today is about creating, really, a new environment for job creation in recognizing the human suffrage that has occurred in the Central Valley. I visited out there almost 2 years ago and saw the level of employment and the human impact of this Federal mandate upon California under the Endangered Species Act.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. BISHOP of Utah. I yield the gentleman an additional 30 seconds.

Mr. TERRY. I don't know about the court case where it really raised some

serious issues regarding the credibility behind the rule, itself. What I do know is that, by passing this bill today, we basically push the restart button so that the entities that are hurt and the environmentalists can work together for an appropriate balanced rule that protects people's livelihoods as well.

This should be a bipartisan bill. It came out of committee as a bipartisan bill. This is exactly the type of thing that we should be working together and across the aisle on, and I would encourage my friends on the Democratic side of the aisle to join with us in passing this bill.

Mr. POLIS. I yield 2 minutes to the gentleman from California (Mr. COSTA).

Mr. COSTA. I thank the gentleman from Colorado for yielding.

Mr. Speaker, I rise today in support of the rule providing for the consideration of H.R. 1837.

California's water system is broken. For too long, the San Joaquin Valley, which many of us represent, has borne the brunt of the water challenges facing our State. We have a water system designed for 20 million people. We have 38 million people today living in California. By the year 2030, we could have 50 million people. My district was and is ground zero for the hydrological and regulatory drought that occurred in 2009 and 2010. I was in the food lines in which farmworkers, sadly, found themselves because there wasn't sufficient water to employ them.

My constituents who rely on water for their livelihoods are looking to Congress to see that we are listening and that we care to work on real solutions that impact their futures. The politics of water are not new in California nor in the West. They've existed for decades. I would hope that at some point we could put the politics aside. This debate is too important. It has been put off for too long.

For the farmers, the farmworkers, and the farm communities that I represent, I urge my colleagues to support this rule on a bipartisan basis.

Mr. BISHOP of Utah. With gratitude to the last speaker, this may be about California water, but it impacts all of us who eat, and as you can tell, I am one who does that very well.

I yield 2 minutes to the gentleman from Michigan (Mr. MCCOTTER).

Mr. MCCOTTER. I rise in support of the rule and the underlying bill, a bill which is a piece of bipartisan legislation that was introduced not to serve mere partisans but to serve real people, not to promote one's party but to promote everyone's prosperity.

I say this in a true spirit of inclusion as someone who comes from a manufacturing State, as one whose auto companies stared into the abyss of potential bankruptcy. It was a bipartisan coalition that helped to save it and a policy that was put forward by a Republican President named Bush and

continued by a Democratic President named Obama.

Today, we must come together in a similar bipartisan fashion, for there is a federally dictated drought in the San Joaquin Valley, one that devastates farmers and all of our fellow Americans who live and who, if they can, work there.

To me, as someone who has watched and lived with my constituents through such an experience, I see no choice but for the Federal Government to rectify its legislatively imposed drought and to allow the people of the San Joaquin Valley the same rights that we have to pursue our prosperity and continue to keep the fruits of our labor without the heavy hand of government coming in and making it more difficult for us to pursue and to create a better life for ourselves and for our children.

□ 1310

Finally, on a note, I know that these are very contentious times, and one of the underlying issues regarding this bill is the Endangered Species Act. But whether you are wholeheartedly for the Endangered Species Act or wholeheartedly opposed, can we agree on one thing? The Endangered Species Act exists to preserve wildlife, not to impoverish human life.

Mr. POLIS. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. GEORGE MILLER).

Mr. GEORGE MILLER of California. I thank the gentleman for yielding, and I rise in opposition to the rule, and I rise in opposition to the legislation.

There is going to be an argument today about science. This bill makes it very simple. It ends that argument. It simply says that we will use the science that was in effect in 1994.

We use the science that's what, 18 years ago? That will be the science for the purposes of this legislation. You might as well tell the people of California to use the same telecommunications systems they had in 1994, no iPhones, no BlackBerries, no advancement in knowledge, skills, training, or technology.

It's a pretty simplistic approach to science. You might say it's mindless. The Federal Government is going to come in and tell the State of California that it cannot use its regulatory process or scientific process to determine what's best for its State.

As the Attorney General of our State says and the Supreme Court says, the Federal Government simply cannot commandeer the legislatures of the States, but that's what this legislation does. I love the fact that we have people here with wonderful conservative credentials who are now suggesting the Federal Government should preempt California law, preempt the California Legislature, preempt the Federal law, and go back to 1994.

Where else would you take America back to 1994 in terms of imposing the will of the Congress on the States, and that's why almost all of the Western States, their water agencies, their executive offices, oppose this legislation, because this is the greatest preemption of State water rights in the history of this country.

The people who are supporting this, these heavily subsidized farmers who have more than one or two or three subsidies from the Federal Government to grow their crops, are now insisting that the Federal Government take what is a contract right. It's a contract right, that's it. They want to turn it into perpetuity. They want the water in perpetuity, and the hell with the rest of the State of California. That obviously isn't acceptable.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. POLIS. I yield the gentleman an additional 1 minute.

Mr. GEORGE MILLER of California. That is not acceptable to any Member of this Congress about their own State. Why is it acceptable all of a sudden to do that to the State of California?

You simply cannot do this. We have in place a process that is working today for the first time in 40 years, and that's why the resources director of the State of California, that's why both of our Senators oppose this process, because this group of people had never come together in the last 40 years to work on California problems.

The urban users, the rural users, the agricultural interests, the manufacturing interests, the municipal interests, with the blessings of the State legislature that set out the guidelines, that set out the goals, that set out the purposes—that's going on today. Every party to that agreement except for this select few of special interests. This party is the only party that says "blow it up." Use the United States Congress to blow up a process that for the first time has the possibility of solving the water problems in this State and making it sustainable for agriculture, for the environment, for manufacturing, and for municipal use in our State. Yes, we have a tough problem. We have 30 million people. The drought that they talk about, that was imposed.

The SPEAKER pro tempore. The time of the gentleman has again expired.

Mr. POLIS. I yield the gentleman an additional 30 seconds.

Mr. GEORGE MILLER of California. That was a Statewide drought. Yes, they lost some employment in farm work, but, in fact, agricultural employment, even through the drought, was pretty stable.

The big employment in the Central Valley came because we were selling homes to people who couldn't pay for them. That was the crash. It was first place and the longest crash that we had

in this country in terms of mortgages and the loss of the people who were working in those trades.

But that drought was still felt across the State. Thousands of people lost their jobs in tourism in northern California, in commercial fisheries, in recreational fisheries, in the bait shops and the support services all across our State. That drought was an equal destroyer of this California economy from north to south.

Don't wreck this opportunity for California to settle California's problems.

Mr. BISHOP of Utah. I reserve the balance of my time.

Mr. POLIS. Mr. Speaker, if we defeat the previous question, I will offer an amendment to the rule to provide that immediately after the House adopts this rule, it will bring up H.R. 964, the Federal Price Gouging Prevention Act. Mr. ANDREWS mentioned that, rather than discussing this, why aren't we tackling the big issues of the day, such as gas prices? Well, my colleague from New York (Mr. BISHOP) has a proposal to do just that.

I yield 2½ minutes to the gentleman from New York (Mr. BISHOP) to talk about his proposal.

Mr. BISHOP of New York. I thank the gentleman for yielding.

Mr. Speaker, I rise in opposition to this rule and urge the House to defeat the previous question so we can bring to the floor today my bill that would have an immediate impact on lowering gas prices.

Leap day arrives more often than a Republican energy plan. A year ago, when it became clear that the Republican leadership wouldn't help Americans fight rising gas prices, I introduced a bill that this motion is modeled after to crack down on speculation, which forces prices up artificially.

This legislation makes it illegal to sell gasoline at excessive prices and prevents Big Oil from taking advantage of consumers by manipulating prices. This is real help for consumers in a tough economy.

Domestic oil output is the highest it's been for 8 years. In fact, we've become a net exporter of gasoline, unable to consume all that we produce. And yet it's clear speculators are behind the spike in prices. They will never take delivery of oil, but they make up 64 percent of the market.

When speculators place their bets that prices will rise, it follows that actual prices will rise. They have for 21 straight days. In that time, the average price per gallon went up 60 cents in my district.

Still the Republican leadership has yet to address market manipulation or turn off the spigot of subsidies for Big Oil, which made a record-high \$137 million in profits last year. That's up 75 percent from the profits they realized in 2010.

We could invest in an energy plan that further expands domestic production, develops renewable sources, and forges a long-term strategy that weans us off Middle Eastern oil and protects consumers from rising gas prices over the long run. Mr. Speaker, let's make a leap to support American families while striking at the heart of rising American gas prices.

To that end, I urge my colleagues to support this motion.

Mr. BISHOP of Utah. I reserve the balance of my time.

Mr. POLIS. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. GARAMENDI).

Mr. GARAMENDI. Mr. Speaker, I want to talk about two issues here, one of which was discussed by my colleague from California, which is the bill that will be up later this afternoon.

While the rule allows for amendments, some of the amendments that were proposed are not going to be before us. Specifically, this bill is a blatant attempt to do two things: one, steal 800,000 acre feet of water and transfer it to heavily subsidized farmers on the west side of the San Joaquin Valley; and, secondly, completely overrule and override State law. That's why, I suppose, States such as Colorado, Montana, New Mexico, Oregon, Wyoming, and the Western States Water Council, which is composed of the representatives of the Governors of 16 Western States, are all opposed to this bill.

This is a terrible precedent. If you care anything about your State's ability to control its own destiny insofar as water is concerned, you do not want this bill to pass because it is a blatant attempt by the Westside Farmers to simply grab water and take total control of the California water system.

It blows away all of the environmental laws of the Federal Government and all of the environmental laws of the State of California and even overrides the State Constitution. I cannot think of a worse policy for anyone to be supporting if you care anything at all about States' rights.

In addition to that, the bill totally destroys the efforts that have been underway to solve the problems that do exist in California water. There is absolutely not one new drop of water in this bill, but there is 800,000 acre feet stolen and delivered to the southern water contractors. For many, many reasons it ought to be defeated.

Briefly on Mr. BISHOP's attempt to have his bill heard on this floor: not a bad idea. Consider for a moment the fact that 26 million gallons of gasoline are exported from the United States every day. Something is wrong when that is occurring at the same time we're finding higher and higher gas prices.

□ 1320

Mr. BISHOP of Utah. I remind the body, once again, that 9 out of the 10

amendments were made in order, and the only one that was not made in order had a question of its germaneness to the body here.

I am pleased to yield 3 minutes to the gentleman from California (Mr. DENHAM), who does have a germane amendment that will be debated later on on the floor.

Mr. DENHAM. Thank you. I appreciate the opportunity to talk on this not only in support of the rule, but in support of the bill. This is something we went through in committee with very great debate, but it goes well beyond the debate of committee.

We've debated this in the State of California for many, many years, if not decades now. To have Members from California come down to the floor and say that this is mindless, this is anything but mindless. These are jobs. When you go down to DENNIS CARDOZA's district and see 30 percent unemployment in the Los Banos area or down to JIM COSTA's district and see 30 to 40 percent unemployment in Firebaugh or over in Mendota, and you call it mindless? Come down and talk to the people in our districts and tell them that their jobs are mindless, that their homes are mindless, that their cars that they're having to give up are mindless. These are farmworkers. These are individuals. These are farmers that are seeing their families destroyed right now. It is not mindless. They are certainly not special interests. Come down to these districts.

We have invited the President, on a bipartisan basis, many times now to come to California. Don't just go to L.A. and San Francisco, but come see the Central Valley and the challenges that we have. See how, when the water is shut off, we see our farms destroyed.

This absolutely has impact on the rest of the Nation. If you want a safe food supply, if you want a reliable food supply, make sure we have reliable water delivery. That is simply all this does.

Anytime that we talk about water throughout the Nation, or certainly throughout California, it becomes a battle. A lot have talked about pre-'94 when a deal was a deal. That deal hasn't been changed by the farmers. That deal has been changed by Members of Congress that have preempted State water rights.

We want a deal. We want a deal every year. We want an agreement that says that if you're going to have a contract for 100 percent of your water, you actually get 100 percent of your water. This year, because we had a lack of storage last year on the wettest of water years in California, this year we're going to have a 30 percent water allocation. We're still going to pay 100 percent of the cost of the contract but have 30 percent of the water, which means once again we will see 30 percent unemployment in JIM COSTA's district, in DENNIS

CARDOZA's district, in my district, and in many of the districts throughout the Central Valley.

Before you start to ignore many of our agriculture acres and many of the jobs that go with it, let's come together in a bipartisan fashion as we've done in the committee level, as we've done elsewhere within the State, but making sure that Republicans and Democrats are working together and, more importantly, that the House and Senate are working together.

I give a great deal of praise to the author of the bill, Congressman NUNES, for getting a regional perspective for this, getting north and south and central California to actually work together. That is a tremendous accomplishment. The bigger accomplishment is actually getting the Senate and the House to work together.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. BISHOP of Utah. I yield the gentleman an additional 30 seconds.

Mr. DENHAM. It is time that we come up with a solution that avoids further cost, that avoids further delay, that avoids us having to continue to cut jobs in the Central Valley and in California. It's time to come to an agreement that will actually save the Central Valley and our farming industry and making sure that we've got certainty in water year in and year out. This bill will show the priority of the House. If the Senate has a different priority, let them show that. But the California public expects the Senate and the House to work together, just as we've come together in a bipartisan fashion on this bill.

Mr. POLIS. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. THOMPSON).

Mr. THOMPSON of California. I thank the gentleman for yielding.

Mr. Speaker and Members, I think it was Einstein that said: If you start with the wrong numbers in your equation, you can never get to the correct solution. What we just heard was a textbook perfect example of that.

The idea that there's 30,000 to 60,000 lost jobs as a result of what is happening south of the delta, I don't know where those numbers came from. You're certainly welcome to your own opinion, but you're not welcome to your own facts. The facts tell a whole different story.

If you look at what UC Davis did, if you look at what the University of the Pacific did, UC Berkeley, all their numbers point to a loss associated with certain things: a loss of jobs associated with the drought, a loss of jobs associated with an endangered species. But these are in the hundreds or the single-digit thousands, not anywhere close to 30,000 or 60,000. We need to get this thing right.

My friend from California was absolutely correct when he called for us to

work together. That's exactly what we've been trying to do, to work together. This bill was not crafted with the stakeholders at the table. This bill was crafted in the proverbial back room with not all of the stakeholders present. None of us who have a legitimate dog in this fight were included in this.

If this bill were to pass, there will be thousands of jobs lost. They'll be north of the delta. They'll be farming jobs; they'll be fisheries jobs; they'll be recreational jobs. They'll be all kinds of jobs associated with the economy north of the delta.

You can't come to this floor with legislation that creates winners and losers in the marketplace without bringing everybody to the table to work on that. That's exactly what this bill does—it creates winners and losers. It chooses jobs south of the delta at the expense of jobs north of the delta. That's wrong and this bill should be defeated.

Mr. BISHOP of Utah. Mr. Speaker, sometimes it is hard to estimate jobs when you're thirsty, but I realize if there was even one job that is cost because of bad Federal behavior, that is one job too many.

I would be happy to yield 2 minutes to my friend from Florida (Mr. DIAZ-BALART).

Mr. DIAZ-BALART. I'm glad, sir, that you just mentioned that, because I just heard here that, no, no, it's not maybe X thousands of jobs that are going to be lost; it is X minus a few thousand jobs that are going to be lost.

What? Did I just hear that? I just did.

Rarely do you see such a reckless and immoral disregard for American families, for American farmers, for American farmworkers, for hardworking people than what we have in front of us and what this bill is trying to solve in a bipartisan way, because this does have bipartisan support.

I keep hearing about all of these horrors. But wait a second. Take a step back, Mr. Speaker. These are farmers who have been farming that very land for generations. This is not like they are trying to do something new. They've been doing this for generations.

Can you imagine the circumstances if the Federal Government steps in and says, "No, we are going to cut off your water. You're not going to be able to farm, and forget about those jobs. Go do something else," just because some bureaucrat someplace decides that they found a fish all of the sudden after these farmers have been there for generations?

Sometimes a little common sense has to prevail and sometimes a little moral sense has to prevail. Let's stand up for these farmers who have been there for generations. Let's stand up for these farmworkers, the poorest, hardest working individuals for generations. Let's say "no" to a Federal Govern-

ment that thinks that, oh, just a few less jobs won't hurt, won't matter.

This is grotesque. This is immoral. Let's stand up together in a bipartisan way to stand up for American families, for American farmers like they deserve this Congress to do for them.

Mr. POLIS. Mr. Speaker, I would like to inquire of the gentleman from Utah how many speakers he has remaining.

Mr. BISHOP of Utah. To be honest, I'm not quite sure. I know I have a speech and there may be another one coming down here.

Mr. POLIS. I will reserve the balance of my time.

Mr. BISHOP of Utah. Mr. Speaker, I yield myself such time as I may consume.

I had the opportunity of going down to California to one of the hearings where we met the farmers who are living in this particular area. I heard their anguish. I understood their anger. Their ability to make a living was being prohibited while we in Congress simply talked about unrealistic concepts. They were living in pain while we continued to talk. Actually, our actions and talking were causing that particular pain.

This bill is about trying to help people. This is time to put people in the forefront and put our ideology behind so that we can solve a problem that has been caused by us. This effort is to put forward legislation that corrects harms that are inflicted by onerous, extreme, completely unbalanced Federal regulations which too often seem to favor a narrow special interest group constituency as opposed to a balanced approach to protect our environment while considering jobs and the needs of real human people.

□ 1330

As many have said already, our colleagues have put forth a program which, unfortunately, is causing massive unemployment in the San Joaquin Valley, causing thousands of acres which were the most productive farmland to go fallow, and risks turning this productive area into a dust bowl causing erosion. These are negative environmental and economic impacts that were not considered in the Federal Government's original decision, but ought to have been and should be considered now.

The unfortunate reality is that California's Central Valley is one place where our actions and other regulations have had a negative impact on the country, leaving those farmers in danger but also affecting all of us. If you are an artichoke lover, which I am not, 98 percent of those that are sold in the supermarket are raised in San Joaquin Valley of California. For those who enjoy walnuts—I'm now zero for two—or almonds and garlic—which I finally like—98 percent of those supplies come from California. Nearly all of the

domestic avocados and nectarines are raised in California. Just for the record, I'm three out of six for those particular food items.

California's man-made drought does not just impact Californians. It attacks and it touches each and every one of us in some way. The next time we go to the grocery store and stop and take a look at where these products come from, the chances are pretty good they're coming from California's Central Valley. You can nearly have a complete food meal group just by looking at what comes out of a 10-square-mile area of Central Valley California.

As prices continue to rise at the grocery store for fresh produce of all kinds, you can be assured that some of the main drivers of those increased costs come from a combination of skyrocketing fuel costs under this administration's poor domestic energy production policies, as well as less domestic food caused by this water diversion.

Ironically and sadly, in recent years since the Federal water takings—and that's takings by the Federal Government—more and more produce has found its way from other foreign sources to replace what should have been produced in our own particular country. This bill addresses that problem in a positive way by reinstating water rights to farmers from water that was unjustly taken away by Federal regulations.

With that, Mr. Speaker, I advise the gentleman from Colorado I have no further speakers, and I reserve the balance of my time.

Mr. POLIS. Mr. Speaker, I am prepared to close, and I will yield myself the balance of my time.

Mr. Speaker, I ask unanimous consent to insert the text of the previous question amendment in the RECORD along with extraneous material immediately prior to the vote on the previous question.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. POLIS. My colleague, Mr. BISHOP, has brought forth something that I think is an important national issue that my constituents have certainly been calling me about. And I know that there has been concern from across the country about rising gas prices. If we defeat the rule and the previous question, we will be able to immediately bring forth Mr. BISHOP's bill and the discussion about price gouging and gas prices.

Mr. Speaker, this bill sets a dangerous precedent for preempting State water rights, leaving other States vulnerable to this kind of Federal interference. This bill is opposed by the State of California, California's two U.S. Senators, the leaders of both State legislative houses, commercial and recreational fishing associations,

water districts, local governments and the California Bay Delta Farmers. This bill overrides a bipartisan local settlement to restore the San Joaquin River that ended 18 years of costly litigation and uncertainty. This bill guts the review process for water projects in California's Central Valley and eliminates science-based protections for many species required under both California law and the U.S. Endangered Species Act.

There is simply no reason to support legislation that has a myriad of unintended consequences. It is an attack on certainty, and it is an attack on issues that should be decided, frankly, by States and stakeholders.

H.R. 1837 would eliminate desperately needed protections for fisheries, threatening thousands of fishing jobs and millions of dollars in income that sustains families, as evidenced by the impact seen during the first-ever closures of California's salmon fishery in 2008 and 2009 due to collapsing runs.

This bill is a recipe for lawsuit after lawsuit, an attack on a century of State leadership on water law and a dismissal of the consensus agreement that the people of California have reached without the needless meddling of this body, without those from other States being called upon to settle a California matter of water.

Mr. Speaker, this bill is a solution in search of a problem, a bill that ends up creating more problems for more people than the problem it's trying to solve. Simply put, this bill is cutting off the nose to spite the face; and my State, along with 17 others, stands to get harmed over in the process, particularly by the dangerous precedent of Federal second-guessing of local water rights.

If this bill were really about the delta smelt, then it should be drafted more narrowly. If this bill were really about jobs, then take into account the jobs of the salmon industry which the bill would decimate. Take those concerns to local stakeholders and to the State of California and work out a solution that is in the best interests of California citizens. Unfortunately, this bill is not about real problems. It's about scoring political points and advancing sound bites.

I urge my colleagues to join me on a "no" vote on the rule and the underlying bill and defeat the previous question.

I yield back the balance of my time.

Mr. BISHOP of Utah. Mr. Speaker, in addition to restoring agricultural productivity in this area, what has been referred to as "America's salad bowl," this bill is a comprehensive piece of legislation which would reduce Federal spending by \$300 million by allowing certain water users, presently obligated to repay Federal loans on water projects in this area, to repay those loans early on a penalty-free basis.

In addition, as we are facing unprecedented debt, this bill would stop wasteful spending, terminate over a billion dollars in unproven and unnecessary Federal spending projects, and it codifies the historic, previously-agreed-upon bipartisan State and Federal agreement known as the Bay-Delta Accord. It is pro-environment by restoring warm-water fish habitats. It also protects northern California waterfowl habitat and still helps those who are trying to make a living as farmers in this area.

Mr. Speaker, in this body, we always use comparatives and superlatives at the drop of the hat or any other cliché you wish to use. If a bird flies over this Capitol, we will talk about it in superlatives. We often do that. We talk about bills being so important. In this case, I think superlatives are appropriate. This is a significant bill that is life and death for these farmers, and it is unique. Even though it deals with California, there is no other State that has this particular problem. We are not setting any precedent for anywhere else.

I yield the balance of my time to the gentleman from Ohio (Mr. BOEHNER), the Speaker.

Mr. BOEHNER. Let me thank my colleague for yielding. My colleagues know that I don't often come to the floor and speak on bills; but as I saw this bill coming up today, I thought to myself, here is a perfect example of government getting in the way.

I never thought, in my wildest dreams, I'd ever run for public office or ever seek to come here to Congress. But as a small businessman, I was concerned about the ever-growing size of the Federal Government and the ever-growing reach of the Federal Government. I saw it in my own business, I saw it with my suppliers, and I saw it with my customers. And out of that frustration, I came here because I thought government was too big, spent too much, and was far too intrusive into our economy and, frankly, our society.

Look at this bill and you will see it's a perfect example of the overreach of government. We've got a group of people in California who don't like production agriculture and who think that using water to grow crops to feed the world is environmentally dangerous. They're using the endangered species law for what I would describe as an unintended purpose. They're using a law to shut down production agriculture that they don't like, and they're abusing a law that was created by this Congress. It is wrong, and it should not stand.

Secondly, here we are in a country where the American people are asking where are the jobs. The President says he's doing everything he can to help create more jobs in America.

□ 1340

Well, here's a situation where we've got tens of thousands of farmers and those who work on those farms in the Central Valley of California being denied the use of their own land, being denied the labor to feed their own families because someone is abusing the law.

This is a good bill, and it ought to pass.

The material previously referred to by Mr. POLIS is as follows:

AN AMENDMENT TO H. RES. 566 OFFERED BY  
MR. POLIS OF COLORADO

At the end of the resolution, add the following new sections:

SEC. 2. Immediately upon adoption of this resolution the Speaker shall, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 964) to protect consumers from price-gouging of gasoline and other fuels, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chair and ranking minority member of the Committee on Energy and Commerce. After general debate the bill shall be considered for amendment under the five-minute rule. All points of order against provisions in the bill are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommend with or without instructions. If the Committee of the Whole rises and reports that it has come to no resolution on the bill, then on the next legislative day the House shall, immediately after the third daily order of business under clause 1 of rule XIV, resolve into the Committee of the Whole for further consideration of the bill.

SEC. 3. Clause 1(c) of rule XIX shall not apply to the consideration of the bill specified in section 2 of this resolution.

(The information contained herein was provided by the Republican Minority on multiple occasions throughout the 110th and 111th Congresses.)

THE VOTE ON THE PREVIOUS QUESTION: WHAT  
IT REALLY MEANS

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Republican majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's Precedents of the House of Representatives (VI, 308 311), describes the vote on the previous question on the rule as "a motion to direct or control the consideration of the subject before the House being made by the Member in charge." To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that "the refusal of the House to sustain the demand for the previous question passes the

control of the resolution to the opposition" in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R-Illinois) said: "The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition."

Because the vote today may look bad for the Republican majority they will say "the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution . . . [and] has no substantive legislative or policy implications whatsoever." But that is not what they have always said. Listen to the Republican Leadership Manual on the Legislative Process in the United States House of Representatives, (6th edition, page 135). Here's how the Republicans describe the previous question vote in their own manual: "Although it is generally not possible to amend the rule because the majority Member controlling the time will not yield for the purpose of offering an amendment, the same result may be achieved by voting down the previous question on the rule . . . When the motion for the previous question is defeated, control of the time passes to the Member who led the opposition to ordering the previous question. That Member, because he then controls the time, may offer an amendment to the rule, or yield for the purpose of amendment."

In Deschler's Procedure in the U.S. House of Representatives, the subchapter titled "Amending Special Rules" states: "a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate." (Chapter 21, section 21.2) Section 21.3 continues: "Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon."

Clearly, the vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Republican majority's agenda and allows those with alternative views the opportunity to offer an alternative plan.

Mr. BISHOP of Utah. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. POLIS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 and clause 9 of rule XX, this 15-minute vote on ordering the previous question will be followed by 5-minute votes on adopting the resolution, if ordered, and agreeing to the Speaker's approval of the Journal, if ordered.

The vote was taken by electronic device, and there were—yeas 241, nays 178, not voting 14, as follows:

[Roll No. 80]

YEAS—241

Adams	Gibson	Nugent
Aderholt	Gingrey (GA)	Nunes
Akin	Gohmert	Nunnelee
Alexander	Gosar	Olson
Amash	Gowdy	Palazzo
Amodei	Granger	Paulsen
Austria	Graves (GA)	Pearce
Bachmann	Graves (MO)	Pence
Bachus	Griffin (AR)	Petri
Barletta	Griffith (VA)	Pitts
Bartlett	Grimm	Platts
Barton (TX)	Guinta	Poe (TX)
Bass (NH)	Guthrie	Pompeo
Benishek	Hall	Posey
Berg	Hanna	Price (GA)
Biggart	Harper	Quayle
Bilbray	Harris	Reed
Bilirakis	Hartzer	Rehberg
Bishop (UT)	Hastings (WA)	Reichert
Black	Hayworth	Renacci
Blackburn	Heck	Ribble
Bonner	Hensarling	Rigell
Bono Mack	Herger	Rivera
Boren	Herrera Beutler	Roby
Boustany	Huelskamp	Roe (TN)
Brady (TX)	Huizenga (MI)	Rogers (AL)
Brooks	Hultgren	Rogers (KY)
Broun (GA)	Hunter	Rogers (MI)
Buchanan	Hurt	Rohrabacher
Bucshon	Issa	Rokita
Buerkle	Jenkins	Rooney
Burgess	Johnson (IL)	Roskam
Burton (IN)	Johnson (OH)	Ross (AR)
Calvert	Johnson, Sam	Ross (FL)
Camp	Jordan	Royce
Campbell	Kelly	Runyan
Canseco	King (IA)	Ryan (WI)
Capito	King (NY)	Scalise
Cardoza	Kingston	Schilling
Carter	Kinzinger (IL)	Schmidt
Cassidy	Kissell	Schock
Chabot	Kline	Schweikert
Chaffetz	Labrador	Scott (SC)
Coble	Lamborn	Scott, Austin
Coffman (CO)	Lance	Sensenbrenner
Cole	Landry	Sessions
Conaway	Lankford	Shimkus
Costa	Latham	Shuster
Cravaack	LaTourrette	Simpson
Crawford	Latta	Smith (NE)
Crenshaw	Lewis (CA)	Smith (NJ)
Culberson	LoBiondo	Smith (TX)
Davis (KY)	Long	Southerland
Denham	Lucas	Stearns
Dent	Luetkemeyer	Stivers
DesJarlais	Lummis	Stutzman
Diaz-Balart	Lungren, Daniel	Sullivan
Dold	E.	Terry
Dreier	Mack	Thompson (PA)
Duffy	Manzullo	Thornberry
Duncan (SC)	Marchant	Tiberi
Duncan (TN)	Marino	Tipton
Ellmers	Matheson	Turner (NY)
Emerson	McCarthy (CA)	Turner (OH)
Farenthold	McCaul	Upton
Fincher	McClintock	Walberg
Fitzpatrick	McCotter	Walden
Flake	McHenry	Walsh (IL)
Fleischmann	McKeon	Webster
Fleming	McKinley	West
Flores	McMorris	Westmoreland
Forbes	Rodgers	Whitfield
Fortenberry	Meehan	Wilson (SC)
Fox	Mica	Wittman
Franks (AZ)	Miller (FL)	Wolf
Frelinghuysen	Miller (MI)	Womack
Galleghy	Miller, Gary	Woodall
Gardner	Mulvaney	Yoder
Garrett	Murphy (PA)	Young (AK)
Gerlach	Neugebauer	Young (FL)
Gibbs	Noem	Young (IN)

NAYS—178

Altmire	Becerra	Blumenauer
Andrews	Berkley	Bonamici
Baca	Berman	Boswell
Baldwin	Bishop (GA)	Brady (PA)
Barrow	Bishop (NY)	Braley (IA)

Brown (FL)	Himes	Pelosi
Butterfield	Hinchey	Perlmutter
Capps	Hinojosa	Peters
Capuano	Hirono	Peterson
Carnahan	Hochul	Pingree (ME)
Carney	Holden	Polis
Carson (IN)	Holt	Price (NC)
Castor (FL)	Honda	Quigley
Chandler	Hoyer	Rahall
Chu	Inslee	Reyes
Cicilline	Israel	Richardson
Clarke (MI)	Jackson (IL)	Richmond
Clarke (NY)	Jackson Lee	Rothman (NJ)
Clay	(TX)	Roybal-Allard
Cleaver	Johnson (GA)	Ruppersberger
Clyburn	Johnson, E. B.	Rush
Cohen	Jones	Ryan (OH)
Connolly (VA)	Kaptur	Sánchez, Linda
Conyers	Keating	T.
Cooper	Kildee	Sanchez, Loretta
Costello	Kind	Sarbanes
Courtney	Kucinich	Schakowsky
Critz	Langevin	Schiff
Cuellar	Larsen (WA)	Schrader
Cummings	Larson (CT)	Schwartz
Davis (CA)	Levin	Scott (VA)
Davis (IL)	Lewis (GA)	Scott, David
DeFazio	Lipinski	Serrano
DeGette	Loebach	Sewell
DeLauro	Lofgren, Zoe	Shuler
Deutch	Lowe	Sires
Dicks	Lujan	Slaughter
Dingell	Lynch	Smith (WA)
Doggett	Maloney	Speier
Donnelly (IN)	Markey	Stark
Doyle	Matsui	Sutton
Edwards	McCarthy (NY)	Thompson (CA)
Ellison	McCollum	Thompson (MS)
Engel	McDermott	Tierney
Eshoo	McGovern	Tonko
Farr	McIntyre	Towns
Fattah	McNerney	Tsongas
Finer	Meeks	Van Hollen
Frank (MA)	Michaud	Velázquez
Fudge	Miller (NC)	Visclosky
Garamendi	Miller, George	Walz (MN)
Gonzalez	Moore	Wasserman
Green, Al	Moran	Schultz
Green, Gene	Murphy (CT)	Waters
Grijalva	Napolitano	Watt
Gutierrez	Neal	Waxman
Hahn	Oliver	Welch
Hanabusa	Owens	Wilson (FL)
Hastings (FL)	Pallone	Yarmuth
Heinrich	Pascrell	
Higgins	Pastor (AZ)	

NOT VOTING—14

Ackerman	Lee (CA)	Rangel
Bass (CA)	Myrick	Ros-Lehtinen
Cantor	Nadler	Sherman
Crowley	Paul	Woolsey
Goodlatte	Payne	

□ 1407

Mr. KUCINICH changed his vote from "yea" to "nay."

Messrs. ALEXANDER, STIVERS, and BURGESS changed their vote from "nay" to "yea."

So the previous question was ordered. The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HASTINGS of Florida. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 245, noes 173, not voting 15, as follows:



[Roll No. 81]

## AYES—245

Adams	Gohmert	Nunes
Aderholt	Gosar	Nunnelee
Akin	Gowdy	Olson
Alexander	Granger	Palazzo
Amash	Graves (GA)	Paulsen
Amodei	Graves (MO)	Pearce
Austria	Griffin (AR)	Pence
Bachmann	Griffith (VA)	Peterson
Bachus	Grimm	Petri
Barletta	Guinta	Pitts
Bartlett	Guthrie	Platts
Barton (TX)	Hall	Poe (TX)
Bass (NH)	Hanna	Pompeo
Benishek	Harper	Posey
Berg	Harris	Price (GA)
Biggert	Hartzler	Quayle
Bilbray	Hastings (WA)	Reed
Bilirakis	Hayworth	Rehberg
Bishop (UT)	Heck	Reichert
Black	Hensarling	Renacci
Blackburn	Herger	Ribble
Bonner	Herrera Beutler	Rigell
Bono Mack	Huelskamp	Roby
Boren	Huizenga (MI)	Roe (TN)
Boustany	Hultgren	Rogers (AL)
Brady (TX)	Hunter	Rogers (KY)
Brooks	Hurt	Rogers (MI)
Broun (GA)	Issa	Rohrabacher
Buchanan	Jenkins	Rokita
Bucshon	Johnson (IL)	Rooney
Buerkle	Johnson (OH)	Roskam
Burgess	Johnson, Sam	Ross (AR)
Burton (IN)	Jones	Ross (FL)
Calvert	Jordan	Royce
Camp	Kelly	Runyan
Campbell	King (IA)	Ryan (WI)
Canseco	King (NY)	Scalise
Cardoza	Kingzinger (IL)	Schilling
Carter	Kissell	Schmidt
Cassidy	Kline	Schock
Chabot	Labrador	Schweikert
Chaffetz	Lamborn	Scott (SC)
Coble	Lance	Scott, Austin
Coffman (CO)	Landry	Sensenbrenner
Cole	Lankford	Sessions
Conaway	Latham	Shimkus
Costa	LaTourette	Shuler
Cravaack	Latta	Shuster
Crawford	Lewis (CA)	Simpson
Crenshaw	LoBiondo	Smith (NE)
Culberson	Long	Smith (NJ)
Davis (KY)	Lucas	Smith (TX)
Denham	Luetkemeyer	Southerland
Dent	Lummis	Stearns
DesJarlais	Lungren, Daniel	Stivers
Diaz-Balart	E.	Stutzman
Dold	Mack	Sullivan
Dreier	Manzullo	Terry
Duffy	Marchant	Thompson (PA)
Duncan (SC)	Marino	Thornberry
Duncan (TN)	Matheson	Tiberi
Ellmers	McCarthy (CA)	Tipton
Emerson	McCaul	Turner (NY)
Farenthold	McClintock	Turner (OH)
Fincher	McCotter	Upton
Fitzpatrick	McHenry	Walberg
Flake	McIntyre	Walden
Fleischmann	McKeon	Walsh (IL)
Fleming	McKinley	Webster
Flores	McMorris	West
Forbes	Rodgers	Westmoreland
Fortenberry	Meehan	Whitfield
Fox	Mica	Wilson (SC)
Franks (AZ)	Miller (FL)	Wittman
Frelinghuysen	Miller (MI)	Wolf
Gallely	Miller, Gary	Womack
Gardner	Mulvaney	Woodall
Garrett	Murphy (PA)	Yoder
Gerlach	Myrick	Young (AK)
Gibbs	Neugebauer	Young (FL)
Gibson	Noem	Young (IN)
Gingrey (GA)	Nugent	

## NOES—173

Altmire	Berman	Brown (FL)
Andrews	Bishop (GA)	Butterfield
Baca	Bishop (NY)	Capps
Baldwin	Blumenauer	Capuano
Barrow	Bonamici	Carnahan
Becerra	Boswell	Carney
Berkley	Brady (PA)	Carson (IN)

Castor (FL)	Hirono	Perlmutter
Chandler	Hochul	Peters
Chu	Holden	Pingree (ME)
Cicilline	Holt	Polis
Clarke (MI)	Honda	Price (NC)
Clarke (NY)	Hoyer	Quigley
Clay	Inslee	Rahall
Cleaver	Israel	Reyes
Clyburn	Jackson (IL)	Richardson
Cohen	Jackson Lee	Richmond
Connolly (VA)	(TX)	Rothman (NJ)
Conyers	Johnson (GA)	Roybal-Allard
Cooper	Johnson, E. B.	Rush
Costello	Kaptur	Ryan (OH)
Courtney	Keating	Sánchez, Linda
Critz	Kildee	T.
Cuellar	Kind	Sanchez, Loretta
Cummings	Kucinich	Sarbanes
Davis (CA)	Langevin	Schakowsky
Davis (IL)	Larsen (WA)	Schiff
DeFazio	Larson (CT)	Schrader
DeGette	Levin	Schwartz
DeLauro	Lewis (GA)	Scott (VA)
Deutch	Lipinski	Scott, David
Dicks	Loebsack	Serrano
Dingell	Lofgren, Zoe	Sewell
Doggett	Lowe	Sherman
Donnelly (IN)	Lujan	Sires
Doyle	Lynch	Slaughter
Edwards	Maloney	Smith (WA)
Ellison	Markey	Speier
Engel	Matsui	Stark
Eshoo	McCarthy (NY)	Sutton
Farr	McCollum	Thompson (CA)
Fattah	McDermott	Thompson (MS)
Filner	McGovern	Tierney
Frank (MA)	McNerney	Tonko
Fudge	Meeks	Towns
Garamendi	Michaud	Tsongas
Gonzalez	Miller (NC)	Van Hollen
Green, Al	Miller, George	Velázquez
Green, Gene	Moore	Visclosky
Grijalva	Moran	Walz (MN)
Gutierrez	Murphy (CT)	Wasserman
Hahn	Napolitano	Schultz
Hanabusa	Neal	Waters
Hastings (FL)	Olver	Watt
Heinrich	Owens	Waxman
Higgins	Pallone	Welch
Himes	Pascrell	Wilson (FL)
Hinchey	Pastor (AZ)	Yarmuth
Hinojosa	Pelosi	

## NOT VOTING—15

Ackerman	Goodlatte	Rangel
Bass (CA)	Lee (CA)	Rivera
Braley (IA)	Nadler	Ros-Lehtinen
Cantor	Paul	Ruppersberger
Crowley	Payne	Woolsey

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining.

□ 1415

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated against:

Mr. BRALEY of Iowa. Mr. Speaker, on roll-call No. 81, had I been present, I would have voted "no."

## PERSONAL EXPLANATION

Mr. GOODLATTE. Mr. Speaker, on rollcall Nos. 81 and 80, due to being unavoidably detained, had I been present, I would have voted "aye."

## THE JOURNAL

The SPEAKER pro tempore. The unfinished business is the question on agreeing to the Speaker's approval of the Journal, which the Chair will put de novo.

The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HASTINGS of Washington. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 283, nays 127, answered "present" 2, not voting 21, as follows:

[Roll No. 82]

## YEAS—283

Aderholt	Duncan (TN)	Loebsack
Alexander	Edwards	Lofgren, Zoe
Altmire	Ellison	Long
Amodel	Ellmers	Lowe
Austria	Engel	Lucas
Baca	Eshoo	Luetkemeyer
Bachmann	Farenthold	Lujan
Bachus	Farr	Lungren, Daniel
Barletta	Fincher	E.
Barrow	Flake	Mack
Bartlett	Fleischmann	Maloney
Barton (TX)	Forbes	Manzullo
Bass (NH)	Fortenberry	Marchant
Becerra	Frank (MA)	Marino
Berg	Franks (AZ)	Matsui
Berkley	Frelinghuysen	McCarthy (CA)
Biggert	Gallely	McCarthy (NY)
Bilbray	Garamendi	McCaul
Bilirakis	Gerlach	McClintock
Bishop (GA)	Gingrey (GA)	McCollum
Black	Gonzalez	McHenry
Blackburn	Gosar	McIntyre
Blumenauer	Gowdy	McKeon
Bonamici	Granger	McKinley
Bonner	Graves (GA)	McMorris
Bono Mack	Green, Al	Rodgers
Boren	Green, Gene	McNerney
Boustany	Griffith (VA)	Meehan
Brady (TX)	Grimm	Meeks
Braley (IA)	Guinta	Mica
Brooks	Guthrie	Michaud
Broun (GA)	Hahn	Miller (FL)
Brown (FL)	Hall	Miller (MI)
Buchanan	Hanabusa	Miller (NC)
Bucshon	Harris	Miller, Gary
Buerkle	Hartzler	Miller, George
Burton (IN)	Hastings (WA)	Moran
Butterfield	Hayworth	Mulvaney
Calvert	Heinrich	Murphy (CT)
Camp	Hensarling	Myrick
Campbell	Herger	Napolitano
Canseco	Higgins	Neugebauer
Capito	Hinojosa	Noem
Capps	Hirono	Nugent
Carnahan	Hochul	Nunes
Carney	Huizenga (MI)	Nunnelee
Carson (IN)	Hultgren	Olson
Carter	Hurt	Palazzo
Cassidy	Issa	Pascrell
Chabot	Jenkins	Paulsen
Chaffetz	Johnson (GA)	Pelosi
Cicilline	Johnson (IL)	Pence
Coble	Johnson, Sam	Perlmutter
Cohen	Kaptur	Petri
Cole	Kelly	Pitts
Connolly (VA)	Kildee	Platts
Cooper	King (IA)	Polis
Courtney	King (NY)	Pompeo
Crawford	Kingston	Posey
Crenshaw	Kissell	Price (GA)
Cuellar	Kline	Price (NC)
Culberson	Labrador	Quigley
Davis (CA)	Lamborn	Rehberg
DeGette	Landry	Reichert
DeLauro	Langevin	Reyes
Denham	Lankford	Richardson
DesJarlais	Larsen (WA)	Rigell
Deutch	Larson (CT)	Rivera
Diaz-Balart	LaTourette	Roby
Dingell	Latta	Rogers (AL)
Doggett	Levin	Rogers (KY)
Dreier	Lewis (CA)	Rogers (MI)
Duncan (SC)	Lipinski	Rohrabacher

Rokita  
Roskam  
Ross (AR)  
Ross (FL)  
Rothman (NJ)  
Roybal-Allard  
Royce  
Runyan  
Ruppersberger  
Ryan (WI)  
Sanchez, Loretta  
Scalise  
Schiff  
Schmidt  
Schock  
Schrader  
Schwartz  
Schweikert  
Scott (SC)  
Scott (VA)  
Scott, Austin  
Scott, David  
Sensenbrenner

Serrano  
Sessions  
Sewell  
Sherman  
Shimkus  
Shuster  
Simpson  
Smith (NE)  
Smith (NJ)  
Smith (TX)  
Smith (WA)  
Speier  
Stark  
Stearns  
Stutzman  
Sullivan  
Sutton  
Thompson (PA)  
Thornberry  
Tiberi  
Tonko  
Towns  
Tsongas

Turner (NY)  
Upton  
Van Hollen  
Walden  
Walz (MN)  
Wasserman  
Schultz  
Watt  
Waxman  
Webster  
Welch  
West  
Westmoreland  
Whitfield  
Wilson (FL)  
Wilson (SC)  
Wolf  
Womack  
Yarmuth  
Young (FL)  
Young (IN)

# NAYS—127

Adams  
Andrews  
Baldwin  
Benishke  
Bishop (NY)  
Boswell  
Brady (PA)  
Burgess  
Capuano  
Cardoza  
Castor (FL)  
Chandler  
Chu  
Clarke (MI)  
Clarke (NY)  
Clay  
Cleaver  
Clyburn  
Coffman (CO)  
Conaway  
Conyers  
Costa  
Costello  
Cravaack  
Critz  
Cummings  
Davis (IL)  
Davis (KY)  
DeFazio  
Dent  
Dicks  
Dold  
Donnelly (IN)  
Doyle  
Duffy  
Emerson  
Fattah  
Filner  
Fitzpatrick  
Foxx  
Fudge  
Gardner  
Garrett

Gibbs  
Gibson  
Graves (MO)  
Griffin (AR)  
Grijalva  
Gutierrez  
Hanna  
Hastings (FL)  
Heck  
Herrera Beutler  
Himes  
Hinchey  
Holden  
Holt  
Honda  
Hoyer  
Hunter  
Inslee  
Israel  
Jackson (IL)  
Jackson Lee  
(TX)  
Johnson (OH)  
Johnson, E. B.  
Jones  
Jordan  
Keating  
Kind  
Kinzinger (IL)  
Kucinich  
Lance  
Latham  
Lewis (GA)  
LoBiondo  
Lynch  
Markey  
Matheson  
McCotter  
McDermott  
McGovern  
Moore  
Murphy (PA)  
Neal

Oliver  
Pallone  
Pastor (AZ)  
Pearce  
Peters  
Peterson  
Pingree (ME)  
Poe (TX)  
Quayle  
Rahall  
Reed  
Renacci  
Ribble  
Richmond  
Roe (TN)  
Rooney  
Rush  
Ryan (OH)  
Sanchez, Linda  
T.  
Sarbanes  
Schakowsky  
Schilling  
Shuler  
Sires  
Slaughter  
Southerland  
Stivers  
Terry  
Thompson (CA)  
Thompson (MS)  
Tierney  
Tipton  
Turner (OH)  
Velázquez  
Visclosky  
Walberg  
Walsh (IL)  
Waters  
Wittman  
Woodall  
Yoder  
Young (AK)

# ANSWERED "PRESENT"—2

Amash Owens

# NOT VOTING—21

Ackerman  
Akin  
Bass (CA)  
Berman  
Bishop (UT)  
Cantor  
Crowley  
Fleming  
Flores  
Gohmert  
Goodlatte  
Harper  
Huelskamp  
Lee (CA)  
Lummis  
Nadler  
Paul  
Payne  
Rangel  
Ros-Lehtinen  
Woolsey

□ 1422

So the Journal was approved.

The result of the vote was announced as above recorded.

# HOOR OF MEETING ON TOMORROW

Mr. HASTINGS of Washington. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 9 a.m. tomorrow.

The SPEAKER pro tempore (Mr. MACK). Is there objection to the request of the gentleman from Washington?

There was no objection.

# SACRAMENTO-SAN JOAQUIN VALLEY WATER RELIABILITY ACT

Mr. HASTINGS of Washington. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the bill H.R. 1837.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The SPEAKER pro tempore. Pursuant to House Resolution 566 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the consideration of the bill, H.R. 1837.

□ 1422

# IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 1837) to address certain water-related concerns on the San Joaquin River, and for other purposes, with Mr. YODER in the chair.

The Clerk read the title of the bill.

The Acting CHAIR (Mr. BASS of New Hampshire). Pursuant to the rule, the bill is considered read the first time.

The gentleman from Washington (Mr. HASTINGS) and the gentlewoman from California (Mrs. NAPOLITANO) each will control 30 minutes.

The Chair recognizes the gentleman from Washington.

Mr. HASTINGS of Washington. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of H.R. 1837, the Sacramento-San Joaquin Valley Water Reliability Act.

Like California, my central Washington district is heavily dependent on irrigated water to support my agricultural industry. I understand the importance of having a stable, reliable water supply. I've witnessed how government regulations and environmental lawsuits can create conflicts for people, and jobs are the losers. However, Mr. Chairman, I have never seen anything like the economic devastation that California's San Joaquin Valley has experienced as a direct result of Federal policies that restrict water supply and that created this man-made drought.

Mr. Chairman, in 2009, Federal regulations to protect an endangered species 3-inch fish led to the deliberate diversion of over 300 billion, Mr. Chairman, 300 billion gallons of water away from the San Joaquin Valley farmers. This caused hundreds of thousands of acres of fertile farmland to dry up. It

put thousands of people out of work, and it caused unemployment to reach 40 percent in some communities.

Last April, the Natural Resources Committee traveled to Fresno, California, for a field hearing where we heard directly from farmworkers and valley growers who have been devastated and seen their livelihoods pushed to the brink by this man-made drought. We heard stories of farmworkers who normally feed the Nation, being forced to stand in food bank lines to receive handouts of carrots—carrots from China.

Mother Nature temporarily rescued this region with historic precipitation last year, but another man-made drought is just around the corner if we do nothing. Rain and snow levels have declined, and just last week the Federal Government announced that the San Joaquin Valley farmers would receive only 30 percent of their initial water allocation for this year. This is unacceptable, and if Congress doesn't act now we will once again see farmworkers having to abandon the fields and return to the food lines.

Families and communities in California have waited far too long for Congress to act. In 2009, Mr. Chairman, and in 2010, Mr. Chairman, while this man-made drought was devastating California, the Obama administration and a Democrat-led Congress did nothing. Republicans are ready to act today on bipartisan legislation that will end this man-made drought and protect up to 30,000 jobs.

This comprehensive solution would restore water deliveries that have been cut off due to Federal regulations and environmental lawsuits. It will ensure a reliable water supply for people and for fish and it will secure water rights just generally, and it will save taxpayer money by ending unnecessary and dubious government projects.

I want to stress, Mr. Chairman, that this man-made drought does not just impact California but has rippling effects across the entire Nation. California's San Joaquin Valley is a salad bowl for the world and provides a significant share of fruits and vegetables for our country. The inability of these farmers to do their jobs would lead negatively to increased reliance on foreign food sources. Why, Mr. Chairman, would we want to do that?

Also, according to an initial analysis by the nonpartisan CBO, this bill will repeal and reduce nearly \$300 million in Federal spending over the next 10 years while also generating nearly \$250 million in revenue. To repeat, this bill cuts spending by \$300 million and it increases revenue by a quarter of a billion dollars.

This bill is a chance to right the regulatory wrongs of the past, to end future man-made droughts, and to protect jobs and economic livelihood of

farmworkers, farmers, and their families. I urge my colleagues to support this bill.

With that, I reserve the balance of my time.

Mrs. NAPOLITANO. Mr. Chairman, I yield myself 5 minutes.

I really applaud my good friend, DOC HASTINGS, with some of the statistics that he was quoting about the farmers in the valley. There were misrepresentations, which were later clarified, of the actual figures that were affected and, unfortunately, they were very far apart, and that's just for the record. I will be glad to give them to anybody who wants them later.

H.R. 1837, the Sacramento-San Joaquin Valley Water Reliability Act is anything but. It repeals existing State law as written for the use of the water from the San Joaquin River in California's Central Valley. It reallocates water in a way that elevates agricultural uses above all other water needs—that's municipal, fisheries, and environmental uses.

This bill was mostly aimed at California; believe me, mostly California. If enacted, it would set precedent: an unprecedented standard of State preemption, environmental disregard, and privatization of a public resource for the benefit of a select view. It could be, in my estimation, renamed the Barrister Employment Act.

□ 1430

The California State legislature stated it best:

H.R. 1837 is almost breathtaking in its total disregard for equity and its willful subjugation of the State of California to the whims of Federal action.

May I point out that in the past my colleagues on the other side have asked for less intrusion of the Federal Government, less government control, let the locals handle it. This would do the reverse. It would put it in the hands of the Federal Government to be able to determine the State's right to enact its own water laws.

Despite amendments to the bill by the majority, it still seeks to make sweeping negative changes to the State's ability to manage water in the west.

It amends the State constitution, and undermines California's ability to manage its own resources.

It would repeal or overturn nearly 20 years of environmental protections under the Central Valley Project Improvement Act, the CVPIA, and the Endangered Species Act, which is normally under attack by my friends on the other side.

It repeals the San Joaquin Restoration Settlement Act, a compromise widely supported by all stakeholders, and diminishes funds for restoration. It also completely eliminates the coequal goal of protecting the environment and allowing for water deliveries.

It puts jobs of fishermen at risk. The Pacific Fishery Management Council has raised concerns about the impacts on the fishery and fishing communities. The northwest fisheries were closed in 2008 and 2009 and parts of 2010. They had no fishing. The industry was lost to them.

The Subcommittee on Water and Power received over 34 letters with nearly 300 stakeholders opposing this legislation. They include the Western States Water Council; seven States—California, Colorado, Montana, Nevada, New Mexico, Arizona, and Wyoming; the Department of the Interior; and a statement of administration policy. Also, the senior Senator and the junior Senator of California oppose this. And the list goes on: elected officials, environmental groups, State legislatures, attorneys general offices, Governors' offices, and letters from these different States, not to mention the non-partisan, 18 Governor-appointed Western States Water Council.

The scope of harmful provisions included in this legislation is matched only by the number of necessary provisions left out. Also, the severity of this legislation, which benefits only a small group, not all of California.

Through a series of amendments, my colleagues seek to address the glaring issues associated with the legislation—the subsidies reform, construction of new facilities, and use of best available science.

Mr. Chairman, this is a bad bill, and I urge a "no" vote. I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Chairman, I am very pleased to yield 5 minutes to the gentleman from California (Mr. MCCLINTOCK), the chairman of the subcommittee that developed this legislation on the Natural Resources Committee.

Mr. MCCLINTOCK. Mr. Chairman, I thank the gentleman for yielding, and I compliment the gentlelady from California on stating the opposite of this bill with remarkable precision.

It does not repeal 20 years of California water law; it restores it by restoring the allocation that was agreed to by a broad bipartisan coalition in the Bay-Delta Accord of 1994. In fact, at that time, the Democratic Interior Secretary, Bruce Babbitt, assured all parties that this agreement would be honored by the State and Federal governments.

His promise was broken first by his own Department and most recently when a Federal court deemed the delta smelt to be more important than the livelihoods of thousands of Central Valley farmworkers. Hundreds of billions of gallons of water that these communities had already paid for and depended upon were simply expropriated and blissfully and cavalierly dumped into the Pacific Ocean, turning much of California's fertile Central Valley into a dust bowl.

This bill redeems the promise made to the people of California and restores the allocations that were agreed to.

We hear: Well, that was then and this is now, and the science has changed. What they are referring to is not science; it is ideology masquerading as science. In 2010, their claims were thrown out of the Federal court, which cited ideological zealots who had attempted to, in the words of the court, "Mislead and to deceive the court into accepting what is not only not the best science, it's not science."

The science is this: the Northwest Fisheries Science Center determined the Pacific Decadal Oscillation is a principal factor in salmon migration. Ocean currents.

The California Department of Water Resources determined that pumps which deliver water to the Central Valley had a negligible influence on salmon and delta smelt migration.

The National Academy of Sciences reported that nonnative and invasive predators, like the striped bass, are a far more significant influence on salmon and delta smelt populations.

So the second thing that this bill does is to replace the ideological zealotry that created this human disaster with practical and fact-based solutions to support native delta smelt and salmon populations. For example, as I said earlier, it's common to find striped bass in the delta gorged with salmon smolts and delta smelt. This bill allows open season on these destructive, invasive, and nonnative predators.

Fish hatcheries produce millions of salmon smolts each year, and tens of thousands return as fully grown adults to spawn, but these fish are not allowed to be counted. This bill counts them, ensuring that hatcheries will produce thriving and bountiful populations of salmon and delta smelts and any other species considered endangered.

The San Joaquin River Settlement Act envisions an absurdly impractical year-round cold water salmon fishery on the hot valley floor at an estimated cost of \$2 million per individual fish. That act was adopted by the Democrats 2 years ago when they controlled this House. It is so expensive because it attempts to establish something that only existed sporadically in nature. Instead, this bill establishes a year-round warm water fishery that acts in concert with the habitat at a fraction of the cost.

Third, the bill removes disincentives in current law that discourage farmers from purchasing surplus water in wet years to recharge groundwater banks.

It removes prohibitive regulatory restrictions on water transfers between willing buyers and willing sellers, which once had efficiently distributed water throughout that system from areas of surplus to areas of shortage.

It allows environmental flows to be recycled and used by human communities once those flows have achieved their environmental purposes.

Fourth, it brings the full force of Federal law to invoke and protect State water rights and forbid their violation by any bureaucracy: local, State, or Federal. In fact, this provision specifically addressed concerns raised by the very same opponents to the original bill who feared that, because of the unique joint operating agreement between the State and Federal Governments, changes in Federal allocations could lead to raids on senior water rights holders by the State government.

This provision fully addresses those concerns through the Federal Government's legitimate constitutional authority in the 14th Amendment to protect the property rights of its citizens against encroachment by any government bureaucracy. This is the preemption issue that the opponents are raising. They are some of the same opponents who attacked the original bill for not protecting those rights. This bill doesn't preempt those rights; it specifically invokes them and protects them.

It brings to an end the predation on the working people of California. It places senior water rights holders in a safe and secure position, and treats our water as the precious resource it is.

Mrs. NAPOLITANO. I yield 4 minutes to the gentleman from California (Mr. GARAMENDI).

Mr. GARAMENDI. I thank the gentlewoman.

One hardly knows where to start, when you take California water law and push it aside and preempt it with Federal water law, really running over the top of the State of California, and then you steal 800,000 acre-feet and transfer it to your buddies—yes, you're going to come up with a lot of reasons why it makes sense. But the reality is quite different.

Let us understand very clearly here that 150 years of California water law is thrown out and a new Federal law is put in place that preempts California water law. The 1994 CALFED agreement was an interim agreement. It was never, ever intended to be a permanent statutory agreement on how water would be delivered in California.

In addition to that, let me understand—yes, I see your little chart over there that you're going to throw up. That was 1994, and it said precisely what we ought to do today. And that is: today, we ought to be working together to solve the problems of California water. And guess what, California is.

But with this law in place, it won't happen. The ability of California to work together to solve its problems is thrown out. What sense does that make unless you want to steal 800,000 acre feet of water and take an agreement

that was forged over 20 years ago to solve a problem on the San Joaquin River that is not for year-round salmon flows but only for the spring salmon flows. Why would you want to do that, except you want to take somebody's water?

□ 1440

The water is the water of the fishermen as well as the water of the farmers.

By the way, facts are ugly little things. There are no 3,000 people that lost their jobs, no 60,000 people that lost their jobs. The University of California, Berkeley, the University of California, Davis, and the University of the Pacific all say that the losses were less than 7,000, which almost equaled the loss of the fisheries.

When we get to the end of this story, it is going to be a story of the rest of the Nation. If you happen to be a Western State, if you happen to be a Midwestern State that has a Federal water project from the Bureau of Reclamation, beware, because this is the first-ever attempt to throw aside 100 years of reclamation law in which deference is given to the States over the power of their water rights and their water laws.

Yes, you can say section 4 of this bill deals with that. No, it doesn't. It does not deal with the totality of California law. In fact, the bill destroys that totality.

Western States are opposed to this. The list has been given. Other States, watch out. This is a power grab. This is a water grab. This is an imposition of the Federal authority over the States, and specifically over California.

Yes, Mr. Chairman—excuse me, if I might, through the Chair—you said that there is 100 percent water. No water district except those that preceded the Federal project have 100 percent allocation. Every other water district has shortage provisions in those water contracts.

By the way, whatever power we may have, we don't have the power to overcome a natural drought, which is precisely what is happening in California today and happened during the period that this bill speaks to. It was a natural drought. Yes, there were restrictions placed on the pumps, restrictions that were necessary to protect an endangered species.

By the way, the judge that you cited took a job 45 days after he quit with the water contractor that is supporting this bill. Figure it out yourself. Figure out what is going on here. This is a theft of 800,000 acre feet of environmental water. This is an overturning of California water law, and we ought not do it.

ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR. The Chair would remind Members to address their remarks to the Chair.

Mr. HASTINGS of Washington. Mr. Chairman, before I yield to the sponsor

of this legislation, I yield myself 30 seconds to simply point out that the statistics I used as it relates to unemployment come from Fresno County. That is a county where all of this was impacted. The statistics that were cited by my friends across the aisle were from outside that area.

The second point I want to make is that I have letters here from 14 senators and 18 members of the California legislature. I insert their letters in support in the RECORD.

SACRAMENTO-SAN JOAQUIN VALLEY WATER RELIABILITY ACT—ORGANIZATIONS IN SUPPORT  
WATER AGENCIES/ORGANIZATIONS

California Water Alliance  
Families Protecting the Valley  
Northern California Water Association \*  
Family Water Alliance  
California Watershed Posse  
Westlands Water District  
San Luis Delta-Mendota Water Authority:  
Banta-Carbona Irrigation District,  
Broadview Water District, Byron Bethany Irrigation District (CVPSA), Central California Irrigation District, Columbia Canal Company, Del Puerto Water District, Eagle Field Water District, Firebaugh Canal Water District, Fresno Slough Water District, Henry Miller Reclamation District #2131, James Irrigation District, Laguna Water District, Mercy Springs Water District, Oro Loma Water District, Pacheco Water District, Pajaro Valley Water Management Agency, Panoche Water District, Patterson Irrigation District, Pleasant Valley Water District, Reclamation District 1606, San Benito County Water District, San Luis Water District, Santa Clara Valley Water District, Tranquillity Irrigation District, Turner Island Water District, West Side Irrigation District, West Stanislaus Irrigation District  
Placer County Water Agency \*  
Nevada Irrigation District \*  
El Dorado Irrigation District \*  
Exchange Contractors \*\*  
Modesto Irrigation District \*\*  
San Joaquin Tributaries Association \*\*  
Kern County Water Agency: Belridge Water Storage District, Berrenda Mesa Water District, Buena Vista Water Storage District, Cawelo Water District, Henry Miller Water District, Kern Delta Water District, Lost Hills Water District, Rosedale-Rio Bravo Water Storage District, Semitropic Water Storage District, Tehachapi-Cummings County Water District, Tejon-Castac Water District, West Kern Water District, Wheeler Ridge-Maricopa Water Storage District  
Tehama Colusa Canal Authority: Proberta Water District, Kirkwood Water District, Thomes Creek Water District, Corning WD, Orland-Artois Water District, Glide Water District, Kanawha Water District, Holthouse Water District, Cortina Water District, Davis Water District, LaGrande Water District, 4M Water District, Dunnigan Water District, Colusa County Water District, Westside Water District  
Bella Vista Water District  
Reclamation District No. 108 \*  
Maxwell Irrigation District \*  
Sutter Mutual Water Company \*  
Provident Irrigation District \*  
Natomas Mutual Water Company \*  
River Garden Farms \*  
Glenn Colusa Irrigation District \*  
Glenn-Colusa Irrigation District \*  
Princeton-Codora-Glenn Irrigation District \*

Chowchilla Irrigation District\*  
 NATIONAL ORGANIZATIONS  
 U.S. Chamber of Commerce  
 National Federation of Independent Business  
 Americans for Limited Government  
 National Taxpayers Union  
 Americans for Tax Reform  
 Citizens Against Government Waste  
 American Land Rights Association  
 Small Business & Entrepreneurship Council  
 Western Business Roundtable  
 NATIONAL FARM ORGANIZATIONS  
 Western Growers  
 Family Farm Alliance  
 Agricultural Retailers Association  
 National Turkey Federation  
 National Cattlemen's Beef Association  
 National Agricultural Aviation Association  
 National Cotton Council  
 American Pima Cotton Producers  
 National Chicken Council  
 Milk Producers Council  
 National Onion Association  
 Supima  
 Western Plant Health Association  
 Dairy Farmers of America  
 Western Agricultural Processors Association  
 Irrigation Association  
 CALIFORNIA FARM ORGANIZATIONS  
 California Wool Growers Association  
 California Cattlemen's Association  
 California Grain Feed Association  
 California Cotton Ginners & Growers Assoc.  
 California Citrus Mutual  
 California Olive Growers Council  
 California Grape and Tree Fruit League  
 California Dairies Inc.  
 California Poultry Federation: Foster Farms; Aviagen Turkeys, Inc.; Zacky Farms; Squab Producers of California; Willie Bird Turkeys  
 Apricot Producers of California  
 Allied Grape Growers  
 Almond Hullers & Processors Association  
 LOCAL FARM ORGANIZATIONS  
 Fresno County Farm Bureau  
 Kern County Farm Bureau  
 Tulare County Farm Bureau  
 Kings County Farm Bureau  
 Madera County Farm Bureau  
 Merced County Farm Bureau  
 Fresno-Kings Cattlemen  
 CALIFORNIA BUSINESSES  
 Paramount Farms  
 Harris Ranch  
 Harris Woolf Almonds  
 Borba Farms  
 Land O' Lakes  
 Sagoupe Enterprises LLC  
 Sagoupe Family Orchards I, II, III, IV  
 Lyons Magnus  
 Wawona Packing  
 Lyons Transportation  
 Triple J Partners  
 Ghost Ranch LLC  
 Old West Management LLC  
 Panoche Creek Packing, Inc.  
 Double D Farms  
 Penny Newman Grain Company  
 Chaney Ranch  
 Wind Fall Farms  
 Panoche Creek Farms  
 J.G. Avila Farms  
 Rock'n JK Farms  
 Sano Farms  
 Quad Knopf—Civil Engineering  
 Alvarado Building Group

Kingsburg Federal Land Bank  
 AGRI Crop Insurance Agency  
 Redding Electric Utility  
 Proteus Inc.  
 Aquarius Aquarium Institute  
 Ferguson Farming Company  
 Lost Wagon Wheel Ranch  
 Brooks Ransom Associates  
 Bettencourt Farms  
 Kings Ranch  
 Waymire Farms  
 Nelson Ranch  
 Triple J Trust  
 Westside Ranch  
 Freitas Farms 1  
 JHP Ranch Inc  
 Joseph G Freitas Farms  
 Brooks Farms  
 GCM Farms  
 Farmer's Fury Winery  
 Stone Land Company  
 Errotabere Ranches  
 Houlding Farms  
 TEA PARTY SUPPORTERS  
 Mark Meckler, Co-Founder Tea Party Patriots  
 Central Valley Tea Party  
 North Valley Patriots  
 OTHER SUPPORTERS  
 Stewards of the Sequoia  
 Kelly Lillies, Area Administrator, Catholic Charities  
 TRIBAL GOVERNMENTS  
 Santa Ynez Band of Chumash Indians  
 STATE ELECTED LEADERS  
 Senator Jean Fuller  
 Senator Bill Emmerson  
 Senator Anthony Cannella  
 Senator Joel Anderson  
 Senator Bob Huff  
 Senator Tom Berryhill  
 Senator Mimi Walters  
 Senator Tony Strickland  
 Senator Mark Wyland  
 Senator Bob Dutton  
 Senator Tom Harman  
 Senator Sharon Runner  
 Senator Ted Gaines  
 Senator Doug LaMalfa  
 Minority Leader Connie Conway  
 Assemblyman David Valadao  
 Assemblyman Jeff Miller  
 Assemblywoman Diane Harkey  
 Assemblywoman Shannon Grove  
 Assemblyman Jim Silva  
 Assemblyman Brian Jones  
 Assemblyman Cameron Smyth  
 Assemblyman Katcho Achadjian  
 Assemblyman Donald Wagner  
 Assemblyman Mike Morrell  
 Assemblyman Allan Mansoor  
 Assemblyman Brian Nestande  
 Assemblyman Steve Knight  
 Assemblywoman Linda Halderman  
 Assemblyman Paul Cook  
 Assemblyman Martin Garrick  
 Assemblyman Curt Hagman  
 CITIES/COUNTIES  
 Kings County Board of Supervisors  
 Tulare County Board of Supervisors  
 Merced County Board of Supervisors  
 Fresno County Supervisor Phil Larson  
 Fresno County Supervisor Deborah Poochigian  
 Fresno County Supervisor Judith Case  
 Madera County Supervisor Frank Bigelow  
 Madera County Supervisor David Rogers  
 Madera County Supervisor Ronn Dominici  
 Stanislaus County Supervisor Terry Withrow  
 Fresno City Council President Clinton Olivier

Madera City Councilwoman Sally Bompreszi  
 Madera City Councilmember Robert Poythress  
 Madera City Councilmember Gary Svanda  
 City of Clovis  
 City of Orange Cove  
 City of Reedley  
 City of Huron  
 City of Dinuba  
 City of Visalia  
 City of Lindsay  
 City of Tulare  
 City of Woodlake  
 City of Farmersville  
 City of Firebaugh  
 City of Kingsburg  
 City of Kettleman City  
 City of Lemoore  
 City of Coalinga  
 City of Porterville  
 City of Chowchilla  
 City of Waterford

## LAW ENFORCEMENT

Fresno County DA Elizabeth Egan  
 Tulare County DA Phil Cline  
 Tulare County Sheriff Bill Wittman  
 Fresno County Sheriff Margret Mims  
 Madera County Sheriff John Anderson  
 Kings County Sheriff Dave Robinson

## LOCAL BUSINESS ORGANIZATIONS

Fresno Chamber of Commerce  
 Clovis Chamber of Commerce  
 Visalia Chamber of Commerce  
 Tulare Chamber of Commerce  
 Kingsburg Chamber of Commerce  
 Greater Bakersfield Chamber of Commerce  
 Greater Reedley Chamber of Commerce  
 Riverbank Chamber of Commerce  
 Home Builders Association of Tulare-Kings  
 \* Support limited to Title IV.  
 \*\* Supports bill but no opinion on Title II.  
 \*\*\* Friant settling party supports bill—recommends settling parties adopt Title II.

## ASSEMBLY,

CALIFORNIA LEGISLATURE,  
 Sacramento, CA, June 9, 2011.

Congressman DEVIN NUNES,  
 Longworth House Office Building,  
 Washington, DC.

CONGRESSMAN DEVIN NUNES: We, the undersigned members of the CA State Legislature, support The San Joaquin Valley Water Reliability Act, H.R. 1837, as introduced by Congressman Devin Nunes (R-21) and co-sponsored by Congressman Jeff Denham (R-19) and Majority Whip Kevin McCarthy (R-22).

H.R. 1837 is sensible water policy that codifies the bipartisan Bay-Delta Accord into law and also reforms the Central Valley Project Improvement Act (CVPIA). By doing so, water supplies will be increased by 1.4 million acre-feet annually, which will create 25,000 30,000 jobs in the San Joaquin Valley, a region suffering from 20-40% unemployment. Additionally, by repealing and replacing the San Joaquin River Settlement with a viable alternative, H.R. 1837 will save taxpayers \$1 billion.

We would like to express our support for this important piece of legislation.

Sincerely,

David G. Valadao, 30th District; Diane Harkey, 73rd District; Jeff Miller, 71st District; Shannon Grove, 32nd District; Jim Silva, 67th District; Connie Conway, 34th District; Katcho Achadjian, 33rd District; Mike Morrell, 63rd District; Brian Jones, 77th District; Cameron Smyth, 38th District; Donald P. Wagner, 70th District; Allan R. Mansoor, 68th District; Brian

Nestande, 64th District; Linda Halderman, 29th District; Martin Garrick, 74th District; Steve Knight, 36th District; Paul Cook, 65th District; Curt Hagman, 60th District.

CALIFORNIA STATE SENATE,  
Sacramento, CA, February 27, 2012.

Congressman DEVIN NUNES,  
Longworth House Office Building,  
Washington, DC.

CONGRESSMAN DEVIN NUNES, We, the undersigned members of the California State Legislature, support the San Joaquin Valley Water Reliability Act, H.R. 1837, as introduced by Congressman Devin Nunes (R-21) and co-sponsored by Congressman Jeff Denham (R-19) and Majority Whip Kevin McCarthy (R-22).

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We would like to express our support for this important piece of legislation.

Sincerely,

Jean Fuller, 18th Senate District; Anthony Cannella, 12th Senate District; Bob Huff, 29th Senate District; Bill Emmerson, 37th Senate District; Joel Anderson, 36th Senate District; Tom Berryhill, 14th Senate District; Mimi Walters, 33rd Senate District; Mark Wyland, 38th Senate District; Tom Harman, 35th Senate District; Ted Gaines, 1st Senate District; Tony Strickland, 19th Senate District; Bob Dutton, 31st Senate District; Sharon Runner, 17th Senate District; Doug LaMalfa, 4th Senate District.

At this time, I am very pleased to yield 3 minutes to the gentleman from California (Mr. NUNES), the sponsor of this legislation, who has been an absolute leader on bringing this to national attention.

Mr. NUNES. Mr. Chairman, I would like to remind the gentleman from California that facts are a funny thing, and the Deputy Under Secretary approved this bipartisan agreement in 1994.

I remind the gentleman also that I defended his right in the Rules Committee. I defended the right of the Democrats to have all their amendments made in order.

Mr. Chairman, when the Federal Government began to pass State preemption to take their water away, you can see here that up until this time we had full water allotment throughout California. Yes, when there was a drought, there were a few years we didn't have water, but look at the chaos that has erupted since. This is an important point. The Congress, by using State preemptions, has managed to take water away from cities, communities, and families.

The opponents of this bill claim that somehow the salmon population is de-

creasing. We can see here in this graph at the bottom—I know it may be hard for some folks to see. The water exports are here. The green represents total water that flowed into the delta throughout the last 25 years. The red line indicates salmon populations. Lo and behold, there is no correlation between the water inflow into the delta and salmon population.

But I will agree that the salmon population has declined, and this bill begins to fix that problem. Why? Because the delta smelt and salmon are being eaten by predator fish that are nonnative to the delta. Let me say that again. Striped bass, nonnative to the delta.

This scientific evidence shows, as the bass population has increased, the smelt population has declined. This bill rectifies this. This bill allows fishermen to fish for the nonnative species. What this is about is we're shutting off the water to Californians and to their families because of the delta smelt right here.

They talk a lot about these dangerous pumps that are pumping this water, these engineering projects that allowed this valley to bloom, that have improved the environment over time. Less than 2 percent of the juvenile salmon—it is negligible in the pumps. Instead of looking at ways to stop that negligible impact, we allow the predator fish, the striped bass, to eat 65 to 90 percent of the juvenile salmon that are being eaten by this bass.

The Acting CHAIR. The time of the gentleman has expired.

Mr. HASTINGS of Washington. I yield to the gentleman an additional 1 minute.

Mr. NUNES. Here we have evidence of this. You can see the bass—I know this is a little gruesome for some folks at home. Here you have the smelt inside the bass. Yet this government is allowing this nonnative species to eat the thing that they so love, the delta smelt.

What has been the result, Mr. Chairman? Food lines. In the breadbasket of the world where they used to grow the Nation's carrots, we now import carrots from China to feed the people in the food lines. This is what this is about. These are children in a food line eating carrots imported from China.

Does this Congress have a moral compass to do the right thing with regards to children in food lines eating carrots imported from China?

The Acting CHAIR. The time of the gentleman has again expired.

Mr. HASTINGS of Washington. I yield the gentleman an additional minute.

Mr. NUNES. Mr. Chairman, we don't need any fancy speeches here today. A sixth-grader from an elementary school in my district—I won't read the whole thing—sent this letter:

Not only does this problem affect the farming industry, it also affects the farmers, fam-

ilies, and their livelihood. I am sure you've heard this complaint. But before, as with future generations, it is of great concern to me. Please do what you can to get the water to the farmers once again, then we can use the fertile soil that the people of this valley have been blessed with.

This sixth-grader is correct. This Congress should do the right thing. We need Democrats and Republicans to come together today. As the Speaker of the House stated earlier, this is to right a wrong.

I urge passage of this bill.

Mrs. NAPOLITANO. Mr. Chairman, I can't believe how many of these people that wrote letters and the stakeholders, including 105 fishing agencies, could be so wrong.

I yield 3 minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. I thank the gentleman.

While this bill directly affects the State of California, even though the State of California opposes the legislation, it is also opposed by representatives of the other western water interests—the State of Montana, the State of New Mexico, the State of Oregon, the State of Wyoming, the State of Colorado—which have all joined California in saying they don't want this bill.

Why are they all saying that? They are saying it because of the precedent that it will set in upsetting settled water rights in the West.

□ 1450

Now, to address that issue, the Republicans have inserted in the bill language that says this bill does not set a precedent in upsetting all the water rights in the West, as it upsets all the water rights in California. So, what's that like? Well, in 1929, the Belgian surrealist painter, Rene Magritte, painted a painting of a tobacco pipe. Under the pipe, he painted the words, "This is not a pipe." But of course it was a pipe—or at least a painting of a pipe. This bill has a similar surrealistic quality to it.

The bill states that the violence of this bill in upsetting water rights is not a precedent, that nothing that happens in California will be a precedent for any other State—which is why of course all the other States are opposing the bill because of the precedent that it sets. This bill sets the precedent to upset all those other arrangements. Others in the West who may wish to restructure water rights elsewhere around the West will look to it as a precedent. So I would say to the majority: nice job, but no cigar.

Clearly, this bill does set a bad precedent, and we can't get around that fact just by putting in the bill that it does not set a precedent. You are, for all intents and purposes, taking all of those arrangements set up over generations and in one bill—opposed by all those States—upsetting the apple cart and

setting a brand new era. And you cannot get around it by saying in the bill: This does not set a precedent.

Mr. HASTINGS of Washington. Mr. Chairman, I am very pleased to yield 2½ minutes to the gentleman from northern California (Mr. HERGER), an individual who unfortunately is leaving Congress after this, but who has been a leader on property rights in that part of his State of California.

Mr. HERGER. Mr. Chairman, I originally voiced strong concerns when this legislation was first introduced last year, arguing that it would negatively impact northern California's water supplies and undermine our senior water rights; but under Chairman HASTINGS' leadership, it has come a very, very long way.

We have amended the bill so it not only protects northern California water and power users I represent, but in many respects puts them in a materially better position. As such, I intend to strongly support it. It contains important reforms to the CVPIA, a law that has, like so many others, gone awry, including greater certainty for agriculture through longer-term contracts, improved financial accountability, and a cap on the amount ratepayers I represent must pay into the restoration fund.

Most importantly, a new title IV contains an explicit Federal recognition of California water rights priority system and area of origin protections. Going forward, it will also ensure water users in our area are not harmed by efforts to address environmental and water-quality challenges in California. We have created an important baseline for any water legislation to ensure northern California's water needs will be met first.

There is broad support for these provisions, including from the Tehama Colusa Canal Authority, representing 17 water districts; the Northern California Water Association; eight absolute priority settlement contractors; the city of Redding; Redding Electric Utility; and the Family Water Alliance, a group representing Sacramento Valley landowners.

In short, the bill seeks to solve another tragic ESA-caused water shortage facing our family farmers in California. And it does so while fully protecting senior water rights holders in my district, and in many ways enhancing their positions.

I urge strong support for the bill.

Mrs. NAPOLITANO. Mr. Chairman, I yield 3½ minutes to the gentleman from California (Mr. COSTA).

Mr. COSTA. I thank the gentlewoman for yielding.

Mr. Chairman, I rise to discuss a matter of great importance to my constituents in the San Joaquin Valley, and that's the future of our water supply. More importantly, it's our Nation's food supply and, therefore, an

important part of the world's food supply.

H.R. 1837 is not perfect and has issues I think the authors should seriously consider, but I am supporting the legislation today because of a number of important provisions it contains.

Titles I and III of the legislation aim to address the biggest challenges for water policy in California. In 2009 and 2010, valley communities suffered through a hydrological and regulatory drought that was insufferable. This year, we are again faced with below-average snow pack in the mountains and may see as little as a 30 percent allocation for water in our area.

My congressional district is the most impacted in California by this shortfall. Farmers, farmworkers, and farming communities that live in my district is what I'm talking about. Our water system is broken in California; but while we're trying to fix it, we need operational flexibility while we continue to work on the long-term issues of the Bay-Delta Conservation Plan.

We should be discussing more constructive ways in which we can work together.

Title II of this measure repeals and replaces the San Joaquin River Restoration Act. After 18 years of litigation, the parties involved decided to reach an out-of-court settlement agreement. We can all dispute that, but it was those 22 districts' local government that we respected who asked them to codify their out-of-court settlement agreement. I note that the Friant Water Authority continues to oppose title II of the bill, as do many of the districts who were involved with the writing and the negotiation of the settlement agreement.

Now, we do have problems with the implementation of the program—Congressman CARDOZA and I will tell you—from the schedule, to costs, to third-party impacts, to the fulfillment of the water management goal, which is critical to the water users. These issues need to be addressed. But simply repealing the settlement agreement won't solve any of these problems, in my view. In fact, I'm certain they'll be back in court the next day, and that's not solving a problem.

We have had a long history of working on a bipartisan basis in California and in the San Joaquin Valley among our Representatives on water. It frustrates me to see the division on the House floor that has politicized this situation and arguably does nothing for the people that I represent. I have always been willing to work on both sides of the aisle, with the Senate, and with the administration to get things done for our valley; and I have done that throughout my career. But unless we are willing to work with Senator FEINSTEIN, who I know wants to be helpful, I predict that this measure today, as it is proposed, will never be

heard in the United States Senate. Therefore, it will never bring an additional single drop of water to our region that is desperately in need of more water.

I think we can do better for our constituents by working together on a bipartisan basis with both Houses to develop and implement solutions both in the long term and the short term. These are the efforts that really will increase our water supply, which all Californians need and deserve to have.

Mr. HASTINGS of Washington. Mr. Chairman, how much time is remaining on both sides?

The Acting CHAIR. The gentleman from Washington has 12½ minutes remaining, and the gentlewoman from California has 15½ minutes remaining.

Mr. HASTINGS of Washington. Mr. Chairman, I am very pleased to yield 3 minutes to the gentleman from California (Mr. DENHAM), a new Member who represents part of this area that has been devastated and who was an integral player on developing this legislation.

Mr. DENHAM. Mr. Chairman, a lot has been said about our area of the State, where you have 30 to 40 percent unemployment in some areas. It's not a Republican issue; it's not a Democrat issue. It is an American jobs issue—to put people back to work.

Some people say, Well, those aren't the kinds of jobs that we want. You know, it's a dusty, dirty way to earn a living. Yeah, it is dusty; it is dirty. I'm a farmer. And without water, you shut down not only my farm, but you shut down farms throughout the valley, you shut off our food supply, you shut off all of those jobs that desperately rely on water.

Now, a lot of people like to talk about a deal is a deal. Back in 1994, we had this grand deal that took CVPIA water, took 800,000 acre-feet for environmental purposes. The deal was that water was supposed to be replaced. The Department of the Interior never did that, just stole 800,000 acre-feet of water, which still has to be paid for by the contract; but nevertheless, we need to make sure that our valley farmers are held whole.

Let me talk about a couple of different issues within this bill.

□ 1500

Again, this is about our priorities as the House. The Senate may or may not agree with them, but we'll never know if we don't have the debate. Shouldn't the Senate at least have an opportunity to look at this bill and vote on the bill and debate the bill?

If they don't like the bill, present us your own; but don't just ignore valley farmers. Don't just ignore the amount of jobs that we're losing as a State. You don't like it, come up with your own bill. We'll vote on that; we'll debate on that.



But we're going to express our priority, and our priority is about the jobs of the Central Valley. We're going to send you a bill that not only deals with greater water certainty, but also deals with duplicative regulation.

I'm also on the Transportation Committee; and whether it's the Resources Committee or the Transportation Committee, when you have a higher environmental law, like California does, why go through these same environmental policies twice? Why not streamline NEPA so that you don't have that duplicative regulation that shuts down our water projects?

And while we're at it, we can fight all we want on where the water that we currently have is delivered or who wins and who loses; but we lose as a State, we lose as a country until we get more water storage.

We've put an amendment in this bill in committee that will authorize new water storage, whether it's Sites Reservoir, Los Vaqueros, Shasta or, in my area, Temperance Flat. But we have to have more off-stream storage.

And in Los Vaqueros, in Congressman GARAMENDI's own district, in his own backyard, we can have water storage today without any cost to the Federal taxpayers. Where we've got users that are willing to pay for more water storage, and the water is desperately needed, why wouldn't we approve those projects?

That's authorized in this bill. This bill deals with certainty. This does deal with a number of years of a problem, and it certainly deals with drought years, as well as certainty in wet years. But it also deals with greater water storage.

So if you want to end this debate once and for all, let's make sure we keep up with the population growth of California. Let's have greater water storage, and let's solve this problem so that we don't have the double-digit unemployment in the Central Valley.

Mrs. NAPOLITANO. Mr. Chairman, I must mention that California agriculture had the biggest banner year during that period, in other words, in the billions more than they had in prior years during this drought.

So with that, I yield 3 minutes to the gentleman from California (Mr. McNERNEY).

Mr. McNERNEY. Mr. Chairman, someone needs to stand up and defend the delta. I'm standing to express my strong opposition to H.R. 1837. This legislation will do tremendous damage and harm to the San Joaquin Delta, an area that I'm honored to represent.

The San Joaquin Delta is a treasure for California and the entire Nation. The delta flows through five counties and sustains major cities, small towns, and lush farmland. Agriculture is the economic backbone of the delta, generating nearly \$800 million per year revenue in 2009.

Unfortunately, the delta ecosystem is now in decline due to excessive water shipments to the south. Poor water quality is a threat to the region's entire agricultural economy and heritage. H.R. 1837 would even ship more water out of the delta, turning this precious estuary into a salty, stagnant marsh, crushing the local economy, and costing the delta region thousands and thousands of jobs.

This bill is a blatant water grab meant to help some communities at the expense of others. Contrary to the conservative principles that this bill's proponents claim to cherish, H.R. 1837 uses the power of the Federal Government to undermine states' rights.

Dozens of local governments, businesses, agricultural advocates, environmental groups and others oppose H.R. 1837. I have letters from these groups, and I will insert them into the RECORD.

FEBRUARY 27, 2012.

Re OPPOSE H.R. 1837 (Nunes).

Hon. JOHN BOEHNER,

*Speaker of the House, House of Representatives, The Capitol, Washington, DC.*

DEAR SPEAKER BOEHNER: On behalf of the undersigned organizations, we urge you to oppose the "San Joaquin Valley Water Reliability Act," (H.R. 1837), which was introduced by Representative Nunes. Furthermore, we do not believe that this bill merits a vote by the U.S. House of Representatives.

H.R. 1837 overrides the public trust as defined in the California Constitution and state water laws. It reverses the long-standing Congressional principle that the federal government should follow state water law whenever possible.

H.R. 1837 would reduce water quality and water availability for Delta communities and Delta farmers. It seeks to ensure water flows to corporate agribusiness in the western and southern San Joaquin Valley at the expense of Delta family farmers. The recently-released Economic Sustainability Report authored by the Delta Protection Commission shows that Delta agriculture is worth \$4.2 billion annually and provides tens of thousands of jobs. Delta agriculture and jobs should not be sacrificed to benefit water users in other parts of the state, some of whom do not even use that water for agriculture.

H.R. 1837 would hinder efforts to restore fish populations in the Delta. Science-based protections for salmon and other endangered species are required under both California state law and the Endangered Species Act. Since 2009, the State of California has consistently opposed legislation that would weaken the Endangered Species Act in the San Francisco Bay-Delta and Estuary. Title I of H.R. 1837 would substitute measures that were part of a short-term agreement in 1994, when the health of the Delta had not deteriorated so seriously and when recent scientific studies had not yet been done.

H.R. 1837 would reverse San Joaquin River restoration, thereby further impacting water quality and quantity for the south Delta. While the San Joaquin River restoration allows for a limited flow of additional water into the south Delta, breaking the promise of San Joaquin River restoration would signal to Delta communities the federal government's sacrifice of the Delta for the preference of another region in California.

This deeply-flawed bill joins a long list of water strategies created behind closed doors

without input from the Delta communities that rely on a healthy Delta for their livelihoods. It threatens the economic security of families, farmers, and small business owners in the Delta, as well as those in the Delta and Northern California who depend on recreational and commercial fisheries. It also threatens the urban economy surrounding the Delta—an area that is home to four million Californians and that is dependent on the Delta to meet its water user needs.

H.R. 1837 deserves your opposition.

Sincerely yours,

Barbara Barrigan-Parrilla, Executive Director, Restore the Delta; Carolee Krieger, President & Executive Director, California Water Impact Network; Ann Johnston, Mayor, City of Stockton, Delta Coalition Chair; Ron Addington, Executive Director, Business Council of San Joaquin County; John Herrick, South Delta Water Agency; Roger Mammon, President, CSBA West Delta Chapter; Bill Jennings, Executive Director, California Sportfishing Protection Alliance; Jack Chapman, State Board President, California Striped Bass Association; John Beckman, Chief Executive Officer, BIA of the Delta; Bobby Barrack, Professional Bass Fisherman, Back to Class Guide Service.

Bill Berryhill, Assemblyman, 26th District, California State Assembly; Roger Mammon, President, CSBA West Delta Chapter; Jeff Shields, General Manager, South San Joaquin Irrigation District; Bill Wells, Executive Director, California Delta Chambers & Visitor's Bureau; Jeremy Terhune, Executive Director, Friends of the lower Calaveras River; Steve Dial, Deputy Executive Director/Chief Financial Officer, San Joaquin Council of Governments; Jack Chapman, President, CSBA Sacramento, The River City Chapter; Alyson L. Huber, Assemblymember, 10th District, California State Assembly.

THE BOARD OF SUPERVISORS,  
SAN JOAQUIN COUNTY, CA,  
February 24, 2012.

Hon. DOC HASTINGS,  
*Chairman, Committee on Natural Resources, House of Representatives, Washington, DC.*

Hon. TOM MCCLINTOCK,  
*Chairman, Subcommittee on Water and Power, Committee on Natural Resources, House of Representatives, Washington, DC.*

Hon. EDWARD J. MARKEY,  
*Ranking Member, Committee on Natural Resources, House of Representatives, Washington, DC.*

Hon. GRACE NAPOLITANO,  
*Ranking Member, Subcommittee on Water and Power, Committee on Natural Resources, House of Representatives, Washington, DC.*

LETTER IN OPPOSITION TO H.R. 1837

DEAR CHAIRMAN HASTINGS, RANKING MEMBER MARKEY, CHAIRMAN MCCLINTOCK, AND RANKING MEMBER NAPOLITANO: The County of San Joaquin is writing to express its opposition to H.R. 1837, the proposed San Joaquin Valley Water Reliability Act. H.R. 1837 contains a number of provisions that appear to arbitrarily block legal protections for the Sacramento-San Joaquin Delta (Delta). If enacted, H.R. 1837 would overturn important environmental protections for the Delta provided by State law, and would reverse the San Joaquin River Settlement.

We recognize and appreciate the inclusion of language in Title IV mandating that the Central Valley Project be operated in a manner consistent with State water law provisions related to "area of origin, watershed of origin and county of origin. . . ." This language is consistent with our long-held view

that federal law should specifically and fully recognize and respect California's water rights priority system and statutory protections for "areas of origin".

However, H.R. 1837, taken as a whole, would move the Sacramento-San Joaquin River region and the State in the wrong direction. The bill is focused on the past; it takes us backwards, and that is not a direction that holds any promise for collaborative, consensus-based solutions to California's complex water challenges or a healthier Delta. If enacted, H.R. 1837 would stall and potentially disrupt current efforts of various State and Federal agencies as they work toward the implementation of California's 2009 Comprehensive Water Package (SB1, SB 6, SB7, and SB8), which mandates a reduced reliance on the Sacramento-San Joaquin Delta, provision of a high quality supply of water, and restoration of the Delta's ecosystem (e.g., the forthcoming Bay Delta Conservation Plan).

In addition, we oppose the closed-door process used in constructing the bill. H.R. 1837 was put together with neither public transparency nor any meaningful input from the diversity of California's water and environmental interests.

We appreciate your consideration of our concerns regarding H.R. 1837, and we look forward to continuing to work with you to ensure that any legislation that moves forward will promote and protect a healthy Delta environment and clean water supply to support a Delta economy. If you have any questions, please contact Tom Gau, Public Works Director at (209) 468 3100 or me at (209) 468 3113.

Sincerely,

KEN VOGEL,  
Vice-Chairman, Board of Supervisors,  
San Joaquin County.

THE BOARD OF SUPERVISORS,  
CONTRA COSTA COUNTY, CA,  
February 23, 2012.

Re H.R. 1837—OPPOSE.

Hon. JOHN A. BOEHNER,  
Speaker of the House,  
Washington, DC.

DEAR SPEAKER BOEHNER: As Chair of the Board of Supervisors of Contra Costa County, I write to express my opposition to H.R. 1837, and I urge you to do everything you can to prevent this ill-considered bill from becoming law.

As one of the five counties located in California's Sacramento-San Joaquin River Delta, Contra Costa County depends on Delta waters for drinking, recreation, environmental health and a good portion of our economy which is related to boating, fishing and other service businesses in the Delta area.

Reading the amended bill broadly, it will provide more water, at subsidized prices, to Central Valley agribusiness at the expense of Delta water quality and ecological health, which in turn threatens Contra Costa County water users, the Delta economy, and ultimately the economy of California.

Reading the bill at a more detailed level, it will gut some of the best provisions of the Central Valley Project Improvement Act (CVPIA), and it repeals the San Joaquin River Settlement. Both of these prior acts helped provide a foundation for restoring Bay-Delta health and establishing sound water management practices in California. To gut them or eliminate them for the benefit of a specific group of water users flies in the face of long-standing California water policy and would be an unprecedented and ill-advised act for the Congress to take.

The amended bill specifically would implement the following harmful actions.

1) It would repeal the San Joaquin River Settlement, an agreement from 2006 that was decades in the making among public and private interests and provided the foundation for the San Joaquin River Restoration Program.

2) It would eliminate the San Joaquin River Restoration Program, which is critical to restoring Bay-Delta flow, Delta water quality, salmon population and ecosystem health. By cutting this program when it has only just begun, H.R. 1837 will stymie progress in restoring the highly dammed, constrained and polluted San Joaquin River and will further jeopardize Delta water quality and wildlife populations.

3) The bill would significantly reduce the allocation of federally provided (Central Valley Project) water that is currently used for wildlife and habitat restoration each year per the CVPIA. This water will instead be provided to specific agricultural users.

4) H.R. 1837 also would remove the tiered pricing structure that the CVPIA put in place to encourage wise water use and conservation. Under the tiered structure, the CVP provides below-cost, subsidized prices to its water recipients for up to 80 percent of their contract amounts of water, slightly higher prices for the next 10 percent of their contract amounts, and full-cost pricing for the final 10 percent of their contract amount. Since water deliveries have rarely been over 90 percent in recent years, recipients generally have benefited from below-cost pricing provided by the federally subsidized rates.

5) The bill will discard the past two decades worth of scientific research about Delta conditions by rolling back water-supply regulations to those of a 1994 agreement known as the Bay-Delta Accord. The Accord was developed before the crash of numerous Delta species and before the scientific community developed its current base of knowledge about these issues. By rolling back water operations guidelines to 1994, there will be even greater harm to species including fall-run Chinook salmon. This will cause further economic harm to fisheries and fishing-related businesses in the Delta.

6) H.R. 1837 waives the current requirement that new federal dam projects in the Central Valley comply with the National Environmental Policy Act. The lesson learned from construction of the Friant Dam on the San Joaquin River by the Bureau of Reclamation is that ignoring environmental impacts can wipe out entire runs of salmon and adversely impact other species that rely on adequate water flows. All water resources projects must undergo full and detailed environmental review and any environmental impacts must be fully mitigated.

Finally, I will add a comment about the process this bill has undergone. It is our understanding that no public hearings were held on the amended bill, which was considered in Committee less than 48 hours after the bill was made public. Had there been more time allotted for comment on this bill, undoubtedly objections would have been voiced sooner.

Such critical decisions on water policy should have been debated in full public view with adequate time for comment, particularly in this instance where the Congress is attempting to overturn long-standing state water management practice.

Thank you in advance for your consideration of these concerns.

Sincerely,

MARY NEJEDLY PIEPHO,  
Chair, Board of Supervisors.

DELTA COUNTIES COALITION, CONTRA COSTA COUNTY, SACRAMENTO COUNTY, SAN JOAQUIN COUNTY, SOLANO COUNTY, YOLO COUNTY, "WORKING TOGETHER ON WATER AND DELTA ISSUES,"

February 24, 2012.

Re H.R. 1837.

Hon. JOHN BOEHNER,  
Speaker, House of Representatives,  
Washington, DC.

Hon. NANCY PELOSI,  
Democratic Leader, House of Representatives,  
Washington, DC.

DEAR MR. SPEAKER AND MADAM LEADER: The Sacramento-San Joaquin Delta Counties of Contra Costa, Sacramento, San Joaquin, Solano, and Yolo, working together as the Delta Counties Coalition (DCC), write to express our strong opposition to H.R. 1837, as currently constructed.

The DCC is concerned that H.R. 1837 contains a number of provisions that arbitrarily block legal protections for the Sacramento-San Joaquin Delta (Delta) and its fisheries for the benefit of a specific group of agricultural water users. Among our concerns are the consequences of provisions that would change or limit the use of the 800,000 acre-feet of Central Valley Project (CVP) water that was devoted to fish and wildlife purposes in the original Central Valley Project Improvement Act (CVPIA). We also have significant concerns about the impacts to Delta fisheries, water quality, and sensitive ecosystems that would result from the bill's requirement to revert back to the provisions of the 1994 Bay-Delta Accord as the benchmark environmental document to be used in meeting today's biological and hydrological needs in the Delta. Additionally, we are gravely concerned about the consequences of provisions that preempt state land, water and environmental laws which currently require more stringent protections than those outlined in the Accord, which was agreed to nearly 18 years ago. This would ignore the last two decades' worth of scientific research about Delta issues and would base water operations on out-of-date science that was in place before the crash of Delta wildlife species in recent years. Furthermore, as a bipartisan coalition, we are surprised that this House would consider top-down, big government legislation preempting state law in a manner that is antithetical to core philosophies of the Majority. We must ensure that any legislation that moves forward will avoid cannibalizing one part of California's economy to benefit another's—our litmus test will be to see if the bill supports, rather than jeopardizes, a Delta economy based on agriculture, fishing/hunting, recreation, and tourism.

Another major problem with the bill is that it scraps the San Joaquin River Restoration Program, which is needed to begin restoring the San Joaquin River to reestablish salmon runs, improve river water quality and restore the river's Bay-Delta flow. The restoration is needed to improve the health of the river and the Delta.

While some of the provisions of the bill are consistent with our long held view that federal law should specifically and fully recognize and respect California's water rights priority system and statutory protections for areas of origin, taken as a whole, H.R. 1837 takes our region and the State in the wrong direction. By undercutting decades of agreements and ongoing negotiations, this bill brings us no closer to solving California's complex water challenges. We also are troubled by the way the bill was constructed.

It was put together behind closed doors, with neither public transparency nor meaningful input from the diversity of California's water and environmental interests. There were no hearings held on the version of the bill that the Committee considered less than 48 hours after it was made public. A balanced, consensus based solution is only possible if the interests of all stakeholders are considered.

The DCC looks forward to continuing to work with California's congressional delegation to promote and protect a healthy Delta environment. If you have questions, please do not hesitate to contact us.

Sincerely,

Mary Nejedly Piepho, Supervisor, Contra Costa County; Don Nottoli, Supervisor, Sacramento County; Larry Ruhstaller, Supervisor, San Joaquin County; Michael J. Reagan, Supervisor, Solano County; Mike McGowan, Supervisor, Yolo County.

CENTRAL DELTA WATER AGENCY,

Stockton, CA, February 24, 2012.

Re Opposition to H.R. 1837 (Nunes).

Hon. JOHN BOEHNER,

*Speaker of the House, House of Representatives, The Capitol, Washington, DC.*

DEAR SIR: The Central Delta Water Agency encompasses approximately 120,000 acres in the central portion of California's Sacramento-San Joaquin Delta. We are concerned with the adequacy of the quality and flow of water in the channels of the Delta. Although the use of such water in our agency is primarily agricultural, there are also significant urban, recreational, industrial and habitat uses. We are opposed to the passage of H.R. 1837 for the following reasons among others:

H.R. 1837 would override State constitutional protection for the public trust, State water rights law and even preclude the State's ability to set limits on the take of non-native fish. (Pages 19 and 20 of the bill.)

This intrusion on State's rights is not only a break with tradition and respect but is of questionable constitutionality. This is bad law and bad precedent which does not address the underlying problem of insufficient water to meet needs in dry years.

H.R. 1837 would represent yet another significant breach of the promises by the United States to the people of California that exports would be limited to surplus water.

"On February 17, 1945, a more direct answer was made to the question of diversion of water in a letter by Acting Regional Director R.C. Calland, of the Bureau, to the Joint Committee on Rivers and Flood Control of California State Legislature. The committee had asked the question, 'What is your policy in connection with the amount of water that can be diverted from one watershed to another in proposed diversions?' In stating the Bureau's policy, Mr. Calland quoted section 11460 of the State water code, which is sometimes referred to as the county of origin act, and then he said: 'As viewed by the Bureau, it is the intent of the statute that no water shall be diverted from any watershed which is of will be needed for beneficial uses within that watershed. The Bureau of Reclamation, it its studies for water resources development in the Central Valley, consistently has given full recognition to the policy expressed in this statute by the legislature and the people. The Bureau has attempted to estimate in these studies, and will continue to do so in future studies, what the present and future needs of each watershed will be. The Bureau will not divert from any watershed any water which is needed to

satisfy the existing or potential needs within that watershed. For example, no water will be diverted which will be needed for the full development of all of the irrigable lands within the watershed, nor would there be water needed for municipal and industrial purposes or future maintenance of fish and wildlife resources.' " (See 84th Congress, 2d Session House Document No. 416, Part One Authorizing documents 1956 at Pages 797 799.)

H.R. 1837 attempts to repeal the San Joaquin River Settlement—The actions of the United States in deliberately dewatering portions of the San Joaquin River and collaborating in its degradation is a national disgrace and should be corrected. The San Joaquin River Settlement is a voluntary and contractual resolution to years of litigation which is but a small step towards remediation of longstanding patterns of wrongdoings. It should be honored not circumvented.

H.R. 1837 would remove much of the CVPIA protection for fish which was the quid pro quo for the significant benefits extended to Federal water contractors and in particular the ability to profit from transfer of subsidized water.

This would be but another action confirming the lack of credibility of our Federal government. Although not a party to the negotiations leading to the CVPIA, it would appear that any repeal of the environmental benefits should include a repeal of the benefits to water contractors. We suggest no change.

H.R. 1837 represents the wrong approach to addressing water issues in the State of California and would be a terrible precedent for similar actions affecting other States.

Yours very truly,

DANTE JOHN NOMELLINI,

*Manager and Co-Counsel.*

H.R. 1837 would devastate my entire region, but folks from other States should also oppose this bill. With little debate, and complete disregard for the consequences, this bill sets a dangerous precedent so that the Federal Government can undermine State water law developed over decades. Your State could be next.

This bill is a shameful attempt to rewrite California water laws to benefit a few selected water users, regardless of how much harm is done to other parts of the State. Democrats and Republicans should stand united in our desire to block this legislation from becoming law. I urge my colleagues in the strongest possible terms to oppose H.R. 1837.

Mr. HASTINGS of Washington. Mr. Chairman, I yield 1 minute to the gentleman from New Mexico (Mr. PEARCE), another Member from the West, and the chairman of the Western Caucus who knows this issue very well.

Mr. PEARCE. Mr. Chairman, I rise in strong support of H.R. 1837. The Nation is faced with trillion-dollar deficits, persistent unemployment above 8 percent, and we continue to use the Federal Government to kill jobs and to export them to China.

You can take a look at what the President recently did regarding the Keystone pipeline. You can look at the export of the rare-Earth mineral mines to China.

But this is the one that is most offensive, this exporting of our agriculture products. San Joaquin Valley used to place vegetables, safe vegetables grown in America on store shelves across the country. Today we import vegetables from countries that use pesticides that are disallowed here.

We have an unsafe food supply. We have more people out of work, and we have deficits because we don't have tax-paying citizens.

This bill simply is a commonsense, bipartisan solution that puts people back to work, provides a safe food supply, and makes America more sound. It's common sense. We should vote for it.

Mrs. NAPOLITANO. I yield 2½ minutes to the gentleman from California (Mr. THOMPSON).

Mr. THOMPSON of California. Mr. Chairman, I rise in strong opposition to this jobs killer act that ignores more than 20 years of established science.

Tens of thousands of people depend on the Bay-Delta for their livelihoods, including many farmers, fishermen, and sportsmen who contribute billions of dollars to our economy every year.

Sadly, the sponsors of this bill are using the legislation to create winners and losers by preempting California State law. This bill would take water from folks in northern California for use in California's Central Valley. This means even less water to sports fishermen and to commercial fishermen, the basis of two thriving industries in our State.

The Pacific Coast Federation of Fishermen's Associations strongly opposes the bill. They estimate that over 25,000 jobs were lost in the salmon fishing industry due to the 2008 and 2009 closures.

The American Sportsfishing Association shows that California's economy suffers \$1.4 billion in loss each year that the salmon fishery season is closed. If this bill becomes law, these jobs would be lost forever, and the economic losses would be permanent.

Appropriate amounts of water are also critical to support the economies for wildlife-associated recreation. In California, 7.4 million sportsmen contribute over \$8 billion to the economy every year. Without water, many of these hunting, fishing, and wildlife-watching activities will be lost.

More than 200 sportsmen's organizations have written to express their opposition to this bill. These men and women recognize the extreme consequences of this measure.

Mr. Chairman, I'd like to insert this letter that I have signed by those over 200 organizations into the RECORD.

FEBRUARY 26, 2012.

Hon. JOHN BOEHNER,  
*Speaker of the House, House of Representatives,*  
*Washington, DC.*

Hon. NANCY PELOSI,  
*Minority Leader, House of Representatives,*  
*Washington, DC.*

DEAR SPEAKER BOEHNER AND MINORITY LEADER PELOSI: The California Environmental Water Caucus, and the numerous environmental, environmental justice, recreational and commercial fishing groups, legal and advocacy groups, and Indian tribes, whose logos and names are attached to this letter, would collectively like to express our strong opposition to the ill-conceived and regressive legislation contained in H.R. 1837, the misleadingly entitled "Sacramento-San Joaquin Valley Water Reliability Act." We do not believe that this bill merits a vote by the U.S. House of Representatives.

In summary, this radical legislation preempts state water law, eliminates environmental protections for salmon and other commercially valuable species, guts the 1992 Central Valley Project Improvement Act, and overturns the broadly supported, court approved settlement to restore the San Joaquin River. As a result, this bill threatens thousands of salmon fishing jobs and communities in California and Oregon, water quality in the Bay-Delta, and the reliability of California's water supplies.

H.R. 1837 would overturn the fundamental Congressional principle which requires the federal government to follow state water law whenever possible. This principle has been a bulwark of rights reserved to the individual states and should not be violated by this kind of legislation. Even more specifically, this radical legislation would preempt the public trust doctrine as defined in the California Constitution and eliminate the implementation of a bipartisan package of water policy reform legislation adopted by the State of California in 2009.

H.R. 1837 would defeat efforts to restore fish populations in the Delta. Science-based protections for salmon and other endangered species are required under both California state law and the Endangered Species Act. In order to support recovery of endangered fish species, the State of California has consistently opposed legislation that would weaken the Endangered Species Act in the San Francisco Bay-Delta and Estuary. H.R. 1837 would strip those protections.

H.R. 1837 would gut the Central Valley Project Improvement Act of 1992, which corrected numerous deficiencies built into the federal Central Valley Project. The Act requires compliance with state law, encourages water conservation, makes modest reforms to reduce water subsidies, and contributes water for the recovery of endangered fish species.

H.R. 1837 would overturn the 2009 court approved San Joaquin River Restoration Settlement Act which ended twenty years of litigation on the San Joaquin River. The Settlement and the Act were supported by all parties to the litigation and numerous water districts in the San Joaquin Valley and across the State, along with Members of Congress from both sides of the aisle. H.R. 1837 attempts to preempt state law that requires river restoration, and eliminates flood protection and water supply projects for farmers that were approved as part of the Settlement and Act.

H.R. 1837 would reduce water quality and water reliability for Delta communities and Delta farmers. It seeks to ensure water flows to agribusiness in the western and southern

San Joaquin Valley at the expense of smaller Delta family farmers. The recently released Economic Sustainability Report authored by the Delta Protection Commission shows that Delta agriculture is worth \$4.2 billion annually and provides tens of thousands of jobs. Delta agriculture and jobs should not be sacrificed to benefit water users in other parts of the state, some of whom do not even use that water for agriculture. This legislation would further aggravate the water supply divide within the state and would help perpetuate the destructive "water wars" which characterize water rules in California.

In summary, H.R. 1837 is an unprecedented assault on a state's ability to enact and support its own water laws, and it is an undisguised water grab in favor of one district to the detriment of other parts of the state, all engineered by the federal government.

For all of the above reasons, we oppose H.R. 1837 and request that you withdraw the legislation.

DAVID NESMITH,  
*Co-Facilitator.*  
NICK DI CROCE,  
*Co-Facilitator.*

The following 190 organizations are signatories to this comment letter:

Bill Jennings, Executive Director, California Sportfishing Protection Alliance; Dave Britts, President, Pacific Coast Federation of Fisherman's Associations; Carolee Krieger, Executive Director, California Water Impact Network; Jonas Minton, Senior Water Policy Advisor, Planning and Conservation League; Ron Stork, Senior Policy Advocate Friends of the River; Jennifer Clary, Water Policy Analyst Clean Water Action.

David Lewis, Executive Director Save the Bay; Joan Clayburg, Executive Director, Sierra Nevada Alliance; Deb Self, Executive Director, San Francisco Baykeeper; Jim Metropulos, Senior Advocate, Sierra Club California; Chris Wright, Executive Director Foothills Conservancy; John Merz, President, Sacramento River Preservation Trust.

Conner Everts, Executive Director, Southern California Watershed Alliance; Barbara Barrigan-Parrilla Executive Director, Restore the Delta; Caleb Dardick, Executive Director, South Yuba River Citizens League; Barbara Vlamis, Executive Director Aqualliance; Caleen Sisk-Franco, Spiritual Leader & Traditional Chief Winnemen Wintu Tribe; Victor Gonella, President, Golden Gate Salmon Association.

Geoffrey McQuilkin Executive Director Mono Lake Committee; Huey D. Johnson, President, Resource Renewal Institute; Adam Scow, California Campaign Director Food and Water Watch; Linda Sheehan, Executive Director Earth Law Center; Leda Huta, Executive Director, Endangered Species Coalition; Capt. Roger Thomas, President, Golden Gate Fishermen's Association.

Mondy Lariz, Director, Santa Clara County Creeks Coalition; Larry Collins, President, San Francisco Crab Boat Owners Association; Leaf G. Hillman, Director, Karuk Department of Natural Resources, Karuk Tribe; Lloyd Carter, President, California Save Our Streams Council; Eric Wesselman, Executive Director Tuolumne River Trust; Don Rivenes, Conservation Chair, Sierra Foothills Audubon.

Esmeralda Soria, Legislative Advocate, California Rural Legal Assistance Foundation; Mark Rockwell, Co-Conservation Director, Northern California Council Federation of Fly Fishers; Dan Bacher Editor, Fish Sniffer; Alan Levine, Director, Coast Action

Group; Zeke Grader, Executive Director, Institute for Fisheries Resources; Siobahn Dolan, Director, Desal Response Group.

Andrew J. Orahoske, Conservation Director, Environmental Protection Information Center; Scott Greacen, Executive Director, Friends of the Eel River; Mati Waiya Executive Director Wishtoyo Foundation, Karen Schambach, California Field Director, California Public Employees for Environmental Responsibility; Rich Cimino, President, Alameda Creek Alliance; Milo Vukovich, President, Sonoma County Abalone Network.

Jeff Miller, Conservation Advocate, Center for Biological Diversity; Bill Wells, Executive Director, California Delta Chambers & Visitors Bureau; Dave Steindorf, California Stewardship Director American Whitewater; Bill Ferrero, Owner, President, Mokelumne River Outfitters; Lorna Elness, President, San Joaquin Audubon; Carol Perkins, Water Resources Advocate Butte Environmental Council.

Michael Warburton, Executive Director, The Public Trust Alliance; Sylvia Kothe, Chairperson, Concerned Citizens Coalition of Stockton; Frank Egger, President, North Coast Rivers Alliance; Luke Breit, Legislative Advocate Forests Forever; Marily Woodhouse, Director, Battle Creek Alliance; Jeremy Terhune, Coordinator, Friends of the Calaveras.

Don McEnhill, Riverkeeper, Russian Riverkeeper; Tim Little, Co-Director, Rose Foundation; Steve Shimek, Chief Executive The Otter Project, Greywolf, Jeff Kelly Chief, Modoc Nation; Alan Harthorn, Executive Director Friends of Butte Creek; Larry Hanson, Manager, Northern California River Watch.

Steve Shimek, Program Manager Monterey Coastkeeper; Steve Pedery, Conservation Director, Oregon Wild; Melanie Winter, Founder & Director, The River Project; Larry Glass, President, Safe Alternatives for our Forest Environment; Lynne Plambeck, Executive Director, Santa Clarita for Planning and the Environment; Marie Logan & Jessie Raeder, Co-Presidents, SalmonAid Foundation.

Karen Schambach, President, Center for Sierra Nevada Conservation; Rain Ananacel, Executive Director, Northcoast Environmental Center; Michael Schweit, President, Southwest Council Federation of Fly Fishers; Chris Poehlmann, President, Friends of the Gualala River; Brenda S. Adelman, Chairperson, Russian River Watershed Protection Committee; Nate Rangel, President, California Outdoors.

Chet Ogan, Conservation Chair, Redwood Regional Audubon Society; Susan Robinson, Board Member, Ebbetts Pass Forest Watch; Bob Dean, President, Upper Mokelumne River Watershed Council; Trevor Kennedy, Executive Director, Fishery Foundation; Dan Silver, Executive Director, Endangered Habitats League; Jane Humes, Chair, Waldo Holt Conservancy.

Michael Garabedian, Friends of the North Fork American River; Mike Hudson, Small Boat Commercial Salmon Fisherman's Association; Allison Boucher, Project Manager, Tuolumne Conservancy; Michael Martin, Ph.D., Director, Merced River Conservation Committee; Beth Werner, Baykeeper, Humboldt Baykeeper; Kelli Gant, President, Trinity Lake Revitalization Alliance.

Rick Coates, Executive Director, Forest Unlimited; Sue Lynn, Secretary, Cascade Action Now; Larry Glass, President, South Fort Mountain Defense Committee; Seymour Singer, President, Pasadena Casting Club; Dick Harris, President, Santa Clarita Casting Club; Ken Javorsky, President, Tri-Valley Fly Fishers.

Jim Cox, President, West Delta Chapter, California Striped Bass Association; Jackson Chapman, President, Sacramento Chapter, California Striped Bass Association; Roger Mammon, President, Lower Sherman Island Duck Club; Larry Dennis, Conservation Chair, Mission Peak Fly Anglers; Henry Sandigo, Conservation Chair, Granite Bay Flycasters; Jim Tolonen, Conservation Chair, Santa Cruz Fly Fishermen.

Tom Bartos, President, Foothills Angler Coalition; Bill Carnazzo, President, Spring Creek Guide Service; Grant Fraser, President, Auburn Flycasters; Mark Allen, General Manager, Adventure Connections, Inc.; Greg King, Siskiyou Land Conservancy; Jim Yarnall, President, Humboldt Area Saltwater Anglers; Joesph Vaile, Campaign Director, KS Wild.

Ron Forbes, Conservation Chair, Delta Fly Fishers; Denise Boggs, Executive Director, Conservation Congress; Kim Glazzard, Executive Director, Organic Sacramento; Bill O'Kelly, President, Sierra Pacific Flyfishers; Cindy Charles, Conservation Chair, Golden West Women Flyfishers; Ted Shapas, Conservation Chair, Diablo Valley Fly Fishermen.

Darrell Tichurst, Chairman, Coastside Fishing Club; Steve Burke, Spokesperson, Protect Our Water; Lillian Light, President, Palos Verdes Audubon Chapter; John Weisheit, Conservation Chair, Living Rivers/Colorado Riverkeeper; Spreck Rosenkrans, Restore Hetch Hetchy; Don Schmoldt, President, Sacramento Audubon Society; Diane Hichwa, Conservation Chair, Madrone Audubon.

Stephen Fuller-Rowell, Co-Founder, Oregon Waterwatch; Tom Chandler, Editor, Trout Underground; Will Harling, Executive Director, Mid-Klamath Watershed Council; Don Gillespie, President, Friends of Del Norte; Randa Solick, Co-Chair, Santa Cruz WILPF; Ken Franke, Executive Director, Sportfishing Association of California.

Jim Martin, Recreational Fishing Alliance; Sep Hendrickson, Executive Director, California Inland Fisheries Foundation; Aaron Newman, President, Humboldt Fisherman's Marketing Association; Mark Micoch, Co-Chairman, Northern California Guides Association; Dan Blanton, Chairman, StriperFest; Mike Augney, Co-Owner, USA Fishing.

Jim Martin, Director, Berkeley Conservation Institute; Bob Mellinger, Vice-President, Water for Fish; Bart Hall, Producer, Fred Hall Shows; Randy Repass, Chairman & Founder, West Marine; Bruce Tokars, President, Salmon Water Now; Galen Onizuka, Owner, President, Johnson Hicks Marine.

Angelo Pucci, President, P Line; Dick Pool, President, Pro-Troll Fishing Products; Liz Hamilton, Executive Director, Northwest Sportfishing Ind. Assn.; Bob Rees, President, North West Guides and Anglers Assoc.; Peter Grenell, Manager, San Mateo County Harbor District; Ken Elie, Owner, President, Outdoor Pro Shop.

Bill Divens, Salmon King Lodge West; Paul Johnson, Owner, Monterey Fish Market; Bob Kotula, Outwest Marketing; Danny Layne, Hawkeye Marketing; Roy Gray, Owner, Roy Gray & Associates; Dan Pamel, President, Leisure Sales; Paul Johnson, Owner, Monterey Fish Market.

Michael Scaglione, Pacific Catch Fish Grill; Bill Boyce, Boyce Image, World Fishing Network; Rich Kato, Sport Sales; Jack Swanson, Sales Manager, Repala USA; Chuck Cappotto, Bodega Bay Fisherman's Marketing Assoc.; Gary Coe, Kokanee Power.

Angelo Pucci, President, G. Pucci and Sons Mfg.; Capt Brian Smith, Riptide Charters;

Capt Bob Ingles, Queen of Hearts Charters; Capt Brian Cutty, Chubasco Charters; Capt Brian Guiles, Flying Fish Charters; Capt Chris Chan, Ankeny St. Sportfishing.

Capt Craig Shimokosu, New Salmon Queen Charters; Capt Dale Walters, Que Sera Sera Charters; Capt Dennis Baxter, New Captain Pete Charters; Capt Don Franklin, Soleman Sportfishing Charters; Capt Ed Gallia, New Easy Rider Charters; Capt Frank Rescino, Lovely Martha Charters; Capt Harry Neece, Checkmate Charters; Capt Jack Chapman, Lovely Linda Sportfishing; Capt Jacky Douglas, Wacky Jacky Charters; Capt Jay Yokomozo, Huck Finn Charters; Jimmy Robertson, Outer Limits Charters; Capt Joe Gallia, El Dorado III Charters; Capt John Atkinson, New Ray Ann Charters; Capt John Kluzmier, Sir Randy Charters; Capt Nick Lemons, Star of Monterey Charters; Capt Ken Stagnaro, Stagnaro's Charters; Capt Randy Thornton, Telstar Charters.

Capt Richard Thornton, Trek II; Capt Rick Powers, Bodega Bay Sportfishing; Capt Peter Bruno, Randy's Fishing Trips; Bob Sparre, Bob Sparre's Guide Service; Capt Sean Hodges, Hog Heaven Charters; George Catagnoia, Owner, Sandy Ann Charters; Capt Steve Talmadge, Flash Sportfishing Charters; Sal Vallone, Bob Sands Fishing; Capt Tim Klassen, Reel Steel Sportfishing; Vance Staplin, Vance's Tackle.

Barbara Emley, F/V Autumn Gale; Capt Chris Acacelo, Chris' Fishing Charters; Jim Cox, Owner, Jim Cox Sport Fishing Charters; Jonah Li, Hi's Tackle Box; Sunny Lampre, Owner, Sunny's Electric Marine; Ron La Force, President, United Outdoorsmen; Danny Layne, Fish'n Dan's Guide Service; Marilyn Hendrickson, Sep's Outdoors Inc.; Mike Chamberlain, Ted's Sports Center; Craig Stone, Emeryville Sportfishing.

That's 200. That's more than the 12 or 14 members of the State legislature that wrote you a letter.

In the end, H.R. 1837 is nothing more than an attempt by well-funded water contractors to steal water from other users with no regard for the fishers, sportsmen, the farmers north of the delta, the families and the businesses who depend on their delta for their livelihood. It guts environmental protections and kills local jobs. It should be rejected, and solutions to California's water challenges should be based on strong and sound science; and it should be done with all of the stakeholders at the table, not in the proverbial back room.

□ 1510

The Acting CHAIR. The time of the gentleman has expired.

Mrs. NAPOLITANO. I yield the gentleman an additional 15 seconds.

Mr. THOMPSON of California. So please join me and over 100 outdoor and fishing organizations and the Western States Water Council to protect northern Californians from political agendas that harm our economy, wildlife, and the people. Vote "no" on this bill.

Mr. HASTINGS of Washington. Mr. Chairman, here are a number of organizations that have written in support of this legislation on both sides of these pages; and at the appropriate time I, too, will insert them in the RECORD to show that there is broad, broad support for this legislation.

I am now pleased to yield 1 minute to the gentleman from California (Mr. ROYCE).

Mr. ROYCE. I thank the gentleman for yielding.

Mr. Chairman, I must say, for those of us who have seen this with our own eyes, who saw the devastation in the Central Valley, we know for a fact that when the aqueduct pumps in California were slowed, when that water came to a halt because of the orders and opinions issued partly by the Obama administration, what we saw was devastation. We saw the worst of it in 2010. Over a million acre-feet of water were lost. Tens of thousands of jobs were destroyed in our State. The unemployment rate, my friends, in some of these Central Valley towns reached 40 percent.

Those signs that I saw along the I-5 when I was going up to take a look at this, they told a certain story, and these were written by farmers: "No water = No jobs." You'd go down the highway: "Food grows where water flows," but there was no food growing. The devastation was incredible.

The Acting CHAIR. The time of the gentleman has expired.

Mr. HASTINGS of Washington. I yield the gentleman an additional 30 seconds.

Mr. ROYCE. My personal favorite: "New Dust Bowl, created by Congress."

Well, this legislation would bring some sanity back to this process. By restoring water deliveries to the levels agreed upon in the 1994 Bay-Delta Accord between California and the Federal Government, this bill could bring back 30,000 jobs, and it would save millions of acre-feet of water which has been sent to the ocean.

My friends, this is a man-made problem. It's going to take legislation to fix. This bill will fix it.

Mrs. NAPOLITANO. Mr. Chairman, I also toured that area, and the devastation was very severe. I wish some of the areas would find another way to be able to find employment, because this is a chronic unemployment circle, if you will, for years, for decades; it isn't just new.

I yield 1½ minutes to the gentleman from Arizona (Mr. GRIJALVA).

Mr. GRIJALVA. Mr. Chairman, I rise today in strong opposition to H.R. 1837, the San Joaquin Valley Water Reliability Act.

This legislation repeals existing State law and, frankly, leaves no State safe. If enacted, H.R. 1837 would set an unprecedented standard of State preemption. As a member of the Subcommittee on Water and Power, I am concerned that the opposition to this legislation, over 300 stakeholders, over seven States, the nonpartisan Western States Water Council, various attorney generals from New Mexico to other States, have voiced their concern about the preemption and the concern

about the intrusion into what has traditionally been a State's right in terms of water management.

If enacted, this unprecedented act of State preemption would be a precedent that brings many States' water settlements into question. In my State, Arizona, a diverse set of stakeholders, water users, Indian tribes, municipalities, the Federal Government were involved in lengthy years in reaching water agreements to try to balance the use of water in our State. They were crafted, they were difficult, they were delicate, but agreement happened, and now those are now being implemented throughout the State.

It raises question about that difficult process, particularly when you had tribal governments involved in these negotiations and are part of the settlement. By sovereignty, States' rights are preeminent in this question.

I urge Members to vote "no."

Mr. HASTINGS of Washington. Mr. Chairman, I am very pleased to yield 3 minutes to the distinguished majority whip, another gentleman from California who has seen the effects of what this man-made drought is, Mr. MCCARTHY.

Mr. MCCARTHY of California. Mr. Chairman, I want to thank Chairman HASTINGS for his work in committee, and I'd also like to thank, Mr. Chairman, the subcommittee chairman, TOM MCCLINTOCK, and the authors of this bill, DEVIN NUNES and JEFF DENHAM, for their work.

Now, in California there's a saying: "Whiskey's for drinking and water's for fighting," and for too long we've been fighting about water. For too long this man-made drought in California has been ignored. Well, you know, today that stops. I'm excited about it stopping today; because you're going to hear a lot of arguments on both sides, but that's where we're supposed to debate, on the floor of the House.

But, you know, the thing we've always yearned for, the thing we've always taught our children? That an agreement is an agreement, that you keep your bond. You come into a debate where you make your points, but when you come to an agreement, you keep it.

Simply put, what does this bill do? This bill simply says an agreement is an agreement.

When both sides sat down from the Bay Area-Delta Accord—why was it named that? Because people from the bay area and people from the delta had discussions, had fights, had policy arguments, and they finally came to agreement.

Now, who was on what side? Was it all just based upon a farmer or just based upon environmentalists? No. There was the Clinton administration. There was Pete Wilson from the State. He was Governor at the time. There were farmers. There were environ-

mentalists. Mr. Chairman, there were people that were in the administration that are even Members of this Chamber today who spoke in support of this. So if you made an agreement then, why do you want to break it?

And because of what the man-made drought has done, have you ever examined the pain that it has caused? I know people, when they think of California, sure, you think of Silicon Valley, you think of Hollywood, you think of San Diego. Well, you know what? There's this whole area in the valley. When you start and talk about this area in the valley, you know where my district is? My district is from the "Grapes of Wrath." It's the shantytown everybody ended up in. Cesar Chavez is buried in my district. But you know what I saw from my valley on up? Thirty, 40 percent unemployment. I saw people standing in line.

I'm very proud of the district I'm fortunate to represent. There's two families in my district that grow 80 percent of all of the carrots in the country. But you know, because of this man-made drought, where hundreds of people were lined up to get food at the food bank, they were getting carrots. But were they getting carrots from America? No. They were getting carrots from China. The breadbasket of America.

Well, you know, that all ends today. It ends with a bipartisan agreement that America craves for us to find. You know what? In the Bay-Delta Accord, I didn't get everything that I would represent philosophically. The other side didn't as well. But, you know, the greatest thing about America is the rule of law, and if we make an agreement, we should stick to the agreement. Simply put, that's what this bill does and ends the man-made drought.

Mrs. NAPOLITANO. I would like to yield 2½ minutes to the gentleman from California (Mr. CARDOZA).

May I ask what time we have left, sir?

The Acting CHAIR. The gentlewoman from California has 8 minutes remaining, and the gentleman from Washington has 3¾ minutes remaining.

Mr. CARDOZA. Mr. Chairman, I thank my colleague for yielding.

I rise today to offer my support for the legislation.

This bill, like so many others that we vote on, is far from perfect. However, I'll support this bill because of many provisions, important provisions for my valley within it.

Mr. Chairman, water is absolutely critical to the economy of the San Joaquin Valley, the valley I love. Without an adequate water supply, agricultural fields go fallow and entire communities can be laid to waste. No one understands this more than myself and my colleague, Mr. COSTA, my friend from the valley. We have both fought for water for our entire careers for our people. In fact, just last year, he and I

introduced legislation to provide operational flexibility in the implementation of the Endangered Species Act for water deliveries for the Central Valley Project. Unfortunately, our colleagues on the other side of the aisle haven't felt the importance of holding a hearing on that bill.

Titles I and III of this legislation aim to address the flawed regulations that have reduced our vital water deliveries to my friends and neighbors throughout the valley.

□ 1520

I have no reservations in supporting these provisions, and commend my colleagues on the other side for introducing them. I recommend a "yes" vote.

When it comes to title II of this bill, which calls for the repeal and replacement of the San Joaquin River Restoration Act, I would like to mention that this was a locally requested and locally championed piece of legislation to end an 18-year lawsuit. Although I had serious reservations when this bill was first introduced, I supported the solution when it came through this House. I will say now that the implementation of this act, as it has been done by the administration, has left a lot to be desired.

I have significant further reservations with the San Joaquin River Restoration program, and it has recently become clear that those views that I expressed during its formation are coming to pass. The restoration is far too costly, and its schedule is advancing in a way that landowners adjacent to the new flows are being damaged.

Despite this, just simply saying we will remove the agreement that has been put in place is not the answer. We don't need to repeal it—we need to repair it—particularly when the only thing a repeal accomplishes is a continuation of a lawsuit that prompted the legislation in the first place.

However, I'd like to make a comment about the process under which this legislation was drafted.

As many of you know, this is my last year as a Member of this body.

This bill, even while I support it, is a perfect example of how dysfunctional this body has become.

This bill will never become law. To be frank, I'm doubtful that it will even be debated in the Senate.

I feel this way because the authors of this bill haven't expressed a serious interest in engaging either me, Congressman COSTA or Senator FEINSTEIN in drafting a bipartisan piece of legislation that can pass both chambers of Congress.

It's unfortunate that some continue to exploit the real life challenges facing the folks we have the honor of representing to score a cheap political point.

Successful functioning of Congress and the resulting successful resolution of the problems afflicting this nation will require the participation of both Republicans and Democrats.



We cannot function individually; we must function in concert to solve the challenges facing us today.

I think we not only can do better, but we must do better, if we're going to accomplish what we were sent here to do.

Only efforts like that will truly solve the complex problems facing us today.

Mr. HASTINGS of Washington. I continue to reserve the balance of my time.

Mrs. NAPOLITANO. Mr. Chairman, I yield 3 minutes to the gentleman from northern California (Mr. MILLER).

Mr. GEORGE MILLER of California. I thank the gentlewoman for yielding.

I rise in strong opposition to this legislation.

Let us understand what is taking place here. In California, for the first time in 40 years, all of the various water parties have gotten together to try to work out these disagreements and come up with a sustainable water policy that serves all of the needs of all Californians—agriculture, manufacturing, municipal uses, environmental uses—all of that together. For the first time, the State legislature passed historic legislation empowering these negotiations to take place in order to take care of disparate interests.

But there are two parties in that negotiation that keep threatening to walk out of the room. They're going to walk out, walk out, walk out. Apparently, they did walk out. They walked out, and they came back to Washington, D.C., to cut a separate deal. These are among the largest water users in the State. These are among the most highly subsidized users in the State. One of our conservative friends on the other side was complaining about the deficit when he started to talk on this bill. These are people who are getting a \$400 million interest-free loan from the taxpayers of this country. These are the people who are getting \$400 million in subsidies every year from the taxpayers of this country.

And what do they do?

In this bill, they have an earmark. You gave them 40 years and these rights in perpetuity to get at least \$400 million a year from the taxpayers of this country. That's not on top of the crop subsidies. That's not on top of the insurance payments, disaster payments. This is just in subsidized water that goes to these people who are crying poor. The largest users have decided they want two negotiations—one in California and one in Washington. To do that, they want to overturn the California laws, the California legislature, the Supreme Court decisions, and the science. We'll go back in time 18 years and say that this science is good enough.

But the heart of this, more than water, is money, and the money sits there, and it flows with the water. Every drop of water that goes to the

San Luis Unit and others is subsidized. Right now, they only have a year-to-year contract. They'd have a 20-year contract possibly if they reach agreement. You give them 40 years, and then 40 years in perpetuity: \$400 million a year times perpetuity. You figure out what this earmark is worth. You figure out what this special treatment is worth.

Do you want to know who is driving this process?

It's those very, very special interests that are moving this process, and apparently, they can move our friends on the other side to overturn Supreme Court opinions. They can overturn the State legislature. They can overturn these negotiations. There used to be a saying around here that said that it takes some skill and talent to build a barn, but that any damned fool can kick it down. So what these people have decided is that they're just going to kick over those negotiations in California, those negotiations in which people have invested a huge amount of time and talent—from the legislature, to the agencies, to the farmers, to the environmentalists, to our cities, to our counties—all of whom oppose this legislation.

Mr. HASTINGS of Washington. I just want to point out that this bill came out of committee with bipartisan support, and we've had bipartisan debate for this bill.

Mr. Chairman, I yield 30 seconds to the author of this legislation, the gentleman from California (Mr. NUNES).

Mr. NUNES. Mr. Chairman, I would hope that the gentleman from California has read the bill, because he complains about the subsidies. In fact, this bill gets rid of the subsidies as this bill returns almost \$300 million to the Treasury. So we agree. We want to get rid of the subsidies. We want to cut the deficit. That's what this bill does.

I don't quite understand what he was talking about in terms of tearing down barns, but I would say that the gentleman's legislation that was passed with a Senator from New Jersey and a Congressman from California to preempt State law has been very successful at tearing apart farms and families.

The Acting CHAIR. The time of the gentleman has expired.

Mr. HASTINGS of Washington. I yield the gentleman an additional 15 seconds.

Mr. NUNES. Once again, as many of my colleagues will say, Secretary of the Interior Bruce Babbitt made a deal with Republican Governor Pete Wilson. A deal is a deal. The only problem was that there were some dishonest brokers at the table who never went to Congress to get this implemented.

Mrs. NAPOLITANO. I inquire of the Chair as to how much time remains.

The Acting CHAIR. The gentlewoman from California has 2½ minutes remaining. The gentleman from Washington has 2¾ minutes remaining.

Mr. HASTINGS of Washington. Will the gentlelady yield?

Mrs. NAPOLITANO. I yield to the gentleman.

Mr. HASTINGS of Washington. I just want to say to my friend that, as I am the last speaker on my side, I am prepared to close when she is done with her speakers.

Mrs. NAPOLITANO. I have one more speaker.

The Acting CHAIR. The gentlewoman has 2 minutes remaining.

Mrs. NAPOLITANO. Mr. Chairman, I ask my colleagues on both sides to consider what this bill will do.

I now yield my remaining time to the gentleman from California (Mr. GARAMENDI).

Mr. GARAMENDI. If you know California water, you know that we can get pretty wound up about it, and the solution for California water is not to be found in this particular piece of legislation. Facts are difficult things to deal with, but they are facts. There has been no manmade drought. There was a very real drought. In addition to that, there were restrictions on the pumping.

Let us understand that the principal advocates of this bill have the shortest straw. They came last in line, and therefore they're not first—they're last. Their contract provided for shortage provisions for a variety of reasons, among them droughts and environmental restrictions. So they should have planned for that. Apparently, they did not.

The losses to the agricultural community were significant to be sure, but at the same time, the agricultural community in the Central Valley prospered, having the best years to any previous year that occurred during this drought period. Certain farmers were shorted—no doubt about that—but they had a contract that called for those shortages.

Now let us understand that this bill has profound implications on every State, some 21 States that have contracts with the Bureau of Reclamation. This bill, should it pass and become law, is a signal to every State that you cannot count on State law allocating the water within your district. Instead, it will be Congress that will allocate the water within your State. That is a profound change: 100 years of reclamation law are pushed aside by this piece of legislation. For the State of California, it is a total preemption of State law—a total preemption of State law—and the State constitution is pushed aside.

□ 1530

There is within the California constitution a thing called the "public trust." The legislature and the government of California hold in trust for the people of California the water of California, and this legislation pushes that



aside and gives that water to a very special group.

#### GROUPS OPPOSED TO H.R. 1837

Statement of Administration Policy  
U.S. Department of the Interior  
State of Colorado  
State of Montana  
State of New Mexico  
State of Oregon  
State of Wyoming  
Western States Water Council <sup>1</sup>

#### ELECTED OFFICIALS

California Secretary for Natural Resources  
Congresswoman Anna Eshoo  
Congressman John Garamendi  
Congressman Mike Honda  
Congresswoman Zoe Lofgren  
Congresswoman Doris Matsui  
Congressman Jerry McNerney  
Congressman George Miller  
Congresswoman Grace Napolitano  
Congresswoman Jackie Speier  
Congressman Mike Thompson  
Congresswoman Lynn Woolsey  
Senator Barbara Boxer  
Senator Dianne Feinstein

#### NEWSPAPERS

The Sacramento Bee  
The San Francisco Chronicle  
The San Jose Mercury News

#### WATER DISTRICTS AND LOCAL GOVERNMENTS

Central Delta Water Agency  
City of Sacramento  
City of Stockton  
Contra Costa County Board of Supervisors  
Contra Costa County  
Grassland Water District  
Reclamation District 999  
Sacramento County Board of Supervisors  
Sacramento County  
San Joaquin Council of Governments  
San Joaquin County  
San Joaquin County Board of Supervisors  
San Mateo County Harbor District  
Solano County  
South Delta Water Agency  
South San Joaquin Irrigation District  
Water Replenishment District of Southern California  
Yolo County

#### BUSINESS AND CIVIC GROUPS

BIA of the Delta  
Business Council of San Joaquin County  
California Delta Chambers & Visitor's Bureau  
California Rural Legal Assistance Foundation  
Concerned Citizens Coalition of Stockton  
The Contra Costa Council  
Environmental Entrepreneurs  
Hawkeye Marketing  
Silicon Valley Leadership Group  
Stockton Chamber of Commerce

#### ENVIRONMENTAL GROUPS

Alameda Creek Alliance  
American Rivers  
AquAlliance  
Audubon  
Battle Creek Alliance  
The Bay Institute  
Berkeley Conservation Institute  
Biodiversity Conservation Alliance  
Butte Environmental Council  
California League of Conservation Voters  
California Public Employees for Environmental Responsibility  
California Save our Streams Council  
California Water Impact Network

Cascade Action Now  
Center for Biological Diversity  
Center for Sierra Nevada Conservation  
Clean Water Action  
Conservation Congress  
Coast Action Group  
Defenders of Wildlife  
Desal Response Group  
Earth Law Center  
Earthjustice  
Ebets Pass Forest Watch  
Endangered Habitats League  
Endangered Species Coalition  
Environmental Defense Fund  
Environmental Protection Information Center  
Food and Water Watch  
Foothills Conservancy  
Forests Forever  
Forest Unlimited  
Friends of Butte Creek  
Friends of the Calaveres  
Friends of Del Norte  
Friends of the Eel River  
Friends of the Gualala River  
Friends of the Lower Calavera River  
Friends of the North Fork American River  
Friends of the River  
Humboldt Baykeeper  
Institute for Fisheries Resources  
KS Wild  
Living Rivers/Colorado Riverkeeper  
Madrone Audubon  
Merced River Conservation Committee  
Mid-Klamath Watershed Council  
Mono Lake Committeee  
Monterey Coastkeeper  
National Parks Conservation Association  
Natural Resources Defense Council  
Nature Abounds  
The Nature Conservancy  
Northcoast Environmental Center  
North Coast Rivers Alliance  
Northern California River Watch  
Oceana  
Oregon Waterwatch  
Oregon Wild  
The Otter Project  
Palos Verdes Audubon Chapter  
Planning and Conservation League  
Protect our Water  
The Public Trust Alliance  
Redwood Regional Audubon Society  
Restore Hetch Hetchy  
Resource Renewal Institute  
Restore the Delta  
The River Project  
Rocky Mountain Wild  
Rose Foundation  
Russian Riverkeeper  
Russian River Watershed Protection Committee  
Sacramento Audubon Society  
Sacramento River Preservation Trust  
Safe Alternatives for our Forest Environment  
San Francisco Bay Keeper  
San Joaquin Audubon  
Santa Clara County Creeks Coalition  
Santa Clarita for Planning and the Environment  
Santa Cruz Women's International League for Peace and Freedom  
Save the Bay  
Save the Frogs!  
Sierra Club California  
Sierra Foothills Audubon  
Sierra Nevada Alliance  
Siskiyou Land Conservancy  
South Fort Mountain Defense Committee  
South Yuba River Citizens League  
Southern California Watershed Alliance  
Trinity Lake Revitalization Alliance  
Trust for Public Land

Tuolumne Conservancy  
Tuolumne River Trust  
Unitarian Universalist Ministry for Earth  
United Outdoorsmen  
Upper Mokelumne River Watershed Council  
Waldo Holt Conservancy  
Western Nebraska Resources Council  
Whidbey Environmental Action Network  
The Wilderness Society  
COMMERCIAL AND RECREATIONAL FISHING AND HUNTING ORGANIZATIONS AND BUSINESSES  
Ankeny Street Sportfishing  
American Sportfishing Association  
Auburn Flycasters  
Back to Class Guide Service  
Bob Sands Fishing  
Bob Sparre's Guide Service  
Bodega Bay Fishermen's Marketing Association  
Bodega Bay Sportfishing  
Boyce Image  
California Inland Fisheries Foundation  
California Sportfishing Protection Alliance  
California Striped Bass Association  
California Striped Bass Association—Sacramento Chapter  
California Striped Bass Association—West Delta Chapter  
Checkmate Charters  
Chris' Fishing Charters  
Chubasco Charters  
Coastside Fishing Club  
Delta Fly Fishers  
Diablo Valley Fly Fishermen  
El Dorado III Charters  
Emeryville Sportfishing  
Fishery Foundation  
Fish Sniffer  
Flash Sportfishing Charters  
Flying Fish Charters  
Foothills Angler Coalition  
Fred Hall Shows  
Golden Gate Fishermen's Association  
Golden Gate Salmon Association  
Golden West Women Flyfishers  
G. Pucci and Sons Manufacturing  
Granite Bay Flycasters  
Hi's Tackle Box  
Hog Heaven Charters  
Huck Finn Charters  
Humboldt Area Saltwater Anglers  
Humboldt Fishermen's Marketing Association  
Jim Cox Sport Fishing Charters  
Johnson Hicks Marine  
Kokanee Power  
Leisure Sales  
Lower Sherman Island Duck Hunters Association  
Lovely Linda Sportfishing  
Lovely Martha Charters  
Lower Sherman Island Duck Club  
Mission Peak Fly Anglers  
Monterey Fish Market  
New Captain Pete Charters  
New Easy Rider Charters  
New Ray Ann Charters  
New Salmon Queen Charters  
Northern California Council Federation of Fly Fishers  
Northern California Guides Association  
Northwest Guides and Anglers Association  
Northwest Sportfishing Industry Association  
Outdoor Pro Shop  
Outer Limits Charters  
Outwest Marketing  
P Line  
Pacific Catch Fish Grill  
Pacific Coast Federation of Fishermen's Associations  
Pacific Fishery Management Council

<sup>1</sup> 18 member body, composed of governor-appointed representatives from the 18 Western states.

Pasadena Casting Club  
 Pro-Troll Fishing Products  
 Queen of Hearts Charters  
 Que Sera Sera Charters  
 Rapala USA  
 Randy's Fishing Trips  
 Recreational Fishing Alliance  
 Reel Steel Sportfishing  
 Riptide Charters  
 Roy Gray & Associates  
 SalmonAid Foundation  
 Salmon King Lodge West  
 Salmon Water Now  
 Sandy Ann Charters  
 San Francisco Crab Boat Owners Association  
 Santa Clarita Casting Club  
 Santa Cruz Fly Fishermen  
 Save our Wild Salmon Coalition  
 Sep's Outdoors Inc.  
 Sierra Pacific Flyfishers  
 Sir Randy Charters  
 Soleman Sportfishing Charters  
 Small Boat Commercial Salmon Fishermen's Association  
 Sonoma County Abalone Network  
 Southwest Council Federation of Fly Fishers  
 Sportfishing Association of California  
 Spring Creek Guide Service  
 Stagnaro's Charters  
 Star of Monterey Charters  
 StriperFest  
 Sunny's Electric Marine  
 Ted's Sports Center  
 Telstar Charters  
 Trek II  
 Tri-Valley Fly Fishers  
 Trout Underground  
 Trout Unlimited  
 USA Fishing  
 Vance's Tackle  
 Wacky Jacky Charters  
 Water for Fish  
 West Marine

## TRIBAL GROUPS

Karuk Tribe  
 Moccoc Nation  
 Winnemen Wintu Tribe  
 Wishtoyo Foundation

## AGRICULTURAL GROUPS

Friant Water Authority<sup>2</sup>  
 Organic Sacramento

## RECREATION GROUPS

Adventure Connection, Inc  
 American Whitewater  
 California Outdoors  
 Camp Lotus  
 Mokelumne River Outfitters  
 The O.A.R.S. Family of Companies  
 River and Rock Adventures  
 River Runners, Inc.  
 Rubicon Whitewater Adventures  
 Sport Sales  
 Whitewater Connection  
 Whitewater Voyages

The Acting CHAIR. The time of the gentleman from California has expired.

Mr. HASTINGS of Washington. Mr. Chairman, am I correct to assume that all their time has expired?

The Acting CHAIR. All time has expired for the gentlewoman from California.

Mr. HASTINGS of Washington. I yield myself such time as I may consume.

There has been much discussion on the floor about preemption. In fact, the

previous speaker emphasized that in his close.

I am from a western State; I'm from Washington. If anybody should be cautious about preemption, it is certainly me. And I say that because I represent an area that has two over-half-a-million-acre, or half-a-million-acre, irrigation districts. So I understand about preemption and Western water law.

But in the context of today's debate, the California water system is unique. Here we have a massive Federal system, the Central Valley Project and a massive State water project called the State Water Project, and it operates as one combined unit.

This is what is very important, Mr. Chairman. The coordinated approach was requested by the State and codified by the Federal Government in 1986. That's when water law was preempted. They asked for it in 1986.

In 1992, it was further preempted by amendments to the law in the Central Valley Project in 1992. So what we did in committee is we offered an amendment that was adopted. Let me read the amendments by Mr. TIPTON and Mr. GOSAR, and it says:

Congress finds and declares that (1) coordinated operations between the Central Valley Project and the State Water Project, previously requested and consented to by the State of California and the Federal Government, require assertion of Federal supremacy to protect existing water rights throughout the system.

That's in California. It says:

(2) these circumstances are unique to California. Therefore, nothing in this act shall serve as precedent in any other State.

When we offered that amendment, everybody on our side of the aisle voted for it. Only four on their side of the aisle, when they had an opportunity to make sure preemption wouldn't happen, they voted "no." You can't have it both ways, Mr. Chairman.

So with that I urge my colleagues to support this bill, and I yield back the balance of my time.

Mr. STARK. Mr. Chair, I rise today in opposition to legislation that would trample the state's rights of California and overturn a carefully crafted agreement about how our state's fresh water is allocated.

This Republican legislation is a threat to the ecology of the Sacramento Delta and the San Francisco Bay, the safety of drinking water for many Bay area communities, and the many California jobs that depend on productive fisheries and a healthy Delta and Bay. The bill has many losers and the only winners are the large agribusiness interests in the Central Valley, who already receive lavish taxpayer handouts in the form of subsidized water and crop subsidies.

Three years ago, in a bipartisan fashion, Congress and the California General Assembly approved the landmark San Joaquin Restoration Agreement. This agreement was based on the latest science and settled over 20 years of litigation regarding the use of water in the Sacramento River Delta. The San

Joaquin Restoration Agreement brought together multiple water users, including fishermen, farmers, cities and communities, and conservationists and provides a fair allocation of the fresh water that flows through the Delta and into the San Francisco Bay. It also created a roadmap for the further restoration of wild salmon populations. Now, some of the very same interests who signed onto the recent agreement have convinced their allies in Congress to bring legislation to the floor to overturn it.

In addition to throwing out the San Joaquin Restoration Agreement and overriding state law, the bill before us also pre-empts the Endangered Species Act and proclaims that the science regarding the Delta and the Bay that was used in 1994 is current and cannot be updated. Rather than turning back the clock nearly 20 years, ignoring scientific advances, and undermining one of our nation's most important environmental protections, we should vote against the legislation and respect the rights of the State of California.

Both the Governor and Attorney General of California oppose this legislation, as do my colleagues in the Bay Area delegation. The President has rightfully said he will veto this bill. I urge all of my colleagues to support clean water, jobs, and the environment and vote against this misguided bill.

Mrs. CAPPS. Mr. Chair, I rise to speak against this hazardous piece of legislation.

H.R. 1837 is an assault on the environment and on the state of California. It would lead to gridlock in the Delta with potentially disastrous consequences for ecosystems and communities throughout our state.

This bill would undermine years of bipartisan compromise, and would prohibit California from following established precedent in managing its own water resources.

The policies in place today have been carefully crafted by broad consensus and represent the needs of a variety of stakeholders.

The success of these policies prove that cooperative and fair governance are the best way to protect natural resources, promote conservation and boost California's economy.

For example, the Delta Protection Commission has determined that the Delta region provides nearly \$800 million in annual agricultural revenues and \$250 million in revenue related to recreation. This is due to sound management of the commons by an extensive network of public-private partnerships in my State.

But H.R. 1837 would reduce water quality and reliability for Delta communities and farmers—diverting water supply from North of the Delta to agribusiness in the South, and seriously damaging Delta agriculture, a \$4.2 billion dollar industry.

Nearly every environmental group in the country opposes this bill because of the devastating effects it would have on the San Joaquin River Valley.

And, hundreds of fishing groups oppose this bill because it would divert water from the Delta, leaving 40 miles of the San Joaquin River completely dry in most years.

This would devastate the restoration of the river, and the salmon and steelhead that depend on it, hurting our state's fishermen, including many that call the Central Coast home.

<sup>2</sup> Opposition limited to San Joaquin River Restoration provisions.

This bill also disregards the best available science, repeals environmental protections, and damages local tourism.

That's why our state's two Senators, the California Department of Natural Resources, and the California Attorney General oppose this bill.

Mr. Chair, water management is a growing challenge across the nation, particularly in the West.

Developing balanced water solutions is essential to California's long-term economic and environmental health.

California deserves sound water policy that benefits all Californians, not just the needs of a few.

I urge my colleagues to oppose this legislation.

Mr. CALVERT. Mr. Chair, as the author of the 2004's Water Supply, Reliability and Environmental Improvement Act, also known as CALFED, I strongly supported H.R. 1837, the Sacramento-San Joaquin Valley Water Reliability Act. This bill is an important step in preventing onerous regulations from creating another manmade drought like the one that devastated farms and families in California's San Joaquin Valley in 2009 and 2010. As a result of this man-made drought, many farmers lost their livelihoods and many communities saw unemployment rates top 50 percent as jobs dried up with their water.

With California once again faced with record low precipitation this year, we cannot wait to act. Among other things, H.R. 1837 would restore water deliveries to communities by codifying the Bay-Delta Accord and protects and secures private property and senior water rights. This bill will ensure communities will no longer have their water cut off and diverted due to heavy-handed environmental regulation and litigation that attempts to place fish before farmers and families.

This bill protects over 30,000 jobs and strikes a common sense balance between environmental regulations and environmental realities to ensure that California's Central Valley will never again be plunged into man-made drought. I commend my colleague Representative DEVIN NUNES of California for his leadership in crafting this important piece of legislation.

The Acting CHAIR. All time for general debate has expired.

Pursuant to the rule, the bill shall be considered read for amendment under the 5-minute rule.

In lieu of the amendment in the nature of a substitute recommended by the Committee on Natural Resources, printed in the bill, it shall be in order to consider as an original bill for the purpose of amendment under the 5-minute rule an amendment in the nature of a substitute consisting of the text of Rules Committee Print 112-15. That amendment in the nature of a substitute shall be considered as read.

The text of the amendment in the nature of a substitute is as follows:

H.R. 1837

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

*This Act may be cited as the "Sacramento-San Joaquin Valley Water Reliability Act".*

#### SEC. 2. TABLE OF CONTENTS.

Sec. 1. Short title.

Sec. 2. Table of contents.

#### TITLE I—CENTRAL VALLEY PROJECT WATER RELIABILITY

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Sec. 104. Water transfers, improved water management, and conservation.

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Sec. 106. Restoration fund.

Sec. 107. Additional authorities.

Sec. 108. Bay-Delta Accord.

Sec. 109. Natural and artificially spawned species.

Sec. 110. Authorized service area.

Sec. 111. Regulatory streamlining.

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Sec. 212. Water supply mitigation.

Sec. 213. Additional Authorities.

#### TITLE III—REPAYMENT CONTRACTS AND ACCELERATION OF REPAYMENT OF CONSTRUCTION COSTS

Sec. 301. Repayment contracts and acceleration of repayment of construction costs.

#### TITLE IV—BAY-DELTA WATERSHED WATER RIGHTS PRESERVATION AND PROTECTION

Sec. 401. Water rights and area-of-origin protections.

Sec. 402. Sacramento River settlement contracts.

Sec. 403. Sacramento River Watershed Water Service Contractors.

Sec. 404. No redirected adverse impacts.

#### TITLE V—MISCELLANEOUS

Sec. 501. Precedent.

#### TITLE I—CENTRAL VALLEY PROJECT WATER RELIABILITY

##### SEC. 101. AMENDMENT TO PURPOSES.

Section 3402 of the Central Valley Project Improvement Act (106 Stat. 4706) is amended—

(1) in subsection (f), by striking the period at the end; and

(2) by adding at the end the following:

“(g) to ensure that water dedicated to fish and wildlife purposes by this title is replaced and provided to Central Valley Project water contractors by December 31, 2016, at the lowest cost reasonably achievable; and

“(h) to facilitate and expedite water transfers in accordance with this Act.”.

##### SEC. 102. AMENDMENT TO DEFINITION.

Section 3403 of the Central Valley Project Improvement Act (106 Stat. 4707) is amended—

(1) by amending subsection (a) to read as follows:

“(a) the term ‘anadromous fish’ means those native stocks of salmon (including steelhead) and sturgeon that, as of October 30, 1992, were present in the Sacramento and San Joaquin Rivers and their tributaries and ascend those rivers and their tributaries to reproduce after maturing in San Francisco Bay or the Pacific Ocean;”;

(2) in subsection (l), by striking “and,”

(3) in subsection (m), by striking the period and inserting “; and”, and

(4) by adding at the end the following:

“(n) the term ‘reasonable flows’ means water flows capable of being maintained taking into account competing consumptive uses of water and economic, environmental, and social factors.”.

##### SEC. 103. CONTRACTS.

Section 3404 of the Central Valley Project Improvement Act (106 Stat. 4708) is amended—

(1) in the heading, by striking “**LIMITATION ON CONTRACTING AND CONTRACTS REFORM**” and inserting “**CONTRACTS**”; and

(2) by striking the language of the section and by adding:

“(a) **RENEWAL OF EXISTING LONG-TERM CONTRACTS.**—Upon request of the contractor, the Secretary shall renew any existing long-term repayment or water service contract that provides for the delivery of water from the Central Valley Project for a period of 40 years, and renew such contracts for successive periods of 40 years each.

“(b) **DELIVERY CHARGE.**—Beginning on the date of the enactment of this Act, a contract entered into or renewed pursuant to this section shall include a provision that requires the Secretary to charge the other party to such contract only for water actually delivered by the Secretary.”.

##### SEC. 104. WATER TRANSFERS, IMPROVED WATER MANAGEMENT, AND CONSERVATION.

Section 3405 of the Central Valley Project Improvement Act (106 Stat. 4709) is amended as follows:

(1) In subsection (a)—

(A) by inserting before “Except as provided herein” the following: “The Secretary shall take all necessary actions to facilitate and expedite transfers of Central Valley Project water in accordance with this Act or any other provision of Federal reclamation law and the National Environmental Policy Act of 1969.”;

(B) in paragraph (1)(A), by striking “to combination” and inserting “or combination”; and

(C) in paragraph (2), by adding at the end the following:

“(E) The contracting district from which the water is coming, the agency, or the Secretary shall determine if a written transfer proposal is complete within 45 days after the date of submission of such proposal. If such district or agency or the Secretary determines that such proposal is incomplete, such district or agency or the Secretary shall state with specificity what must be added to or revised in order for such proposal to be complete.

“(F) Except as provided in this section, the Secretary shall not impose mitigation or other requirements on a proposed transfer, but the contracting district from which the water is coming or the agency shall retain all authority under State law to approve or condition a proposed transfer.”; and

(D) by adding at the end the following:

“(4) Notwithstanding any other provision of Federal reclamation law—

“(A) the authority to make transfers or exchanges of, or banking or recharge arrangements using, Central Valley Project water that could have been conducted before October 30, 1992, is valid, and such transfers, exchanges, or arrangements shall not be subject to, limited, or conditioned by this title; and

“(B) this title shall not supersede or revoke the authority to transfer, exchange, bank, or recharge Central Valley Project water that existed prior to October 30, 1992.”.

(2) In subsection (b)—

(A) in the heading, by striking “**METERING**” and inserting “**MEASUREMENT**”; and

(B) by inserting after the first sentence the following: “The contracting district or agency,

not including contracting districts serving multiple agencies with separate governing boards, shall ensure that all contractor-owned water delivery systems within its boundaries measure surface water at the district or agency's facilities up to the point the surface water is commingled with other water supplies."

(3) By striking subsection (d).

(4) By redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

(5) By amending subsection (e) (as redesignated by paragraph (4))—

(A) by striking "as a result of the increased repayment" and inserting "that exceed the cost-of-service";

(B) by inserting "the delivery of" after "rates applicable to"; and

(C) by striking "and all increased revenues received by the Secretary as a result of the increased water prices established under subsection 3405(d) of this section."

#### SEC. 105. FISH, WILDLIFE, AND HABITAT RESTORATION.

Section 3406 of the Central Valley Project Improvement Act (106 Stat. 4714) is amended as follows:

(1) In subsection (b)—

(A) in paragraph (1)(B)—

(i) by striking "is authorized and directed to" and inserting "may";

(ii) by inserting "reasonable water" after "to provide";

(iii) by striking "anadromous fish, except that such" and inserting "anadromous fish. Such";

(iv) by striking "Instream flow" and inserting "Reasonable instream flow";

(v) by inserting "and the National Marine Fisheries Service" after "United States Fish and Wildlife Service"; and

(vi) by striking "California Department of Fish and Game" and inserting "United States Geological Survey";

(B) in paragraph (2)—

(i) by striking "primary purpose" and inserting "purposes";

(ii) by striking "but not limited to" before "additional obligations"; and

(iii) by adding after the period the following: "All Central Valley Project water used for the purposes specified in this paragraph shall be credited to the quantity of Central Valley Project yield dedicated and managed under this paragraph by determining how the dedication and management of such water would affect the delivery capability of the Central Valley Project during the 1928 to 1934 drought period after fishery, water quality, and other flow and operational requirements imposed by terms and conditions existing in licenses, permits, and other agreements pertaining to the Central Valley Project under applicable State or Federal law existing on October 30, 1992, have been met. To the fullest extent possible and in accordance with section 3411, Central Valley Project water dedicated and managed pursuant to this paragraph shall be reused to fulfill the Secretary's remaining contractual obligations to provide Central Valley Project water for agricultural or municipal and industrial purposes."

(C) by amending paragraph (2)(C) to read:

"(C) If by March 15th of any year the quantity of Central Valley Project water forecasted to be made available to water service or repayment contractors in the Delta Division of the Central Valley Project is below 75 percent of the total quantity of water to be made available under said contracts, the quantity of Central Valley Project yield dedicated and managed for that year under this paragraph shall be reduced by 25 percent."

(2) By adding at the end the following:

"(i) SATISFACTION OF PURPOSES.—By pursuing the activities described in this section, the Secretary shall be deemed to have met the mitiga-

tion, protection, restoration, and enhancement purposes of this title."

#### SEC. 106. RESTORATION FUND.

(a) IN GENERAL.—Section 3407(a) of the Central Valley Project Improvement Act (106 Stat. 4726) is amended as follows:

(1) By inserting "(1) IN GENERAL.—" before "There is hereby".

(2) By striking "Not less than 67 percent" and all that follows through "Monies" and inserting "Monies".

(3) By adding at the end the following:

"(2) PROHIBITIONS.—The Secretary may not directly or indirectly require a donation or other payment to the Restoration Fund—

"(A) or environmental restoration or mitigation fees not otherwise provided by law, as a condition to—

"(i) providing for the storage or conveyance of non-Central Valley Project water pursuant to Federal reclamation laws; or

"(ii) the delivery of water pursuant to section 215 of the Reclamation Reform Act of 1982 (Public Law 97-293; 96 Stat. 1270); or

"(B) for any water that is delivered with the sole intent of groundwater recharge."

(b) CERTAIN PAYMENTS.—Section 3407(c)(1) of the Central Valley Project Improvement Act is amended—

(1) by striking "mitigation and restoration";

(2) by striking "provided for or"; and

(3) by striking "of fish, wildlife" and all that follows through the period and inserting "of carrying out all activities described in this title."

(c) ADJUSTMENT AND ASSESSMENT OF MITIGATION AND RESTORATION PAYMENTS.—Section 3407(d)(2) of the Central Valley Project Improvement Act is amended by inserting "or after October 1, 2013, \$4 per megawatt-hour for Central Valley Project power sold to power contractors (October 2013 price levels)" after "\$12.00 per acre-foot (October 1992 price levels) for municipal and industrial water sold and delivered by the Central Valley Project".

(d) COMPLETION OF ACTIONS.—Section 3407(d)(2)(A) of the Central Valley Project Improvement Act is amended by inserting "no later than December 31, 2020," after "That upon the completion of the fish, wildlife, and habitat mitigation and restoration actions mandated under section 3406 of this title,".

(e) REPORT; ADVISORY BOARD.—Section 3407 of the Central Valley Project Improvement Act (106 Stat. 4714) is amended by adding at the end the following:

"(g) REPORT ON EXPENDITURE OF FUNDS.—At the end of each fiscal year, the Secretary, in consultation with the Restoration Fund Advisory Board, shall submit to Congress a plan for the expenditure of all of the funds deposited into the Restoration Fund during the preceding fiscal year. Such plan shall contain a cost-effectiveness analysis of each expenditure.

"(h) ADVISORY BOARD.—

"(1) ESTABLISHMENT.—There is hereby established the Restoration Fund Advisory Board (hereinafter in this section referred to as the 'Advisory Board') composed of 12 members selected by the Secretary, each for four-year terms, one of whom shall be designated by the Secretary as Chairman. The members shall be selected so as to represent the various Central Valley Project stakeholders, four of whom shall be from CVP agricultural users, three from CVP municipal and industrial users, three from CVP power contractors, and two at the discretion of the Secretary. The Secretary and the Secretary of Commerce may each designate a representative to act as an observer of the Advisory Board.

"(2) DUTIES.—The duties of the Advisory Board are as follows:

"(A) To meet at least semiannually to develop and make recommendations to the Secretary re-

garding priorities and spending levels on projects and programs carried out pursuant to the Central Valley Project Improvement Act.

"(B) To ensure that any advice or recommendation made by the Advisory Board to the Secretary reflect the independent judgment of the Advisory Board.

"(C) Not later than December 31, 2013, and annually thereafter, to transmit to the Secretary and Congress recommendations required under subparagraph (A).

"(D) Not later than December 31, 2013, and biennially thereafter, to transmit to Congress a report that details the progress made in achieving the actions mandated under section 3406 of this title.

"(3) ADMINISTRATION.—With the consent of the appropriate agency head, the Advisory Board may use the facilities and services of any Federal agency."

#### SEC. 107. ADDITIONAL AUTHORITIES.

(a) AUTHORITY FOR CERTAIN ACTIVITIES.—Section 3408(c) of the Central Valley Project Improvement Act (106 Stat. 4728) is amended to read as follows:

"(c) CONTRACTS FOR ADDITIONAL STORAGE AND DELIVERY OF WATER.—

"(1) IN GENERAL.—The Secretary is authorized to enter into contracts pursuant to Federal reclamation law and this title with any Federal agency, California water user or water agency, State agency, or private organization for the exchange, impoundment, storage, carriage, and delivery of nonproject water for domestic, municipal, industrial, fish and wildlife, and any other beneficial purpose.

"(2) LIMITATION.—Nothing in this subsection shall be deemed to supersede the provisions of section 103 of Public Law 99-546 (100 Stat. 3051).

"(3) AUTHORITY FOR CERTAIN ACTIVITIES.—The Secretary shall use the authority granted by this subsection in connection with requests to exchange, impound, store, carry, or deliver nonproject water using Central Valley Project facilities for any beneficial purpose.

"(4) RATES.—The Secretary shall develop rates not to exceed the amount required to recover the reasonable costs incurred by the Secretary in connection with a beneficial purpose under this subsection. Such rates shall be charged to a party using Central Valley Project facilities for such purpose. Such costs shall not include any donation or other payment to the Restoration Fund.

"(5) CONSTRUCTION.—This subsection shall be construed and implemented to facilitate and encourage the use of Central Valley Project facilities to exchange, impound, store, carry, or deliver nonproject water for any beneficial purpose."

(b) REPORTING REQUIREMENTS.—Section 3408(f) of the Central Valley Project Improvement Act (106 Stat. 4729) is amended—

(1) by striking "Interior and Insular Affairs and the Committee on Merchant Marine and Fisheries" and inserting "Natural Resources";

(2) in the second sentence, by inserting before the period at the end the following: "including progress on the plan required by subsection (j)"; and

(3) by adding at the end the following: "The filing and adequacy of such report shall be personally certified to the Committees referenced above by the Regional Director of the Mid-Pacific Region of the Bureau of Reclamation."

(c) PROJECT YIELD INCREASE.—Section 3408(f) of the Central Valley Project Improvement Act (106 Stat. 4730) is amended as follows:

(1) By redesignating paragraphs (1) through (7) as subparagraphs (A) through (G), respectively.

(2) By striking "In order to minimize adverse effects, if any, upon" and inserting "(1) IN GENERAL.—In order to minimize adverse effects upon".

(3) By striking “needs, the Secretary,” and all that follows through “submit to Congress, a” and inserting “needs, the Secretary, on a priority basis and not later than September 30, 2013, shall submit to Congress a”.

(4) By striking “increase,” and all that follows through “options—” and inserting “increase, as soon as possible but not later than September 30, 2016 (except for the construction of new facilities which shall not be limited by that deadline), the water of the Central Valley Project by the amount dedicated and managed for fish and wildlife purposes under this title and otherwise required to meet the purposes of the Central Valley Project including satisfying contractual obligations. The plan required by this subsection shall include recommendations on appropriate cost-sharing arrangements and authorizing legislation or other measures needed to implement the intent, purposes, and provisions of this subsection and a description of how the Secretary intends to use the following options—”.

(5) In subparagraph (A), by inserting “and construction of new water storage facilities” before the semicolon.

(6) In subparagraph (F), by striking “and” at the end.

(7) In subparagraph (G), by striking the period and all that follows through the end of the subsection and inserting “; and”.

(8) By inserting after subparagraph (G) the following:

“(H) Water banking and recharge.”.

(9) By adding at the end the following:

“(2) IMPLEMENTATION OF PLAN.—The Secretary shall implement the plan required by paragraph (1) commencing on October 1, 2013. In order to carry out this subsection, the Secretary shall coordinate with the State of California in implementing measures for the long-term resolution of problems in the San Francisco Bay/Sacramento-San Joaquin Delta Estuary.

“(3) FAILURE OF THE PLAN.—Notwithstanding any other provision of Federal reclamation law, if by September 30, 2016, the plan required by paragraph (1) fails to increase the annual delivery capability of the Central Valley Project by 800,000 acre-feet, implementation of any non-mandatory action under section 3406(b)(2) shall be suspended until the plan achieves an increase in the annual delivery capability of the Central Valley Project by 800,000 acre-feet.”.

(d) TECHNICAL CORRECTION.—Section 3408(h) of the Central Valley Project Improvement Act (106 Stat. 4729) is amended—

(1) in paragraph (1), by striking “paragraph (h)(2)” and inserting “paragraph (2)”; and

(2) in paragraph (2), by striking “paragraph (h)(i)” and inserting “paragraph (1)”.

(e) WATER STORAGE PROJECT CONSTRUCTION.—The Secretary, acting through the Commissioner of the Bureau of Reclamation, may partner on the water storage projects identified in section 103(d)(1) of the Water Supply Reliability, and Environmental Improvement Act (Public Law 108–361) (and Acts supplemental and amendatory to the Act) with local joint powers authorities formed pursuant to State law by irrigation districts and other local water districts and local governments within the applicable hydrologic region, to advance these projects. No Federal funds are authorized for this purpose and each water storage project is authorized for construction if non-Federal funds are used for financing and constructing the project.

#### SEC. 108. BAY-DELTA ACCORD.

(a) CONGRESSIONAL DIRECTION REGARDING CENTRAL VALLEY PROJECT AND CALIFORNIA STATE WATER PROJECT OPERATIONS.—The Central Valley Project and the State Water Project shall be operated pursuant to the water quality standards and operational constraints described in the “Principles for Agreement on the Bay-

Delta Standards Between the State of California and the Federal Government” dated December 15, 1994, and such operations shall proceed without regard to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or any other law pertaining to the operation of the Central Valley Project and the California State Water Project. Implementation of this section shall be in strict conformance with the “Principles for Agreement on the Bay-Delta Standards Between the State of California and the Federal Government” dated December 15, 1994.

(b) APPLICATION OF LAWS TO OTHERS.—Neither a Federal department nor the State of California, including any agency or board of the State of California, shall impose on any valid water right obtained pursuant to State law, including a pre-1914 appropriative right, any condition that restricts the exercise of that water right in order to conserve, enhance, recover or otherwise protect any species that is affected by operations of the Central Valley Project or California State Water Project. Nor shall the State of California, including any agency or board of the State of California, restrict the exercise of any valid water right obtained pursuant to State law, including a pre-1914 appropriative right, in order to protect, enhance, or restore under the Public Trust Doctrine any public trust value. Implementation of the “Principles for Agreement on the Bay-Delta Standards Between the State of California and the Federal Government” dated December 15, 1994, shall be in strict compliance with the water rights priority system and statutory protections for areas of origin.

(c) COSTS.—No cost associated with the implementation of this section shall be imposed directly or indirectly on any Central Valley Project contractor, or any other person or entity, unless such costs are incurred on a voluntary basis.

(d) NATIVE SPECIES PROTECTION.—California law is preempted with respect to any restriction on the quantity or size of nonnative fish taken or harvested that preys upon one or more native fish species that occupy the Sacramento and San Joaquin Rivers and their tributaries or the Sacramento-San Joaquin Rivers Delta.

#### SEC. 109. NATURAL AND ARTIFICIALLY SPAWNED SPECIES.

After the date of the enactment of this title, and regardless of the date of listing, the Secretaries of the Interior and Commerce shall not distinguish between natural-spawned and hatchery-spawned or otherwise artificially propagated strains of a species in making any determination under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) that relates to any anadromous fish species present in the Sacramento and San Joaquin Rivers or their tributaries and ascend those rivers and their tributaries to reproduce after maturing in San Francisco Bay or the Pacific Ocean.

#### SEC. 110. AUTHORIZED SERVICE AREA.

The authorized service area of the Central Valley Project shall include the area within the boundaries of the Kettleman City Community Services District, California, as those boundaries exist on the date of the enactment of this title. Notwithstanding the provisions of the Act of October 30, 1992 (Public Law 102–575, 106 Stat. 4600 et seq.), upon enactment of this title, the Secretary is authorized and directed to enter into a long-term contract in accordance with the reclamation laws with the Kettleman City Community Services District, California, for the delivery of up to 900 acre-feet of Central Valley Project water for municipal and industrial use. The Secretary may temporarily reduce deliveries of the quantity of water made available pursuant to up to 25 percent of such total whenever reductions due to hydrologic circumstances are imposed upon agricultural deliveries of Central

Valley Project water. If any additional infrastructure or related-costs are needed to implement this section, such costs shall be the responsibility of the non-Federal entity.

#### SEC. 111. REGULATORY STREAMLINING.

(a) APPLICABILITY OF CERTAIN LAWS.—Filing of a Notice of Determination or a Notice of Exemption for any project, including the issuance of a permit under State law, related to any project of the CVP or the delivery of water therefrom in accordance with the California Environmental Quality Act shall be deemed to meet the requirements of section 102(2)(C) of the National Environmental Protection Act of 1969 (42 U.S.C. 4332(2)(C)) for that project or permit.

(b) CONTINUATION OF PROJECT.—The Bureau of Reclamation shall not be required to cease or modify any major Federal action or other activity related to any project of the CVP or the delivery of water there from pending completion of judicial review of any determination made under the National Environmental Protection Act of 1969 (42 U.S.C. 4332(2)(C)).

(c) PROJECT DEFINED.—For the purposes of this section:

(1) CVP.—The term “CVP” means the Central Valley Project.

(2) PROJECT.—The term “project”—

(A) means an activity that—

(i) is undertaken by a public agency, funded by a public agency, or that requires an issuance of a permit by a public agency;

(ii) has a potential to result in physical change to the environment; and

(iii) may be subject to several discretionary approvals by governmental agencies;

(B) may include construction activities, clearing or grading of land, improvements to existing structures, and activities or equipment involving the issuance of a permit; or

(C) as defined under the California Environmental Quality Act in section 21065 of the California Public Resource Code.

### TITLE II—SAN JOAQUIN RIVER RESTORATION

#### SEC. 201. REPEAL OF THE SAN JOAQUIN RIVER SETTLEMENT.

As of the date of enactment of this title, the Secretary shall cease any action to implement the Stipulation of Settlement (Natural Resources Defense Council, et al. v. Kirk Rodgers, et al., Eastern District of California, No. Civ. S 88–1658 LKK/GGH).

#### SEC. 202. PURPOSE.

Section 10002 of the San Joaquin River Restoration Settlement Act (Public Law 111–11) is amended by striking “implementation of the Settlement” and inserting “restoration of the San Joaquin River”.

#### SEC. 203. DEFINITIONS.

Section 10003 of the San Joaquin River Restoration Settlement Act (Public Law 111–11) is amended—

(1) by striking paragraph (1) and inserting the following:

“(1) The term ‘Restoration Flows’ means the additional water released or bypassed from Friant Dam to insure that the target flow entering Mendota Pool, located approximately 62 river miles downstream from Friant Dam, does not fall below 50 cubic feet per second.”.

(2) by striking paragraph (3) and inserting the following:

“(3) The term ‘Water Year’ means March 1 through the last day of February of the following Calendar Year, both dates inclusive”; and

(3) by adding at the end the following new paragraph:

“(4) The term ‘Critical Water Year’ means when the total unimpaired runoff at Friant Dam is less than 400,000 acre-feet, as forecasted as of March 1 of that water year by the California Department of Water Resources.”.

**SEC. 204. IMPLEMENTATION OF RESTORATION.**

Section 10004 of the San Joaquin River Restoration Settlement Act (Public Law 111-11) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking “authorized and directed” and all that follows through “in the Settlement” and inserting “authorized to carry out the following:”;

(B) by striking paragraphs (1), (2), (4), and (5);

(C) in paragraph (3)—

(i) by striking “(3)” and inserting “(1)”;

(ii) by striking “paragraph 13 of the Settlement” and inserting “this part”;

(D) by adding at the end the following new paragraphs:

“(2) In each Water Year, commencing in the Water Year starting on March 1, 2013—

“(A) shall modify Friant Dam operations so as to release the Restoration Flows for that Water Year, except in any Critical Water Year;

“(B) shall ensure that the release of Restoration Flows are maintained at the level prescribed by this part, but that Restoration Flows do not reach downstream of Mendota Pool;

“(C) shall release the Restoration Flows in a manner that improves the fishery in the San Joaquin River below Friant Dam, but upstream of Gravelly Ford in existence as of the date of the enactment of this part, and the associated riparian habitat; and

“(D) may, without limiting the actions required under paragraphs (A) and (C) and subject to subsections 10004(a)(3) and 10004(l), use the Restoration Flows to enhance or restore a warm water fishery downstream of Gravelly Ford to and including Mendota Pool, if the Secretary determines that it is reasonable, prudent, and feasible to do so; and

“(3) Not later than 1 year after the date of the enactment of this section, the Secretary shall develop and implement, in cooperation with the State of California, a reasonable plan, to fully recirculate, recapture, reuse, exchange, or transfer all Restoration Flows and provide such recirculated, recaptured, reused, exchanged, or transferred flows to those contractors within the Friant Division, Hidden Unit, and Buchanan Unit of the Central Valley Project that relinquished the Restoration Flows so recirculated, recaptured, reused, exchanged, or transferred. Such a plan shall address any impact on ground water resources within the service area of the Friant Division, Hidden Unit, and Buchanan Unit of the Central Valley Project and mitigation may include ground water banking and recharge projects. Such a plan shall not impact the water supply or water rights of any entity outside the Friant Division, Hidden unit, and Buchanan Unit of the Central Valley Project. Such a plan shall be subject to applicable provisions of California water law and the Secretary’s use of Central Valley Project facilities to make Project water (other than water released from Friant Dam pursuant to this part) and water acquired through transfers available to existing south-of-Delta Central Valley Project contractors.”;

(2) in subsection (b)—

(A) in paragraph (1), by striking “the Settlement” and inserting “this part”;

(B) in paragraph (2), by striking “the Settlement” and inserting “this part”;

(3) in subsection (c), by striking “the Settlement” and inserting “this part”;

(4) by striking subsection (d) and inserting the following:

“(d) MITIGATION OF IMPACTS.—Prior to October 1, 2013, the Secretary shall identify—

“(1) the impacts associated with the release of Restoration Flows prescribed in this part;

“(2) the measures which shall be implemented to mitigate impacts on adjacent and downstream

water users, landowners and agencies as a result of Restoration Flows prescribed in this part; and

“(3) prior to the implementation of decisions or agreements to construct, improve, operate, or maintain facilities that the Secretary determines are needed to implement this part, the Secretary shall implement all mitigations measures identified in subsection (d)(2) before Restoration Flows are commenced.”;

(5) in subsection (e), by striking “the Settlement” and inserting “this part”;

(6) in subsection (f), by striking “the Settlement” and all that follows through “section 10011” and insert “this part”;

(7) in subsection (g)—

(A) by striking “the Settlement and” before this part; and

(B) by striking “or exchange contract” and inserting “exchange contract, or water rights settlement or holding contracts”;

(8) in subsection (h)—

(A) by striking “INTERIM” in the header;

(B) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking “Interim Flows under the Settlement” and inserting “Restoration Flows under this part”;

(ii) in subparagraph (C)—

(I) in clause (i), by striking “Interim” and inserting “Restoration”;

(II) in clause (ii), by inserting “and” after the semicolon;

(iii) in subparagraph (D), by striking “and” at the end; and

(iv) by striking subparagraph (E);

(C) in paragraph (2)—

(i) by striking “Interim” and inserting “Restoration”;

(ii) by striking subparagraph (A); and

(iii) by striking “(B) exceed” and inserting “exceed”;

(D) in paragraph (3), by striking “Interim” and inserting “Restoration”;

(E) by striking paragraph (4) and inserting the following:

“(4) CLAIMS.—Within 60 days of enactment of this Act the Secretary shall promulgate a rule establishing a claims process to address current and future claims including, but not limited to, ground water seepage, flooding, or levee instability damages caused as a result of, arising out of, or related to implementation of subtitle A of title X of Public Law 111-11.”;

(9) in subsection (i)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking “the Settlement and parts I and III” and inserting “this part”;

(ii) in subparagraph (A), by inserting “and” after the semicolon;

(iii) in subparagraph (B)—

(I) by striking “additional amounts authorized to be appropriated, including the”;

(II) by striking “; and” and inserting a period; and

(iv) by striking subparagraph (C); and

(B) by striking paragraph (3); and

(10) by adding at the end the following new subsections:

“(k) NO IMPACTS ON OTHER INTERESTS.—No Central Valley Project or other water other than San Joaquin River water impounded by or bypassed from Friant Dam shall be used to implement subsection (a)(2) unless such use is on a voluntary basis. No cost associated with the implementation of this section shall be imposed directly or indirectly on any Central Valley Project contractor, or any other person or entity, outside the Friant Division, the Hidden Unit, or the Buchanan Unit, unless such costs are incurred on a voluntary basis. The implementation of this part shall not result directly or indirectly in any reduction in water supplies

or water reliability on any Central Valley Project contractor, any State Water Project contractor, or any other person or entity, outside the Friant Division, the Hidden Unit, or the Buchanan Unit, unless such reductions or costs are incurred on a voluntary basis.

“(l) PRIORITY.—All actions taken under this part shall be subordinate to the Secretary’s use of Central Valley Project facilities to make Project water available to Project contractors, other than water released from the Friant Dam pursuant to this part.

“(m) IN GENERAL.—Notwithstanding section 8 of the Reclamation Act of 1902, except as provided in this part, including Title IV of the Sacramento and San Joaquin Valleys Water Reliability Act, this part preempts and supersedes any State law, regulation, or requirement that imposes more restrictive requirements or regulations on the activities authorized under this part. Nothing in this part shall alter or modify the obligations, if any, of the Friant Division, Hidden Unit, and Buchanan Unit of the Central Valley Project, or other water users on the San Joaquin River or its tributaries, under orders issued by the State Water Resources Control Board pursuant to the Porter-Cologne Water Quality Control Act (California Water Code sections 13000 et seq.). Any such order shall be consistent with the congressional authorization for any affected Federal facility as it pertains to the Central Valley Project.

“(n) PROJECT IMPLEMENTATION.—Projects to implement this title shall be phased such that each project shall follow the sequencing identified below and include at least the—

“(1) project purpose and need;

“(2) identification of mitigation measures;

“(3) appropriate environmental review; and

“(4) prior to releasing Restoration Flows under this part, the Secretary shall—

“(A) complete the implementation of mitigation measures required; and

“(B) complete implementation of the project.”.

**SEC. 205. DISPOSAL OF PROPERTY; TITLE TO FACILITIES.**

Section 10005 of the San Joaquin River Restoration Settlement Act (Public Law 111-11) is amended—

(1) in subsection (a), by striking “the Settlement authorized by this part” and inserting “this part”;

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by striking “(1) IN GENERAL.—The Secretary” and inserting “The Secretary”;

(ii) by striking “the Settlement authorized by this part” and inserting “this part”;

(B) by striking paragraph (2); and

(3) in subsection (c)—

(A) in paragraph (1), by striking “the Settlement” and inserting “this part”;

(B) in paragraph (2)—

(i) by striking “through the exercise of its eminent domain authority”;

(ii) by striking “the Settlement” and inserting “this part”;

(C) in paragraph (3), by striking “section 10009(c)” and inserting “section 10009”.

**SEC. 206. COMPLIANCE WITH APPLICABLE LAW.**

Section 10006 of the San Joaquin River Restoration Settlement Act (Public Law 111-11) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting “unless otherwise provided by this part” before the period at the end; and

(B) in paragraph (2), by striking “the Settlement” and inserting “this part”;

(2) in subsection (b), by inserting “, unless otherwise provided by this part” before the period at the end;

(3) in subsection (c)—

(A) in paragraph (2), by striking “section 10004” and inserting “this part”;



(B) in paragraph (3), by striking “the Settlement” and inserting “this part”; and

(4) in subsection (d)—

(A) by inserting “, including without limitation to sections 10004(d) and 10004(h)(4) of this part,” after “implementing this part”; and

(B) by striking “for implementation of the Settlement”.

**SEC. 207. COMPLIANCE WITH CENTRAL VALLEY PROJECT IMPROVEMENT ACT.**

Section 10007 of the San Joaquin River Restoration Settlement Act (Public Law 111–11) is amended—

(1) in the matter preceding paragraph (1),

(A) by striking “the Settlement” and inserting “enactment of this part”; and

(B) by inserting: “and the obligations of the Secretary and all other parties to protect and keep in good condition any fish that may be planted or exist below Friant Dam including any obligations under section 5937 of the California Fish and Game Code and the public trust doctrine, and those of the Secretary and all other parties under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.)” before “, provided”; and

(2) in paragraph (1), by striking “, as provided in the Settlement”.

**SEC. 208. NO PRIVATE RIGHT OF ACTION.**

Section 10008(a) of the San Joaquin River Restoration Settlement Act (Public Law 111–11) is amended—

(1) by striking “not a party to the Settlement” after “person or entity”; and

(2) by striking “or the Settlement” before the period and inserting “unless otherwise provided by this part. Any Central Valley Project long-term water service or repayment contractor within the Friant Division, Hidden unit, or Buchanan Unit adversely affected by the Secretary’s failure to comply with section 10004(a)(3) of this part may bring an action against the Secretary for injunctive relief or damages, or both.”.

**SEC. 209. IMPLEMENTATION.**

Section 10009 of the San Joaquin River Restoration Settlement Act (Public Law 111–11) is amended—

(1) in the header by striking “; **SETTLEMENT FUND**”;

(2) in subsection (a)—

(A) in paragraph (1)—

(i) by striking “the Settlement” and inserting “this part”;

(ii) by striking “, estimated to total” and all that follows through “subsection (b)(1).”; and

(iii) by striking “, provided; however,” and all that follows through “\$110,000,000 of State funds”;

(B) in paragraph (2)—

(i) in subparagraph (A), by striking “(A) IN GENERAL.—The Secretary” and inserting “The Secretary”;

(ii) by striking subparagraph (B); and

(C) in paragraph (3)—

(i) by striking “Except as provided in the Settlement, to” and inserting “To”; and

(ii) by striking “this Settlement” and inserting “this part”;

(3) in subsection (b)(1)—

(A) by striking “In addition” through “however, that the” and inserting “The”;

(B) by striking “such additional appropriations only in amounts equal to”; and

(C) by striking “or the Settlement” before the period;

(4) in subsection (c)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking “the Settlement” and inserting “this part”;

(ii) in subparagraph (C), by striking “from the sale of water pursuant to the Settlement, or”; and

(iii) in subparagraph (D), by striking “the Settlement” and inserting “this part”;

(B) in paragraph (2), by striking “the Settlement and” before “this part”; and

(5) by striking subsections (d) through (f).

**SEC. 210. REPAYMENT CONTRACTS AND ACCELERATION OF REPAYMENT OF CONSTRUCTION COSTS.**

Section 10010 of the San Joaquin River Restoration Settlement Act (Public Law 111–11) is amended—

(1) in subsection (a)—

(A) in paragraph (3)(D), by striking “the Settlement and” after “this part”; and

(B) in paragraph (4)(C), by striking “the Settlement and” after “this part”;

(2) in subsection (c), by striking paragraph (3);

(3) in subsection (d)(1), by striking “the Settlement” in both places it appears and inserting “this part”;

(4) in subsection (e)—

(A) in paragraph (1)—

(i) by striking “Interim Flows or Restoration Flows, pursuant to paragraphs 13 or 15 of the Settlement” and inserting “Restoration Flows, pursuant to this part”;

(ii) by striking “Interim Flows or” before “Restoration Flows”; and

(iii) by striking “the Interim Flows or Restoration Flows or is intended to otherwise facilitate the Water Management Goal, as described in the Settlement” and inserting “Restoration Flows”; and

(B) in paragraph (2)—

(i) by striking “except as provided in paragraph 16(b) of the Settlement” after “Friant Division long-term contractor”; and

(ii) by striking “the Interim Flows or Restoration Flows or to facilitate the Water Management Goal” and inserting “Restoration Flows”.

**SEC. 211. REPEAL.**

Section 10011 of the San Joaquin River Restoration Settlement Act (Public Law 111–11) is repealed.

**SEC. 212. WATER SUPPLY MITIGATION.**

Section 10202(b) of the San Joaquin River Restoration Settlement Act (Public Law 111–11) is amended—

(1) in paragraph (1), by striking “the Interim or Restoration Flows authorized in part I of this subtitle” and inserting “Restoration Flows authorized in this part”;

(2) in paragraph (2), by striking “the Interim or Restoration Flows authorized in part I of this subtitle” and inserting “Restoration Flows authorized in this part”; and

(3) in paragraph (3)—

(A) in subparagraph (A), by striking “meet the Restoration Goal as described in part I of this subtitle” and inserting “recover Restoration Flows as described in this part”;

(B) in subparagraph (C)—

(i) by striking “the Interim or Restoration Flows authorized in part I of this subtitle” and inserting “Restoration Flows authorized in this part”; and

(ii) by striking “, and for ensuring appropriate adjustment in the recovered water account pursuant to section 10004(a)(5)”.

**SEC. 213. ADDITIONAL AUTHORITIES.**

Section 10203 of the San Joaquin River Restoration Settlement Act (Public Law 111–11) is amended—

(1) in subsection (b)—

(A) by striking “section 10004(a)(4)” and inserting “section 10004(a)(3)”; and

(B) by striking “, provided” and all that follows through “section 10009(f)(2)”; and

(2) by striking subsection (c).

**TITLE III—REPAYMENT CONTRACTS AND ACCELERATION OF REPAYMENT OF CONSTRUCTION COSTS**

**SEC. 301. REPAYMENT CONTRACTS AND ACCELERATION OF REPAYMENT OF CONSTRUCTION COSTS.**

(a) CONVERSION OF CONTRACTS.—

(1) Not later than 1 year after enactment, the Secretary of the Interior, upon request of the contractor, shall convert all existing long-term Central Valley Project contracts entered under subsection (e) of section 9 of the Act of August 4, 1939 (53 Stat. 1196), to a contract under subsection (d) of section 9 of said Act (53 Stat. 1195), under mutually agreeable terms and conditions.

(2) Upon request of the contractor, the Secretary is further authorized to convert, not later than 1 year after enactment, any Central Valley Project long-term contract entered under subsection (c)(2) of section 9 of the Act of August 4, 1939 (53 Stat. 1194), to a contract under subsection (c)(1) of section 9 of said Act, under mutually agreeable terms and conditions.

(3) All contracts entered into pursuant to paragraph (1) shall—

(A) require the repayment, either in lump sum or by accelerated prepayment, of the remaining amount of construction costs identified in the most current version of the Central Valley Project Schedule of Irrigation Capital Allocations by Contractor, as adjusted to reflect payments not reflected in such schedule, and properly assignable for ultimate return by the contractor, no later than January 31, 2013, or if made in approximately equal annual installments, no later than January 31, 2016; such amount to be discounted by the Treasury Rate. An estimate of the remaining amount of construction costs as of January 31, 2013, as adjusted, shall be provided by the Secretary of the Interior to each contractor no later than 180 days after enactment;

(B) require that, notwithstanding subsection (c)(2), construction costs or other capitalized costs incurred after the effective date of the converted contract or not reflected in the schedule referenced in subparagraph (A), and properly assignable to such contractor, shall be repaid in not more than 5 years after notification of the allocation if such amount is a result of a collective annual allocation of capital costs to the contractors exercising contract conversions under this subsection of less than \$5,000,000. If such amount is \$5,000,000 or greater, such cost shall be repaid as provided by applicable reclamation law, provided that the reference to the amount of \$5,000,000 shall not be a precedent in any other context; and

(C) provide that power revenues will not be available to aid in repayment of construction costs allocated to irrigation under the contract.

(4) All contracts entered into pursuant to paragraph (2) shall—

(A) require the repayment in lump sum of the remaining amount of construction costs identified in the most current version of the Central Valley Project Schedule of Municipal and Industrial Water Rates, as adjusted to reflect payments not reflected in such schedule, and properly assignable for ultimate return by the contractor, no later than January 31, 2016. An estimate of the remaining amount of construction costs as of January 31, 2016, as adjusted, shall be provided by the Secretary of the Interior to each contractor no later than 180 days after enactment; and

(B) require that, notwithstanding subsection (c)(2), construction costs or other capitalized costs incurred after the effective date of the contract or not reflected in the schedule referenced in subparagraph (A), and properly assignable to such contractor, shall be repaid in not more than 5 years after notification of the allocation if such amount is a result of a collective annual allocation of capital costs to the contractors exercising contract conversions under this subsection of less than \$5,000,000. If such amount is \$5,000,000 or greater, such cost shall be repaid as provided by applicable reclamation law, provided that the reference to the amount of



\$5,000,000 shall not be a precedent in any other context.

(b) **FINAL ADJUSTMENT.**—The amounts paid pursuant to subsection (a) shall be subject to adjustment following a final cost allocation by the Secretary of the Interior upon completion of the construction of the Central Valley Project. In the event that the final cost allocation indicates that the costs properly assignable to the contractor are greater than what has been paid by the contractor, the contractor shall be obligated to pay the remaining allocated costs. The term of such additional repayment contract shall be no less than 1 year and no more than 10 years, however, mutually agreeable provisions regarding the rate of repayment of such amount may be developed by the parties. In the event that the final cost allocation indicates that the costs properly assignable to the contractor are less than what the contractor has paid, the Secretary of the Interior is authorized and directed to credit such overpayment as an offset against any outstanding or future obligation of the contractor.

(c) **APPLICABILITY OF CERTAIN PROVISIONS.**—

(1) Notwithstanding any repayment obligation under subsection (a)(3)(B) or subsection (b), upon a contractor's compliance with and discharge of the obligation of repayment of the construction costs as provided in subsection (a)(3)(A), the ownership and full-cost pricing limitations of any provision of Federal reclamation law shall not apply to lands in such district.

(2) Notwithstanding any repayment obligation under paragraph (3)(B) or paragraph (4)(B) of subsection (a), or subsection (b), upon a contractor's compliance with and discharge of the obligation of repayment of the construction costs as provided in paragraphs (3)(A) and (4)(A) of subsection (a), such contractor shall continue to pay applicable operation and maintenance costs and other charges applicable to such repayment contracts pursuant to the then-current rate-setting policy and applicable law.

(d) **CERTAIN REPAYMENT OBLIGATIONS NOT ALTERED.**—Implementation of the provisions of this section shall not alter the repayment obligation of any other long-term water service or repayment contractor receiving water from the Central Valley Project, or shift any costs that would otherwise have been properly assignable to any contractors absent this section, including operations and maintenance costs, construction costs, or other capitalized costs incurred after the date of enactment of this Act, to other such contractors.

(e) **STATUTORY INTERPRETATION.**—Nothing in this part shall be construed to affect the right of any long-term contractor to use a particular type of financing to make the payments required in paragraph (3)(A) or paragraph (4)(A) of subsection (a).

(f) **DEFINITION OF TREASURY RATE.**—For purposes of this section, "Treasury Rate" shall be defined as the 20-year Constant Maturity Treasury rate published by the United States Department of the Treasury as of October 1, 2012.

**TITLE IV—BAY-DELTA WATERSHED WATER RIGHTS PRESERVATION AND PROTECTION**

**SEC. 401. WATER RIGHTS AND AREA-OF-ORIGIN PROTECTIONS.**

Notwithstanding the provisions of this Act, Federal reclamation law, or the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.)—

(1) the Secretary of the Interior ("Secretary") is directed, in the operation of the Central Valley Project, to strictly adhere to State water rights law governing water rights priorities by honoring water rights senior to those belonging to the Central Valley Project, regardless of the source of priority;

(2) the Secretary is directed, in the operation of the Central Valley Project, to strictly adhere

to and honor water rights and other priorities that are obtained or exist pursuant to the provisions of California Water Code sections 10505, 10505.5, 11128, 11460, and 11463; and sections 12200 to 12220, inclusive; and

(3) any action that affects the diversion of water or involves the release of water from any water storage facility taken by the Secretary or the Secretary of the Department of Commerce to conserve, enhance, recover, or otherwise protect any species listed under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) shall be applied in a manner that is consistent with water right priorities established by State law.

**SEC. 402. SACRAMENTO RIVER SETTLEMENT CONTRACTS.**

In the implementation of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), in the Bay-Delta and on the Sacramento River, the Secretary and the Secretary of Commerce are directed to apply any limitations on the operation of the Central Valley Project or to formulate any "reasonable prudent alternative" associated with the operation of the Central Valley Project in a manner that strictly adheres to and applies the water rights priorities for "Project Water" and "Base Supply" provided for in the Sacramento River Settlement Contracts. Article 3(i) of the Sacramento River Settlement Contracts shall not be utilized by the United States as means to provide shortages to the Sacramento River Settlement Contracts that are different than those provided for in Article 5(a) of those contracts.

**SEC. 403. SACRAMENTO RIVER WATERSHED WATER SERVICE CONTRACTORS.**

(a) **IN GENERAL.**—Subject to subsection (b) and the absolute priority of the Sacramento River Settlement Contractors to Sacramento River supplies over Central Valley Project diversions and deliveries to other contractors, the Secretary is directed, in the operation of the Central Valley Project, to allocate water provided for irrigation purposes to existing Central Valley Project agricultural water service contractors within the Sacramento River Watershed in compliance with the following:

(1) Not less than 100% of their contract quantities in a "Wet" year.

(2) Not less than 100% of their contract quantities in an "Above Normal" year.

(3) Not less than 100% of their contract quantities in a "Below Normal" year.

(4) Not less than 75% of their contract quantities in a "Dry" year.

(5) Not less than 50% of their contract quantities in a "Critically Dry" year.

(b) **PROTECTION OF MUNICIPAL AND INDUSTRIAL SUPPLIES.**—Nothing in subsection (a) shall be deemed to (i) modify any provision of a water service contract that addresses municipal and industrial water shortage policies of the Secretary, (ii) affect or limit the authority of the Secretary to adopt or modify municipal and industrial water shortage policies, (iii) affect or limit the authority of the Secretary to implement municipal and industrial water shortage policies, or (iv) affect allocations to Central Valley Project municipal and industrial contractors pursuant to such policies. Neither subsection (a) nor the Secretary's implementation of subsection (a) shall constrain, govern or affect, directly or indirectly, the operations of the Central Valley Project's American River Division or any deliveries from that Division, its units or its facilities.

(c) **DEFINITIONS.**—In this section:

(1) The term "existing Central Valley Project agricultural water service contractors within the Sacramento River Watershed" means water service contractors within the Shasta, Trinity, and Sacramento River Divisions of the Central Valley Project, that have a water service contract in effect, on the date of the enactment of this section, that provides water for irrigation.

(2) The year type terms used in subsection (a) have the meaning given those year types in the Sacramento Valley Water Year Type (40–30–30) Index.

**SEC. 404. NO REDIRECTED ADVERSE IMPACTS.**

The Secretary shall insure that there are no redirected adverse water supply or fiscal impacts to those within the Sacramento River watershed or to the State Water Project arising from the Secretary's operation of the Central Valley Project to meet legal obligations imposed by or through any State or Federal agency, including, but not limited to those legal obligations emanating from the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or this Act, or actions or activities implemented to meet the twin goals of improving water supply or addressing environmental needs of the Bay Delta.

**TITLE V—MISCELLANEOUS**

**SEC. 501. PRECEDENT.**

Congress finds and declares that—

(1) coordinated operations between the Central Valley Project and the State Water Project, previously requested and consented to by the State of California and the Federal Government, require assertion of Federal supremacy to protect existing water rights throughout the system; and

(2) these circumstances are unique to California.

Therefore, nothing in this Act shall serve as precedent in any other State.

The Acting CHAIR. No amendment to that amendment in the nature of a substitute shall be in order except those printed in House Report 112–405. Each such amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

AMENDMENT NO. 1 OFFERED BY MR. MCCLINTOCK

The Acting CHAIR. It is now in order to consider amendment No. 1 printed in House Report 112–405.

Mr. MCCLINTOCK. Mr. Chairman, I have an amendment made in order under the rule.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 3, line 24, strike "CONTRACTS" and insert "CONTRACT".

Page 4, starting on line 7, strike " , and renew such contracts for successive periods of 40 years each".

Page 4, after line 9, insert the following new subsection:

(b) **ADMINISTRATION OF CONTRACTS.**—Except as expressly provided by this Act, any existing long-term repayment or water service contract for the delivery of water from the Central Valley Project shall be administered pursuant to the Act of July 2, 1956 (70 Stat. 483).

Page 4, line 10, strike "(b)" and insert "(c)".

Page 11, line 21, strike ".00".

Page 12, line 3, strike " , no" and insert "no".

Page 16, line 18, strike "submit to" and insert "submit to the".

Page 16, line 23, strike "options—" and insert "options:".

Page 19, line 3, after "may partner" insert "or enter into an agreement".

Page 19, line 11, after "No" and before "Federal funds" insert "additional".

Page 19, lines 11, strike "this purpose and" and insert "the activities authorized in sections 103(d)(1)(A)(i), 103(d)(1)(A)(ii) and 103(d)(1)(A)(iii) of Public Law 108-361."

Page 19, lines 11 and 12, before "each water storage project" insert "However,".

Page 19, line 12, after "water storage project" insert "under sections

103(d)(1)(A)(i), 103(d)(1)(A)(ii) and 103(d)(1)(A)(iii) of Public Law 108-361."

Page 20, line 10, strike "valid".

Page 20, line 17, strike "valid".

Page 25, line 16, insert a period after "inclusive".

Page 26, line 4, insert a colon after "Settlement".

Page 37, line 22, insert "the first place it appears" before "and".

Page 38, line 1, strike " , provided;" and insert "provided".

Page 39, line 19, strike "after" and insert "before".

Page 39, line 21, strike "after" and insert "before".

Page 49, line 12, insert "Central Valley Project" before "water".

Page 52, line 12, after "Sacramento River" insert "or San Joaquin River".

Page 52, line 21, strike "MISCELLANEOUS" and insert "MISCELLANEOUS".

The Acting CHAIR. Pursuant to House Resolution 566, the gentleman from California (Mr. MCCLINTOCK) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California.

Mr. MCCLINTOCK. Mr. Chairman, this amendment addresses two concerns that have been raised by opponents of the bill during the committee markup and here on the floor today.

A great deal of time during that markup and more today was spent addressing concerns that the bill provides for 40-year contracts that can be renewed each year. The minority charged that this amounts to de facto privatization of a public resource.

Well, we have tried over and over to explain to them that 40-year successive renewal contracts are the rule in Western water law, and the 25-year provision for the Central Valley Project was actually the exception. Indeed, the CVP used to operate with a 40-year provision until that was changed in 1992.

This amendment makes it absolutely crystal clear, I certainly hope, that the contract provisions for the Central Valley Project must be in conformity with the act of July 2, 1956, that amended the Reclamation Projects Act of 1939. These provisions govern all reclamation projects throughout the western United States and treats the CVP contracts no differently. I hope that this provision settles this issue.

The second substantive provision, also included in deference to opponents of the measures, arises from an amendment that intends to expedite four CALFED surface water projects. It was charged that the wording would have interfered with authorization of the project.

This amendment makes it crystal clear that these four projects are authorized as long as non-Federal financing is used. This clears the way for local, State, and private funds to be applied immediately to the construction of these facilities.

The rest of the amendments are technical. They remove superfluous language, correct misspellings, and correct inadvertent omission.

I reserve the balance of my time.

The Acting CHAIR. Who seeks recognition in opposition to the amendment?

Mrs. NAPOLITANO. Actually, Mr. Chairman, I wish to speak on this issue.

The Acting CHAIR. The gentlewoman from California is recognized for 5 minutes.

Mrs. NAPOLITANO. Mr. Chairman, as my colleague has said, his amendment makes technical changes to the legislation, but it leaves in question and very much in doubt—although it says the 40-year rule in Western water is standard—but is this in perpetuity?

I would like a response on that, if I may involve myself in a colloquy with my colleague, Mr. Chairman.

The Acting CHAIR. The gentlewoman may proceed.

Mrs. NAPOLITANO. Is this a renewal every 40 years, or is it in perpetuity?

Mr. MCCLINTOCK. Let me read directly from the act of July 2, 1956, governing all reclamation contracts, including those under this legislation:

The Secretary of the Interior shall include in any long-term contracts—

Mrs. NAPOLITANO. Reclaiming my time, Mr. Chairman, I don't wish to know of '56. I wish to know what your amendment does.

Mr. MCCLINTOCK. This amendment applies the act that I was just reading to the Central Valley Project. I was specifically answering the gentlelady's question by quoting directly from the text of the act that this proposes.

Mrs. NAPOLITANO. I would ask again, is it in perpetuity?

Mr. MCCLINTOCK. No. It has to be negotiated. In fact, just read the text. I think this will answer the question.

Mrs. NAPOLITANO. Thank you, Mr. MCCLINTOCK. Reclaiming my time, the technical memo also makes some standard corrections to the language passed out in committee. While we were not consulted in the drafting of this amendment, we don't oppose the amendment, as it does nothing substantial.

I yield back the balance of my time.

Mr. MCCLINTOCK. Mr. Chairman, if I could now answer the question of the gentlewoman that she didn't seem to want to hear, it is this:

This act applies—the act of July 2, 1956—to all contracts in the CVP under this legislation. That legislation states:

The Secretary of the Interior shall include in any long-term contract hereafter entered

into, if the other contracting party so requests, for renewal thereof under stated terms and conditions mutually agreeable to the parties.

And I repeat: under stated terms and conditions mutually agreeable to the parties.

This is not automatic renewal. This is negotiated anew between the government and the contractor. The only exception to that act under this bill is to accommodate the early repayment of Federal loans, which would be a boon to the cash-strapped Federal Treasury.

Mr. Chairman, as we have repeatedly tried to explain to the minority, this measure simply applies the same standards to the CVP as are applied to all other water contracts throughout the western United States.

It was a punitive act by this Congress in 1992 that reduced the amount of time in these contracts from 40 years to 25 years exclusively for the CVP. This legislation sets that right and returns the CVP to equal treatment with any other water project in the western United States.

I reserve the balance of my time, unless the gentlelady has closed.

The Acting CHAIR. The Chair wishes to clarify, the gentlewoman from California is not in opposition to the amendment but has yielded back the remainder of her time.

Mrs. NAPOLITANO. I wish to reclaim my time, Mr. Chairman.

The Acting CHAIR. Is there objection to the request of the gentlewoman from California?

There was no objection.

The Acting CHAIR. The gentlewoman from California is recognized.

□ 1540

Mrs. NAPOLITANO. I just want to thank my colleague on the other side for clarifying that, and I would like to yield the balance of my time to the gentleman from California (Mr. GARAMENDI).

Mr. GARAMENDI. There is always the rest of the story. And while this amendment deals with one of the pernicious parts of the legislation that would have been a perpetual contract, it does not deal with the remaining pieces of the Central Valley Improvement Act, which dealt with the issue of how those contracts were to be renegotiated at the end of 40 years. In fact, those parts of the Central Valley Improvement Act said that, in the renegotiation process, the Federal Government needed to take into account the issues of water availability. You know, maybe there's not that much water available and we need to downgrade, or maybe we need to increase the amount of water, take into account the environmental issues. So those very, very important qualifications on how the contracts would be renegotiated disappeared in the underlying bill.

You did deal with one of the problems, and that is the perpetuity issue,

and we understand that. But, nonetheless, there is a very, very serious problem that remains in the negotiation or the renegotiation of the contracts; and, therefore, the amendment, while dealing with one problem, allows the remaining problems to exist. And those remaining problems are how and under what circumstances is the Federal Government to carry out the negotiations; that is, do we take into account environmental issues, fish in the river or not, and availability of water or not.

Mr. MCCLINTOCK. Mr. Chairman, to answer the gentleman very specifically, the contract negotiations are conducted in precisely the same manner as every other contract in the Western United States.

I would remind the gentleman and the gentelady who carried the legislation, this Congress approved a 50-year contract for Hoover power users. And I would remind my friend, the gentleman from California, that during the markup, he specifically said that he could probably live with 40 years. I hope that is still the case. I hope that these amendments assuage his concerns, and I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from California (Mr. MCCLINTOCK).

The amendment was agreed to.

AMENDMENT NO. 2 OFFERED BY MR. THOMPSON  
OF CALIFORNIA

The Acting CHAIR. It is now in order to consider amendment No. 2 printed in House Report 112-405.

Mr. THOMPSON of California. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

After section 2, insert the following:

**SEC. 3. EFFECTIVE DATE CONDITIONS.**

Notwithstanding sections 104, 105, 110, and 111 and title III, nothing in this Act or the amendments made by this Act shall take effect until the Secretary of the Interior, in consultation with the Secretary of Agriculture, the Secretary of Commerce, and the Secretary of Labor, certifies that the provisions of this Act and the amendments made by this Act will not result in the loss of agriculture, agriculture-related, fishery, or fishery-related jobs or revenue in California counties north of the Sacramento-San Joaquin River Delta.

The Acting CHAIR. Pursuant to House Resolution 566, the gentleman from California (Mr. THOMPSON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California.

Mr. THOMPSON of California. Mr. Chairman, I yield myself such time as I may consume.

The Thompson-Eshoo amendment states that nothing in this bill can go into effect if the Secretary of the Interior determines that any agricultural,

fishery, or related jobs will be lost in northern California counties as a result of this bill. I represent a community with varied economic interests: agriculture, fisheries, and tourism. Our amendment would protect these jobs from this politically driven legislation that would divert water to south-of-delta private agricultural interests.

Proponents of this bill claim that the bill protects jobs. The bill does the exact opposite of what it claims to do. It's a job-killer bill. It creates economic winners and losers based on south-of-delta interests. The livelihoods and concerns of individuals outside of this limited area are ignored in order to support well-heeled agricultural interests south of the delta.

In my home district, over 2 million acres of farmland support a greater than \$1 billion market value of products. Over 10 percent of these farms depend on irrigation. I do not believe that these farmers are less important than the south-of-delta farmers. Their jobs, their income, their families should not be sacrificed.

However, this is not simply a northern farmer versus southern farmer issue. Fishermen on the north coast of California saw the result of politically driven water resources decisions in '08 and '09, and they paid the price in almost 5,000 jobs and the economic loss of over \$534 million.

The Thompson-Eshoo amendment would prevent any provisions of this bill from going into effect that would result in the loss of jobs in northern California. Join me in protecting jobs from this politically driven bill that prioritizes the agricultural economies south of the delta over all others.

And I now yield 2 minutes to the gentlewoman from California (Ms. ESHOO), my friend and colleague.

Ms. ESHOO. Mr. Chairman, I thank the gentleman, and I rise in support of the amendment. Why? Because it states that if any fishery-related or agricultural job is lost as a result of this act, the bill will not be enacted. And I think that really sets down where we are.

We need jobs in this country and not job-killing legislation. Now this legislation would undo years of negotiations reached by the State of California, local ranchers, farmers, and other users of water from the San Joaquin River. It would set up a new round of water wars, which means more employment for lawyers but not much for anyone else.

My congressional district, which includes Silicon Valley and the fishing community of Half Moon Bay, is not in the delta, but my constituents oppose this legislation because their communities, their livelihoods, their resources will also be negatively affected by this bill.

Now listen to what the Silicon Valley Leadership Group says, over 350 major companies in Silicon Valley:

We believe that H.R. 1837 would be counterproductive to the development of a comprehensive solution to the Golden State's water programs as it overrides many existing regulations and laws concerning the delta ecosystem and undermines years of collaboration and goodwill developed by a broad coalition of actors and experts.

And this mention of broad coalition, it's why this bill stinks, in plain English, because there's not a coalition. You have to build from the ground up with the stakeholders. That's why there's such a problem with it.

Listen to what the Pacific Coast Federation of Fishermen's Associations says, and they're the largest commercial fishermen association along the Pacific coast:

Make no mistake, this bill will only preempt State law; it will destroy jobs. One of the west coast's oldest industries, our salmon fishery, along with the fishing communities and the economy and heritage it represents, is threatened with extinction by this audacious bill.

We need to protect our citizens from further economic hardships by defending American jobs and enacting legislation that will help, not harm.

For these reasons, I urge my colleagues to vote for Representative THOMPSON's amendment.

Mr. HASTINGS of Washington. Mr. Chairman, I rise to claim the time in opposition.

The Acting CHAIR. The gentleman is recognized for 5 minutes.

Mr. HASTINGS of Washington. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. DENHAM).

Mr. DENHAM. Mr. Chairman, it is amazing the inconsistencies in the amendment itself. Here the gentelady is talking about San Jose, yet San Jose is south of the area we're talking about, and yet Silicon Valley receives water exports from the delta.

But let's take a different inconsistency. I represent Stanislaus County, which is north of Stockton. Maybe we need to look at a map. We actually have Stanislaus County that reaches up past Stockton, San Joaquin County, the Sacramento area, and yet we're going to be excluded.

So it's one thing to pick winners and losers in this, but what we try to do is not pit north versus south. We're trying to use natural resources in the best option available.

I find interesting another inconsistency: This amendment, does it include forestry, which resides under the jurisdiction of USDA? Are the authors not concerned about the devastating effects of the timber industry and how it's suffered due to the ESA issues associated with the spotted owl?

There are many inconsistencies here. Pick your battle.

Mr. THOMPSON of California. Mr. Chairman, I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from California

(Mr. NUNES), the author of the legislation.

Mr. NUNES. Mr. Chairman, the gentleman from California (Mr. DENHAM) just made a very important point. Silicon Valley gets their water from Hetch Hetchy. San Francisco gets their water from Hetch Hetchy. What's Hetch Hetchy? Hetch Hetchy was dammed up. It's in Yosemite, and they pipe their water. So if they care about the fish and the fishermen, tear down the dam, send their water out to the delta. But they don't want to do that.

Now I have a lot of my respect for my friend from northern California (Mr. THOMPSON). We've worked together on many issues. But I have to remind the gentleman that the salmon fishermen were bailed out. They were given \$230 million in payments.

□ 1550

I think there needs to be a GAO study on where this money went to because we don't know where this money went. There's never been any report to show where this money went—\$230 million. But it was the Federal Government that told the fishermen not to fish. And I would hope that the gentleman would actually support this legislation because what we have here is the fish that are killing the salmon are the bass—the bass fish do that. So let's let the fishermen go fish. And here's the gruesome picture again. I know you don't like to see it. Let's go get the bass that are eating the smelt so that then the salmon don't have anything to eat. The bass is a nonnative species. So this bill allows fishermen to go back to work.

I would hope that the gentleman would support this bill because we need to get the fishermen back to work. I agree. We don't want to spend \$230 million after the Federal Government tells the fishermen, no, you can't fish, and then pays them not to fish. That is insanity.

Mr. THOMPSON of California. Mr. Chairman, just a couple of comments on some of the previous speaker's remarks. I'm glad to add forestry in one of the areas if there's any jobs lost that the bill won't go into effect if that would garner my friend's support of this amendment. And as he mentioned, he said it himself: it creates winners and losers. That's not what we're about. We're about creating jobs, not moving jobs from one area to another.

My friend from California mentioned that there was no salmon fishing and it caused these problems. Well, there's no salmon fishing because the last politically motivated water policy killed 80,000 spawning salmon. It shut down the season—it shut it down. It cost people their boats, and it cost people their jobs. Motels, gas stations, bait shops, grocery stores—everybody was hurt tremendously by that matter, and now we're back at it again trying, once

again, to politically move water from one portion of the State to another.

It's a job killer and it preempts State law. It's a bad bill, it ought to be killed, and this amendment ought to be added to it.

I yield back the balance of my time.

Mr. HASTINGS of Washington. Mr. Chairman, I am pleased to yield the balance of the time to a member of the committee and somebody who has worked on this legislation, Mr. MCCLINTOCK.

The Acting CHAIR. The gentleman from California is recognized for 2 minutes.

Mr. MCCLINTOCK. I thank the gentleman.

Mr. Chairman, this amendment would allow the Interior Secretary to suspend this bill if he finds that one job is lost north of the delta. Well, this is the same Interior Secretary who appeared before the Natural Resources Committee in 2009. At the time, thousands of farmworkers were thrown into unemployment by the water diversions. Hundreds of thousands of acres of productive farmland were turned into a dust bowl.

And in the midst of the crisis, he admitted that as Interior Secretary, he had the authority to stop the diversions and end the agony of the Central Valley, but he chose not to do so because, in his words, "It would be like admitting defeat." And this is the man that the gentleman from California would give the power—upon finding a single lost job in northern California—to plunge our State into another government-created dust bowl? I don't think so.

The Northern California Water Association represents the farms and communities of northern California and they write of this bill:

The bill, if enacted, would provide an unprecedented Federal statutory express recognition of and commitment to California's State water rights priority system and area of origin protections. This is important for the region to provide sustainable water supply for productive farmlands, wildlife refuges and managed wetlands, cities and rural communities, recreation and meandering rivers that support important fisheries.

So speaks northern California.

Mr. Chairman, fewer Americans are working today than on the day that this administration took office. We will not put in the hands of that administration the power to destroy still more jobs, which this amendment cynically seeks to do.

The Acting CHAIR. The question is on the amendment offered by the gentleman from California (Mr. THOMPSON).

The question was taken; and the Acting Chair announced that the yeas appeared to have it.

Mr. THOMPSON of California. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further pro-

ceedings on the amendment offered by the gentleman from California will be postponed.

AMENDMENT NO. 3 OFFERED BY MCNERNEY

The Acting CHAIR. It is now in order to consider amendment No. 3 printed in House Report 112-405.

Mr. MCNERNEY. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

After section 2, insert the following:

**SEC. 3. EFFECTIVE DATE CONDITIONS.**

Notwithstanding sections 104, 105, 110, and 111, and title III, this Act and the amendments made by this Act shall not take effect until the Secretary of the Interior, in consultation with other Federal agencies with relevant expertise, determines that this Act and the amendments made by this Act shall not have a harmful effect on the quality or safety of drinking water supplies for residents of the five Delta Counties (Contra Costa County, Sacramento County, San Joaquin County, Solano County, and Yolo County, California).

The Acting CHAIR. Pursuant to House Resolution 566, the gentleman from California (Mr. MCNERNEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California.

Mr. MCNERNEY. Mr. Chairman, I yield myself as much time as I may consume.

Mr. Chairman, I'm honored to represent much of the San Joaquin Delta, and the delta is a precious, precious resource that provides water for urban, industrial, and agricultural uses throughout the State of California. The delta flows through five northern California counties that are home to 4 million people. The delta region is home to big cities, small towns, and lush farmlands. Just like other Californians, the people of the delta deserve access to clean, safe drinking water. I'm deeply concerned that, as currently written, H.R. 1837 will severely erode the quality of our local water resources.

This issue is important to public health and to local governments throughout northern California. This bill takes more of our freshwater, and what's left will be saltier and lower quality. Deterioration of delta water increases treatment costs by tens of millions of dollars and requires hundreds of millions of dollars in new capital investments. This bill will hurt the people.

Unfortunately, many communities in the delta region are struggling with budget and public health challenges as it is. The last thing we need is for the Congress to pass a bill that threatens our well-being and forces us to spend millions more to just treat our water. It's bad enough to steal somebody's water; it's even worse to steal their water and then charge them millions of dollars for the privilege.

This legislation we are considering today should not pass. It will harm the safety of drinking water supplies for delta communities. My amendment makes sure that, before this bill comes into effect, it won't burden the delta with heavy costs and new public health threats. I ask all of my colleagues to support my amendment, which will secure the safety and security of our drinking water.

Mr. HASTINGS of Washington. Mr. Chairman, I rise in opposition to the amendment.

The Acting CHAIR (Mr. WESTMORELAND). The gentleman is recognized for 5 minutes.

Mr. HASTINGS of Washington. I yield 4 minutes to the gentleman from California (Mr. NUNES).

Mr. NUNES. Mr. Chairman, once again, I don't believe the other side has read the bill. This bill provides for the ultimate protections for delta communities—ultimate protections that guarantee their God-given right to their property and to their water. That's what this bill does. So if you vote against this bill, you're voting to continue the attack on farmers all over the State and communities all over the State. So, if delta farmers want to continue to take water out of the delta like they've been doing for 100 years—they have always had their allocation—this bill guarantees that.

Now, I've been to the delta numerous times, and I've spoken to the communities there. Their number one concern is that they do not want the peripheral canal to be built. Well, if you vote against this bill, you are voting to ensure that Jerry Brown, the Governor of California who opposes this bill, gets his wish to build the peripheral canal that the delta farmers don't want. So if the gentleman wants the peripheral canal built, vote against the bill. If the gentleman wants to make sure that his farmers are not guaranteed their right for water, vote against the bill.

But I find it ironic that the minority is arguing for the delta farmers and the delta communities, but at the very basic level the people who are behind this, the Governor of California, was just here the other day advocating to build the peripheral canal that the gentleman says his constituents don't want. Well, my constituents don't want it either. Neither do the people in the north. None of us wants to build a multibillion dollar project like this. And we don't have to because passage of this bill allows valuable water to be moved across the delta in a more equitable fashion to guarantee waterfowl and fish populations would increase, and guarantees rights to farmers and farmworkers and communities.

□ 1600

That's what this bill does. I would hope that folks in this body and the gentleman himself would maybe with-

draw his amendment so that we don't have to take a vote on this because I would hate for the gentleman to vote on an amendment that would basically ensure that he would be supporting Jerry Brown and the Democratic administration that want to take his water away from him that he so cherishes.

Mr. Chairman, I would just say that we need to slow down. I would hope that the other side would take a look at this bill and read the bill. Once they do, they will figure out that all the stakeholders were together in 1994 when everyone sat down to make this agreement. That's what this goes back to.

Mr. MCNERNEY. Mr. Chairman, I certainly appreciate the passion of my colleague from California; but if this bill is beneficial to the delta, then why does every delta county oppose the bill? They made it very clear to me their concern: to protect the drinking water. The quality of the drinking water is something that everyone can understand.

It seems to me what is happening is that the other side is saying we have the money, we have the votes, let's go get the water. Might makes right. We know in this country that might doesn't make right. We have laws that have been observed. We're working through processes now. To shortcut that process right now and start shipping all this water will devastate our community, and we're going to do everything we can to prevent it.

I yield 2 minutes to my colleague from California (Mr. GARAMENDI).

Mr. GARAMENDI. Sometimes on this floor you just shake your head and wonder if you may have fallen down the rabbit hole and "Alice in Wonderland" is really real, where up is down and down is up, and left is right and right is left, and this confusion abounding.

I just heard the most amazing argument I could possibly have imagined, that somehow this bill will stop the peripheral canal. I think not. Perhaps it will because it will totally destroy any opportunity that there may be for California to come together around a comprehensive solution to its water situation.

It just makes me wonder what in the world is going on here, particularly my colleague from California who wants to represent this county of Tuolumne who may want to read his own bill where he wipes out all of the contracting provisions in the Central Valley Improvement Act in which the Tuolumne County Regional Water Agency is given the right to water out of the New Melones Reservoir. That is gone.

By the way, if you happen to care about veterans who might somehow be placed in the San Joaquin Valley National Cemetery, their 850 acre-feet of water is also wiped out.

This bill has far-reaching effects. It has far, far-reaching effects in wiping out the Central Valley Improvement Act. It also wipes out the environmental laws, wipes out the water for the Central Valley National Cemetery, it wipes out the water for Tuolumne County. What effect it has on the peripheral canal, I just can't understand other than it will destroy whatever comity and working together there is in California to solve the overarching problems.

By the way, you are stealing 800,000 acre-feet from the delta in this bill. That's water that the delta community needs. That's water that the delta community needs for its citizens, for water quality, and for agriculture.

Mr. HASTINGS of Washington. Mr. Chairman, how much time remains on both sides?

The Acting CHAIR. The gentleman from Washington has 2 minutes remaining. The gentleman from California's time has expired.

Mr. HASTINGS of Washington. With that, Mr. Chairman, I yield the balance of my time to the gentleman from California (Mr. NUNES).

Mr. NUNES. Mr. Chairman, this debate is really incredible.

There is nothing about veteran cemeteries in this bill. I can understand why the minority would want to talk about veterans, because we love our veterans in this country and we do everything to support them. But it is a stretch to say that a bill dealing with property rights somehow involves veteran cemeteries. Since we're talking about veterans, I will say when we send our veterans overseas, our men and women in the military to protect this country, we have a right to protect people's private property. That's what this bill does.

I know my other friends on the other side of the aisle who have continued to make this argument, they suddenly care about State preemption. They didn't care about State preemption in 1986, 1992, when they sat down in 1994, when they did their boondoggle in 2009. They didn't care about State preemption then. Boy, today, when we talk about guaranteeing people their right to their private property, they suddenly are the defenders of the Constitution. This is really stretching it.

I know that the gentleman who was the under secretary at the time who made the deal in 1994, that was bragged about by not only the former chairman of the Natural Resources Committee at the time, bragged about the Bay-Delta Accord of 1994, not only the Under Secretary of the Interior and the Secretary of the Interior himself and President Bill Clinton. They all supported the '94 agreement. All this talk about comprehensive reform and getting people to the table, we've done that before. What that results in is the illegal taking of people's personal property.

The Acting CHAIR. The question is on the amendment offered by the gentleman from California (Mr. McNERNEY).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mr. McNERNEY. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from California will be postponed.

AMENDMENT NO. 4 OFFERED BY MR. McNERNEY

The Acting CHAIR. It is now in order to consider amendment No. 4 printed in House Report 112-405.

Mr. McNERNEY. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

After section 2, insert the following:

**SEC. 3. EFFECTIVE DATE CONDITIONS.**

Notwithstanding sections 104, 105, 110, and 111, and title III, this Act and the amendments made by this Act shall not take effect until the Secretary of the Interior, in consultation with the Secretary of Agriculture, determines that carrying out this Act and the amendments made by this Act shall not have a harmful effect on water quality or water availability for agricultural producers in the five Delta Counties (Contra Costa County, Sacramento County, San Joaquin County, Solano County, and Yolo County, California).

The Acting CHAIR. Pursuant to House Resolution 566, the gentleman from California (Mr. McNERNEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California.

Mr. McNERNEY. Mr. Chairman, I yield myself as much time as I may consume.

Someone needs to speak up for the delta communities.

I rise to offer a second amendment to H.R. 1837, and I urge my colleagues to consider this amendment.

As my colleagues now know, I'm very honored to represent the people of the San Joaquin Delta. The delta is a precious resource that provides tremendous economic benefits to my entire State. Preserving the delta should be a priority to all Californians.

Agriculture is the backbone of the delta region, generating nearly \$800 million in 2009 and sustaining thousands of jobs. Supporting delta farming is essential to the economic sustainability of the delta region. I'm deeply upset that as currently written, H.R. 1837 will ship vastly more water out of the delta, even though the current shipments are already threatening the water quality for local farmers.

Simply put, this bill will steal water from northern California and devastate water quality for our delta farmers. Farmers need fresh water. They don't

need salt water for their harvest. That is why I'm offering a simple amendment to make sure that the most harmful provisions of this bill do not come into effect until the Secretary of the Interior certifies that they will not harm the water quality or water availability for delta farmers.

Proponents of H.R. 1837 claim their bill is pro-farmer, but the truth is far different. The bill steals water from one part of California to give it to another. If the authors of H.R. 1837 support farmers throughout the entire State of California, then they should support my amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Chairman, I rise to claim time in opposition.

The Acting CHAIR. The gentleman is recognized for 5 minutes.

Mr. HASTINGS of Washington. I am pleased to yield 1 minute to the gentleman from California (Mr. DENHAM).

□ 1610

Mr. DENHAM. Mr. Chairman, you know, the last couple of amendments we've talked about the inconsistencies on how they affect other counties in the community. Certainly my county and Stanislaus County has been excluded, even though it certainly has impact in this area.

But even San Joaquin County, this amendment contradicts itself, because West Side ag districts in San Joaquin County, West Side Irrigation District, Byron Bethany Irrigation District, Del Puerto Irrigation District, their water is going to be shut off in prior years. Their water will be shut off this year with a 30 percent water allocation.

The City of Tracy is important. They should have their water. Thirty percent water allocation is unacceptable. So the inconsistencies around the valley are certainly interesting as these different amendments come up.

But why even divide a community that relies on the water that comes out of this allocation?

Mr. McNERNEY. Mr. Chairman, I thank my colleague for his remarks. Drought affects everyone.

My big concern here is protecting the water quality of the delta. Right now we see saltwater coming into the delta. We see farmers pumping water and having salt in it, not able to use it, needing additional treatments.

All I'm asking is that the Secretary look at the bill and prevent parts of the bill that will deteriorate water quality from going into effect until we're sure that it's safe. We're not asking for anything other than that.

With that, I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from California (Mr. NUNES), the author of this legislation.

Mr. NUNES. Mr. Chairman, once again, I will say that delta communities are protected in this bill.

They're concerned about water quality. This bill allows water to move through the delta.

They're concerned about maintaining their ability to divert water. This bill allows them to do that. It ensures their private property rights and their rights to their water.

The delta farmers want to make sure that they get conveyance through the delta so they can get their water. This bill does that.

And, as Mr. DENHAM pointed out, the communities on the west side of San Joaquin County, I guess, perhaps they don't matter to the minority because, evidently, by supporting this and opposing this bill, you're basically guaranteeing that the City of Tracy and those districts, those water districts where those jobs are created, are going to be cut off of their water this year. This bill fixes that.

And, once again, I will say that if the delta communities are worried about this peripheral canal, this is why the delta communities should be supporting this bill. But we don't hear anything about that. We hear about Jerry Brown, the Governor of California, opposing the bill and the attorney general of California opposing the bill.

Why are they opposing the bill? Well, because they were just back in Washington 2 days ago lobbying for the construction of the peripheral canal.

Now, perhaps the delta communities want the peripheral canal. Maybe that's a change. I don't know. I haven't been up there in the last few months. But last I heard, the delta communities do not want the peripheral canal to be built.

So, Mr. Chairman, I would urge the gentleman to drop his amendment and to vote in favor of this bill.

Mr. McNERNEY. Mr. Chairman, right now the delta is in a serious decline. We're shipping more water south than is good for the health of the delta. What this bill does is increases water shipments. So I don't see how we can put protection for the delta in a bill, in a provision, that increases shipments when we're already seeing decline in the delta.

Again, as I said before, the other side sees they have the votes and they want to go take this water, and that's what this is about. It's about taking water. And our communities, the delta communities have rights to the water. We've been there for a long time. We've been farming this lush farmland. Our farms are very productive.

What this will do is turn it into a salt, stagnant pool, and that will destroy a lot of agriculture, more agriculture than would be created in other areas. It'll destroy a lot of jobs. I don't see how people could support this sort of a provision.



Mr. Chairman, how much time do I have left?

The Acting CHAIR. The gentleman has 1½ minutes remaining.

Mr. MCNERNEY. I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Chairman, we only have one other speaker, and we have the right to close, so I'll reserve my time.

Mr. MCNERNEY. Well, as we've heard both sides, this is a complicated issue. We don't want farmers in any part of the valley to be hurt, but the delta has a long history of providing excellent farm products, \$800 million a year of agricultural output. This is at risk. This is what's at risk.

My community is crying out to me. San Joaquin County is solidly behind my amendment. They're opposed to this bill. And I ask my colleagues to stand up and consider what this bill means for the rest of the country. If we adopt this, it sets a nasty precedent.

I yield back the balance of my time.

Mr. HASTINGS of Washington. Mr. Chairman, I am pleased to yield the balance of the time again to the author of this legislation, the gentleman from California (Mr. NUNES).

Mr. NUNES. Mr. Chairman, once again I want to talk about the water exports.

You saw this earlier. Here are the water exports, Mr. Chairman, right here at the bottom. The green line represents the inflows to the delta. You can see that most of the water, in fact, 76 percent of the water that enters the delta ends up out in the ocean. Seventy-six percent of the water ends up out in the ocean.

What this bill does, this allows the folks in the delta their rights to their water. So if you vote against this bill, you're voting to take those people's water away and their right to their water away.

So if the gentleman's concerned about water quality, then he should support the bill, because this bill allows the water to move more freely throughout the delta because it gets rid of the problems that we have throughout the delta and the rigidity that was created when this Congress, in 1992, basically attempted to put farmers out of business and farmworkers in food lines. That's what this debate's about.

And I would suggest, if the gentleman—we could have a unanimous consent agreement right now for an amendment, if the chairman of the committee would allow me.

The City of San Francisco and Santa Clara and all over the bay area, many of the folks from the other side of the aisle who oppose this bill, why do they oppose it other than they want to construct the peripheral canal? They want to ensure construction of the peripheral canal like their Governor, Jerry Brown, wants to do.

But also they don't like the dirty little secret—Yosemite. This was dammed up. Hetch Hetchy was dammed up. Here's the water that sits in Hetch Hetchy today. It was one of John Muir's favorite places on Earth, and this Congress dammed it up.

But you don't see—in all this water that's here, this water would go out to the delta. So perhaps we could have a unanimous consent agreement to tear this down today. Let's dump all this water that goes to San Francisco and Silicon Valley, let's take all this water that would go to the delta, let's dump it down there. Let's save the fish.

Let's go. Unanimous consent agreement. Will anybody agree to it?

The Acting CHAIR. The question is on the amendment offered by the gentleman from California (Mr. MCNERNEY).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mr. MCNERNEY. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from California will be postponed.

□ 1620

AMENDMENT NO. 5 OFFERED BY MR. GARAMENDI

The Acting CHAIR. It is now in order to consider amendment No. 5 printed in House Report 112-405.

Mr. GARAMENDI. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Strike section 103.

The Acting CHAIR. Pursuant to House Resolution 566, the gentleman from California (Mr. GARAMENDI) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California.

Mr. GARAMENDI. Mr. Chairman, I've heard some of the most amazing things in the last 20 minutes that I'm absolutely sometimes unable to even respond to them.

First of all, let's get a couple of things straight before I go to the amendment.

The water that is delivered by the Central Valley Project either under the CVPIA or under the original law is water that is under contract. It is not a property right. It is water that is granted by reason of a contract between the Federal Government and the individual water districts that take that water. It is not a property right.

Now, certainly the farmers own their property, and that is a property right. But the water is not. And by the way, that water—on every one of those contracts, there is a shortage on most of those contracts, particularly the ones

that are not replacing riparian water rights. Those contracts all have shortage provisions, so that when we have a drought—and we certainly have been in that situation in California today, and we were back in 2008 and 2007—there are specific requirements in the contracts to reduce the amount of water.

So all of this poppycock that we've been hearing around here today about 100 percent, it's just not the way it has ever been and never will be unless the contract provisions remain, or if this bill become law, and that's where my amendment comes in. It simply removes from this bill the contract provisions in the bill and goes back to the original law.

Now, the original law, which is the CVPIA, which amended the earlier law, has many, many provisions, and in fact it does provide up to 850 acre-feet of water for the national cemetery in the San Joaquin Valley. That, by the way, is wiped out, and also wiped out by the proposed bill before us is the water for the Tuolumne County regional water agencies. So if I represented those counties, I might be concerned about what was happening here.

Understand that many other provisions of this law are important. We did not know back in 1990-1992 what was going to happen with water. The State was in the process of adjudicating the water rights, the Water Resources Control Board, and so the law took into account their decision.

Now, what's happening here in this bill is the removal of the power of the State to allocate its water, to look at the water resources and to make some sense out of what is happening with water. Apparently, we're not going to care about that anymore, and we're simply going to bring to the Federal Government the power to appropriate water in California. That's precisely what happens here.

Now, there was an improvement. I'll grant the chairman of the subcommittee credit for eliminating the perpetual nature of the contracts that were in the original bill that was brought to the floor. Good as far as it goes. But all of the other requirements that are in the CVPI that are wise requirements about how the water is to be allocated from north to south, from the environment to the farmers, and among the farmers, are all removed. And the power of the State to allocate that water using the Water Resources Control Board, which has been the traditional method, is also removed. Giving rise to this point that this bill overrides State law. And if you are any other State that has a reclamation project in it, beware. Beware what is happening here in the House of Representatives this day. You, too, could be at risk of some interest group in or out of your State seizing your water.

I reserve the balance of my time.



Mr. McCLINTOCK. Mr. Chairman, I rise to claim time in opposition to the amendment.

The Acting CHAIR. The gentleman from California is recognized for 5 minutes.

Mr. McCLINTOCK. Perhaps my friend from California was not listening when I presented the manager's amendment which addresses this very subject.

As I pointed out to him—apparently he has a short memory—he had objected to the successive renewal provision that he claimed was in the bill but very specifically said he felt he could probably live with 40 years on the amount of time for these contracts. As I've tried to point out to him repeatedly, the measure, and explicitly as amended, does restore the contracting provisions used throughout the Western United States for contracts involving CVP water.

The gentleman says that his amendment puts the contract provisions back to the original law. No, his amendment does not do that. This bill puts the contract provisions back to the original law. That's the reclamation law of 1939 as amended July 2, 1956, the very provisions that are restored in this bill.

What his measure does is to continue to single out the Central Valley Project uniquely among all the reclamation projects across America as the one project that can only get 25-year financing. The problem, of course, with that is that these contracts require a degree of certainty over the long-term costs. That's why the 40-year contracts are in place with every other project of the Bureau of Reclamation in the United States, just as was the fact for the Central Valley Project until it was amended by Congress in 1992.

The gentleman says this overrides State law. The CVPIA overrode State law, and the gentleman was very supportive of that at the time. He obviously has concerns over long-term memory loss as well.

I would simply point out that this measure simply says that the CVP contracts will be treated on the same basis as every other contract in America.

I reserve the balance of my time.

Mr. GARAMENDI. Mr. Chairman, may I inquire as to the time remaining?

The Acting CHAIR. The gentleman has 1½ minutes remaining.

Mr. GARAMENDI. Well, first of all, if the gentleman would listen carefully, I was always referring not to the 1956 law but rather to the CVPIA, the 1992 law. Indeed, the 1992 law did change for the better, recognizing the unique situation in California where we had both a State and a Federal water project operating and many other appropriators operating on the rivers in California.

Taking that into account, and taking into account the rapidly growing popu-

lation and need in California and allowing the State to determine what might be done for the need of that water—I would refer the gentleman, if he cares to take a look, at section 3404, limitation on contracts and contracting reforms. This is what you've wiped out in your bill. It specifically provides that the California State Water Resources Control Board, in concluding their review of the California Court of Appeals—in other words, you have wiped out in your bill the ability of the State of California through the Water Resources Control Board to allocate the water, to take into account court decisions. The bill overturns 150 years of California water law and wipes it out.

In fact, the CVPI took very specific account of California law and wrote it into the Federal law.

What's wrong with that? Nothing that I could think about, because California is unique in so many, many ways, and the CVPIA allowed that to happen.

Now, if I might just take a few seconds and clarify a few things.

Yes, indeed, you were talking about the Deputy Secretary of the Department of Interior. That's me. I did conduct those negotiations.

The Acting CHAIR. The time of the gentleman has expired.

Mr. McCLINTOCK. Mr. Chairman, I yield 1 minute to my colleague, the author of the legislation, Mr. NUNES of California.

Mr. NUNES. Mr. Chairman, I appreciate the gentleman admitting that he was the Under Secretary at the time, and he failed to implement the agreement that everyone came together and agreed upon.

Now, earlier, we had the gentleman from California, who was the author of the 1992 act, who came down to the floor, berated farmers, berated production agriculture, and admitted that it was his goal to get rid of production agriculture.

So why did they, at the time, change from 40-year contracts to 25-year contracts? Folks, I think this is something that the American people will understand. The American people right now from other States may not understand a whole lot about what we're talking about, but they will understand this, and farmers across America will understand this: that when farmers borrow money on their land, many times they have to do it under 30-year agreements with the bank.

So I have to ask myself, why in 1992 did they move this from 20 to 25 years?

The Acting CHAIR. The time of the gentleman has expired.

Mr. McCLINTOCK. I yield the gentleman an additional minute.

Mr. NUNES. Why did they move in 1992 to 25 years? Conveniently that made it very hard for farmers to get loans on their land, especially when

they were not sure if they were going to have a water supply. That's what this bill tries to fix. That's why we should vote "no" on this amendment because I believe our Founding Fathers and previous Members of Congress who came before us knew at the time that a 40-year agreement would be enough for farmers and people trying to borrow money to go and borrow that money so they could put their families to work and provide for their families.

So that's why we should vote "no" against this agreement, when we had the author down here berating production agriculture.

□ 1630

We know what the intent was of 1992, and we've seen the chaos that has been created since 1992, and that's what we fix in this bill.

The Acting CHAIR. The gentleman from California (Mr. McCLINTOCK) has 30 seconds remaining.

Mr. McCLINTOCK. First, I want to correct one thing. I said that 40 years is common throughout the western United States. I do need to point out again that the Hoover Dam was actually given a 50-year contract.

The amendment fully addresses the concerns that were expressed by the gentleman over the successive renewal provisions in the contracts. I think we've made it very clear that the conditions of the contracts have to be agreed to by both parties. The gentleman, himself, in markup said he could live with 40 years. He has obviously reconsidered. This measure simply sets right a wrong that was done in 1992, and it treats the CVP as every other reclamation project.

With that, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from California (Mr. GARAMENDI).

The question was taken; and the Acting Chair announced that the yeas appeared to have it.

Mr. GARAMENDI. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from California will be postponed.

AMENDMENT NO. 6 OFFERED BY MRS. NAPOLITANO

The Acting CHAIR. It is now in order to consider amendment No. 6 printed in House Report 112-405.

Mrs. NAPOLITANO. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 4, line 15, after the period insert the following: "Charges for all delivered water shall include interest, as determined by the Secretary of the Treasury, on the basis of average market yields on outstanding marketable obligations of the United States with

the remaining periods of maturity comparable to the applicable reimbursement period of the project, adjusted to the nearest  $\frac{1}{4}$  of 1 percent on the underpaid balance of the allocable project cost."

The Acting CHAIR. Pursuant to House Resolution 566, the gentlewoman from California (Mrs. NAPOLITANO) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from California.

Mrs. NAPOLITANO. Mr. Chairman, I yield myself such time as I may consume.

This is a simple amendment. It creates a revenue stream through the elimination of debt without interest, in other words, ending free subsidy on \$400 million. It requires that any new water contracts or renewed contracts must reflect the price of water with interest and repay the debt of the project, with interest, to the Treasury. It is a small, but very important, assist to continue to try to balance our Federal budget. We are always looking for ways to find these little—I call them "pockets of money"—to be able to help out.

Reclamation established in 1902 was meant to deliver water to farms with a maximum of 160 acres, and it was provided interest free on the cost of that project. That was in 1902. Times have changed. Subsequent reclamation reform acts have changed the acreage limitation along with the repayment contracts for these projects. Congressional action has also made the repayment of project debt interest free—I repeat, debt interest free—on \$400 million for irrigators while municipalities, like my constituency and power users, pay all of the required appropriate interest. I wish our water users in southern California were as lucky.

H.R. 1837 removes the role of the Federal Government in protecting the environment and public good. If we are removing the role of the Federal Government in protecting the environment and public good, as we plan to do, we should also remove the Federal subsidy associated with renewed or new water contracts. My constituency and anybody else's must be treated fairly and must be required to pay equally any additional interest on any future water contract and project.

Southern California foresaw the need for infrastructure, so local entities stepped up to the plate. They paid for and constructed new storage facilities, like a dam, the Diamond Valley Reservoir. It was entirely paid for by our local folks without one cent of Federal moneys—no tax cuts, no free interest at taxpayer expense.

Eliminating this unfair subsidy will help to cut our deficit. So I urge all of my colleagues to vote "yes" on this amendment.

I reserve the balance of my time.

Mr. McCLINTOCK. Mr. Chairman, I rise in opposition to the amendment.

The Acting CHAIR. The gentleman from California is recognized for 5 minutes.

Mr. McCLINTOCK. I yield 2 minutes to the gentleman from California (Mr. NUNES).

Mr. NUNES. Mr. Chairman, once again, I want to bring up this issue that the minority continues to ignore. They don't want to talk about this, and I don't understand why. They care about this freshwater. They also care about the environment, but they dammed up Yosemite. They have the water here, and they pipe it to their communities. They completely go around the delta so that none of this water ever makes it to the precious fish that they care about.

We have this beautiful environment here, Mr. Chairman, that was destroyed by the Congress; but we don't see any amendments to fix this travesty, do we? It's interesting that the gentlelady from California wants to raise water rates. Do you know who pays the cheapest water rates in California or electricity rates and fees on that? Hetch Hetchy, the power generation at Hetch Hetchy.

So perhaps we should have an amendment that would be offered that would make Hetch Hetchy pay today's fees, fees that all of the other folks in California are having to pay. If we want to do that, then everyone would be on a level playing field. But no. Instead, this is an attack, once again, as usual, on farm workers and farmers.

I want to remind my colleagues that this bill saves \$300 million, \$300 million, this bill saves. So if the ratepayers in San Francisco, in Santa Clara, in Silicon Valley, and all over the Bay Area want to have their precious water, well, they ought to pay the same fees, too.

I would suggest, and I would hope, that we come back at some other time and deal with the issue and with the unfairness of people who don't have any water in San Francisco who are so hell-bent on taking people's water away.

Mrs. NAPOLITANO. Mr. Chairman, may I inquire as to how much time remains?

The Acting CHAIR. The gentlewoman has  $2\frac{1}{2}$  minutes remaining.

Mrs. NAPOLITANO. It is my understanding, then, that my colleagues on the other side are arguing to keep a subsidy. That's news to us.

Just as an aside, according to the California Department of Food and Agriculture, California agriculture experienced a 9 percent drop in the sales value of its products in 2009, which was at the height of the drought. The State's 81,500 farms and ranches received \$34.8 billion for their output, down from an all-time high of \$38.4 billion, which was reached in 2008.

Despite the water supply shortages and regulatory restrictions, the State's

agricultural sales for 2009 were the third highest recorded; 2007, 2008 and 2009 were the years of the drought, and the three highest years of agricultural sales coincided with the three consecutive years of drought.

With that, I yield  $1\frac{1}{2}$  minutes to the gentleman from California (Mr. GARAMENDI).

Mr. GARAMENDI. We are going around and around here. At the end of the day, I think we need to step back from the heat of the debate and realize exactly what's happening here.

In this particular amendment is an effort to try to make sure that the taxpayers of the United States are adequately compensated for the money that they have loaned for the development of the Central Valley Project and for the money that they have loaned for the specific elements within the Central Valley Project. These are the specific authorized sub-portions of the Central Valley Project. For example, with the San Luis Unit, the taxpayers loaned a vast amount of money.

When you look at the details in this bill, you will find that there is a very artful way of avoiding the full cost of repayment through early repayments. The way in which the bill is written, the water districts are able to pay off their loans without having to pay off the interest, and then going forward, they're not having to share in the ongoing cost of maintenance of the major reservoirs and water facilities.

□ 1640

In other words, they are simply charged with the cost of the water, not for the ongoing operational repair and other costs. It's very interesting, very artfully done and, once again, provides an enormous subsidy to those who have had a very good subsidy for many years. It's not right. It ought not occur.

The amendment before us simply says that, if you're going to get a loan, you are going to have to pay interest.

The Acting CHAIR. The time of the gentleman has expired.

Mrs. NAPOLITANO. Mr. Chairman, may I inquire as to how much time remains?

The Acting CHAIR. The gentlewoman from California has 30 seconds remaining.

Mrs. NAPOLITANO. I yield that time to the gentleman from California.

Mr. GARAMENDI. You will hear this from the other side as they close, Oh, but you are going to be able to get some \$300 million. Yes, that money will flow more quickly into the treasury to be sure because it allows the water districts, as a result of the way in which this bill is written, to achieve an enormous advantage. They will be able to get water into the future without having to pay the full cost of that water.

So when you look at it from the total accounting procedures, you wind up

with an additional subsidy going to these water districts. It's not right, and it's not fair to the taxpayers.

Mr. McCLINTOCK. Mr. Chairman, I yield 30 seconds to my good friend from California (Mr. NUNES).

Mr. NUNES. Mr. Chairman, I will be very quick.

The gentlelady from California is the biggest offender of the ultimate subsidy of all. Those are those mystery little Title XVI grants from the Bureau of Reclamation. They don't even charge interest. They just give those away. That's an outrageous subsidy that goes to communities in southern California and in the bay area of \$1,500 an acre-foot.

So, I guess we could offer an amendment to strip out all Title XVI money. I'd be willing to do that, too. Let's strip out all the Title XVI money, all the subsidies that go to Los Angeles, Hollywood, and San Francisco. Let's strip out the Title XVI money.

Is the gentlelady willing to strip out Title XVI money?

The Acting CHAIR. The time of the gentleman has expired.

Mr. McCLINTOCK. Mr. Chairman, may I ask how much time remains?

The Acting CHAIR. The gentleman from California has 2½ minutes remaining, and the time of the gentlewoman from California has expired.

Mr. McCLINTOCK. Mr. Chairman, this amendment was rejected on a bipartisan vote when the gentlelady introduced it in markup, and it deserves a similar fate on the House floor. I mean, let's be clear about what this does. It singles out Central Valley Project participants to pay a punitive surtax that is imposed on no other Bureau of Reclamation project in the United States. This surtax would be passed on to consumers through higher prices.

The Central Valley Project was already singled out for one punitive tax, about \$50 million annually, by Congress in 1992 to fund an array of environmental slush funds. Now, I believe that beneficiaries should pay the cost of the water projects, but they should pay only the cost of those projects and no more. These are not cash cows for the Federal Government to milk until they're dry.

When the left speaks of corporate farms, you know, they often leave out the fact that virtually every family farm is incorporated, and that's who we would be singling out for what amounts to a special tax. That tax can be paid in one of two ways: by employees through lower wages or by consumers through higher prices.

I have a modest suggestion for the gentlelady. Perhaps we should start putting people back to work rather than running them out of business.

I have often criticized her colleagues for policies that have created the conditions that indirectly send water

prices through the roof, but this proposal is quite bold. This proposal does so directly and dramatically. That's why several of her colleagues on the Democratic side abandoned her in committee and why they would be well advised to do so again on the floor.

With that, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentlewoman from California (Mrs. NAPOLITANO).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mrs. NAPOLITANO. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from California will be postponed.

AMENDMENT NO. 7 OFFERED BY MR. GARAMENDI

The Acting CHAIR. It is now in order to consider amendment No. 7 printed in House Report 112-405.

Mr. GARAMENDI. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Strike section 105.

The Acting CHAIR. Pursuant to House Resolution 566, the gentleman from California (Mr. GARAMENDI) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California.

Mr. GARAMENDI. Mr. Chairman, once again we need to step back and really understand the full impact of this particular piece of legislation that is before us. It has profound impact on California. We heard earlier discussion about the delta, two amendments put forth by my colleague, Mr. MCNERNEY, and as he spoke to the issues of the delta and the sensitivity of it.

The delta is the largest estuary on the west coast of the Western Hemisphere, and it includes the San Francisco Bay. It's a very sensitive estuary. It's dependent upon a flow of freshwater at certain times of the year, and this legislation very artfully, in a very complex series of languages and changes in law and word, takes 800,000 acre-feet away from the environment of the delta, that would be the aquatic environment, and delivers it to the water contractors, the south-of-delta water contractors. It's done in a way that it is hard to recognize; but when I asked the chairman of the committee what the purpose was, he stated unequivocally that it was to take the 800,000 acre-feet of water.

The impact of that will be profound. So whatever you may say about the species in the delta, the salmon, the striped bass, the smelt or any other species, this theft of 800,000 acre-feet of

water will have a profound and negative effect.

It's water that is there to be used certain times of the year to carry out the necessary protection of species, water that would flow down the river when the salmon want to migrate up the river, water that would be there for the smelt when they are breeding or when they are moving into their breeding habitat.

It is one of the biggest water grabs, at least in the last half century, and it will have profound negative effects. When taken with the other provisions of the bill that wipe out entirely, entirely wipe out the Environmental Protection Act, the Endangered Species Act, the EPA Clean Water Act, all of those are gone in this bill, and now you are taking the water.

California protections for the environment, the California laws that replicate the Federal laws, they too are pushed aside by this bill. Then you wind up taking the water on top of it.

What is left for the delta? What is left for the species in the delta, the fish, the aquatic? What is left for San Francisco Bay? Not much. Not much. That's why this bill is the worst environmental bill in many, many decades. Call it any other way you like, but that's exactly what it is.

I reserve the balance of my time.

Mr. McCLINTOCK. Mr. Chairman, I rise in opposition to the amendment.

The Acting CHAIR. The gentleman from California is recognized for 5 minutes.

Mr. McCLINTOCK. Mr. Chairman, this amendment, more than any other, focuses on the central issues surrounding the bill. What comes first, people or fish?

In 1992, the Central Valley Project Improvement Act carved out 800,000 acre-feet to be dedicated to fish and wildlife purposes temporarily. In fact, during a Senate debate, the floor manager of the conference report, Senator Malcolm Wallop, pointed out that that 800,000 acre-feet of CVP yield is up-front water designed to deal with the requirements of the Endangered Species Act and delta requirements while the various mitigation actions are undertaken. The various mitigation actions were to build more supply so that that 800,000 acres taken from the farmers would then be returned to them.

That 800,000 acre-feet came out of allocations of the Central Valley Project, were agreed to by all sides that were incorporated in the Bay-Delta Accord, which this bill restores. But somewhere along the line, the Federal Government began treating this allotment as a floor rather than as a ceiling.

Back in the mid-1990s, a zealous official in the Interior Department, under Bill Clinton, ordered that more than 1 million acre-feet of water appropriated by the Central Valley Project be used for purposes not authorized under

water rights permits issued by the State of California.

□ 1650

That preempted State water rights laws, I might add, and I believe the gentleman from California knows him. In fact, I believe the gentleman from California is him.

This bill reestablishes the 800,000 acre foot allotment agreed to by all sides when Interior Secretary Bruce Babbitt promised “a deal is a deal.” This provision redeems the promise that was broken by Mr. Babbitt’s deputy, and this is the provision that the gentleman would have us delete.

I might also add that under this bill, the 800,000 acre feet of water can be recycled by communities once it has met its environmental purpose rather than being lost to the ocean. That’s 800,000 acre feet of additional water for communities like his. Of that, a little more than one-tenth of 1 percent would have gone to the little town of Cattleman City. That’s irrelevant because this provision, too, the gentleman was proposing to strike.

The contract holders that paid for this project gave up 800,000 acre feet of water with the promise it would be a temporary ceiling. One broken promise after another changed this to a permanent floor, claiming more and more water be expropriated from the people who paid for it and dumped into the Pacific Ocean. This measure sets that injustice right.

With that, I yield 30 seconds to the gentleman from Washington (Mr. HASTINGS), the chairman of the Natural Resources Committee.

Mr. HASTINGS of Washington. I thank the gentleman for yielding, Mr. Chairman, and I heard the author of the amendment state something, and I will paraphrase, that he spoke to the chairman of the committee on the allocation of the water, and supposedly the chairman of the committee responded back “take the water away.”

Number one, I do not recall ever having that dialogue with the maker of the amendment. But had he asked me, my answer would have been an equitable distribution of the water. So I just wanted to set the record straight, Mr. Chairman, because that’s what I heard in the debate just previously.

Mr. GARAMENDI. Mr. Chairman, may I inquire as to the time remaining?

The Acting CHAIR. The gentleman from California has 2 minutes remaining.

Mr. GARAMENDI. The chairman of the committee, if I did say the chairman of the committee, I believe I said the chairman of the subcommittee. In which case if I did, Mr. HASTINGS, you are quite correct; you were not there. The chairman of the subcommittee was to whom I was referring.

With regard to the effect, you can try to spin this any way you like, but the

reality is that in the Central Valley Improvement Act, 800,000 acre feet of water was dedicated to the environment, and it was not temporary; it was part of what was to be done into the future. And the negotiations that ensued following the accord in 1994, those negotiations were specifically designed to reach an accommodation on how to meet all of the requirements of the Central Valley Improvement Act, including what to do with the 800,000 acre feet.

I would point out to the opponents of this amendment that the accord, the 1994 Bay-Delta Accord, was never intended to be permanent. It had in fact a 3-year limitation, which led to my involvement when I became deputy secretary to try to work out a solution. And in fact we did. Unfortunately, the Westlands Water District, one of the proposed signatories to the bill, walked away from the table when everybody else was ready to sign. And we have been involved in this imbroglia ever since.

Now, the 800,000 acre feet is indeed taken away from the environment. No matter how you spin this, it’s gone. It is the biggest theft of water perhaps in modern California water history—800,000 acre feet. It may be recycled, but the control of it for the environment is lost. The environmental protections that go along with that water are gone. Both the State and the Federal protections, the Clean Water Act, the National Environmental Protection Act, California CEQA, all of those are gone as a result of this bill. This is the most amazing override of environmental law that I have ever seen in the 37 years that I’ve been involved in water policy throughout this Nation. It is remarkable what is being attempted here, and we’ve got to stop this bill.

I yield back the balance of my time.

Mr. MCCLINTOCK. Mr. Chairman, the gentleman’s memory problems seem to have struck again. I do not recall making such a statement either, or intending to make such a statement. What I have said is that that 800,000 acre feet, which now will become a ceiling rather than a floor, can provide the opportunity for recycling under this bill so that that 800,000 acre feet, once it has served its environmental purposes, may then be used by communities throughout the bay area.

With that, Mr. Chairman, I would ask for a “no” vote on the amendment, and I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from California (Mr. GARAMENDI).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mr. GARAMENDI. I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further pro-

ceedings on the amendment offered by the gentleman from California will be postponed.

AMENDMENT NO. 8 OFFERED BY MR. MARKEY

The Acting CHAIR. It is now in order to consider amendment No. 8 printed in House Report 112–405.

Mr. MARKEY. Mr. Chairman, I rise to offer an amendment along with Ms. MATSUI and Mr. THOMPSON.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amend subsection (a) of section 108 to read as follows:

(a) OPERATION.—Notwithstanding any other provision of this Act, the Central Valley Project and the State Water Project shall be operated in a manner that meets all obligations under State and Federal law, with operational constraints that are based on the best available science.

The Acting CHAIR. Pursuant to House Resolution 566, the gentleman from Massachusetts (Mr. MARKEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Massachusetts.

Mr. MARKEY. Mr. Chairman, I yield myself 1 minute.

Our amendment is simple. It would ensure that State law is upheld and that the best available science is used when making decisions about the complex California water system.

Instead of using cutting-edge science, the Republican bill would take us back to 1994.

So let me ask you: Are you willing to give up your 2012 iPhone for a 1994 brick of a cellular phone? How about giving up your Prius for a Yugo? Or using a phonebook instead of Facebook? Would you rather fold a map or use Google maps? The answer to those questions is easy.

And so is this one: Would you trade the science of California water in 2012 for 1994 science? If your answer is no, if your answer is you want to use the best science, today’s science, in order to ensure that we protect the water users and the environment, then vote “yes” on our amendment.

I reserve the balance of my time, Mr. Chairman.

Mr. MCCLINTOCK. Mr. Chairman, I rise to claim the time in opposition to the amendment.

The Acting CHAIR. The gentleman from California is recognized for 5 minutes.

Mr. MCCLINTOCK. I yield 2 minutes to the gentleman from California (Mr. ROHRBACHER).

Mr. ROHRBACHER. I rise in opposition to this amendment. Long ago my parents told me a truism that has been reconfirmed over and over again in my life. My parents both were raised on dirt-poor farms in North Dakota in abject poverty. And my father, who made a decent life for himself and for his

family with hard work and struggle, told me as a child when we visited those farms, he said: Son, ordinary people are not going to live well in this country or any country unless there is an abundance of water and energy. And that's what all through my life I've seen; that those people who have had their water or energy restricted, it has hurt the ordinary people, the standard of living of the people of that country.

What we have faced in this country is a good example of that. What we have got is a coalition of radical environmentalists who have over the years prevented America from having the energy we need to have a high and a good standard of living for our people. Ordinary people have suffered. The same is true when we are talking about water.

Now, this radical coalition has never thought anything about constitutional rights and about whether it is States' rights to this or that. That has made no difference to them at all. The central issue is there is a vision that the radical environmentalists have in which people are less important than fish or little insects or reptiles.

The bottom line is ordinary people, ordinary Americans, should be our highest priority. What is it doing to their standard of living? And we have seen an attack on the standard of living of the people of California by depleting water resources that should go to them that instead are being committed to a tiny little fish that isn't even good enough for bait.

Today, we are going to reaffirm in a very bipartisan fashion that no, the people of this body are elected to represent the well-being of ordinary Americans, to make sure that we have the energy and the water we need to fulfill the American Dream where everyone has a chance at a decent life.

□ 1700

Mr. MARKEY. I yield 2 minutes to the gentleman from California (Mr. THOMPSON) so he can explain why the radical coalition that we have also includes the Governors of seven States that don't like this bill.

Mr. THOMPSON of California. I thank the gentleman for yielding.

The Governors of seven States, fishermen, hunters and farmers, a whole list of people, oppose this bill. Our amendment states that the Central Valley Project and State Water Project shall be operated in a manner that meets all obligation under State and Federal law with operational constraints that are based on the best available science. More than 750 plant and animal species depend upon the delta for their survival. Many of these then support important industries, such as the fishermen, hunters, recreational industries, and farmers that promote local and State economies.

We've seen what happens when science is ignored and environmental

protections are gutted for the sake of politics. In 2008 and 2009, salmon fisheries were forced to close because of low-water flows in the rivers. This resulted in the loss of over a half a billion dollars and nearly 5,000 jobs—the same number that the proponents of the bill claim that their bill would create.

This bill would prevent the use of the best available science and adaptive management in the bay and delta by permanently limiting agencies from acting on new scientific information developed since 1994. This alone ignores the last 15 years of the best available science.

I urge a "yes" vote on this amendment and a "no" vote on this terrible piece of legislation.

Mr. MCCLINTOCK. Mr. Chairman, I yield 30 seconds to my friend from California (Mr. NUNES).

Mr. NUNES. Thank you, Mr. Chairman.

I just want to remind my colleagues of Dr. Peter Gleick—we haven't heard from him today—Dr. Peter Gleick, the man who comes to testify in Congress before the committee to tell us why it's so important that we take water away from farmers and families. Why have we not heard about Dr. Peter Gleick today? Because 2 weeks ago, Dr. Peter Gleick admitted to impersonating someone else on the Internet, stole information and then falsified the information and sent it out all over the planet. But Dr. Peter Gleick got caught. Dr. Peter Gleick got caught. The main man that they support got caught.

Mr. MARKEY. May I ask, Mr. Chairman, how much time is remaining on either side.

The Acting CHAIR. The gentleman from Massachusetts has 2½ minutes remaining. The gentleman from California has 2½ minutes remaining.

Mr. MARKEY. I yield 2 minutes to the gentlelady from California (Ms. MATSUI).

Ms. MATSUI. Mr. Chairman, I rise in support of this amendment. I have always said that solutions to our country's resource problems must be based on sound science. To do otherwise is simply foolish and severely short-sighted.

Mr. Chairman, H.R. 1837 ignores years of scientific research on the health of California's watersheds. This bill pretends that science does not exist. We don't believe the Earth is flat, and we don't believe that thunder is made by bowling balls. We know better. Science has given us the answers to so many questions about the world in which we live.

We have used science and discovered the truth. H.R. 1837 will prevent the use of the best available science and adaptive management in the bay delta by permanently limiting agencies from acting on new scientific information developed since 1994.

The amendment before us would require us to use the scientific research that we have on California's natural resources. It would allow us to acknowledge what the research has shown us to be true. This amendment is critically important, not only to California, but to every State in this Union.

Mr. Chairman, lastly, I keep hearing that the Sacramento area supports this bill. I represent the Sacramento area, and I can tell you that both the city and county of Sacramento strongly oppose this bill.

I urge my colleagues to support this amendment and to reject the bill.

Mr. MARKEY. Would you be able to tell us, Mr. Chairman, who has the right to conclude debate?

The Acting CHAIR. The gentleman from California has the right to close.

Mr. MARKEY. And could you again tell me how much time I have remaining?

The Acting CHAIR. The gentleman from Massachusetts has 1 minute remaining.

Mr. MARKEY. I yield myself that 1 minute in order to just say this.

If we don't do anything else here, at least we should say that we're going to use science, we're going to use the best available knowledge about science to ensure that this legislation does not invoke the law of unintended consequences, that we understand what we're doing. And I don't know why the Republicans have this aversion to using modern science; but I will tell you this, that this is going to be a defining vote here on the House floor. Do the Republicans actually believe in science? Do they want modern science to be used, or do they want some science from two decades ago to be used?

The importance of using science is that it doesn't depend on one man. It relies on hundreds and thousands of scientists testing each other's works. The Republican bill would ignore 18 years of work by hundreds and thousands of scientists to reach today's consensus because they want that old science in order to take care of the special interests that cannot live within the advances made and the knowledge about the implications of what would happen under their bill.

Mr. MCCLINTOCK. Mr. Chairman, the devastation of the Central Valley of California occurred because of the breaking of a Federal promise—a Federal agreement. The gentleman from California says, oh, it wasn't an agreement at all; it was just a suggestion. Well, that's not what the Interior Secretary said at the time. He said, a deal is a deal, and if it turns out there's a need for additional water, it will come at the expense of the Federal Government. The Senator who carried the conference report on the Senate floor said it was a deal, a temporary measure until additional water was brought

online. This bill redeems that promise. The amendment offered by the gentleman from Massachusetts would have us break that promise forever.

As I stated earlier, we keep hearing, well, that was then and this is now. Science has changed and so should our policy. If that's the case, then the Federal Government's promises are worthless, and they mean nothing. That was a promise agreed to by all parties. It was broken by the Federal Government.

What they're referring to is not science. It is ideology masquerading as science, so has said the Federal court. Now we have news from the Klamath that one of the scientists involved in the reports is now charging that the Department subverted science for political ends.

It is time that the ideological zealotry that threw thousands of families into unemployment be replaced with practical and fact-based solutions that keep our promises. It's time that we placed a higher value on human lives than on the bureaucratic dictates of the environmental left. That's what this bill does, and that's what the gentleman's amendment would prevent.

Finally, the gentleman would insert a requirement that the act require the best available science to move forward. Well, the gentleman knows that what is termed "best available science" was literally thrown out of court with the court saying not only was it not the best available science; it wasn't science at all. The only practical effect of the provision is to provide employment for the only growth sector left in California's economy—environmental lawsuits intended not to win, because ultimately they do lose, but rather to delay projects indefinitely and make them cost prohibitive to pursue. But I compliment the gentleman on his creativity.

With that, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Massachusetts (Mr. MARKEY).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mr. MARKEY. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Massachusetts will be postponed.

The Chair understands that amendment No. 9 will not be offered.

#### ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments printed in House Report 112-405 on which further proceedings were postponed, in the following order:

Amendment No. 2 by Mr. THOMPSON of California.

Amendment No. 3 by Mr. MCNERNEY of California.

Amendment No. 4 by Mr. MCNERNEY of California.

Amendment No. 5 by Mr. GARAMENDI of California.

Amendment No. 6 by Mrs. NAPOLITANO of California.

Amendment No. 7 by Mr. GARAMENDI of California.

Amendment No. 8 by Mr. MARKEY of Massachusetts.

The Chair will reduce to 2 minutes the minimum time for any electronic vote after the first vote in this series.

#### AMENDMENT NO. 2 OFFERED BY MR. THOMPSON OF CALIFORNIA

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from California (Mr. THOMPSON) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

#### RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 178, noes 239, not voting 16, as follows:

[Roll No. 83]

AYES—178

Ackerman	Dicks	Kucinich	Ruppersberger	Sires	Visclosky
Altmire	Dingell	Langevin	Ryan (OH)	Slaughter	Walberg
Andrews	Doggett	Larsen (WA)	Sánchez, Linda T.	Smith (WA)	Walz (MN)
Baca	Donnelly (IN)	Larson (CT)	Sanchez, Loretta	Speier	Wasserman
Baldwin	Doyle	Levin	Sarbanes	Stark	Schultz
Barrow	Edwards	Lewis (GA)	Schiff	Sutton	Waters
Becerra	Ellison	Lipinski	Schrader	Thompson (CA)	Watt
Berkley	Engel	Loebback	Schwartz	Thompson (MS)	Waxman
Berman	Eshoo	Lofgren, Zoe	Scott (VA)	Tierney	Welch
Bishop (NY)	Farr	Lowe	Scott, David	Tonko	Wilson (FL)
Blumenauer	Fattah	Luján	Serrano	Towns	Woolsey
Bonamici	Filner	Lynch	Sewell	Tsongas	Yarmuth
Boswell	Frank (MA)	Maloney	Sherman	Van Hollen	
Brady (PA)	Fudge	Markey		Velázquez	
Braley (IA)	Garamendi	Matsui			
Brown (FL)	Gonzalez	McCarthy (NY)			
Butterfield	Green, Al	McCollum			
Capps	Green, Gene	McDermott			
Capuano	Grijalva	McGovern			
Carnahan	Gutierrez	McIntyre			
Carney	Hahn	McNerney			
Carson (IN)	Hanabusa	Meeks			
Castor (FL)	Hastings (FL)	Michaud			
Chandler	Heinrich	Miller (NC)			
Chu	Higgins	Miller, George			
Cicilline	Himes	Moore			
Clarke (MI)	Hinchey	Moran			
Clarke (NY)	Hinojosa	Murphy (CT)			
Clay	Hirono	Napolitano			
Cleaver	Hochul	Neal			
Clyburn	Holden	Oliver			
Cohen	Holt	Owens			
Connolly (VA)	Honda	Pallone			
Conyers	Hoyer	Pascarell			
Cooper	Insee	Pastor (AZ)			
Costello	Israel	Perlmuter			
Courtney	Jackson (IL)	Peters			
Critz	Jackson Lee	Pingree (ME)			
Crowley	(TX)	Polis			
Cuellar	Johnson (GA)	Price (NC)			
Cummings	Johnson, E. B.	Quigley			
Davis (CA)	Jones	Rahall			
Davis (IL)	Kaptur	Reyes			
DeFazio	Keating	Richardson			
DeGette	Kildee	Richmond			
DeLauro	Kind	Rothman (NJ)			
Deutch	Kissell	Roybal-Allard			
			Adams	Gibson	Neugebauer
			Aderholt	Gingrey (GA)	Noem
			Akin	Goodlatte	Nugent
			Alexander	Gosar	Nunes
			Amash	Gowdy	Nunnelee
			Amodi	Granger	Olson
			Austria	Graves (GA)	Paulsen
			Bachmann	Graves (MO)	Pearce
			Bachus	Griffin (AR)	Pence
			Barletta	Griffith (VA)	Peterson
			Bartlett	Grimm	Petri
			Barton (TX)	Guinta	Pitts
			Bass (NH)	Guthrie	Platts
			Benishek	Hall	Poe (TX)
			Berg	Hanna	Pompeo
			Biggart	Harper	Posey
			Blibray	Harris	Price (GA)
			Bilirakis	Hartzler	Quayle
			Bishop (GA)	Hastings (WA)	Reed
			Bishop (UT)	Hayworth	Rehberg
			Black	Heck	Reichert
			Blackburn	Hensarling	Renacci
			Bonner	Herger	Ribble
			Bono Mack	Herrera Beutler	Rigell
			Boren	Huelskamp	Rivera
			Brady (TX)	Huizenga (MI)	Roby
			Brooks	Hultgren	Roe (TN)
			Broun (GA)	Hunter	Rogers (AL)
			Buchanan	Hurt	Rogers (KY)
			Bucshon	Issa	Rogers (MI)
			Buerkle	Jenkins	Rohrabacher
			Burgess	Johnson (IL)	Rokita
			Burton (IN)	Johnson (OH)	Rooney
			Calvert	Johnson, Sam	Ros-Lehtinen
			Camp	Jordan	Roskam
			Campbell	Kelly	Ross (AR)
			Canseco	King (IA)	Ross (FL)
			Capito	King (NY)	Royce
			Cardoza	Kingston	Runyan
			Carter	Kinzing (IL)	Ryan (WI)
			Cassidy	Kline	Scalise
			Chabot	Labrador	Schilling
			Chaffetz	Lamborn	Schock
			Coble	Lance	Schweikert
			Coffman (CO)	Landry	Scott (SC)
			Cole	Lankford	Scott, Austin
			Conaway	Latham	Sensenbrenner
			Costa	LaTourrette	Sessions
			Cravaack	Latta	Shimkus
			Crawford	Lewis (CA)	Shuler
			Crenshaw	LoBiondo	Shuster
			Culberson	Long	Simpson
			Denham	Lucas	Smith (NE)
			Dent	Luetkemeyer	Smith (NJ)
			DesJarlais	Lummis	Smith (TX)
			Dold	Lungren, Daniel E.	Southerland
			Dreier	Mack	Stearns
			Duffy	Manzullo	Stivers
			Duncan (SC)	Marchant	Stutzman
			Duncan (TN)	Marino	Sullivan
			Ellmers	Matheson	Terry
			Emerson	McCarthy (CA)	Thompson (PA)
			Farenthold	McCaul	Thornberry
			Fincher	McClintock	Tiberi
			Fitzpatrick	McCotter	Tipton
			Flake	McHenry	Turner (NY)
			Fleischmann	McKinley	Turner (OH)
			Fleming	McMorris	Upton
			Flores	Rodgers	Walden
			Forbes	Roxx	Walsh (IL)
			Fortenberry	Mica	Webster
			Fox	Miller (FL)	West
			Franks (AZ)	Miller (MI)	Westmoreland
			Frelinghuysen	Miller, Gary	Whitfield
			Gallegly	Mulvaney	Wilson (SC)
			Gardner	Murphy (PA)	Wittman
			Garrett	Myrick	Wolf
			Gerlach		
			Gibbs		

Womack Yoder Young (FL)  
Woodall Young (AK) Young (IN)

## NOT VOTING—16

Bass (CA) Lee (CA) Rangel  
Boustany Nadler Rush  
Cantor Palazzo Schakowsky  
Davis (KY) Paul Schmidt  
Diaz-Balart Payne  
Gohmert Pelosi

□ 1737

Mr. GRIMM, Mrs. BLACKBURN, Messrs. FARENTHOLD, ROONEY, and HALL changed their vote from “aye” to “no.”

Ms. WATERS, Messrs. LIPINSKI and POLIS changed their vote from “no” to “aye.”

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 3 OFFERED BY MR. MCNERNEY

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from California (Mr. MCNERNEY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

## RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This is a 2-minute vote.

The vote was taken by electronic device, and there were—ayes 178, noes 242, not voting 13, as follows:

[Roll No. 84]

AYES—178

Ackerman Crowley Holden  
Altmire Cuellar Holt  
Andrews Cummings Honda  
Baca Davis (IL) Hoyer  
Baldwin DeFazio Inslee  
Barrow DeGette Israel  
Becerra DeLauro Jackson (IL)  
Berkley Deutch Jackson Lee  
Berman Dicks (TX)  
Bishop (GA) Dingell Johnson (GA)  
Bishop (NY) Doggett Johnson, E. B.  
Blumenauer Donnelly (IN) Kaptur  
Bonamici Doyle Keating  
Boswell Edwards Kildee  
Brady (PA) Ellison Kind  
Braley (IA) Engel Kissell  
Brown (FL) Eshoo Kucinich  
Butterfield Farr Langevin  
Capps Fattah Larsen (WA)  
Capuano Filner Larson (CT)  
Carnahan Frank (MA) Levin  
Carney Lewis (GA)  
Carson (IN) Garamendi Lipinski  
Castor (FL) Gibson Loeb sack  
Chandler Gonzalez Loggren, Zoe  
Chu Green, Al Lowey  
Cicilline Green, Gene Lujan  
Clarke (MI) Grijalva Lynch  
Clarke (NY) Gutierrez Maloney  
Clay Hahn Markey  
Cleaver Hanabusa Matsui  
Clyburn Hastings (FL) McCarthy (NY)  
Cohen Heinrich McCollum  
Connolly (VA) Higgins McDermott  
Conyers Himes McGovern  
Cooper Hinchey McIntyre  
Costello Hinojosa McNeerney  
Courtney Hirono Meeks  
Critz Hochul Michaud

Miller (NC) Miller, George  
Moore  
Moran  
Murphy (CT)  
Napolitano  
Neal  
Oliver  
Owens  
Pallone  
Pascrell  
Pastor (AZ)  
Pelosi  
Perlmutter  
Peters  
Pingree (ME)  
Polis  
Price (NC)  
Quigley  
Rahall  
Reyes  
Richardson

Adams  
Aderholt  
Akin  
Alexander  
Amash  
Amodei  
Austria  
Bachmann  
Bachus  
Barletta  
Bartlett  
Barton (TX)  
Bass (NH)  
Benishak  
Berg  
Biggart  
Bilbray  
Bilirakis  
Bishop (UT)  
Black  
Blackburn  
Bonner  
Bono Mack  
Boren  
Boustany  
Brady (TX)  
Brooks  
Broun (GA)  
Buchanan  
Bucshon  
Buerkle  
Burgess  
Burton (IN)  
Calvert  
Camp  
Campbell  
Canseco  
Capito  
Cardoza  
Carter  
Cassidy  
Chabot  
Chaffetz  
Coble  
Coffman (CO)  
Cole  
Conaway  
Costa  
Cravaack  
Crawford  
Crenshaw  
Culberson  
Davis (KY)  
Denham  
Dent  
DesJarlais  
Diaz-Balart  
Dold  
Dreier  
Duffy  
Duncan (SC)  
Duncan (TN)  
Ellmers  
Emerson  
Farenthold  
Fincher  
Fitzpatrick  
Flake  
Fleischmann  
Fleming  
Flores

## NOES—242

Forbes  
Fortenberry  
Fox  
Franks (AZ)  
Frelinghuysen  
Gallegly  
Gardner  
Garrett  
Gerlach  
Gibbs  
Gingrey (GA)  
Goodlatte  
Gosar  
Gowdy  
Granger  
Graves (GA)  
Graves (MO)  
Griffin (AR)  
Griffith (VA)  
Grimm  
Guinta  
Guthrie  
Hall  
Hanna  
Harper  
Harris  
Hartzler  
Hastings (WA)  
Hayworth  
Heck  
Hensarling  
Herger  
Herrera Beutler  
Huelskamp  
Huizenga (MI)  
Hultgren  
Hunter  
Hurt  
Issa  
Jenkins  
Johnson (IL)  
Johnson (OH)  
Johnson, Sam  
Jones  
Jordan  
Kelly  
King (IA)  
King (NY)  
Kingston  
Kinzinger (IL)  
Kline  
Labrador  
Lamborn  
Lance  
Landry  
Lankford  
Latham  
LaTourette  
Latta  
Lewis (CA)  
LoBiondo  
Long  
Lucas  
Luetkemeyer  
Lummis  
Lungren, Daniel  
E.  
Mack  
Manzullo  
Marchant  
Marino

Smith (NJ) Smith (TX)  
Southernland  
Stearns  
Stivers  
Stutzman  
Sullivan  
Terry  
Thompson (PA)  
Thornberry  
Tiberi

Bass (CA) Cantor  
Davis (CA) Gohmert  
Lee (CA)

## NOT VOTING—13

Nadler  
Paul  
Payne  
Rangel  
Rogers (KY)

ANNOUNCEMENT BY THE ACTING CHAIR  
The Acting CHAIR (during the vote).  
There is 1 minute remaining.

□ 1741

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated for:

Mrs. DAVIS of California. Mr. Chair, on roll-call No. 84, had I been present, I would have voted “aye.”

AMENDMENT NO. 4 OFFERED BY MR. MCNERNEY

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from California (Mr. MCNERNEY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

## RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This is a 2-minute vote.

The vote was taken by electronic device, and there were—ayes 177, noes 243, not voting 13, as follows:

[Roll No. 85]

AYES—177

Ackerman Cohen Gonzalez  
Altmire Connolly (VA) Green, Al  
Andrews Conyers Green, Gene  
Baca Costello Grijalva  
Baldwin Courtney Grijalva  
Barrow Critz Hahn  
Becerra Crowley Hanabusa  
Berkley Cuellar Hastings (FL)  
Berman Cummings Heinrich  
Bishop (NY) Davis (CA) Higgins  
Blumenauer Davis (IL) Himes  
Bonamici DeFazio Hinchey  
Boswell DeGette Hinojosa  
Brady (PA) DeLauro Hirono  
Braley (IA) Deutch Hochul  
Brown (FL) Dicks Holden  
Butterfield Dingell Holt  
Capps Doggett Honda  
Capuano Donnelly (IN) Hoyer  
Carnahan Doyle Inslee  
Carney Edwards Israel  
Carson (IN) Ellison Jackson (IL)  
Castor (FL) Engel Jackson Lee  
Chandler Eshoo (TX)  
Chu Farr Johnson (GA)  
Cicilline Fattah Johnson, E. B.  
Clarke (MI) Filner Kaptur  
Clarke (NY) Frank (MA) Keating  
Clay Fudge Kildee  
Cleaver Garamendi Kind  
Clyburn Gibson Kissell



NOES—243		
Adams	Culberson	Herrera Beutler
Aderholt	Davis (KY)	Huelskamp
Akin	Denham	Huizenga (MI)
Alexander	Dent	Hultgren
Amash	DesJarlais	Hunter
Amodei	Diaz-Balart	Hurt
Austria	Dold	Issa
Bachmann	Dreier	Jenkins
Bachus	Duffy	Johnson (OH)
Barletta	Duncan (SC)	Johnson, Sam
Bartlett	Duncan (TN)	Jones
Barton (TX)	Ellmers	Jordan
Bass (NH)	Emerson	Kelly
Benishek	Farenthold	King (IA)
Berg	Fincher	King (NY)
Biggert	Fitzpatrick	Kingston
Bilbray	Flake	Kinzinger (IL)
Billrakis	Fleischmann	Kline
Bishop (UT)	Fleming	Labrador
Black	Flores	Lamborn
Blackburn	Forbes	Lance
Bonner	Fortenberry	Landry
Bono Mack	Foxx	Lankford
Boren	Franks (AZ)	Latham
Boustany	Frelinghuysen	LaTourette
Brady (TX)	Gallegly	Latta
Brooks	Gardner	Lewis (CA)
Broun (GA)	Garrett	LoBiondo
Buchanan	Gerlach	Long
Bucshon	Gibbs	Lucas
Buerkle	Gibson	Luetkemeyer
Burgess	Gingrey (GA)	Lummis
Burton (IN)	Goodlatte	Lungren, Daniel
Calvert	Gosar	E.
Camp	Gowdy	Mack
Campbell	Granger	Manzullo
Cansico	Graves (GA)	Marchant
Capito	Graves (MO)	Marino
Cardoza	Griffin (AR)	Matheson
Carter	Griffith (VA)	McCarthy (CA)
Cassidy	Grimm	McCaul
Chabot	Guinta	McClintock
Chaffetz	Guthrie	McCotter
Coble	Hall	McHenry
Coffman (CO)	Harper	McKeon
Cole	Harris	McKinley
Conaway	Hartzler	McMorris
Cooper	Hastings (WA)	Rodgers
Costa	Hayworth	Meehan
Cravaack	Heck	Mica
Crawford	Hensarling	Miller (FL)
Crenshaw	Henger	Miller (MI)

Miller, Gary	Roby	Southerland	Engel	Larson (CT)	Rothman (NJ)	Meehan	Ribble	Smith (NJ)
Mulvaney	Roe (TN)	Stearns	Eshoo	Levin	Roybal-Allard	Mica	Rigell	Smith (TX)
Murphy (PA)	Rogers (AL)	Stivers	Farr	Lewis (GA)	Ruppersberger	Miller (FL)	Rivera	Southerland
Myrick	Rogers (KY)	Stutzman	Fattah	Lipinski	Ryan (OH)	Miller (MI)	Roby	Stearns
Neugebauer	Rogers (MI)	Sullivan	Flner	Loebback	Sánchez, Linda T.	Miller, Gary	Roe (TN)	Stivers
Noem	Rohrabacher	Terry	Frank (MA)	Lofgren, Zoe	Sanchez, Loretta	Mulvaney	Rogers (AL)	Stutzman
Nugent	Rokita	Thompson (PA)	Fudge	Lowey	Sarbanes	Murphy (PA)	Rogers (KY)	Sullivan
Nunes	Rooney	Thornberry	Garamendi	Lujan	Schakowsky	Myrick	Rogers (MI)	Terry
Nunnelee	Ros-Lehtinen	Tiberi	Gonzalez	Lynch	Schiff	Neugebauer	Rohrabacher	Thompson (PA)
Olson	Roskam	Tipton	Green, Al	Maloney	Schrader	Noem	Rokita	Thornberry
Palazzo	Ross (AR)	Turner (NY)	Green, Gene	Markey	Schwartz	Nugent	Rooney	Tiberi
Paulsen	Ross (FL)	Turner (OH)	Grijalva	Matsui	Scott (VA)	Nunes	Ros-Lehtinen	Tipton
Pearce	Royce	Upton	Gutierrez	McCarthy (NY)	Scott, David	Nunnelee	Roskam	Turner (NY)
Pence	Runyan	Walberg	Hahn	McCollum	Serrano	Olson	Ross (AR)	Turner (OH)
Peterson	Ryan (WI)	Walden	Hanabusa	McDermott	Sewell	Palazzo	Ross (FL)	Upton
Petri	Scalise	Walsh (IL)	Hastings (FL)	McGovern	Sherman	Paulsen	Royce	Walberg
Pitts	Schilling	Webster	Heinrich	McIntyre	Sires	Pearce	Runyan	Walden
Platts	Schmidt	West	Higgins	Meeks	Slaughter	Pence	Ryan (WI)	Walsh (IL)
Poe (TX)	Schock	Westmoreland	Himes	Michaud	Smith (WA)	Perlmutter	Scalise	Walsh (MN)
Pompeo	Schweikert	Whitfield	Hinchey	Miller (NC)	Speier	Peterson	Schilling	Webster
Posey	Scott (SC)	Wilson (SC)	Hinojosa	Miller, George	Stark	Petri	Schmidt	West
Price (GA)	Scott, Austin	Wittman	Hirono	Moore	Sutton	Pitts	Schock	Westmoreland
Quayle	Sensenbrenner	Wolf	Hochul	Moran	Thompson (CA)	Platts	Schweikert	Whitfield
Reed	Sessions	Womack	Holden	Murphy (CT)	Thompson (MS)	Poe (TX)	Scott (SC)	Wilson (SC)
Rehberg	Shimkus	Woodall	Holt	Napolitano	Tierney	Pompeo	Scott, Austin	Wittman
Reichert	Shuster	Yoder	Honda	Neal	Tonko	Posey	Sensenbrenner	Wolf
Renacci	Simpson	Young (AK)	Hoyer	Olver	Towns	Price (GA)	Sessions	Womack
Ribble	Smith (NE)	Young (FL)	Israel	Owens	Tsongas	Quayle	Shimkus	Woodall
Rigell	Smith (NJ)	Young (IN)	Jackson (IL)	Pallone	Van Hollen	Reed	Shuler	Yoder
Rivera	Smith (TX)		Jackson Lee (TX)	Pascrell	Velázquez	Rehberg	Shuster	Young (AK)
			Johnson (GA)	Pastor (AZ)	Visclosky	Reichert	Simpson	Young (FL)
			Johnson, E. B.	Pelosi	Wasserman	Renacci	Smith (NE)	Young (IN)
			Kaptur	Peters	Schultz			
			Keating	Pingree (ME)	Waters			
			Kildée	Polis	Watt			
			Kind	Price (NC)	Waxman			
			Kissell	Quigley	Welch			
			Kucinich	Rahall	Wilson (FL)			
			Langevin	Reyes	Woolsey			
			Larsen (WA)	Richardson	Yarmuth			
				Richmond				

## NOT VOTING—9

Bass (CA)	Lee (CA)	Payne
Cantor	Nadler	Rangel
Gohmert	Paul	Rush

## ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR (during the vote).  
There is 1 minute remaining.

□ 1748

So the amendment was rejected.

The result of the vote was announced  
as above recorded.

AMENDMENT NO. 6 OFFERED BY MRS.  
NAPOLITANO

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentlewoman from California (Mrs. NAPOLITANO) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

## RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This is a 2-minute vote.

The vote was taken by electronic device, and there were—ayes 174, noes 250, not voting 9, as follows:

[Roll No. 87]

## AYES—174

Ackerman	Capuano	Courtney
Altmire	Carnahan	Critz
Andrews	Carney	Crowley
Baca	Carson (IN)	Cuellar
Baldwin	Castor (FL)	Cummings
Barton (TX)	Chandler	Davis (CA)
Becerra	Chu	Davis (IL)
Berkley	Cicilline	DeFazio
Berman	Clarke (MI)	DeGette
Bishop (NY)	Clarke (NY)	DeLauro
Blumenauer	Clay	Deutch
Bonamici	Cleaver	Dicks
Boswell	Clyburn	Dingell
Brady (PA)	Cohen	Doggett
Braley (IA)	Connolly (VA)	Donnelly (IN)
Brown (FL)	Conyers	Doyle
Butterfield	Cooper	Edwards
Capps	Costello	Ellison

Adams	Culberson	Herrera
Aderholt	Davis (KY)	Herrera Beutler
Akin	Denham	Huelskamp
Alexander	Dent	Huizenga (MI)
Amash	DesJarlais	Hultgren
Amodei	Diaz-Balart	Hunter
Austria	Dold	Hurt
Bachmann	Dreier	Inslee
Bachus	Duffy	Issa
Barletta	Duncan (SC)	Jenkins
Barrow	Duncan (TN)	Johnson (IL)
Bartlett	Ellmers	Johnson (OH)
Bass (NH)	Emerson	Johnson, Sam
Benishek	Farenthold	Jones
Berg	Fincher	Jordan
Biggart	Fitzpatrick	Kelly
Bilbray	Flake	King (IA)
Bilirakis	Fleischmann	King (NY)
Bishop (GA)	Fleming	Kingston
Bishop (UT)	Flores	Kinzinger (IL)
Black	Forbes	Kline
Blackburn	Fortenberry	Labrador
Bonner	Fox	Lamborn
Bono Mack	Franks (AZ)	Lance
Boren	Frelinghuysen	Landry
Boustany	Gallely	Lankford
Brady (TX)	Gardner	Latham
Brooks	Garrett	LaTourette
Broun (GA)	Gerlach	Latta
Buchanan	Gibbs	Lewis (CA)
Bucshon	Gibson	LoBiondo
Buerkle	Gingrey (GA)	Long
Burgess	Goodlatte	Lucas
Burton (IN)	Gosar	Luetkemeyer
Calvert	Gowdy	Lummis
Camp	Granger	Lungren, Daniel
Campbell	Graves (GA)	E.
Canseco	Graves (MO)	Mack
Capito	Griffin (AR)	Manzullo
Cardoza	Griffith (VA)	Marchant
Carter	Grimm	Marino
Cassidy	Guinta	Matheson
Chabot	Guithrie	McCarthy (CA)
Chaffetz	Hall	McCaul
Coble	Hanna	McClintock
Coffman (CO)	Harper	McCotter
Cole	Harris	McHenry
Conaway	Hartzler	McKeon
Costa	Hastings (WA)	McKinley
Cravaack	Hayworth	McMorris
Crawford	Heck	Rodgers
Crenshaw	Hensarling	McNerney

## NOES—250

Heger	Wasserman
Herrera Beutler	Schultz
Huelskamp	Waters
Huizenga (MI)	Watt
Hultgren	Waxman
Hunter	Welch
Hurt	Wilson (FL)
Inslee	Woolsey
Issa	Yarmuth
Jenkins	
Johnson (IL)	
Johnson (OH)	
Johnson, Sam	
Jones	
Jordan	
Kelly	
King (IA)	
King (NY)	
Kingston	
Kinzinger (IL)	
Kline	
Labrador	
Lamborn	
Lance	
Landry	
Lankford	
Latham	
LaTourette	
Latta	
Lewis (CA)	
LoBiondo	
Long	
Lucas	
Luetkemeyer	
Lummis	
Lungren, Daniel	
E.	
Mack	
Manzullo	
Marchant	
Marino	
Matheson	
McCarthy (CA)	
McCaul	
McClintock	
McCotter	
McHenry	
McKeon	
McKinley	
McMorris	
Rodgers	
McNerney	

## NOT VOTING—9

Bass (CA)	Lee (CA)	Payne
Cantor	Nadler	Rangel
Gohmert	Paul	Rush

## ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR (during the vote).  
There is 1 minute remaining.

□ 1752

So the amendment was rejected.

The result of the vote was announced  
as above recorded.

## AMENDMENT NO. 7 OFFERED BY MR. GARAMENDI

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from California (Mr. GARAMENDI) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

## RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This is a 2-minute vote.

The vote was taken by electronic device, and there were—ayes 178, noes 247, not voting 8, as follows:

[Roll No. 88]

## AYES—178

Ackerman	Capps	Costello
Altmire	Capuano	Courtney
Andrews	Carnahan	Critz
Baca	Carney	Crowley
Baldwin	Carson (IN)	Cuellar
Barrow	Castor (FL)	Cummings
Becerra	Chandler	Davis (CA)
Berkley	Chu	Davis (IL)
Berman	Cicilline	DeFazio
Bishop (NY)	Clarke (MI)	DeGette
Blumenauer	Clarke (NY)	DeLauro
Bonamici	Clay	Deutch
Boswell	Cleaver	Dicks
Brady (PA)	Clyburn	Dingell
Braley (IA)	Cohen	Doggett
Brown (FL)	Connolly (VA)	Donnelly (IN)
Butterfield	Conyers	Doyle

Edwards  
Ellison  
Engel  
Eshoo  
Farr  
Fattah  
Filner  
Frank (MA)  
Fudge  
Garamendi  
Gonzalez  
Green, Al  
Green, Gene  
Grijalva  
Gutierrez  
Hahn  
Hanabusa  
Hastings (FL)  
Heinrich  
Higgins  
Himes  
Hinchey  
Hinojosa  
Hirono  
Hochul  
Holden  
Holt  
Honda  
Hoyer  
Inslee  
Israel  
Jackson (IL)  
Jackson Lee  
(TX)  
Johnson (GA)  
Johnson, E. B.  
Kaptur  
Keating  
Kildee  
Kind  
Kissell  
Kucinich  
Langevin  
Larsen (WA)

## NOES—247

Adams  
Aderholt  
Akin  
Alexander  
Amash  
Amodei  
Austria  
Bachmann  
Bachus  
Barletta  
Bartlett  
Barton (TX)  
Bass (NH)  
Benishkek  
Berg  
Biggart  
Bilbray  
Bilirakis  
Bishop (GA)  
Bishop (UT)  
Black  
Blackburn  
Bonner  
Bono Mack  
Boren  
Boustany  
Brady (TX)  
Brooks  
Broun (GA)  
Buchanan  
Bucshon  
Buerkle  
Burgess  
Burton (IN)  
Calvert  
Camp  
Campbell  
Canseco  
Capito  
Cardoza  
Carter  
Cassidy  
Chabot  
Chaffetz  
Coble  
Coffman (CO)  
Cole  
Conaway  
Cooper

Larson (CT)  
Levin  
Lewis (GA)  
Lipinski  
Loeb sack  
Lofgren, Zoe  
Lowey  
Lujan  
Lynch  
Maloney  
Markey  
Matsui  
McCarthy (NY)  
McCollum  
McDermott  
McGovern  
McIntyre  
McNerney  
Meeks  
Michaud  
Miller (NC)  
Miller, George  
Moore  
Moran  
Murphy (CT)  
Napolitano  
Neal  
Oliver  
Owens  
Pallone  
Pascarell  
Pastor (AZ)  
Pelosi  
Perlmutter  
Peters  
Pingree (ME)  
Polis  
Price (NC)  
Quigley  
Rahall  
Reyes  
Richardson  
Richmond  
Rothman (NJ)

Roybal-Allard  
Ruppersberger  
Ryan (OH)  
Sánchez, Linda  
T.  
Sanchez, Loretta  
Sarbanes  
Schakowsky  
Schiff  
Schrader  
Schwartz  
Scott (VA)  
Scott, David  
Serrano  
Sewell  
Sherman  
Shuler  
Sires  
Slaughter  
Smith (WA)  
Speier  
Stark  
Sutton  
Thompson (CA)  
Thompson (MS)  
Tierney  
Tonko  
Towns  
Tsongas  
Van Hollen  
Velázquez  
Visclosky  
Walz (MN)  
Wasserman  
Schultz  
Waters  
Watt  
Waxman  
Welch  
Wilson (FL)  
Woolsey  
Yarmuth

McCarthy (CA)  
McCaul  
McClintock  
McCotter  
McHenry  
McKeon  
McKinley  
McMorris  
Rodgers  
Meehan  
Mica  
Miller (FL)  
Miller (MI)  
Miller, Gary  
Mulvaney  
Murphy (PA)  
Myrick  
Neugebauer  
Noem  
Nugent  
Nunes  
Nunnelee  
Olson  
Palazzo  
Paulsen  
Pearce  
Pence  
Peterson  
Petri  
Pitts  
Platts  
Poe (TX)  
Pompeo  
Posey

Bass (CA)  
Cantor  
Lee (CA)

Price (GA)  
Quayle  
Reed  
Rehberg  
Reichert  
Renacci  
Ribble  
Rigell  
Rivera  
Roby  
Roe (TN)  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rohrabacher  
Rokita  
Rooney  
Ros-Lehtinen  
Roskam  
Ross (AR)  
Ross (FL)  
Royce  
Runyan  
Ryan (WI)  
Scalise  
Schilling  
Schmidt  
Schock  
Schweikert  
Scott (SC)  
Scott, Austin  
Sensenbrenner  
Sessions  
Shinkus

## NOT VOTING—8

Shuster  
Simpson  
Smith (NE)  
Smith (NJ)  
Smith (TX)  
Southerland  
Stearns  
Stivers  
Stutzman  
Sullivan  
Terry  
Thompson (PA)  
Thornberry  
Tiberi  
Tipton  
Turner (NY)  
Turner (OH)  
Upton  
Walberg  
Walden  
Walsh (IL)  
Webster  
West  
Westmoreland  
Whitfield  
Wilson (SC)  
Wittman  
Wolf  
Womack  
Woodall  
Yoder  
Young (AK)  
Young (FL)  
Young (IN)

Nadler  
Paul  
Payne

Rangel  
Rush

ANNOUNCEMENT BY THE ACTING CHAIR  
The Acting CHAIR (during the vote).  
There is 1 minute remaining.

□ 1755

So the amendment was rejected.  
The result of the vote was announced  
as above recorded.

AMENDMENT NO. 8 OFFERED BY MR. MARKEY  
The Acting CHAIR. The unfinished  
business is the demand for a recorded  
vote on the amendment offered by the  
gentleman from Massachusetts (Mr.  
MARKEY) on which further proceedings  
were postponed and on which the noes  
prevailed by voice vote.

The Clerk will redesignate the  
amendment.

The Clerk redesignated the amend-  
ment.

## RECORDED VOTE

The Acting CHAIR. A recorded vote  
has been demanded.

A recorded vote was ordered.  
The Acting CHAIR. This will be a 2-  
minute vote.

The vote was taken by electronic de-  
vice, and there were—ayes 180, noes 244,  
not voting 9, as follows:

[Roll No. 89]

## AYES—180

Ackerman  
Andrews  
Baca  
Baldwin  
Barrow  
Becerra  
Berkley  
Berman  
Bishop (NY)  
Blumenauer  
Bonamici  
Boswell  
Brady (PA)  
Braley (IA)  
Brown (FL)

Butterfield  
Capps  
Capuano  
Carnahan  
Carney  
Carson (IN)  
Castor (FL)  
Chandler  
Chu  
Cicilline  
Clarke (MI)  
Clarke (NY)  
Clay  
Cleaver  
Clyburn

Cohen  
Connolly (VA)  
Conyers  
Cooper  
Costello  
Courtney  
Critz  
Crowley  
Cuellar  
Cummings  
Davis (CA)  
Davis (IL)  
DeFazio  
DeGette  
DeLauro

Deutch  
Dicks  
Dingell  
Doggett  
Donnelly (IN)  
Doyle  
Edwards  
Ellison  
Engel  
Eshoo  
Farr  
Fattah  
Filner  
Frank (MA)  
Fudge  
Garamendi  
Gonzalez  
Green, Al  
Green, Gene  
Grijalva  
Gutierrez  
Hahn  
Hanabusa  
Hastings (FL)  
Heinrich  
Higgins  
Himes  
Hinchey  
Hinojosa  
Hirono  
Hochul  
Holden  
Holt  
Honda  
Hoyer  
Inslee  
Israel  
Jackson (IL)  
Jackson Lee  
(TX)  
Johnson (GA)  
Johnson (IL)  
Johnson, E. B.  
Kaptur  
Keating  
Kildee

Kind  
Kissell  
Kucinich  
Langevin  
Larsen (WA)  
Larson (CT)  
Levin  
Lewis (GA)  
Lipinski  
Loeb sack  
Lofgren, Zoe  
Lowey  
Lujan  
Lynch  
Maloney  
Markey  
Matsui  
McCarthy (NY)  
McCollum  
McDermott  
McGovern  
McIntyre  
McNerney  
Meeks  
Michaud  
Miller (NC)  
Miller, George  
Moore  
Moran  
Murphy (CT)  
Napolitano  
Neal  
Oliver  
Owens  
Pallone  
Pascarell  
Pastor (AZ)  
Pelosi  
Perlmutter  
Peters  
Pingree (ME)  
Polis  
Price (NC)  
Quigley  
Rahall  
Reyes

## NOES—244

Adams  
Aderholt  
Akin  
Alexander  
Altmire  
Amash  
Amodei  
Austria  
Bachmann  
Bachus  
Barletta  
Bartlett  
Barton (TX)  
Bass (NH)  
Benishkek  
Berg  
Biggart  
Bilbray  
Bilirakis  
Bishop (GA)  
Bishop (UT)  
Black  
Blackburn  
Bonner  
Bono Mack  
Boren  
Boustany  
Brady (TX)  
Brooks  
Broun (GA)  
Buchanan  
Bucshon  
Buerkle  
Burgess  
Burton (IN)  
Calvert  
Camp  
Campbell  
Canseco  
Capito  
Cardoza  
Carter  
Cassidy  
Chabot  
Chaffetz  
Coble  
Coffman (CO)

Cole  
Conaway  
Costa  
Cravaack  
Crawford  
Crenshaw  
Culberson  
Davis (KY)  
Denham  
Dent  
DesJarlais  
Diaz-Balart  
Dold  
Dreier  
Duffy  
Duncan (SC)  
Duncan (TN)  
Ellmers  
Emerson  
Farenthold  
Fincher  
Fitzpatrick  
Flake  
Fleischmann  
Fleming  
Flores  
Forbes  
Fortenberry  
Foxy  
Franks (AZ)  
Frelinghuysen  
Gallegly  
Gardner  
Garrett  
Gerlach  
Gibbs  
Gibson  
Gingrey (GA)  
Gohmert  
Goodlatte  
Gosar  
Gowdy  
Granger  
Graves (GA)  
Graves (MO)  
Griffin (AR)  
Griffith (VA)

Richardson  
Richmond  
Rothman (NJ)  
Roybal-Allard  
Ruppersberger  
Rush  
Ryan (OH)  
Sánchez, Linda  
T.  
Sanchez, Loretta  
Sarbanes  
Schakowsky  
Schiff  
Schrader  
Schwartz  
Scott (VA)  
Scott, David  
Serrano  
Sewell  
Sherman  
Shuler  
Sires  
Slaughter  
Smith (WA)  
Speier  
Stark  
Sutton  
Thompson (CA)  
Thompson (MS)  
Tierney  
Tonko  
Towns  
Tsongas  
Van Hollen  
Velázquez  
Visclosky  
Walz (MN)  
Wasserman  
Schultz  
Waters  
Watt  
Waxman  
Welch  
Wilson (FL)  
Woolsey  
Yarmuth

Grimm  
Guinta  
Guthrie  
Hall  
Hanna  
Harper  
Harris  
Hartzler  
Hastings (WA)  
Hayworth  
Heck  
Hensarling  
Herger  
Herrera Beutler  
Huelskamp  
Huizenga (MI)  
Hultgren  
Hunter  
Hurt  
Issa  
Jenkins  
Johnson (OH)  
Johnson, Sam  
Jones  
Jordan  
Kelly  
King (IA)  
King (NY)  
Kingston  
Kinzinger (IL)  
Kline  
Labrador  
Lamborn  
Lance  
Landry  
Lankford  
Latham  
LaTourrette  
Latta  
Lewis (CA)  
LoBiondo  
Long  
Lucas  
Luetkemeyer  
Lummis  
Lungren, Daniel  
E.

Mack	Platts	Shinkus
Manzullo	Poe (TX)	Shuster
Marchant	Pompeo	Simpson
Marino	Posey	Smith (NE)
Matheson	Price (GA)	Smith (NJ)
McCarthy (CA)	Quayle	Smith (TX)
McCaul	Reed	Southerland
McClintock	Rehberg	Stearns
McCotter	Reichert	Stivers
McHenry	Renacci	Stutzman
McKeon	Rivera	Sullivan
McKinley	Roby	Terry
McMorris	Roe (TN)	Thompson (PA)
Rodgers	Rogers (AL)	Thornberry
Meehan	Rogers (KY)	Tiberti
Mica	Rogers (MI)	Tipton
Miller (FL)	Rohrabacher	Turner (NY)
Miller (MI)	Rokita	Turner (OH)
Miller, Gary	Rooney	Upton
Mulvaney	Ros-Lehtinen	Walberg
Murphy (PA)	Roskam	Walden
Myrick	Ross (AR)	Walsh (IL)
Neugebauer	Ross (FL)	Webster
Noem	Royce	West
Nugent	Runyan	Westmoreland
Nunes	Ryan (WI)	Whitfield
Nunnelee	Scalise	Wilson (SC)
Olson	Schilling	Wittman
Palazzo	Schmidt	Wolf
Paulsen	Schock	Womack
Pearce	Schweikert	Woodall
Pence	Scott (SC)	Yoder
Peterson	Scott, Austin	Young (AK)
Petri	Sensenbrenner	Young (FL)
Pitts	Sessions	Young (IN)

## NOT VOTING—9

Bass (CA)	Nadler	Rangel
Cantor	Paul	Ribble
Lee (CA)	Payne	Rigell

## ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR (during the vote).  
There is 1 minute remaining.

□ 1800

So the amendment was rejected.

The result of the vote was announced as above recorded.

The Acting CHAIR. The question is on the amendment in the nature of a substitute, as amended.

The amendment was agreed to.

The Acting CHAIR. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. GARDNER) having assumed the chair, Mr. WESTMORELAND, Acting Chair of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 1837) to address certain water-related concerns on the San Joaquin River, and for other purposes, and, pursuant to House Resolution 566, reported the bill back to the House with an amendment adopted in the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the amendment reported from the Committee of the Whole?

If not, the question is on the amendment in the nature of a substitute, as amended.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

## MOTION TO RECOMMIT

Mr. GARAMENDI. Mr. Speaker, I have a motion to recommit at the desk.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. GARAMENDI. I am.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Garamendi moves to recommit the bill H.R. 1837 to the Committee on Natural Resources with instructions to report the same back to the House forthwith with the following amendment:

After section 2, insert the following:

**SEC. 3. PROTECTING THE CONSTITUTION AND STATES' RIGHTS.**

Consistent with the tenth amendment to the United States Constitution, nothing in this Act shall preempt or supersede State law, including State water law.

The SPEAKER pro tempore. The gentleman from California is recognized for 5 minutes.

Mr. GARAMENDI. Mr. Speaker, I thank you for the opportunity to present this amendment. This amendment will not kill the bill nor send it back to committee, but it is an amendment that is important to every Representative in this House if you care about the 10th Amendment and you care about the ability of your State to set its own policies.

Mr. Speaker, every Member in this House should be paying attention to this bill. We read the Constitution the first day of this Congress. The 10th Amendment guarantees that the States have the ability to take care of their own water systems and many other issues that pertain to the States. This bill, this bill overrides State law in California. This bill sets aside numerous State laws in California. This bill overrides 150 years of California water law set in place by the legislature, the governors, by the courts of California, and the Federal courts. This bill destroys the ability of California to conduct and to manage its own water.

I put this map up of California so that you might contemplate for a few moments the impact and exactly what we're talking about. California is a big State, 38 million people, diverse, extraordinary water fights. There's a fellow who lived in California years ago, Mark Twain, and he said, "In California, whiskey's for drinking and water's for fighting." And it's been true ever since.

This is the Central Valley of California, the largest estuary on the West Coast of the Western Hemisphere. It's where the Sacramento River and the San Joaquin River join together in an inland estuary, one of the few in the world. And also, San Francisco Bay. This bill will lead to the destruction of the largest estuary on the West Coast of the Western Hemisphere, and it does so by overriding California law and the California Constitution.

The California Constitution holds the water of the State of California in trust. In trust. The State of California, the government, is responsible for the care of that water so that it can be appropriately distributed, not only for the beneficial use of consumptive users, cities and farmers, but also, also for the environment.

This bill takes away the laws of the State of California that would provide for the protection of the environment. The California CEQA, Environmental Quality Act, the Air Quality Act, the Endangered Species Act of the State of California, are overridden by this bill. And by the way, the Federal laws also. It takes us back to 1994, to a period of time when we didn't know the science. We didn't understand what the full impact of water diversions and other contaminants and other species would be in the delta.

Since 1994, we have seen the collapse of the delta fisheries. We have seen thousands upon thousands of fishermen, both commercial and recreational, unable to fish. The loss of much. There is a much talk in this House about a manmade drought. That's baloney. It was a real drought. And yes, there were environmental considerations that further reduced water. That water was reduced under contracts that called for shortages in the case of drought.

So what are we talking about here with this bill? We're talking about the usurpation of power by the Federal Government, taking the basic ability of the State of California to regulate its water, to deal with its environmental issues, and causing this House, this Federal Government, to have that power.

Think closely all of you who have a reclamation project in your district, and there are some 18 States, ranging from the Pacific to the Mississippi. You have reclamation projects. Think deeply. Think about what happens when the Federal Government goes to California, the biggest State, and says: We don't care what your laws are; we're going to tell you what to do. Think what that might mean to you in the future when somebody in your State has the power to put before this House a law that runs over the top of your State laws.

If you care about the 10th Amendment, if you care about States' rights, you'd better be voting "no" because this is a precedent you don't want to ever see in your State, and we don't want to see it in California. Think deeply, Members of this House, think deeply about what's at stake here. I ask for this motion to pass.

I yield back the balance of my time.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Members are reminded to address their remarks to the Chair.

Mr. McCLINTOCK. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman from California is recognized for 5 minutes.

Mr. McCLINTOCK. Mr. Speaker, it is odd, very odd to hear the argument again in this Hall that a State's right to deny basic freedoms to its citizens trumps the 14th Amendment to our Constitution. The last time we heard this argument in this Hall, it involved citizens' civil rights. Now it is the citizens' water rights. But make no mistake: it is the same old saw.

The reason we have a 14th Amendment to our Constitution is because its Framers recognized that States could become abusive of the rights of their citizens, including their property rights, including their water rights, and the Federal Government had a responsibility and a duty to protect them. A responsibility and a duty specifically vested in this Congress, a responsibility and a duty that we exercise in the bill that the gentleman from California would have us gut.

Well, what does the Constitution actually say on the subject? It says:

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States.

And it grants Congress the power to enforce by appropriate legislation the provisions of this article.

Let us turn to the provisions of the bill that the gentleman objects to. It is Title IV. It directs the Interior Secretary, in the operation of the Central Valley Project, a Federal project, I might add, to strictly adhere to State water rights laws and priorities. It doesn't trample State water rights; it invokes and enforces them.

Title IV goes on further to direct the Secretary to strictly adhere to and honor water rights and priorities that were obtained or existed pursuant to various sections of California water code.

□ 1810

I repeat, it doesn't trample States' rights. It invokes them and enforces them. This sets no precedent for other States. California is the only State in the country with a coordinated operations agreement that combines a Federal project, the Central Valley Project, with a State project, the State Water Project, and does so, by the way, at California's request and with California's consent.

In fact, Congress has a long history of citing that Coordinated Operations Agreement to invoke preemptive authority over this coordinated Federal and State project. The Central Valley Project Improvement Act in 1992 is replete with such preemptions.

Mr. Speaker, fewer Americans are working today than were working the

day that this administration was sworn into office. This administration's actions caused thousands and thousands of hardworking farm working families to lose their jobs. This measure solves that travesty. The same administration that is blocking the thousands of jobs that the Keystone pipeline would produce has also vowed to veto this measure. I think the American people are going to have a great deal to say about that in coming days.

Ironically, the provision that the gentleman would have us remove was specifically placed in the bill because he and his colleagues objected that its original provision might cause the State government to actively undermine the rights of its senior water rights holders. Now that was a legitimate concern. Senior water rights holders in northern California were scared to death that they might have the State undercut their water rights, and this bill specifically addresses that concern. To address that concern, this provision was placed in the bill, and now the gentleman objects to it.

The gentleman first attacked the bill because the bill lacked this protection, and now he attacks the bill because it has that protection. The gentleman knows what I'm talking about. The gentleman knows that I have great affection for him, but I must say he is becoming exceedingly hard to please.

I yield back the balance of my time.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Members are reminded not to traffic the well while another Member is under recognition.

Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. GARAMENDI. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—ayes 178, noes 248, not voting 7, as follows:

[Roll No. 90]

AYES—178

Ackerman	Bonamici	Castor (FL)
Andrews	Boswell	Chandler
Baca	Brady (PA)	Chu
Baldwin	Braley (IA)	Cicilline
Barrow	Brown (FL)	Clarke (MI)
Becerra	Butterfield	Clarke (NY)
Berkley	Capps	Clay
Berman	Capuano	Cleaver
Bishop (GA)	Carnahan	Clyburn
Bishop (NY)	Carney	Cohen
Blumenauer	Carson (IN)	Connolly (VA)

Conyers	Jackson (IL)	Quigley
Cooper	Jackson Lee	Rahall
Costello	(TX)	Reyes
Courtney	Johnson (GA)	Richardson
Critz	Johnson, E. B.	Richmond
Crowley	Kaptur	Rothman (NJ)
Cuellar	Keating	Roybal-Allard
Cummings	Kildee	Ruppersberger
Davis (CA)	Kind	Rush
Davis (IL)	Kucinich	Ryan (OH)
DeFazio	Langevin	Sánchez, Linda
DeGette	Larsen (WA)	T.
DeLauro	Larson (CT)	Sanchez, Loretta
Deutch	Levin	Sarbanes
Dicks	Lewis (GA)	Schakowsky
Dingell	Lipinski	Schiff
Doggett	Loebach	Schrader
Donnelly (IN)	Lofgren, Zoe	Schwartz
Doyle	Lowey	Scott (VA)
Edwards	Luján	Scott, David
Ellison	Lynch	Serrano
Engel	Maloney	Sewell
Eshoo	Markey	Sherman
Farr	Matsui	Sires
Fattah	McCarthy (NY)	Slaughter
Filner	McCollum	Smith (WA)
Frank (MA)	McDermott	Speier
Fudge	McGovern	Stark
Garamendi	McIntyre	Sutton
Gonzalez	McNerney	Thompson (CA)
Green, Al	Meeks	Thompson (MS)
Green, Gene	Michaud	Tierney
Grijalva	Miller (NC)	Tonko
Gutierrez	Miller, George	Towns
Hahn	Moore	Tsongas
Hanabusa	Moran	Van Hollen
Hastings (FL)	Murphy (CT)	Velázquez
Heinrich	Napolitano	Visclosky
Higgins	Neal	Walz (MN)
Himes	Olver	Wasserman
Hinchey	Owens	Schultz
Hinojosa	Pallone	Waters
Hirono	Pascrell	Watt
Hochul	Pastor (AZ)	Waxman
Holden	Pelosi	Welch
Holt	Perlmutter	Wilson (FL)
Honda	Peters	Woolsey
Hoyer	Pingree (ME)	Yarmuth
Inlee	Pollis	
Israel	Price (NC)	

NOES—248

Adams	Chaffetz	Gosar
Aderholt	Coble	Gowdy
Akin	Coffman (CO)	Granger
Alexander	Cole	Graves (GA)
Altmire	Conaway	Graves (MO)
Amash	Costa	Griffin (AR)
Amodeli	Cravaack	Griffith (VA)
Austria	Crawford	Grimm
Bachmann	Crenshaw	Guinta
Bachus	Culberson	Guthrie
Barletta	Davis (KY)	Hall
Bartlett	Denham	Hanna
Barton (TX)	Dent	Harper
Bass (NH)	DesJarlais	Harris
Benishek	Diaz-Balart	Hartzler
Berg	Dold	Hastings (WA)
Biggart	Dreier	Hayworth
Bilbray	Duffy	Heck
Bilirakis	Duncan (SC)	Hensarling
Bishop (UT)	Duncan (TN)	Herger
Black	Ellmers	Herrera Beutler
Blackburn	Emerson	Huelskamp
Bonner	Farenthold	Huizenga (MI)
Bono Mack	Fincher	Hultgren
Boren	Fitzpatrick	Hunter
Boustany	Flake	Hurt
Brady (TX)	Fleischmann	Issa
Brooks	Fleming	Jenkins
Broun (GA)	Flores	Johnson (IL)
Buchanan	Forbes	Johnson (OH)
Bucshon	Fortenberry	Johnson, Sam
Buerkle	Fox	Jones
Burgess	Franks (AZ)	Jordan
Burton (IN)	Frelinghuysen	Kelly
Calvert	Gallely	King (IA)
Camp	Gardner	King (NY)
Campbell	Garrett	Kingston
Canseco	Gerlach	Kinzinger (IL)
Capito	Gibbs	Kissell
Cardoza	Gibson	Kline
Carter	Gingrey (GA)	Labrador
Cassidy	Gohmert	Lamborn
Chabot	Goodlatte	Lance

Landry	Palazzo	Scott, Austin	Capito	Huizenga (MI)	Pompeo	Heinrich	McCarthy (NY)	Sarbanes
Lankford	Paulsen	Sensenbrenner	Cardoza	Hultgren	Posey	Higgins	McCormack	Schakowsky
Latham	Pearce	Sessions	Carter	Hunter	Price (GA)	Himes	McDermott	Schiff
LaTourette	Pence	Shimkus	Cassidy	Hurt	Quayle	Hinchey	McGovern	Schrader
Latta	Peterson	Shuler	Chabot	Issa	Reed	Hinojosa	McNerney	Schwartz
Lewis (CA)	Petri	Shuster	Chaffetz	Jenkins	Rehberg	Hirono	Michaud	Scott (VA)
LoBiondo	Pitts	Simpson	Coble	Johnson (IL)	Reichert	Hochul	Miller (NC)	Scott, David
Long	Platts	Smith (NE)	Coffman (CO)	Johnson (OH)	Renacci	Holden	Miller, George	Serrano
Lucas	Poe (TX)	Smith (NJ)	Cole	Johnson, Sam	Ribble	Holt	Moore	Sewell
Luetkemeyer	Pompeo	Smith (TX)	Conaway	Jones	Rigell	Honda	Moran	Sherman
Lummis	Posey	Southerland	Costa	Jordan	Rivera	Hoyer	Murphy (CT)	Sires
Lungren, Daniel	Price (GA)	Stearns	Cravaack	Kelly	Roby	Inslee	Napolitano	Slaughter
E.	Quayle	Stivers	Crawford	King (IA)	Roe (TN)	Israel	Neal	Smith (WA)
Mack	Reed	Stutzman	Crenshaw	King (NY)	Rogers (AL)	Jackson (IL)	Olver	Speier
Manzullo	Rehberg	Sullivan	Culberson	Kingston	Rogers (KY)	Jackson Lee	Owens	Stark
Marchant	Reichert	Terry	Davis (KY)	Kinzing (IL)	Rogers (MI)	(TX)	Pallone	Sutton
Marino	Renacci	Thompson (PA)	Denham	Kissell	Rohrabacher	Johnson (GA)	Pascarell	Thompson (CA)
Matheson	Ribble	Thornberry	Dent	Kline	Rokita	Johnson, E. B.	Pastor (AZ)	Thompson (MS)
McCarthy (CA)	Rigell	Tiberi	DesJarlais	Labrador	Ros-Lehtinen	Kaptur	Pelosi	Tierney
McCaul	Rivera	Tipton	Diaz-Balart	Lance	Roskam	Keating	Perlmutter	Tonko
McClintock	Roby	Turner (NY)	Dold	Landry	Ross (FL)	Kildee	Peters	Townes
McCotter	Roe (TN)	Turner (OH)	Dreier	Lankford	Royce	Kind	Pingree (ME)	Tsongas
McHenry	Rogers (AL)	Upton	Duffy	Latham	Runyan	Kucinich	Price (NC)	Van Hollen
McKeon	Rogers (KY)	Walberg	Duncan (SC)	LaTourette	Ryan (WI)	Langevin	Quigley	Velázquez
McKinley	Rogers (MI)	Walden	Duncan (TN)	Latta	Scalise	Larsen (WA)	Rahall	Visclosky
McMorris	Rohrabacher	Walsh (IL)	Ellmers	Lewis (CA)	Schilling	Larson (CT)	Reyes	Walz (MN)
Rodgers	Rokita	Webster	Emerson	LoBiondo	Schmidt	Levin	Richardson	Wasserman
Meehan	Rooney	West	Farenthold	Long	Schock	Lewis (GA)	Richmond	Schultz
Mica	Ros-Lehtinen	Westmoreland	Fincher	Lucas	Schweikert	Lipinski	Rothman (NJ)	Waters
Miller (FL)	Roskam	Whitfield	Fitzpatrick	Luetkemeyer	Scott (SC)	Loeb sack	Roybal-Allard	Watt
Miller (MI)	Ross (AR)	Wilson (SC)	Flake	Lummis	Scott, Austin	Lofgren, Zoe	Ruppersberger	Waxman
Miller, Gary	Ross (FL)	Wittman	Fleischmann	Lungren, Daniel	Sessions	Lowey	Rush	Welch
Mulvaney	Royce	Wolf	Fleming	E.	Sensenbrenner	Lujan	Ryan (OH)	Wilson (FL)
Murphy (PA)	Runyan	Womack	Flores	Mack	Shimkus	Lynch	Sánchez, Linda	Woolsey
Myrick	Ryan (WI)	Woodall	Forbes	Manzullo	Shuster	Maloney	T.	Yarmuth
Neugebauer	Scalise	Yoder	Fortenberry	Marchant	Smith (NE)	Markey	Sanchez, Loretta	
Noem	Schilling	Young (AK)	Fox	Marino	Smith (NJ)	Matsui		
Nugent	Schmidt	Young (FL)	Franks (AZ)	Matheson	Smith (TX)			
Nunes	Schock	Young (IN)	Frelinghuysen	McCarthy (CA)	Southerland			
Nunnelee	Schweikert		Galleghy	McCaul	Stearns			
Olson	Scott (SC)		Gardner	McClintock	Stivers			
			Garrett	McCotter	Stutzman			
			Gerlach	McHenry	Sullivan			
			Gibbs	McKeon	Terry			
			Gibson	McKinley	Thompson (PA)			
			Gingrey (GA)	McMorris	Thornberry			
			Gohmert	Rodgers	Tiberi			
			Goodlatte	Gosar	Tipton			
			Gosar	Gowdy	Turner (NY)			
			Granger	Graves (GA)	Turner (OH)			
			Graves (MO)	Gibbs	Upton			
			Griffin (AR)	Gibson	Walberg			
			Griffith (VA)	Gingrey (GA)	Walden			
			Grimm	Gohmert	Walsh (IL)			
			Guinta	Goodlatte	Webster			
			Guthrie	Gosar	West			
			Hall	Gowdy	Westmoreland			
			Hanna	Granger	Wilson (SC)			
			Harper	Graves (GA)	Wittman			
			Harris	Gibbs	Wolf			
			Hartzler	Gibson	Womack			
			Hastings (WA)	Gingrey (GA)	Woodall			
			Hayworth	Gohmert	Yoder			
			Heck	Goodlatte	Young (AK)			
			Hensarling	Gosar	Young (FL)			
			Herger	Gowdy	Young (IN)			
			Herrera Beutler	Granger				
			Huelskamp	Graves (MO)				
				Guthrie				
				Hall				
				Hanna				
				Harper				
				Harris				
				Hartzler				
				Hastings (WA)				
				Hayworth				
				Heck				
				Hensarling				
				Herger				
				Herrera Beutler				
				Huelskamp				

## NOT VOTING—7

Bass (CA)	Nadler	Rangel
Cantor	Paul	
Lee (CA)	Payne	

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining.

□ 1830

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

## RECORDED VOTE

Mrs. NAPOLITANO. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 246, noes 175, answered “present” 1, not voting 11, as follows:

[Roll No. 91]

AYES—246

Adams	Bass (NH)	Boustany
Aderholt	Benishak	Brady (TX)
Akin	Berg	Brooks
Alexander	Biggart	Brown (GA)
Altmire	Bilbray	Buchanan
Amodel	Bilirakis	Bucshon
Austria	Bishop (GA)	Buerkle
Baca	Bishop (UT)	Burgess
Bachmann	Black	Burton (IN)
Bachus	Blackburn	Calvert
Barletta	Bonner	Camp
Bartlett	Bono Mack	Campbell
Barton (TX)	Boren	Canseco

Ackerman	Chu
Amash	Cicilline
Andrews	Clarke (MI)
Baldwin	Clarke (NY)
Barrow	Clay
Becerra	Cleaver
Berkley	Clyburn
Berman	Cohen
Bishop (NY)	Connolly (VA)
Blumenauer	Conyers
Bonamici	Cooper
Boswell	Costello
Brady (PA)	Courtney
Braley (IA)	Critz
Brown (FL)	Crowley
Butterfield	Cuellar
Capps	Cummings
Capuano	Davis (CA)
Carnahan	Davis (IL)
Carney	DeFazio
Carson (IN)	DeGette
Castor (FL)	DeLauro
Chandler	Deutch

## NOES—175

Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Edwards
Ellison
Engel
Eshoo
Farr
Fattah
Filner
Frank (MA)
Fudge
Garamendi
Gonzalez
Green, Al
Green, Gene
Grijalva
Gutierrez
Hahn
Hanabusa
Hastings (FL)

## ANSWERED “PRESENT”—1

Shuler

## NOT VOTING—11

Bass (CA)	Meeks	Payne
Cantor	Murphy (PA)	Rangel
Lee (CA)	Nadler	Whitfield
McIntyre	Paul	

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There is 1 minute remaining.

□ 1836

Ms. BROWN of Florida changed her vote from “aye” to “no.”

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. MURPHY of Pennsylvania. Mr. Speaker, on rollcall No. 91, I was unavoidably detained.

Had I been present, I would have voted “aye.”

## REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1912

Mr. CICILLINE. Mr. Speaker, I ask unanimous consent that Congressman ED ROYCE be removed as a cosponsor of H.R. 1912.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

## CRASH OF USCG MH 65C HELICOPTER

(Mr. BONNER asked and was given permission to address the House for 1 minute.)

Mr. BONNER. Mr. Speaker, it is with a heavy heart that I bring to the attention of the House the news that a

United States Coast Guard helicopter crashed last night in Mobile Bay during a training mission.

Early this morning I spoke by phone to Coast Guard Sector Commander Captain Don Rose in Mobile, where he informed me that one crew member had lost his life, and three others are missing. Search efforts for the missing crew have been under way through last night and today, and they are ongoing at this time near the crash site off Point Clear, Alabama.

Naturally, I offered to Captain Rose the praise and heartfelt sympathies of the Congress, as well as our entire Nation, not only to those immediate families of those brave Coasties, but to the entire Coast Guard family.

Whether during a hurricane, an oil spill, or one of their daily encounters with danger when conducting a search and rescue mission, the United States Coast Guard plays a vital role that we too often take for granted.

It is at times like this when we are reminded of the dangers they face in their service to our Nation. They are truly on the first line of protecting our country, and we can never thank them enough.

Mr. Speaker, I ask, at this time, that all Americans lift a prayer to the Good Lord for the loss of life that has occurred. May God's blessings and healing hand be on those left behind.

#### TORNADO IN HARRISBURG, ILLINOIS

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute.)

Mr. SHIMKUS. Mr. Speaker, I too come to the well to address a tragedy that happened this morning. Early this morning, an F-4 tornado hit the city of Harrisburg, Illinois, in my district. There was extensive damage, and six residents lost their lives.

Our thoughts and prayers are with those who lost family and friends, those who were injured, and those who lost their homes.

I plan to visit Harrisburg personally tomorrow and thank all those first responders who have been working tirelessly to care for the injured and to begin the long road back to clean up. The mutual aid provided by the surrounding communities is also very heartwarming.

I pledge to work with Mayor Eric Gregg and other local officials to rebuild the Harrisburg we all know and love.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. DESJARLAIS). Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded

vote or the yeas and nays are ordered, or on which the vote incurs objection under clause 6 of rule XX.

Record votes on postponed questions will be taken later.

□ 1840

#### ST. CROIX RIVER CROSSING PROJECT AUTHORIZATION ACT

Mr. PETRI. Mr. Speaker, I move to suspend the rules and pass the bill (S. 1134) to authorize the St. Croix River Crossing Project with appropriate mitigation measures to promote river values.

The Clerk read the title of the bill.

The text of the bill is as follows:

S. 1134

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "St. Croix River Crossing Project Authorization Act".

#### SEC. 2. AUTHORIZATION OF PROJECT WITH MITIGATION MEASURES.

Notwithstanding section 7(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1278(a)), the head of any Federal agency or department may authorize and assist in the construction of a new extradosed bridge crossing the St. Croix River approximately 6 miles north of the I-94 crossing if the mitigation items described in paragraph 9 of the 2006 St. Croix River Crossing Project Memorandum of Understanding for Implementation of Riverway Mitigation Items, signed by the Federal Highway Administration on March 28, 2006, and by the National Park Service on March 27, 2006 (including any subsequent amendments to the Memorandum of Understanding), are included as enforceable conditions.

#### SEC. 3. OFFSET.

(a) IN GENERAL.—Notwithstanding any other provision of law, amounts made available for items 676, 813, 3186, 4358, and 5132 in the table contained in section 1702 of the SAFETEA-LU (119 Stat. 1288, 1380, 1423) shall be subject to the limitation on obligations for Federal-aid highways and highway safety construction programs distributed under section 120(a)(6) of title I of division C of Public Law 112-55 (23 U.S.C. 104 note; 125 Stat. 652).

(b) RESCISSION.—Any obligation authority made available until used to a State as a result of receipt of contract authority for the items described in subsection (a) that remains available to the State as of the date of enactment of this Act is permanently rescinded.

#### SEC. 4. BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go-Act of 2010, shall be determined by reference to the latest statement titled "Budgetary Effects of PAYGO Legislation" for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. PETRI) and the gentlewoman from Minnesota (Ms. MCCOLLUM) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin.

#### GENERAL LEAVE

Mr. PETRI. Mr. Speaker, I ask unanimous consent that all Members have 5

legislative days to revise and extend their remarks and include extraneous materials on the bill before us.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. PETRI. Mr. Speaker, I yield myself such time as I may consume.

The passage of this bill, which was adopted by the Senate earlier this year by unanimous consent, will remove the last remaining roadblock to construction of a new bridge over the St. Croix River, a bridge that has been identified for replacement by the States of Wisconsin and Minnesota for nearly 60 years and a project that has actively been worked on for more than 30 years.

Support for this new bridge is bipartisan and bicameral. The Governors of Wisconsin and Minnesota support it. The entire Senate delegations from the two States support it. With few exceptions, the members of the House delegations from Minnesota and Wisconsin support it. We just need this final action in order to finally proceed with the bridge.

The longer we delay, the more unsafe the current lift bridge becomes, congestion continues to worsen, and costs just continue to rise. It's time to end the gridlock.

I urge passage of the bill, and I reserve the balance of my time.

Ms. MCCOLLUM. Mr. Speaker, I yield myself as much time as I may consume.

The bill before the House today, S. 1134, is a controversial bill that represents wasteful government spending, bad transportation policy, and bad environmental policy.

A new bridge across the protected St. Croix River between my State of Minnesota and Wisconsin needs to be built. The aging Stillwater Lift Bridge needs to be replaced and everyone agrees on that, but I support a more affordable and more appropriately scaled replacement bridge.

This bill is controversial because it does much more than authorize a replacement bridge. This bill mandates construction of an exotic and massive extradosed style bridge some 219 feet above the St. Croix River at a cost of \$700 million for only 18,000 cars per day.

This \$700 million extradosed megabridge will connect Oak Park Heights, Minnesota—population 4,700—and Houlton, Wisconsin—population 386.

I quote from the St. Paul Pioneer Press, January 25, 2012, about Houlton, Wisconsin, it "is not big enough for a stop sign on its main street."

Houlton, Wisconsin, may not have a stop sign, but Congress could give it a \$700 million bridge.

This bill is controversial because, if you look at page 2, line 10 of the bill, you will see that the bill dictates the location of this \$700 million



megabridge, and I quote from the bill, "approximately 6 miles north of the Interstate-94 crossing." In other words, this bill mandates a 65-mile-per-hour interstate freeway bridge connecting a town of 386 people and builds it only 6 miles from an existing interstate crossing on the same river.

What would the Tea Party call an effective and efficient use of taxpayer dollars? Would they call this that? The fiscal watchdog group Taxpayers for Common Sense calls the bill, and I quote from them, "A massive misuse of taxpayer money."

In a letter to Congress opposing this bill, the Taxpayers for Common Sense said:

In an era of trillion-dollar deficits and a \$15 trillion national debt, it is simply unacceptable to spend \$700 million on a bridge to carry so few vehicles when an interstate bridge exists nearby.

This bill is controversial because it is opposed by the Interior Department, which testified before the Senate Energy and Natural Resources Committee on July 28, 2011, opposing S. 1134. I quote from the Director of the National Park Service, when he stated:

The Department cannot support this legislation as the National Park Service determined that the St. Croix River Project would have a direct and adverse impact to the river and these impacts cannot be mitigated.

To be very clear, I asked Interior Secretary Salazar 2 weeks ago during an Interior appropriations subcommittee hearing a direct question. That was on February 16, just this month. I asked:

Does the Interior Department still oppose S. 1134?

Interior Secretary Salazar responded, saying:

Our position remains unchanged. A wild and scenic river is a wild and scenic river. The position of the Parks Service as articulated a year ago is the position of the Department. We have, as you know, Congresswoman McCollum, met with the delegations from the two States and Secretary LaHood and I have offered to work with a work group to see whether or not an alternative can be found.

Unfortunately, despite opposition from the Interior Department, and the offer to work on a compromised solution leave, Congress will now be voting on a \$700 million megabridge.

This bill is controversial because it will directly result in a property tax increase for the residents of Oak Park Heights, Minnesota, a community in which Minnesota's new redistricting map places it in my new congressional district. According to a unanimously passed resolution by the Oak Park Heights City Council, the passage of S. 1134 by Congress will do this to the city of Oak Park Heights. I quote from the city council's resolution:

It will require an estimated \$443 in annual property tax increase for the next 10 years to most city homeowners and businesses.

A vote for S. 1134 will be a tax increase on Minnesotans.

This bill is controversial because it puts Congress in the position of prioritizing spending of \$700 million of taxpayers' money to replace one bridge while Minnesota has more than 1,100 additionally structurally deficient bridges—far less costly—that all are in desperate need of repair or replacement. In fact, dozens of Minnesota State legislators wrote our delegation saying:

We are united in our concern that the current design of the bridge is far too expensive, particularly in light of much more cost effective alternatives.

Those State legislators, many from my congressional district, urge defeat of this legislation. Former Vice President and U.S. Senator Walter Mondale, an original sponsor of the Wild and Scenic Rivers Act, opposes this bill, saying that the passage, and I quote from Vice President Mondale, "would be a profound mistake." He urges a vote against the bill.

This bill was even controversial in the Senate. Senator JEFF BINGAMAN, the chairman of the Senate Committee on Energy and Natural Resources, Senator MARK UDALL of Colorado, and Senator MARIA CANTWELL of Washington oppose S. 1134, saying:

In our opinion, waiving the protections of the Wild and Scenic Rivers Act for the lower St. Croix is bad policy and sets a dangerous precedent.

Here in the House, this bill is also controversial. It is controversial because this bill is an earmark, pure and simple. This bill designates a specific project in a specific location and it mandates the construction of a \$700 million extradosed bridge design, and it does that all through an exemption to Federal law. Of course, earmarks are banned in the House except when a bill comes to the floor on suspension of rules and all the rules and points of order are waived, just like this one.

This megabridge was highlighted in a New York Times editorial. The editorial highlights my Minnesota colleague and megabridge champion, Representative BACHMANN, who has called for a redefinition of what an earmark is to accommodate "a bridge over a vital waterway." Today Congresswoman BACHMANN has been successful in bringing this earmark to the floor.

It's not just me. My dear friend from Minneapolis, Mr. ELLISON, and other House colleagues and the U.S. Department of the Interior are opposing this \$700 million bridge. The bill is also opposed by Taxpayers for Common Sense, the Sierra Club, the National Parks Conservation Association, American Rivers, League of Conservation Voters, former Vice President Mondale, and a whole lot of Minnesotans who care deeply about fiscal responsibility, wise transportation investments, and responsible environmental conservation.

Tomorrow we will vote on this bill. The question is: Will the House give a

rubber stamp to a \$700 million megabridge or will this Congress reject this bad bill and direct Minnesota and Wisconsin to come up with a smarter plan that would save taxpayers hundreds of millions of dollars?

Every Minnesotan and every Wisconsin Member of this House supports a replacement bridge, none more than me. But I ask my colleagues to reject this fiscally irresponsible bill. Not one dollar of Minnesota transportation funds will be lost.

I have a Minnesota Department of Transportation document in my hand that outlines how hundreds of millions of dollars could be reprogrammed across our State creating thousands of jobs and rebuilding roads and bridges in great need of repair.

S. 1134 is a bad bill, and it should be defeated by Democrats and Republicans alike.

Mr. Speaker, I reserve the balance of my time.

□ 1850

Mr. PETRI. Mr. Speaker, I yield 2 minutes to my colleague from the State of Washington, the chairman of the Natural Resources Committee, Representative DOC HASTINGS.

Mr. HASTINGS of Washington. I thank the gentleman for yielding.

As chairman of the House Natural Resources Committee, which has partial jurisdiction on this bill, I support S. 1134.

For over two decades, Wisconsin and Minnesota have been working on a plan to replace this bridge, which is over 80 years old. This two-State project has been delayed by lawsuit after lawsuit and by the interference of Federal bureaucrats. These nuisance lawsuits and bureaucrat attacks are all based on the fact that the bridge spans the St. Croix River, which was listed in 1972 under the Federal Wild and Scenic River Act. This bipartisan bill simply says that this "wild and scenic" label on the river, under Federal law, cannot stop these States from building a safe, new bridge.

It's as simple as that.

In regards to earmarks, which was brought up by the gentlelady from Minnesota, this bill has been reviewed and is in compliance with the earmark definition in clause 9 of rule XXI. The bill does not contain congressional earmarks, limited tax benefits, or limited tariff benefits. The bill is aimed at ensuring the Federal Wild and Scenic River Act doesn't prevent a safer bridge from being built. It affects multiple States.

So, Mr. Speaker, the people of Minnesota and Wisconsin have been waiting decades to build this project. Let's pass this bill and allow them to do so.

Ms. MCCOLLUM. Mr. Speaker, I inquire as to how much time I have remaining.

The SPEAKER pro tempore. The gentlewoman has 1½ minutes remaining.

Ms. MCCOLLUM. With that, I yield 3½ minutes to the gentleman from West Virginia (Mr. RAHALL).

Mr. RAHALL. I thank the gentlelady for yielding.

Mr. Speaker, I didn't quite know from which side to request time on this issue. You see, I am for legitimate, well-scrutinized, scrubbed, and screened earmarks. Now, unless the GOP leadership can convince me that this is not an earmark, then I will vote "no" on the bill.

We should be here today debating a long-term, robust surface transportation bill that would create jobs and keep our economy moving forward by rebuilding America and by putting Americans to work. Rather, we are considering a bill that authorizes the construction of a specific bridge between Minnesota and Wisconsin with an estimated total project cost of \$574 million to \$690 million—an earmark. Instead of openly acknowledging that this bill is a blatant earmark, the Republican leadership pretends that it is not one. It was quietly added to the schedule less than 48 hours ago, scheduled for this post-sundown debate.

Do not get me wrong. I am not against earmarks, but let's be open, transparent, and honest with the American people. That's why "earmark" got the bad name it did, because we were not open and transparent and honest with the American people. So if there is any doubt whether the bill that the House is now considering today is an earmark, all you have to do is read the bill:

... may authorize and assist in the construction of a new extradosed bridge crossing the St. Croix River approximately 6 miles north of the I-94 crossing.

Then the bill goes on on lines 21 through 23, page 2, section 3. It provides an offset. Guess where that offset comes from? Earmarks under the SAFETEA LU, under the previous transportation bill. It's how the majority is funding this bill. That was our last transportation bill, which took so much grief.

It all sounds pretty specific to me. In fact, the bill even tells the States what kind of bridge to build. If it looks like a duck, swims like a duck and quacks like a duck, by golly, it's probably a duck. This is an earmark, and I sincerely hope that the some-90 new Members on the majority side are learning just what an earmark is.

Now, I recognize the need for this new bridge crossing the St. Croix to replace the deficient 80-year-old Stillwater Lift Bridge, but I also recognize the need to move similar transportation projects forward across this great country, including in my own home State of West Virginia. What we ought to be doing is passing a long-term, robust surface transportation bill so that we can address the backlog of deficient bridges, roads, and transit

systems in every State across the Nation.

Instead, we're voting on one earmark, and we are doing nothing today to strengthen our Nation's economic competitiveness and quality of life. We are doing nothing to alleviate the congestion that continues to cripple the economy in California. We are doing nothing to fix the bridges that are in disrepair in my home State. We are doing nothing to solve the fact that trains are traveling on outdated tracks across this country. We are doing nothing to address the commerce that is being trapped on turnpikes because these arteries of commerce are being choked by a transportation system ill fit for the country that is leading the global economy.

Last November, the Speaker announced that the House would take up the surface transportation bill by the end of the year. We all know what subsequently transpired, which is that the Transportation and Infrastructure Committee produced a bill which slashes \$15.8 billion in highway funding to the States, destroying 550,000 American family-wage jobs.

The bill then proceeded to the Rules Committee, which is where it was divided up into I don't know how many different pieces because there weren't the votes to pass the whole package. Who knows what kind of mishmash we got that time. I'm still trying to figure it out. Then who knows what type of mishmash we'll get the next time before we finally pass, if we are going to, a transportation bill that puts Americans to work, that gets our economy moving, and that helps long-term deficit reduction.

Mr. HASTINGS of Washington. Will the gentleman yield?

The SPEAKER pro tempore. The time of the gentleman has expired.

Ms. MCCOLLUM. In reclaiming my time, I will not yield to the gentleman on my time.

Mr. PETRI. I yield 30 seconds to the gentleman from Washington (Mr. HASTINGS).

Mr. HASTINGS of Washington. I thank the gentleman for yielding.

With all due respect to my good friend and colleague from West Virginia, each person may have his own definition of an earmark, but we are governed by the definition in House rules, not by a cavalier "quacking duck" standard. The bill has been reviewed and is in compliance with the earmark definition in clause 9 of House rule XXI. The bill does not contain congressional earmarks. I know the gentleman has been very open about his support for earmarks, but we are governed by the rules of the House, and the "quacking duck" comparison does not stand here.

Ms. MCCOLLUM. I reserve the balance of my time.

Mr. PETRI. Mr. Speaker, in delight of the bipartisan support for the meas-

ure before us, I yield 1 minute to my colleague from Wisconsin, Representative BALDWIN.

Ms. BALDWIN. I rise today in strong support of the St. Croix River Crossing Project Authorization Act.

This past November, I had the chance to visit the existing 81-year-old Stillwater Bridge, and I met with local community leaders on the issue. After seeing this bridge for myself and after listening carefully to the arguments on all sides, I am convinced that this legislation is necessary, reasonable, and time-sensitive.

The bridge project will support thousands of construction jobs in both Wisconsin and Minnesota. In addition, the new bridge will help shorten travel times, reduce traffic congestion and, most importantly, improve safety. Perhaps it will even save some lives.

The stories I've heard from the Wisconsinites who use this bridge every day are truly startling. I've heard from some folks who literally fear for their safety and who are afraid something similar to the I-35 bridge collapse could happen to them. I've heard from others about the long delays and frequent spring closures of the bridge.

This is the reality on the ground, and it is woefully unacceptable. We have the power to change this. I urge my colleagues to vote "yes" and to support this bipartisan legislation.

Ms. MCCOLLUM. I yield 1 minute to the gentleman from New Jersey (Mr. HOLT).

Mr. HOLT. I thank the gentlelady for yielding.

Mr. Speaker, you heard from Representative MCCOLLUM as to the dimensions of this, as to how close it is to an existing large bridge, as to why this is really a boondoggle. I wanted to talk about how this fits in the national picture of wild and scenic rivers.

This bill would for the first time waive the requirements of the Wild and Scenic Rivers Act, which is a law that has protected the lower St. Croix for nearly 30 years and that protects 12,000 miles of rivers in 38 States and Puerto Rico, including the Delaware River in my home State of New Jersey. These are special rivers designated under the Wild and Scenic Rivers law.

□ 1900

When the Resources Committee marked up the legislation before us now, I offered a simple amendment. My amendment would have ensured that any bridge authorized under this bill be designed and located in a way to minimize the direct and inverse environmental effect. It was defeated.

This is really a bridge too far. It's far too large, it is just, you know, far too expensive. Should Congress pass this bill and waive the Wild and Scenic Rivers protection, it's hard to imagine any future bridge project that won't receive a waiver like this issued by Congress.

Mr. PETRI. Mr. Speaker, I yield 2 minutes to the gentleman from Utah (Mr. BISHOP).

Mr. BISHOP of Utah. Mr. Speaker, in 1972, the Wild and Scenic Rivers Act was used on this part of the river, even though there was already an existing bridge on that river. Now the safety of that bridge is creating problems for people, and the traffic buildup is creating problems for people.

Actually, the National Park Service already had met with everybody, found a way to build a new bridge and mitigate the adverse circumstances. An agreement was reached until outside groups, who came in here with this dogmatic reverence for the Wild and Scenic Rivers Act, basically took it to court, threw everything away, and we have now exacerbated the problem.

Wild and scenic river? On a clear day, if indeed the traffic does not produce enough smog that has backed up because we are trying to get across this river, you can actually see a marina, the smokestacks of a power plant that is in the neighborhood of a sewage plant, and maybe even the orange jumpsuits of the county jail that is in this area. We are abusing the law to stop this progress, stop this bridge that is needed desperately for safety reasons and for traffic reasons in this particular area.

There is a reason this bill passed by unanimous consent in the Senate. It solves a problem, it's common sense, and it's the right thing to do.

Ms. MCCOLLUM. In response, I don't think my constituents consider me an outside group.

With that, I would yield 1 minute to the gentleman from Arizona (Mr. GRIJALVA).

Mr. GRIJALVA. Mr. Speaker, I rise in opposition to the legislation. This bill is too controversial and should not be on the suspension calendar.

Last year the majority held a hearing on the issue in the Subcommittee on National Parks, Forests and Public Lands. The Park Service testified against the bill. It was also opposed by a range of national organizations—from fiscal conservatives and tax watchdogs to environmental conservationists.

This bill, it has already been stated, would create the first ever exemption to the Wild and Scenic Rivers Act for construction of a bridge in a protected river. This has never been done, and the question is, why now? This precedent for a \$700 million mega-bridge that threatens all 203 protected rivers in 38 States should not be allowed to proceed, and it very much violates the no earmark pledge of the Republican majority.

Congresswoman MCCOLLUM and Congressman ELLISON introduced a better bill, H.R. 3434, that removes congressional mandate from this bill that is under consideration and sets a spending cap to protect taxpayers.

I understand the need to create jobs. I understand the need to fix our falling infrastructure. There are over 2,000 bridges in Minnesota and Wisconsin that need immediate dire attention that would create jobs, and it would move the infrastructure needs of this country in a very, very direct way and in a very needed way.

This is a waste of taxpayers' money and a violation of the Wild and Scenic Rivers Act.

Mr. PETRI. Mr. Speaker, this bill has bipartisan support. Other things being equal, I think we tend to listen to the Representative in whose district the project would exist. This project is in the district of my colleague, RON KIND, from the State of Wisconsin, and at this time I would be happy to yield him 4 minutes.

Mr. KIND. I thank the gentleman for yielding me this time.

Mr. Speaker, this bridge is in my congressional district. I have been living and breathing this issue for the last 16 years.

Mr. Speaker, it's time to build a bridge. This is a bipartisan bill. It passed the Senate under unanimous consent. This legislation before us today merely exempts this river under the Wild and Scenic Rivers Act. It exempts this bridge so that the States of Wisconsin and Minnesota can move forward on this vital infrastructure project.

This is what we have today, Mr. Speaker. It's an 82-year-old lift bridge that's on its last life. Last summer the drawbridge was up for 10 days, prohibiting traffic from crossing because of high water. Every summer, every time a boat travels underneath this bridge, the lift bridge is lifted and we have a traffic jam miles long waiting for the bridge to open up again.

Those cars and trucks are spewing fumes, dropping oil. It is a major environmental problem, not to mention the safety concern that we have with this old lift bridge. It's on its final legs, and there's consensus that we have to build a new bridge.

This is what's recommended by the States of Wisconsin and Minnesota. This is what the new bridge would look like. Yes, you will see right next to it is a coal-burning power plant on this so-called part of the Wild and Scenic Rivers. There is very little wild or scenic at this location, and that's exactly why it's being sited along this location, along with two major manufacturing plants.

This is another view of the bridge in relationship to the power plant just south of the Stillwater area, and this is actually the view from downtown Stillwater looking south along the river at this bridge. You can barely see it because of how it's designed to blend into the atmosphere.

Mr. Speaker, about 6 years ago I formed a process called "resolve" to

get all the stakeholders at the table so that they could discuss and scrub every option and every alternative that was available. At the end of that 5-year negotiating process, 26 of the 27 stakeholders reached an agreement on what needed to be done.

The only holdout was the Sierra Club, and that's why we're having this big debate this evening. Even their proposal that came in at the eleventh hour would cost just as much, it would take another 10 years to build, and it would actually cut into the bluff on the Minnesota side, causing more environmental damage.

Even the local and regional offices of the National Park Service and the Fish and Wildlife Service had signed off on this bridge project.

I believe, as do most of the members of the Wisconsin and Minnesota delegation, as well as all four of the U.S. senators, that it's time to build this bridge. Both governors in Wisconsin and Minnesota want to build this bridge. The Departments of Transportation in both Wisconsin and Minnesota want to build this bridge. Ninety-two percent of the residents in Wisconsin want to see this bridge go forward. Eighty-eight percent of the residents in Minnesota in Representative BACHMANN's district, where the bridge is also built, wants this bridge to go forward. It is time to build this bridge.

Every option, every alternative has been considered. This is where we keep coming back to time and time again. They looked at the cost. They looked at the design. They looked at the location. They looked at the environmental impact. They looked at the mitigation that can be done, and 26 of the 27 stakeholders reached this conclusion. It's unfortunate that the Wild and Scenic Rivers Act is being used to bludgeon a major infrastructure project that will create jobs in this region when we need them the most, not only the short-term jobs in building this bridge but the long-term economic development and the explosion of economic growth and job creation that will result from the creation of this bridge.

Heading south, as my colleague from Minnesota had suggested, to hook up to the interstate highway, was not a viable option. Yet the town of Hudson that lies in between—

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. KIND. Mr. Speaker, I ask unanimous consent for 2 additional minutes.

The SPEAKER pro tempore. Without objection, each side is granted 2 additional minutes.

There was no objection.

Mr. KIND. Going south to hook up to the interstate bridge down there is not a viable option. That too is under study for expansion, given the increased traffic load that's going through it today. What this bridge that's being proposed considers is not

only current traffic flow projections, but future traffic flow projections over the next 20 or 30 years.

I know infrastructure projects can be difficult. I know they can be contentious. But when so many people at the Federal, State, and local level of the agencies, as well as private entities, have been at the table for 5 years negotiating and trying to reach agreement on what bridge is necessary, when they do finally reach an agreement, that tells me it's time to build a bridge.

□ 1910

I want to thank the ranking member and the chair of the Transportation Committee for your support, as well as the chair of the subcommittee and the ranking member on the subcommittee for your support.

Transportation Secretary LaHood has been strongly in favor of moving this project forward. And I also want to thank the administrations, the Governors of both Wisconsin and Minnesota, for their interest and support for this project. One of the reasons it is being brought up at this time is because Governor Dayton from Minnesota says life is short and they need predictability and certainty on what projects are moving forward. He has been a strong advocate of this bridge, but we can't be delaying this and dragging this out for another 16 years, which is the likely outcome if the opposition figures out a way to bring this bill down. Enough is enough.

We have explored this. We have exhausted it, and we keep coming back to the same place as before—this bridge, which makes this legislation necessary, and I encourage my colleagues to support it so we all can move on with our lives.

The SPEAKER pro tempore. The Chair wishes to clarify that each side now has an additional 2 minutes.

Ms. MCCOLLUM. Could you please tell me how many minutes I have besides the 2.

The SPEAKER pro tempore. The gentlewoman from Minnesota has 6 minutes remaining. The gentleman from Wisconsin has 10½ minutes remaining.

Ms. MCCOLLUM. I yield myself 2 minutes.

As I said at the beginning of this debate, this bill, S. 1134, is a bad bill. It reflects our irresponsible fiscal policy, bad transportation policy, and bad environmental policy.

The way the law has been structured into making this moment happen specifies only one type of bridge could be built, and it had to be a bridge that went 65 miles an hour. And then the legislation before us today takes it even farther and for the first time puts in that a bridge that is going to be a replacement bridge in a wild and scenic river must be an extradosed bridge. It mandates the size and the scope of the bridge. Ladies and gentlemen, we just

could have had a piece of legislation that would have allowed an exemption without the specification that was added in this legislation. I could have stood here and supported it, but I cannot support a \$700 million interstate bridge when there is one 6 miles away.

The Stillwater bridge needs to be replaced, but it won't be replaced, actually, because the historic lift bridge is going to be used as a bike and pedestrian bridge which in perpetuity the States of Wisconsin and Minnesota will have to maintain and repair and will continue during the summer to be raised and lifted as boats go through.

I reserve the balance of my time.

Mr. PETRI. Mr. Speaker, I yield 5 minutes to my colleague from the State of Wisconsin, Representative SEAN DUFFY.

Mr. DUFFY. I appreciate the gentleman from Wisconsin yielding.

I think it is important that we are clear about what this bill truly does. This bill exclusively deems the St. Croix River consistent with the Wild and Scenic Rivers Act. That's all it does is deem it consistent. There is no appropriations aspect; there's no budgetary authority. All we're doing is deeming this bridge consistent with the Wild and Scenic Rivers Act.

You know, today is a pretty special day. It's a special day because it's leap day. It's February 29. It comes around only once every 4 years. And I have only been in this House for a year and a couple of months; but I have to tell you what, bipartisanship doesn't come around that often. But it is here tonight on the House floor. Bipartisanship, this is what I mean by that: you have two Governors, a Republican and a Democrat, who support this bill. You have Senators from Wisconsin and Minnesota, all four of them, Republicans and Democrats, supporting this bill. You have progressives and conservatives in this Chamber who have all come out in support of this bill. You have Vikings and Packers supporting this bill. This is a remarkable day.

Listen, we go so far, you have the AFL-CIO and local chambers together supporting this bill. This is remarkable. We haven't seen this kind of bipartisanship in the 15 months that I've been here. This is a great bill. This gets the job done because people are doing what their constituents asked them to do, which is work together. It makes sense.

This is working across party lines for a very important reason. It's because we all in this region understand the importance of bridges and what happens when something goes wrong. We all remember I-35 between Minneapolis and St. Paul that had a sufficiency rating of 50, 50 out of 100. And a few years ago, we remember that bridge collapsed. We remember seeing the devastation of that bridge when it collapsed. But a rating of 50 out of 100.

The bridge we are talking about today, the one that is used across the St. Croix River, has a rating of 32 out of 100. It is less safe than I-35 was when it collapsed. And again, it was built in 1931. It is 81, 82 years old.

Listen, the people in this region they need the bridge. They want the bridge. Everybody is working together. I want to make sure we're clear about the people who use this. I know the gentle lady from Minnesota says it's only serving a small community in Holton, Wisconsin, a community of 386 people. You've got to explain to me, then, how 18,000 people go across that bridge every day.

You are dealing with the largest-growing county in Wisconsin, and the 13th largest metropolitan area in this country. That's what this bridge connects. People use it. This is a bedroom county. They work in St. Croix County over in Minneapolis-St. Paul. They use that bridge to get back and forth to work; 18,000 people a day use this bridge. This is no small feat.

We're talking about the funding component saying that it's \$700 million. I think we have to be clear on what that \$700 million is. It's really only \$292 million when you look at the actual cost of construction of the bridge, \$292 million. If you want to look at the extra cost that gets you upwards of \$600 million, that cost comes from all of the mitigation, the environmental mitigation work that's been requested over the decades of negotiation trying to get this bridge done. It's not the bridge cost. It's the bipartisan effort trying to get people to agree to make this project go forward that increases the cost so dramatically to \$600-plus million.

So I think it's important. You look at this, this is a shovel-ready project. Shovel ready. We hear it is going to create 6,000 new jobs over the course of 3 years. And it is far from rushed. We have talked about this, again, for decades. And I think when people would say it is a bad bill or a controversial bill, it's important to note Republican and Democrat Senators, Governors, Congressmen, communities have rallied around this project.

Let's get it done. Let's finally build the St. Croix River bridge.

Ms. MCCOLLUM. Mr. Speaker, I would like to state for the record that I have seven bridges in my congressional district with hundreds of thousands of car trips a day in worse condition than the lift bridge in Stillwater. This mega-bridge also will feed directly into Minnesota State Highway 36. Tens of thousands of my constituents along Highway 36, Oakdale, Maplewood, Roseville, North St. Paul, and Little Canada will be suffering with crippling traffic congestion and higher property taxes to pay to relieve that congestion. This is a bad piece of legislation. I urge my colleagues to oppose it.

I would ask how much time I have remaining and of Mr. PETRI how many more speakers he has left.

□ 1920

The SPEAKER pro tempore. The gentlewoman has 4 minutes remaining.

Mr. PETRI. Mr. Speaker, at this time, I would like to yield 4 minutes to Representative BACHMANN from the neighboring State of Minnesota, a strong proponent of the legislation before us.

Ms. MCCOLLUM. Mr. Speaker, as Representative BACHMANN approaches the well, the gentleman from Wisconsin has the right to close, and I would like to know how many other speakers he has.

The SPEAKER pro tempore. How many speakers does the gentleman have?

Mr. PETRI. One, who is before us.

The SPEAKER pro tempore. The gentleman has one.

Ms. MCCOLLUM. And are you closing or is Representative BACHMANN closing?

Mr. PETRI. I have reserved, I think, 30 seconds.

Ms. MCCOLLUM. I have one other speaker, then, after Mrs. BACHMANN.

The SPEAKER pro tempore. The Chair recognizes the gentlewoman from Minnesota.

Mrs. BACHMANN. Thank you, Mr. Speaker.

I'd like to have the RECORD reflect very clearly that if Representative MCCOLLUM gets her way, she will kill building the bridge over the St. Croix River. As we all know, and as our office has been told, this is one of the longest, if not the longest, unfinished bridge projects in the history of the United States. That's why it's come to this point, Mr. Speaker, where we actually have to go to Congress to get permission from the Federal Government so that the State of Minnesota and the State of Wisconsin can build this commonsense bridge at their own expense, and that's the point that we're at.

Not only will Representative MCCOLLUM be acting against the wishes of 86 percent of the people that live and reside in the St. Croix River Valley, the responsibility for the increased costs of building this bridge rests squarely on the shoulders of Representative MCCOLLUM and on her compatriots who have fought for decades to kill the building of this bridge.

The cost? The bridge would have cost \$80 million to complete back in 1992 if her compatriots wouldn't have tied this bridge project up for decades in the Federal courts in nuisance lawsuits. And why? Because they said there was pollution that was involved. And what was this pollution that they asserted? They said it would be visual pollution. Visual pollution? Because a Federal bureaucrat came out to this river and pointed to the river and said

that they didn't think that a bridge would look good built on this river, and that's in spite of the fact that there's already a bridge that's here on this river. This is a wide part of the river. This is the river that is literally the birthplace of Minnesota. As long as people have been in the State of Minnesota, Stillwater is the birthplace.

I've been working on this issue as a young mother living in this community, as an activist citizen who saw what a commonsense project this is. Representative MCCOLLUM has talked about this being a mega-bridge. This is a four-lane bridge. And after all, why wouldn't you build a four-lane bridge when you have a four-lane highway on Minnesota connected to a four-lane highway in Wisconsin? Representative MCCOLLUM is suggesting that we should be building a two or a three-lane bridge. Why would you build a bridge that would be obsolete the day that it's opened? You would build a commonsense, four-lane bridge to connect two four-lane highways.

This is also a center for industry in this region. We have not only the prison, the State prison; we have also one of the largest window manufacturers in the world, we have the sewer treatment plant, the water treatment plant, and we have a marina. This is the place that has been the site that's been selected as the perfect place to build this bridge to connect these two communities.

As we've heard before, this is an area that has a bridge that currently has a safety rating that's far below the safety rating of the bridge that collapsed in Minneapolis in 2007. We have a historic opportunity, a once-in-a-lifetime magic moment when we have Governors that are Republican and Democrat, Senators that are Republican and Democrat, representatives that are Republican and Democrat, saying, for once let's come together and do what the people expect.

And why did we get to this point? Bureaucratic red tape. We are here in foursquare agreement with the administration, saying, let's get this done on behalf of the people of these two States. Let's do what should have been done decades ago, and let's build this commonsense bridge.

Stillwater, Minnesota is the site of Minnesota's birthplace. And now it's the site of what we are told is the longest-running, unfinished bridge project in the Nation. In the 1950s, discussions began for a replacement to the current, 1931 Lift Bridge, connecting Minnesota and Wisconsin, over the St. Croix River.

In 1992, we saw progress. That year, a coalition of residents, businesses, transportation officials and environmental experts, settled on a bridge design to replace the existing Lift Bridge. They proposed a four-lane bridge to connect four-lane highways in both states to be built south of Stillwater.

We are here today for Congressional approval for this project to proceed. Without

Congressional approval, the project will continue to face the government redtape and lawsuits that it's seen over the past 20 years.

The St. Croix River Crossing Project before us is a bipartisan project, with strong bipartisan support. All four Senators from our States, each State's governor and numerous colleagues of mine all publically proclaim their support for this commonsense project. It doesn't get more bipartisan than this.

A recent survey of residents in the region shows an overwhelming 86% of people support the project.

The bill before us doesn't appropriate a nickel. This is no earmark. Instead, it allows a commonsense, bipartisan project to proceed.

I urge my colleagues to support S. 1134 because this is the final hurdle and our magic moment. Together, we can build this.

Ms. MCCOLLUM. Is the gentleman from Wisconsin prepared to close after the last speaker that I have on my side?

Mr. PETRI. I am prepared to close after you finish, yes.

Ms. MCCOLLUM. Mr. Speaker, I yield as much time as remains to my colleague from Minneapolis, Mr. ELLISON, who faced firsthand the tragedy of what happens when a bridge collapses. As I pointed out, I have seven bridges that have hundreds of thousands of cars every day on them in worse shape than the Stillwater bridge.

With that, I yield to the gentleman from Minneapolis.

The SPEAKER pro tempore. The gentleman from Minnesota is recognized for 4 minutes.

Mr. ELLISON. Mr. Speaker, I stood on a highway called highway 7 on Friday at a bridge that was rated a 23 out of 100 scale. That bridge, 73 years old, in desperate need of repair, is designated structurally deficient. But I could go to another bridge within walking distance of my home over the Mississippi River only a few blocks from where the bridge fell down only a few years ago, but that would be on Plymouth Avenue. And people who know the area know Plymouth Avenue. That bridge, Mr. Speaker was and is shut down. You cannot drive a car over it. Now, that would only be one of about 1,398 other bridges that are structurally deficient in Minnesota that need repair right now.

I'm sensitive to bridges that need repair because it wasn't in somebody else's district that the I-35 bridge fell—it was in my own. Thirteen Minnesotans went to their reward, 100 had severe back and other injuries. I am incredibly sensitive to the need to fix our State's bridges, our Nation's bridges, which is why I am against this project, a \$700 million bridge when we have structurally deficient bridges all over the State of Minnesota and all over the United States. This is not a good use of taxpayer money.

I find it absolutely shocking that all these fiscal conservatives are lining up to throw money at this enormously

overly expensive, over-height mega-bridge. Where are the anti-earmark advocates around here? Where are the people who call for smaller government? Where are the conservative, small "c," who say, let's build a right-sized bridge that makes sense so that other bridges may be fixed around our State? Well, I guess all of that only matters, Mr. Speaker, when it comes to your own little project or earmark project. Then all of a sudden it gains a whole lot of other kind of credibility undiscovered before.

Mr. Speaker, I think it needs to be pointed out that this proposed bridge, which would carry about 18,000 vehicles a day—that's important. I feel for those folks, and I want them to have their bridge, and I would support a sane and sensible bridge. But the I-35 bridge much talked about tonight carries 140,000 people every day. Eighteen thousand at \$700 million versus the I-35 bridge, which cost us about \$260 million, was built in 1 year—less than a year, and carries 140,000? This is not a good use of taxpayer money. It soaks up resources that other people need. It violates our Scenic and Wild Rivers Act. This is a bad idea.

Mr. Speaker, I would far prefer if this bill were to go back to committee, go through the regular order, be defeated here on suspension, but go back through the committee process so some sensible amendments might be offered so this could be a good, decent project perhaps. But that's not what's happening. Suspension is for things that are supposed to be uncontroversial. We're supposed to be here passing post offices, but here we are dealing with what is absolutely a controversial piece of legislation on a suspension calendar with no chance to amend.

□ 1930

I wish we had that chance, because if we did, I would say we need to come together as a State, as a Nation, and fix all the bridges of this country, all the bridges of this State, and not just one big, fat megabridge.

Mr. PETRI. Mr. Speaker, I would remind the gentleman that we have come together. The legislation before us, S. 1134, passed the United States Senate by unanimous consent. It has a few people who seem to have raised some concerns here, but the fact of the matter is that AL FRANKEN, the Senator from Minnesota, AMY KLOBUCHAR, the Senator from Minnesota, RON JOHNSON, the Senator from Wisconsin, HERB KOHL—Senators from both parties have joined together in recognizing the need and importance and urging their colleagues who unanimously supported this. It's about time we did our job here in the House of Representatives.

This project has been studied for over 20 years. Representative RON KIND, as he said so eloquently in his statement, has consulted with every conceivable

interest group in the area. As my colleague, Representative BACHMANN, said, the people in Minnesota and Wisconsin are wondering when we're going to do our job.

This is a major hazard now, an old bridge. We saw what happened with other bridges in Minnesota, a growing population, commuter populations back and forth in the greater Minneapolis-St. Paul area. It's about time this hazard was removed and we had a bridge that we could be proud of and that was less intrusive than the one that's there now.

So I urge my colleagues to pass the legislation before us, and I yield back the balance of my time.

Ms. MCCOLLUM. Mr. Speaker, today the U.S. House of Representatives passed the St. Croix River Crossing Project Authorization Act (S. 1134) by a vote of 339 to 80. Originally spearheaded by Congresswoman BACHMANN (MN-06), S. 1134 authorizes construction of a \$700 million mega-bridge over the protected St. Croix River between Minnesota and Wisconsin, benefiting only 18,000 cars per day.

Every policy debate has two sides and I worked hard to reflect the voices of Minnesotans in the Fourth District, as well as those Stillwater and Oak Park Heights residents who are deeply concerned about this mega-bridge project.

Congress' passage of this \$700 million bridge bill doesn't diminish its excessive cost, size, negative effect on Highway 36 traffic congestion, or its adverse impact on the St. Croix River.

Supporters of this legislation, including Senators KLOBUCHAR and FRANKEN, and Governor Dayton, assume responsibility for protecting communities along Highway 36 from crippling traffic congestion and the families and businesses of Oak Park Heights from property tax increases—the direct consequences of the project they so strongly championed.

I want to thank my friend and Minnesota colleague, Representative KEITH ELLISON (MN 05) for his eloquence on the floor of the House in opposition to S. 1134. I share Congressman ELLISON's concern that replacing one bridge at a cost of \$700 million to the exclusion of more than 1,100 other structurally deficient bridges in Minnesota places too many communities and motorists at risk. I am committed to working with Representative ELLISON, Governor Dayton and all Minnesota members of Congress and state legislators to repair or replace these substandard bridges.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. PETRI) that the House suspend the rules and pass the bill, S. 1134.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Ms. MCCOLLUM. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

## DISTRICT OF COLUMBIA SPECIAL ELECTION REFORM ACT

Mr. ISSA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3902) to amend the District of Columbia Home Rule Act to revise the timing of special elections for local office in the District of Columbia, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 3902

### SECTION 1. SHORT TITLE.

This Act may be cited as the "District of Columbia Special Election Reform Act".

### SEC. 2. TIMING OF SPECIAL ELECTIONS FOR LOCAL OFFICE IN DISTRICT OF COLUMBIA.

#### (a) COUNCIL.—

(1) CHAIR.—The first sentence of section 401(b)(3) of the District of Columbia Home Rule Act (sec. 1-204.01(b)(3), D.C. Official Code) is amended to read as follows: "To fill a vacancy in the Office of Chairman, the Board of Elections shall hold a special election in the District on the Tuesday occurring at least 70 days and not more than 174 days after the date on which such vacancy occurs which the Board of Elections determines, based on a totality of the circumstances, taking into account, inter alia, cultural and religious holidays and the administrability of the election, will provide the opportunity for the greatest level of voter participation."

(2) MEMBERS ELECTED FROM WARDS.—The first sentence of section 401(d)(1) of such Act (sec. 1-204.01(d)(1), D.C. Official Code) is amended to read as follows: "In the event of a vacancy in the Council of a member elected from a ward, the Board of Elections shall hold a special election in the District on the Tuesday occurring at least 70 days and not more than 174 days after the date on which such vacancy occurs which the Board of Elections determines, based on a totality of the circumstances, taking into account, inter alia, cultural and religious holidays and the administrability of the election, will provide the opportunity for the greatest level of voter participation."

(3) MEMBERS ELECTED AT-LARGE.—The second sentence of section 401(d)(2) of such Act (sec. 1-204.01(d)(2)) is amended by striking "and such special election" and all that follows and inserting the following: "and such special election shall be held on the Tuesday occurring at least 70 days and not more than 174 days after the date on which such vacancy occurs which the Board of Elections determines, based on a totality of the circumstances, taking into account, inter alia, cultural and religious holidays and the administrability of the election, will provide the opportunity for the greatest level of voter participation."

(b) MAYOR.—The first sentence of section 421(c)(2) of such Act (sec. 1-204.21(c)(2), D.C. Official Code) is amended to read as follows: "To fill a vacancy in the Office of Mayor, the Board of Elections shall hold a special election in the District on the Tuesday occurring at least 70 days and not more than 174 days after the date on which such vacancy occurs which the Board of Elections determines, based on a totality of the circumstances, taking into account, inter alia, cultural and religious holidays and the administrability of the election, will provide the opportunity for the greatest level of voter participation."

(c) ATTORNEY GENERAL.—The first sentence of section 435(b)(1) of such Act (sec. 1



204.35(b)(1), D.C. Official Code) is amended by striking "the Board" and all that follows and inserting the following: "the Board of Elections shall hold a special election in the District on the Tuesday occurring at least 70 days and not more than 174 days after the date on which such vacancy occurs which the Board of Elections determines, based on a totality of the circumstances, taking into account, inter alia, cultural and religious holidays and the administrability of the election, will provide the opportunity for the greatest level of voter participation.".

### SEC. 3. EFFECTIVE DATE.

The amendments made by section 2 shall apply with respect to vacancies occurring on or after the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. ISSA) and the gentleman from the District of Columbia (Ms. NORTON) each will control 20 minutes.

The Chair recognizes the gentleman from California.

Mr. ISSA. Mr. Speaker, I'll be brief.

Today we're doing a small and technical change to everyone except the people of the District of Columbia, who consistently have to live under a rule that costs the voters and the residents of the District of Columbia to expend enormous additional dollars to have special elections rather than having the ordinary flexibility to try to combine their votes at a time in which it would be less expensive.

The bill, which is, if you will, an omission under the Home Rule Act, provides for the District of Columbia to fill vacancies on the first Tuesday 114 days after the date of such vacancy occurring. Unfortunately, this does not provide the flexibility necessary to time special elections concurrently with other general and primary elections. Therefore, this small—and yet not small to the District of Columbia—change will allow them to place the election on a Tuesday occurring between 70 and 174 days of the vacancy. Understand, Mr. Speaker, if there is an ordinary election occurring within that process, this will cause us to have the election on that date.

The bill has been carefully considered and passed unanimously by the committee. Additionally, it's supported by the entire city council—we'll soon hear from the delegate from the District of Columbia—by the Mayor and his administration.

I want to take just a quick moment to thank the gentlelady from the District of Columbia. It has been, in fact, her work with the committee that made this technical change one that we can all live with for the benefit of the people who host us in the Federal city.

With that, I reserve the balance of my time.

Ms. NORTON. I want to thank the chairman of the full committee for his generosity. I want to thank my friends on both sides of the committee for their assistance with H.R. 3902, especially the chairman of the full com-

mittee, my good friend, Mr. ISSA, and the chair of the subcommittee, Mr. GOWDY, for working closely with us on this bill.

I also want to thank my good friends on our side, the ranking member of the full committee, Mr. CUMMINGS, and the ranking member of the subcommittee, Mr. DAVIS, for their considerable support and assistance.

Mr. Chairman, like you, I will be brief because you and I are the only ones here who have a vote in committee on this matter.

The District of Columbia Special Election Reform Act is similar to the legislation I introduced last Congress, which, with the help of the chairman, was passed without objection by the House Committee on Oversight and Government Reform and, with his help, quickly got to the full House for a vote.

Final enactment of the bill was prevented not by this House, but by an anonymous hold in the Senate, which fortunately no longer allows such holds in that Chamber.

This bill is of great importance to the District of Columbia, particularly now that the city council is faced with an example of a vacancy that this bill was designed to address—and had the bill been passed by the Senate, could have been addressed. However, instead of holding the special election that we are now required to hold on April 3, the day of the city's primary, the District must hold a special election on a different day, 1 month after the upcoming primary election, at a cost to the city of an additional \$318,000.

Although this bill, therefore, cannot take effect before the upcoming special election, the bill will provide the District with the flexibility in the future to conduct elections without the redundancy of coming to Congress and without unnecessary cost to the city.

The District of Columbia Special Election Reform Act makes minor changes in the District's Home Rule Charter to provide the city greater flexibility to conduct special elections for vacancies in the office of Mayor, attorney general, council chair, and other members of the District of Columbia Council.

Current law requires that a special election be held on a rigid date, the first Tuesday occurring more than 114 days after a vacancy, offering the District no flexibility.

By the way, Mr. Chairman, there were complaints when the District of Columbia had a special election some time ago that the election had to be held on a religious holiday. The District had to say, We can't do anything about it, because it couldn't change the date itself.

Instead, this bill would establish a range during which a special election may be conducted. That range would be between 70 and 174 days, giving the Dis-

trict the necessary flexibility to make a special election coincide with an already scheduled election, reducing the chance the city would have to schedule costly multiple elections or do so in too short a time period, and allowing the city to maximize voter turnout, for example, by not scheduling the election on a religious holiday, and to reduce the time period when residents are without representation.

Mr. Speaker, this noncontroversial bill, which the committee passed by voice vote, provides the District with the necessary flexibility for holding timely and cost-effective special elections. It involves no cost whatsoever to the Federal Government.

□ 1940

The District of Columbia Special Election Reform Act is of little, indeed, no concern, I dare say, to the Congress. But the D.C. Council cannot amend the Home Rule Charter which spells out procedures and structural matters for setting up the District, so the Mayor and the council had to come to me to introduce this local bill.

Mr. Chairman, you indicated that such bills are not exactly congressional material. I hope that you and I can work together on a broader D.C. charter reform bill to give the District the authority to amend such local matters, such trivial local matters, as far as Congress is concerned, on its own, saving Congress from having to spend the time, its very valuable time at that, on uniquely local procedural matters affecting only the local government, the District of Columbia.

I urge passage of the bill, and I reserve the balance of my time.

### GENERAL LEAVE

Mr. ISSA. Mr. Speaker, seeing that there are no further speakers, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and include extraneous materials on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ISSA. I reserve the balance of my time, but I am prepared to close.

Ms. NORTON. I thank the chairman again for the haste with which he was able to get this bill heard today.

I have no further speakers, and I am pleased to yield back the remainder of my time.

Mr. ISSA. Mr. Speaker, I urge immediate support for this important reform for the District of Columbia, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. ISSA) that the House suspend the rules and pass the bill, H.R. 3902, as amended.

The question was taken; and (two-thirds being in the affirmative) the



rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

# CONDEMNING IRAN FOR ITS PERSECUTION OF YUCEF NADARKHANI

Mr. PITTS. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 556) condemning the Government of Iran for its continued persecution, imprisonment, and sentencing of Youcef Nadarkhani on the charge of apostasy, as amended.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

## H. RES. 556

Whereas the United Nations Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights recognize that every individual has "the right to freedom of thought, conscience and religion", which includes the "freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance";

Whereas Iran is a member of the United Nations and signatory to both the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights;

Whereas the United Nations Special Rapporteur on the situation of human rights in Iran has reported that religious minorities, including Nematollahi Sufi Muslims, Sunnis, Baha'is, and Christians, face human rights violations in Iran;

Whereas in recent years, there has been a significant increase in the number of incidents of Iranian authorities raiding religious services, detaining worshippers and religious leaders, and harassing and threatening members of religious minorities;

Whereas the United Nations Special Rapporteur on the situation of human rights in Iran has reported that Iranian intelligence officials are known to threaten Christian converts with arrest and apostasy charges if they do not return to Islam;

Whereas the Department of State's most recent report on International Religious Freedom, released on September 13, 2011, states that Iran's "laws and policies severely restrict freedom of religion," and notes "government imprisonment, harassment, intimidation, and discrimination based on religious beliefs" including "death sentences for apostasy or evangelism";

Whereas in October 2009, Youcef Nadarkhani, an Iranian Christian, protested an Iranian law that would impose Islam on his Christian children;

Whereas in September 2010, an Iranian court accused Youcef Nadarkhani of abandoning the Islamic faith of his ancestors, and condemned him to death for apostasy;

Whereas the Iranian court sentenced Youcef Nadarkhani to death by hanging;

Whereas on December 5, 2010, Youcef Nadarkhani appealed his conviction and sentence to the Supreme Revolutionary Court in Qom, Iran, and the court held that if it could be proven that he was a practicing Muslim in adulthood, his death sentence should be carried out unless he recants his Christian faith and adopts Islam;

Whereas from September 25 to September 28, 2011, an Iranian court held hearings to determine if Youcef Nadarkhani was a practicing Muslim in adulthood, and held that he had abandoned the faith of his ancestors and must be sentenced to death if he does not recant his faith;

Whereas on numerous occasions the judiciary of Iran offered to commute Youcef Nadarkhani's sentence if he would recant his faith;

Whereas numerous Government of Iran officials have attempted to coerce Youcef Nadarkhani to recant his Christian faith and accept Islam in exchange for his freedom;

Whereas Youcef Nadarkhani continues to refuse to recant his faith;

Whereas the Government of Iran continues to indefinitely imprison Youcef Nadarkhani for choosing to practice Christianity; and

Whereas the United Nations Special Rapporteur on the situation of human rights in Iran has reported that, at the time of his report, on October 19, 2011, Iran had secretly executed 146 people during that calendar year, and in 2010, Iran secretly executed more than 300 people: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) condemns the Government of Iran for its ongoing and systemic violations of the human rights of the Iranian people, including the state-sponsored persecution of religious minorities in Iran, and its continued failure to uphold its international obligations, including with respect to the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights;

(2) calls for the Government of Iran to exonerate and immediately and unconditionally release Youcef Nadarkhani and all other individuals held or charged on account of their religious or political beliefs;

(3) calls on the Administration to designate additional Iranian officials, as appropriate, for human rights abuses pursuant to section 105 of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (Public Law 111-195); and

(4) reaffirms that freedom of religious belief and practice is a universal human right and a fundamental individual freedom that every government must protect and must never abridge.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania (Mr. PITTS) and the gentleman from New York (Mr. HIGGINS) each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania.

## GENERAL LEAVE

Mr. PITTS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on this measure.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. PITTS. I yield myself such time as I may consume.

Mr. Speaker, I want to thank the leaders on both sides of the aisle for allowing this resolution to come to the floor so promptly.

Article 18 of the Universal Declaration of Human Rights reads:

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Iran was one of the original signers of the declaration and has not removed their country from the agreement, even through changes in government.

In October of 2009, Youcef Nadarkhani was alarmed to find out that his children were being forced to participate in Islamic religious instruction at their local school.

Pastor Youcef had no radical reaction to this revelation. Indeed, he only went to the school and asked that his children be granted their rights under the Iranian Constitution to freedom of religion. These rights explicitly include parents' rights to bring up children under the religious teaching of the family.

For the crime of asking that his rights be respected, Pastor Youcef was summoned to a tribunal. There he was arrested and charged with unlawful protesting. This charge was later changed to apostasy.

After almost a year in prison, Pastor Youcef was convicted and sentenced to death. A panel of judges demanded that he recant his faith. When confronted with this demand, Pastor Youcef stated, "I cannot."

While it is difficult to peer past the gates of an Iranian prison, we have some evidence that there has been continued pressure on Pastor Youcef to recant and that there may have been attempts to trap him into blaspheming Islam. Despite this pressure, he has remained faithful.

With our religious freedom protected by the First Amendment, it is difficult for any of us to imagine what Pastor Youcef has been going through, torn away from his children and family, placed in a high-security prison, with the likely outcome being the hangman's noose.

Today, we're not asking Iran to respect our laws or our conventions. We're asking them to abide by the agreements at the United Nations that they have signed on to.

The authorities in Iran are not proud of sentencing Pastor Youcef to death. Indeed, the Iranian Government doesn't even want their own people to know that Pastor Youcef has been charged for practicing his religion. State media have actually reported that he is charged with rape and extortion, not apostasy.

Millions of Iranians are members of a minority religious group. Sunni Muslims, Christians, Jews, and Zoroastrians are all proud to call Iran home. They want to live in peace with their neighbors, and they want to follow the law, but they cannot do so when their faith is under assault.

This evening, I'm proud that we have bipartisan support for this resolution.

I'm proud to join with Representative KEITH ELLISON on this resolution. We stand together tonight in support of basic human rights, and we appeal to the highest authorities in Iran to spare the life of Youcef Nadarkhani.

Please let this father return to his wife and his children. Further still, let the Iranian people freely practice their faith. Stand by your commitments to your people and to the world.

With that, I reserve the balance of my time.

Mr. HIGGINS. I yield myself as much time as I may consume.

Mr. Speaker, I rise in strong support of this important resolution. I would like to join my colleagues in calling for the immediate release of Youcef Nadarkhani and all of the other individuals who are held or charged on account of their religion.

I would also like to send a message to Pastor Youcef's family. Please know that the United States stands behind you, and we will do all we can to see that Youcef is set free.

Mr. Speaker, it is difficult to comprehend in this day and age that there are nations in which one is not free to practice the religion of their choosing. And in Iran, freedom of religion is not the only right Iranian citizens are denied. The Iranian regime also continues to maintain severe restrictions on freedom of expression, association, and assembly.

Tehran maintains strict control over domestic and international media, aimed at reducing Iranians' contact with the outside world. And individuals and groups risk arrest, torture, imprisonment for political protesting or cooperating with foreign human rights organizations.

□ 1950

Women's and minority rights activists and other human rights defenders, lawyers, journalists, and students are regularly arrested and harassed. Once imprisoned, detainees are ill-treated and tortured. These are just a few examples of the repressive tactics of the Iranian regime. We must continue to speak out against these injustices and call on our friends and allies to do the same.

Mr. Speaker, once again, I ask Iran to immediately release Pastor Youcef and end its State-sponsored persecution of religious minorities.

I reserve the balance of my time.

Mr. PITTS. Mr. Speaker, I yield 2 minutes to a champion of human rights, the gentleman from Alabama (Mr. ADERHOLT), chairman of the Appropriations Subcommittee on Homeland Security and a member of the Helsinki Commission.

Mr. ADERHOLT. I want to thank my colleague, the gentleman from Pennsylvania, for his work on this in authoring this resolution. I think, as Mr. PITTS mentioned, both sides of the

aisle have worked together on this issue. I know many times the American people get frustrated with what goes on here in Washington, but this is a time when Democrats and Republicans have come together, Mr. Speaker, and worked together, and I think this is certainly a crucial thing that we're doing tonight.

Few times, Mr. Speaker, do Members of Congress have the opportunity to work on life-and-death issues. I would tell my colleagues tonight, Mr. Speaker, tonight is one of those issues.

As has already been said by Mr. PITTS, this is an issue where a pastor, Pastor Youcef Nadarkhani, is in prison because of his belief.

There are few things in life that a government can provide for its citizens that's more important than religious expression and a simple ability to worship as one chooses. That is why the support of this resolution tonight is so important, House Resolution 556.

We would ask that the people of this country, Mr. Speaker, would remember not only Pastor Youcef but other citizens of Iran and other countries around the world that sit in the same position as Pastor Youcef does.

But tonight, we focus on Pastor Youcef. We ask the leadership in Iran to set aside this ruling and release Pastor Youcef, and also that he can be reunited with his wife and his two young boys who are there in Iran.

Thank you, Mr. Speaker, for the opportunity to speak tonight. I urge my colleagues to support this resolution.

Mr. HIGGINS. Mr. Speaker, I yield 5 minutes to the gentleman from Minnesota (Mr. ELLISON).

Mr. ELLISON. Mr. Speaker, tonight we come together, Republicans, Democrats, Muslims, Christians, and Jews, to stand for a very simple idea, and that idea is that it ought to be the case that a person can freely profess their faith. It ought to be the case that no matter what your religion is, it's dear to you, and you should not be punished for professing it publicly wherever you are.

You know, I have not really sought out a lot of attention for my own faith, but I got some of it anyway, and the fact is that I feel so privileged to be an American where I can, for the first time ever, when I was sworn in, use a book of my faith.

As I heard about the story of Pastor Youcef, I thought to myself, wow, you know, here I am a Muslim in a Christian majority country free to swear in on a Koran when I came to Congress, and there he is a Christian facing the death penalty simply for professing his faith.

Pastor Youcef, he's a husband, he's a father. He has two young children. They're not even teenagers. They're 7 and 9 years old. I know they must be incredibly proud of their father, who would stand up against forces of repres-

sion that would kill him simply because he professed his faith in Christianity. It's wrong. I don't say it as an American only, I say it as a citizen of this small planet we live on, that every human being should be able to worship and seek the divine as they see fit.

Pastor Youcef deserves to be free. Pastor Youcef must be released. Pastor Youcef needs to walk out of that prison, grab his cross, go to his church, and lead his congregation in prayer, freely. He should be able to do it in his hometown in a local church.

All of us, no matter who you may be on this planet, you must stand for that idea, because if it can't be for one, it can't really be for any. We have to stand together, people of all faiths, all cultures, and all backgrounds and ethnicities and say that the right to seek the divine as you see fit must be an essential component of the human experience.

I also say a word of caution, and that is that the regime in Iran uses opportunities to deprive the people of human rights whenever they claim that there's a threat of war looming. I urge diplomacy because I think that whenever they can claim that they are under military threat, this allows them to crack down on any dissenter and try to use people like Pastor Youcef as an example so that other people will not freely express themselves and claim their God-given right not only to freedom of faith but to freedom of expression, the right to a fair trial.

You know, we come together in this place, this Congress that we're all in, and sometimes we debate taxes, and sometimes we debate where bridges should go, and we debate all kinds of stuff. But I pray that there will never be a debate about the simple right of every individual to worship and see God as they see fit or not to.

I just am particularly saddened when I think about how the early Muslim community, and Iran professes Islam, but early Muslims, the first Muslims were persecuted in their home of Mecca 1,400 years ago, and they fled their country, and they sought out their freedom of their faith in a distant land ruled by a Christian king in Ethiopia, and there they found sanctuary under that Christian king.

When their prosecutors and tormentors crossed the Red Sea and came into Africa and went to that king with bribes and said, Give us these people back, they're renegades, that Christian king listened to those early Muslims and said, You know what? These people are under my protection. You can go home.

I only wish tonight Pastor Youcef could get a return of that sanctuary in his own land.

Mr. PITTS. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. FORBES), chairman of the Armed Services Subcommittee on Readiness.

Mr. FORBES. Mr. Speaker, I first want to compliment Congressman PITTS and Congressman ELLISON for their leadership in this matter and to recognize tonight, Mr. Speaker, as we go through our busy lives, we often take for granted the privilege of living in a Nation that's governed by Founders who realized there were a set of rights so fundamental, so much at the core of life itself that they could not come from any State or any government but had to come from the hands of the Creator of life himself.

At the center of these rights, some would say the foundation of them, is the freedom of religion. As we travel around the world and see other citizens who do not have these rights, we may be saddened or even angered, but when the government of any nation of the world is so dangerous to the lives of its citizens that it's willing to rob one of those citizens of life itself merely because he will not recant his faith, we not only feel sadness and anger, but also fear.

Tonight, the citizens of Iran should be afraid of such an oppressive and dangerous government. Tonight, the neighbors of Iran should be afraid of such an oppressive and dangerous government.

□ 2000

Tonight, the citizens of the world should be afraid of such an oppressive and dangerous government.

They should condemn this government for its actions. They should stand with this pastor, and they should join hearts with people of all faiths around the world to pray for his life and his safety.

Every Member of this body should adopt this resolution.

Mr. HIGGINS. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. I thank my friend for yielding and my friends from Pennsylvania and Minnesota for sponsoring this bill.

Tonight, we stand united and strong for the release of Pastor Youcef. Although the legal case for his release is overwhelming, as Mr. PITTS has outlined, we do not rely on the law in our plea. Though our political convictions shared among everyone on both sides of the aisle I believe here are deep, our appeal is not based on politics. Instead, our appeal is based on the ineffable human quality of the loving bond between a parent and his children.

Whether one worships in a mosque, a temple, a church, a synagogue, or some other forum not known to us, whether one chooses not to worship at all, whether one lives on any of the continents of the world, practices any of the political ideologies of the world, is there not a common bond among those who feel the overwhelming love when they first hold their daughter or their son?

Is there not a common bond among those who feel the anxiety of worrying whether a sick child will be healed?

Is there not a common bond of the immense pride that a mother or a father feels when their children achieve some hard-fought goal?

Is there not a common bond of the empty and hurtful feeling that people know that someday they will have to depart from the children they love so dearly?

That day is coming all too soon for Pastor Youcef if those who are mothers and fathers, who are his captors, do not consider that ineffable human bond.

This is a man who tonight sits in prison awaiting execution because he loved his children enough to insist that they be free to worship as he and his family thought they ought to worship. This is labeled as "apostasy." The act of his arrest and impending execution is a monstrous act of inhumanity.

We do not appeal to the law, though it is on our side. We do not deal from political consensus, although I believe it exists in and out of this country. Our appeal is based on the simple, ineffable quality that parents have an innate right to love their children. This man has been deprived of this right. That deprivation should not exist for another hour, another day, another moment.

We will stand strong and united in calling for the humane release of Pastor Youcef, and we pray tonight that that wish will be granted by his captors, who must understand that they have that same ineffable love.

Mr. PITTS. I would like to inquire of the gentleman if he is prepared to yield back. I am prepared to close.

Mr. HIGGINS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. PITTS. I yield myself the balance of my time.

Tonight, as Pastor Youcef sits in prison, awaiting a hangman's noose, I want him to know and the people of Iran to know and the people of the world to know that we stand with him. Our thoughts and our prayers are with him.

I would say to those international guests who might watch this telecast that you will never understand America until you understand that, in our Constitution, the very First Amendment contains the freedom of religion, not the freedom from religion. It contains the freedom of religion. It is not our Second, our Sixth, our 16th, or our 26th Amendment. It is our First Amendment. It is the first thing mentioned in the First Amendment—the freedom of religion: Congress shall not act to establish a religion and shall not prohibit the free exercise thereof. That comes before the freedom of the press or speech or assembly or petition of grievances.

If you want to understand America, you must understand this basic belief

that the Americans have in the right of the freedom of religion.

So we ask, we implore, the authorities in Iran: free Pastor Youcef. Keep faith with the documents you've signed. Free him. Return him to his family.

I urge support, Mr. Speaker, of the Members for House Resolution 556.

With that, I yield back the balance of my time.

Mr. SMITH of New Jersey. Mr. Speaker, a young Christian pastor sits today in prison in Iran—separated from his wife and young children, facing the death penalty—because he will not lie about his beliefs. He will not lie even to save himself.

He will not lie even to spare his family suffering. He is a man of extraordinary conviction. A man of decision. A man who knows what he believes. Youcef Nadarkhani will follow his conscience though it cost him everything.

Iranian courts have repeatedly asked him, on pain of death, to reject his Christian faith and say that he believes in Islam. He responds, "I cannot."

The resolution (H. Res. 556) on the floor this evening is not an attempt to say which religion is right. Rather, this is a resolution that affirms that Youcef Nadarkhani has the God-given right—even the responsibility—to believe as his conscience directs him.

No human government should interfere.

Iran is a member of the United Nations and signatory to both the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. Both documents affirm that that every individual has "the right to freedom of thought, conscience and religion," which includes the "freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance."

Under international law voluntarily agreed to by Iran, Youcef Nadarkhani has the right to change his religion.

He was free to change from Islam to Christianity. He is free to change back.

But the government of Iran is NOT free to force him in either direction. Iran has made a commitment to leave men like Youcef Nadarkhani in peace. This resolution calls on Iran to follow international law.

Iran sets aside seats in its Parliament for Christians and permits hundreds of churches to function across the country. And yet it also cracks down on religious minorities, falsely seeing them as a security threat.

The most recent U.S. State Department Religious Freedom Report lists numerous cases of arrest and detention of Christians, both lay people and leaders. For instance:

On April 11, 2010, government agents arrested 19-year-old Daniel Shahri, a Christian, on the basis of insulting Islam. Shahri was able to contact his parents on April 14, 2010, while being held in a prison in Isfahan. He was released on April 24, 2010 on bail and awaits a trial date . . .

On January 8, 2010, the Fars Provincial Ministry of Intelligence detained an unknown number of persons who were reportedly Christians. Under interrogation the detainees gave the names of those leading Christian groups in the area leading to further arrest.

On December 24, 2009, Pakdasht security forces raided a home-church gathering and arrested the 15 members who were in attendance. All 15 were released in early January with orders to return to sign documents. Upon returning three were rearrested and held until March 17 when they were released.

The report of the U.S. Commission on International Religious Freedom underscores the danger to Muslim converts to Christianity in Iran and a recent increase in arrests. This report, issued in May 2011, indicates that:

Since June 2010, more than 250 Christians have been arbitrarily arrested throughout the country. . . . In December 2010 and January 2011 alone, approximately 120 Christians were arrested. . . . During the reporting period, the number of incidents of Iranian authorities raiding church services, harassing and threatening church members, and arresting, convicting, and imprisoning worshippers and church leaders *has increased significantly*. Christians, particularly Evangelical and other Protestants, are subject to harassment, arrests, close surveillance, and imprisonment; many are reported to have fled the country. (emphasis added)

Tragically, Youcef Nadarkhani is not the only believer in prison. He is just the only one we know of who is facing the death penalty for apostasy.

Whatever the political conflicts between the United States and Iran, whatever the tensions over weapons—human rights do not change. Iran's signature on the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights has not changed.

All nations, including Iran, must respect the consciences and religious freedom of their citizens—and not practice religious coercion.

Youcef Nadarkhani is not a political pawn. He is a person—a person being prayed for by citizens around the world.

Tonight, the U.S. Congress stands with him and with all people of conscience, calling on the Government of Iran to release him and ensure his safety.

Mr. FRANKS of Arizona. Mr. Speaker, at no other point in recent history has it been more crucial for Congress to take action on international religious freedom. I would like to deeply thank my colleagues, Congressmen JOE PITTS and KEITH ELLISON, for sponsoring H. Res. 556 that addresses religious freedom in Iran. These vital issues deserve our immediate attention as we see religious persecution escalate internationally: in Iraq, for instance, Assyrian Christians were brutally murdered in their church and continue to be directly targeted by terrorist organizations; some have even been attacked and murdered on their own front doorstep. In China, thousands of Christians and Falun Gong practitioners are forced into re-education through labor camps while the lawyers that try to defend them are often imprisoned. Uyghur Muslims and Tibetan Buddhists are targeted as separatists because of their faith.

Mr. Speaker, commitment to religious freedom is not just for one faith community but for people of all confessions throughout the world and across political lines. Religious freedom is not only for Americans or Christians or Republicans or Democrats, it is a sacred right for all humanity. The U.N. Declaration of Human

Rights, of which Iran is a signatory, allows for the “right to freedom of thought, conscience and religion” and this right includes the freedom to change religion or belief. I would like to note that Pastor Yousef was imprisoned and charged with apostasy in direct violation with the international standards that Iran had accepted. The fundamental right of religious freedom, furthermore, is enshrined in Iran's Constitution in Articles 13, 14, and 23.

Mr. Speaker, the Pitts-Ellison resolution condemns the Iranian government, one of the most horrific perpetrators of religious freedom violations, for its repression of religious minorities. It focuses, in particular, on the case of Pastor Yousef Nadarkhani, a Christian with the Church of Iran denomination, who faces imminent execution for his faith. Pastor Yousef's arrest and imprisonment resulted from questioning the mandate from the government of Iran that all school children be taught Islamic teachings.

Mr. Speaker, one of the most precious rights parents can have is having the freedom to educate their own children and bring up their children the way they believe is best for their family. Pastor Yousef was not given this foundational right to instill in his children a respect for freedom of religion and conscience. As the author of *The Children's Hope Act*, I know how critical it is for parents to make their own independent decisions about the education of their children. No parent should have to face death, as is the situation for Pastor Yousef, just for asking his government to grant him freedom of religion, even if that freedom of religion was narrowly defined to the freedom to educate and practice his faith in his own home.

Mr. Speaker, the case of Pastor Yousef is only one of many other deplorable religious freedom cases in Iran. A close personal friend of Pastor Yousef and a member of the Council of Elders for the Church of Iran described the egregious situation for Christians in the Middle East as strikingly similar to “the final decision in Germany,” when the Nazis religiously and racially “cleansed” German society of the Jews. This elder ended by saying that the “international reaction [to the religious cleansing in the Middle East] is also like the time of Hitler. They waited and didn't react until it was too late.” In Iran, at least 285 Christians were arrested during the first half of 2011 without reaction.

Mr. Speaker, one such case of the silently persecuted is Masoud Delijani, a school teacher in Kermanshah, Iran, who was arrested by plain clothes intelligence officers in March 2011. He was arrested, together with his wife and nine other Christian converts, when they had gathered in a house church for a service. He was held in solitary confinement and was severely pressured both mentally and physically. The court eventually charged him with having faith in Christianity and for holding illegal house church gatherings.

Mr. Speaker, the Revolutionary Court of Kermanshah province recently sentenced Masoud Delijani to three years in prison. Sources report that his trial was anything but fair: he was denied the right to choose his own advocate or defend himself against the charges levied. Masoud Delijani is now being held in Deizal-Abad prison of Kermanshah to

serve his three-year prison sentence. The central prison of Kermanshah is described as horrendous and sickening by knowledgeable sources.

Mr. Speaker, the cases described above would largely go unnoticed and the persecuted would be forced to suffer if we are silent. Given our own freedoms in America and the responsibility to represent the concerns of our constituents who are concerned with the suffering of persons and families abroad, I believe we have a personal responsibility to stand up for justice and support those who are persecuted. I would also urge other world leaders to not wait to speak out on behalf of Pastor Yousef and his universal right of religious freedom until it is too late.

Mr. Speaker, Alexander Hamilton, one of the architects of our Republic, said, “The sacred rights of mankind are not to be rummaged for among old parchments or musty records. They are written, as with a sunbeam, in the whole volume of human nature, by the hand of the divinity itself; and can never be erased.”

Mr. Speaker, may the right of religious freedom touch those around the world and persons of all faiths, and may future generations walk in the sunlight of that most inalienable and universal freedom.

Mr. BERMAN. Mr. Speaker, I rise in strong support of H. Res. 556, which condemns the Government of Iran for its persecution, imprisonment, and sentencing to death of Pastor Youcef Nadarkhani.

Pastor Youcef is a 34-year old father of two who was arrested over two years ago for the crime of converting from Islam to Christianity. In October 2009 he was tried and found guilty of apostasy—and sentenced to death-by-hanging. More recently, the Iranian Supreme Court upheld the sentence.

Iranian law requires that a man accused of apostasy be given three chances to recant his beliefs and return to Islam. Pastor Youcef was given his three chances. In every instance, Youcef refused. Nothing, not even the threat of death, would discourage him from remaining true to his faith. He proved himself as religiously committed as he is physically, and morally, courageous.

Mr. Speaker, last September President Obama said, Pastor Nadarkhani has done nothing more than maintain his devout faith, which is a universal right for all people. . . . A decision to impose the death penalty would further demonstrate the Iranian authorities' utter disregard for religious freedom, and highlight Iran's continuing violation of the universal rights of its citizens.

Mr. Speaker, the resolution before us condemns the Government of Iran for its state-sponsored persecution of religious minorities and for its repression of freedom of thought and of religion, and calls for the immediate release of Youcef Nadarkhani and of all other individuals held or charged on account of their religion.

The House of Representatives should stand in solidarity with Pastor Youcef. I encourage all of my colleagues to support this important resolution.

Mr. WOLF. Mr. Speaker, I rise in strong support of H. Res. 556, a resolution condemning the government of Iran for its ongoing repression of religious minorities, including

34-year-old Pastor Youcef Nadarkhani. I was an original cosponsor of this resolution, and thank my friend Congressman PITTS for introducing this important legislation.

Just this past week, Iranian authorities renewed an order of execution for Christian Pastor Youcef Nadarkhani, a young father of two. Pastor Nadarkhani was originally arrested in 2009 for protesting the teaching of Islam at the public school that his children attended. He was later charged with apostasy which carried a much more severe penalty. Since 2009 he has been subjected to repeated attempts to coerce him to recant his faith—which he has courageously refused to do. Rather, Pastor Nadarkhani's perseverance in the face of this injustice is a source of great inspiration. In a 2010 letter from prison, he wrote that the true believer, "does not need to wonder for the fiery trial that has been set on for him as though it were something unusual, but it pleases him to participate in Christ's suffering. Because the believer knows he will rejoice in his glory."

Indeed, Pastor Youcef has faced a "fiery trial." And now, according to a February 22 Fox News story, the latest developments mean that Pastor Youcef may be "executed at any time without prior warning, as death sentences in Iran may be carried out immediately or dragged out for years."

Pastor Youcef's case is just the latest example of Iran's attacks on basic human rights, including freedom of religion. In recent years, there has been a significant increase in Iran in acts of repression and discrimination against religious minorities including Bahai's and Christians. These actions show a continuing disregard by Iranian authorities for the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights as well as its own constitution.

In addition to supporting this resolution condemning Iran for these shocking and flagrant violations of fundamental freedoms, I call on the government of Iran to immediately and unconditionally release Pastor Youcef Nadarkhani.

Mrs. CAPPS. Mr. Speaker, I rise in strong support of H. Res. 556, which condemns the Government of Iran for its persecution, imprisonment, and sentencing to death of Pastor Youcef Nadarkhani.

H. Res. 556 rightfully condemns the Government of Iran for its state-sponsored persecution of religious minorities, and calls for the exoneration and immediate release of Pastor Youcef and all other individuals held or charged on account of their religion.

Pastor Youcef is a 34-year old father of two who was arrested over two years ago for the crime of converting from Islam to Christianity. In October 2009 he was tried and found guilty of apostasy. Adding to this atrocity, his sentence of death-by-hanging was recently upheld by the Supreme Court of Iran.

Only in oppressive regimes like Iran could this fundamental human freedom to worship as one sees fit could be considered a crime, let alone one punishable by death.

And sadly, the case of Pastor Youcef is only one of many other deplorable religious freedom cases in Iran. It demonstrates the Iranian authorities' utter disregard for religious freedom, and highlights Iran's continuing violation of the universal rights of its citizens.

It is deplorable, and this House should denounce it in the harshest of terms. Pastor Youcef deserves to be free. He deserves to practice his faith and be home with his wife and young children. He deserves to have his rights as a human being upheld and respected.

I urge a yes vote on H. Res. 556.

Mr. RIGELL. Mr. Speaker, Youcef Nadarkhani is a Christian pastor in Iran who at this very moment is under sentence of death for refusing to convert to Islam. As a matter of conscience, Pastor Youcef's story must be boldly told in this chamber and in every place where human rights are valued. His story reminds us of the blessings of liberty which we enjoy and sometimes take for granted. It reminds us that millions of people around the world live under brutal regimes that deny those same basic freedoms to their own people.

In 2009, Pastor Youcef protested a law that would forcibly impose Islam on his children. In September 2010 an Iranian court accused Pastor Youcef of the "crime" of abandoning the Islamic faith and condemned him to death by hanging unless he converts to Islam.

Mr. Speaker, this case represents just one in a long line of abuses the government of Iran has perpetrated against religious minorities. The intolerant, indeed barbaric, actions of the Iranian regime trample on the most basic of human rights—the right to freedom of thought, conscience, and religion. I condemn it in the strongest possible terms.

Iranian leaders must understand that if Iran is to be a legitimate member of the community of nations, if it seeks trade, if it seeks the benefit of economic engagement with the free world, if it wants to provide a firm and secure future for its citizens, it must protect and defend the rights of religious minorities. It must respect the religious liberties which its own constitution guarantees, and which it is obligated to respect as a signatory to the United Nations Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

So I rise today in strong support of H. Res. 556 condemning the government of Iran for its continued persecution, imprisonment, and sentencing of Pastor Youcef on the charge of apostasy. I am a cosponsor of this resolution, and I urge my colleagues to support it.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. PITTS) that the House suspend the rules and agree to the resolution, H. Res. 556, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. PITTS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

#### APPOINTMENT OF MEMBERS TO BOARD OF VISITORS OF THE UNITED STATES MILITARY ACADEMY

The SPEAKER pro tempore. The Chair announces the Speaker's appointment, pursuant to 10 U.S.C. 4355(a), clause 10 of rule I, and the order of the House of January 5, 2011, of the following Members of the House to the Board of Visitors of the United States Military Academy:

Mr. HINCHEY, New York;

Ms. LORETTA SANCHEZ, California.

#### FREEDOM OF RELIGION

(Mr. PEARCE asked and was given permission to address the House for 1 minute.)

Mr. PEARCE. Less than 1 month ago, Kathleen Sebelius issued a finding that said that every insurance company in the country would have to offer insurance products, some of which would offend the faiths of many people. This is against our Constitution, and it is against the rights of conscience of a free people.

Mr. Speaker, across religious lines, the people of New Mexico and the people especially of southern New Mexico—Catholic, Protestants and people of no religion, people across cultural lines, and people across racial lines—are gathering this Saturday: this Saturday to protest, this Saturday to stand and say that the government needs to back up out of our church.

This is not a Republican issue. This is not a Democrat issue. This is an issue of the Constitution and of a freedom-loving people.

So I encourage all who are across this United States to begin to organize and stand in the streets to tell the government that enough is enough. We are meeting this Saturday, March 3, in Las Cruces, New Mexico, from 1:00 to 2:30. It will be a very large gathering. There will be speakers from both parties and from all faiths.

We think that it is time for Americans to be united together again, as one people, against a government that has become too strong.

□ 2010

#### HOUSE ENERGY ACTION TEAM HOUR

The SPEAKER pro tempore (Mr. GIBBS). Under the Speaker's announced policy of January 5, 2011, the gentleman from Colorado (Mr. GARDNER) is recognized for 60 minutes as the designee of the majority leader.

Mr. GARDNER. Mr. Speaker, I'm here tonight for one reason: to stand up for hardworking Americans who are spending far too much when they fill up at the pump, and I'm here for that same American who turns on the TV or reads the newspaper after a long day at

work to see that Iran is threatening to cut off our oil supply out of the Middle East and to see continued inaction by this administration to discourage energy projects, energy production that would lower the price of gas here at home. These are Americans that are scared. They simply don't have the money in their pocket, in their budget to pay for these high prices, \$60 to fill up a tank of gas, \$80 to fill up the tank of gas.

I find it increasingly more difficult to explain to my constituents from rural Colorado why this government isn't advancing policies that will bring down the prices at the pump. It pains me the look on people's faces when they tell me that they're making \$10 an hour and are paying upwards of \$4 for a gallon of gas. What are they supposed to do, Mr. Speaker, stop going to work because gas is so expensive?

We are facing a significant crisis, and it's a travesty, it's a shame. My colleagues here tonight are here to say we will not stand for it.

How do I go back home this weekend to explain to my constituents why gas prices have risen \$1.80 per gallon since this President took office? How do I explain that this administration may be willing to tap the Strategic Petroleum Reserve, which is only to be used when there is a severe energy supply disruption, instead of opening up more land for exploration, which brings me to my next point.

Mr. Speaker, this administration alleges that it has opened up vast amounts of our lands for leasing. In fact, just a few days ago, on February 23, at the University of Miami, I quote:

Under my administration, America is producing more oil today than at any other time in the last 8 years.

This is simply false, a false telling of reality. While it may be true that new production is occurring on private lands where the President can't involve his anti-energy administration, Federal lands and offshore development is far below what it has been in previous years. Let me cite to you some very startling statistics.

According to an article on E&D on Monday, just a few days ago, production of natural gas on public lands and waters in fiscal year 2011 dropped 11 percent from 2010. That's a drop of 11 percent on public lands and waters in fiscal year 2011. Oil production on Federal lands dropped 14 percent since last year, and this reduction was most significant in the gulf, which declined by 17 percent since 2010.

According to a Wall Street Journal editorial from the other day, drilling plans have historically been approved 73 percent of the time. Since the beginning of 2012, the President has only approved 23 percent.

Approval of an offshore drilling plant typically takes about 92 days right now. That's 31 days over average.

In 2000, just 12 years ago, 32 percent of our oil was from Federal lands. Why? In 2010 that number shrank to 19 percent of total U.S. production. Let me say that again. In 2000, 32 percent of our oil was from Federal lands. In 2010 that number shrank to 19 percent of total U.S. production.

We aren't opening up our Federal lands for development, and that's the reason for the significant drop. The total onshore acreage leased under this administration in 2009 and 2010 is the lowest in over 20 years.

Mr. Speaker, the President has claimed that he is opening up new offshore areas for production and more land for leases. Again, this is false. Many of these lease sales were already scheduled to take place before he even took office. One was even cancelled for a year by the administration and is now being reinstated. His plan even closes the majority of the OCS to new energy production through the year 2017.

In recent days and months, we have seen the President touting an all-of-the-above energy approach, but his actions speak louder than his words, and they do not promote an all-of-the-above energy strategy. This administration has blocked energy production on Federal lands and decreased overall domestic energy production across the board. And I want to share with you just a few of these examples.

Tonight we are joined by the House Energy Action Team, a group of Members from across the country who are dedicated to sharing with their constituents in this country the policies that we have passed in this House with bipartisan support to encourage energy production to make sure that we are increasing and encouraging natural gas development, oil developments, all of our natural resources in a true all-of-the-above energy strategy. The HEAT action team, the House Energy Action Team, is once again sharing that strategy and contrasting ourselves with the strategy that this President has presented over the past 3 years of his administration.

So the President can claim all he wants to be supportive of an all-of-the-above energy strategy—said it just a few months ago from this podium right behind me in the State of the Union address, supporting an all-of-the-above energy strategy—but let's actually talk, let's actually talk about what the President's policies have resulted in.

On oil and gas, he's withdrawn oil leases from Utah, costing 3,000 jobs; withdrew oil and gas leases from Montana; issued a moratorium on gulf drilling, costing 12,000 jobs; reinstated a ban on drilling off the entire Pacific coast; announced he would regulate hydraulic fracturing.

Again, the President claims to be a supporter of an all-of-the-above energy policy, but on coal he pulled a permit

from a West Virginia mine, costing 250 jobs; announced the merger of BLM and OSM, which could move domestic coal one step closer to extinction in this country.

When it comes to nuclear energy, this President has blocked uranium mining in Arizona for 2 years. He has personally abandoned the Yucca Mountain waste site, jeopardizing the future of nuclear energy in this country; imposed a 20-year ban on uranium mining, increasing our 90 percent already, our 90 percent dependency on foreign sources.

Even on renewable energy and this President's green energy agenda, this President has closed all but 2 percent of Federal lands from renewable energy development. He's left open only 670,000 of 30 million acres of land for solar development.

Again, the President claims he is for an all-of-the-above energy strategy, when, in fact, what we have seen is this President is actually for none of the above. This chart—I know it's impossible to read—details the inaction of this administration, in fact, some very harmful actions to our energy policy where he has stopped, delayed, repealed energy production in this country.

Again, tonight, we are going to be hearing from many Members around the country to discuss how we can advance a strong energy policy, one that creates American jobs with American energy, building our energy security for future generations. There is one great way to power our economy, and that's to turn to our energy sector to create jobs and opportunity.

With that, I yield to another great leader on energy issues, the gentleman from South Carolina (Mr. DUNCAN).

Mr. DUNCAN of South Carolina. Well, let me thank the gentleman from Colorado for his dedicated service to not only the State of Colorado but to our Nation.

We have been coming to the floor talking about the increasing prices of energy across America. Since we came back in January, we have taken to this floor to talk about the very poor policies coming out of the administration.

□ 2020

And just to give you an example of that, on Inauguration Day of President Obama, AAA said the gasoline prices in America averaged \$1.84 a gallon. Today, gasoline prices are averaging across this great land \$3.73 a gallon. That is a 102 percent increase during the Obama administration. But yet he will claim, the administration will claim, that they have increased domestic energy production. They've increased onshore and offshore drilling, and apparently oil and natural gas are just bubbling up out of the ground and providing this. But, America, that's not the case. That's not the case. Gas prices are going up simply due to two



factors—supply and demand. Those are the things that contribute to the price of a barrel of oil in the world. Supply and demand.

Now, I admit that world demand is up even while United States demand is lower than it was in 2008. World demand is up. So that's one factor. But the supply factor. Americans know that we are tremendously dependent on Middle Eastern oil. We've got the resources here in this country. If this administration will just get out of the way and allow us to harvest our natural resources, we would be energy independent.

But let me tell you what the administration apparently has as a policy goal, and this comes from the White House statement on the Keystone pipeline. The gentleman from Colorado has heard me say this—I think this is the fourth time—but America needs to hear it again because President Obama said this. He said:

Decisions here in Congress to force the decision on Keystone pipeline do “not change my administration’s commitment”—this is from the White House Web site, and I recommend you go look at it for yourself—“it does not change my administration’s commitment to American-made energy that creates jobs”—and listen closely—“and reduces our dependence on oil.”

Now, at one time he was talking about these abundant supplies, this increased onshore and offshore drilling and production in this country. But yet his own words say “commitment to American-made energy that creates jobs and reduces our dependence on oil.”

Now, when you first heard that, you thought, I agree with that. He wants to lessen our dependence on foreign oil and Middle Eastern oil, but no, no, no. That's not what he said. He said lessen our dependence on oil, period. Not foreign oil, not Middle Eastern oil, lessen our dependence on oil.

So you take that with his Secretary of Energy, Steven Chu. Steven Chu, before he was appointed as Secretary of Energy in this country, said this: “Somehow we have to figure out how to boost the price of gasoline to the levels in Europe.”

Now Europeans in England and Germany and France, they're paying \$7, \$8, \$9 a gallon for gasoline. America, under these policies, that's where we're headed. Under the words of Steven Chu, the Energy Secretary, he said: “Somehow we have to figure out how to boost the price of gasoline to the levels in Europe.”

It shouldn't surprise you that's what they want to do—lessen our dependence on oil, period. And that's propagating policies and giving money away to companies that supported him in his election campaign, companies like Solyndra, \$535 million, gone, America, your tax dollars that I know you're working hard for every day.

In South Carolina, my constituents, they go to work every day. And they earn the hard-earned dollars. They go to work, and they're thinking when they're filling up their gas tank at \$3.75 a gallon, \$4 a gallon diesel fuel—I drive a diesel, so last week I couldn't fill my truck up, because I'm hurting just like other Americans, and how much I have to take out of my wallet to fill up my truck, and what I could use that money for in other ways, whether it's to take my family out to dinner or pay off some debt or do some things that we normally would do with that money, but now we're having to take more dollars out of our pockets to put fuel in our car to drive to work. And so Americans are thinking: How many hours of my workday on my job am I working just to pay for the gasoline I just paid to get to work and to get home?

Four dollars a gallon gasoline for diesel fuel, and America, think about this: Think about the farmers that are putting diesel fuel in their tractors to plant the food that you're going to buy at the grocery store. Input cost. Input cost on the front end affects the price on the back end.

Mr. Chu, the Secretary of Energy, said this. He's calling for gradually ramping up gasoline taxes over the next 15 years to coax consumers into buying more-efficient cars and living in neighborhoods closer to work. This European model where we'll all live close in town and we can walk to work or bicycle. That's the optimal thing in their eyes. We don't live that way here in America. We like our freedom. We like to get in our cars and drive ourselves to work. The policy of this administration is affecting what you pay at the pumps, and it's very clear using the President's own words about gasoline and about oil.

So we are seeing rising gasoline prices, and we've got the power to do something about that here in America. We have the capacity, the resources in this country that far exceed what's found in Saudi Arabia. Far exceed by hundreds of billions of barrels of oil more than what exists in the Saudi oil reserves here in this country. We've got them. We're buying a lot of oil from Canada. We talked about the Keystone pipeline. The gentleman from Colorado and I have talked about this numerous times. But instead of pursuing American energy independence, beyond that why can't we pursue maybe North American energy independence and buy from our largest and best trading partner, Canada, if our policies are going to keep us from drilling off our coast in South Carolina, or off the coast of Louisiana, Mississippi, and Texas, places where there are proven reserves, and we've been pumping oil for a long time?

Or going onshore. North Dakota. North Dakota has an energy-driven economy. Their unemployment rate is

3 percent or less. They're pumping oil out of the Bakken oil fields there in North Dakota. President Obama is taking credit for increased oil production in North Dakota, but back up, because the oil that's being pumped out of the ground in North Dakota isn't on Federal land, and it isn't because of any policies of this administration. The permits were issued during the last administration and the one before that, and we're producing oil on State and private lands in North Dakota. It's not Federal lands; it's State lands. It's private lands. Unemployment is 3 percent. Good paying, long-term jobs, energy-driven economy in North Dakota.

But guess what? The Bakken oil field extends beyond the borders of North Dakota, and it goes into Montana and other States. Well, if you go across that artificial border between North Dakota and Montana into the same oil field known as Bakken, you're not going to find any energy production over in Montana. You know why? It's because it's on Federal land. And that Federal land has been off the table for energy production and energy exploration. But over where it's on State and private land, it's gangbusters. It's going gangbusters, 3 percent unemployment in North Dakota. That's a telling sign, America, on what you do when you go after your own resources and you produce American resources to meet our American energy needs.

I heard the gentleman from Colorado talk about an all-of-the-above energy strategy, and I've heard the President here at the State of the Union say the same thing. But, you know, in my opinion an all-of-the-above energy strategy says (a) first, we're going to take care of a proven technology of oil and natural gas to meet our immediate energy needs. And then we're going to continue to expand nuclear power in this country because it's proven, it's tried, and we can expand that.

I applaud the new permit in Georgia for a new reactor. We're going to have one very soon in my home State. It'll be the second in about 30 years where we've permitted a nuclear power plant to provide electricity to this country. But the President, he likes this global warming cap-and-trade scheme. And he says that under his plan of a cap-and-trade system, “electricity rates would necessarily skyrocket.” Electricity rates are going to skyrocket. Well, we've got the ability to build more nuclear power plants and permit those that are underway and provide good, stable electricity in this country. So all of the above includes oil and natural gas, energy exploration, offshore, onshore, where we have those resources, and expanding nuclear power plants in this country, looking at the things that are tried and true and allowing the free market, not your tax dollars, America, but the free market to determine the winners and losers with regard to green energy.



If it works, if it can be successful, I guarantee you, there are American investors and worldwide investors that would invest their own hard-earned dollars at their own personal choice to invest in that technology, and they will pick a winner because on the back side they're going to make a profit.

But that's not what's happening. This administration is taking your tax dollars, and they're making your investment decisions for you in companies like Solyndra. They're picking the winners. They're picking the losers. It's wrong. It's got to stop.

Mr. GARDNER. I thank the gentleman from South Carolina, and I know the gentleman from Arizona is going to be joining us in this debate, this conversation tonight.

You mentioned some quotes, some statements made by Secretary Chu. You talked about the statement where the President had said under my plan, electricity rates would necessarily skyrocket.

□ 2030

You talk about Secretary Chu talking about how he wants to boost the price of gasoline to the levels in Europe. Have you ever heard this President talk about expanding production in the United States or adding U.S. domestic capacity to actually decrease the cost of gasoline?

Mr. DUNCAN of South Carolina. Gentleman from Colorado, that's a great example. I've never heard him talk about that. The administration talks about the exact opposite. They want us to pay for what Europeans pay for oil and natural gas. They want to see us move toward a green energy economy, and they want to create policies, tax policy and regulatory policies, that are going to force you, as Americans, to buy what they want you to buy, and that is an electric car.

Mr. GARDNER. And I would point out to the gentleman, too, as he knows, we've seen gas prices increase dramatically around the country. In South Carolina, I think gas prices have increased 10 percent from just a year ago.

The gentleman from Arizona who joins us now in the conversation is—New Mexico—has seen tremendous price increases, as well.

With that, I yield to the gentleman from New Mexico, my neighbor to the south.

Mr. PEARCE. Thank you. I would gladly be from Arizona, except I'm representing New Mexico, and I'll stick there for awhile.

My father worked for the oil industry my entire life. We grew up in the oil industry in southeast New Mexico. Back in the late seventies and early eighties, the company that my dad worked for, Humble, and later Exxon, began to tell all the employees that oil would be out, that it would be finished in eastern New Mexico and that they would

need to get their affairs ready to be transferred somewhere else.

Now, my dad retired in the late eighties, and the oil fields are still viable in Lea County, New Mexico, because of increasing technology. The ability to drill laterally has really revolutionized the ability to produce energy, and also the 3-D seismics have been very effective at finding now sources of oil. So basically what we're finding is that the old estimates of how much oil was left in the U.S. have been grossly inadequate. With the new finds all the way across the country, this Nation could be self-sufficient in oil, except there are people here in Washington who absolutely do not want us to be self-sufficient. They want the pressure on the economy. For some reason, they believe that we should have a level playing field with the European countries that have to import all of their energy.

I think that America should be allowed to develop its resources that it's blessed with. I believe that the American people should be allowed to work in careers and in jobs that pay good money. Other people in Washington think that we should shut down all of the timber production, all of the oil and gas production and all of the mines and convert over to hospitality jobs. The hospitality jobs do not pay enough. They're fine jobs, but they don't pay enough to raise families. So we have these different visions of America where one says we're going to shut off the resources, we're not going to develop them, and the other group says, yes, we must have American energy, we must have American jobs, and we must improve the economy.

We're facing times when our budgets are completely unworkable. This coming year, we're looking at \$1 trillion in deficits. We're going to spend about \$3.9 trillion, and we're going to create revenues of about \$2.9 trillion. Now, people at home can do the math. That's a deficit of \$1 trillion, \$1.1 trillion.

Now, a magical thing happens when we start creating jobs in America. People are saying, Can you cut your way from 3.9 to 2.9? I don't think that we have to do that. Every time that you put someone to work, they come off of food stamps and they come off of unemployment, so the cost of government begins to decrease with every job you create. Additionally, those people will pay taxes. And so if we would allow the jobs to be created, they would be forming daily. If we would just open the doors to energy production in this country, then we would see our economy moving toward balance, and that's what we desperately need. We need our checkbook balanced, because that's the only way we're going to sustain the economic future of this country.

Now, people just can't believe that Washington would put oil and gas off-limits completely. They can't believe

that the country's leaders would make life that much more difficult for them to pay their bills, to send their kids to school, and to feed and clothe their children. They can't imagine policymakers in Washington who would willingly do that. And yet you have repeatedly heard the President and his staff say that we need the price of gasoline to go up, we've got to figure out how to increase it. Well, they've figured out how to increase it, and that's simply to limit the drilling of it.

I think this year's elections will pin on the cost of gasoline and the functioning of this economy. People across America are desperate for job creation, not just any jobs, not just minimum wage jobs, but those jobs where you can get in it and make a career, like my father who worked his whole life in the oil and gas industry. It was a good living for his family. That's the sort of jobs that Americans are looking for, and that's the sort of jobs that we can create.

But how are American policymakers putting the oil and gas off-limits? For instance, shale. America is the Saudi Arabia of shale oil. And yet in 2007, the Pelosi House passed a bill that put all of the shale production in Colorado completely off-limits. That's just wrong. We should be exploring every opportunity for energy.

Another way that they're limiting the production is that they're just not processing the applications to drill. So you have a lot of people who would invest a lot of money right now creating jobs, but the Federal Government will not process the application for permits to drill on Federal lands. Much of the West is Federal lands. New Mexico is about 33 percent Federal lands. Other States have as much as 80 percent Federal lands, and those are being completely eliminated from oil and gas production, from mining, from timber and from other jobs that could be created.

And so we find an administration and a mindset in Washington that says we're going to starve America for jobs, we're going to starve America for energy, and we're going to send those jobs overseas. I think that Americans are waking up and realizing that it does not have to be that way. We don't have to be paying \$4 for gasoline.

People here in Washington routinely say that we cannot drill our way out of the problem. I hear that a lot. But if you look at the cost of natural gas, the price of natural gas today, you'll see that it has diminished tremendously because we have drilled our way out of the shortage that existed just 4 or 5 years ago.

The price of natural gas spiked around \$10. Today it's less than \$4. We have to understand that you can produce more energy, you can get the cost down, but a government has to stand aside and let the people work.

I just returned from Vietnam, a known communist country, and yet they're hungry for production of energy. The Communist Chinese are looking for new oil and gas supplies. They're drilling just 47 miles off the coast of Florida, and yet this country will not let American firms drill 45 miles off the coast of Florida. So we continue to see policies come out of Washington that are strangling the economy for oil and gas and driving the prices up.

It's just not the oil and gas, though. The sad thing is they're doing the same thing to electricity. Two electricity generating stations in New Mexico are being told to shut down energy production. We suffered rolling blackouts just a year and a half ago, and we're being told to shut down electrical generation? These are not generators that would not produce. These are generators that they're saying, well, they might be contributing to some pollution. They can't prove it.

The standards that they hold us to need to be measured by a computer, because the naked eye can't see the difference in the haze that they're trying to demand the improvement of. So, again, we see policymakers who are willingly making life more miserable and more difficult for the average American.

The Republicans in Congress today are speaking up for the average homeowner, the average person that goes to work every day, does their job, goes home and raises their family. We need to support those kind of people, and I compliment the gentlemen, both of them, especially the gentleman from Colorado, for leading this fight for lower energy prices. It's a common-sense thing, and we need to back him up.

Mr. GARDNER. I thank the gentleman from New Mexico. Before he yields the floor, I wanted to ask him a quick question.

I know you've done tremendous work with the Western Caucus. You're a co-chair of the Western Caucus trying to make sure you are eliminating regulations to do what we can to improve the economy of the Western United States, and I just wanted to share with you a quote from our colleague in the Senate, Senator SCHUMER from New York. This was February 27, just 2 days ago, a quote from *The Hill* newspaper. He is talking about trying to find solutions to increasing gas prices. Here is what he had to say:

To address the situation, I urged the State Department to work with the Government of Saudi Arabia to increase its oil production, as they are currently producing well under their capacity.

So, apparently, many of our colleagues, some in the Senate, think that the solution to the way out that we have isn't here in the United States at

all. In fact, it's creating more dependency on overseas oil instead of developing in areas like the Western United States.

I know you've done tremendous work to open up access to energy in the Western U.S., and I don't know if you had seen that comment or had time to reflect on it.

□ 2040

Mr. PEARCE. I have not seen the comment, but it's standard that comes from some here in Washington. You have people who are saying, They should develop their resources, but, oh, we should not develop ours. It's that mindset that is killing American jobs. It's that mindset that's killing American energy, driving prices up.

The American families are struggling. Hardworking families are struggling under the demands of just raising their families. And it is abysmal that Washington policymakers in either body are having that kind of mindset.

Across the West, we see a continuing failure to give access to public lands. That's one thing that we're fighting in the Western Caucus. I would refer any of the people in this body or any of the people watching this program to go online, take a look at the Western Caucus, the Jobs Frontier—over 40 pieces of legislation that would bring on jobs, each one of them designed to bring on jobs with no government investment. That would all be private money creating private jobs. Also, there are bills which are designed to stop the government from killing 3 million more jobs this year. So the Western Caucus is hard at work trying to preserve the economy of the United States. And I appreciate you bringing that up.

Mr. GARDNER. I thank the gentleman.

The gentleman from South Carolina, again, some of our colleagues would like to see energy production increase in Saudi Arabia. They'd, I guess, stand idly by while this administration nixes, vetoes, puts a fork in the Keystone XL pipeline; yet they'd rather see those jobs go overseas. They'd rather see that energy production occur overseas instead of doing it right here in our own backyard. I'm sure our colleagues mean well, I'm sure they're well-intentioned, but I certainly hope they would produce those jobs here, produce that energy here, develop an energy policy that is with American jobs for our security.

Mr. DUNCAN of South Carolina. If the gentleman will yield.

Mr. GARDNER. I yield to the gentleman.

Mr. DUNCAN of South Carolina. You're exactly right. These are about American jobs going overseas and American tax dollars going overseas, and American-earned income. Because, as I mentioned earlier, you're digging deeper into your wallet, taking out—

instead of a \$20 bill to fill up a gas tank, taking out a \$100 bill. Americans know what they could do with the rest of that money, the difference there.

I get a little passionate about this issue, and I apologize to the ladies here in the Chamber that have to record what I say, but I'm not alone in this. America is passionate about this as well because they know we have the resources here and they know we can be energy independent and we wouldn't be giving money to Middle Eastern countries, who a lot of times don't like us maybe as well as the Canadians and other countries closer to home like us.

I spouted off some things about Federal land and State land and North Dakota and Montana a minute ago, so let me just tell you: in 2000, Federal oil production accounted for 32 percent of the total U.S. energy production. In 2010, after 2 years of the job-destroying Obama administration policies that I mentioned earlier, Federal production only accounts for 19 percent of the total U.S. oil production. That's an 11 percent decrease.

When I think about the year 2000, I think about some of our friends on the other side of the building, and JOHN KERRY and some of these guys that said, you know what, if we decided to drill today and open up new lease areas and do energy exploration, whether it's the Outer Continental Shelf, it won't have any effect on the price at the pump for Americans because it takes about 10 years for that to come online and start producing oil. But, hey guys, that was 10 years ago. What impact would those policies of drilling in ANWR or off the Outer Continental Shelf or more onshore production, what impact would that have had on the price you pay at the pump today?

I think we've got to get serious about American energy exploration and production here. The journey of 1,000 miles begins with a single step. We need to take that step today. I'll tell you, the House Republicans have done that with numerous job-creating, energy-production bills that have passed out of this Chamber that are languishing in the abyss known as the United States Senate—that's failed to pass a budget for our country in 1,036 days, that's failed to take up American energy-independence bills, job-creating bills that we passed out of this Chamber.

So energy production is down on Federal lands, and the Obama administration is taking credit for increased production and saying we've opened up new offshore areas. But the data I have says there's less offshore acreage open for energy exploration and production now than when President Obama took office when nearly 100 percent of the Outer Continental Shelf was opened up under the Bush administration. They lifted the moratorium for energy exploration, let alone production.

Listen, I served for 18 months on what was known then, under the Mineral Mining Services of the Department of the Interior, the OCS, or Outer Continental Shelf, 5-year Planning Subcommittee where we looked at the next 5-year plan for this country on what areas we were going to open up offshore. What areas were available for us to even talk about were small grid squares in the western Gulf of Mexico, nothing in the eastern Gulf of Mexico, nothing in the Atlantic Ocean, nothing off the coast of California, nothing off the coast of Alaska except for another small square.

This was prior to the latter years of the Bush administration when he decided, you know what, American energy independence means we need to open up the Outer Continental Shelf and really see what's out there and begin energy production. But the 5-year plan we looked at looked at these grid squares, and we were going to recommend a lease/sell, where we were going to offer leases to those areas, to the energy companies so they could go out there and explore and produce those resources.

Well, the Obama administration has taken a lot of that off the table. They haven't created a new 5-year plan. They're going to say they just came out with a new one, but I believe it's just all for looks.

The total onshore acreage—I was talking about offshore—but the total onshore acreage leased under the Obama administration in 2009 and 2010 is the lowest in over two decades. We're not talking about ultra-Deep Horizon accident-type offshore production.

Mr. GARDNER. Will the gentleman yield on that point?

Mr. DUNCAN of South Carolina. I yield to the gentleman from Colorado.

Mr. GARDNER. Because, again, going back to a speech given recently by this administration, by this President, he said at the University of Miami that we have record oil production, that he's actually leading us out of this energy crisis.

Mr. DUNCAN of South Carolina. Energy production might be up in this country, but it has nothing to do with the policies of this administration. It goes back to the previous administration that said, you know what, we're going to open up Bakken because the geological survey found a ton of oil reserves there. In your home State, the oil shale in the Rocky Mountains, Colorado, could be the next Saudi Arabia if we were to allow onshore production for oil shale in the Rocky Mountains. I know the gentleman from Colorado probably wants to talk about the oil shales of Colorado.

Mr. GARDNER. Well, I absolutely do. In fact, not only talk about the oil shales of Colorado, but this entire country where we actually are home—the United States is home to six times

Saudi Arabia's proven resources because of the potential for oil shale in this country—1.5 trillion barrels of potential oil shale. That's six times Saudi Arabia's proven resources. That's enough energy to power the United States for the next 200 years.

The gentleman talked about legislation that we have passed to try to keep jobs. You talked about some of the comments that were made that, well, that won't impact our supply until sometime over the next 10 years. Let me just tell you about one bill that we passed last summer, H.R. 2021, passed with bipartisan support.

That bill was focused on a particular project in the Beaufort and Chukchi Sea north of Alaska. In the time that it has taken one company to get a permit for that energy development—an area that's already approved for energy development by this government—it's taken 6 years to get a permit. In the time that it's taken them to try to get that permit—they still don't have it completely done, by the way—but in the time that it took them to get this far, they've drilled over 400 wells around the world, creating jobs around the world, creating energy for other people, creating jobs and resources, economic development for other people, but certainly not in the United States.

Mr. DUNCAN of South Carolina. You're exactly right.

You know, we had a tragic accident. Nobody is running from the fact that Deepwater Horizon was very tragic in the Gulf of Mexico, and we'll learn from that. The oil companies, energy production companies will learn from that. But during that moratorium under the Obama administration—and then later he said he lifted the moratorium, but there was a de facto moratorium because they were failing to issue leases and permits for continued drilling out there.

For companies that already invested billions of dollars in purchasing the rights to those lease areas to explore for energy and produce energy, they were languishing out there, waiting on the drilling permits to come back from Washington. The Department of Energy and the Department of the Interior were slow-walking these permits. And so at some point in time those energy companies said, you know what, we're going to drag those drilling platforms out of the Gulf of Mexico.

They towed them to the shore offshore of Brazil, to the seas offshore Brazil and the seas offshore of Africa. Today, they are drilling for energy in other countries. And we had them here in the Gulf of Mexico producing American energy to lower the price at the pump for American consumers. It's very expensive to get those drilling platforms back to the gulf.

And so, as tragic as Horizon was, we learned from it. The Obama adminis-

tration issued a moratorium to stop that drilling. Then they said, well, we're going to end the moratorium. But then when they failed to issue the leases, it's really a moratorium, it's instituting their policies. And it's going to be very difficult for us to get that production level back in the Gulf of Mexico because it's expensive for those companies to bring those rigs back.

□ 2050

Mr. GARDNER. I think as those rigs have left, as we've seen production occur elsewhere because of the roadblocks to domestic energy production, we see other countries—us becoming even more reliant on overseas energy.

Just a couple of weeks ago, Federal Reserve Chairman Ben Bernanke warned that a major disruption in foreign oil supplies that sends prices skyward could thwart the economic recovery. So the Federal Reserve Chairman has recognized that the more dependent we become on somebody else, if there's a disruption in that supply, a disruption in that overseas energy source that we're relying on, it could thwart our economic recovery.

Let me just go to a chart next.

Mr. DUNCAN of South Carolina. Before do you that, can I just remind you that Admiral Mullen, Chairman of the Joint Chiefs of Staff, along that same line, said, there can be no national security without energy security. There can be no national security without energy security. That's a wake-up call, America.

Mr. GARDNER. That's a great point on national security, because not only do we have economic objectives that we need to achieve with a national energy policy where we're relying on our own production, but we've got national security implications. And if we don't rise to the challenge, we're going to be risking our security because of our reliance on other nations.

To go to the point of energy prices, this chart just illustrates how much gas prices have increased, how high they've increased. \$1.80 over the past several years. The average price of gasoline has increased 42 cents since February of 2011. That's just on average around the country.

The important thing to recognize is the impact that gas price increases have on the American consumer, on American families. All told, each penny increase in the cost of gasoline takes about \$1 billion out of the economy. So as gas prices hit \$3.17 in February, just a few weeks ago, \$3.18, every penny was a billion dollars taken out of the American consumers' pockets, sent overseas. If a 50-cent jump in gasoline prices is sustained over the next year, \$70 billion would be lost in the U.S. economy.

This chart says it all. Go back to January of 2009. The President takes office, \$1.84. If you went and you filled

up your car, \$1.84 a gallon. As of February 23, just a few days ago, just a week ago, \$3.61. Billions of dollars taken away from the American consumer, sent overseas, when we could be using that money right here to create American jobs, reducing the price at the pump.

By spring, perhaps sometime this spring, according to Barron's, gasoline may even reach \$4.50 a gallon. These aren't scare tactics. This is reality that Americans are facing each and every day when they fill up at the pump. Trying to figure out how to make ends meet, trying to make sure they're able to meet their mortgages, pay their bills, put food on the table for their family, \$60 a tank, \$70 a tank to get to work.

What trade-offs are we forcing the American consumer to make, when we have the opportunity to create American energy right here, to build the Keystone XL pipeline, to develop our Federal resources and do it in a responsible manner, do it in a way that creates jobs, giving our own communities the benefit of that exploration, of that development of the tax revenue that they generate.

\$3.61 a gallon, it's unacceptable, and yet we hear talk of increasing production in Saudi Arabia, instead of doing it here? We hear an administration that says, you know, they were against the Keystone pipeline and then they were for it and then they're for part of it. I heard the gentleman from Nebraska (Mr. TERRY), who's been a leader on the XL pipeline, say that that's like a little bit like the rooster trying to take credit for the dawn.

We have an obligation to make sure we're developing our resources right here, right now. We hear others talk about tapping into the Strategic Petroleum Reserve. In fact, just a few headlines in recent days: Secretary Tim Geithner says tapping the Strategic Petroleum Reserve is an option that's on the table for the administration.

An article in Politico on February 25: House Democrat leaders are urging President Obama to open the Strategic Petroleum Reserve.

Another article, that same day: Washington liberals call on President Obama to tap Strategic Petroleum Reserve.

Mr. DUNCAN of South Carolina. Will the gentleman yield?

Mr. GARDNER. Absolutely.

Mr. DUNCAN of South Carolina. I've gotten Facebook posts. I've gotten phone calls in our office encouraging just that, for the President to tap the Strategic Petroleum Reserves to help lessen the price at the pump.

But let me just tell America that it was during the 1970s oil embargo that I remember, as a small child, that Congress created this huge 727 million-barrel reserve that was intended for national security emergencies.

Before President Obama tapped the SPR, the Strategic Petroleum Reserve, back in June of 2011, the reserve had previously only been tapped once for war, the other to combat a natural disaster, and the third time, quite similarly, for political opportunism. And the examples are this:

President Bush, George Herbert Walker Bush, the first Bush, used the SPR, the Strategic Petroleum Reserves, during Operation Desert Storm because we were going to war over there and he was afraid that would disrupt Middle Eastern supplies, and so he tapped those reserves just to make sure Americans didn't suffer because of our actions over there in Operation Desert Storm.

And then in 2005 we had, down along the gulf coast, which is a tremendous energy production area, in Alabama, Mississippi, Louisiana, Texas, we had a little thing called Hurricane Katrina that came through and really disrupted supplies in the Gulf States and did a lot of damage there. And President George W. Bush opened up the strategic reserves to lessen the price at the pump for Americans because we knew there was going to be some supply disruptions.

So we had a natural disaster, and we had a war.

But then in 2000, just another example, President Clinton opened up the supply under the Strategic Petroleum Reserve right before a campaign, right before the Bush-Gore campaign. There wasn't any natural disaster. There wasn't a hurricane bearing down on us. We were not going to war. He was trying to stabilize the market to help him in a political game.

And then we see President Obama, in June of 2011, do the same thing. Instead of focusing on American jobs and American energy production and a long-term energy policy, they're playing games with tapping the strategic reserves which have an intended purpose, and that intended purpose is not to bring the price down at the pump. It's to stabilize the American economy in case of war or in case of a natural disaster.

Now, we've got these reserves sitting there, and we've got a lot of middle eastern unrest with what's going on in Iran and Iran cutting England and Germany or England and France, one of the European countries, off from any oil. It's actually a reverse embargo, where Iran's not going to ship oil to some friendly countries in Europe. And so we're seeing this volatility due to the unrest in Iran.

Shouldn't we, as America, keep that oil in reserve just in case there's a problem over there? Maybe—who knows, maybe there's further disruptions, Strait of Hormuz issue. Strategic reserves are there for a stated purpose, not for political gains.

Mr. GARDNER. I would just make the point that if this administration

acknowledges that by tapping into the Strategic Petroleum Reserve they can increase supplies and, therefore, have an impact on price, isn't it obvious what we ought to be doing as the policy of this country?

Mr. DUNCAN of South Carolina. That's too much common sense.

Mr. GARDNER. If supply is the answer, tapping into the Strategic Petroleum Reserve, we should increase domestic production. We should increase opportunities in the Western United States, on our Outer Continental Shelf. We should utilize the energy that our neighbors to the north are willing to help us out with through the Keystone XL pipeline. Because if the Strategic Petroleum Reserve is, indeed, about supply, the political fix to a supply problem—

Mr. DUNCAN of South Carolina. A Band-Aid, so to speak.

Mr. GARDNER. Why isn't this administration willing to actually do the right thing, do what's necessary to keep our economy afloat, to keep it from running on fumes and make sure that we can produce that energy in our own backyard, increase our opportunities to produce domestic energy?

Mr. DUNCAN of South Carolina. The gentleman from Colorado has been a stalwart and a leader in energy, American energy independence, as a leader of the House Energy Action Team. We call it HEAT, H-E-A-T.

Let me just tell America, if you want to find out some of these details, some of the facts that we've laid out for you in black and white, you can go to the Web site for House Energy Action Team, under the House GOP Web site, and find this data out. We're putting it out there for you. We're not shying away from it. We're not. We're providing this information for you Americans to make informed decisions to understand that these energy bills we pass through the House, they have merit and they would have results if we could get the Senate to take them up, and let's have a true comprehensive energy policy for this country that focuses on American energy independence, that does things right for you Americans to lessen the price that you're paying at the pump, to lessen the price that you're paying on your electricity bill every month.

House Energy Action Team is focused on this. The gentleman from Colorado is a leader on that. Our caucus and our conference is a leader on that.

□ 2100

Mr. GARDNER. Mr. Speaker, I thank the gentleman from South Carolina for his leadership, and this is the third time that we've done that this year already, come down and talk as a group about what we can do to get our energy prices down to relieve the pain at the pump, to make sure that we're restoring our energy independence. So we'll continue this effort.

Last week, I had the opportunity to visit the western slope of Colorado. The vast majority of the land there is owned by the Federal Government. They've seen rigs being sent away, shutdowns, and opportunities, though, of great success where there is a glimmer of hope for increasing development in the western slope of Colorado.

In my district on the eastern plains of Colorado, one county has drilled over 2,100 wells just last year, putting thousands of their people to work, helping create economic opportunity, creating jobs, bringing opportunities to the county that they never would have had otherwise.

So when I talk to people of western Colorado, eastern Colorado, they simply want to do what they do best. That's to run their businesses, to do it in a responsible manner, to do what's right for their children and their grandchildren, and to stop sending the

hundreds and hundreds of billions of dollars that we send each and every year overseas to get energy from them instead of using that money right here on our own families. Every year we send \$331 billion to foreign nations. We can start using that money in our own backyard.

The House Energy Action Team is committed to leading this country to a future of economic growth, economic opportunity, energy security, and energy independence.

I thank my colleagues from South Carolina and New Mexico for joining me tonight.

With that, Mr. Speaker, I yield back the balance of my time.

#### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. NADLER (at the request of Ms. PELOSI) for today.

#### ENROLLED BILL SIGNED

Karen L. Haas, Clerk of the House, reported and found truly enrolled a bill of the House of the following title, which was thereupon signed by the speaker:

H.R. 347. An act to correct and simplify the drafting of section 1752 (relating to restricted buildings or grounds) of title 18, United States Code.

#### ADJOURNMENT

Mr. GARDNER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 2 minutes p.m.), under its previous order, the House adjourned until tomorrow, Thursday, March 1, 2012, at 9 a.m.

#### EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports concerning the foreign currencies and U.S. dollars utilized for Official Foreign Travel during the first quarter of 2012 pursuant to Public Law 95-384 are as follows:

##### REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO BRAZIL, COLOMBIA, AND MEXICO, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 8 AND JAN. 15, 2012

Name of Member or employee	Date		Country	Per diem <sup>1</sup>		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>
Hon. John Boehner .....	1/8	1/10	Brazil .....		904.00		( <sup>3</sup> )				904.00
Hon. Dan Boren .....	1/8	1/10	Brazil .....		904.00		( <sup>3</sup> )				904.00
Hon. Greg Walden .....	1/8	1/10	Brazil .....		904.00		( <sup>3</sup> )				904.00
Hon. Dave Camp .....	1/8	1/10	Brazil .....		904.00		( <sup>3</sup> )				904.00
Hon. Doc Hastings .....	1/8	1/10	Brazil .....		904.00		( <sup>3</sup> )				904.00
Hon. John Kline .....	1/8	1/10	Brazil .....		904.00		( <sup>3</sup> )				904.00
Hon. Devin Nunes .....	1/8	1/10	Brazil .....		904.00		( <sup>3</sup> )				904.00
Barry Jackson .....	1/8	1/10	Brazil .....		904.00		( <sup>3</sup> )				904.00
Dave Schnitger .....	1/8	1/10	Brazil .....		904.00		( <sup>3</sup> )				904.00
Jennifer Stewart .....	1/8	1/10	Brazil .....		904.00		( <sup>3</sup> )				904.00
Janice Robinson .....	1/8	1/10	Brazil .....		904.00		( <sup>3</sup> )				904.00
Hon. John Boehner .....	1/10	1/13	Colombia .....		1,095.00		( <sup>3</sup> )				1,095.00
Hon. Dan Boren .....	1/10	1/13	Colombia .....		1,095.00		( <sup>3</sup> )				1,095.00
Hon. Greg Walden .....	1/10	1/13	Colombia .....		1,095.00		( <sup>3</sup> )				1,095.00
Hon. Dave Camp .....	1/10	1/13	Colombia .....		1,095.00		( <sup>3</sup> )				1,095.00
Hon. Doc Hastings .....	1/10	1/13	Colombia .....		1,095.00		( <sup>3</sup> )				1,095.00
Hon. John Kline .....	1/10	1/13	Colombia .....		1,095.00		( <sup>3</sup> )				1,095.00
Hon. Devin Nunes .....	1/10	1/13	Colombia .....		1,095.00		( <sup>3</sup> )				1,095.00
Barry Jackson .....	1/10	1/13	Colombia .....		1,095.00		( <sup>3</sup> )				1,095.00
Dave Schnitger .....	1/10	1/13	Colombia .....		1,095.00		( <sup>3</sup> )				1,095.00
Jennifer Stewart .....	1/10	1/13	Colombia .....		1,095.00		( <sup>3</sup> )				1,095.00
Janice Robinson .....	1/10	1/13	Colombia .....		1,095.00		( <sup>3</sup> )				1,095.00
Hon. John Boehner .....	1/13	1/15	Mexico .....		610.00		( <sup>3</sup> )				610.00
Hon. Dan Boren .....	1/13	1/15	Mexico .....		610.00		( <sup>3</sup> )				610.00
Hon. Greg Walden .....	1/13	1/15	Mexico .....		610.00		( <sup>3</sup> )				610.00
Hon. Dave Camp .....	1/13	1/15	Mexico .....		610.00		( <sup>3</sup> )				610.00
Hon. Doc Hastings .....	1/13	1/15	Mexico .....		610.00		( <sup>3</sup> )				610.00
Hon. John Kline .....	1/13	1/15	Mexico .....		610.00		( <sup>3</sup> )				610.00
Hon. Devin Nunes .....	1/13	1/15	Mexico .....		610.00		( <sup>3</sup> )		726.00		1,336.00
Barry Jackson .....	1/13	1/15	Mexico .....		610.00		( <sup>3</sup> )				610.00
Dave Schnitger .....	1/13	1/15	Mexico .....		610.00		( <sup>3</sup> )				610.00
Jennifer Stewart .....	1/13	1/15	Mexico .....		610.00		( <sup>3</sup> )				610.00
Janice Robinson .....	1/13	1/15	Mexico .....		610.00		( <sup>3</sup> )				610.00
Committee total .....											29,425

<sup>1</sup> Per diem constitutes lodging and meals.

<sup>2</sup> If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

<sup>3</sup> Military air transportation.

HON. JOHN A. BOEHNER, Feb. 10, 2012.

##### REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO TURKEY, QATAR, SAUDI ARABIA, UNITED ARAB EMIRATES, AND FRANCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 7 AND JAN. 14, 2012

Name of Member or employee	Date		Country	Per diem <sup>1</sup>		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. equivalent or U.S. currency <sup>2</sup>
Hon. Eric Cantor .....	1/7	1/8	Turkey .....		643.00		( <sup>3</sup> )				643.00
Hon. Peter Welch .....	1/7	1/8	Turkey .....		643.00		( <sup>3</sup> )				643.00
Hon. Ileana Ros-Lehtinen .....	1/7	1/8	Turkey .....		643.00		( <sup>3</sup> )				643.00

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO TURKEY, QATAR, SAUDI ARABIA, UNITED ARAB EMIRATES, AND FRANCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 7 AND JAN. 14, 2012—Continued

Name of Member or employee	Date		Country	Per diem <sup>1</sup>		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. equivalent or U.S. currency <sup>2</sup>
Hon. Kay Granger .....	1/7	1/8	Turkey .....		643.00		( <sup>3</sup> )				643.00
Hon. Michael Conaway .....	1/7	1/8	Turkey .....		643.00		( <sup>3</sup> )				643.00
Hon. Shelley Moore Capito .....	1/7	1/8	Turkey .....		643.00		( <sup>3</sup> )				643.00
Hon. Todd Young .....	1/7	1/8	Turkey .....		643.00		( <sup>3</sup> )				643.00
Hon. Mike Kelly .....	1/7	1/8	Turkey .....		512.00		( <sup>3</sup> )				512.00
Hon. Diane Black .....	1/7	1/8	Turkey .....		512.00		( <sup>3</sup> )				512.00
Steve Stombres .....	1/7	1/8	Turkey .....		643.00		( <sup>3</sup> )				643.00
Kyle Nevins .....	1/7	1/8	Turkey .....		643.00		( <sup>3</sup> )				643.00
Brad Dayspring .....	1/7	1/8	Turkey .....		643.00		( <sup>3</sup> )				643.00
Valerie Nelson .....	1/7	1/8	Turkey .....		643.00		( <sup>3</sup> )				643.00
Robert Karem .....	1/7	1/8	Turkey .....		643.00		( <sup>3</sup> )				643.00
Hon. Eric Cantor .....	1/8	1/10	Qatar .....		680.00		( <sup>3</sup> )				680.00
Hon. Peter Welch .....	1/8	1/10	Qatar .....		680.00		( <sup>3</sup> )				680.00
Hon. Ileana Ros-Lehtinen .....	1/8	1/10	Qatar .....		680.00		( <sup>3</sup> )				680.00
Hon. Kay Granger .....	1/8	1/10	Qatar .....		680.00		( <sup>3</sup> )				680.00
Hon. Michael Conaway .....	1/8	1/10	Qatar .....		680.00		( <sup>3</sup> )				680.00
Hon. Shelley Moore Capito .....	1/8	1/10	Qatar .....		680.00		( <sup>3</sup> )				680.00
Hon. Todd Young .....	1/8	1/10	Qatar .....		680.00		( <sup>3</sup> )				680.00
Hon. Mike Kelly .....	1/8	1/10	Qatar .....		452.00		( <sup>3</sup> )				452.00
Hon. Diane Black .....	1/8	1/10	Qatar .....		452.00		( <sup>3</sup> )				452.00
Steve Stombres .....	1/8	1/10	Qatar .....		680.00		( <sup>3</sup> )				680.00
Kyle Nevins .....	1/8	1/10	Qatar .....		680.00		( <sup>3</sup> )				680.00
Brad Dayspring .....	1/8	1/10	Qatar .....		680.00		( <sup>3</sup> )				680.00
Valerie Nelson .....	1/8	1/10	Qatar .....		680.00		( <sup>3</sup> )				680.00
Robert Karem .....	1/8	1/10	Qatar .....		680.00		( <sup>3</sup> )				680.00
Hon. Eric Cantor .....	1/10	1/11	Saudi Arabia .....		397.00		( <sup>3</sup> )				397.00
Hon. Peter Welch .....	1/10	1/11	Saudi Arabia .....		397.00		( <sup>3</sup> )				397.00
Hon. Ileana Ros-Lehtinen .....	1/10	1/11	Saudi Arabia .....		397.00		( <sup>3</sup> )				397.00
Hon. Kay Granger .....	1/10	1/11	Saudi Arabia .....		397.00		( <sup>3</sup> )				397.00
Hon. Michael Conaway .....	1/10	1/11	Saudi Arabia .....		397.00		( <sup>3</sup> )				397.00
Hon. Shelley Moore Capito .....	1/10	1/11	Saudi Arabia .....		397.00		( <sup>3</sup> )				397.00
Hon. Todd Young .....	1/10	1/11	Saudi Arabia .....		397.00		( <sup>3</sup> )				397.00
Hon. Mike Kelly .....	1/10	1/11	Saudi Arabia .....		284.00		( <sup>3</sup> )				284.00
Hon. Diane Black .....	1/10	1/11	Saudi Arabia .....		284.00		( <sup>3</sup> )				284.00
Steve Stombres .....	1/10	1/11	Saudi Arabia .....		397.00		( <sup>3</sup> )				397.00
Kyle Nevins .....	1/10	1/11	Saudi Arabia .....		397.00		( <sup>3</sup> )				397.00
Brad Dayspring .....	1/10	1/11	Saudi Arabia .....		397.00		( <sup>3</sup> )				397.00
Valerie Nelson .....	1/10	1/11	Saudi Arabia .....		397.00		( <sup>3</sup> )				397.00
Robert Karem .....	1/10	1/11	Saudi Arabia .....		397.00		( <sup>3</sup> )				397.00
Hon. Eric Cantor .....	1/11	1/13	United Arab Emirates .....		1,052.00		( <sup>3</sup> )				1,052.00
Hon. Peter Welch .....	1/11	1/13	United Arab Emirates .....		1,052.00		( <sup>3</sup> )				1,052.00
Hon. Ileana Ros-Lehtinen .....	1/11	1/13	United Arab Emirates .....		1,052.00		( <sup>3</sup> )				1,052.00
Hon. Kay Granger .....	1/11	1/13	United Arab Emirates .....		1,052.00		( <sup>3</sup> )				1,052.00
Hon. Michael Conaway .....	1/11	1/13	United Arab Emirates .....		1,052.00		( <sup>3</sup> )				1,052.00
Hon. Shelley Moore Capito .....	1/11	1/13	United Arab Emirates .....		1,052.00		( <sup>3</sup> )				1,052.00
Hon. Todd Young .....	1/11	1/13	United Arab Emirates .....		1,052.00		( <sup>3</sup> )				1,052.00
Hon. Mike Kelly .....	1/11	1/13	United Arab Emirates .....		680.00		( <sup>3</sup> )				680.00
Hon. Diane Black .....	1/11	1/13	United Arab Emirates .....		680.00		( <sup>3</sup> )				680.00
Steve Stombres .....	1/11	1/13	United Arab Emirates .....		1,052.00		( <sup>3</sup> )				1,052.00
Kyle Nevins .....	1/11	1/13	United Arab Emirates .....		1,052.00		( <sup>3</sup> )				1,052.00
Brad Dayspring .....	1/11	1/13	United Arab Emirates .....		1,052.00		( <sup>3</sup> )				1,052.00
Valerie Nelson .....	1/11	1/13	United Arab Emirates .....		1,052.00		( <sup>3</sup> )				1,052.00
Robert Karem .....	1/11	1/13	United Arab Emirates .....		1,052.00		( <sup>3</sup> )				1,052.00
Hon. Eric Cantor .....	1/13	1/14	France .....		545.00		( <sup>3</sup> )				545.00
Hon. Peter Welch .....	1/13	1/14	France .....		545.00		( <sup>3</sup> )				545.00
Hon. Ileana Ros-Lehtinen .....	1/13	1/14	France .....		545.00		( <sup>3</sup> )				545.00
Hon. Kay Granger .....	1/13	1/14	France .....		545.00		( <sup>3</sup> )				545.00
Hon. Michael Conaway .....	1/13	1/14	France .....		545.00		( <sup>3</sup> )				545.00
Hon. Shelley Moore Capito .....	1/13	1/14	France .....		545.00		( <sup>3</sup> )				545.00
Hon. Todd Young .....	1/13	1/14	France .....		545.00		( <sup>3</sup> )				545.00
Hon. Mike Kelly .....	1/13	1/14	France .....		367.00		( <sup>3</sup> )				367.00
Hon. Diane Black .....	1/13	1/14	France .....		367.00		( <sup>3</sup> )				367.00
Steve Stombres .....	1/13	1/14	France .....		545.00		( <sup>3</sup> )				545.00
Kyle Nevins .....	1/13	1/14	France .....		545.00		( <sup>3</sup> )				545.00
Brad Dayspring .....	1/13	1/14	France .....		545.00		( <sup>3</sup> )				545.00
Valerie Nelson .....	1/13	1/14	France .....		545.00		( <sup>3</sup> )				545.00
Robert Karem .....	1/13	1/14	France .....		545.00		( <sup>3</sup> )				545.00
Committee total .....											44,394

<sup>1</sup> Per diem constitutes lodging and meals.<sup>2</sup> If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.<sup>3</sup> Military air transportation.

HON. ERIC CANTOR, Feb. 13, 2012.

EXECUTIVE COMMUNICATIONS,  
ETC.

Under clause 2 of Rule XIV, executive communications were taken from the Speaker's table and referred as follows:

5131. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement: Award Fee Reduction or Denial for Health or Safety Issues (DFARS Case 2011-D033) (RIN: 0750-AH37) received February 15, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

5132. A letter from the Acting Under Secretary, Department of Defense, transmitting authorization of five officers to wear the authorized insignia of the grade rear admiral; to the Committee on Armed Services.

5133. A letter from the Under Secretary, Department of Defense, transmitting request of an extension to deliver the report on the current and future military strategy of Iran; to the Committee on Armed Services.

5134. A letter from the Chief Counsel, Department of Homeland Security, transmitting the Department's final rule — Suspension of Community Eligibility [Docket ID: FEMA-2011-0002] [Internal Agency Docket No.: FEMA-8215] received January 31, 2012,

pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

5135. A letter from the Chief Counsel, Department of Homeland Security, transmitting the Department's final rule — Final Flood Elevation Determinations [Docket ID: FEMA-2011-0002] received January 31, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

5136. A letter from the Secretary, Department of Health and Human Services, transmitting the Department's FY 2011 annual performance report to Congress required by the Prescription Drug User Fee Act of 1992 (PDUFA), as amended, pursuant to 21 U.S.C. 379g note; to the Committee on Energy and Commerce.

5137. A letter from the Secretary, Department of Energy, transmitting uncosted obligation balances of the Department, pursuant to 42 U.S.C. 13526; to the Committee on Energy and Commerce.

5138. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's final rule — Appliance Labeling Rule (RIN: 3084-AB03) received February 8, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5139. A letter from the Deputy Associate Director for Management and Administration and Designated Reporting Official, Office of National Drug Control Policy, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

5140. A letter from the Secretary of the Board of Governors, Postal Service, transmitting the Service's report, as required by Section 3686(c) of the Postal Accountability and Enhancement Act of 2006; to the Committee on Oversight and Government Reform.

5141. A letter from the Senior Program Analyst, Department of Transportation, transmitting the Department's final rule — IFR Altitudes; Miscellaneous Amendments [Docket No.: 30823; Amdt. No. 498] received January 31, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5142. A letter from the Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property (Rev. Rul. 2012-7) received February 7, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5143. A letter from the Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Application for Recognition as a 501(c)(29) Organization [TD 9574] (RIN: 1545-BK64) received February 7, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5144. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Application of survivor annuity requirements to deferred annuity contracts under a defined contribution plan (Rev. Rul. 2012-3) received February 7, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5145. A letter from the Secretary, Department of Health and Human Services, transmitting a report on the progress on implementing the goals and responsibilities of the Medicare-Medicaid Coordination Office; jointly to the Committees on Energy and Commerce and Ways and Means.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. CAMP (for himself, Mr. LEVIN, Mr. BRADY of Texas, Mr. MCDERMOTT, Mr. HERGER, Mr. NUNES, Mr. DAVIS of Kentucky, Mr. REICHERT, Mr. BOUTSANY, Mr. ROSKAM, Mr. GERLACH, Mr. BUCHANAN, Mr. SCHOCK, Mr. PAULSEN, Mr. MARCHANT, Mrs. BLACK, Mr. REED, Mr. RANGEL, Mr. LEWIS of Georgia, Mr. THOMPSON of California, Mr. BLUMENAUER, Mr. KIND, Mr. PAS-

CRELL, Mr. SESSIONS, Ms. SLAUGHTER, Ms. BALDWIN, Mr. MICHAUD, Mr. HIGGINS, Mr. WALBERG, Mr. CRITZ, Mr. JOHNSON of Ohio, Mr. KELLY, Mr. MCKINLEY, Mr. RENACCI, Mr. RIBBLE, Mr. STIVERS, Mr. RICHMOND, Mr. DOGETT, Mr. STARK, Mr. GENE GREEN of Texas, Mr. DONNELLY of Indiana, Mr. OWENS, Mr. CICILLINE, Mr. LIPINSKI, Mr. LOEBACK, Ms. BERKLEY, Ms. SCHWARTZ, Mr. LATOURETTE, Mr. DINGELL, Mr. CRAWFORD, Mr. CRAVACK, Mr. ROE of Tennessee, Mr. CONYERS, Mr. PETERSON, Mr. MCCOTTER, Mr. GIBBS, Mr. TURNER of Ohio, Mrs. ELLMERS, Mr. HASTINGS of Florida, Mr. SCHILLING, Mr. JOHNSON of Georgia, Mr. HULTGREEN, Mr. SHERMAN, Mr. COOPER, Mr. LONG, Mr. MCGOVERN, Mr. MCINTYRE, Mr. NEAL, Mr. CROWLEY, Mr. LARSON of Connecticut, Ms. SUTTON, Ms. SCHAKOWSKY, Mr. VIS-CLOSKY, Mr. KUCINICH, Mr. RYAN of Ohio, Mr. DEFAZIO, Ms. NORTON, Mr. ALTMIRE, Mr. CLAY, Mr. DOYLE, Mr. HOLDEN, Ms. LINDA T. SANCHEZ of California, Mr. RUSH, Mr. ROSS of Arkansas, Ms. MOORE, Mr. PETERS, Ms. KAPTUR, Mr. MORAN, Mr. SHULER, Ms. BASS of California, Mr. KISSLE, Mr. CARSON of Indiana, Mr. MEEKS, Ms. DELAURIO, Mr. TONKO, Mr. BRADY of Pennsylvania, Mr. ELLISON, Mr. KILDEE, Mr. CLARKE of Michigan, Mr. YARMUTH, Mr. PALLONE, and Mr. RAHALL):

H.R. 4105. A bill to apply the counter-vailing duty provisions of the Tariff Act of 1930 to nonmarket economy countries, and for other purposes; to the Committee on Ways and Means.

By Mrs. MALONEY (for herself, Mr. LEWIS of Georgia, Mr. GEORGE MILLER of California, and Mr. SERRANO):

H.R. 4106. A bill to permit employees to request, and to ensure employers consider requests for, flexible work terms and conditions, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committees on Oversight and Government Reform, House Administration, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LAMBORN (for himself, Mr. CLEAVER, Ms. BORDALLO, Mr. AUSTRIA, Ms. NORTON, and Mr. LATTA):

H.R. 4107. A bill to require the Secretary of the Treasury to mint coins in commemoration of the centennial of World War I; to the Committee on Financial Services.

By Ms. BERKLEY:

H.R. 4108. A bill to amend the Internal Revenue Code of 1986 to increase and extend the credit for qualifying advanced energy projects, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Natural Resources, and the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GALLEGLY:

H.R. 4109. A bill to designate additional National Forest System land in the Los Padres National Forest in the State of California as wilderness, to make certain wild and scenic river designations in that National Forest, to designate the Condor Ridge Scenic Area, to address off highway vehicle use in that National Forest, to facilitate a

land exchange with the United Water Conservation District of California, and for other purposes; to the Committee on Natural Resources.

By Mr. MCCAUL (for himself and Ms. ROS-LEHTINEN):

H.R. 4110. A bill to restrict assistance to Pakistan unless the Secretary of State certifies to Congress that the Government of Pakistan is not aiding, assisting, advising, or informing the Haqqani network in any capacity, and for other purposes; to the Committee on Foreign Affairs.

By Mr. GENE GREEN of Texas:

H.R. 4111. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income certain State foster care program payments made to the biological parents of disabled children; to the Committee on Ways and Means.

By Mr. MARINO (for himself and Mr. MEEHAN):

H.R. 4112. A bill to allow screening entities to submit, receive, and screen criminal history record information for purposes of criminal history record information searches on private security officers under the Private Security Officer Employment Authorization Act of 2004; to the Committee on Education and the Workforce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PAYNE:

H.R. 4113. A bill to amend title II of the Elementary and Secondary Education Act of 1965 to help close the gaps in principal preparation and provide new principals with the support and tools they need to meet the complex challenges of school leadership; to the Committee on Education and the Workforce.

By Mr. RUNYAN:

H.R. 4114. A bill to increase, effective as of December 1, 2012, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. STIVERS (for himself and Mr. WALZ of Minnesota):

H.R. 4115. A bill to amend title 38, United States Code, to require, as a condition on the receipt by a State of certain funds for veterans employment and training, that the State ensures that training received by a veteran while on active duty is taken into consideration in granting certain State certifications or licenses, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. RIBBLE (for himself and Mr. RIGELL):

H.J. Res. 105. A joint resolution proposing an amendment to the Constitution of the United States limiting the number of times Senators and Representatives may be elected; to the Committee on the Judiciary.

By Mr. HOYER (for himself, Mr. CONNOLLY of Virginia, Ms. EDWARDS, Mr. MORAN, Ms. NORTON, Mr. VAN HOLLEN, and Mr. WOLF):

H. Con. Res. 106. Concurrent resolution authorizing the use of the Capitol Grounds for the Greater Washington Soap Box Derby; to the Committee on Transportation and Infrastructure.

By Mr. AL GREEN of Texas (for himself, Mr. BUTTERFIELD, Mr. CLARKE of Michigan, Ms. CLARKE of New York,



Mr. CLEAVER, Mr. CONYERS, Mr. CUMMINGS, Ms. BORDALLO, Mr. DAVIS of Illinois, Mr. FATTAH, Ms. NORTON, Mr. JACKSON of Illinois, Ms. JACKSON LEE of Texas, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. JOHNSON of Georgia, Ms. LEE of California, Mr. LEWIS of Georgia, Ms. MCCOLLUM, Mr. MEEKS, Mr. RANGEL, Ms. RICHARDSON, Mr. RUSH, Ms. SEWELL, Mr. WATT, Ms. WILSON of Florida, Mr. CARNAHAN, Ms. BASS of California, Mr. RICHMOND, Mr. CLYBURN, Mr. COHEN, Mrs. CHRISTENSEN, Mr. TOWNS, Mr. PAYNE, Ms. WATERS, Mr. BISHOP of Georgia, Ms. BROWN of Florida, Mr. HASTINGS of Florida, Mr. SCOTT of Virginia, Mr. CUELLAR, Mr. THOMPSON of Mississippi, Mr. CLAY, Mr. DAVID SCOTT of Georgia, Ms. MOORE, Mr. ELLISON, Mr. CARSON of Indiana, Ms. EDWARDS, Ms. FUDGE, and Mr. WEST):

H. Res. 567. A resolution recognizing the significance of Black History Month; to the Committee on Education and the Workforce.

### CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 7 of rule XII of the Rules of the House of Representatives, the following statements are submitted regarding the specific powers granted to Congress in the Constitution to enact the accompanying bill or joint resolution.

By Mr. CAMP:

H.R. 4105.

Congress has the power to enact this legislation pursuant to the following:

Section 8 of Article I of the U.S. Constitution.

By Mrs. MALONEY:

H.R. 4106.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clause 3

The Congress shall have Power \* \* \* To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes.

By Mr. LAMBORN:

H.R. 4107.

Congress has the power to enact this legislation pursuant to the following:

Clause 6, Section 8, Article 1, which states "The Congress shall have the power . . . to coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures."

By Ms. BERKLEY:

H.R. 4108.

Congress has the power to enact this legislation pursuant to the following:

Article 1, Section 8.

By Mr. GALLEGLY:

H.R. 4109.

Congress has the power to enact this legislation pursuant to the following:

Under Article IV, Section 3, Clause 2 of the United States Constitution, the power of Congress to make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States. As well as Article I, Section 8, Clause 18, relating to the power to make all laws necessary and proper for carrying out the powers vested in Congress.

By Mr. McCAUL:

H.R. 4110.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8 of the U.S. Constitution.

By Mr. GENE GREEN of Texas:

H.R. 4111.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clause 1

By Mr. MARINO:

H.R. 4112.

Congress has the power to enact this legislation pursuant to the following:

Clause 3 of section 8 of article I of the Constitution.

By Mr. PAYNE:

H.R. 4113.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clause 3 of the Constitution

The Congress shall have Power . . . To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes.

By Mr. RUNYAN:

H.R. 4114.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8 of the Constitution of the United States.

By Mr. STIVERS:

H.R. 4115.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clause 1 of the United States Constitution.

By Mr. RIBBLE:

H.J. Res. 105.

Congress has the power to enact this legislation pursuant to the following:

The constitutional amendment authority and process set forth in Article V of the U.S. Constitution.

### ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 115: Ms. CHU.

H.R. 140: Mr. UPTON.

H.R. 273: Mr. GOSAR, Mr. COURTNEY, and Mr. HINOJOSA.

H.R. 303: Mr. ROONEY, Mr. SCHRADER, and Mr. TIERNEY.

H.R. 324: Mr. ROTHMAN of New Jersey, Ms. SUTTON, Mr. SIRES, and Mr. HOLDEN.

H.R. 327: Mr. ROTHMAN of New Jersey, Mr. HOLT, Mr. GENE GREEN of Texas, and Mr. COSTELLO.

H.R. 329: Mr. LARSON of Connecticut and Mr. SCHRADER.

H.R. 370: Mr. HONDA.

H.R. 396: Mr. THOMPSON of California.

H.R. 452: Mr. GRAVES of Georgia.

H.R. 458: Mrs. DAVIS of California and Mr. GARAMENDI.

H.R. 511: Mr. POLIS.

H.R. 555: Ms. ZOE LOFGREN of California.

H.R. 576: Ms. BROWN of Florida.

H.R. 664: Mr. DOGGETT.

H.R. 692: Mr. LAMBORN.

H.R. 719: Mr. CUELLAR and Mr. MCINTYRE.

H.R. 745: Mrs. HARTZLER.

H.R. 777: Ms. BONAMICI.

H.R. 785: Mr. LANDRY.

H.R. 807: Mr. CLARKE of Michigan.

H.R. 860: Mr. MARINO, Mr. DESJARLAIS, Mr. ROSS of Arkansas, Mr. REHBERG, Ms. CASTOR of Florida, and Mr. SCHIFF.

H.R. 892: Mr. ELLISON.

H.R. 964: Mrs. MALONEY.

H.R. 1041: Mr. DAVID SCOTT of Georgia and Mr. FORBES.

H.R. 1167: Mr. QUAYLE.

H.R. 1172: Mr. PAYNE.

H.R. 1175: Mr. SCHOCK.

H.R. 1179: Mr. HURT, Mr. GIBSON, Mr. ISSA, Mr. DESJARLAIS, and Mr. SIMPSON.

H.R. 1182: Mr. ROSS of Florida and Mr. QUAYLE.

H.R. 1206: Mr. GRIFFITH of Virginia, Mr. BONNER, and Mrs. HARTZLER.

H.R. 1259: Mr. AMODEI, Mr. HENSARLING, Ms. BUERKLE, and Mr. CRAVAACK.

H.R. 1332: Mr. COSTA and Mr. HIMES.

H.R. 1342: Mr. ROTHMAN of New Jersey.

H.R. 1375: Mr. ANDREWS, Mr. DEFAZIO, Mr. FITZPATRICK, Mrs. CHRISTENSEN, and Ms. MATSUI.

H.R. 1412: Mr. DOLD.

H.R. 1418: Mr. MARCHANT.

H.R. 1451: Ms. BONAMICI and Ms. DELAURO.

H.R. 1498: Mr. HONDA and Ms. HAHN.

H.R. 1505: Mr. COBLE.

H.R. 1561: Mr. RANGEL and Ms. WOOLSEY.

H.R. 1639: Mr. UPTON.

H.R. 1738: Mr. GARAMENDI.

H.R. 1756: Mr. BENISHEK.

H.R. 1781: Mr. AL GREEN of Texas and Mr. COHEN.

H.R. 1842: Mr. FILNER.

H.R. 1919: Mr. CLAY.

H.R. 1936: Ms. CASTOR of Florida.

H.R. 1946: Mr. KISSELL.

H.R. 2077: Mr. DUFFY, Mr. HECK, Mrs. BACHMANN, and Mr. BROUN of Georgia.

H.R. 2104: Mr. BARTLETT, Mr. MCGOVERN, Mr. GARAMENDI, Mr. BLUMENAUER, Mr. RANGEL, Mr. MCKINLEY, Ms. SPEIER, and Mr. BERMAN.

H.R. 2124: Mr. HARRIS.

H.R. 2139: Mr. SARBANES and Ms. WILSON of Florida.

H.R. 2145: Mr. MARCHANT and Mr. NUNNELEE.

H.R. 2179: Mr. GRIFFITH of Virginia and Mrs. BLACK.

H.R. 2182: Ms. MATSUI.

H.R. 2187: Mr. FARR.

H.R. 2242: Mr. KISSELL.

H.R. 2245: Mr. CRITZ and Ms. RICHARDSON.

H.R. 2268: Mr. PENCE.

H.R. 2288: Mr. RUNYAN.

H.R. 2299: Mr. GRIFFITH of Virginia.

H.R. 2364: Mr. HIMES.

H.R. 2381: Mr. PETRI.

H.R. 2563: Mr. ROYCE.

H.R. 2595: Mr. PAYNE.

H.R. 2600: Ms. WOOLSEY.

H.R. 2689: Ms. WATERS, Ms. KAPTUR, Ms. CHU, Mr. TOWNS, Ms. RICHARDSON, Ms. JACKSON LEE of Texas, Mr. CUMMINGS, Mrs. CHRISTENSEN, and Mr. PAYNE.

H.R. 2697: Mr. BUCHSON, Ms. BONAMICI, Mr. HULTGREN, and Mr. MARINO.

H.R. 2698: Mr. REHBERG.

H.R. 2718: Mr. WELCH.

H.R. 2787: Mr. BARROW and Mr. CONNOLLY of Virginia.

H.R. 2941: Mr. KING of New York.

H.R. 3001: Mr. VAN HOLLEN.

H.R. 3015: Mr. BARROW and Mr. MCGOVERN.

H.R. 3039: Mr. MURPHY of Connecticut.

H.R. 3066: Mr. PALAZZO.

H.R. 3130: Mr. SCHWEIKERT.

H.R. 3132: Ms. ROYBAL-ALLARD.

H.R. 3134: Mr. NADLER.

H.R. 3143: Mr. DANIEL E. LUNGREN of California.

H.R. 3145: Mr. LARSON of Connecticut.

H.R. 3164: Ms. HAHN and Mr. SHERMAN.

H.R. 3179: Mr. MARCHANT, Mr. YOUNG of Indiana, Ms. NORTON, and Mr. AUSTIN SCOTT of Georgia.

H.R. 3187: Mr. PAYNE and Ms. HAYWORTH.

H.R. 3192: Mr. CONNOLLY of Virginia.

H.R. 3200: Mr. SARBANES, Ms. HANABUSA, and Mr. BARLETTA.

H.R. 3252: Mr. WEST.  
 H.R. 3264: Mrs. ADAMS, Mrs. BACHMANN, and Mr. FLEMING.  
 H.R. 3269: Mr. FLEISCHMANN.  
 H.R. 3307: Ms. BONAMICI.  
 H.R. 3324: Ms. WASSERMAN SCHULTZ.  
 H.R. 3368: Mr. CONYERS, Mr. PASTOR of Arizona, and Mr. GUTIERREZ.  
 H.R. 3423: Mr. MICA, Mrs. BLACKBURN, Mr. HINCHAY, Mr. ENGEL, Mrs. MALONEY, and Mr. KISSELL.  
 H.R. 3458: Mr. INSLEE.  
 H.R. 3481: Mr. MURPHY of Pennsylvania.  
 H.R. 3525: Mr. CLEAVER.  
 H.R. 3541: Mr. WEST, Mr. STIVERS, Mr. OLSON, Mr. SCHWEIKERT, and Mr. GINGREY of Georgia.  
 H.R. 3573: Mr. BRADY of Pennsylvania.  
 H.R. 3591: Ms. BONAMICI.  
 H.R. 3596: Mr. BOSWELL.  
 H.R. 3634: Mrs. MYRICK.  
 H.R. 3643: Mr. LANCE.  
 H.R. 3646: Mr. ELLISON.  
 H.R. 3710: Mr. RICHMOND, Mr. AL GREEN of Texas, Mr. DAVIS of Illinois, Ms. SEWELL, Mr. TOWNS, and Mr. THOMPSON of Mississippi.  
 H.R. 3720: Mr. LAMBORN.  
 H.R. 3728: Mr. BARTLETT and Mr. HARRIS.  
 H.R. 3773: Mr. CUELLAR.  
 H.R. 3783: Mrs. ADAMS, Mr. HARRIS, and Mr. MARINO.  
 H.R. 3798: Mr. ROTHMAN of New Jersey, Ms. SCHAKOWSKY, Ms. MCCOLLUM, Mr. RANGEL, Mr. OLVER, Mr. WELCH, Mr. FITZPATRICK, Mr. SMITH of New Jersey, and Mr. GARY G. MILLER of California.  
 H.R. 3803: Mr. LUCAS, Mr. FLAKE, Mr. KINZINGER of Illinois, Mr. COSTELLO, Mr. RYAN of Wisconsin, Mr. OLSON, and Mr. RIVERA.  
 H.R. 3805: Mr. SCHWEIKERT.  
 H.R. 3806: Mr. HARRIS.  
 H.R. 3826: Ms. DELAULO and Mr. SIRES.  
 H.R. 3842: Mr. NUNNELEE.  
 H.R. 3847: Ms. SLAUGHTER.  
 H.R. 3849: Mr. COLE, Mr. SULLIVAN, and Mr. JONES.  
 H.R. 3855: Mr. HUNTER, Mr. FILNER, and Mr. PASCRELL.  
 H.R. 3863: Mr. SENSENBRENNER.  
 H.R. 3881: Ms. NORTON and Mr. MORAN.  
 H.R. 3895: Mr. ROE of Tennessee.  
 H.R. 3911: Mr. HOLDEN.  
 H.R. 3981: Mr. AUSTIN SCOTT of Georgia.  
 H.R. 3984: Mr. GUTIERREZ and Mr. NADLER.

H.R. 3992: Mr. ACKERMAN.  
 H.R. 4010: Mr. ENGEL, Mr. RICHMOND, Mr. CLARKE of Michigan, Ms. MOORE, Mr. HASTINGS of Florida, Mrs. MCCARTHY of New York, Mr. GRIJALVA, Mrs. LOWEY, Mr. KILDEE, and Mr. CARSON of Indiana.  
 H.R. 4017: Mr. ROTHMAN of New Jersey.  
 H.R. 4038: Mr. GUTIERREZ.  
 H.R. 4040: Mr. ALEXANDER, Mr. BARROW, Mr. BARTON of Texas, Mr. BILBRAY, Mr. BISHOP of Georgia, Mr. BOREN, Mr. BOUTSTANY, Mr. CALVERT, Mr. CAMPBELL, Mr. CANSECO, Mr. CARNEY, Mr. CARTER, Mr. CHANDLER, Mr. CLARKE of Michigan, Mr. CLYBURN, Mr. COOPER, Mr. COSTA, Mr. CRENSHAW, Mr. CROWLEY, Mr. GALLEGLY, Mr. GOHMERT, Mr. KING of Iowa, Mr. KLINE, Mr. LEWIS of California, Mr. MACK, Mrs. MALONEY, Mr. MCKEON, Mr. MICA, Mr. GARY G. MILLER of California, Mrs. NAPOLITANO, Mr. RAHALL, Mr. REHBERG, Mr. ROSS of Arkansas, Ms. ROYBAL-ALLARD, Mr. SCHRADER, Mr. SHULER, Mr. TOWNS, Mr. VAN HOLLEN, Mr. YOUNG of Florida, Mr. KUCINICH, and Mr. FALEMOVAEGA.  
 H.R. 4046: Mr. WALBERG, Mr. BARTON of Texas, and Mr. HUELSKAMP.  
 H.R. 4069: Mr. PITTS, Mr. BILBRAY, Mr. HUNTER, Mr. HERGER, Mr. FRANKS of Arizona, Mr. JONES, Mr. KINGSTON, Mr. WOLF, and Mr. WEST.  
 H.R. 4070: Mr. JONES and Mr. DENT.  
 H.R. 4087: Ms. ROS-LEHTINEN and Mr. MORAN.  
 H.R. 4089: Mr. DUNCAN of South Carolina.  
 H.R. 4095: Mr. ROGERS of Kentucky.  
 H.J. Res. 78: Mr. ENGEL.  
 H.J. Res. 88: Mr. ENGEL.  
 H.J. Res. 103: Mr. PALAZZO and Mr. ROKITA.  
 H.J. Res. 104: Mr. YODER.  
 H. Res. 25: Mr. PASCRELL.  
 H. Res. 271: Mr. BARTON of Texas and Mrs. HARTZLER.  
 H. Res. 341: Mrs. CAPPS, Mr. MCGOVERN, Mr. GRIJALVA, and Mr. DOYLE.  
 H. Res. 413: Ms. HOCHUL.  
 H. Res. 485: Mr. RANGEL, Mr. WOLF, and Mr. LIPINSKI.  
 H. Res. 526: Mr. RIVERA.  
 H. Res. 546: Mrs. MYRICK.  
 H. Res. 552: Ms. MCCOLLUM.  
 H. Res. 556: Mr. MARCHANT, Mr. AKIN, Mr. CAPUANO, Mr. WALBERG, Mr. DEUTCH, Mr. WOMACK, Mr. GARDNER, Mr. RIVERA, Mr. VAN HOLLEN, Mr. FILNER, Mrs. BLACK, Mr. GOOD-

LATTE, Mr. NUNES, Mr. SCHOCK, Mr. GOSAR, Mr. TURNER of New York, Mr. WESTMORELAND, Ms. BUERKLE, Mr. WEBSTER, Mr. GRIFFITH of Virginia, Mr. MEEHAN, Mr. ROSKAM, Mr. BRADY of Texas, Mrs. ADAMS, Mr. REHBERG, Mr. ROGERS of Alabama, Mr. RIGELL, Mr. HIGGINS, Mr. DAVID SCOTT of Georgia, Mr. PASCRELL, Mr. SIRES, Mr. SCHWEIKERT, Mr. COSTA, Mr. LUETKEMEYER, Mr. ROTHMAN of New Jersey, Mr. SCALISE, Mr. CICILLINE, Mr. LIPINSKI, Mr. JOHNSON of Georgia, Mrs. LOWEY, Mr. HUNTER, Mr. KING of New York, Mr. MCCAUL, Mr. YOUNG of Florida, Ms. BASS of California, Mr. PETERS, Mr. COURTNEY, Mr. CONNOLLY of Virginia, Ms. KAPTUR, and Mr. ANDREWS.

#### CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, OR LIMITED TARIFF BENEFITS

Under clause 9 of rule XXI, lists or statements on congressional earmarks, limited tax benefits, or limited tariff benefits were submitted as follows:

##### OFFERED BY MR. HASTINGS OF WASHINGTON

Senate bill 1134 is aimed at ensuring the federal Wild and Scenic Act is not used to block the states of Wisconsin and Minnesota from replacing an 80-year-old bridge over the St. Croix River.

This Senate bill is similar to H.R. 850, which the House Natural Resources Committee favorably reported in October of last year, and, like H.R. 850, it is in compliance with House Rule XXI, clause 9. S. 1134 does not contain congressional earmarks, limited tax benefits, or limited tariff benefits.

Senate bill 1134 affects multiple states and removes a prohibition from federal law that is being used as a barrier to two states replacing a bridge.

#### DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1912: Mr. ROYCE.

## EXTENSIONS OF REMARKS

### HONORING THE RETIREMENT OF MR. WILMOT N. SUMMERALL III

#### HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 29, 2012*

Mr. MORAN. Mr. Speaker, I rise today to recognize and pay tribute to an outstanding public servant, Wilmot N. Summerall III, for his more than 33 years of service within the civilian leadership of the Department of Defense. It is my great pleasure to recognize his achievements and to thank him and his family for their service to the Navy and our nation.

Mr. Summerall began his public service as a mining engineer with the United States Geological Survey (USGS) and is concluding his career as Executive Director for the Combatants Office, Program Executive Office, Ships, where he oversees one of the most complex acquisition portfolios in the Navy—including more than \$36 billion in new construction programs, encompassing \$16 billion currently under contract and \$20 billion in future programming. Highly respected throughout the DoD acquisition community for his unsurpassed knowledge, unwavering perseverance, and the courage of his convictions, he leaves a long and lasting legacy to our nation—both through his unparalleled contributions to the strength and flexibility of our Navy's surface forces and through the generation of professionals that he has mentored during his time in federal service.

Mr. Summerall has a long and distinguished career of innovative thinking and aggressive execution of shipbuilding programs across the entire spectrum of naval shipbuilding. Since joining the federal service in 1978, which includes becoming a member of the Senior Executive Service in 2004, he has held a variety of key leadership roles, including senior positions with the Naval Sea Systems Command and the office of the Assistant Secretary of the Navy for Financial Management and Comptroller. A visionary leader and revered expert in the field of defense acquisition, Mr. Summerall has led the Navy's surface combatant shipbuilding activities through some of the most challenging and dynamic times of our modern Navy—with vision, insight, and determination. Challenged to help build the Surface Fleet of the future in a profoundly austere fiscal environment, he has worked relentlessly to foster support and understanding for leading edge ship programs at the highest levels of the Navy, Defense, and Congress. He truly leads by example, consistently compelled to do the right thing on behalf of our nation's Sailors and Marines—America's sons and daughters—who serve on the products he has tirelessly supported. His efforts have helped result in a monumental leap forward in the strength and capability of the Navy's current and future Surface Fleet.

In 2004, Mr. Summerall joined the Program Executive Office, Ships, where he played a critical role in defining and fielding the Navy's future Surface Fleet. During his tenure and as a result of his sound stewardship, the Navy has commissioned 19 surface combatants into the Fleet, including the nation's first two Littoral Combat Ships; restarted production of the Arleigh Burke (DDG 51) Class guided missile destroyers; and begun design and construction of the Navy's next generation destroyer, the Zumwalt (DDG 1000) Class. In 2011 alone, he oversaw contract awards and options for an additional 26 ships, valued at \$12 billion. He has consistently encouraged innovation while driving implementation of best practices across his programs, resulting in the introduction of hybrid electric drive, common class-wide acquisition management processes, bold changes to acquisition strategies, major increases in design maturity, more efficient work sequencing, increased competition and smart buying practices. At the heart of his efforts has been a relentless drive to improve the strength, capability, and flexibility of our operating forces at the best possible value to the American public.

Mr. Summerall's contributions to our nation extend far beyond his material achievements and programmatic accomplishments. His unique ability to recognize talent and to foster respect and camaraderie throughout the workforce has had an enormous influence on our nation's next generation acquisition professionals and will continue to steer the course of our Navy well into the future.

Throughout his distinguished federal service career, Mr. Summerall has been honored with numerous awards for his service, including the Meritorious Presidential Rank Award, the Department of Defense Value Engineering Award and the Department of the Navy Competition and Procurement Excellence Award.

Mr. Summerall's tireless leadership and life-long commitment to the Navy's shipbuilding capability have earned him the deep respect of his peers and shipmates throughout the Navy acquisition and fleet support communities. It is, therefore, a pleasure to recognize him for his many contributions in a life devoted to our nation's security. I know my colleagues join me in wishing him and his wife Linda much happiness and fair winds and following seas as they begin a new chapter in their lives together.

### PERSONAL EXPLANATION

#### HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 29, 2012*

Ms. LEE of California. Mr. Speaker, I was not present for roll call votes 74–79. Had I been able to vote, I would have voted no on

H. Res. 563, yes on the Grijalva amendment to H.R. 2117, yes on the Bishop amendment to H.R. 2117, yes on the Polis amendment #5 to H.R. 2117, yes on the Democratic motion to recommit H.R. 2117 and no on final passage of H.R. 2117.

### HONORING EDITH PITTENGER ON HER 100TH BIRTHDAY

#### HON. MIKE PENCE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 29, 2012*

Mr. PENCE. Mr. Speaker, I rise to honor Edith Pittenger on the occasion of her 100th birthday.

Edith was born in Pendleton, Indiana, on February 24, 1912. She went on to attend Ball State University in 1929, and later earned her masters degree in 1961. Edith enjoyed a long and satisfying career in teaching, having held positions in both Pendleton and Muncie.

Edith is blessed with excellent health and is still able to drive. She is also a long-time member of St. Paul's United Methodist Church. She was married for 45 years and her loving family includes three children and a stepson, 10 grandchildren, 22 great-grandchildren, four great-great-grandchildren and another on the way.

As the Good Book says, "The elders [. . .] are worthy of double honor, especially those whose work is preaching and teaching." And so today I honor Edith Pittenger for her lifetime and service and wish her the best in the years to come.

### HONORING CLAY COUNTY DETECTIVE DAVID WHITE

#### HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 29, 2012*

Mr. STEARNS. Mr. Speaker, I rise today to recognize Clay County Detective David White who was killed in the line of duty on February 16, 2012 at age 35. Detective White and his partner, Detective Matt Hanlin, were in the process of breaking up a meth lab in Middleburg, Florida. Detective Hanlin was shot in the arm and is expected to recover. White is the first Clay County deputy shot on duty in nearly 40 years and the first killed in the line of duty since 1913. He is not only a hero as part of the Clay County Sheriff's Office, but also in his service as a specialist in the U.S. Army Reserve as a military police platoon team leader in deployments to Croatia, Bosnia and Iraq. He is survived by his wife and two children, ages 5 months and 4 years old; he and his family are in our prayers. David's life is a testament to the courage and sense of duty that

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

men and women possess, who chose to dedicate their lives to defend us all. His tragic death is not in vain but a tribute to the highest ideals of self-sacrifice for freedom and justice. God Bless him.

#### PASSING OF ANTHONY SHADID

##### HON. DAN BOREN

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 29, 2012*

Mr. BOREN. Mr. Speaker, last week the world lost an incredible journalist, and Oklahoma lost a son: Anthony Shadid. At the time of his death Anthony was covering the turmoil in Syria, despite the many attempts to limit media coverage of the violence. This attitude marked Anthony's entire career—he put the importance of sharing information before his personal safety. For 15 years, Anthony worked relentlessly to investigate and bring to light the events in the Middle East.

Anthony was a two-time Pulitzer Prize winner for his reporting on the U.S. invasion of Iraq in 2004 and for the withdrawal of U.S. troops six years later, but he transcended traditional reporting. He was unafraid as he pushed into the front lines, and he often faced dangerous situations head-on.

While Anthony Shadid will always be remembered for his courageous reporting, he also leaves behind a loving family. Anthony's wife, Nada Bakri, is also a reporter for the New York Times; Anthony also has two young children, Malik and Laila. Several members of his family remain in Oklahoma, including his cousin Ed Shadid, a city councilman in Oklahoma City.

My family's deepest sympathies go out to the Shadid's and everyone else whose life was touched by Anthony.

#### IN HONOR OF LARRY HORAN

##### HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 29, 2012*

Mr. FARR. Mr. Speaker, I rise today on behalf of myself and my late father, State Senator Fred Farr, to honor the life of a dear family friend, Larry Horan, who died recently at the all too young age of eighty-two following a short illness. Larry became a dear personal friend of my father, and for much of my own life, was like an uncle to me. He was a skilled lawyer and devoted family man whose example of public service and dedication to others served as a model for everybody who has the good fortune to know him.

Larry and his wife of fifty-eight years, Jean, were both University of California graduates. They raised five children who in turn gave them twelve grandchildren. Larry and Jean's deep friendship with my late father made them almost a part of my own family, and I theirs. Indeed, as Larry's melanoma took hold, he and Jean approached my wife Shary to help them work the issues that they faced as the end of Larry's life neared. Horan was a devout

Catholic who attended 8 a.m. Mass at the Carmelite Monastery virtually every day. I always knew Larry to be concerned about the others around him. It was never about Larry. I don't think he had a negative bone in his body.

Larry was an attorney for more than fifty years and one of the most respected in Monterey County. During a rich and full life, he directed the Peace Corps in three Central and South American countries, was a regional director of President Johnson's War on Poverty, served on the board of the Monterey Institute of International Studies, and was a leader of the Special Olympics. Horan's wide-ranging law practice included civil litigation, conservation easements, and land use among other areas. Upon graduation from the Boalt Hall School of Law at the University of California, Larry signed on as a prosecutor in the Alameda County District Attorney's office. After five years as a prosecutor, my father, then state Sen. Fred Farr, lured Larry and his wife Jean to the Monterey Peninsula in 1960 to join his law firm. Their partnership and friendship lasted many years. The law partnership grew and transformed and has become one of the leading firms on the Central Coast, with the Horan name at the lead.

The Horans were great admirers of President John F. Kennedy, whose assassination in 1963 spurred them to change their lives. Following JFK's call to service, Larry and Jean became a Peace Corps family. With their four young children, Kevin, Kathleen, Maurine, and Stephen, they set out for Central America. Larry eventually served as agency director in El Salvador and Costa Rica and in Colombia, where their youngest daughter Laura was born and where I was already serving as a Peace Corps volunteer in Medellin. Following the Peace Corps, Sargent Shriver tapped Larry to head the Western Regional office for President Johnson's War on Poverty. Later, Shriver asked Larry to establish and chair the Northern California Chapter of the Special Olympics.

Mr. Speaker, I know I speak for the whole House in recognizing the contributions that Larry Horan made to make this world a better place. We offer our condolences to his family and friends. Those of us who had the good fortune to have known Larry are better people for the experience.

#### IN HONOR OF KAY HIND

##### HON. SANFORD D. BISHOP, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 29, 2012*

Mr. BISHOP of Georgia. Mr. Speaker, I rise today to pay tribute to an outstanding community leader and good friend to me and the community of Albany, Georgia—Mrs. Kay Hind of the Southwest Georgia Council on Aging. On Thursday, February 23, 2012, the Georgia Council on Aging honored Mrs. Hind at a reception in the Georgia State Capitol Rotunda after she received the Distinguished Older Georgian Award on the floor of the Georgia House of Representatives.

The Distinguished Older Georgian Award was created in January 2003 by the Georgia

Council on Aging and is bestowed to a Georgian who is at least 80 years of age and has made significant contributions to society through their occupational or volunteer efforts.

Mrs. Hind hails from Albany, Georgia and received her BS degree in Home Economics at the University of Georgia in 1951. After she graduated from college, Mrs. Hind worked as a Home Economist Extension Agent in Crawford County, Georgia and a year later she accepted a similar position in Lee County, Georgia.

For 44 years, Mrs. Hind has admirably served as the Executive Director of the Southwest Georgia Council on Aging, an agency that oversees programs for senior citizens in 14 counties in Southwest Georgia. This distinguished agency was incorporated in 1966 to address the needs of older people in Dougherty County, Georgia. Over the years, Mrs. Hind has successfully led the agency to meet the needs of the ever-increasing number of senior citizens living in southwest Georgia.

Due in large part to her successful professional career and her unyielding advocacy on behalf of America's seniors, Mrs. Hind has been recognized repeatedly for her occupational achievements. Mrs. Hind has received the Trailblazer Award from the 100 Black Men of Southwest Georgia; the Georgia Gerontology Society's John Tyler Mauldin Award; the Darton College Woman of Worth Award; and the Elsie Alvis Excellence in Aging Award. Additionally, she has served as a delegate to the White House Conference on Aging on four separate occasions.

Mrs. Hind has achieved numerous successes in her life, but none of this would have been possible without the support of her late husband of 39 years, Mr. John Carswell Hind and her three loving children—Richard, Ken and Gail.

On a personal note, Mrs. Hind has served as an advisor and friend to me for many years and she has frequently given me wise counsel and sound advice. I am especially grateful to her for her unyielding advocacy and ongoing efforts in trying to secure a new, state of the art senior center in Albany, Georgia. Her tireless efforts in fighting for this new facility is just one of the many reasons that people throughout the state of Georgia and across our country have come to admire and respect Mrs. Hind.

Mr. Speaker, I ask my colleagues to join me today in paying tribute to Mrs. Kay Hind for her life of selfless service to the seniors and working families in Georgia and throughout our United States of America.

#### RECOGNITION OF THE PEACE CORPS' 51ST ANNIVERSARY

##### HON. JESSE L. JACKSON, JR.

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 29, 2012*

Mr. JACKSON of Illinois. Mr. Speaker, I rise today to congratulate the Peace Corps on its 51st anniversary and to recognize the anniversary and to recognize the outstanding work the organization has done in its years of service. Since 1961, the Peace Corps has placed

over 200,000 volunteers in 139 countries. While abroad, volunteers make significant contributions in developing nations through assistance with agriculture, business development, information technology, education, health, HIV/AIDS, youth development, and the environment.

I am honored to congratulate the Peace Corps. Currently, the Corps has over 9,000 volunteers throughout Africa, Asia, the Caribbean, Central America, South America, Europe, the Pacific Islands, and the Middle East. As a member of the Foreign Operations Subcommittee I make a consistent effort to ensure the Peace Corps has adequate funding to fulfill its mission. Peace Corps volunteers have long been instrumental in improving millions of lives, in addition to helping foster strong relationships between the United States and other countries around the world. The assistance the Peace Corps volunteers provide is an outstanding example of the United States' commitment to making the world a better place through not only compassion, but also development opportunities, like language training, youth skills development services, and much more.

One shining example of the success of the Peace Corps has been its tremendous leadership in the global fight against the HIV/AIDS pandemic. In 2010, approximately 34 million people lived with HIV/AIDS, with 22 million of those cases located in sub-Saharan Africa. I firmly believe the work done by the Peace Corps has had a tremendous impact in areas that have been disproportionately exposed to this virus. The volunteers use their unique training to teach HIV/AIDS prevention in a way that is culturally sensitive to local customs allowing Peace Corps professionals to provide essential health services to HIV/AIDS patients.

Finally, I would like to take a moment and give special recognition to the members of my district that are currently serving in the Peace Corps:

Manuel A. Colon, serving in Paraguay from 09-Dec-2010 until 15-Dec-2012

Hannah Gdallman, serving in Guatemala from 16-Jul-2010 until 15-Jul-2012

Sarah A. Kopper, serving in Senegal from 15-Oct-2010 until 05-Oct-2012

Marjorie A. Larson, serving in Mali 03-Sep-2010 until 10-Sep-2012

Ryne G. Peterson, serving in Moldova 08-Aug-2009 until 08-Jun-2012

Phebe I. Philips-Adeyelu, serving in Macedonia 25-Nov-2010 until 24-Nov-2012

Glenise A. Rice, serving in Panama 01-Jul-2010 until 29-Jun-2012

Thank you Peace Corps for 51 years of global service and leadership.

#### TRIBUTE TO SISTER JOAN KATHLEEN

#### HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 2012

Mr. PASCRELL. Mr. Speaker, I rise today to recognize Sister Joan Kathleen for her continued contributions towards the advancement of the intellectually and developmentally dis-

abled. As an educator, mentor, and member of St. Thomas the Apostle Church in Oak Ridge, New Jersey, Sister Joan has dedicated her life to bettering the lives of others.

Sister Joan is one of three children and grew up in Philadelphia, Pennsylvania. After graduating from St. Hubert's High School, Sister Joan went on to receive her Bachelor's degree at Chestnut Hill College. She then taught for several years at local Philadelphia elementary schools. After being encouraged by those in her community, Sister Joan went on to obtain a Master's degree in special education from Marywood University.

Soon after she received her Master's degree, Sister Joan began to minister to those with special needs at St. Patrick School in Pottsville, Pennsylvania and at Our Lady of Confidence School in Philadelphia, Pennsylvania.

In 1989, Sister Joan joined the staff of the Department for Persons with Disabilities. Upon her arrival, Sister Joan was critical in establishing the "People Need Friends" program, which remains popular to this day. Sister Joan also coordinates the "Catholic Adult Religious Education" program, which provides religious instruction to the residents of the Department for Persons with Disabilities.

Not stopping there, Sister Joan also provides emotional and spiritual support to the family members and friends of the residents of the Department for Persons with Disabilities. She also provides pastoral care to the residents that are too sick to leave the Department for Persons with Disabilities nursing facilities. Recently, she has had the privilege of organizing the Catholic Charities New Jersey Annual Conference and was a member of the Committee for Evangelization under Bishop Serratelli.

For those lucky enough to know Sister Joan personally, they know that family means everything to her. Her weekends are often filled with trips to Philadelphia and the surrounding areas to celebrate birthdays, graduations, and to spend time her sisters and their families. In her free time, Sister Joan enjoys reading, crossword puzzles, traveling, and Scrabble.

The job of a United States Congressman involves much that is rewarding, yet nothing compares to recognizing and commemorating the achievements of truly selfless individuals like Sister Joan Kathleen.

Mr. Speaker, I ask that you join our colleagues, Sister Joan's family and friends, all those whose lives she has touched, and me in recognizing Sister Joan Kathleen.

#### RECOGNIZING FEBRUARY AS NA- TIONAL MARFAN AWARENESS MONTH

#### HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 2012

Mr. ACKERMAN. Mr. Speaker, I rise today in recognition of February as National Marfan Awareness Month and to acknowledge the hundreds of thousands of Americans who are living with Marfan syndrome and related connective-tissue disorders.

I am quite proud that the nation's leading organization working to raise awareness of Marfan syndrome and support the Marfan community, the National Marfan Foundation, is located in my congressional district, in Port Washington, New York. The NMF was founded in 1981 by Priscilla Ciccariello, a woman of tremendous compassion and vision. Since then, NMF members and staff have worked tirelessly to improve the lives of individuals affected by Marfan syndrome and related connective-tissue disorders by advancing research, raising awareness, and providing support.

Marfan syndrome is a rare genetic condition that affects connective tissue in the human body. About one in 5,000 Americans carries a mutation in the fibrillin gene. This irregularity results in an overproduction of a protein called transforming growth factor beta or TGFB. Increased TGFB impacts connective tissue throughout the entire body. Patient symptoms often include disproportionately long limbs, a protruding or indented chest bone, curved spine, and loose joints. Of most concern is thoracic aortic disease, which is when a Marfan patient's aorta, the large artery that carries blood away from the heart, is weakened and can result in a fatal rupture. It is for this reason that increased awareness of Marfan syndrome can save lives.

While there is no cure for Marfan syndrome, research is underway to enhance our understanding of the condition and improve patient care. I commend the scientists at the National Institutes of Health, particularly the National Heart, Lung and Blood Institute and the National Institute of Arthritis and Musculoskeletal and Skin Diseases for their research efforts in this regard. I encourage NIH to continue to expand its research of Marfan syndrome.

Early diagnosis and proper treatment are the keys to successfully managing Marfan syndrome so that patients can live a full life. I am pleased to announce that recently the American Heart Association and the American College of Cardiology released new treatment guidelines for thoracic aortic disease. We can facilitate proper treatment by raising awareness of these guidelines and we can help achieve an early diagnosis by raising awareness of Marfan syndrome and related connective tissue disorders.

Mr. Speaker, I hope my colleagues will join me in raising awareness by observing Marfan Awareness Month.

#### IN HONOR OF THE NISEI VETERANS

#### HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 2012

Mr. FARR. Mr. Speaker, I rise today to recognize thirty-four Congressional Gold Medal recipients from my District in Central California for their courageous service to our nation during World War II as part of the Military Intelligence Service (MIS), the 100th Infantry Battalion (100th Inf), and the 442nd Regimental Combat Team (RCT).

Established on November 1, 1941, MIS graduated 6,000 service members during

World War II to provide critical Japanese language capabilities to the American military. These brave servicemen and women provided translation, interpretation and code breaking services in the essential Pacific Theater, which contributed significantly to our nation's victory. In the 1970s, the MIS's name changed to the Defense Language Institute, and all of the Department of Defense language programs were consolidated at Monterey, California. From there the program grew into the Defense Language Institute Foreign Language Center.

The 100th Inf was largely made up of former members of the Hawaii Army National Guard. It was a unit within the US Army's 34th Infantry Division and later combined with the 442nd RCT, another mostly Nisei unit. Together as a single fighting combat team they saw action in Italy where they earned the nickname of "Purple Heart Battalion." Following World War II, the battalion was reorganized into reserve status but over the decades it was ordered back into active service several times, most recently in Iraq.

The original MIS, the 100th Inf, and the 442nd RCT were primarily comprised of Nisei, second-generation Japanese-Americans. They faced crushing prejudice and discrimination in the United States during WWII. Many of their family members suffered internment while they were serving their country. This exceptional group has received honors and commendations of the highest level. Our nation awarded the Medal of Honor to twenty-one members of the 100th Infantry Battalion of the 442nd RCT for heroism during WWII. In 2000, the MIS received the Presidential Unit Citation, the highest possible honor for a military unit, and in 2010 the Congressional Gold Medal was awarded to the 442nd RCT and the 100th Inf, as well as the 6,000 graduates of the MIS. At the end of the war, General Charles Willoughby, Chief of Staff for Military Intelligence under General MacArthur, said that "The Nisei shortened the Pacific War by two years and saved possibly a million American lives and saved probably billions of dollars" during the conflict.

Mr. Speaker, I am honored to be paying tribute to this outstanding group of men who selflessly served our nation during World War II proving the loyalty and bravery of second generation Japanese Americans. From the 100th Infantry Brigade: Louie Hayashida, Tom Kakimoto, Richard Kawamoto, Robert Kitagi, Ky Miyamoto, William Omoto, Kaz Sugano, and Sam Sugidono. From the 442nd Regimental Combat Team: Haruo Esaki, Yoshio Fujita, Royal Manaka, Yutaka Nagasaki, Winston Nakagawa, Fred Sakasegawa, Roy Sakasegawa, and Kunio Shimamoto. From the Military Intelligence Service: George Aihara, Roy Hattori, Paul Ichuiji, Otis Kadani, Hajime Kawata, Shig Kihara, Robert Mirikitani, George Nakamura, Kei Nakamura, Toshio Nakanishi, Terry Nakanishi, Gengo Sakamoto, Setsuo Takemoto, George Tanaka, Frank Tokubo, Ben Umeda, Jiro Watanabe, and Goro Yamamoto. I know I speak for the entire House of Representatives in honoring these heroes.

# PAYROLL TAX CUT CONFERENCE REPORT (H.R. 3630)

**HON. GARY C. PETERS**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 29, 2012*

Mr. PETERS. Mr. Speaker, I rise today to express my deep concerns with the recently released conference report by the Payroll Tax Cut Conference Committee. While I am pleased that enacting this conference report will stop a tax hike on middle class families by extending the Payroll Tax Cut through the end of the year, I strongly oppose pairing this must-pass provision with legislation that will slash the number of available weeks of unemployment benefits for American workers. I also find it deeply troubling that the text of legislation cutting unemployment benefits for millions of Americans only became available for public review less than 24 hours before a vote, despite the pledge by House Republicans to make bills publicly reviewable for 72 hours before a vote.

Republicans are forcing an unfair choice between tax cuts for the middle class and fully maintaining the safety net for unemployed workers. This is not a choice Congress should have to make, or that the American public should accept, especially when House Republicans in their Pledge to America promised to "end the practice of packaging unpopular bills with 'must-pass' legislation to circumvent the will of the American people" and to "advance major legislation one issue at a time."

The long-term unemployment crisis and the need for a full extension of unemployment benefits deserve Congress's full attention. This is why I led 70 of my colleagues in writing the Chairs of the conference committee along with House and Senate Leadership to urge them to include a full extension of unemployment benefits through the end of this year. While our economy is showing signs of real recovery with 23 consecutive months of job growth, the fact remains that our nation is experiencing an unprecedented long-term unemployment crisis.

Unemployment benefits are a proven lifeline to families that they rely on to help pay for necessities such as rent, groceries, and utilities. Expansions to the unemployment insurance program enacted in the Recovery Act and subsequent legislation in 2009 and 2010 kept over 3 million Americans out of poverty in 2010, including over 900,000 children.

Unfortunately, the harm that cuts to federal unemployment benefits make to working families is amplified when states, such as Michigan, enact legislation slashing state unemployment benefits. Last year, Governor Snyder signed House Bill 4408 into law. While this legislation included a necessary technical fix to preserve Michigan's access to the federal Extended Benefits (EB) program, it paired this minor change with a harmful and misguided reduction in state unemployment benefits from 26 to 20 weeks, the lowest in the country. Not only does this cut 6 weeks of state benefits, more importantly it triggers a proportional reduction in federal benefits.

Under the Payroll Tax Cut Conference Report, this 6 week change to state benefits will result in Michigan giving up between 11 and

14 weeks of 100% federally funded benefits this year and Michigan's unemployed workers losing access to more weeks of federal benefits than any state in the nation.

Our economy is moving in the right direction and we can't afford to jeopardize middle class families' livelihoods and our recovery by risking the expiration of the Payroll Tax Cut, but we certainly cannot afford to ignore the long-term unemployment in Michigan and across the United States.

## COMMEMORATING THE 100TH ANNIVERSARY OF THE MOUNTAIN QUARRIES RAILROAD BRIDGE

**HON. TOM MCCLINTOCK**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 29, 2012*

Mr. MCCLINTOCK. Mr. Speaker, I rise today to commemorate the 100th anniversary of the Mountain Quarries Railroad Bridge near Auburn, California.

The bridge opened for business in 1912 as the longest concrete-arch bridge of its time. Its purpose was to deliver mine material across the American River Canyon to and from the mountain quarries outside of Auburn via a privately-built railroad. For three decades trains rolled over the bridge, allowing the development of the vast quartz deposits in the area and employing thousands over the years and providing untold wealth to the community.

After the train tracks were removed for scrap metal to aid in the production of World War II materiel, the bridge continued to serve as a public crossing connecting El Dorado and Placer counties. The soundness of the bridge's design and construction allowed it to withstand multiple floods in the canyon that brought down no less than four other bridges along the American River. The Mountain Quarries Bridge was even pressed into service to replace the Highway 49 Bridge, which was destroyed when Hell Hole Dam broke in 1964, until a replacement bridge could be built.

But the Mountain Quarries Bridge has done more than serve the simple commercial purpose of transport across the river. Since 1955, the bridge has been a defining stretch in countless endurance rides and foot races. In the famed Western States Endurance Run, Mountain Quarries Bridge serves as the final landmark of the course and the transition out of the California wilderness into Auburn and the finish line. For the many adventurers, riders and runners who have used the bridge on hikes and races over the years, it serves as a monument to the trials endured in their journeys and the satisfaction and joy of their accomplishments.

Standing a few miles from the confluence of the North and Middle Forks, the Mountain Quarries Railroad Bridge is a testament to bygone times when the beneficial use of our public resources was both frequent and celebrated. Having served the many commercial and recreational purposes of the area for a century, the Mountain Quarries Railroad Bridge is a fine model for the responsible utilization of the public lands for the public's use.

Mr. Speaker, I am glad to rise today and join the communities of El Dorado and Placer

counties as they celebrate this auspicious occasion.

IN REMEMBRANCE OF MRS. MARY ZUNT

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 2012

Mr. KUCINICH. Mr. Speaker, I rise today to honor the memory of Mrs. Mary Zunt, an iconic figure to the City of Cleveland.

Mary was born on August 16, 1939 in Cleveland, Ohio, where she attended Holy Name High School. Following a brief stint in New York City, Mary returned to Cleveland, where she was instrumental in establishing WVIZ-TV in 1965. She was also behind the station's fund-raising auctions. In 1973, Mary was elected to Cleveland's City Council to represent the residents of the West Park neighborhood. She fought for consumer protections, gun safety and commercial development during her two terms on the council.

Following her career in public service, Mary went on to work in the construction industry. She oversaw projects such as renovations of the Gateway and Society Center, Bureau of Workers' Compensation, the Glass Bowl Stadium and construction of the scoreboard at Jacobs Field.

In 1994, Mary left Cleveland and moved to Nice, France to study wine for two years. She later moved to St. Helena, California where she worked at the St. Helena Catholic Church, caring for migrant workers. She also began to focus more on her writing and was taught creative writing at Napa Valley College. Mary was a feature writer for the Cleveland Plain Dealer and contributor to Cleveland Magazine, the Napa Valley Register and the St. Helena Star and Appellation Magazine. Mary also wrote a novel, "The Politics of Annie Quinn," chronicling her experience on Cleveland's City Council.

Mr. Speaker and colleagues, please join me in honoring the memory of Mrs. Mary Zunt. Her contributions to the City of Cleveland will be remembered for years to come.

REMEMBERING THE LIFE OF MRS. SARA LOUISE JONES PETTIS

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 2012

Mr. HASTINGS of Florida. Mr. Speaker, I rise today to remember the life of Mrs. Sara Louise Jones Pettis. Mrs. Pettis was a respected community activist in the Fort Lauderdale area, and her commitment to civic service was admirable. She recently passed away at the age of 90, and I would like to take this opportunity to extend my deepest sympathies to her family and all those who knew her.

Mrs. Pettis was a resident of Fort Lauderdale, Florida for 64 years. She married Mr. Cyrus Pettis in 1941, and the couple lived in Fort Lauderdale since first moving to the area

in 1947. They both understood the importance of giving back to the community. Mr. Pettis was a postal worker, and Mrs. Pettis served as a teacher's aide at multiple schools in Broward County.

Mrs. Pettis was known for her desire to improve the community. She was a lifetime member of the Parent Teacher's Association, and she volunteered at local schools, churches, and other charitable organizations. Mrs. Pettis was ultimately credited for expediting the creation of the Dillard High School Gymnasium in 1959. Her dedication to improving the lives of the people of Broward County was truly remarkable.

In 1985, the Pettis family received a very special recognition from then-First Lady Nancy Reagan. The First Lady recognized the Pettis family as a Great American Family. Over 25 members of the Pettis family were in attendance at a special White House ceremony. The award is given to families leading exemplary lives, and giving back to their communities. The Pettis family is one of only nine other families to ever receive this award.

Mr. Speaker, I would like to commend Mrs. Pettis for her dedication to the people of Fort Lauderdale. I knew Mrs. Pettis personally, and I was saddened to hear of her passing. She had an extraordinary sense of civic duty, and I would like to extend my sympathies to not only her family and friends, but to the entire South Florida community, and all of those whose lives she touched. Mrs. Pettis will be truly missed.

A TRIBUTE TO THE LIFE OF LIEUTENANT COLONEL CLIFFORD GEORGE FORD

HON. JIM COSTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 2012

Mr. COSTA. Mr. Speaker, I rise today to pay tribute to the life of Lieutenant Colonel Clifford George Ford, distinguished veteran of the United States Air Force, loyal friend, and loving father, grandfather, and great-grandfather. Cliff passed away on January 18, 2012 at the age of 81. Through his thoughtful nature, zest for life, and dedication to service, he leaves behind a wonderful legacy.

Cliff was born on April 16, 1930 in Lohrville, Iowa, and grew up on farms in Iowa and Minnesota, alongside his two brothers and two sisters. It is during his childhood that his lifelong love of nature developed. After graduating from Lake City High School at the age of 17, Cliff made the decision to serve our great Nation in the United States military. Cliff's time in the United States Air Force took him all around the world, including: Japan, Germany, England, and Taiwan. While living in Yakota Air Base, Japan, Cliff met the love of his life, Rose. The two married on February 10, 1951.

Cliff spent the majority of his life serving our country in a number of capacities while in the Air Force. Throughout his service, Cliff demonstrated courage, determination, strength, and empathy—he truly illustrated the best of what America has to offer. In 1975, Cliff re-

tired from the United States Air Force and spent the remainder of his life in Atwater, California. Retiring in the heart of California's San Joaquin Valley afforded Cliff the opportunity to purchase an almond orchard and pursue his lifelong passion for agriculture.

Cliff's legacy will live on through his service to our Nation, his work in our Valley, and through his children: Christine, Linda, Michelle, Anita, Chuck, Valerie, Melissa, and Hilary; 14 grandchildren; and one great-grandchild. Perhaps what was most telling of Cliff's character was the importance he placed on family and kinship. Cliff leaves his family with many warm and cherished memories.

In a note to Cliff, his grandson wrote, "every person is an example of the people they have spent their life with." As we reflect on Cliff's life, let us aspire to lead a life like his—one filled with resolve, self-reliance, and love.

Mr. Speaker, I ask my colleagues to join me in paying tribute to the life of Lieutenant Colonel Clifford George Ford, an honorable and respected man with an unwavering commitment to his loving family and our Nation.

IN RECOGNITION OF THE ANNIVERSARY OF LITHUANIAN INDEPENDENCE DAY

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 2012

Mr. KUCINICH. Mr. Speaker, I rise today in honor of the anniversary of the restoration of Lithuania's independence, and the re-establishment of their independence as it is commemorated by the Cleveland Chapter of the Lithuanian American Community.

On February 16, 1918, the people of Lithuania declared their independence to the world as a distinct country with its own culture and traditions. The state was founded on democratic principles and declared its independence in a peaceful manner. However, Lithuania's freedom was short-lived, as the country and its people were subjected to foreign occupation and conquest by the Nazi Germany regime and the U.S.S.R. during World War II. In 1940, the Soviet Union took control of Lithuania without the people's consent. This unjust control of a free people lasted for 50 years. On March 11, 1990, upon the fall of the Soviet Union, the people of Lithuania re-established their independence, and once again, became a sovereign, free state.

The Lithuanian-American Community's Cleveland Chapter has worked to connect the people of Cleveland of Lithuanian descent and to share their rich and vibrant culture with the community. I offer my best wishes for the upcoming celebration of their heritage and their independence.

Mr. Speaker and colleagues, please join me in commemorating the independence of Lithuania and, in wishing the country and its people continued freedom and success.



HONORING SUPERINTENDENT  
SANDY THORSTENSON

**HON. LINDA T. SÁNCHEZ**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 29, 2012*

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, I rise today to honor my good friend Sandy Thorstenson for her leadership and dedication as Superintendent to the Whittier Union High School District.

Born and raised in Whittier, CA, Sandy has served as Superintendent of the Whittier Union High School District for 10 years. She is a graduate of Whittier High School and Whittier College with her Master's Degree in Education from California State University, Fullerton. Sandy started her 34-year career in the Whittier Union High School District as a teacher and quickly ascended to Assistant Principal, Principal, Assistant Superintendent of Educational Services, and ultimately Superintendent.

Under her leadership, Sandy has spearheaded Whittier Union's transformation into a high-achieving district with five comprehensive high schools serving 13,400 students from socio-economically diverse backgrounds. Sandy's "whatever it takes" attitude has ensured student achievement for all students, resulting in state and national recognition. Whittier Union High School District has demonstrated remarkable gains in student achievement at every school, becoming one of the top school districts in Los Angeles County.

Sandy is an active advocate for quality and equity in public education at the local, state, and national level as a member of many professional and community organizations. She currently serves on the California State Superintendents' Council, the Pivot Learning Partners Board and is the current President of California City Superintendents Association. She is also a member of the Soroptimist International of Whittier, Whittier College Corporate Council, and a past member of the Whittier Chamber of Commerce Board of Directors.

Due to these outstanding achievements for the school district and beyond, Sandy has been selected as California's National Superintendent of the Year by the Association of California School Administrators.

Mr. Speaker and distinguished colleagues, please join me in honoring this extraordinary woman whose love and dedication to our students is overwhelmingly obvious. Let us congratulate her on her many accomplishments to the Whittier Union High School District and our community.

24TH ANNIVERSARY OF THE  
NAGORNO-KARABAKH WAR OF  
1988-1994

**HON. BRAD SHERMAN**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 29, 2012*

Mr. SHERMAN. Mr. Speaker, this month marks the 24th anniversary of a dark chapter in modern history. During the Nagorno-

Karabakh War of 1988 to 1994, Armenian civilians were indiscriminately attacked.

On the evening of February 27, 1988, Armenian civilians living in Sumgait, in Soviet Azerbaijan, were violently targeted in a three-day rampage. Armenian civilians were hunted down and brutally assaulted. Some were raped, and some were burned alive at the hands of rioters. Local police reportedly ignored repeated calls for help by Armenian civilians. The official figure from Soviet authorities, who prohibited journalists from entering the area, was just over 30 people dead and over 200 injured. However, it is believed that more—perhaps hundreds—were murdered by roving mobs.

The Sumgait Pogrom was, sadly, only the beginning.

Despite international condemnation of the pogrom in Sumgait, another anti-Armenian pogrom occurred later that year in Kirovabad, Azerbaijan, from November 21st to 27th. Due to the brutality, the Armenians of Kirovabad and the surrounding areas were forced to flee their homes.

Another crime against humanity occurred yet again from January 13th to the 19th, in 1990. Members of the Armenian community of Baku, the capital of Azerbaijan, were assaulted, tortured and killed again by violent mobs.

I would like to commemorate the Armenian victims of the Sumgait, Kirovabad, and Baku massacres to honor the memory of the murdered, and to stop future bloodshed. If we hope to stop future massacres, we must acknowledge these horrific events and ensure they do not happen again.

We will not forget the ethnic-cleansing of the Armenians from Azerbaijan.

But we need to do more—we need to demonstrate to Azerbaijan that the United States is committed to peace and to the protection of Artsakh from coercion.

We must urge Azerbaijan to cease all threats and acts of coercion against the Republic of Nagorno Karabakh.

In 1992, Congress prohibited aid to Azerbaijan because of its continuing blockade against Armenia and Nagorno Karabakh. Unfortunately, Congress in 2001 approved a waiver to this provision and administrations have used the waiver since then to provide aid to Baku. Congress should strengthen Section 907 of the FREEDOM Support Act by removing the President's ability to waive U.S. law prohibiting aid to Azerbaijan because of its continuing blockade against Armenia and Nagorno Karabakh.

I urge the Administration to remove all barriers to broad-based U.S.-Nagorno Karabakh governmental and civil society communication, travel, and cooperation.

We must reaffirm America's commitment to an enduring, peaceful and democratic resolution of the Nagorno Karabakh conflict.

IN RECOGNITION OF JOHNNY  
KILBANE

**HON. DENNIS J. KUCINICH**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 29, 2012*

Mr. KUCINICH. Mr. Speaker, I rise today in honor and memory of Cleveland's Boxing Champion, Johnny Kilbane, on the occasion of the hundredth anniversary of his attainment of the title of World Featherweight Championship.

Johnny Kilbane was born in Cleveland, Ohio on April 9th, 1889. He began his ascent into the boxing world at age eighteen with his first fight in the featherweight division. Throughout his career, Johnny fought in over 140 fights—resulting in 46 victories, 79 no decisions and only four losses. On February 22, 1912, in a 20 rounder in Vernon, California, Johnny Kilbane won his first world title in a fight against Abe Attell. The fight was for the World Featherweight Championship, a title he would hold from 1912 to 1923. Kilbane is believed to have held that title for the longest uninterrupted reign in boxing history.

A Cleveland local, Kilbane held a number of positions after he retired from the boxing world. During World War II, he worked as a boxing instructor at Camp Gordon in Georgia, Camp Sherman in Ohio, and Camp Custer in Michigan. He was also a boxing referee and instructor at local high schools. He operated a training club in Vermillion.

Johnny transitioned into politics as well, and was elected to the Ohio State Senate in 1941. He also held office as a State Representative, and was elected to the Municipal Court Clerk's Office in 1951, a role which he served until his death in 1957.

Mr. Speaker and colleagues, please join me in honoring the life of Johnny Kilbane and the 100th anniversary of his achievement of the title of World Featherweight Championship.

IN RECOGNITION OF THE SOMERSET COUNTY MILITARY FAMILY SUPPORT GROUP

**HON. MARK S. CRITZ**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 29, 2012*

Mr. CRITZ. Mr. Speaker, I rise to recognize a military support group in my district that provides deployed members of our armed forces and their families with material support, emotional comfort and spiritual sustenance.

Founded in 2003, the Somerset County Military Family Support Group sends deployed service members monthly packages containing food, health products, books, letters and games. The group also counsels family members of deployed military personnel, takes part in festivals and parades in order to pay homage to the sacrifices of our soldiers, gathers and distributes information about pressing issues facing members of the military and their families and holds annual candlelight vigils to honor all those who have worn our nation's colors in battle.

Because the group is comprised largely of veterans and individuals from military families, its members understand the physical and psychological strain our troops experience each day they are separated from their families, and the emotional turmoil the family members of these service members are forced to endure as a result of knowing that someone they love is in harm's way. That they chose to use their first-hand knowledge of these struggles to craft a renowned military support program speaks to their capacity to turn hardship into an outstanding gift for others.

Mr. Speaker, while all of us appreciated the valor and sacrifices of our troops, only the most talented and proactive among us are able to act on this appreciation in a way that makes an impact on thousands of lives. The Somerset County Military Family Support Group has not only accomplished this, but has done so while spreading the spirit of service throughout southwestern Pennsylvania. All of us should seek to emulate the selfless efforts of its members in our own efforts to promote the greater good.

#### TRIBUTE TO SUNY CANTON FIRST RESPONDERS

#### HON. WILLIAM L. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 29, 2012*

Mr. OWENS. Mr. Speaker, I rise today to honor the heroism of those responsible for safely controlling a fire that broke out on campus at SUNY Canton this month.

Following a fire in the chemistry lab inside Cook Hall, it was the unquestionable valor and commitment of these men and women that protected students, faculty and administrators.

These individuals acted with the utmost professionalism and courage when called to duty and protected members of their community. These first responders prevented untold amounts of injury to our friends and neighbors, and saved the school from a much worse situation.

On behalf of the U.S. House of Representatives, I commend and thank these emergency personnel, agencies and individuals for their bravery, selflessness, and assistance.

AAC Contracting, Atlantic Testing, Aubertine and Currier, Canton Fire & Rescue, Canton Police Department, Clean Harbors Environmental, David Sullivan—St. Lawrence County Law Enforcement Academy, Ecology & Environment, Inc., Gouverneur Fire Department, Heuvelton Volunteer Fire Department, Morley Fire Department, Murnane Building Company, NYS Office of General Services, NYS Police Department, NYS Department of Environmental Conservation, NYS Department of Health, NYS Department of Labor—PESH, NYS Homeland Security & Emergency Services, Office of Emergency Management, NYS Homeland Security & Emergency Services, Office of Fire Prevention and Control, Fire Operations & Training Branch, NYS Homeland Security & Emergency Services, Office of Fire Prevention and Control, Inspections & Investigations Branch, NYS Homeland Security & Emergency Services, Office of Fire Prevention

and Control, Special Operations Branch, NYS Police Aviation Unit, Parishville Fire Department, Pierrepont Fire Department, Potsdam Fire Department, Potsdam Police Department, Potsdam Rescue Squad, President Joseph L. Kennedy, Pyrites Fire Department, Rensselaer Falls Fire Department, RSI, Ryan-Biggs Associates, P.C., St. Lawrence University, St. Lawrence County Fire Investigation Team, St. Lawrence County Hazardous Materials Team, St. Lawrence County Office of Emergency Services, State University Construction Fund, SUNY Canton Emergency Management Team, SUNY Canton Academic Affairs, SUNY Canton Administrative Affairs, SUNY Canton Advancement Affairs, SUNY Canton Student Affairs, SUNY Office of Capital Facilities, SUNY Office of Legal Counsel, SUNY Potsdam University Police Department, West Potsdam Fire Department, West Stockholm Fire Department.

#### IN RECOGNITION OF MR. EDWARD CRAWFORD

#### HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 29, 2012*

Mr. KUCINICH. Mr. Speaker, I rise today in recognition of Mr. Edward Crawford to acknowledge his receipt of the Walks of Life Award from the Irish American Archive Society.

Mr. Crawford was raised in Cleveland Heights, Ohio. He has since become a leader in Cleveland's business sector. Edward began his career as a salesman for Island Steel while enrolled in night school at John Carroll University. In 1962, he founded the Cleveland Steel Container, a company that produced paint cans. Just two years later, in 1964, Crawford established his own investing company, the Crawford Group. In 1992, he became the chairman and chief executive officer for Park-Ohio Industries. Mr. Crawford was named the Ohio Small Businessman of the Year by the Small Business Association in 1969.

Mr. Crawford has also served on the boards of numerous companies throughout his career including Arden Industrial Products, Continental Conveyor & Equipment Company, Continental Crushing & Conveying, Inc., Resilience Capital Partners LLC and Beech Technology Systems, Inc.

In addition to his career, Mr. Crawford has continuously served the Cleveland community. Just several years ago, he led a four year, \$400,000 renovation of the Irish Cultural Garden.

Mr. Speaker and colleagues, please join me in congratulating Mr. Edward Crawford as he is honored by the Irish American Archive Society.

#### IN CELEBRATION OF MRS. GRACE VIRGINIA RICHARDSON HUMPHREY CUTTS' 100TH BIRTHDAY

#### HON. SANFORD D. BISHOP, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 29, 2012*

Mr. BISHOP of Georgia. Mr. Speaker, I rise today to pay tribute to an inspiring mentor, beloved educator, respected community leader and a trans-generational pillar in Dawson, Georgia—Mrs. Grace Virginia Richardson Humphrey Cutts. On Saturday, March 3, 2012, Mrs. Cutts will be honored at an event celebrating her 100th birthday. This highly anticipated event will be attended by Mrs. Cutts' family members, friends, former colleagues, well-wishers and former students.

Mrs. Grace Virginia Richardson Humphrey Cutts was born on March 2, 1912 in Dawson, Georgia to Walter Revenna Richardson and Clara Louise Cochran Richardson. As a 92-year member of the Adoration Temperance Obedience Charity African Methodist Episcopal (AME) Church in Dawson, Georgia, Mrs. Cutts is a woman who has been guided by her strong moral convictions and Christian faith. As a tenured member of Adoration Temperance Obedience Charity AME Church, Mrs. Cutts has served as the church pianist, secretary and a stewardess.

Mrs. Cutts was raised in the rural South in the 1920s, a period in our nation's history in which most African-Americans had limited opportunities to pursue their educational dreams. Despite the numerous societal challenges that lay in her path, Mrs. Cutts would go on to graduate from Allen Normal and Industrial High School. After she obtained her high school diploma, Mrs. Cutts enrolled in Georgia Normal and Agricultural College and graduated from the institution in 1949.

Understanding the importance of a quality education, Mrs. Cutts served as a teacher for 45 years. As an instructor, Mrs. Cutts helped generations of young scholars reach their full potential and obtain excellent educations. Even in retirement, Mrs. Cutts continued to serve as a mentor and tutor for young students in her community.

Mrs. Cutts has achieved numerous successes in her life, but none of this would have been possible without the support of her late first husband Calvin Homer Humphrey; late second husband Sammie Lee Cutts; late son Calvin Walter Humphrey; grandchildren; and great-grandchildren.

George Washington Carver once said, "How far you go in life depends on your being tender with the young, compassionate with the aged, sympathetic with the striving and tolerant of the weak and strong because someday in your life you will have been all of these." Mrs. Cutts has advanced far in life because she never forgot these lessons and always kept God first.

The race of life isn't given to the swift or to the strong, but to those who endure until the end. Mrs. Cutts has run the race of life with grace and dignity and God has blessed her over her lifetime.

Mr. Speaker, I ask my colleagues to join me today in paying tribute to Mrs. Grace Virginia

Richardson Humphrey Cutts as she and her family prepares to celebrate her 100th birthday.

On a personal note, I would like to not only congratulate Mrs. Cutts on becoming a distinguished centenarian but also express my profound gratitude to her for her outstanding contributions to America's education system and her principled advocacy on behalf of our nation's students.

#### NATIONAL KIDNEY MONTH

#### HON. JESSE L. JACKSON, JR.

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 29, 2012*

Mr. JACKSON of Illinois. Mr. Speaker, I rise today with more than 60 of my colleagues of the Congressional Kidney Caucus in support of the goals and ideals of National Kidney Month which begins tomorrow.

Each year, the National Institute of Diabetes and Digestive and Kidney Diseases as well as leading kidney care organizations recognize and celebrate March as National Kidney Month to promote public awareness, education, screening and detection throughout the nation.

Currently, more than 31 million Americans are affected by Chronic Kidney Disease (CKD) and millions more are at risk. Kidney Disease is the slow loss of kidney function over time and, if left untreated, gradually progresses to end-stage renal disease marked by the complete loss of kidney function. While there is no cure for CKD, proper lifelong treatment can slow the onset of kidney failure and help control the symptoms of this devastating disease.

Recently named the eighth leading cause of death in the United States by the Centers for Disease Control and Prevention, nearly 570,000 Americans currently rely on hemodialysis or a kidney transplant for their survival.

The Congressional Kidney Caucus, which was established in 2002, has partnered with a number of kidney organizations to promote policies that benefit patients with kidney disease and provide Members and their staff the most comprehensive, up-to-date information related to this disease.

Throughout the month of March, the Caucus supports the thousands of kidney advocates and groups that are expected to visit Capitol Hill to discuss their experiences and advocate for enhanced patient care, research and public education and prevention.

In the spirit of National Kidney Month, I encourage my fellow Members of Congress to participate in these events on Capitol Hill and events hosted in their districts and to consider joining the Congressional Kidney Caucus in support of these efforts. Please have your staff reach out to my office if you are interested in the schedule of events or if you are interested in joining the Caucus.

#### IN RECOGNITION OF SISTER KATHLEEN KILBANE

#### HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 29, 2012*

Mr. KUCINICH. Mr. Speaker, I rise today in recognition of Sister Kathleen Kilbane and to acknowledge her receipt of the Walks of Life Award from the Irish American Archive Society. Sister Kathleen has dedicated her life to the homeless and to students of the Greater Cleveland area.

Sister Kathleen attended high school in Cleveland's West Park neighborhood at St. Joseph Academy. She later earned a bachelor's degree in education from St. John College and a master's degree from Cleveland State University.

In 1952, Sister Kathleen entered the nunnery at St. Clement in Lakewood. Early on, she devoted most of her time as a grade school teacher at Annunciation, St. Angela Merici, St. Aloysius, St. Mary and St. Colman schools. In 1977, the West Side Catholic Center was established to assist the elderly and homeless; Sister Kathleen was named the director. Twenty years later, in 1997, Sister Kathleen established Seeds of Literacy, an organization dedicated to helping high school drop-outs earn their diplomas.

Because of her relentless work to support those in need, in 2000, the West Side Catholic Center honored Sister Kathleen with the Dorothy Day Humanitarian Award.

Mr. Speaker and colleagues, please join me in congratulating Sister Kathleen Kilbane as she is honored by the Irish American Archive Society.

#### CONGRATULATING THE WAIALUA HIGH SCHOOL ROBOTICS TEAM, THE "HAWAIIAN KIDS," ON WIN- NING THE 2011 FIRST CHAIR- MAN'S AWARD

#### HON. MAZIE K. HIRONO

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 29, 2012*

Ms. HIRONO. Mr. Speaker, I rise today to congratulate the Waialua High School Robotics Team, the "Hawaiian Kids," on winning the prestigious Chairman's Award at the 2011 FIRST Robotics World Championships and to recognize its impressive contributions to the founding and expansion of robotics in Hawaii. The FIRST Chairman's Award recognizes a program's contributions to robotics, service to other robotics programs, and overall excellence. Waialua High School was one of 48 teams nationwide competing for the prize.

The judges of the 2011 FIRST Championship described the winning team as "helping transform the region from an area of agricultural industry decline to one where the accomplishments of these students are celebrated as an indicator of promise for the future." All of the team members of the "Hawaiian Kids" graduate from high school, compared to the region's average of a less than 30 percent

graduation rate, and all of the school's valedictorians in the past four years have been members of the robotics team. The team has shown great promise as science, technology, engineering, and math (STEM) leaders and innovators with 90 percent of the members pursuing careers in STEM fields.

Founded in 1999 by Glenn Lee, a Career and Technical Education teacher and electrical engineer, the Waialua High School Robotics Program has become a model for engaging students in STEM and college-readiness courses. The "Hawaiian Kids" were the first FIRST Robotics Competition (FRC) team in Hawaii and initiated the development of other teams statewide. Its accomplishments have been shared with local government representatives, their community, and schools throughout our State. Today, close to one-third of Hawaii's high schools have an FRC team, the highest percentage of involvement in the Nation.

While the "Hawaiian Kids" have experienced great success over the past few years, they continue to embrace their program's motto: "It's not all about winning, it's about teamwork, commitment and responsibility." Congratulations to the members of the Waialua High School Robotics Team for all their accomplishments, their dedication sharing robotics and STEM education with their peers, and continuing to raise Hawaii's academic standards.

Mahalo nui loa (thank you very much).

#### RECOGNIZING THE CARSON WOMEN'S CLUB AND EDWARD TILLMON, A TUSKEGEE FIGHTER PILOT

#### HON. LAURA RICHARDSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 29, 2012*

Ms. RICHARDSON. Mr. Speaker, I rise today in recognition of the Carson Women's Club, based in my congressional district, for the wonderful work it has accomplished over the years and their unwavering commitment to our local community.

The Carson Women's Club was founded in 1968 as a non-profit, non-political organization with a mission to serve as the official hostess of the City of Carson by supporting and promoting scholarships, and by engaging in community service activities focused on making Carson stronger.

The Carson Women's Club plays an active part in local charity work. For example, each year on the 4th of July, Club members bring food to the on-duty firefighters at all stations in Carson. The Club also sends Thanksgiving baskets to 15 adopted Carson elementary schools and organizes a Christmas toy drive for the children at the El Nido Center.

Mr. Speaker, the Carson Women's Club is a shining example of civic commitment, mutual trust, respect, and equal treatment without regard to race, sex, or ethnicity. The Club promotes mutual cooperation between individuals of different backgrounds through its diverse membership and informative community engagement events.

This past weekend, I had the opportunity to attend a Carson Women's Club event in my district honoring members of the Los Angeles Chapter of the Tuskegee Airmen, Inc. The Tuskegee Airmen were the first black military airmen in the United States. This heroic group of 13,000 young African American men overcame institutionalized racism to become one of the most distinguished fighter units in World War II.

At the meeting, we were fortunate enough to be graced with the presence of Mr. Edward Tillmon, a surviving Tuskegee Airman who reminded us of the remarkable accomplishments of the Tuskegee Airmen—both in and out of combat.

Through his experience growing up in a segregated America, Mr. Tillmon learned that hard work and perseverance are the key to overcoming obstacles that seem impenetrable. Mr. Tillmon expressed his appreciation for the challenges and opportunities that accompanied his time at war, and his firm beliefs that the successes of the Tuskegee Airmen would not have been possible if it were not for the strong sense of camaraderie between the members. They were truly a band of brothers.

Edward Tillmon continues to serve his nation by preserving the Tuskegee Airmen legacy through his association with the Los Angeles based "Tuskegee Airmen Scholarship Foundation", which was established in 1979 to provide annual scholarships to exceptional young students in their quest for academic excellence.

Mr. Speaker, Edward Tillmon served his nation with pride, even at a time when African Americans were treated like second-class citizens. The legacy of the Tuskegee Airmen is one of courage and heroism in the face of adversity and their story has provided many with the inspiration necessary to achieve their goals.

Mr. Speaker, it is my honor to recognize the contributions of the Carson Women's Club and Edward Tillmon and to thank them for their service to our community and our nation.

#### INTRODUCTION OF WORKING FAMILIES FLEXIBILITY ACT

**HON. CAROLYN B. MALONEY**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 29, 2012*

Mrs. MALONEY. Mr. Speaker, as a result of demographic shifts over the last 50 years, the modern workforce has a different, more diverse set of needs. According to the U.S. Census Bureau, more than 70 percent of children are raised in families that are headed by either a working single parent or two working parents. The number of married households with children where both parents were in the labor force rose to 66 percent in 2010, while the number of single parent families has almost tripled over the last fifty years, from 5 percent in 1960, to 14 percent in 2010. Furthermore, more households are caring for older relatives as medical advances mean people are living longer, with studies showing that almost 60 percent of those who provide unpaid care to an adult or to a child with special needs are employed.

Flexible work arrangements are the key to meeting these diverse workforce needs. Such voluntary arrangements between employees and employers include changing the time, amount, and/or place that work is conducted in order to allow workers to more easily meet the needs of both work and family life. To give employees the right to request flexible work options in terms of hours, schedules, and work location, today I am introducing the Working Families Flexibility Act. This legislation also provides employers with flexibility by encouraging them to review these requests, propose changes, and even deny them if they are not in the best interest of the business.

Having flexible workplace policies has been shown to boost employee satisfaction and morale as well as improve business bottom line. These policies help businesses retain key talent, reduce absenteeism, and enhance employee productivity. President Obama's Council on Economic Advisors found that as more firms adopt flexibility practices the benefits to society, in the form of reduced traffic, improved employment outcomes, and more efficient allocation of workers to employers, may be greater than the gains to individual firms and workers. In addition, a 2011 U.S. Government Accountability Office report found that a flexible work environment can increase and enhance employment opportunities for people with disabilities.

Flexibility is clearly a win-win for employees and employers. I offer special thanks to Senator BOB CASEY for introducing Senate companion legislation, and to my colleagues Representatives JOHN LEWIS, GEORGE MILLER, and JOSÉ SERRANO for their cosponsorship.

#### HONORING MR. ROELOF VAN ARK

**HON. JIM COSTA**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 29, 2012*

Mr. COSTA. Mr. Speaker, I rise to recognize Mr. Roelof van Ark, who will soon end his term as the chief executive of the California High-Speed Rail Authority (CAHSRA). There is no textbook on how to build high-speed rail in America; it has never been done before. For the past two years Mr. van Ark has written the first chapters of that book by dedicating himself wholly to building the nation's first true high-speed rail system in California. He deserves our recognition and true appreciation for all the work he has done for California and our nation.

For three decades, Mr. van Ark has worked on high-speed rail and other transportation systems throughout the world. Before becoming only the second chief executive since the Authority was formed in 1996, he led ALSTOM Transportation, Inc., for five years. Mr. van Ark previously worked in Germany and South Africa for Siemens Transportation Systems, a global leader in high-speed rail systems. During his more than 20 year tenure with Siemens, he successfully constructed complex infrastructure projects such as the "Skytrain" in Bangkok, several subways throughout China, and high-speed rail lines in Germany. He ended his time with Siemens while working in

Sacramento as President and Chief Executive Officer of the company.

His lifetime of experience enabled him to bring such tremendous expertise and leadership to the implementation of California's high-speed rail project.

I applaud Roelof van Ark for his years of tireless work on behalf of the California High-Speed Rail Authority and the state of California. Mr. van Ark has truly laid the groundwork for the nation's first high-speed rail system, and I hope he will join me in riding the first train that departs from San Francisco en route to Los Angeles via the San Joaquin Valley. All Californians will be better off due to the service and sacrifice of this great leader.

Mr. Speaker, it is with great appreciation that I ask my colleagues to stand with me in thanking Roelof for his work in advancing modern modes of transportation within the United States and around the world. Please join me today in recognizing the commitment, dedication and success of Mr. Roelof van Ark and wish him well as he embarks on new endeavors.

#### IN RECOGNITION OF JANICE G. MURPHY

**HON. DENNIS J. KUCINICH**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 29, 2012*

Mr. KUCINICH. Mr. Speaker, I rise today in recognition of Janice G. Murphy and to acknowledge her receipt of the Walks of Life Award from the Irish American Archive Society. A Cleveland native, Mrs. Murphy has dedicated her life to improving the health of others.

Mrs. Murphy began her career in the health care industry while serving as a nun with the Sisters of Notre Dame. She left the convent upon discovery of her true calling in life and began classes at Fairview Hospital's School of Nursing. She later earned a bachelor's degree in nursing from Bowling Green State University and a master's degree from the University of Akron.

Mrs. Murphy worked as a nurse at Fairview Hospital in oncology and later coronary care. She was named chief nursing officer and in 2007, became the hospital's chief operating officer. While leading Fairview Hospital, Mrs. Murphy was also the president of Lakewood Hospital, a role in which she served for nearly three years. Today she remains the president of Fairview Hospital.

In addition to running two of Cleveland's premier hospitals, Mrs. Murphy serves on the boards of the Ursuline Community Advisory Board, North Coast Health Ministry, St. Joseph Academy and Hospice of Western Reserve. She has also been awarded the Cleveland Clinic Western Region Leadership Award and Baldwin Wallace Healthcare Award.

Mr. Speaker and colleagues, please join me in congratulating Janice G. Murphy as she is honored by the Irish American Archive Society.

IN RECOGNITION OF THE 20TH ANNIVERSARY OF U.S.-AZERBAIJAN DIPLOMATIC RELATIONS

**HON. GENE GREEN**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 29, 2012*

Mr. GENE GREEN of Texas. Mr. Speaker, I rise today to ask my Colleagues to join me in recognizing the 20th year of diplomatic relations with our friend and key ally, Azerbaijan.

On February 19, 1992, the United States and Azerbaijan initiated formal diplomatic relations and on March 6 of that year Azerbaijan opened their embassy in the United States. The United States opened our embassy in Baku, Azerbaijan on March 16.

After the fall of the former Soviet Union and the independence of the Republic of Azerbaijan, we have seen a growing need for strong allies in the region. Azerbaijan, a predominantly secular Muslim country bordered by Russia to the north and Iran to the south, is a natural partner to promote peace, stability, and economic prosperity in this important part of the world.

Azerbaijan was among the first to join us in the War Against Terror, sending troops to Afghanistan that served alongside our servicemen and women, and later in Iraq. Today, Azerbaijan offers a crucial route to transport supplies to our troops in Afghanistan.

Azerbaijan is also a key contributor in promoting energy security internationally. The opening of the BTC pipeline in 2005 allowed Caspian oil to reach the world market via Georgia and Turkey, bypassing Russia.

With the recent arrival of Ambassador Elin Suleymanov to Washington, DC, I look forward to working with the Embassy to further strengthen this important relationship.

OUR UNCONSCIONABLE NATIONAL DEBT

**HON. MIKE COFFMAN**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 29, 2012*

Mr. COFFMAN of Colorado. Mr. Speaker, on January 20, 2009, the day President Obama took office, the national debt was \$10,626,877,048,913.08.

Today, it is \$15,442,120,983,663.88. We've added \$4,815,243,934,720.08 to our debt in 3 years. This is debt our nation, our economy, and our children could have avoided with a balanced budget amendment.

IN RECOGNITION OF MR. MIKE CLEARY

**HON. DENNIS J. KUCINICH**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 29, 2012*

Mr. KUCINICH. Mr. Speaker, I rise today in recognition of Mr. Mike Cleary and to acknowledge his receipt of the Walks of Life Award from the Irish American Archive Society.

Mr. Cleary was raised in East Cleveland by his parents, both of whom were immigrants from Ireland. He graduated from St. Ignatius High School before attending John Carroll University. Mike also served for the U.S. Navy for two years aboard the USS *Lake Champlain*, an aircraft carrier.

Prior to his retirement in 2011, Mr. Cleary worked in the collegiate and professional sports arena for 46 years. Early on in his career, he worked as a general manager for the Cleveland Pipers and Kansas City Steers. He later entered intercollegiate athletics and worked as the director of championship events for the National Collegiate Athletic Association. In 1965, he was hired as the executive director for the National Association of Collegiate Directors of Athletics.

Mr. Cleary was also the fund administrator for the John McLendon Minority Scholarship Foundation and served on the New Jersey Sports and Exposition Authority and U.S. Olympic Committee. He is highly regarded in the athletic world and has been recognized by the National Football Federation, College Hall of Fame, and in 2009, he was inducted into the National Association of Intercollegiate Athletics.

Mr. Speaker and colleagues, please join me in congratulating Mr. Mike Cleary as he is honored by the Irish American Archive Society.

HONORING JOSEPH J. VINCI, SR., ON THE OCCASION OF HIS 100TH BIRTHDAY

**HON. ROSA L. DeLAURO**

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 29, 2012*

Ms. DeLAURO. Mr. Speaker, it is with great pleasure that I rise today to join family, friends, and the City of Middletown in honoring one of its most outstanding community members, Joseph J. Vinci, Sr. as he celebrates his 100th birthday—a remarkable milestone for this extraordinary citizen.

A lifelong Middletown resident, J.J., as he is affectionately known, married his wife, Mary, in November of 1934. Together, they not only raised three wonderful children, Joseph J. Jr., Robert, and Rosemarie, they also opened and ran the family business, J.J. Vinci Oil. The home heating oil business is not the easiest of businesses to run, but J.J. and Mary worked hard every day to build the business and provide for their family. For more than seven decades, J.J. Vinci Oil has been a staple in the Middletown business community and its success over the years has been because of the dedication of its founder, J.J., who at 100 years young can still be found in the office every day.

J.J. has not only been an outstanding business leader, but an exemplary civic leader as well. He has always understood that his community is only as strong as those who give back to it. Throughout his life, J.J. has devoted countless hours to a variety of local service organizations. The myriad of awards and commendations which have been bestowed on him are testament to his unparal-

leled efforts on behalf of the community. He is a charter member of the New England Association of Fire Marshals, Connecticut Chiefs of Police Association, twenty-five year charter member of the Connecticut Independent Oil Men's Association, life member of the State of Connecticut 100 Club, one of the original founders of the Middletown Italian-American Civic Order, twenty-five year Chairman of the St. Sebastian Cadillac Committee, member of the St. Sebastian Renovation Committee, lifetime member of the Benevolent Protective Order of the Elks, Moose Club, and Knights of Columbus Fourth Degree, to name but a few. Through his work with each of these organizations, J.J. has made a difference in the lives of others and has enriched the community.

Marking decades of hard work, this birthday celebration reflects J.J.'s extraordinary resilience and strength of spirit. Over the course of his life, he has not only witnessed remarkable changes and tremendous progress he has helped to shape the very character of the City of Middletown. It is with my warmest regards that I join his children, Joseph Jr., Robert, and Rosemarie, his grandson, Michael, and his great-grandchildren, Nicholas, Lauren, and Christian in extending my heartfelt congratulations to Joseph J. Vinci, Sr. as he celebrates his 100th birthday. Happy birthday J.J.! My very best wishes for many more years of health and happiness.

“STOP DEMAGOGUING THE HUNGRY”

**HON. JAMES P. MCGOVERN**

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 29, 2012*

Mr. MCGOVERN. Mr. Speaker, demagoguing the hungry, unfortunately, has become a regular occurrence during this Republican presidential primary season. The truth is that the majority of the hungry struggle to put food on their table not because they are lazy but because of circumstances outside of their control. Many are unemployed at no fault of their own. Others simply don't earn enough and need help supplementing their monthly budget. But all of the hungry, all of those who are relying on America's anti-hunger safety net programs, deserve the helping hand they are receiving. And none of these 50 million food insecure people deserve to be demagogued simply because they have trouble putting food on their kitchen tables.

Last week, I met with Andrew Morehouse, the executive director of the Food Bank of Western Massachusetts. Mr. Morehouse shared with me an op-ed he wrote for the Daily Hampshire Gazette titled “Stop demagoguing our food safety net.” Mr. Morehouse makes a clear, coherent and smart argument that attacking the hungry is wrong for both moral and economic reasons. I respectfully urge my colleagues to read this important op-ed.

I submit this op-ed into the RECORD.

[From the GazetteNET, Feb. 7, 2012]

ANDREW MOREHOUSE: STOP DEMAGOGUING OUR FOOD SAFETY NET

HATFIELD.—Former Northampton Mayor Clare Higgins made some eloquent points

about hunger and food stamps in her recent column, "Beyond food stamp buzzwords" (Jan. 28).

I, too, feel compelled to set the record straight so that the general public has a more complete picture of this critical issue at this juncture in our nation's history. Attacks on SNAP (the federal Supplemental Nutrition Assistance Program, formerly known as food stamps) are rampant in some corners of the public discourse these days. Republican presidential candidates have blamed entitlement programs such as SNAP—and those Americans who receive benefits from them—for the country's deficit problem.

Newt Gingrich has even claimed that "more people are on food stamps today because of Obama's policies than ever in history."

It's true that the number of food stamp recipients has risen over the past few years, but the unemployment rate has also increased 110 percent since 2006. As millions of Americans find themselves out of work, those same Americans seek assistance from programs like SNAP to help meet their basic needs. The Census Bureau estimates that food stamps helped to keep 3.9 million people above the poverty line in 2010.

Equally misleading is Gingrich's characterization of SNAP as a race issue, with comments like, "I'm prepared, if the NAACP invites me, I'll go to their convention and talk about why the African-American community should demand paychecks and not be satisfied with food stamps."

This statement reinforces a false perception that people of color are the primary recipients of SNAP benefits. The truth is that 49 percent of SNAP recipients are white, while blacks comprise 26 percent and Latinos 20 percent of recipients.

SNAP received more biased criticism in a recent Wall Street Journal opinion piece by Warren Kozak (Jan. 30), which declared hunger in America a myth.

Kozak claims that federal government programs like SNAP waste billions of dollars providing food to people that are not really in need of help. Tell that to the 110,000 people in western Massachusetts alone—primarily children, elders, or the disabled—who wouldn't have a meal tonight without their SNAP benefits or food assistance from our region's emergency food network.

What Gingrich and Kozak don't seem to understand is that SNAP is not only a lifeline for millions of households facing hunger, it is also an economic stimulus. SNAP allows families to put food on their table, and provides food dollars that are spent locally.

According to the Massachusetts Department of Transitional Assistance, SNAP generates approximately \$406 million annually in total economic activity in western Massachusetts. SNAP doesn't cause recessions, it responds to them until the economy turns around by supporting vulnerable households while injecting much-needed revenue for local food businesses that employ thousands of residents in our communities.

The fact is that hunger is a very real problem in our country—and right here in Western Massachusetts. At least one in every eight residents of western Massachusetts relies on emergency food to avert hunger. More than 45,000 people seek food assistance each month in our region, a 25 percent increase compared just three years ago.

Here at the Food Bank, we believe that no one should have to go hungry. Without jobs that provide the necessary income to support households, SNAP and other government nu-

trition programs are essential to solving the hunger crisis facing our country. Without these programs, thousands more households in our region would find their cupboards empty on a regular basis.

IN REMEMBRANCE OF MR.  
STEPHEN O'CONNOR DIEMERT, JR.

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 29, 2012*

Mr. KUCINICH. Mr. Speaker, I rise today in remembrance of Mr. Stephen O'Connor Diemert, Jr.

Born in 1932, Stephen was destined to serve his country and the Greater Cleveland community. He served as a private in the United States Army from July 1953 through March of 1955. After returning home, Mr. Diemert began his career as a firefighter in January of 1961. He served as a fireman for 24 years until January of 1985. Mr. Diemert was also a long-time member of the American Legion Firefighter Post 339 and served as the Director of Fire Affairs for Silver and Gold, a fraternal organization dedicated to "supporting the Safety Forces of Northeast Ohio."

I offer my condolences to his wife, Carol; children, Stephen (deceased) and Cindy, Robert, Laura and Tony, Mary Lou and Mike and Matthew and Vicki; grandchildren, A.J., Sara, Stephanie, Hanna, Katie and Gary; great-grandchildren, Karen, Fallon and Brucey (deceased) and eight siblings.

Mr. Speaker and colleagues, please join me in honoring the memory of Mr. Stephen O'Connor Diemert, Jr.

RECOGNIZING ANGELA BRUSCATO

HON. RODNEY ALEXANDER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 29, 2012*

Mr. ALEXANDER. Mr. Speaker, on behalf of the United States Congress, it is with enormous pride and admiration that I rise today to recognize Angela Bruscato.

Angie joined the St. Francis Medical Center volunteer program in May of 1975, and recently surpassed 20,000 hours of service. Needless to say, this is a tremendous feat.

In her long-standing role as a volunteer, Angie has been recognized for her caring service. Over the years, this extraordinary woman has been awarded the Auxilian of the Year, bestowed St. Francis Medical Center's Certificate of Merit for Dedicated Auxiliary Service, and last year, Angie was named one of my Hometown Heroes.

Angie has provided decades of consistent strength and a caring heart for the patients and staff of St. Francis Medical Center. I am honored to bring forth her exceeding 20,000 volunteer hours before this body and our Nation today.

IN RECOGNITION OF THE 60TH ANNIVERSARY OF THE MARINE CORPS LOGISTICS BASE IN ALBANY, GEORGIA

HON. SANFORD D. BISHOP, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 29, 2012*

Mr. BISHOP of Georgia. Mr. Speaker, I rise today to pay tribute to the men and women who have served and currently serve at the Marine Corps Logistics Base (MCLB) in Albany, Georgia. On Thursday, March 1, 2012 base personnel, Armed Services veterans and local dignitaries will celebrate the facility's 60th anniversary.

Over the last 60 years, the brave men and women who have served at MCLB, Albany have made significant contributions in defending our homeland and safeguarding our liberties.

On March 1, 1952, MCLB, Albany was commissioned as the Marine Corps Depot of Supplies. By 1954 the station was sufficiently complete with warehouses and administration buildings to assume supply support for Marines east of the Rocky Mountains and in the Atlantic area.

In 1967, the base became a Storage Activity and Depot Maintenance Activity.

On January 17, 1990, the Commandant of the Marine Corps designated the Commanding General, Marine Corps Logistics Base, Albany to also be Commander, Marine Corps Logistics Bases. The reorganization placed control of Marine Corps Logistics Base, Barstow, California; Blount Island Command, Jacksonville, Florida, as well as Marine Corps Logistics Base, Albany under this single command.

Over the last several decades, MCLB, Albany has provided exceptional support to the Marine Air Ground Task Forces sent to Southwest Asia. The MCLB, Albany military and civilian team's hard work and dedication, combined with equal efforts from MCLB, Barstow and Blount Island Command, have reaped outstanding results for our nation's Armed Services.

Mr. Speaker, I have had the pleasure of traveling to many U.S. military installations around the world and the Marine Corps Logistics Base in Albany, Georgia is one of the finest military bases I have ever had the pleasure of visiting.

Through my ongoing interaction with MCLB, Albany personnel, one of the things I have come to admire about our nation's Marines is that their commitment to serving our country does not end once they separate from Active Duty.

MCLB, Albany Marines hold themselves to a higher standard—that service to our nation is a lifelong commitment, not just a tour of duty.

Whether it is going on to work as policemen, fire fighters, teachers or business professionals, a MCLB, Albany Marine's commitment to making our nation better remains at the fundamental core of what not only makes them great during their Armed Services career, but what will also make them invaluable members of our society once their military careers end and their transition into civilian life begins.

Mr. Speaker, I ask my colleagues to join me today in paying tribute to the men and women

who have served at the Marine Corps Logistics Base in Albany, Georgia over the last 60 years for their outstanding valor and patriotic service.

#### PERSONAL EXPLANATION

### HON. JESSE L. JACKSON, JR.

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 29, 2012*

Mr. JACKSON of Illinois. Mr. Speaker, on Monday, February 27, and Tuesday, February 28, 2012, I was unavoidably detained for personal reasons, and missed the recorded vote for the Senate Amendment to H.R. 347, the Federal Restricted Buildings and Grounds Improvement Act, H. Res. 563, providing for consideration of H.R. 2117, the Protecting Academic Freedom in Higher Education Act.

If present, I would have recorded my votes as the following: On Monday, February 27, "yea," on rollcall vote 73; on Tuesday, February 28, "nay," on rollcall vote 74, "yea" on rollcall vote 75, "yea" on rollcall vote 76, "yea" on rollcall vote 77, "yea" on rollcall vote 78, and "nay" on rollcall vote 79.

#### CELEBRATING ST. FRANCIS MEDICAL CENTER'S AUXILIARY MEMBERS

### HON. RODNEY ALEXANDER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 29, 2012*

Mr. ALEXANDER. Mr. Speaker, I rise today in celebration of the St. Francis's Auxiliary Members ringing in their 85th year of service and assistance to the patients of the medical center. These men and women have dedicated countless hours to help those during times of need, and I am evermore grateful.

To say that this group is a source of strength within the Monroe community is an understatement. Bringing comfort and hope to patients and their families is a priceless gift. They have made a real difference in the lives of many, and I commend each member, past and present, for their admirable service and leadership.

This group is among Louisiana's finest, and it is an honor to pay tribute to the 85th anniversary of such devoted and selfless individuals. Mr. Speaker, I ask my colleagues to join me today in applauding such an outstanding benchmark.

#### A TRIBUTE IN HONOR OF BARBARA DOUGLAS

### HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 29, 2012*

Mr. TOWNS. Mr. Speaker, I rise today in great sadness to mark the passing of Barbara Douglas, an exceptional businesswoman and a champion of the game of golf who displayed

tremendous courage during her three-year battle with cancer.

Although Barbara faced challenges and endured discrimination as a female and minority, she never let that get in the way of her personal and professional goals. She was a successful executive for IBM, but what she was most well-known for was her passion and contributions to the game of golf.

Barbara started playing golf on New York-area public courses and went on to compete as an adult in the U.S. Women's Amateur Public Links, a United States Golf Association national tournament.

Among her many accomplishments was serving as the first minority chairman of the U.S. Golf Association's Women's Committee in 2009 and 2010; receiving the Golf Writers Association of America's 2011 Ben Hogan Award for overcoming a physical disability to remain active in golf, serving as president of the National Minority Golf Foundation, and being inducted as a member of the National Black Golf Hall of Fame. She also found time to champion causes such as the LPGA-USGA Girls Golf Program.

The world has lost a true champion. Those who knew her will miss her compassionate spirit, but her legacy to the game of golf will live on forever. My deepest sympathies and my prayers go out to her friends and family and the many lives she touched along her 69-year journey.

#### THE RECENT VISIT OF GEORGIAN PRESIDENT MIKHEIL SAAKASHVILI

### HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 29, 2012*

Mr. BURGESS. Mr. Speaker, I rise to note the recent visit of Georgian President Mikheil Saakashvili to Washington. He met with President Obama, Vice President BIDEN, Secretary Clinton, and many Members of Congress. President Saakashvili's high-profile visit helped consolidate bilateral relations, and the NATO Summit in Chicago in May could witness progress towards Georgia's membership.

At home, however, Georgia confronts the unresolved conflicts in Abkhazia and South Ossetia. In December, I chaired a briefing by the Helsinki Commission that examined the conflicts in the Caucasus, including Abkhazia and South Ossetia as well as Nagorno-Karabakh. I was impressed by the witnesses' expert testimony but concerned by their warning about the possibility of renewed hostilities in this strategically important region.

Despite mediation by the OSCE Minsk Group, the parties seem no closer to a resolution of the Nagorno-Karabakh dispute than they were years ago. Prospects for settling the conflicts in Abkhazia and South Ossetia are even more remote, with Russia having recognized the independence of those separatist regions, where OSCE monitors have also been excluded.

Of course, the U.S. Government has for years been involved in negotiating a settlement of these conflicts, through participation in

the Minsk Group and by attempting to move Russia toward a constructive approach in the Geneva talks on Abkhazia and South Ossetia. Washington's efforts have unfortunately not resulted in a resolution of these protracted disputes.

We have seen how quickly so-called "frozen" conflicts can come unfrozen, with terrible consequences. It is my understanding that Secretary Clinton is planning a trip to Georgia. I hope this is a sign that the region will receive a continuing and high priority in U.S. diplomacy.

#### IN RECOGNITION OF MR. MARK S. NEWMAN

### HON. GEOFF DAVIS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 29, 2012*

Mr. DAVIS of Kentucky. Mr. Speaker, I rise today in recognition of Mr. Mark S. Newman, the Chairman and Chief Executive Officer of DRS Technologies, as he retires after thirty-nine years of dedicated service to the defense industry and our servicemen and women.

Mark's leadership and inspirational concern for providing our warriors with the very best technology this nation can produce has led to the development and fielding of products which have directly saved lives on the battlefield, created enhanced situational awareness and provided superior advantages to our armed forces. He has, for his entire career, sought to place equipment in the hands of our troops that ensured they not only completed their missions, but returned home safely.

Mark joined DRS Technologies in 1973, four years after the company's founding, and was named a director in 1988. After serving many years as the company's Chief Financial Officer, he was named President and CEO in 1994, and in 1995 was elected Chairman of the Board. Under his watch, the company grew from a small specialty electronics supplier to a highly diversified defense technology provider with 10,000 employees—over 15% of whom have served in the U.S. Armed Forces. In short, Mark has built a company that is a true American success story.

In 2005, Mark established the DRS Technologies Charitable Foundation, with a focus on helping those who serve—a cause he knew would resonate throughout the entire DRS workforce. Through the years that followed, he has raised about \$600,000 to support the Intrepid Fallen Heroes Fund and their efforts to build a world-class, state-of-the-art physical rehabilitation center at Brooke Army Medical Center in San Antonio, Texas. Mark also helped raise over \$500,000 to assist the USO with the initiative "Operation Enduring Care," becoming a Global Partner with the USO in the process. In 2009, Mark helped raise over \$600,000 for the building of the state-of-the-art Intrepid Center of Excellence to research, diagnose and treat Traumatic Brain Injury (TBI) suffered by those injured while serving in Iraq and Afghanistan, and just last year Mark made it his personal mission to support "Operation Mend" at UCLA Medical Center matching the \$240,000 donated by



DRS leadership with \$240,000 of his own money. His patriotism and philanthropic initiatives supporting military charities makes him a hero in his own right.

Mr. Speaker, I ask House—me in recognizing Mark S. Newman's contributions and thanking him for his dedication to our servicemen and women.

HONORING THE THADDEUS  
KOSCIUSZKO SOCIETY AS THEY  
CELEBRATE THEIR 100TH ANNI-  
VERSARY

**HON. ROSA L. DeLAURO**

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 29, 2012*

Ms. DeLAURO. Mr. Speaker, it gives me great pleasure to rise today to join the many families and community leaders who have gathered today to celebrate the 100th Anniversary of the Thaddeus Kosciuszko Society—a remarkable milestone for this very special organization.

Like so many others of its kind, the formation of the Thaddeus Kosciuszko Society was rooted in the common need of immigrants to support one another. Milford, Connecticut was an ideal location for Polish farmers who had recently immigrated to America to settle because of the agricultural opportunities the land presented. In a new country and beginning new farms, these families faced many challenges. Seeing the need to have someone or something available to them to assist in a time crisis, a group of seven men met on Sunday, April 1, 1912, and established an organization through which they could not only help each other, but also future generations. Their mission, as stated in their original bylaws was simple: "To promote social activities, recreation and mental improvement among its members and to provide relief benefit therefor in cases of sickness or trouble."

From that handful of farmers, the Society has grown throughout the years. Many of today's seventy-five members are descendants of the original seven. Throughout its 100-year history, the Society has often been a source of comfort and support for newly immigrated families. Over that time, the Society Treasury, funded by member dues and modest fundraising events, has enabled the Society to provide financial support to relatives and survivors of the sick and deceased as well as more than \$50,000 in scholarships to students of Polish decent seeking higher education.

Keeping with the practice started by their founders, the Thaddeus Kosciuszko Society still meet once a month on a Sunday afternoon and their Annual Summer Picnic, now a well-known community tradition, is still held on a mid-summer Sunday afternoon. Though times and the needs of members have changed, the Society continues to make a difference in the lives of those in need, strengthening the bonds of friendship and community from one generation to the next. Today, as they celebrate their 100th Anniversary, they can proudly look back on their rich history and be secure in the knowledge that the Thaddeus Kosciuszko Society will remain a source of

support and encouragement for many more families in the years to come.

RECOGNIZING LOUISIANA'S  
LONGEST MARRIED COUPLE

**HON. RODNEY ALEXANDER**

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 29, 2012*

Mr. ALEXANDER. Mr. Speaker, on behalf of the United States Congress, it is with great pride that I rise today to recognize Louisiana's longest-married couple, Norman and Norma Burmah.

The Marksville couple, who celebrated their 81st wedding anniversary, will be inducted into the Louisiana Family Forum's Marriage Hall of Fame, and were recently commended by Governor Bobby Jindal in a reception held in their honor on Valentine's Day.

After an introduction by Norma's friend, the couple began their courtship in 1930 at the Roof Garden Dance Hall in New Orleans. The following year, Norman and Norma were married at Holy Ghost Church in the Crescent City.

Known as "Maw" and "Paw" to their loved ones, they are the proud parents of two daughters, and have been blessed with six grandchildren and 13 great-grandchildren. After Hurricane Katrina destroyed their home in 2005, Norman and Norma relocated to Marksville where their strong commitments to each other, family and God have continued.

It is an honor to recognize Norman and Norma Burmah and give my heartfelt congratulations to them on this truly incredible event in their lives. I ask my colleagues to join me in extending best wishes to Louisiana's longest married couple.

EARTHQUAKE AWARENESS MONTH  
IN MISSOURI

**HON. RUSS CARNAHAN**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 29, 2012*

Mr. CARNAHAN. Mr. Speaker, I rise to bring the important issue of earthquake awareness to the attention of the members of the House.

February is Earthquake Awareness Month in Missouri. My district lies within the New Madrid Seismic Zone, the nation's most active earthquake zone east of the Rocky Mountains. Every year there are more than 200 small earthquakes in this region and there have been earthquakes as strong as magnitude 7.0 in the past. These natural disasters aren't predictable so we must remain vigilant in our preparation for and awareness of the hazards associated with earthquakes.

This month I had the opportunity to speak with high school students from my district about what they are doing to prepare themselves for an earthquake. On February 7th they joined other students from 414 Missouri schools in the 2012 Great Central US Shake-Out. We discussed how the students can prepare their schools and homes for an earth-

quake and they told me about their experience practicing an earthquake drill. The safety of our children is of the utmost importance and schools play a key role during disasters so when they are well prepared the whole community benefits.

The Saint Louis University Earthquake Center is a world leader in the field of earthquake seismology. I had the opportunity to tour this facility and to learn about the groundbreaking research they are doing. As part of this year's Earthquake Awareness Month, Saint Louis University hosted a seminar entitled "Earthquakes: Mean Business" that focused on disaster preparedness and business continuity planning. The St. Louis Science Center also hosted an Earthquake Awareness Day to introduce our citizens to the science behind earthquakes.

I applaud the citizens and businesses of the St. Louis region for their vigilance in preparing for earthquakes and I encourage our continued investment in studying and preparing for these potentially devastating natural events.

HONORING NATIONAL KIDNEY  
MONTH

**HON. TOM MARINO**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 29, 2012*

Mr. MARINO. Mr. Speaker, I rise today to ask the House to join me on March 1, 2012 in recognition of Kidney Action Day and recognition of March as National Kidney Month. With over 31 million Americans affected by kidney disease, it is critical that we make every effort to raise awareness and stress the importance of early detection and treatment of the nation's 8th most deadly disease.

The effects of chronic kidney disease can go undetected for years without showing any symptoms but can evolve into a condition with the worst of consequences. As a survivor of kidney cancer, I know the importance of getting checked and beginning the fight at the earliest possible stage. A blood or urine screening can determine whether an individual is showing signs of a renal condition and in early stages, the disease can be treated with medication along with a diet and exercise program.

However, if left untreated, kidney disease may harbor other conditions such as diabetes or hypertension which increases the risk for a stroke, heart attack, or other cardiac-related issues. Dialysis may be needed in the later stages of chronic kidney disease as it aids in cleaning the bloodstream of toxins and in the most severe cases a kidney transplant may be needed. While there is no cure for chronic kidney disease, proper lifelong treatment can slow the onset of kidney failure and help control the symptoms of this devastating disease.

On March 1, 2012, I will be attending Kidney Action Day on the Hill in order to raise consciousness and spread knowledge that could potentially mitigate the tragic effects of this disease. I ask my fellow members of the House to join me on March 1, 2012 to recognize Kidney Action Day and National Kidney Month all across the United States so that we

may spread awareness and lend a hand in saving the lives of those we serve.

#### PERSONAL EXPLANATION

### HON. CHRISTOPHER S. MURPHY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 29, 2012*

Mr. MURPHY of Connecticut. Mr. Speaker, on February 28, 2012 I was unavoidably detained and missed rollcall vote 79. If present, I would have voted "nay."

#### SUPPORTING GREAT LAKES WEEK

### HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 29, 2012*

Ms. KAPTUR. Mr. Speaker, this week in Washington is Great Lakes Week. It could not come at a more important time.

Last Thursday, the Administration released the 2012 Asian Carp Control Strategy Framework, which is important in establishing the fight to protect our Great Lakes against invasive Asian carp that threaten our \$7 billion fishing industry. No lake is more important than Lake Erie—The largest fishery on the Great Lakes.

We should be thankful that President Obama is elevating Asian carp as a priority. I encourage him to do more to stop the carp from migrating into our precious ecosystem.

Last month, another important study was released, outlining a necessary path forward to separate our Great Lakes from the Mississippi watershed. This is the only real solution for stopping the enemy at the gate.

For the same reason, I am a cosponsor of the Stop Asian Carp Act, which calls for that barrier to be built now, not delayed for over a decade. Too much is at risk.

I represent the largest portion of coastal Ohio along Lake Erie—which contains more native fish than all the other Lakes combined. We must protect this valuable ecological treasure, and the local multi-billion dollar economy it supports. This involves the lake itself, the maritime industry, coastal tourism, recreation, wildlife refuges, energy protection, industrial plants and so much more.

These endowments extend far beyond Asian carp. This year, lakeside communities again are grappling with an expanding algal bloom that can be poisonous if ingested, creates biological dead-zones, and just plain stinks.

Residents stay inside to avoid the putrid smell, charter boat captains suffer as fishing declines, and hotels and restaurants in popular vacation spots sit empty as travelers take their recreational dollars elsewhere.

Under the Western Lake Erie Basin Partnership, I have brought together researchers, non-profits, and local-residents to work with federal agencies including the EPA, Department of Agriculture, and Army Corps of Engineers to address this huge challenge.

Under President Obama, many of these efforts were integrated into a new program

called the Great Lakes Restoration Initiative, which is proving effective at addressing the enormous needs facing our Great Lakes.

Through the GLRI, specific areas of concern like the Cuyahoga, Maumee, and Black Rivers are receiving much needed federal dollars to improve these watersheds.

After years of work to develop the Ottawa National Wildlife Refuge, the GLRI is helping expand their efforts in wetland habitat restoration and enhancement.

In the Black River, we are removing steel mill slag and restoring habitat for native fish species.

This fall in Sandusky, we dedicated a new research vessel for Lake Erie—The "USS *Muskie*."

And, the University of Toledo is undertaking a study to assess the benefits provided by a newly created wetlands to prevent agricultural runoff that can produce algal blooms and increase nearshore health concerns, such as *E. coli* and other bacteria.

I, along with a broad range of costal stakeholders, continue to work closely with the agency officials to ensure that the most fragile Great Lakes ecosystem—Lake Erie—receives funding levels in line with the great need.

And, it is essential that our Great Lakes delegation work with my colleagues in Congress to ensure that we continue sufficient funding to the Great Lakes Restoration Initiative.

America has done so much to help certain areas like the Everglades and expanses of Alaska that few Americans will ever get to enjoy. More than one quarter of our country lives in a Great Lakes state and depends on healthy lakes for water, farming, business and pleasure.

During this Great Lakes Week, and throughout the upcoming months in which we will determine our spending priorities, I urge my colleagues, especially those in our region who have not already gotten on board, to support the Great Lakes Restoration Initiative and other programs to protect these national and global treasures for today and tomorrow.

#### RECOGNIZING INTERNATIONAL RARE DISEASE DAY

### HON. TIMOTHY H. BISHOP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 29, 2012*

Mr. BISHOP of New York. Mr. Speaker, I rise to recognize the fifth International Rare Disease Day, a day reserved to promote awareness of the approximately 6,800 rare diseases afflicting 30 million Americans.

In the United States, a rare disease is one that affects fewer than 200,000 people. The National Organization of Rare Disorders estimates that one in ten Americans are suffering today from a rare disease. Thanks to patients and their families, the medical community, and organizations established to advocate for greater awareness and research, advances have been in the diagnosis and treatment of many of these diseases. With a renewed commitment to scientific research and discovery, we can provide much more than treatments and disease management to millions of our suffering constituents, we can provide cures.

In my congressional district, I have met with countless constituents and their families whose lives have, in one way or another, been impacted by a rare disease such as Epidermolysis Bullosa, commonly known as EB, which is characterized by the presence of extremely fragile skin that results in the development of recurrent, painful blisters, open sores, and in some forms of the disease, in disfiguring scars, disabling musculoskeletal deformities, and internal blistering. EB affects approximately 12,000 individuals in the United States.

I have also met with families impacted by Duchenne Muscular Dystrophy. This is a form of muscular dystrophy found in boys who experience a progressive loss of muscle function. Parent Project Muscular Dystrophy estimates that 15,000 young men suffer from Duchenne.

Marfan Syndrome is another rare disease that has impacted my constituents. Marfan Syndrome is a disorder of the connective tissue that can affect the skeletal, cardiovascular, and nervous systems, the skin, eyes, and lungs. While there is no cure, an early diagnosis and proper treatment can provide a normal life-span. The National Marfan Foundation estimates that 200,000 are affected by Marfan Syndrome.

Finally, I would like to take this opportunity to also mention Dysautonomia, a group of disorders that cause a breakdown or failure of the autonomic nervous system which regulates involuntary functions of the body: heart rate, blood pressure, body temperature, and perspiration. Some forms of this order are characterized as rare diseases such as Multiple System Atrophy and Familial Dysautonomia. Although other forms such as Postural Orthostatic Tachycardia Syndrome, Neurocardiogenic Syncope, and Autoimmune Autonomic Ganglionopathy are not, this does not detract from their importance and should not result in a federal commitment less than resolute in discovering advances to help increase accurate diagnosis and better treatment. Together, the National Dysautonomia Research Foundation estimates that over one million Americans are impacted by an autonomic system disorder.

Today, Mr. Speaker, I join with patients, their families, and millions in the United States and around the world to recognize this important day. I urge my colleagues to take a moment today to think about what more Congress can do to help Americans and their families suffering from rare diseases. Together, we can do more for all.

#### SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, March 1, 2012 may be found in the Daily Digest of today's RECORD.

#### MEETINGS SCHEDULED MARCH 6

9:30 a.m.

##### Armed Services

To hold hearings to examine U.S. Central Command and U.S. Special Operations Command in review of the Defense Authorization request for fiscal year 2013 and the Future Years Defense Program; with the possibility of a closed session in SVC-217 following the open session.

SH-216

10 a.m.

##### Banking, Housing, and Urban Affairs

To hold hearings to examine spurring job growth through capital formation while protecting investors, part II.

SD-538

##### Budget

To hold hearings to examine perspectives on the President's proposed budget request for fiscal year 2013 for the Department of Defense.

SD-608

##### Energy and Natural Resources

To hold hearings to examine the President's proposed budget request for fiscal year 2013 for the Forest Service.

SD-366

##### Finance

To hold hearings to examine tax reform options, focusing on incentives for capital investment and manufacturing.

SD-215

10:30 a.m.

##### Homeland Security and Governmental Affairs

To hold hearings to examine the nomination of Tony Hammond, of Missouri, to be a Commissioner of the Postal Regulatory Commission.

SD-342

2:30 p.m.

##### Foreign Relations

To hold hearings to examine the President's proposed budget request for fiscal year 2013 for international development priorities.

SD-419

##### Homeland Security and Governmental Affairs

To hold hearings to examine the nominations of Mark A. Robbins, of California, to be a Member of the Merit Systems Protection Board, and Roy Wallace McLeese III, to be an Associate Judge of the District of Columbia Court of Appeals.

SD-342

##### Commerce, Science, and Transportation

##### Science and Space Subcommittee

To hold hearings to examine keeping America competitive through investments in research and development.

SR-253

##### Intelligence

To hold closed hearings to examine certain intelligence matters.

SH-219

#### MARCH 7

9 a.m.

##### Armed Services

To hold hearings to examine the situation in Syria; with the possibility of a closed session in SVC-217 following the open session.

SD-106

9:30 a.m.

##### Agriculture, Nutrition, and Forestry

To hold hearings to examine healthy food initiatives, local production, and nutrition.

SH-216

10 a.m.

##### Agriculture, Nutrition, and Forestry

To hold hearings to examine risk management and commodities in the 2012 farm bill.

SH-216

##### Commerce, Science, and Transportation

To hold hearings to examine priorities, plans, and progress of the nation's space program.

SR-253

##### Homeland Security and Governmental Affairs

To hold hearings to examine the President's reorganization plan, focusing on retooling government for the 21st century.

SD-342

##### Judiciary

To hold hearings to examine lending discrimination practices and foreclosure abuses.

SD-226

##### Appropriations

##### Departments of Labor, Health and Human Services, and Education, and Related Agencies Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2013 for the Department of Health and Human Services.

SD-124

##### Veterans' Affairs

To hold joint hearings to examine a legislative presentation from the Veterans of Foreign Wars (VFW).

SD-G50

10:30 a.m.

##### Appropriations

##### Department of Defense Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2013 for the Department of the Navy.

SD-192

2 p.m.

##### Aging

To hold hearings to examine opportunities for savings, focusing on removing obstacles for small business.

SD-562

2:30 p.m.

##### Commerce, Science, and Transportation

##### Oceans, Atmosphere, Fisheries, and Coast Guard Subcommittee

To hold hearings to examine the President's proposed budget request for fiscal year 2013 for the Coast Guard and the National Oceanic and Atmospheric Administration.

SR-253

##### Energy and Natural Resources

##### National Parks Subcommittee

To hold hearings to examine S. 29, to establish the Sacramento-San Joaquin Delta National Heritage Area, S. 1150,

to establish the Susquehanna Gateway National Heritage Area in the State of Pennsylvania, S. 1191, to direct the Secretary of the Interior to carry out a study regarding the suitability and feasibility of establishing the Naugatuck River Valley National Heritage Area in Connecticut, S. 1198, to reauthorize the Essex National Heritage Area, S. 1215, to provide for the exchange of land located in the Lowell National Historical Park, S. 1589, to extend the authorization for the Coastal Heritage Trail in the State of New Jersey, S. 1708, to establish the John H. Chafee Blackstone River Valley National Historical Park, H.R. 1141, to authorize the Secretary of the Interior to study the suitability and feasibility of designating prehistoric, historic, and limestone forest sites on Rota, Commonwealth of the Northern Mariana Islands, as a unit of the National Park System, H.R. 2606, to authorize the Secretary of the Interior to allow the construction and operation of natural gas pipeline facilities in the Gateway National Recreation Area, S. 2131, to reauthorize the Rivers of Steel National Heritage Area, the Lackawanna Valley National Heritage Area, and the Delaware and Lehigh National Heritage Corridor, and S. 2133, to reauthorize the America's Agricultural Heritage Partnership in the State of Iowa.

SD-366

#### MARCH 8

9:30 a.m.

##### Armed Services

To hold hearings to examine the Department of the Army in review of the Defense Authorization request for fiscal year 2013 and the Future Years Defense Program.

SD-106

10 a.m.

##### Health, Education, Labor, and Pensions

To hold hearings to examine the key to America's global competitiveness, focusing on a quality education.

SD-430

2:15 p.m.

##### Indian Affairs

To hold hearings to examine the President's proposed budget request for fiscal year 2013 for Native Programs.

SD-628

2:30 p.m.

##### Homeland Security and Governmental Affairs

To hold hearings to examine the President's proposed budget request for fiscal year 2013 for the Department of Homeland Security.

SD-342

##### Intelligence

To hold closed hearings to examine certain intelligence matters.

SH-219

#### MARCH 13

9:30 a.m.

##### Armed Services

To hold hearings to examine U.S. Southern Command and U.S. Northern Command in review of the Defense Authorization request for fiscal year 2013 and the Future Years Defense Program; with the possibility of a closed session in SVC-217 following the open session.

SD-G50

10 a.m. Energy and Natural Resources To hold hearings to examine the report of the Independent Consultant's Review with Respect to the Department of Energy Loan and Loan Guarantee Portfolio. SD-366	MARCH 15 9:30 a.m. Armed Services To hold hearings to examine the Department of the Navy in review of the Defense Authorization request for fiscal year 2013 and the Future Years Defense Program; with the possibility of a closed session in SVC-217 following the open session. SD-G50	erans Affairs, and The Retired Enlisted Association. SD-G50 2 p.m. Judiciary Antitrust, Competition Policy and Consumer Rights Subcommittee To hold hearings to examine Verizon and cable deals. SD-226
10:30 a.m. Homeland Security and Governmental Affairs Contracting Oversight Subcommittee To hold hearings to examine contractors, focusing on how much they are costing the government. SD-342 Judiciary To hold hearings to examine the Freedom of Information Act, focusing on safeguarding critical infrastructure information and the public's right to know. SD-226	2:15 p.m. Indian Affairs To hold an oversight hearing to examine Indian water rights, focusing on promoting the negotiation and implementation of water settlements in Indian country. SD-628	MARCH 22 10 a.m. Veterans' Affairs To hold joint hearings to examine the legislative presentations of the Paralyzed Veterans of America, Air Force Sergeants Association, Blinded Veterans Association, American Veterans (AMVETS), Gold Star Wives, Fleet Reserve Association, Military Officers Association of America, and the Jewish War Veterans. 345, Cannon Building
MARCH 14 10 a.m. Veterans' Affairs To hold hearings to examine ending homelessness among veterans, focusing on Veterans' Affairs progress on its five year plan. SR-418	MARCH 20 9:30 a.m. Armed Services To hold hearings to examine the Department of the Air Force in review of the Defense Authorization request for fiscal year 2013 and the Future Years Defense Program; with the possibility of a closed session in SVC-217 following the open session. SD-G50	MARCH 28 10 a.m. Veterans' Affairs To hold hearings to examine the nominations of Margaret Bartley, of Maryland, and Coral Wong Pietsch, of Hawaii, both to be a Judge of the United States Court of Appeals for Veterans Claims. SR-418
2 p.m. Armed Services Personnel Subcommittee To hold hearings to examine the Active, Guard, Reserve, and civilian personnel programs in review of the Defense Authorization request for fiscal year 2013 and the Future Years Defense Program. SR-232A	MARCH 21 10 a.m. Veterans' Affairs To hold joint hearings to examine the legislative presentations of the Military Order of the Purple Heart, Iraq and Afghanistan Veterans of America (IAVA), Non Commissioned Officers Association, American Ex-Prisoners of War, Vietnam Veterans of America, Wounded Warrior Project, National Association of State Directors of Vet-	2 p.m. Armed Services Personnel Subcommittee To resume hearings to examine the Active, Guard, Reserve, and civilian personnel programs in review of the Defense Authorization request for fiscal year 2013 and the Future Years Defense Program. SR-232A

## HOUSE of REPRESENTATIVES—Thursday, March 1, 2012

The House met at 9 a.m. and was called to order by the Speaker pro tempore (Mr. YODER).

### DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,  
March 1, 2012.

I hereby appoint the Honorable KEVIN YODER to act as Speaker pro tempore on this day.

JOHN A. BOEHNER,  
*Speaker of the House of Representatives.*

### PRAYER

The Chaplain, the Reverend Patrick J. Conroy, offered the following prayer:

Eternal God, we give You thanks for giving us another day.

We come to the end of a short week in which we have given thanks for and honored African American men and women whose labor, while in bondage, built this temple of freedom and democracy within which we now stand.

Now we approach a weekend during which many Members of this assembly will gather to remember a historic event in Selma, Alabama. Forty-seven years ago, brave men and women, Americans of all races, colors, and faiths, walked together to help guarantee freedoms still denied the descendants of those slave laborers.

Bless the Members of this assembly and us all that we would be worthy of the call we have been given as Americans to nurture and guarantee democratic freedoms to all that dwell in our great Nation. Help us all to be truly thankful and appropriately generous in our response.

May all that is done this day be for Your greater honor and glory.

Amen.

### THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

### PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from California (Mr. FARR) come forward and lead the House in the Pledge of Allegiance.

Mr. FARR led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain up to five requests for 1-minute speeches from each side of the aisle.

### OUR MILITARY FAMILIES DESERVE FAIRNESS

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, earlier this week I was fortunate to chair a House Armed Services Subcommittee on Military Personnel where we had a hearing in regard to receiving information concerning the administration's military personnel budget overview for 2013.

The administration constantly preaches about fairness. Over the next 10 years, the administration has proposed cutting our military personnel by 123,000 troops and cutting civilian employees by a mere 7,000 personnel, but destroying 130,000 jobs. It is absolutely unfair that the administration believes in drastically eliminating our troops with no substantial cuts to any other Department of our government even as we are at war with an enemy that is obsessed with death. Additionally, the administration's proposal allows an increase of TriCare health insurance enrollment fees by a possible 345 percent over the next 5 years. This kind of unfairness must stop.

I urge the President and his administration to reconsider their budget request and treat our military personnel, military families, and veterans with the fairness they've earned and the respect they deserve.

In conclusion, God bless our troops, and we will never forget September the 11th in the global war on terrorism.

### 51ST ANNIVERSARY OF THE PEACE CORPS

(Mr. FARR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FARR. Mr. Speaker, I rise today to honor the 51st anniversary of the Peace Corps.

In just 51 years, the Peace Corps has been an unparalleled force for peace. Listen to the numbers: 139 developing countries have been served; over 200,000 returned Peace Corps volunteers and four of those are Members of Congress. Taken together, these volunteers have contributed more than 400,000 years of service in the name of peace.

I am proud to be a part of these ranks. The Peace Corps changed my life, and it continues to change the lives of both those who serve and the communities that are served.

In 2012, this call to service doesn't show any signs of slowing down. As I speak, 9,095 Americans are serving in 76 countries. This includes my constituent Chase Rollings of Santa Cruz, who is working in Ethiopia teaching the English language for a tour guide association to increase ecotourism and helping women develop honey production and dried fruit projects to promote their income. That is just the work of one volunteer.

Today, I honor Chase and hundreds of thousands of other Peace Corps volunteers past and present. Each one of you represents America's highest ideals: peace, prosperity, and friendship. Truly your service is more important today than it has ever been.

Congress must fund the Peace Corps. It is the best job in America.

### SUPPORT THE FEDERAL PRICE GOUGING PREVENTION ACT

(Mr. CICILLINE asked and was given permission to address the House for 1 minute.)

Mr. CICILLINE. Mr. Speaker, as Rhode Islanders and men and women across America are hard at work trying to put our country back on the right track, the threat of rising gas prices raises a specter of another difficult driving season ahead.

While our government subsidizes Big Oil to the tune of \$3 billion each year, they continue to run up record profits as hardworking families pay higher and higher prices for gas. In my home State of Rhode Island where families are struggling with an 11 percent unemployment rate and the average price of a gallon of regular gas is now \$3.79, rising fuel costs put far too many hardworking families at risk.

The Federal Price Gouging Prevention Act, which my colleague Mr. BISHOP has introduced, would help guarantee that should we face an energy emergency, middle class families are not at the mercy of Wall Street

speculators every time they fill up their car. While we have to work together permanently to end our addiction to foreign sources of oil, in the short term we must act on legislation like the Federal Price Gouging Prevention Act that will help prevent Wall Street speculators from taking unfair advantage of consumers at the pump during energy emergencies.

#### I AM PROUD TO SUPPORT PRESIDENT OBAMA

(Mr. COHEN asked and was given permission to address the House for 1 minute.)

Mr. COHEN. Mr. Speaker, yesterday I had the pleasure of having some gentlemen from the railroad industry come and visit my office, and they let me know how their business has improved over the years.

One of the indices of an improving economy is the number of railcars filled, and that has gone up and up. Warren Buffett said it was the best indicator of how the economy is doing. The railcars are being filled, and a lot of it is because of automobile distribution and automobile production.

The automobile industry in our Nation was saved because of the American Recovery and Reinvestment Act and the work of President Barack Obama and the TARP, all of which have helped our economy get better and lower our unemployment rates.

As I think of the good work President Obama has done, I read yesterday about an al Qaeda arrested and stopped in Cairo, Egypt. Besides Osama bin Laden, other members of al Qaeda have been eliminated and our country is safer.

The Dow went over 13,000, which is another indicator of a burgeoning economy that is getting out of the Bush recession.

I want to say that I'm proud to support President Obama, his jobs plan, his efforts to maintain the automobile industry strong in America, and to support him in Libya and root out Qadhafi and al Qaeda in other places.

□ 0910

#### DIRECTING OFFICE OF HISTORIAN TO COMPILE ORAL HISTORIES FROM MEMBERS INVOLVED IN ALABAMA CIVIL RIGHTS MARCHES

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, pursuant to the order of the House of February 29, 2012, I call up the resolution (H. Res. 562) directing the Office of the Historian to compile oral histories from current and former Members of the House of Representatives involved in the historic and annual Selma to Montgomery, Alabama, marches, as well as the civil rights movement in general, for the

purposes of expanding or augmenting the historic record and for public dissemination and education, and ask for its immediate consideration.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

#### H. RES. 562

Whereas in 1965, civil rights advocates participated in three marches from Selma to Montgomery, Alabama, marking a watershed moment of the civil rights movement;

Whereas the first march took place on March 7, 1965, during which 600 civil rights activists, led by now-Representative John Lewis and Reverend Hosea Williams, began a march to protest unfair voter registration practices and the shooting death of Jimmie Lee Jackson during a voter registration drive;

Whereas marchers progressed only six blocks from the Brown Chapel A.M.E. Church to the Edmund Pettus Bridge, where many were tear-gassed and beaten;

Whereas two days later, on March 9, 1965, Reverend Martin Luther King, Jr., led a symbolic march of 2,000 people to the Edmund Pettus Bridge, all kneeling there to pray;

Whereas, on March 21, 1965, with protection from the Alabama National Guard, more than 3,000 people set out from Selma again led by Rev. King, marching an average of 12 miles a day along Route 80 and sleeping in farm fields;

Whereas that group grew to 25,000 participants by the time it reached Montgomery on March 25, 1965, where Rev. King delivered one of his most venerated speeches;

Whereas as a result of this historic three-week period, Congress passed the Voting Rights Act of 1965, five months after the third march, as a recognition of the right of all United States citizens to fully participate in the electoral process;

Whereas in 1996, Congress created the 54-mile long Selma-to-Montgomery National Historic Trail along the route of this third march, starting at the Brown Chapel A.M.E. Church in Selma, crossing the Edmund Pettus Bridge, and ending at the Alabama State Capitol in Montgomery;

Whereas beginning in 1998, Members of Congress have participated in an annual civil rights pilgrimage to the Selma-to-Montgomery National Historic Trail, to visit the historic sites, participate in fellowship, and recognize the achievements of the civil rights movement;

Whereas the Office of the Historian, first established in 1983, researches, preserves, and interprets the rich institutional history of the House of Representatives in order to share it with Members, staff, and the public, and serves as the institutional memory to inspire greater understanding of the House of Representatives' central role in United States history;

Whereas Members of the House of Representatives have included participants in the historic 1965 marches and in the annual pilgrimages thereafter; and

Whereas the collection of oral memories of march participants who have served in the House of Representatives, and will continue to serve in the House of Representatives, is essential to the preservation of the history of the institution: Now, therefore, be it

*Resolved*, That the House of Representatives directs the Office of the Historian to compile oral histories from current and former Members of the House of Representa-

tives involved in the historic and annual Selma to Montgomery, Alabama, marches, as well as the civil rights movement in general, for the purposes of expanding or augmenting the historic record and for public dissemination and education.

The SPEAKER pro tempore. Pursuant to the order of the House of Wednesday, February 29, 2012, the gentleman from California (Mr. DANIEL E. LUNGREN) and the gentleman from Georgia (Mr. LEWIS) each will control 30 minutes.

The Chair recognizes the gentleman from California.

#### GENERAL LEAVE

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, I rise in support of House Resolution 562, which directs the Office of the Historian to compile and disseminate oral histories from current and former Members of the House of Representatives involved in the historic and annual Selma-to-Montgomery, Alabama, marches, as well as the civil rights movement in general.

In March of 1965, a defining 3-week period of the civil rights movement culminated with a historic 54-mile march from Selma to Montgomery. Led by the Reverend Martin Luther King, Jr., it was the last of three marches that resulted in the passage of the Voting Rights Act of 1965 recognizing the right of all Americans to participate in the electoral process.

On March 7, 1965, our colleague from Georgia, Mr. JOHN LEWIS, and the Reverend Hosea Williams led 600 civil rights activists in the first march from Selma to Montgomery to protest the shooting of Jimmie Lee Jackson, killed just a few weeks earlier by State troopers while doing nothing more than registering African Americans to vote. The march lasted only six blocks before coming to a violent end on the Edmund Pettus Bridge. In what has become known as Bloody Sunday, troopers used tear gas and clubs to beat the protesters back from the bridge. The upsetting, horrifying images of peaceful marchers being brutally assaulted by authorities brought national attention to the plight of African Americans in the South and greater resolve to those seeking equality for all.

Two days later, the Reverend Martin Luther King, Jr., led a second symbolic march where 2,000 participants returned to the Edmund Pettus Bridge and proceeded to kneel and pray.

On March 21, this time with protection from Federal authorities and the

Alabama National Guard, the Reverend Martin Luther King, Jr., led a 54-mile march to the State capitol building. Three days later, the group that started with 3,000 participants and grew to 25,000 strong, arrived in Montgomery, where Dr. King proclaimed:

We are on the move now. Like an idea whose time has come, not even the marching of mighty armies can halt us. We are moving to the land of freedom.

Mr. Speaker, the magnitude and importance of this historic event is undeniable, and its significance to American history must never be forgotten.

To commemorate these marches, Congress in 1996 created the 54-mile-long Selma to Montgomery National Historic Trail along the route of Dr. King's march, starting at the Brown Chapel AME Church in Selma and ending at the Alabama State Capitol in Montgomery.

Since 1998, Members of Congress have participated in an annual civil rights pilgrimage on the Selma to Montgomery National Historic Trail. In March of 2009, I had the privilege of participating with my wife in this event. We marched across the Edmund Pettus Bridge, and we were inspired by those with firsthand experiences from the events of 1965.

Documenting and sharing the experiences of Members who participated in historic and annual marches from Selma to Montgomery is critically important to the recognition and preservation of the achievements of the American civil rights movement. As I understand it, Mr. LEWIS from Georgia and the majority leader whip, Mr. MCCARTHY, will lead the 2012 congressional civil rights pilgrimage starting tomorrow. It is fitting that we are here today with this resolution as another group of Members begin their journey.

I want to thank my colleagues from Alabama, Ms. SEWELL and Mrs. ROBY, for introducing this important resolution.

I strongly urge all of my colleagues not only to support the resolution but also to take part in the annual congressional Selma to Montgomery march.

I reserve the balance of my time.

□ 0920

Mr. LEWIS of Georgia. Mr. Speaker, I yield myself such time as I may consume.

I want to thank my colleagues, Majority Leader ERIC CANTOR, Congresswomen TERRI SEWELL and MARTHA ROBY, for offering this resolution today.

I am so pleased that this resolution will preserve the oral histories of current and former Members of Congress who participated in the civil rights movement, and it will also preserve the experiences of Members who have come on the Faith & Politics Civil Rights Pilgrimage to Alabama.

Together, we have retraced the steps that were walked so many years ago and have spent time with some of the people who shaped the civil rights movement. Some of the Members who have gone on this pilgrimage were not even born during the civil rights movement, and they come to learn about our Nation's history. Many Members have come away changed by this experience forever.

This resolution will help us preserve a powerful and transformative period in American history. Without the brave and courageous souls who shed blood, sweat, and tears in Alabama and throughout the South, this would be a very different Nation today.

It is very important that Members of Congress understand and acknowledge the debt we owe to ordinary people with extraordinary vision, who, as Dr. Martin Luther King once said, "injected new meaning into the very veins of our democracy."

Mr. Speaker, on March 7, 1965, 600 peaceful, nonviolent protesters attempted to march from Selma, Alabama, to the State capitol in Montgomery to dramatize to the world that people of color wanted to register to vote.

We left Brown Chapel AME Church that morning on a sacred mission, prepared to defy the dictates of man to demonstrate the truth of a higher law. Ordinary citizens with extraordinary vision walked shoulder to shoulder, two by two, in a silent, peaceful protest against injustice in the American South. We were met at the foot of the Edmund Pettus Bridge by a sea of blue—Alabama State troopers. Some were mounted on horseback, but all of them were armed with guns, tear gas, and billy clubs, and beyond them were deputized citizens who were waving any weapons they could find.

Then we heard:

I am Major John Cloud. This is an unlawful march. You cannot continue. You have 3 minutes to go home or return to your church.

We were preparing to kneel and pray when the major said, "Troopers advance."

The troopers came toward us, beating us and spraying tear gas. That brutal confrontation became known as Bloody Sunday.

It produced a sense of righteous indignation around the country and around the world that led this Congress to pass the Voting Rights Act of 1965. Eight days after Bloody Sunday, President Lyndon Johnson addressed a joint session of Congress and made what I believe is the greatest statement any President has ever made on the importance of voting rights in America.

He said:

I speak tonight for the dignity of man and for the destiny of democracy. At times, history and fate meet at a single time, in a single place to shape a turning point in man's

unending search for freedom. So it was at Lexington and Concord. So it was a century ago at Appomattox. So it was last week in Selma, Alabama.

During that speech, President Johnson condemned the violence in Selma and called on Congress to enact the Voting Rights Act. He closed his speech by echoing the words of the civil rights movement, saying over and over, "And we shall overcome . . . And we shall overcome."

Congress did pass the Voting Rights Act, and on August 6, 1965, it was signed into law.

This weekend, starting tomorrow, is the 12th congressional pilgrimage to civil rights sites in Birmingham, Montgomery, and in Selma with the Faith & Politics Institute. We will remember the distance we have come and the progress we have made. We will end our time together in Selma by crossing the Edmund Pettus Bridge.

During this trip, we see ourselves not as Democrats or Republicans or as adversaries. We see ourselves as Americans on a journey to discover our history. We all come away from this pilgrimage with a deeper appreciation of our democracy and the power of people to make a difference in our society. I am so pleased that this story will be told.

Mr. Speaker, I reserve the balance of my time.

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, it is my pleasure to yield 2 minutes to the gentleman from Wisconsin (Mr. PETRI), a distinguished member of the Committees on Education and the Workforce and Transportation and Infrastructure.

Mr. PETRI. I thank my colleague from California for yielding.

I support House Resolution 562, which recognizes the importance of preserving the oral histories of current and former Representatives' personal experiences regarding the historic Selma to Montgomery, Alabama, marches and the civil rights movement.

As a student during the civil rights movement, I had the opportunity to witness the impact the Selma to Montgomery marches had on shifting public opinions. An example of the influence the marches wielded is the fact that, 2 days after witnessing the images of the initial march in the media, President Johnson presented a bill to a joint session of Congress, which became the Voting Rights Act of 1965.

Like so many others, I tried to play my own small part in support of the civil rights movement. As a member of the NAACP and as a college student, I participated in a boycott of a Woolworth's store in support of the desegregation of the chain's lunch counters in the South. During that time, Dr. King came to our college, and I had the honor to very briefly meet him.

While my direct involvement in the civil rights movement may have been



limited, there are many former and current Members who have unique and inspirational stories to share about the historic 1965 marches and the civil rights movement.

We have the honor of serving with Representative JOHN LEWIS, for example, who just spoke, who is an icon of the civil rights movement. I have been lucky enough to hear him speak movingly to student groups and others about his experiences as he led the fight for racial and voter equality. It is important that accounts such as his be preserved in the historic record so that they can be shared for years to come. I believe it is important to keep the history and heritage of the civil rights movement alive by collecting and sharing these oral histories with the American public.

Mr. Speaker, I support this resolution, and I urge its passage by the House today.

Mr. LEWIS of Georgia. Mr. Speaker, I am pleased to yield 4 minutes to the gentleman from Georgia (Mr. DAVID SCOTT).

Mr. DAVID SCOTT of Georgia. Thank you very much, my distinguished colleague, JOHN LEWIS, for inviting me to be a part of this resolution presentation.

I think it is very important as we commemorate this event that we realize those were some dark and dangerous days and that there were both black and white people who gave their lives so that black people could have the right to vote.

There was Ms. Viola Gregg Liuzzo from Detroit, Michigan, a white lady who came down to Selma to help African Americans get the right to vote. She was shot and killed on Highway 80 in Selma, Alabama. We need not forget Michael Schwerner and Andrew Goodman, along with James Chaney, two young white men and one black man, who were shot and killed.

When we tell this story about the civil rights movement, it is important that we tell this story right so that this is a true story of the greatness of America. It is not just a black story. It is America's story. White and black people lost their lives, gave their lives for us to have the right to vote. This is the greatness of this.

I just want to say what a privilege it is for us to have a man like JOHN LEWIS to serve with. Let us not even begin to underestimate the significant contribution of this young man—and I call him a young man—whom I serve with and you serve with. I, personally, appreciate JOHN LEWIS for taking me with him when I was a student, traveling through the South, and I saw firsthand with him what we had to go for.

JOHN, I want to say to you, thank you for taking me through that baptism of fire for it has truly made me the man I am today. I want to thank

you for that, and the entire Nation thanks you and all of those.

As I said, I want everybody to remember Ms. Viola Gregg Liuzzo from Detroit, who came down, and Michael Schwerner and Andrew Goodman, these people who gave their lives.

□ 0930

I want to also thank Ms. TERRI SEWELL, who represents the area in Alabama where so much of this sacrifice took place.

This is an extraordinary pilgrimage. I was on it, have been on it, and I encourage everybody that can to go on this pilgrimage and see and experience what I call the greatness of America.

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, it is my privilege to yield 3 minutes to the gentle lady from Alabama (Mrs. ROBY), a member of the Committees on Armed Services, Agriculture, Education and the Workforce, and she cosponsored this resolution.

Mrs. ROBY. Thank you for yielding me time.

Mr. Speaker, today I'm so proud to join with TERRI SEWELL, another Alabama freshman Member, to offer House Resolution 562, an initiative that will preserve a collection of accounts from Members involved in the historic and annual marches from Selma to Montgomery, Alabama.

The oral histories preserved through this resolution will memorialize the symbolic events that changed the direction of the civil rights movement. What took place during three historic marches in Alabama over a 3-week period in 1965 proved to be a powerful transformation in American history. The courageous actions of so many moved our country out of an era of misguided actions.

Participants marched towards a unified goal to provide equal voting rights for all Americans. The first march, on March 7, 1965, remains, without a doubt, one of the worst demonstrations of racial violence. Participants peacefully marching were met by a brutal and aggressive police force.

This violence was captured by the news and broadcast to family rooms all over this Nation. It quickly delivered a message to a racially divided country of unforeseen consequences caused by segregation.

Such shameless violent actions unleashed on nonviolent marchers revealed the immediate need for equal rights for citizens. Without a doubt, the days that racial voting laws were enforced for our country were among the darkest and least honorable for this Nation.

Even today, our country is still repairing from the wrongs inflicted decades ago by racial segregation. If it were not for the unwavering courage of those marching for civil freedoms, our country would be very different than

the way we know it today. Their brave actions will be forever memorialized by the Selma To Montgomery Voting Rights Trail.

Our younger generations today did not witness firsthand the historic demonstrations that forged a unified Nation, myself included. Therefore, it is so important to record the testimonies in order to reveal the scope and the relevance of these civil rights events.

I am proud to introduce this resolution with Representative SEWELL to preserve the history of our democracy.

The resolution instructs the Office of the Historian to compile testimonies from current and former Members of Congress who have participated in historic or commemorative civil rights movement actions. It will tell every generation a detailed timeline of these historic moments in the civil rights movement.

Those marching for equality were among the many patriots that envisioned a better America, one free from racial discrimination.

The marches proved not only to be successful in granting equal voting rights, but an illustrative account of citizens attaining freedom from harsh discrimination. Though such intolerable actions can never be reversed, there is still dignity knowing that the participants of these marches permanently changed the course of American history.

I urge all of my colleagues to vote in support of this bicameral resolution.

Mr. LEWIS of Georgia. Mr. Speaker, I yield 1 minute to the gentlewoman from California, the Democratic Leader, NANCY PELOSI.

Ms. PELOSI. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the legislation and commend Congresswoman SEWELL and Congresswoman ROBY for their leadership in bringing this to the floor and giving us the opportunity to speak about the heroes amongst us.

In some of the darkest hours of our Nation's history, as we all know, there are stories of great courage. By preserving these stories, which this legislation enables us to do, we ensure that those who come after us will know that the cause of equality is both our Nation's heritage and our hope.

Unsurpassed in courage in our midst is our colleague, the conscience of the Congress, Congressman JOHN LEWIS.

On March 7, 1965, as many of us all know, Congressman JOHN LEWIS was the leader of 600 peaceful, orderly Americans crossing the Edmund Pettus Bridge. He was met by State troopers, tear gas, bullwhips, and nightsticks. Though he faced great prejudice and discrimination, he was not embittered; he was emboldened to dedicate his life to the cause of justice and equality.

It is a great privilege for each of us to serve with JOHN LEWIS in Congress,

an honor to call him colleague. I want to speak about his leadership in taking so many Members of Congress and their families and friends across the Edmund Pettus Bridge in recent years.

I had the privilege to join him in the year 2001. After the visit, I said to him, of the 3 days we were in your district, Congresswoman ROBY, in Montgomery, Selma, and in Birmingham, and the course of the weekend, that the experience was one that every schoolchild in America should experience. We talked about Washington, DC; Philadelphia and Independence Hall; Baltimore and Fort McHenry; Boston with all of that history; New York and the rest, but this is a very important part of who we are as a country. If you want to learn about America, it's important to visit these sites to see the courage, to see the commitment to the values of our Founders that were so courageously defended and advocated for.

At this sad time, and for many of us it was in our lifetimes that this disaster was happening in our country, this ongoing disaster, the culmination of it took so many people a longer time to see. We always talk about the inevitable in the minds of some and the inconceivable in the minds of others, and how our work is to shorten the distance between the inevitable and the inconceivable. Well, it took some people a much longer time to understand what was inevitable for America, that we would be moving, gravitating toward a more perfect union. That would not have been possible without the leadership of people like JOHN LEWIS. There aren't many people like JOHN LEWIS, but who followed his lead.

There are other Members of Congress who also were leaders in the Nation's civil rights movement, and we honor all of them today. They include Assistant Leader JIM CLYBURN, who was arrested several times for his civil disobedience on behalf of civil rights; Congressman BARNEY FRANK and Congressman JOHN CONYERS, who both volunteered during the Freedom Summer; Congressman BOB FILNER, who spent several months in jail after his efforts as a Freedom Rider, and he takes great pride in being invited back to the reunion of the Freedom Riders; Congresswoman ELEANOR HOLMES NORTON, who was an organizer of the Student Non-violent Coordinating Committee; and Congresswoman TERRI SEWELL, who, along with Congresswoman ROBY, is a cosponsor of this legislation. Congresswoman SEWELL is from Selma, and her family opened their home to travelers on the 1965 march from Selma to Montgomery.

I am sure there are more, but all of these people played a role. JOHN LEWIS, of course, an icon in our country for his leadership at that time.

□ 0940

These American heroes made history. They also made progress for our coun-

try. I urge my colleagues to join in supporting this legislation to ensure that our history and the heroes of it, that that history lives on long after we are gone.

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, at this time it is my pleasure to yield 3 minutes to the gentleman from Indiana (Mr. PENCE), a member of the Foreign Affairs and Judiciary Committees.

Mr. PENCE. Mr. Speaker, I thank the gentleman for yielding.

I rise in support of this important legislation and commend Ms. SEWELL and Mrs. ROBY for their leadership in chronicling an extraordinary time in our march toward a more perfect Union. It seems altogether fitting, on the eve of the anniversary march commemorating what history records as Bloody Sunday and at the end of Black History Month, that we consider this resolution which will create a process for preserving the valuable oral history of those Members of Congress who were early leaders in the American civil rights movement.

There are very few giants these days in public life, but JOHN LEWIS is among them. Let me say what a privilege it has been for me these last 11 years to serve and to befriend my colleague, Congressman JOHN LEWIS, and I thank you for your leadership on this resolution.

There's also an effort in this resolution to give Members of Congress who have participated in the annual pilgrimage to Selma and Montgomery to reflect on their experiences, and I'll be very humbled to be a small part of that. I was honored to serve as the co-leader of the 10th Congressional Civil Rights Pilgrimage sponsored by the Faith & Politics Institute in March of 2010, and I can say, as my colleague Mr. LEWIS knows, it was a life-changing experience for my wife, Karen, and our three teenaged-children, and I'll forever be grateful for the experience.

We started the weekend at the Dexter Avenue Baptist Church in Montgomery, the home church of Reverend Dr. Martin Luther King, Jr. We sat in the pews as we heard Dorothy Cotton and others talk about their years in that church and how their faith in Christ sustained the cause of liberty and the cause of civil rights.

We made our way to the Civil Rights Memorial to honor and remember those who had lost their lives in the struggle for equality. But the next day, traveling with my colleague, JOHN LEWIS, to Selma to mark the anniversary of a day that changed his life and changed his Nation, March 7, 1965, known as Bloody Sunday, we will always remember.

The night before, JOHN had recounted that momentous day. He told how he and several hundred courageous activists had crossed the Edmund Pettus Bridge in Selma. But it was actually

being a part of the reenactment that most touched our hearts as a family. We had gathered at the Brown Chapel in Selma before we made the march, and then, along with thousands, we made our way the few short miles to the Edmund Pettus Bridge. For my part, JOHN and I walked with Dr. F.D. Reese, pastor of the Ebenezer Baptist Church in Selma at the time.

As we strolled that historic route, I was enthralled as Dr. Reese, 80-some-odd years young, recounted the day as if it had been the day before. He told me how the Edmund Pettus Bridge crests at the middle, so it was not until you all reached the top of the bridge that you knew what was waiting on the other side. And he described to me what they saw. He said, "All you saw was a sea of blue" when they crested the bridge.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. DANIEL E. LUNGREN of California. I yield an additional 1 minute to the gentleman.

Mr. PENCE. I thank the gentleman.

I turned to Dr. Reese, and I said to him, "Did you think about turning back?"

He said, "No. We had prayed at the Brown Chapel, and we decided to go on regardless."

And so you did.

It's just extraordinary to think of the beatings that took place that day. Our own colleague experienced a notorious beating at the time. But as the march that day, the reenactment came to an end, I extended my hand to Dr. Reese and I thanked him for not only what he had done for the civil rights movement, for what JOHN LEWIS had done for the civil rights movement, but for what they all had done for America. And he put his hand on my shoulder, Dr. Reese did, and he said, "MIKE, God did something here."

And so He did.

Through these extraordinary and courageous Americans, we forged a more perfect Union.

And so I rise in support of this resolution, commend my colleagues who will participate this weekend in Montgomery and Selma in this historic reenactment. I commend Congressman JOHN LEWIS, Dorothy Cotton, F.D. Reese, and all of those great Americans who on that day made the sacrifices necessary to further perfect this last best hope of Earth.

We should always safeguard this history, cherish it, and emulate their courage and bravery, so help us God.

Mr. Speaker, I rise today in strong support of H. Res. 562, offered by Ms. SEWELL of Alabama. I wish to extend my deep appreciation to Ms. SEWELL, a native of Selma, Alabama, for introducing this timely resolution.

As we close Black History Month and near the anniversary of "Bloody Sunday" and the Selma to Montgomery, Alabama civil rights marches, it's important to remember the sacrifice of those who went before us nearly half

a century ago and shed blood so that freedom could continue its march in the hearts and minds of so many Americans.

To that end, thanks to a resolution offered by Congresswoman TERRI SEWELL from Alabama, the U.S. House of Representatives is acting to preserve the valuable oral history of those Members of Congress who were early leaders in the American civil rights movement. The resolution will also document the experiences of many Congressmen and Congresswomen who have participated in the annual pilgrimage from Selma to Montgomery. It is a fitting honor of that momentous day in 1965 when my friend and colleague, Congressman JOHN LEWIS, the legendary civil rights leader, along with Hosea Williams, led 600 brave souls across the Edmund Pettus Bridge.

I was deeply honored and humbled to serve as the co-leader of the 10th Congressional Civil Rights Pilgrimage sponsored by the Faith and Politics Institute in March of 2010. My family and I will never forget that experience.

We started the weekend at the Dexter Avenue Baptist Church in Montgomery, the home church of the Rev. Dr. Martin Luther King, Jr. Sitting in the front pew we heard from Dorothy Cotton about her years working with Dr. King. She spoke of the faith that sustained their work and the historic importance of music and singing to the movement.

We then made our way to the Civil Rights Memorial to honor and remember those who had lost their lives in the struggle for equality. The nearby museum tells the personal stories of segregation by those who lived it and peacefully fought against it. Hearing firsthand accounts of how African Americans in the South were systematically denied the right to vote, intimidated, beaten and even killed fighting for that right will never leave us.

The next day we traveled with JOHN LEWIS to Selma to mark the anniversary of a day that changed his life and America: March 7, 1965, also known as "Bloody Sunday." JOHN was personally recruited by Dr. King as a college student and his courage and moral authority continue to inspire millions.

As JOHN recounted that momentous day, he told of how he and several hundred courageous activists crossed the Edmund Pettus Bridge in Selma during a march on the state capitol and were beaten by state police waiting on the far side of the bridge. The images of that day were transmitted around the world and would sear the conscience of the Nation. It set the stage for more protests and was the catalyst for Congress to enact the Voting Rights Act later that year.

We gathered for worship at Brown Chapel in Selma, and after a rousing service, we left the church to walk to the Edmund Pettus Bridge. I had the privilege to walk the entire way alongside JOHN LEWIS and Dr. F.D. Reese, pastor of the Ebenezer Baptist Church in Selma.

As we strolled the historic route, surrounded by thousands, I was entranced by Dr. Reese's description of that fateful day. He said that when they reached the crest of the bridge and could see the other side of the river, the first thing they saw was the state police waiting to stop the march. He said, "All you saw was a sea of blue." But still they marched.

I asked if they thought of turning back when they saw the array of police. He smiled and

said, "No, we had prayed at the Brown Chapel and decided we would go on regardless." And so they did.

After pausing at the base of the bridge for prayer, he told me how the tear gas and the beatings with nightsticks overtook the crowd. My friend JOHN LEWIS was among those most severely beaten.

As our march came to an end, I extended my hand to Dr. Reese and thanked him not only for what he had done for the civil rights movement, but also for what he, JOHN LEWIS and others had done for America that day. Dr. Reese replied humbly, "God did something here." And through these brave Americans, I believe that with all my heart.

Every American should know the story of Montgomery and Selma. Thanks to courageous Americans like Dr. King, Congressman JOHN LEWIS, Dorothy Cotton and F.D. Reese, these cities have become an integral part of the American story in our nation's unrelenting march toward a more perfect union.

Today's resolution further safeguards this valuable history so that it may endure throughout future generations, and I urge my colleagues to support it.

Mr. LEWIS of Georgia. Mr. Speaker, I'm pleased to yield such time as she may consume to the gentlewoman from Alabama (Ms. SEWELL).

Ms. SEWELL. Mr. Speaker, as the Representative of Alabama's Seventh Congressional District and a Selma native, I am proud and humbled that I could introduce this bipartisan resolution with my colleague, friend, and fellow Alabamian, Representative MARTHA ROBY. Acknowledging the historic significance of the Selma to Montgomery marches by adding the voices of Members of Congress, current and former, to the history of the civil rights movement, we are preserving an important part of the legacy that is the civil rights movement, a legacy that is important not only to black history but to American history and, thus, to world history.

It is truly a full circle moment for me. Personally, I stand here today before this august congressional body as a Member of Congress and a native of Selma, Alabama. I ask my colleagues to support House Resolution 562. I am humbled because I know that my election last year would not have been possible had it not been for the courage of Members of Congress, present and former, like Congressman JOHN LEWIS. For that, I say thank you.

This resolution directs the House Office of Historian to compile oral histories from current and former Members of Congress involved in the monumental Selma to Montgomery marches as well as the civil rights movement. These documents will be used for the purpose of extending and augmenting the historical record for public dissemination and education. The historical accounts of current and former Members of Congress are living history. They offer an important perspective on the events of the 1960s.

The State of Alabama played a critical role and an integral part of the fabric of the civil rights movement and American history. It is a painful part of Alabama's history. But today, we stand, opening arms and welcoming the commemoration of those events, because without those events and the brave men and women who traveled all across this Nation to come to the State of Alabama during the 1960s to bring about the change that we all enjoy, black men and white men, Jews and gentiles, coming together in order to make sure that we had a more perfect Union and that America lived up to its ideals of democracy and civil liberties.

I can't imagine what it was like to be Congressman JOHN LEWIS as he walked across the Edmund Pettus Bridge. I grew up in Selma. I lived my life in Selma, Alabama. My mom and dad are still in Selma, Alabama. I cross the Edmund Pettus Bridge every time I go home to visit them. It stands as a symbol for the world of what's possible when brave white men and black men, women, and children decide to change the fate of history and, in doing so, bring about significant changes for this country.

I'm proud to represent Selma, Alabama; Birmingham, Alabama; Tuscaloosa, Alabama; the State of Alabama in this Congress. I do so humbly because of the courage and bravery of former and current Members of Congress who did the unthinkable.

□ 0950

I can't imagine being Congressman JOHN DINGELL from Michigan who first took office in 1955. He sat in this very Chamber and voted for the passage of the Civil Rights Act of 1964 and the Voting Rights Act of 1965 against amazing opposition from his own constituents in Michigan. He did the brave thing about voting in favor of these historic legislations.

He was not the only one sitting in this Chamber in 1965. Representative JOHN CONYERS, a black Congressman who was elected in 1965 and who still serves in this Chamber, was in this room and cast that vote for the Voting Rights Act of 1965.

We need to remember and record the history of Congressman LEWIS, Congressman DINGELL, and Congressman CONYERS, and so many Members of Congress, current and past, who are alive today and preserve that history for future generations to come.

Over the next 3 years, Congressman LEWIS, we will celebrate the 50th anniversary of so many of those events of the 1960s. In fact, the mayor of the city of Birmingham is declaring 2013 the Year of Birmingham because we will be celebrating 50 years since the bombing of 16th Street Baptist Church when four little black girls gave their lives so that I could enjoy the freedoms I enjoy today, so that we all can enjoy the freedoms that we enjoy today.

Over the next 3 years, it will be 50 years for a lot of significant 1960 events, and I am honored to join with my colleague, MARTHA ROBY, who represents Montgomery and is a native of Montgomery. Alabama has two women Members of the congressional delegation for the first time ever. Our elections in 2011 were only made possible because of the courage of so many people who sat in this body and made tough votes. To the people of this Chamber who decided that it was time to make a difference in America, I'm honored to share the cosponsorship of this legislation with MARTHA ROBY. We share a common history as proud Alabamians, a history that should be recorded for posterity.

Now, this weekend, I get the opportunity, as well as Congresswoman MARTHA ROBY and Congressman SPENCER BACHUS, to co-host with Congressman JOHN LEWIS the Faith & Politics Institute's annual pilgrimage back to Alabama. We will start this coming Friday, tomorrow, in Birmingham. We will visit the historic site of the 16th Street Baptist Church. We will walk in Kelly Ingram Park with Congressman JOHN LEWIS and walk in his footsteps. We will visit the Civil Rights Institute in Birmingham, Alabama, and then we will travel on Saturday to Montgomery, Alabama, and we will see Dexter Avenue Baptist Church where Martin Luther King was a young pastor.

We will also enjoy in the evening a dinner, a dinner in the State capitol, Montgomery, Alabama, in the State capitol. Could you imagine that almost 50 years from 1965 that white Members of Congress and black Members of Congress would be able to sit and break bread with the Governor of the State of Alabama? We will do that on Saturday. And on Sunday, I get to welcome a delegation to my hometown, Selma, Alabama; and we will reenact that great march.

We will go to my home church, Brown Chapel A.M.E. Church, where I have been a member for 30 years, where my mother is on the board of trustees. We will sit in that church. We will partake and experience that which people did 50 years ago. Then we will march hand in hand across the Edmund Pettus Bridge.

I know that I would not be here if it weren't for the fact that people marched, people died, and people prayed for the opportunity that we enjoy today. I could not imagine as a little black girl from Selma, Alabama, that I would be the first black Congresswoman from the State of Alabama. But I can because they marched. I can because they died. I can because people prayed.

I ask my colleagues to join me, Congresswoman MARTHA ROBY, Congressman JOHN LEWIS, and so many others in supporting this House resolution today.

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, although obviously the efforts in the civil rights movement were the culmination of efforts by people of all faiths, I find it instructive that this march takes place during the period of Lent, that in the Christian faith is a period of reflection and sacrifice as we prepare for Easter Sunday.

Last Sunday, in my home parish out in California, I recall the readings at the first Sunday of Lent were about the temptations of Christ in the desert. And we received a remarkable sermon at our church in which the theme was expressed with the words "the crown without the cross," that the essence of the temptation of Christ was whether He, as God-made man, was able to make the decision or was tempted to make the decision to accept the crown without accepting the cross, that is, to accept the kingship as Godhead without going through the demands, the terror, and the death of the cross.

I'm reminded of that today because I think of that question that JOHN LEWIS and others had as they crossed that bridge, as they reached the crest and they saw the troopers at the other side: Do you turn back and do you not accept the cross that is coming in order to achieve that which needs to be done to redeem this country and its promise of equality of all as contained in the Constitution and the Declaration of Independence?

I would say that I was inspired as I was there with my wife and others on the march several years ago, STENY HOYER leading those on the Democratic side and JOHN LEWIS, of course, being a regular Member. And he wrote to those of us who reflected on that period that perhaps the most magnificent piece of literature that came out of the civil rights movement, in my judgment, is the "Letter From the Birmingham Jail" by Dr. King. I would commend to my colleagues and to others who might hear our words that they go back and take time to read those words.

Dr. King, sitting in jail, without access to any texts, wrote a magnificent epistle of his generation and our generation to the conscience of the American people. And he found no difficulty whatsoever in utilizing his heartfelt religious values and principles in extending the promise of that Christian message and the religious values that are found in our Judeo-Christian tradition to the underpinnings of our Constitution and challenged us to understand the difference between just and unjust laws and our responsibility to "render unto Caesar the things which are Caesar's, and unto God the things that are God's."

It is an inspiration to me now, and it has been an inspiration to me my entire life.

□ 1000

I would say to anyone who wants to understand the civil rights movement, to understand the promise of America that was not fulfilled and will never perfectly be fulfilled but is certainly in a better state today than it was prior to the civil rights revolution, they should read those words of Dr. King and understand how that animated the civil rights movement and gave us heroes such as our colleague from Georgia, JOHN LEWIS.

And with that, I reserve the balance of my time.

Mr. LEWIS of Georgia. Mr. Speaker, I'm pleased to yield 5 minutes to the gentleman from Maryland, the Democratic whip, Mr. HOYER.

Mr. HOYER. I thank my friend JOHN LEWIS for yielding.

I thank JOHN LEWIS for his service to our country, to its principles, to its values, to its people. I thank JOHN LEWIS for being my friend, and I thank JOHN LEWIS for allowing me for the ninth time to walk with him across that bridge. As I do, I will be holding the hand of JOHN LEWIS and holding in my other hand the hand of my 10-year-old granddaughter Alexa.

This coming week marks the 47th anniversary of the fateful Bloody Sunday march for civil rights. I want to say to DAN LUNGREN, my friend, I thank him for the remarks he just gave. They were heartfelt and on target, and the letter from the Birmingham jail to which he referred is certainly one of the great epistles, as he referred to it, to the American people, to people of conscience, to the fierce urgency of now, which he referenced in that letter.

On March 7, 1965, our friend and esteemed colleague from Georgia, JOHN LEWIS, was among the leaders of that march. It says he was among the leaders. He was the leader, he and Hosea Williams. Two-by-two they walked, some 600, with JOHN and Hosea at the front of the line. That day, in an extraordinary practice of nonviolence, he and other marchers were brutally beaten while trying to cross the Edmund Pettus Bridge in Selma, Alabama. They were on their way to Montgomery, the State capital, to protest the murder of a young man, Jimmie Lee Jackson, who had been shot and killed while protecting his mother during a voting rights drive. They were marching to Montgomery to say, in a nonviolent way, every American deserves the right to be able to register and to vote.

Every moment has its darkest hours when the exuberance of hope yields to the reality of difficult and painful struggle. Selma brought that reality into homes across the country. News of that Bloody Sunday awakened millions of Americans to the horrors of Jim Crow. It opened their eyes to the injustice that had cut off so many of our people from participation in their government. It made clear that while we

said in our Declaration of Independence that we believed in equality, that we believed that all men, and hopefully we would now say of course all women, all people, are endowed by God with certain unalienable rights.

We were not doing that in this country. That's what that epistle from Birmingham jail was about. That's what this march was about. That march led to another march 2 weeks later that could not be stopped, one that saw 8,000 Americans from a diversity of backgrounds join together in solidarity and with a faith in the enduring promise that America provided.

JOHN LEWIS, our colleague, our friend, our brother, was one of the compelling figures of that time and of this. I've been blessed with the privilege of traveling to Selma, as I said, nine times with JOHN LEWIS, to worshipping in TERRI's church. The visit this weekend will be, I know, another instructive lesson for me and for others on how we need to be continually aware of the discrimination and prejudice that exist today; the attempts at exclusion that exist today; frankly, the attempts to not empower people to vote even today.

What happened in Selma 47 years ago ought to be remembered as a moment when America chose to fight hatred with love and put their faith in the values of our Constitution. In his memoir, which I hope all of you have read, "Walking with the Wind," JOHN LEWIS explains:

If you want to create an open society, your means of doing so must also be consistent with the society you want to create. Violence begets violence. Hatred begets hatred. Anger begets anger, every minute of the day, in the smallest of moments as well as the largest.

THE SPEAKER pro tempore (Mr. BISHOP of Utah). The time of the gentleman has expired.

Mr. LEWIS of Georgia. I yield the gentleman an additional 30 seconds.

Mr. HOYER. I thank the gentleman.

Ladies and gentlemen, we remember the difficult path we trod as a Nation to ensure the participation of all, and we ought to do everything we can to preserve it in our own day. It is not just history that we want to learn; it is the lesson for today that we must remember and learn.

I thank JOHN LEWIS for his leadership. I thank the thousands, black and white, young and old, rich and poor, who joined together to make America a better place.

Mr. DANIEL E. LUNGREN of California. At this time, it's my pleasure to yield 1 minute to the gentleman from Virginia, the majority leader, Mr. CANTOR.

Mr. CANTOR. Mr. Speaker, I thank the gentleman from California.

Mr. Speaker, on March 7, 1965, in Selma, Alabama, now-Congressman JOHN LEWIS, our colleague, led 600 brave Americans in a march to protest

for their equal right to vote like any other American, and they encountered horrific and despicable violence, preventing them from reaching their destination, the capital in Montgomery.

That day, now known as Bloody Sunday, set the stage for the landmark march to Montgomery led by Reverend Martin Luther King and bolstered by faith and prayer. This act of leadership, courage, and bravery culminated with Congress passing the Voting Rights Act of 1965, recognizing the right of every American to participate in our electoral process.

At that time, there were just six black Members of Congress. Today, I am proud to serve with 44 black colleagues. As Reverend King said:

The arc of the moral universe is long, but it bends toward justice.

Mr. Speaker, today we will pass a resolution that will add the testimonies of Members of Congress, current and past, who participated in the civil rights movement and commemorative events to the historic record of the House. Their stories are an important part of our Nation's heritage and will serve as a reminder to every American of the determination and sacrifice that shaped the stronger democracy we live in today.

I would like to thank Representative TERRI SEWELL, who represents Selma, and Representative MARTHA ROBY, who represents Montgomery, for offering this resolution to preserve a powerful and transformative period in American history. Mr. Speaker, I am extremely honored to work with Congressman LEWIS to ensure that these stories will never be forgotten.

Mr. LEWIS of Georgia. Mr. Speaker, may I inquire about how much time remains.

THE SPEAKER pro tempore. The gentleman from Georgia has 4½ minutes remaining. The gentleman from California has 11½ minutes remaining.

Mr. LEWIS of Georgia. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Tennessee (Mr. COHEN).

Mr. COHEN. Mr. Speaker, I want to thank also Representatives SEWELL and ROBY for sponsoring this resolution and Congressman LEWIS for his life.

This is a historic resolution, for the work and the memories need to be preserved. I, like Congressman SEWELL, am here because of the work of Congressman LEWIS and other civil rights leaders, making this for a better America.

I didn't think I needed to go on the pilgrimage because I'm from Memphis and I've been to the Mason Temple where Dr. King made his last speech; and been to Lorraine Motel, the national civil rights museum, on many occasions; and AFSCME hall where he rallied workers, now named for Jerry Wurf.

□ 1010

But when I went to Birmingham, when I went to Montgomery, when I went to Selma, I realized that there was much more history that I needed to know, and there was a way to be filled with the spirit of the civil rights movement, which one is when one goes to the Rosa Parks Museum, the Dexter Street Church, the 16th Street Church, the Civil Rights Institute, and the bridge.

It's hard to fathom the way the world was in 1965, but that was only a short number of years ago. This country started with a history of slavery, and it was accepted by the Founding Fathers and others as the way things were. The Founding Fathers were great men, and they wrote words that were great, but they were without absolute meaning because they accepted, as a given, that African Americans should be slaves and women shouldn't have equality. It took a civil war to change some of that, and then it took JOHN LEWIS and civil rights workers to change the Jim Crow laws that followed up, that didn't accept the outcome of the war and continued a segregated society that said African Americans weren't equal, couldn't go in public places and public accommodations and public restaurants and transit, just like others.

Well, that changed, and the people who changed that, the civil rights workers, the marchers, the sit-ins, the Freedom Riders—BOB FILNER was a Freedom Rider and was arrested, a Congressperson—those people made the promise that was given fulfilled.

It's still a work. I introduced and this House passed in 2007 an apology for slavery and Jim Crow. It took till 2007 for this House to pass it, and I appreciate the fact that when I did introduce it and it passed, that there were two Republican sponsors, but there were just two Republican sponsors.

This year, I have H.R. 3866, which recognizes all civil rights workers with a Congressional Gold Medal. I'm sorry to say that, to this date, there's not a single Republican sponsor. There should be. Civil rights is as Republican as it is Democrat. The party of Lincoln, as did the party of Kennedy, provided civil rights. And in 1965, when that Voting Rights Act passed, there were people like Everett Dirksen who cast important votes.

I urge my Republican colleagues to support this resolution, to support H.R. 3688, and honor the civil rights workers who had to fight their country for their rights and privileges.

Mr. DANIEL E. LUNGREN of California. May I make an inquiry as to whether the gentleman on the other side, Mr. LEWIS, has additional speakers?

Mr. LEWIS of Georgia. We don't have any additional speakers.

Mr. DANIEL E. LUNGREN of California. And how much time do we have?

The SPEAKER pro tempore. The gentleman from California has 11½ minutes. The gentleman from Georgia has 1½ minutes.

Mr. DANIEL E. LUNGREN of California. I reserve the balance of my time.

Mr. LEWIS of Georgia. I yield myself such time as I may consume.

Mr. Speaker, I want to thank my friend and my colleague from California for his commitment, for his dedication, with all of his kind words today.

I think this resolution is saying to all of us that we have come a distance. We've made a lot of progress, and the Members of Congress participated in helping to bring about what I like to call a nonviolent revolution in America, a revolution of values, a revolution of ideas.

It is unreal, it is unbelievable. Just think, a few short years ago, in a place like Selma, Alabama, or Lowndes County, Alabama, between Selma and Montgomery, Lowndes County was more than 80 percent African American. There was not a single registered African American voter in the county. Today there's a biracial county government.

That in a city like Selma, in 1965, only 2.1 percent of African Americans were registered to vote. Today there is a biracial city government.

Or in a State like the State of Mississippi, in 1965, the State had an African American population, voting age population, of more than 450,000, and only about 16,000 were registered to vote. Because of the action of Presidents and Members of Congress, we have changed, and it's my hope and my prayer that every Member of Congress will vote to pass this resolution.

With that, I yield back the balance of my time.

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just want to echo the words of my friend, Mr. LEWIS. Let us have all Members vote for this resolution. It is a recognition, a simple, straightforward, symbolic resolution recognizing the efforts of so many, as embodied in the gentleman, Mr. LEWIS, and others who worked so hard to change this country for the better.

I'm honored to be here on the floor with Mr. LEWIS today. I appreciate the chance I had to be with him in this march several years ago.

I encourage all Members to take part in that, either this year or in the future, and I ask all Members to support this.

With that, I yield back the balance of my time.

Mrs. ROBY. Mr. Speaker, today, I am proud to join with TERRI SEWELL, another Alabama Freshman Member, to offer House Resolution 562, an initiative that will preserve a collection of accounts from Members involved in the his-

toric and annual marches from Selma to Montgomery, Alabama. It is a great honor to today stand on the House floor with my colleague, Representative JOHN LEWIS, who himself played such an important role in the Selma march.

The oral histories preserved through this resolution will memorialize the symbolic events that changed the direction of the Civil Rights Movement.

What took place during three historic marches in Alabama over a three-week period in 1965 proved to be a powerful transformation in American history. The courageous actions of so many moved our country out of an era of misguided actions.

Participants marched towards a unified goal—to provide equal voting rights for all Americans. The first march on March 7, 1965, remains, without a doubt, one of the worst demonstrations of racial violence. Participants peacefully marching were met by a brutal and aggressive police force. This violence was captured by the news and broadcast to family rooms all over the nation. It quickly delivered a message to a racially divided country of the unforeseen consequences caused by segregation.

Such shameless violent actions unleashed on nonviolent marchers revealed the immediate need for equal rights for citizens. Without a doubt, the days that racial voting laws were enforced by our country were among the darkest and least honorable for this nation. Even today, our country is still repairing from the wrongs inflicted decades ago from racial segregation.

If it were not for the unwavering courage of those marching for civil freedoms, our country would be very different then the way we know it today. Their brave actions will be forever memorialized by the Selma to Montgomery Voting Rights Trail.

Our younger generations today did not witness first-hand the historic demonstrations that forged a unified nation. Therefore, it is important to record the testimonies in order to reveal the scope and relevance of these civil rights events.

I am proud to introduce this resolution with Representative SEWELL to preserve the history of our democracy. The resolution instructs the Office of the Historian to compile testimonies from current and former Members of Congress who have participated in historic or commemorative Civil Rights Movement actions. It will tell every generation a detailed timeline of these historic moments in the American Civil Rights Movement.

Those marching for equality were among the first patriots to envision a better America—one free from racial discrimination. The marches proved not only to be successful in granting equal voting rights, but an illustrative account of citizens attaining freedom from harsh discrimination.

Though such intolerable actions can never be reversed, there is still dignity knowing that the participants of these marches permanently changed the course of American history. I urge all of my colleagues to vote in support of this bicameral resolution.

Mr. BACA. Mr. Speaker, I rise today to voice my strong support for H. Res. 562, which directs the Office of the Historian to

compile oral histories for both the historic and annual Selma-to-Montgomery marches in Alabama.

I thank my colleagues, Representatives SEWELL and ROBY, for sponsoring this vitally important resolution.

They say those who do not learn from history are doomed to repeat it.

I can think of no lesson more valuable for all Americans to learn than the courage, justice, perseverance, and non-violence exemplified by those individuals who participated in the historic Alabama marches of 1965.

The character shown by leaders such as Dr. Martin Luther King, Reverend Hosea Williams, and our very own JOHN LEWIS, was truly remarkable.

Since 1998, Members of Congress have had the opportunity to participate in the annual civil rights pilgrimage to the Selma-to-Montgomery National Historic Trail.

It is fitting that the Office of the Historian of the House compiles oral histories from those who have participated in these historic events.

I urge my colleagues to join me in recognizing those who fought for the civil rights we enjoy today. Let us pass H. Res. 562, so that we may never forget the lessons they have taught us.

Mr. PASCRELL. Mr. Speaker, I rise today to express my strong support for H. Res. 562, which will instruct the House Historian to collect oral histories from Members of Congress involved in the marches from Selma to Montgomery, Alabama as well as the wider civil rights movement. This effort will preserve for generations to come the experiences of all those who had to fight to bring the realities of our nation in line with our ideals of freedom and equality. I am glad that we can all come together in a bipartisan fashion to support this important initiative.

During the historic marches from Selma to Montgomery in 1965, led by Dr. Martin Luther King Jr. and my colleague Representative JOHN LEWIS, many brave protesters were brutally beaten and tear-gassed by authorities for non-violently standing up for their rights. The images of these events embodied the viciousness of racism and segregation, and raised awareness and support for the civil rights movement across the nation. This momentum resulted in increasing desegregation and the passage of the Voting Rights Act by Congress in 1965, which reaffirmed the rights of all Americans to participate in our democratic political process, regardless of race or identity. Starting in 1998, Members of Congress, led once again by Congressman LEWIS, have been participating in an annual march from Selma to Montgomery to commemorate these events and to underscore the immense positive impact that the participants in those marches had on the history of our nation.

Please join me in supporting this legislation and in recognizing my friend Representative LEWIS for his invaluable contributions to the civil rights movement. It is my hope that the histories to be compiled by this project will inspire the leaders of the future, who are following the example set by Representative LEWIS and other civil leaders. They are truly striving to make our country a more perfect reflection of the vision of our founders.

Ms. JACKSON LEE of Texas. Mr. Speaker, I rise today in support of H. Res. 562, "Directing the Office of the Historian to compile oral



histories from Members of the House of Representatives involved in the historic and annual Selma to Montgomery, Alabama, marches, as well as the civil rights movement in general, for the purposes of expanding or augmenting the historic record for public dissemination and education."

What happened in Selma 45 years ago, is an opportunity to remember and embrace our history and its evolution. A single day in 1965 would become known as Bloody Sunday. I am proud to serve with Mr. JOHN LEWIS who led 600 brave Americans on that day, on a peaceful march for their equal rights to vote. They were met with unspeakable violence and put their lives on the line for the right to vote. This resolution will ensure that future Americans will not forget the sacrifices made by brave, courageous, Americans seeking only to have full participation in our fine Democracy.

I have had the honor of participating in the Congressional Civil Rights Pilgrimage with Mr. LEWIS. I had the opportunity to see history come alive during my pilgrimage to Birmingham, Montgomery and Selma. I left with further appreciation for all the efforts that African-Americans have accomplished over the years.

The events that took place in Alabama were pivotal in our nation's civil rights movement. Dr. King's "Letter from a Birmingham Jail," the 16th Street Baptist Church bombing and the Bloody Sunday march were crucial experiences to America's collective psyche.

Two weeks after Bloody Sunday, under the protection of the Alabama National Guard, Dr. King was able to lead the march successfully, and in August of that same year President Johnson signed into law the Voting Rights Act of 1965. Dr. King and his committed supporters forced our nation to acknowledge the injustices committed against African-Americans.

This legislation will ensure the 54 mile route, beginning at the Brown Chapel A.M.E. Church in Selma and ending at the State Capitol Building in Montgomery, is never forgotten.

With the support of this body, generations to come can know and appreciate those early steps in the civil rights movement that began the road to making the Constitution of this country extend its rights and protections to all of its citizens.

The painful lessons learned in Montgomery, Birmingham and Selma continue to be experienced by minority populations all over the United States. The struggle for political recognition and participation continues not only in the African-American populations, but now in the fast-growing Latino community. In addition, many of the gains that can be traced back to the civil rights era are currently being targeted. We must be ever vigilant to ensure that we do not turn back the clock and instead keep moving forward to protect the rights of minorities in this country.

A long, bitter, and bloody struggle was fought for the Voting Rights Act of 1965 so that all Americans could enjoy the right to vote, regardless of race, ethnicity, or national origin. Americans died in that fight so that others could achieve what they had been forcefully deprived of for centuries—the ability to walk freely and without fear into the polling place and cast a voting ballot.

Efforts to keep minorities from fully exercising that franchise, however, continue. Indeed, in the past thirty years, we have witnessed a pattern of efforts to intimidate and harass minority voters including efforts that were deemed "Ballot Security" programs that include the mailing of threatening notices to African-American voters, the carrying of video cameras to monitor polls, the systematic challenging of minority voters at the polls on unlawful grounds, and the hiring of guards and off-duty police officers to intimidate and frighten voters at the polls.

Most Americans take the right to vote for granted. We assume that we can register and vote if we are over 18 and are citizens. Most of us learned in school that discrimination based on race, creed or national origin has been barred by the Constitution since the end of the Civil War.

Before the 1965 Voting Rights Act, however, the right to vote did not exist in practice for most African Americans. And, until 1975, most American citizens who were not proficient in English faced significant obstacles to voting, because they could not understand the ballot.

Even though the Indian Citizenship Act gave Native Americans the right to vote in 1924, state law determined who could actually vote, which effectively excluded many Native Americans from political participation for decades.

Asian Americans and Asian immigrants also have suffered systematic exclusion from the political process and it has taken a series of reforms, including repeal of the Chinese Exclusion Act in 1943, and passage of amendments strengthening the Voting Rights Act three decades later, to fully extend the franchise to Asian Americans. It was with this history in mind that the Voting Rights Act of 1965 was designed to make the right to vote a reality for all Americans.

And the Voting Rights Act has made giant strides toward that goal. Without exaggeration, it has been one of the most effective civil rights laws passed by Congress.

In 1964, there were only approximately 300 African-Americans in public office, including just three in Congress. Few, if any, black elected officials were elected anywhere in the South.

Today there are more than 9,100 black elected officials, including 43 Members of Congress, the largest number ever. The Act has opened the political process for many of the approximately 6,000 Latino public officials that have been elected and appointed nationwide, including 263 at the State or Federal level, 27 of whom serve in Congress. And Native Americans, Asians and others who have historically encountered harsh barriers to full political participation also have benefited greatly.

We must not forget the importance of protecting this hard earned right. Preserving our past and honoring those who put their lives on the line for change is the right step toward ensuring that history does not repeat itself.

Again, I thank Mr. LEWIS for his leadership. I thank him for having the courage both 45 years ago and today to be a champion of change.

Ms. FUDGE. Mr. Speaker, forty-seven years ago, 600 civil rights protesters en route from Selma to Montgomery were stopped at the

Edmund Pettus Bridge where state and local policemen attacked them with billy clubs and tear gas, driving them back to Selma. I was honored to vote for a resolution on March 1, 2012, calling on Congress to collect oral histories from current and former members of the House who lived through that chilling day known as Bloody Sunday. We must not forget the courage of my esteemed colleague, Congressman JOHN LEWIS, and others during the march from Selma to Montgomery, Alabama in March 1965. Non-violent marchers led by LEWIS and Hosea Williams were brutally beaten, opening the eyes of the Nation to the struggle of African Americans to win the right to vote. Let us resolve to protect the voting rights for which participants of that march suffered such brutality, and honor them for their commitment to non-violence. They are an inspiration for all Americans.

Mrs. MALONEY. Mr. Speaker, I rise, with so many others today, to note the upcoming anniversary of the infamous "Bloody Sunday" on March 7, 1965—the civil rights march in Selma, Alabama, where over 500 demonstrators were met with violence—billyclubs, tear gas, and horses—by the local sheriff deputies and state troopers at the Edmund Pettus Bridge.

Speaking from this distance, 47 years later, it's hard to imagine the day-to-day reality of Selma, the seat of Dallas County, Alabama, where the 1960 census showed that the population was 57% black, over 80% of them living in poverty. With 15,000 voting-age blacks in the County, only 130 were registered to vote.

Against that backdrop, civil rights organizers—including our own beloved colleague JOHN LEWIS—had been attempting to register more blacks to vote.

On July 2, 1964, President Lyndon Johnson signed the Civil Rights act of 1964 declaring segregation illegal.

On July 6, 1964, JOHN LEWIS led 50 black residents to the Dallas County Courthouse—on one of the two days per month that registration was allowed. The county sheriff arrested those fifty people rather than allow them to register.

And on July 9, 1964, a local judge issued an injunction which forbid any gathering of three or more people under the sponsorship of civil rights organizations, and made it illegal to even talk to more than two people at a time about civil rights or voter registration in Selma.

On January 2, 1965, the Rev. Dr. Martin Luther King defied that injunction, speaking to a mass meeting in the Brown Chapel, launching the Selma Voting Rights Movement.

Mr. Speaker, the Selma Marches—"Bloody Sunday" was the first of three—shifted American public opinion on the Civil Rights Movement.

President Johnson presented what would become the Voting Rights Act in this chamber in March, 1965, speaking to a Joint Session of Congress. And after the Voting Rights Act was passed and signed into law that August, more than 7,000 blacks were added to the voter rolls in Selma—and millions more across the United States in the decades since.

So it is only right that we mark this anniversary today. I will be in Selma this weekend to help commemorate the brave men and women who took a stand against bigotry then, and am especially proud to serve in this body today.



The SPEAKER pro tempore. All time for debate has expired.

Pursuant to the order of the House of Wednesday, February 29, 2012, the resolution is considered read and the previous question is ordered on the resolution and on the preamble.

The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LEWIS of Georgia. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, this 15-minute vote on adoption of House Resolution 562 will be followed by 5-minute votes on motions to suspend the rules on S. 1134 and House Resolution 556.

The vote was taken by electronic device, and there were—yeas 418, nays 0, not voting 15, as follows:

[Roll No. 92]

YEAS—418

Ackerman	Cassidy	Flake
Adams	Castor (FL)	Fleischmann
Aderholt	Chabot	Fleming
Akin	Chaffetz	Flores
Alexander	Chandler	Forbes
Altmire	Chu	Fortenberry
Amash	Cicilline	Fox
Amodel	Clarke (MI)	Frank (MA)
Andrews	Clarke (NY)	Frelinghuysen
Austria	Clay	Fudge
Baca	Clyburn	Gallely
Bachmann	Coble	Garamendi
Bachus	Coffman (CO)	Gardner
Baldwin	Cohen	Garrett
Barletta	Cole	Gerlach
Barrow	Conaway	Gibbs
Bartlett	Connolly (VA)	Gibson
Barton (TX)	Conyers	Gingrey (GA)
Bass (CA)	Cooper	Gohmert
Bass (NH)	Costa	Gonzalez
Becerra	Costello	Gosar
Benishiek	Courtney	Gowdy
Berg	Cravaack	Granger
Berkley	Crawford	Graves (GA)
Berman	Crenshaw	Graves (MO)
Biggart	Critz	Green, Al
Bilbray	Crowley	Green, Gene
Bilirakis	Cuellar	Griffin (AR)
Bishop (GA)	Culberson	Griffith (VA)
Bishop (NY)	Cummings	Grijalva
Bishop (UT)	Davis (CA)	Grimm
Black	Davis (IL)	Guinta
Blackburn	Davis (KY)	Guthrie
Blumenauer	DeFazio	Gutierrez
Bonamici	DeGette	Hahn
Bonner	DeLauro	Hall
Bono Mack	Denham	Hanabusa
Boren	Dent	Hanna
Boswell	DesJarlais	Harper
Boustany	Deutch	Harris
Brady (PA)	Diaz-Balart	Hartzler
Brady (TX)	Dicks	Hastings (FL)
Braley (IA)	Dingell	Hastings (WA)
Brooks	Doggett	Hayworth
Broun (GA)	Dold	Heck
Brown (FL)	Donnelly (IN)	Heinrich
Buchanan	Doyle	Hensarling
Bucshon	Dreier	Herger
Buerkle	Duffy	Herrera Beutler
Burgess	Duncan (SC)	Higgins
Burton (IN)	Duncan (TN)	Himes
Butterfield	Edwards	Hinchey
Calvert	Ellison	Hinojosa
Camp	Ellmers	Hirono
Canseco	Emerson	Hochul
Cantor	Engel	Holden
Capito	Eshoo	Holt
Capps	Farenthold	Honda
Capuano	Farr	Hoyer
Carnahan	Fattah	Huelskamp
Carney	Filner	Huizenga (MI)
Carson (IN)	Fincher	Hultgren
Carter	Fitzpatrick	Hunter

Hurt	Miller (FL)	Schiff
Inslee	Miller (MI)	Schilling
Israel	Miller (NC)	Schmidt
Issa	Miller, Gary	Schock
Jackson (IL)	Miller, George	Schrader
Jackson Lee	Moore	Schwartz
(TX)	Moran	Schweikert
Jenkins	Mulvaney	Scott (SC)
Johnson (GA)	Murphy (CT)	Scott (VA)
Johnson (IL)	Murphy (PA)	Scott, Austin
Johnson (OH)	Myrick	Scott, David
Johnson, E. B.	Napolitano	Sensenbrenner
Johnson, Sam	Neal	Serrano
Jones	Neugebauer	Sessions
Jordan	Noem	Sewell
Keating	Nugent	Sherman
Kelly	Nunes	Shuler
Kildee	Nunnelee	Shuster
Kind	Olson	Simpson
King (IA)	Owens	Sires
King (NY)	Palazzo	Slaughter
Kingston	Pallone	Smith (NE)
Kinzing (IL)	Pascrell	Smith (NJ)
Kissell	Pastor (AZ)	Smith (TX)
Kline	Paulsen	Smith (WA)
Kucinich	Pearce	Southerland
Labrador	Pelosi	Speier
Lamborn	Pence	Stark
Lance	Perlmutter	Stearns
Landry	Peters	Stivers
Langevin	Peterson	Stutzman
Lankford	Petri	Sullivan
Larsen (WA)	Pingree (ME)	Sutton
Larson (CT)	Pitts	Terry
Latham	Platts	Thompson (CA)
LaTourette	Poe (TX)	Thompson (MS)
Latta	Polis	Thompson (PA)
Lee (CA)	Pompeo	Tiberi
Levin	Posey	Thornberry
Lewis (CA)	Price (GA)	Tierney
Lewis (GA)	Price (NC)	Tipton
Lipinski	Quayle	Tonko
LoBiondo	Quigley	Towns
Loeb sack	Rahall	Tsongas
Lofgren, Zoe	Reed	Turner (NY)
Long	Rehberg	Turner (OH)
Lowey	Reichert	Upton
Lucas	Renacci	Van Hollen
Luetkemeyer	Reyes	Velázquez
Lujan	Ribble	Visclosky
Lummis	Richardson	Walberg
Lungren, Daniel	Richmond	Walsh (IL)
E.	Rigell	Walsh (MN)
Lynch	Rivera	Wasserman
Mack	Roby	Schultz
Maloney	Roe (TN)	Waters
Manzullo	Rogers (AL)	Watt
Marchant	Rogers (KY)	Waxman
Marino	Rogers (MI)	Webster
Markley	Rohrabacher	Welch
Matheson	Rokita	West
Matsui	Rooney	Westmoreland
McCarthy (CA)	Ros-Lehtinen	Whitfield
McCarthy (NY)	Roskam	Wilson (FL)
McCaul	Ross (AR)	Wilson (SC)
McClintock	Ross (FL)	Wittman
McCollum	Rothman (NJ)	Wolf
McCotter	Roybal-Allard	Womack
McDermott	Royce	Woodall
McGovern	Runyan	Woolsey
McHenry	Ruppersberger	Yarmuth
McIntyre	Rush	Yoder
McKeon	Ryan (OH)	Young (AK)
McKinley	Ryan (WI)	Young (FL)
McNerney	Sanchez, Loretta	Young (IN)
Meehan	Sarbanes	
Mica	Scalise	
Michaud	Schakowsky	

NOT VOTING—15

Campbell	McMorris	Payne
Cardoza	Rodgers	Rangel
Cleaver	Meeks	Sánchez, Linda
Frank (AZ)	Nadler	T.
Goodlatte	Oliver	Shimkus
Kaptur	Paul	

□ 1043

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. FRANKS of Arizona. Mr. Speaker, on rollcall No. 92 I was in TS briefing. Had I been present, I would have voted "yea."

# ST. CROIX RIVER CROSSING PROJECT AUTHORIZATION ACT

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill (S. 1134) to authorize the St. Croix River Crossing Project with appropriate mitigation measures to promote river values, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. PETRI) that the House suspend the rules and pass the bill.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 339, nays 80, not voting 14, as follows:

[Roll No. 93]

YEAS—339

Adams	Coffman (CO)	Gonzalez
Aderholt	Cole	Gosar
Alexander	Conaway	Gowdy
Altmire	Connolly (VA)	Granger
Amodel	Conyers	Graves (GA)
Austria	Cooper	Graves (MO)
Baca	Costa	Green, Al
Bachmann	Costello	Griffin (AR)
Bachus	Courtney	Griffith (VA)
Baldwin	Cravaack	Grimm
Barletta	Crawford	Guinta
Barrow	Crenshaw	Guthrie
Bartlett	Critz	Gutierrez
Barton (TX)	Crowley	Hahn
Bass (NH)	Cuellar	Hall
Becerra	Culberson	Harper
Benishiek	Cummings	Harris
Berg	Davis (CA)	Hartzler
Berkley	Davis (IL)	Hastings (FL)
Bilbray	Davis (KY)	Hastings (WA)
Bilirakis	DeFazio	Heck
Bishop (GA)	Dent	Hensarling
Bishop (NY)	DesJarlais	Herger
Bishop (UT)	Diaz-Balart	Herrera Beutler
Black	Dingell	Higgins
Blackburn	Dold	Himes
Blumenauer	Donnelly (IN)	Hinojosa
Bonamici	Doyle	Holden
Bonner	Dreier	Hoyer
Bono Mack	Duffy	Huelskamp
Boren	Duncan (SC)	Huizenga (MI)
Boswell	Duncan (TN)	Hunter
Boustany	Ellmers	Hurt
Brady (PA)	Emerson	Inslee
Brady (TX)	Engel	Issa
Braley (IA)	Eshoo	Jackson (IL)
Brooks	Farenthold	Jackson Lee
Broun (GA)	Farr	(TX)
Brown (FL)	Fattah	Jenkins
Buchanan	Filner	Johnson (OH)
Bucshon	Flake	Johnson (NY)
Buerkle	Fleischmann	Jones
Burgess	Fleming	Jordan
Burton (IN)	Flores	Kelly
Butterfield	Forbes	Kildee
Calvert	Fortenberry	Kind
Camp	Fox	King (IA)
Canseco	Frank (MA)	King (NY)
Cantor	Franks (AZ)	Kingston
Capito	Frelinghuysen	Kinzing (IL)
Capuano	Fudge	Kissell
Carnahan	Gallely	Kline
Carney	Garamendi	Labrador
Carson (IN)	Gardner	Lamborn
Carter	Cicilline	Lance
Cassidy	Gerlach	Landry
Castor (FL)	Gibbs	Lankford
Chaffetz	Gibson	Larsen (WA)
Chandler	Clay	Larson (CT)
Cicilline	Clyburn	Latham
Clarke (MI)	Coble	
Clarke (NY)		

LaTourette	Paulsen	Schwartz
Latta	Pearce	Schweikert
Levin	Pelosi	Scott (SC)
Lewis (CA)	Pence	Scott (VA)
Lipinski	Perlmutter	Scott, Austin
LoBiondo	Peters	Scott, David
Loeb sack	Peterson	Sensenbrenner
Long	Petri	Sessions
Lowey	Pingree (ME)	Sewell
Lucas	Pitts	Shuler
Luetkemeyer	Platts	Shuster
Lummis	Poe (TX)	Sires
Lungren, Daniel E.	Pompeo	Smith (NE)
Lynch	Posey	Smith (NJ)
Mack	Price (GA)	Smith (TX)
Manzullo	Quayle	Smith (WA)
Marchant	Rahall	Southerland
Marino	Reed	Stearns
Matheson	Rehberg	Stivers
Matsui	Reichert	Sullivan
McCarthy (CA)	Renacci	Sutton
McCarthy (NY)	Reyes	Terry
McCaul	Ribble	Thompson (MS)
McClintock	Richardson	Thompson (PA)
McCotter	Richmond	Thornberry
McGovern	Rigell	Tiberi
McHenry	Rivera	Tierney
McIntyre	Roby	Tipton
McKeon	Roe (TN)	Tonko
McKinley	Rogers (AL)	Towns
McNerney	Rogers (KY)	Tsongas
Meehan	Rogers (MI)	Turner (NY)
Mica	Rohrabacher	Turner (OH)
Michaud	Rokita	Upton
Miller (FL)	Rooney	Van Hollen
Miller (MI)	Ros-Lehtinen	Visclosky
Miller, Gary	Roskam	Walberg
Miller, George	Ross (AR)	Walden
Moore	Ross (FL)	Walsh (IL)
Mulvaney	Rothman (NJ)	Walz (MN)
Myrick	Royce	Watt
Neal	Runyan	Webster
Neugebauer	Ruppersberger	West
Noem	Rush	Westmoreland
Nugent	Ryan (OH)	Whitfield
Nunes	Ryan (WI)	Wilson (FL)
Nunnelee	Sánchez, Linda T.	Wilson (SC)
Olson	Sanchez, Loretta	Wittman
Olver	Scalise	Wolf
Owens	Schakowsky	Womack
Palazzo	Schilling	Woodall
Pascarella	Schock	Yoder
Pastor (AZ)	Schrader	Young (AK)
		Young (IN)

## NAYS—80

Ackerman	Hanna	Murphy (PA)
Amash	Hayworth	Napolitano
Andrews	Heinrich	Pallone
Bass (CA)	Hinchey	Polis
Berman	Hirono	Price (NC)
Biggart	Hochul	Quigley
Bishop (NY)	Holt	Roybal-Allard
Blumenauer	Honda	Sarbanes
Bonamici	Hultgren	Schiff
Brown (FL)	Israel	Schmidt
Buchanan	Johnson (GA)	Serrano
Capps	Johnson (IL)	Sherman
Chabot	Johnson, E. B.	Simpson
Cohen	Keating	Slaughter
DeGette	Kucinich	Speier
DeLauro	Langevin	Stark
Denham	Lee (CA)	Stutzman
Deutch	Lewis (GA)	Thompson (CA)
Dicks	Lofgren, Zoe	Velázquez
Doggett	Lujan	Wasserman
Edwards	Maloney	Schultz
Ellison	Markey	Waters
Fincher	McCollum	Waxman
Fitzpatrick	McDermott	Welch
Grijalva	Miller (NC)	Woolsey
Hanabusa	Murphy (CT)	Yarmuth
		Young (FL)

## NOT VOTING—14

Akin	Green, Gene	Nadler
Campbell	Kaptur	Paul
Cardoza	McMorris	Payne
Cleaver	Rodgers	Rangel
Goodlatte	Meeks	Shimkus

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining.

□ 1052

Ms. WATERS and Mr. HULTGREN changed their vote from “yea” to “nay.”

Messrs. COFFMAN of Colorado, McGOVERN and OLVER changed their vote from “nay” to “yea.”

So (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. GENE GREEN of Texas. Mr. Speaker, on rollcall No. 93, had I been present, I would have voted “yea.”

### CONDEMNING IRAN FOR ITS PERSECUTION OF YOUSEF NADARKHANI

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and agree to the resolution (H. Res. 556) condemning the Government of Iran for its continued persecution, imprisonment, and sentencing of Youcef Nadarkhani on the charge of apostasy, as amended, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. PITTS) that the House suspend the rules and agree to the resolution, as amended.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 417, nays 1, not voting 15, as follows:

[Roll No. 94]

YEAS—417

Ackerman	Bonner	Clarke (NY)
Adams	Bono Mack	Clay
Aderholt	Boren	Clyburn
Akin	Boswell	Coble
Alexander	Boustany	Coffman (CO)
Altmire	Brady (PA)	Cohen
Amash	Brady (TX)	Cole
Amodei	Braley (IA)	Conaway
Andrews	Brooks	Connolly (VA)
Austria	Brown (GA)	Conyers
Baca	Brown (FL)	Cooper
Bachmann	Buchanan	Costa
Bachus	Bucshon	Costello
Baldwin	Buerkle	Courtney
Barletta	Burgess	Cravaack
Barrow	Burton (IN)	Crawford
Bartlett	Butterfield	Crenshaw
Barton (TX)	Calvert	Critz
Bass (CA)	Camp	Crowley
Bass (NH)	Canseco	Cuellar
Becerra	Cantor	Culberson
Benishke	Capito	Cummings
Berg	Capuano	Davis (CA)
Berkley	Carnahan	Davis (IL)
Berman	Carney	Davis (KY)
Biggart	Carson (IN)	DeFazio
Billbray	Carter	DeGette
Bilirakis	Cassidy	DeLauro
Bishop (GA)	Castor (FL)	Denham
Bishop (NY)	Chabot	Dent
Bishop (UT)	Chaffetz	DesJarlais
Black	Chandler	Deutch
Blackburn	Chu	Diaz-Balart
Blumenauer	Cicilline	Dicks
Bonamici	Clarke (MI)	Dingell
Doggett		
Dold		
Donnelly (IN)		
Doyle		
Dreier		
Duffy		
Duncan (SC)		
Duncan (TN)		
Edwards		
Ellison		
Ellmers		
Emerson		
Engel		
Eshoo		
Farenthold		
Farr		
Fattah		
Finler		
Fincher		
Fitzpatrick		
Flake		
Fleischmann		
Fleming		
Flores		
Forbes		
Fortenberry		
Fox		
Fox		
Frank (MA)		
Franks (AZ)		
Frelinghuysen		
Fudge		
Gallegly		
Garamendi		
Gardner		
Garrett		
Gerlach		
Gibbs		
Gibson		
Gingrey (GA)		
Gohmert		
Gonzalez		
Gosar		
Gowdy		
Granger		
Graves (GA)		
Graves (MO)		
Green, Al		
Green, Gene		
Griffin (AR)		
Griffith (VA)		
Grijalva		
Grimm		
Guinta		
Guthrie		
Gutierrez		
Hahn		
Hall		
Hanabusa		
Hanna		
Harper		
Harris		
Hartzler		
Hastings (FL)		
Hastings (WA)		
Hayworth		
Heck		
Heinrich		
Hensarling		
Herger		
Herrera Beutler		
Higgins		
Himes		
Hinchey		
Hinojosa		
Hirono		
Hochul		
Holden		
Holt		
Honda		
Hoyer		
Huelskamp		
Huizenga (MI)		
Hultgren		
Hunter		
Hurt		
Inslee		
Israel		
Issa		
Jackson (IL)		
Jackson Lee		
(TX)		
Jenkins		
Johnson (GA)		
Johnson (IL)		
Johnson (OH)		
Johnson, E. B.		
Johnson, Sam		
Jones		
Jordan		
Keating		
Kelly		
Kildee		
Kind		
King (IA)		
King (NY)		
Kingston		
Kinzinger (IL)		
Kissell		
Kline		
Kucinich		
Labrador		
Lamborn		
Lance		
Langevin		
Lankford		
Larsen (WA)		
Larson (CT)		
Latham		
LaTourette		
Latta		
Lee (CA)		
Levin		
Lewis (CA)		
Lewis (GA)		
Lipinski		
LoBiondo		
Loeb sack		
Lofgren, Zoe		
Long		
Lowey		
Lucas		
Luetkemeyer		
Lujan		
Lummis		
Lungren, Daniel E.		
Lynch		
Mack		
Maloney		
Manzullo		
Marchant		
Marino		
Markey		
Matheson		
Matsui		
McCarthy (CA)		
McCarthy (NY)		
McCaul		
McClintock		
McCollum		
McCotter		
McDermott		
McGovern		
McHenry		
McIntyre		
McKeon		
McKinley		
McNerney		
Meehan		
Mica		
Michaud		
Miller (FL)		
Miller (MI)		
Miller (NC)		
Miller, Gary		
Miller, George		
Moore		
Moran		
Mulvaney		
Murphy (PA)		
Myrick		
Napolitano		
Neugebauer		
Neal		
Neugebauer		
Noem		
Nugent		
Nunes		
Nunnelee		
Olson		
Olver		
Owens		
Palazzo		
Pallone		
Pascarella		
Pastor (AZ)		
Paulsen		
Pearce		
Pelosi		
Pence		
Perlmutter		
Peters		
Peterson		
Petri		
Pingree (ME)		
Pitts		
Platts		
Poe (TX)		
Polis		
Pompeo		
Posey		
Price (GA)		
Price (NC)		
Quayle		
Quigley		
Rahall		
Reed		
Rehberg		
Reichert		
Renacci		
Reyes		
Ribble		
Richardson		
Richmond		
Rigell		
Rivera		
Roby		
Roe (TN)		
Rogers (AL)		
Rogers (KY)		
Rogers (MI)		
Rohrabacher		
Rokita		
Rooney		
Ros-Lehtinen		
Roskam		
Ross (AR)		
Ross (FL)		
Rothman (NJ)		
Roybal-Allard		
Royce		
Runyan		
Ruppersberger		
Rush		
Ryan (OH)		
Ryan (WI)		
Sánchez, Linda T.		
Sanchez, Loretta		
Sarbanes		
Scalise		
Schakowsky		
Schiff		
Schilling		
Schmidt		
Schock		
Schrader		
Schwartz		
Schweikert		
Scott (SC)		
Scott (VA)		
Scott, Austin		
Scott, David		
Sensenbrenner		
Serrano		
Sessions		
Sewell		
Sherman		
Shuler		
Shuster		
Simpson		
Sires		
Slaughter		
Smith (NE)		
Smith (NJ)		
Smith (TX)		
Smith (WA)		
Southerland		
Speier		
Stark		
Stearns		
Stivers		
Stutzman		
Sullivan		
Sutton		
Terry		
Thompson (CA)		
Thompson (MS)		
Thompson (PA)		
Thornberry		
Tiberi		
Tierney		
Tipton		
Tonko		
Towns		
Tsongas		
Turner (NY)		
Turner (OH)		
Upton		

Van Hollen	Waxman	Womack
Velázquez	Webster	Woodall
Visclosky	Welch	Woolsey
Walberg	West	Yarmuth
Walden	Westmoreland	Yoder
Walz (MN)	Whitfield	Young (AK)
Wasserman	Wilson (FL)	Young (FL)
Schultz	Wilson (SC)	Young (IN)
Waters	Wittman	
Watt	Wolf	

## NAYS—1

Capps

## NOT VOTING—15

Campbell	McMorris	Payne
Cardoza	Rodgers	Rangel
Cleaver	Meeks	Shimkus
Goodlatte	Murphy (CT)	Walsh (IL)
Kaptur	Nadler	
Landry	Paul	

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining.

□ 1101

So (two-thirds being in the affirmative) the rules were suspended and the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. CAPPS. Mr. Speaker, I mistakenly voted “no” on rollcall 94 when I intended to vote “yes.”

## PERSONAL EXPLANATION

Mr. CLEAVER. Mr. Speaker, due to a commitment off the Hill, I had to miss votes on H.R. 562, S. 1134, and H. Res. 556. Had I been present, I would have voted “aye” on H.R. 562, “aye” on S. 1134, and “aye” on H. Res. 556.

## LEGISLATIVE PROGRAM

(Mr. HOYER asked and was given permission to address the House for 1 minute.)

Mr. HOYER. Mr. Speaker, I yield to my friend the majority leader, the gentleman from Virginia, for the purpose of inquiring about the schedule of the week to come.

Mr. CANTOR. I thank the gentleman, Mr. Speaker, the Democratic whip, the gentleman from Maryland. Thank you for yielding.

Mr. Speaker, on Monday, the House will meet at noon for morning hour and 2 p.m. for legislative business. Votes will be postponed until 6:30 p.m. On Tuesday and Wednesday, the House will be meet at 10 a.m. for morning hour and noon for legislative business. On Thursday, the House will meet at 9 a.m. for legislative business. The last votes of the week are expected no later than 3 p.m. No votes are expected in the House on Friday.

Mr. Speaker, the House will consider a few bills under suspension of the rules, including a bipartisan bill dealing with countervailing duties against nonmarket economies like China. A complete list of suspensions will be announced by the close of business tomorrow.

In addition, Mr. Speaker, the House will consider two bills focused on job creation and our creating an environment for that to happen. The first is H.R. 2842, the Bureau of Reclamation Small Conduit Hydropower Development and Rural Jobs Act, sponsored by Representative SCOTT TIPTON of Colorado; and H.R. 3606, the Jumpstart Our Business Startups Act, the JOBS Act, sponsored by Representative STEPHEN FINCHER from Tennessee. Both bills are bipartisan, and I would note that the President and many outside entrepreneurs like Steve Case have endorsed the Fincher bill.

Mr. Speaker, I'd hope that Senator REID would move expeditiously in passing the JOBS Act once this House sends it to the Senate at the end of next week.

I thank the gentleman from Maryland, the Democratic whip, for yielding.

Mr. HOYER. I thank the gentleman for his information, and I would say with respect to the bills that he will be offering, we have, as the gentleman knows, considered four of those bills on the floor. They passed overwhelmingly. I think they're good bills, and I look forward to supporting them again.

There are two bills which are new. One of the bills was considered when it was sponsored by Mr. HIMES. It was a good bill then, and it's a good bill now. I believe our side certainly is going to join in supporting these bills, which we think will have some positive effect on small business entrepreneurs, business formation, and capital formation. I have had the opportunity of talking to Mr. Steve Case, a good friend, and I want to thank Steve Case, as I know you do, for his role working with the White House and working with us on moving these bills forward. I think they are a positive contribution, and as the gentleman knows, four of the bills received over 400 votes when they were first passed on the House floor not too long ago. We think those are positive steps.

So, I look forward to next week being a week in which we can vote together on something. I'm sure America does as well. Again, I want to congratulate Steve Case for the work that he has done with respect to this package.

I do want to, however, say that we do look forward to additional legislation dealing with jobs creation. We've talked about the President's jobs bill or other jobs bills that might be offered. We would look forward to those coming forward, as well.

Let me ask the gentleman: one of the jobs-related bills that we're talking about, of course, is infrastructure, in this case, the highway bill, the infrastructure bill. The gentleman did not mention that for next week. And I know he's concerned about it. We're all concerned about the March 31 date on which the highway program will run

out of authorization. As the gentleman knows, there is a severe funding shortage, and it is our fear, our concern, that literally hundreds of thousands of people will lose their jobs if we do not act.

Can the gentleman tell me when he thinks we might be acting on either a big bill or an extension? I'll yield to my friend.

Mr. CANTOR. I thank the gentleman for the question.

As the gentleman knows, there's been a lot of discussion about the way forward given the fiscal reality of the transportation trust fund, and talks are continuing to ensue as we continue to watch what the other body does on this issue as well, knowing full well the March 31 deadline that we're facing.

Mr. HOYER. I thank the gentleman for that information. I want to assure him that our side of the aisle looks forward to working with his side of the aisle towards hopefully coming together with a bipartisan bill which will certainly keep the program going. But from our perspective, it is more than an investment in infrastructure, which this country needs to remain competitive, but it is also an investment in job creation, which we think this bill will do as well.

The Export-Import Bank authorization, as the gentleman also knows, will be coming to a close, and Financial Services has shared jurisdiction with that. Can the gentleman tell me what the status of the Export-Import Bank is? As the gentleman knows, I think we have a joint agenda, because I think a lot of things on there are supported by both sides of the aisle, what we call a Make It in America agenda. We believe this is very important for Make It in America—encouraging manufacturing and job creation here in America. Can the gentleman tell me the status of the reauthorization of the Export-Import Bank? I yield to my friend.

Mr. CANTOR. I thank the gentleman, Mr. Speaker. I think the gentleman knows that both his staff and mine are in constant communication on this bill as late as I think last night and have met to discuss the options as to how we proceed forward. Again, we are very mindful of the expiration, or looming expiration, or need for, if you will, of the passage of this bill and look forward to continuing to work with him and his team to make sure that we get the resolution right and are able to proceed.

Mr. HOYER. I thank the gentleman for those comments, and we look forward to continuing to work together.

The next question I would like to ask is, clearly, we're coming up on March 15 in the not-too-distant future. It's my understanding from CHRIS VAN HOLLEN, who is the ranking member of the Budget Committee, that he believes that the committee will markup a budget on the 19th with the possibility

of reporting a budget to the floor on the 26th of this month.

Can the gentleman tell me, is that a schedule that he contemplates, and is that information accurate? I yield to my friend.

Mr. CANTOR. Mr. Speaker, the gentleman is correct. He stated this sort of series of events that we anticipate, and we look to making sure that we're doing everything to facilitate that and have the budget on the floor, hopefully, by the end of this month.

Mr. HOYER. I thank the gentleman.

Mr. Speaker, in closing, let me say that Mr. CANTOR and I had the opportunity to speak on the floor today. We spoke on behalf of a resolution that was passed overwhelmingly, unanimously, that spoke to commemorating the march that both the majority leader and I have participated in in the past, and I'll be participating in again this weekend, a march commemorating the march across the Edmund Pettus Bridge from Selma to Montgomery.

□ 1110

Today was a day of unity on the floor of this House in which Mr. LUNGREN and Mr. LEWIS and others expressed their thoughts, as did so many of the rest of us, about how this is a great lesson on the fact that we have not always been where we promised to be as a Nation, but that we've made progress, and a reminder that there is still progress yet to be done.

I want to thank the majority leader for his comments that he made on the floor today and for his focus on this issue.

I yield to the gentleman.

Mr. CANTOR. Mr. Speaker, I thank the gentleman and would say that the gentleman has been a huge supporter and participant in the pilgrimage to Alabama marking that event, that day in history, and I look forward to his participation in the process of making sure that the House Historian has the necessary information to accurately reflect the House's role, the Members of the House's role, and certainly the gentleman's role in the pilgrimage to Alabama celebrating that event. Frankly, as he indicates, Mr. Speaker, a reminder to us all that this country didn't always get it right, but we are continuing to work together to make sure that we are that land of equal rights and opportunities for all.

Mr. HOYER. I thank the gentleman for his comments, and as he observes, House Members have participated in this.

There is a wonderful organization known as Faith & Politics. We believe strongly in the separation of church and State, but as I tell people, we do not believe in the separation of the values our faiths teach and the policies that we pursue. There is that discussion, and multifacets are represented in those discussions.

As the majority leader and I are of different faiths, we are of one mind with respect to ensuring that the values of our respective faiths are realized in our public policies.

Mr. Speaker, I yield back the balance of my time.

#### ADJOURNMENT TO MONDAY, MARCH 5, 2012

Mr. CANTOR. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday next for morning-hour debate and 2 p.m. for legislative business.

The SPEAKER pro tempore (Mr. DUNCAN of South Carolina). Is there objection to the request of the gentleman from Virginia?

There was no objection.

#### IT'S SOCCER TIME

(Mr. POE of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. POE of Texas. Mr. Speaker, two American soldiers were killed today in Afghanistan.

While our amazing troops are still in the rugged field of battle fighting people who kill in the name of religion, a new field is getting ready for its grand opening at Guantanamo Bay.

Finishing touches are being put on a swanky high-dollar soccer field for criminal terrorist detainees at Gitmo. And, of course, Americans are picking up the \$750,000 tab for the recreational facilities for these criminals.

Isn't that lovely?

The U.S. Government is giving these radical extremists access to the soccer field for 20 hours a day. What follows, a terrorist soccer league? These radicals should be doing hard time, not soccer time.

Our government has no business building this tropical Caribbean recreational facility for terrorists. It is disrespectful and insulting to all who are victims of these killers.

What is next at this terrorist playground, a tiki hut and bar at the beach?

This ought not to be, but that's just the way it is.

#### CLEAN ENERGY JOBS BILL

(Ms. BERKLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. BERKLEY. Mr. Speaker, I rise today on behalf of Nevada's struggling out-of-work families who understand that this Nation's top priority must be putting people back to work.

One way that we can do this is by bringing clean energy manufacturing

jobs to our State. My clean energy jobs bill does just that, by transforming our State's abundant wind, sun, and geothermal energy into good-paying jobs that can't be shipped overseas. It does this by getting our priorities lined up with our values.

The bill extends a 30 percent tax credit for clean energy manufacturing companies that is paid for by eliminating the billions of taxpayer giveaways to big oil companies.

Last year, Big Oil made \$137 billion in profits. They don't need our money. Unfortunately, Washington Republicans just don't see it that way. In fact, the Republicans vote time and again to protect taxpayer-funded handouts to greedy oil companies. Those are the wrong priorities for our Nation, and they are certainly the wrong priorities for the State of Nevada.

With rising gas prices, it is time to hold big oil companies accountable and make Nevada the hub of our clean energy jobs future.

I urge swift passage of this bill.

#### THE RISING PRICE OF GAS: THIS ADMINISTRATION MUST CHANGE COURSE

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, there are a lot of issues being debated here in our Nation's capital, but Hoosiers are talking about just one thing, and that is rising prices at the pump. The average price of gasoline in Indiana right now is \$3.82 a gallon. That is 10 cents higher than the national average. And it is worth noting that when President Obama came to office, the average price of gasoline nationwide was \$1.79.

This administration pushed cap-and-trade and a national energy tax that the President said would cause utility rates to skyrocket, they pushed it through regulations even though it didn't make it in the Congress, they suspended deepwater drilling in the Gulf of Mexico for a time, they placed the entire Pacific and Atlantic coasts off-limits to drilling, refused to explore Alaska, decreased production across the Western part of our Nation, and most recently rejected the Keystone XL pipeline.

With no joy in saying this, Mr. Speaker, I say rising gasoline prices are a natural result of the policies of the Obama administration, and this administration must change course. It's time that we enact an all-of-the-above energy strategy that includes more access to America's energy reserves, more alternative energy sources, and encouragement of conservation. That's how we will tackle this crisis.

I rise on behalf of hardworking Hoosiers and everyday Americans who are struggling with the prices at the pump

on this first day in March to say to this administration: Accept the Keystone pipeline, approve more domestic exploration, abandon your headlong rush toward regulation and a national energy tax, and let's give Americans real relief at the pump as this spring begins.

#### RECOGNITION OF BOSNIAN INDEPENDENCE DAY

(Mr. CARNAHAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARNAHAN. Mr. Speaker, I rise today to pay tribute to the Bosnian people as they celebrate the 20th anniversary of Bosnia and Herzegovina's independence.

As a founding member and cochairman of the Congressional Bosnian Caucus and having the distinct honor of representing a growing, vibrant community of Bosnian Americans in St. Louis, Missouri, one of the largest Bosnian American communities in the U.S., I'm pleased to recognize Bosnian Independence Day with my constituents and the people of Bosnia.

Yesterday, our caucus cochair, Representative CHRIS SMITH, and I had a meeting with Secretary of State Hillary Clinton to discuss progress and continued challenges in Bosnia. I'm encouraged that the elected leaders have begun to do what is in the best interest of their country: to form a government, to begin to pass laws that will help put Bosnia on a path to membership in NATO and the European Union.

In the face of tremendous challenge, Bosnia has made great progress over the past 20 years, but there is much more to be done.

Yesterday, I urged Secretary Clinton to continue active U.S. involvement in the country and to strengthen U.S. support for the Bosnian people as they embark on a wide range of needed reforms.

I'm proud to represent thousands of Bosnians in the St. Louis region. It's with great pride that I continue to stand with them today and offer a hearty congratulations on the 20th anniversary of independence.

#### COMMEMORATING ALABAMA CIVIL RIGHTS MARCHES

(Ms. JACKSON LEE of Texas asked and was given permission to address the House for 1 minute.)

Ms. JACKSON LEE of Texas. Mr. Speaker, I wanted to rise to the floor to add my appreciation in celebration of H. Res. 562, directing the Office of the Historian to compile oral histories from Members of the House of Representatives involved in the historic and annual Selma to Montgomery, Alabama, marches, and certainly those who started in 1965.

Let me first of all thank the sponsor of the bill, TERRI SEWELL, and ac-

knowledge that I've had the privilege of marching across the Edmund Pettus Bridge for almost two decades with the Faith & Politics organization and JOHN LEWIS.

Just a couple of weeks ago, I was in Marion, Alabama, receiving an award from the Perry County organization with Commissioner Turner on commemorating Jimmie Lee Jackson Day, who was the first person shot who went to a rally that Dr. Martin Luther King held simply to express his right to vote. He was shot trying to protect his mom and his grandmother, dragged out of the place and stomped to death.

Now some 45 years later, we're able to commemorate, but we must recount the stories of those who were there and those who still march today. As we proceed to improve on voting today and end the oppression of voter IDs, it is appropriate to celebrate this resolution and to march across the Edmund Pettus Bridge this coming Bloody Sunday.

□ 1120

#### SHAME ON YOU, RUSH LIMBAUGH

(Ms. SPEIER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SPEIER. Mr. Speaker, I rise this morning to say to Rush Limbaugh, "Shame on you."

Shame on you for being the hatermonger that you are. Shame on you for being misogynistic. Shame on you for calling the women of this country sluts and prostitutes, because that's what he did.

Ninety-eight percent of the women in this country, at some time in their lives, use birth control. And yet he went on the air recently and called Sandra Fluke a slut and a prostitute because she was trying to access birth control pills as a third-year law student at Georgetown.

So I say to the women in this country, Do something about this. I say to the women of this country, Ask Century 21, Quicken Loans, Legal Zoom, and Sleep Number to stop supporting the hatermongering of Rush Limbaugh, and if they do not do that, then I ask them to boycott those companies.

#### TRIBUTE TO HARRY BELAFONTE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 5, 2011, the gentleman from Michigan (Mr. CONYERS) is recognized for 60 minutes as the designee of the minority leader.

Mr. CONYERS. Mr. Speaker, I rise today to pay tribute to my friend, my brother, the one and only Harry Belafonte, whose birthday is today, his fame as a singer popularizing the Caribbean musical style with an inter-

national audience, and is best known for singing the Banana Boat Song, with its signature lyric, "Day-O." He's a movie star and was in pictures filmed with Dorothy Dandridge and then Carmen Jones, which was Otto Preminger's hit musical.

Throughout his career, though, he has been a civil rights advocate and a leader in humanitarian causes; and, for me, his close counsel and advice and support to the late Dr. Reverend Martin Luther King, Jr., is something that I think will go down in civil rights history.

He's been a leader in humanitarian causes for many years. He helped organize the Grammy award winning song, "We Are the World," a multi-artist effort to raise funds for Africa when they needed it most. He performed in the Live Aid concert that same year.

In 1987, Mr. Belafonte received appointment to UNICEF as a goodwill ambassador; and following his appointment, he traveled to Dakar, Senegal, where he served as chairman of the International Symposium of Artists and Intellectuals for African Children. He also helped to raise funds with dozens of other artists in the largest concert ever held in sub-Saharan Africa. And then he went on a mission to Rwanda and launched a media campaign to raise awareness of the needs and the troubles and the nutritional challenges of Rwandan children.

In 2001, he went to South Africa to support the campaign to reduce HIV/AIDS. The next year, Africare awarded him the Bishop John Walker Distinguished Humanitarian Service Award for his efforts to assist in Africa.

In 2004, he went to Kenya to stress the importance of education for the children in that area.

In 2006, he was the recipient of the BET Humanitarian Award and was named one of the nine award recipients by AARP Magazine.

Happy birthday, Harry Belafonte. I love you, America loves you, and the entire world will always love and admire your artistic genius, your steadfast devotion to causes of justice, peace, and your enduring spirit to transform both our country and the world so it is a more compassionate, soulful, and just planet.

I'm going to yield, at this time, to the gentlelady from Texas, Ms. SHEILA JACKSON LEE, as much time as she may consume.

Ms. JACKSON LEE of Texas. I want to thank the gentleman from Detroit, with his own august history in the civil rights movement and, as they say, he is no short man when it comes to the work that he has done. More than one that we note him for and thank him for, the hiring of Rosa Parks and the friendship with Dr. Martin Luther King, JOHN CONYERS has proceeded with his legislative history from the time of his embracing of the 1965 Voting Rights Act; and then ongoing,

where we have joined on that committee dealing with issues of police brutality, dealing with issues of voter protection, dealing with the reauthorization of the Voting Rights Act, dealing with the maintaining of the Constitution through one impeachment proceeding for me and two impeachment proceedings for JOHN CONYERS, we know from which he has spoken. And beyond a whole litany that I could give in terms of giving rights to people, his dear friend, Harry Belafonte, is about to approach a wonderful birthday. And since I count Mr. Belafonte both hero and friend, I wanted to join briefly for a moment.

Among some other issues that I'm going to discuss is to, again, thank a warrior for peace and justice, and one who—let me just say that he would not say “sacrifice”—one who wanted to ensure that the movement leaders, Dr. King, Hosea Williams, Andy Young, James Orange, the soldiers in Mississippi and Alabama, South Carolina, Georgia, North Carolina, and places beyond had the kind of financial and Hollywood structure that they would argue that they were not walking alone.

Harry Belafonte, a significant and monumental talent of music, a boy that hailed from the Caribbean, who came to the United States with style and smoothness of voice, still kicking, still strong, still standing for truth.

□ 1130

We know of his recent vintage that he did not mince words on wars that he thought that we should not be in, but he certainly has not traveled anywhere away from the distance of the journey that Dr. Martin Luther King walked.

As Martin fell at the age of 39 in 1968, Harry Belafonte never gave up the flag and continued that battlefield to ensure that those who could not speak for themselves were heard through his wonderful and sweet, resounding voice, his ability for lyrics, and his acting talent of the many movies that he allowed us to enjoy.

So I'm delighted, Mr. CONYERS, to join you in wishing Harry Belafonte a very happy birthday and, again, let him know that he is too long from seeing us. We saw him just recently. But anytime he wants to come to the United States Congress and share with us in our fight for justice, in the desire to pass legislation that makes sense, whether or not it is dealing with the rights of women, whether it is to fight for the overdue passage of the Equal Rights Amendment or to ensure the reauthorization of the Violence Against Women Act or to make sure we fund the Office of Civil Rights or we ensure that the stamping and trampling on the rights of a 96-year-old grandmother to be able to vote in the 2012 election is now stomped out because of voter ID laws, we want Harry Belafonte to know

that we welcome his voice on any of these, and we would argue vigorously that he remains in our hearts and continues to be cherished by America, but also an American hero in the historic role that he plays in our history and in our musical history and the history of civil rights.

So I want to thank you for allowing me to be yielded to as I proceed to utilize a continued part of this Special Order in this hour that I wish to do.

I want to have the appropriate break so that, Mr. Chairman, I think you are well aware that you spent your lifetime fighting for rights for women. We have done a number of legislative initiatives that have passed through the House Judiciary Committee that I've been privileged during the short time that I've been there to be on; certainly, the constant renewal of the rights dealing with violence against women has been imperative, the recognition of the court cases, such as *Roe v. Wade*, and the issues dealing with employment discrimination.

So it calls for an immediate response to a showman that has a show, “The Rush Limbaugh Show.” It calls for a response that is bipartisan, that is humane, that really does not, if you will, pander to the schisms that many in this Congress, but many in America, think we have.

Most people don't realize that when we go home to our district, we are embracing people from all walks of life. Whether it is encountering in our service, whether or not we are engaging with our Chamber, whether or not we are at our schools, we are embracing our constituents. We are there to provide for them.

So I come to the floor just as an American that finds it very difficult that, when there are two points of view, which, in the procedure of the House—if I might explain, when a committee holds a hearing, the majority has the opportunity to select a number of witnesses. In most instances, if it is a panel of four, then the majority selects three witnesses. Courtesy says that you yield to the minority. In the House, it happens to be Democrats. As in Mr. CONYERS' Judiciary Committee when he was chairman, they were allowed a witness. Now we're allowed a witness.

In the oversight hearing on the question of dealing with the compromise of the President to ensure no religious institution ever has to engage against their view, which I will fight to the death to ensure that happens, there was a witness proposed by the Democrats of that committee, a young woman law student. The last time I heard, she was a private citizen. She was a law student, accredited or in good standing, of one of the Nation's major law schools, and she was blocked from testifying.

Shortly thereafter, the Democratic Policy and Steering Committee, which

I'm a member of, led by Leader PELOSI, held a hearing and gave this private citizen an opportunity to be heard. She was called before the Democratic Policy and Steering Committee, which is an appropriate vehicle in order to have people heard on her views about the necessity of having access to women's health. That was the framework of her testimony.

There were no accusatory words, as I understand it. There was no blaming. It was a simple, pure testimony of the detriment to blocking women from having access to health care. In fact, we have designated or determined that contraceptives have influenced and impacted the decrease in cervical cancer as addressed by OB/GYNs in this Nation. So, her testimony was a factual testimony on the basis of her experience.

And I will tell you that that happens all the time, Mr. CONYERS, when we call witnesses to provide testimony on their own experience. As I understand it, it was a civil proceeding that is now documented for Members to review, and I think that is the process of this House that witnesses are allowed to be in support of a particular position and to be against.

Let me be very frank. Sometimes the hearings get very feisty, but we're always cognizant that we're appreciative of witnesses who are willing to come before us and to, in fact, share their thoughts.

We just had one here in the Judiciary Committee, and I was delighted to see an array of witnesses, and almost to the extent it looked like we had it resolved when one of the faith witnesses said they would have no concern about any person that worked for them that secured access to contraceptives through some other way as long as it did not cause that religious entity to have to be involved. What a simple acknowledgment of how America can resolve things. So it is a resolvable question.

But lo and behold, we look to the airwaves, of which we, the Federal Government, provide, and certainly we know the Fairness Doctrine does not exist, but I might say that on the February 29, 2012, show of Mr. Limbaugh, we understand that he repeatedly used sexually charged, patently offensive, obscene language to malign the character of a courageous young woman, a private citizen not running for anything, in law school, attempting to be a contributing citizen to this country, paying her taxes, graduating. I'm sure she has a family that loves her. She just was willing to accept the call of a committee to do her duty to give testimony in her own words, to provide a life story to an issue that we are grappling with.

So I know I am standing here in the face of the Fairness Doctrine that does not require any media to offer a contravening point. Sometime in the last

couple of decades we eliminated the requirement that if you said such-and-such, you needed to bring so-and-so onto the radio or TV to say that. We're still grappling with that because this allows, of course, the maligning, the vile statements, and one cannot answer.

Those of us who are in the kitchen, we know that if you're in the kitchen, you're in the fire. Those of us who are elected, we understand that our task is simply to respond by way of our works and our deeds and to allow the national discourse to come.

□ 1140

But I rise to the floor today because of the vileness of the statements that were made by Mr. Limbaugh—and pardon me for having an enormous cold here.

So, Rush, the statements that you made, I think, are not appropriate to a private citizen who came before a hearing that was called by Members of Congress, asking to secure the appropriate balance and where she was refused in the regular order of the House. Where you're allowed to have witnesses by the majority and witnesses by the minority—it is an accepted process that no one objects to—this young lady was blocked. So the leaders of our House—Leader PELOSI, the Democratic Policy and Steering Committee, of which I am a member and support wholeheartedly—called on this young lady.

If I might, I will just deviate for a moment.

This connects to my morning visit this morning of women who thrive, and I want to acknowledge my full passion for supporting the International Violence Against Women Act that we are fighting to pass. In this morning's breakfast, we heard that one in three women will experience violence in their lifetimes. They will be prostituted; they will be sold; they will be enslaved; they will be beaten; they will be killed.

We have to stop this around the world. In my own jurisdiction, I have seen in the last couple of days and weeks men shoot their children, their wives or whole families. This is in the United States. I remember sitting down with Madeleine Albright on the border of Bangladesh, looking at the freed, recently recaptured, prostitutes who had been beaten and sold by their families for the lack of survival, and these young girls were trying to regain their dignity in life. We cannot tolerate that, so I am committing myself wholeheartedly to the passage of the International Violence Against Women Act.

I would commend Rush Limbaugh to invite us on and talk about constructive ways of helping women. I give him every opportunity to have some guest whom we can call in. I don't think that is possible, but I will challenge all of

the women of the House. Let's try to dial that number and see if we can provide some light on this topic of dealing with what women face beyond the caring and having the joy of bearing a child but then sometimes raising them as a single parent and having to have food stamps and having to have children's health insurance or the Affordable Care Act to survive and to raise these wonderful children.

How many have testified, from soldier to President, about a single parent who has brought them this far and who have said, If it weren't for my mother—some will say if it weren't for my single-parent father—I wouldn't be here today. She was a single parent. I just can't imagine why Mr. Limbaugh would carry on with this characterization.

Let me finish on this, Mr. CONYERS. It is something that has disturbed me and that reflects on my word of instruction.

I know that we have a schedule for the war in Afghanistan. I cochair the Afghan Caucus, so let me pronounce now my desire for an immediate upsurging, meaning upsurging out—speeding out, expediting—the return of our heroes home. I thank the President for his dinner in honor of the soldiers from Iraq. I have been wearing for a number of months—and I'm not sure if I still have it on. There it is—a yellow ribbon to acknowledge these soldiers who have come home from Iraq, and I look forward to many parades coming forward. But it is time to bring our soldiers home from Iraq, to thank the NATO partnership, and it is time to express outrage. I offer the deepest sympathy.

I have no problem with apologies. I am a grown person who is not diminished by saying, I'm sorry. I'm sorry that a mistake in the channel of instructions and commands allowed Korans to be burned. We all know that they were collected, first of all, because they thought they were communicating dastardly instructions that would harm either those who were the officers over the detention prison or that they were sending messages. We understand that, but there is no reason not to offer an apology. We have sacred documents from the Torah to the Bible to the Koran because there are people in the United States of different faiths. So we have no problem with that.

Yet when we have a government, as much as we try to encourage and to applaud and to support it, that allows the reckless spreading of violence and that the Taliban celebrates by permeating the population with ugliness and rioting and when you shoot point blank my officers of the United States military, enough is enough. There is no reason for me to be able to accept individuals who are there to help build up a society, in my understanding, where they are unarmed, and then you cause vio-

lence with four other soldiers. Then there are allegations that food is being poisoned. There are allegations that we can't even walk the streets.

The sadness is that women in Afghanistan have come to me and have said, We can't even walk the streets. Babies—girl children—are killed. Parliamentarians have spoken to me and have said, I can't go home to my home district.

How would that be for my distinguished colleague, when I yield to Congresswoman CAPPS or to any of the women, to know that we cannot go home to our districts because we are in fear of being killed by the men in that region?

So I would argue that we have been valiant, that we are heroes, that we have done what we have been called to do. The Commander in Chief has, in fact, brought the demise of Osama bin Laden and other high-dollar targets, and I would believe that it is appropriate that Congress gathers. I am now looking and contemplating a resolution in which we ask for a more expedited return of our soldiers and in which we ask that the President of Afghanistan, in the appropriate way, denounce and call for the end of this violence and that the Taliban be addressed by the Afghan National Security Forces, as we have trained them.

So I would say in my closing remarks that we have much to do. Many women suffer. In this country, we can at least acknowledge that we are civilized and that we respect women and the choices they have to make, that we have respect for the faith that has its own position and that we as a Nation will insist on that firewall; but we will also have access to women's health care. It makes no sense that a talk-show host, who is on the airwaves provided by the American people and by the tax dollars, would go after an innocent law student who simply was called as an American citizen to be heard in the Halls of Congress and who had no other angst but to be able to present her life story.

I conclude, Mr. CONYERS, by saying I see that, by the men and women in the United States military, all they have asked to do is to serve their Nation under the orders of the Commander in Chief in Afghanistan. I am now saying to them that I salute them and that it is time to bring our men and women home in dignity, in health, in safety, and with their lives—for their loved ones.

Mr. CONYERS. I want to thank the gentlelady from Texas for her wide-ranging comments, for her very closely held beliefs, and for her very articulate way of joining me in the dialogue this morning.

Mr. Speaker, I now yield to the gentlelady from California, LOIS CAPPS.

PERSONAL EXPLANATION

Mrs. CAPPS. Mr. Speaker, I rise to correct the RECORD. I mistakenly voted



"no" just a few moments ago on roll-call 94 when I intended to vote "yes."

I do support H. Res. 556 and strongly condemn the Government of Iran for its state-sponsored persecution of religious minorities.

I concur with the resolution in calling for the exoneration and immediate release of Youcef Nadarkhani and all other individuals held or charged on account of their religion.

Mr. CONYERS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

□ 1150

#### HONORING ANDREW BREITBART

The SPEAKER pro tempore. Under the Speaker's announced policy of January 5, 2011, the gentleman from Michigan (Mr. McCOTTER) is recognized for 60 minutes as the designee of the majority leader.

Mr. McCOTTER. Mr. Speaker, I rise to observe the loss of my friend, Andrew Breitbart, at the age of 43.

In endeavoring to eulogize anyone, there is truly no more eloquent testament than their family. To his wife, Susie, and their four beautiful children, our prayers, our thoughts, and our acts are with you.

Professionally, in Andrew's prodigious genius that was his life's work, he tirelessly fought the good fight and, in the end, gave his all with every fiber of his soul to serve his fellow human beings and his country.

Numbed with shock and loss at the word of his passing, and in reflecting upon the pleasure of his company, which I and so many others shared, I do find that I am at a loss for words and will, instead, rely upon those of the poet, Rupert Brooke:

Now, God be thanked Who has matched us  
with His hour  
And caught our youth, and wakened us from  
sleeping,  
With hand made sure, clear eye, and sharp-  
ened power,  
To turn, as swimmers into cleanness leaping,  
Glad from a world grown old and cold and  
weary,  
Leave the sick hearts that honour could not  
move,  
And half-men, and their dirty songs and  
dreary,  
And all the little emptiness of love!  
Oh! we, who have known shame, we have  
found release there,  
Where there is no ill, no grief, but sleep has  
mending,  
Naught broken save this body, lost but  
breath;  
Nothing to shake the laughing heart's long  
peace there  
But only agony, and that has ending;  
And the worst friend and enemy is but  
Death.

Good-bye and God bless, brother Andrew. You are loved and mourned and ever remembered. You never wasted a day of our finite time called life.

I yield back the balance of my time.

#### DO NOT RAISE TAXES

The SPEAKER pro tempore. Under the Speaker's announced policy of January 5, 2011, the gentleman from Indiana (Mr. BURTON) is recognized for the remainder of the hour as the designee of the majority leader.

Mr. BURTON of Indiana. Mr. Speaker, I was talking to my good friend on the other side of the aisle, a Democrat, GREG MEEKS, and GREG said that if we would raise taxes, put taxes on the table, that he would be willing to put cuts and entitlements and other things on the table in an equal measure; and I told him that there was no way that we could raise taxes enough to offset the things that really needed to be dealt with.

We have got to control spending. We have got to cut spending. We have got to look at the entitlements and the rules and regulations that we have to live by and make dramatic changes in government if we're going to balance the budget.

This year, we have reached over \$15 trillion in debt—\$15 trillion. That kind of goes right past most people because they can't imagine what a trillion dollars is. But \$15 trillion, just to put it in perspective, it took the Presidencies of George Washington all the way to Bill Clinton to amass the same amount of debt that President Obama has racked up in 32 months.

Now, think about that: from George Washington to Bill Clinton, the amount of money in debt that we've added has been reached in 32 months by President Obama.

We have to get control of spending. It's absolutely essential. Otherwise, we'll be in the same shape as many of those countries in Europe, like Greece.

The President's solution to the burgeoning problem is to increase taxes, as I said. So I went through the amount of taxes it would take and what we would have to do to reach the goals that the President talks about.

Now, if you raise the taxes on everybody that makes over \$250,000 to 100 percent—in other words, you take every dime that they make, 100 percent, above \$250,000—that would yield about \$1.4 trillion, and that would keep government running for 141 days. So if we took all the money that people make over \$250,000, you would still only run government for less than half a year.

If you gave the \$400 billion of profits that was reaped by the Fortune 500 companies and gave them the same 100 percent tax treatment, you could add another 40 days to the amount of time that we could run the government.

So taxing is not going to solve the problem.

Now, Herbert Hoover, when he was President, decided—a Republican—that the way to help stop the economic tragedy that was about to occur was to raise taxes on businesses and individ-

uals, and what happened? We ended up with the greatest depression in the history of this country.

Now, President Obama said the one thing that you don't want to do during a time of recession is raise taxes, and yet that's what he's advocating and my Democrat colleagues are advocating right now: raise taxes during a time of economic recession.

When people talk about unemployment in this country, they say, well, now it's 8.2 percent. But if you look at the people who dropped off the unemployment rolls and those who are underemployed, the unemployment rate is probably closer to 15 percent. So the figures we are getting from the administration are really not that accurate.

It's extremely important that the administration, and my Democrat colleagues here in the House and especially in the Senate, take a hard look at where we're going. The projections are over the next 10 years we're going to increase the deficit by at least \$1 trillion a year. We cannot afford that. This country will go completely bankrupt. You'll see inflation that you won't believe.

Right now the Fed is printing money to cover the expenditures that we're incurring day after day after day. That money they're using, they're buying bonds with it, Treasury bonds. So that money is not actually being seen in circulation. But the fact is that we're increasing the debt by printing money at the Fed on a daily basis. In Europe, the European Central Bank is doing the same thing with the euro. This country and the rest of the world is heading toward an inflationary problem that's going to be unbelievable.

Now, people say in this country right now we haven't seen any inflation. If you look at the figures that are coming out from the administration, inflation last year went up about 1 to 2 percent, but they're including in that figure all the new technologies that are taking place. They're not going to the grocery store.

I went to the grocery store last week and bought four apples at a cost of almost \$5. Three tomatoes cost almost \$5. If you go to the gas pump today—and my colleague from Indiana (Mr. PENCE) talked about that just a few minutes ago. If you go to the gas pump today, it's almost \$4 for a gallon of gas. So the inflation rate on staples, on things that we use on a daily basis is probably well over 10 percent, maybe even higher than that.

We don't know, but the administration says it's only 1 to 2 percent. Talk to the wives and husbands of people that are really strapped for cash right now, and you will find that it's costing them a great deal more than that on a daily basis for gasoline, food, clothes, and everything else.

It's extremely important that we get control of spending. This is not the

time to raise taxes. The President has said that himself, especially back in 2008 and 2009. Yet now they are taking a different tack and saying we need to raise taxes.

□ 1200

That would be like throwing gasoline on a fire. We should not be raising taxes. We should be addressing the spending side of the ledger; and if we do that, we will get this country back on the right track.

I just got back from Europe. I took a codel over there to Brussels to meet with the finance people in the European Union to find out where they are heading, and they're heading in a very difficult direction right now. If Greece goes belly up, it's very likely that you're going to see other countries go belly up. And we have investments in money market funds and bonds that we've purchased in those countries. And if those countries default, it's going to affect the United States as well. So we need to get our house in order so that we don't end up in the same bailiwick that Europe is in right now that could cause severe economic problems in this country.

So, Mr. Speaker, I'll end by saying it's important to get control of spending. This is not the time to raise taxes. A poll was taken recently by the Politico magazine here on Capitol Hill, and 75 percent of the people in this country that were polled said not to raise taxes. So the people get it. I just hope that the White House will.

The United States still finds itself in a spending driven debt crisis.

The National Debt has now surpassed an unprecedented \$15 trillion dollars.

House Republicans approved a budget that would have put a stop to spending money that we don't have as well as cutting \$6.2 Trillion Dollars more than the President's budget. The Democrats blocked it.

The U.S. debt-to-GDP ratio is now officially over 100 percent (approx. 110 percent at the end of 2011).

To put the severity of this crisis into perspective, it took from the presidencies of George Washington to Bill Clinton to amass the same amount of debt that President Obama has racked up in the past 32 months.

The President's solution to the burgeoning problem his Administration's reckless behavior has caused? Increase Taxes.

The Problem, according to the President is simply that the most successful among us simply aren't paying their fair share . . .

This sentiment has most recently manifested itself in the President's proposed budget, in which he has increased taxes to the tune of \$1.5 Trillion Dollars.

The simple reality of the situation is that this is nothing more than campaign rhetoric, employed in hopes of fomenting class warfare and dividing the American people.

"You cannot tax your way into prosperity."

We learned this after the 1929 stock market crash when Herbert Hoover, a Republican, signed legislation to sharply increase taxes on

businesses, who were seen as the catalyst for the market crash.

Hoover's draconian tax increases, fueled by a similar populist outcry heard today, ultimately served as the first salvo in a series of policy missteps that would ultimately lead to the Great Depression of the 1930's.

Keep In Mind That:

Even If Congress imposed a 100 percent tax, taking all earnings above \$250,000 per year, it would yield \$1.4 Trillion Dollars. That would keep the government running for 141 days.

The problem is there are 224 more days left in the year.

If we gave the \$400 Billion Dollars of profits reaped by the Fortune 500 the 100 percent tax treatment . . . We Could fund the Government for another 40 days.

It was not too long ago that President Obama himself was quoted as saying, "You do not raise taxes during a recession."

If only he had the resolve to heed his own advice.

The American people also believe that the course of action taken by Hoover and endorsed by Obama is not the right way forward.

In a recent poll in The Hill Newspaper, 75 percent of American's polled felt that, the "most appropriate top tax rate for families earning \$250,000 or more" is 30 percent or less. This would be 5 percent less than what this income group currently pays.

This is in stark contrast to the 40 percent tax rate that Obama and like-minded Democrats in the Congress have called for to enact in 2013.

When one couples this with the expiration of the Bush Tax Cuts . . . We are creating an environment where the entire tax code as we know it will cease to exist.

If we continue in this vein, in 2013:

The 8 out of 10 businesses in America that file taxes as individuals will see their tax rate go to 44.8 percent.

This will effectively kill what little growth our embattled economy has left.

Despite the top marginal tax rate varying between 35 percent and 91 percent since 1960, Federal tax collections have been between 15 and 20 percent of the nation's Gross Domestic Product every year since 1960.

From this we can infer whether taxes are high or low, people make adjustments in their economic behavior so as to keep the government tax take at 15 to 20 percent of the GDP.

History has proven unequivocally that tax rates have always had a greater impact on economic growth than they do on Federal revenues.

It is no longer good enough to kick the can down the road and make this the next Congresses' or next President's problem.

Unless we wish to bring the problems of Europe to our shores it is incumbent on us to champion responsible spending restraint; a repaired safety net; reforms that ensure real health and retirement security; and a simplified tax code oriented toward economic growth.

I yield back the balance of my time.

#### AFGHAN SECURITY FORCES KILLING AMERICAN SERVICE MEMBERS

The SPEAKER pro tempore. Under the Speaker's announced policy of Jan-

uary 5, 2011, the gentleman from Virginia (Mr. WOLF) is recognized for the remainder of the hour as the designee of the majority leader.

Mr. WOLF. Mr. Speaker, just today we heard reports that two more American servicemembers in Afghanistan were gunned down by the very security forces they are helping to train. Unfortunately, this is not an isolated incident. Last week, two Army officers were gunned down inside the Afghan Interior Ministry. Attacks by Afghan soldiers and security forces have accounted for nearly 70 deaths since 2007.

The U.S. military did a report on this phenomenon, referred to as "Green on Blue" attacks, and determined that they are turning into a "growing systemic threat" to our military personnel in the region. These are not U.S. deaths from combat with Taliban and other insurgent groups, although some of the perpetrators likely hold Taliban sympathies. These attacks are by the very forces our military is trying to train to take control of their own country—a significant component of the Obama administration's military draw-down strategy.

What are American forces to do when they doubt whether they can trust those who wear the uniform of an ally we are spending blood and treasure supporting? These attacks further complicate U.S. strategy.

Mr. Speaker, Congress and the Obama administration need to realize that these things are not going well in Afghanistan, and it has nothing to do with the capabilities of our troops. Not only are Afghan security forces gunning down their American advisers, terrorist and insurgent groups continue to find sanctuary in the tribal wilderness areas of Pakistan.

In January, the most recent National Intelligence Estimate painted a very bleak picture of the war in Afghanistan and the future of U.S. operations in the region. It reflects concerns that I've expressed numerous times to Secretary of Defense Leon Panetta, especially the importance of understanding Afghan tribal structures and the Pakistani military and intelligence services actively cooperating with two of the mostly deadly terror networks in the region.

Last week, The Washington Post reported that U.S. Ambassador to Afghanistan Ryan Crocker wrote a cable describing the fragile situation in the region. The cable described many of the problems in the region, including terrorist sanctuaries in Pakistan where militants continue training to attack U.S. forces. Ryan Crocker has a tremendous history in that region, having been Ambassador to Iraq, and also Ambassador to Pakistan.

Secretary Panetta has stated that U.S. forces are "working hard with Pakistan to improve the level of cooperation" so that terrorist groups no longer find safe haven in the country.

While I appreciate the hard work being done by our forces in the region, I'm afraid that the complexity of the evolving situation may necessitate that we take a very close examination of how we're operating.

Mr. Speaker, I do not have the answers to these extremely complicated and dangerous challenges; but last year Congress gave the Obama administration the ability to create an Afghanistan-Pakistan Study Group, an independent panel of five Democrats and five Republicans who love their country more than they love their political party. The Afghanistan-Pakistan Study Group would put their expertise to work and offer constructive recommendations to the administration to achieve our mission and to be successful in Afghanistan.

This panel would be modeled after the Iraq Study Group, which was convened during the worst violence in Iraq. The panel was formed only after 3 years of fighting in that country. It was called the Baker-Hamilton Commission. With the Iraq Study Group, it was an amendment that I offered, and I think it made a constructive difference. It was five Republicans and five Democrats. Secretary Gates served on the commission. Secretary Panetta served on the commission, Ed Meese. Fine people, distinguished people, people of integrity and good judgment; and they came up with some good recommendations. I have urged Secretary Panetta repeatedly to embrace this tried and tested model, this time for the Nation's longest war. Five Republicans, five Democrats, all people who are no longer involved in the political process but have understanding and knowledge both from a diplomatic and a military point of that region, both with Afghanistan and with Pakistan.

U.S. forces have been on the ground in Afghanistan for over 10 years now, and it is clear that things are not going well. Given the challenges I have discussed, I find it difficult to understand why Secretary Panetta and President Obama refuse to use the authority it has right now to establish the Afghanistan-Pakistan Study Group. Such a group already has the support of Congress. This bill passed the United States Congress, and I ask what harm can come from a group of independent experts looking at our missions with fresh eyes, fresh eyes on the target. Secretary Panetta and the administration gets to select the group, the five Republicans and five Democrats, so those who serve on this study will be selected by the administration, and particularly by Secretary Panetta, who I have great respect for.

It's hard for me to understand why Secretary Panetta was willing to sit on the Iraq Study Group, which was going to evaluate a war that had gone on for 3½ years under a Republican administration, but is not willing to do the

same thing to have an outside group look at a war that has now been going on for over 10 years.

This would be totally bipartisan. It would be objective. It would be fresh eyes on the target. Ryan Crocker before he was appointed Ambassador to Afghanistan supported this concept, and many very patriotic Americans have, with the idea of how can we be successful in Afghanistan and also in Pakistan.

I do not know what the recommendations of the panel would be. Maybe they will examine the current policy and determine that it is the best possible way to achieve success; but the fact remains that Congress provided the resources and the authority for the Obama administration to conduct an independent review, and they are refusing as of this moment to take action.

Again, it was interesting during the Iraq war, Secretary Rumsfeld was willing to have the Iraq Study Group go forward. General Peter Pace, who was the chairman of the Joint Chiefs of Staff, was willing to have the Iraq Study Group go forward. Condoleezza Rice, the Secretary of State, was willing to have the Iraq Study Group go forward. Mr. Steve Hadley, the National Security Adviser, was willing to have the Iraq Study Group go forward. They picked two outstanding Americans—probably could not have had finer people—former Secretary of State Jim Baker and former Congressman Lee Hamilton, who was co-chairman of the 9/11 Commission, was chairman of the Intelligence Committee, and has done a lot of very good things. It was a bipartisan effort.

Again, we had people like Secretary Gates, and we had Attorney General Meese; and they came together with a very constructive proposal. And as many Members may remember, the surge was in the Iraq Study Group. It was on page 73.

So why would Secretary Panetta, who was willing to judge activities for a war gone on for 3½ years during the Bush administration, not be willing to have 10 objective people that he proposes, not that the Congress proposes, not that any partisan group proposes, but that he would propose to bring fresh eyes on the target, to look to see how we can deal with the issue in Afghanistan and Pakistan and do it in a way to make sure that we are doing everything we can to protect the men and women who are serving so honorably and so well our Nation?

□ 1210

I believe also, Mr. Speaker, that it's a moral issue, too. I believe we owe this—we owe this to the men and women who are serving, and we also owe it to the families.

If other Members care, I would ask you to look at the language and then also write a letter to Leon Panetta.

Leon Panetta is a good man. I served with him here in the House. He loves his country, and I think he is working very, very hard. The people serving in the military at the Pentagon are very committed and very capable people, but like anything else, sometimes a fresh approach, or fresh eyes, again, I think would be very good for our country and something that we owe to the men and women who are serving in the military and to their families.

CONGRESS OF THE UNITED STATES,  
HOUSE OF REPRESENTATIVES,  
July 19, 2011.

Hon. LEON PANETTA,  
*Secretary of Defense, The Pentagon, Washington, DC.*

DEAR SECRETARY PANETTA: I write today concerning the U.S. mission in Afghanistan and Pakistan. My amendment, which gives the secretary of Defense the authority to establish an Afghanistan/Pakistan (Af/Pak) Study Group, was included in the House-passed FY 2012 Defense Appropriations bill. I pressed for the amendment because I believe fresh eyes are needed now to examine the situation on the ground and the overall U.S. mission.

I envision the Af/Pak Study Group being modeled after the Iraq Study Group (ISG). Both you and your predecessor Bob Gates served on the ISG and know better than most the benefits it provided after three years of fighting in Iraq. Now that the U.S. is in its 10th year in Afghanistan, I believe a similar effort is necessary.

Before he was appointed as ambassador to Afghanistan, Ryan Crocker supported creating an Af/Pak Study Group, along with Ambassador Ronald Neumann and Jim Dobbins from the RAND Corporation. American men and women are fighting and dying in Afghanistan. If we are asking them to put their lives on the line daily, I believe we have an obligation to provide an independent evaluation of the U.S. mission. We owe our military forces nothing less.

I do not have the answers. But as you know, there is a movement building in Congress in favor of pulling troops out of Afghanistan. An amendment offered by Rep. Jim McGovern earlier this year to the National Defense Authorization Act to accelerate U.S. departure from Afghanistan was narrowly defeated 204-215. If six members had changed their vote, the amendment would have passed. I have talked to several members who voted against the McGovern amendment who are seriously concerned about the war in Afghanistan and could change their vote if the situation on the ground does not improve rapidly.

I also believe it is critical that Afghanistan be examined in tandem with the facts on the ground in Pakistan. It is clear that in order to be successful in Afghanistan, we must have a clear understanding of how Pakistan is influencing U.S. operations. Just look at the recent news from the region. Hamid Karzai's half-brother was murdered and his funeral bombed, Karzai advisor Jan Mohammed Kahn was murdered, and militants attacked and laid siege to the Intercontinental Hotel in Kabul. The enclosed article printed recently in the Washington Post states, "... optimism and energy vanished long ago, gradually replaced by cynicism and fear. The trappings of democracy remained in place ... but the politics of ethnic dog fights, tribal feuds and personal patronage continued to prevail."

The men and women serving in Afghanistan deserve to have fresh eyes look at this

region as soon as possible. With House passage of the Af/Pak amendment, I ask that you use your authority as secretary and move quickly to create this study group. I have discussed my amendment with John Hamre at the Center for Strategic and International Studies (CSIS) and he has offered to coordinate the group with professionals with a wide range of expertise.

I would appreciate the opportunity to meet with you to discuss this important initiative and look forward to working with you to ensure we are successful in Afghanistan and Pakistan.

Best wishes.

Sincerely,

FRANK R. WOLF,  
Member of Congress.

CONGRESS OF THE UNITED STATES,  
HOUSE OF REPRESENTATIVES,  
August 1, 2011.

Hon. LEON PANETTA,  
Secretary of Defense, The Pentagon,  
Washington, DC.

DEAR SECRETARY PANETTA: I want to follow up on my previous letter regarding Afghanistan policy and bring to your attention a book I am reading, *The Wars in Afghanistan*, discussed in the enclosed Washington Post book review. Its author, Ambassador Peter Tomsen, is a veteran of the Foreign Service and has an impressive background in the South Asia region. If you have not read his book, I highly recommend it to you. The Post review concludes: "This long overdue work . . . is the most authoritative account yet of Afghanistan's wars over the last 30 years and should be essential reading for those wishing to forge a way forward without repeating the mistakes of the past."

After three years of the Iraq war, the formation of the Iraq Study Group garnered the support of Secretary Rumsfeld, Secretary Rice, and Joint Chiefs General Pace. Our military men and women have been putting their lives on the line in Afghanistan every day for 10 years, seven years longer than when the decision was made to create the ISG to provide the independent assessment needed for U.S. policy in Iraq. I believe we owe it to our brave soldiers to focus now with fresh eyes on the target in Afghanistan.

I have spoken with Ambassador Tomsen about a framework for moving forward in Afghanistan, and he would be happy to meet with you and your team to discuss his breadth of experience there. I urge you to take him up on his offer.

Best wishes,

Sincerely,

FRANK R. WOLF,  
Member of Congress

CONGRESS OF THE UNITED STATES,  
HOUSE OF REPRESENTATIVES,  
September 15, 2011.

Hon. LEON PANETTA,  
Secretary of Defense, Department of Defense,  
The Pentagon, Washington, DC.

DEAR SECRETARY PANETTA: It was good to be with you at the Pentagon on Sunday to honor the lives lost there 10 years ago in the 9/11 attacks. I want to congratulate you on a moving ceremony that showed reverence to the Pentagon employees and the passengers of American Flight 77 that perished on that awful morning. I appreciated your comments and those of Admiral Mullen. Several of my constituents died at the Pentagon and the first U.S. service member killed in Afghanistan was my constituent. I thank you and all those who have served in public office and in uniform in the 10 years we have waged war against global terrorism.

As I waited for the program to begin on Sunday, I saw you and former Defense Secretary Rumsfeld and was struck by a vivid memory from 2005 of the events surrounding the Iraq war. We were three years into the war, the security situation in Iraq was deteriorating, and our soldiers were dying every day. As a member of Congress who voted to send our troops to fight, I believed I had the added responsibility to make sure the administration was receiving the best advice possible on our Iraq strategy.

So I proposed creating the Iraq Study Group (ISG) made up of experts outside government to bring what I called "fresh eyes" on the target. Secretary Rumsfeld, General Pace, Secretary Rice, and NSC Chairman Hadley all came to see the value in the ISG. By your participation, I think it is fair to say you also saw its benefit, and I greatly appreciated your outstanding service on the bipartisan panel. You and the other Democratic members who gave your time during a Republican administration exemplified the true meaning of service to your country.

We are now into the 10th year of fighting in Afghanistan and the challenges we face there continue. In 2001, I was the first member of Congress, along with Rep. Joe Pitts, to visit Afghanistan after the U.S. invasion, against the wishes of the Defense Department. We saw firsthand the devastation that the Taliban had visited on Kabul as well as the remnants of the U.S. Embassy that was abandoned in 1979. I have also traveled to Pakistan and seen the difficulties that country faces combating the Afghan Taliban and other terror groups. Despite the current conditions, all my experience in this region tells me that success is possible if we formulate the right strategy to deal with both Afghanistan and Pakistan.

As with the ISG, I believe fresh eyes are needed now to examine U.S. policy in Afghanistan and Pakistan. The security situation continues to erode as evidenced by coordinated insurgent attacks on heavily fortified U.S. and NATO compounds just this week. The Taliban still finds safe haven in the tribal wilderness of Pakistan and the ISI actively funds terrorist groups.

Given these and other concerns on the ground in Afghanistan, I continue to be puzzled why you, the Joint Chiefs of Staff and Secretary Clinton are not supporting the Af/Pak Study Group idea in the same manner that Secretary Rumsfeld and other Bush administration officials supported the ISG. Having the experience of serving on the ISG and now serving as secretary of Defense with a Democratic president (who I acknowledge inherited the war in Afghanistan), you are in a unique position to make this group a reality. The authorization and funding for the Af/Pak Study Group in the House-passed Defense Appropriations bill gives you the authority to create this group today.

I have to tell you that I continue to be disappointed that your staff has yet to contact former Ambassador Peter Tomsen to discuss his book, *The Wars of Afghanistan*. His book provides insightful information on the tribal structure of both Afghanistan and Pakistan and the political allegiances that underlie all actions in the region. I believe his knowledge and experience in this region would be invaluable in formulating future policy in South Asia. I respectfully ask again: please take advantage of his work and meet with him as soon as possible.

Leon, I don't have the answers on Afghanistan. Perhaps current U.S. strategy is the best way forward. But we owe it to the men and women in uniform who have served and

continue to serve there—some paying the ultimate sacrifice—to know definitively. I continue to believe that fresh eyes from outside government focused on assessing the situation is the prudent action to take. I ask that you take the advice of those who support an Af/Pak Study Group, including Jim Dobbins, General Charles Krulak, Ryan Crocker, who I spoke with prior to his appointment as ambassador to Afghanistan, and other prominent Americans with experience in this region.

I believe it would be a sign of strength to appoint a study group and let the American people know that the administration is willing to examine all possible policies to achieve a successful outcome in this troubled region.

Best wishes.

Sincerely,

FRANK R. WOLF,  
Member of Congress.

CONGRESS OF THE UNITED STATES,  
HOUSE OF REPRESENTATIVES,  
January 17, 2012.

Hon. LEON PANETTA,  
Secretary of Defense, The Pentagon,  
Washington, DC.

DEAR SECRETARY PANETTA: As I am sure you are aware, the Consolidated Appropriations Act of 2012 contains language providing your office with \$1 million to assemble the Afghanistan/Pakistan (Af/Pak) Study Group. I request that you do so immediately.

The Los Angeles Times reported last week (article enclosed) that the most recent National Intelligence Estimate (NIE) paints a very bleak picture of the war in Afghanistan and the future of U.S. operations in that region. It reflects concerns that I have expressed in numerous letters to you over time, especially the importance of understanding Afghan tribal and political structures and the Pakistani military and intelligence services actively cooperating with two of the most deadly terror networks in the region.

Given this stark assessment from our own intelligence community, the need to create the Af/Pak Study Group is clear. The Af/Pak Study Group's analysis and recommendations could bring needed clarity to current and future U.S. military and diplomatic operations. You supported the Iraq Study Group and lent your considerable expertise to that effort, so I am perplexed as to why you do not similarly support the Af/Pak Study Group.

Your November 3, 2011, letter to me stated that coalition troops are making progress against the Taliban and other militants and that progress is being made on our relationship with the Pakistani government and military. I have enormous respect for them and women serving our country in South Asia and acknowledge that our troops are performing their mission with bravery and resolve, however, the NIE appears to contradict your assessment.

Also enclosed is an article by the Hudson Institute's Nina Shea that discusses how Hussain Haqqani, the former Pakistani Ambassador to the United States is facing possible charges of treason for his alleged involvement in "Memogate." Shea asserts, "There is every reason to believe that the real reason Haqqani is being targeted is that he is a prominent moderate Muslim, one of the few remaining in Pakistan's government." Shea goes on to point out that Haqqani was personal friends with two men, Punjab governor Salman Taseer and Pakistan's Federal Minister of Minority Affairs

Shabbaz Bhatti, whose lives were cut tragically short last year as a result of their outspoken critique of Pakistan's draconian blasphemy laws.

Increasingly we see a trend in Pakistan of moderating voices being marginalized and altogether silenced. While I appreciate that you are "working hard with Pakistan to improve the level of cooperation" so that terrorist and militant groups no longer find safe haven in the country—I am afraid the complexity of the evolving situation in Pakistan necessitates more.

The NIE's assessment could lead to support for the war in Afghanistan eroding among the American people and I feel the same sentiment will soon permeate the halls of Congress. If the president has simply decided that U.S. involvement will end in 2014 and that no further U.S. strategy is needed, he should clearly state that this is his policy and be forthcoming with the American people. If President Obama has not made a final determination on U.S. strategy going forward, I ask again, what harm can come from a group of independent experts using their experience to offer solutions for long-term success?

Following 9/11, I have supported U.S. military actions in the War on Terror. I want to see our soldiers, diplomats and Foreign Service personnel return home with their heads held high, knowing they all played a crucial role in establishing stability in South Asia where countries no longer pose a threat to our national security. I firmly believe that you can help ensure this happens by using the money made available to you to create the Af/Pak Study Group. Establishing this panel quickly will show the American people that the Obama Administration is willing to consider all possible options to achieve success in this volatile region.

I urge you to take these steps immediately before support for our mission in Afghanistan further erodes.

Best wishes.

Sincerely,

FRANK R. WOLF,  
*Member of Congress.*

CONGRESS OF THE UNITED STATES,  
HOUSE OF REPRESENTATIVES,  
February 10, 2012.

Hon. LEON PANETTA,  
*Secretary of Defense, The Pentagon,  
Washington, DC.*

DEAR SECRETARY PANETTA: I am sure you are aware of the enclosed article by Army Lt. Col. Daniel Davis that recently appeared in the Armed Forces Journal regarding the status of our mission in Afghanistan and the capabilities of Afghan National Army (ANA) forces. I am deeply troubled by the conclusions reached in Col. Davis' assessment and believe that it further underscores the importance of immediately creating the Afghanistan/Pakistan Study Group.

Col. Davis' piece tracks closely with the latest National Intelligence Estimate's assessment of current and future conditions in the region which I referenced in my January 17 letter to you (enclosed). These two assessments, coupled with the February 4 United Nations report showing that Afghan civilian casualties are increasing and the 2011 Red Team study by NATO on fratricide by ANA forces on coalition troops, lend credibility to the growing belief that U.S. strategy in South Asia is not going well.

In the interest of the soldiers, sailors, airmen and Marines serving—and in many cases dying—in Afghanistan, I implore you to immediately establish the Afghanistan/Paki-

stan Study Group. As I have referenced in previous letters to you, Congress has provided the funding for this panel and under the law, you can select its members.

While reasonable people can disagree on specific policy options, I find it difficult to understand why the Obama Administration would not embrace a panel of five Democrats and five Republicans (modeled on the Iraq Study Group on which you and former Secretary Gates served), who love their country more than their party, putting their expertise to work and offering constructive recommendations to achieve our mission.

We owe it to the men and women serving in uniform—and the families supporting them—to have the best possible long-term strategy for success.

Best wishes.

Sincerely,

FRANK R. WOLF,  
*Member of Congress.*

P.S. I know you care deeply about our service members serving overseas and that you and your team are doing what you think is best for our country. But I believe any objective observer would agree we need fresh eyes on the target.

With that, Mr. Speaker, I yield back the balance of my time.

#### THE ADMINISTRATION IS NEGOTIATING WITH MURDERERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 5, 2011, the gentleman from Texas (Mr. GOHMERT) is recognized for the remainder of the hour as the designee of the majority leader.

Mr. GOHMERT. Mr. Speaker, there's so much going on in this country. There are so many great folks and some that are not so much. There are stories out indicating that this administration is considering releasing the Blind Sheikh. He's credited with helping mastermind the first attempt to bring down our World Trade Centers. He is credited as the Islamic fanatic who issued the fatwa that was considered by the radical extremist jihadists to justify killing thousands and thousands of Americans—what they hoped would be tens of thousands of Americans—at the World Trade Center and the Pentagon. One report indicated that with regard to the Pentagon, if the plane had not just brushed across a berm outside the parking lot before it hit, it probably would have gone all the way into the interior, doing a massive amount of more damage than it actually did. Because of the valiant work of so many first responders, there weren't tens of thousands killed at the World Trade Center. But we suffered the loss of 3,000 murdered because of some religious fanatics, the Blind Sheikh being one of them.

The story is out yesterday and today that the administration is considering the release of the Blind Sheikh and other American murderers so that we can obtain the complete release from Egypt of people that went there to try to help the Egyptians have free and fair elections. And in return for going

there and providing the billions of dollars this country gives to Egypt and continues to give, in return, the people in charge—that this administration welcomed in charge of the Egyptian Government, as they stabbed an ally name Mubarak with whom they had written agreements—I'm not saying he's a great man; I'm saying this country, this administration, had agreements with that man, and this administration broke those agreements and stabbed him in the back. As a result, now we have Americans in harm's way, some of them in the Embassy in Egypt.

Now, the reports are that the administration is considering releasing murderers, people who planned and were complicit in murders and attempted murders of Americans, and this administration is considering releasing them and may be negotiating that.

Now, I'm hoping that this report is what this administration has done many times, and that is release a trial balloon to see how people react. And if people react violently enough—verbally, that is—against it, then they will say, hey, no, we never planned to do that. And I'm hopeful that that will be the case here. People who have been responsible for murdering and attempting to murder Americans have no business being used as bargaining chips. If the rule of law and of justice is going to mean anything in this country going forward, we cannot be bargaining with American liberty.

Now, some of us recall very well in 1979 when an act of war occurred by the people, by the Government of Iran in Tehran, against the American Embassy. Everyone's idea of international law indicates that the soil on which an Embassy exists is the soil of that country. If you attack the Embassy, then you have attacked that country. And it was my recollection, and those of us that were stationed at Fort Benning at the time, we knew it meant that many of the people, many of us at Fort Benning, may have been sent to Iran if a war broke out. Everyone was watching to see if, as the term was used, the flag were to go up, who was going to go. Nobody was dying to go, but everyone was willing to go and die in defense of our country.

The Carter administration, instead, began pleading with the Iranian Government to let our hostages go. It was my recollection back during the time as we watched from Fort Benning, I'm not sure what the fate of those of us at Fort Benning would be, but the spokesman for the Iranian Government kept saying, the students have the hostages, the students attacked the Embassy. And it just seemed to me, as a captain in the Army at the time, do you know what it sounds like? The Iranian Government is trying to give themselves a backdoor so that if President Carter stands up and finally becomes a great leader and shows great leadership and stands up and says:

All right, you're saying that students have the American hostages? Well, then, here is the deal: An act of war has been committed, and either you release, you deal with those students and you get those American hostages released, or we're bringing the full weight of the American military against Tehran for the release of those people. And if those hostages are harmed before we get there, then we will overthrow your government and we'll leave. We're not going to nation-build. You can pick whatever government you want, it's your business, unless you attack the United States of America. Because when you attack the United States of America, it is our business. We won't nation-build, but we will take down any government of any nation anywhere that commits an act of war against us.

That's what President Carter should have done. And now these rumors swirl around, these reports from media resources that tell us they are reliable, that this government now is thinking, well, maybe we'll dodge what the Carter administration did that got President Carter defeated for a second term. Maybe if we just release murderers of Americans, maybe if we'll just give them whatever they want, they'll release these people or allow them to leave the Embassy and travel back to America, and we'll be okay.

□ 1220

Wrong. You release people who declared war on America, who declared war on the World Trade Centers, on New York City, on Washington, D.C., you release those people, you have not made America safer. You've endangered far more lives than you got released.

I like Ray LaHood. He's a good man. We haven't agreed on some things, but he's a good man. I know that. It broke my heart when I saw that his wonderful son, who believes in liberty and freedom, was being kept against his will from leaving Egypt. He went over there to help them have a free and fair election. But from what I know—having not met Ray's son—I don't think he would want the lives of tens of thousands or millions of Americans jeopardized because this administration might be trying to avoid losing an election as President Carter did.

The thing to do is the thing that President Carter didn't try. He tried the negotiations. He offered all kinds of things. The thing to do is say: Egypt, we have given you American treasure. We supported your efforts in electing leaders. Here is the deal. We sent you people to have free and fair elections. If you're going to hold them hostage, then that is an act of war on us and we will come to Egypt.

We're not going to go to war with the nation. The whole nation of Egypt is not against America. But if the regime

in power is going to take Americans who came over there to help them, who were participating in helping a process so that Egypt could continue to get U.S. funds to stabilize their country, if they're going to declare war on those individuals, then we will take out that group that is presiding and attempting to govern. We won't nation-build, but we will allow you to put whatever government you want in place. If they come against America, we will come against that government; not against the people, but against the government. We will take that government out and then you pick some other government. We don't care who it is. We don't care what kind of government you have, as long as they're not at war with America. But if you commit these kind of criminal acts of war against American citizens, against America, we will take that group out that is governing in that manner and then you find one that won't declare war on America.

That's what needs to be done, not releasing the Blind Sheikh, not releasing American murderers. That is not the thing to do. I hope and pray that tens of thousands, hundreds of thousands, millions of American lives will not be jeopardized by this administration just hoping to avoid a hostage crisis like arose in Tehran.

That arose because of a weak administration refusing to do what it should have in response to an act of war. Because what we saw after those initial periods where they said, "No, the students had them; we're trying to negotiate; we're trying to work with them," eventually they saw the Carter administration was not going to do anything, and so they began saying, "We had the hostages; we had the hostages," and started making demands and threats and things like that.

The thing to do is say, look, we want to live at peace with every nation in the world; but you declare war on Americans, we will take that government out and let the people choose whatever kind of government they want. We should not be nation-building. You pick what government you want and we will live in peace as long as they don't declare war on us. If they do, we're coming. We'll take them out and then you pick your next government. That's what should be done, not the release of murderers, of those complicit in American murders, such as the Blind Sheikh.

I hope that enough people in America will rise up, Mr. Speaker, and make their voices heard. Don't be releasing people who declare war on America, who have American blood on their hands. We do not want to put the future of America in foreign hands that are covered with American blood. That is not the course to take.

CIVIL RIGHTS MOVEMENT

One other thing I wanted to mention before I get to a tribute, and that is

with regard to the Selma march, that is with regard to the civil rights movement.

There are some in America who think people like Martin Luther King, Jr., JOHN LEWIS, others who were such participants in the civil rights movement—people see that and say that was a movement by blacks or African Americans to try to have equal civil rights. But having read a great deal about Martin Luther King, Jr., it's very clear this was a Christian minister, an ordained Christian pastor. I haven't heard anybody in the wonderful tributes that have been paid here today as we commemorate that march in Selma, I haven't heard anybody mention this.

As a Christian minister, Martin Luther King, Jr., and those who participated, did more than help African Americans move closer toward having full equality, toward equal rights. It did more than that. For those of us who were young, white Christians, for those who would come behind us as Euro Americans, white Americans, they did something wonderful for us. They created an environment in which all Christians—whites, all Christians—would be able to treat brothers and sisters as being brothers and sisters. They did a great service for all Americans.

So I will lend my voice, such as it is, in tribute for the service that was done for all Americans, and anxiously long for the day—we're getting so close—but long for the day when people are judged by the content of their character and not the color of their skin; where there are no quotas, there is no need for a Justice Department to review everything, because people are acting and treating each other in ways of equality, so that we finally achieve the dream.

ANDREW BREITBART

Now I want to turn to a tribute to a great man. This Nation and freedom has lost a great proponent and defender.

Andrew Breitbart, who was reported to have died this early morning in California, was and is an American hero of mine. This man, in what appeared to be the prime of his life, knew that the key to keeping our endowed freedoms was shining the bright rays of sunlight on whatever issue was stealing away our Nation's prosperity and liberties.

Many came to know Andrew as the brains and the will behind the exposure of a cancer on our system that was exemplified by some of the things going on with ACORN, where they were not bothered by the thought of underage girls being placed in the bondage of sexual prostitution and they were not bothered by the idea of getting people in the country illegally for immoral and illegal purposes. He figured out a way to deal with these issues and to address what was sucking the nutrients and the life from this host country as, really, a cancer.



□ 1230

He figured out how to shine sunlight inside offices of what was happening and gave a good dose of chemotherapy to the cancer.

He also innovated ways to expose the extreme bias within many in the media that were holding themselves out as being objective. We have freedom of speech. We have freedom of the press. But there should be some degree of honesty. If someone is expressing an opinion, it should be reflected as an opinion and not as unbiased journalism.

Andrew had been in the process of exposing that, as well as so many other issues that were weakening our Nation and infringing our liberties, were deceiving rank-and-file Americans of the truth and our factual history. Andrew was serving as a clarion call to action for honorable Americans across the country to seek truth, justice, and the American way.

In visiting numerous times with Andrew, he was so excited. He could see that he was literally, and profoundly, making a difference for truth.

Often, when innovators or impassioned innovative visionary people depart this world, they have not had the benefit of seeing any of the fruits of their labor. God had favored Andrew with a glimpse of the difference that he was making.

In this book that—and I acquired this copy from the Library of Congress, “Righteous Indignation” by Andrew Breitbart—this is a new conclusion to Andrew’s recent books. He wrote this new conclusion himself.

These are Andrew’s words:

I love my job. I love fighting for what I believe in. I love having fun while doing it. I love reporting stories that the complex refuses to report. I love fighting back. I love finding allies and, famously, I enjoy making enemies.

Three years ago I was mostly a behind-the-scenes guy who linked to stuff on a very popular Web site. I always wondered what it would be like to enter the public realm to fight for what I believe in. I’ve lost friends, perhaps dozens, but I’ve gained hundreds, thousands, who knows, of allies. At the end of the day, I can look myself in the mirror and I sleep very well at night.

He now sleeps in the arms of God.

Andrew was being demonized by those who were profiting from their deceptions of people and their cronyism with the government. He was rallying like-minded Americans to seek and take back the liberties with which they were endowed and upon which liberties vast encroachments have been occurring.

I would like to speak straight from the heart, but I typed these lines up just moments ago because of the difficulty. It’s easier to read. Let me finish with what I wrote moments ago.

Andrew had two films coming out in the near future, of which he was so proud, as he showed me and my friend,

STEVE KING, here the trailers very recently. Those films can and will be quite powerful in furthering the cause of sunlight on darkness, though they may now have to be modified because of his passing.

But Andrew was so kind to be an encourager to my daughter in California, was always complimentary of her when we talked. He knew how to make a father proud.

In considering Andrew’s works, the life and death of John Quincy Adams comes to mind. Adams had been elected President in 1824, first son of a former President to be so elected. In 1828, he was defeated by Andrew Jackson.

In 1830, John Quincy Adams did the unthinkable. He had been President of the United States; and yet he was driven by a God-placed feeling, a need to stop slavery in America. So after having been President, he lowered himself to run for the House of Representatives and was elected in 1830, sworn in in 1831, and served until 1848 just down the Hall in what we now call Statuary Hall. He was a driven man.

He believed God had called him, as he did William Wilberforce, to bring an end to slavery—Wilberforce in the British Isles, the United Kingdom, and Adams in America. He was concerned, appropriately, that it would be difficult to expect God to keep blessing America if we were putting brothers and sisters in chains and bondage.

He gave powerful speeches over and over down the Hall trying to convince the other Members of the House to pass bills that would end slavery, that would free slaves, and he never got it done. In fact, at one point, he had so alienated the Rules Committee, they passed a rule, he couldn’t even bring those types of bills anymore. So then he had to fight the rule so he could go back to filing bills to end slavery and free slaves, and eventually he did. And he preached those powerful sermons down the Hall against slavery.

In 1846, a young man, not particularly handsome, some at Gettysburg that heard him years later said he didn’t have all that pleasing a voice to listen to, he didn’t have a beard at that time, but a young, skinny, some-would-say homely-looking guy was on the back row, just down the Hall of the House of Representatives.

Adams liked this guy. Adams was not necessarily referred to as being a warm and fuzzy, cozy kind of guy, easy to warm up to, a bit cantankerous at times; but he liked Lincoln.

In 1848, having spent so many years devoted to many great causes, but particularly to the cause of trying to end slavery, sitting at his desk, John Quincy Adams had a massive stroke. He was moved back into the Speaker’s suite just off the floor, died 2 days later. 1848.

Thirteen years later, Abraham Lincoln was sworn in as President of the

United States. It was reported that someone had asked Lincoln was there anything memorable that happened during your two brief years in the House of Representatives. He was reported to have said, in essence, not other than those powerful speeches of John Quincy Adams on the evils of slavery.

Lincoln knew it was wrong. It tore at his soul that slavery existed in America. After he lost after one term, he went back, tried to make a little money, did, practiced law, represented the railroad some, but the compromise of 1850 allowed new States to come in that would have slavery.

Lincoln had thought perhaps he was done with slavery, but he couldn’t stand it. He got back involved in politics, lost, lost again, got elected President, and then helped bring about an end to slavery in the United States.

John Quincy Adams did not bring an end to slavery as he had hoped, but he profoundly affected that young, skinny, less-than-handsome-looking guy named Abraham Lincoln.

□ 1240

Andrew Breitbart is gone. That’s the report. I’ll be interested to see what the autopsy says.

But I can’t help but think his devotion to truth, to preserving liberty will have inspired so many who will pick up that banner and potentially, as was the case with John Quincy Adams and Abraham Lincoln, do far more than Adams himself could have done, and in this day, in the years to come, do more than Andrew could have done by himself.

Though Andrew did great service to himself, his family, and his Nation, it’s my prayer that his greatest contribution to this, the greatest Nation with the greatest freedoms in the history of the world, will not be those specific but amazing accomplishments he achieved, but that his greatest accomplishment will be the inspiration he was and is to so many who saw his devotion, saw his commitment, saw his goals, and will, just as did John Quincy Adams, accomplish more through those he inspired than those he could ever have accomplished individually.

At a time like this, there is sometimes a temptation to blame God and ask, why did God take such an individual so soon? Our directed comments to our Creator should instead be, Thank You, dear God, for the gift of Andrew Breitbart. We wish we could have kept him longer, but thank You for this marvelous gift.

God be with his family, comfort his family. Andrew will be sorely missed by seekers of truth. His departure will be welcomed by those he was exposing, but they shouldn’t be too comfortable. He was a patriot. He was a lover of liberty. He was a lover of family. He was a lover of God, a lover of this Nation.



He was also a friend and encourager to me.

With that, I would yield to my friend, STEVE KING, from Iowa.

Mr. KING of Iowa. I want to thank the gentleman from Texas.

Timing of circumstances, Mr. Speaker, brought me to the floor here simultaneous with this wonderful tribute that Mr. GOHMERT has provided to Andrew Breitbart and the life and the things that he stood for and believed in. I don't know how I can add to the completeness of the message that LOUIE GOHMERT has delivered here.

I had the privilege of calling Andrew Breitbart my friend as well. I think of the last time LOUIE GOHMERT, STEVE KING, and Andrew Breitbart were in the same room, and it was over in the place that I affectionately call The Bunker, the house a couple of blocks east of the Supreme Court—very fitting, by the way—just almost within gaze of the east portico of the Supreme Court where Moses sits there looking down upon all of humanity with the tablets on his knees, with the Ten Commandments in his arms, and saying to all the world, We're a Nation of laws, not a Nation of men, and that our laws come from God, and his profound belief in that.

As we were there, I remember I was invited to a dinner over at Breitbart's. Now, some might think that a dinner with Andrew Breitbart could be somebody sitting at the table with cufflinks, for example. It's possible, but it's unlikely that there's actually going to be a table. It's more likely that there's a counter in the middle of the kitchen, and on that counter and on the counter over on the wall were refreshments of all kinds, teetotaling and nonteetotaling refreshments. On the other counter are ribs and chicken. I think the ribs were there for LOUIE GOHMERT, personally. He and I are the only two Members of Congress.

In that room was a constant din. Within that din, you'd always know what was on Andrew Breitbart's mind. Whenever he spoke, there was always an ear tuned to that, but he was very much a person engaged in the moment. He was driven to no end. I know when I walked in the room, he played a trumpet with his hand just to get the attention in that din now that I'd arrived.

But what I remember was that it was an engaging conversation about liberty and freedom and freedom of the press and truth, justice, and the American way, as LOUIE has said. When it was all done, the refreshment bottles were empty and the ribs and chicken were bones, and we'd had one of the most engaging evenings you could ask to have in Washington, DC, and we have some here.

That, I think, does describe Andrew Breitbart's life: engaging.

I don't know who was more engaged than Andrew Breitbart. I look back at

it. Just, for example, this morning I got up and I got ready to go, and I changed my pin over here and I put my Constitution in my pocket here and I put my keys in this pocket. Other than that, the only one other constant was I had to look around this morning and I couldn't find it. I went over to my backup storage, and I pulled this out and put it in my pocket this morning.

Let the record show, Mr. Speaker, this is an acorn. I've carried an acorn around in my pocket for about 2 years. I wouldn't be doing this if it weren't for the influence of Andrew Breitbart. In fact, we might not even know about the threat to the underpinnings of our Constitution, the legitimate electoral process we have in this country, if it hadn't been for Andrew Breitbart.

Hannah Giles and James O'Keefe came together and they went out and got some brilliant tape of the unconscionable activities of ACORN that produced over 400,000 false or fraudulent voter registrations. How many other false votes went up, we don't know.

But my belief is, and I believe Andrew's belief was, that the Constitution is the foundation of American liberty. But underneath that foundation that sits on the bedrock of legitimate elections, any entity that threatens those legitimate elections threatens the very Constitution itself and American freedom.

It was Andrew's brilliance that took those tapes of Hannah's and James and said, You roll these out, they will discredit you. They will attack you. You will be under the heat like you've never seen before in your life. We need to give them a little bit, and then they will attack you and say that's the only one. It's an anomaly.

Really, the tapes of the unconscionable acts of ACORN would be discredited immediately. It was Andrew who put together the strategy.

First, you have to know the man to have instant confidence that he knows, and he instantly thinks ahead. He never was, I don't think, a linear thinker. He always was a conceptual thinker. Some might go A, B, C, and maybe can get their way to Z. Andrew could go A, here's Z, and you know he knew every letter in between and how they were rearranged, and he could see the strategy in an instant and he could inspire you to step forward to that. That was part of the brilliance of Andrew Breitbart. That's one of the reasons I will carry this acorn in my pocket until they are gone.

As I sat and thought about the life of Andrew, I wrote these words down to try to describe him, and words do not describe the man that Andrew was.

I used the words "dynamic," "brilliant," "fearless," "visionary," "altruistic," "passionate," "unconventional," "trailblazer," "patriot," "lost friend." All of those things describe

Andrew Breitbart, and many, many more.

As LOUIE GOHMERT has said, his influence will be cascaded across this civilization and this culture, I believe, in perpetuity, just like the influence of John Quincy Adams has had that influence.

What I want to say also is that Andrew had a real sense of righteous indignation of when the ObamaCare debate was taking place here and an effort was staged to cast aspersions on the Tea Party as being racist. I remember in the middle of that press gaggle when they said, What do you think? Somebody was hollering the "N" word out at the Congressional Black Caucus as they walked across the grounds.

I said, Who has reported that? They named that. Who actually heard it?

They couldn't name me who heard it.

Andrew Breitbart understood that it was a manufactured story created to discredit the Tea Party and put \$100,000 on the table for anybody that could produce an audio or a video that would confirm the false allegations of racial epithets being thrown by the Tea Party at anybody. He shot that story down, and he has provided us a tremendous amount of credibility for the Tea Party in the process.

Pigford Farms, another story. The list goes on.

Andrew Breitbart understood the science behind the communications in the world. He understood the Internet before many even knew the Internet existed. He understood its potential. He had opened that up with big everything, with big ideas and global ideas and had them grounded in the full spectrum constitutional conservatism with an effort to provide protection for the rights of everybody, as God gives us those rights.

□ 1250

I am also tremendously saddened by the loss of our good friend. It's a big Breitbart family that grieves today and prays that he will be nestled in the hands of God and that his close family will be well taken care of and energized and nurtured by the profound belief that they've had the wonderful privilege to have Andrew Breitbart as their father, husband, friend, and that his influence moves on. We dedicate ourselves to the renewed effort to follow through on those efforts, and we will seek to do what we can to match and emulate the brilliance of Andrew Breitbart.

I appreciate my friend LOUIE GOHMERT for coming to the floor and starting the beginning of a national conversation about the long reach of Andrew Breitbart, and it reaches into the future. I thank Andrew for his life. I thank God for Andrew's life.

Mr. GOHMERT. In conclusion, we pay tribute to a big man, as Jesus said of the poor man Lazarus, who has now

been carried to the bosom of Abraham by the angels.

With that, I yield back the balance of my time.

#### REAPPOINTMENT AS MEMBER OF SOCIAL SECURITY ADVISORY BOARD

The SPEAKER pro tempore. The Chair announces the Speaker's reappointment, pursuant to section 703 of the Social Security Act (42 U.S.C. 903) and the order of the House of January 5, 2011, and upon the recommendation of the minority leader, of the following member on the part of the House to the Social Security Advisory Board for a term of 6 years:

Ms. Barbara Kennelly, Hartford, CT

#### HOME RULE IN THE DISTRICT OF COLUMBIA

The SPEAKER pro tempore. Under the Speaker's announced policy of January 5, 2011, the gentlewoman from the District of Columbia (Ms. NORTON) is recognized for 30 minutes.

Ms. NORTON. Thank you, Mr. Speaker.

I come to the floor today to begin a series of half-hour conversations containing information that I believe many Members of our House simply do not have, especially considering how often the Constitution and the Framers are cited. I have no reason to believe that there is any intention on the part of any Member to deny democracy to any American citizen in our great country.

So during these half-hour Special Orders, I will be offering some evidence and information that go back to the Framers and come forward into the era when the District of Columbia was granted home rule in order to try to inform Members of the standing of the District of Columbia, which is often referred to as the "Federal district."

It, of course, is not a Federal district. It is a hometown of more than 600,000 residents, which has been granted full and complete authority to govern itself—too late, of course, but finally. It was too late in this era, but not too late in the history of the country because, as the country began, the citizens, indeed, at that time had that right.

The Framers, of course, were confronted with a dilemma. They wanted a capital to be located here in the District of Columbia, and they wanted that capital to have the same rights as any other Americans. They had had an experience in Philadelphia of some concern, when veterans had marched on that capital, about who would defend the capital. They tried to sort out this dilemma and thought they had by creating the District of Columbia—whose residents would have the same rights as every other American citizen, but

giving the Congress authority over the District. Let me indicate how that happened.

No one who has any knowledge of the history of our country can believe that the Framers fought against taxation without representation for everybody except the people who happened to live in the Nation's Capital. That would be sacrilege to say that of the great Framers of the Constitution, particularly since people from this very area, now known as the District of Columbia, went to war on the slogan of "no taxation without representation" and fought and died under that slogan. They didn't go and die under that slogan so that everybody but themselves could be freed from England and have full democracy.

It is also clear from looking at the Constitution that there were two Maryland and two Virginia signers who made clear that in the land they gave to the District of Columbia they weren't giving away their citizens' rights. So their citizens in Maryland and Virginia, during the 10-year transition period, in fact, voted for Members of this body and had the right to vote in Maryland and Virginia.

Some would call what Congress has done in the intervening years an abuse of power. I believe it is a failure to come to grips with what the Framers intended. In Federalist 43, James Madison says from the very beginning that there would be "a municipal legislature for local purposes, derived from their own suffrages." That's, of course, the man and the document we rely on when we need some legislative history about the Constitution.

It is very important to note that the first government in the city of Washington was established in 1802 when the District of Columbia became the Nation's Capital. At that point, contemporaneous with the Constitution, there was a city council elected by the people of the District of Columbia to fully govern this city the way the districts and the jurisdictions of the Members of this body are fully governed. In 1812, the city council was permitted to elect the mayor. Before that, the mayor was appointed. In 1820 and thereafter, the mayor was elected by the people. That continued until 1871.

It should be said that the status of the District of Columbia, until home rule was granted, was constantly a part of the mix, the long, tortured part of our history about racial segregation. Many of the perpetrators who denied home rule were Southern Democrats. It was only when a Southern Democrat who chaired the "District Committee" was defeated, after the Voting Rights Act was passed, that the District was granted home rule in 1973.

So this has not been a matter of party. If anything, the Republican Party had much cleaner hands until recently when, for its own purposes, it

adopted the posture of deciding that there would be home rule when it wanted and that violates every standard, every principle of the Framers and Founders when members simply step in and try to abolish democratic policy and laws enacted by a local government to which they are not accountable.

□ 1300

It's important to note that when the Home Rule Act was passed in 1973, the first line said that the purpose was to "restore" to the citizens of the District of Columbia, "restore". Those words, I think, were chosen with great meaning and understanding of history, "restore" because it was clear that the people who lived in this city had every right of every other American citizen before the city was created, that those from Maryland, Virginia, who gave the land, saw to it that these rights were preserved. Only in the political maneuverings of the Congress itself has that right been at risk, but that right has never been at risk except for Members of Congress who did not adhere to the principles of full democracy for every citizen of the United States.

The purpose of the Home Rule Act was to restore, not to create, rights. Congress can not create rights for people born in this country. The rights are given with their citizenship.

Now the District of Columbia, if one looks at the Home Rule Act, and the trends of all of the legislation preceding the Home Rule Act, was never given partial home rule except when Members of Congress from other jurisdictions decide they want to make changes in the District. That is found nowhere in the Home Rule Act, and that flies in the face of every principle of those who created the United States of America and those who died under the slogan of "no taxation without representation."

We created a very diverse democracy, and we have held it together through a principle of local deference and local control. We have people in one part of the country who detest some of the laws and policies in another part of the country, but the first thing they will do is honor local control and the right of local citizens to elect people who are accountable to them. When those who are not accountable to them want to get something done they must go to those who are, indeed, accountable to them.

Congress thought about what enacting home rule would mean. It said, there are some specific exceptions. Congress did not leave it to the discretion of Members of this body to decide what those exceptions would be. Congress, in fact, did something very specific with respect to those exceptions because it understood that once home rule is granted, there would be differences between the local legislature

and the Congress of the United States. So it said, this is what we mean, and this is what we do not mean.

These limitations on the District and its council need to be rehearsed and need to be understood by anybody who believes in democracy as a principle here in the United States, as much as we believed in it when all of us stood up for democracy in Egypt and elsewhere in the Middle East and around the world. We have got to make sure that we're not seen as hypocrites since we are the first to rise when there is democracy that is ignored elsewhere, and appear to deny it in our own country. That is something the world will never understand.

The Congress, recognizing the differences, spelled out what the exceptions would be, and you can imagine why the exceptions were there. They have almost nothing to do with anything that a local legislature would want to enact. Occasionally they do, and the District simply cannot do it because it's in the Home Rule Act, and the District does not do it because it's in the Home Rule Act.

For example, the District of Columbia cannot impose any tax on the property of the United States or any of the several States. Well, that's important because the property that is most valuable, the property that would yield the most revenue, is located in the center, the monumental core of the capital, and the District of Columbia would not have a thing to worry about if it could tax that property. It cannot be done.

The District of Columbia cannot lend the public credit, the credit of the local jurisdiction, for support of any private undertaking. The District cannot impose any tax, partial or whole, on the personal income of individuals who are not residents of the District of Columbia.

Now, I emphasize that one, because that's one that local citizens particularly resent. It's a ban on a commuter tax. What it means is, if you come into the District of Columbia to work, as hundreds of thousands do from the surrounding region, use the resources, the roads, partake of the same public amenities that residents do, nevertheless, said the Home Rule Act, the District of Columbia may not impose any commuter tax.

Well, the District, of course, resents that because there are commuter taxes all over the United States. But the District isn't asking to overturn the Home Rule Act; it's simply asking the Congress abide by the Home Rule Act. Maybe at some point Congress would want to reconsider this matter. I think my good friends of both parties from Maryland and Virginia would not want this matter reconsidered.

At the moment, I haven't heard anyone say out that this is the reason that you find people in the District of Columbia engaging in civil disobedience.

It is when Congress intervenes into the local affairs of the District of Columbia. Yes, the commuter tax is a local matter, but it involves other Americans.

The Home Rule Act says Congress wants you to have as much—I'm trying to be fair—those who wrote it would say, we want you to have as much jurisdiction, as much authority over your own business as you can. Once you go to taxing those from another region, well, we are going to draw the line.

Well, the District resents it, but there is at least a theory for why that was done. There is no theory for trying to overturn a law of the District of Columbia simply because you disagree with it, pure and simple, no theory that can be mustered and certainly not from the Framers, who were clear that every citizen of the United States, including those who lived in the Nation's Capital, would have the full democracy they fought for in the Revolutionary War.

□ 1310

The Home Rule Act contains a height limit. Although many in the city would like to build high, the Home Rule Act recognizes that the monumental core has its own Federal meaning because that's where the monuments and the Capitol are, and they did not want those buildings which are central to our identity as a Nation overpowered by the tall buildings, even skyscrapers, we see in other big cities. But there, frankly, has not been a great deal of concern about that. Indeed, D.C. has its own height limit. The height limit helps the city when it comes to tourism. We, too, want everyone to see the monumental core, although you will find a healthy number of citizens here who would like to build as they build in other cities.

We are not trying to overturn the Home Rule Act now; we are trying to get observance of the Home Rule Act. And when you pass a law that says, for example, no District funds may be used on something because it offends your personal predilection, you then are violating the most basic principle of any democracy, and that is why I have come to the floor and will be coming to the floor throughout the year.

The District of Columbia may not enact any regulation or law having to do with any Federal court, any court of the United States. That's true of any jurisdiction. And there are a number of others. The District of Columbia cannot enact any law having to do with the National Zoo. That's a Federal zoo. I'm not sure why someone was concerned about that, but that's in the Home Rule Act. And you're not going to find the District Mayor or city council or residents going to the streets over the zoo.

They went to the streets because they passed a law that Members of this

House sought to overturn—and with respect to at least one of them have succeeded—and that brings shame on our democracy, because if you were to ask the citizens of the United States or of any place in the world whether or not any Member of this body should be able to overturn a law passed by the local government of the District of Columbia in a democratic fashion, you would find almost nobody in this country who would say yes, and you would find almost nobody in the world who would say anything but, You cannot be serious; you, who preach democracy all over the world. If these are your principles, the place and the time to apply them is right here, right now, at home.

It is interesting to know that there was a lot of controversy until finally the Home Rule Act was passed, and it is no accident that the Home Rule Act was passed during the period of the sixties and the seventies when the great civil rights laws were passed. The country came to understand that you can hardly have civil rights laws and then have people in your own capital who have no mayor, no city council, no right to vote for local government, no vote in this body and still call yourself a democracy. All of that came together in the sixties and the seventies.

I'd like to refer to two Presidents from that era, the so-called home rule era. You will find that every President of the era—in the postwar era—agreed with the notion that the District of Columbia should have unlimited right to self-government except for the express and specific exceptions in the Home Rule Act. It was Richard Nixon who signed the Home Rule Act. President Lyndon Johnson, in his message on home rule made these comments:

Our Federal, State, and local governments rest on the principle of democratic representation—the people elect those who govern them. We cherish the creed declared by our forefathers: No taxation without representation. We know full well that men and women give the most of themselves when they are permitted to attack problems which directly affect them. Yet the citizens of the District of Columbia, at the very seat of the government created by our Constitution, have no vote in the government of their city. They are taxed without representation. They are asked to assume the responsibilities of citizenship while denied one of its basic rights. No major capital in the free world is in a comparable condition of disenfranchisement.

He laid it straight out. How did this happen? Well, the Congress got a conscience from time to time and there were periods when the District had its full home rule. This is one of those periods. The Congress does not intervene into the life of this city—except when individual Members disagree with its actions.

Let me read from Richard Nixon, who signed the Home Rule Act:

The District's citizens should not be expected to pay taxes for a government which they have no part in choosing—or to bear the full burdens of citizenship without the full

rights of citizenship. I share the chagrin that most Americans feel at the fact that Congress continues to deny self-government to the Nation's capital. I would remind the Congress that the Founding Fathers did nothing of the sort. Home rule was taken from the District only after more than 70 years of self-government, and this was done on grounds that were either factually shaky or morally doubtful.

It is morally doubtful for any Member of this body to assume he or she has the right to tell the citizens of the District of Columbia how to govern themselves unless you are a member of the local body that governs the District of Columbia. If that is a principle which applies to your district, it must apply to mine. So we greatly resent that we are allowed to govern ourselves except when some Member decides that some matter would be controversial in his district, so, therefore, he wants to deny the District the right to carry out that matter after that matter has become a matter of local law. Every Framer would turn over in his grave to recognize that we could come to the 21st century with such provisions.

Congress took action in the 110th and 111th Congresses to remove prohibitions on the District's use of local funds for medical marijuana, for needle exchange, and for abortions for low-income women.

In the 112th Congress, Republicans re-imposed the ban on the use of local funds for abortion. Who do they think they are? They are accountable to no one in the District of Columbia. They are in straight, sure violation of every principle of the founding document.

I believe that in good faith many Members, especially newer Members, are simply not aware of this history and not aware that it is grounded in the Framers' documents themselves. That's why, instead of assuming that any Member of this body would intentionally deny democracy to any American, I think the way to proceed is for this American, this Member, this representative of the people of the District of Columbia, to come forward on occasion with information and material that I hope Members will take under advisement.

I thank the Speaker, and I yield back the balance of my time.

□ 1320

#### THE UNITED STATES CONSTITUTION

The SPEAKER pro tempore (Mr. DENHAM). Under the Speaker's announced policy of January 5, 2011, the gentleman from Iowa (Mr. KING) is recognized for 30 minutes.

Mr. KING of Iowa. Mr. Speaker, it is a privilege to be recognized by you and to address you here on the floor of the House of Representatives.

As I listened to the dialogue take place here in the last 30 minutes and

the gentlelady from the District of Columbia, I'm glad she has a voice here in this Congress. And I do take an oath to uphold the Constitution, as does everyone who serves in this body, as does the President of the United States and many of our executive officers and every military personnel. I believe every State legislator takes an oath, as I did when I was in the State senate in Iowa, to preserve, protect, and defend the Constitution of the United States and the State of Iowa.

As that oath takes place, I would just remind you, Mr. Speaker, that we have to have an understanding of the Constitution in order to take an oath to the Constitution. And when we place our hand on the Bible and raise our right hand and take the oath to the Constitution of the United States, it's not an oath to a constitution as it might be reinterpreted by activist judges at a later date. It's not even an oath to a constitution that has been interpreted by the activist judges that came after the Constitution was ratified.

The oath that I take to uphold this Constitution is the oath to uphold the Constitution as it was written, as the clear text of the Constitution defines, and as the amendments, the clear text of the amendments defined, and as it was understood to mean at the time of the ratification, whether it would be the full body of the Constitution, or later on the Bill of Rights, or whether it would be the subsequent amendments to the Constitution.

No public official, no person who takes an oath to a constitution can be taking an oath to something that is amorphous, something that fluctuates and something that can change. The Constitution has to be fixed in place. Guarantees aren't amorphous, Mr. Speaker. It is no guarantee if it's amorphous. It has to be fixed in place and fixed in time.

I understand that our language changes over time, and I understand that we have people that have looked at this Constitution with disrespect and they would like to disregard the American Constitution.

If we look back through history, we will see that there was an effort that began in the late 19th century, especially when some of the liberal-thinking people emerged here and in the intellectual world. In the United States, many of those people came here from Germany and established themselves. In fact, they established themselves on the west coast. And our friend whom we expressed our deep regrets at the loss of and our deep sympathy to the family of Andrew Breitbart grew up around some of those people that were the foundation of the progressive movement in America.

These are the people that grew from socialism, the ideology of utopianism. Karl Marx put it down, and it grew

from there. Lenin advanced it, and Gramsci also advanced it. It has gone on to the day where liberalism got a bad reputation, so they decided to define themselves as "progressives." It's all rooted in a Marxist, socialist, utopian ideology. And that Marxist, socialist, utopian ideology looks at the United States Constitution, the Constitution of the United States of America, with abhorrence. They reject our Constitution. They're just afraid to stand up and say so.

The clear meaning of the Constitution is something that they concluded, back in the late part of the 19th century and coming into the early part of the 20th century, that they would like to abolish. They would like to abolish our Constitution. They would like to have a new Constitutional Convention or no Constitution and change and shape America at their will. They reject an America with individual rights that come from God. I would like to think the gentlelady from the District of Columbia and I would likely agree on that. They want an America that can always be in constant flux and constant change with no locked-down guarantees or values.

In other words, they looked at an effort to undo and repeal America's Constitution. They concluded that they could not do so because the culture of America has so embraced the Constitution of the United States that Americans would rise up in defense of the Constitution. If they tried to assault the Constitution, Americans would rise up and reject anybody that would seek to do that. So they sold us an alternative of trying to repeal and undo the Constitution and amend it out of existence.

There's another alternative, and that alternative is the one that they chose more than 100 years ago. That was the effort to redefine the Constitution, to undermine the meaning of the Constitution and turn it into this—remember the language, Mr. Speaker?—a living, breathing document. A living, breathing document is the language for an amorphous constitution, a constitution with no guarantees, a constitution that only takes reaction to the majority at the time that can be found in the House of Representatives, in the United States Senate, or a majority in the United States Supreme Court or the activist judges that by the hundreds have been appointed since that period of time during the last more than 100 years, and the law schools in America that have been populated by leftists who have been undermining the Constitution even while they teach the Constitution.

That's what we've seen here in America, Mr. Speaker.

And if the solid, conservative American people understood the flow of history and how the Constitution has been willfully undermined by active and by

now self-labeled progressives, they would stand up against them everywhere they appear.

Think of a contract. The Constitution is a contract, it is a guarantee, and it is the supreme law of the land. It's defined as the supreme law of the land in the Constitution itself. When you have a supreme law, a law has to be black and white, it has to be clear, and it must be also enforced. It's impossible to take an oath to something that is amorphous, that's living and breathing.

It is now being taught under constitutional law in universities across the land that this Constitution doesn't mean what it says. That's what some of the judges say. That's what some of the law school professors say. In fact, that's what a majority of the law schools in America teach. They don't teach the foundation of American liberty, which is the clear text of this Constitution, but they teach something that's been redefined by the courts.

And, by the way, we have course after course across the country—and I could go back to my big-ring notebook when we did the research on this—that teaches constitutional law in law school without using the basis of the Constitution. You can take the course on con law and never be required to read the Constitution. And the test questions aren't on the Constitution; they're on what they call "case law." Well, I will sometimes refer to case law. It is usually a slip of the tongue when I do that. Case law is what they say now is the Constitution. I can think of a lawyer who says: I don't have to amend the Constitution. If you give me a favorable judge and a favorable jury, then I will amend the Constitution in the courtroom.

Think of what that means, Mr. Speaker. An attack on the Constitution is taking place by activist lawyer after activist lawyer with favorable judge after favorable judge in front of a favorable jury that a lot of times just doesn't know the movement of the currents in this country and the competition that's going on between two philosophies and ideologies.

One of them mirrors the words of our Founding Fathers, the beliefs and the foundation of our Founding Fathers, that our rights come from God. No place in history have we seen that aside from the New Testament. No government was ever formed on the foundation of religious belief and believing that we have individual human rights, that these rights come from God. We're endowed by our Creator with certain unalienable rights. I don't say "inalienable." That is a typo in the Jefferson Monument down here. It's "unalienable" rights. We're endowed by our Creator with certain unalienable rights, and among them are life, liberty, and the pursuit of happiness.

We all know those words. They echoed us. They are writ on our hearts as Americans. And we should remember that our Founding Fathers were inspired and, I believe, guided by God to articulate the vision of the unique liberty that's endowed within each of us who is created in His image. They articulated it; they understood it; they made the argument; they laid it out in the Declaration; they fought a war for it; and they enshrined it within the Constitution itself, this rule of law.

□ 1330

How hard was that compared to our charge today, Mr. Speaker? How hard was it in comparison to the Founding Fathers identifying liberty, articulating liberty, using the language and the scholarship that they created to write on our hearts: life, liberty, and the pursuit of happiness?

As an aside, Mr. Speaker, it wasn't an accident that they delivered to us three distinct rights, not exclusive to those three. When they said life, liberty, and the pursuit of happiness, Thomas Jefferson didn't just pull those things out of a hat and say, Well, let me see. Life came out first and what is the next one? Well, it is like a Chinese fortune cookie. Liberty. And the third one he pulled out is pursuit of happiness. They are carefully placed in the Declaration because they are prioritized rights.

The most important right is life, the next most important right is liberty, and the last of the three is pursuit of happiness.

Let me start with pursuit of happiness. Our Founding Fathers—and especially Thomas Jefferson—studied and understood Greek. They looked back in the history of Greece and they understood this term that I will pronounce "eudamonia." It is a Greek term that really is pursuit of happiness. It is spelled e-u-d-a-m-o-n-i-a. Eudamonia by my pronunciation. What it means is to be intellectually and spiritually whole, to pursue knowledge, to pursue an understanding of this unique being that we are with a soul, with a spirit, with an intellect, and to expand that to the maximum limit that God has given us. That was eudamonia. Pursuit of happiness wasn't a tailgate party at the ball game. Pursuit of happiness was the Greek understanding of happiness, which was developing your whole being to the maximum amount.

Thomas Jefferson placed that pursuit of happiness language in there understanding what it meant in the Greek understanding. He understood what it meant to the Americans at the time. That's been redefined since that time to now people think somehow pursuit of happiness is a tailgate party or going to the ball game or going out on the deck to light the grill or going down to the corner pub and having a drink with the guys, whatever it is

that people do. Go fishing, go skiing in the mountains, that is pursuit of happiness? None of that was in the minds of the Founding Fathers. What was in their minds was the ability to have the freedom that God gave us to develop ourselves as human beings spiritually and intellectually. That was eudamonia. That was the pursuit of happiness. It was the third right, Mr. Speaker.

The second one was liberty. We understand, I think, liberty better here in America than in the rest of the world. Liberty is a component of our history and often gets conflated with the term "freedom." Freedom and liberty are two different terms, Mr. Speaker. They have two different meanings even though they are associated with each other.

You might think of freedom—as I look across outside the snowy landscape where I live, sometimes I will see a coyote run across the field and I will think he has freedom. He is out there in the wild; he can run wherever he wants to run; no fence keeps him in; he is free to chase down rabbits and anything else that he wants to go after, and my pheasants I might say. He has freedom. But there is a difference between freedom and liberty. The distinction is this: liberty is freedom bridled by morality, bridled by an understanding that you have a moral obligation, a faithful obligation not to go outside those bounds that have been laid out for us. If that is the case, you have liberty. You have freedom, and the bridle that goes on freedom is the moral underpinnings that we must adhere to as Americans. That's why this Constitution works for us, we know.

So within liberty, are those rights that are defined in the first 10 amendments in the Bill of Rights? The liberty for freedom of speech, for religion, freedom to assembly and peaceably assemble for redress of grievances, the freedom to keep and bear arms, the freedom from double jeopardy, the freedom to keep and own property, the freedom to have a trial by a jury of our peers, the freedom for the powers that are not defined within the Constitution for the Federal Government to devolve down for the States or the people respectively, that is all liberty. Everything I've defined in there is liberty, provided it is within the moral boundaries.

Now I take us up the ladder of the priorities of life, liberty, pursuit of happiness—eudamonia. Pursuit of happiness is subordinated to liberty. You can develop yourself, Mr. Speaker, intellectually and spiritually in the philosophy of our Founding Fathers, provided that you don't trample on someone else's liberty. If I want to develop my knowledge base, my spiritual base, I can exercise my freedom of religion, my freedom of speech, my freedom of assembly in any way that I so choose under the rights that we have that are

liberties, provided that I don't trample on the liberty of someone else.

I can't take a position that says you will be censored because I'm going to exercise my freedom of speech or you can't assemble because I don't like what you say, I'm exercising my freedom of assembly, you must not. I can exercise my pursuit of happiness, my development, my own liberties, provided I don't trample someone else's. The Founding Fathers understood that priority. In the exercise of our liberties—freedom of speech, religion, assembly, keep and bear arms, the list that I've given—Mr. Speaker, in no case can we take someone else's life in the expansion of our liberties.

If I say that there's someone that encroaches upon my liberties, therefore I'm going to take their life, I have violated the principles of the Declaration, the principles of this country, let alone the laws of the United States of America. We need to understand that the Founding Fathers laid out prioritized rights in the Declaration: life, liberty, and pursuit of happiness. That pursuit of happiness cannot trample on liberty or life, and the exercise of our liberties cannot trample on life.

They understood that and that life is the most sacred. If we understand also that life begins at the instant of conception and we need to protect that life both in law and in fact and provide for those who cannot scream for their own mercy, cannot speak for themselves, that protection for life, all of that is wrapped up in this Constitution and in the rights that the gentlelady from the District of Columbia referred to.

I go back to law schools in this land teaching Constitution law as if this Constitution is a living, breathing document and some amorphous combination of case law created by activist lawyers, activist judges, and sometimes I will say compliant juries, because they seldom see the big picture of what is going on. They have respect for what is taught in law schools; they have respect for judges sitting behind the bench. I do too.

But I will take the position, Mr. Speaker, that any judge that believes they can amend the Constitution by their policy decision on case law should not be seated on that bench. Anyone who takes an oath to the Constitution and they believe it was whatever it will be defined to mean by somebody that comes along later, they should stop and take stock of what they are about to do. That may be a violation of conscience just not thought through.

We had a major case in Iowa a couple of years ago called *Varnum v. Brien*. Seven State supreme court justices universally declared that they could find rights in the Constitution that were up to this point unimagined. They wrote unanimously that they had discovered unimagined rights in the Constitution itself.

Can you imagine a guarantee with unimagined rights, Mr. Speaker? The Founding Fathers could not have imagined allowing judges to sit on a bench who believe that they could write any decision they chose to write, that they could manufacture unimagined rights in order to get their public policy in place. But that's exactly what happened in Iowa in that case. Three of those judges were up for retention and Iowans voted them off the bench. Now there are three new supreme court justices there, and hopefully there is a reconsideration among the other four.

The unimagined rights that were inserted into the supreme court decision impose same-sex marriage on the State of Iowa. That brought about some people like my good friend Congressman LOUIE GOHMERT, who came there to help with that cause and went on the bus to help with that cause who made the constitutional argument consistently and continually. It is an example, Mr. Speaker. But we have a number of other examples of activist courts, and I'm concerned about what has happened historically.

□ 1340

And I'll make this point: that if I look through the continuum of Supreme Court cases that take us to where we are today, and we have a conscience protection piece of legislation before this Congress, one of them may have had a vote in the Senate this afternoon, and that would be Senator BLUNT's language, Senator BLUNT from Missouri. In this Congress, it's JEFF FORTENBERRY from Nebraska, who understood conscience protection and introduced the legislation that protects the health care providers and all of us for our religious liberty. And this Congress may get a vote on it, and it may actually have failed in the Senate this afternoon is what I'm advised was about to happen. I haven't confirmed that. And it could actually be happening after I finish speaking, Mr. Speaker.

But what I see happening is that the Constitution protects our religious liberty, our religious rights, and still, this government steps in to usurp them. This executive branch steps in to usurp our religious rights.

To this extent, and I'll take you, Mr. Speaker, through this continuum that is appalling to me, and it would be appalling to the Founding Fathers had they lived through these decisions.

1965, no, excuse me; I'll go back to 1963, Mr. Speaker. There was a case called *Murray v. Curlett*, and I don't know that that is very well universally recognized, but that was the case that took prayer out of the public schools. There was an argument made before the activist court in 1963 that there was a separation of church and state, and that that separation of church and state was firm enough and solid enough

that we could not pray in our public schools because that advocated for a religion.

And so I'll read to you the language that surely had to be reviewed by the Supreme Court justices. It says, Congress shall make—this is the First Amendment, Mr. Speaker—Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof. And it goes on, of course, freedom of speech, the press, and the right of the people to assemble.

It says Congress shall make no law. There was no law that came from Congress that established a religion. The law that Congress made just didn't exist with religious freedom because Congress understood that the First Amendment means what it says. The textual reading and the original understanding said Congress shall not establish a religion. We're not going to be like Sweden, establishing Lutheranism as a state religion. We're going to have freedom of religion, but it shall not establish a religion. Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.

But if you believe in judge-made law, the Supreme Court, by that decision in 1963, *Murray v. Curlett*, outlawed prayer in the public schools by a court decision. I think it's in direct violation of the First Amendment of the Constitution. If we're going to respect judge-made law and stop praying in our public schools, that was the beginning of the judicial activism that's begun to break down this civilization and this culture. I think those decisions needed to be made at the local school level, not at the Supreme Court level.

And I remember sitting, as a freshman in high school, and this news came to me, I was sitting in general science class. And they said now there will be no more prayer in our school. And I remember thinking, what does that actually stop? How will they stop us from praying? If the teachers decide not to, does that mean I can't? Can we not, as students? Can I not pray before a test? I needed help, I will tell you.

A thought process went through my mind. The only way that the Federal Government could prohibit prayer in the public schools would be to clear out the public schools. If we insisted on following through, they'd have to empty the schools. Otherwise, there was going to be prayer in the public schools, as well as our parochial schools. They would have to come in and march us all out of school, chain the doors shut, and post a guard to prevent prayer in the public schools.

So what did we do? We genuflected to the Supreme Court, accepted the *Murray v. Curlett* decision in 1963, stopped activity of public prayer in public schools, and we've had subsequent decisions along the way about whether students could pray, whether athletes



could pray, whether coaches could pray with athletes, whether coaches could be there when athletes prayed with themselves, all of these things decided by a Supreme Court that believes in *stare decisis*, that there was a decision made in 1963, and that they're somehow bound by that decision, rather than looking back at the plain text of this Constitution and concluding that as long as Congress doesn't make a law establishing a state religion, or interfere with the practice of religion, then it isn't the Federal Government's business to be engaged in religious activity that takes place in the public or the private schools. But that's what happened in 1963.

Then, Mr. Speaker, 1965, we went through, at breakneck speed, went through the Constitution over here at the Supreme Court, out those doorways and off that way, breakneck speed. This was *Griswold*, *Griswold v. Connecticut*. At that time, Connecticut and Massachusetts and multiple other States had outlawed contraceptives in their States. That meant that you couldn't go in and buy contraceptives at the drug store. The case of *Griswold* was brought against—*Griswold* brought the case against the State of Connecticut and said, your State law that bans contraceptives is unconstitutional. And they went before the Supreme Court and argued.

What are you going to base that on? How does a State not have a power that's not—all non-enumerated powers are reserved for the States or the people, respectively. So the Constitution, I say, defines that the States had that power. But yet, the Supreme Court, in their imagination in 1965, created this right to privacy, a right to privacy fabricated out of whole cloth, didn't exist in the Constitution, doesn't exist today in the Constitution, but it exists on the lips of every law school professor that's teaching constitutional law, a right to privacy that's been created now by the Supreme Court. They say it was in this Constitution somehow but had never been discovered until the Supreme Court discovered it in *Griswold v. Connecticut*.

So it was against the law in Connecticut, Massachusetts, and multiple other States to even sell contraceptives. So the Supreme Court created a right to privacy and outlawed the ban on contraceptives in Connecticut.

I say if you lived in Connecticut in 1965 and you wanted contraceptives, you could drive across the State line, or you could move to another State. That was the vision of the laboratories of the State experiment of the Founding Fathers. States' rights, Tenth Amendment. They imposed that in 1965.

Oh, by the way, in 1972 there was a case called *Eisenstadt* that said, well—it was just married people in *Griswold* in 1965. *Eisenstadt* came along and

said, well, if there's a right to privacy for married people to be able to purchase contraceptives, surely that exists for unmarried people as well. They imposed that, and the Federal Government took another reach, and now we have the foundation for *Roe v. Wade*, which turned into—the right to privacy became the foundational argument for *Roe v. Wade* in 1973, just 8 years after *Griswold*.

And they found, in the emanations and penumbras, a right to abortion. Only the right to abortion of a non-viable fetus, I might add, but the companion case was *Doe v. Bolton*. And in that case it said, But there will be exceptions to the viable fetus if the health of the mother is considered. And health of the mother was defined to be mental, physical, or familial health of the mother. And so it was an open door right to any kind of abortion, this all rooted in judicial activism, I might add.

Today, seeing what has happened in *Griswold*, and them setting aside a State law, now, to the point where the President of the United States, Mr. Speaker, stepped before a press conference, a week, 2 weeks ago, on a Friday at noon, and he said, Well, okay, you know I might have gotten in a little hot water about taking away the rights to conscience of the Catholic Church and other religious institutions by telling them, through Kathleen Sebelius, that they shall provide, not just contraceptives any longer—I want to emphasize, Mr. Speaker, it wasn't just that. It was contraceptives, sterilizations, and abortifacients, pills that cause abortion, requiring religious organizations, pro-life organizations, especially the Catholic Church, to provide that if they're going to provide any kind of health care for their employees or their patients, a direct, clear, imposition of a violation of rights to conscience.

And Father Jonathan Morris said, publicly, that you cannot force someone to violate their conscience. You keep your convictions of your conscience, even unto death. I applaud the position that he has taken. I endorse that position that he has taken.

But now, a few days after this announcement came out, and the heat came on the President, his noon press conference on that Friday, he stepped up and, instead of, let's say, legislating within the confines of the Constitution itself, the supreme law of the land, or amending the Constitution if you disagree with what it says, or even legislating from the bench, as *Griswold*, *Eisenstadt*, *Roe* and *Doe*, and many others have done, we have now a President with the highest degree of audacity I have ever seen—and by the way, he uses that term “audacity” pretty often.

□ 1350

He thinks he's legislating by press conference. He said, Well, I'm not going to impose this on you any longer, Catholic Church and others. I'm going to impose it on insurance companies. They shall provide contraceptives, sterilizations, abortifacients, abortion-causing pills, and they shall do it at no charge.

The audacity of the President of the United States to issue such a thing. And we should not comply with such an unconstitutional order from the President of the United States.

Mr. Speaker, I appreciate your indulgence, and I yield back the balance of my time.

#### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. NADLER (at the request of Ms. PELOSI) for today on account of medical reasons.

Mr. SHIMKUS (at the request of Mr. CANTOR) for today on account of surveying tornado damage in his district.

#### ADJOURNMENT

Mr. KING of Iowa. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 50 minutes p.m.), under its previous order, the House adjourned until Monday, March 5, 2012, at noon for morning-hour debate.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XIV, executive communications were taken from the Speaker's table and referred as follows:

5146. A letter from the Chairman, Securities and Exchange Commission, transmitting a report of a violation of the Antideficiency Act; to the Committee on Appropriations.

5147. A letter from the Chairman, Securities and Exchange Commission, transmitting a report of a violation of the Antideficiency Act; to the Committee on Appropriations.

5148. A letter from the Chief Counsel, Department of Homeland Security, transmitting the Department's final rule — Suspension of Community Eligibility [Docket ID: FEMA-2011-0002] [Internal Agency Docket No.: FEMA-8213] received January 13, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

5149. A letter from the Chairman, Securities and Exchange Commission, transmitting the Commission's 2010 Annual Report of the Securities Investor Protection Corporation; to the Committee on Financial Services.

5150. A letter from the Assistant General Counsel for Legislation, Regulation and Energy Efficiency, Department of Energy, transmitting the Department's final rule — Patent Compensation Board Regulations (RIN: 1990-AA33) received February 2, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5151. A letter from the Assistant General Counsel for Legislation, Regulation and Energy Efficiency, Department of Energy,



transmitting the Department's final rule — DOE Patent Licensing Regulations (RIN: 1990-AA41) received February 2, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5152. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule — NRC Procedures for Placement and Monitoring of Work with the U.S. Department of Energy, Management Directive 11.7, DT-12-02 received February 6, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5153. A letter from the Acting Director, Defense Security Cooperation Agency, transmitting a notice of proposed lease with the Government of Poland (Transmittal No. 02-12) pursuant to Section 62(a) of the Arms Export Control Act; to the Committee on Foreign Affairs.

5154. A letter from the Secretary, Department of Commerce, transmitting Periodic Report on the National Emergency Caused by the Lapse of the Export Administration Act of 1979 for February 26, 2011 — August 25, 2011; to the Committee on Foreign Affairs.

5155. A letter from the Assistant Secretary, Department of Defense, transmitting report on proposed obligations of funds provided for the Cooperative Threat Reduction Program; to the Committee on Foreign Affairs.

5156. A letter from the Special Inspector General for Afghanistan Reconstruction, transmitting the fourteenth quarterly report on the Afghanistan reconstruction, pursuant to Public Law 110-181, section 1229; to the Committee on Foreign Affairs.

5157. A letter from the Director, Office of Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting the Commission's Annual Sunshine Act Report for 2011; to the Committee on Oversight and Government Reform.

5158. A letter from the Deputy Chief, National Forest System, Department of Agriculture, transmitting the Department's report on the detailed boundary of Sturgeon Wild and Scenic River in Michigan, pursuant to 16 U.S.C. 1274; to the Committee on Natural Resources.

5159. A letter from the Acting Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting the Department's final rule — Change of Addresses for Regional Offices, Addition of One New Address, and Correction of Names of House and Senate Committees We Must Notify [Docket No.: FWS-R9-NWRS-2011-0108] (RIN: 1018-AU89) received February 2, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

5160. A letter from the Acting Assistant Secretary, Fish and Wildlife and Parks, Department of the Interior, transmitting the Department's final rule — Special Regulations: Areas of the National Park System, Cape Cod National Seashore (RIN: 1024-AD88) received February 15, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

5161. A letter from the FWS Chief, Branch of Aquatic Invasive Species, Department of the Interior, transmitting the Department's final rule — Injurious Wildlife Species; Listing Three Python Species and One Anaconda Species as Injurious Reptiles [FWS-R9-FHC-2008-0015; FXFR1336090000N5-123-FF09F14000] received February 6, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

5162. A letter from the Chief, Recovery and Delisting, Department of the Interior, trans-

mitting the Department's final rule — Endangered and Threatened Wildlife and Plants; Bald Eagles Nesting in Sonoran Desert Area of Central Arizona Removed from the List of Endangered and Threatened Wildlife [Docket ID: FWS-R2-ES-2011-0069] (RIN: 1018-AX08) received February 6, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

5163. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting the Department's final rule — Visas: Issuance of Full Validity L Visas to Qualified Applicants received February 13, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

5164. A letter from the Secretary, Department of Transportation, transmitting the Department's report on the Tribal-State Road Maintenance Agreements for 2011, pursuant to Public Law 109-59, section 1119(k); to the Committee on Transportation and Infrastructure.

5165. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Determination of Housing Cost Amounts Eligible for Exclusion or Deduction for 2012 [Notice 2012-19] received February 15, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

#### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BACHUS: Committee on Financial Services. H.R. 3606. A bill to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies, with an amendment. (Rept. 112-406). Referred to the Committee of the Whole House on the state of the Union.

#### PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. LATHAM:

H.R. 4116. A bill to provide for regulatory accountability and for the revision of economically burdensome regulations, and for other purposes; to the Committee on the Judiciary, and in addition to the Committees on Rules, the Budget, and Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. McKEON:

H.R. 4117. A bill to prohibit the use of private security contractors and members of the Afghan Public Protection Force to provide security for members of the Armed Forces and military installations and facilities in Afghanistan, and for other purposes; to the Committee on Armed Services.

By Mr. CRITZ (for himself, Ms. VELÁZQUEZ, Mr. CICILLINE, and Ms. HAHN):

H.R. 4118. A bill to amend the Small Business Act to provide for increased small business participation in multiple award contracts, and for other purposes; to the Committee on Small Business, and in addition to

the Committee on Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. REYES (for himself, Mr. QUAYLE, Mr. DREIER, and Mr. THOMPSON of Mississippi):

H.R. 4119. A bill to reduce the trafficking of drugs and to prevent human smuggling across the Southwest Border by deterring the construction and use of border tunnels; to the Committee on the Judiciary, and in addition to the Committees on Ways and Means, and Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DENT (for himself, Mr. COURTNEY, Mr. FITZPATRICK, and Mr. PAYNE):

H.R. 4120. A bill to amend title XVIII of the Social Security Act to waive coinsurance under Medicare for colorectal cancer screening tests, regardless of whether therapeutic intervention is required during the screening; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SCHRADER (for himself, Ms. HAHN, Mr. CICILLINE, Ms. CHU, Ms. VELÁZQUEZ, Mr. PETERS, and Mr. RICHMOND):

H.R. 4121. A bill to provide for a program to provide Federal contracts to early stage small businesses, and for other purposes; to the Committee on Small Business.

By Mr. McKEON (for himself, Ms. LORETTA SANCHEZ of California, Mr. FARR, and Mr. KUCINICH):

H.R. 4122. A bill to amend the Lacey Act Amendments of 1981 to clarify provisions enacted by the Captive Wildlife Safety Act, to further the conservation of certain wildlife species, and for other purposes; to the Committee on Natural Resources.

By Mr. McDERMOTT (for himself, Mr. ACKERMAN, Mr. MCGOVERN, Mr. PASTOR of Arizona, Mr. STARK, Ms. SUTTON, Mr. TIERNEY, Mr. KIND, Ms. DELAUNO, Mr. RANGEL, Ms. CHU, Mr. LEVIN, Mr. BRADY of Pennsylvania, Mr. LOEBSACK, Mr. VISCLOSKEY, Mr. JACKSON of Illinois, Mr. HASTINGS of Florida, Ms. SCHAKOWSKY, Mr. NADLER, Mr. WALZ of Minnesota, Ms. SPEIER, Ms. MCCOLLUM, Mrs. MALONEY, Mr. CONYERS, Ms. NORTON, Mr. GUTIERREZ, Mr. HOLT, and Mr. LEWIS of Georgia):

H.R. 4123. A bill to amend the Internal Revenue Code of 1986 to permit the Secretary of the Treasury to issue prospective guidance clarifying the employment status of individuals for purposes of employment taxes and to prevent retroactive assessments with respect to such clarifications; to the Committee on Ways and Means.

By Mr. KINZINGER of Illinois (for himself, Mrs. CAPPS, Mr. BUTTERFIELD, Mr. TOWNS, Mr. HUNTER, Mr. HULTGREN, Mr. SCHILLING, and Mr. SCHOCK):

H.R. 4124. A bill to amend the Public Health Service Act to provide grants to States to streamline State requirements and procedures for veterans with military emergency medical training to become civilian

emergency medical technicians; to the Committee on Energy and Commerce.

By Mr. BROOKS (for himself, Mr. ROGERS of Alabama, Mr. JONES, Mr. TURNER of Ohio, and Mr. FRANKS of Arizona):

H.R. 4125. A bill to ensure the effectiveness of the missile defense system of the United States, and for other purposes; to the Committee on Armed Services, and in addition to the Committee on Foreign Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. COHEN (for himself, Ms. NORTON, Ms. MOORE, Mr. JACKSON of Illinois, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. ELLISON, and Ms. SCHAKOWSKY):

H.R. 4126. A bill to amend the National Voter Registration Act of 1993 to require each voter registration agency in a State which requires an individual to present a government-issued photo identification as a condition of voting in an election for Federal office to provide such an identification without charge upon request to any such individual who does not otherwise possess one, and for other purposes; to the Committee on House Administration.

By Mr. HECK (for himself, Mrs. ELLMERS, Mr. DESJARLAIS, Mr. AMODEI, Ms. BERKLEY, Mr. ROE of Tennessee, Mr. BENISHEK, Mr. PRICE of Georgia, and Mr. SESSIONS):

H.R. 4127. A bill to amend title XVIII of the Social Security Act to exempt certain requests by physicians for consultations by radiation oncologists from the limitation on certain physician referrals under Medicare; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HUNTER (for himself, Mr. STUTZMAN, Mr. KINZINGER of Illinois, Mr. DENHAM, Mr. PALAZZO, Mr. ROONEY, Mr. QUAYLE, Mr. GUTHRIE, Mr. FRANKS of Arizona, Mr. GRIMM, Mr. ISSA, Mr. PITTS, Mrs. BACHMANN, Mrs. BLACKBURN, Mr. BROUN of Georgia, Mr. MULVANEY, Mr. WALSH of Illinois, and Mr. BILBRAY):

H.R. 4128. A bill to recognize a primary measure of national unemployment for purposes of the Federal Government; to the Committee on Education and the Workforce.

By Mr. LANGEVIN (for himself and Mr. CICILLINE):

H.R. 4129. A bill to amend the Magnuson-Stevens Fishery Conservation and Management Act to add Rhode Island to the Mid-Atlantic Fishery Management Council; to the Committee on Natural Resources.

By Mr. PAYNE (for himself and Mr. RANGEL):

H.R. 4130. A bill to award posthumously a Congressional Gold Medal to Althea Gibson, in recognition of her ground breaking achievements in athletics and her commitment to ending racial discrimination and prejudice within the world of athletics; to the Committee on Financial Services.

By Mr. PIERLUISI (for himself, Mr. RANGEL, Mr. FALEOMAVAEGA, Mrs. CHRISTENSEN, Ms. BORDALLO, and Mr. SABLAN):

H.R. 4131. A bill to facilitate land acquisition for the consolidation of lands located within the boundaries of, or abutting the

boundaries of, El Yunque National Forest in Puerto Rico, and to further the protection of the ecological integrity and biological diversity of the National Forest, and for other purposes; to the Committee on Natural Resources.

By Ms. ROS-LEHTINEN (for herself, Mr. BERMAN, Mr. CHABOT, Mr. ACKERMAN, Mr. ROYCE, Mr. SHERMAN, Mr. SCOTT of South Carolina, Mr. HASTINGS of Florida, Mr. TURNER of New York, and Mr. DEUTCH):

H. Res. 568. A resolution expressing the sense of the House of Representatives regarding the importance of preventing the Government of Iran from acquiring a nuclear weapons capability; to the Committee on Foreign Affairs.

By Mr. ELLISON:

H. Res. 569. A resolution recognizing the tenth anniversary of the tragic communal violence in Gujarat, India; to the Committee on Foreign Affairs.

### CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 7 of rule XII of the Rules of the House of Representatives, the following statements are submitted regarding the specific powers granted to Congress in the Constitution to enact the accompanying bill or joint resolution.

By Mr. LATHAM:

H.R. 4116.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 1 and Section 5, Clause 2 of the United States Constitution; and Article I, Section 8 of the United States Constitution, including, but not limited to, Clauses 1, 3 and 18.

By Mr. McKEON:

H.R. 4117.

Congress has the power to enact this legislation pursuant to the following:

The constitutional authority on which this bill rests is the power of Congress "to provide for the common Defence", "to raise and support Armies", "to provide and maintain a Navy" and "to make Rules for the Government and Regulation of the land and naval Forces" as enumerated in Article I, section 8 of the United States Constitution.

By Mr. CRITZ:

H.R. 4118.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clause 1

The Congress shall have Power to . . . provide for the . . . general Welfare of the United States; . . .

Article I, Section 8, Clause 3

The Congress shall have Power . . . To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes.

By Mr. REYES:

H.R. 4119.

Congress has the power to enact this legislation pursuant to the following:

The authority to enact this bill is derived from, but may not be limited to, Article I, Section 8, Clause 3 of the United States Constitution.

By Mr. DENT:

H.R. 4120.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8 of the U.S. Constitution.

By Mr. SCHRADER:

H.R. 4121.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clause 1

The Congress shall have Power to . . . provide for the . . . general Welfare of the United States; . . .

Article I, Section 8, Clause 3

The Congress shall have Power . . . To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes.

By Mr. McKEON:

H.R. 4122.

Congress has the power to enact this legislation pursuant to the following:

(Article I, Section 8, Clause 3). The commerce clause states that the United States Congress shall have power "To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes." Courts and commentators

By Mr. McDERMOTT:

H.R. 4123.

Congress has the power to enact this legislation pursuant to the following:

Article I Section 8.

The Congress shall have Power To . . . regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

By Mr. KINZINGER of Illinois:

H.R. 4124.

Congress has the power to enact this legislation pursuant to the following:

According to clause 7 of Section 9 of Article I of the Constitution, Congress has the authority to control the expenditures of the federal government.

By Mr. BROOKS:

H.R. 4125.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8. The Congress shall have the power to . . . make rules for the Government and Regulation of land and naval Forces . . . To make all laws this shall be necessary and proper. . . .

By Mr. COHEN:

H.R. 4126.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 4 of the United States Constitution.

By Mr. HECK:

H.R. 4127.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clause 18: The Congress shall have Power To . . . make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States or in any Department or Officer thereof.

By Mr. HUNTER:

H.R. 4128.

Congress has the power to enact this legislation pursuant to the following:

Article I, section 8, clauses 1 and 18

"The Congress shall have the power to . . . provide for the common defense and general welfare of the United States."

"To make all laws which shall be necessary and proper for carrying into execution the foregoing powers) . . .

By Mr. LANGEVIN:

H.R. 4129.

Congress has the power to enact this legislation pursuant to the following:

Article I, section 8, Clause 1 of the Constitution of the United States grants Congress the authority to enact this bill.

By Mr. PAYNE:

H.R. 4130.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clause 3 of the Constitution

The Congress shall have Power . . . To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes.

By Mr. PIERLUISI:

H.R. 4131.

Congress has the power to enact this legislation pursuant to the following:

The constitutional authority on which this bill rests is the power of the Congress enumerated in Article I, Section 8, Clause 1 of the United States Constitution.

#### ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 104: Mr. DENHAM.  
H.R. 361: Mr. GRIFFITH of Virginia.  
H.R. 365: Mr. NUGENT.  
H.R. 452: Mr. REYES and Mr. MACK.  
H.R. 498: Mr. NUGENT.  
H.R. 583: Mr. POLIS.  
H.R. 719: Mr. HALL.  
H.R. 749: Mrs. BLACK.  
H.R. 890: Mr. ANDREWS, Ms. CHU, and Mr. PASCRELL.  
H.R. 1065: Mr. LARSON of Connecticut.  
H.R. 1206: Mr. HENSARLING and Mr. JONES.  
H.R. 1236: Mrs. DAVIS of California, Mrs. BIGGERT, Mr. HULTGREN, Ms. BONAMICI, and Mr. PASTOR of Arizona.  
H.R. 1265: Mr. CRENSHAW, Mr. HARRIS, Mr. BASS of New Hampshire, Mr. LEWIS of Georgia, Mr. DEUTCH and Mr. WEST.  
H.R. 1283: Ms. CHU and Mr. RAHALL.  
H.R. 1381: Mr. ROTHMAN of New Jersey.  
H.R. 1397: Mr. HINOJOSA.  
H.R. 1418: Ms. JACKSON LEE of Texas.  
H.R. 1426: Mr. CHABOT.  
H.R. 1479: Mr. PRICE of North Carolina.  
H.R. 1546: Mr. PERLMUTTER.  
H.R. 1648: Ms. BROWN of Florida and Mr. BUTTERFIELD.  
H.R. 1695: Mr. HEINRICH.  
H.R. 1699: Mr. SCHILLING.  
H.R. 1741: Mr. COBLE.

H.R. 1744: Mr. COBLE.  
H.R. 1755: Mr. MATHESON.  
H.R. 1792: Mr. ALTMIRE.  
H.R. 1897: Mr. REYES.  
H.R. 1964: Mr. RIBBLE.  
H.R. 2003: Mr. CICILLINE.  
H.R. 2106: Mr. DANIEL E. LUNGREN of California, Mr. MARINO, Mr. PITTS, and Ms. BUERKLE.  
H.R. 2188: Mr. KING of Iowa.  
H.R. 2288: Mr. MCKINLEY.  
H.R. 2557: Mr. MEEHAN and Mr. BOSWELL.  
H.R. 2697: Mrs. MALONEY and Mr. WALDEN.  
H.R. 2896: Mr. PASCRELL and Mr. GARRETT.  
H.R. 2959: Mr. BERG.  
H.R. 2960: Mr. HALL.  
H.R. 3059: Mr. GARY G. MILLER of California.  
H.R. 3067: Mr. YODER, Mr. POLIS, Ms. KAPTUR, Mr. STARK, Mr. SCHOCK, Mr. LARSON of Connecticut, Mr. RUSH, Ms. HOCHUL, Ms. MCCOLLUM, Mr. DUFFY, Mr. FARR, and Mrs. MALONEY.  
H.R. 3086: Mr. COURTNEY and Mr. MATHE-SON.  
H.R. 3091: Mr. PLATTS.  
H.R. 3114: Mr. DOGETT.  
H.R. 3187: Ms. BORDALLO.  
H.R. 3236: Mr. DAVID SCOTT of Georgia.  
H.R. 3269: Mr. GRIFFITH of Virginia and Mr. DUNCAN of South Carolina.  
H.R. 3283: Mr. HINOJOSA.  
H.R. 3286: Mrs. DAVIS of California.  
H.R. 3313: Ms. SCHAKOWSKY.  
H.R. 3401: Mr. COBLE.  
H.R. 3461: Mrs. MCCARTHY of New York, Ms. JACKSON LEE of Texas, Mr. LOEBSACK, and Ms. BUERKLE.  
H.R. 3511: Mr. MATHESON.  
H.R. 3515: Ms. JACKSON LEE of Texas, Ms. RICHARDSON, Mr. CUMMINGS, Mr. TOWNS, Mr. CLAY, Ms. KAPTUR, Ms. WATERS, and Mr. PAYNE.  
H.R. 3523: Mr. WITTMAN.  
H.R. 3534: Mr. POLIS.  
H.R. 3596: Ms. EDWARDS, Mr. LOEBSACK, and Mr. PITTS.  
H.R. 3610: Mr. CLAY.  
H.R. 3611: Mr. CLAY.  
H.R. 3612: Mr. MORAN.  
H.R. 3661: Mr. REICHERT and Mr. NUNES.  
H.R. 3663: Mrs. MCMORRIS RODGERS.  
H.R. 3676: Mr. LAMBORN.

H.R. 3710: Mr. GONZALEZ.  
H.R. 3769: Mr. OWENS.  
H.R. 3785: Mr. GRIFFITH of Virginia.  
H.R. 3828: Mr. LAMBORN.  
H.R. 3839: Ms. DEGETTE.  
H.R. 3880: Mr. SHERMAN.  
H.R. 3895: Mr. RUSH.  
H.R. 3982: Mr. GIBBS.  
H.R. 4010: Mr. PIERLUISI, Mr. CUELLAR, Mr. AL GREEN of Texas, Mr. GUTIERREZ, Mr. SABLON, and Mr. SIRE.  
H.R. 4032: Mr. CONYERS, Ms. BROWN of Florida, Mr. VAN HOLLEN, Mr. FILNER, Mr. HONDA, and Ms. RICHARDSON.  
H.R. 4060: Mr. FRANKS of Arizona, Mr. WALSH of Illinois, Mr. GOHMERT, Mr. ROSS of Florida, and Mr. GOWDY.  
H.R. 4070: Ms. ROS-LEHTINEN and Mr. COBLE.  
H.R. 4094: Mrs. ELLMERS.  
H.R. 4105: Mr. MURPHY of Pennsylvania, Mr. LYNCH, Mr. PETRI, Mrs. BIGGERT, Mr. WOMACK, Mr. GRIFFIN of Arkansas, Mr. GEORGE MILLER of California, Mr. CARNAHAN, Ms. HOCHUL, and Mr. SMITH of Washington.  
H.J. Res. 13: Mr. MICHAUD, Mr. BOUSTANY, Mr. DESJARLAIS, Mr. MICA, Mr. MARINO, Mr. SHIMKUS, Mr. BISHOP of Utah, Mr. JONES, Mr. WEST, Mr. BERG, Mr. ROTHMAN of New Jersey, Ms. ROS-LEHTINEN, and Mr. ROONEY.  
H.J. Res. 90: Mr. ENGEL.  
H. Con. Res. 87: Mr. RUNYAN and Mr. FORBES.  
H. Con. Res. 101: Mr. FINCHER, Mr. GALLEGLY, Mr. ACKERMAN, Mr. GENE GREEN of Texas, Ms. LINDA T. SANCHEZ of California, Mr. PRICE of North Carolina, and Mr. SCHIFF.  
H. Res. 134: Ms. BORDALLO.  
H. Res. 298: Mr. DEUTCH.  
H. Res. 506: Ms. LINDA T. SANCHEZ of California, Ms. LORETTA SANCHEZ of California, Mr. ROYCE, Mr. SCHIFF, Mr. ACKERMAN, Mr. DIAZ-BALART, Mr. RIVERA, Mr. SIRE, Mr. PALLONE, Mr. ROHRBACHER, Mr. MANZULLO, Ms. WILSON of Florida, Mr. SMITH of New Jersey, Mr. GALLEGLY, Mrs. ELLMERS, and Mr. CARTER.  
H. Res. 526: Mr. ENGEL.  
H. Res. 543: Mrs. MCCARTHY of New York.  
H. Res. 559: Mrs. ELLMERS and Mr. WOLF.  
H. Res. 564: Mr. CUMMINGS and Mr. NADLER.

**SENATE—Thursday, March 1, 2012**

The Senate met at 9:30 a.m. and was called to order by the Honorable TOM UDALL, a Senator from the State of New Mexico.

**PRAYER**

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal Lord God, who rules the raging of the sea, thank You for the gift of freedom. We are grateful for a nation where we can speak, vote, and worship as we wish. May we never take liberty's blessings for granted but remember our accountability to You to be responsible in our thoughts, words, and actions.

Use our Senators to preserve our freedoms. Let integrity be the hallmark of their characters, individually and corporately. Fill their hearts with Your unalterable, undiminishing, and unending love.

We pray in Your merciful Name. Amen.

**PLEDGE OF ALLEGIANCE**

The Honorable TOM UDALL led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

**APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE**

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. INOUE).

The assistant legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, March 1, 2012.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TOM UDALL, a Senator from the State of New Mexico, to perform the duties of the Chair.

DANIEL K. INOUE,  
President pro tempore.

Mr. UDALL of New Mexico thereupon assumed the chair as Acting President pro tempore.

**RECOGNITION OF THE MAJORITY LEADER**

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

**SCHEDULE**

Mr. REID. Mr. President, following leader remarks, the Senate will resume

consideration of the surface transportation bill.

**ORDER OF PROCEDURE**

As I indicated last night, I now ask unanimous consent that there be 90 minutes of debate equally divided and controlled prior to the vote in relation to the Blunt amendment; that all other provisions of the previous order remain in effect; and that the time Senator MCCONNELL and I use prior to the vote not count against the 90 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. The vote will be somewhat after 11:00, but it shouldn't be long after 11:00. We hope that when we get rid of this amendment, we will be able to make an agreement with the Republicans on moving forward on this bill. We have been unsuccessful in doing that to this point.

**SURFACE TRANSPORTATION ACT**

Mr. REID. Mr. President, too often cooperation is in short supply here in the Senate, so I was pleased when we began consideration of a truly bipartisan jobs bill.

As I have said here a number of times in the past week or so, if there were ever a bipartisan bill, this is it. Progressive BARBARA BOXER, conservative JIM INHOFE—they have agreed on a way to move forward on a bill that will save 1.8 million jobs and create about 1 million more jobs. So this would put millions of people to work right away.

Although our economy has gained momentum, there are still millions of Americans out of work, so it should be obvious why we can't afford to delay efforts to rebuild our roadways, our railways, and our bridges.

Almost 1,000 organizations, including business groups and labor unions that rarely see eye to eye on anything, support this commonsense measure. More than 30 of those groups, including the U.S. Chamber of Commerce and the American Automobile Association, AAA, have asked Senators to refrain from offering unrelated, ideological amendments to this bill. As I said, almost 1,000 organizations want this done.

Here is what the U.S. Chamber and AAA wrote recently:

The organizations that we represent may hold diverse views on social, energy, and fiscal issues, but we are united in our desire to see immediate action on the Senate's bipartisan highway and transit reauthorization measures.

We started on this piece of legislation on February 7. It is the first day of

March now. These groups don't agree on much, but they do agree this legislation is too important to be bogged down with political amendments, so they spoke as one.

There was a time when this kind of cooperation was the standard in the Senate. There was a time when two Senators who had little in common could still share common purpose. There was a time when groups of Senators divided by political party could still be united in their desire to pass worthy legislation.

One Senator who has always exemplified that willingness to set aside philosophical and political differences and work together is my friend, the senior Senator from Maine, OLYMPIA SNOWE. I have always appreciated Senator SNOWE's ability to look at every side of an issue with a practical eye and not a political eye. Her courage, common sense, and moderation will be missed here in the Senate.

Over the last 15 years, I have had the pleasure of working many times with Senator SNOWE on an issue now at the forefront of this debate, both across the Nation and on the Senate floor. Beginning in 1997, we worked together to increase women's access to contraception and to make sure insurance companies treated contraceptives the same as other prescription medications. There are plenty of things on which Senator SNOWE and I disagree, lots of things, but by finding common ground, we improved women's health and reduced unintended pregnancies—something we should all agree on—and there is no question that it was accomplished by what we did legislatively. Unfortunately, the bipartisan progress Senator SNOWE and I made over the years is now under attack.

Today the Senate will vote on an extreme ideological amendment to the bipartisan Transportation bill. This amendment takes aim at women's access to health care. It will allow any employer or insurer to deny coverage for virtually any treatment for virtually any reason. I repeat: It will allow any employer or insurer to deny coverage for virtually any treatment for virtually any reason. I was pleased to hear that Senator SNOWE intends to oppose this measure. I read that last night.

Although the amendment was designed to restrict women's access to contraception, it would also limit all Americans' access to essential health care. Here are just a few of the life-saving treatments employers could deny if this amendment passes. This is hard to comprehend, but here is what

some of them would be: mammograms and other cancer screenings, prenatal care, flu shots, diabetes screenings, childhood vaccinations.

To make matters worse, Republicans held up progress on an important jobs bill to extract this political vote. As the economy is finally moving forward a little bit, Republicans have tried to force Congress to take its foot off the gas. Every Member of this body knows the Blunt amendment has nothing to do with highways or bridges or trains or train tracks. This amendment has no place on a transportation bill, but with 2 million jobs at stake, the Senate cannot afford to delay progress on a job-creating measure any longer, so Democrats have agreed to vote on Senator BLUNT's amendment so we can hopefully move on. Once the Senate disposes of this partisan political amendment, I hope we will be able to resume in earnest bipartisan work on a transportation bill.

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

#### RELIGIOUS FREEDOM

Mr. MCCONNELL. Mr. President, I have spent a lot of time in my Senate career defending the first amendment. Most of that time, I focused on the part that deals with free speech. But recent actions by the Obama administration related to the President's health care law have prompted many of us here and many across the country to stand in defense of another freedom that is covered in the first amendment; that is, religious freedom.

Let me say at the outset that most of us didn't expect we would ever have to defend this right in a body in which every one of us is sworn to uphold and defend the U.S. Constitution. Most of us probably assumed that if religious liberty were ever seriously challenged in this country, we could always expect a robust, bipartisan defense of it—at least from within the Congress itself. But, unfortunately, that is not the situation in which we find ourselves.

Democrats have evidently decided they would rather defend a President of their own party regardless of the impact of his policies. So rather than defend the first amendment in this particular case, they have decided to engage in a campaign of distraction as a way of obscuring the larger issue which is at stake.

If Democrats no longer see the value in defending the first amendment because they don't think it is politically expedient to do so or because they want to protect the President, then Republicans will have to do it for them. And we are happy to do that because this is an issue that is greater than any short-term political gain; it gets right at the heart of who we are as a people, and we welcome the opportunity to affirm what this country is all about.

What makes America unique in the world is the fact that it was established on the basis of an idea, the idea that all of us have been endowed by our Creator with certain unalienable rights—in other words, rights that are conferred not by a King or a President or certainly a Congress but by the Creator Himself. The State protects these rights, but it does not grant them, and what the State doesn't grant, the State can't take away.

The first of these rights, according to the men who wrote the U.S. Constitution, is the right to have one's religious beliefs protected from government interference. The first amendment couldn't be clearer on this point. The government can neither establish religion nor can it prevent its free exercise. And if the free-exercise-of-religion clause of the first amendment means anything at all, it means it is not within the power of the Federal Government to tell anybody what to believe or to punish them for practicing those beliefs. Yet that is precisely what the Obama administration is trying to do through the President's health care law.

We all remember then-Speaker PELOSI saying that we would have to pass the health care bill to find out what was in it. Well, this is one of the things we found: It empowers bureaucrats here in Washington to decide which tenets religious institutions can and can't adhere to. If they don't get in line, they will be penalized.

According to congressional testimony delivered this week by Asma Uddin of the Becket Fund for Religious Liberty, this is not only unprecedented in Federal law but broader in scope and narrower in its exemption than the 28 State mandates that some have pointed to in the administration's defense.

Moreover, even in States with the strictest mandates, religious institutions can still either opt out of State-level mandate or self-insure. But if they try that now, they run into this new Federal mandate, making it impossible for the first time for religious institutions to avoid punishment for practicing what they preach.

Some of the proponents of this mandate say that in this case, we should just ignore the first amendment. That is what the proponents are saying—in this particular instance, just ignore the first amendment. They say that certain religious beliefs in question aren't particularly popular, so they don't really deserve first amendment protection. But isn't that the entire point of the first amendment—to protect rights regardless of who or how many people hold them? Isn't that the reason people came to this country in the first place, as a refuge from governments that said they had to toe the majority line?

Some of the proponents of this mandate have also said they are willing to

offer a so-called compromise that would respect what they call the core mission of religious institutions. But here is the catch: They want to be the ones to tell these religious institutions what their core mission is. The government telling the religious institution what the core mission is—that isn't a compromise; that is another government takeover, only this time it isn't the banks or the car companies, it is religion.

Who do you think has a better grasp of the mission of the Catholic church, the cardinal archbishop of New York or the President's campaign manager? Who are you going to listen to on the question of whether this mandate violates freedom of religion, the president of one of the largest seminaries on the planet, R. Albert Mohler, or some bureaucrat in Washington? The question answers itself.

Look, this is precisely the kind of thing the Founders feared. It was precisely because of the danger of a government intrusion into religion, like this one, that they left us the first amendment in the first place, so that we could always point to it and say: No government—no government, no President has that right. Religious institutions are free to decide what they believe. And the government must respect their right to do so.

And remember: as many of us said during the debate on the President's health care bill, this is just the beginning. If the government is allowed to compel people to buy health care, it won't stop there. Now, it is telling people what their religious beliefs are and what their religious practices ought to be. I wonder What is next?

Let's be clear: this is not about any one particular religion.

It is about the right of Americans of any religion to live out their faith without the government picking and choosing which doctrines they are allowed to follow. When one religion is threatened, all religions are threatened. And allowing this particular infringement would surely ease the way for others.

This is something my constituents understood immediately in this debate.

I have received a lot of letters from religious leaders and concerned citizens who know that an attack on the beliefs of one religion is an attack on the beliefs of any religion. And many of them make the case a lot better than I can. So I'd like to just share for a moment some thoughts from my constituents on this issue.

I will start with the Catholic Archbishop of Louisville, Archbishop Joseph Kurtz. Here's what he wrote:

The federal government, which claims to be "of, by, and for the people," has just dealt a heavy blow to almost a quarter of those people—the Catholic population—and to the millions more who are served by the Catholic faithful. In so ruling, the Administration has cast aside the First Amendment to the Constitution of the United States, denying to

Catholics our nation's first and most fundamental freedom, that of religious liberty. We cannot—we will not—comply with this unjust law. People of faith cannot be made second class citizens.

Here's Bishop Ronald Gainer of the Catholic Diocese of Lexington:

Civil law and civil structures should recognize and protect the Church's right and obligation to participate in society without expecting us or forcing us to abandon or compromise our fundamental moral convictions. If we have an obligation to teach and give witness to the moral values that should shape our lives and inspire our society, then there is a corresponding obligation that we be allowed to follow and express freely those religious values. Anything short of government protection of that freedom represents an unwarranted threat of government interference. . . .

Here is the President of the University of the Cumberlands, Jim Taylor:

The intrusion of the administration into the right of the free exercise of religion is disappointing. The choice to interfere with religious hospitals, charities and schools with a mandate violating their religious views is disconcerting and will, in all probability, be totally counterproductive, further polarizing this nation.

And, finally, I want to read a letter from Dr. R. Albert Mohler, Jr. I mentioned him earlier. He is the President of the Southern Baptist Theological Seminary, the flagship school of the Southern Baptist Convention and one of the largest seminaries in the world. I am going to quote it in full.

I write to express my deepest concern regarding the recent policy announced by the Department of Health and Human Services that will require religious institutions to provide mandated contraceptive and abortifacient services to employees.

This policy, announced by Secretary Sebelius, tramples upon the religious liberty of American Christians, who are now informed that our colleges, schools, hospitals, and other service organizations must violate conscience in order to comply with the Affordable Care Act. The religious exemption announced by the Obama Administration is so intentionally narrow that it will cover only congregations and religious institutions that employ and serve only members of our own faiths.

This exemption deliberately excludes Christian institutions that have served this nation and its people through education, social services, and health care. The new policy effectively tells Christian institutions that, if we want to remain true to our convictions and consciences, we will have to cease serving the public. This is a policy that will either require millions upon millions of Americans to accept a gross and deliberate violation of religious liberty, or to accept the total secularization of all education and social services.

Christians of conscience are now informed by our own government that we must violate our convictions on a matter of grave theological and moral significance. This is not a Catholic issue. The inclusion of abortifacient forms of birth control such as so-called emergency contraceptives will violate the deepest beliefs of millions upon millions of Christians, along with Americans of other faiths who share these convictions. The religious objections to this policy are rooted in

centuries of teaching, belief, and moral instruction.

This policy is an outrage that violates our deepest constitutional principles and tramples religious liberty under the feet of deliberate government policy. As many religious leaders have already indicated, we cannot comply with this policy. The one-year extension offered by the Obama Administration is a further insult, providing a year in which we are, by government mandate, to prepare to sacrifice our religious liberties and violate conscience.

I, along with millions of other Americans, humbly request that the Congress of the United States provide an immediate and effective remedy to this intolerable violation of religious liberty. Please do not allow this abominable policy to stand. The protection of our most basic and fundamental liberties now rests in your hands.

I will conclude with this: if there is one good thing about this debate, it is that it has given all of us an opportunity to reaffirm what we believe as Americans. It gives us an opportunity to stand together and to say, this is what we are all about. This is what makes America unique, and this is what makes it great.

That is why I will be voting in favor of the Blunt amendment.

And that is why it is my sincere hope that the President and those in his administration come around to this view too—that they come to realize from the outpouring we have seen over the past several weeks from across the country that the free and diverse exercise of religion in this country has always been one of our nation's greatest assets and one of the things that truly sets us apart. As I said at the outset of this debate, I hope the President reconsiders this deeply misguided policy and reverses it. It crosses a dangerous line. It must be reversed. But if he doesn't, either Congress or the courts will surely act.

#### STORM DAMAGE IN KENTUCKY

Mr. President, I wish to say a few words about another matter related to my own State. We have had severe storms and tornadoes that cut through parts of the Midwest yesterday, including in my home State of Kentucky. People across the Bluegrass State are still recovering this morning from the considerable damage caused by the severe weather.

The National Weather Service has confirmed 4 tornadoes struck in Kentucky with winds of up to 125 miles per hour. These funnel clouds were sighted in Elizabethtown, eastern Grayson County, Larue County, and near downtown Hodgenville, which is home to the Abraham Lincoln Birthplace National Historic Park.

In all, the National Weather Service has confirmed at least 16 tornadoes across the country through seven States—Nebraska, Kansas, Missouri, Illinois, Tennessee, Indiana, and Kentucky. Over 300 reports of severe weather across the region describe frightening details such as wind gusts

of over 80 miles per hour, and golf-ball sized hail stones.

There were reports of power outages for thousands of people across Kentucky, particularly in my hometown of Louisville, the towns of Elizabethtown and Paducah, and in Muhlenberg and Grayson counties. Downed power lines and flash flooding were reported across the State.

News reports and accounts from my own staff tell me that there has been considerable damage across Kentucky, including dozens of homes and businesses damaged and several people injured. Two people in McCracken County near Paducah were rescued from an overturned mobile home and rushed to the hospital in critical condition. From what we know at this point, however, thankfully it appears no lives were lost in Kentucky.

Unfortunately, the same cannot be said elsewhere, as the severe weather that raged through 6 other States has reportedly claimed at least 12 lives. I join my colleagues from the affected States in keeping in my thoughts today all those affected by these storms, especially the families of those lost in these tragic and unforeseeable circumstances.

I also want to extend my gratitude to the first responders in Kentucky and across the entire Midwest who have risen to the occasion and provided the much-needed response and relief. Let me particularly thank the Kentucky National Guard, who is there to assist, as always, when disaster strikes.

Authorities are warning us that the threat from severe weather is not over. More storms are expected today in Alabama, Tennessee and again in my home State of Kentucky.

We will continue to keep a close eye on Kentucky and other States in the affected region, and make sure people have everything they need to clean up, rebuild, and reclaim their dignity from the wreckage of this tragedy.

I yield the floor.

#### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

#### MOVING AHEAD FOR PROGRESS IN THE 21ST CENTURY ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 1813, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1813) to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

Pending:

Reid amendment No. 1730, of a perfecting nature.

Reid (for Blunt) amendment No. 1520 (to amendment No. 1730), to amend the Patient

Protection and Affordable Care Act to protect rights of conscience with regard to requirements for coverage of specific items and services

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be 90 minutes equally divided and controlled between the two leaders or their designees.

The Senator from Louisiana is recognized.

Mr. VITTER. Mr. President, I rise in strong, passionate support of the Blunt amendment. It is a very important amendment which we will be voting on as an entire Senate at 11 a.m. this morning.

The Blunt amendment is an absolutely necessary measure to fix what is a very egregious overstepping of the bounds of government in terms of the newly articulated ObamaCare mandate on religion. As we all know through the debate and discussion of the last several weeks, the Obama administration has made it clear that everyone, including persons of faith, including religious institutions, are not only going to be forced to buy a product in the marketplace—and many of us think that itself is unprecedented and unconstitutional—but it gets worse because they will be forced to buy a product in the marketplace that violates their conscience, that violates their core beliefs.

Catholics and many other Christians, many people of faith, do not believe in certain activity and treatment that is mandated now to be covered by this mandatory insurance. That is crossing a line we have never before crossed in this country, in terms of government power, government mandates, and government intrusion into the conscience of others and to the free exercise of religion. We absolutely need to fix this.

This is a fundamental conscience issue. This is a freedom of religion issue. That is exactly why it is so important.

Let me also clarify, this is not merely about contraception. Folks on the other side of the debate and most of the media constantly put it merely in those terms. First of all, those measures in and of themselves violate the conscience of many Americans. But, second, it is not just about that, it is about abortion, it is about abortion-inducing drugs such as Plan B, it is about sterilization. Clearly, the government mandating Americans to buy, to pay for, to subsidize these measures violates the conscience of tens and tens of millions of Americans. That is why we must act, hopefully today, starting today, by passing the Blunt amendment.

The arguments made on the other side, when we look at them carefully, do not hold water. First of all, there is President Obama's so-called accommodation, so-called compromise, which is not an accommodation and is not a

meaningful compromise at all. What did he say? He said: OK. We are not going to make Americans, persons of faith, religious institutions buy coverage they have moral qualms with. We are merely going to make the insurance provider provide that coverage whether the customer wants it or not. Well, that is a completely superficial and completely meaningless word game. The insurer is providing this how? What payment is supporting it? The only payment the insurer is getting is from a customer who objects to the coverage. So who is supporting it? Who is paying for it? Clearly this is a word game. If it weren't clear enough for the typical person or institution involved, what about institutions—and there are many of them—which are self-insured? What about the University of Notre Dame, Catholic University, or Catholic institutions? They don't go to an insurance company to buy insurance; they are self-insured. That word game doesn't even work on the surface there. Those cases number in the hundreds or thousands around the country, and that is a clear example of how that so-called compromise or accommodation is merely a sleight of hand and a word game.

Another argument which the other side has made in this debate is that somehow correcting this situation through the Blunt amendment or through similar measures will shut down access to these services. That is patently not true. These services, these medicines, and other treatments are widely available in every community across the country at little cost or no cost for folks who cannot afford it, and that is not going to change. It is absolutely not necessary to tear away religious liberty and violate conscience rights of millions of Americans with that argument in mind. It isn't true.

That is why respected religious leaders, such as Cardinal-designate Timothy Dolan, president of the U.S. Conference of Catholic Bishops, has argued strenuously and passionately against this mandate. Cardinal-designate Dolan said:

Never before has the Federal Government forced individuals and organizations to go out into the marketplace and buy a product that violates their conscience. This shouldn't happen in a land where free exercise of religion ranks first in the Bill of Rights.

And so that is what it comes down to, free exercise of religion and fundamental conscience protection. The first amendment to the Constitution, the first item in the Bill of Rights, it doesn't get much headier or more significant than that, and that is what this is all about. Again, it is all about, yes, contraception, but abortion, abortion-inducing pills like Plan B, and sterilization.

Mr. President, please assure me that the free exercise of religion is not now

a partisan issue. Please assure me that we are going to correct this situation and not allow this egregious overstepping of the bounds of the power of government. We must act to stop this grave injustice, and I hope we start that process in a very serious way today by voting positively and passing the Blunt amendment.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, we are engaged in the business of the Senate, and it is not always discernible that it is the business of the people. What we see taking place these days is a principle mantra of Republicans on the campaign trail seeking more freedom for the American people. The Republicans like to say they "don't want government interfering in people's lives." Then I ask: Why the devil are we debating a Republican amendment that limits a woman's freedom to make her own health care choices? With women, the Republicans have a different idea about freedom. They want government to interfere in the most personal aspects of women's lives.

The amendment offered by the Senator from Missouri, the Blunt amendment, will allow a woman's employer to deny coverage for any medical service that they, the employer, have a moral problem with. Imagine that. Your boss is going to decide whether you are acting morally. The Republicans want to take us forward to the Dark Ages again when women were property that they could easily control and even trade if they wanted to. It is appalling that we are having this debate in the 21st century.

Yesterday we heard something astounding. It came from Rush Limbaugh, who is a prime voice of modern conservatism in this country. Yesterday he said—and I had it checked because I wanted to be sure that I am not misquoting anything—that a woman who wants affordable birth control is "a prostitute." Talking about your wife, your sister, your daughter, your child. This is hateful, ugly language, and we condemn it. Republicans like to talk about the Constitution and freedom, but once again, when it comes to women, they don't get rights, they get restrictions. This foul amendment before us tells women that you cannot be trusted to make your own health care decisions. Your employer may judge if your actions are moral. More than 20 million women in America—including more than 600,000 in my home State of New Jersey—could lose access to health care services they need under this scheme.

The Republican attack on women is not just happening here in Congress, it is happening on the Presidential campaign trail. I show you here what one of the two leading Republican Presidential candidates has to say about birth control:



I'm not a believer in birth control . . . I don't think it works. I think it's harmful to women. I think it's harmful to our society . . .

That is the kind of judgment they want to put in employers' hands? It is outrageous. Imagine that in a Presidential contest, dismissing the kinds of things that millions and millions of women rely upon to protect their health, to keep them from unwanted pregnancies, to keep them from disease, to keep them from all kinds of things that can make life difficult.

Women of America, former Senator Santorum and Republicans here almost require a tap on the head: Don't worry. We know what is best for you.

I want to be clear: Rick Santorum does not have a physician's training. He is a politician. And when we look at polls across the country, we see what the people in our society are thinking about politicians these days. It is time for Senator Santorum and his fellow Republicans to mind their business. Let's get on with the needs of the country and put people back to work, give them health care, and let them have an education. No, we are going to spend time here keeping people from going to work. There are thousands of jobs that are at stake on the legislation that is in front of us.

I have five daughters and eight granddaughters and the one thing that I worry about for them, more than anything else, is their health. I want to know when I see those little kids—the youngest of my grandchildren—I like to see their happy faces; I like to see them feeling good. And if one of my daughters or my son says so-and-so has a cold and this one fell and broke something, that is my worry for the day. That is the way it is. So I want them to have doctors making decisions, not some employer who has a self-righteous moral view that he wants to impose on my daughters, my granddaughters, or my wife. No, I don't want Republican politicians making decisions about my family's health care or yours or even those who are on the other side.

On our side of the aisle, we believe that women are capable of making their own health care decisions, and that is why President Obama is trying hard to make contraception more affordable because he knows it is basic health care for women and almost all women of age have used birth control at some point in their lives, and yet many have to struggle to pay for it. We ought to applaud President Obama for trying to make it more affordable. He believes they are capable of making their own decision. He wants them to be healthy. His proposal respects the rights of religious organizations that don't wish to provide birth control to their employees. Under the President's plan, women who work for religious organizations don't have to go through

their employer to get affordable contraception. These women will be able to get it directly from their insurance company, and I think it is a reasonable compromise. But some of our Republican colleagues refuse to recognize this.

Listen to what the other side is saying. You don't hear the Republicans talking about empowering women or giving them more opportunities. No, the GOP agenda is about denying benefits, restricting access, and taking away options.

We weren't sent here to intrude in the lives of fellow citizens or to drag women back to the Dark Ages. We were sent here to offer people options, not obstacles. So I urge my colleagues to reject this amendment, hold your head high and say to your family, your daughter, your wife, your sister, your mother: We want you to be healthy. That is our prime issue in life. I ask that my colleagues turn down this amendment.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Utah.

Mr. HATCH. Mr. President, very shortly we will be voting on the amendment filed by my colleague from Missouri, Senator BLUNT—the Respect for Rights of Conscience Act. I am a cosponsor of this amendment, and I think we all ought to be cosponsors of it. Many of my colleagues have supported it as well, and for good reason. It provides statutory protection for one of our deepest constitutional commitments—the right to free exercise of religion. It is an effort to fulfill our oath to protect and defend the Constitution. It is an effort to put the enduring constitutional rights of the American people first, over any fleeting and controversial political interests.

In my view, those who support this amendment have been unjustly criticized over the past few days, and they have been unjustly criticized on a political basis, not really on an intellectual basis. Unable to win this debate through a fair criticism of the amendment, it has been mischaracterized and misrepresented.

Opponents are desperate to distract the public from one simple fact: This amendment is necessary because of ObamaCare, the health care law that manifests new threats to personal liberty and individual rights with each passing week. It is an indictment of the President's signature domestic achievement and all of those who support it.

ObamaCare took over and regulated the Nation's health care sector—one-sixth of the American economy. It stripped individuals and employers of their right to go without coverage and the right to determine what type of coverage they would have.

ObamaCare is what has brought us here today. The health care law re-

quires that women's preventive services, including sterilization and access to abortion-inducing drugs, be included in health care coverage beginning in 2012. This is a questionable policy in and of itself. Like the rest of ObamaCare, it assumes the government is able to provide all good things to the American people through a simple mandate with no consequences for cost or access.

The problems with this mandate were compounded, however, when the administration, deferring to its feminist allies, determined that the mandate would apply to religious citizens and institutions. To their credit, these institutions, which are compelled by this regulation to violate their moral beliefs, announced that they would not comply with this unjust law. They refused to roll over and allow the government to force them to provide sterilizations and abortion-inducing drugs to their employees. They stood as a witness for constitutional liberty, the free exercise of religion, and against an administration that put basic partisan politics above our beloved Constitution.

The President's self-proclaimed compromise does absolutely nothing to minimize the constitutional problems with this mandate. The Department of Health and Human Services never—never—consulted with the Department of Justice about the constitutionality of this mandate, and it shows. That is why we are here today: to undo just some of the damage to our liberty and our Constitution wrought by ObamaCare.

All of the misleading arguments regarding this amendment run square to one simple fact: ObamaCare only became law in 2010. There was no Federal mandate for these services prior to 2010, and the regulations have not yet gone into effect. In other words, nobody is taking anything away from anybody. But to hear the other side talk, one would think the cosponsors of this amendment and the groups who support it are committed to a monstrous deprivation of women's rights. With due respect, that is absolute hogwash.

I appreciate that the advocates of ObamaCare might be embarrassed by this episode, but we are not going to let them get away with a gross misrepresentation of what we are trying to do here.

Prior to 2010 and the partisan passage of ObamaCare, access to contraceptives was abundant and nobody advocated that the Federal Government involve itself in those personal, moral decisions. After 2010, access to contraceptives remained abundant, with nobody advocating for restrictions on their access.

Here is what changed in the meantime. In 2010, ObamaCare mandated that health coverage include sterilizations, abortion-inducing drugs, and

contraceptive coverage. As a result, religious institutions and persons will now be compelled by the State to violate their conscience—compelled by the Federal Government to violate their conscience. It isn't just the Catholic Church; it is many churches that feel just the same way as the Catholic Church does. It is a moral and religious issue that should not be interfered with by the Federal Government.

Prior to 2010 and the passage of ObamaCare, the first amendment was intact. Today, the first amendment is in tatters. The Democrats who passed this law know this to be true, so they have to distract and confuse. They claim Senator BLUNT's amendment is overbroad. They claim religious institutions and individuals would deny critical health services, such as blood transfusions and psychiatric care. The Senate Democratic steering committee claims 20.4 million women who are now receiving coverage for preventive services would lose that coverage under this amendment. Absolutely none of this is accurate.

Again, all this amendment does is restore the pre-ObamaCare status quo. All it does is restore the religious liberties and constitutional freedoms that existed prior to this government takeover of our Nation's health care system. It restores the conscience protections that existed for all Americans for the past 220 years.

If this amendment passes, here are a few things that do not change: State mandates for health coverage will remain in place. Title VII of the Civil Rights Act of 1964, preventing discrimination on the basis of race, color, religion, sex, or national origin in employment benefits remains in place. The Pregnancy Discrimination Act, requiring health plans to cover pregnancy, childbirth, and related conditions remains in place. The Americans With Disabilities Act prohibiting a discriminatory withholding of health care and other benefits for people with HIV or other disabilities remains in place. And the Mental Health Parity Act of 2008 requiring equitable coverage of mental illness remains in place.

Prior to ObamaCare, very few people excluded any of the services that Democrats are pointing at in their efforts to scare the American people, and few will do so should the Blunt amendment pass. But our Constitution demands that those individuals and institutions that object to providing these services on religious and moral grounds be protected. That is what the Constitution demands.

Even though the individuals and institutions protected by the Blunt amendment are a minority, it is that minority that our first amendment exists to protect. The rule agreed to by President Obama would force religious organizations to violate their moral convictions. This cannot be allowed to stand.

I call on my colleagues on the other side to wake up and realize what they are doing. There is only so much politics that should be played around here, and this is an issue we should not be playing politics with. It involves religious freedom and liberty.

There was a time when a regulation of this sort would not have been countenanced by this body, let alone some of the arguments that have been made on the other side—trying to obscure and to make a political issue out of this.

I have had the good fortune of representing the people of Utah for many years. It has been an honor for me. In that time, I have seen many good people on both sides of the aisle serve well in the Senate. One thing we could always be sure of was that when it came to our first amendment freedoms—in particular, the freedom to practice one's religion without interference from the State—Republicans and Democrats would join together in the defense of religious rights and liberty. Why are we not joining together? Yet under this administration, our Bill of Rights has been subordinated to President Obama's desire to micromanage the Nation's health care system.

It was not always this way. When the Senate considered President Clinton's health care law—itsself an attempt at a sweeping takeover of the Nation's health care system—giants such as Daniel Patrick Moynihan, a Democrat and colleague who served as the chairman of the Finance Committee, stood up for broad conscience protections such as the one we are considering today in the Blunt amendment.

I worked closely with many of my Democratic colleagues in passing the Religious Freedom Restoration Act. I was the author of that bill. We passed it. It overwhelmingly passed. I was there when President Clinton signed it into law. A lot of religious leaders were there and a lot of liberals and conservatives were there who were very happy to pass that law. But, apparently, those days of bipartisanship are laid to rest, and they are long past.

Today the administration ignores the clear dictates of the first amendment and the Religious Freedom Restoration Act.

ObamaCare is unconstitutional to its core. It threatens the liberties announced and protected by our Declaration of Independence. This mandate is just one more example of how the law restricts personal liberty. It will force religious persons and institutions to violate their beliefs or pay a fine.

Defending this disaster at a townhall meeting recently, one Democratic Member of the House of Representatives told her constituents that they were "not looking to the Constitution" when they supported this mandate. No kidding. Our Founding Fathers fought a revolution to prevent this type of

tyranny; and that is what this is. This is tyranny. It is the political bullying of a religious group with—in the views of the President's allies—unpopular religious beliefs. So for political reasons the religious groups who differ with this are being pushed around. The media, polite society, and the administration are picking on religious freedom and on religious people.

Democrats like to claim they stand for the little guy. Not in this case. In this case, the little guy is being pushed around by the State. I, for one, am not going to stand for it. This is discrimination masquerading as compassion, and I am going to fight it. My oath of office, an oath to protect the Constitution, compels me to do this.

I am putting the administration on notice: I am not done with you, and my colleagues are not done with you. Whatever happens with this vote today, you are going to be held to account for your actions. We are going to get to the bottom of how this happened and, ultimately, I am confident that justice will prevail.

Ultimately, I am confident justice will prevail.

I commend my colleague from Missouri and all of the Members who have spoken out for this amendment. It is reasonable. It is just. I urge all of my colleagues to vote for it.

The American people understand this amendment is necessary because of ObamaCare, and they know who is responsible for this monstrosity. I expect they will look favorably on those who stand up for the first amendment today and attempt to correct their folly by restoring the conscience protections that preexisted ObamaCare. The reaction to those who stand by this historic deprivation of first amendment rights? Only time is going to tell.

Let me close by saying there are very few things that get me worked up as much as I am about this. I feel very deeply about a lot of things, but the first amendment, to me, means everything. I have heard the President say, well, we will just require the insurance companies to provide this. Give me a break. A lot of Catholic institutions are self-insured, and that is true of other churches as well.

Religious beliefs are important. The first amendment is important. The free exercise of religion is important. That is what is involved here.

My gosh, to hear these arguments that this is all about contraception—that is not what it is about. It is about the right of people with religious beliefs to practice their religion, unmolested by government.

I want to commend the distinguished Senator from Missouri. It takes guts to stand up on these issues when they are so distorted by some on the other side. I would be ashamed to make some of the arguments that were made on this issue. The Catholic Church, which is

the largest congregation in our country, is not going to abide by this mandate. And I am 100 percent with them.

When we start going down this road, let me tell you, beware, because that is when tyranny begins. The religious commitments of our Nation have made it the greatest Nation in the world. I have to tell you, those of you who vote against this amendment are playing with fire. Those of you who vote against this amendment are ignoring the Constitution. Those of you who vote against this amendment are wrong.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Colorado is recognized.

Mr. BENNET. Mr. President, I want to, since he is on the floor, recognize the Senator from Utah and his extraordinary service in the U.S. Senate. We do not agree on this issue, but he has done a tremendous job for the people of Utah over many years.

I rise to talk a little bit about the amendment we are considering that would allow all employers and insurers to deny coverage, particularly for women, on any health care procedure or service they object to—not the women, but the employers and the insurance companies—on moral or religious grounds.

The first thing I want to do—and I have not been around here a long time, but I want to first observe in what context we are discussing and debating this amendment. We have devoted extensive floor time on this amendment about contraception and the lack of coverage for women's health care in the context of a job-creation bill, in the context of the Transportation bill. This is the bill I hold in my hand. This is the bill that is on the floor of the U.S. Senate right now. The title says:

A bill (S. 1813) to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

I would have thought those "other purposes" would be related to transportation, transit, to job creation in the United States. I do not think the "other purposes" that are talked about in this bill have anything to do with contraception or women's health. But that is what we are spending our time debating this week on the floor of the Senate, instead of passing this Transportation bill and putting people in this country back to work. How is this conversation relevant to job creation or to infrastructure? It is not.

In my home State of Colorado, I have held hundreds of townhall meetings in red parts of the State and blue parts of the State, and I do not remember a single time this issue—the issue that is of concern with this amendment—has been raised by anybody—by anybody—in 3 years.

I can tell you what people are talking about in Colorado. They want to know

why we are not spending our time working on how to create more jobs for them, more jobs in the 21st century in this country or how to fix this Nation's debt or deficit or how we pass a bipartisan Transportation bill that creates immediate jobs and fixes a crumbling infrastructure, while maintaining the infrastructure assets our parents and grandparents had the thoughtfulness to build for us—another case where political games are risking our ability to provide more opportunity, not less, for the next generation of Americans, something every single generation, until this one at least—the politicians—has treated as a sacred trust. Instead, over the last several weeks, we have continued to debate about women and whether they should have access to the health care services they need, and whether they should be the ones who are able to make the decisions about the health care services they need. And we sit here and wonder why the U.S. Congress is stuck at an approval rating of 11 percent. Maybe it is because we are talking about contraception in the context of a Transportation bill.

I have a wife and three daughters—12, 11, and 7. There are a lot of women in my life telling me what to do every minute of every day and during the week, and thank goodness for that. One thing I know is they do not need to be told by the government how to make their own health care decisions—nor do the 362,000 Colorado women who would be affected immediately if this amendment passed.

This amendment is written so broadly that it would allow any employer to deny any health service to any American for virtually any reason—not just for religious objections. Women could lose coverage for mammograms, prenatal care, flu shots, to name only a few essential services, and, yes—and yes—the right to make decisions around contraception and their own reproductive health.

My State, the great State of Colorado, is a third Democratic, a third Republican, and a third Independent. I can tell you, the last time there was an initiative on the ballot in my State to let the government intervene in women's health care decisions, it was defeated by 70 percent of the voters. Seventy percent of the voters said: You know what. We would rather leave these decisions to women to make for themselves. That is what my daughters want as well.

People are speaking loudly and clearly on this issue all across the country. These are not the issues we should be debating right now. We need to be having the conversations people are having at home in my townhalls instead of distracting them with politics: How do we create more jobs? How do we reform our entitlements so Medicare, Medicaid, and Social Security are here for our grandchildren and for our children?

How do we create an education system that is training our people for the 21st century? How do we assure poor children in this country that they can have a quality education and make a contribution to this economy?

So I urge my colleagues to oppose this amendment and help us get back on the road to passing a bipartisan Transportation bill that will create new jobs and make substantial improvements in our economy and infrastructure. There is a time to debate this, but that time is not now when we are having this infrastructure discussion, we are having this transportation discussion.

I urge my colleagues to support the rights of women all across this country and their families and reject this amendment.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Missouri is recognized.

Mr. BLUNT. Mr. President, the reason this amendment is being debated right now is because the administration issued an order that is unprecedented. It is unprecedented because the mandate provisions of the health care bill are also unprecedented. That is the reason we are debating this now. The administration brought this up. I am still amazed by the fact that the administration would not have excluded all of at least the faith-based institutions from their order.

The Catholic hospitals, the Baptist universities, the Catholic schools of all kinds, the Christian schools of all kinds, the Muslim daycare centers—why would they not have exempted these people? They say: We exempted the church itself, as if the work of the church or the character of the church or the faith distinctives of the church, the synagogue, the mosque are only what happens inside that building.

There is a reason we have so much of our health care, our social services provided by faith-based institutions, and one of the reasons is those faith-based institutions want those institutions—that they fund, they support, they encourage—to reflect their faith principles. What is wrong with that?

There are a couple of issues here. One is the separation in the President's mind of the work of the church or the synagogue or the mosque from the building itself. It is impossible to separate those two things; otherwise, you have another high school that has a chaplain, you do not have a Christian high school or you have another hospital that is run by the Sisters of Mercy, you do not have a Catholic hospital, because you have decided you are going to define the character of what that hospital stands for and what they provide.

The administration recently took a Lutheran school to court. The EEOC took a Lutheran school to court and

asserted that school did not have any special constitutional protections as to how they hired people, and you could have heard all these same kinds of arguments: Well, they will discriminate against people; they will not hire people who otherwise should be hired; they will not make accessibility to the handicapped. You could hear all of that sort of thing, none of which would have been true, and the Supreme Court voted 9-0 that the administration was wrong.

You can try all you want to separate these two issues, but they do not separate. They are both fundamental first amendment issues.

Let's talk about some of the things I have heard here this morning. My good friend, Senator BENNET from Colorado, said if this amendment passed, 362,000 Colorado women would lose their current health care services. Why would that be the case at all? This amendment does nothing to modify State or Federal laws that are now in effect. If you have those services now, there is nothing in this amendment that would change the world we live in right now. People have the same protection today to exert their religious views in their health care policies that they provide as an employer that they would have if this amendment passed. They have those protections now. They would not lose those rights.

It does not modify any State or Federal law. And there are plenty of Federal laws. There is a Federal law on pregnancy discrimination that says pregnancy-related benefits cannot be limited to married employees. That law does not go away if this amendment passes. State laws that require things to be in health care policies, if you have one, do not go away if this amendment passes. It only amends the new mandate provisions of title I of the new health care law, the health care law that has received so much controversial attention, for good reason. And this is one of those reasons.

Supplying respect for religious beliefs and moral convictions is already part of Federal health programs of all kinds, it just does not happen to be in the new law. There is no health care law since 1973 that does not have these provisions in this bill that are part of the law. The law is there now, and the world does not change. No Colorado woman will lose any health care benefits they have today if this amendment passes. No New Jersey woman will lose any benefits they have today if this amendment passes.

Regarding any health care service people may be worried about, we asked one question: Are people allowed to exclude this service from their health care benefit under current State or Federal law? If they are not allowed to exclude it under current State or Federal law, they would not be allowed to exclude it if this amendment passes. If

they are not allowed to exclude it, they are still not allowed to exclude it under this amendment. And if they are allowed to exclude such service, why haven't the critics been protesting before? This amendment does not change anything in the law today. So why haven't we heard these speeches before about how the law does not protect employers from deciding not to offer this or not to offer that? In fact, this makes it much more difficult to exclude services than it is now.

In fact, it allows for an actuarial equivalent to have to be added to a policy if you take something away. That means there is no financial reason—there is no financial reason—to exclude a service because if you exclude a service because you believe it is the wrong thing, the Secretary of Health and Human Services has the power to say: You have to come back and include a new service of equal value that we did not require.

I assume everybody on the other side of this debate would think that employers must be motivated to exclude these services if they are not legitimate religious beliefs and moral conviction; that they must exclude them because they would save some money. We do not allow them to save money. So there is no reason. The Secretary of Health and Human Services can say: OK. You can exclude that, but you have to include something we did not require something of equal value. That means something that is going to be equally used. That means something that is going to be equally costly to the employer.

Why would the employer do that? I mean, why are we not hearing all these stories now about how—why did the 200,000 women who have these health services today—I think it is 20 million—why do they have those services? There is nothing in the law that requires it. This law does not change the laws today.

From the point of view of having a political discussion instead of a discussion about what the amendment does or why it is consistent with what we have always done, I think the other side has done a great job of that. But consistently we have protected this principle of first amendment freedoms. In fact, in 1994, in the bill Mrs. Clinton, the First Lady at the time, worked so hard for, that was introduced by Senator Moynihan—here is what it said. This was the bill that also would require people to provide insurance. You know we do not have much about insurance because we have not required people to provide it before. There are some Federal health benefits about insurance I may talk about in a minute that also are protected.

But this was a bill that required people to provide insurance, and Senator Moynihan said about his bill in 1994, less than 20 years ago, "Nothing in this

title shall be construed to prevent any employer from contributing to the purchase of a standard benefits package which excludes coverage for abortion and other services if the employer objects to such service on the basis of religious belief or moral conviction."

The most amazing aspect of this whole debate, to me, is that in 20 years, this has gone from language that would be in what was considered the most progressive, liberal health care bill that had ever been offered, by one of the most respected Senators by Americans of all political philosophies but most agreed with by Americans of the more liberal political philosophy, that he would just put that in the bill—I have asked: Is there any indication in the debate on that bill that this was a big item? The answer I hear is: No, it was not a big item because it was part of who we are. It was part of what we had been as a nation. It was part of protecting the first amendment.

This amendment does not mention any procedure because I do not know what kind of—and nobody knows what might be, at some future date, offensive to somebody's religious beliefs, but they have no financial reason to not provide a service. So the only reason they would have under this amendment would be a true moral objection.

I had some initial hesitation myself. I said: OK. I understand the faith-based institutions. I used to be the president of a Christian university and so I understand why it is important those institutions keep their faith-based distinctions. But what about other employers? Frankly, I did not have to think about that very long to realize that if someone is of a faith that believes something is absolutely wrong, as an employer why would they want to pay for that? They believe this is a wrong thing to do. Why would they want to pay for that?

The language of equivalency in this bill means, if they choose not to pay for that, the Secretary can say: OK. Come up with something else that would be equally used and equally valuable that they would pay for. So there is no financial reason not to do it. The only reason not to do it is they truly believe it is a wrong thing to do.

Surely, every person in the Senate has at least one thing that because of religious reasons they believe is wrong to do. Do they want to be forced by the government to be a participant in that wrong thing? The things we are talking about, in my particular faith, I am not opposed to all these things the President said he would require. But that does not mean I should be any less concerned about people who legitimately, week after week at their place of worship, express this to be something that they would not participate in.

If the congregants want to go on their own and figure out how to participate, that is one thing. If they want

to go on their own and provide insurance to their employees that include these things that they heard at church are wrong to do, that is another thing. But if they want to say, look, I am not going to do that—but under the new mandate, we do not do anything that eliminates the mandate. There is still a mandate—under the new mandate, I am not going to do that, but I am going to have to add something to the policy to the mandate that would be of equal financial value, of equivalent value.

So the only reason to object is they believe it is wrong, and that what the first amendment is all about. That is why, consistently, through employment law we have protected—even though the administration lost a 9-to-0 case trying to interpret that the same way they want to interpret this—the government knows best. If we are allowed to, we will abuse the hiring situation. Now they say if we are allowed to, we will abuse the health care providing situation.

I think we have taken away the financial incentive to do that. I believe what this does is protect first amendment rights. The first freedom in the founding documents is freedom of religion, and we have protected it over and over and over again. Every Member of this Senate who has been here in any recent time, except the very newest Members, have voted for bills that had this language in them, whether it was the Clinton administration, whether it was the Moynihan proposal, whether it was the Patients' Bill of Rights or the religious freedom law. It was all there.

I think it is—to come up with all these cases that they would not treat prenatal care, might not treat cancer—why would they not do that? Why would they not do that? If they do not treat that, they have to pay for something else of equal value. Look at the very last provision of this amendment.

So there is no financial reason not to do this. The only reason is that they believe it is against their religious views. The phrase we use in this bill is exactly the phrase Senator Moynihan used, it is exactly the phrase Frank Church used, it is exactly the phrase people on the floor at this moment voted for when they said we do not want people to have to participate in capital punishment or prosecuting crimes where capital punishment is a possibility because of religious belief or moral conviction.

It was good enough for everything up until now, including this principle, until we get to 2012. Suddenly, we have all these reasons people cannot make faith decisions that relate to providing health care to employees. I disagree with that.

I think the first amendment protects that. I believe if and when—if this rule goes forward, it will go to the Supreme Court. It will be something close to

that 9-to-0 decision on hiring rights. There is no difference in the principle. Again, I would say, look at the last section of this bill if one believes employers are going to do this to save money.

Otherwise, what motivation do they have, besides the moral conviction and religious belief that is protected by the first amendment? I hope my colleagues will read this amendment carefully, will understand that protection currently in the law is taken away by this amendment. If one has a right now, one would still have it if this amendment passed. To argue otherwise denies the facts of both people who have coverage today and 220-plus years of constitutional protections in the country.

Read the bill. It may not change any minds today. But this issue will not go away unless the administration decides to take it away by giving people of faith these first amendment protections.

The ACTING PRESIDENT pro tempore. The Senator from Washington is recognized.

Ms. CANTWELL. Mr. President, I rise to join this debate. I certainly respect the Senator from Missouri for his views and for his own interpretation of what he thinks his amendment does. But I could not disagree more on what the amendment says, what the amendment will do, and what the process has been for us to get to this point.

We are down here, and I know my own office, myself, my focus is on our economy and getting our country moving again and focusing on jobs. So when I see a transportation bill that is now mired in this debate, I ask myself: How much more time are we going to waste debating and redebating an issue we have been debating?

I know some people think this is an important debate related to transportation. But it seems as if the other side of the aisle, in all the discussions we have been having for the last year about jobs, about appropriations bills, about the debt ceiling, about moving forward on reconciliation all come down to one thing: Let's get rid of reproductive health care for women.

In February of last year, they introduced a bill, H.R. 1. They said, let's defund Planned Parenthood. Then, later in April, came a big moment of are we going to move forward with the continuing resolution. It was all brought to a halt until we could have a vote on defunding Planned Parenthood. Then we had another vote on it.

In the latest discussions about the payroll deal, there were discussions about whether a rider was going to be in there that cut women's reproductive health care access and appropriations bills, just last December, same issue. Every step of the way it seems as if there is an assault on women's reproductive choice and having access to health care.

I know my colleague from Missouri thinks this issue might just be about something the administration has done in the health care bill, but his party is making everybody in America believe we cannot get our economy going and balance our budget and deal with our deficit unless we defund women's health care choices. Nothing could be more incorrect about that logic.

We are holding up the business of America just for these votes on basically curtailing rights to access that women already have. It is so frustrating to think we would be going backward on this. I applaud the chair of the Transportation Committee because she has worked hard on this legislation. It is 30,000 jobs in the State of Washington by the Department of Transportation estimate.

I know it is going to help save about 1.8 million jobs and create another million jobs on a national basis. So I certainly want to get to the job at hand. When I think about the 435,000 Washington women who would be affected by the Blunt amendment, by curtailing their access to health care, and while some people think it is about contraceptives, which it is about that, but it is also about breast cancer screening—and we have one of the highest rates of breast cancer in the country, so we want to make sure we get these screenings done—about wellness exams, about diabetes screening, about flu shots, about vaccinations, about mammograms, about cholesterol, we are having this debate instead of talking about transportation infrastructure, about defunding these vital programs. The reason why I say this is so important to us and so important to us in Washington State is because we have been having this debate, we have been having this debate since almost 2001, 2002, on the Bartell drug decision.

So my colleague who says: These businesses would not dare do anything based on costs under my amendment, I think all he has to do is look at the Federal cases that were brought against major employers such as Walmart, such as Bartell, such as Daimler-Chrysler, and other organizations that were not providing full reproductive choice for women and discriminating against them in their health care benefits.

A Federal law, a Federal statute was used to say these practices were discriminatory. So the same debate we are having today has played out in State after State—in our State, the Bartell drug decision. In that decision, the courts found we cannot use these principles to discriminate. It is a violation of the civil rights clause.

While I know my colleague thinks this is a new debate, it is not a new debate. It is a debate that has been had in America among States, and courts have used Federal statutes to protect the rights of women. Now I see we are

going to have this debate today. I ask my colleagues, how many more times this year are we going to interrupt the business of the Congress on things such as transportation, on infrastructure, to have a debate that has already been settled?

I know my colleague thinks the amendment is very narrowly written; it is not.

It is not. I don't think that is the interpretation of any legal mind, that it is narrowly written. It will affect and give employers the right—the courts have already said they don't have the right to discriminate. It will reopen the cases of those large employers that have already been found against and say to them: Yes, you can come up with a reason and curtail access to preventive health care for women that is so needed at this time.

I ask my colleagues to turn down this amendment, and let's get at the business at hand, focusing on our economy and jobs, and stop making women's health care a scapegoat for what you think is wrong with America. It is actually what is right with America. Let's focus on jobs.

The PRESIDING OFFICER (Mr. BROWN of Ohio). The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, I have always been a very strong proponent of family planning programs and of measures to promote and protect women's health. Like many Americans, however, I was very concerned in January when the Department of Health and Human Services issued a final regulation to require religious universities, hospitals, charities, and other faith-based organizations to pay for health insurance that covers contraceptives and sterilizations regardless of the organization's religious beliefs. I believe such a mandate poses a threat to our religious freedom and presents the Catholic Church and other faith-based organizations with an impossible choice between violating their religious beliefs or violating Federal regulations.

In February President Obama announced what he termed an "accommodation" that would require insurance companies, rather than religious organizations, to provide these services. But as I read the details of that "accommodation," it became very clear to me that many parts of the plan remained unclear. A key issue, for example, revolves around self-insured religious-based organizations. There are many Catholic hospitals and universities that are self-insured and thus act as both the employer and the insurer, and a very important issue is how the rule would treat these self-insured faith-based organizations. But the rule was totally unclear. It simply said that the "Departments intend to develop policies to achieve the same goals for self-insured group health plans spon-

sored by non-exempted, non-profit religious organizations with religious objections to contraceptive coverage."

In an attempt to clarify this critical issue, I sent a letter to Secretary Sebelius asking for specific clarification on how faith-based organizations that are self-insured and thus act as both the insurer and the employer would have their rights of conscience protected. This was not a complicated question. It was a very straightforward question, and frankly, the answer to the question was going to determine my vote on this very important amendment.

Sadly, the administration once again skirted the answer. In her response, Secretary Sebelius simply said the President "is committed to rule-making to ensure access to these important preventive services in fully insured and self-insured group health plans while further accommodating religious organizations' beliefs."

What does that mean, Mr. President?

I ask unanimous consent that both my letter to Secretary Sebelius and her reply be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Ms. COLLINS. Mr. President, this was very frustrating to me. I asked a key question, and I could not get a straight answer. It also demonstrates many of the problems associated with employer mandates.

I believe the sponsor of this amendment is completely sincere. I want to make that clear. But this issue has become yet another sad example of election-year politics. I believe a good compromise could have been reached and should have been worked out. For example, in Maine, State law requiring contraception coverage includes a specific exemption for religious employers, such as churches, schools, and hospitals. Surely we could have reached a similar accommodation. Unfortunately, what we are left with is another example of the political pandering that has so tested Americans' patience.

Since I could not and did not receive a straightforward answer to my question about protecting self-insured faith-based organizations, I feel that I have to vote for Senator BLUNT's amendment, with the hope that its scope will be further narrowed and refined as the legislative process proceeds.

Critics of the Blunt amendment have charged that employers could use it as an excuse to deny coverage for services simply as a means to reduce their insurance costs. As Senator BLUNT, however, has pointed out, the amendment includes specific language to require that the overall cost of the coverage remains the same even though an employer excludes certain services be-

cause of their religious beliefs. As a consequence, under this amendment, employers would have no incentive to exclude coverage of items or services simply because of financial considerations.

Mr. President, while I plan to support the amendment, I do so with serious reservations because I think the amendment does have its flaws. But when the administration cannot even assure me that self-insured faith-based organizations' religious freedoms are protected, I feel I have no choice.

I hope that the Senate will now be able to move forward to address the many important and pressing issues facing our Nation such as job creation, energy and rebuilding our nation's infrastructure.

#### EXHIBIT 1

U.S. SENATE,

Washington, DC, February 24, 2012.

Hon. KATHLEEN SEBELIUS,  
Secretary, Department of Health and Human  
Services, Washington, DC.

DEAR SECRETARY SEBELIUS: Like many Americans, I was very concerned when, on January 20, 2012, the Department of Health and Human Services issued a final regulation to require religious universities, hospitals, charities and other faith-based organizations to pay for health insurance that covers contraceptives and sterilizations regardless of the organization's religious objections. I believe that such a broad mandate poses a threat to our religious freedom and presents the Catholic church and other faith-based organizations with an impossible choice between violating their religious beliefs or violating federal regulations.

I was somewhat reassured when, on February 10, the President announced an "accommodation" that would require insurance companies rather than religious organizations to provide these services. According to the White House statement, "religious organizations will not have to provide contraceptive coverage or refer their employees to organizations that provide contraception," and "religious organizations will not be required to subsidize the cost of contraception."

While the President has announced some changes in how the new preventive coverage mandate will be administered, many of the details remain unclear. A very important issue is how the rule would treat self-insured faith-based institutions. For example, there are many Catholic hospitals that are self-insured, and therefore act as both the employer and the insurer. The final rule simply states that the "Departments intend to develop policies to achieve the same goals for self-insured group health plans sponsored by non-exempted, non-profit religious organizations with religious objections to contraceptive coverage."

I would therefore like further specific clarification of how self-insured faith-based organizations will be treated under the rule to ensure that their rights of conscience are protected.

Thank you for your prompt assistance on this important issue.

Sincerely,

SUSAN M. COLLINS,  
United States Senator.



THE SECRETARY OF HEALTH  
AND HUMAN SERVICES,  
Washington, DC, February 29, 2012.

Hon. SUSAN COLLINS,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR COLLINS: Thank you for your letter regarding the August 2011 Guidelines on Women's Preventive Services. On February 15, 2012, related final rules were published exempting group health plans sponsored by certain religious employers (and any associated group health insurance coverage) from any requirement to cover contraceptive services under section 2713 of the Public Health Service Act and corresponding provisions in the Employee Retirement Income Security Act and the Internal Revenue Code, and related guidance.

As you know, in August 2011, the Health Resources and Services Administration (HRSA) published Guidelines that operate to require non-grandfathered health plans to cover certain preventive services for women, including Food and Drug Administration-approved contraceptive services, without charging a co-pay, co-insurance, or a deductible. HRSA based the Guidelines on recommendations from the Institute of Medicine, which relied on independent physicians, nurses, scientists, and other experts, as well as evidence-based research, to formulate its recommendations. Evidence shows the use of contraceptives has significant health benefits for women and their families, significantly reducing health costs for women and society.

With the Departments of Labor and the Treasury, the Department of Health and Human Services also published in August 2011 an amendment to the July 2010 Preventive Services Interim Final Rules authorizing an exemption for certain religious employers' health plans from any requirement to cover contraceptive services. Twenty-eight states already require health insurance coverage to cover contraception, and the exemption in the amendment to the Interim Final Rules was modeled on one adopted by some of these states. After considering the many comments received in response to the amendment to the Interim Final Rules, the Departments published final rules on February 15, 2012, retaining the exemption.

At the same time, we released guidance providing a one-year enforcement safe harbor for group health plans sponsored by certain nonprofit employers that, for religious reasons, do not provide contraceptive coverage and do not qualify for the exemption (and any associated group health insurance coverage). Such nonprofit employers could include religious universities, hospitals, and charities.

In his recent announcement related to these issues, the President committed to rulemaking to ensure access to these important preventive services in fully insured and self-insured group health plans while further accommodating religious organizations' beliefs. We are engaging in a collaborative process with affected stakeholders including religiously affiliated employers, insurers, plan administrators, faith-based organizations, and women's organizations as we develop policies in this area. Our preliminary discussions with a number of religiously affiliated employers and faith based organizations have been very productive. And, of course, the future rulemaking process will afford a full opportunity for public input.

The Administration remains fully committed to its partnerships with faith-based organizations to promote healthy communities and serve the common good.

Again, thank you for your letter. I appreciate your input on this matter.

Sincerely,

KATHLEEN SEBELIUS.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. SANDERS. Mr. President, I ask unanimous consent to speak for up to 5 minutes on the Blunt amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SANDERS. Mr. President, in Vermont and across this country, there is growing frustration that Members of Congress—mostly men, I should add—are trying to roll back the clock on women's reproductive rights—in this case, the right of women to receive contraceptive services through their insurance plan. This attack is grossly unfair, and I hope men will stand with women in the fight to protect this very basic right.

Let me add my strong belief that if the Senate had 83 women and 17 men rather than 83 men and 17 women, a bill such as this would never even make it to the floor.

Two years ago Congress passed a health care reform bill that will expand health care access for over 30 million Americans who are uninsured as well as millions of Americans who are covered through their employers. This bill is by no means perfect—I would go further—but it is a step forward in allowing us to catch up with the rest of the industrialized world that guarantees health care to all of their people as a right.

Unfortunately, the amendment we are discussing today—Senator BLUNT's amendment—would undermine much of the progress being made for women's health care through a new version of a so-called conscience exemption. Not just content to attack women's rights, Mr. BLUNT's amendment would go even further and seeks to deny patients access to any essential health care service their employer or insurance company objects to based simply on the employer's "religious beliefs" and "moral convictions."

This amendment would especially have an adverse impact on women's health. Starting in August, women enrolled in new plans will have access to a range of preventive services at no cost. But allowing the kind of extreme, so-called conscience clause included in the Blunt amendment would allow an employer to refuse coverage of contraceptives, annual well-woman visits, or even treatments for both genders, such as mental health services or HIV/AIDS treatment, based not on a doctor's recommendation but on the religious belief or moral conviction of a person's employer. This is an absolutely unprecedented refusal right. The Blunt amendment must be defeated.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I ask unanimous consent to speak for up to 8 minutes on the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Mr. President, this is obviously a difficult time in our politics—the polarization. It is a difficult time in the Senate, in particular, because over the years this has been a place where we have prided ourselves on really working to find ways to avoid the kind of polarization we see today and actually to find the common denominator on a number of sensitive issues.

I think our friend from Maine, Senator SNOWE, spoke for many of us this week when she talked about the "my way or the highway" approaches to partisan politics that have made it harder for people to work with each other and actually get things done. I would never speak for her, but I think given her diagnosis of what is wrong with the Senate today, she has made a decision not to run for reelection. I think the amendment we are debating today, frankly, is exhibit A.

Two years ago many of us voted to end an era where many Americans felt that women in particular but poor people and others also were put into a position of a second-tier status with respect to access to health care in America. There were so many discrepancies. One example, for instance, that was in error before the reform we passed was where Viagra was covered for men, at no cost, by insurance companies but contraception, which 99 percent of American women use, was not covered. So we addressed this issue in the reform we passed, Congress sent it to the President, and the President signed it.

The administration then took the time appropriate. Recognizing the difficulty of implementing some of this, they allowed for a time period in order to be able to work through the rules. When they did come out with the first rule, I regret that they came out with a rule that many of us felt—I felt and shared with others in America—a sense that it was not going to work. There was a firestorm in the country over that for a brief period of time. I spoke out in our caucus, and I said I thought there was a better way to try to deal with that that created a balance between the first amendment requirements and the needs of people to be able to have access and be protected. I didn't think it was and I don't think today it is right to force a religiously affiliated institution to pay for contraception if it violates fundamental religious beliefs.

I am glad to say that the administration—the White House, which I think perhaps hadn't been able to see all of the implications of what had happened at that point in time—quickly moved to recognize that indeed the rule was not proposed as it ought to be, and



they changed it. They responded. That was the right decision. This week, Secretary Sebelius made it clear they are still working with the faith community on a final rule that will address the concerns of my church and of other institutions which are self-insured.

But with all due respect to what the Senator from Maine, Senator COLLINS, said a few minutes ago, Secretary Sebelius said publicly, after the Senate Finance Committee hearing on this subject on the budget, whether it is an insured plan or self-insured plan, the employer who has a religious objection doesn't have to directly offer or pay for contraception. So I take issue. I believe the letter the Senator received actually addresses this question and says they are working with the community, as I believe they ought to, in order to come up with a means of guaranteeing that self-insurance will be protected, as I believe it ought to be protected.

But I don't believe we ought to embrace the Blunt amendment as this broad-based opening of Pandora's box that carries with it all kinds of other risks and potential mischief. We don't have to do that in order to protect the self-insured here. I think it is important to work together with patience to try to find a way to do no harm, if you will, to the Constitution or to the rights of women in this country to access health care.

I believe in the spirit of the amendment that is in front of us today. I know the Senator from Missouri acts in good faith personally, and I respect that. But language is always important, critical in legislating, and the language is overbroad. If there is one thing I know after 27 years of legislating here, it is that when you are writing legislation, it is critical to understand the implications of the language you use. Precision matters. This amendment opens the potential for overly broad and vague exceptions that could allow children to be denied immunizations. It could allow a company—and a company is quite different from an individual's right to protection under the Constitution—to actually object to mental health services. It could allow for the denial of HIV screenings because people think somehow that is a disease that belongs to a category they object to in terms of social life and structure in America. It would allow, potentially, the objection of maternity care for single mothers because people have an objection to a single mother being pregnant and having a child.

There is all kinds of mischief that could be implemented as a consequence of people's assertion of a belief that is not in fact covered under the first amendment but which, as a result of the language in this amendment, could be swept into some claim, and I don't think we should do that. That is not good legislating. That is dangerous.

I was interested to hear the minority leader this morning assert some things

about the first amendment. I think they are absolutely incorrect. The first amendment is a guarantee that religious liberty will be protected in America and that government will not institute one religion or another or establish a religion for the Nation. It also says no religious view will be imposed on anybody. The Blunt amendment is, in fact, an assault on that protection of the first amendment because it imposes one view on a whole bunch of people who don't share that view or on those who want to choose for themselves.

The Affordable Care Act and the President's compromise and the final rule leave all of the existing conscience clause provisions in place—it doesn't change them at all—while adding additional protection for churches and for religious organizations. The administration's compromise regulation, endorsed by the Catholic Hospital Association and other religious organizations, maintains conscience protections so that any religious employer with objections to coverage of contraceptive services will not be required to provide, refer, or pay for these services. Furthermore, all churches and houses of worship are exempt from the compromise regulation.

In fact, as the Women's Law Center pointed out:

Under current law, individuals and entities who wish to refuse a role in abortion services are protected by three different federal laws, the Church Amendments (42 U.S.C. § 300a-7), the Coats Amendment (42 U.S.C. § 238n), and the Weldon Amendment, which is attached to the Labor-HHS appropriations bill each year. The health care reform law explicitly said it would not have any effect on these laws, meaning these were the law of the land before the health care reform law and continue to be the law now. So, the Blunt Amendment doesn't "restore" these rights because they never went away. What could the Blunt Amendment be about, then? Before the health care reform law, refusals happened all the time, and that was a big part of the problem that the health care reform law was meant to address. People were refused coverage for things like having had a C-section or being a cancer survivor. Insurance plans refused to provide coverage for services, like maternity care or mental health. But to call the refusals that happened before health care reform a "conscience right" is a mischaracterization. Refusals were business as usual. They had very little, if anything, to do with an individual's or insurance company's conscience. They had to do with insurance companies refusing coverage for things they didn't find profitable. And by granting a huge loophole with its permission to refuse coverage based on "moral considerations" the Blunt Amendment would take us right back there, while hiding under the guise of "conscience rights."

I have met with and had conversations with conscientious people in my Church, because it is important to listen to help find answers to these difficult questions. It has left me convinced that we don't have to support a back-door dismantling of health care rights to protect religious liberty. The

administration's dialogue with the faith community to reach a final accord that protects patients, including women, and also protects religious liberty is a far better outcome than to have the Senate rush to undercut that effort and pass something that is overly broad, risking dangerous unintended consequences.

Mr. President, this amendment would be a mistake—for women, for health care, for millions of Americans who don't want to go back to the days when they could be denied care for any reason. We don't need to drive another wedge in our politics. We need to drive towards that common denominator, that common ground—and that is why this amendment must be defeated.

I would simply close by saying the Senate should not rush to undercut the protections already in place and which, ultimately, would undermine the teachings of my church, which argues that social conscience and values ought to be primarily established by caring for our sick, and this would in fact deny that, to some degree.

Mr. LIEBERMAN. Mr. President, I rise today to address Senator BLUNT's amendment to the surface transportation bill, which deals with the Obama Administration's recent proposal to require group and individual health insurance plans, with the exception of those issued to churches or other houses of worship, to cover contraceptive care for all women.

I believe the administration's proposal is inadequate, but I will not support the Blunt Amendment because I believe it is too broad. I want to discuss how this amendment came before the Senate and then I will lay out the reasons why I will vote against it and offer a different way forward.

The question before us deals with one of the most controversial matters raised by the Affordable Care Act—which is finding a balance between requiring health insurance plans to cover a core level of benefits and respecting the religious rights and moral beliefs of those who will be mandated to purchase these health insurance products. This is a difficult issue because religious freedom, as enshrined in the Bill of Rights, is literally the first of our freedoms. And the issue of access to quality health insurance for every American is at the cornerstone of the Affordable Care Act.

I would like to quickly review how the administration has addressed this question in its regulations implementing the Affordable Care Act. The ACA, as adopted by Congress, directs all health insurance plans to cover a number of preventative care services, without cost sharing or copays, to include some immunizations, preventive care and screenings for children and adolescents, and with respect to women, additional preventive care and screenings that the Secretary of Health

and Human Services has determined should include contraception and contraception screening.

In explaining its decision to include contraceptive services within that mandate, the administration has referenced the Institute of Medicine's conclusion that there are significant health benefits derived from providing women with access to contraceptive care. I agree with the Institute of Medicine and the overwhelming majority of Americans who believe that having access to contraceptive care is important for women and is a right protected by U.S. Supreme Court precedent. But then we have to ask, must the cost of contraceptive coverage be covered by the health insurance plans of every employer?

In answering this question, we are required to address the concerns of those who oppose the use of contraceptives based on their religious or moral convictions. The administration provided, correctly in my view, a total exemption from this mandate for houses of worship that oppose the use of contraception on moral and religious grounds. But the administration did not extend this total exemption to such church-affiliated, non-profit organizations as hospitals, charities, and schools.

In response to the public outcry to the original regulation, the President amended his proposal in order to allow church-affiliated, non-profits, such as hospitals, schools, and charities, to exclude contraceptive coverage in the health insurance plans they provide to their employees, but only if their insurer directly contacts each employee covered under their health insurance plan and makes them aware that they are eligible to obtain contraceptive coverage at no cost if they choose to do so. In my view, this proposed compromise falls short of protecting the values and beliefs of America's faith-based institutions. It can and should be strengthened to give religiously affiliated organizations the same protection of their religious beliefs as the administration would give to houses of worship.

I do not see why religious affiliated institutions like hospitals, universities and their employees should be treated differently from churches, synagogues and their employees. Many States, ever the laboratories of our democracy, have already addressed this question in a reasonable and responsible way that is different from the administration's response. In fact, many States have established their own mandates with regard to contraceptive coverage, and along the way devised their own approaches to respect the balance between requiring health insurance plans to cover a core level of benefits and respecting the right of conscience for those who purchase or offer a private health insurance plan to their employees.

Specifically, I believe that Connecticut's approach to this question is one that could serve as a model of how to address this issue on a national level.

In Connecticut, health insurance plans are required to cover contraceptive care for all women, but the law provides a full exemption for health insurance plans purchased and provided by churches and church-affiliated organizations, acknowledging their unique, faith-inspired mission and core religious values. Specifically, the law in Connecticut states that churches and their affiliated institutions, may be issued a health insurance policy that, "excludes coverage for prescription contraceptive methods which are contrary to the religious employer's bona fide religious tenets." The law in Connecticut also allows any individual beneficiary in any health insurance plan to opt out of contraceptive coverage as long as she or he notifies their insurance provider, "that prescription contraceptive methods are contrary to such individual's religious or moral beliefs."

Unlike Connecticut's approach, Senator BLUNT's amendment would provide a broad based exemption from all mandated health insurance benefits required by the Affordable Care Act—by allowing any business or organization to refuse to offer any coverage to its employees that it finds objectionable on a religious or moral basis. Such a broad exemption could undermine the intent of Congress in mandating coverage for such essential services as maternity care, mental health, and immunizations.

In conclusion, the experiences of many of our States, including Connecticut, shows that it is possible to find a better balance between requiring health insurance companies to offer a quality health insurance product and respecting the religious liberties of our Nation's religious-affiliated organization than either the administration or this amendment offers. There is a better way forward on this important decision than the options that have been presented so far and I hope to work with my colleagues in the Senate to develop one.

Mr. LEAHY. The Senate is considering a bipartisan bill that would reauthorize critical infrastructure investments and that will protect an estimated 1.8 million jobs if enacted before the end of this month. Unfortunately, in order to move forward on this important legislation, my friends on the other side of the aisle have demanded that we first consider an amendment entirely unrelated to transportation or even job creation. We have now spent the past 2 days considering a Republican amendment that would roll back access to health care for millions of Americans.

Access to health care for women has come under attack in recent weeks

after the Department of Health and Human Services announced it would follow the recommendations of the nonpartisan Institute of Medicine and require that under the Affordable Care Act, health plans must cover a range of preventative services for women, including contraception. This is not a novel solution. Twenty-eight States, including Vermont, already require such coverage. The new rule will also include no-cost preventative coverage of a range of services for women including mammograms, prenatal screenings, cervical cancer screenings, flu shots, and much more.

Some religious institutions were apprehensive about the policy and, in response, the Obama administration made further accommodations to address these concerns. The new policy strikes a reasonable balance and is a solution that continues to recognize the obvious truth that women have a right to affordable and comprehensive health care, just as men do. One thing we all should agree on is that availability of birth control has improved women's health and reduced the number of teen pregnancies and the rates of abortion. This should be applauded.

Unfortunately, this compromise did not satisfy some who insist on politicizing women's health. At a House Oversight and Government Reform Committee hearing a few weeks ago, a thoughtful Georgetown law student was prevented from testifying about her experiences because she was deemed not "appropriate and qualified" to testify at the hearing by its Republican chairman. Not surprisingly, the all-male panel failed to raise any first-hand concern about women's health care needs. Rather than demonizing women who speak out on behalf of the millions who use contraception, we should be having a principled debate about access to health care. Last year, Congress nearly shut down the government over funding for Planned Parenthood and other title X providers. States have recently followed suit by passing laws limiting women's access to health care services. Our focus should be on improving access to quality and affordable health care for all Americans, not arbitrarily restricting important services needed by millions of women.

The Republican amendment marks just the latest overreach and intrusion into women's health care. While this debate began as one focused on access to birth control, the amendment has a far greater reach and jeopardizes virtually any health care service that an employer or insurance plan deems contrary to its undefined "moral conviction"—whether the employer is a religious institution or not. For example, any plan or insurer could deny coverage of vaccinations or HIV/AIDS

treatment based on a moral or religious objection. The pending amendment would allow any employer or insurer to refuse contraceptive coverage, annual well-women visits, gestational diabetes screening, and domestic violence screenings. This amendment could allow an insurance provider to refuse coverage of health care services to an interracial couple or single mom because of a religious or moral objection.

At the core of the Affordable Care Act was the principle that all Americans, regardless of health history or gender, have the right to access health care services. This amendment turns that belief around and would take decisions out of the hands of patients and doctors and place them with businesses and insurance plans. This serves only to put businesses and insurance companies in the driver's seat, allowing them to capriciously deny women coverage of health care services. The amendment is a direct attack on women's health that would have public health consequences for all Americans.

Today marks the first day of Women's History Month. Instead of considering legislation that might promote women's equality such as the Paycheck Fairness Act or the Fair Pay Act, we are being forced to vote on the amendment that undermines the ability of women to access basic health care. I will vote today in favor of the health of women and against the proposed amendment. I urge my fellow Senators to do the same.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from California is recognized.

Mrs. BOXER. Mr. President, I ask unanimous consent that I be allowed to speak for 5 minutes, and that Senator MURRAY conclude our side with 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. Mr. President, I have news for the supporters of the Blunt amendment: We were not born yesterday. And no matter how many times they say this is nothing more than a restatement of old laws, the facts are not with them. We have never had a conscience clause for insurance companies. And if you wanted to give them a chance to say no, a lot of them don't have any conscience, so they would take it. And this is what Blunt does. It allows any insurance company that doesn't want to provide a service—maybe an expensive service—to say, oh, I meant to tell you, I have a moral objection to this.

What a situation. How many people have struggled with their insurance companies to get them to cover what they have paid for for years and years and years, only to have the insurance company say, sorry, sue us. Now Mr. BLUNT is giving insurance companies a

way to say, oh, we feel sorry that you have cancer; we are sad you have diabetes; we are torn apart you might have a stroke, but, you know what, we have a moral objection to the kind of therapies that are out there today, so we are sorry.

That is what the Blunt amendment does.

Should anyone think I am making it up, let's look at the words in the Blunt amendment. They are right here. They are right here. So the Senator from Maine can say whatever she wants about it, the Senator from Missouri can talk about what he wants to, but the fact is they say if you deny any coverage from the essential health benefits package or the preventive health package it is fine as long as you hide behind—my words—a moral objection.

This started out with birth control. There was a hearing over in the House, and this iconic picture will last through my lifetime and yours. Here is a photograph of a panel discussing women's health care over in the Republican House. A discussion on women's health care. Do you see one woman there? I don't. They are all men. And these men are waxing eloquent about birth control and the fact that, oh, it is just a moral issue with them and they do not think women should have the right to have it. Not one of them suggested men shouldn't have their Viagra, but we will put that aside. We will put that aside.

Not one woman was called. And when a woman raised her hand in the audience and said, I have a very important story to tell about a friend of mine who lost her ovary because she couldn't afford birth control, which would have controlled the size of the cyst on the ovary, you know what Mr. ISSA said over there? He said, you are not qualified. You are not qualified to talk about women's issues. I guess only men are qualified to talk about women's issues. We have men on the other side of the aisle here, for the most part—with a little assist—telling women what their rights should be.

I cannot believe this battle is on a highway bill, on a transportation bill, where 2.8 million jobs are at stake. We have been diverted with this amendment about women's health. Look at the different important benefits that any insurer or any employer could walk away from. Because if this amendment passes, they would have the right to do so. They would no longer have to cover emergency services, hospitalization, maternity care, mental health treatment, pediatric services, rehabilitative services, ambulatory patient services, laboratory services. They would no longer have to offer breast cancer screenings, cervical cancer screenings. All they have to do is say, oh, I am sorry, we believe prayer is the answer. We don't believe in chemotherapy. If someone is heavy and

they are obese and they get diabetes, we have a moral objection to helping them because, you know what, they didn't lead a clean life. So they could deny any of these things—flu vaccines, osteoporosis screening, TB testing for children, autism screening.

In conclusion, I urge my colleagues to vote down this dangerous amendment. Vote it down. We will have a motion to table, and I urge my colleagues to stand for the women and the families of this Nation and let's get back to the highway bill. Get rid of this thing.

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. BOXER. I yield the floor.

The PRESIDING OFFICER. The senior Senator from Washington State.

Mrs. MURRAY. Mr. President, I thank the Chair, and I want to thank the Senator from California and the many Senators who have stood proudly to fight for a woman's right to make her own health care decisions. Certainly in this year of 2012, after decades of fighting to make sure women have the rights and opportunities to be whoever they want and to make their own health care choices, this vote today is an affirmation of that, if we can beat back this Blunt amendment.

We are at a very serious time in our Nation's history. Our economy is struggling, and though we are getting back on track, millions of families get up every day and are concerned about whether they can afford their mortgage or send their kids to college. I have to say, I am sure millions of women in this country did not think they would have to get up this morning and worry about whether contraception would be available to them depending on who their employer was.

This is a serious issue. We have heard a lot of rhetoric about what the Blunt amendment is. My colleague from California just described it for us. It is terrible policy. It will allow any employer in America to cut off any preventive care for any religious or moral reason. It would simply give every boss in America the right to make health care decisions for their workers and their families. It is a radical assault on the comprehensive preventive health care coverage we have fought so hard to make sure women and men and families across this country have. If this amendment were to pass, employers could cut off coverage for children's immunizations, if they object to that. They could cut off prenatal care for children born to unmarried parents if they object to that.

The American people are watching today. Young women are watching today. Is the Senate a place where their voice will be heard and their rights will be stood up for?

We have watched this assault on women's health care for more than a year now. A year ago, almost to this very day, we were working to make

sure we kept the government open by putting together our budget agreement. In the middle of the night, all the numbers were decided, all the issues were decided, and we were ready to move forward within hours to make sure our government did not shut down. What was the last issue between us and the doors of this government closing? The funding for Planned Parenthood.

I was the only woman in the room, and I stood with those men and I said, no, we will not give away the funding for this over this budget. The women of the Senate the next morning stood tall. We gathered all our colleagues together and we fought back and we won that battle. And those who are trying to take away the rights of women to make their own health care choices and to have access to contraception in this country today have been at it every day since.

We are not going to allow a panel of men in the House to make the decisions for women about their health care choices. We are not going to allow the Blunt amendment before us today to take away that right. We believe this is an important day. In fact, this happens to be March 1, the beginning of Women's History Month in this country. Let us stand tall today in this moment of history and say the United States Senate will not allow women's health care choices to be taken away from them.

I urge my colleagues to vote with us to table the Blunt amendment and to tell women in this country everywhere that we stand with them in the privacy of their own homes to make their own health care choices.

Mrs. MURRAY. Mr. President, has all time expired?

The PRESIDING OFFICER. All time has expired.

Mrs. MURRAY. I move to table the Blunt amendment.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KYL. The following Senator is necessarily absent: the Senator from Illinois (Mr. KIRK).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 51, nays 48, as follows:

[Rollcall Vote No. 24 Leg.]

#### YEAS—51

Akaka	Blumenthal	Carper
Baucus	Boxer	Conrad
Begich	Brown (OH)	Coons
Bennet	Cantwell	Durbin
Bingaman	Cardin	Feinstein

Franken	Levin	Sanders
Gillibrand	Lieberman	Schumer
Hagan	McCaskill	Shaheen
Harkin	Menendez	Snowe
Inouye	Merkley	Stabenow
Johnson (SD)	Mikulski	Tester
Kerry	Murray	Udall (CO)
Klobuchar	Nelson (FL)	Udall (NM)
Kohl	Pryor	Warner
Landrieu	Reed	Webb
Lautenberg	Reid	Whitehouse
Leahy	Rockefeller	Wyden

#### NAYS—48

Alexander	DeMint	McCain
Ayotte	Enzi	McConnell
Barrasso	Graham	Moran
Blunt	Grassley	Murkowski
Boozman	Hatch	Nelson (NE)
Brown (MA)	Heller	Paul
Burr	Hoeven	Portman
Casey	Hutchinson	Risch
Chambliss	Inhofe	Roberts
Coats	Isakson	Rubio
Coburn	Johanns	Sessions
Cochran	Johnson (WI)	Shelby
Collins	Kyl	Thune
Corker	Lee	Toomey
Cornyn	Lugar	Vitter
Crapo	Manchin	Wicker

#### NOT VOTING—1

Kirk

The motion was agreed to.

Mrs. MURRAY. Mr. President, I move to reconsider the vote.

Mrs. BOXER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

#### MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent we now proceed to a period for morning business until 2 o'clock, with Senators permitted to speak for up to 10 minutes each in that period of time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

(The remarks of Mr. BINGAMAN pertaining to the introduction of S. 2146 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BINGAMAN. I yield the floor.

The PRESIDING OFFICER (Mrs. HAGAN). The Senator from Texas.

#### TEXAS INDEPENDENCE DAY

Mrs. HUTCHISON. Madam President, I see the Senator from Arkansas on the Senate floor. I will follow the Senator from Arkansas on another piece of leg-

islation about which I hope to speak, but I do want to take about 5 minutes to read the letter William Barret Travis sent from the Alamo. 176 years ago tomorrow, March 2, 1836, is the anniversary date of Texas' independence.

I am going to read this letter in commemoration of Texas Independence Day because it was on that date that Texas declared its independence from Mexico. Fifty-nine brave men signed the Texas Declaration of Independence, putting their lives, and the lives of their families, on the line to declare that "the people of Texas do now constitute a free, Sovereign, and independent republic."

I am proud that my great-great grandfather, Charles S. Taylor, was willing to sign that document that declared our freedom. In fact my son Houston is named Houston Taylor Hutchison for that Texas patriot. I am humbled to hold the seat that was first held by another signer, and one of Charles S. Taylor's best friends, and that was Thomas Rusk, who was the Secretary of War who defended the Declaration of Independence by fighting at the Battle of San Jacinto.

As was the case in the American Revolution, our freedom was ultimately secured through the actions of the brave Texans who fought and died on the battlefield. The late Senator John Tower started the tradition of a Texas Senator reading the Travis letter, and it was continued by Phil Gramm, and I took it over in 1994. This is something we do to tell America and to assure that Texans always remember this day in our history because after this, of course, we became a republic and we were a republic for 10 years before we became a part of the United States.

So it is with pride that I read—for the last time as a Senator representing Texas—the wonderful letter that was written by COL William Barret Travis. He said:

To the people of Texas and all Americans in the world—

Fellow citizens and compatriots—I am besieged by a thousand or more of the Mexicans under Santa Anna. I have sustained a continual bombardment and cannonade for 24 hours and have not lost a man. The enemy has demanded a surrender at discretion, otherwise, the garrison are to be put to the sword, if the fort is taken. I have answered the demand with a cannon shot, and our flag still waves proudly from the walls. I shall never surrender or retreat.

Then, I call on you in the name of Liberty, of patriotism and everything dear to the American character to come to our aid with all dispatch. The enemy is receiving reinforcements daily and will no doubt increase to three or four thousand in four or five days. If this call is neglected, I am determined to sustain myself as long as possible and die like a soldier who never forgets what is due his own honor and that of his country. Victory or Death.

WILLIAM BARRET TRAVIS LT. COL. COMDT.

True to his word, he did not surrender. The Mexicans did have thousands of reinforcements. He drew a line

in the sand at the Alamo. All but one man bravely crossed that line or was carried over it on a stretcher to accept the challenge to stay and fight. These men knew they would never leave the Alamo alive, but they heroically defended the Alamo for 13 days; the 13 days of glory, as it is known, against a force that eventually outnumbered them by more than 10 to 1.

William Barrett Travis, Davy Crockett, Jim Bowie, and the rest of the 189 men at the Alamo gave their lives fighting for something greater than themselves. It was that delay that gave GEN Sam Houston the time to organize his men and retreat to a point they could defend, which eventually became the Battle of San Jacinto. Just seven weeks later, on April 21, 1836, Sam Houston—because of that delay that was given to them by William Barret Travis and the 189 men at the Alamo—was able to take a stand at the Battle of San Jacinto, and Texas was a republic from that time forward, for 10 years. Texas is the only State that was a republic when it entered the United States. With that distinction, we like to share our vivid history.

It has been a wonderful opportunity for me to be able to read this letter every year. I feel sure it will be continued by Senator CORNYN or my successor in this seat. We will always make sure people know we fought for our freedom just as the American patriots did, and we are very proud to have that rich and colorful history.

So I thank the Senator from Arkansas, and I look forward to serving the rest of my term, but this will be the last time I get to share this piece of history.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Madam President, I think it is unanimous on this side of the aisle that we are going to miss the Senator from Texas when she leaves, and it is sad to hear about her doing something for the last time in the Senate. She has been a wonderful Senator and colleague and all of us on the Democratic side, and I am sure the Republican side as well, will greatly miss her.

I wish the RECORD to reflect that Texas does have a glorious history. One of the things we are proud of in our State is that many of the men who gave their lives for the republic of Texas at the Alamo actually passed through Arkansas because that was the Southwest Trail back in those days. Many of those men passed through the State—actually, it was a meeting place, maybe a tavern I think they might have called it back then—near Hope, AR. So we share a little piece of that history in our State as well.

Mrs. HUTCHISON. Madam President, I wish to thank the Senator from Arkansas for his kind remarks. I have so

enjoyed serving with his father before him and then him. It is a point of history for Arkansas that this Senator PRYOR followed his father into the Senate. I appreciate so much that we are contiguous with the State of Arkansas and that so many of the people who settled the West did come through Arkansas. Some stayed there and some came on to Texas. Our whole history of the West is so exciting, and I am glad people remember it.

### ENERGY

Mr. PRYOR. Madam President, I thank the Chair for the recognition. I wish to talk about something that is on everyone's mind. When I was in Arkansas last week for the recess, I did four or five townhall meetings and pretty much everywhere I went, this was the topic of discussion; that is, gas prices in our State.

I know it hurts every American when gas prices go up because gasoline prices and diesel prices have a way of working their way through the entire economy and causing economic difficulties for this country. One of the things people pointed out to me is this roller coaster effect we have seen on gas prices over the last year or so. One thing my friends in Arkansas noticed is that the price there has gone up about 30 cents a gallon just in the last couple months. So it has been a very dramatic increase and it is something people are very concerned about.

I wish to make three points about this. One is that I think the Congress—House and Senate—as well as the White House should look at this problem of speculation. When we look at the numbers, some are saying a fairly large percentage of the costs of a gallon of gas—some people say 20 cents a gallon and some people say 40 cents a gallon—actually goes to the speculators. So what that means is a lot of these guys have no intention of ever taking the product and doing anything with it, other than just trading it, to try to profiteer in a volatile market. That is a big concern.

We actually passed something 2 or 3 years ago to get the CFTC to issue some regulations on how to handle this, and now those apparently have been challenged in court. Of course, the people challenging this are the people who are benefiting from the speculation. So I think we need to find that balance.

When we have a market, there are going to be speculators in the market and they are going to get out there and try to make some money in the marketplace. That is the nature of the business. Sometimes they win; sometimes they lose. That is legitimate. But I think there are people and companies, some invest billions and billions of dollars, but they are trying to profiteer off the volatile oil situation. So we need to focus on speculation.

We also need to focus on the supply of oil in this country. The good news is we are seeing more and more acreage being drilled and permitted to be drilled in this country. After the terrible gulf spill a couple years ago, those permits are starting to be issued again down in the Gulf of Mexico, as I understand it. Also, I am a supporter of the Keystone Pipeline as well. We need to continue to develop our domestic supply, and even our near domestic supply in Canada, of oil. We also need to have diversity in our energy portfolio. There needs to be alternatives to gasoline and diesel. We need to find different ways to run our vehicles, whether it is natural gas or whatever it may be. It could be electricity. It could be lots of different products. We need to continue to innovate in this country and try to do great things.

That brings me to my third point, which is the real reason why I am on the floor. Certainly, it touches on gas prices, and that is very important. We don't want to see gas prices slow down our economic recovery we are undergoing right now.

We also need a more comprehensive and smarter national energy policy. I think an important first step toward that is for us to evaluate all the energy programs we happen to have on the books already—what the Department of Energy is doing, what other various departments are doing. Someone needs to be looking at all the tax credits and tax incentives when it comes to energy. We need a comprehensive analysis of where we are as a nation: what our strengths are, what our weaknesses are.

What I am proposing is a bill, the Quadrennial Energy Review. It is a bill we have introduced, and I am fortunate enough to have Senator BINGAMAN, the chairman of the Energy Committee, as well as Senator MURKOWSKI, the ranking member of the Energy Committee, as cosponsors. We would love to have other Senators look at this, maybe relatively soon, because we would like to start moving this through the process, if at all possible.

A quadrennial energy review is based on what they do at the Department of Defense. Every 4 years, the DOD goes through this very detailed, top-to-bottom analysis of all the things they need to consider in the Department of Defense, and they come out with the QDR—the Quadrennial Defense Review. Basically, it looks at what we have and it presents a roadmap for where we need to go.

That is what we need to do with energy. We already have this model that works. This idea would be more governmentwide—not just the Department of Energy but governmentwide. I encourage all my colleagues to look at this and if they wouldn't mind having their

staff check back with my office because we would love to have other colleagues as cosponsors if they are interested. I don't think it is controversial. I don't think there is much money or much requirement involved. I think it is good government and smart government to come up with a comprehensive energy policy for our Nation.

In Washington we hear the American people loudly and clearly. We are concerned about gas prices as well on lots of different levels and we will certainly be focused on that and paying a lot of attention to that issue over the next several weeks and, hopefully, we can do some good for the market and do some good for the American people.

With that, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BROWN of Ohio. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### AUTO INDUSTRY RESCUE

Mr. BROWN of Ohio. Madam President, I have had, over the last couple weeks around my State of Ohio, a number of conversations with workers and management both who work for auto companies, from foreign-owned Honda in central Ohio to the big three auto companies, which are very involved in the Ohio economy—Chrysler, GM, and Ford—and a number of conversations with auto suppliers: those companies that are less well known, companies such as Magna and Johnson Controls and companies that are smaller than that that are so-called tier 1, 2, or 3 suppliers, those companies that sell components into the manufacturing supply chain that ultimately end up in a Jeep Wrangler made in Toledo or a Chevy Cruze made in Lordstown, OH, near Youngstown.

In almost all these conversations, these companies, these executives, and workers are simply incredulous that the auto rescue is still being debated—that it worked or it did not work.

One just has to come to Ohio, and not just northern Ohio, where the assumption is that is sort of where the auto industry is in Ohio—it is true, but it is also in the rest of the State—but people all over Ohio and all over the whole industrial Midwest and I think all over the country understand the auto rescue worked.

We remember back when Senator LEVIN and Senator STABENOW and Senator Voinovich, a Republican from my State who has since retired, took to the floor—and in committee hearings and all that—in December of 2008, when President Bush realized the auto industry needed, at a minimum, some bridge

loans to stay in business, not because we have any interest in the government owning auto companies but because we knew hundreds and hundreds and hundreds of thousands of workers and thousands of small businesses that manufacture goods in our State and in Michigan and in Indiana and all over the region, all understood it would be economic devastation. I think and I think most economists think and most auto people think and I think most Ohioans think it would have led to a depression. That was in December of 2008.

Because of a whole bunch of reasons, this place decided not to do what President Bush thought we should do. Then, later on, a few months later, when President Obama said we have to step up and do the right thing, it was still a difficult vote. It passed, with some Republican support but not as much as we had hoped. But it passed. This was in December 2008 and then early 2009 when President Obama took the oath of office. We can now look at what has happened in this country.

Fundamentally, we see an auto industry that is so important to manufacturing in our country and so important to building a middle class. We can see what that has meant to our country. I will give you one big example. From 1997 to 2010, every single year we have seen a decline in manufacturing jobs in our country—every single year. In my State, and I know in the Presiding Officer's State of North Carolina, in which manufacturing has been a huge presence, they have suffered as every State has. From 2008 to 2010, every single year there have been manufacturing job losses. But you know what, since the auto rescue, for the last 20, 21, 22 months, we have seen manufacturing job growth—manufacturing job growth every single month for the country and for my State of Ohio. Every single month, we have had more manufacturing jobs than the month before. That is not good enough because it is not enough growth, but it is clearly going in the right direction.

In auto alone, you can see what is happening in my State. The four large auto companies in Ohio—Ford, Chrysler, General Motors, and Honda—all four of them have announced major expansion plans, major investments in our State, including building a new car in some cases, building a new line of cars, and in other cases expanding significantly.

Look at a car like the Chevy Cruz. Its engine is made in Defiance, near the Indiana border. Its bumper is made in Northwood. Its transmission is made in Toledo. Its speakers are made in Springboro, near Dayton in southwest Ohio, so the Dayton-Cincinnati area. There are brackets made in, I believe, Brunswick and other places. The steel comes from Cleveland. The aluminum comes from Cleveland. Stamping is in a

plant in Parma—the stamping, I believe, of the components to the car. The assembly is ultimately in Lordstown, and 5,000 people work in Lordstown, OH, stamping and assembling this small car that has been one of the best sellers of any car in the United States of America.

In Toledo, where the Jeep Wrangler is assembled, prior to the auto rescue, only about 50 percent of the components in a Jeep Wrangler were American made—only 50 percent. So half of them came from production outside of the United States. Today about 75 percent of the Jeep Wrangler—the components to the Jeep Wrangler are assembled in the United States—is so-called domestic content. What does that mean? That means jobs.

That is why it is so important that the President continue to move forward—and I hope more aggressively—on the whole issue of auto supply parts. We saw how just 10 years ago we had a deficit with China of about \$1 billion in auto parts. Today we have a trade deficit with China in auto parts of almost \$10 billion. So I know how concerned the President is.

I know that American auto companies, including Honda, want to source more and more of their products in the United States of America. They want those products to be manufactured here in addition to being assembled here. And manufactured here obviously means it will be close to the final assembly point in the critical mass that these manufacturers want to grow jobs.

So we are seeing a partnership now that we have never seen in my lifetime, I believe, between the auto industry and the U.S. Government, not for the government to have ownership, not for the government to tell the auto industry what to do, but for the government to make the business climate for these auto companies more and more favorable. That is what is good. That is what has come out of the auto rescue for Toledo—the assembly of the Jeep Wrangler. That is what has come out of the auto rescue in Youngstown—in Lordstown, the Youngstown area—for the Chevy Cruz. All of that is good news, that economic growth, that manufacturing job growth we have seen for more than 20 months. It clearly takes us in the right direction.

It is important that the naysayers just kind of drop—I mean, they can say whatever they want about the auto rescue. They are going to say what they want for political reasons. But it is clear that we as policymakers—you know Presidential candidates are going to do what the Presidential candidates are going to do in both parties. I don't really much care. But I do care that this body, the Senate, focus its efforts on how do we cooperatively grow this industry. It means more union auto workers going to work. It means more nonunion supply chain workers going

to work. All of these are good-paying jobs. What do we care about more here than preparing an environment for good-paying jobs that put people back to work and can help them join the middle class.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. HUTCHISON. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. McCASKILL.) Without objection, it is so ordered.

(The remarks of Mrs. HUTCHISON pertaining to the introduction of S. 2151 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. MCCAIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### EXTENSION OF MORNING BUSINESS

Mr. MCCAIN. Madam President, I ask unanimous consent that morning business be extended for an additional 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. Madam President, I ask unanimous consent that I be allowed to engage in a colloquy with the Senator from South Carolina, Senator GRAHAM, and the Senator from North Dakota, Senator HOEVEN.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### RELEASE OF AMERICAN HOSTAGES

Mr. MCCAIN. Madam President, I, along with Senators GRAHAM, HOEVEN, BLUMENTHAL, and SESSIONS, had a very interesting trip last week, where we visited various countries and learned a lot at each one. The reason we are here on the floor today is to talk a bit about the recent release—thank God—of Americans who were in the American Embassy and were subject to trial and prosecution by the Egyptian Government. This was a humanitarian issue from the standpoint that no American citizen should be treated that way, especially by an ally, but it was also a larger issue in that the outcome could have significantly impacted relations between our country and Egypt.

Egypt, as my friend from South Carolina well knows, is the heart and soul of the Arab world. What happens in Egypt affects the entire Arab world. Our relationship with Egypt is one that is vital not just for Egypt but our national security interests are that the

region remain peaceful and that there not be conflict and abrogation of the treaty that was concluded between Egypt and Israel as a result of the Camp David agreements.

I think it is important to recognize that Egypt is in a bit of turmoil. These young people, from the National Democratic Institute, the International Republican Institute, and Freedom House, unfortunately, had to go to our embassy because they were going to be prosecuted under then-Egyptian law.

I wish to begin by saying that our Ambassador to Egypt, Anne Patterson, may be one of the finest diplomats this Nation has produced. The more the Senator from South Carolina and I travel, and the more we meet with and have discussions with representatives at our U.S. Embassies, we realize these people are enormously good, and we are proud they represent the United States, particularly Anne Patterson. She has worked tirelessly since this whole crisis began. I believe the majority of the credit for this successful outcome, as far as our American citizens are concerned, can be directly attributed to her dedication, her hard work, and her tireless efforts day and night on behalf of these young people. So we are extremely proud of her.

I wish to ask my friend from South Carolina what he thinks were the reasons why the Egyptian Government changed what they had previously said would be a judicial prosecution of these American citizens to allowing them to leave Egypt and return to the United States, as they are now on their way?

Mr. GRAHAM. Madam President, I wish to add my gratitude and recognition of Ambassador Patterson and her whole team—the State Department team on the ground. They did a very good job making the case to the Egyptian Government. But we have to all realize Egypt is in transition. They have just had their elections for the lower house, the Parliament. The upper house has not been seated yet, and they have not elected a President. They have gone from a dictatorship to an emerging democracy, and this case comes along, the NGO prosecutions.

I think both of us—our entire delegation—think this is offensive. The IRI, the NDI are Republican-Democratic organizations funded by the government and the private sector that try to help emerging democracies all over the world. They have been in every country hotspot you can name—after the collapse of the Soviet Union—doing great work. So the accusations were the people involved in these organizations—and Senator MCCAIN is the head of IRI—were involved in spying and espionage, and I wanted to take the floor to say I found the accusations offensive and without merit.

The Egyptian coworkers, Egyptian citizens who were working with the IRI and NDI, are still in custody in Egypt,

facing criminal prosecutions for helping these fine organizations, and we will not take our eye off of that and we will keep pushing to make sure we get the right answer.

But how did this end? We know how it started. I think it was a political effort to try to justify Mubarak-era law that was used to oppress and keep out of the country people who were helping to bring about change. One of the bright spots of this engagement was that the army—and General Tantawi was as helpful as he could be, given the constraints of the army in this new government formation.

But when we engaged the Muslim Brotherhood, the Freedom and Justice Party, the largest bloc in Parliament, Senator MCCAIN, in his first engagement, the first thing he said to the representative was this NGO situation and how damaging it was to Egypt-American relationships, how unfair it was, how out of bounds it was in terms of the law. The response was from this group that we find the NGO law unacceptable, unjust, and we are wanting to change it. Once that statement was made publicly, it allowed this momentum to withdraw or lift the administrative travel ban. The cases may still go forward, but our people are coming home.

I think the reason this happened is because of the collaboration between the State Department, the delegation, every aspect of the American Government, and the people on the ground in Egypt I think understood the value of the United States-Egyptian relationship, and the judicial system finally made a wise decision. To those left behind, we are certainly standing with you, and you will not be forgotten.

But this could have ended the United States-Egyptian relationship.

Senator MCCAIN and Senator HOEVEN, let me ask a question to you both. If this had not ended well, if they had insisted on prosecuting and having the American citizens questioned appear in cages before an Egyptian court based on an outlandish acquisition, what kind of reaction would we have had in the United States and what damage would it have done to United States-Egyptian relationships, in your opinion?

Mr. MCCAIN. As the Senator from South Carolina knows, there was a pending amendment to cut off the \$1.3 billion. I would emphasize to my colleagues that \$1.3 billion was a commitment that was made at the time of the Camp David agreement which led to a peace agreement between Egypt and Israel, which, if that amendment had been enacted, I am confident would have been cause for the Egyptians to abrogate the peace treaty with Israel. The consequences of all that I am not sure of.

I wish to emphasize to my friend—and I see Senator HOEVEN here—we did



have meetings with the speaker of their Parliament and his colleagues. We did have meetings with the chairman of their committee on human rights, who happens to be the nephew of Anwar Sadat, one of the signatories to the Camp David agreement—the signatory, along with Menachem Begin. We did meet with the Muslim Brotherhood, who then agreed with us that NGOs are important and the law needed to be revised. Of course, we met with Marshal Tantawi, the head of the interim military government.

What confused us a bit at first, I ask my colleague from North Dakota, was that everybody said: We are with you. Yet, they were gridlocked. In the words of the Chairman of the Joint Chiefs of Staff who had been over there, they were paralyzed. It seemed to me that the statement of the Muslim Brotherhood—who all of us I know have concerns about, but it was the statement of the Muslim Brotherhood supporting NGOs, supporting revision of the Mubarak law that seemed to be a major factor in unsticking what had clearly been a situation which day by day grew more and more of a crisis. I would ask my friend from North Dakota if he had that same impression.

Mr. HOEVEN. I wish to thank the esteemed Senator from Arizona for allowing me to join him on the floor today to talk about this very important issue that has had a favorable outcome. Even more importantly, I want to express my great appreciation and gratitude to Senator MCCAIN and Senator GRAHAM for organizing the opportunity for us to go over to Egypt, and to not only meet with our NGO workers at the U.S. Embassy, but to engage in conversations and meetings with military and government leaders on this very important issue.

It is not just these seven Americans we are very concerned about, and their safety—which obviously is paramount. But as Senator GRAHAM indicated, this situation clearly had ramifications for the relationship on a longer term basis between Egypt and the United States, and Egypt and Israel, particularly in regard to the peace treaty.

So taking this initiative to sit down with Field Marshal Tantawi, who is the leader of the military council, but also the leaders of the Freedom and Justice Party—which is the majority party now in the Parliament. Of course, that is the Muslim Brotherhood. We sat down with the Muslim Brotherhood as well. I think those meetings were extremely important in helping to foster an understanding that broke the logjam.

I too want to commend the work of our Ambassador, Ambassador Anne Patterson. She did an outstanding job. I want to thank Secretary Clinton and the people at the State Department for their diligent efforts. But I must say, having the opportunity to be part of a

delegation led by Senator MCCAIN and Senator GRAHAM gave us the opportunity to talk to the Muslim Brotherhood, gave us the opportunity to talk to the leaders of the Freedom and Justice Party. And the next day they put out a statement, which I agree was very important in helping move things forward, because what they said in that statement involved two things, two things that I do think helped break the logjam; first, that they support nongovernment organizations. They support nongovernment organizations. They recognize that these NGOs do important work, and they want to address the laws in Egypt to make sure they have good laws that will enable the NGOs to continue.

The second thing they said, which I thought was particularly important, is they also expressed their concern about NGO workers, and that those NGO workers be treated fairly.

As Senator MCCAIN said, I hail from the State of North Dakota, and he knows I am going to say this. I can see the smile sneaking up on his face already. One of the NGO workers, one of the Americans detained under the travel ban whom I had the opportunity to visit with at the Embassy is a woman named Staci Haag. She has been over there working. Needless to say, I was worried about all of our Americans. I was really worried about Staci, and making sure that she and her fellow workers—and of course, Secretary LaHood's son, Sam LaHood, but all of them, that they were able to get home safely.

Again, I think it was important in terms of fostering an understanding that I hope now will continue as we work to build relations with Egypt and their new government.

Mr. GRAHAM. Will the Senator yield?

Mr. HOEVEN. I will, to the Senator from South Carolina.

Mr. GRAHAM. And I will turn it back over to Senator MCCAIN.

I can tell you that very few people in Egypt, almost no one in Egypt realized somebody from North Dakota was being held. You were on message. You were very effective. I hope Staci and her family appreciate it, and I know they do. But for everybody—Sam, the NDI workers, the whole gang—we are proud of what they do.

Senator BLUMENTHAL is here, and I want people to know this is a bipartisan delegation. We had kind of a dinner meeting, when things were not going so well, about the idea of bringing our American citizens down to Egyptian court to be put at risk securitywise and maybe to be put behind cages—which would have destroyed the relationship. I think Senator BLUMENTHAL made it crystal clear that was not a good idea. And thank God it didn't happen.

With that, I yield back to Senator MCCAIN.

Mr. MCCAIN. I agree with my colleague from South Carolina. Senator BLUMENTHAL was very important, one, for bipartisanship, but also his background as a prosecutor.

At one point in all of this back and forth, one of the lawyers—who will be unnamed—said to Senator BLUMENTHAL that: Well, we probably have to go along with the advice of the lawyers. And Senator BLUMENTHAL, in a very succinct way, said: Well, maybe it is time to fire the lawyers.

So I want to thank Senator BLUMENTHAL for his involvement and the expertise and knowledge that he brought to this whole scenario because of his background as a prosecutor and attorney general of his State.

I guess I wonder, from my friend from Connecticut, if he believes that this kind of thing is something we should be emphasizing, these NGOs, so maybe we can prevent this in the future.

For example, when we visited Tunisia, the Tunisians have enacted a law that encourages the participation of these dedicated men and women who come and live and work in their country and help them build democracy. That was what was so—not enraging, but certainly it was so frustrating to hear these people who are only trying to build democracy. They weren't there to make money. They weren't contractors. They weren't anybody who was in business. They were just trying to help them build democracy, and they end up in the situation that they were in—which caused us from time to time to maybe grit our teeth. I would ask my friend from Connecticut.

Mr. BLUMENTHAL. I thank my colleague from Arizona who led this trip. Very enthusiastically and emphatically I would say the answer is, yes, we should be encouraging these nongovernmental organizations that are committed to the cause of democracy and human rights and civil society. Their work in Egypt and in places such as Tunisia and other areas of the Middle East, as well as around the globe where democracy and freedom are at risk and sometimes at great peril, has been enormously important.

I was so proud and grateful to be part of this trip led by Senator MCCAIN, and to hear and see the kind of respect there is in the world for his views, for his leadership, as well as for Senator GRAHAM's. And "receptiveness" is probably an understatement that Field Marshal Tantawi, leaders of Parliament, and others in Egypt had for his statements about the importance of allowing these Americans, these seven Americans, who committed no crime, to leave that country. The power of his and Senator GRAHAM's statements, the ability of our colleagues such as Senator HOEVEN and Senator SESSIONS to speak—not on behalf of the United States, because we were not there to

negotiate—but on behalf of public opinion in the United States I think was very instrumental and shows the importance of the interchanges and the relationships that can be built when we interact face to face, on the ground, with our peers and contemporaries in foreign countries. Not that we were speaking as military people or as diplomats, but simply in reflecting the opinion of people in the United States that these Americans, innocent of any crime, should be permitted to leave the country.

Mr. MCCAIN. Didn't my friend from Connecticut find it striking that these new parliamentarians were most eager to have interparliamentary association with us? They wanted to come to the United States to have further relations between the two elected bodies. I was very impressed by that.

Mr. BLUMENTHAL. I would say, yes, indeed. I was extraordinarily impressed by their eagerness to see what democracy looks like as it works. Remember, some of these individuals have been in prison for long periods of time, some of them under the most brutal conditions, many of them tortured while they were there, with little exposure to the real world of democracy.

In answer to the question of the Senator from Arizona, it would be very helpful to them. In fact, on a number of occasions we invited them to come to this country.

But I would ask the Senator from Arizona and perhaps my other colleagues who are on the floor today to look ahead and to comment perhaps on what we can do to move in a positive way from here, because I think all of us feel Egypt is a linchpin for our relationship to that area of the world going forward. So much that is exciting is happening in that part of the world, and Egypt is so critical to it. So I would ask my friends from Arizona and South Carolina and North Dakota what they feel perhaps are positive steps we can take to build on this good step forward.

Mr. MCCAIN. Very briefly, before I turn to my other two colleagues, the day we arrived in Egypt there was a suppliers conference, companies and corporations from all over the world, ranging from companies such as General Electric, Boeing—the major corporations. It is very clear that the one thing they need is jobs—jobs and jobs and jobs. Their tourism has collapsed. Unless their economy improves, I think they are going to face some very significant challenges.

At least I was very happy to see a lot of American participation in that gathering. I think they said there were like 600 people in that room, all of them representing various businesses in the United States. And of course they are experiencing a hard currency crunch right now that is very significant.

Mr. GRAHAM. I think this is a very good topic to be talking about—the fu-

ture—because this is an episode that could have destroyed the relationship before it had a chance to mature. What am I concerned about? I am still concerned about the development in Egypt. The Constitution will be written here in the coming months, by the summer. I want to make sure America's voice is heard about who we are. We hope that the Egyptian people embrace tolerance; that the Coptic Christians are going to be welcomed as they have been for centuries in Egypt; that religious minorities will be protected; that women will not be taken back into the darkness; that the Constitution will reflect an Islamic nation that understands the concepts of tolerance and free enterprise.

The Muslim Brotherhood will be the leading organization politically. It is up to them to create an environment where the world feels welcome. It is up to them to create an economy, working with their coalition partners. We will be watching. It is not what you say in politics, it is what you do. Apply that to all of us here. I think we are failing our people back in the United States by talking way too much and doing too little.

Between now and the summer can really be outcome-determinative for decades in Egypt. I am urging the Egyptian political leadership, the Muslim Brotherhood included, to write a constitution and create an environment where people believe they can come and visit Egypt and do business. Senator MCCAIN is dead-on. There is a lot of money to be made interacting with the Egyptian people, and they are a proud people and smart people, and I want to get our businesses on the ground. I want to help the Egyptian economy develop through the private sector, not just the public.

I am the ranking member of the Foreign Relations Committee, working with Senator LEAHY, the chairman. We will be continuing to provide economic assistance, but the end game is to create a functioning society we can do business with where we can create jobs in America.

The main thing to do in the short term is maintain the military relationship. The reason Egypt did not become Syria when people were rising against the autocratic regime is because the Army stood by the people. The relationship we have had with the Egyptian military over 30 years really paid dividends. Egyptian officers coming to American military academies and schools has been invaluable.

As we go forward, maintain that relationship between us and the Egyptian Army, honor the treaty with Israel, make sure you write a constitution worthy of a bright future in Egypt, and to all the political leaders in Egypt: The world is watching, the Arab world is watching, and if you have a narrow agenda, if you have an exclusive agen-

da, you will be doing your country a disservice. We will be a willing partner but not under any and all circumstances. Maybe we have learned our lesson—that you cannot have partnerships without basic principles.

We look forward to working with the Egyptian Parliament and people. They have a chance to change the course of history in the Arab world and the Middle East. Don't lose the opportunity.

Mr. HOEVEN. I echo the sentiments of the good Senator from South Carolina. What I would like to add is I think that is exactly the right question to pose. The Senator from Connecticut says: Where do we go from here? I think that is right-on. There is no question in my mind but that the relationships Senator MCCAIN and Senator GRAHAM have built overseas made a difference for the United States and our foreign policy. This is a clear example of it.

When we sat down with Field Marshal Tantawi, when we met with other government leaders, even when we met with the Muslim Brotherhood, because of the fact that there was a relationship there, that they knew these individuals, there was some level of trust there that enabled us to engage in very important communications that produced a message that I think was integral to the resolution of this situation, which could have been a very bad one.

These relationships matter when we talk about working with other countries, particularly in that part of the world. There are so many differences between our countries and how we operate that having some relationships where people can sit down, have these discussions, and talk about how we work together and foster some future agreement and some mutual understanding is vitally important.

At the meeting with the Freedom and Justice Party parliamentary members, we invited them to come visit us. I think that would be very helpful and very important, not only so these new leaders and their parliament have a better sense of the United States and how we work and the kinds of relationships we can foster in both business and government but also so the Members of this Senate, of this Congress, and our people here get a better sense of them as well. I believe that is very important as we track forward with this new, young government that is now embarking on writing a constitution and governing in a vitally important country in the Middle East.

At this point, I would like to turn things back to the good Senator from Arizona, with my sincere gratitude.

Mr. MCCAIN. I thank my colleagues and dear friends. It was an exciting trip and a very interesting one. I would just like to say that when you go to a country such as Libya and see the challenges they have with the militias and yet the dedication of their leadership

toward a free and democratic country; when you go into Libya, where both the Prime Minister and the Deputy Prime Minister both attended school or were professors at the University of Alabama, it really does show the incredible effect of an education in the United States of America.

Mr. GRAHAM. Will the Senator yield for just 1 second?

Mr. MCCAIN. Extremist, but anyway—

Mr. GRAHAM. Not only did we meet with people who came back to Libya from the University of Alabama—if there had been anybody from North Dakota, I would have known about it, I assure you.

We met a person who was detained at Gitmo—you talk about a small world and how the world changes—someone detained at Guantanamo Bay because they had been involved with some very unsavory characters but who did not adopt the al-Qaida agenda but will be a key player between the United States and Libya.

I want to mention—I think my colleagues will verify this—you have been nice to Senator MCCAIN and myself, but let me tell you, having the three Senators there, as Senator BLUMENTHAL said, echoing public opinion in America—we were not negotiators, we were trying to tell people the way it was here at home—we could not have done it without the three of you saying, here is the way it is.

But let me say, when Senator MCCAIN turned to the former Guantanamo Bay detainee and said: You know, I have been in prison, too, and about forgiveness and about starting over and starting a relationship in Vietnam—Senator MCCAIN and Senator KERRY did that—and about understanding that the future is what we want it to be, I thought it was a very moving moment. I think the interaction between the two individuals gave me a sense that there is hope out there.

I want to acknowledge that was an unusual moment, when you meet someone who had been in Guantanamo Bay, who is now one of the future leaders of Libya, and have a Senator from the U.S. Senate who served his country and was a prisoner of war—that was an incredible exchange. I hope something good comes from it.

Mr. BLUMENTHAL. It was an extraordinary moment but even more so because Senator MCCAIN asked a number of them—one in particular—about the impacts on their families and in that case, I believe, the impact on his wife. We tend to forget in this country—all too often we tend to take for granted the immense protections we enjoy in this country, the value of our freedoms.

That moment was profoundly moving for me, and his reaction in the realization of how far he has come as a leader in his country, how much he has en-

ured, how much pain and travail for him and his family. It was a striking reminder about the importance of democracy and freedom and the protections we often take for granted and the great work being done by those non-governmental organizations in fostering freedom and democracy, sometimes at peril or risk to themselves.

The Senator from South Carolina has hit a very important point, and it ties to what Senator MCCAIN said about the suppliers conference in Egypt. These principles and the growth of democracies in that part of the world are important, not just because we like democracy and not just because of the strategic value, militarily, and the interests that our national security has, but also they are potential markets for our exports. The Senator from South Carolina used that word. People should understand that there is an important interest that we have in promoting jobs in those countries because it will be jobs for us. That is, at a very basic level, one of the values of this trip, trying to promote and expand those markets, as Senator MCCAIN did in speaking at the suppliers conference in Cairo to hundreds of Egyptian businessmen wanting to do business, buy our products, and expand their markets.

I yield.

Mr. MCCAIN. I note the presence of my colleague from Vermont. I once again thank my colleague. Every once in a while we can think we did a little bit of good around the world, and thanks to the five of us, I think we really did. I think we can be proud.

We are also proud that we represent, still, in their view and our view, the greatest Nation in the world.

I yield the floor.

Mr. HOEVEN. Madam President, I request 10 minutes to speak in regard to a resolution.

The PRESIDING OFFICER (Mr. SANDERS). Is there objection? Without objection, it is so ordered.

(The remarks of Mr. HOEVEN and Mr. BLUMENTHAL pertaining to the submission of S. Res. 386 are located in today's RECORD under "Submitted Resolutions.")

#### MOVING AHEAD FOR PROGRESS IN THE 21ST CENTURY ACT—Continued

Mr. REID. Mr. President, it is my understanding the business before the Senate now is the surface transportation reauthorization bill; is that right?

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. Does that need to be reported?

The PRESIDING OFFICER. It has already been reported.

#### AMENDMENT NO. 1730 WITHDRAWN

Mr. REID. Mr. President, I withdraw amendment No. 1730.

The PRESIDING OFFICER. The Senator has that right. The amendment is withdrawn.

#### AMENDMENT NO. 1761

(Purpose: To make a perfecting amendment)

Mr. REID. Mr. President, I have a first-degree amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 1761.

Mr. REID. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. REID. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

#### AMENDMENT NO. 1762 TO AMENDMENT NO. 1761

Mr. REID. Mr. President, I have a second-degree amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 1762 to amendment No. 1761.

Mr. REID. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

#### AMENDMENT NO. 1762

At the end, add the following:

#### SEC. . EFFECTIVE DATE.

This Act shall become effective 7 days after enactment.

#### MOTION TO RECOMMIT WITH AMENDMENT NO. 1763

Mr. REID. Mr. President, I have a motion to recommit the bill with instructions, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. REID] moves to recommit the bill, S. 1813, to the Committee on Environment and Public Works with instructions to report back forthwith with an amendment.

Mr. REID. Mr. President, I ask unanimous consent that reading of the amendment be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

#### AMENDMENT NO. 1763

At the end, add the following new section:

#### SEC. .

This Act shall become effective 6 days after enactment.

Mr. REID. Mr. President, I ask for the yeas and nays on that motion.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

#### AMENDMENT NO. 1764

Mr. REID. Mr. President, I have an amendment at the desk, and that

amendment is to the instructions that we have already set forth.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 1764 to the instructions (amendment No. 1763) of the motion to recommit.

The amendment is as follows:

In the amendment, strike "6 days" and insert "5 days".

Mr. REID. Mr. President, on that amendment I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1765 TO AMENDMENT NO. 1764

Mr. REID. Mr. President, I have a second-degree amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 1765 to amendment No. 1764.

Mr. REID. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the amendment, strike "5 days" and insert "4 days".

Mr. REID. Mr. President, let me take a moment where we are in this important surface transportation reauthorization bill. No one disputes the fact that this is a job creator. Millions of jobs, plural. Today with the Senate's vote to dispose of the Blunt amendment, the Senate completed an important step to advance this bill. The Republican leaders on the Republican side made clear that they would not allow the Senate to move forward on this piece of legislation until they got a vote on contraception. We waited and waited. It is done. Now we can move on to attempting to process other amendments to this important piece of legislation.

Not everything ground to a halt while the Senate was working toward processing the Blunt amendment. The bill's able managers have been working to clear amendments offered by a number of Senators. As I have said before, the managers of this bill—multiple in nature—are seasoned and know what is going on legislatively. They worked together, Senators BOXER and INHOFE especially, because there is more of what they have in this bill than what other committees have. But we have the Banking Committee, the Finance Committee, the Commerce Committee, and they have all worked together in coming up with a number of cleared amendments. All of these Senators have worked closely together. They worked

so closely even before the work over the past week, and on February 9, 85 Senators voted on cloture to proceed to the bill. And as I have indicated, over the last several weeks they have continued to work together and clear numerous amendments that Senators have filed.

I offered a revised amendment a few minutes ago. This amendment includes the very same consensus that comes from the product of these three committees regarding my earlier amendment. It includes matters reported unanimously by the Banking Committee, strong bipartisan vote with the Finance Committee, matters negotiated between the chairman and ranking member of the Commerce Committee.

What is new in the amendment I just offered is that it now also includes 37 additional amendments cleared by the managers of this bill and, where appropriate, cleared by other committees, specifically the Commerce Committee and the Banking Committee. Thirty-seven amendments. So that is now part of my substitute that is now before the Senate.

I would be very satisfied if the Senate adopted this amendment, and provided that it serve as additional text for purpose of further amendment. The two managers will work to clear additional amendments.

We need a path forward on this bill, and we don't have it now. We continue to work on an agreement to have votes on a number of nongermane amendments which the Republican caucus says they want. And our side, if they want amendments, we could have some nongermane amendments also. I would rather we disposed of the nongermane amendments, and I am thinking seriously of coming to the floor today and asking consent that we move forward on this bill with no irrelevant or nongermane amendments.

It is vital that we complete work on this surface transportation reauthorization bill. I am determined that the Senate will do so and do so as quickly as possible. Doing so will take cooperation from different Senators, so we need to keep our eye on the road. We need to get this legislation passed. Saving or creating up to 2.8 million jobs is the destination of this path that we are seeking. Let's work together to get there as soon as possible.

ST. CROIX RIVER VALLEY BRIDGE

Ms. KLOBUCHAR. I come to the floor today on another topic; that is, to thank and congratulate the House of Representatives, which earlier handed a great victory to the people of Wisconsin and Minnesota by passing legislation that will finally allow construction to begin on a stronger, safer bridge in the St. Croix River Valley. After 30 years of debate and delay, we have finally gotten it done, and I am proud to say it was done with broad support in both Chambers.

The legislation I introduced in the Senate to allow this bridge to be built passed unanimously in January, and our Senate bill has passed the House today with the overwhelming backing of 339 Members, making the final vote count 339 to 80. This was truly a team effort, and it is an inspiring example of what we can accomplish when we are willing to put politics aside and come together to do what is right for the people we represent.

I thank my colleagues in the House for their hard work and dedication in moving this legislation forward: Representatives RON KIND, SEAN DUFFY, MICHELE BACHMANN, CHIP CRAVACK, and TAMMY BALDWIN. I also thank Secretary Ray LaHood and his staff at the Department of Transportation, as well as Governors Mark Dayton and Scott Walker for their leadership at the State level.

In both Minnesota and Wisconsin, there is overwhelming consensus about the critical need for a new bridge in the St. Croix River Valley. There are sometimes disputes on what that bridge should look like, but there tends to be consensus that we simply can't have a lift bridge built in the 1930s, with 18,000 cars going over it. The current lift bridge was built in 1931. Chunks of rusting steel and concrete fall off and into the river below. Traffic backs up behind it, especially in the summer months, sometimes for a mile. Cars are lined up by houses, cars are lined up by businesses, and it is not a desirable situation for anyone in the town of Stillwater.

The Minnesota Department of Transportation has listed the bridge as being "structurally deficient" and "fracture critical," meaning if one component of the bridge fails, the entire structure fails. Simply put, the bridge cannot meet the needs of the region either in terms of public safety or in supporting traffic caused by a growing population.

As the bridge has aged, we have seen significant increases in congestion. This is an especially big problem in the summer months when the bridge lifts frequently to allow watercraft to pass, causing traffic to back up on both sides of the bridge, increasing gridlock and air pollution, hindering economic activity, and threatening public safety, particularly when emergency vehicles are unable to pass through.

Here are the numbers: The current structure was designed to support 11,200 vehicles a day. It cannot handle the average of 18,400 cars that cross it every day, let alone anticipated increases in usage. But with this new bridge, 48,000 vehicles will be able to cross safely and efficiently every day. This is important from a public safety perspective, but it also means new channels for economic growth. Without a new bridge, anticipated usage would reach 23,500 by 2030. With a new bridge,

anticipated usage will meet 43,000 vehicles per day. Those 20,000 additional vehicles will mean more opportunity for local industry and more customers for local businesses made possible by an infrastructure capable of supporting new growth and development.

When we look at the numbers, it is easy to see why my Senate legislation was able to pass not only the Senate without any opposition, but it is easy to see why the House passed the bill by such a wide bipartisan margin. We are less than an inch away from the finish line. Now we need the President of the United States to sign the bill.

I spoke with Secretary LaHood this morning. I don't anticipate there will be an issue. He was very positive about the bridge. But we need a prompt signature. The people of Minnesota and Wisconsin have already waited 30 years. They cannot afford to wait any longer. We cannot afford to delay. It is time to finally get this bridge done.

I, once again, thank all of my colleagues who worked hard to advance this bill. MICHELE BACHMANN in the House led the effort on the Minnesota side, and I led the effort in the Senate. I thank the other Senators who were so good to support this bill, including Senator FRANKEN, Senator KOHL, and Senator JOHNSON.

I look forward to standing with all of my colleagues when the President signs this bill into law. I look forward to standing with my colleagues again on that proud day in the near future when we finally break ground on a stronger, safer bridge for the St. Croix River Valley.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

#### PROGRESS FOR DEAMONTE DRIVER

Mr. CARDIN. Mr. President, today I come to the Senate floor to mark the fifth anniversary of Deamonte Driver's death. Deamonte was a 12-year-old who lived in Prince George's County, MD, only a few short miles from here. He died 5 years ago at the Children's National Medical Center in Washington, DC, from a brain infection caused by an untreated tooth abscess.

The Driver family, like many families across the country, lacked dental insurance. At one point his family had Medicaid coverage, but they lost it because they had moved into a temporary shelter and their paperwork fell through the cracks. When advocates for the family tried to help, it took more than 20 calls just to find a dentist who would treat him.

Deamonte began to complain about headaches on January 11. Then, an evaluation at Children's Hospital led beyond basic dental care to emergency brain surgery. He later experienced seizures, and a second operation was required. Even though he received additional treatment and therapy, and he

appeared to be recovering, medical intervention came too late. By the end of his treatment, the total cost to our health care system exceeded \$¼ million—more than 3,000 times the \$80 it would have cost for a tooth extraction.

Deamonte Driver passed away on Sunday, February 25, 2007. Deamonte's death was a national tragedy. It was a tragedy because it could have been prevented if he had received timely and proper basic dental care. It was a tragedy because it happened right here in the United States, in one of the most affluent States in the Nation. It happened in a State with one of the best dental schools in the Nation—the University of Maryland's. It happened in Prince George's County, whose border is less than 6 miles from where we are standing in the U.S. Capitol.

I have spoken on the Senate floor about Deamonte Driver several times since that tragedy, and in the intervening years, in both my home State of Maryland and nationally, we have made progress. When Deamonte's case was brought to light, I believe it served as a wake-up call for our Nation. It brought home what former Surgeon General C. Everett Koop once said: "There is no health without oral health."

Medical researchers have discovered the nexus between tooth plaque and heart disease, that chewing stimulates brain cell growth, and that gum disease can signal diabetes, liver ailments, and hormone imbalances. They have identified the vital connection between oral health research and advanced treatments such as gene therapy, which can help patients with chronic renal failure. They know investing in basic dental care can save money down the road in costly medical interventions for other diseases.

But for all the research findings, without insurance coverage and adequate access to providers, we know millions of children and adults will have oral health care needs that remain unmet. That is why the progress we have made over the past 5 years is so important to America's health. So I have come to the floor today to talk about what we have achieved and how we can move forward as a nation to ensure better access to oral health care.

The Maryland delegation is proud that Maryland has emerged as a national leader in this area, launching a \$1.2 million oral health literacy campaign, raising Medicaid reimbursement rates for dentists, and providing some allied health professionals and hygienists the opportunity to practice outside of clinics. Today, the Deamonte Driver Dental Project Van, which was dedicated in front of the U.S. Capitol in May 2010 provides services in underserved neighborhoods in Prince George's County, thanks to the efforts launched by members of the Robert T. Freeman Dental Society. This society,

an arm of the National Dental Association, is named for Dr. Robert Tanner Freeman, who in 1869 became the first Black graduate of the Harvard School of Dental Medicine.

Congressman ELIJAH CUMMINGS and I were joined that day by Mrs. Alyce Driver and her sons; the project's co-founders Drs. Hazel Harper and Belinda Carver-Taylor; and the National Dental Association President, Dr. Walter Owens.

In 2009, 2 years after Deamonte's death, Congress took up the reauthorization of the Children's Health Insurance Program. In a frustrating attempt to locate a dentist for her child, Deamonte Driver's mother and her advocates had to contact numerous offices before locating one who would treat him.

For a variety of reasons, it is difficult for Medicaid and CHIP enrollees to find dental care, and working parents whose children qualify for those programs are likely to be employed at jobs where they can't spend 2 hours a day on the phone to find a provider. So part of the CHIP reauthorization now requires HHS to include on its Insure Kids Now Web site a list of participating dentists and benefit information for all 50 States and the District of Columbia.

Also, in 2009, Congress passed the Edward M. Kennedy Serve America Act. That law created the Healthy Futures Corps, which provides grants to the States and nonprofit organizations so they can fund national service in low-income communities. It will allow us to put into action tools that can help us close the gap in health status—prevention and health promotion. For too long we have acknowledged health disparities, studied them, and written reports about them. With the help of the senior Senator from Maryland, my colleague, Senator BARBARA MIKULSKI, we added language to that law specifying oral health as an area of focus.

Now the Healthy Futures Corps can help recruit young people to work in the dental profession, where they can serve in areas that we have shortages of providers in urban and rural areas. It will fund the work of individuals who can help parents find available oral health services for themselves and their children. It will make a difference in the lives of the Healthy Futures Corps members who will work in underserved communities and in the lives and health of those who get improved access to care.

Then, in 2010, we passed the Affordable Care Act which guarantees pediatric oral health care as part of each State's essential benefit health care package. The law also establishes an oral health care prevention education program at the Centers for Disease

Control and Prevention targeted toward key populations, including children and pregnant women, and it created demonstration programs to encourage innovation in oral health delivery. It also significantly expanded workforce training programs for oral health professionals.

Moving forward, the States have a critical role to play in ensuring that the Affordable Care Act benefit is designed to incentivize prevention, recognize that some children have greater risks of dental disease than others, and deliver care based on their level of risk. Among the most cost-effective ways to improve children's health care are investments in prevention. Dental sealants—clear plastic coatings applied to the chewing surfaces of molars—have been proven to prevent 60 percent of tooth decay at one-third the cost of filling a cavity. So we must make sure prevention is a key part of every State's benefit package.

Further, in 2010, the U.S. Department of Health and Human Services launched its oral health initiative, establishing a coordinated multiagency effort to improve access to care across the Nation.

Yet for all the progress we have made, we know more must be done. In 2009, the last year for which we have complete data that is available, more than 16 million American children went without dental care. That is not acceptable.

Our Nation has made significant progress in improving children's dental care in the 5 years since the death of Deamonte Driver, but there is still much work to be done.

Case in point: Last summer, 24-year-old Kyle Willis of Ohio died from an untreated tooth infection that spread to his brain. In fact, the health of millions of Americans is jeopardized because they cannot get treatment for tooth decay.

The access problem has become so severe that many people are forced to seek treatment for tooth pain in the Nation's emergency rooms, increasing the overall cost of health care and receiving uncoordinated care in the least cost-efficient setting. In fact, more people seek treatment in emergency rooms for tooth pain than they do for asthma.

The Pew Children's Dental Campaign produces report cards that grade the States on eight policies that are evidence-based solutions to the problem of tooth decay.

Maryland received an A grade in both reports for meeting or exceeding these benchmarks, which include dental sealant programs, community water fluoridation, Medicaid reimbursement and enrollment, and collection of data on children's dental health.

This is even more striking because in the late 1990s, Maryland had one of the worst records in the Nation regarding

oral health care for its underserved population. But in 2011, the Pew Center on the States ranked Maryland as the top State in the country for oral health.

However, the access issues remain. As Mrs. Driver's efforts to find care for her son showed, low-income families have great difficulty obtaining care due to a shortage of dentists willing to treat Medicaid patients.

Nationally, the National Health Service Corps addresses the nationwide shortage of primary care oral health providers in dental health professional shortage areas by offering incentives in the form of scholarships and loan repayments to primary care dentists and registered dental hygienists to practice in underserved communities.

I will continue to work to increase funding for grants to States and expand training opportunities for dentists. We do not have enough professionals who are trained and available to treat children and adults with dental problems, and it is our responsibility to fix that. We must improve reimbursement to dental providers in offices and clinics so no one who needs dental treatment will be turned away.

I conclude my remarks with congratulatory wishes to Mrs. Alyce Driver. For as painful as Deamonte's passing was for all of us, nothing can compare to the loss of one's own child. Yet Mrs. Driver has worked hard and she has been awarded a dental tech degree. She is now out there helping others with dental care. She will be going back to school next month to receive training in radiology. Yes, in Maryland and throughout the Nation, there are signs of hope for the future of oral health care.

February is National Children's Dental Health Month, and I wish to express my appreciation to the many nonprofit organizations, universities, and providers who are also working across the Nation to make sure we will never forget Deamonte Driver and never forget our responsibility to improving oral health care for America's children.

With that, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. BARRASSO. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. SHAHEEN). Without objection, it is so ordered.

Mr. BARRASSO. Madam President, I ask unanimous consent to speak for up to 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### GAS PRICES

Mr. BARRASSO. Madam President, I come to the floor to talk about something that is on the minds of people in

my home State of Wyoming and people across the country, the high cost of gasoline. When I filled up on Sunday evening in Wyoming and on Monday morning on the way to the airport I noticed that the price of gasoline in Wyoming was 10 cents higher per gallon than it was Sunday night when I filled the tank. I am heading back this weekend, later today, to Wyoming, and we will see what the cost of a gallon of gasoline will be. I know absolutely that the price of diesel fuel is much higher, almost by a dollar a gallon, than the price of regular unleaded gasoline.

I think it is something that is happening all across the country because even in this morning's New York Times, Thursday, March 1, 2012, on the front page, a headline reads "Tensions Raise Specter of Gas At \$5 a Gallon." That is on the front page of the New York Times. It says, "Gasoline for \$5 a gallon? The possibility is hardly far-fetched."

It goes on to say:

With no clear end to tensions with Iran and Syria and rising demand from countries like China, gas prices are already at record highs for the winter months—averaging \$4.32 in California and \$3.73 a gallon nationally on Wednesday, according to the AAA's Daily Fuel Gauge Report. As summer approaches, demand for gasoline rises, typically pushing prices up.

Again, "no clear end to tensions in Iran and Syria and rising demand from countries like China. . . ."

It is interesting because, obviously, China is the country that told the Prime Minister from Canada recently: We will buy all that extra oil you have that apparently the President of the United States isn't interested in, as he continues to block the Keystone XL Pipeline.

That is what the American public is facing today, rising prices and an administration that continues to block access to an important source of safe, secure energy, as opposed to sending so much money overseas. Here we are with high gasoline prices, which is continuing to cause additional hardship for American families and American businesses. When families pay more at the pump, it impacts the quality of their lives. Families are dealing with mortgages, goods and services, and their kids as they continue to see the money going to fill the tank. This also hurts economic growth and our ability to create jobs.

When companies pay more for gasoline, they have less money to expand their businesses and create new jobs. Wyoming families and businesses know this all too well because in Wyoming we drive longer distances than most Americans. The President also knows this impacts the economy. That is why he continues to give speeches on energy.

It is clear the President is defensive on this issue, and it is understandable because the average price of gasoline,

regular unleaded, the day he became President—today it is 103 percent higher, over double what it was the day President Obama took office just 3 years ago. Again, the price of gasoline is 103 percent higher than the day the President took office.

There are a lot of factors at play. What this does show is that the President's policies are at best ineffectual; at worst they are contributing to the higher gas prices. People on both sides of the aisle know this and are hearing it at home. This week, actually, one Senate Democrat wrote to the Obama administration and pointed this out. Specifically, he pointed out that these are "the highest prices we have ever seen for this time of year."

Unfortunately, that Senate Democrat's solution is to request that Saudi Arabia produce more oil. I will repeat that. His solution is to have the Secretary of State ask Saudi Arabia to produce more oil.

Of course, the President is also considering other proposals as well. Like asking Saudi Arabia to produce more oil, the President's ideas would put national security at risk. There I am referring to the President's threat to tap the Strategic Petroleum Reserve. This will be the second time that President Obama has tapped the Strategic Petroleum Reserve. Prior to the President's decision to do that last June, it had only been tapped twice for emergencies since 1975. So between 1975 and 2011, the Strategic Petroleum Reserve had only been tapped twice for emergencies—in 1991 upon the outbreak of the Persian Gulf war and then again more recently following Hurricane Katrina.

In both of these instances we are talking about actual supply disruption. However, when President Obama tapped the Reserve last year, there was no substantial prospect of a supply disruption. The decision was based on politics, as would be the decision this time. That is why Jay Leno, earlier this week during his nightly television show, called the Strategic Petroleum Reserve President Obama's strategic "reelection" reserve.

A number of my colleagues and I think there are other ways to address high gasoline prices. We understand the Strategic Petroleum Reserve is for emergencies, not political disasters.

It is interesting because just earlier today, the House minority leader NANCY PELOSI endorsed tapping the Strategic Petroleum Reserve—not because of an emergency or a crisis or supply disruption, but she says "to combat rising gas prices."

There is only so much oil in the Strategic Petroleum Reserve. The amount that was taken last year was never put back in to fill the tank. The amount taken out last year was sold. If we use that money to fill the tank, it is not enough—almost \$1 billion more this year to fill the tank than what they

got for selling what they took out last year.

So we have a tank at the Strategic Petroleum Reserve that is not full, still waiting to be filled from what was taken from it last year. Now, here we are a year later, and the President, as well as NANCY PELOSI, is considering tapping the Strategic Petroleum Reserve again, drawing it down again, making us that much more vulnerable in case of a true emergency.

The President actually has some options that make a lot of sense to a lot of Americans. An option, of course, is to increase American energy production. The President can begin to follow through on his words in Miami a week or so ago, when he said, "I'll do whatever I can to develop every source of American energy."

The President can provide more access to Federal lands and waters. This week we learned the oil and gas production on Federal public lands and public waters is down. In 2011 there was a 14-percent decrease in oil production on public lands and water from 2010—less energy produced in Federal lands and waters. There was an 11-percent decrease in gas production from 2010.

In Miami, the President said he has "directed my administration to look at every single area where we can make an impact and help consumers in the months ahead, [including] permitting. . . ."

Again, the President needs to follow through on his words. He can begin by increasing the number of permits issued for development in the Gulf of Mexico. I understand that the administration has issued only 21 permits so far this year. In 2010 the administration issued 32 permits by this time.

The President can also increase access to other offshore areas. He can provide access to offshore areas in the Atlantic and the Pacific Oceans, not just the Gulf of Mexico. In November he proposed an offshore leasing plan that excluded the Atlantic Ocean and the Pacific Ocean. What kind of offshore leasing plan is that? The President excluded areas off the coast of Virginia, even though both Senators and the Governor of Virginia supported such energy exploration. The President said no.

The President can also increase access to onshore areas. The President can open areas in Alaska, and he can support proposals to open ANWR. Both Senators from Alaska—one Republican and one Democrat—and the Governor strongly support opening ANWR for exploration. The President should too. The President should also take steps to facilitate onshore exploration in the West. Specifically, he should scrap new regulations requiring what is called "master leasing and development plans."

These regulations were put into place over 2 years ago by the Secretary of

the Interior. It is unclear why the Secretary issued such regulations. They add more redtape and cause more bureaucratic delay and slow down American energy production.

Of course, there are other regulations that drive up the cost of American energy—specifically, the EPA's forthcoming tier III regulations which will affect America's refineries. A recent study says this rule could increase the cost of manufacturing gasoline, which will add to what Americans are paying at the pump and will add to the pain at the pump. They could also raise operating costs for refineries by anywhere from \$5 billion to \$13 billion a year. They could force as many as seven U.S. refineries to shut down and could lead to a 7- to 14-percent reduction in gasoline supplies for American refineries. These policies, by this administration, are completely unacceptable. The President should, at the very least, delay the issuance of this current rule.

In addition to providing more access to Federal lands and Federal waters and eliminating burdensome regulations, the President should follow through on his words—his words—and address what he called delivery bottlenecks. Specifically, he should address the bottlenecks the Keystone XL Pipeline would relieve. I am referring to 100,000 barrels of oil a day that the pipeline would be able to ship from Montana and North Dakota.

That is right; we are talking about homegrown American energy. Of course, the President ought to approve the Keystone XL Pipeline coming in from Canada. It is North American oil from Canada but specific and significant amounts of oil—100,000 barrels a day—from Montana and North Dakota. Right now, there isn't sufficient pipeline capacity out of North Dakota and Montana. They are shipping the oil on trucks and trains, and that is much more expensive than shipping it by pipeline. Approving the Keystone XL Pipeline is an easy decision and the President should make this decision immediately.

It was interesting today to see in Politico—one of the local papers on Capitol Hill—an article quoting Bill Clinton as saying, "We should embrace" the Keystone XL. The first sentence of the article says:

Bill Clinton says it is time to build the Keystone XL Pipeline.

Perhaps President Obama ought to listen to President Clinton.

Finally, the President says there are no silver bullets. That doesn't mean the President should sit on the sidelines. It doesn't mean his only options are asking Saudi Arabia to boost production or opening the Strategic Petroleum Reserve. The President needs to promote American energy production. He can eliminate costly regulations and he can approve the Keystone XL Pipeline. Those are the steps the President needs to take, and he needs to do



that in the very near future because I believe we are going to continue to see headlines such as the one in today's New York Times: "Tensions Raise Specter of Gas at \$5 a Gallon."

With that, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WHITEHOUSE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### DEATH OF MARIE COLVIN IN SYRIA

Mr. WHITEHOUSE. Madam President, Marie Colvin died last week, Wednesday, in Syria. As I speak, her body is still in Homs because the Assad regime refuses to honor the centuries-old tradition of human decency that even in war you are allowed to recover your dead.

An American official in a position to know about the circumstances of her death has used with me the word "murder," and this is not an official who uses such words loosely. News reports have suggested Marie was targeted using her cell phone signals. Why was she killed? Marie once said: "Covering a war means going to places torn by chaos, destruction, and death, and trying to bear witness."

She was killed because she was doing what she was passionate about and what her gift was; that is, to bear witness.

Marie was in Syria to bear witness to the massacre of the innocent in the city of Homs by the Assad regime. Her last report to the BBC was of a baby killed by shrapnel, dying in its mother's arms. That baby had no voice and that mother had no voice, but Marie was there. She was there making sure the dead did not die unheralded and the killers did not escape unwatched. She was there so they wouldn't get away with it. She was there to bear witness.

The dictionary tells us that to bear witness means "to see, to be present at, or know at firsthand." It means to "testify." It means "to show by your existence that something is true."

This was Marie. Over and over she put herself in harm's way as she followed her calling to bear witness to the atrocities of our world.

In Sri Lanka's brutal conflict, she was hit by the explosion of a rocket-propelled grenade, and in addition to other injuries, she lost sight in one eye. She was shot at that day after calling out, "I'm a journalist."

In the Balkans and Chechnya, at Libya and around the world, she went to bear witness to suffering and corruption. I think she spent more time on the ground in Libya than any other Western correspondent.

Marie was proud of this work, saying:

We can and do make a difference in exposing the horrors of war and especially the atrocities that befall civilians.

Sometimes she managed to do more than just expose atrocities. In East Timor, she went to bear witness to the massacres. When the U.N. threatened to pull out of a base, leaving local employees and those sheltering there to the mercies of the massacre, Marie announced, "I'm staying with them."

That created a new predicament for the U.N. leadership, and faced with Marie's courage, they decided to stay. Massacre averted.

Marie was special. Her friends all knew it. Her colleagues knew it. The people who were trapped in the wars and conflicts she covered and who saw her there, sharing their risks and their suffering, and who knew someone would bear witness knew it. The Bible talks of bearing witness. It tells that John the Baptist "came as a witness, to bear witness about the Light, that all might believe through him."

There is a parallel. Marie went as a witness. She went to bear witness in the places cloaked in darkness, that we all might perceive through her. With her death, it is our turn to bear witness. Marie Colvin had a calling, and it is our turn to bear witness to the courage and the passion of that calling. It is our time to bear witness to the grace and humor and brains and skill with which Marie Colvin pursued that calling. It is worth noting Marie did this all with style. I don't think Marie would want the record to fail to reflect that she had style.

There has been an outpouring since the news of Marie's death spread around the world. From heads of state, famous writers, press celebrities, from old friends and colleagues, and from those whose praise she valued the most, the small band of brothers and sisters who practiced the dangerous craft of conflict journalism, there has been a torrent of grief and praise. I have culled from this torrent a collection of remembrances, reflections, tributes, and obituaries about Marie that I now ask unanimous consent to have printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Yale Daily News, Feb. 23, 2012]

FROM THE ARCHIVES: COLVIN '78 RELECTS ON YALE CAREER

(By Marie Colvin)

The piece below, titled "Running out of time," was written by Marie Colvin '78 for the special issue of the News handed out at Commencement 1978. Colvin, a seasoned war correspondent, was killed by a mortar strike on Wednesday while covering the escalating violence in the city of Homs.

The most memorable event of my Yale career occurred in the dining hall. At Silliman lunch last week, I was eating and commiserating with a group of fellow seniors, slap-happy at the thought of all the work to be done in the last week of term. Everyone had a how-to story, the kind that only circulates at finals time, like the one about the student who handed in a bluebook with "IV" written

on the cover, inscribed with one sentence on the first page: "and that's the way it was in seventeenth century England," and received a final grade of "B" from some T.A.; talk about surefire dean's excuses and where to catch a quick 24-hour bug, always good for a night at DUH.

At a pause in the conversation, during which I flashed on the twelve pages per day I'd have to write for the next week, a friend next to me sighed and said profoundly, "There's just not enough time." It came out of the blue, but it was the most relevant non-sequitur ever uttered.

It sums up my Yale career. I've spent the last weeks of every semester holed up in the Sillibrary, coffeepot by my side, moving from one stack of books and clutter of papers to the next like a guest at the Mad Hatter's Tea Party. The last week of my senior year I was there again, drinking coffee by the pot, sleeping two hours nightly, marshaling enough credits to graduate.

That's why I wasn't a varsity athlete, or an editor of the Oldest College Daily, why every room I've ever lived in has been almost furnished. It's why my papers come back marked "good potential, inadequately realized." And it's why I can't tell you what it feels like to be finished with Yale, whether it's euphoric or just anti-climatic, because I'm not, and by the time I am everyone will have left and I won't even be able to ask anyone.

It takes everybody but the football team four years to realize that there is no way to do the work expected of you, that teachers and deans don't really expect you to do it all and that the real test of intelligence is to do the minimum amount of work for the maximum reward. The football team somehow learns freshman year what it takes everyone else three years (it took me four). The most important things to look for when choosing a course are not relevancy to future career, interesting subject, or something you should know. Number of papers and pages per paper, number of exams, and Course Critique grade point spread are all you need to look for. And if the football team shows up for the first lecture, you've chosen correctly.

The finer points of course selection involve arranging enough of a workload so that when you do go out to Rudy's, Mory's, or the Elizabethan Club for tea you can feel a twinge of guilt. And so that you can participate in end-of-semester-conversations.

The worst thing about graduating is that I can't remember what I did all semester. I thought I was working, but that seems impossible. I've started promoting the theory that Yale is centered in a time warp. Time doesn't just seem to pass twice as fast, it does. We have only one week to the universal two.

I haven't accepted the fact that I am not going to do everything I kept putting off. I am not graduating Phi Beta Kappa, I don't have 48 credits and 47 A's, I will never read the bookcase of course books diligently bought in the Co-op, lined up neatly with their binders unwrinkled. I will not paint the fourth wall in my bedroom. I will probably never even find out the name of that curly-haired boy in my English seminar I've been flirting with all year.

It's hard to say even what I've learned here. I don't think I've finished adjusting yet. I have nothing striking to say about anything and it seems like I should. I've changed from a regular science major to a science major who only takes English courses (there was no time to change majors), learned about weenies, jocks, and

turned-up collars, learned how to run, not fast but far enough to enjoy the sweat, learned how to do footnotes. Unlearned a lot too—like weenies and jocks don't exist and that turned-up collar means zilch. And I've learned how ridiculous it is to try to convince people that you are serious about something, that you have a direction. Best of all, I missed all the deadlines—LSAT, GRE, scholarships, grants, and fellowships—not enough time—so I guess I'll wake up Tuesday morning and start thinking about it. Or else just buy a plane ticket.

The one realization I have come to after four years is that I can still make all the mistakes I want and it doesn't matter. I remind myself of this often, whenever I feel the "let's get serious mood" coming on, or I lunch with law-business-medical school prospectives, or read an article about shopping bag ladies in the New York subway system. Not that there's anything at all wrong with going to law-business-medical school, but enough people stick up for it, and that's not the point anyway.

The point is that it doesn't matter if you mess up, choose the wrong road, flop in Vegas. What's important is to throw yourself in head first, to "go for the gusto." And if you blow it, you blow it. What we have to worry about now is success. Once you're successful, it becomes embarrassing to make mistakes, and more difficult to grab onto the nearest straw and hold on. You can always be a star, so what's the rush?

#### MARIE COLVIN—THE NATURAL (By Allison Silver)

I have been reading all day about Marie Colvin, the terrific London Sunday Times foreign correspondent who was killed Wednesday in Syria. David Remnick wrote a lovely piece about her. It captures her coolness and professionalism.

Marie was a remarkable writer—and person. Talented and persistent: An unbeatable combo.

I knew her back at Yale, and she often cited me as the person who started her writing. And I think I was. Her mother, Rosemarie Colvin, described Wednesday how her daughter had decided to be a journalist back when she was writing for *The Yale Daily News*.

I was an editor on the *Yalie Daily* when Marie was in a seminar with me. She was funny and savvy and amazing looking. Tall and slim, with a baby face surrounded by masses of black corkscrew curls. Her best friend was equally tall—and they stood out on campus.

She hung out with all the campus "writers"—who took prestigious writing classes but wouldn't deign to take part in the hurly-burly of daily campus journalism. They were serious writers—and serious partiers. I knew most of them—but her least of all. She was not quite regarded as a "writer," like they were.

In that class, I realized Marie had a clear, clean talent for writing. So I kept on her to write for me at the *News*. She started doing longer reported feature pieces—and thrived.

I could see she was jazzed by the process of reporting. She had started off insisting that she was not the writer of the group. And I kept saying to her you can do this. So do it! And she did. She was a natural.

With all that persistence, of course she pursued it and went on to serious international reporting. I remember, back in the 90s I think, she was one of the elite Middle East reporters who attained an interview with Qadhafi—a feat she pulled off again recently.

Meanwhile, I'm still a desk jockey. As my career took me to Los Angeles, New York and DC, she was reporting from hot spots around the globe. I rarely saw her, which is something I will always regret. But whenever I ran into her, we talked about Yale and our varied paths from there.

She lived the life she wanted to. And that is to be admired.

#### TRIBUTE TO MARIE COLVIN (By Gerald Weaver)

Marie Colvin sat across the table from me in the kitchen of her Thames-side home in the Hammersmith neighborhood of London on October 18, 2011, as she looked me in the eye and gave me a completely unexpected answer to a question I had long planned to asked her. "So, Marie, do you have some kind of a death wish or something?" I had asked, waiting and watching her intently. I had expected that she maybe she would react a bit too defensively or that she might have otherwise partially admitted to the premise of the question. But I realized immediately that it had been the quintessential stupid question. The gist of her answer was that these were normal people who were being attacked, bombed, uprooted and murdered in the stories she was uncovering and reporting. The normal people who would read her reports should have a normal reaction to them, she said. And by that, she meant they should be appalled and horrified. So for Marie it was merely normal to pick up and go find the most terrible story that no other reporter would cover and then report it as a matter of fact. The danger simply did not occur to her. She neither feared nor courted it. As I listened to her, I heard the word "human" for the word "normal."

She also had no interest in romanticizing or aggrandizing what it was that she did in her work. She used to laugh it off when I would call her "the distaff Ernest Hemingway of Great Britain." I was in London those four months ago at her urging, because I had just written the first three chapters of a novel that I had only started and only because she had urged me to write it, and which I have only recently completed with her encouragement and through her help. She then started talking to me about us contacting literary agents in London that she knew and it occurred to me ask her when she was going to write her own book about her very interesting, exciting and inspiring life. I knew that the possibility of such a book would be why agents would have wanted to court her. She only laughed and suggested that maybe I should write her book. She was only interested in reporting, not in making herself the story. She was in her life and in her death utterly heroic, but she would have been the last person to think that or to want to even talk about it.

Marie also had that same good natured disinterest when it came to politics, or to her more difficult role as a woman in her profession, or to moving about in a part of the world that was not particularly easy for a woman. For the almost forty years that I knew her, she only ever addressed politics obliquely. I always assumed she was a liberal. But it was more than that and it was much different. She was, through her work and her life, a liberalizing force within the world. She hoped to speak to a better part within us all that she felt simply must empathize with the least fortunate, the terrorized, the forgotten and the innocents who are under attack. And when she called me on her satellite phone one night this past December, it was only in passing that she men-

tioned how she had been chased through Tahrir Square on the same night that many women had been assaulted there. And even then she only spoke of her gratitude to the Egyptians who had saved her and not of the special dangers to her as a woman.

She used to always apologize for often being out of touch, for answering with one phone call three or four weeks of daily emails, for disappearing for weeks or months on end. I have no doubt that for many of us who were even her closest friends that her columns in the Sunday Times were perhaps the most reliable way for us to hear her voice and know what was on her mind. It was almost as if she was expressing her worry that her relationships were like her politics or what she might say about her work or what it meant to her to be a woman war correspondent. They came after her need to tell the story. My best insight into this came the day after I had asked my stupid question, on October 19, 2011, the day it was reported that Muammar Gaddafi had been killed.

I watched her at her home in that morning as she accomplished what would have taken anyone else several days. She juggled several phones, gave an interview to National Public Radio, made calls in English and French to make arrangements for two separate clandestine border crossings, made flight arrangements, coordinated with other reporters, communicated with her office, dug up leads, tracked down reports. And that was all the while she was packing and gathering up several different phones and communications uplinks, taking deliveries at the front door, and pulling out her helmet, her flak jacket and all her other protective gear, which was all marked, "Marie Colvin, O +," for her blood type. She laughed about that too, and all the time she was apologizing for cutting our visit short. She was generous to a fault and she showed her idiosyncratic disinterest when it came to compliments. And when I pitched in and helped her prepare to leave in what limited ways I could, she was surprised by it and slightly embarrassed.

But what I noticed that morning has stuck with me now that she is gone. There can be no doubt of the magnitude of the loss that is encompassed by her death, personally to her family and friends, professionally in the realm of journalism, and even to the world in what has been lost in the reporting of stories that are the most harrowing and dangerous to reporters and perhaps the most important for the rest of us to know. When I read what has been written and what I write about her passing, and even when I read what has been reported about what Marie herself had said about the importance of reporting these stories, I realize that all of it is true but that all of it is necessarily a reduction of what she actually was. That morning she was incredibly alive with a passion to get to the story and to tell it. And she was filled with what can only be called joy. In all the moods and stages of her life in which I had witnessed her, at that moment of going to cover the story she was the most of who she really was, and she was at one with it.

She was a tirelessly brave and compassionate female war correspondent, true. But to me she really was what few people ever get the opportunity to be and what almost none of us have the will to be. She was a free artist of herself and of her life. Her commanding if almost sole interest was in being our eyes and ears in places where most people would be afraid to look or to go. I think the joy I saw in her was that she knew how rare such a life can be, and that she was fortunate to be living it. That is the small personal consolation that I draw from her

death. It would be tremendous if something positive would come out of it in terms of expediting the end of the massacre in Syria, but I believe that is something even she would not have expected and would have been something for which she had only hoped. The possible larger consolation would be to the way in which her death might speak, in the same way that her life and her reporting had, to that part of us that should care for the world's innocent and obscure victims. And I also hope that it might speak to some others who might be inspired to go in her wake and report those same kinds of stories to the world, and do so regardless of the personal risk and do it heroically, as did my friend, Marie Colvin.

FOR MARIE COLVIN

(By Katrina Heron)

I've spent my adult life refusing to envision an obituary for Marie. I planned with all my conscious powers never to read one, and I promised myself that I would never have to write one. Along with her family and her great caravan of other friends, I celebrated Marie's determination to put herself in harm's way, to "bear witness" as a foreign correspondent in so many parts of the world—Lebanon, Libya, Israel, the Palestinian refugee camps in the West Bank, Chechnya, Sri Lanka, East Timor, Iraq—and waited each time she went out on assignment, fretting, for her to signal the all-clear. "Will call when I'm outta here," she would write as she filed her last story from the danger zone.

From our mid-20s until yesterday, that fragile insistence of mine mostly held. There were terrifying moments, and Marie was gravely wounded in 2001; caught in a firefight in Sri Lanka, she lost sight in one eye and nearly died from shrapnel wounds. But she survived, and when she arrived back in New York, we went together to interview ophthalmological surgeons (waving away, regretfully, the very handsome young doctor who eagerly auditioned with his grasp of geopolitics), shopped for eye patches and drank quite a lot of Champagne. I didn't stop worrying after that, but my hope swelled to a greater confidence. Marie took the greatest possible precautions in conflict areas, so far from rash or merely impulsive that other journalists often looked to her for guidance on the risk calculus of a given situation. She focused on bringing back the story and didn't dwell personally on the dire circumstances in which she found herself except insofar as they served her formidable powers of description and, often, hilarity.

I look back over the last year or so of scattered emails, sitting there innocently in the queue. She wrote last June: "I am STILL in Misrata, Libya, and the ever brutal Gadaffi is ruining any chance of a social life or indeed a life by selfishly refusing to Go. Despite all the graffiti on walls here giving excellent advice, 'Just Go!'"

I had one of my best offers ever today. A rebel fighter on the front ambled over, on his break from firing, so to speak, and said, "Hey, do you want to shoot the mortar?" It is definitely a sign that I may have been here too long because I REALLY WANTED TO SHOOT THE MORTAR. I mean, when will I ever get a chance to shoot a mortar again?"

A couple of days later: "I am sitting in the gloaming on the stern of a Turkish boat in Misurata harbor, looking out over an ugly seascape of cranes and broken concrete and blasted buildings from months of bombing. I am finally homeward bound, a day's journey to Benghazi, a few days in the rebel capital

for a story then an overnight drive to Cairo. It gives one respect for travel, having to run the spectrum of transport. It will be strange coming out of this world that, however mad, has a simplicity to it of sand and courage and bombs and sleep and canned tuna and a few shirts, washed out in a bowl when the dust threatens to take over."

A bit farther on, there's an invitation to connect with her on LinkedIn, which prompted some hazing about whether she was trying to beat the rap on her famously abysmal grasp of basic networking technology (she used a satellite phone but was flummoxed by her iPhone). In truth, she was a technical wizard of a different sort, a skilled sailor who had done a lot of deep-water racing and had recently, proudly, earned her yachtmaster qualification. She grew up sailing in Long Island Sound, and the loss of vision had slowed her down not a bit.

There's a quick back and forth toward fall on a subject we talked about often by phone and during our last couple of visits—me going to London, where she lived, or her coming to California, where I am. She kept saying she wanted to spend less time in the Middle East and more time at home—and on the ocean. She had briefly tried a desk job at her paper, the Times of London, but of course it drove her nuts. Still, the job was getting more perilous. Tim Hetherington, the photojournalist killed in Misrata in April 2011, had been very generously helping me on a book I was editing about Liberia, where he'd spent a good deal of time. Marie knew about the project and had written me: "Weirdly, I went by the place today where Tim and [photographer] Chris Hondros were killed. A shiver of mortality. The forecourt of the car repair shop still bears the mark of the mortar shell that killed them, and a starburst of chips in the concrete where the metal flew out as shrapnel."

Around Thanksgiving, the messages trail off for a bit, as they often did. But even when I didn't know exactly where she was, I didn't worry desperately. I was used to periods of silence, plus there was a group of us that always passed around bits of her itinerary. Sightings by other journalists would filter back or someone would see her on CNN or hear her on NPR. She knew she could call day or night, and I could always reach at least her voice—I was thinking tonight that her cell is probably still on, with its years-old, soft and slightly lilting greeting. But I couldn't bear to hear it now so I won't try. Christmas Day she there in my inbox, brief but joyful.

A couple of weeks ago, Marie wrote that she was going to Syria. I think her colleagues were uneasy, and I know now that several of our friends tried to talk her out of it. I felt fairly calm, which just goes to show you how great is the power of willful optimism. In the last email I have from her, she wrote: "I am now in Beirut, negotiating with smugglers to get me across the border. After six weeks in Libya this year, under shelling and that low level of anxiety every day brings, I had said I'll do a bit less of the hot spots, but what is happening in Syria, especially Homs, is criminal, so I am once again, knapsack on back with my satellite phone and computer, clambering across a dark border."

I was fast asleep in my bed in Berkeley yesterday when Marie was killed in Homs. I woke up to what the world was learning—that the house she and several others were camping out in had been hit by rockets; that with Marie in the lead, the group had just

run down the stairs to the front door when a blast obliterated the entryway; that a 28-year-old French photographer, Remi Ochlik, also died, and three others were wounded. Right now, all of us are panicked about the condition of the injured journalists, not knowing whether rescue workers will be allowed in to Homs to get them. It brings me back to those frantic, terrible hours in 2001 when all we knew was that Marie was wounded in Sri Lanka and had yet to be evacuated.

I have been walking around all day talking to her, asking her dumbly where she is. Ever since we first met and became roommates in college, we've been inseparable in one way or another. In that same last email she said we should charter a boat this summer—sail merrily to the ends of the earth: "More when I am back from Syria. I love you very much."

The phones and email and all the rest have been humming with misery, and with Marie's love. So many wonderful people adored her and she them that I've been swathed in stunned, overflowing warmth all day. At the same time, it's impossible to believe she's dead, but then I'm scared of the moment when it will be impossible not to.

Further tributes to Marie Colvin can be found at <http://whitehouse.senate.gov/>.

Mr. WHITEHOUSE. On behalf of a group of old friends who are stricken by her loss, I offer this in affection, in appreciation, and in memorandum.

Marie's mother, Rosemarie Colvin, said of Marie:

Her legacy is: be passionate and be involved in what you believe in. And do it as thoroughly and honestly and fearlessly as you can.

Indeed.

With those words, I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Madam President, I did not know Marie personally, as my friend and colleague from Rhode Island did. But his words, his passion, his emotion allow us all to know her a little bit better.

Even just reading the newspaper accounts, she was a remarkable person. But hearing from SHELDON, both here and speaking to him privately, it is obvious that those who knew Marie were privileged and were touched by her life long before her untimely death. She leaves an amazing mark.

I just wish to say to my colleague SHELDON, there are times that measure the mettle of a person and one of them is when they go through grief and tragedy. My respect for him, as high as it was before, is higher still knowing what he is going through and how he has worked to handle this difficult situation.

I rise simply as a New York Senator who represents the area, Long Island, where Marie Catherine Colvin came from. We are working—SHELDON above all—desperately, to bring her home to her mother Rosemarie, so her family can provide her with a final resting place, providing her with the dignity she deserves.

Marie had a remarkable career. It is no doubt that not only, as SHELDON said, the small band of journalists but

many larger than that and anyone she knew will mourn her death for years to come because we have not just lost a daring journalist, but we also have lost a humanitarian, one who took her abilities as an investigator and a storyteller to speak for the voiceless. It is clear from SHELDON's remarks and from reading the biographical accounts and her obituary that this was a woman of both courage and passion who managed to sort of weave the two into an amazing life where she served so many.

Marie grew up on Long Island, attended Oyster Bay High School, and of course, as we know from what SHELDON has said, went on to study at Yale. She studied anthropology. She moved to New York City, worked as a UPI police reporter on the midnight to 6 a.m. shift. That is the time when most crimes occur. That is the times in the dark, particularly in those days in New York City, to be a journalist was difficult. It took courage. But even then, Colvin didn't shy away from tough jobs.

She worked her way up, moving to Paris and later to work for the UK's Sunday Times and became their Middle East correspondent in 1968. She has been doing this kind of dangerous and important work that inevitably and inexorably saved lives for so many years, 27 years. Colvin focused on years when the Middle East was not calm. It hasn't been the warmest climate for women and certainly was not an area for the weak of heart. But she didn't just stay for a year or two. She stayed at the front, and after each conflict ended, she went to the next one because I think she knew—and, again, SHELDON would know this much better than I. But just reading about her, she knew her talents were unique; that there wasn't anybody else who might fill those gaps and be able to do the kind of reporting that might bring change. So she followed the conflicts in Chechnya and the Balkans, East Timor, Sierra Leone, Zimbabwe. She was not just in the Middle East. She was there.

For those who cannot instantly remember some of her coverage, I am sure they remember her eye patch. This is from her work in Sri Lanka, where she defied a government ban on journalists' access, traveled over 30 miles through the Vanni jungles to report on the terrible war crimes of the Sri Lankan civil war. I remember reading them at the time and being moved to try and do something.

Colvin suffered. She never threw in the towel. If anything, it pushed her to work even harder. Her quests to help the women and children from every single war-torn country she entered endeared her to those women, those communities, those members of our global community who knew and know that her type of bravery was so rare indeed.

This brutal regime has broken families, torn apart homes, and forever

changed the way of life for the Syrian people. There is darkness that has descended over Syria by design, by this awful regime. There was Colvin, shining a candle, letting the world know, and now we are all deprived of an incredible journalist.

With her, we lose an international role model. We lose the story she would tell, the light she would bring to the darkest lives, most recently in Syria but throughout the world, and we lose the voice she would have found wherever the next merciless regime tried to suppress it. Yes, Marie Colvin would have been there.

While there is currently no official U.S. diplomatic presence in Syria due to the awful human rights tragedy being carried out by the Assad regime, we are working as best we can to explore every avenue to help SHELDON and her family bring closure and to help her mother, in particular, who made clear that she will not rest until her daughter returns home.

On behalf of all my colleagues, I offer my condolences to Rosemarie Colvin in East Norwich, Marie's mother, and to the many people who will miss the work of one of the greatest correspondents of this generation.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant editor of the Daily Digest proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWN of OHIO. Madam President, I ask unanimous consent to speak for up to 20 minutes and to yield at the conclusion of my first 10 minutes to Senator PORTMAN.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### HIGH SCHOOL TRAGEDY

Mr. BROWN of Ohio. Madam President, I join my fellow colleague from Ohio Senator PORTMAN to offer our condolences and prayers to the people of Chardon, OH, who experienced a terrible tragedy earlier this week.

On Monday morning, February 27, a troubled young boy opened fire in the crowded cafeteria at Chardon High School. Three students were killed. Two students were wounded. The entire community remains shaken.

As fathers, we cannot imagine the loss of a child and the loss of innocence of children who will now grow up knowing tragedy all too early in life. As Members of the Senate, we couldn't be more proud of the resiliency and the love and the compassion the people of Chardon have shown in the wake of such fear and sorrow.

During the shooting, teachers and school administrators risked their lives

to protect and save the lives of their students. Assistant Football Coach Frank Hall chased the gunman out of the cafeteria, Principal Andy Fetchik called 911, and countless other teachers and students provided safety and comfort until help could arrive.

Chardon law enforcement and first responders—from the 911 dispatchers to the police, to the emergency medical people—arrived at the scene to apprehend the suspect and restore calm and order.

Chardon Police Chief Tim McKenna and his team—especially the three officers who rushed to the school—did an outstanding job. Hospital staff at MetroHealth and Hillcrest cared for the victims and counseled the families of lost ones. Out of this week's turmoil and tragedy, we remain proud of the community that has come together through vigils and prayer services, through support and red ribbons worn.

The day after the shooting, more than 1,000 people crammed into the St. Mary's parish across from Chardon High School. The overflow crowd of another 1,000 was outside listening to Principal Fetchik express how proud he was of the students.

Yesterday, President Obama spoke to Principal Fetchik to say how proud he was—as Senator PORTMAN and I are—of the school and of the community.

At the prayer service, Superintendent Joseph Bergant explained why the school would close for a few days this week to reflect, for students and families to get the help they need, for parents to hug their children, and for children to hug their parents.

Yesterday, I spoke with Superintendent Bergant to express Connie's and my gratitude and prayers. The investigation into how and why this happened continues, but resilience, compassion, and love, we know, will remain.

Tomorrow classes resume in Chardon and at Lake Academy and Auburn Career Center, where students and staff are also dealing with this tragedy. Tomorrow, Chardon High School students will march together from the town square to the school in a show of solidarity and unity. They will remember Joy Rickers and Nicolaoas Wajczak, who are still recovering from their injuries. They will honor those fellow students no longer with them. Daniel Parmertor was a 16-year-old high school junior. Known as Danny, he was a student who loved snowboarding and video games and computers. He enjoyed wing nights at Cleats with friends and was excited about starting his first job in a bowling alley and picking up his first paycheck.

His father Bob, a boiler technician with First Energy, and his mother Dina, a nurse at Hillcrest Hospital, were finishing their night shifts. If we can imagine, they were finishing their night shifts when they learned of the shooting.

In their statement, the family said:

Danny was a bright young boy, who had a bright future ahead of him. The family is torn by this loss.

He is survived by his parents, siblings, grandparents, a great-grandmother, and numbers of aunts, uncles, and cousins.

Russell King, Jr., was 17 years old. His friends described him as sociable and who got along with everyone. A junior, he was enrolled in Chardon High School and the Auburn Career Center. He was studying alternative energy such as solar and wind power as so many young people are today.

Demetrius Hewlin was 16 years old, affectionately known as "D" to his family and friends. Demetrius was interested in healthy living, staying active, playing computer games, and reading books.

In their statement, his family said:

We are saddened by the loss of our son and others in our Chardon community.

Demetrius was a happy young man who loved life and his family and friends.

We will very much miss him, but we are proud he will be able to help others through organ donation.

Imagine that, the parents and the family thinking of others so immediately.

He is survived by his parents, grandparents, a brother and sister, and numerous aunts, uncles, and cousins.

On behalf of all Ohioans, the Senate, and joining with Senator PORTMAN, we offer our continued prayers and condolences to the Chardon community.

Thank you. I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. PORTMAN. Madam President, I rise with my colleague Senator BROWN, who has just spoken about this terrible tragedy that occurred in our State on Monday at Chardon High School in Geauga County. I was calling into a radio program in the Cleveland area on Monday morning when the first reports started to come in. Frankly, it was unbelievable that there could be a shooting anywhere but certainly in a high school and in this community that I visited that Senator BROWN and I both know. Unfortunately, the rumors ended up being true and the tragedy is—as Senator BROWN has just described so well—that lives were cut short and these were lives full of promise. We will never know those young people Senator BROWN was just talking about as adults, but we will always remember them, and now they are memorialized in the CONGRESSIONAL RECORD.

My wife Jane and I have been keeping the families in our prayers, and for that matter the entire Chardon High School community. We continue to pray for the healing of those who were injured in flesh and in spirit through this terrible act. As the parent of a high school student who is about the same age as these young people, I can-

not imagine what the parents have gone through over the last 4 days. Chardon is a beautiful community. It is almost a New England-style town on the Western Reserve, with a beautiful town square. It is a place of certainty, and that certainty, of course, now has been shattered. It touches so many people around Ohio.

One of my staff has two cousins who attend the school, and along with two other cousins who have already graduated from the school, fortunately, their family members are all OK. But it shows that despite being a big State, all of us in Ohio are tied together.

We have been in touch with the Chardon officials offering to help where it is appropriate. I know Senator BROWN has made a call, as has the Governor, and the President has made a call. We all want to be there and help in any way we can. We can draw some hope from the heroism of the day.

Unbelievably, the assistant football coach and teacher, Frank Hall, chased the shooter with his gun and showed a lot of bravery. A math teacher, Joe Ricci, rescued one of the injured students. We draw hope from the rank and leadership of Principal Andy Fetchik, Chardon schools Superintendent Joe Bergant, Geauga County Sheriff Dan McClelland, Chardon Police Chief Tim McKenna, and the first responders who responded as they always do, and we appreciate and commend them for their reactions and their ability to deal with a very difficult situation.

The community has received a lot of support and will need it as they come together to grieve and to heal. The reports I have heard about, the vigils and gatherings over the last week have been moving. I am told as students returned to school for the first time today, they gathered in that town square I talked about and walked together in unison.

We need to make sure we continue to pull together and continue to support the community and school. For the parents to heal is a journey, and the journey has just begun.

I have been moved by the expressions of support from other local high school students too. Apparently, other students of the Cleveland area have gone Hilltopper red and black, which is the mascot, to show their support for other students. We are in the Chamber with some of our pages who are about the same age as these students and that show of support and love is appreciated and it shows the character of our State. We pull together in Ohio. We pull together in times of tragedy, through tears and through pain. We will get through this.

Again, I appreciate the opportunity to speak with my colleague about the tragedy and to be sure that in the RECORD we are memorializing this event and ensuring that those students whose lives have been cut short will all be remembered.

God bless Chardon and the Chardon community.

I yield back the balance of my time. I yield the floor and note the absence of a quorum.

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COONS). Without objection, it is so ordered.

Mr. CHAMBLISS. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ENERGY POLICY

Mr. CHAMBLISS. Mr. President, I rise today to speak about our Nation's energy policy.

Georgians, as well as folks all across America, are shocked every time they pull up to the gas pumps, both at the price of gas per gallon and at the jaw-dropping total cost each time they fill up their tanks. With rising food prices and a weak economic recovery, skyrocketing gas prices could not come at a worse time. This situation illustrates why it is imperative for Congress to focus on creating a policy to expand and diversify our energy sources so the American people are no longer held hostage by prices at the pump.

The necessity of congressional action has become all too clear as gas prices continue to rise and unrest in the Middle East threatens the global economy. We cannot afford to keep sending hundreds of billions of dollars per year to foreign countries, many of which are not America's friends, to meet our energy needs. Doing so poses a threat to our national security and further harms our Nation's struggling economy.

Unfortunately, the President and his administration have made some decisions that contribute to rising gas prices and that prevent us from being able to take advantage of vast energy resources located right here in North America.

First, the President's recent decision to reject the Keystone XL Pipeline was extremely disappointing. Canada is a trusted ally and friend to the United States, and by tapping into its vast oil reserves, we could have substantially lessened our need to import oil from other, potentially hostile, nations. Not only would this project instantly have created many jobs, it would also have helped secure our Nation's energy future.

In addition, the long line of burdensome regulations coming from the administration threatens both economic growth and energy costs in the United States. Instead of navigating through this unprecedented regulatory environment, more and more industries will choose to take their business overseas. This could potentially include refiners and other businesses essential to domestic energy production. In fact, we

are already seeing the movement of the deep oil rigs in the Gulf of Mexico to China—a classic example of what could happen even more so in the future.

Rather than hindering domestic production of oil and gas, we must encourage the development of the abundant energy resources we have right here in the United States, and we must do so in an environmentally responsible manner. I will continue to support domestic oil and gas exploration and production. It is an essential component of a comprehensive energy policy that will enable America to become more energy independent.

As I hear more reports of new oil and natural gas deposits found within our borders and off America's shores, I am stunned that we are not doing more to encourage the development of these resources. I can't think of a better means of improving our economy, by both reducing America's energy imports and encouraging job growth. Unfortunately, the administration continues to hold up and unnecessarily delay the approval of drilling leases and permits. Now is not the time to tie up valuable and much needed American energy production in bureaucratic redtape.

A responsible energy policy that includes increased domestic energy production; improved energy efficiency through technology; improved conservation; and a diversified energy supply with the use of renewable fuel sources will keep gas prices low, lessen our dependence on foreign oil, and strengthen our economy. I am hopeful we will take action on some form of comprehensive energy legislation during this Congress. For the sake of our national security and our economy, we need to tackle this issue now instead of procrastinating and letting others handle it.

I made this same speech 4 years ago when we saw gas prices approach \$4 a gallon. Here we are 4 years later with the same hurdles standing in front of us with respect to the lack of a long-term energy policy in this country. So I hope that in a bipartisan way we can develop an energy policy, even if it is short term and even if it is narrowly focused, that will provide relief to Americans with respect to the rising gas prices, which are going to impact every single product that is made in America today.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. CHAMBLISS. I thank the Chair. (The remarks of Senator CHAMBLISS pertaining to the introduction of S. 2151 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. CHAMBLISS. Mr. President, I yield the floor and ask that I be followed by Senator BROWN of Ohio, who assured me he would be waiting in the Chamber when I concluded.

But since I see he is not here, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRANKEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRANKEN. Mr. President, I come to the floor today to talk about my amendment to the transportation reauthorization bill that I have introduced with Senator BLUNT. I am grateful this amendment has been included in the base bill of Leader REID's substitute amendment.

I will take a couple of minutes to explain this amendment. It is a simple commonsense amendment. I am glad it has been accepted. It is also particularly significant to my home State of Minnesota.

On August 1 of this year, we will mark the fifth anniversary of the tragedy in my home State of the collapse of the Interstate 35W bridge in Minneapolis. The collapse killed 13 people and injured 145. That tragedy should have been a wake-up call in America and in this body. Bridges should not collapse in the United States of America.

Unfortunately, the state of many of our bridges today is still extremely concerning. According to the most recent data compiled by the Federal Highway Administration, one in nine highway bridges in this country is classified as "structurally deficient."

Let me say it another way. One of nine bridges in our country needs significant rehabilitation or replacement and requires yearly inspection.

In Minnesota alone, more than 1,100 bridges were listed as being structurally deficient. The bill we are debating today consolidates many varied surface transportation programs into five main pots of money. The Highway Bridge Program would be consolidated in the new National Highway Performance Program, and of this new program, 60 percent would have to be spent on restoring National Highway System roads and bridges into a state of good repair. The other 40 percent is more flexible and can be spent on a variety of projects, including Federal-aid highways that are not on the National Highway System, or the NHS.

However, if those non-NHS roads have a bridge that needs repair, that project would not have been an allowable use of this flexible pot of money. My amendment, which is now included in the base bill, fixes that. It allows the 40-percent pot of money to be used to repair bridges on non-NHS Federal-aid highways.

It is common sense. If roads are eligible for this funding, then bridges along these roads should be eligible as well. This is a no-brainer to me, especially given the poor state of our bridges

today. The I-35W bridge collapse was a tragedy. It was a monumental failure of policy. I am determined not to let that happen again.

I thank Senator BLUNT for joining me in this effort. I also wish to thank Transportation for America and Smart Growth America for their support on this important fix.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. (Mr. FRANKEN). Without objection, it is so ordered.

Mr. BROWN of Ohio. Mr. President, I would like to talk about an important part of the transportation jobs bill the Senate is debating this week. The bill is about creating jobs by modernizing our roadways and highways, about making our bridges safer—we know what that means in Minnesota, the State of the Presiding Officer—and about improving public transportation and reducing congestion across the country. But it is also about improving the public safety of the vehicles that travel our country.

We know about the success we have had as a nation because of the partnership between the auto industry and the government and adopting safety rules and working with the industry and making our travel safer. We know about the very impressive increase in safety on our Nation's highways. And there is still work to be done.

Five years ago tomorrow, a fatal motorcoach accident rocked a small Ohio community and brought national attention to the need for commonsense safety measures that could save lives.

Bluffton University is a small university in Bluffton, OH, near Interstate 75 in Allen and Hancock Counties in the northwest part of the State. The school's baseball team was on their way to Florida for spring training when their bus lost control on a poorly marked exit ramp outside Atlanta. The bus toppled from the overpass. Like the majority of fatal motorcoach accidents, when the bus rolled over, the passengers were ejected from their seats and thrown through the bus windows. Seven people were killed and dozens were injured.

John and Joy Betts of Bryan, OH—a couple who have become friends of mine—lost their son David, one of the students who died that day. He was a baseball player and student at Bluffton. I have gotten to know the Betts family since the accident. They have been courageous advocates in raising awareness of motorcoach safety and demanding congressional action. To the family's credit, they used the



loss of their son to save the sons and daughters of many others who will not face those tragedies because of the work the Betts family is doing on behalf of this motorcoach safety legislation.

The National Transportation Safety Board's final report from the Bluffton motorcoach accident—released almost 4 years ago—echoed recommendations the NTSB has been urging for years. For nearly 5 years, I have been working with Senator HUTCHISON, whose State has seen its share of tragic motorcoach accidents, to put those recommendations into law. In a bipartisan manner, we are fighting to make motorcoaches safer for the millions of passengers who ride them every day.

Today, because of the Betts family, other courageous families, and activists, we are taking a step in the right direction if we pass the bill.

In the 110th, 111th, and now the 112th Congress, Senator HUTCHISON and I have introduced the bipartisan Motorcoach Enhanced Safety Act, which includes many of the NTSB's "most wanted" safety improvements. Specifically, the bill would address many of the major safety shortfalls from the Bluffton accident, which have plagued tour bus operations for too long. It would mean better protection systems for occupants and stronger passenger safety standards. It would improve safety equipment and devices and the need for onboard recorders with the capability to collect crash data. These safety measures are neither exotic nor complicated; they are commonsense safety features that have been and in many cases are widely used. But since they are not required by law, they have not been installed in most American motorcoaches. Instead of saving lives, the public safety remains at risk.

Some who oppose improved tour bus safety standards will tell you that this isn't a motorcoach problem, that they have a problem with rogue bus companies or bad drivers. Certainly, that is part of the problem, but we cannot simply look the other way and reject the idea that improving the safety of motorcoach manufacturing and motorcoaches is unnecessary or fiscally imprudent.

John Betts said:

It is necessary through our current regulations to get bad operators off the road. However, it is not sufficient as it does nothing to ensure safety once the crash has occurred.

I couldn't agree more. We can get bad operators off the road, but that is not enough to ensure passenger safety in the tragic event of an accident. If the technology to save lives and reduce injury in motorcoach accidents exists, we must put that technology to use. This bill does that.

Last year in Cleveland I was joined by John's sister and brother-in-law, Pam and Tom Bryan of Vermillion, OH. We met with a Greyhound bus driver

who showcased new Greyhound buses equipped with some commonsense safety measures that clearly will save lives and protect both passengers and motorists on the road.

The Betts family and operators like Greyhound understand the urgent need and have too often relived the painful reminders that safety improvements for tour bus operations are long overdue. That is why this Motorcoach Enhanced Safety Act is important, and it is why Greyhound's endorsement of this bill is so critical to turning public sadness and outrage into public action. Bus operators such as Greyhound think we can do this, and manufacturers do too. The technology is there.

The bill is common sense, bipartisan, and it will save lives. How many more motorcoach deaths—in Ohio, Texas, and most recently in New York and New Jersey—do we have to witness before bus companies start doing the right thing? As a father and Senator, it is disturbing to know that students are still traveling in motorcoaches without even the option of buckling up. Our laws should ensure that our vehicles and roads are safer, not less safe, for students, families, and elderly people, who often take motorcoach charters to events and concerts and such.

Tomorrow is the fifth anniversary of the Bluffton University tragic motorcoach accident. Our legislation is in the underlying Transportation bill we are debating on the floor. I urge its passage. I urge continued inclusion of these provisions, as Senator HUTCHISON and I have asked. It is commonsense, middle-of-the-road, bipartisan legislation that will save lives, undoubtedly.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alaska is recognized.

Ms. MURKOWSKI. I thank the Chair. (The remarks of Ms. MURKOWSKI pertaining to the introduction of S. 2151 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Ms. MURKOWSKI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BEGICH). Without objection, it is so ordered.

Mr. REID. Mr. President, for everyone's information, it is not as if we

have been sitting around doing nothing. We have been trying to work something out on this highway bill. Hopefully, in the next little bit we can do it. We have not been very successful this day. I am glad we had that vote to try to move forward, but there are still some obstacles in the way.

#### MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators allowed to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### TRIBUTE TO SHERIFF'S DEPUTY JAMES I. THACKER

Mr. McCONNELL. Mr. President, I rise today to pay tribute to a man who dedicated many great years of service to the residents of Pike County, KY, Sheriff's Deputy James I. Thacker of Elkhorn City, KY.

Sadly, Deputy Thacker was recently killed in a tragic automobile accident in the line of duty on Monday, January 23, on U.S. Highway 460 near Marrowbone, KY. He was 53 years old. I would like to take a moment to share with my colleagues the legacy that was left behind by this great man and humble public servant.

When asked to comment on the untimely death of Deputy Thacker, Pike County Sheriff Charles "Fuzzy" Keese said, "He was kind and compassionate; he treated everyone else like he wanted to be treated. He was that kind of person, just an excellent officer." Deputy Thacker was genuinely devoted to the people of Pike County, whom he had dedicated his life to serve. James has been described as the type of man you could call on day or night, with anything you may need, no matter how big or how small.

Deputy Thacker held an array of jobs in Pike County throughout his life. He served his country as a Marine early on in his life. Later on he became a Pike County road foreman. Next, he spent 8 years as Pike County's constable before assuming the role of Deputy Sheriff a little over a year ago.

Deputy Thacker most assuredly left an incredible legacy in each of the positions he held in his lifetime. He was cherished and appreciated by the citizens of Pike County, and this was proven when hundreds of friends, colleagues and family members attended his visitation to pay their respects. Among those assembled, people felt that anyone who knew James was truly blessed, and could find joy in simply being in his company. "He was very likeable and he was the type of person that once you knew him, it seemed like you knew him forever," said Sheriff Keese.

Mr. President, at this time I would like to ask my U.S. Senate colleagues



to join me in commemorating this fallen law-enforcement officer, and recognizing the legacy that he has left behind by making Elkhorn City, Pike County, and the Commonwealth of Kentucky a great place.

A news story on the tragic death of Sheriff's Deputy James I. Thacker recently aired on WYMT TV News of Hazard, Kentucky, and was published on WKYT.com. I ask unanimous consent that said story be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From WKYT.com, Jan. 24, 2012]

SHERIFF REMEMBERS FALLEN DEPUTY

(By Angela Sparkman)

Pike County Sheriff's Deputy James I. Thacker died while on duty after a car crash Monday night near Marrowbone on U.S. 460.

Sheriff Fuzzy Keesee says Thacker was serving papers on his way home to Elkhorn City when the wreck happened.

State police spent most of Tuesday investigating the three-vehicle crash and say an SUV crossed the center line and hit Thacker's cruiser. Another vehicle also hit the cars after the collision.

The sheriff says Thacker will always be remembered for his service to Pike County.

"He was kind and compassionate, he treated everyone else like he wanted to be treated. He was that kind of person, just an excellent officer," Sheriff Keesee said.

Keesee says Thacker joined the department just last year but served as a constable for four years before becoming a sheriff's deputy.

A Pike County Sheriff's cruiser now sits in front of the courthouse, draped in black and a wreath on top in memory of 53-year-old James I. Thacker.

Sheriff Charles "Fuzzy" Keesee says Thacker always answered the call of duty to help people. Monday night, the call for help was for Thacker.

The Sheriff says Thacker was serving papers on his way home to Elkhorn City. He never made it.

The dozens of police who answered the call to help Thacker could not save him. He died at the scene. It was a scene the sheriff will never forget.

"His family was there. I talked to them, had a prayer with them. We were all saddened," said Sheriff Keesee.

State police are still investigating what caused the SUV to allegedly lose control and cause the crash. Troopers are reconstructing the wreck on U.S. 460.

Meanwhile, the Sheriff's department is coming together to remember their friend and fallen officer.

"It's going to be a great loss to the community around us," said Sheriff Keesee.

The visitation for Thacker starts Wednesday night at the Community Funeral Home in Coon Creek. His funeral is Friday at 1 p.m. at East Ridge High School.

## HONORING OUR ARMED FORCES

### CALIFORNIA CASUALTIES

Mrs. BOXER. Mr. President, I wish today to pay tribute to 15 servicemembers from California or based in California who have died while serving our country in Operation Enduring Free-

dom since November 15, 2011. This brings to 324 the number of servicemembers either from California or based in California who have been killed while serving our country in Afghanistan. This represents 17 percent of all U.S. deaths in Afghanistan.

SPC Sean M. Walsh, 21, of San Jose, CA, died November 16, in Khowst Province, Afghanistan, of injuries sustained after encountering indirect fire. Specialist Walsh was assigned to the 185th Military Police Battalion, 49th Military Police Brigade, Pittsburg, CA.

LCpl Joshua D. Corral, 19, of Danville, CA, died November 18 while conducting combat operations in Helmand Province, Afghanistan. Lance Corporal Corral was assigned to 3rd Battalion, 7th Marine Regiment, 1st Marine Division, I Marine Expeditionary Force, Twentynine Palms, CA.

Cpl Zachary C. Reiff, 22, of Preston, IA, died November 21 of wounds suffered November 18 while conducting combat operations in Helmand Province, Afghanistan. Corporal Reiff was assigned to 3rd Battalion, 7th Marine Regiment, 1st Marine Division, I Marine Expeditionary Force, Twentynine Palms, CA.

SSgt Vincent J. Bell, 28, of Detroit, MI, died November 30 while conducting combat operations in Helmand Province, Afghanistan. Staff Sergeant Bell was assigned to 2nd Battalion, 11th Marine Regiment, 1st Marine Division, I Marine Expeditionary Force, Camp Pendleton, CA.

SFC Clark A. Corley Jr., 35, of Oxnard, CA, died December 3, in Wardak Province, Afghanistan, of wounds suffered when enemy forces attacked his unit with an improvised explosive device. Sergeant First Class Corley was assigned to the 2nd Battalion, 5th Infantry Regiment, 3rd Brigade Combat Team, Fort Bliss, TX.

SPC Thomas J. Mayberry, 21, of Springville, CA, died December 3, in Wardak Province, Afghanistan, of wounds suffered when enemy forces attacked his unit with an improvised explosive device. Specialist Mayberry was assigned to the 2nd Battalion, 5th Infantry Regiment, 3rd Brigade Combat Team, Fort Bliss, TX.

SGT Christopher L. Muniz, 24, of New Cuyama, CA, died December 11, in Kunar Province, Afghanistan, of wounds suffered when enemy forces attacked his unit with an improvised explosive device. Sergeant Muniz was assigned to the 3rd Brigade Special Troops Battalion, 3rd Brigade Combat Team, 25th Infantry Division, Schofield Barracks, HI.

SSG Noah M. Korte, 29, of Lake Elsinore, CA, died December 27, in Paktia, Afghanistan, of wounds suffered when enemy forces attacked his unit with an improvised explosive device. Staff Sergeant Korte was assigned to the 720th Military Police Battalion, 89th Military Police Brigade, Fort Hood, TX.

PO1 Chad R. Regelin, 24, of Cottonwood, CA, died January 2 while conducting combat operations in Helmand Province, Afghanistan. Petty Officer First Class Regelin was assigned as an explosive ordnance disposal technician to Marine Special Operations Company Bravo. Regelin was stationed at Explosive Ordnance Disposal Mobile Unit 3, San Diego, CA.

Cpl Jon-Luke Bateman, 22, of Tulsa, OK, died January 15 while conducting combat operations in Helmand Province, Afghanistan. Corporal Bateman was assigned to 2nd Battalion, 4th Marine Regiment, 1st Marine Division, I Marine Expeditionary Force, Camp Pendleton, CA.

Cpl Christopher G. Singer, 23, of Temecula, CA, died January 21 while conducting combat operations in Helmand Province, Afghanistan. Corporal Singer was assigned to 3rd Combat Engineer Battalion, 1st Marine Division, I Marine Expeditionary Force, Twentynine Palms, CA.

Sgt William C. Stacey, 23, of Redding, CA, died January 31 while conducting combat operations in Helmand Province, Afghanistan. Sergeant Stacey was assigned to the 2nd Battalion, 4th Marine Regiment, 1st Marine Division, I Marine Expeditionary Force, Camp Pendleton, CA.

PFC Cesar Cortez, 24, of Oceanside, CA, died February 11, in the Kingdom of Bahrain. Private First Class Cortez was assigned to 5th Battalion, 52nd Air Defense Artillery Regiment, 11th Air Defense Artillery Brigade, 32nd Army Air and Missile Defense Command, Fort Bliss, TX.

PO3 Kyler L. Estrada, 21, of Maricopa, AZ, died February 14 as a result of a noncombat related training incident in Djibouti. Petty Officer 3rd Class Estrada, a Navy hospital corpsman, was assigned to the 11th Marine Expeditionary Unit based at Camp Pendleton, CA.

PO1 Paris S. Pough, 40, of Columbus, GA, died February 17 during a port visit in Dubai, United Arab Emirates. Petty Officer First Class Pough, a hull technician, was assigned to the USS *Carl Vinson* (CVN 70), home-ported in San Diego, CA.

## FALLEN MARINES

Mrs. BOXER. Mr. President, California and the Nation are mourning the loss of seven courageous and dedicated marines who died last week in a midair helicopter collision during a routine training exercise in a remote mountain area in Imperial County, CA.

This is a tragic loss for our military and our Nation. It is also a reminder of the sacrifices that all our servicemembers make each and every day. These brave men and women put themselves in harm's way to keep us safe—whether

they are engaged in combat, conducting humanitarian missions, or taking part in training exercises here at home.

I ask my colleagues to join me in paying tribute to these marines: Maj. Thomas A. Budrejko of Montville, Connecticut; Capt. Michael M. Quin of Purcellville, Virginia; Capt. Benjamin N. Cerniglia of Montgomery, Alabama; Capt. Nathan W. Anderson of Amarillo, Texas; Sgt. Justin A. Everett of Clovis, California; LCpl Corey A. Little of Marietta, Georgia; and LCpl Nickoulas H. Elliott of Spokane, Washington.

Six of the victims were stationed at Marine Corps Base Camp Pendleton in San Diego County. The seventh was stationed at Marine Corps Air Station in Yuma, AZ.

At this time of great sorrow, my thoughts and prayers are with the families and friends of these seven marines. Nothing can fully account for the tremendous loss they have suffered, but I hope they can take comfort in knowing that their loved ones will be forever remembered and honored by a grateful nation.

#### COMMENDING SENATOR CARL LEVIN

Mr. MCCAIN. Mr. President, I recently had the privilege of speaking at an event sponsored by the Center for the National Interest which honored our colleague from Michigan, Senator CARL LEVIN, with their 2012 Distinguished Service Award. In addition to being my colleague, I am proud to call CARL LEVIN a dear friend, and I ask unanimous consent that my remarks honoring Senator LEVIN be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REMARKS BY SENATOR JOHN MCCAIN IN HONOR OF SENATOR CARL LEVIN, DELIVERED ON FEBRUARY 15, 2012

Thank you. I'm glad to be here, and I'm grateful to the Center for giving me an opportunity to say a few words about your honoree, my friend, Carl Levin.

Carl and I have served on the Senate Armed Services Committee together since I first came to the Senate, which it pains me to recall, was over a quarter century ago. That's not as long as Carl has been there, however. I think you were elected shortly after the Spanish American War, weren't you, Carl? No? I thought I had read you had been on the committee when it refused to authorize Teddy Roosevelt's Great White Fleet.

As you all know, Carl is a proud Democrat, and I'm not. That difference is quite obvious on any number of issues before the Senate. What I hope has always been just as obvious is how greatly I admire and respect the man.

We have our moments on the committee. Debate among the members can get a little passionate at times, though I hope never rancorous. The members are quite proud of the committee's tradition of bipartisan cooperation. I think we appreciate the gravity of our responsibility to help maintain the de-

fense of our country, and the obligation we have to do right by the men and women of the United States Armed Forces, who have risked everything on our behalf. I think Carl and I both feel their example of selfless sacrifice would make us feel ashamed if we let the committee descend into the partisan posturing that often makes it hard for Congress to serve the national interest. When members disagree on the committee, even heatedly, more often than not, it's because we feel sincerely passionate about whatever issue is in dispute. And even then, I think we try to maintain civility and respect for one another, and we do not let it prevent us from completing the committee's business.

That we have managed to keep that reputation in these contentious times is a tribute to the man who has served as the Committee's chairman or ranking Democrat since 1997. He has kept the committee focused on its duties and not on the next election or the latest rush-to-the-barricades partisan quarrel that has momentarily consumed the Senate's attention. He does so in a calm, measured, patient and intelligent manner. He seems to become even calmer and more patient in moments of disagreement when tempers and emotions among the membership start to rise. He and I have slightly different leadership styles, of course. I'm much gentler and less confrontational. But Carl's style seems to work for him.

The committee has a heavy workload every year, and Carl manages to keep us all in harness and working together at a pace and in a constructive, results oriented approach that is the envy of the dozen or so lesser committees of the Senate. Our principle responsibility is to produce the defense authorization bills one of the most important and comprehensive pieces of legislation the Senate considers on an annual basis. The committee has never failed to report the bill, and the Senate has never failed to pass it. That's not an accomplishment that some of those lesser committees I just referred to can claim every year. And no one deserves more of the credit for it than Carl Levin.

When Carl first joined the committee, he explained his reason for seeking the assignment this way: "I had never served, and I thought there was a big gap in terms of my background and, frankly, felt it was a way of providing service." He might have never served in the military, but he has surely served it, and served it well. And he has served the national interests our armed forces protect in an exemplary manner that the rest of us would be wise to emulate.

He is a man of principle, ability, and serious purpose. He has the respect of his colleagues on both sides of the aisle. We all listen to him, and we listen closest to him on the occasions when we disagree with him. That's a great compliment from a Senator. It is a tribute paid to only the most revered members of the Senate. But the greatest compliment one senator can pay another is to credit him or her as a person who keeps their word. Why that's so rare in our work is a mystery. But I can attest Carl possesses the virtue. He has never broken his word to me.

We recently found ourselves in a dispute with the administration over how and where to prosecute detainees captured in the war on terror. Most people on my side of the aisle agreed with my position. Many people on Carl's side and in the administration disagreed with his. But he never wavered. He never backed out of a deal, and he argued our case far more effectively than I could. We did

what we usually do on the committee under Carl's leadership. We found a way to settle the dispute without abandoning our responsibilities. Carl deserves most of the credit for that, too.

On a personal note, that controversy reminded me again of one of the great satisfactions in life. And that, my friends, is when you fight for a common cause with someone you haven't always agreed with, whose background, views and personality are distinctly different than yours, and you discover that despite your differences, you have always been on the same side on the big things.

Thank you, Carl, for your friendship and your example.

#### JUDICIAL NOMINATIONS

Mrs. GILLIBRAND. Mr. President, today I wish to discuss the current judicial vacancy crisis. We have in many instances abrogated our responsibility to advise and consent in the nomination process. An estimated 160 million people live in districts with a courtroom vacancy that could have been filled last year with the cooperation of Senate Republicans. There are currently 20 nominees who have been approved by the Senate Judiciary Committee or are waiting a simple up-or-down vote which Republicans have historically supported. One of these nominees is Ronnie Abrams.

Ms. Abrams was nominated in July of 2011 by President Obama to serve as a Federal judge for the U.S. District Court for the Southern District of New York. She is currently a lawyer with the law firm Davis Polk & Wardwell. She is also an adjunct professor at Columbia Law School, teaching a seminar on the investigation and prosecution of Federal criminal cases. Prior to her current positions, Ms. Abrams distinguished herself as a prosecutor, rising to deputy chief, Criminal Division, at the U.S. Attorney's Office of the Southern District of New York. As deputy chief, she supervised over 160 prosecutors in cases involving violent crimes, white-collar crimes, public corruption, narcotics trafficking, and computer crimes. In recognition of her service, she was awarded the Department of Justice Director's Award for Superior Performance as a Federal Prosecutor. Ms. Abrams is a highly experienced and exceptional attorney, who is extremely well qualified to serve as a Federal court judge. A nominee of this caliber deserves to be quickly confirmed by the Senate.

In particular, we should have a renewed, bipartisan commitment to confirming more women to the bench. Over the past three decades, an increasing number of women have joined the legal profession. In recent years, law schools have seen the number of female students increase. According to the National Women's Law Center, women now make up nearly half of all law students. But the number of women in the Federal judiciary has stagnated and women are woefully

underrepresented. It is of critical importance to increase the representation of women and communities of color on the Federal bench. Today, women make up roughly 30 percent of the Federal bench. When women are fairly represented on our Federal courts, those courts are more reflective of our society.

What is disturbing about this vacancy crisis is that the total number of Federal circuit and district court judges confirmed during the first 3 years of the Obama administration is far less than for previous Presidents. For instance, the Senate has confirmed only 124 of President Obama's Federal circuit and district court nominees, compared to 168 Federal circuit and district court judges confirmed at this point in the Presidency of George W. Bush and 183 Federal circuit and district court judges confirmed at this point in President Clinton's administration.

To give you an even better breakdown, there are 20 judicial nominations reported favorable by the Judiciary Committee, 15 of which have been pending since last year, 18 of which have strong bipartisan support. So why is there a delay in confirming these nominees? Senate Republicans have failed to offer an answer.

Nominees such as Ronnie Abrams deserve better by receiving a swift up-or-down vote. The American people deserve better by having representation in their district and circuit courts. We need to give these nominees, most of whom have strong bipartisan support, a full up-or-down vote by the Senate. If we continue down this road of rejecting nominees simply because their nomination originates across the aisle, we are establishing an impossible standard that no nominee will ever meet. We ought to have the same respect for the judicial system that we have for the legislative system in which we ourselves work. I urge my colleagues to help move these nominees forward.

#### ADDITIONAL STATEMENTS

##### TRIBUTE TO LIEUTENANT COLONEL JOSEPH NIALL DALEY

• Mr. BROWN of Massachusetts. Mr. President, I wish today to recognize LTC Joseph Niall Daley, who is retiring after over 20 years of dedicated service in the U.S. Air Force and Massachusetts Air National Guard.

Lieutenant Colonel Daley was commissioned as a second lieutenant in the U.S. Air Force in 1990 and served on Active Duty for 10 years as an aviator, at which time he joined the Massachusetts Air National Guard. He flew combat missions in Bosnia, 1997, and Iraq, 1998 and 2003.

Lieutenant Colonel Daley has had a distinguished military career, becoming

an O/A-10A aircraft commander where he maintained a mission-ready status in support of worldwide deployment requirements. As an aviator he acquired an in-depth knowledge of U.S., allied, and enemy tactical and electronic warfare capabilities. He led and instructed formations of multiple O/A-10A aircraft in many diverse missions in both the day and nighttime environments. These missions included close air support, air interdiction, combat search and rescue, airlift escort, and joint air attack team tactics.

While serving in the Massachusetts Air National Guard as an expert O/A-10A pilot with the 131st Fighter Squadron, Lieutenant Colonel Daley directly contributed to the success of the unit by providing sound leadership and experience. Assigned to the 131st Fighter Squadron as the Assistant Charlie Flight Commander, and one of the Squadron's top instructor pilots, he ensured his flight members were prepared to employ the aircraft at its optimal performance when called to deployment in 2003. Lieutenant Colonel Daley was instrumental to the wing as one of the primary trainers to implement the Litening II Pod during its initial test phases. His oversight and dynamic vision were critical during both peacetime and war-time missions. Following the 2005 base realignment and closure, Lieutenant Colonel Daley accepted a key role in the wing staff, serving as the base historian. His efforts ensured the activities of the unit were documented and preserved, allowing the wing the opportunity to be recognized by the National Guard, Air Force, and the Department of Defense. Lieutenant Colonel Daley's accomplishments culminate a distinguished career in the service of his State and country and reflect great credit upon himself, the Massachusetts Air National Guard, and the U.S. Air Force.

I would like to thank Lieutenant Colonel Daley for his tremendous service to our Nation. I know that his wife, U.S. Senator KELLY AYOTTE, their children, Katherine and Jacob, as well as the people of New Hampshire and Massachusetts are extremely proud of his selfless service. •

##### TRIBUTE TO DR. HEATH MORRISON

• Mr. HELLER. Mr. President, today I wish to congratulate Dr. Heath Morrison, who has been recognized as the 2012 American Association of School Administrators—AASA—National Superintendent of the Year. My home State of Nevada is proud and privileged to acknowledge such an extraordinary educator and leader.

Since 2009, Dr. Morrison has served as superintendent for the Washoe County School District where he has proven to be an innovator in education. During his tenure, the Washoe County School

District has achieved higher test scores and has seen their graduation rate rise to 70 percent. Outside the classroom, Dr. Morrison continues to encourage and develop student performance by creating personal connections with the local community.

Engaging with Washoe County residents has allowed Dr. Morrison to foster relationships with parents, volunteers, and local businesses in order to create and enhance scholastic opportunities for students. I commend Dr. Morrison for his strong leadership and positive influence on Nevada's youth.

I admire and recognize the desire of our educators to uphold high education standards for our nation. Their guidance and encouragement provide students with the ability to become lifelong learners with a thirst for knowledge. Now more than ever, it is of paramount importance to prepare our children and grandchildren to compete in the 21st century.

Nevada is fortunate to have such great educational leadership serving the students across our great State. I ask my colleagues to join me in congratulating Dr. Morrison and celebrating the achievements of our Nation's teachers, administrators, and staff who help to guide our students to educational excellence. •

##### RECOGNIZING SOUTH ST. PAUL, MINNESOTA

• Mr. FRANKEN. Mr. President, I want to take this opportunity to honor the 125th birthday of South St. Paul, MN. First, I feel the need to clarify for this body that South St. Paul isn't exactly directly south of Saint Paul. West St. Paul is. And I know that's confusing. South St. Paul is closer to Southeast. And West St. Paul is South. And Minneapolis is, of course, West. I'm sure there's a very good reason for the confusing names, but I have no idea what that would be.

South St. Paul is the perfect example of the kind of hard-working, Midwestern industrial town that has been the anchor of America. The South St. Paul Stockyards opened in 1886 and eventually grew to be one of the leading livestock centers in the world, with millions of livestock being sold from its pens. A shifting marketplace finally forced the stockyards to close in 2008, but like much of America, South St. Paul has adapted along with the changing world.

The stockyards, which had existed since South St. Paul's founding, left an indelible mark on the city even after they closed. The people of South St. Paul are instilled with a hardy work ethic, which will serve the city well in its next 125 years.

As a part of the greater Twin Cities metropolitan area where I grew up, I know the sky is the limit for the people of South St. Paul. It is my distinct

pleasure to represent them in the United States Senate. Congratulations to the residents of South St. Paul.●

#### RECOGNIZING ROY CITY DIAMOND JUBILEE

● Mr. LEE. Mr. President, I would like to congratulate Roy City, UT for reaching the 75th anniversary of its original incorporation in 1937.

Roy City was first settled in 1873 by William Evans Baker. At the time, the area was seen as dry and desert-like, not a likely place for a town. Baker convinced three brothers-in-law to join him, eventually forming what would come to be affectionately known as "Cousin Street" because all of the residents along the road were cousins. The settlers came up with an industrious way to bring much-needed clean water to the area, digging a canal from nearby mountains. With water came a sense of permanence for the town.

Twenty-one years after the first settlement, the area's residents agreed to establish a post office, which required that the town be given an official name. It had been called many things, from Central City to Sandridge to Lakeview. The decision was to be made in the wake of a tragic death, that of Roy Peebles, the young son of Reverend David Peebles. Locals decided that the town should be named after Roy, and on May 24, 1894, Roy had a name and a post office.

Roy remained a quiet, sparsely populated area until the 1940s, when Hill Field was established nearby. Roy City suddenly grew rapidly, forcing an equally rapid expansion of services. For a brief period, overflowing classes for schoolchildren were held in the halls. A semi-permanent solution was found in busing students across Ogden to other solutions, and a permanent solution was finally completed in 1965 in the form of Roy High School. It became the largest high school in Weber County, and has been ranked as one of the top ten high schools in the country.

Thanks to spending by members of the military working at Hill Air Force Base, the Navy Supply Depot, and the Defense Supply Depot, businesses in Roy City expanded quickly during and after WWII. In 1953, the city was granted a charter to establish Utah's first branch bank, paving the way for branch banks to spread throughout Utah.

In recent years, Roy City has been called "Weber County's Fastest Growing City," boasting over 35,000 residents. It has also been regularly lauded as one of Utah's most fiscally well-managed cities. Roy City now offers its citizens a host of modern businesses, conveniences, and services, from biking trails to an aquatic center.

To mark this year's special anniversary, Mayor Joe Ritchie will be presiding over the burial of a time capsule

that is to be opened in 25 years, exactly one century after the city's incorporation. May the last quarter of that journey be as productive and successful as the first three.●

#### MESSAGE FROM THE HOUSE

At 2:06 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1837. An act to address certain water-related concerns on the San Joaquin River, and for other purposes.

H.R. 3902. An act to amend the District of Columbia Home Rule Act to revise the timing of special elections for local office in the District of Columbia.

The message also announced that the House has passed the following bill, without amendment:

S. 1134. An act to authorize the St. Croix River Crossing Project with appropriate mitigation measures to promote river values.

The message further announced that pursuant to 10 U.S.C. 4355(a) clause 10 of rule I, and the order of the House of January 5, 2011, the Speaker appoints the following Members of the House of Representatives to the Board of Visitors of the United States Military Academy: Mr. HINCHEY of New York, Ms. LORETTA SANCHEZ of California.

The message also announced that pursuant to section 703 of the Social Security Act (42 U.S.C. 903) and the order of the House of January 5, 2011, and upon the recommendation of the Minority Leader, the Speaker reappoints the following member on the part of the House of Representatives to the Social Security Advisory Board for a term of 6 years: Ms. Barbara Kennelly of Hartford, Connecticut.

#### MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 3902. An act to amend the District of Columbia Home Rule Act to revise the timing of special elections for local office in the District of Columbia; to the Committee on Homeland Security and Governmental Affairs.

#### EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-5154. A communication from the Acting Administrator of the U.S. Energy Information Administration, Department of Energy, transmitting, pursuant to law, a report entitled "The Availability and Price of Petroleum and Petroleum Products Produced in Countries Other Than Iran"; to the Committee on Energy and Natural Resources.

EC-5155. A communication from the Deputy Director for Policy, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled "Benefits Payable in Terminated Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits" (29 CFR Part 4022) received during adjournment of the Senate in the Office of the President of the Senate on February 24, 2012; to the Committee on Health, Education, Labor, and Pensions.

EC-5156. A communication from the Assistant General Counsel for Regulatory Services, Office of Elementary and Secondary Education, Department of Education, transmitting, pursuant to law, the report of a rule entitled "Notice of Final Priorities—Safe and Healthy Students Discretionary Grants Programs" (CFDA Nos. 84.184A, 84.215M, 84.184J, 84.184L, 84.215H, and 84.215E) received during adjournment of the Senate in the Office of the President of the Senate on February 21, 2012; to the Committee on Health, Education, Labor, and Pensions.

EC-5157. A communication from the Director of Regulations and Policy Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Establishment, Maintenance, and Availability of Records: Amendment to Record Availability Requirements" (RIN0910-AG73) received in the Office of the President of the Senate on February 27, 2012; to the Committee on the Judiciary.

EC-5158. A communication from the Assistant Secretary, Employee Benefits Security Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled "Summary of Benefits and Coverage and Uniform Glossary" (RIN1210-AB52) received in the Office of the President of the Senate on February 14, 2012; to the Committee on Health, Education, Labor, and Pensions.

EC-5159. A communication from the Assistant Secretary for the Employment and Training Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled "YouthBuild Program" (RIN1205-AB49) received in the Office of the President of the Senate on February 27, 2012; to the Committee on Health, Education, Labor, and Pensions.

EC-5160. A communication from the Assistant Secretary for the Employment and Training Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled "Temporary Non-Agricultural Employment of H 2B Aliens in the United States" (RIN1205-AB58) received in the Office of the President of the Senate on February 27, 2012; to the Committee on Health, Education, Labor, and Pensions.

EC-5161. A communication from the Chairman of the Merit Systems Protection Board, transmitting, pursuant to law, the Board's Strategic Plan for fiscal years 2012-2016 and the Annual Performance Plan for fiscal year 2012 (revised) and fiscal year 2013 (proposed); to the Committee on Homeland Security and Governmental Affairs.

EC-5162. A communication from the Secretary of the Board of Governors, U.S. Postal Service, transmitting, pursuant to law, a report relative to the Postal Accountability and Enhancement Act of 2006; to the Committee on Homeland Security and Governmental Affairs.

EC-5163. A communication from the Counsel for Regulatory and External Affairs, Federal Labor Relations Authority, transmitting, pursuant to law, the report of a rule entitled "Procedures of the Panel; Impasses

Arising Pursuant to Agency Determinations Not to Establish or to Terminate Flexible or Compressed Work Schedules" (5 CFR Parts 2471 and 2472) received in the Office of the President of the Senate on February 14, 2012; to the Committee on Homeland Security and Governmental Affairs.

EC-5164. A communication from the General Counsel, Federal Retirement Thrift Investment Board, transmitting, pursuant to law, the report of a rule entitled "Change of Address and Electronic Submission of FOIA Requests" (5 CFR Parts 1630, 1631, and 1632) received during adjournment of the Senate in the Office of the President of the Senate on February 23, 2012; to the Committee on Homeland Security and Governmental Affairs.

EC-5165. A communication from the Senior Procurement Executive, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled "General Services Administration Acquisition Regulation; Acquisition-Related Thresholds" (RIN3090-AJ24) received during adjournment of the Senate in the Office of the President of the Senate on February 22, 2012; to the Committee on Homeland Security and Governmental Affairs.

EC-5166. A communication from the Chief Acquisition Officer, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled "Federal Acquisition Regulation; FAR Case 2011-030, New Designated Country (Armenia) and Other Trade Agreements Updates" ((RIN9000-AM16) (FAC 2005-56)) received in the Office of the President of the Senate on February 29, 2012; to the Committee on Homeland Security and Governmental Affairs.

EC-5167. A communication from the Chief Acquisition Officer, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled "Federal Acquisition Regulation; FAR Case 2010-009, Government Property" ((RIN9000-AL95) (FAC 2005-56)) received in the Office of the President of the Senate on February 29, 2012; to the Committee on Homeland Security and Governmental Affairs.

EC-5168. A communication from the Chief Acquisition Officer, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled "Federal Acquisition Regulation; FAR Case 2011-004, Socioeconomic Program Parity" ((RIN9000-AL88) (FAC 2005-56)) received in the Office of the President of the Senate on February 29, 2012; to the Committee on Homeland Security and Governmental Affairs.

EC-5169. A communication from the Chief Acquisition Officer, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled "Federal Acquisition Regulation; FAR Case 2012-002, Trade Agreements Thresholds" ((RIN9000-AM17) (FAC 2005-56)) received in the Office of the President of the Senate on February 29, 2012; to the Committee on Homeland Security and Governmental Affairs.

EC-5170. A communication from the Chief Acquisition Officer, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled "Federal Acquisition Regulation; FAR Case 2007-012, Requirements for Acquisitions Pursuant to Multiple-Award Contracts" ((RIN9000-AL93) (FAC 2005-56)) received in the Office of the President of the

Senate on February 29, 2012; to the Committee on Homeland Security and Governmental Affairs.

EC-5171. A communication from the Chief Acquisition Officer, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled "Federal Acquisition Regulation; Federal Acquisition Circular 2005-56, Technical Amendments" (FAC 2005-56) received in the Office of the President of the Senate on February 29, 2012; to the Committee on Homeland Security and Governmental Affairs.

EC-5172. A communication from the Chief Acquisition Officer, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled "Federal Acquisition Regulation; Federal Acquisition Circular 2005 56, Small Entity Compliance Guide" (FAC 2005 56) received in the Office of the President of the Senate on February 29, 2012; to the Committee on Homeland Security and Governmental Affairs.

EC-5173. A communication from the Chief Acquisition Officer, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled "Federal Acquisition Regulation; FAR Case 2010-015, Women-Owned Small Business (WOSB) Program" ((RIN9000-AL97) (FAC 2005-56)) received in the Office of the President of the Senate on February 29, 2012; to the Committee on Homeland Security and Governmental Affairs.

EC-5174. A communication from the Chief Acquisition Officer, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled "Federal Acquisition Regulation; FAR Case 2008-030, Proper Use and Management of Cost-Reimbursement Contracts" ((RIN9000-AL78) (FAC 2005-56)) received in the Office of the President of the Senate on February 29, 2012; to the Committee on Homeland Security and Governmental Affairs.

EC-5175. A communication from the Chief Acquisition Officer, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled "Federal Acquisition Regulation; Federal Acquisition Circular 2005 56, Introduction" (FAC 2005 56) received in the Office of the President of the Senate on February 29, 2012; to the Committee on Homeland Security and Governmental Affairs.

EC-5176. A communication from the Human Resources Specialist, Office of the Executive Director, Office of Navajo and Hopi Indian Relocation, transmitting, pursuant to law, the Office's annual report on the category rating system; to the Committee on Indian Affairs.

EC-5177. A communication from the Deputy General Counsel, Office of the General Counsel, Small Business Administration, transmitting, pursuant to law, the report of a rule entitled "Women-Owned Small Business Federal Contract Program" (RIN3245-AG34) received during adjournment of the Senate in the Office of the President of the Senate on February 24, 2012; to the Committee on Small Business and Entrepreneurship.

EC-5178. A communication from the Director of the Regulation Policy and Management Office of the General Counsel, Veterans Health Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled "Due Date of Initial Application Requirements for State Home Construction Grants" (RIN2900-AN77)

received in the Office of the President of the Senate on February 27, 2012; to the Committee on Veterans' Affairs.

## EXECUTIVE REPORT OF COMMITTEE

The following executive report of a nomination was submitted:

By Mr. LEAHY for the Committee on the Judiciary.

Andrew David Hurwitz, of Arizona, to be United States Circuit Judge for the Ninth Circuit.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. KERRY (for himself, Mrs. MURRAY, Mr. AKAKA, Mr. LEAHY, Mr. FRANKEN, Mr. BLUMENTHAL, Mr. BROWN of Ohio, Mrs. BOXER, and Mr. DURBIN):

S. 2145. A bill to amend the Internal Revenue Code of 1986 to permit the Secretary of the Treasury to issue prospective guidance clarifying the employment status of individuals for purposes of employment taxes and to prevent retroactive assessments with respect to such clarifications; to the Committee on Finance.

By Mr. BINGAMAN (for himself, Mr. WYDEN, Mr. SANDERS, Mr. UDALL of Colorado, Mr. FRANKEN, Mr. COONS, Mr. KERRY, Mr. WHITEHOUSE, and Mr. UDALL of New Mexico):

S. 2146. A bill to amend the Public Utility Regulatory Policies Act of 1978 to create a market-oriented standard for clean electric energy generation, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BEGICH:

S. 2147. A bill to provide for research, monitoring, and observation of the Arctic Ocean and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. INHOFE (for himself, Mr. VITTER, Mr. COBURN, Mr. GRASSLEY, Mr. BLUNT, and Mr. ENZI):

S. 2148. A bill to amend the Toxic Substance Control Act relating to lead-based paint renovation and remodeling activities; to the Committee on Environment and Public Works.

By Mr. MERKLEY (for himself, Mr. BROWN of Ohio, Mr. DURBIN, Mr. MENENDEZ, Mr. SCHUMER, and Mr. HARKIN):

S. 2149. A bill to exclude from consumer credit reports medical debt that has been in collection and has been fully paid or settled, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Ms. SNOWE:

S. 2150. A bill to amend title XVI of the Social Security Act to clarify that the value of certain funeral and burial arrangements are not to be considered available resources under the supplemental security income program; to the Committee on Finance.

By Mr. MCCAIN (for himself, Mrs. HUTCHISON, Mr. CHAMBLISS, Mr. GRASSLEY, Ms. MURKOWSKI, Mr.

COATS, Mr. BURR, and Mr. JOHNSON of Wisconsin);

S. 2151. A bill to improve information security, and for other purposes; to the Committee on Commerce, Science, and Transportation.

# SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. VITTER (for himself, Mr. RUBIO, Mr. HOEVEN, Mr. DEMINT, Mr. KIRK, Mr. BLUNT, and Mr. HATCH):

S. Res. 385. A resolution condemning the Government of Iran for its continued persecution, imprisonment, and sentencing of Youcef Nadarkhani on the charge of apostasy; to the Committee on Foreign Relations.

By Mr. HOEVEN (for himself, Mr. BLUMENTHAL, Mr. LIEBERMAN, Mr. GRAHAM, Mr. MCCAIN, Mr. BEGICH, Mr. SESSIONS, Mr. NELSON of Nebraska, Ms. AYOTTE, Mr. COONS, Mr. MCCONNELL, Ms. MIKULSKI, Mr. CORNYN, Mr. SCHUMER, Mr. THUNE, Mrs. SHAHEEN, Mr. ALEXANDER, Mrs. GILLIBRAND, Mr. RISCH, Mr. BROWN of Ohio, Mr. CHAMBLISS, Mr. MENENDEZ, Mr. BLUNT, Mrs. MCCASKILL, Ms. COLLINS, Mr. NELSON of Florida, Mr. ISAKSON, Mr. LAUTENBERG, Mr. BARRASSO, Mr. PRYOR, Mr. COATS, Mrs. FEINSTEIN, Mr. COBURN, Mr. UDALL of Colorado, Mr. JOHNSON of Wisconsin, Mr. CASEY, Mr. CRAPO, Mr. BENNET, Mr. GRASSLEY, Mr. WYDEN, Mr. HELLER, Mrs. HUTCHISON, Mr. INHOFE, Mr. KYL, Mr. LEE, Mr. PORTMAN, Mr. TOOMEY, Mr. WICKER, Mr. SHELBY, Mr. VITTER, Mr. BURR, Mr. BOOZMAN, Mr. BROWN of Massachusetts, Ms. SNOWE, Mr. ROBERTS, Mr. COCHRAN, Mr. HATCH, Mr. MORAN, Ms. MURKOWSKI, Mr. RUBIO, Mr. JOHANNES, Mr. KOHL, Mr. DURBIN, Mr. FRANKEN, Mr. CONRAD, Ms. KLOBUCHAR, and Mr. ENZI):

S. Res. 386. A resolution calling for free and fair elections in Iran, and for other purposes; to the Committee on Foreign Relations.

By Mrs. GILLIBRAND (for herself, Mr. WHITEHOUSE, Ms. MIKULSKI, Mr. MENENDEZ, Mr. SANDERS, Mr. UDALL of Colorado, Mr. BROWN of Ohio, Mr. DURBIN, Mrs. MURRAY, Mr. NELSON of Florida, Mr. PRYOR, Mr. AKAKA, Mr. SCHUMER, Ms. LANDRIEU, Mr. BROWN of Massachusetts, Mr. MERKLEY, Mr. NELSON of Nebraska, Mr. FRANKEN, Mr. LAUTENBERG, Mrs. BOXER, Mr. COCHRAN, Mr. CARDIN, and Mr. LEVIN):

S. Res. 387. A resolution celebrating Black History Month; considered and agreed to.

By Mr. CARDIN (for himself, Mr. PORTMAN, Mr. KERRY, Ms. MIKULSKI, Mr. LEVIN, and Mr. SESSIONS):

S. Res. 388. A resolution commemorating the 200th anniversary of the War of 1812 and "The Star Spangled Banner", and recognizing the historical significance, heroic human endeavor, and sacrifice of the United States Army, Navy, Marine Corps, and Revenue Marine Service, and State militias, during the War of 1812; considered and agreed to.

By Mr. SCHUMER (for himself and Mr. ALEXANDER):

S. Con. Res. 35. A concurrent resolution to establish the Joint Congressional Committee

on Inaugural Ceremonies for the inauguration of the President-elect and Vice President-elect of the United States on January 21, 2013; considered and agreed to.

By Mr. SCHUMER (for himself and Mr. ALEXANDER):

S. Con. Res. 36. A concurrent resolution to authorize the use of the rotunda and Emancipation Hall of the Capitol by the Joint Congressional Committee on Inaugural Ceremonies in connection with the proceedings and ceremonies conducted for the inauguration of the President-elect and the Vice President-elect of the United States; considered and agreed to.

## ADDITIONAL COSPONSORS

S. 491

At the request of Mr. PRYOR, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 491, a bill to amend title 38, United States Code, to recognize the service in the reserve components of the Armed Forces of certain persons by honoring them with status as veterans under law, and for other purposes.

S. 593

At the request of Mr. SCHUMER, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 593, a bill to amend the Internal Revenue Code of 1986 to modify the tax rate for excise tax on investment income of private foundations.

S. 1086

At the request of Mr. HARKIN, the names of the Senator from Iowa (Mr. GRASSLEY) and the Senator from Massachusetts (Mr. BROWN) were added as cosponsors of S. 1086, a bill to reauthorize the Special Olympics Sport and Empowerment Act of 2004, to provide assistance to Best Buddies to support the expansion and development of mentoring programs, and for other purposes.

S. 1167

At the request of Mr. JOHNSON of South Dakota, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1167, a bill to amend the Public Health Service Act to improve the diagnosis and treatment of hereditary hemorrhagic telangiectasia, and for other purposes.

S. 1544

At the request of Mr. TOOMEY, the name of the Senator from Utah (Mr. LEE) was added as a cosponsor of S. 1544, a bill to amend the Securities Act of 1933 to require the Securities and Exchange Commission to exempt a certain class of securities from such Act.

S. 1616

At the request of Mr. MENENDEZ, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 1616, a bill to amend the Internal Revenue Code of 1986 to exempt certain stock of real estate investment trusts from the tax on foreign investments in United States real

property interests, and for other purposes.

S. 1886

At the request of Mr. LEAHY, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 1886, a bill to prevent trafficking in counterfeit drugs.

S. 1930

At the request of Mr. TOOMEY, the name of the Senator from Utah (Mr. LEE) was added as a cosponsor of S. 1930, a bill to prohibit earmarks.

S. 1935

At the request of Mrs. HAGAN, the name of the Senator from Massachusetts (Mr. BROWN) was added as a cosponsor of S. 1935, a bill to require the Secretary of the Treasury to mint coins in recognition and celebration of the 75th anniversary of the establishment of the March of Dimes Foundation.

S. 1980

At the request of Mr. INOUE, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1980, a bill to prevent, deter, and eliminate illegal, unreported, and unregulated fishing through port State measures.

S. 2032

At the request of Mr. DURBIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 2032, a bill to amend the Higher Education Act of 1965 regarding proprietary institutions of higher education in order to protect students and taxpayers.

S. 2036

At the request of Mrs. GILLIBRAND, the names of the Senator from Nebraska (Mr. NELSON) and the Senator from Minnesota (Mr. FRANKEN) were added as cosponsors of S. 2036, a bill to require the Secretary of the Treasury to mint coins in recognition and celebration of the National Baseball Hall of Fame.

S. 2057

At the request of Mr. SCHUMER, the name of the Senator from Mississippi (Mr. WICKER) was added as a cosponsor of S. 2057, a bill to amend title XVIII of the Social Security Act to allow physician assistants, nurse practitioners, and clinical nurse specialists to supervise cardiac, intensive cardiac, and pulmonary rehabilitation programs.

S. 2100

At the request of Mr. VITTER, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 2100, a bill to suspend sales of petroleum products from the Strategic Petroleum Reserve until certain conditions are met.

S. 2103

At the request of Mr. LEE, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 2103, a bill to amend title 18, United



States Code, to protect pain-capable unborn children in the District of Columbia, and for other purposes.

S. 2118

At the request of Mr. CORNYN, the names of the Senator from Mississippi (Mr. WICKER), the Senator from Arizona (Mr. KYL) and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of S. 2118, a bill to remove unelected, unaccountable bureaucrats from seniors' personal health decisions by repealing the Independent Payment Advisory Board.

S. 2139

At the request of Mrs. MCCASKILL, the names of the Senator from Minnesota (Mr. FRANKEN) and the Senator from Connecticut (Mr. BLUMENTHAL) were added as cosponsors of S. 2139, a bill to enhance security, increase accountability, and improve the contracting of the Federal Government for overseas contingency operations, and for other purposes.

AMENDMENT NO. 1538

At the request of Mr. ROBERTS, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of amendment No. 1538 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1617

At the request of Ms. KLOBUCHAR, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of amendment No. 1617 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1671

At the request of Mr. CARPER, the names of the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Rhode Island (Mr. WHITEHOUSE) and the Senator from Vermont (Mr. SANDERS) were added as cosponsors of amendment No. 1671 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1702

At the request of Mr. CARPER, the names of the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Rhode Island (Mr. WHITEHOUSE) and the Senator from Vermont (Mr. SANDERS) were added as cosponsors of amendment No. 1702 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1743

At the request of Mr. BLUNT, the names of the Senator from South Carolina (Mr. DEMINT) and the Senator from Utah (Mr. LEE) were added as cosponsors of amendment No. 1743 intended to be proposed to S. 1813, a bill

to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN (for himself, Mr. WYDEN, Mr. SANDERS, Mr. UDALL of Colorado, Mr. FRANKEN, Mr. COONS, Mr. KERRY, Mr. WHITEHOUSE, and Mr. UDALL of New Mexico):

S. 2146. A bill to amend the Public Utility Regulatory Policies Act of 1978 to create a market-oriented standard for clean electric energy generation, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, let me take a few minutes to describe this legislation for my colleagues and, hopefully, urge them to seriously consider the legislation. It is introduced by me with several cosponsors: Senator WYDEN, Senator SANDERS, Senator MARK UDALL of Colorado, Senator FRANKEN, Senator COONS, Senator KERRY, Senator WHITEHOUSE, and Senator TOM UDALL from my home State of New Mexico. All of those individuals strongly support what we are trying to do in this legislation.

I particularly want to thank the staff of the Senate Energy Committee for the hard work they put into developing this proposal, and particularly Kevin Rennert, who worked very hard on this proposal and got a lot of very useful input from many sectors and many individuals.

This is a simple plan to modernize the power sector and guide it toward a future in which more and more of our electricity is generated with cleaner and cleaner energy. The purpose of the legislation is to make sure that, as we continue to grow and power our economy, we leverage the clean resources we have available today and also provide a continuing incentive to develop the cheaper, cleaner technologies that will be needed in the future.

We want to make sure we drive continued diversity in our energy sources and allow every region of the country to deploy clean energy using the appropriate resources for that region. We want to make sure we do all of this in a way that supports homegrown innovation and manufacturing and that keeps us competitive in the global clean energy economy. The plan we are putting forward with this legislation would implement a clean energy standard, or CES for short.

Let me describe how it works. Starting in 2015, the largest utilities in the country would meet the clean energy standard by showing that a certain percentage of the electricity they sell is produced from clean energy sources. The initial percentage for 2015 is within the capabilities of those utilities

today, and each year after 2015 they would be required to sell a little bit more of their electricity from clean sources. They can do so either by making incremental adjustments to their own energy mix to become cleaner and more efficient or by purchasing clean energy from those who provide it at the lowest cost or by purchasing credits on an open and transparent market.

To be considered clean, a generator must either be a zero carbon source of energy, such as, renewables and nuclear power, or a generator must have a lower carbon intensity than a modern, efficient coal plant. By carbon intensity, I mean the amount of carbon dioxide emitted per megawatt hour of electricity generated. Generators with low or no carbon intensity receive credits based on that criterion.

For example, renewables will receive a full credit per megawatt hour. Most natural gas generators would qualify for something around a half credit, and the more efficient natural gas generators would be incentivized compared to less efficient generators. A coal powerplant would receive some credits if it lowered its carbon intensity by installing carbon-capture technologies, by co-firing with renewable biomass.

Accounting for clean in this way means the cleanest resources have the greatest incentive. Also, it means every generator has a continuing incentive to become even more efficient. As the standard increases over time, the generation fleet will transition naturally toward cleaner and cleaner sources to meet it. The clean energy standard sets an overall goal for clean energy, but the optimal and the cheapest set of technologies to use will be determined by the free market. The rate of transition is predictable and it is achievable and the rules of the road are transparent and they are clear.

In addition to driving cleaner electricity generation in the power sector, the clean energy standard also rewards industrial efficiency. Combined heat and power units generate electricity while also capturing and using the heat for other purposes, and these units are treated as clean generators under this proposal for the clean energy standard. This will help to deploy this kind of efficiency throughout our country and will provide another source of inexpensive clean energy.

Let me also describe what this proposal does not do. The clean energy standard does not put a limit on overall emissions. It does not limit the growth of electricity generation to meet the demands of a growing economy. All that the clean energy standard requires is that the generation we do use in future years and that we add to our fleet gradually becomes cleaner over time.

The clean energy standard does not cost the government anything, and it does not raise money for the government to use either. If any money does



come to the Treasury as a result of the program because of refusal to participate or to comply, that money would go directly back to the particular State from which it came to fund energy-efficiency programs.

Finally, the clean energy standard will not hurt the economy. This past fall I asked the Energy Information Administration to analyze a number of clean energy standard policy options. The results of their study showed a properly designed clean energy standard would have almost zero impact on gross domestic product growth and little or no impact on nationally averaged electricity rates for the first decade of the program. The Energy Information Administration analysis did show that a clean energy standard would result in a substantial deployment of new clean energy and carbon reductions between 20 percent and 40 percent in the power sector by 2035, which is the timeframe provided for in the proposal.

I have asked the Energy Information Administration to update their modeling to reflect this final proposal that we are introducing today, and when they have completed that analysis in the next few weeks I plan to hold hearings on the proposal to further explore the benefits and effects of the clean energy standard in the Energy Committee.

The goal of the clean energy standard is ambitious. It is a doubling of clean energy production in this country by 2035. But analysis has shown that the goal is achievable and affordable. Meeting the clean energy standard will yield substantial benefits to our health and to our economy and to our global competitiveness, and, of course, to our environment.

The bill we are introducing today is simple. It sets a national goal for clean energy. It establishes a transparent framework that lets resources compete to achieve that goal based on how clean they are, and then it gets out of the way and lets the market and American ingenuity determine the best path forward.

I think this is a very well thought out proposal and one that deserves the attention of all colleagues. I hope they will look at it seriously, and I hope we can attract additional supporters and cosponsors as the weeks proceed in the Senate.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2146

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Clean Energy Standard Act of 2012”.

#### SEC. 2. FEDERAL CLEAN ENERGY STANDARD.

Title VI of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.) is amended by adding at the end the following:

##### “SEC. 610. FEDERAL CLEAN ENERGY STANDARD.

“(a) PURPOSE.—The purpose of this section is to create a market-oriented standard for electric energy generation that stimulates clean energy innovation and promotes a diverse set of low- and zero-carbon generation solutions in the United States at the lowest incremental cost to electric consumers.

“(b) DEFINITIONS.—In this section:

“(1) CLEAN ENERGY.—The term ‘clean energy’ means electric energy that is generated—

“(A) at a facility placed in service after December 31, 1991, using—

“(i) renewable energy;

“(ii) qualified renewable biomass;

“(iii) natural gas;

“(iv) hydropower;

“(v) nuclear power; or

“(vi) qualified waste-to-energy;

“(B) at a facility placed in service after the date of enactment of this section, using—

“(i) qualified combined heat and power; or

“(ii) a source of energy, other than biomass, with lower annual carbon intensity than 0.82 metric tons of carbon dioxide equivalent per megawatt-hour;

“(C) as a result of qualified efficiency improvements or capacity additions; or

“(D) at a facility that captures carbon dioxide and prevents the release of the carbon dioxide into the atmosphere.

“(2) NATURAL GAS.—

“(A) INCLUSION.—The term ‘natural gas’ includes coal mine methane.

“(B) EXCLUSIONS.—The term ‘natural gas’ excludes landfill methane and biogas.

“(3) QUALIFIED COMBINED HEAT AND POWER.—

“(A) IN GENERAL.—The term ‘qualified combined heat and power’ means a system that—

“(i) uses the same energy source for the simultaneous or sequential generation of electrical energy and thermal energy;

“(ii) produces at least—

“(I) 20 percent of the useful energy of the system in the form of electricity; and

“(II) 20 percent of the useful energy in the form of useful thermal energy;

“(iii) to the extent the system uses biomass, uses only qualified renewable biomass; and

“(iv) operates with an energy efficiency percentage that is greater than 50 percent.

“(B) DETERMINATION OF ENERGY EFFICIENCY.—For purposes of subparagraph (A), the energy efficiency percentage of a combined heat and power system shall be determined in accordance with section 48(c)(3)(C)(i) of the Internal Revenue Code of 1986.

“(4) QUALIFIED EFFICIENCY IMPROVEMENTS OR CAPACITY ADDITIONS.—

“(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the term ‘qualified efficiency improvements or capacity additions’ means efficiency improvements or capacity additions made after December 31, 1991, to—

“(i) a nuclear facility placed in service on or before December 31, 1991; or

“(ii) a hydropower facility placed in service on or before December 31, 1991.

“(B) EXCLUSION.—The term ‘qualified efficiency improvements or capacity additions’ does not include additional electric energy generated as a result of operational changes not directly associated with efficiency improvements or capacity additions.

“(C) MEASUREMENT AND CERTIFICATION.—In the case of hydropower, efficiency improve-

ments and capacity additions under this paragraph shall be—

“(i) measured on the basis of the same water flow information that is used to determine the historic average annual generation for the applicable hydroelectric facility; and

“(ii) certified by the Secretary or the Commission.

“(5) QUALIFIED RENEWABLE BIOMASS.—The term ‘qualified renewable biomass’ means renewable biomass produced and harvested through land management practices that maintain or restore the composition, structure, and processes of ecosystems, including the diversity of plant and animal communities, water quality, and the productive capacity of soil and the ecological systems.

“(6) QUALIFIED WASTE-TO-ENERGY.—The term ‘qualified waste-to-energy’ means energy produced—

“(A) from the combustion of—

“(i) post-recycled municipal solid waste;

“(ii) gas produced from the gasification or pyrolyzation of post-recycled municipal solid waste;

“(iii) biogas;

“(iv) landfill methane;

“(v) animal waste or animal byproducts; or

“(vi) wood, paper products that are not commonly recyclable, and vegetation (including trees and trimmings, yard waste, pallets, railroad ties, crates, and solid-wood manufacturing and construction debris), if diverted from or separated from other waste out of a municipal waste stream; and

“(B) at a facility that the Commission has certified, on an annual basis, is in compliance with all applicable Federal and State environmental permits, including—

“(i) in the case of a facility that commences operation before the date of enactment of this section, compliance with emission standards under sections 112 and 129 of the Clean Air Act (42 U.S.C. 7412, 7429) that apply as of the date of enactment of this section to new facilities within the applicable source category; and

“(ii) in the case of a facility that produces electric energy from the combustion, pyrolyzation, or gasification of municipal solid waste, certification that each local government unit from which the waste originates operates, participates in the operation of, contracts for, or otherwise provides for recycling services for residents of the local government unit.

“(7) RENEWABLE ENERGY.—The term ‘renewable energy’ means solar, wind, ocean, current, wave, tidal, or geothermal energy.

“(c) CLEAN ENERGY REQUIREMENT.—

“(1) IN GENERAL.—Effective beginning in calendar year 2015, each electric utility that sells electric energy to electric consumers in a State shall obtain a percentage of the electric energy the electric utility sells to electric consumers during a calendar year from clean energy.

“(2) PERCENTAGE REQUIRED.—The percentage of electric energy sold during a calendar year that is required to be clean energy under paragraph (1) shall be determined in accordance with the following table:

“Calendar year	Minimum annual percentage
2015 .....	24
2016 .....	27
2017 .....	30
2018 .....	33
2019 .....	36
2020 .....	39
2021 .....	42

"Calendar year	Minimum annual percentage
2022 .....	45
2023 .....	48
2024 .....	51
2025 .....	54
2026 .....	57
2027 .....	60
2028 .....	63
2029 .....	66
2030 .....	69
2031 .....	72
2032 .....	75
2033 .....	78
2034 .....	81
2035 .....	84

"(3) DEDUCTION FOR ELECTRIC ENERGY GENERATED FROM HYDROPOWER OR NUCLEAR POWER.—An electric utility that sells electric energy to electric consumers from a facility placed in service in the United States on or before December 31, 1991, using hydro-power or nuclear power may deduct the quantity of the electric energy from the quantity to which the percentage in paragraph (2) applies.

"(d) MEANS OF COMPLIANCE.—An electric utility shall meet the requirements of subsection (c) by—

"(1) submitting to the Secretary clean energy credits issued under subsection (e);

"(2) making alternative compliance payments of 3 cents per kilowatt hour in accordance with subsection (i); or

"(3) taking a combination of actions described in paragraphs (1) and (2).

"(e) FEDERAL CLEAN ENERGY TRADING PROGRAM.—

"(1) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this section, the Secretary shall establish a Federal clean energy credit trading program under which electric utilities may submit to the Secretary clean energy credits to certify compliance by the electric utilities with subsection (c).

"(2) CLEAN ENERGY CREDITS.—Except as provided in paragraph (3)(B), the Secretary shall issue to each generator of electric energy a quantity of clean energy credits determined in accordance with subsections (f) and (g).

"(3) ADMINISTRATION.—In carrying out the program under this subsection, the Secretary shall ensure that—

"(A) a clean energy credit shall be used only once for purposes of compliance with this section; and

"(B) a clean energy credit issued for clean energy generated and sold for resale under a contract in effect on the date of enactment of this section shall be issued to the purchasing electric utility, unless otherwise provided by the contract.

"(4) DELEGATION OF MARKET FUNCTION.—

"(A) IN GENERAL.—In carrying out the program under this subsection, the Secretary may delegate—

"(i) to 1 or more appropriate market-making entities, the administration of a national clean energy credit market for purposes of establishing a transparent national market for the sale or trade of clean energy credits; and

"(ii) to appropriate entities, the tracking of dispatch of clean generation.

"(B) ADMINISTRATION.—In making a delegation under subparagraph (A)(ii), the Secretary shall ensure that the tracking and reporting of information concerning the dispatch of clean generation is transparent,

verifiable, and independent of any generation or load interests subject to an obligation under this section.

"(5) BANKING OF CLEAN ENERGY CREDITS.—Clean energy credits to be used for compliance purposes under subsection (c) shall be valid for the year in which the clean energy credits are issued or in any subsequent calendar year.

"(f) DETERMINATION OF QUANTITY OF CREDITS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the quantity of clean energy credits issued to each electric utility generating electric energy in the United States from clean energy shall be equal to the product of—

"(A) for each generator owned by a utility, the number of megawatt-hours of electric energy sold from that generator by the utility; and

"(B) the difference between—

"(i) 1.0; and

"(ii) the quotient obtained by dividing—

"(I) the annual carbon intensity of the generator, as determined in accordance with subsection (g), expressed in metric tons per megawatt-hour; by

"(II) 0.82.

"(2) NEGATIVE CREDITS.—Notwithstanding any other provision of this subsection, the Secretary shall not issue a negative quantity of clean energy credits to any generator.

"(3) QUALIFIED COMBINED HEAT AND POWER.—

"(A) IN GENERAL.—The quantity of clean energy credits issued to an owner of a qualified combined heat and power system in the United States shall be equal to the difference between—

"(i) the product obtained by multiplying—

"(I) the number of megawatt-hours of electric energy generated by the system; and

"(II) the difference between—

"(aa) 1.0; and

"(bb) the quotient obtained by dividing—

"(AA) the annual carbon intensity of the generator, as determined in accordance with subsection (g), expressed in metric tons per megawatt-hour; by

"(BB) 0.82; and

"(ii) the product obtained by multiplying—

"(I) the number of megawatt-hours of electric energy generated by the system that are consumed onsite by the facility; and

"(II) the annual target for electric energy sold during a calendar year that is required to be clean energy under subsection (c)(2).

"(B) ADDITIONAL CREDITS.—In addition to credits issued under subparagraph (A), the Secretary shall award clean energy credits to an owner of a qualified heat and power system in the United States for greenhouse gas emissions avoided as a result of the use of a qualified combined heat and power system, rather than a separate thermal source, to meet onsite thermal needs.

"(4) QUALIFIED WASTE-TO-ENERGY.—The quantity of clean energy credits issued to an electric utility generating electric energy in the United States from a qualified waste-to-energy facility shall be equal to the product obtained by multiplying—

"(A) the number of megawatt-hours of electric energy generated by the facility and sold by the utility; and

"(B) 1.0.

"(g) DETERMINATION OF ANNUAL CARBON INTENSITY OF GENERATING FACILITIES.—

"(1) IN GENERAL.—For purposes of determining the quantity of credits under subsection (f), except as provided in paragraph (2), the Secretary shall determine the annual carbon intensity of each generator by dividing—

"(A) the net annual carbon dioxide equivalent emissions of the generator; by

"(B) the annual quantity of electricity generated by the generator.

"(2) BIOMASS.—The Secretary shall—

"(A) not later than 180 days after the date of enactment of this section, issue interim regulations for determining the carbon intensity based on an initial consideration of the issues to be reported on under subparagraph (B);

"(B) not later than 180 days after the date of enactment of this section, enter into an agreement with the National Academy of Sciences under which the Academy shall—

"(i) evaluate models and methodologies for quantifying net changes in greenhouse gas emissions associated with generating electric energy from each significant source of qualified renewable biomass, including evaluation of additional sequestration or emissions associated with changes in land use by the production of the biomass; and

"(ii) not later than 1 year after the date of enactment of this section, publish a report that includes—

"(I) a description of the evaluation required by clause (i); and

"(II) recommendations for determining the carbon intensity of electric energy generated from qualified renewable biomass under this section; and

"(C) not later than 180 days after the publication of the report under subparagraph (B)(ii), issue regulations for determining the carbon intensity of electric energy generated from qualified renewable biomass that take into account the report.

"(3) CONSULTATION.—The Secretary shall consult with—

"(A) the Administrator of the Environmental Protection Agency in determining the annual carbon intensity of generating facilities under paragraph (1); and

"(B) the Administrator of the Environmental Protection Agency, the Secretary of the Interior, and the Secretary of Agriculture in issuing regulations for determining the carbon intensity of electric energy generated by biomass under paragraph (2)(C).

"(h) CIVIL PENALTIES.—

"(1) IN GENERAL.—Subject to paragraph (2), an electric utility that fails to meet the requirements of this section shall be subject to a civil penalty in an amount equal to the product obtained by multiplying—

"(A) the number of kilowatt-hours of electric energy sold by the utility to electric consumers in violation of subsection (c); and

"(B) 200 percent of the value of the alternative compliance payment, as adjusted under subsection (m).

"(2) WAIVERS AND MITIGATION.—

"(A) FORCE MAJEURE.—The Secretary may mitigate or waive a civil penalty under this subsection if the electric utility was unable to comply with an applicable requirement of this section for reasons outside of the reasonable control of the utility.

"(B) REDUCTION FOR STATE PENALTIES.—The Secretary shall reduce the amount of a penalty determined under paragraph (1) by the amount paid by the electric utility to a State for failure to comply with the requirement of a State renewable energy program, if the State requirement is more stringent than the applicable requirement of this section.

"(3) PROCEDURE FOR ASSESSING PENALTY.—The Secretary shall assess a civil penalty under this subsection in accordance with section 333(d) of the Energy Policy and Conservation Act (42 U.S.C. 6303(d)).

“(i) ALTERNATIVE COMPLIANCE PAYMENTS.—An electric utility may satisfy the requirements of subsection (c), in whole or in part, by submitting in lieu of a clean energy credit issued under this section a payment equal to the amount required under subsection (d)(2), in accordance with such regulations as the Secretary may promulgate.

“(j) STATE ENERGY EFFICIENCY FUNDING PROGRAM.—

“(1) ESTABLISHMENT.—Not later than December 31, 2015, the Secretary shall establish a State energy efficiency funding program.

“(2) FUNDING.—All funds collected by the Secretary as alternative compliance payments under subsection (i), or as civil penalties under subsection (h), shall be used solely to carry out the program under this subsection.

“(3) DISTRIBUTION TO STATES.—

“(A) IN GENERAL.—An amount equal to 75 percent of the funds described in paragraph (2) shall be used by the Secretary, without further appropriation or fiscal year limitation, to provide funds to States for the implementation of State energy efficiency plans under section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322), in accordance with the proportion of those amounts collected by the Secretary from each State.

“(B) ACTION BY STATES.—A State that receives funds under this paragraph shall maintain such records and evidence of compliance as the Secretary may require.

“(4) GUIDELINES AND CRITERIA.—The Secretary may issue such additional guidelines and criteria for the program under this subsection as the Secretary determines to be appropriate.

“(k) EXEMPTIONS.—

“(1) IN GENERAL.—This section shall not apply during any calendar year to an electric utility that sold less than the applicable quantity described in paragraph (2) of megawatt-hours of electric energy to electric consumers during the preceding calendar year.

“(2) APPLICABLE QUANTITY.—For purposes of paragraph (1), the applicable quantity is—

“(A) in the case of calendar year 2015, 2,000,000;

“(B) in the case of calendar year 2016, 1,900,000;

“(C) in the case of calendar year 2017, 1,800,000;

“(D) in the case of calendar year 2018, 1,700,000;

“(E) in the case of calendar year 2019, 1,600,000;

“(F) in the case of calendar year 2020, 1,500,000;

“(G) in the case of calendar year 2021, 1,400,000;

“(H) in the case of calendar year 2022, 1,300,000;

“(I) in the case of calendar year 2023, 1,200,000;

“(J) in the case of calendar year 2024, 1,100,000; and

“(K) in the case of calendar year 2025 and each calendar year thereafter, 1,000,000.

“(3) CALCULATION OF ELECTRIC ENERGY SOLD.—

“(A) DEFINITIONS.—In this subsection, the terms ‘affiliate’ and ‘associate company’ have the meanings given the terms in section 1262 of the Energy Policy Act of 2005 (42 U.S.C. 16451).

“(B) INCLUSION.—For purposes of calculating the quantity of electric energy sold by an electric utility under this subsection, the quantity of electric energy sold by an affiliate of the electric utility or an associate company shall be treated as sold by the electric utility.

“(1) STATE PROGRAMS.—

“(1) SAVINGS PROVISION.—

“(A) IN GENERAL.—Subject to paragraph (2), nothing in this section affects the authority of a State or a political subdivision of a State to adopt or enforce any law or regulation relating to—

“(i) clean or renewable energy; or

“(ii) the regulation of an electric utility.

“(B) FEDERAL LAW.—No law or regulation of a State or a political subdivision of a State may relieve an electric utility from compliance with an applicable requirement of this section.

“(2) COORDINATION.—The Secretary, in consultation with States that have clean and renewable energy programs in effect, shall facilitate, to the maximum extent practicable, coordination between the Federal clean energy program under this section and the relevant State clean and renewable energy programs.

“(m) ADJUSTMENT OF ALTERNATIVE COMPLIANCE PAYMENT.—Not later than December 31, 2016, and annually thereafter, the Secretary shall—

“(1) increase by 5 percent the rate of the alternative compliance payment under subsection (d)(2); and

“(2) additionally adjust that rate for inflation, as the Secretary determines to be necessary.

“(n) REPORT ON CLEAN ENERGY RESOURCES THAT DO NOT GENERATE ELECTRIC ENERGY.—

“(1) IN GENERAL.—Not later than 3 years after the date of enactment of this section, the Secretary shall submit to Congress a report examining mechanisms to supplement the standard under this section by addressing clean energy resources that do not generate electric energy but that may substantially reduce electric energy loads, including energy efficiency, biomass converted to thermal energy, geothermal energy collected using heat pumps, thermal energy delivered through district heating systems, and waste heat used as industrial process heat.

“(2) POTENTIAL INTEGRATION.—The report under paragraph (1) shall examine the benefits and challenges of integrating the additional clean energy resources into the standard established by this section, including—

“(A) the extent to which such an integration would achieve the purposes of this section;

“(B) the manner in which a baseline describing the use of the resources could be developed that would ensure that only incremental action that increased the use of the resources received credit; and

“(C) the challenges of pricing the resources in a comparable manner between organized markets and vertically integrated markets, including options for the pricing.

“(3) COMPLEMENTARY POLICIES.—The report under paragraph (1) shall examine the benefits and challenges of using complementary policies or standards, other than the standard established under this section, to provide effective incentives for using the additional clean energy resources.

“(4) LEGISLATIVE RECOMMENDATIONS.—As part of the report under paragraph (1), the Secretary may provide legislative recommendations for changes to the standard established under this section or new complementary policies that would provide effective incentives for using the additional clean energy resources.

“(o) EXCLUSIONS.—This section does not apply to an electric utility located in the State of Alaska or Hawaii.

“(p) REGULATIONS.—Not later than 1 year after the date of enactment of this section,

the Secretary shall promulgate regulations to implement this section.

#### “SEC. 611. REPORT ON NATURAL GAS CONSERVATION.

“Not later than 2 years after the date of enactment of this section, the Secretary shall submit to Congress a report that—

“(1) quantifies the losses of natural gas during the production and transportation of the natural gas; and

“(2) makes recommendations, as appropriate, for programs and policies to promote conservation of natural gas for beneficial use.”.

By Mr. BEGICH:

S. 2147. A bill to provide for research, monitoring, and observation of the Arctic Ocean and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. BEGICH. Mr. President, I wish to speak about legislation I am introducing today aimed at providing a better understanding of the Arctic Ocean and its resources.

A changing climate is radically reshaping this part of the world. This change brings challenges and opportunities. As you may recall, nearly 3 years ago, I delivered my first speech to this body on the changing Arctic and what our Nation needs to do in order to prepare for it. That work continues today.

Retreating sea ice is leading to dramatic increases in shipping traffic of both goods and tourists. Our Nation's energy needs demand we investigate and responsibly produce the massive amounts of oil and gas found in the Chukchi and Beaufort Seas. These resources are now available due to retreating sea ice, the state of technology and the price of oil. Meanwhile, Native Alaskans have depended on and thrived for thousands of years because of the living resources of the Arctic Ocean.

In order to manage this change, we need a better understanding of the Arctic Ocean, and the legislation I am introducing today provides a firm foundation for that work. It establishes a new coherent research strategy to gather baseline information and to provide a holistic look at the Arctic Ocean.

Importantly, it doesn't create any new bureaucracy. It assigns this task to the North Pacific Research Board, a well regarded institution, and requires a high degree of coordination with other existing entities, including the Arctic Research Commission whose job it is to establish Arctic research priorities and coordinate the massive federal investment in this area across many agencies.

I would argue that most people are unaware of just how much Arctic science and research is underway. For most people in the lower 48 States, it is out-of-sight and out-of-mind. The Bureau of Ocean Energy Management has spent about half of its total research budget on the Arctic for the past 6

years, approximately \$60 million. The National Science Foundation has spent more.

However, the Arctic Ocean Research, Monitoring, and Observing Act will be important to provide funds not tied to particular projects. This legislation is intended to provide a firm foundation in our understanding of the basic science of the Arctic Ocean that can underlie all of our decision-making in the Arctic.

I am always happy to inform my colleagues about how we do things right in Alaska. We're a natural resource development state. Because our economy is so dependent on that development, we bear the responsibility of doing it right. That is making sure that non-renewable resource development doesn't harm the renewable resources of our great state.

I am confident we can continue to do that as we explore and develop the approximately 26 billion barrels of oil and 100 trillion cubic feet of natural gas in the Chukchi and Beaufort Seas. However, we have to make prudent investments in order to meet that goal, and that is what I am suggesting we do today.

With companion legislation I will be introducing in the next few days, I also have a plan to create an endowment to fund this critical research program. Baseline science and monitoring requires steady, dependable funding in order to have the long term data sets that can help us make good decisions. I look forward to working with my colleagues and the administration on this important need.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2147

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Arctic Ocean Research, Monitoring, and Observing Act of 2012".

#### SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress makes the following findings:

(1) The United States is an Arctic Nation with—

(A) an approximately 700-mile border with the Arctic Ocean;

(B) more than 100,000,000 acres of land above the Arctic Circle; and

(C) an even broader area defined as Arctic by temperature, which includes the Bering Sea and Aleutian Islands.

(2) The Arctic region of the United States is home to an indigenous population that has subsisted for millennia on the abundance in marine mammals, fish, and wildlife, many of which are unique to the region.

(3) Temperatures in the United States Arctic region have warmed by 3 to 4 degrees Celsius over the past half-century, a rate of increase that is twice the global average.

(4) The Arctic ice pack is rapidly diminishing and thinning, and the National Oceanic and Atmospheric Administration estimates the Arctic Ocean may be ice free during summer months in as few as 30 years.

(5) Such changes to the Arctic region are having a significant impact on the indigenous people of the Arctic, their communities and ecosystems, as well as the marine mammals, fish, and wildlife upon which they depend.

(6) Such changes are opening new portions of the United States Arctic continental shelf to possible development for offshore oil and gas, commercial fishing, marine shipping, and tourism.

(7) Existing Federal research and science advisory programs focused on the environmental and socioeconomic impacts of a changing Arctic Ocean lack a cohesive, coordinated, and integrated approach and are not adequately coordinated with State, local, academic, and private-sector Arctic Ocean research programs.

(8) The lack of research integration and synthesis of findings of Arctic Ocean research has impeded the progress of the United States and international community in understanding climate change impacts and feedback mechanisms in the Arctic Ocean.

(9) An improved scientific understanding of the changing Arctic Ocean is critical to the development of appropriate and effective regional, national, and global climate change adaptation strategies.

(b) PURPOSE.—The purpose of this Act is to establish a permanent environmental sentinel program to conduct research, monitoring, and observation activities in the Arctic Ocean—

(1) to promote and sustain a productive and resilient marine, coastal, and estuarine ecosystem in the Arctic and the human uses of its natural resources through greater understanding of how the ecosystem works and monitoring and observation of its vital signs; and

(2) to track and evaluate the effectiveness of natural resource management in the Arctic in order to facilitate improved performance and adaptive management.

#### SEC. 3. DEFINITIONS.

In this Act:

(1) BOARD.—The term "Board" means the North Pacific Research Board established under section 401(e) of the Department of the Interior and Related Agencies Appropriations Act, 1998 (Public Law 105-1608).

(2) COMMISSION.—The term "Commission" means the Arctic Research Commission established under the Arctic Research and Policy Act of 1984 (Public Law 98-373; 15 U.S.C. 4102).

(3) PROGRAM.—The term "Program" means the Arctic Ocean Research, Monitoring, and Observation Program established by section 4(a).

#### SEC. 4. ARCTIC OCEAN RESEARCH, MONITORING, AND OBSERVATION PROGRAM.

(a) ESTABLISHMENT.—There is established an Arctic Ocean Research, Monitoring, and Observation Program to be administered by the Board with input and assistance from the Commission.

(b) RESEARCH, MONITORING, AND OBSERVATION ACTIVITIES.—The Program shall be an integrated, long-term scientific research, monitoring, and observation program consisting of—

(1) marine, coastal, and estuarine research, including—

(A) fisheries research;

(B) research on the structure and function of the ecosystem and its food webs; and

(C) research on the spatial distributions and status of fish, wildlife, and other populations in the Arctic;

(2) marine, coastal, and estuarine ecosystem monitoring and observation, including expansion of the Alaska Ocean Observing System in the Arctic; and

(3) marine, coastal, and estuarine research, monitoring, observation, and modeling that supports planning, environmental review, decisionmaking, evaluation, impact and natural resources damage assessment, and adaptive management with respect to industrial and other human activities, such as shipping, in the Arctic, environmental change, and their interactive and cumulative effects in the Arctic.

(c) INITIAL PROJECTS.—In initiating the Program, the Board shall make grants under subsection (e)—

(1) to support research and monitoring of Arctic fisheries, including on the distributions and ecology of Arctic cod and other forage fishes, for a period of not less than 3 years;

(2) to support research and monitoring of Arctic marine mammals, including their responses to loss of sea ice habitats and reactions to disturbance, for a period of not less than 3 years; and

(3) to establish the Alaska Ocean Observing System in the Arctic Ocean such that it has sufficient capacity to provide comprehensive data, nowcasts and forecasts, and information products in real time and near real time on physical, chemical, and biological conditions and environmental change.

#### (d) ARCTIC OCEAN SCIENCE PLAN.—

(1) REQUIREMENT.—The Board and the Commission shall jointly prepare a comprehensive, integrated Arctic Ocean science plan.

(2) RECOGNITION AND COORDINATION WITH OTHER SCIENCE.—The content of the plan required by paragraph (1) shall be developed with recognition of and in coordination with other science plans and activities in the Arctic.

(3) INFORMED BY SYNTHESIS OF EXISTING KNOWLEDGE.—Development of the plan required by paragraph (1) shall be informed by a synthesis of existing knowledge about the Arctic ecosystem, including information about how the ecosystem functions, individual and cumulative sources of ecosystem stress, how the ecosystem is changing, and other relevant information.

#### (4) REVIEW.—

(A) INITIAL REVIEW BY NATIONAL RESEARCH COUNCIL.—The Board shall submit the initial plan required by paragraph (1) to the National Research Council for review.

(B) PERIODIC REVIEW AND UPDATES.—Not less frequently than once every 5 years thereafter, the Board and the Commission shall, in consultation with the National Research Council, review the plan required by paragraph (1) and update it as the Board and the Commission consider necessary.

(5) USE.—The Board shall use the plan required by paragraph (1) as a basis for setting priorities and awarding grants under subsection (e).

#### (e) GRANTS.—

(1) AUTHORITY.—Except as provided in paragraph (2), the Board shall, under the Program, award grants to carry out research, monitoring, and observation activities described in subsections (b) and (c).

(2) LIMITATION.—The North Pacific Research Board may not award any grants under paragraph (1) until the Board has prepared the plan required by subsection (d)(1).

(3) CONDITIONS, CONSIDERATIONS, AND PRIORITIES.—When making grants to carry out the

research, monitoring, and observation activities described in subsections (b) and (c), the Board shall—

(A) consider institutions located in the Arctic and subarctic;

(B) place a priority on cooperative, integrated long-term projects, designed to address current or anticipated marine ecosystem or fishery or wildlife management information needs;

(C) give priority to fully establishing and operating the Alaska Ocean Observing System in the Arctic Ocean, which may include future support for cabled ocean observatories;

(D) recognize the value of local and traditional ecological knowledge, and, where appropriate, place a priority on research, monitoring, and observation projects that incorporate local and traditional ecological knowledge;

(E) ensure that research, monitoring, and observation data collected by grantees of the Program are made available to the public in a timely fashion, pursuant to national and international protocols; and

(F) give due consideration to the annual recommendations and review of the Commission carried out under subsection (f).

(f) ANNUAL RECOMMENDATIONS AND REVIEW BY ARCTIC RESEARCH COMMISSION.—Each year, the Commission shall—

(1) recommend ongoing and future research, monitoring, and observation priorities and strategies to be carried out pursuant to subsections (b) and (c);

(2) undertake a written review of ongoing and recently concluded research, monitoring, and observation activities undertaken pursuant to such subsections; and

(3) submit to the Board the recommendations required by paragraph (1) and the review required by paragraph (2).

By Ms. SNOWE:

S. 2150. A bill to amend title XVI of the Social Security Act to clarify that the value of certain funeral and burial arrangements are not to be considered available resources under the supplemental security income program; to the Committee on Finance.

Ms. SNOWE. Mr. President, I rise today to introduce valuable, bipartisan legislation that would codify the current policy of the Social Security Administration, SSA, to protect access to the Supplemental Security Income, SSI, program for those who prepay burial and funeral expenses.

When individuals are fiscally responsible, and plan ahead for their end-of-life costs, it makes no sense to penalize them. Under the current policy, if funds or life insurance are set aside, irrevocably—so the individual cannot take them back even if he or she wants to—then those resources do not count against the individual when determining whether or not they are eligible for SSI. This is a good policy, and I applaud the SSA for maintaining it.

Regrettably, this has not always been the case. When Congress passed anti-fraud legislation in 2000, the next year SSA misinterpreted provisions in the new law because it did not specifically carve out the exclusion for burial trusts. Therefore, SSA had the power to end the exclusion—and in fact, it

did. SSA later realized its mistake and restored the exclusion. However, in the meantime, this hiccup created a wave of chaos for responsible seniors who were wrongly denied access to SSI. This bill will codify the exclusion, so this or future administrations will not even have the possibility of making that mistake again. In doing so, we will not only provide clarity to the administrative agencies, but will also give certainty to SSI enrollees and applicants. They will be ensured that planning ahead to protect their loved ones from the costs associated with death will in no way penalize them when applying for assistance.

We are all aware that Americans are facing difficult times with unacceptably high unemployment and an economy that continues to sag. That is why it is unfair to penalize individuals who are fiscally responsible; rather we should further encourage them to plan ahead. This is not a loophole or a giveaway; this is current policy at SSA, and remember that this exclusion is only for funds or insurance that are absolutely going to be spent on burial costs. They are called “irrevocable trusts” because once you put the money aside, you cannot get it back. This bill has negligible revenue effect, because it merely tells the government, firmly, to keep doing what it is already doing.

I should also point to the fact that we are talking about SSI enrollees—individuals who generally do not have a lot of resources. If they are fiscally responsible and plan ahead for their burial and funeral costs, this reduces the likelihood of these costs falling on the obligation of State and local governments.

I know that we want agencies like SSA to be able to use their discretion and be nimble enough to adapt to a changing environment. However, we have gone that route before, and because of the SSA’s mistake in reversing the exclusion in 2001, we need to be absolutely clear about the intent of Congress on this policy. It is unconscionable for seniors to have their applications erroneously delayed or denied, and it is incumbent upon us to enact this simple, straightforward, uncontroversial fix.

Americans sacrifice a portion of every paycheck in order to support the programs SSA administers. They do so willingly, knowing that when they retire, or should they become disabled or fall on hard times during old age, programs like SSI will be there for them. This is a promise that we in Congress made to Americans. Enacting this fix is part of keeping that promise.

As a senior member of the Senate Finance Committee, I worked with SSA in developing this language. Many members have expressed support both for this legislation, and for the underlying policy that it codifies. I urge my

colleagues to support enactment of this bill, so that we can keep our promise to the Nation’s seniors, provide certainty, and reward fiscal responsibility and prudent planning.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2150

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. CERTAIN FUNERAL AND BURIAL ARRANGEMENTS NOT CONSIDERED RESOURCES.**

(a) IN GENERAL.—Section 1613(d) of the Social Security Act (42 U.S.C. 1382b(d)) is amended—

(1) in paragraph (2)(B), by inserting “, including a trust or arrangement described in paragraph (5)” after “irrevocable arrangement”; and

(2) by adding at the end the following:

“(5) If—

“(A) an individual or the individual’s spouse enters into an irrevocable contract with a provider of funeral goods and services for a funeral; and

“(B) the individual or the individual’s spouse funds the contract by—

“(i) prepaying for the goods and services and the funeral provider places the funds in a trust;

“(ii) establishing an irrevocable trust fully funding the goods and services and the funeral provider is the named beneficiary of the trust, or

“(iii) purchasing a life insurance policy that provides benefits to pay for the goods and services and irrevocably assigning such benefits to—

“(I) the funeral provider; or

“(II) an irrevocable trust fully funding the goods and services and the funeral provider is the named beneficiary of the trust, then the irrevocable contract and the funding arrangement for the irrevocable contract shall not be considered a resource available to the individual or the individual’s spouse.”.

(b) CONFORMING AMENDMENT.—Section 1613(e)(3)(B) of such Act (42 U.S.C. 1382b(e)(3)(B)) is amended by striking “In the case of an irrevocable trust established by an individual, if there are any circumstances under which payment from the trust” and inserting “Except as provided in subsection (d)(5)(B)(i), if there are any circumstances under which payment from an irrevocable trust established by an individual”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments for supplemental security income benefits under title XVI of the Social Security Act for months beginning on or after the date of enactment of this Act.

By Mr. MCCAIN (for himself, Mrs. HUTCHISON, Mr. CHAMBLISS, Mr. GRASSLEY, Ms. MURKOWSKI, Mr. COATS, Mr. BURR, and Mr. JOHNSON of Wisconsin):

S. 2151. A bill to improve information security, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. MCCAIN. Mr. President, I come to the floor today to introduce the

Strengthening and Enhancing Cybersecurity by Using Research, Education, Information and Technology Act, also known as the SECURE IT Act. I am joined today by Senator HUTCHISON, Senator CHAMBLISS, Senator GRASSLEY, Senator MURKOWSKI, Senator COATS, Senator BURR, and Senator JOHNSON of Wisconsin. My colleagues and I believe that passage of this act would be a significant step towards improving our Nation's cyber defenses.

It is clear to most policy makers that the Internet has transformed nearly all aspects of our lives by breaking down barriers and increasing information efficiencies. Whether you are a student searching for an article to complete a homework assignment or a fireman trying to remotely determine the landscape of a forest to safely extinguish a fire, the Internet has improved our lives because it has so greatly transformed how and when we are able to access information.

While progress is clear, not a week goes by without fresh media reports of a major compromise of a cyber network in the United States. A recent report by the Government Accountability Office stated that cyber attacks against the United States are up 650 percent over the last 5 years, and according to one leading cybersecurity firm, the annual cost of cyber crime itself is nearly \$388 billion. That cost is close to the sum of all of the profits of the top 75 Fortune 500 firms for 2011. My friends, if the top 75 American businesses lost all of their profits in one year, we would be working night and day to solve the problem.

Most of us don't need an analogy like that to appreciate the need to improve the current state of cybersecurity in this country. But the reality is that advancing much needed legislation has been extremely difficult. I will be the first to admit there are honest differences within the cybersecurity debate. However, over the course of the last few years, several cybersecurity solutions have been brought forth that I believe can be advanced and offer insight as to where progress can be achieved. These solutions are not insignificant and their passage would do plenty to improve our country's cybersecurity defenses. I believe that inaction is no longer an option. The stakes are too high and the threat is too real.

The SECURE IT Act is a serious response to the growing cyber threat facing our country. Our bill seeks to utilize the world-class engineers employed by our private sector, not compliance attorneys in billable by the hour law firms. This is why a primary objective of our bill is to enter into a cooperative information sharing relationship with the private sector, rather than an adversarial one rooted in prescriptive Federal regulations used to dictate technological solutions to industry.

The centerpiece of the SECURE IT Act is a legal framework to provide for

voluntary information sharing. Our bill provides specific authorities relating to the voluntary sharing of cyber threat information among private entities, between a private entity and a non-federal government agency such as a local government, and between any entity and a pre-existing Federal cybersecurity center. In setting forth our information sharing framework, we do not create any new bureaucracy.

Further, the SECURE IT Act includes no government monitoring, no government take-overs of the Internet, and no government intrusions. There are plenty of laws that deal with those issues—this bill is not one of them. The goal of the information sharing title is to remove the legal hurdles which prevent critical information from being shared with those who need it most.

In drafting the information sharing title of our bill, my colleagues and I were very sensitive to the issue of privacy and we worked very hard to put forth understandable privacy protections. First, we limit the type of information involved in information sharing to "cyber threat information" as it is narrowly defined in the bill. There are no legal protections for entities using, receiving, or sharing information that falls outside that narrow "cyber threat information" definition. Second, we include techniques like information anonymizing and specifically state that entities can restrict the further dissemination of shared information. Additionally, after the first year, and then every other year, we will receive reports from the Privacy and Civil Liberties Oversight Board which will tell us how these authorities are being implemented. We take the issue of privacy very seriously.

In addition to information sharing, the SECURE IT Act requires the Federal Government to improve its own cybersecurity by reforming the Federal Information Security Management Act—the law that governs federal networks. These updates are meant to ensure that the Federal Government transitions from paper-based reporting on network security to real-time monitoring—a huge step in federal cybersecurity which will go a long way to improve how the government addresses its own cyber threats. This transition from a checklist approach to continuous monitoring will not happen without an associated cost. However, we believe our approach to this necessary improvement is the most fiscally responsible because we require agencies to meet these requirements by using existing budgets, rather than by authorizing new federal spending.

We are all aware that Federal Government also plays a critical role in cybersecurity research. The Defense Advanced Research Projects Agency, the Department of Energy laboratories and the National Science Foundation are all world-class leaders in research that

is essential to understanding how to best protect our cyber country's infrastructure. This work serves an important purpose and should be a Federal priority even in a time of significant budget constraints. However, the significance of these programs does not provide us with an excuse to authorize new spending or establish new programs. The SECURE IT Act ignores this temptation and does not authorize new spending or programs.

Finally, our cybersecurity bill updates our Nation's criminal laws to account for new cyber crimes and assists the Department of Justice to prosecute cyber criminals.

In sum, it is our belief that the provisions included in the SECURE IT Act will dramatically improve cybersecurity in this country. More importantly, the approach taken in the SECURE IT Act has a real chance of being enacted into law this year. This is real progress that will impact nearly all Americans. After all, we are all in this fight together, and as we search for solutions, our first goal should be to move forward together.

Mrs. HUTCHISON. Mr. President, I rise to talk about a bill that was introduced this morning. The bill is the Strengthening and Enhancing Cybersecurity by Using Research, Education, Information, and Technology Act, which we refer to as the SECURE IT Act.

This is a very important piece of legislation because we know that cyber attacks are a threat to our country and we need to strengthen our laws to ensure we are protecting our assets, our communication systems, and all of the infrastructure that is run by communications systems.

We are working as a group. Senators MCCAIN, CHAMBLISS, GRASSLEY, MURKOWSKI, COATS, BURR, and JOHNSON are original cosponsors. All of us are the ranking members on the relevant committees that must deal with cybersecurity.

Senator MCCAIN, the lead sponsor, is, of course, the Armed Services ranking member. I am the ranking member of Commerce, Senator CHAMBLISS of Intelligence, Senator GRASSLEY certainly of Judiciary, and Senator MURKOWSKI of Energy.

It is very important that our relevant committees have come together with our ranking members, and we hope very much to gain support from the Democratic side as well on a bill that we think can get through all of Congress and be signed by the President because the parts of our bill that will strengthen our cybersecurity in this country are, I think, accepted by those who have expertise in this area. For instance, our bill will help prevent the spread of cyber attacks from network to network and across the Internet by removing barriers to sharing information about threats, attacks, and



strategies for improvement of defenses. We remove these barriers through addressing the antitrust laws that would allow companies that are sharing information not to be threatened with antitrust suits, because this is a security issue, it is not a competitive issue. Secondly, we want to have liability protection for those who disclose cyber threat information with their peers.

These are things that would be in everyone's interest for us to do, and we do need to address them in legislation. The liability and antitrust protections are available to all companies that would share information, not just those that share with the government but when they can talk to each other, to understand each other's systems.

Further, the SECURE IT Act would require that Federal contractors providing electronic communication or cybersecurity services to Federal agencies share cyber threat information related to those contracts. Of course, when they have contracts with the government, that information is going to be very important so we would require the sharing of information about threats that might jeopardize the system's security.

In addition, the government will develop procedures for the timely sharing of classified, declassified, and unclassified information to ensure that information needed to secure networks is fully accessible to trusted parties.

We are concerned that there are other bills out there that will add another new bureaucracy, another layer of regulation that is not necessary and brings in another agency that would overlay the security agencies that already have systems in place. It would also allow the regulatory bodies for certain areas of interest to handle the cybersecurity rather than another overlay of a new department.

I think so many people in our country who are in business feel they are overwhelmed with duplicative regulations and different agencies they have to report to. We want to streamline whom they have to report to and try to use existing structures and existing regulatory authorities to deal with each individual company or industry so that we don't have to give them yet another new bureaucracy that would then have regulations, if they are deemed to be critical infrastructure. That is when it becomes the regulatory threat.

We believe the private sector is more aware of individual security needs and better equipped than the Department of Homeland Security to secure its own networks, working with its own regulators. According to the Office of Management and Budget, the government itself has had great difficulty in preventing attacks on Federal systems. So we do require that the reporting of Federal contractors go to the Federal security agencies, but we don't think the Federal agencies being in charge of

everything is necessarily an improvement.

We want to make sure the Federal Information Security Management Act, which is the law, is actually updated so that the new forms of cyber threats are accommodated in FISMA, the Federal Information Security Management Act, and to strengthen that with the updates.

The legislation also updates the Criminal Code to address cyber crimes, strengthening penalties, improving the Department of Justice's ability to prosecute this kind of criminal who would take down whole systems of our government.

Our bill will prioritize cybersecurity research and development so we can harness innovation to protect our country and our private industries from cyber attacks.

I am very pleased that we have been able to introduce this legislation as an alternative to some of the other bills that have come out. I believe that if we can go forward with negotiating, perhaps we can come to an accommodation with the bills that have been introduced with other sponsors. But we don't think the bills that have been introduced address our concerns and we want to ensure that we do not have another big Federal bureaucracy, that we do not overlay the regulators who already have expertise in this area with new regulators whom we have to train and deal with. We think the defense agencies—the National Security Agency, the Defense Intelligence Agency, the CIA, DHS—all of those with their cybersecurity assets already in place are the better place to put the strength, not reinventing the wheel but better utilizing the systems we already have.

I think it is time for our Senate to address cyber security. I think we have good proposals out there; perhaps we can take the best of those. I think this is the right approach, and Senators MCCAIN, CHAMBLISS, GRASSLEY, and MURKOWSKI were key to drafting this legislation that I think will get the support of all of the stakeholders, as well as the House of Representatives, to actually pass a bill to improve our systems and take it to the President for signature.

Mr. CHAMBLISS. Mr. President, I rise today to speak in support of the Strengthening and Enhancing Cybersecurity by Using Research, Information, and Technology Act of 2012, otherwise known as the SECURE IT Act. This bill provides a strong foundation for Congress to enact what I hope can be a truly bipartisan approach for improving the ability of all Americans to protect themselves against the ever-increasing cybersecurity threat.

This bill was dropped today under the leadership of Senator MCCAIN, Senator HUTCHISON, Senator GRASSLEY, Senator MURKOWSKI, and myself, and I am very

pleased to be a part of that group who has worked very hard on this bill for a number of months.

There are a few who dispute the significance of the problem posed by the threat of cyber attacks. The financial harm inflicted by these attacks is now costing Americans billions of dollars each year. Denial-of-service attacks have been shutting down the Internet presence of business and organizations for years. Beyond the economic costs, malicious cyber activity is damaging our national security. Every day, cyber criminals and foreign adversaries steal large amounts of sensitive information from the networks of government and private sector entities. These trends need to be reversed before these malicious activities are measured in terms of lives lost rather than in terms of dollars as we are seeing today.

For years the Senate Intelligence Committee has been following the growing cybersecurity threats. Early on, one of the most common questions asked in the cybersecurity context was, Who is in charge? While this seems like the natural place to start, it is important to understand why this is really not the right question.

First, there is no consensus on who should be in charge. Some have argued it should be the Department of Defense. Some say it should be the Department of Homeland Security. Others think it might be best to start from scratch. All of these options have very obvious drawbacks.

Second, and more important, we have been looking through the wrong end of the telescope in trying to answer this question. Rather than trying to find a governmental entity that should be in charge of cybersecurity, it turns out that the answer is actually much simpler: each and every one of us is in charge of our own cybersecurity. I know some people will scoff at this answer because it is too simplistic for such a complicated problem or they just don't trust us to act in our own best interests. I think they are wrong on both counts.

So, if we—and by “we,” I mean all of us who use and rely on computer networks, whether individuals, groups, organizations, corporations, or government agencies—are in charge of our own cybersecurity, the real question then is, What should be done to reduce the threat of malicious cyber activity? I believe the answer to that question is contained in the bill called the SECURE IT Act that we have filed today.

The SECURE IT Act consists of four key areas of common ground identified in various legislative efforts: first, information sharing; second, Federal Information Security Management Act reform; third, enhanced criminal penalties; and fourth, cybersecurity research and development.

We have seen firsthand the positive impact better information sharing can



have on our national security. Since the 9/11 terrorist attack, improved information sharing throughout the government and especially within the intelligence community has greatly enhanced our national security. I believe a similar improvement to information sharing in the cyber context will pay huge, long-term dividends in terms of our safety and national security.

Once there is an understanding that information sharing will work best if it empowers the individual rather than a discrete government entity, the move from a regulatory approach to one that encourages voluntary sharing of cyber threat information by removing unintended barriers quickly follows. The information-sharing title of the SECURE IT Act is based on this voluntary approach and on the principle that government cannot and should not solve every problem.

The cosponsors of this bill relied upon a number of principles and practical considerations to develop the information-sharing provisions in this bill.

First, private sector innovation is the engine that drives our economy. Private sector entities have a vested interest in protecting their assets, businesses, and investments. What they often lack is information to help them better protect themselves. Therefore, our information-sharing provision authorizes private sector entities and non-Federal Government agencies to voluntarily disclose cyber threat information to government and private sector entities. The only time cyber threat information must be shared with the government is when it is directly related to a contract between a communications service provider and the government, which ordinarily is a term included in that contract anyway. The only new requirement is that such information will ultimately need to be shared with a cybersecurity center.

Information sharing is and must be a two-way street, but there are no quid pro quos here. Because the government often sees different threat pictures than the private sector, our bill also encourages the government to immediately share more classified, declassified, and unclassified cyber threat information. As one example, consider how improved information sharing might safeguard transportation industry systems. Suppose a commercial airline company detects a virus in their reservation system. The virus is stealing information, including customers' credit card numbers, and sending it to a hacker's server overseas. The airline, after investigating internally, determines where the stolen data is being sent. Under our bill, the airline may share the Internet address that is receiving the stolen credit card information with any other companies, such as other airlines, as well as with the government. With this warning from the

first airline, other transportation companies can check their systems to see if any of their data is being sent to the hacker's server. Moreover, using the hacker's Internet address, law enforcement is able to begin an investigation to identify other victims of the same hacker.

The cybersecurity centers will also be able to notify private entities of the nature of this particular threat. In this example, it is unlikely that the airline will ever need to share or release any customer's personally identifiable information.

Second, my cosponsors and I intentionally omitted a critical infrastructure title because we believe a top-down regulatory approach will stifle the voluntary sharing of cyber threat information by the private sector. Consistent with this principle, our information-sharing title does not provide any additional authority to any government entity to impose new regulations on the private sector. In fact, the bill prohibits government agencies from using any shared cyber threat information to regulate the lawful activities of an entity. In short, the bill leaves the existing regulatory regime unchanged.

The real difficulty with trying to regulate in this area is that malicious cyber activities occur in real time and are constantly changing. The bureaucracy-driven regulatory process is simply not nimble enough to keep up with the leading cybersecurity practices. Another disadvantage to a regulatory approach is that it gives hackers insight into existing cybersecurity performance requirements and, as a result, potential vulnerabilities. As industry representatives have told us, this could actually make us less safe, not more safe.

Thirdly, our bill does not create any new bureaucracy to facilitate the sharing of cyber threat information. Rather, it relies upon the existing cybersecurity centers and gives private entities the flexibility to share their cyber threat information with any cyber center. To ensure thorough dissemination within the government, each cybersecurity center is required to pass on to other centers any cyber threat information it receives from an entity. Ultimately, we expect that our current decentralized cybersecurity center structure will be energized by an increase in shared cyber threat information. We also think these centers, with their ongoing relationships with many private entities, provide a more robust and secure environment for information sharing than creating new cybersecurity exchanges or a new national center.

Another advantage of our "no new regulatory authorities" and "no new bureaucracy" approach is it is also a "no new spending" approach. Our bill does not authorize any new spending, which is particularly important given our current economic situation.

Fourth, our bill contains clear and unconditional protection from civil and criminal liability for entities that rely upon the authorities in the information-sharing title. Specifically, a private entity cannot be sued or prosecuted for using lawful countermeasures and cybersecurity systems to defend its networks and identify threats. In addition, neither a private entity nor a Federal Government entity can be sued or prosecuted for using, disclosing, or receiving cyber threat information or for the subsequent action or inaction by an entity to which they gave cyber threat information.

These clear liability protections are necessary to encourage robust information sharing. If they are watered down or made conditional on sharing with the government, private sector lawyers will likely discourage their clients from sharing cyber threat information and, at a minimum, sharing will be delayed while lawyers have to be consulted.

The final practical consideration that governed the drafting of our information-sharing title was to provide sensible safeguards for the protection of personal privacy. We accomplished this in a number of ways.

This information-sharing title is focused on the sharing of only "cyber threat information." It is a key definition in the bill. If you study it carefully, you will see it is limited primarily to information related to malicious cyber activities. There is no authorization or liability protection for using, sharing, or receiving information that falls outside of this definition. Nor can private entities use their cybersecurity systems to get information that falls outside this definition. Moreover, it helps to remember that people engaged in malicious cyber activities are essentially trespassers who have no standing to assert privacy interests.

Besides this relatively narrow definition of "cyber threat information," there is an additional privacy mechanism that limits the collection and disclosure of cyber threat information for the purpose of preventing, investigating, or mitigating threats to information security. In other words, if what you are doing is not for these purposes, then you cannot do it under this bill.

Another way this bill protects privacy is by requiring the government to handle all cyber threat information in a reasonable manner that considers the need to protect privacy and allows the use of anonymizing information.

Since information sharing is voluntary under our bill, private sector entities can take any steps to protect their own privacy interests and the privacy of their customers. Moreover, our bill allows private sector entities to require the recipients of their cyber

threat information to seek their consent before further disseminating the information.

Finally, Congress will be able to conduct its oversight since our bill requires an implementation report to Congress within 1 year of enactment, with follow-on reports every 2 years thereafter. These reports will give Congress detailed insight into a number of areas, including the degree to which privacy may be impacted by the provisions in this title.

Now that I have identified the key components and advantages of our approach to information sharing, let me explain why we were compelled to draft this separate bill.

All of the cosponsors of the SECURE IT Act agree with Senators LIEBERMAN and COLLINS and the White House that Congress needs to address the cybersecurity threat. When we attempted to participate in the cyber working groups, it became clear pretty early on that it was going to be difficult to come up with a consensus product.

My experience with working on bipartisan bills such as the Intelligence Authorization Act is that we generally start from scratch and only put in those provisions that are agreed to by both sides. If a provision receives an objection, it is not included, but it is understood it may be an amendment during markup or on the floor. This approach always gives us a great starting point that enjoys the overwhelming support of both sides.

Since the working group process had essentially reached an impasse on the issue of critical infrastructure regulation and how best to promote information sharing, the cosponsors of the SECURE IT Act joined together to develop a bill that would cover “common ground” and could serve as a better starting point for negotiations. We have listened to all sides in putting this bill together—government, industry, private groups, cybersecurity experts, and our colleagues on both sides of the aisle in both the Senate and the House. There should be nothing surprising in our bill. Our ranking member group has been telegraphing our priorities for months now.

If we are serious about passing cybersecurity legislation in this Congress—and I hope we are—we should be working together to pass a bill with the support of a large group of Senators far in excess of the 60 we need, as we have done in the past on many major pieces of legislation. I believe the “common ground” approach of the SECURE IT Act puts us on a clear path to reaching this goal.

This is important national security legislation. Fortunately, Leaders REID and MCCONNELL have an outstanding record of garnering overwhelming bipartisan support for national security legislation, and I am confident they will seek to do so again. I look forward

to continuing these discussions and getting a strong bipartisan bill signed into law.

Ms. MURKOWSKI. Mr. President, I come to the floor today to speak about cybersecurity legislation—legislation we hope will soon be before the Senate.

There is no question—no question at all—that this is a critical issue that should be addressed by this Congress, and I am certain that every Member of this body is concerned that our Nation may be vulnerable to cyber-attacks that could truly have very severe economic and security ramifications. We see stories about cyber-attacks daily—whether they are attacks on individuals, on companies, on government—and I believe it is time for us to take steps to protect ourselves against this emerging threat.

In the coming weeks, the Senate is expected to take up legislation to address this very real problem, and I am hopeful this effort will result in legislation we can all agree is worthy of sending to the President. But right now it appears we are on track to follow an all-or-nothing approach. The problem I see with the bill that is expected to come to the floor—featuring text that was recently released by the Homeland Security and Governmental Affairs Committee—is that it has not gone through regular order and, I fear, amounts to regulatory overreach. If that is our only option here, it will ultimately prevent us from making progress on cybersecurity here in Congress, which I think would be an unfortunate outcome.

Because that outcome is unacceptable, I have introduced an alternative bill this morning, along with a number of ranking member colleagues. I know Senator CHAMBLISS from Georgia was here on the floor earlier, and many of us spoke to it earlier in the day. We call our bill the Strengthening and Enhancing Cybersecurity by Using Research, Education, Information, and Technology Act of 2012. It has an acronym, of course. It is called SECURE IT for short. The bill follows a common-sense approach to address our ever-increasing cyber threats.

Our bill focuses on four different areas we believe can draw bipartisan support and result in good public law. Those four areas are: information sharing, FISMA reform—which is intelligence-sharing reform—criminal penalties, as well as additional research.

What the SECURE IT bill does not do is equally important, because it does not simply add new layers of bureaucracy and regulation that will serve little purpose and achieve meager results. The Homeland Security and Governmental Affairs Committee bill would arm the Department of Homeland Security with expansive new authorities to review all sectors of our economy and designate what is termed “covered critical infrastructure” for further reg-

ulation. What we hear out there from industry is that this amounts to regulation almost for regulation’s sake. In the electricity industry’s case, this is resulting in duplicative regulation that I am afraid will lead to a “compliance first” mentality. Companies will focus on meeting their new Federal requirements and passing a seemingly endless stream of audits, but these heavy-handed statistic requirements from yet one more Federal regulator will not necessarily address the very real threats we face. So again, the concern is we will have industry focused on how do we comply, how do we avoid a bad audit, instead of using their ingenuity and their resources to ensure we stay ahead of any future cyber-attack. We need to be more nimble. We have to have a more nimble approach to dealing with cyber-related threats that are constantly growing and constantly changing. The threat we see today is not necessarily the threat we might anticipate tomorrow, so we have to stay ahead of the game. This is important, and this is where our SECURE IT bill comes in. I think we have simply taken a more pragmatic approach by focusing on the areas where we know we can find some bipartisan support.

One area I think we can all agree on is that the Federal Government needs to form a partnership with the private sector. We share the same goals, that is clear. The goals are to keep our computer systems and our Nation safe from cyber intrusions. We need the private companies to be talking with each other and with the government about the cyber problems they face as well as the potential strategies and the solutions to combat them. To achieve this goal, our legislation encourages the voluntary sharing of much needed information by removing legal barriers to its use and its disclosure. At the same time, we are very careful to safeguard the privacy and prohibit information from being used for competitive advantage.

Our bill also provides necessary updates to the Federal Information Security Management Act. This is the FISMA I spoke to a minute ago. These FISMA reforms require real-time monitoring of Federal systems. It will modernize the way the government manages and mitigates its own cyber risks. And unlike other legislation on this subject, the cyber bill we have introduced today will update criminal statutes to account for cyber activities. Finally, we support advanced cybersecurity research by leveraging existing resources without necessarily spending new Federal dollars. That is very important for us.

This straightforward approach to cybersecurity, I think, can go a long way in tackling the problem. Clearly, our own government agencies here need to be communicating a little bit better with one another. An example of this is

that the White House and Department of Homeland Security are staging an exercise next week. All Members have been invited to attend and go through this exercise. It is a mock scenario that will feature a cyber-attack on the Nation's grid. And while I absolutely think this is a useful exercise, and something that is well worthwhile, I do find it quite surprising—quite surprising—that DHS would set up a grid attack scenario and fail to include the grid's primary regulators. These would be the electric reliability organization—what we call NERC—and the Federal Energy Regulatory Commission, or FERC. These are the two regulatory agencies currently in place that provide for that cyber regulation. It is mandated within our grid that these agencies tend to just this issue. So it does make me question if DHS is even aware the electric industry is the only industry already subject to mandatory cyber standards, or that the NERC has the ability to issue time-sensitive alerts to electric utilities in the event of emergency situations. It is kind of hard for me to understand why DHS would proceed with a grid attack simulation and not include the existing governmental entities that already have these safeguards in place. It also begs the question as to whether Congress should provide DHS with such significant and expansive new authorities in the cyber arena.

Before I close, I wish to take a moment to talk about the process behind cybersecurity legislation. While my colleagues and I have highlighted the substantive and procedural problems that are associated with the Homeland Security and Governmental Affairs Committee bill, the majority, and even the press, have attempted to dismiss our arguments as nothing more than partisan stall tactics.

I stand before you to tell you that is simply not true. I want to take action on cyber. I know all of the ranking members who have joined together on this issue want to take action on cyber. We need to do it. I have been calling for action and for legislation since last Congress. We have been working on it in the Energy Committee and have moved out that cyber energy piece. But I do think it is important around this body that there is some meaning to the process; that process really does matter. That is how strong, bipartisan pieces of legislation are enacted. When we forego that process and refuse to do the hard work in the committee—and it is hard. But if we don't do that, we put ourselves on a path to failure with that legislation.

So when we have seven ranking members taking issue with how a bill has been put together, I think we had better pay attention. I think we need to look at whether our process is working.

The SECURE IT bill we introduced today is a strong starting point for us.

Some may argue we need to go a little further. But additional layers of bureaucracy and regulations are not the answer at this time. Legislating in the four areas we have highlights—in the information sharing, the FISMA reform, criminal penalties, and research—these are necessary first steps that will make a tremendous amount of difference. If we need to do more in the future, we in Congress can certainly make that determination. But let's not take an all-or-nothing approach to cyber legislation and ultimately end up empty-handed.

I ask my colleagues to take a look at what we have presented today and consider supporting the SECURE IT Act so we can continue to ensure our citizens, our companies, and our country are protected.

#### SUBMITTED RESOLUTIONS

#### SENATE RESOLUTION 385—CONDEMNING THE GOVERNMENT OF IRAN FOR ITS CONTINUED PERSECUTION, IMPRISONMENT, AND SENTENCING OF YUCEF NADARKHANI ON THE CHARGE OF APOSTASY

Mr. VITTER (for himself, Mr. RUBIO, Mr. HOEVEN, Mr. DEMINT, Mr. KIRK, Mr. BLUNT, and Mr. HATCH) submitted the following resolution; which was referred to the Committee on Foreign Relations:

#### S. RES. 385

Whereas the United Nations Universal Declaration of Human Rights, adopted at Paris December 10, 1948, and the International Covenant on Civil and Political Rights, adopted at New York December 16, 1966, recognize that every individual has “the right to freedom of thought, conscience and religion”, which includes the “freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance”; Whereas Iran is a member of the United Nations and signatory to both the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights;

Whereas the United Nations Special Rapporteur on the situation of human rights in Iran has reported that religious minorities, including Nematollahi Sufi Muslims, Sunnis, Baha'is, and Christians, face human rights violations in Iran;

Whereas, in recent years, there has been a significant increase in the number of incidents of authorities in Iran raiding religious services, detaining worshippers and religious leaders, and harassing and threatening members of religious minorities;

Whereas the United Nations Special Rapporteur on the situation of human rights in Iran has reported that intelligence officials in Iran are known to threaten Christian converts with arrest and apostasy charges if they do not return to Islam;

Whereas the Department of State's most recent report on International Religious Freedom, released on September 13, 2011, states that Iran's “laws and policies severely

restrict freedom of religion,” and notes “government imprisonment, harassment, intimidation, and discrimination based on religious beliefs” including “death sentences for apostasy or evangelism”;

Whereas, in October 2009, Youcef Nadarkhani, an Iranian Christian, protested an Iranian law that would impose Islam on his Christian children;

Whereas, in September 2010, a court in Iran accused Youcef Nadarkhani of abandoning the Islamic faith of his ancestors and condemned him to death for apostasy;

Whereas the court sentenced Youcef Nadarkhani to death by hanging;

Whereas, on December 5, 2010, Youcef Nadarkhani appealed his conviction and sentence to the Supreme Revolutionary Court in Qom, Iran, and the court held that if it could be proven that he was a practicing Muslim in adulthood, his death sentence should be carried out unless he recants his Christian faith and adopts Islam;

Whereas, from September 25 to September 28, 2011, a court in Iran held hearings to determine if Youcef Nadarkhani was a practicing Muslim in adulthood and held that he had abandoned the faith of his ancestors and must be sentenced to death if he does not recant his faith;

Whereas, on numerous occasions, the judiciary of Iran offered to commute Youcef Nadarkhani's sentence if he would recant his faith;

Whereas numerous Government of Iran officials have attempted to coerce Youcef Nadarkhani to recant his Christian faith and accept Islam in exchange for his freedom;

Whereas Youcef Nadarkhani continues to refuse to recant his faith;

Whereas the Government of Iran continues to indefinitely imprison Youcef Nadarkhani for choosing to practice Christianity; and

Whereas the United Nations Special Rapporteur on the situation of human rights in Iran has reported that, at the time of his report, on October 19, 2011, the Government of Iran had secretly executed 146 people during that calendar year, and in 2010, the Government of Iran secretly executed more than 300 people: Now, therefore, be it

#### Resolved, That the Senate—

(1) condemns the Government of Iran for its ongoing and systemic violations of the human rights of the people of Iran, including the state-sponsored persecution of religious minorities in Iran, and its continued failure to uphold its international obligations, including with respect to the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights;

(2) calls for the Government of Iran to exonerate and immediately and unconditionally release Youcef Nadarkhani and all other individuals held or charged on account of their religious or political beliefs;

(3) calls on the President to designate additional Iranian officials, as appropriate, for human rights abuses pursuant to section 105 of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8514); and

(4) reaffirms that freedom of religious belief and practice is a universal human right and a fundamental individual freedom that every government must protect and must never abridge.

# SENATE RESOLUTION 386—CALLING FOR FREE AND FAIR ELECTIONS IN IRAN, AND FOR OTHER PURPOSES

Mr. HOEVEN (for himself, Mr. BLUMENTHAL, Mr. LIEBERMAN, Mr. GRAHAM, Mr. MCCAIN, Mr. BEGICH, Mr. SESSIONS, Mr. NELSON of Nebraska, Ms. AYOTTE, Mr. COONS, Mr. MCCONNELL, Ms. MIKULSKI, Mr. CORNYN, Mr. SCHUMER, Mr. THUNE, Mrs. SHAHEEN, Mr. ALEXANDER, Mrs. GILLIBRAND, Mr. RISCH, Mr. BROWN of Ohio, Mr. CHAMBLISS, Mr. MENENDEZ, Mr. BLUNT, Mrs. MCCASKILL, Ms. COLLINS, Mr. NELSON of Florida, Mr. ISAKSON, Mr. LAUTENBERG, Mr. BARRASSO, Mr. PRYOR, Mr. COATS, Mrs. FEINSTEIN, Mr. COBURN, Mr. UDALL of Colorado, Mr. JOHNSON of Wisconsin, Mr. CASEY, Mr. CRAPO, Mr. BENNET, Mr. GRASSLEY, Mr. WYDEN, Mr. HELLER, Mrs. HUTCHISON, Mr. INHOFE, Mr. KYL, Mr. LEE, Mr. PORTMAN, Mr. TOOMEY, Mr. WICKER, Mr. SHELBY, Mr. VITTER, Mr. BURR, Mr. BOOZMAN, Mr. BROWN of Massachusetts, Ms. SNOWE, Mr. ROBERTS, Mr. COCHRAN, Mr. HATCH, Mr. MORAN, Ms. MURKOWSKI, Mr. RUBIO, Mr. JOHANNES, Mr. KOHL, Mr. DURBIN, Mr. FRANKEN, Mr. CONRAD, Ms. KLOBUCHAR, and Mr. ENZI) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 386

Whereas democracy, human rights, and civil liberties are universal values and fundamental principles of United States foreign policy;

Whereas an essential element of democratic self-government is for leaders to be chosen and regularly held accountable through elections that are organized and conducted in a manner that is free, fair, inclusive, and consistent with international standards;

Whereas governments whose power does not derive from free and fair elections lack democratic legitimacy;

Whereas the Government of the Islamic Republic of Iran is a signatory to the United Nations International Covenant on Civil and Political Rights, adopted December 16, 1966 (ICCPR), which states that every citizen has the right to vote "at genuine periodic elections" that reflect "the free expression of the will of the electors";

Whereas the Government of the Islamic Republic of Iran regularly violates its obligations under the ICCPR, holding elections that are neither free nor fair nor consistent with international standards;

Whereas elections in Iran are marred by the disqualification of candidates based on their political views; the absence of credible international observers; severe restrictions on freedom of expression, assembly, and association, including censorship, surveillance, and disruptions in telecommunications, and the absence of a free media; widespread intimidation and repression of candidates, political parties, and citizens; and systemic electoral fraud and manipulation;

Whereas the last nationwide election held in Iran, on June 12, 2009, was widely condemned inside Iran and throughout the world as neither free nor fair and provoked large-scale peaceful protests throughout Iran;

Whereas, following the June 12, 2009, election, the Government of the Islamic Repub-

lic of Iran responded to peaceful protests with a large-scale campaign of politically motivated violence, intimidation, and repression, including acts of torture, cruel and degrading treatment in detention, rape, executions, extrajudicial killings, and indefinite detention;

Whereas, on December 26, 2011, the United Nations General Assembly passed a resolution denouncing the serious human rights abuses occurring in the Islamic Republic of Iran;

Whereas authorities in Iran continue to hold several candidates from the 2009 election in indefinite detention;

Whereas authorities in Iran have announced that nationwide parliamentary elections will be held on March 2, 2012;

Whereas the Government of the Islamic Republic of Iran has banned more than 2,200 candidates from participating in the March 2, 2012, elections, including current members of parliament;

Whereas no domestic or international election observers are scheduled to oversee the March 2, 2012, elections;

Whereas the Government of the Islamic Republic of Iran continues to hold leading opposition figures under house arrest;

Whereas the Government of the Islamic Republic of Iran seeks to prevent the people of Iran from accessing news and information by incarcerating more journalists than any other country in the world, according to a 2011 report from the Committee to Protect Journalists; disrupting access to the Internet, including blocking e-mail and social networking sites and limiting access to foreign news and websites, developing a national Internet that will facilitate government censorship of news and information, and jamming international broadcasts such as the Voice of America's Persian News Network and Radio Free Europe/Radio Liberty's Radio Farda; and

Whereas opposition groups in Iran have announced they will boycott the March 2, 2012, election because they believe it will be neither free nor fair nor consistent with international standards: Now, therefore, be it

*Resolved*, That the Senate—

(1) reaffirms the commitment of the United States to democracy, human rights, civil liberties, and rule of law, including the universal rights of freedom of assembly, freedom of speech, and freedom of association;

(2) expresses support for freedom, human rights, civil liberties, and rule of law in Iran, and for elections that are free, fair, and meet international standards, including granting independent international and domestic electoral observers unrestricted access to polling and counting stations;

(3) expresses strong support for the people of Iran in their peaceful calls for a representative and responsive democratic government that respects human rights, civil liberties, and the rule of law;

(4) reminds the Government of the Islamic Republic of Iran of its obligations under the international covenants to which it is a signatory to hold elections that are free and fair;

(5) condemns the Government of the Islamic Republic of Iran's widespread human rights violations;

(6) calls on the Government of the Islamic Republic of Iran to respect freedom of expression and association in Iran by—

(A) ending arbitrary detention, torture, and other forms of harassment against media professionals, human rights defenders and activists, and opposition figures, and releasing all individuals detained for exercising universally recognized human rights;

(B) lifting legislative restrictions on freedoms of assembly, association, and expression; and

(C) allowing the Internet to remain free and open and allowing domestic and international media to operate freely;

(7) further calls on the Government of the Islamic Republic of Iran to allow international election monitors to be present for the March 2, 2012, elections; and

(8) urges the President, the Secretary of State, and other world leaders—

(A) to express support for the universal rights and freedoms of the people of Iran, including to democratic self-government;

(B) to broaden engagement with the people of Iran and support efforts in the country to help promote human rights and democratic reform, including by providing appropriate funding to civil society organizations for democracy and governance activities; and

(C) to condemn elections that are not free and fair and that do not meet international standards.

Mr. HOEVEN. Mr. President, I rise to speak to the Hoeven-Blumenthal resolution, and also, in addition to requesting 10 minutes, I request that my cosponsor on the resolution, Senator BLUMENTHAL, be allowed to engage with me in this discussion.

We have submitted a resolution calling for free and fair elections in Iran. Those elections will be held tomorrow, March 2. It is the first time the Republic of Iran has had parliamentary elections since June 12, 2009. I thank Senator BLUMENTHAL for joining me in this resolution and also Senator LINDSEY GRAHAM, Senator JOE LIEBERMAN, and Senator KELLY AYOTTE. As I say, I think we have now over 60 sponsors on this resolution, working to see that it can pass the Senate here very quickly. It expresses a sense of the Senate clearly calling for open, free, and fair elections in the Republic of Iran. The problem is that the elections they will be holding tomorrow are neither free nor fair. They are certainly not consistent with international standards.

As I said, these will be the first nationwide parliamentary elections since June 12, 2009. Those elections were neither free nor fair, and they provoked widespread protests throughout Iran. Those protests were brutally repressed, put down by the regime, Ayatollah Khamenei and Prime Minister Ahmadinejad, trampling human rights and taking political prisoners who remain in prison to this very day.

Since the last elections, uprisings, popular movements for self-determination, have taken place throughout the Middle East—often referred to as the Arab spring—in countries such as Tunisia, Egypt, Libya, and other places as well. We want to support that right to self-determination in Iran for the people in Iran as well.

Right now the only people who can run for office in Iran are people who are approved to run by the regime itself. They have the Council of Guardians, and the Council of Guardians has to approve anyone who wants to run

for office, so the reality is the government of the regime itself decides whether you can run for office. About over 5,000 individuals applied to run for government, and of those 5,000 about 3,000 were approved by the Iranian regime to run. More than 2,000 were denied, so they cannot even run. Well, how can you have a free or a fair and or an open election that meets independent standards when the government decides who can run and who cannot run? It doesn't work. That is not the way elections should work.

America truly is a force for freedom and for democracy in the world, and that is why we are working to call the attention of the world to these elections. It is particularly important at this time that we stand with the Iranian people in calling for free and fair elections as we impose sanctions to try to prevent government from developing a nuclear weapon. We want to make very clear that while we need to impose strong, consistent sanctions that prevent the Iranian regime from obtaining a nuclear bomb, at the same time we support the Iranian people's right to self-determination.

Mr. President, I thank the good Senator from Connecticut for working with me on this resolution and recognizing the right of the Iranian people. I also want to thank our colleagues, as I say, now more than 60—who have joined us on this resolution and also look forward to quick passage.

With that, I wish to turn the floor over to my colleague, the good Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. BLUMENTHAL. Mr. President, I wish to thank the Senator from North Dakota for his leadership on this very important issue. I want to thank him for his perseverance and his vision in seeing the importance—along with Senator MCCAIN, Senator GRAHAM, and Senator SESSIONS—of this kind of effort, which had its genesis in the trip that we took to Afghanistan, Egypt, Israel, Tunisia, and Libya.

What impressed us so much is how democracy is growing and starting there, and in that part of the world how the dictatorship and tyranny of Iran are such contrasts with the hopeful, burgeoning democracies that are growing there. That is the reason so many of our colleagues—I believe that over 60—have joined.

I want to ask unanimous consent that Senator KLOBUCHAR of Minnesota be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BLUMENTHAL. Mr. President, I am honored today to speak in support of the Hoeven-Blumenthal resolution calling for free and fair elections in Iran and condemning the Government of the Islamic Republic of Iran for its ongoing violations of human rights.

These violations are brutal, tangible, and real in their impact on individual lives in that country, and our hearts go out to the people of Iran, particularly the individuals there fighting for freedom and democracy.

The world has watched the Arab spring bring down dictators in Tunisia and Tripoli, and the people of Iran continue to be denied those basic human rights that we hold dear and which should be universal.

I also want to thank Secretary Clinton for her tireless work in this region. She arrived in Tunisia shortly after we left to consult with all nations interested in aiding the Syrian people and she showed, again, her dedication to this same cause of human rights through her leadership there.

I saw in our meetings with a new generation of leaders that is emerging in the Middle East how dramatic the statements we make here and the actions that we take impress them in their fight for basic human rights. How we are speaking out here for universal suffrage and freedom has an impact on what they do, and perhaps many in our own country need to be reminded about the importance of what we say and do here.

The parliamentary elections that will occur on Friday in Iran will be neither free nor fair. They have already taken actions to assure that it will be, as one observer said, the fakest one yet. But the brutal oppression in human rights going on there is too real for those who suffer at that government's and that regime's hands. As the resolution makes clear, Iran has already disqualified 2,200 candidates from actually running for office simply based on their political views.

It maintains severe restrictions on the press, strangling a free press, preventing even the Voice of America and Radio Free Europe from reaching the people of Iran, having created a sham election, a travesty, and a tragedy. The Iranian regime now will force Iranians to vote at the polls in an effort to show popular support, and force them to vote simply to show this sham support. The truth is it has no such support. Allowing international monitors to bear witness, as we demand in our resolution, would reveal these acts of oppression for what they are and for the world to see.

The last nationwide election held in Iran, on June 12, 2009, was widely condemned throughout the world. Following the election, there was brutal repression documented all too dramatically by the videos and other evidence that, in effect, was smuggled out of Iran, although in real time. That large campaign of politically motivated violence, intimidation, repression, torture, cruel and degrading treatment, including rape, executions, and extrajudicial killings, and indefinite detention is all well documented.

On December 26, 2011, the United Nations General Assembly passed a resolution denouncing the serious human rights abuses occurring in Iran. The Hoeven-Blumenthal resolution lets the people of Iran know we are with them, they are not alone; that we side with them, and we stand and speak out on their behalf because they are not forgotten in their effort for democracy.

The future of the Middle East will be determined first and foremost by the people of the Middle East themselves, but American strength, vision, and leadership are absolutely essential. So in that regard I am very proud and grateful for the 62 cosponsors of this resolution—now 63 with Senator KLOBUCHAR—and I again thank the Senator from North Dakota.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. HOEVEN. Mr. President, I, too, wish to express my appreciation to Senator BLUMENTHAL and to all our cosponsors, and I look forward to the Senate agreeing to this important resolution.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Ms. KLOBUCHAR. Mr. President, I thank the two Senators for their good work on this very important resolution.

#### SENATE RESOLUTION 387—CELEBRATING BLACK HISTORY MONTH

Mrs. GILLIBRAND (for herself, Mr. WHITEHOUSE, Ms. MIKULSKI, Mr. MENENDEZ, Mr. SANDERS, Mr. UDALL of Colorado, Mr. BROWN of Ohio, Mr. DURBIN, Mrs. MURRAY, Mr. NELSON of Florida, Mr. PRYOR, Mr. AKAKA, Mr. SCHUMER, Ms. LANDRIEU, Mr. BROWN of Massachusetts, Mr. MERKLEY, Mr. NELSON of Nebraska, Mr. FRANKEN, Mr. LAUTENBERG, Mrs. BOXER, Mr. COCHRAN, Mr. CARDIN, and Mr. LEVIN) submitted the following resolution; which was considered and agreed to:

S. RES. 387

Whereas in 1776, the United States of America was imagined, as stated in the Declaration of Independence, as a new country dedicated to the proposition that “. . . all Men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are Life, Liberty, and the Pursuit of Happiness . . .”;

Whereas the first Africans were brought involuntarily to the shores of America as early as the 17th century;

Whereas African-Americans suffered enslavement and subsequently faced the injustices of lynch mobs, segregation, and denial of the basic and fundamental rights of citizenship;

Whereas inequalities and injustices in our society still exist today;

Whereas in the face of injustices, people of the United States of good will and of all races distinguished themselves with a commitment to the noble ideals on which the

United States was founded and courageously fought for the rights and freedom of African-Americans;

Whereas many African-American men and women worked against racism to achieve success and have made significant contributions to the economic, educational, political, artistic, literary, scientific, and technological advancements of the United States;

Whereas the greatness of the United States is reflected in the contributions of African-Americans in all walks of life throughout the history of the United States;

Whereas Lieutenant Colonel Allen Allensworth, Muhammad Ali, Constance Baker Motley, James Baldwin, James Beckwourth, Clara Brown, Ralph Bunche, Shirley Chisholm, Frederick Douglass, W. E. B. Du Bois, Ralph Ellison, Alex Haley, Dorothy Height, Lena Horne, Charles Hamilton Houston, Mahalia Jackson, Martin Luther King, Jr., the Tuskegee Airmen, Thurgood Marshall, Rosa Parks, Bill Pickett, Jackie Robinson, Sojourner Truth, and Harriet Tubman each lived a life of incandescent greatness, while many African-Americans lived, toiled, and died in obscurity, never achieving the recognition they deserved and yet paved the way for future generations to succeed;

Whereas, pioneers such as Maya Angelou, Arthur Ashe, Jr., Carol Moseley Braun, Ronald Brown, Ursula Burns, Kenneth Chenault, David Dinkins, Alexis Herman, Mae Jemison, Earvin "Magic" Johnson, Sheila Johnson, James Earl Jones, David Paterson, Marian Wright Edelman, Alice Walker, and Oprah Winfrey have all benefitted from their forefathers and have served as great role models and leaders for future generations to come;

Whereas on November 4, 2008, the people of the United States elected an African-American man, Barack Obama, as President of the United States;

Whereas African-Americans continue to serve the United States at the highest levels of government and military;

Whereas on February 22, 2012, President Barack Obama and First Lady Michelle Obama, along with former First Lady Laura Bush, celebrated the groundbreaking of the National Museum of African American History and Culture on the National Mall in Washington, DC;

Whereas the birthdays of Abraham Lincoln and Frederick Douglass inspired the creation of Negro History Week, the precursor to Black History Month;

Whereas Negro History Week represented the culmination of the efforts of Dr. Carter G. Woodson to enhance knowledge of black history through the *Journal of Negro History*, published by the Association for the Study of African American Life and History, which was founded by Dr. Woodson and Jesse E. Moorland;

Whereas Black History Month, celebrated during the month of February, dates back to 1926 when Dr. Woodson set aside a special period of time in February to recognize the heritage and achievement of black Americans;

Whereas Dr. Woodson, the "Father of Black History", stated, "We have a wonderful history behind us. . . . If you are unable to demonstrate to the world that you have this record, the world will say to you, 'You are not worthy to enjoy the blessings of democracy or anything else.'";

Whereas since the founding, the United States has been an imperfect work in making progress towards noble goals; and

Whereas the history of the United States is the story of a people regularly affirming high ideals, striving to reach those ideals but

often failing, and then struggling to come to terms with the disappointment of that failure before committing to trying again: Now, therefore, be it

*Resolved*, That the Senate—

(1) acknowledges that all of the people of the United States are the recipients of the wealth of history given to us by black culture;

(2) recognizes the importance of Black History Month as an opportunity to reflect on the complex history of the United States, while remaining hopeful and confident about the path that lies ahead;

(3) acknowledges the significance of Black History Month as an important opportunity to recognize the tremendous contributions of African-Americans to the history of the United States;

(4) encourages the celebration of Black History Month to provide a continuing opportunity for all people in the United States to learn from the past and to understand the experiences that have shaped the United States; and

(5) agrees that while the United States began in division, the United States must now move forward with purpose, united tirelessly as one Nation, indivisible, with liberty and justice for all, and to honor the contribution of all pioneers in this country who help ensure the legacy of these great United States.

#### SENATE RESOLUTION 388—COMMEMORATING THE 200TH ANNIVERSARY OF THE WAR OF 1812 AND "THE STAR SPANGLED BANNER", AND RECOGNIZING THE HISTORICAL SIGNIFICANCE, HEROIC HUMAN ENDEAVOR, AND SACRIFICE OF THE UNITED STATES ARMY, NAVY, MARINE CORPS, AND REVENUE MARINE SERVICE, AND STATE MILITIAS, DURING THE WAR OF 1812

Mr. CARDIN (for himself, Mr. PORTMAN, Mr. KERRY, Ms. MIKULSKI, Mr. LEVIN, and Mr. SESSIONS) submitted the following resolution; which was considered and agreed to:

##### S. RES. 388

Whereas the period beginning in 2012 and ending in 2015 marks the bicentennial celebration of the War of 1812 and "The Star Spangled Banner";

Whereas the War of 1812, which has been referred to as the "Second War of Independence", confirmed the independence of the United States from Great Britain in the eyes of the world and shaped the expansion and growth of the United States in later decades;

Whereas the United States declared war on Great Britain on June 18, 1812, to redress wrongs including—

(1) the impressment of United States sailors;

(2) the violation of the neutrality rights of the United States; and

(3) the violation of the territorial waters of the United States;

Whereas, despite the vastly superior size of the military of Great Britain, the United States Army, Navy, Marine Corps, and Revenue Marine Service (a predecessor of the United States Coast Guard), and State militias (the predecessors of the National Guard), won a number of significant victories, ensuring that the liberties won by the

United States during the Revolutionary War were not lost;

Whereas major battles of the War of 1812 that were fought on the water, including the battle between U.S.S. *Constitution* and H.M.S. *Guerriere*, the Battle of Lake Champlain, and victories on the Great Lakes, showcased the might, bravery, and war-fighting tactics of the United States maritime forces;

Whereas the decisive victory of Oliver Hazard Perry over a British fleet near Put-In-Bay, Ohio in the Battle of Lake Erie ensured that—

(1) the United States gained control of the Great Lakes; and

(2) portions of the Old Northwest Territory, such as Ohio, Michigan, Illinois, Minnesota, and Wisconsin, remained part of the United States;

Whereas State militias, the oldest component of the Armed Forces of the United States, answered the call to service, defending their communities and their country from aggression by Great Britain;

Whereas United States forces seized the city of Mobile from Spanish control in 1813, built Fort Bowyer to protect the city, and in 1814 successfully repelled a vastly larger British force from the city, resulting in Mobile becoming one of the few permanent land concessions gained by the United States during the War of 1812;

Whereas Great Britain unleashed grievous attacks on the capital of the United States, Washington, D.C., burning to the ground the United States Capitol Building, the White House, and much of the rest of the city;

Whereas, after 2½ years of conflict, the British Royal Navy sailed up the Chesapeake Bay in an attempt to capture Baltimore, Maryland;

Whereas United States forces at Fort McHenry, stationed in the outer harbor of Baltimore, Maryland under the command of Brevet Lieutenant Colonel George Armistead, withstood nearly 25 hours of bombardment by the British forces and refused to yield, thereby forcing the British to give up the invasion and withdraw;

Whereas Francis Scott Key, a United States lawyer who was being held by the British on board a United States flag-of-truce vessel in the harbor, saw "by the dawn's early light", as Key would later write, an American flag still flying over Fort McHenry after the horrific attack;

Whereas Francis Scott Key immortalized the event in a poem entitled "Defense of Fort McHenry", which was later set to music and called "The Star-Spangled Banner";

Whereas "The Star-Spangled Banner" became the national anthem of the United States on March 3, 1931, when President Herbert Hoover signed Public Law 71-823;

Whereas General Andrew Jackson, who would later become the seventh President of the United States, won the Battle of Horseshoe Bend and then triumphed in the decisive Battle of New Orleans, which, although fought after the signing of the Treaty of Ghent, was a great source of pride to the young United States and provided momentum for growth and prosperity in the years that would follow;

Whereas, since 1916, the people of the United States have entrusted the National Park Service with the care of national parks and sites of historical significance to the country, including Fort McHenry and more than 30 other sites and National Heritage Areas that tell the story of the War of 1812;



Whereas the diverse historic sites relating to the War of 1812 include homes, battlefields, and landscapes that highlight the contributions made by a wide range of people in the United States during the war;

Whereas one such historic site is the Fort McHenry National Monument and Historic Shrine, the birthplace of "The Star Spangled Banner", where the symbols of both the flag and the national anthem of the United States come together;

Whereas the people of the United States are grateful for the rights defended through hard fighting during the War of 1812 by the United States Army, Navy, Marine Corps, and Revenue Marine Service, and State militias, including the protection of United States citizens at home and abroad, unrestricted trade, free and open ports, and the protection of the territorial integrity of the United States against aggression; and

Whereas, during the bicentennial years of the War of 1812 and "The Star Spangled Banner", it is fitting that the bravery and steadfast determination of the United States land and maritime forces be celebrated by the grateful people of the United States: Now, therefore, be it

*Resolved*, That the Senate—

(1) honors the memory of all the people of the United States who came together during the War of 1812, particularly the fallen heroes who gave their lives during the "Second War of Independence";

(2) commends the men and women of the United States Army, Navy, Marine Corps, Air Force, and Coast Guard, and the State National Guards, who preserve the ideals of freedom, democracy, and the pursuit of happiness that were guaranteed by the victories of the War of 1812;

(3) congratulates the Armed Forces of the United States, the National Parks Service, the Maryland War of 1812 Bicentennial Commission, and all other organizations and individuals who are involved in preserving and promoting the history of this great country, and supports their commemoration of the War of 1812 and "The Star Spangled Banner"; and

(4) calls on all people of the United States to join in the commemoration of the bicentennial of the War of 1812 and "The Star Spangled Banner" in events throughout the United States, to celebrate that at the end of the war, as Francis Scott Key wrote, "our flag was still there".

#### SENATE CONCURRENT RESOLUTION 35—TO ESTABLISH THE JOINT CONGRESSIONAL COMMITTEE ON INAUGURAL CEREMONIES FOR THE INAUGURATION OF THE PRESIDENT-ELECT AND VICE PRESIDENT-ELECT OF THE UNITED STATES ON JANUARY 21, 2013

Mr. SCHUMER (for himself and Mr. ALEXANDER) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 35

*Resolved by the Senate (the House of Representatives concurring),*

#### SECTION 1. ESTABLISHMENT OF JOINT COMMITTEE.

There is established a Joint Congressional Committee on Inaugural Ceremonies (in this resolution referred to as the "joint committee") consisting of 3 Senators and 3 Members of the House of Representatives, to be

appointed by the President of the Senate and the Speaker of the House of Representatives, respectively. The joint committee is authorized to make the necessary arrangements for the inauguration of the President-elect and Vice President-elect of the United States on January 21, 2013.

#### SEC. 2. SUPPORT OF THE JOINT COMMITTEE.

The joint committee—

(1) is authorized to utilize appropriate equipment and the services of appropriate personnel of departments and agencies of the Federal Government, under arrangements between the joint committee and the heads of those departments and agencies, in connection with the inaugural proceedings and ceremonies; and

(2) may accept gifts and donations of goods and services to carry out its responsibilities.

#### SENATE CONCURRENT RESOLUTION 36—TO AUTHORIZE THE USE OF THE ROTUNDA AND EMANCIPATION HALL OF THE CAPITOL BY THE JOINT CONGRESSIONAL COMMITTEE ON INAUGURAL CEREMONIES IN CONNECTION WITH THE PROCEEDINGS AND CEREMONIES CONDUCTED FOR THE INAUGURATION OF THE PRESIDENT-ELECT AND THE VICE PRESIDENT-ELECT OF THE UNITED STATES

Mr. SCHUMER (for himself and Mr. ALEXANDER) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 36

*Resolved by the Senate (the House of Representatives concurring),*

#### SECTION 1. USE OF THE ROTUNDA AND EMANCIPATION HALL OF THE CAPITOL.

The rotunda and Emancipation Hall of the United States Capitol are authorized to be used on January 21, 2013, by the Joint Congressional Committee on Inaugural Ceremonies in connection with the proceedings and ceremonies conducted for the inauguration of the President-elect and the Vice President-elect of the United States.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 1757. Mr. UDALL, of New Mexico (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table.

SA 1758. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1759. Mr. BINGAMAN (for himself and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1760. Mr. BROWN, of Ohio submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1761. Mr. REID proposed an amendment to the bill S. 1813, supra.

SA 1762. Mr. REID proposed an amendment to amendment SA 1761 proposed by Mr. REID to the bill S. 1813, supra.

SA 1763. Mr. REID proposed an amendment to the bill S. 1813, supra.

SA 1764. Mr. REID proposed an amendment to amendment SA 1763 proposed by Mr. REID to the bill S. 1813, supra.

SA 1765. Mr. REID proposed an amendment to amendment SA 1764 proposed by Mr. REID to the amendment SA 1763 proposed by Mr. REID to the bill S. 1813, supra.

SA 1766. Mr. BROWN, of Ohio (for himself and Mr. MERKLEY) submitted an amendment intended to be proposed to amendment SA 1761 proposed by Mr. REID to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1767. Mr. LAUTENBERG (for himself, Mr. DURBIN, Mrs. GILLIBRAND, and Mr. SANDERS) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1768. Mr. HARKIN (for himself, Mr. MORAN, Mr. LEVIN, Ms. STABENOW, and Mr. SANDERS) submitted an amendment intended to be proposed to amendment SA 1761 proposed by Mr. REID to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1769. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1770. Mr. SCHUMER (for himself and Mrs. GILLIBRAND) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

#### TEXT OF AMENDMENTS

SA 1757. Mr. UDALL of New Mexico (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 210, strike line 10 and all that follows through page 218, line 20, and insert the following:

"(A) BASIS.—After making the set asides authorized under subsections (a)(6), (c), (d), and (e) on October 1 of each fiscal year, the Secretary shall distribute the remainder authorized to be appropriated for the tribal transportation program under this section among Indian tribes as described in subparagraph (B).

"(B) TRIBAL SHARES.—

"(i) IN GENERAL.—Subject to clause (ii), tribal shares under this program shall be determined in the same manner as determined under section 202, as in effect on the day before the date of enactment of the MAP-21, except that inventory included under subsection (d)(2)(G)(ii) of that section 202 after the date of enactment of the MAP-21 shall not be used to determine the relative transportation needs of an Indian tribe under any disbursement formula developed in accordance with this subparagraph.

"(ii) COMMITTEE ON FORMULA GRANTS.—

"(I) IN GENERAL.—The Secretary and the Secretary of the Interior shall jointly establish a committee on formula grants under the tribal transportation program, which shall be composed of—

"(aa) 1 representative from each Region of the Bureau of Indian Affairs, who shall be appointed by the Secretary based on the recommendation of the Indian tribes in each such Region; and

"(bb) employees of the Department of Transportation and the Department of the Interior having expertise in tribal transportation.



“(II) DUTIES OF THE COMMITTEE.—During the 18-month period after the date of enactment of the MAP-21, the committee shall develop a formula for the distribution of amounts under this section.

“(III) IMPLEMENTATION.—The Secretary shall implement the distribution formula developed under subclause (II) in the first fiscal year after the date on which the formula is developed.

“(IV) REPORT.—Not later than 2 years after the date of enactment of the MAP-21, the Secretary of the Interior, in consultation with the committee, shall submit to Congress a report that describes the implementation of and transition to the distribution formula developed by the committee.

“(iii) APPLICABILITY.—If the committee established under clause (ii) fails to develop a proposed distribution formula, the distribution formula under section 202, as in effect on the day before the date of enactment of the MAP-21 and modified by clause (i), shall remain in effect.

**SA 1758.** Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . PASSENGER RAIL AIR QUALITY STUDY.**

(a) IN GENERAL.—The Secretary shall—  
(1) conduct a study of the air quality in—  
(A) passenger cars of commuter and intercity trains with diesel or diesel-electric locomotives; and

(B) rail stations serviced by diesel or diesel-electric locomotives; and

(2) determine cost-effective ways to reduce diesel emissions and improve air quality in the passenger cars and rail stations described in paragraph (1).

(b) CONSULTATION REQUIREMENT.—In conducting the study under subsection (a)(1), the Secretary shall consult with representatives of—

- (1) the Environmental Protection Agency;
- (2) the Federal Railroad Administration;
- (3) the Federal Transit Administration;
- (4) the Occupational Safety and Health Administration;
- (5) State Departments of Transportation;
- (6) commuter rail transit agencies;
- (7) the public transportation industry;
- (8) public health groups; and
- (9) commuter rail worker organizations.

(c) REPORT.—

(1) SUBMISSION TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report containing the results of the study conducted under subsection (a)(1) and the determinations made under subsection (a)(2) to—

(A) the Committee on Commerce, Science, and Transportation of the Senate;

(B) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(C) the Committee on Transportation and Infrastructure of the House of Representatives.

(2) PUBLIC DISSEMINATION.—The report submitted under paragraph (1) shall be simultaneously made available through a publicly accessible Internet website.

**SA 1759.** Mr. BINGAMAN (for himself and Mr. DURBIN) submitted an amendment intended to be proposed by him

to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 45, between lines 3 and 4, insert the following:

“(C) FURTHER ADJUSTMENT FOR PRIVATIZED HIGHWAYS.—

“(i) DEFINITION OF PRIVATIZED HIGHWAY.—In this subparagraph:

“(I) IN GENERAL.—The term ‘privatized highway’ means a highway that was formerly a publicly operated toll road that is subject to an agreement giving a private entity—

“(aa) control over the operation of the highway; and

“(bb) ownership over the toll revenues collected from the operation of the highway.

“(II) EXCLUSION.—The term ‘privatized highway’ does not include any highway or toll road that was originally—

“(aa) financed and constructed using private funds; and

“(bb) operated by a private entity.

“(ii) ADJUSTMENT.—After making the adjustments to the apportionment of a State under subparagraphs (A) and (B), the Secretary shall further adjust the amount to be apportioned to the State by reducing the apportionment by an amount equal to the product obtained by multiplying—

“(I) the amount to be apportioned to the State, as so adjusted under those subparagraphs; and

“(II) the percentage described in clause (iii).

“(iii) PERCENTAGE.—The percentage referred to in clause (ii) is the percentage equal to the sum obtained by adding—

“(I) the product obtained by multiplying—

“(aa)  $\frac{1}{2}$ ; and

“(bb) the proportion that—

“(AA) the total number of lane miles on privatized highway lanes on National Highway System routes in a State; bears to

“(BB) the total number of all lane miles on National Highway System routes in the State; and

“(II) the product obtained by multiplying—

“(aa)  $\frac{1}{2}$ ; and

“(bb) the proportion that—

“(AA) the total number of vehicle miles traveled on privatized highway lanes on National Highway System routes in the State; bears to

“(BB) the total number of vehicle miles traveled on all lanes on National Highway System routes in the State.

“(iv) REAPPORTIONMENT.—An amount withheld from apportionment to a State under clause (ii) shall be reapportioned among all other States based on the proportions calculated under subparagraph (A).

**SA 1760.** Mr. BROWN of Ohio submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 469, after line 22, add the following:

**SEC. 15 \_\_\_\_ . UPDATED CORROSION CONTROL AND PREVENTION REPORT.**

Not later than 30 months after the date of enactment of this Act, the Secretary shall submit to Congress an updated report on the costs and benefits of the prevention and control of corrosion on transportation infrastructure of the United States.

**SA 1761.** Mr. REID proposed an amendment to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; as follows:

Strike all after the first word and insert the following:

**1. SHORT TITLE; ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the “Moving Ahead for Progress in the 21st Century Act” or the “MAP-21”.

(b) DIVISIONS.—This Act is organized into 4 divisions as follows:

(1) Division A Federal-aid Highways and Highway Safety Construction Programs.

(2) Division B Public Transportation.

(3) Division C Transportation Safety and Surface Transportation Policy.

(4) Division D Finance.

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## **SEC. 2. DEFINITIONS.**

In this Act, the following definitions apply:

(1) **DEPARTMENT.**—The term “Department” means the Department of Transportation.

(2) **SECRETARY.**—The term “Secretary” means the Secretary of Transportation.

# **DIVISION A—FEDERAL-AID HIGHWAYS AND HIGHWAY SAFETY CONSTRUCTION PROGRAMS**

## **TITLE I—FEDERAL-AID HIGHWAYS**

### **Subtitle A—Authorizations and Programs**

## **SEC. 1101. AUTHORIZATION OF APPROPRIATIONS.**

(a) **IN GENERAL.**—The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) **FEDERAL-AID HIGHWAY PROGRAM.**—For the national highway performance program under section 119 of title 23, United States Code, the transportation mobility program under section 133 of that title, the highway safety improvement program under section 148 of that title, the congestion mitigation and air quality improvement program under section 149 of that title, the national freight program under section 167 of that title, and to carry out section 134 of that title—

(A) \$39,143,000,000 for fiscal year 2012; and

(B) \$39,806,000,000 for fiscal year 2013.

(2) **TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION PROGRAM.**—For credit assistance under the transportation infrastructure finance and innovation program under chapter 6 of title 23, United States Code, \$1,000,000,000 for each of fiscal years 2012 and 2013.

(3) **FEDERAL LANDS AND TRIBAL TRANSPORTATION PROGRAMS.**—

(A) **TRIBAL TRANSPORTATION PROGRAM.**—For the tribal transportation program under section 202 of title 23, United States Code, \$450,000,000 for each of fiscal years 2012 and 2013.

(B) **FEDERAL LANDS TRANSPORTATION PROGRAM.**—For the Federal lands transportation program under section 203 of title 23, United States Code, \$300,000,000 for each of fiscal years 2012 and 2013, of which \$260,000,000 of the amount made available for each fiscal year shall be the amount for the National Park Service and the United States Fish and Wildlife Service.

(C) **FEDERAL LANDS ACCESS PROGRAM.**—For the Federal lands access program under section 204 of title 23, United States Code, \$250,000,000 for each of fiscal years 2012 and 2013.

(4) **TERRITORIAL AND PUERTO RICO HIGHWAY PROGRAM.**—For the territorial and Puerto Rico highway program under section 165 of title 23, United States Code, \$180,000,000 for each of fiscal years 2012 and 2013.

(b) **DISADVANTAGED BUSINESS ENTERPRISES.**—

(1) **DEFINITIONS.**—In this subsection, the following definitions apply:

(A) **SMALL BUSINESS CONCERN.**—

(i) **IN GENERAL.**—The term “small business concern” means a small business concern (as the term is used in section 3 of the Small Business Act (15 U.S.C. 632)).

(ii) **EXCLUSIONS.**—The term “small business concern” does not include any concern or

group of concerns controlled by the same socially and economically disadvantaged individual or individuals that have average annual gross receipts during the preceding 3 fiscal years in excess of \$22,410,000, as adjusted annually by the Secretary for inflation.

(B) **SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.**—The term “socially and economically disadvantaged individuals” means—

(i) women; and  
(ii) any other socially and economically disadvantaged individuals (as the term is used in section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations promulgated pursuant to that Act).

(2) **AMOUNTS FOR SMALL BUSINESS CONCERNS.**—Except to the extent that the Secretary determines otherwise, not less than 10 percent of the amounts made available for any program under divisions A and B of this Act and section 403 of title 23, United States Code, shall be expended through small business concerns owned and controlled by socially and economically disadvantaged individuals.

(3) **ANNUAL LISTING OF DISADVANTAGED BUSINESS ENTERPRISES.**—Each State shall annually—

(A) survey and compile a list of the small business concerns referred to in paragraph (2) in the State, including the location of the small business concerns in the State; and

(B) notify the Secretary, in writing, of the percentage of the small business concerns that are controlled by—

(i) women;  
(ii) socially and economically disadvantaged individuals (other than women); and  
(iii) individuals who are women and are otherwise socially and economically disadvantaged individuals.

(4) **UNIFORM CERTIFICATION.**—

(A) **IN GENERAL.**—The Secretary shall establish minimum uniform criteria for use by State governments in certifying whether a concern qualifies as a small business concern for the purpose of this subsection.

(B) **INCLUSIONS.**—The minimum uniform criteria established under subparagraph (A) shall include, with respect to a potential small business concern—

(i) on-site visits;  
(ii) personal interviews with personnel;  
(iii) issuance or inspection of licenses;  
(iv) analyses of stock ownership;  
(v) listings of equipment;  
(vi) analyses of bonding capacity;  
(vii) listings of work completed;  
(viii) examination of the resumes of principal owners;  
(ix) analyses of financial capacity; and  
(x) analyses of the type of work preferred.

(5) **REPORTING.**—The Secretary shall establish minimum requirements for use by State governments in reporting to the Secretary—

(A) information concerning disadvantaged business enterprise awards, commitments, and achievements; and

(B) such other information as the Secretary determines to be appropriate for the proper monitoring of the disadvantaged business enterprise program.

(6) **COMPLIANCE WITH COURT ORDERS.**—Nothing in this subsection limits the eligibility of an individual or entity to receive funds made available under divisions A and B of this Act and section 403 of title 23, United States Code, if the entity or person is prevented, in whole or in part, from complying with paragraph (2) because a Federal court issues a final order in which the court finds that a re-

quirement or the implementation of paragraph (2) is unconstitutional.

#### **SEC. 1102. OBLIGATION CEILING.**

(a) **GENERAL LIMITATION.**—Subject to subsection (e), and notwithstanding any other provision of law, the obligations for Federal-aid highway and highway safety construction programs shall not exceed—

(1) \$41,564,000,000 for fiscal year 2012; and

(2) \$42,227,000,000 for fiscal year 2013.

(b) **EXCEPTIONS.**—The limitations under subsection (a) shall not apply to obligations under or for—

(1) section 125 of title 23, United States Code;

(2) section 147 of the Surface Transportation Assistance Act of 1978 (23 U.S.C. 144 note; 92 Stat. 2714);

(3) section 9 of the Federal-Aid Highway Act of 1981 (95 Stat. 1701);

(4) subsections (b) and (j) of section 131 of the Surface Transportation Assistance Act of 1982 (96 Stat. 2119);

(5) subsections (b) and (c) of section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 198);

(6) sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2027);

(7) section 157 of title 23, United States Code (as in effect on June 8, 1998);

(8) section 105 of title 23, United States Code (as in effect for fiscal years 1998 through 2004, but only in an amount equal to \$639,000,000 for each of those fiscal years);

(9) Federal-aid highway programs for which obligation authority was made available under the Transportation Equity Act for the 21st Century (112 Stat. 107) or subsequent Acts for multiple years or to remain available until expended, but only to the extent that the obligation authority has not lapsed or been used;

(10) section 105 of title 23, United States Code (but, for each of fiscal years 2005 through 2011, only in an amount equal to \$639,000,000 for each of those fiscal years);

(11) section 1603 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1248), to the extent that funds obligated in accordance with that section were not subject to a limitation on obligations at the time at which the funds were initially made available for obligation; and

(12) section 119 of title 23, United States Code (but, for each of fiscal years 2012 through 2013, only in an amount equal to \$639,000,000 for each of those fiscal years).

(c) **DISTRIBUTION OF OBLIGATION AUTHORITY.**—For each of fiscal years 2012 through 2013, the Secretary—

(1) shall not distribute obligation authority provided by subsection (a) for the fiscal year for—

(A) amounts authorized for administrative expenses and programs by section 104(a) of title 23, United States Code; and

(B) amounts authorized for the Bureau of Transportation Statistics;

(2) shall not distribute an amount of obligation authority provided by subsection (a) that is equal to the unobligated balance of amounts made available from the Highway Trust Fund (other than the Mass Transit Account) for Federal-aid highway and highway safety construction programs for previous fiscal years the funds for which are allocated by the Secretary;

(3) shall determine the proportion that—

(A) the obligation authority provided by subsection (a) for the fiscal year, less the aggregate of amounts not distributed under paragraphs (1) and (2) of this subsection; bears to

(B) the total of the sums authorized to be appropriated for the Federal-aid highway and highway safety construction programs (other than sums authorized to be appropriated for provisions of law described in paragraphs (1) through (11) of subsection (b) and sums authorized to be appropriated for section 119 of title 23, United States Code, equal to the amount referred to in subsection (b)(12) for the fiscal year), less the aggregate of the amounts not distributed under paragraphs (1) and (2) of this subsection;

(4) shall distribute the obligation authority provided by subsection (a), less the aggregate amounts not distributed under paragraphs (1) and (2), for each of the programs that are allocated by the Secretary under this Act and title 23, United States Code (other than to programs to which paragraph (1) applies), by multiplying—

(A) the proportion determined under paragraph (3); by

(B) the amounts authorized to be appropriated for each such program for the fiscal year; and

(5) shall distribute the obligation authority provided by subsection (a), less the aggregate amounts not distributed under paragraphs (1) and (2) and the amounts distributed under paragraph (4), for Federal-aid highway and highway safety construction programs that are apportioned by the Secretary under title 23, United States Code (other than the amounts apportioned for the national highway performance program in section 119 of title 23, United States Code, that are exempt from the limitation under subsection (b)(12)) in the proportion that—

(A) amounts authorized to be appropriated for the programs that are apportioned under title 23, United States Code, to each State for the fiscal year; bears to

(B) the total of the amounts authorized to be appropriated for the programs that are apportioned under title 23, United States Code, to all States for the fiscal year.

(d) **REDISTRIBUTION OF UNUSED OBLIGATION AUTHORITY.**—Notwithstanding subsection (c), the Secretary shall, after August 1 of each of fiscal years 2012 through 2013—

(1) revise a distribution of the obligation authority made available under subsection (c) if an amount distributed cannot be obligated during that fiscal year; and

(2) redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year, giving priority to those States having large unobligated balances of funds apportioned under sections 144 (as in effect on the day before the date of enactment of this Act) and 104 of title 23, United States Code.

(e) **APPLICABILITY OF OBLIGATION LIMITATIONS TO TRANSPORTATION RESEARCH PROGRAMS.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), obligation limitations imposed by subsection (a) shall apply to contract authority for transportation research programs carried out under—

(A) chapter 5 of title 23, United States Code; and

(B) title II of this Act.

(2) **EXCEPTION.**—Obligation authority made available under paragraph (1) shall—

(A) remain available for a period of 4 fiscal years; and

(B) be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

(f) **REDISTRIBUTION OF CERTAIN AUTHORIZED FUNDS.**—

(1) IN GENERAL.—Not later than 30 days after the date of distribution of obligation authority under subsection (c) for each of fiscal years 2012 through 2013, the Secretary shall distribute to the States any funds that—

(A) are authorized to be appropriated for the fiscal year for Federal-aid highway programs; and

(B) the Secretary determines will not be allocated to the States, and will not be available for obligation, for the fiscal year because of the imposition of any obligation limitation for the fiscal year.

(2) RATIO.—Funds shall be distributed under paragraph (1) in the same proportion as the distribution of obligation authority under subsection (c)(5).

(3) AVAILABILITY.—Funds distributed to each State under paragraph (1) shall be available for any purpose described in section 133(c) of title 23, United States Code.

(4) EXCEPTIONS.—This subsection shall not apply to funds provided for the tribal transportation program under section 202 of title 23, United States Code.

#### SEC. 1103. DEFINITIONS.

(a) DEFINITIONS.—Section 101(a) of title 23, United States Code, is amended—

(1) by striking paragraphs (6), (7), (9), (12), (19), (20), (24), (25), (26), (28), (38), and (39);

(2) by redesignating paragraphs (2), (3), (4), (5), (8), (13), (14), (15), (16), (17), (18), (21), (22), (23), (27), (29), (30), (31), (32), (33), (34), (35), (36), and (37) as paragraphs (3), (4), (5), (6), (9), (12), (13), (14), (15), (16), (17), (18), (19), (20), (21), (22), (23), (24), (25), (26), (28), (29), (33), and (34), respectively;

(3) by inserting after paragraph (1) the following:

“(2) ASSET MANAGEMENT.—The term ‘asset management’ means a strategic and systematic process of operating, maintaining, and improving physical assets, with a focus on both engineering and economic analysis based upon quality information, to identify a structured sequence of maintenance, preservation, repair, rehabilitation, and replacement actions that will achieve and sustain a desired state of good repair over the lifecycle of the assets at minimum practicable cost.”;

(4) in paragraph (4) (as redesignated by paragraph (2))—

(A) in the matter preceding subparagraph (A), by inserting “or any project eligible for assistance under this title” after “of a highway”;

(B) by striking subparagraph (A) and inserting the following:

“(A) preliminary engineering, engineering, and design-related services directly relating to the construction of a highway project, including engineering, design, project development and management, construction project management and inspection, surveying, mapping (including the establishment of temporary and permanent geodetic control in accordance with specifications of the National Oceanic and Atmospheric Administration), and architectural-related services”;

(C) in subparagraph (B)—

(i) by inserting “reconstruction,” before “resurfacing”; and

(ii) by striking “and rehabilitation” and inserting “rehabilitation, and preservation”;

(D) in subparagraph (E) by striking “railway” and inserting “railway-highway”; and

(E) in subparagraph (F) by striking “obstacles” and inserting “hazards”;

(5) in paragraph (6) (as so redesignated)—

(A) by inserting “public” before “highway eligible”; and

(B) by inserting “functionally” before “classified”;

(6) by inserting after paragraph (6) (as so redesignated) the following:

“(7) FEDERAL LANDS ACCESS TRANSPORTATION FACILITY.—The term ‘Federal Lands access transportation facility’ means a public highway, road, bridge, trail, or transit system that is located on, is adjacent to, or provides access to Federal lands for which title or maintenance responsibility is vested in a State, county, town, township, tribal, municipal, or local government.

“(8) FEDERAL LANDS TRANSPORTATION FACILITY.—The term ‘Federal lands transportation facility’ means a public highway, road, bridge, trail, or transit system that is located on, is adjacent to, or provides access to Federal lands for which title and maintenance responsibility is vested in the Federal Government, and that appears on the national Federal lands transportation facility inventory described in section 203(c).”;

(7) in paragraph (11)(B) by inserting “including public roads on dams” after “drainage structure”;

(8) in paragraph (14) (as so redesignated)—

(A) by striking “as a” and inserting “as an air quality”; and

(B) by inserting “air quality” before “attainment area”;

(9) in paragraph (18) (as so redesignated) by striking “an undertaking to construct a particular portion of a highway, or if the context so implies, the particular portion of a highway so constructed or any other undertaking” and inserting “any undertaking”;

(10) in paragraph (19) (as so redesignated)—

(A) by striking “the State transportation department and”; and

(B) by inserting “and the recipient” after “Secretary”;

(11) by striking paragraph (23) (as so redesignated) and inserting the following:

“(23) SAFETY IMPROVEMENT PROJECT.—The term ‘safety improvement project’ means a strategy, activity, or project on a public road that is consistent with the State strategic highway safety plan and corrects or improves a roadway feature that constitutes a hazard to road users or addresses a highway safety problem.”;

(12) by inserting after paragraph (26) (as so redesignated) the following:

“(27) STATE STRATEGIC HIGHWAY SAFETY PLAN.—The term ‘State strategic highway safety plan’ has the same meaning given such term in section 148(a).”;

(13) by striking paragraph (29) (as so redesignated) and inserting the following:

“(29) TRANSPORTATION ENHANCEMENT ACTIVITY.—The term ‘transportation enhancement activity’ means any of the following activities when carried out as part of any program or project authorized or funded under this title, or as an independent program or project related to surface transportation:

“(A) Provision of facilities for pedestrians and bicycles.

“(B) Provision of safety and educational activities for pedestrians and bicyclists.

“(C) Acquisition of scenic easements and scenic or historic sites.

“(D) Scenic or historic highways and bridges.

“(E) Vegetation management practices in transportation rights-of-way and other activities eligible under section 319.

“(F) Historic preservation, rehabilitation, and operation of historic transportation buildings, structures, or facilities.

“(G) Preservation of abandoned railway corridors, including the conversion and use of the corridors for pedestrian or bicycle trails.

“(H) Inventory, control, and removal of outdoor advertising.

“(I) Archaeological planning and research.

“(J) Any environmental mitigation activity, including pollution prevention and pollution abatement activities and mitigation to—

“(i) address stormwater management, control, and water pollution prevention or abatement related to highway construction or due to highway runoff, including activities described in sections 133(b)(11), 328(a), and 329; or

“(ii) reduce vehicle-caused wildlife mortality or to restore and maintain connectivity among terrestrial or aquatic habitats.”; and

(14) by inserting after paragraph (29) (as so redesignated) the following:

“(30) TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—

“(A) IN GENERAL.—The term ‘transportation systems management and operations’ means integrated strategies to optimize the performance of existing infrastructure through the implementation of multimodal and intermodal, cross-jurisdictional systems, services, and projects designed to preserve capacity and improve security, safety, and reliability of the transportation system.

“(B) INCLUSIONS.—The term ‘transportation systems management and operations’ includes—

“(i) actions such as traffic detection and surveillance, corridor management, freeway management, arterial management, active transportation and demand management, work zone management, emergency management, traveler information services, congestion pricing, parking management, automated enforcement, traffic control, commercial vehicle operations, freight management, and coordination of highway, rail, transit, bicycle, and pedestrian operations; and

“(ii) coordination of the implementation of regional transportation system management and operations investments (such as traffic incident management, traveler information services, emergency management, roadway weather management, intelligent transportation systems, communication networks, and information sharing systems) requiring agreements, integration, and interoperability to achieve targeted system performance, reliability, safety, and customer service levels.

“(31) TRIBAL TRANSPORTATION FACILITY.—The term ‘tribal transportation facility’ means a public highway, road, bridge, trail, or transit system that is located on or provides access to tribal land and appears on the national tribal transportation facility inventory described in section 202(b)(1).

“(32) TRUCK STOP ELECTRIFICATION SYSTEM.—The term ‘truck stop electrification system’ means a system that delivers heat, air conditioning, electricity, or communications to a heavy-duty vehicle.”.

(b) SENSE OF CONGRESS.—Section 101(c) of title 23, United States Code, is amended by striking “system” and inserting “highway”.

#### SEC. 1104. NATIONAL HIGHWAY SYSTEM.

(a) IN GENERAL.—Section 103 of title 23, United States Code, is amended to read as follows:

##### “§ 103. National highway system

“(a) IN GENERAL.—For the purposes of this title, the Federal-aid system is the National Highway System, which includes the Interstate System.

“(b) NATIONAL HIGHWAY SYSTEM.—

“(1) DESCRIPTION.—The National Highway System consists of the highway routes and connections to transportation facilities that shall—

“(A) serve major population centers, international border crossings, ports, airports, public transportation facilities, and other intermodal transportation facilities and other major travel destinations;

“(B) meet national defense requirements; and

“(C) serve interstate and interregional travel and commerce.

“(2) COMPONENTS.—The National Highway System described in paragraph (1) consists of the following:

“(A) The National Highway System depicted on the map submitted by the Secretary of Transportation to Congress with the report entitled ‘Pulling Together: The National Highway System and its Connections to Major Intermodal Terminals’ and dated May 24, 1996, and modifications approved by the Secretary before the date of enactment of the MAP-21.

“(B) Other urban and rural principal arterial routes, and border crossings on those routes, that were not included on the National Highway System before the date of enactment of the MAP-21.

“(C) Other connector highways (including toll facilities) that were not included in the National Highway System before the date of enactment of the MAP-21 but that provide motor vehicle access between arterial routes on the National Highway System and a major intermodal transportation facility.

“(D) A strategic highway network that—

“(i) consists of a network of highways that are important to the United States strategic defense policy, that provide defense access, continuity, and emergency capabilities for the movement of personnel, materials, and equipment in both peacetime and wartime, and that were not included on the National Highway System before the date of enactment of the MAP-21;

“(ii) may include highways on or off the Interstate System; and

“(iii) shall be designated by the Secretary, in consultation with appropriate Federal agencies and the States.

“(E) Major strategic highway network connectors that—

“(i) consist of highways that provide motor vehicle access between major military installations and highways that are part of the strategic highway network but were not included on the National Highway System before the date of enactment of the MAP-21; and

“(ii) shall be designated by the Secretary, in consultation with appropriate Federal agencies and the States.

“(3) MODIFICATIONS TO NHS.—

“(A) IN GENERAL.—The Secretary may make any modification, including any modification consisting of a connector to a major intermodal terminal, to the National Highway System that is proposed by a State if the Secretary determines that the modification—

“(i) meets the criteria established for the National Highway System under this title after the date of enactment of the MAP-21; and

“(ii) enhances the national transportation characteristics of the National Highway System.

“(B) COOPERATION.—

“(i) IN GENERAL.—In proposing a modification under this paragraph, a State shall cooperate with local and regional officials.

“(ii) URBANIZED AREAS.—In an urbanized area, the local officials shall act through the metropolitan planning organization designated for the area under section 134.

“(c) INTERSTATE SYSTEM.—

“(1) DESCRIPTION.—

“(A) IN GENERAL.—The Dwight D. Eisenhower National System of Interstate and Defense Highways within the United States (including the District of Columbia and Puerto Rico) consists of highways designed, located, and selected in accordance with this paragraph.

“(B) DESIGN.—

“(i) IN GENERAL.—Except as provided in clause (ii), highways on the Interstate System shall be designed in accordance with the standards of section 109(b).

“(ii) EXCEPTION.—Highways on the Interstate System in Alaska and Puerto Rico shall be designed in accordance with such geometric and construction standards as are adequate for current and probable future traffic demands and the needs of the locality of the highway.

“(C) LOCATION.—Highways on the Interstate System shall be located so as—

“(i) to connect by routes, as direct as practicable, the principal metropolitan areas, cities, and industrial centers;

“(ii) to serve the national defense; and

“(iii) to the maximum extent practicable, to connect at suitable border points with routes of continental importance in Canada and Mexico.

“(D) SELECTION OF ROUTES.—To the maximum extent practicable, each route of the Interstate System shall be selected by joint action of the State transportation departments of the State in which the route is located and the adjoining States, in cooperation with local and regional officials, and subject to the approval of the Secretary.

“(2) MAXIMUM MILEAGE.—The mileage of highways on the Interstate System shall not exceed 43,000 miles, exclusive of designations under paragraph (4).

“(3) MODIFICATIONS.—The Secretary may approve or require modifications to the Interstate System in a manner consistent with the policies and procedures established under this subsection.

“(4) INTERSTATE SYSTEM DESIGNATIONS.—

“(A) ADDITIONS.—If the Secretary determines that a highway on the National Highway System meets all standards of a highway on the Interstate System and that the highway is a logical addition or connection to the Interstate System, the Secretary may, upon the affirmative recommendation of the State or States in which the highway is located, designate the highway as a route on the Interstate System.

“(B) DESIGNATIONS AS FUTURE INTERSTATE SYSTEM ROUTES.—

“(i) IN GENERAL.—Subject to clauses (ii) through (vi), if the Secretary determines that a highway on the National Highway System would be a logical addition or connection to the Interstate System and would qualify for designation as a route on the Interstate System under subparagraph (A) if the highway met all standards of a highway on the Interstate System, the Secretary may, upon the affirmative recommendation of the State or States in which the highway is located, designate the highway as a future Interstate System route.

“(ii) WRITTEN AGREEMENT.—A designation under clause (i) shall be made only upon the written agreement of each State described in that clause that the highway will be constructed to meet all standards of a highway on the Interstate System by not later than the date that is 25 years after the date of the agreement.

“(iii) FAILURE TO COMPLETE CONSTRUCTION.—If a State described in clause (i) has

not substantially completed the construction of a highway designated under this subparagraph by the date specified in clause (ii), the Secretary shall remove the designation of the highway as a future Interstate System route.

“(iv) EFFECT OF REMOVAL.—Removal of the designation of a highway under clause (iii) shall not preclude the Secretary from designating the highway as a route on the Interstate System under subparagraph (A) or under any other provision of law providing for addition to the Interstate System.

“(v) RETROACTIVE EFFECT.—An agreement described in clause (ii) that is entered into before August 10, 2005, shall be deemed to include the 25-year time limitation described in that clause, regardless of any earlier construction completion date in the agreement.

“(vi) REFERENCES.—No law, rule, regulation, map, document, or other record of the United States, or of any State or political subdivision of a State, shall refer to any highway designated as a future Interstate System route under this subparagraph, and no such highway shall be signed or marked, as a highway on the Interstate System, until such time as the highway—

“(I) is constructed to the geometric and construction standards for the Interstate System; and

“(II) has been designated as a route on the Interstate System.

“(C) FINANCIAL RESPONSIBILITY.—Except as provided in this title, the designation of a highway under this paragraph shall create no additional Federal financial responsibility with respect to the highway.

“(5) EXEMPTION OF INTERSTATE SYSTEM.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the Interstate System shall not be considered to be a historic site under section 303 of title 49 or section 138 of this title, regardless of whether the Interstate System or portions or elements of the Interstate System are listed on, or eligible for listing on, the National Register of Historic Places.

“(B) INDIVIDUAL ELEMENTS.—Subject to subparagraph (C)—

“(i) the Secretary shall determine, through the administrative process established for exempting the Interstate System from section 106 of the National Historic Preservation Act (16 U.S.C. 470f), those individual elements of the Interstate System that possess national or exceptional historic significance (such as a historic bridge or a highly significant engineering feature); and

“(ii) those elements shall be considered to be historic sites under section 303 of title 49 or section 138 of this title, as applicable.

“(C) CONSTRUCTION, MAINTENANCE, RESTORATION, AND REHABILITATION ACTIVITIES.—Subparagraph (B) does not prohibit a State from carrying out construction, maintenance, preservation, restoration, or rehabilitation activities for a portion of the Interstate System referred to in subparagraph (B) upon compliance with section 303 of title 49 or section 138 of this title, as applicable, and section 106 of the National Historic Preservation Act (16 U.S.C. 470f).”

(b) INCLUSION OF CERTAIN ROUTE SEGMENTS ON INTERSTATE SYSTEM.—

(1) IN GENERAL.—Section 1105(e)(5)(A) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2031; 109 Stat. 597; 115 Stat. 872) is amended—

(A) in the first sentence, by striking “and in subsections (c)(18) and (c)(20)” and inserting “, in subsections (c)(18) and (c)(20), and in subparagraphs (A)(iii) and (B) of subsection (c)(26)”;



(B) in the second sentence, by striking “that the segment” and all that follows through the period and inserting “that the segment meets the Interstate System design standards approved by the Secretary under section 109(b) of title 23, United States Code, and is planned to connect to an existing Interstate System segment by the date that is 25 years after the date of enactment of the MAP-21.”.

(2) ROUTE DESIGNATION.—Section 1105(e)(5)(C)(i) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032; 109 Stat. 598) is amended by adding at the end the following: “The routes referred to subparagraphs (A)(iii) and (B)(i) of subsection (c)(26) are designated as Interstate Route I-11.”.

(c) CONFORMING AMENDMENTS.—

(1) ANALYSIS.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 103 and inserting the following:

“103. National highway system.”.

(2) SECTION 113.—Section 113 of title 23, United States Code, is amended—

(A) in subsection (a) by striking “the Federal-aid systems” and inserting “Federal-aid highways”; and

(B) in subsection (b), in the first sentence, by striking “of the Federal-aid systems” and inserting “Federal-aid highway”.

(3) SECTION 123.—Section 123(a) of title 23, United States Code, is amended in the first sentence by striking “Federal-aid system” and inserting “Federal-aid highway”.

(4) SECTION 217.—Section 217(b) of title 23, United States Code, is amended in the subsection heading by striking “NATIONAL HIGHWAY SYSTEM” and inserting “NATIONAL HIGHWAY PERFORMANCE PROGRAM”.

(5) SECTION 304.—Section 304 of title 23, United States Code, is amended in the first sentence by striking “the Federal-aid highway systems” and inserting “Federal-aid highways”.

(6) SECTION 317.—Section 317(d) of title 23, United States Code is amended by striking “system” and inserting “highway”.

#### SEC. 1105. APPORTIONMENT.

(a) IN GENERAL.—Section 104 of title 23, United States Code, is amended to read as follows:

##### “§ 104. Apportionment

“(a) ADMINISTRATIVE EXPENSES.—

“(1) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to be made available to the Secretary for administrative expenses of the Federal Highway Administration \$480,000,000 for each of fiscal years 2012 and 2013.

“(2) PURPOSES.—The amounts authorized to be appropriated by this subsection shall be used—

“(A) to administer the provisions of law to be funded from appropriations for the Federal-aid highway program and programs authorized under chapter 2;

“(B) to make transfers of such sums as the Secretary determines to be appropriate to the Appalachian Regional Commission for administrative activities associated with the Appalachian development highway system; and

“(C) to reimburse, as appropriate, the Office of Inspector General of the Department of Transportation for the conduct of annual audits of financial statements in accordance with section 3521 of title 31.

“(3) AVAILABILITY.—The amounts made available under paragraph (1) shall remain available until expended.

“(b) DIVISION OF STATE APPORTIONMENTS AMONG PROGRAMS.—The Secretary shall distribute the amount apportioned to a State for a fiscal year under subsection (c) among the national highway performance program, the transportation mobility program, the highway safety improvement program, the congestion mitigation and air quality improvement program, and the national freight program, and to carry out section 134 as follows:

“(1) NATIONAL HIGHWAY PERFORMANCE PROGRAM.—For the national highway performance program, 58 percent of the amount remaining after distributing amounts under paragraphs (4) and (6).

“(2) TRANSPORTATION MOBILITY PROGRAM.—For the transportation mobility program, 29.3 percent of the amount remaining after distributing amounts under paragraphs (4) and (6).

“(3) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—For the highway safety improvement program, 7 percent of the amount remaining after distributing amounts under paragraphs (4) and (6).

“(4) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—For the congestion mitigation and air quality improvement program, an amount determined by multiplying the amount determined for the State under subsection (c) by the proportion that—

“(A) the amount apportioned to the State for the congestion mitigation and air quality improvement program for fiscal year 2009, plus 10 percent of the amount apportioned to the State for the surface transportation program for that fiscal year; bears to

“(B) the total amount of funds apportioned to the State for that fiscal year for the programs referred to in section 105(a)(2) (except for the high priority projects program referred to in section 105(a)(2)(H)), as in effect on the day before the date of enactment of the MAP-21.

“(5) NATIONAL FREIGHT PROGRAM.—For the national freight program, 5.7 percent of the amount remaining after distributing amounts under paragraphs (4) and (6).

“(6) METROPOLITAN PLANNING.—To carry out section 134, an amount determined by multiplying the amount determined for the State under subsection (c) by the proportion that—

“(A) the amount apportioned to the State to carry out section 134 for fiscal year 2009; bears to

“(B) the total amount of funds apportioned to the State for that fiscal year for the programs referred to in section 105(a)(2) (except for the high priority projects program referred to in section 105(a)(2)(H)), as in effect on the day before the date of enactment of the MAP-21.

“(c) CALCULATION OF STATE AMOUNTS.—

“(1) STATE SHARE.—The amount for each State of combined apportionments for the national highway performance program under section 119, the transportation mobility program under section 133, the highway safety improvement program under section 148, the congestion mitigation and air quality improvement program under section 149, the national freight program under section 167, and to carry out section 134 shall be determined as follows:

“(A) INITIAL AMOUNT.—The initial amount for each State shall be determined by multiplying the total amount available for apportionment by the share for each State which shall be equal to the proportion that—

“(i) the amount of apportionments and allocations that the State received for fiscal years 2005 through 2009; bears to

“(ii) the amount of those apportionments and allocations received by all States for those fiscal years.

“(B) ADJUSTMENTS TO AMOUNTS.—The initial amounts resulting from the calculation under subparagraph (A) shall be adjusted to ensure that, for each State, the amount of combined apportionments for the programs shall not be less than 95 percent of the estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) in the most recent fiscal year for which data are available.

“(2) STATE APPORTIONMENT.—On October 1 of each fiscal year, the Secretary shall apportion the sum authorized to be appropriated for expenditure on the national highway performance program under section 119, the transportation mobility program under section 133, the highway safety improvement program under section 148, the congestion mitigation and air quality improvement program under section 149, the national freight program under section 167, and to carry out section 134 in accordance with paragraph (1).

“(d) METROPOLITAN PLANNING.—

“(1) USE OF AMOUNTS.—

“(A) USE.—

“(i) IN GENERAL.—Except as provided in clause (ii), the amounts apportioned to a State under subsection (b)(6) shall be made available by the State to the metropolitan planning organizations responsible for carrying out section 134 in the State.

“(ii) STATES RECEIVING MINIMUM APPORTIONMENT.—A State that received the minimum apportionment for use in carrying out section 134 for fiscal year 2009 may, subject to the approval of the Secretary, use the funds apportioned under subsection (b)(6) to fund transportation planning outside of urbanized areas.

“(B) UNUSED FUNDS.—Any funds that are not used to carry out section 134 may be made available by a metropolitan planning organization to the State to fund activities under section 135.

“(2) DISTRIBUTION OF AMOUNTS WITHIN STATES.—

“(A) IN GENERAL.—The distribution within any State of the planning funds made available to organizations under paragraph (1) shall be in accordance with a formula that—

“(i) is developed by each State and approved by the Secretary; and

“(ii) takes into consideration, at a minimum, population, status of planning, attainment of air quality standards, metropolitan area transportation needs, and other factors necessary to provide for an appropriate distribution of funds to carry out section 134 and other applicable requirements of Federal law.

“(B) REIMBURSEMENT.—Not later than 15 business days after the date of receipt by a State of a request for reimbursement of expenditures made by a metropolitan planning organization for carrying out section 134, the State shall reimburse, from amounts distributed under this paragraph to the metropolitan planning organization by the State, the metropolitan planning organization for those expenditures.

“(3) DETERMINATION OF POPULATION FIGURES.—For the purpose of determining population figures under this subsection, the Secretary shall use the latest available data from the decennial census conducted under section 141(a) of title 13, United States Code.

“(e) CERTIFICATION OF APPORTIONMENTS.—

“(1) IN GENERAL.—The Secretary shall—

“(A) on October 1 of each fiscal year, certify to each of the State transportation departments the amount that has been apportioned to the State under this section for the fiscal year; and

“(B) to permit the States to develop adequate plans for the use of amounts apportioned under this section, advise each State of the amount that will be apportioned to the State under this section for a fiscal year not later than 90 days before the beginning of the fiscal year for which the sums to be apportioned are authorized.

“(2) NOTICE TO STATES.—If the Secretary has not made an apportionment under this section for a fiscal year beginning after September 30, 1998, by not later than the date that is the twenty-first day of that fiscal year, the Secretary shall submit, by not later than that date, to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate, a written statement of the reason for not making the apportionment in a timely manner.

“(3) APPORTIONMENT CALCULATIONS.—

“(A) IN GENERAL.—The calculation of official apportionments of funds to the States under this title is a primary responsibility of the Department and shall be carried out only by employees (and not contractors) of the Department.

“(B) PROHIBITION ON USE OF FUNDS TO HIRE CONTRACTORS.—None of the funds made available under this title shall be used to hire contractors to calculate the apportionments of funds to States.

“(f) TRANSFER OF HIGHWAY AND TRANSIT FUNDS.—

“(1) TRANSFER OF HIGHWAY FUNDS FOR TRANSIT PROJECTS.—

“(A) IN GENERAL.—Subject to subparagraph (B), amounts made available for transit projects or transportation planning under this title may be transferred to and administered by the Secretary in accordance with chapter 53 of title 49.

“(B) NON-FEDERAL SHARE.—The provisions of this title relating to the non-Federal share shall apply to the amounts transferred under subparagraph (A).

“(2) TRANSFER OF TRANSIT FUNDS FOR HIGHWAY PROJECTS.—

“(A) IN GENERAL.—Subject to subparagraph (B), amounts made available for highway projects or transportation planning under chapter 53 of title 49 may be transferred to and administered by the Secretary in accordance with this title.

“(B) NON-FEDERAL SHARE.—The provisions of chapter 53 of title 49 relating to the non-Federal share shall apply to amounts transferred under subparagraph (A).

“(3) TRANSFER OF FUNDS AMONG STATES OR TO FEDERAL HIGHWAY ADMINISTRATION.—

“(A) IN GENERAL.—Subject to subparagraph (B), the Secretary may, at the request of a State, transfer amounts apportioned or allocated under this title to the State to another State, or to the Federal Highway Administration, for the purpose of funding 1 or more projects that are eligible for assistance with amounts so apportioned or allocated.

“(B) APPORTIONMENT.—The transfer shall have no effect on any apportionment of amounts to a State under this section.

“(C) FUNDS SUBALLOCATED TO URBANIZED AREAS.—Amounts that are apportioned or allocated to a State under subsection (b)(3) (as in effect on the day before the date of enactment of the MAP-21) or subsection (b)(2) and attributed to an urbanized area of a State with a population of more than 200,000 indi-

viduals under section 133(d) may be transferred under this paragraph only if the metropolitan planning organization designated for the area concurs, in writing, with the transfer request.

“(4) TRANSFER OF OBLIGATION AUTHORITY.—Obligation authority for amounts transferred under this subsection shall be transferred in the same manner and amount as the amounts for the projects that are transferred under this section.”

“(g) REPORT TO CONGRESS.—For each fiscal year, the Secretary shall make available to the public, in a user-friendly format via the Internet, a report that describes—

“(1) the amount obligated, by each State, for Federal-aid highways and highway safety construction programs during the preceding fiscal year;

“(2) the balance, as of the last day of the preceding fiscal year, of the unobligated apportionment of each State by fiscal year under this section;

“(3) the balance of unobligated sums available for expenditure at the discretion of the Secretary for such highways and programs for the fiscal year; and

“(4) the rates of obligation of funds apportioned or set aside under this section, according to—

“(A) program;

“(B) funding category of subcategory;

“(C) type of improvement;

“(D) State; and

“(E) sub-State geographical area, including urbanized and rural areas, on the basis of the population of each such area.”

(b) CONFORMING AMENDMENT.—Section 146(a) of title 23, United States Code, is amended by striking “sections 104(b)(1) and 104(b)(3)” and inserting “section 104(b)(2)”.  
**SEC. 1106. NATIONAL HIGHWAY PERFORMANCE PROGRAM.**

(a) IN GENERAL.—Section 119 of title 23, United States Code, is amended to read as follows:

**“§ 119. National highway performance program**

“(a) ESTABLISHMENT.—The Secretary shall establish and implement a national highway performance program under this section.

“(b) PURPOSES.—The purposes of the national highway performance program shall be—

“(1) to provide support for the condition and performance of the National Highway System; and

“(2) to ensure that investments of Federal-aid funds in highway construction are directed to support progress toward the achievement of performance targets for infrastructure condition and performance.

“(c) ELIGIBLE FACILITIES.—Except as provided in subsection (d), to be eligible for funding apportioned under section 104(b)(1) to carry out this section, a facility shall be located on the National Highway System, as defined in section 103.

“(d) ELIGIBLE PROJECTS.—Funds apportioned to a State to carry out the national highway performance program may be obligated only for a project on an eligible facility that is—

“(1) a project, or is part of a program of projects, supporting progress toward the achievement of national performance goals for improving infrastructure condition, safety, mobility, or freight movement on the National Highway System and consistent with sections 134 and 135; and

“(2) for 1 or more of the following purposes:

“(A) Construction, reconstruction, resurfacing, restoration, rehabilitation, preservation, or operational improvement of segments of the National Highway System.

“(B) Construction, replacement (including replacement with fill material), rehabilitation, preservation, and protection (including scour countermeasures, seismic retrofits, impact protection measures, security countermeasures, and protection against extreme events) of bridges on the National Highway System.

“(C) Construction, replacement (including replacement with fill material), rehabilitation, preservation, and protection (including impact protection measures, security countermeasures, and protection against extreme events) of tunnels on the National Highway System.

“(D) Inspection and evaluation, as described in section 144, of bridges and tunnels on the National Highway System, and inspection and evaluation of other highway infrastructure assets on the National Highway System, including signs and sign structures, earth retaining walls, and drainage structures.

“(E) Training of bridge and tunnel inspectors, as described in section 144.

“(F) Construction, rehabilitation, or replacement of existing ferry boats and ferry boat facilities, including approaches, that connect road segments of the National Highway System.

“(G) Construction, reconstruction, resurfacing, restoration, rehabilitation, and preservation of, and operational improvements for, a Federal-aid highway not on the National Highway System, and construction of a transit project eligible for assistance under chapter 53 of title 49, if—

“(i) the highway project or transit project is in the same corridor as, and in proximity to, a fully access-controlled highway designated as a part of the National Highway System;

“(ii) the construction or improvements will reduce delays or produce travel time savings on the fully access-controlled highway described in clause (i) and improve regional traffic flow; and

“(iii) the construction or improvements are more cost-effective, as determined by benefit-cost analysis, than an improvement to the fully access-controlled highway described in clause (i).

“(H) Bicycle transportation and pedestrian walkways in accordance with section 217.

“(I) Highway safety improvements for segments of the National Highway System.

“(J) Capital and operating costs for traffic and traveler information monitoring, management, and control facilities and programs.

“(K) Development and implementation of a State asset management plan for the National Highway System in accordance with this section, including data collection, maintenance, and integration and the cost associated with obtaining, updating, and licensing software and equipment required for risk-based asset management and performance-based management.

“(L) Infrastructure-based intelligent transportation systems capital improvements.

“(M) Environmental restoration and pollution abatement in accordance with section 328.

“(N) Control of noxious weeds and aquatic noxious weeds and establishment of native species in accordance with section 329.

“(O) In accordance with all applicable Federal law (including regulations), participation in natural habitat and wetlands mitigation efforts relating to projects funded under this title, which may include participation in natural habitat and wetlands mitigation banks, contributions to statewide and regional efforts to conserve, restore, enhance,

and create natural habitats and wetlands, and development of statewide and regional natural habitat and wetlands conservation and mitigation plans, including any such banks, efforts, and plans developed in accordance with applicable Federal law (including regulations), on the conditions that—

“(i) contributions to those mitigation efforts may—

“(I) take place concurrent with or in advance of project construction; and

“(II) occur in advance of project construction only if the efforts are consistent with all applicable requirements of Federal law (including regulations) and State transportation planning processes; and

“(ii) with respect to participation in a natural habitat or wetland mitigation effort relating to a project funded under this title that has an impact that occurs within the service area of a mitigation bank, preference is given, to the maximum extent practicable, to the use of the mitigation bank if the bank contains sufficient available credits to offset the impact and the bank is approved in accordance with applicable Federal law (including regulations).

“(P) Replacement (including replacement with fill material), rehabilitation, preservation, and protection (including scour countermeasures, seismic retrofits, impact protection measures, security countermeasures, and protection against extreme events) of bridges on Federal-aid highways (other than on the National Highway System).

“(e) LIMITATION ON NEW CAPACITY.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the maximum amount that a State may obligate under this section for projects under subparagraphs (G) and (P) of subsection (d)(2) and that is attributable to the portion of the cost of any project undertaken to expand the capacity of eligible facilities on the National Highway System, in a case in which the new capacity consists of 1 or more new travel lanes that are not high-occupancy vehicle lanes, shall not, in total, exceed 40 percent of the combined apportionments of a State under section 104(b)(1) for the most recent 3 consecutive years.

“(2) EXCEPTION.—Paragraph (1) shall not apply to a project for the construction of auxiliary lanes and turning lanes or widening of a bridge during rehabilitation or replacement to meet current geometric, construction, and structural standards for the types and volumes of projected traffic over the design life of the project.

“(f) STATE PERFORMANCE MANAGEMENT.—

“(1) IN GENERAL.—A State shall develop a risk-based asset management plan for the National Highway System to improve or preserve asset condition and system performance.

“(2) PERFORMANCE DRIVEN PLAN.—A State asset management plan shall include strategies leading to a program of projects that would make progress toward achievement of the State targets for asset condition and performance of the National Highway System in accordance with paragraph (5) and supporting the progress toward the achievement of the national goals identified in section 150.

“(3) PLAN CONTENTS.—A State asset management plan shall, at a minimum, be in a form that the Secretary determines to be appropriate and include—

“(A) a summary listing of the pavement and bridge assets on the National Highway System in the State, including a description of the condition of those assets;

“(B) asset management objectives and measures;

“(C) performance gap identification;

“(D) lifecycle cost and risk management analysis;

“(E) a financial plan; and

“(F) investment strategies.

“(4) STANDARDS AND MEASURES.—

“(A) IN GENERAL.—Subject to subparagraph (B), not later than 18 months after the date of enactment of the MAP-21, the Secretary shall, in consultation with State departments of transportation and other stakeholders, establish—

“(i) minimum standards for States to use in developing and operating pavement management systems and bridge management systems;

“(ii) measures for States to use to assess—

“(I) the condition of pavements on the Interstate system;

“(II) the condition of pavements on the National Highway System (excluding the Interstate);

“(III) the condition of bridges on the National Highway System;

“(IV) the performance of the Interstate System; and

“(V) the performance of the National Highway System (excluding the Interstate System);

“(iii) the data elements that are necessary to collect and maintain data, and a standardized process for collection and sharing of data with appropriate governmental entities at the Federal, State, and local levels (including metropolitan planning organizations), to carry out paragraph (5); and

“(iv) minimum levels for—

“(I) the condition of pavement on the Interstate System; and

“(II) the condition of bridges on the National Highway System.

“(B) STATE PARTICIPATION.—In carrying out subparagraph (A), the Secretary shall—

“(i) provide States not less than 90 days to comment on any regulation proposed by the Secretary under that subparagraph; and

“(ii) take into consideration any comments of the States relating to a proposed regulation received during that comment period.

“(5) STATE PERFORMANCE TARGETS.—

“(A) ESTABLISHMENT OF TARGETS.—Not later than 1 year after the date on which the Secretary promulgates final regulations under paragraph (4), each State, in consultation with metropolitan planning organizations, shall establish targets that address each of the performance measures identified in paragraph (4)(A)(ii).

“(B) PERIODIC UPDATES.—Each State shall periodically update the targets established under subparagraph (A).

“(6) REQUIREMENT FOR PLAN.—To obligate funding apportioned under section 104(b)(1), each State shall have in effect—

“(A) a risk-based asset management plan for the National Highway System in accordance with this section, developed through a process defined and approved by the Secretary; and

“(B) State targets that address the performance measures identified in paragraph (4)(B).

“(7) CERTIFICATION OF PLAN DEVELOPMENT PROCESS.—

“(A) IN GENERAL.—Not later than 90 days after the date on which a State submits a request for approval of the process used by the State to develop the State asset management plan for the National Highway System, the Secretary shall—

“(i) review the process; and

“(ii) (I) certify that the process meets the requirements established by the Secretary; or

“(II) deny certification and specify actions necessary for the State to take to correct deficiencies in the State process.

“(B) RECERTIFICATION.—Not less often than every 4 years, the Secretary shall review and recertify that the process used by a State to develop and maintain the State asset management plan for the National Highway System meets the requirements for the process, as established by the Secretary.

“(C) OPPORTUNITY TO CURE.—If the Secretary denies certification under subparagraph (A), the Secretary shall provide the State with—

“(i) not less than 90 days to cure the deficiencies of the plan, during which time period all penalties and other legal impacts of a denial of certification shall be stayed; and

“(ii) a written statement of the specific actions the Secretary determines to be necessary for the State to cure the plan.

“(8) PERFORMANCE REPORTS.—

“(A) IN GENERAL.—Not later than 4 years after the date of enactment of the MAP-21 and biennially thereafter, a State shall submit to the Secretary a report that describes—

“(i) the condition and performance of the National Highway System in the State;

“(ii) progress in achieving State targets for each of the performance measures for the National Highway System; and

“(iii) the effectiveness of the investment strategy documented in the State asset management plan for the National Highway System.

“(B) FAILURE TO ACHIEVE TARGETS.—A State that does not achieve or make significant progress toward achieving the targets of the State for performance measures described in subparagraph (A)(ii) for 2 consecutive reports submitted under this paragraph shall include in the next report submitted a description of the actions the State will undertake to achieve the targets.

“(9) PROCESS.—Not later than 18 months after the date of enactment of the MAP-21, the Secretary shall, by regulation and in consultation with State departments of transportation, establish the process to develop the State asset management plan described in paragraph (1) and establish the standards and measures described in paragraph (4).

“(g) INTERSTATE SYSTEM AND NHS BRIDGE CONDITIONS.—

“(1) CONDITION OF INTERSTATE SYSTEM.—

“(A) PENALTY.—If, during 2 consecutive reporting periods, the condition of the Interstate System, excluding bridges on the Interstate System, in a State falls below the minimum condition level established by the Secretary under subsection (f)(4)(A)(iv), the State shall be required, during the following fiscal year—

“(i) to obligate, from the amounts apportioned to the State under section 104(b)(1), an amount that is not less than the amount of funds apportioned to the State for fiscal year 2009 under the Interstate maintenance program for the purposes described in this section (as in effect on the day before the date of enactment of the MAP-21), except that for each year after fiscal year 2013, the amount required to be obligated under this clause shall be increased by 2 percent over the amount required to be obligated in the previous fiscal year; and

“(ii) to transfer, from the amounts apportioned to the State under section 104(b)(2) (other than amounts suballocated to metropolitan areas and other areas of the State under section 133(d)) to the apportionment of the State under section 104(b)(1), an amount

equal to 10 percent of the amount of funds apportioned to the State for fiscal year 2009 under the Interstate maintenance program for the purposes described in this section (as in effect on the day before the date of enactment of the MAP-21).

“(B) RESTORATION.—The obligation requirement for the Interstate System in a State required by subparagraph (A) for a fiscal year shall remain in effect for each subsequent fiscal year until such time as the condition of the Interstate System in the State exceeds the minimum condition level established by the Secretary under subsection (f)(4)(A)(iv).

“(2) CONDITION OF NHS BRIDGES.—

“(A) PENALTY.—If, during 2 consecutive reporting periods, the condition of bridges on the National Highway System in a State falls below the minimum condition level established by the Secretary under subsection (f)(4)(A)(iv), the State shall be required, during the following fiscal year—

“(i) to obligate, from the amounts apportioned to the State under section 104(b)(1), an amount for bridges on the National Highway System that is not less than 50 percent of the amount of funds apportioned to the State for fiscal year 2009 under the highway bridge program for the purposes described in section 144 (as in effect on the day before the date of enactment of the MAP-21), except that for each year after fiscal year 2013, the amount required to be obligated under this clause shall be increased by 2 percent over the amount required to be obligated in the previous fiscal year; and

“(ii) to transfer, from the amounts apportioned to the State under section 104(b)(2) (other than amounts suballocated to metropolitan areas and other areas of the State under section 133(d)) to the apportionment of the State under section 104(b)(1), an amount equal to 10 percent of the amount of funds apportioned to the State for fiscal year 2009 under the highway bridge program for the purposes described in section 144 (as in effect on the day before the date of enactment of the MAP-21).

“(B) RESTORATION.—The obligation requirement for bridges on the National Highway System in a State required by subparagraph (A) for a fiscal year shall remain in effect for each subsequent fiscal year until such time as the condition of bridges on the National Highway System in the State exceeds the minimum condition level established by the Secretary under subsection (f)(4)(A)(iv).”

(b) TRANSITION PERIOD.—

(1) IN GENERAL.—Except as provided in paragraph (2), until such date as a State has in effect an approved asset management plan and has established performance targets as described in section 119 of title 23, United States Code, that will contribute to achieving the national goals for the condition and performance of the National Highway System, but not later than 18 months after the date on which the Secretary promulgates final regulations required under section 119(f)(4) of that title, the Secretary shall approve obligations of funds apportioned to a State to carry out the national highway performance program under section 119 of that title, for projects that otherwise meet the requirements of that section.

(2) EXTENSION.—The Secretary may extend the transition period for a State under paragraph (1) if the Secretary determines that the State has made a good faith effort to establish an asset management plan and performance targets referred to in that paragraph.

(c) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 119 and inserting the following:

“119. National highway performance program.”

#### SEC. 1107. EMERGENCY RELIEF.

Section 125 of title 23, United States Code, is amended to read as follows:

##### “§ 125. Emergency relief

“(a) IN GENERAL.—Subject to this section and section 120, an emergency fund is authorized for expenditure by the Secretary for the repair or reconstruction of highways, roads, and trails, in any area of the United States, including Indian reservations, that the Secretary finds have suffered serious damage as a result of—

“(1) a natural disaster over a wide area, such as by a flood, hurricane, tidal wave, earthquake, severe storm, or landslide; or

“(2) catastrophic failure from any external cause.

“(b) RESTRICTION ON ELIGIBILITY.—

“(1) DEFINITION OF CONSTRUCTION PHASE.—In this subsection, the term ‘construction phase’ means the phase of physical construction of a highway or bridge facility that is separate from any other identified phases, such as planning, design, or right-of-way phases, in the State transportation improvement program.

“(2) RESTRICTION.—In no case shall funds be used under this section for the repair or reconstruction of a bridge—

“(A) that has been permanently closed to all vehicular traffic by the State or responsible local official because of imminent danger of collapse due to a structural deficiency or physical deterioration; or

“(B) if a construction phase of a replacement structure is included in the approved Statewide transportation improvement program at the time of an event described in subsection (a).

“(c) FUNDING.—

“(1) IN GENERAL.—Subject to the limitations described in paragraph (2), there are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) such sums as are necessary to establish the fund authorized by this section and to replenish that fund on an annual basis.

“(2) LIMITATIONS.—The limitations referred to in paragraph (1) are that—

“(A) not more than \$100,000,000 is authorized to be obligated in any 1 fiscal year commencing after September 30, 1980, to carry out this section, except that, if for any fiscal year the total of all obligations under this section is less than the amount authorized to be obligated for the fiscal year, the unobligated balance of that amount shall—

“(i) remain available until expended; and

“(ii) be in addition to amounts otherwise available to carry out this section for each year; and

“(B)(i) pending such appropriation or replenishment, the Secretary may obligate from any funds appropriated at any time for obligation in accordance with this title, including existing Federal-aid appropriations, such sums as are necessary for the immediate prosecution of the work herein authorized; and

“(ii) funds obligated under this subparagraph shall be reimbursed from the appropriation or replenishment.

“(d) ELIGIBILITY.—

“(1) IN GENERAL.—The Secretary may expend funds from the emergency fund authorized by this section only for the repair or re-

construction of highways on Federal-aid highways in accordance with this chapter, except that—

“(A) no funds shall be so expended unless an emergency has been declared by the Governor of the State with concurrence by the Secretary, unless the President has declared the emergency to be a major disaster for the purposes of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) for which concurrence of the Secretary is not required; and

“(B) the Secretary has received an application from the State transportation department that includes a comprehensive list of all eligible project sites and repair costs by not later than 2 years after the natural disaster or catastrophic failure.

“(2) COST LIMITATION.—

“(A) DEFINITION OF COMPARABLE FACILITY.—In this paragraph, the term ‘comparable facility’ means a facility that meets the current geometric and construction standards required for a facility of comparable capacity and character to the destroyed facility, except a bridge facility which may be constructed for the type and volume of traffic that the bridge will carry over its design life.

“(B) LIMITATION.—The total cost of a project funded under this section may not exceed the cost of repair or reconstruction of a comparable facility.

“(3) TERRITORIES.—The total obligations for projects under this section for any fiscal year in the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall not exceed \$20,000,000.

“(4) SUBSTITUTE TRAFFIC.—Notwithstanding any other provision of this section, actual and necessary costs of maintenance and operation of ferryboats or additional transit service providing temporary substitute highway traffic service, less the amount of fares charged for comparable service, may be expended from the emergency fund authorized by this section for Federal-aid highways.

“(e) TRIBAL TRANSPORTATION FACILITIES, FEDERAL LANDS TRANSPORTATION FACILITIES, AND PUBLIC ROADS ON FEDERAL LANDS.—

“(1) DEFINITION OF OPEN TO PUBLIC TRAVEL.—In this subsection, the term ‘open to public travel’ means, with respect to a road, that, except during scheduled periods, extreme weather conditions, or emergencies, the road is open to the general public for use with a standard passenger vehicle, without restrictive gates or prohibitive signs or regulations, other than for general traffic control or restrictions based on size, weight, or class of registration.

“(2) EXPENDITURE OF FUNDS.—Notwithstanding subsection (d)(1), the Secretary may expend funds from the emergency fund authorized by this section, independently or in cooperation with any other branch of the Federal Government, a State agency, a tribal government, an organization, or a person, for the repair or reconstruction of tribal transportation facilities, Federal lands transportation facilities, and other federally owned roads that are open to public travel, whether or not those facilities are Federal-aid highways.

“(3) REIMBURSEMENT.—

“(A) IN GENERAL.—The Secretary may reimburse Federal and State agencies (including political subdivisions) for expenditures made for projects determined eligible under this section, including expenditures for emergency repairs made before a determination of eligibility.

“(B) TRANSFERS.—With respect to reimbursements described in subparagraph (A)—

“(i) those reimbursements to Federal agencies and Indian tribal governments shall be transferred to the account from which the expenditure was made, or to a similar account that remains available for obligation; and

“(ii) the budget authority associated with the expenditure shall be restored to the agency from which the authority was derived and shall be available for obligation until the end of the fiscal year following the year in which the transfer occurs.

“(f) TREATMENT OF TERRITORIES.—For purposes of this section, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall be considered to be States and parts of the United States, and the chief executive officer of each such territory shall be considered to be a Governor of a State.”.

#### SEC. 1108. TRANSPORTATION MOBILITY PROGRAM.

(a) IN GENERAL.—Section 133 of title 23, United States Code, is amended to read as follows:

##### “§ 133. Transportation mobility program

“(a) ESTABLISHMENT.—The Secretary shall establish and implement a transportation mobility program under this section.

“(b) PURPOSE.—The purpose of the transportation mobility program shall be to assist States and localities in improving the conditions and performance on Federal-aid highways and on bridges on any public road.

“(c) ELIGIBLE PROJECTS.—Funds apportioned under section 104(b)(2) to carry out the transportation mobility program may be obligated for any of the following purposes:

“(1) Construction, reconstruction, rehabilitation, resurfacing, restoration, preservation, or operational improvements for highways, including construction of designated routes of the Appalachian development highway system and local access roads under section 14501 of title 40, United States Code.

“(2) Replacement (including replacement with fill material), rehabilitation, preservation, protection (including painting, scour countermeasures, seismic retrofits, impact protection measures, security countermeasures, and protection against extreme events) and application of calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and deicing compositions for bridges (and approaches to bridges and other elevated structures) and tunnels on public roads of all functional classifications, including any such construction or reconstruction necessary to accommodate other transportation modes.

“(3) Construction of a new bridge or tunnel on a new location on a highway, including any such construction necessary to accommodate other transportation modes.

“(4) Inspection and evaluation (within the meaning of section 144) of bridges and tunnels on public roads of all functional classifications and inspection and evaluation of other highway infrastructure assets, including signs and sign structures, retaining walls, and drainage structures.

“(5) Training of bridge and tunnel inspectors (within the meaning of section 144).

“(6) Capital costs for transit projects eligible for assistance under chapter 53 of title 49, including vehicles and facilities, whether publicly or privately owned, that are used to provide intercity passenger service by bus.

“(7) Carpool projects, fringe and corridor parking facilities and programs, including electric vehicle infrastructure in accordance with section 137, bicycle transportation and pedestrian walkways in accordance with sec-

tion 217, and the modification of public sidewalks to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

“(8) Highway and transit safety infrastructure improvements and programs, installation of safety barriers and nets on bridges, hazard eliminations, projects to mitigate hazards caused by wildlife, and railway-highway grade crossings.

“(9) Highway and transit research and development and technology transfer programs.

“(10) Capital and operating costs for traffic and traveler information monitoring, management, and control facilities and programs, including truck stop electrification systems.

“(11) Projects and strategies designed to support congestion pricing, including electronic toll collection and travel demand management strategies and programs.

“(12) Surface transportation planning.

“(13) Transportation enhancement activities.

“(14) Recreational trails projects eligible for funding under section 206.

“(15) Construction of ferry boats and ferry terminal facilities eligible for funding under section 129(c).

“(16) Border infrastructure projects eligible for funding under section 1303 of the SAFETEA-LU (Public Law 109-59).

“(17) Projects, programs, and technical assistance associated with National Scenic Byways, All-American Roads, and America's Byways eligible for funding under section 162.

“(18) Truck parking facilities eligible for funding under section 1401 of the MAP-21.

“(19) Safe routes to school projects eligible for funding under section 1404 of the SAFETEA-LU (23 U.S.C. 402 note; Public Law 109-59).

“(20) Transportation control measures described in section 108(f)(1)(A) of the Clean Air Act (42 U.S.C. 7408(f)(1)(A)), other than section 108(f)(1)(A)(xvi) of that Act.

“(21) Development and implementation of a State asset management plan for the National Highway System in accordance with section 119, including data collection, maintenance, and integration and the costs associated with obtaining, updating, and licensing software and equipment required for risk-based asset management and performance-based management, and for similar activities relating to the development and implementation of a performance-based management program for other public roads.

“(22) In accordance with all applicable Federal law (including regulations), participation in natural habitat and wetlands mitigation efforts relating to projects funded under this title, which may include participation in natural habitat and wetlands mitigation banks, contributions to statewide and regional efforts to conserve, restore, enhance, and create natural habitats and wetlands, and development of statewide and regional natural habitat and wetlands conservation and mitigation plans, including any such banks, efforts, and plans developed in accordance with applicable Federal law (including regulations), on the conditions that—

“(A) contributions to those mitigation efforts may—

“(i) take place concurrent with or in advance of project construction; and

“(ii) occur in advance of project construction only if the efforts are consistent with all applicable requirements of Federal law (including regulations) and State transportation planning processes; and

“(B) with respect to participation in a natural habitat or wetland mitigation effort relating to a project funded under this title that has an impact that occurs within the service area of a mitigation bank, preference is given, to the maximum extent practicable, to the use of the mitigation bank if the bank contains sufficient available credits to offset the impact and the bank is approved in accordance with applicable Federal law (including regulations).

“(23) Infrastructure-based intelligent transportation systems capital improvements.

“(24) Environmental restoration and pollution abatement in accordance with section 328.

“(25) Control of noxious weeds and aquatic noxious weeds and establishment of native species in accordance with section 329.

“(26) Improvements to a freight railroad, marine highway, or intermodal facility, but only to the extent that the Secretary concurs with the State that—

“(A) the project will make significant improvement to freight movements on the national freight network;

“(B) the public benefit of the project exceeds the Federal investment; and

“(C) the project provides a better return than a highway project on a segment of the primary freight network, except that a State may not obligate in excess of 5 percent of funds apportioned to the State under section 104(b)(2) to carry out this section for that purpose.

“(27) Maintenance of and improvements to all public roads, including non-State-owned public roads and roads on tribal land—

“(A) that are located within 10 miles of the international border between the United States and Canada or Mexico; and

“(B) on which federally owned vehicles comprise more than 50 percent of the traffic.

“(28) Construction, reconstruction, resurfacing, restoration, rehabilitation, and preservation of, and operational improvements for, any public road if—

“(A) the public road, and the highway project to be carried out with respect to the public road, are in the same corridor as, and in proximity to—

“(i) a fully access-controlled highway designated as a part of the National Highway System; or

“(ii) in areas with a population of less than 200,000, a federal-aid highway designated as part of the National Highway System;

“(B) the construction or improvements will enhance the level of service on the highway described in subparagraph (A) and improve regional traffic flow; and

“(C) the construction or improvements are more cost-effective, as determined by benefit-cost analysis, than an improvement to the highway described in subparagraph (A).

##### “(d) ALLOCATIONS OF APPORTIONED FUNDS TO AREAS BASED ON POPULATION.—

“(1) CALCULATION.—Of the funds apportioned to a State under section 104(b)(2)—

“(A) 50 percent for a fiscal year shall be obligated under this section, in proportion to their relative shares of the population of the State—

“(i) in urbanized areas of the State with an urbanized area population of over 200,000;

“(ii) in areas of the State other than urban areas with a population greater than 5,000; and

“(iii) in other areas of the State; and

“(B) 50 percent may be obligated in any area of the State.

“(2) METROPOLITAN AREAS.—Funds attributed to an urbanized area under subparagraph (A)(i) may be obligated in the metropolitan area established under section 134 that encompasses the urbanized area.

“(3) DISTRIBUTION AMONG URBANIZED AREAS OF OVER 200,000 POPULATION.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the amount of funds that a State is required to obligate under paragraph (1)(A)(i) shall be obligated in urbanized areas described in paragraph (1)(A)(i) based on the relative population of the areas.

“(B) OTHER FACTORS.—The State may obligate the funds described in subparagraph (A) based on other factors if the State and the relevant metropolitan planning organizations jointly apply to the Secretary for the permission to base the obligation on other factors and the Secretary grants the request.

“(e) LOCATION OF PROJECTS.—Except as provided in subsection (g) and for projects described in paragraphs (2), (4), (7), (8), (13), (14), and (19) of subsection (c), for local access roads under section 14501 of title 40, United States Code, transportation mobility program projects may not be undertaken on roads functionally classified as local or rural minor collectors.

“(f) APPLICABILITY OF PLANNING REQUIREMENTS.—Programming and expenditure of funds for projects under this section shall be consistent with sections 134 and 135.

“(g) BRIDGES NOT ON FEDERAL-AID HIGHWAYS.—

“(1) DEFINITION OF OFF-SYSTEM BRIDGE.—The term ‘off-system bridge’ means a highway bridge located on a public road, other than a bridge on a Federal-aid highway.

“(2) SPECIAL RULE.—

“(A) PENALTY.—If the total deck area of deficient off-system bridges in a State increases for the 2 most recent consecutive years, the State shall be required, during the following fiscal year, to obligate for the improvement of deficient off-system bridges from the amounts apportioned to the State under section 104(b)(2) an amount that is not less than 110 percent of the amount of funds required to be obligated by the State for off-system bridges for fiscal year 2009 under section 144(f)(2), as in effect on the day before the date of enactment of the MAP-21, except that for each year after fiscal year 2013, the amount required to be obligated under this subparagraph shall be increased by 2 percent over the amount required to be obligated in the previous fiscal year.

“(B) RESTORATION.—The obligation requirement for off-system bridges in a State required by subparagraph (A) for a fiscal year shall remain in effect for each subsequent fiscal year until such time as the total deck area of deficient off-system bridges in the State has decreased to the level it was in the State for the fiscal year prior to the establishment of the obligation requirement for the State under subparagraph (A).

“(3) CREDIT FOR BRIDGES NOT ON FEDERAL-AID HIGHWAYS.—Notwithstanding any other provision of law, with respect to any project not on a Federal-aid highway for the replacement of a bridge or rehabilitation of a bridge that is wholly funded from State and local sources, is eligible for Federal funds under this section, is noncontroversial, is certified by the State to have been carried out in accordance with all standards applicable to such projects under this section, and is determined by the Secretary upon completion to be no longer a deficient bridge—

“(A) any amount expended after the date of enactment of this subsection from State and local sources for the project in excess of

20 percent of the cost of construction of the project may be credited to the non-Federal share of the cost of other bridge projects in the State that are eligible for Federal funds under this section; and

“(B) that crediting shall be conducted in accordance with procedures established by the Secretary.”

“(h) ADMINISTRATION.—

“(1) SUBMISSION OF PROJECT AGREEMENT.—For each fiscal year, each State shall submit a project agreement that—

“(A) certifies that the State will meet all the requirements of this section; and

“(B) notifies the Secretary of the amount of obligations needed to carry out the program under this section.

“(2) REQUEST FOR ADJUSTMENTS OF AMOUNTS.—Each State shall request from the Secretary such adjustments to the amount of obligations referred to in paragraph (1)(B) as the State determines to be necessary.

“(3) EFFECT OF APPROVAL BY THE SECRETARY.—Approval by the Secretary of a project agreement under paragraph (1) shall be deemed a contractual obligation of the United States to pay transportation mobility program funds made available under this title.

“(i) OBLIGATION AUTHORITY.—

“(1) IN GENERAL.—A State that is required to obligate, in an urbanized area with an urbanized area population of over 200,000 individuals under subsection (d), funds apportioned to the State under section 104(b)(2) shall make available during the fiscal year an amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction programs for use in the area that is equal to the product obtained by multiplying—

“(A) the aggregate amount of funds that the State is required to obligate in the area under subsection (d) during the period; and

“(B) the ratio that—

“(i) the aggregate amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction programs during the period; bears to

“(ii) the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to an obligation limitation) during the period.

“(2) JOINT RESPONSIBILITY.—Each State, each affected metropolitan planning organization, and the Secretary shall jointly ensure compliance with paragraph (1).”

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 133 and inserting the following:

“133. Transportation mobility program.”

#### SEC. 1109. WORKFORCE DEVELOPMENT.

(a) ON-THE-JOB TRAINING.—Section 140(b) of title 23, United States Code, is amended—

(1) by striking “Whenever apportionments are made under section 104(b)(3),” and inserting “From administrative funds made available under section 104(a),”; and

(2) by striking “the surface transportation program under section 104(b) and the bridge program under section 144” and inserting “the transportation mobility program under section 104(b)”.

(b) DISADVANTAGED BUSINESS ENTERPRISE.—Section 140(c) of title 23, United States Code, is amended by striking “Whenever apportionments are made under section 104(b)(3),” and inserting “From administrative funds made available under section 104(a),”.

#### SEC. 1110. HIGHWAY USE TAX EVASION PROJECTS.

Section 143 of title 23, United States Code, is amended—

(1) in subsection (b)—

(A) by striking paragraph (2) and inserting the following:

“(2) FUNDING.—

“(A) IN GENERAL.—From administrative funds made available under section 104(a), the Secretary shall deduct such sums as are necessary, not to exceed \$10,000,000 for each of fiscal years 2012 and 2013, to carry out this section.

“(B) ALLOCATION OF FUNDS.—Funds made available to carry out this section may be allocated to the Internal Revenue Service and the States at the discretion of the Secretary, except that of funds so made available for each fiscal year, \$2,000,000 shall be available only to carry out intergovernmental enforcement efforts, including research and training.”; and

(B) in paragraph (8)—

(i) in the paragraph heading by striking “SURFACE TRANSPORTATION PROGRAM” and inserting “TRANSPORTATION MOBILITY PROGRAM”; and

(ii) by striking “section 104(b)(3)” and inserting “section 104(b)(2)”; and

(2) in subsection (c)(3) by striking “for each of fiscal years 2005 through 2009,” and inserting “for each fiscal year.”

#### SEC. 1111. NATIONAL BRIDGE AND TUNNEL INVENTORY AND INSPECTION STANDARDS.

(a) IN GENERAL.—Section 144 of title 23, United States Code, is amended to read as follows:

#### “§ 144. National bridge and tunnel inventory and inspection standards

“(a) FINDINGS AND DECLARATIONS.—

“(1) FINDINGS.—Congress finds that—

“(A) the condition of the bridges of the United States has improved since the date of enactment of the Transportation Equity Act for the 21st Century (Public Law 105-178; 112 Stat. 107), yet continued improvement to bridge conditions is essential to protect the safety of the traveling public and allow for the efficient movement of people and goods on which the economy of the United States relies; and

“(B) the systematic preventative maintenance of bridges, and replacement and rehabilitation of deficient bridges, should be undertaken through an overall asset management approach to transportation investment.

“(2) DECLARATIONS.—Congress declares that it is in the vital interest of the United States—

“(A) to inventory, inspect, and improve the condition of the highway bridges and tunnels of the United States;

“(B) to use a data-driven, risk-based approach and cost-effective strategy for systematic preventative maintenance, replacement, and rehabilitation of highway bridges and tunnels to ensure safety and extended service life;

“(C) to use performance-based bridge management systems to assist States in making timely investments;

“(D) to ensure accountability and link performance outcomes to investment decisions; and

“(E) to ensure connectivity and access for residents of rural areas of the United States through strategic investments in National Highway System bridges and bridges on all public roads.

“(b) NATIONAL BRIDGE AND TUNNEL INVENTORIES.—

“(1) IN GENERAL.—The Secretary, in consultation with the States, shall—

“(A) inventory all highway bridges on public roads that are bridges over waterways, other topographical barriers, other highways, and railroads;

“(B) classify the bridges according to serviceability, safety, and essentiality for public use, including the potential impacts to emergency evacuation routes and to regional and national freight and passenger mobility if the serviceability of the bridge is restricted or diminished; and

“(C) based on that classification, assign each a risk-based priority for systematic preventative maintenance, replacement, or rehabilitation.

“(2) TRIBALLY OWNED AND FEDERALLY OWNED BRIDGES.—As part of the activities carried out under paragraph (1), the Secretary, in consultation with the Secretaries of appropriate Federal agencies, shall—

“(A) inventory all tribally owned and Federally owned highway bridges that are open to the public, over waterways, other topographical barriers, other highways, and railroads;

“(B) classify the bridges according to serviceability, safety, and essentiality for public use; and

“(C) based on the classification, assign each a risk-based priority for systematic preventative maintenance, replacement, or rehabilitation.

“(3) TUNNELS.—The Secretary shall establish a national inventory of highway tunnels reflecting the findings of the most recent highway tunnel inspections conducted by States under this section.

“(c) GENERAL BRIDGE AUTHORITY.—

“(1) IN GENERAL.—Except as provided in paragraph (2) and notwithstanding any other provision of law, the General Bridge Act of 1946 (33 U.S.C. 525 et seq.) shall apply to bridges authorized to be replaced, in whole or in part, by this title.

“(2) EXCEPTION.—Section 502(b) of the General Bridge Act of 1946 (33 U.S.C. 525(b)) and section 9 of the Act of March 3, 1899 (33 U.S.C. 401), shall not apply to any bridge constructed, reconstructed, rehabilitated, or replaced with assistance under this title, if the bridge is over waters that—

“(A) are not used and are not susceptible to use in the natural condition of the bridge or by reasonable improvement as a means to transport interstate or foreign commerce; and

“(B) are—

“(i) not tidal; or

“(ii) if tidal, used only by recreational boating, fishing, and other small vessels that are less than 21 feet in length.

“(d) INVENTORY UPDATES AND REPORTS.—

“(1) IN GENERAL.—The Secretary shall—

“(A) annually revise the inventories authorized by subsection (b); and

“(B) submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the inventories.

“(2) INSPECTION REPORT.—Not later than 1 year after the date of enactment of the MAP-21, each State and appropriate Federal agency shall report element level data to the Secretary, as each bridge is inspected pursuant to this section, for all highway bridges on the National Highway System.

“(3) GUIDANCE.—The Secretary shall provide guidance to States and Federal agencies for implementation of this subsection, while respecting the existing inspection schedule of each State.

“(4) BRIDGES NOT ON NATIONAL HIGHWAY SYSTEM.—The Secretary shall—

“(A) conduct a study on the benefits, cost-effectiveness, and feasibility of requiring element-level data collection for bridges not on the National Highway System; and

“(B) submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the study.

“(e) BRIDGES WITHOUT TAXING POWERS.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, any bridge that is owned and operated by an agency that does not have taxing powers and whose functions include operating a federally assisted public transit system subsidized by toll revenues shall be eligible for assistance under this title, but the amount of such assistance shall in no event exceed the cumulative amount which such agency has expended for capital and operating costs to subsidize such transit system.

“(2) INSUFFICIENT ASSETS.—Before authorizing an expenditure of funds under this subsection, the Secretary shall determine that the applicant agency has insufficient reserves, surpluses, and projected revenues (over and above those required for bridge and transit capital and operating costs) to fund the bridge project or activity eligible for assistance under this title.

“(3) CREDITING OF NON-FEDERAL FUNDS.—Any non-Federal funds expended for the seismic retrofit of the bridge may be credited toward the non-Federal share required as a condition of receipt of any Federal funds for seismic retrofit of the bridge made available after the date of the expenditure.

“(f) REPLACEMENT OF DESTROYED BRIDGES AND FERRY BOAT SERVICE.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, a State may use the funds apportioned under section 104(b)(2) to construct any bridge that replaces—

“(A) any low water crossing (regardless of the length of the low water crossing);

“(B) any bridge that was destroyed prior to January 1, 1965;

“(C) any ferry that was in existence on January 1, 1984; or

“(D) any road bridge that is rendered obsolete as a result of a Corps of Engineers flood control or channelization project and is not rebuilt with funds from the Corps of Engineers.

“(2) FEDERAL SHARE.—The Federal share payable on any bridge construction carried out under paragraph (1) shall be 80 percent of the cost of the construction.

“(g) HISTORIC BRIDGES.—

“(1) DEFINITION OF HISTORIC BRIDGE.—In this subsection, the term ‘historic bridge’ means any bridge that is listed on, or eligible for listing on, the National Register of Historic Places.

“(2) COORDINATION.—The Secretary shall, in cooperation with the States, encourage the retention, rehabilitation, adaptive reuse, and future study of historic bridges.

“(3) STATE INVENTORY.—The Secretary shall require each State to complete an inventory of all bridges on and off Federal-aid highways to determine the historic significance of the bridges.

“(4) ELIGIBILITY.—

“(A) IN GENERAL.—Subject to subparagraph (B), reasonable costs associated with actions to preserve, or reduce the impact of a project under this chapter on, the historic integrity of a historic bridge shall be eligible as reimbursable project costs under section 133 if the load capacity and safety features of the

historic bridge are adequate to serve the intended use for the life of the historic bridge.

“(B) BRIDGES NOT USED FOR VEHICLE TRAFFIC.—In the case of a historic bridge that is no longer used for motorized vehicular traffic, the costs eligible as reimbursable project costs pursuant to this chapter shall not exceed the estimated cost of demolition of the historic bridge.

“(5) PRESERVATION.—Any State that proposes to demolish a historic bridge for a replacement project with funds made available to carry out this section shall first make the historic bridge available for donation to a State, locality, or responsible private entity if the State, locality, or responsible entity enters into an agreement—

“(A) to maintain the bridge and the features that give the historic bridge its historic significance; and

“(B) to assume all future legal and financial responsibility for the historic bridge, which may include an agreement to hold the State transportation department harmless in any liability action.

“(6) COSTS INCURRED.—

“(A) IN GENERAL.—Costs incurred by the State to preserve a historic bridge (including funds made available to the State, locality, or private entity to enable it to accept the bridge) shall be eligible as reimbursable project costs under this chapter in an amount not to exceed the cost of demolition.

“(B) ADDITIONAL FUNDING.—Any bridge preserved pursuant to this paragraph shall not be eligible for any other funds authorized pursuant to this title.

“(h) NATIONAL BRIDGE AND TUNNEL INSPECTION STANDARDS.—

“(1) REQUIREMENT.—

“(A) IN GENERAL.—The Secretary shall establish and maintain inspection standards for the proper inspection and evaluation of all highway bridges and tunnels for safety and serviceability.

“(B) UNIFORMITY.—The standards under this subsection shall be designed to ensure uniformity of the inspections and evaluations.

“(2) MINIMUM REQUIREMENTS OF INSPECTION STANDARDS.—The standards established under paragraph (1) shall, at a minimum—

“(A) specify, in detail, the method by which the inspections shall be carried out by the States, Federal agencies, and tribal governments;

“(B) establish the maximum time period between inspections;

“(C) establish the qualifications for those charged with carrying out the inspections;

“(D) require each State, Federal agency, and tribal government to maintain and make available to the Secretary on request—

“(i) written reports on the results of highway bridge and tunnel inspections and notations of any action taken pursuant to the findings of the inspections; and

“(ii) current inventory data for all highway bridges and tunnels reflecting the findings of the most recent highway bridge and tunnel inspections conducted; and

“(E) establish a procedure for national certification of highway bridge inspectors and tunnel inspectors.

“(3) STATE COMPLIANCE WITH INSPECTION STANDARDS.—The Secretary shall, at a minimum—

“(A) establish, in consultation with the States, and interested and knowledgeable private organizations and individuals, procedures to conduct reviews of State compliance with—

“(i) the standards established under this subsection; and



“(ii) the calculation or reevaluation of bridge load ratings; and

“(B) establish, in consultation with the States, and interested and knowledgeable private organizations and individuals, procedures for States to follow in reporting to the Secretary—

“(i) critical findings relating to structural or safety-related deficiencies of highway bridges; and

“(ii) monitoring activities and corrective actions taken in response to a critical finding.

“(4) REVIEWS OF STATE COMPLIANCE.—

“(A) IN GENERAL.—The Secretary shall annually review State compliance with the standards established under this section.

“(B) NONCOMPLIANCE.—If an annual review in accordance with subparagraph (A) identifies noncompliance by a State, the Secretary shall—

“(i) issue a report detailing the issues of the noncompliance by December 31 of the calendar year in which the review was made; and

“(ii) provide the State an opportunity to address the noncompliance by—

“(I) developing a corrective action plan to remedy the noncompliance; or

“(II) resolving the issues of noncompliance not later than 45 days after the date of notification.

“(5) PENALTY FOR NONCOMPLIANCE.—

“(A) IN GENERAL.—If a State fails to satisfy the requirements of paragraph (4)(B) by August 1 of the calendar year following the year of a finding of noncompliance, the Secretary shall, on October 1 of that year, and each year thereafter as may be necessary, require the State to dedicate funds apportioned to the State under sections 119 and 133 after the date of enactment of the MAP-21 to correct the noncompliance with the minimum inspection standards established under this subsection.

“(B) AMOUNT.—The amount of the funds to be directed to correcting noncompliance in accordance with subparagraph (A) shall—

“(i) be determined by the State based on an analysis of the actions needed to address the noncompliance; and

“(ii) require approval by the Secretary.

“(6) UPDATE OF STANDARDS.—Not later than 3 years after the date of enactment of the MAP-21, the Secretary shall update inspection standards to cover—

“(A) the methodology, training, and qualifications for inspectors; and

“(B) the frequency of inspection.

“(7) RISK-BASED APPROACH.—In carrying out the revisions required by paragraph (6), the Secretary shall consider a risk-based approach to determining the frequency of bridge inspections.

“(i) TRAINING PROGRAM FOR BRIDGE AND TUNNEL INSPECTORS.—

“(1) IN GENERAL.—The Secretary, in cooperation with the State transportation departments, shall maintain a program designed to train appropriate personnel to carry out highway bridge and tunnel inspections.

“(2) REVISIONS.—The training program shall be revised from time to time to take into account new and improved techniques.

“(j) AVAILABILITY OF FUNDS.—To carry out this section, the Secretary may use funds made available under sections 104(a), 119, 133, and 503.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 144 and inserting the following:

“144. National bridge and tunnel inventory and inspection standards.”.

## SEC. 1112. HIGHWAY SAFETY IMPROVEMENT PROGRAM.

Section 148 of title 23, United States Code, is amended to read as follows:

### “§ 148. Highway safety improvement program

“(a) DEFINITIONS.—In this section, the following definitions apply:

“(1) HIGH RISK RURAL ROAD.—The term ‘high risk rural road’ means any roadway functionally classified as a rural major or minor collector or a rural local road with significant safety risks, as defined by a State in accordance with an updated State strategic highway safety plan.

“(2) HIGHWAY BASEMAP.—The term ‘highway basemap’ means a representation of all public roads that can be used to geolocate attribute data on a roadway.

“(3) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term ‘highway safety improvement program’ means projects, activities, plans, and reports carried out under this section.

“(4) HIGHWAY SAFETY IMPROVEMENT PROJECT.—

“(A) IN GENERAL.—The term ‘highway safety improvement project’ means strategies, activities, and projects on a public road that are consistent with a State strategic highway safety plan and—

“(i) correct or improve a hazardous road location or feature; or

“(ii) address a highway safety problem.

“(B) INCLUSIONS.—The term ‘highway safety improvement project’ includes, but is not limited to, a project for 1 or more of the following:

“(i) An intersection safety improvement.

“(ii) Pavement and shoulder widening (including addition of a passing lane to remedy an unsafe condition).

“(iii) Installation of rumble strips or another warning device, if the rumble strips or other warning devices do not adversely affect the safety or mobility of bicyclists and pedestrians, including persons with disabilities.

“(iv) Installation of a skid-resistant surface at an intersection or other location with a high frequency of crashes.

“(v) An improvement for pedestrian or bicyclist safety or safety of persons with disabilities.

“(vi) Construction and improvement of a railway-highway grade crossing safety feature, including installation of protective devices.

“(vii) The conduct of a model traffic enforcement activity at a railway-highway crossing.

“(viii) Construction of a traffic calming feature.

“(ix) Elimination of a roadside hazard.

“(x) Installation, replacement, and other improvement of highway signage and pavement markings, or a project to maintain minimum levels of retroreflectivity, that addresses a highway safety problem consistent with a State strategic highway safety plan.

“(xi) Installation of a priority control system for emergency vehicles at signalized intersections.

“(xii) Installation of a traffic control or other warning device at a location with high crash potential.

“(xiii) Transportation safety planning.

“(xiv) Collection, analysis, and improvement of safety data.

“(xv) Planning integrated interoperable emergency communications equipment, operational activities, or traffic enforcement activities (including police assistance) relating to work zone safety.

“(xvi) Installation of guardrails, barriers (including barriers between construction work zones and traffic lanes for the safety of road users and workers), and crash attenuators.

“(xvii) The addition or retrofitting of structures or other measures to eliminate or reduce crashes involving vehicles and wildlife.

“(xviii) Installation of yellow-green signs and signals at pedestrian and bicycle crossings and in school zones.

“(xix) Construction and operational improvements on high risk rural roads.

“(xx) Geometric improvements to a road for safety purposes that improve safety.

“(xxi) A road safety audit.

“(xxii) Roadway safety infrastructure improvements consistent with the recommendations included in the publication of the Federal Highway Administration entitled ‘Highway Design Handbook for Older Drivers and Pedestrians’ (FHWA-RD-01-103), dated May 2001 or as subsequently revised and updated.

“(xxiii) Truck parking facilities eligible for funding under section 1401 of the MAP-21.

“(xxiv) Systemic safety improvements.

“(5) MODEL INVENTORY OF ROADWAY ELEMENTS.—The term ‘model inventory of roadway elements’ means the listing and standardized coding by the Federal Highway Administration of roadway and traffic data elements critical to safety management, analysis, and decisionmaking.

“(6) PROJECT TO MAINTAIN MINIMUM LEVELS OF RETROREFLECTIVITY.—The term ‘project to maintain minimum levels of retroreflectivity’ means a project that is designed to maintain a highway sign or pavement marking retroreflectivity at or above the minimum levels prescribed in Federal or State regulations.

“(7) ROAD SAFETY AUDIT.—The term ‘road safety audit’ means a formal safety performance examination of an existing or future road or intersection by an independent multidisciplinary audit team.

“(8) ROAD USERS.—The term ‘road user’ means a motorist, passenger, public transportation operator or user, truck driver, bicyclist, motorcyclist, or pedestrian, including a person with disabilities.

“(9) SAFETY DATA.—

“(A) IN GENERAL.—The term ‘safety data’ means crash, roadway, and traffic data on a public road.

“(B) INCLUSION.—The term ‘safety data’ includes, in the case of a railway-highway grade crossing, the characteristics of highway and train traffic, licensing, and vehicle data.

“(10) SAFETY PROJECT UNDER ANY OTHER SECTION.—

“(A) IN GENERAL.—The term ‘safety project under any other section’ means a project carried out for the purpose of safety under any other section of this title.

“(B) INCLUSION.—The term ‘safety project under any other section’ includes—

“(i) a project consistent with the State strategic highway safety plan that promotes the awareness of the public and educates the public concerning highway safety matters (including motorcycle safety);

“(ii) a project to enforce highway safety laws; and

“(iii) a project to provide infrastructure and infrastructure-related equipment to support emergency services.

“(11) STATE HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term ‘State highway safety improvement program’ means a program of highway safety improvement projects, activities, plans and reports carried out as part

of the Statewide transportation improvement program under section 135(g).

“(12) STATE STRATEGIC HIGHWAY SAFETY PLAN.—The term ‘State strategic highway safety plan’ means a comprehensive plan, based on safety data, developed by a State transportation department that—

“(A) is developed after consultation with—

“(i) a highway safety representative of the Governor of the State;

“(ii) regional transportation planning organizations and metropolitan planning organizations, if any;

“(iii) representatives of major modes of transportation;

“(iv) State and local traffic enforcement officials;

“(v) a highway-rail grade crossing safety representative of the Governor of the State;

“(vi) representatives conducting a motor carrier safety program under section 31102, 31106, or 31309 of title 49;

“(vii) motor vehicle administration agencies;

“(viii) county transportation officials;

“(ix) State representatives of non-motorized users; and

“(x) other major Federal, State, tribal, and local safety stakeholders;

“(B) analyzes and makes effective use of State, regional, local, or tribal safety data;

“(C) addresses engineering, management, operation, education, enforcement, and emergency services elements (including integrated, interoperable emergency communications) of highway safety as key factors in evaluating highway projects;

“(D) considers safety needs of, and high-fatality segments of, all public roads, including non-State-owned public roads and roads on tribal land;

“(E) considers the results of State, regional, or local transportation and highway safety planning processes;

“(F) describes a program of strategies to reduce or eliminate safety hazards;

“(G) is approved by the Governor of the State or a responsible State agency;

“(H) is consistent with section 135(g); and

“(I) is updated and submitted to the Secretary for approval as required under subsection (d)(2).

“(13) SYSTEMIC SAFETY IMPROVEMENT.—The term ‘systemic safety improvement’ means an improvement that is widely implemented based on high-risk roadway features that are correlated with particular crash types, rather than crash frequency.

“(b) PROGRAM.—

“(1) IN GENERAL.—The Secretary shall carry out a highway safety improvement program.

“(2) PURPOSE.—The purpose of the highway safety improvement program shall be to achieve a significant reduction in traffic fatalities and serious injuries on all public roads, including non-State-owned public roads and roads on tribal land.

“(c) ELIGIBILITY.—

“(1) IN GENERAL.—To obligate funds apportioned under section 104(b)(3) to carry out this section, a State shall have in effect a State highway safety improvement program under which the State—

“(A) develops, implements, and updates a State strategic highway safety plan that identifies and analyzes highway safety problems and opportunities as provided in subsections (a)(12) and (d);

“(B) produces a program of projects or strategies to reduce identified safety problems; and

“(C) evaluates the strategic highway safety plan on a regularly recurring basis in ac-

cordance with subsection (d)(1) to ensure the accuracy of the data and priority of proposed strategies.

“(2) IDENTIFICATION AND ANALYSIS OF HIGHWAY SAFETY PROBLEMS AND OPPORTUNITIES.—As part of the State highway safety improvement program, a State shall—

“(A) have in place a safety data system with the ability to perform safety problem identification and countermeasure analysis—

“(i) to improve the timeliness, accuracy, completeness, uniformity, integration, and accessibility of the safety data on all public roads, including non-State-owned public roads and roads on tribal land in the State;

“(ii) to evaluate the effectiveness of data improvement efforts;

“(iii) to link State data systems, including traffic records, with other data systems within the State;

“(iv) to improve the compatibility and interoperability of safety data with other State transportation-related data systems and the compatibility and interoperability of State safety data systems with data systems of other States and national data systems;

“(v) to enhance the ability of the Secretary to observe and analyze national trends in crash occurrences, rates, outcomes, and circumstances; and

“(vi) to improve the collection of data on nonmotorized crashes;

“(B) based on the analysis required by subparagraph (A)—

“(i) identify hazardous locations, sections, and elements (including roadside obstacles, railway-highway crossing needs, and unmarked or poorly marked roads) that constitute a danger to motorists (including motorcyclists), bicyclists, pedestrians, and other highway users;

“(ii) using such criteria as the State determines to be appropriate, establish the relative severity of those locations, in terms of crashes (including crash rates), fatalities, serious injuries, traffic volume levels, and other relevant data;

“(iii) identify the number of fatalities and serious injuries on all public roads by location in the State;

“(iv) identify highway safety improvement projects on the basis of crash experience, crash potential, crash rate, or other data-supported means; and

“(v) consider which projects maximize opportunities to advance safety;

“(C) adopt strategic and performance-based goals that—

“(i) address traffic safety, including behavioral and infrastructure problems and opportunities on all public roads;

“(ii) focus resources on areas of greatest need; and

“(iii) are coordinated with other State highway safety programs;

“(D) advance the capabilities of the State for safety data collection, analysis, and integration in a manner that—

“(i) complements the State highway safety program under chapter 4 and the commercial vehicle safety plan under section 31102 of title 49;

“(ii) includes all public roads, including public non-State-owned roads and roads on tribal land;

“(iii) identifies hazardous locations, sections, and elements on all public roads that constitute a danger to motorists (including motorcyclists), bicyclists, pedestrians, persons with disabilities, and other highway users;

“(iv) includes a means of identifying the relative severity of hazardous locations de-

scribed in clause (iii) in terms of crashes (including crash rate), serious injuries, fatalities, and traffic volume levels; and

“(v) improves the ability of the State to identify the number of fatalities and serious injuries on all public roads in the State with a breakdown by functional classification and ownership in the State;

“(E)(i) determine priorities for the correction of hazardous road locations, sections, and elements (including railway-highway crossing improvements), as identified through safety data analysis;

“(ii) identify opportunities for preventing the development of such hazardous conditions; and

“(iii) establish and implement a schedule of highway safety improvement projects for hazard correction and hazard prevention; and

“(F)(i) establish an evaluation process to analyze and assess results achieved by highway safety improvement projects carried out in accordance with procedures and criteria established by this section; and

“(ii) use the information obtained under clause (i) in setting priorities for highway safety improvement projects.

“(d) UPDATES TO STRATEGIC HIGHWAY SAFETY PLANS.—

“(1) ESTABLISHMENT OF REQUIREMENTS.—

“(A) IN GENERAL.—Not later than 1 year after the date of enactment of the MAP-21, the Secretary shall establish requirements for regularly recurring State updates of strategic highway safety plans.

“(B) CONTENTS OF UPDATED STRATEGIC HIGHWAY SAFETY PLANS.—In establishing requirements under this subsection, the Secretary shall ensure that States take into consideration, with respect to updated strategic highway safety plans—

“(i) the findings of road safety audits;

“(ii) the locations of fatalities and serious injuries;

“(iii) the locations that do not have an empirical history of fatalities and serious injuries, but possess risk factors for potential crashes;

“(iv) rural roads, including all public roads, commensurate with fatality data;

“(v) motor vehicle crashes that include fatalities or serious injuries to pedestrians and bicyclists;

“(vi) the cost-effectiveness of improvements;

“(vii) improvements to rail-highway grade crossings; and

“(viii) safety on all public roads, including non-State-owned public roads and roads on tribal land.

“(2) APPROVAL OF UPDATED STRATEGIC HIGHWAY SAFETY PLANS.—

“(A) IN GENERAL.—Each State shall—

“(i) update the strategic highway safety plans of the State in accordance with the requirements established by the Secretary under this subsection; and

“(ii) submit the updated plans to the Secretary, along with a detailed description of the process used to update the plan.

“(B) REQUIREMENTS FOR APPROVAL.—The Secretary shall not approve the process for an updated strategic highway safety plan unless—

“(i) the updated strategic highway safety plan is consistent with the requirements of this subsection and subsection (a)(12); and

“(ii) the process used is consistent with the requirements of this subsection.

“(3) PENALTY FOR FAILURE TO HAVE AN APPROVED UPDATED STRATEGIC HIGHWAY SAFETY PLAN.—If a State does not have an updated strategic highway safety plan with a process approved by the Secretary by August 1 of the

fiscal year beginning after the date of establishment of the requirements under paragraph (1)—

“(A) the State shall not be eligible to receive any additional limitation pursuant to the redistribution of the limitation on obligations for Federal-aid highway and highway safety construction programs that occurs after August 1 for each succeeding fiscal year until the fiscal year during which the plan is approved; and

“(B) the Secretary shall, on October 1 of each fiscal year thereafter, transfer from funds apportioned to the State under section 104(b)(2) (other than amounts suballocated to metropolitan areas and other areas of the State under section 133(d)) an amount equal to 10 percent of the funds so apportioned for the fiscal year for use under the highway safety improvement program under this section to the apportionment of the State under section 104(b)(3) until the fiscal year in which the plan is approved.

“(e) ELIGIBLE PROJECTS.—

“(1) IN GENERAL.—Funds apportioned to the State under section 104(b)(3) may be obligated to carry out—

“(A) any highway safety improvement project on any public road or publicly owned bicycle or pedestrian pathway or trail; or

“(B) as provided in subsection (f), other safety projects.

“(2) USE OF OTHER FUNDING FOR SAFETY.—

“(A) EFFECT OF SECTION.—Nothing in this section prohibits the use of funds made available under other provisions of this title for highway safety improvement projects.

“(B) USE OF OTHER FUNDS.—States are encouraged to address the full scope of the safety needs and opportunities of the States by using funds made available under other provisions of this title (except a provision that specifically prohibits that use).

“(f) FLEXIBLE FUNDING FOR STATES WITH A STRATEGIC HIGHWAY SAFETY PLAN.—

“(1) IN GENERAL.—To further the implementation of a State strategic highway safety plan, a State may use up to 10 percent of the amount of funds apportioned to the State under section 104(b)(3) for a fiscal year to carry out safety projects under any other section as provided in the State strategic highway safety plan if the State certifies that—

“(A) the State has met needs in the State relating to railway-highway crossings for the preceding fiscal year; and

“(B) the funds are being used for the most effective projects to make progress toward achieving the safety performance targets of the State.

“(2) OTHER TRANSPORTATION AND HIGHWAY SAFETY PLANS.—Nothing in this subsection requires a State to revise any State process, plan, or program in effect on the date of enactment of the MAP-21.

“(g) DATA IMPROVEMENT.—

“(1) DEFINITION OF DATA IMPROVEMENT ACTIVITIES.—In this subsection:

“(A) IN GENERAL.—The term ‘data improvement activities’ means a project or activity to further the capacity of a State to make more informed and effective safety infrastructure investment decisions.

“(B) INCLUSIONS.—The term ‘data improvement activities’ includes a project or activity—

“(i) to create, update, or enhance a highway basemap of all public roads in a State;

“(ii) to collect safety data, including data identified as part of the model inventory of roadway elements, for creation of or use on a highway basemap of all public roads in a State;

“(iii) to store and maintain safety data in an electronic manner;

“(iv) to develop analytical processes for safety data elements;

“(v) to acquire and implement roadway safety analysis tools; and

“(vi) to support the collection, maintenance, and sharing of safety data on all public roads and related systems associated with the analytical usage of that data.

“(2) APPORTIONMENT.—Of the funds apportioned to a State under section 104(b)(3) for a fiscal year—

“(A) not less than 8 percent of the funds apportioned for each of fiscal years 2012 through 2013 shall be available only for data improvement activities under this subsection; and

“(B) not less than 4 percent of the funds apportioned for fiscal year 2014 and each fiscal year thereafter shall be available only for data improvement activities under this subsection.

“(3) SPECIAL RULE.—A State may use funds apportioned to the State pursuant to this subsection for any project eligible under this section if the State demonstrates to the satisfaction of the Secretary that the State has met all of the State needs for data collection to support the State strategic highway safety plan and sufficiently addressed the data improvement activities described in paragraph (1).

“(4) MODEL INVENTORY OF ROADWAY ELEMENTS.—The Secretary shall—

“(A) establish a subset of the model inventory of roadway elements that are useful for the inventory of roadway safety; and

“(B) ensure that States adopt and use the subset to improve data collection.

“(h) PERFORMANCE MEASURES AND TARGETS FOR STATE HIGHWAY SAFETY IMPROVEMENT PROGRAMS.—

“(1) ESTABLISHMENT OF PERFORMANCE MEASURES.—Not later than 1 year after the date of enactment of the MAP-21, the Secretary shall issue guidance to States on the establishment, collection, and reporting of performance measures that reflect—

“(A) serious injuries and fatalities per vehicle mile traveled;

“(B) serious injuries and fatalities per capita; and

“(C) the number of serious injuries and fatalities

“(2) ESTABLISHMENT OF STATE PERFORMANCE TARGETS.—Not later than 1 year after the Secretary has issued guidance to States on the establishment, collection, and reporting of performance measures, each State shall set performance targets that reflect—

“(A) serious injuries and fatalities per vehicle mile traveled;

“(B) serious injuries and fatalities per capita; and

“(C) the number of serious injuries and fatalities.

“(i) SPECIAL RULES.—

“(1) HIGH-RISK RURAL ROAD SAFETY.—If the fatality rate on rural roads in a State increases over the most recent 2-year period for which data are available, that State shall be required to obligate in the next fiscal year for projects on high risk rural roads an amount equal to at least 200 percent of the amount of funds the State received for fiscal year 2009 for high risk rural roads under subsection (f) of this section, as in effect on the day before the date of enactment of the MAP-21.

“(2) RAIL-HIGHWAY GRADE CROSSINGS.—If the average number of fatalities at rail-highway grade crossings in a State over the most recent 2-year period for which data are avail-

able increases over the average number of fatalities during the preceding 2-year period, that State shall be required to obligate in the next fiscal year for projects on rail-highway grade crossings an amount equal to 120 percent of the amount of funds the State received for fiscal year 2009 for rail-highway grade crossings under section 130(f) (as in effect on the day before the date of enactment of the MAP-21).

“(3) OLDER DRIVERS.—If traffic fatalities and serious injuries per capita for drivers and pedestrians over the age of 65 in a State increases during the most recent 2-year period for which data are available, that State shall be required to include, in the subsequent Strategic Highway Safety Plan of the State, strategies to address the increases in those rates, taking into account the recommendations included in the publication of the Federal Highway Administration entitled ‘Highway Design Handbook for Older Drivers and Pedestrians’ (FHWA-RD-01-103), and dated May 2001, or as subsequently revised and updated.

“(j) REPORTS.—

“(1) IN GENERAL.—A State shall submit to the Secretary a report that—

“(A) describes the progress being made to achieve the performance targets established under subsection (h);

“(B) describes progress being made to implement highway safety improvement projects under this section;

“(C) assesses the effectiveness of those improvements; and

“(D) describes the extent to which the improvements funded under this section have contributed to reducing—

“(i) the number and rate of fatalities on all public roads with, to the maximum extent practicable, a breakdown by functional classification and ownership in the State;

“(ii) the number and rate of serious injuries on all public roads with, to the maximum extent practicable, a breakdown by functional classification and ownership in the State; and

“(iii) the occurrences of fatalities and serious injuries at railway-highway crossings.

“(2) CONTENTS; SCHEDULE.—The Secretary shall establish the content and schedule for the submission of the report under paragraph (1).

“(3) TRANSPARENCY.—The Secretary shall make strategic highway safety plans submitted under subsection (d) and reports submitted under this subsection available to the public through—

“(A) the website of the Department; and

“(B) such other means as the Secretary determines to be appropriate.

“(4) DISCOVERY AND ADMISSION INTO EVIDENCE OF CERTAIN REPORTS, SURVEYS, AND INFORMATION.—Notwithstanding any other provision of law, reports, surveys, schedules, lists, or data compiled or collected for any purpose relating to this section, shall not be subject to discovery or admitted into evidence in a Federal or State court proceeding or considered for other purposes in any action for damages arising from any occurrence at a location identified or addressed in the reports, surveys, schedules, lists, or other data.

“(k) STATE PERFORMANCE TARGETS.—If the Secretary determines that a State has not met or made significant progress toward meeting the performance targets of the State established under subsection (h) by the date that is 2 years after the date of the establishment of the performance targets, the State shall—

“(1) use obligation authority equal to the apportionment of the State for the prior

year under section 104(b)(3) only for highway safety improvement projects under this section until the Secretary determines that the State has met or made significant progress toward meeting the performance targets of the State; and

“(2) submit annually to the Secretary, until the Secretary determines that the State has met or made significant progress toward meeting the performance targets of the State, an implementation plan that—

“(A) identifies roadway features that constitute a hazard to road users;

“(B) identifies highway safety improvement projects on the basis of crash experience, crash potential, or other data-supported means;

“(C) describes how highway safety improvement program funds will be allocated, including projects, activities, and strategies to be implemented;

“(D) describes how the proposed projects, activities, and strategies funded under the State highway safety improvement program will allow the State to make progress toward achieving the safety performance targets of the State; and

“(E) describes the actions the State will undertake to meet the performance targets of the State.

“(I) FEDERAL SHARE OF HIGHWAY SAFETY IMPROVEMENT PROJECTS.—Except as provided in sections 120 and 130, the Federal share of the cost of a highway safety improvement project carried out with funds apportioned to a State under section 104(b)(3) shall be 90 percent.”.

#### SEC. 1113. CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.

Section 149 of title 23, United States Code, is amended to read as follows:

##### “§ 149. Congestion mitigation and air quality improvement program

“(a) ESTABLISHMENT.—The Secretary shall establish and implement a congestion mitigation and air quality improvement program in accordance with this section.

“(b) ELIGIBLE PROJECTS.—

“(1) IN GENERAL.—Except as provided in subsection (c), a State may obligate funds apportioned to the State for the congestion mitigation and air quality improvement program under section 104(b)(4) that are not reserved under subsection (1) only for a transportation project or program if the project or program is for an area in the State that is or was designated as a nonattainment area for ozone, carbon monoxide, or particulate matter under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)) and classified pursuant to section 181(a), 186(a), 188(a), or 188(b) of the Clean Air Act (42 U.S.C. 7511(a), 7512(a), 7513(a), or 7513(b)) or is or was designated as a nonattainment area under section 107(d) of that Act after December 31, 1997, or is required to prepare, and file with the Administrator of the Environmental Protection Agency, maintenance plans under the Clean Air Act (42 U.S.C. 7401 et seq.); and

“(A)(i)(I) if the Secretary, after consultation with the Administrator determines, on the basis of information published by the Environmental Protection Agency pursuant to subparagraph (A) of section 108(f)(1) of the Clean Air Act (other than clause (xvi) of that subparagraph) (42 U.S.C. 7408(f)(1)) that the project or program is likely to contribute to—

“(aa) the attainment of a national ambient air quality standard; or

“(bb) the maintenance of a national ambient air quality standard in a maintenance area; and

“(II) there exists a high level of effectiveness in reducing air pollution, in cases of

projects or programs where sufficient information is available in the database established pursuant to subsection (h) to determine the relative effectiveness of such projects or programs; or

“(ii) in any case in which such information is not available, if the Secretary, after such consultation, determines that the project or program is part of a program, method, or strategy described in such section 108(f)(1)(A);

“(B) if the project or program is included in a State implementation plan that has been approved pursuant to the Clean Air Act and the project will have air quality benefits;

“(C) to establish or operate a traffic monitoring, management, and control facility or program, including truck stop electrification systems, if the Secretary, after consultation with the Administrator, determines that the facility or program is likely to contribute to the attainment of a national ambient air quality standard;

“(D) if the program or project improves traffic flow, including projects to improve signalization, construct high-occupancy vehicle lanes, improve intersections, add turning lanes, improve transportation systems management and operations that mitigate congestion and improve air quality, and implement intelligent transportation system strategies and such other projects that are eligible for assistance under this section on the day before the date of enactment of the MAP-21, including programs or projects to improve incident and emergency response or improve mobility, such as through real-time traffic, transit, and multimodal traveler information;

“(E) if the project or program involves the purchase of integrated, interoperable emergency communications equipment;

“(F) if the project or program is for—

“(i) the purchase of diesel retrofits that are—

“(I) for motor vehicles (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)); or

“(II) verified technologies (as defined in section 791 of the Energy Policy Act of 2005 (42 U.S.C. 16131)) for nonroad vehicles and nonroad engines (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)) that are used in construction projects that are—

“(aa) located in nonattainment or maintenance areas for ozone, PM<sub>10</sub>, or PM<sub>2.5</sub> (as defined under the Clean Air Act (42 U.S.C. 7401 et seq.)); and

“(bb) funded, in whole or in part, under this title; or

“(ii) the conduct of outreach activities that are designed to provide information and technical assistance to the owners and operators of diesel equipment and vehicles regarding the purchase and installation of diesel retrofits;

“(G) if the project involves the installation of battery charging or replacement facilities for electric-drive vehicles, or refueling facilities for alternative-fuel vehicles;

“(H) if the project or program shifts traffic demand to nonpeak hours or other transportation modes, increases vehicle occupancy rates, or otherwise reduces demand for roads through such means as telecommuting, ride-sharing, carsharing, alternative work hours, and pricing; or

“(I) if the Secretary, after consultation with the Administrator, determines that the project or program is likely to contribute to the attainment of a national ambient air quality standard, whether through reductions in vehicle miles traveled, fuel consumption, or through other factors.

“(2) LIMITATIONS.—Funds apportioned to a State under section 104(b)(4) and not reserved under subsection (1) may not be obligated for a project that will result in the construction of new capacity available to single-occupant vehicles unless the project consists of a high-occupancy vehicle facility available to single-occupant vehicles only at other than peak travel times or such use by single-occupant vehicles at peak travel times is subject to a toll.

“(3) USE OF FUNDS FOR OTHER ACTIVITIES.—Notwithstanding paragraph (1) and subsection (c), the Secretary may permit a State to use amounts apportioned to the State for each of fiscal years 2012 and 2013 for the congestion mitigation and air quality improvement program under section 104(b)(4) to carry out any activity on a system that was eligible for funding under that program as in effect on December 31, 2010.

“(c) STATES FLEXIBILITY.—

“(1) STATES WITHOUT A NONATTAINMENT AREA.—If a State does not have, and never has had, a nonattainment area designated under the Clean Air Act (42 U.S.C. 7401 et seq.) for ozone, carbon monoxide, or PM<sub>2.5</sub>, the State may use funds apportioned to the State under section 104(b)(4) (excluding the amount of funds reserved under subsection (1)) for any project in the State that—

“(A) would otherwise be eligible under subsection (b) as if the project were carried out in a nonattainment or maintenance area; or

“(B) is eligible under the transportation mobility program under section 133.

“(2) STATES WITH A NONATTAINMENT AREA.—

“(A) IN GENERAL.—If a State has a nonattainment area or maintenance area and received funds in fiscal year 2009 under section 104(b)(2)(D), as in effect on the day before the date of enactment of the MAP-21, above the amount of funds that the State would have received based on the nonattainment and maintenance area population of the State under subparagraphs (B) and (C) of section 104(b)(2), as in effect on the day before the date of enactment of the MAP-21, the State may use for any project that is eligible under the transportation mobility program under section 133 an amount of funds apportioned to such State under section 104(b)(4) (excluding the amount of funds reserved under subsection (1)) that is equal to the product obtained by multiplying—

“(i) the amount apportioned to such State under section 104(b)(4) (excluding the amount of funds reserved under subsection (1)); by

“(ii) the ratio calculated under paragraph (B).

“(B) RATIO.—For purposes of this paragraph, the ratio shall be calculated as—

“(i) the amount for fiscal year 2009 such State was permitted by section 149(c)(2), as in effect on the day before the date of enactment of the MAP-21, to obligate in any area of the State for projects eligible under section 133, as in effect on the day before the date of enactment of the MAP-21; bears to

“(ii) the total apportionment to such State for fiscal year 2009 under section 104(b)(2), as in effect on the day before the date of enactment of the MAP-21.

“(3) CHANGES IN DESIGNATION.—If a new nonattainment area is designated or a previously designated nonattainment area is redesignated as an attainment area in a State under the Clean Air Act (42 U.S.C. 7401 et seq.), the Secretary shall modify the amount such State is permitted to obligate in any area of the State for projects eligible under section 133.

“(d) APPLICABILITY OF PLANNING REQUIREMENTS.—Programming and expenditure of

funds for projects under this section shall be consistent with the requirements of sections 134 and 135.

“(e) PARTNERSHIPS WITH NONGOVERNMENTAL ENTITIES.—

“(1) IN GENERAL.—Notwithstanding any other provision of this title and in accordance with this subsection, a metropolitan planning organization, State transportation department, or other project sponsor may enter into an agreement with any public, private, or nonprofit entity to cooperatively implement any project carried out with funds apportioned under section 104(b)(4).

“(2) FORMS OF PARTICIPATION BY ENTITIES.—Participation by an entity under paragraph (1) may consist of—

“(A) ownership or operation of any land, facility, vehicle, or other physical asset associated with the project;

“(B) cost sharing of any project expense;

“(C) carrying out of administration, construction management, project management, project operation, or any other management or operational duty associated with the project; and

“(D) any other form of participation approved by the Secretary.

“(3) ALLOCATION TO ENTITIES.—A State may allocate funds apportioned under section 104(b)(4) to an entity described in paragraph (1).

“(4) ALTERNATIVE FUEL PROJECTS.—In the case of a project that will provide for the use of alternative fuels by privately owned vehicles or vehicle fleets, activities eligible for funding under this subsection—

“(A) may include the costs of vehicle refueling infrastructure, including infrastructure that would support the development, production, and use of emerging technologies that reduce emissions of air pollutants from motor vehicles, and other capital investments associated with the project;

“(B) shall include only the incremental cost of an alternative fueled vehicle, as compared to a conventionally fueled vehicle, that would otherwise be borne by a private party; and

“(C) shall apply other governmental financial purchase contributions in the calculation of net incremental cost.

“(5) PROHIBITION ON FEDERAL PARTICIPATION WITH RESPECT TO REQUIRED ACTIVITIES.—A Federal participation payment under this subsection may not be made to an entity to fund an obligation imposed under the Clean Air Act (42 U.S.C. 7401 et seq.) or any other Federal law.

“(f) PRIORITY CONSIDERATION.—States and metropolitan planning organizations shall give priority in areas designated as nonattainment or maintenance for PM<sub>2.5</sub> under the Clean Air Act (42 U.S.C. 7401 et seq.) in distributing funds received for congestion mitigation and air quality projects and programs from apportionments under section 104(b)(4) not required to be reserved under subsection (l) to projects that are proven to reduce PM<sub>2.5</sub>, including diesel retrofits.

“(g) INTERAGENCY CONSULTATION.—The Secretary shall encourage States and metropolitan planning organizations to consult with State and local air quality agencies in nonattainment and maintenance areas on the estimated emission reductions from proposed congestion mitigation and air quality improvement programs and projects.

“(h) EVALUATION AND ASSESSMENT OF PROJECTS.—

“(1) DATABASE.—

“(A) IN GENERAL.—Using appropriate assessments of projects funded under the congestion mitigation and air quality program

and results from other research, the Secretary shall maintain and disseminate a cumulative database describing the impacts of the projects, including specific information about each project, such as the project name, location, sponsor, cost, and, to the extent already measured by the project sponsor, cost-effectiveness, based on reductions in congestion and emissions.

“(B) AVAILABILITY.—The database shall be published or otherwise made readily available by the Secretary in electronically accessible format and means, such as the Internet, for public review.

“(2) COST EFFECTIVENESS.—

“(A) IN GENERAL.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall evaluate projects on a periodic basis and develop a table or other similar medium that illustrates the cost-effectiveness of a range of project types eligible for funding under this section as to how the projects mitigate congestion and improve air quality.

“(B) CONTENTS.—The table described in subparagraph (A) shall show measures of cost-effectiveness, such as dollars per ton of emissions reduced, and assess those measures over a variety of timeframes to capture impacts on the planning timeframes outlined in section 134.

“(C) USE OF TABLE.—States and metropolitan planning organizations shall consider the information in the table when selecting projects or developing performance plans under subsection (k).

“(i) OPTIONAL PROGRAMMATIC ELIGIBILITY.—

“(1) IN GENERAL.—At the discretion of a metropolitan planning organization, a technical assessment of a selected program of projects may be conducted through modeling or other means to demonstrate the emissions reduction projection required under this section.

“(2) APPLICABILITY.—If an assessment described in paragraph (1) successfully demonstrates an emissions reduction, all projects included in such assessment shall be eligible for obligation under this section without further demonstration of emissions reduction of individual projects included in such assessment.

“(j) SUBALLOCATION TO NONATTAINMENT AND MAINTENANCE AREAS.—

“(1) IN GENERAL.—An amount equal to 50 percent of the amount of funds apportioned to each State under section 104(b)(4) (excluding the amount of funds reserved under subsection (l)) shall be suballocated for projects within each area designated as nonattainment or maintenance for the pollutants described in subsection (b).

“(2) DISTRIBUTION OF FUNDS.—The distribution within any State of funds required to be suballocated under paragraph (1) to each nonattainment or maintenance area shall be in accordance with a formula developed by each State and approved by the Secretary, which shall consider the population of each such nonattainment or maintenance area and shall be weighted by the severity of pollution in the manner described in paragraph (6).

“(3) PROJECT SELECTION.—Projects under this subsection shall be selected by a State and shall be consistent with the requirements of sections 134 and 135.

“(4) PRIORITY FOR USE OF SUBALLOCATED FUNDS IN PM<sub>2.5</sub> AREAS.—

“(A) IN GENERAL.—An amount equal to 50 percent of the funds suballocated under paragraph (1) for a nonattainment or maintenance area that are based all or in part on

the weighted population of such area in fine particulate matter nonattainment shall be obligated to projects that reduce such fine particulate matter emissions in such area, including diesel retrofits.

“(B) CONSTRUCTION EQUIPMENT.—An amount equal to 30 percent of the funds required to be set aside under subparagraph (A) shall be obligated to carry out the objectives of section 330.

“(C) OBLIGATION PROCESS.—

“(i) IN GENERAL.—Each State or metropolitan planning organization required to obligate funds in accordance with this paragraph shall develop a process to provide funding directly to eligible entities (as defined under section 330) in order to achieve the objectives of such section and ensure that the bid proceeding and award of the contract for any covered highway construction project carried out under that section will be—

“(I) made without regard to the particulate matter emission levels of the fleet of the eligible entity; and

“(II) consistent with existing requirements for full and open competition under section 112.

“(ii) OBLIGATION.—A State may obligate suballocated funds designated under this paragraph without regard to any process or other requirement established under this section.

“(5) FUNDS NOT SUBALLOCATED.—Except as provided in subsection (c), funds apportioned to a State under section 104(b)(4) (excluding the amount of funds reserved under subsection (l)) and not suballocated under paragraph (1) shall be made available to such State for programming in any nonattainment or maintenance area in the State.

“(6) FACTORS FOR CALCULATION OF SUBALLOCATION.—

“(A) IN GENERAL.—For the purposes of paragraph (2), each State shall weight the population of each such nonattainment or maintenance area by a factor of—

“(i) 1.0 if, at the time of the apportionment, the area is a maintenance area for ozone or carbon monoxide;

“(ii) 1.0 if, at the time of the apportionment, the area is classified as a marginal ozone nonattainment area under subpart 2 of part D of title I of the Clean Air Act (42 U.S.C. 7511 et seq.);

“(iii) 1.1 if, at the time of the apportionment, the area is classified as a moderate ozone nonattainment area under subpart 2 of part D of title I of the Clean Air Act (42 U.S.C. 7511 et seq.);

“(iv) 1.2 if, at the time of the apportionment, the area is classified as a serious ozone nonattainment area under subpart 2 of part D of title I of the Clean Air Act (42 U.S.C. 7511 et seq.);

“(v) 1.3 if, at the time of the apportionment, the area is classified as a severe ozone nonattainment area under subpart 2 of part D of title I of the Clean Air Act (42 U.S.C. 7511 et seq.);

“(vi) 1.5 if, at the time of the apportionment, the area is classified as an extreme ozone nonattainment area under subpart 2 of part D of title I of the Clean Air Act (42 U.S.C. 7511 et seq.);

“(vii) 1.0 if, at the time of the apportionment, the area is not a nonattainment or maintenance area for ozone as described in section 149(b), but is designated under section 107 of the Clean Air Act (42 U.S.C. 7407) as a nonattainment area for carbon monoxide;

“(viii) 1.0 if, at the time of the apportionment, the area is designated as nonattainment for ozone under section 107 of the Clean Air Act (42 U.S.C. 7407); or

“(ix) 1.2 if, at the time of the apportionment, the area is not a nonattainment or maintenance area as described in section 149(b) for ozone, but is designated as a nonattainment or maintenance area for fine particulate matter, 2.5 micrometers or less, under section 107 of the Clean Air Act (42 U.S.C. 7407).

“(B) OTHER FACTORS.—If, in addition to being designated as a nonattainment or maintenance area for ozone as described in section 149(b), any county within the area was also designated under section 107 of the Clean Air Act (42 U.S.C. 7407) as a nonattainment or maintenance area for carbon monoxide, or was designated under section 107 of the Clean Air Act (42 U.S.C. 7407) as a nonattainment or maintenance area for particulate matter, 2.5 micrometers or less, or both, the weighted nonattainment or maintenance area population of the county, as determined under clauses (i) through (vi), or clause (viii), of subparagraph (A), shall be further multiplied by a factor of 1.2, or a second further factor of 1.2 if the area is designated as a nonattainment or maintenance area for both carbon monoxide and particulate matter, 2.5 micrometers or less.

“(7) EXCEPTIONS FOR CERTAIN STATES.—

“(A) A State without a nonattainment or maintenance area shall not be subject to the requirements of this subsection.

“(B) The amount of funds required to be set aside under paragraph (1) in a State that received a minimum apportionment for fiscal year 2009 under section 104(b)(2)(D), as in effect on the day before the date of enactment of the MAP-21, shall be based on the amount of funds such State would otherwise have been apportioned under section 104(b)(4) (excluding the amount of funds reserved under subsection (1)) but for the minimum apportionment in fiscal year 2009.

“(k) PERFORMANCE PLAN.—

“(1) IN GENERAL.—Each tier I metropolitan planning organization (as defined in section 134) representing a nonattainment or maintenance area shall develop a performance plan that—

“(A) includes an area baseline level for traffic congestion and on-road mobile source emissions for which the area is in nonattainment or maintenance;

“(B) identifies air quality and traffic congestion target levels based on measures established by the Secretary; and

“(C) includes a description of projects identified for funding under this section and a description of how such projects will contribute to achieving emission and traffic congestion reduction targets.

“(2) UPDATED PLANS.—

“(A) IN GENERAL.—Performance plans shall be updated on the schedule required under paragraph (3).

“(B) CONTENTS.—An updated plan shall include a separate report that assesses the progress of the program of projects under the previous plan in achieving the air quality and traffic congestion targets of the previous plan.

“(3) RULEMAKING.—Not later than 18 months after the date of enactment of the MAP-21, the Secretary shall promulgate regulations to implement this subsection that identify performance measures for traffic congestion and on-road mobile source emissions, timelines for performance plans, and requirements under this section for assessing the implementation of projects carried out under this section.

“(1) ADDITIONAL ACTIVITIES.—

“(1) RESERVATION OF FUNDS.—Of the funds apportioned to a State under section

104(b)(4), a State shall reserve the amount of funds attributable to the inclusion of the 10 percent of surface transportation program funds apportioned to such State for fiscal year 2009 in the formula under section 104(b)(4) for projects under this subsection.

“(2) ELIGIBLE PROJECTS.—A State may obligate the funds reserved under this subsection for any of the following projects or activities:

“(A) Transportation enhancements, as defined in section 101.

“(B) The recreational trails program under section 206.

“(C) The safe routes to school program under section 1404 of the SAFETEA-LU (23 U.S.C. 402 note; Public Law 109-59).

“(D) Planning, designing, or constructing boulevards and other roadways largely in the right-of-way of former Interstate System routes or other divided highways.

“(3) ALLOCATIONS OF FUNDS.—

“(A) CALCULATION.—Of the funds reserved in a State under this subsection—

“(i) 50 percent for a fiscal year shall be obligated under this subsection to any eligible entity in proportion to their relative shares of the population of the State—

“(I) in urbanized areas of the State with an urbanized area population of over 200,000;

“(II) in areas of the State other than urban areas with a population greater than 5,000; and

“(III) in other areas of the State; and

“(ii) 50 percent shall be obligated in any area of the State.

“(B) METROPOLITAN AREAS.—Funds attributed to an urbanized area under subparagraph (A)(i)(I) may be obligated in the metropolitan area established under section 134 that encompasses the urbanized area.

“(C) DISTRIBUTION AMONG URBANIZED AREAS OF OVER 200,000 POPULATION.—

“(i) IN GENERAL.—Except as provided in subparagraph (A)(ii), the amount of funds that a State is required to obligate under subparagraph (A)(i)(I) shall be obligated in urbanized areas described in subparagraph (A)(i)(I) based on the relative population of the areas.

“(ii) OTHER FACTORS.—The State may obligate the funds described in clause (i) based on other factors if the State and the relevant metropolitan planning organizations jointly apply to the Secretary for the permission to base the obligation on other factors and the Secretary grants the request.

“(D) ACCESS TO FUNDS.—

“(i) IN GENERAL.—Each State or metropolitan planning organization required to obligate funds in accordance with subparagraph (A) shall develop a competitive process to allow eligible entities to submit projects for funding that achieve the objectives of this subsection.

“(ii) DEFINITION OF ELIGIBLE ENTITY.—In this subsection, the term ‘eligible entity’ means—

“(I) a local government;

“(II) a regional transportation authority;

“(III) a transit agency;

“(IV) a natural resource or public land agency;

“(V) a school district, local education agency, or school; and

“(VI) any other local or regional governmental entity with responsibility for or oversight of transportation or recreational trails (other than a tier I metropolitan planning organization or a State agency) that the State determines to be eligible, consistent with the goals of this subsection.

“(E) SELECTION OF PROJECTS.—Each tier I and tier II metropolitan planning organiza-

tion shall select projects carried out within the boundaries of the applicable metropolitan planning area, in consultation with the relevant State, for funds reserved in a State under this subsection and suballocated to the metropolitan planning area under subparagraph (A)(i).

“(4) FLEXIBILITY OF EXCESS RESERVED FUNDING.—Beginning in the second fiscal year after the date of enactment of the MAP-21, if on August 1 of that fiscal year the unobligated balance of available funds apportioned to a State under section 104(b)(4) and reserved by a State under this subsection exceeds 150 percent of such reserved amount in such fiscal year, the State may thereafter obligate the amount of excess funds for any activity—

“(A) that is eligible to receive funding under this subsection; or

“(B) for which the Secretary has approved the obligation of funds for any State under this section.

“(5) PROVISION OF ADEQUATE DATA, MODELING, AND SUPPORT.—In any case in which a State requests reasonable technical support or otherwise requests data (including planning models and other modeling), clarification, or guidance regarding the content of any final rule or applicable regulation material to State actions under this section, the Secretary and any other agency shall provide that support, clarification, or guidance in a timely manner.

“(6) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, projects funded under this subsection shall be treated as projects on a Federal-aid highway under this chapter.”.

#### SEC. 1114. TERRITORIAL AND PUERTO RICO HIGHWAY PROGRAM.

(a) IN GENERAL.—Section 165 of title 23, United States Code, is amended to read as follows:

##### “§ 165. Territorial and Puerto Rico highway program

“(a) DIVISION OF FUNDS.—Of funds made available in a fiscal year for the territorial and Puerto Rico highway program—

“(1) 75 percent shall be for the Puerto Rico highway program under subsection (b); and

“(2) 25 percent shall be for the territorial highway program under subsection (c).

“(b) PUERTO RICO HIGHWAY PROGRAM.—

“(1) IN GENERAL.—The Secretary shall allocate funds made available to carry out this subsection to the Commonwealth of Puerto Rico to carry out a highway program in the Commonwealth.

“(2) TREATMENT OF FUNDS.—Amounts made available to carry out this subsection for a fiscal year shall be administered as follows:

“(A) APPORTIONMENT.—

“(i) IN GENERAL.—For the purpose of imposing any penalty under this title or title 49, the amounts shall be treated as being apportioned to Puerto Rico under sections 104(b) and 144 (as in effect for fiscal year 1997) for each program funded under those sections in an amount determined by multiplying—

“(I) the aggregate of the amounts for the fiscal year; by

“(II) the proportion that—

“(aa) the amount of funds apportioned to Puerto Rico for each such program for fiscal year 1997; bears to

“(bb) the total amount of funds apportioned to Puerto Rico for all such programs for fiscal year 1997.

“(ii) EXCEPTION.—Funds identified under clause (i) as having been apportioned for the

national highway system, the surface transportation program, and the Interstate maintenance program shall be deemed to have been apportioned 50 percent for the national highway performance program and 50 percent for the transportation mobility program for purposes of imposing such penalties.

“(B) PENALTY.—The amounts treated as being apportioned to Puerto Rico under each section referred to in subparagraph (A) shall be deemed to be required to be apportioned to Puerto Rico under that section for purposes of the imposition of any penalty under this title or title 49.

“(C) ELIGIBLE USES OF FUNDS.—Of amounts allocated to Puerto Rico for the Puerto Rico Highway Program for a fiscal year—

“(i) at least 50 percent shall be available only for purposes eligible under section 119;

“(ii) at least 25 percent shall be available only for purposes eligible under section 148; and

“(iii) any remaining funds may be obligated for activities eligible under chapter 1.

“(3) EFFECT ON APPORTIONMENTS.—Except as otherwise specifically provided, Puerto Rico shall not be eligible to receive funds apportioned to States under this title.

“(C) TERRITORIAL HIGHWAY PROGRAM.—

“(1) TERRITORY DEFINED.—In this subsection, the term ‘territory’ means any of the following territories of the United States:

“(A) American Samoa.

“(B) The Commonwealth of the Northern Mariana Islands.

“(C) Guam.

“(D) The United States Virgin Islands.

“(2) PROGRAM.—

“(A) IN GENERAL.—Recognizing the mutual benefits that will accrue to the territories and the United States from the improvement of highways in the territories, the Secretary may carry out a program to assist each government of a territory in the construction and improvement of a system of arterial and collector highways, and necessary inter-island connectors, that is—

“(i) designated by the Governor or chief executive officer of each territory; and

“(ii) approved by the Secretary.

“(B) FEDERAL SHARE.—The Federal share of Federal financial assistance provided to territories under this subsection shall be in accordance with section 120(g).

“(3) TECHNICAL ASSISTANCE.—

“(A) IN GENERAL.—To continue a long-range highway development program, the Secretary may provide technical assistance to the governments of the territories to enable the territories, on a continuing basis—

“(i) to engage in highway planning;

“(ii) to conduct environmental evaluations;

“(iii) to administer right-of-way acquisition and relocation assistance programs; and

“(iv) to design, construct, operate, and maintain a system of arterial and collector highways, including necessary inter-island connectors.

“(B) FORM AND TERMS OF ASSISTANCE.—Technical assistance provided under subparagraph (A), and the terms for the sharing of information among territories receiving the technical assistance, shall be included in the agreement required by paragraph (5).

“(4) NONAPPLICABILITY OF CERTAIN PROVISIONS.—

“(A) IN GENERAL.—Except to the extent that provisions of this chapter are determined by the Secretary to be inconsistent with the needs of the territories and the intent of this subsection, this chapter (other

than provisions of this chapter relating to the apportionment and allocation of funds) shall apply to funds made available under this subsection.

“(B) APPLICABLE PROVISIONS.—The agreement required by paragraph (5) for each territory shall identify the sections of this chapter that are applicable to that territory and the extent of the applicability of those sections.

“(5) AGREEMENT.—

“(A) IN GENERAL.—Except as provided in subparagraph (D), none of the funds made available under this subsection shall be available for obligation or expenditure with respect to any territory until the chief executive officer of the territory has entered into an agreement (including an agreement entered into under section 215 as in effect on the day before the enactment of this section) with the Secretary providing that the government of the territory shall—

“(i) implement the program in accordance with applicable provisions of this chapter and paragraph (4);

“(ii) design and construct a system of arterial and collector highways, including necessary inter-island connectors, in accordance with standards that are—

“(I) appropriate for each territory; and

“(II) approved by the Secretary;

“(iii) provide for the maintenance of facilities constructed or operated under this subsection in a condition to adequately serve the needs of present and future traffic; and

“(iv) implement standards for traffic operations and uniform traffic control devices that are approved by the Secretary.

“(B) TECHNICAL ASSISTANCE.—The agreement required by subparagraph (A) shall—

“(i) specify the kind of technical assistance to be provided under the program;

“(ii) include appropriate provisions regarding information sharing among the territories; and

“(iii) delineate the oversight role and responsibilities of the territories and the Secretary.

“(C) REVIEW AND REVISION OF AGREEMENT.—The agreement entered into under subparagraph (A) shall be reevaluated and, as necessary, revised, at least every 2 years.

“(D) EXISTING AGREEMENTS.—With respect to an agreement under this subsection or an agreement entered into under section 215 of this title as in effect on the day before the date of enactment of this subsection—

“(i) the agreement shall continue in force until replaced by an agreement entered into in accordance with subparagraph (A); and

“(ii) amounts made available under this subsection under the existing agreement shall be available for obligation or expenditure so long as the agreement, or the existing agreement entered into under subparagraph (A), is in effect.

“(6) ELIGIBLE USES OF FUNDS.—

“(A) IN GENERAL.—Funds made available under this subsection may be used only for the following projects and activities carried out in a territory:

“(i) Eligible transportation mobility program projects described in section 133(c).

“(ii) Cost-effective, preventive maintenance consistent with section 116(d).

“(iii) Ferry boats, terminal facilities, and approaches, in accordance with subsections (b) and (c) of section 129.

“(iv) Engineering and economic surveys and investigations for the planning, and the financing, of future highway programs.

“(v) Studies of the economy, safety, and convenience of highway use.

“(vi) The regulation and equitable taxation of highway use.

“(vii) Such research and development as are necessary in connection with the planning, design, and maintenance of the highway system.

“(B) PROHIBITION ON USE OF FUNDS FOR ROUTINE MAINTENANCE.—None of the funds made available under this subsection shall be obligated or expended for routine maintenance.

“(7) LOCATION OF PROJECTS.—Territorial highway program projects (other than those described in paragraphs (2), (4), (7), (8), (14), and (19) of section 133(c)) may not be undertaken on roads functionally classified as local.”.

(b) CONFORMING AMENDMENTS.—

(1) CLERICAL AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 165 and inserting the following:

“165. Territorial and Puerto Rico highway program.”.

(2) OBSOLETE TEXT.—Section 215 of that title, and the item relating to that section in the analysis for chapter 2, are repealed.

#### SEC. 1115. NATIONAL FREIGHT PROGRAM.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following:

##### “§ 167. National freight program

“(a) NATIONAL FREIGHT PROGRAM.—It is the policy of the United States to improve the condition and performance of the national freight network to ensure that the national freight network provides the foundation for the United States to compete in the global economy and achieve each goal described in subsection (b).

“(b) GOALS.—The goals of the national freight program are—

“(1) to invest in infrastructure improvements and to implement operational improvements that—

“(A) strengthen the contribution of the national freight network to the economic competitiveness of the United States;

“(B) reduce congestion; and

“(C) increase productivity, particularly for domestic industries and businesses that create high-value jobs;

“(2) to reduce the environmental impacts of freight movement on the national freight network;

“(3) to improve the safety, security, and resilience of freight transportation;

“(4) to improve the state of good repair of the national freight network;

“(5) to use advanced technology to improve the safety and efficiency of the national freight network;

“(6) to incorporate concepts of performance, innovation, competition, and accountability into the operation and maintenance of the national freight network; and

“(7) to improve the economic efficiency of the national freight network.

“(c) ESTABLISHMENT OF PROGRAM.—

“(1) IN GENERAL.—The Secretary shall establish and implement a national freight program in accordance with this section to strategically direct Federal resources toward improved system performance for efficient movement of freight on highways, including national highway system freight intermodal connectors and aerotropolis transportation systems.

“(2) NETWORK COMPONENTS.—The national freight network shall consist of—

“(A) the primary freight network, as designated by the Secretary under subsection (f) (referred to in this section as the ‘primary freight network’) as most critical to the movement of freight;



“(B) the portions of the Interstate System not designated as part of the primary freight network; and

“(C) critical rural freight corridors established under subsection (g).

“(d) USE OF APPORTIONED FUNDS.—

“(1) PROJECTS ON THE NATIONAL FREIGHT NETWORK.—At a minimum, following designation of the primary freight network under subsection (f), a State shall obligate funds apportioned under section 104(b)(5) to improve the movement of freight on the national freight network.

“(2) LOCATION OF PROJECTS.—A project carried out using funds apportioned under paragraph (1) shall be located—

“(A) on the primary freight network as described under subsection (f);

“(B) on a portion of the Interstate System not designated as primary freight network;

“(C) on roads off of the Interstate System or primary freight network, if that use of funds will provide—

“(i) a more significant improvement to freight movement on the Interstate System or the primary freight network;

“(ii) critical freight access to the Interstate System or the primary freight network; or

“(iii) mitigation of the congestion impacts from freight movement;

“(D) on a national highway system freight intermodal connector;

“(E) on critical rural freight corridors, as designated under subsection (g) (except that not more than 20 percent of the total anticipated apportionment of a State under section 104(b)(5) during fiscal years 2012 and 2013 may be used for projects on critical rural freight corridors); or

“(F) within the boundaries of public and private intermodal facilities, but shall only include surface infrastructure necessary to facilitate direct intermodal interchange, transfer, and access into and out of the facility.

“(3) PRIMARY FREIGHT NETWORK FUNDING.—Beginning for each fiscal year after the Secretary designates the primary freight network, a State shall obligate from funds apportioned under section 104(b)(5) for the primary freight network the lesser of—

“(A) an amount equal to the product obtained by multiplying—

“(i) an amount equal to 110 percent of the apportionment of the State for the fiscal year under section 104(b)(5); and

“(ii) the proportion that—

“(I) the total designated primary freight network mileage of the State; bears to

“(II) the sum of the designated primary freight network mileage of the State and the total Interstate system mileage of the State that is not designated as part of the primary freight network; or

“(B) an amount equal to the total apportionment of the State under section 104(b)(5).

“(e) ELIGIBILITY.—

“(1) ELIGIBLE PROJECTS.—To be eligible for funding under this section, a project shall demonstrate the improvement made by the project to the efficient movement of freight on the national freight network.

“(2) FREIGHT RAIL AND MARITIME PROJECTS.—

“(A) IN GENERAL.—A State may obligate an amount equal to not more than 10 percent of the total apportionment to the State under section 104(b)(5) over the period of fiscal years 2012 and 2013 for public or private freight rail or maritime projects.

“(B) ELIGIBILITY.—For a State to be eligible to obligate funds in the manner described in subparagraph (A), the Secretary shall concur with the State that—

“(i) the project for which the State seeks to obligate funds under this paragraph would make freight rail improvements to enhance cross-border commerce within 5 miles of the international border between the United States and Canada or Mexico or make significant improvement to freight movements on the national freight network; and

“(ii) the public benefit of the project—

“(I) exceeds the Federal investment; and

“(II) provides a better return than a highway project on a segment of the primary freight network.

“(3) ELIGIBLE PROJECT COSTS.—A State may obligate funds apportioned to the State under section 104(b)(5) for the national freight program for any of the following costs of an eligible project:

“(A) Development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, preliminary engineering and design work, and other preconstruction activities.

“(B) Construction, reconstruction, rehabilitation, acquisition of real property (including land relating to the project and improvements to land), construction contingencies, acquisition of equipment, and operational improvements directly relating to improving system performance, including but not limited to any segment of the primary freight network that falls below the minimum level established pursuant to section 119(f).

“(C) Intelligent transportation systems and other technology to improve the flow of freight.

“(D) Efforts to reduce the environmental impacts of freight movement on the national freight network.

“(E) Environmental mitigation.

“(F) Railway-highway grade separation.

“(G) Geometric improvements to interchanges and ramps.

“(H) Truck-only lanes.

“(I) Climbing and runaway truck lanes.

“(J) Adding or widening of shoulders.

“(K) Truck parking facilities eligible for funding under section 1401 of the MAP-21.

“(L) Real-time traffic, truck parking, roadway condition, and multimodal transportation information systems.

“(M) Electronic screening and credentialing systems for vehicles, including weigh-in-motion truck inspection technologies.

“(N) Traffic signal optimization including synchronized and adaptive signals.

“(O) Work zone management and information systems.

“(P) Highway ramp metering.

“(Q) Electronic cargo and border security technologies that improve truck freight movement.

“(R) Intelligent transportation systems that would increase truck freight efficiencies inside the boundaries of intermodal facilities.

“(S) Any other activities to improve the flow of freight on the national freight network.

“(4) OTHER ELIGIBLE COSTS.—In addition to eligible project costs, a State may use funds apportioned under section 104(b)(5) for—

“(A) carrying out diesel retrofit or alternative fuel projects defined in section 149 for class 8 vehicles; or

“(B) the necessary costs of—

“(i) conducting analyses and data collection;

“(ii) developing and updating performance targets to carry out this section; or

“(iii) reporting to the Secretary to comply with subsection (i).

“(5) ELIGIBLE PROJECT COSTS PRIOR TO DESIGNATION OF THE PRIMARY FREIGHT NETWORK.—Prior to the date of designation of the primary freight network, a State may obligate funds apportioned to the State under section 104(b)(5) to improve freight movement on the Interstate System for—

“(A) construction, reconstruction, resurfacing, restoration, and rehabilitation of segments of the Interstate System;

“(B) operational improvements for segments of the Interstate System;

“(C) construction of, and operational improvements for, a Federal-aid highway not on the Interstate System, and construction of a transit project eligible for assistance under chapter 53 of title 49, United States Code, if—

“(i) the highway or transit project is in the same corridor as, and in proximity to a highway designated as a part of, the Interstate System;

“(ii) the construction or improvements would improve the level of service on the Interstate System described in subparagraph (A) and improve freight traffic flow; and

“(iii) the construction or improvements are more cost-effective for freight movement than an improvement to the Interstate System described in subparagraph (A);

“(D) highway safety improvements for segments of the Interstate System;

“(E) transportation planning in accordance with sections 134 and 135;

“(F) the costs of conducting analysis and data collection to comply with this section;

“(G) truck parking facilities eligible for funding under section 1401 of the MAP-21;

“(H) infrastructure-based intelligent transportation systems capital improvements;

“(I) environmental restoration and pollution abatement in accordance with section 328; and

“(J) in accordance with all applicable Federal law (including regulations), participation in natural habitat and wetlands mitigation efforts relating to projects funded under this title, which may include participation in natural habitat and wetlands mitigation banks, contributions to statewide and regional efforts to conserve, restore, enhance, and create natural habitats and wetlands, and development of statewide and regional natural habitat and wetlands conservation and mitigation plans, including any such banks, efforts, and plans developed in accordance with applicable Federal law (including regulations), on the conditions that—

“(i) contributions to those mitigation efforts may—

“(I) take place concurrent with or in advance of project construction; and

“(II) occur in advance of project construction only if the efforts are consistent with all applicable requirements of Federal law (including regulations) and State transportation planning processes; and

“(ii) with respect to participation in a natural habitat or wetland mitigation effort relating to a project funded under this title that has an impact that occurs within the service area of a mitigation bank, preference is given, to the maximum extent practicable, to the use of the mitigation bank if the bank contains sufficient available credits to offset the impact and the bank is approved in accordance with applicable Federal law (including regulations).

“(f) DESIGNATION OF PRIMARY FREIGHT NETWORK.—

“(1) INITIAL DESIGNATION OF PRIMARY FREIGHT NETWORK.—

“(A) DESIGNATION.—Not later than 1 year after the date of enactment of this section,

the Secretary shall designate a primary freight network—

“(i) based on an inventory of national freight volume conducted by the Administrator of the Federal Highway Administration, in consultation with stakeholders, including system users, transport providers, and States; and

“(ii) that shall be comprised of not more than 27,000 centerline miles of existing roadways that are most critical to the movement of freight.

“(B) FACTORS FOR DESIGNATION.—In designating the primary freight network, the Secretary shall consider—

“(i) the origins and destinations of freight movement in the United States;

“(ii) the total freight tonnage and value of freight moved by all modes of transportation;

“(iii) the percentage of annual average daily truck traffic in the annual average daily traffic on principal arterials;

“(iv) the annual average daily truck traffic on principal arterials;

“(v) land and maritime ports of entry;

“(vi) population centers; and

“(vii) network connectivity.

“(2) ADDITIONAL MILES ON PRIMARY FREIGHT NETWORK.—In addition to the miles initially designated under paragraph (1), the Secretary may increase the number of miles designated as part of the primary freight network by not more than 3,000 additional centerline miles of roadways (which may include existing or planned roads) critical to future efficient movement of goods on the primary freight network.

“(3) REDESIGNATION OF PRIMARY FREIGHT NETWORK.—During calendar year 2015 and every 10 years thereafter, using the designation factors described in paragraph (1), the Secretary shall redesignate the primary freight network (including additional mileage described in subsection (f)(2)).

“(g) CRITICAL RURAL FREIGHT CORRIDORS.—A State may designate a road within the borders of the State as a critical rural freight corridor if the road—

“(1) is a rural principal arterial roadway and has a minimum of 25 percent of the annual average daily traffic of the road measured in passenger vehicle equivalent units from trucks (FHWA vehicle class 8 to 13); or

“(2) connects the primary freight network, a roadway described in paragraph (1), or Interstate System to facilities that handle more than—

“(A) 50,000 20-foot equivalent units per year; or

“(B) 500,000 tons per year of bulk commodities.

“(h) NATIONAL FREIGHT STRATEGIC PLAN.—

“(1) INITIAL DEVELOPMENT OF NATIONAL FREIGHT STRATEGIC PLAN.—Not later than 3 years after the date of enactment of this section, the Secretary shall, in consultation with appropriate public and private transportation stakeholders, develop and post on the Department of Transportation public website a national freight strategic plan that shall include—

“(A) an assessment of the condition and performance of the national freight network;

“(B) an identification of highway bottlenecks on the national freight network that create significant freight congestion problems, based on a quantitative methodology developed by the Secretary, which shall, at a minimum, include information from the Freight Analysis Network of the Federal Highway Administration;

“(C) forecasts of freight volumes for the 20-year period beginning in the year during which the plan is issued;

“(D) an identification of major trade gateways and national freight corridors that connect major population centers, trade gateways, and other major freight generators for current and forecasted traffic and freight volumes, the identification of which shall be revised, as appropriate, in subsequent plans;

“(E) an assessment of statutory, regulatory, technological, institutional, financial, and other barriers to improved freight transportation performance (including opportunities for overcoming the barriers);

“(F) best practices for improving the performance of the national freight network;

“(G) best practices to mitigate the impacts of freight movement on communities;

“(H) a process for addressing multistate projects and encouraging jurisdictions to collaborate; and

“(I) strategies to improve maritime, freight rail, and freight intermodal connectivity.

“(2) UPDATES TO NATIONAL FREIGHT STRATEGIC PLAN.—Not later than 5 years after the date of completion of the first national freight strategic plan under paragraph (1), and every 5 years thereafter, the Secretary shall update and repost on the Department of Transportation public website a revised national freight strategic plan.

“(i) FREIGHT PERFORMANCE TARGETS.—

“(1) RULEMAKING.—Not later than 2 years after the date of enactment of this section, the Secretary, in consultation with State departments of transportation and other appropriate public and private transportation stakeholders, shall publish a rulemaking that establishes performance measures for freight movement on the primary freight network.

“(2) STATE TARGETS AND REPORTING.—Not later than 1 year after the date on which the Secretary publishes the rulemaking under paragraph (1), each State shall—

“(A) develop and periodically update State performance targets for freight movement on the primary freight network—

“(i) in consultation with appropriate public and private stakeholders; and

“(ii) using measures determined by the Secretary; and

“(B) for every 2-year period, submit to the Secretary a report that contains a description of—

“(i) the progress of the State toward meeting the targets; and

“(ii) the ways in which the State is addressing congestion at freight bottlenecks within the State.

“(3) COMPLIANCE.—

“(A) PERFORMANCE TARGETS.—To obligate funding apportioned under section 104(b)(5), each State shall develop performance targets in accordance with paragraph (2).

“(B) DETERMINATION OF SECRETARY.—If the Secretary determines that a State has not met or made significant progress toward meeting the performance targets of the State by the date that is 2 years after the date of establishment of the performance targets, until the date on which the Secretary determines that the State has met (or has made significant progress towards meeting) the State performance targets, the State shall submit to the Secretary, on a biennial basis, a freight performance improvement plan that includes—

“(i) an identification of significant freight system trends, needs, and issues within the State;

“(ii) a description of the freight policies and strategies that will guide the freight-related transportation investments of the State;

“(iii) an inventory of freight bottlenecks within the State and a description of the ways in which the State is allocating funds to improve those bottlenecks; and

“(iv) a description of the actions the State will undertake to meet the performance targets of the State.

“(j) FREIGHT TRANSPORTATION CONDITIONS AND PERFORMANCE REPORTS.—Not later than 2 years after the date of enactment of this section, and biennially thereafter, the Secretary shall prepare a report that contains a description of the conditions and performance of the national freight network in the United States.

“(k) TRANSPORTATION INVESTMENT DATA AND PLANNING TOOLS.—

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary shall—

“(A) begin development of new tools and improvement of existing tools or improve existing tools to support an outcome-oriented, performance-based approach to evaluate proposed freight-related and other transportation projects, including—

“(i) methodologies for systematic analysis of benefits and costs;

“(ii) tools for ensuring that the evaluation of freight-related and other transportation projects could consider safety, economic competitiveness, environmental sustainability, and system condition in the project selection process; and

“(iii) other elements to assist in effective transportation planning;

“(B) identify transportation-related model data elements to support a broad range of evaluation methods and techniques to assist in making transportation investment decisions; and

“(C) at a minimum, in consultation with other relevant Federal agencies, consider any improvements to existing freight flow data collection efforts that could reduce identified freight data gaps and deficiencies and help improve forecasts of freight transportation demand.

“(2) CONSULTATION.—The Secretary shall consult with Federal, State, and other stakeholders to develop, improve, and implement the tools and collect the data in paragraph (1).

“(1) DEFINITION OF AEROTROPOLIS TRANSPORTATION SYSTEM.—For the purposes of this section, the term ‘aerotropolis transportation system’ means a planned and coordinated multimodal freight and passenger transportation network that, as determined by the Secretary, provides efficient, cost-effective, sustainable, and intermodal connectivity to a defined region of economic significance centered around a major airport.

“(m) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, projects funded under this section shall be treated as projects on a Federal-aid highway under this chapter.”

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by adding at the end the following:

“167. National freight program.”

#### SEC. 1116. FEDERAL LANDS AND TRIBAL TRANSPORTATION PROGRAMS.

(a) IN GENERAL.—Chapter 2 of title 23, United States Code, is amended by striking sections 201 through 204 and inserting the following:

#### “§ 201. Federal lands and tribal transportation programs

“(a) PURPOSE.—Recognizing the need for all public Federal and tribal transportation

facilities to be treated under uniform policies similar to the policies that apply to Federal-aid highways and other public transportation facilities, the Secretary of Transportation, in collaboration with the Secretaries of the appropriate Federal land management agencies, shall coordinate a uniform policy for all public Federal and tribal transportation facilities that shall apply to Federal lands transportation facilities, tribal transportation facilities, and Federal lands access transportation facilities.

“(b) AVAILABILITY OF FUNDS.—

“(1) AVAILABILITY.—Funds authorized for the tribal transportation program, the Federal lands transportation program, and the Federal lands access program shall be available for contract upon apportionment, or on October 1 of the fiscal year for which the funds were authorized if no apportionment is required.

“(2) AMOUNT REMAINING.—Any amount remaining unexpended for a period of 3 years after the close of the fiscal year for which the funds were authorized shall lapse.

“(3) OBLIGATIONS.—The Secretary of the department responsible for the administration of funds under this subsection may incur obligations, approve projects, and enter into contracts under such authorizations, which shall be considered to be contractual obligations of the United States for the payment of the cost thereof, the funds of which shall be considered to have been expended when obligated.

“(4) EXPENDITURE.—

“(A) IN GENERAL.—Any funds authorized for any fiscal year after the date of enactment of this section under the Federal lands transportation program, the Federal lands access program, and the tribal transportation program shall be considered to have been expended if a sum equal to the total of the sums authorized for the fiscal year and previous fiscal years have been obligated.

“(B) CREDITED FUNDS.—Any funds described in subparagraph (A) that are released by payment of final voucher or modification of project authorizations shall be—

“(i) credited to the balance of unobligated authorizations; and

“(ii) immediately available for expenditure.

“(5) APPLICABILITY.—This section shall not apply to funds authorized before the date of enactment of this paragraph.

“(6) CONTRACTUAL OBLIGATION.—

“(A) IN GENERAL.—Notwithstanding any other provision of law (including regulations), the authorization by the Secretary, or the Secretary of the appropriate Federal land management agency if the agency is the contracting office, of engineering and related work for the development, design, and acquisition associated with a construction project, whether performed by contract or agreement authorized by law, or the approval by the Secretary of plans, specifications, and estimates for construction of a project, shall be considered to constitute a contractual obligation of the Federal Government to pay the total eligible cost of—

“(i) any project funded under this title; and

“(ii) any project funded pursuant to agreements authorized by this title or any other title.

“(B) EFFECT.—Nothing in this paragraph—

“(i) affects the application of the Federal share associated with the project being undertaken under this section; or

“(ii) modifies the point of obligation associated with Federal salaries and expenses.

“(7) FEDERAL SHARE.—

“(A) TRIBAL AND FEDERAL LANDS TRANSPORTATION PROGRAM.—The Federal share of the cost of a project carried out under the Federal lands transportation program or the tribal transportation program shall be 100 percent.

“(B) FEDERAL LANDS ACCESS PROGRAM.—The Federal share of the cost of a project carried out under the Federal lands access program shall be determined in accordance with section 120.

“(c) TRANSPORTATION PLANNING.—

“(1) TRANSPORTATION PLANNING PROCEDURES.—In consultation with the Secretary of each appropriate Federal land management agency, the Secretary shall implement transportation planning procedures for Federal lands and tribal transportation facilities that are consistent with the planning processes required under sections 134 and 135.

“(2) APPROVAL OF TRANSPORTATION IMPROVEMENT PROGRAM.—The transportation improvement program developed as a part of the transportation planning process under this section shall be approved by the Secretary.

“(3) INCLUSION IN OTHER PLANS.—Each regionally significant tribal transportation program, Federal lands transportation program, and Federal lands access program project shall be—

“(A) developed in cooperation with State and metropolitan planning organizations; and

“(B) included in appropriate tribal transportation program plans, Federal lands transportation program plans, Federal lands access program plans, State and metropolitan plans, and transportation improvement programs.

“(4) INCLUSION IN STATE PROGRAMS.—The approved tribal transportation program, Federal lands transportation program, and Federal lands access program transportation improvement programs shall be included in appropriate State and metropolitan planning organization plans and programs without further action on the transportation improvement program.

“(5) ASSET MANAGEMENT.—The Secretary and the Secretary of each appropriate Federal land management agency shall, to the extent appropriate, implement safety, bridge, pavement, and congestion management systems for facilities funded under the tribal transportation program and the Federal lands transportation program in support of asset management.

“(6) DATA COLLECTION.—

“(A) DATA COLLECTION.—The Secretaries of the appropriate Federal land management agencies shall collect and report data necessary to implement the Federal lands transportation program, the Federal lands access program, and the tribal transportation program, including—

“(i) inventory and condition information on Federal lands transportation facilities and tribal transportation facilities; and

“(ii) bridge inspection and inventory information on any Federal bridge open to the public.

“(B) STANDARDS.—The Secretary, in coordination with the Secretaries of the appropriate Federal land management agencies, shall define the collection and reporting data standards.

“(7) ADMINISTRATIVE EXPENSES.—To implement the activities described in this subsection, including direct support of transportation planning activities among Federal land management agencies, the Secretary may use not more than 5 percent for each fiscal year of the funds authorized for programs under sections 203 and 204.

“(d) REIMBURSABLE AGREEMENTS.—In carrying out work under reimbursable agreements with any State, local, or tribal government under this title, the Secretary—

“(1) may, without regard to any other provision of law (including regulations), record obligations against accounts receivable from the entity; and

“(2) shall credit amounts received from the entity to the appropriate account, which shall occur not later than 90 days after the date of the original request by the Secretary for payment.

“(e) TRANSFERS.—

“(1) IN GENERAL.—To enable the efficient use of funds made available for the Federal lands transportation program and the Federal lands access program, the funds may be transferred by the Secretary within and between each program with the concurrence of, as appropriate—

“(A) the Secretary;

“(B) the affected Secretaries of the respective Federal land management agencies;

“(C) State departments of transportation; and

“(D) local government agencies.

“(2) CREDIT.—The funds described in paragraph (1) shall be credited back to the loaning entity with funds that are currently available for obligation at the time of the credit.

“§ 202. Tribal transportation program

“(a) USE OF FUNDS.—

“(1) IN GENERAL.—Funds made available under the tribal transportation program shall be used by the Secretary of Transportation and the Secretary of the Interior to pay the costs of—

“(A)(i) transportation planning, research, maintenance, engineering, rehabilitation, restoration, construction, and reconstruction of tribal transportation facilities;

“(ii) adjacent vehicular parking areas;

“(iii) interpretive signage;

“(iv) acquisition of necessary scenic easements and scenic or historic sites;

“(v) provisions for pedestrians and bicycles;

“(vi) environmental mitigation in or adjacent to tribal land—

“(I) to improve public safety and reduce vehicle-caused wildlife mortality while maintaining habitat connectivity; and

“(II) to mitigate the damage to wildlife, aquatic organism passage, habitat, and ecosystem connectivity, including the costs of constructing, maintaining, replacing, or removing culverts and bridges, as appropriate;

“(vii) construction and reconstruction of roadside rest areas, including sanitary and water facilities; and

“(viii) other appropriate public road facilities as determined by the Secretary;

“(B) operation and maintenance of transit programs and facilities that are located on, or provide access to, tribal land, or are administered by a tribal government; and

“(C) any transportation project eligible for assistance under this title that is located within, or that provides access to, tribal land, or is associated with a tribal government.

“(2) CONTRACT.—In connection with an activity described in paragraph (1), the Secretary and the Secretary of the Interior may enter into a contract or other appropriate agreement with respect to the activity with—

“(A) a State (including a political subdivision of a State); or

“(B) an Indian tribe.

“(3) INDIAN LABOR.—Indian labor may be employed, in accordance with such rules and

regulations as may be promulgated by the Secretary of the Interior, to carry out any construction or other activity described in paragraph (1).

“(4) **FEDERAL EMPLOYMENT.**—No maximum limitation on Federal employment shall be applicable to the construction or improvement of tribal transportation facilities.

“(5) **FUNDS FOR CONSTRUCTION AND IMPROVEMENT.**—All funds made available for the construction and improvement of tribal transportation facilities shall be administered in conformity with regulations and agreements jointly approved by the Secretary and the Secretary of the Interior.

“(6) **ADMINISTRATIVE EXPENSES.**—The Secretary of the Interior may reserve amounts from administrative funds of the Bureau of Indian Affairs that are associated with the tribal transportation program to fund tribal technical assistance centers under section 504(b).

“(7) **MAINTENANCE.**—

“(A) **USE OF FUNDS.**—Notwithstanding any other provision of this title, of the amount of funds allocated to an Indian tribe from the tribal transportation program, for the purpose of maintenance (excluding road sealing, which shall not be subject to any limitation), the Secretary shall not use an amount more than the greater of—

“(i) an amount equal to 25 percent; or

“(ii) \$500,000.

“(B) **RESPONSIBILITY OF BUREAU OF INDIAN AFFAIRS AND SECRETARY OF THE INTERIOR.**—

“(i) **BUREAU OF INDIAN AFFAIRS.**—The Bureau of Indian Affairs shall retain primary responsibility, including annual funding request responsibility, for Bureau of Indian Affairs road maintenance programs on Indian reservations.

“(ii) **SECRETARY OF THE INTERIOR.**—The Secretary of the Interior shall ensure that funding made available under this subsection for maintenance of tribal transportation facilities for each fiscal year is supplementary to, and not in lieu of, any obligation of funds by the Bureau of Indian Affairs for road maintenance programs on Indian reservations.

“(C) **TRIBAL-STATE ROAD MAINTENANCE AGREEMENTS.**—

“(i) **IN GENERAL.**—An Indian tribe and a State may enter into a road maintenance agreement under which an Indian tribe shall assume the responsibility of the State for—

“(I) tribal transportation facilities; and

“(II) roads providing access to tribal transportation facilities.

“(ii) **REQUIREMENTS.**—Agreements entered into under clause (i) shall—

“(I) be negotiated between the State and the Indian tribe; and

“(II) not require the approval of the Secretary.

“(8) **COOPERATION.**—

“(A) **IN GENERAL.**—The cooperation of States, counties, or other local subdivisions may be accepted in construction and improvement.

“(B) **FUNDS RECEIVED.**—Any funds received from a State, county, or local subdivision shall be credited to appropriations available for the tribal transportation program.

“(9) **COMPETITIVE BIDDING.**—

“(A) **CONSTRUCTION.**—

“(i) **IN GENERAL.**—Subject to clause (ii) and subparagraph (B), construction of each project shall be performed by contract awarded by competitive bidding.

“(ii) **EXCEPTION.**—Clause (i) shall not apply if the Secretary or the Secretary of the Interior affirmatively finds that, under the circumstances relating to the project, a different method is in the public interest.

“(B) **APPLICABILITY.**—Notwithstanding subsection (A), section 23 of the Act of June 25, 1910 (25 U.S.C. 47) and section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)) shall apply to all funds administered by the Secretary of the Interior that are appropriated for the construction and improvement of tribal transportation facilities.

“(b) **FUNDS DISTRIBUTION.**—

“(1) **NATIONAL TRIBAL TRANSPORTATION FACILITY INVENTORY.**—

“(A) **IN GENERAL.**—The Secretary of the Interior, in cooperation with the Secretary, shall maintain a comprehensive national inventory of tribal transportation facilities that are eligible for assistance under the tribal transportation program.

“(B) **TRANSPORTATION FACILITIES INCLUDED IN THE INVENTORY.**—For purposes of identifying the tribal transportation system and determining the relative transportation needs among Indian tribes, the Secretary shall include, at a minimum, transportation facilities that are eligible for assistance under the tribal transportation program that an Indian tribe has requested, including facilities that—

“(i) were included in the Bureau of Indian Affairs system inventory prior to October 1, 2004;

“(ii) are owned by an Indian tribal government;

“(iii) are owned by the Bureau of Indian Affairs;

“(iv) were constructed or reconstructed with funds from the Highway Account of the Transportation Trust Fund under the Indian reservation roads program since 1983;

“(v) are public roads or bridges within the exterior boundary of Indian reservations, Alaska Native villages, and other recognized Indian communities (including communities in former Indian reservations in the State of Oklahoma) in which the majority of residents are American Indians or Alaska Natives;

“(vi) are public roads within or providing access to an Indian reservation or Indian trust land or restricted Indian land that is not subject to fee title alienation without the approval of the Federal Government, or Indian or Alaska Native villages, groups, or communities in which Indians and Alaska Natives reside, whom the Secretary of the Interior has determined are eligible for services generally available to Indians under Federal laws specifically applicable to Indians; or

“(vii) are primary access routes proposed by tribal governments, including roads between villages, roads to landfills, roads to drinking water sources, roads to natural resources identified for economic development, and roads that provide access to intermodal terminals, such as airports, harbors, or boat landings.

“(C) **LIMITATION ON PRIMARY ACCESS ROUTES.**—For purposes of this paragraph, a proposed primary access route is the shortest practicable route connecting 2 points of the proposed route.

“(D) **ADDITIONAL FACILITIES.**—Nothing in this paragraph precludes the Secretary from including additional transportation facilities that are eligible for funding under the tribal transportation program in the inventory used for the national funding allocation if such additional facilities are included in the inventory in a uniform and consistent manner nationally.

“(E) **BRIDGES.**—All bridges in the inventory shall be recorded in the national bridge inventory administered by the Secretary under section 144.

“(2) **REGULATIONS.**—Notwithstanding sections 563(a) and 565(a) of title 5, the Secretary of the Interior shall maintain any regulations governing the tribal transportation program.

“(3) **BASIS FOR FUNDING FORMULA.**—

“(A) **BASIS.**—

“(i) **IN GENERAL.**—After making the set asides authorized under subsections (c), (d), and (e) on October 1 of each fiscal year, the Secretary shall distribute the remainder authorized to be appropriated for the tribal transportation program under this section among Indian tribes as follows:

“(I) For fiscal year 2012—

“(aa) 50 percent, equal to the ratio that the amount allocated to each tribe as a tribal share for fiscal year 2011 bears to the total tribal share amount allocated to all tribes for that fiscal year; and

“(bb) the remainder using tribal shares as described in subparagraphs (B) and (C).

“(II) For fiscal year 2013 and thereafter, using tribal shares as described in subparagraphs (B) and (C).

“(ii) **TRIBAL HIGH PRIORITY PROJECTS.**—The High Priority Projects program as included in the Tribal Transportation Allocation Methodology of part 170 of title 25, Code of Federal Regulations (as in effect on the date of enactment of the MAP-21), shall not continue in effect.

“(B) **TRIBAL SHARES.**—Tribal shares under this program shall be determined using the national tribal transportation facility inventory as calculated for fiscal year 2012, and the most recent data on American Indian and Alaska Native population within each Indian tribe's American Indian/Alaska Native Reservation or Statistical Area, as computed under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.), in the following manner:

“(i) 30 percent in the ratio that the total eligible lane mileage in each tribe bears to the total eligible lane mileage of all American Indians and Alaskan Natives. For the purposes of this calculation—

“(I) eligible lane mileage shall be computed based on the inventory described in paragraph (1), using only facilities included in the inventory described in clause (i), (ii), or (iii) of paragraph (1)(B); and

“(II) paved roads and gravel surfaced roads are deemed to equal 2 lane miles per mile of inventory, and earth surfaced roads and unimproved roads shall be deemed to equal 1 lane mile per mile of inventory.

“(ii) 35 percent in the ratio that the total population in each tribe bears to the total population of all American Indians and Alaskan Natives.

“(iii) 35 percent shall be divided equally among each Bureau of Indian Affairs region for distribution of tribal shares as follows:

“(I)  $\frac{1}{4}$  of 1 percent shall be distributed equally among Indian tribes with populations of 1 to 25.

“(II)  $\frac{3}{4}$  of 1 percent shall be distributed equally among Indian tribes with populations of 26 to 100.

“(III) 3 $\frac{1}{4}$  percent shall be distributed equally among Indian tribes with populations of 101 to 1,000.

“(IV) 20 percent shall be distributed equally among Indian tribes with populations of 1,001 to 10,000.

“(V) 74 $\frac{3}{4}$  percent shall be distributed equally among Indian tribes with populations of 10,001 to 60,000 where 3 or more Indian tribes occupy this category in a single Bureau of Indian Affairs region, and Bureau of Indian Affairs regions containing less than

3 Indian tribes in this category shall receive funding in accordance with subclause (IV) and clause (iv).

“(VI) ½ of 1 percent shall be distributed equally among Indian tribes with populations of 60,001 or more.

“(iv) For a Bureau of Indian Affairs region that has no Indian tribes meeting the population criteria under 1 or more of subclauses (I) through (VI) of clause (iii), the region shall redistribute any funds subject to such clause or clauses among any such clauses for which the region has Indian tribes meeting such criteria proportionally in accordance with the percentages listed in such clauses until such funds are completely distributed.

“(C) TRIBAL SUPPLEMENTAL FUNDING.—

“(i) TRIBAL SUPPLEMENTAL FUNDING AMOUNT.—Of funds made available for each fiscal year for the tribal transportation program, the Secretary shall set aside the following amount for a tribal supplemental program:

“(I) If the amount made available for the tribal transportation program is less than or equal to \$275,000,000, 30 percent of such amount.

“(II) If the amount made available for the tribal transportation program exceeds \$275,000,000—

“(aa) \$27,500,000; plus

“(bb) 12.5 percent of the amount made available for the tribal transportation program in excess of \$275,000,000.

“(ii) TRIBAL SUPPLEMENTAL ALLOCATION.—The Secretary shall distribute tribal supplemental funds as follows:

“(I) DISTRIBUTION AMONG REGIONS.—Of the amounts set aside under clause (i), the Secretary shall distribute to each region of the Bureau of Indian Affairs a share of tribal supplemental funds in proportion to the regional total of tribal shares based on the cumulative tribal shares of all Indian tribes within such region under subparagraph (B).

“(II) DISTRIBUTION WITHIN A REGION.—Of the amount that a region receives under subclause (I), the Secretary shall distribute tribal supplemental funding among Indian tribes within such region as follows:

“(aa) TRIBAL SUPPLEMENTAL AMOUNTS.—The Secretary shall determine—

“(AA) which such Indian tribes would be entitled under subparagraph (A) to receive in a fiscal year less funding than they would receive in fiscal year 2011 pursuant to the Tribal Transportation Allocation Methodology described in subpart C of part 170 of title 25, Code of Federal Regulations (as in effect on the date of enactment of the MAP-21); and

“(BB) the combined amount that such Indian tribes would be entitled to receive in fiscal year 2011 pursuant to such Tribal Transportation Allocation Methodology in excess of the amount that they would be entitled to receive in the fiscal year under subparagraph (B); and

“(bb) Subject to subclause (III), distribute to each Indian tribe that meets the criteria described in item (aa)(AA) a share of funding under this subparagraph in proportion to the share of the combined amount determined under item (aa)(BB) attributable to such Indian tribe.

“(III) CEILING.—An Indian tribe may not receive under subclause (II) and based on its tribal share under subparagraph (A) a combined amount that exceeds the amount that such Indian tribe would be entitled to receive in fiscal year 2011 pursuant to the Tribal Transportation Allocation Methodology described in subpart C of part 170 of title 25, Code of Federal Regulations (as in effect on the date of enactment of the MAP-21).

“(IV) OTHER AMOUNTS.—If the amount made available for a region under subclause (I) exceeds the amount distributed among Indian tribes within that region under subclause (II), the Secretary shall distribute the remainder of such region’s funding under such subclause among all Indian tribes in that region in proportion to the combined amount that each such Indian tribe received under subparagraph (A) and subclauses (I), (II), and (III).

“(4) TRANSFERRED FUNDS.—

“(A) IN GENERAL.—Not later than 30 days after the date on which funds are made available to the Secretary of the Interior under this paragraph, the funds shall be distributed to, and made available for immediate use by, eligible Indian tribes, in accordance with the formula for distribution of funds under the tribal transportation program.

“(B) USE OF FUNDS.—Notwithstanding any other provision of this section, funds made available to Indian tribes for tribal transportation facilities shall be expended on projects identified in a transportation improvement program approved by the Secretary.

“(5) HEALTH AND SAFETY ASSURANCES.—Notwithstanding any other provision of law, an Indian tribal government may approve plans, specifications, and estimates and commence road and bridge construction with funds made available from the tribal transportation program through a contract or agreement under Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), if the Indian tribal government—

“(A) provides assurances in the contract or agreement that the construction will meet or exceed applicable health and safety standards;

“(B) obtains the advance review of the plans and specifications from a State-licensed civil engineer that has certified that the plans and specifications meet or exceed the applicable health and safety standards; and

“(C) provides a copy of the certification under subparagraph (A) to the Deputy Assistant Secretary for Tribal Government Affairs, Department of Transportation, or the Assistant Secretary for Indian Affairs, Department of the Interior, as appropriate.

“(6) CONTRACTS AND AGREEMENTS WITH INDIAN TRIBES.—

“(A) IN GENERAL.—Notwithstanding any other provision of law or any interagency agreement, program guideline, manual, or policy directive, all funds made available through the Secretary of the Interior under this chapter and section 125(e) for tribal transportation facilities to pay for the costs of programs, services, functions, and activities, or portions of programs, services, functions, or activities, that are specifically or functionally related to the cost of planning, research, engineering, and construction of any tribal transportation facility shall be made available, upon request of the Indian tribal government, to the Indian tribal government for contracts and agreements for such planning, research, engineering, and construction in accordance with Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

“(B) EXCLUSION OF AGENCY PARTICIPATION.—All funds, including contract support costs, for programs, functions, services, or activities, or portions of programs, services, functions, or activities, including supportive administrative functions that are otherwise contractible to which subparagraph (A) applies, shall be paid in accordance with subparagraph (A), without regard to the organi-

zational level at which the Department of the Interior has previously carried out such programs, functions, services, or activities.

“(7) CONTRACTS AND AGREEMENTS WITH INDIAN TRIBES.—

“(A) IN GENERAL.—Notwithstanding any other provision of law or any interagency agreement, program guideline, manual, or policy directive, all funds made available through the Secretary of the Interior to an Indian tribal government under this chapter for a tribal transportation facility program or project shall be made available, on the request of the Indian tribal government, to the Indian tribal government for use in carrying out, in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), contracts and agreements for the planning, research, design, engineering, construction, and maintenance relating to the program or project.

“(B) EXCLUSION OF AGENCY PARTICIPATION.—In accordance with subparagraph (A), all funds, including contract support costs, for a program or project to which subparagraph (A) applies shall be paid to the Indian tribal government without regard to the organizational level at which the Department of the Interior has previously carried out, or the Department of Transportation has previously carried out under the tribal transportation program, the programs, functions, services, or activities involved.

“(C) CONSORTIA.—Two or more Indian tribes that are otherwise eligible to participate in a program or project to which this chapter applies may form a consortium to be considered as a single Indian tribe for the purpose of participating in the project under this section.

“(D) SECRETARY AS SIGNATORY.—Notwithstanding any other provision of law, the Secretary is authorized to enter into a funding agreement with an Indian tribal government to carry out a tribal transportation facility program or project under subparagraph (A) that is located on an Indian reservation or provides access to the reservation or a community of the Indian tribe.

“(E) FUNDING.—The amount an Indian tribal government receives for a program or project under subparagraph (A) shall equal the sum of the funding that the Indian tribal government would otherwise receive for the program or project in accordance with the funding formula established under this subsection and such additional amounts as the Secretary determines equal the amounts that would have been withheld for the costs of the Bureau of Indian Affairs for administration of the program or project.

“(F) ELIGIBILITY.—

“(i) IN GENERAL.—Subject to clause (ii) and the approval of the Secretary, funds may be made available under subparagraph (A) to an Indian tribal government for a program or project in a fiscal year only if the Indian tribal government requesting such funds demonstrates to the satisfaction of the Secretary financial stability and financial management capability during the 3 fiscal years immediately preceding the fiscal year for which the request is being made.

“(ii) CONSIDERATIONS.—An Indian tribal government that had no uncorrected significant and material audit exceptions in the required annual audit of the contracts or self-governance funding agreements made by the Indian tribe with any Federal agency under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) during the 3-fiscal year period referred in clause (i) shall be conclusive evidence of the

financial stability and financial management capability of the Indian tribe for purposes of clause (i).

“(G) ASSUMPTION OF FUNCTIONS AND DUTIES.—An Indian tribal government receiving funding under subparagraph (A) for a program or project shall assume all functions and duties that the Secretary of the Interior would have performed with respect to a program or project under this chapter, other than those functions and duties that inherently cannot be legally transferred under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

“(H) POWERS.—An Indian tribal government receiving funding under subparagraph (A) for a program or project shall have all powers that the Secretary of the Interior would have exercised in administering the funds transferred to the Indian tribal government for such program or project under this section if the funds had not been transferred, except to the extent that such powers are powers that inherently cannot be legally transferred under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

“(I) DISPUTE RESOLUTION.—In the event of a disagreement between the Secretary or the Secretary of the Interior and an Indian tribe over whether a particular function, duty, or power may be lawfully transferred to the Indian tribe under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), the Indian tribe shall have the right to pursue all alternative dispute resolution and appeal procedures authorized by that Act, including regulations issued to carry out the Act.

“(J) TERMINATION OF CONTRACT OR AGREEMENT.—On the date of the termination of a contract or agreement under this section by an Indian tribal government, the Secretary shall transfer all funds that would have been allocated to the Indian tribal government under the contract or agreement to the Secretary of the Interior to provide continued transportation services in accordance with applicable law.

“(c) PLANNING.—

“(1) IN GENERAL.—For each fiscal year, not more than 2 percent of the funds made available for the tribal transportation program shall be allocated among Indian tribal governments that apply for transportation planning pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

“(2) REQUIREMENT.—An Indian tribal government, in cooperation with the Secretary of the Interior and, as appropriate, with a State, local government, or metropolitan planning organization, shall carry out a transportation planning process in accordance with section 201(c).

“(3) SELECTION AND APPROVAL OF PROJECTS.—A project funded under this section shall be—

“(A) selected by the Indian tribal government from the transportation improvement program; and

“(B) subject to the approval of the Secretary of the Interior and the Secretary.

“(d) TRIBAL TRANSPORTATION FACILITY BRIDGES.—

“(1) NATIONWIDE PRIORITY PROGRAM.—The Secretary shall maintain a nationwide priority program for improving deficient bridges eligible for the tribal transportation program.

“(2) FUNDING.—Before making any distribution under subsection (b), the Secretary shall set aside not more than 2 percent of the funds made available under the tribal trans-

portation program for each fiscal year to be allocated—

“(A) to carry out any planning, design, engineering, preconstruction, construction, and inspection of a project to replace, rehabilitate, seismically retrofit, paint, apply calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing composition; or

“(B) to implement any countermeasure for deficient tribal transportation facility bridges, including multiple-pipe culverts.

“(3) ELIGIBLE BRIDGES.—To be eligible to receive funding under this subsection, a bridge described in paragraph (1) shall—

“(A) have an opening of not less than 20 feet;

“(B) be classified as a tribal transportation facility; and

“(C) be structurally deficient or functionally obsolete.

“(4) APPROVAL REQUIREMENT.—The Secretary may make funds available under this subsection for preliminary engineering, construction, and construction engineering activities after approval of required documentation and verification of eligibility in accordance with this title.

“(e) SAFETY.—

“(1) FUNDING.—Before making any distribution under subsection (b), the Secretary shall set aside not more than 2 percent of the funds made available under the tribal transportation program for each fiscal year to be allocated based on an identification and analysis of highway safety issues and opportunities on tribal land, as determined by the Secretary, on application of the Indian tribal governments for eligible projects described in section 148(a)(4).

“(2) PROJECT SELECTION.—An Indian tribal government, in cooperation with the Secretary of the Interior and, as appropriate, with a State, local government, or metropolitan planning organization, shall select projects from the transportation improvement program, subject to the approval of the Secretary and the Secretary of the Interior.

“(f) FEDERAL-AID ELIGIBLE PROJECTS.—Before approving as a project on a tribal transportation facility any project eligible for funds apportioned under section 104 in a State, the Secretary shall, for projects on tribal transportation facilities, determine that the obligation of funds for the project is supplementary to and not in lieu of the obligation of a fair and equitable share of funds apportioned to the State under section 104.

## “§ 203. Federal lands transportation program

“(a) USE OF FUNDS.—

“(1) IN GENERAL.—Funds made available under the Federal lands transportation program shall be used by the Secretary of Transportation and the Secretary of the appropriate Federal land management agency to pay the costs of—

“(A) program administration, transportation planning, research, preventive maintenance, engineering, rehabilitation, restoration, construction, and reconstruction of Federal lands transportation facilities, and—

“(i) adjacent vehicular parking areas;

“(ii) acquisition of necessary scenic easements and scenic or historic sites;

“(iii) provision for pedestrians and bicycles;

“(iv) environmental mitigation in or adjacent to Federal land open to the public—

“(I) to improve public safety and reduce vehicle-caused wildlife mortality while maintaining habitat connectivity; and

“(II) to mitigate the damage to wildlife, aquatic organism passage, habitat, and eco-

system connectivity, including the costs of constructing, maintaining, replacing, or removing culverts and bridges, as appropriate;

“(v) construction and reconstruction of roadside rest areas, including sanitary and water facilities;

“(vi) congestion mitigation; and

“(vii) other appropriate public road facilities, as determined by the Secretary;

“(B) operation and maintenance of transit facilities; and

“(C) any transportation project eligible for assistance under this title that is on a public road within or adjacent to, or that provides access to, Federal lands open to the public.

“(2) CONTRACT.—In connection with an activity described in paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into a contract or other appropriate agreement with respect to the activity with—

“(A) a State (including a political subdivision of a State); or

“(B) an Indian tribe.

“(3) ADMINISTRATION.—All appropriations for the construction and improvement of Federal lands transportation facilities shall be administered in conformity with regulations and agreements jointly approved by the Secretary and the Secretary of the appropriate Federal land managing agency.

“(4) COOPERATION.—

“(A) IN GENERAL.—The cooperation of States, counties, or other local subdivisions may be accepted in construction and improvement.

“(B) FUNDS RECEIVED.—Any funds received from a State, county, or local subdivision shall be credited to appropriations available for the class of Federal lands transportation facilities to which the funds were contributed.

“(5) COMPETITIVE BIDDING.—

“(A) IN GENERAL.—Subject to subparagraph (B), construction of each project shall be performed by contract awarded by competitive bidding.

“(B) EXCEPTION.—Subparagraph (A) shall not apply if the Secretary or the Secretary of the appropriate Federal land management agency affirmatively finds that, under the circumstances relating to the project, a different method is in the public interest.

“(b) AGENCY PROGRAM DISTRIBUTIONS.—

“(1) IN GENERAL.—On October 1, 2011, and on October 1 of each fiscal year thereafter, the Secretary shall allocate the sums authorized to be appropriated for the fiscal year for the Federal lands transportation program on the basis of applications of need, as determined by the Secretary—

“(A) in consultation with the Secretaries of the applicable Federal land management agencies; and

“(B) in coordination with the transportation plans required under section 201 of the respective transportation systems of—

“(i) the National Park Service;

“(ii) the Forest Service;

“(iii) the United States Fish and Wildlife Service;

“(iv) the Corps of Engineers; and

“(v) the Bureau of Land Management.

“(2) APPLICATIONS.—

“(A) REQUIREMENTS.—Each application submitted by a Federal land management agency shall include proposed programs at various potential funding levels, as defined by the Secretary following collaborative discussions with applicable Federal land management agencies.

“(B) CONSIDERATION BY SECRETARY.—In evaluating an application submitted under

subparagraph (A), the Secretary shall consider the extent to which the programs support—

- “(i) the transportation goals of—
- “(I) a state of good repair of transportation facilities;
- “(II) a reduction of bridge deficiencies, and
- “(III) an improvement of safety;
- “(ii) high-use Federal recreational sites or Federal economic generators; and
- “(iii) the resource and asset management goals of the Secretary of the respective Federal land management agency.

“(C) PERMISSIVE CONTENTS.—Applications may include proposed programs the duration of which extend over a multiple-year period to support long-term transportation planning and resource management initiatives.

“(C) NATIONAL FEDERAL LANDS TRANSPORTATION FACILITY INVENTORY.—

“(1) IN GENERAL.—The Secretaries of the appropriate Federal land management agencies, in cooperation with the Secretary, shall maintain a comprehensive national inventory of public Federal lands transportation facilities.

“(2) TRANSPORTATION FACILITIES INCLUDED IN THE INVENTORIES.—To identify the Federal lands transportation system and determine the relative transportation needs among Federal land management agencies, the inventories shall include, at a minimum, facilities that—

“(A) provide access to high-use Federal recreation sites or Federal economic generators, as determined by the Secretary in coordination with the respective Secretaries of the appropriate Federal land management agencies; and

“(B) are owned by 1 of the following agencies:

- “(i) The National Park Service.
- “(ii) The Forest Service.
- “(iii) The United States Fish and Wildlife Service.

- “(iv) The Bureau of Land Management.
- “(v) The Corps of Engineers.

“(3) AVAILABILITY.—The inventories shall be made available to the Secretary.

“(4) UPDATES.—The Secretaries of the appropriate Federal land management agencies shall update the inventories of the appropriate Federal land management agencies, as determined by the Secretary after collaborative discussions with the Secretaries of the appropriate Federal land management agencies.

“(5) REVIEW.—A decision to add or remove a facility from the inventory shall not be considered a Federal action for purposes of review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(d) BICYCLE SAFETY.—The Secretary of the appropriate Federal land management agency shall prohibit the use of bicycles on each federally owned road that has a speed limit of 30 miles per hour or greater and an adjacent paved path for use by bicycles within 100 yards of the road.

#### “§ 204. Federal lands access program

“(a) USE OF FUNDS.—

“(1) IN GENERAL.—Funds made available under the Federal lands access program shall be used by the Secretary of Transportation and the Secretary of the appropriate Federal land management agency to pay the cost of—

“(A) transportation planning, research, engineering, preventive maintenance, rehabilitation, restoration, construction, and reconstruction of Federal lands access transportation facilities located on or adjacent to, or that provide access to, Federal land, and—

- “(i) adjacent vehicular parking areas;

“(ii) acquisition of necessary scenic easements and scenic or historic sites;

“(iii) provisions for pedestrians and bicycles;

“(iv) environmental mitigation in or adjacent to Federal land—

“(I) to improve public safety and reduce vehicle-caused wildlife mortality while maintaining habitat connectivity; and

“(II) to mitigate the damage to wildlife, aquatic organism passage, habitat, and ecosystem connectivity, including the costs of constructing, maintaining, replacing, or removing culverts and bridges, as appropriate;

“(v) construction and reconstruction of roadside rest areas, including sanitary and water facilities; and

“(vi) other appropriate public road facilities, as determined by the Secretary;

“(B) operation and maintenance of transit facilities; and

“(C) any transportation project eligible for assistance under this title that is within or adjacent to, or that provides access to, Federal land.

“(2) CONTRACT.—In connection with an activity described in paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into a contract or other appropriate agreement with respect to the activity with—

“(A) a State (including a political subdivision of a State); or

“(B) an Indian tribe.

“(3) ADMINISTRATION.—All appropriations for the construction and improvement of Federal lands access transportation facilities shall be administered in conformity with regulations and agreements approved by the Secretary.

“(4) COOPERATION.—

“(A) IN GENERAL.—The cooperation of States, counties, or other local subdivisions may be accepted in construction and improvement.

“(B) FUNDS RECEIVED.—Any funds received from a State, county, or local subdivision for a Federal lands access transportation facility project shall be credited to appropriations available under the Federal lands access program.

“(5) COMPETITIVE BIDDING.—

“(A) IN GENERAL.—Subject to subparagraph (B), construction of each project shall be performed by contract awarded by competitive bidding.

“(B) EXCEPTION.—Subparagraph (A) shall not apply if the Secretary or the Secretary of the appropriate Federal land management agency affirmatively finds that, under the circumstances relating to the project, a different method is in the public interest.

“(b) PROGRAM DISTRIBUTIONS.—

“(1) IN GENERAL.—Funding made available to carry out the Federal lands access program shall be allocated among those States that have Federal land, in accordance with the following formula:

“(A) 80 percent of the available funding for use in those States that contain at least 1 ½ percent of the total public land in the United States managed by the agencies described in paragraph (2), to be distributed as follows:

“(i) 30 percent in the ratio that—

“(I) recreational visitation within each such State; bears to

“(II) the recreational visitation within all such States.

“(ii) 5 percent in the ratio that—

“(I) the Federal land area within each such State; bears to

“(II) the Federal land area in all such States.

“(iii) 55 percent in the ratio that—

“(I) the Federal public road miles within each such State; bears to

“(II) the Federal public road miles in all such States.

“(iv) 10 percent in the ratio that—

“(I) the number of Federal public bridges within each such State; bears to

“(II) the number of Federal public bridges in all such States.

“(B) 20 percent of the available funding for use in those States that do not contain at least 1 ½ percent of the total public land in the United States managed by the agencies described in paragraph (2), to be distributed as follows:

“(i) 30 percent in the ratio that—

“(I) recreational visitation within each such State; bears to

“(II) the recreational visitation within all such States.

“(ii) 5 percent in the ratio that—

“(I) the Federal land area within each such State; bears to

“(II) the Federal land area in all such States.

“(iii) 55 percent in the ratio that—

“(I) the Federal public road miles within each such State; bears to

“(II) the Federal public road miles in all such States.

“(iv) 10 percent in the ratio that—

“(I) the number of Federal public bridges within each such State; bears to

“(II) the number of Federal public bridges in all such States.

“(2) DATA SOURCE.—Data necessary to distribute funding under paragraph (1) shall be provided by the following Federal land management agencies:

“(A) The National Park Service.

“(B) The Forest Service.

“(C) The United States Fish and Wildlife Service.

“(D) The Bureau of Land Management.

“(E) The Corps of Engineers.

“(c) PROGRAMMING DECISIONS COMMITTEE.—

“(1) IN GENERAL.—Programming decisions shall be made within each State by a committee comprised of—

“(A) a representative of the Federal Highway Administration;

“(B) a representative of the State Department of Transportation; and

“(C) a representative of any appropriate political subdivision of the State.

“(2) CONSULTATION REQUIREMENT.—The committee described in paragraph (1) shall consult with each applicable Federal agency in each State before any joint discussion or final programming decision.

“(3) PROJECT PREFERENCE.—In making a programming decision under paragraph (1), the committee shall give preference to projects that provide access to, are adjacent to, or are located within high-use Federal recreation sites or Federal economic generators, as identified by the Secretaries of the appropriate Federal land management agencies.”

(b) PUBLIC LANDS DEVELOPMENT ROADS AND TRAILS.—Section 214 of title 23, United States Code, is repealed.

(c) CONFORMING AMENDMENTS.—

(1) CHAPTER 2 ANALYSIS.—The analysis for chapter 2 of title 23, United States Code, is amended:

(A) By striking the items relating to sections 201 through 204 and inserting the following:

“201. Federal lands and tribal transportation programs.

“202. Tribal transportation program.

“203. Federal lands transportation program.

“204. Federal lands access program.”



(B) By striking the item relating to section 214.

(2) DEFINITION.—Section 138(a) of title 23, United States Code, is amended in the third sentence by striking “park road or parkway under section 204 of this title” and inserting “Federal lands transportation facility”.

(3) RULES, REGULATIONS, AND RECOMMENDATIONS.—Section 315 of title 23, United States Code, is amended by striking “204(f)” and inserting “202(a)(5), 203(a)(3)”.

#### SEC. 1117. ALASKA HIGHWAY.

Section 218 of title 23, United States Code, is amended to read as follows:

##### “§ 218. Alaska Highway

“(a) DEFINITION OF ALASKA MARINE HIGHWAY SYSTEM.—In this section, the term ‘Alaska Marine Highway System’ includes each existing or planned transportation facility and equipment in the State of Alaska relating to the ferry system of the State, including the lease, purchase, or construction of vessels, terminals, docks, floats, ramps, staging areas, parking lots, bridges, and approaches thereto, and necessary roads.

“(b) AUTHORIZATION OF SECRETARY.—

“(1) IN GENERAL.—Recognizing the benefits that will accrue to the State of Alaska and to the United States from the reconstruction of the Alaska Highway from the Alaskan border to Haines Junction in Canada and the Haines Cutoff Highway from Haines Junction in Canada to Haines, the Secretary is authorized, upon agreement with the State of Alaska, to expend on such highway or the Alaska Marine Highway System any Federal-aid highway funds apportioned to the State of Alaska under this title to provide for necessary reconstruction of such highway.

“(2) LIMITATION.—No expenditures shall be made for the construction of the portion of the highways that are in located in Canada until the date on which an agreement has been reached by the Government of Canada and the Government of the United States, which shall provide in part, that the Canadian Government—

“(A) will provide, without participation of funds authorized under this title, all necessary right-of-way for the construction of the highways;

“(B) will not impose any highway toll, or permit any toll to be charged for the use of the highways by vehicles or persons;

“(C) will not levy or assess, directly or indirectly, any fee, tax, or other charge for the use of the highways by vehicles or persons from the United States that does not apply equally to vehicles or persons of Canada;

“(D) will continue to grant reciprocal recognition of vehicle registration and drivers’ licenses in accordance with agreements between the United States and Canada; and

“(E) will maintain the highways after the date of completion of the highways in proper condition adequately to serve the needs of present and future traffic.

“(c) SUPERVISION OF SECRETARY.—The survey and construction work undertaken in Canada pursuant to this section shall be under the general supervision of the Secretary.”.

#### SEC. 1118. PROJECTS OF NATIONAL AND REGIONAL SIGNIFICANCE.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program in accordance with this section to provide grants for projects of national and regional significance.

(b) PURPOSE OF PROGRAM.—The purpose of the projects of national and regional significance program shall be to fund critical high-cost surface transportation infrastructure

projects that are difficult to complete with existing Federal, State, local, and private funds and that will—

(1) generate national and regional economic benefits and increase global economic competitiveness;

(2) reduce congestion and its impacts;

(3) improve roadways vital to national energy security;

(4) improve movement of freight and people; and

(5) improve transportation safety.

(c) DEFINITIONS.—In this section:

(1) ELIGIBLE APPLICANT.—The term “eligible applicant” means a State department of transportation or a group of State departments of transportation, a local government, a tribal government or consortium of tribal governments, a transit agency, a port authority, a metropolitan planning organization, other political subdivisions of State or local governments, or a multi-State or multi-jurisdictional group of the aforementioned entities.

(2) ELIGIBLE PROJECT.—The term “eligible project” means a surface transportation project or a program of integrated surface transportation projects closely related in the function they perform that—

(A) is a capital project or projects—

(i) eligible for Federal financial assistance under title 23, United States Code, or under chapter 53 of title 49, United States Code; or

(ii) for surface transportation infrastructure to facilitate intermodal interchange, transfer, and access into and out of intermodal facilities, including ports; and

(B) has eligible project costs that are reasonably anticipated to equal or exceed the lesser of—

(i) \$500,000,000;

(ii) for a project located in a single State, 30 percent of the amount of Federal-aid highway funds apportioned for the most recently completed fiscal year to the State; or

(iii) for a project located in more than 1 State, 75 percent of the amount of Federal-aid highway funds apportioned for the most recently completed fiscal year to the State in which the project is located that has the largest apportionment.

(3) ELIGIBLE PROJECT COSTS.—The term “eligible project costs” means the costs of—

(A) development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, preliminary engineering and design work, and other preconstruction activities;

(B) construction, reconstruction, rehabilitation, and acquisition of real property (including land related to the project and improvements to land), environmental mitigation, construction contingencies, acquisition of equipment directly related to improving system performance, and operational improvements; and

(C) all financing costs, including subsidy costs under the Transportation Infrastructure Finance and Innovation Act program.

(d) SOLICITATIONS AND APPLICATIONS.—

(1) GRANT SOLICITATIONS.—The Secretary shall establish criteria for project evaluation and conduct a transparent and competitive national solicitation process to select projects for funding to carry out the purposes of this section.

(2) APPLICATIONS.—

(A) IN GENERAL.—An eligible applicant seeking a grant under this section for an eligible project shall submit an application to the Secretary in such form and in accordance with such requirements as the Secretary shall establish.

(B) CONTENTS.—An application under this subsection shall, at a minimum, include data

on current system performance and estimated system improvements that will result from completion of the eligible project, including projections for 2, 7, and 15 years after completion.

(C) RESUBMISSION OF APPLICATIONS.—An eligible applicant whose project is not selected by the Secretary may resubmit an application in any subsequent solicitation.

(e) CRITERIA FOR PROJECT EVALUATION AND SELECTION.—

(1) IN GENERAL.—The Secretary may select a project only if the Secretary determines that the project—

(A) will significantly improve the performance of the national surface transportation network, nationally or regionally;

(B) is based on the results of preliminary engineering;

(C) cannot be readily and efficiently completed without Federal support from this program;

(D) is justified based on the ability of the project—

(i) to generate national economic benefits that reasonably exceed its costs, including increased access to jobs, labor, and other critical economic inputs;

(ii) to reduce long-term congestion, including impacts in the State, region, and Nation, and increase speed, reliability, and accessibility of the movement of people or freight; and

(iii) to improve transportation safety, including reducing transportation accidents, and serious injuries and fatalities; and

(E) is supported by an acceptable degree of non-Federal financial commitments, including evidence of stable and dependable financing sources to construct, maintain, and operate the infrastructure facility.

(2) ADDITIONAL CONSIDERATIONS.—In evaluating a project under this section, in addition to the criteria in paragraph (1), the Secretary shall consider the extent to which the project—

(A) leverages Federal investment by encouraging non-Federal contributions to the project, including contributions from public-private partnerships;

(B) is able to begin construction within 18 months of being selected;

(C) incorporates innovative project delivery and financing where practical;

(D) stimulates collaboration between States and among State and local governments;

(E) helps maintain or protect the environment;

(F) improves roadways vital to national energy security;

(G) uses innovative technologies, including intelligent transportation systems, that enhance the efficiency of the project; and

(H) contributes to an equitable geographic distribution of funds under this section and an appropriate balance in addressing the needs of urban and rural communities.

(f) GRANT REQUIREMENTS.—

(1) IN GENERAL.—A grant for a project under this section shall be subject to the following requirements:

(A) A qualifying highway project eligible for funding under title 23, United States Code, or public transportation project eligible under chapter 53 of title 49, United States Code, shall comply with all applicable requirements of such title or chapter except that, if the project contains elements or activities that are not eligible for funding under such title or chapter but are eligible for funding under this section, the elements or activities shall comply with the requirements described in subparagraph (B).

(B) A qualifying surface transportation project not eligible under title 23, United States Code, or chapter 53 of title 49, United States Code, shall comply with the requirements of subchapter IV of chapter 31 of title 40, United States Code, section 10a-d of title 41, United States Code, and such other terms, conditions, and requirements as the Secretary determines are necessary and appropriate for the type of project.

(2) DETERMINATION OF APPLICABLE MODAL REQUIREMENTS.—In the event that a project has cross-modal components, the Secretary shall have the discretion to designate the requirements that shall apply to the project based on predominant components.

(3) OTHER TERMS AND CONDITIONS.—The Secretary shall require that all grants under this section be subject to all terms, conditions, and requirements that the Secretary decides are necessary or appropriate for purposes of this section, including requirements for the disposition of net increases in value of real property resulting from the project assisted under this section.

(g) FEDERAL SHARE OF PROJECT COST.—

(1) IN GENERAL.—If a project funded under this section is to construct or improve a privately owned facility or would primarily benefit a private entity, the Federal share shall be the lesser of 50 percent of the total project cost or the quantified public benefit of the project. For all other projects funded under this section—

(A) the Federal share of funds under this section shall be up to 50 percent of the project cost; and

(B) the project sponsor may use other eligible Federal transportation funds to cover up to an additional 30 percent of the project costs.

(2) PRE-APPROVAL COSTS.—The Secretary may allow costs incurred prior to project approval to be used as a credit toward the non-Federal share of the cost of the project. Such costs must be adequately documented, necessary, reasonable, and allocable to the current phase of the project and such costs may not be included as a cost or used to meet cost-sharing or matching requirements of any other federally-financed project.

(h) REPORT TO THE SECRETARY.—For each project funded under this section, the project sponsor shall reassess system performance and report to the Secretary 2, 7, and 15 years after completion of the project to assess if the project outcomes have met pre-construction projections.

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, to remain available until expended, \$1,000,000,000 for fiscal year 2013.

(j) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, projects funded under this section shall be treated as projects on a Federal-aid highway under chapter 1 of title 23, United States Code.

(k) REPORTS.—

(1) SECRETARY.—

(A) IN GENERAL.—Not later than 30 days after the date on which the Secretary selects a project for funding under this section, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes the reasons for selecting the project, based on the criteria described in subsection (e).

(B) INCLUSIONS.—The report submitted under subparagraph (A) shall specify each criteria described in subsection (e) that the project meets.

(C) AVAILABILITY.—The Secretary shall make available on the website of the Department the report submitted under subparagraph (A).

(2) COMPTROLLER GENERAL.—

(A) ASSESSMENT.—The Comptroller General of the United States shall conduct an assessment of the establishment, solicitation, selection, and justification process with respect to the funding of projects under this section.

(B) REPORT.—Not later than 3 years after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes—

(i) the process by which each project was selected;

(ii) the factors that went into the selection of each project; and

(iii) the justification for the selection of each project based on the criteria described in subsection (e).

(3) INSPECTOR GENERAL.—

(A) ASSESSMENT.—The Inspector General of the Department shall conduct an assessment of the establishment, solicitation, selection, and justification process with respect to the funding of projects under this section.

(B) INITIAL REPORT.—Not later than 2 years after the date of enactment of this Act, the Inspector General of the Department shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes the initial results of the assessment conducted under subparagraph (A).

(C) FINAL REPORT.—Not later than 4 years after the date of enactment of this Act, the Inspector General of the Department shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a final report that describes the findings of the Inspector General of the Department with respect to the assessment conducted under subparagraph (A).

(1) REGULATIONS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate final regulations implementing the program authorized under this section.

(2) INTERIM PROVISIONS.—Until the date on which the Secretary promulgates final regulations under paragraph (1), any amounts made available under subsection (i) to carry out this section shall be distributed in accordance with—

(A) the guidance and policies developed for the distribution of grants under the program using the notice of funding availability entitled “Notice of Funding Availability for the Department of Transportation’s National Infrastructure Investments Under the Full-Year Continuing Appropriations, 2012; and Request for Comments” (77 Fed. Reg. 4863 (January 31, 2012)); or

(B) such guidance and policies as subsequently revised and updated.

#### Subtitle B—Performance Management

#### SEC. 1201. METROPOLITAN TRANSPORTATION PLANNING.

Section 134 of title 23, United States Code, is amended to read as follows:

#### “§ 134. Metropolitan transportation planning

“(a) POLICY.—It is in the national interest—

“(1) to encourage and promote the safe, cost-effective, and efficient management, operation, and development of surface transportation systems that will serve efficiently the mobility needs of individuals and freight, reduce transportation-related fatalities and serious injuries, and foster economic growth and development within and between States and urbanized areas, while fitting the needs and complexity of individual communities, maximizing value for taxpayers, leveraging cooperative investments, and minimizing transportation-related fuel consumption and air pollution through the metropolitan and statewide transportation planning processes identified in this title;

“(2) to encourage the continued improvement, evolution, and coordination of the metropolitan and statewide transportation planning processes by and among metropolitan planning organizations, State departments of transportation, regional planning organizations, interstate partnerships, and public transportation and intercity service operators as guided by the planning factors identified in subsection (h) of this section and section 135(d);

“(3) to encourage and promote transportation needs and decisions that are integrated with other planning needs and priorities; and

“(4) to maximize the effectiveness of transportation investments.

“(b) DEFINITIONS.—In this section and section 135, the following definitions shall apply:

“(1) EXISTING MPO.—The term ‘existing MPO’ means a metropolitan planning organization that was designated as a metropolitan planning organization on the day before the date of enactment of the MAP-21.

“(2) LOCAL OFFICIAL.—The term ‘local official’ means any elected or appointed official of general purpose local government with responsibility for transportation in a designated area.

“(3) MAINTENANCE AREA.—The term ‘maintenance area’ means an area that was designated as an air quality nonattainment area, but was later redesignated by the Administrator of the Environmental Protection Agency as an air quality attainment area, under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)).

“(4) METROPOLITAN PLANNING AREA.—The term ‘metropolitan planning area’ means a geographical area determined by agreement between the metropolitan planning organization for the area and the applicable Governor under subsection (c).

“(5) METROPOLITAN PLANNING ORGANIZATION.—The term ‘metropolitan planning organization’ means the policy board of an organization established pursuant to subsection (c).

“(6) METROPOLITAN TRANSPORTATION PLAN.—The term ‘metropolitan transportation plan’ means a plan developed by a metropolitan planning organization under subsection (i).

“(7) NONATTAINMENT AREA.—The term ‘nonattainment area’ has the meaning given the term in section 171 of the Clean Air Act (42 U.S.C. 7501).

“(8) NONMETROPOLITAN AREA.—

“(A) IN GENERAL.—The term ‘nonmetropolitan area’ means a geographical area outside the boundaries of a designated metropolitan planning area.

“(B) INCLUSIONS.—The term ‘nonmetropolitan area’ includes—

“(i) a small urbanized area with a population of more than 50,000, but fewer than 200,000, individuals, as calculated according to the most recent decennial census; and

“(ii) a nonurbanized area.

“(9) NONMETROPOLITAN PLANNING ORGANIZATION.—The term ‘nonmetropolitan planning organization’ means an organization that—

“(A) was designated as a metropolitan planning organization as of the day before the date of enactment of the MAP-21; and

“(B) is not designated as a tier I MPO or tier II MPO.

“(10) REGIONALLY SIGNIFICANT.—The term ‘regionally significant’, with respect to a transportation project, program, service, or strategy, means a project, program, service, or strategy that—

“(A) serves regional transportation needs (such as access to and from the area outside of the region, major activity centers in the region, and major planned developments); and

“(B) would normally be included in the modeling of a transportation network of a metropolitan area.

“(11) RURAL PLANNING ORGANIZATION.—The term ‘rural planning organization’ means an organization that—

“(A) is responsible for the planning, coordination, and implementation of statewide transportation plans and programs outside of a metropolitan area, with an emphasis on addressing the needs of rural areas of the State; and

“(B) is not designated as a tier I or tier II metropolitan planning organization or a nonmetropolitan planning organization.

“(12) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM.—The term ‘statewide transportation improvement program’ means a statewide transportation improvement program developed by a State under section 135(g).

“(13) STATEWIDE TRANSPORTATION PLAN.—The term ‘statewide transportation plan’ means a plan developed by a State under section 135(f).

“(14) TIER I MPO.—The term ‘tier I MPO’ means a metropolitan planning organization designated as a tier I MPO under subsection (e)(4)(A).

“(15) TIER II MPO.—The term ‘tier II MPO’ means a metropolitan planning organization designated as a tier I MPO under subsection (e)(4)(B).

“(16) TRANSPORTATION IMPROVEMENT PROGRAM.—The term ‘transportation improvement program’ means a program developed by a metropolitan planning organization under subsection (j).

“(17) URBANIZED AREA.—The term ‘urbanized area’ means a geographical area with a population of 50,000 or more individuals, as calculated according to the most recent decennial census.

“(c) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

“(1) IN GENERAL.—To carry out the metropolitan transportation planning process under this section, a metropolitan planning organization shall be designated for each urbanized area with a population of 200,000 or more individuals, as calculated according to the most recent decennial census—

“(A) by agreement between the applicable Governor and local officials that, in the aggregate, represent at least 75 percent of the affected population (including the largest incorporated city (based on population), as calculated according to the most recent decennial census); or

“(B) in accordance with procedures established by applicable State or local law.

“(2) SMALL URBANIZED AREAS.—To carry out the metropolitan transportation planning process under this section, a metropolitan planning organization may be designated

for any urbanized area with a population of 50,000 or more individuals, but fewer than 200,000 individuals, as calculated according to the most recent decennial census—

“(A) by agreement between the applicable Governor and local officials that, in the aggregate, represent at least 75 percent of the affected population (including the largest incorporated city (based on population), as calculated according to the most recent decennial census); and

“(B) with the consent of the Secretary, based on a finding that the resulting metropolitan planning organization has met the minimum requirements under subsection (e)(4)(B).

“(3) STRUCTURE.—Not later than 1 year after the date of enactment of the MAP-21, a metropolitan planning organization shall consist of—

“(A) elected local officials in the relevant metropolitan area;

“(B) officials of public agencies that administer or operate major modes of transportation in the relevant metropolitan area, including providers of public transportation; and

“(C) appropriate State officials.

“(4) EFFECT OF SUBSECTION.—Nothing in this subsection interferes with any authority under any State law in effect on December 18, 1991, of a public agency with multimodal transportation responsibilities—

“(A) to develop the metropolitan transportation plans and transportation improvement programs for adoption by a metropolitan planning organization; or

“(B) to develop capital plans, coordinate public transportation services and projects, or carry out other activities pursuant to State law.

“(5) CONTINUING DESIGNATION.—

“(A) POPULATION OF 200,000 OR MORE.—A designation of an existing MPO for an urbanized area with a population of 200,000 or more individuals, as calculated according to the most recent decennial census, shall remain in effect—

“(i) for the period during which the structure of the existing MPO complies with the requirements of paragraph (1); or

“(ii) until the date on which the existing MPO is redesignated under paragraph (6); and

“(B) POPULATION OF FEWER THAN 200,000.—A designation of an existing MPO for an urbanized area with a population of fewer than 200,000 individuals, as calculated according to the most recent decennial census, shall remain in effect until the date on which the existing MPO is redesignated under paragraph (6) unless—

“(i) the existing MPO requests that its planning responsibilities be transferred to the State or to another planning organization designated by the State; or

“(ii) the Secretary determines 3 years after the date on which the Secretary issues a rule pursuant to subsection (e)(4)(B)(i), that the existing MPO is not meeting the minimum requirements established by the rule.

“(C) EXTENSION.—If the applicable Governor, acting on behalf of a metropolitan planning organization for an urbanized area with a population of less than 200,000 that would otherwise be terminated under subparagraph (B), requests a probationary continuation before the termination of the metropolitan planning organization, the Secretary shall—

“(i) delay the termination of the metropolitan planning organization under subparagraph (B) for a period of 1 year; and

“(ii) provide additional technical assistance to all metropolitan planning organiza-

tions provided an extension under this paragraph to assist the metropolitan planning organization in meeting the minimum requirements under subsection (e)(4)(B)(i).

“(D) DESIGNATION AS TIER II MPO.—If the Secretary determines that the existing MPO has met the minimum requirements under the rule issued under subsection (e)(4)(B)(i), the Secretary shall designate the existing MPO as a tier II MPO.

“(6) REDESIGNATION.—

“(A) IN GENERAL.—The designation of a metropolitan planning organization under this subsection shall remain in effect until the date on which the metropolitan planning organization is redesignated, as appropriate, in accordance with the requirements of this subsection pursuant to an agreement between—

“(i) the applicable Governor; and

“(ii) affected local officials who, in the aggregate, represent at least 75 percent of the existing metropolitan planning area population (including the largest incorporated city (based on population), as calculated according to the most recent decennial census).

“(B) RESTRUCTURING.—A metropolitan planning organization may be restructured to meet the requirements of paragraph (3) without undertaking a redesignation.

“(7) ABSENCE OF DESIGNATION.—

“(A) IN GENERAL.—A metropolitan planning organization that is the subject of a negative determination of the Secretary under paragraph (5)(B)(ii) shall submit to the State in which the metropolitan planning organization is located, or to a planning organization designated by the State, by not later than 180 days after the date on which a notice of the negative determination is received, a 6-month plan that includes a description of a method—

“(i) to transfer the responsibilities of the metropolitan planning organization to the State; and

“(ii) to dissolve the metropolitan planning organization.

“(B) ACTION ON DISSOLUTION.—On submission of a plan under subparagraph (A), the metropolitan planning area served by the applicable metropolitan planning organization shall—

“(i) continue to receive metropolitan transportation planning funds until the earlier of—

“(I) the date of dissolution of the metropolitan planning organization; and

“(II) the date that is 4 years after the date of enactment of the MAP-21; and

“(ii) be treated by the State as a non-metropolitan area for purposes of this title.

“(8) DESIGNATION OF MULTIPLE MPOS.—

“(A) IN GENERAL.—More than 1 metropolitan planning organization may be designated within an existing metropolitan planning area only if the applicable Governor and an existing MPO determine that the size and complexity of the existing metropolitan planning area make the designation of more than 1 metropolitan planning organization for the metropolitan planning area appropriate.

“(B) SERVICE JURISDICTIONS.—If more than 1 metropolitan planning organization is designated for an existing metropolitan planning area under subparagraph (A), the existing metropolitan planning area shall be split into multiple metropolitan planning areas, each of which shall be served by the existing MPO or a new metropolitan planning organization.

“(C) TIER DESIGNATION.—The tier designation of each metropolitan planning organization subject to a designation under this paragraph shall be determined based on the size

of each respective metropolitan planning area, in accordance with subsection (e)(4).

“(d) METROPOLITAN PLANNING AREA BOUNDARIES.—

“(1) IN GENERAL.—For purposes of this section, the boundaries of a metropolitan planning area shall be determined by agreement between the applicable metropolitan planning organization and the Governor of the State in which the metropolitan planning area is located.

“(2) INCLUDED AREA.—Each metropolitan planning area—

“(A) shall encompass at least the relevant existing urbanized area and any contiguous area expected to become urbanized within a 20-year forecast period under the applicable metropolitan transportation plan; and

“(B) may encompass the entire relevant metropolitan statistical area, as defined by the Office of Management and Budget.

“(3) IDENTIFICATION OF NEW URBANIZED AREAS.—The designation by the Bureau of the Census of a new urbanized area within the boundaries of an existing metropolitan planning area shall not require the redesignation of the relevant existing MPO.

“(4) NONATTAINMENT AND MAINTENANCE AREAS.—

“(A) EXISTING METROPOLITAN PLANNING AREAS.—

“(i) IN GENERAL.—Except as provided in clause (ii), notwithstanding paragraph (2), in the case of an urbanized area designated as a nonattainment area or maintenance area as of the date of enactment of the MAP-21, the boundaries of the existing metropolitan planning area as of that date of enactment shall remain in force and effect.

“(ii) EXCEPTION.—Notwithstanding clause (i), the boundaries of an existing metropolitan planning area described in that clause may be adjusted by agreement of the applicable Governor and the affected metropolitan planning organizations in accordance with paragraph (1).

“(B) NEW METROPOLITAN PLANNING AREAS.—In the case of an urbanized area designated as a nonattainment area or maintenance area after the date of enactment of the MAP-21, the boundaries of the applicable metropolitan planning area—

“(i) shall be established in accordance with subsection (c)(1);

“(ii) shall encompass the areas described in paragraph (2)(A);

“(iii) may encompass the areas described in paragraph (2)(B); and

“(iv) may address any appropriate nonattainment area or maintenance area.

“(e) REQUIREMENTS.—

“(1) DEVELOPMENT OF PLANS AND TIPS.—To accomplish the policy objectives described in subsection (a), each metropolitan planning organization, in cooperation with the applicable State and public transportation operators, shall develop metropolitan transportation plans and transportation improvement programs for metropolitan planning areas of the State through a performance-driven, outcome-based approach to metropolitan transportation planning consistent with subsection (h).

“(2) CONTENTS.—The metropolitan transportation plans and transportation improvement programs for each metropolitan area shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation) that will function as—

“(A) an intermodal transportation system for the metropolitan planning area; and

“(B) an integral part of an intermodal transportation system for the applicable State and the United States.

“(3) PROCESS OF DEVELOPMENT.—The process for developing metropolitan transportation plans and transportation improvement programs shall—

“(A) provide for consideration of all modes of transportation; and

“(B) be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation needs to be addressed.

“(4) TIERING.—

“(A) TIER I MPOS.—

“(i) IN GENERAL.—A metropolitan planning organization shall be designated as a tier I MPO if—

“(I) as certified by the Governor of each applicable State, the metropolitan planning organization operates within, and primarily serves, a metropolitan planning area with a population of 1,000,000 or more individuals, as calculated according to the most recent decennial census; and

“(II) the Secretary determines the metropolitan planning organization—

“(aa) meets the minimum technical requirements under clause (iv); and

“(bb) not later than 2 years after the date of enactment of the MAP-21, will fully implement the processes described in subsections (h) through (j).

“(ii) ABSENCE OF DESIGNATION.—In the absence of designation as a tier I MPO under clause (i), a metropolitan planning organization shall operate as a tier II MPO until the date on which the Secretary determines the metropolitan planning organization can meet the minimum technical requirements under clause (iv).

“(iii) REDESIGNATION AS TIER I.—A metropolitan planning organization operating within a metropolitan planning area with a population of 200,000 or more and fewer than 1,000,000 individuals and primarily within urbanized areas with populations of 200,000 or more individuals, as calculated according to the most recent decennial census, that is designated as a tier II MPO under subparagraph (B) may request, with the support of the applicable Governor, a redesignation as a tier I MPO on a determination by the Secretary that the metropolitan planning organization has met the minimum technical requirements under clause (iv).

“(iv) MINIMUM TECHNICAL REQUIREMENTS.—Not later than 1 year after the date of enactment of the MAP-21, the Secretary shall issue a rule that establishes the minimum technical requirements necessary for a metropolitan planning organization to be designated as a tier I MPO, including, at a minimum, modeling, data, staffing, and other technical requirements.

“(B) TIER II MPOS.—

“(i) IN GENERAL.—Not later than 1 year after the date of enactment of the MAP-21, the Secretary shall issue a rule that establishes minimum requirements necessary for a metropolitan planning organization to be designated as a tier II MPO.

“(ii) REQUIREMENTS.—The minimum requirements established under clause (i) shall—

“(I) ensure that each metropolitan planning organization has the capabilities necessary to develop the metropolitan transportation plan and transportation improvement program under this section; and

“(II) include—

“(aa) only the staff resources necessary to operate the metropolitan planning organization; and

“(bb) a requirement that the metropolitan planning organization has the technical capacity to conduct the modeling necessary, as appropriate based on the size and resources of the metropolitan planning organization, to fulfill the requirements of this section, except that in cases in which a metropolitan planning organization has a formal agreement with a State to conduct the modeling on behalf of the metropolitan planning organization, the metropolitan planning organization shall be exempt from the technical capacity requirement.

“(iii) INCLUSION.—A metropolitan planning organization operating primarily within an urbanized area with a population of 200,000 or more individuals, as calculated according to the most recent decennial census, and that does not qualify as a tier I MPO under subparagraph (A)(i), shall—

“(I) be designated as a tier II MPO; and

“(II) follow the processes under subsection (k).

“(C) CONSOLIDATION.—

“(i) IN GENERAL.—Metropolitan planning organizations operating within contiguous, adjacent, or geographically linked urbanized areas may elect to consolidate in order to meet the population thresholds required to achieve designation as a tier I or tier II MPO under this paragraph.

“(ii) EFFECT OF SUBSECTION.—Nothing in this subsection requires or prevents consolidation among multiple metropolitan planning organizations located within a single urbanized area.

“(f) COORDINATION IN MULTISTATE AREAS.—

“(1) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

“(2) COORDINATION ALONG DESIGNATED TRANSPORTATION CORRIDORS.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire designated transportation corridor.

“(3) COORDINATION WITH INTERSTATE COMPACTS.—The Secretary shall encourage metropolitan planning organizations to take into consideration, during the development of metropolitan transportation plans and transportation improvement programs, any relevant transportation studies concerning planning for regional transportation (including high-speed and intercity rail corridor studies, commuter rail corridor studies, intermodal terminals, and interstate highways) in support of freight, intercity, or multistate area projects and services that have been developed pursuant to interstate compacts or agreements, or by organizations established under section 135.

“(g) ENGAGEMENT IN METROPOLITAN TRANSPORTATION PLAN AND TIP DEVELOPMENT.—

“(1) NONATTAINMENT AND MAINTENANCE AREAS.—If more than 1 metropolitan planning organization has authority within a metropolitan area, nonattainment area, or maintenance area, each metropolitan planning organization shall consult with all other metropolitan planning organizations designated for the metropolitan area, nonattainment area, or maintenance area and the State in the development of metropolitan transportation plans and transportation improvement programs under this section.

“(2) TRANSPORTATION IMPROVEMENTS LOCATED IN MULTIPLE METROPOLITAN PLANNING

AREAS.—If a transportation improvement project funded under this title or chapter 53 of title 49 is located within the boundaries of more than 1 metropolitan planning area, the affected metropolitan planning organizations shall coordinate metropolitan transportation plans and transportation improvement programs regarding the project.

“(3) COORDINATION OF ADJACENT PLANNING ORGANIZATIONS.—

“(A) IN GENERAL.—A metropolitan planning organization that is adjacent or located in reasonably close proximity to another metropolitan planning organization shall coordinate with that metropolitan planning organization with respect to planning processes, including preparation of metropolitan transportation plans and transportation improvement programs, to the maximum extent practicable.

“(B) NONMETROPOLITAN PLANNING ORGANIZATIONS.—A metropolitan planning organization that is adjacent or located in reasonably close proximity to a nonmetropolitan planning organization shall consult with that nonmetropolitan planning organization with respect to planning processes, to the maximum extent practicable.

“(4) RELATIONSHIP WITH OTHER PLANNING OFFICIALS.—

“(A) IN GENERAL.—The Secretary shall encourage each metropolitan planning organization to cooperate with Federal, tribal, State, and local officers and entities responsible for other types of planning activities that are affected by transportation in the relevant area (including planned growth, economic development, infrastructure services, housing, other public services, nonmotorized users, environmental protection, airport operations, high-speed and intercity passenger rail, freight rail, port access, and freight movements), to the maximum extent practicable, to ensure that the metropolitan transportation planning process, metropolitan transportation plans, and transportation improvement programs are developed in cooperation with other related planning activities in the area.

“(B) INCLUSION.—Cooperation under subparagraph (A) shall include the design and delivery of transportation services within the metropolitan area that are provided by—

“(i) recipients of assistance under sections 202, 203, and 204;

“(ii) recipients of assistance under chapter 53 of title 49;

“(iii) government agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide nonemergency transportation services; and

“(iv) sponsors of regionally significant programs, projects, and services that are related to transportation and receive assistance from any public or private source.

“(5) COORDINATION OF OTHER FEDERALLY REQUIRED PLANNING PROGRAMS.—The Secretary shall encourage each metropolitan planning organization to coordinate, to the maximum extent practicable, the development of metropolitan transportation plans and transportation improvement programs with other relevant federally required planning programs.

“(h) SCOPE OF PLANNING PROCESS.—

“(1) IN GENERAL.—The metropolitan transportation planning process for a metropolitan planning area under this section shall provide for consideration of projects and strategies that will—

“(A) support the economic vitality of the metropolitan area, especially by enabling

global competitiveness, travel and tourism (where applicable), productivity, and efficiency;

“(B) increase the safety of the transportation system for motorized and nonmotorized users;

“(C) increase the security of the transportation system for motorized and nonmotorized users;

“(D) increase the accessibility and mobility of individuals and freight;

“(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;

“(F) enhance the integration and connectivity of the transportation system, across and between modes, for individuals and freight;

“(G) increase efficient system management and operation; and

“(H) emphasize the preservation of the existing transportation system.

“(2) PERFORMANCE-BASED APPROACH.—

“(A) IN GENERAL.—The metropolitan transportation planning process shall provide for the establishment and use of a performance-based approach to transportation decision-making to support the national goals described in section 150(b) of this title and in section 5301(c) of title 49.

“(B) PERFORMANCE TARGETS.—

“(i) SURFACE TRANSPORTATION PERFORMANCE TARGETS.—

“(I) IN GENERAL.—Each metropolitan planning organization shall establish performance targets that address the performance measures described in sections 119(f), 148(h), 149(k), where applicable, and 167(i) to use in tracking attainment of critical outcomes for the region of the metropolitan planning organization.

“(II) COORDINATION.—Selection of performance targets by a metropolitan planning organization shall be coordinated with the relevant State to ensure consistency, to the maximum extent practicable.

“(ii) PUBLIC TRANSPORTATION PERFORMANCE TARGETS.—Each metropolitan planning organization shall adopt the performance targets identified by providers of public transportation pursuant to sections 5326(c) and 5329(d) of title 49, for use in tracking attainment of critical outcomes for the region of the metropolitan planning organization.

“(C) TIMING.—Each metropolitan planning organization shall establish the performance targets under subparagraph (B) not later than 90 days after the date on which the relevant State or provider of public transportation establishes the performance targets.

“(D) INTEGRATION OF OTHER PERFORMANCE-BASED PLANS.—A metropolitan planning organization shall integrate in the metropolitan transportation planning process, directly or by reference, the goals, objectives, performance measures, and targets described in other State plans and processes, as well as asset management and safety plans developed by providers of public transportation, required as part of a performance-based program, including plans such as—

“(i) the State National Highway System asset management plan;

“(ii) asset management plans developed by providers of public transportation;

“(iii) the State strategic highway safety plan;

“(iv) safety plans developed by providers of public transportation;

“(v) the congestion mitigation and air quality performance plan, where applicable;

“(vi) the national freight strategic plan; and

“(vii) the statewide transportation plan.

“(E) USE OF PERFORMANCE MEASURES AND TARGETS.—The performance measures and targets established under this paragraph shall be used, at a minimum, by the relevant metropolitan planning organization as the basis for development of policies, programs, and investment priorities reflected in the metropolitan transportation plan and transportation improvement program.

“(3) FAILURE TO CONSIDER FACTORS.—The failure to take into consideration 1 or more of the factors specified in paragraphs (1) and (2) shall not be subject to review by any court under this title, chapter 53 of title 49, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a metropolitan transportation plan, a transportation improvement program, a project or strategy, or the certification of a planning process.

“(4) PARTICIPATION BY INTERESTED PARTIES.—

“(A) IN GENERAL.—Each metropolitan planning organization shall provide to affected individuals, public agencies, and other interested parties (including State representatives of nonmotorized users) notice and a reasonable opportunity to comment on the metropolitan transportation plan and transportation improvement program and any relevant scenarios.

“(B) CONTENTS OF PARTICIPATION PLAN.—Each metropolitan planning organization shall establish a participation plan that—

“(i) is developed in consultation with interested parties and local officials; and

“(ii) provides that interested parties and local officials shall have reasonable opportunities to comment on the contents of the metropolitan transportation plan of the metropolitan planning organization.

“(C) METHODS.—In carrying out subparagraph (A), the metropolitan planning organization shall, to the maximum extent practicable—

“(i) develop the metropolitan transportation plan and transportation improvement program in consultation with interested parties, as appropriate, including by the formation of advisory groups representative of the community and interested parties (including State representatives of nonmotorized users) that participate in the development of the metropolitan transportation plan and transportation improvement program;

“(ii) hold any public meetings at times and locations that are, as applicable—

“(I) convenient; and

“(II) in compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

“(iii) employ visualization techniques to describe metropolitan transportation plans and transportation improvement programs; and

“(iv) make public information available in appropriate electronically accessible formats and means, such as the Internet, to afford reasonable opportunity for consideration of public information under subparagraph (A).

“(i) DEVELOPMENT OF METROPOLITAN TRANSPORTATION PLAN.—

“(1) DEVELOPMENT.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), not later than 5 years after the date of enactment of the MAP-21, and not less frequently than once every 5 years thereafter, each metropolitan planning organization shall prepare and update, respectively, a metropolitan transportation plan for the relevant metropolitan planning area in accordance with this section.

“(B) EXCEPTIONS.—A metropolitan planning organization shall prepare or update, as appropriate, the metropolitan transportation plan not less frequently than once every 4 years if the metropolitan planning organization is operating within—

“(i) a nonattainment area; or

“(ii) a maintenance area.

“(2) OTHER REQUIREMENTS.—A metropolitan transportation plan under this section shall—

“(A) be in a form that the Secretary determines to be appropriate;

“(B) have a term of not less than 20 years; and

“(C) contain, at a minimum—

“(i) an identification of the existing transportation infrastructure, including highways, local streets and roads, bicycle and pedestrian facilities, public transportation facilities and services, commuter rail facilities and services, high-speed and intercity passenger rail facilities and services, freight facilities (including freight railroad and port facilities), multimodal and intermodal facilities, and intermodal connectors that, evaluated in the aggregate, function as an integrated metropolitan transportation system;

“(ii) a description of the performance measures and performance targets used in assessing the existing and future performance of the transportation system in accordance with subsection (h)(2);

“(iii) a description of the current and projected future usage of the transportation system, including a projection based on a preferred scenario, and further including, to the extent practicable, an identification of existing or planned transportation rights-of-way, corridors, facilities, and related real properties;

“(iv) a system performance report evaluating the existing and future condition and performance of the transportation system with respect to the performance targets described in subsection (h)(2) and updates in subsequent system performance reports, including—

“(I) progress achieved by the metropolitan planning organization in meeting the performance targets in comparison with system performance recorded in previous reports;

“(II) an accounting of the performance of the metropolitan planning organization on outlay of obligated project funds and delivery of projects that have reached substantial completion in relation to—

“(aa) the projects included in the transportation improvement program; and

“(bb) the projects that have been removed from the previous transportation improvement program; and

“(III) when appropriate, an analysis of how the preferred scenario has improved the conditions and performance of the transportation system and how changes in local policies, investments, and growth have impacted the costs necessary to achieve the identified performance targets;

“(v) recommended strategies and investments for improving system performance over the planning horizon, including transportation systems management and operations strategies, maintenance strategies, demand management strategies, asset management strategies, capacity and enhancement investments, State and local economic development and land use improvements, intelligent transportation systems deployment, and technology adoption strategies, as determined by the projected support of the performance targets described in subsection (h)(2);

“(vi) recommended strategies and investments to improve and integrate disability-

related access to transportation infrastructure, including strategies and investments based on a preferred scenario, when appropriate;

“(vii) investment priorities for using projected available and proposed revenues over the short- and long-term stages of the planning horizon, in accordance with the financial plan required under paragraph (4);

“(viii) a description of interstate compacts entered into in order to promote coordinated transportation planning in multistate areas, if applicable;

“(ix) an optional illustrative list of projects containing investments that—

“(I) are not included in the metropolitan transportation plan; but

“(II) would be so included if resources in addition to the resources identified in the financial plan under paragraph (4) were available;

“(x) a discussion (developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies) of types of potential environmental and stormwater mitigation activities and potential areas to carry out those activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the metropolitan transportation plan; and

“(xi) recommended strategies and investments, including those developed by the State as part of interstate compacts, agreements, or organizations, that support intercity transportation.

“(3) SCENARIO DEVELOPMENT.—

“(A) IN GENERAL.—When preparing the metropolitan transportation plan, the metropolitan planning organization may, while fitting the needs and complexity of its community, develop multiple scenarios for consideration as a part of the development of the metropolitan transportation plan, in accordance with subparagraph (B).

“(B) COMPONENTS OF SCENARIOS.—The scenarios—

“(i) shall include potential regional investment strategies for the planning horizon;

“(ii) shall include assumed distribution of population and employment;

“(iii) may include a scenario that, to the maximum extent practicable, maintains baseline conditions for the performance measures identified in subsection (h)(2);

“(iv) may include a scenario that improves the baseline conditions for as many of the performance measures identified in subsection (h)(2) as possible;

“(v) shall be revenue constrained based on the total revenues expected to be available over the forecast period of the plan; and

“(vi) may include estimated costs and potential revenues available to support each scenario.

“(C) METRICS.—In addition to the performance measures identified in subsection (h)(2), scenarios developed under this paragraph may be evaluated using locally-developed metrics for the following categories:

“(i) Congestion and mobility, including transportation use by mode.

“(ii) Freight movement.

“(iii) Safety.

“(iv) Efficiency and costs to taxpayers.

“(4) FINANCIAL PLAN.—A financial plan referred to in paragraph (2)(C)(vii) shall—

“(A) be prepared by each metropolitan planning organization to support the metropolitan transportation plan; and

“(B) contain a description of each of the following:

“(i) Projected resource requirements for implementing projects, strategies, and serv-

ices recommended in the metropolitan transportation plan, including existing and projected system operating and maintenance needs, proposed enhancement and expansions to the system, projected available revenue from Federal, State, local, and private sources, and innovative financing techniques to finance projects and programs.

“(ii) The projected difference between costs and revenues, and strategies for securing additional new revenue (such as by capture of some of the economic value created by any new investment).

“(iii) Estimates of future funds, to be developed cooperatively by the metropolitan planning organization, any public transportation agency, and the State, that are reasonably expected to be available to support the investment priorities recommended in the metropolitan transportation plan.

“(iv) Each applicable project only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

“(5) COORDINATION WITH CLEAN AIR ACT AGENCIES.—The metropolitan planning organization for any metropolitan area that is a nonattainment area or maintenance area shall coordinate the development of a transportation plan with the process for development of the transportation control measures of the State implementation plan required by the Clean Air Act (42 U.S.C. 7401 et seq.).

“(6) PUBLICATION.—On approval by the relevant metropolitan planning organization, a metropolitan transportation plan involving Federal participation shall be, at such times and in such manner as the Secretary shall require—

“(A) published or otherwise made readily available by the metropolitan planning organization for public review, including (to the maximum extent practicable) in electronically accessible formats and means, such as the Internet; and

“(B) submitted for informational purposes to the applicable Governor.

“(7) CONSULTATION.—

“(A) IN GENERAL.—In each metropolitan area, the metropolitan planning organization shall consult, as appropriate, with Federal, tribal, State, and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation concerning the development of a metropolitan transportation plan.

“(B) ISSUES.—The consultation under subparagraph (A) shall involve, as available, consideration of—

“(i) metropolitan transportation plans with Federal, tribal, State, and local conservation plans or maps; and

“(ii) inventories of natural or historic resources.

“(8) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—Notwithstanding paragraph (4), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the metropolitan transportation plan under paragraph (2)(C)(ix).

“(j) TRANSPORTATION IMPROVEMENT PROGRAM.—

“(1) DEVELOPMENT.—

“(A) IN GENERAL.—In cooperation with the applicable State and any affected public transportation operator, the metropolitan planning organization designated for a metropolitan area shall develop a transportation improvement program for the metropolitan planning area that—

“(i) contains projects consistent with the current metropolitan transportation plan;

“(ii) reflects the investment priorities established in the current metropolitan transportation plan; and

“(iii) once implemented, will make significant progress toward achieving the performance targets established under subsection (h)(2).

“(B) OPPORTUNITY FOR PARTICIPATION.—In developing the transportation improvement program, the metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties, in accordance with subsection (h)(4).

“(C) UPDATING AND APPROVAL.—The transportation improvement program shall be—

“(i) updated not less frequently than once every 4 years, on a cycle compatible with the development of the relevant statewide transportation improvement program under section 135; and

“(ii) approved by the applicable Governor.

“(2) CONTENTS.—

“(A) PRIORITY LIST.—The transportation improvement program shall include a priority list of proposed federally supported projects and strategies to be carried out during the 4-year period beginning on the date of adoption of the transportation improvement program, and each 4-year period thereafter, using existing and reasonably available revenues in accordance with the financial plan under paragraph (3).

“(B) DESCRIPTIONS.—Each project described in the transportation improvement program shall include sufficient descriptive material (such as type of work, termini, length, and other similar factors) to identify the project or phase of the project and the effect that the project or project phase will have in addressing the targets described in subsection (h)(2).

“(C) PERFORMANCE TARGET ACHIEVEMENT.—The transportation improvement program shall include, to the maximum extent practicable, a description of the anticipated effect of the transportation improvement program on attainment of the performance targets established in the metropolitan transportation plan, linking investment priorities to those performance targets.

“(D) ILLUSTRATIVE LIST OF PROJECTS.—In developing a transportation improvement program, an optional illustrative list of projects may be prepared containing additional investment priorities that—

“(i) are not included in the transportation improvement program; but

“(ii) would be so included if resources in addition to the resources identified in the financial plan under paragraph (3) were available.

“(3) FINANCIAL PLAN.—A financial plan referred to in paragraph (2)(D)(ii) shall—

“(A) be prepared by each metropolitan planning organization to support the transportation improvement program; and

“(B) contain a description of each of the following:

“(i) Projected resource requirements for implementing projects, strategies, and services recommended in the transportation improvement program, including existing and projected system operating and maintenance needs, proposed enhancement and expansions to the system, projected available revenue from Federal, State, local, and private sources, and innovative financing techniques to finance projects and programs.

“(ii) The projected difference between costs and revenues, and strategies for secur-

ing additional new revenue (such as by capture of some of the economic value created by any new investment).

“(iii) Estimates of future funds, to be developed cooperatively by the metropolitan planning organization, any public transportation agency, and the State, that are reasonably expected to be available to support the investment priorities recommended in the transportation improvement program.

“(iv) Each applicable project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

“(4) INCLUDED PROJECTS.—

“(A) PROJECTS UNDER THIS TITLE AND CHAPTER 53 OF TITLE 49.—A transportation improvement program developed under this subsection for a metropolitan area shall include a description of the projects within the area that are proposed for funding under chapter 1 of this title and chapter 53 of title 49.

“(B) PROJECTS UNDER CHAPTER 2.—

“(i) REGIONALLY SIGNIFICANT.—Each regionally significant project proposed for funding under chapter 2 shall be identified individually in the transportation improvement program.

“(ii) NONREGIONALLY SIGNIFICANT.—A description of each project proposed for funding under chapter 2 that is not determined to be regionally significant shall be contained in 1 line item or identified individually in the transportation improvement program.

“(5) OPPORTUNITY FOR PARTICIPATION.—Before approving a transportation improvement program, a metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties in the development of the transportation improvement program, in accordance with subsection (h)(4).

“(6) SELECTION OF PROJECTS.—

“(A) IN GENERAL.—Each tier I MPO and tier II MPO shall select projects carried out within the boundaries of the applicable metropolitan planning area from the transportation improvement program, in consultation with the relevant State and on concurrence of the affected facility owner, for funds apportioned to the State under section 104(b)(2) and suballocated to the metropolitan planning area under section 133(d).

“(B) PROJECTS UNDER CHAPTER 53 OF TITLE 49.—In the case of projects under chapter 53 of title 49, the selection of federally funded projects in metropolitan areas shall be carried out, from the approved transportation improvement program, by the designated recipients of public transportation funding in cooperation with the metropolitan planning organization.

“(C) CMAQ PROJECTS.—Each tier I MPO shall select projects carried out within the boundaries of the applicable metropolitan planning area from the transportation improvement program, in consultation with the relevant State and on concurrence of the affected facility owner, for funds apportioned to the State under section 104(b)(4) and suballocated to the metropolitan planning area under section 149(j).

“(D) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, approval by the Secretary shall not be required to carry out a project included in a transportation improvement program in place of another project in the transportation improvement program.

“(7) PUBLICATION.—

“(A) IN GENERAL.—A transportation improvement program shall be published or otherwise made readily available by the applicable metropolitan planning organization for public review in electronically accessible formats and means, such as the Internet.

“(B) ANNUAL LIST OF PROJECTS.—An annual list of projects, including investments in pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation, for which Federal funds have been obligated during the preceding fiscal year shall be published or otherwise made available by the cooperative effort of the State, public transportation operator, and metropolitan planning organization in electronically accessible formats and means, such as the Internet, in a manner that is consistent with the categories identified in the relevant transportation improvement program.

“(k) PLANNING REQUIREMENTS FOR TIER II MPOs.—

“(1) IN GENERAL.—The Secretary may provide for the performance-based development of a metropolitan transportation plan and transportation improvement program for the metropolitan planning area of a tier II MPO, as the Secretary determines to be appropriate, taking into account—

“(A) the complexity of transportation needs in the area; and

“(B) the technical capacity of the metropolitan planning organization.

“(2) EVALUATION OF PERFORMANCE-BASED PLANNING.—In reviewing a tier II MPO under subsection (m), the Secretary shall take into consideration the effectiveness of the tier II MPO in implementing and maintaining a performance-based planning process that—

“(A) addresses the performance targets described in subsection (h)(2); and

“(B) demonstrates progress on the achievement of those performance targets.

“(l) CERTIFICATION.—

“(1) IN GENERAL.—The Secretary shall—

“(A) ensure that the metropolitan transportation planning process of a metropolitan planning organization is being carried out in accordance with applicable Federal law; and

“(B) subject to paragraph (2), certify, not less frequently than once every 4 years, that the requirements of subparagraph (A) are met with respect to the metropolitan transportation planning process.

“(2) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make a certification under paragraph (1)(B) if—

“(A) the metropolitan transportation planning process complies with the requirements of this section and other applicable Federal law;

“(B) representation on the metropolitan planning organization board includes officials of public agencies that administer or operate major modes of transportation in the relevant metropolitan area, including providers of public transportation; and

“(C) a transportation improvement program for the metropolitan planning area has been approved by the relevant metropolitan planning organization and applicable Governor.

“(3) DELEGATION OF AUTHORITY.—The Secretary may—

“(A) delegate to the appropriate State fact-finding authority regarding the certification of a tier II MPO under this subsection; and

“(B) make the certification under paragraph (1) in consultation with the State.

“(4) EFFECT OF FAILURE TO CERTIFY.—

“(A) WITHHOLDING OF PROJECT FUNDS.—If a metropolitan transportation planning process of a metropolitan planning organization



is not certified under paragraph (1), the Secretary may withhold up to 20 percent of the funds attributable to the metropolitan planning area of the metropolitan planning organization for projects funded under this title and chapter 53 of title 49.

“(B) RESTORATION OF WITHHELD FUNDS.—Any funds withheld under subparagraph (A) shall be restored to the metropolitan planning area on the date of certification of the metropolitan transportation planning process by the Secretary.

“(5) PUBLIC INVOLVEMENT.—In making a determination regarding certification under this subsection, the Secretary shall provide for public involvement appropriate to the metropolitan planning area under review.

“(m) PERFORMANCE-BASED PLANNING PROCESSES EVALUATION.—

“(1) IN GENERAL.—The Secretary shall establish criteria to evaluate the effectiveness of the performance-based planning processes of metropolitan planning organizations under this section, taking into consideration the following:

“(A) The extent to which the metropolitan planning organization has achieved, or is currently making substantial progress toward achieving, the performance targets specified in subsection (h)(2), taking into account whether the metropolitan planning organization developed meaningful performance targets.

“(B) The extent to which the metropolitan planning organization has used proven best practices that help ensure transportation investment that is efficient and cost-effective.

“(C) The extent to which the metropolitan planning organization—

“(i) has developed an investment process that relies on public input and awareness to ensure that investments are transparent and accountable; and

“(ii) provides regular reports allowing the public to access the information being collected in a format that allows the public to meaningfully assess the performance of the metropolitan planning organization.

“(2) REPORT.—

“(A) IN GENERAL.—Not later than 5 years after the date of enactment of the MAP-21, the Secretary shall submit to Congress a report evaluating—

“(i) the overall effectiveness of performance-based planning as a tool for guiding transportation investments; and

“(ii) the effectiveness of the performance-based planning process of each metropolitan planning organization under this section.

“(B) PUBLICATION.—The report under subparagraph (A) shall be published or otherwise made available in electronically accessible formats and means, including on the Internet.

“(n) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—

“(1) IN GENERAL.—Notwithstanding any other provision of this title or chapter 53 of title 49, Federal funds may not be advanced in any metropolitan planning area classified as a nonattainment area or maintenance area for any highway project that will result in a significant increase in the carrying capacity for single-occupant vehicles, unless the owner or operator of the project demonstrates that the project will achieve or make substantial progress toward achieving the performance targets described in subsection (h)(2).

“(2) APPLICABILITY.—This subsection applies to any nonattainment area or maintenance area within the boundaries of a metropolitan planning area, as determined under subsection (c).

“(o) EFFECT OF SECTION.—Nothing in this section provides to any metropolitan planning organization the authority to impose any legal requirement on any transportation facility, provider, or project not subject to the requirements of this title or chapter 53 of title 49.

“(p) FUNDING.—Funds apportioned under section 104(b)(6) of this title and set aside under section 5305(g) of title 49 shall be available to carry out this section.

“(q) CONTINUATION OF CURRENT REVIEW PRACTICE.—

“(1) IN GENERAL.—In consideration of the factors described in paragraph (2), any decision by the Secretary concerning a metropolitan transportation plan or transportation improvement program shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(2) DESCRIPTION OF FACTORS.—The factors referred to in paragraph (1) are that—

“(A) metropolitan transportation plans and transportation improvement programs are subject to a reasonable opportunity for public comment;

“(B) the projects included in metropolitan transportation plans and transportation improvement programs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

“(C) decisions by the Secretary concerning metropolitan transportation plans and transportation improvement programs have not been reviewed under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) as of January 1, 1997.

“(r) SCHEDULE FOR IMPLEMENTATION.—The Secretary shall issue guidance on a schedule for implementation of the changes made by this section, taking into consideration the established planning update cycle for metropolitan planning organizations. The Secretary shall not require a metropolitan planning organization to deviate from its established planning update cycle to implement changes made by this section. Metropolitan planning organizations shall reflect changes made to their transportation plan or transportation improvement program updates by not later than 2 years after the date of issuance of guidance by the Secretary.”

#### SEC. 1202. STATEWIDE AND NONMETROPOLITAN TRANSPORTATION PLANNING.

(a) IN GENERAL.—Section 135 of title 23, United States Code, is amended to read as follows:

##### “§ 135. Statewide and nonmetropolitan transportation planning

“(a) STATEWIDE TRANSPORTATION PLANS AND STIPS.—

“(1) DEVELOPMENT.—

“(A) IN GENERAL.—To accomplish the policy objectives described in section 134(a), each State shall develop a statewide transportation plan and a statewide transportation improvement program for all areas of the State in accordance with this section.

“(B) INCORPORATION OF METROPOLITAN TRANSPORTATION PLANS AND TIPS.—Each State shall incorporate in the statewide transportation plan and statewide transportation improvement program, without change or by reference, the metropolitan transportation plans and transportation improvement programs, respectively, for each metropolitan planning area in the State.

“(C) NONMETROPOLITAN AREAS.—Each State shall consult with local officials in small urbanized areas with a population of 50,000 or more individuals, but fewer than 200,000 individuals, as calculated according to the most recent decennial census, and nonurbanized

areas of the State in preparing the non-metropolitan portions of statewide transportation plans and statewide transportation improvement programs.

“(2) CONTENTS.—The statewide transportation plan and statewide transportation improvement program developed for each State shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation) that will function as—

“(A) an intermodal transportation system for the State; and

“(B) an integral part of an intermodal transportation system for the United States.

“(3) PROCESS.—The process for developing the statewide transportation plan and statewide transportation improvement program shall—

“(A) provide for consideration of all modes of transportation; and

“(B) be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation needs to be addressed.

“(b) COORDINATION AND CONSULTATION.—

“(1) IN GENERAL.—Each State shall—

“(A) coordinate planning carried out under this section with—

“(i) the transportation planning activities carried out under section 134 for metropolitan areas of the State; and

“(ii) statewide trade and economic development planning activities and related multistate planning efforts;

“(B) coordinate planning carried out under this section with the transportation planning activities carried out by each non-metropolitan planning organization in the State, as applicable;

“(C) consult on planning carried out under this section with the transportation planning activities carried out by each rural planning organization in the State, as applicable; and

“(D) develop the transportation portion of the State implementation plan as required by the Clean Air Act (42 U.S.C. 7401 et seq.).

“(2) MULTISTATE AREAS.—

“(A) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan planning area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

“(B) COORDINATION ALONG DESIGNATED TRANSPORTATION CORRIDORS.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate transportation corridor to provide coordinated transportation planning for the entire designated corridor.

“(C) INTERSTATE COMPACTS.—For purposes of this section, any 2 or more States—

“(i) may enter into compacts, agreements, or organizations not in conflict with any Federal law for cooperative efforts and mutual assistance in support of activities authorized under this section, as the activities relate to interstate areas and localities within the States;

“(ii) may establish such agencies (joint or otherwise) as the States determine to be appropriate for ensuring the effectiveness of the agreements and compacts; and

“(iii) are encouraged to enter into such compacts, agreements, or organizations as are appropriate to develop planning documents in support of intercity or multistate area projects, facilities, and services, the relevant components of which shall be reflected

in statewide transportation improvement programs and statewide transportation plans.

“(D) RESERVATION OF RIGHTS.—The right to alter, amend, or repeal any interstate compact or agreement entered into under this subsection is expressly reserved.

“(c) RELATIONSHIP WITH OTHER PLANNING OFFICIALS.—

“(1) IN GENERAL.—The Secretary shall encourage each State to cooperate with Federal, tribal, State, and local officers and entities responsible for other types of planning activities that are affected by transportation in the relevant area (including planned growth, economic development, infrastructure services, housing, other public services, environmental protection, airport operations, high-speed and intercity passenger rail, freight rail, port access, and freight movements), to the maximum extent practicable, to ensure that the statewide and nonmetropolitan planning process, statewide transportation plans, and statewide transportation improvement programs are developed with due consideration for other related planning activities in the State.

“(2) INCLUSION.—Cooperation under paragraph (1) shall include the design and delivery of transportation services within the State that are provided by—

“(A) recipients of assistance under sections 202, 203, and 204;

“(B) recipients of assistance under chapter 53 of title 49;

“(C) government agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide nonemergency transportation services; and

“(D) sponsors of regionally significant programs, projects, and services that are related to transportation and receive assistance from any public or private source.

“(d) SCOPE OF PLANNING PROCESS.—

“(1) IN GENERAL.—The statewide transportation planning process for a State under this section shall provide for consideration of projects, strategies, and services that will—

“(A) support the economic vitality of the United States, the State, nonmetropolitan areas, and metropolitan areas, especially by enabling global competitiveness, travel and tourism (where applicable), productivity, and efficiency;

“(B) increase the safety of the transportation system for motorized and nonmotorized users;

“(C) increase the security of the transportation system for motorized and nonmotorized users;

“(D) increase the accessibility and mobility of individuals and freight;

“(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;

“(F) enhance the integration and connectivity of the transportation system, across and between modes, for individuals and freight;

“(G) increase efficient system management and operation; and

“(H) emphasize the preservation of the existing transportation system.

“(2) PERFORMANCE-BASED APPROACH.—

“(A) IN GENERAL.—The statewide transportation planning process shall provide for the establishment and use of a performance-based approach to transportation decision-

making to support the national goals described in section 150(b) of this title and section 5301(c) of title 49.

“(B) SURFACE TRANSPORTATION PERFORMANCE TARGETS.—

“(i) IN GENERAL.—Each State shall establish performance targets that address the performance measures described in sections 119(f), 148(h), and 167(i) to use in tracking attainment of critical outcomes for the region of the State.

“(ii) COORDINATION.—Selection of performance targets by a State shall be coordinated with relevant metropolitan planning organizations to ensure consistency, to the maximum extent practicable.

“(C) PUBLIC TRANSPORTATION PERFORMANCE TARGETS.—For providers of public transportation operating in urbanized areas with a population of fewer than 200,000 individuals, as calculated according to the most recent decennial census, and not represented by a metropolitan planning organization, each State shall adopt the performance targets identified by such providers of public transportation pursuant to sections 5326(c) and 5329(d) of title 49 for use in tracking attainment of critical outcomes for the region of the metropolitan planning organization.

“(D) INTEGRATION OF OTHER PERFORMANCE-BASED PLANS.—A State shall integrate into the statewide transportation planning process, directly or by reference, the goals, objectives, performance measures, and performance targets described in this paragraph in other State plans and processes, and asset management and safety plans developed by providers of public transportation in urbanized areas with a population of fewer than 200,000 individuals, as calculated according to the most recent decennial census, and not represented by a metropolitan planning organization, required as part of a performance-based program, including plans such as—

“(i) the State National Highway System asset management plan;

“(ii) asset management plans developed by providers of public transportation;

“(iii) the State strategic highway safety plan;

“(iv) safety plans developed by providers of public transportation; and

“(v) the national freight strategic plan.

“(E) USE OF PERFORMANCE MEASURES AND TARGETS.—The performance measures and targets established under this paragraph shall be used, at a minimum, by a State as the basis for development of policies, programs, and investment priorities reflected in the statewide transportation plan and statewide transportation improvement program.

“(3) FAILURE TO CONSIDER FACTORS.—The failure to take into consideration 1 or more of the factors specified in paragraphs (1) and (2) shall not be subject to review by any court under this title, chapter 53 of title 49, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a statewide transportation plan, a statewide transportation improvement program, a project or strategy, or the certification of a planning process.

“(4) PARTICIPATION BY INTERESTED PARTIES.—

“(A) IN GENERAL.—Each State shall provide to affected individuals, public agencies, and other interested parties notice and a reasonable opportunity to comment on the statewide transportation plan and statewide transportation improvement program.

“(B) METHODS.—In carrying out subparagraph (A), the State shall, to the maximum extent practicable—

“(i) develop the statewide transportation plan and statewide transportation improvement program in consultation with interested parties, as appropriate, including by the formation of advisory groups representative of the State and interested parties that participate in the development of the statewide transportation plan and statewide transportation improvement program;

“(ii) hold any public meetings at times and locations that are, as applicable—

“(I) convenient; and

“(II) in compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

“(iii) employ visualization techniques to describe statewide transportation plans and statewide transportation improvement programs; and

“(iv) make public information available in appropriate electronically accessible formats and means, such as the Internet, to afford reasonable opportunity for consideration of public information under subparagraph (A).

“(e) COORDINATION AND CONSULTATION.—

“(1) METROPOLITAN AREAS.—

“(A) IN GENERAL.—Each State shall develop a statewide transportation plan and statewide transportation improvement program for each metropolitan area in the State by incorporating, without change or by reference, at a minimum, as prepared by each metropolitan planning organization designated for the metropolitan area under section 134—

“(i) all regionally significant projects to be carried out during the 10-year period beginning on the effective date of the relevant existing metropolitan transportation plan; and

“(ii) all projects to be carried out during the 4-year period beginning on the effective date of the relevant transportation improvement program.

“(B) PROJECTED COSTS.—Each metropolitan planning organization shall provide to each applicable State a description of the projected costs of implementing the projects included in the metropolitan transportation plan of the metropolitan planning organization for purposes of metropolitan financial planning and fiscal constraint.

“(2) NONMETROPOLITAN AREAS.—With respect to nonmetropolitan areas in a State, the statewide transportation plan and statewide transportation improvement program of the State shall be developed in consultation with affected nonmetropolitan local officials with responsibility for transportation, including providers of public transportation.

“(3) INDIAN TRIBAL AREAS.—With respect to each area of a State under the jurisdiction of an Indian tribe, the statewide transportation plan and statewide transportation improvement program of the State shall be developed in consultation with—

“(A) the tribal government; and

“(B) the Secretary of the Interior.

“(4) FEDERAL LAND MANAGEMENT AGENCIES.—With respect to each area of a State under the jurisdiction of a Federal land management agency, the statewide transportation plan and statewide transportation improvement program of the State shall be developed in consultation with the relevant Federal land management agency.

“(5) CONSULTATION, COMPARISON, AND CONSIDERATION.—

“(A) IN GENERAL.—A statewide transportation plan shall be developed, as appropriate, in consultation with Federal, tribal, State, and local agencies responsible for land use management, natural resources, infrastructure permitting, environmental protection, conservation, and historic preservation.

“(B) COMPARISON AND CONSIDERATION.—Consultation under subparagraph (A) shall involve the comparison of statewide transportation plans to, as available—

“(i) Federal, tribal, State, and local conservation plans or maps; and

“(ii) inventories of natural or historic resources.

“(f) STATEWIDE TRANSPORTATION PLAN.—

“(1) DEVELOPMENT.—

“(A) IN GENERAL.—Each State shall develop a statewide transportation plan, the forecast period of which shall be not less than 20 years for all areas of the State, that provides for the development and implementation of the intermodal transportation system of the State.

“(B) INITIAL PERIOD.—A statewide transportation plan shall include, at a minimum, for the first 10-year period of the statewide transportation plan, the identification of existing and future transportation facilities that will function as an integrated statewide transportation system, giving emphasis to those facilities that serve important national, statewide, and regional transportation functions.

“(C) SUBSEQUENT PERIOD.—For the second 10-year period of the statewide transportation plan (referred to in this subsection as the ‘outer years period’), a statewide transportation plan—

“(i) may include identification of future transportation facilities; and

“(ii) shall describe the policies and strategies that provide for the development and implementation of the intermodal transportation system of the State.

“(D) OTHER REQUIREMENTS.—A statewide transportation plan shall—

“(i) include, for the 20-year period covered by the statewide transportation plan, a description of—

“(I) the projected aggregate cost of projects anticipated by a State to be implemented; and

“(II) the revenues necessary to support the projects;

“(ii) include, in such form as the Secretary determines to be appropriate, a description of—

“(I) the existing transportation infrastructure, including an identification of highways, local streets and roads, bicycle and pedestrian facilities, public transportation facilities and services, commuter rail facilities and services, high-speed and intercity passenger rail facilities and services, freight facilities (including freight railroad and port facilities), multimodal and intermodal facilities, and intermodal connectors that, evaluated in the aggregate, function as an integrated transportation system;

“(II) the performance measures and performance targets used in assessing the existing and future performance of the transportation system described in subsection (d)(2);

“(III) the current and projected future usage of the transportation system, including, to the maximum extent practicable, an identification of existing or planned transportation rights-of-way, corridors, facilities, and related real properties;

“(IV) a system performance report evaluating the existing and future condition and performance of the transportation system with respect to the performance targets described in subsection (d)(2) and updates to subsequent system performance reports, including—

“(aa) progress achieved by the State in meeting performance targets, as compared to system performance recorded in previous reports; and

“(bb) an accounting of the performance by the State on outlay of obligated project funds and delivery of projects that have reached substantial completion, in relation to the projects currently on the statewide transportation improvement program and those projects that have been removed from the previous statewide transportation improvement program;

“(V) recommended strategies and investments for improving system performance over the planning horizon, including transportation systems management and operations strategies, maintenance strategies, demand management strategies, asset management strategies, capacity and enhancement investments, land use improvements, intelligent transportation systems deployment and technology adoption strategies as determined by the projected support of performance targets described in subsection (d)(2);

“(VI) recommended strategies and investments to improve and integrate disability-related access to transportation infrastructure;

“(VII) investment priorities for using projected available and proposed revenues over the short- and long-term stages of the planning horizon, in accordance with the financial plan required under paragraph (2);

“(VIII) a description of interstate compacts entered into in order to promote coordinated transportation planning in multistate areas, if applicable;

“(IX) an optional illustrative list of projects containing investments that—

“(aa) are not included in the statewide transportation plan; but

“(bb) would be so included if resources in addition to the resources identified in the financial plan under paragraph (2) were available;

“(X) a discussion (developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies) of types of potential environmental and stormwater mitigation activities and potential areas to carry out those activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the statewide transportation plan; and

“(XI) recommended strategies and investments, including those developed by the State as part of interstate compacts, agreements, or organizations, that support intercity transportation; and

“(iii) be updated by the State not less frequently than once every 5 years.

“(2) FINANCIAL PLAN.—A financial plan referred to in paragraph (1)(D)(ii)(VII) shall—

“(A) be prepared by each State to support the statewide transportation plan; and

“(B) contain a description of each of the following:

“(i) Projected resource requirements during the 20-year planning horizon for implementing projects, strategies, and services recommended in the statewide transportation plan, including existing and projected system operating and maintenance needs, proposed enhancement and expansions to the system, projected available revenue from Federal, State, local, and private sources, and innovative financing techniques to finance projects and programs.

“(ii) The projected difference between costs and revenues, and strategies for securing additional new revenue (such as by capture of some of the economic value created by any new investment).

“(iii) Estimates of future funds, to be developed cooperatively by the State, any pub-

lic transportation agency, and relevant metropolitan planning organizations, that are reasonably expected to be available to support the investment priorities recommended in the statewide transportation plan.

“(iv) Each applicable project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

“(v) For the outer years period of the statewide transportation plan, a description of the aggregate cost ranges or bands, subject to the condition that any future funding source shall be reasonably expected to be available to support the projected cost ranges or bands.

“(3) COORDINATION WITH CLEAN AIR ACT AGENCIES.—For any nonmetropolitan area that is a nonattainment area or maintenance area, the State shall coordinate the development of the statewide transportation plan with the process for development of the transportation control measures of the State implementation plan required by the Clean Air Act (42 U.S.C. 7401 et seq.).

“(4) PUBLICATION.—A statewide transportation plan involving Federal and non-Federal participation programs, projects, and strategies shall be published or otherwise made readily available by the State for public review, including (to the maximum extent practicable) in electronically accessible formats and means, such as the Internet, in such manner as the Secretary shall require.

“(5) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—Notwithstanding paragraph (2), a State shall not be required to select any project from the illustrative list of additional projects included in the statewide transportation plan under paragraph (1)(D)(ii)(IX).

“(6) USE OF POLICY PLANS.—Notwithstanding any other provision of this section, a State that has in effect, as of the date of enactment of the MAP-21, a statewide transportation plan that follows a policy plan approach—

“(A) may, for 4 years after the date of enactment of the MAP-21, continue to use a policy plan approach to the statewide transportation plan; and

“(B) shall be subject to the requirements of this subsection only to the extent that such requirements were applicable under this section (as in effect on the date before the date of enactment of the MAP-21).

“(g) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAMS.—

“(1) DEVELOPMENT.—

“(A) IN GENERAL.—In consultation with nonmetropolitan officials with responsibility for transportation and affected public transportation operators, the State shall develop a statewide transportation improvement program for the State that—

“(i) includes projects consistent with the statewide transportation plan;

“(ii) reflects the investment priorities established in the statewide transportation plan; and

“(iii) once implemented, makes significant progress toward achieving the performance targets described in subsection (d)(2).

“(B) OPPORTUNITY FOR PARTICIPATION.—In developing a statewide transportation improvement program, the State, in cooperation with affected public transportation operators, shall provide an opportunity for participation by interested parties (including State representatives of nonmotorized users) in the development of the statewide transportation improvement program, in accordance with subsection (e).

“(C) OTHER REQUIREMENTS.—

“(i) IN GENERAL.—A statewide transportation improvement program shall—

“(I) cover a period of not less than 4 years; and

“(II) be updated not less frequently than once every 4 years, or more frequently, as the Governor determines to be appropriate.

“(ii) INCORPORATION OF TIPS.—A statewide transportation improvement program shall incorporate any relevant transportation improvement program developed by a metropolitan planning organization under section 134, without change.

“(iii) PROJECTS.—Each project included in a statewide transportation improvement program shall be—

“(I) consistent with the statewide transportation plan developed under this section for the State;

“(II) identical to a project or phase of a project described in a relevant transportation improvement program; and

“(III) for any project located in a non-attainment area or maintenance area, carried out in accordance with the applicable State air quality implementation plan developed under the Clean Air Act (42 U.S.C. 7401 et seq.).

“(2) CONTENTS.—

“(A) PRIORITY LIST.—A statewide transportation improvement program shall include a priority list of proposed federally supported projects and strategies, to be carried out during the 4-year period beginning on the date of adoption of the statewide transportation improvement program, and during each 4-year period thereafter, using existing and reasonably available revenues in accordance with the financial plan under paragraph (3).

“(B) DESCRIPTIONS.—Each project or phase of a project included in a statewide transportation improvement program shall include sufficient descriptive material (such as type of work, termini, length, estimated completion date, and other similar factors) to identify—

“(i) the project or project phase; and

“(ii) the effect that the project or project phase will have in addressing the performance targets described in subsection (d)(2).

“(C) PERFORMANCE TARGET ACHIEVEMENT.—A statewide transportation improvement program shall include, to the maximum extent practicable, a discussion of the anticipated effect of the statewide transportation improvement program toward achieving the performance targets established in the statewide transportation plan, linking investment priorities to those performance targets.

“(D) ILLUSTRATIVE LIST OF PROJECTS.—An optional illustrative list of projects may be prepared containing additional investment priorities that—

“(i) are not included in the statewide transportation improvement program; but

“(ii) would be so included if resources in addition to the resources identified in the financial plan under paragraph (3) were available.

“(3) FINANCIAL PLAN.—A financial plan referred to in paragraph (2)(D)(ii) shall—

“(A) be prepared by each State to support the statewide transportation improvement program; and

“(B) contain a description of each of the following:

“(i) Projected resource requirements for implementing projects, strategies, and services recommended in the statewide transportation improvement program, including existing and projected system operating and maintenance needs, proposed enhancement

and expansions to the system, projected available revenue from Federal, State, local, and private sources, and innovative financing techniques to finance projects and programs.

“(ii) The projected difference between costs and revenues, and strategies for securing additional new revenue (such as by capture of some of the economic value created by any new investment).

“(iii) Estimates of future funds, to be developed cooperatively by the State and relevant metropolitan planning organizations and public transportation agencies, that are reasonably expected to be available to support the investment priorities recommended in the statewide transportation improvement program.

“(iv) Each applicable project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

“(4) INCLUDED PROJECTS.—

“(A) PROJECTS UNDER THIS TITLE AND CHAPTER 53 OF TITLE 49.—A statewide transportation improvement program developed under this subsection for a State shall include the projects within the State that are proposed for funding under chapter 1 of this title and chapter 53 of title 49.

“(B) PROJECTS UNDER CHAPTER 2.—

“(i) REGIONALLY SIGNIFICANT.—Each regionally significant project proposed for funding under chapter 2 shall be identified individually in the statewide transportation improvement program.

“(ii) NONREGIONALLY SIGNIFICANT.—A description of each project proposed for funding under chapter 2 that is not determined to be regionally significant shall be contained in 1 line item or identified individually in the statewide transportation improvement program.

“(5) PUBLICATION.—

“(A) IN GENERAL.—A statewide transportation improvement program shall be published or otherwise made readily available by the State for public review in electronically accessible formats and means, such as the Internet.

“(B) ANNUAL LIST OF PROJECTS.—An annual list of projects, including investments in pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation, for which Federal funds have been obligated during the preceding fiscal year shall be published or otherwise made available by the cooperative effort of the State, public transportation operator, and relevant metropolitan planning organizations in electronically accessible formats and means, such as the Internet, in a manner that is consistent with the categories identified in the relevant statewide transportation improvement program.

“(6) PROJECT SELECTION FOR URBANIZED AREAS WITH POPULATIONS OF FEWER THAN 200,000 NOT REPRESENTED BY DESIGNATED MPQS.—Projects carried out in urbanized areas with populations of fewer than 200,000 individuals, as calculated according to the most recent decennial census, and that are not represented by designated metropolitan planning organizations, shall be selected, from the approved statewide transportation improvement program (including projects carried out on the National Highway System and other projects carried out under this title or under sections 5310 and 5311 of title 49) by the State, in cooperation with the affected nonmetropolitan planning organization, if any exists, and in consultation with the affected nonmetropolitan area local officials with responsibility for transportation.

“(7) APPROVAL BY SECRETARY.—

“(A) IN GENERAL.—Not less frequently than once every 4 years, a statewide transportation improvement program developed under this subsection shall be reviewed and approved by the Secretary, based on the current planning finding of the Secretary under subparagraph (B).

“(B) PLANNING FINDING.—The Secretary shall make a planning finding referred to in subparagraph (A) not less frequently than once every 5 years regarding whether the transportation planning process through which statewide transportation plans and statewide transportation improvement programs are developed is consistent with this section and section 134.

“(8) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, approval by the Secretary shall not be required to carry out a project included in an approved statewide transportation improvement program in place of another project in the statewide transportation improvement program.

“(h) CERTIFICATION.—

“(1) IN GENERAL.—The Secretary shall—

“(A) ensure that the statewide transportation planning process of a State is being carried out in accordance with applicable Federal law; and

“(B) subject to paragraph (2), certify, not less frequently than once every 5 years, that the requirements of subparagraph (A) are met with respect to the statewide transportation planning process.

“(2) REQUIREMENTS FOR CERTIFICATION.—

The Secretary may make a certification under paragraph (1)(B) if—

“(A) the statewide transportation planning process complies with the requirements of this section and other applicable Federal law; and

“(B) a statewide transportation improvement program for the State has been approved by the Governor of the State.

“(3) EFFECT OF FAILURE TO CERTIFY.—

“(A) WITHHOLDING OF PROJECT FUNDS.—If a statewide transportation planning process of a State is not certified under paragraph (1), the Secretary may withhold up to 20 percent of the funds attributable to the State for projects funded under this title and chapter 53 of title 49.

“(B) RESTORATION OF WITHHELD FUNDS.—Any funds withheld under subparagraph (A) shall be restored to the State on the date of certification of the statewide transportation planning process by the Secretary.

“(4) PUBLIC INVOLVEMENT.—In making a determination regarding certification under this subsection, the Secretary shall provide for public involvement appropriate to the State under review.

“(i) PERFORMANCE-BASED PLANNING PROCESSES EVALUATION.—

“(1) IN GENERAL.—The Secretary shall establish criteria to evaluate the effectiveness of the performance-based planning processes of States, taking into consideration the following:

“(A) The extent to which the State has achieved, or is currently making substantial progress toward achieving, the performance targets described in subsection (d)(2), taking into account whether the State developed meaningful performance targets.

“(B) The extent to which the State has used proven best practices that help ensure transportation investment that is efficient and cost-effective.

“(C) The extent to which the State—

“(i) has developed an investment process that relies on public input and awareness to

ensure that investments are transparent and accountable; and

“(ii) provides regular reports allowing the public to access the information being collected in a format that allows the public to meaningfully assess the performance of the State.

“(2) REPORT.—

“(A) IN GENERAL.—Not later than 5 years after the date of enactment of the MAP-21, the Secretary shall submit to Congress a report evaluating—

“(i) the overall effectiveness of performance-based planning as a tool for guiding transportation investments; and

“(ii) the effectiveness of the performance-based planning process of each State.

“(B) PUBLICATION.—The report under subparagraph (A) shall be published or otherwise made available in electronically accessible formats and means, including on the Internet.

“(j) FUNDING.—Funds apportioned under section 104(b)(6) of this title and set aside under section 5305(g) of title 49 shall be available to carry out this section.

“(k) CONTINUATION OF CURRENT REVIEW PRACTICE.—

“(1) IN GENERAL.—In consideration of the factors described in paragraph (2), any decision by the Secretary concerning a statewide transportation plan or statewide transportation improvement program shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(2) DESCRIPTION OF FACTORS.—The factors referred to in paragraph (1) are that—

“(A) statewide transportation plans and statewide transportation improvement programs are subject to a reasonable opportunity for public comment;

“(B) the projects included in statewide transportation plans and statewide transportation improvement programs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

“(C) decisions by the Secretary concerning statewide transportation plans and statewide transportation improvement programs have not been reviewed under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) as of January 1, 1997.

“(1) SCHEDULE FOR IMPLEMENTATION.—The Secretary shall issue guidance on a schedule for implementation of the changes made by this section, taking into consideration the established planning update cycle for States. The Secretary shall not require a State to deviate from its established planning update cycle to implement changes made by this section. States shall reflect changes made to their transportation plan or transportation improvement program updates not later than 2 years after the date of issuance of guidance by the Secretary under this subsection.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 135 and inserting the following:

“135. Statewide and nonmetropolitan transportation planning.”.

#### SEC. 1203. NATIONAL GOALS.

(a) IN GENERAL.—Section 150 of title 23, United States Code, is amended to read as follows:

##### “§ 150. National goals

“(a) DECLARATION OF POLICY.—Performance management will transform the Federal-aid highway program and provide a means to the most efficient investment of Federal transportation funds by refocusing on national

transportation goals, increasing the accountability and transparency of the Federal-aid highway program, and improving project decisionmaking through performance-based planning and programming.

“(b) NATIONAL GOALS.—It is in the interest of the United States to focus the Federal-aid highway program on the following national goals:

“(1) SAFETY.—To achieve a significant reduction in traffic fatalities and serious injuries on all public roads.

“(2) INFRASTRUCTURE CONDITION.—To maintain the highway infrastructure asset system in a state of good repair.

“(3) SYSTEM RELIABILITY.—To improve the efficiency of the surface transportation system.

“(4) FREIGHT MOVEMENT AND ECONOMIC VITALITY.—To improve the national freight network, strengthen the ability of rural communities to access national and international trade markets, and support regional economic development.

“(5) ENVIRONMENTAL SUSTAINABILITY.—To enhance the performance of the transportation system while protecting and enhancing the natural environment.

“(6) REDUCED PROJECT DELIVERY DELAYS.—To reduce project costs, promote jobs and the economy, and expedite the movement of people and goods by accelerating project completion through eliminating delays in the project development and delivery process, including reducing regulatory burdens and improving agencies’ work practices.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 150 and inserting the following:

“150. National goals.”.

#### Subtitle C—Acceleration of Project Delivery

##### SEC. 1301. PROJECT DELIVERY INITIATIVE.

(a) DECLARATION OF POLICY.—It is the policy of the United States that—

(1) it is in the national interest for the Department, State departments of transportation, transit agencies, and all other recipients of Federal transportation funds—

(A) to accelerate project delivery and reduce costs; and

(B) to ensure that the planning, design, engineering, construction, and financing of transportation projects is done in an efficient and effective manner, promoting accountability for public investments and encouraging greater private sector involvement in project financing and delivery while enhancing safety and protecting the environment;

(2) delay in the delivery of transportation projects increases project costs, harms the economy of the United States, and impedes the travel of the people of the United States and the shipment of goods for the conduct of commerce; and

(3) the Secretary shall identify and promote the deployment of innovation aimed at reducing the time and money required to deliver transportation projects while enhancing safety and protecting the environment.

(b) ESTABLISHMENT OF INITIATIVE.—

(1) IN GENERAL.—To advance the policy described in subsection (a), the Secretary shall carry out a project delivery initiative under this section.

(2) PURPOSES.—The purposes of the project delivery initiative shall be—

(A) to develop and advance the use of best practices to accelerate project delivery and reduce costs across all modes of transportation and expedite the deployment of technology and innovation;

(B) to implement provisions of law designed to accelerate project delivery; and

(C) to select eligible projects for applying experimental features to test innovative project delivery techniques.

(3) ADVANCING THE USE OF BEST PRACTICES.—

(A) IN GENERAL.—In carrying out the initiative under this section, the Secretary shall identify and advance best practices to reduce delivery time and project costs, from planning through construction, for transportation projects and programs of projects regardless of mode and project size.

(B) ADMINISTRATION.—To advance the use of best practices, the Secretary shall—

(i) engage interested parties, affected communities, resource agencies, and other stakeholders to gather information regarding opportunities for accelerating project delivery and reducing costs;

(ii) establish a clearinghouse for the collection, documentation, and advancement of existing and new innovative approaches and best practices;

(iii) disseminate information through a variety of means to transportation stakeholders on new innovative approaches and best practices; and

(iv) provide technical assistance to assist transportation stakeholders in the use of flexibility authority to resolve project delays and accelerate project delivery if feasible.

(4) IMPLEMENTATION OF ACCELERATED PROJECT DELIVERY.—The Secretary shall ensure that the provisions of this subtitle designed to accelerate project delivery are fully implemented, including—

(A) expanding eligibility of early acquisition of property prior to completion of environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(B) allowing the use of the construction manager or general contractor method of contracting in the Federal-aid highway system; and

(C) establishing a demonstration program to streamline the relocation process by permitting a lump-sum payment for acquisition and relocation if elected by the displaced occupant.

##### SEC. 1302. CLARIFIED ELIGIBILITY FOR EARLY ACQUISITION ACTIVITIES PRIOR TO COMPLETION OF NEPA REVIEW.

(a) IN GENERAL.—The acquisition of real property in anticipation of a federally assisted or approved surface transportation project that may use the property shall not be prohibited prior to the completion of reviews of the surface transportation project under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if the acquisition does not—

(1) have an adverse environmental effect; or

(2)(A) limit the choice of reasonable alternatives for the proposed project; or

(B) prevent the lead agency from making an impartial decision as to whether to select an alternative that is being considered during the environmental review process.

(b) EARLY ACQUISITION OF REAL PROPERTY INTERESTS FOR HIGHWAYS.—Section 108 of title 23, United States Code, is amended—

(1) in the section heading by inserting “**interests**” after “**real property**”;

(2) in subsection (a) by inserting “**interests**” after “**real property**” each place it appears; and

(3) in subsection (c)—

(A) in the subsection heading by striking “**RIGHTS-OF-WAY**” and inserting “**REAL PROPERTY INTERESTS**”;

(B) in paragraph (1)—

(i) in the matter preceding subparagraph (A) by inserting “at any time” after “may be used”; and

(ii) in subparagraph (A)—

(I) by striking “rights-of-way” the first place it appears and inserting “real property interests”; and

(II) by striking “, if the rights-of-way are subsequently incorporated into a project eligible for surface transportation program funds”; and

(C) by striking paragraph (2) and inserting the following:

“(2) TERMS AND CONDITIONS.—

“(A) ACQUISITION OF REAL PROPERTY INTERESTS.—

“(i) IN GENERAL.—Subject to the other provisions of this section, prior to completion of the review process for the project required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), a public authority may carry out acquisition of real property interests that may be used for a project.

“(ii) REQUIREMENTS.—An acquisition under clause (i) may be authorized by project agreement and is eligible for Federal-aid reimbursement as a project expense if the Secretary finds that the acquisition—

“(I) will not cause any significant adverse environmental impact;

“(II) will not limit the choice of reasonable alternatives for the project or otherwise influence the decision of the Secretary on any approval required for the project;

“(III) does not prevent the lead agency from making an impartial decision as to whether to accept an alternative that is being considered in the environmental review process;

“(IV) is consistent with the State transportation planning process under section 135;

“(V) complies with other applicable Federal laws (including regulations);

“(VI) will be acquired through negotiation, without the threat of condemnation; and

“(VII) will not result in a reduction or elimination of benefits or assistance to a displaced person required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.) and title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

“(B) DEVELOPMENT.—Real property interests acquired under this subsection may not be developed in anticipation of a project until all required environmental reviews for the project have been completed.

“(C) REIMBURSEMENT.—If Federal-aid reimbursement is made for real property interests acquired early under this section and the real property interests are not subsequently incorporated into a project eligible for surface transportation funds within the time allowed by subsection (a)(2), the Secretary shall offset the amount reimbursed against funds apportioned to the State.

“(D) OTHER CONDITIONS.—The Secretary may establish such other conditions or restrictions on acquisitions as the Secretary determines to be appropriate.”.

#### SEC. 1303. EFFICIENCIES IN CONTRACTING.

(a) AUTHORITY.—Section 112(b) of title 23, United States Code, is amended by adding at the end the following:

“(4) CONSTRUCTION MANAGER; GENERAL CONTRACTOR.—

“(A) PROCEDURE.—

“(i) IN GENERAL.—A contracting agency may award a 2-phase contract to a construction manager or general contractor for preconstruction and construction services.

“(ii) PRECONSTRUCTION PHASE.—In the preconstruction phase of a contract under

this subparagraph, the construction manager shall provide the contracting agency with advice relating to scheduling, work sequencing, cost engineering, constructability, cost estimating, and risk identification.

“(iii) AGREEMENT TO PRICE.—

“(I) IN GENERAL.—Prior to the start of the second phase of a contract under this subparagraph, the owner and the construction manager may agree to a price for the construction of the project or a portion of the project.

“(II) RESULT.—If an agreement is reached, the construction manager shall become the general contractor for the construction of the project at the negotiated schedule and price.

“(B) SELECTION.—A contract shall be awarded to a construction manager or general contractor under this paragraph using a competitive selection process under which the contract is awarded on the basis of—

“(i) qualifications;

“(ii) experience;

“(iii) best value; or

“(iv) any other combination of factors considered appropriate by the contracting agency.

“(C) TIMING.—

“(i) IN GENERAL.—Prior to the completion of the environmental review process required under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332), a contracting agency may issue requests for proposals, proceed with the award of the first phase of construction manager or general contractor contract, and issue notices to proceed with preliminary design, to the extent that those actions do not limit any reasonable range of alternatives.

“(ii) NEPA PROCESS.—

“(I) IN GENERAL.—A contracting agency shall not proceed with the award of the second phase, and shall not proceed, or permit any consultant or contractor to proceed, with final design or construction until completion of the environmental review process required under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

“(II) REQUIREMENT.—The Secretary shall require that a contract include appropriate provisions to ensure achievement of the objectives of section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) and compliance with other applicable Federal laws and regulations occurs.

“(iii) SECRETARIAL APPROVAL.—Prior to authorizing construction activities, the Secretary shall approve—

“(I) the estimate of the contracting agency for the entire project; and

“(II) any price agreement with the general contractor for the project or a portion of the project.

“(iv) TERMINATION PROVISION.—The Secretary shall require a contract to include an appropriate termination provision in the event that a no-build alternative is selected.”.

(b) REGULATIONS.—The Secretary shall promulgate such regulations as are necessary to carry out the amendment made by subsection (a).

(c) EFFECT ON EXPERIMENTAL PROGRAM.—Nothing in this section or the amendment made by this section affects the authority to carry out, or any project carried out under, any experimental program concerning construction manager risk that is being carried out by the Secretary as of the date of enactment of this Act.

#### SEC. 1304. INNOVATIVE PROJECT DELIVERY METHODS.

(a) DECLARATION OF POLICY.—

(1) IN GENERAL.—Congress declares that it is in the national interest to promote the use of innovative technologies and practices that increase the efficiency of construction of, improve the safety of, and extend the service life of highways and bridges.

(2) INCLUSIONS.—The innovative technologies and practices described in paragraph (1) include state-of-the-art intelligent transportation system technologies, elevated performance standards, and new highway construction business practices that improve highway safety and quality, accelerate project delivery, and reduce congestion related to highway construction.

(b) FEDERAL SHARE.—Section 120(c) of title 23, United States Code, is amended by adding at the end the following:

“(3) INNOVATIVE PROJECT DELIVERY.—

“(A) IN GENERAL.—Except as provided in subparagraph (C), the Federal share payable on account of a project or activity carried out with funds apportioned under paragraph (1), (2), or (5) of section 104(b) may, at the discretion of the State, be up to 100 percent for any such project, program, or activity that the Secretary determines—

“(i) contains innovative project delivery methods that improve work zone safety for motorists or workers and the quality of the facility;

“(ii) contains innovative technologies, manufacturing processes, financing, or contracting methods that improve the quality, extend the service life, or decrease the long-term costs of maintaining highways and bridges;

“(iii) accelerates project delivery while complying with other applicable Federal laws (including regulations) and not causing any significant adverse environmental impact; or

“(iv) reduces congestion related to highway construction.

“(B) EXAMPLES.—Projects, programs, and activities described in subparagraph (A) may include the use of—

“(i) prefabricated bridge elements and systems and other technologies to reduce bridge construction time;

“(ii) innovative construction equipment, materials, or techniques, including the use of in-place recycling technology and digital 3-dimensional modeling technologies;

“(iii) innovative contracting methods, including the design-build and the construction manager-general contractor contracting methods;

“(iv) intelligent compaction equipment; or

“(v) contractual provisions that offer a contractor an incentive payment for early completion of the project, program, or activity, subject to the condition that the incentives are accounted for in the financial plan of the project, when applicable.

“(C) LIMITATIONS.—

“(i) IN GENERAL.—In each fiscal year, a State may use the authority under subparagraph (A) for up to 10 percent of the combined apportionments of the State under paragraphs (1), (2), and (5) of section 104(b).

“(ii) FEDERAL SHARE INCREASE.—The Federal share payable on account of a project or activity described in subparagraph (A) may be increased by up to 5 percent of the total project cost.”.

#### SEC. 1305. ASSISTANCE TO AFFECTED STATE AND FEDERAL AGENCIES.

Section 139(j) of title 23, United States Code, is amended by adding at the end the following:

“(6) MEMORANDUM OF UNDERSTANDING.—Prior to providing funds approved by the Secretary for dedicated staffing at an affected Federal agency under paragraphs (1)

and (2), the affected Federal agency and the State agency shall enter into a memorandum of understanding that establishes the projects and priorities to be addressed by the use of the funds.”

**SEC. 1306. APPLICATION OF CATEGORICAL EXCLUSIONS FOR MULTIMODAL PROJECTS.**

(a) IN GENERAL.—Section 304 of title 49, United States Code, is amended to read as follows:

**“§ 304. Application of categorical exclusions for multimodal projects**

“(a) DEFINITIONS.—In this section:

“(1) COOPERATING AUTHORITY.—The term ‘cooperating authority’ means a Department of Transportation operating authority that is not the lead authority.

“(2) LEAD AUTHORITY.—The term ‘lead authority’ means a Department of Transportation operating administration or secretarial office that—

“(A) is the lead authority over a proposed multimodal project; and

“(B) has determined that the components of the project that fall under the modal expertise of the lead authority—

“(i) satisfy the conditions for a categorical exclusion under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) implementing regulations or procedures of the lead authority; and

“(ii) do not require the preparation of an environmental assessment or an environmental impact statement under that Act.

“(3) MULTIMODAL PROJECT.—The term ‘multimodal project’ has the meaning given the term in section 139(a) of title 23.

“(b) EXERCISE OF AUTHORITIES.—The authorities granted in this section may be exercised for a multimodal project, class of projects, or program of projects that are carried out under this title.

“(c) APPLICATION OF CATEGORICAL EXCLUSIONS FOR MULTIMODAL PROJECTS.—When considering the environmental impacts of a proposed multimodal project, a lead authority may apply a categorical exclusion designated under the implementing regulations or procedures of a cooperating authority for other components of the project, on the conditions that—

“(1) the multimodal project is funded under 1 grant agreement administered by the lead authority;

“(2) the multimodal project has components that require the expertise of a cooperating authority to assess the environmental impacts of the components;

“(3) the component of the project to be covered by the categorical exclusion of the cooperating authority has independent utility;

“(4) the cooperating authority, in consultation with the lead authority, follows National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) implementing regulations or procedures and determines that a categorical exclusion under that Act applies to the components; and

“(5) the lead authority has determined that—

“(A) the project, using the categorical exclusions of the lead and cooperating authorities, does not individually or cumulatively have a significant impact on the environment; and

“(B) extraordinary circumstances do not exist that merit further analysis and documentation in an environmental impact statement or environmental assessment required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(d) MODAL COOPERATION.—

“(1) IN GENERAL.—A cooperating authority shall provide modal expertise to a lead authority with administrative authority over a multimodal project on such aspects of the project in which the cooperating authority has expertise.

“(2) USE OF CATEGORICAL EXCLUSION.—In a case described in paragraph (1), the 1 or more categorical exclusions of a cooperating authority may be applied by the lead authority once the cooperating authority reviews the project on behalf of the lead authority and determines the project satisfies the conditions for a categorical exclusion under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) implementing regulations or procedures of the cooperating authority and this section.”

(b) CONFORMING AMENDMENT.—The item relating to section 304 in the analysis for title 49, United States Code, is amended to read as follows:

“304. Application of categorical exclusions for multimodal projects.”

**SEC. 1307. STATE ASSUMPTION OF RESPONSIBILITIES FOR CATEGORICAL EXCLUSIONS.**

Section 326 of title 23, United States Code, is amended—

(1) by striking subsection (d) and inserting the following:

“(d) TERMINATION.—

“(1) TERMINATION BY THE SECRETARY.—The Secretary may terminate any assumption of responsibility under a memorandum of understanding on a determination that the State is not adequately carrying out the responsibilities assigned to the State.

“(2) TERMINATION BY THE STATE.—The State may terminate the participation of the State in the program at any time by providing to the Secretary a notice by not later than the date that is 90 days before the date of termination, and subject to such terms and conditions as the Secretary may provide.”; and

(2) by adding at the end the following:

“(f) LEGAL FEES.—A State assuming the responsibilities of the Secretary under this section for a specific project may use funds apportioned to the State under section 104(b)(2) for attorneys fees directly attributable to eligible activities associated with the project.”

**SEC. 1308. SURFACE TRANSPORTATION PROJECT DELIVERY PROGRAM.**

(a) IN GENERAL.—Section 327 of title 23, United States Code, is amended—

(1) in the section heading by striking “pilot”;

(2) in subsection (a)—

(A) in paragraph (1) by striking “pilot”;

and

(B) in paragraph (2)—

(i) in subparagraph (B) by striking clause (ii) and inserting the following:

“(ii) the Secretary may not assign—

“(I) any responsibility imposed on the Secretary by section 134 or 135; or

“(II) responsibility for any conformity determination required under section 176 of the Clean Air Act (42 U.S.C. 7506).”; and

(ii) by adding at the end the following:

“(F) LEGAL FEES.—A State assuming the responsibilities of the Secretary under this section for a specific project may use funds apportioned to the State under section 104(b)(2) for attorneys fees directly attributable to eligible activities associated with the project.”;

(3) in subsection (b)—

(A) by striking paragraph (1);

(B) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively; and

(C) in subparagraph (A) of paragraph (3) (as so redesignated) by striking “(2)” and inserting “(1)”;

(4) in subsection (c)—

(A) in paragraph (3)(D) by striking the period at the end and inserting a semicolon; and

(B) by adding at the end the following:

“(4) require the State to provide to the Secretary any information the Secretary considers necessary to ensure that the State is adequately carrying out the responsibilities assigned to the State;

“(5) require the Secretary—

“(A) after a period of 5 years, to evaluate the ability of the State to carry out the responsibility assumed under this section;

“(B) if the Secretary determines that the State is not ready to effectively carry out the responsibilities the State has assumed, to reevaluate the readiness of the State every 3 years, or at such other frequency as the Secretary considers appropriate, after the initial 5-year evaluation, until the State is ready to assume the responsibilities on a permanent basis; and

“(C) once the Secretary determines that the State is ready to permanently assume the responsibilities of the Secretary, not to require any further evaluations; and

“(6) require the State to provide the Secretary with any information, including regular written reports, as the Secretary may require in conducting evaluations under paragraph (5).”;

(5) by striking subsection (g);

(6) by redesignating subsections (h) and (i) as subsections (g) and (h), respectively; and

(7) in subsection (h) (as so redesignated)—

(A) by striking paragraph (1);

(B) by redesignating paragraph (2) as paragraph (1); and

(C) by inserting after paragraph (1) (as so redesignated) the following:

“(2) TERMINATION BY THE STATE.—The State may terminate the participation of the State in the program at any time by providing to the Secretary a notice by not later than the date that is 90 days before the date of termination, and subject to such terms and conditions as the Secretary may provide.”

(b) CONFORMING AMENDMENT.—The item relating to section 327 in the analysis of title 23, United States Code, is amended to read as follows:

“327. Surface transportation project delivery program.”

**SEC. 1309. CATEGORICAL EXCLUSION FOR PROJECTS WITHIN THE RIGHT-OF-WAY.**

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary shall publish a notice of proposed rulemaking for a categorical exclusion that meets the definitions (as in effect on that date) of section 1508.4 of title 40, Code of Federal Regulations, and section 771.117 of title 23, Code of Federal Regulations, for a project (as defined in section 101(a) of title 23, United States Code)—

(1) that is located solely within the right-of-way of an existing highway, such as new turn lanes and bus pull-offs;

(2) that does not include the addition of a through lane or new interchange; and

(3) for which the project sponsor demonstrates that the project—

(A) is intended to improve safety, alleviate congestion, or improve air quality; or

(B) would improve or maintain pavement or structural conditions or achieve a state of good repair.



(b) NOTICE.—Not later than 60 days after the date of enactment of this Act, the Secretary shall publish a notice of proposed rulemaking to further define and implement subsection (a) within subsection (c) or (d) of section 771.117 of title 23, Code of Federal Regulations (as in effect on the date of enactment of the MAP-21).

**SEC. 1310. PROGRAMMATIC AGREEMENTS AND ADDITIONAL CATEGORICAL EXCLUSIONS.**

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary shall—

(1) survey the use by the Department of Transportation of categorical exclusions in transportation projects since 2005;

(2) publish a review of the survey that includes a description of—

(A) the types of actions categorically excluded; and

(B) any requests previously received by the Secretary for new categorical exclusions; and

(3) solicit requests from State departments of transportation, transit authorities, metropolitan planning organizations, or other government agencies for new categorical exclusions.

(b) NEW CATEGORICAL EXCLUSIONS.—Not later than 120 days after the date of enactment of this Act, the Secretary shall publish a notice of proposed rulemaking to propose new categorical exclusions received by the Secretary under subsection (a), to the extent that the categorical exclusions meet the criteria for a categorical exclusion under section 1508.4 of title 40, Code of Federal Regulations and section 771.117(a) of title 23, Code of Federal Regulations (as those regulations are in effect on the date of the notice).

(c) ADDITIONAL ACTIONS.—The Secretary shall issue a proposed rulemaking to move the following types of actions from subsection (d) of section 771.117 of title 23, Code of Federal Regulations (as in effect on the date of enactment of this Act), to subsection (c) of that section, to the extent that such movement complies with the criteria for a categorical exclusion under section 1508.4 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this Act):

(1) Modernization of a highway by resurfacing, restoration, rehabilitation, reconstruction, adding shoulders, or adding auxiliary lanes (including parking, weaving, turning, and climbing).

(2) Highway safety or traffic operations improvement projects, including the installation of ramp metering control devices and lighting.

(3) Bridge rehabilitation, reconstruction, or replacement or the construction of grade separation to replace existing at-grade railroad crossings.

**(d) PROGRAMMATIC AGREEMENTS.—**

(1) IN GENERAL.—The Secretary shall seek opportunities to enter into programmatic agreements with the States that establish efficient administrative procedures for carrying out environmental and other required project reviews.

(2) INCLUSIONS.—Programmatic agreements authorized under paragraph (1) may include agreements that allow a State to determine on behalf of the Federal Highway Administration whether a project is categorically excluded from the preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(3) DETERMINATIONS.—An agreement described in paragraph (2) may include deter-

minations by the Secretary of the types of projects categorically excluded (consistent with section 1508.4 of title 40, Code of Federal Regulations) in the State in addition to the types listed in subsections (c) and (d) of section 771.117 of title 23, Code of Federal Regulations (as in effect on the date of enactment of this Act).

**SEC. 1311. ACCELERATED DECISIONMAKING IN ENVIRONMENTAL REVIEWS.**

(a) IN GENERAL.—When preparing a final environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), if the lead agency makes changes in response to comments that are minor and are confined to factual corrections or explanations of why the comments do not warrant further agency response, the lead agency may write on errata sheets attached to the statement instead of rewriting the draft statement, on the condition that the errata sheets—

(1) cite the sources, authorities, or reasons that support the position of the agency; and

(2) if appropriate, indicate the circumstances that would trigger agency reappraisal or further response.

(b) INCORPORATION.—To the maximum extent practicable, the lead agency shall expeditiously develop a single document that consists of a final environmental impact statement and a record of decision unless—

(1) the final environmental impact statement makes substantial changes to the proposed action that are relevant to environmental or safety concerns; or

(2) there are significant new circumstances or information relevant to environmental concerns and that bear on the proposed action or the impacts of the proposed action.

**SEC. 1312. MEMORANDA OF AGENCY AGREEMENTS FOR EARLY COORDINATION.**

(a) IN GENERAL.—It is the sense of Congress that—

(1) the Secretary and other Federal agencies with relevant jurisdiction in the environmental review process should cooperate with each other and other agencies on environmental review and project delivery activities at the earliest practicable time to avoid delays and duplication of effort later in the process, head off potential conflicts, and ensure that planning and project development decisions reflect environmental values; and

(2) such cooperation should include the development of policies and the designation of staff that advise planning agencies or project sponsors of studies or other information foreseeably required for later Federal action and early consultation with appropriate State and local agencies and Indian tribes.

(b) TECHNICAL ASSISTANCE.—If requested at any time by a State or local planning agency, the Secretary and other Federal agencies with relevant jurisdiction in the environmental review process, shall, to the extent practicable and appropriate, as determined by the agencies, provide technical assistance to the State or local planning agency on accomplishing the early coordination activities described in subsection (d).

(c) MEMORANDUM OF AGENCY AGREEMENT.—If requested at any time by a State or local planning agency, the lead agency, in consultation with other Federal agencies with relevant jurisdiction in the environmental review process, may establish memoranda of agreement with the project sponsor, State, and local governments and other appropriate entities to accomplish the early coordination activities described in subsection (d).

(d) EARLY COORDINATION ACTIVITIES.—Early coordination activities shall include, to the maximum extent practicable, the following:

(1) Technical assistance on identifying potential impacts and mitigation issues in an integrated fashion.

(2) The potential appropriateness of using planning products and decisions in later environmental reviews.

(3) The identification and elimination from detailed study in the environmental review process of the issues that are not significant or that have been covered by prior environmental reviews.

(4) The identification of other environmental review and consultation requirements so that the lead and cooperating agencies may prepare, as appropriate, other required analyses and studies concurrently with planning activities.

(5) The identification by agencies with jurisdiction over any permits related to the project of any and all relevant information that will reasonably be required for the project.

(6) The reduction of duplication between requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and State and local planning and environmental review requirements, unless the agencies are specifically barred from doing so by applicable law.

(7) Timelines for the completion of agency actions during the planning and environmental review processes.

(8) Other appropriate factors.

**SEC. 1313. ACCELERATED DECISIONMAKING.**

Section 139(h) of title 23, United States Code, is amended by striking paragraph (4) and inserting the following:

“(4) INTERIM DECISION ON ACHIEVING ACCELERATED DECISIONMAKING.—

“(A) IN GENERAL.—Not later than 30 days after the close of the public comment period on a draft environmental impact statement, the Secretary may convene a meeting with the project sponsor, lead agency, resource agencies, and any relevant State agencies to ensure that all parties are on schedule to meet deadlines for decisions to be made regarding the project.

“(B) DEADLINES.—The deadlines referred to in subparagraph (A) shall be those established under subsection (g), or any other deadlines established by the lead agency, in consultation with the project sponsor and other relevant agencies.

“(C) FAILURE TO ASSURE.—If the relevant agencies cannot provide reasonable assurances that the deadlines described in subparagraph (B) will be met, the Secretary may initiate the issue resolution and referral process described under paragraph (5) and before the completion of the record of decision.

“(5) ACCELERATED ISSUE RESOLUTION AND REFERRAL.—

“(A) AGENCY ISSUE RESOLUTION MEETING.—

“(i) IN GENERAL.—A Federal agency of jurisdiction, project sponsor, or the Governor of a State in which a project is located may request an issue resolution meeting to be conducted by the lead agency.

“(ii) ACTION BY LEAD AGENCY.—The lead agency shall convene an issue resolution meeting under clause (i) with the relevant participating agencies and the project sponsor, including the Governor only if the meeting was requested by the Governor, to resolve issues that could—

“(I) delay completion of the environmental review process; or

“(II) result in denial of any approvals required for the project under applicable laws.

“(iii) DATE.—A meeting requested under this subparagraph shall be held by not later than 21 days after the date of receipt of the request for the meeting, unless the lead

agency determines that there is good cause to extend the time for the meeting.

“(iv) NOTIFICATION.—On receipt of a request for a meeting under this subparagraph, the lead agency shall notify all relevant participating agencies of the request, including the issue to be resolved, and the date for the meeting.

“(v) DISPUTES.—If a relevant participating agency with jurisdiction over an approval required for a project under applicable law determines that the relevant information necessary to resolve the issue has not been obtained and could not have been obtained within a reasonable time, but the lead agency disagrees, the resolution of the dispute shall be forwarded to the heads of the relevant agencies for resolution.

“(vi) CONVENTION BY LEAD AGENCY.—A lead agency may convene an issue resolution meeting under this subsection at any time without the request of the Federal agency of jurisdiction, project sponsor, or the Governor of a State.

“(B) ELEVATION OF ISSUE RESOLUTION.—

“(i) IN GENERAL.—If issue resolution is not achieved by not later than 30 days after the date of a relevant meeting under subparagraph (A), the Secretary shall notify the lead agency, the heads of the relevant participating agencies, and the project sponsor (including the Governor only if the initial issue resolution meeting request came from the Governor) that an issue resolution meeting will be convened.

“(ii) REQUIREMENTS.—The Secretary shall identify the issues to be addressed at the meeting and convene the meeting not later than 30 days after the date of issuance of the notice.

“(C) REFERRAL OF ISSUE RESOLUTION.—

“(i) REFERRAL TO COUNCIL ON ENVIRONMENTAL QUALITY.—

“(I) IN GENERAL.—If resolution is not achieved by not later than 30 days after the date of an issue resolution meeting under subparagraph (B), the Secretary shall refer the matter to the Council on Environmental Quality.

“(II) MEETING.—Not later than 30 days after the date of receipt of a referral from the Secretary under subclause (I), the Council on Environmental Quality shall hold an issue resolution meeting with the lead agency, the heads of relevant participating agencies, and the project sponsor (including the Governor only if an initial request for an issue resolution meeting came from the Governor).

“(iii) REFERRAL TO THE PRESIDENT.—If a resolution is not achieved by not later than 30 days after the date of the meeting convened by the Council on Environmental Quality under clause (i)(II), the Secretary shall refer the matter directly to the President.

“(6) FINANCIAL TRANSFER PROVISIONS.—

“(A) IN GENERAL.—A Federal agency of jurisdiction over an approval required for a project under applicable laws shall complete any required approval on an expeditious basis using the shortest existing applicable process.

“(B) FAILURE TO DECIDE.—

“(i) IN GENERAL.—If an agency described in subparagraph (A) fails to render a decision under any Federal law relating to a project that requires the preparation of an environmental impact statement or environmental assessment, including the issuance or denial of a permit, license, or other approval by the date described in clause (ii), the agency shall transfer from the applicable office of the head of the agency, or equivalent office to which the authority for rendering the deci-

sion has been delegated by law, to the agency or division charged with rendering a decision regarding the application, by not later than 1 day after the applicable date under clause (ii), and once each week thereafter until a final decision is rendered, subject to subparagraph (C)—

“(I) \$20,000 for any project for which an annual financial plan under section 106(i) is required; or

“(II) \$10,000 for any other project requiring preparation of an environmental assessment or environmental impact statement.

“(ii) DESCRIPTION OF DATE.—The date referred to in clause (i) is the later of—

“(I) the date that is 180 days after the date on which an application for the permit, license, or approval is complete; and

“(II) the date that is 180 days after the date on which the Federal lead agency issues a decision on the project under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(C) LIMITATIONS.—

“(i) IN GENERAL.—No transfer of funds under subparagraph (B) relating to an individual project shall exceed, in any fiscal year, an amount equal to 1 percent of the funds made available for the applicable agency office.

“(ii) FAILURE TO DECIDE.—The total amount transferred in a fiscal year as a result of a failure by an agency to make a decision by an applicable deadline shall not exceed an amount equal to 5 percent of the funds made available for the applicable agency office for that fiscal year.

“(D) TREATMENT.—The transferred funds shall only be available to the agency or division charged with rendering the decision as additional resources, pursuant to subparagraph (F).

“(E) NO FAULT OF AGENCY.—A transfer of funds under this paragraph shall not be made if the agency responsible for rendering the decision certifies that—

“(i) the agency has not received necessary information or approvals from another entity, such as the project sponsor, in a manner that affects the ability of the agency to meet any requirements under State, local, or Federal law; or

“(ii) significant new information or circumstances, including a major modification to an aspect of the project, requires additional analysis for the agency to make a decision on the project application.

“(F) TREATMENT OF FUNDS.—

“(i) IN GENERAL.—Funds transferred under this paragraph shall supplement resources available to the agency or division charged with making a decision for the purpose of expediting permit reviews.

“(ii) AVAILABILITY.—Funds transferred under this paragraph shall be available for use or obligation for the same period that the funds were originally authorized or appropriated, plus 1 additional fiscal year.

“(iii) LIMITATION.—The Federal agency with jurisdiction for the decision that has transferred the funds pursuant to this paragraph shall not reprogram funds to the office of the head of the agency, or equivalent office, to reimburse that office for the loss of the funds.

“(G) AUDITS.—In any fiscal year in which any Federal agency transfers funds pursuant to this paragraph, the Inspector General of that agency shall—

“(i) conduct an audit to assess compliance with the requirements of this paragraph; and

“(ii) not later than 120 days after the end of the fiscal year during which the transfer occurred, submit to the Committee on Envi-

ronment and Public Works of the Senate and any other appropriate congressional committees a report describing the reasons why the transfers were levied, including allocations of resources.

“(H) EFFECT OF PARAGRAPH.—Nothing in this paragraph affects or limits the application of, or obligation to comply with, any Federal, State, local, or tribal law.

“(I) AUTHORITY FOR INTRA-AGENCY TRANSFER OF FUNDS.—The requirement provided under this paragraph for a Federal agency to transfer or reallocate funds of the Federal agency in accordance with subparagraph (B)(i)—

“(i) shall be treated by the Federal agency as a requirement and authority consistent with any applicable original law establishing and authorizing the agency; but

“(ii) does not provide to the Federal agency the authority to require or determine the intra-agency transfer or reallocation of funds that are provided to or are within any other Federal agency.

“(7) EXPEDIENT DECISIONS AND REVIEWS.—To ensure that Federal environmental decisions and reviews are expeditiously made—

“(A) adequate resources made available under this title shall be devoted to ensuring that applicable environmental reviews under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) are completed on an expeditious basis and that the shortest existing applicable process under that Act is implemented; and

“(B) the President shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate, not less frequently than once every 120 days after the date of enactment of the MAP-21, a report on the status and progress of the following projects and activities funded under this title with respect to compliance with applicable requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.):

“(i) Projects and activities required to prepare an annual financial plan under section 106(i).

“(ii) A sample of not less than 5 percent of the projects requiring preparation of an environmental impact statement or environmental assessment in each State.”

#### SEC. 1314. ENVIRONMENTAL PROCEDURES INITIATIVE.

(a) ESTABLISHMENT.—For grant programs under which funds are distributed by formula by the Department of Transportation, the Secretary shall establish an initiative to review and develop consistent procedures for environmental permitting and procurement requirements.

(b) REPORT.—The Secretary shall publish the results of the initiative described in subsection (a) in an electronically accessible format.

#### SEC. 1315. ALTERNATIVE RELOCATION PAYMENT DEMONSTRATION PROGRAM.

(a) PAYMENT DEMONSTRATION PROGRAM.—

(1) IN GENERAL.—Except as otherwise provided in this section, for the purpose of identifying improvements in the timeliness of providing relocation assistance to persons displaced by Federal or federally assisted programs and projects, the Secretary may allow not more than 5 States to participate in an alternative relocation payment demonstration program under which payments to displaced persons eligible for relocation assistance pursuant to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et

seq.) (including implementing regulations), are calculated based on reasonable estimates and paid in advance of the physical displacement of the displaced person.

(2) **TIMING OF PAYMENTS.**—Relocation assistance payments for projects carried out under an approved State demonstration program may be provided to the displaced person at the same time as payments of just compensation for real property acquired for the program or project of the State.

(3) **COMBINING OF PAYMENTS.**—Payments for relocation and just compensation may be combined into a single unallocated amount.

(b) **CRITERIA.**—

(1) **IN GENERAL.**—After public notice and an opportunity to comment, the Secretary shall adopt criteria for carrying out the alternative relocation payment demonstration program.

(2) **CONDITIONS.**—

(A) **IN GENERAL.**—Conditions for State participation in the demonstration program shall include the conditions described in subparagraphs (B) through (E).

(B) **MEMORANDUM OF AGREEMENT.**—A State wishing to participate in the demonstration program shall be required to enter into a memorandum of agreement with the Secretary that includes provisions relating to—

(i) the selection of projects or programs within the State to which the alternative relocation payment process will be applied;

(ii) program and project-level monitoring;

(iii) performance measurement;

(iv) reporting; and

(v) the circumstances under which the Secretary may terminate the demonstration program of the State before the end of the program term.

(C) **TERM OF DEMONSTRATION PROGRAM.**—Except as provided in subparagraph (B)(v), the demonstration program of the State may continue for up to 3 years after the date on which the Secretary executes the memorandum of agreement.

(D) **DISPLACED PERSONS.**—

(i) **IN GENERAL.**—Displaced persons affected by a project included in the demonstration program of the State shall be informed in writing in a format that is clear and easily understandable that the relocation payments that the displaced persons receive under the demonstration program may be higher or lower than the amount that the displaced persons would receive under the standard relocation assistance process.

(ii) **ALTERNATIVE PROCESS.**—Displaced persons shall be informed—

(I) of the right of the displaced persons not to participate in the demonstration program; and

(II) that the alternative relocation payment process can be used only if the displaced person agrees in writing.

(iii) **ASSISTANCE.**—The displacing agency shall provide any displaced person who elects not to participate in the demonstration program with relocation assistance in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.) (including implementing regulations).

(E) **OTHER DISPLACEMENTS.**—

(i) **IN GENERAL.**—If other Federal agencies plan displacements in or adjacent to a demonstration program project area within the same time period as the project acquisition and relocation actions of the demonstration program, the Secretary shall adopt measures to protect against inconsistent treatment of displaced persons.

(ii) **INCLUSION.**—Measures described in clause (i) may include a determination that

the demonstration program authority may not be used on a particular project.

(c) **REPORT.**—

(1) **IN GENERAL.**—The Secretary shall submit to Congress—

(A) at least every 18 months after the date of enactment of this Act, a report on the progress and results of the demonstration program; and

(B) not later than 1 year after all State demonstration programs have ended, a final report.

(2) **REQUIREMENTS.**—The final report shall include an evaluation by the Secretary of the merits of the alternative relocation payment demonstration program, including the effects of the demonstration program on—

(A) displaced persons and the protections afforded to displaced persons by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.);

(B) the efficiency of the delivery of Federal-aid highway projects and overall effects on the Federal-aid highway program; and

(C) the achievement of the purposes of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

(d) **LIMITATION.**—The authority of this section may be used only on projects funded under title 23, United States Code, in cases in which the funds are administered by the Federal Highway Administration.

(e) **AUTHORITY.**—The authority of the Secretary to approve an alternate relocation payment demonstration program for a State terminates on the date that is 3 years after the date of enactment of this Act.

#### **SEC. 1316. REVIEW OF FEDERAL PROJECT AND PROGRAM DELIVERY.**

(a) **COMPLETION TIME ASSESSMENTS AND REPORTS.**—

(1) **IN GENERAL.**—For projects funded under title 23, United States Code, the Secretary shall compare—

(A)(i) the completion times of categorical exclusions, environmental assessments, and environmental impact statements initiated after calendar year 2005; to

(ii) the completion times of categorical exclusions, environmental assessments, and environmental impact statements initiated during a period prior to calendar year 2005; and

(B)(i) the completion times of categorical exclusions, environmental assessments, and environmental impact statements initiated during the period beginning on January 1, 2005, and ending on the date of enactment of this Act; to

(ii) the completion times of categorical exclusions, environmental assessments, and environmental impact statements initiated after the date of enactment of this Act.

(2) **REPORT.**—The Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report—

(A) not later than 1 year after the date of enactment of this Act that—

(i) describes the results of the review conducted under paragraph (1)(A); and

(ii) identifies any change in the timing for completions, including the reasons for any such change and the reasons for delays in excess of 5 years; and

(B) not later than 5 years after the date of enactment of this Act that—

(i) describes the results of the review conducted under paragraph (1)(B); and

(ii) identifies any change in the timing for completions, including the reasons for any

such change and the reasons for delays in excess of 5 years.

(b) **ADDITIONAL REPORT.**—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the types and justification for the additional categorical exclusions granted under the authority provided under sections 1309 and 1310.

(c) **GAO REPORT.**—The Comptroller General of the United States shall—

(1) assess the reforms carried out under sections 1301 through 1315 (including the amendments made by those sections); and

(2) not later than 5 years after the date of enactment of this Act, submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that describes the results of the assessment.

(d) **INSPECTOR GENERAL REPORT.**—The Inspector General of the Department of Transportation shall—

(1) assess the reforms carried out under sections 1301 through 1315 (including the amendments made by those sections); and

(2) submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate—

(A) not later than 2 years after the date of enactment of this Act, an initial report of the findings of the Inspector General; and

(B) not later than 4 years after the date of enactment of this Act, a final report of the findings.

#### **Subtitle D—Highway Safety**

##### **SEC. 1401. JASON'S LAW.**

(a) **IN GENERAL.**—It is the sense of Congress that it is a national priority to address projects under this section for the shortage of long-term parking for commercial motor vehicles on the National Highway System to improve the safety of motorized and non-motorized users and for commercial motor vehicle operators.

(b) **ELIGIBLE PROJECTS.**—Eligible projects under this section are those that—

(1) serve the National Highway System; and

(2) may include the following:

(A) Constructing safety rest areas (as defined in section 120(c) of title 23, United States Code) that include parking for commercial motor vehicles.

(B) Constructing commercial motor vehicle parking facilities adjacent to commercial truck stops and travel plazas.

(C) Opening existing facilities to commercial motor vehicle parking, including inspection and weigh stations and park-and-ride facilities.

(D) Promoting the availability of publicly or privately provided commercial motor vehicle parking on the National Highway System using intelligent transportation systems and other means.

(E) Constructing turnouts along the National Highway System for commercial motor vehicles.

(F) Making capital improvements to public commercial motor vehicle parking facilities currently closed on a seasonal basis to allow the facilities to remain open year-round.

(G) Improving the geometric design of interchanges on the National Highway System to improve access to commercial motor vehicle parking facilities.

(c) **SURVEY AND COMPARATIVE ASSESSMENT.**—

(1) IN GENERAL.—The Secretary, in consultation with relevant State motor carrier safety personnel, shall conduct a survey regarding the availability of parking facilities within each State—

(A) to evaluate the capability of the State to provide adequate parking and rest facilities for motor carriers engaged in interstate motor carrier service;

(B) to assess the volume of motor carrier traffic through the State; and

(C) to develop a system of metrics to measure the adequacy of parking facilities in the State.

(2) RESULTS.—The results of the survey under paragraph (1) shall be made available to the public on the website of the Department of Transportation.

(3) PERIODIC UPDATES.—The Secretary shall periodically update the survey under this subsection.

(d) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, projects funded through the authority provided under this section shall be treated as projects on a Federal-aid highway under chapter 1 of title 23, United States Code.

#### SEC. 1402. OPEN CONTAINER REQUIREMENTS.

Section 154(c) of title 23, United States Code, is amended—

(1) by striking paragraph (2) and inserting the following:

“(2) FISCAL YEAR 2012 AND THEREAFTER.—

“(A) RESERVATION OF FUNDS.—On October 1, 2011, and each October 1 thereafter, if a State has not enacted or is not enforcing an open container law described in subsection (b), the Secretary shall reserve an amount equal to 2.5 percent of the funds to be apportioned to the State on that date under each of paragraphs (1) and (2) of section 104(b) until the State certifies to the Secretary the means by which the State will use those reserved funds in accordance with subparagraphs (A) and (B) of paragraph (1) and paragraph (3).

“(B) TRANSFER OF FUNDS.—As soon as practicable after the date of receipt of a certification from a State under subparagraph (A), the Secretary shall—

“(i) transfer the reserved funds identified by the State for use as described in subparagraphs (A) and (B) of paragraph (1) to the apportionment of the State under section 402; and

“(ii) release the reserved funds identified by the State as described in paragraph (3).”;

(2) by striking paragraph (3) and inserting the following:

“(3) USE FOR HIGHWAY SAFETY IMPROVEMENT PROGRAM.—

“(A) IN GENERAL.—A State may elect to use all or a portion of the funds transferred under paragraph (2) for activities eligible under section 148.

“(B) STATE DEPARTMENTS OF TRANSPORTATION.—If the State makes an election under subparagraph (A), the funds shall be transferred to the department of transportation of the State, which shall be responsible for the administration of the funds.”; and

(3) by striking paragraph (5) and inserting the following:

“(5) DERIVATION OF AMOUNT TO BE TRANSFERRED.—The amount to be transferred under paragraph (2) may be derived from the following:

“(A) The apportionment of the State under section 104(b)(1).

“(B) The apportionment of the State under section 104(b)(2).”.

#### SEC. 1403. MINIMUM PENALTIES FOR REPEAT OFFENDERS FOR DRIVING WHILE INTOXICATED OR DRIVING UNDER THE INFLUENCE.

(a) DEFINITIONS.—Section 164(a) of title 23, United States Code, is amended—

(1) by striking paragraph (3);

(2) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively; and

(3) in paragraph (4) (as so redesignated) by striking subparagraph (A) and inserting the following:

“(A) receive—

“(i) a suspension of all driving privileges for not less than 1 year; or

“(ii) a suspension of unlimited driving privileges for 1 year, allowing for the reinstatement of limited driving privileges subject to restrictions and limited exemptions as established by State law, if an ignition interlock device is installed for not less than 1 year on each of the motor vehicles owned or operated, or both, by the individual.”;

(b) TRANSFER OF FUNDS.—Section 164(b) of title 23, United States Code, is amended—

(1) by striking paragraph (2) and inserting the following:

“(2) FISCAL YEAR 2012 AND THEREAFTER.—

“(A) RESERVATION OF FUNDS.—On October 1, 2011, and each October 1 thereafter, if a State has not enacted or is not enforcing a repeat intoxicated driver law, the Secretary shall reserve an amount equal to 2.5 percent of the funds to be apportioned to the State on that date under each of paragraphs (1) and (2) of section 104(b) until the State certifies to the Secretary the means by which the States will use those reserved funds among the uses authorized under subparagraphs (A) and (B) of paragraph (1), and paragraph (3).

“(B) TRANSFER OF FUNDS.—As soon as practicable after the date of receipt of a certification from a State under subparagraph (A), the Secretary shall—

“(i) transfer the reserved funds identified by the State for use as described in subparagraphs (A) and (B) of paragraph (1) to the apportionment of the State under section 402; and

“(ii) release the reserved funds identified by the State as described in paragraph (3).”;

(2) by striking paragraph (3) and inserting the following:

“(3) USE FOR HIGHWAY SAFETY IMPROVEMENT PROGRAM.—

“(A) IN GENERAL.—A State may elect to use all or a portion of the funds transferred under paragraph (2) for activities eligible under section 148.

“(B) STATE DEPARTMENTS OF TRANSPORTATION.—If the State makes an election under subparagraph (A), the funds shall be transferred to the department of transportation of the State, which shall be responsible for the administration of the funds.”; and

(3) by striking paragraph (5) and inserting the following:

“(5) DERIVATION OF AMOUNT TO BE TRANSFERRED.—The amount to be transferred under paragraph (2) may be derived from the following:

“(A) The apportionment of the State under section 104(b)(1).

“(B) The apportionment of the State under section 104(b)(2).”.

#### SEC. 1404. ADJUSTMENTS TO PENALTY PROVISIONS.

(a) VEHICLE WEIGHT LIMITATIONS.—Section 127(a)(1) of title 23, United States Code, is amended by striking “No funds shall be apportioned in any fiscal year under section 104(b)(1) of this title to any State which” and inserting “The Secretary shall withhold 50 percent of the apportionment of a State

under section 104(b)(1) in any fiscal year in which the State”.

(b) CONTROL OF JUNKYARDS.—Section 136 of title 23, United States Code, is amended—

(1) in subsection (b), in the first sentence—

(A) by striking “10 per centum” and inserting “7 percent”; and

(B) by striking “section 104 of this title” and inserting “paragraphs (1) through (5) of section 104(b)”;

(2) by adding at the end the following:

“(n) For purposes of this section, the terms ‘primary system’ and ‘Federal-aid primary system’ mean any highway that is on the National Highway System, which includes the Interstate Highway System.”.

(c) ENFORCEMENT OF VEHICLE SIZE AND WEIGHT LAWS.—Section 141(b)(2) of title 23, United States Code, is amended—

(1) by striking “10 per centum” and inserting “7 percent”; and

(2) by striking “section 104 of this title” and inserting “paragraphs (1) through (5) of section 104(b)”.

(d) PROOF OF PAYMENT OF THE HEAVY VEHICLE USE TAX.—Section 141(c) of title 23, United States Code, is amended—

(1) by striking “section 104(b)(4)” each place it appears and inserting “section 104(b)(1)”;

(2) in the first sentence by striking “25 per centum” and inserting “8 percent”.

(e) USE OF SAFETY BELTS.—Section 153(h) of title 23, United States Code, is amended—

(1) by striking paragraph (1);

(2) by redesignating paragraph (2) as paragraph (1);

(3) in paragraph (1) (as so redesignated)—

(A) by striking the paragraph heading and inserting “PRIOR TO FISCAL YEAR 2012”; and

(B) by inserting “and before October 1, 2011,” after “September 30, 1994.”; and

(4) by inserting after paragraph (1) (as so redesignated) the following:

“(2) FISCAL YEAR 2012 AND THEREAFTER.—If, at any time in a fiscal year beginning after September 30, 2011, a State does not have in effect a law described in subsection (a)(2), the Secretary shall transfer an amount equal to 2 percent of the funds apportioned to the State for the succeeding fiscal year under each of paragraphs (1) through (3) of section 104(b) to the apportionment of the State under section 402.”.

(f) NATIONAL MINIMUM DRINKING AGE.—Section 158(a)(1) of title 23, United States Code, is amended—

(1) by striking “The Secretary” and inserting the following:

“(A) FISCAL YEARS BEFORE 2012.—The Secretary”; and

(2) by adding at the end the following:

“(B) FISCAL YEAR 2012 AND THEREAFTER.—For fiscal year 2012 and each fiscal year thereafter, the amount to be withheld under this section shall be an amount equal to 8 percent of the amount apportioned to the noncompliant State, as described in subparagraph (A), under paragraphs (1) and (2) of section 104(b).”.

(g) DRUG OFFENDERS.—Section 159 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) by striking paragraph (1);

(B) by redesignating paragraph (2) as paragraph (1);

(C) in paragraph (1) (as so redesignated) by striking “(including any amounts withheld under paragraph (1))”; and

(D) by inserting after paragraph (1) (as so redesignated) the following:

“(2) FISCAL YEAR 2012 AND THEREAFTER.—The Secretary shall withhold an amount equal to 8 percent of the amount required to

be apportioned to any State under each of paragraphs (1) and (2) of section 104(b) on the first day of each fiscal year beginning after September 30, 2011, if the State fails to meet the requirements of paragraph (3) on the first day of the fiscal year.”; and

(2) by striking subsection (b) and inserting the following:

“(b) EFFECT OF NONCOMPLIANCE.—No funds withheld under this section from apportionments to any State shall be available for apportionment to that State.”.

(h) ZERO TOLERANCE BLOOD ALCOHOL CONCENTRATION FOR MINORS.—Section 161(a) of title 23, United States Code, is amended—

(1) by striking paragraph (1);

(2) by redesignating paragraph (2) as paragraph (1);

(3) in paragraph (1) (as so redesignated)—

(A) by striking the paragraph heading and inserting “PRIOR TO FISCAL YEAR 2012”; and

(B) by inserting “through fiscal year 2011” after “each fiscal year thereafter”; and

(4) by inserting after paragraph (1) (as so redesignated) the following:

“(2) FISCAL YEAR 2012 AND THEREAFTER.—The Secretary shall withhold an amount equal to 8 percent of the amount required to be apportioned to any State under each of paragraphs (1) and (2) of section 104(b) on October 1, 2011, and on October 1 of each fiscal year thereafter, if the State does not meet the requirement of paragraph (3) on that date.”.

(i) OPERATION OF MOTOR VEHICLES BY INTOXICATED PERSONS.—Section 163(e) of title 23, United States Code, is amended by striking paragraphs (1) and (2) and inserting the following:

“(1) FISCAL YEARS 2007 THROUGH 2011.—On October 1, 2006, and October 1 of each fiscal year thereafter through fiscal year 2011, if a State has not enacted or is not enforcing a law described in subsection (a), the Secretary shall withhold an amount equal to 8 percent of the amounts to be apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b).

“(2) FISCAL YEAR 2012 AND THEREAFTER.—On October 1, 2011, and October 1 of each fiscal year thereafter, if a State has not enacted or is not enforcing a law described in subsection (a), the Secretary shall withhold an amount equal to 6 percent of the amounts to be apportioned to the State on that date under each of paragraphs (1) and (2) of section 104(b).”.

(j) COMMERCIAL DRIVER’S LICENSE.—Section 31314 of title 49, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

“(c) PENALTIES IMPOSED IN FISCAL YEAR 2012 AND THEREAFTER.—Effective beginning on October 1, 2011—

“(1) the penalty for the first instance of noncompliance by a State under this section shall be not more than an amount equal to 4 percent of funds required to be apportioned to the noncompliant State under paragraphs (1) and (2) of section 104(b) of title 23; and

“(2) the penalty for subsequent instances of noncompliance shall be not more than an amount equal to 8 percent of funds required to be apportioned to the noncompliant State under paragraphs (1) and (2) of section 104(b) of title 23.”.

#### SEC. 1405. HIGHWAY WORKER SAFETY.

Not later than 60 days after the date of enactment of this Act, the Secretary shall modify section 630.1108(a) of title 23, Code of Federal Regulations (as in effect on the date of enactment of this Act), to ensure that—

(1) at a minimum, positive protective measures are used to separate workers on highway construction projects from motorized traffic in all work zones conducted under traffic in areas that offer workers no means of escape (such as tunnels and bridges), unless an engineering study determines otherwise;

(2) temporary longitudinal traffic barriers are used to protect workers on highway construction projects in long-duration stationary work zones when the project design speed is anticipated to be high and the nature of the work requires workers to be within 1 lane-width from the edge of a live travel lane, unless—

(A) an analysis by the project sponsor determines otherwise; or

(B) the project is outside of an urbanized area and the annual average daily traffic load of the applicable road is less than 100 vehicles per hour; and

(3) when positive protective devices are necessary for highway construction projects, those devices are paid for on a unit-pay basis, unless doing so would create a conflict with innovative contracting approaches, such as design-build or some performance-based contracts under which the contractor is paid to assume a certain risk allocation and payment is generally made on a lump-sum basis.

#### SEC. 1406. GUARDRAIL SAFETY AND COST STUDY.

(a) DEFINITIONS OF TYPE I GUARDRAIL AND TYPE II GUARDRAIL.—In this section, the terms “Type I guardrail” and “Type II guardrail” have the meaning given those terms in AASHTO Designation M-180-11, except that—

(1) the term “Type I guardrail” means only Type I guardrail that is galvanized prior to fabrication; and

(2) the term “Type II guardrail” means only Type II guardrail that is galvanized after fabrication.

(b) STUDY.—The Secretary shall conduct a study regarding the safety and cost of guardrails in accordance with this section.

(c) SUBJECT MATTER.—

(1) IN GENERAL.—The study shall include an evaluation of the relative safety and lifecycle cost of Type I guardrail and Type II guardrail.

(2) SAFETY EVALUATION.—The evaluation of relative safety described in paragraph (1) shall include consideration of whether there is a relationship between severity of crash outcomes, in terms of fatalities, injuries, or damage, and the use of different guardrail types.

(3) LIFECYCLE COST.—The evaluation of the lifecycle cost of different guardrail types described in paragraph (1) shall include consideration of a range of time periods, including a minimum 30-year period.

(d) METHODS.—In carrying out the study under this section, the Secretary shall—

(1) consider guardrail-related crash data and other relevant actual experience in the use of different types of guardrails, including whether there is a relationship between severity of crash outcomes and the use of different guardrail types;

(2) consider prior research and other sources of information;

(3) consult with manufacturers of guardrails, State and local transportation officials with responsibility for the purchase or maintenance of guardrails, associations representing those entities, and such other experts as the Secretary determines to be appropriate; and

(4) undertake, to the extent the Secretary determines to be appropriate, independent

research or materials testing or take other steps to collect and analyze data and information.

(e) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the study under this section, including—

(1) any findings by the Secretary regarding differences in the relative safety and lifecycle cost of Type I guardrail and Type II guardrail; and

(2) any recommendations by the Secretary relating to safety and lifecycle cost of guardrails, including any recommendations as to whether any difference in the relative safety and lifecycle cost of Type I guardrail and Type II guardrail warrants limiting eligibility to use Federal funds for guardrail to guardrail meeting certain characteristics.

#### Subtitle E—Miscellaneous

##### SEC. 1501. PROGRAM EFFICIENCIES.

The first sentence of section 102(b) of title 23, United States Code, is amended by striking “made available for such engineering” and inserting “reimbursed for the preliminary engineering”.

##### SEC. 1502. PROJECT APPROVAL AND OVERSIGHT.

Section 106 of title 23, United States Code, is amended—

(1) in subsection (a)(2) by inserting “recipient” before “formalizing”; and

(2) in subsection (c)—

(A) in paragraph (1)—

(i) in the heading, by striking “NON-INTERSTATE”; and

(ii) by striking “but not on the Interstate System”; and

(B) by striking paragraph (4) and inserting the following:

“(4) LIMITATION ON INTERSTATE PROJECTS.—

“(A) IN GENERAL.—The Secretary shall not assign any responsibilities to a State for projects the Secretary determines to be in a high risk category, as defined under subparagraph (B).

“(B) HIGH RISK CATEGORIES.—The Secretary may define the high risk categories under this subparagraph on a national basis, a State-by-State basis, or a national and State-by-State basis, as determined to be appropriate by the Secretary.”;

(3) in subsection (e)—

(A) in paragraph (1)—

(i) in subparagraph (A)—

(I) in the matter preceding clause (i)—

(aa) by striking “concept” and inserting “planning”; and

(bb) by striking “multidisciplined” and inserting “multidisciplinary”; and

(II) by striking clause (i) and inserting the following:

“(i) providing the needed functions and achieving the established commitments (including environmental, community, and agency commitments) safely, reliably, and at the lowest overall lifecycle cost;”;

(ii) in subparagraph (B) by striking clause (ii) and inserting the following:

“(ii) refining or redesigning, as appropriate, the project using different technologies, materials, or methods so as to accomplish the purpose, functions, and established commitments (including environmental, community, and agency commitments) of the project.”;

(B) in paragraph (2)—

(i) in the matter preceding subparagraph (A) by striking “or other cost-reduction analysis”;

(ii) in subparagraph (A) by striking “Federal-aid system” and inserting “National Highway System receiving Federal assistance”; and

(iii) in subparagraph (B) by inserting “on the National Highway System receiving Federal assistance” after “a bridge project”; and

(C) by striking paragraph (4) and inserting the following:

“(4) REQUIREMENTS.—

“(A) VALUE ENGINEERING PROGRAM.—The State shall develop and carry out a value engineering program that—

“(i) establishes and documents value engineering program policies and procedures;

“(ii) ensures that the required value engineering analysis is conducted before completing the final design of a project;

“(iii) ensures that the value engineering analysis that is conducted, and the recommendations developed and implemented for each project, are documented in a final value engineering report; and

“(iv) monitors, evaluates, and annually submits to the Secretary a report that describes the results of the value analyses that are conducted and the recommendations implemented for each of the projects described in paragraph (2) that are completed in the State.

“(B) BRIDGE PROJECTS.—The value engineering analysis for a bridge project under paragraph (2) shall—

“(i) include bridge superstructure and substructure requirements based on construction material; and

“(ii) be evaluated by the State—

“(I) on engineering and economic bases, taking into consideration acceptable designs for bridges; and

“(II) using an analysis of lifecycle costs and duration of project construction.”;

(4) in subsection (g)(4) by adding at the end the following:

“(C) FUNDING.—

“(i) IN GENERAL.—Subject to project approval by the Secretary, a State may obligate funds apportioned to the State under section 104(b)(2) for carrying out the responsibilities of the State under subparagraph (A).

“(ii) ELIGIBLE ACTIVITIES.—Activities eligible for assistance under this subparagraph include—

“(I) State administration of subgrants; and

“(II) State oversight of subrecipients.

“(iii) ANNUAL WORK PLAN.—To receive the funding flexibility made available under this subparagraph, the State shall submit to the Secretary an annual work plan identifying activities to be carried out under this subparagraph during the applicable year.

“(iv) FEDERAL SHARE.—The Federal share of the cost of activities carried out under this subparagraph shall be 100 percent.”; and

(5) in subsection (h)—

(A) in paragraph (1)(B) by inserting “, including a phasing plan when applicable” after “financial plan”; and

(B) by striking paragraph (3) and inserting the following:

“(3) FINANCIAL PLAN.—A financial plan—

“(A) shall be based on detailed estimates of the cost to complete the project;

“(B) shall provide for the annual submission of updates to the Secretary that are based on reasonable assumptions, as determined by the Secretary, of future increases in the cost to complete the project; and

“(C) may include a phasing plan that identifies fundable incremental improvements or phases that will address the purpose and the need of the project in the short term in the event there are insufficient financial re-

sources to complete the entire project. If a phasing plan is adopted for a project pursuant to this section, the project shall be deemed to satisfy the fiscal constraint requirements in the statewide and metropolitan planning requirements in sections 134 and 135.”.

#### SEC. 1503. STANDARDS.

(a) PRACTICAL DESIGN.—Section 109 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking “and” at the end;

(B) in paragraph (2) by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(3) utilize, when appropriate, practical design solutions, as defined in this section, to ensure that transportation needs are met and that funds available for transportation projects are used efficiently.”;

(2) in subsection (c)—

(A) in paragraph (1), in the matter preceding subparagraph (A)—

(i) by striking “, reconstruction, resurfacing (except for maintenance resurfacing), restoration, or rehabilitation” and inserting “or reconstruction”; and

(ii) by striking “may take into account” and inserting “shall consider”;

(B) in paragraph (2)—

(i) in the first sentence of the matter preceding subparagraph (A) by striking “may” and inserting “shall”;

(ii) in subparagraph (C) by striking “and” at the end;

(iii) by redesignating subparagraph (D) as subparagraph (F); and

(iv) by inserting after subparagraph (C) the following:

“(D) the publication entitled ‘Highway Safety Manual’ of the American Association of State Highway and Transportation Officials;

“(E) the publication entitled ‘A Guide for Achieving Flexibility in Highway Design, 1st Edition’, published by the American Association of State Highway and Transportation Officials; and”;

(3) in subsection (f) by inserting “pedestrian walkways,” after “bikeways.”;

(4) in subsection (m) by inserting “, safe, and continuous” after “for a reasonable”;

(5) in subsection (q) by striking “consistent with the operative safety management system established in accordance with section 303 or in accordance with” inserting “that is in accordance with a State’s strategic highway safety plan and included on”; and

(6) by adding at the end the following:

“(r) DEFINITION.—In this section, the term ‘practical design solution’ means a collaborative interdisciplinary approach that results in a transportation project that fits its physical setting, preserves safety, and balances costs with the necessary scope and project delivery needs of the project, as well as with scenic, aesthetic, historic, and environmental resources.”.

(b) ADDITIONAL STANDARDS.—Section 109 of title 23, United States Code (as amended by subsection (a)(6)), is amended by adding at the end the following:

“(s) PAVEMENT MARKINGS.—The Secretary shall not approve any pavement markings project that includes the use of glass beads containing more than 200 parts per million of arsenic or lead, as determined in accordance with Environmental Protection Agency testing methods 3052, 6010B, or 6010C.”.

#### SEC. 1504. CONSTRUCTION.

Section 114 of title 23, United States Code, is amended—

(1) in subsection (b)—

(A) by striking paragraph (1) and inserting the following:

“(1) LIMITATION ON CONVICT LABOR.—Convict labor shall not be used in construction of Federal-aid highways or portions of Federal-aid highways unless the labor is performed by convicts who are on parole, supervised release, or probation.”; and

(B) in paragraph (3) by inserting “in existence during that period” after “located on a Federal-aid system”; and

(2) in subsection (c)—

(A) by striking paragraph (1) and inserting the following:

“(1) IN GENERAL.—The Secretary shall ensure that a worker who is employed on a remote project for the construction of a Federal-aid highway or portion of a Federal-aid highway in the State of Alaska and who is not a domiciled resident of the locality shall receive meals and lodging.”; and

(B) in paragraph (3)(C) by striking “highway or portion of a highway located on a Federal-aid system” and inserting “Federal-aid highway or portion of a Federal-aid highway”.

#### SEC. 1505. MAINTENANCE.

Section 116 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in the first sentence, by inserting “or other direct recipient” before “to maintain”; and

(B) by striking the second sentence;

(2) by striking subsection (b) and inserting the following:

“(b) AGREEMENT.—In any State in which the State transportation department or other direct recipient is without legal authority to maintain a project described in subsection (a), the transportation department or direct recipient shall enter into a formal agreement with the appropriate officials of the county or municipality in which the project is located providing for the maintenance of the project.”; and

(3) in the first sentence of subsection (c) by inserting “or other direct recipient” after “State transportation department”.

#### SEC. 1506. FEDERAL SHARE PAYABLE.

Section 120 of title 23, United States Code, is amended—

(1) in the first sentence of subsection (c)(1)—

(A) by inserting “maintaining minimum levels of retroreflectivity of highway signs or pavement markings,” after “traffic control signalization.”;

(B) by inserting “shoulder and centerline rumble strips and stripes,” after “pavement marking.”; and

(C) by striking “Federal-aid systems” and inserting “Federal-aid programs”;

(2) by striking subsection (e) and inserting the following:

“(e) EMERGENCY RELIEF.—The Federal share payable for any repair or reconstruction provided for by funds made available under section 125 for any project on a Federal-aid highway, including the Interstate System, shall not exceed the Federal share payable on a project on the system as provided in subsections (a) and (b), except that—

“(1) the Federal share payable for eligible emergency repairs to minimize damage, protect facilities, or restore essential traffic accomplished within 180 days after the actual occurrence of the natural disaster or catastrophic failure may amount to 100 percent of the cost of the repairs;

“(2) the Federal share payable for any repair or reconstruction of Federal land transportation facilities, Federal land access

transportation facilities, and tribal transportation facilities may amount to 100 percent of the cost of the repair or reconstruction;

“(3) the Secretary shall extend the time period in paragraph (1) taking into consideration any delay in the ability of the State to access damaged facilities to evaluate damage and the cost of repair; and

“(4) the Federal share payable for eligible permanent repairs to restore damaged facilities to predisaster condition may amount to 100 percent of the cost of the repairs if the eligible expenses incurred by the State due to natural disasters or catastrophic failures in a Federal fiscal year exceeds the annual apportionment of the State under section 104 for the fiscal year in which the disasters or failures occurred.”;

(3) by striking subsection (g) and redesignating subsections (h) through (l) as subsections (g) through (k), respectively;

(4) in subsection (i)(1)(A) (as redesignated by paragraph (3)) by striking “and the Appalachian development highway system program under section 14501 of title 40”; and

(5) by striking subsections (j) and (k) (as redesignated by paragraph (3)) and inserting the following:

“(j) **USE OF FEDERAL AGENCY FUNDS.**—Notwithstanding any other provision of law, any Federal funds other than those made available under this title and title 49, United States Code, may be used to pay the non-Federal share of the cost of any transportation project that is within, adjacent to, or provides access to Federal land, the Federal share of which is funded under this title or chapter 53 of title 49.

“(k) **USE OF FEDERAL LAND AND TRIBAL TRANSPORTATION FUNDS.**—Notwithstanding any other provision of law, the funds authorized to be appropriated to carry out the tribal transportation program under section 202 and the Federal lands transportation program under section 203 may be used to pay the non-Federal share of the cost of any project that is funded under this title or chapter 53 of title 49 and that provides access to or within Federal or tribal land.”.

#### **SEC. 1507. TRANSFERABILITY OF FEDERAL-AID HIGHWAY FUNDS.**

(a) **IN GENERAL.**—Section 126 of title 23, United States Code, is amended to read as follows:

##### **“§ 126. Transferability of Federal-aid highway funds**

“(a) **IN GENERAL.**—Notwithstanding any other provision of law, subject to subsection (b), a State may transfer from an apportionment under section 104(b) not to exceed 20 percent of the amount apportioned for the fiscal year to any other apportionment of the State under that section.

“(b) **APPLICATION TO CERTAIN SET-ASIDES.**—Funds that are subject to sections 104(d) and 133(d) shall not be transferred under this section. The maximum amount that a State may transfer under this section of the State’s set-aside under section 149(l) for a fiscal year may not exceed 25 percent of (1) the amount of such set-aside, less (2) the amount of the State’s set-aside under section 133(d)(2), as in effect on the day before the date of enactment of the MAP-21, for fiscal year 1997.”.

(b) **CONFORMING AMENDMENT.**—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 126 and inserting the following:

“126. Transferability of Federal-aid highway funds.”.

#### **SEC. 1508. SPECIAL PERMITS DURING PERIODS OF NATIONAL EMERGENCY.**

Section 127 of title 23, United States Code, is amended by inserting at the end the following:

“(i) **SPECIAL PERMITS DURING PERIODS OF NATIONAL EMERGENCY.**—

“(1) **IN GENERAL.**—Notwithstanding any other provision of this section, a State may issue special permits during an emergency to overweight vehicles and loads that can easily be dismantled or divided if—

“(A) the President has declared the emergency to be a major disaster under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.);

“(B) the permits are issued in accordance with State law; and

“(C) the permits are issued exclusively to vehicles and loads that are delivering relief supplies.

“(2) **EXPIRATION.**—A permit issued under paragraph (1) shall expire not later than 120 days after the date of the declaration of emergency under subparagraph (A) of that paragraph.”.

#### **SEC. 1509. ELECTRIC VEHICLE CHARGING STATIONS.**

(a) **FRINGE AND CORRIDOR PARKING FACILITIES.**—Section 137 of title 23, United States Code, is amended—

(1) in subsection (a) by inserting after the second sentence the following: “The addition of electric vehicle charging stations to new or previously funded parking facilities shall be eligible for funding under this section.”; and

(2) in subsection (f)(1)—

(A) by striking “104(b)(4)” and inserting “104(b)(1)”; and

(B) by inserting “including the addition of electric vehicle charging stations,” after “new facilities”.

(b) **PUBLIC TRANSPORTATION.**—Section 142(a)(1) of title 23, United States Code, is amended by inserting “(which may include electric vehicle charging stations)” after “corridor parking facilities”.

#### **SEC. 1510. HOV FACILITIES.**

Section 166 of title 23, United States Code, is amended—

(1) in subsection (b)(5)—

(A) in subparagraph (A) by striking “Before September 30, 2009, the” and inserting “The”; and

(B) in subparagraph (B) by striking “Before September 30, 2009, the” and inserting “The”; and

(2) in subsection (d)(1)—

(A) in the matter preceding subparagraph (A)—

(i) by striking “in a fiscal year shall certify” and inserting “shall submit to the Secretary a report demonstrating that the facility is not already degraded, and that the presence of the vehicles will not cause the facility to become degraded, and certify”; and

(ii) by striking “in the fiscal year”; (B) in subparagraph (A) by inserting “and submitting to the Secretary annual reports of those impacts” after “adjacent highways”;

(C) in subparagraph (C) by striking “if the presence of the vehicles has degraded the operation of the facility” and inserting “when the operation of the facility is degraded”; and

(D) by adding at the end the following:

“(D) **MAINTENANCE OF OPERATING PERFORMANCE.**—A facility that has become degraded shall be brought back into compliance with the minimum average operating speed performance standard by not later than 180 days after the date on which the degradation is

identified through changes to operation, including the following:

“(i) Increase the occupancy requirement for HOVs.

“(ii) Increase the toll charged for vehicles allowed under subsection (b) to reduce demand.

“(iii) Charge tolls to any class of vehicle allowed under subsection (b) that is not already subject to a toll.

“(iv) Limit or discontinue allowing vehicles under subsection (b).

“(v) Increase the available capacity of the HOV facility.

“(E) **COMPLIANCE.**—If the State fails to bring a facility into compliance under subparagraph (D), the Secretary shall subject the State to appropriate program sanctions under section 1.36 of title 23, Code of Federal Regulations (or successor regulations), until the performance is no longer degraded.”.

#### **SEC. 1511. CONSTRUCTION EQUIPMENT AND VEHICLES.**

(a) **IN GENERAL.**—Chapter 3 of title 23, United States Code, is amended by adding at the end the following:

##### **“SEC. 330. CONSTRUCTION EQUIPMENT AND VEHICLES.**

“(a) **IN GENERAL.**—In accordance with the obligation process established pursuant to section 149(j)(4), a State shall expend amounts required to be obligated for this section to install diesel emission control technology on covered equipment, with an engine that does not meet current model year new engine standards for particulate matter for the applicable engine power group issued by the Environmental Protection Agency, on a covered highway construction project within a PM<sub>2.5</sub> nonattainment or maintenance area. Covered equipment repowered or retrofitted with diesel exhaust control technology installed during the 6-year period ending on the date on which the prime contract was awarded for the covered highway construction project and equipment that meets the Environmental Protection Agency Tier 4 emission standards may be exempt from the requirements of this section.

“(b) **DEFINITIONS.**—In this section, the following definitions apply:

“(1) **COVERED EQUIPMENT.**—The term ‘covered equipment’ means any nonroad diesel equipment or on-road diesel equipment that is operated on a covered highway construction project for not less than 80 hours over the life of the project.

“(2) **COVERED HIGHWAY CONSTRUCTION PROJECT.**—

“(A) **IN GENERAL.**—The term ‘covered highway construction project’ means a highway construction project carried out under this title or any other Federal law which is funded in whole or in part with Federal funds.

“(B) **EXCLUSIONS.**—Any project with a total budgeted cost not to exceed \$5,000,000 may be excluded from the requirements of this section by an applicable State or metropolitan planning organization.

“(3) **DIESEL EMISSION CONTROL TECHNOLOGY.**—The term ‘diesel emission control technology’ means a technology that—

“(A) is—

“(i) a diesel exhaust control technology;

“(ii) a diesel engine upgrade;

“(iii) a diesel engine repower;

“(iv) an idle reduction control technology;

or

“(v) any combination of the technologies listed in clauses (i) through (iv);

“(B) reduces particulate matter emission from covered equipment by—

“(i) not less than 85 percent control of any emission of particulate matter; or



“(ii) the maximum achievable reduction of any emission of particulate matter, taking cost and safety into account; and

“(C) is installed on and operated with the covered equipment while the equipment is operated on a covered highway construction project and that remains operational on the covered equipment for the useful life of the control technology or equipment.

“(4) **ELIGIBLE ENTITY.**—The term ‘eligible entity’ means an entity (including a subcontractor of the entity) that has entered into a prime contract or agreement with a State to carry out a covered highway construction project.

“(5) **NONROAD DIESEL EQUIPMENT.**—

“(A) **IN GENERAL.**—The term ‘nonroad diesel equipment’ includes a backhoe, bulldozer, compressor, crane, excavator, generator, and similar equipment.

“(i) powered by a nonroad diesel engine of not less than 50 horsepower; and

“(ii) not intended for highway use.

“(B) **INCLUSIONS.**—The term ‘nonroad diesel equipment’ includes a backhoe, bulldozer, compressor, crane, excavator, generator, and similar equipment.

“(C) **EXCLUSIONS.**—The term ‘nonroad diesel equipment’ does not include a locomotive or marine vessel.

“(6) **ON-ROAD DIESEL EQUIPMENT.**—The term ‘on-road diesel equipment’ means any self-propelled vehicle that—

“(A) operates on diesel fuel;

“(B) is designed to transport persons or property on a street or highway; and

“(C) has a gross vehicle weight rating of at least 14,000 pounds.

“(7) **PM<sub>2.5</sub> NONATTAINMENT OR MAINTENANCE AREA.**—The term ‘PM<sub>2.5</sub> nonattainment or maintenance area’ means a nonattainment or maintenance area designated under section 107(d)(6) of the Clean Air Act (42 U.S.C. 7407(d)(6)).

“(c) **CRITERIA ELIGIBLE ACTIVITIES.**—For purposes of subsection (b)(3)(A):

“(1) **DIESEL EXHAUST CONTROL TECHNOLOGY.**—For a diesel exhaust control technology, the technology shall be—

“(A) installed on a diesel engine or vehicle;

“(B) a verified technology (as defined in section 791 of the Energy Policy Act of 2005 (42 U.S.C. 16131)), for nonroad vehicles and nonroad engines (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)); and

“(C) certified by the installer as having been installed in accordance with the specifications included on the list published pursuant to section 149(f)(2), as in effect on the day before the date of enactment of the MAP-21, for achieving a reduction in particulate matter.

“(2) **DIESEL ENGINE UPGRADE.**—For a diesel engine upgrade, the upgrade shall be performed on an engine that is—

“(A) rebuilt using new or manufactured components that collectively qualify as verified technologies (as defined in section 791 of the Energy Policy Act of 2005 (42 U.S.C. 16131)), for nonroad vehicles and nonroad engines (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)); and

“(B) certified by the installer to have been installed in accordance with the specifications included on the list published pursuant to section 149(f)(2), as in effect on the day before the date of enactment of the MAP-21, for achieving a reduction in particulate matter.

“(3) **DIESEL ENGINE REPOWER.**—For a diesel engine repower, the repower shall be conducted using a new or remanufactured diesel engine that is—

“(A) installed as a replacement for an engine used in the existing equipment, subject to the condition that the replaced engine is

returned to the supplier for remanufacturing to a more stringent set of engine emissions standards or for use as scrap; and

“(B) meeting a more stringent engine particulate matter emission standard for the applicable engine power group established by the Environmental Protection Agency than the engine particulate matter emission standard applicable to the replaced engine.

“(4) **IDLE REDUCTION CONTROL TECHNOLOGY.**—For an idle reduction control technology, the technology shall be—

“(A) installed on a diesel engine or vehicle;

“(B) a verified technology (as defined in section 791 of the Energy Policy Act of 2005 (42 U.S.C. 16131)), for nonroad vehicles and nonroad engines (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)); and

“(C) certified by the installer as having been installed in accordance with the specifications included on the list published pursuant to section 149(f)(2), as in effect on the day before the date of enactment of the MAP-21, for achieving a reduction in particulate matter.

“(d) **ELIGIBILITY FOR CREDITS.**—

“(1) **IN GENERAL.**—A State may take credit in a State implementation plan for national ambient air quality standards for any emission reductions that result from the implementation of this section.

“(2) **CREDITING.**—An emission reduction described in paragraph (1) may be credited toward demonstrating conformity of State implementation plans and transportation plans.”

(b) **SAVINGS CLAUSE.**—Nothing in this section modifies or otherwise affects any authority or restrictions established under the Clean Air Act (42 U.S.C. 7401 et seq.).

(c) **REPORT TO CONGRESS.**—

(1) **IN GENERAL.**—Not later than 2 years after the date of enactment of this Act, the Secretary of Transportation shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that describes the manners in which section 330 of title 23, United States Code (as added by subsection (a)) has been implemented, including the quantity of covered equipment serviced under those sections and the costs associated with servicing the covered equipment.

(2) **INFORMATION FROM STATES.**—The Secretary shall require States and recipients, as a condition of receiving amounts under this Act or under the provisions of any amendments made by this Act, to submit to the Secretary any information that the Secretary determines necessary to complete the report under paragraph (1).

(d) **TECHNICAL AMENDMENT.**—The analysis for chapter 3 of title 23, United States Code, is amended by adding at the end the following:

“330. Construction equipment and vehicles.”

#### **SEC. 1512. USE OF DEBRIS FROM DEMOLISHED BRIDGES AND OVERPASSES.**

Section 1805(a) of the SAFETEA LU (23 U.S.C. 144 note; 119 Stat. 1459) is amended by striking “highway bridge replacement and rehabilitation program under section 144” and inserting “national highway performance program under section 119”.

#### **SEC. 1513. EXTENSION OF PUBLIC TRANSIT VEHICLE EXEMPTION FROM AXLE WEIGHT RESTRICTIONS.**

Section 1023(h) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 127 note; Public Law 102-388) is amended—

(1) in the heading of paragraph (1) by striking “TEMPORARY EXEMPTION” and inserting “EXEMPTION”;

(2) in paragraph (1) by striking “, for the period beginning on October 6, 1992, and ending on October 1, 2009,”; and

(3) in paragraph (2)(A) by striking “For the period beginning on the date of enactment of this subparagraph and ending on September 30, 2009, a” and inserting “A”.

#### **SEC. 1514. UNIFORM RELOCATION ASSISTANCE ACT AMENDMENTS.**

(a) **MOVING AND RELATED EXPENSES.**—Section 202 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4622) is amended—

(1) in subsection (a)(4) by striking “\$10,000” and inserting “\$25,000, as adjusted by regulation, in accordance with section 213(d)”;

(2) in the second sentence of subsection (c) by striking “\$20,000” and inserting “\$40,000, as adjusted by regulation, in accordance with section 213(d)”.

(b) **REPLACEMENT HOUSING FOR HOMEOWNERS.**—The first sentence of section 203(a)(1) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4623(a)(1)) is amended—

(1) by striking “\$22,500” and inserting “\$31,000, as adjusted by regulation, in accordance with 213(d)”;

(2) by striking “one hundred and eighty days prior to” and inserting “90 days before”.

(c) **REPLACEMENT HOUSING FOR TENANTS AND CERTAIN OTHERS.**—Section 204 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4624) is amended—

(1) in the second sentence of subsection (a) by striking “\$5,250” and inserting “\$7,200, as adjusted by regulation, in accordance with section 213(d)”;

(2) in the second sentence of subsection (b) by striking “, except” and all that follows through the end of the subsection and inserting a period.

(d) **DUTIES OF LEAD AGENCY.**—Section 213 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4633) is amended—

(1) in subsection (b)—

(A) in paragraph (2) by striking “and” at the end;

(B) in paragraph (3) by striking the period at the end and inserting “; and”;

(C) by adding at the end the following:

“(4) that each Federal agency that has programs or projects requiring the acquisition of real property or causing a displacement from real property subject to the provisions of this Act shall provide to the lead agency an annual summary report that describes the activities conducted by the Federal agency.”; and

(2) by adding at the end the following:

“(d) **ADJUSTMENT OF PAYMENTS.**—The head of the lead agency may adjust, by regulation, the amounts of relocation payments provided under sections 202(a)(4), 202(c), 203(a), and 204(a) if the head of the lead agency determines that cost of living, inflation, or other factors indicate that the payments should be adjusted to meet the policy objectives of this Act.”

(e) **AGENCY COORDINATION.**—Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 is amended by inserting after section 213 (42 U.S.C. 4633) the following:

#### **“SEC. 214. AGENCY COORDINATION.**

“(a) **AGENCY CAPACITY.**—Each Federal agency responsible for funding or carrying out relocation and acquisition activities shall have adequately trained personnel and such other resources as are necessary to

manage and oversee the relocation and acquisition program of the Federal agency in accordance with this Act.

“(b) INTERAGENCY AGREEMENTS.—Not later than 1 year after the date of enactment of this section, each Federal agency responsible for funding relocation and acquisition activities (other than the agency serving as the lead agency) shall enter into a memorandum of understanding with the lead agency that—

“(1) provides for periodic training of the personnel of the Federal agency, which in the case of a Federal agency that provides Federal financial assistance, may include personnel of any displacing agency that receives Federal financial assistance;

“(2) addresses ways in which the lead agency may provide assistance and coordination to the Federal agency relating to compliance with the Act on a program or project basis; and

“(3) addresses the funding of the training, assistance, and coordination activities provided by the lead agency, in accordance with subsection (c).

“(c) INTERAGENCY PAYMENTS.—

“(1) IN GENERAL.—For the fiscal year that begins 1 year after the date of enactment of this section, and each fiscal year thereafter, each Federal agency responsible for funding relocation and acquisition activities (other than the agency serving as the lead agency) shall transfer to the lead agency for the fiscal year, such funds as are necessary, but not less than \$35,000, to support the training, assistance, and coordination activities of the lead agency described in subsection (b).

“(2) INCLUDED COSTS.—The cost to a Federal agency of providing the funds described in paragraph (1) shall be included as part of the cost of 1 or more programs or projects undertaken by the Federal agency or with Federal financial assistance that result in the displacement of persons or the acquisition of real property.”

(f) COOPERATION WITH FEDERAL AGENCIES.—Section 308 of title 23, United States Code, is amended by striking subsection (a) and inserting the following:

“(a) AUTHORIZED ACTIVITIES.—

“(1) IN GENERAL.—The Secretary may perform, by contract or otherwise, authorized engineering or other services in connection with the survey, construction, maintenance, or improvement of highways for other Federal agencies, cooperating foreign countries, and State cooperating agencies.

“(2) INCLUSIONS.—Services authorized under paragraph (1) may include activities authorized under section 214 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

“(3) REIMBURSEMENT.—Reimbursement for services carried out under this subsection (including depreciation on engineering and road-building equipment) shall be credited to the applicable appropriation.”

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of enactment of this Act.

(2) EXCEPTION.—The amendments made by subsections (a) through (c) shall take effect 2 years after the date of enactment of this Act.

#### SEC. 1515. USE OF YOUTH SERVICE AND CONSERVATION CORPS.

(a) IN GENERAL.—The Secretary shall encourage the States and regional transportation planning agencies to enter into contracts and cooperative agreements with qualified youth service or conservation corps, as defined in sections 122(a)(2) of Pub-

lic Law 101-610 (42 U.S.C. 12572(a)(2)) and 106(c)(3) of Public Law 103-82 (42 U.S.C. 12656(c)(3)) to perform—

(1) appropriate projects eligible under sections 162, 206, and 217 of title 23, United States Code;

(2) appropriate transportation enhancement activities, as defined under section 101(a) of such title;

(3) appropriate byway, trail, or bicycle and pedestrian projects under sections 202, 203, and 204 of such title; and

(4) appropriate safe routes to school projects under section 1404 of the SAFETEA-LU (119 Stat. 1228).

(b) REQUIREMENTS.—Under any contract or cooperative agreement entered into with a qualified youth service or conservation corps under this section, the Secretary shall—

(1) set the amount of a living allowance or rate of pay for each participant in such corps at—

(A) such amount or rate as required under State law in a State with such requirements; or

(B) for corps in States not described in subparagraph (A), at such amount or rate as determined by the Secretary, not to exceed the maximum living allowance authorized by section 140 of Public Law 101-610 (42 U.S.C. 12594); and

(2) not subject such corps to the requirements of section 112 of title 23, United States Code.

#### SEC. 1516. CONSOLIDATION OF PROGRAMS; REPEAL OF OBSOLETE PROVISIONS.

(a) CONSOLIDATION OF PROGRAMS.—From administrative funds made available under section 104(a) of title 23, United States Code, not less than \$15,000,000 for each of fiscal years 2012 and 2013 shall be made available for the following activities:

(1) To carry out the operation lifesaver program—

(A) to provide public information and education programs to help prevent and reduce motor vehicle accidents, injuries, and fatalities; and

(B) to improve driver performance at railway-highway crossings.

(2) To operate the national work zone safety information clearinghouse authorized by section 358(b)(2) of the National Highway System Designation Act of 1995 (23 U.S.C. 401 note; 109 Stat. 625)

(3) To operate a public road safety clearinghouse in accordance with section 1411(a) of the SAFETEA-LU (23 U.S.C. 402 note; 119 Stat. 1234).

(4) To operate a bicycle and pedestrian safety clearinghouse in accordance with section 1411(b) of the SAFETEA-LU (23 U.S.C. 402 note; 119 Stat. 1234).

(5) To operate a national safe routes to school clearinghouse in accordance with section 1404(g) of the SAFETEA-LU (23 U.S.C. 402 note; 119 Stat. 1229).

(6) To provide work zone safety grants in accordance with subsections (a) and (b) of section 1409 of the SAFETEA-LU (23 U.S.C. 401 note; 119 Stat. 1232).

(7) To provide grants to prohibit racial profiling in accordance with section 1906 of the SAFETEA-LU (23 U.S.C. 402 note; 119 Stat. 1468).

(b) REPEALS.—Sections 105, 110, 117, 124, 147, 151, 155, 160, and 303 of title 23, United States Code, are repealed.

(c) CONFORMING AMENDMENTS.—

(1) TITLE ANALYSIS.—The analysis for title 23, United States Code, is amended by striking the items relating to sections 105, 110, 117, 124, 147, 151, 155, 160, and 303 of that title.

(2) SECTION 118.—Section 118 of such title is amended—

(A) in subsection (b)—

(i) by striking paragraph (1) and all that follows through the heading of paragraph (2); and

(ii) by striking “(other than for Interstate construction)”;

(B) by striking subsection (c); and

(C) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(3) SECTION 130.—Section 130 of such title is amended—

(A) by striking subsections (e) through (h);

(B) by redesignating subsection (i) as subsection (e);

(C) by striking subsections (j) and (k);

(D) by redesignating subsection (l) as subsection (f);

(E) in subsection (e) (as so redesignated) by striking “this section” the second place it appears and inserting “section 104(b)(3)”; and

(F) in subsection (f) (as so redesignated) by striking paragraphs (3) and (4).

(4) SECTION 142.—Section 142 of title 23, United States Code, is amended—

(A) in subsection (a)—

(i) in paragraph (1)—

(I) by striking “motor vehicles (other than rail)” and inserting “buses”;

(II) by striking “(hereafter in this section referred to as ‘buses’)”;

(III) by striking “Federal-aid systems” and inserting “Federal-aid highways”; and

(IV) by striking “Federal-aid system” and inserting “Federal-aid highway”; and

(ii) in paragraph (2)—

(I) by striking “as a project on the the surface transportation program for”; and

(II) by striking “section 104(b)(3)” and inserting “section 104(b)(2);

(B) in subsection (b) by striking “104(b)(4)” and inserting “104(b)(1)”; and

(C) in subsection (c)—

(i) by striking “system” in each place it appears and inserting “highway”; and

(ii) by striking “highway facilities” and inserting “highways eligible under the program that is the source of the funds”;

(D) in subsection (e)(2)—

(i) by striking “Notwithstanding section 209(f)(1) of the Highway Revenue Act of 1956, the Highway Trust Fund shall be available for making expenditures to meet obligations resulting from projects authorized by subsection (a)(2) of this section and such projects” and inserting “Projects authorized by subsection (a)(2)”; and

(ii) striking “on the surface transportation program” and inserting “under the transportation mobility program”; and

(E) in subsection (f) by striking “exits” and inserting “exists”.

(5) SECTION 145.—Section 145(b) of title 23, United States Code, is amended by striking “section 117 of this title.”

(6) SECTION 322.—Section 322(h)(3) of title 23, United States Code, is amended by striking “surface transportation program” and inserting “the transportation mobility program”.

(d) CERTAIN ALLOCATIONS.—Notwithstanding any other provision of law, any unobligated balances of amounts required to be allocated to a State by section 1307(d)(1) of the SAFETEA-LU (23 U.S.C. 322 note; 119 Stat. 1217; 122 Stat. 1577) shall instead be made available to such State for any purpose eligible under section 133(c) of title 23, United States Code.

SEC. 1517. RESCISSIONS.

(a) FISCAL YEAR 2012.—

(1) Not later than 30 days after the date of enactment of this Act, of the unobligated balances available under sections 144(f) and 320 of title 23, United States Code, section 147

of Public Law 95-599 (23 U.S.C. 144 note; 92 Stat. 2714), section 9(c) of Public Law 97-134 (95 Stat. 1702), section 149 of Public Law 100-17 (101 Stat. 181), sections 1006, 1069, 1103, 1104, 1105, 1106, 1107, 1108, 6005, 6015, and 6023 of Public Law 102-240 (105 Stat. 1914), section 1602 of Public Law 105-178 (112 Stat. 256), sections 1301, 1302, 1702, and 1934 of Public Law 109-59 (119 Stat. 1144), and of other funds apportioned to each State under chapter 1 of title 23, United States Code, prior to the date of enactment of this Act, \$2,391,000,000 are permanently rescinded.

(2) In administering the rescission required under this subsection, the Secretary shall allow each State to determine the amount of the required rescission to be drawn from the programs to which the rescission applies.

(b) FISCAL YEAR 2013.—

(1) On October 1, 2012, of the unobligated balances of funds apportioned or allocated on or before that date to each State under chapter 1 of title 23, United States Code, \$3,054,000,000 are permanently rescinded.

(2) Notwithstanding section 1132 of the Energy Independence and Security Act of 2007 (Public Law 110-140; 121 Stat. 1763), in administering the rescission required under this subsection, the Secretary shall allow each State to determine the amount of the required rescission to be drawn from the programs to which the rescission applies.

#### SEC. 1518. STATE AUTONOMY FOR CULVERT PIPE SELECTION.

Not later than 180 days after the date of enactment of this Act, the Secretary shall modify section 635.411 of title 23, Code of Federal Regulations (as in effect on the date of enactment of this Act), to ensure that States shall have the autonomy to determine culvert and storm sewer material types to be included in the construction of a project on a Federal-aid highway.

#### SEC. 1519. EFFECTIVE AND SIGNIFICANT PERFORMANCE MEASURES.

(a) LIMITED NUMBER OF PERFORMANCE MEASURES.—In implementing provisions of this Act (including the amendments made by this Act) and title 23, United States Code (other than chapter 4 of that title), that authorize the Secretary to develop performance measures, the Secretary shall limit the number of performance measures established to the most significant and effective measures.

(b) DIFFERENT APPROACHES FOR URBAN AND RURAL AREAS.—In the development and implementation of any performance target, a State may, as appropriate, provide for different performance targets for urbanized and rural areas.

#### SEC. 1520. REQUIREMENTS FOR ELIGIBLE BRIDGE PROJECTS.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE BRIDGE PROJECT.—The term “eligible bridge project” means a project for construction, alteration, or repair work on a bridge or overpass funded directly by, or provided other assistance through, the Federal Government.

(2) QUALIFIED TRAINING PROGRAM.—The term “qualified training program” means a training program that—

(A)(i) is certified by the Secretary of Labor; and

(ii) with respect to an eligible bridge project located in an area in which the Secretary of Labor determines that a training program does not exist, is registered with—

(I) the Department of Labor; or

(II) a State agency recognized by the Department of Labor for purposes of a Federal training program; or

(B) is a corrosion control, mitigation and prevention personnel training program that

is offered by an organization whose standards are recognized and adopted in other Federal or State Departments of Transportation.

(3) SECRETARY.—The term “Secretary” means the Secretary of Transportation.

(b) ELIGIBILITY REQUIREMENTS.—

(1) IN GENERAL.—Each contractor and subcontractor that carries out any aspect of an eligible bridge project described in paragraph (2) shall—

(A) before entering into the applicable contract, be certified by the Secretary or a State, in accordance with paragraph (4), as meeting the eligibility requirements described in paragraph (3); and

(B) remain certified as described in subparagraph (A) while carrying out the applicable aspect of the eligible bridge project.

(2) DESCRIPTION OF ASPECTS OF ELIGIBLE BRIDGE PROJECTS.—An aspect of an eligible bridge project referred to in paragraph (1) is—

(A) surface preparation or coating application on bridge steel of an eligible bridge project;

(B) removal of a lead-based or other hazardous coating from bridge steel of an existing eligible bridge project;

(C) shop painting of structural steel fabricated for installation on bridge steel of an eligible bridge project; and

(D) the design, application, installation, and maintenance of a cathodic protection system.

(3) REQUIREMENTS.—The eligibility requirements referred to in paragraph (1) are that a contractor or subcontractor shall—

(A) as determined by the Secretary—

(i) use corrosion mitigation and prevention methods to preserve relevant bridges and overpasses, taking into account—

(I) material selection;

(II) coating considerations;

(III) cathodic protection considerations;

(IV) design considerations for corrosion; and

(V) trained applicators;

(ii) use best practices—

(I) to prevent environmental degradation; and

(II) to ensure careful handling of all hazardous materials; and

(iii) demonstrate a history of employing industry-respected inspectors to ensure funds are used in the interest of affected taxpayers; and

(B) demonstrate a history of compliance with applicable requirements of the Occupational Safety and Health Administration, as determined by the Secretary of Labor.

(4) STATE CONSULTATION.—In determining whether to certify a contractor or subcontractor under paragraph (1)(A), a State shall consult with engineers and other experts trained in accordance with subsection (a)(2) specializing in corrosion control, mitigation, and prevention methods.

(c) OPTIONAL TRAINING PROGRAM.—As a condition of entering into a contract for an eligible bridge project, each contractor and subcontractor that performs construction, alteration, or repair work on a bridge or overpass for the eligible bridge project may provide, or make available, training, through a qualified training program, for each applicable craft or trade classification of employees that the contractor or subcontractor intends to employ to carry out aspects of eligible bridge projects as described in subsection (b)(2).

#### SEC. 1521. IDLE REDUCTION TECHNOLOGY.

Section 127(a)(12) of title 23, United States Code, is amended—

(1) in subparagraph (B), by striking “400” and inserting “550”; and

(2) in subparagraph (C)(ii), by striking “400-pound” and inserting “550-pound”.

#### SEC. 1522. REPORT ON HIGHWAY TRUST FUND EXPENDITURES.

(a) INITIAL REPORT.—Not later than 150 days after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report describing the activities funded from the Highway Trust Fund during each of fiscal years 2009 through 2011, including for purposes other than construction and maintenance of highways and bridges.

(b) UPDATES.—Not later than 5 years after the date on which the report is submitted under subsection (a) and every 5 years thereafter, the Comptroller General of the United States shall submit to Congress a report that updates the information provided in the report under that subsection for the applicable 5-year period.

(c) INCLUSIONS.—A report submitted under subsection (a) or (b) shall include information similar to the information included in the report of the Government Accountability Office numbered “GAO-09-729R” and entitled “Highway Trust Fund Expenditures on Purposes Other Than Construction and Maintenance of Highways and Bridges During Fiscal Years 2004-2008”.

#### SEC. 1523. EVACUATION ROUTES.

Each State shall give adequate consideration to the needs of evacuation routes in the State, including such routes serving or adjacent to facilities operated by the Armed Forces, when allocating funds apportioned to the State under title 23, United States Code, for the construction of Federal-aid highways.

#### SEC. 1524. DEFENSE ACCESS ROAD PROGRAM ENHANCEMENTS TO ADDRESS TRANSPORTATION INFRASTRUCTURE IN THE VICINITY OF MILITARY INSTALLATIONS.

The second sentence of section 210(a)(2) of title 23, United States Code, is amended by inserting “, in consultation with the Secretary of Transportation,” before “shall determine”.

#### SEC. 1525. EXPRESS LANES DEMONSTRATION PROGRAM.

Section 1604(b) of the SAFETEA-LU (23 U.S.C. 129 note; Public Law 109-59) is amended—

(1) in paragraph (1)(A)—

(A) in clause (ii), by inserting “and” after the semicolon;

(B) by striking clause (iii); and

(C) by redesignating clause (iv) as clause (iii); and

(2) in paragraph (2), by striking “2009” and inserting “2013”.

#### SEC. 1526. TREATMENT OF HISTORIC SIGNS.

The Secretary shall, not later than 180 days after the date of enactment of this Act, initiate a rulemaking to exempt locally identified historic street name signs or replicas of historic signs from complying with all or part of section 2D.43 of the Manual on Uniform Traffic Control Devices.

#### SEC. 1527. CONSOLIDATION OF GRANTS.

(a) DEFINITIONS.—In this section, the term “recipient” means—

(1) a State, local, or tribal government, including—

(A) a territory of the United States;

(B) a transit agency;

(C) a port authority;

(D) a metropolitan planning organization; or

(E) any other political subdivision of a State or local government;

(2) a multistate or multijurisdictional group, if each member of the group is an entity described in paragraph (1); and

(3) a public-private partnership, if both parties are engaged in building the project.

(b) **CONSOLIDATION.**—

(1) **IN GENERAL.**—A recipient that receives multiple grant awards from the Department to support 1 multimodal project may request that the Secretary designate 1 modal administration in the Department to be the lead administering authority for the overall project.

(2) **NEW STARTS.**—Any project that includes funds awarded under section 5309 of title 49, United States Code, shall be exempt from consolidation under this section unless the grant recipient requests the Federal Transit Administration to be the lead administering authority.

(3) **REVIEW.**—

(A) **IN GENERAL.**—Not later than 30 days after the date on which a request under paragraph (1) is made, the Secretary shall review the request and approve or deny the designation of a single modal administration as the lead administering authority and point of contact for the Department.

(B) **NOTIFICATION.**—

(i) **IN GENERAL.**—The Secretary shall notify the requestor of the decision of the Secretary under subparagraph (A) in such form and at such time as the Secretary and the requestor agree.

(ii) **DENIAL.**—If a request is denied, the Secretary shall provide the requestor with a detailed explanation of the reasoning of the Secretary with the notification under clause (i).

(c) **DUTIES.**—

(1) **IN GENERAL.**—A modal administration designated as a lead administering authority under this section shall—

(A) be responsible for leading and coordinating the integrated project management team, which shall consist of all of the other modal administrations in the Department relating to the multimodal project; and

(B) to the extent feasible during the first 30 days of carrying out the multimodal project, identify overlapping or duplicative regulatory requirements that exist for the project and propose a single, streamlined approach to meeting all of the applicable regulatory requirements through the activities described in subsection (d).

(2) **ADMINISTRATION.**—

(A) **IN GENERAL.**—The Secretary shall transfer all amounts that have been awarded for the multimodal project to the modal administration designated as the lead administering authority.

(B) **OPTION.**—

(i) **IN GENERAL.**—Participation under this section shall be optional for recipients, and no recipient shall be required to participate.

(ii) **SECRETARIAL DUTIES.**—The Secretary is not required to identify every recipient that may be eligible to participate under this section.

(d) **COOPERATION.**—

(1) **IN GENERAL.**—The Secretary and modal administrations with relevant jurisdiction over a multimodal project should cooperate on project review and delivery activities at the earliest practicable time.

(2) **PURPOSES.**—The purposes of the cooperation under paragraph (1) are—

(A) to avoid delays and duplication of effort later in the process;

(B) to prevent potential conflicts; and

(C) to ensure that planning and project development decisions are made in a streamlined manner and consistent with applicable law.

(e) **APPLICABILITY.**—Nothing in this section shall—

(1) supersede, amend, or modify the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or any other Federal environmental law; or

(2) affect the responsibility of any Federal officer to comply with or enforce any law described in paragraph (1).

## TITLE II—RESEARCH AND EDUCATION

### Subtitle A—Funding

#### SEC. 2101. AUTHORIZATION OF APPROPRIATIONS.

(a) **IN GENERAL.**—The following amounts are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) **HIGHWAY RESEARCH AND DEVELOPMENT PROGRAM.**—To carry out sections 503(b), 503(d), and 509 of title 23, United States Code, \$90,000,000 for each of fiscal years 2012 and 2013.

(2) **TECHNOLOGY AND INNOVATION DEPLOYMENT PROGRAM.**—To carry out section 503(c) of title 23, United States Code, \$90,000,000 for each of fiscal years 2012 and 2013.

(3) **TRAINING AND EDUCATION.**—To carry out section 504 of title 23, United States Code, \$24,000,000 for each of fiscal years 2012 and 2013.

(4) **INTELLIGENT TRANSPORTATION SYSTEMS PROGRAM.**—To carry out sections 512 through 518 of title 23, United States Code, \$100,000,000 for each of fiscal years 2012 and 2013.

(5) **UNIVERSITY TRANSPORTATION CENTERS PROGRAM.**—To carry out section 5505 of title 49, United States Code, \$70,000,000 for each of fiscal years 2012 and 2013.

(6) **BUREAU OF TRANSPORTATION STATISTICS.**—To carry out chapter 65 of title 49, United States Code, \$26,000,000 for each of fiscal years 2012 and 2013.

(b) **APPLICABILITY OF TITLE 23, UNITED STATES CODE.**—Funds authorized to be appropriated by subsection (a) shall—

(1) be available for obligation in the same manner as if those funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of a project or activity carried out using those funds shall be 80 percent, unless otherwise expressly provided by this Act (including the amendments by this Act) or otherwise determined by the Secretary; and

(2) remain available until expended and not be transferable.

### Subtitle B—Research, Technology, and Education

#### SEC. 2201. RESEARCH, TECHNOLOGY, AND EDUCATION.

Section 501 of title 23, United States Code, is amended—

(1) by redesignating paragraph (2) as paragraph (8);

(2) by inserting after paragraph (1) the following:

“(2) **INCIDENT.**—The term ‘incident’ means a crash, natural disaster, workzone activity, special event, or other emergency road user occurrence that adversely affects or impedes the normal flow of traffic.

“(3) **INNOVATION LIFECYCLE.**—The term ‘innovation lifecycle’ means the process of innovating through—

“(A) the identification of a need;

“(B) the establishment of the scope of research to address that need;

“(C) setting an agenda;

“(D) carrying out research, development, deployment, and testing of the resulting technology or innovation; and

“(E) carrying out an evaluation of the impact of the resulting technology or innovation.

“(4) **INTELLIGENT TRANSPORTATION INFRASTRUCTURE.**—The term ‘intelligent transpor-

tation infrastructure’ means fully integrated public sector intelligent transportation system components, as defined by the Secretary.

“(5) **INTELLIGENT TRANSPORTATION SYSTEM.**—The terms ‘intelligent transportation system’ and ‘ITS’ mean electronics, photonics, communications, or information processing used singly or in combination to improve the efficiency or safety of a surface transportation system.

“(6) **NATIONAL ARCHITECTURE.**—For purposes of this chapter, the term ‘national architecture’ means the common framework for interoperability that defines—

“(A) the functions associated with intelligent transportation system user services;

“(B) the physical entities or subsystems within which the functions reside;

“(C) the data interfaces and information flows between physical subsystems; and

“(D) the communications requirements associated with the information flows.

“(7) **PROJECT.**—The term ‘project’ means an undertaking to research, develop, or operationally test intelligent transportation systems or any other undertaking eligible for assistance under this chapter.”; and

(3) by inserting after paragraph (8) (as so redesignated) the following:

“(9) **STANDARD.**—The term ‘standard’ means a document that—

“(A) contains technical specifications or other precise criteria for intelligent transportation systems that are to be used consistently as rules, guidelines, or definitions of characteristics so as to ensure that materials, products, processes, and services are fit for the intended purposes of the materials, products, processes, and services; and

“(B) may support the national architecture and promote—

“(i) the widespread use and adoption of intelligent transportation system technology as a component of the surface transportation systems of the United States; and

“(ii) interoperability among intelligent transportation system technologies implemented throughout the States.”.

#### SEC. 2202. SURFACE TRANSPORTATION RESEARCH, DEVELOPMENT, AND TECHNOLOGY.

(a) **SURFACE TRANSPORTATION RESEARCH, DEVELOPMENT, AND TECHNOLOGY.**—Section 502 of title 23, United States Code, is amended—

(1) in the section heading by inserting “, DEVELOPMENT, AND TECHNOLOGY” after “SURFACE TRANSPORTATION RESEARCH”;

(2) in subsection (a)—

(A) by redesignating paragraphs (1) through (8) as paragraphs (2) through (9), respectively;

(B) by inserting before paragraph (2) (as redesignated by subparagraph (A)) the following:

“(1) **APPLICABILITY.**—The research, development, and technology provisions of this section shall apply throughout this chapter.”;

(C) in paragraph (2) (as redesignated by subparagraph (A))—

(i) by inserting “within the innovation lifecycle” after “activities”; and

(ii) by inserting “marketing and communications, impact analysis,” after “training.”;

(D) in paragraph (3) (as redesignated by subparagraph (A))—

(i) in subparagraph (B) by striking “supports research in which there is a clear public benefit and” and inserting “delivers a clear public benefit and occurs where”;

(ii) in subparagraph (C) by striking “or” after the semicolon;

(iii) by redesignating subparagraph (D) as subparagraph (H); and

(iv) by inserting after subparagraph (C) the following:

“(D) meets and addresses current or emerging needs;

“(E) presents the best means to align resources with multiyear plans and priorities;

“(F) ensures the coordination of highway research and technology transfer activities, including through activities performed by university transportation centers;

“(G) educates current and future transportation professionals; or”;

(E) in paragraph (4) (as redesignated by subparagraph (A)) by striking subparagraphs (B) through (D) and inserting the following:

“(B) partner with State highway agencies and other stakeholders as appropriate, including international entities, to facilitate research and technology transfer activities;

“(C) communicate the results of ongoing and completed research;

“(D) lead efforts to coordinate national emphasis areas of highway research, technology, and innovation deployment;

“(E) leverage partnerships with industry, academia, and international entities; and

“(F) conduct, facilitate, and support training and education of current and future transportation professionals.”;

(F) in paragraph (5)(C) (as redesignated by subparagraph (A)) by striking “policy and planning” and inserting “all highway objectives seeking to improve the performance of the transportation system”;

(G) in paragraph (6) (as redesignated by subparagraph (A)) in the second sentence, by inserting “tribal governments,” after “local governments,”; and

(H) in paragraph (8) (as redesignated by subparagraph (A))—

(i) in the first sentence, by striking “To the maximum” and inserting the following:

“(A) IN GENERAL.—To the maximum”;

(ii) in the second sentence, by striking “Performance measures” and inserting the following:

“(B) PERFORMANCE MEASURES.—Performance measures”;

(iii) in the third sentence, by striking “All evaluations” and inserting the following:

“(D) AVAILABILITY OF EVALUATIONS.—All evaluations under this paragraph”; and

(iv) by inserting after subparagraph (B) the following:

“(C) PROGRAM PLAN.—To the maximum extent practicable, each program pursued under this chapter shall be part of a data-driven, outcome-oriented program plan.”;

(3) in subsection (b)—

(A) in paragraph (4) by striking “surface transportation research and technology development strategic plan developed under section 508” and inserting “the transportation research and development strategic plan of the Secretary”;

(B) in paragraph (5) by striking “section” each place it appears and inserting “chapter”;

(C) in paragraph (6) by adding at the end the following:

“(C) TRANSFER OF AMOUNTS AMONG STATES OR TO FEDERAL HIGHWAY ADMINISTRATION.—The Secretary may, at the request of a State, transfer amounts apportioned or allocated to that State under this chapter to another State or the Federal Highway Administration to fund research, development, and technology transfer activities of mutual interest on a pooled funds basis.

“(D) TRANSFER OF OBLIGATION AUTHORITY.—Obligation authority for amounts trans-

ferred under this subsection shall be disbursed in the same manner and for the same amount as provided for the project being transferred.”; and

(D) by adding at the end the following:

“(7) PRIZE COMPETITIONS.—

“(A) IN GENERAL.—The Secretary may carry out prize competitions to award competitive prizes for surface transportation innovations that have the potential for application to the research and technology objectives and activities of the Federal Highway Administration to improve system performance.

“(B) REQUIREMENTS.—

“(i) IN GENERAL.—The Secretary shall use a competitive process for the selection of prize recipients and shall widely advertise and solicit participation in prize competitions under this paragraph.

“(ii) REGISTRATION REQUIRED.—No individual or entity shall participate in a prize competition under this paragraph unless the individual or entity has registered with the Secretary in accordance with the eligibility requirements established by the Secretary under clause (iii).

“(iii) MINIMUM REQUIREMENTS.—The Secretary shall establish eligibility requirements for participation in each prize competition under this paragraph, which, at a minimum, shall—

“(I) limit participation in the prize competition to—

“(aa) individuals who are citizens of the United States;

“(bb) entities organized or existing under the laws of the United States or of a State; and

“(cc) entities organized or existing under the laws of a foreign country, if the controlling interest, as defined by the Secretary, is held by an individual or entity described in item (aa) or (bb);

“(II) require any individual or entity that registers for a prize competition—

“(aa) to assume all risks arising from participation in the competition; and

“(bb) to waive all claims against the Federal Government for any damages arising out of participation in the competition, including all claims, whether through negligence or otherwise, except in the case of willful misconduct, for—

“(AA) injury, death, damage, or loss of property; or

“(BB) loss of revenue or profits, whether direct, indirect, or consequential; and

“(III) require any individual or entity that registers for a prize competition to waive all claims against any non-Federal entity operating or managing the prize competition, such as a private contractor managing competition activities, to the extent that the Secretary believes is necessary to protect the interests of the Federal Government.

“(C) RELATIONSHIP TO OTHER AUTHORITY.—The Secretary may exercise the authority in this section in conjunction with, or in addition to, any other authority of the Secretary to acquire, support, or stimulate innovations with the potential for application to the Federal highway research technology and education program.”;

(4) in subsection (c)—

(A) in paragraph (3)(A)—

(i) by striking “subsection” and inserting “chapter”; and

(ii) by striking “50” and inserting “80”;

(B) in paragraph (4) by striking “subsection” and inserting “chapter”; and

(5) by striking subsections (d) through (j).

(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code,

is amended by striking the item relating to section 502 and inserting the following:

“502. Surface transportation research, development, and technology.”.

#### SEC. 2203. RESEARCH AND TECHNOLOGY DEVELOPMENT AND DEPLOYMENT.

(a) IN GENERAL.—Section 503 of title 23, United States Code, is amended to read as follows:

#### “§ 503. Research and technology development and deployment

“(a) IN GENERAL.—The Secretary shall—

“(1) carry out research, development, and deployment activities that encompass the entire innovation lifecycle; and

“(2) ensure that all research carried out under this section aligns with the transportation research and development strategic plan of the Secretary.

“(b) HIGHWAY RESEARCH AND DEVELOPMENT PROGRAM.—

“(1) OBJECTIVES.—In carrying out the highway research and development program, the Secretary, to address current and emerging highway transportation needs, shall—

“(A) identify research topics;

“(B) coordinate domestic and international research and development activities;

“(C) carry out research, testing, and evaluation activities; and

“(D) provide technology transfer and technical assistance.

“(2) CONTENTS.—Research and development activities carried out under this section may include any of the following activities:

“(A) IMPROVING HIGHWAY SAFETY.—

“(i) IN GENERAL.—The Secretary shall carry out research and development activities from an integrated perspective to establish and implement systematic measures to improve highway safety.

“(ii) OBJECTIVES.—In carrying out this subparagraph the Secretary shall carry out research and development activities—

“(I) to achieve greater long-term safety gains;

“(II) to reduce the number of fatalities and serious injuries on public roads;

“(III) to fill knowledge gaps that limit the effectiveness of research;

“(IV) to support the development and implementation of State strategic highway safety plans;

“(V) to advance improvements in, and use of, performance prediction analysis for decisionmaking; and

“(VI) to expand technology transfer to partners and stakeholders.

“(iii) CONTENTS.—Research and technology activities carried out under this subparagraph may include—

“(I) safety assessments and decision-making tools;

“(II) data collection and analysis;

“(III) crash reduction projections;

“(IV) low-cost safety countermeasures;

“(V) innovative operational improvements and designs of roadway and roadside features;

“(VI) evaluation of countermeasure costs and benefits;

“(VII) development of tools for projecting impacts of safety countermeasures;

“(VIII) rural road safety measures;

“(IX) safety measures for vulnerable road users, including bicyclists and pedestrians;

“(X) safety policy studies;

“(XI) human factors studies and measures;

“(XII) safety technology deployment;

“(XIII) safety workforce professional capacity building initiatives;

“(XIV) safety program and process improvements; and

“(XV) tools and methods to enhance safety performance, including achievement of statewide safety performance targets.

“(B) IMPROVING INFRASTRUCTURE INTEGRITY.—

“(i) IN GENERAL.—The Secretary shall carry out and facilitate highway and bridge infrastructure research and development activities—

“(I) to maintain infrastructure integrity;

“(II) to meet user needs; and

“(III) to link Federal transportation investments to improvements in system performance.

“(ii) OBJECTIVES.—In carrying out this subparagraph, the Secretary shall carry out research and development activities—

“(I) to reduce the number of fatalities attributable to infrastructure design characteristics and work zones;

“(II) to improve the safety and security of highway infrastructure;

“(III) to increase the reliability of lifecycle performance predictions used in infrastructure design, construction, and management;

“(IV) to improve the ability of transportation agencies to deliver projects that meet expectations for timeliness, quality, and cost;

“(V) to reduce user delay attributable to infrastructure system performance, maintenance, rehabilitation, and construction;

“(VI) to improve highway condition and performance through increased use of design, materials, construction, and maintenance innovations;

“(VII) to reduce the lifecycle environmental impacts of highway infrastructure through innovations in design, construction, operation, preservation, and maintenance; and

“(VIII) to study vulnerabilities of the transportation system to seismic activities and extreme events and methods to reduce those vulnerabilities.

“(iii) CONTENTS.—Research and technology activities carried out under this subparagraph may include—

“(I) long-term infrastructure performance programs addressing pavements, bridges, tunnels, and other structures;

“(II) short-term and accelerated studies of infrastructure performance;

“(III) research to develop more durable infrastructure materials and systems;

“(IV) advanced infrastructure design methods;

“(V) accelerated highway and bridge construction;

“(VI) performance-based specifications;

“(VII) construction and materials quality assurance;

“(VIII) comprehensive and integrated infrastructure asset management;

“(IX) infrastructure safety assurance;

“(X) highway infrastructure security;

“(XI) sustainable infrastructure design and construction;

“(XII) infrastructure rehabilitation and preservation techniques, including techniques to rehabilitate and preserve historic infrastructure;

“(XIII) hydraulic, geotechnical, and aerodynamic aspects of infrastructure;

“(XIV) improved highway construction technologies and practices;

“(XV) improved tools, technologies, and models for infrastructure management, including assessment and monitoring of infrastructure condition;

“(XVI) studies to improve flexibility and resiliency of infrastructure systems to withstand climate variability;

“(XVII) studies on the effectiveness of fiber-based additives to improve the dura-

bility of surface transportation materials in various geographic regions;

“(XVIII) studies of infrastructure resilience and other adaptation measures;

“(XIX) maintenance of seismic research activities, including research carried out in conjunction with other Federal agencies to study the vulnerability of the transportation system to seismic activity and methods to reduce that vulnerability; and

“(XX) technology transfer and adoption of permeable, pervious, or porous paving materials, practices, and systems that are designed to minimize environmental impacts, storm water runoff, and flooding and to treat or remove pollutants by allowing storm water to infiltrate through the pavement in a manner similar to predevelopment hydrologic conditions.

“(iv) LIFECYCLE COSTS ANALYSIS STUDY.—

“(I) IN GENERAL.—In this clause, the term ‘lifecycle costs analysis’ means a process for evaluating the total economic worth of a usable project segment by analyzing initial costs and discounted future costs, such as maintenance, user, reconstruction, rehabilitation, restoring, and resurfacing costs, over the life of the project segment.

“(II) STUDY.—The Comptroller General shall conduct a study of the best practices for calculating lifecycle costs for federally funded highway projects. At a minimum, this study shall include a thorough literature review and a survey of current lifecycle cost practices of State departments of transportation.

“(III) CONSULTATION.—In carrying out this study, the Comptroller shall consult with, at a minimum—

“(aa) the American Association of State Highway and Transportation Officials;

“(bb) appropriate experts in the field of lifecycle cost analysis; and

“(cc) appropriate industry experts and research centers.

“(IV) REPORT.—Not later than 1 year after the date of enactment of the MAP-21, the Comptroller General shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the study which shall include, but is not limited to—

“(aa) a summary of the latest research on lifecycle cost analysis; and

“(bb) recommendations on the appropriate—

“(AA) period of analysis;

“(BB) design period;

“(CC) discount rates; and

“(DD) use of actual material life and maintenance cost data.

“(C) STRENGTHENING TRANSPORTATION PLANNING AND ENVIRONMENTAL DECISION-MAKING.—

“(i) IN GENERAL.—The Secretary shall carry out research—

“(I) to improve transportation planning and environmental decisionmaking processes; and

“(II) to minimize the impact of surface transportation on the environment and quality of life.

“(ii) OBJECTIVES.—In carrying out this subparagraph the Secretary shall carry out research and development activities—

“(I) to reduce the impact of highway infrastructure and operations on the natural and human environment;

“(II) to advance improvements in environmental analyses and processes and context sensitive solutions for transportation decisionmaking;

“(III) to improve construction techniques;

“(IV) to accelerate construction to reduce congestion and related emissions;

“(V) to reduce the impact of highway runoff on the environment;

“(VI) to maintain sustainability of biological communities and ecosystems adjacent to highway corridors;

“(VII) to improve understanding and modeling of the factors that contribute to the demand for transportation;

“(VIII) to improve transportation planning decisionmaking and coordination; and

“(IX) to reduce the environmental impacts of freight movement.

“(iii) CONTENTS.—Research and technology activities carried out under this subparagraph may include—

“(I) creation of models and tools for evaluating transportation measures and transportation system designs;

“(II) congestion reduction efforts;

“(III) transportation and economic development planning in rural areas and small communities;

“(IV) improvement of State, local, and tribal capabilities relating to surface transportation planning and the environment;

“(V) environmental stewardship and sustainability activities;

“(VI) streamlining of project delivery processes;

“(VII) development of effective strategies and techniques to analyze and minimize impacts to the natural and human environment and provide environmentally beneficial mitigation;

“(VIII) comprehensive multinational planning;

“(IX) multistate transportation corridor planning;

“(X) improvement of transportation choices, including walking, bicycling, and linkages to public transportation;

“(XI) ecosystem sustainability;

“(XII) wildlife and plant population connectivity and interaction across and along highway corridors;

“(XIII) analysis, measurement, and reduction of air pollution from transportation sources;

“(XIV) advancement in the understanding of health impact analyses in transportation planning and project development;

“(XV) transportation planning professional development;

“(XVI) research on improving the cooperation and integration of transportation planning with other regional plans, including land use, energy, water infrastructure, economic development, and housing plans; and

“(XVII) reducing the environmental impacts of freight movement.

“(D) REDUCING CONGESTION, IMPROVING HIGHWAY OPERATIONS, AND ENHANCING FREIGHT PRODUCTIVITY.—

“(i) IN GENERAL.—The Secretary shall carry out research under this subparagraph with the goals of—

“(I) addressing congestion problems;

“(II) reducing the costs of congestion;

“(III) improving freight movement;

“(IV) increasing productivity; and

“(V) improving the economic competitiveness of the United States.

“(ii) OBJECTIVES.—In carrying out this subparagraph, the Secretary shall carry out research and development activities to identify, develop, and assess innovations that have the potential—

“(I) to reduce traffic congestion;

“(II) to improve freight movement; and

“(III) to reduce freight-related congestion throughout the transportation network.

“(iii) CONTENTS.—Research and technology activities carried out under this subparagraph may include—

“(I) active traffic and demand management;

“(II) acceleration of the implementation of Intelligent Transportation Systems technology;

“(III) advanced transportation concepts and analysis;

“(IV) arterial management and traffic signal operation;

“(V) congestion pricing;

“(VI) corridor management;

“(VII) emergency operations;

“(VIII) research relating to enabling technologies and applications;

“(IX) freeway management;

“(X) evaluation of enabling technologies;

“(XI) freight industry professional development;

“(XII) impacts of vehicle size and weight on congestion;

“(XIII) freight operations and technology;

“(XIV) operations and freight performance measurement and management;

“(XV) organization and planning for operations;

“(XVI) planned special events management;

“(XVII) real-time transportation information;

“(XVIII) road weather management;

“(XIX) traffic and freight data and analysis tools;

“(XX) traffic control devices;

“(XXI) traffic incident management;

“(XXII) work zone management;

“(XXIII) communication of travel, roadway, and emergency information to persons with disabilities; and

“(XXIV) research on enhanced mode choice and intermodal connectivity.

“(E) ASSESSING POLICY AND SYSTEM FINANCIAL ALTERNATIVES.—

“(i) IN GENERAL.—The Secretary shall carry out research and technology on emerging issues in the domestic and international transportation community from a policy perspective.

“(ii) OBJECTIVES.—Research and technology activities carried out under this subparagraph shall provide information to policy and decisionmakers on current and emerging transportation issues.

“(iii) RESEARCH ACTIVITIES.—Activities carried out under this subparagraph shall include—

“(I) the planning and integration of a coordinated program related to the possible design, interoperability, and institutional roles of future sustainable transportation revenue mechanisms;

“(II) field trials to research potential alternative revenue mechanisms, and the Secretary may partner with individual States, groups of States, or other entities to implement such trials; and

“(III) other activities to study new methods which preserve a user-fee structure to maintain the long-term solvency of the Highway Trust Fund.

“(iv) CONTENTS.—Research and technology activities carried out under this subparagraph may include—

“(I) highway needs and investment analysis;

“(II) a motor fuel tax evasion program;

“(III) advancing innovations in revenue generation, financing, and procurement for project delivery;

“(IV) improving the accuracy of project cost analyses;

“(V) highway performance measurement;

“(VI) travel demand performance measurement;

“(VII) highway finance performance measurement;

“(VIII) international technology exchange initiatives;

“(IX) infrastructure investment needs reports;

“(X) promotion of the technologies, products, and best practices of the United States; and

“(XI) establishment of partnerships among the United States, foreign agencies, and transportation experts.

“(v) FUNDING.—Of the funds authorized to carry out this subsection, no less than 50 percent shall be used to carry out clause (iii).

“(F) INFRASTRUCTURE INVESTMENT NEEDS REPORT.—

“(i) IN GENERAL.—Not later than July 31, 2012, and July 31 of every second year thereafter, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that describes estimates of the future highway and bridge needs of the United States and the backlog of current highway and bridge needs.

“(ii) COMPARISONS.—Each report under clause (i) shall include all information necessary to relate and compare the conditions and service measures used in the previous biennial reports to conditions and service measures used in the current report.

“(iii) INCLUSIONS.—Each report under clause (i) shall provide recommendations to Congress on changes to the Highway Performance Monitoring System that address—

“(I) improvements to the quality and standardization of data collection on all functional classifications of Federal-aid highways for accurate system length, lane length, and vehicle-mile of travel; and

“(II) changes to the reporting requirements authorized under section 315, to reflect recommendations under this paragraph for collection, storage, analysis, reporting, and display of data for Federal-aid highways and, to the maximum extent practical, all public roads.

“(G) EXPLORING NEXT GENERATION SOLUTIONS AND CAPITALIZING ON THE HIGHWAY RESEARCH CENTER.—

“(i) IN GENERAL.—The Secretary shall carry out research and development activities relating to exploratory advanced research—

“(I) to leverage the targeted capabilities of the Turner-Fairbank Highway Research Center to develop technologies and innovations of national importance; and

“(II) to develop potentially transformational solutions to improve the durability, efficiency, environmental impact, productivity, and safety aspects of highway and intermodal transportation systems.

“(ii) CONTENTS.—Research and technology activities carried out under this subparagraph may include—

“(I) long-term, high-risk research to improve the materials used in highway infrastructure;

“(II) exploratory research to assess the effects of transportation decisions on human health;

“(III) advanced development of surrogate measures for highway safety;

“(IV) transformational research to affect complex environmental and highway system relationships;

“(V) development of economical and environmentally sensitive designs, efficient and quality-controlled construction practices, and durable materials;

“(VI) development of advanced data acquisition techniques for system condition and performance monitoring;

“(VII) inclusive research for hour-to-hour operational decisionmaking and simulation forecasting;

“(VIII) understanding current and emerging phenomena to inform next generation transportation policy decisionmaking; and

“(IX) continued improvement and advancement of the Turner-Fairbank Highway Research Center.

“(H) ALIGNING NATIONAL CHALLENGES AND DISSEMINATING INFORMATION.—

“(i) IN GENERAL.—The Secretary shall conduct research and development activities—

“(I) to establish a nationally coordinated highway research agenda that—

“(aa) focuses on topics of national significance;

“(bb) addresses current gaps in research;

“(cc) encourages collaboration;

“(dd) reduces unnecessary duplication of effort; and

“(ee) accelerates innovation delivery; and

“(II) to provide relevant information to researchers and highway and transportation practitioners to improve the performance of the transportation system.

“(ii) CONTENTS.—Research and technology activities carried out under this subparagraph may include—

“(I) coordination, development, and implementation of a national highway research agenda;

“(II) collaboration on national emphasis areas of highway research and coordination among international, Federal, State, and university research programs;

“(III) development and delivery of research reports and innovation delivery messages;

“(IV) identification of market-ready technologies and innovations; and

“(V) provision of access to data developed under this subparagraph to the public, including researchers, stakeholders, and customers, through a publicly accessible Internet site.

“(I) HIGH-RISK RURAL ROADS BEST PRACTICES.—

“(i) STUDY.—

“(I) IN GENERAL.—The Secretary shall conduct a study of the best practices for implementing cost-effective roadway safety infrastructure improvements on high-risk rural roads.

“(II) METHODOLOGY.—In carrying out the study, the Secretary shall—

“(aa) conduct a thorough literature review;

“(bb) survey current practices of State departments of transportation; and

“(cc) survey current practices of local units of government, as appropriate.

“(III) CONSULTATION.—In carrying out the study, the Secretary shall consult with—

“(aa) State departments of transportation;

“(bb) county engineers and public works professionals;

“(cc) appropriate local officials; and

“(dd) appropriate private sector experts in the field of roadway safety infrastructure.

“(ii) REPORT.—

“(I) IN GENERAL.—Not later than 1 year after the date of enactment of the MAP-21, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the study.

“(II) CONTENTS.—The report shall include—

“(aa) a summary of cost-effective roadway safety infrastructure improvements;



“(bb) a summary of the latest research on the financial savings and reduction in fatalities and serious bodily injury crashes from the implementation of cost-effective roadway safety infrastructure improvements; and

“(cc) recommendations for State and local governments on best practice methods to install cost-effective roadway safety infrastructure on high-risk rural roads.

“(iii) MANUAL.—

“(I) DEVELOPMENT.—Based on the results of the study under clause (ii), the Secretary, in consultation with the individuals and entities described in clause (i)(III), shall develop a best practices manual to support Federal, State, and local efforts to reduce fatalities and serious bodily injury crashes on high-risk rural roads through the use of cost-effective roadway safety infrastructure improvements.

“(II) AVAILABILITY.—The manual shall be made available to State and local governments not later than 180 days after the date of submission of the report under clause (ii).

“(III) CONTENTS.—The manual shall include, at a minimum, a list of cost-effective roadway safety infrastructure improvements and best practices on the installation of cost-effective roadway safety infrastructure improvements on high-risk rural roads.

“(IV) USE OF MANUAL.—Use of the manual shall be voluntary and the manual shall not establish any binding standards or legal duties on State or local governments, or any other person.

“(c) TECHNOLOGY AND INNOVATION DEPLOYMENT PROGRAM.—

“(1) IN GENERAL.—The Secretary shall carry out a technology and innovation deployment program relating to all aspects of highway transportation, including planning, financing, operation, structures, materials, pavements, environment, construction, and the duration of time between project planning and project delivery, with the goals of—

“(A) significantly accelerating the adoption of innovative technologies by the surface transportation community;

“(B) providing leadership and incentives to demonstrate and promote state-of-the-art technologies, elevated performance standards, and new business practices in highway construction processes that result in improved safety, faster construction, reduced congestion from construction, and improved quality and user satisfaction;

“(C) constructing longer-lasting highways through the use of innovative technologies and practices that lead to faster construction of efficient and safe highways and bridges;

“(D) improving highway efficiency, safety, mobility, reliability, service life, environmental protection, and sustainability; and

“(E) developing and deploying new tools, techniques, and practices to accelerate the adoption of innovation in all aspects of highway transportation.

“(2) IMPLEMENTATION.—

“(A) IN GENERAL.—The Secretary shall promote, facilitate, and carry out the program established under paragraph (1) to distribute the products, technologies, tools, methods, or other findings that result from highway research and development activities, including research and development activities carried out under this chapter.

“(B) ACCELERATED INNOVATION DEPLOYMENT.—In carrying out the program established under paragraph (1), the Secretary shall—

“(i) establish and carry out demonstration programs;

“(ii) provide incentives, technical assistance, and training to researchers and developers; and

“(iii) develop improved tools and methods to accelerate the adoption of proven innovative practices and technologies as standard practices.

“(C) IMPLEMENTATION OF FUTURE STRATEGIC HIGHWAY RESEARCH PROGRAM FINDINGS AND RESULTS.—

“(i) IN GENERAL.—The Secretary, in consultation with the American Association of State Highway and Transportation Officials and the Transportation Research Board of the National Academy of Sciences, shall implement the findings and recommendations developed under the future strategic highway research program established under section 510.

“(ii) BASIS FOR FINDINGS.—The activities carried out under this subparagraph shall be based on the report submitted to Congress by the Transportation Research Board of the National Academy of Sciences under section 510(e).

“(iii) PERSONNEL.—The Secretary may use funds made available to carry out this subsection for administrative costs under this subparagraph, which funds shall be used in addition to any other funds made available for that purpose.

“(iv) FEES.—

“(I) IN GENERAL.—The Secretary may impose and collect fees to recover costs associated with special data or analysis requests relating to safety naturalistic driving databases developed under the future of strategic highway research program.

“(II) USE OF FEE AMOUNTS.—

“(aa) IN GENERAL.—Any fees collected under this clause shall be made available to the Secretary to carry out this section and shall remain available for expenditure until expended.

“(bb) SUPPLEMENT, NOT SUPPLANT.—Any fee amounts collected under this clause shall supplement, but not supplant, amounts made available to the Secretary to carry out this title.

“(d) AIR QUALITY AND CONGESTION MITIGATION MEASURE OUTCOMES ASSESSMENT RESEARCH.—

“(1) IN GENERAL.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall carry out a research program to examine the outcomes of actions funded under the congestion mitigation and air quality improvement program since the enactment of the SAFETEA-LU (Public Law 109-59).

“(2) GOALS.—The goals of the program shall include—

“(A) the assessment and documentation, through outcomes research conducted on a representative sample of cases, of—

“(i) the emission reductions achieved by federally supported surface transportation actions intended to reduce emissions or lessen traffic congestion; and

“(ii) the air quality and human health impacts of those actions, including potential unrecognized or indirect consequences, attributable to those actions;

“(B) an expanded base of empirical evidence on the air quality and human health impacts of actions described in paragraph (1); and

“(C) an increase in knowledge of—

“(i) the factors determining the air quality and human health changes associated with transportation emission reduction actions; and

“(ii) other information to more accurately understand the validity of current esti-

mation and modeling routines and ways to improve those routines.

“(3) ADMINISTRATIVE ELEMENTS.—To carry out this subsection, the Secretary shall—

“(A) make a grant for the coordination, selection, management, and reporting of component studies to an independent scientific research organization with the necessary experience in successfully conducting accountability and other studies on mobile source air pollutants and associated health effects;

“(B) ensure that case studies are identified and conducted by teams selected through a competitive solicitation overseen by an independent committee of unbiased experts; and

“(C) ensure that all findings and reports are peer-reviewed and published in a form that presents the findings together with reviewer comments.

“(4) REPORT.—The Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

“(A) not later than 1 year after the date of enactment of the MAP-21, and for the following year, a report providing an initial scoping and plan, and status updates, respectively, for the program under this subsection; and

“(B) not later than 2 years after the date of enactment of the MAP-21, a final report that describes the findings of, and recommendations resulting from, the program under this subsection.

“(5) FUNDING.—Of the amounts made available to carry out this section, the Secretary shall make available to carry out this subsection not more than \$1,000,000 for each fiscal year.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is amended by striking the item relating to section 503 and inserting the following:

“503. Research and technology development and deployment.”.

**SEC. 2204. TRAINING AND EDUCATION.**

Section 504 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2)(A) by inserting “and the employees of any other applicable Federal agency” before the semicolon at the end;

(B) in paragraph (3)(A)(ii)(V) by striking “expediting” and inserting “reducing the amount of time required for”;

(C) by striking paragraph (4);

(D) by redesignating paragraphs (5) through (8) as paragraphs (4) through (7), respectively; and

(E) in paragraph (7) (as redesignated by subparagraph (D)) by striking “paragraph (7)” and inserting “paragraph (6)”;

(2) in subsection (b) by striking paragraph (3) and inserting the following:

“(3) FEDERAL SHARE.—

“(A) LOCAL TECHNICAL ASSISTANCE CENTERS.—

“(i) IN GENERAL.—Subject to subparagraph (B), the Federal share of the cost of an activity carried out by a local technical assistance center under paragraphs (1) and (2) shall be 50 percent.

“(ii) NON-FEDERAL SHARE.—The non-Federal share of the cost of an activity described in clause (i) may consist of amounts provided to a recipient under subsection (e) or section 505, up to 100 percent of the non-Federal share.

“(B) TRIBAL TECHNICAL ASSISTANCE CENTERS.—The Federal share of the cost of an

activity carried out by a tribal technical assistance center under paragraph (2)(D)(ii) shall be 100 percent.”;

(3) in subsection (c)(2)—

(A) by striking “The Secretary” and inserting the following:

“(A) IN GENERAL.—The Secretary”;

(B) in subparagraph (A) (as designated by subparagraph (A)) by striking “. The program” and inserting “, which program”; and

(C) by adding at the end the following:

“(B) USE OF AMOUNTS.—Amounts provided to institutions of higher education to carry out this paragraph shall be used to provide direct support of student expenses.”;

(4) in subsection (e)(1)—

(A) in the matter preceding subparagraph (A) by striking “sections 104(b)(1), 104(b)(2), 104(b)(3), 104(b)(4), and 144(e)” and inserting “paragraphs (1) through (4) of section 104(b)”;

(B) in subparagraph (D) by striking “and” at the end;

(C) in subparagraph (E) by striking the period and inserting a semicolon; and

(D) by adding at the end the following:

“(F) meetings of the transportation professionals that include education and professional development activities;

“(G) activities carried out by the National Highway Institute under subsection (a); and

“(H) local technical assistance programs under subsection (b).”;

(5) in subsection (f) in the heading, by striking “PILOT”;

(6) in subsection (g)(4)(F) by striking “excellence” and inserting “stewardship”; and

(7) by adding at the end the following:

“(h) CENTERS FOR SURFACE TRANSPORTATION EXCELLENCE.—

“(1) IN GENERAL.—The Secretary may make grants under this section to establish and maintain centers for surface transportation excellence.

“(2) GOALS.—The goals of a center referred to in paragraph (1) shall be to promote and support strategic national surface transportation programs and activities relating to the work of State departments of transportation in the areas of environment, surface transportation safety, rural safety, and project finance.”.

#### SEC. 2205. STATE PLANNING AND RESEARCH.

Section 505 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1) by striking “section 104 (other than sections 104(f) and 104(h)) and under section 144” and inserting “paragraphs (1) through (5) of section 104(b)”;

(B) in paragraph (3) by striking “under section 303” and inserting “, plans, and processes under sections 119, 148, 149, and 167”;

(2) in subsection (b)—

(A) in paragraph (1) by striking “25” and inserting “24”; and

(B) in paragraph (2) by striking “75 percent of the funds described in paragraph (1)” and inserting “70 percent of the funds described in subsection (a)”;

(3) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively;

(4) by inserting after subsection (b) the following:

“(c) IMPLEMENTATION OF FUTURE STRATEGIC HIGHWAY RESEARCH PROGRAM FINDINGS AND RESULTS.—

“(1) FUNDS.—Not less than 6 percent of the funds subject to subsection (a) that are apportioned to a State for a fiscal year shall be made available to the Secretary to carry out section 503(c)(2)(C).

“(2) TREATMENT OF FUNDS.—Funds expended under paragraph (1) shall not be con-

sidered to be part of the extramural budget of the agency for the purpose of section 9 of the Small Business Act (15 U.S.C. 638).”; and

(5) in paragraph (e) (as so redesignated) by striking “section 118(b)(2)” and inserting “section 118(b)”.

#### SEC. 2206. INTERNATIONAL HIGHWAY TRANSPORTATION PROGRAM.

Section 506 of title 23, United States Code, is repealed.

#### SEC. 2207. SURFACE TRANSPORTATION ENVIRONMENTAL COOPERATIVE RESEARCH PROGRAM.

Section 507 of title 23, United States Code, is repealed.

#### SEC. 2208. NATIONAL COOPERATIVE FREIGHT RESEARCH.

Section 509(d) of title 23, United States Code, is amended by adding at the end the following:

“(6) COORDINATION OF COOPERATIVE RESEARCH.—The National Academy of Sciences shall coordinate research agendas, research project selections, and competitions across all transportation-related cooperative research programs carried out by the National Academy of Sciences to ensure program efficiency, effectiveness, and the dissemination of research findings.”.

#### SEC. 2209. UNIVERSITY TRANSPORTATION CENTERS PROGRAM.

(a) IN GENERAL.—Section 5505 of title 49, United States Code, is amended to read as follows:

##### “§ 5505. University transportation centers program

“(a) UNIVERSITY TRANSPORTATION CENTERS PROGRAM.—

“(1) ESTABLISHMENT AND OPERATION.—The Secretary shall make grants under this section to eligible nonprofit institutions of higher education to establish and operate university transportation centers.

“(2) ROLE OF CENTERS.—The role of each university transportation center referred to in paragraph (1) shall be—

“(A) to advance transportation expertise and technology in the varied disciplines that comprise the field of transportation through education, research, and technology transfer activities;

“(B) to provide for a critical transportation knowledge base outside of the Department of Transportation; and

“(C) to address critical workforce needs and educate the next generation of transportation leaders.

“(b) COMPETITIVE SELECTION PROCESS.—

“(1) APPLICATIONS.—To receive a grant under this section, a nonprofit institution of higher education shall submit to the Secretary an application that is in such form and contains such information as the Secretary may require.

“(2) GENERAL SELECTION CRITERIA.—

“(A) IN GENERAL.—Except as otherwise provided by this section, the Secretary shall award grants under this section in nonexclusive candidate topic areas established by the Secretary that address the research priorities identified in section 503 of title 23.

“(B) CRITERIA.—The Secretary, in conjunction with the Administrators of the Federal Highway Administration and the Federal Transit Administration, shall select each recipient of a grant under this section through a competitive process based on the assessment of the Secretary relating to—

“(i) the demonstrated ability of the recipient to address each specific topic area described in the research and strategic plans of the recipient;

“(ii) the demonstrated research, technology transfer, and education resources

available to the recipient to carry out this section;

“(iii) the ability of the recipient to provide leadership in solving immediate and long-range national and regional transportation problems;

“(iv) the ability of the recipient to carry out research, education, and technology transfer activities that are multimodal and multidisciplinary in scope;

“(v) the demonstrated commitment of the recipient to carry out transportation workforce development programs through—

“(I) degree-granting programs;

“(II) training seminars for practicing professionals;

“(III) outreach activities to attract new entrants into the transportation field, including women, minorities, and persons from disadvantaged communities; and

“(IV) primary and secondary school transportation workforce outreach;

“(vi) the demonstrated ability of the recipient to disseminate results and spur the implementation of transportation research and education programs through national or statewide continuing education programs;

“(vii) the demonstrated commitment of the recipient to the use of peer review principles and other research best practices in the selection, management, and dissemination of research projects;

“(viii) the strategic plan submitted by the recipient describing the proposed research to be carried out by the recipient and the performance metrics to be used in assessing the performance of the recipient in meeting the stated research, technology transfer, education, and outreach goals; and

“(ix) the ability of the recipient to implement the proposed program in a cost-efficient manner, such as through cost sharing and overall reduced overhead, facilities, and administrative costs.

“(c) GRANTS.—

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of the MAP-21, the Secretary, in conjunction with the Administrators of the Federal Highway Administration and the Federal Transit Administration, shall select grant recipients under subsection (b) and make grant amounts available to the selected recipients.

“(2) TIER 1 UNIVERSITY TRANSPORTATION CENTERS.—

“(A) IN GENERAL.—For each of fiscal years 2012 and 2013 and subject to subparagraph (B), the Secretary shall provide grants to not more than 15 recipients that the Secretary determines best meet the criteria described in subsection (b)(2).

“(B) RESTRICTIONS.—

“(i) IN GENERAL.—For each fiscal year, a grant made available under this paragraph shall not exceed \$3,500,000 per recipient.

“(ii) FOCUSED RESEARCH.—At least 2 of the recipients awarded a grant under this paragraph shall have expertise in, and focus research on, public transportation issues.

“(C) MATCHING REQUIREMENT.—

“(i) IN GENERAL.—As a condition of receiving a grant under this paragraph, a grant recipient shall match 100 percent of the amounts made available under the grant.

“(ii) SOURCES.—The matching amounts referred to in clause (i) may include amounts made available to the recipient under—

“(I) section 504(b) or 505 of title 23; and

“(II) subject to prior approval by the Secretary, a transportation-related grant from the National Science Foundation.

“(3) TIER 2 UNIVERSITY TRANSPORTATION CENTERS.—

“(A) IN GENERAL.—For each of fiscal years 2012 and 2013, the Secretary shall provide

grants of not more than \$2,000,000 each to not more than 20 recipients to carry out this section.

“(B) RESTRICTION.—A grant recipient under paragraph (2) shall not be eligible to receive a grant under this paragraph.

“(C) MATCHING REQUIREMENT.—

“(i) IN GENERAL.—As a condition of receiving a grant under this paragraph, a grant recipient shall match 50 percent of the amounts made available under the grant.

“(ii) SOURCES.—The matching amounts referred to in clause (i) may include amounts made available to the recipient under—

“(I) section 504(b) or 505 of title 23; and

“(II) subject to prior approval by the Secretary, a transportation-related grant from the National Science Foundation.

“(D) FOCUSED RESEARCH.—In awarding grants under this paragraph, consideration shall be given to minority institutions, as defined by section 365(3) of the Higher Education Act (20 U.S.C. Sec. 1067k), or consortia that include such institutions that have demonstrated an ability in transportation-related research. The requirements of subsection (c)(3)(C) shall not apply upon demonstration of financial hardship by the applicant institution.

“(d) PROGRAM COORDINATION.—

“(1) IN GENERAL.—The Secretary shall—

“(A) coordinate the research, education, and technology transfer activities carried out by grant recipients under this section; and

“(B) disseminate the results of that research through the establishment and operation of an information clearinghouse.

“(2) ANNUAL REVIEW AND EVALUATION.—Not less frequently than annually, and consistent with the plan developed under section 508 of title 23, the Secretary shall review and evaluate the programs carried out under this section by grant recipients.

“(3) PROGRAM EVALUATION AND OVERSIGHT.—For each of fiscal years 2012 and 2013, the Secretary shall expend not more than 1½ percent of the amounts made available to the Secretary to carry out this section for any coordination, evaluation, and oversight activities of the Secretary under this section and section 5506.

“(e) LIMITATION ON AVAILABILITY OF AMOUNTS.—Amounts made available to the Secretary to carry out this section shall remain available for obligation by the Secretary for a period of 3 years after the last day of the fiscal year for which the amounts are appropriated.

“(f) INFORMATION COLLECTION.—Any survey, questionnaire, or interview that the Secretary determines to be necessary to carry out reporting requirements relating to any program assessment or evaluation activity under this section, including customer satisfaction assessments, shall not be subject to chapter 35 of title 44.”

(b) CONFORMING AMENDMENT.—The analysis for chapter 55 of title 49, United States Code, is amended by striking the item relating to section 5505 and inserting the following:

“Sec. 5505. University transportation centers program.”

#### SEC. 2210. BUREAU OF TRANSPORTATION STATISTICS.

(a) IN GENERAL.—Subtitle III of title 49, United States Code, is amended by adding at the end the following:

##### “CHAPTER 63—BUREAU OF TRANSPORTATION STATISTICS

“6301. Definitions.

“6302. Bureau of Transportation Statistics.

“6303. Intermodal transportation database.

“6304. National transportation library.

“6305. Advisory council on transportation statistics.

“6306. Transportation statistical collection, analysis, and dissemination.

“6307. Furnishing of information, data, or reports by Federal agencies.

“6308. Proceeds of data product sales.

“6309. Information collection.

“6310. National transportation atlas database.

“6311. Limitations on statutory construction.

“6312. Research and development grants.

“6313. Transportation statistics annual report.

“6314. Mandatory response authority for freight data collection.

#### “§ 6301. Definitions.

“In this chapter, the following definitions apply:

“(1) BUREAU.—The term ‘Bureau’ means the Bureau of Transportation Statistics established by section 6302(a).

“(2) DEPARTMENT.—The term ‘Department’ means the Department of Transportation.

“(3) DIRECTOR.—The term ‘Director’ means the Director of the Bureau.

“(4) LIBRARY.—The term ‘Library’ means the National Transportation Library established by section 6304(a).

“(5) SECRETARY.—The term ‘Secretary’ means the Secretary of Transportation.

#### “§ 6302. Bureau of Transportation Statistics.

“(a) ESTABLISHMENT.—There is established in the Research and Innovative Technology Administration the Bureau of Transportation Statistics.

“(b) DIRECTOR.—

“(1) APPOINTMENT.—The Bureau shall be headed by a Director, who shall be appointed in the competitive service by the Secretary.

“(2) QUALIFICATIONS.—The Director shall be appointed from among individuals who are qualified to serve as the Director by virtue of training and experience in the collection, analysis, and use of transportation statistics.

“(3) DUTIES.—

“(A) IN GENERAL.—The Director shall—

“(i) serve as the senior advisor to the Secretary on data and statistics; and

“(ii) be responsible for carrying out the duties described in subparagraph (B).

“(B) DUTIES.—The Director shall—

“(i) ensure that the statistics compiled under clause (vi) are designed to support transportation decisionmaking by—

“(I) the Federal Government;

“(II) State and local governments;

“(III) metropolitan planning organizations;

“(IV) transportation-related associations;

“(V) the private sector, including the freight community; and

“(VI) the public;

“(ii) establish on behalf of the Secretary a program—

“(I) to effectively integrate safety data across modes; and

“(II) to address gaps in existing Department safety data programs;

“(iii) work with the operating administrations of the Department—

“(I) to establish and implement the data programs of the Bureau; and

“(II) to improve the coordination of information collection efforts with other Federal agencies;

“(iv) evaluate and update as necessary surveys and data collection methods of the Department on a continual basis to improve the accuracy and utility of transportation statistics;

“(v) encourage the standardization of data, data collection methods, and data manage-

ment and storage technologies for data collected by—

“(I) the Bureau;

“(II) the operating administrations of the Department;

“(III) State and local governments;

“(IV) metropolitan planning organizations; and

“(V) private sector entities;

“(vi) collect, compile, analyze, and publish a comprehensive set of transportation statistics on the performance and impacts of the national transportation system, including statistics on—

“(I) transportation safety across all modes and intermodally;

“(II) the state of good repair of United States transportation infrastructure;

“(III) the extent, connectivity, and condition of the transportation system, building on the national transportation atlas database developed under section 6310;

“(IV) economic efficiency across the entire transportation sector;

“(V) the effects of the transportation system on global and domestic economic competitiveness;

“(VI) demographic, economic, and other variables influencing travel behavior, including choice of transportation mode and goods movement;

“(VII) transportation-related variables that influence the domestic economy and global competitiveness;

“(VIII) economic costs and impacts for passenger travel and freight movement;

“(IX) intermodal and multimodal passenger movement;

“(X) intermodal and multimodal freight movement; and

“(XI) consequences of transportation for the human and natural environment;

“(vii) build and disseminate the transportation layer of the National Spatial Data Infrastructure developed under Executive Order 12906 (59 Fed. Reg. 17671) (or a successor Executive Order), including by coordinating the development of transportation geospatial data standards, compiling intermodal geospatial data, and collecting geospatial data that is not being collected by other entities;

“(viii) issue guidelines for the collection of information by the Department that the Director determines necessary to develop transportation statistics and carry out modeling, economic assessment, and program assessment activities to ensure that the information is accurate, reliable, relevant, uniform, and in a form that permits systematic analysis by the Department;

“(ix) review and report to the Secretary on the sources and reliability of—

“(I) the statistics proposed by the heads of the operating administrations of the Department to measure outputs and outcomes as required under the Government Performance and Results Act of 1993 (Public Law 103-62; 107 Stat. 285); and

“(II) at the request of the Secretary, any other data collected or statistical information published by the heads of the operating administrations of the Department; and

“(x) ensure that the statistics published under this section are readily accessible to the public.

“(c) ACCESS TO FEDERAL DATA.—In carrying out subsection (b)(3)(B)(ii), the Director shall be given access to all safety data that the Director determines necessary to carry out that subsection that is held by the Department or any other Federal agency.

**“§ 6303. Intermodal transportation database**

“(a) IN GENERAL.—In consultation with the Under Secretary Transportation for Policy, the Assistant Secretaries of the Department, and the heads of the operating administrations of the Department, the Director shall establish and maintain a transportation database for all modes of transportation.

“(b) USE.—The database shall be suitable for analyses carried out by the Federal Government, the States, and metropolitan planning organizations.

“(c) CONTENTS.—The database shall include—

“(1) information on the volumes and patterns of movement of goods, including local, interregional, and international movement, by all modes of transportation, intermodal combination, and relevant classification;

“(2) information on the volumes and patterns of movement of people, including local, interregional, and international movements, by all modes of transportation (including bicycle and pedestrian modes), intermodal combination, and relevant classification;

“(3) information on the location and connectivity of transportation facilities and services; and

“(4) a national accounting of expenditures and capital stocks on each mode of transportation and intermodal combination.

**“§ 6304. National transportation library**

“(a) PURPOSE AND ESTABLISHMENT.—To support the information management and decisionmaking needs of transportation officials at the Federal, State, and local levels, there is established in the Bureau of Transportation Statistics a National Transportation Library that shall—

“(1) be headed by an individual who is highly qualified in library and information science;

“(2) acquire, preserve, and manage transportation information and information products and services for use by the Department, other Federal agencies, and the general public;

“(3) provide reference and research assistance;

“(4) serve as a central depository for research results and technical publications of the Department;

“(5) provide a central clearinghouse for transportation data and information of the Federal Government;

“(6) serve as coordinator and policy lead for transportation information access;

“(7) provide transportation information and information products and services to—

“(A) the Department;

“(B) other Federal agencies;

“(C) public and private organizations; and

“(D) individuals, within the United States as well as internationally;

“(8) coordinate efforts among, and cooperate with, transportation libraries, information providers, and technical assistance centers, with the goal of developing a comprehensive transportation information and knowledge network that supports the activities described in section 6302(b)(3)(B); and

“(9) engage in such other activities as the Director determines to be necessary and as the resources of the Library permit.

“(b) ACCESS.—The Director shall publicize, facilitate, and promote access to the information products and services described in subsection (a), with the goal of improving the ability of the transportation community to share information and the ability of the Director to make statistics and other information readily accessible as required under section 6302(b)(3)(B)(x).

“(c) AGREEMENTS.—

“(1) IN GENERAL.—To carry out this section, the Director may enter into agreements with, provide grants to, and receive amounts from, any—

“(A) State or local government;

“(B) organization;

“(C) business; or

“(D) individual.

“(2) CONTRACTS, GRANTS, AND AGREEMENTS.—The Library may initiate and support specific information and data management, access, and exchange activities relating to the strategic goals of the Department, knowledge networking, and national and international cooperation, by entering into contracts or other agreements or providing grants.

“(3) AMOUNTS.—Any amounts received by the Library as payment for library products and services or other activities shall be made available to the Director to carry out this section and remain available until expended.

**“§ 6305. Advisory council on transportation statistics**

“(a) IN GENERAL.—The Director shall establish and consult with an advisory council on transportation statistics.

“(b) FUNCTION.—The function of the advisory council established under this subsection is to advise the Director on—

“(1) the quality, reliability, consistency, objectivity, and relevance of transportation statistics and analyses collected, supported, or disseminated by the Bureau and the Department; and

“(2) methods to encourage cooperation and interoperability of transportation data collected by the Bureau, the operating administrations of the Department, States, local governments, metropolitan planning organizations, and private sector entities.

“(c) MEMBERSHIP.—The advisory council shall be composed of not fewer than 9 and not more than 11 members appointed by the Director, who shall not be officers or employees of the United States.

“(d) TERMS OF APPOINTMENT.—

“(1) IN GENERAL.—Except as provided in paragraph (2), members of the advisory council shall be appointed to staggered terms not to exceed 3 years.

“(2) ADDITIONAL TERMS.—A member may be renominated for 1 additional 3-year term.

“(3) PREVIOUS MEMBERS.—A member serving on an advisory council on transportation statistics on the day before the date of enactment of the MAP-21 shall serve until the end of the appointed term of the member.

“(e) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the advisory council established under this section, except that section 14 of that Act shall not apply.

**“§ 6306. Transportation statistical collection, analysis, and dissemination**

“To ensure that all transportation statistical collection, analysis, and dissemination is carried out in a coordinated manner, the Director may—

“(1) use the services, equipment, records, personnel, information, and facilities of other Federal agencies, or State, local, and private agencies and instrumentalities, subject to the conditions that the applicable agency or instrumentality consents to that use;

“(2) enter into agreements with the agencies and instrumentalities described in paragraph (1) for purposes of data collection and analysis;

“(3) confer and cooperate with foreign governments, international organizations, and State, municipal, and other local agencies;

“(4) request such information, data, and reports from any Federal agency as the Director determines necessary to carry out this chapter;

“(5) encourage replication, coordination, and sharing of information among transportation agencies regarding information systems, information policy, and data; and

“(6) confer and cooperate with Federal statistical agencies as the Director determines necessary to carry out this chapter, including by entering into cooperative data sharing agreements in conformity with all laws and regulations applicable to the disclosure and use of data.

**“§ 6307. Furnishing of information, data, or reports by Federal agencies**

“(a) IN GENERAL.—Except as provided in subsection (b), a Federal agency requested to furnish information, data, or reports by the Director under section 6302(b)(3)(B) shall provide the information to the Director.

“(b) PROHIBITION ON CERTAIN DISCLOSURES.—

“(1) IN GENERAL.—An officer, employee, or contractor of the Bureau may not—

“(A) make any disclosure in which the data provided by an individual or organization under section 6302(b)(3)(B) can be identified;

“(B) use the information provided under section 6302(b)(3)(B) for a nonstatistical purpose; or

“(C) permit anyone other than an individual authorized by the Director to examine any individual report provided under section 6302(b)(3)(B).

“(2) COPIES OF REPORTS.—

“(A) IN GENERAL.—No department, bureau, agency, officer, or employee of the United States (except the Director in carrying out this chapter) may require, for any reason, a copy of any report that has been filed under section 6302(b)(3)(B) with the Bureau or retained by an individual respondent.

“(B) LIMITATION ON JUDICIAL PROCEEDINGS.—A copy of a report described in subparagraph (A) that has been retained by an individual respondent or filed with the Bureau or any of the employees, contractors, or agents of the Bureau—

“(i) shall be immune from legal process; and

“(ii) shall not, without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceedings.

“(C) APPLICABILITY.—This paragraph shall apply only to reports that permit information concerning an individual or organization to be reasonably determined by direct or indirect means.

“(3) INFORMING RESPONDENT OF USE OF DATA.—If the Bureau is authorized by statute to collect data or information for a nonstatistical purpose, the Director shall clearly distinguish the collection of the data or information, by rule and on the collection instrument, in a manner that informs the respondent who is requested or required to supply the data or information of the nonstatistical purpose.

“(c) TRANSPORTATION AND TRANSPORTATION-RELATED DATA ACCESS.—Except as expressly prohibited by law, the Director shall have access to any transportation and transportation-related information in the possession of any Federal agency.

**“§ 6308. Proceeds of data product sales**

“Notwithstanding section 3302 of title 31, amounts received by the Bureau from the sale of data products for necessary expenses

incurred may be credited to the Highway Trust Fund (other than the Mass Transit Account) for the purpose of reimbursing the Bureau for those expenses.

#### “§ 6309. Information collection

“As the head of an independent Federal statistical agency, the Director may consult directly with the Office of Management and Budget concerning any survey, questionnaire, or interview that the Director considers necessary to carry out the statistical responsibilities of this chapter.

#### “§ 6310. National transportation atlas database

“(a) IN GENERAL.—The Director shall develop and maintain a national transportation atlas database that is comprised of geospatial databases that depict—

- “(1) transportation networks;
- “(2) flows of people, goods, vehicles, and craft over the transportation networks; and
- “(3) social, economic, and environmental conditions that affect or are affected by the transportation networks.

“(b) INTERMODAL NETWORK ANALYSIS.—The databases referred to in subsection (a) shall be capable of supporting intermodal network analysis.

#### “§ 6311. Limitations on statutory construction

“Nothing in this chapter—

- “(1) authorizes the Bureau to require any other Federal agency to collect data; or
- “(2) alters or diminishes the authority of any other officer of the Department to collect and disseminate data independently.

#### “§ 6312. Research and development grants

“The Secretary may make grants to, or enter into cooperative agreements or contracts with, public and nonprofit private entities (including State transportation departments, metropolitan planning organizations, and institutions of higher education) for—

- “(1) investigation of the subjects described in section 6302(b)(3)(B)(vi);
- “(2) research and development of new methods of data collection, standardization, management, integration, dissemination, interpretation, and analysis;
- “(3) demonstration programs by States, local governments, and metropolitan planning organizations to coordinate data collection, reporting, management, storage, and archiving to simplify data comparisons across jurisdictions;
- “(4) development of electronic clearinghouses of transportation data and related information, as part of the Library; and
- “(5) development and improvement of methods for sharing geographic data, in support of the database under section 6310 and the National Spatial Data Infrastructure developed under Executive Order 12906 (59 Fed. Reg. 17671) (or a successor Executive Order).

#### “§ 6313. Transportation statistics annual report

“The Director shall submit to the President and Congress a transportation statistics annual report, which shall include—

- “(1) information on the progress of the Director in carrying out the duties described in section 6302(b)(3)(B);
- “(2) documentation of the methods used to obtain and ensure the quality of the statistics presented in the report; and
- “(3) any recommendations of the Director for improving transportation statistical information.

#### “§ 6314. Mandatory response authority for freight data collection.

“(a) FREIGHT DATA COLLECTION.—

“(1) IN GENERAL.—An owner, official, agent, person in charge, or assistant to the person in charge of a freight corporation, company, business, institution, establishment, or organization described in paragraph (2) shall be fined in accordance with subsection (b) if that individual neglects or refuses, when requested by the Director or other authorized officer, employee, or contractor of the Bureau to submit data under section 6302(b)(3)(B)—

“(A) to answer completely and correctly to the best knowledge of that individual all questions relating to the corporation, company, business, institution, establishment, or other organization; or

“(B) to make available records or statistics in the official custody of the individual.

“(2) DESCRIPTION OF ENTITIES.—A freight corporation, company, business, institution, establishment, or organization referred to in paragraph (1) is a corporation, company, business, institution, establishment, or organization that—

“(A) receives Federal funds relating to the freight program; and

“(B) has consented to be subject to a fine under this subsection on—

- “(i) refusal to supply any data requested; or
- “(ii) failure to respond to a written request.

“(b) FINES.—

“(1) IN GENERAL.—Subject to paragraph (2), an individual described in subsection (a) shall be fined not more than \$500.

“(2) WILLFUL ACTIONS.—If an individual willfully gives a false answer to a question described in subsection (a)(1), the individual shall be fined not more than \$10,000.”

(b) RULES OF CONSTRUCTION.—If the provisions of section 111 of title 49, United States Code, are transferred to chapter 63 of that title, the following rules of construction apply:

(1) For purposes of determining whether 1 provision of law supersedes another based on enactment later in time, a chapter 63 provision is deemed to have been enacted on the date of enactment of the corresponding section 111 provision.

(2) A reference to a section 111 provision, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding chapter 63 provision.

(3) A regulation, order, or other administrative action in effect under a section 111 provision continues in effect under the corresponding chapter 63 provision.

(4) An action taken or an offense committed under a section 111 provision is deemed to have been taken or committed under the corresponding chapter 63 provision.

(c) CONFORMING AMENDMENTS.—

(1) REPEAL.—Section 111 of title 49, United States Code, is repealed, and the item relating to section 111 in the analysis of chapter 1 of that title is deleted.

(2) ANALYSIS OF SUBTITLE III.—The analysis for subtitle III of title 49, United States Code, is amended by inserting after the items for chapter 61 the following:

“Chapter 63. Bureau of Transportation Statistics .....

#### SEC. 2211. ADMINISTRATIVE AUTHORITY.

Section 112 of title 49, United States Code, is amended by adding at the end the following:

“(f) PROMOTIONAL AUTHORITY.—Amounts authorized to be appropriated for the administration and operation of the Research and Innovative Technology Administration may be used to purchase promotional items of

nominal value for use by the Administrator of the Research and Innovative Technology Administration in the recruitment of individuals and promotion of the programs of the Administration.

“(g) PROGRAM EVALUATION AND OVERSIGHT.—For each of fiscal years 2012 and 2013, the Administrator may expend not more than 1½ percent of the amounts authorized to be appropriated for the administration and operation of the Research and Innovative Technology Administration to carry out the coordination, evaluation, and oversight of the programs administered by the Administration.

“(h) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

“(1) IN GENERAL.—To encourage innovative solutions to multimodal transportation problems and stimulate the deployment of new technology, the Administrator may carry out, on a cost-shared basis, collaborative research and development with—

“(A) non-Federal entities, including State and local governments, foreign governments, institutions of higher education, corporations, institutions, partnerships, sole proprietorships, and trade associations that are incorporated or established under the laws of any State;

“(B) Federal laboratories; and

“(C) other Federal agencies.

“(2) COOPERATION, GRANTS, CONTRACTS, AND AGREEMENTS.—Notwithstanding any other provision of law, the Administrator may directly initiate contracts, grants, cooperative research and development agreements (as defined in section 12 of the Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3710a)), and other agreements to fund, and accept funds from, the Transportation Research Board of the National Research Council of the National Academy of Sciences, State departments of transportation, cities, counties, institutions of higher education, associations, and the agents of those entities to carry out joint transportation research and technology efforts.

“(3) FEDERAL SHARE.—

“(A) IN GENERAL.—Subject to subparagraph (B), the Federal share of the cost of an activity carried out under paragraph (2) shall not exceed 50 percent.

“(B) EXCEPTION.—If the Secretary determines that the activity is of substantial public interest or benefit, the Secretary may approve a greater Federal share.

“(C) NON-FEDERAL SHARE.—All costs directly incurred by the non-Federal partners, including personnel, travel, facility, and hardware development costs, shall be credited toward the non-Federal share of the cost of an activity described in subparagraph (A).

“(4) USE OF TECHNOLOGY.—The research, development, or use of a technology under a contract, grant, cooperative research and development agreement, or other agreement entered into under this subsection, including the terms under which the technology may be licensed and the resulting royalties may be distributed, shall be subject to the Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

“(5) WAIVER OF ADVERTISING REQUIREMENTS.—Section 3709 of the Revised Statutes (41 U.S.C. 5) shall not apply to a contract, grant, or other agreement entered into under this section.”

#### SEC. 2212. TRANSPORTATION RESEARCH AND DEVELOPMENT STRATEGIC PLANNING.

Section 508(a)(2) of title 23, United States Code, is amended by striking subparagraph (A) and inserting the following:

“(A) describe the primary purposes of the transportation research and development

program, which shall include, at a minimum—

- “(i) promoting safety;
- “(ii) reducing congestion and improving mobility;
- “(iii) protecting and enhancing the environment;
- “(iv) preserving the existing transportation system;
- “(v) improving the durability and extending the life of transportation infrastructure; and
- “(vi) improving goods movement;”.

**SEC. 2213. NATIONAL ELECTRONIC VEHICLE CORRIDORS AND RECHARGING INFRASTRUCTURE NETWORK.**

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall establish a stakeholder-driven process to develop a plan and map of a potential national network of electric vehicle corridors and recharging infrastructure.

(b) REQUIREMENTS.—The plan under subsection (a) shall—

(1) project the near- and long-term need for and location of electric vehicle refueling infrastructure at strategic locations across all major national highways, roads, and corridors;

(2) identify infrastructure and standardization needs for electricity providers, infrastructure providers, vehicle manufacturers, and electricity purchasers; and

(3) establish an aspirational goal of achieving strategic deployment of electric vehicle infrastructure by 2020.

(c) STAKEHOLDERS.—In developing the plan under subsection (a), the Secretary shall involve, on a voluntary basis, stakeholders that include—

- (1) the heads of other Federal agencies;
- (2) State and local officials;
- (3) representatives of—
  - (A) energy utilities;
  - (B) the vehicles industry;
  - (C) the freight and shipping industry;
  - (D) clean technology firms;
  - (E) the hospitality industry;
  - (F) the restaurant industry; and
  - (G) highway rest stop vendors; and
- (4) such other stakeholders as the Secretary determines to be necessary.

**Subtitle C—Intelligent Transportation Systems Research**

**SEC. 2301. USE OF FUNDS FOR ITS ACTIVITIES.**

Section 513 of title 23, United States Code, is amended to read as follows:

**“§ 513. Use of funds for ITS activities.**

“(a) DEFINITIONS.—In this section, the following definitions apply:

“(1) ELIGIBLE ENTITY.—The term ‘eligible entity’ means a State or local government, tribal government, transit agency, public toll authority, metropolitan planning organization, other political subdivision of a State or local government, or a multistate or multijurisdictional group applying through a single lead applicant.

“(2) MULTIJURISDICTIONAL GROUP.—The term ‘multijurisdictional group’ means a combination of State governments, local governments, metropolitan planning agencies, transit agencies, or other political subdivisions of a State that—

“(A) have signed a written agreement to implement an activity that meets the grant criteria under this section; and

“(B) is comprised of at least 2 members, each of whom is an eligible entity.

“(b) PURPOSE.—The purpose of this section is to develop, administer, communicate, and promote the use of products of research, technology, and technology transfer programs.

“(c) ITS DEPLOYMENT INCENTIVES.—

“(1) IN GENERAL.—The Secretary may—

“(A) develop and implement incentives to accelerate deployment of ITS technologies and services within all funding programs authorized by the MAP-21; and

“(B) for each fiscal year, use amounts made available to the Secretary to carry out intelligent transportation systems outreach, including through the use of websites, public relations, displays, tours, and brochures.

“(2) COMPREHENSIVE PLAN.—To carry out this section, the Secretary shall develop a detailed and comprehensive plan that addresses the manner in which incentives may be adopted through the existing deployment activities carried out by surface transportation modal administrations.

“(d) SYSTEM OPERATIONS AND ITS DEPLOYMENT GRANT PROGRAM.—

“(1) ESTABLISHMENT.—The Secretary shall establish a competitive grant program to accelerate the deployment, operation, systems management, intermodal integration, and interoperability of the ITS program and ITS-enabled operational strategies—

“(A) to measure and improve the performance of the surface transportation system;

“(B) to reduce traffic congestion and the economic and environmental impacts of traffic congestion;

“(C) to minimize fatalities and injuries;

“(D) to enhance mobility of people and goods;

“(E) to improve traveler information and services; and

“(F) to optimize existing roadway capacity.

“(2) APPLICATION.—To be considered for a grant under this subsection, an eligible entity shall submit an application to the Secretary that includes—

“(A) a plan to deploy and provide for the long-term operation and maintenance of intelligent transportation systems to improve safety, efficiency, system performance, and return on investment, such as—

“(i) real-time integrated traffic, transit, and multimodal transportation information;

“(ii) advanced traffic, freight, parking, and incident management systems;

“(iii) advanced technologies to improve transit and commercial vehicle operations;

“(iv) synchronized, adaptive, and transit preferential traffic signals;

“(v) advanced infrastructure condition assessment technologies; and

“(vi) other technologies to improve system operations, including ITS applications necessary for multimodal systems integration and for achieving performance goals;

“(B) quantifiable system performance improvements, including—

“(i) reductions in traffic-related crashes, congestion, and costs;

“(ii) optimization of system efficiency; and

“(iii) improvement of access to transportation services;

“(C) quantifiable safety, mobility, and environmental benefit projections, including data driven estimates of the manner in which the project will improve the transportation system efficiency and reduce traffic congestion in the region;

“(D) a plan for partnering with the private sector, including telecommunications industries and public service utilities, public agencies (including multimodal and multijurisdictional entities), research institutions, organizations representing transportation and technology leaders, and other transportation stakeholders;

“(E) a plan to leverage and optimize existing local and regional ITS investments; and

“(F) a plan to ensure interoperability of deployed technologies with other tolling, traffic management, and intelligent transportation systems.

“(3) SELECTION.—

“(A) IN GENERAL.—Not later than 1 year after the date of enactment of the MAP-21, the Secretary may provide grants to eligible entities under this section.

“(B) GEOGRAPHIC DIVERSITY.—In awarding a grant under this section, the Secretary shall ensure, to the maximum extent practicable, that grant recipients represent diverse geographical areas of the United States, including urban, suburban, and rural areas.

“(C) NON-FEDERAL SHARE.—In awarding a grant under the section, the Secretary shall give priority to grant recipients that demonstrate an ability to contribute a significant non-Federal share to the cost of carrying out the project for which the grant is received.

“(4) ELIGIBLE USES.—Projects for which grants awarded under this section may be used include—

“(A) the establishment and implementation of ITS and ITS-enabled operations strategies that improve performance in the areas of—

“(i) traffic operations;

“(ii) emergency response to surface transportation incidents;

“(iii) incident management;

“(iv) transit and commercial vehicle operations improvements;

“(v) weather event response management by State and local authorities;

“(vi) surface transportation network and facility management;

“(vii) construction and work zone management;

“(viii) traffic flow information;

“(ix) freight management; and

“(x) congestion management;

“(B) carrying out activities that support the creation of networks that link metropolitan and rural surface transportation systems into an integrated data network, capable of collecting, sharing, and archiving transportation system traffic condition and performance information;

“(C) the implementation of intelligent transportation systems and technologies that improve highway safety through information and communications systems linking vehicles, infrastructure, mobile devices, transportation users, and emergency responders;

“(D) the provision of services necessary to ensure the efficient operation and management of ITS infrastructure, including costs associated with communications, utilities, rent, hardware, software, labor, administrative costs, training, and technical services;

“(E) the provision of support for the establishment and maintenance of institutional relationships between transportation agencies, police, emergency medical services, private emergency operators, freight operators, shippers, public service utilities, and telecommunications providers;

“(F) carrying out multimodal and crossjurisdictional planning and deployment of regional transportation systems operations and management approaches; and

“(G) performing project evaluations to determine the costs, benefits, lessons learned, and future deployment strategies associated with the deployment of intelligent transportation systems.

“(5) REPORT TO SECRETARY.—For each fiscal year that an eligible entity receives a grant under this section, not later than 1 year after receiving that grant, each recipient shall submit a report to the Secretary

that describes how the project has met the expectations projected in the deployment plan submitted with the application, including—

“(A) data on how the program has helped reduce traffic crashes, congestion, costs, and other benefits of the deployed systems;

“(B) data on the effect of measuring and improving transportation system performance through the deployment of advanced technologies;

“(C) the effectiveness of providing real-time integrated traffic, transit, and multimodal transportation information to the public that allows the public to make informed travel decisions; and

“(D) lessons learned and recommendations for future deployment strategies to optimize transportation efficiency and multimodal system performance.

“(6) REPORT TO CONGRESS.—Not later than 2 years after date on which the first grant is awarded under this section and annually thereafter for each fiscal year for which grants are awarded under this section, the Secretary shall submit to Congress a report that describes the effectiveness of the grant recipients in meeting the projected deployment plan goals, including data on how the grant program has—

“(A) reduced traffic-related fatalities and injuries;

“(B) reduced traffic congestion and improved travel time reliability;

“(C) reduced transportation-related emissions;

“(D) optimized multimodal system performance;

“(E) improved access to transportation alternatives;

“(F) provided the public with access to real-time integrated traffic, transit, and multimodal transportation information to make informed travel decisions;

“(G) provided cost savings to transportation agencies, businesses, and the traveling public; and

“(H) provided other benefits to transportation users and the general public.

“(7) ADDITIONAL GRANTS.—If the Secretary determines, based on a report submitted under paragraph (5), that a grant recipient is not complying with the established grant criteria, the Secretary may—

“(A) cease payment to the recipient of any remaining grant amounts; and

“(B) redistribute any remaining amounts to other eligible entities under this section.

“(8) NON-FEDERAL SHARE.—The Federal share of a grant under this section shall not exceed 50 percent of the cost of the project.

“(9) GRANT LIMITATION.—The Secretary may not award more than 10 percent of the amounts provided under this section to a single grant recipient in any fiscal year.

“(10) MULTIYEAR GRANTS.—Subject to availability of amounts, the Secretary may provide an eligible entity with grant amounts for a period of multiple fiscal years.

“(11) FUNDING.—Of the funds authorized to be appropriated to carry out the intelligent transportation system program under sections 512 through 518, not less than 50 percent of such funds shall be used to carry out this subsection.”

#### SEC. 2302. GOALS AND PURPOSES.

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is amended by adding after section 513 the following:

##### “§ 514. Goals and purposes

“(a) GOALS.—The goals of the intelligent transportation system program include—

“(1) enhancement of surface transportation efficiency and facilitation of intermodalism

and international trade to enable existing facilities to meet a significant portion of future transportation needs, including public access to employment, goods, and services and to reduce regulatory, financial, and other transaction costs to public agencies and system users;

“(2) achievement of national transportation safety goals, including enhancement of safe operation of motor vehicles and non-motorized vehicles and improved emergency response to collisions, with particular emphasis on decreasing the number and severity of collisions;

“(3) protection and enhancement of the natural environment and communities affected by surface transportation, with particular emphasis on assisting State and local governments to achieve national environmental goals;

“(4) accommodation of the needs of all users of surface transportation systems, including operators of commercial motor vehicles, passenger motor vehicles, motorcycles, bicycles, and pedestrians (including individuals with disabilities); and

“(5) enhancement of national defense mobility and improvement of the ability of the United States to respond to security-related or other manmade emergencies and natural disasters.

“(b) PURPOSES.—The Secretary shall implement activities under the intelligent transportation system program, at a minimum—

“(1) to expedite, in both metropolitan and rural areas, deployment and integration of intelligent transportation systems for consumers of passenger and freight transportation;

“(2) to ensure that Federal, State, and local transportation officials have adequate knowledge of intelligent transportation systems for consideration in the transportation planning process;

“(3) to improve regional cooperation and operations planning for effective intelligent transportation system deployment;

“(4) to promote the innovative use of private resources in support of intelligent transportation system development;

“(5) to facilitate, in cooperation with the motor vehicle industry, the introduction of vehicle-based safety enhancing systems;

“(6) to support the application of intelligent transportation systems that increase the safety and efficiency of commercial motor vehicle operations;

“(7) to develop a workforce capable of developing, operating, and maintaining intelligent transportation systems;

“(8) to provide continuing support for operations and maintenance of intelligent transportation systems; and

“(9) to ensure a systems approach that includes cooperation among vehicles, infrastructure, and users.”

(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is amended by adding after the item relating to section 513 the following:

“514. Goals and purposes.”

#### SEC. 2303. GENERAL AUTHORITIES AND REQUIREMENTS.

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is amended by adding after section 514 (as added by section 2302) the following:

##### “§ 515. General authorities and requirements

“(a) SCOPE.—Subject to the provisions of this chapter, the Secretary shall conduct an ongoing intelligent transportation system program—

“(1) to research, develop, and operationally test intelligent transportation systems; and

“(2) to provide technical assistance in the nationwide application of those systems as a component of the surface transportation systems of the United States.

“(b) POLICY.—Intelligent transportation system research projects and operational tests funded pursuant to this chapter shall encourage and not displace public-private partnerships or private sector investment in those tests and projects.

“(c) COOPERATION WITH GOVERNMENTAL, PRIVATE, AND EDUCATIONAL ENTITIES.—The Secretary shall carry out the intelligent transportation system program in cooperation with State and local governments and other public entities, the private sector firms of the United States, the Federal laboratories, and institutions of higher education, including historically Black colleges and universities and other minority institutions of higher education.

“(d) CONSULTATION WITH FEDERAL OFFICIALS.—In carrying out the intelligent transportation system program, the Secretary shall consult with the heads of other Federal agencies, as appropriate.

“(e) TECHNICAL ASSISTANCE, TRAINING, AND INFORMATION.—The Secretary may provide technical assistance, training, and information to State and local governments seeking to implement, operate, maintain, or evaluate intelligent transportation system technologies and services.

“(f) TRANSPORTATION PLANNING.—The Secretary may provide funding to support adequate consideration of transportation systems management and operations, including intelligent transportation systems, within metropolitan and statewide transportation planning processes.

“(g) INFORMATION CLEARINGHOUSE.—

“(1) IN GENERAL.—The Secretary shall—

“(A) maintain a repository for technical and safety data collected as a result of federally sponsored projects carried out under this chapter; and

“(B) make, on request, that information (except for proprietary information and data) readily available to all users of the repository at an appropriate cost.

“(2) AGREEMENT.—

“(A) IN GENERAL.—The Secretary may enter into an agreement with a third party for the maintenance of the repository for technical and safety data under paragraph (1)(A).

“(B) FEDERAL FINANCIAL ASSISTANCE.—If the Secretary enters into an agreement with an entity for the maintenance of the repository, the entity shall be eligible for Federal financial assistance under this section.

“(3) AVAILABILITY OF INFORMATION.—Information in the repository shall not be subject to sections 552 and 555 of title 5, United States Code.

“(h) ADVISORY COMMITTEE.—

“(1) IN GENERAL.—The Secretary shall establish an Advisory Committee to advise the Secretary on carrying out this chapter.

“(2) MEMBERSHIP.—The Advisory Committee shall have no more than 20 members, be balanced between metropolitan and rural interests, and include, at a minimum—

“(A) a representative from a State highway department;

“(B) a representative from a local highway department who is not from a metropolitan planning organization;

“(C) a representative from a State, local, or regional transit agency;

“(D) a representative from a metropolitan planning organization;



“(E) a private sector user of intelligent transportation system technologies;

“(F) an academic researcher with expertise in computer science or another information science field related to intelligent transportation systems, and who is not an expert on transportation issues;

“(G) an academic researcher who is a civil engineer;

“(H) an academic researcher who is a social scientist with expertise in transportation issues;

“(I) a representative from a nonprofit group representing the intelligent transportation system industry;

“(J) a representative from a public interest group concerned with safety;

“(K) a representative from a public interest group concerned with the impact of the transportation system on land use and residential patterns; and

“(L) members with expertise in planning, safety, telecommunications, utilities, and operations.

“(3) DUTIES.—The Advisory Committee shall, at a minimum, perform the following duties:

“(A) Provide input into the development of the intelligent transportation system aspects of the strategic plan under section 508.

“(B) Review, at least annually, areas of intelligent transportation systems research being considered for funding by the Department, to determine—

“(i) whether these activities are likely to advance either the state-of-the-practice or state-of-the-art in intelligent transportation systems;

“(ii) whether the intelligent transportation system technologies are likely to be deployed by users, and if not, to determine the barriers to deployment; and

“(iii) the appropriate roles for government and the private sector in investing in the research and technologies being considered.

“(4) REPORT.—Not later than February 1 of each year after the date of enactment of the MAP-21, the Secretary shall submit to Congress a report that includes—

“(A) all recommendations made by the Advisory Committee during the preceding calendar year;

“(B) an explanation of the manner in which the Secretary has implemented those recommendations; and

“(C) for recommendations not implemented, the reasons for rejecting the recommendations.

“(5) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Advisory Committee shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

“(i) REPORTING.—

“(1) GUIDELINES AND REQUIREMENTS.—

“(A) IN GENERAL.—The Secretary shall issue guidelines and requirements for the reporting and evaluation of operational tests and deployment projects carried out under this chapter.

“(B) OBJECTIVITY AND INDEPENDENCE.—The guidelines and requirements issued under subparagraph (A) shall include provisions to ensure the objectivity and independence of the reporting entity so as to avoid any real or apparent conflict of interest or potential influence on the outcome by parties to any such test or deployment project or by any other formal evaluation carried out under this chapter.

“(C) FUNDING.—The guidelines and requirements issued under subparagraph (A) shall establish reporting funding levels based on the size and scope of each test or project that ensure adequate reporting of the results of the test or project.

“(2) SPECIAL RULE.—Any survey, questionnaire, or interview that the Secretary considers necessary to carry out the reporting of any test, deployment project, or program assessment activity under this chapter shall not be subject to chapter 35 of title 44, United States Code.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is amended by adding after the item relating to section 514 (as added by section 2302) the following:

“515. General authorities and requirements.”.

#### SEC. 2304. RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is amended by adding after section 515 (as added by section 2303) the following:

##### “§ 516. Research and development

“(a) IN GENERAL.—The Secretary shall carry out a comprehensive program of intelligent transportation system research and development, and operational tests of intelligent vehicles, intelligent infrastructure systems, and other similar activities that are necessary to carry out this chapter.

“(b) PRIORITY AREAS.—Under the program, the Secretary shall give higher priority to funding projects that—

“(1) enhance mobility and productivity through improved traffic management, incident management, transit management, freight management, road weather management, toll collection, traveler information, or highway operations systems and remote sensing products;

“(2) use interdisciplinary approaches to develop traffic management strategies and tools to address multiple impacts of congestion concurrently;

“(3) address traffic management, incident management, transit management, toll collection traveler information, or highway operations systems;

“(4) incorporate research on the impact of environmental, weather, and natural conditions on intelligent transportation systems, including the effects of cold climates;

“(5) enhance intermodal use of intelligent transportation systems for diverse groups, including for emergency and health-related services;

“(6) enhance safety through improved crash avoidance and protection, crash and other notification, commercial motor vehicle operations, and infrastructure-based or cooperative safety systems; or

“(7) facilitate the integration of intelligent infrastructure, vehicle, and control technologies.

“(c) FEDERAL SHARE.—The Federal share payable on account of any project or activity carried out under subsection (a) shall not exceed 80 percent.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is amended by adding after the item relating to section 515 (as added by section 2304) the following:

“516. Research and development.”.

#### SEC. 2305. NATIONAL ARCHITECTURE AND STANDARDS.

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is amended by adding after section 516 (as added by section 2304) the following:

##### “§ 517. National architecture and standards.

“(a) IN GENERAL.—

“(1) DEVELOPMENT, IMPLEMENTATION, AND MAINTENANCE.—In accordance with section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272

note; 110 Stat. 783; 115 Stat. 1241), the Secretary shall develop and maintain a national ITS architecture and supporting ITS standards and protocols to promote the use of systems engineering methods in the widespread deployment and evaluation of intelligent transportation systems as a component of the surface transportation systems of the United States.

“(2) INTEROPERABILITY AND EFFICIENCY.—To the maximum extent practicable, the national ITS architecture and supporting ITS standards and protocols shall promote interoperability among, and efficiency of, intelligent transportation systems and technologies implemented throughout the United States.

“(3) USE OF STANDARDS DEVELOPMENT ORGANIZATIONS.—In carrying out this section, the Secretary shall support the development and maintenance of standards and protocols using the services of such standards development organizations as the Secretary determines to be necessary and whose memberships are comprised of, and represent, the surface transportation and intelligent transportation systems industries.

“(b) STANDARDS FOR NATIONAL POLICY IMPLEMENTATION.—If the Secretary finds that a standard is necessary for implementation of a nationwide policy relating to user fee collection or other capability requiring nationwide uniformity, the Secretary, after consultation with stakeholders, may establish and require the use of that standard.

“(c) PROVISIONAL STANDARDS.—

“(1) IN GENERAL.—If the Secretary finds that the development or balloting of an intelligent transportation system standard jeopardizes the timely achievement of the objectives described in subsection (a), the Secretary may establish a provisional standard, after consultation with affected parties, using, to the maximum extent practicable, the work product of appropriate standards development organizations.

“(2) PERIOD OF EFFECTIVENESS.—A provisional standard established under paragraph (1) shall be published in the Federal Register and remain in effect until the appropriate standards development organization adopts and publishes a standard.

“(d) CONFORMITY WITH NATIONAL ARCHITECTURE.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall ensure that intelligent transportation system projects carried out using amounts made available from the Highway Trust Fund, including amounts made available to deploy intelligent transportation systems, conform to the appropriate regional ITS architecture, applicable standards, and protocols developed under subsection (a) or (c).

“(2) DISCRETION OF THE SECRETARY.—The Secretary, at the discretion of the Secretary, may offer an exemption from paragraph (1) for projects designed to achieve specific research objectives outlined in the national intelligent transportation system program plan or the surface transportation research and development strategic plan developed under section 508.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is amended by adding after the item relating to section 516 (as added by section 2304) the following:

“517. National architecture and standards.”.

#### SEC. 2306. VEHICLE-TO-VEHICLE AND VEHICLE-TO-INFRASTRUCTURE COMMUNICATIONS SYSTEMS DEPLOYMENT.

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is amended by adding

after section 517 (as added by section 2305) the following:

**“§ 518. Vehicle-to-vehicle and vehicle-to-infrastructure communications systems deployment**

“(a) IN GENERAL.—Not later than 3 years after the date of enactment of this section, the Secretary shall submit to the appropriate committees of Congress a report that—

“(1) defines a recommended implementation path for dedicated short-range communications technology and applications;

“(2) includes guidance on the relationship of the proposed deployment of dedicated short-range communications to the National ITS Architecture and ITS Standards; and

“(3) ensures competition by not preferencing the use of any particular frequency for vehicle to infrastructure operations.

“(b) NATIONAL RESEARCH COUNCIL REVIEW.—The Secretary shall enter into an agreement with the National Research Council for the review by the National Research Council of the report described in subsection (a).”

(b) CONFORMING AMENDMENT.—The analysis of chapter 5 of title 23, United States Code, is amended by adding after section 517 (as added by section 2305) the following:

“518. Vehicle-to-vehicle and vehicle-to-infrastructure communications systems deployment.”

**TITLE III—AMERICA FAST FORWARD  
FINANCING INNOVATION**

**SEC. 3001. SHORT TITLE.**

This title may be cited as the “America Fast Forward Financing Innovation Act of 2011”.

**SEC. 3002. TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT AMENDMENTS.**

Sections 601 through 609 of title 23, United States Code, are amended to read as follows:

**“§ 601. Generally applicable provisions**

“(a) DEFINITIONS.—In this chapter, the following definitions apply:

“(1) ELIGIBLE PROJECT COSTS.—The term ‘eligible project costs’ means amounts substantially all of which are paid by, or for the account of, an obligor in connection with a project, including the cost of—

“(A) development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, permitting, preliminary engineering and design work, and other preconstruction activities;

“(B) construction, reconstruction, rehabilitation, replacement, and acquisition of real property (including land relating to the project and improvements to land), environmental mitigation, construction contingencies, and acquisition of equipment; and

“(C) capitalized interest necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses, and other carrying costs during construction.

“(2) FEDERAL CREDIT INSTRUMENT.—The term ‘Federal credit instrument’ means a secured loan, loan guarantee, or line of credit authorized to be made available under this chapter with respect to a project.

“(3) INVESTMENT-GRADE RATING.—The term ‘investment-grade rating’ means a rating of BBB minus, Baa3, bbb minus, BBB (low), or higher assigned by a rating agency to project obligations.

“(4) LENDER.—The term ‘lender’ means any non-Federal qualified institutional buyer (as defined in section 230.144A(a) of title 17, Code of Federal Regulations (or any successor regulation), known as Rule 144A(a) of the Securities

and Exchange Commission and issued under the Securities Act of 1933 (15 U.S.C. 77a et seq.)), including—

“(A) a qualified retirement plan (as defined in section 4974(c) of the Internal Revenue Code of 1986) that is a qualified institutional buyer; and

“(B) a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986) that is a qualified institutional buyer.

“(5) LETTER OF INTEREST.—The term ‘letter of interest’ means a letter submitted by a potential applicant prior to an application for credit assistance in a format prescribed by the Secretary on the website of the TIFIA program, which—

“(A) describes the project and the location, purpose, and cost of the project;

“(B) outlines the proposed financial plan, including the requested credit assistance and the proposed obligor;

“(C) provides a status of environmental review; and

“(D) provides information regarding satisfaction of other eligibility requirements of the TIFIA program.

“(6) LINE OF CREDIT.—The term “ ‘line of credit’ ” means an agreement entered into by the Secretary with an obligor under section 604 to provide a direct loan at a future date upon the occurrence of certain events.

“(7) LIMITED BUYDOWN.—The term ‘limited buydown’ means, subject to the conditions described in section 603(b)(4)(C), a buydown of the interest rate by the Secretary and by the obligor if the interest rate has increased between—

“(A)(i) the date on which a project application acceptable to the Secretary is submitted; or

“(ii) the date on which the Secretary entered into a master credit agreement; and

“(B) the date on which the Secretary executes the Federal credit instrument.

“(8) LOAN GUARANTEE.—The term ‘loan guarantee’ means any guarantee or other pledge by the Secretary to pay all or part of the principal of and interest on a loan or other debt obligation issued by an obligor and funded by a lender.

“(9) MASTER CREDIT AGREEMENT.—The term ‘master credit agreement’ means an agreement to extend credit assistance for a program of projects secured by a common security pledge (which shall receive an investment grade rating from a rating agency), or for a single project covered under section 602(b)(2) that would—

“(A) make contingent commitments of 1 or more secured loans or other Federal credit instruments at future dates, subject to the availability of future funds being made available to carry out this chapter;

“(B) establish the maximum amounts and general terms and conditions of the secured loans or other Federal credit instruments;

“(C) identify the 1 or more dedicated non-Federal revenue sources that will secure the repayment of the secured loans or secured Federal credit instruments;

“(D) provide for the obligation of funds for the secured loans or secured Federal credit instruments after all requirements have been met for the projects subject to the master credit agreement, including—

“(i) completion of an environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

“(ii) compliance with such other requirements as are specified in section 602(c); and

“(iii) the availability of funds to carry out this chapter; and

“(E) require that contingent commitments result in a financial close and obligation of credit assistance not later than 3 years after the date of entry into the master credit agreement, or release of the commitment, unless otherwise extended by the Secretary.

“(10) OBLIGOR.—The term ‘obligor’ means a party that—

“(A) is primarily liable for payment of the principal of or interest on a Federal credit instrument; and

“(B) may be a corporation, partnership, joint venture, trust, or governmental entity, agency, or instrumentality.

“(11) PROJECT.—The term ‘project’ means—

“(A) any surface transportation project eligible for Federal assistance under this title or chapter 53 of title 49;

“(B) a project for an international bridge or tunnel for which an international entity authorized under Federal or State law is responsible;

“(C) a project for intercity passenger bus or rail facilities and vehicles, including facilities and vehicles owned by the National Railroad Passenger Corporation and components of magnetic levitation transportation systems; and

“(D) a project that—

“(i) is a project—

“(I) for a public freight rail facility or a private facility providing public benefit for highway users by way of direct freight interchange between highway and rail carriers;

“(II) for an intermodal freight transfer facility;

“(III) for a means of access to a facility described in subclause (I) or (II);

“(IV) for a service improvement for a facility described in subclause (I) or (II) (including a capital investment for an intelligent transportation system); or

“(V) that comprises a series of projects described in subclauses (I) through (IV) with the common objective of improving the flow of goods;

“(ii) may involve the combining of private and public sector funds, including investment of public funds in private sector facility improvements;

“(iii) if located within the boundaries of a port terminal, includes only such surface transportation infrastructure modifications as are necessary to facilitate direct intermodal interchange, transfer, and access into and out of the port; and

“(iv) is composed of related highway, surface transportation, transit, rail, or intermodal capital improvement projects eligible for assistance under this subsection in order to meet the eligible project cost threshold under section 602, by grouping related projects together for that purpose, on the condition that the credit assistance for the projects is secured by a common pledge.

“(12) PROJECT OBLIGATION.—The term ‘project obligation’ means any note, bond, debenture, or other debt obligation issued by an obligor in connection with the financing of a project, other than a Federal credit instrument.

“(13) RATING AGENCY.—The term ‘rating agency’ means a credit rating agency registered with the Securities and Exchange Commission as a nationally recognized statistical rating organization (as that term is defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a))).

“(14) RURAL INFRASTRUCTURE PROJECT.—The term ‘rural infrastructure project’ means a surface transportation infrastructure project either—

“(A) located in any area other than an urbanized area that has a population of greater than 250,000 inhabitants; or

“(B) connects a rural area to a city with a population of less than 250,000 inhabitants within the city limits.

“(15) SECURED LOAN.—The term ‘secured loan’ means a direct loan or other debt obligation issued by an obligor and funded by the Secretary in connection with the financing of a project under section 603.

“(16) STATE.—The term ‘State’ has the meaning given the term in section 101.

“(17) SUBSIDY AMOUNT.—The term ‘subsidy amount’ means the amount of budget authority sufficient to cover the estimated long-term cost to the Federal Government of a Federal credit instrument, calculated on a net present value basis, excluding administrative costs and any incidental effects on governmental receipts or outlays in accordance with the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

“(18) SUBSTANTIAL COMPLETION.—The term ‘substantial completion’ means—

“(A) the opening of a project to vehicular or passenger traffic; or

“(B) a comparable event, as determined by the Secretary and specified in the credit agreement.

“(19) TIFIA PROGRAM.—The term ‘TIFIA program’ means the transportation infrastructure finance and innovation program of the Department.

“(20) CONTINGENT COMMITMENT.—The term ‘contingent commitment’ means a commitment to obligate an amount from future available budget authority that is—

“(A) contingent upon those funds being made available in law at a future date; and

“(B) not an obligation of the Federal Government.

“(b) TREATMENT OF CHAPTER.—For purposes of this title, this chapter shall be treated as being part of chapter 1.

#### “§ 602. Determination of eligibility and project selection

“(a) ELIGIBILITY.—A project shall be eligible to receive credit assistance under this chapter if the entity proposing to carry out the project submits a letter of interest prior to submission of a formal application for the project, and the project meets the following criteria:

“(1) CREDITWORTHINESS.—

“(A) IN GENERAL.—The project shall satisfy applicable creditworthiness standards, which, at a minimum, includes—

“(i) a rate covenant, if applicable;

“(ii) adequate coverage requirements to ensure repayment;

“(iii) an investment grade rating from at least 2 rating agencies on debt senior to the Federal credit instrument; and

“(iv) a rating from at least 2 rating agencies on the Federal credit instrument, subject to the condition that, with respect to clause (iii), if the senior debt and Federal credit instrument is for an amount less than \$75,000,000 or for a rural infrastructure project or intelligent transportation systems project, 1 rating agency opinion for each of the senior debt and Federal credit instrument shall be sufficient.

“(B) SENIOR DEBT.—Notwithstanding subparagraph (A), in a case in which the Federal credit instrument is the senior debt, the Federal credit instrument shall be required to receive an investment grade rating from at least 2 rating agencies, unless the credit instrument is for a rural infrastructure project or intelligent transportation systems project, in which case 1 rating agency opinion shall be sufficient.

“(2) INCLUSION IN TRANSPORTATION PLANS AND PROGRAMS.—The project shall satisfy the applicable planning and programming re-

quirements of sections 134 and 135 at such time as an agreement to make available a Federal credit instrument is entered into under this chapter.

“(3) APPLICATION.—A State, local government, public authority, public-private partnership, or any other legal entity undertaking the project and authorized by the Secretary, shall submit a project application acceptable to the Secretary.

“(4) ELIGIBLE PROJECT COSTS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), to be eligible for assistance under this chapter, a project shall have eligible project costs that are reasonably anticipated to equal or exceed the lesser of—

“(i) (I) \$50,000,000; or

“(II) in the case of a rural infrastructure project, \$25,000,000; or

“(ii) 33½ percent of the amount of Federal highway assistance funds apportioned for the most recently completed fiscal year to the State in which the project is located.

“(B) INTELLIGENT TRANSPORTATION SYSTEM PROJECTS.—In the case of a project principally involving the installation of an intelligent transportation system, eligible project costs shall be reasonably anticipated to equal or exceed \$15,000,000.

“(5) DEDICATED REVENUE SOURCES.—The Federal credit instrument shall be repayable, in whole or in part, from tolls, user fees, or other dedicated revenue sources that also secure the project obligations.

“(6) PUBLIC SPONSORSHIP OF PRIVATE ENTITIES.—In the case of a project that is undertaken by an entity that is not a State or local government or an agency or instrumentality of a State or local government, the project that the entity is undertaking shall be publicly sponsored as provided in paragraph (2).

“(b) SELECTION AMONG ELIGIBLE PROJECTS.—

“(1) ESTABLISHMENT.—The Secretary shall establish a rolling application process in which projects that are eligible to receive credit assistance under subsection (a) shall receive credit assistance on terms acceptable to the Secretary, if adequate funds are available to cover the subsidy costs associated with the Federal credit instrument.

“(2) ADEQUATE FUNDING NOT AVAILABLE.—

“If the Secretary fully obligates funding to eligible projects in a given fiscal year, and adequate funding is not available to fund a credit instrument, a project sponsor of an eligible project may elect to enter into a master credit agreement and wait until the following fiscal year or until additional funds are available to receive credit assistance.

“(3) PRELIMINARY RATING OPINION LETTER.—The Secretary shall require each project applicant to provide a preliminary rating opinion letter from at least 1 rating agency—

“(A) indicating that the senior obligations of the project, which may be the Federal credit instrument, have the potential to achieve an investment-grade rating; and

“(B) including a preliminary rating opinion on the Federal credit instrument.

“(c) FEDERAL REQUIREMENTS.—

“(1) IN GENERAL.—In addition to the requirements of this title for highway projects, chapter 53 of title 49 for transit projects, and section 5333(a) of title 49 for rail projects, the following provisions of law shall apply to funds made available under this chapter and projects assisted with the funds:

“(A) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

“(B) The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(C) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

“(2) NEPA.—No funding shall be obligated for a project that has not received an environmental Categorical Exclusion, Finding of No Significant Impact, or Record of Decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

#### “§ 603. Secured loans

“(a) IN GENERAL.—

“(1) AGREEMENTS.—Subject to paragraphs (2) through (4), the Secretary may enter into agreements with 1 or more obligors to make secured loans, the proceeds of which shall be used—

“(A) to finance eligible project costs of any project selected under section 602;

“(B) to refinance interim construction financing of eligible project costs of any project selected under section 602;

“(C) to refinance existing loan agreements for rural infrastructure projects; or

“(D) to refinance long-term project obligations or Federal credit instruments if the refinancing provides additional funding capacity for the completion, enhancement, or expansion of any project that—

“(i) is selected under section 602; or

“(ii) otherwise meets the requirements of section 602.

“(2) LIMITATION ON REFINANCING OF INTERIM CONSTRUCTION FINANCING.—A loan under paragraph (1) shall not refinance interim construction financing under paragraph (1)(B) later than 1 year after the date of substantial completion of the project.

“(3) RISK ASSESSMENT.—Before entering into an agreement under this subsection, the Secretary, in consultation with the Director of the Office of Management and Budget, shall determine an appropriate capital reserve subsidy amount for each secured loan, taking into account each rating letter provided by an agency under section 602(b)(3)(B).

“(b) TERMS AND LIMITATIONS.—

“(1) IN GENERAL.—A secured loan under this section with respect to a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

“(2) MAXIMUM AMOUNT.—The amount of the secured loan shall not exceed the lesser of 49 percent of the reasonably anticipated eligible project costs or, if the secured loan does not receive an investment grade rating, the amount of the senior project obligations.

“(3) PAYMENT.—The secured loan—

“(A) shall—

“(i) be payable, in whole or in part, from tolls, user fees, or other dedicated revenue sources that also secure the senior project obligations; and

“(ii) include a rate covenant, coverage requirement, or similar security feature supporting the project obligations; and

“(B) may have a lien on revenues described in subparagraph (A) subject to any lien securing project obligations.

“(4) INTEREST RATE.—

“(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the interest rate on the secured loan shall be not less than the yield on United States Treasury securities of a similar maturity to the maturity of the secured loan on the date of execution of the loan agreement.

“(B) RURAL INFRASTRUCTURE PROJECTS.—A loan offered to a rural infrastructure project under this chapter shall be at ½ of the Treasury Rate.

“(C) LIMITED BUYDOWNS.—A limited buydown is subject to the following conditions:

“(i) The interest rate under the agreement may not be lowered by more than the lower of—

“(I) 1½ percentage points (150 basis points); or

“(II) the amount of the increase in the interest rate.

“(ii) The Secretary may pay up to 50 percent of the cost of the limited buydown, and the obligor shall pay the balance of the cost of the limited buydown.

“(iii) Not more than 5 percent of the funding made available annually to carry out this chapter may be used to carry out limited buydowns.

“(5) MATURITY DATE.—The final maturity date of the secured loan shall be the lesser of—

“(A) 35 years after the date of substantial completion of the project; or

“(B) if the useful life of the capital asset being financed is of a lesser period, the useful life of the asset.

“(6) NONSUBORDINATION.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the secured loan shall not be subordinated to the claims of any holder of project obligations in the event of bankruptcy, insolvency, or liquidation of the obligor.

“(B) PRE-EXISTING INDENTURE.—

“(i) IN GENERAL.—The Secretary shall waive subparagraph (A) for public agency borrowers that are financing ongoing capital programs and have outstanding senior bonds under a pre-existing indenture, if—

“(I) the secured loan is rated in the A-category or higher;

“(II) the secured loan is secured and payable from pledged revenues not affected by project performance, such as a tax-backed revenue pledge or a system-backed pledge of project revenues; and

“(III) the TIFIA program share of eligible project costs is 33 percent or less.

“(ii) LIMITATION.—If the Secretary waives the nonsubordination requirement under this subparagraph—

“(I) the maximum credit subsidy that will be paid by the Federal Government shall be limited to 10 percent of the principal amount of the secured loan; and

“(II) the obligor shall be responsible for paying the remainder of the subsidy cost.

“(7) FEES.—The Secretary may establish fees at a level sufficient to cover all or a portion of the costs to the Federal Government of making a secured loan under this section.

“(8) NON-FEDERAL SHARE.—The proceeds of a secured loan under this chapter may be used for any non-Federal share of project costs required under this title or chapter 53 of title 49, if the loan is repayable from non-Federal funds.

“(9) MAXIMUM FEDERAL INVOLVEMENT.—The total Federal assistance provided on a project receiving a loan under this chapter shall not exceed 80 percent of the total project cost.

“(c) REPAYMENT.—

“(1) SCHEDULE.—The Secretary shall establish a repayment schedule for each secured loan under this section based on the projected cash flow from project revenues and other repayment sources, and the useful life of the project.

“(2) COMMENCEMENT.—Scheduled loan repayments of principal or interest on a secured loan under this section shall commence not later than 5 years after the date of substantial completion of the project.

“(3) DEFERRED PAYMENTS.—

“(A) AUTHORIZATION.—If, at any time after the date of substantial completion of the project, the project is unable to generate sufficient revenues to pay the scheduled loan repayments of principal and interest on the secured loan, the Secretary may, subject to subparagraph (C), allow the obligor to add unpaid principal and interest to the outstanding balance of the secured loan.

“(B) INTEREST.—Any payment deferred under subparagraph (A) shall—

“(i) continue to accrue interest in accordance with subsection (b)(4) until fully repaid; and

“(ii) be scheduled to be amortized over the remaining term of the loan.

“(C) CRITERIA.—

“(i) IN GENERAL.—Any payment deferral under subparagraph (A) shall be contingent on the project meeting criteria established by the Secretary.

“(ii) REPAYMENT STANDARDS.—The criteria established under clause (i) shall include standards for reasonable assurance of repayment.

“(4) PREPAYMENT.—

“(A) USE OF EXCESS REVENUES.—Any excess revenues that remain after satisfying scheduled debt service requirements on the project obligations and secured loan and all deposit requirements under the terms of any trust agreement, bond resolution, or similar agreement securing project obligations may be applied annually to prepay the secured loan without penalty.

“(B) USE OF PROCEEDS OF REFINANCING.—The secured loan may be prepaid at any time without penalty from the proceeds of refinancing from non-Federal funding sources.

“(d) SALE OF SECURED LOANS.—

“(1) IN GENERAL.—Subject to paragraph (2), as soon as practicable after substantial completion of a project and after notifying the obligor, the Secretary may sell to another entity or reoffer into the capital markets a secured loan for the project if the Secretary determines that the sale or reoffering can be made on favorable terms.

“(2) CONSENT OF OBLIGOR.—In making a sale or reoffering under paragraph (1), the Secretary may not change the original terms and conditions of the secured loan without the written consent of the obligor.

“(e) LOAN GUARANTEES.—

“(1) IN GENERAL.—The Secretary may provide a loan guarantee to a lender in lieu of making a secured loan if the Secretary determines that the budgetary cost of the loan guarantee is substantially the same as that of a secured loan.

“(2) TERMS.—The terms of a guaranteed loan shall be consistent with the terms set forth in this section for a secured loan, except that the rate on the guaranteed loan and any prepayment features shall be negotiated between the obligor and the lender, with the consent of the Secretary.

#### “§ 604. Lines of credit

“(a) IN GENERAL.—

“(1) AGREEMENTS.—Subject to paragraphs (2) through (4), the Secretary may enter into agreements to make available lines of credit to 1 or more obligors in the form of direct loans to be made by the Secretary at future dates on the occurrence of certain events for any project selected under section 602.

“(2) USE OF PROCEEDS.—The proceeds of a line of credit made available under this section shall be available to pay debt service on project obligations issued to finance eligible project costs, extraordinary repair and replacement costs, operation and maintenance expenses, and costs associated with unex-

pected Federal or State environmental restrictions.

“(3) RISK ASSESSMENT.—Before entering into an agreement under this subsection, the Secretary, in consultation with the Director of the Office of Management and Budget and each rating agency providing a preliminary rating opinion letter under section 602(b)(3), shall determine an appropriate capital reserve subsidy amount for each line of credit, taking into account the rating opinion letter.

“(4) INVESTMENT-GRADE RATING REQUIREMENT.—The funding of a line of credit under this section shall be contingent on the senior obligations of the project receiving an investment-grade rating from 2 rating agencies.

“(b) TERMS AND LIMITATIONS.—

“(1) IN GENERAL.—A line of credit under this section with respect to a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

“(2) MAXIMUM AMOUNTS.—The total amount of the line of credit shall not exceed 33 percent of the reasonably anticipated eligible project costs.

“(3) DRAWS.—Any draw on the line of credit shall represent a direct loan and shall be made only if net revenues from the project (including capitalized interest but not including reasonably required financing reserves) are insufficient to pay the costs specified in subsection (a)(2).

“(4) INTEREST RATE.—Except as otherwise provided in subparagraphs (B) and (C) of section 603(b)(4), the interest rate on a direct loan resulting from a draw on the line of credit shall be not less than the yield on 30-year United States Treasury securities as of the date of execution of the line of credit agreement.

“(5) SECURITY.—The line of credit—

“(A) shall—

“(i) be payable, in whole or in part, from tolls, user fees, or other dedicated revenue sources that also secure the senior project obligations; and

“(ii) include a rate covenant, coverage requirement, or similar security feature supporting the project obligations; and

“(B) may have a lien on revenues described in subparagraph (A) subject to any lien securing project obligations.

“(6) PERIOD OF AVAILABILITY.—The full amount of the line of credit, to the extent not drawn upon, shall be available during the period beginning on the date of substantial completion of the project and ending not later than 10 years after that date.

“(7) RIGHTS OF THIRD-PARTY CREDITORS.—

“(A) AGAINST FEDERAL GOVERNMENT.—A third-party creditor of the obligor shall not have any right against the Federal Government with respect to any draw on the line of credit.

“(B) ASSIGNMENT.—An obligor may assign the line of credit to 1 or more lenders or to a trustee on the behalf of the lenders.

“(8) NONSUBORDINATION.—

“(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), a direct loan under this section shall not be subordinated to the claims of any holder of project obligations in the event of bankruptcy, insolvency, or liquidation of the obligor.

“(B) PRE-EXISTING INDENTURE.—

“(i) IN GENERAL.—The Secretary shall waive subparagraph (A) for public agency borrowers that are financing ongoing capital programs and have outstanding senior bonds under a pre-existing indenture, if—

“(I) the line of credit is rated in the A-category or higher;

“(II) the TIFIA program loan resulting from a draw on the line of credit is payable from pledged revenues not affected by project performance, such as a tax-backed revenue pledge or a system-backed pledge of project revenues; and

“(III) the TIFIA program share of eligible project costs is 33 percent or less.

“(i) **LIMITATION.**—If the Secretary waives the nonsubordination requirement under this subparagraph—

“(I) the maximum credit subsidy that will be paid by the Federal Government shall be limited to 10 percent of the principal amount of the secured loan; and

“(II) the obligor shall be responsible for paying the remainder of the subsidy cost.

“(9) **FEES.**—The Secretary may establish fees at a level sufficient to cover all or a portion of the costs to the Federal Government of providing a line of credit under this section.

“(10) **RELATIONSHIP TO OTHER CREDIT INSTRUMENTS.**—A project that receives a line of credit under this section shall not also receive a secured loan or loan guarantee under section 603 in an amount that, combined with the amount of the line of credit, exceeds 49 percent of eligible project costs.

“(c) **REPAYMENT.**—

“(1) **TERMS AND CONDITIONS.**—The Secretary shall establish repayment terms and conditions for each direct loan under this section based on the projected cash flow from project revenues and other repayment sources, and the useful life of the asset being financed.

“(2) **TIMING.**—All repayments of principal or interest on a direct loan under this section shall be scheduled to commence not later than 5 years after the end of the period of availability specified in subsection (b)(6) and to conclude, with full repayment of principal and interest, by the date that is 25 years after the end of the period of availability specified in subsection (b)(6).

#### “§ 605. Program administration

“(a) **REQUIREMENT.**—The Secretary shall establish a uniform system to service the Federal credit instruments made available under this chapter.

“(b) **FEES.**—The Secretary may collect and spend fees, contingent upon authority being provided in appropriations Acts, at a level that is sufficient to cover—

“(1) the costs of services of expert firms retained pursuant to subsection (d); and

“(2) all or a portion of the costs to the Federal Government of servicing the Federal credit instruments.

“(c) **SERVICER.**—

“(1) **IN GENERAL.**—The Secretary may appoint a financial entity to assist the Secretary in servicing the Federal credit instruments.

“(2) **DUTIES.**—The servicer shall act as the agent for the Secretary.

“(3) **FEE.**—The servicer shall receive a servicing fee, subject to approval by the Secretary.

“(d) **ASSISTANCE FROM EXPERT FIRMS.**—The Secretary may retain the services of expert firms, including counsel, in the field of municipal and project finance to assist in the underwriting and servicing of Federal credit instruments.

#### “§ 606. State and local permits

“The provision of credit assistance under this chapter with respect to a project shall not—

“(1) relieve any recipient of the assistance of any obligation to obtain any required

State or local permit or approval with respect to the project;

“(2) limit the right of any unit of State or local government to approve or regulate any rate of return on private equity invested in the project; or

“(3) otherwise supersede any State or local law (including any regulation) applicable to the construction or operation of the project.

#### “§ 607. Regulations

“The Secretary may promulgate such regulations as the Secretary determines appropriate to carry out this chapter.

#### “§ 608. Funding

“(a) **FUNDING.**—

“(1) **SPENDING AND BORROWING AUTHORITY.**—Spending and borrowing authority for a fiscal year to enter into Federal credit instruments shall be promptly apportioned to the Secretary on a fiscal year basis.

“(2) **REESTIMATES.**—When the estimated cost of a loan or loans is reestimated, the cost of the reestimate shall be borne by or benefit the general fund of the Treasury, consistent with section 661c(f) of title 2, United States Code.

“(3) **RURAL SET-ASIDE.**—

“(A) **IN GENERAL.**—Of the total amount of funds made available to carry out this chapter for each fiscal year, 10 percent shall be set aside for rural infrastructure projects.

“(B) **REOBLIGATION.**—Any amounts set aside under subparagraph (A) that remain unobligated by June 1 of the fiscal year for which the amounts were set aside shall be available for obligation by the Secretary on projects other than rural infrastructure projects.

“(4) **REDISTRIBUTION OF AUTHORIZED FUNDING.**—

“(A) **IN GENERAL.**—Beginning in the second fiscal year after the date of enactment of this paragraph, on August 1 of that fiscal year, and each fiscal year thereafter, if the unobligated and uncommitted balance of funding available exceeds 150 percent of the amount made available to carry out this chapter for that fiscal year, the Secretary shall distribute to the States the amount of funds and associated obligation authority in excess of that amount.

“(B) **DISTRIBUTION.**—The amounts and obligation authority distributed under this paragraph shall be distributed, in the same manner as obligation authority is distributed to the States for the fiscal year, based on the proportion that—

“(i) the relative share of each State of obligation authority for the fiscal year; bears to

“(ii) the total amount of obligation authority distributed to all States for the fiscal year.

“(C) **PURPOSE.**—Funds distributed under subparagraph (B) shall be available for any purpose described in section 133(c).

“(5) **AVAILABILITY.**—Amounts made available to carry out this chapter shall remain available until expended.

“(6) **ADMINISTRATIVE COSTS.**—Of the amounts made available to carry out this chapter, the Secretary may use not more than 1 percent for each fiscal year for the administration of this chapter.

“(b) **CONTRACT AUTHORITY.**—

“(1) **IN GENERAL.**—Notwithstanding any other provision of law, execution of a term sheet by the Secretary of a Federal credit instrument that uses amounts made available under this chapter shall impose on the United States a contractual obligation to fund the Federal credit investment.

“(2) **AVAILABILITY.**—Amounts made available to carry out this chapter for a fiscal

year shall be available for obligation on October 1 of the fiscal year.

#### “§ 609. Reports to Congress

“On June 1, 2012, and every 2 years thereafter, the Secretary shall submit to Congress a report summarizing the financial performance of the projects that are receiving, or have received, assistance under this chapter (other than section 610), including a recommendation as to whether the objectives of this chapter (other than section 610) are best served—

“(1) by continuing the program under the authority of the Secretary;

“(2) by establishing a Federal corporation or federally sponsored enterprise to administer the program; or

“(3) by phasing out the program and relying on the capital markets to fund the types of infrastructure investments assisted by this chapter (other than section 610) without Federal participation.”

#### SEC. 3003. STATE INFRASTRUCTURE BANKS.

Section 610(d)(1)(A) of title 23, United States Code, is amended by striking “sections 104(b)(1)” and all that follows through the semicolon and inserting “paragraphs (1) and (2) of section 104(b)”.

### TITLE IV—HIGHWAY SPENDING CONTROLS

#### SEC. 4001. HIGHWAY SPENDING CONTROLS.

(a) **IN GENERAL.**—Title 23, United States Code, is amended by adding at the end the following:

##### CHAPTER 7—HIGHWAY SPENDING CONTROLS

Sec.

701. Solvency of Highway Account of the Highway Trust Fund.

#### “SEC. 701. SOLVENCY OF HIGHWAY ACCOUNT OF THE HIGHWAY TRUST FUND.

“(a) **SOLVENCY CALCULATION FOR FISCAL YEAR 2012.**—

“(1) **ADJUSTMENT OF OBLIGATION LIMITATION.**—Not later than 60 days after the date of enactment of the MAP-21, the Secretary, in consultation with the Secretary of Treasury, shall:

“(A) Estimate the balance of the Highway Trust Fund (other than the Mass Transit Account) at the end of fiscal years 2012 and 2013. For purposes of which estimation, the Secretary shall assume that the obligation limitation on Federal-aid highways and highway safety construction programs will be equal to the obligation limitations enacted for those fiscal years in the MAP-21.

“(B) Determine if the estimated balance of the Highway Trust Fund (other than the Mass Transit Account) would fall below—

“(i) \$2,000,000,000 at the end of fiscal year 2012; or

“(ii) \$1,000,000,000 at the end of fiscal year 2013.

“(C) If either of the conditions in subparagraph (B) would occur, calculate the amount by which the fiscal year 2012 obligation limitation must be reduced to prevent such occurrence. For purposes of this calculation, the Secretary shall assume that the obligation limitation on Federal-aid highways and highway safety construction programs for the fiscal year 2013 will be equal to the obligation limitation for fiscal year 2012, as reduced pursuant to this subparagraph.

“(D) Adjust the distribution of the fiscal year 2012 obligation limitation to reflect any reduction determined under subparagraph (C).

“(2) **LAPSE AND RESCISSION.**—

“(A) **LAPSE OF OBLIGATION LIMITATION.**—Any obligation limitation that is withdrawn by the Secretary pursuant to paragraph

(1)(D) shall lapse immediately following the adjustment of obligation limitation under such paragraph.

“(B) RESCISSION OF CONTRACT AUTHORITY.—Upon the lapse of any obligation limitation under subparagraph (A), the Secretary shall reduce proportionately the amount authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for fiscal year 2012 to carry out each of the Federal-aid highway and highway safety construction programs (other than emergency relief and funds under the national highway performance program that are exempt from the fiscal year 2012 obligation limitation) by an aggregate amount equal to the amount of adjustment determined pursuant to paragraph (1)(D). The amounts withdrawn pursuant to this subparagraph are permanently rescinded.

“(b) SOLVENCY CALCULATION FOR FISCAL YEAR 2013 AND FISCAL YEARS THEREAFTER.—

“(1) ADJUSTMENT OF OBLIGATION LIMITATION.—Except as provided in paragraph (2), in distributing the obligation limitation on Federal-aid highways and highway safety construction programs for fiscal year 2013 and each fiscal year thereafter, the Secretary shall—

“(A) estimate the balance of the Highway Trust Fund (other than the Mass Transit Account) at the end of such fiscal year and the end of the next fiscal year, for purposes of which estimation, the Secretary shall assume that the obligation limitation on Federal-aid highways and highway safety construction programs for the next fiscal year will be equal to the obligation limitation enacted for the fiscal year for which the limitation is being distributed;

“(B) determine whether the estimated balance of the Highway Trust Fund (other than the Mass Transit Account) would fall below \$2,000,000,000 at the end of the fiscal year for which the obligation limitation is being distributed;

“(C) if the condition in subparagraph (B) would occur, calculate the amount by which the obligation limitation in the fiscal year for which the obligation limitation is being distributed must be reduced to prevent that occurrence; and

“(D) distribute such obligation limitation less any amount determined under subparagraph (C).

“(2) LAPSE AND RESCISSION.—

“(A) OBLIGATION LIMITATION.—

“(i) RECALCULATION.—In a fiscal year in which the Secretary withholds obligation limitation based on the calculation under paragraph (1), the Secretary shall, on March 1 of such fiscal year, repeat the calculations under subparagraphs (A) through (C) of such paragraph. Based on the results of those calculations, the Secretary shall—

“(I) if the Secretary determines that either of the conditions in paragraph (1)(B) would occur, withdraw an additional amount of obligation limitation necessary to prevent such occurrence; or

“(II) distribute as much of the withheld obligation limitation as may be distributed without causing either of the conditions specified in paragraph (1)(B) to occur.

“(ii) LAPSE.—Any obligation limitation that is enacted for a fiscal year, withheld from distribution pursuant to paragraph (1)(D) (or withdrawn under clause (i)(I)), and not subsequently distributed under clause (i)(II) shall lapse immediately following the distribution of obligation limitation under such clause.

“(B) CONTRACT AUTHORITY.—

“(i) IN GENERAL.—Upon the lapse of any obligation limitation under subparagraph

(A)(ii), an equal amount of the unobligated balances of funds apportioned among the States under chapter 1 and sections 1116, 1303, and 1404 of the SAFETEA-LU (119 Stat. 1177, 1207, and 1228) are permanently rescinded. In administering the rescission required under this clause, the Secretary shall allow each State to determine the amount of the required rescission to be drawn from the programs to which the rescission applies, except as provided in clause (ii).

“(ii) RESCISSION OF FUNDS APPORTIONED IN FISCAL YEAR 2013 AND FISCAL YEARS THEREAFTER.—If a State determines that it will meet any of its required rescission amount from funds apportioned to such State on or subsequent to October 1, 2012, the Secretary shall determine the amount to be rescinded from each of the programs subject to the rescission for which the State was apportioned funds on or subsequent to October 1, 2012, in proportion to the cumulative amount of apportionments that the State received for each such program on or subsequent to October 1, 2012.

“(3) OTHER ACTIONS TO PREVENT INSOLVENCY.—The Secretary shall issue a regulation to establish any actions in addition to those described in subsection (a) and paragraph (1) that may be taken by the Secretary if it becomes apparent that the Highway Trust Fund (other than the Mass Transit Account) will become insolvent, including the denial of further obligations.

“(4) APPLICABLE ONLY TO FULL-YEAR LIMITATION.—The requirements of paragraph (1) apply only to the distribution of a full-year obligation limitation and do not apply to partial-year limitations under continuing appropriations Acts.”.

(b) TABLE OF CHAPTERS.—The table of chapters for title 23, United States Code, is amended by inserting after the item relating to chapter 6 the following:

“7. Highway Spending Controls ..... 701”.

#### **DIVISION B—PUBLIC TRANSPORTATION**

##### **SEC. 20001. SHORT TITLE.**

This division may be cited as the “Federal Public Transportation Act of 2012”.

##### **SEC. 20002. REPEALS.**

(a) CHAPTER 53.—Chapter 53 of title 49, United States Code, is amended by striking sections 5316, 5317, 5321, 5324, 5328, and 5339.

(b) TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY.—Section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note) is repealed.

(c) SAFETEA-LU.—The following provisions are repealed:

(1) Section 3009(i) of SAFETEA-LU (Public Law 109-59; 119 Stat. 1572).

(2) Section 3011(c) of SAFETEA-LU (49 U.S.C. 5309 note).

(3) Section 3012(b) of SAFETEA-LU (49 U.S.C. 5310 note).

(4) Section 3045 of SAFETEA-LU (49 U.S.C. 5308 note).

(5) Section 3046 of SAFETEA-LU (49 U.S.C. 5338 note).

##### **SEC. 20003. POLICIES, PURPOSES, AND GOALS.**

Section 5301 of title 49, United States Code, is amended to read as follows:

##### **“§ 5301. Policies, purposes, and goals**

“(a) DECLARATION OF POLICY.—It is in the interest of the United States, including the economic interest of the United States, to foster the development and revitalization of public transportation systems.

“(b) GENERAL PURPOSES.—The purposes of this chapter are to—

“(1) provide funding to support public transportation;

“(2) improve the development and delivery of capital projects;

“(3) initiate a new framework for improving the safety of public transportation systems;

“(4) establish standards for the state of good repair of public transportation infrastructure and vehicles;

“(5) promote continuing, cooperative, and comprehensive planning that improves the performance of the transportation network;

“(6) establish a technical assistance program to assist recipients under this chapter to more effectively and efficiently provide public transportation service;

“(7) continue Federal support for public transportation providers to deliver high quality service to all users, including individuals with disabilities, seniors, and individuals who depend on public transportation;

“(8) support research, development, demonstration, and deployment projects dedicated to assisting in the delivery of efficient and effective public transportation service; and

“(9) promote the development of the public transportation workforce.

“(c) NATIONAL GOALS.—The goals of this chapter are to—

“(1) increase the availability and accessibility of public transportation across a balanced, multimodal transportation network;

“(2) promote the environmental benefits of public transportation, including reduced reliance on fossil fuels, fewer harmful emissions, and lower public health expenditures;

“(3) improve the safety of public transportation systems;

“(4) achieve and maintain a state of good repair of public transportation infrastructure and vehicles;

“(5) provide an efficient and reliable alternative to congested roadways;

“(6) increase the affordability of transportation for all users; and

“(7) maximize economic development opportunities by—

“(A) connecting workers to jobs;

“(B) encouraging mixed-use, transit-oriented development; and

“(C) leveraging private investment and joint development.”.

##### **SEC. 20004. DEFINITIONS.**

Section 5302 of title 49, United States Code, is amended to read as follows:

##### **“§ 5302. Definitions**

“Except as otherwise specifically provided, in this chapter the following definitions apply:

“(1) ASSOCIATED TRANSIT IMPROVEMENT.—The term ‘associated transit improvement’ means, with respect to any project or an area to be served by a project, projects that are designed to enhance public transportation service or use and that are physically or functionally related to transit facilities. Eligible projects are—

“(A) historic preservation, rehabilitation, and operation of historic public transportation buildings, structures, and facilities (including historic bus and railroad facilities) intended for use in public transportation service;

“(B) bus shelters;

“(C) landscaping and streetscaping, including benches, trash receptacles, and street lights;

“(D) pedestrian access and walkways;

“(E) bicycle access, including bicycle storage facilities and installing equipment for transporting bicycles on public transportation vehicles;

“(F) signage; or

“(G) enhanced access for persons with disabilities to public transportation.

“(2) **BUS RAPID TRANSIT SYSTEM.**—The term ‘bus rapid transit system’ means a bus transit system—

“(A) in which the majority of each line operates in a separated right-of-way dedicated for public transportation use during peak periods; and

“(B) that includes features that emulate the services provided by rail fixed guideway public transportation systems, including—

“(i) defined stations;

“(ii) traffic signal priority for public transportation vehicles;

“(iii) short headway bidirectional services for a substantial part of weekdays and weekend days; and

“(iv) any other features the Secretary may determine are necessary to produce high-quality public transportation services that emulate the services provided by rail fixed guideway public transportation systems.

“(3) **CAPITAL PROJECT.**—The term ‘capital project’ means a project for—

“(A) acquiring, constructing, supervising, or inspecting equipment or a facility for use in public transportation, expenses incidental to the acquisition or construction (including designing, engineering, location surveying, mapping, and acquiring rights-of-way), payments for the capital portions of rail track-age rights agreements, transit-related intelligent transportation systems, relocation assistance, acquiring replacement housing sites, and acquiring, constructing, relocating, and rehabilitating replacement housing;

“(B) rehabilitating a bus;

“(C) remanufacturing a bus;

“(D) overhauling rail rolling stock;

“(E) preventive maintenance;

“(F) leasing equipment or a facility for use in public transportation, subject to regulations that the Secretary prescribes limiting the leasing arrangements to those that are more cost-effective than purchase or construction;

“(G) a joint development improvement that—

“(i) enhances economic development or incorporates private investment, such as commercial and residential development;

“(ii)(I) enhances the effectiveness of public transportation and is related physically or functionally to public transportation; or

“(II) establishes new or enhanced coordination between public transportation and other transportation;

“(iii) provides a fair share of revenue that will be used for public transportation;

“(iv) provides that a person making an agreement to occupy space in a facility constructed under this paragraph shall pay a fair share of the costs of the facility through rental payments and other means;

“(v) may include—

“(I) property acquisition;

“(II) demolition of existing structures;

“(III) site preparation;

“(IV) utilities;

“(V) building foundations;

“(VI) walkways;

“(VII) pedestrian and bicycle access to a public transportation facility;

“(VIII) construction, renovation, and improvement of intercity bus and intercity rail stations and terminals;

“(IX) renovation and improvement of historic transportation facilities;

“(X) open space;

“(XI) safety and security equipment and facilities (including lighting, surveillance, and related intelligent transportation system applications);

“(XII) facilities that incorporate community services such as daycare or health care;

“(XIII) a capital project for, and improving, equipment or a facility for an intermodal transfer facility or transportation mall; and

“(XIV) construction of space for commercial uses; and

“(vi) does not include outfitting of commercial space (other than an intercity bus or rail station or terminal) or a part of a public facility not related to public transportation;

“(H) the introduction of new technology, through innovative and improved products, into public transportation;

“(I) the provision of nonfixed route paratransit transportation services in accordance with section 223 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12143), but only for grant recipients that are in compliance with applicable requirements of that Act, including both fixed route and demand responsive service, and only for amounts not to exceed 10 percent of such recipient’s annual formula apportionment under sections 5307 and 5311;

“(J) establishing a debt service reserve, made up of deposits with a bondholder’s trustee, to ensure the timely payment of principal and interest on bonds issued by a grant recipient to finance an eligible project under this chapter;

“(K) mobility management—

“(i) consisting of short-range planning and management activities and projects for improving coordination among public transportation and other transportation service providers carried out by a recipient or subrecipient through an agreement entered into with a person, including a governmental entity, under this chapter (other than section 5309); but

“(ii) excluding operating public transportation services; or

“(L) associated capital maintenance, including—

“(i) equipment, tires, tubes, and material, each costing at least .5 percent of the current fair market value of rolling stock comparable to the rolling stock for which the equipment, tires, tubes, and material are to be used; and

“(ii) reconstruction of equipment and material, each of which after reconstruction will have a fair market value of at least .5 percent of the current fair market value of rolling stock comparable to the rolling stock for which the equipment and material will be used.

“(4) **DESIGNATED RECIPIENT.**—The term ‘designated recipient’ means—

“(A) an entity designated, in accordance with the planning process under sections 5303 and 5304, by the Governor of a State, responsible local officials, and publicly owned operators of public transportation, to receive and apportion amounts under section 5336 to urbanized areas of 200,000 or more in population; or

“(B) a State or regional authority, if the authority is responsible under the laws of a State for a capital project and for financing and directly providing public transportation.

“(5) **DISABILITY.**—The term ‘disability’ has the same meaning as in section 3(1) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102).

“(6) **EMERGENCY REGULATION.**—The term ‘emergency regulation’ means a regulation—

“(A) that is effective temporarily before the expiration of the otherwise specified periods of time for public notice and comment under section 5334(c); and

“(B) prescribed by the Secretary as the result of a finding that a delay in the effective date of the regulation—

“(i) would injure seriously an important public interest;

“(ii) would frustrate substantially legislative policy and intent; or

“(iii) would damage seriously a person or class without serving an important public interest.

“(7) **FIXED GUIDEWAY.**—The term ‘fixed guideway’ means a public transportation facility—

“(A) using and occupying a separate right-of-way for the exclusive use of public transportation;

“(B) using rail;

“(C) using a fixed catenary system;

“(D) for a passenger ferry system; or

“(E) for a bus rapid transit system.

“(8) **GOVERNOR.**—The term ‘Governor’—

“(A) means the Governor of a State, the mayor of the District of Columbia, and the chief executive officer of a territory of the United States; and

“(B) includes the designee of the Governor.

“(9) **LOCAL GOVERNMENTAL AUTHORITY.**—The term ‘local governmental authority’ includes—

“(A) a political subdivision of a State;

“(B) an authority of at least 1 State or political subdivision of a State;

“(C) an Indian tribe; and

“(D) a public corporation, board, or commission established under the laws of a State.

“(10) **LOW-INCOME INDIVIDUAL.**—The term ‘low-income individual’ means an individual whose family income is at or below 150 percent of the poverty line, as that term is defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by that section, for a family of the size involved.

“(11) **NET PROJECT COST.**—The term ‘net project cost’ means the part of a project that reasonably cannot be financed from revenues.

“(12) **NEW BUS MODEL.**—The term ‘new bus model’ means a bus model (including a model using alternative fuel)—

“(A) that has not been used in public transportation in the United States before the date of production of the model; or

“(B) used in public transportation in the United States, but being produced with a major change in configuration or components.

“(13) **PUBLIC TRANSPORTATION.**—The term ‘public transportation’—

“(A) means regular, continuing shared-ride surface transportation services that are open to the general public or open to a segment of the general public defined by age, disability, or low income; and

“(B) does not include—

“(i) intercity passenger rail transportation provided by the entity described in chapter 243 (or a successor to such entity);

“(ii) intercity bus service;

“(iii) charter bus service;

“(iv) school bus service;

“(v) sightseeing service;

“(vi) courtesy shuttle service for patrons of one or more specific establishments; or

“(vii) intra-terminal or intra-facility shuttle services.

“(14) **REGULATION.**—The term ‘regulation’ means any part of a statement of general or particular applicability of the Secretary designed to carry out, interpret, or prescribe law or policy in carrying out this chapter.

“(15) **SECRETARY.**—The term ‘Secretary’ means the Secretary of Transportation.

“(16) **SENIOR.**—The term ‘senior’ means an individual who is 65 years of age or older.

“(17) **STATE.**—The term ‘State’ means a State of the United States, the District of



Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

“(18) STATE OF GOOD REPAIR.—The term ‘state of good repair’ has the meaning given that term by the Secretary, by rule, under section 5326(b).

“(19) TRANSIT.—The term ‘transit’ means public transportation.

“(20) URBAN AREA.—The term ‘urban area’ means an area that includes a municipality or other built-up place that the Secretary, after considering local patterns and trends of urban growth, decides is appropriate for a local public transportation system to serve individuals in the locality.

“(21) URBANIZED AREA.—The term ‘urbanized area’ means an area encompassing a population of not less than 50,000 people that has been defined and designated in the most recent decennial census as an ‘urbanized area’ by the Secretary of Commerce.”.

#### SEC. 20005. METROPOLITAN TRANSPORTATION PLANNING.

(a) IN GENERAL.—Section 5303 of title 49, United States Code, is amended to read as follows:

##### “§ 5303. Metropolitan transportation planning

“(a) POLICY.—It is in the national interest—

“(1) to encourage and promote the safe, cost-effective, and efficient management, operation, and development of surface transportation systems that will serve efficiently the mobility needs of individuals and freight, reduce transportation-related fatalities and serious injuries, and foster economic growth and development within and between States and urbanized areas, while fitting the needs and complexity of individual communities, maximizing value for taxpayers, leveraging cooperative investments, and minimizing transportation-related fuel consumption and air pollution through the metropolitan and statewide transportation planning processes identified in this chapter;

“(2) to encourage the continued improvement, evolution, and coordination of the metropolitan and statewide transportation planning processes by and among metropolitan planning organizations, State departments of transportation, regional planning organizations, interstate partnerships, and public transportation and intercity service operators as guided by the planning factors identified in subsection (h) of this section and section 5304(d);

“(3) to encourage and promote transportation needs and decisions that are integrated with other planning needs and priorities; and

“(4) to maximize the effectiveness of transportation investments.

“(b) DEFINITIONS.—In this section and section 5304, the following definitions shall apply:

“(1) EXISTING MPO.—The term ‘existing MPO’ means a metropolitan planning organization that was designated as a metropolitan planning organization as of the day before the date of enactment of the Federal Public Transportation Act of 2012.

“(2) LOCAL OFFICIAL.—The term ‘local official’ means any elected or appointed official of general purpose local government with responsibility for transportation in a designated area.

“(3) MAINTENANCE AREA.—The term ‘maintenance area’ means an area that was designated as an air quality nonattainment area, but was later redesignated by the Administrator of the Environmental Protection Agency as an air quality attainment area,

under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)).

“(4) METROPOLITAN PLANNING AREA.—The term ‘metropolitan planning area’ means a geographical area determined by agreement between the metropolitan planning organization for the area and the applicable Governor under subsection (c).

“(5) METROPOLITAN PLANNING ORGANIZATION.—The term ‘metropolitan planning organization’ means the policy board of an organization established pursuant to subsection (c).

“(6) METROPOLITAN TRANSPORTATION PLAN.—The term ‘metropolitan transportation plan’ means a plan developed by a metropolitan planning organization under subsection (i).

“(7) NONATTAINMENT AREA.—The term ‘nonattainment area’ has the meaning given the term in section 171 of the Clean Air Act (42 U.S.C. 7501).

“(8) NONMETROPOLITAN AREA.—

“(A) IN GENERAL.—The term ‘nonmetropolitan area’ means a geographical area outside the boundaries of a designated metropolitan planning area.

“(B) INCLUSIONS.—The term ‘nonmetropolitan area’ includes a small urbanized area with a population of more than 50,000, but fewer than 200,000 individuals, as calculated according to the most recent decennial census, and a nonurbanized area.

“(9) NONMETROPOLITAN PLANNING ORGANIZATION.—The term ‘nonmetropolitan planning organization’ means an organization that—

“(A) was designated as a metropolitan planning organization as of the day before the date of enactment of the Federal Public Transportation Act of 2012; and

“(B) is not designated as a tier I MPO or tier II MPO.

“(10) REGIONALLY SIGNIFICANT.—The term ‘regionally significant’, with respect to a transportation project, program, service, or strategy, means a project, program, service, or strategy that—

“(A) serves regional transportation needs (such as access to and from the area outside of the region, major activity centers in the region, and major planned developments); and

“(B) would normally be included in the modeling of a transportation network of a metropolitan area.

“(11) RURAL PLANNING ORGANIZATION.—The term ‘rural planning organization’ means a voluntary organization of local elected officials and representatives of local transportation systems that—

“(A) works in cooperation with the department of transportation (or equivalent entity) of a State to plan transportation networks and advise officials of the State on transportation planning; and

“(B) is located in a rural area—

“(i) with a population of not fewer than 5,000 individuals, as calculated according to the most recent decennial census; and

“(ii) that is not located in an area represented by a metropolitan planning organization.

“(12) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM.—The term ‘statewide transportation improvement program’ means a statewide transportation improvement program developed by a State under section 5304(g).

“(13) STATEWIDE TRANSPORTATION PLAN.—The term ‘statewide transportation plan’ means a plan developed by a State under section 5304(f).

“(14) TIER I MPO.—The term ‘tier I MPO’ means a metropolitan planning organization

designated as a tier I MPO under subsection (e)(4)(A).

“(15) TIER II MPO.—The term ‘tier II MPO’ means a metropolitan planning organization designated as a tier II MPO under subsection (e)(4)(B).

“(16) TRANSPORTATION IMPROVEMENT PROGRAM.—The term ‘transportation improvement program’ means a program developed by a metropolitan planning organization under subsection (j).

“(17) URBANIZED AREA.—The term ‘urbanized area’ means a geographical area with a population of 50,000 or more individuals, as calculated according to the most recent decennial census.

#### “(c) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

“(1) IN GENERAL.—To carry out the metropolitan transportation planning process under this section, a metropolitan planning organization shall be designated for each urbanized area with a population of 200,000 or more individuals, as calculated according to the most recent decennial census—

“(A) by agreement between the applicable Governor and local officials that, in the aggregate, represent at least 75 percent of the affected population (including the largest incorporated city (based on population), as calculated according to the most recent decennial census); or

“(B) in accordance with procedures established by applicable State or local law.

“(2) SMALL URBANIZED AREAS.—To carry out the metropolitan transportation planning process under this section, a metropolitan planning organization may be designated for any urbanized area with a population of 50,000 or more individuals, but fewer than 200,000 individuals, as calculated according to the most recent decennial census—

“(A) by agreement between the applicable Governor and local officials that, in the aggregate, represent at least 75 percent of the affected population (including the largest incorporated city (based on population), as calculated according to the most recent decennial census); and

“(B) with the consent of the Secretary, based on a finding that the resulting metropolitan planning organization has met the minimum requirements under subsection (e)(4)(B).

“(3) STRUCTURE.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, a metropolitan planning organization shall consist of—

“(A) elected local officials in the relevant metropolitan area;

“(B) officials of public agencies that administer or operate major modes of transportation in the relevant metropolitan area, including providers of public transportation; and

“(C) appropriate State officials.

“(4) EFFECT OF SUBSECTION.—Nothing in this subsection interferes with any authority under any State law in effect on December 18, 1991, of a public agency with multimodal transportation responsibilities—

“(A) to develop the metropolitan transportation plans and transportation improvement programs for adoption by a metropolitan planning organization; or

“(B) to develop capital plans, coordinate public transportation services and projects, or carry out other activities pursuant to State law.

“(5) CONTINUING DESIGNATION.—A designation of an existing MPO—

“(A) for an urbanized area with a population of 200,000 or more individuals, as calculated according to the most recent decennial census, shall remain in effect—

“(i) for the period during which the structure of the existing MPO complies with the requirements of paragraph (1); or

“(ii) until the date on which the existing MPO is redesignated under paragraph (6); and

“(B) for an urbanized area with a population of fewer than 200,000 individuals, as calculated according to the most recent decennial census, shall remain in effect until the date on which the existing MPO is redesignated under paragraph (6) unless—

“(i) the existing MPO requests that its planning responsibilities be transferred to the State or to another planning organization designated by the State; or

“(ii)(I) the applicable Governor determines not later than 3 years after the date on which the Secretary issues a rule pursuant to subsection (e)(4)(B)(i), that the existing MPO is not meeting the minimum requirements established by the rule; and

“(II) the Secretary approves the Governor's determination.

“(C) DESIGNATION AS TIER II MPO.—If the Secretary determines the existing MPO has met the minimum requirements under the rule issued under subsection (e)(4)(B)(i), the Secretary shall designate the existing MPO as a tier II MPO.

“(6) REDESIGNATION.—

“(A) IN GENERAL.—The designation of a metropolitan planning organization under this subsection shall remain in effect until the date on which the metropolitan planning organization is redesignated, as appropriate, in accordance with the requirements of this subsection pursuant to an agreement between—

“(i) the applicable Governor; and

“(ii) affected local officials who, in the aggregate, represent at least 75 percent of the existing metropolitan planning area population (including the largest incorporated city (based on population), as calculated according to the most recent decennial census).

“(B) RESTRUCTURING.—A metropolitan planning organization may be restructured to meet the requirements of paragraph (3) without undertaking a redesignation.

“(7) DESIGNATION OF MULTIPLE MPOS.—

“(A) IN GENERAL.—More than 1 metropolitan planning organization may be designated within an existing metropolitan planning area only if the applicable Governor and an existing MPO determine that the size and complexity of the existing metropolitan planning area make the designation of more than 1 metropolitan planning organization for the metropolitan planning area appropriate.

“(B) SERVICE JURISDICTIONS.—If more than 1 metropolitan planning organization is designated for an existing metropolitan planning area under subparagraph (A), the existing metropolitan planning area shall be split into multiple metropolitan planning areas, each of which shall be served by the existing MPO or a new metropolitan planning organization.

“(C) TIER DESIGNATION.—The tier designation of each metropolitan planning organization subject to a designation under this paragraph shall be determined based on the size of each respective metropolitan planning area, in accordance with subsection (e)(4).

“(d) METROPOLITAN PLANNING AREA BOUNDARIES.—

“(1) IN GENERAL.—For purposes of this section, the boundaries of a metropolitan plan-

ning area shall be determined by agreement between the applicable metropolitan planning organization and the Governor of the State in which the metropolitan planning area is located.

“(2) INCLUDED AREA.—Each metropolitan planning area—

“(A) shall encompass at least the relevant existing urbanized area and any contiguous area expected to become urbanized within a 20-year forecast period under the applicable metropolitan transportation plan; and

“(B) may encompass the entire relevant metropolitan statistical area, as defined by the Office of Management and Budget.

“(3) IDENTIFICATION OF NEW URBANIZED AREAS.—The designation by the Bureau of the Census of a new urbanized area within the boundaries of an existing metropolitan planning area shall not require the redesignation of the relevant existing MPO.

“(4) NONATTAINMENT AND MAINTENANCE AREAS.—

“(A) EXISTING METROPOLITAN PLANNING AREAS.—

“(i) IN GENERAL.—Except as provided in clause (ii), notwithstanding paragraph (2), in the case of an urbanized area designated as a nonattainment area or maintenance area as of the date of enactment of the Federal Public Transportation Act of 2012, the boundaries of the existing metropolitan planning area as of that date of enactment shall remain in force and effect.

“(ii) EXCEPTION.—Notwithstanding clause (i), the boundaries of an existing metropolitan planning area described in that clause may be adjusted by agreement of the applicable Governor and the affected metropolitan planning organizations in accordance with subsection (c)(7).

“(B) NEW METROPOLITAN PLANNING AREAS.—In the case of an urbanized area designated as a nonattainment area or maintenance area after the date of enactment of the Federal Public Transportation Act of 2012, the boundaries of the applicable metropolitan planning area—

“(i) shall be established in accordance with subsection (c)(1);

“(ii) shall encompass the areas described in paragraph (2)(A);

“(iii) may encompass the areas described in paragraph (2)(B); and

“(iv) may address any appropriate nonattainment area or maintenance area.

“(e) REQUIREMENTS.—

“(1) DEVELOPMENT OF PLANS AND TIPS.—To accomplish the policy objectives described in subsection (a), each metropolitan planning organization, in cooperation with the applicable State and public transportation operators, shall develop metropolitan transportation plans and transportation improvement programs for metropolitan planning areas of the State through a performance-driven, outcome-based approach to metropolitan transportation planning consistent with subsection (h).

“(2) CONTENTS.—The metropolitan transportation plans and transportation improvement programs for each metropolitan area shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation) that will function as—

“(A) an intermodal transportation system for the metropolitan planning area; and

“(B) an integral part of an intermodal transportation system for the applicable State and the United States.

“(3) PROCESS OF DEVELOPMENT.—The process for developing metropolitan transportation plans and transportation improvement programs shall—

“(A) provide for consideration of all modes of transportation; and

“(B) be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation needs to be addressed.

“(4) TIERING.—

“(A) TIER I MPOS.—

“(i) IN GENERAL.—A metropolitan planning organization shall be designated as a tier I MPO if—

“(I) as certified by the Governor of each applicable State, the metropolitan planning organization operates within, and primarily serves, a metropolitan planning area with a population of 1,000,000 or more individuals, as calculated according to the most recent decennial census; and

“(II) the Secretary determines the metropolitan planning organization—

“(aa) meets the minimum technical requirements under clause (iv); and

“(bb) not later than 2 years after the date of enactment of the Federal Public Transportation Act of 2012, will fully implement the processes described in subsections (h) through (j).

“(ii) ABSENCE OF DESIGNATION.—In the absence of designation as a tier I MPO under clause (i), a metropolitan planning organization shall operate as a tier II MPO until the date on which the Secretary determines the metropolitan planning organization can meet the minimum technical requirements under clause (iv).

“(iii) REDESIGNATION AS TIER I.—A metropolitan planning organization operating within a metropolitan planning area with a population of 200,000 or more and fewer than 1,000,000 individuals and primarily within urbanized areas with populations of 200,000 or more individuals, as calculated according to the most recent decennial census, that is designated as a tier II MPO under subparagraph (B) may request, with the support of the applicable Governor, a redesignation as a tier I MPO on a determination by the Secretary that the metropolitan planning organization has met the minimum technical requirements under clause (iv).

“(iv) MINIMUM TECHNICAL REQUIREMENTS.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue a rule that establishes the minimum technical requirements necessary for a metropolitan planning organization to be designated as a tier I MPO, including, at a minimum, modeling, data, staffing, and other technical requirements.

“(B) TIER II MPOS.—

“(i) IN GENERAL.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue a rule that establishes minimum requirements necessary for a metropolitan planning organization to be designated as a tier II MPO.

“(ii) REQUIREMENTS.—The minimum requirements established under clause (i) shall—

“(I) ensure that each metropolitan planning organization has the capabilities necessary to develop the metropolitan transportation plan and transportation improvement program under this section; and

“(II) include—

“(aa) only the staff resources necessary to operate the metropolitan planning organization; and

“(bb) a requirement that the metropolitan planning organization has the technical capacity to conduct the modeling necessary, as appropriate to the size and resources of the metropolitan planning organization, to fulfill the requirements of this section, except that in cases in which a metropolitan planning organization has a formal agreement with a State to conduct the modeling on behalf of the metropolitan planning organization, the metropolitan planning organization shall be exempt from the technical capacity requirement.

“(iii) INCLUSION.—A metropolitan planning organization operating primarily within an urbanized area with a population of 200,000 or more individuals, as calculated according to the most recent decennial census, and that does not qualify as a tier I MPO under subparagraph (A)(i), shall—

“(I) be designated as a tier II MPO; and

“(II) follow the processes under subsection (k).

“(C) CONSOLIDATION.—

“(i) IN GENERAL.—Metropolitan planning organizations operating within contiguous or adjacent urbanized areas may elect to consolidate in order to meet the population thresholds required to achieve designation as a tier I or tier II MPO under this paragraph.

“(ii) EFFECT OF SUBSECTION.—Nothing in this subsection requires or prevents consolidation among multiple metropolitan planning organizations located within a single urbanized area.

“(f) COORDINATION IN MULTISTATE AREAS.—

“(1) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

“(2) COORDINATION ALONG DESIGNATED TRANSPORTATION CORRIDORS.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire designated transportation corridor.

“(3) COORDINATION WITH INTERSTATE COMPACTS.—The Secretary shall encourage metropolitan planning organizations to take into consideration, during the development of metropolitan transportation plans and transportation improvement programs, any relevant transportation studies concerning planning for regional transportation (including high-speed and intercity rail corridor studies, commuter rail corridor studies, intermodal terminals, and interstate highways) in support of freight, intercity, or multistate area projects and services that have been developed pursuant to interstate compacts or agreements, or by organizations established under section 5304.

“(g) ENGAGEMENT IN METROPOLITAN TRANSPORTATION PLAN AND TIP DEVELOPMENT.—

“(1) NONATTAINMENT AND MAINTENANCE AREAS.—If more than 1 metropolitan planning organization has authority within a metropolitan area, nonattainment area, or maintenance area, each metropolitan planning organization shall consult with all other metropolitan planning organizations designated for the metropolitan area, nonattainment area, or maintenance area and the State in the development of metropolitan transportation plans and transportation improvement programs under this section.

“(2) TRANSPORTATION IMPROVEMENTS LOCATED IN MULTIPLE METROPOLITAN PLANNING AREAS.—If a transportation improvement

project funded under this chapter or title 23 is located within the boundaries of more than 1 metropolitan planning area, the affected metropolitan planning organizations shall coordinate metropolitan transportation plans and transportation improvement programs regarding the project.

“(3) COORDINATION OF ADJACENT PLANNING ORGANIZATIONS.—

“(A) IN GENERAL.—A metropolitan planning organization that is adjacent or located in reasonably close proximity to another metropolitan planning organization shall coordinate with that metropolitan planning organization with respect to planning processes, including preparation of metropolitan transportation plans and transportation improvement programs, to the maximum extent practicable.

“(B) NONMETROPOLITAN PLANNING ORGANIZATIONS.—A metropolitan planning organization that is adjacent or located in reasonably close proximity to a nonmetropolitan planning organization shall consult with that nonmetropolitan planning organization with respect to planning processes, to the maximum extent practicable.

“(4) RELATIONSHIP WITH OTHER PLANNING OFFICIALS.—

“(A) IN GENERAL.—The Secretary shall encourage each metropolitan planning organization to cooperate with Federal, State, tribal, and local officers and entities responsible for other types of planning activities that are affected by transportation in the relevant area (including planned growth, economic development, infrastructure services, housing, other public services, environmental protection, airport operations, high-speed and intercity passenger rail, freight rail, port access, and freight movements), to the maximum extent practicable, to ensure that the metropolitan transportation planning process, metropolitan transportation plans, and transportation improvement programs are developed in cooperation with other related planning activities in the area.

“(B) INCLUSION.—Cooperation under subparagraph (A) shall include the design and delivery of transportation services within the metropolitan area that are provided by—

“(i) recipients of assistance under sections 202, 203, and 204 of title 23;

“(ii) recipients of assistance under this title;

“(iii) government agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide nonemergency transportation services; and

“(iv) sponsors of regionally significant programs, projects, and services that are related to transportation and receive assistance from any public or private source.

“(5) COORDINATION OF OTHER FEDERALLY REQUIRED PLANNING PROGRAMS.—The Secretary shall encourage each metropolitan planning organization to coordinate, to the maximum extent practicable, the development of metropolitan transportation plans and transportation improvement programs with other relevant federally required planning programs.

“(h) SCOPE OF PLANNING PROCESS.—

“(1) IN GENERAL.—The metropolitan transportation planning process for a metropolitan planning area under this section shall provide for consideration of projects and strategies that will—

“(A) support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency;

“(B) increase the safety of the transportation system for motorized and non-motorized users;

“(C) increase the security of the transportation system for motorized and non-motorized users;

“(D) increase the accessibility and mobility of individuals and freight;

“(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;

“(F) enhance the integration and connectivity of the transportation system, across and between modes, for individuals and freight;

“(G) increase efficient system management and operation; and

“(H) emphasize the preservation of the existing transportation system.

“(2) PERFORMANCE-BASED APPROACH.—

“(A) IN GENERAL.—The metropolitan transportation planning process shall provide for the establishment and use of a performance-based approach to transportation decision-making to support the national goals described in section 5301(c) of this title and in section 150(b) of title 23.

“(B) PERFORMANCE TARGETS.—

“(i) SURFACE TRANSPORTATION PERFORMANCE TARGETS.—

“(I) IN GENERAL.—Each metropolitan planning organization shall establish performance targets that address the performance measures described in sections 119(f), 148(h), 149(k) (where applicable), and 167(i) of title 23, to use in tracking attainment of critical outcomes for the region of the metropolitan planning organization.

“(II) COORDINATION.—Selection of performance targets by a metropolitan planning organization shall be coordinated with the relevant State to ensure consistency, to the maximum extent practicable.

“(ii) PUBLIC TRANSPORTATION PERFORMANCE TARGETS.—Each metropolitan planning organization shall adopt the performance targets identified by providers of public transportation pursuant to sections 5326(c) and 5329(d), for use in tracking attainment of critical outcomes for the region of the metropolitan planning organization.

“(C) TIMING.—Each metropolitan planning organization shall establish or adopt the performance targets under subparagraph (B) not later than 90 days after the date on which the relevant State or provider of public transportation establishes the performance targets.

“(D) INTEGRATION OF OTHER PERFORMANCE-BASED PLANS.—A metropolitan planning organization shall integrate in the metropolitan transportation planning process, directly or by reference, the goals, objectives, performance measures, and targets described in other State plans and processes, as well as asset management and safety plans developed by providers of public transportation, required as part of a performance-based program, including plans such as—

“(i) the State National Highway System asset management plan;

“(ii) asset management plans developed by providers of public transportation;

“(iii) the State strategic highway safety plan;

“(iv) safety plans developed by providers of public transportation;

“(v) the congestion mitigation and air quality performance plan, where applicable;

“(vi) the national freight strategic plan; and

“(vii) the statewide transportation plan.

“(E) USE OF PERFORMANCE MEASURES AND TARGETS.—The performance measures and targets established under this paragraph shall be used, at a minimum, by the relevant metropolitan planning organization as the basis for development of policies, programs, and investment priorities reflected in the metropolitan transportation plan and transportation improvement program.

“(3) FAILURE TO CONSIDER FACTORS.—The failure to take into consideration 1 or more of the factors specified in paragraphs (1) and (2) shall not be subject to review by any court under this chapter, title 23, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a metropolitan transportation plan, a transportation improvement program, a project or strategy, or the certification of a planning process.

“(4) PARTICIPATION BY INTERESTED PARTIES.—

“(A) IN GENERAL.—Each metropolitan planning organization shall provide to affected individuals, public agencies, and other interested parties notice and a reasonable opportunity to comment on the metropolitan transportation plan and transportation improvement program and any relevant scenarios.

“(B) CONTENTS OF PARTICIPATION PLAN.—Each metropolitan planning organization shall establish a participation plan that—

“(i) is developed in consultation with all interested parties; and

“(ii) provides that all interested parties have reasonable opportunities to comment on the contents of the metropolitan transportation plan of the metropolitan planning organization.

“(C) METHODS.—In carrying out subparagraph (A), the metropolitan planning organization shall, to the maximum extent practicable—

“(i) develop the metropolitan transportation plan and transportation improvement program in consultation with interested parties, as appropriate, including by the formation of advisory groups representative of the community and interested parties that participate in the development of the metropolitan transportation plan and transportation improvement program;

“(ii) hold any public meetings at times and locations that are, as applicable—

“(I) convenient; and

“(II) in compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

“(iii) employ visualization techniques to describe metropolitan transportation plans and transportation improvement programs; and

“(iv) make public information available in appropriate electronically accessible formats and means, such as the Internet, to afford reasonable opportunity for consideration of public information under subparagraph (A).

“(i) DEVELOPMENT OF METROPOLITAN TRANSPORTATION PLAN.—

“(A) DEVELOPMENT.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), not later than 5 years after the date of enactment of the Federal Public Transportation Act of 2012, and not less frequently than once every 5 years thereafter, each metropolitan planning organization shall prepare and update, respectively, a metropolitan transportation plan for the relevant metropolitan planning area in accordance with this section.

“(B) EXCEPTIONS.—A metropolitan planning organization shall prepare or update, as appropriate, the metropolitan transportation

plan not less frequently than once every 4 years if the metropolitan planning organization is operating within—

“(i) a nonattainment area; or

“(ii) a maintenance area.

“(2) OTHER REQUIREMENTS.—A metropolitan transportation plan under this section shall—

“(A) be in a form that the Secretary determines to be appropriate;

“(B) have a term of not less than 20 years; and

“(C) contain, at a minimum—

“(i) an identification of the existing transportation infrastructure, including highways, local streets and roads, bicycle and pedestrian facilities, public transportation facilities and services, commuter rail facilities and services, high-speed and intercity passenger rail facilities and services, freight facilities (including freight railroad and port facilities), multimodal and intermodal facilities, and intermodal connectors that, evaluated in the aggregate, function as an integrated metropolitan transportation system;

“(ii) a description of the performance measures and performance targets used in assessing the existing and future performance of the transportation system in accordance with subsection (h)(2);

“(iii) a description of the current and projected future usage of the transportation system, including a projection based on a preferred scenario, and further including, to the extent practicable, an identification of existing or planned transportation rights-of-way, corridors, facilities, and related real properties;

“(iv) a system performance report evaluating the existing and future condition and performance of the transportation system with respect to the performance targets described in subsection (h)(2) and updates in subsequent system performance reports, including—

“(I) progress achieved by the metropolitan planning organization in meeting the performance targets in comparison with system performance recorded in previous reports;

“(II) an accounting of the performance of the metropolitan planning organization on outlay of obligated project funds and delivery of projects that have reached substantial completion in relation to—

“(aa) the projects included in the transportation improvement program; and

“(bb) the projects that have been removed from the previous transportation improvement program; and

“(III) when appropriate, an analysis of how the preferred scenario has improved the conditions and performance of the transportation system and how changes in local policies, investments, and growth have impacted the costs necessary to achieve the identified performance targets;

“(v) recommended strategies and investments for improving system performance over the planning horizon, including transportation systems management and operations strategies, maintenance strategies, demand management strategies, asset management strategies, capacity and enhancement investments, State and local economic development and land use improvements, intelligent transportation systems deployment, and technology adoption strategies, as determined by the projected support of the performance targets described in subsection (h)(2);

“(vi) recommended strategies and investments to improve and integrate disability-related access to transportation infrastructure, including strategies and investments

based on a preferred scenario, when appropriate;

“(vii) investment priorities for using projected available and proposed revenues over the short- and long-term stages of the planning horizon, in accordance with the financial plan required under paragraph (4);

“(viii) a description of interstate compacts entered into in order to promote coordinated transportation planning in multistate areas, if applicable;

“(ix) an optional illustrative list of projects containing investments that—

“(I) are not included in the metropolitan transportation plan; but

“(II) would be so included if resources in addition to the resources identified in the financial plan under paragraph (4) were available;

“(x) a discussion (developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies) of types of potential environmental and stormwater mitigation activities and potential areas to carry out those activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the metropolitan transportation plan; and

“(xi) recommended strategies and investments, including those developed by the State as part of interstate compacts, agreements, or organizations, that support intercity transportation.

“(3) SCENARIO DEVELOPMENT.—

“(A) IN GENERAL.—When preparing the metropolitan transportation plan, the metropolitan planning organization may, while fitting the needs and complexity of their community, develop multiple scenarios for consideration as a part of the development of the metropolitan transportation plan, in accordance with subparagraph (B).

“(B) COMPONENTS OF SCENARIOS.—The scenarios—

“(i) shall include potential regional investment strategies for the planning horizon;

“(ii) shall include assumed distribution of population and employment;

“(iii) may include a scenario that, to the maximum extent practicable, maintains baseline conditions for the performance targets identified in subsection (h)(2);

“(iv) may include a scenario that improves the baseline conditions for as many of the performance targets under subsection (h)(2) as possible;

“(v) may include a revenue constrained scenario based on total revenues reasonably expected to be available over the 20-year planning period and assumed population and employment; and

“(vi) may include estimated costs and potential revenues available to support each scenario.

“(C) METRICS.—In addition to the performance targets identified in subsection (h)(2), scenarios developed under this paragraph may be evaluated using locally developed metrics for the following categories:

“(i) Congestion and mobility, including transportation use by mode.

“(ii) Freight movement.

“(iii) Safety.

“(iv) Efficiency and costs to taxpayers.

“(4) FINANCIAL PLAN.—A financial plan referred to in paragraph (2)(C)(vii) shall—

“(A) be prepared by each metropolitan planning organization to support the metropolitan transportation plan; and

“(B) contain a description of—

“(i) the projected resource requirements for implementing projects, strategies, and services recommended in the metropolitan

transportation plan, including existing and projected system operating and maintenance needs, proposed enhancement and expansions to the system, projected available revenue from Federal, State, local, and private sources, and innovative financing techniques to finance projects and programs;

“(ii) the projected difference between costs and revenues, and strategies for securing additional new revenue (such as by capture of some of the economic value created by any new investment);

“(iii) estimates of future funds, to be developed cooperatively by the metropolitan planning organization, any public transportation agency, and the State, that are reasonably expected to be available to support the investment priorities recommended in the metropolitan transportation plan; and

“(iv) each applicable project only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

“(5) COORDINATION WITH CLEAN AIR ACT AGENCIES.—The metropolitan planning organization for any metropolitan area that is a nonattainment area or maintenance area shall coordinate the development of a transportation plan with the process for development of the transportation control measures of the State implementation plan required by the Clean Air Act (42 U.S.C. 7401 et seq.).

“(6) PUBLICATION.—On approval by the relevant metropolitan planning organization, a metropolitan transportation plan involving Federal participation shall be, at such times and in such manner as the Secretary shall require—

“(A) published or otherwise made readily available by the metropolitan planning organization for public review, including (to the maximum extent practicable) in electronically accessible formats and means, such as the Internet; and

“(B) submitted for informational purposes to the applicable Governor.

“(7) CONSULTATION.—

“(A) IN GENERAL.—In each metropolitan area, the metropolitan planning organization shall consult, as appropriate, with Federal, State, tribal, and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation concerning the development of a metropolitan transportation plan.

“(B) ISSUES.—The consultation under subparagraph (A) shall involve, as available, consideration of—

“(i) metropolitan transportation plans with Federal, State, tribal, and local conservation plans or maps; and

“(ii) inventories of natural or historic resources.

“(8) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—Notwithstanding paragraph (4), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the metropolitan transportation plan under paragraph (2)(C)(ix).

“(j) TRANSPORTATION IMPROVEMENT PROGRAM.—

“(1) DEVELOPMENT.—

“(A) IN GENERAL.—In cooperation with the applicable State and any affected public transportation operator, the metropolitan planning organization designated for a metropolitan area shall develop a transportation improvement program for the metropolitan planning area that—

“(i) contains projects consistent with the current metropolitan transportation plan;

“(ii) reflects the investment priorities established in the current metropolitan transportation plan; and

“(iii) once implemented, will make significant progress toward achieving the performance targets established under subsection (h)(2).

“(B) OPPORTUNITY FOR PARTICIPATION.—In developing the transportation improvement program, the metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties, in accordance with subsection (h)(4).

“(C) UPDATING AND APPROVAL.—The transportation improvement program shall be—

“(i) updated not less frequently than once every 4 years, on a cycle compatible with the development of the relevant statewide transportation improvement program under section 5304; and

“(ii) approved by the applicable Governor.

“(2) CONTENTS.—

“(A) PRIORITY LIST.—The transportation improvement program shall include a priority list of proposed federally supported projects and strategies to be carried out during the 4-year period beginning on the date of adoption of the transportation improvement program, and each 4-year period thereafter, using existing and reasonably available revenues in accordance with the financial plan under paragraph (3).

“(B) DESCRIPTIONS.—Each project described in the transportation improvement program shall include sufficient descriptive material (such as type of work, termini, length, and other similar factors) to identify the project or phase of the project and the effect that the project or project phase will have in addressing the performance targets described in subsection (h)(2).

“(C) PERFORMANCE TARGET ACHIEVEMENT.—The transportation improvement program shall include, to the maximum extent practicable, a description of the anticipated effect of the transportation improvement program on attainment of the performance targets established in the metropolitan transportation plan, linking investment priorities to those performance targets.

“(D) ILLUSTRATIVE LIST OF PROJECTS.—In developing a transportation improvement program, an optional illustrative list of projects may be prepared containing additional investment priorities that—

“(i) are not included in the transportation improvement program; but

“(ii) would be so included if resources in addition to the resources identified in the financial plan under paragraph (3) were available.

“(3) FINANCIAL PLAN.—A financial plan referred to in paragraph (2)(D)(ii) shall—

“(A) be prepared by each metropolitan planning organization to support the transportation improvement program; and

“(B) contain a description of—

“(i) the projected resource requirements for implementing projects, strategies, and services recommended in the transportation improvement program, including existing and projected system operating and maintenance needs, proposed enhancement and expansions to the system, projected available revenue from Federal, State, local, and private sources, and innovative financing techniques to finance projects and programs;

“(ii) the projected difference between costs and revenues, and strategies for securing additional new revenue (such as by capture of some of the economic value created by any new investment);

“(iii) estimates of future funds, to be developed cooperatively by the metropolitan planning organization, any public transportation agency, and the State, that are reasonably expected to be available to support the investment priorities recommended in the transportation improvement program; and

“(iv) each applicable project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

“(4) INCLUDED PROJECTS.—

“(A) PROJECTS UNDER THIS CHAPTER AND TITLE 23.—A transportation improvement program developed under this subsection for a metropolitan area shall include a description of the projects within the area that are proposed for funding under this chapter and chapter 1 of title 23.

“(B) PROJECTS UNDER CHAPTER 2.—

“(i) REGIONALLY SIGNIFICANT.—Each regionally significant project proposed for funding under chapter 2 of title 23 shall be identified individually in the transportation improvement program.

“(ii) NONREGIONALLY SIGNIFICANT.—A description of each project proposed for funding under chapter 2 of title 23 that is not determined to be regionally significant shall be contained in 1 line item or identified individually in the transportation improvement program.

“(5) OPPORTUNITY FOR PARTICIPATION.—Before approving a transportation improvement program, a metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties in the development of the transportation improvement program, in accordance with subsection (h)(4).

“(6) SELECTION OF PROJECTS.—

“(A) IN GENERAL.—Each tier I MPO and tier II MPO shall select projects carried out within the boundaries of the applicable metropolitan planning area from the transportation improvement program, in consultation with the relevant State and on concurrence of the affected facility owner, for funds apportioned to the State under section 104(b)(2) of title 23 and suballocated to the metropolitan planning area under section 133(d) of title 23.

“(B) PROJECTS UNDER CHAPTER 53.—In the case of projects under this chapter, the selection of federally funded projects in metropolitan areas shall be carried out, from the approved transportation improvement program, by the designated recipients of public transportation funding in cooperation with the metropolitan planning organization.

“(C) CONGESTION MITIGATION AND AIR QUALITY PROJECTS.—Each tier I MPO shall select projects carried out within the boundaries of the applicable metropolitan planning area from the transportation improvement program, in consultation with the relevant State and on concurrence of the affected facility owner, for funds apportioned to the State under section 104(b)(4) of title 23 and suballocated to the metropolitan planning area under section 149(j) of title 23.

“(D) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, approval by the Secretary shall not be required to carry out a project included in a transportation improvement program in place of another project in the transportation improvement program.

“(7) PUBLICATION.—

“(A) IN GENERAL.—A transportation improvement program shall be published or

otherwise made readily available by the applicable metropolitan planning organization for public review in electronically accessible formats and means, such as the Internet.

“(B) ANNUAL LIST OF PROJECTS.—An annual list of projects, including investments in pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation, for which Federal funds have been obligated during the preceding fiscal year shall be published or otherwise made available by the cooperative effort of the State, public transportation operator, and metropolitan planning organization in electronically accessible formats and means, such as the Internet, in a manner that is consistent with the categories identified in the relevant transportation improvement program.

“(k) PLANNING REQUIREMENTS FOR TIER II MPOS.—

“(1) IN GENERAL.—The Secretary may provide for the performance-based development of a metropolitan transportation plan and transportation improvement program for the metropolitan planning area of a tier II MPO, as the Secretary determines to be appropriate, taking into account—

“(A) the complexity of transportation needs in the area; and

“(B) the technical capacity of the metropolitan planning organization.

“(2) EVALUATION OF PERFORMANCE-BASED PLANNING.—In reviewing a tier II MPO under subsection (m), the Secretary shall take into consideration the effectiveness of the tier II MPO in implementing and maintaining a performance-based planning process that—

“(A) addresses the performance targets described in subsection (h)(2); and

“(B) demonstrates progress on the achievement of those performance targets.

“(l) CERTIFICATION.—

“(1) IN GENERAL.—The Secretary shall—

“(A) ensure that the metropolitan transportation planning process of a metropolitan planning organization is being carried out in accordance with applicable Federal law; and

“(B) subject to paragraph (2), certify, not less frequently than once every 4 years, that the requirements of subparagraph (A) are met with respect to the metropolitan transportation planning process.

“(2) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make a certification under paragraph (1)(B) if—

“(A) the metropolitan transportation planning process complies with the requirements of this section and other applicable Federal law;

“(B) representation on the metropolitan planning organization board includes officials of public agencies that administer or operate major modes of transportation in the relevant metropolitan area, including providers of public transportation; and

“(C) a transportation improvement program for the metropolitan planning area has been approved by the relevant metropolitan planning organization and applicable Governor.

“(3) DELEGATION OF AUTHORITY.—The Secretary may—

“(A) delegate to the appropriate State fact-finding authority regarding the certification of a tier II MPO under this subsection; and

“(B) make the certification under paragraph (1) in consultation with the State.

“(4) EFFECT OF FAILURE TO CERTIFY.—

“(A) WITHHOLDING OF PROJECT FUNDS.—If a metropolitan transportation planning process of a metropolitan planning organization is not certified under paragraph (1), the Sec-

retary may withhold up to 20 percent of the funds attributable to the metropolitan planning area of the metropolitan planning organization for projects funded under this chapter and title 23.

“(B) RESTORATION OF WITHHELD FUNDS.—Any funds withheld under subparagraph (A) shall be restored to the metropolitan planning area on the date of certification of the metropolitan transportation planning process by the Secretary.

“(5) PUBLIC INVOLVEMENT.—In making a determination regarding certification under this subsection, the Secretary shall provide for public involvement appropriate to the metropolitan planning area under review.

“(m) PERFORMANCE-BASED PLANNING PROCESSES EVALUATION.—

“(1) IN GENERAL.—The Secretary shall establish criteria to evaluate the effectiveness of the performance-based planning processes of metropolitan planning organizations under this section, taking into consideration the following:

“(A) The extent to which the metropolitan planning organization has achieved, or is currently making substantial progress toward achieving, the performance targets specified in subsection (h)(2), taking into account whether the metropolitan planning organization developed meaningful performance targets.

“(B) The extent to which the metropolitan planning organization has used proven best practices that help ensure transportation investment that is efficient and cost-effective.

“(C) The extent to which the metropolitan planning organization—

“(i) has developed an investment process that relies on public input and awareness to ensure that investments are transparent and accountable; and

“(ii) provides regular reports allowing the public to access the information being collected in a format that allows the public to meaningfully assess the performance of the metropolitan planning organization.

“(2) REPORT.—

“(A) IN GENERAL.—Not later than 5 years after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall submit to Congress a report evaluating—

“(i) the overall effectiveness of performance-based planning as a tool for guiding transportation investments; and

“(ii) the effectiveness of the performance-based planning process of each metropolitan planning organization under this section.

“(B) PUBLICATION.—The report under subparagraph (A) shall be published or otherwise made available in electronically accessible formats and means, including on the Internet.

“(n) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—

“(1) IN GENERAL.—Notwithstanding any other provision of this chapter or title 23, Federal funds may not be advanced in any metropolitan planning area classified as a nonattainment area or maintenance area for any highway project that will result in a significant increase in the carrying capacity for single-occupant vehicles, unless the owner or operator of the project demonstrates that the project will achieve or make substantial progress toward achieving the performance targets described in subsection (h)(2).

“(2) APPLICABILITY.—This subsection applies to any nonattainment area or maintenance area within the boundaries of a metropolitan planning area, as determined under subsection (d).

“(o) EFFECT OF SECTION.—Nothing in this section provides to any metropolitan plan-

ning organization the authority to impose any legal requirement on any transportation facility, provider, or project not subject to the requirements of this chapter or title 23.

“(p) FUNDING.—Funds apportioned under section 104(b)(6) of title 23 and set aside under section 5305(g) of this title shall be available to carry out this section.

“(q) CONTINUATION OF CURRENT REVIEW PRACTICE.—

“(1) IN GENERAL.—In consideration of the factors described in paragraph (2), any decision by the Secretary concerning a metropolitan transportation plan or transportation improvement program shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(2) DESCRIPTION OF FACTORS.—The factors referred to in paragraph (1) are that—

“(A) metropolitan transportation plans and transportation improvement programs are subject to a reasonable opportunity for public comment;

“(B) the projects included in metropolitan transportation plans and transportation improvement programs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

“(C) decisions by the Secretary concerning metropolitan transportation plans and transportation improvement programs have not been reviewed under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) as of January 1, 1997.

“(r) SCHEDULE FOR IMPLEMENTATION.—The Secretary shall issue guidance on a schedule for implementation of the changes made by this section, taking into consideration the established planning update cycle for metropolitan planning organizations. The Secretary shall not require a metropolitan planning organization to deviate from its established planning update cycle to implement changes made by this section. Metropolitan planning organizations shall reflect changes made to their transportation plan or transportation improvement program updates not later than 2 years after the date of issuance of guidance by the Secretary.”

(b) PILOT PROGRAM FOR TRANSIT-ORIENTED DEVELOPMENT PLANNING.—

(1) DEFINITIONS.—In this subsection the following definitions shall apply:

(A) ELIGIBLE PROJECT.—The term “eligible project” means a new fixed guideway capital project or a core capacity improvement project, as those terms are defined in section 5309 of title 49, United States Code, as amended by this division.

(B) SECRETARY.—The term “Secretary” means the Secretary of Transportation.

(2) GENERAL AUTHORITY.—The Secretary may make grants under this subsection to a State or local governmental authority to assist in financing comprehensive planning associated with an eligible project that seeks to—

(A) enhance economic development, ridership, and other goals established during the project development and engineering processes;

(B) facilitate multimodal connectivity and accessibility;

(C) increase access to transit hubs for pedestrian and bicycle traffic;

(D) enable mixed-use development;

(E) identify infrastructure needs associated with the eligible project; and

(F) include private sector participation.

(3) ELIGIBILITY.—A State or local governmental authority that desires to participate in the program under this subsection shall submit to the Secretary an application that contains, at a minimum—

(A) identification of an eligible project;  
 (B) a schedule and process for the development of a comprehensive plan;  
 (C) a description of how the eligible project and the proposed comprehensive plan advance the metropolitan transportation plan of the metropolitan planning organization;  
 (D) proposed performance criteria for the development and implementation of the comprehensive plan; and  
 (E) identification of—  
 (i) partners;  
 (ii) availability of and authority for funding; and  
 (iii) potential State, local or other impediments to the implementation of the comprehensive plan.

**SEC. 20006. STATEWIDE AND NONMETROPOLITAN TRANSPORTATION PLANNING.**

Section 5304 of title 49, United States Code, is amended to read as follows:

**“§ 5304. Statewide and nonmetropolitan transportation planning**

“(a) STATEWIDE TRANSPORTATION PLANS AND STIPs.—

“(1) DEVELOPMENT.—

“(A) IN GENERAL.—To accomplish the policy objectives described in section 5303(a), each State shall develop a statewide transportation plan and a statewide transportation improvement program for all areas of the State in accordance with this section.

“(B) INCORPORATION OF METROPOLITAN TRANSPORTATION PLANS AND TIPS.—Each State shall incorporate in the statewide transportation plan and statewide transportation improvement program, without change or by reference, the metropolitan transportation plans and transportation improvement programs, respectively, for each metropolitan planning area in the State.

“(C) NONMETROPOLITAN AREAS.—Each State shall coordinate with local officials in small urbanized areas with a population of 50,000 or more individuals, but fewer than 200,000 individuals, as calculated according to the most recent decennial census, and nonurbanized areas of the State in preparing the nonmetropolitan portions of statewide transportation plans and statewide transportation improvement programs.

“(2) CONTENTS.—The statewide transportation plan and statewide transportation improvement program developed for each State shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation) that will function as—

“(A) an intermodal transportation system for the State; and

“(B) an integral part of an intermodal transportation system for the United States.

“(3) PROCESS.—The process for developing the statewide transportation plan and statewide transportation improvement program shall—

“(A) provide for consideration of all modes of transportation; and

“(B) be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation needs to be addressed.

“(b) COORDINATION AND CONSULTATION.—

“(1) IN GENERAL.—Each State shall—

“(A) coordinate planning carried out under this section with—

“(i) the transportation planning activities carried out under section 5303 for metropolitan areas of the State; and

“(ii) statewide trade and economic development planning activities and related multistate planning efforts;

“(B) coordinate planning carried out under this section with the transportation planning activities carried out by each nonmetropolitan planning organization in the State, as applicable;

“(C) coordinate planning carried out under this section with the transportation planning activities carried out by each rural planning organization in the State, as applicable; and

“(D) develop the transportation portion of the State implementation plan as required by the Clean Air Act (42 U.S.C. 7401 et seq.).

“(2) MULTISTATE AREAS.—

“(A) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan planning area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

“(B) COORDINATION ALONG DESIGNATED TRANSPORTATION CORRIDORS.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate transportation corridor to provide coordinated transportation planning for the entire designated corridor.

“(C) INTERSTATE COMPACTS.—For purposes of this section, any 2 or more States—

“(i) may enter into compacts, agreements, or organizations not in conflict with any Federal law for cooperative efforts and mutual assistance in support of activities authorized under this section, as the activities relate to interstate areas and localities within the States;

“(ii) may establish such agencies (joint or otherwise) as the States determine to be appropriate for ensuring the effectiveness of the agreements and compacts; and

“(iii) are encouraged to enter into such compacts, agreements, or organizations as are appropriate to develop planning documents in support of intercity or multistate area projects, facilities, and services, the relevant components of which shall be reflected in statewide transportation improvement programs and statewide transportation plans.

“(D) RESERVATION OF RIGHTS.—The right to alter, amend, or repeal any interstate compact or agreement entered into under this subsection is expressly reserved.

“(c) RELATIONSHIP WITH OTHER PLANNING OFFICIALS.—

“(1) IN GENERAL.—The Secretary shall encourage each State to cooperate with Federal, State, tribal, and local officers and entities responsible for other types of planning activities that are affected by transportation in the relevant area (including planned growth, economic development, infrastructure services, housing, other public services, environmental protection, airport operations, high-speed and intercity passenger rail, freight rail, port access, and freight movements), to the maximum extent practicable, to ensure that the statewide and nonmetropolitan planning process, statewide transportation plans, and statewide transportation improvement programs are developed with due consideration for other related planning activities in the State.

“(2) INCLUSION.—Cooperation under paragraph (1) shall include the design and delivery of transportation services within the State that are provided by—

“(A) recipients of assistance under sections 202, 203, and 204 of title 23;

“(B) recipients of assistance under this chapter;

“(C) government agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide nonemergency transportation services; and

“(D) sponsors of regionally significant programs, projects, and services that are related to transportation and receive assistance from any public or private source.

“(d) SCOPE OF PLANNING PROCESS.—

“(1) IN GENERAL.—The statewide transportation planning process for a State under this section shall provide for consideration of projects, strategies, and services that will—

“(A) support the economic vitality of the United States, the State, nonmetropolitan areas, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency;

“(B) increase the safety of the transportation system for motorized and nonmotorized users;

“(C) increase the security of the transportation system for motorized and nonmotorized users;

“(D) increase the accessibility and mobility of individuals and freight;

“(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;

“(F) enhance the integration and connectivity of the transportation system, across and between modes, for individuals and freight;

“(G) increase efficient system management and operation; and

“(H) emphasize the preservation of the existing transportation system.

“(2) PERFORMANCE-BASED APPROACH.—

“(A) IN GENERAL.—The statewide transportation planning process shall provide for the establishment and use of a performance-based approach to transportation decision-making to support the national goals described in section 5301(c) of this title and in section 150(b) of title 23.

“(B) SURFACE TRANSPORTATION PERFORMANCE TARGETS.—

“(i) IN GENERAL.—Each State shall establish performance targets that address the performance measures described in sections 119(f), 148(h), and 167(i) of title 23 to use in tracking attainment of critical outcomes for the region of the State.

“(ii) COORDINATION.—Selection of performance targets by a State shall be coordinated with relevant metropolitan planning organizations to ensure consistency, to the maximum extent practicable.

“(C) PUBLIC TRANSPORTATION PERFORMANCE TARGETS.—For providers of public transportation operating in urbanized areas with a population of fewer than 200,000 individuals, as calculated according to the most recent decennial census, and not represented by a metropolitan planning organization, each State shall adopt the performance targets identified by such providers of public transportation pursuant to sections 5326(c) and 5329(d), for use in tracking attainment of critical outcomes for the region of the metropolitan planning organization.

“(D) INTEGRATION OF OTHER PERFORMANCE-BASED PLANS.—A State shall integrate into the statewide transportation planning process, directly or by reference, the goals, objectives, performance measures, and performance targets described in this paragraph in other State plans and processes, and asset



management and safety plans developed by providers of public transportation in urbanized areas with a population of fewer than 200,000 individuals, as calculated according to the most recent decennial census, and not represented by a metropolitan planning organization, required as part of a performance-based program, including plans such as—

“(i) the State National Highway System asset management plan;

“(ii) asset management plans developed by providers of public transportation;

“(iii) the State strategic highway safety plan;

“(iv) safety plans developed by providers of public transportation; and

“(v) the national freight strategic plan.

“(E) USE OF PERFORMANCE MEASURES AND TARGETS.—The performance measures and targets established under this paragraph shall be used, at a minimum, by a State as the basis for development of policies, programs, and investment priorities reflected in the statewide transportation plan and statewide transportation improvement program.

“(3) FAILURE TO CONSIDER FACTORS.—The failure to take into consideration 1 or more of the factors specified in paragraphs (1) and (2) shall not be subject to review by any court under this chapter, title 23, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a statewide transportation plan, a statewide transportation improvement program, a project or strategy, or the certification of a planning process.

“(4) PARTICIPATION BY INTERESTED PARTIES.—

“(A) IN GENERAL.—Each State shall provide to affected individuals, public agencies, and other interested parties notice and a reasonable opportunity to comment on the statewide transportation plan and statewide transportation improvement program.

“(B) METHODS.—In carrying out subparagraph (A), the State shall, to the maximum extent practicable—

“(i) develop the statewide transportation plan and statewide transportation improvement program in consultation with interested parties, as appropriate, including by the formation of advisory groups representative of the State and interested parties that participate in the development of the statewide transportation plan and statewide transportation improvement program;

“(ii) hold any public meetings at times and locations that are, as applicable—

“(I) convenient; and

“(II) in compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

“(iii) employ visualization techniques to describe statewide transportation plans and statewide transportation improvement programs; and

“(iv) make public information available in appropriate electronically accessible formats and means, such as the Internet, to afford reasonable opportunity for consideration of public information under subparagraph (A).

“(e) COORDINATION AND CONSULTATION.—

“(1) METROPOLITAN AREAS.—

“(A) IN GENERAL.—Each State shall develop a statewide transportation plan and statewide transportation improvement program for each metropolitan area in the State by incorporating, without change or by reference, at a minimum, as prepared by each metropolitan planning organization designated for the metropolitan area under section 5303—

“(i) all regionally significant projects to be carried out during the 10-year period begin-

ning on the effective date of the relevant existing metropolitan transportation plan; and

“(ii) all projects to be carried out during the 4-year period beginning on the effective date of the relevant transportation improvement program.

“(B) PROJECTED COSTS.—Each metropolitan planning organization shall provide to each applicable State a description of the projected costs of implementing the projects included in the metropolitan transportation plan of the metropolitan planning organization for purposes of metropolitan financial planning and fiscal constraint.

“(2) NONMETROPOLITAN AREAS.—With respect to nonmetropolitan areas in a State, the statewide transportation plan and statewide transportation improvement program of the State shall be developed in coordination with affected nonmetropolitan local officials with responsibility for transportation, including providers of public transportation.

“(3) INDIAN TRIBAL AREAS.—With respect to each area of a State under the jurisdiction of an Indian tribe, the statewide transportation plan and statewide transportation improvement program of the State shall be developed in consultation with—

“(A) the tribal government; and

“(B) the Secretary of the Interior.

“(4) FEDERAL LAND MANAGEMENT AGENCIES.—With respect to each area of a State under the jurisdiction of a Federal land management agency, the statewide transportation plan and statewide transportation improvement program of the State shall be developed in consultation with the relevant Federal land management agency.

“(5) CONSULTATION, COMPARISON, AND CONSIDERATION.—

“(A) IN GENERAL.—A statewide transportation plan shall be developed, as appropriate, in consultation with Federal, State, tribal, and local agencies responsible for land use management, natural resources, infrastructure permitting, environmental protection, conservation, and historic preservation.

“(B) COMPARISON AND CONSIDERATION.—Consultation under subparagraph (A) shall involve the comparison of statewide transportation plans to, as available—

“(i) Federal, State, tribal, and local conservation plans or maps; and

“(ii) inventories of natural or historic resources.

“(f) STATEWIDE TRANSPORTATION PLAN.—

“(1) DEVELOPMENT.—

“(A) IN GENERAL.—Each State shall develop a statewide transportation plan, the forecast period of which shall be not less than 20 years for all areas of the State, that provides for the development and implementation of the intermodal transportation system of the State.

“(B) INITIAL PERIOD.—A statewide transportation plan shall include, at a minimum, for the first 10-year period of the statewide transportation plan, the identification of existing and future transportation facilities that will function as an integrated statewide transportation system, giving emphasis to those facilities that serve important national, statewide, and regional transportation functions.

“(C) SUBSEQUENT PERIOD.—For the second 10-year period of the statewide transportation plan (referred to in this subsection as the ‘outer years period’), a statewide transportation plan—

“(i) may include identification of future transportation facilities; and

“(ii) shall describe the policies and strategies that provide for the development and

implementation of the intermodal transportation system of the State.

“(D) OTHER REQUIREMENTS.—A statewide transportation plan shall—

“(i) include, for the 20-year period covered by the statewide transportation plan, a description of—

“(I) the projected aggregate cost of projects anticipated by a State to be implemented; and

“(II) the revenues necessary to support the projects;

“(ii) include, in such form as the Secretary determines to be appropriate, a description of—

“(I) the existing transportation infrastructure, including an identification of highways, local streets and roads, bicycle and pedestrian facilities, public transportation facilities and services, commuter rail facilities and services, high-speed and intercity passenger rail facilities and services, freight facilities (including freight railroad and port facilities), multimodal and intermodal facilities, and intermodal connectors that, evaluated in the aggregate, function as an integrated transportation system;

“(II) the performance measures and performance targets used in assessing the existing and future performance of the transportation system described in subsection (d)(2);

“(III) the current and projected future usage of the transportation system, including, to the maximum extent practicable, an identification of existing or planned transportation rights-of-way, corridors, facilities, and related real properties;

“(IV) a system performance report evaluating the existing and future condition and performance of the transportation system with respect to the performance targets described in subsection (d)(2) and updates to subsequent system performance reports, including—

“(aa) progress achieved by the State in meeting performance targets, as compared to system performance recorded in previous reports; and

“(bb) an accounting of the performance by the State on outlay of obligated project funds and delivery of projects that have reached substantial completion, in relation to the projects currently on the statewide transportation improvement program and those projects that have been removed from the previous statewide transportation improvement program;

“(V) recommended strategies and investments for improving system performance over the planning horizon, including transportation systems management and operations strategies, maintenance strategies, demand management strategies, asset management strategies, capacity and enhancement investments, land use improvements, intelligent transportation systems deployment and technology adoption strategies as determined by the projected support of performance targets described in subsection (d)(2);

“(VI) recommended strategies and investments to improve and integrate disability-related access to transportation infrastructure;

“(VII) investment priorities for using projected available and proposed revenues over the short- and long-term stages of the planning horizon, in accordance with the financial plan required under paragraph (2);

“(VIII) a description of interstate compacts entered into in order to promote coordinated transportation planning in multistate areas, if applicable;

“(IX) an optional illustrative list of projects containing investments that—

“(aa) are not included in the statewide transportation plan; but

“(bb) would be so included if resources in addition to the resources identified in the financial plan under paragraph (2) were available;

“(X) a discussion (developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies) of types of potential environmental and stormwater mitigation activities and potential areas to carry out those activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the statewide transportation plan; and

“(XI) recommended strategies and investments, including those developed by the State as part of interstate compacts, agreements, or organizations, that support intercity transportation; and

“(iii) be updated by the State not less frequently than once every 5 years.

“(2) FINANCIAL PLAN.—A financial plan referred to in paragraph (1)(D)(ii)(VII) shall—

“(A) be prepared by each State to support the statewide transportation plan; and

“(B) contain a description of—

“(i) the projected resource requirements during the 20-year planning horizon for implementing projects, strategies, and services recommended in the statewide transportation plan, including existing and projected system operating and maintenance needs, proposed enhancement and expansions to the system, projected available revenue from Federal, State, local, and private sources, and innovative financing techniques to finance projects and programs;

“(ii) the projected difference between costs and revenues, and strategies for securing additional new revenue (such as by capture of some of the economic value created by any new investment);

“(iii) estimates of future funds, to be developed cooperatively by the State, any public transportation agency, and relevant metropolitan planning organizations, that are reasonably expected to be available to support the investment priorities recommended in the statewide transportation plan;

“(iv) each applicable project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project; and

“(v) aggregate cost ranges or bands, subject to the condition that any future funding source shall be reasonably expected to be available to support the projected cost ranges or bands, for the outer years period of the statewide transportation plan.

“(3) COORDINATION WITH CLEAN AIR ACT AGENCIES.—For any nonmetropolitan area that is a nonattainment area or maintenance area, the State shall coordinate the development of the statewide transportation plan with the process for development of the transportation control measures of the State implementation plan required by the Clean Air Act (42 U.S.C. 7401 et seq.).

“(4) PUBLICATION.—A statewide transportation plan involving Federal and non-Federal participation programs, projects, and strategies shall be published or otherwise made readily available by the State for public review, including (to the maximum extent practicable) in electronically accessible formats and means, such as the Internet, in such manner as the Secretary shall require.

“(5) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—Notwithstanding paragraph (2), a State shall not be required to select any project from the illustrative list of addi-

tional projects included in the statewide transportation plan under paragraph (1)(D)(ii)(IX).

“(g) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAMS.—

“(1) DEVELOPMENT.—

“(A) IN GENERAL.—In cooperation with nonmetropolitan officials with responsibility for transportation and affected public transportation operators, the State shall develop a statewide transportation improvement program for the State that—

“(i) includes projects consistent with the statewide transportation plan;

“(ii) reflects the investment priorities established in the statewide transportation plan; and

“(iii) once implemented, makes significant progress toward achieving the performance targets described in subsection (d)(2).

“(B) OPPORTUNITY FOR PARTICIPATION.—In developing a statewide transportation improvement program, the State, in cooperation with affected public transportation operators, shall provide an opportunity for participation by interested parties in the development of the statewide transportation improvement program, in accordance with subsection (e).

“(C) OTHER REQUIREMENTS.—

“(i) IN GENERAL.—A statewide transportation improvement program shall—

“(I) cover a period of not less than 4 years; and

“(II) be updated not less frequently than once every 4 years, or more frequently, as the Governor determines to be appropriate.

“(ii) INCORPORATION OF TIPS.—A statewide transportation improvement program shall incorporate any relevant transportation improvement program developed by a metropolitan planning organization under section 5303, without change.

“(iii) PROJECTS.—Each project included in a statewide transportation improvement program shall be—

“(I) consistent with the statewide transportation plan developed under this section for the State;

“(II) identical to a project or phase of a project described in a relevant transportation improvement program; and

“(III) for any project located in a nonattainment area or maintenance area, carried out in accordance with the applicable State air quality implementation plan developed under the Clean Air Act (42 U.S.C. 7401 et seq.).

“(2) CONTENTS.—

“(A) PRIORITY LIST.—A statewide transportation improvement program shall include a priority list of proposed federally supported projects and strategies, to be carried out during the 4-year period beginning on the date of adoption of the statewide transportation improvement program, and during each 4-year period thereafter, using existing and reasonably available revenues in accordance with the financial plan under paragraph (3).

“(B) DESCRIPTIONS.—Each project or phase of a project included in a statewide transportation improvement program shall include sufficient descriptive material (such as type of work, termini, length, estimated completion date, and other similar factors) to identify—

“(i) the project or project phase; and

“(ii) the effect that the project or project phase will have in addressing the performance targets described in subsection (d)(2).

“(C) PERFORMANCE TARGET ACHIEVEMENT.—A statewide transportation improvement program shall include, to the maximum ex-

tent practicable, a discussion of the anticipated effect of the statewide transportation improvement program toward achieving the performance targets established in the statewide transportation plan, linking investment priorities to those performance targets.

“(D) ILLUSTRATIVE LIST OF PROJECTS.—An optional illustrative list of projects may be prepared containing additional investment priorities that—

“(i) are not included in the statewide transportation improvement program; but

“(ii) would be so included if resources in addition to the resources identified in the financial plan under paragraph (3) were available.

“(3) FINANCIAL PLAN.—A financial plan referred to in paragraph (2)(D)(ii) shall—

“(A) be prepared by each State to support the statewide transportation improvement program; and

“(B) contain a description of—

“(i) the projected resource requirements for implementing projects, strategies, and services recommended in the statewide transportation improvement program, including existing and projected system operating and maintenance needs, proposed enhancement and expansions to the system, projected available revenue from Federal, State, local, and private sources, and innovative financing techniques to finance projects and programs;

“(ii) the projected difference between costs and revenues, and strategies for securing additional new revenue (such as by capture of some of the economic value created by any new investment);

“(iii) estimates of future funds, to be developed cooperatively by the State and relevant metropolitan planning organizations and public transportation agencies, that are reasonably expected to be available to support the investment priorities recommended in the statewide transportation improvement program; and

“(iv) each applicable project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

“(4) INCLUDED PROJECTS.—

“(A) PROJECTS UNDER THIS CHAPTER AND TITLE 23.—A statewide transportation improvement program developed under this subsection for a State shall include the projects within the State that are proposed for funding under this chapter and chapter 1 of title 23.

“(B) PROJECTS UNDER THIS CHAPTER AND CHAPTER 2.—

“(i) REGIONALLY SIGNIFICANT.—Each regionally significant project proposed for funding under this chapter and chapter 2 of title 23 shall be identified individually in the statewide transportation improvement program.

“(ii) NONREGIONALLY SIGNIFICANT.—A description of each project proposed for funding under this chapter and chapter 2 of title 23 that is not determined to be regionally significant shall be contained in 1 line item or identified individually in the statewide transportation improvement program.

“(5) PUBLICATION.—

“(A) IN GENERAL.—A statewide transportation improvement program shall be published or otherwise made readily available by the State for public review in electronically accessible formats and means, such as the Internet.

“(B) ANNUAL LIST OF PROJECTS.—An annual list of projects, including investments in pedestrian walkways, bicycle transportation

facilities, and intermodal facilities that support intercity transportation, for which Federal funds have been obligated during the preceding fiscal year shall be published or otherwise made available by the cooperative effort of the State, public transportation operator, and relevant metropolitan planning organizations in electronically accessible formats and means, such as the Internet, in a manner that is consistent with the categories identified in the relevant statewide transportation improvement program.

“(6) PROJECT SELECTION FOR URBANIZED AREAS WITH POPULATIONS OF FEWER THAN 200,000 NOT REPRESENTED BY DESIGNATED MPOS.—Projects carried out in urbanized areas with populations of fewer than 200,000 individuals, as calculated according to the most recent decennial census, and that are not represented by designated metropolitan planning organizations, shall be selected from the approved statewide transportation improvement program (including projects carried out under this chapter and projects carried out by the State), in cooperation with the affected nonmetropolitan planning organization, if any exists, and in consultation with the affected nonmetropolitan area local officials with responsibility for transportation.

“(7) APPROVAL BY SECRETARY.—

“(A) IN GENERAL.—Not less frequently than once every 4 years, a statewide transportation improvement program developed under this subsection shall be reviewed and approved by the Secretary, based on the current planning finding of the Secretary under subparagraph (B).

“(B) PLANNING FINDING.—The Secretary shall make a planning finding referred to in subparagraph (A) not less frequently than once every 5 years regarding whether the transportation planning process through which statewide transportation plans and statewide transportation improvement programs are developed is consistent with this section and section 5303.

“(8) MODIFICATIONS TO PROJECT PRIORITY.—Approval by the Secretary shall not be required to carry out a project included in an approved statewide transportation improvement program in place of another project in the statewide transportation improvement program.

“(h) CERTIFICATION.—

“(1) IN GENERAL.—The Secretary shall—

“(A) ensure that the statewide transportation planning process of a State is being carried out in accordance with applicable Federal law; and

“(B) subject to paragraph (2), certify, not less frequently than once every 5 years, that the requirements of subparagraph (A) are met with respect to the statewide transportation planning process.

“(2) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make a certification under paragraph (1)(B) if—

“(A) the statewide transportation planning process complies with the requirements of this section and other applicable Federal law; and

“(B) a statewide transportation improvement program for the State has been approved by the Governor of the State.

“(3) EFFECT OF FAILURE TO CERTIFY.—

“(A) WITHHOLDING OF PROJECT FUNDS.—If a statewide transportation planning process of a State is not certified under paragraph (1), the Secretary may withhold up to 20 percent of the funds attributable to the State for projects funded under this chapter and title 23.

“(B) RESTORATION OF WITHHELD FUNDS.—Any funds withheld under subparagraph (A)

shall be restored to the State on the date of certification of the statewide transportation planning process by the Secretary.

“(4) PUBLIC INVOLVEMENT.—In making a determination regarding certification under this subsection, the Secretary shall provide for public involvement appropriate to the State under review.

“(i) PERFORMANCE-BASED PLANNING PROCESSES EVALUATION.—

“(1) IN GENERAL.—The Secretary shall establish criteria to evaluate the effectiveness of the performance-based planning processes of States, taking into consideration the following:

“(A) The extent to which the State has achieved, or is currently making substantial progress toward achieving, the performance targets described in subsection (d)(2), taking into account whether the State developed meaningful performance targets.

“(B) The extent to which the State has used proven best practices that help ensure transportation investment that is efficient and cost-effective.

“(C) The extent to which the State—

“(i) has developed an investment process that relies on public input and awareness to ensure that investments are transparent and accountable; and

“(ii) provides regular reports allowing the public to access the information being collected in a format that allows the public to meaningfully assess the performance of the State.

“(2) REPORT.—

“(A) IN GENERAL.—Not later than 5 years after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall submit to Congress a report evaluating—

“(i) the overall effectiveness of performance-based planning as a tool for guiding transportation investments; and

“(ii) the effectiveness of the performance-based planning process of each State.

“(B) PUBLICATION.—The report under subparagraph (A) shall be published or otherwise made available in electronically accessible formats and means, including on the Internet.

“(j) FUNDING.—Funds apportioned under section 104(b)(6) of title 23 and set aside under section 5305(g) shall be available to carry out this section.

“(k) CONTINUATION OF CURRENT REVIEW PRACTICE.—

“(1) IN GENERAL.—In consideration of the factors described in paragraph (2), any decision by the Secretary concerning a statewide transportation plan or statewide transportation improvement program shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(2) DESCRIPTION OF FACTORS.—The factors referred to in paragraph (1) are that—

“(A) statewide transportation plans and statewide transportation improvement programs are subject to a reasonable opportunity for public comment;

“(B) the projects included in statewide transportation plans and statewide transportation improvement programs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

“(C) decisions by the Secretary concerning statewide transportation plans and statewide transportation improvement programs have not been reviewed under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) as of January 1, 1997.

“(l) SCHEDULE FOR IMPLEMENTATION.—The Secretary shall issue guidance on a schedule

for implementation of the changes made by this section, taking into consideration the established planning update cycle for States. The Secretary shall not require a State to deviate from its established planning update cycle to implement changes made by this section. States shall reflect changes made to their transportation plan or transportation improvement program updates not later than 2 years after the date of issuance of guidance by the Secretary under this subsection.”

## SEC. 20007. PUBLIC TRANSPORTATION EMERGENCY RELIEF PROGRAM.

(a) IN GENERAL.—Section 5306 of title 49, United States Code, is amended to read as follows:

### “§ 5306. Public transportation emergency relief program

“(a) DEFINITION.—In this section the following definitions shall apply:

“(1) ELIGIBLE OPERATING COSTS.—The term ‘eligible operating costs’ means costs relating to—

“(A) evacuation services;

“(B) rescue operations;

“(C) temporary public transportation service; or

“(D) reestablishing, expanding, or relocating public transportation route service before, during, or after an emergency.

“(2) EMERGENCY.—The term ‘emergency’ means a natural disaster affecting a wide area (such as a flood, hurricane, tidal wave, earthquake, severe storm, or landslide) or a catastrophic failure from any external cause, as a result of which—

“(A) the Governor of a State has declared an emergency and the Secretary has concurred; or

“(B) the President has declared a major disaster under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170).

“(b) GENERAL AUTHORITY.—The Secretary may make grants and enter into contracts and other agreements (including agreements with departments, agencies, and instrumentalities of the Government) for—

“(1) capital projects to protect, repair, reconstruct, or replace equipment and facilities of a public transportation system operating in the United States or on an Indian reservation that the Secretary determines is in danger of suffering serious damage, or has suffered serious damage, as a result of an emergency; and

“(2) eligible operating costs of public transportation equipment and facilities in an area directly affected by an emergency during—

“(A) the 1-year period beginning on the date of a declaration described in subsection (a)(2); or

“(B) if the Secretary determines there is a compelling need, the 2-year period beginning on the date of a declaration described in subsection (a)(2).

“(c) COORDINATION OF EMERGENCY FUNDS.—

“(1) USE OF FUNDS.—Funds appropriated to carry out this section shall be in addition to any other funds available under this chapter.

“(2) NO EFFECT ON OTHER GOVERNMENT ACTIVITY.—The provision of funds under this section shall not affect the ability of any other agency of the Government, including the Federal Emergency Management Agency, or a State agency, a local governmental entity, organization, or person, to provide any other funds otherwise authorized by law.

“(3) NOTIFICATION.—The Secretary shall notify the Secretary of Homeland Security of the purpose and amount of any grant made or contract or other agreement entered into under this section.

“(d) GRANT REQUIREMENTS.—A grant awarded under this section or under section 5307 or 5311 that is made to address an emergency defined under subsection (a)(2) shall be—

“(1) subject to the terms and conditions the Secretary determines are necessary; and

“(2) made only for expenses that are not reimbursed under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

“(e) GOVERNMENT SHARE OF COSTS.—

“(1) CAPITAL PROJECTS AND OPERATING ASSISTANCE.—A grant, contract, or other agreement for a capital project or eligible operating costs under this section shall be, at the option of the recipient, for not more than 80 percent of the net project cost, as determined by the Secretary.

“(2) NON-FEDERAL SHARE.—The remainder of the net project cost may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital.

“(3) WAIVER.—The Secretary may waive, in whole or part, the non-Federal share required under—

“(A) paragraph (2); or

“(B) section 5307 or 5311, in the case of a grant made available under section 5307 or 5311, respectively, to address an emergency.”

(b) MEMORANDUM OF AGREEMENT.—

(1) PURPOSES.—The purposes of this subsection are—

(A) to improve coordination between the Department of Transportation and the Department of Homeland Security; and

(B) to expedite the provision of Federal assistance for public transportation systems for activities relating to a major disaster or emergency declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) (referred to in this subsection as a “major disaster or emergency”).

(2) AGREEMENT.—Not later than 180 days after the date of enactment of this Act, the Secretary of Transportation and the Secretary of Homeland Security shall enter into a memorandum of agreement to coordinate the roles and responsibilities of the Department of Transportation and the Department of Homeland Security in providing assistance for public transportation, including the provision of public transportation services and the repair and restoration of public transportation systems in areas for which the President has declared a major disaster or emergency.

(3) CONTENTS OF AGREEMENT.—The memorandum of agreement required under paragraph (2) shall—

(A) provide for improved coordination and expeditious use of public transportation, as appropriate, in response to and recovery from a major disaster or emergency;

(B) establish procedures to address—

(i) issues that have contributed to delays in the reimbursement of eligible transportation-related expenses relating to a major disaster or emergency;

(ii) any challenges identified in the review under paragraph (4); and

(iii) the coordination of assistance for public transportation provided under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and section 5306 of title 49, United States Code, as amended by this Act, as appropriate; and

(C) provide for the development and distribution of clear guidelines for State, local, and tribal governments, including public transportation systems, relating to—

(i) assistance available for public transportation systems for activities relating to a major disaster or emergency—

(I) under the Robert T. Stafford Disaster Relief and Emergency Assistance Act;

(II) under section 5306 of title 49, United States Code, as amended by this Act; and

(III) from other sources, including other Federal agencies; and

(ii) reimbursement procedures that speed the process of—

(I) applying for assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and section 5306 of title 49, United States Code, as amended by this Act; and

(II) distributing assistance for public transportation systems under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and section 5306 of title 49, United States Code, as amended by this Act.

(4) AFTER ACTION REVIEW.—Before entering into a memorandum of agreement under paragraph (2), the Secretary of Transportation and the Secretary of Homeland Security (acting through the Administrator of the Federal Emergency Management Agency), in consultation with State, local, and tribal governments (including public transportation systems) that have experienced a major disaster or emergency, shall review after action reports relating to major disasters, emergencies, and exercises, to identify areas where coordination between the Department of Transportation and the Department of Homeland Security and the provision of public transportation services should be improved.

(5) FACTORS FOR DECLARATIONS OF MAJOR DISASTERS AND EMERGENCIES.—The Administrator of the Federal Emergency Management Agency shall make available to State, local, and tribal governments, including public transportation systems, a description of the factors that the President considers in declaring a major disaster or emergency, including any pre-disaster emergency declaration policies.

(6) BRIEFINGS.—

(A) INITIAL BRIEFING.—Not later than 180 days after the date of enactment of this Act, the Secretary of Transportation and the Secretary of Homeland Security shall jointly brief the Committee on Banking, Housing, and Urban Affairs and the Committee on Homeland Security and Governmental Affairs of the Senate on the memorandum of agreement required under paragraph (2).

(B) QUARTERLY BRIEFINGS.—Each quarter of the 1-year period beginning on the date on which the Secretary of Transportation and the Secretary of Homeland Security enter into the memorandum of agreement required under paragraph (2), the Secretary of Transportation and the Secretary of Homeland Security shall jointly brief the Committee on Banking, Housing, and Urban Affairs and the Committee on Homeland Security and Governmental Affairs of the Senate on the implementation of the memorandum of agreement.

#### SEC. 20008. URBANIZED AREA FORMULA GRANTS.

Section 5307 of title 49, United States Code, is amended to read as follows:

##### “§ 5307. Urbanized area formula grants

“(a) GENERAL AUTHORITY.—

“(1) GRANTS.—The Secretary may make grants under this section for—

“(A) capital projects;

“(B) planning; and

“(C) operating costs of equipment and facilities for use in public transportation in an urbanized area with a population of fewer

than 200,000 individuals, as determined by the Bureau of the Census.

“(2) SPECIAL RULE.—The Secretary may make grants under this section to finance the operating cost of equipment and facilities for use in public transportation, excluding rail fixed guideway, in an urbanized area with a population of not fewer than 200,000 individuals, as determined by the Bureau of the Census—

“(A) for public transportation systems that operate 75 or fewer buses during peak service hours, in an amount not to exceed 50 percent of the share of the apportionment which is attributable to such systems within the urbanized area, as measured by vehicle revenue hours; and

“(B) for public transportation systems that operate a minimum of 76 buses and a maximum of 100 buses during peak service hours, in an amount not to exceed 25 percent of the share of the apportionment which is attributable to such systems within the urbanized area, as measured by vehicle revenue hours.

“(3) TEMPORARY AND TARGETED ASSISTANCE.—

“(A) ELIGIBILITY.—The Secretary may make a grant under this section to finance the operating cost of equipment and facilities to a recipient for use in public transportation in an area that the Secretary determines has—

“(i) a population of not fewer than 200,000 individuals, as determined by the Bureau of the Census; and

“(ii) a 3-month unemployment rate, as reported by the Bureau of Labor Statistics, that is—

“(I) greater than 7 percent; and

“(II) at least 2 percentage points greater than the lowest 3-month unemployment rate for the area during the 5-year period preceding the date of the determination.

“(B) AWARD OF GRANT.—

“(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the Secretary may make a grant under this section for not more than 2 consecutive fiscal years.

“(ii) ADDITIONAL YEAR.—If, at the end of the second fiscal year following the date on which the Secretary makes a determination under subparagraph (A) with respect to an area, the Secretary determines that the 3-month unemployment rate for the area is at least 2 percentage points greater than the unemployment rate for the area at the time the Secretary made the determination under subparagraph (A), the Secretary may make a grant to a recipient in the area for 1 additional consecutive fiscal year.

“(iii) EXCLUSION PERIOD.—Beginning on the last day of the last consecutive fiscal year for which a recipient receives a grant under this paragraph, the Secretary may not make a subsequent grant under this paragraph to the recipient for a number of fiscal years equal to the number of consecutive fiscal years in which the recipient received a grant under this paragraph.

“(C) LIMITATION.—

“(i) FIRST FISCAL YEAR.—For the first fiscal year following the date on which the Secretary makes a determination under subparagraph (A) with respect to an area, not more than 25 percent of the amount apportioned to a designated recipient under section 5336 for the fiscal year shall be available for operating assistance for the area.

“(ii) SECOND AND THIRD FISCAL YEARS.—For the second and third fiscal years following the date on which the Secretary makes a determination under subparagraph (A) with respect to an area, not more than 20 percent of the amount apportioned to a designated recipient under section 5336 for the fiscal year

shall be available for operating assistance for the area.

“(D) PERIOD OF AVAILABILITY FOR OPERATING ASSISTANCE.—Operating assistance awarded under this paragraph shall be available for expenditure to a recipient in an area until the end of the second fiscal year following the date on which the Secretary makes a determination under subparagraph (A) with respect to the area, after which time any unexpended funds shall be available to the recipient for other eligible activities under this section.

“(E) CERTIFICATION.—The Secretary may make a grant for operating assistance under this paragraph for a fiscal year only if the recipient certifies that—

“(i) the recipient will maintain public transportation service levels at or above the current service level, which shall be demonstrated by providing an equal or greater number of vehicle hours of service in the fiscal year than the number of vehicle hours of service provided in the preceding fiscal year;

“(ii) any non-Federal entity that provides funding to the recipient, including a State or local governmental entity, will maintain the tax rate or rate of allocations dedicated to public transportation at or above the rate for the preceding fiscal year;

“(iii) the recipient has allocated the maximum amount of funding under this section for preventive maintenance costs eligible as a capital expense necessary to maintain the level and quality of service provided in the preceding fiscal year; and

“(iv) the recipient will not use funding under this section for new capital assets except as necessary for the existing system to maintain or achieve a state of good repair, assure safety, or replace obsolete technology.

“(b) ACCESS TO JOBS PROJECTS.—

“(1) IN GENERAL.—A designated recipient shall expend not less than 3 percent of the amount apportioned to the designated recipient under section 5336 or an amount equal to the amount apportioned to the designated recipient in fiscal year 2011 to carry out section 5316 (as in effect for fiscal year 2011), whichever is less, to carry out a program to develop and maintain job access projects. Eligible projects may include—

“(A) a project relating to the development and maintenance of public transportation services designed to transport eligible low-income individuals to and from jobs and activities related to their employment, including—

“(i) a public transportation project to finance planning, capital, and operating costs of providing access to jobs under this chapter;

“(ii) promoting public transportation by low-income workers, including the use of public transportation by workers with non-traditional work schedules;

“(iii) promoting the use of public transportation vouchers for welfare recipients and eligible low-income individuals; and

“(iv) promoting the use of employer-provided transportation, including the transit pass benefit program under section 132 of the Internal Revenue Code of 1986; and

“(B) a transportation project designed to support the use of public transportation including—

“(i) enhancements to existing public transportation service for workers with non-traditional hours or reverse commutes;

“(ii) guaranteed ride home programs;

“(iii) bicycle storage facilities; and

“(iv) projects that otherwise facilitate the provision of public transportation services to employment opportunities.

“(2) PROJECT SELECTION AND PLAN DEVELOPMENT.—Each grant recipient under this subsection shall certify that—

“(A) the projects selected were included in a locally developed, coordinated public transit-human services transportation plan;

“(B) the plan was developed and approved through a process that included individuals with low incomes, representatives of public, private, and nonprofit transportation and human services providers, and participation by the public;

“(C) services funded under this subsection are coordinated with transportation services funded by other Federal departments and agencies to the maximum extent feasible; and

“(D) allocations of the grant to subrecipients, if any, are distributed on a fair and equitable basis.

“(3) COMPETITIVE PROCESS FOR GRANTS TO SUBRECIPIENTS.—

“(A) AREA-WIDE SOLICITATIONS.—A recipient of funds apportioned under this subsection may conduct, in cooperation with the appropriate metropolitan planning organization, an area-wide solicitation for applications for grants to the recipient and subrecipients under this subsection.

“(B) APPLICATION.—If the recipient elects to engage in a competitive process, recipients and subrecipients seeking to receive a grant from apportioned funds shall submit to the recipient an application in the form and in accordance with such requirements as the recipient shall establish.

“(c) PROGRAM OF PROJECTS.—Each recipient of a grant shall—

“(1) make available to the public information on amounts available to the recipient under this section;

“(2) develop, in consultation with interested parties, including private transportation providers, a proposed program of projects for activities to be financed;

“(3) publish a proposed program of projects in a way that affected individuals, private transportation providers, and local elected officials have the opportunity to examine the proposed program and submit comments on the proposed program and the performance of the recipient;

“(4) provide an opportunity for a public hearing in which to obtain the views of individuals on the proposed program of projects;

“(5) ensure that the proposed program of projects provides for the coordination of public transportation services assisted under section 5336 of this title with transportation services assisted from other United States Government sources;

“(6) consider comments and views received, especially those of private transportation providers, in preparing the final program of projects; and

“(7) make the final program of projects available to the public.

“(d) GRANT RECIPIENT REQUIREMENTS.—A recipient may receive a grant in a fiscal year only if—

“(1) the recipient, within the time the Secretary prescribes, submits a final program of projects prepared under subsection (c) of this section and a certification for that fiscal year that the recipient (including a person receiving amounts from a Governor under this section)—

“(A) has or will have the legal, financial, and technical capacity to carry out the program, including safety and security aspects of the program;

“(B) has or will have satisfactory continuing control over the use of equipment and facilities;

“(C) will maintain equipment and facilities;

“(D) will ensure that, during non-peak hours for transportation using or involving a facility or equipment of a project financed under this section, a fare that is not more than 50 percent of the peak hour fare will be charged for any—

“(i) senior;

“(ii) individual who, because of illness, injury, age, congenital malfunction, or other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semiambulatory capability), cannot use a public transportation service or a public transportation facility effectively without special facilities, planning, or design; and

“(iii) individual presenting a Medicare card issued to that individual under title II or XVIII of the Social Security Act (42 U.S.C. 401 et seq. and 1395 et seq.);

“(E) in carrying out a procurement under this section, will comply with sections 5323 and 5325;

“(F) has complied with subsection (c) of this section;

“(G) has available and will provide the required amounts as provided by subsection (e) of this section;

“(H) will comply with sections 5303 and 5304;

“(I) has a locally developed process to solicit and consider public comment before raising a fare or carrying out a major reduction of transportation;

“(J)(i) will expend for each fiscal year for public transportation security projects, including increased lighting in or adjacent to a public transportation system (including bus stops, subway stations, parking lots, and garages), increased camera surveillance of an area in or adjacent to that system, providing an emergency telephone line to contact law enforcement or security personnel in an area in or adjacent to that system, and any other project intended to increase the security and safety of an existing or planned public transportation system, at least 1 percent of the amount the recipient receives for each fiscal year under section 5336 of this title; or

“(ii) has decided that the expenditure for security projects is not necessary;

“(K) in the case of a recipient for an urbanized area with a population of not fewer than 200,000 individuals, as determined by the Bureau of the Census—

“(i) will expend not less than 1 percent of the amount the recipient receives each fiscal year under this section for associated transit improvements, as defined in section 5302; and

“(ii) will submit an annual report listing projects carried out in the preceding fiscal year with those funds; and

“(L) will comply with section 5329(d); and

“(2) the Secretary accepts the certification.

“(e) GOVERNMENT SHARE OF COSTS.—

“(1) CAPITAL PROJECTS.—A grant for a capital project under this section shall be for 80 percent of the net project cost of the project. The recipient may provide additional local matching amounts.

“(2) OPERATING EXPENSES.—A grant for operating expenses under this section may not exceed 50 percent of the net project cost of the project.

“(3) REMAINING COSTS.—Subject to paragraph (4), the remainder of the net project costs shall be provided—

“(A) in cash from non-Government sources other than revenues from providing public transportation services;

“(B) from revenues from the sale of advertising and concessions;

“(C) from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital;

“(D) from amounts appropriated or otherwise made available to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation; and

“(E) from amounts received under a service agreement with a State or local social service agency or private social service organization.

“(4) USE OF CERTAIN FUNDS.—For purposes of subparagraphs (D) and (E) of paragraph (3), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

“(f) UNDERTAKING PROJECTS IN ADVANCE.—

“(1) PAYMENT.—The Secretary may pay the Government share of the net project cost to a State or local governmental authority that carries out any part of a project eligible under subparagraph (A) or (B) of subsection (a)(1) without the aid of amounts of the Government and according to all applicable procedures and requirements if—

“(A) the recipient applies for the payment;

“(B) the Secretary approves the payment; and

“(C) before carrying out any part of the project, the Secretary approves the plans and specifications for the part in the same way as for other projects under this section.

“(2) APPROVAL OF APPLICATION.—The Secretary may approve an application under paragraph (1) of this subsection only if an authorization for this section is in effect for the fiscal year to which the application applies. The Secretary may not approve an application if the payment will be more than—

“(A) the recipient's expected apportionment under section 5336 of this title if the total amount authorized to be appropriated for the fiscal year to carry out this section is appropriated; less

“(B) the maximum amount of the apportionment that may be made available for projects for operating expenses under this section.

“(3) FINANCING COSTS.—

“(A) IN GENERAL.—The cost of carrying out part of a project includes the amount of interest earned and payable on bonds issued by the recipient to the extent proceeds of the bonds are expended in carrying out the part.

“(B) LIMITATION ON THE AMOUNT OF INTEREST.—The amount of interest allowed under this paragraph may not be more than the most favorable financing terms reasonably available for the project at the time of borrowing.

“(C) CERTIFICATION.—The applicant shall certify, in a manner satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

“(g) REVIEWS, AUDITS, AND EVALUATIONS.—

“(1) ANNUAL REVIEW.—

“(A) IN GENERAL.—At least annually, the Secretary shall carry out, or require a recipient to have carried out independently, reviews and audits the Secretary considers appropriate to establish whether the recipient has carried out—

“(i) the activities proposed under subsection (d) of this section in a timely and effective way and can continue to do so; and

“(ii) those activities and its certifications and has used amounts of the Government in the way required by law.

“(B) AUDITING PROCEDURES.—An audit of the use of amounts of the Government shall

comply with the auditing procedures of the Comptroller General.

“(2) TRIENNIAL REVIEW.—At least once every 3 years, the Secretary shall review and evaluate completely the performance of a recipient in carrying out the recipient's program, specifically referring to compliance with statutory and administrative requirements and the extent to which actual program activities are consistent with the activities proposed under subsection (d) of this section and the planning process required under sections 5303, 5304, and 5305 of this title. To the extent practicable, the Secretary shall coordinate such reviews with any related State or local reviews.

“(3) ACTIONS RESULTING FROM REVIEW, AUDIT, OR EVALUATION.—The Secretary may take appropriate action consistent with a review, audit, and evaluation under this subsection, including making an appropriate adjustment in the amount of a grant or withdrawing the grant.

“(h) TREATMENT.—For purposes of this section, the United States Virgin Islands shall be treated as an urbanized area, as defined in section 5302.

“(i) PASSENGER FERRY GRANT PROGRAM.—

“(1) IN GENERAL.—The Secretary may make grants under this subsection to recipients for passenger ferry projects that are eligible for a grant under subsection (a).

“(2) GRANT REQUIREMENTS.—Except as otherwise provided in this subsection, a grant under this subsection shall be subject to the same terms and conditions as a grant under subsection (a).

“(3) COMPETITIVE PROCESS.—The Secretary shall solicit grant applications and make grants for eligible projects on a competitive basis.

“(4) GEOGRAPHICALLY CONSTRAINED AREAS.—Of the amounts made available to carry out this subsection, \$10,000,000 shall be for capital grants relating to passenger ferries in areas with limited or no access to public transportation as a result of geographical constraints.”.

#### SEC. 20009. CLEAN FUEL GRANT PROGRAM.

Section 5308 of title 49, United States Code, is amended to read as follows:

##### “§ 5308. Clean fuel grant program

“(a) DEFINITIONS.—In this section, the following definitions shall apply:

“(1) CLEAN FUEL BUS.—The term ‘clean fuel bus’ means a bus that is a clean fuel vehicle.

“(2) CLEAN FUEL VEHICLE.—The term ‘clean fuel vehicle’ means a passenger vehicle used to provide public transportation that the Administrator of the Environmental Protection Agency has certified sufficiently reduces energy consumption or reduces harmful emissions, including direct carbon emissions, when compared to a comparable standard vehicle.

“(3) DIRECT CARBON EMISSIONS.—The term ‘direct carbon emissions’ means the quantity of direct greenhouse gas emissions from a vehicle, as determined by the Administrator of the Environmental Protection Agency.

“(4) ELIGIBLE AREA.—The term ‘eligible area’ means an area that is—

“(A) designated as a nonattainment area for ozone or carbon monoxide under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)); or

“(B) a maintenance area, as defined in section 5303, for ozone or carbon monoxide.

“(5) ELIGIBLE PROJECT.—The term ‘eligible project’ means a project or program of projects in an eligible area for—

“(A) acquiring or leasing clean fuel vehicles;

“(B) constructing or leasing facilities and related equipment for clean fuel vehicles;

“(C) constructing new public transportation facilities to accommodate clean fuel vehicles; or

“(D) rehabilitating or improving existing public transportation facilities to accommodate clean fuel vehicles.

“(6) RECIPIENT.—The term ‘recipient’ means—

“(A) for an eligible area that is an urbanized area with a population of fewer than 200,000 individuals, as determined by the Bureau of the Census, the State in which the eligible area is located; and

“(B) for an eligible area not described in subparagraph (A), the designated recipient for the eligible area.

“(b) AUTHORITY.—The Secretary may make grants to recipients to finance eligible projects under this section.

“(c) GRANT REQUIREMENTS.—

“(1) IN GENERAL.—A grant under this section shall be subject to the requirements of section 5307.

“(2) GOVERNMENT SHARE OF COSTS FOR CERTAIN PROJECTS.—Section 5323(j) applies to projects carried out under this section, unless the grant recipient requests a lower grant percentage.

“(d) MINIMUM AMOUNTS.—Of amounts made available by or appropriated under section 5338(a)(2)(D) in each fiscal year to carry out this section—

“(1) not less than 65 percent shall be made available to fund eligible projects relating to clean fuel buses; and

“(2) not less than 10 percent shall be made available for eligible projects relating to facilities and related equipment for clean fuel buses.

“(e) COMPETITIVE PROCESS.—The Secretary shall solicit grant applications and make grants for eligible projects on a competitive basis.

“(f) AVAILABILITY OF FUNDS.—Any amounts made available or appropriated to carry out this section—

“(1) shall remain available to an eligible project for 2 years after the fiscal year for which the amount is made available or appropriated; and

“(2) that remain unobligated at the end of the period described in paragraph (1) shall be added to the amount made available to an eligible project in the following fiscal year.”.

#### SEC. 20010. FIXED GUIDEWAY CAPITAL INVESTMENT GRANTS.

(a) IN GENERAL.—Section 5309 of title 49, United States Code, is amended to read as follows:

##### “§ 5309. Fixed guideway capital investment grants

“(a) DEFINITIONS.—In this section, the following definitions shall apply:

“(1) APPLICANT.—The term ‘applicant’ means a State or local governmental authority that applies for a grant under this section.

“(2) BUS RAPID TRANSIT PROJECT.—The term ‘bus rapid transit project’ means a single route bus capital project—

“(A) a majority of which operates in a separated right-of-way dedicated for public transportation use during peak periods;

“(B) that represents a substantial investment in a single route in a defined corridor or subarea; and

“(C) that includes features that emulate the services provided by rail fixed guideway public transportation systems, including—

“(i) defined stations;

“(ii) traffic signal priority for public transportation vehicles;

“(iii) short headway bidirectional services for a substantial part of weekdays and weekend days; and

“(iv) any other features the Secretary may determine are necessary to produce high-quality public transportation services that emulate the services provided by rail fixed guideway public transportation systems.

“(3) CORE CAPACITY IMPROVEMENT PROJECT.—The term ‘core capacity improvement project’ means a substantial corridor-based capital investment in an existing fixed guideway system that adds capacity and functionality.

“(4) NEW FIXED GUIDEWAY CAPITAL PROJECT.—The term ‘new fixed guideway capital project’ means—

“(A) a new fixed guideway project that is a minimum operable segment or extension to an existing fixed guideway system; or

“(B) a bus rapid transit project that is a minimum operable segment or an extension to an existing bus rapid transit system.

“(5) PROGRAM OF INTERRELATED PROJECTS.—The term ‘program of interrelated projects’ means the simultaneous development of—

“(A) 2 or more new fixed guideway capital projects or core capacity improvement projects; or

“(B) 1 or more new fixed guideway capital projects and 1 or more core capacity improvement projects.

“(b) GENERAL AUTHORITY.—The Secretary may make grants under this section to State and local governmental authorities to assist in financing—

“(1) new fixed guideway capital projects, including the acquisition of real property, the initial acquisition of rolling stock for the system, the acquisition of rights-of-way, and relocation, for fixed guideway corridor development for projects in the advanced stages of project development or engineering; and

“(2) core capacity improvement projects, including the acquisition of real property, the acquisition of rights-of-way, double tracking, signalization improvements, electrification, expanding system platforms, acquisition of rolling stock, construction of infill stations, and such other capacity improvement projects as the Secretary determines are appropriate.

“(c) GRANT REQUIREMENTS.—

“(1) IN GENERAL.—The Secretary may make a grant under this section for new fixed guideway capital projects or core capacity improvement projects, if the Secretary determines that—

“(A) the project is part of an approved transportation plan required under sections 5303 and 5304; and

“(B) the applicant has, or will have—

“(i) the legal, financial, and technical capacity to carry out the project, including the safety and security aspects of the project;

“(ii) satisfactory continuing control over the use of the equipment or facilities; and

“(iii) the technical and financial capacity to maintain new and existing equipment and facilities.

“(2) CERTIFICATION.—An applicant that has submitted the certifications required under subparagraphs (A), (B), (C), and (H) of section 5307(d)(1) shall be deemed to have provided sufficient information upon which the Secretary may make the determinations required under this subsection.

“(3) TECHNICAL CAPACITY.—The Secretary shall use an expedited technical capacity review process for applicants that have recently and successfully completed at least 1 new bus rapid transit project, new fixed

guideway capital project, or core capacity improvement project, if—

“(A) the applicant achieved budget, cost, and ridership outcomes for the project that are consistent with or better than projections; and

“(B) the applicant demonstrates that the applicant continues to have the staff expertise and other resources necessary to implement a new project.

“(4) RECIPIENT REQUIREMENTS.—A recipient of a grant awarded under this section shall be subject to all terms, conditions, requirements, and provisions that the Secretary determines to be necessary or appropriate for purposes of this section.

“(d) NEW FIXED GUIDEWAY GRANTS.—

“(1) PROJECT DEVELOPMENT PHASE.—

“(A) ENTRANCE INTO PROJECT DEVELOPMENT PHASE.—A new fixed guideway capital project shall enter into the project development phase when—

“(i) the applicant—

“(I) submits a letter to the Secretary describing the project and requesting entry into the project development phase; and

“(II) initiates activities required to be carried out under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the project; and

“(ii) the Secretary responds in writing to the applicant within 45 days whether the information provided is sufficient to enter into the project development phase, including, when necessary, a detailed description of any information deemed insufficient.

“(B) ACTIVITIES DURING PROJECT DEVELOPMENT PHASE.—Concurrent with the analysis required to be made under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), each applicant shall develop sufficient information to enable the Secretary to make findings of project justification, policies and land use patterns that promote public transportation, and local financial commitment under this subsection.

“(C) COMPLETION OF PROJECT DEVELOPMENT ACTIVITIES REQUIRED.—

“(i) IN GENERAL.—Not later than 2 years after the date on which a project enters into the project development phase, the applicant shall complete the activities required to obtain a project rating under subsection (g)(2) and submit completed documentation to the Secretary.

“(ii) EXTENSION OF TIME.—Upon the request of an applicant, the Secretary may extend the time period under clause (i), if the applicant submits to the Secretary—

“(I) a reasonable plan for completing the activities required under this paragraph; and

“(II) an estimated time period within which the applicant will complete such activities.

“(2) ENGINEERING PHASE.—

“(A) IN GENERAL.—A new fixed guideway capital project may advance to the engineering phase upon completion of activities required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), as demonstrated by a record of decision with respect to the project, a finding that the project has no significant impact, or a determination that the project is categorically excluded, only if the Secretary determines that the project—

“(i) is selected as the locally preferred alternative at the completion of the process required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

“(ii) is adopted into the metropolitan transportation plan required under section 5303;

“(iii) is justified based on a comprehensive review of the project's mobility improve-

ments, environmental benefits, and cost-effectiveness, as measured by cost per rider;

“(iv) is supported by policies and land use patterns that promote public transportation, including plans for future land use and rezoning, and economic development around public transportation stations; and

“(v) is supported by an acceptable degree of local financial commitment (including evidence of stable and dependable financing sources), as required under subsection (f).

“(B) DETERMINATION THAT PROJECT IS JUSTIFIED.—In making a determination under subparagraph (A)(iii), the Secretary shall evaluate, analyze, and consider—

“(i) the reliability of the forecasting methods used to estimate costs and utilization made by the recipient and the contractors to the recipient; and

“(ii) population density and current public transportation ridership in the transportation corridor.

“(e) CORE CAPACITY IMPROVEMENT PROJECTS.—

“(1) PROJECT DEVELOPMENT PHASE.—

“(A) ENTRANCE INTO PROJECT DEVELOPMENT PHASE.—A core capacity improvement project shall be deemed to have entered into the project development phase if—

“(i) the applicant—

“(I) submits a letter to the Secretary describing the project and requesting entry into the project development phase; and

“(II) initiates activities required to be carried out under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the project; and

“(ii) the Secretary responds in writing to the applicant within 45 days whether the information provided is sufficient to enter into the project development phase, including when necessary a detailed description of any information deemed insufficient.

“(B) ACTIVITIES DURING PROJECT DEVELOPMENT PHASE.—Concurrent with the analysis required to be made under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), each applicant shall develop sufficient information to enable the Secretary to make findings of project justification and local financial commitment under this subsection.

“(C) COMPLETION OF PROJECT DEVELOPMENT ACTIVITIES REQUIRED.—

“(i) IN GENERAL.—Not later than 2 years after the date on which a project enters into the project development phase, the applicant shall complete the activities required to obtain a project rating under subsection (g)(2) and submit completed documentation to the Secretary.

“(ii) EXTENSION OF TIME.—Upon the request of an applicant, the Secretary may extend the time period under clause (i), if the applicant submits to the Secretary—

“(I) a reasonable plan for completing the activities required under this paragraph; and

“(II) an estimated time period within which the applicant will complete such activities.

“(2) ENGINEERING PHASE.—

“(A) IN GENERAL.—A core capacity improvement project may advance into the engineering phase upon completion of activities required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), as demonstrated by a record of decision with respect to the project, a finding that the project has no significant impact, or a determination that the project is categorically excluded, only if the Secretary determines that the project—

“(i) is selected as the locally preferred alternative at the completion of the process



required under the National Environmental Policy Act of 1969;

“(ii) is adopted into the metropolitan transportation plan required under section 5303;

“(iii) is in a corridor that is—

“(I) at or over capacity; or

“(II) projected to be at or over capacity within the next 5 years;

“(iv) is justified based on a comprehensive review of the project’s mobility improvements, environmental benefits, and cost-effectiveness, as measured by cost per rider; and

“(v) is supported by an acceptable degree of local financial commitment (including evidence of stable and dependable financing sources), as required under subsection (f).

“(B) DETERMINATION THAT PROJECT IS JUSTIFIED.—In making a determination under subparagraph (A)(iv), the Secretary shall evaluate, analyze, and consider—

“(i) the reliability of the forecasting methods used to estimate costs and utilization made by the recipient and the contractors to the recipient;

“(ii) whether the project will adequately address the capacity concerns in a corridor;

“(iii) whether the project will improve interconnectivity among existing systems; and

“(iv) whether the project will improve environmental outcomes.

“(f) FINANCING SOURCES.—

“(1) REQUIREMENTS.—In determining whether a project is supported by an acceptable degree of local financial commitment and shows evidence of stable and dependable financing sources for purposes of subsection (d)(2)(A)(v) or (e)(2)(A)(v), the Secretary shall require that—

“(A) the proposed project plan provides for the availability of contingency amounts that the Secretary determines to be reasonable to cover unanticipated cost increases or funding shortfalls;

“(B) each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable; and

“(C) local resources are available to recapitalize, maintain, and operate the overall existing and proposed public transportation system, including essential feeder bus and other services necessary to achieve the projected ridership levels without requiring a reduction in existing public transportation services or level of service to operate the project.

“(2) CONSIDERATIONS.—In assessing the stability, reliability, and availability of proposed sources of local financing for purposes of subsection (d)(2)(A)(v) or (e)(2)(A)(v), the Secretary shall consider—

“(A) the reliability of the forecasting methods used to estimate costs and revenues made by the recipient and the contractors to the recipient;

“(B) existing grant commitments;

“(C) the degree to which financing sources are dedicated to the proposed purposes;

“(D) any debt obligation that exists, or is proposed by the recipient, for the proposed project or other public transportation purpose; and

“(E) the extent to which the project has a local financial commitment that exceeds the required non-Government share of the cost of the project.

“(g) PROJECT ADVANCEMENT AND RATINGS.—

“(1) PROJECT ADVANCEMENT.—A new fixed guideway capital project or core capacity improvement project proposed to be carried out using a grant under this section may not

advance from the project development phase to the engineering phase, or from the engineering phase to the construction phase, unless the Secretary determines that—

“(A) the project meets the applicable requirements under this section; and

“(B) there is a reasonable likelihood that the project will continue to meet the requirements under this section.

“(2) RATINGS.—

“(A) OVERALL RATING.—In making a determination under paragraph (1), the Secretary shall evaluate and rate a project as a whole on a 5-point scale (high, medium-high, medium, medium-low, or low) based on—

“(i) in the case of a new fixed guideway capital project, the project justification criteria under subsection (d)(2)(A)(iii), the policies and land use patterns that support public transportation, and the degree of local financial commitment; and

“(ii) in the case of a core capacity improvement project, the capacity needs of the corridor, the project justification criteria under subsection (e)(2)(A)(iv), and the degree of local financial commitment.

“(B) INDIVIDUAL RATINGS FOR EACH CRITERION.—In rating a project under this paragraph, the Secretary shall—

“(i) provide, in addition to the overall project rating under subparagraph (A), individual ratings for each of the criteria established under subsection (d)(2)(A)(iii) or (e)(2)(A)(iv), as applicable; and

“(ii) give comparable, but not necessarily equal, numerical weight to each of the criteria established under subsections (d)(2)(A)(iii) or (e)(2)(A)(iv), as applicable, in calculating the overall project rating under clause (i).

“(C) MEDIUM RATING NOT REQUIRED.—The Secretary shall not require that any single project justification criterion meet or exceed a ‘medium’ rating in order to advance the project from one phase to another.

“(3) WARRANTS.—The Secretary shall, to the maximum extent practicable, develop and use special warrants for making a project justification determination under subsection (d)(2) or (e)(2), as applicable, for a project proposed to be funded using a grant under this section, if—

“(A) the share of the cost of the project to be provided under this section does not exceed—

“(i) \$100,000,000; or

“(ii) 50 percent of the total cost of the project;

“(B) the applicant requests the use of the warrants;

“(C) the applicant certifies that its existing public transportation system is in a state of good repair; and

“(D) the applicant meets any other requirements that the Secretary considers appropriate to carry out this subsection.

“(4) LETTERS OF INTENT AND EARLY SYSTEMS WORK AGREEMENTS.—In order to expedite a project under this subsection, the Secretary shall, to the maximum extent practicable, issue letters of intent and enter into early systems work agreements upon issuance of a record of decision for projects that receive an overall project rating of medium or better.

“(5) POLICY GUIDANCE.—The Secretary shall issue policy guidance regarding the review and evaluation process and criteria—

“(A) not later than 180 days after the date of enactment of the Federal Public Transportation Act of 2012; and

“(B) each time the Secretary makes significant changes to the process and criteria, but not less frequently than once every 2 years.

“(6) RULES.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue rules establishing an evaluation and rating process for—

“(A) new fixed guideway capital projects that is based on the results of project justification, policies and land use patterns that promote public transportation, and local financial commitment, as required under this subsection; and

“(B) core capacity improvement projects that is based on the results of the capacity needs of the corridor, project justification, and local financial commitment.

“(7) APPLICABILITY.—This subsection shall not apply to a project for which the Secretary issued a letter of intent, entered into a full funding grant agreement, or entered into a project construction agreement before the date of enactment of the Federal Public Transportation Act of 2012.

“(h) PROGRAMS OF INTERRELATED PROJECTS.—

“(1) PROJECT DEVELOPMENT PHASE.—A federally funded project in a program of interrelated projects shall advance through project development as provided in subsection (d) or (e), as applicable.

“(2) ENGINEERING PHASE.—A federally funded project in a program of interrelated projects may advance into the engineering phase upon completion of activities required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), as demonstrated by a record of decision with respect to the project, a finding that the project has no significant impact, or a determination that the project is categorically excluded, only if the Secretary determines that—

“(A) the project is selected as the locally preferred alternative at the completion of the process required under the National Environmental Policy Act of 1969;

“(B) the project is adopted into the metropolitan transportation plan required under section 5303;

“(C) the program of interrelated projects involves projects that have a logical connectivity to one another;

“(D) the program of interrelated projects, when evaluated as a whole, meets the requirements of subsection (d)(2) or (e)(2), as applicable;

“(E) the program of interrelated projects is supported by a program implementation plan demonstrating that construction will begin on each of the projects in the program of interrelated projects within a reasonable time frame; and

“(F) the program of interrelated projects is supported by an acceptable degree of local financial commitment, as described in subsection (f).

“(3) PROJECT ADVANCEMENT AND RATINGS.—

“(A) PROJECT ADVANCEMENT.—A project receiving a grant under this section that is part of a program of interrelated projects may not advance from the project development phase to the engineering phase, or from the engineering phase to the construction phase, unless the Secretary determines that the program of interrelated projects meets the applicable requirements of this section and there is a reasonable likelihood that the program will continue to meet such requirements.

“(B) RATINGS.—

“(i) OVERALL RATING.—In making a determination under subparagraph (A), the Secretary shall evaluate and rate a program of interrelated projects on a 5-point scale (high, medium-high, medium, medium-low, or low)

based on the criteria described in paragraph (2).

“(ii) **INDIVIDUAL RATING FOR EACH CRITERION.**—In rating a program of interrelated projects, the Secretary shall provide, in addition to the overall program rating, individual ratings for each of the criteria described in paragraph (2) and shall give comparable, but not necessarily equal, numerical weight to each such criterion in calculating the overall program rating.

“(iii) **MEDIUM RATING NOT REQUIRED.**—The Secretary shall not require that any single criterion described in paragraph (2) meet or exceed a ‘medium’ rating in order to advance the program of interrelated projects from one phase to another.

“(4) **ANNUAL REVIEW.**—

“(A) **REVIEW REQUIRED.**—The Secretary shall annually review the program implementation plan required under paragraph (2)(E) to determine whether the program of interrelated projects is adhering to its schedule.

“(B) **EXTENSION OF TIME.**—If a program of interrelated projects is not adhering to its schedule, the Secretary may, upon the request of the applicant, grant an extension of time if the applicant submits a reasonable plan that includes—

“(i) evidence of continued adequate funding; and

“(ii) an estimated time frame for completing the program of interrelated projects.

“(C) **SATISFACTORY PROGRESS REQUIRED.**—If the Secretary determines that a program of interrelated projects is not making satisfactory progress, no Federal funds shall be provided for a project within the program of interrelated projects.

“(5) **FAILURE TO CARRY OUT PROGRAM OF INTERRELATED PROJECTS.**—

“(A) **REPAYMENT REQUIRED.**—If an applicant does not carry out the program of interrelated projects within a reasonable time, for reasons within the control of the applicant, the applicant shall repay all Federal funds provided for the program, and any reasonable interest and penalty charges that the Secretary may establish.

“(B) **CREDITING OF FUNDS RECEIVED.**—Any funds received by the Government under this paragraph, other than interest and penalty charges, shall be credited to the appropriation account from which the funds were originally derived.

“(6) **NON-FEDERAL FUNDS.**—Any non-Federal funds committed to a project in a program of interrelated projects may be used to meet a non-Government share requirement for any other project in the program of interrelated projects, if the Government share of the cost of each project within the program of interrelated projects does not exceed 80 percent.

“(7) **PRIORITY.**—In making grants under this section, the Secretary may give priority to programs of interrelated projects for which the non-Government share of the cost of the projects included in the programs of interrelated projects exceeds the non-Government share required under subsection (k).

“(8) **NON-GOVERNMENT PROJECTS.**—Including a project not financed by the Government in a program of interrelated projects does not impose Government requirements that would not otherwise apply to the project.

“(i) **PREVIOUSLY ISSUED LETTER OF INTENT OR FULL FUNDING GRANT AGREEMENT.**—Subsections (d) and (e) shall not apply to projects for which the Secretary has issued a letter of intent, entered into a full funding grant agreement, or entered into a project construction grant agreement before the

date of enactment of the Federal Public Transportation Act of 2012.

“(j) **LETTERS OF INTENT, FULL FUNDING GRANT AGREEMENTS, AND EARLY SYSTEMS WORK AGREEMENTS.**—

“(1) **LETTERS OF INTENT.**—

“(A) **AMOUNTS INTENDED TO BE OBLIGATED.**—The Secretary may issue a letter of intent to an applicant announcing an intention to obligate, for a new fixed guideway capital project or core capacity improvement project, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project. When a letter is issued for a capital project under this section, the amount shall be sufficient to complete at least an operable segment.

“(B) **TREATMENT.**—The issuance of a letter under subparagraph (A) is deemed not to be an obligation under sections 1108(c), 1501, and 1502(a) of title 31, United States Code, or an administrative commitment.

“(2) **FULL FUNDING GRANT AGREEMENTS.**—

“(A) **IN GENERAL.**—A new fixed guideway capital project or core capacity improvement project shall be carried out through a full funding grant agreement.

“(B) **CRITERIA.**—The Secretary shall enter into a full funding grant agreement, based on the evaluations and ratings required under subsection (d), (e), or (h), as applicable, with each grantee receiving assistance for a new fixed guideway capital project or core capacity improvement project that has been rated as high, medium-high, or medium, in accordance with subsection (g)(2)(A) or (h)(3)(B), as applicable.

“(C) **TERMS.**—A full funding grant agreement shall—

“(i) establish the terms of participation by the Government in a new fixed guideway capital project or core capacity improvement project;

“(ii) establish the maximum amount of Federal financial assistance for the project;

“(iii) include the period of time for completing the project, even if that period extends beyond the period of an authorization; and

“(iv) make timely and efficient management of the project easier according to the law of the United States.

“(D) **SPECIAL FINANCIAL RULES.**—

“(i) **IN GENERAL.**—A full funding grant agreement under this paragraph obligates an amount of available budget authority specified in law and may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional amount from future available budget authority specified in law.

“(ii) **STATEMENT OF CONTINGENT COMMITMENT.**—The agreement shall state that the contingent commitment is not an obligation of the Government.

“(iii) **INTEREST AND OTHER FINANCING COSTS.**—Interest and other financing costs of efficiently carrying out a part of the project within a reasonable time are a cost of carrying out the project under a full funding grant agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

“(iv) **COMPLETION OF OPERABLE SEGMENT.**—The amount stipulated in an agreement under this paragraph for a new fixed guide-

way capital project shall be sufficient to complete at least an operable segment.

“(E) **BEFORE AND AFTER STUDY.**—

“(i) **IN GENERAL.**—A full funding grant agreement under this paragraph shall require the applicant to conduct a study that—

“(I) describes and analyzes the impacts of the new fixed guideway capital project or core capacity improvement project on public transportation services and public transportation ridership;

“(II) evaluates the consistency of predicted and actual project characteristics and performance; and

“(III) identifies reasons for differences between predicted and actual outcomes.

“(ii) **INFORMATION COLLECTION AND ANALYSIS PLAN.**—

“(I) **SUBMISSION OF PLAN.**—Applicants seeking a full funding grant agreement under this paragraph shall submit a complete plan for the collection and analysis of information to identify the impacts of the new fixed guideway capital project or core capacity improvement project and the accuracy of the forecasts prepared during the development of the project. Preparation of this plan shall be included in the full funding grant agreement as an eligible activity.

“(II) **CONTENTS OF PLAN.**—The plan submitted under subclause (I) shall provide for—

“(aa) collection of data on the current public transportation system regarding public transportation service levels and ridership patterns, including origins and destinations, access modes, trip purposes, and rider characteristics;

“(bb) documentation of the predicted scope, service levels, capital costs, operating costs, and ridership of the project;

“(cc) collection of data on the public transportation system 2 years after the opening of a new fixed guideway capital project or core capacity improvement project, including analogous information on public transportation service levels and ridership patterns and information on the as-built scope, capital, and financing costs of the project; and

“(dd) analysis of the consistency of predicted project characteristics with actual outcomes.

“(F) **COLLECTION OF DATA ON CURRENT SYSTEM.**—To be eligible for a full funding grant agreement under this paragraph, recipients shall have collected data on the current system, according to the plan required under subparagraph (E)(ii), before the beginning of construction of the proposed new fixed guideway capital project or core capacity improvement project. Collection of this data shall be included in the full funding grant agreement as an eligible activity.

“(3) **EARLY SYSTEMS WORK AGREEMENTS.**—

“(A) **CONDITIONS.**—The Secretary may enter into an early systems work agreement with an applicant if a record of decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been issued on the project and the Secretary finds there is reason to believe—

“(i) a full funding grant agreement for the project will be made; and

“(ii) the terms of the work agreement will promote ultimate completion of the project more rapidly and at less cost.

“(B) **CONTENTS.**—

“(i) **IN GENERAL.**—An early systems work agreement under this paragraph obligates budget authority available under this chapter and title 23 and shall provide for reimbursement of preliminary costs of carrying out the project, including land acquisition, timely procurement of system elements for which specifications are decided, and other

activities the Secretary decides are appropriate to make efficient, long-term project management easier.

“(ii) CONTINGENT COMMITMENT.—An early systems work agreement may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional amount from future available budget authority specified in law.

“(iii) PERIOD COVERED.—An early systems work agreement under this paragraph shall cover the period of time the Secretary considers appropriate. The period may extend beyond the period of current authorization.

“(iv) INTEREST AND OTHER FINANCING COSTS.—Interest and other financing costs of efficiently carrying out the early systems work agreement within a reasonable time are a cost of carrying out the agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

“(v) FAILURE TO CARRY OUT PROJECT.—If an applicant does not carry out the project for reasons within the control of the applicant, the applicant shall repay all Federal grant funds awarded for the project from all Federal funding sources, for all project activities, facilities, and equipment, plus reasonable interest and penalty charges allowable by law or established by the Secretary in the early systems work agreement.

“(vi) CREDITING OF FUNDS RECEIVED.—Any funds received by the Government under this paragraph, other than interest and penalty charges, shall be credited to the appropriation account from which the funds were originally derived.

“(4) LIMITATION ON AMOUNTS.—

“(A) IN GENERAL.—The Secretary may enter into full funding grant agreements under this subsection for new fixed guideway capital projects and core capacity improvement projects that contain contingent commitments to incur obligations in such amounts as the Secretary determines are appropriate.

“(B) APPROPRIATION REQUIRED.—An obligation may be made under this subsection only when amounts are appropriated for the obligation.

“(5) NOTIFICATION TO CONGRESS.—At least 30 days before issuing a letter of intent, entering into a full funding grant agreement, or entering into an early systems work agreement under this section, the Secretary shall notify, in writing, the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives of the proposed letter or agreement. The Secretary shall include with the notification a copy of the proposed letter or agreement as well as the evaluations and ratings for the project.

“(k) GOVERNMENT SHARE OF NET CAPITAL PROJECT COST.—

“(1) IN GENERAL.—Based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities, the Secretary shall estimate the net capital project cost. A grant for the project shall not exceed 80 percent of the net capital project cost.

“(2) ADJUSTMENT FOR COMPLETION UNDER BUDGET.—The Secretary may adjust the final

net capital project cost of a new fixed guideway capital project or core capacity improvement project evaluated under subsection (d), (e), or (h) to include the cost of eligible activities not included in the originally defined project if the Secretary determines that the originally defined project has been completed at a cost that is significantly below the original estimate.

“(3) MAXIMUM GOVERNMENT SHARE.—The Secretary may provide a higher grant percentage than requested by the grant recipient if—

“(A) the Secretary determines that the net capital project cost of the project is not more than 10 percent higher than the net capital project cost estimated at the time the project was approved for advancement into the engineering phase; and

“(B) the ridership estimated for the project is not less than 90 percent of the ridership estimated for the project at the time the project was approved for advancement into the engineering phase.

“(4) REMAINDER OF NET CAPITAL PROJECT COST.—The remainder of the net capital project cost shall be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital.

“(5) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as authorizing the Secretary to require a non-Federal financial commitment for a project that is more than 20 percent of the net capital project cost.

“(6) SPECIAL RULE FOR ROLLING STOCK COSTS.—In addition to amounts allowed pursuant to paragraph (1), a planned extension to a fixed guideway system may include the cost of rolling stock previously purchased if the applicant satisfies the Secretary that only amounts other than amounts provided by the Government were used and that the purchase was made for use on the extension. A refund or reduction of the remainder may be made only if a refund of a proportional amount of the grant of the Government is made at the same time.

“(7) LIMITATION ON APPLICABILITY.—This subsection shall not apply to projects for which the Secretary entered into a full funding grant agreement before the date of enactment of the Federal Public Transportation Act of 2012.

“(1) UNDERTAKING PROJECTS IN ADVANCE.—

“(1) IN GENERAL.—The Secretary may pay the Government share of the net capital project cost to a State or local governmental authority that carries out any part of a project described in this section without the aid of amounts of the Government and according to all applicable procedures and requirements if—

“(A) the State or local governmental authority applies for the payment;

“(B) the Secretary approves the payment; and

“(C) before the State or local governmental authority carries out the part of the project, the Secretary approves the plans and specifications for the part in the same way as other projects under this section.

“(2) FINANCING COSTS.—

“(A) IN GENERAL.—The cost of carrying out part of a project includes the amount of interest earned and payable on bonds issued by the State or local governmental authority to the extent proceeds of the bonds are expended in carrying out the part.

“(B) LIMITATION ON AMOUNT OF INTEREST.—The amount of interest under this paragraph may not be more than the most favorable interest terms reasonably available for the project at the time of borrowing.

“(C) CERTIFICATION.—The applicant shall certify, in a manner satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

“(m) AVAILABILITY OF AMOUNTS.—

“(1) IN GENERAL.—An amount made available or appropriated for a new fixed guideway capital project or core capacity improvement project shall remain available to that project for 5 fiscal years, including the fiscal year in which the amount is made available or appropriated. Any amounts that are unobligated to the project at the end of the 5-fiscal-year period may be used by the Secretary for any purpose under this section.

“(2) USE OF DEOBLIGATED AMOUNTS.—An amount available under this section that is deobligated may be used for any purpose under this section.

“(n) REPORTS ON NEW FIXED GUIDEWAY AND CORE CAPACITY IMPROVEMENT PROJECTS.—

“(1) ANNUAL REPORT ON FUNDING RECOMMENDATIONS.—Not later than the first Monday in February of each year, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives a report that includes—

“(A) a proposal of allocations of amounts to be available to finance grants for projects under this section among applicants for these amounts;

“(B) evaluations and ratings, as required under subsections (d), (e), and (h), for each such project that is in project development, engineering, or has received a full funding grant agreement; and

“(C) recommendations of such projects for funding based on the evaluations and ratings and on existing commitments and anticipated funding levels for the next 3 fiscal years based on information currently available to the Secretary.

“(2) REPORTS ON BEFORE AND AFTER STUDIES.—Not later than the first Monday in August of each year, the Secretary shall submit to the committees described in paragraph (1) a report containing a summary of the results of any studies conducted under subsection (j)(2)(E).

“(3) ANNUAL GAO REVIEW.—The Comptroller General of the United States shall—

“(A) conduct an annual review of—

“(i) the processes and procedures for evaluating, rating, and recommending new fixed guideway capital projects and core capacity improvement projects; and

“(ii) the Secretary's implementation of such processes and procedures; and

“(B) report to Congress on the results of such review by May 31 of each year.”.

(b) PILOT PROGRAM FOR EXPEDITED PROJECT DELIVERY.—

(1) DEFINITIONS.—In this subsection the following definitions shall apply:

(A) ELIGIBLE PROJECT.—The term “eligible project” means a new fixed guideway capital project or a core capacity improvement project, as those terms are defined in section 5309 of title 49, United States Code, as amended by this section, that has not entered into a full funding grant agreement with the Federal Transit Administration before the date of enactment of the Federal Public Transportation Act of 2012.

(B) PROGRAM.—The term “program” means the pilot program for expedited project delivery established under this subsection.

(C) RECIPIENT.—The term “recipient” means a recipient of funding under chapter 53 of title 49, United States Code.

(D) SECRETARY.—The term “Secretary” means the Secretary of Transportation.

(2) ESTABLISHMENT.—The Secretary shall establish and implement a pilot program to demonstrate whether innovative project development and delivery methods or innovative financing arrangements can expedite project delivery for certain meritorious new fixed guideway capital projects and core capacity improvement projects.

(3) LIMITATION ON NUMBER OF PROJECTS.—The Secretary shall select 3 eligible projects to participate in the program, of which—

(A) at least 1 shall be an eligible project requesting more than \$100,000,000 in Federal financial assistance under section 5309 of title 49, United States Code; and

(B) at least 1 shall be an eligible project requesting less than \$100,000,000 in Federal financial assistance under section 5309 of title 49, United States Code.

(4) GOVERNMENT SHARE.—The Government share of the total cost of an eligible project that participates in the program may not exceed 50 percent.

(5) ELIGIBILITY.—A recipient that desires to participate in the program shall submit to the Secretary an application that contains, at a minimum—

(A) identification of an eligible project;

(B) a schedule and finance plan for the construction and operation of the eligible project;

(C) an analysis of the efficiencies of the proposed project development and delivery methods or innovative financing arrangement for the eligible project; and

(D) a certification that the recipient’s existing public transportation system is in a state of good repair.

(6) SELECTION CRITERIA.—The Secretary may award a full funding grant agreement under this subsection if the Secretary determines that—

(A) the recipient has completed planning and the activities required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(B) the recipient has the necessary legal, financial, and technical capacity to carry out the eligible project.

(7) BEFORE AND AFTER STUDY AND REPORT.—

(A) STUDY REQUIRED.—A full funding grant agreement under this paragraph shall require a recipient to conduct a study that—

(i) describes and analyzes the impacts of the eligible project on public transportation services and public transportation ridership;

(ii) describes and analyzes the consistency of predicted and actual benefits and costs of the innovative project development and delivery methods or innovative financing for the eligible project; and

(iii) identifies reasons for any differences between predicted and actual outcomes for the eligible project.

(B) SUBMISSION OF REPORT.—Not later than 9 months after an eligible project selected to participate in the program begins revenue operations, the recipient shall submit to the Secretary a report on the results of the study under subparagraph (A).

#### SEC. 20011. FORMULA GRANTS FOR THE ENHANCED MOBILITY OF SENIORS AND INDIVIDUALS WITH DISABILITIES.

Section 5310 of title 49, United States Code, is amended to read as follows:

#### “§ 5310. Formula grants for the enhanced mobility of seniors and individuals with disabilities

“(a) DEFINITIONS.—In this section, the following definitions shall apply:

“(1) RECIPIENT.—The term ‘recipient’ means a designated recipient or a State that receives a grant under this section directly.

“(2) SUBRECIPIENT.—The term ‘subrecipient’ means a State or local governmental authority, nonprofit organization, or operator of public transportation that receives a grant under this section indirectly through a recipient.

“(b) GENERAL AUTHORITY.—

“(1) GRANTS.—The Secretary may make grants under this section to recipients for—

“(A) public transportation capital projects planned, designed, and carried out to meet the special needs of seniors and individuals with disabilities when public transportation is insufficient, inappropriate, or unavailable;

“(B) public transportation projects that exceed the requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

“(C) public transportation projects that improve access to fixed route service and decrease reliance by individuals with disabilities on complementary paratransit; and

“(D) alternatives to public transportation that assist seniors and individuals with disabilities with transportation.

“(2) LIMITATIONS FOR CAPITAL PROJECTS.—

“(A) AMOUNT AVAILABLE.—The amount available for capital projects under paragraph (1)(A) shall be not less than 55 percent of the funds apportioned to the recipient under this section.

“(B) ALLOCATION TO SUBRECIPIENTS.—A recipient of a grant under paragraph (1)(A) may allocate the amounts provided under the grant to—

“(i) a nonprofit organization; or

“(ii) a State or local governmental authority that—

“(I) is approved by a State to coordinate services for seniors and individuals with disabilities; or

“(II) certifies that there are no nonprofit organizations readily available in the area to provide the services described in paragraph (1)(A).

“(3) ADMINISTRATIVE EXPENSES.—

“(A) IN GENERAL.—A recipient may use not more than 10 percent of the amounts apportioned to the recipient under this section to administer, plan, and provide technical assistance for a project funded under this section.

“(B) GOVERNMENT SHARE OF COSTS.—The Government share of the costs of administering a program carried out using funds under this section shall be 100 percent.

“(4) ELIGIBLE CAPITAL EXPENSES.—The acquisition of public transportation services is an eligible capital expense under this section.

“(5) COORDINATION.—

“(A) DEPARTMENT OF TRANSPORTATION.—To the maximum extent feasible, the Secretary shall coordinate activities under this section with related activities under other Federal departments and agencies.

“(B) OTHER FEDERAL AGENCIES AND NON-PROFIT ORGANIZATIONS.—A State or local governmental authority or nonprofit organization that receives assistance from Government sources (other than the Department of Transportation) for nonemergency transportation services shall—

“(i) participate and coordinate with recipients of assistance under this chapter in the design and delivery of transportation services; and

“(ii) participate in the planning for the transportation services described in clause (i).

“(6) PROGRAM OF PROJECTS.—

“(A) IN GENERAL.—Amounts made available to carry out this section may be used for transportation projects to assist in providing transportation services for seniors and individuals with disabilities, if such transportation projects are included in a program of projects.

“(B) SUBMISSION.—A recipient shall annually submit a program of projects to the Secretary.

“(C) ASSURANCE.—The program of projects submitted under subparagraph (B) shall contain an assurance that the program provides for the maximum feasible coordination of transportation services assisted under this section with transportation services assisted by other Government sources.

“(7) MEAL DELIVERY FOR HOMEBOUND INDIVIDUALS.—A public transportation service provider that receives assistance under this section or section 5311(c) may coordinate and assist in regularly providing meal delivery service for homebound individuals, if the delivery service does not conflict with providing public transportation service or reduce service to public transportation passengers.

“(c) APPORTIONMENT AND TRANSFERS.—

“(1) FORMULA.—The Secretary shall apportion amounts made available to carry out this section as follows:

“(A) LARGE URBANIZED AREAS.—Sixty percent of the funds shall be apportioned among designated recipients for urbanized areas with a population of 200,000 or more individuals, as determined by the Bureau of the Census, in the ratio that—

“(i) the number of seniors and individuals with disabilities in each such urbanized area; bears to

“(ii) the number of seniors and individuals with disabilities in all such urbanized areas.

“(B) SMALL URBANIZED AREAS.—Twenty percent of the funds shall be apportioned among the States in the ratio that—

“(i) the number of seniors and individuals with disabilities in urbanized areas with a population of fewer than 200,000 individuals, as determined by the Bureau of the Census, in each State; bears to

“(ii) the number of seniors and individuals with disabilities in urbanized areas with a population of fewer than 200,000 individuals, as determined by the Bureau of the Census, in all States.

“(C) OTHER THAN URBANIZED AREAS.—Twenty percent of the funds shall be apportioned among the States in the ratio that—

“(i) the number of seniors and individuals with disabilities in other than urbanized areas in each State; bears to

“(ii) the number of seniors and individuals with disabilities in other than urbanized areas in all States.

“(2) AREAS SERVED BY PROJECTS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B)—

“(i) funds apportioned under paragraph (1)(A) shall be used for projects serving urbanized areas with a population of 200,000 or more individuals, as determined by the Bureau of the Census;

“(ii) funds apportioned under paragraph (1)(B) shall be used for projects serving urbanized areas with a population of fewer than 200,000 individuals, as determined by the Bureau of the Census; and

“(iii) funds apportioned under paragraph (1)(C) shall be used for projects serving other than urbanized areas.

“(B) EXCEPTIONS.—A State may use funds apportioned to the State under subparagraph (B) or (C) of paragraph (1)—

“(i) for a project serving an area other than an area specified in subparagraph

(A)(ii) or (A)(iii), as the case may be, if the Governor of the State certifies that all of the objectives of this section are being met in the area specified in subparagraph (A)(ii) or (A)(iii); or

“(ii) for a project anywhere in the State, if the State has established a statewide program for meeting the objectives of this section.

“(C) LIMITED TO ELIGIBLE PROJECTS.—Any funds transferred pursuant to subparagraph (B) shall be made available only for eligible projects selected under this section.

“(D) CONSULTATION.—A recipient may transfer an amount under subparagraph (B) only after consulting with responsible local officials, publicly owned operators of public transportation, and nonprofit providers in the area for which the amount was originally apportioned.

“(d) GOVERNMENT SHARE OF COSTS.—

“(1) CAPITAL PROJECTS.—A grant for a capital project under this section shall be in an amount equal to 80 percent of the net capital costs of the project, as determined by the Secretary.

“(2) OPERATING ASSISTANCE.—A grant made under this section for operating assistance may not exceed an amount equal to 50 percent of the net operating costs of the project, as determined by the Secretary.

“(3) REMAINDER OF NET COSTS.—The remainder of the net costs of a project carried out under this section—

“(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and

“(B) may be derived from amounts appropriated or otherwise made available—

“(i) to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation; or

“(ii) to carry out the Federal lands highways program under section 204 of title 23, United States Code.

“(4) USE OF CERTAIN FUNDS.—For purposes of paragraph (3)(B)(i), the prohibition under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) on the use of grant funds for matching requirements shall not apply to Federal or State funds to be used for transportation purposes.

“(e) GRANT REQUIREMENTS.—

“(1) IN GENERAL.—A grant under this section shall be subject to the same requirements as a grant under section 5307, to the extent the Secretary determines appropriate.

“(2) CERTIFICATION REQUIREMENTS.—

“(A) PROJECT SELECTION AND PLAN DEVELOPMENT.—Before receiving a grant under this section, each recipient shall certify that—

“(i) the projects selected by the recipient are included in a locally developed, coordinated public transit-human services transportation plan;

“(ii) the plan described in clause (i) was developed and approved through a process that included participation by seniors, individuals with disabilities, representatives of public, private, and nonprofit transportation and human services providers, and other members of the public; and

“(iii) to the maximum extent feasible, the services funded under this section will be coordinated with transportation services assisted by other Federal departments and agencies, including any transportation activities carried out by a recipient of a grant from the Department of Health and Human Services.

“(B) ALLOCATIONS TO SUBRECIPIENTS.—If a recipient allocates funds received under this section to subrecipients, the recipient shall certify that the funds are allocated on a fair and equitable basis.

“(f) COMPETITIVE PROCESS FOR GRANTS TO SUBRECIPIENTS.—

“(1) AREA-WIDE SOLICITATIONS.—A recipient of funds apportioned under subsection (c)(1)(A) may conduct, in cooperation with the appropriate metropolitan planning organization, an area-wide solicitation for applications for grants under this section.

“(2) STATE-WIDE SOLICITATIONS.—A recipient of funds apportioned under subparagraph (B) or (C) of subsection (c)(1) may conduct a statewide solicitation for applications for grants under this section.

“(3) APPLICATION.—If the recipient elects to engage in a competitive process, a recipient or subrecipient seeking to receive a grant from funds apportioned under subsection (c) shall submit to the recipient making the election an application in such form and in accordance with such requirements as the recipient making the election shall establish.

“(g) TRANSFERS OF FACILITIES AND EQUIPMENT.—A recipient may transfer a facility or equipment acquired using a grant under this section to any other recipient eligible to receive assistance under this chapter, if—

“(1) the recipient in possession of the facility or equipment consents to the transfer; and

“(2) the facility or equipment will continue to be used as required under this section.

“(h) PERFORMANCE MEASURES.—

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue a final rule to establish performance measures for grants under this section.

“(2) MEASURES.—The performance measures established under paragraph (1) shall require the collection of quantitative and qualitative information, as available, concerning—

“(A) modifications to the geographic coverage of transportation service, the quality of transportation service, or service times that increase the availability of transportation services for seniors and individuals with disabilities;

“(B) ridership;

“(C) accessibility improvements; and

“(D) other measures, as the Secretary determines is appropriate.

“(3) TARGETS.—Not later than 3 months after the date on which the Secretary issues a final rule under paragraph (1), and each fiscal year thereafter, each recipient that receives Federal financial assistance under this section shall establish performance targets in relation to the performance measures established by the Secretary.

“(4) REPORTS.—Each recipient of Federal financial assistance under this section shall submit to the Secretary an annual report that describes—

“(A) the progress of the recipient toward meeting the performance targets established under paragraph (3) for that fiscal year; and

“(B) the performance targets established by the recipient for the subsequent fiscal year.”

#### **SEC. 20012. FORMULA GRANTS FOR OTHER THAN URBANIZED AREAS.**

Section 5311 of title 49, United States Code, is amended to read as follows:

#### **“§ 5311. Formula grants for other than urbanized areas**

“(a) DEFINITIONS.—As used in this section, the following definitions shall apply:

“(1) RECIPIENT.—The term ‘recipient’ means a State or Indian tribe that receives a Federal transit program grant directly from the Government.

“(2) SUBRECIPIENT.—The term ‘subrecipient’ means a State or local governmental authority, a nonprofit organization, or an operator of public transportation or intercity bus service that receives Federal transit program grant funds indirectly through a recipient.

“(b) GENERAL AUTHORITY.—

“(1) GRANTS AUTHORIZED.—Except as provided by paragraph (2), the Secretary may award grants under this section to recipients located in areas other than urbanized areas for—

“(A) planning, provided that a grant under this section for planning activities shall be in addition to funding awarded to a State under section 5305 for planning activities that are directed specifically at the needs of other than urbanized areas in the State;

“(B) public transportation capital projects;

“(C) operating costs of equipment and facilities for use in public transportation; and

“(D) the acquisition of public transportation services, including service agreements with private providers of public transportation service.

“(2) STATE PROGRAM.—

“(A) IN GENERAL.—A project eligible for a grant under this section shall be included in a State program for public transportation service projects, including agreements with private providers of public transportation service.

“(B) SUBMISSION TO SECRETARY.—Each State shall submit to the Secretary annually the program described in subparagraph (A).

“(C) APPROVAL.—The Secretary may not approve the program unless the Secretary determines that—

“(i) the program provides a fair distribution of amounts in the State, including Indian reservations; and

“(ii) the program provides the maximum feasible coordination of public transportation service assisted under this section with transportation service assisted by other Federal sources.

“(3) RURAL TRANSPORTATION ASSISTANCE PROGRAM.—

“(A) IN GENERAL.—The Secretary shall carry out a rural transportation assistance program in other than urbanized areas.

“(B) GRANTS AND CONTRACTS.—In carrying out this paragraph, the Secretary may use not more than 2 percent of the amount made available under section 5338(a)(2)(F) to make grants and contracts for transportation research, technical assistance, training, and related support services in other than urbanized areas.

“(C) PROJECTS OF A NATIONAL SCOPE.—Not more than 15 percent of the amounts available under subparagraph (B) may be used by the Secretary to carry out projects of a national scope, with the remaining balance provided to the States.

“(4) DATA COLLECTION.—Each recipient under this section shall submit an annual report to the Secretary containing information on capital investment, operations, and service provided with funds received under this section, including—

“(A) total annual revenue;

“(B) sources of revenue;

“(C) total annual operating costs;

“(D) total annual capital costs;

“(E) fleet size and type, and related facilities;

“(F) vehicle revenue miles; and

“(G) ridership.

“(c) APPORTIONMENTS.—

“(1) PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS.—Of the amounts made available or appropriated for each fiscal year pursuant to section 5338(a)(2)(F) to carry out this paragraph, the following amounts shall be apportioned each fiscal year for grants to Indian tribes for any purpose eligible under this section, under such terms and conditions as may be established by the Secretary:

“(A) \$10,000,000 shall be distributed on a competitive basis by the Secretary.

“(B) \$20,000,000 shall be apportioned as formula grants, as provided in subsection (k).

“(2) APPALACHIAN DEVELOPMENT PUBLIC TRANSPORTATION ASSISTANCE PROGRAM.—

“(A) DEFINITIONS.—In this paragraph—

“(i) the term ‘Appalachian region’ has the same meaning as in section 14102 of title 40; and

“(ii) the term ‘eligible recipient’ means a State that participates in a program established under subtitle IV of title 40.

“(B) IN GENERAL.—The Secretary shall carry out a public transportation assistance program in the Appalachian region.

“(C) APPORTIONMENT.—Of amounts made available or appropriated for each fiscal year under section 5338(a)(2)(F) to carry out this paragraph, the Secretary shall apportion funds to eligible recipients for any purpose eligible under this section, based on the guidelines established under section 9.5(b) of the Appalachian Regional Commission Code.

“(D) SPECIAL RULE.—An eligible recipient may use amounts that cannot be used for operating expenses under this paragraph for a highway project if—

“(i) that use is approved, in writing, by the eligible recipient after appropriate notice and an opportunity for comment and appeal are provided to affected public transportation providers; and

“(ii) the eligible recipient, in approving the use of amounts under this subparagraph, determines that the local transit needs are being addressed.

“(3) REMAINING AMOUNTS.—

“(A) IN GENERAL.—The amounts made available or appropriated for each fiscal year pursuant to section 5338(a)(2)(F) that are not apportioned under paragraph (1) or (2) shall be apportioned in accordance with this paragraph.

“(B) APPORTIONMENT BASED ON LAND AREA AND POPULATION IN NONURBANIZED AREAS.—

“(i) IN GENERAL.—83.15 percent of the amount described in subparagraph (A) shall be apportioned to the States in accordance with this subparagraph.

“(ii) LAND AREA.—

“(I) IN GENERAL.—Subject to subclause (II), each State shall receive an amount that is equal to 20 percent of the amount apportioned under clause (i), multiplied by the ratio of the land area in areas other than urbanized areas in that State and divided by the land area in all areas other than urbanized areas in the United States, as shown by the most recent decennial census of population.

“(II) MAXIMUM APPORTIONMENT.—No State shall receive more than 5 percent of the amount apportioned under subclause (I).

“(iii) POPULATION.—Each State shall receive an amount equal to 80 percent of the amount apportioned under clause (i), multiplied by the ratio of the population of areas other than urbanized areas in that State and divided by the population of all areas other than urbanized areas in the United States, as shown by the most recent decennial census of population.

“(C) APPORTIONMENT BASED ON LAND AREA, VEHICLE REVENUE MILES, AND LOW-INCOME INDIVIDUALS IN NONURBANIZED AREAS.—

“(i) IN GENERAL.—16.85 percent of the amount described in subparagraph (A) shall be apportioned to the States in accordance with this subparagraph.

“(ii) LAND AREA.—Subject to clause (v), each State shall receive an amount that is equal to 29.68 percent of the amount apportioned under clause (i), multiplied by the ratio of the land area in areas other than urbanized areas in that State and divided by the land area in all areas other than urbanized areas in the United States, as shown by the most recent decennial census of population.

“(iii) VEHICLE REVENUE MILES.—Subject to clause (v), each State shall receive an amount that is equal to 29.68 percent of the amount apportioned under clause (i), multiplied by the ratio of vehicle revenue miles in areas other than urbanized areas in that State and divided by the vehicle revenue miles in all areas other than urbanized areas in the United States, as determined by national transit database reporting.

“(iv) LOW-INCOME INDIVIDUALS.—Each State shall receive an amount that is equal to 40.64 percent of the amount apportioned under clause (i), multiplied by the ratio of low-income individuals in areas other than urbanized areas in that State and divided by the number of low-income individuals in all areas other than urbanized areas in the United States, as shown by the Bureau of the Census.

“(v) MAXIMUM APPORTIONMENT.—No State shall receive—

“(I) more than 5 percent of the amount apportioned under clause (ii); or

“(II) more than 5 percent of the amount apportioned under clause (iii).

“(d) USE FOR LOCAL TRANSPORTATION SERVICE.—A State may use an amount apportioned under this section for a project included in a program under subsection (b) of this section and eligible for assistance under this chapter if the project will provide local transportation service, as defined by the Secretary of Transportation, in an area other than an urbanized area.

“(e) USE FOR ADMINISTRATION, PLANNING, AND TECHNICAL ASSISTANCE.—The Secretary may allow a State to use not more than 15 percent of the amount apportioned under this section to administer this section and provide technical assistance to a subrecipient, including project planning, program and management development, coordination of public transportation programs, and research the State considers appropriate to promote effective delivery of public transportation to an area other than an urbanized area.

“(f) INTERCITY BUS TRANSPORTATION.—

“(1) IN GENERAL.—A State shall expend at least 15 percent of the amount made available in each fiscal year to carry out a program to develop and support intercity bus transportation. Eligible activities under the program include—

“(A) planning and marketing for intercity bus transportation;

“(B) capital grants for intercity bus shelters;

“(C) joint-use stops and depots;

“(D) operating grants through purchase-of-service agreements, user-side subsidies, and demonstration projects; and

“(E) coordinating rural connections between small public transportation operations and intercity bus carriers.

“(2) CERTIFICATION.—A State does not have to comply with paragraph (1) of this sub-

section in a fiscal year in which the Governor of the State certifies to the Secretary, after consultation with affected intercity bus service providers, that the intercity bus service needs of the State are being met adequately.

“(g) ACCESS TO JOBS PROJECTS.—

“(1) IN GENERAL.—Amounts made available under section 5338(a)(2)(F) may be used to carry out a program to develop and maintain job access projects. Eligible projects may include—

“(A) projects relating to the development and maintenance of public transportation services designed to transport eligible low-income individuals to and from jobs and activities related to their employment, including—

“(i) public transportation projects to finance planning, capital, and operating costs of providing access to jobs under this chapter;

“(ii) promoting public transportation by low-income workers, including the use of public transportation by workers with non-traditional work schedules;

“(iii) promoting the use of transit vouchers for welfare recipients and eligible low-income individuals; and

“(iv) promoting the use of employer-provided transportation, including the transit pass benefit program under section 132 of the Internal Revenue Code of 1986; and

“(B) transportation projects designed to support the use of public transportation including—

“(i) enhancements to existing public transportation service for workers with non-traditional hours or reverse commutes;

“(ii) guaranteed ride home programs;

“(iii) bicycle storage facilities; and

“(iv) projects that otherwise facilitate the provision of public transportation services to employment opportunities.

“(2) PROJECT SELECTION AND PLAN DEVELOPMENT.—Each grant recipient under this subsection shall certify that—

“(A) the projects selected were included in a locally developed, coordinated public transit-human services transportation plan;

“(B) the plan was developed and approved through a process that included participation by low-income individuals, representatives of public, private, and nonprofit transportation and human services providers, and the public;

“(C) to the maximum extent feasible, services funded under this subsection are coordinated with transportation services funded by other Federal departments and agencies; and

“(D) allocations of the grant to subrecipients, if any, are distributed on a fair and equitable basis.

“(3) COMPETITIVE PROCESS FOR GRANTS TO SUBRECIPIENTS.—

“(A) STATEWIDE SOLICITATIONS.—A State may conduct a statewide solicitation for applications for grants to recipients and subrecipients under this subsection.

“(B) APPLICATION.—If the State elects to engage in a competitive process, recipients and subrecipients seeking to receive a grant from apportioned funds shall submit to the State an application in the form and in accordance with such requirements as the State shall establish.

“(h) GOVERNMENT SHARE OF COSTS.—

“(1) CAPITAL PROJECTS.—

“(A) IN GENERAL.—Except as provided by subparagraph (B), a grant awarded under this section for a capital project or project administrative expenses shall be for 80 percent of the net costs of the project, as determined by the Secretary.

“(B) EXCEPTION.—A State described in section 120(b) of title 23 shall receive a Government share of the net costs in accordance with the formula under that section.

“(2) OPERATING ASSISTANCE.—

“(A) IN GENERAL.—Except as provided by subparagraph (B), a grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.

“(B) EXCEPTION.—A State described in section 120(b) of title 23 shall receive a Government share of the net operating costs equal to 62.5 percent of the Government share provided for under paragraph (1)(B).

“(3) REMAINDER.—The remainder of net project costs—

“(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital;

“(B) may be derived from amounts appropriated or otherwise made available to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation; and

“(C) notwithstanding subparagraph (B), may be derived from amounts made available to carry out the Federal lands highway program established by section 204 of title 23.

“(4) USE OF CERTAIN FUNDS.—For purposes of paragraph (3)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

“(5) LIMITATION ON OPERATING ASSISTANCE.—A State carrying out a program of operating assistance under this section may not limit the level or extent of use of the Government grant for the payment of operating expenses.

“(i) TRANSFER OF FACILITIES AND EQUIPMENT.—With the consent of the recipient currently having a facility or equipment acquired with assistance under this section, a State may transfer the facility or equipment to any recipient eligible to receive assistance under this chapter if the facility or equipment will continue to be used as required under this section.

“(j) RELATIONSHIP TO OTHER LAWS.—

“(1) IN GENERAL.—Section 5333(b) applies to this section if the Secretary of Labor utilizes a special warranty that provides a fair and equitable arrangement to protect the interests of employees.

“(2) RULE OF CONSTRUCTION.—This subsection does not affect or discharge a responsibility of the Secretary of Transportation under a law of the United States.

“(k) FORMULA GRANTS FOR PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS.—

“(1) APPORTIONMENT.—

“(A) IN GENERAL.—Of the amounts described in subsection (c)(1)(B)—

“(i) 50 percent of the total amount shall be apportioned so that each Indian tribe providing public transportation service shall receive an amount equal to the total amount apportioned under this clause multiplied by the ratio of the number of vehicle revenue miles provided by an Indian tribe divided by the total number of vehicle revenue miles provided by all Indian tribes, as reported to the Secretary;

“(ii) 25 percent of the total amount shall be apportioned equally among each Indian tribe providing at least 200,000 vehicle revenue miles of public transportation service annually, as reported to the Secretary; and

“(iii) 25 percent of the total amount shall be apportioned among each Indian tribe providing public transportation on tribal lands on which more than 1,000 low-income individuals reside (as determined by the Bureau of the Census) so that each Indian tribe shall receive an amount equal to the total amount apportioned under this clause multiplied by the ratio of the number of low-income individuals residing on an Indian tribe's lands divided by the total number of low-income individuals on tribal lands on which more than 1,000 low-income individuals reside.

“(B) LIMITATION.—No recipient shall receive more than \$300,000 of the amounts apportioned under subparagraph (A)(iii) in a fiscal year.

“(C) REMAINING AMOUNTS.—Of the amounts made available under subparagraph (A)(iii), any amounts not apportioned under that subparagraph shall be allocated among Indian tribes receiving less than \$300,000 in a fiscal year according to the formula specified in that clause.

“(D) LOW-INCOME INDIVIDUALS.—For purposes of subparagraph (A)(iii), the term ‘low-income individual’ means an individual whose family income is at or below 100 percent of the poverty line, as that term is defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by that section, for a family of the size involved.

“(2) NON-TRIBAL SERVICE PROVIDERS.—A recipient that is an Indian tribe may use funds apportioned under this subsection to finance public transportation services provided by a non-tribal provider of public transportation that connects residents of tribal lands with surrounding communities, improves access to employment or healthcare, or otherwise addresses the mobility needs of tribal members.”

#### SEC. 20013. RESEARCH, DEVELOPMENT, DEMONSTRATION, AND DEPLOYMENT PROJECTS.

Section 5312 of title 49, United States Code, is amended to read as follows:

#### “§ 5312. Research, development, demonstration, and deployment projects

“(a) RESEARCH, DEVELOPMENT, DEMONSTRATION, AND DEPLOYMENT PROJECTS.—

“(1) IN GENERAL.—The Secretary may make grants and enter into contracts, cooperative agreements, and other agreements for research, development, demonstration, and deployment projects, and evaluation of research and technology of national significance to public transportation, that the Secretary determines will improve public transportation.

“(2) AGREEMENTS.—In order to carry out paragraph (1), the Secretary may make grants to and enter into contracts, cooperative agreements, and other agreements with—

“(A) departments, agencies, and instrumentalities of the Government;

“(B) State and local governmental entities;

“(C) providers of public transportation;

“(D) private or non-profit organizations;

“(E) institutions of higher education; and

“(F) technical and community colleges.

“(3) APPLICATION.—

“(A) IN GENERAL.—To receive a grant, contract, cooperative agreement, or other agreement under this section, an entity described in paragraph (2) shall submit an application to the Secretary.

“(B) FORM AND CONTENTS.—An application under subparagraph (A) shall be in such form and contain such information as the Secretary may require, including—

“(i) a statement of purpose detailing the need being addressed;

“(ii) the short- and long-term goals of the project, including opportunities for future innovation and development, the potential for deployment, and benefits to riders and public transportation; and

“(iii) the short- and long-term funding requirements to complete the project and any future objectives of the project.

“(b) RESEARCH.—

“(1) IN GENERAL.—The Secretary may make a grant to or enter into a contract, cooperative agreement, or other agreement under this section with an entity described in subsection (a)(2) to carry out a public transportation research project that has as its ultimate goal the development and deployment of new and innovative ideas, practices, and approaches.

“(2) PROJECT ELIGIBILITY.—A public transportation research project that receives assistance under paragraph (1) shall focus on—

“(A) providing more effective and efficient public transportation service, including services to—

“(i) seniors;

“(ii) individuals with disabilities; and

“(iii) low-income individuals;

“(B) mobility management and improvements and travel management systems;

“(C) data and communication system advancements;

“(D) system capacity, including—

“(i) train control;

“(ii) capacity improvements; and

“(iii) performance management;

“(E) capital and operating efficiencies;

“(F) planning and forecasting modeling and simulation;

“(G) advanced vehicle design;

“(H) advancements in vehicle technology;

“(I) asset maintenance and repair systems advancement;

“(J) construction and project management;

“(K) alternative fuels;

“(L) the environment and energy efficiency;

“(M) safety improvements; or

“(N) any other area that the Secretary determines is important to advance the interests of public transportation.

“(c) INNOVATION AND DEVELOPMENT.—

“(1) IN GENERAL.—The Secretary may make a grant to or enter into a contract, cooperative agreement, or other agreement under this section with an entity described in subsection (a)(2) to carry out a public transportation innovation and development project that seeks to improve public transportation systems nationwide in order to provide more efficient and effective delivery of public transportation services, including through technology and technological capacity improvements.

“(2) PROJECT ELIGIBILITY.—A public transportation innovation and development project that receives assistance under paragraph (1) shall focus on—

“(A) the development of public transportation research projects that received assistance under subsection (b) that the Secretary determines were successful;

“(B) planning and forecasting modeling and simulation;

“(C) capital and operating efficiencies;

“(D) advanced vehicle design;

“(E) advancements in vehicle technology;

“(F) the environment and energy efficiency;

“(G) system capacity, including train control and capacity improvements; or

“(H) any other area that the Secretary determines is important to advance the interests of public transportation.



“(d) DEMONSTRATION, DEPLOYMENT, AND EVALUATION.—

“(1) IN GENERAL.—The Secretary may, under terms and conditions that the Secretary prescribes, make a grant to or enter into a contract, cooperative agreement, or other agreement with an entity described in paragraph (2) to promote the early deployment and demonstration of innovation in public transportation that has broad applicability.

“(2) PARTICIPANTS.—An entity described in this paragraph is—

“(A) an entity described in subsection (a)(2); or

“(B) a consortium of entities described in subsection (a)(2), including a provider of public transportation, that will share the costs, risks, and rewards of early deployment and demonstration of innovation.

“(3) PROJECT ELIGIBILITY.—A project that receives assistance under paragraph (1) shall seek to build on successful research, innovation, and development efforts to facilitate—

“(A) the deployment of research and technology development resulting from private efforts or federally funded efforts; and

“(B) the implementation of research and technology development to advance the interests of public transportation.

“(4) EVALUATION.—Not later than 2 years after the date on which a project receives assistance under paragraph (1), the Secretary shall conduct a comprehensive evaluation of the success or failure of the projects funded under this subsection and any plan for broad-based implementation of the innovation promoted by successful projects.

“(e) ANNUAL REPORT ON RESEARCH.—Not later than the first Monday in February of each year, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives a report that includes—

“(1) a description of each project that received assistance under this section during the preceding fiscal year;

“(2) an evaluation of each project described in paragraph (1), including any evaluation conducted under subsection (d)(4) for the preceding fiscal year; and

“(3) a proposal for allocations of amounts for assistance under this section for the subsequent fiscal year.

“(f) GOVERNMENT SHARE OF COSTS.—

“(1) IN GENERAL.—The Government share of the cost of a project carried out under this section shall not exceed 80 percent.

“(2) NON-GOVERNMENT SHARE.—The non-Government share of the cost of a project carried out under this section may be derived from in-kind contributions.

“(3) FINANCIAL BENEFIT.—If the Secretary determines that there would be a clear and direct financial benefit to an entity under a grant, contract, cooperative agreement, or other agreement under this section, the Secretary shall establish a Government share of the costs of the project to be carried out under the grant, contract, cooperative agreement, or other agreement that is consistent with the benefit.”.

#### SEC. 20014. TECHNICAL ASSISTANCE AND STANDARDS DEVELOPMENT.

Section 5314 of title 49, United States Code, is amended to read as follows:

#### “§ 5314. Technical assistance and standards development

“(a) TECHNICAL ASSISTANCE AND STANDARDS DEVELOPMENT.—

“(1) IN GENERAL.—The Secretary may make grants and enter into contracts, cooperative

agreements, and other agreements (including agreements with departments, agencies, and instrumentalities of the Government) to carry out activities that the Secretary determines will assist recipients of assistance under this chapter to—

“(A) more effectively and efficiently provide public transportation service;

“(B) administer funds received under this chapter in compliance with Federal law; and

“(C) improve public transportation.

“(2) ELIGIBLE ACTIVITIES.—The activities carried out under paragraph (1) may include—

“(A) technical assistance; and

“(B) the development of standards and best practices by the public transportation industry.

“(b) TECHNICAL ASSISTANCE CENTERS.—

“(1) DEFINITION.—In this subsection, the term ‘eligible entity’ means a nonprofit organization, an institution of higher education, or a technical or community college.

“(2) IN GENERAL.—The Secretary may make grants to and enter into contracts, cooperative agreements, and other agreements with eligible entities to administer centers to provide technical assistance, including—

“(A) the development of tools and guidance; and

“(B) the dissemination of best practices.

“(3) COMPETITIVE PROCESS.—The Secretary may make grants and enter into contracts, cooperative agreements, and other agreements under paragraph (2) through a competitive process on a biennial basis for technical assistance in each of the following categories:

“(A) Human services transportation coordination, including—

“(i) transportation for seniors;

“(ii) transportation for individuals with disabilities; and

“(iii) coordination of local resources and programs to assist low-income individuals and veterans in gaining access to training and employment opportunities.

“(B) Transit-oriented development.

“(C) Transportation equity with regard to the impact that transportation planning, investment, and operations have on low-income and minority individuals.

“(D) Financing mechanisms, including—

“(i) public-private partnerships;

“(ii) bonding; and

“(iii) State and local capacity building.

“(E) Any other activity that the Secretary determines is important to advance the interests of public transportation.

“(4) EXPERTISE OF TECHNICAL ASSISTANCE CENTERS.—In selecting an eligible entity to administer a center under this subsection, the Secretary shall consider—

“(A) the demonstrated subject matter expertise of the eligible entity; and

“(B) the capacity of the eligible entity to deliver technical assistance on a regional or nationwide basis.

“(5) PARTNERSHIPS.—An eligible entity may partner with another eligible entity to provide technical assistance under this subsection.

“(c) GOVERNMENT SHARE OF COSTS.—

“(1) IN GENERAL.—The Government share of the cost of an activity under this section may not exceed 80 percent.

“(2) NON-GOVERNMENT SHARE.—The non-Government share of the cost of an activity under this section may be derived from in-kind contributions.”.

#### SEC. 20015. BUS TESTING FACILITIES.

Section 5318 of title 49, United States Code, is amended to read as follows:

#### “§ 5318. Bus testing facilities

“(a) FACILITIES.—The Secretary shall certify not more than 4 comprehensive facilities for testing new bus models for maintainability, reliability, safety, performance (including braking performance), structural integrity, fuel economy, emissions, and noise.

“(b) COOPERATIVE AGREEMENT.—The Secretary shall enter into a cooperative agreement with not more than 4 qualified entities to test public transportation vehicles under subsection (a).

“(c) FEES.—An entity that operates and maintains a facility certified under subsection (a) shall establish and collect reasonable fees for the testing of vehicles at the facility. The Secretary must approve the fees.

“(d) AVAILABILITY OF AMOUNTS TO PAY FOR TESTING.—

“(1) IN GENERAL.—The Secretary shall enter into a cooperative agreement with an entity that operates and maintains a facility certified under subsection (a), under which 80 percent of the fee for testing a vehicle at the facility may be available from amounts apportioned to a recipient under section 5336 or from amounts appropriated to carry out this section.

“(2) PROHIBITION.—An entity that operates and maintains a facility described in subsection (a) shall not have a financial interest in the outcome of the testing carried out at the facility.

“(e) ACQUIRING NEW BUS MODELS.—Amounts appropriated or made available under this chapter may be obligated or expended to acquire a new bus model only if—

“(1) a bus of that model has been tested at a facility described in subsection (a); and

“(2) the bus tested under paragraph (1) met—

“(A) performance standards for maintainability, reliability, performance (including braking performance), structural integrity, fuel economy, emissions, and noise, as established by the Secretary by rule; and

“(B) the minimum safety performance standards established by the Secretary pursuant to section 5329(b).”.

#### SEC. 20016. PUBLIC TRANSPORTATION WORKFORCE DEVELOPMENT AND HUMAN RESOURCE PROGRAMS.

Section 5322 of title 49, United States Code, is amended to read as follows:

#### “§ 5322. Public transportation workforce development and human resource programs

“(a) IN GENERAL.—The Secretary may undertake, or make grants or enter into contracts for, activities that address human resource needs as the needs apply to public transportation activities, including activities that—

“(1) educate and train employees;

“(2) develop the public transportation workforce through career outreach and preparation;

“(3) develop a curriculum for workforce development;

“(4) conduct outreach programs to increase minority and female employment in public transportation;

“(5) conduct research on public transportation personnel and training needs;

“(6) provide training and assistance for minority business opportunities;

“(7) advance training relating to maintenance of alternative energy, energy efficiency, or zero emission vehicles and facilities used in public transportation; and

“(8) address a current or projected workforce shortage in an area that requires technical expertise.

“(b) FUNDING.—

“(1) URBANIZED AREA FORMULA GRANTS.—A recipient or subrecipient of funding under

section 5307 shall expend not less than 0.5 percent of such funding for activities consistent with subsection (a).

“(2) **WAIVER.**—The Secretary may waive the requirement under paragraph (1) with respect to a recipient or subrecipient if the Secretary determines that the recipient or subrecipient—

“(A) has an adequate workforce development program; or

“(B) has partnered with a local educational institution in a manner that sufficiently promotes or addresses workforce development and human resource needs.

“(C) **INNOVATIVE PUBLIC TRANSPORTATION WORKFORCE DEVELOPMENT PROGRAM.**—

“(1) **PROGRAM ESTABLISHED.**—The Secretary shall establish a competitive grant program to assist the development of innovative activities eligible for assistance under subsection (a).

“(2) **SELECTION OF RECIPIENTS.**—To the maximum extent feasible, the Secretary shall select recipients that—

“(A) are geographically diverse;

“(B) address the workforce and human resources needs of large public transportation providers;

“(C) address the workforce and human resources needs of small public transportation providers;

“(D) address the workforce and human resources needs of urban public transportation providers;

“(E) address the workforce and human resources needs of rural public transportation providers;

“(F) advance training related to maintenance of alternative energy, energy efficiency, or zero emission vehicles and facilities used in public transportation;

“(G) target areas with high rates of unemployment; and

“(H) address current or projected workforce shortages in areas that require technical expertise.

“(d) **GOVERNMENT'S SHARE OF COSTS.**—The Government share of the cost of a project carried out using a grant under this section shall be 50 percent.

“(e) **REPORT.**—Not later than 2 years after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report concerning the measurable outcomes and impacts of the programs funded under this section.”

#### SEC. 20017. GENERAL PROVISIONS.

Section 5323 of title 49, United States Code, is amended to read as follows:

#### “§ 5323. General provisions

“(a) **INTERESTS IN PROPERTY.**—

“(1) **IN GENERAL.**—Financial assistance provided under this chapter to a State or a local governmental authority may be used to acquire an interest in, or to buy property of, a private company engaged in public transportation, for a capital project for property acquired from a private company engaged in public transportation after July 9, 1964, or to operate a public transportation facility or equipment in competition with, or in addition to, transportation service provided by an existing public transportation company, only if—

“(A) the Secretary determines that such financial assistance is essential to a program of projects required under sections 5303 and 5304;

“(B) the Secretary determines that the program provides for the participation of pri-

vate companies engaged in public transportation to the maximum extent feasible; and

“(C) just compensation under State or local law will be paid to the company for its franchise or property.

“(2) **LIMITATION.**—A governmental authority may not use financial assistance of the United States Government to acquire land, equipment, or a facility used in public transportation from another governmental authority in the same geographic area.

“(b) **RELOCATION AND REAL PROPERTY REQUIREMENTS.**—The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.) shall apply to financial assistance for capital projects under this chapter.

“(c) **CONSIDERATION OF ECONOMIC, SOCIAL, AND ENVIRONMENTAL INTERESTS.**—

“(1) **COOPERATION AND CONSULTATION.**—In carrying out the goal described in section 5301(c)(2), the Secretary shall cooperate and consult with the Secretary of the Interior and the Administrator of the Environmental Protection Agency on each project that may have a substantial impact on the environment.

“(2) **COMPLIANCE WITH NEPA.**—The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall apply to financial assistance for capital projects under this chapter.

“(d) **CORRIDOR PRESERVATION.**—

“(1) **IN GENERAL.**—The Secretary may assist a recipient in acquiring right-of-way before the completion of the environmental reviews for any project that may use the right-of-way if the acquisition is otherwise permitted under Federal law. The Secretary may establish restrictions on such an acquisition as the Secretary determines to be necessary and appropriate.

“(2) **ENVIRONMENTAL REVIEWS.**—Right-of-way acquired under this subsection may not be developed in anticipation of the project until all required environmental reviews for the project have been completed.

“(e) **CONDITION ON CHARTER BUS TRANSPORTATION SERVICE.**—

“(1) **AGREEMENTS.**—Financial assistance under this chapter may be used to buy or operate a bus only if the applicant, governmental authority, or publicly owned operator that receives the assistance agrees that, except as provided in the agreement, the governmental authority or an operator of public transportation for the governmental authority will not provide charter bus transportation service outside the urban area in which it provides regularly scheduled public transportation service. An agreement shall provide for a fair arrangement the Secretary of Transportation considers appropriate to ensure that the assistance will not enable a governmental authority or an operator for a governmental authority to foreclose a private operator from providing intercity charter bus service if the private operator can provide the service.

“(2) **VIOLATIONS.**—

“(A) **INVESTIGATIONS.**—On receiving a complaint about a violation of the agreement required under paragraph (1), the Secretary shall investigate and decide whether a violation has occurred.

“(B) **ENFORCEMENT OF AGREEMENTS.**—If the Secretary decides that a violation has occurred, the Secretary shall correct the violation under terms of the agreement.

“(C) **ADDITIONAL REMEDIES.**—In addition to any remedy specified in the agreement, the Secretary shall bar a recipient or an operator from receiving Federal transit assistance in an amount the Secretary considers appropriate if the Secretary finds a pattern of violations of the agreement.

“(f) **BOND PROCEEDS ELIGIBLE FOR LOCAL SHARE.**—

“(1) **USE AS LOCAL MATCHING FUNDS.**—Notwithstanding any other provision of law, a recipient of assistance under section 5307, 5309, or 5337 may use the proceeds from the issuance of revenue bonds as part of the local matching funds for a capital project.

“(2) **MAINTENANCE OF EFFORT.**—The Secretary shall approve of the use of the proceeds from the issuance of revenue bonds for the remainder of the net project cost only if the Secretary finds that the aggregate amount of financial support for public transportation in the urbanized area provided by the State and affected local governmental authorities during the next 3 fiscal years, as programmed in the State transportation improvement program under section 5304, is not less than the aggregate amount provided by the State and affected local governmental authorities in the urbanized area during the preceding 3 fiscal years.

“(3) **DEBT SERVICE RESERVE.**—The Secretary may reimburse an eligible recipient for deposits of bond proceeds in a debt service reserve that the recipient establishes pursuant to section 5302(3)(J) from amounts made available to the recipient under section 5309.

“(g) **SCHOOLBUS TRANSPORTATION.**—

“(1) **AGREEMENTS.**—Financial assistance under this chapter may be used for a capital project, or to operate public transportation equipment or a public transportation facility, only if the applicant agrees not to provide schoolbus transportation that exclusively transports students and school personnel in competition with a private schoolbus operator. This subsection does not apply—

“(A) to an applicant that operates a school system in the area to be served and a separate and exclusive schoolbus program for the school system; and

“(B) unless a private schoolbus operator can provide adequate transportation that complies with applicable safety standards at reasonable rates.

“(2) **VIOLATIONS.**—If the Secretary finds that an applicant, governmental authority, or publicly owned operator has violated the agreement required under paragraph (1), the Secretary shall bar a recipient or an operator from receiving Federal transit assistance in an amount the Secretary considers appropriate.

“(h) **BUYING BUSES UNDER OTHER LAWS.**—Subsections (e) and (g) of this section apply to financial assistance to buy a bus under sections 133 and 142 of title 23.

“(i) **GRANT AND LOAN PROHIBITIONS.**—A grant or loan may not be used to—

“(1) pay ordinary governmental or non-project operating expenses; or

“(2) support a procurement that uses an exclusionary or discriminatory specification.

“(j) **GOVERNMENT SHARE OF COSTS FOR CERTAIN PROJECTS.**—A grant for a project to be assisted under this chapter that involves acquiring vehicle-related equipment or facilities required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) or vehicle-related equipment or facilities (including clean fuel or alternative fuel vehicle-related equipment or facilities) for purposes of complying with or maintaining compliance with the Clean Air Act, is for 90 percent of the net project cost of such equipment or facilities attributable to compliance with those Acts. The Secretary shall have discretion to determine, through practicable administrative procedures, the costs of such equipment or facilities attributable to compliance with those Acts.

“(k) BUY AMERICA.—

“(1) IN GENERAL.—The Secretary may obligate an amount that may be appropriated to carry out this chapter for a project only if the steel, iron, and manufactured goods used in the project are produced in the United States.

“(2) WAIVER.—The Secretary may waive paragraph (1) of this subsection if the Secretary finds that—

“(A) applying paragraph (1) would be inconsistent with the public interest;

“(B) the steel, iron, and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality;

“(C) when procuring rolling stock (including train control, communication, and traction power equipment) under this chapter—

“(i) the cost of components and subcomponents produced in the United States is more than 60 percent of the cost of all components of the rolling stock; and

“(ii) final assembly of the rolling stock has occurred in the United States; or

“(D) including domestic material will increase the cost of the overall project by more than 25 percent.

“(3) WRITTEN WAIVER DETERMINATION AND ANNUAL REPORT.—

“(A) WRITTEN DETERMINATION.—Before issuing a waiver under paragraph (2), the Secretary shall—

“(i) publish in the Federal Register and make publicly available in an easily identifiable location on the website of the Department of Transportation a detailed written explanation of the waiver determination; and

“(ii) provide the public with a reasonable period of time for notice and comment.

“(B) ANNUAL REPORT.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, and annually thereafter, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report listing any waiver issued under paragraph (2) during the preceding year.

“(4) LABOR COSTS FOR FINAL ASSEMBLY.—In this subsection, labor costs involved in final assembly are not included in calculating the cost of components.

“(5) WAIVER PROHIBITED.—The Secretary may not make a waiver under paragraph (2) of this subsection for goods produced in a foreign country if the Secretary, in consultation with the United States Trade Representative, decides that the government of that foreign country—

“(A) has an agreement with the United States Government under which the Secretary has waived the requirement of this subsection; and

“(B) has violated the agreement by discriminating against goods to which this subsection applies that are produced in the United States and to which the agreement applies.

“(6) PENALTY FOR MISLABELING AND MISREPRESENTATION.—A person is ineligible under subpart 9.4 of the Federal Acquisition Regulation, or any successor thereto, to receive a contract or subcontract made with amounts authorized under the Federal Public Transportation Act of 2012 if a court or department, agency, or instrumentality of the Government decides the person intentionally—

“(A) affixed a ‘Made in America’ label, or a label with an inscription having the same meaning, to goods sold in or shipped to the United States that are used in a project to

which this subsection applies but not produced in the United States; or

“(B) represented that goods described in subparagraph (A) of this paragraph were produced in the United States.

“(7) STATE REQUIREMENTS.—The Secretary may not impose any limitation on assistance provided under this chapter that restricts a State from imposing more stringent requirements than this subsection on the use of articles, materials, and supplies mined, produced, or manufactured in foreign countries in projects carried out with that assistance or restricts a recipient of that assistance from complying with those State-imposed requirements.

“(8) OPPORTUNITY TO CORRECT INADVERTENT ERROR.—The Secretary may allow a manufacturer or supplier of steel, iron, or manufactured goods to correct after bid opening any certification of noncompliance or failure to properly complete the certification (but not including failure to sign the certification) under this subsection if such manufacturer or supplier attests under penalty of perjury that such manufacturer or supplier submitted an incorrect certification as a result of an inadvertent or clerical error. The burden of establishing inadvertent or clerical error is on the manufacturer or supplier.

“(9) ADMINISTRATIVE REVIEW.—A party adversely affected by an agency action under this subsection shall have the right to seek review under section 702 of title 5.

“(1) PARTICIPATION OF GOVERNMENTAL AGENCIES IN DESIGN AND DELIVERY OF TRANSPORTATION SERVICES.—Governmental agencies and nonprofit organizations that receive assistance from Government sources (other than the Department of Transportation) for nonemergency transportation services shall—

“(1) participate and coordinate with recipients of assistance under this chapter in the design and delivery of transportation services; and

“(2) be included in the planning for those services.

“(m) RELATIONSHIP TO OTHER LAWS.—

“(1) FRAUD AND FALSE STATEMENTS.—Section 1001 of title 18 applies to a certificate, submission, or statement provided under this chapter. The Secretary may terminate financial assistance under this chapter and seek reimbursement directly, or by offsetting amounts, available under this chapter if the Secretary determines that a recipient of such financial assistance has made a false or fraudulent statement or related act in connection with a Federal public transportation program.

“(2) POLITICAL ACTIVITIES OF NON-SUPERVISORY EMPLOYEES.—The provision of assistance under this chapter shall not be construed to require the application of chapter 15 of title 5 to any nonsupervisory employee of a public transportation system (or any other agency or entity performing related functions) to whom such chapter does not otherwise apply.

“(n) PREAWARD AND POSTDELIVERY REVIEW OF ROLLING STOCK PURCHASES.—The Secretary shall prescribe regulations requiring a preaward and postdelivery review of a grant under this chapter to buy rolling stock to ensure compliance with Government motor vehicle safety requirements, subsection (k) of this section, and bid specifications requirements of grant recipients under this chapter. Under this subsection, independent inspections and review are required, and a manufacturer certification is not sufficient. Rolling stock procurements of 20 vehicles or fewer made for the purpose of serving other

than urbanized areas and urbanized areas with populations of 200,000 or fewer shall be subject to the same requirements as established for procurements of 10 or fewer buses under the post-delivery purchaser's requirements certification process under section 663.37(c) of title 49, Code of Federal Regulations.

“(o) SUBMISSION OF CERTIFICATIONS.—A certification required under this chapter and any additional certification or assurance required by law or regulation to be submitted to the Secretary may be consolidated into a single document to be submitted annually as part of a grant application under this chapter. The Secretary shall publish annually a list of all certifications required under this chapter with the publication required under section 5336(d)(2).

“(p) GRANT REQUIREMENTS.—The grant requirements under sections 5307, 5309, and 5337 apply to any project under this chapter that receives any assistance or other financing under chapter 6 (other than section 609) of title 23.

“(q) ALTERNATIVE FUELING FACILITIES.—A recipient of assistance under this chapter may allow the incidental use of federally funded alternative fueling facilities and equipment by nontransit public entities and private entities if—

“(1) the incidental use does not interfere with the recipient's public transportation operations;

“(2) all costs related to the incidental use are fully recaptured by the recipient from the nontransit public entity or private entity;

“(3) the recipient uses revenues received from the incidental use in excess of costs for planning, capital, and operating expenses that are incurred in providing public transportation; and

“(4) private entities pay all applicable excise taxes on fuel.

“(r) FIXED GUIDEWAY CATEGORICAL EXCLUSION.—

“(1) STUDY.—Not later than 6 months after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall conduct a study to determine the feasibility of providing a categorical exclusion for streetcar, bus rapid transit, and light rail projects located within an existing transportation right-of-way from the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) in accordance with the Council on Environmental Quality implementing regulations under parts 1500 through 1508 of title 40, Code of Federal Regulations, or any successor thereto.

“(2) FINDINGS AND RULES.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue findings and, if appropriate, issue rules to provide categorical exclusions for suitable categories of projects.”.

#### SEC. 20018. CONTRACT REQUIREMENTS.

Section 5325 of title 49, United States Code, is amended—

(1) in subsection (h), by striking “Federal Public Transportation Act of 2005” and inserting “Federal Public Transportation Act of 2012”;

(2) in subsection (j)(2)(C), by striking “, including the performance reported in the Contractor Performance Assessment Reports required under section 5309(1)(2)”;

(3) by adding at the end the following:

“(k) VETERANS EMPLOYMENT.—Recipients and subrecipients of Federal financial assistance under this chapter shall ensure that contractors working on a capital project funded using such assistance give a hiring

preference to veterans, as defined in section 2108 of title 5, who have the requisite skills and abilities to perform the construction work required under the contract.”.

#### SEC. 20019. TRANSIT ASSET MANAGEMENT.

Section 5326 of title 49, United States Code, is amended to read as follows:

##### “§ 5326. Transit asset management

“(a) DEFINITIONS.—In this section the following definitions shall apply:

“(1) CAPITAL ASSET.—The term ‘capital asset’ includes equipment, rolling stock, infrastructure, and facilities for use in public transportation and owned or leased by a recipient or subrecipient of Federal financial assistance under this chapter.

“(2) TRANSIT ASSET MANAGEMENT PLAN.—The term ‘transit asset management plan’ means a plan developed by a recipient of funding under this chapter that—

“(A) includes, at a minimum, capital asset inventories and condition assessments, decision support tools, and investment prioritization; and

“(B) the recipient certifies complies with the rule issued under this section.

“(3) TRANSIT ASSET MANAGEMENT SYSTEM.—The term ‘transit asset management system’ means a strategic and systematic process of operating, maintaining, and improving public transportation capital assets effectively throughout the life cycle of such assets.

“(b) TRANSIT ASSET MANAGEMENT SYSTEM.—The Secretary shall establish and implement a national transit asset management system, which shall include—

“(1) a definition of the term ‘state of good repair’ that includes objective standards for measuring the condition of capital assets of recipients, including equipment, rolling stock, infrastructure, and facilities;

“(2) a requirement that recipients and subrecipients of Federal financial assistance under this chapter develop a transit asset management plan;

“(3) a requirement that each recipient of Federal financial assistance under this chapter report on the condition of the system of the recipient and provide a description of any change in condition since the last report;

“(4) an analytical process or decision support tool for use by public transportation systems that—

“(A) allows for the estimation of capital investment needs of such systems over time; and

“(B) assists with asset investment prioritization by such systems; and

“(5) technical assistance to recipients of Federal financial assistance under this chapter.

“(c) PERFORMANCE MEASURES AND TARGETS.—

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue a final rule to establish performance measures based on the state of good repair standards established under subsection (b)(1).

“(2) TARGETS.—Not later than 3 months after the date on which the Secretary issues a final rule under paragraph (1), and each fiscal year thereafter, each recipient of Federal financial assistance under this chapter shall establish performance targets in relation to the performance measures established by the Secretary.

“(3) REPORTS.—Each recipient of Federal financial assistance under this chapter shall submit to the Secretary an annual report that describes—

“(A) the progress of the recipient during the fiscal year to which the report relates toward meeting the performance targets established under paragraph (2) for that fiscal year; and

“(B) the performance targets established by the recipient for the subsequent fiscal year.

“(d) RULEMAKING.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue a final rule to implement the transit asset management system described in subsection (b).”.

#### SEC. 20020. PROJECT MANAGEMENT OVERSIGHT.

Section 5327 of title 49, United States Code, is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking “United States” and all that follows through “Secretary of Transportation” and inserting the following: “Federal financial assistance for a major capital project for public transportation under this chapter or any other provision of Federal law, a recipient must prepare a project management plan approved by the Secretary and carry out the project in accordance with the project management plan”; and

(B) in paragraph (12), by striking “each month” and inserting “quarterly”;

(2) by striking subsections (c), (d), and (f);

(3) by inserting after subsection (b) the following:

“(c) ACCESS TO SITES AND RECORDS.—Each recipient of Federal financial assistance for public transportation under this chapter or any other provision of Federal law shall provide the Secretary and a contractor the Secretary chooses under section 5338(g) with access to the construction sites and records of the recipient when reasonably necessary.”;

(4) by redesignating subsection (e) as subsection (d); and

(5) in subsection (d), as so redesignated—

(A) in paragraph (1), by striking “subsection (c) of this section” and inserting “section 5338(g)”; and

(B) in paragraph (2)—

(i) by striking “preliminary engineering stage” and inserting “project development phase”; and

(ii) by striking “another stage” and inserting “another phase”.

#### SEC. 20021. PUBLIC TRANSPORTATION SAFETY.

(a) PUBLIC TRANSPORTATION SAFETY PROGRAM.—Section 5329 of title 49, United States Code, is amended to read as follows:

##### “§ 5329. Public transportation safety program

“(a) DEFINITION.—In this section, the term ‘recipient’ means a State or local governmental authority, or any other operator of a public transportation system, that receives financial assistance under this chapter.

“(b) NATIONAL PUBLIC TRANSPORTATION SAFETY PLAN.—

“(1) IN GENERAL.—The Secretary shall create and implement a national public transportation safety plan to improve the safety of all public transportation systems that receive funding under this chapter.

“(2) CONTENTS OF PLAN.—The national public transportation safety plan under paragraph (1) shall include—

“(A) safety performance criteria for all modes of public transportation;

“(B) the definition of the term ‘state of good repair’ established under section 5326(b);

“(C) minimum safety performance standards for public transportation vehicles used in revenue operations that—

“(i) do not apply to rolling stock otherwise regulated by the Secretary or any other Federal agency; and

“(ii) to the extent practicable, take into consideration—

“(I) relevant recommendations of the National Transportation Safety Board; and

“(II) recommendations of, and best practices standards developed by, the public transportation industry; and

“(D) a public transportation safety certification training program, as described in subsection (c).

“(c) PUBLIC TRANSPORTATION SAFETY CERTIFICATION TRAINING PROGRAM.—

“(1) IN GENERAL.—The Secretary shall establish a public transportation safety certification training program for Federal and State employees, or other designated personnel, who conduct safety audits and examinations of public transportation systems and employees of public transportation agencies directly responsible for safety oversight.

“(2) INTERIM PROVISIONS.—Not later than 90 days after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall establish interim provisions for the certification and training of the personnel described in paragraph (1), which shall be in effect until the effective date of the final rule issued by the Secretary to implement this subsection.

“(d) PUBLIC TRANSPORTATION AGENCY SAFETY PLAN.—

“(1) IN GENERAL.—Effective 1 year after the effective date of a final rule issued by the Secretary to carry out this subsection, each recipient shall certify that the recipient has established a comprehensive agency safety plan that includes, at a minimum—

“(A) a requirement that the board of directors (or equivalent entity) of the recipient approve the agency safety plan and any updates to the agency safety plan;

“(B) methods for identifying and evaluating safety risks throughout all elements of the public transportation system of the recipient;

“(C) strategies to minimize the exposure of the public, personnel, and property to hazards and unsafe conditions;

“(D) a process and timeline for conducting an annual review and update of the safety plan of the recipient;

“(E) performance targets based on the safety performance criteria and state of good repair standards established under subparagraphs (A) and (B), respectively, of subsection (b)(2);

“(F) assignment of an adequately trained safety officer who reports directly to the general manager, president, or equivalent officer of the recipient; and

“(G) a comprehensive staff training program for the operations personnel and personnel directly responsible for safety of the recipient that includes—

“(i) the completion of a safety training program; and

“(ii) continuing safety education and training.

“(2) INTERIM AGENCY SAFETY PLAN.—A system safety plan developed pursuant to part 659 of title 49, Code of Federal Regulations, as in effect on the date of enactment of the Federal Public Transportation Act of 2012, shall remain in effect until such time as this subsection takes effect.

“(e) STATE SAFETY OVERSIGHT PROGRAM.—

“(1) APPLICABILITY.—This subsection applies only to eligible States.

“(2) DEFINITION.—In this subsection, the term ‘eligible State’ means a State that has—

“(A) a rail fixed guideway public transportation system within the jurisdiction of the State that is not subject to regulation by the Federal Railroad Administration; or

“(B) a rail fixed guideway public transportation system in the engineering or construction phase of development within the jurisdiction of the State that will not be subject to regulation by the Federal Railroad Administration.

“(3) IN GENERAL.—In order to obligate funds apportioned under section 5338 to carry out this chapter, effective 3 years after the date on which a final rule under this subsection becomes effective, an eligible State shall have in effect a State safety oversight program approved by the Secretary under which the State—

“(A) assumes responsibility for overseeing rail fixed guideway public transportation safety;

“(B) adopts and enforces Federal law on rail fixed guideway public transportation safety;

“(C) establishes a State safety oversight agency;

“(D) determines, in consultation with the Secretary, an appropriate staffing level for the State safety oversight agency that is commensurate with the number, size, and complexity of the rail fixed guideway public transportation systems in the eligible State;

“(E) requires that employees and other designated personnel of the eligible State safety oversight agency who are responsible for rail fixed guideway public transportation safety oversight are qualified to perform such functions through appropriate training, including successful completion of the public transportation safety certification training program established under subsection (c); and

“(F) prohibits any public transportation agency from providing funds to the State safety oversight agency or an entity designated by the eligible State as the State safety oversight agency under paragraph (4).

“(4) STATE SAFETY OVERSIGHT AGENCY.—

“(A) IN GENERAL.—Each State safety oversight program shall establish a State safety oversight agency that—

“(i) is an independent legal entity responsible for the safety of rail fixed guideway public transportation systems;

“(ii) is financially and legally independent from any public transportation entity that the State safety oversight agency oversees;

“(iii) does not fund, promote, or provide public transportation services;

“(iv) does not employ any individual who is also responsible for the administration of public transportation programs;

“(v) has the authority to review, approve, oversee, and enforce the implementation by the rail fixed guideway public transportation agency of the public transportation agency safety plan required under subsection (d);

“(vi) has investigative and enforcement authority with respect to the safety of rail fixed guideway public transportation systems of the eligible State;

“(vii) audits, at least once triennially, the compliance of the rail fixed guideway public transportation systems in the eligible State subject to this subsection with the public transportation agency safety plan required under subsection (d); and

“(viii) provides, at least once annually, a status report on the safety of the rail fixed guideway public transportation systems the State safety oversight agency oversees to—

“(I) the Federal Transit Administration;

“(II) the Governor of the eligible State; and

“(III) the board of directors, or equivalent entity, of any rail fixed guideway public transportation system that the State safety oversight agency oversees.

“(B) WAIVER.—At the request of an eligible State, the Secretary may waive clauses (i) and (iii) of subparagraph (A) for eligible States with 1 or more rail fixed guideway systems in revenue operations, design, or construction, that—

“(i) have fewer than 1,000,000 combined actual and projected rail fixed guideway revenue miles per year; or

“(ii) provide fewer than 10,000,000 combined actual and projected unlinked passenger trips per year.

“(5) ENFORCEMENT.—Each State safety oversight agency shall have the authority to request that the Secretary take enforcement actions available under subsection (g) against a rail fixed guideway public transportation system that is not in compliance with Federal safety laws.

“(6) PROGRAMS FOR MULTI-STATE RAIL FIXED GUIDEWAY PUBLIC TRANSPORTATION SYSTEMS.—An eligible State that has within the jurisdiction of the eligible State a rail fixed guideway public transportation system that operates in more than 1 eligible State shall—

“(A) jointly with all other eligible States in which the rail fixed guideway public transportation system operates, ensure uniform safety standards and enforcement procedures that shall be in compliance with this section, and establish and implement a State safety oversight program approved by the Secretary; or

“(B) jointly with all other eligible States in which the rail fixed guideway public transportation system operates, designate an entity having characteristics consistent with the characteristics described in paragraph (3) to carry out the State safety oversight program approved by the Secretary.

“(7) GRANTS.—

“(A) IN GENERAL.—The Secretary may make a grant to an eligible State to develop or carry out a State safety oversight program, if the eligible State submits—

“(i) a proposal for the establishment of a State safety oversight program to the Secretary for review and written approval before implementing a State safety oversight program; and

“(ii) any amendment to the State safety oversight program of the eligible State to the Secretary for review not later than 60 days before the effective date of the amendment.

“(B) DETERMINATION BY SECRETARY.—

“(i) IN GENERAL.—The Secretary shall transmit written approval to an eligible State that submits a State safety oversight program, if the Secretary determines the State safety oversight program meets the requirements of this subsection and the State safety oversight program is adequate to promote the purposes of this section.

“(ii) AMENDMENT.—The Secretary shall transmit to an eligible State that submits an amendment under subparagraph (A)(ii) a written determination with respect to the amendment.

“(iii) NO WRITTEN DECISION.—If an eligible State does not receive a written decision from the Secretary with respect to an amendment submitted under subparagraph (A)(ii) before the end of the 60-day period beginning on the date on which the eligible State submits the amendment, the amendment shall be deemed to be approved.

“(iv) DISAPPROVAL.—If the Secretary determines that a State safety oversight program does not meet the requirements of this subsection, the Secretary shall transmit to the eligible State a written explanation and allow the eligible State to modify and resubmit the State safety oversight program for approval.

“(C) GOVERNMENT SHARE.—

“(i) IN GENERAL.—The Government share of the reasonable cost of a State safety oversight program developed or carried out using a grant under this paragraph shall be 80 percent.

“(ii) IN-KIND CONTRIBUTIONS.—Any calculation of the non-Government share of a State safety oversight program shall include in-kind contributions by an eligible State.

“(iii) NON-GOVERNMENT SHARE.—The non-Government share of the cost of a State safety oversight program developed or carried out using a grant under this paragraph may not be met by—

“(I) any Federal funds;

“(II) any funds received from a public transportation agency; or

“(III) any revenues earned by a public transportation agency.

“(iv) SAFETY TRAINING PROGRAM.—The Secretary may reimburse an eligible State or a recipient for the full costs of participation in the public transportation safety certification training program established under subsection (c) by an employee of a State safety oversight agency or a recipient who is directly responsible for safety oversight.

“(8) CONTINUAL EVALUATION OF PROGRAM.—The Secretary shall continually evaluate the implementation of a State safety oversight program by a State safety oversight agency, on the basis of—

“(A) reports submitted by the State safety oversight agency under paragraph (4)(A)(viii); and

“(B) audits carried out by the Secretary.

“(9) INADEQUATE PROGRAM.—

“(A) IN GENERAL.—If the Secretary finds that a State safety oversight program approved by the Secretary is not being carried out in accordance with this section or has become inadequate to ensure the enforcement of Federal safety regulations, the Secretary shall—

“(i) transmit to the eligible State a written explanation of the reason the program has become inadequate and inform the State of the intention to withhold funds, including the amount of funds proposed to be withheld under this section, or withdraw approval of the State safety oversight program; and

“(ii) allow the eligible State a reasonable period of time to modify the State safety oversight program or implementation of the program and submit an updated proposal for the State safety oversight program to the Secretary for approval.

“(B) FAILURE TO CORRECT.—If the Secretary determines that a modification by an eligible State of the State safety oversight program is not sufficient to ensure the enforcement of Federal safety regulations, the Secretary may—

“(i) withhold funds available under this section in an amount determined by the Secretary; or

“(ii) provide written notice of withdrawal of State safety oversight program approval.

“(C) TEMPORARY OVERSIGHT.—In the event the Secretary takes action under subparagraph (B)(ii), the Secretary shall provide oversight of the rail fixed guideway systems in an eligible State until the State submits a State safety oversight program approved by the Secretary.

“(D) RESTORATION.—

“(i) CORRECTION.—The eligible State shall address any inadequacy to the satisfaction of the Secretary prior to the Secretary restoring funds withheld under this paragraph.

“(ii) AVAILABILITY AND REALLOCATION.—Any funds withheld under this paragraph shall remain available for restoration to the

eligible State until the end of the first fiscal year after the fiscal year in which the funds were withheld, after which time the funds shall be available to the Secretary for allocation to other eligible States under this section.

“(10) FEDERAL OVERSIGHT.—The Secretary shall—

“(A) oversee the implementation of each State safety oversight program under this subsection;

“(B) audit the operations of each State safety oversight agency at least once triennially; and

“(C) issue rules to carry out this subsection.

“(f) AUTHORITY OF SECRETARY.—In carrying out this section, the Secretary may—

“(1) conduct inspections, investigations, audits, examinations, and testing of the equipment, facilities, rolling stock, and operations of the public transportation system of a recipient;

“(2) make reports and issue directives with respect to the safety of the public transportation system of a recipient;

“(3) in conjunction with an accident investigation or an investigation into a pattern or practice of conduct that negatively affects public safety, issue a subpoena to, and take the deposition of, any employee of a recipient or a State safety oversight agency, if—

“(A) before the issuance of the subpoena, the Secretary requests a determination by the Attorney General of the United States as to whether the subpoena will interfere with an ongoing criminal investigation; and

“(B) the Attorney General—

“(i) determines that the subpoena will not interfere with an ongoing criminal investigation; or

“(ii) fails to make a determination under clause (i) before the date that is 30 days after the date on which the Secretary makes a request under subparagraph (A);

“(4) require the production of documents by, and prescribe recordkeeping and reporting requirements for, a recipient or a State safety oversight agency;

“(5) investigate public transportation accidents and incidents and provide guidance to recipients regarding prevention of accidents and incidents;

“(6) at reasonable times and in a reasonable manner, enter and inspect equipment, facilities, rolling stock, operations, and relevant records of the public transportation system of a recipient; and

“(7) issue rules to carry out this section.

“(g) ENFORCEMENT ACTIONS.—

“(1) TYPES OF ENFORCEMENT ACTIONS.—The Secretary may take enforcement action against a recipient that does not comply with Federal law with respect to the safety of the public transportation system, including—

“(A) issuing directives;

“(B) requiring more frequent oversight of the recipient by a State safety oversight agency or the Secretary;

“(C) imposing more frequent reporting requirements;

“(D) requiring that any Federal financial assistance provided under this chapter be spent on correcting safety deficiencies identified by the Secretary or the State safety oversight agency before such funds are spent on other projects;

“(E) subject to paragraph (2), withholding Federal financial assistance, in an amount to be determined by the Secretary, from the recipient, until such time as the recipient comes into compliance with this section; and

“(F) subject to paragraph (3), imposing a civil penalty, in an amount to be determined by the Secretary.

“(2) USE OR WITHHOLDING OF FUNDS.—

“(A) IN GENERAL.—The Secretary may require the use of funds in accordance with paragraph (1)(D), or withhold funds under paragraph (1)(E), only if the Secretary finds that a recipient is engaged in a pattern or practice of serious safety violations or has otherwise refused to comply with Federal law relating to the safety of the public transportation system.

“(B) NOTICE.—Before withholding funds from a recipient under paragraph (1)(E), the Secretary shall provide to the recipient—

“(i) written notice of a violation and the amount proposed to be withheld; and

“(ii) a reasonable period of time within which the recipient may address the violation or propose and initiate an alternative means of compliance that the Secretary determines is acceptable.

“(C) FAILURE TO ADDRESS.—If the recipient does not address the violation or propose an alternative means of compliance that the Secretary determines is acceptable within the period of time specified in the written notice, the Secretary may withhold funds under paragraph (1)(E).

“(D) RESTORATION.—

“(i) CORRECTION.—The recipient shall address any violation to the satisfaction of the Secretary prior to the Secretary restoring funds withheld under paragraph (1)(E).

“(ii) AVAILABILITY AND REALLOCATION.—Any funds withheld under paragraph (1)(E) shall remain available for restoration to the recipient until the end of the first fiscal year after the fiscal year in which the funds were withheld, after which time the funds shall be available to the Secretary for allocation to other eligible recipients.

“(E) NOTIFICATION.—Not later than 3 days before taking any action under subparagraph (C), the Secretary shall notify the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of such action.

“(3) CIVIL PENALTIES.—

“(A) IMPOSITION OF CIVIL PENALTIES.—

“(i) IN GENERAL.—The Secretary may impose a civil penalty under paragraph (1)(F) only if—

“(I) the Secretary has exhausted the enforcement actions available under subparagraphs (A) through (E) of paragraph (1); and

“(II) the recipient continues to be in violation of Federal safety law.

“(ii) EXCEPTION.—The Secretary may waive the requirement under clause (i)(I) if the Secretary determines that such a waiver is in the public interest.

“(B) NOTICE.—Before imposing a civil penalty on a recipient under paragraph (1)(F), the Secretary shall provide to the recipient—

“(i) written notice of any violation and the penalty proposed to be imposed; and

“(ii) a reasonable period of time within which the recipient may address the violation or propose and initiate an alternative means of compliance that the Secretary determines is acceptable.

“(C) FAILURE TO ADDRESS.—If the recipient does not address the violation or propose an alternative means of compliance that the Secretary determines is acceptable within the period of time specified in the written notice, the Secretary may impose a civil penalty under paragraph (1)(F).

“(D) NOTIFICATION.—Not later than 3 days before taking any action under subparagraph (C), the Secretary shall notify the Com-

mittee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of such action.

“(E) DEPOSIT OF CIVIL PENALTIES.—Any amounts collected by the Secretary under this paragraph shall be deposited into the Mass Transit Account of the Highway Trust Fund.

“(4) ENFORCEMENT BY THE ATTORNEY GENERAL.—At the request of the Secretary, the Attorney General may bring a civil action—

“(A) for appropriate injunctive relief to ensure compliance with this section;

“(B) to collect a civil penalty imposed under paragraph (1)(F); and

“(C) to enforce a subpoena, request for admissions, request for production of documents or other tangible things, or request for testimony by deposition issued by the Secretary under this section.

“(h) COST-BENEFIT ANALYSIS.—

“(i) ANALYSIS REQUIRED.—In carrying out this section, the Secretary shall take into consideration the costs and benefits of each action the Secretary proposes to take under this section.

“(2) WAIVER.—The Secretary may waive the requirement under this subsection if the Secretary determines that such a waiver is in the public interest.

“(i) CONSULTATION BY THE SECRETARY OF HOMELAND SECURITY.—The Secretary of Homeland Security shall consult with the Secretary of Transportation before the Secretary of Homeland Security issues a rule or order that the Secretary of Transportation determines affects the safety of public transportation design, construction, or operations.

“(j) PREEMPTION OF STATE LAW.—

“(1) NATIONAL UNIFORMITY OF REGULATION.—Laws, regulations, and orders related to public transportation safety shall be nationally uniform to the extent practicable.

“(2) IN GENERAL.—A State may adopt or continue in force a law, regulation, or order related to the safety of public transportation until the Secretary issues a rule or order covering the subject matter of the State requirement.

“(3) MORE STRINGENT LAW.—A State may adopt or continue in force a law, regulation, or order related to the safety of public transportation that is consistent with, in addition to, or more stringent than a regulation or order of the Secretary if the Secretary determines that the law, regulation, or order—

“(A) has a safety benefit;

“(B) is not incompatible with a law, regulation, or order, or the terms and conditions of a financial assistance agreement of the United States Government; and

“(C) does not unreasonably burden interstate commerce.

“(4) ACTIONS UNDER STATE LAW.—

“(A) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to preempt an action under State law seeking damages for personal injury, death, or property damage alleging that a party has failed to comply with—

“(i) a Federal standard of care established by a regulation or order issued by the Secretary under this section;

“(ii) its own program, rule, or standard that it created pursuant to a rule or order issued by the Secretary; or

“(iii) a State law, regulation, or order that is not incompatible with paragraph (2).

“(B) EFFECTIVE DATE.—This paragraph shall apply to any cause of action under State law arising from an event or activity occurring on or after the date of enactment

of the Federal Public Transportation Act of 2012.

“(5) JURISDICTION.—Nothing in this section shall be construed to create a cause of action under Federal law on behalf of an injured party or confer Federal question jurisdiction for a State law cause of action.

“(k) ANNUAL REPORT.—The Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives an annual report that—

“(1) analyzes public transportation safety trends among the States and documents the most effective safety programs implemented using grants under this section; and

“(2) describes the effect on public transportation safety of activities carried out using grants under this section.”.

(b) BUS SAFETY STUDY.—

(1) DEFINITION.—In this subsection, the term “highway route” means a route where 50 percent or more of the route is on roads having a speed limit of more than 45 miles per hour.

(2) STUDY.—Not later than 180 days after the date of enactment of this Act, the Secretary of Transportation shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that—

(A) examines the safety of public transportation buses that travel on highway routes;

(B) examines laws and regulations that apply to commercial over-the-road buses; and

(C) makes recommendations as to whether additional safety measures should be required for public transportation buses that travel on highway routes.

#### SEC. 20022. ALCOHOL AND CONTROLLED SUBSTANCES TESTING.

Section 5331(b)(2) of title 49, United States Code, is amended—

(1) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(2) by inserting before subparagraph (B), as so redesignated, the following:

“(A) shall establish and implement an enforcement program that includes the imposition of penalties for failure to comply with this section;”.

#### SEC. 20023. NONDISCRIMINATION.

(a) AMENDMENTS.—Section 5332 of title 49, United States Code, is amended—

(1) in subsection (b)—

(A) by striking “creed” and inserting “religion”; and

(B) by inserting “disability,” after “sex;”;

(2) in subsection (d)(3), by striking “and” and inserting “or”.

(b) EVALUATION AND REPORT.—

(1) EVALUATION.—The Comptroller General of the United States shall evaluate the progress and effectiveness of the Federal Transit Administration in assisting recipients of assistance under chapter 53 of title 49, United States Code, to comply with section 5332(b) of title 49, including—

(A) by reviewing discrimination complaints, reports, and other relevant information collected or prepared by the Federal Transit Administration or recipients of assistance from the Federal Transit Administration pursuant to any applicable civil rights statute, regulation, or other requirement; and

(B) by reviewing the process that the Federal Transit Administration uses to resolve discrimination complaints filed by members of the public.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report concerning the evaluation under paragraph (1) that includes—

(A) a description of the ability of the Federal Transit Administration to address discrimination and foster equal opportunities in federally funded public transportation projects, programs, and activities;

(B) recommendations for improvements if the Comptroller General determines that improvements are necessary; and

(C) information upon which the evaluation under paragraph (1) is based.

#### SEC. 20024. LABOR STANDARDS.

Section 5333(b) of title 49, United States Code, is amended—

(1) in paragraph (1), by striking “sections 5307-5312, 5316, 5318, 5323(a)(1), 5323(b), 5323(d), 5328, 5337, and 5338(b)” each place that term appears and inserting “sections 5307, 5308, 5309, 5311, and 5337”; and

(2) in paragraph (5), by inserting “of Labor” after “Secretary”.

#### SEC. 20025. ADMINISTRATIVE PROVISIONS.

Section 5334 of title 49, United States Code, is amended—

(1) in subsection (a)(1), by striking “under sections 5307 and 5309-5311 of this title” and inserting “that receives Federal financial assistance under this chapter”;;

(2) in subsection (b)(1)—

(A) by inserting after “emergency,” the following: “or for purposes of establishing and enforcing a program to improve the safety of public transportation systems in the United States;”;

(B) by striking “chapter, nor may the Secretary” and inserting “chapter. The Secretary may not”;;

(3) in subsection (c)(4), by striking “section (except subsection (i)) and sections 5318(e), 5323(a)(2), 5325(a), 5325(b), and 5325(f)” and inserting “subsection”;;

(4) in subsection (h)(3), by striking “another” and inserting “any other”;;

(5) in subsection (i)(1), by striking “title 23 shall” and inserting “title 23 may”;;

(6) by striking subsection (j); and

(7) by redesignating subsections (k) and (l) as subsections (j) and (k), respectively.

#### SEC. 20026. NATIONAL TRANSIT DATABASE.

Section 5335 of title 49, United States Code, is amended by adding at the end the following:

“(c) DATA REQUIRED TO BE REPORTED.—The recipient of a grant under this chapter shall report to the Secretary, for inclusion in the National Transit Database, any information relating to—

“(1) the causes of a reportable incident, as defined by the Secretary; and

“(2) a transit asset inventory or condition assessment conducted by the recipient.”.

#### SEC. 20027. APPORTIONMENT OF APPROPRIATIONS FOR FORMULA GRANTS.

Section 5336 of title 49, United States Code, is amended to read as follows:

##### “§ 5336. Apportionment of appropriations for formula grants

“(a) BASED ON URBANIZED AREA POPULATION.—Of the amount apportioned under subsection (h)(4) to carry out section 5307—

“(1) 9.32 percent shall be apportioned each fiscal year only in urbanized areas with a population of less than 200,000 so that each of those areas is entitled to receive an amount equal to—

“(A) 50 percent of the total amount apportioned multiplied by a ratio equal to the population of the area divided by the total population of all urbanized areas with populations of less than 200,000 as shown in the most recent decennial census; and

“(B) 50 percent of the total amount apportioned multiplied by a ratio for the area based on population weighted by a factor, established by the Secretary, of the number of inhabitants in each square mile; and

“(2) 90.68 percent shall be apportioned each fiscal year only in urbanized areas with populations of at least 200,000 as provided in subsections (b) and (c) of this section.

“(b) BASED ON FIXED GUIDEWAY VEHICLE REVENUE MILES, DIRECTIONAL ROUTE MILES, AND PASSENGER MILES.—(1) In this subsection, ‘fixed guideway vehicle revenue miles’ and ‘fixed guideway directional route miles’ include passenger ferry operations directly or under contract by the designated recipient.

“(2) Of the amount apportioned under subsection (a)(2) of this section, 33.29 percent shall be apportioned as follows:

“(A) 95.61 percent of the total amount apportioned under this subsection shall be apportioned so that each urbanized area with a population of at least 200,000 is entitled to receive an amount equal to—

“(i) 60 percent of the 95.61 percent apportioned under this subparagraph multiplied by a ratio equal to the number of fixed guideway vehicle revenue miles attributable to the area, as established by the Secretary, divided by the total number of all fixed guideway vehicle revenue miles attributable to all areas; and

“(ii) 40 percent of the 95.61 percent apportioned under this subparagraph multiplied by a ratio equal to the number of fixed guideway directional route miles attributable to the area, established by the Secretary, divided by the total number of all fixed guideway directional route miles attributable to all areas.

An urbanized area with a population of at least 750,000 in which commuter rail transportation is provided shall receive at least .75 percent of the total amount apportioned under this subparagraph.

“(B) 4.39 percent of the total amount apportioned under this subsection shall be apportioned so that each urbanized area with a population of at least 200,000 is entitled to receive an amount equal to—

“(i) the number of fixed guideway vehicle passenger miles traveled multiplied by the number of fixed guideway vehicle passenger miles traveled for each dollar of operating cost in an area; divided by

“(ii) the total number of fixed guideway vehicle passenger miles traveled multiplied by the total number of fixed guideway vehicle passenger miles traveled for each dollar of operating cost in all areas.

An urbanized area with a population of at least 750,000 in which commuter rail transportation is provided shall receive at least .75 percent of the total amount apportioned under this subparagraph.

“(C) Under subparagraph (A) of this paragraph, fixed guideway vehicle revenue or directional route miles, and passengers served on those miles, in an urbanized area with a population of less than 200,000, where the miles and passengers served otherwise would be attributable to an urbanized area with a population of at least 1,000,000 in an adjacent State, are attributable to the governmental authority in the State in which the urbanized area with a population of less than 200,000 is located. The authority is deemed an



urbanized area with a population of at least 200,000 if the authority makes a contract for the service.

“(D) A recipient’s apportionment under subparagraph (A)(i) of this paragraph may not be reduced if the recipient, after satisfying the Secretary that energy or operating efficiencies would be achieved, reduces vehicle revenue miles but provides the same frequency of revenue service to the same number of riders.

“(c) BASED ON BUS VEHICLE REVENUE MILES AND PASSENGER MILES.—Of the amount apportioned under subsection (a)(2) of this section, 66.71 percent shall be apportioned as follows:

“(1) 90.8 percent of the total amount apportioned under this subsection shall be apportioned as follows:

“(A) 73.39 percent of the 90.8 percent apportioned under this paragraph shall be apportioned so that each urbanized area with a population of at least 1,000,000 is entitled to receive an amount equal to—

“(i) 50 percent of the 73.39 percent apportioned under this subparagraph multiplied by a ratio equal to the total bus vehicle revenue miles operated in or directly serving the urbanized area divided by the total bus vehicle revenue miles attributable to all areas;

“(ii) 25 percent of the 73.39 percent apportioned under this subparagraph multiplied by a ratio equal to the population of the area divided by the total population of all areas, as shown in the most recent decennial census; and

“(iii) 25 percent of the 73.39 percent apportioned under this subparagraph multiplied by a ratio for the area based on population weighted by a factor, established by the Secretary, of the number of inhabitants in each square mile.

“(B) 26.61 percent of the 90.8 percent apportioned under this paragraph shall be apportioned so that each urbanized area with a population of at least 200,000 but not more than 999,999 is entitled to receive an amount equal to—

“(i) 50 percent of the 26.61 percent apportioned under this subparagraph multiplied by a ratio equal to the total bus vehicle revenue miles operated in or directly serving the urbanized area divided by the total bus vehicle revenue miles attributable to all areas;

“(ii) 25 percent of the 26.61 percent apportioned under this subparagraph multiplied by a ratio equal to the population of the area divided by the total population of all areas, as shown by the most recent decennial census; and

“(iii) 25 percent of the 26.61 percent apportioned under this subparagraph multiplied by a ratio for the area based on population weighted by a factor, established by the Secretary, of the number of inhabitants in each square mile.

“(2) 9.2 percent of the total amount apportioned under this subsection shall be apportioned so that each urbanized area with a population of at least 200,000 is entitled to receive an amount equal to—

“(A) the number of bus passenger miles traveled multiplied by the number of bus passenger miles traveled for each dollar of operating cost in an area; divided by

“(B) the total number of bus passenger miles traveled multiplied by the total number of bus passenger miles traveled for each dollar of operating cost in all areas.

“(d) DATE OF APPORTIONMENT.—The Secretary shall—

“(1) apportion amounts appropriated under section 5338(a)(2)(C) of this title to carry out

section 5307 of this title not later than the 10th day after the date the amounts are appropriated or October 1 of the fiscal year for which the amounts are appropriated, whichever is later; and

“(2) publish apportionments of the amounts, including amounts attributable to each urbanized area with a population of more than 50,000 and amounts attributable to each State of a multistate urbanized area, on the apportionment date.

“(e) AMOUNTS NOT APPORTIONED TO DESIGNATED RECIPIENTS.—The Governor of a State may expend in an urbanized area with a population of less than 200,000 an amount apportioned under this section that is not apportioned to a designated recipient, as defined in section 5302(4).

“(f) TRANSFERS OF APPORTIONMENTS.—(1) The Governor of a State may transfer any part of the State’s apportionment under subsection (a)(1) of this section to supplement amounts apportioned to the State under section 5311(c)(3). The Governor may make a transfer only after consulting with responsible local officials and publicly owned operators of public transportation in each area for which the amount originally was apportioned under this section.

“(2) The Governor of a State may transfer any part of the State’s apportionment under section 5311(c)(3) to supplement amounts apportioned to the State under subsection (a)(1) of this section.

“(3) The Governor of a State may use throughout the State amounts of a State’s apportionment remaining available for obligation at the beginning of the 90-day period before the period of the availability of the amounts expires.

“(4) A designated recipient for an urbanized area with a population of at least 200,000 may transfer a part of its apportionment under this section to the Governor of a State. The Governor shall distribute the transferred amounts to urbanized areas under this section.

“(5) Capital and operating assistance limitations applicable to the original apportionment apply to amounts transferred under this subsection.

“(g) PERIOD OF AVAILABILITY TO RECIPIENTS.—An amount apportioned under this section may be obligated by the recipient for 5 years after the fiscal year in which the amount is apportioned. Not later than 30 days after the end of the 5-year period, an amount that is not obligated at the end of that period shall be added to the amount that may be apportioned under this section in the next fiscal year.

“(h) APPORTIONMENTS.—Of the amounts made available for each fiscal year under section 5338(a)(2)(C)—

“(1) \$35,000,000 shall be set aside to carry out section 5307(i);

“(2) 3.07 percent shall be apportioned to urbanized areas in accordance with subsection (j);

“(3) of amounts not apportioned under paragraphs (1) and (2), 1 percent shall be apportioned to urbanized areas with populations of less than 200,000 in accordance with subsection (i); and

“(4) any amount not apportioned under paragraphs (1), (2), and (3) shall be apportioned to urbanized areas in accordance with subsections (a) through (c).

“(i) SMALL TRANSIT INTENSIVE CITIES FORMULA.—

“(1) DEFINITIONS.—In this subsection, the following definitions apply:

“(A) ELIGIBLE AREA.—The term ‘eligible area’ means an urbanized area with a popu-

lation of less than 200,000 that meets or exceeds in one or more performance categories the industry average for all urbanized areas with a population of at least 200,000 but not more than 999,999, as determined by the Secretary in accordance with subsection (c)(2).

“(B) PERFORMANCE CATEGORY.—The term ‘performance category’ means each of the following:

“(i) Passenger miles traveled per vehicle revenue mile.

“(ii) Passenger miles traveled per vehicle revenue hour.

“(iii) Vehicle revenue miles per capita.

“(iv) Vehicle revenue hours per capita.

“(v) Passenger miles traveled per capita.

“(vi) Passengers per capita.

“(2) APPORTIONMENT.—

“(A) APPORTIONMENT FORMULA.—The amount to be apportioned under subsection (h)(3) shall be apportioned among eligible areas in the ratio that—

“(i) the number of performance categories for which each eligible area meets or exceeds the industry average in urbanized areas with a population of at least 200,000 but not more than 999,999; bears to

“(ii) the aggregate number of performance categories for which all eligible areas meet or exceed the industry average in urbanized areas with a population of at least 200,000 but not more than 999,999.

“(B) DATA USED IN FORMULA.—The Secretary shall calculate apportionments under this subsection for a fiscal year using data from the national transit database used to calculate apportionments for that fiscal year under this section.

“(j) APPORTIONMENT FORMULA.—The amounts apportioned under subsection (h)(2) shall be apportioned among urbanized areas as follows:

“(1) 75 percent of the funds shall be apportioned among designated recipients for urbanized areas with a population of 200,000 or more in the ratio that—

“(A) the number of eligible low-income individuals in each such urbanized area; bears to

“(B) the number of eligible low-income individuals in all such urbanized areas.

“(2) 25 percent of the funds shall be apportioned among designated recipients for urbanized areas with a population of less than 200,000 in the ratio that—

“(A) the number of eligible low-income individuals in each such urbanized area; bears to

“(B) the number of eligible low-income individuals in all such urbanized areas.”

#### SEC. 20028. STATE OF GOOD REPAIR GRANTS.

Section 5337 of title 49, United States Code, is amended to read as follows:

##### “§ 5337. State of good repair grants

“(a) DEFINITIONS.—In this section, the following definitions shall apply:

“(1) FIXED GUIDEWAY.—The term ‘fixed guideway’ means a public transportation facility—

“(A) using and occupying a separate right-of-way for the exclusive use of public transportation;

“(B) using rail;

“(C) using a fixed catenary system;

“(D) for a passenger ferry system; or

“(E) for a bus rapid transit system.

“(2) STATE.—The term ‘State’ means the 50 States, the District of Columbia, and Puerto Rico.

“(3) STATE OF GOOD REPAIR.—The term ‘state of good repair’ has the meaning given that term by the Secretary, by rule, under section 5326(b).

“(4) TRANSIT ASSET MANAGEMENT PLAN.—The term ‘transit asset management plan’ means a plan developed by a recipient of funding under this chapter that—

“(A) includes, at a minimum, capital asset inventories and condition assessments, decision support tools, and investment prioritization; and

“(B) the recipient certifies that the recipient complies with the rule issued under section 5326(d).

“(b) GENERAL AUTHORITY.—

“(1) ELIGIBLE PROJECTS.—The Secretary may make grants under this section to assist State and local governmental authorities in financing capital projects to maintain public transportation systems in a state of good repair, including projects to replace and rehabilitate—

“(A) rolling stock;

“(B) track;

“(C) line equipment and structures;

“(D) signals and communications;

“(E) power equipment and substations;

“(F) passenger stations and terminals;

“(G) security equipment and systems;

“(H) maintenance facilities and equipment;

“(I) operational support equipment, including computer hardware and software;

“(J) development and implementation of a transit asset management plan; and

“(K) other replacement and rehabilitation projects the Secretary determines appropriate.

“(2) INCLUSION IN PLAN.—A recipient shall include a project carried out under paragraph (1) in the transit asset management plan of the recipient upon completion of the plan.

“(c) HIGH INTENSITY FIXED GUIDEWAY STATE OF GOOD REPAIR FORMULA.—

“(1) IN GENERAL.—Of the amount authorized or made available under section 5338(a)(2)(M), \$1,874,763,500 shall be apportioned to recipients in accordance with this subsection.

“(2) AREA SHARE.—

“(A) IN GENERAL.—50 percent of the amount described in paragraph (1) shall be apportioned for fixed guideway systems in accordance with this paragraph.

“(B) SHARE.—A recipient shall receive an amount equal to the amount described in subparagraph (A), multiplied by the amount the recipient would have received under this section, as in effect for fiscal year 2011, if the amount had been calculated in accordance with section 5336(b)(1) and using the definition of the term ‘fixed guideway’ under subsection (a) of this section, as such sections are in effect on the day after the date of enactment of the Federal Public Transportation Act of 2012, and divided by the total amount apportioned for all areas under this section for fiscal year 2011.

“(C) RECIPIENT.—For purposes of this paragraph, the term ‘recipient’ means an entity that received funding under this section, as in effect for fiscal year 2011.

“(3) VEHICLE REVENUE MILES AND DIRECTIONAL ROUTE MILES.—

“(A) IN GENERAL.—50 percent of the amount described in paragraph (1) shall be apportioned to recipients in accordance with this paragraph.

“(B) VEHICLE REVENUE MILES.—A recipient in an urbanized area shall receive an amount equal to 60 percent of the amount described in subparagraph (A), multiplied by the number of fixed guideway vehicle revenue miles attributable to the urbanized area, as established by the Secretary, divided by the total number of all fixed guideway vehicle revenue miles attributable to all urbanized areas.

“(C) DIRECTIONAL ROUTE MILES.—A recipient in an urbanized area shall receive an amount equal to 40 percent of the amount described in subparagraph (A), multiplied by the number of fixed guideway directional route miles attributable to the urbanized area, as established by the Secretary, divided by the total number of all fixed guideway directional route miles attributable to all urbanized areas.

“(4) LIMITATION.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the share of the total amount apportioned under this section that is apportioned to an area under this subsection shall not decrease by more than 0.25 percentage points compared to the share apportioned to the area under this subsection in the previous fiscal year.

“(B) SPECIAL RULE FOR FISCAL YEAR 2012.—In fiscal year 2012, the share of the total amount apportioned under this section that is apportioned to an area under this subsection shall not decrease by more than 0.25 percentage points compared to the share that would have been apportioned to the area under this section, as in effect for fiscal year 2011, if the share had been calculated using the definition of the term ‘fixed guideway’ under subsection (a) of this section, as in effect on the day after the date of enactment of the Federal Public Transportation Act of 2012.

“(5) USE OF FUNDS.—Amounts made available under this subsection shall be available for the exclusive use of fixed guideway projects.

“(6) RECEIVING APPORTIONMENT.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), for an area with a fixed guideway system, the amounts provided under this section shall be apportioned to the designated recipient for the urbanized area in which the system operates.

“(B) EXCEPTION.—An area described in the amendment made by section 3028(a) of the Transportation Equity Act for the 21st Century (Public Law 105-178; 112 Stat. 366) shall receive an individual apportionment under this subsection.

“(7) APPORTIONMENT REQUIREMENTS.—For purposes of determining the number of fixed guideway vehicle revenue miles or fixed guideway directional route miles attributable to an urbanized area for a fiscal year under this subsection, only segments of fixed guideway systems placed in revenue service not later than 7 years before the first day of the fiscal year shall be deemed to be attributable to an urbanized area.

“(d) FIXED GUIDEWAY STATE OF GOOD REPAIR GRANT PROGRAM.—

“(1) IN GENERAL.—The Secretary may make grants under this section to assist State and local governmental authorities in financing fixed guideway capital projects to maintain public transportation systems in a state of good repair.

“(2) COMPETITIVE PROCESS.—The Secretary shall solicit grant applications and make grants for eligible projects on a competitive basis.

“(3) PRIORITY CONSIDERATION.—In making grants under this subsection, the Secretary shall give priority to grant applications received from recipients receiving an amount under this section that is not less than 2 percent less than the amount the recipient would have received under this section, as in effect for fiscal year 2011, if the amount had been calculated using the definition of the term ‘fixed guideway’ under subsection (a) of this section, as in effect on the day after the date of enactment of the Federal Public Transportation Act of 2012.

“(e) HIGH INTENSITY MOTORBUS STATE OF GOOD REPAIR.—

“(1) DEFINITION.—For purposes of this subsection, the term ‘fixed guideway motorbus’ means public transportation that is provided on a facility with access for other high-occupancy vehicles.

“(2) APPORTIONMENT.—Of the amount authorized or made available under section 5338(a)(2)(M), \$112,500,000 shall be apportioned to urbanized areas for high intensity motorbus state of good repair in accordance with this subsection.

“(3) VEHICLE REVENUE MILES AND DIRECTIONAL ROUTE MILES.—

“(A) IN GENERAL.—\$60,000,000 of the amount described in paragraph (2) shall be apportioned to each area in accordance with this paragraph.

“(B) VEHICLE REVENUE MILES.—Each area shall receive an amount equal to 60 percent of the amount described in subparagraph (A), multiplied by the number of fixed guideway motorbus vehicle revenue miles attributable to the area, as established by the Secretary, divided by the total number of all fixed guideway motorbus vehicle revenue miles attributable to all areas.

“(C) DIRECTIONAL ROUTE MILES.—Each area shall receive an amount equal to 40 percent of the amount described in subparagraph (A), multiplied by the number of fixed guideway motorbus directional route miles attributable to the area, as established by the Secretary, divided by the total number of all fixed guideway motorbus directional route miles attributable to all areas.

“(4) SPECIAL RULE FOR FIXED GUIDEWAY MOTORBUS.—

“(A) IN GENERAL.—\$52,500,000 of the amount described in paragraph (2) shall be apportioned—

“(i) in accordance with this paragraph; and

“(ii) among urbanized areas within a State in the same proportion as funds are apportioned within a State under section 5336, except subsection (b), and shall be added to such amounts.

“(B) TERRITORIES.—Of the amount described in subparagraph (A), \$500,000 shall be distributed among the territories, as determined by the Secretary.

“(C) STATES.—Of the amount described in subparagraph (A), each State shall receive \$1,000,000.

“(5) USE OF FUNDS.—A recipient may transfer any part of the apportionment under this subsection for use under subsection (c).

“(6) APPORTIONMENT REQUIREMENTS.—For purposes of determining the number of fixed guideway motorbus vehicle revenue miles or fixed guideway motorbus directional route miles attributable to an urbanized area for a fiscal year under this subsection, only segments of fixed guideway motorbus systems placed in revenue service not later than 7 years before the first day of the fiscal year shall be deemed to be attributable to an urbanized area.”

#### SEC. 20029. AUTHORIZATIONS.

Section 5338 of title 49, United States Code, is amended to read as follows:

#### “§ 5338. Authorizations

“(a) FORMULA GRANTS.—

“(1) IN GENERAL.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5305, 5307, 5308, 5310, 5311, 5312, 5313, 5314, 5315, 5322, 5335, and 5340, subsections (c) and (e) of section 5337, and section 20005(b) of the Federal Public Transportation Act of 2012, \$8,360,565,000 for each of fiscal years 2012 and 2013.

“(2) ALLOCATION OF FUNDS.—Of the amounts made available under paragraph (1)—

“(A) \$124,850,000 for each of fiscal years 2012 and 2013 shall be available to carry out section 5305;

“(B) \$20,000,000 for each of fiscal years 2012 and 2013 shall be available to carry out section 20005(b) of the Federal Public Transportation Act of 2012;

“(C) \$4,756,161,500 for each of fiscal years 2012 and 2013 shall be available in accordance with section 5336 to provide financial assistance for urbanized areas under section 5307;

“(D) \$65,150,000 for each of fiscal years 2012 and 2013 shall be available to carry out section 5308, of which not less than \$8,500,000 shall be used to carry out activities under section 5312;

“(E) \$248,600,000 for each of fiscal years 2012 and 2013 shall be available to provide financial assistance for services for the enhanced mobility of seniors and individuals with disabilities under section 5310;

“(F) \$591,190,000 for each of fiscal years 2012 and 2013 shall be available to provide financial assistance for other than urbanized areas under section 5311, of which not less than \$30,000,000 shall be available to carry out section 5311(c)(1) and \$20,000,000 shall be available to carry out section 5311(c)(2);

“(G) \$34,000,000 for each of fiscal years 2012 and 2013 shall be available to carry out research, development, demonstration, and deployment projects under section 5312;

“(H) \$6,500,000 for each of fiscal years 2012 and 2013 shall be available to carry out a transit cooperative research program under section 5313;

“(I) \$4,500,000 for each of fiscal years 2012 and 2013 shall be available for technical assistance and standards development under section 5314;

“(J) \$5,000,000 for each of fiscal years 2012 and 2013 shall be available for the National Transit Institute under section 5315;

“(K) \$2,000,000 for each of fiscal years 2012 and 2013 shall be available for workforce development and human resource grants under section 5322;

“(L) \$3,850,000 for each of fiscal years 2012 and 2013 shall be available to carry out section 5335;

“(M) \$1,987,263,500 for each of fiscal years 2012 and 2013 shall be available to carry out subsections (c) and (e) of section 5337; and

“(N) \$511,500,000 for each of fiscal years 2012 and 2013 shall be allocated in accordance with section 5340 to provide financial assistance for urbanized areas under section 5307 and other than urbanized areas under section 5311.

“(b) EMERGENCY RELIEF PROGRAM.—There are authorized to be appropriated such sums as are necessary to carry out section 5306.

“(c) CAPITAL INVESTMENT GRANTS.—There are authorized to be appropriated to carry out section 5309, \$1,955,000,000 for each of fiscal years 2012 and 2013.

“(d) PAUL S. SARBANES TRANSIT IN THE PARKS.—There are authorized to be appropriated to carry out section 5320, \$26,900,000 for each of fiscal years 2012 and 2013.

“(e) FIXED GUIDEWAY STATE OF GOOD REPAIR GRANT PROGRAM.—There are authorized to be appropriated to carry out section 5337(d), \$7,463,000 for each of fiscal years 2012 and 2013.

“(f) ADMINISTRATION.—

“(1) IN GENERAL.—There are authorized to be appropriated to carry out section 5334, \$108,350,000 for each of fiscal years 2012 and 2013.

“(2) SECTION 5329.—Of the amounts authorized to be appropriated under paragraph (1),

not less than \$10,000,000 shall be available to carry out section 5329.

“(3) SECTION 5326.—Of the amounts made available under paragraph (2), not less than \$1,000,000 shall be available to carry out section 5326.

“(g) OVERSIGHT.—

“(1) IN GENERAL.—Of the amounts made available to carry out this chapter for a fiscal year, the Secretary may use not more than the following amounts for the activities described in paragraph (2):

“(A) 0.5 percent of amounts made available to carry out section 5305.

“(B) 0.75 percent of amounts made available to carry out section 5307.

“(C) 1 percent of amounts made available to carry out section 5309.

“(D) 1 percent of amounts made available to carry out section 601 of the Passenger Rail Investment and Improvement Act of 2008 (Public Law 110-432; 126 Stat. 4968).

“(E) 0.5 percent of amounts made available to carry out section 5310.

“(F) 0.5 percent of amounts made available to carry out section 5311.

“(G) 0.5 percent of amounts made available to carry out section 5320.

“(H) 0.75 percent of amounts made available to carry out section 5337(c).

“(2) ACTIVITIES.—The activities described in this paragraph are as follows:

“(A) Activities to oversee the construction of a major capital project.

“(B) Activities to review and audit the safety and security, procurement, management, and financial compliance of a recipient or subrecipient of funds under this chapter.

“(C) Activities to provide technical assistance generally, and to provide technical assistance to correct deficiencies identified in compliance reviews and audits carried out under this section.

“(3) GOVERNMENT SHARE OF COSTS.—The Government shall pay the entire cost of carrying out a contract under this subsection.

“(4) AVAILABILITY OF CERTAIN FUNDS.—Funds made available under paragraph (1)(C) shall be made available to the Secretary before allocating the funds appropriated to carry out any project under a full funding grant agreement.

“(h) GRANTS AS CONTRACTUAL OBLIGATIONS.—

“(1) GRANTS FINANCED FROM HIGHWAY TRUST FUND.—A grant or contract that is approved by the Secretary and financed with amounts made available from the Mass Transit Account of the Highway Trust Fund pursuant to this section is a contractual obligation of the Government to pay the Government share of the cost of the project.

“(2) GRANTS FINANCED FROM GENERAL FUND.—A grant or contract that is approved by the Secretary and financed with amounts appropriated in advance from the General Fund of the Treasury pursuant to this section is a contractual obligation of the Government to pay the Government share of the cost of the project only to the extent that amounts are appropriated for such purpose by an Act of Congress.

“(i) AVAILABILITY OF AMOUNTS.—Amounts made available by or appropriated under this section shall remain available until expended.”.

**SEC. 20030. APPORTIONMENTS BASED ON GROWING STATES AND HIGH DENSITY STATES FORMULA FACTORS.**

Section 5340 of title 49, United States Code, is amended to read as follows:

**“§ 5340. Apportionments based on growing States and high density States formula factors**

“(a) DEFINITION.—In this section, the term ‘State’ shall mean each of the 50 States of the United States.

“(b) ALLOCATION.—Of the amounts made available for each fiscal year under section 5338(a)(2)(N), the Secretary shall apportion—

“(1) 50 percent to States and urbanized areas in accordance with subsection (c); and

“(2) 50 percent to States and urbanized areas in accordance with subsection (d).

“(c) GROWING STATE APPORTIONMENTS.—

“(1) APPORTIONMENT AMONG STATES.—The amounts apportioned under subsection (b)(1) shall provide each State with an amount equal to the total amount apportioned multiplied by a ratio equal to the population of that State forecast for the year that is 15 years after the most recent decennial census, divided by the total population of all States forecast for the year that is 15 years after the most recent decennial census. Such forecast shall be based on the population trend for each State between the most recent decennial census and the most recent estimate of population made by the Secretary of Commerce.

“(2) APPORTIONMENTS BETWEEN URBANIZED AREAS AND OTHER THAN URBANIZED AREAS IN EACH STATE.—

“(A) IN GENERAL.—The Secretary shall apportion amounts to each State under paragraph (1) so that urbanized areas in that State receive an amount equal to the amount apportioned to that State multiplied by a ratio equal to the sum of the forecast population of all urbanized areas in that State divided by the total forecast population of that State. In making the apportionment under this subparagraph, the Secretary shall utilize any available forecasts made by the State. If no forecasts are available, the Secretary shall utilize data on urbanized areas and total population from the most recent decennial census.

“(B) REMAINING AMOUNTS.—Amounts remaining for each State after apportionment under subparagraph (A) shall be apportioned to that State and added to the amount made available for grants under section 5311.

“(3) APPORTIONMENTS AMONG URBANIZED AREAS IN EACH STATE.—The Secretary shall apportion amounts made available to urbanized areas in each State under paragraph (2)(A) so that each urbanized area receives an amount equal to the amount apportioned under paragraph (2)(A) multiplied by a ratio equal to the population of each urbanized area divided by the sum of populations of all urbanized areas in the State. Amounts apportioned to each urbanized area shall be added to amounts apportioned to that urbanized area under section 5336, and made available for grants under section 5307.

“(d) HIGH DENSITY STATE APPORTIONMENTS.—Amounts to be apportioned under subsection (b)(2) shall be apportioned as follows:

“(1) ELIGIBLE STATES.—The Secretary shall designate as eligible for an apportionment under this subsection all States with a population density in excess of 370 persons per square mile.

“(2) STATE URBANIZED LAND FACTOR.—For each State qualifying for an apportionment under paragraph (1), the Secretary shall calculate an amount equal to—

“(A) the total land area of the State (in square miles); multiplied by

“(B) 370; multiplied by

“(C)(i) the population of the State in urbanized areas; divided by

“(ii) the total population of the State.

“(3) STATE APPORTIONMENT FACTOR.—For each State qualifying for an apportionment under paragraph (1), the Secretary shall calculate an amount equal to the difference between the total population of the State less the amount calculated in paragraph (2).

“(4) STATE APPORTIONMENT.—Each State qualifying for an apportionment under paragraph (1) shall receive an amount equal to the amount to be apportioned under this subsection multiplied by the amount calculated for the State under paragraph (3) divided by the sum of the amounts calculated under paragraph (3) for all States qualifying for an apportionment under paragraph (1).

“(5) APPORTIONMENTS AMONG URBANIZED AREAS IN EACH STATE.—The Secretary shall apportion amounts made available to each State under paragraph (4) so that each urbanized area receives an amount equal to the amount apportioned under paragraph (4) multiplied by a ratio equal to the population of each urbanized area divided by the sum of populations of all urbanized areas in the State. For multistate urbanized areas, the Secretary shall suballocate funds made available under paragraph (4) to each State's part of the multistate urbanized area in proportion to the State's share of population of the multistate urbanized area. Amounts apportioned to each urbanized area shall be made available for grants under section 5307.”.

#### SEC. 20031. TECHNICAL AND CONFORMING AMENDMENTS.

(a) SECTION 5305.—Section 5305 of title 49, United States Code, is amended—

(1) in subsection (c), by striking “sections 5303, 5304, and 5306” and inserting “sections 5303 and 5304”;

(2) in subsection (d), by striking “sections 5303 and 5306” each place that term appears and inserting “section 5303”;

(3) in subsection (e)(1)(A), by striking “sections 5304, 5306, 5315, and 5322” and inserting “section 5304”;

(4) in subsection (f)—

(A) in the heading, by striking “GOVERNMENT'S” and inserting “GOVERNMENT”; and

(B) by striking “Government's” and inserting “Government”; and

(5) in subsection (g), by striking “section 5338(c) for fiscal years 2005 through 2011 and for the period beginning on October 1, 2011, and ending on March 31, 2012” and inserting “section 5338(a)(2)(A) for a fiscal year”.

(b) SECTION 5313.—Section 5313(a) of title 49, United States Code, is amended—

(1) in the first sentence, by striking “subsections (a)(5)(C)(iii) and (d)(1) of section 5338” and inserting section “5338(a)(2)(H)”; and

(2) in the second sentence, by striking “of Transportation”.

(c) SECTION 5319.—Section 5319 of title 49, United States Code, is amended, in the second sentence—

(1) by striking “sections 5307(e), 5309(h), and 5311(g) of this title” and inserting “sections 5307(e), 5309(k), and 5311(h)”; and

(2) by striking “of the United States” and inserting “made by the”.

(d) SECTION 5325.—Section 5325 of title 49, United States Code, is amended—

(1) in subsection (b)(2)(A), by striking “title 48, Code of Federal Regulations (commonly known as the Federal Acquisition Regulation)” and inserting “the Federal Acquisition Regulation, or any successor thereto”; and

(2) in subsection (e), by striking “Government financial assistance” and inserting “Federal financial assistance”.

(e) SECTION 5330.—Effective 3 years after the effective date of the final rules issued by the Secretary of Transportation under section 5329(e) of title 49, United States Code, as amended by this division, section 5330 of title 49, United States Code, is repealed.

(f) SECTION 5331.—Section 5331 of title 49, United States Code, is amended by striking “Secretary of Transportation” each place that term appears and inserting “Secretary”.

(g) SECTION 5332.—Section 5332(c)(1) of title 49, United States Code, is amended by striking “of Transportation”.

(h) SECTION 5333.—Section 5333(a) of title 49, United States Code, is amended by striking “sections 3141-3144” and inserting “sections 3141 through 3144”.

(i) SECTION 5334.—Section 5334 of title 49, United States Code, is amended—

(1) in subsection (c)—

(A) by striking “Secretary of Transportation” each place that term appears and inserting “Secretary”; and

(B) in paragraph (1), by striking “Committees on Transportation and Infrastructure and Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and Appropriations of the Senate” and inserting “Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives”;

(2) in subsection (d), by striking “of Transportation”;

(3) in subsection (e), by striking “of Transportation”;

(4) in subsection (f), by striking “of Transportation”;

(5) in subsection (g), in the matter preceding paragraph (1)—

(A) by striking “of Transportation”; and

(B) by striking “subsection (a)(3) or (4) of this section” and inserting “paragraph (3) or (4) of subsection (a)”; and

(6) in subsection (h)—

(A) in paragraph (1), in the matter preceding subparagraph (A), by striking “of Transportation”; and

(B) in paragraph (2), by striking “of this section”;

(7) in subsection (i)(1), by striking “of Transportation”; and

(8) in subsection (j), as so redesignated by section 20025 of this division, by striking “Committees on Banking, Housing, and Urban Affairs and Appropriations of the Senate and Committees on Transportation and Infrastructure and Appropriations of the House of Representatives” and inserting “Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives”.

(j) SECTION 5335.—Section 5335(a) of title 49, United States Code, is amended by striking “of Transportation”.

(k) TABLE OF SECTIONS.—The table of sections for chapter 53 of title 49, United States Code, is amended to read as follows:

“Sec.

“5301. Policies, purposes, and goals.

“5302. Definitions.

“5303. Metropolitan transportation planning.

“5304. Statewide and nonmetropolitan transportation planning.

“5305. Planning programs.

“5306. Public transportation emergency relief program.

“5307. Urbanized area formula grants.

“5308. Clean fuel grant program.

“5309. Fixed guideway capital investment grants.

“5310. Formula grants for the enhanced mobility of seniors and individuals with disabilities.

“5311. Formula grants for other than urbanized areas.

“5312. Research, development, demonstration, and deployment projects.

“5313. Transit cooperative research program.

“5314. Technical assistance and standards development.

“5315. National Transit Institute.

“[5316. Repealed.]

“[5317. Repealed.]

“5318. Bus testing facilities.

“5319. Bicycle facilities.

“5320. Alternative transportation in parks and public lands.

“[5321. Repealed.]

“5322. Public transportation workforce development and human resource programs.

“5323. General provisions.

“[5324. Repealed.]

“5325. Contract requirements.

“5326. Transit asset management.

“5327. Project management oversight.

“[5328. Repealed.]

“5329. Public transportation safety program.

“5330. State safety oversight.

“5331. Alcohol and controlled substances testing.

“5332. Nondiscrimination.

“5333. Labor standards.

“5334. Administrative provisions.

“5335. National transit database.

“5336. Apportionment of appropriations for formula grants.

“5337. State of good repair grants.

“5338. Authorizations.

“[5339. Repealed.]

“5340. Apportionments based on growing States and high density States formula factors.”.

### DIVISION C—TRANSPORTATION SAFETY AND SURFACE TRANSPORTATION POLICY TITLE I—MOTOR VEHICLE AND HIGHWAY SAFETY IMPROVEMENT ACT OF 2012

#### SEC. 31001. SHORT TITLE.

This title may be cited as the “Motor Vehicle and Highway Safety Improvement Act of 2012” or “Mariah's Act”.

#### SEC. 31002. DEFINITION.

In this title, the term “Secretary” means the Secretary of Transportation.

#### Subtitle A—Highway Safety

#### SEC. 31101. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) HIGHWAY SAFETY PROGRAMS.—For carrying out section 402 of title 23, United States Code—

(A) \$243,000,000 for fiscal year 2012; and

(B) \$243,000,000 for fiscal year 2013.

(2) HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—For carrying out section 403 of title 23, United States Code—

(A) \$130,000,000 for fiscal year 2012; and

(B) \$139,000,000 for fiscal year 2013.

(3) COMBINED OCCUPANT PROTECTION GRANTS.—For carrying out section 405 of title 23, United States Code—

(A) \$44,000,000 for fiscal year 2012; and

(B) \$44,000,000 for fiscal year 2013.

(4) STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS.—For carrying out section 408 of title 23, United States Code—

(A) \$44,000,000 for fiscal year 2012; and  
 (B) \$44,000,000 for fiscal year 2013.

(5) **IMPAIRED DRIVING COUNTERMEASURES.**—For carrying out section 410 of title 23, United States Code—  
 (A) \$139,000,000 for fiscal year 2012; and  
 (B) \$139,000,000 for fiscal year 2013.

(6) **DISTRACTED DRIVING GRANTS.**—For carrying out section 411 of title 23, United States Code—  
 (A) \$39,000,000 for fiscal year 2012; and  
 (B) \$39,000,000 for fiscal year 2013.

(7) **NATIONAL DRIVER REGISTER.**—For the National Highway Traffic Safety Administration to carry out chapter 303 of title 49, United States Code—  
 (A) \$5,000,000 for fiscal year 2012; and  
 (B) \$5,000,000 for fiscal year 2013.

(8) **HIGH VISIBILITY ENFORCEMENT PROGRAM.**—For carrying out section 2009 of SAFETEA-LU (23 U.S.C. 402 note)—  
 (A) \$37,000,000 for fiscal year 2012; and  
 (B) \$37,000,000 for fiscal year 2013.

(9) **MOTORCYCLIST SAFETY.**—For carrying out section 2010 of SAFETEA-LU (23 U.S.C. 402 note)—  
 (A) \$6,000,000 for fiscal year 2012; and  
 (B) \$6,000,000 for fiscal year 2013.

(10) **ADMINISTRATIVE EXPENSES.**—For administrative and related operating expenses of the National Highway Traffic Safety Administration in carrying out chapter 4 of title 23, United States Code, and this subtitle—  
 (A) \$25,581,280 for fiscal year 2012; and  
 (B) \$25,862,674 for fiscal year 2013.

(11) **DRIVER ALCOHOL DETECTION SYSTEM FOR SAFETY RESEARCH.**—For carrying out section 413 of title 23, United States Code—  
 (A) \$12,000,000 for fiscal year 2012; and  
 (B) \$12,000,000 for fiscal year 2013.

(12) **STATE GRADUATED DRIVER LICENSING LAWS.**—For carrying out section 414 of title 23, United States Code—  
 (A) \$22,000,000 for fiscal year 2012; and  
 (B) \$22,000,000 for fiscal year 2013.

(b) **PROHIBITION ON OTHER USES.**—Except as otherwise provided in chapter 4 of title 23, United States Code, in this subtitle, and in the amendments made by this subtitle, the amounts made available from the Highway Trust Fund (other than the Mass Transit Account) for a program under such chapter—  
 (1) shall only be used to carry out such program; and  
 (2) may not be used by a State or local governments for construction purposes.

(c) **APPLICABILITY OF SUBTITLE 23.**—Except as otherwise provided in chapter 4 of title 23, United States Code, and in this subtitle, amounts made available under subsection (a) for fiscal years 2012 and 2013 shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

(d) **REGULATORY AUTHORITY.**—Grants awarded under this subtitle shall be in accordance with regulations issued by the Secretary.

(e) **STATE MATCHING REQUIREMENTS.**—If a grant awarded under this subtitle requires a State to share in the cost, the aggregate of all expenditures for highway safety activities made during any fiscal year by the State and its political subdivisions (exclusive of Federal funds) for carrying out the grant (other than planning and administration) shall be available for the purpose of crediting the State during such fiscal year for the non-Federal share of the cost of any project under this subtitle (other than planning or administration) without regard to whether such expenditures were actually made in connection with such project.

(f) **MAINTENANCE OF EFFORT.**—

(1) **REQUIREMENT.**—No grant may be made to a State under section 405, 408, or 410 of title 23, United States Code, in any fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State will maintain its aggregate expenditures from all State and local sources for programs described in such sections at or above the average level of such expenditures in its 2 fiscal years preceding the date of enactment of this Act.

(2) **WAIVER.**—Upon the request of a State, the Secretary may waive or modify the requirements under paragraph (1) for not more than 1 fiscal year if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances.

(g) **TRANSFERS.**—In each fiscal year, the Secretary may transfer any amounts remaining available under paragraphs (3), (4), (5), (6), (9), (11), and (12) of subsection (a) to the amounts made available under paragraph (1) or any other of such paragraphs in order to ensure, to the maximum extent possible, that all funds are obligated.

(h) **GRANT APPLICATION AND DEADLINE.**—To receive a grant under this subtitle, a State shall submit an application, and the Secretary shall establish a single deadline for such applications to enable the award of grants early in the next fiscal year.

(i) **ALLOCATION TO SUPPORT STATE DISTRACTED DRIVING LAWS.**—Of the amounts available under subsection (a)(6) for distracted driving grants, the Secretary may expend, in each fiscal year, up to \$5,000,000 for the development and placement of broadcast media to support the enforcement of State distracted driving laws.

**SEC. 31102. HIGHWAY SAFETY PROGRAMS.**

(a) **PROGRAMS INCLUDED.**—Section 402(a) of title 23, United States Code, is amended to read as follows:

“(a) **PROGRAM REQUIRED.**—

“(1) **IN GENERAL.**—Each State shall have a highway safety program, approved by the Secretary, that is designed to reduce traffic accidents and the resulting deaths, injuries, and property damage.

“(2) **UNIFORM GUIDELINES.**—Programs required under paragraph (1) shall comply with uniform guidelines, promulgated by the Secretary and expressed in terms of performance criteria, that—

“(A) include programs—

“(i) to reduce injuries and deaths resulting from motor vehicles being driven in excess of posted speed limits;

“(ii) to encourage the proper use of occupant protection devices (including the use of safety belts and child restraint systems) by occupants of motor vehicles;

“(iii) to reduce injuries and deaths resulting from persons driving motor vehicles while impaired by alcohol or a controlled substance;

“(iv) to prevent accidents and reduce injuries and deaths resulting from accidents involving motor vehicles and motorcycles;

“(v) to reduce injuries and deaths resulting from accidents involving school buses;

“(vi) to reduce accidents resulting from unsafe driving behavior (including aggressive or fatigued driving and distracted driving arising from the use of electronic devices in vehicles); and

“(vii) to improve law enforcement services in motor vehicle accident prevention, traffic supervision, and post-accident procedures;

“(B) improve driver performance, including—

“(i) driver education;

“(ii) driver testing to determine proficiency to operate motor vehicles; and

“(iii) driver examinations (physical, mental, and driver licensing);

“(C) improve pedestrian performance and bicycle safety;

“(D) include provisions for—

“(i) an effective record system of accidents (including resulting injuries and deaths);

“(ii) accident investigations to determine the probable causes of accidents, injuries, and deaths;

“(iii) vehicle registration, operation, and inspection; and

“(iv) emergency services; and

“(E) to the extent determined appropriate by the Secretary, are applicable to federally administered areas where a Federal department or agency controls the highways or supervises traffic operations.”

(b) **ADMINISTRATION OF STATE PROGRAMS.**—Section 402(b)(1) of title 23, United States Code, is amended—

(1) in subparagraph (D), by striking “and” at the end;

(2) by redesignating subparagraph (E) as subparagraph (F);

(3) by inserting after subparagraph (D) the following:

“(E) beginning on October 1, 2012, provide for a robust, data-driven traffic safety enforcement program to prevent traffic violations, crashes, and crash fatalities and injuries in areas most at risk for such incidents, to the satisfaction of the Secretary;”;

(4) in subparagraph (F), as redesignated—

(A) in clause (i), by inserting “and high-visibility law enforcement mobilizations coordinated by the Secretary” after “mobilizations”;

(B) in clause (iii), by striking “and” at the end;

(C) in clause (iv), by striking the period at the end and inserting “; and”; and

(D) by adding at the end the following:

“(v) ensuring that the State will coordinate its highway safety plan, data collection, and information systems with the State strategic highway safety plan (as defined in section 148(a)).”

(c) **APPROVED HIGHWAY SAFETY PROGRAMS.**—Section 402(c) of title 23, United States Code, is amended—

(1) by striking “(c) Funds authorized” and inserting the following:

“(c) **USE OF FUNDS.**—

“(1) **IN GENERAL.**—Funds authorized”;

(2) by striking “Such funds” and inserting the following:

“(2) **APPORTIONMENT.**—Except for amounts identified in subsection (1) and section 403(e), funds described in paragraph (1)”;

(3) by striking “The Secretary shall not” and all that follows through “subsection, a highway safety program” and inserting “A highway safety program”;

(4) by inserting “A State may use the funds apportioned under this section, in cooperation with neighboring States, for highway safety programs or related projects that may confer benefits on such neighboring States.” after “in every State.”;

(5) by striking “50 per centum” and inserting “20 percent”; and

(6) by striking “The Secretary shall promptly” and all that follows and inserting the following:

“(3) **REAPPORTIONMENT.**—The Secretary shall promptly apportion the funds withheld from a State’s apportionment to the State if the Secretary approves the State’s highway safety program or determines that the State has begun implementing an approved program, as appropriate, not later than July

31st of the fiscal year for which the funds were withheld. If the Secretary determines that the State did not correct its failure within such period, the Secretary shall re-appportion the withheld funds to the other States in accordance with the formula specified in paragraph (2) not later than the last day of the fiscal year.”.

(d) **USE OF HIGHWAY SAFETY PROGRAM FUNDS.**—Section 402(g) of title 23, United States Code, is amended to read as follows:

“(g) **SAVINGS PROVISION.**—

“(1) **IN GENERAL.**—Except as provided under paragraph (2), nothing in this section may be construed to authorize the appropriation or expenditure of funds for—

“(A) highway construction, maintenance, or design (other than design of safety features of highways to be incorporated into guidelines); or

“(B) any purpose for which funds are authorized by section 403.

“(2) **DEMONSTRATION PROJECTS.**—A State may use funds made available to carry out this section to assist in demonstration projects carried out by the Secretary under section 403.”.

(e) **IN GENERAL.**—Section 402 of title 23, United States Code, is amended—

(1) by striking subsections (k) and (m);

(2) by redesignating subsections (i) and (j) as subsections (h) and (i), respectively; and

(3) by redesignating subsection (l) as subsection (j).

(f) **HIGHWAY SAFETY PLAN AND REPORTING REQUIREMENTS.**—Section 402 of title 23, United States Code, as amended by this section, is further amended by adding at the end the following:

“(k) **HIGHWAY SAFETY PLAN AND REPORTING REQUIREMENTS.**—

“(1) **IN GENERAL.**—The Secretary shall require each State to develop and submit to the Secretary a highway safety plan that complies with the requirements under this subsection not later than July 1, 2012, and annually thereafter.

“(2) **CONTENTS.**—State highway safety plans submitted under paragraph (1) shall include—

“(A) performance measures required by the Secretary or otherwise necessary to support additional State safety goals, including—

“(i) documentation of current safety levels for each performance measure;

“(ii) quantifiable annual performance targets for each performance measure; and

“(iii) a justification for each performance target;

“(B) a strategy for programming funds apportioned to the State under this section on projects and activities that will allow the State to meet the performance targets described in subparagraph (A);

“(C) data and data analysis supporting the effectiveness of proposed countermeasures;

“(D) a description of any Federal, State, local, or private funds that the State plans to use, in addition to funds apportioned to the State under this section, to carry out the strategy described in subparagraph (B);

“(E) beginning with the plan submitted by July 1, 2013, a report on the State’s success in meeting State safety goals set forth in the previous year’s highway safety plan; and

“(F) an application for any additional grants available to the State under this chapter.

“(3) **PERFORMANCE MEASURES.**—For the first highway safety plan submitted under this subsection, the performance measures required by the Secretary under paragraph (2)(A) shall be limited to those developed by the National Highway Traffic Safety Admin-

istration and the Governor’s Highway Safety Association and described in the report, ‘Traffic Safety Performance Measures for States and Federal Agencies’ (DOT HS 811 025). For subsequent highway safety plans, the Secretary shall consult with the Governor’s Highway Safety Association and safety experts if the Secretary makes revisions to the set of required performance measures.

“(4) **REVIEW OF HIGHWAY SAFETY PLANS.**—

“(A) **IN GENERAL.**—Not later than 60 days after the date on which a State’s highway safety plan is received by the Secretary, the Secretary shall review and approve or disapprove the plan.

“(B) **APPROVALS AND DISAPPROVALS.**—

“(i) **APPROVALS.**—The Secretary shall approve a State’s highway safety plan if the Secretary determines that—

“(I) the plan is evidence-based and supported by data;

“(II) the performance targets are adequate; and

“(III) the plan, once implemented, will allow the State to meet such targets.

“(ii) **DISAPPROVALS.**—The Secretary shall disapprove a State’s highway safety plan if the Secretary determines that the plan does not—

“(I) set appropriate performance targets; or

“(II) provide for evidence-based programming of funding in a manner sufficient to allow the State to meet such targets.

“(C) **ACTIONS UPON DISAPPROVAL.**—If the Secretary disapproves a State’s highway safety plan, the Secretary shall—

“(i) inform the State of the reasons for such disapproval; and

“(ii) require the State to resubmit the plan with any modifications that the Secretary determines to be necessary.

“(D) **REVIEW OF RESUBMITTED PLANS.**—If the Secretary requires a State to resubmit a highway safety plan, with modifications, the Secretary shall review and approve or disapprove the modified plan not later than 30 days after the date on which the Secretary receives such plan.

“(E) **REPROGRAMMING AUTHORITY.**—If the Secretary determines that the modifications contained in a State’s resubmitted highway safety plan do not provide for the programming of funding in a manner sufficient to meet the State’s performance goals, the Secretary, in consultation with the State, shall take such action as may be necessary to bring the State’s plan into compliance with the performance targets.

“(F) **PUBLIC NOTICE.**—A State shall make the State’s highway safety plan, and decisions of the Secretary concerning approval or disapproval of a revised plan, available to the public.”.

(g) **COOPERATIVE RESEARCH AND EVALUATION.**—Section 402 of title 23, United States Code, as amended by this section, is further amended by adding at the end the following:

“(1) **COOPERATIVE RESEARCH AND EVALUATION.**—

“(1) **ESTABLISHMENT AND FUNDING.**—Notwithstanding the apportionment formula set forth in subsection (c)(2), \$2,500,000 of the total amount available for apportionment to the States for highway safety programs under subsection (c) in each fiscal year shall be available for expenditure by the Secretary, acting through the Administrator of the National Highway Traffic Safety Administration, for a cooperative research and evaluation program to research and evaluate priority highway safety countermeasures.

“(2) **ADMINISTRATION.**—The program established under paragraph (1)—

“(A) shall be administered by the Administrator of the National Highway Traffic Safety Administration; and

“(B) shall be jointly managed by the Governors Highway Safety Association and the National Highway Traffic Safety Administration.”.

(h) **TEEN TRAFFIC SAFETY PROGRAM.**—Section 402 of title 23, United States Code, as amended by this section, is further amended by adding at the end the following:

“(m) **TEEN TRAFFIC SAFETY PROGRAM.**—

“(1) **PROGRAM AUTHORIZED.**—Subject to the requirements of a State’s highway safety plan, as approved by the Secretary under subsection (k), a State may use a portion of the amounts received under this section to implement a statewide teen traffic safety program to improve traffic safety for teen drivers.

“(2) **STRATEGIES.**—The program implemented under paragraph (1)—

“(A) shall include peer-to-peer education and prevention strategies in schools and communities designed to—

“(i) increase safety belt use;

“(ii) reduce speeding;

“(iii) reduce impaired and distracted driving;

“(iv) reduce underage drinking; and

“(v) reduce other behaviors by teen drivers that lead to injuries and fatalities; and

“(B) may include—

“(i) working with student-led groups and school advisors to plan and implement teen traffic safety programs;

“(ii) providing subgrants to schools throughout the State to support the establishment and expansion of student groups focused on teen traffic safety;

“(iii) providing support, training, and technical assistance to establish and expand school and community safety programs for teen drivers;

“(iv) creating statewide or regional websites to publicize and circulate information on teen safety programs;

“(v) conducting outreach and providing educational resources for parents;

“(vi) establishing State or regional advisory councils comprised of teen drivers to provide input and recommendations to the governor and the governor’s safety representative on issues related to the safety of teen drivers;

“(vii) collaborating with law enforcement;

“(viii) organizing and hosting State and regional conferences for teen drivers;

“(ix) establishing partnerships and promoting coordination among community stakeholders, including public, not-for-profit, and for profit entities; and

“(x) funding a coordinator position for the teen safety program in the State or region.”.

**SEC. 31103. HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.**

Section 403 of title 23, United States Code, is amended to read as follows:

“**§ 403. Highway safety research and development**

“(a) **DEFINED TERM.**—In this section, the term ‘Federal laboratory’ includes—

“(1) a government-owned, government-operated laboratory; and

“(2) a government-owned, contractor-operated laboratory.

“(b) **GENERAL AUTHORITY.**—

“(1) **RESEARCH AND DEVELOPMENT ACTIVITIES.**—The Secretary may conduct research and development activities, including demonstration projects and the collection and analysis of highway and motor vehicle safety data and related information needed to carry out this section, with respect to—

“(A) all aspects of highway and traffic safety systems and conditions relating to—

“(i) vehicle, highway, driver, passenger, motorcyclist, bicyclist, and pedestrian characteristics;

“(ii) accident causation and investigations;

“(iii) communications;

“(iv) emergency medical services; and

“(v) transportation of the injured;

“(B) human behavioral factors and their effect on highway and traffic safety, including—

“(i) driver education;

“(ii) impaired driving;

“(iii) distracted driving; and

“(iv) new technologies installed in, or brought into, vehicles;

“(C) an evaluation of the effectiveness of countermeasures to increase highway and traffic safety, including occupant protection and alcohol- and drug-impaired driving technologies and initiatives;

“(D) the development of technologies to detect drug impaired drivers; and

“(E) the effect of State laws on any aspects, activities, or programs described in subparagraphs (A) through (D).

“(2) COOPERATION, GRANTS, AND CONTRACTS.—The Secretary may carry out this section—

“(A) independently;

“(B) in cooperation with other Federal departments, agencies, and instrumentalities and Federal laboratories;

“(C) by entering into contracts, cooperative agreements, and other transactions with the National Academy of Sciences, any Federal laboratory, State or local agency, authority, association, institution, foreign country, or person (as defined in chapter 1 of title 1); or

“(D) by making grants to the National Academy of Sciences, any Federal laboratory, State or local agency, authority, association, institution, or person (as defined in chapter 1 of title 1).

“(c) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

“(1) IN GENERAL.—To encourage innovative solutions to highway safety problems, stimulate voluntary improvements in highway safety, and stimulate the marketing of new highway safety related technology by private industry, the Secretary is authorized to carry out, on a cost-shared basis, collaborative research and development with—

“(A) non-Federal entities, including State and local governments, foreign countries, colleges, universities, corporations, partnerships, sole proprietorships, organizations serving the interests of children, people with disabilities, low-income populations, and older adults, and trade associations that are incorporated or established under the laws of any State or the United States; and

“(B) Federal laboratories.

“(2) AGREEMENTS.—In carrying out this subsection, the Secretary may enter into cooperative research and development agreements (as defined in section 12 of the Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3710a)) in which the Secretary provides not more than 50 percent of the cost of any research or development project under this subsection.

“(3) USE OF TECHNOLOGY.—The research, development, or use of any technology pursuant to an agreement under this subsection, including the terms under which technology may be licensed and the resulting royalties may be distributed, shall be subject to the provisions of the Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

“(d) TITLE TO EQUIPMENT.—In furtherance of the purposes set forth in section 402, the Secretary may vest title to equipment purchased for demonstration projects with funds authorized under this section to State or local agencies on such terms and conditions as the Secretary determines to be appropriate.

“(e) TRAINING.—Notwithstanding the apportionment formula set forth in section 402(c)(2), 1 percent of the total amount available for apportionment to the States for highway safety programs under section 402(c) in each fiscal year shall be available, through the end of the succeeding fiscal year, to the Secretary, acting through the Administrator of the National Highway Traffic Safety Administration—

“(1) to provide training, conducted or developed by Federal or non-Federal entity or personnel, to Federal, State, and local highway safety personnel; and

“(2) to pay for any travel, administrative, and other expenses related to such training.

“(f) DRIVER LICENSING AND FITNESS TO DRIVE CLEARINGHOUSE.—From amounts made available under this section, the Secretary, acting through the Administrator of the National Highway Traffic Safety Administration, is authorized to expend \$1,280,000 between the date of enactment of the Motor Vehicle and Highway Safety Improvement Act of 2012 and September 30, 2013, to establish an electronic clearinghouse and technical assistance service to collect and disseminate research and analysis of medical and technical information and best practices concerning drivers with medical issues that may be used by State driver licensing agencies in making licensing qualification decisions.

“(g) INTERNATIONAL HIGHWAY SAFETY INFORMATION AND COOPERATION.—

“(1) ESTABLISHMENT.—The Secretary, acting through the Administrator of the National Highway Traffic Safety Administration, may establish an international highway safety information and cooperation program to—

“(A) inform the United States highway safety community of laws, projects, programs, data, and technology in foreign countries that could be used to enhance highway safety in the United States;

“(B) permit the exchange of information with foreign countries about laws, projects, programs, data, and technology that could be used to enhance highway safety; and

“(C) allow the Secretary, represented by the Administrator, to participate and cooperate in international activities to enhance highway safety.

“(2) COOPERATION.—The Secretary may carry out this subsection in cooperation with any appropriate Federal agency, State or local agency or authority, foreign government, or multinational institution.

“(h) PROHIBITION ON CERTAIN DISCLOSURES.—Any report of the National Highway Traffic Safety Administration, or of any officer, employee, or contractor of the National Highway Traffic Safety Administration, relating to any highway traffic accident or the investigation of such accident conducted pursuant to this chapter or chapter 301 shall be made available to the public in a manner that does not identify individuals.

“(i) MODEL SPECIFICATIONS FOR DEVICES.—The Secretary, acting through the Administrator of the National Highway Traffic Safety Administration, may—

“(1) develop model specifications and testing procedures for devices, including devices designed to measure the concentration of alcohol in the body;

“(2) conduct periodic tests of such devices;

“(3) publish a Conforming Products List of such devices that have met the model specifications; and

“(4) may require that any necessary tests of such devices are conducted by a Federal laboratory and paid for by the device manufacturers.”.

#### SEC. 31104. NATIONAL DRIVER REGISTER.

Section 30302(b) of title 49, United States Code, is amended by adding at the end the following: “The Secretary shall make continual improvements to modernize the Register’s data processing system.”.

#### SEC. 31105. COMBINED OCCUPANT PROTECTION GRANTS.

(a) IN GENERAL.—Section 405 of title 23, United States Code, is amended to read as follows:

##### “§ 405. Combined occupant protection grants

“(a) GENERAL AUTHORITY.—Subject to the requirements of this section, the Secretary of Transportation shall award grants to States that adopt and implement effective occupant protection programs to reduce highway deaths and injuries resulting from individuals riding unrestrained or improperly restrained in motor vehicles.

“(b) FEDERAL SHARE.—The Federal share of the costs of activities funded using amounts from grants awarded under this section may not exceed 80 percent for each fiscal year for which a State receives a grant.

“(c) ELIGIBILITY.—

“(1) HIGH SEAT BELT USE RATE.—A State with an observed seat belt use rate of 90 percent or higher, based on the most recent data from a survey that conforms with national criteria established by the National Highway Traffic Safety Administration, shall be eligible for a grant in a fiscal year if the State—

“(A) submits an occupant protection plan during the first fiscal year;

“(B) participates in the Click It or Ticket national mobilization;

“(C) has an active network of child restraint inspection stations; and

“(D) has a plan to recruit, train, and maintain a sufficient number of child passenger safety technicians.

“(2) LOWER SEAT BELT USE RATE.—A State with an observed seat belt use rate below 90 percent, based on the most recent data from a survey that conforms with national criteria established by the National Highway Traffic Safety Administration, shall be eligible for a grant in a fiscal year if—

“(A) the State meets all of the requirements under subparagraphs (A) through (D) of paragraph (1); and

“(B) the Secretary determines that the State meets at least 3 of the following criteria:

“(i) The State conducts sustained (ongoing and periodic) seat belt enforcement at a defined level of participation during the year.

“(ii) The State has enacted and enforces a primary enforcement seat belt use law.

“(iii) The State has implemented countermeasure programs for high-risk populations, such as drivers on rural roadways, unrestrained nighttime drivers, or teenage drivers.

“(iv) The State has enacted and enforces occupant protection laws requiring front and rear occupant protection use by all occupants in an age-appropriate restraint.

“(v) The State has implemented a comprehensive occupant protection program in which the State has—

“(I) conducted a program assessment;

“(II) developed a statewide strategic plan;



“(III) designated an occupant protection coordinator; and

“(IV) established a statewide occupant protection task force.

“(vi) The State—

“(I) completed an assessment of its occupant protection program during the 3-year period preceding the grant year; or

“(II) will conduct such an assessment during the first year of the grant.

“(d) USE OF GRANT AMOUNTS.—Grant funds received pursuant to this section may be used to—

“(1) carry out a program to support high-visibility enforcement mobilizations, including paid media that emphasizes publicity for the program, and law enforcement;

“(2) carry out a program to train occupant protection safety professionals, police officers, fire and emergency medical personnel, educators, and parents concerning all aspects of the use of child restraints and occupant protection;

“(3) carry out a program to educate the public concerning the proper use and installation of child restraints, including related equipment and information systems;

“(4) carry out a program to provide community child passenger safety services, including programs about proper seating positions for children and how to reduce the improper use of child restraints;

“(5) purchase and distribute child restraints to low-income families if not more than 5 percent of the funds received in a fiscal year are used for this purpose;

“(6) establish and maintain information systems containing data concerning occupant protection, including the collection and administration of child passenger safety and occupant protection surveys; and

“(7) carry out a program to educate the public concerning the dangers of leaving children unattended in vehicles.

“(e) GRANT AMOUNT.—The allocation of grant funds under this section to a State for a fiscal year shall be in proportion to the State’s apportionment under section 402 for fiscal year 2009.

“(f) REPORT.—A State that receives a grant under this section shall submit a report to the Secretary that documents the manner in which the grant amounts were obligated and expended and identifies the specific programs carried out with the grant funds. The report shall be in a form prescribed by the Secretary and may be combined with other State grant reporting requirements under chapter 4 of title 23, United States Code.

“(g) DEFINITIONS.—In this section:

“(1) CHILD RESTRAINT.—The term ‘child restraint’ means any device (including child safety seat, booster seat, harness, and excepting seat belts) designed for use in a motor vehicle to restrain, seat, or position children who weigh 65 pounds (30 kilograms) or less, and certified to the Federal motor vehicle safety standard prescribed by the National Highway Traffic Safety Administration for child restraints.

“(2) SEAT BELT.—The term ‘seat belt’ means—

“(A) with respect to open-body motor vehicles, including convertibles, an occupant restraint system consisting of a lap belt or a lap belt and a detachable shoulder belt; and

“(B) with respect to other motor vehicles, an occupant restraint system consisting of integrated lap and shoulder belts.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 4 of title 23, United States Code, is amended by striking the item relating to section 405 and inserting the following:

“405. Combined occupant protection grants.”.

#### SEC. 31106. STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS.

Section 408 of title 23, United States Code, is amended to read as follows:

##### “§ 408. State traffic safety information system improvements

“(a) GENERAL AUTHORITY.—Subject to the requirements of this section, the Secretary of Transportation shall award grants to States to support the development and implementation of effective State programs that—

“(1) improve the timeliness, accuracy, completeness, uniformity, integration, and accessibility of the State safety data that is needed to identify priorities for Federal, State, and local highway and traffic safety programs;

“(2) evaluate the effectiveness of efforts to make such improvements;

“(3) link the State data systems, including traffic records, with other data systems within the State, such as systems that contain medical, roadway, and economic data;

“(4) improve the compatibility and interoperability of the data systems of the State with national data systems and data systems of other States; and

“(5) enhance the ability of the Secretary to observe and analyze national trends in crash occurrences, rates, outcomes, and circumstances.

“(b) FEDERAL SHARE.—The Federal share of the cost of adopting and implementing in a fiscal year a State program described in this section may not exceed 80 percent.

“(c) ELIGIBILITY.—A State is not eligible for a grant under this section in a fiscal year unless the State demonstrates, to the satisfaction of the Secretary, that the State—

“(1) has a functioning traffic records coordinating committee (referred to in this subsection as ‘TRCC’) that meets at least 3 times a year;

“(2) has designated a TRCC coordinator;

“(3) has established a State traffic record strategic plan that has been approved by the TRCC and describes specific quantifiable and measurable improvements anticipated in the State’s core safety databases, including crash, citation or adjudication, driver, emergency medical services or injury surveillance system, roadway, and vehicle databases;

“(4) has demonstrated quantitative progress in relation to the significant data program attribute of—

“(A) accuracy;

“(B) completeness;

“(C) timeliness;

“(D) uniformity;

“(E) accessibility; or

“(F) integration of a core highway safety database; and

“(5) has certified to the Secretary that an assessment of the State’s highway safety data and traffic records system was conducted or updated during the preceding 5 years.

“(d) USE OF GRANT AMOUNTS.—Grant funds received by a State under this section shall be used for making data program improvements to core highway safety databases related to quantifiable, measurable progress in any of the 6 significant data program attributes set forth in subsection (c)(4).

“(e) GRANT AMOUNT.—The allocation of grant funds under this section to a State for a fiscal year shall be in proportion to the State’s apportionment under section 402 for fiscal year 2009.”.

#### SEC. 31107. IMPAIRED DRIVING COUNTERMEASURES.

(a) IN GENERAL.—Section 410 of title 23, United States Code, is amended to read as follows:

##### “§ 410. Impaired driving countermeasures

“(a) GRANTS AUTHORIZED.—Subject to the requirements of this section, the Secretary of Transportation shall award grants to States that adopt and implement—

“(1) effective programs to reduce driving under the influence of alcohol, drugs, or the combination of alcohol and drugs; or

“(2) alcohol-ignition interlock laws.

“(b) FEDERAL SHARE.—The Federal share of the costs of activities funded using amounts from grants under this section may not exceed 80 percent in any fiscal year in which the State receives a grant.

“(c) ELIGIBILITY.—

“(1) LOW-RANGE STATES.—Low-range States shall be eligible for a grant under this section.

“(2) MID-RANGE STATES.—A mid-range State shall be eligible for a grant under this section if—

“(A) a statewide impaired driving task force in the State developed a statewide plan during the most recent 3 calendar years to address the problem of impaired driving; or

“(B) the State will convene a statewide impaired driving task force to develop such a plan during the first year of the grant.

“(3) HIGH-RANGE STATES.—A high-range State shall be eligible for a grant under this section if the State—

“(A)(i) conducted an assessment of the State’s impaired driving program during the most recent 3 calendar years; or

“(ii) will conduct such an assessment during the first year of the grant;

“(B) convenes, during the first year of the grant, a statewide impaired driving task force to develop a statewide plan that—

“(i) addresses any recommendations from the assessment conducted under subparagraph (A);

“(ii) includes a detailed plan for spending any grant funds provided under this section; and

“(iii) describes how such spending supports the statewide program;

“(C)(i) submits the statewide plan to the National Highway Traffic Safety Administration during the first year of the grant for the agency’s review and approval;

“(ii) annually updates the statewide plan in each subsequent year of the grant; and

“(iii) submits each updated statewide plan for the agency’s review and comment; and

“(D) appoints a full or part-time impaired driving coordinator—

“(i) to coordinate the State’s activities to address enforcement and adjudication of laws to address driving while impaired by alcohol; and

“(ii) to oversee the implementation of the statewide plan.

“(d) USE OF GRANT AMOUNTS.—

“(1) REQUIRED PROGRAMS.—High-range States shall use grant funds for—

“(A) high visibility enforcement efforts; and

“(B) any of the activities described in paragraph (2) if—

“(i) the activity is described in the statewide plan; and

“(ii) the Secretary approves the use of funding for such activity.

“(2) AUTHORIZED PROGRAMS.—Medium-range and low-range States may use grant funds for—

“(A) any of the purposes described in paragraph (1);

“(B) paid and earned media in support of high visibility enforcement efforts;

“(C) hiring a full-time or part-time impaired driving coordinator of the State’s activities to address the enforcement and adjudication of laws regarding driving while impaired by alcohol;

“(D) court support of high visibility enforcement efforts;

“(E) alcohol ignition interlock programs;

“(F) improving blood-alcohol concentration testing and reporting;

“(G) establishing driving while intoxicated courts;

“(H) conducting—

“(i) standardized field sobriety training;

“(ii) advanced roadside impaired driving evaluation training; and

“(iii) drug recognition expert training for law enforcement;

“(I) training and education of criminal justice professionals (including law enforcement, prosecutors, judges and probation officers) to assist such professionals in handling impaired driving cases;

“(J) traffic safety resource prosecutors;

“(K) judicial outreach liaisons;

“(L) equipment and related expenditures used in connection with impaired driving enforcement in accordance with criteria established by the National Highway Traffic Safety Administration;

“(M) training on the use of alcohol screening and brief intervention;

“(N) developing impaired driving information systems; and

“(O) costs associated with a ‘24-7 sobriety program’.

“(3) OTHER PROGRAMS.—Low-range States may use grant funds for any expenditure designed to reduce impaired driving based on problem identification. Medium and high-range States may use funds for such expenditures upon approval by the Secretary.

“(e) GRANT AMOUNT.—Subject to subsection (f), the allocation of grant funds to a State under this section for a fiscal year shall be in proportion to the State’s apportionment under section 402(c) for fiscal year 2009.

“(f) GRANTS TO STATES THAT ADOPT AND ENFORCE MANDATORY ALCOHOL-IGNITION INTERLOCK LAWS.—

“(1) IN GENERAL.—The Secretary shall make a separate grant under this section to each State that adopts and is enforcing a mandatory alcohol-ignition interlock law for all individuals convicted of driving under the influence of alcohol or of driving while intoxicated.

“(2) USE OF FUNDS.—Such grants may be used by recipient States only for costs associated with the State’s alcohol-ignition interlock program, including screening, assessment, and program and offender oversight.

“(3) ALLOCATION.—Funds made available under this subsection shall be allocated among States described in paragraph (1) on the basis of the apportionment formula under section 402(c).

“(4) FUNDING.—Not more than 15 percent of the amounts made available to carry out this section in a fiscal year shall be made available by the Secretary for making grants under this subsection.

“(g) DEFINITIONS.—In this section:

“(1) 24-7 SOBRIETY PROGRAM.—The term ‘24-7 sobriety program’ means a State law or program that authorizes a State court or a State agency, as a condition of sentence, probation, parole, or work permit, to—

“(A) require an individual who plead guilty or was convicted of driving under the influence of alcohol or drugs to totally abstain from alcohol or drugs for a period of time; and

“(B) require the individual to be subject to testing for alcohol or drugs—

“(i) at least twice a day;

“(ii) by continuous transdermal alcohol monitoring via an electronic monitoring device; or

“(iii) by an alternate method with the concurrence of the Secretary.

“(2) AVERAGE IMPAIRED DRIVING FATALITY RATE.—The term ‘average impaired driving fatality rate’ means the number of fatalities in motor vehicle crashes involving a driver with a blood alcohol concentration of at least 0.08 for every 100,000,000 vehicle miles traveled, based on the most recently reported 3 calendar years of final data from the Fatality Analysis Reporting System, as calculated in accordance with regulations prescribed by the Administrator of the National Highway Traffic Safety Administration.

“(3) HIGH-RANGE STATE.—The term ‘high-range State’ means a State that has an average impaired driving fatality rate of 0.60 or higher.

“(4) LOW-RANGE STATE.—The term ‘low-range State’ means a State that has an average impaired driving fatality rate of 0.30 or lower.

“(5) MID-RANGE STATE.—The term ‘mid-range State’ means a State that has an average impaired driving fatality rate that is higher than 0.30 and lower than 0.60.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 4 of title 23, United States Code, is amended by striking the item relating to section 410 and inserting the following:

“410. Impaired driving countermeasures.”.

#### SEC. 31108. DISTRACTED DRIVING GRANTS.

(a) IN GENERAL.—Section 411 of title 23, United States Code, is amended to read as follows:

##### “§ 411. Distracted driving grants

“(a) IN GENERAL.—The Secretary shall award a grant under this section to any State that enacts and enforces a statute that meets the requirements set forth in subsections (b) and (c).

“(b) PROHIBITION ON TEXTING WHILE DRIVING.—A State statute meets the requirements set forth in this subsection if the statute—

“(1) prohibits drivers from texting through a personal wireless communications device while driving;

“(2) makes violation of the statute a primary offense;

“(3) establishes—

“(A) a minimum fine for a first violation of the statute; and

“(B) increased fines for repeat violations; and

“(4) provides increased civil and criminal penalties than would otherwise apply if a vehicle accident is caused by a driver who is using such a device in violation of the statute.

“(c) PROHIBITION ON YOUTH CELL PHONE USE WHILE DRIVING.—A State statute meets the requirements set forth in this subsection if the statute—

“(1) prohibits a driver who is younger than 18 years of age from using a personal wireless communications device while driving;

“(2) makes violation of the statute a primary offense;

“(3) requires distracted driving issues to be tested as part of the State driver’s license examination;

“(4) establishes—

“(A) a minimum fine for a first violation of the statute; and

“(B) increased fines for repeat violations; and

“(5) provides increased civil and criminal penalties than would otherwise apply if a vehicle accident is caused by a driver who is using such a device in violation of the statute.

“(d) PERMITTED EXCEPTIONS.—A statute that meets the requirements set forth in subsections (b) and (c) may provide exceptions for—

“(1) a driver who uses a personal wireless communications device to contact emergency services;

“(2) emergency services personnel who use a personal wireless communications device while—

“(A) operating an emergency services vehicle; and

“(B) engaged in the performance of their duties as emergency services personnel; and

“(3) an individual employed as a commercial motor vehicle driver or a school bus driver who uses a personal wireless communications device within the scope of such individual’s employment if such use is permitted under the regulations promulgated pursuant to section 3152 of title 49.

“(e) USE OF GRANT FUNDS.—Of the grant funds received by a State under this section—

“(1) at least 50 percent shall be used—

“(A) to educate the public through advertising containing information about the dangers of texting or using a cell phone while driving;

“(B) for traffic signs that notify drivers about the distracted driving law of the State; or

“(C) for law enforcement costs related to the enforcement of the distracted driving law; and

“(2) up to 50 percent may be used for other projects that—

“(A) improve traffic safety; and

“(B) are consistent with the criteria set forth in section 402(a).

“(f) ADDITIONAL GRANTS.—In fiscal year 2012, the Secretary may use up to 25 percent of the funding available for grants under this section to award grants to States that—

“(1) enacted statutes before July 1, 2011, which meet the requirements under paragraphs (1) and (2) of subsection (b); and

“(2) are otherwise ineligible for a grant under this section.

“(g) DISTRACTED DRIVING STUDY.—

“(1) IN GENERAL.—The Secretary shall conduct a study of all forms of distracted driving.

“(2) COMPONENTS.—The study conducted under paragraph (1) shall—

“(A) examine the effect of distractions other than the use of personal wireless communications on motor vehicle safety;

“(B) identify metrics to determine the nature and scope of the distracted driving problem;

“(C) identify the most effective methods to enhance education and awareness; and

“(D) identify the most effective method of reducing deaths and injuries caused by all forms of distracted driving.

“(3) REPORT.—Not later than 1 year after the date of enactment of the Motor Vehicle and Highway Safety Improvement Act of 2012, the Secretary shall submit a report containing the results of the study conducted under this subsection to—

“(A) the Committee on Commerce, Science, and Transportation of the Senate; and

“(B) the Committee on Transportation and Infrastructure of the House of Representatives.

“(h) DEFINITIONS.—In this section:

“(1) DRIVING.—The term ‘driving’—

“(A) means operating a motor vehicle on a public road, including operation while temporarily stationary because of traffic, a traffic light or stop sign, or otherwise; and

“(B) does not include operating a motor vehicle when the vehicle has pulled over to the side of, or off, an active roadway and has stopped in a location where it can safely remain stationary.

“(2) PERSONAL WIRELESS COMMUNICATIONS DEVICE.—The term ‘personal wireless communications device’—

“(A) means a device through which personal wireless services (as defined in section 332(c)(7)(C)(i) of the Communications Act of 1934 (47 U.S.C. 332(c)(7)(C)(i))) are transmitted; and

“(B) does not include a global navigation satellite system receiver used for positioning, emergency notification, or navigation purposes.

“(3) PRIMARY OFFENSE.—The term ‘primary offense’ means an offense for which a law enforcement officer may stop a vehicle solely for the purpose of issuing a citation in the absence of evidence of another offense.

“(4) PUBLIC ROAD.—The term ‘public road’ has the meaning given that term in section 402(c).

“(5) TEXTING.—The term ‘texting’ means reading from or manually entering data into a personal wireless communications device, including doing so for the purpose of SMS texting, e-mailing, instant messaging, or engaging in any other form of electronic data retrieval or electronic data communication.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 4 of title 23, United States Code, is amended by striking the item relating to section 411 and inserting the following:

“411. Distracted driving grants.”.

#### SEC. 31109. HIGH VISIBILITY ENFORCEMENT PROGRAM.

Section 2009 of SAFETEA-LU (23 U.S.C. 402 note) is amended—

(1) in subsection (a)—

(A) by striking “at least 2” and inserting “at least 3”; and

(B) by striking “years 2006 through 2012.” and inserting “fiscal years 2012 and 2013. The Administrator may also initiate and support additional campaigns in each of fiscal years 2012 and 2013 for the purposes specified in subsection (b).”;

(2) in subsection (b) by striking “either or both” and inserting “outcomes related to at least 1”;

(3) in subsection (c), by inserting “and Internet-based outreach” after “print media advertising”;

(4) in subsection (e), by striking “subsections (a), (c), and (f)” and inserting “subsection (c)”;

(5) by striking subsection (f); and

(6) by redesignating subsection (g) as subsection (f).

#### SEC. 31110. MOTORCYCLIST SAFETY.

Section 2010 of SAFETEA-LU (23 U.S.C. 402 note) is amended—

(1) by striking subsections (b) and (g);

(2) by redesignating subsections (c), (d), (e), and (f) as subsections (b), (c), (d), and (e), respectively; and

(3) in subsection (c)(1), as redesignated, by striking “to the satisfaction of the Secretary—” and all that follows and inserting “, to the satisfaction of the Secretary, at least 2 of the 6 criteria listed in paragraph (2).”.

#### SEC. 31111. DRIVER ALCOHOL DETECTION SYSTEM FOR SAFETY RESEARCH.

(a) IN GENERAL.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following:

##### “§ 413. In-vehicle alcohol detection device research

“(a) IN GENERAL.—The Administrator of the National Highway Traffic Safety Administration shall carry out a collaborative research effort under chapter 301 of title 49, United States Code, to continue to explore the feasibility and the potential benefits of, and the public policy challenges associated with, more widespread deployment of in-vehicle technology to prevent alcohol-impaired driving.

“(b) REPORTS.—The Administrator shall submit a report annually to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure—

“(1) describing progress in carrying out the collaborative research effort; and

“(2) including an accounting for the use of Federal funds obligated or expended in carrying out that effort.

“(c) DEFINITIONS.—In this title:

“(1) ALCOHOL-IMPAIRED DRIVING.—The term ‘alcohol-impaired driving’ means operation of a motor vehicle (as defined in section 30102(a)(6) of title 49, United States Code) by an individual whose blood alcohol content is at or above the legal limit.

“(2) LEGAL LIMIT.—The term ‘legal limit’ means a blood alcohol concentration of 0.08 percent or greater (as specified by chapter 163 of title 23, United States Code) or such other percentage limitation as may be established by applicable Federal, State, or local law.”.

(b) CLERICAL AMENDMENT.—The analysis for chapter 4 of title 23, United States Code, is amended by inserting after the item relating to section 412 the following:

“413. In-vehicle alcohol detection device research.”.

#### SEC. 31112. STATE GRADUATED DRIVER LICENSING LAWS.

(a) IN GENERAL.—Chapter 4 of title 23, United States Code, as amended by this title, is further amended by adding at the end the following:

##### “§ 414. State Graduated Driver Licensing Incentive Grant

“(a) GRANTS AUTHORIZED.—Subject to the requirements of this section, the Secretary shall award grants to States that adopt and implement graduated driver licensing laws in accordance with the requirements set forth in subsection (b).

“(b) MINIMUM REQUIREMENTS.—

“(1) IN GENERAL.—A State meets the requirements set forth in this subsection if the State has a graduated driver licensing law that requires novice drivers younger than 21 years of age to comply with the 2-stage licensing process described in paragraph (2) before receiving an unrestricted driver’s license.

“(2) LICENSING PROCESS.—A State is in compliance with the 2-stage licensing process described in this paragraph if the State’s driver’s license laws include—

“(A) a learner’s permit stage that—

“(i) is at least 6 months in duration;

“(ii) prohibits the driver from using a cellular telephone or any communications device in a nonemergency situation; and

“(iii) remains in effect until the driver—

“(I) reaches 16 years of age and enters the intermediate stage; or

“(II) reaches 18 years of age;

“(B) an intermediate stage that—

“(i) commences immediately after the expiration of the learner’s permit stage;

“(ii) is at least 6 months in duration;

“(iii) prohibits the driver from using a cellular telephone or any communications device in a nonemergency situation;

“(iv) restricts driving at night;

“(v) prohibits the driver from operating a motor vehicle with more than 1 nonfamilial passenger younger than 21 years of age unless a licensed driver who is at least 21 years of age is in the motor vehicle; and

“(vi) remains in effect until the driver reaches 18 years of age; and

“(C) any other requirement prescribed by the Secretary of Transportation, including—

“(i) in the learner’s permit stage—

“(I) at least 40 hours of behind-the-wheel training with a licensed driver who is at least 21 years of age;

“(II) a driver training course; and

“(III) a requirement that the driver be accompanied and supervised by a licensed driver, who is at least 21 years of age, at all times while such driver is operating a motor vehicle; and

“(ii) in the learner’s permit or intermediate stage, a requirement, in addition to any other penalties imposed by State law, that the grant of an unrestricted driver’s license be automatically delayed for any individual who, during the learner’s permit or intermediate stage, is convicted of a driving-related offense, including—

“(I) driving while intoxicated;

“(II) misrepresentation of his or her true age;

“(III) reckless driving;

“(IV) driving without wearing a seat belt;

“(V) speeding; or

“(VI) any other driving-related offense, as determined by the Secretary.

“(c) RULEMAKING.—

“(1) IN GENERAL.—The Secretary shall promulgate regulations necessary to implement the requirements under subsection (b), in accordance with the notice and comment provisions under section 553 of title 5, United States Code.

“(2) EXCEPTION.—A State that otherwise meets the minimum requirements set forth in subsection (b) shall be deemed by the Secretary to be in compliance with the requirement set forth in subsection (b) if the State enacted a law before January 1, 2011, establishing a class of license that permits licensees or applicants younger than 18 years of age to drive a motor vehicle—

“(A) in connection with work performed on, or for the operation of, a farm owned by family members who are directly related to the applicant or licensee; or

“(B) if demonstrable hardship would result from the denial of a license to the licensees or applicants.

“(d) ALLOCATION.—Grant funds allocated to a State under this section for a fiscal year shall be in proportion to a State’s apportionment under section 402 for such fiscal year.

“(e) USE OF FUNDS.—Grant funds received by a State under this section may be used for—

“(1) enforcing a 2-stage licensing process that complies with subsection (b)(2);

“(2) training for law enforcement personnel and other relevant State agency personnel relating to the enforcement described in paragraph (1);

“(3) publishing relevant educational materials that pertain directly or indirectly to the State graduated driver licensing law;

“(4) carrying out other administrative activities that the Secretary considers relevant to the State’s 2-stage licensing process; and

“(5) carrying out a teen traffic safety program described in section 402(m).”.

#### SEC. 31113. AGENCY ACCOUNTABILITY.

Section 412 of title 23, United States Code, is amended—

(1) by amending subsection (a) to read as follows:

“(a) TRIENNIAL STATE MANAGEMENT REVIEWS.—

“(1) IN GENERAL.—Except as provided under paragraph (2), the Secretary shall conduct a review of each State highway safety program at least once every 3 years.

“(2) EXCEPTIONS.—The Secretary may conduct reviews of the highway safety programs of the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands as often as the Secretary determines to be appropriate.

“(3) COMPONENTS.—Reviews under this subsection shall include—

“(A) a management evaluation of all grant programs funded under this chapter;

“(B) an assessment of State data collection and evaluation relating to performance measures established by the Secretary;

“(C) a comparison of State efforts under subparagraphs (A) and (B) to best practices and programs that have been evaluated for effectiveness; and

“(D) the development of recommendations on how each State could—

“(i) improve the management and oversight of its grant activities; and

“(ii) provide a management and oversight plan for such grant programs.”; and

(2) by striking subsection (f).

#### SEC. 31114. EMERGENCY MEDICAL SERVICES.

Section 10202 of Public Law 109-59 (42 U.S.C. 300d-4), is amended by adding at the end the following:

“(b) NATIONAL EMERGENCY MEDICAL SERVICES ADVISORY COUNCIL.—

“(1) ESTABLISHMENT.—The Secretary of Transportation, in coordination with the Secretary of Health and Human Services and the Secretary of Homeland Security, shall establish a National Emergency Medical Services Advisory Council (referred to in this subsection as the ‘Advisory Council’).

“(2) MEMBERSHIP.—The Advisory Council shall be composed of 25 members, who—

“(A) shall be appointed by the Secretary of Transportation; and

“(B) shall collectively be representative of all sectors of the emergency medical services community.

“(3) PURPOSES.—The purposes of the Advisory Council are to advise and consult with—

“(A) the Federal Interagency Committee on Emergency Medical Services on matters relating to emergency medical services issues; and

“(B) the Secretary of Transportation on matters relating to emergency medical services issues affecting the Department of Transportation.

“(4) ADMINISTRATION.—The Administrator of the National Highway Traffic Safety Administration shall provide administrative support to the Advisory Council, including scheduling meetings, setting agendas, keeping minutes and records, and producing reports.

“(5) LEADERSHIP.—The members of the Advisory Council shall annually select a chairperson of the Council.

“(6) MEETINGS.—The Advisory Council shall meet as frequently as is determined necessary by the chairperson of the Council.

“(7) ANNUAL REPORTS.—The Advisory Council shall prepare an annual report to the Secretary of Transportation regarding the Council’s actions and recommendations.”.

#### Subtitle B—Enhanced Safety Authorities

#### SEC. 31201. DEFINITION OF MOTOR VEHICLE EQUIPMENT.

Section 30102(a)(7)(C) of title 49, United States Code, is amended to read as follows:

“(C) any device or an article or apparel, including a motorcycle helmet and excluding medicine or eyeglasses prescribed by a licensed practitioner, that—

“(i) is not a system, part, or component of a motor vehicle; and

“(ii) is manufactured, sold, delivered, or offered to be sold for use on public streets, roads, and highways with the apparent purpose of safeguarding motor vehicles and highway users against risk of accident, injury, or death.”.

#### SEC. 31202. PERMIT REMINDER SYSTEM FOR NON-USE OF SAFETY BELTS.

(a) IN GENERAL.—Chapter 301 of title 49, United States Code, is amended—

(1) in section 30122, by striking subsection (d); and

(2) by amending section 30124 to read as follows:

#### “§ 30124. Nonuse of safety belts

“A motor vehicle safety standard prescribed under this chapter may not require a manufacturer to comply with the standard by using a safety belt interlock designed to prevent starting or operating a motor vehicle if an occupant is not using a safety belt.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 301 of title 49, United States Code, is amended by striking the item relating to section 30124 and inserting the following:

“Sec. 30124. Nonuse of safety belts.”.

#### SEC. 31203. CIVIL PENALTIES.

(a) IN GENERAL.—Section 30165 of title 49, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking “30123(d)” and inserting “30123(a)”;

(ii) by striking “\$15,000,000” and inserting “\$250,000,000”; and

(B) in paragraph (3), by striking “\$15,000,000” and inserting “\$250,000,000”; and

(2) by amending subsection (c) to read as follows:

“(c) RELEVANT FACTORS IN DETERMINING AMOUNT OF PENALTY OR COMPROMISE.—In determining the amount of a civil penalty or compromise under this section, the Secretary of Transportation shall consider the nature, circumstances, extent, and gravity of the violation. Such determination shall include, as appropriate—

“(1) the nature of the defect or noncompliance;

“(2) knowledge by the person charged of its obligation to recall or notify the public;

“(3) the severity of the risk of injury;

“(4) the occurrence or absence of injury;

“(5) the number of motor vehicles or items of motor vehicle equipment distributed with the defect or noncompliance;

“(6) the existence of an imminent hazard;

“(7) actions taken by the person charged to identify, investigate, or mitigate the condition;

“(8) the appropriateness of such penalty in relation to the size of the business of the person charged, including the potential for undue adverse economic impacts;

“(9) whether the person has previously been assessed civil penalties under this section during the most recent 5 years; and

“(10) other appropriate factors.”.

(b) CIVIL PENALTY CRITERIA.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall issue a final rule, in accordance with the procedures of section 553 of title 5, United States Code, which provides an interpretation of the penalty factors described in section 30165(c) of title 49, United States Code.

(c) CONSTRUCTION.—Nothing in this section may be construed as preventing the imposition of penalties under section 30165 of title 49, United States Code, before the issuance of a final rule under subsection (b).

#### SEC. 31204. MOTOR VEHICLE SAFETY RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—Chapter 301 of title 49, United States Code, is amended by adding at the end the following:

#### “SUBCHAPTER V—MOTOR VEHICLE SAFETY RESEARCH AND DEVELOPMENT “§ 30181. Policy

“The Secretary of Transportation shall conduct research, development, and testing on any area or aspect of motor vehicle safety necessary to carry out this chapter.

#### “§ 30182. Powers and duties

“(a) IN GENERAL.—The Secretary of Transportation shall—

“(1) conduct motor vehicle safety research, development, and testing programs and activities, including new and emerging technologies that impact or may impact motor vehicle safety;

“(2) collect and analyze all types of motor vehicle and highway safety data and related information to determine the relationship between motor vehicle or motor vehicle equipment performance characteristics and—

“(A) accidents involving motor vehicles; and

“(B) deaths or personal injuries resulting from those accidents;

“(3) promote, support, and advance the education and training of motor vehicle safety staff of the National Highway Traffic Safety Administration, including using program funds for—

“(A) planning, implementing, conducting, and presenting results of program activities; and

“(B) travel and related expenses;

“(4) obtain experimental and other motor vehicles and motor vehicle equipment for research or testing;

“(5)(A) use any test motor vehicles and motor vehicle equipment suitable for continued use, as determined by the Secretary to assist in carrying out this chapter or any other chapter of this title; or

“(B) sell or otherwise dispose of test motor vehicles and motor vehicle equipment and use the resulting proceeds to carry out this chapter;

“(6) award grants to States and local governments, interstate authorities, and nonprofit institutions; and

“(7) enter into cooperative agreements, collaborative research, or contracts with Federal agencies, interstate authorities, State and local governments, other public entities, private organizations and persons, nonprofit institutions, colleges and universities, consumer advocacy groups, corporations, partnerships, sole proprietorships, trade associations, Federal laboratories (including government-owned, government-operated laboratories and government-owned, contractor-operated laboratories), and foreign governments and research organizations.

“(b) USE OF PUBLIC AGENCIES.—In carrying out this subchapter, the Secretary shall

avoid duplication by using the services, research, and testing facilities of public agencies, as appropriate.

“(c) **FACILITIES.**—The Secretary may plan, design, and build a new facility or modify an existing facility to conduct research, development, and testing in traffic safety, highway safety, and motor vehicle safety.

“(d) **AVAILABILITY OF INFORMATION, PATENTS, AND DEVELOPMENTS.**—When the United States Government makes more than a minimal contribution to a research or development activity under this chapter, the Secretary shall include in the arrangement for the activity a provision to ensure that all information, patents, and developments related to the activity are available to the public without charge. The owner of a background patent may not be deprived of a right under the patent.

**“§ 30183. Prohibition on certain disclosures.**

“Any report of the National Highway Traffic Safety Administration, or of any officer, employee, or contractor of the National Highway Traffic Safety Administration, relating to any highway traffic accident or the investigation of such accident conducted pursuant to this chapter or section 403 of title 23, shall be made available to the public in a manner that does not identify individuals.”.

(b) **CONFORMING AMENDMENTS.**—

(1) **AMENDMENT OF CHAPTER ANALYSIS.**—The chapter analysis for chapter 301 of title 49, United States Code, is amended by adding at the end the following:

“SUBCHAPTER V—MOTOR VEHICLE SAFETY RESEARCH AND DEVELOPMENT

“30181. Policy.

“30182. Powers and duties.

“30183. Prohibition on certain disclosures.”.

(2) **DELETION OF REDUNDANT MATERIAL.**—Chapter 301 of title 49, United States Code, is amended—

(A) in the chapter analysis, by striking the item relating to section 30168; and

(B) by striking section 30168.

**SEC. 31205. RENTAL TRUCK ACCIDENT STUDY.**

(a) **DEFINITIONS.**—In this section:

(1) **RENTAL TRUCK.**—The term “rental truck” means a motor vehicle with a gross vehicle weight rating of between 10,000 and 26,000 pounds that is made available for rental by a rental truck company.

(2) **RENTAL TRUCK COMPANY.**—The term “rental truck company” means a person or company that is in the business of renting or leasing rental trucks to the public or for private use.

(b) **STUDY.**—

(1) **IN GENERAL.**—The Secretary shall conduct a study of the safety of rental trucks during the 7-year period ending on December 31, 2011.

(2) **REQUIREMENTS.**—The study conducted under paragraph (1) shall—

(A) evaluate available data on the number of crashes, fatalities, and injuries involving rental trucks and the cause of such crashes, utilizing police accident reports and other sources;

(B) estimate the property damage and costs resulting from a subset of crashes involving rental truck operations, which the Secretary believes adequately reflect all crashes involving rental trucks;

(C) analyze State and local laws regulating rental truck companies, including safety and inspection requirements;

(D) assess the rental truck maintenance programs of a selection of small, medium, and large rental truck companies, as selected by the Secretary, including the fre-

quency of rental truck maintenance inspections, and compare such programs with inspection requirements for passenger vehicles and commercial motor vehicles;

(E) include any other information available regarding the safety of rental trucks; and

(F) review any other information that the Secretary determines to be appropriate.

(c) **REPORT.**—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that contains—

(1) the findings of the study conducted pursuant to subsection (b); and

(2) any recommendations for legislation that the Secretary determines to be appropriate.

**SEC. 31206. ODOMETER REQUIREMENTS.**

(a) **DEFINITION.**—Section 32702(5) of title 49, United States Code, is amended by inserting “or system of components” after “instrument”.

(b) **ELECTRONIC DISCLOSURES OF ODOMETER INFORMATION.**—Section 32705 of title 49, United States Code, is amended by adding at the end the following:

“(g) **ELECTRONIC DISCLOSURES.**—Not later than 18 months after the date of enactment of the Motor Vehicle and Highway Safety Improvement Act of 2012, in carrying out this section, the Secretary shall prescribe regulations permitting any written disclosures or notices and related matters to be provided electronically.”.

**SEC. 31207. INCREASED PENALTIES AND DAMAGES FOR ODOMETER FRAUD.**

Chapter 327 of title 49, United States Code, is amended—

(1) in section 32709(a)(1)—

(A) by striking “\$2,000” and inserting “\$10,000”; and

(B) by striking “\$100,000” and inserting “\$1,000,000”; and

(2) in section 32710(a), by striking “\$1,500” and inserting “\$10,000”.

**SEC. 31208. EXTEND PROHIBITIONS ON IMPORTING NONCOMPLIANT VEHICLES AND EQUIPMENT TO DEFECTIVE VEHICLES AND EQUIPMENT.**

Section 30112 of title 49, United States Code, is amended—

(1) in subsection (a), by adding at the end the following:

“(3) Except as provided in this section, section 30114, subsections (i) and (j) of section 30120, and subchapter III, a person may not sell, offer for sale, introduce or deliver for introduction in interstate commerce, or import into the United States any motor vehicle or motor vehicle equipment if the vehicle or equipment contains a defect related to motor vehicle safety about which notice was given under section 30118(c) or an order was issued under section 30118(b). Nothing in this paragraph may be construed to prohibit the importation of a new motor vehicle that receives a required recall remedy before being sold to a consumer in the United States.”; and

(2) in subsection (b)(2)—

(A) in subparagraph (A), by striking “or” at the end;

(B) in subparagraph (B), by adding “or” at the end; and

(C) by adding at the end the following:

“(C) having no reason to know, despite exercising reasonable care, that a motor vehicle or motor vehicle equipment contains a defect related to motor vehicle safety about which notice was given under section 30118(c)

or an order was issued under section 30118(b);”.

**SEC. 31209. FINANCIAL RESPONSIBILITY REQUIREMENTS FOR IMPORTERS.**

Chapter 301 of title 49, United States Code, is amended—

(1) in the chapter analysis, by striking the item relating to subchapter III and inserting the following:

“SUBCHAPTER III—IMPORTING MOTOR VEHICLES AND EQUIPMENT”;

(2) in the heading for subchapter III, by striking “NONCOMPLYING”; and

(3) in section 30147, by amending subsection (b) to read as follows:

“(b) **FINANCIAL RESPONSIBILITY REQUIREMENT.**—

“(1) **RULEMAKING.**—The Secretary of Transportation may issue regulations requiring each person that imports a motor vehicle or motor vehicle equipment into the customs territory of the United States, including a registered importer (or any successor in interest), provide and maintain evidence, satisfactory to the Secretary, of sufficient financial responsibility to meet its obligations under section 30117(b), sections 30118 through 30121, and section 30166(f). In making a determination of sufficient financial responsibility under this Rule, the Secretary, to avoid duplicative requirements, shall first, to the extent practicable, rely on existing reporting and recordkeeping requirements and other information available to the Secretary, and shall coordinate with other Federal agencies, including the Securities and Exchange Commission, to access information collected and made publicly available under existing reporting and recordkeeping requirements.

“(2) **REFUSAL OF ADMISSION.**—If the Secretary of Transportation believes that a person described in paragraph (1) has not provided and maintained evidence of sufficient financial responsibility to meet the obligations referred to in paragraph (1), the Secretary of Homeland Security shall first offer the person an opportunity to remedy the deficiency within 30 days, and if not remedied thereafter may refuse the admission into the customs territory of the United States of any motor vehicle or motor vehicle equipment imported by the person.

“(3) **EXCEPTION.**—This subsection shall not apply to original manufacturers (or wholly owned subsidiaries) of motor vehicles that, prior to the date of enactment of the —

“(A) have imported motor vehicles into the United States that are certified to comply with all applicable Federal motor vehicle safety standards;

“(B) have submitted to the Secretary appropriate manufacturer identification information under part 566 of title 49, Code of Federal Regulations; and

“(C) if applicable, have identified a current agent for service of process in accordance with part 551 of title 49, Code of Federal Regulations.”.

**SEC. 31210. CONDITIONS ON IMPORTATION OF VEHICLES AND EQUIPMENT.**

Chapter 301 of title 49, United States Code, is amended—

(1) in the chapter analysis, by striking the item relating to section 30164 and inserting the following:

“30164. Service of process; conditions on importation of vehicles and equipment.”;

and

(2) in section 30164—

(A) in the section heading, by adding “; **CONDITIONS ON IMPORTATION OF VEHICLES AND EQUIPMENT**” at the end; and

(B) by adding at the end the following:

“(c) IDENTIFYING INFORMATION.—A manufacturer (including an importer) offering a motor vehicle or motor vehicle equipment for import shall provide such information as the Secretary may, by rule, request including—

“(1) the product by name and the manufacturer’s address; and

“(2) each retailer or distributor to which the manufacturer directly supplied motor vehicles or motor vehicle equipment over which the Secretary has jurisdiction under this chapter.

“(d) RULEMAKING.—In issuing a rulemaking, the Secretary shall seek to reduce duplicative requirements by coordinating with Department of Homeland Security. The Secretary may issue regulations that—

“(1) condition the import of a motor vehicle or motor vehicle equipment on the manufacturer’s compliance with—

“(A) the requirements under this section;

“(B) any rules issued with respect to such requirements; or

“(C) any other requirements under this chapter or rules issued with respect to such requirements;

“(2) provide an opportunity for the manufacturer to present information before the Secretary’s determination as to whether the manufacturer’s imports should be restricted; and

“(3) establish a process by which a manufacturer may petition for reinstatement of its ability to import motor vehicles or motor vehicle equipment.

“(e) EXCEPTION.—The requirements of subsections (c) and (d) shall not apply to original manufacturers (or wholly owned subsidiaries) of motor vehicles that, prior to the date of enactment of the —

“(1) have imported motor vehicles into the United States that are certified to comply with all applicable Federal motor vehicle safety standards,

“(2) have submitted to the Secretary appropriate manufacturer identification information under part 566 of title 49, Code of Federal Regulations; and

“(3) if applicable, have identified a current agent for service of process in accordance with part 551 of title 49, Code of Federal Regulations.”.

#### SEC. 31211. PORT INSPECTIONS; SAMPLES FOR EXAMINATION OR TESTING.

Section 30166(c) of title 49, United States Code, is amended—

(1) in paragraph (2), by striking “and” at the end;

(2) in paragraph (3)—

(A) in subparagraph (A), by inserting “(including at United States ports of entry)” after “held for introduction in interstate commerce”; and

(B) in subparagraph (D), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(4) shall enter into a memorandum of understanding with the Secretary of Homeland Security for inspections and sampling of motor vehicle equipment being offered for import to determine compliance with this chapter or a regulation or order issued under this chapter.”.

#### Subtitle C—Transparency and Accountability SEC. 31301. IMPROVED NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION VEHICLE SAFETY DATABASE.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall improve public accessibility to information on the National Highway

Traffic Safety Administration’s publicly accessible vehicle safety databases by—

(1) improving organization and functionality, including modern web design features, and allowing for data to be searched, aggregated, and downloaded;

(2) providing greater consistency in presentation of vehicle safety issues; and

(3) improving searchability about specific vehicles and issues through standardization of commonly used search terms.

(b) VEHICLE RECALL INFORMATION.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall require that motor vehicle safety recall information—

(A) is available to the public on the Internet;

(B) is searchable by vehicle make and model and vehicle identification number;

(C) is in a format that preserves consumer privacy; and

(D) includes information about each recall that has not been completed for each vehicle.

(2) RULEMAKING.—The Secretary may initiate a rulemaking proceeding to require each manufacturer to provide the information described in paragraph (1), with respect to that manufacturer’s motor vehicles, at no cost on a publicly accessible Internet website.

(3) DATABASE AWARENESS PROMOTION ACTIVITIES.—The Secretary, in consultation with the heads of other relevant agencies, shall promote consumer awareness of the information made available to the public pursuant to this subsection.

#### SEC. 31302. NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION HOTLINE FOR MANUFACTURER, DEALER, AND MECHANIC PERSONNEL.

The Secretary shall—

(1) establish a means by which mechanics, passenger motor vehicle dealership personnel, and passenger motor vehicle manufacturer personnel may directly and confidentially contact the National Highway Traffic Safety Administration to report potential passenger motor vehicle safety defects; and

(2) publicize the means for contacting the National Highway Traffic Safety Administration in a manner that targets mechanics, passenger motor vehicle dealership personnel, and manufacturer personnel.

#### SEC. 31303. CONSUMER NOTICE OF SOFTWARE UPDATES AND OTHER COMMUNICATIONS WITH DEALERS.

(a) INTERNET ACCESSIBILITY.—Section 30166(f) of title 49, United States Code, is amended—

(1) by striking “A manufacturer shall give the Secretary of Transportation” and inserting the following:

“(1) IN GENERAL.—A manufacturer shall give the Secretary of Transportation, and make available on a publicly accessible Internet website,”; and

(2) by adding at the end the following:

“(2) NOTICES.—Communications required to be submitted to the Secretary and made available on a publicly accessible Internet website under this subsection shall include all notices to dealerships of software upgrades and modifications recommended by a manufacturer for all previously sold vehicles. Notice is required even if the software upgrade or modification is not related to a safety defect or noncompliance with a motor vehicle safety standard. The notice shall include a plain language description of the purpose of the update and that description shall be prominently placed at the beginning of the notice.

“(3) INDEX.—Communications required to be submitted to the Secretary under this subsection shall be accompanied by an index to each communication, which—

“(A) identifies the make, model, and model year of the affected vehicles;

“(B) includes a concise summary of the subject matter of the communication; and

“(C) shall be made available by the Secretary to the public on the Internet in a searchable format.”.

#### SEC. 31304. PUBLIC AVAILABILITY OF EARLY WARNING DATA.

Section 30166(m) of title 49, United States Code, is amended in paragraph (4), by amending subparagraph (C) to read as follows:

“(C) DISCLOSURE.—

“(i) IN GENERAL.—The information provided to the Secretary pursuant to this subsection shall be disclosed publicly unless exempt from disclosure under section 552(b) of title 5.

“(ii) PRESUMPTION.—In administering this subparagraph, the Secretary shall presume in favor of maximum public availability of information.”.

#### SEC. 31305. CORPORATE RESPONSIBILITY FOR NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION REPORTS.

(a) IN GENERAL.—Section 30166 of title 49, United States Code, is amended by adding at the end the following:

“(o) CORPORATE RESPONSIBILITY FOR REPORTS.—

“(1) IN GENERAL.—The Secretary shall require a senior official responsible for safety in each company submitting information to the Secretary in response to a request for information in a safety defect or compliance investigation under this chapter to certify that—

“(A) the signing official has reviewed the submission; and

“(B) based on the official’s knowledge, the submission does not—

“(i) contain any untrue statement of a material fact; or

“(ii) omit to state a material fact necessary in order to make the statements made not misleading, in light of the circumstances under which such statements were made.

“(2) NOTICE.—The certification requirements of this section shall be clearly stated on any request for information under paragraph (1).”.

(b) CIVIL PENALTY.—Section 30165(a) of title 49, United States Code, is amended—

(1) in paragraph (3), by striking “A person” and inserting “Except as provided in paragraph (4), a person”; and

(2) by adding at the end the following:

“(4) FALSE, MISLEADING, OR INCOMPLETE REPORTS.—A person who knowingly and willfully submits materially false, misleading, or incomplete information to the Secretary, after certifying the same information as accurate and complete under the certification process established pursuant to section 30166(o), shall be subject to a civil penalty of not more than \$5,000 per day. The maximum penalty under this paragraph for a related series of daily violations is \$5,000,000.”.

#### SEC. 31306. PASSENGER MOTOR VEHICLE INFORMATION PROGRAM.

(a) DEFINITION.—Section 32301 of title 49, United States Code, is amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively;

(2) by inserting before paragraph (2), as redesignated, the following:

“(1) ‘crash avoidance’ means preventing or mitigating a crash;”;

(3) in paragraph (2), as redesignated, by striking the period at the end and inserting “; and”.

(b) INFORMATION INCLUDED.—Section 32302(a) of title 49, United States Code, is amended—

(1) in paragraph (2), by inserting “, crash avoidance, and any other areas the Secretary determines will improve the safety of passenger motor vehicles” after “crash-worthiness”; and

(2) by striking paragraph (4).

**SEC. 31307. PROMOTION OF VEHICLE DEFECT REPORTING.**

Section 32302 of title 49, United States Code, is amended by adding at the end the following:

“(d) MOTOR VEHICLE DEFECT REPORTING INFORMATION.—

“(1) RULEMAKING REQUIRED.—Not later than 1 year after the date of the enactment of the , the Secretary shall prescribe regulations that require passenger motor vehicle manufacturers—

“(A) to affix, in the glove compartment or in another readily accessible location on the vehicle, a sticker, decal, or other device that provides, in simple and understandable language, information about how to submit a safety-related motor vehicle defect complaint to the National Highway Traffic Safety Administration;

“(B) to prominently print the information described in subparagraph (A) on a separate page within the owner’s manual; and

“(C) to not place such information on the label required under section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232).

“(2) APPLICATION.—The requirements under paragraph (1) shall apply to passenger motor vehicles manufactured in any model year beginning more than 1 year after the date on which a final rule is published under paragraph (1).”

**SEC. 31308. WHISTLEBLOWER PROTECTIONS FOR MOTOR VEHICLE MANUFACTURERS, PART SUPPLIERS, AND DEALERSHIP EMPLOYEES.**

(a) IN GENERAL.—Subchapter IV of chapter 301 of title 49, United States Code, is amended by adding at the end the following:

**“§ 30171. Protection of employees providing motor vehicle safety information**

“(a) DISCRIMINATION AGAINST EMPLOYEES OF MANUFACTURERS, PART SUPPLIERS, AND DEALERSHIPS.—No motor vehicle manufacturer, part supplier, or dealership may discharge an employee or otherwise discriminate against an employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

“(1) provided, caused to be provided, or is about to provide (with any knowledge of the employer) or cause to be provided to the employer or the Secretary of Transportation information relating to any motor vehicle defect, noncompliance, or any violation or alleged violation of any notification or reporting requirement of this chapter;

“(2) has filed, caused to be filed, or is about to file (with any knowledge of the employer) or cause to be filed a proceeding relating to any violation or alleged violation of any motor vehicle defect, noncompliance, or any violation or alleged violation of any notification or reporting requirement of this chapter;

“(3) testified or is about to testify in such a proceeding;

“(4) assisted or participated or is about to assist or participate in such a proceeding; or

“(5) objected to, or refused to participate in, any activity that the employee reasonably believed to be in violation of any provi-

sion of any Act enforced by the Secretary of Transportation, or any order, rule, regulation, standard, or ban under any such Act.

“(b) COMPLAINT PROCEDURE.—

“(1) FILING AND NOTIFICATION.—A person who believes that he or she has been discharged or otherwise discriminated against by any person in violation of subsection (a) may, not later than 180 days after the date on which such violation occurs, file (or have any person file on his or her behalf) a complaint with the Secretary of Labor (hereinafter in this section referred to as the ‘Secretary’) alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify, in writing, the person named in the complaint of the filing of the complaint, of the allegations contained in the complaint, of the substance of evidence supporting the complaint, and of the opportunities that will be afforded to such person under paragraph (2).

“(2) INVESTIGATION; PRELIMINARY ORDER.—

“(A) IN GENERAL.—Not later than 60 days after the date of receipt of a complaint filed under paragraph (1) and after affording the person named in the complaint an opportunity to submit to the Secretary a written response to the complaint and an opportunity to meet with a representative of the Secretary to present statements from witnesses, the Secretary shall conduct an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify, in writing, the complainant and the person alleged to have committed a violation of subsection (a) of the Secretary’s findings. If the Secretary concludes that there is a reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary shall accompany the Secretary’s findings with a preliminary order providing the relief prescribed by paragraph (3)(B). Not later than 30 days after the date of notification of findings under this paragraph, either the person alleged to have committed the violation or the complainant may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Such hearings shall be conducted expeditiously. If a hearing is not requested in such 30-day period, the preliminary order shall be deemed a final order that is not subject to judicial review.

“(B) REQUIREMENTS.—

“(i) REQUIRED SHOWING BY COMPLAINANT.—The Secretary shall dismiss a complaint filed under this subsection and shall not conduct an investigation otherwise required under subparagraph (A) unless the complainant makes a prima facie showing that any behavior described in paragraphs (1) through (5) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

“(ii) SHOWING BY EMPLOYER.—Notwithstanding a finding by the Secretary that the complainant has made the showing required under clause (i), no investigation otherwise required under subparagraph (A) shall be conducted if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

“(iii) CRITERIA FOR DETERMINATION BY SECRETARY.—The Secretary may determine that a violation of subsection (a) has occurred only if the complainant demonstrates that any behavior described in paragraphs (1) through (5) of subsection (a) was a contrib-

uting factor in the unfavorable personnel action alleged in the complaint.

“(iv) PROHIBITION.—Relief may not be ordered under subparagraph (A) if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

“(3) FINAL ORDER.—

“(A) DEADLINE FOR ISSUANCE; SETTLEMENT AGREEMENTS.—Not later than 120 days after the date of conclusion of a hearing under paragraph (2), the Secretary shall issue a final order providing the relief prescribed by this paragraph or denying the complaint. At any time before issuance of a final order, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary, the complainant, and the person alleged to have committed the violation.

“(B) REMEDY.—If, in response to a complaint filed under paragraph (1), the Secretary determines that a violation of subsection (a) has occurred, the Secretary shall order the person who committed such violation—

“(i) to take affirmative action to abate the violation;

“(ii) to reinstate the complainant to his or her former position together with the compensation (including back pay) and restore the terms, conditions, and privileges associated with his or her employment; and

“(iii) to provide compensatory damages to the complainant.

“(C) ATTORNEYS’ FEES.—If such an order is issued under this paragraph, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys’ and expert witness fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, bringing the complaint upon which the order was issued.

“(D) FRIVOLOUS COMPLAINTS.—If the Secretary determines that a complaint under paragraph (1) is frivolous or has been brought in bad faith, the Secretary may award to the prevailing employer a reasonable attorney’s fee not exceeding \$1,000.

“(E) DE NOVO REVIEW.—With respect to a complaint under paragraph (1), if the Secretary of Labor has not issued a final decision within 210 days after the filing of the complaint and if the delay is not due to the bad faith of the employee, the employee may bring an original action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy, and which action shall, at the request of either party to the action, be tried by the court with a jury. The action shall be governed by the same legal burdens of proof specified in paragraph (2)(B) for review by the Secretary of Labor.

“(4) REVIEW.—

“(A) APPEAL TO COURT OF APPEALS.—Any person adversely affected or aggrieved by an order issued under paragraph (3) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation. The petition for review shall be filed not later than 60 days after the date of the issuance of the final order of the Secretary. Review shall conform to chapter 7 of title 5. The commencement of proceedings



under this subparagraph shall not, unless ordered by the court, operate as a stay of the order.

“(B) LIMITATION ON COLLATERAL ATTACK.—An order of the Secretary with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

“(5) ENFORCEMENT OF ORDER BY SECRETARY.—Whenever any person fails to comply with an order issued under paragraph (3), the Secretary may file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief, including injunctive relief and compensatory damages.

“(6) ENFORCEMENT OF ORDER BY PARTIES.—

“(A) COMMENCEMENT OF ACTION.—A person on whose behalf an order was issued under paragraph (3) may commence a civil action against the person to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

“(B) ATTORNEY FEES.—The court, in issuing any final order under this paragraph, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines such award is appropriate.

“(c) MANDAMUS.—Any nondiscretionary duty imposed under this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28.

“(d) NONAPPLICABILITY TO DELIBERATE VIOLATIONS.—Subsection (a) shall not apply with respect to an employee of a motor vehicle manufacturer, part supplier, or dealership who, acting without direction from such motor vehicle manufacturer, part supplier, or dealership (or such person's agent), deliberately causes a violation of any requirement relating to motor vehicle safety under this chapter.”.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 301 of title 49, United States Code, is amended by inserting after the item relating to section 30170 the following:

“30171. Protection of employees providing motor vehicle safety information.”.

#### SEC. 31309. ANTI-REVOLVING DOOR.

(a) AMENDMENT.—Subchapter I of chapter 301 of title 49, United States Code, is amended by adding at the end the following:

#### “§ 30107. Restriction on covered motor vehicle safety officials

“(a) IN GENERAL.—During the 2-year period after the termination of his or her service or employment, a covered vehicle safety official may not knowingly make, with the intent to influence, any communication to or appearance before any officer or employee of the National Highway Traffic Safety Administration on behalf of any manufacturer subject to regulation under this chapter in connection with any matter involving motor vehicle safety on which such person seeks official action by any officer or employee of the National Highway Traffic Safety Administration.

“(b) MANUFACTURERS.—It is unlawful for any manufacturer or other person subject to regulation under this chapter to employ or contract for the services of an individual to whom subsection (a) applies during the 2-

year period commencing on the individual's termination of employment with the National Highway Traffic Safety Administration in a capacity in which the individual is prohibited from serving during that period.

“(c) SPECIAL RULE FOR DETAILEES.—For purposes of this section, a person who is detailed from 1 department, agency, or other entity to another department, agency, or other entity shall, during the period such person is detailed, be deemed to be an officer or employee of both departments, agencies, or such entities.

“(d) SAVINGS PROVISION.—Nothing in this section may be construed to expand, contract, or otherwise affect the application of any waiver or criminal penalties under section 207 of title 18.

“(e) EXCEPTION FOR TESTIMONY.—Nothing in this section may be construed to prevent an individual from giving testimony under oath, or from making statements required to be made under penalty of perjury.

“(f) DEFINED TERM.—In this section, the term ‘covered vehicle safety official’ means any officer or employee of the National Highway Traffic Safety Administration—

“(1) who, during the final 12 months of his or her service or employment with the agency, serves or served in a technical or legal capacity, and whose job responsibilities include or included vehicle safety defect investigation, vehicle safety compliance, vehicle safety rulemaking, or vehicle safety research; and

“(2) who serves in a supervisory or management capacity over an officer or employee described in paragraph (1).

“(g) EFFECTIVE DATE.—This section shall apply to covered vehicle safety officials who terminate service or employment with the National Highway Traffic Safety Administration after the date of enactment of the ‘.’.

(b) CIVIL PENALTY.—Section 30165(a) of title 49, United States Code, as amended by this subtitle, is further amended by adding at the end the following:

“(5) IMPROPER INFLUENCE.—An individual who violates section 30107(a) is liable to the United States Government for a civil penalty, as determined under section 216(b) of title 18, for an offense under section 207 of that title. A manufacturer or other person subject to regulation under this chapter who violates section 30107(b) is liable to the United States Government for a civil penalty equal to the sum of—

“(A) an amount equal to not less than \$100,000; and

“(B) an amount equal to 90 percent of the annual compensation or fee paid or payable to the individual with respect to whom the violation occurred.”.

(c) STUDY OF DEPARTMENT OF TRANSPORTATION POLICIES ON OFFICIAL COMMUNICATION WITH FORMER MOTOR VEHICLE SAFETY ISSUE EMPLOYEES.—Not later than 1 year after the date of the enactment of this Act, the Inspector General of the Department of Transportation shall—

(1) review the Department of Transportation's policies and procedures applicable to official communication with former employees concerning motor vehicle safety compliance matters for which they had responsibility during the last 12 months of their tenure at the Department, including any limitations on the ability of such employees to submit comments, or otherwise communicate directly with the Department, on motor vehicle safety issues; and

(2) submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy

and Commerce of the House of Representatives that contains the Inspector General's findings, conclusions, and recommendations for strengthening those policies and procedures to minimize the risk of undue influence without compromising the ability of the Department to employ and retain highly qualified individuals for such responsibilities.

(d) POST-EMPLOYMENT POLICY STUDY.—

(1) IN GENERAL.—The Inspector General of the Department of Transportation shall conduct a study of the Department's policies relating to post-employment restrictions on employees who perform functions related to transportation safety.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Inspector General shall submit a report containing the results of the study conducted under paragraph (1) to—

(A) the Committee on Commerce, Science, and Transportation of the Senate;

(B) the Committee on Energy and Commerce of the House of Representatives; and

(C) the Secretary of Transportation.

(3) USE OF RESULTS.—The Secretary of Transportation shall review the results of the study conducted under paragraph (1) and take whatever action the Secretary determines to be appropriate.

(e) CONFORMING AMENDMENT.—The table of contents for chapter 301 of title 49, United States Code, is amended by inserting after the item relating to section 30106 the following:

“30107. Restriction on covered motor vehicle safety officials.”.

#### SEC. 31310. STUDY OF CRASH DATA COLLECTION.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate the Committee on Energy and Commerce of the House of Representatives regarding the quality of data collected through the National Automotive Sampling System, including the Special Crash Investigations Program.

(b) REVIEW.—The Administrator of the National Highway Traffic Safety Administration (referred to in this section as the “Administration”) shall conduct a comprehensive review of the data elements collected from each crash to determine if additional data should be collected. The review under this subsection shall include input from interested parties, including suppliers, automakers, safety advocates, the medical community, and research organizations.

(c) CONTENTS.—The report issued under this section shall include—

(1) the analysis and conclusions the Administration can reach from the amount of motor vehicle crash data collected in a given year;

(2) the additional analysis and conclusions the Administration could reach if more crash investigations were conducted each year;

(3) the number of investigations per year that would allow for optimal data analysis and crash information;

(4) the results of the comprehensive review conducted pursuant to subsection (b);

(5) recommendations for improvements to the Administration's data collection program; and

(6) the resources needed by the Administration to implement such recommendations.

#### SEC. 31311. UPDATE MEANS OF PROVIDING NOTIFICATION; IMPROVING EFFICACY OF RECALLS.

(a) UPDATE OF MEANS OF PROVIDING NOTIFICATION.—Section 30119(d) of title 49, United States Code, is amended—

(1) by striking, in paragraph (1), “by first class mail” and inserting “in the manner prescribed by the Secretary, by regulation”;

(2) in paragraph (2)—

(A) by striking “(except a tire) shall be sent by first class mail” and inserting “shall be sent in the manner prescribed by the Secretary, by regulation.”; and

(B) by striking the second sentence;

(3) in paragraph (3)—

(A) by striking the first sentence;

(B) by inserting “to the notification required under paragraphs (1) and (2)” after “addition”; and

(C) by inserting “by the manufacturer” after “given”; and

(4) in paragraph (4), by striking “by certified mail or quicker means if available” and inserting “in the manner prescribed by the Secretary, by regulation”.

(b) **IMPROVING EFFICACY OF RECALLS.**—Section 30119(e) of title 49, United States Code, is amended—

(1) in the subsection heading, by striking “SECOND” and inserting “ADDITIONAL”;

(2) by striking “If the Secretary” and inserting the following:

“(1) **SECOND NOTIFICATION.**—If the Secretary”;

(3) by adding at the end the following:

“(2) **ADDITIONAL NOTIFICATIONS.**—If the Secretary determines, after considering the severity of the defect or noncompliance, that the second notification by a manufacturer does not result in an adequate number of motor vehicles or items of replacement equipment being returned for remedy, the Secretary may order the manufacturer—

“(A) to send additional notifications in the manner prescribed by the Secretary, by regulation;

“(B) to take additional steps to locate and notify each person registered under State law as the owner or lessee or the most recent purchaser or lessee, as appropriate; and

“(C) to emphasize the magnitude of the safety risk caused by the defect or noncompliance in such notification.”.

**SEC. 31312. EXPANDING CHOICES OF REMEDY AVAILABLE TO MANUFACTURERS OF REPLACEMENT EQUIPMENT.**

Section 30120 of title 49, United States Code, is amended—

(1) in subsection (a)(1), by amending subparagraph (B) to read as follows:

“(B) if replacement equipment, by repairing the equipment, replacing the equipment with identical or reasonably equivalent equipment, or by refunding the purchase price.”;

(2) in the heading of subsection (i), by adding “OF NEW VEHICLES OR EQUIPMENT” at the end; and

(3) in the heading of subsection (j), by striking “REPLACED” and inserting “REPLACEMENT”.

**SEC. 31313. RECALL OBLIGATIONS AND BANKRUPTCY OF MANUFACTURER.**

(a) **IN GENERAL.**—Chapter 301 of title 49, United States Code, is amended by inserting the following after section 30120:

**“SEC. 30120A. RECALL OBLIGATIONS AND BANKRUPTCY OF A MANUFACTURER.**

“A manufacturer’s filing of a petition in bankruptcy under chapter 11 of title 11, does not negate the manufacturer’s duty to comply with section 30112 or sections 30115 through 30120 of this title. In any bankruptcy proceeding, the manufacturer’s obligations under such sections shall be treated as a claim of the United States Government against such manufacturer, subject to subchapter II of chapter 37 of title 31, United States Code, and given priority pursuant to

section 3713(a)(1)(A) of such chapter, notwithstanding section 3713(a)(2), to ensure that consumers are adequately protected from any safety defect or noncompliance determined to exist in the manufacturer’s products. This section shall apply equally to actions of a manufacturer taken before or after the filing of a petition in bankruptcy.”.

(b) **CONFORMING AMENDMENT.**—The chapter analysis of chapter 301 of title 49, United States Code, is amended by inserting after the item relating to section 30120 the following:

“30120a. Recall obligations and bankruptcy of a manufacturer.”.

**SEC. 31314. REPEAL OF INSURANCE REPORTS AND INFORMATION PROVISION.**

Chapter 331 of title 49, United States Code, is amended—

(1) in the chapter analysis, by striking the item relating to section 33112; and

(2) by striking section 33112.

**SEC. 31315. MONRONEY STICKER TO PERMIT ADDITIONAL SAFETY RATING CATEGORIES.**

Section 3(g)(2) of the Automobile Information Disclosure Act (15 U.S.C. 1232(g)(2)), is amended by inserting “safety rating categories that may include” after “refers to”.

**Subtitle D—Vehicle Electronics and Safety Standards**

**SEC. 31401. NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION ELECTRONICS, SOFTWARE, AND ENGINEERING EXPERTISE.**

(a) **COUNCIL FOR VEHICLE ELECTRONICS, VEHICLE SOFTWARE, AND EMERGING TECHNOLOGIES.**—

(1) **IN GENERAL.**—The Secretary shall establish, within the National Highway Traffic Safety Administration, a Council for Vehicle Electronics, Vehicle Software, and Emerging Technologies (referred to in this section as the “Council”) to build, integrate, and aggregate the Administration’s expertise in passenger motor vehicle electronics and other new and emerging technologies.

(2) **IMPLEMENTATION OF ROADMAP.**—The Council shall research the inclusion of emerging lightweight plastic and composite technologies in motor vehicles to increase fuel efficiency, lower emissions, meet fuel economy standards, and enhance passenger motor vehicle safety through continued utilization of the Administration’s Plastic and Composite Intensive Vehicle Safety Roadmap (Report No. DOT HS 810 863).

(3) **INTRA-AGENCY COORDINATION.**—The Council shall coordinate with all components of the Administration responsible for vehicle safety, including research and development, rulemaking, and defects investigation.

(b) **HONORS RECRUITMENT PROGRAM.**—

(1) **ESTABLISHMENT.**—The Secretary shall establish, within the National Highway Traffic Safety Administration, an honors program for engineering students, computer science students, and other students interested in vehicle safety that will enable such students to train with engineers and other safety officials for a career in vehicle safety.

(2) **STIPEND.**—The Secretary is authorized to provide a stipend to students during their participation in the program established pursuant to paragraph (1).

(c) **ASSESSMENT.**—The Council, in consultation with affected stakeholders, shall assess the implications of emerging safety technologies in passenger motor vehicles, including the effect of such technologies on consumers, product availability, and cost.

**SEC. 31402. VEHICLE STOPPING DISTANCE AND BRAKE OVERRIDE STANDARD.**

Not later than 1 year after the date of enactment of this Act, the Secretary shall prescribe a Federal motor vehicle safety standard that—

(1) mitigates unintended acceleration in passenger motor vehicles;

(2) establishes performance requirements, based on the speed, size, and weight of the vehicle, that enable a driver to bring a passenger motor vehicle safely to a full stop by normal braking application even if the vehicle is simultaneously receiving accelerator input signals, including a full-throttle input signal;

(3) may permit compliance through a system that requires brake pedal application, after a period of time determined by the Secretary, to override an accelerator pedal input signal in order to stop the vehicle;

(4) requires that redundant circuits or other mechanisms be built into accelerator control systems, including systems controlled by electronic throttle, to maintain vehicle control in the event of failure of the primary circuit or mechanism; and

(5) may permit vehicles to incorporate a means to temporarily disengage the function required under paragraph (2) to facilitate operations, such as maneuvering trailers or climbing steep hills, which may require the simultaneous operation of brake and accelerator.

**SEC. 31403. PEDAL PLACEMENT STANDARD.**

(a) **IN GENERAL.**—The Secretary shall initiate a rulemaking proceeding to consider a Federal motor vehicle safety standard that would mitigate potential obstruction of pedal movement in passenger motor vehicles, after taking into account—

(1) various pedal mounting configurations; and

(2) minimum clearances for passenger motor vehicle foot pedals with respect to other pedals, the vehicle floor (including aftermarket floor coverings), and any other potential obstructions to pedal movement that the Secretary determines to be relevant.

(b) **DEADLINE.**—

(1) **IN GENERAL.**—Except as provided under paragraph (2), the Secretary shall issue a final rule to implement the safety standard described in subsection (a) not later than 3 years after the date of the enactment of this Act.

(2) **REPORT.**—If the Secretary determines that a pedal placement standard does not meet the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code, the Secretary shall submit a report describing the reasons for not prescribing such standard to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

(c) **COMBINED RULEMAKING.**—The Secretary may combine the rulemaking proceeding required under subsection (a) with the rulemaking proceeding required under section 31402.

**SEC. 31404. ELECTRONIC SYSTEMS PERFORMANCE STANDARD.**

(a) **IN GENERAL.**—Not later than 2 years after the date of enactment of this Act, the Secretary shall initiate a rulemaking proceeding to consider prescribing or amending a Federal motor vehicle safety standard that—

(1) requires electronic systems in passenger motor vehicles to meet minimum performance requirements; and

(2) may include requirements for—  
 (A) electronic components;  
 (B) the interaction of electronic components;  
 (C) security needs for those electronic systems to prevent unauthorized access; or  
 (D) the effect of surrounding environments on those electronic systems.

(b) DEADLINE.—

(1) IN GENERAL.—Except as provided under paragraph (2), the Secretary shall issue a final rule to implement the safety standard described in subsection (a) not later than 4 years after the date of enactment of this Act.

(2) REPORT.—If the Secretary determines that such a standard does not meet the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code, the Secretary shall submit a report describing the reasons for not prescribing such standard to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

(c) NATIONAL ACADEMY OF SCIENCES.—In conducting the rulemaking under subsection (a), the Secretary shall consider the findings and recommendations of the National Academy of Sciences, if any, pursuant to its study of electronic vehicle controls.

#### SEC. 31405. PUSHBUTTON IGNITION SYSTEMS STANDARD.

(a) PUSHBUTTON IGNITION STANDARD.—

(1) IN GENERAL.—The Secretary shall initiate a rulemaking proceeding to consider a Federal motor vehicle safety standard for passenger motor vehicles with pushbutton ignition systems that establishes a standardized operation of such systems when used by drivers, including drivers who may be unfamiliar with such systems, in an emergency situation when the vehicle is in motion.

(2) OTHER IGNITION SYSTEMS.—In the rulemaking proceeding initiated under paragraph (1), the Secretary may include any other ignition-starting mechanism that the Secretary determines should be considered.

(b) PUSHBUTTON IGNITION SYSTEM DEFINED.—The term “pushbutton ignition system” means a mechanism, such as the push of a button, for starting a passenger motor vehicle that does not involve the physical insertion and turning of a tangible key.

(c) DEADLINE.—

(1) IN GENERAL.—Except as provided under paragraph (2), the Secretary shall issue a final rule to implement the standard described in subsection (a) not later than 2 years after the date of the enactment of this Act.

(2) REPORT.—If the Secretary determines that a standard does not meet the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code, the Secretary shall submit a report describing the reasons for not prescribing such standard to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

#### SEC. 31406. VEHICLE EVENT DATA RECORDERS.

(a) MANDATORY EVENT DATA RECORDERS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall revise part 563 of title 49, Code of Federal Regulations, to require, beginning with model year 2015, that new passenger motor vehicles sold in the United States be equipped with an event data recorder that meets the requirements under that part.

(2) PENALTY.—The violation of any provision under part 563 of title 49, Code of Federal Regulations—

(A) shall be deemed to be a violation of section 30112 of title 49, United States Code;

(B) shall be subject to civil penalties under section 30165(a) of that title; and

(C) shall not subject a manufacturer (as defined in section 30102(a)(5) of that title) to the requirements under section 30120 of that title.

(b) LIMITATIONS ON INFORMATION RETRIEVAL.—

(1) OWNERSHIP OF DATA.—Any data in an event data recorder required under part 563 of title 49, Code of Federal Regulations, regardless of when the passenger motor vehicle in which it is installed was manufactured, is the property of the owner, or in the case of a leased vehicle, the lessee of the passenger motor vehicle in which the data recorder is installed.

(2) PRIVACY.—Data recorded or transmitted by such a data recorder may not be retrieved by a person other than the owner or lessee of the motor vehicle in which the recorder is installed unless—

(A) a court authorizes retrieval of the information in furtherance of a legal proceeding;

(B) the owner or lessee consents to the retrieval of the information for any purpose, including the purpose of diagnosing, servicing, or repairing the motor vehicle;

(C) the information is retrieved pursuant to an investigation or inspection authorized under section 1131(a) or 30166 of title 49, United States Code, and the personally identifiable information of the owner, lessee, or driver of the vehicle and the vehicle identification number is not disclosed in connection with the retrieved information; or

(D) the information is retrieved for the purpose of determining the need for, or facilitating, emergency medical response in response to a motor vehicle crash.

(c) REPORT TO CONGRESS.—Two years after the date of implementation of subsection (a), the Secretary shall study the safety impact and the impact on individual privacy of event data recorders in passenger motor vehicles and report its findings to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives. The report shall include—

(1) the safety benefits gained from installation of event data recorders;

(2) the recommendations on what, if any, additional data the event data recorder should be modified to record;

(3) the additional safety benefit such information would yield;

(4) the estimated cost to manufacturers to implement the new enhancements;

(5) an analysis of how the information proposed to be recorded by an event data recorder conforms to applicable legal, regulatory, and policy requirements regarding privacy;

(6) a determination of the risks and effects of collecting and maintaining the information proposed to be recorded by an event data recorder;

(7) an examination and evaluation of the protections and alternative processes for handling information recorded by an event data recorder to mitigate potential privacy risks.

(d) REVISED REQUIREMENTS FOR EVENT DATA RECORDERS.—Based on the findings of the study under subsection (c), the Secretary shall initiate a rulemaking proceeding to revise part 563 of title 49, Code of Federal Regulations. The rule—

(1) shall require event data recorders to capture and store data related to motor vehicle safety covering a reasonable time period before, during, and after a motor vehicle crash or airbag deployment, including a rollover;

(2) shall require that data stored on such event data recorders be accessible, regardless of vehicle manufacturer or model, with commercially available equipment in a specified data format;

(3) shall establish requirements for preventing unauthorized access to the data stored on an event data recorder in order to protect the security, integrity, and authenticity of the data; and

(4) may require an interoperable data access port to facilitate universal accessibility and analysis.

(e) DISCLOSURE OF EXISTENCE AND PURPOSE OF EVENT DATA RECORDER.—The rule issued under subsection (d) shall require that any owner's manual or similar documentation provided to the first purchaser of a passenger motor vehicle for purposes other than resale—

(1) disclose that the vehicle is equipped with such a data recorder; and

(2) explain the purpose of the data recorder.

(f) ACCESS TO EVENT DATA RECORDERS IN AGENCY INVESTIGATIONS.—Section 30166(c)(3)(C) of title 49, United States Code, is amended by inserting “, including any electronic data contained within the vehicle's diagnostic system or event data recorder” after “equipment.”

(g) DEADLINE FOR RULEMAKING.—The Secretary shall issue a final rule under subsection (d) not later than 4 years after the date of enactment of this Act.

#### SEC. 31407. PROHIBITION ON ELECTRONIC VISUAL ENTERTAINMENT IN DRIVER'S VIEW.

(a) VISUAL ENTERTAINMENT SCREENS IN DRIVER'S VIEW.—Not later than 2 years after the date of enactment of this Act, the Secretary of Transportation shall issue a final rule that prescribes a Federal motor vehicle safety standard prohibiting electronic screens from displaying broadcast television, movies, video games, and other forms of similar visual entertainment that is visible to the driver while driving.

(b) EXCEPTIONS.—The standard prescribed under subsection (a) shall allow electronic screens that display information or images regarding operation of the vehicle, vehicle surroundings, and telematic functions, such as the vehicles navigation and communications system, weather, time, or the vehicle's audio system.

#### SEC. 31408. COMMERCIAL MOTOR VEHICLE ROLLOVER PREVENTION AND CRASH MITIGATION.

(a) RULEMAKING.—Not later than 3 months after the date of enactment of this Act, the Secretary of Transportation shall initiate a rulemaking proceeding pursuant to section 30111 of title 49, United States Code, to prescribe or amend a Federal motor vehicle safety standard to reduce commercial motor vehicle rollover and loss of control crashes and mitigate deaths and injuries associated with such crashes for air-braked truck tractors and motorcoaches with a gross vehicle weight rating of more than 26,000 pounds.

(b) REQUIRED PERFORMANCE STANDARDS.—The rulemaking proceeding initiated under subsection (a) shall establish standards to reduce the occurrence of rollovers and loss of control crashes consistent with stability enhancing technologies, such as electronic stability control systems.

(c) **DEADLINE.**—Not later than 18 months after the date of enactment of this Act, the Secretary shall issue a final rule under subsection (a).

#### Subtitle E—Child Safety Standards

##### SEC. 31501. CHILD SAFETY SEATS.

(a) **PROTECTION FOR LARGER CHILDREN.**—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue a final rule amending Federal Motor Vehicle Safety Standard Number 213 to establish frontal crash protection requirements for child restraint systems for children weighing more than 65 pounds.

(b) **SIDE IMPACT CRASHES.**—Not later than 2 years after the date of enactment of this Act, the Secretary shall issue a final rule amending Federal Motor Vehicle Safety Standard Number 213 to improve the protection of children seated in child restraint systems during side impact crashes.

(c) **FRONTAL IMPACT TEST PARAMETERS.**—

(1) **COMMENCEMENT.**—Not later than 2 years after the date of enactment of this Act, the Secretary shall commence a rulemaking proceeding to amend test parameters under Federal Motor Vehicle Safety Standard Number 213 to better replicate real world conditions.

(2) **FINAL RULE.**—Not later than 4 years after the date of enactment of this Act, the Secretary shall issue a final rule pursuant to paragraph (1).

##### SEC. 31502. CHILD RESTRAINT ANCHORAGE SYSTEMS.

(a) **INITIATION OF RULEMAKING PROCEEDING.**—Not later than 1 year after the date of enactment of this Act, the Secretary shall initiate a rulemaking proceeding to—

(1) amend Federal Motor Vehicle Safety Standard Number 225 (relating to child restraint anchorage systems) to improve the visibility of, accessibility to, and ease of use for lower anchorages and tethers in all rear seat seating positions if such anchorages and tethers are feasible; and

(2) amend Federal Motor Vehicle Safety Standard Number 213 (relating to child restraint systems) or Federal Motor Vehicle Safety Standard Number 225 (relating to child restraint anchorage systems)—

(A) to establish a maximum allowable weight of the child and child restraint for standardizing the recommended use of child restraint anchorage systems in all vehicles; and

(B) to provide the information described in subparagraph (A) to the consumer.

(b) **FINAL RULE.**—

(1) **IN GENERAL.**—Except as provided under paragraph (2), the Secretary shall issue a final rule under subsection (a) not later than 3 years after the date of the enactment of this Act.

(2) **REPORT.**—If the Secretary determines that an amendment to the standard referred to in subsection (a) does not meet the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code, the Secretary shall submit a report describing the reasons for not prescribing such a standard to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

##### SEC. 31503. REAR SEAT BELT REMINDERS.

(a) **INITIATION OF RULEMAKING PROCEEDING.**—Not later than 2 years after the date of enactment of this Act, the Secretary shall initiate a rulemaking proceeding to amend Federal Motor Vehicle Safety Standard Number 208 (relating to occupant crash protection) to provide a safety belt use warn-

ing system for designated seating positions in the rear seat.

(b) **FINAL RULE.**—

(1) **IN GENERAL.**—Except as provided under paragraph (2), the Secretary shall issue a final rule under subsection (a) not later than 3 years after the date of enactment of this Act.

(2) **REPORT.**—If the Secretary determines that an amendment to the standard referred to in subsection (a) does not meet the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code, the Secretary shall submit a report describing the reasons for not prescribing such a standard to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

##### SEC. 31504. UNATTENDED PASSENGER REMINDERS.

(a) **SAFETY RESEARCH INITIATIVE.**—Not later than 2 years after the date of enactment of this Act, the Secretary shall complete research into the development of performance requirements to warn drivers that a child or other unattended passenger remains in a rear seating position after the vehicle motor is disengaged.

(b) **SPECIFICATIONS.**—In carrying out subsection (a), the Secretary shall consider performance requirements that—

(1) sense weight, the presence of a buckled seat belt, or other indications of the presence of a child or other passenger; and

(2) provide an alert to prevent hyperthermia and hypothermia that can result in death or severe injuries.

(c) **RULEMAKING OR REPORT.**—

(1) **RULEMAKING.**—Not later than 1 year after the completion of each research and testing initiative required under subsection (a), the Secretary shall initiate a rulemaking proceeding to issue a Federal motor vehicle safety standard if the Secretary determines that such a standard meets the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code.

(2) **REPORT.**—If the Secretary determines that the standard described in subsection (a) does not meet the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code, the Secretary shall submit a report describing the reasons for not prescribing such a standard to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

##### SEC. 31505. NEW DEADLINE.

If the Secretary determines that any deadline for issuing a final rule under this Act cannot be met, the Secretary shall—

(1) provide the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives with an explanation for why such deadline cannot be met; and

(2) establish a new deadline for that rule.

#### Subtitle F—Improved Daytime and Nighttime Visibility of Agricultural Equipment

##### SEC. 31601. RULEMAKING ON VISIBILITY OF AGRICULTURAL EQUIPMENT.

(a) **DEFINITIONS.**—In this section:

(1) **AGRICULTURAL EQUIPMENT.**—The term “agricultural equipment” has the meaning given the term “agricultural field equipment” in ASABE Standard 390.4, entitled “Definitions and Classifications of Agricultural Field Equipment”, which was published

in January 2005 by the American Society of Agriculture and Biological Engineers, or any successor standard.

(2) **PUBLIC ROAD.**—The term “public road” has the meaning given the term in section 101(a)(27) of title 23, United States Code.

(b) **RULEMAKING.**—

(1) **IN GENERAL.**—Not later than 2 years after the date of enactment of this Act, the Secretary of Transportation, after consultation with representatives of the American Society of Agricultural and Biological Engineers and appropriate Federal agencies, and with other appropriate persons, shall promulgate a rule to improve the daytime and nighttime visibility of agricultural equipment that may be operated on a public road.

(2) **MINIMUM STANDARDS.**—The rule promulgated pursuant to this subsection shall—

(A) establish minimum lighting and marking standards for applicable agricultural equipment manufactured at least 1 year after the date on which such rule is promulgated; and

(B) provide for the methods, materials, specifications, and equipment to be employed to comply with such standards, which shall be equivalent to ASABE Standard 279.14, entitled “Lighting and Marking of Agricultural Equipment on Highways”, which was published in July 2008 by the American Society of Agricultural and Biological Engineers, or any successor standard.

(c) **REVIEW.**—Not less frequently than once every 5 years, the Secretary of Transportation shall—

(1) review the standards established pursuant to subsection (b); and

(2) revise such standards to reflect the revision of ASABE Standard 279 that is in effect at the time of such review.

(d) **LIMITATIONS.**—

(1) **COMPLIANCE WITH SUCCESSOR STANDARDS.**—Any rule promulgated pursuant to this section may not prohibit the operation on public roads of agricultural equipment that is equipped in accordance with any adopted revision of ASABE Standard 279 that is later than the revision of such standard that was referenced during the promulgation of the rule.

(2) **NO RETROFITTING REQUIRED.**—Any rule promulgated pursuant to this section may not require the retrofitting of agricultural equipment that was manufactured before the date on which the lighting and marking standards are enforceable under subsection (b)(2)(A).

(3) **NO EFFECT ON ADDITIONAL MATERIALS AND EQUIPMENT.**—Any rule promulgated pursuant to this section may not prohibit the operation on public roads of agricultural equipment that is equipped with materials or equipment that are in addition to the minimum materials and equipment specified in the standard upon which such rule is based.

#### TITLE II—COMMERCIAL MOTOR VEHICLE SAFETY ENHANCEMENT ACT OF 2012

##### SEC. 32001. SHORT TITLE.

This title may be cited as the “Commercial Motor Vehicle Safety Enhancement Act of 2012”.

##### SEC. 32002. REFERENCES TO TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

**Subtitle A—Commercial Motor Vehicle  
Registration**

**SEC. 32101. REGISTRATION OF MOTOR CARRIERS.**

(a) **REGISTRATION REQUIREMENTS.**—Section 13902(a)(1) is amended to read as follows:

“(1) **IN GENERAL.**—Except as otherwise provided in this section, the Secretary of Transportation may not register a person to provide transportation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier unless the Secretary determines that the person—

“(A) is willing and able to comply with—

“(i) this part and the applicable regulations of the Secretary and the Board;

“(ii) any safety regulations imposed by the Secretary;

“(iii) the duties of employers and employees established by the Secretary under section 31135;

“(iv) the safety fitness requirements established by the Secretary under section 31144;

“(v) the accessibility requirements established by the Secretary under subpart H of part 37 of title 49, Code of Federal Regulations (or successor regulations), for transportation provided by an over-the-road bus; and

“(vi) the minimum financial responsibility requirements established by the Secretary under sections 13906, 31138, and 31139;

“(B) has submitted a comprehensive management plan documenting that the person has management systems in place to ensure compliance with safety regulations imposed by the Secretary;

“(C) has disclosed any relationship involving common ownership, common management, common control, or common familial relationship between that person and any other motor carrier, freight forwarder, or broker, or any other applicant for motor carrier, freight forwarder, or broker registration, or a successor (as that term is defined under section 31153), if the relationship occurred in the 5-year period preceding the date of the filing of the application for registration; and

“(D) after the Secretary establishes a written proficiency examination pursuant to section 32101(b) of the Commercial Motor Vehicle Safety Enhancement Act of 2012, has passed the written proficiency examination.”.

(b) **WRITTEN PROFICIENCY EXAMINATION.**—

(1) **ESTABLISHMENT.**—Not later than 18 months after the date of enactment of this Act, the Secretary shall establish a written proficiency examination for applicant motor carriers pursuant to section 13902(a)(1)(D) of title 49, United States Code. The written proficiency examination shall test a person's knowledge of applicable safety regulations, standards, and orders of the Federal government and State government.

(2) **ADDITIONAL FEE.**—The Secretary may assess a fee to cover the expenses incurred by the Department of Transportation in—

(A) developing and administering the written proficiency examination; and

(B) reviewing the comprehensive management plan required under section 13902(a)(1)(B) of title 49, United States Code.

(c) **CONFORMING AMENDMENT.**—Section 210(b) of the Motor Carrier Safety Improvement Act of 1999 (49 U.S.C. 31144 note) is amended—

(1) by inserting “, commercial regulations, and provisions of subpart H of part 37 of title 49, Code of Federal Regulations, or successor regulations” after “applicable safety regulations”; and

(2) by striking “consider the establishment of” and inserting “establish”.

**SEC. 32102. SAFETY FITNESS OF NEW OPERATORS.**

(a) **SAFETY REVIEWS OF NEW OPERATORS.**—Section 31144(g)(1) is amended to read as follows:

“(1) **SAFETY REVIEW.**—

“(A) **IN GENERAL.**—The Secretary shall require, by regulation, each owner and each operator granted new registration under section 13902 or 31134 to undergo a safety review not later than 12 months after the owner or operator, as the case may be, begins operations under such registration.

“(B) **PROVIDERS OF MOTORCOACH SERVICES.**—The Secretary may register a person to provide motorcoach services under section 13902 or 31134 after the person undergoes a pre-authorization safety audit, including verification, in a manner sufficient to demonstrate the ability to comply with Federal rules and regulations, as described in section 13902. The Secretary shall continue to monitor the safety performance of each owner and each operator subject to this section for 12 months after the owner or operator is granted registration under section 13902 or 31134. The registration of each owner and each operator subject to this section shall become permanent after the motorcoach service provider is granted registration following a pre-authorization safety audit and the expiration of the 12 month monitoring period.

“(C) **PRE-AUTHORIZATION SAFETY AUDIT.**—The Secretary may require, by regulation, that the pre-authorization safety audit under subparagraph (B) be completed on-site not later than 90 days after the submission of an application for operating authority.”.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect 1 year after the date of enactment of this Act.

**SEC. 32103. REINCARNATED CARRIERS.**

(a) **EFFECTIVE PERIODS OF REGISTRATION.**—(1) **SUSPENSIONS, AMENDMENTS, AND REVOCATIONS.**—Section 13905(d) is amended—

(A) by redesignating paragraph (2) as paragraph (4);

(B) by striking paragraph (1) and inserting the following:

“(1) **APPLICATIONS.**—On application of the registrant, the Secretary may amend or revoke a registration.

“(2) **COMPLAINTS AND ACTIONS ON SECRETARY'S OWN INITIATIVE.**—On complaint or on the Secretary's own initiative and after notice and an opportunity for a proceeding, the Secretary may—

“(A) suspend, amend, or revoke any part of the registration of a motor carrier, broker, or freight forwarder for willful failure to comply with—

“(i) this part;

“(ii) an applicable regulation or order of the Secretary or the Board, including the accessibility requirements established by the Secretary under subpart H of part 37 of title 49, Code of Federal Regulations (or successor regulations), for transportation provided by an over-the-road bus; or

“(iii) a condition of its registration;

“(B) withhold, suspend, amend, or revoke any part of the registration of a motor carrier, broker, or freight forwarder for failure—

“(i) to pay a civil penalty imposed under chapter 5, 51, 149, or 311;

“(ii) to arrange and abide by an acceptable payment plan for such civil penalty, not later than 90 days after the date specified by order of the Secretary for the payment of such penalty; or

“(iii) for failure to obey a subpoena issued by the Secretary;

“(C) withhold, suspend, amend, or revoke any part of a registration of a motor carrier, broker, or freight forwarder following a determination by the Secretary that the motor carrier, broker, or freight forwarder failed to disclose, in its application for registration, a material fact relevant to its willingness and ability to comply with—

“(i) this part;

“(ii) an applicable regulation or order of the Secretary or the Board; or

“(iii) a condition of its registration; or

“(D) withhold, suspend, amend, or revoke any part of a registration of a motor carrier, broker, or freight forwarder if the Secretary finds that—

“(i) the motor carrier, broker, or freight forwarder is or was related through common ownership, common management, common control, or common familial relationship to any other motor carrier, broker, or freight forwarder, or any other applicant for motor carrier, broker, or freight forwarder registration that the Secretary determines is or was unwilling or unable to comply with the relevant requirements listed in section 13902, 13903, or 13904; or

“(ii) the person is the successor, as defined in section 31153, to a person who is or was unwilling or unable to comply with the relevant requirements of section 13902, 13903, or 13904.

“(3) **LIMITATION.**—Paragraph (2)(B) shall not apply to a person who is unable to pay a civil penalty because the person is a debtor in a case under chapter 11 of title 11.”; and

(C) in paragraph (4), as redesignated by section 32103(a)(1)(A) of this Act, by striking “paragraph (1)(B)” and inserting “paragraph (2)(B)”.

(2) **PROCEDURE.**—Section 13905(e) is amended by inserting “or if the Secretary determines that the registrant failed to disclose a material fact in an application for registration in accordance with subsection (d)(2)(C),” after “registrant,”.

(b) **INFORMATION SYSTEMS.**—Section 31106(a)(3) is amended—

(1) in subparagraph (F), by striking “and” at the end;

(2) in subparagraph (G), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(H) determine whether a person or employer is or was related, through common ownership, common management, common control, or common familial relationship, to any other person, employer, or any other applicant for registration under section 13902 or 31134.”.

**SEC. 32104. FINANCIAL RESPONSIBILITY REQUIREMENTS.**

(a) **REPORT.**—Not later than 6 months after the date of enactment of this Act, the Secretary shall—

(1) issue a report on the appropriateness of—

(A) the current minimum financial responsibility requirements under sections 31138 and 31139 of title 49, United States Code; and

(B) the current bond and insurance requirements under section 13904(f) of title 49, United States Code; and

(2) submit the report issued under paragraph (1) to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(b) **RULEMAKING.**—Not later than 6 months after the publication of the report under subsection (a), the Secretary shall initiate a rulemaking—

(1) to revise the minimum financial responsibility requirements under sections 31138 and 31139 of title 49, United States Code and

(2) to revise the bond and insurance requirements under section 13904(f) of such title, as appropriate, based on the findings of the report submitted under subsection (a).

(c) DEADLINE.—Not later than 1 year after the start of the rulemaking under subsection (b), the Secretary shall—

(1) issue a final rule; or

(2) if the Secretary determines that a rulemaking is not required following the Secretary's analysis, submit a report stating the reason for not increasing the minimum financial responsibility requirements to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(d) BIENNIAL REVIEWS.—Not less than once every 2 years, the Secretary shall review the requirements prescribed under subsection (b) and revise the requirements, as appropriate.

**SEC. 32105. USDOT NUMBER REGISTRATION REQUIREMENT.**

(a) IN GENERAL.—Chapter 311 is amended by inserting after section 31133 the following:

**“§ 31134. Requirement for registration and USDOT number**

“(a) IN GENERAL.—Upon application, and subject to subsections (b) and (c), the Secretary shall register an employer or person subject to the safety jurisdiction of this subchapter. An employer or person may operate a commercial motor vehicle in interstate commerce only if the employer or person is registered by the Secretary under this section and receives a USDOT number. Nothing in this section shall preclude registration by the Secretary of an employer or person not engaged in interstate commerce. An employer or person subject to jurisdiction under subchapter I of chapter 135 of this title shall apply for commercial registration under section 13902 of this title.

“(b) WITHHOLDING REGISTRATION.—The Secretary may withhold registration under subsection (a), after notice and an opportunity for a proceeding, if the Secretary determines that—

“(1) the employer or person seeking registration is unwilling or unable to comply with the requirements of this subchapter and the regulations prescribed thereunder and chapter 51 and the regulations prescribed thereunder;

“(2) the employer or person is or was related through common ownership, common management, common control, or common familial relationship to any other person or applicant for registration subject to this subchapter who is or was unfit, unwilling, or unable to comply with the requirements listed in subsection (b)(1); or

“(3) the person is the successor, as defined in section 31153, to a person who is or was unfit, unwilling, or unable to comply with the requirements listed in subsection (b)(1).

“(c) REVOCATION OR SUSPENSION OF REGISTRATION.—The Secretary shall revoke the registration of an employer or person under subsection (a) after notice and an opportunity for a proceeding, or suspend the registration after giving notice of the suspension to the employer or person, if the Secretary determines that—

“(1) the employer's or person's authority to operate pursuant to chapter 139 of this title would be subject to revocation or suspension under sections 13905(d)(1) or 13905(f) of this title;

“(2) the employer or person is or was related through common ownership, common

management, common control, or common familial relationship to any other person or applicant for registration subject to this subchapter that the Secretary determines is or was unfit, unwilling, or unable to comply with the requirements listed in subsection (b)(1);

“(3) the person is the successor, as defined in section 31153, to a person the Secretary determines is or was unfit, unwilling, or unable to comply with the requirements listed in subsection (b)(1); or

“(4) the employer or person failed or refused to submit to the safety review required by section 31144(g) of this title.

“(d) PERIODIC REGISTRATION UPDATE.—The Secretary may require an employer to update a registration under this section periodically or not later than 30 days after a change in the employer's address, other contact information, officers, process agent, or other essential information, as determined by the Secretary.”

(b) CONFORMING AMENDMENT.—The analysis of chapter 311 is amended by inserting after the item relating to section 31133 the following:

“31134. Requirement for registration and USDOT number.”

**SEC. 32106. REGISTRATION FEE SYSTEM.**

Section 13908(d)(1) is amended by striking “but shall not exceed \$300”.

**SEC. 32107. REGISTRATION UPDATE.**

(a) PERIODIC MOTOR CARRIER UPDATE.—Section 13902 is amended by adding at the end the following:

“(h) UPDATE OF REGISTRATION.—The Secretary may require a registrant to update its registration under this section periodically or not later than 30 days after a change in the registrant's address, other contact information, officers, process agent, or other essential information, as determined by the Secretary.”

(b) PERIODIC FREIGHT FORWARDER UPDATE.—Section 13903 is amended by adding at the end the following:

“(c) UPDATE OF REGISTRATION.—The Secretary may require a freight forwarder to update its registration under this section periodically or not later than 30 days after a change in the freight forwarder's address, other contact information, officers, process agent, or other essential information, as determined by the Secretary.”

(c) PERIODIC BROKER UPDATE.—Section 13904 is amended by adding at the end the following:

“(e) UPDATE OF REGISTRATION.—The Secretary may require a broker to update its registration under this section periodically or not later than 30 days after a change in the broker's address, other contact information, officers, process agent, or other essential information, as determined by the Secretary.”

**SEC. 32108. INCREASED PENALTIES FOR OPERATING WITHOUT REGISTRATION.**

(a) PENALTIES.—Section 14901(a) is amended—

(1) by striking “\$500” and inserting “\$1,000”;

(2) by striking “who is not registered under this part to provide transportation of passengers,”;

(3) by striking “with respect to providing transportation of passengers,” and inserting “or section 13902(c) of this title,”; and

(4) by striking “\$2,000 for each violation and each additional day the violation continues” and inserting “\$10,000 for each violation, or \$25,000 for each violation relating to providing transportation of passengers”.

(b) TRANSPORTATION OF HAZARDOUS WASTES.—Section 14901(b) is amended by

striking “not to exceed \$20,000” and inserting “not less than \$25,000”.

**SEC. 32109. REVOCATION OF REGISTRATION FOR IMMINENT HAZARD.**

Section 13905(f)(2) is amended to read as follows:

“(2) IMMINENT HAZARD TO PUBLIC HEALTH.—Notwithstanding subchapter II of chapter 5 of title 5, the Secretary shall revoke the registration of a motor carrier if the Secretary finds that the carrier is or was conducting unsafe operations that are or were an imminent hazard to public health or property.”

**SEC. 32110. REVOCATION OF REGISTRATION AND OTHER PENALTIES FOR FAILURE TO RESPOND TO SUBPOENA.**

Section 525 is amended—

(1) by striking “subpenas” in the section heading and inserting “subpoenas”;

(2) by striking “subpena” and inserting “subpoena”;

(3) by striking “\$100” and inserting “\$1,000”;

(4) by striking “\$5,000” and inserting “\$10,000”; and

(5) by adding at the end the following:

“The Secretary may withhold, suspend, amend, or revoke any part of the registration of a person required to register under chapter 139 for failing to obey a subpoena or requirement of the Secretary under this chapter to appear and testify or produce records.”

**SEC. 32111. FLEETWIDE OUT OF SERVICE ORDER FOR OPERATING WITHOUT REQUIRED REGISTRATION.**

Section 13902(e)(1) is amended—

(1) by striking “motor vehicle” and inserting “motor carrier” after “the Secretary determines that a”; and

(2) by striking “order the vehicle” and inserting “order the motor carrier operations” after “the Secretary may”.

**SEC. 32112. MOTOR CARRIER AND OFFICER PATTERNS OF SAFETY VIOLATIONS.**

Section 31135 is amended—

(1) by striking subsection (b) and inserting the following:

“(b) NONCOMPLIANCE.—

“(1) MOTOR CARRIERS.—Two or more motor carriers, employers, or persons shall not use common ownership, common management, common control, or common familial relationship to enable any or all such motor carriers, employers, or persons to avoid compliance, or mask or otherwise conceal non-compliance, or a history of non-compliance, with regulations prescribed under this subchapter or an order of the Secretary issued under this subchapter.

“(2) PATTERN.—If the Secretary finds that a motor carrier, employer, or person engaged in a pattern or practice of avoiding compliance, or masking or otherwise concealing noncompliance, with regulations prescribed under this subchapter, the Secretary—

“(A) may withhold, suspend, amend, or revoke any part of the motor carrier's, employer's, or person's registration in accordance with section 13905 or 31134; and

“(B) shall take into account such non-compliance for purposes of determining civil penalty amounts under section 521(b)(2)(D).

“(3) OFFICERS.—If the Secretary finds, after notice and an opportunity for proceeding, that an officer of a motor carrier, employer, or owner or operator engaged in a pattern or practice of violating regulations prescribed under this subchapter, or assisted a motor carrier, employer, or owner or operator in avoiding compliance, or masking or otherwise concealing noncompliance, the Secretary may impose appropriate sanctions, subject to the limitations in paragraph (4), including—

“(A) suspension or revocation of registration granted to the officer individually under section 13902 or 31134;

“(B) temporary or permanent suspension or bar from association with any motor carrier, employer, or owner or operator registered under section 13902 or 31134; or

“(C) any appropriate sanction approved by the Secretary.

“(4) LIMITATIONS.—The sanctions described in subparagraphs (A) through (C) of subsection (b)(3) shall apply to—

“(A) intentional or knowing conduct, including reckless conduct that violates applicable laws (including regulations); and

“(B) repeated instances of negligent conduct that violates applicable laws (including regulations).”; and

(2) by striking subsection (c) and inserting the following:

“(c) AVOIDING COMPLIANCE.—For purposes of this section, ‘avoiding compliance’ or ‘masking or otherwise concealing non-compliance’ includes serving as an officer or otherwise exercising controlling influence over 2 or more motor carriers where—

“(1) one of the carriers was placed out of service, or received notice from the Secretary that it will be placed out of service, following—

“(A) a determination of unfitness under section 31144(b);

“(B) a suspension or revocation of registration under section 13902, 13905, or 31144(g);

“(C) issuance of an imminent hazard out of service order under section 521(b)(5) or section 5121(d); or

“(D) notice of failure to pay a civil penalty or abide by a penalty payment plan; and

“(2) one or more of the carriers is the ‘successor,’ as that term is defined in section 31153, to the carrier that is the subject of the action in paragraph (1).”.

#### SEC. 32113. FEDERAL SUCCESSOR STANDARD.

(a) IN GENERAL.—Chapter 311 is amended by adding after section 31152, as added by section 32508 of this Act, the following:

##### “§ 31153. Federal successor standard

“(a) FEDERAL SUCCESSOR STANDARD.—Notwithstanding any other provision of Federal or State law, the Secretary may take an action authorized under chapters 5, 51, 131 through 149, subchapter III of chapter 311 (except sections 31138 and 31139), or sections 31302, 31303, 31304, 31305(b), 31310(g)(1)(A), or 31502 of this title, or a regulation issued under any of those provisions, against a successor of a motor carrier (as defined in section 13102), a successor of an employer (as defined in section 31132), or a successor of an owner or operator (as that term is used in subchapter III of chapter 311), to the same extent and on the same basis as the Secretary may take the action against the motor carrier, employer, or owner or operator.

“(b) SUCCESSOR DEFINED.—For purposes of this section, the term ‘successor’ means a motor carrier, employer, or owner or operator that the Secretary determines, after notice and an opportunity for a proceeding, has 1 or more features that correspond closely with the features of another existing or former motor carrier, employer, or owner or operator, such as—

“(1) consideration paid for assets purchased or transferred;

“(2) dates of corporate creation and dissolution or termination of operations;

“(3) commonality of ownership;

“(4) commonality of officers and management personnel and their functions;

“(5) commonality of drivers and other employees;

“(6) identity of physical or mailing addresses, telephone, fax numbers, or e-mail addresses;

“(7) identity of motor vehicle equipment;

“(8) continuity of liability insurance policies;

“(9) commonality of coverage under liability insurance policies;

“(10) continuation of carrier facilities and other physical assets;

“(11) continuity of the nature and scope of operations, including customers;

“(12) commonality of the nature and scope of operations, including customers;

“(13) advertising, corporate name, or other acts through which the motor carrier, employer, or owner or operator holds itself out to the public;

“(14) history of safety violations and pending orders or enforcement actions of the Secretary; and

“(15) additional factors that the Secretary considers appropriate.

“(c) EFFECTIVE DATE.—Notwithstanding any other provision of law, this section shall apply to any action commenced on or after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012 without regard to whether the violation that is the subject of the action, or the conduct that caused the violation, occurred before the date of enactment.

“(d) RIGHTS NOT AFFECTED.—Nothing in this section shall affect the rights, functions, or responsibilities under law of any other Department, Agency, or instrumentality of the United States, the laws of any State, or any rights between a private party and a motor carrier, employer, or owner or operator.”.

(b) CONFORMING AMENDMENT.—The analysis of chapter 311 is amended by inserting after the item related to section 31152, as added by section 32508 of this Act, the following:

“31153. Federal successor standard.”.

#### Subtitle B—Commercial Motor Vehicle Safety

##### SEC. 32201. REPEAL OF COMMERCIAL JURISDICTION EXCEPTION FOR BROKERS OF MOTOR CARRIERS OF PASSENGERS.

(a) IN GENERAL.—Section 13506(a) is amended—

(1) by inserting “or” at the end of paragraph (13);

(2) by striking paragraph (14); and

(3) by redesignating paragraph (15) as paragraph (14).

(b) CONFORMING AMENDMENT.—Section 13904(a) is amended by striking “of property” in the first sentence.

##### SEC. 32202. BUS RENTALS AND DEFINITION OF EMPLOYER.

Paragraph (3) of section 31132 is amended to read as follows:

“(3) ‘employer’—

“(A) means a person engaged in a business affecting interstate commerce that—

“(i) owns or leases a commercial motor vehicle in connection with that business, or assigns an employee to operate the commercial motor vehicle; or

“(ii) offers for rent or lease a motor vehicle designed or used to transport more than 8 passengers, including the driver, and from the same location or as part of the same business provides names or contact information of drivers, or holds itself out to the public as a charter bus company; but

“(B) does not include the Government, a State, or a political subdivision of a State.”.

##### SEC. 32203. CRASHWORTHINESS STANDARDS.

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary shall conduct a comprehensive analysis on the need for crashworthiness

standards on property-carrying commercial motor vehicles with a gross vehicle weight rating or gross vehicle weight of at least 26,001 pounds involved in interstate commerce, including an evaluation of the need for roof strength, pillar strength, air bags, and frontal and back wall standards.

(b) REPORT.—Not later than 90 days after completing the comprehensive analysis under subsection (a), the Secretary shall report the results of the analysis and any recommendations to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

##### SEC. 32204. CANADIAN SAFETY RATING RECIPROCITY.

Section 31144 is amended by adding at the end the following:

“(h) RECOGNITION OF CANADIAN MOTOR CARRIER SAFETY FITNESS DETERMINATIONS.—

“(1) If an authorized agency of the Canadian federal government or a Canadian Territorial or Provincial government determines, by applying the procedure and standards prescribed by the Secretary under subsection (b) or pursuant to an agreement under paragraph (2), that a Canadian employer is unfit and prohibits the employer from operating a commercial motor vehicle in Canada or any Canadian Province, the Secretary may prohibit the employer from operating such vehicle in interstate and foreign commerce until the authorized Canadian agency determines that the employer is fit.

“(2) The Secretary may consult and participate in negotiations with authorized officials of the Canadian federal government or a Canadian Territorial or Provincial government, as necessary, to provide reciprocal recognition of each country’s motor carrier safety fitness determinations. An agreement shall provide, to the maximum extent practicable, that each country will follow the procedure and standards prescribed by the Secretary under subsection (b) in making motor carrier safety fitness determinations.”.

##### SEC. 32205. STATE REPORTING OF FOREIGN COMMERCIAL DRIVER CONVICTIONS.

(a) DEFINITION OF FOREIGN COMMERCIAL DRIVER.—Section 31301 is amended—

(1) by redesignating paragraphs (10) through (14) as paragraphs (11) through (15), respectively; and

(2) by inserting after paragraph (9) the following:

“(10) ‘foreign commercial driver’ means an individual licensed to operate a commercial motor vehicle by an authority outside the United States, or a citizen of a foreign country who operates a commercial motor vehicle in the United States.”.

(b) STATE REPORTING OF CONVICTIONS.—Section 31311(a) is amended by adding after paragraph (21) the following:

“(22) The State shall report a conviction of a foreign commercial driver by that State to the Federal Convictions and Withdrawal Database, or another information system designated by the Secretary to record the convictions. A report shall include—

“(A) for a driver holding a foreign commercial driver’s license—

“(i) each conviction relating to the operation of a commercial motor vehicle; and

“(ii) a non-commercial motor vehicle; and

“(B) for an unlicensed driver or a driver holding a foreign non-commercial driver’s license, each conviction for operating a commercial motor vehicle.”.



**SEC. 32206. AUTHORITY TO DISQUALIFY FOREIGN COMMERCIAL DRIVERS.**

Section 31310 is amended by adding at the end the following:

“(k) FOREIGN COMMERCIAL DRIVERS.—A foreign commercial driver shall be subject to disqualification under this section.”.

**SEC. 32207. REVOCATION OF FOREIGN MOTOR CARRIER OPERATING AUTHORITY FOR FAILURE TO PAY CIVIL PENALTIES.**

Section 13905(d)(2), as amended by section 32103(a) of this Act, is amended by inserting “foreign motor carrier, foreign motor private carrier,” after “registration of a motor carrier,” each place it appears.

**Subtitle C—Driver Safety****SEC. 32301. ELECTRONIC ON-BOARD RECORDING DEVICES.**

(a) GENERAL AUTHORITY.—Section 31137 is amended—

(1) by amending the section heading to read as follows:

“§ 31137. Electronic on-board recording devices and brake maintenance regulations”;

(2) by redesignating subsection (b) as subsection (e); and

(3) by amending (a) to read as follows:

“(a) ELECTRONIC ON-BOARD RECORDING DEVICES.—Not later than 1 year after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, the Secretary of Transportation shall prescribe regulations—

“(1) requiring a commercial motor vehicle involved in interstate commerce and operated by a driver subject to the hours of service and the record of duty status requirements under part 395 of title 49, Code of Federal Regulations, be equipped with an electronic on-board recording device to improve compliance by an operator of a vehicle with hours of service regulations prescribed by the Secretary; and

“(2) ensuring that an electronic on-board recording device is not used to harass a vehicle operator.

“(b) ELECTRONIC ON-BOARD RECORDING DEVICE REQUIREMENTS.—

“(1) IN GENERAL.—The regulations prescribed under subsection (a) shall—

“(A) require an electronic on-board recording device—

“(i) to accurately record commercial driver hours of service;

“(ii) to record the location of a commercial motor vehicle;

“(iii) to be tamper resistant; and

“(iv) to be integrally synchronized with an engine's control module;

“(B) allow law enforcement to access the data contained in the device during a roadside inspection; and

“(C) apply to a commercial motor vehicle beginning on the date that is 2 years after the date that the regulations are published as a final rule.

“(2) PERFORMANCE AND DESIGN STANDARDS.—The regulations prescribed under subsection (a) shall establish performance standards—

“(A) defining a standardized user interface to aid vehicle operator compliance and law enforcement review;

“(B) establishing a secure process for standardized—

“(i) and unique vehicle operator identification;

“(ii) data access;

“(iii) data transfer for vehicle operators between motor vehicles;

“(iv) data storage for a motor carrier; and

“(v) data transfer and transportability for law enforcement officials;

“(C) establishing a standard security level for an electronic on-board recording device and related components to be tamper resistant by using a methodology endorsed by a nationally recognized standards organization; and

“(D) identifying each driver subject to the hours of service and record of duty status requirements under part 395 of title 49, Code of Federal Regulations.

“(c) CERTIFICATION CRITERIA.—

“(1) IN GENERAL.—The regulations prescribed by the Secretary under this section shall establish the criteria and a process for the certification of an electronic on-board recording device to ensure that the device meets the performance requirements under this section.

“(2) EFFECT OF NONCERTIFICATION.—An electronic on-board recording device that is not certified in accordance with the certification process referred to in paragraph (1) shall not be acceptable evidence of hours of service and record of duty status requirements under part 395 of title 49, Code of Federal Regulations.

“(d) ELECTRONIC ON-BOARD RECORDING DEVICE DEFINED.—In this section, the term ‘electronic on-board recording device’ means an electronic device that—

“(1) is capable of recording a driver's hours of service and duty status accurately and automatically; and

“(2) meets the requirements established by the Secretary through regulation.”.

(b) CIVIL PENALTIES.—Section 30165(a)(1) is amended by striking “or 30141 through 30147” and inserting “30141 through 30147, or 31137”.

(c) CONFORMING AMENDMENT.—The analysis for chapter 311 is amended by striking the item relating to section 31137 and inserting the following:

“31137. Electronic on-board recording devices and brake maintenance regulations.”.

**SEC. 32302. SAFETY FITNESS.**

(a) SAFETY FITNESS RATING METHODOLOGY.—The Secretary shall—

(1) incorporate into its Compliance, Safety, Accountability program a safety fitness rating methodology that assigns sufficient weight to adverse vehicle and driver performance based-data that elevate crash risks to warrant an unsatisfactory rating for a carrier; and

(2) ensure that the data to support such assessments is accurate.

(b) INTERIM MEASURES.—Not later than March 31, 2012, the Secretary shall take interim measures to implement a similar safety fitness rating methodology in its current safety rating system if the Compliance, Safety, Accountability program is not fully implemented.

**SEC. 32303. DRIVER MEDICAL QUALIFICATIONS.**

(a) DEADLINE FOR ESTABLISHMENT OF NATIONAL REGISTRY OF MEDICAL EXAMINERS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall establish a national registry of medical examiners in accordance with section 31149(d)(1) of title 49, United States Code.

(b) EXAMINATION REQUIREMENT FOR NATIONAL REGISTRY OF MEDICAL EXAMINERS.—Section 31149(c)(1)(D) is amended to read as follows:

“(D) not later than 1 year after enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, develop requirements for a medical examiner to be listed in the national registry under this section, including—

“(i) the completion of specific courses and materials;

“(ii) certification, including self-certification, if the Secretary determines that self-certification is necessary for sufficient participation in the national registry, to verify that a medical examiner completed specific training, including refresher courses, that the Secretary determines necessary to be listed in the national registry;

“(iii) an examination that requires a passing grade; and

“(iv) demonstration of a medical examiner's willingness to meet the reporting requirements established by the Secretary”.

(c) ADDITIONAL OVERSIGHT OF LICENSING AUTHORITIES.—

(1) IN GENERAL.—Section 31149(c)(1) is amended—

(A) in subparagraph (E), by striking “and” after the semicolon;

(B) in subparagraph (F), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(G) annually review the implementation of commercial driver's license requirements by not fewer than 10 States to assess the accuracy, validity, and timeliness of—

“(i) the submission of physical examination reports and medical certificates to State licensing agencies; and

“(ii) the processing of the submissions by State licensing agencies.”.

(2) INTERNAL OVERSIGHT POLICY.—

(A) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall establish an oversight policy and procedure to carry out section 31149(c)(1)(G) of title 49, United States Code, as added by section 32303(c)(1) of this Act.

(B) EFFECTIVE DATE.—The amendments made by section 32303(c)(1) of this Act shall take effect on the date the oversight policies and procedures are established pursuant to subparagraph (A).

(d) ELECTRONIC FILING OF MEDICAL EXAMINATION CERTIFICATES.—Section 31311(a), as amended by sections 32205(b) and 32306(b) of this Act, is amended by adding at the end the following:

“(24) Not later than 1 year after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, the State shall establish and maintain, as part of its driver information system, the capability to receive an electronic copy of a medical examiner's certificate, from a certified medical examiner, for each holder of a commercial driver's license issued by the State who operates or intends to operate in interstate commerce.”.

(e) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—Of the funds provided for Data and Technology Grants under section 31104(a) of title 49, United States Code, there are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary to make grants to States or an organization representing agencies and officials of the States to support development costs of the information technology needed to carry out section 31311(a)(24) of title 49, United States Code, up to \$1 million for fiscal year 2012 and up to \$1 million for fiscal year 2013.

(2) PERIOD OF AVAILABILITY.—The amounts made available under this subsection shall remain available until expended.

**SEC. 32304. COMMERCIAL DRIVER'S LICENSE NOTIFICATION SYSTEM.**

(a) IN GENERAL.—Section 31304 is amended—

(1) by striking “An employer” and inserting the following:

“(a) IN GENERAL.—An employer”; and

(2) by adding at the end the following:

“(b) DRIVER VIOLATION RECORDS.—

“(1) PERIODIC REVIEW.—Except as provided in paragraph (3), an employer shall ascertain the driving record of each driver it employs—

“(A) by making an inquiry at least once every 12 months to the appropriate State agency in which the driver held or holds a commercial driver's license or permit during such time period;

“(B) by receiving occurrence-based reports of changes in the status of a driver's record from 1 or more driver record notification systems that meet minimum standards issued by the Secretary; or

“(C) by a combination of inquiries to States and reports from driver record notification systems.

“(2) RECORD KEEPING.—A copy of the reports received under paragraph (1) shall be maintained in the driver's qualification file.

“(3) EXCEPTIONS TO RECORD REVIEW REQUIREMENT.—Paragraph (1) shall not apply to a driver employed by an employer who, in any 7-day period, is employed or used as a driver by more than 1 employer—

“(A) if the employer obtains the driver's identification number, type, and issuing State of the driver's commercial motor vehicle license; or

“(B) if the information described in subparagraph (A) is furnished by another employer and the employer that regularly employs the driver meets the other requirements under this section.

“(4) DRIVER RECORD NOTIFICATION SYSTEM DEFINED.—In this section, the term ‘driver record notification system’ means a system that automatically furnishes an employer with a report, generated by the appropriate agency of a State, on the change in the status of an employee's driver's license due to a conviction for a moving violation, a failure to appear, an accident, driver's license suspension, driver's license revocation, or any other action taken against the driving privilege.”.

(b) STANDARDS FOR DRIVER RECORD NOTIFICATION SYSTEMS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue minimum standards for driver notification systems, including standards for the accuracy, consistency, and completeness of the information provided.

(c) PLAN FOR NATIONAL NOTIFICATION SYSTEM.—

(1) DEVELOPMENT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall develop recommendations and a plan for the development and implementation of a national driver record notification system, including—

(A) an assessment of the merits of achieving a national system by expanding the Commercial Driver's License Information System; and

(B) an estimate of the fees that an employer will be charged to offset the operating costs of the national system.

(2) SUBMISSION TO CONGRESS.—Not later than 90 days after the recommendations and plan are developed under paragraph (1), the Secretary shall submit a report on the recommendations and plan to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

#### SEC. 32305. COMMERCIAL MOTOR VEHICLE OPERATOR TRAINING.

(a) IN GENERAL.—Section 31305 is amended by adding at the end the following:

“(c) STANDARDS FOR TRAINING.—Not later than 6 months after the date of enactment of

the Commercial Motor Vehicle Safety Enhancement Act of 2012, the Secretary shall issue final regulations establishing minimum entry-level training requirements for an individual operating a commercial motor vehicle—

“(1) addressing the knowledge and skills that—

“(A) are necessary for an individual operating a commercial motor vehicle to safely operate a commercial motor vehicle; and

“(B) must be acquired before obtaining a commercial driver's license for the first time or upgrading from one class of commercial driver's license to another class;

“(2) addressing the specific training needs of a commercial motor vehicle operator seeking passenger or hazardous materials endorsements, including for an operator seeking a passenger endorsement training—

“(A) to suppress motorcoach fires; and

“(B) to evacuate passengers from motorcoaches safely;

“(3) requiring effective instruction to acquire the knowledge, skills, and training referred to in paragraphs (1) and (2), including classroom and behind-the-wheel instruction;

“(4) requiring certification that an individual operating a commercial motor vehicle meets the requirements established by the Secretary; and

“(5) requiring a training provider (including a public or private driving school, motor carrier, or owner or operator of a commercial motor vehicle) that offers training that results in the issuance of a certification to an individual under paragraph (4) to demonstrate that the training meets the requirements of the regulations, through a process established by the Secretary.”.

(b) COMMERCIAL DRIVER'S LICENSE UNIFORM STANDARDS.—Section 31308(1) is amended to read as follows:

“(1) an individual issued a commercial driver's license—

“(A) pass written and driving tests for the operation of a commercial motor vehicle that comply with the minimum standards prescribed by the Secretary under section 31305(a); and

“(B) present certification of completion of driver training that meets the requirements established by the Secretary under section 31305(c);”.

(c) CONFORMING AMENDMENT.—The section heading for section 31305 is amended to read as follows:

#### “§ 31305. General driver fitness, testing, and training”.

(d) CONFORMING AMENDMENT.—The analysis for chapter 313 is amended by striking the item relating to section 31305 and inserting the following:

“31305. General driver fitness, testing, and training.”.

#### SEC. 32306. COMMERCIAL DRIVER'S LICENSE PROGRAM.

(a) IN GENERAL.—Section 31309 is amended—

(1) in subsection (e)(4), by amending subparagraph (A) to read as follows:

“(A) IN GENERAL.—The plan shall specify—

“(i) a date by which all States shall be operating commercial driver's license information systems that are compatible with the modernized information system under this section; and

“(ii) that States must use the systems to receive and submit conviction and disqualification data.”; and

(2) in subsection (f), by striking “use” and inserting “use, subject to section 31313(a).”.

(b) REQUIREMENTS FOR STATE PARTICIPATION.—Section 31311 is amended—

(1) in subsection (a), as amended by section 32205(b) of this Act—

(A) in paragraph (5), by striking “‘At least’ and all that follows through ‘regulation,’” and inserting: “Not later than the time period prescribed by the Secretary by regulation.”; and

(B) by adding at the end the following:

“(23) Not later than 1 year after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, the State shall implement a system and practices for the exclusive electronic exchange of driver history record information on the system the Secretary maintains under section 31309, including the posting of convictions, withdrawals, and disqualifications.”; and

(2) by adding at the end the following:

“(d) CRITICAL REQUIREMENTS.—

“(1) IDENTIFICATION OF CRITICAL REQUIREMENTS.—After reviewing the requirements under subsection (a), including the regulations issued pursuant to subsection (a) and section 31309(e)(4), the Secretary shall identify the requirements that are critical to an effective State commercial driver's license program.

“(2) GUIDANCE.—Not later than 180 days after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, the Secretary shall issue guidance to assist States in complying with the critical requirements identified under paragraph (1). The guidance shall include a description of the actions that each State must take to collect and share accurate and complete data in a timely manner.

“(e) STATE COMMERCIAL DRIVER'S LICENSE PROGRAM PLAN.—

“(1) IN GENERAL.—Not later than 180 days after the Secretary issues guidance under subsection (d)(2), a State shall submit a plan to the Secretary for complying with the requirements under this section during the period beginning on the date the plan is submitted and ending on September 30, 2016.

“(2) CONTENTS.—A plan submitted by a State under paragraph (1) shall identify—

“(A) the actions that the State will take to comply with the critical requirements identified under subsection (d)(1);

“(B) the actions that the State will take to address any deficiencies in the State's commercial driver's license program, as identified by the Secretary in the most recent audit of the program; and

“(C) other actions that the State will take to comply with the requirements under subsection (a).

“(3) PRIORITY.—

“(A) IMPLEMENTATION SCHEDULE.—A plan submitted by a State under paragraph (1) shall include a schedule for the implementation of the actions identified under paragraph (2). In establishing the schedule, the State shall prioritize the actions identified under paragraphs (2)(A) and (2)(B).

“(B) DEADLINE FOR COMPLIANCE WITH CRITICAL REQUIREMENTS.—A plan submitted by a State under paragraph (1) shall include assurances that the State will take the necessary actions to comply with the critical requirements pursuant to subsection (d) not later than September 30, 2015.

“(4) APPROVAL AND DISAPPROVAL.—The Secretary shall—

“(A) review each plan submitted under paragraph (1);

“(B) approve a plan that the Secretary determines meets the requirements under this subsection and promotes the goals of this chapter; and

“(C) disapprove a plan that the Secretary determines does not meet the requirements or does not promote the goals.

“(5) MODIFICATION OF DISAPPROVED PLANS.—If the Secretary disapproves a plan under paragraph (4)(C), the Secretary shall—

“(A) provide a written explanation of the disapproval to the State; and

“(B) allow the State to modify the plan and resubmit it for approval.

“(6) PLAN UPDATES.—The Secretary may require a State to review and update a plan, as appropriate.

“(f) ANNUAL COMPARISON OF STATE LEVELS OF COMPLIANCE.—The Secretary shall annually—

“(1) compare the relative levels of compliance by States with the requirements under subsection (a); and

“(2) make the results of the comparison available to the public.”.

(c) DECERTIFICATION AUTHORITY.—Section 31312 is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following:

“(b) DEADLINE FOR COMPLIANCE WITH CRITICAL REQUIREMENTS.—Beginning on October 1, 2016, in making a determination under subsection (a), the Secretary shall consider a State to be in substantial noncompliance with this chapter if the Secretary determines that—

“(1) the State is not complying with a critical requirement under section 31311(d)(1); and

“(2) sufficient grant funding was made available to the State under section 31313(a) to comply with the requirement.”.

#### SEC. 32307. COMMERCIAL DRIVER'S LICENSE REQUIREMENTS.

(a) LICENSING STANDARDS.—Section 31305(a)(7) is amended by inserting “would not be subject to a disqualification under section 31310(g) of this title and” after “taking the tests”.

(b) DISQUALIFICATIONS.—Section 31310(g)(1) is amended by deleting “who holds a commercial driver's license and”.

#### SEC. 32308. COMMERCIAL MOTOR VEHICLE DRIVER INFORMATION SYSTEMS.

Section 31106(c) is amended—

(1) by striking the subsection heading and inserting “(1) IN GENERAL.—”;

(2) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D); and

(3) by adding at the end the following:

“(2) ACCESS TO RECORDS.—The Secretary may require a State, as a condition of an award of grant money under this section, to provide the Secretary access to all State licensing status and driver history records via an electronic information system, subject to section 2721 of title 18.”.

#### SEC. 32309. DISQUALIFICATIONS BASED ON NON-COMMERCIAL MOTOR VEHICLE OPERATIONS.

(a) FIRST OFFENSE.—Section 31310(b)(1)(D) is amended by deleting “commercial” after “revoked, suspended, or canceled based on the individual's operation of a,” and before “motor vehicle”.

(b) SECOND OFFENSE.—Section 31310(c)(1)(D) is amended by deleting “commercial” after “revoked, suspended, or canceled based on the individual's operation of a,” and before “motor vehicle”.

#### SEC. 32310. FEDERAL DRIVER DISQUALIFICATIONS.

(a) DISQUALIFICATION DEFINED.—Section 31301, as amended by section 32205 of this Act, is amended—

(1) by redesignating paragraphs (6) through (15) as paragraphs (7) through (16), respectively; and

(2) by inserting after paragraph (5) the following:

“(6) ‘Disqualification’ means—

“(A) the suspension, revocation, or cancellation of a commercial driver's license by the State of issuance;

“(B) a withdrawal of an individual's privilege to drive a commercial motor vehicle by a State or other jurisdiction as the result of a violation of State or local law relating to motor vehicle traffic control, except for a parking, vehicle weight, or vehicle defect violation;

“(C) a determination by the Secretary that an individual is not qualified to operate a commercial motor vehicle; or

“(D) a determination by the Secretary that a commercial motor vehicle driver is unfit under section 31144(g).”.

(b) COMMERCIAL DRIVER'S LICENSE INFORMATION SYSTEM CONTENTS.—Section 31309(b)(1)(F) is amended by inserting after “disqualified” the following: “by the State that issued the individual a commercial driver's license, or by the Secretary.”.

(c) STATE ACTION ON FEDERAL DISQUALIFICATION.—Section 31310(h) is amended by inserting after the first sentence the following:

“If the State has not disqualified the individual from operating a commercial vehicle under subsections (b) through (g), the State shall disqualify the individual if the Secretary determines under section 31144(g) that the individual is disqualified from operating a commercial motor vehicle.”.

#### SEC. 32311. EMPLOYER RESPONSIBILITIES.

Section 31304, as amended by section 32304 of this Act, is amended in subsection (a)—

(1) by striking “knowingly”; and

(2) by striking “in which” and inserting “that the employer knows or should reasonably know that”.

#### SEC. 32312. IMPROVING AND EXPEDITING SAFETY ASSESSMENTS IN THE COMMERCIAL DRIVER'S LICENSE APPLICATION PROCESS FOR MEMBERS AND FORMER MEMBERS OF THE ARMED FORCES.

(a) STUDY.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary, in coordination with the Secretary of Defense, and in consultation with the States and other relevant stakeholders, shall commence a study to assess Federal and State regulatory, economic, and administrative challenges faced by members and former members of the Armed Forces, who received safety training and operated qualifying motor vehicles during their service, in obtaining commercial driver's licenses (as defined in section 31301(3) of title 49, United States Code).

(2) REQUIREMENTS.—The study under this subsection shall—

(A) identify written and behind-the-wheel safety training, qualification standards, knowledge and skills tests, or other operating experience members of the Armed Forces must meet that satisfy the minimum standards prescribed by the Secretary of Transportation for the operation of commercial motor vehicles under section 31305 of title 49, United States Code;

(B) compare the alcohol and controlled substances testing requirements for members of the Armed Forces with those required for holders of a commercial driver's license;

(C) evaluate the cause of delays in reviewing applications for commercial driver's licenses of members and former members of the Armed Forces;

(D) identify duplicative application costs;

(E) identify residency, domicile, training and testing requirements, and other safety or health assessments that affect or delay the issuance of commercial driver's licenses

to members and former members of the Armed Forces; and

(F) include other factors that the Secretary determines to be appropriate to meet the requirements of the study.

(b) REPORT.—

(1) IN GENERAL.—Not later than 180 days after the commencement of the study under subsection (a), the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Financial Services of the House of Representatives that contains the findings and recommendations from the study.

(2) ELEMENTS.—The report under paragraph (1) shall include—

(A) findings related to the study requirements under subsection (a)(2);

(B) recommendations for the Federal and State legislative, regulatory, and administrative actions necessary to address challenges identified in subparagraph (A); and

(C) a plan to implement the recommendations for which the Secretary has authority.

(c) IMPLEMENTATION.—Upon the completion of the report under subsection (b), the Secretary shall implement the plan described in subsection (b)(2)(C).

#### Subtitle D—Safe Roads Act of 2012

##### SEC. 32401. SHORT TITLE.

This subtitle may be cited as the “Safe Roads Act of 2012”.

##### SEC. 32402. NATIONAL CLEARINGHOUSE FOR CONTROLLED SUBSTANCE AND ALCOHOL TEST RESULTS OF COMMERCIAL MOTOR VEHICLE OPERATORS.

(a) IN GENERAL.—Chapter 313 is amended—

(1) in section 31306(a), by inserting “and section 31306a” after “this section”; and

(2) by inserting after section 31306 the following:

##### “§ 31306a. National clearinghouse for controlled substance and alcohol test results of commercial motor vehicle operators

“(a) ESTABLISHMENT.—

“(1) IN GENERAL.—Not later than 2 years after the date of enactment of the Safe Roads Act of 2012, the Secretary of Transportation shall establish a national clearinghouse for records relating to alcohol and controlled substances testing of commercial motor vehicle operators.

“(2) PURPOSES.—The purposes of the clearinghouse shall be—

“(A) to improve compliance with the Department of Transportation's alcohol and controlled substances testing program applicable to commercial motor vehicle operators;

“(B) to facilitate access to information about an individual before employing the individual as a commercial motor vehicle operator;

“(C) to enhance the safety of our United States roadways by reducing accident fatalities involving commercial motor vehicles; and

“(D) to reduce the number of impaired commercial motor vehicle operators.

“(3) CONTENTS.—The clearinghouse shall function as a repository for records relating to the positive test results and test refusals of commercial motor vehicle operators and violations by such operators of prohibitions set forth in subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations).

“(4) ELECTRONIC EXCHANGE OF RECORDS.—The Secretary shall ensure that records can be electronically submitted to, and requested from, the clearinghouse by authorized users.

“(5) AUTHORIZED OPERATOR.—The Secretary may authorize a qualified and experienced private entity to operate and maintain the clearinghouse and to collect fees on behalf of the Secretary under subsection (e). The entity shall establish, operate, maintain and expand the clearinghouse and permit access to driver information and records from the clearinghouse in accordance with this section.

“(b) DESIGN OF CLEARINGHOUSE.—

“(1) USE OF FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION RECOMMENDATIONS.—In establishing the clearinghouse, the Secretary shall consider—

“(A) the findings and recommendations contained in the Federal Motor Carrier Safety Administration’s March 2004 report to Congress required under section 226 of the Motor Carrier Safety Improvement Act of 1999 (49 U.S.C. 31306 note); and

“(B) the findings and recommendations contained in the Government Accountability Office’s May 2008 report to Congress entitled ‘Motor Carrier Safety: Improvements to Drug Testing Programs Could Better Identify Illegal Drug Users and Keep Them off the Road.’

“(2) DEVELOPMENT OF SECURE PROCESSES.—In establishing the clearinghouse, the Secretary shall develop a secure process for—

“(A) administering and managing the clearinghouse in compliance with applicable Federal security standards;

“(B) registering and authenticating authorized users of the clearinghouse;

“(C) registering and authenticating persons required to report to the clearinghouse under subsection (g);

“(D) preventing the unauthorized access of information from the clearinghouse;

“(E) storing and transmitting data;

“(F) persons required to report to the clearinghouse under subsection (g) to timely and accurately submit electronic data to the clearinghouse;

“(G) generating timely and accurate reports from the clearinghouse in response to requests for information by authorized users; and

“(H) updating an individual’s record upon completion of the return-to-duty process described in title 49, Code of Federal Regulations.

“(3) EMPLOYER ALERT OF POSITIVE TEST RESULT.—In establishing the clearinghouse, the Secretary shall develop a secure method for electronically notifying an employer of each additional positive test result or other non-compliance—

“(A) for an employee, that is entered into the clearinghouse during the 7-day period immediately following an employer’s inquiry about the employee; and

“(B) for an employee who is listed as having multiple employers.

“(4) ARCHIVE CAPABILITY.—In establishing the clearinghouse, the Secretary shall develop a process for archiving all clearinghouse records, including the depositing of personal records, records relating to each individual in the database, and access requests for personal records, for the purposes of—

“(A) auditing and evaluating the timeliness, accuracy, and completeness of data in the clearinghouse; and

“(B) auditing to monitor compliance and enforce penalties for noncompliance.

“(5) FUTURE NEEDS.—

“(A) INTEROPERABILITY WITH OTHER DATA SYSTEMS.—In establishing the clearinghouse, the Secretary shall consider—

“(i) the existing data systems containing regulatory and safety data for commercial motor vehicle operators;

“(ii) the efficacy of using or combining clearinghouse data with 1 or more of such systems; and

“(iii) the potential interoperability of the clearinghouse with such systems.

“(B) SPECIFIC CONSIDERATIONS.—In carrying out subparagraph (A), the Secretary shall determine—

“(i) the clearinghouse’s capability for interoperability with—

“(I) the National Driver Register established under section 30302;

“(II) the Commercial Driver’s License Information System established under section 31309;

“(III) the Motor Carrier Management Information System for preemployment screening services under section 31150; and

“(IV) other data systems, as appropriate; and

“(ii) any change to the administration of the current testing program, such as forms, that is necessary to collect data for the clearinghouse.

“(c) STANDARD FORMATS.—The Secretary shall develop standard formats to be used—

“(1) by an authorized user of the clearinghouse to—

“(A) request a record from the clearinghouse; and

“(B) obtain the consent of an individual who is the subject of a request from the clearinghouse, if applicable; and

“(2) to notify an individual that a positive alcohol or controlled substances test result, refusing to test, and a violation of any of the prohibitions under subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations), will be reported to the clearinghouse.

“(d) PRIVACY.—A release of information from the clearinghouse shall—

“(1) comply with applicable Federal privacy laws, including the fair information practices under the Privacy Act of 1974 (5 U.S.C. 552a);

“(2) comply with applicable sections of the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.); and

“(3) not be made to any person or entity unless expressly authorized or required by law.

“(e) FEES.—

“(1) AUTHORITY TO COLLECT FEES.—Except as provided under paragraph (3), the Secretary may collect a reasonable, customary, and nominal fee from an authorized user of the clearinghouse for a request for information from the clearinghouse.

“(2) USE OF FEES.—Fees collected under this subsection shall be used for the operation and maintenance of the clearinghouse.

“(3) LIMITATION.—The Secretary may not collect a fee from an individual requesting information from the clearinghouse that pertains to the record of that individual.

“(f) EMPLOYER REQUIREMENTS.—

“(1) DETERMINATION CONCERNING USE OF CLEARINGHOUSE.—The Secretary shall determine if an employer is authorized to use the clearinghouse to meet the alcohol and controlled substances testing requirements under title 49, Code of Federal Regulations.

“(2) APPLICABILITY OF EXISTING REQUIREMENTS.—Each employer and service agent shall comply with the alcohol and controlled substances testing requirements under title 49, Code of Federal Regulations.

“(3) EMPLOYMENT PROHIBITIONS.—Beginning 30 days after the date that the clearinghouse is established under subsection (a), an employer shall not hire an individual to operate a commercial motor vehicle unless the employer determines that the individual, during the preceding 3-year period—

“(A) if tested for the use of alcohol and controlled substances, as required under title 49, Code of Federal Regulations—

“(i) did not test positive for the use of alcohol or controlled substances in violation of the regulations; or

“(ii) tested positive for the use of alcohol or controlled substances and completed the required return-to-duty process under title 49, Code of Federal Regulations;

“(B)(i) did not refuse to take an alcohol or controlled substance test under title 49, Code of Federal Regulations; or

“(ii) refused to take an alcohol or controlled substance test and completed the required return-to-duty process under title 49, Code of Federal Regulations; and

“(C) did not violate any other provision of subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations).

“(4) ANNUAL REVIEW.—Beginning 30 days after the date that the clearinghouse is established under subsection (a), an employer shall request and review a commercial motor vehicle operator’s record from the clearinghouse annually for as long as the commercial motor vehicle operator is under the employ of the employer.

“(g) REPORTING OF RECORDS.—

“(1) IN GENERAL.—Beginning 30 days after the date that the clearinghouse is established under subsection (a), a medical review officer, employer, service agent, and other appropriate person, as determined by the Secretary, shall promptly submit to the Secretary any record generated after the clearinghouse is initiated of an individual who—

“(A) refuses to take an alcohol or controlled substances test required under title 49, Code of Federal Regulations;

“(B) tests positive for alcohol or a controlled substance in violation of the regulations; or

“(C) violates any other provision of subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations).

“(2) INCLUSION OF RECORDS IN CLEARINGHOUSE.—The Secretary shall include in the clearinghouse the records of positive test results and test refusals received under paragraph (1).

“(3) MODIFICATIONS AND DELETIONS.—If the Secretary determines that a record contained in the clearinghouse is not accurate, the Secretary shall modify or delete the record, as appropriate.

“(4) NOTIFICATION.—The Secretary shall expeditiously notify an individual, unless such notification would be duplicative, when—

“(A) a record relating to the individual is received by the clearinghouse;

“(B) a record in the clearinghouse relating to the individual is modified or deleted, and include in the notification the reason for the modification or deletion; or

“(C) a record in the clearinghouse relating to the individual is released to an employer and specify the reason for the release.

“(5) DATA QUALITY AND SECURITY STANDARDS FOR REPORTING AND RELEASING.—The Secretary may establish additional requirements, as appropriate, to ensure that—

“(A) the submission of records to the clearinghouse is timely and accurate;

“(B) the release of data from the clearinghouse is timely, accurate, and released to the appropriate authorized user under this section; and

“(C) an individual with a record in the clearinghouse has a cause of action for any inappropriate use of information included in the clearinghouse.

“(6) RETENTION OF RECORDS.—The Secretary shall—

“(A) retain a record submitted to the clearinghouse for a 5-year period beginning on the date the record is submitted;

“(B) remove the record from the clearinghouse at the end of the 5-year period, unless the individual fails to meet a return-to-duty or follow-up requirement under title 49, Code of Federal Regulations; and

“(C) retain a record after the end of the 5-year period in a separate location for archiving and auditing purposes.

“(h) AUTHORIZED USERS.—

“(1) EMPLOYERS.—The Secretary shall establish a process for an employer to request and receive an individual's record from the clearinghouse.

“(A) CONSENT.—An employer may not access an individual's record from the clearinghouse unless the employer—

“(i) obtains the prior written or electronic consent of the individual for access to the record; and

“(ii) submits proof of the individual's consent to the Secretary.

“(B) ACCESS TO RECORDS.—After receiving a request from an employer for an individual's record under subparagraph (A), the Secretary shall grant access to the individual's record to the employer as expeditiously as practicable.

“(C) RETENTION OF RECORD REQUESTS.—The Secretary shall require an employer to retain for a 3-year period—

“(i) a record of each request made by the employer for records from the clearinghouse; and

“(ii) the information received pursuant to the request.

“(D) USE OF RECORDS.—An employer may use an individual's record received from the clearinghouse only to assess and evaluate the qualifications of the individual to operate a commercial motor vehicle for the employer.

“(E) PROTECTION OF PRIVACY OF INDIVIDUALS.—An employer that receives an individual's record from the clearinghouse under subparagraph (B) shall—

“(i) protect the privacy of the individual and the confidentiality of the record; and

“(ii) ensure that information contained in the record is not divulged to a person or entity that is not directly involved in assessing and evaluating the qualifications of the individual to operate a commercial motor vehicle for the employer.

“(2) STATE LICENSING AUTHORITIES.—The Secretary shall establish a process for the chief commercial driver's licensing official of a State to request and receive an individual's record from the clearinghouse if the individual is applying for a commercial driver's license from the State.

“(A) CONSENT.—The Secretary may grant access to an individual's record in the clearinghouse under this paragraph without the prior written or electronic consent of the individual. An individual who holds a commercial driver's license shall be deemed to consent to such access by obtaining a commercial driver's license.

“(B) PROTECTION OF PRIVACY OF INDIVIDUALS.—A chief commercial driver's licensing official of a State that receives an individual's record from the clearinghouse under this paragraph shall—

“(i) protect the privacy of the individual and the confidentiality of the record; and

“(ii) ensure that the information in the record is not divulged to any person that is not directly involved in assessing and evaluating the qualifications of the individual to operate a commercial motor vehicle.

“(3) NATIONAL TRANSPORTATION SAFETY BOARD.—The Secretary shall establish a process for the National Transportation Safety Board to request and receive an individual's record from the clearinghouse if the individual is involved in an accident that is under investigation by the National Transportation Safety Board.

“(A) CONSENT.—The Secretary may grant access to an individual's record in the clearinghouse under this paragraph without the prior written or electronic consent of the individual. An individual who holds a commercial driver's license shall be deemed to consent to such access by obtaining a commercial driver's license.

“(B) PROTECTION OF PRIVACY OF INDIVIDUALS.—An official of the National Transportation Safety Board that receives an individual's record from the clearinghouse under this paragraph shall—

“(i) protect the privacy of the individual and the confidentiality of the record; and

“(ii) unless the official determines that the information in the individual's record should be reported under section 1131(e), ensure that the information in the record is not divulged to any person that is not directly involved with investigating the accident.

“(4) ADDITIONAL AUTHORIZED USERS.—The Secretary shall consider whether to grant access to the clearinghouse to additional users. The Secretary may authorize access to an individual's record from the clearinghouse to an additional user if the Secretary determines that granting access will further the purposes under subsection (a)(2). In determining whether the access will further the purposes under subsection (a)(2), the Secretary shall consider, among other things—

“(A) what use the additional user will make of the individual's record;

“(B) the costs and benefits of the use; and

“(C) how to protect the privacy of the individual and the confidentiality of the record.

“(i) ACCESS TO CLEARINGHOUSE BY INDIVIDUALS.—

“(1) IN GENERAL.—The Secretary shall establish a process for an individual to request and receive information from the clearinghouse—

“(A) to determine whether the clearinghouse contains a record pertaining to the individual;

“(B) to verify the accuracy of a record;

“(C) to update an individual's record, including completing the return-to-duty process described in title 49, Code of Federal Regulations; and

“(D) to determine whether the clearinghouse received requests for the individual's information.

“(2) DISPUTE PROCEDURE.—The Secretary shall establish a procedure, including an appeal process, for an individual to dispute and remedy an administrative error in the individual's record.

“(j) PENALTIES.—

“(1) IN GENERAL.—An employer, employee, medical review officer, or service agent who violates any provision of this section shall be subject to civil penalties under section 521(b)(2)(C) and criminal penalties under section 521(b)(6)(B), and any other applicable civil and criminal penalties, as determined by the Secretary.

“(2) VIOLATION OF PRIVACY.—The Secretary shall establish civil and criminal penalties, consistent with paragraph (1), for an authorized user who violates paragraph (2)(B) or (3)(B) of subsection (h).

“(k) COMPATIBILITY OF STATE AND LOCAL LAWS.—

“(1) PREEMPTION.—Except as provided under paragraph (2), any law, regulation,

order, or other requirement of a State, political subdivision of a State, or Indian tribe related to a commercial driver's license holder subject to alcohol or controlled substance testing under title 49, Code of Federal Regulations, that is inconsistent with this section or a regulation issued pursuant to this section is preempted.

“(2) APPLICABILITY.—The preemption under paragraph (1) shall include—

“(A) the reporting of valid positive results from alcohol screening tests and drug tests;

“(B) the refusal to provide a specimen for an alcohol screening test or drug test; and

“(C) other violations of subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations).

“(3) EXCEPTION.—A law, regulation, order, or other requirement of a State, political subdivision of a State, or Indian tribe shall not be preempted under this subsection to the extent it relates to an action taken with respect to a commercial motor vehicle operator's commercial driver's license or driving record as a result of the driver's—

“(A) verified positive alcohol or drug test result;

“(B) refusal to provide a specimen for the test; or

“(C) other violations of subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations).

“(l) DEFINITIONS.—In this section—

“(1) AUTHORIZED USER.—The term ‘authorized user’ means an employer, State licensing authority, National Transportation Safety Board, or other person granted access to the clearinghouse under subsection (h).

“(2) CHIEF COMMERCIAL DRIVER'S LICENSING OFFICIAL.—The term ‘chief commercial driver's licensing official’ means the official in a State who is authorized to—

“(A) maintain a record about commercial driver's licenses issued by the State; and

“(B) take action on commercial driver's licenses issued by the State.

“(3) CLEARINGHOUSE.—The term ‘clearinghouse’ means the clearinghouse established under subsection (a).

“(4) COMMERCIAL MOTOR VEHICLE OPERATOR.—The term ‘commercial motor vehicle operator’ means an individual who—

“(A) possesses a valid commercial driver's license issued in accordance with section 31308; and

“(B) is subject to controlled substances and alcohol testing under title 49, Code of Federal Regulations.

“(5) EMPLOYER.—The term ‘employer’ means a person or entity employing, or seeking to employ, 1 or more employees (including an individual who is self-employed) to be commercial motor vehicle operators.

“(6) MEDICAL REVIEW OFFICER.—The term ‘medical review officer’ means a licensed physician who is responsible for—

“(A) receiving and reviewing a laboratory result generated under the testing program;

“(B) evaluating a medical explanation for a controlled substances test under title 49, Code of Federal Regulations; and

“(C) interpreting the results of a controlled substances test.

“(7) SECRETARY.—The term ‘Secretary’ means the Secretary of Transportation.

“(8) SERVICE AGENT.—The term ‘service agent’ means a person or entity, other than an employee of the employer, who provides services to employers or employees under the testing program.

“(9) TESTING PROGRAM.—The term ‘testing program’ means the alcohol and controlled

substances testing program required under title 49, Code of Federal Regulations.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 313 is amended by inserting after the item relating to section 31306 the following:

“31306a. National clearinghouse for positive controlled substance and alcohol test results of commercial motor vehicle operators.”.

#### SEC. 32403. DRUG AND ALCOHOL VIOLATION SANCTIONS.

Chapter 313 is amended—

(1) by redesignating section 31306(f) as 31306(f)(1); and

(2) by inserting after section 31306(f)(1) the following:

“(2) ADDITIONAL SANCTIONS.—The Secretary may require a State to revoke, suspend, or cancel the commercial driver’s license of a commercial motor vehicle operator who is found, based on a test conducted and confirmed under this section, to have used alcohol or a controlled substance in violation of law until the commercial motor vehicle operator completes the rehabilitation process under subsection (e).”; and

(3) by amending section 31310(d) to read as follows:

“(d) CONTROLLED SUBSTANCE VIOLATIONS.—The Secretary may permanently disqualify an individual from operating a commercial vehicle if the individual—

“(1) uses a commercial motor vehicle in the commission of a felony involving manufacturing, distributing, or dispensing a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance; or

“(2) uses alcohol or a controlled substance, in violation of section 31306, 3 or more times.”.

#### SEC. 32404. AUTHORIZATION OF APPROPRIATIONS.

From the funds authorized to be appropriated under section 31104(h) of title 49, United States Code, up to \$5,000,000 is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary of Transportation to develop, design, and implement the national clearinghouse required by section 32402 of this Act.

#### Subtitle E—Enforcement

#### SEC. 32501. INSPECTION DEMAND AND DISPLAY OF CREDENTIALS.

(a) SAFETY INVESTIGATIONS.—Section 504(c) is amended—

(1) by inserting “, or an employee of the recipient of a grant issued under section 31102 of this title” after “a contractor”; and

(2) by inserting “, in person or in writing” after “proper credentials”.

(b) CIVIL PENALTY.—Section 521(b)(2)(E) is amended—

(1) by redesignating subparagraph (E) as subparagraph (E)(i); and

(2) by adding at the end the following:

“(i) PLACE OUT OF SERVICE.—The Secretary may by regulation adopt procedures for placing out of service the commercial motor vehicle of a foreign-domiciled motor carrier that fails to promptly allow the Secretary to inspect and copy a record or inspect equipment, land, buildings, or other property.”.

(c) HAZARDOUS MATERIALS INVESTIGATIONS.—Section 5121(c)(2) is amended by inserting “, in person or in writing,” after “proper credentials”.

(d) COMMERCIAL INVESTIGATIONS.—Section 14122(b) is amended by inserting “, in person or in writing” after “proper credentials”.

#### SEC. 32502. OUT OF SERVICE PENALTY FOR DENIAL OF ACCESS TO RECORDS.

Section 521(b)(2)(E) is amended—

(1) by inserting after “\$10,000.” the following: “In the case of a motor carrier, the Secretary may also place the violator’s motor carrier operations out of service.”; and

(2) by striking “such penalty” after “It shall be a defense to” and inserting “a penalty”.

#### SEC. 32503. PENALTIES FOR VIOLATION OF OPERATION OUT OF SERVICE ORDERS.

Section 521(b)(2) is amended by adding at the end the following:

“(F) PENALTY FOR VIOLATIONS RELATING TO OUT OF SERVICE ORDERS.—A motor carrier or employer (as defined in section 31132) that operates a commercial motor vehicle in commerce in violation of a prohibition on transportation under section 31144(c) of this title or an imminent hazard out of service order issued under subsection (b)(5) of this section or section 5121(d) of this title shall be liable for a civil penalty not to exceed \$25,000.”.

#### SEC. 32504. MINIMUM PROHIBITION ON OPERATION FOR UNFIT CARRIERS.

(a) IN GENERAL.—Section 31144(c)(1) is amended by inserting “, and such period shall be for not less than 10 days” after “operator is fit”.

(b) OWNERS OR OPERATORS TRANSPORTING PASSENGERS.—Section 31144(c)(2) is amended by inserting “, and such period shall be for not less than 10 days” after “operator is fit”.

(c) OWNERS OR OPERATORS TRANSPORTING HAZARDOUS MATERIAL.—Section 31144(c)(3) is amended by inserting before the period at the end of the first sentence the following: “, and such period shall be for not less than 10 days”.

#### SEC. 32505. MINIMUM OUT OF SERVICE PENALTIES.

Section 521(b)(7) is amended by adding at the end the following:

“The penalties may include a minimum duration for any out of service period, not to exceed 90 days.”.

#### SEC. 32506. IMPOUNDMENT AND IMMOBILIZATION OF COMMERCIAL MOTOR VEHICLES FOR IMMINENT HAZARD.

Section 521(b) is amended by adding at the end the following:

“(15) IMPOUNDMENT OF COMMERCIAL MOTOR VEHICLES.—

“(A) ENFORCEMENT OF IMMINENT HAZARD OUT-OF-SERVICE ORDERS.—

“(i) The Secretary, or an authorized State official carrying out motor carrier safety enforcement activities under section 31102, may enforce an imminent hazard out-of-service order issued under chapters 5, 51, 131 through 149, 311, 313, or 315 of this title, or a regulation promulgated thereunder, by towing and impounding a commercial motor vehicle until the order is rescinded.

“(ii) Enforcement shall not unreasonably interfere with the ability of a shipper, carrier, broker, or other party to arrange for the alternative transportation of any cargo or passenger being transported at the time the commercial motor vehicle is immobilized. In the case of a commercial motor vehicle transporting passengers, the Secretary or authorized State official shall provide reasonable, temporary, and secure shelter and accommodations for passengers in transit.

“(iii) The Secretary’s designee or an authorized State official carrying out motor carrier safety enforcement activities under section 31102, shall immediately notify the owner of a commercial motor vehicle of the impoundment and the opportunity for review of the impoundment. A review shall be provided in accordance with section 554 of title 5, except that the review shall occur not later than 10 days after the impoundment.

“(B) ISSUANCE OF REGULATIONS.—The Secretary shall promulgate regulations on the use of impoundment or immobilization of commercial motor vehicles as a means of enforcing additional out-of-service orders issued under chapters 5, 51, 131 through 149, 311, 313, or 315 of this title, or a regulation promulgated thereunder. Regulations promulgated under this subparagraph shall include consideration of public safety, the protection of passengers and cargo, inconvenience to passengers, and the security of the commercial motor vehicle.

“(C) DEFINITION.—In this paragraph, the term ‘impoundment’ or ‘impounding’ means the seizing and taking into custody of a commercial motor vehicle or the immobilizing of a commercial motor vehicle through the attachment of a locking device or other mechanical or electronic means.”.

#### SEC. 32507. INCREASED PENALTIES FOR EVASION OF REGULATIONS.

(a) PENALTIES.—Section 524 is amended—

(1) by striking “knowingly and willfully”; and

(2) by inserting after “this chapter” the following: “, chapter 51, subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), 31310(g)(1)(A), or 31502 of this title, or a regulation issued under any of those provisions.”;

(3) by striking “\$200 but not more than \$500” and inserting “\$2,000 but not more than \$5,000”; and

(4) by striking “\$250 but not more than \$2,000” and inserting “\$2,500 but not more than \$7,500”.

(b) EVASION OF REGULATION.—Section 14906 is amended—

(1) by striking “\$200” and inserting “at least \$2,000”; and

(2) by striking “\$250” and inserting “\$5,000”; and

(3) by inserting after “a subsequent violation” the following:

“, and may be subject to criminal penalties”.

#### SEC. 32508. FAILURE TO PAY CIVIL PENALTY AS A DISQUALIFYING OFFENSE.

(a) IN GENERAL.—Chapter 311 is amended by inserting after section 31151 the following:

#### “§ 31152. Disqualification for failure to pay

“An individual assessed a civil penalty under this chapter, or chapters 5, 51, or 149 of this title, or a regulation issued under any of those provisions, who fails to pay the penalty or fails to comply with the terms of a settlement with the Secretary, shall be disqualified from operating a commercial motor vehicle after the individual is notified in writing and is given an opportunity to respond. A disqualification shall continue until the penalty is paid, or the individual complies with the terms of the settlement, unless the nonpayment is because the individual is a debtor in a case under chapter 11 of title 11, United States Code.”.

(b) TECHNICAL AMENDMENTS.—Section 31310, as amended by sections 32206 and 32310 of this Act, is amended—

(1) by redesignating subsections (h) through (k) as subsections (i) through (l), respectively; and

(2) by inserting after subsection (g) the following:

“(h) DISQUALIFICATION FOR FAILURE TO PAY.—The Secretary shall disqualify from operating a commercial motor vehicle any individual who fails to pay a civil penalty within the prescribed period, or fails to conform to the terms of a settlement with the Secretary. A disqualification shall continue until the penalty is paid, or the individual

conforms to the terms of the settlement, unless the nonpayment is because the individual is a debtor in a case under chapter 11 of title 11, United States Code.”; and

(3) in subsection (i), as redesignated, by striking “Notwithstanding subsections (b) through (g)” and inserting “Notwithstanding subsections (b) through (h)”.

(c) CONFORMING AMENDMENT.—The analysis of chapter 311 is amended by inserting after the item relating to section 31151 the following:

“31152. Disqualification for failure to pay.”.

**SEC. 32509. VIOLATIONS RELATING TO COMMERCIAL MOTOR VEHICLE SAFETY REGULATION AND OPERATORS.**

Section 521(b)(2)(D) is amended by striking “ability to pay.”.

**SEC. 32510. EMERGENCY DISQUALIFICATION FOR IMMINENT HAZARD.**

Section 31310(f) is amended—

(1) in paragraph (1) by inserting “section 521 or” before “section 5102”; and

(2) in paragraph (2) by inserting “section 521 or” before “section 5102”.

**SEC. 32511. INTRASTATE OPERATIONS OF INTERSTATE MOTOR CARRIERS.**

(a) PROHIBITED TRANSPORTATION.—Section 521(b)(5) is amended by inserting after subparagraph (B) the following:

“(C) If an employee, vehicle, or all or part of an employer’s commercial motor vehicle operations is ordered out of service under paragraph (5)(A), the commercial motor vehicle operations of the employee, vehicle, or employer that affect interstate commerce are also prohibited.”.

(b) PROHIBITION ON OPERATION IN INTERSTATE COMMERCE AFTER NONPAYMENT OF PENALTIES.—Section 521(b)(8) is amended—

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) by inserting after subparagraph (A) the following:

“(B) ADDITIONAL PROHIBITION.—A person prohibited from operating in interstate commerce under paragraph (8)(A) may not operate any commercial motor vehicle where the operation affects interstate commerce.”.

**SEC. 32512. ENFORCEMENT OF SAFETY LAWS AND REGULATIONS.**

(a) ENFORCEMENT OF SAFETY LAWS AND REGULATIONS.—Chapter 311, as amended by sections 32113 and 32508 of this Act, is amended by adding after section 31153 the following:

**“§ 31154. Enforcement of safety laws and regulations**

“(a) IN GENERAL.—The Secretary may bring a civil action to enforce this part, or a regulation or order of the Secretary under this part, when violated by an employer, employee, or other person providing transportation or service under this subchapter or subchapter I.

“(b) VENUE.—In a civil action under subsection (a)—

“(1) trial shall be in the judicial district in which the employer, employee, or other person operates;

“(2) process may be served without regard to the territorial limits of the district or of the State in which the action is instituted; and

“(3) a person participating with a carrier or broker in a violation may be joined in the civil action without regard to the residence of the person.”.

(b) CONFORMING AMENDMENT.—The analysis of chapter 311 is amended by inserting after the item relating to section 31153 the following:

“31154. Enforcement of safety laws and regulations.”.

**SEC. 32513. DISCLOSURE TO STATE AND LOCAL LAW ENFORCEMENT AGENCIES.**

Section 31106(e) is amended—

(1) by redesignating subsection (e) as subsection (e)(1); and

(2) by inserting at the end the following:

“(2) IN GENERAL.—Notwithstanding any prohibition on disclosure of information in section 31105(h) or 31143(b) of this title or section 552a of title 5, the Secretary may disclose information maintained by the Secretary pursuant to chapters 51, 135, 311, or 313 of this title to appropriate personnel of a State agency or instrumentality authorized to carry out State commercial motor vehicle safety activities and commercial driver’s license laws, or appropriate personnel of a local law enforcement agency, in accordance with standards, conditions, and procedures as determined by the Secretary. Disclosure under this section shall not operate as a waiver by the Secretary of any applicable privilege against disclosure under common law or as a basis for compelling disclosure under section 552 of title 5.”.

**Subtitle F—Compliance, Safety, Accountability**

**SEC. 32601. COMPLIANCE, SAFETY, ACCOUNTABILITY.**

(a) IN GENERAL.—Section 31102 is amended—

(1) by amending the section heading to read:

**“§ 31102. Compliance, safety, and accountability grants”;**

(2) by amending subsection (a) to read as follows:

“(a) GENERAL AUTHORITY.—Subject to this section, the Secretary of Transportation shall make and administer a compliance, safety, and accountability grant program to assist States, local governments, and other entities and persons with motor carrier safety and enforcement on highways and other public roads, new entrant safety audits, border enforcement, hazardous materials safety and security, consumer protection and household goods enforcement, and other programs and activities required to improve the safety of motor carriers as determined by the Secretary. The Secretary shall allocate funding in accordance with section 31104 of this title.”.

(3) in subsection (b)—

(A) by amending the heading to read as follows:

“(b) MOTOR CARRIER SAFETY ASSISTANCE PROGRAM.—”;

(B) by redesignating paragraphs (1) through (3) as (2) through (4), respectively;

(C) by inserting before paragraph (2), as redesignated, the following:

“(1) PROGRAM GOAL.—The goal of the Motor Carrier Safety Assistance Program is to ensure that the Secretary, States, local government agencies, and other political jurisdictions work in partnership to establish programs to improve motor carrier, commercial motor vehicle, and driver safety to support a safe and efficient surface transportation system by—

“(A) making targeted investments to promote safe commercial motor vehicle transportation, including transportation of passengers and hazardous materials;

“(B) investing in activities likely to generate maximum reductions in the number and severity of commercial motor vehicle crashes and fatalities resulting from such crashes;

“(C) adopting and enforcing effective motor carrier, commercial motor vehicle, and driver safety regulations and practices consistent with Federal requirements; and

“(D) assessing and improving statewide performance by setting program goals and meeting performance standards, measures, and benchmarks.”;

(D) in paragraph (2), as redesignated—

(i) by striking “make a declaration of” in subparagraph (I) and inserting “demonstrate”;

(ii) by amending subparagraph (M) to read as follows:

“(M) ensures participation in appropriate Federal Motor Carrier Safety Administration systems and other information systems by all appropriate jurisdictions receiving Motor Carrier Safety Assistance Program funding.”;

(iii) in subparagraph (Q), by inserting “and dedicated sufficient resources to” between “established” and “a program”;

(iv) in subparagraph (W), by striking “and” after the semicolon;

(v) by amending subparagraph (X) to read as follows:

“(X) except in the case of an imminent or obvious safety hazard, ensures that an inspection of a vehicle transporting passengers for a motor carrier of passengers is conducted at a station, terminal, border crossing, maintenance facility, destination, weigh station, rest stop, turnpike service area, or a location where adequate food, shelter, and sanitation facilities are available for passengers, and reasonable accommodation is available for passengers with disabilities; and”;

(vi) by adding after subparagraph (X) the following:

“(Y) ensures that the State will transmit to its roadside inspectors the notice of each Federal exemption granted pursuant to section 31315(b) and provided to the State by the Secretary, including the name of the person granted the exemption and any terms and conditions that apply to the exemption.”;

(E) by amending paragraph (4), as redesignated, to read as follows:

“(4) MAINTENANCE OF EFFORT.—

“(A) IN GENERAL.—A plan submitted by a State under paragraph (2) shall provide that the total expenditure of amounts of the lead State agency responsible for implementing the plan will be maintained at a level at least equal to the average level of that expenditure for fiscal years 2004 and 2005.

“(B) AVERAGE LEVEL OF STATE EXPENDITURES.—In estimating the average level of State expenditure under subparagraph (A), the Secretary—

“(i) may allow the State to exclude State expenditures for Government-sponsored demonstration or pilot programs; and

“(ii) shall require the State to exclude State matching amounts used to receive Government financing under this subsection.

“(C) WAIVER.—Upon the request of a State, the Secretary may waive or modify the requirements of this paragraph for 1 fiscal year, if the Secretary determines that a waiver is equitable due to exceptional or uncontrollable circumstances, such as a natural disaster or a serious decline in the financial resources of the State motor carrier safety assistance program agency.”;

(4) by redesignating subsection (e) as subsection (h); and

(5) by inserting after subsection (d) the following:

“(e) NEW ENTRANT SAFETY ASSURANCE PROGRAM.—

“(1) PROGRAM GOAL.—The Secretary may make grants to States and local governments for pre-authorization safety audits and new entrant motor carrier audits as described in section 31144(g).



“(2) RECIPIENTS.—Grants made in support of this program may be provided to States and local governments.

“(3) FEDERAL SHARE.—The Federal share of a grant made under this program is 100 percent.

“(4) ELIGIBLE ACTIVITIES.—Eligible activities will be in accordance with criteria developed by the Secretary and posted in the Federal Register in advance of the grant application period.

“(5) DETERMINATION.—If the Secretary determines that a State or local government is unable to conduct a new entrant motor carrier audit, the Secretary may use the funds to conduct the audit.

“(f) BORDER ENFORCEMENT.—

“(1) PROGRAM GOAL.—The Secretary of Transportation may make a grant for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects.

“(2) RECIPIENTS.—The Secretary of Transportation may make a grant to an entity, State, or other person for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects.

“(3) FEDERAL SHARE.—The Secretary shall reimburse a grantee at least 100 percent of the costs incurred in a fiscal year for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects.

“(4) ELIGIBLE ACTIVITIES.—An eligible activity will be in accordance with criteria developed by the Secretary and posted in the Federal Register in advance of the grant application period.

“(g) HIGH PRIORITY INITIATIVES.—

“(1) PROGRAM GOAL.—The Secretary may make grants to carry out high priority activities and projects that improve commercial motor vehicle safety and compliance with commercial motor vehicle safety regulations, including activities and projects that—

“(A) are national in scope;

“(B) increase public awareness and education;

“(C) target unsafe driving of commercial motor vehicles and non-commercial motor vehicles in areas identified as high risk crash corridors;

“(D) improve consumer protection and enforcement of household goods regulations;

“(E) improve the movement of hazardous materials safely and securely, including activities related to the establishment of uniform forms and application procedures that improve the accuracy, timeliness, and completeness of commercial motor vehicle safety data reported to the Secretary; or

“(F) demonstrate new technologies to improve commercial motor vehicle safety.

“(2) RECIPIENTS.—The Secretary may allocate amounts to award grants to State agencies, local governments, and other persons for carrying out high priority activities and projects that improve commercial motor vehicle safety and compliance with commercial motor vehicle safety regulations in accordance with the program goals specified in paragraph (1).

“(3) FEDERAL SHARE.—The Secretary shall reimburse a grantee at least 80 percent of the costs incurred in a fiscal year for carrying out the high priority activities or projects.

“(4) ELIGIBLE ACTIVITIES.—An eligible activity will be in accordance with criteria that is—

“(A) developed by the Secretary; and

“(B) posted in the Federal Register in advance of the grant application period.”.

(b) CONFORMING AMENDMENT.—The analysis of chapter 311 is amended by striking the item relating to section 31102 and inserting the following:

“31102. Compliance, safety, and accountability grants.”.

**SEC. 32602. PERFORMANCE AND REGISTRATION INFORMATION SYSTEMS MANAGEMENT PROGRAM.**

Section 31106(b) is amended—

(1) by amending paragraph (3)(C) to read as follows—

“(C) establish and implement a process—

“(i) to cancel the motor vehicle registration and seize the registration plates of a vehicle when an employer is found liable under section 31310(j)(2)(C) for knowingly allowing or requiring an employee to operate such a commercial motor vehicle in violation of an out-of-service order; and

“(ii) to reinstate the vehicle registration or return the registration plates of the commercial motor vehicle, subject to sanctions under clause (i), if the Secretary permits such carrier to resume operations after the date of issuance of such order.”; and

(2) by striking paragraph (4).

**SEC. 32603. COMMERCIAL MOTOR VEHICLE DEFINED.**

Section 31101(1) is amended to read as follows:

“(1) ‘commercial motor vehicle’ means (except under section 31106) a self-propelled or towed vehicle used on the highways in commerce to transport passengers or property, if the vehicle—

“(A) has a gross vehicle weight rating or gross vehicle weight of at least 10,001 pounds, whichever is greater;

“(B) is designed or used to transport more than 8 passengers, including the driver, for compensation;

“(C) is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or

“(D) is used in transporting material found by the Secretary of Transportation to be hazardous under section 5103 and transported in a quantity requiring placarding under regulations prescribed by the Secretary under section 5103.”.

**SEC. 32604. DRIVER SAFETY FITNESS RATINGS.**

Section 31144, as amended by section 32204 of this Act, is amended by adding at the end the following:

“(i) COMMERCIAL MOTOR VEHICLE DRIVERS.—The Secretary may maintain by regulation a procedure for determining the safety fitness of a commercial motor vehicle driver and for prohibiting the driver from operating in interstate commerce. The procedure and prohibition shall include the following:

“(1) Specific initial and continuing requirements that a driver must comply with to demonstrate safety fitness.

“(2) The methodology and continually updated safety performance data that the Secretary will use to determine whether a driver is fit, including inspection results, serious traffic offenses, and crash involvement data.

“(3) Specific time frames within which the Secretary will determine whether a driver is fit.

“(4) A prohibition period or periods, not to exceed 1 year, that a driver that the Secretary determines is not fit will be prohibited from operating a commercial motor vehicle in interstate commerce. The period or periods shall begin on the 46th day after the date of the fitness determination and continue until the Secretary determines the driver is fit or until the prohibition period expires.

“(5) A review by the Secretary, not later than 30 days after an unfit driver requests a review, of the driver's compliance with the requirements the driver failed to comply with and that resulted in the Secretary determining that the driver was not fit. The burden of proof shall be on the driver to demonstrate fitness.

“(6) The eligibility criteria for reinstatement, including the remedial measures the unfit driver must take for reinstatement.”.

**SEC. 32605. UNIFORM ELECTRONIC CLEARANCE FOR COMMERCIAL MOTOR VEHICLE INSPECTIONS.**

(a) IN GENERAL.—Chapter 311 is amended by adding after section 31109 the following:

**“§ 31110. Withholding amounts for State non-compliance**

“(a) FIRST FISCAL YEAR.—Subject to criteria established by the Secretary of Transportation, the Secretary may withhold up to 50 percent of the amount a State is otherwise eligible to receive under section 31102(b) on the first day of the fiscal year after the first fiscal year following the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012 in which the State uses for at least 180 days an electronic commercial motor vehicle inspection selection system that does not employ a selection methodology approved by the Secretary.

“(b) SECOND FISCAL YEAR.—The Secretary shall withhold up to 75 percent of the amount a State is otherwise eligible to receive under section 31102(b) on the first day of the fiscal year after the second fiscal year following the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012 in which the State uses for at least 180 days an electronic commercial motor vehicle inspection selection system that does not employ a selection methodology approved by the Secretary.

“(c) SUBSEQUENT AVAILABILITY OF WITHHELD FUNDS.—The Secretary may make the amounts withheld under subsection (a) or subsection (b) available to the State if the Secretary determines that the State has substantially complied with the requirement described under subsection (a) or subsection (b) not later than 180 days after the beginning of the fiscal year in which amounts were withheld.”.

(b) CONFORMING AMENDMENT.—The analysis of chapter 311 is amended by inserting after the item relating to section 31109 the following:

“31110. Withholding amounts for State non-compliance.”.

**SEC. 32606. AUTHORIZATION OF APPROPRIATIONS.**

Section 31104 is amended to read as follows:

**“§ 31104. Availability of amounts**

“(a) IN GENERAL.—There are authorized to be appropriated from Highway Trust Fund (other than the Mass Transit Account) for Federal Motor Carrier Safety Administration programs the following:

“(1) COMPLIANCE, SAFETY, AND ACCOUNTABILITY GRANTS UNDER SECTION 31102.—

“(A) \$249,717,000 for fiscal year 2012, provided that the Secretary shall set aside not less than \$168,388,000 to carry out the motor carrier safety assistance program under section 31102(b); and

“(B) \$253,814,000 for fiscal year 2013, provided that the Secretary shall set aside not less than \$171,813,000 to carry out the motor carrier safety assistance program under section 31102(b).

“(2) DATA AND TECHNOLOGY GRANTS UNDER SECTION 31109.—

“(A) \$30,000,000 for fiscal year 2012; and

“(B) \$30,000,000 for fiscal year 2013.

“(3) DRIVER SAFETY GRANTS UNDER SECTION 3133.—

“(A) \$31,000,000 for fiscal year 2012; and

“(B) \$31,000,000 for fiscal year 2013.

“(4) CRITERIA.—The Secretary shall develop criteria to allocate the remaining funds under paragraphs (1), (2), and (3) for fiscal year 2013 and for each fiscal year thereafter not later than April 1 of the prior fiscal year.

“(b) AVAILABILITY AND REALLOCATION OF AMOUNTS.—

“(1) ALLOCATIONS AND REALLOCATIONS.—Amounts made available under subsection (a)(1) remain available until expended. Allocations to a State remain available for expenditure in the State for the fiscal year in which they are allocated and for the next fiscal year. Amounts not expended by a State during those 2 fiscal years are released to the Secretary for reallocation.

“(2) REDISTRIBUTION OF AMOUNTS.—The Secretary may, after August 1 of each fiscal year, upon a determination that a State does not qualify for funding under section 31102(b) or that the State will not expend all of its existing funding, reallocate the State's funding. In revising the allocation and redistributing the amounts, the Secretary shall give preference to those States that require additional funding to meet program goals under section 31102(b).

“(3) PERIOD OF AVAILABILITY FOR DATA AND TECHNOLOGY GRANTS.—Amounts made available under subsection (a)(2) remain available for obligation for the fiscal year and the next 2 years in which they are appropriated. Allocations remain available for expenditure in the State for 5 fiscal years after they were obligated. Amounts not expended by a State during those 3 fiscal years are released to the Secretary for reallocation.

“(4) PERIOD OF AVAILABILITY FOR DRIVER SAFETY GRANTS.—Amounts made available under subsection (a)(3) of this section remain available for obligation for the fiscal year and the next fiscal year in which they are appropriated. Allocations to a State remain available for expenditure in the State for the fiscal year in which they are allocated and for the following 2 fiscal years. Amounts not expended by a State during those 3 fiscal years are released to the Secretary for reallocation.

“(5) REALLOCATION.—The Secretary, upon a request by a State, may reallocate grant funds previously awarded to the State under a grant program authorized by section 31102, 31109, or 31313 to another grant program authorized by those sections upon a showing by the State that it is unable to expend the funds within the 12 months prior to their expiration provided that the State agrees to expend the funds within the remaining period of expenditure.

“(c) GRANTS AS CONTRACTUAL OBLIGATIONS.—Approval by the Secretary of a grant under sections 31102, 31109, and 31313 is a contractual obligation of the Government for payment of the Government's share of costs incurred in developing and implementing programs to improve commercial motor vehicle safety and enforce commercial driver's license regulations, standards, and orders.

“(d) DEDUCTION FOR ADMINISTRATIVE EXPENSES.—

“(1) IN GENERAL.—On October 1 of each fiscal year or as soon after that as practicable, the Secretary may deduct, from amounts made available under—

“(A) subsection (a)(1) for that fiscal year, not more than 1.5 percent of those amounts for administrative expenses incurred in carrying out section 31102 in that fiscal year;

“(B) subsection (a)(2) for that fiscal year, not more than 1.4 percent of those amounts for administrative expenses incurred in carrying out section 31109 in that fiscal year; and

“(C) subsection (a)(3) for that fiscal year, not more than 1.4 percent of those amounts for administrative expenses incurred in carrying out section 31313 in that fiscal year.

“(2) TRAINING.—The Secretary may use at least 50 percent of the amounts deducted from the amounts made available under sections (a)(1) and (a)(3) to train non-Government employees and to develop related training materials to carry out sections 31102, 31311, and 31313 of this title.

“(3) CONTRACTS.—The Secretary may use amounts deducted under paragraph (1) to enter into contracts and cooperative agreements with States, local governments, associations, institutions, corporations, and other persons, if the Secretary determines the contracts and cooperative agreements are cost-effective, benefit multiple jurisdictions of the United States, and enhance safety programs and related enforcement activities.

“(e) ALLOCATION CRITERIA AND ELIGIBILITY.—

“(1) On October 1 of each fiscal year or as soon as practicable after that date after making the deduction under subsection (d)(1)(A), the Secretary shall allocate amounts made available to carry out section 31102(b) for such fiscal year among the States with plans approved under that section. Allocation shall be made under the criteria prescribed by the Secretary.

“(2) On October 1 of each fiscal year or as soon as practicable after that date and after making the deduction under subsection (d)(1)(B) or (d)(1)(C), the Secretary shall allocate amounts made available to carry out sections 31109(a) and 31313(b)(1).

“(f) INTRASTATE COMPATIBILITY.—The Secretary shall prescribe regulations specifying tolerance guidelines and standards for ensuring compatibility of intrastate commercial motor vehicle safety laws and regulations with Government motor carrier safety regulations to be enforced under section 31102(b). To the extent practicable, the guidelines and standards shall allow for maximum flexibility while ensuring a degree of uniformity that will not diminish transportation safety. In reviewing State plans and allocating amounts or making grants under section 153 of title 23, United States Code, the Secretary shall ensure that the guidelines and standards are applied uniformly.

“(g) WITHHOLDING AMOUNTS FOR STATE NONCOMPLIANCE.—

“(1) IN GENERAL.—Subject to criteria established by the Secretary, the Secretary may withhold up to 100 percent of the amounts a State is otherwise eligible to receive under section 31102(b) on October 1 of each fiscal year beginning after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012 and continuing for the period that the State does not comply substantially with a requirement under section 31109(b).

“(2) SUBSEQUENT AVAILABILITY OF WITHHELD FUNDS.—The Secretary may make the amounts withheld in accordance with paragraph (1) available to a State if the Secretary determines that the State has substantially complied with a requirement under section 31109(b) not later than 180 days after the beginning of the fiscal year in which the amounts are withheld.

“(h) ADMINISTRATIVE EXPENSES.—

“(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from

the Highway Trust Fund (other than the Mass Transit Account) for the Secretary to pay administrative expenses of the Federal Motor Carrier Safety Administration—

“(A) \$250,819,000 for fiscal year 2012; and

“(B) \$248,523,000 for fiscal year 2013.

“(2) USE OF FUNDS.—The funds authorized by this subsection shall be used for personnel costs, administrative infrastructure, rent, information technology, programs for research and technology, information management, regulatory development, the administration of the performance and registration information system management, outreach and education, other operating expenses, and such other expenses as may from time to time be necessary to implement statutory mandates of the Administration not funded from other sources.

“(i) AVAILABILITY OF FUNDS.—

“(1) PERIOD OF AVAILABILITY.—The amounts made available under this section shall remain available until expended.

“(2) INITIAL DATE OF AVAILABILITY.—Authorizations from the Highway Trust Fund (other than the Mass Transit Account) for this section shall be available for obligation on the date of their apportionment or allocation or on October 1 of the fiscal year for which they are authorized, whichever occurs first.”

#### SEC. 32607. HIGH RISK CARRIER REVIEWS.

(a) HIGH RISK CARRIER REVIEWS.—Section 31104(h), as amended by section 32606 of this Act, is amended by adding at the end of paragraph (2) the following:

“From the funds authorized by this subsection, the Secretary shall ensure that a review is completed on each motor carrier that demonstrates through performance data that it poses the highest safety risk. At a minimum, a review shall be conducted whenever a motor carrier is among the highest risk carriers for 2 consecutive months.”

(b) CONFORMING AMENDMENT.—Section 4138 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (49 U.S.C. 31144 note) is repealed.

#### SEC. 32608. DATA AND TECHNOLOGY GRANTS.

(a) IN GENERAL.—Section 31109 is amended to read as follows:

##### “§ 31109. Data and technology grants

“(a) GENERAL AUTHORITY.—The Secretary of Transportation shall establish and administer a data and technology grant program to assist the States with the implementation and maintenance of data systems. The Secretary shall allocate the funds in accordance with section 31104.

“(b) PERFORMANCE GOALS.—The Secretary may make a grant to a State to implement the performance and registration information system management requirements of section 31106(b) to develop, implement, and maintain commercial vehicle information systems and networks, and other innovative technologies that the Secretary determines improve commercial motor vehicle safety.

“(c) ELIGIBILITY.—To be eligible for a grant to implement the requirements of section 31106(b), the State shall design a program that—

“(1) links Federal motor carrier safety information systems with the State's motor carrier information systems;

“(2) determines the safety fitness of a motor carrier or registrant when licensing or registering the registrant or motor carrier or while the license or registration is in effect; and

“(3) denies, suspends, or revokes the commercial motor vehicle registrations of a motor carrier or registrant that was issued

an operations out-of-service order by the Secretary.

“(d) **REQUIRED PARTICIPATION.**—The Secretary shall require States that participate in the program under section 31106 to—

“(1) comply with the uniform policies, procedures, and technical and operational standards prescribed by the Secretary under section 31106(b);

“(2) possess or seek the authority to possess for a time period not longer than determined reasonable by the Secretary, to impose sanctions relating to commercial motor vehicle registration on the basis of a Federal safety fitness determination; and

“(3) establish and implement a process to cancel the motor vehicle registration and seize the registration plates of a vehicle when an employer is found liable under section 31310(j)(2)(C) for knowingly allowing or requiring an employee to operate such a commercial motor vehicle in violation of an out of service order.

“(e) **FEDERAL SHARE.**—The total Federal share of the cost of a project payable from all eligible Federal sources shall be at least 80 percent.”.

(b) **CONFORMING AMENDMENT.**—The analysis of chapter 311 is amended by striking the item relating to section 31109 and inserting the following:

“31109. Data and technology grants.”.

#### **SEC. 32609. DRIVER SAFETY GRANTS.**

(a) **DRIVER FOCUSED GRANT PROGRAM.**—Section 31313 is amended to read as follows:

##### **“§ 31313. Driver safety grants**

“(a) **GENERAL AUTHORITY.**—The Secretary shall make and administer a driver focused grant program to assist the States, local governments, entities, and other persons with commercial driver’s license systems, programs, training, fraud detection, reporting of violations and other programs required to improve the safety of drivers as the Federal Motor Carrier Safety Administration deems critical. The Secretary shall allocate the funds for the program in accordance with section 31104.

“(b) **COMMERCIAL DRIVER’S LICENSE PROGRAM IMPROVEMENT GRANTS.**—

“(1) **PROGRAM GOAL.**—The Secretary of Transportation may make a grant to a State in a fiscal year—

“(A) to comply with the requirements of section 31311;

“(B) in the case of a State that is making a good faith effort toward substantial compliance with the requirements of this section and section 31311, to improve its implementation of its commercial driver’s license program;

“(C) for research, development demonstration projects, public education, and other special activities and projects relating to commercial driver licensing and motor vehicle safety that are of benefit to all jurisdictions of the United States or are designed to address national safety concerns and circumstances;

“(D) for commercial driver’s license program coordinators;

“(E) to implement or maintain a system to notify an employer of an operator of a commercial motor vehicle of the suspension or revocation of the operator’s commercial driver’s license consistent with the standards developed under section 32304(b) of the Commercial Motor Vehicle Safety Enhancement Act of 2012; or

“(F) to train operators of commercial motor vehicles, as defined under section 31301, and to train operators and future operators in the safe use of such vehicles. Fund-

ing priority for this discretionary grant program shall be to regional or multi-state educational or nonprofit associations serving economically distressed regions of the United States.

“(2) **PRIORITY.**—The Secretary shall give priority, in making grants under paragraph (1)(B), to a State that will use the grants to achieve compliance with the requirements of the Motor Carrier Safety Improvement Act of 1999 (113 Stat. 1748), including the amendments made by the Commercial Motor Vehicle Safety Enhancement Act of 2012.

“(3) **RECIPIENTS.**—The Secretary may allocate grants to State agencies, local governments, and other persons for carrying out activities and projects that improve commercial driver’s license safety and compliance with commercial driver’s license and commercial motor vehicle safety regulations in accordance with the program goals under paragraph (1) and that train operators on commercial motor vehicles. The Secretary may make a grant to a State to comply with section 31311 for commercial driver’s license program coordinators and for notification systems.

“(4) **FEDERAL SHARE.**—The Federal share of a grant made under this program shall be at least 80 percent, except that the Federal share of grants for commercial driver license program coordinators and training commercial motor vehicle operators shall be 100 percent.”.

(b) **CONFORMING AMENDMENT.**—The analysis of chapter 313 is amended by striking the item relating to section 31313 and inserting the following:

“31313. Driver safety grants.”.

#### **SEC. 32610. COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS.**

Not later than 6 months after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that includes—

(1) established time frames and milestones for resuming the Commercial Vehicle Information Systems and Networks Program; and

(2) a strategic workforce plan for its grants management office to ensure that it has determined the skills and competencies that are critical to achieving its mission goals.

#### **Subtitle G—Motorcoach Enhanced Safety Act of 2012**

##### **SEC. 32701. SHORT TITLE.**

This subtitle may be cited as the “Motorcoach Enhanced Safety Act of 2012”.

##### **SEC. 32702. DEFINITIONS.**

In this subtitle:

(1) **ADVANCED GLAZING.**—The term “advanced glazing” means glazing installed in a portal on the side or the roof of a motorcoach that is designed to be highly resistant to partial or complete occupant ejection in all types of motor vehicle crashes.

(2) **BUS.**—The term “bus” has the meaning given the term in section 571.3(b) of title 49, Code of Federal Regulations (as in effect on the day before the date of enactment of this Act).

(3) **COMMERCIAL MOTOR VEHICLE.**—Except as otherwise specified, the term “commercial motor vehicle” has the meaning given the term in section 31132(1) of title 49, United States Code.

(4) **DIRECT TIRE PRESSURE MONITORING SYSTEM.**—The term “direct tire pressure monitoring system” means a tire pressure monitoring system that is capable of directly detecting when the air pressure level in any

tire is significantly under-inflated and providing the driver a low tire pressure warning as to which specific tire is significantly under-inflated.

(5) **ELECTRONIC ON-BOARD RECORDER.**—The term “electronic on-board recorder” means an electronic device that acquires and stores data showing the record of duty status of the vehicle operator and performs the functions required of an automatic on-board recording device in section 395.15(b) of title 49, Code of Federal Regulations.

(6) **EVENT DATA RECORDER.**—The term “event data recorder” has the meaning given that term in section 563.5 of title 49, Code of Federal Regulations.

(7) **MOTOR CARRIER.**—The term “motor carrier” means—

(A) a motor carrier (as defined in section 13102(14) of title 49, United States Code); or

(B) a motor private carrier (as defined in section 13102(15) of that title).

(8) **MOTORCOACH.**—The term “motorcoach” has the meaning given the term “over-the-road bus” in section 3038(a)(3) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note), but does not include—

(A) a bus used in public transportation provided by, or on behalf of, a public transportation agency; or

(B) a school bus, including a multifunction school activity bus.

(9) **MOTORCOACH SERVICES.**—The term “motorcoach services” means passenger transportation by motorcoach for compensation.

(10) **MULTIFUNCTION SCHOOL ACTIVITY BUS.**—The term “multifunction school activity bus” has the meaning given the term in section 571.3(b) of title 49, Code of Federal Regulations (as in effect on the day before the date of enactment of this Act).

(11) **PORTAL.**—The term “portal” means any opening on the front, side, rear, or roof of a motorcoach that could, in the event of a crash involving the motorcoach, permit the partial or complete ejection of any occupant from the motorcoach, including a young child.

(12) **PROVIDER OF MOTORCOACH SERVICES.**—The term “provider of motorcoach services” means a motor carrier that provides passenger transportation services with a motorcoach, including per-trip compensation and contracted or chartered compensation.

(13) **PUBLIC TRANSPORTATION.**—The term “public transportation” has the meaning given the term in section 5302 of title 49, United States Code.

(14) **SAFETY BELT.**—The term “safety belt” has the meaning given the term in section 153(i)(4)(B) of title 23, United States Code.

(15) **SECRETARY.**—The term “Secretary” means the Secretary of Transportation.

#### **SEC. 32703. REGULATIONS FOR IMPROVED OCCUPANT PROTECTION, PASSENGER EVACUATION, AND CRASH AVOIDANCE.**

(a) **REGULATIONS REQUIRED WITHIN 1 YEAR.**—Not later than 1 year after the date of enactment of this Act, the Secretary shall prescribe regulations requiring safety belts to be installed in motorcoaches at each designated seating position.

(b) **REGULATIONS REQUIRED WITHIN 2 YEARS.**—Not later than 2 years after the date of enactment of this Act, the Secretary shall prescribe the following commercial motor vehicle regulations:

(1) **ROOF STRENGTH AND CRUSH RESISTANCE.**—The Secretary shall establish improved roof and roof support standards for motorcoaches that substantially improve the

resistance of motorcoach roofs to deformation and intrusion to prevent serious occupant injury in rollover crashes involving motorcoaches.

(2) **ANTI-EJECTION SAFETY COUNTERMEASURES.**—The Secretary shall require advanced glazing to be installed in each motorcoach portal and shall consider other portal improvements to prevent partial and complete ejection of motorcoach passengers, including children. In prescribing such standards, the Secretary shall consider the impact of such standards on the use of motorcoach portals as a means of emergency egress.

(3) **ROLLOVER CRASH AVOIDANCE.**—The Secretary shall require motorcoaches to be equipped with stability enhancing technology, such as electronic stability control and torque vectoring, to reduce the number and frequency of rollover crashes among motorcoaches.

(c) **COMMERCIAL MOTOR VEHICLE TIRE PRESSURE MONITORING SYSTEMS.**—Not later than 3 years after the date of enactment of this Act, the Secretary shall prescribe the following commercial vehicle regulation:

(1) **IN GENERAL.**—The Secretary shall require motorcoaches to be equipped with direct tire pressure monitoring systems that warn the operator of a commercial motor vehicle when any tire exhibits a level of air pressure that is below a specified level of air pressure established by the Secretary.

(2) **PERFORMANCE REQUIREMENTS.**—The regulation prescribed by the Secretary under this subsection shall include performance requirements to ensure that direct tire pressure monitoring systems are capable of—

(A) providing a warning to the driver when 1 or more tires are underinflated;

(B) activating in a specified time period after the underinflation is detected; and

(C) operating at different vehicle speeds.

(d) **APPLICATION OF REGULATIONS.**—

(1) **NEW MOTORCOACHES.**—Any regulation prescribed in accordance with subsection (a), (b), or (c) shall apply to all motorcoaches manufactured more than 2 years after the date on which the regulation is published as a final rule.

(2) **RETROFIT REQUIREMENTS FOR EXISTING MOTORCOACHES.**—

(A) **IN GENERAL.**—The Secretary may, by regulation, provide for the application of any requirement established under subsection (a) or (b)(2) to motorcoaches manufactured before the date on which the requirement applies to new motorcoaches under paragraph (1) based on an assessment of the feasibility, benefits, and costs of retrofitting the older motorcoaches.

(B) **ASSESSMENT.**—The Secretary shall complete an assessment with respect to safety belt retrofits not later than 1 year after the date of enactment of this Act and with respect to anti-ejection countermeasure retrofits not later than 2 years after the date of enactment of this Act.

(e) **FAILURE TO MEET DEADLINE.**—If the Secretary determines that a final rule cannot be issued before the deadline established under this section, the Secretary shall—

(1) submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives that explains why the deadline cannot be met; and

(2) establish a new deadline for the issuance of the final rule.

#### **SEC. 32704. STANDARDS FOR IMPROVED FIRE SAFETY.**

(a) **EVALUATIONS.**—Not later than 18 months after the date of enactment of this

Act, the Secretary shall initiate the following rulemaking proceedings:

(1) **FLAMMABILITY STANDARD FOR EXTERIOR COMPONENTS.**—The Secretary shall establish requirements for fire hardening or fire resistance of motorcoach exterior components to prevent fire and smoke inhalation injuries to occupants.

(2) **SMOKE SUPPRESSION.**—The Secretary shall update Federal Motor Vehicle Safety Standard Number 302 (49 C.F.R. 571.302; relating to flammability of interior materials) to improve the resistance of motorcoach interiors and components to burning and permit sufficient time for the safe evacuation of passengers from motorcoaches.

(3) **PREVENTION OF, AND RESISTANCE TO, WHEEL WELL FIRES.**—The Secretary shall establish requirements—

(A) to prevent and mitigate the propagation of wheel well fires into the passenger compartment; and

(B) to substantially reduce occupant deaths and injuries from such fires.

(4) **AUTOMATIC FIRE SUPPRESSION.**—The Secretary shall establish requirements for motorcoaches to be equipped with highly effective fire suppression systems that automatically respond to and suppress all fires in such motorcoaches.

(5) **PASSENGER EVACUATION.**—The Secretary shall establish requirements for motorcoaches to be equipped with—

(A) improved emergency exit window, door, roof hatch, and wheelchair lift door designs to expedite access and use by passengers of motorcoaches under all emergency circumstances, including crashes and fires; and

(B) emergency interior lighting systems, including luminescent or retroreflectORIZED delineation of evacuation paths and exits, which are triggered by a crash or other emergency incident to accomplish more rapid and effective evacuation of passengers.

(6) **CAUSATION AND PREVENTION OF MOTORCOACH FIRES.**—The Secretary shall examine the principle causes of motorcoach fires and vehicle design changes intended to reduce the number of motorcoach fires resulting from those principle causes.

(b) **DEADLINE.**—Not later than 42 months after the date of enactment of this Act, the Secretary shall—

(1) issue final rules in accordance with subsection (a); or

(2) if the Secretary determines that any standard is not warranted based on the requirements and considerations set forth in subsection (a) and (b) of section 30111 of title 49, United States Code, submit a report that describes the reasons for not prescribing such a standard to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

(c) **TIRE PERFORMANCE STANDARD.**—Not later than 3 years after the date of enactment of this Act, the Secretary shall—

(1) issue a final rule upgrading performance standards for tires used on motorcoaches, including an enhanced endurance test and a new high-speed performance test; or

(2) if the Secretary determines that a standard is not warranted based on the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code, submit a report that describes the reasons for not prescribing such a standard to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

#### **SEC. 32705. OCCUPANT PROTECTION, COLLISION AVOIDANCE, FIRE CAUSATION, AND FIRE EXTINGUISHER RESEARCH AND TESTING.**

(a) **SAFETY RESEARCH INITIATIVES.**—Not later than 2 years after the date of enactment of this Act, the Secretary shall complete the following research and testing:

(1) **IMPROVED FIRE EXTINGUISHERS.**—The Secretary shall research and test the need to install improved fire extinguishers or other readily available firefighting equipment in motorcoaches to effectively extinguish fires in motorcoaches and prevent passenger deaths and injuries.

(2) **INTERIOR IMPACT PROTECTION.**—The Secretary shall research and test enhanced occupant impact protection standards for motorcoach interiors to reduce substantially serious injuries for all passengers of motorcoaches.

(3) **COMPARTMENTALIZATION SAFETY COUNTERMEASURES.**—The Secretary shall require enhanced compartmentalization safety countermeasures for motorcoaches, including enhanced seating designs, to substantially reduce the risk of passengers being thrown from their seats and colliding with other passengers, interior surfaces, and components in the event of a crash involving a motorcoach.

(4) **COLLISION AVOIDANCE SYSTEMS.**—The Secretary shall research and test forward and lateral crash warning systems applications for motorcoaches.

(b) **RULEMAKING.**—Not later than 2 years after the completion of each research and testing initiative required under subsection (a), the Secretary shall issue final motor vehicle safety standards if the Secretary determines that such standards are warranted based on the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code.

#### **SEC. 32706. MOTORCOACH REGISTRATION.**

(a) **REGISTRATION REQUIREMENTS.**—Section 13902(b) is amended—

(1) by redesignating paragraphs (1) through (8) as paragraphs (4) through (11), respectively; and

(2) by inserting before paragraph (4), as redesignated, the following:

“(1) **ADDITIONAL REGISTRATION REQUIREMENTS FOR PROVIDERS OR MOTORCOACH SERVICES.**—In addition to meeting the requirements under subsection (a)(1), the Secretary may not register a person to provide motorcoach services until after the person—

“(A) undergoes a preauthorization safety audit, including verification, in a manner sufficient to demonstrate the ability to comply with Federal rules and regulations, of—

“(i) a drug and alcohol testing program under part 40 of title 49, Code of Federal Regulations;

“(ii) the carrier's system of compliance with hours-of-service rules, including hours-of-service records;

“(iii) the ability to obtain required insurance;

“(iv) driver qualifications, including the validity of the commercial driver's license of each driver who will be operating under such authority;

“(v) disclosure of common ownership, common control, common management, common familial relationship, or other corporate relationship with another motor carrier or applicant for motor carrier authority during the past 3 years;

“(vi) records of the State inspections, or of a Level I or V Commercial Vehicle Safety Alliance Inspection, for all vehicles that will be operated by the carrier;

“(vii) safety management programs, including vehicle maintenance and repair programs; and

“(viii) the ability to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), and the Over-the-Road Bus Transportation Accessibility Act of 2007 (122 Stat. 2915);

“(B) has been interviewed to review safety management controls and the carrier’s written safety oversight policies and practices; and

“(C) through the successful completion of a written examination developed by the Secretary, has demonstrated proficiency to comply with and carry out the requirements and regulations described in subsection (a)(1).

“(2) PRE-AUTHORIZATION SAFETY AUDIT.—The pre-authorization safety audit required under paragraph (1)(A) shall be completed on-site not later than 90 days following the submission of an application for operating authority.

“(3) FEE.—The Secretary may establish, under section 9701 of title 31, a fee of not more than \$1,200 for new registrants that as nearly as possible covers the costs of performing a preauthorization safety audit. Amounts collected under this subsection shall be deposited in the Highway Trust Fund (other than the Mass Transit Account).”

(b) SAFETY REVIEWS OF NEW OPERATORS.—Section 31144(g)(1) is amended by inserting “transporting property” after “each operator”.

(c) CONFORMING AMENDMENT.—Section 24305(a)(3)(A)(i) is amended by striking “section 13902(b)(8)(A)” and inserting “section 13902(b)(11)(A)”.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the date of enactment of this Act.

**SEC. 32707. IMPROVED OVERSIGHT OF MOTORCOACH SERVICE PROVIDERS.**

(a) SAFETY REVIEWS.—Section 31144, as amended by sections 32204 and 32604 of this Act, is amended by adding at the end the following:

“(j) PERIODIC SAFETY REVIEWS OF PROVIDERS OF MOTORCOACH SERVICES.—

“(1) SAFETY REVIEW.—

“(A) IN GENERAL.—The Secretary shall—

“(i) determine the safety fitness of all providers of motorcoach services registered with the Federal Motor Carrier Safety Administration through a simple and understandable rating system that allows motorcoach passengers to compare the safety performance of motorcoach operators; and

“(ii) assign a safety fitness rating to each such provider.

“(B) APPLICABILITY.—Subparagraph (A) shall apply—

“(i) to any provider of motorcoach services registered with the Administration after the date of enactment of the Motorcoach Enhanced Safety Act of 2012 beginning not later than 2 years after the date of such registration; and

“(ii) to any provider of motorcoach services registered with the Administration on or before the date of enactment of that Act beginning not later than 3 years after the date of enactment of that Act.

“(2) PERIODIC REVIEW.—The Secretary shall establish, by regulation, a process for monitoring the safety performance of each provider of motorcoach services on a regular basis following the assignment of a safety fitness rating, including progressive intervention to correct unsafe practices.

“(3) ENFORCEMENT STRIKE FORCES.—In addition to the enhanced monitoring and en-

forcement actions required under paragraph (2), the Secretary may organize special enforcement strike forces targeting providers of motorcoach services.

“(4) PERIODIC UPDATE OF SAFETY FITNESS RATING.—In conducting the safety reviews required under this subsection, the Secretary shall—

“(A) reassess the safety fitness rating of each provider not less frequently than once every 3 years; and

“(B) annually assess the safety fitness of certain providers of motorcoach services that serve primarily urban areas with high passenger loads.

“(5) MOTORCOACH SERVICES DEFINED.—In this subsection, the term ‘provider of motorcoach services’ has the meaning given such term in section 32702 of the Motorcoach Enhanced Safety Act of 2012.”

(b) DISCLOSURE OF SAFETY PERFORMANCE RATINGS OF MOTORCOACH SERVICES AND OPERATIONS.—

(1) IN GENERAL.—Subchapter I of chapter 141 of title 49, United States Code, is amended by adding at the end the following:

**“§ 14105. Safety performance ratings of motorcoach services and operations**

“(a) DEFINITIONS.—In this section:

“(1) MOTORCOACH.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the term ‘motorcoach’ has the meaning given to the term ‘over-the-road bus’ in section 3038(a)(3) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note).

“(B) EXCLUSIONS.—The term ‘motorcoach’ does not include—

“(i) a bus used in public transportation that is provided by a State or local government; or

“(ii) a school bus (as defined in section 30125(a)(1)), including a multifunction school activity bus.

“(2) MOTORCOACH SERVICES AND OPERATIONS.—The term ‘motorcoach services and operations’ means passenger transportation by a motorcoach for compensation.

“(b) DISPLAY OF MOTOR CARRIER IDENTIFICATION.—

“(1) REQUIREMENT.—Beginning on the date that is 1 year after the date of the enactment of the Moving Ahead for Progress in the 21st Century Act, no person may sell or offer to sell interstate motorcoach transportation services, or provide broker services related to such transportation, unless the person, at the point of sale or provision of broker services, conspicuously displays—

“(A) the legal name and USDOT number of the single motor carrier responsible for the transportation and for compliance with the Federal Motor Carrier Safety Regulations under parts 350 through 399 of title 49, Code of Federal Regulations; and

“(B) the URL for the Federal Motor Carrier Safety Administration’s public website where the Administration has posted motor carrier and commercial motor vehicle driver scores in the Safety Measurement System.

“(2) CIVIL PENALTIES.—A person who violates paragraph (1) shall be liable for civil penalties to the same extent as a person who does not prepare a record in the form and manner prescribed under section 14901(a).

“(c) RULEMAKING.—

“(1) IN GENERAL.—Not later than 2 years after the date on which the safety fitness determination rule is implemented, the Secretary shall require, by regulation—

“(A) each motor carrier that owns or leases 1 or more motorcoaches that transport passengers subject to the Secretary’s jurisdiction under section 13501 to prominently

display the safety fitness rating assigned under section 31144(j)(1)(A)(ii)—

“(i) in each terminal of departure;

“(ii) in the motorcoach and visible from a position exterior to the vehicle at the point of departure, if the motorcoach does not depart from a terminal; and

“(iii) at all points of sale for such motorcoach services and operations; and

“(B) any person who sells tickets for motorcoach services and operations to display the rating system described in subparagraph (A) at all points of sale for such motorcoach services and operations.

“(2) ITEMS INCLUDED IN THE RULEMAKING.—In promulgating safety performance ratings for motorcoaches pursuant to the rulemaking required under paragraph (1), the Secretary shall consider—

“(A) the need and extent to which safety performance ratings should be made available in languages other than English; and

“(B) penalties authorized under section 521.

“(3) INSUFFICIENT INSPECTIONS.—Any motor carrier for which insufficient safety data is available shall display a label that states that the carrier has sufficiently passed the preauthorization safety audit required under section 13902(b)(1)(A).

“(d) EFFECT ON STATE AND LOCAL LAW.—Nothing in this section may be construed to preempt a State, or a political subdivision of a State, from enforcing any requirements concerning the manner and content of consumer information provided by motor carriers that are not subject to the Secretary’s jurisdiction under section 13501.”

(2) CLERICAL AMENDMENT.—The analysis of chapter 141 of title 49, United States Code, is amended by inserting after the item relating to section 14104 the following:

“Sec. 14105. Safety performance ratings of motorcoach services and operations.”

**SEC. 32708. REPORT ON FEASIBILITY, BENEFITS, AND COSTS OF ESTABLISHING A SYSTEM OF CERTIFICATION OF TRAINING PROGRAMS.**

Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that describes the feasibility, benefits, and costs of establishing a system of certification of public and private schools and of motor carriers and motorcoach operators that provide motorcoach driver training.

**SEC. 32709. REPORT ON DRIVER’S LICENSE REQUIREMENTS FOR 9- TO 15-PASSENGER VANS.**

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that examines requiring all or certain classes of drivers operating a vehicle, which is designed or used to transport not fewer than 9 and not more than 15 passengers (including a driver) in interstate commerce, to have a commercial driver’s license passenger-carrying endorsement and be tested in accordance with a drug and alcohol testing program under part 40 of title 49, Code of Federal Regulations.

(b) CONSIDERATIONS.—In developing the report under subsection (a), the Secretary shall consider—

(1) the safety benefits of the requirement described in subsection (a);

(2) the scope of the population that would be impacted by such requirement;

(3) the cost to the Federal Government and State governments to meet such requirement; and

(4) the impact on safety benefits and cost from limiting the application of such requirement to certain drivers of such vehicles, such as drivers who are compensated for driving.

#### SEC. 32710. EVENT DATA RECORDERS.

(a) **EVALUATION.**—Not later than 1 year after the date of enactment of this Act, the Secretary, after considering the performance requirements for event data recorders for passenger vehicles under part 563 of title 49, Code of Federal Regulations, shall complete an evaluation of event data recorders, including requirements regarding specific types of vehicle operations, events and incidents, and systems information to be recorded, for event data recorders to be used on motorcoaches used by motor carriers in interstate commerce.

(b) **STANDARDS AND REGULATIONS.**—Not later than 2 years after completing the evaluation required under subsection (a), the Secretary shall issue standards and regulations based on the results of that evaluation.

#### SEC. 32711. SAFETY INSPECTION PROGRAM FOR COMMERCIAL MOTOR VEHICLES OF PASSENGERS.

Not later than 3 years after the date of enactment of this Act, the Secretary shall complete a rulemaking proceeding to consider requiring States to conduct annual inspections of commercial motor vehicles designed or used to transport passengers, including an assessment of—

(1) the risks associated with improperly maintained or inspected commercial motor vehicles designed or used to transport passengers;

(2) the effectiveness of existing Federal standards for the inspection of such vehicles in—

(A) mitigating the risks described in paragraph (1); and

(B) ensuring the safe and proper operation condition of such vehicles; and

(3) the costs and benefits of a mandatory State inspection program.

#### SEC. 32712. DISTRACTED DRIVING.

(a) **IN GENERAL.**—Chapter 311, as amended by sections 32113, 32508, and 32512 of this Act, is amended by adding after section 31154 the following:

##### “§ 31155. Regulation of the use of distracting devices in motorcoaches

“(a) **IN GENERAL.**—Not later than 1 year after the date of enactment of the Motorcoach Enhanced Safety Act of 2012, the Secretary of Transportation shall prescribe regulations on the use of electronic or wireless devices, including cell phones and other distracting devices, by an individual employed as the operator of a motorcoach (as defined in section 32702 of that Act).

“(b) **BASIS FOR REGULATIONS.**—The Secretary shall base the regulations prescribed under subsection (a) on accident data analysis, the results of ongoing research, and other information, as appropriate.

“(c) **PROHIBITED USE.**—Except as provided under subsection (d), the Secretary shall prohibit the use of the devices described in subsection (a) in circumstances in which the Secretary determines that their use interferes with a driver's safe operation of a motorcoach.

“(d) **PERMITTED USE.**—The Secretary may permit the use of a device that is otherwise prohibited under subsection (c) if the Sec-

retary determines that such use is necessary for the safety of the driver or the public in emergency circumstances.”.

(b) **CONFORMING AMENDMENT.**—The analysis for chapter 311 is amended by inserting after the item relating to section 31154 the following:

“31155. Regulation of the use of distracting devices in motorcoaches.”.

#### SEC. 32713. REGULATIONS.

Any standard or regulation prescribed or modified pursuant to the Motorcoach Enhanced Safety Act of 2012 shall be prescribed or modified in accordance with section 553 of title 5, United States Code.

#### Subtitle H—Safe Highways and Infrastructure Preservation

#### SEC. 32801. COMPREHENSIVE TRUCK SIZE AND WEIGHT LIMITS STUDY.

(a) **TRUCK SIZE AND WEIGHT LIMITS STUDY.**—Not later than 90 days after the date of enactment of this Act, the Secretary, in consultation with each relevant State and other applicable Federal agencies, shall commence a comprehensive truck size and weight limits study. The study shall—

(1) provide data on accident frequency and factors related to accident risk of each route of the National Highway System in each State that allows a vehicle to operate with size and weight limits that are in excess of the Federal law and regulations and its correlation to truck size and weight limits;

(2) evaluate the impacts to the infrastructure of each route of the National Highway System in each State that allows a vehicle to operate with size and weight limits that are in excess of the Federal law and regulations, including—

(A) an analysis that quantifies the cost and benefits of the impacts in dollars;

(B) an analysis of the percentage of trucks operating in excess of the Federal size and weight limits; and

(C) an analysis that examines the ability of each State to recover the cost for the impacts, or the benefits incurred;

(3) evaluate the impacts and frequency of violations in excess of the Federal size and weight law and regulations to determine the cost of the enforcement of the law and regulations, and the effectiveness of the enforcement methods;

(4) examine the relationship between truck performance and crash involvement and its correlation to Federal size and weight limits, including the impacts on crashes;

(5) assess the impacts that truck size and weight limits in excess of the Federal law and regulations have in the risk of bridge failure contributing to the structural deficiencies of bridges or in the useful life of a bridge, including the impacts resulting from the number of bridge loadings;

(6) analyze the impacts on safety and infrastructure in each State that allows a truck to operate in excess of Federal size and weight limitations in truck-only lanes;

(7) compare and contrast the safety and infrastructure impacts of the Federal limits regarding truck size and weight limits in relation to—

(A) six-axle and other alternative configurations of tractor-trailers; and

(B) safety records of foreign nations with truck size and weight limits and tractor-trailer configurations that differ from the Federal law and regulations; and

(8) estimate—

(A) the extent to which freight would be diverted from other surface transportation modes to principal arterial routes and National Highway System intermodal connec-

tors if each covered truck configuration is allowed to operate and the effect that any such diversion would have on other modes of transportation;

(B) the effect that any such diversion would have on public safety, infrastructure, cost responsibilities, fuel efficiency, and the environment;

(C) the effect on the transportation network of the United States that allowing each covered truck configuration to operate would have; and

(D) whether allowing each covered truck configuration to operate would result in an increase or decrease in the total number of trucks operating on principal arterial routes and National Highway System intermodal connectors; and

(9) identify all Federal rules and regulations impacted by changes in truck size and weight limits.

(b) **REPORT.**—Not later than 2 years after the date that the study is commenced under subsection (a), the Secretary shall submit a final report on the study, including all findings and recommendations, to the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

#### SEC. 32802. COMPILATION OF EXISTING STATE TRUCK SIZE AND WEIGHT LIMIT LAWS.

(a) **IN GENERAL.**—Not later than 90 days after the date of enactment of this Act, the Secretary, in consultation with the States, shall begin to compile—

(1) a list for each State, as applicable, that describes each route of the National Highway System that allows a vehicle to operate in excess of the Federal truck size and weight limits that—

(A) was authorized under State law on or before the date of enactment of this Act; and

(B) was in actual and lawful operation on a regular or periodic basis (including seasonal operations) on or before the date of enactment of this Act;

(2) a list for each State, as applicable, that describes—

(A) the size and weight limitations applicable to each segment of the National Highway System in that State as listed under paragraph (1);

(B) each combination that exceeds the Interstate weight limit, but that the Department of Transportation, other Federal agency, or a State agency has determined on or before the date of enactment of this Act, could be or could have been lawfully operated in the State; and

(C) each combination that exceeds the Interstate weight limit, but that the Secretary determines could have been lawfully operated on a non-Interstate segment of the National Highway System in the State on or before the date of enactment of this Act; and

(3) a list of each State law that designates or allows designation of size and weight limitations in excess of Federal law and regulations on routes of the National Highway System, including nondivisible loads.

(b) **SPECIFICATIONS.**—The Secretary, in consultation with the States, shall specify whether the determinations under paragraphs (1) and (2) of subsection (a) were made by the Department of Transportation, other Federal agency, or a State agency.

(c) **REPORT.**—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit a final report of the compilation under subsection (a) to the Committee on Commerce, Science, and Transportation and the Committee on Environment

and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

**Subtitle I—Miscellaneous**  
**PART I—MISCELLANEOUS**

**SEC. 32911. DETENTION TIME STUDY.**

(a) **STUDY.**—Not later than 30 days after the date of enactment of this Act, the Secretary shall task the Motor Carrier Safety Advisory Committee to study the extent to which detention time contributes to drivers violating hours of service requirements and driver fatigue. In conducting this study, the Committee shall—

(1) examine data collected from driver and vehicle inspections;

(2) consult with—

(A) motor carriers and drivers, shippers, and representatives of ports and other facilities where goods are loaded and unloaded;

(B) government officials; and

(C) other parties as appropriate; and

(3) provide recommendations to the Secretary for addressing issues identified in the study.

(b) **REPORT.**—Not later than 18 months after the date of enactment of this Act, the Secretary shall provide a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that includes recommendations for legislation and for addressing the results of the study.

**SEC. 32912. PROHIBITION OF COERCION.**

Section 31136(a) is amended by—

(1) striking “and” at the end of paragraph (3);

(2) striking the period at the end of paragraph (4) and inserting “; and”; and

(3) adding after subsection (4) the following:

“(5) an operator of a commercial motor vehicle is not coerced by a motor carrier, shipper, receiver, or transportation intermediary to operate a commercial motor vehicle in violation of a regulation promulgated under this section, or chapter 51 or chapter 313 of this title.”.

**SEC. 32913. MOTOR CARRIER SAFETY ADVISORY COMMITTEE.**

(a) **MEMBERSHIP.**—Section 4144(b)(1) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (49 U.S.C. 31100 note), is amended by inserting “nonprofit employee labor organizations representing commercial motor vehicle drivers,” after “industry.”.

(b) **TERMINATION DATE.**—Section 4144(d) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (49 U.S.C. 31100 note), is amended by striking “March 31, 2012” and inserting “September 30, 2013”.

**SEC. 32914. WAIVERS, EXEMPTIONS, AND PILOT PROGRAMS.**

(a) **WAIVER STANDARDS.**—Section 31315(a) is amended—

(1) by inserting “and” at the end of paragraph (2);

(2) by striking paragraph (3); and

(3) redesignating paragraph (4) as paragraph (3).

(b) **EXEMPTION STANDARDS.**—Section 31315(b)(4) is amended—

(1) in subparagraph (A), by inserting “(or, in the case of a request for an exemption from the physical qualification standards for commercial motor vehicle drivers, post on a web site established by the Secretary to implement the requirements of section 31149)” after “Federal Register”;

(2) by amending subparagraph (B) to read as follows:

“(B) **UPON GRANTING A REQUEST.**—Upon granting a request and before the effective date of the exemption, the Secretary shall publish in the Federal Register (or, in the case of an exemption from the physical qualification standards for commercial motor vehicle drivers, post on a web site established by the Secretary to implement the requirements of section 31149) the name of the person granted the exemption, the provisions from which the person is exempt, the effective period, and the terms and conditions of the exemption.”; and

(3) in subparagraph (C), by inserting “(or, in the case of a request for an exemption from the physical qualification standards for commercial motor vehicle drivers, post on a web site established by the Secretary to implement the requirements of section 31149)” after “Federal Register”.

(c) **PROVIDING NOTICE OF EXEMPTIONS TO STATE PERSONNEL.**—Section 31315(b)(7) is amended to read as follows:

“(7) **NOTIFICATION OF STATE COMPLIANCE AND ENFORCEMENT PERSONNEL.**—Before the effective date of an exemption, the Secretary shall notify a State safety compliance and enforcement agency, and require the agency pursuant to section 31102(b)(1)(Y) to notify the State’s roadside inspectors, that a person will be operating pursuant to an exemption and the terms and conditions that apply to the exemption.”.

(d) **PILOT PROGRAMS.**—Section 31315(c)(1) is amended by striking “in the Federal Register”.

(e) **REPORT TO CONGRESS.**—Section 31315 is amended by adding after subsection (d) the following:

“(e) **REPORT TO CONGRESS.**—The Secretary shall submit an annual report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives listing the waivers, exemptions, and pilot programs granted under this section, and any impacts on safety.

“(f) **WEB SITE.**—The Secretary shall ensure that the Federal Motor Carrier Safety Administration web site includes a link to the web site established by the Secretary to implement the requirements under sections 31149 and 31315. The link shall be in a clear and conspicuous location on the home page of the Federal Motor Carrier Safety Administration web site and be easily accessible to the public.”.

**SEC. 32915. REGISTRATION REQUIREMENTS.**

(a) **REQUIREMENTS FOR REGISTRATION.**—Section 13901 is amended to read as follows:

**“§ 13901. Requirements for registration**

“(a) **IN GENERAL.**—A person may not provide transportation as a motor carrier subject to jurisdiction under subchapter I of chapter 135 or service as a freight forwarder subject to jurisdiction under subchapter III of such chapter, or be a broker for transportation subject to jurisdiction under subchapter I of such chapter unless the person is registered under this chapter to provide such transportation or service.

“(b) **REGISTRATION NUMBERS.**—

“(1) **IN GENERAL.**—If the Secretary registers a person under this chapter to provide transportation or service, including as a motor carrier, freight forwarder, or broker, the Secretary shall issue a distinctive registration number to the person for each such authority to provide transportation or service for which the person is registered.

“(2) **TRANSPORTATION OR SERVICE TYPE INDICATOR.**—A number issued under paragraph (1) shall include an indicator of the type of

transportation or service for which the registration number is issued, including whether the registration number is issued for registration of a motor carrier, freight forwarder, or broker.

“(c) **SPECIFICATION OF AUTHORITY.**—For each agreement to provide transportation or service for which registration is required under this chapter, the registrant shall specify, in writing, the authority under which the person is providing such transportation or service.”.

(b) **AVAILABILITY OF INFORMATION.**—

(1) **IN GENERAL.**—Chapter 139 is amended by adding at the end the following:

**“§ 13909. Availability of information**

“The Secretary shall make information relating to registration and financial security required by this chapter publicly available on the Internet, including

“(1) the names and business addresses of the principals of each entity holding such registration; and

“(2) the electronic address of the entity’s surety provider for the submission of claims.”.

(2) **CONFORMING AMENDMENT.**—The analysis for chapter 139 is amended by adding at the end the following:

“13909. Availability of information.”.

**SEC. 32916. ADDITIONAL MOTOR CARRIER REGISTRATION REQUIREMENTS.**

Section 13902, as amended by sections 32101 and 32107(a) of this Act, is amended

(1) in subsection (a)—

(A) in paragraph (1), by inserting “using self-propelled vehicles the motor carrier owns or leases” after “motor carrier”; and

(B) by adding at the end the following:

“(6) **SEPARATE REGISTRATION REQUIRED.**—A motor carrier may not broker transportation services unless the motor carrier has registered as a broker under this chapter.”; and

(2) by inserting after subsection (h) the following:

“(i) **REGISTRATION AS FREIGHT FORWARDER OR BROKER REQUIRED.**—A motor carrier registered under this chapter

“(1) may only provide transportation of property with self-propelled motor vehicles owned or leased by the motor carrier or interchanges under regulations issued by the Secretary if the originating carrier—

“(A) physically transports the cargo at some point; and

“(B) retains liability for the cargo and for payment of interchanged carriers; and

“(2) may not arrange transportation described in paragraph (1) unless the motor carrier has obtained a separate registration as a freight forwarder or broker for transportation under section 13903 or 13904, as applicable.”.

**SEC. 32917. REGISTRATION OF FREIGHT FORWARDERS AND BROKERS.**

(a) **REGISTRATION OF FREIGHT FORWARDERS.**—Section 13903, as amended by section 32107(b) of this Act, is amended—

(1) in subsection (a)—

(A) by striking “finds that the person is fit” and inserting the following: “determines that the person

“(1) has sufficient experience to qualify the person to act as a freight forwarder; and

“(2) is fit”; and

(B) by striking “and the Board”;

(2) by redesignating subsections (b) and (c) as subsections (d) and (e), respectively;

(3) by inserting after subsection (a) the following:

“(b) **DURATION.**—A registration issued under subsection (a) shall only remain in effect while the freight forwarder is in compliance with section 13906(c).



“(c) EXPERIENCE OR TRAINING REQUIREMENT.—Each freight forwarder shall employ, as an officer, an individual who

“(1) has at least 3 years of relevant experience; or

“(2) provides the Secretary with satisfactory evidence of the individual's knowledge of related rules, regulations, and industry practices.”; and

(4) by amending subsection (d), as redesignated, to read as follows:

“(d) REGISTRATION AS MOTOR CARRIER REQUIRED.—A freight forwarder may not provide transportation as a motor carrier unless the freight forwarder has registered separately under this chapter to provide transportation as a motor carrier.”.

(b) REGISTRATION OF BROKERS.—Section 13904, as amended by section 32107(c) of this Act, is amended—

(1) in subsection (a), by striking “finds that the person is fit” and inserting the following: “determines that the person

“(1) has sufficient experience to qualify the person to act as a broker for transportation; and

“(2) is fit”;

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (d), (e), (f), and (g) respectively;

(3) by inserting after subsection (a) the following:

“(b) DURATION.—A registration issued under subsection (a) shall only remain in effect while the broker for transportation is in compliance with section 13906(b).

“(c) EXPERIENCE OR TRAINING REQUIREMENTS.—Each broker shall employ, as an officer, an individual who

“(1) has at least 3 years of relevant experience; or

“(2) provides the Secretary with satisfactory evidence of the individual's knowledge of related rules, regulations, and industry practices.”; and

(4) by amending subsection (d), as redesignated, to read as follows:

“(d) REGISTRATION AS MOTOR CARRIER REQUIRED.—A broker for transportation may not provide transportation as a motor carrier unless the broker has registered separately under this chapter to provide transportation as a motor carrier.”.

#### SEC. 32918. EFFECTIVE PERIODS OF REGISTRATION.

Section 13905(c) is amended to read as follows:

“(c) EFFECTIVE PERIOD.—

“(1) IN GENERAL.—Except as otherwise provided in this part, each registration issued under section 13902, 13903, or 13904—

“(A) shall be effective beginning on the date specified by the Secretary; and

“(B) shall remain in effect for such period as the Secretary determines appropriate by regulation.

“(2) REISSUANCE OF REGISTRATION.—

“(A) REQUIREMENT.—Not later than 4 years after the date of the enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, the Secretary shall require a freight forwarder or broker to renew its registration issued under this chapter.

“(B) EFFECTIVE PERIOD.—Each registration renewal under subparagraph (A)—

“(i) shall expire not later than 5 years after the date of such renewal; and

“(ii) may be further renewed as provided under this chapter.

“(3) REGISTRATION UPDATE.—The Secretary shall require a motor carrier, freight forwarder, or broker to update its registration under this chapter periodically or not later than 30 days after any change in address,

other contact information, officers, process agent, or other essential information, as determined by the Secretary and published in the Federal Register.”.

#### SEC. 32919. FINANCIAL SECURITY OF BROKERS AND FREIGHT FORWARDERS.

(a) IN GENERAL.—Section 13906 is amended by striking subsections (b) and (c) and inserting the following:

“(b) BROKER FINANCIAL SECURITY REQUIREMENTS.—

“(1) REQUIREMENTS.—

“(A) IN GENERAL.—The Secretary may register a person as a broker under section 13904 only if the person files with the Secretary a surety bond, proof of trust fund, or other financial security, or a combination thereof, in a form and amount, and from a provider, determined by the Secretary to be adequate to ensure financial responsibility.

“(B) USE OF A GROUP SURETY BOND, TRUST FUND, OR OTHER SURETY.—In implementing the standards established by subparagraph (A), the Secretary may authorize the use of a group surety bond, trust fund, or other financial security, or a combination thereof, that meets the requirements of this subsection.

“(C) SURETY BONDS.—A surety bond obtained under this section may only be obtained from a bonding company that has been approved by the Secretary of the Treasury.

“(D) PROOF OF TRUST OR OTHER FINANCIAL SECURITY.—For purposes of subparagraph (A), a trust fund or other financial security may be acceptable to the Secretary only if the trust fund or other financial security consists of assets readily available to pay claims without resort to personal guarantees or collection of pledged accounts receivable.

“(2) SCOPE OF FINANCIAL RESPONSIBILITY.—

“(A) PAYMENT OF CLAIMS.—A surety bond, trust fund, or other financial security obtained under paragraph (1) shall be available to pay any claim against a broker arising from its failure to pay freight charges under its contracts, agreements, or arrangements for transportation subject to jurisdiction under chapter 135 if

“(i) subject to the review by the surety provider, the broker consents to the payment;

“(ii) in any case in which the broker does not respond to adequate notice to address the validity of the claim, the surety provider determines that the claim is valid; or

“(iii) the claim is not resolved within a reasonable period of time following a reasonable attempt by the claimant to resolve the claim under clauses (i) and (ii), and the claim is reduced to a judgment against the broker.

“(B) RESPONSE OF SURETY PROVIDERS TO CLAIMS.—If a surety provider receives notice of a claim described in subparagraph (A), the surety provider shall

“(i) respond to the claim on or before the 30th day following the date on which the notice was received; and

“(ii) in the case of a denial, set forth in writing for the claimant the grounds for the denial.

“(C) COSTS AND ATTORNEY'S FEES.—In any action against a surety provider to recover on a claim described in subparagraph (A), the prevailing party shall be entitled to recover its reasonable costs and attorney's fees.

“(3) MINIMUM FINANCIAL SECURITY.—Each broker subject to the requirements of this section shall provide financial security of \$100,000 for purposes of this subsection, regardless of the number of branch offices or sales agents of the broker.

“(4) CANCELLATION NOTICE.—If a financial security required under this subsection is canceled

“(A) the holder of the financial security shall provide electronic notification to the Secretary of the cancellation not later than 30 days before the effective date of the cancellation; and

“(B) the Secretary shall immediately post such notification on the public Internet Website of the Department of Transportation.

“(5) SUSPENSION.—The Secretary shall immediately suspend the registration of a broker issued under this chapter if the available financial security of that person falls below the amount required under this subsection.

“(6) PAYMENT OF CLAIMS IN CASES OF FINANCIAL FAILURE OR INSOLVENCY.—If a broker registered under this chapter experiences financial failure or insolvency, the surety provider of the broker shall

“(A) submit a notice to cancel the financial security to the Administrator in accordance with paragraph (4);

“(B) publicly advertise for claims for 60 days beginning on the date of publication by the Secretary of the notice to cancel the financial security; and

“(C) pay, not later than 30 days after the expiration of the 60-day period for submission of claims

“(i) all uncontested claims received during such period; or

“(ii) a pro rata share of such claims if the total amount of such claims exceeds the financial security available.

“(7) PENALTIES.—

“(A) CIVIL ACTIONS.—Either the Secretary or the Attorney General of the United States may bring a civil action in an appropriate district court of the United States to enforce the requirements of this subsection or a regulation prescribed or order issued under this subsection. The court may award appropriate relief, including injunctive relief.

“(B) CIVIL PENALTIES.—If the Secretary determines, after notice and opportunity for a hearing, that a surety provider of a broker registered under this chapter has violated the requirements of this subsection or a regulation prescribed under this subsection, the surety provider shall be liable to the United States for a civil penalty in an amount not to exceed \$10,000.

“(C) ELIGIBILITY.—If the Secretary determines, after notice and opportunity for a hearing, that a surety provider of a broker registered under this chapter has violated the requirements of this subsection or a regulation prescribed under this subsection, the surety provider shall be ineligible to provide broker financial security for 3 years.

“(8) FINANCIAL SECURITY AMOUNT ASSESSMENT.—Every 5 years, the Secretary shall review, with public notice and comment, the amount of the financial security required under this subsection to determine whether such amounts are sufficient to provide adequate financial security, and shall be authorized to increase those amounts, if necessary, based upon that determination.

“(c) FREIGHT FORWARDER FINANCIAL SECURITY REQUIREMENTS.—

“(1) REQUIREMENTS.—

“(A) IN GENERAL.—The Secretary may register a person as a freight forwarder under section 13903 only if the person files with the Secretary a surety bond, proof of trust fund, other financial security, or a combination of such instruments, in a form and amount, and from a provider, determined by the Secretary to be adequate to ensure financial responsibility.

“(B) USE OF A GROUP SURETY BOND, TRUST FUND, OR OTHER FINANCIAL SECURITY.—In implementing the standards established under subparagraph (A), the Secretary may authorize the use of a group surety bond, trust fund, other financial security, or a combination of such instruments, that meets the requirements of this subsection.

“(C) SURETY BONDS.—A surety bond obtained under this section may only be obtained from a bonding company that has been approved by the Secretary of the Treasury.

“(D) PROOF OF TRUST OR OTHER FINANCIAL SECURITY.—For purposes of subparagraph (A), a trust fund or other financial security may not be accepted by the Secretary unless the trust fund or other financial security consists of assets readily available to pay claims without resort to personal guarantees or collection of pledged accounts receivable.

“(2) SCOPE OF FINANCIAL RESPONSIBILITY.—

“(A) PAYMENT OF CLAIMS.—A surety bond, trust fund, or other financial security obtained under paragraph (1) shall be available to pay any claim against a freight forwarder arising from its failure to pay freight charges under its contracts, agreements, or arrangements for transportation subject to jurisdiction under chapter 135 if

“(i) subject to the review by the surety provider, the freight forwarder consents to the payment;

“(ii) in the case the freight forwarder does not respond to adequate notice to address the validity of the claim, the surety provider determines the claim is valid; or

“(iii) the claim—

“(I) is not resolved within a reasonable period of time following a reasonable attempt by the claimant to resolve the claim under clauses (i) and (ii); and

“(II) is reduced to a judgment against the freight forwarder.

“(B) RESPONSE OF SURETY PROVIDERS TO CLAIMS.—If a surety provider receives notice of a claim described in subparagraph (A), the surety provider shall

“(i) respond to the claim on or before the 30th day following receipt of the notice; and

“(ii) in the case of a denial, set forth in writing for the claimant the grounds for the denial.

“(C) COSTS AND ATTORNEY'S FEES.—In any action against a surety provider to recover on a claim described in subparagraph (A), the prevailing party shall be entitled to recover its reasonable costs and attorney's fees.

“(3) FREIGHT FORWARDER INSURANCE.—

“(A) IN GENERAL.—The Secretary may register a person as a freight forwarder under section 13903 only if the person files with the Secretary a surety bond, insurance policy, or other type of financial security that meets standards prescribed by the Secretary.

“(B) LIABILITY INSURANCE.—A financial security filed by a freight forwarder under subparagraph (A) shall be sufficient to pay an amount, not to exceed the amount of the financial security, for each final judgment against the freight forwarder for bodily injury to, or death of, an individual, or loss of, or damage to, property (other than property referred to in subparagraph (C)), resulting from the negligent operation, maintenance, or use of motor vehicles by, or under the direction and control of, the freight forwarder while providing transfer, collection, or delivery service under this part.

“(C) CARGO INSURANCE.—The Secretary may require a registered freight forwarder to file with the Secretary a surety bond, insurance policy, or other type of financial security approved by the Secretary, that will pay

an amount, not to exceed the amount of the financial security, for loss of, or damage to, property for which the freight forwarder provides service.

“(4) MINIMUM FINANCIAL SECURITY.—Each freight forwarder subject to the requirements of this section shall provide financial security of \$100,000, regardless of the number of branch offices or sales agents of the freight forwarder.

“(5) CANCELLATION NOTICE.—If a financial security required under this subsection is canceled

“(A) the holder of the financial security shall provide electronic notification to the Secretary of the cancellation not later than 30 days before the effective date of the cancellation; and

“(B) the Secretary shall immediately post such notification on the public Internet web site of the Department of Transportation.

“(6) SUSPENSION.—The Secretary shall immediately suspend the registration of a freight forwarder issued under this chapter if its available financial security falls below the amount required under this subsection.

“(7) PAYMENT OF CLAIMS IN CASES OF FINANCIAL FAILURE OR INSOLVENCY.—If a freight forwarder registered under this chapter experiences financial failure or insolvency, the surety provider of the freight forwarder shall

“(A) submit a notice to cancel the financial security to the Administrator in accordance with paragraph (5);

“(B) publicly advertise for claims for 60 days beginning on the date of publication by the Secretary of the notice to cancel the financial security; and

“(C) pay, not later than 30 days after the expiration of the 60-day period for submission of claims

“(i) all uncontested claims received during such period; or

“(ii) a pro rata share of such claims if the total amount of such claims exceeds the financial security available.

“(8) PENALTIES.—

“(A) CIVIL ACTIONS.—Either the Secretary or the Attorney General may bring a civil action in an appropriate district court of the United States to enforce the requirements of this subsection or a regulation prescribed or order issued under this subsection. The court may award appropriate relief, including injunctive relief.

“(B) CIVIL PENALTIES.—If the Secretary determines, after notice and opportunity for a hearing, that a surety provider of a freight forwarder registered under this chapter has violated the requirements of this subsection or a regulation prescribed under this subsection, the surety provider shall be liable to the United States for a civil penalty in an amount not to exceed \$10,000.

“(C) ELIGIBILITY.—If the Secretary determines, after notice and opportunity for a hearing, that a surety provider of a freight forwarder registered under this chapter has violated the requirements of this subsection or a regulation prescribed under this subsection, the surety provider shall be ineligible to provide freight forwarder financial security for 3 years.

“(9) FINANCIAL SECURITY AND INSURANCE AMOUNT ASSESSMENT.—Not less frequently than once every 5 years, the Secretary—

“(A) shall review, with public notice and comment, the amount of the financial security and insurance required under this subsection to determine whether such amounts are sufficient to provide adequate financial security; and

“(B) may increase such amounts, if necessary, based upon the determination under subparagraph (A).”.

(b) RULEMAKING.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue regulations to implement and enforce the requirements under subsections (b) and (c) of section 13906 of title 49, United States Code, as amended by subsection (a).

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date that is 1 year after the date of enactment of this Act.

#### SEC. 32920. UNLAWFUL BROKERAGE ACTIVITIES.

(a) IN GENERAL.—Chapter 149 is amended by adding at the end the following:

##### “§ 14916. Unlawful brokerage activities

“(a) PROHIBITED ACTIVITIES.—Any person that acts as a broker, other than a non-vessel-operating common carrier (as defined in section 40102(16) of title 46) or an ocean freight forwarder providing brokerage as part of an international through movement involving ocean transportation between the United States and a foreign port, is prohibited from providing interstate brokerage services as a broker unless that person

“(1) is registered under, and in compliance with, section 13903; and

“(2) has satisfied the financial security requirements under section 13904.

“(b) CIVIL PENALTIES AND PRIVATE CAUSE OF ACTION.—Any person who knowingly authorizes, consents to, or permits, directly or indirectly, either alone or in conjunction with any other person, a violation of subsection (a) is liable

“(1) to the United States Government for a civil penalty in an amount not to exceed \$10,000 for each violation; and

“(2) to the injured party for all valid claims incurred without regard to amount.

“(c) LIABLE PARTIES.—The liability for civil penalties and for claims under this section for unauthorized brokering shall apply, jointly and severally

“(1) to any corporate entity or partnership involved; and

“(2) to the individual officers, directors, and principals of such entities.”.

(b) CLERICAL AMENDMENT.—The analysis for chapter 149 is amended by adding at the end the following:

“14916. Unlawful brokerage activities.”.

#### PART II—HOUSEHOLD GOODS

##### TRANSPORTATION

#### SEC. 32921. ADDITIONAL REGISTRATION REQUIREMENTS FOR HOUSEHOLD GOODS MOTOR CARRIERS.

(a) Section 13902(a)(2) is amended—

(1) in subparagraph (B), by striking “section 13702(c);” and inserting “section 13702(c); and”;

(2) by amending subparagraph (C) to read as follows:

“(C) demonstrates, before being registered, through successful completion of a proficiency examination established by the Secretary, knowledge and intent to comply with applicable Federal laws relating to consumer protection, estimating, consumers' rights and responsibilities, and options for limitations of liability for loss and damage.”; and

(3) by striking subparagraph (D).

(b) COMPLIANCE REVIEWS OF NEW HOUSEHOLD GOODS MOTOR CARRIERS.—Section 31144(g), as amended by section 32102 of this Act, is amended by adding at the end the following:

“(6) ADDITIONAL REQUIREMENTS FOR HOUSEHOLD GOODS MOTOR CARRIERS.—(A) In addition to the requirements of this subsection, the Secretary shall require, by regulation, each registered household goods motor carrier to undergo a consumer protection standards review not later than 18 months after

the household goods motor carrier begins operations under such authority.

“(B) ELEMENTS.—In the regulations issued pursuant to subparagraph (A), the Secretary shall establish the elements of the consumer protections standards review, including basic management controls. In establishing the elements, the Secretary shall consider the effects on small businesses and shall consider establishing alternate locations where such reviews may be conducted for the convenience of small businesses.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 2 years after the date of enactment of this Act.

#### SEC. 32922. FAILURE TO GIVE UP POSSESSION OF HOUSEHOLD GOODS.

(a) INJUNCTIVE RELIEF.—Section 14704(a)(1) is amended by striking “and 14103” and inserting “, 14103, and 14915(c)”.

(b) CIVIL PENALTIES.—Section 14915(a)(1) is amended by adding at the end the following: “The United States may assign all or a portion of the civil penalty to an aggrieved shipper. The Secretary of Transportation shall establish criteria upon which such assignments shall be made. The Secretary may order, after notice and an opportunity for a proceeding, that a person found holding a household goods shipment hostage return the goods to an aggrieved shipper.”.

#### SEC. 32923. SETTLEMENT AUTHORITY.

(a) SETTLEMENT OF GENERAL CIVIL PENALTIES.—Section 14901 is amended by adding at the end the following:

“(h) SETTLEMENT OF HOUSEHOLD GOODS CIVIL PENALTIES.—Nothing in this section shall be construed to prohibit the Secretary from accepting partial payment of a civil penalty as part of a settlement agreement in the public interest, or from holding imposition of any part of a civil penalty in abeyance.”.

(b) SETTLEMENT OF HOUSEHOLD GOODS CIVIL PENALTIES.—Section 14915(a) is amended by adding at the end the following:

“(4) SETTLEMENT AUTHORITY.—Nothing in this section shall be construed as prohibiting the Secretary from accepting partial payment of a civil penalty as part of a settlement agreement in the public interest, or from holding imposition of any part of a civil penalty in abeyance.”.

#### SEC. 32924. HOUSEHOLD GOODS TRANSPORTATION ASSISTANCE PROGRAM.

(a) JOINT ASSISTANCE PROGRAM.—Not later than 18 months after the date of enactment of this Act, the Secretary shall develop and implement a joint assistance program, through the Federal Motor Carrier Safety Administration—

(1) to educate consumers about the household goods motor carrier industry pursuant to the recommendations of the task force established under section 32925 of this Act;

(2) to improve the Federal Motor Carrier Safety Administration's implementation, monitoring, and coordination of Federal and State household goods enforcement activities;

(3) to assist a consumer with the timely resolution of an interstate household goods hostage situation, as appropriate; and

(4) to conduct other enforcement activities as designated by the Secretary.

(b) JOINT ASSISTANCE PROGRAM PARTNERSHIP.—The Secretary—

(1) may partner with 1 or more household goods motor carrier industry groups to implement the joint assistance program under subsection (a); and

(2) shall ensure that each participating household goods motor carrier industry group—

(A) implements the joint assistance program in the best interest of the consumer;

(B) implements the joint assistance program in the public interest;

(C) accurately represents its financial interests in providing household goods mover services in the normal course of business and in assisting consumers resolving hostage situations;

(D) does not hold itself out or misrepresent itself as an agent of the Federal government;

(E) abides by Federal regulations and guidelines for the provision of assistance and receipt of compensation for household goods mover services; and

(F) accurately represents the Federal and State remedies that are available to consumers for resolving interstate household goods hostage situations.

(c) REPORT.—The Secretary shall submit a report annually to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives providing a detailed description of the joint assistance program under subsection (a).

(d) PROHIBITION.—The joint assistance program under subsection (a) may not include the provision of funds by the United States to a consumer for lost, stolen, or damaged items.

#### SEC. 32925. HOUSEHOLD GOODS CONSUMER EDUCATION PROGRAM.

(a) TASK FORCE.—The Secretary of Transportation shall establish a task force to develop recommendations to ensure that a consumer is informed of Federal law concerning the transportation of household goods by a motor carrier, including recommendations—

(1) on how to condense publication ESA 03005 of the Federal Motor Carrier Safety Administration into a format that can be more easily used by a consumer; and

(2) on the use of state-of-the-art education techniques and technologies, including the use of the Internet as an educational tool.

(b) TASK FORCE MEMBERS.—The task force shall be comprised of—

(1) individuals with expertise in consumer affairs;

(2) educators with expertise in how people learn most effectively; and

(3) representatives of the household goods moving industry.

(c) RECOMMENDATIONS.—Not later than 1 year after the date of enactment of this Act, the task force shall complete its recommendations under subsection (a). Not later than 1 year after the task force completes its recommendations under subsection (a), the Secretary shall issue regulations implementing the recommendations, as appropriate.

(d) FEDERAL ADVISORY COMMITTEE ACT EXEMPTION.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the task force.

(e) TERMINATION.—The task force shall terminate 2 years after the date of enactment of this Act.

### PART III—TECHNICAL AMENDMENTS

#### SEC. 32931. UPDATE OF OBSOLETE TEXT.

(a) Section 31137(e), as redesignated by section 32301 of this Act, is amended by striking “Not later than December 1, 1990, the Secretary shall prescribe” and inserting “The Secretary shall maintain”.

(b) Section 31151(a) is amended—

(1) by amending paragraph (1) to read as follows:

“(1) IN GENERAL.—The Secretary of Transportation shall maintain a program to ensure that intermodal equipment used to

transport intermodal containers is safe and systematically maintained.”; and

(2) by striking paragraph (4).

(c) Section 31307(b) is amended by striking “Not later than December 18, 1994, the Secretary shall prescribe” and inserting “The Secretary shall maintain”.

(d) Section 31310(g)(1) is amended by striking “Not later than 1 year after the date of enactment of this Act, the” and inserting “The”.

(e) Section 4123(f) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1736), is amended by striking “Not later than 1 year after the date of enactment of this Act, the” and inserting “The”.

#### SEC. 32932. CORRECTION OF INTERSTATE COMMERCE COMMISSION REFERENCES.

(a) SAFETY INFORMATION AND INTERVENTION IN INTERSTATE COMMERCE COMMISSION PROCEEDINGS.—Chapter 3 is amended—

(1) by repealing section 307;

(2) in the analysis, by striking the item relating to section 307;

(3) in section 333(d)(1)(C), by striking “Interstate Commerce Commission” and inserting “Surface Transportation Board”; and

(4) in section 333(e)—

(A) by striking “Interstate Commerce Commission” and inserting “Surface Transportation Board”; and

(B) by striking “Commission” and inserting “Board”.

(b) FILING AND PROCEDURE FOR APPLICATION TO ABANDON OR DISCONTINUE.—Section 10903(b)(2) is amended by striking “24706(c) of this title” and inserting “24706(c) of this title before May 31, 1998”.

(c) TECHNICAL AMENDMENTS TO PART C OF SUBTITLE V.—

(1) Section 24307(b)(3) is amended by striking “Interstate Commerce Commission” and inserting “Surface Transportation Board”.

(2) Section 24311 is amended—

(A) by striking “Interstate Commerce Commission” and inserting “Surface Transportation Board”; and

(B) by striking “Commission” each place it appears and inserting “Board”; and

(C) by striking “Commission’s” and inserting “Board’s”.

(3) Section 24902 is amended—

(A) by striking “Interstate Commerce Commission” each place it appears and inserting “Surface Transportation Board”; and

(B) by striking “Commission” each place it appears and inserting “Board”.

(4) Section 24904 is amended—

(A) by striking “Interstate Commerce Commission” and inserting “Surface Transportation Board”; and

(B) by striking “Commission” each place it appears and inserting “Board”.

#### SEC. 32933. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Section 13905(f)(1)(A) is amended by striking “section 13904(c)” and inserting “section 13904(e)”;

(b) Section 14504a(c)(1) is amended—

(1) in subparagraph (C), by striking “sections” and inserting “section”; and

(2) in subparagraph (D)(ii)(II) by striking the period at the end and inserting “; and”.

(c) Section 31103(a) is amended by striking “section 31102(b)(1)(E)” and inserting “section 31102(b)(2)(E)”.

(d) Section 31103(b) is amended by striking “authorized by section 31104(f)(2)”.

(e) Section 31309(b)(2) is amended by striking “31308(2)” and inserting “31308(3)”.

# **TITLE III—SURFACE TRANSPORTATION AND FREIGHT POLICY ACT OF 2012**

## **SEC. 33001. SHORT TITLE.**

This title may be cited as the “Surface Transportation and Freight Policy Act of 2012”.

## **SEC. 33002. ESTABLISHMENT OF A NATIONAL SURFACE TRANSPORTATION AND FREIGHT POLICY.**

(a) IN GENERAL.—Subchapter I of chapter 3 of title 49, United States Code, as amended by section 32932 of the Commercial Motor Vehicle Safety Enhancement Act of 2012, is amended—

(1) by redesignating sections 304 through 306 as sections 307 through 309, respectively;

(2) by redesignating sections 308 and 309 as sections 310 and 311, respectively;

(3) by redesignating sections 303 and 303a as sections 305 and 306, respectively; and

(4) by inserting after section 302 the following:

### **“§ 303. National surface transportation policy**

“(a) POLICY.—It is the policy of the United States to develop a comprehensive national surface transportation system that advances the national interest and defense, interstate and foreign commerce, the efficient and safe interstate mobility of people and goods, and the protection of the environment. The system shall be built, maintained, managed, and operated as a partnership between the Federal, State, and local governments and the private sector and shall be coordinated with the overall transportation system of the United States, including the Nation’s air, rail, pipeline, and water transportation systems. The Secretary of Transportation shall be responsible for carrying out this policy.

“(b) OBJECTIVES.—The objectives of the policy shall be to facilitate and advance—

“(1) the improved accessibility and reduced travel times for persons and goods within and between nations, regions, States, and metropolitan areas;

“(2) the safety of the public;

“(3) the security of the Nation and the public;

“(4) environmental protection;

“(5) energy conservation and security, including reducing transportation-related energy use;

“(6) international and interstate freight movement, trade enhancement, job creation, and economic development;

“(7) responsible planning to address population distribution and employment and sustainable development;

“(8) the preservation and adequate performance of system-critical transportation assets, as defined by the Secretary;

“(9) reasonable access to the national surface transportation system for all system users, including rural communities;

“(10) the sustainable and adequate financing of the national surface transportation system; and

“(11) innovation in transportation services, infrastructure, and technology.

“(c) GOALS.—

“(1) SPECIFIC GOALS.—The goals of the policy shall be—

“(A) to reduce average per capita peak period travel times on an annual basis;

“(B) to reduce national motor vehicle-related and truck-related fatalities by 50 percent by 2030;

“(C) to reduce national surface transportation delays per capita on an annual basis;

“(D) to improve the access to employment opportunities and other economic activities;

“(E) to increase the percentage of system-critical surface transportation assets, as defined by the Secretary, that are in a state of good repair by 20 percent by 2030;

“(F) to improve access to public transportation, intercity passenger rail services, and non-motorized transportation where travel demand warrants;

“(G) to reduce passenger and freight transportation infrastructure-related delays entering into and out of international points of entry on an annual basis;

“(H) to increase travel time reliability on major freight corridors that connect major population centers to freight generators and international gateways on an annual basis;

“(I) to ensure adequate transportation of domestic energy supplies and promote energy security;

“(J) to maintain or reduce the percentage of gross domestic product consumed by transportation costs; and

“(K) to reduce transportation-related impacts on the environment and on communities.

“(2) BASELINES.—Not later than 2 years after the date of enactment of the Surface Transportation and Freight Policy Act of 2012, the Secretary shall develop baselines for the goals and shall determine appropriate methods of data collection to measure the attainment of the goals.”.

(b) FREIGHT POLICY.—Subchapter I of chapter 3 of title 49, United States Code, as amended by section 33002(a) of this Act, is amended by adding at the end the following:

### **“§ 312. National freight transportation policy.**

“(a) NATIONAL FREIGHT TRANSPORTATION POLICY.—It is the policy of the United States to improve the efficiency, operation, and security of the national transportation system to move freight by leveraging investments and promoting partnerships that advance interstate and foreign commerce, promote economic competitiveness and job creation, improve the safe and efficient mobility of goods, and protect the public health and the environment.

“(b) OBJECTIVES.—The objectives of the policy are—

“(1) to target investment in freight transportation projects that strengthen the economic competitiveness of the United States with a focus on domestic industries and businesses and the creation and retention of high-value jobs;

“(2) to promote and advance energy conservation and the environmental sustainability of freight movements;

“(3) to facilitate and advance the safety and health of the public, including communities adjacent to freight movements;

“(4) to provide for systematic and balanced investment to improve the overall performance and reliability of the national transportation system to move freight, including ensuring trade facilitation and transportation system improvements are mutually supportive;

“(5) to promote partnerships between Federal, State, and local governments, the private sector, and other transportation stakeholders to leverage investments in freight transportation projects; and

“(6) to encourage adoption of operational policies, such as intelligent transportation systems, to improve the efficiency of freight-related transportation movements and infrastructure.”.

(c) CONFORMING AMENDMENTS.—The table of contents for chapter 3 of title 49, United States Code, is amended—

(1) by redesignating the items relating to sections 304 through 306 as sections 307 through 309, respectively;

(2) by redesignating the items relating to sections 308 and 309 as sections 310 and 311, respectively;

(3) by redesignating the items relating to sections 303 and 303a as sections 305 and 306, respectively;

(4) by inserting after the item relating to section 302 the following:

“303. National surface transportation policy.”;

and

(5) by inserting after the item relating to section 311 the following:

“312. National freight transportation policy.”.

## **SEC. 33003. SURFACE TRANSPORTATION AND FREIGHT STRATEGIC PLAN.**

(a) SURFACE TRANSPORTATION AND FREIGHT STRATEGIC PLAN.—Subchapter I of chapter 3 of title 49, United States Code, as amended by section 33002 of this Act, is amended by inserting after section 303 the following—

### **“§ 304. National surface transportation and freight strategic performance plan.**

“(a) DEVELOPMENT.—Not later than 2 years after the date of enactment of the Surface Transportation and Freight Policy Act of 2012, the Secretary of Transportation shall develop and implement a National Surface Transportation and Freight Performance Plan to achieve the policy, objectives, and goals set forth in sections 303 and 312.

“(b) CONTENTS.—The plan shall include—

“(1) an assessment of the current performance of the national surface transportation system and an analysis of the system’s ability to achieve the policy, objectives, and goals set forth in sections 303 and 312;

“(2) an analysis of emerging and long-term projected trends, including economic and national trade policies, that will impact the performance, needs, and uses of the national surface transportation system, including the system to move freight;

“(3) a description of the major challenges to effectively meeting the policy, objectives, and goals set forth in sections 303 and 312 and a plan to address such challenges;

“(4) a comprehensive strategy and investment plan to meet the policy, objectives, and goals set forth in sections 303 and 312, including a strategy to develop the coalitions, partnerships, and other collaborative financing efforts necessary to ensure stable, reliable funding and completion of freight corridors and projects;

“(5) initiatives to improve transportation modeling, research, data collection, and analysis, including those to assess impacts on public health, and environmental conditions;

“(6) guidelines to encourage the appropriate balance of means to finance the national transportation system to move freight to implement the plan and the investment plan proposed under paragraph (4); and

“(7) a list of priority freight corridors and gateways to be improved and developed to meet the policy, objectives, and goals set forth in section 312.

“(c) CONSULTATION.—In developing the plan required by subsection (a), the Secretary shall—

“(1) consult with appropriate Federal agencies, local, State, and tribal governments, public and private transportation stakeholders, non-profit organizations representing transportation employees, appropriate foreign governments, and other interested parties;

“(2) consider on-going Federal, State, and corridor-wide transportation plans;

“(3) provide public notice and hearings and solicit public comments on the plan, and

“(4) as appropriate, establish advisory committees to assist with developing the plan.

“(d) SUBMITTAL AND PUBLICATION.—The Secretary shall—

“(1) submit the completed plan to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives; and

“(2) post the completed plan on the Department of Transportation’s public web site.

“(e) PROGRESS REPORTS.—The Secretary shall submit biennial progress reports on the implementation of the plan beginning 2 years after the date of submittal of the plan under subsection (d)(1). Each progress report shall—

“(1) describe progress made toward fully implementing the plan and achieving the policies, objectives, and goals established under sections 303 and 312;

“(2) describe challenges and obstacles to full implementation;

“(3) describe updates to the plan necessary to reflect changed circumstances or new developments; and

“(4) make policy and legislative recommendations the Secretary believes are necessary and appropriate to fully implement the plan.

“(f) DATA.—The Secretary shall have the authority to conduct studies, gather information, and require the production of data necessary to develop or update this plan, consistent with Federal privacy standards.

“(g) IMPLEMENTATION.—The Secretary shall—

“(1) develop appropriate performance criteria and data collections systems for each Federal surface transportation program consistent with this chapter and the Secretary’s statutory authority within these programs to evaluate:

“(A) whether such programs are consistent with the policy, objectives, and goals established by sections 303 and 312; and

“(B) how effective such programs are in contributing to the achievement of the policy, objectives, and goals established by sections 303 and 312;

“(2) use the criteria developed under paragraph (1), periodically evaluate each such program and provide the results to the public;

“(3) based on the evaluation performed under paragraph (2), make any necessary changes or improvements to such programs to ensure such consistency and effectiveness consistent with the Secretary’s statutory authority within these programs;

“(4) implement this section in a manner that is consistent with sections 302, 5301, 5503, 10101, and 13101 of this title and section 101 of title 23;

“(5) review all relevant surface transportation planning requirements to determine whether such regional, State, and local surface transportation planning efforts funded with Federal funds are consistent with the policy, objectives, and goals established by this section; and

“(6) require States and metropolitan planning organizations to report on the use of Federal surface transportation funds, consistent with ongoing reporting requirements, to provide the Secretary with sufficient information to determine—

“(A) which projects and priorities were funded with such funds;

“(B) the rationale and method employed for apportioning such funds to the projects and priorities; and

“(C) how the obligation of such funds is consistent with or advances the policy, objectives, and goals established by sections 303 and 312 and the statutory sections referenced in paragraph (4).”.

(b) CONFORMING AMENDMENT.—The table of contents for chapter 3 of title 49, United States Code, is amended by inserting after the item relating to section 303 the following:

“304. National surface transportation and freight strategic performance plan.”.

#### SEC. 33004. TRANSPORTATION INVESTMENT DATA AND PLANNING TOOLS.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall—

(1) develop new tools or improve existing tools to support an outcome-oriented, performance-based approach to evaluate proposed freight-related and other surface transportation projects. These new or improved tools shall include—

(A) a systematic cost-benefit analysis that supports a valuation of modal alternatives;

(B) an evaluation of external effects on congestion, pollution, the environment, and the public health; and

(C) other elements to assist in effective transportation planning; and

(2) facilitate the collection of transportation-related data to support a broad range of evaluation methods and techniques such as demand forecasts, modal diversion forecasts, estimates of the effect of proposed investments on congestion, pollution, public health, and other factors, to assist in making transportation investment decisions. At a minimum, the Secretary, in consultation with other relevant Federal agencies, shall consider any improvements to the Commodity Flow Survey that reduce identified freight data gaps and deficiencies and help evaluate forecasts of transportation demand.

(b) CONSULTATION.—To the extent practicable, the Secretary shall consult with Federal, State, and local transportation planners to develop, improve, and implement the tools and collect the data under subsection (a).

(c) ESTABLISHMENT OF PILOT PROGRAM.—

(1) ESTABLISHMENT.—To assist in the development of tools under subsection (a) and to inform the National Surface Transportation and Freight Performance Plan required by section 304 of title 49, United States Code, the Secretary shall establish a pilot program under which the Secretary shall conduct case studies of States and metropolitan planning organizations that are designed—

(A) to provide more detailed, in-depth analysis and data collection with respect to transportation programs; and

(B) to apply rigorous methods of measuring and addressing the effectiveness of program participants in achieving national transportation goals.

(2) PRELIMINARY REQUIREMENTS.—

(A) SOLICITATION.—The Secretary shall solicit applications to participate in the pilot program from States and metropolitan planning organizations.

(B) NOTIFICATION.—A State or metropolitan planning organization that desires to participate in the pilot program shall notify the Secretary of such desire before a date determined by the Secretary.

(C) SELECTION.—

(i) NUMBER OF PROGRAM PARTICIPANTS.—The Secretary shall select to participate in the pilot program—

(I) not fewer than 3, and not more than 5, States; and

(II) not fewer than 3, and not more than 5, metropolitan planning organizations.

(ii) TIMING.—The Secretary shall select program participants not later than 3 months after the date of enactment of this Act.

(iii) DIVERSITY OF PROGRAM PARTICIPANTS.—The Secretary shall, to the extent practicable, select program participants that represent a broad range of geographic and demographic areas (including rural and urban areas) and types of transportation programs.

(d) CASE STUDIES.—

(1) BASELINE REPORT.—Not later than 6 months after the date of enactment of this Act, each program participant shall submit to the Secretary a baseline report that—

(A) describes the reporting and data collection processes of the program participant for transportation investments that are in effect on the date of the report;

(B) assesses how effective the program participant is in achieving the national surface transportation goals in section 303 of title 49, United States Code;

(C) describes potential improvements to the methods and metrics used to measure the effectiveness of the program participant in achieving national surface transportation goals in section 303 of title 49, United States Code, and the challenges to implementing such improvements; and

(D) includes an assessment of whether, and specific reasons why, the preparation and submission of the baseline report may be limited, incomplete, or unduly burdensome, including any recommendations for facilitating the preparation and submission of similar reports in the future.

(2) EVALUATION.—Each program participant shall work cooperatively with the Secretary to evaluate the methods and metrics used to measure the effectiveness of the program participant in achieving national surface transportation goals in section 303 of title 49, United States Code, including—

(A) by considering the degree to which such methods and metrics take into account—

(i) the factors that influence the effectiveness of the program participant in achieving the national surface transportation goals;

(ii) all modes of transportation; and

(iii) the transportation program as a whole, rather than individual projects within the transportation program; and

(B) by identifying steps that could be used to implement the potential improvements identified under paragraph (1)(C).

(3) FINAL REPORT.—Not later than 18 months after the date of enactment of this section, each program participant shall submit to the Secretary a comprehensive final report that—

(A) contains an updated assessment of the effectiveness of the program participant in achieving national surface transportation goals under section 303 of title 49, United States Code; and

(B) describes the ways in which the performance of the program participant in collecting and reporting data and carrying out the transportation program of the program participant has improved or otherwise changed since the date of submission of the baseline report under subparagraph (A).

#### SEC. 33005. PORT INFRASTRUCTURE DEVELOPMENT INITIATIVE.

Section 50302(c)(3)(C) of title 46, United States Code, is amended to read as follows:

“(C) TRANSFERS.—Amounts appropriated or otherwise made available for any fiscal year for a marine facility or intermodal facility that includes maritime transportation may be transferred, at the option of the recipient of such amounts, to the Fund and administered by the Administrator as a component of a project under the program.”.

**SEC. 33006. SAFETY FOR MOTORIZED AND NON-MOTORIZED USERS.**

(a) IN GENERAL.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following:

**“§ 413. Safety for motorized and non-motorized users**

“(a) IN GENERAL.—Not later than 2 years after the date of enactment of the Surface Transportation and Freight Policy Act of 2012, subject to subsection (b), the Secretary shall establish standards to ensure that the design of Federal surface transportation projects provides for the safe and adequate accommodation, in all phases of project planning, development, and operation, of all users of the transportation network, including motorized and nonmotorized users.

“(b) WAIVER FOR STATE LAW OR POLICY.—The Secretary may waive the application of standards established under subsection (a) to a State that has adopted a law or policy that provides for the safe and adequate accommodation as certified by the State (or other grantee), in all phases of project planning and development, of users of the transportation network on federally funded surface transportation projects, as determined by the Secretary.

“(c) COMPLIANCE.—

“(1) IN GENERAL.—Each State department of transportation shall submit to the Secretary, at such time, in such manner, and containing such information as the Secretary shall require, a report describing the implementation by the State of measures to achieve compliance with this section.

“(2) DETERMINATION BY SECRETARY.—On receipt of a report under paragraph (1), the Secretary shall determine whether the applicable State has achieved compliance with this section.”

(b) CONFORMING AMENDMENT.—The analysis for chapter 4 of title 23, United States Code, is amended by adding at the end the following:

“413. Safety for motorized and nonmotorized users.”

**TITLE IV—HAZARDOUS MATERIALS TRANSPORTATION SAFETY IMPROVEMENT ACT OF 2012****SEC. 34001. SHORT TITLE.**

This title may be cited as the “Hazardous Materials Transportation Safety Improvement Act of 2012”.

**SEC. 34002. DEFINITION.**

In this title, the term “Secretary” means the Secretary of Transportation.

**SEC. 34003. REFERENCES TO TITLE 49, UNITED STATES CODE.**

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

**SEC. 34004. TRAINING FOR EMERGENCY RESPONDERS.**

(a) TRAINING CURRICULUM.—Section 5115 is amended—

(1) in subsection (b)(1)(B), by striking “basic”;

(2) in subsection (b)(2), by striking “basic”;

and

(3) in subsection (c), by striking “basic”.

(b) OPERATIONS LEVEL TRAINING.—Section 5116 is amended—

(1) in subsection (b)(1), by adding at the end the following: “To the extent that a grant is used to train emergency responders, the State or Indian tribe shall provide written certification to the Secretary that the

emergency responders who receive training under the grant will have the ability to protect nearby persons, property, and the environment from the effects of accidents or incidents involving the transportation of hazardous material in accordance with existing regulations or National Fire Protection Association standards for competence of responders to hazardous materials.”;

(2) in subsection (j)—

(A) by redesignating paragraph (5) as paragraph (7); and

(B) by inserting after paragraph (4) the following:

“(5) The Secretary may not award a grant to an organization under this subsection unless the organization ensures that emergency responders who receive training under the grant will have the ability to protect nearby persons, property, and the environment from the effects of accidents or incidents involving the transportation of hazardous material in accordance with existing regulations or National Fire Protection Association standards for competence of responders to hazardous materials.

“(6) Notwithstanding paragraphs (1) and (3), to the extent determined appropriate by the Secretary, a grant awarded by the Secretary to an organization under this subsection to conduct hazardous material response training programs may be used to train individuals with responsibility to respond to accidents and incidents involving hazardous material.”;

(3) in subsection (k)—

(A) by striking “annually” and inserting “an annual report”;

(B) by inserting “the report” after “make available”;

(C) by striking “information” and inserting “. The report submitted under this subsection shall include information”;

(D) by striking “The report shall identify” and all that follows and inserting the following: “The report submitted under this subsection shall identify the ultimate recipients of such grants and include—

“(A) a detailed accounting and description of each grant expenditure by each grant recipient, including the amount of, and purpose for, each expenditure;

“(B) the number of persons trained under the grant program, by training level;

“(C) an evaluation of the efficacy of such planning and training programs; and

“(D) any recommendations the Secretary may have for improving such grant programs.”

**SEC. 34005. PAPERLESS HAZARD COMMUNICATIONS PILOT PROGRAM.**

(a) IN GENERAL.—The Secretary may conduct pilot projects to evaluate the feasibility and effectiveness of using paperless hazard communications systems. At least 1 of the pilot projects under this section shall take place in a rural area.

(b) REQUIREMENTS.—In conducting pilot projects under this section, the Secretary—

(1) may not waive the requirements under section 5110 of title 49, United States Code; and

(2) shall consult with organizations representing—

(A) fire services personnel;

(B) law enforcement and other appropriate enforcement personnel;

(C) other emergency response providers;

(D) persons who offer hazardous material for transportation;

(E) persons who transport hazardous material by air, highway, rail, and water; and

(F) employees of persons who transport or offer for transportation hazardous material by air, highway, rail, and water.

(c) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall—

(1) prepare a report on the results of the pilot projects carried out under this section, including—

(A) a detailed description of the pilot projects;

(B) an evaluation of each pilot project, including an evaluation of the performance of each paperless hazard communications system in such project;

(C) an assessment of the safety and security impact of using paperless hazard communications systems, including any impact on the public, emergency response, law enforcement, and the conduct of inspections and investigations; and

(D) a recommendation on whether paperless hazard communications systems should be permanently incorporated into the Federal hazardous material transportation safety program under chapter 51 of title 49, United States Code; and

(2) submit a final report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that contains the results of the pilot projects carried out under this section, including the matters described in paragraph (1).

(d) PAPERLESS HAZARD COMMUNICATIONS SYSTEM DEFINED.—In this section, the term “paperless hazard communications system” means the use of advanced communications methods, such as wireless communications devices, to convey hazard information between all parties in the transportation chain, including emergency responders and law enforcement personnel. The format of communication may be equivalent to that used by the carrier.

**SEC. 34006. IMPROVING DATA COLLECTION, ANALYSIS, AND REPORTING.**

(a) ASSESSMENT.—

(1) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Secretary, in coordination with the Secretary of Homeland Security, as appropriate, shall conduct an assessment to improve the collection, analysis, reporting, and use of data related to accidents and incidents involving the transportation of hazardous material.

(2) REVIEW.—The assessment conducted under this subsection shall review the methods used by the Pipeline and Hazardous Materials Safety Administration (referred to in this section as the “Administration”) for collecting, analyzing, and reporting accidents and incidents involving the transportation of hazardous material, including the adequacy of—

(A) information requested on the accident and incident reporting forms required to be submitted to the Administration;

(B) methods used by the Administration to verify that the information provided on such forms is accurate and complete;

(C) accident and incident reporting requirements, including whether such requirements should be expanded to include shippers and consignees of hazardous materials;

(D) resources of the Administration related to data collection, analysis, and reporting, including staff and information technology; and

(E) the database used by the Administration for recording and reporting such accidents and incidents, including the ability of users to adequately search the database and find information.

(b) **DEVELOPMENT OF ACTION PLAN.**—Not later than 9 months after the date of the enactment of this Act, the Secretary shall develop an action plan and timeline for improving the collection, analysis, reporting, and use of data by the Administration, including revising the database of the Administration, as appropriate.

(c) **SUBMISSION TO CONGRESS.**—Not later than 15 days after the completion of the action plan and timeline under subsection (c), the Secretary shall submit the action plan and timeline to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(d) **REPORTING REQUIREMENTS.**—Section 5125(b)(1)(D) is amended by inserting “and other hazardous materials transportation incident reporting to the 9–1–1 emergency system or involving State or local emergency responders in the initial response to the incident” before the period at the end.

**SEC. 34007. LOADING AND UNLOADING OF HAZARDOUS MATERIALS.**

(a) **RULEMAKING.**—Not later than 2 years after date of the enactment of this Act, the Secretary, after consultation with the Department of Labor and the Environmental Protection Agency, as appropriate, and after providing notice and an opportunity for public comment shall prescribe regulations establishing uniform procedures among facilities for the safe loading and unloading of hazardous materials on and off tank cars and cargo tank trucks.

(b) **INCLUSION.**—The regulations prescribed under subsection (a) may include procedures for equipment inspection, personnel protection, and necessary safeguards.

(c) **CONSIDERATION.**—In prescribing regulations under subsection (a), the Secretary shall give due consideration to carrier rules and procedures that produce an equivalent level of safety.

**SEC. 34008. HAZARDOUS MATERIAL TECHNICAL ASSESSMENT, RESEARCH AND DEVELOPMENT, AND ANALYSIS PROGRAM.**

(a) **IN GENERAL.**—Chapter 51 is amended by inserting after section 5117 the following:

**“§ 5118. Hazardous material technical assessment, research and development, and analysis program**

“(a) **RISK REDUCTION.**—

“(1) **PROGRAM AUTHORIZED.**—The Secretary of Transportation may develop and implement a hazardous material technical assessment, research and development, and analysis program for the purpose of—

“(A) reducing the risks associated with the transportation of hazardous material; and

“(B) identifying and evaluating new technologies to facilitate the safe, secure, and efficient transportation of hazardous material.

“(2) **COORDINATION.**—In developing the program under paragraph (1), the Secretary shall—

“(A) utilize information gathered from other modal administrations with similar programs; and

“(B) coordinate with other modal administrations, as appropriate.

“(b) **COOPERATION.**—In carrying out subsection (a), the Secretary may work cooperatively with regulated and other entities, including shippers, carriers, emergency responders, State and local officials, and academic institutions.”

(b) **CONFORMING AMENDMENT.**—The chapter analysis for chapter 51 is amended by inserting after the item relating to section 5117 the following:

“5118. Hazardous material technical assessment, research and development, and analysis program.”

**SEC. 34009. HAZARDOUS MATERIAL ENFORCEMENT TRAINING PROGRAM.**

(a) **IN GENERAL.**—The Secretary shall establish a multimodal hazardous material enforcement training program for government hazardous materials inspectors and investigators—

(1) to develop uniform performance standards for training hazardous material inspectors and investigators; and

(2) to train hazardous material inspectors and investigators on—

(A) how to collect, analyze, and publish findings from inspections and investigations of accidents or incidents involving the transportation of hazardous material; and

(B) how to identify noncompliance with regulations issued under chapter 51 of title 49, United States Code, and take appropriate enforcement action.

(b) **STANDARDS AND GUIDELINES.**—Under the program established under this section, the Secretary may develop—

(1) guidelines for hazardous material inspector and investigator qualifications;

(2) best practices and standards for hazardous material inspector and investigator training programs; and

(3) standard protocols to coordinate investigation efforts among Federal, State, and local jurisdictions on accidents or incidents involving the transportation of hazardous material.

(c) **AVAILABILITY.**—The standards, protocols, and findings of the program established under this section—

(1) shall be mandatory for—

(A) the Department of Transportation’s multimodal personnel conducting hazardous material enforcement inspections or investigations; and

(B) State employees who conduct federally funded compliance reviews, inspections, or investigations; and

(2) shall be made available to Federal, State, and local hazardous materials safety enforcement personnel.

**SEC. 34010. INSPECTIONS.**

(a) **NOTICE OF ENFORCEMENT MEASURES.**—Section 5121(c)(1) is amended—

(1) in subparagraph (E), by striking “and” at the end;

(2) in subparagraph (F), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(G) shall provide to the affected offeror, carrier, packaging manufacturer or tester, or other person responsible for the package reasonable notice of—

“(i) his or her decision to exercise his or her authority under paragraph (1);

“(ii) any findings made; and

“(iii) any actions being taken as a result of a finding of noncompliance.”

(b) **REGULATIONS.**—Section 5121(e) is amended by adding at the end the following:

“(3) **MATTERS TO BE ADDRESSED.**—The regulations issued under this subsection shall address—

“(A) the safe and expeditious resumption of transportation of perishable hazardous material, including radiopharmaceuticals and other medical products, that may require timely delivery due to life-threatening situations;

“(B) the means by which—

“(i) noncompliant packages that present an imminent hazard are placed out-of-service until the condition is corrected; and

“(ii) noncompliant packages that do not present a hazard are moved to their final destination;

“(C) appropriate training and equipment for inspectors; and

“(D) the proper closure of packaging in accordance with the hazardous material regulations.”

(c) **GRANTS AND COOPERATIVE AGREEMENTS.**—Section 5121(g)(1) is amended by inserting “safety and” before “security”.

**SEC. 34011. CIVIL PENALTIES.**

Section 5123 is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking “\$50,000” and inserting “\$75,000”; and

(B) in paragraph (2), by striking “\$100,000” and inserting “\$175,000”; and

(2) by adding at the end the following:

“(h) **PENALTY FOR OBSTRUCTION OF INSPECTIONS AND INVESTIGATIONS.**—The Secretary may impose a penalty on a person who obstructs or prevents the Secretary from carrying out inspections or investigations under subsection (c) or (i) of section 5121.

“(i) **PROHIBITION ON HAZARDOUS MATERIAL OPERATIONS AFTER NONPAYMENT OF PENALTIES.**—

“(1) **IN GENERAL.**—Except as provided under paragraph (2), a person subject to the jurisdiction of the Secretary under this chapter who fails to pay a civil penalty assessed under this chapter, or fails to arrange and abide by an acceptable payment plan for such civil penalty, may not conduct any activity regulated under this chapter beginning on the 91st day after the date specified by order of the Secretary for payment of such penalty unless the person has filed a formal administrative or judicial appeal of the penalty.

“(2) **EXCEPTION.**—Paragraph (1) shall not apply to any person who is unable to pay a civil penalty because such person is a debtor in a case under chapter 11 of title 11.

“(3) **RULEMAKING.**—Not later than 2 years after the date of the enactment of this subsection, the Secretary, after providing notice and an opportunity for public comment, shall issue regulations that—

“(A) set forth procedures to require a person who is delinquent in paying civil penalties to cease any activity regulated under this chapter until payment has been made or an acceptable payment plan has been arranged; and

“(B) ensures that the person described in subparagraph (A)—

“(i) is notified in writing; and

“(ii) is given an opportunity to respond before the person is required to cease the activity.”

**SEC. 34012. REPORTING OF FEES.**

Section 5125(f)(2) is amended by striking “, upon the Secretary’s request,” and inserting “biennially”.

**SEC. 34013. SPECIAL PERMITS, APPROVALS, AND EXCLUSIONS.**

(a) **IN GENERAL.**—Section 5117 is amended to read as follows:

**“§ 5117. Special permits, approvals, and exclusions**

“(a) **AUTHORITY TO ISSUE SPECIAL PERMITS.**—

“(1) **CONDITIONS.**—The Secretary of Transportation may issue, modify, or terminate a special permit implementing new technologies or authorizing a variance from a provision under this chapter or a regulation prescribed under section 5103(b), 5104, 5110, or 5112 to a person performing a function regulated by the Secretary under section 5103(b)(1) to achieve—

“(A) a safety level at least equal to the safety level required under this chapter; or

“(B) a safety level consistent with the public interest and this chapter, if a required safety level does not exist.



“(2) FINDINGS REQUIRED.—

“(A) IN GENERAL.—Before issuing, renewing, or modifying a special permit or granting party status to a special permit, the Secretary shall determine that the person is fit to conduct the activity authorized by such permit in a manner that achieves the level of safety required under paragraph (1).

“(B) CONSIDERATIONS.—In making the determination under subparagraph (A), the Secretary shall consider—

“(i) the person’s safety history (including prior compliance history);

“(ii) the person’s accident and incident history; and

“(iii) any other information the Secretary considers appropriate to make such a determination.

“(3) EFFECTIVE PERIOD.—A special permit issued under this section—

“(A) shall be for an initial period of not more than 2 years;

“(B) may be renewed by the Secretary upon application—

“(i) for successive periods of not more than 4 years each; or

“(ii) in the case of a special permit relating to section 5112, for an additional period of not more than 2 years.

“(b) APPLICATIONS.—

“(1) REQUIRED DOCUMENTATION.—When applying for a special permit or the renewal or modification of a special permit or requesting party status to a special permit under this section, the Secretary shall require the person to submit an application that contains—

“(A) a detailed description of the person’s request;

“(B) a listing of the person’s current facilities and addresses where the special permit will be utilized;

“(C) a safety analysis prescribed by the Secretary that justifies the special permit;

“(D) documentation to support the safety analysis;

“(E) a certification of safety fitness; and

“(F) proof of registration, as required under section 5108.

“(2) PUBLIC NOTICE.—The Secretary shall—

“(A) publish notice in the Federal Register that an application for a special permit has been filed; and

“(B) provide the public an opportunity to inspect and comment on the application.

“(3) SAVINGS CLAUSE.—This subsection does not require the release of information protected by law from public disclosure.

“(c) COORDINATE AND COMMUNICATE WITH MODAL CONTACT OFFICIALS.—

“(1) IN GENERAL.—In evaluating applications under subsection (b), and making the findings and determinations under subsections (a), (e), and (h), the Administrator of the Pipeline and Hazardous Materials Safety Administration shall consult, coordinate, or notify the modal contact official responsible for the specified mode of transportation that will be utilized under a special permit or approval before—

“(A) issuing, modifying, or renewing the special permit;

“(B) granting party status to the special permit; or

“(C) issuing or renewing the special permit or approval.

“(2) MODAL CONTACT OFFICIAL DEFINED.—In this section, the term ‘modal contact official’ means—

“(A) the Administrator of the Federal Aviation Administration;

“(B) the Administrator of the Federal Motor Carrier Safety;

“(C) the Administrator of the Federal Railroad Administration; and

“(D) the Commandant of the Coast Guard.

“(d) APPLICATIONS TO BE DEALT WITH PROMPTLY.—The Secretary shall—

“(1) issue, modify, renew, or grant party status to a special permit or approval for which a request was filed under this section, or deny the issuance, modification, renewal, or grant, on or before the last day of the 180-day period beginning on the first day of the month following the date of the filing of the request; or

“(2) publish a statement in the Federal Register that—

“(A) describes the reason for the delay of the Secretary’s decision on the special permit or approval; and

“(B) includes an estimate of the additional time necessary before the decision is made.

“(e) EMERGENCY PROCESSING OF SPECIAL PERMITS.—

“(1) FINDINGS REQUIRED.—The Secretary may not grant a request for emergency processing of a special permit unless the Secretary determines that—

“(A) a special permit is necessary for national security purposes;

“(B) processing on a routine basis under this section would result in significant injury to persons or property; or

“(C) a special permit is necessary to prevent significant economic loss or damage to the environment that could not be prevented if the application were processed on a routine basis.

“(2) WAIVER OF FITNESS TEST.—The Secretary may waive the requirement under subsection (a)(2) for a request for which the Secretary makes a determination under subparagraph (A) or (B) of paragraph (1).

“(3) NOTIFICATION.—Not later than 90 days after the date of issuance of a special permit under this subsection, the Secretary shall publish a notice in the Federal Register of the issuance that includes—

“(A) a statement of the basis for the finding of emergency; and

“(B) the scope and duration of the special permit.

“(4) EFFECTIVE PERIOD.—A special permit issued under this subsection shall be effective for a period not to exceed 180 days.

“(f) EXCLUSIONS.—

“(1) IN GENERAL.—The Secretary shall exclude, in any part, from this chapter and regulations prescribed under this chapter—

“(A) a public vessel (as defined in section 2101 of title 46);

“(B) a vessel exempted under section 3702 of title 46 or from chapter 37 of title 46; and

“(C) a vessel to the extent it is regulated under the Ports and Waterways Safety Act of 1972 (33 U.S.C. 1221, et seq.).

“(2) FIREARMS.—This chapter and regulations prescribed under this chapter do not prohibit—

“(A) or regulate transportation of a firearm (as defined in section 232 of title 18), or ammunition for a firearm, by an individual for personal use; or

“(B) transportation of a firearm or ammunition in commerce.

“(g) LIMITATION ON AUTHORITY.—Unless the Secretary decides that an emergency exists, a person subject to this chapter may only be granted a variance from this chapter through a special permit or renewal granted under this section.

“(h) APPROVALS.—

“(1) FINDINGS REQUIRED.—

“(A) IN GENERAL.—The Secretary may not issue an approval or grant the renewal of an approval pursuant to part 107 of title 49, Code of Federal Regulations until the Secretary has determined that the person is fit, will-

ing, and able to conduct the activity authorized by the approval in a manner that achieves the level of safety required under subsection (a)(1).

“(B) CONSIDERATIONS.—In making a determination under subparagraph (A), the Secretary shall consider—

“(i) the person’s safety history (including prior compliance history);

“(ii) the person’s accident and incident history; and

“(iii) any other information the Secretary considers appropriate to make such a determination.

“(2) REQUIRED DOCUMENTATION.—When applying for an approval or renewal or modification of an approval under this section, the Secretary shall require the person to submit an application that contains—

“(A) a detailed description of the person’s request;

“(B) a listing of the person’s current facilities and addresses where the approval will be utilized;

“(C) a safety analysis prescribed by the Secretary that justifies the approval;

“(D) documentation to support the safety analysis;

“(E) a certification of safety fitness; and

“(F) the verification of registration required under section 5108.

“(3) SAVINGS PROVISION.—Nothing in this subsection may be construed to require the release of information protected by law from public disclosure.

“(i) NONCOMPLIANCE.—The Secretary may modify, suspend, or terminate a special permit or approval if the Secretary determines that—

“(1) the person who was granted the special permit or approval has violated the special permit or approval or the regulations issued under this chapter in a manner that demonstrates that the person is not fit to conduct the activity authorized by the special permit or approval; or

“(2) the special permit or approval is unsafe.

“(j) RULEMAKING.—Not later than 2 years after the date of the enactment of the Hazardous Materials Transportation Safety Improvement Act of 2012, the Secretary, after providing notice and an opportunity for public comment, shall issue regulations that establish—

“(1) standard operating procedures to support administration of the special permit and approval programs; and

“(2) objective criteria to support the evaluation of special permit and approval applications.

“(k) ANNUAL REVIEW OF CERTAIN SPECIAL PERMITS.—

“(1) REVIEW.—The Secretary shall conduct an annual review and analysis of special permits—

“(A) to identify consistently used and longstanding special permits with an established safety record; and

“(B) to determine whether such permits may be converted into the hazardous materials regulations.

“(2) FACTORS.—In conducting the review and analysis under paragraph (1), the Secretary may consider—

“(A) the safety record for hazardous materials transported under the special permit;

“(B) the application of a special permit;

“(C) the suitability of provisions in the special permit for incorporation into the hazardous materials regulations; and

“(D) rulemaking activity in related areas.

“(3) RULEMAKING.—After completing the review and analysis under paragraph (1) and

providing notice and opportunity for public comment, the Secretary shall issue regulations, as needed.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 51 is amended by striking the item relating to section 5117 and inserting the following:

“5117. Special permits, approvals, and exclusions.”.

#### SEC. 34014. HIGHWAY ROUTING DISCLOSURES.

(a) LIST OF ROUTE DESIGNATIONS.—Section 5112(c) is amended—

(1) by striking “In coordination” and inserting the following:

“(1) IN GENERAL.—In coordination”; and

(2) by adding at the end the following:

“(2) STATE RESPONSIBILITIES.—

“(A) IN GENERAL.—Each State shall submit to the Secretary, in a form and manner to be determined by the Secretary and in accordance with subparagraph (B)—

“(i) the name of the State agency responsible for hazardous material highway route designations; and

“(ii) a list of the State’s currently effective hazardous material highway route designations.

“(B) FREQUENCY.—Each State shall submit the information described in subparagraph (A)(ii)—

“(i) at least once every 2 years; and

“(ii) not later than 60 days after a hazardous material highway route designation is established, amended, or discontinued.”.

(b) COMPLIANCE WITH SECTION 5112.—Section 5125(c)(1) is amended by inserting “, and is published in the Department’s hazardous materials route registry under section 5112(c)” before the period at the end.

#### SEC. 34015. AUTHORIZATION OF APPROPRIATIONS.

Section 5128 is amended to read as follows:

##### “§ 5128. Authorization of appropriations

“(a) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out this chapter (except sections 5107(e), 5108(g)(2), 5113, 5115, 5116, and 5119)—

“(1) \$42,338,000 for fiscal year 2012; and

“(2) \$42,762,000 for fiscal year 2013.

“(b) HAZARDOUS MATERIALS EMERGENCY PREPAREDNESS FUND.—From the Hazardous Materials Emergency Preparedness Fund established under section 5116(i), the Secretary may expend, during each of fiscal years 2012 and 2013—

“(1) \$188,000 to carry out section 5115;

“(2) \$21,800,000 to carry out subsections (a) and (b) of section 5116, of which not less than \$13,650,000 shall be available to carry out section 5116(b);

“(3) \$150,000 to carry out section 5116(f);

“(4) \$625,000 to publish and distribute the Emergency Response Guidebook under section 5116(i)(3); and

“(5) \$1,000,000 to carry out section 5116(j).

“(c) HAZARDOUS MATERIALS TRAINING GRANTS.—From the Hazardous Materials Emergency Preparedness Fund established pursuant to section 5116(i), the Secretary may expend \$4,000,000 for each of the fiscal years 2012 and 2013 to carry out section 5107(e).

“(d) CREDITS TO APPROPRIATIONS.—

“(1) EXPENSES.—In addition to amounts otherwise made available to carry out this chapter, the Secretary may credit amounts received from a State, Indian tribe, or other public authority or private entity for expenses the Secretary incurs in providing training to the State, authority, or entity.

“(2) AVAILABILITY OF AMOUNTS.—Amounts made available under this section shall remain available until expended.”.

### TITLE V—RESEARCH AND INNOVATIVE TECHNOLOGY ADMINISTRATION REAUTHORIZATION ACT OF 2012

#### SEC. 35001. SHORT TITLE.

This title may be cited as the “Research and Innovative Technology Administration Reauthorization Act of 2012”.

#### SEC. 35002. NATIONAL COOPERATIVE FREIGHT RESEARCH PROGRAM.

Section 509(d) of title 23, United States Code, is amended by adding at the end the following:

“(6) COORDINATION OF COOPERATIVE RESEARCH.—The National Academy of Sciences shall coordinate research agendas, research project selections, and competitions across all transportation-related cooperative research programs conducted by the National Academy of Sciences to ensure program efficiency, effectiveness, and sharing of research findings.”.

#### SEC. 35003. BUREAU OF TRANSPORTATION STATISTICS.

(a) IN GENERAL.—Subtitle III of title 49, United States Code, is amended by adding at the end the following:

##### “CHAPTER 63—BUREAU OF TRANSPORTATION STATISTICS

##### “SUBCHAPTER I—BUREAU OF TRANSPORTATION STATISTICS

“Sec.

“6301. Establishment.

“6302. Director.

“6303. Responsibilities.

“6304. National Transportation Library.

“6305. Advisory Council on Transportation Statistics.

“6306. Transportation statistical collection, analysis, and dissemination.

“6307. Furnishing information, data, or reports by Federal agencies.

“6308. Prohibition on certain disclosures.

“6309. Data access.

“6310. Proceeds of data product sales.

“6311. Information collection.

“6312. National transportation atlas database.

“6313. Limitations on statutory construction.

“6314. Research and development grants.

“6315. Transportation statistics annual report.

“6316. Mandatory response authority for data collections.

##### “SUBCHAPTER I—BUREAU OF TRANSPORTATION STATISTICS

##### “§ 6301. Establishment

“There is established, in the Research and Innovative Technology Administration, a Bureau of Transportation Statistics (referred to in this subchapter as the ‘Bureau’).

##### “§ 6302. Director

“(a) APPOINTMENT.—The Bureau shall be headed by a Director, who shall be appointed in the competitive service by the Secretary of Transportation.

“(b) QUALIFICATIONS.—The Director shall be appointed from among individuals who are qualified to serve as the Director by virtue of their training and experience in the collection, analysis, and use of transportation statistics.

##### “§ 6303. Responsibilities

“(a) DUTIES OF THE DIRECTOR.—The Director, who shall serve as the Secretary of Transportation’s senior advisor on data and statistics, shall be responsible for carrying out the following duties:

“(1) Ensuring that the statistics compiled under paragraph (6) are designed to support transportation decisionmaking by the Fed-

eral Government, State and local governments, metropolitan planning organizations, transportation-related associations, the private sector (including the freight community), and the public.

“(2) Establishing a program, on behalf of the Secretary—

“(A) to effectively integrate safety data across modes; and

“(B) to address gaps in existing safety data programs of the Department of Transportation.

“(3) Working with the operating administrations of the Department of Transportation—

“(A) to establish and implement the Bureau’s data programs; and

“(B) to improve the coordination of information collection efforts with other Federal agencies.

“(4) Continually improving surveys and data collection methods to improve the accuracy and utility of transportation statistics.

“(5) Encouraging the standardization of data, data collection methods, and data management and storage technologies for data collected by the Bureau, the operating administrations of the Department of Transportation, States, local governments, metropolitan planning organizations, and private sector entities.

“(6) Collecting, compiling, analyzing, and publishing a comprehensive set of transportation statistics on the performance and impacts of the national transportation system, including statistics on—

“(A) transportation safety across all modes and intermodally;

“(B) the state of good repair of United States transportation infrastructure.

“(C) the extent, connectivity, and condition of the transportation system, building on the national transportation atlas database developed under section 6312;

“(D) economic efficiency throughout the entire transportation sector;

“(E) the effects of the transportation system on global and domestic economic competitiveness;

“(F) demographic, economic, and other variables influencing travel behavior, including choice of transportation mode and goods movement;

“(G) transportation-related variables that influence the domestic economy and global competitiveness;

“(H) the economic costs and impacts for passenger travel and freight movement;

“(I) intermodal and multimodal passenger movement;

“(J) intermodal and multimodal freight movement; and

“(K) the consequences of transportation for the human and natural environment, sustainable transportation, and livable communities.

“(7) Building and disseminating the transportation layer of the National Spatial Data Infrastructure developed under Executive Order 12906, including—

“(A) coordinating the development of transportation geospatial data standards;

“(B) compiling intermodal geospatial data; and

“(C) collecting geospatial data that is not being collected by others.

“(8) Issuing guidelines for the collection of information by the Department of Transportation that is required for transportation statistics, modeling, economic assessment, and program assessment in order to ensure that such information is accurate, reliable, relevant, uniform and in a form that permits systematic analysis by the Department.

“(9) Reviewing and reporting to the Secretary of Transportation on the sources and reliability of—

“(A) the statistics proposed by the heads of the operating administrations of the Department of Transportation to measure outputs and outcomes, as required by the Government Performance and Results Act of 1993 (Public Law 103-62; 107 Stat. 285); and

“(B) other data collected or statistical information published by the heads of the operating administrations of the Department.

“(10) Making the statistics published under this subsection readily accessible to the public, consistent with applicable security constraints and confidentiality interests.

“(b) ACCESS TO FEDERAL DATA.—In carrying out subsection (a)(2), the Director shall be provided access to—

“(1) all safety data held by any agency of the Department; and

“(2) all safety data held by any other Federal Government agency that is germane to carrying out subsection (a), upon written request and subject to any statutory or regulatory restrictions.

“(c) INTERMODAL TRANSPORTATION DATABASE.—

“(1) IN GENERAL.—In consultation with the Under Secretary for Policy, the Assistant Secretaries, and the heads of the operating administrations of the Department of Transportation, the Director shall establish and maintain a transportation database for all modes of transportation.

“(2) USE OF DATABASE.—The database established under this subsection shall be suitable for analyses carried out by the Federal Government, the States, and metropolitan planning organizations.

“(3) CONTENTS.—The database established under this section shall include—

“(A) information on the volumes and patterns of movement, including local, interregional, and international movement—

“(i) of goods by all modes of transportation and intermodal combinations, and by relevant classification; and

“(ii) of people by all modes of transportation (including bicycle and pedestrian modes) and intermodal combinations, and by relevant classification;

“(B) information on the location and connectivity of transportation facilities and services; and

“(C) a national accounting of expenditures and capital stocks on each mode of transportation and intermodal combination.

#### “§ 6304. National Transportation Library

“(a) PURPOSE AND ESTABLISHMENT.—There is established, in the Bureau, a National Transportation Library (referred to in this section as the ‘Library’), which shall—

“(1) support the information management and decisionmaking needs of transportation at Federal, State, and local levels;

“(2) be headed by an individual who is highly qualified in library and information science;

“(3) acquire, preserve, and manage transportation information and information products and services for use of the Department of Transportation, other Federal agencies, and the general public;

“(4) provide reference and research assistance;

“(5) serve as a central depository for research results and technical publications of the Department of Transportation;

“(6) provide a central clearinghouse for transportation data and information in the Federal Government;

“(7) serve as coordinator and policy lead for transportation information access;

“(8) provide transportation information and information products and services to the Department of Transportation, other agencies of the Federal Government, public and private organizations, and individuals, within the United States and internationally;

“(9) coordinate efforts among, and cooperate with, transportation libraries, information providers, and technical assistance centers, in conjunction with private industry and other transportation library and information centers, toward the development of a comprehensive transportation information and knowledge network supporting activities described in subparagraphs (A) through (K) of section 6303(a)(6); and

“(10) engage in such other activities as the Director determines appropriate and as the Library’s resources permit.

“(b) ACCESS.—The Director shall publicize, facilitate, and promote access to the information products and services described in subsection (a) to improve—

“(1) the ability of the transportation community to share information; and

“(2) the ability of the Director to make statistics and other information readily accessible under section 6303(a)(10).

“(c) AGREEMENTS.—

“(1) IN GENERAL.—The Director may enter into agreements with, award grants to, and receive funds from any State and other political subdivision, organization, business, or individual for the purpose of conducting activities under this section.

“(2) CONTRACTS, GRANTS, AND AGREEMENTS.—The Library may initiate and support specific information and data management, access, and exchange activities in connection with matters relating to Department of Transportation’s strategic goals, knowledge networking, and national and international cooperation by entering into contracts or awarding grants for the conduct of such activities.

“(3) FUNDS.—Amounts received under this subsection for payments for library products and services or other activities shall—

“(A) be deposited in the Research and Innovative Technology Administration’s general fund account; and

“(B) remain available to the Library until expended.

#### “§ 6305. Advisory Council on Transportation Statistics

“(a) IN GENERAL.—The Director shall maintain an Advisory Council on Transportation Statistics (referred to in this section as the ‘Advisory Council’).

“(b) FUNCTION.—The Advisory Council shall advise the Director on—

“(1) the quality, reliability, consistency, objectivity, and relevance of transportation statistics and analyses collected, supported, or disseminated by the Bureau and the Department of Transportation; and

“(2) methods to encourage cooperation and interoperability of transportation data collected by the Bureau, the operating administrations of the Department, States, local governments, metropolitan planning organizations, and private sector entities.

“(c) MEMBERSHIP.—

“(1) IN GENERAL.—The Advisory Council shall be composed of not fewer than 9 members and not more than 11 members, who shall be appointed by the Director.

“(2) SELECTION.—In selecting members for the Advisory Council, the Director shall appoint individuals who—

“(A) are not officers or employees of the United States;

“(B) possess expertise in—

“(i) transportation data collection, analysis, or application;

“(ii) economics; or

“(iii) transportation safety; and

“(C) represent a cross section of transportation stakeholders, to the greatest extent possible.

“(3) TERMS OF APPOINTMENT.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), members of the Advisory Council—

“(i) shall be appointed to staggered terms not to exceed 3 years; and

“(ii) may be renominated for 1 additional 3-year term.

“(B) CURRENT MEMBERS.—Members serving on the Advisory Council as of the date of the enactment of the Research and Innovative Technology Administration Reauthorization Act of 2012 shall serve until the end of their appointed terms.

“(d) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (except for section 14 of such Act) shall apply to the Advisory Council.

#### “§ 6306. Transportation statistical collection, analysis, and dissemination

“To ensure that all transportation statistical collection, analysis, and dissemination is carried out in a coordinated manner, the Director may—

“(1) utilize, with their consent, the services, equipment, records, personnel, information, and facilities of other Federal, State, local, and private agencies and instrumentalities with or without reimbursement for such utilization;

“(2) enter into agreements with agencies and instrumentalities referred to in paragraph (1) for purposes of data collection and analysis;

“(3) confer and cooperate with foreign governments, international organizations, States, municipalities, and other local agencies;

“(4) request such information, data, and reports from any Federal agency as may be required to carry out the purposes of this section;

“(5) encourage replication, coordination, and sharing among transportation agencies regarding information systems, information policy, and data; and

“(6) confer and cooperate with Federal statistical agencies as needed to carry out the purposes of this section, including by entering into cooperative data sharing agreements in conformity with all laws and regulations applicable to the disclosure and use of data.

#### “§ 6307. Furnishing information, data, or reports by Federal agencies

“Federal agencies requested to furnish information, data, or reports under section 6303(b) shall provide such information to the Bureau as is required to carry out the purposes of this section.

#### “§ 6308. Prohibition on certain disclosures

“(a) IN GENERAL.—An officer, employee, or contractor of the Bureau may not—

“(1) make any disclosure in which the data provided by an individual or organization under section 6303 can be identified;

“(2) use the information provided under section 6303 for a nonstatistical purpose; or

“(3) permit anyone other than an individual authorized by the Director to examine any individual report provided under section 6303.

“(b) COPIES OF REPORTS.—

“(1) IN GENERAL.—A department, bureau, agency, officer, or employee of the United States (except the Director in carrying out this section) may not require, for any reason, a copy of any report that has been filed

under section 6303 with the Bureau or retained by an individual respondent.

“(2) **LIMITATION ON JUDICIAL PROCEEDINGS.**—A copy of a report described in paragraph (1) that has been retained by an individual respondent or filed with the Bureau or any of its employees, contractors, or agents—

“(A) shall be immune from legal process; and

“(B) may not, without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceedings.

“(3) **APPLICABILITY.**—This subsection shall only apply to reports that permit information concerning an individual or organization to be reasonably determined by direct or indirect means.

“(c) **INFORMING RESPONDENT OF USE OF DATA.**—If the Bureau is authorized by statute to collect data or information for a non-statistical purpose, the Director shall clearly distinguish the collection of such data or information, by rule and on the collection instrument, to inform a respondent who is requested or required to supply the data or information of the nonstatistical purpose.

#### “§ 6309. Data access

“The Director shall be provided access to transportation and transportation-related information in the possession of any Federal agency, except—

“(1) information that is expressly prohibited by law from being disclosed to another Federal agency; or

“(2) information that the agency possessing the information determines could not be disclosed without significantly impairing the discharge of authorities and responsibilities which have been delegated to, or vested by law, in such agency.

#### “§ 6310. Proceeds of data product sales

“Notwithstanding section 3302 of title 31, amounts received by the Bureau from the sale of data products, for necessary expenses incurred, may be credited to the Highway Trust Fund (other than the Mass Transit Account) for the purpose of reimbursing the Bureau for such expenses.

#### “§ 6311. Information collection

“As the head of an independent Federal statistical agency, the Director may consult directly with the Office of Management and Budget concerning any survey, questionnaire, or interview that the Director considers necessary to carry out the statistical responsibilities under this subchapter.

#### “§ 6312. National transportation atlas database

“(a) **IN GENERAL.**—The Director shall develop and maintain a national transportation atlas database that is comprised of geospatial databases that depict—

“(1) transportation networks;

“(2) flows of people, goods, vehicles, and craft over the networks; and

“(3) social, economic, and environmental conditions that affect, or are affected by, the networks.

“(b) **INTERMODAL NETWORK ANALYSIS.**—The databases developed under subsection (a) shall be capable of supporting intermodal network analysis.

#### “§ 6313. Limitations on statutory construction

“Nothing in this subchapter may be construed—

“(1) to authorize the Bureau to require any other department or agency to collect data; or

“(2) to reduce the authority of any other officer of the Department to independently collect and disseminate data.

#### “§ 6314. Research and development grants

“The Secretary may award grants to, or enter into cooperative agreements or contracts with, public and nonprofit private entities (including State transportation departments, metropolitan planning organizations, and institutions of higher education) for—

“(1) investigation of the subjects specified in section 6303 and research and development of new methods of data collection, standardization, management, integration, dissemination, interpretation, and analysis;

“(2) demonstration programs by States, local governments, and metropolitan planning organizations to coordinate data collection, reporting, management, storage, and archiving to simplify data comparisons across jurisdictions;

“(3) development of electronic clearinghouses of transportation data and related information, as part of the National Transportation Library under section 6304; and

“(4) development and improvement of methods for sharing geographic data, in support of the database under section 6303 and the National Spatial Data Infrastructure.

#### “§ 6315. Transportation statistics annual report

“The Director shall submit to the President and Congress a transportation statistics annual report, which shall include—

“(1) information on items referred to in section 6303(a)(6);

“(2) documentation of methods used to obtain and ensure the quality of the statistics presented in the report; and

“(3) recommendations for improving transportation statistical information.

#### “§ 6316. Mandatory response authority for data collections

“Any individual who, as the owner, official, agent, person in charge, or assistant to the person in charge of any corporation, company, business, institution, establishment, organization of any nature or the member of a household, neglects or refuses, after requested by the Director or other authorized officer, employee, or contractor of the Bureau, to answer completely and correctly to the best of the individual's knowledge all questions relating to the corporation, company, business, institution, establishment, or other organization or household, or to make available records or statistics in the individual's official custody, contained in a data collection request prepared and submitted under section 6303(a)—

“(1) shall be fined not more than \$500, except as provided under paragraph (2); and

“(2) if the individual willfully gives a false answer to such a question, shall be fined not more than \$10,000.”.

(b) **RULES OF CONSTRUCTION.**—In transferring the provisions under section 111 of title 49, United States Code, to chapter 63 of title 49, as added by subsection (a), the following rules of construction shall apply:

(1) For purposes of determining whether 1 provision of law supersedes another based on enactment later in time, a provision under chapter 63 of title 49, United States Code, is deemed to have been enacted on the date of the enactment of the corresponding provision under section 111 of such title.

(2) A reference to a provision under such chapter 65 is deemed to refer to the corresponding provision under such section 111.

(3) A reference to a provision under such section 111, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision under such chapter 65.

(4) A regulation, order, or other administrative action authorized by a provision under such section 111 continues to be authorized by the corresponding provision under such chapter 65.

(5) An action taken or an offense committed under a provision of such section 111 is deemed to have been taken or committed under the corresponding provision of such chapter 65.

#### (c) **CONFORMING AMENDMENTS.**

(1) **REPEAL.**—Chapter 1 of title 49, United States Code, is amended—

(A) by repealing section 111; and

(B) by striking the item relating to section 111 in the chapter analysis.

(2) **ANALYSIS OF SUBTITLE III.**—The table of chapters for subtitle III of title 49, United States Code, is amended by inserting after the item for chapter 61 the following:

“63. Bureau of Transportation  
Statistics ..... 6301”.

#### **SEC. 35004. 5.9 GHZ VEHICLE-TO-VEHICLE AND VEHICLE-TO-INFRASTRUCTURE COMMUNICATIONS SYSTEMS DEPLOYMENT.**

(a) **IN GENERAL.**—Subchapter I of chapter 55 of title 49, United States Code, is amended by adding at the end the following:

#### “§ 5507. GHz vehicle-to-vehicle and vehicle-to-infrastructure communications systems deployment

“(a) **IN GENERAL.**—Not later than 3 years after the date of the enactment of this section, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Energy and Commerce of the House of Representatives that—

“(1) defines a recommended implementation path for Dedicated Short Range Communications (DSRC) technology and applications; and

“(2) includes guidance concerning the relationship of the proposed DSRC deployment to Intelligent Transportation System National Architecture and Standards.

“(b) **REPORT REVIEW.**—The Secretary shall enter into an agreement for the review of the report submitted under subsection (a) by an independent third party with subject matter expertise.”.

(b) **CONFORMING AMENDMENT.**—The analysis of chapter 55 of title 49, United States Code, is amended by inserting after the item relating to section 5506, the following:

“5507. 5.9 GHz vehicle-to-vehicle and vehicle-to-infrastructure communications systems deployment.”.

#### **SEC. 35005. ADMINISTRATIVE AUTHORITY.**

Section 112 of title 49, United States Code, is amended by inserting after subsection (e) the following:

“(f) **PROGRAM EVALUATION AND OVERSIGHT.**—The Administrator is authorized to expend not more than 1.5 percent of the amounts authorized to be appropriated for each of the fiscal years 2012 and 2013, for necessary expenses for administration and operations of the Research and Innovative Technology Administration for the coordination, evaluation, and oversight of the programs administered by the Administration.

“(g) **COLLABORATIVE RESEARCH AND DEVELOPMENT.**—

“(1) **IN GENERAL.**—To encourage innovative solutions to multimodal transportation problems and stimulate the deployment of new technology, the Administrator may carry out, on a cost-shared basis, collaborative research and development with—

“(A) non-Federal entities, including State and local governments, foreign governments, colleges and universities, corporations, institutions, partnerships, sole proprietorships, and trade associations that are incorporated or established under the laws of any State;

“(B) Federal laboratories; and

“(C) other Federal agencies.

“(2) COOPERATION, GRANTS, CONTRACTS, AND AGREEMENTS.—Notwithstanding any other provision of law, the Administrator may directly initiate contracts, grants, other transactions, and cooperative research and development agreements (as defined in section 12 of the Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3710a)) to fund, and accept funds from, the Transportation Research Board of the National Research Council of the National Academy of Sciences, State departments of transportation, cities, counties, universities, associations, and the agents of such entities to conduct joint transportation research and technology efforts.

“(3) FEDERAL SHARE.—

“(A) IN GENERAL.—The Federal share of the cost of activities carried out under a cooperative research and development agreement entered into under this subsection may not exceed 50 percent unless the Secretary approves a greater Federal share due to substantial public interest or benefit.

“(B) NON-FEDERAL SHARE.—All costs directly incurred by the non-Federal partners, including personnel, travel, facility, and hardware development costs, shall be credited toward the non-Federal share of the cost of the activities described in subparagraph (A).

“(4) USE OF TECHNOLOGY.—The research, development, or use of a technology under a cooperative research and development agreement entered into under this subsection, including the terms under which the technology may be licensed and the resulting royalties may be distributed, shall be subject to the Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

“(5) WAIVER OF ADVERTISING REQUIREMENTS.—Section 6101 of title 41 shall not apply to a contract, grant, or other agreement entered into under this chapter.”.

#### SEC. 35006. PRIZE AUTHORITY.

(a) IN GENERAL.—Chapter 3 of title 49, United States Code, is amended by inserting before section 336 the following:

##### “SEC. 335. PRIZE AUTHORITY.

“(a) IN GENERAL.—The Secretary of Transportation may carry out a program, in accordance with this section, to competitively award cash prizes to stimulate innovation in basic and applied research, technology development, and prototype demonstration that have the potential for application to the national transportation system.

“(b) TOPICS.—In selecting topics for prize competitions under this section, the Secretary shall—

“(1) consult with a wide variety of Government and nongovernment representatives; and

“(2) give consideration to prize goals that demonstrate innovative approaches and strategies to improve the safety, efficiency, and sustainability of the national transportation system.

“(c) ADVERTISING.—The Secretary shall encourage participation in the prize competitions through extensive advertising.

“(d) REQUIREMENTS AND REGISTRATION.—For each prize competition, the Secretary shall publish a notice on a public website that describes—

“(1) the subject of the competition;

“(2) the eligibility rules for participation in the competition;

“(3) the amount of the prize; and

“(4) the basis on which a winner will be selected.

“(e) ELIGIBILITY.—An individual or entity may not receive a prize under this section unless the individual or entity—

“(1) has registered to participate in the competition pursuant to any rules promulgated by the Secretary under this section;

“(2) has complied with all the requirements under this section;

“(3)(A) in the case of a private entity, is incorporated in, and maintains a primary place of business in, the United States; or

“(B) in the case of an individual, whether participating singly or in a group, is a citizen or permanent resident of the United States; and

“(4) is not a Federal entity or Federal employee acting within the scope of his or her employment.

“(f) LIABILITY.—

“(1) ASSUMPTION OF RISK.—

“(A) IN GENERAL.—A registered participant shall agree to assume any and all risks and waive claims against the Federal Government and its related entities, except in the case of willful misconduct, for any injury, death, damage, or loss of property, revenue, or profits, whether direct, indirect, or consequential, arising from participation in a competition, whether such injury, death, damage, or loss arises through negligence or otherwise.

“(B) RELATED ENTITY.—In this paragraph, the term ‘related entity’ means a contractor, subcontractor (at any tier), supplier, user, customer, cooperating party, grantee, investigator, or detailee.

“(2) FINANCIAL RESPONSIBILITY.—A participant shall obtain liability insurance or demonstrate financial responsibility, in amounts determined by the Secretary, for claims by—

“(A) a third party for death, bodily injury, or property damage, or loss resulting from an activity carried out in connection with participation in a competition, with the Federal Government named as an additional insured under the registered participant’s insurance policy and registered participants agreeing to indemnify the Federal Government against third party claims for damages arising from or related to competition activities; and

“(B) the Federal Government for damage or loss to Government property resulting from such an activity.

“(g) JUDGES.—

“(1) SELECTION.—For each prize competition, the Secretary, either directly or through an agreement under subsection (h), shall assemble a panel of qualified judges to select the winner or winners of the prize competition on the basis described in subsection (d). Judges for each competition shall include individuals from outside the Administration, including the private sector.

“(2) LIMITATIONS.—A judge selected under this subsection may not—

“(A) have personal or financial interests in, or be an employee, officer, director, or agent of, any entity that is a registered participant in a prize competition under this section; or

“(B) have a familial or financial relationship with an individual who is a registered participant.

“(h) ADMINISTERING THE COMPETITION.—The Secretary may enter into an agreement with a private, nonprofit entity to administer the prize competition, subject to the provisions of this section.

“(i) FUNDING.—

“(1) PRIVATE SECTOR FUNDING.—A cash prize under this section may consist of funds appropriated by the Federal Government and funds provided by the private sector. The Secretary may accept funds from other Federal agencies, State and local governments, and metropolitan planning organizations for the cash prizes. The Secretary may not give any special consideration to any private sector entity in return for a donation under this paragraph.

“(2) AVAILABILITY OF FUNDS.—Notwithstanding any other provision of law, amounts appropriated for prize awards under this section—

“(A) shall remain available until expended; and

“(B) may not be transferred, reprogrammed, or expended for other purposes until after the expiration of the 10-year period beginning on the last day of the fiscal year for which the funds were originally appropriated.

“(3) SAVINGS PROVISION.—Nothing in this subsection may be construed to permit the obligation or payment of funds in violation of the Anti-Deficiency Act (31 U.S.C. 1341).

“(4) PRIZE ANNOUNCEMENT.—A prize may not be announced under this section until all the funds needed to pay out the announced amount of the prize have been appropriated or committed in writing by a private source.

“(5) PRIZE INCREASES.—The Secretary may increase the amount of a prize after the initial announcement of the prize under this section if—

“(A) notice of the increase is provided in the same manner as the initial notice of the prize; and

“(B) the funds needed to pay out the announced amount of the increase have been appropriated or committed in writing by a private source.

“(6) CONGRESSIONAL NOTIFICATION.—A prize competition under this section may offer a prize in an amount greater than \$1,000,000 only after 30 days have elapsed after written notice has been transmitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives.

“(7) AWARD LIMIT.—A prize competition under this section may not result in the award of more than \$25,000 in cash prizes without the approval of the Secretary.

“(j) USE OF DEPARTMENT NAME AND INSIGNIA.—A registered participant in a prize competition under this section may use the Department’s name, initials, or insignia only after prior review and written approval by the Secretary.

“(k) COMPLIANCE WITH EXISTING LAW.—The Federal Government shall not, by virtue of offering or providing a prize under this section, be responsible for compliance by registered participants in a prize competition with Federal law, including licensing, export control, and non-proliferation laws, and related regulations.”.

(b) CONFORMING AMENDMENT.—The analysis of chapter 3 of title 49, United States Code, is amended by inserting before the item relating to section 336 the following:

“335. Prize authority.”.

#### SEC. 35007. TRANSPORTATION RESEARCH AND DEVELOPMENT.

Section 508(a) of title 23, United States Code, is amended—

(1) in paragraph (1), by striking “SAFETEA-LU” and inserting “Research and Innovative Technology Administration Reauthorization Act of 2012”; and

(2) by amending paragraph (2)(A) to read as follows:

“(A) describe the primary purposes of the transportation research and development program, which shall include—

- “(i) promoting safety;
- “(ii) reducing congestion and improving mobility;
- “(iii) promoting security;
- “(iv) protecting and enhancing the environment;
- “(v) preserving the existing transportation system; and
- “(vi) improving transportation infrastructure, in coordination with Department of Transportation strategic goals and planning efforts.”.

**SEC. 35008. USE OF FUNDS FOR INTELLIGENT TRANSPORTATION SYSTEMS ACTIVITIES.**

Section 513 of title 23, United States Code, is amended to read as follows:

**“§ 513. Use of funds for ITS activities**

“(a) IN GENERAL.—The Secretary may use not more than \$500,000 of the amounts made available to the Department for each fiscal year to carry out the Intelligent Transportation Systems Program (referred to in this section as ‘ITS’) on intelligent transportation system outreach, websites, public relations, displays, tours, and brochures.

“(b) PURPOSE.—Amounts authorized for use under subsection (a) are intended to develop, administer, communicate, and promote the use of products of research, technology, and technology transfer programs under this section.

“(c) ITS DEPLOYMENT INCENTIVES.—

“(1) IN GENERAL.—The Secretary may develop and implement incentives to accelerate the deployment of ITS technologies and services within all programs receiving amounts appropriated pursuant to section 35009 of the Research and Innovative Technology Administration Reauthorization Act of 2012.

“(2) COMPREHENSIVE PLAN.—The Secretary shall develop a detailed and comprehensive plan to carry out this subsection that addresses how incentives may be adopted, as appropriate, through the existing deployment activities carried out by surface transportation modal administrations.”.

**SEC. 35009. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account), under the conditions set forth in subsection (b)—

- (1) \$27,297,000 for fiscal year 2012; and
- (2) \$27,597,000 for fiscal year 2013.

(b) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—

(1) IN GENERAL.—Except as provided in paragraph (2), amounts appropriated pursuant to subsection (a) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

(2) FEDERAL SHARE.—The Federal share of the cost of a project or activity carried out with amounts appropriated pursuant to subsection (a) shall be 50 percent unless another percentage is—

- (A) expressly provided under this Act or the amendments made by this Act; or
- (B) determined by the Secretary.

(3) AVAILABILITY; TRANSFERABILITY.—Amounts appropriated pursuant to subsection (a) shall remain available until expended and shall not be transferable.

**TITLE VI—NATIONAL RAIL SYSTEM PRESERVATION, EXPANSION, AND DEVELOPMENT ACT OF 2012**

**SEC. 36001. SHORT TITLE.**

This title may be cited as the “National Rail System Preservation, Expansion, and Development Act of 2012”.

**SEC. 36002. REFERENCES TO TITLE 49, UNITED STATES CODE.**

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

**Subtitle A—Federal and State Roles in Rail Planning and Development Tools**

**SEC. 36101. RAIL PLANS.**

(a) LONG-RANGE NATIONAL RAIL PLAN.—Section 103 is amended by amending subsection (j)(2) to read as follows:

“(2) in coordination with the Secretary of Transportation, develop and routinely update a long-range national rail plan pursuant to chapter 227;”.

(b) NATIONAL RAIL PLAN.—Chapter 227 is amended to read as follows:

**“§ 22701. National Rail Plan**

“(a) IN GENERAL.—The Secretary of Transportation shall—

“(1) not later than 1 year after the date of enactment of the —

“(A) develop a long-range national rail plan—

“(i) in coordination with the Administrator of the Federal Railroad Administration and the Surface Transportation Board; and

“(ii) in consultation with Amtrak, freight railroads, nonprofit employee labor organizations, and other rail industry stakeholders; and

“(B) submit the national rail plan under subparagraph (A) to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives;

“(2) routinely update the national rail plan—

“(A) in coordination with the Administrator of the Federal Railroad Administration and the Surface Transportation Board; and

“(B) in consultation with Amtrak, freight railroads, nonprofit employee labor organizations, and other rail industry stakeholders; and

“(3) submit the updated national rail plan under paragraph (2) at the same time as the President’s budget submission.

“(b) NATIONAL RAIL PLAN.—The national rail plan shall—

“(1) be subject to refinement by regional and State rail plans;

“(2) be consistent with the rail needs of the Nation and Federal surface transportation or multi-modal policies and plans, as determined by the Secretary;

“(3) promote an integrated, cohesive, safe, efficient, and optimized national rail system for the movement of goods and people and to support the national economy and other national needs; and

“(4) contain a specific national intercity passenger rail development plan and a freight rail plan that are consistent with other Federal strategy, planning, and investment efforts.

“(c) OBJECTIVES.—The objectives of the national rail plan are—

“(1) to implement a national policy and strategy to support, preserve, improve, and

further develop existing and future high-speed and intercity passenger rail transportation and freight rail transportation; and

“(2) to provide a national framework to be refined and implemented by regional rail plans under section 22702 and State rail plans under 22703.

“(d) CONTENTS.—The national rail plan shall include—

“(1) the conditions under which Federal investments in intercity passenger rail and freight rail are justified, including consideration of—

“(A) population size and density;

“(B) projected population and economic growth and changing demographic characteristics;

“(C) connections to local rail and bus transit, alternative transportation options, and multi-modal freight transportation nodes;

“(D) economic profile of specific markets;

“(E) congestion on existing transportation facilities and constraints on future capacity enhancements, in relation to efficient movement of both goods and people;

“(F) distances between markets;

“(G) geographic characteristics;

“(H) demand for present and future freight rail transportation services;

“(I) ability to serve underserved communities and enhance intra- and inter-regional connectivity of mega-regions;

“(J) transportation safety data and analyses;

“(K) travel market size; and

“(L) availability and quality of service from other transportation modes within a market;

“(2) a national map with a prioritized designation of existing and developing markets to be served by specific rail routes and services that meet the criteria described in paragraph (1);

“(3) defined corridor and service categories, including—

“(A) services to be offered;

“(B) peak or average speeds to be achieved;

“(C) frequencies to be offered; and

“(D) populations to be served;

“(4) a schedule and strategy for the phased implementation of corridors and services identified in the plan;

“(5) a discussion of benefits and costs of potential investments in high-speed or intercity passenger rail or freight rail that considers all system user and public benefits and costs from a network perspective, including factors such as potential ridership, travel time reductions and improved reliability, benefits of enhanced mobility of goods and people, environmental benefits, economic development benefits, and other public benefits;

“(6) a strategy for investments in passenger stations, including investment in intermodal stations that are linked to local public transportation, other intercity transportation modes, and non-motorized transportation options, and that connect residential areas, commercial areas, and other nearby transportation facilities that support intercity passenger rail and high-speed rail service, and in freight-related facilities, that is consistent with other Federal strategy, planning, and investment efforts;

“(7) performance standards for fiscal and operational performance of new and enhanced high-speed and intercity passenger rail services;

“(8) analysis of the environmental impacts of the national rail plan;

“(9) recommendations for project financing, management and implementation for corridor development, station development,

freight capacity development, and similar projects;

“(10) recommendations for the integration of freight and passenger service in a manner that provides for mutual and complementary growth;

“(11) a plan for integrating any proposed new services with existing services;

“(12) service design and project execution protocols, including design and construction standards, requirements needed to ensure interoperability, and any other protocols the Secretary deems appropriate; and

“(13) additional factors that the Secretary deems relevant.

#### “§ 22702. Regional rail plans

“(a) IN GENERAL.—The Secretary shall—

“(1) develop a regional rail plan for each region, except the Northeast Corridor, that contains a detailed plan for implementing the national rail plan, including any plans for public investment in projects that contribute to efficient movement and increased capacity for freight by—

“(A) regional rail authorities, as defined by the Secretary; or

“(B) any 2 or more States that have entered into interstate compacts, agreements, or organizations for the purpose of developing such plans; and

“(2) in developing each regional rail plan, coordinate with—

“(A) States;

“(B) local communities;

“(C) railroad infrastructure owners;

“(D) regional air quality planning agencies;

“(E) Amtrak;

“(F) passenger rail service operators;

“(G) freight railroad operators;

“(H) metropolitan planning organizations;

“(I) freight authorities for transit systems or airports;

“(J) tribal governments;

“(K) the general public, including low-income and minority populations, people with disabilities, and older Americans; and

“(L) non-profit labor employee organizations.

“(b) PURPOSES.—The purposes of a regional rail plan shall be to refine and advance the implementation of the national rail plan under section 22701.

“(c) CONTENTS.—A regional rail plan shall include—

“(1) a map—

“(A) that indicates detailed alignment alternatives for any new corridor identified in the national rail plan under section 22701; and

“(B) that identifies the location of each potential new station;

“(2) a phasing plan for developing or upgrading specific segments of the regional network;

“(3) the identification of any environmental impact analyses required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or other laws (including regulations);

“(4) a full capital cost estimate for developing the regional network;

“(5) an analysis of operating financial forecasts;

“(6) a benefit-cost analysis for the regional network that considers both user and public benefits and the costs from a network perspective, including factors such as ridership projections, travel time reductions, enhanced mobility benefits, environmental benefits, economic benefits, and other public benefits;

“(7) an analysis of potential land use policies and strategies for areas near high-speed and intercity passenger rail stations;

“(8) potential non-Federal funding sources, including a detailed consideration of anticipated private sector participation;

“(9) a proposal for the institutional and governance structures that will be necessary to develop the regional network;

“(10) other project implementation considerations, including an analysis of the readiness of specific corridors to proceed for development;

“(11) an examination of multi-modal connections that considers the most cost-effective means for achieving the region's transportation goals and objectives;

“(12) identification of plans for cost-effective, public investment in intercity passenger rail projects that contribute toward the efficient movement and increased capacity for freight rail operations;

“(13) a list of capital projects needed to implement a region's portion of the national rail plan;

“(14) a plan for coordinating service and capital projects with adjacent regions;

“(15) a plan for crossing international borders, as appropriate;

“(16) a plan for integrating any proposed new services with existing service; and

“(17) a description of how the regional rail plan refines and advances the implementation of the national rail plan.

“(d) UPDATES.—Not later than 1 year after the publication of the national rail plan under section 22701 and periodically thereafter, the Secretary shall update each regional rail plan—

“(1) to reflect any material changes to the contents under subsection (c); and

“(2) to include any changes made to the national rail plan under section 22701.

“(e) WAIVER.—The Secretary may waive a content requirement under subsection (c) as necessary to accommodate a unique characteristic or situation in a region.

#### “§ 22703. State rail plans

“(a) IN GENERAL.—A State may prepare and maintain a State rail plan. A State rail plan shall—

“(1) be consistent with the national rail plan under section 22701;

“(2) be consistent with the regional rail plans under section 22702;

“(3) coordinate with other State transportation planning goals and programs, including the statewide transportation plans under section 135 of title 23, and

“(4) set forth rail transportation's role within the State's transportation system.

“(b) PURPOSES.—The purposes of a State rail plan shall be to refine and advance the implementation of the national rail plan and relevant regional rail plan under sections 22701 and 22702.

“(c) OBJECTIVES.—The objectives of a State rail plan shall be—

“(1) to set forth the State's policy on freight and intercity passenger rail transportation, including commuter rail operations, within the State;

“(2) to establish the time period covered by the State rail plan;

“(3) to present the priorities and strategies to enhance rail service within the State that benefits the public; and

“(4) to serve as the basis for Federal and State rail investments within the State.

“(d) REQUIREMENTS.—

“(1) ESTABLISHMENT.—The Secretary shall establish minimum requirements, consistent with sections 22701 and 22702, for the preparation and periodic revision of a State rail plan, including—

“(A) the establishment or designation of a State rail transportation authority to prepare, maintain, coordinate, and administer the State rail plan;

“(B) the establishment or designation of a State approval authority to approve the State rail plan;

“(C) the submission of the State's approved State rail plan to the Secretary for review and approval; and

“(D) the revision and resubmittal of a State-approved State rail plan for review and approval by the Secretary not less than once every 5 years.

“(2) REVIEW.—The Secretary shall prescribe procedures for a State to submit a State rail plan for review and approval, including standardized format and data requirements.

“(3) COMPLIANCE.—The Secretary shall deem a State rail plan to be in compliance with this chapter if the State rail plan—

“(A) is completed before the date of enactment of the ; and

“(B) substantially meets the requirements of chapter 227 as in effect on the day before the date of enactment of .

“(4) UPDATES.—A State rail plan that is deemed in compliance under paragraph (3) shall be updated not later than 1 year after the date of enactment of the .

“(e) CONTENTS.—A State rail plan shall include—

“(1) an inventory of the existing overall rail transportation system and rail services and facilities within the State;

“(2) an analysis of the role of rail transportation within the State's surface transportation system;

“(3) a review of all rail lines within the State, including any proposed high-speed rail corridors and significant rail line segments not currently in service;

“(4) a statement of the State's passenger rail service objectives, including minimum service levels, for rail transportation routes within the State;

“(5) a general analysis of rail's transportation, economic, and environmental impacts within the State, including congestion mitigation, trade and economic development, air quality, land-use, energy-use, and community impacts;

“(6) a long-range rail service and investment program for current and future freight and intercity passenger infrastructure within the State that meets the requirements under subsection (f);

“(7) a statement of the public financing issues for rail projects or service within the State, including a list of current and prospective public capital and operating funding resources, public subsidies, State taxation, and other financial policies relating to rail infrastructure development;

“(8) the identification of rail infrastructure issues within the State, after consulting with relevant stakeholders;

“(9) a review of major passenger and freight intermodal rail connections and facilities within the State, including seaports;

“(10) a list of prioritized options to maximize service integration and efficiency between rail and other modes of transportation within the State;

“(11) a review of publicly funded projects within the State to improve rail transportation safety and security, including major projects funded under section 130 of title 23;

“(12) a performance evaluation of passenger rail services operating in the State, including possible improvements to those services and a description of strategies to achieve the improvements;



“(13) a compilation of studies and reports on high-speed rail corridor development within the State that were not included in a prior plan under this chapter;

“(14) a plan for funding any recommended development of a high-speed rail corridor within the State; and

“(15) a statement that the State is in compliance with the requirements of section 22102.

“(f) LONG-RANGE RAIL SERVICE AND INVESTMENT PROGRAM.—

“(1) CONTENTS.—A long-range rail service and investment program under subsection (e)(6) shall include—

“(A) a prioritized list of any freight or intercity passenger rail capital projects expected to be commenced or supported in whole or in part by the State; and

“(B) a detailed capital and operating funding plan for each rail capital project under subparagraph (A).

“(2) RAIL CAPITAL PROJECTS LIST.—

“(A) CONTENTS.—A list of rail capital projects under paragraph (1)(A) shall include—

“(i) a description of the anticipated public and private benefits of each rail capital project; and

“(ii) a statement of the correlation between—

“(I) public funding contributions for each rail capital project; and

“(II) the public benefits.

“(B) CONSIDERATIONS.—A State rail transportation authority shall consider, when preparing a list of rail capital projects under this subsection—

“(i) contributions made by non-Federal and non-State sources through user fees, matching funds, or other private capital involvement;

“(ii) rail capacity and congestion effects;

“(iii) effects on highway, aviation, and maritime capacity, congestion, and safety;

“(iv) regional balance;

“(v) environmental impact;

“(vi) economic and employment impacts; and

“(vii) projected ridership and other service measures for passenger rail projects.

“(g) A State shall not be eligible to receive financial assistance under chapter 244 or 261 unless the State completes a State rail plan pursuant to this section.

#### “§ 22704. Transparency and coordination

“(a) PREPARATION AND REVIEW.—

“(1) FEDERAL TRANSPARENCY.—The Secretary of Transportation shall provide adequate and reasonable notice and an opportunity for comment to the public, rail carriers, commuter and transit authorities (operating in or affected by rail operations within the region or State), units of local government, and other interested parties when the Secretary prepares or reviews the national rail plan under section 22701 or a regional rail plan under section 22702.

“(2) STATE TRANSPARENCY.—A State shall provide adequate and reasonable notice and an opportunity for comment to the public, rail carriers, commuter and transit authorities (operating in or affected by rail operations within the region or the State), units of local government, and other interested parties, when the State prepares or reviews a State rail plan under section 22703.

“(b) INTERGOVERNMENTAL COORDINATION.—A State shall—

“(1) review the freight and passenger rail service activities and initiatives by regional planning agencies, regional transportation authorities, and municipalities (within the State or within the region in which the

State is located) when preparing a State rail plan; and

“(2) include any recommendations made by the regional planning agencies, regional transportation authorities, and municipalities (within the State or within the region in which the State is located), as deemed appropriate by the State.

#### “§ 22705. Definitions

“In this chapter:

“(1) PRIVATE BENEFIT.—The term ‘private benefit’ means a benefit—

“(A) that is determined on a project-by-project basis, based upon an agreement between the parties;

“(B) that is accrued to a person or private entity, other than Amtrak, that directly improves the economic and competitive condition of the person or private entity through improved assets, cost reductions, service improvements, or other means as defined by the Secretary; or

“(C) that is defined by the Secretary, with advice from the States and rail carriers if the Secretary deems such advice necessary.

“(2) PUBLIC BENEFIT.—The term ‘public benefit’ means a benefit—

“(A) that is determined on a project-by-project basis, based upon an agreement between the parties;

“(B) that is accrued to the public, including Amtrak, in the form of enhanced mobility of people or goods, environmental protection or enhancement, congestion mitigation, enhanced trade and economic development, improved air quality or land use, more efficient energy use, enhanced public safety or security, reduction of public expenditures due to improved transportation efficiency or infrastructure preservation, and any other positive community effects as defined by the Secretary; or

“(C) that is defined by the Secretary, with advice from the States and rail carriers if the Secretary deems such advice necessary.

“(3) STATE.—The term ‘State’ means any of the 50 States and the District of Columbia.

“(4) STATE RAIL TRANSPORTATION AUTHORITY.—The term ‘State rail transportation authority’ means the State agency or official responsible under the direction of the Governor of the State or a State law for the preparation, maintenance, coordination, and administration of the State rail plan.”.

#### SEC. 36102. IMPROVED DATA ON DELAY.

Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation, in coordination with Amtrak, freight railroads, and other parties, as appropriate, shall develop guidance for developing improved, including automated, means of measuring on-time performance delays.

#### SEC. 36103. DATA AND MODELING.

(a) DATA.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall conduct a data needs assessment, in consultation with the Surface Transportation Board, Amtrak, freight railroads, and State and local governments, to support the development of an efficient and effective intercity passenger rail network. The data needs assessment shall, among other things—

(1) identify the data needed to conduct cost-effective modeling and analysis for high-speed and intercity passenger rail development programs;

(2) determine limitations to the data used for inputs and develop a strategy to address the limitations;

(3) identify barriers to accessing existing data;

(4) include recommendations regarding whether the authorization of additional data

collection for intercity passenger rail travel is warranted; and

(5) determine which entities will be responsible for generating or collecting needed data.

(b) MODELING.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall develop or improve modeling capabilities to support the development of an efficient and effective intercity passenger rail network, including service development, capacity expansion, cost-effectiveness, and ridership estimates.

(c) BENEFIT-COST ANALYSIS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall enhance the usefulness of assessments of benefits and costs, for both intercity passenger rail and freight rail projects by—

(1) providing ongoing guidance and training on developing benefit and cost information for rail projects;

(2) providing more direct and consistent requirements for assessing benefits and costs across transportation funding programs, including the appropriate use of discount rates;

(3) requiring an applicant to clearly communicate the methodology that is used to calculate the project benefits and costs, including information on assumptions underlying calculations, strengths and limitations of data used, and the level of uncertainty in estimates of project benefits and costs; and

(4) ensuring that an applicant receives clear and consistent guidance on values to apply for key assumptions used to estimate potential project benefits and costs.

(d) CONFIDENTIAL DATA.—For the purposes of this section, the Secretary of Transportation shall protect any confidential data from public disclosure and such confidential data shall only be provided on the basis of a voluntary agreement.

#### SEC. 36104. SHARED-USE CORRIDOR STUDY.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall complete a shared-use corridor study, in consultation with the Surface Transportation Board, Amtrak, freight railroads, States, non-profit employee labor organizations, and other users of the rail system, as appropriate, to evaluate the best means to enhance and support the further development of high-speed and intercity passenger rail service within United States shared-use corridors.

(b) CONTENTS.—In conducting the shared-use corridor study, the Secretary shall—

(1) survey the access arrangements for high-speed and intercity passenger rail service for use of rail infrastructure, assets and facilities owned by freight railroads, commuter authorities, or other entities, and standard processes for the resolution of disputes relating to such access;

(2) evaluate the roles and responsibilities of high-speed and intercity passenger rail, freight rail, and commuter rail service providers and infrastructure owners in complying with Federal, State, and local applicable requirements within United States shared-use corridors;

(3) evaluate the roles and responsibilities of Federal, State, and local governments, infrastructure owners, and high speed and intercity passenger rail, freight rail, and commuter rail service providers in supporting both the preservation and expansion of high-speed and intercity passenger rail service, freight transportation, and commuter transportation on shared infrastructure or rights-of-way;

(4) evaluate the roles and responsibilities of high-speed and intercity passenger rail,

freight rail, and commuter rail service providers in achieving satisfactory on time performance for passenger and freight rail services in shared use corridors; and

(5) evaluate other issues identified by the Secretary.

(c) **REPORT.**—Not later than 90 days after the date the shared-use corridor study is completed under subsection (a), the Secretary shall—

(1) report the results of the shared-use corridor study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure; and

(2) make the shared-use corridor study available to the public on the Department of Transportation's website.

#### **SEC. 36105. COOPERATIVE EQUIPMENT POOL.**

(a) **IN GENERAL.**—The Next Generation Corridor Equipment Pool Committee established under section 305 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24101 note) shall continue to implement its authorized functions, as appropriate, and shall maintain and update, as needed, the specifications created by the Committee.

(b) **EQUIPMENT POOLING ENTITY.**—Section 305 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24101 note), is amended by adding at the end the following:

“(f) **EQUIPMENT POOLING ENTITY.**—

“(1) **ESTABLISHMENT.**—Not later than 1 year after the date of enactment of the , the Committee shall create an equipment pooling entity that includes—

“(A) Amtrak;

“(B) States that purchase, with Federal funds, intercity passenger rail rolling stock and equipment that is built in accordance with the specifications created by the Next Generation Corridor Equipment Pool Committee; and

“(C) other States and entities, as appropriate.

“(2) **IN GENERAL.**—The equipment pooling entity—

“(A) may—

“(i) be a corporation or other cooperative entity; and

“(ii) be owned or jointly-owned by Amtrak, a participating State, or other entity; and

“(B) shall be authorized to—

“(i) lease or acquire intercity passenger rail rolling stock and equipment used in State-supported corridor services on routes that are not more than 750 miles between end points, including by entering into agreements for the funding, financing, procurement, remanufacture, ownership, and disposal of the intercity passenger rail rolling stock and equipment;

“(ii) maintain, manage, and allocate intercity passenger rail rolling stock and equipment for use in State-supported corridor services, including by charging appropriate amounts for the use (including depreciation and financing costs) of the intercity passenger rail rolling stock and equipment; and

“(iii) ensure adequate quantity and quality of appropriate intercity passenger rail rolling stock and equipment to support the State-supported corridor services' needs as identified in the national rail plan, regional rail plans, or State rail plans under chapter 227.

“(3) **TRANSFER OF EQUIPMENT.**—Amtrak, after consultation with the Secretary, may sell, lease, or otherwise transfer equipment currently owned or leased by Amtrak to the equipment pooling entity. The operation and utilization of any equipment transferred to

the equipment pooling entity shall be covered by section 24405(b).

“(4) **TRANSFER REQUIREMENT.**—A State shall sell, lease, or otherwise transfer equipment built in accordance with the specifications created by the Next Generation Corridor Equipment Pool Committee and purchased with Federal funds to the equipment pooling entity unless the Secretary exempts a State from this requirement.

“(g) **GRANT FUNDING.**—A capital project to carry out this section shall be eligible for grants under chapter 244. The equipment pooling entity shall be an eligible grant recipient under chapter 244.”.

#### **SEC. 36106. PROJECT MANAGEMENT OVERSIGHT AND PLANNING.**

Section 101(d) of the Passenger Rail Investment and Improvement Act of 2008 (122 Stat. 4908) is amended—

(1) by striking “½ of”; and

(2) by inserting “and joint capital planning” after “oversight”.

#### **SEC. 36107. IMPROVEMENTS TO THE CAPITAL ASSISTANCE PROGRAMS.**

(a) **AMENDMENTS TO CHAPTER 244.**—Chapter 244 is amended—

(1) in section 24401(1)—

(A) by striking “or” the first place it appears; and

(B) by striking “service.” and inserting “service, or Amtrak.”;

(2) by amending section 24402(b) to read as follows:

“(b) **PROJECT AS PART OF THE NATIONAL RAIL PLAN, REGIONAL RAIL PLANS, OR STATE RAIL PLANS.**—

“(1) **GRANT APPROVAL.**—The Secretary may not approve a grant for a project under this section unless the Secretary finds that—

“(A) the project is part of the national rail plan, a regional rail plan, or a State rail plan under chapter 227; or

“(B) the project is part of the capital spending plan under section 211 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24902 note); and

“(C) the applicant or recipient has or will have directly or through appropriate agreements with other entities, as approved by the Secretary—

“(i) the legal, financial, and technical capacity to carry out the project;

“(ii) satisfactory continuing control over the use of the equipment or facilities; and

“(iii) the capability and willingness to maintain the equipment or facilities.

“(2) **PROVISION OF INFORMATION.**—An applicant or recipient shall provide sufficient information for the Secretary to make the required findings under this subsection.

“(3) **JUSTIFICATION.**—An applicant or recipient, except for Amtrak, that did not select the proposed operator of its service competitively shall provide written justification to the Secretary substantiating—

“(A) why the proposed operator is the best, taking into account price and other factors; and

“(B) that the use of the proposed operator will not unnecessarily increase the cost of the project.”;

(3) in section 24402(c)—

(A) by amending paragraph (1)(A) to read as follows:

“(1) that the project be part of the national rail plan, a regional rail plan, or a State rail plan under chapter 227, or the capital spending plan under section 211 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24902 note);”;

(B) in paragraph (1)(D), by inserting “, except for Amtrak,” after “an applicant”; and

(C) by amending paragraph (1)(F) to read as follows:

“(F) that each project be compatible with and operate in conformance with plans developed pursuant to the requirements of section 135 of title 23, United States Code;”;

(D) in paragraph (2)(C), by striking “and”; and

(E) in paragraph (3)(B)(iii), by striking the period and inserting “; and”; and

(F) by adding at the end the following:

“(4) achieve the appropriate mix of projects selected for funding to ensure the advancement of the national rail plan, including both the development of new or expanded routes and services and the maintenance and improvement of the current rail system.”;

(4) by amending section 24402(d) to read as follows:

“(d) **STATE RAIL PLANS.**—State rail plans completed before the date of enactment of the Passenger Rail Investment and Improvement Act of 2008 (122 Stat. 4907) that substantially meet the requirements of chapter 227 as in effect on the day before the date of enactment of the , shall be deemed by the Secretary to have met the requirements of subsection (c)(1)(A) of this section.”;

(5) by amending section 24402(e) to read as follows:

“(e) **PROJECT TRANSFERS.**—The Secretary may permit a recipient under this section to enter into a cooperative agreement to transfer the grant and related responsibilities and requirements to Amtrak to expedite, enhance, or otherwise facilitate the completion of the project and any such transfer shall be subject to the requirements of this chapter.”;

(6) in the heading of section 24402(f), by striking “AND EARLY SYSTEMS WORK AGREEMENTS”;

(7) by amending section 24402(f)(1) to read as follows:

“(1) In implementing this section, the Secretary may issue a letter of intent to an applicant announcing an intention to obligate, for a major capital project under this section, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project.”;

(8) in section 24402(g) by—

(A) amending paragraph (1)(B) to read as follows:

“(B) A grant—

“(i) for a project designated as part of a priority corridor or service by the national rail plan and scheduled within the national rail plan to be implemented within a time frame consistent with the grant application shall not exceed 80 percent of the project net capital cost;

“(ii) for a project to implement a performance improvement plan under section 24710 shall not exceed 100 percent of the net project capital cost; and

“(iii) for any other project shall not exceed 50 percent of the net project capital cost.”;

and

(B) by adding at the end the following:

“(5) When Amtrak is an applicant under this chapter, it may use ticket and other revenues generated from its operations and other sources to satisfy the non-Federal share requirements under this subsection, except that Amtrak may not use Federal funds authorized under subsections (a) or (c) of section 101 of the Passenger Rail Investment and Improvement Act of 2008 (122 Stat. 4908).”;

(9) in section 24402(h), by striking “2” each place it appears and inserting “3”;

(10) in section 24402(i)(1), by striking “A metropolitan planning organization, State

transportation department, or other project sponsor" and inserting "An applicant";

(1) by amending section 24402(k) to read as follows:

"(k) **SMALL CAPITAL PROJECTS.**—The Secretary shall make not less than 5 percent annually available from the amounts appropriated under section 24406 beginning in fiscal year 2009 for grants for capital projects eligible under this section not exceeding \$10,000,000, including costs eligible under section 209(d) of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24101 note). For grants awarded under this subsection, the Secretary may waive one or more of the requirements of this section, including State rail plan requirements, or of section 24405(c)(1)(B), as appropriate.";

(2) by amending section 24403(b) to read as follows:

"(b) **SECRETARIAL OVERSIGHT AND PARTICIPATION.**—

"(1) The Secretary may use not more than 1 percent of amounts made available in a fiscal year for capital projects under this chapter to participate in the planning, management, and oversight of the development and implementation of any such projects.

"(2) The Secretary may use amounts available under paragraph (1) to directly undertake or make contracts for project planning and design participation or safety, procurement, management, and financial compliance reviews and audits of a recipient of grants awarded under this chapter.

"(3) The Federal Government shall pay the entire cost of carrying out a contract under this subsection.";

(13) in section 24405 by adding "or between Amtrak and the railroad" after "railroad" in subsection (c)(1).

(b) **CHAPTER 244 GRANT PROCEDURES.**—Not later than 180 days after the date of enactment of this Act, the Secretary of Transportation shall issue a final rule establishing grant procedures, as required by section 24402(a) of title 49, United States Code.

(c) **AMENDMENTS TO CHAPTER 261.**—Chapter 261 is amended—

(1) in section 26106—

(A) by amending subsection (a) to read as follows:

"(a) **IN GENERAL.**—The Secretary of Transportation shall establish and implement a high-speed rail corridor program consistent with the national rail plan, regional rail plans, and State rail plans required by chapter 227 of title 49, United States Code.";

(B) by amending subsection (b)(2) to read as follows:

"(2) **CORRIDOR.**—The term 'corridor' means—

"(A) a corridor designated by the Secretary pursuant to section 104(d)(2) of title 23; or

"(B) a corridor expected to achieve high-speed service pursuant to section 22701 of title 49.";

(C) in subsection (e)(2)(A)—

(i) in clause (ii), by inserting "directly or through appropriate agreements with other entities," after "have";

(ii) in clause (v), by inserting "except for Amtrak," after "applicant";

(iii) in clause (vi), by striking "and" and inserting a semicolon;

(iv) in clause (vii)(II), by striking "(if it is available)"; and

(v) by adding at the end the following:

"(viii) that the project and the high-speed rail services it supports are coordinated and integrated with existing and planned conventional intercity passenger rail services;

"(ix) that the Secretary, and Amtrak at the Secretary's request, are permitted to

participate in the planning, design, management, and delivery of the project, as necessary to ensure project success and promote interstate commerce; and

"(x) that the Federal government is accorded an appropriate participation, oversight, ownership, or control in the project commensurate with the level of Federal investment as determined by the Secretary.";

(D) in subsection (e)(4), by striking "pursuant to section 22506 of this title";

(d) **CONGESTION GRANTS.**—Section 24105 is amended—

(1) in subsection (a)—

(A) by striking "in cooperation with States" and "high priority rail corridor";

(B) by striking "congestion" and inserting "freight or commuter railroad congestion that impacts intercity passenger trains, enhance route performance, preserve service,";

(C) by striking the period and inserting "on routes defined under section 24102(5)(C).";

(2) in subsection (b)—

(A) by inserting "or the Federal Railroad Administration" after "Amtrak";

(B) by striking "congestion" and inserting "freight or commuter railroad congestion that impacts intercity passenger trains, enhance route performance, preserve service,";

(C) by striking "and" and inserting a period; and

(D) by striking paragraph (3);

(3) in subsection (c), by striking "80" and inserting "100"; and

(4) in subsection (d), by inserting "except that the Secretary may waive the requirements of section 24405(c)(1)(B), as appropriate, for grants totaling less than \$10,000,000" after "title".

(e) **ADDITIONAL HIGH-SPEED RAIL PROJECTS.**—The Passenger Rail Investment and Improvement Act of 2008 (122 Stat. 4907) is amended by striking section 502.

#### **SEC. 36108. LIABILITY.**

(a) **CLARIFICATION OF COMMUTER RAIL LIABILITY.**—Section 28103 is amended—

(1) in subsection (a)(2), by inserting "including commuter rail passengers," after "rail passengers,";

(2) by amending subsection (b) to read as follows:

"(b) **CONTRACTUAL OBLIGATIONS.**—A provider of rail passenger transportation may enter into contracts that allocate financial responsibility for claims. Such contracts shall be enforceable notwithstanding any other provision of law, common law, or public policy, or the nature of the conduct giving rise to the damages or liability.";

(3) in subsection (e)—

(A) by striking "and" at the end of paragraph (2);

(B) by striking the period at the end of paragraph (3) and inserting "and"; and

(C) by adding at the end the following:

"(4) the term 'rail passenger transportation' includes commuter rail transportation.";

(b) **STUDY.**—

(1) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall conduct a study regarding options for clarifying and improving passenger rail liability requirements and arrangements, including those related to environmental liability, necessary for supporting the continued development and improvement of the national passenger rail system and the furtherance of the national rail plan under chapter 227 of title 49, United States Code. The study shall consider—

(A) whether to expand statutory liability limits to third parties; and

(B) whether to revise the current statutory liability limits based on inflation or other methods to improve the certainty of liability coverage.

(2) **REPORT.**—Not later than 90 days after the date of completion of the study, the Secretary shall submit the results of the study and any associated recommendations to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

#### **SEC. 36109. DISADVANTAGED BUSINESS ENTERPRISES.**

(a) **DEFINITIONS.**—In this section:

(1) **SECRETARY.**—The term "Secretary" means the Secretary of Transportation.

(2) **SMALL BUSINESS CONCERN.**—The term "small business concern" has the meaning given the term in section 3 of the Small Business Act (15 U.S.C. 632), except the term does not include any concern or group of concerns that—

(A) are controlled by the same socially and economically disadvantaged individual or individuals; and

(B) have average annual gross receipts over the preceding 3 fiscal years in excess of \$22,410,000, as adjusted annually by the Secretary for inflation.

(3) **SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.**—

(A) **IN GENERAL.**—

(i) **SOCIALLY DISADVANTAGED INDIVIDUALS.**—The term "socially disadvantaged individuals" has the meaning given the term in section 8(a)(5) of the Small Business Act (15 U.S.C. 637(a)(5)), and relevant subcontracting regulations issued pursuant to that Act.

(ii) **ECONOMICALLY DISADVANTAGED INDIVIDUALS.**—The term "economically disadvantaged individuals" has the meaning given the term in section 8(a)(6) of the Small Business Act (15 U.S.C. 637(a)(6)), and relevant subcontracting regulations issued pursuant to that Act.

(B) **INCLUSIONS.**—For purposes of this section, women shall be presumed to be socially and economically disadvantaged individuals.

(b) **IN GENERAL.**—Except to the extent that the Secretary determines otherwise, not less than 10 percent of the amounts made available for any program under chapter 244, section 24105, or section 26106 of title 49, United States Code, shall be expended through a small business concern owned and controlled by 1 or more socially and economically disadvantaged individuals.

(c) **ANNUAL LISTING OF DISADVANTAGED SMALL BUSINESS CONCERNS.**—Each State shall annually—

(1) survey each small business concern in the State;

(2) compile a list of all of the small business concerns in the State, including the location of each small business concern in the State; and

(3) notify the Secretary, in writing, of the percentage of the small business concerns that—

(A) are controlled by women;

(B) are controlled by socially and economically disadvantaged individuals (except for women); and

(C) are controlled by individuals who are women and who are socially and economically disadvantaged individuals.

(d) **UNIFORM CERTIFICATION.**—The Secretary shall establish minimum uniform criteria for State governments to use in certifying whether a small business concern qualifies under this section. The minimum uniform criteria shall include—

(1) an on-site visit;  
 (2) a personal interview;  
 (3) a license;  
 (4) an analysis of stock ownership;  
 (5) an analysis of bonding capacity;  
 (6) the listing of equipment;  
 (7) the listing of work completed; and  
 (8) a resume of each principal owner, the financial capacity, and the type of work preferred.

(e) **REPORTING.**—The Secretary shall establish minimum requirements for State governments to use in reporting to the Secretary information concerning disadvantaged business enterprise awards, commitments, and achievements, and such other information as the Secretary determines appropriate for the proper monitoring of the disadvantaged business enterprise program.

(f) **COMPLIANCE WITH COURT ORDERS.**—Nothing in this section shall limit the eligibility of a person to receive funds made available under chapter 244, section 24105, or section 26106 of title 49, United States Code, if the person is prevented, in whole or in part, from complying with subsection (b) because a Federal court issues a final order in which the court finds that the requirement of subsection (b) or the program established under subsection (b) is unconstitutional.

#### **SEC. 36110. WORKFORCE DEVELOPMENT.**

Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall, in consultation with the States, local governments, Amtrak, freight railroad, and non-profit employee labor organizations—

(1) complete a study regarding workforce development needs in the passenger and freight rail industry, including what knowledge and skill gaps in planning, financing, engineering, and operating passenger and freight rail systems exist, to assist in creating programs to help improve the rail industry;

(2) make recommendations based on the results of the study; and

(3) report the findings and recommendations to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

#### **SEC. 36111. VETERANS EMPLOYMENT.**

Not later than 180 days after the date of enactment of this Act, the Secretary of Transportation shall—

(1) conduct a study to evaluate the best means for providing a preference to veterans in the awarding of contracts and subcontracts using amounts made available under chapter 244, and sections 24105 and 26104 of title 49, United States Code;

(2) make recommendations based on the results of the study; and

(3) report the findings and recommendations to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

#### **Subtitle B—Amtrak**

#### **SEC. 36201. STATE-SUPPORTED ROUTES.**

(a) **GRANT AVAILABILITY.**—In addition to the uses permitted under section 209(d) of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24101 note), a State may use funds provided under section 24406 of title 49, United States Code, to temporarily pay Amtrak some or all of the operating costs for services identified under section 24102(5)(D) of title 49, United States Code, determined under the methodology established

pursuant to section 209 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24101 note), that exceed—

(1) the operating costs (adjusted for inflation) that the State paid Amtrak for the same services in the year prior to the implementation of section 209 of that Act; or

(2) if the services were not fully State-supported in that year, the full cost the State would have paid Amtrak under the State-supported service costing methodology then in effect.

(b) **TRANSITION ASSISTANCE GUIDANCE.**—Not later than 180 days after the Surface Transportation Board determines the appropriate methodology pursuant to section 209 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24101 note), the Secretary shall develop a transition assistance guidance that includes—

(1) criteria for phasing-out the temporary operating assistance under this section not later than October 1, 2017;

(2) a grant application process that permits—

(A) States to apply for such funds individually or collectively; and

(B) Amtrak to be considered the grant recipient of such funds upon an agreement between a State or States and Amtrak; and

(3) policies governing financial terms, repayment conditions, and other terms of financial assistance.

(c) **ELIGIBILITY.**—To be eligible for Federal transition assistance, an intercity passenger rail service shall provide high-speed or intercity passenger rail revenue operation on routes that are subject to section 209 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24101 note).

(d) **FEDERAL SHARE.**—The Federal share of grants under this paragraph for eligible costs may be up to 100 percent of the total costs under subsection (a).

#### **SEC. 36202. NORTHEAST CORRIDOR INFRASTRUCTURE AND OPERATIONS ADVISORY COMMISSION.**

(a) **NORTHEAST CORRIDOR INFRASTRUCTURE AND OPERATIONS ADVISORY COMMISSION IMPROVEMENTS.**—Section 24905 is amended—

(1) by amending the section heading to read as follows:

**“SEC. 24905. NORTHEAST CORRIDOR INFRASTRUCTURE AND OPERATIONS ADVISORY COMMISSION IMPROVEMENTS.”;**

(2) by redesignating subsection (e) as subsection (g);

(3) by striking subsections (a), (b), (c), (d), and (f) and inserting before subsection (g), as redesignated, the following:

**“(a) NORTHEAST CORRIDOR INFRASTRUCTURE AND OPERATIONS ADVISORY COMMISSION.—**

**“(1) IN GENERAL.**—The Secretary of Transportation shall establish a Northeast Corridor Infrastructure and Operations Advisory Commission (referred to in this section as the ‘Commission’) to foster the creation and implementation of a unified, regional, long-term investment strategy for the Northeast Corridor and to promote mutual cooperation and planning pertaining to the capital investment, rail operations and related activities of the Northeast Corridor. The Commission shall be made up of—

**“(A) members representing Amtrak;**

**“(B) members representing the Department of Transportation, including the Federal Railroad Administration and the Office of the Secretary;**

**“(C) 1 member from each of the States (including the District of Columbia) that constitute the Northeast Corridor as defined in section 24102, designated by, and serving at the pleasure of, the chief executive officer thereof; and**

**“(D) non-voting representatives of freight railroad carriers using the Northeast Corridor selected by the Secretary.**

**“(2) MEMBERSHIP.**—The Secretary shall ensure that the membership belonging to any of the groups enumerated under paragraph (1) shall not constitute a majority of the Commission’s memberships.

**“(3) MEETINGS.**—The Commission shall—

**“(A) establish a schedule and location for convening meetings;**

**“(B) meet not less than 4 times per fiscal year; and**

**“(C) develop rules and procedures to govern the Commission’s proceedings.**

**“(4) VACANCIES.**—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

**“(5) TRAVEL EXPENSES.**—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5.

**“(6) CHAIRPERSON.**—The Chairperson of the Commission shall be elected by the members.

**“(7) PERSONNEL.**—The Commission may appoint and fix the pay of such personnel as the Commission considers appropriate.

**“(8) DETAILEES.**—Upon request of the Commission, the head of any department or agency of the United States may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this section.

**“(9) ADMINISTRATIVE SUPPORT.**—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.

**“(10) CONSULTATION WITH OTHER ENTITIES.**—The Commission shall consult with other entities as appropriate.

**“(b) STATEMENT OF GOALS AND RECOMMENDATIONS.—**

**“(1) STATEMENT OF GOALS.**—The Commission shall develop a statement of goals concerning the future of Northeast Corridor rail infrastructure and operations based on achieving expanded and improved intercity, commuter, and freight rail services operating with greater safety and reliability, reduced travel times, increased frequencies, and enhanced intermodal connections designed to address airport and highway congestion, reduce transportation energy consumption, improve air quality, and increase economic development of the Northeast Corridor region.

**“(2) RECOMMENDATIONS.**—The Commission shall develop recommendations based on the statement of goals developed under this section addressing, as appropriate—

**“(A) short-term and long-term capital investment needs beyond those specified in the state-of-good-repair plan under section 211 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24902 note);**

**“(B) future funding requirements for capital improvements and maintenance;**

**“(C) operational improvements of intercity passenger rail, commuter rail, and freight rail services;**

**“(D) opportunities for additional non-rail uses of the Northeast Corridor;**

**“(E) scheduling and dispatching;**

**“(F) safety and security enhancements;**

**“(G) equipment design;**

**“(H) marketing of rail services;**

**“(I) future capacity requirements; and**

“(J) potential funding and financing mechanisms for projects of corridor-wide significance.

“(C) NORTHEAST CORRIDOR HIGH SPEED AND INTERCITY SERVICE DEVELOPMENT PLAN.—

“(1) LONG-RANGE NORTHEAST CORRIDOR SERVICE DEVELOPMENT PLAN.—The Federal Railroad Administration, in coordination with the Commission, Amtrak, the States, and other corridor users, shall complete a long-range Northeast Corridor Service Development Plan not later than December 31, 2014.

“(2) COLLABORATION AND COOPERATION.—The parties comprising the Commission, acting separately and collectively, shall collaborate and cooperate to the maximum extent permitted by law in—

“(A) the preparation of the service development plan;

“(B) the programmatic environmental review process; and

“(C) the subsequent requirements required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), including the development of supporting documentation.

“(d) COMPREHENSIVE LONG-RANGE NORTHEAST CORRIDOR STRATEGY.—

“(1) IN GENERAL.—Not later than 1 year after completion of the service development plan under subsection (c), the Commission shall develop a comprehensive long-range strategy for the future high-speed, intercity, commuter, and freight rail utilization of the Northeast Corridor that considers—

“(A) the statement of goals developed under subsection (b)(1);

“(B) the recommendations developed under subsection (b)(2);

“(C) the economic development report under subsection (h);

“(D) the service development plan and related alternatives developed through the programmatic environmental review for the Northeast Corridor;

“(E) the capital and operating plans of all entities operating on the Northeast Corridor;

“(F) improvement programs and service initiatives planned by corridor owners and users;

“(G) relevant local, State, and Federal transportation plans; and

“(H) other plans, as appropriate.

“(2) STRATEGY COMPONENTS.—The comprehensive long-range strategy shall include—

“(A) a comprehensive program containing a description and the planned phasing of all Northeast Corridor improvement programs, investments, and other anticipated changes;

“(B) the impacts of the comprehensive program on:

“(i) highway and aviation congestion;

“(ii) economic development;

“(iii) job creation; and

“(iv) the environment;

“(C) the potential financing sources for the comprehensive program, including Federal, State, local, and private sector sources;

“(D) new institutional or other structures necessary to implement the comprehensive program;

“(E) the types of collaboration, participation, arrangements, and support between Amtrak and the Federal Government, the State and local governments in the Northeast Corridor, the commuter rail authorities and freight railroads that utilize the Northeast Corridor, the private sector, and others, as appropriate, that are necessary to achieve the comprehensive program; and

“(F) any regulatory or statutory changes necessary to efficiently advance the comprehensive program.

“(e) ACCESS COSTS.—

“(1) DEVELOPMENT OF STANDARDIZED FORMULA.—Not later than September 30, 2013, the Commission shall—

“(A) develop a standardized formula for determining and allocating costs, revenues, and compensation for Northeast Corridor commuter rail passenger transportation (as defined in section 24102) on the Northeast Corridor main line between Boston, Massachusetts, and Washington, District of Columbia, and the Northeast Corridor branch lines connecting to Harrisburg, Pennsylvania, Springfield, Massachusetts, and Spuyten Duyvil, New York, that use Amtrak facilities or services or that provide such facilities or services to Amtrak that ensures that—

“(i) there is no cross-subsidization of commuter rail passenger, intercity rail passenger, or freight rail transportation;

“(ii) each service is assigned the costs incurred only for the benefit of that service, and a proportionate share, based upon factors that reasonably reflect relative use, of costs incurred for the common benefit of more than 1 service; and

“(iii) all financial contributions made by an operator of a service that benefit an infrastructure owner other than the operator are considered, including any capital infrastructure investments and in-kind services;

“(B) develop a proposed timetable for implementing the formula not later than December 31, 2014;

“(C) transmit the proposed timetable to the Surface Transportation Board; and

“(D) at the request of a Commission member, petition the Surface Transportation Board to appoint a mediator to assist the Commission members through non-binding mediation to reach an agreement under this section.

“(2) IMPLEMENTATION.—Amtrak and public authorities providing commuter rail passenger transportation on the Northeast Corridor shall implement new agreements for usage of facilities or services based on the standardized formula under paragraph (1) in accordance with the timetable established therein. If the entities fail to implement the new agreements in accordance with the timetable, the Commission shall petition the Surface Transportation Board to determine the appropriate compensation amounts for such services under section 24904(c). The Surface Transportation Board shall enforce its determination on the party or parties involved.

“(3) REVISIONS.—The Commission may make necessary revisions to the standardized formula developed under paragraph (1), including revisions based on Amtrak's financial accounting system developed under section 203 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24101 note).

“(f) TRANSMISSION OF STATEMENT OF GOALS, RECOMMENDATIONS, AND PLANS.—The Commission shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

“(1) not later than 60 days after the date of enactment of the , the statement of goals under subsection (b);

“(2) annually beginning on December 31, 2012, the recommendations under subsection (b)(2) and the standardized formula and timetable under subsection (e)(1); and

“(3) the comprehensive long-range strategy under this section.”; and

(4) by inserting after subsection (g), as redesignated, the following

“(h) REPORT ON NORTHEAST CORRIDOR ECONOMIC DEVELOPMENT.—Not later than September 30, 2013, the Commission shall transmit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on the role of Amtrak's Northeast Corridor service between Washington, District of Columbia, and Boston, Massachusetts, in the economic development of the Northeast Corridor region. The report shall examine how to enhance the utilization of the Northeast Corridor for greater economic development, including—

“(1) improving real estate utilization;

“(2) improved intercity, commuter, and freight services; and

“(3) improving optimum utility utilization.

“(i) NORTHEAST CORRIDOR SAFETY COMMITTEE.—

“(1) IN GENERAL.—The Secretary shall establish a Northeast Corridor Safety Committee composed of members appointed by the Secretary. The members shall be representatives of—

“(A) the Department of Transportation, including the Federal Railroad Administration;

“(B) Amtrak;

“(C) freight carriers operating more than 150,000 train miles a year on the main line of the Northeast Corridor;

“(D) commuter rail agencies;

“(E) rail passengers;

“(F) rail labor; and

“(G) other individuals and organizations the Secretary decides have a significant interest in rail safety or security.

“(2) FUNCTION; MEETINGS.—The Secretary shall consult with the Committee about safety and security improvements on the Northeast Corridor main line. The Committee shall meet not less than 2 times per year to consider safety and security matters on the main line.

“(3) REPORT.—At the beginning of the first session of each Congress, the Secretary shall submit a report to the Commission and to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on the status of efforts to improve safety and security on the Northeast Corridor main line. The report shall include the safety and security recommendations of the Committee and the comments of the Secretary on those recommendations.”.

(b) CONFORMING AMENDMENT.—The table of contents for chapter 249 is amended by striking the item relating to section 24905 and inserting the following:

“24905. Northeast corridor infrastructure and operations advisory commission improvements.”.

#### SEC. 36203. NORTHEAST CORRIDOR HIGH-SPEED RAIL IMPROVEMENT PLAN.

(a) PLANS.—Not later than 180 days after the date of enactment of this Act, Amtrak shall—

(1) complete a refined vision for an integrated program of improvements on the Northeast Corridor that will result in, by 2040—

(A) the development and operation of a new high-speed rail system capable of high capacity, 200 mile-per-hour or greater operation between Washington, District of Columbia and Boston, Massachusetts;

(B) the completion of the improvements identified in the Northeast Corridor Infrastructure Master Plan published by Amtrak on May 19, 2010; and

(C) the continued operation of existing and currently planned intercity, commuter, and freight services utilizing the Northeast Corridor during the implementation of the program; and

(2) complete a business and financing plan to achieve the program under paragraph (1) that identifies the estimated—

(A) benefits and costs of the program, including ridership, revenues, capital and operating costs, and cash flow projections;

(B) implementation schedule, including the phasing of the program into achievable segments that maximize the benefits and support the ultimate completion of the program;

(C) potential financing sources for the program, including Federal, State, local, and private sector sources; and

(D) organization changes, new institutional or corporate arrangements, partnerships, procurement techniques, and other structures necessary to implement the program.

(b) **SUPPORT.**—The Secretary of Transportation shall provide appropriate support, assistance, oversight, and guidance to Amtrak during the preparation of the plans under subsection (a).

(c) **SUBMISSION.**—Amtrak shall submit the refined vision and an appropriate elements of the business and financing plan to the Federal Railroad Administration and the Northeast Corridor Infrastructure and Operations Advisory Commission for use in the development of the Northeast Corridor High Speed and Intercity Service Development Plan and the Comprehensive Long-Range Northeast Corridor Strategy.

(d) **HIGH-SPEED RAIL EQUIPMENT.**—The Secretary of Transportation shall not preclude the use of Federal funds made available to purchase rolling stock to purchase any equipment used for “high-speed rail” (as defined in section 26106(b)(4) of title 49, United States Code) that otherwise complies with all applicable Federal standards.

#### **SEC. 36204. NORTHEAST CORRIDOR ENVIRONMENTAL REVIEW PROCESS.**

(a) **NORTHEAST CORRIDOR.**—Not later than 90 days after the date of enactment of this Act, the Secretary shall complete a plan and a schedule for the completion of the programmatic environmental review for the Northeast Corridor. The schedule shall require the completion of the programmatic environmental review for the Northeast Corridor not later than 3 years after the date of enactment of this Act.

(b) **COORDINATION WITH THE NORTHEAST CORRIDOR INFRASTRUCTURE AND OPERATIONS ADVISORY COMMISSION.**—The Federal Railroad Administration shall closely coordinate the programmatic environmental review process with the Northeast Corridor Infrastructure and Operations Advisory Commission.

#### **SEC. 36205. DELEGATION AUTHORITY.**

(a) **DELEGATION OF AUTHORITY.**—In carrying out programmatic or project level environmental reviews for high speed and intercity passenger rail programs, projects, or services, the Secretary may delegate to Amtrak any or all of the Secretary’s authority and responsibility under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470f), section 4(f) of the Department of Transportation Act (80 Stat. 934), section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344), and section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536), and may provide to Amtrak any related funding pro-

vided to the Secretary for such purposes as the Secretary deems necessary if—

(1) Amtrak agrees in writing to assume the delegated authority and responsibility;

(2) Amtrak has or can obtain sufficient resources or the Secretary provides such resources to Amtrak to appropriately carry out such authority or responsibility; and

(3) delegating the authority and responsibility will improve the quality or timeliness of the environmental review.

#### **SEC. 36206. AMTRAK INSPECTOR GENERAL.**

(a) **IN GENERAL.**—Chapter 243 is amended by adding after section 24316 the following:

##### **“§ 24317. Inspector general**

“(a) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Office of the Inspector General of Amtrak the following amounts:

“(1) For fiscal year 2009, \$20,000,000.

“(2) For fiscal year 2010, \$21,000,000.

“(3) For fiscal year 2011, \$22,000,000.

“(4) For fiscal year 2012, \$22,000,000.

“(5) For fiscal year 2013, \$23,000,000.

“(b) **AUTHORITY.**—The Inspector General of Amtrak shall have all necessary authority, in carrying out the duties specified in the Inspector General Act of 1978 (5 U.S.C. App.), to investigate allegations of fraud, including false statements to the Government under section 1001 of title 18, by any person or entity that is an employee or contractor of Amtrak.

“(c) **SERVICES.**—The Inspector General of Amtrak may obtain services under sections 502(a) and 602 of title 40, from the Administrator of General Services. The Administrator of General Services may provide services under sections 502(a) and 602 of title 40, to the Inspector General.”.

(b) **MANAGEMENT ASSESSMENT.**—Section 24310 is amended to read as follows:

“(a) **IN GENERAL.**—Not later than 3 years after the date of enactment of the Passenger Rail Investment and Improvement Act of 2008 (122 Stat. 4907) and 2 years thereafter—

“(1) the Inspector General of the Department of Transportation shall complete an overall assessment of the progress made by the Department of Transportation in implementing the provisions of that Act; and

“(2) the Inspector General of Amtrak shall complete an overall assessment of the progress made by Amtrak management in implementing the provisions of the Passenger Rail Investment and Improvement Act of 2008 (122 Stat. 4907).

“(b) **ASSESSMENT.**—The management assessment by the Amtrak Inspector General may include a review of—

“(1) the effectiveness in improving annual financial planning;

“(2) the effectiveness in improving financial accounting;

“(3) Amtrak management’s efforts to implement minimum train performance standards;

“(4) Amtrak management’s progress toward maximizing revenues, minimizing Federal subsidies, and improving financial results; and

“(5) any other aspect of Amtrak operations that the Amtrak Inspector General finds appropriate.”.

(c) **INSPECTOR GENERAL POLICIES AND PROCEDURES.**—The Amtrak Inspector General and Amtrak shall—

(1) continue to follow the policies and procedures for interacting with one another in a manner that is consistent with the Inspector General Act of 1978 (5 U.S.C. App.), as approved by the Council of the Inspectors General on Integrity and Efficiency; and

(2) work toward establishing proper protocols and firewalls to maintain the Amtrak

Inspector General’s independence, as appropriate.

(d) **IMPROVEMENTS.**—The Amtrak Inspector General and Amtrak shall identify any funding needs and authority improvements necessary to effectuate the policies, procedures, protocols, and firewalls under subsection (c) and submit a report of the necessary funding and authority improvements as part of their annual budget requests.

(e) **TECHNICAL AMENDMENT.**—Section 101 of the Passenger Rail Investment and Improvement Act of 2008 (122 Stat. 4907), is amended by striking subsection (b) and inserting the following:

“(b) [Reserved].”.

(f) **CLERICAL AMENDMENT.**—The table of contents for chapter 243 is amended by adding at the end the following:

“24317. Inspector General.”.

#### **SEC. 36207. COMPENSATION FOR PRIVATE-SECTOR USE OF FEDERALLY-FUNDED ASSETS.**

If capital assets that are owned by a public entity or Amtrak built or improved with Federal funds authorized under subtitle V of title 49, United States Code, are made available for exclusive use by a for-profit entity, except for an entity owned or controlled by the Department of Transportation, for the purpose of providing intercity passenger rail service, the Secretary may require, as appropriate, that the for-profit entity provide adequate compensation, as determined by the Secretary, to the United States for the use of the capital assets in an amount that reflects the benefit of the Federal funding to the for-profit entity.

#### **SEC. 36208. ON-TIME PERFORMANCE.**

Where the on time performance of any intercity passenger train averages less than 80 percent for any 2 consecutive calendar quarters and the failure to meet such performance levels is solely the responsibility of the host railroad, Amtrak shall not pay the host railroad any incentive payments for on time performance of the subject intercity passenger train during such calendar quarters.

#### **SEC. 36209. BOARD OF DIRECTORS.**

Section 24302(a)(3) is amended by striking “5” the second place it appears and inserting “4”.

#### **Subtitle C—Rail Safety Improvements**

#### **SEC. 36301. POSITIVE TRAIN CONTROL.**

(a) **REVIEW AND APPROVAL.**—Section 20157(c) is amended to read as follows:

“(c) **REVIEW AND APPROVAL.**—

“(1) **REVIEW.**—Not later than 90 days after the Secretary receives a proposed plan, the Secretary shall review and approve or disapprove it. If a proposed plan is not approved, the Secretary shall notify the affected railroad carrier or other entity as to the specific deficiencies in the proposed plan. The railroad carrier or other entity shall correct the deficiencies not later than 30 days after receipt of the written notice.

“(2) **AMENDMENTS.**—The Secretary shall review any amendments to a plan in the time frame required by section (1).

“(3) **ANNUAL REVIEW.**—The Secretary shall conduct an annual review to ensure that each railroad carrier and entity is complying with its plan, including a railroad carrier or entity that elects to fully implement a positive train control system prior to the required deadline.”.

(b) **REPORT CRITERIA.**—Section 20157(d) is amended to read as follows:

“(d) **REPORT.**—Not later than June 30, 2012, the Secretary shall submit a report to the Committee on Commerce, Science, and

Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on the progress of the railroad carriers in implementing the positive train control systems, including—

“(1) the likelihood that each railroad will meet the December 31, 2015 deadline;

“(2) the obstacles to each railroad’s successful implementation, including the obstacles identified in the General Accountability Office’s report issued on December 15, 2010, and titled ‘Rail Safety: Federal Railroad Administration Should Report on Risks to Successful Implementation of Mandated Safety Technology’ (GAO-11-133); and

“(3) the actions that Congress, railroads, relevant Federal entities, and other stakeholders can take to mitigate obstacles to successful implementation.”.

(c) **EXTENSION AUTHORITY.**—Section 20157 is amended—

(1) by redesignating subsections (h) and (i) as subsections (i) and (j), respectively; and

(2) by inserting after subsection (g), the following:

“(h) **EXTENSION.**—

“(1) **IN GENERAL.**—After completing the report under subsection (d), the Secretary may extend in 1 year increments, upon application, the implementation deadline for an entity providing rail freight transportation or regularly scheduled intercity or commuter rail passenger transportation, if the Secretary determines that full implementation will likely be infeasible due to circumstances beyond the control of the entity, including funding availability, spectrum acquisition, and interoperability standards. The Secretary may not extend the deadline for implementation beyond December 31, 2018.

“(2) **APPLICATION REVIEW.**—The Secretary shall review an application submitted pursuant to paragraph (1) and approve or disapprove the application not later than 10 days after the application is received.”

(d) **APPLICABILITY.**—Section 20157 is amended by striking “transported;” in subsection (a)(1)(B) and inserting “transported on or after December 31, 2015;”.

**SEC. 36302. ADDITIONAL ELIGIBILITY FOR RAILROAD REHABILITATION AND IMPROVEMENT FINANCING.**

(a) **POSITIVE TRAIN CONTROL SYSTEMS.**—Section 502(b)(1) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(b)(1)), is amended—

(1) in subparagraph (B) by striking “or”;

(2) in subparagraph (C) by striking “facilities,” and inserting “facilities; or”;

(3) by adding at the end the following:

“(D) implement a positive train control system, as required by section 20157 of title 49, United States Code.”.

(b) **POSITIVE TRAIN CONTROL COLLATERAL.**—Section 502(h)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(h)(2)), is amended by adding at the end the following:

“For purposes of making a finding under subsection (g)(4) for a loan for positive train control, the total cost of the labor and materials associated with installing positive train control shall be deemed to be equal to the collateral value of that asset.”.

**SEC. 36303. FCC STUDY OF SPECTRUM AVAILABILITY.**

(a) **SPECTRUM NEEDS ASSESSMENT.**—Not later than 120 days after the date of enactment of this Act, the Secretary of Transportation and the Chairman of the Federal Communications Commission shall coordinate to assess spectrum needs and availability for implementing positive train control sys-

tems, as defined in section 20157 of title 49, United States Code. In conducting the spectrum needs assessment, the Secretary and the Chairman shall—

(1) evaluate the information provided in the Federal Communications Commission WT-11-79 proceeding;

(2) evaluate the positive train control implementations plans and any subsequent amendments or waivers to those plans provided to the Federal Railroad Administration; and

(3) evaluate individual railroad spectrum demand studies.

(b) **RECOMMENDATIONS.**—Not later than 90 days after the completion of the spectrum needs assessment under subsection (a), the Secretary and the Chairman shall submit a plan to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, for approximate resolution to any issues that may prevent railroad carriers or entities from complying with the December 31, 2015, positive train control implementation deadline.

**Subtitle D—Freight Rail**

**SEC. 36401. RAIL LINE RELOCATION.**

Section 20154 is amended—

(1) in subsection (b)—

(A) by striking “either”;

(B) by striking “or” at the end of paragraph (1);

(C) by striking the period at the end of paragraph (2) and inserting “; or”; and

(D) by adding at the end the following:

“(3) involves a lateral or vertical relocation of any portion of a road.”;

(2) in subsection (e)(1), by striking “10” and inserting “20”; and

(3) in subsection (h)(3), by inserting “a public agency,” after “of a State.”.

**SEC. 36402. COMPILATION OF COMPLAINTS.**

(a) **IN GENERAL.**—Section 704 is amended—

(1) by striking the section heading and inserting the following:

“**§ 704. Reports;**”

(2) by inserting “(a) **ANNUAL REPORT.**—” before “The Board”; and

(3) by adding at the end the following:

“(b) **COMPLAINTS.**—

“(1) **IN GENERAL.**—The Board shall establish and maintain a database of complaints received by the Board.

“(2) **QUARTERLY REPORT.**—The Board shall post a quarterly report of formal and informal service complaints received by the Board during the previous quarter that includes—

“(A) a list of the type of each complaint;

“(B) the geographic region of the complaint; and

“(C) the resolution of the complaint, if appropriate.

“(3) **WRITTEN CONSENT.**—The quarterly report may identify a complainant that submitted an informal complaint only upon the written consent of the complainant.

“(4) **WEBSITE POSTING.**—The report shall be posted on the Board’s public website.”.

(b) **CONFORMING AMENDMENT.**—The table of contents for chapter 7 is amended by striking the item relating to section 704 and inserting the following:

“704. Reports.”.

**SEC. 36403. MAXIMUM RELIEF IN CERTAIN RATE CASES.**

(a) **IN GENERAL.**—The Surface Transportation Board shall revise the maximum amount of rate relief available to railroad shippers in cases brought pursuant to the method developed under section 10701(d)(3) of

title 49, United States Code, as that section existed as of the date of enactment of this Act, to be as follows:

(1) \$1,500,000 in a rate case brought using the Surface Transportation Board’s “three-benchmark” procedure.

(2) \$10,000,000 in a rate case brought using the Surface Transportation Board’s “simplified stand-alone cost” procedure.

(b) **PERIODIC REVIEW.**—The Board shall periodically review the amounts established by subsection (a) and revise the amounts, as appropriate.

**SEC. 36404. RATE REVIEW TIMELINES.**

In stand-alone cost rate challenges, the Surface Transportation Board shall comply with the following timelines unless it extends them, after a request from any party or in the interest of due process:

(1) For discovery, 150 days after the date on which the challenge is initiated.

(2) For development of the evidentiary record, 155 days after that date.

(3) For submission of parties’ closing briefs, 60 days after that date.

(4) For a final Board decision, 180 days after the date on which the parties submit closing briefs.

**SEC. 36405. REVENUE ADEQUACY STUDY.**

(a) **REVENUE ADEQUACY STUDY.**—

(1) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the Surface Transportation Board shall initiate a study to provide further guidance on how it will apply its revenue adequacy constraint.

(2) **CONSIDERATIONS.**—In conducting the study, the Surface Transportation Board shall consider whether to apply the revenue adequacy constrain using replacement costs to value the assets of rail facilities and equipment.

(b) **PUBLIC NOTICE.**—In conducting the study under subsection (a), the Surface Transportation Board shall—

(1) provide public notice;

(2) an opportunity for comment; and

(3) conduct 1 or more public hearings.

(c) **REPORT.**—Not later than 60 days after the study under subsection (a) is complete, the Surface Transportation Board shall submit the findings of the study to the Commerce, Science, and Transportation Committee of the Senate and the Transportation and Infrastructure Committee of the House of Representatives.

**SEC. 36406. QUARTERLY REPORTS.**

Not later than 60 days after the date of enactment of this Act, the Surface Transportation Board shall provide quarterly reports to the Commerce, Science, and Transportation Committee of the Senate and the Transportation and Infrastructure Committee of the House of Representatives on the Surface Transportation Board’s progress toward addressing issues raised in unfinished regulatory proceedings, regardless of whether a proceeding is subject to a statutory or regulatory deadline.

**SEC. 36407. WORKFORCE REVIEW.**

(a) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the Chairman of the Surface Transportation Board, in consultation with the Director of the Office of Personnel Management, shall conduct a review of the Surface Transportation Board workforce to assist in the development of a comprehensive, long-term human capital improvement plan.

(b) **PLAN.**—Not later than 180 days after the review under subsection (a) is complete, the Chairman shall develop a comprehensive, long-term human capital improvement plan



for Surface Transportation Board personnel to identify—

(1) the optimal workforce size of the Surface Transportation Board to address its current and future program needs;

(2) the hiring, training, managing, and compensation needs to recruit and retain qualified personnel, including experts to assess long-standing and emerging railroad industry trends;

(3) the means for improving the current organizational structure and workforce to most efficiently execute the Surface Transportation Board's mission; and

(4) any recommendations for potential coordination with colleges, universities, or other non-profit organizations for training programs to support workforce development.

(c) **REPORT.**—The Chairman shall submit the plan to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

#### **SEC. 36408. RAILROAD REHABILITATION AND IMPROVEMENT FINANCING.**

(a) **CONDITIONS OF ASSISTANCE.**—Section 502(h)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(h)(2)), as amended by section 36302 of this Act, is amended by adding at the end the following:

“The Secretary shall accept, for the purpose of making a finding with regard to adequate collateral for a public entity, the net present value on a future stream of State or local subsidy income or a dedicated revenue as collateral offered to secure a loan.”.

(b) **ELIGIBLE PURPOSES.**—Section 502(b)(1) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(b)(1)), as amended by section 36302 of this Act, is further amended—

(1) by striking “or” at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting “; or”; and

(3) by adding at the end the following:

“(E) conduct preliminary engineering, environmental review, permitting, or other pre-construction activities.”.

(c) **STUDY.**—The Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives detailing recommendations for improving the Railroad Rehabilitation and Improvement Financing program administration, including timely processing of applications, expansion of eligibilities, and other issues that impede passenger and rail carriers from utilizing the program.

#### **Subtitle E—Technical Corrections**

#### **SEC. 36501. TECHNICAL CORRECTIONS.**

(a) **RAIL SAFETY IMPROVEMENT ACT OF 2008.**—

(1) The table of contents in section 1(b) of the Rail Safety Improvement Act of 2008 (122 Stat. 4848) is amended—

(A) by striking the item relating to section 201 and inserting the following:

“Sec. 201. Pedestrian safety at or near railroad passenger stations.”; and

(B) by striking the item relating to section 403 and inserting the following:

“Sec. 403. Study and rulemaking on track inspection time; rulemaking on concrete crossties.”.

(2) Section 2(a)(1) of the Rail Safety Improvement Act of 2008 (49 U.S.C. 20102 note), is amended by inserting a comma after “railroad tracks at grade”.

(3) Section 102(a) of the Rail Safety Improvement Act of 2008 (49 U.S.C. 20101 note), is amended—

(A) by striking “, at a minimum,”;

(B) in paragraph (1), by inserting a comma after “railroads”; and

(C) by amending paragraph (6) to read as follows:

“(6) Improving the safety of railroad bridges, tunnels, and related infrastructure to prevent accidents, incidents, injuries, and fatalities caused by catastrophic and other failures of such infrastructure.”.

(4) Section 108(f)(1) of the Rail Safety Improvement Act of 2008 (49 U.S.C. 21101 note), is amended by striking “requirements for recordkeeping and reporting for Hours of Service of Railroad Employees” and inserting “requirements for record keeping and reporting for hours of service of railroad employees”.

(5) Section 201 of the Rail Safety Improvement Act of 2008 (49 U.S.C. 20134 note), is amended—

(A) in the section heading, by striking “pedestrian crossing safety,” and inserting “pedestrian safety at or near railroad passenger stations.”;

(B) by striking “strategies and methods to prevent pedestrian accidents, incidents, injuries, and fatalities at or near passenger stations, including” and inserting “strategies and methods to prevent train-related accidents, incidents, injuries, and fatalities that involve a pedestrian at or near a railroad passenger station, including”; and

(C) in paragraph (1) by striking “at railroad passenger stations”.

(6) Section 206(a) of the Rail Safety Improvement Act of 2008 (49 U.S.C. 22501 note), is amended by striking “Public Service Announcements” and inserting “public service announcements”.

(7) Section 403 of the Rail Safety Improvement Act of 2008 (49 U.S.C. 20142 note), is amended—

(A) in the section heading, by striking “track inspection time study,” and inserting “study and rulemaking on track inspection time; rulemaking on concrete crossties.”; and

(B) in subsection (d)—

(i) by striking “CROSS TIES” in the subsection heading and inserting “CROSSTIES”;

(ii) by striking “cross ties” and inserting “crossties”; and

(iii) in paragraph (2), by striking “cross tie” and inserting “crosstie”.

(8) Section 405 of the Rail Safety Improvement Act of 2008 (49 U.S.C. 20103 note), is amended—

(A) in subsection (a), by striking “cell phones” and inserting “cellular telephones”; and

(B) in subsection (d)—

(i) by striking “of Transportation”; and

(ii) by striking “cell phones” and inserting “cellular telephones”.

(9) Section 411(a) of the Rail Safety Improvement Act of 2008 (49 U.S.C. 5103 note), is amended—

(A) by striking “5101(a)” and inserting “5105(a)”;

(B) by striking “5101(b)” and inserting “5105(b)”.

(10) Section 412 of the Rail Safety Improvement Act of 2008 (49 U.S.C. 20140 note), is amended by striking “of Transportation”.

(11) Section 414(2) of the Rail Safety Improvement Act of 2008 (49 U.S.C. 20103 note), is amended—

(A) by striking “parts” and inserting “sections”; and

(B) by striking “part” and inserting “section”.

(12) Section 416 of the Rail Safety Improvement Act of 2008 (49 U.S.C. 20107 note), is amended—

(A) by striking “of Transportation”;

(B) in paragraphs (3) and (4), by striking “Federal Railroad Administration” and inserting “Secretary”; and

(C) in paragraph (4), by striking “subsection” and inserting “section”.

(13) Section 417(c) of the Rail Safety Improvement Act of 2008 (49 U.S.C. 20103 note), is amended by striking “each railroad” and inserting “each railroad carrier”.

(14) Section 503 of the Rail Safety Improvement Act of 2008 (49 U.S.C. 1139 note), is amended—

(A) in subsection (a), by striking “rail accidents” and inserting “rail passenger accidents”;

(B) in subsection (b)—

(i) by striking “passenger rail accidents” and inserting “rail passenger accidents”; and

(ii) by striking “passenger rail accident” each place it appears and inserting “rail passenger accidents”; and

(C) by adding at the end the following:

“(d) **DEFINITIONS.**—In this section, the terms ‘passenger’, ‘rail passenger accident’, and ‘rail passenger carrier’ have the meanings given the terms in section 1139 of title 49, United States Code.”

“(e) **FUNDING.**—Out of the funds appropriated pursuant to section 20117(a)(1)(A) of title 49, United States Code, there shall be made available to the Secretary of Transportation \$500,000 for fiscal year 2009 to carry out this section. Amounts made available pursuant to this subsection shall remain available until expended.”.

(b) **PASSENGER RAIL INVESTMENT AND IMPROVEMENT ACT OF 2008.**—

(1) Section 206(a) of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24101 note), is amended by inserting “of this division” after “302”.

(2) Section 211 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24902 note), is amended—

(A) in subsection (d), by inserting “of this division” after “101(c)”;

(B) in subsection (e), by inserting “of this division” after “101(d)”.

(c) **TITLE 49 OF THE UNITED STATES CODE.**—

(1) Section 1139 is amended—

(A) in subsection (a)(1), by striking “phone number” and inserting “telephone number”;

(B) in subsection (a)(2), by striking “post trauma” and inserting “post-trauma”;

(C) in subsections (h)(1)(A) and (h)(2)(A)—

(i) by striking “interstate”; and

(ii) by striking “such term is”;

(D) in subsection (g)(1), by striking “board” in the heading and inserting “BOARD”;

(E) in subsections (h)(1)(B) and (h)(2)(B)—

(i) by striking “interstate or intrastate”; and

(ii) by striking “such term is”;

(F) in subsection (j)(1)—

(i) by striking “(other than subsection (g))” and inserting “(except for subsections (g) and (k))”; and

(ii) by striking “railroad passenger accident” and inserting “rail passenger accident”;

(G) in subsection (j)(2), by striking “railroad passenger accident” and inserting “rail passenger accident”.

(2) Section 10909(b) is amended—

(A) by striking “Railroad” and inserting “Railroads”; and

(B) in paragraph (2), by inserting a comma after “comment”.

(3) Section 20109 is amended—

(A) in subsection (c)(1), by striking “the railroad shall promptly arrange” and inserting “the railroad carrier shall promptly arrange”;

(B) in subsection (d)(2)(A)(i), by striking “(d)” and inserting “paragraph” after “under”;

(C) in subsection (d)(2)(A)(iii), by inserting “section” after “set forth in”; and

(D) in subsection (d)(4)(i), by striking “must” and inserting “shall”.

(4) Section 20120(a) is amended—

(A) by striking “(a) IN GENERAL” and inserting “Not”;

(B) in paragraph (2)(G), by inserting “and” after the semicolon;

(C) in paragraph (4), by striking “provide” and inserting “provides”;

(D) in paragraph (5)(B), by striking “Administrative Hearing Officer or Administrative Law Judge” and inserting “administrative hearing officer or administrative law judge”; and

(E) in paragraph (7), by striking “its” and inserting “the Secretary’s or the Federal Railroad Administrator’s”.

(5) Section 20151(d)(1) is amended by striking “to drive around a grade crossing gate” and inserting “to drive through, around, or under a grade crossing gate”.

(6) Section 20152(b) is amended by striking “rail carriers” and inserting “railroad carriers”.

(7) Section 20156 is amended—

(A) in subsection (c), by inserting a comma after “In developing its railroad safety risk reduction program”; and

(B) in subsection (g)(1), by striking “nonprofit” and inserting “nonprofit”.

(8) Section 20157(a)(1) is amended—

(A) by striking “Class I railroad carrier” and inserting “Class I railroad”; and

(B) by striking “parts” and inserting “sections”.

(9) Section 20158(b)(3) is amended by striking “20156(e)(2)” and inserting “20156(e)”.

(10) Section 20159 is amended by inserting “of Transportation” after “the Secretary”.

(11) Section 20160 is amended—

(A) in subsection (a)(1), by striking “or with respect to” and inserting “with respect to”;

(B) in subsection (b)(1), by striking “On a periodic basis beginning not” and inserting “Not”; and

(C) in subsection (b)(1)(A), by striking “or with respect to” and inserting “with respect to”.

(12) Section 20162(a)(3) is amended by striking “railroad compliance with Federal standards” and inserting “railroad carrier compliance with Federal standards”.

(13) Section 20164(a) is amended by striking “Railroad Safety Enhancement Act of 2008” and inserting “Rail Safety Improvement Act of 2008”.

(14) Section 21102(c)(4) is amended by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(15) Section 22106(b) is amended by striking “interest thereof” and inserting “interest thereon”.

(16) Section 24101(b) is amended by striking “subsection (d)” and inserting “subsection (c)”.

(17) Section 24316 is amended by striking subsection (g).

(18) The item relating to section 24316 in the table of contents for chapter 243 is amended by striking “assist” and inserting “address needs of”.

(19) Section 24702(a) is amended by striking “not included in the national rail passenger transportation system”.

(20) Section 24706 is amended—

(A) in subsection (a)(1), by striking “a discontinuance under section 24704 or or”;

(B) in subsection (a)(2), by striking “section 24704 or or”; and

(C) in subsection (b), by striking “section 24704 or or”.

(21) Section 24709 is amended by striking “The Secretary of the Treasury and the Attorney General,” and inserting “The Secretary of Homeland Security.”.

#### SEC. 36502. CONDEMNATION AUTHORITY.

Section 24311(c) is amended—

(1) in paragraph (1), by striking “Interstate Commerce Commission” and inserting “Surface Transportation Board”;

(2) in paragraph (2), by striking “Commission’s” and inserting “Board’s”; and

(3) by striking “Commission” each place it appears and inserting “Board”.

#### Subtitle F—Licensing and Insurance Requirements for Passenger Rail Carriers

##### SEC. 36601. CERTIFICATION OF PASSENGER RAIL CARRIERS.

(a) Section 10901 is amended by adding at the end the following:

“(e) Not later than 2 years after the date of enactment of the National Rail System Preservation, Expansion, and Development Act of 2012, the Board shall establish a certification process to authorize a person to provide passenger rail transportation over a railroad line that is subject to the jurisdiction of the Board, except that such certification shall not be required for or apply to a freight railroad providing or hosting passenger rail transportation over its own railroad line.

“(f) After the certification process is established under subsection (e), no person may provide passenger rail transportation over a railroad line subject to the jurisdiction of the Board unless the person is granted a certificate under subsection (e).

“(g) The certification process under subsection (e) shall—

“(1) permit a person to initiate a proceeding for a certificate by filing an application with the Board; and

“(2) require the Board to provide reasonable public notice that a proceeding was initiated, including notice to the Governor of any affected State, not later than 30 days after receipt of the application under paragraph (1).

“(h) The Board may grant a certificate under subsection (e) if the Board determines after consultation with the Secretary of Transportation or the Secretary of Homeland Security, as appropriate, that the applicant—

“(1) has or will have in effect a voluntary agreement with the infrastructure owner over which the passenger rail transportation will be provided or contractual or statutory authority that provides for access to such infrastructure;

“(2) demonstrates sufficient financial capacity and operating experience to provide passenger rail transportation;

“(3) meets all applicable safety and security requirements under the law;

“(4) maintains a total minimum liability coverage for claims through insurance and self-insurance of not less than the amount required by section 28103(a)(2) per accident or incident; and

“(5) complies with any additional requirements the Board determines are appropriate, including reporting requirements to ensure continued compliance with this section.

“(i) A certificate granted under subsection (e) shall specify the person to provide or authorized to provide passenger rail transportation, if different from the applicant.

“(j) The Board may promulgate regulations—

“(1) for determining the adequacy of liability insurance coverage, including self-insurance; and

“(2) for suspending or canceling a certificate if the person to provide or authorized to provide passenger rail transportation fails to comply with subsection (h).

“(k) This section shall not apply to tourist, historical, or excursion passenger rail transportation or other rail carrier that has already obtained construction or operating authority from the Board.”.

(b) Section 24301(c) is amended by adding “10901(e),” after “sections” in the first sentence.

(c) Section 10501(c)(3)(A) is amended—

(1) in clause (ii), by striking “and”;

(2) in clause (iii), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(iv) section 10901(e).”.

(d) Section 14901 is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively;

(2) by inserting after subsection (e) the following:

“(f) CERTIFICATION REQUIRED.—A person shall be subject to a penalty of \$300 for each passenger transported if the person—

“(1) provides passenger rail transportation subject to jurisdiction under section 10501(a); and

“(2) does not hold a certificate required under section 10901(e).”; and

(3) in subsection (g), as redesignated, by striking “through (e)” and inserting “through (f)”.

(e) Section 10502(g) is amended to read as follows:

“(g) The Board may not exercise its authority under this section to relieve a rail carrier of its obligation to protect the interests of employees as required by this part, or of the requirements of section 10901(g).”.

#### TITLE VII—SPORT FISH RESTORATION AND RECREATIONAL BOATING SAFETY ACT OF 2012

##### SEC. 37001. SHORT TITLE.

This title may be cited as the “Sport Fish Restoration and Recreational Boating Safety Act of 2012”.

##### SEC. 37002. AMENDMENT OF FEDERAL AID IN SPORT FISH RESTORATION ACT.

Section 4 of the Federal Aid in Fish Restoration Act (16 U.S.C. 777c) is amended—

(1) in subsection (a), by striking “of fiscal years 2006 through 2011 and for the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “fiscal year through 2013.”; and

(2) in subsection (b)(1)(A), by striking “of fiscal years 2006 through 2011 and for the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “fiscal year through 2013.”.

#### DIVISION D—FINANCE

##### SEC. 40001. SHORT TITLE.

This division may be cited as the “Highway Investment, Job Creation, and Economic Growth Act of 2012”.

#### TITLE I—EXTENSION OF HIGHWAY TRUST FUND EXPENDITURE AUTHORITY AND RELATED TAXES

##### SEC. 40101. EXTENSION OF TRUST FUND EXPENDITURE AUTHORITY.

(a) HIGHWAY TRUST FUND.—Section 9503 of the Internal Revenue Code of 1986 is amended—

(1) by striking “April 1, 2012” in subsections (b)(6)(B), (c)(1), and (e)(3) and inserting “October 1, 2013”; and

(2) by striking “Surface Transportation Extension Act of 2011, Part II” in subsections (c)(1) and (e)(3) and inserting “Moving Ahead for Progress in the 21st Century Act”.

(b) SPORT FISH RESTORATION AND BOATING TRUST FUND.—Section 9504 of the Internal Revenue Code of 1986 is amended—

(1) by striking “Surface Transportation Extension Act of 2011, Part II” each place it appears in subsection (b)(2) and inserting “Moving Ahead for Progress in the 21st Century Act”; and

(2) by striking “April 1, 2012” in subsection (d)(2) and inserting “October 1, 2013”.

(c) LEAKING UNDERGROUND STORAGE TANK TRUST FUND.—Paragraph (2) of section 9508(e) of the Internal Revenue Code of 1986 is amended by striking “April 1, 2012” and inserting “October 1, 2013”.

(d) ESTABLISHMENT OF SOLVENCY ACCOUNT.—Section 9503 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(g) ESTABLISHMENT OF SOLVENCY ACCOUNT.—

“(1) CREATION OF ACCOUNT.—There is established in the Highway Trust Fund a separate account to be known as the ‘Solvency Account’ consisting of such amounts as may be transferred or credited to the Solvency Account as provided in this section or section 9602(b).

“(2) TRANSFERS TO SOLVENCY ACCOUNT.—The Secretary of the Treasury shall transfer to the Solvency Account the excess of—

“(A) any amount appropriated to the Highway Trust Fund before October 1, 2013, by reason of the provisions of, and amendments made by, the Highway Investment, Job Creation, and Economic Growth Act of 2012, over

“(B) the amount necessary to meet the required expenditures from the Highway Trust Fund under subsection (c) for the period ending before October 1, 2013.

“(3) EXPENDITURES FROM ACCOUNT.—Amounts in the Solvency Account shall be available for transfers to the Highway Account (as defined in subsection (e)(5)(B)) and the Mass Transit Account in such amounts as determined necessary by the Secretary to ensure that each account has a surplus balance of \$2,800,000,000 on September 30, 2013.

“(4) TERMINATION OF ACCOUNT.—The Solvency Account shall terminate on September 30, 2013, and the Secretary shall transfer any remaining balance in the Account on such date to the Highway Trust Fund.”.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 2012.

#### SEC. 40102. EXTENSION OF HIGHWAY-RELATED TAXES.

(a) IN GENERAL.—

(1) Each of the following provisions of the Internal Revenue Code of 1986 is amended by striking “March 31, 2012” and inserting “September 30, 2015”:

(A) Section 4041(a)(1)(C)(iii)(I).

(B) Section 4041(m)(1)(B).

(C) Section 4081(d)(1).

(2) Each of the following provisions of such Code is amended by striking “April 1, 2012” and inserting “October 1, 2015”:

(A) Section 4041(m)(1)(A).

(B) Section 4051(c).

(C) Section 4071(d).

(D) Section 4081(d)(3).

(b) EXTENSION OF TAX, ETC., ON USE OF CERTAIN HEAVY VEHICLES.—Each of the following provisions of the Internal Revenue Code of 1986 is amended by striking “2012” and inserting “2015”:

(1) Section 4481(f).

(2) Subsections (c)(4) and (d) of section 4482.

(c) FLOOR STOCKS REFUNDS.—Section 6412(a)(1) of the Internal Revenue Code of 1986 is amended—

(1) by striking “April 1, 2012” each place it appears and inserting “October 1, 2015”;

(2) by striking “September 30, 2012” each place it appears and inserting “March 31, 2016”; and

(3) by striking “July 1, 2012” and inserting “January 1, 2016”.

(d) EXTENSION OF CERTAIN EXEMPTIONS.—Sections 4221(a) and 4483(i) of the Internal Revenue Code of 1986 are each amended by striking “April 1, 2012” and inserting “October 1, 2015”.

(e) EXTENSION OF TRANSFERS OF CERTAIN TAXES.—

(1) IN GENERAL.—Section 9503 of the Internal Revenue Code of 1986 is amended—

(A) in subsection (b)—

(i) by striking “April 1, 2012” each place it appears in paragraphs (1) and (2) and inserting “October 1, 2015”;

(ii) by striking “APRIL 1, 2012” in the heading of paragraph (2) and inserting “OCTOBER 1, 2015”;

(iii) by striking “March 31, 2012” in paragraph (2) and inserting “September 30, 2015”; and

(iv) by striking “January 1, 2013” in paragraph (2) and inserting “July 1, 2016”; and

(B) in subsection (c)(2), by striking “January 1, 2013” and inserting “July 1, 2016”.

(2) MOTORBOAT AND SMALL-ENGINE FUEL TAX TRANSFERS.—

(A) IN GENERAL.—Paragraphs (3)(A)(i) and (4)(A) of section 9503(c) of such Code are each amended by striking “April 1, 2012” and inserting “October 1, 2015”.

(B) CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.—Section 201(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–11(b)) is amended—

(i) by striking “April 1, 2013” each place it appears and inserting “October 1, 2016”; and

(ii) by striking “April 1, 2012” and inserting “October 1, 2015”.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 2012.

#### TITLE II—OTHER PROVISIONS

#### SEC. 40201. TEMPORARY INCREASE IN SMALL ISSUER EXCEPTION TO TAX-EXEMPT INTEREST EXPENSE ALLOCATION RULES FOR FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—Subparagraph (G) of section 265(b)(3) of the Internal Revenue Code of 1986 is amended—

(1) by striking “2009 or 2010” in clause (i) and inserting “2009, 2010, or 2012”;

(2) by striking “2009 or 2010” each place it appears in clauses (ii) and (iii) and inserting “2009, 2010, or the period beginning after the date of the enactment of the Highway Investment, Job Creation, and Economic Growth Act of 2012 and before January 1, 2013”; and

(3) by striking “2009 AND 2010” in the heading and inserting “2009, 2010, AND 2012”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

#### SEC. 40202. TEMPORARY MODIFICATION OF ALTERNATIVE MINIMUM TAX LIMITATIONS ON TAX-EXEMPT BONDS.

(a) INTEREST ON PRIVATE ACTIVITY BONDS NOT TREATED AS TAX PREFERENCE ITEMS.—Clause (vi) of section 57(a)(5)(C) of the Internal Revenue Code of 1986 is amended—

(1) in subclause (I) by inserting “, or after the date of enactment of the Highway Investment, Job Creation, and Economic

Growth Act of 2012 and before January 1, 2013” after “January 1, 2011”;

(2) in subclause (III) by inserting “before January 1, 2011” after “which is issued”; and

(3) by striking “AND 2010” in the heading and inserting “, 2010, AND PORTIONS OF 2012”.

(b) NO ADJUSTMENT TO ADJUSTED CURRENT EARNINGS.—Clause (iv) of section 56(g)(4)(B) of the Internal Revenue Code of 1986 is amended—

(1) in subclause (I) by inserting “, or after the date of enactment of the Highway Investment, Job Creation, and Economic Growth Act of 2012 and before January 1, 2013” after “January 1, 2011”;

(2) in subclause (III) by inserting “before January 1, 2011” after “which is issued”; and

(3) by striking “AND 2010” in the heading and inserting “, 2010, AND PORTIONS OF 2012”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of enactment of this Act.

#### SEC. 40203. ISSUANCE OF TRIP BONDS BY STATE INFRASTRUCTURE BANKS.

Section 610(d) of title 23, United States Code, is amended—

(1) by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively,

(2) by inserting after paragraph (3) the following new paragraph:

“(4) TRIP BOND ACCOUNT.—

“(A) IN GENERAL.—A State, through a State infrastructure bank, may issue TRIP bonds and deposit proceeds from such issuance into the TRIP bond account of the bank.

“(B) TRIP BOND.—For purposes of this section, the term ‘TRIP bond’ means any bond issued as part of an issue if—

“(i) 100 percent of the available project proceeds of such issue are to be used for expenditures incurred after the date of the enactment of this paragraph for 1 or more qualified projects pursuant to an allocation of such proceeds to such project or projects by a State infrastructure bank,

“(ii) the bond is issued by a State infrastructure bank and is in registered form (within the meaning of section 149(a) of the Internal Revenue Code of 1986),

“(iii) the State infrastructure bank designates such bond for purposes of this section, and

“(iv) the term of each bond which is part of such issue does not exceed 30 years.

“(C) QUALIFIED PROJECT.—For purposes of this subparagraph, the term ‘qualified project’ means the capital improvements to any transportation infrastructure project of any governmental unit or other person, including roads, bridges, rail and transit systems, ports, and inland waterways proposed and approved by a State infrastructure bank, but does not include costs of operations or maintenance with respect to such project.”.

(3) by adding at the end of paragraph (5), as redesignated by paragraph (1), the following new subparagraph:

“(D) TRIP BOND ACCOUNT.—Funds deposited into the TRIP bond account shall constitute for purposes of this section a capitalization grant for the TRIP bond account of the bank.”, and

(4) by adding at the end the following new paragraph:

“(8) SPECIAL RULES FOR TRIP BOND ACCOUNT FUNDS.—

“(A) IN GENERAL.—The State shall develop a transparent competitive process for the award of funds deposited into the TRIP bond account that considers the impact of qualified projects on the economy, the environment, state of good repair, and equity.

“(B) APPLICABILITY OF FEDERAL LAW.—The requirements of any Federal law, including this title and titles 40 and 49, which would otherwise apply to projects to which the United States is a party or to funds made available under such law and projects assisted with those funds shall apply to—

“(i) funds made available under the TRIP bond account for similar qualified projects, and

“(ii) similar qualified projects assisted through the use of such funds.”.

**SEC. 40204. EXTENSION OF PARITY FOR EXCLUSION FROM INCOME FOR EMPLOYER-PROVIDED MASS TRANSIT AND PARKING BENEFITS.**

(a) IN GENERAL.—Paragraph (2) of section 132(f) of the Internal Revenue Code of 1986 is amended by striking “January 1, 2012” and inserting “January 1, 2013”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to months after December 31, 2011.

**SEC. 40205. EXEMPT-FACILITY BONDS FOR SEWAGE AND WATER SUPPLY FACILITIES.**

(a) BONDS FOR WATER AND SEWAGE FACILITIES TEMPORARILY EXEMPT FROM VOLUME CAP ON PRIVATE ACTIVITY BONDS.—Subsection (g) of section 146 of the Internal Revenue Code of 1986 is amended—

(1) by striking “and” at the end of paragraph (3),

(2) by striking the period at the end of paragraph (4) and inserting “, and”, and

(3) by inserting after paragraph (4) the following new paragraph:

“(5) any exempt facility bonds issued before January 1, 2018, as part of an issue described in paragraph (4) or (5) of section 142(a).”.

(b) CONFORMING CHANGE.—Paragraphs (2) and (3)(B) of section 146(k) of the Internal Revenue Code of 1986 are both amended by striking “paragraph (4), (5), (6), or (10) of section 142(a)” and inserting “paragraph (4) or (5) of section 142(a) with respect to bonds issued after December 31, 2017, or paragraph (6) or (10) of section 142(a)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

**TITLE III—REVENUE PROVISIONS**

**SEC. 40301. TRANSFER FROM LEAKING UNDERGROUND STORAGE TANK TRUST FUND TO HIGHWAY TRUST FUND.**

(a) IN GENERAL.—Subsection (c) of section 9508 of the Internal Revenue Code of 1986 is amended—

(1) by striking “Amounts” and inserting:

“(1) IN GENERAL.—Except as provided in paragraph (2), amounts”, and

(2) by adding at the end the following new paragraph:

“(2) TRANSFER TO HIGHWAY TRUST FUND.—Out of amounts in the Leaking Underground Storage Tank Trust Fund there is hereby appropriated \$3,000,000,000 to be transferred under section 9503(f)(3) to the Highway Trust Fund.”.

(b) TRANSFER TO HIGHWAY TRUST FUND.—

(1) IN GENERAL.—Subsection (f) of section 9503 of the Internal Revenue Code of 1986 is amended by inserting after paragraph (2) the following new paragraph:

“(3) INCREASE IN FUND BALANCE.—There is hereby transferred to the Highway Trust Fund amounts appropriated from the Leaking Underground Storage Tank Trust Fund under section 9508(c)(2).”.

(2) CONFORMING AMENDMENTS.—Paragraph (4) of section 9503(f) of such Code is amended—

(A) by inserting “or transferred” after “appropriated”, and

(B) by striking “APPROPRIATED” in the heading thereof.

**SEC. 40302. PORTION OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE TRANSFERRED TO HIGHWAY TRUST FUND.**

(a) IN GENERAL.—Subsection (b) of section 9503 of the Internal Revenue Code of 1986 is amended by inserting after paragraph (2) the following new paragraph:

“(3) PORTION OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—There are hereby appropriated to the Highway Trust Fund amounts equivalent to one-third of the taxes received in the Treasury under—

“(A) section 4041(d) (relating to additional taxes on motor fuels),

“(B) section 4081 (relating to tax on gasoline, diesel fuel, and kerosene) to the extent attributable to the Leaking Underground Storage Tank Trust Fund financing rate under such section, and

“(C) section 4042 (relating to tax on fuel used in commercial transportation on inland waterways) to the extent attributable to the Leaking Underground Storage Tank Trust Fund financing rate under such section.

For purposes of this paragraph, there shall not be taken into account the taxes imposed by sections 4041 and 4081 on diesel fuel sold for use or used as fuel in a diesel-powered boat.”.

(b) CONFORMING AMENDMENTS.—

(1) Paragraphs (1), (2), and (3) of section 9508(b) of the Internal Revenue Code of 1986 are each amended by inserting “two-thirds of the” before “taxes”.

(2) Paragraph (4) of section 9503(b) of such Code is amended by striking subparagraphs (A) and (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (A) and (B), respectively.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxes received after the date of the enactment of this Act.

**SEC. 40303. TRANSFER OF GAS GUZZLER TAXES TO HIGHWAY TRUST FUND.**

(a) IN GENERAL.—Paragraph (1) of section 9503(b) of the Internal Revenue Code of 1986 is amended by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively, and by inserting after subparagraph (B) the following new subparagraph:

“(B) section 4064 (relating to gas guzzler tax).”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxes received after the date of the enactment of this Act.

**SEC. 40304. REVOCATION OR DENIAL OF PASSPORT IN CASE OF CERTAIN UNPAID TAXES.**

(a) IN GENERAL.—Subchapter D of chapter 75 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

**“SEC. 7345. REVOCATION OR DENIAL OF PASSPORT IN CASE OF CERTAIN TAX DELINQUENCIES.**

“(a) IN GENERAL.—If the Secretary receives certification by the Commissioner of Internal Revenue that any individual has a seriously delinquent tax debt in an amount in excess of \$50,000, the Secretary shall transmit such certification to the Secretary of State for action with respect to denial, revocation, or limitation of a passport pursuant to section 4 of the Act entitled ‘An Act to regulate the issue and validity of passports,

and for other purposes’, approved July 3, 1926 (22 U.S.C. 211a et seq.), commonly known as the ‘Passport Act of 1926’.

“(b) SERIOUSLY DELINQUENT TAX DEBT.—For purposes of this section, the term ‘seriously delinquent tax debt’ means an outstanding debt under this title for which a notice of lien has been filed in public records pursuant to section 6323 or a notice of levy has been filed pursuant to section 6331, except that such term does not include—

“(1) a debt that is being paid in a timely manner pursuant to an agreement under section 6159 or 7122, and

“(2) a debt with respect to which collection is suspended because a collection due process hearing under section 6330, or relief under subsection (b), (c), or (f) of section 6015, is requested or pending.

“(c) ADJUSTMENT FOR INFLATION.—In the case of a calendar year beginning after 2012, the dollar amount in subsection (a) shall be increased by an amount equal to—

“(1) such dollar amount, multiplied by

“(2) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, determined by substituting ‘calendar year 2011’ for ‘calendar year 1992’ in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of \$1,000, such amount shall be rounded to the next highest multiple of \$1,000.”.

(b) CLERICAL AMENDMENT.—The table of sections for subchapter D of chapter 75 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

“Sec. 7345. Revocation or denial of passport in case of certain tax delinquencies.”.

(c) AUTHORITY FOR INFORMATION SHARING.—

(1) IN GENERAL.—Subsection (1) of section 6103 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(23) DISCLOSURE OF RETURN INFORMATION TO DEPARTMENT OF STATE FOR PURPOSES OF PASSPORT REVOCATION UNDER SECTION 7345.—

“(A) IN GENERAL.—The Secretary shall, upon receiving a certification described in section 7345, disclose to the Secretary of State return information with respect to a taxpayer who has a seriously delinquent tax debt described in such section. Such return information shall be limited to—

“(i) the taxpayer identity information with respect to such taxpayer, and

“(ii) the amount of such seriously delinquent tax debt.

“(B) RESTRICTION ON DISCLOSURE.—Return information disclosed under subparagraph (A) may be used by officers and employees of the Department of State for the purposes of, and to the extent necessary in, carrying out the requirements of section 4 of the Act entitled ‘An Act to regulate the issue and validity of passports, and for other purposes’, approved July 3, 1926 (22 U.S.C. 211a et seq.), commonly known as the ‘Passport Act of 1926’.”.

(2) CONFORMING AMENDMENT.—Paragraph (4) of section 6103(p) of such Code is amended by striking “or (22)” each place it appears in subparagraph (F)(ii) and in the matter preceding subparagraph (A) and inserting “(22), or (23)”.

(d) REVOCATION AUTHORIZATION.—The Act entitled “An Act to regulate the issue and validity of passports, and for other purposes”, approved July 3, 1926 (22 U.S.C. 211a et seq.), commonly known as the “Passport Act of 1926”, is amended by adding at the end the following:

**“SEC. 4. AUTHORITY TO DENY OR REVOKE PASSPORT.**

“(a) INELIGIBILITY.—

“(1) ISSUANCE.—Except as provided under subsection (b), upon receiving a certification described in section 7345 of the Internal Revenue Code of 1986 from the Secretary of the Treasury, the Secretary of State may not issue a passport or passport card to any individual who has a seriously delinquent tax debt described in such section.

“(2) REVOCATION.—The Secretary of State shall revoke a passport or passport card previously issued to any individual described in subparagraph (A).

“(b) EXCEPTIONS.—

“(1) EMERGENCY AND HUMANITARIAN SITUATIONS.—Notwithstanding subsection (a), the Secretary of State may issue a passport or passport card, in emergency circumstances or for humanitarian reasons, to an individual described in subsection (a)(1).

“(2) LIMITATION FOR RETURN TO UNITED STATES.—Notwithstanding subsection (a)(2), the Secretary of State, before revocation, may—

“(A) limit a previously issued passport or passport card only for return travel to the United States; or

“(B) issue a limited passport or passport card that only permits return travel to the United States.”.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2013.

**SEC. 40305. 100 PERCENT CONTINUOUS LEVY ON PAYMENTS TO MEDICARE PROVIDERS AND SUPPLIERS.**

(a) IN GENERAL.—Paragraph (3) of section 6331(h) of the Internal Revenue Code of 1986 is amended by striking the period at the end and inserting “, or to a Medicare provider or supplier under title XVIII of the Social Security Act.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after the date of the enactment of this Act.

**SEC. 40306. TRANSFER OF AMOUNTS ATTRIBUTABLE TO CERTAIN DUTIES ON IMPORTED VEHICLES INTO THE HIGHWAY TRUST FUND.**

Section 9503(b) of the Internal Revenue Code of 1986, as amended by this Act, is amended by adding at the end the following new paragraph:

“(8) CERTAIN DUTIES ON IMPORTED VEHICLES.—There are hereby appropriated to the Highway Trust Fund amounts equivalent to the amounts received in the Treasury that are attributable to duties collected on or after October 1, 2011, and before October 1, 2016, on articles classified under subheading 8703.22.00 or 8703.24.00 of the Harmonized Tariff Schedule of the United States.”.

**SEC. 40307. TREATMENT OF SECURITIES OF A CONTROLLED CORPORATION EXCHANGED FOR ASSETS IN CERTAIN REORGANIZATIONS.**

(a) IN GENERAL.—Section 361 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(d) SPECIAL RULES FOR TRANSACTIONS INVOLVING SECTION 355 DISTRIBUTIONS.—In the case of a reorganization described in section 368(a)(1)(D) with respect to which stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under section 355—

“(1) this section shall be applied by substituting ‘stock other than nonqualified preferred stock (as defined in section 351(g)(2))’ for ‘stock or securities’ in subsections (a) and (b)(1), and

“(2) the first sentence of subsection (b)(3) shall apply only to the extent that the sum of the money and the fair market value of the other property transferred to such creditors does not exceed the adjusted bases of such assets transferred (reduced by the amount of the liabilities assumed (within the meaning of section 357(c))).”.

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 361(b) is amended by striking the last sentence.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to exchanges after the date of the enactment of this Act.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to any exchange pursuant to a transaction which is—

(A) made pursuant to a written agreement which was binding on February 6, 2012, and at all times thereafter;

(B) described in a ruling request submitted to the Internal Revenue Service on or before February 6, 2012; or

(C) described on or before February 6, 2012, in a public announcement or in a filing with the Securities and Exchange Commission.

**SEC. 40308. INTERNAL REVENUE SERVICE LEVIES AND THRIFT SAVINGS PLAN ACCOUNTS.**

Section 8437(e)(3) of title 5, United States Code, is amended by inserting “, the enforcement of a Federal tax levy as provided in section 6331 of the Internal Revenue Code of 1986,” after “(42 U.S.C. 659)”.

**SEC. 40309. DEPRECIATION AND AMORTIZATION RULES FOR HIGHWAY AND RELATED PROPERTY SUBJECT TO LONG-TERM LEASES.**

(a) ACCELERATED COST RECOVERY.—

(1) IN GENERAL.—Section 168(g)(1) of the Internal Revenue Code of 1986 is amended by striking “and” at the end of subparagraph (D), by redesignating subparagraph (E) as subparagraph (F), and by inserting after subparagraph (D) the following new subparagraph:

“(E) any applicable leased highway property.”.

(2) RECOVERY PERIOD.—The table contained in subparagraph (C) of section 168(g)(2) of such Code is amended by redesignating clause (iv) as clause (v) and by inserting after clause (iii) the following new clause:

“(iv) Applicable leased highway property ..... 45 years.”.

(3) APPLICABLE LEASED HIGHWAY PROPERTY DEFINED.—

(A) IN GENERAL.—Section 168(g) of such Code is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

“(7) APPLICABLE LEASED HIGHWAY PROPERTY.—For purposes of paragraph (1)(E)—

“(A) IN GENERAL.—The term ‘applicable leased highway property’ means property to which this section otherwise applies which—

“(i) is subject to an applicable lease, and

“(ii) is placed in service before the date of such lease.

“(B) APPLICABLE LEASE.—The term ‘applicable lease’ means a lease or other arrangement—

“(i) which is between the taxpayer and a State or political subdivision thereof, or any agency or instrumentality of either, and

“(ii) under which the taxpayer—

“(I) leases a highway and associated improvements,

“(II) receives a right-of-way on the public lands underlying such highway and improvements, and

“(III) receives a grant of a franchise or other intangible right permitting the taxpayer to receive funds relating to the operation of such highway.”.

(B) CONFORMING AMENDMENT.—Subparagraph (F) of section 168(g)(1) (as redesignated by subsection (a)(1)) is amended by striking “paragraph (7)” and inserting “paragraph (8)”.

(b) AMORTIZATION OF INTANGIBLES.—Section 197(f) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(11) INTANGIBLES RELATING TO APPLICABLE LEASED HIGHWAY PROPERTY.—In the case of any amortizable section 197 intangible property which is acquired in connection with an applicable lease (as defined in section 168(g)(7)(B)), the amortization period under this section shall not be less than the term of the applicable lease. For purposes of the preceding sentence, rules similar to the rules of section 168(i)(3)(A) shall apply in determining the term of the applicable lease.”.

(c) NO PRIVATE ACTIVITY BOND FINANCING OF APPLICABLE LEASED HIGHWAY PROPERTY.—Section 147(e) of the Internal Revenue Code of 1986 is amended by inserting “, or to finance any applicable leased highway property (as defined in section 168(g)(7)(A))” after “premises”.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to leases entered into after the date of the enactment of this Act.

(2) NO PRIVATE ACTIVITY BOND FINANCING.—The amendment made by subsection (c) shall apply to bonds issued after the date of the enactment of this Act.

**SEC. 40310. EXTENSION FOR TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.**

(a) IN GENERAL.—Paragraph (5) of section 420(b) of the Internal Revenue Code of 1986 is amended by striking “December 31, 2013” and inserting “December 31, 2021”.

(b) CONFORMING ERISA AMENDMENTS.—

(1) Sections 101(e)(3), 403(c)(1), and 408(b)(13) of the Employee Retirement Income Security Act of 1974 are each amended by striking “Pension Protection Act of 2006” and inserting “Highway Investment, Job Creation, and Economic Growth Act of 2012”.

(2) Section 408(b)(13) of such Act (29 U.S.C. 1108(b)(13)) is amended by striking “January 1, 2014” and inserting “January 1, 2022”.

(c) EFFECTIVE DATE.—The amendments made by this Act shall take effect on the date of the enactment of this Act.

**SEC. 40311. TRANSFER OF EXCESS PENSION ASSETS TO RETIREE GROUP TERM LIFE INSURANCE ACCOUNTS.**

(a) IN GENERAL.—Subsection (a) of section 420 of the Internal Revenue Code of 1986 is amended by inserting “, or an applicable life insurance account,” after “health benefits account”.

(b) APPLICABLE LIFE INSURANCE ACCOUNT DEFINED.—

(1) IN GENERAL.—Subsection (e) of section 420 of the Internal Revenue Code of 1986 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

“(4) APPLICABLE LIFE INSURANCE ACCOUNT.—The term ‘applicable life insurance account’ means a separate account established and maintained for amounts transferred under this section for qualified current retiree liabilities based on premiums for applicable life insurance benefits.”.

(2) APPLICABLE LIFE INSURANCE BENEFITS DEFINED.—Paragraph (1) of section 420(e) of

such Code is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

“(D) APPLICABLE LIFE INSURANCE BENEFITS.—The term ‘applicable life insurance benefits’ means group-term life insurance coverage provided to retired employees who, immediately before the qualified transfer, are entitled to receive such coverage by reason of retirement and who are entitled to pension benefits under the plan, but only to the extent that such coverage is provided under a policy for retired employees and the cost of such coverage is excludable from the retired employee’s gross income under section 79.”

(3) COLLECTIVELY BARGAINED LIFE INSURANCE BENEFITS DEFINED.—

(A) IN GENERAL.—Paragraph (6) of section 420(f) of such Code is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

“(D) COLLECTIVELY BARGAINED LIFE INSURANCE BENEFITS.—The term ‘collectively bargained life insurance benefits’ means, with respect to any collectively bargained transfer—

“(i) applicable life insurance benefits which are provided to retired employees who, immediately before the transfer, are entitled to receive such benefits by reason of retirement, and

“(ii) if specified by the provisions of the collective bargaining agreement governing the transfer, applicable life insurance benefits which will be provided at retirement to employees who are not retired employees at the time of the transfer.”

(B) CONFORMING AMENDMENTS.—

(i) Clause (i) of section 420(e)(1)(C) of such Code is amended by striking “upon retirement” and inserting “by reason of retirement”.

(ii) Subparagraph (C) of section 420(f)(6) of such Code is amended—

(I) by striking “which are provided to” in the matter preceding clause (i),

(II) by inserting “which are provided to” before “retired employees” in clause (i),

(III) by striking “upon retirement” in clause (i) and inserting “by reason of retirement”, and

(IV) by striking “active employees who, following their retirement,” and inserting “which will be provided at retirement to employees who are not retired employees at the time of the transfer and who”.

(C) MAINTENANCE OF EFFORT.—

(1) IN GENERAL.—Subparagraph (A) of section 420(c)(3) of the Internal Revenue Code of 1986 is amended by inserting “, and each group-term life insurance plan under which applicable life insurance benefits are provided,” after “health benefits are provided”.

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (B) of section 420(c)(3) of such Code is amended—

(i) by redesignating subclauses (I) and (II) of clause (i) as subclauses (II) and (III) of such clause, respectively, and by inserting before subclause (II) of such clause, as so redesignated, the following new subclause:

“(I) separately with respect to applicable health benefits and applicable life insurance benefits,” and

(ii) by striking “for applicable health benefits” and all that follows in clause (ii) and inserting “was provided during such taxable year for the benefits with respect to which the determination under clause (i) is made.”.

(B) Subparagraph (C) of section 420(c)(3) of such Code is amended—

(i) by inserting “for applicable health benefits” after “applied separately”, and

(ii) by inserting “, and separately for applicable life insurance benefits with respect to individuals age 65 or older at any time during the taxable year and with respect to individuals under age 65 during the taxable year” before the period.

(C) Subparagraph (E) of section 420(c)(3) of such Code is amended—

(i) in clause (i), by inserting “or retiree life insurance coverage, as the case may be,” after “retiree health coverage”, and

(ii) in clause (ii), by inserting “FOR RETIREE HEALTH COVERAGE” after “COST REDUCTIONS” in the heading thereof, and

(iii) in clause (ii)(II), by inserting “with respect to applicable health benefits” after “liabilities of the employer”.

(D) Paragraph (2) of section 420(f) of such Code is amended by striking “collectively bargained retiree health liabilities” each place it occurs and inserting “collectively bargained retiree liabilities”.

(E) Clause (i) of section 420(f)(2)(D) of such Code is amended—

(i) by inserting “, and each group-term life insurance plan or arrangement under which applicable life insurance benefits are provided,” in subclause (I) after “applicable health benefits are provided”,

(ii) by inserting “or applicable life insurance benefits, as the case may be,” in subclause (I) after “provides applicable health benefits”,

(iii) by striking “group health” in subclause (II), and

(iv) by inserting “or collectively bargained life insurance benefits” in subclause (II) after “collectively bargained health benefits”.

(F) Clause (ii) of section 420(f)(2)(D) of such Code is amended—

(i) by inserting “with respect to applicable health benefits or applicable life insurance benefits” after “requirements of subsection (c)(3)”, and

(ii) by adding at the end the following: “Such election may be made separately with respect to applicable health benefits and applicable life insurance benefits. In the case of an election with respect to applicable life insurance benefits, the first sentence of this clause shall be applied as if subsection (c)(3) as in effect before the amendments made by such Act applied to such benefits.”

(G) Clause (iii) of section 420(f)(2)(D) of such Code is amended—

(i) by striking “retiree” each place it occurs, and

(ii) by inserting “, collectively bargained life insurance benefits, or both, as the case may be,” after “health benefits” each place it occurs.

(d) COORDINATION WITH SECTION 79.—Section 79 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(f) EXCEPTION FOR LIFE INSURANCE PURCHASED IN CONNECTION WITH QUALIFIED TRANSFER OF EXCESS PENSION ASSETS.—Subsection (b)(3) and section 72(m)(3) shall not apply in the case of any cost paid (whether directly or indirectly) with assets held in an applicable life insurance account (as defined in section 420(e)(4)) under a defined benefit plan.”.

(e) CONFORMING AMENDMENTS.—

(1) Section 420 of the Internal Revenue Code of 1986 is amended by striking “qualified current retiree health liabilities” each place it appears and inserting “qualified current retiree liabilities”.

(2) Section 420 of such Code is amended by inserting “, or an applicable life insurance

account,” after “a health benefits account” each place it appears in subsection (b)(1)(A), subparagraphs (A), (B)(i), and (C) of subsection (c)(1), subsection (d)(1)(A), and subsection (f)(2)(E)(ii).

(3) Section 420(b) of such Code is amended—

(A) by adding the following at the end of paragraph (2)(A): “If there is a transfer from a defined benefit plan to both a health benefits account and an applicable life insurance account during any taxable year, such transfers shall be treated as 1 transfer for purposes of this paragraph.”, and

(B) by inserting “to an account” after “may be transferred” in paragraph (3).

(4) The heading for section 420(c)(1)(B) of such Code is amended by inserting “OR LIFE INSURANCE” after “HEALTH BENEFITS”.

(5) Paragraph (1) of section 420(e) of such Code is amended—

(A) by inserting “and applicable life insurance benefits” in subparagraph (A) after “applicable health benefits”, and

(B) by striking “HEALTH” in the heading thereof.

(6) Subparagraph (B) of section 420(e)(1) of such Code is amended—

(A) in the matter preceding clause (i), by inserting “(determined separately for applicable health benefits and applicable life insurance benefits)” after “shall be reduced by the amount”,

(B) in clause (i), by inserting “or applicable life insurance accounts” after “health benefit accounts”, and

(C) in clause (i), by striking “qualified current retiree health liability” and inserting “qualified current retiree liability”.

(7) The heading for subsection (f) of section 420 of such Code is amended by striking “HEALTH” each place it occurs.

(8) Subclause (II) of section 420(f)(2)(B)(ii) of such Code is amended by inserting “or applicable life insurance account, as the case may be,” after “health benefits account”.

(9) Subclause (III) of section 420(f)(2)(E)(i) of such Code is amended—

(A) by inserting “defined benefit” before “plan maintained by an employer”, and

(B) by inserting “health” before “benefit plans maintained by the employer”.

(10) Paragraphs (4) and (6) of section 420(f) of such Code are each amended by striking “collectively bargained retiree health liabilities” each place it occurs and inserting “collectively bargained retiree liabilities”.

(11) Subparagraph (A) of section 420(f)(6) of such Code is amended—

(A) in clauses (i) and (ii), by inserting “, in the case of a transfer to a health benefits account,” before “his covered spouse and dependents”, and

(B) in clause (ii), by striking “health plan” and inserting “plan”.

(12) Subparagraph (B) of section 420(f)(6) of such Code is amended—

(A) in clause (i), by inserting “, and collectively bargained life insurance benefits,” after “collectively bargained health benefits”,

(B) in clause (ii)—

(i) by adding at the end the following: “The preceding sentence shall be applied separately for collectively bargained health benefits and collectively bargained life insurance benefits.”, and

(ii) by inserting “, applicable life insurance accounts,” after “health benefit accounts”, and

(C) by striking “HEALTH” in the heading thereof.

(13) Subparagraph (E) of section 420(f)(6) of such Code, as redesignated by subsection (b), is amended—



(A) by striking "bargained health" and inserting "bargained";

(B) by inserting "or a group-term life insurance plan or arrangement for retired employees," after "dependents", and

(C) by striking "HEALTH" in the heading thereof.

(14) Section 101(e) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(e)) is amended—

(A) in paragraphs (1) and (2), by inserting "or applicable life insurance account" after "health benefits account" each place it appears, and

(B) in paragraph (1), by inserting "or applicable life insurance benefit liabilities" after "health benefits liabilities".

(f) TECHNICAL CORRECTION.—Clause (iii) of section 420(f)(6)(B) is amended by striking "416(I)(1)" and inserting "416(I)(1)".

(g) REPEAL OF DEADWOOD.—

(1) Subparagraph (A) of section 420(b)(1) of the Internal Revenue Code of 1986 is amended by striking "in a taxable year beginning after December 31, 1990".

(2) Subsection (b) of section 420 of such Code is amended by striking paragraph (4) and by redesignating paragraph (5), as amended by this Act, as paragraph (4).

(3) Paragraph (2) of section 420(b) of such Code, as amended by this section, is amended—

(A) by striking subparagraph (B), and

(B) by striking "PER YEAR.—" and all that follows through "No more than" and inserting "PER YEAR.—No more than".

(4) Paragraph (2) of section 420(c) of such Code is amended—

(A) by striking subparagraph (B),

(B) by moving subparagraph (A) two ems to the left, and

(C) by striking "BEFORE TRANSFER.—" and all that follows through "The requirements of this paragraph" and inserting the following: "BEFORE TRANSFER.—The requirements of this paragraph".

(5) Paragraph (2) of section 420(d) of such Code is amended by striking "after December 31, 1990".

(h) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to transfers made after the date of the enactment of this Act.

(2) CONFORMING AMENDMENTS RELATING TO PENSION PROTECTION ACT.—The amendments made by subsections (b)(3)(B) and (f) shall take effect as if included in the amendments made by section 841(a) of the Pension Protection Act of 2006.

#### SEC. 40312. PENSION FUNDING STABILIZATION.

(a) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.—

(1) IN GENERAL.—Subparagraph (C) of section 430(h)(2) of the Internal Revenue Code of 1986 is amended by adding at the end the following new clause:

"(iv) SEGMENT RATE STABILIZATION.—If a segment rate described in clause (i), (ii), or (iii) with respect to any applicable month (determined without regard to this clause) is less than 85 percent, or more than 115 percent, of the average of the segment rates (determined on an annual basis by the Secretary) described in such clause for years in the 10-year period ending with September 30 of the calendar year preceding the calendar year in which the plan year begins, then the segment rate described in such clause with respect to the applicable month shall be equal to 85 or 115 percent of such average, whichever is closest."

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (6) of section 404(o) of such Code is amended by inserting "(determined

by not taking into account any adjustment under clause (iv) of subsection (h)(2)(C) thereof)" before the period.

(B) Subparagraph (F) of section 430(h)(2) of such Code is amended by inserting "and the averages determined under subparagraph (C)(iv)" after "subparagraph (C)".

(C) Subparagraphs (C) and (D) of section 417(e)(3) of such Code are each amended by striking "section 430(h)(2)(C)" and inserting "section 430(h)(2)(C) (determined by not taking into account any adjustment under clause (iv) thereof)".

(b) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) IN GENERAL.—Subparagraph (C) of section 303(h)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1083(h)(2)) is amended by adding at the end the following new clause:

"(iv) SEGMENT RATE STABILIZATION.—If a segment rate described in clause (i), (ii), or (iii) with respect to any applicable month (determined without regard to this clause) is less than 85 percent, or more than 115 percent, of the average of the segment rates (determined on an annual basis by the Secretary of the Treasury) described in such clause for years in the 10-year period ending with September 30 of the calendar year preceding the calendar year in which the plan year begins, then the segment rate described in such clause with respect to the applicable month shall be equal to 85 or 115 percent of such average, whichever is closest."

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (F) of section 303(h)(2) of such Act (29 U.S.C. 1083(h)(2)) is amended by inserting "and the averages determined under subparagraph (C)(iv)" after "subparagraph (C)".

(B) Clauses (ii) and (iii) of section 205(g)(3)(B) of such Act (29 U.S.C. 1055(g)(3)(B)) are each amended by striking "section 303(h)(2)(C)" and inserting "section 303(h)(2)(C) (determined by not taking into account any adjustment under clause (iv) thereof)".

(C) Clause (iv) of section 4006(a)(3)(E) of such Act (29 U.S.C. 1306(a)(3)(E)) is amended by striking "section 303(h)(2)(C)" and inserting "section 303(h)(2)(C) (notwithstanding any regulations issued by the corporation, determined by not taking into account any adjustment under clause (iv) thereof)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning after December 31, 2011.

(d) TRANSFER TO HIGHWAY TRUST FUND.—Subsection (f) of section 9503 of the Internal Revenue Code of 1986, as amended by this Act, is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) ADDITIONAL APPROPRIATION TO FUND.—Out of money in the Treasury not otherwise appropriated, there is hereby appropriated \$1,588,000,000 to the Highway Trust Fund."

**SA 1762.** Mr. REID proposed an amendment to amendment SA 1761 proposed by Mr. REID to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; as follows:

At the end, add the following:

#### SEC. . EFFECTIVE DATE.

This Act shall become effective 7 days after enactment.

**SA 1763.** Mr. REID proposed an amendment to the bill S. 1813, to reau-

thorize Federal-aid highway and highway safety construction programs, and for other purposes; as follows:

At the end, add the following new section:

#### SEC. .

This Act shall become effective 6 days after enactment.

**SA 1764.** Mr. REID proposed an amendment to amendment SA 1763 proposed by Mr. REID to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; as follows:

In the amendment, strike "6 days" and insert "5 days".

**SA 1765.** Mr. REID proposed an amendment to amendment SA 1764 proposed by Mr. REID to the amendment SA 1763 proposed by Mr. REID to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; as follows:

In the amendment, strike "5 days" and insert "4 days".

**SA 1766.** Mr. BROWN of Ohio (for himself and Mr. MERKLEY) submitted an amendment intended to be proposed to amendment SA 1761 proposed by Mr. REID to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 232, strike line 17 and all that follows through page 248, line 6, and insert the following:

#### SEC. 20017. REQUIREMENTS FOR PUBLIC TRANSPORTATION PROJECTS.

(a) GENERAL PROVISIONS.—Section 5323 of title 49, United States Code, is amended to read as follows:

##### "§ 5323. General provisions

"(a) INTERESTS IN PROPERTY.—

"(1) IN GENERAL.—Financial assistance provided under this chapter to a State or a local governmental authority may be used to acquire an interest in, or to buy property of, a private company engaged in public transportation, for a capital project for property acquired from a private company engaged in public transportation after July 9, 1964, or to operate a public transportation facility or equipment in competition with, or in addition to, transportation service provided by an existing public transportation company, only if—

"(A) the Secretary determines that such financial assistance is essential to a program of projects required under sections 5303 and 5304;

"(B) the Secretary determines that the program provides for the participation of private companies engaged in public transportation to the maximum extent feasible; and

"(C) just compensation under State or local law will be paid to the company for its franchise or property.

"(2) LIMITATION.—A governmental authority may not use financial assistance of the United States Government to acquire land, equipment, or a facility used in public transportation from another governmental authority in the same geographic area.

"(b) RELOCATION AND REAL PROPERTY REQUIREMENTS.—The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.) shall



apply to financial assistance for capital projects under this chapter.

“(c) CONSIDERATION OF ECONOMIC, SOCIAL, AND ENVIRONMENTAL INTERESTS.—

“(1) COOPERATION AND CONSULTATION.—In carrying out the goal described in section 5301(c)(2), the Secretary shall cooperate and consult with the Secretary of the Interior and the Administrator of the Environmental Protection Agency on each project that may have a substantial impact on the environment.

“(2) COMPLIANCE WITH NEPA.—The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall apply to financial assistance for capital projects under this chapter.

“(d) CORRIDOR PRESERVATION.—

“(1) IN GENERAL.—The Secretary may assist a recipient in acquiring right-of-way before the completion of the environmental reviews for any project that may use the right-of-way if the acquisition is otherwise permitted under Federal law. The Secretary may establish restrictions on such an acquisition as the Secretary determines to be necessary and appropriate.

“(2) ENVIRONMENTAL REVIEWS.—Right-of-way acquired under this subsection may not be developed in anticipation of the project until all required environmental reviews for the project have been completed.

“(e) CONDITION ON CHARTER BUS TRANSPORTATION SERVICE.—

“(1) AGREEMENTS.—Financial assistance under this chapter may be used to buy or operate a bus only if the applicant, governmental authority, or publicly owned operator that receives the assistance agrees that, except as provided in the agreement, the governmental authority or an operator of public transportation for the governmental authority will not provide charter bus transportation service outside the urban area in which it provides regularly scheduled public transportation service. An agreement shall provide for a fair arrangement the Secretary of Transportation considers appropriate to ensure that the assistance will not enable a governmental authority or an operator for a governmental authority to foreclose a private operator from providing intercity charter bus service if the private operator can provide the service.

“(2) VIOLATIONS.—

“(A) INVESTIGATIONS.—On receiving a complaint about a violation of the agreement required under paragraph (1), the Secretary shall investigate and decide whether a violation has occurred.

“(B) ENFORCEMENT OF AGREEMENTS.—If the Secretary decides that a violation has occurred, the Secretary shall correct the violation under terms of the agreement.

“(C) ADDITIONAL REMEDIES.—In addition to any remedy specified in the agreement, the Secretary shall bar a recipient or an operator from receiving Federal transit assistance in an amount the Secretary considers appropriate if the Secretary finds a pattern of violations of the agreement.

“(f) BOND PROCEEDS ELIGIBLE FOR LOCAL SHARE.—

“(1) USE AS LOCAL MATCHING FUNDS.—Notwithstanding any other provision of law, a recipient of assistance under section 5307, 5309, or 5337 may use the proceeds from the issuance of revenue bonds as part of the local matching funds for a capital project.

“(2) MAINTENANCE OF EFFORT.—The Secretary shall approve of the use of the proceeds from the issuance of revenue bonds for the remainder of the net project cost only if the Secretary finds that the aggregate amount of financial support for public trans-

portation in the urbanized area provided by the State and affected local governmental authorities during the next 3 fiscal years, as programmed in the State transportation improvement program under section 5304, is not less than the aggregate amount provided by the State and affected local governmental authorities in the urbanized area during the preceding 3 fiscal years.

“(3) DEBT SERVICE RESERVE.—The Secretary may reimburse an eligible recipient for deposits of bond proceeds in a debt service reserve that the recipient establishes pursuant to section 5302(3)(J) from amounts made available to the recipient under section 5309.

“(g) SCHOOL BUS TRANSPORTATION.—

“(1) AGREEMENTS.—Financial assistance under this chapter may be used for a capital project, or to operate public transportation equipment or a public transportation facility, only if the applicant agrees not to provide school bus transportation that exclusively transports students and school personnel in competition with a private school bus operator. This subsection does not apply—

“(A) to an applicant that operates a school system in the area to be served and a separate and exclusive school bus program for the school system; and

“(B) unless a private school bus operator can provide adequate transportation that complies with applicable safety standards at reasonable rates.

“(2) VIOLATIONS.—If the Secretary finds that an applicant, governmental authority, or publicly owned operator has violated the agreement required under paragraph (1), the Secretary shall bar a recipient or an operator from receiving Federal transit assistance in an amount the Secretary considers appropriate.

“(h) BUYING BUSES UNDER OTHER LAWS.—Subsections (e) and (g) of this section apply to financial assistance to buy a bus under sections 133 and 142 of title 23.

“(i) GRANT AND LOAN PROHIBITIONS.—A grant or loan may not be used to—

“(1) pay ordinary governmental or non-project operating expenses; or

“(2) support a procurement that uses an exclusionary or discriminatory specification.

“(j) GOVERNMENT SHARE OF COSTS FOR CERTAIN PROJECTS.—A grant for a project to be assisted under this chapter that involves acquiring vehicle-related equipment or facilities required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) or vehicle-related equipment or facilities (including clean fuel or alternative fuel vehicle-related equipment or facilities) for purposes of complying with or maintaining compliance with the Clean Air Act, is for 90 percent of the net project cost of such equipment or facilities attributable to compliance with those Acts. The Secretary shall have discretion to determine, through practicable administrative procedures, the costs of such equipment or facilities attributable to compliance with those Acts.

“(k) BUY AMERICA.—

“(1) IN GENERAL.—The Secretary may obligate an amount that may be appropriated to carry out this chapter for a project only if the steel, iron, and manufactured goods used in the project are produced in the United States.

“(2) WAIVER.—The Secretary may waive paragraph (1) of this subsection if the Secretary finds that—

“(A) applying paragraph (1) would be inconsistent with the public interest;

“(B) the steel, iron, and goods produced in the United States are not produced in a suffi-

cient and reasonably available amount or are not of a satisfactory quality;

“(C) when procuring rolling stock (including train control, communication, and traction power equipment) under this chapter—

“(i) the cost of components and subcomponents produced in the United States is more than 60 percent of the cost of all components of the rolling stock; and

“(ii) final assembly of the rolling stock has occurred in the United States; or

“(D) including domestic material will increase the cost of the overall project by more than 25 percent.

“(3) BUY AMERICA WAIVER REQUIREMENTS.—

“(A) NOTICE AND COMMENT OPPORTUNITIES.—

“(i) IN GENERAL.—If the Secretary receives a request for a waiver under section 313(b) of title 23, United States Code, section 5323(j)(2) of title 49, United States Code, or section 24305(f)(4), 24405(a)(2), or 50101(b) of such title, the Secretary shall provide notice of, and an opportunity for public comment on, the request not later than 30 days before making a finding based on such request.

“(ii) NOTICE REQUIREMENTS.—Each notice provided under clause (i)—

“(I) shall include the information available to the Secretary concerning the request, including the requestor's justification for such request; and

“(II) shall be provided electronically, including on the official public Internet website of the Department.

“(B) PUBLICATION OF DETAILED JUSTIFICATION.—If the Secretary issues a waiver pursuant to the authority granted under a provision referenced in subparagraph (A)(i), the Secretary shall publish, in the Federal Register, a detailed justification for the waiver that—

“(i) addresses the public comments received under subparagraph (A)(i); and

“(ii) is published before the waiver takes effect.

“(C) BUY AMERICA REPORTING.—Not later than February 1, 2013, and annually thereafter, the Secretary shall submit a report to Congress that—

“(i) specifies each highway, public transportation, or railroad project for which the Secretary issued a waiver from a Buy America requirement pursuant to the authority granted under a provision referenced in subparagraph (A)(i) during the preceding calendar year;

“(ii) identifies the country of origin and product specifications for the steel, iron, or manufactured goods acquired pursuant to each of the waivers specified under clause (i); and

“(iii) summarizes the monetary value of contracts awarded pursuant to each such waiver.

“(D) CONSISTENCY WITH INTERNATIONAL AGREEMENTS.—This paragraph shall be applied in a manner that is consistent with United States obligations under relevant international agreements.

“(E) REVIEW OF NATIONWIDE WAIVERS.—Not later than 1 year after the date of the enactment of the Federal Public Transportation Act of 2012, and at least once every 5 years thereafter, the Secretary shall review each standing nationwide waiver issued pursuant to the authority granted under any of the provisions referenced in subparagraph (A)(i) to determine whether continuing such waiver is necessary.

“(4) LABOR COSTS FOR FINAL ASSEMBLY.—In this subsection, labor costs involved in final assembly are not included in calculating the cost of components.

“(5) WAIVER PROHIBITED.—The Secretary may not make a waiver under paragraph (2)

of this subsection for goods produced in a foreign country if the Secretary, in consultation with the United States Trade Representative, decides that the government of that foreign country—

“(A) has an agreement with the United States Government under which the Secretary has waived the requirement of this subsection; and

“(B) has violated the agreement by discriminating against goods to which this subsection applies that are produced in the United States and to which the agreement applies.

“(6) PENALTY FOR MISLABELING AND MISREPRESENTATION.—A person is ineligible under subpart 9.4 of the Federal Acquisition Regulation, or any successor thereto, to receive a contract or subcontract made with amounts authorized under the Federal Public Transportation Act of 2012 if a court or department, agency, or instrumentality of the Government decides the person intentionally—

“(A) affixed a ‘Made in America’ label, or a label with an inscription having the same meaning, to goods sold in or shipped to the United States that are used in a project to which this subsection applies but not produced in the United States; or

“(B) represented that goods described in subparagraph (A) of this paragraph were produced in the United States.

“(7) STATE REQUIREMENTS.—The Secretary may not impose any limitation on assistance provided under this chapter that restricts a State from imposing more stringent requirements than this subsection on the use of articles, materials, and supplies mined, produced, or manufactured in foreign countries in projects carried out with that assistance or restricts a recipient of that assistance from complying with those State-imposed requirements.

“(8) OPPORTUNITY TO CORRECT INADVERTENT ERROR.—The Secretary may allow a manufacturer or supplier of steel, iron, or manufactured goods to correct after bid opening any certification of noncompliance or failure to properly complete the certification (but not including failure to sign the certification) under this subsection if such manufacturer or supplier attests under penalty of perjury that such manufacturer or supplier submitted an incorrect certification as a result of an inadvertent or clerical error. The burden of establishing inadvertent or clerical error is on the manufacturer or supplier.

“(9) ADMINISTRATIVE REVIEW.—A party adversely affected by an agency action under this subsection shall have the right to seek review under section 702 of title 5.

“(10) APPLICATION TO TRANSIT PROGRAMS.—The requirements under this subsection shall apply to all contracts for a project carried out within the scope of the applicable finding, determination, or decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), regardless of the funding source of such contracts, if at least 1 contract for the project is funded with amounts made available to carry out this chapter.

“(1) PARTICIPATION OF GOVERNMENTAL AGENCIES IN DESIGN AND DELIVERY OF TRANSPORTATION SERVICES.—Governmental agencies and nonprofit organizations that receive assistance from Government sources (other than the Department of Transportation) for nonemergency transportation services shall—

“(1) participate and coordinate with recipients of assistance under this chapter in the design and delivery of transportation services; and

“(2) be included in the planning for those services.

“(m) RELATIONSHIP TO OTHER LAWS.—

“(1) FRAUD AND FALSE STATEMENTS.—Section 1001 of title 18 applies to a certificate, submission, or statement provided under this chapter. The Secretary may terminate financial assistance under this chapter and seek reimbursement directly, or by offsetting amounts, available under this chapter if the Secretary determines that a recipient of such financial assistance has made a false or fraudulent statement or related act in connection with a Federal public transportation program.

“(2) POLITICAL ACTIVITIES OF NON-SUPERVISORY EMPLOYEES.—The provision of assistance under this chapter shall not be construed to require the application of chapter 15 of title 5 to any nonsupervisory employee of a public transportation system (or any other agency or entity performing related functions) to whom such chapter does not otherwise apply.

“(n) PREAWARD AND POSTDELIVERY REVIEW OF ROLLING STOCK PURCHASES.—The Secretary shall prescribe regulations requiring a preaward and postdelivery review of a grant under this chapter to buy rolling stock to ensure compliance with Government motor vehicle safety requirements, subsection (k) of this section, and bid specifications requirements of grant recipients under this chapter. Under this subsection, independent inspections and review are required, and a manufacturer certification is not sufficient. Rolling stock procurements of 20 vehicles or fewer made for the purpose of serving other than urbanized areas and urbanized areas with populations of 200,000 or fewer shall be subject to the same requirements as established for procurements of 10 or fewer buses under the post-delivery purchaser's requirements certification process under section 663.37(c) of title 49, Code of Federal Regulations.

“(o) SUBMISSION OF CERTIFICATIONS.—A certification required under this chapter and any additional certification or assurance required by law or regulation to be submitted to the Secretary may be consolidated into a single document to be submitted annually as part of a grant application under this chapter. The Secretary shall publish annually a list of all certifications required under this chapter with the publication required under section 5336(d)(2).

“(p) GRANT REQUIREMENTS.—The grant requirements under sections 5307, 5309, and 5337 apply to any project under this chapter that receives any assistance or other financing under chapter 6 (other than section 609) of title 23.

“(q) ALTERNATIVE FUELING FACILITIES.—A recipient of assistance under this chapter may allow the incidental use of federally funded alternative fueling facilities and equipment by nontransit public entities and private entities if—

“(1) the incidental use does not interfere with the recipient's public transportation operations;

“(2) all costs related to the incidental use are fully recaptured by the recipient from the nontransit public entity or private entity;

“(3) the recipient uses revenues received from the incidental use in excess of costs for planning, capital, and operating expenses that are incurred in providing public transportation; and

“(4) private entities pay all applicable excise taxes on fuel.

“(r) FIXED GUIDEWAY CATEGORICAL EXCLUSIONS.—

“(1) STUDY.—Not later than 6 months after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall conduct a study to determine the feasibility of providing a categorical exclusion for streetcar, bus rapid transit, and light rail projects located within an existing transportation right-of-way from the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) in accordance with the Council on Environmental Quality implementing regulations under parts 1500 through 1508 of title 40, Code of Federal Regulations, or any successor thereto.

“(2) FINDINGS AND RULES.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue findings and, if appropriate, issue rules to provide categorical exclusions for suitable categories of projects.”

(b) BUY AMERICA PROVISIONS.—

(1) SURFACE TRANSPORTATION.—Section 313 of title 23, United States Code, is amended by adding at the end the following:

“(g) APPLICATION TO HIGHWAY PROGRAMS.—The requirements under this section shall apply to all contracts for a project carried out within the scope of the applicable finding, determination, or decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), regardless of the funding source of such contracts, if at least 1 contract for the project is funded with amounts made available to carry out this title.”

(2) AMTRAK.—Section 24305(f) of title 49, United States Code, is amended by adding at the end the following:

“(5) The requirements under this subsection shall apply to all contracts for a project carried out within the scope of the applicable finding, determination, or decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), regardless of the funding source of such contracts, if at least 1 contract for the project is funded with amounts made available to carry out this chapter.”

(3) APPLICATION TO INTERCITY PASSENGER RAIL SERVICE CORRIDORS.—Section 24405(a) of title 49, United States Code, is amended—

(A) by striking paragraph (4);

(B) by redesignating paragraphs (5) through (11) as paragraphs (4) through (10), respectively; and

(C) by adding at the end the following:

“(11) The requirements under this subsection shall apply to all contracts eligible for Federal funding for a project carried out within the scope of the applicable finding, determination, or decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), regardless of the funding source of such contracts, if at least 1 contract for the project is funded with amounts made available to carry out this title.”

**SA 1767.** Mr. LAUTENBERG (for himself, Mr. DURBIN, Mrs. GILLIBRAND, and Mr. SANDERS) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 87, between lines 15 and 16, insert the following:

“(29) Capital costs for passenger rail projects eligible for assistance under title 49, including vehicles and facilities.

**SA 1768.** Mr. HARKIN (for himself, Mr. MORAN, Mr. LEVIN, Ms. STABENOW,

and Mr. SANDERS) submitted an amendment intended to be proposed to amendment SA 1761 proposed by Mr. REID to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of division B of the amendment, add the following:

**SEC. \_\_\_\_ . INCREASING THE PRIORITY OF BUSES AND IMPROVING FLEXIBILITY FOR PUBLIC TRANSPORTATION FUNDING.**

(a) **APPLICABILITY.**—Section 5337(e) of title 49, United States Code, as amended by this Act, shall apply only with respect to fiscal year 2012.

(b) **FUNDING.**—Notwithstanding section 5338 of title 49, United States Code, as amended by this Act—

(1) of amounts made available under subsection (a)(1) of such section 5338 for fiscal year 2013—

(A) \$5,039,661,500 shall be allocated in accordance with section 5336 of such title 49 to provide financial assistance for urbanized areas under section 5307;

(B) \$720,190,000 shall be available to provide financial assistance for other than urbanized areas under section 5311 of such title 49, of which not less than \$30,000,000 shall be available to carry out section 5311(c)(1) and \$20,000,000 shall be available to carry out section 5311(c)(2); and

(C) \$1,574,763,500 shall be available to carry out subsection (c) of section 5337 of such title 49;

(2) no amounts made available under subsection (a)(1) of such section 5338 for fiscal year 2013 may be used to carry out section 5337(e) of title 49, United States Code, as amended by this Act;

(3) there are authorized to be appropriated to carry out section 5309 of such title 49, \$1,655,000,000 for fiscal year 2013;

(4) there are authorized to be appropriated to carry out section 5307 of such title 49, \$203,500,000 for fiscal year 2013, which shall be allocated in accordance with section 5336 of such title 49; and

(5) there are authorized to be appropriated to carry out section 5311 of such title 49, \$96,500,000 for fiscal year 2013, which shall be apportioned in accordance with section 5311(c).

(c) **HIGH INTENSITY FIXED GUIDEWAY STATE OF GOOD REPAIR.**—Notwithstanding section 5337(c)(1) of title 49, United States Code, as amended by this Act, for fiscal year 2013, \$1,574,763,500 shall be apportioned to recipients in accordance with section 5337(c) of title 49, United States Code.

**SA 1769.** Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . REGULATIONS REGARDING POOLS.**

(a) **DEFINITIONS.**—

(1) **COVERED REGULATION.**—The term “covered regulation” means—

(A) the portions of part 35 of title 28, Code of Federal Regulations, that were added under the final rule issued by the Attorney General entitled “Nondiscrimination on the Basis of Disability in State and Local Gov-

ernment Services”, 75 Fed. Reg. 56164 (September 15, 2010); and

(B) the portions of part 36 of title 28, Code of Federal Regulations, that were added under the final rule issued by the Attorney General entitled “Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities”, 75 Fed. Reg. 56236 (September 15, 2010).

(2) **POOL.**—The term “pool” means a swimming pool, wading pool, sauna, steam room, spa, wave pool, lazy river, sand bottom pool, or other water amusement, within the meaning of part 36 of title 28, Code of Federal Regulations.

(3) **PUBLIC ACCOMMODATION.**—The term “public accommodation” has the meaning given the term in section 301 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12181).

(4) **PUBLIC ENTITY.**—The term “public entity” has the meaning given the term in section 201 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131).

(b) **DELAYED EFFECTIVE DATE.**—Neither the Attorney General nor any official of the Federal Government shall have authority, under title II or III of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq., 12181 et seq.) or any other provision of Federal law, to administer or enforce a covered regulation, with respect to a pool at a public accommodation, or a pool provided by a public entity and covered by such title II, earlier than 1 year after the date of enactment of this Act.

**SA 1770.** Mr. SCHUMER (for himself and Mrs. GILLIBRAND) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

In section 5340(d)(5) of title 49, United States Code, as amended by section 20030, strike the second and third sentences and insert the following: “Amounts apportioned to each urbanized area shall be added to amounts apportioned to that urbanized area under section 5336 and shall be made available for grants under section 5307.”

**AUTHORITY FOR COMMITTEES TO MEET**

**COMMITTEE ON ARMED SERVICES**

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, March 1, 2012, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS**

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on March 1, 2012, at 10 a.m., to conduct a committee hearing entitled “The Semiannual Monetary Policy Report to Congress.”

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION**

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on March 1, 2012, at 10 a.m. in room 253 of the Russell Senate Office Building.

The Committee will hold a hearing entitled, “Oversight of the Cruise Ship Industry: Are Current Regulations Sufficient to Protect Passengers and the Environment?”

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON FOREIGN RELATIONS**

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on March 1, 2012, at 10 a.m., to hold a hearing entitled, “Syria: The Crisis and Its Implications.”

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON THE JUDICIARY**

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on March 1, 2012, at 10 a.m., in SD-226 of the Dirksen Senate Office Building, to conduct an executive business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

**SELECT COMMITTEE ON INTELLIGENCE**

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on March 1, 2012, at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

**ESTABLISHING THE JOINT CONGRESSIONAL COMMITTEE ON INAUGURAL CEREMONIES**

**AUTHORIZING THE USE OF THE ROTUNDA AND EMANCIPATION HALL**

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration en bloc of S. Con. Res. 35 and S. Con. Res. 36.

The PRESIDING OFFICER. The clerk will report the concurrent resolutions by title en bloc.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 35) to establish the Joint Congressional Committee on Inaugural Ceremonies for the inauguration of the President-elect and Vice President-elect of the United States on January 21, 2013.

A concurrent resolution (S. Con. Res. 36) to authorize the use of the rotunda and Emancipation Hall of the Capitol by the Joint Congressional Committee on Inaugural Ceremonies in connection with the proceedings and ceremonies conducted for the inauguration of the President-elect and the Vice President-elect of the United States.

There being no objection, the Senate proceeded to consider the concurrent resolutions en bloc.

Mr. REID. Mr. President, I ask unanimous consent that the concurrent resolutions be agreed to en bloc, the motions to reconsider be laid upon the table en bloc, with no intervening action or debate, and any statements related to these matters be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 35) was agreed to, as follows:

S. CON. RES. 35

*Resolved by the Senate (the House of Representatives concurring),*

#### SECTION 1. ESTABLISHMENT OF JOINT COMMITTEE.

There is established a Joint Congressional Committee on Inaugural Ceremonies (in this resolution referred to as the "joint committee") consisting of 3 Senators and 3 Members of the House of Representatives, to be appointed by the President of the Senate and the Speaker of the House of Representatives, respectively. The joint committee is authorized to make the necessary arrangements for the inauguration of the President-elect and Vice President-elect of the United States on January 21, 2013.

#### SEC. 2. SUPPORT OF THE JOINT COMMITTEE.

The joint committee—

(1) is authorized to utilize appropriate equipment and the services of appropriate personnel of departments and agencies of the Federal Government, under arrangements between the joint committee and the heads of those departments and agencies, in connection with the inaugural proceedings and ceremonies; and

(2) may accept gifts and donations of goods and services to carry out its responsibilities.

The concurrent resolution (S. Con. Res. 36) was agreed to, as follows:

S. CON. RES. 36

*Resolved by the Senate (the House of Representatives concurring),*

#### SECTION 1. USE OF THE ROTUNDA AND EMANCIPATION HALL OF THE CAPITOL.

The rotunda and Emancipation Hall of the United States Capitol are authorized to be used on January 21, 2013, by the Joint Congressional Committee on Inaugural Ceremonies in connection with the proceedings and ceremonies conducted for the inauguration of the President-elect and the Vice President-elect of the United States.

#### CELEBRATING BLACK HISTORY MONTH

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 387.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 387) celebrating Black History Month.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon

the table, with no intervening action or debate, and any statements related to the matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 387) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 387

Whereas in 1776, the United States of America was imagined, as stated in the Declaration of Independence, as a new country dedicated to the proposition that "... all Men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are Life, Liberty, and the Pursuit of Happiness ...";

Whereas the first Africans were brought involuntarily to the shores of America as early as the 17th century;

Whereas African-Americans suffered enslavement and subsequently faced the injustices of lynch mobs, segregation, and denial of the basic and fundamental rights of citizenship;

Whereas inequalities and injustices in our society still exist today;

Whereas in the face of injustices, people of the United States of good will and of all races distinguished themselves with a commitment to the noble ideals on which the United States was founded and courageously fought for the rights and freedom of African-Americans;

Whereas many African-American men and women worked against racism to achieve success and have made significant contributions to the economic, educational, political, artistic, literary, scientific, and technological advancements of the United States;

Whereas the greatness of the United States is reflected in the contributions of African-Americans in all walks of life throughout the history of the United States;

Whereas Lieutenant Colonel Allen Allensworth, Muhammad Ali, Constance Baker Motley, James Baldwin, James Beckwourth, Clara Brown, Ralph Bunche, Shirley Chisholm, Frederick Douglass, W. E. B. Du Bois, Ralph Ellison, Alex Haley, Dorothy Height, Lena Horne, Charles Hamilton Houston, Mahalia Jackson, Martin Luther King, Jr., the Tuskegee Airmen, Thurgood Marshall, Rosa Parks, Bill Pickett, Jackie Robinson, Sojourner Truth, and Harriet Tubman each lived a life of incandescent greatness, while many African-Americans lived, toiled, and died in obscurity, never achieving the recognition they deserved and yet paved the way for future generations to succeed;

Whereas, pioneers such as Maya Angelou, Arthur Ashe, Jr., Carol Moseley Braun, Ronald Brown, Ursula Burns, Kenneth Chenault, David Dinkins, Alexis Herman, Mae Jemison, Earvin "Magic" Johnson, Sheila Johnson, James Earl Jones, David Paterson, Marian Wright Edelman, Alice Walker, and Oprah Winfrey have all benefitted from their forefathers and have served as great role models and leaders for future generations to come;

Whereas on November 4, 2008, the people of the United States elected an African-American man, Barack Obama, as President of the United States;

Whereas African-Americans continue to serve the United States at the highest levels of government and military;

Whereas on February 22, 2012, President Barack Obama and First Lady Michelle Obama, along with former First Lady Laura

Bush, celebrated the groundbreaking of the National Museum of African American History and Culture on the National Mall in Washington, DC;

Whereas the birthdays of Abraham Lincoln and Frederick Douglass inspired the creation of Negro History Week, the precursor to Black History Month;

Whereas Negro History Week represented the culmination of the efforts of Dr. Carter G. Woodson to enhance knowledge of black history through the Journal of Negro History, published by the Association for the Study of African American Life and History, which was founded by Dr. Woodson and Jesse E. Moorland;

Whereas Black History Month, celebrated during the month of February, dates back to 1926 when Dr. Woodson set aside a special period of time in February to recognize the heritage and achievement of black Americans;

Whereas Dr. Woodson, the "Father of Black History", stated, "We have a wonderful history behind us. . . . If you are unable to demonstrate to the world that you have this record, the world will say to you, 'You are not worthy to enjoy the blessings of democracy or anything else.'";

Whereas since the founding, the United States has been an imperfect work in making progress towards noble goals; and

Whereas the history of the United States is the story of a people regularly affirming high ideals, striving to reach those ideals but often failing, and then struggling to come to terms with the disappointment of that failure before committing to trying again: Now, therefore, be it

*Resolved*, That the Senate—

(1) acknowledges that all of the people of the United States are the recipients of the wealth of history given to us by black culture;

(2) recognizes the importance of Black History Month as an opportunity to reflect on the complex history of the United States, while remaining hopeful and confident about the path that lies ahead;

(3) acknowledges the significance of Black History Month as an important opportunity to recognize the tremendous contributions of African-Americans to the history of the United States;

(4) encourages the celebration of Black History Month to provide a continuing opportunity for all people in the United States to learn from the past and to understand the experiences that have shaped the United States; and

(5) agrees that while the United States began in division, the United States must now move forward with purpose, united tirelessly as one Nation, indivisible, with liberty and justice for all, and to honor the contribution of all pioneers in this country who help ensure the legacy of these great United States.

#### COMMEMORATING THE 200TH ANNIVERSARY OF THE WAR OF 1812 AND "THE STAR SPANGLED BANNER"

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 388.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 388) commemorating the 200th anniversary of the War of 1812 and

"The Star Spangled Banner," and recognizing the historical significance, heroic human endeavor, and sacrifice of the United States Army, Navy, Marine Corps, and Revenue Marine Service, and State militias, during the War of 1812.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 388) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 388

Whereas the period beginning in 2012 and ending in 2015 marks the bicentennial celebration of the War of 1812 and "The Star Spangled Banner";

Whereas the War of 1812, which has been referred to as the "Second War of Independence", confirmed the independence of the United States from Great Britain in the eyes of the world and shaped the expansion and growth of the United States in later decades;

Whereas the United States declared war on Great Britain on June 18, 1812, to redress wrongs including—

(1) the impressment of United States sailors;

(2) the violation of the neutrality rights of the United States; and

(3) the violation of the territorial waters of the United States;

Whereas, despite the vastly superior size of the military of Great Britain, the United States Army, Navy, Marine Corps, and Revenue Marine Service (a predecessor of the United States Coast Guard), and State militias (the predecessors of the National Guard), won a number of significant victories, ensuring that the liberties won by the United States during the Revolutionary War were not lost;

Whereas major battles of the War of 1812 that were fought on the water, including the battle between U.S.S. *Constitution* and H.M.S. *Guerriere*, the Battle of Lake Champlain, and victories on the Great Lakes, showcased the might, bravery, and war-fighting tactics of the United States maritime forces;

Whereas the decisive victory of Oliver Hazard Perry over a British fleet near Put-In-Bay, Ohio in the Battle of Lake Erie ensured that—

(1) the United States gained control of the Great Lakes; and

(2) portions of the Old Northwest Territory, such as Ohio, Michigan, Illinois, Minnesota, and Wisconsin, remained part of the United States;

Whereas State militias, the oldest component of the Armed Forces of the United States, answered the call to service, defending their communities and their country from aggression by Great Britain;

Whereas United States forces seized the city of Mobile from Spanish control in 1813,

built Fort Bowyer to protect the city, and in 1814 successfully repelled a vastly larger British force from the city, resulting in Mobile becoming one of the few permanent land concessions gained by the United States during the War of 1812;

Whereas Great Britain unleashed grievous attacks on the capital of the United States, Washington, D.C., burning to the ground the United States Capitol Building, the White House, and much of the rest of the city;

Whereas, after 2 ½ years of conflict, the British Royal Navy sailed up the Chesapeake Bay in an attempt to capture Baltimore, Maryland;

Whereas United States forces at Fort McHenry, stationed in the outer harbor of Baltimore, Maryland under the command of Brevet Lieutenant Colonel George Armistead, withstood nearly 25 hours of bombardment by the British forces and refused to yield, thereby forcing the British to give up the invasion and withdraw;

Whereas Francis Scott Key, a United States lawyer who was being held by the British on board a United States flag-of-truce vessel in the harbor, saw "by the dawn's early light", as Key would later write, an American flag still flying over Fort McHenry after the horrific attack;

Whereas Francis Scott Key immortalized the event in a poem entitled "Defense of Fort McHenry", which was later set to music and called "The Star-Spangled Banner";

Whereas "The Star-Spangled Banner" became the national anthem of the United States on March 3, 1931, when President Herbert Hoover signed Public Law 71-823;

Whereas General Andrew Jackson, who would later become the seventh President of the United States, won the Battle of Horseshoe Bend and then triumphed in the decisive Battle of New Orleans, which, although fought after the signing of the Treaty of Ghent, was a great source of pride to the young United States and provided momentum for growth and prosperity in the years that would follow;

Whereas, since 1916, the people of the United States have entrusted the National Park Service with the care of national parks and sites of historical significance to the country, including Fort McHenry and more than 30 other sites and National Heritage Areas that tell the story of the War of 1812;

Whereas the diverse historic sites relating to the War of 1812 include homes, battlefields, and landscapes that highlight the contributions made by a wide range of people in the United States during the war;

Whereas one such historic site is the Fort McHenry National Monument and Historic Shrine, the birthplace of "The Star Spangled Banner", where the symbols of both the flag and the national anthem of the United States come together;

Whereas the people of the United States are grateful for the rights defended through hard fighting during the War of 1812 by the United States Army, Navy, Marine Corps, and Revenue Marine Service, and State militias, including the protection of United States citizens at home and abroad, unrestricted trade, free and open ports, and the protection of the territorial integrity of the United States against aggression; and

Whereas, during the bicentennial years of the War of 1812 and "The Star Spangled Banner", it is fitting that the bravery and stead-

fast determination of the United States land and maritime forces be celebrated by the grateful people of the United States: Now, therefore, be it

*Resolved*, That the Senate—

(1) honors the memory of all the people of the United States who came together during the War of 1812, particularly the fallen heroes who gave their lives during the "Second War of Independence";

(2) commends the men and women of the United States Army, Navy, Marine Corps, Air Force, and Coast Guard, and the State National Guards, who preserve the ideals of freedom, democracy, and the pursuit of happiness that were guaranteed by the victories of the War of 1812;

(3) congratulates the Armed Forces of the United States, the National Parks Service, the Maryland War of 1812 Bicentennial Commission, and all other organizations and individuals who are involved in preserving and promoting the history of this great country, and supports their commemoration of the War of 1812 and "The Star Spangled Banner"; and

(4) calls on all people of the United States to join in the commemoration of the bicentennial of the War of 1812 and "The Star Spangled Banner" in events throughout the United States, to celebrate that at the end of the war, as Francis Scott Key wrote, "our flag was still there".

#### ORDERS FOR FRIDAY, MARCH 2, 2012

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until Friday, March 2 at 10 a.m.; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day; that following any leader remarks, the Senate resume consideration of S. 1813.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PROGRAM

Mr. REID. Mr. President, tomorrow we will continue working on a path forward on the Transportation bill. There will be no rollcall votes, as I previously announced. There be no rollcall votes until Tuesday morning.

#### ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 6:40 p.m., adjourned until Friday, March 2, 2012, at 10 a.m.

## EXTENSIONS OF REMARKS

### PERSONAL EXPLANATION

#### HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 1, 2012*

Ms. LEE of California. Mr. Speaker, I was not present for rollcall votes 80–91. Had I been able to vote, I would have voted “no” on the Motion on Ordering the Previous Question on the Rule, “no” on H. Res. 566, “yes” on the journal vote, “yes” on the Thompson (CA)/Eshoo (CA) Amendment to H.R. 1837, “yes” on the McNerney (CA) Amendment (#3) to H.R. 1837, “yes” on the McNerney (CA) Amendment (#4) to H.R. 1837, “yes” on the Garamendi (CA) Amendment (#5) to H.R. 1837, “yes” on the Napolitano (CA) Amendment to H.R. 1837, “yes” on the Garamendi (CA) Amendment (#7) to H.R. 1837, “yes” on the Markey (MA)/Thompson (CA)/Matsui (CA) Amendment to H.R. 1837, “yes” on the Democratic Motion to Recommit H.R. 1837 and “no” on Final Passage of H.R. 1837.

### CONGRATULATING AT&T VETERANS ON OPERATION HYDRATION: MISSION ACCOMPLISHED

#### HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 1, 2012*

Mr. SAM JOHNSON of Texas. Mr. Speaker, I am glad to recognize before the United States Congress the great men and women of AT&T Veterans.

This AT&T Employee Resource Group was founded in 2007 under the motto, “Serving Those Who’ve Served Our Country.” With over 300 members in Dallas/Fort Worth (DFW) and 3,300 nationwide, this group of true American patriots is doing great things for our nation’s military veterans and active duty troops.

Recently, the DFW chapter joined forces with the local USO to raise \$8,000 and provide over 1,200 cases of water for troops moving through DFW International Airport. Most of these servicemen and women were only home for two weeks of R&R before heading back overseas.

AT&T Veterans not only provided the water bottles, but volunteered to greet incoming flights and provide a hero’s sendoff for departing troops. They called this project Operation Hydration, and it’s been a real success.

To the AT&T Veterans, congratulations on a mission accomplished!

Thank you for your service—past and present—and may God continue to bless the United States of America through great folks like you.

### RECOGNIZING THE 125TH ANNIVERSARY OF THE ROMAN CATHOLIC DIOCESE OF SYRACUSE

#### HON. ANN MARIE BUERKLE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 1, 2012*

Ms. BUERKLE. Mr. Speaker, I rise today in recognition of the 125th Anniversary of the Roman Catholic Diocese of Syracuse.

Presided over by Bishop Robert J. Cunningham, the Diocese has been a beacon of hope and sanctuary for all those seeking assistance in the Greater Syracuse area.

The diocese has 133 parishes, 9 missions, and 3 devotional chapels. In addition, the diocese has three Catholic hospitals that assist 650,000. There are people and seven special centers for social services assisting over 100,000 people. The Catholic Diocese oversees 42 residential facilities that care for the disabled, 24 Catholic schools, and 264 offices. Overall, the diocese employs approximately 3,000 people.

Today, churches, schools, and community organizations of the Diocese serve much more than the Catholic population. The outreach programs established by parishes across seven counties in Central New York reach out to people of all beliefs and walks of life.

In 125 years, the dedicated volunteers and clergymen of the Diocese of Syracuse have not stopped spreading the universal messages of peace and goodwill. I commend the members of the Diocese for holding to their founding principles of Faith, Hope, and Charity for all. I congratulate the Diocese of Syracuse on their 125th Anniversary and I thank them all for their good works.

### IN APPRECIATION OF MR. RICK LOTTIE FOR DISTINGUISHED SERVICE ON THE THIRD DISTRICT OF TEXAS, ACADEMY SELECTION BOARD

#### HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 1, 2012*

Mr. SAM JOHNSON of Texas. Mr. Speaker, I am honored to publicly recognize and thank Mr. Rick Lottie for his years of distinguished service on the Third District of Texas’ Academy Selection Board.

A 1969 graduate of the United States Naval Academy, Mr. Lottie served his country with distinction as a Marine Corps infantry officer from 1969 to 1974, including a deployment to Vietnam from 1970 to 1971.

He then spent his civilian career working for first-rate IT services companies such as Electronic Data Systems, Perot Systems, and MCI Systemhouse.

Mr. Lottie, always a community servant, has served on the board of directors for the Marine Corps Scholarship Foundation and Admiral Nimitz Foundation and is currently an advisor to the Injured Marine Semper Fi Fund.

As a member of the Third District’s Academy Selection Board, Mr. Lottie has sacrificed his time and offered his guidance to help me send some of North Texas’ best and brightest young people to United States Service Academies.

It is a privilege to know this true American patriot.

To Rick, thank you for your service, and God bless you.

### TEXAS INDEPENDENCE DAY

#### HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 1, 2012*

Mr. GENE GREEN of Texas. Mr. Speaker, Friday, March 2, 2012, marks Texas Independence Day. 176 years ago, the Texas Declaration of Independence was ratified by the Convention of 1836 at Washington-on-the-Brazos.

This is an important day for Texas and patriotic Texans observe this occasion with great pride.

In 1824, a military dictatorship took over in Mexico abolishing the Mexican constitution. The dictatorship refused to provide trial by jury, freedom of religion, public education for their citizens, and allowed the confiscation of firearms, this last one being the most intolerable, particularly among Texans.

The Texas Declaration of Independence states that Texas’ government had been “forcibly changed, without their consent, from a restricted federative republic, composed of sovereign states, to a consolidated central military despotism.”

It stated that because of the injustice of Santa Anna’s tyrannical government, Texans were severing their connection with the Mexican nation and declaring themselves “a free, sovereign, and independent republic . . . fully invested with all the rights and attributes” that belong to independent nations; and a declaration that they “fearlessly and confidently” committed their decision to “the Supreme Arbiter of the destinies of nations.”

The Texas Declaration of Independence was fully justified because this military dictatorship had ceased to protect the lives, liberty, and property of the people of Texas.

Failure to provide these basic rights violated the sacred contract between a government and the people, and Texans did what we still do today—stand up for our rights by declaring our independence to the world.

In response, the Mexican army marched to Texas waging war on the land and the people,

● This “bullet” symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

enforcing the decrees of a military dictatorship through brute force and without any democratic legitimacy.

As future President Sam Houston and other delegates signed the Texas Declaration of Independence, General Santa Anna's army besieged independence forces at the Alamo in San Antonio.

Four days after the signing, the Alamo fell with her commander Lt. Colonel William Barrett Travis, Former Tennessee Congressman David Crockett, and approximately 200 other Texan defenders.

All these men were killed in action, a heroic sacrifice for Texan freedom. If this tragedy were not enough, weeks later Santa Anna's army massacred over 300 unarmed Texans at Goliad on March 27.

In a dramatic turnaround, Texans achieved their independence several weeks later on April 21, 1836. Roughly 900 members of the Texan army overpowered a much larger Mexican army in a surprise attack at the Battle of San Jacinto. I am proud to represent the San Jacinto Battlefield and State Park.

That battle is memorialized along the San Jacinto River with the San Jacinto Monument. The monument is larger than the Washington Monument here in DC.

Today we give thanks to the many Texans that sacrificed for the freedom we now enjoy. God bless Texas and God bless America.

CELEBRATING HARRY  
BELAFONTE'S 85TH BIRTHDAY

HON. LAURA RICHARDSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2012

Ms. RICHARDSON. Mr. Speaker, I rise today to ask the House to join me in extending warm wishes to Mr. Harry Belafonte, a great American who celebrates his 85th birthday today.

Harry Belafonte is not only the consummate entertainer, but he is a tireless civil rights advocate. He has used the fame and wealth that he earned early on in his career as a musician and actor to support and advance the cause of civil and human rights.

Harry Belafonte was born Harold George Belafonte, Jr., at Lying-in Hospital, New York City, New York. He was the son of Melvine, a housekeeper, and Harold George Belafonte, Sr., a Jamaican who worked as chef in the Royal Navy. From 1932 to 1940, he lived with his grandmother in the village of Aboukir in her native country of Jamaica. When he returned to New York City he attended George Washington High School after which he joined the Navy and served during World War II.

At the end of the 1940s, he took classes in acting at the Dramatic Workshop of The New School in New York with the influential German director Erwin Piscator alongside Marlon Brando, Tony Curtis, Walter Matthau, Bea Arthur, and Sidney Poitier, while performing with the American Negro Theatre.

Belafonte started his career in music as a club singer in New York, a job he took to help pay for his acting classes. The first time he appeared in front of an audience he was

backed by the Charlie Parker band, which included the great Charlie Parker himself, Max Roach, and Miles Davis among others. At first he was a pop singer, launching his recording career on the Roost label in 1949, but later he developed a keen interest in folk music, learning material through the Library of Congress' American folk songs archives. With guitarist and friend Millard Thomas, Belafonte soon made his debut at the legendary jazz club The Village Vanguard. In 1952 he received a contract with RCA Victor.

His first wide-release single, which went on to become his "signature" song with audience participation in virtually all his live performances, was "Matilda," recorded April 27, 1953. His breakthrough album *Calypso* (1956) became the first LP to sell over 1 million copies. The album introduced American audiences to Calypso music and Belafonte was dubbed the "King of Calypso." Belafonte was also the first African American man to win an Emmy, with his first solo TV special *Tonight with Belafonte* (1959).

More than a musician and entertainer, Belafonte was a civil rights activist and tireless leader. Belafonte's political beliefs are greatly inspired by the man that he still views to this day as his mentor: singer and activist Paul Robeson. He strongly opposed racial prejudice, segregation, and discrimination in the United States. Like Robeson and other black entertainers, Belafonte's success in the arts did not protect him from racial discrimination, particularly in the American South. As a result, Belafonte refused to perform in the South from 1954 until 1961.

Also in the 1950s, Belafonte met a young Dr. Martin Luther King, Jr. on the latter's historic visit to New York. From that eventful first meeting until the day Dr. King was assassinated, Belafonte and Dr. King maintained a deep and abiding friendship.

Dr. King, Jr., said of Belafonte, "[his] global popularity and his commitment to our cause is a key ingredient to the global struggle for freedom and a powerful tactical weapon in the Civil Rights movement here in America. We are blessed by his courage and moral integrity."

Mr. Belafonte could always be counted on to be there when the need was greatest. He was there to provide the money to secure Dr. King's release from Birmingham City Jail. He raised thousands of dollars to post the bail needed to release other jailed civil rights protesters. He financed the Freedom Rides, supported voter registration drives, and helped to organize the March on Washington in 1963.

During "Freedom Summer" in 1964, Belafonte financed the Student Non-Violent Coordinating Committee, SNCC, flying to Mississippi that August with \$60,000 in cash and entertaining crowds in Greenwood with his "Banana Boat Song." In 1968, Belafonte appeared on a Petula Clark primetime television special on NBC. In the middle of a song, Clark smiled and briefly touched Belafonte's arm, which made the show's sponsor, Plymouth Motors, nervous. Plymouth wanted to cut out the segment, but Clark, who had ownership of the special, told NBC that the performance would be shown intact or she would not allow the special to be aired at all. American newspapers published articles reporting the con-

trovery and, when the special aired, it earned high ratings.

Belafonte has continued his involvement in the civil rights struggle to this very day. Recently, Belafonte spoke at the 50th SNCC Anniversary Conference.

Belafonte did not limit his fight for justice to the United States. He has spent his life and career advocating for human rights around the entire world. For example, disturbed by cruel events unfolding in Africa as a result of war, famine and drought, Belafonte set in motion the wheels that led to "We Are the World," the iconic song and music video organized by Michael Jackson and Lionel Richie, that raised millions in support of famine relief efforts in Africa. In 1987, Belafonte accepted the appointment as UNICEF Goodwill Ambassador—the second American to hold this position—the first was Danny Kaye.

Belafonte has continued to devote himself globally to civil and human rights issues, focusing in particular on the United States and Africa. "My social and political interests are part of my career. I can't separate them," said Belafonte. "My songs reflect the human condition. The role of art isn't just to show life as it is, but to show life as it should be."

Belafonte's international civil rights accomplishments also include his contribution to ending the oppressive apartheid in South Africa and securing the release of his friend, Nelson Mandela, imprisoned for twenty seven and a half years.

Belafonte was appointed by President John F. Kennedy Cultural Advisor for the Peace Corps, a position he held for five years. He has been honored many times by such diverse groups as the American Jewish Congress, the NAACP, the City of Hope, Fight for Sight, The Urban League, The National Conference of Black Mayors, the Anti-Defamation League of B'nai B'rith, the ACLU, the State Department, the Boy Scouts of America, Hadassah International and the Peace Corps.

He has received awards from the Bronx Community College for his work with children, the Albert Einstein Award from Yeshiva University, the Martin Luther King, Jr. Peace Prize and the prestigious Kennedy Center Honors for excellence in the performing arts. He was the first recipient of the Nelson Mandela Courage Award and was honored at the White House with the 1994 National Medal of Arts from President Clinton for his contributions to our nation's cultural life. He has received honorary degrees from City University of New York, Spellman College in Atlanta, Tufts University, Brandeis University, Long Island University, Bard College and most recently Doctor of Humane Letters from Columbia University. In 2010, the Congressional Black Caucus Foundation honored Mr. Belafonte with its prestigious Phoenix Award.

Mr. Speaker, Harry Belafonte has devoted his life to the cause of freedom, justice, equality, and human dignity. His has been an important and consequential life. And he is still going strong.

So on the occasion of his 85th birthday, I rise to say Mr. Belafonte: Happy birthday and thank you for your active faith, your lifetime of service, your tireless devotion to human rights and freedom.



TRIBUTE TO BISHOP JOSEPH  
WILSON PARKS

**HON. BILL PASCRELL, JR.**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 1, 2012*

Mr. PASCRELL. Mr. Speaker, I rise today to recognize Bishop Joseph Wilson Parks, for his contributions to the State of New Jersey and to our nation. On February 15, 2012, Bishop Parks passed away at the age of eighty-one. As a spiritual leader, mentor, and community servant, Bishop Parks dedicated himself to bettering the lives of others.

Bishop Parks was born on January 7, 1931 in Wilkesboro, North Carolina. He was one of six children of Ernest R. Parks and Lura V. (Barber) Parks. Although he began high school in Wilkesboro, NC, Bishop Parks ultimately received his high school diploma from Harren High School in New York City.

In 1945, Bishop Parks joined the Mt. Olive Fire Baptized Holiness Church in Harlem, New York. At the young age of seventeen, Bishop Parks became one of the first Junior Deacons at Mt. Olive and would later go on to serve as a Senior Deacon for ten years. Bishop Parks was a member of Mt. Olive Fire Baptized for twenty years.

On November 27, 1951, Bishop Parks was drafted into the United States Army. For eight years, he proudly served his country during the Korean War and would ultimately receive an Honorable Discharge.

After returning home, Bishop Parks went on to work in the printing industry for thirty-eight years. During his time in the printing industry, he was a proud and active member of the Local 1—Amalgamated Lithographers of America.

On January 30, 1954, Bishop Parks married the love of his life Anna B. Harmon Parks.

Bishop Parks went on to graduate from Manhattan Bible Institute in New York City, receiving his Bachelor's degree and Master's degree in 1968. He also received an Honorary Doctorate from Fuller Normal Industrial Institute in Greenville, South Carolina. In 1965, Bishop Parks was ordained as a reverend and appointed pastor of St. Peter F.B.H. Church in Paterson, New Jersey.

In 1973, Bishop Parks and his family moved to Paterson, New Jersey, where he continued to serve his church. Upon moving to Paterson, Bishop Parks became an active community advocate throughout Paterson. Bishop Parks was a member of the Paterson Pastors' Workshop, St. Joseph's Hospital Pastoral Care Team and instituted numerous ministries that benefited the community.

On November 24, 1994, Reverend Parks was ordained as a Bishop of Sounds of Praise Pentecostal Ministries, under the auspices of the Bishop Chandler David Owens, Chairman of the Church of God in Christ.

For those lucky enough to have known Bishop Parks personally, they knew that his family and faith meant everything to him. I know that he will be missed by his children, family, friends, and congregants, but most of all by his wife Anna B. Harmon Parks.

On February 25, 2012 the memorial service and funeral for Bishop Parks took place in our

hometown of Paterson, New Jersey. I was humbled to have the honor to speak at Bishop Parks' memorial service. Having known Bishop Parks throughout my career in public service, I can confidently say that his life was a life well-lived.

The job of a United States Congressman involves much that is rewarding, yet nothing compares to recognizing and commemorating the achievements of truly selfless individuals like Bishop Joseph Wilson Parks.

Mr. Speaker, I ask that you join our colleagues, Bishop Park's family and friends, all those whose lives he touched, and me, in recognizing Bishop Joseph Wilson Parks.

McKINNEY CHRISTIAN ACADEMY:  
CELEBRATING 20 YEARS OF  
FIRST-RATE EDUCATION

**HON. SAM JOHNSON**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 1, 2012*

Mr. SAM JOHNSON of Texas. Mr. Speaker, it is my privilege to congratulate McKinney Christian Academy on 20 years of providing first-rate education to the young people of North Texas.

As the school's mission statement says, "McKinney Christian Academy exists to honor Jesus Christ by teaching students to live biblically through education of mind, body, and spirit." Over the past two decades, it has done just that for hundreds of students.

On the first day of classes back in 1992, just 13 children walked through the doors. Currently, 510 students from pre-kindergarten through the twelfth grade are being served at McKinney Christian by a devoted, skilled faculty and staff.

In fact, the local paper recently named McKinney Christian's lower school principal, Ms. Debi Sass, and a top-notch teacher, Mr. Jeff Anderson, 2011 Principal of the Year and Teacher of the Year for the area.

McKinney Christian is honored to have former Arkansas Governor Mike Huckabee join them at a special anniversary celebration this month, and while I will be in Washington, D.C. during the occasion, it's a pleasure to welcome the Governor to the Third Congressional District of Texas.

To the McKinney Mustangs—parents, students and teachers alike—congratulations on being a part of such an exceptional institution. Keep up the good work.

God bless you, God bless Texas, and may God continue to bless the United States of America through great folks like you.

TANZANIA MISSION FULFILLS  
DREAM FOR CARMEL COUPLE

**HON. SAM FARR**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 1, 2012*

Mr. FARR. Mr. Speaker, I submit the following.

[From the Monterey Herald, Jan. 22, 2012]

DAVE AND WENDY BANKS TEACH VILLAGERS  
DURING PEACE CORPS EXPERIENCE

(By Amy E. West)

When Carmel's Dave and Wendy Banks met in the 1960s, they talked about joining the Peace Corps. What they didn't realize was it would take them more than four decades to make it happen.

After marrying, raising kids and retiring, they said to each other, "You know what we talked about long ago? Maybe we should try it."

The retired couple returned to Carmel in 2010 after spending more than two years in Tanzania, educating villagers about HIV prevention, biology and English.

Surprisingly, they integrated well into the Tanzanian culture.

"If you have gray hair, you're in," said Dave Banks, 70, a retired pharmacist.

Their Tanzanian village of about 1,000 people not only respected their elders, but also respected the customs of one another. The village, Maringo, had two major tribes, and Catholic, Muslim and Lutheran faiths lived and celebrated traditions together, which impressed the Bankses.

"I think a lot of places in the world could take an example from Tanzania," said Wendy Banks, 69, a retired teacher.

Tanzanians subsist on less than a dollar a day, and at least 10 percent of the population lives with HIV. The stigma of the disease, especially with women, inspired the Bankses to start a life skills club to teach how to prevent the spread of HIV and brainstorm ways for HIV-inflicted villagers to support their families.

High school students from the club performed skits and raps for the younger school kids, and persuaded even Muslim girls to do condom demonstrations.

Primary education, required in Tanzania, is free, but tuition for high school costs about \$100 a year. Educating boys takes priority over girls, but the headmaster in Maringo worked hard to keep the ratio at 50 percent.

To stay in school, girls commonly find older men to finance their education in exchange for sexual favors. "Babu" Dave and "Bibi" Wendy worked to teach the women to say, "No, not without a condom."

"You just don't know if you get through," Wendy said.

The headmaster also requested their help teaching in a high school with 500 students and only two teachers. Dave taught biology and Wendy taught English to 80 freshmen each.

To start the school's first library, the couple called for donations from Monterey Peninsula residents, who mailed nearly 3,000 books. To cover shipping costs of nearly \$55 a box, the community raised \$5,000.

The couple's family also offered support. A granddaughter requested soccer balls—used or new—instead of gifts for her 10th birthday, and shipped them with pumps to Tanzania. One of the couple's daughters raised money to finance two girls' education for three years.

The couple brought with them a laptop, printer, solar charger, shortwave radio and a power strip, which proved especially useful in a village that had just one room with electricity and many villagers with cellphones that needed charging.

Wendy Banks was struck by villagers' resourcefulness. "They can do so much with so little," she said.

One memorable side trip seems to bear this out. To get to a larger city a few hours away,

the couple rode in trucks called dala-dalas, which were crammed with livestock, people and bags and had "already lived their life and died," Dave Banks said. On one trip, the truck got a flat tire. The driver used a pile of rocks to jack up the truck, but jammed on the wrong size spare tire. Soon after starting up again, the truck ran out of gas. After the driver borrowed a bike to travel to the only village with gas, he returned and swished gasoline in his mouth, spit it on the carburetor, and they were finally on their way.

"Traveling was just so awful," Wendy said. "When we got off the bus, we were always real happy," Dave said. The average age of a Peace Corps volunteer is 28, and only 7 percent of volunteers are older than 50 or married. The organization is trying to change that. In November it teamed up with AARP to reach out to volunteers with a lifetime of skills and professional experience.

The oldest volunteer currently serving in the Peace Corps is 82, just five years younger than the oldest volunteer ever to serve.

But the Peace Corps' rigorous medical background may stymie the process for older Americans, who must provide thorough documentation to show a clean bill of health. Though both Wendy and Dave were in excellent physical health, the Peace Corps still requested medical records dating back to their 20s. Applicants with diseases like diabetes can serve, but may be placed closer to medical facilities instead of in remote villages.

For Dave and Wendy, 18 months passed from the time they submitted the application until they left for Tanzania. Though they returned a year and a half ago, the couple still uphold one of the three Peace Corps goals—promoting a better understanding of Tanzanians to Americans. They've given numerous talks around the San Francisco Bay Area and don't seem to tire of telling their stories.

In an African culture that respects their elders, but also depends on an extended family for support, the Tanzanians thought it odd for two people to leave their home and family of four children and 10 grandchildren.

Wendy's response: "We'll go back to our family . . . and maybe our family will be better, because we had this experience to share."

#### IMPORTANCE OF FISCAL DISCIPLINE IN OUR OFFICES

### HON. TIMOTHY V. JOHNSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 1, 2012*

Mr. JOHNSON of Illinois. Mr. Speaker, I rise today to address an issue that is of principal importance to our fiscal situation today in this Congress. I am referring to our own fiscal responsibility within the confines of our Congressional offices.

According to the Chicago Tribune, the number of members from Illinois that have returned more than one million dollars from their office accounts, called Member representational allowances, or MRA account only totals four members. They are Congressmen COSTELLO, JACKSON, MANZULLO and I. I encourage my fellow colleagues from my home state, and those across the county, to accept my challenge to strive for this respectable marker, to ensure the general public that we in Congress can also "Live within our means." We ask

those who we serve, our constituents to make sacrifices to do so, and therefore we are expected to do the same in return.

I understand that returning this money will not offset our debts significantly and is a nominal amount when compared to our ever increasing colossal debt. But, the country and our citizenry demand a Congress that is in tune with their needs and values. Consequently, fiscal responsibility is tantamount to operating a home and a business, and we as leaders should make an effort, no matter how minuscule, in order to gain back the public's trust in this government.

I thank you Mr. Speaker for allowing me to speak on this issue. I praise my Colleagues from Illinois that are motivated to pursue fiscally responsible policies, and I encourage all Members of Congress as a whole, to follow our example.

#### IN CELEBRATION OF JOHN COWANS'S 90TH BIRTHDAY

### HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 1, 2012*

Mr. VISCLOSKY. Mr. Speaker, it is with great honor and admiration that I congratulate Mr. John Cowans on a significant milestone, his 90th birthday, which will be on Thursday, March 1, 2012. John will celebrate this remarkable milestone with family and friends on Saturday, March 3, 2012, at a semi-formal gala in his honor. For over 32 years John's lasting dedication and irreplaceable presence in Northwest Indiana has allowed him the opportunity to touch the lives of countless individuals.

John Cowans was born on March 1, 1922, in Union Springs, Alabama. After high school, John devoted six years of his life to serving our country in the United States Army. Mr. Cowans then attended Tuskegee Institute, earning a bachelor's degree in elementary education, which would be the beginning of an influential teaching career. John went on to further his education and earned a master's degree in school administration from Alabama State Teachers College. John accepted his first teaching position at the Morgan County Schools in Decatur, Alabama. Later, he moved to Gary, Indiana, and taught science, math, and social studies at Charles R. Drew School. His career at Charles R. Drew would span 32 years. For his many dedicated years of inspiring youth through teaching, he is worthy of the highest praise.

John Cowans made his mark on history as the first African American Vice-President of the Indiana State Teachers Association. Mr. Cowans also became President of the Gary Classroom Teachers Association. Mr. Cowans's pursuit to push education to greater levels continued, and he was instrumental in bringing about a day of recognition for teachers. To add to his already extraordinary career, John was a member of the National Education Association Assembly of Delegates to the Democratic National Convention 1976. John was able to impact the lives of youth for generations to come when he contributed to

the creation of the 21st Century Scholars Program, which today helps to ensure that every student in Indiana can afford to attend college in exchange for a good citizenship pledge. Mr. Cowans is truly an inspiration, and I am grateful for his outstanding contributions to education in Indiana and across the nation.

Mr. Speaker, John Cowans has been an excellent leader in our community. Not only has he dedicated his time and efforts selflessly to numerous students, teachers, and people of the community, he is also a faithful servant of God, loving husband to the late Roberta Emogene Matthews, and compassionate father to his five daughters: Carmen, Cheryl, Vickie, Judy, and Emelia. I respectfully ask you and my other distinguished colleagues to join me in wishing John a very happy 90th birthday!

#### PERSONAL EXPLANATION

### HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 1, 2012*

Ms. WOOLSEY. Mr. Speaker, on February 29, 2012, I was unavoidably detained and was unable to record my vote for rollcall Nos. 80-82. Had I been present, I would have voted: rollcall No. 80: "no"—Providing for consideration of the bill (H.R. 1837) to address certain water-related concerns on the San Joaquin River, and for other purposes; rollcall No. 81: "no"—Providing for consideration of the bill (H.R. 1837) to address certain water-related concerns on the San Joaquin River, and for other purposes; rollcall No. 82: "yes"—On Approving the Journal.

#### HONORING THE LEROY PANTHERS WRESTLING TEAM

### HON. TIMOTHY V. JOHNSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 1, 2012*

Mr. JOHNSON of Illinois. Mr. Speaker, I rise today to recognize the achievements of a talented group of student athletes from LeRoy, Illinois.

The LeRoy Panthers wrestling team recently captured the Illinois High School Athletic Association Class 1A Dual Team state wrestling finals after placing 2nd in 2009 and 3rd in 2011. The Panthers won with an impressive 40-24 victory over Lena-Winslow.

I hope that members of the LeRoy community continue to support and promote local athletics, as I believe that physical activity and extra circulars are an important staple of our education system. This team was considered being cut in the past, and now it is clear that this program has positively impacted the lives of these young men.

I would like to congratulate Head Coach Doug DeWald for all of his hard work with the team. But most of all, I want to congratulate the 2012 state champion wrestling team from LeRoy. These young men have represented themselves, their school and their community

in an exemplary fashion and I want to join with all the members of this House in wishing them continued success in their athletic and academic endeavors.

IN HONOR OF DENNIS "DENNY"  
GILLETTE

### HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2012

Mr. GALLEGLY. Mr. Speaker, I rise in honor of Dennis "Denny" Gillette, who retires today after nearly 14 years on the Thousand Oaks City Council, making him the second-longest serving councilmember in the city's history.

My wife, Janice, and I have had the honor of knowing Denny and his wife, Terry, for more than 30 years. Denny spent his entire adult life in the service of his country and his community, as a Marine, as a sheriff's deputy who rose to the rank of assistant sheriff, as vice president of California Lutheran University (CLU), and as an elected official.

Denny stepped down from the council for health reasons. I mention that only to share a story that illustrates his dedication as a public servant. Last month, Denny was hospitalized for surgery. At the time, the council was interviewing candidates for city attorney. Although Denny was advised by his doctors to rest, Denny insisted that the finalists come to the hospital, where he interviewed them from his hospital bed.

I was not surprised to hear that story.

When Denny was with the Ventura County Sheriff's Department—a career that spanned 25 years—I worked with him often on criminal justice issues. During his 12-year stint as vice president of CLU, we worked together on educational and community issues. As a councilmember—and three-time mayor—we worked together on a host of issues, including the widening of the 123 Freeway and 101/23 freeway interchange.

Denny's sure hand and calm but determined demeanor ensured that projects moved forward and were completed. Denny was also served 10 years on the Conejo Recreation and Park District Board before deciding to run for the City Council, and he completed many of the park projects he started on the park board from the council dais.

His many other accomplishments are too lengthy to list here, but they include: construction of the Community Transportation Center; forging a strong working relationship among the city, Park District, and Conejo Valley Unified School District; forging a highly successfully "Town-Gown" relationship between the city and CLU when he was at CLU, resulting in the successful completion of the North Campus Specific Plan and construction of the popular Community Pool located on the CLU campus; and construction of state-of-the-art athletic fields at Newbury Park High School, Thousand Oaks High School, and Westlake High School.

Current Mayor Jacqui Irwin told a local newspaper that when she learned of Denny's decision to retire, her heart dropped because she could not imagine the City Council without him.

The rest of the community feels the same way, Denny.

Mr. Speaker, I know my colleagues join me in thanking Denny for his lifetime of public service and in wishing him good health and many years of continued happiness with Terry, his wife of 42 years, and their daughters, Kristine and Lisa.

HONORING LUKAS MILEWSKI AND  
CORMAC MOLLOY ON THE OCCA-  
SION OF THE 51ST ANNIVERSARY  
OF THE PEACE CORPS.

### HON. MIKE QUIGLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2012

Mr. QUIGLEY. Mr. Speaker, I rise today to celebrate the 51st anniversary of the Peace Corps. The Peace Corps has become an enduring symbol of American ideals and has served as a tremendous example of how we can win friends around the world by providing trained workers and improving understanding between countries.

In October of 1960, then Senator John F. Kennedy challenged college students to commit themselves to serve overseas. Since 1961 more than 200,000 volunteers have answered that call to serve. Peace Corps volunteers have worked in 139 countries, helping people around the world in areas as diverse as education, AIDS prevention and treatment, agriculture, economic development and more. Five of my colleagues in Congress are former Peace Corps volunteers and can attest to the program's importance. As President Clinton stated, "When President Kennedy founded the Peace Corps in 1961, he saw it as a bold experiment in public service that would unite our nation's highest ideals with a pragmatic approach to bettering the lives of ordinary people around the world. He also saw it as an investment in our own future, in an increasingly interdependent world. In the years since, it's paid off many times over."

Two young people from my district can also attest to the important work the Peace Corps continues to perform. On behalf of the 5th District of Illinois, I would like to thank Lukas Milewski and Cormac Molloy, serving in Indonesia and Uganda respectively, for the service they are providing to our country and others.

IN HONOR OF NATIONAL KIDNEY  
MONTH

### HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2012

Mr. McDERMOTT. Mr. Speaker, I rise today to give recognition to Kidney Action Day today March 1st and World Kidney Day on March 8, 2012. I would also like to recognize the month of March as National Kidney Month.

As one out of nine Americans suffers from kidney related disease, it is more prudent than ever to devote time, resources and compassion to this community. We must raise aware-

ness and encourage screening in order to catch the disease early. There are 31 million Americans affected by kidney disease, and we should do everything in our power to make sure this number does not rise.

As a physician, I have seen the devastating effects of Chronic Kidney Disease, especially in the end stages. The two leading causes of this disease are high blood pressure and diabetes, both ailments which would spare the kidneys if patients were screened early and managed properly thereafter. As there is no cure for Chronic Kidney Disease, it is in our nation's best interest to help everyone gain access to the resources needed in order to prevent this disease from progressing. Prevention is crucial.

For those who do have kidney diseases that progress, dialysis and transplant become the only options. The world's first outpatient dialysis facility opened 50 years ago in my district in Seattle, and although technologies continue to improve, the basic idea remains the same: Patients with end-stage renal disease are dependent on access to dialysis centers to survive. We must continue to fully fund the Medicare ESRD program, as well as advance kidney disease research at the NIDDK (National Institute of Diabetes and Digestive and Kidney Diseases).

Today, I join other members from both sides of the aisle to attend Kidney Action Day events on Capitol Hill. I encourage my fellow members to join me in helping to spread awareness about a cause that affects us all. I hope we will all stand together to fight Kidney Disease and support those living with the disease every day, as well as their families.

HONORING KYLE EWING

### HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2012

Mr. GRAVES of Missouri. Mr. Speaker, I proudly pause to recognize Kyle Ewing. Kyle is a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 714, and earning the most prestigious award of Eagle Scout.

Kyle has been very active with his troop, participating in many scout activities. Over the many years Kyle has been involved with scouting, he has not only earned 38 merit badges, but also the respect of his family, peers, and community. Kyle has served in many leadership roles within his unit, most notably as Senior Patrol Leader. Kyle has also contributed to his community by rehabilitating the parking lot and painting the community room of Dearborn Retirement Community in Dearborn, Missouri.

Mr. Speaker, I proudly ask you to join me in commending Kyle Ewing for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

## PERSONAL EXPLANATION

**HON. BRAD SHERMAN**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 1, 2012*

Mr. SHERMAN. Mr. Speaker, on Wednesday, February 29, 2012, I was absent from the House Chamber. Had I been present, I would have voted "nay" on rollcall vote 80.

HONORING THE CARROLLTON  
AREA CHAMBER OF COMMERCE**HON. SAM GRAVES**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 1, 2012*

Mr. GRAVES of Missouri. Mr. Speaker, I proudly pause to recognize the Carrollton Area Chamber of Commerce and to congratulate them on their 100th anniversary.

Since its founding in 1912, the Chamber has been an effective advocate for Carrollton and Carroll County. Now numbering 160 members, the Chamber remains committed to leading the way for economic development and promoting small businesses throughout the Carrollton region.

Mr. Speaker, I proudly ask you to join me in commending the Carrollton Area Chamber of Commerce for their accomplishments over the past 100 years and in looking forward to the years to come.

HONORING THE ARLINGTON CHAPTER  
OF THE LINKS INCORPORATED**HON. JAMES P. MORAN**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 1, 2012*

Mr. MORAN. Mr. Speaker, for 45 years the Arlington Chapter of the Links Incorporated has been serving women, children and youth in the Alexandria and Arlington, Virginia communities.

Collectively, the chapter has been able to:

Award over \$100,000 in scholarships to high school and college students;

Reach hundreds of students and parents at multi-cultural events to honor/celebrate their rich heritage;

Support student-run TV broadcasting and offer mentoring and character building workshops;

Support educational, health and sustainable food sources to international developing countries; and

Conduct awareness training to hundreds of community residents on obesity, diabetes, and the number one killer of women . . . heart disease.

I would like to commend the Arlington Links for providing resources to deliver sustainable and impactful programs, and for promoting civic, educational and cultural activities that instill excellence and improve the quality of life to thousands in the Northern Virginia community.

COST-EFFECTIVENESS OF SKILLED  
HOME HEALTH IN MEDICARE**HON. TOM LATHAM**

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 1, 2012*

Mr. LATHAM. Mr. Speaker, as we search for solutions to ensure that the Medicare system remains solvent for seniors and future beneficiaries, I believe it is vitally important to support cost-effective benefits that allow seniors to remain healthy and independent. Many of the treatments that were once offered exclusively in a hospital or physician setting can now be safely, effectively, affordably and efficiently provided in patients' homes by skilled clinicians. Home health care offers an intermediate level of care for patients who have difficulty accessing outpatient care or who need intensive assistance with an acute or chronic health problem.

Home health services are cost effective because they prevent costly hospitalizations, and serve as an alternative to expensive skilled nursing facilities. According to an October 2010 report in the Des Moines Register, seniors utilizing skilled home care cost taxpayers an average of \$607 per month, compared to an average of \$3,687 for seniors in nursing homes. Not only is home care less expensive, but studies also show that the vast majority of seniors prefer to live independently and remain in their home if possible.

A case study through the Veterans' Administration (VA) highlights the benefits of home healthcare. The VA has provided comprehensive primary care services to veterans in their homes since 1972 in an effort to keep patients in their homes and reduce inpatient hospital days. The program was specifically designed to target patients with complex chronic diseases through an interdisciplinary team of health professionals. This program showed a reduction in inpatient hospital days by 62 percent, and a reduction in nursing home bed days by 88 percent. This translated into a reduction in the cost of care from \$38,000 to \$29,000 per patient per year for patients enrolled in the program (a 24 percent reduction).

The Medicare program continues to increase in importance in my home state of Iowa, where our senior population is increasing dramatically. The percentage of Iowans age 65 and older is expected to grow from 14.8 percent in 2009 to 22.4 percent by 2030, according to the Iowa Department on Aging. I am committed to preserving benefits for current recipients and those nearing retirement, while guaranteeing the program's solvency for future generations of Americans.

Seniors throughout Iowa depend on Medicare for their health coverage, and we have to do everything we can to safeguard those benefits. As we examine solutions to address Medicare's solvency, there is strong evidence that home care is a cost-effective benefit that should remain accessible to seniors.

HONORING MR. WILLIAM F.  
SCHENCK FOR HIS SERVICE IN  
THE CRIMINAL JUSTICE PROFESSION**HON. STEVE AUSTRIA**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 1, 2012*

Mr. AUSTRIA. Mr. Speaker, I rise today on behalf of the people of Ohio's Seventh Congressional District to recognize William F. Schenck for his outstanding career as a prosecuting attorney and his efforts of upholding justice in the Greene County Community and the nation.

Bill earned his Juris Doctor from The Ohio State University and shortly after began his career in the Greene County prosecutor's office. Elected to the position of Prosecuting Attorney seven times, Bill honorably served the citizens of Greene County for over 25 years. During his time as the county's prosecuting attorney, Bill prosecuted over 50,000 felonies and brought justice to numerous victims.

After his time in the Greene County prosecutor's office, Bill served as the Assistant United States Attorney at Department of Justice in the U.S. Attorney's Office for over five years. During this time, Bill prosecuted felons involved in organized crime.

Bill has shown himself to be a dedicated and hardworking member of the Greene County community and the state of Ohio. Throughout his service, he has been an advocate for victims' rights and has worked tirelessly for justice.

Thus, it is with great pride, I congratulate William F. Schenck for his commendable service in protecting the Miami Valley, the state of Ohio, and the United States. I join the people of Ohio's Seventh Congressional District in extending best wishes upon his retirement from the U.S. Attorney's Office and success in all future endeavors.

RECOGNIZING THE 100TH ANNIVERSARY  
OF THE GIRL SCOUTS**HON. ANN MARIE BUERKLE**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 1, 2012*

Ms. BUERKLE. Mr. Speaker, I rise today to recognize the 100th anniversary of the Girl Scouts of America.

On March 12, 1912, Juliette "Daisy" Gordon Low brought together 18 girls for the first ever Girl Scout meeting. One hundred years later Girl Scouts of America has 112 councils and more than 3.2 million members.

Since being founded, the Girl Scouts has been devoted to providing opportunities for all girls to develop and grow physically, mentally, and spiritually. Through the work of dedicated volunteers, young women are given a firm foundation to build upon their strengths and learn other valuable life skills.

Girl Scouts of NYPENN Pathways is the branch of the Girl Scouts of America that covers my district. It serves nearly 19,000 girls and over 7,000 adults in 24 counties in New

York and two counties in Pennsylvania. Through activities that help girls discover their values and skills, Girl Scouts of NYPENN Pathways gives girls courage, confidence, and character; attributes that will serve them well in their future.

I congratulate Girl Scouts of America on their 100th anniversary and offer my sincerest thanks to all of the Girl Scouts of America's volunteers, especially those from NYPENN Pathways, for their dedication and leadership to the next generation of young women.

#### A TRIBUTE TO MELISSA HEER

### HON. TOM LATHAM

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 1, 2012*

Mr. LATHAM. Mr. Speaker, I rise today to recognize the achievements of Melissa Heer of Ames for receiving a coveted Fullbright award to study and conduct research abroad this academic year.

The Fullbright Program is sponsored by the United States Department of State, Bureau of Education and Cultural Affairs. This program is known as America's flagship international exchange program. First established by Congress in 1946, the Fullbright Program has served the purpose of building mutual understanding between American citizens and the rest of the world. Appropriations from the United States Congress, participating foreign governments, and private sector contributions fund the Fullbright Program. The program has exchanged over a quarter of a million people in more than 155 countries, since its inception. Melissa's host country for the 2011–2012 academic year is India.

To receive a Fullbright award is truly a great honor. Recipients of this award must demonstrate significant leadership potential in their chosen field and are selected on the basis of their academic or professional achievement. The experiences provided by this program ensure that tomorrow's leaders are both knowledgeable about the world and well-rounded.

Mr. Speaker, it is a profound honor to represent future leaders like Melissa from the great state of Iowa in the United States Congress. I know my colleagues in the United States Congress will join me in congratulating her for receiving this prestigious award. I wish her the best of luck in her studies and future career.

#### HOUSTON LIVESTOCK SHOW AND RODEO

### HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 1, 2012*

Mr. GENE GREEN of Texas. Mr. Speaker, today I rise to honor the Houston Livestock Show and Rodeo for their commitment to education and to honor the volunteers that make it possible.

The Houston Livestock Show and Rodeo has been known as the largest rodeo in the

world. It attracts the best of the best in the rodeo and livestock industries but it also raises millions of dollars for Houston area children to go to college.

The Houston Livestock Show and Rodeo will award more 600 scholarships totaling over \$9.53 million in 2012. Every year, the rodeo increases the number of awards given to local students.

Since its beginning in 1932, the Houston Livestock Show and Rodeo has committed more than \$283 million to scholarships, research, endowments, and other educational youth programs. Students have received more than \$165 million in direct support, since the first scholarship was awarded in 1957.

Currently, more than 2,000 students are on Show scholarships, attending more than 100 different Texas colleges and universities. The value of these scholarships is approximately \$30 million.

I'm sure many students from the 29th District, and from all over the Houston area, will enjoy benefiting from this great program as it continues to grow in the future.

I am proud to be a life member of the Houston Livestock Show and Rodeo and thank the thousands of volunteers that dedicate well over a million hours of service each year to make the rodeo and its scholarship program operate as smoothly as they do.

The Houston Livestock Show and Rodeo would not be the success that it is today without the hard work and dedication of its volunteers. The current 26,000+ volunteers serve on more than 100 different Rodeo committees.

Their service to our community is greatly appreciated.

And so it is with great pleasure that I recognize the Houston Livestock Show and Rodeo for their success and dedication to education and to the volunteers that make the show possible.

#### NATIONAL EYE DONOR MONTH

### HON. JOSEPH R. PITTS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 1, 2012*

Mr. PITTS. Mr. Speaker, since President Ronald Reagan declared the first celebration in 1983, the Eye Bank Association of America (EBAA) and its 97 member eye banks have designated March as National Eye Donor Month—an opportunity to honor eye donors and corneal recipients, and increase awareness of the need to donate eyes.

Through corneal transplants, over 1,000,000 people have had their sight restored since the EBAA's inception in 1961. This is precisely why it is so important to educate the general public about the donors and their families who afford life-changing corneal transplantations for over 50,000 people annually.

Of the EBAA's 97 member eye banks, five are located in Pennsylvania, and they have a deep-rooted commitment to restoring sight by providing corneas for sight-saving transplant procedures. In 2010, charitable eye donations made by Pennsylvania residents allowed our state eye banks to provide in excess of 2,900 corneal transplants to help our fellow Penn-

sylvanians regain their sight, and almost 1,200 corneas for research and educational purposes.

The Pennsylvania eye banks' efforts have not gone unnoticed, changing the lives of thousands of Pennsylvanians through the selfless gifts of donors and their families.

The Center for Organ Recovery & Education in Pittsburgh will soon offer surgeons pre-cut corneal tissue, which will greatly enhance post-operative recovery time for those recipients undergoing Endothelial Keratoplasty.

In Hershey, the Gift of Life Eye Bank educates the public about eye donation and coordinates the recovery and allocation of corneas for transplant. Serving the eastern half of Pennsylvania, southern New Jersey and Delaware, the Gift of Life Eye Bank also supports research into the causes and cures of blinding eye conditions.

Located in the City of Brotherly Love, the Lions Eye Bank of Delaware Valley recently acquired the latest technological device to prepare donated cornea tissue for the most modern, highly-effective surgical techniques.

For over 52 years, the Lions Eye Bank of Northwest Pennsylvania in Erie has been dedicated to sight restoration. In November 2011, they accomplished a first; procurement of a cornea from a living donor and successful transplantation into a young man from Philadelphia.

Celebrating 55 years of eye banking, the Northeast Pennsylvania Lions Eye Bank in Bethlehem is a charter member of the EBAA, and to date, has placed over 25,000 corneas for transplantation.

Even with the tremendous advancements eye banks have made in corneal transplantation, much remains to be done to offer more people the opportunity to receive life-changing corneal transplants.

I encourage all Americans to register to become eye donors. Inform your family of your wishes; designate yourself as a donor on your driver's license; and register as an eye donor through your state donor registry.

I urge my colleagues to work with their local eye banks and the EBAA to promote the importance of eye donation and its life-enhancing effects on corneal recipients.

During March 2012, let us remember the donors whose gifts of sight make corneal transplants possible, celebrate the corneal recipients whose lives are forever changed and work with the EBAA and its member eye banks to continue restoring sight worldwide through public education and ongoing advancements in corneal transplantation.

#### A TRIBUTE TO CHARITY STRASZHEIM

### HON. TOM LATHAM

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 1, 2012*

Mr. LATHAM. Mr. Speaker, I rise today to recognize the achievements of Charity Straszheim of Story City for receiving a coveted Fullbright award to study and conduct research abroad this academic year.

The Fullbright Program is sponsored by the United States Department of State, Bureau of

Education and Cultural Affairs. This program is known as America's flagship international exchange program. First established by Congress in 1946, the Fulbright Program has served the purpose of building mutual understanding between American citizens and the rest of the world. Appropriations from the United States Congress, participating foreign governments, and private sector contributions fund the Fulbright Program. The program has exchanged over a quarter of a million people in more than 155 countries, since its inception. Charity's host country for the 2011–2012 academic year is the Czech Republic.

To receive a Fulbright award is truly a great honor. Recipients of this award must demonstrate significant leadership potential in their chosen field and are selected on the basis of their academic or professional achievement. The experiences provided by this program ensure that tomorrow's leaders are both knowledgeable about the world and well-rounded.

Mr. Speaker, it is a profound honor to represent future leaders like Charity from the great state of Iowa in the United States Congress. I know my colleagues in the United States Congress will join me in congratulating her for receiving this prestigious award. I wish her the best of luck in her studies and future career.

IN MEMORY OF JAMES LENARD  
MALLON

**HON. PETE SESSIONS**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 1, 2012*

Mr. SESSIONS. Mr. Speaker, I rise today with the Hon. KAY GRANGER to honor and remember Mr. James L. Mallon, a baseball coaching legend at Southwestern University in Georgetown, Texas. Coach Jim Mallon passed away on Sunday, February 28, 2012 following complications from heart surgery.

After five years with the San Francisco Giants organization and the completion of his Masters degree from Baylor University, Coach Mallon began his collegiate coaching and teaching career at Southwestern University in 1971. Under his leadership, his teams won multiple championships. Most notably, in 1984, his team finished third in the National Association of Intercollegiate Athletics (NAIA) World Series. During his 33 years, he had an impressive record of 1,197 wins against 601 losses. In 2005, he received the prestigious Lifetime Achievement Award from Southwestern University and was inducted into the NAIA Hall of Fame in 1992 and the Hall of Fame at Southwestern University in 2010.

Aside from his successful career, Coach Mallon positively impacted the lives of countless students. Those he coached knew firsthand of his passion for baseball, his caring nature, and the candid yet valuable advice he offered, which guided so many of them through life in the face of difficulties. He was loved, admired, and respected by all who knew him. Indeed, Southwestern University and the baseball community have suffered a great loss. Coach Mallon is survived by his loving wife, Jane; his sons, Jeff and Jarret;

and a multitude of friends throughout the State of Texas.

Mr. Speaker, we ask the House of Representatives to join us in mourning the loss of Coach Mallon and in offering his family and friends our sincere condolences. May the peace of God be with those he loved and sustain them through this hour of sorrow.

RECOGNIZING DR. WILLIAM  
EISENHARDT

**HON. GEORGE MILLER**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 1, 2012*

Mr. GEORGE MILLER of California. Mr. Speaker, I rise today with my colleague Congressman MIKE THOMPSON to recognize Dr. William Eisenhardt, President of the California Maritime Academy, as he retires after nearly 46 years of public service and 11 years as President of the Academy.

Dr. Eisenhardt is a native of Baltimore, Maryland, and a 1966 graduate of the United States Naval Academy, where he earned academic stars in engineering. During the Vietnam War, he served as a naval flight officer, earning the Air Medal and Navy Commendation Medal among other personal and unit decorations. After his active duty service he attended Duke University, where he earned his Masters and Ph.D. degrees while also teaching as a visiting professor.

Before coming to the California Maritime Academy, Dr. Eisenhardt spent 18 years at the Maine Maritime Academy as a faculty member, Commandant, and then Provost. Upon leaving, he was awarded an honorary doctorate of science in recognition of his accomplishments in international maritime education and his service to the Maine Maritime Academy.

Dr. Eisenhardt is a career educator with a lifelong dedication to maritime education. He began his 11 year Presidency at Cal Maritime in July 2001 and his accomplishments are numerous. Under his leadership, the Cal Maritime Academy has increased its exposure to a variety of external audiences. Dr. Eisenhardt's efforts have resulted in Cal Maritime being listed by both U.S. News and World Report and Forbes magazines as among the top public colleges in the country. During his tenure, Dr. Eisenhardt has doubled and diversified the academic offerings and enrollment at Cal Maritime. The campus has now become the most culturally diverse maritime academy in the U.S. with 20 percent of the cadets being women and over 30 percent from minority groups.

Cal Maritime's operating budget has also increased by nearly 50 percent and major capital improvements have exceeded \$39 million with another \$46 million in the planning and construction phase. Dr. Eisenhardt has overseen a five-fold expansion in charitable giving to the campus from alumni, industry, parents and friends. He was also responsible for securing the largest charitable donation in the Academy's history: \$3 million from the American Bureau of Shipping, used to establish the ABS School of Maritime Policy and Manage-

ment. Cal Maritime also boasts the world's finest Maritime Simulation Center, a new \$15 million facility for which he led the planning and development. In the 2008–2010 academic years the Academy was awarded just under \$11 million in federal grants and special project allocations, the most ever in the history of the institution.

Dr. Eisenhardt currently serves as a board member of the Solano County Economic Development Corporation and is the former Chair of the Council of State Maritime Academies & Colleges Consortium. He was active in the founding of the International Association of Maritime Universities and currently serves on its Executive Board. In addition, he serves on the Board of Directors of the San Francisco Marine Exchange and the Northern California Maritime Security Committee wherein he was awarded a U.S. Coast Guard Certificate of Merit in 2005 for providing leadership in helping to set up maritime security protocols.

Mr. Speaker, I invite my colleagues to join me in honoring Dr. William Eisenhardt for his tireless and dedicated service to his country and higher education. I also join his wife Kathryn, two daughters Elizabeth and Kristin, colleagues, and friends in congratulating him on a successful and fulfilling career, and a very well-deserved retirement.

A TRIBUTE TO DOCTOR JIMMY  
SENTEZA

**HON. TOM LATHAM**

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 1, 2012*

Mr. LATHAM. Mr. Speaker, I rise today to recognize the achievements of Dr. Jimmy Senteza of Urbandale for receiving a coveted Fulbright award to lecture and conduct research abroad this academic year.

The Fulbright Program is sponsored by the United States Department of State, Bureau of Education and Cultural Affairs. This program is known as America's flagship international exchange program. First established by Congress in 1946, the Fulbright Program has served the purpose of building mutual understanding between American citizens and the rest of the world. Appropriations from the United States Congress, participating foreign governments, and private sector contributions fund the Fulbright Program. The program has exchanged over a quarter of a million people in more than 155 countries, since its inception. Jimmy's host country for the 2011–2012 academic year is Uganda where he will proudly be representing Iowa's own Drake University.

To receive a Fulbright award is truly a great honor. Recipients of this award must demonstrate significant leadership potential in their chosen field and are selected on the basis of their academic or professional achievement. The experiences provided by this program ensure that tomorrow's leaders are both knowledgeable about the world and well-rounded.

Mr. Speaker, it is a profound honor to represent leaders like Dr. Senteza from the great state of Iowa in the United States Congress. I know my colleagues in the House will join me in congratulating him for receiving this

prestigious award and I wish him the best of luck in the future.

#### TEXAS INDEPENDENCE DAY

### HON. TED POE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2012

Mr. POE of Texas. Mr. Speaker, throughout history, people who have been abused by oppressive dictators have stood up and risked their lives in the name of freedom and independence.

Freedom fighters are the most powerful catalysts for change and their potential to alter history is unlimited.

This country knows the power of revolution better than any other. On July 4, 1776, after fighting for independence from Britain, the founding fathers signed the Declaration of Independence.

But there is another independence day that is not to be forgotten. For Texans, July 4th is not the only day to celebrate independence. This Friday, March 2, we will celebrate the 176th anniversary of Texas Independence.

Texas, a part of Mexico, had enjoyed the privileges of citizens under the Mexican Constitution of 1824.

Trouble started when Santa Anna became dictator of Mexico and abolished the Constitution and took away civil rights.

This led to the outbreak of revolution in October of 1835, both from Tejanos, Texans of Spanish and Mexican descent, and people from the United States.

Santa Anna with his three armies invaded Texas to put down rebellion. So on March 1, 54 Texians, including Lorenzo de Zavala, Thomas Rusk, Antonio Navarro and Sam Houston, gathered in the small village of Washington-on-the-Brazos.

Inspired by the American Revolution and the United States Declaration of Independence, the delegates drafted a Declaration of Independence overnight.

The declaration was signed on March 2 and the Republic of Texas was officially established.

As these determined delegates declared independence, Mexican dictator Santa Anna and several thousands of enemy troops closed in on an old beat-up Spanish mission that we now call the Alamo.

But Texas defenders stood defiant, stood determined. They were led by my hero, a lawyer by the name of William Barrett Travis who was just 27 years old.

The Alamo and its 186 Texans were all that stood between the massive army of invaders and the people of Texas.

The Alamo defenders who entered the Alamo on February 23, were a rag-tag group of relentless patriots, made up from nearly every state in the Union and 13 foreign countries, including Mexico.

Their ages were 16 through 67, at least 9 were Tejanos, and they were all volunteers. They were mavericks, revolutionaries, farmers, shopkeepers, and freedom fighters; and they came together to fight for something they believed in: freedom.

These freedom fighters held off an entire army of several thousand for 13 days. They would not relent.

During the bloody siege, Travis penned what would become the most famous letter in Texas history.

He said: "I am determined to sustain myself for as long as possible and die like a soldier who never forgets what is due his honor and that of his country."

"Victory or death."

Unfortunately, Travis' call for help was not answered in time.

After thirteen days of glory at the Alamo, Commander Travis and his men sacrificed their lives on the altar of freedom and the Alamo fell on March 6, 1836.

Because heroes like Travis, Davy Crockett and Jim Bowie held out for so long, Santa Anna's forces took such great losses they became battered, demoralized and diminished.

Captain Juan Seguin and his company of Tejanos joined General Sam Houston who had the time he needed to devise a strategy to rally other Texas volunteers and defeat the invaders.

In the middle of the afternoon on April 21, 1836, General Sam and his boys routed a larger Mexican army yelling, "Remember the Alamo!" The rest is Texas history.

The war was over, and the Lone Star flag was visible all across the broad, bold, brazen plains of Texas.

Texas remained a nation for 9 years—some Texans wish Texas was still its own nation. Texas claimed land that now includes part of New Mexico, Oklahoma, Colorado, Kansas, Wyoming, even up to the Canadian border.

In 1845, Texas was admitted to the Union by only one vote when a Louisiana Senator changed his mind. By its admission into the United States, Texas may divide into five States, and the Texas flag is to fly even with the U.S. flag and not below it.

Texas Independence Day is a day of pride and reflection in the Lone Star State. This week we remember that Texas was a glorious nation once and won freedom and independence because some fierce volunteers fought to the death for liberty over tyranny.

Freedom has a cost. It always does. It always will.

And as we pause to remember those who gave their lives so that Texas could be a free Nation, we must continue to remember those Americans that are currently fighting in lands across the seas for our Nation.

There are freedom fighters all over the world today who are fighting the same fight against tyrants. It is history like ours that gives them hope for success.

Celebrate Texas independence today and pay tribute to all our Texas heroes like William Barrett Travis.

His legacy embodies the spirit of Texans that is so admired and envied all around the world today.

And that's just the way it is.

#### INTRODUCTION OF EL YUNQUE NATIONAL FOREST PRESERVATION ACT

### HON. PEDRO R. PIERLUISI

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2012

Mr. PIERLUISI. Mr. Speaker, today I am introducing legislation designed to preserve and protect El Yunque National Forest in Puerto Rico. El Yunque, which is the only tropical rainforest administered by the U.S. Forest Service, is a source of great pride for the people I represent and a major economic driver over the world visit El Yunque each year—to walk along its beautiful trails, to sample its eco-tourism pleasures, and to gain a greater understanding of its ecological importance. El Yunque is featured on a quarter released into circulation last month as part of the U.S. Mint's "America the Beautiful Quarters Program," and a public launch ceremony to mark this occasion is scheduled to be held in El Yunque on March 14.

To protect El Yunque's rich biodiversity and to provide a buffer zone against encroaching urbanization, forest administrators need to acquire a number of parcels of land. Thus, my legislation would require the Federal Government to use funds currently generated by activities within El Yunque for investment back into El Yunque for land acquisition purposes.

I hope my colleagues will join me in taking this commonsense step to protect a national treasure.

#### A TRIBUTE TO PAMELA MADSEN

### HON. TOM LATHAM

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2012

Mr. LATHAM. Mr. Speaker, I rise today to recognize the achievements of Pamela Madsen of Ames for receiving a coveted Fulbright award to study and conduct research abroad this academic year.

The Fulbright Program is sponsored by the United States Department of State, Bureau of Education and Cultural Affairs. This program is known as America's flagship international exchange program. First established by Congress in 1946, the Fulbright Program has served the purpose of building mutual understanding between American citizens and the rest of the world. Appropriations from the United States Congress, participating foreign governments, and private sector contributions fund the Fulbright Program. The program has exchanged over a quarter of a million people in more than 155 countries, since its inception. Pamela's host country for the 2011–2012 academic year is India.

To receive a Fulbright award is truly a great honor. Recipients of this award must demonstrate significant leadership potential in their chosen field and are selected on the basis of their academic or professional achievement. The experiences provided by this program ensure that tomorrow's leaders are both knowledgeable about the world and well-rounded.



Mr. Speaker, it is a profound honor to represent future leaders like Pamela from the great state of Iowa in the United States Congress. I know my colleagues in the United States Congress will join me in congratulating her for receiving this prestigious award. I wish her the best of luck in her studies and future career.

CELEBRATING THE 25TH ANNIVERSARY OF BOY SCOUT TROOP 840

**HON. KENNY MARCHANT**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 1, 2012*

Mr. MARCHANT. Mr. Speaker, it is with great pride that I celebrate the 25th anniversary of Boy Scout Troop 840. The troop is located in Coppell, Texas, and has a successful history of developing boys into strong, responsible men.

Troop 840 was founded in 1987 and was chartered by the Coppell Fire Department, where it met at a fire department facility. The troop quickly outgrew the facility and moved to Mockingbird Elementary School in 1988. In 1989, the Sandy Lake Baptist Church took over the charter and provided the troop's meeting place. In 2007, Troop 840 was relocated to Valley Ranch Baptist Church as their new charter organization.

During the 25-year history of Troop 840, the Scouts have had seven Scout Masters. The Scout Masters in chronological order include Gary Brewer, Bob McCarty, Forrest Broom, Terry Tyler, Waid Davis, Chris Witt and, currently, Terry Smith. Forrest Broom served as Scout Master for one extra term between Terry Tyler and Waid Davis.

Troop 840 was recognized with the 2011 Western Star Friends of Scouting trophy for contributing more money to the 2011 Western Star Friends of Scouting Campaign than any other Boy Scout unit in Coppell and Irving. The troop also received the 2011 Western Star Camporee trophy, which it also won in 2006, 2007 and 2010.

Troop 840 is operated as a boy-led troop. The program is focused on leadership, responsibility and active involvement. The Scouts design the agenda and take a leading role in organizing all camp-outs and troop activities. Over the troop's history, it has developed 103 Eagle Scouts and thousands of service hours in assisting the City of Coppell and surrounding communities.

Mr. Speaker, on behalf of the 24th Congressional District of Texas, I ask all my distinguished colleagues to join me in congratulating Boy Scout Troop 840 for its 25 years of developing fine young men and community involvement.

CONGRATULATING LISSA SILK FOR HER DEDICATION TO BRINGING AWARENESS TO DISTRACTED DRIVING

**HON. FRANK C. GUINTA**

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 1, 2012*

Mr. GUINTA. Mr. Speaker, it is with great pleasure that I congratulate Lissa Silk for all the work she is doing to bring awareness to the issue of distracted driving. As Miss Manchester 2012, Lissa has committed herself to raising awareness for Drive Against Distraction and educating others on the serious consequences distracted driving can have on everyone. Whether it be talking or texting on your cell phone while driving, or responding to another person in your vehicle, the consequences of these actions and lives being impacted is very real and in some instances deadly.

Lissa's interest with this cause came from many personal experiences with distracted driving. Her mother Barbara was seriously injured by a driver who was talking on their cell phone, and Lissa and her sister were also involved in an accident where the other driver ran a stop sign because they were not paying attention.

Working with the Rochester and Dover Police Departments, as well as many High Schools and Driver Education Classes, Lissa has committed herself to educating others on distracted driving by sharing her personal stories. She has also reached out to the nation's Governors about enacting no texting while driving legislation. Our own Governor, John Lynch, will be recognizing April as New Hampshire's official Drive Against Distraction Awareness Month thanks to Lissa's efforts.

Lissa's commitment to educating others and preventing the unnecessary consequences of distracted driving are commendable. I congratulate Lissa for all of her accomplishments and for her outstanding commitment and leadership to this cause. I wish her all the best for continued success in the future.

A TRIBUTE TO MICHAEL KNUDSON

**HON. TOM LATHAM**

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 1, 2012*

Mr. LATHAM. Mr. Speaker, I rise today to recognize the achievements of Michael Knudson of Decorah for receiving a coveted Fullbright award to study and conduct research abroad this academic year.

The Fullbright Program is sponsored by the United States Department of State, Bureau of Education and Cultural Affairs. This program is known as America's flagship international exchange program. First established by Congress in 1946, the Fullbright Program has served the purpose of building mutual understanding between American citizens and the rest of the world. Appropriations from the United States Congress, participating foreign governments, and private sector contributions

fund the Fullbright Program. The program has exchanged over a quarter of a million people in more than 155 countries, since its inception. Michael's host country for the 2011–2012 academic year is Norway.

To receive a Fullbright award is truly a great honor. Recipients of this award must demonstrate significant leadership potential in their chosen field and are selected on the basis of their academic or professional achievement. The experiences provided by this program ensure that tomorrow's leaders are both knowledgeable about the world and well-rounded.

Mr. Speaker, it is a profound honor to represent future leaders like Michael from the great state of Iowa in the United States Congress. I know my colleagues in the United States Congress will join me in congratulating him for receiving this prestigious award. I wish him the best of luck in his studies and future career.

MOTHERS AND OTHERS AGAINST HUNGER YORK COUNTY SHELTER PROGRAMS

**HON. CHELLIE PINGREE**

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 1, 2012*

Ms. PINGREE of Maine. Mr. Speaker, I want to recognize an incredible program in Maine, the "Mothers and Others Against Hunger" through the York County Shelter Programs.

The York County Shelter Programs is a homeless services provider in Alfred, Maine, that has been in operation for more than thirty-one years and continues to be an essential part of York County—over the years caring for thousands of Mainers.

Maine is a state that has struggled with food insecurity and "Mothers and Others Against Hunger" is making great strides in eradicating hunger in Maine. Projects like this demonstrate Maine's unbreakable community bond in our fight against hunger in Maine today.

SUMGAIT POGROMS

**HON. FRANK PALLONE, JR.**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 1, 2012*

Mr. PALLONE. Mr. Speaker, once again this year I rise to mark an important date that remains strong in the memories of the Armenian and American people. It is always with great emotion that I commemorate the Sumgait pogroms where the murder of hundreds of Armenians stood out as a particularly atrocious event in a long history of hostility against the Armenian people. This anniversary above all reminds us of our duty to act. Year after year, it strengthens our determination to obtain justice and peace.

Beginning on the evening of February 27th, 1988, hundreds of Armenians were brutally murdered, some of them burned alive and thrown from windows. Women and children were raped and maimed by Azerbaijani rioters.

Apartments were robbed, shops demolished, and thousands of people became refugees. Despite Sumgait's proximity to Baku, police turned a blind eye to this dire situation, allowing the pogroms to go on for three days.

The truth is that for over two decades, authorities in Azerbaijan have made relentless efforts to erase all traces of these crimes. This state-sponsored denial is an insult to the memory of all men, women and children who perished on those fateful days; it is a daily affront to their descendants. The Congressional Armenian Issues Caucus is resolutely committed to ensure that those Armenians who lost their lives are not forgotten.

The need for the government of Azerbaijan to fully recognize the Sumgait pogroms is not only in the interest of historical accuracy but also necessary to ensure a peaceful future. The just recognition of these crimes is the first step towards an enduring and peaceful resolution of the regional conflict. Stability in the region is needed now more than ever. The specter of violence indeed still looms and many Armenian lives continue to be subject to threats by the Azerbaijani government. Ceasefire violations by Azerbaijani armed forces at the contact line with the Nagorno Karabakh Republic have shown this to be true. President Aliyev recently announced that Azerbaijan is buying up modern weaponry to occupy the Nagorno Karabakh Republic.

I stand here today to solemnly condemn all intimidations and acts of aggression against the Armenian people. The Congressional Armenian Issues Caucus will do its very best to ensure that basic rights to life, liberty and security are not violated. May the Armenian people never have to fear again such attacks. Mr. Speaker, I ask that my colleagues stand with me in recognizing the Sumgait pogroms and the needless deaths of so many.

CONGRATULATING RABBI  
SOLOMON SCHIFF

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2012

Ms. ROS-LEHTINEN. Mr. Speaker, Rabbi Solomon Schiff is a dedicated husband to his wife Shirley, a proud father to three sons and doting grandfather of seven. He is a world renowned spiritual leader and humanitarian whose compassion knows no bounds. Rabbi Schiff is a masterful storyteller with a penchant for comedy whose words evoke inspiration and emotion, and he is one of the most ardent Miami Dolphins supporters anyone will ever meet.

Rabbi Schiff has led a remarkable life that has taken him from New York to Illinois, Iowa and to Miami; he has traveled the globe, from Israel to Jordan, Rome, Berlin and Warsaw all in an effort to promote human rights and to live up to his religious obligations. And he has now recently decided to put pen to paper and share his life story with us, publishing his memoir "Under the Yarmulke: Tales of Faith, Fun and Football."

In this touching, and often comical retelling of his life, Rabbi Schiff shares with us his en-

counters with Presidents and Prime Ministers; Kings and world leaders; the Dalai Lama and the Pope; and an untold number of people of all faiths and walks of life. He has given the opening prayer on both the House and Senate floors, and has given the benediction at the White House and even on the home field of his beloved Miami Dolphins.

Though all of this would be more than enough for one man to be proud of, Rabbi Schiff takes the most pride in living out his own motto: "Live and help live." And in his memoir, Rabbi Schiff shares with us some of the many ways he has struggled to help so many fight for justice worldwide. It is a truly inspirational story, and I commend him on all of his achievements.

Rabbi Schiff is a man of honor; he is a man of integrity and of compassion. But most of all, he is a man of action whose spiritual guidance and unwavering commitment to the betterment of peace and tranquility for all has carved an enduring legacy. He serves as a reminder to us all that we each have the capacity to make this world a better place.

We in South Florida have had the pleasure of having Rabbi Schiff working to unite the communities of all faiths for over 50 years now. He has been a pillar of the community, and a beacon of inspiration. We congratulate Rabbi Schiff on all of his achievements and accolades over the years, and we thank him for all of his efforts in South Florida and across the globe. We thank Rabbi Solomon Schiff for sharing these touching moments with us, and wish him all the best as he continues to write the next chapters of his life.

COMMENDING THE HONORABLE  
ERNEST OROS FOR A LIFETIME  
OF DEDICATED PUBLIC SERVICE

HON. LEONARD LANCE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2012

Mr. LANCE. Mr. Speaker, I rise today to celebrate the Honorable Ernest Oros for his lifetime of dedicated public service. Ernie was born and raised in Phillipsburg, New Jersey and currently resides in Colonia, New Jersey, part of Woodbridge Township. From a young age Ernie felt called to serve the Nation he loves. Ernie joined the United States Marine Corps as a young man where he was deployed overseas with the Second Marine Division. He served in Guam, Saipan and Japan and was honorably discharged as a Corporal in 1946.

Ernie continued his public service on the Woodbridge council where he championed the creation of the Czick-Varga Memorial Park to honor local veterans who gave their lives to defend our Nation. He was a party leader on the local and county Republican committees and was elected to the New Jersey General Assembly in 1991 where he served two distinguished terms as an advocate for Middlesex County and New Jersey taxpayers.

Ernie became a small business owner with his brother, Lester, where he was known as a caring and effective leader, and is now enjoying a well earned retirement with his wife Betty, children and grandchildren.

I join Assemblyman Oros's many friends in congratulating him for his enormous public service to Woodbridge Township, Middlesex County and the state of New Jersey and his dedication to his family and our larger American society.

A TRIBUTE TO CATHERINE AND  
JENNIFER COMPTON

HON. TOM LATHAM

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2012

Mr. LATHAM. Mr. Speaker, I rise today to recognize the achievements of Catherine and Jennifer Compton of Ames for each receiving a coveted Fulbright award to study and conduct research abroad this academic year.

The Fulbright Program is sponsored by the United States Department of State, Bureau of Education and Cultural Affairs. This program is known as America's flagship international exchange program. First established by Congress in 1946, the Fulbright Program has served the purpose of building mutual understanding between American citizens and the rest of the world. Appropriations from the United States Congress, participating foreign governments, and private sector contributions fund the Fulbright Program. The program has exchanged over a quarter of a million people in more than 155 countries, since its inception. Catherine's host country for the 2011-2012 academic year is Germany, while Jennifer will be hosted by Jordan.

To receive a Fulbright award is truly a great honor. Recipients of this award must demonstrate significant leadership potential in their chosen field and are selected on the basis of their academic or professional achievement. The experiences provided by this program ensure that tomorrow's leaders are both knowledgeable about the world and well-rounded.

Mr. Speaker, it is a profound honor to represent future leaders like Catherine and Jennifer from the great state of Iowa in the United States Congress. I know my colleagues in the United States Congress will join me in congratulating them for receiving this prestigious award. I wish them the best of luck in their studies and future careers.

RECOGNITION OF BELVA DAVIS,  
NEWS PIONEER

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2012

Mr. STARK. Mr. Speaker, I rise today to pay tribute to Belva Davis, an icon of San Francisco Bay Area journalism for nearly half a century. Ms. Davis has announced that she will step down as host of public television's, "This Week in Northern California". Her final broadcast will be November 9, 2012. She is the winner of dozens of journalism awards, including eight local Emmys.

Her retirement will mark the end of her 19-year career as anchor of the program. After

her departure, for the first time since 1964, Bay Area television viewers will be without coverage from the journalist who used grace and brains to face down the era's virulent racism and sexism and become the first black woman TV journalist in the Western U.S.

Ms. Davis has covered many high profile historical news events locally, nationally, and internationally. She has interviewed world leaders and U.S. presidents, as well as anchoring news programs on KPIX-TV and KRON-TV. She has been involved in numerous civic projects and helped shepherd San Francisco's Museum of African Diaspora into existence.

In her 2010 autobiography, *Never In My Wildest Dreams: A Black Woman's Life in Journalism*, Ms. Davis tells of being born into poverty in Depression-era Louisiana and growing up in Oakland and Berkeley.

The book opens in 1964, when Ms. Davis is a young radio reporter covering the Republican National Convention. She describes a menacing crowd screaming racial slurs and chasing her and her news director, Louis Freeman, from San Francisco's Cow Palace.

Many members of the African American community respected Ms. Davis's journalism. Comedian Bill Cosby recalls watching Davis on TV from his houseboat, "We looked forward to seeing her prove the stereotypical ugliness of those days to be wrong," Cosby wrote in the foreword to Davis' memoir.

Today, her program "This Week in Northern California" is a must-watch for local new junkies. John Bolland, president of KQED, called Davis a trailblazer "who has opened up so many doors for women and African Americans in television and beyond"

During her years as a journalist, I was fortunate to be interviewed by Ms. Davis and I respect, and treasure, my relationship with her. I am pleased to join Belva Davis's friends, admirers and colleagues in commemorating her distinguished journalism legacy.

#### A TRIBUTE TO CURT TOMASEVICZ AND TEAMMATES

### HON. ADRIAN SMITH

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 1, 2012*

Mr. SMITH of Nebraska. Mr. Speaker, I rise today to honor a Nebraskan who has made the record books, Curt Tomasevicz. Curt was part of the USA's bobsledding team which consisted of pilot Steven Holcomb, and pushers Justin Olsen and Steven Langton. Together they won the International Bobsledding and Tobogganing Federation World Championships in Lake Placid, NY over the weekend.

Thanks in no small part to Curt's efforts, the U.S. claimed five medals, including four gold, to mark the most successful World Championship showing in the history of the program. The American team validated its reputation as the fastest push team in the world by dominating off the block and reaching speeds in excess of 80 miles per hour.

Curt is no stranger to success. In 2010, he won a gold medal at the Vancouver Olympic

Games and was also a 2003 Academic-All Big XII selection on the University of Nebraska football team.

Curt embodies the Nebraska spirit. He remains committed to working hard, helping his teammates, and never quitting. Curt has made Shelby, Polk County, and the State of Nebraska proud with his character, work ethic, and passion for sport.

I ask my colleagues to join me today in congratulating Curt and his teammates for their historic achievement.

#### HONORING THE ARMENIAN VICTIMS IN SUMGAIT

### HON. ROBERT J. DOLD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 1, 2012*

Mr. DOLD. Mr. Speaker, this week it is important that we not forget the 24th anniversary of the tragic pogroms against Armenians living in Soviet Azerbaijan. Driven by the anti-Armenian movement in the region, mobs committed violent human rights violations against Armenians of all ages living in the town of Sumgait. Today, I stand with the Armenian community around the world to remember all those who were taken from their homes and from their families—simply because of their ethnic background. As we remember those who lost their lives in Sumgait, we must continue to guard against all discrimination, oppression, and targeted violence against ethnic groups around the world.

#### OUR UNCONSCIONABLE NATIONAL DEBT

### HON. MIKE COFFMAN

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 1, 2012*

Mr. COFFMAN of Colorado. Mr. Speaker, on January 20, 2009, the day President Obama took office, the national debt was \$10,626,877,048,913.08.

Today, it is \$15,488,891,296,248.02. We've added \$4,862,014,247,334.94 to our debt in 3 years. This is debt our nation, our economy, and our children could have avoided with a balanced budget amendment.

#### A TRIBUTE TO LOGAN PEARCE

### HON. TOM LATHAM

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 1, 2012*

Mr. LATHAM. Mr. Speaker, I rise today to recognize and congratulate Logan Pearce of Mason City for achieving the rank of Eagle Scout.

The Eagle Scout rank is the highest advancement rank in scouting. Only about five percent of Boy Scouts earn the Eagle Scout Award. The award is a performance-based achievement with high standards that have been well-maintained over the years.

To earn the Eagle Scout rank, a Boy Scout is obligated to pass specific tests that are organized by requirements and merit badges, as well as completing an Eagle Project to benefit the community. Logan completed a two-part project by building numerous bat houses to provide a more ecological solution to insect control, in addition to the placement of six fishing line recyclers to assist both the Cerro Gordo County Conservation Department and the Lime Creek Nature Center. The work ethic Logan has shown in this project, and every other project leading up to his Eagle Scout rank, speaks volumes of his commitment to serving a cause greater than himself.

Mr. Speaker, the example set by this young man and his supportive family demonstrates the rewards of hard work, dedication and perseverance. I am honored to represent Logan and his family in the United States Congress. I know that all of my colleagues in the House will join me in congratulating him in obtaining the Eagle Scout ranking, and will wish him continued success in his future education and career.

#### IN HONOR OF BILLY POWELL

### HON. DENNIS A. CARDOZA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 1, 2012*

Mr. CARDOZA. Mr. Speaker, I rise today to honor the hard work of Mr. Billy Powell. Billy has been a member of the International Brotherhood of Electrical Workers 684 for sixteen years. IBEW 684 represents electrical workers in Stanislaus, Merced, Mariposa, and Tuolumne counties. It organizes electrical workers, works to secure just compensation and working conditions, provides equitable settlements of grievances, and strives to promote cordial relations between members and employers. Billy is currently the local's business manager and has served in that capacity for the past five years. He also serves as the Secretary-Treasurer of the Stanislaus and Merced Building Trades Council.

In addition to his career and leadership in the electrical workers' field, he also supports the electrical workers apprenticeship program by serving as an instructor. Students are educated and trained at the Central Valley Joint Apprenticeship Training Center which is a jointly sponsored organization of the International Brotherhood of Electrical Workers and the National Electrical Contractors Association of Northern California. This five-year comprehensive program delivers a course education, hands-on lab experience, and on-the-job training to prepare graduates to perform at a high level in the electrical industry. The school has taken top honors in the Western States Electrical Contest in 2006, 2007, 2009 and 2011, a testament no doubt to the hard work of its students and the effective teaching of its instructors.

Billy is also a veteran of our armed forces having served with the United States Navy during the Gulf War. However, his heroism and dedication to our country extends far beyond his years of active duty. He is also committed to providing for our veterans here at

home as well. He has employed twenty-five homeless or out of work veterans on projects in the Central Valley and is dedicated to placing even more at future work sites. In addition, he works with Helmets to Hardhats, a national program that trains veterans to transition into skilled, promising construction trade jobs. His efforts to aid our veterans are truly inspiring and I have no doubt that his commitment will assist many more deserving men and women in the future.

It is a great privilege to honor Mr. Billy Powell for his long career and leadership with the IBEW 684, his commitment to the education and training of a new generation of skilled laborers, and his devotion to our district, our country, and our veterans. His benevolence and leadership have truly set a positive example for all to admire and follow. It is an honor to know him, to work with him, and to call him my friend.

Mr. Speaker, thank you for the opportunity to recognize this fine individual for his work and his efforts here today.

IN RECOGNITION OF THE 30TH ANNIVERSARY OF BAY AREA FOOD BANK

**HON. JEFF MILLER**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 1, 2012*

Mr. MILLER of Florida. Mr. Speaker, on behalf of the United States Congress, it is an honor for me to rise today to recognize the 30th Anniversary of Bay Area Food Bank. For more than three decades, the Bay Area Food Bank has helped fight hunger in Florida, Alabama and Mississippi.

Bay Area Food Bank was founded in 1981 as a small organization that aimed to serve the needs of citizens of Mobile and the Eastern Shore area in Alabama who were impacted by high inflation and unemployment. With just \$5,000 and only two permanent staff members, the Bay Area Food Bank distributed 77,000 pounds of food in its first year. Through the tireless dedication of staff and volunteers, Bay Area Food Bank has grown immensely. Today, they distribute as much food in one day as they did during their entire first year, and, over the course of their history, Bay Area Food Bank has distributed more than 100 million pounds of food to families throughout the Gulf Coast. In fact, Bay Area Food Bank distributes more than 2 million pounds of food annually from their warehouse located in my home county—Santa Rosa County, Florida. In 2011, Bay Area Food Bank distributed over 15 million pounds to 80,000 families in total.

While Bay Area Food Bank does an incredible job providing food for families in the Gulf Coast region, they also play an extremely vital role in the aftermath of disasters. In 2004, Hurricane Ivan devastated the Gulf Coast and left thousands of families without food and water. Many residents were left without power for weeks, and, during this trying time, Bay Area Food Bank's staff and volunteers increased their operations and distributed more than 1.5 million pounds of food in the first

month after the hurricane. Just one year later, Hurricane Katrina provided another challenge for the Gulf Coast community. Many areas were decimated by the hurricane. During this time of need, Bay Area Food Bank once again increased their operations, distributing more than 1 million pounds of food and hurricane relief supplies per week for the first two months after the disaster. When the Deepwater Horizon Oil Spill left thousands of families along the coast facing food shortages, Bay Area Food Bank again came to their aid. They conducted over 425 oil spill related mobile pantry distributions of more than 1.5 million pounds of food in 10 coastal counties in Florida, Alabama and Mississippi.

Mr. Speaker, for more than 30 years, Bay Area Food Bank and its dedicated staff and volunteers have served families in Florida, Alabama and Mississippi. They started off small, but through tireless work and determination they have expanded their reach into communities all along the Gulf Coast. They are truly an example of what can be achieved by a group of individuals who work together to serve the needs of their community. My wife Vicki and I congratulate Bay Area Food Bank on their 30th Anniversary, and, on behalf of the United States Congress, we thank the staff, volunteers and commercial partners that have helped to create a successful organization whose immense significance to the Gulf Coast community cannot be overstated.

COMMENDING THE AZALEA CITY CHAPTER OF THE LINKS, INC.

**HON. DAVID SCOTT**

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 1, 2012*

Mr. DAVID SCOTT of Georgia. Mr. Speaker, my fellow colleagues, I come before you today to recognize the dedicated work of the Azalea City Chapter of The Links, Incorporated, a national service organization dedicated to enriching the lives of African Americans and their descendants. In working towards their goal of honoring the Georgia Legislative Black Caucus, the Azalea City Chapter has put together an exhibit honoring past and present legislators.

Men and women of all stripes had a role to play in improving the lives of African Americans after Reconstruction. This detailed exhibit shines a spotlight on those trailblazers who carved a path for lawmakers like myself and others. Included among these inspirational figures is Senator Leroy Johnson, who was the first African American to be elected to a political office in the Southeast. Through his commitment and hard work, he became so powerful that he was the first to be named Chairman of a standing committee in the General Assembly. Let us not discount Representative Grace Towns Hamilton, who was the first African American woman to be elected to the Georgia Legislature. These legislators and others who are featured in the exhibit continue to serve as role models to aspiring young politicians today.

Please join me in commending the Azalea City Chapter not only on their exceptional hard

work, but also for choosing the Georgia Legislative Black Caucus as the focus of their work.

IN COMMEMORATION OF WOMEN'S HISTORY MONTH

**HON. LAURA RICHARDSON**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 1, 2012*

Ms. RICHARDSON. Mr. Speaker, this March as we celebrate Women's History Month, I would like to take a moment to recognize all the great female leaders of our past and present. Throughout history women have persevered in the face of great opposition and successfully broken barriers in the arts, education, government and corporate America.

This year's theme focuses on women's education and empowerment. It is important to note that the equal opportunity for women to learn alongside men is owed much to Title IX of the Education Codes of the Higher Education Act Amendments which passed in 1972 and was enacted in 1977. This legislation prohibited gender discrimination by federally funded institutions, and allowed women to fully participate in all aspects of education effectively transforming the educational landscape of the United States.

Mr. Speaker, women have taken great strides throughout the years to gain equal treatment. Unfortunately, in matters involving healthcare, women still face challenges. Very recently, women faced attacks by the House Republican majority regarding access to birth control. More disconcerting, these attacks escalated beyond misguided attempts to repeal the Affordable Care Act and deny women access to contraceptives, to restricting women's choices in the area of reproductive health altogether. Medical decisions about a woman's health must be left to the discretion of the patient and her doctor, not employers or the government.

This is why I am proud to support President Obama's Affordable Care Act which will make a positive impact on women's access to health care and greatly decrease the number of women who are uninsured or "underinsured." Studies have shown that women who have health insurance don't necessarily receive certain types of medical care because either the services they need are not covered by their policies, or they cannot afford the high deductibles or co-payments. The Affordable Care Act changes this unfortunate reality by assisting women in gaining access to basic preventive health care in order to prevent life-threatening diseases in the future.

Mr. Speaker, I am proud to stand here in celebration of women and their immeasurable contributions to this great Nation. As we pay tribute to the generations of women whose commitment to progress have proved invaluable to society, let us also renew our commitment to support women and the equal treatment of all in society, regardless of gender, race, or religion.

## WOMEN'S HEALTH WEDNESDAYS

**HON. LYNN C. WOOLSEY**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 1, 2012*

Ms. WOOLSEY. Mr. Speaker, I wish the majority cared as much about creating jobs as they do about undermining women's reproductive rights.

Contraception is basic preventive women's health care. Simple as that. It should be affordable and widely available. Women should have access to it without a copay, no matter where they work.

Birth control saves lives. Women should give it up just as soon as men forfeit coverage for viagra.

Contraception is guided by sound science and best health care practices. The majority on the other hand is motivated by divisive and inflexible ideology.

The Republicans should take their own advice. They say they hate big government. Well, I can't think of any government bigger and more intrusive than the one that tells women how to conduct their personal lives and what to do with their bodies.

## RECOGNIZING THE 125TH ANNIVERSARY OF THE SYRACUSE RESCUE MISSION

**HON. ANN MARIE BUERKLE**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 1, 2012*

Ms. BUERKLE. Mr. Speaker, I rise today in recognition of the 125th Anniversary of the Syracuse Rescue Mission.

Since being founded in 1887, the Rescue Mission has served the homeless of Central

New York from three different community locations.

For 125 years, the dedicated staff and volunteers of the Rescue Mission have not only changed lives, but completely turned them around. The organization's mission is to help everyone move toward independence. They teach the unemployed skills needed to find a job, build housing for the homeless, provide assistance for addicts, and hold fundraisers and free meal programs for those in need. The Rescue Mission serves people with the dignity and respect that they deserve and understand that by helping an individual they are ultimately making their community a better place.

I congratulate the Rescue Mission on their 125th anniversary and sincerely thank everyone at the organization for their dedication and service to the Central New York community. I know that they will continue to demonstrate integrity and excellence through their benevolent deeds and that the Rescue Mission will continue to be a beacon of hope for many years to come.

## HONORING IBEW LOCAL 716 ON ITS 100TH ANNIVERSARY

**HON. GENE GREEN**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 1, 2012*

Mr. GENE GREEN of Texas. Mr. Speaker, I rise today to recognize the International Brotherhood of Electrical Workers Local Union 716 for their 100 years of dedication to improving the life of not only its members but electricians across the Houston area.

As one of the largest unions in America, IBEW represents approximately 750,000 workers of a variety of occupations including con-

struction, utilities, telecommunications, broadcasting, manufacturing, railroads and government. The hard work of IBEW members does not benefit them alone but also enhances the quality of life for electricians across the United States by securing adequate wages, high-quality health insurance, retirement, pensions and creating safer working conditions.

Since 1912, Local Union 716 has helped raise the standard of living for tens of thousands of electricians and their families. Local Union 716 has assisted its members during this difficult economic time by helping to ensure its members keep the jobs they have and help those without find employment. This union has continuously worked to not only uphold the goals of the national organization but also dedicate its services to improving the moral, intellectual and social conditions of their members and families. Through their apprenticeship program, the IBEW has trained and developed craftsmen into highly skilled professionals who know and understand the many facets of electrical work including the dangers and the safety precautions required to mitigate those dangers. The union has worked with the management staff of several companies to promote safe working conditions and improve company training programs.

Local Union 716 is also known in the community for promoting citizens to get out and vote. They have participated, along with several other organizations, in neighborhood block walking events to hand out door hangers and motivate their neighbors to take part in government by going to the polls and voicing their opinions.

And so it is with great pleasure that I recognize and congratulate the members of the International Brotherhood of Electrical Workers Local Union 716 for their success and dedication to improving life for its members and their community as a whole for 100 years.

**SENATE—Friday, March 2, 2012**

The Senate met at 10 a.m. and was called to order by the Honorable DANIEL K. AKAKA, a Senator from the State of Hawaii.

**PRAYER**

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Almighty God, sustain America with Your providential protection as You inspire us to cultivate faith, hope, and love. Bless our lawmakers, using them to make a positive difference in the lives of those in need. Touch our Senators with Your love and peace, as Your will is done in the Senate and in all the offices and homes represented here. Purge our hearts of anything that doesn't honor You.

We pray in Your great Name. Amen.

**PLEDGE OF ALLEGIANCE**

The Honorable DANIEL K. AKAKA led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

**APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE**

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. INOUE).

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, March 2, 2012.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DANIEL K. AKAKA, a Senator from the State of Hawaii, to perform the duties of the Chair.

DANIEL K. INOUE,  
President pro tempore.

Mr. AKAKA thereupon assumed the chair as Acting President pro tempore.

**RECOGNITION OF THE MAJORITY LEADER**

The ACTING PRESIDENT pro tempore. The leader of the Senate is recognized.

Mr. REID. Mr. President, I am very happy to see you here this morning. It is not often that we get our senior Members to preside, and we appreciate it very much.

**SCHEDULE**

Mr. REID. Following any leader remarks, the Senate will resume consid-

eration of S. 1813, the surface transportation bill. Today we will continue to work with Republicans and hopefully find a path forward. There will be no rollcall votes today. The next vote will occur Tuesday morning.

**SURFACE TRANSPORTATION ACT**

Mr. REID. Mr. President, this is a new year, and thankfully it has brought new signs of economic recovery—not as vibrant as we would like but some recovery—but it will never be good enough while we have millions of Americans unemployed in this country. As we say in the Senate, those on this side of the aisle, Democrats, we are not going to take our eye off the target; that is, a healthy economy. The bipartisan Transportation bill before the Senate is an important step in that direction. This bill will save or create almost 3 million jobs. Yet my Republican colleagues have caused the waste of about a month of precious time here on the Senate floor in obstructing this very important piece of legislation. So it is with disappointment that I am going to file cloture on this Transportation bill.

It seems 85 votes to begin debate on a measure no longer indicates a smooth legislative path forward. We would think that with 85 votes, we would have timely approval of the bill, but that has not taken place. That is because my Republican colleagues want to waste time on unrelated, ideological, nongermane, nonrelevant amendments instead of talking about the Nation's failing infrastructure.

There is no one, no one thinks—and I say that—no one believes that our roads, our highways, our bridges are up to snuff. They are not. We need significant work to bring them to a better condition. Tens of thousands of bridges are in a state of disrepair. So Republicans, instead of working on this valuable infrastructure bill, have been causing us to waste time on unrelated issues.

We have spent the last several weeks on women's access to health care, and, of course, amendments they are talking about doing in addition to that would weaken our environmental protection, make our water less pure, our air dirtier—this instead of rebuilding, as I indicated we need to do, our roads and our bridges, even against their better judgment. One Republican leader said yesterday: We have spent enough time this year on trying to repeal the health care bill. But they have had to retract that because the tea party rose and said: Oh, we have to have more votes.

They are meaningless votes. Everyone knows there is going to be no repeal of the health care bill this year. So the Republican leader, who talked about this yesterday, was talking about maybe doing what Senator ALEXANDER and Senator PRYOR think we should do: spend our time on things that are constructive, such as getting our appropriations bills done. But, no, the tea party stepped in, and now there are going to be efforts made to repeal the health care bill. In fact, I read in the paper today a complete flip-flop from yesterday. Instead of not dealing with trying to repeal the health care bill the rest of this legislative year, now the word is that the entire month of March is going to be spent dealing with health care.

It is time to move forward on this bill. Hopefully, seven—that is all we need. There are 47 Republicans, and we need 7 of them to invoke cloture on this bill. That vote will occur Tuesday morning. All the nongermane, nonrelevant amendments, let them do them on a piece of legislation that is not so vital to the economy of this country. We are going to move forward on this bill. I certainly hope we can get seven Republicans to join with us. There are 53 of us, seven of them.

I have always said I would be happy to come up with an agreement. If they want to offer amendments that are relevant to what we are doing, that is fine. But that hasn't been forthcoming. I hope the weekend will give my Republican colleagues a chance to reflect on whether they are willing to put ideology ahead of the economy. Three million jobs and what do we spend our time on? An ideological issue to take health care away from women.

**RESERVATION OF LEADER TIME**

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

**MOVING AHEAD FOR PROGRESS IN THE 21ST CENTURY ACT**

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 1813, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1813) to reauthorize Federal aid highway and highway safety construction programs, and for other purposes.

Pending:

Reid amendment No. 1761, of a perfecting nature.

Reid amendment No. 1762 (to amendment No. 1761), to change the enactment date.

Reid motion to recommit the bill to the Committee on Environment and Public Works, with instructions, Reid amendment No. 1763, to change the enactment date.

Reid amendment No. 1764 (to (the instructions) amendment No. 1763), of a perfecting nature.

Reid amendment No. 1765 (to amendment No. 1764), of a perfecting nature.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. REID. Mr. President, I want to make sure the record is very clear what the vote will be on Tuesday morning.

Before the day is out, I am going to file cloture on a work product. It is a bill that has the approval of BARBARA BOXER, a progressive Senator from California, and JIM INHOFE, a conservative Senator from Oklahoma. We have now added to that something that came out of the Finance Committee, something that came out of the Banking Committee, and something that came out of the Commerce Committee. All these measures have been relatively without any challenge. I can't understand why people wouldn't approve this. And what we added to this is 37 approved amendments. The staffs, with their respective Senators, have been working for days to come up with agreement on amendments that have been filed but not offered, and these amendments have been approved by the respective chair and ranking members of the committees, 37 of them. So we will be voting on Tuesday on that product—all of it bipartisan, all of it non-controversial—so that we can complete work on this bill.

If we did nothing else, nothing else on this highway bill, then what we are going to vote cloture on, on Tuesday, would be really a good, strong legislative day for this body. Then we could have conference with the House. The House has already announced they can't do their senseless piece of legislation. Even tea party-driven Republicans in the House recognized that was something that was a figment of someone's imagination that they could get done. Now they are going to do a 2-year bill, like us. It will be easy to conference something like that. They may have some difference in some of the policy efforts, but that is why we have conferences.

This legislation is critical. At the end of this month, the end of March, the highway bill is no more. Projects that are being worked on in Hawaii and Nevada and around the other 48 States will come to a stop. There will be no money. New projects won't be able to go forward. This is a very important bill involving billions of dollars of badly needed construction.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROCKEFELLER). Without objection, it is so ordered.

#### SENIOR MEMBERS PRESIDING

Mr. REID. Mr. President, as I indicated to the Acting President pro tempore this morning, the junior Senator from Hawaii, how fortunate I was to have one of the senior Members of the Senate preside, that doesn't happen often, and here it is again with the Senator from West Virginia.

I was commenting to my friends on the staff who don't know the Senator from West Virginia very well—and they don't know a lot of us because we just whip through here. In a brief synopsis I was telling them what a wonderful man the Senator is and what he has done to contribute to a better society. I have such gratitude to know the Presiding Officer, to know his background and the sacrifices he has made for his country. He has done so much for his State. When the history books are written, there will be a big chapter on what has taken place in West Virginia during the Presiding Officer's service there.

#### CLOTURE MOTION

Mr. REID. Mr. President, I have a cloture motion at the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the Reid amendment No. 1761 to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

Harry Reid, Barbara Boxer, Christopher A. Coons, Robert P. Casey, Jr., Tom Harkin, Mark Udall, Richard Blumenthal, Debbie Stabenow, Patrick J. Leahy, Herb Kohl, Frank R. Lautenberg, Max Baucus, Tom Udall, Kent Conrad, Robert Menendez, Kirsten E. Gillibrand, Jeff Bingaman.

#### CLOTURE MOTION

Mr. REID. Mr. President, I have a second cloture motion at the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

Harry Reid, Barbara Boxer, Christopher A. Coons, Robert P. Casey, Jr., Tom Harkin, Mark Udall, Richard Blumenthal, Debbie Stabenow, Patrick

J. Leahy, Herb Kohl, Frank R. Lautenberg, Max Baucus, Tom Udall, Kent Conrad, Robert Menendez, Kirsten E. Gillibrand, Jeff Bingaman.

Mr. REID. Mr. President, I ask unanimous consent that the clerks be authorized to modify the instruction lines on any amendments currently filed in order to match the page and line numbers on the pending Reid of Nevada amendment No. 1761, and that those amendments and instruction line modifications be considered timely filed under rule XXII; further, that the mandatory quorum under rule XXII be waived for the two cloture motions that were just filed; finally, that the cloture vote on the Reid amendment No. 1761 occur at 12 noon, Tuesday, March 6.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### MORNING BUSINESS

Mr. REID. I ask unanimous consent that the Senate now proceed to a period of morning business, with Senators allowed to speak for up to 10 minutes each during that time.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONTINUATION OF THE NATIONAL EMERGENCY ORIGINALLY DECLARED IN EXECUTIVE ORDER 13288 ON MARCH 6, 2003, WITH RESPECT TO THE ACTIONS AND POLICIES OF CERTAIN MEMBERS OF THE GOVERNMENT OF ZIMBABWE AND OTHER PERSONS TO UNDERMINE ZIMBABWE'S DEMOCRATIC PROCESSES OR INSTITUTIONS—PM 43

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

*To the Congress of the United States:*

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, within 90 days prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent to the *Federal Register* for publication the enclosed notice stating that the national emergency with respect to the actions and policies of certain members of the Government of Zimbabwe and other persons to undermine Zimbabwe's democratic processes or institutions is to continue in effect beyond March 6, 2012.

The crisis constituted by the actions and policies of certain members of the



Government of Zimbabwe and other persons to undermine Zimbabwe's democratic processes or institutions has not been resolved. These actions and policies continue to pose an unusual and extraordinary threat to the foreign policy of the United States. For these reasons, I have determined that it is necessary to continue this national emergency and to maintain in force the sanctions to respond to this threat.

The United States welcomes the opportunity to modify the targeted sanctions regime when blocked persons demonstrate a clear commitment to respect the rule of law, democracy, and human rights. The United States has committed to continue its review of the targeted sanctions list for Zimbabwe to ensure it remains current and addresses the concerns for which it was created. We hope that events on the ground will allow us to take additional action to recognize progress in Zimbabwe in the future. The goal of a peaceful, democratic Zimbabwe remains foremost in our consideration of any action.

BARACK OBAMA.  
THE WHITE HOUSE, March 2, 2012.

#### MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 1837. An act to address certain water-related concerns on the San Joaquin River, and for other purposes.

#### EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-5179. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Thiamethoxam; Pesticide Tolerances" (FRL No. 9331-8) received in the Office of the President of the Senate on February 28, 2012; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5180. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Trinexapac-ethyl; Pesticide Tolerances" (FRL No. 9337-9) received in the Office of the President of the Senate on February 28, 2012; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5181. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Georgia; Atlanta; Fine Particulate Matter 2002 Base Year Emissions Inventory" (FRL No. 9639-4) received in the Office of the President of the Senate on February 28, 2012; to the Committee on Environment and Public Works.

EC-5182. A communication from the Director of the Regulatory Management Division,

Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Indiana; Lead Ambient Air Quality Standards" (FRL No. 9641-8) received in the Office of the President of the Senate on February 28, 2012; to the Committee on Environment and Public Works.

EC-5183. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Hazardous Waste Management System; Identification and Listing of Hazardous Waste Exclusion" (FRL No. 9640-2) received in the Office of the President of the Senate on February 28, 2012; to the Committee on Environment and Public Works.

EC-5184. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Georgia; Macon; Fine Particulate Matter 2002 Base Year Emissions Inventory" (FRL No. 9639-8) received in the Office of the President of the Senate on February 28, 2012; to the Committee on Environment and Public Works.

EC-5185. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, Antelope Valley Air Quality Management District and Mojave Desert Quality Management District" (FRL No. 9626-4) received in the Office of the President of the Senate on February 28, 2012; to the Committee on Environment and Public Works.

EC-5186. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, Feather River Air Quality Management District" (FRL No. 9626-3) received in the Office of the President of the Senate on February 28, 2012; to the Committee on Environment and Public Works.

EC-5187. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Public Inspection of Material Relating to Tax-Exempt Organizations" ((RIN1545-BG60) (TD 9581)) received in the Office of the President of the Senate on February 29, 2012; to the Committee on Finance.

EC-5188. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Summary of Benefits and Coverage and Uniform Glossary" ((RIN1545-BJ94) (TD 9575)) received in the Office of the President of the Senate on February 27, 2012; to the Committee on Finance.

EC-5189. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to the status of Data Mining Activity in the Department of State; to the Committee on the Judiciary.

EC-5190. A communication from the President, Chief Scout Executive, and the National Commissioner, Boy Scouts of America, transmitting, pursuant to law, the organization's 2011 annual report; to the Committee on the Judiciary.

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. RUBIO:

S. 2152. A bill to promote United States policy objectives in Syria, including the departure from power of President Bashar Assad and his family, the effective transition to a democratic, free, and secure country, and the promotion of a prosperous future in Syria; to the Committee on Finance.

#### ADDITIONAL COSPONSORS

S. 195

At the request of Mr. ROCKEFELLER, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 195, a bill to reinstate Federal matching of State spending of child support incentive payments.

S. 418

At the request of Mr. HARKIN, the name of the Senator from Delaware (Mr. COONS) was added as a cosponsor of S. 418, a bill to award a Congressional Gold Medal to the World War II members of the Civil Air Patrol.

S. 1299

At the request of Mr. MORAN, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1299, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centennial of the establishment of Lions Clubs International.

S. 1578

At the request of Mr. TOOMEY, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 1578, a bill to amend the Safe Drinking Water Act with respect to consumer confidence reports by community water systems.

S. 2099

At the request of Mr. JOHNSON of South Dakota, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of S. 2099, a bill to amend the Federal Deposit Insurance Act with respect to information provided to the Bureau of Consumer Financial Protection.

#### NOTICE OF HEARING

##### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Senate Committee on Energy and Natural Resources. The hearing will be held on Wednesday, March 14, 2012, at 2:30 p.m., in room SD-366 of the Dirksen Senate Office Building.

The purpose of this hearing is to consider the nominations of Adam Sieminski, to be Administrator of the

Energy Information Administration, Marcilynn Burke to be an Assistant Secretary of the Interior, Anthony Clark to be a Member of the Federal Energy Regulatory Commission, and John Norris to be a Member of the Federal Energy Regulatory Commission.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, Dirksen Senate Office Building, Washington, DC 20510-6150, or by email to [allison\\_seyferth@energy.senate.gov](mailto:allison_seyferth@energy.senate.gov).

For further information, please contact Sam Fowler at (202) 224-7571 or Allison Seyferth at (202) 224 4905.

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MEASURE READ THE 1ST TIME—  
H.R. 1837

Mr. REID. Mr. President, I am told there is a bill at the desk due for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title for the first time.

The assistant legislative clerk read as follows:

A bill (H.R. 1837) to address certain water-related concerns on the San Joaquin River, and for other purposes.

Mr. REID. Mr. President, I ask for a second reading in order to place the bill on the calendar under rule XIV, but I object to my own request.

The PRESIDING OFFICER. Objection is heard. The bill will be read for the second time on the next legislative day.

ORDERS FOR MONDAY, MARCH 5,  
2012

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until Monday, March 5, at 2 p.m.; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, and the time for the two leaders be reserved for their use later in the day; that following any leader remarks, the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each; further, that the filing deadline for first-degree amendments to S. 1813 be 4 p.m. on Monday, March 5, and the filing deadline for second-degree amendments to the Reid amendment No. 1761 and S. 1813 be 11:30 a.m., Tuesday, March 6.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

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UNANIMOUS CONSENT AGREE-  
MENT—EXECUTIVE NOMINA-  
TIONS

Mr. REID. Mr. President, I ask unanimous consent that on Tuesday, March 6, 2012, at 2:15 p.m., the Senate proceed to executive session to consider the following nominations en bloc: Calendar

Nos. 439 and 440; that there be 2 minutes of debate equally divided in the usual form; that upon the use or yielding back of that time, the Senate proceed to vote without intervening action or debate on Calendar Nos. 439 and 440, in that order; that the motions to reconsider be considered made and laid upon the table, with no intervening action or debate; that no further motions be in order; that any related statements be printed in the RECORD; that President Obama be immediately notified of the Senate's action and the Senate then resume legislative section.

The PRESIDING OFFICER. Without objection, it is so ordered.

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PROGRAM

Mr. REID. Mr. President, today I filed cloture on the Reid amendment on the underlying Transportation bill. The cloture vote on that amendment will occur at noon on Tuesday. We will continue to work on a path to get this bill done. The quickest way to get it done would be to invoke cloture.

As a reminder, at 2:15 p.m. on Tuesday there will be two votes on the confirmation of the Phillips and Rice nominations.

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ADJOURNMENT UNTIL MONDAY,  
MARCH 5, 2012, AT 2 P.M.

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask that it adjourn under the previous order.

There being no objection, the Senate, at 11:48 a.m., adjourned until Monday, March 5, 2012, at 2 p.m.

## SENATE—Monday, March 5, 2012

The Senate met at 2 p.m. and was called to order by the Honorable RICHARD BLUMENTHAL, a Senator from the State of Connecticut.

### PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Immortal, invisible God only wise, You are worthy to receive our adoration. Lord, establish the works of Your hands on Capitol Hill, strengthening our Senators and their staffs as they seek to honor You by serving others. Give them the wisdom to be agents of healing and hope, enabling our citizens to live in greater justice and peace. Make them eager to reverently submit to Your guidance and to obey Your precepts. We pray in Your sacred Name. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable RICHARD BLUMENTHAL led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. INOUE).

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, March 5, 2012.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable RICHARD BLUMENTHAL, a Senator from the State of Connecticut, to perform the duties of the Chair.

DANIEL K. INOUE,  
President pro tempore.

Mr. BLUMENTHAL thereupon assumed the chair as Acting President pro tempore.

### RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

### SCHEDULE

Mr. REID. Mr. President, following leader remarks the Senate will be in a period of morning business. The filing

deadline for first-degree amendments to the surface transportation bill is 4 o'clock today. There will be no votes today. The first vote of the week will be noon tomorrow, a motion to invoke cloture on the surface transportation bill.

### APPLYING THE COUNTERVAILING DUTY PROVISIONS OF THE TARIFF ACT OF 1930 TO NONMARKET ECONOMY COUNTRIES

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to S. 2153.

The ACTING PRESIDENT pro tempore. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2153) to apply the countervailing duty provisions of the Tariff Act of 1930 to nonmarket economy countries, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Mr. President, I ask unanimous consent the bill be read three times and passed; that when the Senate receives H.R. 4105 and, if it is identical to the text of S. 2153, the Senate proceed to the immediate consideration of H.R. 4105, the bill be read a third time and passed, with no amendment in order prior to passage; that the motion to reconsider be laid on the table, with no intervening action or debate, and any statements be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The bill (S. 2153) was ordered to be engrossed for a third reading, was read the third time and passed, as follows:

S. 2153

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. APPLICATION OF COUNTERVAILING DUTY PROVISIONS TO NONMARKET ECONOMY COUNTRIES.

(a) IN GENERAL.—Section 701 of the Tariff Act of 1930 (19 U.S.C. 1671) is amended by adding at the end the following:

“(f) APPLICABILITY TO PROCEEDINGS INVOLVING NONMARKET ECONOMY COUNTRIES.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the merchandise on which countervailing duties shall be imposed under subsection (a) includes a class or kind of merchandise imported, or sold (or likely to be sold) for importation, into the United States from a nonmarket economy country.

“(2) EXCEPTION.—A countervailing duty is not required to be imposed under subsection (a) on a class or kind of merchandise imported, or sold (or likely to be sold) for importation, into the United States from a nonmarket economy country if the admin-

istering authority is unable to identify and measure subsidies provided by the government of the nonmarket economy country or a public entity within the territory of the nonmarket economy country because the economy of that country is essentially comprised of a single entity.”.

(b) EFFECTIVE DATE.—Subsection (f) of section 701 of the Tariff Act of 1930, as added by subsection (a) of this section, applies to—

(1) all proceedings initiated under subtitle A of title VII of that Act (19 U.S.C. 1671 et seq.) on or after November 20, 2006;

(2) all resulting actions by U.S. Customs and Border Protection; and

(3) all civil actions, criminal proceedings, and other proceedings before a Federal court relating to proceedings referred to in paragraph (1) or actions referred to in paragraph (2).

### SEC. 2. ADJUSTMENT OF ANTIDUMPING DUTY IN CERTAIN PROCEEDINGS RELATING TO IMPORTS FROM NONMARKET ECONOMY COUNTRIES.

(a) IN GENERAL.—Section 777A of the Tariff Act of 1930 (19 U.S.C. 1677f 1) is amended by adding at the end the following:

“(f) ADJUSTMENT OF ANTIDUMPING DUTY IN CERTAIN PROCEEDINGS RELATING TO IMPORTS FROM NONMARKET ECONOMY COUNTRIES.—

“(1) IN GENERAL.—If the administering authority determines, with respect to a class or kind of merchandise from a nonmarket economy country for which an antidumping duty is determined using normal value pursuant to section 773(c), that—

“(A) pursuant to section 701(a)(1), a countervailable subsidy (other than an export subsidy referred to in section 772(c)(1)(C)) has been provided with respect to the class or kind of merchandise,

“(B) such countervailable subsidy has been demonstrated to have reduced the average price of imports of the class or kind of merchandise during the relevant period, and

“(C) the administering authority can reasonably estimate the extent to which the countervailable subsidy referred to in subparagraph (B), in combination with the use of normal value determined pursuant to section 773(c), has increased the weighted average dumping margin for the class or kind of merchandise,

the administering authority shall, except as provided in paragraph (2), reduce the antidumping duty by the amount of the increase in the weighted average dumping margin estimated by the administering authority under subparagraph (C).

“(2) MAXIMUM REDUCTION IN ANTIDUMPING DUTY.—The administering authority may not reduce the antidumping duty applicable to a class or kind of merchandise from a nonmarket economy country under this subsection by more than the portion of the countervailing duty rate attributable to a countervailable subsidy that is provided with respect to the class or kind of merchandise and that meets the conditions described in subparagraphs (A), (B), and (C) of paragraph (1).”.

(b) EFFECTIVE DATE.—Subsection (f) of section 777A of the Tariff Act of 1930, as added by subsection (a) of this section, applies to—

(1) all investigations and reviews initiated pursuant to title VII of that Act (19 U.S.C.

1671 et seq.) on or after the date of the enactment of this Act; and

(2) subject to subsection (c) of section 129 of the Uruguay Round Agreements Act (19 U.S.C. 3538), all determinations issued under subsection (b)(2) of that section on or after the date of the enactment of this Act.

Mr. REID. Mr. President, this is an extremely important piece of legislation we just adopted. It has had bipartisan support and we were able to do it quickly. We had hoped the House—and I am confident they will—would follow our example in passing this bill quickly.

#### MEASURE PLACED ON THE CALENDAR—H.R. 1837

Mr. REID. Mr. President, H.R. 1837 is at the desk and due for a second reading.

The ACTING PRESIDENT pro tempore. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 1837) to address certain water-related concerns on the San Joaquin River, and for other purposes.

Mr. REID. I object to any further proceedings on the legislation at this time.

The ACTING PRESIDENT pro tempore. Objection is heard. The bill will be placed on the calendar.

#### SURFACE TRANSPORTATION ACT

Mr. REID. Mr. President, 56 years ago it took President Eisenhower a year to convince Congress and the country to make an unprecedented investment in America's highway system. After all, building 47,000 miles of interstate highways across the Nation would require an unparalleled effort and unprecedented investment. The project required enough concrete to build six sidewalks to the Moon at a cost of \$50 billion or the equivalent of almost \$½ trillion today.

The project was hugely successful. It created jobs, it connected farms and factories, tiny towns and towering cities, and allowed manufacturers and merchants to ship goods across our country for the first time in our Nation's history. Looking back on this effort to pass the first highway bill, President Eisenhower considered it the crowning accomplishment of his Presidency.

"More than any single action by the government since the end of the war, this one would change the face of America," President Eisenhower wrote in his memoir. "Its impact on the American economy—the jobs it would produce in manufacturing and construction, the rural areas it would open up—was beyond calculation."

Fifty-six years after his initial work, Congress once again is considering transportation legislation, an investment in this country's crumbling

roads, bridges, and train tracks. But we have the benefit of history on our side. We know from 56 years of experience that investing in America's highways and railways will create and sustain jobs, and we have no doubt that building a world-class transportation system will help us rebuild our world-class economy.

That is why the senior Senator from Oklahoma, Mr. INHOFE, and one of the most liberal Members of the Senate, the junior Senator from California, Mrs. BOXER, have joined hands to advance this bipartisan Transportation bill before this body. The bill is comprised of four measures reported out of the Environment and Public Works Committee and the Banking, Commerce and Finance Committees—all with bipartisan support. Both sides agreed to a package of 37 amendments in addition to this that is now part of the measure that is before the Senate.

This is the legislation, as I have indicated, that is in the Senate now. If the filibuster ended and we passed the bill before us, it would be a huge step forward. Pass what we have now, vote on it, and we could call it a good day for America, a real good day. But in today's political climate, bipartisan support is not enough to keep good legislation alive. In today's political climate, 85 votes to begin debate on a measure is not enough to guarantee the measure will become law.

The Transportation legislation under consideration is truly bipartisan. It will create or sustain 3 million badly needed construction jobs. Yet Republican leaders have wasted almost a month of the Senate's time obstructing this valuable measure—for political reasons, obviously.

Unfortunately, Democrats cannot keep construction crews working to repair 70,000 collapsing bridges across the country without Republican cooperation. Without Republican cooperation we cannot expand the Nation's mass transit system to accommodate tens of thousands of new riders every year. Without Republican cooperation we cannot create and save 3 million jobs repairing crumbling pavement and building safer sidewalks. It will take bipartisan effort to advance this bipartisan legislation.

Frank Turner, a former Federal Highway Administrator, said work on this country's transportation system "will never be finished because America will never be finished." Although the work is never finished, it is up to Congress to sustain the effort to move it forward. Unless Congress acts this month work on highways, bridges, and train tracks will come to a grinding halt. Unless Congress acts, the American economy will pay the price for partisan bickering.

What we have before the body now is the measure reported out of the four committees I talked about plus 37 bi-

partisan amendments. We should pass that. We should invoke cloture on it and just pass that and wait for the House to pass whatever they do and go to conference. That would be a tremendous step forward for us.

I am hopeful my Republican colleagues will join Democrats to put American jobs ahead of these procedural games we are having so much trouble with and help us advance this vital transportation legislation.

#### RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

#### FRIDAY'S TORNADOES

Mr. MCCONNELL. Mr. President, last Friday evening tornadoes hit several counties across Kentucky, including Magoffin, Menifee, Morgan, Laurel, Martin, Johnson, and Trimble. I might say these were not just tornadoes, these were very severe tornadoes all over the southern and midwestern part of our country leaving an incredible trail of devastation across many of our States.

In my State the storm caused at least 20 fatalities and more than 300 people in Kentucky were injured. Forty-eight Kentucky counties suffered damage from the storms and tornadoes Friday evening. I am told that about 19,000 people were without power yesterday. This morning my colleague Senator PAUL and I sent a letter to the President urging him to approve Gov. Steven Beshear's request for Federal assistance.

Yesterday I had a chance to visit arguably the hardest hit of our communities, West Liberty, KY. It was a scene of total devastation. The whole community has either been evacuated or is in the process of being evacuated. The county judge—in our State the county judge is like the county executive in a number of States—Tim Conley, and Mayor Rupe, the mayor of West Liberty, and I toured, frankly, what little is left of the community. I ran into the county attorney there. Not only had her home been wiped out, her office had been wiped out.

The most poignant story of the day was when one of the local residents came up to one of my assistants and said: Here, I found \$70. It doesn't belong to me. I want you to take it and see to it that it is used for the community.

My assistant said: No one knows where the \$70 came from or who it belongs to and you are wiped out. Why don't you keep it?

This citizen of West Liberty, KY, said: "I just wouldn't feel right about it."

"I just wouldn't feel right about it." Those are the kind of people who are in

West Liberty, KY. Those are the kind of people today who are homeless, who have lost friends and relatives. Of course, in a town that is devastated there are no jobs. Where do people go to work when their place of business has been wiped out?

FEMA is on the ground, and we will do everything we can to try to help these good folks rebuild their lives. Similar stories are the case in a number of other Kentucky counties, but West Liberty I singled out because it was probably the most devastated of any of our communities.

I applaud the work of the first responders. There were people from all over my State who immediately came to the site, some of them with some official responsibility—they were with the Red Cross or they were with the National Guard. In fact, there were 400 National Guard troops mobilized across the State in these severely hit areas. But many of the people I ran into in West Liberty, KY, were simply people who got in their cars, loaded them up with bottled water and whatever food they could come up with, and went there to be helpful.

There was one restaurant in another town that sent in a very large number of barbecue sandwiches just to try to feed the people who were there trying to help get started. I went to the command center. Of course, one of the biggest questions in a situation such as that is, what do you do first? Obviously, the first effort to get the power back on. The AEP, the power company, was there trying to get the power up and running. Then they had a priority chart: What do you do second? What do you do third?

I want to express to them and say again on the Senate floor today, we are going to be there for these good folks not only in West Liberty but in the other counties that were hit in our State. That is why FEMA exists. They do a good job. Hopefully, it will not require any additional funding for us to have to appropriate. Hopefully, they will have enough funds in their budget to take care of this, but if there is a shortfall we will be there to be helpful.

I wanted to share with my colleagues today the devastation to which we were subjected last weekend. It is reminiscent of a tornado that hit Kentucky in the 1970s. I remember it went into my mother and father's neighborhood. The house next door to them was obliterated. The houses across the street were obliterated. Amazingly enough, my mothers and father's house seemed largely untouched. There were very few homes in West Liberty, KY, yesterday or Friday night that were untouched. It came through there with a stunning force.

I heard one story I will also relate. The county judge was in a building and literally grabbed somebody by the leg and pulled him inside the building as

the storm was attempting to suck him out into the street. He was able to save that person. So the incredible force of these massive tornadoes is truly destructive, and we will help local residents get their lives back together as soon as we possibly can.

I yield the floor.

#### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

#### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period of morning business, with Senators permitted to speak therein up to 10 minutes each.

Mr. MCCONNELL. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded and that I be allowed to speak in morning business for as much time as I may consume.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### SYRIA

Mr. MCCAIN. Mr. President, after a year of bloodshed, the crisis in Syria has reached a decisive moment. It is estimated that more than 7,500 lives have been lost. The United Nations has declared that Syrian security forces are guilty of crimes against humanity, including the indiscriminate shelling of civilians, the execution of defectors, and the widespread torture of prisoners.

Bashar al-Asad is now doing to Homs what his father did to Hama. Aerial photographs procured by Human Rights Watch show a city that has been laid to waste by Asad's tanks and artillery. A British photographer who was wounded and evacuated from the city described it as "a medieval siege and slaughter." The kinds of mass atrocities that NATO intervened in Libya to prevent in Benghazi are now a reality in Homs. Indeed, Syria today is the scene of some of the worst state-sponsored violence since Milosevic's war crimes in the Balkans or Russia's annihilation of the Chechen city of Grozny.

What is all the more astonishing is that Asad's killing spree has continued despite severe and escalating international pressure against him. His regime is almost completely isolated. It

has been expelled from the Arab League, rebuked by the United Nations General Assembly, excoriated by the U.N. Human Rights Council, and abandoned by nearly every country that once maintained diplomatic relations with it. At the same time, Asad's regime is facing a punishing array of economic sanctions by the United States, the European Union, the Arab League, and others—measures that have targeted the assets of Asad and his henchman, cut off the Central Bank and other financial institutions, grounded Syria's cargo flights, and restricted the regime's ability to sell oil.

This has been an impressive international effort, and the administration deserves a lot of credit for helping to orchestrate it.

The problem is the bloodletting continues. Despite a year's worth of diplomacy backed by sanctions, Asad and his top lieutenants show no signs of giving up and taking the path into foreign exile. To the contrary, they appear to be accelerating their fight to the finish and they are doing so with the shameless support of foreign governments, especially in Russia, China, and Iran. A steady supply of weapons, ammunition, and other assistance is flowing to Asad from Moscow and Tehran. As the Washington Post reported yesterday, Iranian military and intelligence operatives are likely active in Syria, helping to direct and sharpen the regime's brutality. The Security Council is totally shut down as an avenue for increased pressure, and the recently convened Friends of Syria contact group, while a good step in principle, produced mostly rhetoric but precious little action when it met last month in Tunisia. Unfortunately, with each passing day, the international response to Asad's atrocities is being overtaken by events on the ground in Syria.

Some countries are finally beginning to acknowledge this reality as well as its implications. Saudi Arabia and Qatar are calling for arming opposition forces in Syria. The newly elected Kuwaiti Parliament has called on their government to do the same. Last week, the Supreme Allied Commander of NATO, ADM James Stavridis, testified to the Senate Armed Services Committee that providing arms to opposition forces in Syria could help them shift the balance of power against Asad. Most importantly, Syrians themselves are increasingly calling for international military involvement. The Opposition Syrian National Council recently announced that it is establishing a military bureau to channel weapons and other assistance to the Free Syrian Army and armed groups inside the country. Other members of the Council are demanding a more robust intervention.

To be sure, there are legitimate questions about the efficacy of military operations in Syria and equally legitimate concerns about their risks and uncertainties. It is understandable that the administration is reluctant to move beyond diplomacy and sanctions. Unfortunately, this policy is increasingly disconnected from the dire conditions on the ground in Syria, which has become a full-blown state of armed conflict. In the face of this new reality, the administration's approach to Syria is starting to look more like a hope than a strategy. So, too, does their continued insistence that Asad's fall is "inevitable." Tell that to the people of Homs. Tell that to the people of Idlib or Hama or the other cities that Asad's forces are now moving against. Nothing in this world is predetermined, and claims about the inevitability of events can often be a convenient way to abdicate responsibility.

But even if we do assume that Asad will ultimately fall, that may still take a long time. In recent testimony in the Armed Services Committee, the Director of National Intelligence James Clapper said if the status quo persists, Asad could hang on for months, probably longer. And that was before Homs fell. So to be clear, even under the best-case scenario for the current policy, the cost of success will likely be months of continued bloodshed and thousands of additional lives lost. Is this morally acceptable to us? I believe it should not be.

In addition to the moral and humanitarian interests at stake in Syria, what is just as compelling, if not more so, are the strategic and geopolitical interests. Put simply, the United States has a clear national security interest in stopping the violence in Syria and forcing Asad to leave power. In this way, Syria is very different than Libya. The stakes are far higher, both for America and some of our closest allies.

This regime in Syria serves as a main forward operating base of the Iranian regime in the heart of the Arab world. It has supported Palestinian terrorist groups and funneled arms of all kinds, including tens of thousands of rockets, to Hezbollah in Lebanon. It remains a committed enemy of Israel. It has large stockpiles of chemical weapons and materials and has sought to develop a nuclear weapons capability. It was the primary gateway for the countless foreign fighters who infiltrated Iraq and killed American troops. Asad and his lieutenants have the blood of hundreds of Americans on their hands. Many in Washington fear that what comes after Asad might be worse. How could it be any worse than this?

The end of the Asad regime would sever Hezbollah's lifeline to Iran, eliminate a longstanding threat to Israel, bolster Lebanon's sovereignty and independence, and inflict a stra-

tegic defeat on the Iranian regime. It would be a geopolitical success of the first order. More than all of the compelling moral and humanitarian reasons, this is why Asad cannot be allowed to succeed and remain in power. We have a clear national security interest in his defeat, and that alone should incline us to tolerate a large degree of risk in order to see that this goal is achieved.

Increasingly, the question for U.S. policy is not whether foreign forces will intervene militarily in Syria. We can be confident that Syria's neighbors will do so eventually if they have not already. Some kind of intervention will happen with or without us. So the real question for U.S. policy is whether we will participate in this next phase of the conflict in Syria and thereby increase our ability to shape an outcome that is beneficial to the Syrian people and to us. I believe we must.

The President has characterized the prevention of mass atrocities as "a core national security interest." He has made it the objective of the United States that the killing in Syria must stop, that Asad must go. He has committed the prestige and credibility of our Nation to that goal, and it is the right goal. However, it is not clear that the present policy can succeed. If Asad manages to cling to power—or even if he manages to sustain the slaughter for months to come—with all the human and geopolitical costs that entails, it would be a strategic and moral defeat for the United States. We cannot—we must not—allow this to happen.

For this reason, the time has come for a new policy. As we continue to isolate Asad diplomatically and economically, we should work with our closest friends and allies to support opposition groups inside Syria, both political and military, to help them organize themselves into a more cohesive and effective force that can put an end to the bloodshed and force Asad and his loyalists to leave power. Rather than closing off the prospects for some kind of negotiated transition that is acceptable to the Syrian opposition, foreign military intervention is now the necessary factor to reinforce this option. Asad needs to know that he will not win.

What opposition groups in Syria need most urgently is relief from Asad's tank and artillery sieges in the many cities that are still contested. Homs is lost for now, but Idlib and Hama and Qusayr and Deraa and other cities in Syria could still be saved. But time is running out. Asad's forces are on the march. Providing military assistance to the Free Syrian Army and other opposition groups is necessary, but at this late hour that alone will not be sufficient to stop the slaughter and save innocent lives. The only realistic way to do so is with foreign air power.

Therefore, at the request of the Syrian National Council, the Free Syrian Army, and local coordinating committees inside the country, the United States should lead an international effort to protect key population centers in Syria, especially in the north, through air strikes on Asad's forces. To be clear, this will require the United States to suppress enemy air defenses in at least part of the country. The ultimate goal of air strikes should be to establish and defend safe havens in Syria, especially in the north, in which opposition forces can organize and plan their political and military activities against Asad. These safe havens could serve as platforms for the delivery of humanitarian and military assistance, including weapons and ammunition, body armor, and other personal protective equipment, tactical intelligence, secure communications equipment, food and water, and medical supplies. These safe havens could also help the Free Syrian Army and other armed groups in Syria train and organize themselves into more cohesive and effective military forces, likely with the assistance of foreign partners.

The benefit for the United States in helping to lead this effort directly is that it would allow us to better empower those Syrian groups that share our interests—those groups that reject al-Qaida and the Iranian regime and commit to the goal of an inclusive democratic transition as called for by the Syrian National Council. If we stand on the sidelines, others will pick winners, and this will not always be to our liking or in our interest. This does not mean the United States should go it alone. I repeat: This does not mean that the United States should go it alone. We should not. We should seek the active involvement of key Arab partners such as Saudi Arabia, United Arab Emirates, Jordan, and Qatar, and willing allies in the EU and NATO, the most important of which in this case is Turkey.

There will be no U.N. Security Council mandate for such an operation. Russia and China took that option off the table long ago. But let's not forget: NATO took military action to save Kosovo in 1999 without formal U.N. authorization. There is no reason why the Arab League or NATO or a leading coalition within the Friends of Syria contact group, or all of them speaking in unison, could not provide a similar international mandate for military measures to save Syria today.

Could such a mandate be gotten? I believe it could. Foreign capitals across the world are looking to the United States to lead, especially now that the situation in Syria has become an armed conflict. But what they see is an administration still hedging its bets—on the one hand insisting that Asad's fall is inevitable but, on the other, unwilling even to threaten more assertive actions that could make it so.

The rhetoric out of NATO has been much more self-defeating. Far from making it clear to Asad that all options are on the table, key alliance leaders are going out of their way to publicly take options off the table. Last week, NATO Secretary General Rasmussen said that the alliance has not even discussed the possibility of NATO action in Syria, saying: "I don't envision such a role for the alliance." The following day, the Supreme Allied Commander, ADM James Stavridis, testified in the Senate Armed Services Committee that NATO has done no contingency planning—none—for potential military operations in Syria.

That is not how NATO approached Bosnia or Kosovo or Libya. Is it now the policy of NATO—or the United States, for that matter—to tell the perpetrators of mass atrocities in Syria or elsewhere that they can go on killing innocent civilians by the hundreds of thousands and the greatest alliance in history will not even bother to conduct any planning about how we might stop them? Is that NATO's policy now? Is that our policy? Because that is the practical effect of this kind of rhetoric. It gives Asad and his foreign allies a green light for greater brutality.

Not surprisingly, many countries, especially Syria's neighbors, are also hedging their bets on the outcome in Syria. They think Asad will go, but they are not yet prepared to put all their chips on that bet—even less so now that Asad's forces have broken Homs and seem to be gaining momentum.

There is only one nation—there is only one nation—that can alter this dynamic, and that is the United States of America. The President must state unequivocally that under no circumstances will Asad be allowed to finish what he has started; that there is no future in which Asad and his lieutenants will remain in control of Syria; and that the United States is prepared to use the full weight of our air power to make it so. It is only when we have clearly and completely committed ourselves that we can expect other nations to do the same. Only then would we see what is really possible in winning international support to stop the killing in Syria.

Are there dangers and risks and uncertainties in this approach? Absolutely. There are no ideal options in Syria. All of them contain significant risk. Many people will be quick to raise concerns about the course of action I am proposing. Many of these concerns have merit but none so much that they should keep us from acting.

For example, we continue to hear it said that we should not assist the opposition in Syria militarily because we do not know who these people are. Secretary of State Hillary Clinton repeated this argument just last week, adding that we could end up helping al-

Qaida or Hamas. It is possible that the administration does not know much about the armed opposition in Syria, but how much effort have they really made to find out, to meet and engage these people directly? Not much, it appears. Instead, much of the best information we have about the armed resistance in Syria is thanks to courageous journalists, some of whom have given their lives to tell the story of the Syrian people.

One of those journalists is a reporter working for Al-Jazeera named Nir Rosen, who spent months in the country, including much time with the armed opposition. Here is how he described them recently:

The regime and its supporters describe the opposition, especially the armed opposition, as Salafis, Jihadists, Muslim Brotherhood supporters, al-Qaeda and terrorists. This is not true, but it's worth noting that all the fighters I met . . . were Sunni Muslims, and most were pious. They fight for a multitude of reasons: for their friends, for their neighborhoods, for their villages, for their province, for revenge, for self-defense, for dignity, for their brethren in other parts of the country who are also fighting. They do not read religious literature or listen to sermons. Their views on Islam are consistent with the general attitudes of Syrian Sunni society, which is conservative and religious.

Because there are many small groups in the armed opposition, it is difficult to describe their ideology in general terms. The Salafi and Muslim Brotherhood ideologies are not important in Syria and do not play a significant role in the revolution. But most Syrian Sunnis taking part in the uprising are themselves devout.

He could just as well have been describing average citizens in Egypt or Libya or Tunisia or other nations in the region. So we should be a little more careful before we embrace the Asad regime's propaganda about the opposition in Syria. We certainly should not let these misconceptions cause us to keep the armed resistance in Syria at arm's length because that is just self-defeating. And I can assure you that al-Qaida is not pursuing the same policy. They are eager to try to hijack the Syrian revolution, just as they have tried to hijack the Arab spring movements in Egypt and Tunisia and Libya and elsewhere. They are trying, but so far they are failing. The people of these countries are broadly rejecting everything al-Qaida stands for. They are not eager to trade secular tyranny for theocratic tyranny.

The other reason al-Qaida is failing in Tunisia and Egypt and Libya is because the community of nations—especially the United States—has supported them. We are giving them a better alternative. The surest way for al-Qaida to gain a foothold in Syria is for us to turn our backs on these brave Syrians who are fighting to defend themselves. After all, Sunni Iraqis were willing to ally with al-Qaida when they felt desperate enough, but when America gave them a better alter-

native, they turned their guns on al-Qaida. Why should it be different in Syria?

Another objection to providing military assistance to the Syrian opposition is that the conflict has become a sectarian civil war and our intervention would enable the Sunni majority to take a bloody and indiscriminate revenge against the Alawite minority. This is a serious and legitimate concern, and it is only growing worse the longer the conflict goes on. As we saw in Iraq or Lebanon before it, time favors the hard-liners in a conflict such as this. The suffering of Sunnis at the hands of Asad only stokes the temptation for revenge, which in turn only deepens fears among the Alawites and strengthens their incentive to keep fighting. For this reason alone, it is all the more compelling to find a way to end the bloodshed as soon as possible.

Furthermore, the risks of sectarian conflict will exist in Syria whether or not we get more involved. And we will at least have some ability to try to mitigate these risks if we work to assist the armed opposition now. That will at least help us to know them better and to establish some trust and exercise some influence with them, because we took their side when they needed it most. We should not overstate the potential influence we could gain with opposition groups inside Syria, but it will only diminish the longer we wait to offer them meaningful support. And what we can say for certain is we will have no influence whatsoever with these people if they feel we abandoned them. This is a real moral dilemma, but we cannot allow the opposition in Syria to be crushed at present while we worry about the future.

We also hear it said, including by the administration, that we should not contribute to the militarization of the conflict. If only Russia and Iran shared that sentiment. Instead, they are shamelessly fueling Asad's killing machine. We need to deal with reality as it is, not as we wish it to be. And the reality in Syria today is largely a one-sided fight where the aggressors are not lacking for military means and zeal. Indeed, Asad appears to be fully committed to crushing the opposition at all costs. Iran and Russia appear to be fully committed to helping him do it.

The many Syrians who have taken up arms to defend themselves and their communities appear to be fully committed to acquiring the necessary weapons to resist Asad, and leading Arab States appear increasingly committed to providing those weapons. The only ones who seem overly concerned about a militarization of the conflict is the United States and some of its allies. The time has come to ask a different question: Whom do we want to win in Syria—our friends or our enemies?



There are always plenty of reasons not to do something, and we can list them clearly in the case of Syria. We know the opposition is divided. We know the armed resistance inside the country lacks cohesion or command and control. We know some elements of the opposition may sympathize with violent extremist ideologies or harbor dark thoughts of sectarian revenge. We know many of Syria's immediate neighbors remain cautious about taking overly provocative actions that could undermine Asad. And we know the American people are weary of conflict—justifiably so—and we would rather focus on domestic problems.

These are realities. But while we are compelled to acknowledge them, we are not condemned to accept them forever. With resolve, principled leadership, and wise policy, we can shape better realities. That is what the Syrian people have done.

By no rational calculation should this uprising against Asad still be going on. The Syrian people are outmatched. They are outgunned. They are lacking for food and water and other basic needs. They are confronting a regime with limitless disregard for human dignity and capacity for sheer savagery. For an entire year, the Syrian people have faced death and those unspeakable things worse than death, and they still have not given up. Still they take to the streets to protest peacefully for justice, still they carry on their fight, and they do so on behalf of many of the same universal values we share and many of the same interests as well. These people are our allies. They want many of the same things we do. They have expanded the boundaries of what everyone thought was possible in Syria. They have earned our respect, and now they need our support to finish what they started. The Syrian people deserve to succeed, and shame on us if we fail to help them.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER (Mr. COONS). The Senator from Illinois.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I ask to speak in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### TORNADO DAMAGE

Mr. DURBIN. Mr. President, there are life experiences that come along with growing up depending on one's family and where they grew up. In my

part of the world, part of the Midwest, there was a rite of passage that seemed so commonplace that we never questioned it. It was the air raid siren going off in the middle of the night and your dad would come into your room and say: We have to go down to the basement; there is a tornado warning.

That was part of my life. I didn't think twice about it. It happened every year—sometimes not in the middle of the night, sometimes in the middle of the day, but we became accustomed to it because that is what happened where we lived.

When I was elected to Congress and then to the Senate, I spent my time visiting locations all over my State where tornadoes had struck. So I have seen my fair share of tornado damage in the Midwest, but I have to tell you what I saw on Saturday was extraordinary. I went to southern Illinois to two towns, Harrisburg and Ridgway. They were hit the previous Wednesday by what is known as a stage 4 tornado. A stage 4 tornado is a tornado with winds up to 175 miles per hour. That is a tornado so violent that the winds, from what I am told, were even greater than those of Hurricane Katrina. It hit this tiny little town in southern Illinois, and I looked at the devastation afterward. We expect obvious casualties in a tornado. We expect to see the trees blown down and the siding off the house and the shingles torn off the roof and occasionally a window blown in. One looked at the poor mobile homes, which don't have a chance in a tornado, and they are usually ripped and thrown. But in this tornado, houses that were built on a slab were lifted off and tossed in the air.

I met a lady who was driving away from the devastation of her home—incidentally, these photos are fairly indicative of what we saw in the devastation—and I asked her about her experience. It turned out she was very lucky because she had set the alarm for quarter of 5 to go to work that morning. She said she got up and started getting ready and heard the sirens outside. She said: I went to the bathroom, got down face first on the floor, and grabbed the sink to hang on to it. She said seconds passed before the ceiling caved in on top of her. Luckily, she said it didn't reach her; it pinned her underneath. She said she waited and waited and 15, 20 minutes later somebody started hollering: Is anybody in there? She said she hollered back and they told her: Keep talking. We are going to get you out of there. She escaped with a few scratches and bruises. She was one of the lucky ones. Two of the homes across the street had been blown on top of hers. It turned out across the street a 22-year-old nurse at the local hospital had been killed by the same tornado.

I have never seen this kind of tornado and this kind of damage in my life. I am told it happened one time be-

fore in the history of our State. I also have to tell you the response of the people there makes me proud to be from that State and to be a part of this great Nation. From the very minute this devastation took place, people started coming toward the devastation to try to help. There were some amazing stories such as the volunteers who helped this lady out of the debris of her home. At the nearby coal mine, they have a rescue team that is sent in when there is danger of a mine disaster. They have hard hats and breathing equipment and all the right extraction devices and tools. They came rushing to the scene, coal dust all over their faces, digging right into the wreckage pulling people out. That story was repeated over and over.

The heroism and voluntarism didn't end that day. It continued all through the time I was there and even to this day. Special kudos to the American Red Cross, always the first on the scene, always performing a valuable and important job as they did in southern Illinois.

I went over to Ridgway, which is a town 24 miles away, and for some reason this God-awful tornado skipped from Harrisburg to Ridgway and did little damage in between. But it came down in Ridgway and ripped through that town. Roughly 400 homes were damaged in Harrisburg and over 100 in Ridgway. There is a Catholic Church there over 100 years old. It was the sturdiest structure in town by far. Had people been given enough notice—this happened early in the morning at about 5 a.m.—they might have said the safest place to go is the church. The church is gone. There are two things left, the doorway for the church and the altar. Everything else has been obliterated. There have been a lot of pictures taken of that altar still standing in the rubble, an inspiration to many. Perhaps a message there will be certain things spared even in the worst disasters.

In that town, the fire department met with the mayor and all the volunteers. The one thing about being a volunteer after a disaster in Illinois, I guarantee you will not lose weight. Everybody brought in food, all kinds of food from every direction—pies, cakes, chili, and hot dogs. A fellow came by there and had his barbecue operation set up. It was a huge operation, and he was just cooking like crazy. It was an indication that everybody wanted to pitch in to help. So I wish to thank all those engaged in the rescue and clean-up work at every level.

John Monken, director of the Illinois Emergency Management Agency under Pat Quinn—the Governor has been down there twice—accompanied me on this trip, local units of the government, the sheriff's office, the local disaster agency people, all the volunteers, the Red Cross, a group called Operation

Blessing, which showed up—I had never heard of them before. I bet they have been around. They knew just what to do. They said: Every religious group or volunteer group that wants to help, come check with us. We will send you to a place where you might be needed. As I walked through the wreckage, there were volunteers of every age, from little kids to elderly folks, with rakes in their hands picking up trash and getting it off to the side and trying to put people's lives together again. The scores of people made me proud to represent that great State and the people living in it.

There are several things we need to talk about as a result of that disaster that cannot go unsaid.

I think it is not considered politically correct now to talk about the state of climate in America, but I am going to because, as I stand here today, we have had 274 tornadoes already recorded in America this year—274. At this time last year we had 50. This tornado that hit my home State and, I might say, that tornado that hit Joplin, MO, last year were extraordinary events when it came to tornadoes. The weather patterns are changing. The weather events are more frequent and more severe. That is a fact. Are we ready? Are we prepared for it? Are we doing everything we can? The simple and honest answer is no.

First, we need to acknowledge the obvious. I know I am walking on dangerous ground, but the climate is changing. We have gone from a situation last year where we had the worst recorded blizzard in the history of Chicago, followed 4 months later by the most rainfall ever recorded in 1 hour, to this situation with 274 tornadoes so far this year and literally scores of people killed—six in Harrisburg, many in Kentucky and Tennessee and other places. It is an indication the weather is changing, the severity is changing, and we need to be honest about it. We have to get beyond the political argument into the world of reality.

I sincerely believe there are things we are doing that are affecting the world we live in—affecting the melting of the glaciers, affecting the disappearance of species, affecting the change of weather patterns all around. As long as we continue to take the politically convenient route of ignoring that, future generations can point a finger of blame at us for failing to acknowledge the obvious when we might have had a chance to make some difference in future lives. That is a fact.

Secondly, I held a hearing and I brought in not government experts but experts from the private sector. Do my colleagues know who knows more about weather and damage events than anyone in America? The insurance industry. I brought them in, property and casualty insurance companies, and I asked them the same question: Is

weather changing? They said it is obvious. Why do we think some companies are taking their business out of certain places in America? We cannot set up a reserve for the possibility of damage that is on the horizon; we are trying to cover ourselves. We are profitmaking people; if we can't see a way to set up a reserve for potential weather disasters, we start backing off of coverage. It has been done. Many insurance companies have walked away from places such as Florida because of hurricanes and because of violent storms.

Then I asked them the question about whether the U.S. Government was adequately prepared to shoulder the burden that comes with these disasters—and the burden does come, particularly for those uninsured. We end up as a government helping them. I don't begrudge people that. I am going to ask for my State, and I am sure the Presiding Officer would do the same. Every Senator would.

Here is the bottom line: When the Bowles-Simpson Commission sat down to try to determine how much we should budget each year for disasters, they came up with what these people in the private sector said was a totally unreasonable formula. It basically averaged 10 years and put an additional cost-of-living adjustment on it. They said that isn't the future. The future is a geometric progression in cost as property becomes more expensive, as the storms become more violent.

We are not thinking about this, and we are not thinking about what we should do to deal with it. We also need to think about ways to warn people about these disasters before they strike. We live in a new world. In the old world we lived in—going back how far I can't say, maybe a century—we would turn on a siren outside. That is still of some value. It warns people and they respond to it. But in this day and age there has to be a better way. Let me suggest a few.

In some counties in my State, the disaster agency has on record all of the telephone numbers of all of the residents. If something is coming, their phone is going to ring too, not just the siren outside that maybe they don't hear because they are sleeping or because the television is too loud but the telephone is going to ring too. That is something we need to make standard across this country so there is a way to reach everyone.

I don't know this because I am a liberal arts lawyer. What do I know about these things? It seems to me that we ought to be able to deal with some mechanism that allows people to receive a notice when there is a warning going out of something disastrous on the way. I think that ought to be doable. I am working with people in FEMA and others to talk about that possibility.

The point I wish to make is this: I think we have an obligation to reopen

a conversation which we have walked away from. There is not a chance that we are going to pass significant legislation on this floor this year when it comes to climate change and what we need to do about it. There is little or no chance that we will even get a majority—perhaps a majority; maybe not 60—to acknowledge this is a problem we could do anything about. But for us to ignore this is to ignore the obvious. Things are getting worse. Future generations will see even more challenges than we do today, and those of us with the responsibility to serve and lead need to at least stand and engage the conversation, engage the dialogue with the American people about this issue.

I urge my colleagues all across the political spectrum to take a look at the reality and to stop turning their head and looking away. What is happening out there with our weather patterns is something that needs to be acknowledged and something we need to respond to.

#### GAS PRICES

Mr. President, one other thing I wish to say is that as I went home, the tornado was the first item of discussion, but the second was gasoline prices. I went through the suburbs of Chicago Friday night and saw a gasoline station with gas at \$4.09 a gallon. It got a little more reasonable as I went through deep southern Illinois, but it was still very expensive.

We have seen a significant increase, but those of us who have been around know that isn't the first time. I could dust off my springtime press release that I put out every year expressing outrage with the oil companies for gasoline price increases. It happens every spring before Easter. Usually, after all of the politicians get red in the face and sputter and run out of things to say cursing the oil companies it kind of moderates in May or June and then, get ready, it is coming again during the summer vacation season.

We are not helpless but we are certainly at the mercy of oil companies which, even when investigated by major government agencies, can't be found to have engaged in any conspiracy or collusion, though it seems passing strange that the same gas stations in town after town watch their prices go up in lockstep day after day and week after week.

There are those who think they have a good, quick, easy answer and can't understand why the rest of the world isn't cheering them on. They want to drill their way out of this situation. They believe if we find enough oil in America, gasoline prices will come down and we are going to find ourselves oil independent. By last measure, the United States has about 3 percent of the world's reserve of petroleum. We consume each year 25 percent. Drilling our way out of this is physically impossible. Yet that doesn't

mean we shouldn't look for new, environmentally responsible and safe sources for oil.

Here is the record: Domestic oil production is at the highest level in 8 years. We would never believe it, hearing speeches from the other side of the aisle. In 2011, U.S. crude oil production reached its highest level since 2003, and we are now drilling more than ever before. The number of oil drilling rigs in the United States is at a record high—quadrupling over the past 3 years of the Obama administration.

Between oil and gas drilling rigs, the United States now has more rigs at work than the rest of the world combined. Let me repeat that: Between oil and gas drilling rigs, the United States now has more rigs at work than the rest of the world combined. Those who are saying there is lack of effort don't know the obvious. We keep adding more. The administration has announced a new offshore oil and gas development program—they want to do it carefully after the BP spill of 2 years ago—which will open more than 75 percent of our potential offshore oil and gas resources.

Last year, Americans relied less on foreign oil than at any time in the past 16 years. Even the American Petroleum Institute agrees that American producers and refiners are producing more oil and reducing our reliance on imports. The American Petroleum Institute has said without these two factors, today's prices might be even higher.

We simply cannot drill our way to lower gasoline prices. The President has proposed an approach that is balanced, and it is an approach with vision. It gets beyond the press release of the moment or Presidential campaign rhetoric.

The President recently announced new fuel efficiency standards for cars and light-duty trucks that will save Americans \$1.7 trillion and reduce oil consumption by 2.2 million barrels per day by 2025. My wife and I drive a Ford Fusion hybrid. I looked at Consumer Reports, and it is still rated very highly. We get over 30 miles a gallon. Prius does even better—over 40 miles a gallon. Toyota Camry is somewhere in the upper thirties. There are ways to reduce the use of gasoline with more fuel-efficient vehicles. I can tell my colleagues I don't believe our family makes any sacrifice when it comes to comfort and safety while driving this Ford.

The administration has also finalized the first ever national fuel efficiency standards for heavy-duty trucks, vans, and buses. These standards will reduce oil consumption by over 500 million barrels, saving the owners more than \$50 billion in fuel costs.

The Department of Energy will make \$30 million available for a new research competition to find ways to harness

our abundant supplies of domestic natural gas for vehicles.

There is no magic bullet that can bring Americans lower gas prices—not drill baby, drill, and not the Keystone Pipeline in and of itself. Senator HUTCHISON stated that the Keystone XL Pipeline would transport 830,000 barrels of crude oil from Canada to refineries in Texas and that oil would provide Americans with 34 million gallons of gas a day.

Unfortunately, Senator HUTCHISON's statement doesn't quite match up with the testimony of the oil companies. Canada's oil production ships less than half of its current pipeline capacity to the United States. There is plenty of room for Canada to ship more right now without a new pipeline.

Existing pipeline capacity would offer 4.2 million barrels per day of crude oil to be transported from Canada to the United States. However, in 2010, Canada exported less than half of it—1.9 billion barrels a day—with existing pipelines. Even doubling Canada's current production levels would not fill the Keystone XL Pipeline or bring an additional 830,000 barrels a day to gulf refineries in the Texas region. So 830,000 barrels of crude oil simply can't produce 34 million gallons of gasoline. Even the best refiners could produce only about half that amount of gasoline.

I might also add that one of the things that is troubling to some of us is when the TransCanada Company was asked in a hearing in the House by Congressman ED MARKEY of Massachusetts whether the oil coming down from Canada through the Keystone XL Pipeline would be used for domestic consumption in the United States, he said he couldn't make that promise. So this argument that the Keystone XL Pipeline is going to reduce gas prices, first, that pipeline is in the future; second, there is existing pipeline capacity that is unused; and, third, the company that is transporting it will make no promise that it will be used in the United States. It may not have any impact on our gasoline prices whatsoever.

We just can't drill our way or "pipeline" our way out of this problem. One pipeline isn't going to solve the problem. Drilling in pristine areas such as the Arctic National Wildlife Refuge is not going to solve the problem. We need a coordinated, balanced approach. We need to walk away from the heightened campaign rhetoric into a rational discussion about an energy policy for America: a balanced policy and one that is respectful of our environment, provides the energy we need for economic growth, as well as looks to innovation and green energy approaches that will create new businesses and new jobs for the 21st century in America.

Mr. President, I yield the floor.

## ADDITIONAL STATEMENTS

### REMEMBERING NICK BACON

• Mr. BOOZMAN. Mr. President, today I wish to honor a true American hero who always had our veterans at heart—Nick Bacon.

Bacon served in the U.S. Army from 1963-1984 serving two deployments to Vietnam. As a staff sergeant during his second tour, Nick solidified his legacy as a hero.

On August 26, 1968, while commanding a squad of the first platoon of Company B, 4th Battalion, in an operation west of Tam Ky in Vietnam, Bacon destroyed several enemy positions with hand grenades. When his platoon leader was wounded, Bacon led the platoon to destroy remaining enemy positions. Bacon also took command of a second platoon, 3rd Platoon, Bravo Company, when its leader was killed and rallied both platoons against the enemy. Providing cover for evacuation of wounded, Bacon climbed a tank to fire at the enemy, a move that exposed himself to enemy fire. He was credited with killing at least four enemy soldiers and destroying an anti-tank gun.

President Nixon awarded Nick the Medal of Honor for his bravery, heroics and valiant actions during this battle.

Nick's heroics extended well beyond the battlefield. He exemplified what it means to be a Medal of Honor recipient in the way he lived his daily life through his service to others.

After retiring from the military, Nick continued his commitment to his fellow soldiers by fulfilling the needs of our veterans. He is considered by many in Arkansas as the Father of Veterans Affairs in the Natural State. Under his guidance as the director of Arkansas Department of Veterans Affairs, State veterans saw the completion of the Fayetteville VA Long-term Care Facility, the development of the Arkansas State Veterans Cemetery and the creation of the Arkansas Veterans' Coalition.

Nick's leadership in the department helped countless veterans in Arkansas receive the benefits they deserve. His actions throughout his life have inspired selfless service and sacrifice. Nick's legacy will live on as we remember his consistent passion for veterans and his tireless advocacy on behalf of the men and women who wore our Nation's uniform.●

### RECOGNIZING PHELPS MEMORIAL HEALTH CENTER

• Mr. JOHANNIS. Mr. President, today I wish to applaud the spirit of community betterment that led to a beautiful new wing of the Phelps Memorial Health Center in Holdrege, NE. As often occurs across our great State, citizens in the area saw a need and rose

to meet it. They joined forces with officials at the hospital and set a determined course, without holding out their hands for taxpayer dollars to make it happen. They recognized that high quality medical care is part of the lifeblood of the community and knew the hospital would benefit from renovation and expansion. So, they rolled up their sleeves and came together to create the vision, raise the money and turn the dirt.

Some doubted the community would accomplish a multimillion dollar expansion during a recession in a rural area without taxpayer dollars. Those doubters underestimated the motivation of Nebraskans who love their community. Citizens in the area have proven that there is no limit to what can be accomplished when people come together. The new, state-of-the-art wing is truly impressive.

I was honored to see it firsthand when I attended the ribbon-cutting ceremony and applauded the many people who poured their hearts into the project. The nearly 50,000 additional square feet, four cutting-edge operating suites, and patient rooms with maximum comfort and connectivity are remarkable, to say the least.

The heart and soul of healthcare in Nebraska is a hospital like the Phelps Memorial Health Center, providing high-quality and compassionate care close to home. Today I celebrate their success in turning an aging institution into a state-of-the-art facility and highlight it as a shining example of what can be accomplished with determination and commitment.●

#### TRIBUTE TO COAST GUARD HEROES

● Ms. LANDRIEU. Mr. President, it is with great sadness that I mourn the loss of one of our brave Coast Guard airmen who gave his life in the line of duty when a Coast Guard MH-65C helicopter crashed during a training flight in the vicinity of Mobile Bay, AL, on Tuesday evening with four crewmembers aboard. Three other crewmembers remain missing, and the Coast Guard is continuing to search for them in cooperation with State and local authorities from Alabama and Florida.

The cause of the incident is still under investigation, but it serves as a tragic reminder of the heroic sacrifices that the men and women of the U.S. Coast Guard make on a regular basis to protect the people of this country from terrorist threats, natural disasters, environmental hazards, and criminal activity. Our thoughts and prayers go out to the families of the airmen onboard the Coast Guard helo that went down Tuesday night, and I would like to take this opportunity to honor their service, and the exploits of many Coastguardsmen before them, who demonstrated

extreme valor in the face of danger and epitomized the virtues of bravery and sacrifice in service of their country.

Scores of grateful Americans will gather this evening at the National World War II Museum in New Orleans to honor 14 extraordinary Coast Guard heroes, and their family members will be in attendance to commemorate their legacy. Tomorrow morning, Bollinger Shipyards in Lockport, LA, will dedicate its fleet of fast response cutters and deliver the very first in class to the U.S. Coast Guard, the *Bernard C. Webber*. This will be the first class of ships in the history of the U.S. military that bears the names of enlisted personnel, as opposed to U.S. Presidents and flag officers. I would like to take a few minutes to share some of their stories.

PO Bernie Webber led a crew of four volunteers from Chatham Station in Massachusetts in February 1952 to respond to the tanker *Pendleton*, which was in distress. They braved 60-foot seas, hurricane-force winds, and blizzard conditions on a cold and rainy night off the coast of New England. Wind and waves smashed their windshield and compass along the way, but they managed to save the lives of 33 men in what many historians consider the most difficult small boat rescue in Coast Guard history. To this day, cadets at the Coast Guard Academy in New London, CT, have never been able to fit so many men into a boat the size that Webber commanded.

William Ray Flores was 19 years old and less than 1 year out of boot camp when he gave his life to save his fellow shipmates. On January 28, 1980, the 180-foot Coast Guard buoy tender *Blackthorn* collided with a 605-foot oil tanker near the entrance to Tampa Bay. The Coast Guard vessel quickly began to capsize after impact, and crewmembers leapt from the deck to escape the sinking ship. Flores, however, decided to strap himself to the lifejacket locker door so he could float lifejackets up to the surface as the ship went down. Twenty-two of Flores's shipmates tragically perished that day, but 27 others survived thanks to his heroic sacrifice. SA Billy Flores was posthumously awarded the Coast Guard Medal for his actions that day, the service's highest award for heroism during peacetime.

Margaret Norvell served for 41 years in the U.S. Lighthouse Service, beginning her career watching over the southern entrance to the Mississippi River at the Head of Passes and later taking over as keeper of the Port Pontchartrain Light and West End Light on Lake Pontchartrain in New Orleans. In 1903, a storm destroyed every building in her small Louisiana community of Buras except Norvell's lighthouse. She immediately responded by taking in the entire community and providing shelter and comfort to more than 200 of

her fellow citizens who had been rendered homeless. Later in her career in the year 1926, Norvell received a report that a naval airplane had crashed into Lake Pontchartrain. She immediately set out in her small rowboat and battled a merciless squall for 2 hours before she finally arrived at the scene of the crash, rescued the downed aviator, and brought him safely back to shore.

Stewards-Mate First Class Charles Walter David was a cook aboard the Coast Guard cutter *Comanche* when the Army transport ship *Dorchester* was attacked by a German U-Boat off the coast of Greenland on the night of February 3, 1942. David dove into the frigid seas of the North Atlantic and helped to save the lives of 93 soldiers and many of his own crew including the ship's executive officer, who had accidentally fallen overboard. David did not return to his ship until every last soul had been rescued from the water. He contracted pneumonia several days later and died as a result of his efforts that night, for which he was posthumously awarded the Navy and Marine Corps Medal for bravery.

Others, such as Isaac Mayo and Joseph Napier, returned to shore multiple times to reembark on new boats after previous attempts caused them to capsize and several of their fellow crewmen to perish in the punishing waves. Both men eventually completed their rescue missions successfully.

These are just a handful of the 58 Coast Guardians who will serve as namesakes for the service's newest class of patrol boats, and their extraordinary acts of valor will continue to inspire future generations of heroes for centuries to come. We salute these brave Americans who risked and gave their lives to save others. We commend the Coast Guard for honoring their memory through the dedication of the fast response cutter fleet, and we thank the dedicated Cajun shipbuilders of Bollinger Shipyards in south Louisiana for providing the Coast Guard with the fastest, most durable patrol boats available to carry out its military, law enforcement, and maritime safety missions.

Our Nation will continue to pray for the airmen onboard the Coast Guard helicopter that went down in Mobile Bay earlier this week, as well as their loved ones. We owe them all a debt of extreme gratitude for their service to this country.●

#### TRIBUTE TO MELVA E. RADCLIFFE

● Mr. LAUTENBERG. Mr. President, today I wish to congratulate Melva E. Radcliffe on her 111th birthday this past Saturday, March 3. A lifelong native of New Jersey, Mrs. Radcliffe is the oldest recorded resident of my State. Her father, the late Wilmer A. Cadmus, served as mayor of my hometown of Paterson. Mrs. Radcliffe attended the Paterson Normal School,

now William Paterson University, and taught art and music to elementary school students in Paterson until 1968. Her family tells us she has proudly voted in every election since 1921, and greatly enjoyed traveling after she retired. I wish Mrs. Radcliffe all the best, and congratulate her on this amazing milestone in her life.●

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Pate, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

#### MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

H.R. 1837. An act to address certain water-related concerns on the San Joaquin River, and for other purposes.

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BAUCUS (for himself, Mr. THUNE, Mr. BROWN of Ohio, Mr. MCCONNELL, Ms. STABENOW, Mr. COBURN, Mr. ROCKEFELLER, Ms. COLLINS, Mr. CASEY, Mr. PORTMAN, Mr. CARPER, Mr. SESSIONS, Mr. MENENDEZ, Mrs. GILLIBRAND, Mr. NELSON of Florida, Mr. MERKLEY, Mr. GRAHAM, Mr. ROBERTS, Mr. LEVIN, Ms. SNOWE, Mr. BURR, Mrs. McCASKILL, and Mr. HELLER):

S. 2153. A bill to apply the countervailing duty provisions of the Tariff Act of 1930 to nonmarket economy countries, and for other purposes; considered and passed.

By Mr. BEGICH:

S. 2154. A bill to provide for research, monitoring, and observation of the Arctic Ocean and for other purposes; to the Committee on Finance.

By Ms. STABENOW (for herself, Mr. BROWN of Ohio, Ms. KLOBUCHAR, Mr. COONS, Mr. CONRAD, Mr. CASEY, Mr. TESTER, Mr. CARPER, Mr. HARKIN, and Mr. NELSON of Nebraska):

S. 2155. A bill to amend the Farm Security and Rural Investment Act of 2002 to promote biobased manufacturing; to the Committee on Agriculture, Nutrition, and Forestry.

#### ADDITIONAL COSPONSORS

S. 344

At the request of Mr. REID, the name of the Senator from Nevada (Mr. HELL-

ER) was added as a cosponsor of S. 344, a bill to amend title 10, United States Code, to permit certain retired members of the uniformed services who have a service-connected disability to receive both disability compensation from the Department of Veterans Affairs for their disability and either retired pay by reason of their years of military service or Combat-Related Special Compensation, and for other purposes.

S. 998

At the request of Mr. AKAKA, the name of the Senator from North Carolina (Mrs. HAGAN) was added as a cosponsor of S. 998, a bill to amend title IV of the Employee Retirement Income Security Act of 1974 to require the Pension Benefit Guaranty Corporation, in the case of airline pilots who are required by regulation to retire at age 60, to compute the actuarial value of monthly benefits in the form of a life annuity commencing at age 60.

S. 1048

At the request of Mr. MENENDEZ, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 1048, a bill to expand sanctions imposed with respect to the Islamic Republic of Iran, North Korea, and Syria, and for other purposes.

S. 1301

At the request of Mr. LEAHY, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 1301, a bill to authorize appropriations for fiscal years 2012 through 2015 for the Trafficking Victims Protection Act of 2000, to enhance measures to combat trafficking in persons, and for other purposes.

S. 1350

At the request of Mr. COONS, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 1350, a bill to expand the research, prevention, and awareness activities of the Centers for Disease Control and Prevention and the National Institutes of Health with respect to pulmonary fibrosis, and for other purposes.

S. 1461

At the request of Mr. NELSON of Florida, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 1461, a bill to amend the Federal Food, Drug, and Cosmetic Act to clarify the Food and Drug Administration's jurisdiction over certain tobacco products, and to protect jobs and small businesses involved in the sale, manufacturing and distribution of traditional and premium cigars.

S. 1497

At the request of Ms. KLOBUCHAR, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 1497, a bill to amend title XVIII of the Social Security Act to extend for 3 years reasonable cost contracts under Medicare.

S. 1591

At the request of Mrs. GILLIBRAND, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 1591, a bill to award a Congressional Gold Medal to Raoul Wallenberg, in recognition of his achievements and heroic actions during the Holocaust.

S. 1845

At the request of Mr. WYDEN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1845, a bill to amend the Internal Revenue Code of 1986 to provide for an energy investment credit for energy storage property connected to the grid, and for other purposes.

S. 1884

At the request of Mr. DURBIN, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 1884, a bill to provide States with incentives to require elementary schools and secondary schools to maintain, and permit school personnel to administer, epinephrine at schools.

S. 1900

At the request of Mr. MENENDEZ, the name of the Senator from Connecticut (Mr. BLUMENTHAL) was added as a cosponsor of S. 1900, a bill to amend title XVIII of the Social Security Act to preserve access to urban Medicare-dependent hospitals.

S. 1925

At the request of Mr. LEAHY, the names of the Senator from Arkansas (Mr. PRYOR) and the Senator from Nevada (Mr. REID) were added as cosponsors of S. 1925, a bill to reauthorize the Violence Against Women Act of 1994.

S. 1933

At the request of Mr. SCHUMER, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 1933, a bill to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies.

S. 1990

At the request of Mr. LIEBERMAN, the names of the Senator from Colorado (Mr. UDALL) and the Senator from Ohio (Mr. BROWN) were added as cosponsors of S. 1990, a bill to require the Transportation Security Administration to comply with the Uniformed Services Employment and Reemployment Rights Act.

S. 2041

At the request of Mr. HOEVEN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2041, a bill to approve the Keystone XL pipeline project and provide for environmental protection and government oversight.

S. 2075

At the request of Mr. LEVIN, the name of the Senator from Rhode Island

(Mr. WHITEHOUSE) was added as a cosponsor of S. 2075, a bill to close unjustified corporate tax loopholes, and for other purposes.

S. 2134

At the request of Mr. BLUMENTHAL, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 2134, a bill to amend title 10, United States Code, to provide for certain requirements relating to the retirement, adoption, care, and recognition of military working dogs, and for other purposes.

S. RES. 380

At the request of Mr. GRAHAM, the names of the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Pennsylvania (Mr. TOOMEY), and the Senator from Colorado (Mr. BENNET) were added as cosponsors of S. Res. 380, a resolution to express the sense of the Senate regarding the importance of preventing the Government of Iran from acquiring nuclear weapons capability.

AMENDMENT NO. 1537

At the request of Mr. HOEVEN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of amendment No. 1537 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1724

At the request of Mr. BEGICH, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of amendment No. 1724 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 1771. Mr. CARPER submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table.

SA 1772. Mr. PRYOR submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1773. Mr. PRYOR submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1774. Mr. PORTMAN submitted an amendment intended to be proposed to amendment SA 1761 proposed by Mr. REID to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1775. Mr. CONRAD (for himself and Mr. HOEVEN) submitted an amendment intended to be proposed to amendment SA 1761 proposed by Mr. REID to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1776. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1777. Mr. LEAHY submitted an amendment intended to be proposed by him to the

bill S. 1813, supra; which was ordered to lie on the table.

SA 1778. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1779. Mr. ALEXANDER (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1780. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1781. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1782. Mr. MENENDEZ (for himself, Mr. BURR, and Mr. REID) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1783. Mr. CARPER (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed to amendment SA 1761 proposed by Mr. REID to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1784. Mr. HARKIN (for himself, Mr. MORAN, Mr. LEVIN, and Mr. NELSON of Nebraska) submitted an amendment intended to be proposed to amendment SA 1761 proposed by Mr. REID to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1785. Mr. CORKER (for himself, Mr. TOOMEY, and Ms. AYOTTE) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1786. Mr. CORKER submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1787. Mr. BROWN of Ohio submitted an amendment intended to be proposed to amendment SA 1761 proposed by Mr. REID to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1788. Mr. BROWN of Ohio submitted an amendment intended to be proposed to amendment SA 1761 proposed by Mr. REID to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1789. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1790. Mr. BENNET (for himself and Mr. MORAN) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1791. Mr. BENNET (for himself and Mr. WARNER) submitted an amendment intended to be proposed to amendment SA 1761 proposed by Mr. REID to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1792. Mrs. SHAHEEN (for herself, Ms. MURKOWSKI, Ms. COLLINS, Mr. LEVIN, Ms. KLOBUCHAR, Mr. SANDERS, Mr. BEGICH, Mr. LEAHY, Mr. MERKLEY, Ms. LANDRIEU, and Ms. STABENOW) submitted an amendment intended to be proposed by her to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1793. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 1761 proposed by Mr. REID to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1794. Mr. ISAKSON (for himself and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1795. Mr. ISAKSON (for himself and Mr. CHAMBLISS) submitted an amendment intended to be proposed to amendment SA 1761 proposed by Mr. REID to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1796. Mr. BROWN of Ohio (for himself and Mr. MERKLEY) submitted an amendment intended to be proposed to amendment SA 1761 proposed by Mr. REID to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1797. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1798. Mr. BOOZMAN submitted an amendment intended to be proposed to amendment SA 1761 proposed by Mr. REID to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1799. Ms. CANTWELL (for herself and Mr. RUBIO) submitted an amendment intended to be proposed to amendment SA 1761 proposed by Mr. REID to the bill S. 1813, supra; which was ordered to lie on the table.

#### TEXT OF AMENDMENTS

**SA 1771.** Mr. CARPER submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

#### SEC. \_\_\_\_ . CONSTRUCTION EQUIPMENT AND VEHICLES.

(a) IN GENERAL.—Chapter 53 of title 49, United States Code, as amended by this Act, is amended by adding at the end the following:

#### “§ 5341. Construction equipment and vehicles

“(a) IN GENERAL.—In accordance with the obligation process established pursuant to section 149(j)(4) of title 23, a State shall expend amounts required to be obligated for this section to install diesel emission control technology on covered equipment, with an engine that does not meet current model year new engine standards for particulate matter for the applicable engine power group issued by the Environmental Protection Agency, on a covered public transportation construction project within a PM<sub>2.5</sub> non-attainment or maintenance area. Covered equipment repowered or retrofit with diesel exhaust control technology installed during the 6-year period ending on the date on which the prime contract was awarded for the covered public transportation construction project and equipment that meets the Environmental Protection Agency Tier 4 emission standards may be exempt from the requirements of this section.

“(b) DEFINITIONS.—In this section, the following definitions apply:

“(1) COVERED EQUIPMENT.—The term ‘covered equipment’ means any nonroad diesel equipment or on-road diesel equipment that is operated on a covered public transportation construction project for not less than 80 hours over the life of the project.

“(2) COVERED PUBLIC TRANSPORTATION CONSTRUCTION PROJECT.—

“(A) IN GENERAL.—The term ‘covered public transportation construction project’ means a public transportation construction project carried out under this chapter or any other Federal law which is funded in whole or in part with Federal funds.

“(B) EXCLUSIONS.—Any project with a total budgeted cost not to exceed \$5,000,000 may be



excluded from the requirements of this section by an applicable State or metropolitan planning organization.

“(3) DIESEL EMISSION CONTROL TECHNOLOGY.—The term ‘diesel emission control technology’ means a technology that—

- “(A) is—
- “(i) a diesel exhaust control technology;
- “(ii) a diesel engine upgrade;
- “(iii) a diesel engine repower;
- “(iv) an idle reduction control technology;

or

“(v) any combination of the technologies listed in clauses (i) through (iv);

“(B) reduces particulate matter emission from covered equipment by—

- “(i) not less than 85 percent control of any emission of particulate matter; or
- “(ii) the maximum achievable reduction of any emission of particulate matter, taking cost and safety into account; and

“(C) is installed on and operated with the covered equipment while the equipment is operated on a covered public transportation construction project and that remains operational on the covered equipment for the useful life of the control technology or equipment.

“(4) ELIGIBLE ENTITY.—The term ‘eligible entity’ means an entity (including a subcontractor of the entity) that has entered into a prime contract or agreement with a State to carry out a covered public transportation construction project.

“(5) NONROAD DIESEL EQUIPMENT.—

“(A) IN GENERAL.—The term ‘nonroad diesel equipment’ means a vehicle, including covered equipment, that is—

- “(i) powered by a nonroad diesel engine of not less than 50 horsepower; and
- “(ii) not intended for highway use.

“(B) INCLUSIONS.—The term ‘nonroad diesel equipment’ includes a backhoe, bulldozer, compressor, crane, excavator, generator, and similar equipment.

“(C) EXCLUSIONS.—The term ‘nonroad diesel equipment’ does not include a locomotive or marine vessel.

“(6) ON-ROAD DIESEL EQUIPMENT.—The term ‘on-road diesel equipment’ means any self-propelled vehicle that—

- “(A) operates on diesel fuel;
- “(B) is designed to transport persons or property on a street or highway; and
- “(C) has a gross vehicle weight rating of at least 14,000 pounds.

“(7) PM<sub>2.5</sub> NONATTAINMENT OR MAINTENANCE AREA.—The term ‘PM<sub>2.5</sub> nonattainment or maintenance area’ means a nonattainment or maintenance area designated under section 107(d)(6) of the Clean Air Act (42 U.S.C. 7407(d)(6)).

“(C) CRITERIA ELIGIBLE ACTIVITIES.—For purposes of subsection (b)(3)(A):

“(1) DIESEL EXHAUST CONTROL TECHNOLOGY.—For a diesel exhaust control technology, the technology shall be—

- “(A) installed on a diesel engine or vehicle;
- “(B) a verified technology (as defined in section 791 of the Energy Policy Act of 2005 (42 U.S.C. 16131)), for nonroad vehicles and nonroad engines (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)); and

“(C) certified by the installer as having been installed in accordance with the specifications included on the list published pursuant to section 149(f)(2) of title 23, as in effect on the day before the date of enactment of the MAP-21, for achieving a reduction in particulate matter.

“(2) DIESEL ENGINE UPGRADE.—For a diesel engine upgrade, the upgrade shall be performed on an engine that is—

- “(A) rebuilt using new or manufactured components that collectively qualify as

verified technologies (as defined in section 791 of the Energy Policy Act of 2005 (42 U.S.C. 16131)), for nonroad vehicles and nonroad engines (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)); and

“(B) certified by the installer to have been installed in accordance with the specifications included on the list published pursuant to section 149(f)(2) of title 23, as in effect on the day before the date of enactment of the MAP-21, for achieving a reduction in particulate matter.

“(3) DIESEL ENGINE REPOWER.—For a diesel engine repower, the repower shall be conducted using a new or remanufactured diesel engine that is—

- “(A) installed as a replacement for an engine used in the existing equipment, subject to the condition that the replaced engine is returned to the supplier for remanufacturing to a more stringent set of engine emissions standards or for use as scrap; and
- “(B) meeting a more stringent engine particulate matter emission standard for the applicable engine power group established by the Environmental Protection Agency than the engine particulate matter emission standard applicable to the replaced engine.

“(4) IDLE REDUCTION CONTROL TECHNOLOGY.—For an idle reduction control technology, the technology shall be—

- “(A) installed on a diesel engine or vehicle;
- “(B) a verified technology (as defined in section 791 of the Energy Policy Act of 2005 (42 U.S.C. 16131)), for nonroad vehicles and nonroad engines (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)); and

“(C) certified by the installer as having been installed in accordance with the specifications included on the list published pursuant to section 149(f)(2) of title 23, as in effect on the day before the date of enactment of the MAP-21, for achieving a reduction in particulate matter.

“(d) ELIGIBILITY FOR CREDITS.—

“(1) IN GENERAL.—A State may take credit in a State implementation plan for national ambient air quality standards for any emission reductions that result from the implementation of this section.

“(2) CREDITING.—An emission reduction described in paragraph (1) may be credited toward demonstrating conformity of State implementation plans and transportation plans.”.

(b) SAVINGS CLAUSE.—Nothing in this section modifies or otherwise affects any authority or restrictions established under the Clean Air Act (42 U.S.C. 7401 et seq.).

(c) REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary of Transportation shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works and the Committee on Banking, Housing, and Urban Affairs of the Senate a report that describes the manners in which section 5341 of title 49, United States Code (as added by subsection (a)) has been implemented, including the quantity of covered equipment serviced under those sections and the costs associated with servicing the covered equipment.

(2) INFORMATION FROM STATES.—The Secretary shall require States and recipients, as a condition of receiving amounts under this Act or under the provisions of any amendments made by this Act, to submit to the Secretary any information that the Secretary determines necessary to complete the report under paragraph (1).

(d) FUNDING.—Section 149(j)(4) of title 23, United States Code, as amended by section 1113 of this Act, is amended—

(1) in subparagraph (B), by inserting before the period at the end the following: “of this title and section 5341 of title 49”; and

(2) in subparagraph (C)(i), in the matter preceding subclause (I)—

(A) by inserting after “section 330” the following: “of this title and section 5341 of title 49”; and

(B) by striking “such section” and inserting “section 330 of this title and section 5341 of title 49”; and

(C) by striking “that section” and inserting “those sections”.

(e) TECHNICAL AMENDMENT.—The analysis for chapter 53 of title 49, United States Code, as amended by this Act, is amended by adding at the end the following:

“5341. Construction equipment and vehicles.”.

**SA 1772.** Mr. PRYOR submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of division D, add the following:

**SEC. \_\_\_\_ SOCIAL SECURITY LEVEL-INCOME OPTIONS.**

(a) ERISA AMENDMENT.—Section 206(g)(3)(E) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1056(g)(3)(E)) is amended by adding at the end the following new sentence: “For purposes of applying clause (i) in the case of payments the annuity starting date for which occurs on or before December 31, 2014, payments under a social security leveling option shall be treated as not in excess of the monthly amount paid under a single life annuity (plus an amount not in excess of a social security supplement described in the last sentence of section 204(b)(1)(G)).”.

(b) IRC AMENDMENT.—Section 436(d)(5) of the Internal Revenue Code of 1986 is amended by adding at the end the following new sentence: “For purposes of applying subparagraph (A) in the case of payments the annuity starting date for which occurs on or before December 31, 2014, payments under a social security leveling option shall be treated as not in excess of the monthly amount paid under a single life annuity (plus an amount not in excess of a social security supplement described in the last sentence of section 411(a)(9)).”.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to annuity payments the annuity starting date for which occurs on or after January 1, 2013.

(2) PERMITTED APPLICATION.—A plan shall not be treated as failing to meet the requirements of section 206(g) of the Employee Retirement Income Security Act of 1974 (as amended by this section) and section 436(d) of the Internal Revenue Code of 1986 (as so amended) merely because the plan sponsor elects to apply the amendments made by this section to payments the annuity starting date for which occurs before January 1, 2013.

**SA 1773.** Mr. PRYOR submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:



At the end of subtitle E of title I of division A, add the following:

**SEC. 15. QUADRENNIAL ENERGY REVIEW.**

(a) FINDINGS.—Congress finds that—

(1) the President's Council of Advisors on Science and Technology recommends that the United States develop a Government wide Federal energy policy and update the policy regularly with strategic Quadrennial Energy Reviews similar to the reviews conducted by the Department of Defense;

(2) as the lead agency in support of energy science and technology innovation, the Department of Energy has conducted a Quadrennial Technology Review of the energy technology policies and programs of the Department;

(3) the Quadrennial Technology Review of the Department of Energy serves as the basis for coordination with other agencies and on other programs for which the Department has a key role;

(4) a Quadrennial Energy Review would—

(A) establish integrated, Government wide national energy objectives in the context of economic, environmental, and security priorities;

(B) coordinate actions across Federal agencies;

(C) identify the resources needed for the invention, adoption, and diffusion of energy technologies; and

(D) provide a strong analytical base for Federal energy policy decisions;

(5) the development of an energy policy resulting from a Quadrennial Energy Review would—

(A) enhance the energy security of the United States;

(B) create jobs; and

(C) mitigate environmental harm; and

(6) while a Quadrennial Energy Review will be a product of the executive branch, the review will have substantial input from—

(A) Congress;

(B) the energy industry;

(C) academia;

(D) nongovernmental organizations; and

(E) the public.

(b) QUADRENNIAL ENERGY REVIEW.—Section 801 of the Department of Energy Organization Act (42 U.S.C. 7321) is amended to read as follows:

**“SEC. 801. QUADRENNIAL ENERGY REVIEW.**

“(a) DEFINITIONS.—In this section:

“(1) DIRECTOR.—The term ‘Director’ means the Director of the Office of Science and Technology Policy within the Executive Office of the President.

“(2) FEDERAL LABORATORY.—

“(A) IN GENERAL.—The term ‘Federal Laboratory’ has the meaning given the term ‘laboratory’ in section 12(d) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)).

“(B) INCLUSION.—The term ‘Federal Laboratory’ includes a federally funded research and development center sponsored by a Federal agency.

“(3) INTERAGENCY ENERGY COORDINATION COUNCIL.—The term ‘interagency energy coordination council’ means a council established under subsection (b)(1).

“(4) QUADRENNIAL ENERGY REVIEW.—The term ‘Quadrennial Energy Review’ means a comprehensive multiyear review, coordinated across the Federal agencies, that—

“(A) covers all energy programs and technologies of the Federal Government;

“(B) establishes energy objectives across the Federal Government; and

“(C) covers each of the areas described in subsection (d)(2).

“(b) INTERAGENCY ENERGY COORDINATION COUNCIL.—

“(1) ESTABLISHMENT.—Beginning on February 1, 2013, and every 4 years thereafter, the President shall establish an interagency energy coordination council to coordinate the Quadrennial Energy Review.

“(2) CO-CHAIRPERSONS.—The Secretary and the Director shall be co-chairpersons of the interagency energy coordination council.

“(3) MEMBERSHIP.—The interagency energy coordination council shall be comprised of representatives at level I or II of the Executive Schedule of—

“(A) the Department of Commerce;

“(B) the Department of Defense;

“(C) the Department of State;

“(D) the Department of the Interior;

“(E) the Department of Agriculture;

“(F) the Department of the Treasury;

“(G) the Department of Transportation;

“(H) the Office of Management and Budget;

“(I) the National Science Foundation;

“(J) the Environmental Protection Agency; and

“(K) such other Federal organizations, departments, and agencies that the President considers to be appropriate.

“(c) CONDUCT OF REVIEW.—Each Quadrennial Energy Review shall be conducted to provide an integrated view of national energy objectives and Federal energy policy, including (to the maximum extent practicable) alignment of research programs, incentives, regulations, and partnerships.

“(d) SUBMISSION OF QUADRENNIAL ENERGY REVIEW TO CONGRESS.—

“(1) IN GENERAL.—Not later than February 1, 2015, and every 4 years thereafter, the Secretary, in cooperation with the Director, shall publish and submit to Congress a report on the Quadrennial Energy Review.

“(2) INCLUSIONS.—The report described in paragraph (1) shall include, at a minimum—

“(A) an integrated view of short-, intermediate-, and long-term objectives for Federal energy policy in the context of economic, environmental, and security priorities;

“(B) anticipated Federal actions (including programmatic, regulatory, and fiscal actions) and resource requirements—

“(i) to achieve the objectives described in subparagraph (A); and

“(ii) to be coordinated across multiple agencies;

“(C) an analysis of the prospective roles of parties (including academia, industry, consumers, the public, and Federal agencies) in achieving the objectives described in subparagraph (A), including—

“(i) an analysis, by energy use sector, including—

“(I) commercial and residential buildings;

“(II) the industrial sector;

“(III) transportation; and

“(IV) electric power;

“(ii) requirements for invention, adoption, development, and diffusion of energy technologies that are mapped onto each of the energy use sectors; and

“(iii) other research that inform strategies to incentivize desired actions;

“(D) an assessment of policy options to increase domestic energy supplies;

“(E) an evaluation of energy storage, transmission, and distribution requirements, including requirements for renewable energy;

“(F) an integrated plan for the involvement of the Federal Laboratories in energy programs;

“(G) portfolio assessments that describe the optimal deployment of resources, including prioritizing financial resources for energy programs;

“(H) a mapping of the linkages among basic research and applied programs, demonstration programs, and other innovation mechanisms across the Federal agencies;

“(I) an identification of, and projections for, demonstration projects, including timeframes, milestones, sources of funding, and management;

“(J) an identification of public and private funding needs for various energy technologies, systems, and infrastructure, including consideration of public-private partnerships, loans, and loan guarantees;

“(K) an assessment of global competitors and an identification of programs that can be enhanced with international cooperation;

“(L) an identification of policy gaps that need to be filled to accelerate the adoption and diffusion of energy technologies, including consideration of—

“(i) Federal tax policies; and

“(ii) the role of Federal agencies as early adopters and purchasers of new energy technologies;

“(M) an analysis of—

“(i) points of maximum leverage for policy intervention to achieve outcomes; and

“(ii) areas of energy policy that can be most effective in meeting national goals for the energy sector; and

“(N) recommendations for executive branch organization changes to facilitate the development and implementation of Federal energy policies.

“(e) EXECUTIVE SECRETARIAT.—

“(1) IN GENERAL.—The Secretary shall provide the Executive Secretariat with the necessary analytical, financial, and administrative support for the conduct of each Quadrennial Energy Review required under this section.

“(2) COOPERATION.—The heads of applicable Federal agencies shall cooperate with the Secretary and provide such assistance, information, and resources as the Secretary may require to assist in carrying out this section.”

(c) ADMINISTRATION.—Nothing in this section or an amendment made by this section supersedes, modifies, amends, or repeals any provision of Federal law not expressly superseded, modified, amended, or repealed by this section.

**SA 1774.** Mr. PORTMAN submitted an amendment intended to be proposed to amendment SA 1761 proposed by Mr. REID to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 1406.

**SA 1775.** Mr. CONRAD (for himself and Mr. HOEVEN) submitted an amendment intended to be proposed to amendment SA 1761 proposed by Mr. REID to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 125 of title 23, United States Code (as amended by section 1107), add the following:

“(g) PROTECTING PUBLIC SAFETY AND MAINTAINING ROADWAYS.—The Secretary may use amounts from the emergency fund authorized by this section to carry out projects that the Secretary determines are necessary to protect public safety or to maintain or

protect roadways that have been included within the scope of a prior emergency declaration in order to maintain the continuation of roadway services on roads that are threatened by continuous or frequent flooding.”.

**SA 1776.** Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in division C, insert the following:

**SEC. 3. OFFICE OF FREIGHT PLANNING AND DEVELOPMENT.**

(a) IN GENERAL.—Section 102 of title 49, United States Code, is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following:

“(h) OFFICE OF FREIGHT PLANNING AND DEVELOPMENT.—

“(1) ESTABLISHMENT.—There is established within the Office of the Secretary an Office of Freight Planning and Development, which shall—

“(A) coordinate investment of Federal funding to improve the efficiency of the national transportation system to move freight consistent with the policy and objectives set forth in chapter 313;

“(B) facilitate communication among government, public, and private freight transportation stakeholders;

“(C) support the Secretary in the development of the National Freight Transportation Strategic Plan; and

“(D) carry out other duties, as prescribed by the Secretary.

“(2) ORGANIZATION.—The head of the Office shall be the Assistant Secretary of Freight Planning and Development.”.

(b) CONFORMING AMENDMENTS.—

(1) ASSISTANT SECRETARIES.—Section 102(e) of title 49, United States Code, is amended by striking “4” and inserting “5”.

(2) EXECUTIVE SCHEDULE.—Section 5315 of title 5, United States Code, is amended by striking “(4)” in the item relating to Assistant Secretaries of Transportation and inserting “(5)”.

**SA 1777.** Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**TITLE —PUBLIC SAFETY OFFICERS AND VOLUNTEERS**

**Subtitle A—Public Safety Officers Benefits**

**SEC. 21. SHORT TITLE.**

This subtitle may be cited as the “Dale Long Public Safety Officers’ Benefits Improvements Act of 2012”.

**SEC. 22. BENEFITS FOR CERTAIN NONPROFIT EMERGENCY MEDICAL SERVICE PROVIDERS AND CERTAIN TRAIN- EES; MISCELLANEOUS AMEND- MENTS.**

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(1) in section 901(a) (42 U.S.C. 3791(a))—

(A) in paragraph (26), by striking “and” at the end;

(B) in paragraph (27), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(28) the term ‘hearing examiner’ includes any medical or claims examiner.”;

(2) in section 1201 (42 U.S.C. 3796)—

(A) in subsection (a), by striking “follows:” and all that follows and inserting the following: “follows (if the payee indicated is living on the date on which the determination is made)—

“(1) if there is no child who survived the public safety officer, to the surviving spouse of the public safety officer;

“(2) if there is at least 1 child who survived the public safety officer and a surviving spouse of the public safety officer, 50 percent to the surviving child (or children, in equal shares) and 50 percent to the surviving spouse;

“(3) if there is no surviving spouse of the public safety officer, to the surviving child (or children, in equal shares);

“(4) if there is no surviving spouse of the public safety officer and no surviving child—

“(A) to the surviving individual (or individuals, in shares per the designation, or, otherwise, in equal shares) designated by the public safety officer to receive benefits under this subsection in the most recently executed designation of beneficiary of the public safety officer on file at the time of death with the public safety agency, organization, or unit; or

“(B) if there is no individual qualifying under subparagraph (A), to the surviving individual (or individuals, in equal shares) designated by the public safety officer to receive benefits under the most recently executed life insurance policy of the public safety officer on file at the time of death with the public safety agency, organization, or unit;

“(5) if there is no individual qualifying under paragraph (1), (2), (3), or (4), to the surviving parent (or parents, in equal shares) of the public safety officer; or

“(6) if there is no individual qualifying under paragraph (1), (2), (3), (4), or (5), to the surviving individual (or individuals, in equal shares) who would qualify under the definition of the term ‘child’ under section 1204 but for age.”;

(B) in subsection (b)—

(i) by striking “direct result of a catastrophic” and inserting “direct and proximate result of a personal”;

(ii) by striking “pay,” and all that follows through “the same” and inserting “pay the same”;

(iii) by striking “in any year” and inserting “to the public safety officer (if living on the date on which the determination is made)”;

(iv) by striking “in such year, adjusted” and inserting “with respect to the date on which the catastrophic injury occurred, as adjusted”;

(v) by striking “, to such officer”;

(vi) by striking “the total” and all that follows through “For” and inserting “for”; and

(vii) by striking “That these” and all that follows through the period, and inserting “That the amount payable under this subsection shall be the amount payable as of the date of catastrophic injury of such public safety officer.”;

(C) in subsection (f)—

(i) in paragraph (1), by striking “, as amended (D.C. Code, sec. 4-622); or” and inserting a semicolon;

(ii) in paragraph (2)—

(I) by striking “, Such beneficiaries shall only receive benefits under such section 8191

that” and inserting “, such that beneficiaries shall receive only such benefits under such section 8191 as”; and

(II) by striking the period at the end and inserting “; or”; and

(iii) by adding at the end the following:

“(3) payments under the September 11th Victim Compensation Fund of 2001 (49 U.S.C. 40101 note; Public Law 107-42).”;

(D) by amending subsection (k) to read as follows:

“(k) As determined by the Bureau, a heart attack, stroke, or vascular rupture suffered by a public safety officer shall be presumed to constitute a personal injury within the meaning of subsection (a), sustained in the line of duty by the officer and directly and proximately resulting in death, if—

“(1) the public safety officer, while on duty—

“(A) engages in a situation involving non-routine stressful or strenuous physical law enforcement, fire suppression, rescue, hazardous material response, emergency medical services, prison security, disaster relief, or other emergency response activity; or

“(B) participates in a training exercise involving nonroutine stressful or strenuous physical activity;

“(2) the heart attack, stroke, or vascular rupture commences—

“(A) while the officer is engaged or participating as described in paragraph (1);

“(B) while the officer remains on that duty after being engaged or participating as described in paragraph (1); or

“(C) not later than 24 hours after the officer is engaged or participating as described in paragraph (1); and

“(3) the heart attack, stroke, or vascular rupture directly and proximately results in the death of the public safety officer, unless competent medical evidence establishes that the heart attack, stroke, or vascular rupture was unrelated to the engagement or participation or was directly and proximately caused by something other than the mere presence of cardiovascular-disease risk factors.”; and

(E) by adding at the end the following:

“(n) The public safety agency, organization, or unit responsible for maintaining on file an executed designation of beneficiary or executed life insurance policy for purposes of subsection (a)(4) shall maintain the confidentiality of the designation or policy in the same manner as the agency, organization, or unit maintains personnel or other similar records of the public safety officer.”;

(3) in section 1202 (42 U.S.C. 3796a)—

(A) by striking “death”, each place it appears except the second place it appears, and inserting “fatal”; and

(B) in paragraph (1), by striking “or catastrophic injury” the second place it appears and inserting “, disability, or injury”;

(4) in section 1203 (42 U.S.C. 3796a-1)—

(A) in the section heading, by striking “WHO HAVE DIED IN THE LINE OF DUTY” and inserting “WHO HAVE SUSTAINED FATAL OR CATASTROPHIC INJURY IN THE LINE OF DUTY”; and

(B) by striking “who have died in the line of duty” and inserting “who have sustained fatal or catastrophic injury in the line of duty”;

(5) in section 1204 (42 U.S.C. 3796b)—

(A) in paragraph (1), by striking “consequences of an injury that” and inserting “an injury, the direct and proximate consequences of which”;

(B) in paragraph (3)—

(i) in the matter preceding clause (i)—

(I) by inserting “or permanently and totally disabled” after “deceased”; and

(II) by striking “death” and inserting “fatal or catastrophic injury”; and  
 (ii) by redesignating clauses (i), (ii), and (iii) as subparagraphs (A), (B), and (C), respectively;

(C) in paragraph (5)—

(i) by striking “post-mortem” each place it appears and inserting “post-injury”;

(ii) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively; and  
 (iii) in subparagraph (B), as so redesignated, by striking “death” and inserting “fatal or catastrophic injury”;

(D) in paragraph (7), by striking “public employee member of a rescue squad or ambulance crew;” and inserting “employee or volunteer member of a rescue squad or ambulance crew (including a ground or air ambulance service) that—

“(A) is a public agency; or

“(B) is (or is a part of) a nonprofit entity serving the public that—

“(i) is officially authorized or licensed to engage in rescue activity or to provide emergency medical services; and

“(ii) is officially designated as a prehospital emergency medical response agency;” and

(E) in paragraph (9)—

(i) in subparagraph (A), by striking “as a chaplain, or as a member of a rescue squad or ambulance crew;” and inserting “or as a chaplain;”;

(ii) in subparagraph (B)(ii), by striking “or” after the semicolon;

(iii) in subparagraph (C)(ii), by striking the period and inserting “; and”; and

(iv) by adding at the end the following:

“(D) a member of a rescue squad or ambulance crew who, as authorized or licensed by law and by the applicable agency or entity (and as designated by such agency or entity), is engaging in rescue activity or in the provision of emergency medical services.”;

(6) in section 1205 (42 U.S.C. 3796c), by adding at the end the following:

“(d) Unless expressly provided otherwise, any reference in this part to any provision of law not in this part shall be understood to constitute a general reference under the doctrine of incorporation by reference, and thus to include any subsequent amendments to the provision.”;

(7) in each of subsections (a) and (b) of section 1212 (42 U.S.C. 3796d-1), sections 1213 and 1214 (42 U.S.C. 3796d-2 and 3796d-3), and subsections (b) and (c) of section 1216 (42 U.S.C. 3796d-5), by striking “dependent” each place it appears and inserting “person”;

(8) in section 1212 (42 U.S.C. 3796d-1)—

(A) in subsection (a)—

(i) in paragraph (1), in the matter preceding subparagraph (A), by striking “Subject” and all that follows through “, the” and inserting “The”; and

(ii) in paragraph (3), by striking “reduced by” and all that follows through “(B) the amount” and inserting “reduced by the amount”;

(B) in subsection (c)—

(i) in the subsection heading, by striking “DEPENDENT”; and

(ii) by striking “dependent”;

(9) in section 1213(b)(2) (42 U.S.C. 3796d-2(b)(2)), by striking “dependent’s” each place it appears and inserting “person’s”;

(10) in section 1216 (42 U.S.C. 3796d-5)—

(A) in subsection (a), by striking “each dependent” each place it appears and inserting “a spouse or child”; and

(B) by striking “dependents” each place it appears and inserting “a person”; and

(11) in section 1217(3)(A) (42 U.S.C. 3796d-6(3)(A)), by striking “described in” and all

that follows and inserting “an institution of higher education, as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002); and”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 402(1)(4)(C) of the Internal Revenue Code of 1986 is amended—

(1) by striking “section 1204(9)(A)” and inserting “section 1204(10)(A)”;

(2) by striking “42 U.S.C. 3796b(9)(A)” and inserting “42 U.S.C. 3796b(10)(A)”.

#### SEC. 23. AUTHORIZATION OF APPROPRIATIONS; DETERMINATIONS; APPEALS.

The matter under the heading “PUBLIC SAFETY OFFICERS’ BENEFITS” under the heading “OFFICE OF JUSTICE PROGRAMS” under title II of division B of the Consolidated Appropriations Act, 2008 (Public Law 110-161; 121 Stat. 1912; 42 U.S.C. 3796c-2) is amended—

(1) by striking “decisions” and inserting “determinations”;

(2) by striking “(including those, and any related matters, pending)”;

(3) by striking the period at the end and inserting the following: “: *Provided further*, That, on and after the date of enactment of the Dale Long Public Safety Officers’ Benefits Improvements Act of 2012, as to each such statute—

“(1) the provisions of section 1001(a)(4) of such title I (42 U.S.C. 3793(a)(4)) shall apply;

“(2) payment shall be made only upon a determination by the Bureau that the facts legally warrant the payment;

“(3) any reference to section 1202 of such title I shall be deemed to be a reference to paragraphs (2) and (3) of such section 1202; and

“(4) a certification submitted under any such statute may be accepted by the Bureau as prima facie evidence of the facts asserted in the certification:

*Provided further*, That, on and after the date of enactment of the Dale Long Public Safety Officers’ Benefits Improvements Act of 2012, no appeal shall bring any final determination of the Bureau before any court for review unless notice of appeal is filed (within the time specified herein and in the manner prescribed for appeal to United States courts of appeals from United States district courts) not later than 90 days after the date on which the Bureau serves notice of the final determination: *Provided further*, That any regulations promulgated by the Bureau under such part (or any such statute) before, on, or after the date of enactment of the Dale Long Public Safety Officers’ Benefits Improvements Act of 2012 shall apply to any matter pending on, or filed or accruing after, the effective date specified in the regulations, except as the Bureau may indicate otherwise.”.

#### SEC. 24. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this subtitle shall—

(1) take effect on the date of enactment of this Act; and

(2) apply to any matter pending, before the Bureau of Justice Assistance or otherwise, on the date of enactment of this Act, or filed or accruing after that date.

(b) EXCEPTIONS.—

(1) RESCUE SQUADS AND AMBULANCE CREWS.—For a member of a rescue squad or ambulance crew (as defined in section 1204(8) of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by this subtitle), the amendments made by this subtitle shall apply to injuries sustained on or after June 1, 2009.

(2) HEART ATTACKS, STROKES, AND VASCULAR RUPTURES.—Section 1201(k) of title I of the

Omnibus Crime Control and Safe Streets Act of 1968, as amended by this subtitle, shall apply to heart attacks, strokes, and vascular ruptures sustained on or after December 15, 2003.

#### Subtitle B—Liability Protection for Volunteer Pilots That Fly for Public Benefit

##### SEC. 41. SHORT TITLE.

This subtitle may be cited as the “Volunteer Pilot Protection Act of 2012”.

##### SEC. 42. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) Many volunteer pilots fly for public benefit and provide valuable services to communities and individuals.

(2) In 2006, volunteer pilots provided long-distance, no-cost transportation for more than 58,000 people during times of special need.

(b) PURPOSE.—The purpose of this subtitle is to promote the activities of volunteer pilots who fly for public benefit and to sustain the availability of the services that such volunteers provide, including the following:

(1) Transportation at no cost to financially needy medical patients for medical treatment, evaluation, and diagnosis.

(2) Flights for humanitarian and charitable purposes.

(3) Other flights of compassion.

##### SEC. 43. LIABILITY PROTECTION FOR VOLUNTEER PILOTS THAT FLY FOR PUBLIC BENEFIT.

Section 4(a)(4) of the Volunteer Protection Act of 1997 (42 U.S.C. 14503(a)(4)) is amended by striking “craft, or vessel” and all that follows and inserting the following: “craft, or vessel to possess an operator’s license or maintain insurance, except that this paragraph does not apply to a volunteer who—

“(A) was operating an aircraft in furtherance of the purpose of a volunteer pilot nonprofit organization that flies for public benefit; and

“(B) was properly licensed and insured for the operation of the aircraft.”.

**SA 1778.** Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

In section 601(a)(11) of title 23, United States Code (as amended by section 3002), strike subparagraph (C) and all that follows through “(D) a project that—” and insert the following:

“(C) a project for intercity passenger bus or rail facilities and vehicles, including facilities and vehicles owned by the National Railroad Passenger Corporation and components of magnetic levitation transportation systems;

“(D) a project for the acquisition of plant and wildlife habitat pursuant to a conservation plan that—

(i) has been approved by the Secretary of the Interior pursuant to section 10 of the Endangered Species Act of 1973 (16 U.S.C. 1539); and

(ii) in the judgment of the Secretary, would mitigate the environmental impacts of transportation infrastructure projects otherwise eligible for assistance under this chapter; and

“(E) a project that—

**SA 1779.** Mr. ALEXANDER (for himself and Mr. WYDEN) submitted an

amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

#### **DIVISION AIR TRANSPORTATION**

#### **SEC. \_\_\_\_ TECHNICAL CORRECTIONS RELATING TO OVERFLIGHTS OF NATIONAL PARKS.**

(a) IN GENERAL.—Section 40128 of title 49, United States Code, is amended to read as follows:

#### **“§ 40128. Overflights of national parks**

“(a) IN GENERAL.—

“(1) GENERAL DELINEATION OF RESPONSIBILITIES.—

“(A) AUTHORITY OF DIRECTOR.—The Director has the authority to establish air tour management plans, issue air tour permits for commercial air tour operations conducted in accordance with an air tour management plan, enter into a voluntary agreement with a commercial air tour operator, and issue interim operating permits under subsection (c).

“(B) AUTHORITY OF ADMINISTRATOR.—The Administrator has the authority to ensure that any action taken under this section does not adversely affect aviation safety or the management of the national airspace system.

“(2) GENERAL REQUIREMENTS.—A commercial air tour operator may not conduct commercial air tour operations over a national park or tribal lands, as defined by this section, except—

“(A) in accordance with this section;

“(B) in accordance with conditions and limitations prescribed for that operator; and

“(C) in accordance with any applicable air tour management plan or voluntary agreement developed under subsection (b) for the park or tribal lands.

“(3) APPLICATION FOR OPERATING AUTHORITY.—

“(A) APPLICATION REQUIRED.—Before commencing commercial air tour operations over a national park or tribal lands, a commercial air tour operator shall apply to the Director for authority to conduct the operations over the park or tribal lands.

“(B) NUMBER OF OPERATIONS AUTHORIZED.—In determining the number of authorizations to issue to provide commercial air tour operations over a national park, the Director shall take into consideration the provisions of the air tour management plan, the number of existing commercial air tour operators and current level of service and equipment provided by any such operators, and the financial viability of each commercial air tour operation.

“(C) CONSULTATION WITH FAA.—Before granting an application under this paragraph, the Director, in consultation with the Administrator, shall develop an air tour management plan in accordance with subsection (b) and implement such plan.

“(D) TIME LIMIT ON RESPONSE TO ATMP APPLICATIONS.—The Director shall make every effort to act on any application under this paragraph and issue a decision on the application not later than 24 months after it is received or amended.

“(E) PRIORITY.—In acting on applications under this paragraph to provide commercial air tour operations over a national park, the Director shall give priority to an application under this paragraph in any case in which a new entrant commercial air tour operator is

seeking operating authority with respect to that national park.

“(4) EXCEPTION.—Notwithstanding paragraph (2), commercial air tour operators may conduct commercial air tour operations over a national park under part 91 of the title 14, Code of Federal Regulations, if—

“(A) such activity is permitted under part 119 of such title;

“(B) the total number of operations under this exception is limited to not more than five flights in any 30-day period over a particular park; and

“(C) the operator complies with the conditions under which the operations will be conducted as established by the Director, in consultation with the Administrator.

“(5) SPECIAL RULE FOR SAFETY REQUIREMENTS.—Before receiving a permit issued under this section, a commercial air tour operator shall have obtained the appropriate operating authority as required by the Administrator under part 119, 121, or 135 of title 14, Code of Federal Regulations, to conduct operations under this section.

“(6) EXEMPTION FOR NATIONAL PARKS WITH 50 OR FEWER FLIGHTS EACH YEAR.—

“(A) IN GENERAL.—A national park that has 50 or fewer commercial air tour operations over the park each year shall be exempt from the requirements of this section, except as provided in subparagraph (B).

“(B) WITHDRAWAL OF EXEMPTION.—If the Director determines that an air tour management plan or voluntary agreement is necessary to protect park resources and values or park visitor use and enjoyment, the Director shall withdraw the exemption of a park under subparagraph (A).

“(C) LIST OF PARKS.—The Director shall maintain a list each year of national parks that are covered by the exemption provided under this paragraph.

“(b) AIR TOUR MANAGEMENT PLANS.—

“(1) ESTABLISHMENT.—

“(A) IN GENERAL.—The Director, in consultation with the Administrator, shall establish an air tour management plan for any national park or tribal land for which such a plan is not in effect whenever a person applies for authority to conduct a commercial air tour operation over the park. The air tour management plan shall be developed by means of a public process in accordance with paragraph (4).

“(B) OBJECTIVE.—The objective of any air tour management plan shall be to develop acceptable and effective measures to mitigate or prevent the significant adverse impacts, if any, of commercial air tour operations upon the natural and cultural resources, visitor experiences, and tribal lands.

“(C) EXCEPTION.—An application to begin commercial air tour operations at Crater Lake National Park may be denied without the establishment of an air tour management plan by the Director of the National Park Service if the Director determines that such operations would adversely affect park resources or visitor experiences.

“(2) ENVIRONMENTAL DETERMINATION.—In establishing an air tour management plan and issuing a permit for a commercial air tour operator under this section, the Director shall comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). Any environmental thresholds, analyses, impact determinations, and conditions prepared or used by the Director to establish an air tour management plan or issue a permit under this section shall have no broader application or be given deference beyond this section.

“(3) CONTENTS.—An air tour management plan for a national park—

“(A) may prohibit commercial air tour operations over a national park in whole or in part;

“(B) may establish conditions for the conduct of commercial air tour operations over a national park, including commercial air tour routes, maximum or minimum altitudes, time-of-day restrictions, restrictions for particular events, maximum number of flights per unit of time, intrusions on privacy on tribal lands, and mitigation of noise, visual, or other impacts;

“(C) shall apply to all commercial air tour operations over a national park that are also within ½ mile outside the boundary of a national park;

“(D) shall include incentives (such as preferred commercial air tour routes and altitudes, relief from caps and curfews) for the adoption of quiet aircraft technology by commercial air tour operators conducting commercial air tour operations over a national park when practicable;

“(E) shall provide for the initial allocation of opportunities to conduct commercial air tour operations over a national park if the plan includes a limitation on the number of commercial air tour operations for any time period;

“(F) may not have been found to have adverse effects on aviation safety or the management of the national airspace system by the Administrator; and

“(G) shall justify and document the need for measures taken pursuant to subparagraphs (A) through (F).

“(4) PROCEDURE.—In establishing an air tour management plan for a national park or tribal lands, the Director shall—

“(A) hold at least one public meeting with interested parties to develop the air tour management plan;

“(B) publish a notice of availability of the proposed plan in the Federal Register for notice and comment and make copies of the proposed plan available to the public;

“(C) comply with the regulations set forth in parts 1500 through 1508 of title 40, Code of Federal Regulations;

“(D) solicit the participation of any Indian tribe whose tribal lands are, or may be, overflowed by aircraft involved in a commercial air tour operation over the park or tribal lands to which the plan applies, as a co-operating agency under the regulations referred to in subparagraph (C); and

“(E) consult with the Administrator with respect to effects on aviation safety and the management of the national airspace system.

“(5) JUDICIAL REVIEW.—An air tour management plan developed under this subsection shall be subject to judicial review pursuant to chapter 7 of title 5, United States Code.

“(6) AMENDMENTS AND REVOCATIONS.—The Director may make amendments to an air tour management plan and any permits issued pursuant to an air tour management plan, and may revoke permits. The Director shall consult with the Administrator to ensure that any such amendments or revocations will not adversely affect aviation safety or the management of the national airspace system. Any such amendments and revocations shall be published in the Federal Register for notice and comment. A request for amendment of an air tour management plan or permit shall be made in such form and manner as the Director may prescribe.

“(7) VOLUNTARY AGREEMENTS.—

“(A) IN GENERAL.—As an alternative to an air tour management plan, the Director may enter into a voluntary agreement with a

commercial air tour operator (including a new entrant commercial air tour operator and an operator that has an interim operating permit) that has applied to conduct commercial air tour operations over a national park to manage commercial air tour operations over such national park.

“(B) **PARK PROTECTION.**—A voluntary agreement entered into under subparagraph (A) shall protect the national park resources, values, and visitor experience without compromising aviation safety or the management of the national airspace system and may—

“(i) include provisions such as those included in the content of an air tour management plan;

“(ii) include provisions to ensure the stability of, and compliance with, the voluntary agreement; and

“(iii) provide for fees for such operations.

“(C) **PUBLIC REVIEW.**—The Director shall provide an opportunity for public review of a proposed voluntary agreement under this paragraph and shall consult with any Indian tribe whose tribal lands are, or may be, flown over by a commercial air tour operator under a voluntary agreement under this paragraph. After such opportunity for public review and consultation, the voluntary agreement may be implemented without further administrative or environmental process beyond that described in this subsection.

“(D) **TERMINATION.**—

“(i) **IN GENERAL.**—A voluntary agreement under this paragraph may be terminated at any time at the discretion of—

“(I) the Director, if the Director determines that the agreement is not adequately protecting park resources or visitor experiences; or

“(II) the Administrator, if the Administrator determines that the agreement is adversely affecting aviation safety or the national airspace system.

“(ii) **EFFECT OF TERMINATION.**—If a voluntary agreement with respect to a national park is terminated under this subparagraph, the operators shall conform to the requirements for an interim operating permit under subsection (c) until an air tour management plan for the park is in effect.

“(c) **INTERIM OPERATING AUTHORITY.**—

“(1) **IN GENERAL.**—Interim operating authority granted by the Administrator under this subsection, as in effect on the day before the date of the enactment of the Moving Ahead for Progress in the 21st Century Act, shall, on and after such date of enactment, be known as an interim operating permit and be administered by the Director in accordance with the conditions of this subsection.

“(2) **REQUIREMENTS AND LIMITATIONS.**—An interim operating permit—

“(A) shall maintain the same annual authorizations as provided for interim operating authority under this subsection, as in effect on the day before the date of the enactment of the Moving Ahead for Progress in the 21st Century Act; and

“(B) may not provide for an increase in the number of commercial air tour operations over a national park conducted during any time period by the commercial air tour operator above the number that the air tour operator was granted unless such an increase is approved by the Director in consultation with the Administrator;

“(C) may be revoked by the Director for cause;

“(D) shall terminate 180 days after the date on which an air tour management plan is established for the park or tribal lands;

“(E) shall promote protection of national park resources, visitor experiences, and tribal lands;

“(F) shall promote safe commercial air tour operations;

“(G) shall promote the adoption of quiet technology, as appropriate; and

“(H) may allow for modifications of the interim operating permit without further environmental review beyond that described in this subsection, if—

“(i) adequate information regarding the existing and proposed operations of the operator under the interim operating permit is provided to the Director;

“(ii) the Director agrees with the modification, based on the professional expertise of the Director regarding the protection of the resources, values, and visitor use and enjoyment of the park; and

“(iii) the Director receives advice in writing from the Administrator that there would be no adverse impact on aviation safety or the national airspace system.

“(3) **MODIFICATIONS AND REVOCATIONS.**—Any modification or revocation of an interim operating permit shall be published in the Federal Register to provide notice and opportunity for comment.

“(4) **NEW ENTRANT AIR TOUR OPERATORS.**—

“(A) **IN GENERAL.**—The Director, in consultation with the Administrator, may grant an interim operating permit under this paragraph to an air tour operator for a national park or tribal lands for which that operator is a new entrant air tour operator without further environmental process beyond that described in this paragraph, if—

“(i) adequate information on the proposed operations of the operator is provided to the Director by the operator making the request;

“(ii) the Director agrees, based on the Director's professional expertise regarding the protection of park resources and values and visitor use and enjoyment; and

“(iii) the Director receives advice in writing from the Administrator that there would be no adverse impact on aviation safety or the national airspace system.

“(B) **SAFETY LIMITATION.**—The Director may not grant an interim operating permit under subparagraph (A) if the Administrator determines that it would create a safety problem at the park or on the tribal lands, or the Director determines that it would create a noise problem at the park or on the tribal lands.

“(d) **COMMERCIAL AIR TOUR OPERATOR REPORTS.**—

“(1) **REPORT.**—Each commercial air tour operator conducting a commercial air tour operation over a national park under an interim operating permit granted under subsection (c) or in accordance with an air tour management plan or voluntary agreement under subsection (b) shall submit to the Director a report regarding the number of commercial air tour operations over each national park that are conducted by the operator and such other information as the Director may request in order to facilitate administering the provisions of this section.

“(2) **REPORT SUBMISSION.**—The Director shall issue a request for reports under this subsection. The reports shall be submitted to the Director with a frequency and in a format prescribed by the Director.

“(e) **COLLECTION OF FEES FROM AIR TOUR OPERATIONS.**—

“(1) **IN GENERAL.**—The Director shall determine and assess a fee under paragraph (2) on a commercial air tour operator conducting commercial air tour operations over a national park, including the Grand Canyon National Park.

“(2) **AMOUNT OF FEE.**—In determining the amount of the fee assessed under paragraph (1), the Director shall collect sufficient revenue, in the aggregate, to pay for the expenses incurred by the Federal Government to develop and enforce air tour management plans for national parks.

“(3) **EFFECT OF FAILURE TO PAY FEE.**—The Director may assess a civil penalty against or revoke the interim operating permit or air tour permit, whichever is applicable, of a commercial air tour operator conducting commercial air tour operations over any national park, including the Grand Canyon National Park, that has not paid the fee assessed by the Director under paragraph (1) by the date that is 180 days after the date on which the Director determines the fee shall be paid.

“(4) **FUNDING FOR AIR TOUR MANAGEMENT PLANS.**—The Director shall use the amounts collected to develop and enforce air tour management plans for the national parks the Director determines would most benefit from such a plan.

“(f) **CIVIL PENALTIES.**—

“(1) **IN GENERAL.**—Any person who violates any provision of this section or any regulation or permit issued under this section may be assessed a civil penalty by the Director of not more than \$25,000 for each such violation.

“(2) **KNOWING VIOLATIONS.**—Any person who knowingly violates any provision of this section or any regulation or permit issued under this section may be assessed a civil penalty by the Director of not more than \$50,000 for each violation.

“(3) **PROCEDURES.**—A penalty may not be assessed under this subsection on a person unless the person is given notice and opportunity for a hearing with respect to the violation for which the penalty is assessed. Each violation of this section or a regulation or permit issued under this section shall be a separate offense. Any civil penalty assessed under this subsection may be remitted or mitigated by the Director. Upon any failure by a person to pay a penalty assessed under this subsection, the Director may request the Attorney General to institute a civil action in a district court of the United States for any district in which the person is found, resides, or transacts business to collect the penalty and such court shall have jurisdiction to hear and decide any such action. The court shall hear such action on the record made before the Director and shall sustain his action if it is supported by substantial evidence on the record considered as a whole.

“(4) **ADMINISTRATIVE PROCEEDINGS.**—Hearings held during proceedings for the assessment of civil penalties under this subsection shall be conducted in accordance with section 554 of title 5, United States Code. The Director may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpoena served upon any person pursuant to this paragraph, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to the person, shall have jurisdiction to issue an order requiring the person to appear and give testimony before the Director or to appear and produce documents before the Director, or both, and any failure to obey the order of the court may be punished by such court as a contempt thereof.

“(g) ENFORCEMENT.—The provisions of this section and any regulations or permits issued under this section may be enforced by the Director or the Administrator, as appropriate. The Director may utilize by agreement, with or without reimbursement, the personnel, services, and facilities of any other Federal agency or any State agency for purposes of enforcing this section. The decisions of the Director under this subsection shall not have broader application or be given deference beyond this section. The Administrator shall retain enforcement authority over matters involving the safety and efficiency of the national airspace system.

“(h) EXEMPTIONS.—This section shall not apply to—

- “(1) the Grand Canyon National Park; or
- “(2) tribal lands within or abutting the Grand Canyon National Park.

“(i) LAKE MEAD.—This section shall not apply to any air tour operator while flying over or near the Lake Mead National Recreation Area, solely as a transportation route, to conduct an air tour over the Grand Canyon National Park. For purposes of this subsection, an air tour operator flying over the Hoover Dam in the Lake Mead National Recreation Area en route to the Grand Canyon National Park shall be deemed to be flying solely as a transportation route.

“(j) SEVERABLE SERVICES CONTRACTS FOR PERIODS CROSSING FISCAL YEARS.—

“(1) IN GENERAL.—For purposes of this section, the Director may enter into a contract for procurement of severable services for a period that begins during one fiscal year and ends in the next fiscal year if (without regard to any option to extend the period of the contract) the period of the contract does not exceed 1 year.

“(2) OBLIGATION OF FUNDS.—Funds made available for a fiscal year may be obligated for the total amount of a contract entered into under the authority of paragraph (1).

“(k) RESPONSIBILITIES AND AUTHORITIES OF ADMINISTRATOR.—

“(1) IN GENERAL.—The Administrator shall advise the Director in writing of any adverse effects on aviation safety and or management of the national airspace system for any proposed action taken under this section.

“(2) AMENDMENTS TO AUTHORIZATION FOR COMMERCIAL AIR TOUR OPERATORS.—The Administrator, in consultation with the Director, may amend any authorization for a commercial air tour operator to include conditions set forth in any permit issued under this section or to address any adverse effect on aviation safety.

“(3) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to limit or abrogate the Administrator's authority to ensure the safety and efficiency of the national airspace system.

“(1) DEFINITIONS.—In this section, the following definitions apply:

“(1) COMMERCIAL AIR TOUR OPERATOR.—The term ‘commercial air tour operator’ means any person who conducts a commercial air tour operation over a national park.

“(2) EXISTING COMMERCIAL AIR TOUR OPERATOR.—The term ‘existing commercial air tour operator’ means a commercial air tour operator that was actively engaged in the business of providing commercial air tour operations over a national park at any time during the 12-month period ending on the date of the enactment of this section.

“(3) NEW ENTRANT COMMERCIAL AIR TOUR OPERATOR.—The term ‘new entrant commercial air tour operator’ means a commercial air tour operator that—

“(A) applies for an interim operating permit or air tour permit as a commercial air tour operator for a national park or tribal lands; and

“(B) has not engaged in the business of providing commercial air tour operations over the national park or tribal lands in the 12-month period preceding the application.

“(4) COMMERCIAL AIR TOUR OPERATION OVER A NATIONAL PARK.—

“(A) IN GENERAL.—The term ‘commercial air tour operation over a national park’ means any flight, conducted for compensation or hire in a powered aircraft where a purpose of the flight is sightseeing over a national park, within ½ mile outside the boundary of any national park (except the Grand Canyon National Park), or over tribal lands (except those within or abutting the Grand Canyon National Park), during which the aircraft flies—

“(i) below a minimum altitude, determined by the Administrator in cooperation with the Director, above ground level (except solely for purposes of takeoff or landing, or necessary for safe operation of an aircraft as determined under the rules and regulations of the Federal Aviation Administration requiring the pilot-in-command to take action to ensure the safe operation of the aircraft); or

“(ii) less than 1 mile laterally from any geographic feature within the park (unless more than ½ mile outside the boundary).

“(B) FACTORS TO CONSIDER.—In making a determination of whether a flight is a commercial air tour operation over a national park for purposes of this section, the Administrator may consider—

“(i) whether there was a holding out to the public of willingness to conduct a sightseeing flight for compensation or hire;

“(ii) whether a narrative that referred to areas or points of interest on the surface below the route of the flight was provided by the person offering the flight;

“(iii) the area of operation;

“(iv) the frequency of flights conducted by the person offering the flight;

“(v) the route of flight;

“(vi) the inclusion of sightseeing flights as part of any travel arrangement package offered by the person offering the flight;

“(vii) whether the flight would have been canceled based on poor visibility of the surface below the route of the flight; and

“(viii) any other factors that the Administrator and the Director consider appropriate.

“(5) NATIONAL PARK.—The term ‘national park’ means any unit of the National Park System.

“(6) TRIBAL LANDS.—

“(A) IN GENERAL.—The term ‘tribal lands’ means Indian country (as that term is defined in section 1151 of title 18) that is within or abutting a national park.

“(B) ABUTTING.—For purposes of subparagraph (A), the term ‘abutting’ means lands within ½ mile outside the boundary of a national park.

“(7) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator of the Federal Aviation Administration.

“(8) DIRECTOR.—The term ‘Director’ means the Director of the National Park Service.

“(9) AIR TOUR PERMIT.—The term ‘air tour permit’ means a permit issued by the Director, in accordance with this section, to a commercial operator to conduct commercial air tour operations over a national park or tribal lands.”.

(b) AMENDMENTS TO NATIONAL PARKS AIR TOUR MANAGEMENT ACT OF 2000.—

(1) ADVISORY GROUP.—Section 805 of the National Parks Air Tour Management Act of 2000 (49 U.S.C. 40128 note) is amended—

(A) by striking subsection (a) and inserting the following:

“(a) IN GENERAL.—The Director of the National Park Service may retain the advisory group established pursuant to this section, as in effect on the day before the date of the enactment of the Moving Ahead for Progress in the 21st Century Act, to provide continuing advice and counsel with respect to commercial air tour operations over and near national parks.”;

(B) in subsection (b)—

(i) in paragraph (1)(A)(iv), by inserting “or Native Hawaiians” after “Indian tribes”; and

(ii) by striking paragraph (3) and inserting the following:

“(3) CHAIRPERSON.—The representative of the National Park Service shall serve as chairperson of the advisory group.”; and

(C) in subsection (d)(2), by striking “The Federal Aviation Administration and the National Park Service shall jointly” and inserting “The National Park Service shall”.

(2) REPORTS.—Section 807 of the National Parks Air Tour Management Act of 2000 (49 U.S.C. 40128 note) is repealed.

(3) METHODOLOGIES USED TO ASSESS AIR TOUR NOISE.—Section 808 of the National Parks Air Tour Management Act of 2000 (49 U.S.C. 40128 note) is amended by striking “a Federal agency” and inserting “the Director of the National Park Service”.

**SA 1780.** Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

**SEC. . EFFECTIVE DATE.**

This Act shall be effective 1 day after enactment.

**SA 1781.** Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

**SEC. . EFFECTIVE DATE.**

This Act shall be effective 2 days after enactment.

**SA 1782.** Mr. MENENDEZ (for himself, Mr. BURR, and Mr. REID) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of division D, insert the following:

**TITLE IV—NEW ALTERNATIVE TRANSPORTATION TO GIVE AMERICANS SOLUTIONS ACT**

**SEC. . SHORT TITLE, ETC.**

(a) SHORT TITLE.—This title may be cited as the “New Alternative Transportation to Give Americans Solutions Act of 2012”.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in



this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

**Subtitle A—Promote the Purchase and Use of NGVs With an Emphasis on Heavy-Duty Vehicles and Fleet Vehicles**

**SEC. \_\_\_\_\_. EXTENSION AND MODIFICATION OF NEW QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLE CREDIT.**

(a) IN GENERAL.—Paragraph (4) of section 30B(k) is amended by inserting “(December 31, 2016, in the case of a vehicle powered by compressed or liquefied natural gas)” before the period at the end.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to property placed in service after the date of the enactment of this Act.

**SEC. \_\_\_\_\_. ALLOWANCE OF VEHICLE AND INFRASTRUCTURE CREDITS AGAINST REGULAR AND MINIMUM TAX AND TRANSFERABILITY OF CREDITS.**

(a) BUSINESS CREDITS.—Subparagraph (B) of section 38(c)(4) is amended by striking “and” at the end of clause (viii), by striking the period at the end of clause (ix) and inserting a comma, and by inserting after clause (ix) the following new clauses:

“(x) the portion of the credit determined under section 30B which is attributable to the application of subsection (e)(3) thereof with respect to new qualified alternative fuel motor vehicles which are capable of being powered by compressed or liquefied natural gas, and

“(xi) the portion of the credit determined under section 30C which is attributable to the application of subsection (b) thereof with respect to refueling property which is used to store and or dispense compressed or liquefied natural gas.”.

**(b) PERSONAL CREDITS.—**

**(1) NEW QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLES.**—Subsection (g) of section 30B is amended by adding at the end the following new paragraph:

“(3) SPECIAL RULE RELATING TO CERTAIN NEW QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLES.—In the case of the portion of the credit determined under subsection (a) which is attributable to the application of subsection (e)(3) with respect to new qualified alternative fuel motor vehicles which are capable of being powered by compressed or liquefied natural gas—

“(A) paragraph (2) shall (after the application of paragraph (1)) be applied separately with respect to such portion, and

“(B) in lieu of the limitation determined under paragraph (2), such limitation shall not exceed the excess (if any) of—

“(i) the sum of the regular tax liability (as defined in section 26(b)) plus the tentative minimum tax for the taxable year, reduced by

“(ii) the sum of the credits allowable under subpart A and sections 27 and 30.”.

**(2) ALTERNATIVE FUEL VEHICLE REFUELING PROPERTIES.**—Subsection (d) of section 30C is amended by adding at the end the following new paragraph:

“(3) SPECIAL RULE RELATING TO CERTAIN ALTERNATIVE FUEL VEHICLE REFUELING PROPERTIES.—In the case of the portion of the credit determined under subsection (a) with respect to refueling property which is used to store and or dispense compressed or liquefied natural gas and which is attributable to the application of subsection (b)—

“(A) paragraph (2) shall (after the application of paragraph (1)) be applied separately with respect to such portion, and

“(B) in lieu of the limitation determined under paragraph (2), such limitation shall not exceed the excess (if any) of—

“(i) the sum of the regular tax liability (as defined in section 26(b)) plus the tentative minimum tax for the taxable year, reduced by

“(ii) the sum of the credits allowable under subpart A and sections 27, 30, and the portion of the credit determined under section 30B which is attributable to the application of subsection (e)(3) thereof.”.

**(c) CREDITS MAY BE TRANSFERRED.—**

**(1) VEHICLE CREDITS.**—Subsection (h) of section 30B is amended by adding at the end the following new paragraph:

“(11) TRANSFERABILITY OF CREDIT.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), a taxpayer who places in service any new qualified alternative fuel motor vehicle which is capable of being powered by compressed or liquefied natural gas may transfer the credit allowed under this section by reason of subsection (e) with respect to such vehicle through an assignment to the manufacturer, seller or lessee of such vehicle. Such transfer may be revoked only with the consent of the Secretary.

“(B) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to ensure that any credit transferred under subparagraph (A) is claimed once and not reassigned by such other person.”.

**(2) INFRASTRUCTURE CREDIT.**—Subsection (e) of section 30C is amended by adding at the end the following new paragraph:

“(7) TRANSFERABILITY OF CREDIT.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), a taxpayer who places in service any qualified alternative fuel vehicle refueling property relating to compressed or liquefied natural gas may transfer the credit allowed under this section with respect to such property through an assignment to the manufacturer, seller or lessee of such property. Such transfer may be revoked only with the consent of the Secretary.

“(B) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to ensure that any credit transferred under subparagraph (A) is claimed once and not reassigned by such other person.”.

**(d) EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to property placed in service after the date of the enactment of this Act.

**SEC. \_\_\_\_\_. MODIFICATION OF CREDIT FOR PURCHASE OF VEHICLES FUELED BY COMPRESSED NATURAL GAS OR LIQUEFIED NATURAL GAS.**

**(a) INCREASE IN CREDIT.**—Paragraph (2) of section 30B(e) is amended to read as follows:

“(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage with respect to any new qualified alternative fuel motor vehicle is—

“(A) except as provided in subparagraphs (B) and (C)—

“(i) 50 percent, plus

“(ii) 30 percent, if such vehicle—

“(I) has received a certificate of conformity under the Clean Air Act and meets or exceeds the most stringent standard available for certification under the Clean Air Act for that make and model year vehicle (other than a zero emission standard), or

“(II) has received an order certifying the vehicle as meeting the same requirements as vehicles which may be sold or leased in California and meets or exceeds the most stringent standard available for certification under the State laws of California (enacted in accordance with a waiver granted under section 209(b) of the Clean Air Act) for that

make and model year vehicle (other than a zero emission standard),

“(B) 80 percent, in the case of dedicated vehicles that are only capable of operating on compressed or liquefied natural gas, dual-fuel vehicles that are only capable of operating on a mixture of no less than 90 percent compressed or liquefied natural gas, and a bi-fuel vehicle that is capable of operating a minimum of 85 percent of its total range on compressed or liquefied natural gas, and

“(C) 50 percent, in the case of vehicles described subclause (II) or (III) of subsection (e)(4)(A)(i) and which are not otherwise described in subparagraph (B).

For purposes of the preceding sentence, in the case of any new qualified alternative fuel motor vehicle which weighs more than 14,000 pounds gross vehicle weight rating, the most stringent standard available shall be such standard available for certification on the date of the enactment of the Energy Tax Incentives Act of 2005.”.

**(b) INCREASED INCENTIVE FOR NATURAL GAS VEHICLES.**—Subsection (e) of section 30B is amended by adding at the end the following new paragraph:

“(6) CREDIT VALUES FOR NATURAL GAS VEHICLES.—In the case of new qualified alternative fuel motor vehicles with respect to vehicles powered by compressed or liquefied natural gas, the maximum tax credit value shall be—

“(A) \$7,500 if such vehicle has a gross vehicle weight rating of not more than 8,500 pounds,

“(B) \$16,000 if such vehicle has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds,

“(C) \$40,000 if such vehicle has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds, and

“(D) \$64,000 if such vehicle has a gross vehicle weight rating of more than 26,000 pounds.”.

**(c) EFFECTIVE DATE.**—The amendment made by this section shall apply to property placed in service after the date of the enactment of this Act.

**SEC. \_\_\_\_\_. MODIFICATION OF DEFINITION OF NEW QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLE.**

**(a) IN GENERAL.**—Clause (i) of section 30B(e)(4)(A) is amended to read as follows:

“(i) which—

“(I) is a dedicated vehicle that is only capable of operating on an alternative fuel,

“(II) is a bi-fuel vehicle that is capable of operating on compressed or liquefied natural gas and gasoline or diesel fuel, or

“(III) is a dual-fuel vehicle that is capable of operating on a mixture of compressed or liquefied natural gas and gasoline or diesel fuel.”.

**(b) CONVERSIONS AND REPOWERS.**—Paragraph (4) of section 30B(e) is amended by adding at the end the following new subparagraph:

“(C) CONVERSIONS AND REPOWERS.—

“(i) IN GENERAL.—The term ‘new qualified alternative fuel motor vehicle’ includes the conversion or repower of a new or used vehicle so that it is capable of operating on an alternative fuel as it was not previously capable of operating on an alternative fuel.

“(ii) TREATMENT AS NEW.—A vehicle which has been converted to operate on an alternative fuel shall be treated as new on the date of such conversion for purposes of this section.

“(iii) RULE OF CONSTRUCTION.—In the case of a used vehicle which is converted or repowered, nothing in this section shall be construed to require that the motor vehicle be



acquired in the year the credit is claimed under this section with respect to such vehicle.”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

**SEC. \_\_\_\_\_. PROVIDING FOR THE TREATMENT OF PROPERTY PURCHASED BY INDIAN TRIBAL GOVERNMENTS.**

(a) **IN GENERAL.**—Paragraph (6) of section 30B(h) and paragraph (2) of section 30C(e) are both amended by inserting “, or an Indian Tribal Government” after “section 50(b)”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

**Subtitle B—Promote Production of NGVs by Original Equipment Manufacturers**

**SEC. \_\_\_\_\_. CREDIT FOR PRODUCING VEHICLES FUELED BY NATURAL GAS OR LIQUEFIED NATURAL GAS.**

(a) **IN GENERAL.**—Subpart D of part IV of subchapter A of chapter 1 is amended by inserting after section 45R the following new section:

**“SEC. 45S. PRODUCTION OF VEHICLES FUELED BY NATURAL GAS OR LIQUEFIED NATURAL GAS.**

“(a) **IN GENERAL.**—For purposes of section 38, in the case of a taxpayer who is an original manufacturer of natural gas vehicles, the natural gas vehicle credit determined under this section for any taxable year with respect to each eligible natural gas vehicle produced by the taxpayer during such year is an amount equal to the lesser of—

“(1) 10 percent of the manufacturer’s basis in such vehicle, or

“(2) \$4,000.

“(b) **AGGREGATE CREDIT ALLOWED.**—The aggregate amount of credit allowed under subsection (a) with respect to a taxpayer for any taxable year shall not exceed \$200,000,000 reduced by the amount of the credit allowed under subsection (a) to the taxpayer (or any predecessor) for all prior taxable years.

“(c) **DEFINITIONS.**—For the purposes of this section—

“(1) **ELIGIBLE NATURAL GAS VEHICLE.**—The term ‘eligible natural gas vehicle’ means a motor vehicle (as defined in section 30B(h)(1)) that is capable of operating on natural gas and is described in 30B(e)(4)(A).

“(2) **MANUFACTURER.**—The term ‘manufacturer’ has the meaning given such term in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

“(d) **SPECIAL RULES.**—For purposes of this section—

“(1) **IN GENERAL.**—Rules similar to the rules of subsections (c), (d), and (e) of section 52 shall apply.

“(2) **CONTROLLED GROUPS.**—

“(A) **IN GENERAL.**—All persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as a single producer.

“(B) **INCLUSION OF FOREIGN CORPORATIONS.**—For purposes of subparagraph (A), in applying subsections (a) and (b) of section 52 to this section, section 1563 shall be applied without regard to subsection (b)(2)(C) thereof.

“(C) **VERIFICATION.**—No amount shall be allowed as a credit under subsection (a) with respect to which the taxpayer has not submitted such information or certification as the Secretary, in consultation with the Secretary of Energy, determines necessary.

“(e) **TERMINATION.**—This section shall not apply to any vehicle produced after December 31, 2016.”.

(b) **CREDIT TO BE PART OF BUSINESS CREDIT.**—Section 38(b) is amended by striking “plus” at the end of paragraph (35), by striking the period at the end of paragraph (36) and inserting “, plus”, and by adding at the end the following:

“(37) the natural gas vehicle credit determined under section 45S(a).”.

(c) **CONFORMING AMENDMENT.**—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 45R the following new item:

“Sec. 45S. Production of vehicles fueled by natural gas or liquefied natural gas.”.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to vehicles produced after December 31, 2011.

**SEC. \_\_\_\_\_. ADDITIONAL VEHICLES QUALIFYING FOR THE ADVANCED TECHNOLOGY VEHICLES MANUFACTURING INCENTIVE PROGRAM.**

(a) **IN GENERAL.**—Notwithstanding any other provision of law, a covered vehicle (as defined in subsection (b)) shall be considered an advanced technology vehicle for purposes of the advanced technology vehicle incentive program established under section 136 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17013), and manufacturers and component suppliers of such covered vehicles shall be eligible for an award under such section.

(b) **DEFINITIONS.**—As used in this section—

(1) the term “covered vehicle” means a light-duty vehicle or a medium-duty or heavy-duty truck or bus that is only capable of operating on compressed or liquefied natural gas, a bi-fueled motor vehicle that is capable of achieving a minimum of 85 percent of its total range with compressed or liquefied natural gas, or a dual-fuel vehicle that operates on a mixture of natural gas and gasoline or diesel fuel but is not capable of operating on a mixture of less than 75 percent natural gas;

(2) the term “bi-fuel vehicle” means a vehicle that is capable of operating on compressed or liquefied natural gas and gasoline or diesel fuel; and

(3) the term “dual-fuel vehicle” means a vehicle that is capable of operating on a mixture of compressed or liquefied natural gas and gasoline or diesel fuel.

**Subtitle C—Incentivize the Installation of Natural Gas Fuel Pumps**

**SEC. \_\_\_\_\_. EXTENSION AND MODIFICATION OF ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY CREDIT.**

(a) **IN GENERAL.**—Subsection (g) of section 30C is amended by striking “and” at the end of paragraph (1), by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following new paragraph:

“(2) in the case of property relating to compressed or liquefied natural gas, after December 31, 2016, and”.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall apply to property placed in service after the date of the enactment of this Act.

**SEC. \_\_\_\_\_. INCREASE IN CREDIT FOR CERTAIN ALTERNATIVE FUEL VEHICLE REFUELING PROPERTIES.**

(a) **IN GENERAL.**—Subsection (b) of section 30C is amended to read as follows:

“(b) **LIMITATION.**—The credit allowed under subsection (a) with respect to all qualified alternative fuel vehicle refueling property placed in service by the taxpayer during the taxable year at a location shall not exceed—

“(1) except as provided in paragraph (2), \$30,000 in the case of a property of a char-

acter subject to an allowance for depreciation,

“(2) in the case of compressed natural gas property and liquefied natural gas property which is of a character subject to an allowance for depreciation, the lesser of—

“(A) 50 percent of such cost, or

“(B) \$100,000, and

“(3) \$2,000 in any other case.”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to property placed in service in taxable years beginning after December 31, 2011.

**Subtitle D—Natural Gas Vehicles**

**SEC. \_\_\_\_\_. GRANTS FOR NATURAL GAS VEHICLES RESEARCH AND DEVELOPMENT.**

(a) **RESEARCH, DEVELOPMENT AND DEMONSTRATION PROGRAMS.**—The Secretary shall provide funding to improve the performance and efficiency and integration of natural gas powered motor vehicles and heavy-duty on-road vehicles as part of any programs funded pursuant to section 911 of the Energy Policy Act of 2005 (42 U.S.C. 16191) and also with respect to funding for heavy-duty engines pursuant to section 754 of the Energy Policy Act of 2005 (42 U.S.C. 16102).

(b) **IN GENERAL.**—The Secretary of Energy may make grants to original equipment manufacturers of light-duty and heavy-duty natural gas vehicles for the development of engines that reduce emissions, improve performance and efficiency, and lower cost.

**SEC. \_\_\_\_\_. SENSE OF THE CONGRESS REGARDING EPA CERTIFICATION OF NGV RETROFIT KITS.**

It is the sense of the Congress that the Environmental Protection Agency should further streamline the process for certification of natural gas vehicle retrofit kits to promote energy security while still fulfilling the mission of the Clean Air Act.

**SEC. \_\_\_\_\_. AMENDMENT TO SECTION 508 OF THE ENERGY POLICY ACT OF 1992.**

(a) **REPOWER OR CONVERTED ALTERNATIVE FUELED VEHICLES DEFINED.**—Subsection (a) of section 508 of the Energy Policy Act of 1992 (42 U.S.C. 13258) is amended by adding at the end the following new paragraph:

“(6) **REPOWERED OR CONVERTED.**—The term ‘repowered or converted’ means modified with a certified or approved engine or aftermarket system so that the vehicle is capable of operating on an alternative fuel.”.

(b) **ALLOCATION OF CREDITS.**—Subsection (b) of section 508 of the Energy Policy Act of 1992 (42 U.S.C. 13258) is amended by adding at the end the following new paragraph:

“(3) **REPOWERED OR CONVERTED VEHICLES.**—Not later than January 1, 2012, the Secretary shall allocate credits to fleets or covered persons that repower or convert an existing vehicle so that it is capable of operating on an alternative fuel. In the case of any medium-duty or heavy-duty vehicle that is repowered or converted, the Secretary shall allocate additional credits for such vehicles if the Secretary determines that such vehicles displace more petroleum than light-duty alternative fueled vehicles. The Secretary shall include a requirement that such vehicles remain in the fleet for a period of no less than 2 years in order to continue to qualify for credit. The Secretary also shall extend the flexibility afforded in this section to Federal fleets subject to the purchase provisions contained in section 303 of this Act.”.

**Subtitle E—Transit Systems**

**SEC. \_\_\_\_\_. FEDERAL SHARE OF COSTS FOR EQUIPMENT FOR COMPLIANCE WITH CLEAN AIR ACT.**

Section 5323(i) of title 49, United States Code, is amended—

(1) in paragraph (1)—

(A) in the paragraph heading, by striking “AND CLEAN AIR ACT”;

(B) in the first sentence, by striking “or vehicle-related” and all that follows through “Clean Air Act”; and

(C) by striking “those Acts” each place it appears and inserting “the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.)”;

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

“(2) EQUIPMENT FOR COMPLIANCE WITH CLEAN AIR ACT.—

“(A) IN GENERAL.—A grant for a project to be assisted under this chapter that involves acquiring vehicle-related equipment or facilities (including clean fuel or alternative fuel vehicle-related equipment or facilities) for purposes of complying with or maintaining compliance with the Clean Air Act (42 U.S.C. 7401 et seq.) shall be made for—

“(i) 100 percent of the net project cost of the equipment or facilities attributable to compliance with that Act for any amounts of not more than \$75,000; and

“(ii) 90 percent of the net project cost of the equipment or facilities attributable to compliance with that Act for any amounts of more than \$75,000.

“(B) COSTS.—The Secretary shall have discretion to determine, through practicable administrative procedures, the costs of equipment or facilities attributable to compliance with the Clean Air Act (42 U.S.C. 7401 et seq.).”

#### SEC. \_\_\_\_\_. NATURAL GAS TRANSIT INFRASTRUCTURE INVESTMENT.

(a) ESTABLISHMENT.—The Secretary of Transportation shall establish and administer a program to encourage the development of natural gas fueling infrastructure to be used by transit agencies.

(b) USE.—Funding provided under the program may be used for the purpose of building new or expanded fueling facilities, if the expansion is for the purposes of fueling additional buses with natural gas.

(c) COMPETITIVE GRANTS.—The Secretary shall—

(1) administer the funding providing under the program on a competitive basis; and

(2) award funding after an evaluation of project proposals that includes—

(A) the overall quantity of petroleum to be displaced over the life of the proposed project;

(B) the amount of private funding or local funding that is available to offset the cost of the project; and

(C) the technical and economical feasibility of the project.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$100,000,000, to remain available until expended.

#### Subtitle F—User Fees

#### SEC. \_\_\_\_\_. USER FEES.

(a) LIQUEFIED NATURAL GAS.—Clause (ii) of section 4041(a)(2)(B) is amended by striking “24.3 cents per gallon” and inserting “the sum of the Highway Trust Fund financing rate and the Natural Gas Transportation Incentives financing rate”.

(b) COMPRESSED NATURAL GAS.—The second sentence of subparagraph (A) of section 4041(a)(3) is amended by striking “18.3 cents per energy equivalent of a gallon of gasoline” and inserting “the sum of the Highway Trust Fund financing rate and the Natural Gas Transportation Incentives financing rate”.

(c) HIGHWAY TRUST FUND FINANCING RATE AND NATURAL GAS TRANSPORTATION INCENTIVES FINANCING RATE.—Subsection (a) of section 4041 is amended by adding at the end the following new paragraph:

“(4) HIGHWAY TRUST FUND FINANCING RATE AND NATURAL GAS TRANSPORTATION INCENTIVES FINANCING RATE.—For purposes of this title—

“(A) HIGHWAY TRUST FUND FINANCING RATE.—The term ‘Highway Trust Fund financing rate’ means—

“(i) with respect to liquefied natural gas, 24.3 cents per gallon, and

“(ii) with respect to compressed natural gas, 18.3 cents per energy equivalent of a gallon of gasoline.

“(B) NATURAL GAS TRANSPORTATION INCENTIVES FINANCING RATE.—

“(i) IN GENERAL.—The term ‘Natural Gas Transportation Incentives financing rate’ means—

“(I) with respect to liquefied natural gas, the applicable amount per gallon, and

“(II) with respect to compressed natural gas, the applicable amount per energy equivalent of a gallon of gasoline.

“(ii) APPLICABLE AMOUNT.—For purposes of clause (i), the applicable amount shall be determined in accordance with the following table:

“Calendar year	Applicable amount
2014 .....	2.5 cents
2015 .....	2.5 cents
2016 .....	5 cents
2017 .....	5 cents
2018 .....	10 cents
2019 .....	10 cents
2020 .....	12.5 cents
2021 .....	12.5 cents
2022 and thereafter .....	zero.”

“(iii) EXEMPTION FOR FUEL DISPENSED FROM CERTAIN PROPERTY.—In the case of liquefied natural gas or compressed natural gas dispensed from property for which a credit under section 30(c)(b)(3) would be allowable, the applicable amount for any calendar year is zero.”

(d) NATURAL GAS TRANSPORTATION INCENTIVES FINANCING RATE DEPOSITED IN GENERAL FUND.—Paragraph (4) of section 9503(b) is amended by striking “or” at the end of subparagraph (C), by striking the period at the end of subparagraph (D)(iii) and inserting “or”, and by adding at the end the following new subparagraph:

“(E) section 4041 to the extent attributable to the Natural Gas Transportation Incentives financing rate.”.

SA 1783. Mr. CARPER (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed to amendment SA 1761 proposed by Mr. REID to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 336, strike lines 9 through 12, and insert the following:

“(iv) safety plans developed by providers of public transportation;

“(v) a congestion mitigation and air quality performance plan developed under section 149(k) by a tier I metropolitan planning

organization (as defined in section 134) representing a nonattainment or maintenance area; and

“(vi) the national freight strategic plan.

SA 1784. Mr. HARKIN (for himself, Mr. MORAN, Mr. LEVIN, and Mr. NELSON of Nebraska) submitted an amendment intended to be proposed to amendment SA 1761 proposed by Mr. REID to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of division B, add the following:

#### SEC. \_\_\_\_\_. INCREASING THE PRIORITY OF BUSES AND IMPROVING FLEXIBILITY FOR PUBLIC TRANSPORTATION FUNDING.

(a) APPLICABILITY.—Section 5337(e) of title 49, United States Code, as amended by this Act, shall apply only with respect to fiscal year 2012.

(b) FUNDING.—Notwithstanding section 5338 of title 49, United States Code, as amended by this Act—

(1) of amounts made available under subsection (a)(1) of such section 5338 for fiscal year 2013—

(A) \$5,039,661,500 shall be allocated in accordance with section 5336 of such title 49 to provide financial assistance for urbanized areas under section 5307;

(B) \$720,190,000 shall be available to provide financial assistance for other than urbanized areas under section 5311 of such title 49, of which not less than \$30,000,000 shall be available to carry out section 5311(c)(1) and \$20,000,000 shall be available to carry out section 5311(c)(2); and

(C) \$1,574,763,500 shall be available to carry out subsection (c) of section 5337 of such title 49; and

(2) no amounts made available under subsection (a)(1) of such section 5338 for fiscal year 2013 may be used to carry out section 5337(e) of title 49, United States Code, as amended by this Act.

(c) HIGH INTENSITY FIXED GUIDEWAY STATE OF GOOD REPAIR.—Notwithstanding section 5337(c)(1) of title 49, United States Code, as amended by this Act, for fiscal year 2013, \$1,574,763,500 shall be apportioned to recipients in accordance with section 5337(c) of title 49, United States Code.

SA 1785. Mr. CORKER (for himself, Mr. TOOMEY, and Ms. AYOTTE) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of division D, add the following:

#### SEC. \_\_\_\_\_. DISCRETIONARY SPENDING CAP ADJUSTMENT FOR FISCAL YEAR 2013.

Paragraph (2)(A)(ii) of section 251A of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901a) is amended by striking “\$501,000,000,000” and inserting “\$481,000,000,000”.

SA 1786. Mr. CORKER submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle E of title I of division A, add the following:

**SEC. \_\_\_\_\_. LIMITATION ON EXPENDITURES.**

Notwithstanding any other provision of law, if the Secretary determines for any fiscal year that the estimated receipts required to carry out transportation programs and projects under this Act and amendments made by this Act (as projected by the Secretary of the Treasury) does not produce a positive balance in the Highway Trust Fund available for those programs and projects for the fiscal year, each amount made available for such a program or project shall be reduced by the pro rata percentage required to reduce the aggregate amount required to carry out those programs and projects to an amount equal to that available for those programs and projects in the Highway Trust Fund for the fiscal year.

**SA 1787.** Mr. BROWN of Ohio submitted an amendment intended to be proposed to amendment SA 1761 proposed by Mr. REID to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title III of division C, insert the following:

**SEC. 33007. MAKE IT IN AMERICA INITIATIVE.**

(a) **MEMORANDUM OF AGREEMENT.**—The term “Memorandum of Agreement” means the August 2011 Memorandum of Agreement between the Department of Transportation and the Department of Commerce entitled “Development of a Domestic Supply Base for Intermodal Transportation in the U.S.”.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that collaboration between the Department of Transportation and the Department of Commerce can significantly improve the scope and depth of the domestic supply base for transportation infrastructure, particularly for small businesses in the United States.

(c) **IMPLEMENTATION.**—The Secretary of Transportation and the Secretary of Commerce shall—

- (1) prioritize the implementation of the Memorandum of Agreement; and
- (2) allocate such Department resources and personnel as necessary for such implementation.

**SA 1788.** Mr. BROWN of Ohio submitted an amendment intended to be proposed to amendment SA 1761 proposed by Mr. REID to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 1510 and insert the following:

**SEC. 1510. HOV FACILITIES.**

(a) **IN GENERAL.**—Section 166 of title 23, United States Code, is amended to read as follows:

**“§ 166. HOV facilities**

“(a) **DEFINITIONS.**—In this section, the following definitions apply:

“(1) **ALTERNATIVE FUEL VEHICLE.**—The term ‘alternative fuel vehicle’ means a dedicated vehicle that is operating solely on—

“(A) methanol, denatured ethanol, or other alcohols;

“(B) a mixture containing at least 85 percent of methanol, denatured ethanol, and other alcohols by volume with gasoline or other fuels;

“(C) natural gas;

“(D) liquefied petroleum gas;

“(E) hydrogen;

“(F) fuels (except alcohol) derived from biological materials;

“(G) electricity (including electricity from solar energy); or

“(H) any other fuel that the Secretary prescribes by regulation that is not substantially petroleum and that would yield substantial energy security and environmental benefits, including fuels regulated under section 490 of title 10, Code of Federal Regulations (or successor regulations).

“(2) **HOV FACILITY.**—The term ‘HOV facility’ means a high occupancy vehicle facility.

“(3) **PUBLIC TRANSPORTATION VEHICLE.**—The term ‘public transportation vehicle’ means a vehicle that—

“(A) provides designated public transportation (as defined in section 221 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12141)) or provides public school transportation (to and from public or private primary, secondary, or tertiary schools); and

“(B)(i) is owned or operated by a public entity;

“(ii) is operated under a contract with a public entity; or

“(iii) is operated pursuant to a license by the Secretary or a State agency to provide motorbus or school vehicle transportation services to the public.

“(4) **STATE AGENCY.**—

“(A) **IN GENERAL.**—The term ‘State agency’, as used with respect to a HOV facility, means an agency of a State or local government having jurisdiction over the operation of the facility.

“(B) **INCLUSION.**—The term ‘State agency’ includes a State transportation department.

“(b) **STATE REQUIREMENTS.**—

“(1) **AUTHORITY OF STATE AGENCIES.**—A State agency that has jurisdiction over the operation of a HOV facility shall establish the occupancy requirements of vehicles operating on the facility.

“(2) **OCCUPANCY REQUIREMENT.**—Except as otherwise provided by this section, no fewer than 2 occupants per vehicle may be required for use of a HOV facility.

“(c) **EXCEPTIONS.**—

“(1) **IN GENERAL.**—Notwithstanding the occupancy requirement of subsection (b)(2), the exceptions in paragraphs (2) through (5) shall apply with respect to a State agency operating a HOV facility.

“(2) **MOTORCYCLES AND BICYCLES.**—

“(A) **IN GENERAL.**—Subject to subparagraph (B), the State agency shall allow motorcycles and bicycles to use the HOV facility.

“(B) **SAFETY EXCEPTION.**—

“(i) **IN GENERAL.**—A State agency may restrict use of the HOV facility by motorcycles or bicycles (or both) if the agency certifies to the Secretary that such use would create a safety hazard and the Secretary accepts the certification.

“(ii) **ACCEPTANCE OF CERTIFICATION.**—The Secretary may accept a certification under this subparagraph only after the Secretary publishes notice of the certification in the Federal Register and provides an opportunity for public comment.

“(3) **PUBLIC TRANSPORTATION VEHICLES.**—The State agency may allow public transportation vehicles to use the HOV facility if the agency establishes—

“(A) requirements for clearly identifying the vehicles; and

“(B) procedures for enforcing the restrictions on the use of the facility by the vehicles.

“(4) **HIGH OCCUPANCY TOLL VEHICLES.**—The State agency may allow vehicles not other-

wise exempt pursuant to this subsection to use the HOV facility if the operators of the vehicles pay a toll charged by the agency for use of the facility and the agency—

“(A) establishes a program that addresses how motorists can enroll and participate in the toll program;

“(B) develops, manages, and maintains a system that will automatically collect the toll; and

“(C) establishes policies and procedures—

“(i) to manage the demand to use the facility by varying the toll amount that is charged; and

“(ii) to enforce violations of use of the facility.

“(5) **ALTERNATIVE FUEL VEHICLES AND NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES.**—

“(A) **USE OF HOV FACILITIES.**—For a period beginning not later than 1 year after the date of enactment of this section and ending on September 30, 2017, the State agency—

“(i) may allow alternative fuel vehicles and new qualified plug-in electric drive motor vehicles (as defined in section 30D(d)(1) of the Internal Revenue Code of 1986), to use HOV facilities in the State; and

“(ii) shall establish procedures for use in enforcing the restrictions on that use of HOV facilities by those vehicles.

“(B) **EXISTING PROGRAMS AND PROCEDURES.**—The State agency shall—

“(i) not later than 1 year after the date of enactment of this section, develop and publish in the Federal Register a plan for use in—

“(I) revising the HOV facility programs and procedures of the State agency to ensure that those programs and procedures are in compliance with this section; and

“(II) notifying the public of any upcoming changes in vehicle eligibility for HOV facility usage; and

“(ii) not later than 3 years after the date of enactment of this section, update HOV facility programs and procedures in accordance with the plan described in clause (i).

“(d) **REQUIREMENTS APPLICABLE TO TOLLS.**—

“(1) **IN GENERAL.**—Notwithstanding sections 129 and 301, and except as provided in paragraph (2), tolls may be charged under subsection (c)(4).

“(2) **EXCESS TOLL REVENUES.**—If a State agency makes a certification under section 129(a)(3) with respect to toll revenues collected under subsection (c)(4), the State, in the use of toll revenues under subsection (c)(4), shall give priority consideration to projects for developing alternatives to single occupancy vehicle travel and projects for improving highway safety.

“(e) **HOV FACILITY MANAGEMENT, OPERATION, MONITORING, AND ENFORCEMENT.**—

“(1) **IN GENERAL.**—A State agency that allows vehicles to use a HOV facility under paragraph (4) or (5) of subsection (c) shall submit to the Secretary a report demonstrating that the facility is not already degraded, and that the presence of the vehicles will not cause the facility to become degraded, and certify that the agency will carry out the following responsibilities with respect to the facility:

“(A) Establishing, managing, and supporting a performance monitoring, evaluation, and reporting program for the HOV facility that provides for continuous monitoring, assessment, and reporting on the impacts that the vehicles may have on the operation of the facility and adjacent highways and submitting to the Secretary annual reports of those impacts.

“(B) Establishing, managing, and supporting an enforcement program that ensures that the HOV facility is being operated in accordance with this section.

“(C) Limiting or discontinuing the use of the HOV facility by the vehicles, whenever the operation of the facility is degraded, that requires such a limitation or discontinuation of use to apply first to vehicles using the HOV facility under subsection (c)(4) before applying to vehicles using the HOV facility under subsection (c)(5).

“(D) MAINTENANCE OF OPERATING PERFORMANCE.—A facility that has become degraded shall be brought back into compliance with the minimum average operating speed performance standard by not later than 180 days after the date on which the degradation is identified through changes to operation, including the following:

“(i) Increase the occupancy requirement for HOVs.

“(ii) Increase the toll charged for vehicles allowed under subsection (b) to reduce demand.

“(iii) Charge tolls to any class of vehicle allowed under subsection (b) that is not already subject to a toll.

“(iv) Limit or discontinue allowing vehicles under subsection (b).

“(v) Increase the available capacity of the HOV facility.

“(E) COMPLIANCE.—If the State fails to bring a facility into compliance under subparagraph (D), the Secretary shall subject the State to appropriate program sanctions under section 1.36 of title 23, Code of Federal Regulations (or successor regulations), until the performance is no longer degraded.

“(2) DEGRADED FACILITY.—

“(A) DEFINITION OF MINIMUM AVERAGE OPERATING SPEED.—In this paragraph, the term ‘minimum average operating speed’ means less than 65 percent of the HOV facility rated speed limit.

“(B) STANDARD FOR DETERMINING DEGRADED FACILITY.—For purposes of paragraph (1), the operation of a HOV facility shall be considered to be degraded if vehicles operating on the HOV facility are failing to maintain a minimum average operating speed 65 percent of the time over a consecutive 180-day period during morning or evening weekday peak hour periods (or both).”.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary and the States should provide additional incentives (including the use of high occupancy vehicle lanes on State highways and routes on the Interstate System) for the purchase and use of advanced technology and dedicated alternative fuel vehicles, which have been proven to minimize air emissions and decrease consumption of fossil fuels.

**SA 1789.** Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

#### SEC. \_\_\_\_\_. REGULATIONS REGARDING POOLS.

(a) DEFINITIONS.—

(1) COVERED REGULATION.—The term “covered regulation” means—

(A) the portions of part 35 of title 28, Code of Federal Regulations, that were added under the final rule issued by the Attorney General entitled “Nondiscrimination on the Basis of Disability in State and Local Gov-

ernment Services”, 75 Fed. Reg. 56164 (September 15, 2010); and

(B) the portions of part 36 of title 28, Code of Federal Regulations, that were added under the final rule issued by the Attorney General entitled “Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities”, 75 Fed. Reg. 56236 (September 15, 2010).

(2) POOL.—The term “pool” means a swimming pool, wading pool, sauna, steam room, spa, wave pool, lazy river, sand bottom pool, or other water amusement, within the meaning of part 36 of title 28, Code of Federal Regulations.

(3) PRIVATE ENTITY; PUBLIC ACCOMMODATION.—The terms “private entity” and “public accommodation” have the meanings given the terms in section 301 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12181).

(4) PUBLIC ENTITY.—The term “public entity” has the meaning given the term in section 201 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131).

(b) COMPLIANCE THROUGH ACQUISITION AND USE OF PORTABLE LIFTS.—A public entity that provides a pool that is covered by title II of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq.) shall not be considered to commit a discriminatory act under that title because the entity facilitates use of the pool by acquiring and using 1 portable pool lift rather than installing 1 or more permanent pool lifts. A private entity that provides a public accommodation with a pool covered by title III of such Act (42 U.S.C. 12181 et seq.) shall not be considered to commit a discriminatory act under that title because the entity facilitates use of the pool by acquiring and using 1 portable pool lift for the pool rather than installing 1 or more permanent pool lifts.

**SA 1790.** Mr. BENNET (for himself and Mr. MORAN) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

In division D, on page 1489, after line 25, add the following:

#### SEC. \_\_\_\_\_. EXTENSION OF WIND ENERGY CREDIT.

Paragraph (1) of section 45(d) of the Internal Revenue Code of 1986 is amended by striking “January 1, 2013” and inserting “January 1, 2014”.

#### SEC. \_\_\_\_\_. COST OFFSET FOR EXTENSION OF WIND ENERGY CREDIT, AND DEFICIT REDUCTION, RESULTING FROM DELAY IN APPLICATION OF WORLD-WIDE ALLOCATION OF INTEREST.

(a) IN GENERAL.—Paragraphs (5)(D) and (6) of section 864(f) of the Internal Revenue Code of 1986 are each amended by striking “December 31, 2020” and inserting “December 31, 2022”.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

**SA 1791.** Mr. BENNET (for himself and Mr. WARNER) submitted an amendment intended to be proposed to amendment SA 1761 proposed by Mr. REID to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 615, strike line 19 and all that follows through page 622, line 16 and insert the following:

“netic levitation transportation systems;

“(D) a project that—

“(i) is a project—

“(I) for a public freight rail facility or a private facility providing public benefit for highway users by way of direct freight interchange between highway and rail carriers;

“(II) for an intermodal freight transfer facility;

“(III) for a means of access to a facility described in subclause (I) or (II);

“(IV) for a service improvement for a facility described in subclause (I) or (II) (including a capital investment for an intelligent transportation system); or

“(V) that comprises a series of projects described in subclauses (I) through (IV) with the common objective of improving the flow of goods;

“(ii) may involve the combining of private and public sector funds, including investment of public funds in private sector facility improvements;

“(iii) if located within the boundaries of a port terminal, includes only such surface transportation infrastructure modifications as are necessary to facilitate direct intermodal interchange, transfer, and access into and out of the port; and

“(iv) is composed of related highway, surface transportation, transit, rail, or intermodal capital improvement projects eligible for assistance under this subsection in order to meet the eligible project cost threshold under section 602, by grouping related projects together for that purpose, on the condition that the credit assistance for the projects is secured by a common pledge; and

“(E) a project to improve or construct public infrastructure that is located within ½ mile of—

“(i) a fixed guideway transit facility;

“(ii) a passenger rail station;

“(iii) an intercity or intermodal facility; or

“(iv) in an area with a population of less than 200,000 individuals, a transit center, including—

“(I) improvements to mobility;

“(II) rehabilitation or construction of streets, transit stations, structured parking, walkways, and bikeways; or

“(III) any other activity listed under section 5302(3)(G)(v) of title 49.

“(12) PROJECT OBLIGATION.—The term ‘project obligation’ means any note, bond, debenture, or other debt obligation issued by an obligor in connection with the financing of a project, other than a Federal credit instrument.

“(13) RATING AGENCY.—The term ‘rating agency’ means a credit rating agency registered with the Securities and Exchange Commission as a nationally recognized statistical rating organization (as that term is defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a))).

“(14) RURAL INFRASTRUCTURE PROJECT.—The term ‘rural infrastructure project’ means a surface transportation infrastructure project either—

“(A) located in any area other than an urbanized area that has a population of greater than 250,000 inhabitants; or

“(B) connects a rural area to a city with a population of less than 250,000 inhabitants within the city limits.

“(15) SECURED LOAN.—The term ‘secured loan’ means a direct loan or other debt obligation issued by an obligor and funded by the Secretary in connection with the financing of a project under section 603.

“(16) STATE.—The term ‘State’ has the meaning given the term in section 101.

“(17) SUBSIDY AMOUNT.—The term ‘subsidy amount’ means the amount of budget authority sufficient to cover the estimated long-term cost to the Federal Government of a Federal credit instrument, calculated on a net present value basis, excluding administrative costs and any incidental effects on governmental receipts or outlays in accordance with the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

“(18) SUBSTANTIAL COMPLETION.—The term ‘substantial completion’ means—

“(A) the opening of a project to vehicular or passenger traffic; or

“(B) a comparable event, as determined by the Secretary and specified in the credit agreement.

“(19) TIFIA PROGRAM.—The term ‘TIFIA program’ means the transportation infrastructure finance and innovation program of the Department.

“(20) CONTINGENT COMMITMENT.—The term ‘contingent commitment’ means a commitment to obligate an amount from future available budget authority that is—

“(A) contingent upon those funds being made available in law at a future date; and

“(B) not an obligation of the Federal Government.

“(b) TREATMENT OF CHAPTER.—For purposes of this title, this chapter shall be treated as being part of chapter 1.

#### “§ 602. Determination of eligibility and project selection

“(a) ELIGIBILITY.—A project shall be eligible to receive credit assistance under this chapter if the entity proposing to carry out the project submits a letter of interest prior to submission of a formal application for the project, and the project meets the following criteria:

“(1) CREDITWORTHINESS.—

“(A) IN GENERAL.—The project shall satisfy applicable creditworthiness standards, which, at a minimum, includes—

“(i) a rate covenant, if applicable;

“(ii) adequate coverage requirements to ensure repayment;

“(iii) an investment grade rating from at least 2 rating agencies on debt senior to the Federal credit instrument; and

“(iv) a rating from at least 2 rating agencies on the Federal credit instrument, subject to the condition that, with respect to clause (iii), if the senior debt and Federal credit instrument is for an amount less than \$75,000,000 or for a rural infrastructure project or intelligent transportation systems project, 1 rating agency opinion for each of the senior debt and Federal credit instrument shall be sufficient.

“(B) SENIOR DEBT.—Notwithstanding subparagraph (A), in a case in which the Federal credit instrument is the senior debt, the Federal credit instrument shall be required to receive an investment grade rating from at least 2 rating agencies, unless the credit instrument is for a rural infrastructure project or intelligent transportation systems project, in which case 1 rating agency opinion shall be sufficient.

“(2) INCLUSION IN TRANSPORTATION PLANS AND PROGRAMS.—The project shall satisfy the applicable planning and programming requirements of sections 134 and 135 at such time as an agreement to make available a Federal credit instrument is entered into under this chapter.

“(3) APPLICATION.—A State, local government, public authority, public-private partnership, or any other legal entity undertaking the project and authorized by the

Secretary, shall submit a project application acceptable to the Secretary.

“(4) ELIGIBLE PROJECT COSTS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), to be eligible for assistance under this chapter, a project shall have eligible project costs that are reasonably anticipated to equal or exceed the lesser of—

“(i) (I) \$50,000,000; or

“(II) in the case of a rural infrastructure project, \$25,000,000; or

“(ii) 33½ percent of the amount of Federal highway assistance funds apportioned for the most recently completed fiscal year to the State in which the project is located.

“(B) INTELLIGENT TRANSPORTATION SYSTEM PROJECTS.—In the case of a project principally involving the installation of an intelligent transportation system, eligible project costs shall be reasonably anticipated to equal or exceed \$15,000,000.

“(C) OTHER PROJECTS.—In the case of a project that is eligible under section 601(a)(11)(E), eligible project costs shall be reasonably anticipated to equal or exceed \$15,000,000.

**SA 1792.** Mrs. SHAHEEN (for herself, Ms. MURKOWSKI, Ms. COLLINS, Mr. LEVIN, Ms. KLOBUCHER, Mr. SANDERS, Mr. BEGICH, Mr. LEAHY, Mr. MERKLEY, Ms. LANDRIEU, and Ms. STABENOW) submitted an amendment intended to be proposed by her to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 264, strike line 23 and all that follows through page 267, line 9, and insert the following:

“(5) SPECIAL RULES FOR SMALL METROPOLITAN PLANNING ORGANIZATIONS.—

“(A) IN GENERAL.—Subject to subparagraph (B), a metropolitan planning organization subject to this section and chapter 53 of title 49 (as in effect on the day before the date of enactment of the MAP 21) shall continue to be designated as a metropolitan planning organization subject to this section (as amended by that Act) if the metropolitan planning organization—

“(i) serves an urbanized area; and

“(ii) the population of the urbanized area is more than 50,000 individuals and less than 200,000 individuals.

“(B) EXCEPTION.—Subparagraph (A) shall not apply if the Governor and units of general purpose local government—

“(i) agree to terminate the designation described in subparagraph (A); and

“(ii) together represent at least 75 percent of the population described in subparagraph (A)(ii), based on the latest available decennial census conducted under section 141(a) of title 13, United States Code.

“(C) TREATMENT.—A metropolitan planning organization described in subparagraph (A) shall be treated, for purposes of this section and chapter 53 of title 49 as a metropolitan planning organization that is subject to this section (as amended by the MAP 21).

**SA 1793.** Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 1761 proposed by Mr. REID to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 387, strike lines 4 through 6 and insert the following:

(i) in subparagraph (B)—

(I) in clause (i), by striking “but”; and

(II) by striking clause (ii) and inserting the following:

“(ii) at the request of a State, the Secretary may assign the State, and the State may assume, the responsibilities of the Secretary with respect to 1 or more transit, railroad, or multimodal projects within the State under the National Environmental Policy Act of 1969 (42 U.S.C. 13 4321 et seq.); and

“(iii) the Secretary may not assign—

**SA 1794.** Mr. ISAKSON (for himself and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle E of title I of division A, add the following:

#### **SEC. 15. SAVANNAH HARBOR EXPANSION, GEORGIA.**

The project for harbor deepening, Savannah Harbor Expansion, Georgia, authorized by section 101(b)(9) of the Water Resources Development Act of 1999 (Public Law 106-53; 113 Stat. 279), is modified to authorize the Secretary of the Army to construct the project at a total cost of \$659,652,977, with an estimated Federal cost of \$401,178,855 and an estimated non-Federal cost of \$258,474,122, pending a record of decision for the project.

**SA 1795.** Mr. ISAKSON (for himself and Mr. CHAMBLISS) submitted an amendment intended to be proposed to amendment SA 1761 proposed by Mr. REID to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 490, between lines 3 and 4, insert the following:

#### **SEC. 15. SAVANNAH HARBOR EXPANSION, GEORGIA.**

The project for harbor deepening, Savannah Harbor Expansion, Georgia, authorized by section 101(b)(9) of the Water Resources Development Act of 1999 (Public Law 106-53; 113 Stat. 279), is modified to authorize the Secretary of the Army to construct the project at a total cost of \$659,652,977, with an estimated Federal cost of \$401,178,855 and an estimated non-Federal cost of \$258,474,122, pending a record of decision for the project.

**SA 1796.** Mr. BROWN of Ohio (for himself and Mr. MERKLEY) submitted an amendment intended to be proposed to amendment SA 1761 proposed by Mr. REID to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 888, line 18, strike “Section” and insert the following:

(a) IN GENERAL.—Section

Beginning on page 896, strike line 22 and all that follows through page 897, line 22, and insert the following:

“(3) BUY AMERICA WAIVER REQUIREMENTS.—

“(A) NOTICE AND COMMENT OPPORTUNITIES.—

“(i) IN GENERAL.—If the Secretary receives a request for a waiver under section 313(b) of

title 23, United States Code, section 5323(j)(2) of title 49, United States Code, or section 24305(f)(4), or 24405(a)(2), of such title, the Secretary shall provide notice of, and an opportunity for public comment on, the request not later than 15 days before making a finding based on such request.

“(i) NOTICE REQUIREMENTS.—Each notice provided under clause (i)—

“(I) shall include the information available to the Secretary concerning the request, including the requestor’s justification for such request; and

“(II) shall be provided electronically, including on the official public Internet website of the Department.

“(B) PUBLICATION OF DETAILED JUSTIFICATION.—If the Secretary issues a waiver pursuant to the authority granted under a provision referenced in subparagraph (A)(i), the Secretary shall publish, in the Federal Register, a detailed justification for the waiver that—

“(i) addresses the public comments received under subparagraph (A)(i); and

“(ii) is published before the waiver takes effect.

“(C) BUY AMERICA REPORTING.—Not later than February 1, 2013, and annually thereafter, the Secretary shall submit a report to Congress that—

“(i) specifies each highway, public transportation, or railroad project for which the Secretary issued a waiver from a Buy America requirement pursuant to the authority granted under a provision referenced in subparagraph (A)(i) during the preceding calendar year;

“(ii) identifies the country of origin and product specifications for the steel, iron, or manufactured goods acquired pursuant to each of the waivers specified under clause (i); and

“(iii) summarizes the monetary value of contracts awarded pursuant to each such waiver.

“(D) CONSISTENCY WITH INTERNATIONAL AGREEMENTS.—This paragraph shall be applied in a manner that is consistent with United States obligations under relevant international agreements.

“(E) REVIEW OF NATIONWIDE WAIVERS.—Not later than 1 year after the date of the enactment of the Moving Ahead for Progress in the 21st Century Act, and at least once every 5 years thereafter, the Secretary shall review each standing nationwide waiver issued pursuant to the authority granted under any of the provisions referenced in subparagraph (A)(i) to determine whether continuing such waiver is necessary.

On page 900, between lines 9 and 10, insert the following:

“(10) APPLICATION TO TRANSIT PROGRAMS.—The requirements under this subsection shall apply to all contracts eligible for Federal funding for a project carried out within the scope of the applicable finding, determination, or decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), regardless of the funding source of such contracts, if at least 1 contract for the project is funded with amounts made available to carry out this chapter.

On page 904, between lines 6 and 7, insert the following:

(b) BUY AMERICA PROVISIONS.—

(1) SURFACE TRANSPORTATION.—Section 313 of title 23, United States Code, is amended by adding at the end the following:

“(g) APPLICATION TO HIGHWAY PROGRAMS.—The requirements under this section shall apply to all contracts eligible for Federal funding for a project carried out within the

scope of the applicable finding, determination, or decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), regardless of the funding source of such contracts, if at least 1 contract for the project is funded with amounts made available to carry out this title.”.

(2) AMTRAK.—Section 24305(f) of title 49, United States Code, is amended by adding at the end the following:

“(5) The requirements under this subsection shall apply to all contracts eligible for Federal funding for a project carried out within the scope of the applicable finding, determination, or decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), regardless of the funding source of such contracts, if at least 1 contract for the project is funded with amounts made available to carry out this chapter.”.

(3) APPLICATION TO INTERCITY PASSENGER RAIL SERVICE CORRIDORS.—Section 24405(a) of title 49, United States Code, is amended—

(A) by striking paragraph (4);

(B) by redesignating paragraphs (5) through (11) as paragraphs (4) through (10), respectively; and

(C) by adding at the end the following:

“(11) The requirements under this subsection shall apply to all contracts eligible for Federal funding for a project carried out within the scope of the applicable finding, determination, or decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), regardless of the funding source of such contracts, if at least 1 contract for the project is funded with amounts made available to carry out this title.

“(12) If a project receives funding under chapter 243 and under the Passenger Rail Investment and Improvement Act of 2008 (division B of Public Law 110–432), the Buy America requirements set forth in the Passenger Rail Investment and Improvement Act of 2008 shall apply to all contracts in the project within the scope of the applicable finding, determination, or decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).”.

(4) CONSISTENCY WITH INTERNATIONAL AGREEMENTS.—The amendments made by this subsection shall be applied in a manner that is consistent with United States obligations under relevant international agreements.

**SA 1797.** Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 44, line 15, strike “2009” and insert “2011”.

**SA 1798.** Mr. BOOZMAN submitted an amendment intended to be proposed to amendment SA 1761 proposed by Mr. REID to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle E of title I of division A, add the following:

**SEC. 15. ENGINEERING AND DESIGN SERVICES.**

(a) DEFINITION OF STATE TRANSPORTATION DEPARTMENT.—In this section, the term “State transportation department” has the meaning given the term in section 101 of title 23, United States Code.

(b) DELIVERY OF SERVICES.—For projects carried out under title 23, United States Code, a State transportation department shall use, to the maximum extent practicable, commercial enterprises for the delivery of engineering and design services.

(c) CONSIDERATIONS.—In carrying out subsection (b), a State transportation department should consider with respect to the use of commercial enterprises for the delivery of engineering and design services, among other factors—

(1) the long-term value to the taxpayer; and

(2) the need to maintain a competent engineering workforce to provide program management and oversight.

(d) ANNUAL REPORT.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, each State transportation department shall submit to the Secretary a report documenting the extent to which the State uses commercial enterprises for the delivery of engineering and design services for projects carried out under title 23, United States Code, including, at a minimum, a description of—

(1) the number and types of engineering and design activities for which commercial enterprises were used during the year covered by the report; and

(2) the policies or procedures used by the State transportation department to increase the number of engineering and design services for which commercial enterprises were used.

**SA 1799.** Ms. CANTWELL (for herself and Mr. RUBIO) submitted an amendment intended to be proposed to amendment SA 1761 proposed by Mr. REID to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title II of division D, add the following:

**SEC. . EXTENSION OF DEDUCTION OF STATE AND LOCAL SALES TAXES.**

(a) IN GENERAL.—Subparagraph (I) of section 164(b)(5) is amended by striking “January 1, 2012” and inserting “January 1, 2013”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2011.

## CALLING FOR FREE AND FAIR ELECTIONS IN IRAN

Mr. DURBIN. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged and the Senate now proceed to consideration of S. Res. 386.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 386) calling for free and fair elections in Iran, and for other purposes.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DURBIN. Mr. President, I know of no further debate on the resolution, and I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the resolution.



The resolution (S. Res. 386) was agreed to.

Mr. DURBIN. I ask unanimous consent that the preamble be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 386

Whereas democracy, human rights, and civil liberties are universal values and fundamental principles of United States foreign policy;

Whereas an essential element of democratic self-government is for leaders to be chosen and regularly held accountable through elections that are organized and conducted in a manner that is free, fair, inclusive, and consistent with international standards;

Whereas governments whose power does not derive from free and fair elections lack democratic legitimacy;

Whereas the Government of the Islamic Republic of Iran is a signatory to the United Nations International Covenant on Civil and Political Rights, adopted December 16, 1966 (ICCPR), which states that every citizen has the right to vote "at genuine periodic elections" that reflect "the free expression of the will of the electors";

Whereas the Government of the Islamic Republic of Iran regularly violates its obligations under the ICCPR, holding elections that are neither free nor fair nor consistent with international standards;

Whereas elections in Iran are marred by the disqualification of candidates based on their political views; the absence of credible international observers; severe restrictions on freedom of expression, assembly, and association, including censorship, surveillance, and disruptions in telecommunications, and the absence of a free media; widespread intimidation and repression of candidates, political parties, and citizens; and systemic electoral fraud and manipulation;

Whereas the last nationwide election held in Iran, on June 12, 2009, was widely condemned inside Iran and throughout the world as neither free nor fair and provoked large-scale peaceful protests throughout Iran;

Whereas, following the June 12, 2009, election, the Government of the Islamic Republic of Iran responded to peaceful protests with a large-scale campaign of politically motivated violence, intimidation, and repression, including acts of torture, cruel and degrading treatment in detention, rape, executions, extrajudicial killings, and indefinite detention;

Whereas, on December 26, 2011, the United Nations General Assembly passed a resolution denouncing the serious human rights abuses occurring in the Islamic Republic of Iran;

Whereas authorities in Iran continue to hold several candidates from the 2009 election in indefinite detention;

Whereas authorities in Iran have announced that nationwide parliamentary elections will be held on March 2, 2012;

Whereas the Government of the Islamic Republic of Iran has banned more than 2,200 candidates from participating in the March 2, 2012, elections, including current members of parliament;

Whereas no domestic or international election observers are scheduled to oversee the March 2, 2012, elections;

Whereas the Government of the Islamic Republic of Iran continues to hold leading opposition figures under house arrest;

Whereas the Government of the Islamic Republic of Iran seeks to prevent the people of Iran from accessing news and information by incarcerating more journalists than any other country in the world, according to a 2011 report from the Committee to Protect Journalists; disrupting access to the Internet, including blocking e-mail and social networking sites and limiting access to foreign news and websites, developing a national Internet that will facilitate government censorship of news and information, and jamming international broadcasts such as the Voice of America's Persian News Network and Radio Free Europe/Radio Liberty's Radio Farda; and

Whereas opposition groups in Iran have announced they will boycott the March 2, 2012, election because they believe it will be neither free nor fair nor consistent with international standards: Now, therefore, be it

*Resolved*, That the Senate—

(1) reaffirms the commitment of the United States to democracy, human rights, civil liberties, and rule of law, including the universal rights of freedom of assembly, freedom of speech, and freedom of association;

(2) expresses support for freedom, human rights, civil liberties, and rule of law in Iran, and for elections that are free, fair, and meet international standards, including granting independent international and domestic electoral observers unrestricted access to polling and counting stations;

(3) expresses strong support for the people of Iran in their peaceful calls for a representative and responsive democratic government that respects human rights, civil liberties, and the rule of law;

(4) reminds the Government of the Islamic Republic of Iran of its obligations under the international covenants to which it is a signatory to hold elections that are free and fair;

(5) condemns the Government of the Islamic Republic of Iran's widespread human rights violations;

(6) calls on the Government of the Islamic Republic of Iran to respect freedom of expression and association in Iran by—

(A) ending arbitrary detention, torture, and other forms of harassment against media professionals, human rights defenders and activists, and opposition figures, and releasing all individuals detained for exercising universally recognized human rights;

(B) lifting legislative restrictions on freedoms of assembly, association, and expression; and

(C) allowing the Internet to remain free and open and allowing domestic and international media to operate freely;

(7) further calls on the Government of the Islamic Republic of Iran to allow international election monitors to be present for the March 2, 2012, elections; and

(8) urges the President, the Secretary of State, and other world leaders—

(A) to express support for the universal rights and freedoms of the people of Iran, including to democratic self-government;

(B) to broaden engagement with the people of Iran and support efforts in the country to help promote human rights and democratic reform, including by providing appropriate funding to civil society organizations for democracy and governance activities; and

(C) to condemn elections that are not free and fair and that do not meet international standards.

## APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to the provisions of S. Con. Res. 35 (112th Congress), appoints the following Senators to the Joint Congressional Committee on Inaugural Ceremonies: the Senator from Nevada, Mr. REID; the Senator from New York, Mr. SCHUMER, and the Senator from Tennessee, Mr. ALEXANDER.

## ORDERS FOR TUESDAY, MARCH 6, 2012

Mr. DURBIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until Tuesday, March 6, at 10 a.m.; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, and the time for the two leaders be reserved for their use later in the day; that following any leader remarks, the Senate proceed to a period of morning business for up to 1 hour, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the final half; following morning business, the Senate resume consideration of S. 1813, the surface transportation bill; further, that the time prior to the cloture vote be equally divided and controlled between the two sides, with the final 10 minutes controlled between the two leaders or their designees, with the majority leader controlling the final 5 minutes; and that at 12:30 p.m., the Senate recess until 2:15 p.m. to allow for the weekly caucus meetings.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. DURBIN. The filing deadline for second-degree amendments to the Reid amendment No. 1761 is 11:30 a.m. Tuesday.

The first vote of the week will be at noon on the motion to invoke cloture on the Reid amendment.

Additionally, there will be two votes on confirmation of the Phillips and Rice nominations at 2:15 p.m. tomorrow.

## ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. DURBIN. If there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 5:32 p.m., adjourned until Tuesday, March 6, 2012, at 10 a.m.



## NOMINATIONS

Executive nominations received by the Senate:

## DEPARTMENT OF STATE

EDWARD M. ALFORD, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF THE GAMBIA.

PETER WILLIAM BODDE, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE FEDERAL DEMOCRATIC REPUBLIC OF NEPAL.

PIPER ANNE WIND CAMPBELL, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO MONGOLIA.

## IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE

OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

*To be brigadier general*

COL. DOUGLAS D. DELOZIER

## IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be rear admiral*

REAR ADM. (LH) CLINTON F. FAISON III

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be rear admiral*

REAR ADM. (LH) JONATHAN A. YUEN

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be rear admiral*

REAR ADM. (LH) KATHERINE L. GREGORY  
REAR ADM. (LH) KEVIN R. SLATES

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be rear admiral*

REAR ADM. (LH) SANDY L. DANIELS  
REAR ADM. (LH) JOHN E. JOLLIFFE  
REAR ADM. (LH) CHRISTOPHER J. PAUL

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be rear admiral*

REAR ADM. (LH) BRUCE A. DOLL

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be rear admiral*

REAR ADM. (LH) BRYAN P. CUTCHEN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be rear admiral*

REAR ADM. (LH) DAVID G. RUSSELL

## HOUSE OF REPRESENTATIVES—Monday, March 5, 2012

The House met at noon and was called to order by the Speaker pro tempore (Mr. DENHAM).

### DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,  
March 5, 2012.

I hereby appoint the Honorable JEFF DENHAM to act as Speaker pro tempore on this day.

JOHN A. BOEHNER,  
*Speaker of the House of Representatives.*

### MORNING-HOUR DEBATE

The SPEAKER pro tempore. Pursuant to the order of the House of January 17, 2012, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning-hour debate.

The Chair will alternate recognition between the parties, with each party limited to 1 hour and each Member other than the majority and minority leaders and the minority whip limited to 5 minutes each, but in no event shall debate continue beyond 1:50 p.m.

### PRESIDENT PUTIN

The SPEAKER pro tempore. The Chair recognizes the gentleman from California (Mr. DREIER) for 5 minutes.

Mr. DREIER. Mr. Speaker, I rise to extend congratulations to Vladimir Putin for his election to become President of Russia. We saw the reports yesterday. There were nearly 100,000 Web cams that followed the voting stations all across Russia, and even though there have been reports from the Organization For Security and Cooperation in Europe of voting violations, we are where we are. Vladimir Putin is going to be the next President of Russia.

I believe that, in light of that fact, it's important for President Putin to recognize that, contrary to what he said in his acceptance speech last night, we do not want to destroy Russia. I believe that it is very important that we take every step that we can to encourage a strong, vibrant, growing, independent, democratic Russia. I'm not going to, as President Putin said last night, dictate from the West what he should do, but I do think that those of us, like the United States of America, a country that has had a 223-year history of democracy, could provide a

little bit of advice to a country that is just now beginning to enter its third decade of democracy and obviously has had more than a few challenges.

Now, Mr. Speaker, I think that if we look at some of the recommendations, the economists last week pointed to some very positive steps that could allow President Putin to, rather than repressing the opposition that he faces, embrace it. Now, what could he do?

First, he could announce that this 6-year term will be his last term, that he will not run again as President of Russia.

Second, it would be very important in light of all of the controversy that took place following last December's parliamentary elections for him to call new parliamentary elections so we could have a greater degree of transparency and accountability.

Third, as we look at the prospect of provincial elections, what are tantamount to governorships, having those elections being free and fair would be a very positive thing.

Additionally, I was very glad to hear the news this morning from current President Dmitry Medvedev about the prospect of releasing my friend who sat with me on numerous occasions here in the Capitol, Mikhail Khodorkovsky, who was the head of Yukos Oil, one of the great energy companies in the world, and was a great philanthropist in the country, and was guilty of one thing and one thing only, that being opposing Vladimir Putin. The prospect of his release would be a very welcome sign.

I also think, Mr. Speaker, that as we look at the prospect of the appointment of a new prime minister, there are names that have been thrown out there. Alexei Kudrin, who formerly served as finance minister, would be someone who would be very welcome in light of the fact that he has actually engaged the protesters.

So, Mr. Speaker, I throw these proposals out simply because I believe that we need to have a strong, vibrant, growing Russia. We need to recognize that those countries that are formerly part of the Soviet Union should also have an opportunity to be strong, vibrant, democratic, and independent without facing repression.

I do also believe, Mr. Speaker, that as we look at the debate that we're going to face here, that bringing Russia into a rules-based trading system by seeing them join the World Trade Organization would be a very positive thing as we pursue our shared goals.

So, again, as we look forward to the important relationship between Russia and the United States of America, I wish President-elect Putin hearty congratulations.

### RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until 2 p.m. today.

Accordingly (at 12 o'clock and 9 minutes p.m.), the House stood in recess.

□ 1400

### AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. DENHAM) at 2 p.m.

### PRAYER

The Chaplain, the Reverend Patrick J. Conroy, offered the following prayer:

Dear Lord, we give You thanks for giving us another day.

At the beginning of a new workweek, we use this moment to be reminded of Your presence and to tap the resources needed by the Members of this people's House to do their work as well as it can be done.

May they be led by Your Spirit in the decisions they make. May they possess Your power as they steady themselves amid the pressures of persistent problems. May their faith in You deliver them from tensions that tear the House apart and from worries that might wear them out.

All this day and through the week, may they do their best to find solutions to pressing issues facing our Nation. Please hasten the day when justice and love shall dwell in the hearts of all peoples and rule the affairs of the nations of Earth.

May all that is done this day be for Your greater honor and glory.

Amen.

### THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

### PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from South Carolina (Mr.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

WILSON) come forward and lead the House in the Pledge of Allegiance.

Mr. WILSON of South Carolina led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

#### EXCITEMENT ABOUT SMALL MODULAR REACTORS AT THE SAVANNAH RIVER SITE

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, last Friday, the Department of Energy announced its decision to bring small modular nuclear reactor technology to the Savannah River Site in Aiken and Barnwell, South Carolina. SRS plays a vital role not only in the Aiken-Barnwell community, but also on a national level, as it enables the United States to honor its international nuclear nonproliferation commitments.

At a time when gas prices are at an all-time high and American families are increasingly facing tough choices, commonsense measures such as using existing government facilities and technical expertise for developing SMRs are welcome.

I would like to congratulate Dwayne Wilson at the Savannah River Nuclear Solutions and Dr. Terry Michalske at the Savannah River National Laboratory. I'm also very proud of Dr. Dave Moody's efforts in creating such a fitting environment to host this technological advancement at no new cost to the taxpayer. Congratulations to Chief Engineer Gordon Simmons and Dr. Benjamin Cross for their article on Ameresco Biomass and small modular reactors in this month's *The Military Engineer* magazine.

In conclusion, God bless our troops, and we will never forget September the 11th in the global war on terrorism.

#### ADVERTISERS PLAY A ROLE IN POLITICS

(Mr. COHEN asked and was given permission to address the House for 1 minute.)

Mr. COHEN. Mr. Speaker, last night, I rested very well on my Sleep Number bed knowing that the company had pulled its ads from Rush Limbaugh's show.

In light of Limbaugh's recent misogynistic attack on Georgetown student Sandra Fluke's fight to obtain affordable, legal birth control for women, I have been drawn to the important part that advertisers play in politics.

The use of airwaves to spread hatred of women is wrong. Those advertisers who support broadcasters who do so are

nothing less than accessories to the crime. Advertisers' money keeps these vitriolic and hateful shows and hosts on the air.

Talk radio has gone too far, and it's long past time that advertisers take the initiative and recognize that shows they support often spread lies and hateful speech. I commend those advertisers who pulled their ads from this show, and I await those who follow. Companies like Sleep Number will keep my business, and my next order of flowers will come from ProFlowers.

But this isn't just about Mr. Limbaugh's recent, as he called it, "insulting word choices" as his substandard apology stated; it's about every advertiser who chooses to endorse the spread of hateful words and misinformation on America's airwaves.

#### INTERCONNECTED: THE INDIVIDUAL MANDATE AND INSURANCE REFORMS

(Mr. BURGESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURGESS. Mr. Speaker, health care continues to be an important topic in this country. A lot of people ask me, What keeps you awake at night? I'll tell you.

Right now, the Supreme Court is going to hear this law. They could find the individual mandate is unconstitutional, and I hope they do. But what if they leave the rest of the law intact? Then we will have a real problem, and this House needs to be prepared to deal with that problem and lead on this issue.

In recent filings by the administration, it's apparent that they even acknowledge the difficulties inherent in throwing out the individual mandate but keeping things like guaranteed issue and community rating; and, in fact, they asked that these two co-dependent policies be severed under the law.

States' attempts in the past to institute guaranteed issue and community rating have resulted in insurance costs becoming inexorably higher, the number of people who purchase insurance irrevocably lower, and, as a consequence, the entire system is at risk of completely imploding.

Mr. Speaker, we need to be prepared for this. The Supreme Court is going to hear the case next month. They'll rule by the end of June, and this House needs to be ready to lead.

#### COMMENDING PRESIDENT OBAMA'S PROPOSALS REGARDING HIGHER EDUCATION

(Mr. FALEOMAVAEGA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FALEOMAVAEGA. Mr. Speaker, President Obama stated recently that "no issue will have a bigger impact on the future performance of our economy than education." I commend President Obama for backing up this statement with key proposals that will make higher education more affordable for college students throughout our great Nation.

President Obama's proposal would increase Federal investment in the Perkins loan program from \$1 billion to \$8 billion, while rewarding colleges and universities that lower tuition costs and provide value to especially low-income students. President Obama also wants to increase the Pell Grant program for millions of college students.

President Obama has also proposed a "Pay As You Earn" plan to allow students to put a cap on their monthly payments and allow debt forgiveness balances after 20 years of payments.

Like the GI education bill that helped provide college education for millions of our veterans after World War II, these programs are critical to giving our young generation of college students a greater chance to complete their college education. As a Vietnam veteran, even I would not have completed my education if it had not been for the GI Bill.

Mr. Speaker, I commend President Obama for his leadership and initiative to provide good quality education for all our young generation of Americans.

□ 1410

#### STAND BY ISRAEL

(Mr. GOHMERT asked and was given permission to address the House for 1 minute.)

Mr. GOHMERT. Mr. Speaker, we're glad that the President took time out of his schedule from apologizing to people who apparently want others to pay for their contraceptives so that he could see Prime Minister Netanyahu today. He reiterated again what he said last May at AIPAC when he said—in the middle of a lot of other comments—that Israel must be able to defend itself by itself. He reiterated that again yesterday and today. The problem is for Israel to defend itself means they're defending us. We've been described as the Great Satan, the United States, and Israel the Little Satan.

It's time for this President to quit trying to suppress our friend Israel and stand with Israel; but if this President will not stand with Israel, then don't make threats to them about what we're going to do if they defend themselves without our okay. They've already been given the okay by the President, saying they must defend themselves by themselves. I hope and pray we will stand by Israel as they defend themselves—and us.

## AIR CAPITAL AMBUCS

(Mr. POMPEO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. POMPEO. Mr. Speaker, today I rise to commend the Air Capital Chapter of AMBUCS.

AMBUCS provides mobility and transportation for people with disabilities. They provide therapeutic tri-cycles and bicycles to children and veterans with disabilities, and they give along with that the sense of freedom and hope that comes with being able to be transported.

Last year, my local chapter—appropriately named the Air Capital Chapter of AMBUCS—provided Marine Sergeant Jonathan Blank of Augusta with an AmTryke bike. It allowed him to regain some of his mobility. Sergeant Blank, having lost both legs in an explosion last year in Afghanistan, has been in physical therapy to learn to use his prosthetic legs. The AMBUCS-provided bike has allowed him to get exercise and stay healthy—strengthening his body and helping him walk with prosthetics sooner.

Air Capital AMBUCS has now provided over 30 specialty bikes since they were first chartered just 1½ years ago and are now one of the top five organizations all across the country—quite an impressive accomplishment. I would like to thank the Air Capital AMBUCS all-volunteer staff for the amazing work they do and their dedication to this very noble cause.

COMMUNICATION FROM THE  
CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,  
HOUSE OF REPRESENTATIVES,  
Washington, DC, March 2, 2012.

Hon. JOHN A. BOEHNER,  
*The Speaker, U.S. Capitol, House of Representatives, Washington, DC.*

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on March 2, 2012 at 10:18 a.m.:

That the Senate agreed to S. Con. Res. 35.  
That the Senate agreed to S. Con. Res. 36.  
With best wishes, I am  
Sincerely,

KAREN L. HAAS,  
*Clerk of the House.*

COMMUNICATION FROM THE  
CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,  
HOUSE OF REPRESENTATIVES,  
Washington, DC, March 2, 2012.

Hon. JOHN A. BOEHNER,  
*The Speaker, The Capitol, House of Representatives, Washington, DC.*

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House on March 2, 2012, at 11:23 a.m., and said to contain a message from the President whereby he notifies the Congress he has extended the national emergency with respect to Zimbabwe.

With best wishes, I am  
Sincerely,

KAREN L. HAAS,  
*Clerk of the House.*

CONTINUATION OF THE NATIONAL  
EMERGENCY WITH RESPECT TO  
THE SITUATION IN ZIMBABWE—  
MESSAGE FROM THE PRESIDENT  
OF THE UNITED STATES (H. DOC.  
NO. 112-92)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Foreign Affairs and ordered to be printed:

*To the Congress of the United States:*

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, within 90 days prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent to the *Federal Register* for publication the enclosed notice stating that the national emergency with respect to the actions and policies of certain members of the Government of Zimbabwe and other persons to undermine Zimbabwe's democratic processes or institutions is to continue in effect beyond March 6, 2012.

The crisis constituted by the actions and policies of certain members of the Government of Zimbabwe and other persons to undermine Zimbabwe's democratic processes or institutions has not been resolved. These actions and policies continue to pose an unusual and extraordinary threat to the foreign policy of the United States. For these reasons, I have determined that it is necessary to continue this national emergency and to maintain in force the sanctions to respond to this threat.

The United States welcomes the opportunity to modify the targeted sanctions regime when blocked persons demonstrate a clear commitment to respect the rule of law, democracy, and human rights. The United States has committed to continue its review of

the targeted sanctions list for Zimbabwe to ensure it remains current and addresses the concerns for which it was created. We hope that events on the ground will allow us to take additional action to recognize progress in Zimbabwe in the future. The goal of a peaceful, democratic Zimbabwe remains foremost in our consideration of any action.

BARACK OBAMA.  
THE WHITE HOUSE, March 2, 2012.

## RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 5 p.m. today.

Accordingly (at 2 o'clock and 16 minutes p.m.), the House stood in recess.

□ 1700

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. BROOKS) at 5 p.m.

ANNOUNCEMENT BY THE SPEAKER  
PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote incurs objection under clause 6 of rule XX.

Record votes on postponed questions will be taken after 6:30 p.m. today.

ROY SCHALLERN ROOD POST  
OFFICE BUILDING

Mr. FARENTHOLD. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3637) to designate the facility of the United States Postal Service located at 401 Old Dixie Highway in Jupiter, Florida, as the "Roy Schallern Rood Post Office Building".

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 3637

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. ROY SCHALLERN ROOD POST OFFICE  
BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 401 Old Dixie Highway in Jupiter, Florida, shall be known and designated as the "Roy Schallern Rood Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Roy Schallern Rood Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. FARENTHOLD) and the gentleman from New York (Mr. CROWLEY) each will control 20 minutes.

The Chair recognizes the gentleman from Texas.

GENERAL LEAVE

Mr. FARENTHOLD. Mr. Speaker, I yield myself as much time as I may consume.

I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. FARENTHOLD. H.R. 3637, introduced by the gentleman from Florida (Mr. ROONEY), would designate the facility of the United States Postal Service located at 401 Old Dixie Highway in Jupiter, Florida, as the Roy Schallern Rood Post Office Building.

The bill was favorably reported by the committee on Oversight and Government Reform on February 7 of this year.

Mr. Speaker, it is altogether fitting and proper that we name this post office in Jupiter, Florida, for Roy Rood, a servant to his local community and a veteran who served in World War II.

Recently, Mr. Speaker, I had the tremendous honor of awarding a World War II veteran in my own district that I represent, Sergeant Arthur Nowakowski, his Silver Star for heroics he displayed over 60 years ago.

To Sergeant Nowakowski and Roy Rood and all of those who risked their lives and fought for the freedoms we hold dear today, thank you. Whether we present commendation medals or name post offices to honor our courageous veterans, these are small thanks and the very least that we can do for those who have sacrificed so much for our Nation.

I would now like to yield as much time as he may consume to the gentleman from Florida (Mr. ROONEY).

Mr. ROONEY. Mr. Speaker, today I rise in support of the legislation designating the United States Postal Service located in my district at 401 Old Dixie Highway in Jupiter, Florida, as the Roy Rood Post Office Building.

Roy was a longtime resident and a founding father of my hometown of Tequesta, Florida. Roy was born in 1918 on a farm in Jupiter, Florida, one of 11 children. Roy's childhood was spent working on his family's dairy farm where he learned the value of a hard day's work and fostered his love of the outdoors. The Rood farm was also home to Tequesta's first post office.

Rood joined the U.S. Navy in 1941, following the attack on Pearl Harbor. He served with dignity and honor as a trained instructor and aviation mechanic throughout World War II. Rood was stationed on the USS *Hollandia* C-97, a jeep aircraft carrier that was part of the fleet that participated in the Battle of Guam. By the end of the war,

Roy had risen to the rank of aviation mate first class and was an acting chief petty officer.

Following the war, Roy returned home to Florida where he started a landscaping business that continues today. Before his death in October of last year, Roy Rood helped found American Legion Post 271, of which I'm a member; the local Kiwanis Club; the First Bank of Jupiter; and Jupiter Christian School.

Tequesta has seen many changes over the last 60 years and has grown due to the hard work and dedicated lives of people like Roy Rood. He was a fixture in my own hometown of Tequesta and in the many philanthropic organizations along the Treasure Coast, and they are directly attributed to his efforts. The residents of Tequesta are lucky to call Roy Rood our town's founding father. It would be a fitting tribute to Roy Rood's legacy and service to name the post office in Jupiter in his honor.

Mr. Speaker, over the last several years, I got to know Mr. Rood and his wife personally. I can honestly say there is no better, gentler, and kinder man than Mr. Rood. He will truly be missed.

Mr. CROWLEY. Mr. Speaker, I yield myself such time as I may consume.

On behalf of the minority of the Committee on Oversight and Government Reform, I rise in support of the consideration of H.R. 3637, a bill to designate the facility of the United States Postal Service located at 401 Old Dixie Highway in Jupiter, Florida, as the Roy Schallern Rood Post Office Building.

The measure before us was introduced by my good friend, Representative TOM ROONEY, on December 12 of last year in accordance with committee requirements. H.R. 3637 is co-sponsored by all Members of the Florida delegation and was favorably reported out of the Oversight and Government Reform Committee by unanimous consent on February 7, 2012.

H.R. 3637 honors the life and legacy of Roy Rood, a Navy chief petty officer and business pioneer from Tequesta, Florida.

Shortly after the attack on Pearl Harbor, Mr. Rood elected to join the fight for freedom by enlisting in the U.S. Navy in 1941. During his tour of duty with the U.S. Navy in World War II, Mr. Rood served with dignity and honor as a trained instructor and aviation mechanic. Mr. Rood was stationed on the USS *Hollandia* C 97, which was part of the fleet that participated in the Second Battle of Guam in 1944.

After his service in World War II, Mr. Rood returned to his home in south Florida where he started a successful landscaping business that actually continues to operate and thrive to this day. As the founder of the town of Tequesta, Florida, Mr. Rood has been a philanthropic and valuable member of that community.

That said, Mr. Speaker, let us honor the service and life of this fine American citizen by renaming the Old Dixie Highway Post Office in Jupiter, Florida, as the Roy Schallern Rood Post Office Building.

With that, Mr. Speaker, I yield back the balance of my time.

Mr. FARENTHOLD. Mr. Speaker, we can never do enough for our veterans, men like Roy Rood who have sacrificed and risked it all in the name of freedom.

While it has been over 60 years since World War II, we must never forget the sacrifices made by these people and so many others during that time. To those who have fought and served, to those who protect and defend our great country each and every day, thank you. Remember, Mr. Speaker, freedom is not free.

I urge all Members to join me in strong support of this bill, H.R. 3637, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. FARENTHOLD) that the House suspend the rules and pass the bill, H.R. 3637.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. FARENTHOLD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

#### PRIVATE ISAAC T. CORTES POST OFFICE

Mr. FARENTHOLD. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3413) to designate the facility of the United States Postal Service located at 1449 West Avenue in Bronx, New York, as the "Private Isaac T. Cortes Post Office".

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 3413

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. PRIVATE ISAAC T. CORTES POST OFFICE.

(a) DESIGNATION.—The facility of the United States Postal Service located at 1449 West Avenue in Bronx, New York, shall be known and designated as the "Private Isaac T. Cortes Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Private Isaac T. Cortes Post Office".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. FARENTHOLD) and the gentleman from New York (Mr. CROWLEY) each will control 20 minutes.

The Chair recognizes the gentleman from Texas.

□ 1710

#### GENERAL LEAVE

Mr. FARENTHOLD. Mr. Speaker, I yield myself such time as I may consume.

I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. FARENTHOLD. Mr. Speaker, H.R. 3413, introduced by the gentleman from New York (Mr. CROWLEY), would designate the facility of the United States Postal Service located at 1449 West Avenue in Bronx, New York, as the Private Isaac T. Cortes Post Office. H.R. 3413 was reported favorably by the Committee on Oversight and Government Reform on February 7 of this year.

Mr. Speaker, Private Isaac T. Cortes was born and raised in the Bronx and joined the Army in November of 2006. While at one time Private Cortes had aspirations of becoming a police officer with the New York City Police Department, his desire to serve and protect his country as a soldier soon won out. According to his brother, Private Cortes was "proud doing what he did." He wanted to continue serving in the Army and serve to fight against terrorism.

In September of 2007, Private Cortes deployed to Iraq to support Operation Iraqi Freedom and served as an infantry squad leader in the 10th Mountain Division based out of Fort Drum, New York.

Sadly, Mr. Speaker, less than 3 months later, on November 27, 2007, Private Cortes died when the vehicle that he was riding in was struck by an improvised explosive device. He was just 26 years old.

For his bravery and courage, Mr. Speaker, Private Cortes was awarded the Purple Heart and the Bronze Star.

Mr. Speaker, it is altogether fitting and proper that we name this post office in honor of Private Cortes. This man made the ultimate sacrifice fighting to protect the country that he loved. He put his own life in harm's way so that we can remain the land of the free.

For that, Mr. Speaker, I'm truly grateful. The least we can do, Mr. Speaker, is to honor him and his brave service to our Nation by naming this post office after him. I urge all Members to join me in support of this bill.

I reserve the balance of my time.

Mr. CROWLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, my colleagues, I rise in strong support of H.R. 3413, a bill I au-

thored to rename the United States Postal Service facility at 1449 West Avenue in the Bronx, New York, in honor of Private Isaac T. Cortes, who tragically lost his life outside Amerli, Iraq, on November 27, 2007.

Private Cortes lived his life by a simple motto, "Go big or go home," which can also be used to describe Isaac's decision to join the Army. Certainly there can be no more fitting instance of following the words he lived by than his decision to serve his country at a time when our country was fighting, not one, but two wars.

Isaac joined the Army in part because he felt that it would help him achieve his dream of one day becoming a member of the New York City Police Department, but quickly discovered that the Army was his true calling. Private Cortes loved the Army and loved the feeling of pride for country and community he felt when he wore the U.S. Army uniform, a pride so strong that Private Cortes intended to make a career in the Army, a career in the service of his country. Unfortunately, that dream was cut short on November 27, 2007, when Private Cortes, his Humvee, was hit by an IED, killing him instantly.

While Private Cortes did not get the chance to come home, his memory and spirit lives on through the love of his family, friends, country, and community.

The Army has recognized Private Cortes' exceptional service by awarding him the Purple Heart, the Bronze Star, the National Defense Service Medal, the Iraq Campaign Medal, the Global War on Terrorism Service Medal, and the Army Service Ribbon.

Known for a big heart and his loving ways, his family honors his memory by hosting blood, clothing, food, and toy drives. And today, we have the opportunity to do our part to contribute to his legacy by passing this legislation, which will ensure his courage, integrity, and sacrifice will live on to inspire future generations to live up to his example.

There is nothing the government can do that will ever live up to Isaac's "go big" moment or erase the burden felt by his family, especially his mother, Emily Toro, who I know is watching the proceedings now; but, by passing this bill, at least this Congress can do something to help ensure that his memory survives.

I think it only appropriate that prior to passing this bill we honor the service of a World War II veteran, really showing the link between that great war to preserve democracy and freedom throughout the world and the sacrifices that have been made and continue to be made in a part of the world in the Middle East, in Iraq and Afghanistan, to preserve those same freedoms that we hold dear, that Private Cortes held dear, and as the people of the Bronx hold dear.

Just a note, Mr. Speaker, my colleague was talking about Bronx, New York. There are only three parts of the world that begin with "the": the Vatican, The Hague, and the Bronx, sometimes said "da" Bronx.

But the Bronx is very proud of its sons and daughters, many of whom have paid the ultimate sacrifice in wartime; and this wartime is not unlike any other, continues to sacrifice, as do the sons and daughters of New York City and New York itself.

So, Mr. Speaker, in recognition of Private Isaac T. Cortes' commitment to the Bronx, to New York City, to New York State, and to his beloved country, I ask my colleagues to join me in commemorating the life of this brave soldier by supporting the passage of H.R. 3413.

With that, Mr. Speaker, I yield back the balance of my time and once again wish Emily Toro and the entire Cortes family our regards.

Mr. FARENTHOLD. Mr. Speaker, I urge all Members to support the passage of H.R. 3413, honoring the service in memory of Private Isaac Cortes and the sacrifices of his family, including Mrs. Toro, his service to this country and to the Bronx, by naming this post office in his honor.

With that, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. FARENTHOLD) that the House suspend the rules and pass the bill, H.R. 3413.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

□ 1720

#### JAMES M. FITZGERALD UNITED STATES COURTHOUSE

Mr. DENHAM. Mr. Speaker, I move to suspend the rules and pass the bill (S. 1710) to designate the United States courthouse located at 222 West 7th Avenue, Anchorage, Alaska, as the James M. Fitzgerald United States Courthouse.

The Clerk read the title of the bill.

The text of the bill is as follows:

S. 1710

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. JAMES M. FITZGERALD UNITED STATES COURTHOUSE.

(a) DESIGNATION.—The United States courthouse located at 222 West 7th Avenue, Anchorage, Alaska, shall be known and designated as the "James M. Fitzgerald United States Courthouse".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in subsection

(a) shall be deemed to be a reference to the "James M. Fitzgerald United States Courthouse".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. DENHAM) and the gentlewoman from the District of Columbia (Ms. NORTON) each will control 20 minutes.

The Chair recognizes the gentleman from California.

#### GENERAL LEAVE

Mr. DENHAM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on S. 1710.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DENHAM. Mr. Speaker, I yield myself such time as I may consume.

Senate bill 1710 would designate the United States courthouse located at 222 West Seventh Avenue, Anchorage, Alaska, as the James M. Fitzgerald United States Courthouse.

Just last week, the Subcommittee on Economic Development, Public Buildings and Emergency Management, which I chair, marked up the House companion bill introduced by Congressman DON YOUNG of Alaska, and I want to thank him for his leadership on this issue.

Judge James M. Fitzgerald had 47 years of experience as a judge, both in the State of Alaska and on the Federal bench. He was one of the first judges appointed to the Superior Court in Alaska when Alaska became a State in 1959 and was later appointed to the Alaska Supreme Court in 1972.

In 1974, President Ford appointed Judge Fitzgerald to the U.S. District Court for the District of Alaska, where he remained until his retirement in 2006. I think it is more than fitting that a Federal courthouse in Anchorage bear his name. I support passage of this legislation and urge my colleagues to do the same.

I reserve the balance of my time.

Ms. NORTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 1710 and am pleased to speak in support of the bill that names the United States courthouse located at 222 West Seventh Avenue in Anchorage, Alaska, as the James M. Fitzgerald United States Courthouse.

Judge James Martin Fitzgerald is considered one of the founding fathers of law in the State of Alaska. He dedicated his life to public service and was well respected throughout the Alaskan legal community. Judge Fitzgerald was a World War II veteran, serving in both the U.S. Army and the U.S. Marines. He was awarded the Distinguished Flying Cross and an Air Medal for his military service and was honorably discharged in December 1946.

After his military service, Judge Fitzgerald earned his LL.B. and B.A. simultaneously from Willamette University and graduated in 1951. Soon after graduation, Judge Fitzgerald was appointed as an Assistant U.S. Attorney in Ketchikan, Alaska, and Anchorage, Alaska, earning a reputation as a prosecutor willing to take on corruption in law enforcement. In 1959, he was appointed by the governor of Alaska as the legal counsel for the State, and shortly thereafter was appointed as the State's first commissioner of public safety. Judge Fitzgerald was later appointed as a Superior Court judge in 1959 and in 1972 to the Alaska Supreme Court.

In 1975, President Gerald Ford appointed Judge Fitzgerald as the first district judge for the District of Alaska. Nine years later, Judge Fitzgerald was appointed chief judge for the District of Alaska, where he served until he assumed senior status in 1989. Judge Fitzgerald continued to serve as a judge in Alaska and on the Ninth Circuit until his death on April 3, 2011. In total, Judge Fitzgerald spent 53 years on the bench. Because Judge Fitzgerald took on his first judicial appointment the same year as Alaska achieved statehood, he had a unique role in shaping all Alaskan jurisprudence.

Because of Judge Fitzgerald's service as a member of the U.S. military and his contribution to the Alaskan and the U.S. legal community, it is appropriate to designate the United States courthouse located in Anchorage, Alaska, as the James M. Fitzgerald United States Courthouse. I commend my colleague from Alaska who sponsored this bill for his recognition of the judge, and I urge my colleagues to join me in supporting this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. DENHAM. Mr. Speaker, I yield 2 minutes to the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Speaker, I do thank the gentleman for yielding.

S. 1710, this legislation, as has been mentioned by both speakers, will name the Federal courthouse in Anchorage after the late Judge James Martin Fitzgerald. James Fitzgerald served Alaska from 1959 to 2006 on the first Alaska Superior Court bench, on the Alaska Supreme Court, and on the U.S. District Court for the District of Alaska.

Judge Fitzgerald was an honorable man and represents the best of Alaska in its earliest years as a State. As was mentioned, from his service to his country in the South Pacific during World War II to the time he served on the State of Alaska's highest court, Judge Fitzgerald always put his country and State first. From 1959 until his retirement in 2006, he served with distinction as a State and Federal judge unanimously praised for his brilliance,

his modest nature, and his sense of justice.

In addition to serving as a judge, Judge Fitzgerald was a decorated World War II Marine veteran, a prosecutor, Alaska's first commissioner of public safety, and the initiator of what would become the Alaska State Troopers and the Alaska Village Public Safety Officer Program.

I am proud to have helped championed this legislation to designate the United States courthouse in Anchorage as the James M. Fitzgerald United States Courthouse. He was a great man, and this will ensure his life and accomplishments are properly memorialized in my State. Again, I urge all of my colleagues to support this legislation.

Ms. NORTON. Mr. Speaker, I yield back the balance of my time.

Mr. DENHAM. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. DENHAM) that the House suspend the rules and pass the bill, S. 1710.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

#### RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 6:30 p.m. today.

Accordingly (at 5 o'clock and 29 minutes p.m.), the House stood in recess.

□ 1830

#### AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. DENHAM) at 6 o'clock and 30 minutes p.m.

#### REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2842, BUREAU OF RECLAMATION SMALL CONDUIT HYDROPOWER DEVELOPMENT AND RURAL JOBS ACT OF 2011

Mr. BISHOP of Utah, from the Committee on Rules, submitted a privileged report (Rept. No. 112-408) on the resolution (H. Res. 570) providing for consideration of the bill (H.R. 2842) to authorize all Bureau of Reclamation conduit facilities for hydropower development under Federal Reclamation law, and for other purposes, which was referred to the House Calendar and ordered to be printed.



# ROY SCHALLERN ROOD POST OFFICE BUILDING

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the unfinished business is the vote on the motion to suspend the rules and pass the bill (H.R. 3637) to designate the facility of the United States Postal Service located at 401 Old Dixie Highway in Jupiter, Florida, as the "Roy Schallern Rood Post Office Building," on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. FARENTHOLD) that the House suspend the rules and pass the bill.

The vote was taken by electronic device, and there were—yeas 362, nays 2, not voting 69, as follows:

[Roll No. 95]

YEAS—362

Ackerman	Cicilline	Goodlatte
Adams	Clarke (MI)	Gowdy
Aderholt	Clay	Granger
Akin	Cleaver	Graves (GA)
Alexander	Clyburn	Graves (MO)
Altmire	Coble	Green, Al
Amash	Coffman (CO)	Green, Gene
Amodel	Cohen	Griffin (AR)
Andrews	Cole	Griffith (VA)
Austria	Conaway	Grimm
Baca	Connolly (VA)	Guinta
Bachmann	Conyers	Guthrie
Bachus	Cooper	Hahn
Baldwin	Costa	Hall
Barletta	Costello	Hanabusa
Barrow	Courtney	Hanna
Bartlett	Crawford	Harper
Barton (TX)	Crenshaw	Harris
Bass (CA)	Critz	Hartzler
Bass (NH)	Crowley	Hastings (FL)
Becerra	Cuellar	Hastings (WA)
Benishek	Culberson	Hayworth
Berg	Cummings	Heck
Berkley	Davis (CA)	Heinrich
Berman	Davis (KY)	Hensarling
Biggert	DeFazio	Herger
Billbray	DeGette	Herrera Beutler
Bilirakis	DeLauro	Higgins
Bishop (GA)	Denham	Himes
Bishop (UT)	Dent	Hinchey
Black	DesJarlais	Hochul
Blackburn	Diaz-Balart	Holden
Blumenauer	Dingell	Holt
Bonamici	Dold	Honda
Bono Mack	Dreier	Hoyer
Boren	Duffy	Huelskamp
Boswell	Duncan (SC)	Huizenga (MI)
Boustany	Duncan (TN)	Hultgren
Brady (PA)	Edwards	Hunter
Brady (TX)	Ellison	Hurt
Braley (IA)	Ellmers	Israel
Brooks	Emerson	Issa
Broun (GA)	Eshoo	Jackson (IL)
Buchanan	Farenthold	Jackson Lee
Buchson	Farr	(TX)
Buerkle	Fattah	Jenkins
Burgess	Filner	Johnson (OH)
Butterfield	Fincher	Johnson, E. B.
Calvert	Fitzpatrick	Johnson, Sam
Camp	Flake	Jones
Canseco	Fleming	Keating
Cantor	Flores	Kelly
Capito	Fortenberry	Kildee
Capps	Fox	Kind
Capuano	Frank (MA)	King (IA)
Carnahan	Frelinghuysen	King (NY)
Carney	Gallely	Kingston
Carson (IN)	Garamendi	Kinziger (IL)
Carter	Gardner	Kissell
Cassidy	Garrett	Kline
Castor (FL)	Gerlach	Lamborn
Chabot	Gibbs	Lance
Chaffetz	Gibson	Landry
Chandler	Gingrey (GA)	Langevin
Chu	Gonzalez	Lankford

Larsen (WA)	Olver	Schweikert
Larson (CT)	Owens	Scott (SC)
Latham	Palazzo	Scott (VA)
LaTourette	Pallone	Scott, Austin
Latta	Pascrell	Scott, David
Lee (CA)	Pastor (AZ)	Sensenbrenner
Levin	Paulsen	Serrano
Lewis (CA)	Pearce	Sessions
Lipinski	Pelosi	Sewell
LoBiondo	Pence	Shimkus
Loeb	Peters	Shuler
Lofgren, Zoe	Peterson	Sires
Long	Petri	Slaughter
Lucas	Pitts	Smith (NE)
Luetkemeyer	Platts	Smith (NJ)
Lujan	Poe (TX)	Smith (TX)
Lummis	Polis	Smith (WA)
Lungren, Daniel	Pompeo	Southerland
E.	Posey	Stark
Mack	Price (GA)	Stearns
Maloney	Price (NC)	Stivers
Marchant	Quayle	Stutzman
Marino	Quigley	Sullivan
Markey	Reed	Sutton
Matheson	Rehberg	Terry
Matsui	Reichert	Thompson (CA)
McCarthy (CA)	Renacci	Thompson (MS)
McCarthy (NY)	Ribble	Thompson (PA)
McCauley	Richardson	Thornberry
McClintock	Rivera	Tiberi
McCollum	Roby	Tierney
McDermott	Roe (TN)	Tipton
McGovern	Rogers (AL)	Tonko
McHenry	Rogers (KY)	Turner (NY)
McIntyre	Rogers (MI)	Upton
McKeon	Rohrabacher	Van Hollen
McKinley	Rokita	Walberg
McMorris	Rooney	Walden
Rodgers	Ros-Lehtinen	Walsh (IL)
McNerney	Roskam	Walz (MN)
Meehan	Ross (FL)	Wasserman
Meeks	Rothman (NJ)	Schultz
Mica	Roybal-Allard	Watt
Michaud	Runyan	Webster
Miller (MI)	Rush	Welch
Miller (NC)	Ryan (OH)	West
Miller, Gary	Ryan (WI)	Whitfield
Mulvaney	Sánchez, Linda	Wilson (FL)
Murphy (PA)	T.	Wilson (SC)
Myrick	Sarbanes	Wolf
Napolitano	Scalise	Womack
Neal	Schakowsky	Woodall
Neugebauer	Schiff	Yarmuth
Noem	Schilling	Yoder
Nugent	Schmidt	Young (AK)
Nunes	Schock	Young (IN)
Nunnelee	Schrader	
Olson	Schwartz	

NAYS—2

NOT VOTING—69

Bishop (NY)	Hirono	Rahall
Bonner	Inslee	Rangel
Brown (FL)	Johnson (GA)	Reyes
Burton (IN)	Johnson (IL)	Richmond
Campbell	Jordan	Ross (AR)
Cardoza	Kaptur	Royce
Clarke (NY)	Kucinich	Ruppersberger
Davis (IL)	Labrador	Sanchez, Loretta
Deutch	Lewis (GA)	Sherman
Dicks	Lowe	Shuster
Doggett	Lynch	Simpson
Donnelly (IN)	Manzullo	Speier
Doyle	McCotter	Towns
Engel	Miller (FL)	Tsongas
Fleischmann	Miller, George	Turner (OH)
Forbes	Moore	Velázquez
Franks (AZ)	Moran	Visclosky
Fudge	Murphy (CT)	Waters
Gohmert	Nadler	Waxman
Gosar	Paul	Westmoreland
Grijalva	Payne	Wittman
Gutierrez	Perlmutter	Woolsey
Hinojosa	Pingree (ME)	Young (FL)

□ 1857

So (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. MILLER of Florida. Mr. Speaker, due to a family emergency, I missed the following rollcall vote: No. 95 on March 5, 2012.

If present, I would have voted: rollcall vote No. 95—H.R. 3637—To designate the "Roy Schallern Rood Post Office Building" in Jupiter, Florida, "yea."

Ms. CLARKE of New York. Mr. Speaker, I was unavoidably detained in my district and missed the vote on Monday, March 5, 2012. Had I been present, I would have voted "yea" on rollcall No. 95, H.R. 3637, the "Roy Schallern Rood Post Office Building."

Mr. JOHNSON of Illinois. Mr. Speaker, on Monday, March 5, 2012, I had a previously scheduled meeting with constituents in Champaign, Illinois. As a result, I am unable to attend votes this evening. Had I been present, I would have voted "aye," on H.R. 3637, to designate the facility of the United States Postal Service located at 401 Old Dixie Highway in Jupiter, Florida, as the "Roy Schallern Rood Post Office Building."

## ESTABLISHING JOINT CONGRESSIONAL COMMITTEE ON INAUGURAL CEREMONIES

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the concurrent resolution (S. Con. Res. 35) to establish the Joint Congressional Committee on Inaugural Ceremonies for the inauguration of the President-elect and Vice President-elect of the United States on January 21, 2013, and ask for its immediate consideration in the House.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The text of the concurrent resolution is as follows:

S. CON. RES. 35

*Resolved by the Senate (the House of Representatives concurring),*

### SECTION 1. ESTABLISHMENT OF JOINT COMMITTEE.

There is established a Joint Congressional Committee on Inaugural Ceremonies (in this resolution referred to as the "joint committee") consisting of 3 Senators and 3 Members of the House of Representatives, to be appointed by the President of the Senate and the Speaker of the House of Representatives, respectively. The joint committee is authorized to make the necessary arrangements for the inauguration of the President-elect and Vice President-elect of the United States on January 21, 2013.

### SEC. 2. SUPPORT OF THE JOINT COMMITTEE.

The joint committee—

(1) is authorized to utilize appropriate equipment and the services of appropriate personnel of departments and agencies of the Federal Government, under arrangements between the joint committee and the heads of those departments and agencies, in connection with the inaugural proceedings and ceremonies; and

(2) may accept gifts and donations of goods and services to carry out its responsibilities.

The concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

#### AUTHORIZING USE OF ROTUNDA AND EMANCIPATION HALL BY JOINT CONGRESSIONAL COMMITTEE ON INAUGURAL CEREMONIES

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the concurrent resolution (S. Con. Res. 36) to authorize the use of the rotunda and Emancipation Hall of the Capitol by the Joint Congressional Committee on Inaugural Ceremonies in connection with the proceedings and ceremonies conducted for the inauguration of the President-elect and the Vice President-elect of the United States, and ask for its immediate consideration in the House.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The text of the concurrent resolution is as follows:

S. CON. RES. 36

*Resolved by the Senate (the House of Representatives concurring),*

#### SECTION 1. USE OF THE ROTUNDA AND EMANCIPATION HALL OF THE CAPITOL.

The rotunda and Emancipation Hall of the United States Capitol are authorized to be used on January 21, 2013, by the Joint Congressional Committee on Inaugural Ceremonies in connection with the proceedings and ceremonies conducted for the inauguration of the President-elect and the Vice President-elect of the United States.

The concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

#### BORDER SHOOTOUT

(Mr. POE of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. POE of Texas. Mr. Speaker, last week, border protectors were patrolling near Roma, Texas, when they spotted drug smugglers trying to move narcotics into the United States. The agents found themselves under attack from the Mexican side when narco-terrorists unleashed gunfire from the other side of the Rio Grande River. The agents returned fire in self-defense. This sounds like a scene out of a western movie, but unfortunately this is real life on the Texas border.

The legal ports of entry may seem safe, but in the hinterlands it's the Wild West. Law enforcement is

outmanned, outgunned, and outfinanced. We have troops protecting the borders of other countries; why don't they protect ours? But Texas is defending itself. It has to.

On Thursday, Texas DPS unveiled the second in its fleet of six gunboats that will now patrol the Rio Grande. Why does Texas have to send its own navy to defend the border of the United States? Because the Federal Government refuses to do its job, and someone has to protect the homeland.

And that's just the way it is.

□ 1900

#### THE SLAUGHTER CONTINUES IN SYRIA

(Ms. JACKSON LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON LEE of Texas. The slaughter continues in Syria.

Mr. Speaker, last week I visited the head of Mission at the Syrian Embassy and delivered letters that indicated that Mr. Assad, President Assad must go and that there must be an establishment of safe houses or safe places for women and children and that, at that time, the bodies of those deceased journalists should come out and, as well, that the Red Cross and International Red Cross should be allowed in.

Then there was a protesting and suggesting it was the rebels that weren't allowing the Red Cross in. But we've now heard from a journalist that was able to get out that those journalists were actually murdered. And now, today, we're reading that the Syrian authorities Friday blocked an officially sanctioned Red Cross convoy laden with food and medical supplies from entering a devastated neighborhood in Homs 1 day after the Army overwhelmed the rebel stronghold here after a months-long siege. No rebels, just a Syrian despot, the people who want to kill their own people.

Mr. Assad needs to go. We need to get women and children safe. We need to be able to get justice for the dead journalists, and now the world needs to rise up. I look forward to the Syrian resolution passing, but something must be done.

Mr. Assad, you have to go.

#### CONGRATULATING THE EDEN PRAIRIE BOYS SWIMMING AND DIVING TEAM

(Mr. PAULSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAULSEN. Mr. Speaker, I want to rise today to congratulate the Eden Prairie boys Eagles swimming team and diving team on winning the Minnesota State Championship recently.

The Eden Prairie Eagles earned more than 100 points over their two closest competitors that tied for second place.

A key relay team of Aaron Greenberg, Maverick Hovey, Mike Solfelt and Bryce Boston also set a new State record in the 200-yard freestyle relay, and they also took home first place in the 400-yard freestyle relay.

Mr. Speaker, these student athletes have absolutely seen that teamwork builds character, confidence, and self-worth. It also teaches our young people the importance of working together to find common ground. Lessons such as playing competitively while also having respect for your opponent are lifelong and will make for absolutely strong, successful adults and future strong leaders.

Mr. Speaker, congratulations to the Eden Prairie boys swimming and diving team.

#### A CALL FOR COMPREHENSIVE IMMIGRATION REFORM

(Mr. POLIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. POLIS. I rise today to urge this body, the United States Congress, to join my constituents' call and meet my constituents' call for comprehensive immigration reform.

My constituents across the ideological spectrum, from those on the right, who decry the rule of law, the undermining of the state of law and the affront to our sovereignty, to those on the left, who decry the tearing apart of families and the injustices of the inhumane treatment of people in our immigration system, we are calling out to fix our broken immigration system and replace it with one that works.

There are upwards of 10 to 15 million people residing in this country illegally. We owe it to the citizens of our country, conservative, liberal, and everywhere in between, to make sure that there are close to zero people living in this country illegally and pass comprehensive immigration reform, as both President Bush and President Obama have called for on a bipartisan basis.

My constituents demand action now. I call upon Congress to pass comprehensive immigration reform.

#### CELEBRATING THE LIFE OF DANIEL J. MABIN

(Mr. FITZPATRICK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FITZPATRICK. Mr. Speaker, Daniel J. Mabin, World War II veteran, Korean War-era veteran, passed away this afternoon in Pennsylvania. Dan was a father, grandfather, great-grandfather, and he was the loving husband

of his wife, Sheelagh. He was preceded in death by his beloved son Sean.

Dan was a member of what has been called "the Greatest Generation any society has ever produced," and he certainly earned that distinction by defending this country through two conflicts.

Sheelagh was his English war bride, whom he brought to America and settled in Levittown, Pennsylvania. When he left the service, Dan worked hard to support his growing family, often working several jobs.

Dan was someone who loved his country and cared deeply about its future. During his life, he served his community and worked to better the lives of those around him. He imparted these values to his children, who have gone on to contribute greatly to their communities as well.

I had the honor and the pleasure of knowing Dan. He's left a lasting impression on those he touched. May his soul rest in peace.

#### IN MEMORIAM OF WILLIAM J. "BILL" RAGGIO

(Mr. AMODEI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. AMODEI. Mr. Speaker, today, in Nevada, a funeral service is being held for William J. "Bill" Raggio.

When you think of Nevada public service in the modern era, Bill Raggio's name tops all lists. When you think of legislative leadership in the Silver State, Bill Raggio's name tops all lists. When you think of self-made individuals in Nevada, Bill Raggio's name, once again, tops all lists.

It is with sincere sorrow that I rise on the floor of the United States House of Representatives on this day to memorialize a native son of the State of Nevada, a husband, a dad, a community and statewide leader, a role model, and a friend with whom I had the honor and privilege of serving the people of Nevada for many years.

My condolences to Bill's daughters, Leslie and Tracy, and to his wife, Dale. God bless you, Bill.

#### WE WILL BE THERE TO DEFEND ISRAEL

(Mr. CULBERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CULBERSON. Mr. Speaker, America has no better friend on the face of the Earth than the people of Israel. Israel is the only nation on Earth that can say they've stood by America 100 percent of the time for 100 percent of their existence. And it's so important today that America, that our President, that this Congress, stand behind the people of Israel at this moment of supreme peril.

When the Iranians are building a nuclear weapon as fast as they can, that the Iranians have said they're going to use it, America must stand by Israel. There should be no doubt in the mind of every Israeli, of every friend of Israel around the world that America will stand behind her best friend 100 percent the time, just as they have stood beside us 100 percent of the time.

We will be there for Israel to defend her safety, her security, and her prosperity against any enemy, any time, anywhere.

#### CONFLICT BETWEEN IRAN AND ISRAEL

The SPEAKER pro tempore (Mr. GRIFFIN of Arkansas). Under the Speaker's announced policy of January 5, 2011, the gentleman from Iowa (Mr. KING) is recognized for 60 minutes as the designee of the majority leader.

Mr. KING of Iowa. Mr. Speaker, it is my privilege and honor to address you here on the floor of the United States House of Representatives in this world's great deliberative body. And taking it from the top, as I listened to the statements that were made tonight in the 1-minute, I think of the gentlelady from Texas and her statement about Syria.

Now I'm not here, Mr. Speaker, to defend President Assad and Syria. In fact, I think he needs to go. And I believe that all people of the world have a right to a self-determination, and they should not live under tyranny and they should not live under despotism.

I just think back to when some of us objected that the former Speaker of the House, Mr. Speaker, and that was NANCY PELOSI, as she took over the big gavel, she set up a diplomatic tour and mission, and one of those places was Syria. And I remember the President of the United States, whom, according to the Constitution, is in control of—and I'll say according to the interpretation of the Constitution, he's Commander-in-Chief but also controls the foreign policy. It's implicit, and it's more than a two-century practice that you have to have the President of the United States as conducting foreign policy.

The President of the United States was George W. Bush who asked the then-Speaker of the House, please, do not go to Syria. Do not seek to negotiate with President Assad. Do not upset the diplomacy that's taking place between the United States and Syria, or the lack of that diplomacy.

And I think about that time when NANCY PELOSI, as Speaker, crossed that line, even though it was requested by the President of the United States, the Commander-in-Chief of our Armed Forces, and the individual who was in command of all of our foreign policy, had asked her not to go.

Now we see what's going on in Syria. And I listened to the comments, and I

just think that if the gentlelady from Texas had spoken up at that time when I did, it might be a little bit easier to hear tonight than this particularly was.

□ 1910

Mr. Speaker, there are many things in front of us in this Congress. Among them, of course, are economics and national defense, and our national security.

Right now, as I listened to the gentleman from Texas talk about the Israelis, and there's an event going on tonight that brings together about 12,000 people that are some Israelis, many people of Jewish origin here in the United States, and all who will be sitting there at the AIPAC dinner will be strongly supporting an independent Israel that is in control of defending themselves, the sovereignty of Israel.

I'm a strong supporter of Israel. I look at the country of Israel surrounded by its enemies, formed in 1948, and for most of my life, I've watched Israel develop and defend herself, and I've watched how they are the most stable and reliable democracy in the Middle East, and for a long time they were the only democracy in the Middle East. It would be the only place for a long time where an Arab could get a fair trial out of all of the Middle East.

Today, we're seeing the dialogue take place from Iran, not with Iran, and Israel is the stated target of Ahmadinejad. They've been working in Iran, as you know, Mr. Speaker, urgently and feverishly to develop a nuclear weapon and a means to deliver it.

When I came into this Congress and was sworn in in 2003, I sat down then with the ambassadors to the United States from Germany, France, and Great Britain, who were seeking to convince us here in the Congress that we should encourage our President to open up dialogue with the Iranians and perhaps be able to talk them out of their nuclear endeavor.

Now, that was in September of 2003 that that meeting took place over in the Rayburn building, Mr. Speaker. As I sat in on that meeting and weighed in on that meeting, I kept hearing the message come back about "open up dialogue." They wanted to open up dialogue.

So when it came around to the opportunity where I had the floor, I asked those three ambassadors from each nation, the United Kingdom, France, and Germany, What is your long-term agenda here? What do you propose to do? They said, We want to open up dialogue. My answer was, If we open up dialogue with Iran, what is the next step? They said, We're only here to talk about opening up dialogue.

But if you open up dialogue with Iran, there are other steps along the way. If we just talk with them, and they refuse then to shut down their nuclear development within Iran, what are you prepared to do?"

I watched these diplomats start to get nervous. When you talk to diplomats about action, they start to get nervous. So what are you prepared to do? What do you mean? We all, I think, knew what was coming.

Well, are you prepared to go to the United Nations with us and ask for a resolution rejecting Iran's nuclear endeavor? Are you prepared to bring about sanctions? If the sanctions don't work, are you prepared to bring about a blockade? If the blockade doesn't work and there's a line in the sand that says if you violate the blockade, and if you continue on your nuclear endeavor, are you prepared then to go to the desert and enforce the very things that are being started in this dialogue here?

Of course they weren't prepared to do that. They weren't even prepared to talk about that.

Mr. Speaker, when you start down the path of diplomacy and you think that the only tool you have is diplomacy, there is nobody out here operating as a sovereign nation in the world that's just kind of dumb or duped that doesn't understand that there has to be a force, there has to be some kind of threat, there has to be a consequence and an "or what," or otherwise we would go to the Iranians with our hat in our hand and say, Why don't you be some nice guys for a change and shut down your nuclear development, your nuclear endeavor? What kind of luck will we have with that?

If they believe, as they seem to, that they're called upon by the entity that they worship to annihilate Israel, the miniature Satan, and then turn around and annihilate the Great Satan, the United States of America, that's their stated purpose, Mr. Speaker. And their stated purpose is target one, Tel Aviv, because it's the city that was created after the origins of Israel, and its predominantly of Jewish population. So they would target Tel Aviv.

Now, any nation that would take that position, we would think that somehow we would say to them, Even though your goals are to annihilate Israel and to annihilate the Great Satan, the United States, would you just please be a nice guy and stop developing your nuclear weapons? I mean, how naive could we be to go to Ahmadinejad and make that kind of a request under the guise of dialogue and think somehow that that's going to get the job done?

We should have known then—I'll tell you, Mr. Speaker, I knew then—that dialogue was not going to solve the problem. You never win on dialogue alone. You always have to have a leverage point, so they will look at that, they'll look you in the eye and decide, they mean what they say. It isn't worth it any longer. The juice is not worth the squeeze. I'm going to back off and stop developing the nuclear. But of course that didn't happen. The

three countries that were here asking us to engage in dialogue, good people and good friends, very respectable ambassadors each. I have personal admiration and respect for them. But when you start down the path of dialogue, you must also understand there has to be a consequence at the other end. That consequence, in sequence, was to go to the United Nations for a resolution of rejection and disapproval, make it clear in the international world that the Iranians were violating the nuclear nonproliferation agreements that were established, make it clear that there would be sanctions, and if that's the case, there would be then an embargo and there would be a blockade, and on the other side of that, that there would be action to take out their nuclear capability.

Now, our current President has said that he takes nothing off the table. But when you say you take nothing off the table, that doesn't mean that everything is on the table. It's a little bit of that language that we've learned we have to look at pretty carefully and understand that there's a loophole in that. If you didn't put it on the table in the first place and you take nothing off the table, he may have already in his own mind taken military action off the table, and we don't know.

Mr. Speaker, I was watching the news on Friday morning, and on "Fox and Friends," I heard Gretchen Carlson release the story that Israel and the United States, and that would be President Obama and President Netanyahu, had reached an agreement that Israel would not strike Iran's nuclear capability before the election.

Now, I'm a little amazed that that isn't all over the newspapers and all over the floor of Congress, Mr. Speaker. I'm a little amazed that that story has not been picked up and pasted throughout the blogs and Americans up in arms, Israelis up in arms. I'm a little amazed that that's not going to be the central discussion taking place in the AIPAC dinner with 12,000 people there tonight, and I'm amazed that the President of the United States can give his address to AIPAC, as he did last night, to such a great applause and support, as was reported in the news. I'm amazed.

First of all, was the Fox story true? My experience has been you don't see news come out of there that's unbiased or unfounded. It's based on something. It's founded upon something. I haven't chased it down to look at the original sources that are there, but I know what I heard. It disappeared from the media.

But if the President of the United States is even thinking in terms that he would play nuclear showdown with Iran by calculating an election date as part of that equation, it is an appalling concept to think that it could even be reported in the news as fact that the President of the United States would

conduct his negotiations and manipulate his foreign policy, especially when it comes down to an Armageddon-type of a policy based upon an election date for his reelection.

I can understand the motive, Mr. Speaker. But to think in terms of if something had happens between Israel and Iran that might risk the President's reelection, that at least it's reported in the news that he would have had the incentive to negotiate with Israel to say, Do not mount a military strike to knock out Iran's nuclear capability before the election.

I will tell you, Mr. Speaker, I don't believe we have that much time. I think we count this time in weeks, perhaps 2 or 3 months. But I don't think we count this time until after the November election.

□ 1920

Furthermore, when you get to the point where you have these kinds of crises coming forward and when we have the President, who has announced that the Iraq war is going to be finished on such and such a date and that the Afghanistan war is going to be finished in 2014 and that by the way, oh, time out, Iran, on your nuclear endeavor here until after my reelection because then it will be a lot more comfortable time to deal with this crisis as I take nothing off the table, I don't remember the President saying he has put military strikes on the table. I just remember him saying, I take nothing off the table.

So here is what needs to be done, and I don't know that the credibility exists at this point in the White House for this to be done; but a President who was a credible individual could look at the camera and look across the ocean into the eyes, through video, of Ahmadinejad and the mullahs and say:

I have put an X on the calendar, and that marks the date beyond which you will not be allowed to continue your nuclear endeavor. I know that date, but you do not. I will work with you so that you can save face in Iran, Mr. Ahmadinejad and the mullahs. I'll work with you to accelerate the demolition of your nuclear capability to the satisfaction of American inspectors, and we'll do all of that so you look as good as you can and can save as much face as possible, but you will never know what that date is on the calendar unless you push it too far.

By the way, if you're one day from having it all demolished and you're not done, sorry. The date is the date. You'll not be able to develop your nuclear endeavor beyond that date on the calendar, which you don't know and I do.

That's how you negotiate with terrorists, with cold-eyed people who believe that the United States is the Great Satan; that they're somehow called by the entity they worship to

annihilate Israel, to annihilate the United States and to negotiate with them—to think that you can open up dialogue and go through all of the resolutions and sanctions and embargoes and knock the blockade and let some of the rest of the world violate those agreements, by the way, and profit from it.

We saw it happen in Iraq. It didn't work. We're watching it happen in Iran. It's not working. Now we're dangerously walking very close to that line of Iran having the capability of having developed a nuclear weapon and a means to deliver it.

By the way, when I say "a means to deliver it," Mr. Speaker, it isn't just a nuclear-tipped missile that can strike Tel Aviv from Iran at 750-or-so miles from the sovereign territory of Iran to Tel Aviv, itself. It is the ability to put that anywhere in a suitcase. It could be delivered aboard ship; it could be delivered aboard a little boat; it could come about any way over land. Once they have that capability and it's proliferated, there is no stopping the proliferation. We must end their capability before they have that capability—not after. After is too late. That nuclear horse is out of the barn as soon as they are able to produce that weapon; and when it is, they will terrorize the world. We don't know where it is.

So, Mr. Speaker, I urge the support of the American people in the United States Congress for the autonomy, the sovereignty, and the self-protection of Israel. Should Israel decide that they need to take out Iran's nuclear capability tonight, tomorrow, at any moment, I stand prepared to stand with Israel. Even though this administration might send the message that military support and global political support would no longer be forthcoming from this administration, I believe we have a new administration around the corner.

If we can tell the Iranians to wait with their nuclear development and if we can tell the Israelis to wait with a military strike to take out the nuclear capability that's growing now in Iran, then I can say that the American people look forward to an administration that will treat Israel right, an administration that will support and encourage that Israel defend herself, and a United States of America that will step up and protect and defend Israel as we are pledged to do both philosophically and spiritually and by the obligation that we have from history.

That is just what comes to mind, Mr. Speaker.

Then, as I listened to the speakers here tonight, Syria is a very dangerous place. I am for a regime change, and I don't think that we should have negotiated with nor sent a delegation to President Assad. He is slaughtering and murdering his own people. So to

that extent, I agree with the gentleness from Texas.

But I came here tonight, Mr. Speaker, to address a number of subject matters. On this subject matter, I'm looking out at tomorrow as Super Tuesday, Super Tuesday with 10 States having primary elections. Perhaps out of that comes a direction, the likelihood that there will be one Presidential candidate who will emerge and become the likely nominee, the apparent nominee. I think the odds are a little less than even that that can happen, but it's close.

What we have is a longer, drawn-out nomination process than was anticipated, which started back in Iowa more than a year ago as we worked with the Presidential candidates through that time. Some of them were just putting their toes in the water. They were looking. They came to Iowa and decided they didn't really want to do it, and they stepped back out again. Others hadn't quite emerged. Rick Perry came on a little bit later in August of last year and made a credible run. For a while, he was at the top of the polls. In piece after piece of this race, we've watched as some candidates took a look and stepped out while other candidates stepped in and stepped out.

Now we're at this point where there are four Republican candidates for President who are in the race, and we're watching as the polls are starting to separate. I don't want to make this prediction, Mr. Speaker, but I'll say this: if I look across the platforms of the Republican likely nominees, potential nominees for the Presidency, I begin to say: we don't have a Republican agenda that's a national agenda. We don't have a consensus on that national agenda.

This Congress has been moving pieces of legislation, almost all of them tied to jobs, jobs, jobs. It seems to me I can think back about 4 years, and I can hear our current Speaker ask the previous Speaker: Madam Speaker, where are the jobs? Jobs, jobs, jobs. Well, I've heard "jobs, jobs, jobs" for a long time. It's nice that we're about jobs. I haven't heard a lot about profit, profit, profit, which is required to pay for the payroll to create jobs, jobs, jobs. Yet profit isn't something that comes from a government job, Mr. Speaker. That would be something I hope the President would have overheard. Profit is not something that comes from a government job. Government jobs consume the profits of the private sector.

There are two sectors in the economy here, the public and the private. The public sector is the regulatory sector, but not exclusively. When the public sector provides law enforcement, for example, that gives us security so that the private sector can operate—so you can open up your shop and do business, so you can open up your factory and do business. You have to have some secu-

rity. You have to be able to have a judicial branch of government, more limited than the one we have, I might say, so that you can enforce the laws. You need some functions of government. You need people to build the roads, and you need people to sometimes reach out and do for the people that which they cannot do for themselves. Leave us otherwise alone, I would say, Mr. Speaker.

But the drain on the private sector, on the productive sector of the economy, comes from the public sector. The public sector generally consumes the energy and the resources and the product of the private sector. The private sector invests capital; it produces goods and services that have a marketable value both here and abroad; and the economy dynamically grows. The Federal Government reaches in and takes out 22, 23, 24 percent of the gross domestic product, most of which needs to be on the private sector side because they're the only ones generating wealth; they're the only ones taking capital and reinvesting capital.

Historically, for the last 40 to 50 years, the Federal Government has consumed about 18 percent of GDP. Now that has grown up, roughly, to the neighborhood of 23 percent of our gross domestic product; but it saps the vitality of an economy to have a government that grows and consumes more, and it saps the vitality to tax and spend it on the government entity side. The endeavor of the President's economic plan should be to roll people out of public employment and into the private sector because the private sector is producing goods and services with a marketable value both here and abroad.

I don't see that coming out of this White House today. I pray it comes out of the White House in less than a year from now when a new President, Mr. Speaker, is elected who understands the principles of free market economics. I can go deeply into that, but I'm hopeful that I can express to you tonight the need for this Congress to move on a series of issues that are very important to the American people.

□ 1930

It is unclear who the apparent nominee, and in the end the nominee, for President is. So, therefore, we can't go to that individual and say will you please write up for me the platform that you are going to run on when you are nominated as President of the United States. That's unclear.

To me what is clear is there are a series of issues that are universal across the contending Presidential candidates. These are the issues that we should move through this Congress, planks in the platform of the next President of the United States. We are in a perfect opportunity to do this.

We are here with a not particularly intense legislative agenda. It's kind of

hard to have a lot of things to do when you send them down there and stack them up like cord wood on the desk of HARRY REID. Let's send some things down there that the American people can see are the planks in the platform of the next President.

We know what this President will do. He gave us ObamaCare. He tried to give us cap-and-tax. He gave us Dodd-Frank. Those are the big egregious pieces. He gave us TARP; he gave us the economic stimulus plan, all of that out of President Obama. He blocked the Keystone XL pipeline because apparently he had concluded that it wasn't a national security issue and he needed a little more time to study. I'll come back to that in a little bit, Mr. Speaker. That's the agenda of the current President of the United States.

The next President of the United States needs to have a clear platform to run for office on. They have been articulating that, but the American people don't know what it is because they don't know who the apparent nominee will be.

Well, I can help out with that, Mr. Speaker, because I have sorted through the platforms of each of the viable Presidential candidates and come down with a list of those issues that would be universal across the campaigns of the likely or potential nominees of the Republican Party for President of the United States. And I would suggest, Mr. Speaker, that the leadership in this Congress move the legislation that's universal to any of the potential nominees so that we can lay out that platform for the next President. The planks are there. If it's something that's popular with the American people, and it's in the agenda of each of the Presidential candidates, bring it to the floor of this Congress.

Bring it through committee first. Let's go through regular order. Let's mark it up in committee, bring it to the floor, and let's have a debate and a vote on it and send it over to HARRY REID and see how well he does rejecting the agenda that the American people support.

Let me start off the list, and this is off of a bit of a research list that I put together about 2 weeks ago. It comes this way: every Presidential candidate that is a viable candidate and with a reasonable potential to be nominated for President of the United States on a Republican ticket supports a fence.

I have stood on this floor over and over again and said go down to the southern border, those 2,000 miles, build a fence, a wall, and a fence. We can't just think that four strands of barbed wire is good enough or that a vehicle barrier is good enough or that a single fence, where the other day they showed a video of the panels in the fence where they went in with a post jack, is what I call it, and jacked the panel up. Then the drug smugglers and

the illegals poured underneath that, and then they dropped the panel back down again and walked away with their jack kind of laughing or whatever the south of the border version is for high fives was taking place.

Now, we need to build a fence, a wall, and a fence, Mr. Speaker. I have stood here on this floor and demonstrated how you do that. We need to go down to the border and build first the barrier fence that defines our border, and that says don't come across this, it's U.S. territory, you can only come here legally.

Next, we need to come north of there, a reasonable span, 40 to 50 feet, perhaps, and put in another fence. I would make that out of concrete, precast panels with a slip form trench foundation in it, and I would drop those panels in and affix that in such a way that it would be a strong barrier so that humanity is not pouring through across the border.

I would come again further up another 50 feet or so and build another fence. That can be steel, that can be chain link, it needs to be tall so that you end up with a fence, a wall, and a fence, two zones of no-man's land that it can be enforced. Yes, we need to use all the virtual that we can, all of the cameras and the sensory devices that technology will provide, so that we know to deploy our Border Patrol to the place where there has been a breach or a violation in that fence and enforce that 100 percent.

We can't just let people come into the United States, shrug our shoulders and say, well, we'll catch somebody later on or somebody tomorrow. We have to ensure that if you're going to sneak into America, we're going to catch you, and we're going to enforce the law. In the end, if you violate that law, we are going to need to punish you and put you back into the condition you were in before you broke the law.

Now, I don't understand why that somehow seems to be cruel and unusual punishment to encounter someone who is unlawfully in the United States, who has violated our laws if they crept into the United States across the border and entered into the United States illegally. That is a crime, Mr. Speaker. It's not a civil violation. It's not. It is a crime. That makes the people who sneak into the United States illegally, people who commit crimes, by definition, are criminals.

I suggest that we build a fence, a wall, and a fence. Some will say we can't build 2,000 miles. My answer is, have you ever seen the Great Wall of China? The Great Wall of China is 5,500 miles long and armies marched on top of that.

The first emperor of China, Qin Shi Huang, back in 245 BC connected the existing sections of the Great Wall of China so that it is one continuous 5,500-mile longwall. They did that, not with

huge machines and excavators and cement plants; they did it with stoop labor, putting it together piece by piece by piece. If the Chinese could build a 5,500-mile long great wall, and it's one of the wonders of the world, it would be a wonder to me why we have such difficulty building something that approaches 2,000 miles in length, a simple solution to a complex problem.

Our little old construction company could get tooled up to build a mile a day. I'm not suggesting that our people go do that; but if our little company has that capabilities, think what the big companies have for a capability.

By the way, I'm not suggesting that we build 2,000 miles of fence. I just say this, build it according to the Secure Fence Act. That's the law we passed. That's what Duncan Hunter was for; that's what I was for. Let's just build a fence, a wall, and a fence, and just build it till they stop going around the end. It doesn't have to be 2,000 miles long if they stop going around the end sooner than that. They leave tracks, by the way.

You go out there and you take a look. Well, okay, they went around the end of this fence. Well, let's add another 20 miles, and now I'll see how that works, and we'll just keep building fence until they either quit crossing the line or we have 2,000 miles of it.

The math on that, Mr. Speaker, is not that hard to figure out, although the question doesn't get asked often enough. So we did the math on this a little while back, and I have got to adjust it by a mental calculation to get it into contemporary, and now it's probably even a year old.

We're spending about \$12 billion enforcing our southern border, \$12 billion a year. Now if I take 12 billion, divide it by 2,000, that's \$6 million a mile. If you are spending \$6 million a mile to defend the border, the Border Patrol comes before the Judiciary Committee, the immigration committee, under oath and testifies we think we interdict about 25 percent of those who attempt to cross the border.

I go down to the border and I ask those enforcing it, so you're stopping about one in four? They laugh at me. Oh, no, we're not stopping one in four, maybe 10 percent. Some say 2 to 3 percent, but the most consistent answer I get from the enforcers on the border is 10 percent. But I'm willing to go back to the 25 percent number and use that, even though I think it's probably high.

I do the calculation. I think, let me see, if Janet Napolitano, Secretary of Homeland Security, came to me and said, Congressman, I want to hire you to guard the west mile from your house across rural Iowa, that mile gravel road for that mile. For that mile I'm going to pay you the same amount that we're paying to protect our southern border, \$6 million a year—oh, and by the way, if that's not enough incentive,

it's a 10-year contract. She would lay, in theory under this formula, \$60 million on my kitchen table, and my job is to guard that mile of road and see to it that no more than 75 percent of those that try get across?

□ 1940

I'm going to snap that up, Mr. Speaker. And I'll tell you, I'm not going to go out there and hire myself a multitude of people that are boots on the ground. I'm going to hire some, but I'm going to be very well aware that you have a benefits package that goes along with it, health insurance, retirement benefits and all of the pieces that have to do with supporting an officer, including a vehicle for him to drive, multiple vehicles in some cases. I'm going to recognize that. And I'm going to look at the capital investment for the long term all of the way through retirement of hiring boots on the ground. And, yes, we need them; and those that are there do a good job, and they want to do a good job.

But I'm going to look at it and think: I could invest some of this \$60 million in this contract a little more effectively. I think I'll just build a fence, a wall, and a fence. Then I'll have myself a few Border Patrol officers there to rotate the shifts and monitor the sensors and watch the cameras, and maybe man a guard tower here and there. And we'd make sure that no one would get across that.

And, by the way, as I brought up Israel a little bit earlier, they built a fence. They designed that fence so that it would be as reliable and as tight as possible. It has some wire there. It has got towers and they monitor it, and it has been 99-point-something percent effective. So we can learn something from the Israelis. Why do they build fences if fences don't work?

We look at the Mexicans. They have barriers down there between Mexico and Guatemala.

There's a fence that was being built between Saudi Arabia and Iraq so they could interdict the refugees that they anticipated would be coming into Saudi Arabia, to keep them out.

There is a fence that's being built right now in that bankrupt country of Greece, between Greece and Turkey, to keep the illegals that are pouring into Greece from Turkey out of Greece. Even though the Greeks can't afford it, they are building the fence to keep the illegal Turks from pouring into Greece.

Now, some will say there is something inherently immoral about a fence—a fence, a wall, and a fence, in my case, Mr. Speaker—and I would argue there's a difference between that, those who would say, Haven't you ever heard the Berlin Wall? Well, of course I have heard of the Berlin Wall. I've walked almost every foot of the Berlin Wall. I have a piece of the Berlin Wall in my office over at 1131 Longworth,

and it's framed. It is framed with a wood frame and it has a red cloth behind it and a piece of the Berlin Wall about that big. It was chopped out on September 12, 1990. It represents the single-most significant historical event in my lifetime, the end of the Cold War when the Iron Curtain, the Berlin Wall itself, literally the Iron Curtain came crashing down.

But the Berlin Wall was designed to do something entirely different than all of the fences that I've described, Mr. Speaker, and that is it was designed to keep people in, not out. And that's the difference. A wall that's designed to keep people in because you don't want them to achieve and access freedom and liberty and our God-given liberty rights, that's what the Berlin Wall did. It trapped people; it fenced them in.

The other fences that I've talked about are designed to keep people out who are trying to come into the United States, and other places, in violation of existing law.

And others will say—and some are clergy that will say: Well, you were a stranger. You were an alien in a foreign land, and I took care of you.

There are a lot of quotes in the Bible that remind people that we should reach out to the less fortunate among us. But I happen to have stood on Mars Hill in Athens where St. Paul gave his famous speech, his famous sermon in Act 17, when he said: And the Lord made all nations on Earth, and he decided when and where each nation would be.

That was St. Paul's statement on Mars Hill in his famous sermon in Act 17. Each nation has its sovereignty. The Lord decided each nation on Earth and when and where those nations would be, and we should not shrink from that responsibility, that sovereign responsibility, to protect our borders and to protect the rule of law.

And the borders of the United States are what define the sovereignty of the United States. If we should accept the idea that there aren't borders, that people have always migrated and somehow it is immoral for us to define those borders or tell people you can't come across, then I would ask those who advocate a policy like that, and I believe it is an illogical policy, but those who advocate for such a policy, I would say to them, then: How many people do you believe should be allowed to live in the United States? What should the population of the United States of America be? Six billion people on the planet. We're the third largest population country on the planet, 300-plus million of us. How many should live here?

If you asked the rest of the world: Would you like to live in the United States of America and we'll buy you a plane ticket to go and we'll give you an unlimited supply—well, how about the

current access of welfare benefits that are there? Seventy-two different means-tested Federal welfare programs; and, by the way, refundable tax credits for illegals working in America under an employer ID number, a 42-dash number instead of a Social Security number.

I congratulate Congressman SAM JOHNSON of Texas for bringing his legislation that prohibits any tax credits from going to, any refunds from going to those who are filing their taxes without a Social Security number.

But they could tap into all of these benefits, 72 different means-tested welfare programs and the refundable tax credits that are there, and we'd say to them: You can live by an implied guarantee in the United States of America at a middle-income level, middle class without working, and we're going to see to it that it's all available to you. Come to America and we'll give that to you. I would predict, Mr. Speaker, that more than half of the 6 billion people on the planet would opt to come to the United States.

So how many people do those who advocate for open borders, what do they think the population of the United States should be? Should it be 3 billion? Am I right on that? Should it be 2 billion? Should it be 4 billion? I'll suggest it would surpass 3 billion under that kind of an offer, except many of those on the tail end of that great transshipment of humanity would realize that our system here would collapse long before you could ever load 3 billion people into America, or 2 billion, or maybe even 1 billion.

So what is the number? What is it that those who advocate for open borders and suspending the rule of law, what is it that they believe should be the future population of the United States of America? How many would they let in?

And I constantly hear the lamentation that it takes too long to come into the United States legally. It takes too long. Well, I suppose if we just opened it up and we accelerated the process and everybody that was in line, if we let them in right away, inside of a year, maybe that's not too long. I'm constantly hearing candidates, Presidential candidates even, some in the past, not so much now, argue that we need to speed up our immigration process and that those who are here in the United States illegally need to get right with the law and that they need to go to the back of the line.

So if they need to go to the back of the line, do they really understand that the lines don't start in the United States? The lines for legal immigration into the United States start in foreign countries where people have an aspiration to come here, and they apply for a visa and eventually a green card to come here; and that line, those lines, when you add up all of the lines of the



various visas that are out there—H-1Bs, H-2Bs, the visa lottery program, the list goes on and on—you add up all of that, the lines to get in, waiting to come into the United States legally are 50 million long—50 million. Fifty million people are waiting in foreign countries to come to the United States legally, and I hear constantly the wait's too long. We need to accelerate coming into the United States.

So we bring 1.2 million people into this country legally, kind of on average each year, 1.2 million. We're the most generous country on Earth by far. And some data shows that we bring more people legally into the United States than all other countries combined. I can't anchor that in a data point, so I want to put that caveat in the RECORD, Mr. Speaker. But it's in that category, someplace pretty close, 1.2 million legals coming into America, drawing from a pool of about 50 million that are waiting in line. And in all of that, we only have about 7 to 11 percent of those legal immigrants that we even score their ability to contribute to the United States. The rest of it is all about how they can benefit from the taxpayers and the workers here, how they can benefit.

□ 1950

No nation other than the United States would allow for the, what should I call it, the evolution of an immigration policy that just simply grants this to people because they want to be here and gives them the authority to accelerate the legal immigration of the family reunification plan so that beyond that first individual they can start bringing in people outside that extended family tree.

We sat down and did a spreadsheet calculation and wondered how many people could one individual bring in to the United States under family reunification. We built it on a spreadsheet. We got out to 357 individuals brought in by one single individual, and then we ran out of room on the spreadsheet and realized you really can't calculate it. But you can calculate the visas, the means by which we are legalizing people in America.

It depends on whether you look at one study or another. There are competing studies, and that is between 89 and 93 percent of the legal immigration into the United States is not based on merit whatsoever. There's no merit quality there whatsoever. And then the balance of that, between 7 and 11 percent, does come from some measures of merit such as H-1Bs, having a skill.

I'm suggesting this, Mr. Speaker, that we develop an immigration policy here in the United States Congress, with the cooperation of our next President, that's designed to enhance the economic, the social and the cultural well-being of the United States of America. Any country worth its salt is

going to have an immigration policy designed to benefit the country itself. We're not in the business of trying to alleviate—well, we'd like to, but we cannot be in the business of trying to alleviate all world poverty, all world hunger, and all world lack of liberty and freedom. It isn't just enough to bring people in here and let them understand and be inspired by American liberty—God-given American liberty; but we need to promote and inspire it in other countries in the world instead of going there to bow before foreign leaders and apologize for being Americans.

I'm astonished, Mr. Speaker, that we had a Secretary of State, Madeleine Albright, who told the world that she wouldn't wear a lapel pin with an American flag in foreign countries because she was afraid it offended people. My attitude about that is, go find a country that's offended that's not accepting foreign aid. And what are they offended about? American liberty? The way we've led in the world? Congressman LOUIE GOHMERT of Texas has so well and famously said with regard to foreign aid that goes out to people who set themselves up as our enemies and that vote against us consistently in the United Nations, he says, You don't have to pay people to hate you. They'll hate you for free.

So I want to configure immigration policy that's designed to enhance the economic, social, and cultural well-being of the United States. We should be scoring the applicants for legal immigration into the United States. We should be scoring them by their ability to contribute to this society, this economy, this culture, and this civilization. And one of the ways that we can do that is we can look to our English-speaking allies for some guidance. Canada, United Kingdom, and Australia come to mind.

Each of them either has a policy or has been developing a policy to set up a point system, a scoring system, so that they can evaluate the applicants for immigration into their countries. And here are some of the criteria: education, job skills, earning capacity, and age—you want young people to come in so they can pay taxes long enough so that you can justify paying for their retirement—and English-speaking abilities, because the ability to speak, write and understand English is the strongest indicator we have of the ability to assimilate into the broader overall culture.

So there is nothing discriminatory about this other than if we're going to have a policy that's good for America, we have to do some discrimination in favor of those who can do the most to help our country. I'd like to bring in and continue to bring in bright, energetic people, especially young people. And if they are preeducated by the taxpayers of a foreign country, that's fine.

I'm happy with that. Come on in here and help America's economy grow and raise your family, but embrace our American traditions, our American culture, and our American civilization. After all, that's why you came. And to the extent that you bring some of your culture along with you and there are certain traditions that you follow, that adds to the flavor and it adds to the zest of life here in America.

But, Mr. Speaker, when they come and reject American liberty and the American way of life, and they try to recreate in an enclave the life that they left instead of embrace the life that's offered to them here in America, I would ask, why are you here? Why would you come to America if you're going to reject Americanism and seek to recreate the place you left? Why didn't you just stay there? And that's some of the foundation of the immigration concept that we have, Mr. Speaker.

By the way, as I get to item number two on this long list of universal items that I think all Presidential candidates should embrace and this Congress should pass, I would add that we've got E-Verify legislation before this Congress, and I am not satisfied that it is written in a way that it will work in the way it's intended. I am very concerned, Mr. Speaker, about the preemption that's written into it that prohibits the political subdivisions from supporting and enforcing immigration laws that mirror those of the Federal Government.

Aside from that, I have proposed an offer that actually solves this problem without having to go there and preempt the States and the political subdivisions, and it is called the New IDEA Act. New IDEA stands for the new and the acronym is the New Illegal Deduction Elimination Act. The Illegal Deduction Elimination Act clarifies that wages and benefits paid to illegals are not tax deductible, and we know that. But the practice is to write off wages and benefits paid to illegals because they know that nobody is going to come along and enforce. And this has been a practice since the Amnesty Act of 1986.

Under the New IDEA Act, then, the IRS, coming in to do a normal audit of an employer's company, would run the Social Security number and other pertinent data through E-Verify. So let's just say I have 100 employees. The IRS would come in, the Internal Revenue Service would come in to do an audit of my company. They would look at my receipts and my expenditures; they would look for anomalies in that calculation that might indicate that there would be money that was scooped out that tax wasn't paid on, or a tax avoidance. And in the process of doing that, they would run those Social Security numbers of the employees through E-Verify, the Internet-based system that

can verify whether the data identifies someone who can legally work in the United States.

As they run those 100 Social Security numbers through E-Verify, then E-Verify would either come back and affirm that they could lawfully work in America; or if there's no answer, there's no response, then it's implied that they can't work legally in the United States. So therefore the IRS could deny that business deduction of the wages and benefits paid to that illegal.

And they would give a period of time for the employer and the employee to cure any data that is there and give the employer safe harbor if he uses E-Verify so that for another means of lack of verification, they can't come in and enforce against him for hiring illegals. Safe harbor for using E-Verify, not a mandate that they use E-Verify, the IRS would make the determination by using E-Verify and that result is this: if out of those 100 employees, let's just say I had 10 that were illegal, the IRS would say, I'm sorry, but you paid \$50,000 a year to each one of these employees, and that's no longer a business expense because they were unlawfully working in the United States and you had the tool to verify.

And so that \$50,000 times 10 is \$500,000. That \$500,000 that you wrote off of the gross receipts number—just say I grossed \$10 million and that 500,000 would be one of my expenses that's there—they would deny the expense of \$500,000, \$50,000 paid to 10 illegals, and that \$500,000 then goes out of my expense column on Schedule C, goes over into the gross receipts side and shows up down on the bottom line as net income, taxable net income. That means that your \$10-an-hour illegal, by the time you pay the interest, the penalty and the tax liability, becomes about a \$16-an-hour illegal.

So the employer can draw a choice. Does he really want to take a chance on being audited every year and seeing his expenses of his illegals move from \$10 an hour up to \$16 an hour, or would he maybe go offer an American a job at \$13 or \$14 an hour? I think that's what happens, Mr. Speaker. And it provides an incentive so an employer doesn't have to switch it all overnight. They can calculate the risk, and they can clean up their workforce incrementally if that's what it takes.

□ 2000

Furthermore, in my bill, the New IDEA Act, it requires that there be a cooperative team put together between the IRS, the Social Security Administration, and the Department of Homeland Security so the right hand, the left hand, and the middle hand know what each other are doing. We get Social Security No-Match Letters that used to come out—they stopped sending them out a while back because no-

body was doing anything with them. They would just send them out saying: We did our job; these Social Security numbers didn't match that you're sending in. A letter would go out; nobody shows up; that's the end of it.

You've got Homeland Security that is operating at the direction of the White House, that has decided they're going to provide administrative amnesty. Three hundred thousand illegals in the United States already adjudicated for deportation, and the President and Janet Napolitano and Eric Holder set up a policy—primarily Janet Napolitano—set up a policy to take staff time and scour through the 300,000 already adjudicated for deportation illegals that are there and see if they can find a means and a way to justify allowing them to stay in the United States. Administrative amnesty.

My bill, New IDEA, puts the three of them together so the IRS sends the information to Homeland Security and to the Social Security Administration; No-Match Letters from Social Security Administration go to the IRS and to Homeland Security, and it says: Put your heads together; figure out how to enforce America's immigration law.

That's what we need to be doing, Mr. Speaker.

By the way, the President of the United States, who has disrespected the rule of law, has a couple of family members who have received some type of administrative amnesty asylum—Auntie Onyango, whom I hope I don't have to spell that. But in any case, she has been in the United States for a long time illegally, since the 1990s—President Obama's aunt—living in public housing, reportedly, was finally adjudicated again for deportation. And the Obama administration declared her to be at too much of a risk if now, after all these years since the nineties, if she were sent back to Kenya. Because his aunt is now too high a profile public figure to be sent to Kenya, someone might kidnap her and hold her for ransom, and so it's a great risk; therefore, we should give her asylum in the United States where surely no one would kidnap her living in public housing and hold her for a ransom here. They just would do it in Kenya.

So, Homeland Security—I presume the State Department may have had a voice in this—granted, according to news reports, asylum for Barack Obama's aunt.

Now, if you can get asylum for the President's aunt, and you think in terms of the rule of law as applied the same to everyone, then who would it not apply to? Well, the rule of law surely didn't apply to Barack Obama's drunken Uncle Omar, who had also been processed and adjudicated for deportation and also didn't honor the court order to be deported. So drunken Uncle Omar nearly ran into a police car, found himself afoul with the law

with a blood alcohol content of nearly twice the legal limit—it was 1.4—nearly twice the legal limit, and drunken Uncle Omar disappeared from the scene. And I'm confident that he went the way of Barack Obama's aunt, an administrative amnesty manufactured by the administration, not deported, not shipped off back to Kenya.

So if we won't deport the President's aunt, if we won't deport the President's uncle no matter what his blood alcohol content, and we've got 300,000 that are in the United States illegally who have already been adjudicated for deportation, and even though we're short-handed and we're having trouble processing all of this and the President has said—well, at least Janet Napolitano has said that we don't have the resources to enforce all of the laws, why are we using our staff resources to go try to give people an exemption from the law that's already been enforced? That's administrative amnesty. So they've been scouring the books to give people a pass on a rule of law.

I raised the issue, and I asked dozens of people across the spectrum in my district and around the country: What's the most important component of immigration law? Mr. Speaker, what I hear is the rule of law. The rule of law. Not the idea that some people are needy and it hurts our hearts to enforce a law—it does. But in the end, if we don't respect the rule of law, if we don't refurbish the rule of law, we have then desecrated one of the essential pillars of American exceptionalism.

We cannot be a great country if we don't have the rule of law. We must be a country, a sovereign nation. Sovereign nations must have borders. Borders must be defended. Those borders must be controlled in a way where we decide who comes in and decide when people go out, if they don't decide on their own. And we must preserve and protect and refurbish and enhance the rule of law.

That's what the New IDEA Act does. It has the support of all Presidential candidates—formally, not attested to yet by Governor Romney, but I believe philosophically he would tell you that he sees the logic in it. If we passed this off of the floor of the House of Representatives, I believe that Governor Mitt Romney would be supportive of such an initiative.

Then, if you go on down the line of the planks and the platforms that are universal among the Presidential candidates, you would see the desire to repeal Dodd-Frank there universally among Republicans. Dodd-Frank, that's set up such that the government would decide which lending institutions were too big to be allowed to fail. Then, once declared too big to fail, the three entities in the Federal Government would decide whether they were going bankrupt, and if they went into receivership, who and what entity would receive them.

It's a horrible scenario to think that the Federal Government will decide winners and losers by a statute written by the very people that contributed so much to the financial problem that we had, Chris Dodd and BARNEY FRANK, so I'm for a full 100 percent repeal of Dodd-Frank. If it has a couple of redeeming qualities—and I believe it does—let's restate them back into the law. Let's not make exceptions and leave pieces there.

Dodd-Frank needs to be repealed. We need to pass the repeal of Dodd-Frank here on the floor of the House. MICHELE BACHMANN of Minnesota has been the lead on that. She drafted the legislation to repeal Dodd-Frank. She's been a strong and vocal advocate for repealing Dodd-Frank. So have all the other Presidential candidates. We should do this for the American people, for the next President, and we should do it to honor the effort of MICHELE BACHMANN, Mr. Speaker.

Next piece is official English. Almost every country in the world has an official language, at least one official language. It's been so recognized throughout the ages that the single most powerful unifying force known throughout all history and humanity is having a common language. If we can talk to each other, we have an instantaneous bond with each other. Here in America, we're so fortunate that English is that language, and yet there seems to be an open effort to try to encourage language enclaves in America where the second and even third generations of Americans don't learn English; they just live within the enclave. They're trapped in that economic and that cultural cycle of the enclave, the silo of an ethnic minority instead of assimilating into the broader society.

We need to establish English as the official language of government, not to disparage another language, but to unify the American people and hold us together as a people and strengthen our unity. The government does not need to be spending that kind of money on language.

Then repeal ObamaCare and a number of other things.

I appreciate your attention to this matter this evening, Mr. Speaker, and I would yield back the balance of my time.

#### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BISHOP of New York (at the request of Ms. PELOSI) for today on account of travel delays due to weather.

Mr. DAVIS of Illinois (at the request of Ms. PELOSI) for today and March 8.

Ms. MOORE (at the request of Ms. PELOSI) for today and March 6 on account of a family medical emergency.

Mr. REYES (at the request of Ms. PELOSI) for today on account of official business in the district.

#### SENATE ENROLLED BILL SIGNED

The Speaker announced his signature to an enrolled bill of the Senate of the following title:

S. 1134. An Act to authorize the St. Croix River Crossing Project with appropriate mitigation measures to promote river values.

#### BILLS PRESENTED TO THE PRESIDENT

Karen L. Haas, Clerk of the House reports that on March 1, 2012 she presented to the President of the United States, for his approval, the following bills.

H.R. 347. To correct and simplify the drafting of section 1752 (relating to restricted buildings or grounds) of title 18, United States Code.

#### ADJOURNMENT

Mr. KING of Iowa. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 7 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, March 6, 2012, at 10 a.m. for morning-hour debate.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XIV, executive communications were taken from the Speaker's table and referred as follows:

5166. A letter from the Program Manager, Department of Health and Human Services, transmitting the Department's final rule — Establishment of User Fees for Filovirus Testing of Nonhuman Primate Liver Samples (RIN: 0920-AA47) [Docket No.: CDC-2012-0003] received February 9, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5167. A letter from the Director, Bureau of Economic Affairs, Department of Commerce, transmitting the Department's final rule — International Services Surveys: Amendments to the BE-120, Benchmark Survey of Transactions in Selected Services and Intangible Assets With Foreign Persons [Docket No.: 110112021-1680-03] (RIN: 0691-AA76) received February 6, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Foreign Affairs.

5168. A letter from the Assistant Director for Policy, Department of the Treasury, transmitting the Department's final rule — Cote d'Ivoire Sanctions Regulations; Darfur Sanctions Regulations; Democratic Republic of the Congo Sanctions Regulations received February 2, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Foreign Affairs.

5169. A letter from the Senior Procurement Executive, General Services Administration, transmitting the Administration's final rule — General Services Administration Acquisition Regulation; Reinstatement of Coverage Pertaining to Final Payment Under Construction and Building Service Contracts [GSAR Amendment 2012-01; GSAR Case 2010-G509 (Change 53) Docket 2011-0009; Sequence 1] (RIN: 3090-AJ13) received February 13, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Com-

mittee on Oversight and Government Reform.

5170. A letter from the Chief Operating Officer/President, Resolution Funding Corporation, transmitting the Corporation's Statement on the System of Internal Controls and the 2011 Audited Financial Statements; to the Committee on Oversight and Government Reform.

5171. A letter from the Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule — Texas Regulatory Program [SATS Nos. TX-061-FOR; TX-062-FOR; TX-063-FOR; Docket No. OSM-2011-0007] received February 13, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

5172. A letter from the Chief of Staff, National Indian Gaming Commission, transmitting the Commission's final rule — Review and Approval of Existing Ordinances or Resolutions; Repeal (RIN: 3141-AA45) received February 15, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

5173. A letter from the Comptroller, National Indian Gaming Commission, transmitting the Commission's final rule — Fees received February 15, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

5174. A letter from the Director Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Inseason Adjustment to the 2012 Bering Sea and Aleutian Islands Atka Mackerel Total Allowable Catch Amount [Docket No.: 101126521-0640-02] (RIN: 0648-XA901) received February 17, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

5175. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Gulf of Alaska; Final 2011 and 2012 Harvest Specifications for Groundfish [Docket No.: 111220788-1785-02] (RIN: 0648-XA855) received February 16, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

5176. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Generic Annual Catch Limits/Accountability Measures Amendment for the Gulf of Mexico [Docket No.: 100217097-1757-02] (RIN: 0648-AY22) received February 16, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

5177. A letter from the Director, Administrative Office of the United States Courts, transmitting a report on compliance within the time limitations established for deciding habeas corpus death penalty petitions under Title I of the Antiterrorism and Effective Death Penalty Act of 1996; to the Committee on the Judiciary.

5178. A letter from the Administrator, National Aeronautics and Space Administration, transmitting the Administration's statement of actions with respect to the Government Accountability Office report entitled, "National Aeronautics and Space Administration: Acquisition Approach for Commercial Crew Transportation Includes Good Practices, but Faces Significant Challenges" (GAO-12-282), dated December 15, 2011; to the

Committee on Science, Space, and Technology.

5179. A letter from the Administrator, National Aeronautics and Space Administration, transmitting the Administration's statement of actions with respect to the Government Accountability Office (GAO) report entitled, "International Space Station: Approaches for Ensuring Utilization Through 2020 Are Reasonable But Should Be Revisited as NASA Gains More Knowledge of On-Orbit Performance" (GAO-12-162), dated December 15, 2011; to the Committee on Science, Space, and Technology.

5180. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Definition of a Taxpayer [TD 9576] (RIN: 1545-BF73) received February 13, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BACHUS: Committee on Financial Services. H.R. 940. A bill to establish standards for covered bond programs and a covered bond regulatory oversight program, and for other purposes; with an amendment (Rept. 112-407, Pt. 1). Ordered to be printed.

Mr. BISHOP of Utah: Committee on Rules. House Resolution 570. Resolution providing for consideration of the bill (H.R. 2842) to authorize all Bureau of Reclamation conduit facilities for hydropower development under Federal Reclamation law, and for other purposes (Rept. 112-408). Referred to the House Calendar.

### TIME LIMITATION OF REFERRED BILLS

Pursuant to clause 2 of rule XII the following actions were taken by the Speaker:

*[Omitted from the Record of March 1, 2012]*

H.R. 901. Referral to the Committee on Energy and Commerce extended for a period ending not later than March 9, 2012.

H.R. 2309. Referral to the Committee on Rules extended for a period ending not later than March 30, 2012.

*[The following action occurred on March 5, 2012]*

H.R. 940. Referral to the Committee on Ways and Means extended for a period ending not later than March 30, 2012.

### PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. STEARNS (for himself and Mr. TOWNS):

H.R. 4132. A bill to amend section 506 of the Federal Food, Drug, and Cosmetic Act to expedite approval of drugs for serious or life-threatening diseases or conditions; to the Committee on Energy and Commerce.

By Mr. CANTOR (for himself, Mr. HOYER, Ms. ROS-LEHTINEN, and Mr. BERMAN):

H.R. 4133. A bill to express the sense of Congress regarding the United States-Israel strategic relationship, to direct the President to submit to Congress reports on United States actions to enhance this relationship and to assist in the defense of Israel, and for other purposes; to the Committee on Foreign Affairs.

By Mrs. BLACK:

H.R. 4134. A bill to amend the Internal Revenue Code of 1986 to clarify that any person who, for a commercial purpose, makes available for consumer use a machine capable of producing tobacco products, is a manufacturer of tobacco products; to the Committee on Ways and Means.

By Mr. FLAKE:

H.R. 4135. A bill to permit United States companies to participate in the exploration for and the extraction of hydrocarbon resources from any portion of a foreign maritime exclusive economic zone that is contiguous to the exclusive economic zone of the United States, and for other purposes; to the Committee on Foreign Affairs.

By Mr. GARDNER (for himself, Mrs. BLACKBURN, Mr. BUCSHON, Mrs. MCMORRIS RODGERS, Mr. JOHNSON of Ohio, Mr. CANSECO, Mr. TERRY, Mr. SULLIVAN, Mrs. MYRICK, Mr. COFFMAN of Colorado, and Mr. GRIFFITH of Virginia):

H.R. 4136. A bill to provide for the development of a plan to increase oil and gas production under oil and gas leases of Federal lands under the jurisdiction of the Secretary of Agriculture, the Secretary of Energy, the Secretary of the Interior, and the Secretary of Defense in conjunction with a drawdown of petroleum reserves from the Strategic Petroleum Reserve; to the Committee on Energy and Commerce.

By Mr. SAM JOHNSON of Texas (for himself and Mr. NEAL):

H.R. 4137. A bill to make permanent the exclusion from gross income for employer-provided educational assistance; to the Committee on Ways and Means.

By Ms. LEE of California:

H.R. 4138. A bill to amend the Public Health Service Act to create a National Neuromyelitis Optica Consortium to provide grants and coordinate research with respect to the causes of, and risk factors associated with, neuromyelitis optica, and for other purposes; to the Committee on Energy and Commerce.

By Mr. DANIEL E. LUNGREN of California:

H.R. 4139. A bill to amend the Internal Revenue Code of 1986 to extend permanently the 100 percent exclusion of gain from the sale or exchange of qualified small business stock; to the Committee on Ways and Means.

By Mr. MURPHY of Connecticut:

H.R. 4140. A bill to amend title 38, United States Code, to eliminate the time limitation for use of eligibility and entitlement to educational assistance under the Montgomery GI Bill; to the Committee on Veterans' Affairs, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PAYNE (for himself, Mr. BERMAN, Mr. MCGOVERN, Ms. WOOLSEY, Mr. COHEN, and Ms. BASS of California):

H.R. 4141. A bill to direct the Administrator of the United States Agency for International Development to take appropriate actions to improve the nutritional quality,

quality control, and cost effectiveness of United States food assistance, and for other purposes; to the Committee on Foreign Affairs, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RUNYAN:

H.R. 4142. A bill to amend title 38, United States Code, to provide for annual cost-of-living adjustments to be made automatically by law each year in the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of certain service-connected disabled veterans; to the Committee on Veterans' Affairs.

By Mr. TIBERI (for himself and Mr. PASCRELL):

H.R. 4143. A bill to amend the Internal Revenue Code of 1986 to extend the period during which transfers of excess pension assets may be made to retiree health accounts and to provide for the transfer of such assets to retiree group term life insurance accounts; to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

### CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 7 of rule XII of the Rules of the House of Representatives, the following statements are submitted regarding the specific powers granted to Congress in the Constitution to enact the accompanying bill or joint resolution.

By Mr. STEARNS:

H.R. 4132.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clause 3, the power to regulate interstate activity.

By Mr. CANTOR:

H.R. 4133.

Congress has the power to enact this legislation pursuant to the following:

Congress has the authority to enact this legislation pursuant to Article I, Section 8, clause 3 of the U.S. Constitution, the power to "regulate Commerce with foreign Nations" and pursuant to Article I, Section 8, clause 1, the power to "provide for the common Defence."

By Mrs. BLACK:

H.R. 4134.

Congress has the power to enact this legislation pursuant to the following:

This bill is enacted pursuant to the power granted to Congress under Article I, Section 8, Clause 1 of the United States Constitution; whereby the Congress shall have Power to lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States.

Furthermore, this bill makes specific changes to existing law, in accordance with Article I, Section 8, Clause 3 of the United States Constitution; whereby the Congress shall have Power . . . To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes.

By Mr. FLAKE:

H.R. 4135.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clause 3, which gives Congress the power “to regulate commerce with foreign nations,” and Clause 18, “to make all laws which shall be necessary and proper for carrying into execution the foregoing powers.”

By Mr. GARDNER:

H.R. 4136.

Congress has the power to enact this legislation pursuant to the following:

Article IV, Section 3, clause 2.

By Mr. SAM JOHNSON of Texas:

H.R. 4137.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clause 1

By Ms. LEE of California:

H.R. 4138.

Congress has the power to enact this legislation pursuant to the following:

This bill is enacted pursuant to the power granted to Congress under Article I of the United States Constitution and its subsequent amendments, and further clarified and interpreted by the Supreme Court of the United States.

By Mr. DANIEL E. LUNGREN of California:

H.R. 4139.

Congress has the power to enact this legislation pursuant to the following:

The amendment to the Internal Revenue Code to extend permanently the 100 percent exclusion of gain from the sale or exchange of qualified small business stock is authorized by Article 1 Section 8 to Lay and collect taxes.

By Mr. MURPHY of Connecticut:

H.R. 4140.

Congress has the power to enact this legislation pursuant to the following:

Article 1, Section 8

By Mr. PAYNE:

H.R. 4141.

Congress has the power to enact this legislation pursuant to the following:

The Commerce Clause, Article I Section 8 Clause 3 of the Constitution of the United States, grants Congress the power “To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes”.

By Mr. RUNYAN:

H.R. 4142.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8 of the Constitution of the United States.

By Mr. TIBERI:

H.R. 4143.

Congress has the power to enact this legislation pursuant to the following:

Article 1, Section 7 of the United States Constitution which provides that “All bills for raising Revenue shall originate in the House of Representatives.”

#### ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 12: Mrs. MALONEY.

H.R. 85: Mr. CLARKE of Michigan.

H.R. 178: Ms. BONAMICI.

H.R. 303: Mr. JOHNSON of Ohio and Mr. CARNAHAN.

H.R. 409: Mr. LATHAM, Mr. PIERLUISI, Mr. SCHRADER, and Mr. TERRY.

H.R. 436: Mr. GALLEGLEY.

H.R. 451: Mr. KISSELL.

H.R. 452: Mr. ROSS of Arkansas, Mr. CRENSHAW, and Mr. CARNAHAN.

H.R. 512: Mr. HINOJOSA.

H.R. 546: Mr. SCHILLING.

H.R. 605: Mr. MARINO and Mr. SCHWEIKERT.

H.R. 664: Mr. LATHAM.

H.R. 708: Mr. YODER.

H.R. 733: Mr. BROUN of Georgia.

H.R. 750: Mr. QUAYLE.

H.R. 854: Mr. KIND.

H.R. 860: Mr. BOREN.

H.R. 890: Mr. MCCAUL, Mr. FATTAH, and Mr. FALLOMAVAEGA.

H.R. 931: Mr. FARENTHOLD and Mr. HALL.

H.R. 972: Mr. JONES.

H.R. 978: Mr. FORTENBERRY.

H.R. 979: Ms. WOOLSEY, Mr. FILNER, and Mr. JONES.

H.R. 998: Ms. VELÁZQUEZ.

H.R. 1057: Mr. HINOJOSA.

H.R. 1093: Mr. MANZULLO.

H.R. 1106: Mr. HINOJOSA.

H.R. 1164: Mr. FRANKS of Arizona.

H.R. 1332: Mr. HOLT and Mr. RUSH.

H.R. 1370: Mr. QUAYLE.

H.R. 1397: Ms. VELÁZQUEZ.

H.R. 1404: Mr. OWENS.

H.R. 1483: Ms. LEE of California.

H.R. 1488: Mr. FATTAH.

H.R. 1521: Mr. CONYERS, Mr. CUMMINGS, Ms. JACKSON LEE of Texas, Mr. PAYNE, Mr. RANGEL, Mr. WATT, and Mr. SCOTT of Virginia.

H.R. 1547: Mr. ALTMIRE.

H.R. 1549: Mr. TIBERI, Mr. HANNA, Mr. STIVERS, and Mrs. BLACKBURN.

H.R. 1558: Mr. MANZULLO.

H.R. 1561: Mrs. NAPOLITANO and Mr. CLEAVER.

H.R. 1581: Mr. LATTA.

H.R. 1639: Mr. MCINTYRE.

H.R. 1653: Mr. FRELINGHUYSEN and Mr. JORDAN.

H.R. 1681: Mr. HINOJOSA.

H.R. 1687: Mr. SHERMAN.

H.R. 1700: Mrs. BLACK and Mr. CHABOT.

H.R. 1744: Mr. SIMPSON and Mr. SESSIONS.

H.R. 1755: Mr. WELCH.

H.R. 1789: Mr. GENE GREEN of Texas, Mr. QUIGLEY, and Mr. GUTIERREZ.

H.R. 1811: Mr. RAHALL.

H.R. 1842: Mr. PAYNE.

H.R. 1873: Mr. HINOJOSA.

H.R. 1878: Mr. ROTHMAN of New Jersey.

H.R. 1880: Mr. SMITH of Washington.

H.R. 1895: Mr. CARNAHAN.

H.R. 1909: Mr. BARTLETT.

H.R. 1997: Mr. MANZULLO.

H.R. 2020: Mr. PIERLUISI.

H.R. 2069: Mr. CARNAHAN.

H.R. 2071: Mr. STARK.

H.R. 2077: Mr. GRAVES of Georgia, Mr. CHABOT, Mr. WALBERG, and Mr. HENSARLING.

H.R. 2088: Mr. FATTAH, Mr. ACKERMAN, Mr. DOYLE, Mrs. MALONEY, Ms. BONAMICI, Mr. COURTNEY, Mr. ELLISON, Mr. FILNER, and Mr. GRIJALVA.

H.R. 2179: Mrs. ELLMERS and Mr. WILSON of South Carolina.

H.R. 2182: Mr. LATHAM.

H.R. 2206: Mr. ROSS of Florida.

H.R. 2288: Ms. DELAULO.

H.R. 2325: Mr. TONKO.

H.R. 2505: Mr. BRADY of Texas and Mr. ROGERS of Alabama.

H.R. 2529: Mr. BARROW.

H.R. 2569: Mr. DAVID SCOTT of Georgia.

H.R. 2834: Mr. WESTMORELAND and Mr. MANZULLO.

H.R. 2866: Mr. BROUN of Georgia.

H.R. 2896: Mr. LOBIONDO and Mr. SMITH of New Jersey.

H.R. 2906: Mr. HINOJOSA.

H.R. 2950: Mr. HONDA.

H.R. 2952: Mr. GUTHRIE.

H.R. 3036: Mr. CLAY.

H.R. 3059: Mr. HURT and Mr. SCOTT of South Carolina.

H.R. 3142: Mr. MILLER of Florida.

H.R. 3187: Mr. SESSIONS.

H.R. 3216: Mr. SCHRADER and Mr. KISSELL.

H.R. 3251: Mr. CARNAHAN.

H.R. 3307: Mr. FILNER, Mrs. MCCARTHY of New York, Mr. KIND, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. HINCHEY, and Mr. RANGEL.

H.R. 3315: Mr. HONDA.

H.R. 3381: Mr. ROGERS of Michigan.

H.R. 3389: Mr. CLAY.

H.R. 3393: Mr. BUCHANAN.

H.R. 3399: Mr. SCHULER.

H.R. 3405: Mr. CONNOLLY of Virginia.

H.R. 3409: Mr. GOSAR.

H.R. 3417: Mr. BARLETTA.

H.R. 3496: Mr. PASCRELL.

H.R. 3506: Mr. ALTMIRE and Mr. MICHAUD.

H.R. 3523: Mr. HULTGREN, Mrs. BLACKBURN, Mr. HASTINGS of Florida, and Mr. HURT.

H.R. 3528: Mr. BLUMENAUER, Ms. WILSON of Florida, and Ms. RICHARDSON.

H.R. 3542: Ms. NORTON and Ms. BROWN of Florida.

H.R. 3572: Mr. CHABOT and Mr. OLVER.

H.R. 3608: Mr. GRAVES of Missouri.

H.R. 3612: Mr. LOBIONDO and Mr. BARLETTA.

H.R. 3625: Mr. LEVIN.

H.R. 3627: Mr. LUETKEMEYER, Ms. ESHOO, Mr. GENE GREEN of Texas, and Mr. LUJÁN.

H.R. 3643: Mr. SULLIVAN.

H.R. 3676: Mr. QUAYLE.

H.R. 3704: Mr. ROTHMAN of New Jersey.

H.R. 3720: Mr. STEARNS.

H.R. 3767: Mr. PLATTS, Mr. RUNYAN, and Mr. AUSTRIA.

H.R. 3806: Mr. PAUL.

H.R. 3814: Mr. MANZULLO.

H.R. 3842: Mr. BUCSHON.

H.R. 3849: Mr. DOLD.

H.R. 3850: Mr. WEST and Mr. HANNA.

H.R. 3851: Mr. WEST and Mr. HANNA.

H.R. 3855: Ms. NORTON and Mr. JOHNSON of Ohio.

H.R. 3856: Mr. POSEY.

H.R. 3893: Mr. WEST.

H.R. 3895: Mr. FLEISCHMANN and Mr. FORBES.

H.R. 3900: Ms. BERKLEY.

H.R. 3911: Mr. FITZPATRICK.

H.R. 3974: Ms. CHU and Ms. SPEIER.

H.R. 3980: Mr. WEST and Mr. HANNA.

H.R. 3981: Mr. BUCHANAN, Mr. NUNNELEE, and Mr. WESTMORELAND.

H.R. 3991: Mr. NUNNELEE and Mr. GINGREY of Georgia.

H.R. 4010: Mr. LIPINSKI, Mr. INSLEE, Ms. BROWN of Florida, Mr. HIMES, Mr. CARDOZA, and Ms. WILSON of Florida.

H.R. 4023: Mr. HANNA.

H.R. 4030: Mr. JOHNSON of Illinois.

H.R. 4038: Mr. PETERS and Mr. KUCINICH.

H.R. 4040: Mr. ANDREWS, Mr. BARLETTA, Mr. BERMAN, Mrs. BLACK, Mr. BRADY of Texas, Mr. BRADY of Pennsylvania, Mr. BURTON of Indiana, Mr. CARDOZA, Mr. CARSON of Indiana, Mr. COBLE, Mr. COHEN, Mr. CONYERS, Mr. CRAVAACK, Mr. DAVIS of Illinois, Mr. CRITZ, Mr. DAVIS of Kentucky, Mr. DENHAM, Mr. DENT, Mr. DIAZ-BALART, Mr. DONNELLY of Indiana, Mr. DOYLE, Mr. DUNCAN of Tennessee, Mrs. ELLMERS, Mr. FARR, Mr. FITZPATRICK, Mr. FLEISCHMANN, Mr. FORTENBERRY, Mr. FRANK of Massachusetts, Mr. FRANKS of Arizona, Mr. GERLACH, Mr. GONZALEZ, Mr. HECK, Mr. HOLDEN, Mr. HOYER, Mr. ISRAEL, Mr. ISSA, Mr. JACKSON of Illinois, Mr. JORDAN, Mr. KELLY, Mr. KISSELL, Mr. LAMBORN, Mr. LARSON of Connecticut, Mr. LOBIONDO, Mr.

LUCAS, Mr. DANIEL E. LUNGREN of California, Mr. MARKEY, Ms. MATSUI, Mrs. McMORRIS RODGERS, Mr. MILLER of Florida, Mr. MURPHY of Pennsylvania, Mr. NEAL, Mr. NUNES, Mr. OLSON, Mr. PASCRELL, Mr. PEARCE, Mr. PRICE of Georgia, Mr. ROHRABACHER, Mr. ROSKAM, Mr. ROTHMAN of New Jersey, Mr. RUNYAN, Mr. RYAN of Ohio, Mrs. SCHMIDT, Mr. SCOTT of South Carolina, Mr. SESSIONS, Mr. SHUSTER, Mr. THOMPSON of Mississippi, Mr. TURNER of Ohio, Ms. WATERS, Mr. WEST, Mr. WILSON of South Carolina, Mr. YODER, and Mr. YOUNG of Indiana.

H.R. 4046: Mr. FORBES.  
H.R. 4070: Mr. BRALEY of Iowa.  
H.R. 4078: Mr. FORBES and Mr. SCHWEIKERT.  
H.R. 4080: Ms. LEE of California.  
H.R. 4081: Mr. HANNA.  
H.R. 4082: Mr. ANDREWS.  
H.R. 4083: Mr. GENE GREEN of Texas.  
H.R. 4089: Mr. TIPTON, Mr. ALTMIRE, Mr. MANZULLO, and Mr. FARENTHOLD.

H.R. 4105: Mr. BARLETTA, Ms. SEWELL, Mr. BROOKS, Mr. BONNER, Mr. NUGENT, Mr. MEEHAN, Mr. ROHRABACHER, Mr. FITZPATRICK, Mr. KINZINGER of Illinois, Mr. LANDRY, Mr. MURPHY of Connecticut, Mr. DANIEL E. LUNGREN of California, Mr. TIERNEY, Mr. FORTENBERRY, Mr. LUETKEMEYER, and Mrs. BONO MACK.

H.R. 4118: Ms. CHU, Mr. RICHMOND, Mr. PETERS, and Ms. CLARKE of New York.

H.R. 4124: Ms. CHU, Mr. WEST, Ms. SPEIER, Ms. RICHARDSON, and Mr. SMITH of Washington.

H.R. 4128: Mr. HULTGREN and Mrs. ELLMERS.

H.R. 4131: Mr. SERRANO.

H.J. Res. 86: Mr. MURPHY of Connecticut.

H.J. Res. 103: Mr. GRAVES of Missouri.

H. Con. Res. 87: Ms. RICHARDSON, Mr. COFFMAN of Colorado, and Mr. BACA.

H. Res. 111: Mr. HIMES, Mr. AKIN, Mr. BILBRAY, and Mr. ROHRABACHER.

H. Res. 130: Mr. HINOJOSA.

H. Res. 177: Mr. SIRES.

H. Res. 271: Mr. SESSIONS and Mr. SOUTHERLAND.

H. Res. 282: Mr. STARK.

H. Res. 351: Mrs. CHRISTENSEN.

H. Res. 454: Ms. HIRONO.

H. Res. 460: Mr. CICILLINE, Mr. CLAY, Mr. HIMES, Mr. PAYNE, Mr. KIND, and Mr. SCOTT of Virginia.

H. Res. 484: Mr. FILNER, Mrs. DAVIS of California, and Mr. MCGOVERN.

H. Res. 490: Mr. HUIZENGA of Michigan, Mr. MURPHY of Pennsylvania, Mr. CONAWAY, Mr. GARDNER, and Mr. OLSON.

H. Res. 506: Ms. ROS-LEHTINEN, Mr. MCGOVERN, Mr. JACKSON of Illinois, Mr. FRANKS of Arizona, Mr. CAPUANO, and Mr. BERMAN.

H. Res. 526: Mr. SIRES and Mr. LAMBORN.

H. Res. 555: Mr. PALLONE.

H. Res. 568: Mr. DOLD.

#### CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, OR LIMITED TARIFF BENEFITS

Under clause 9 of rule XXI, lists or statements on congressional earmarks, limited tax benefits, or limited tariff benefits were submitted as follows:

The amendment to be offered by Representative TIPTON, or a designee, to H.R. 2842, the Bureau of Reclamation Small Conduit Hydropower Development and Rural Jobs Act of 2011, does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

#### AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 2842

OFFERED BY: MRS. NAPOLITANO

Amendment No. 1: Page 4, strike lines 12 through 15.

H.R. 2842

OFFERED BY: MR. TIPTON

Amendment No. 2: In section 1, strike "2011" and insert "2012".

H.R. 2842

OFFERED BY: MR. ELLISON

Amendment No. 3: At the end of the bill, add the following:

#### SEC. 3. NO NET LOSS OF JOBS.

Section 2 and the amendments made by section 2 shall not take effect unless the Secretary finds that such section and amendments, if in effect, shall not result in a net loss of jobs.

## EXTENSIONS OF REMARKS

HONORING THE LIFE AND  
ACHIEVEMENTS OF FRANK  
MARMADUKE NORFLEET

## HON. STEVE COHEN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Monday, March 5, 2012*

Mr. COHEN. Mr. Speaker, I rise today to pay tribute to the life and legacy of Frank Marmaduke Norfleet. Mr. Norfleet was born in Memphis, TN on November 27, 1918 and became a philanthropist as well as an outstanding civil and business leader.

In 1941, Mr. Norfleet joined the Army, serving as a cavalryman and tank officer in World War II. A decorated veteran, Mr. Norfleet was awarded the Bronze Star with Oak Leaf Cluster, the French Croix de Guerre for fighting in The Battle of the Bulge and the Silver Star for Valor. After leaving the military, he returned to Memphis in 1946 and began working at Parts, Inc., an automotive "aftermarket" company and eventually led it to significant growth as its Chairman and CEO. In 1959 he cofounded and became the president and director of the Automotive Warehouse Distributors Association. In 1969 he assumed the same role with the Automotive Information Council of New York, another company that he cofounded. In addition to this, he served as a director of First Tennessee Bank for 18 years and at CSX Corp.

In 1978, Mr. Norfleet founded Forum for a Better Memphis, a short-lived organization that encouraged and supported political candidates who sought to effect positive changes for the city. That year, I ran for County Commissioner and became the forum's first beneficiary of their support. It was at that time that I had the good fortune of meeting and developing a friendship with Mr. Norfleet.

Mr. Norfleet worked closely with Memphis health organizations and in 1980, the University of Tennessee Health Science Center named its annual healthcare forum in his honor. When he was inducted into the Memphis Society of Entrepreneurs in 1997, Mr. Norfleet commented, "Being an entrepreneur not only offers opportunities for personal financial success but of equal importance is the entrepreneur's ability to give others employment and, in many cases, opportunities to make charitable gifts to those in need and less fortunate." Furthermore, in 1999, Mr. Norfleet was honored by the State of Tennessee for his long history of giving back and working to improve Memphis and Shelby County.

Mr. Norfleet's list of civic involvements is just as extensive. In addition to serving as an elder at Second Presbyterian Church, he was a founding member of both the Community Foundation of Greater Memphis and the Economics Club of Memphis. He also served two six-year terms as Justice of the Peace for the Shelby County Quarterly Court. Mr. Norfleet's

other involvements included raising money for Rhodes College, the University of Tennessee, Memphis University School, and Presbyterian Day School. He also enjoyed his work with the Memphis Zoological Society, Elmwood Cemetery and the Memphis Opera Theater where he served as the director.

Friends and family remember Mr. Norfleet as a man of great intelligence and enthusiasm. According to his son-in-law and former colleague, Alex Thompson, his success stemmed "not from ambition, but the way he was wired and the gifts God gave him." Others describe him as a mentor who was willing to share his knowledge and experience. Pearson Crutcher, the executive director of the Memphis Entrepreneurial Society said that Mr. Norfleet "was one of those people who made your life better because you knew him."

Mr. Norfleet passed away surrounded by his family at his home on February 17, 2012 at 93 years of age. He is survived by his loving wife of 69 years, Jean Flanigan Norfleet, three daughters, Janet Sheahan, Jean Laughlin, and Frances Thompson, 7 grandchildren, and 9 great-grandchildren.

HONORING THE CONTRIBUTIONS  
TO OUR LOCAL COMMUNITIES  
MADE BY JOHN OLIVER

## HON. JOE DONNELLY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Monday, March 5, 2012*

Mr. DONNELLY of Indiana. Mr. Speaker, today I rise to pay tribute to John Oliver, an outstanding American citizen who has shown commitment and service to the Plymouth, Indiana community.

A native of Newcastle in the United Kingdom, John immigrated to the United States on March 16, 1962 when he was 19 years old, and in 1975, he was officially recognized as a United States citizen.

John began his journey in the manufacturing industry as a laborer for a small research and development firm. He moved to Plymouth to work for that company's manufacturing subsidiary, ultimately becoming its president in 1977. Nine years later, John purchased the company and renamed it U.S. Granules Corporation, which today produces fifty percent of the world's granulated aluminum. With his leadership, U.S. Granules remains a leader in technology and quality, producing particle products from aluminum recovered from industrial waste. Today, U.S. Granules has established customers on five continents.

But what truly reflects John's commendable spirit is his service to his local community. He has been a pillar of support for the children of Plymouth. Quietly and without recognition, John endowed a fund to benefit the Plymouth High School Speech Team, a state leader in

debate competition. To further advance the strength of local schools, John has made many financial donations to help with the purchase of books for school libraries, leadership seminars for students, and the expansion of scholarship and other award programs. In addition, John maintains an intern program at U.S. Granules that provides work experience and scholarship assistance.

John has also been a supporter of youth baseball programs. He has been a longtime patron of the American Legion Post 27 baseball club, the Diamond Spyderys, and helped organize its first sports program in the Plymouth area. John's support extends to the Indiana Baseball Hall of Fame, and with his assistance, it dedicated the Bill Nixon Plymouth Baseball Wing in October 2007. When inducted in to the Indiana Baseball Hall of Fame himself in 2009, John humbly reminded us that his contributions were dedicated to his community's youth and their future, not for personal gain.

Moreover, John has been an active board member of the St. Joseph Regional Medical Center since 2004, where he has worked extensively on the hospital's committees related to finance, executive leadership, governance, and strategic planning. He is a former director of the Indiana Manufacturing Association, the Marshall County Industrial Association, the Plymouth Industrial Development Company, and the Marshall County Solid Waste Management District Citizens Board. In addition, he was chairman of the audit committee for the Marshall County Community Foundations. He served as fundraising drive chairman for the Marshall County United Way and the Plymouth Emergency Vehicle Fund.

Through his extensive participation in his community including his service in the U.S. Army Reserves, he serves as the model of a civic-minded American. On behalf of the citizens of Indiana's Second District, I would like to salute his character, his personal achievements, and his contributions to our community.

IN RECOGNITION OF DR. CURTIS  
RAMSEY

## HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Monday, March 5, 2012*

Mr. BURGESS. Mr. Speaker, I rise today to honor an acclaimed educator, Dr. Curtis Ramsey. Dr. Ramsey has over 60 years of experience in education and has served as a member of the Denton Independent School District (ISD) Board of Trustees for 18 years. He has taught internationally as a public classroom teacher, college professor, dean, and educational consultant.

Dr. Ramsey has not only dedicated his life to the teaching of others but was equally as

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.



passionate about learning himself. Dr. Ramsey received his bachelor's and master's degrees from North Texas State University, now the University of North Texas. He received his doctorate from Vanderbilt University, where he was a professor of teacher education, and completed his post-doctoral work at Teachers College at Columbia University.

Dr. Ramsey has served professionally at local, state, national and international levels. Previously, he held positions as dean of the College of Education at the University of Bridgeport, Connecticut, Professor of teacher education at Vanderbilt University's George Peabody College, Chair of Elementary Education at Kent State University, and as Distinguished Visiting Professor at Bir Zeit University near Ramallah in the West Bank of Palestine.

He has been recognized for his contributions to the field of education and has been a member for 10 years on the Legislative Advisory Committee to the Texas Association of School Boards. In addition, he was a member of the North Texas Area Association of School Boards' executive committee for six years. In 2010, he received an award of distinguished service at the TASB and TASA state conference, and in 1996 he achieved the Master Trustee status from TASB.

Dr. Ramsey has shared his expertise as an educational consultant and witness before the Texas Legislature. He dedicated hundreds of hours to visit and speak to legislators about many proposed bills that could have a direct impact on education, Texas students, and the country. His dedication and public service on behalf of Texas students and teachers has never wavered.

Earlier this month, Dr. Ramsey announced that he will be retiring from the Denton ISD Board of Trustees in May. His valuable contributions to education and the Denton community have been unparalleled and his departure will leave an outstanding legacy of service. I am pleased to recognize Dr. Curtis Ramsey and am privileged to represent Denton ISD in the U.S. House of Representatives.

#### A TRIBUTE TO NATIONAL PEACE CORPS WEEK

#### HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, March 5, 2012*

Mr. TOWNS. Mr. Speaker, I rise today in support of National Peace Corps Week, in honor of the 51st Anniversary of the Peace Corps on March 1, 2012.

Since the inception of the Peace Corps in 1961, more than 200,000 Peace Corps Volunteers have served their country in 139 developing nations around the globe. They range from recent college graduates to retirees with several decades of work experience, and represent the tremendous diversity of the American people. The issues they address cover agriculture, business development, information technology, education, health and HIV/AIDS, youth development, and the environment.

The work of Peace Corps Volunteers around the globe exemplifies a legacy of serv-

ice that has become a significant part of America's history and positive image abroad. Their desire to make a difference has improved the lives of millions of people around the world as well as here in the United States. Their enduring efforts for the cause of peace are commendable and have made a lasting impact on the communities in which they have lived and worked.

Four individuals from my Congressional District in Brooklyn are presently serving as Peace Corps volunteers. Melinda Blaise has been serving in the Eastern Caribbean since October 2010; Ethan A. Glasser-Camp has been serving in Cameroon since August 2010; Evelyn Minaya has been serving in Romania since August 2010; and Rosemarie B. Philip has been serving in Costa Rica since December 2010. Their tireless efforts for the greater cause of peace will profoundly affect these communities. I would like to applaud and commend these outstanding volunteers from Brooklyn for committing themselves to such a worthwhile cause. They are role models for us all.

#### HONORING THE HEROES OF SELMA, ALABAMA

#### HON. DAVID N. CICILLINE

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Monday, March 5, 2012*

Mr. CICILLINE. Mr. Speaker, 47 years ago this month, nearly 8,000 men and women from every walk of life took to the streets in Selma, Alabama in three successive marches to demand full and equal rights for every American.

These ordinary heroes were brutally beaten by Alabama State Troopers as they crossed the Edmund Pettus Bridge in Selma on Sunday, March 7, 1965. The horrifying images of Bloody Sunday, as it would become known, were captured on film and broadcast around the world—ultimately helping to galvanize national support for civil rights.

Undeterred, the marchers returned twice more, walking the streets and highways of Alabama in an unflinching show of support for equality. Among them were Dr. Martin Luther King, Jr., Ralph Abernathy, and our colleague Congressman JOHN LEWIS. I had the great honor last year of marking this important civil rights moment by traveling to Selma with Congressman LEWIS and participating in a reenactment of this march. It was, without question, one of the most extraordinary moments of my life.

I would also like to take a moment to recognize the extraordinary achievement of my colleague, Congresswoman TERRI SEWELL, a member of this year's freshman class, who grew up in and now represents Selma, Alabama. Congresswoman SEWELL was born in Alabama the same year as the Selma marches, and as the first African-American woman elected to Congress from Alabama and a Rhodes Scholar, I believe that her success is a testament to the lasting legacy of the brave men and women who risked their lives for equality almost a half century ago.

I join my colleagues in saluting the heroes of Selma, Alabama today.

#### HONORING THE SERVICE AND SACRIFICE OF LT COL JOHN DARIN LOFTIS, USAF

#### HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Monday, March 5, 2012*

Mr. MILLER of Florida. Mr. Speaker, it is with deep sympathy and solemn gratitude that I rise to pay tribute to a fallen American hero. Air Force Lieutenant Colonel John Darin Loftis, of Paducah, Kentucky, was killed on February 25 in Kabul, Afghanistan, while working at the Afghanistan Ministry of the Interior in support of Operation Enduring Freedom. J.D. or Darin, as his family and friends knew him, was assigned to Air Force Special Operations Command.

Lt Col Loftis first entered the Air Force in 1996 as a Space and Missile Officer after receiving his commission through Officer Training School. In 2008, he became a Regional Affairs Strategist; and in 2009, he deployed to Afghanistan with a Provincial Reconstruction Team with a mission to help Afghanistan rebuild its infrastructure and secure the rule of law within the country. It was during that deployment that his fluency in the Pashto language made it possible for him and his team to engage directly with local Afghans. This helped both sides establish a mutual trust and provided a means to exchange viewpoints and learn about each other's culture. In fact, he was so successful that the local Afghans gave him the Pashto name: Esan, meaning the quality of being generous. During his last deployment, Lt Col Loftis was once again working to help U.S. service members bridge the cultural divide that separates them from their Afghan and Pakistani counterparts.

His mission was a noble one and of his dedication to duty, courage of heart, and commitment to our great nation, there can be no doubt. To Lt Col Loftis' loving wife Holly and his two precious daughters, Alison and Camille, my wife Vicki joins me in offering our most sincere condolences. We have heard many times and know in our hearts the truth that Freedom often demands of us a heavy and at times unbearable price. Your husband and father was a living example of the Airman's Creed, "I am an American Airman, guardian of freedom and justice, my nation's sword and shield, its sentry and avenger. I defend my Country with my life." He was a brave man and paid the ultimate price in defense of our nation's freedom. For that and for everything he stood for, we owe you our eternal gratitude.

Mr. Speaker, on behalf of a grateful United States Congress, I stand here today to honor Lt Col John Darin Loftis, his service and sacrifice, and all of the heroes we have lost. May God continue to bless the Loftis family and friends, the AFSOC community, and the United States Armed Forces.

## PERSONAL EXPLANATION

**HON. ADAM SMITH**

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Monday, March 5, 2012*

Mr. SMITH of Washington. Mr. Speaker, on Monday, February 27, 2012, I was unable to be present for recorded votes. Had I been present, I would have voted "yes" on rollcall vote No. 73 (on the motion to concur in the Senate amendment to H.R. 347).

## HONORING NORMAN L. HENRY

**HON. EDDIE BERNICE JOHNSON**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Monday, March 5, 2012*

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today to honor the work of Mr. Norman L. Henry, President and Executive Director of Builders of Hope CDC. Builders of Hope CDC is a Community Housing Development Corporation in Dallas that has demonstrated its commitment to revitalizing communities through the construction of energy-efficient, environmentally-friendly homes that are also accessible to low and moderate-income families.

Under Mr. Henry's leadership, Builders of Hope CDC has led the way in quality affordable housing in the Dallas area. Since accepting the position as President in 2000, Mr. Henry has overseen a fourfold increase in the output of affordable homes across several neighborhoods throughout West and South Dallas. Utilizing over 21 years of experience in the non-profit management and affordable housing field, Mr. Henry has built, remodeled, and sold over 224 affordable homes.

With the housing market collapse in 2008, countless Americans have either lost their homes entirely or now find the value of their homes to be less than the amounts they owe on a mortgage. Norman Henry, through the work that he has done with Builders of Hope CDC, has contributed to keeping the American Dream alive through the construction of these homes. Quality and affordable housing should not be out of reach for any American with the desire to purchase a home, and Mr. Henry has helped to bring the pride of home ownership to even more Americans.

Mr. Speaker, Norman Henry has helped to breathe new life into many West and South Dallas communities through his revitalization efforts. His vision to revive otherwise decrepit areas across Dallas will benefit countless people through expanded access to housing and improved quality of life. It is with great pleasure that I honor the work of Mr. Norman Henry for his contributions.

## COMMEMORATION OF MARIA D. FERNANDES

**HON. FRANK PALLONE, JR.**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Monday, March 5, 2012*

Mr. PALLONE. Mr. Speaker, I rise today to commemorate the life and legacy of Maria D. Fernandes of Sea Bright, New Jersey. Mayor Fernandes served the constituents of Sea Bright for 16 years and retired in January 2012. She passed away on Sunday, February 26, 2012 at the age of 59. Throughout her illustrious career, the Mayor continued to preserve and enhance the quality of life for Sea Bright residents. Her service is truly worthy of this body's recognition.

Maria Fernandes served as Sea Bright Borough Mayor from 2008 until 2011. She was proud to be the first Portuguese-American female Mayor in the state of New Jersey and the third in the United States. Before becoming Mayor, Ms. Fernandes was elected to the Sea Bright Borough Council in 1997 and served in this capacity through 2007. She was appointed Sea Bright Council President from 2003 through 2005 and was an active participant and member of the Sea Bright Planning and Zoning Board from 1996 through 2011. As a member of the Borough Council, she implemented a program to add the North and South Beach areas to the monthly street cleaning schedule. Sea Bright now has regularly scheduled street cleaning services once a month as a result of Mayor Fernandes' initiatives. Her leadership abilities also led to her appointment as Chair of the Sea Bright Public Works Committee in which she assisted in consolidating services and improving the accessibility and cleanliness of the local beaches. As Public Works Committee Chair, she also managed the Sea Bright Downtown Infrastructure Improvement Project (DIIP), addressing the flooding in downtown Sea Bright. Other projects during Mayor Fernandes' tenure on the Borough Council have included the implementation of the free parking system and the negotiation of multiple shared services contracts with neighboring towns.

Mayor Fernandes is predeceased by her Father Ernest Fernandes and her Maternal Grandmother, Jesuina Diaz. Surviving is her Mother, Adelina Fernandes of Sea Bright.

Mr. Speaker, Mayor Maria Fernandes dedicated her life to serving the people and the town of Sea Bright New Jersey. Her actions touched the hearts and minds of countless men, women and children throughout Sea Bright and Monmouth County. Her legacy has served as an inspiration to us all and she will truly be missed.

## HONORING LONG-TIME MONTEREY PARK RESIDENT AND COMMUNITY ACTIVIST: MRS. RUTH WILLNER

**HON. JUDY CHU**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, March 5, 2012*

Ms. CHU. Mr. Speaker, I rise today to recognize a great loss to our community, Mrs.

Ruth Willner, who passed away on February 28, 2012, after a lengthy and valiant battle with cancer. My heart goes out to her two children, Paul and Julia; her granddaughter, Eryn; and her many friends and family members.

Ruth was an extraordinary citizen, an advocate for her community, and a good friend and loyal supporter. I first got to know Ruth's strength and passion in the 1980s, when she was the Chairperson of the Committee for Harmony in Monterey Park, which was formed to defeat a proposed English-only and anti-immigrant ordinance in our hometown. Thanks to Ruth's tireless efforts we succeeded in defeating that ordinance.

A native of East Los Angeles, Ruth attended Roosevelt High School and earned degrees from Los Angeles Community College and TIC Berkeley. A widower, she was married to her husband Irv for 56 years and lived in Monterey Park for 52 years.

Ruth truly loved her community. She was involved in too many community groups, commissions and organizations to name here, including the city's Blue Ribbon Budget Committee, the School District Formation Committee, Friends of the Library, Concerned Citizens, and the anti-casino and anti-billboard committees, to name a few.

As a 35-year member of the Pasadena League of Women Voters, Ruth played an integral role in educating and informing our local electorate. As program chair she shed light on issues as varied as NAFTA, Environmental Justice, Immigration and Welfare Reform, and as a member of the Speakers' Bureau for 25 years she presented pro and con forums on countless ballot issues and moderated scores of candidate forums.

A true believer in the political process, Ruth was a member of the Monterey Park Democratic Club since 1967, where she served as past president and ran the club's newsletter for 20 years. She also was an elected member of the L.A. County Democratic Party for 12 years and served as corresponding secretary for the party.

She was a tireless campaigner, walking precincts and phone banking for George Brown for Assembly, serving as the San Gabriel Valley Coordinator to End the War in Vietnam, and volunteering for Hubert Humphrey and George McGovern, among many others.

I urge my House colleagues to join me in honoring Mrs. Ruth Willner for her record of civic activism, her indomitable spirit and her remarkable service and contributions to her community and to our nation.

## HONORING CLARA SIMS

**HON. HENRY C. "HANK" JOHNSON, JR.**

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, March 5, 2012*

Mr. JOHNSON of Georgia. Mr. Speaker, I submit the following Proclamation.

Whereas, one hundred years ago a virtuous woman of God, Clara Bryant was born in Oxford, Georgia on March 1, 1912 to Charlie and Lula Bryant; and

Whereas, she was raised up in Rockdale County, Georgia and she married Mr. J.C.

Sims and she has one daughter, Ms. Lula P. Goodson, three grandchildren, ten great-grandchildren and twelve great-great-grandchildren; and

Whereas, this phenomenal Proverbs 31 woman has shared her time and talents as a Wife, Mother and Motivator, becoming a Georgia citizen of great worth, a fearless leader and a servant to all by always advancing the lives of others; and

Whereas, Ms. Sims has been blessed with a long, happy life, devoted to God and credits it all to the Will of God; and

Whereas, Ms. Sims along with her family and friends are celebrating this day a remarkable milestone, her 100th Birthday, we pause to acknowledge a woman who is a cornerstone in Decatur, DeKalb County, Georgia; and

Whereas, the U.S. Representative of the Fourth District of Georgia has set aside this day to honor and recognize Ms. Sims on her birthday and to wish her well and recognize her for an exemplary life which is an inspiration to all;

Now therefore, I, HENRY C. "HANK" JOHNSON, JR. do hereby proclaim March 1, 2012 as Ms. Clara Sims Day in the 4th Congressional District of Georgia.

Proclaimed, this 1st day of March, 2012.

#### HONORING GENERAL CASIMIR PULASKI DAY

#### HON. MIKE QUIGLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Monday, March 5, 2012*

Mr. QUIGLEY. Mr. Speaker, today, Chicago remembers the great Polish General Casimir Pulaski in annual celebrations surrounding General Casimir Pulaski Day.

Chicago is home to one of the largest populations of Poles in the world outside of Warsaw, so today marks a special day for many of my constituents who observe this holiday and remember General Pulaski's enduring and lasting contributions to our nation.

Born in Poland in 1745, Pulaski joined the fight for Polish liberation from Russian influences and later fought for American independence from Britain.

After meeting Pulaski in France, Benjamin Franklin wrote to George Washington that Pulaski was "an officer renowned throughout Europe for the courage and bravery he displayed in defense of his country's freedom."

Arriving in America in 1777, Pulaski assisted Washington's Continental Army in the Revolutionary War, at the behest of Franklin.

Pulaski distinguished himself as a gifted military tactician and became known as the "Father of the American Cavalry," often using his own finances to provide his forces with the finest equipment when allocations from Congress were limited.

He valiantly gave his life in 1779, fighting for the freedom he so believed in, and has been remembered since that day by both Americans and Poles for his dedication to liberty and justice for all.

My recent trip to Poland reminded me how important it is for the United States and Po-

land to continue nurturing and celebrating our long-standing relationship as friends and allies.

To this end, I will continue pushing for Poland's inclusion in the Visa Waiver Program.

I hope that by making it easier for Polish citizens to visit their loved ones here in America, even more Polish families in my district will be able to celebrate next year's Casimir Pulaski Day together.

#### HONORING MARLENE GREENEBAUM

#### HON. C.A. DUTCH RUPPERSBERGER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Monday, March 5, 2012*

Mr. RUPPERSBERGER. Mr. Speaker, I rise before you today to recognize Mrs. Marlene Greenebaum, who will be honored at the Centennial Celebration of Hadassah for her many contributions to medical, communal and Jewish causes in Baltimore and beyond American borders.

Mrs. Greenebaum is one of Baltimore's most well-known and well-respected philanthropic leaders. Her civic endeavors include serving as president of the Oheb Shalom Sisterhood as well as president of Miriam Lodge. In addition, since her diagnosis with breast cancer more than 20 years ago, Mrs. Greenebaum has dedicated each and every day to helping treat and research life-threatening disease so that others can enjoy the gift of good health.

In 1994, Mrs. Greenebaum and her husband, Stewart, created a scholarship program for University of Maryland School of Medicine students who are residents of Maryland. They are also the founding donors of the Children's House at Johns Hopkins, helping to build an 18-bedroom facility that provides lodging for families of children being treated for life-threatening illnesses. The couple was recently recognized for donating more than \$1 million to the American Cancer Society since 2007.

Mrs. Greenebaum has served on the University of Maryland Medical System's Cancer Center Board of Advisors since its inception in 1993. Along with her husband, she donated \$10 million to the School of Medicine, the largest private contribution in its history. In recognition, the couple is the namesake of the University of Maryland Marlene and Stewart Greenebaum Cancer Center, where new life-saving drugs and groundbreaking clinical trials have attracted national and international recognition. In fact, its lab and clinical research facility are ranked among the Nation's top 25 cancer centers by U.S. News and World Report.

Mrs. Greenebaum was also the driving force behind the creation of the Multidisciplinary Breast Center at the Hadassah University Medical Center in Jerusalem that bears her name. Her gift is ensuring that Israeli women can benefit from the best diagnostics, treatment and research possible.

Mr. Speaker, I ask that you join with me today to honor Mrs. Marlene Greenebaum. Her dedication to quality healthcare for all people is an inspiration. Her strength and

courage now give hope to countless other women. It is with great admiration and appreciation that I congratulate Mrs. Greenebaum on her well-deserved recognition and wish her many more years of good health and happiness.

#### CELEBRATING THE LIFE OF RAUL SOLIS

#### HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, March 5, 2012*

Ms. WOOLSEY. Mr. Speaker, I rise today to celebrate the life of a man who truly embodied the American Dream, who came here with nothing and built something, whose ethic of sacrifice and responsibility represents a life to be emulated.

Raul Solis of La Puente, California died last Wednesday at the age of 88. He was born on February 27, 1924 in Tucson, Arizona, but he spent most of his youth in Veracruz, Mexico. He returned to the United States as a teenager, as a part of the Bracero program to address labor shortages caused by World War II.

Mr. Solis worked in both the fields and the factory—as a farmworker, on the railroads, in a battery recycling plant and eventually as a Teamster shop steward. He was a proud union man. He eventually settled in southern California, where he met Juana in an American citizenship class. She survives him after 58 years of marriage. Together, they had seven children—Irma, Raul Jr., Hilda (our former House colleague and current U.S. Secretary of Labor), Victor, Beatriz, Anna and Leticia. Their family would grow to include 10 grandchildren and 15 great-grandchildren.

The Solises lived modestly but happily. Their riches came in the form of love, family and faith; humility, self-respect and hard work. Raul Solis cared about politics, the law and social justice. He was a Teamsters shop steward at a battery recycling plant. Secretary Solis tells of her father coming home from work and pulling scraps of paper with Spanish writing out of his pocket. He wanted her to translate these notes from his co-workers, outlining concerns about safety conditions at the plant. And now his firsthand experience informs the wisdom and the decision-making of his daughter, as she meets her mandate to improve the lives of workers around the country.

Mr. Solis was also an outdoorsman who passed along to his children important lessons about the beauty of the natural world and the imperative of environmental justice. Secretary Solis' career and priorities in public service have been driven by the experience of living around polluted landfills while nearby affluent communities experienced little environmental degradation.

It was my pleasure to meet this extraordinary man and to see the quiet strength of his character. Raul Solis, laid to rest today, leaves behind an impressive legacy of honesty and dignity. Please join me in extending my condolences to his entire family.

RECOGNIZING THE OUTSTANDING  
SERVICE OF MR. STEWART A.  
RESNICK

**HON. JIM COSTA**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, March 5, 2012*

Mr. COSTA. Mr. Speaker, I rise today to recognize Mr. Stewart A. Resnick as he is honored by the Ag One Foundation at California State University, Fresno. Hosted by the Jordan College of Agricultural Sciences and Technology at Fresno State, the Ag One Foundation was established in 1979 to "benefit, promote, and support the college and its programs." The Ag One Foundation hosts an annual Community Salute where distinguished individuals are recognized for their commitment to the success of Fresno State students and California agriculture. This year, the Ag One Foundation is recognizing Mr. Resnick, not only for his impressive business ventures, but also for his admirable commitment to the growth of California's San Joaquin Valley and innovative agricultural practices.

Mr. Resnick grew up in New Jersey and headed to California with his family in the 1950s. Mr. Resnick holds a Bachelor of Science degree in business administration, as well as a law degree from the University of California, Los Angeles (UCLA). While a student, Mr. Resnick demonstrated his entrepreneurial spirit by starting his first business, a janitorial services company. Since then, he and his wife Lynda have worked tirelessly to cultivate a number of thriving companies.

Mr. Resnick and his wife own and manage Roll International and its companies, including: Teleflora, FIJI Water, POM Wonderful, Paramount Citrus, Paramount Farms and Farming, Sutterra, JUSTIN Vineyards and Winery, and Landmark Vineyards. He is a longtime supporter of the arts, education, and health care. Mr. Resnick and his wife have been loyal advocates for California's San Joaquin Valley. They have been generous in their support of Children's Hospital Central California—in 2006, Paramount Farms made a gift of \$4 million to the hospital. In addition, they founded the Paramount Bard Academy, in the southern San Joaquin Valley city of Delano. The school opened its doors in August 2009 and serves students in grades 6 to 12.

Further demonstrating their commitment to education, the children of their employees are afforded scholarship opportunities to support their scholastic endeavors and encourage academic excellence. The program has awarded more than \$2.2 million in scholarships to 450 students. In late 2011, Paramount Farms completed the renovation of a 7-acre park in Lost Hills, a small city in Kern County, California. Renovation of this park led to a revitalization of community resolve and togetherness. Time and time again, Mr. and Mrs. Resnick have proven to be formidable allies for the communities in which their employees live and work.

Mr. Resnick's commitment to philanthropy is truly telling of his character—reliable, generous, and compassionate. He has truly been a champion for the San Joaquin Valley and its residents. His contributions to California's heartland and our nation truly reflect the best of what America has to offer.

Mr. Speaker, I ask my colleagues to join me in recognizing Stewart A. Resnick for his impressive business acumen and his deep commitment to improving the San Joaquin Valley. His pioneering work and dedication to making meaningful contributions to the Central Valley make him a role model and source of pride for all Americans.

TRIBUTE TO ALFRED "AL"  
CORNETT

**HON. HAROLD ROGERS**

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Monday, March 5, 2012*

Mr. ROGERS of Kentucky. Mr. Speaker, I rise today to pay tribute to a true Kentucky Artisan, small businessman, veteran, teacher, and community leader, Alfred Cornett, for his many years of service and dedication to the Harlan County community.

As a native son of the Commonwealth and a World War II veteran, Alfred has been a valuable member and admired citizen of the Cumberland, Kentucky community for many years. Upon his high school graduation, Alfred honorably served his country as a member of the United States Army, where he rose to the rank of sergeant and was a member of the famed "Phantom Army." His unit was involved in several key battles that were crucial to the success of the Allied Forces, including the Battle of Britain and the Battle of the Bulge.

Upon his return from the war, Alfred began his career working for Chrysler and General Motors in Dayton, Ohio while attending classes at an industrial electrical school in Chicago. Eventually Alfred moved to Harlan County, where he operated Cornett's Home Supply Company and Al's Radio and TV for many years.

In his time living in Kentucky, Alfred has become well-known for his craftsmanship of exquisite Appalachian dulcimers. Using wood native to the Appalachian region, Alfred has fashioned over 1,000 stringed instruments, highly sought after by musicians and collectors throughout the country. As the head craftsman at Southeast Community and Technical College, he has generously shared his extraordinary talents with the community through teaching numerous dulcimer-making classes and inspiring a new generation of craftsmen.

Alfred is an active member of his community, and has devoted his time and talents to many charitable projects through his participation in the Lion's Club. He is also involved in his church, Cumberland Missionary Baptist Church, where he has been a member since 1959. Alfred currently lives in Harlan County with his beloved wife of 56 years, Geneva.

Mr. Speaker, I ask my colleagues to join me in honoring Alfred Cornett for dedicating years of service to Harlan County and for sharing his extraordinary talents as a woodworker and dulcimer craftsman.

OUR UNCONSCIONABLE NATIONAL  
DEBT

**HON. MIKE COFFMAN**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Monday, March 5, 2012*

Mr. COFFMAN of Colorado. Mr. Speaker, on January 20, 2009, the day President Obama took office, the national debt was \$10,626,877,048,913.08.

Today, it is \$15,489,873,651,597.46. We've added \$4,862,996,602,684.38 to our debt in 3 years. This is debt our nation, our economy, and our children could have avoided with a balanced budget amendment.

HONORING THE GIRL SCOUTS OF  
NORTHERN NEW JERSEY ON  
THEIR 100TH ANNIVERSARY

**HON. STEVEN R. ROTHMAN**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Monday, March 5, 2012*

Mr. ROTHMAN of New Jersey. Mr. Speaker, I rise today to congratulate the Girl Scouts of Northern New Jersey on 100 years of developing girls of courage, confidence, and character. Since its founding in 1912, the Girl Scouts of Northern New Jersey have both served our community and molded the next generation of women leaders. I join with the Girl Scouts in recognizing their Centennial Celebration—Women of Achievement honorees. These women are exceptional within their professional field and community service to our communities.

Lourdes Cortez, President and CEO of North Jersey Federal Credit Union, is the first Hispanic woman to be President of a Federal Credit Union in New Jersey. Tammie A. Horsfield, President of the Sussex Chamber of Commerce, is the first full time woman President of the Sussex Chamber of Commerce. Norma Tempel, President of Etched In Stone Waterjet Fabrications, Inc., is the founding member of the New Jersey chapter of Professional Women in Construction. Honorable Camelia M. Valdes, Passaic County Prosecutor, is the first Latina county prosecutor in the State of New Jersey, the first woman prosecutor in Passaic County, and the first lead prosecutor of Dominican ancestry in the United States. Toni Zimmer, President of the League of Women Voters of New Jersey, is the first African American woman to run for state assembly in Sussex County in Northwest New Jersey. She was also elected the first African American President of the League of Women Voters in New Jersey. Finally, the late Mrs. Frederick Frelinghuysen will be presented with the Mitzi Golbek Spirit of Girl Scouting Award for her early patronage of the Girl Scouts in 1917. After a century of service to Northern New Jersey, I join the Girl Scouts in honoring these outstanding leaders who are paving the way for tomorrow's women.

Mr. Speaker, today I would like to celebrate the Girl Scouts of Northern New Jersey's 100th anniversary and honor all of its volunteers and participants for their role in keeping

this wonderful tradition going for so many years. I know I join with all of my constituents in wishing the Girl Scouts continued success as they proudly serve the communities of Northern New Jersey.

IN MEMORIAM OF ANDREW  
BREITBART

**HON. LAMAR SMITH**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Monday, March 5, 2012*

Mr. SMITH of Texas. Mr. Speaker, last week we lost a true patriot for the conservative cause, Andrew Breitbart. Mr. Breitbart was a pioneer in conservative activist media and dedicated much of his life to exposing media bias and keeping the media honest.

Mr. Breitbart started his own news aggregation site, Breitbart.com, and five other websites, including Big Journalism.

In February 2010, Mr. Breitbart received the Reed Irvine Accuracy in Media Award.

Andrew Breitbart recently wrote a new conclusion to his book, *Righteous Indignation*:

I love my job. I love fighting for what I believe in. I love having fun while doing it. I love reporting stories that the Complex refuses to report. . . .

Three years ago, I was mostly a behind-the-scenes guy who linked to stuff on a very popular website. I always wondered what it would be like to enter the public realm to fight for what I believe in. I've lost friends, perhaps dozens. But I've gained hundreds, thousands—who knows?—of allies. At the end of the day, I can look at myself in the mirror, and I sleep very well at night.

He was a tireless patriot and will truly be missed by many.

RECOGNIZING WPX ENERGY

**HON. JOHN SULLIVAN**

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

*Monday, March 5, 2012*

Mr. SULLIVAN. Mr. Speaker, I rise to recognize and congratulate a new independent exploration & production company in my Congressional District that specializes in natural gas, oil and natural gas liquids from shale and other unconventional resources.

WPX Energy, based in Tulsa, Oklahoma, was launched on January 1, 2012. This new multi-billion dollar company is headquartered in Tulsa, Oklahoma, with 1200 employees around the country: Colorado, Wyoming, New Mexico, Texas, North Dakota, and Pennsylvania. This is a new venture that will produce U.S.-based fuels and U.S.-based jobs.

I know many of their employees personally. They are enthusiastic to get started and proud to work in the U.S. oil & gas industry, a very competitive and technologically-advanced sector of our economy. Although the company is only weeks old, they have decades of experience leading a top-ten U.S. producer of natural gas. Previously, WPX Energy was a wholly owned subsidiary of Williams, the renowned pipeline company. With the growing success

of its exploration & production, WPX spun-off to become a separate, stand-alone company at the end of 2011.

Like many new companies, the WPX management team is energetic and innovative, but they are also seasoned by decades of managing a top ten U.S. energy producer. Additionally, WPX has received more than two dozen national, State, local and industry awards for responsible energy development.

Our economy is still going through hard times and our Nation faces an unemployment rate of more than 8 percent. Many industries and companies in our country have been downsizing and struggling for a variety of reasons. It is critical that we highlight successful companies that are growing and making contributions to our economy and energy security. WPX is one of these success stories and I am proud that they chose to call Tulsa, Oklahoma home.

HONORING THE MEMORY OF  
WILLIAM EVANS

**HON. JERRY MCNERNEY**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, March 5, 2012*

Mr. MCNERNEY. Mr. Speaker, today I ask my friends and colleagues to join me in honoring William Evans, who passed away on February 25, 2012 at the age of 75.

Public service was an important part of Bill's life. He served in the U.S. Air Force as a navigator in B-47s and C-141s. In his service with Strategic Air Command, he stood guard against the Soviet threat so his fellow Americans could be secure. When assigned to the Military Airlift Command, he flew regular missions into Vietnam, delivering the supplies necessary to support our troops and bringing home those who had fallen. Bill was a graduate of the Air War College, received recognition for his contributions to the Skylab project, and was awarded the Air Force Meritorious Service Medal.

In his civilian career, Bill continued his work safeguarding America by bringing his technical expertise to the guidance of our reconnaissance satellites and interpreting the data they sent back. After retirement, Bill served as a volunteer English teacher in Poland and was a Eucharistic minister for his church. He even learned to be a brakeman as a volunteer with the Niles Canyon Railway.

Bill was an active member of the Tri-Valley community who cared deeply about his fellow citizens. He served his community and his fellow veterans as a member of the Veterans of Foreign Wars Post 6298 in Pleasanton, California.

Bill was also a highly valued and respected member of my Air Force Academy nomination committee. Bill took a keen interest in helping patriotic young people succeed in their aspirations to serve our nation. Bill was an excellent judge of character, and because of his efforts, the 11th District of California produced more than its share of Air Force Academy cadets.

Bill had a tremendous intellect and exemplary character. He was a gentleman in the truest sense of the word. He will be dearly

missed by his friends and by the members our community. I ask you to join me in honoring his life and his service to our great nation.

HONORING NANCY KAY JUDKINS

**HON. CORY GARDNER**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Monday, March 5, 2012*

Mr. GARDNER. Mr. Speaker, Nancy Kay Judkins was born in Amarillo, Texas, to Burnell Campbell and James Roy Judkins on October 18, 1946. When she was four, her sister Peggy arrived, and there began a sweet, abiding, lifelong bond. Then, only 8 years into her childhood, she contracted polio. At this early age, an inner strength and fortitude arose in her which was to define Nancy throughout her life.

Throughout her upbringing, Nancy was an honor student and was recognized for academic excellence. She earned her Bachelor's Degree in Medical Technology at North Texas State University and went on to work at Baylor Hospital and Dallas/Fort Worth Medical Center for many years before moving to Salt Lake City where she worked for Asarco as a Laboratory Supervisor. Almost four years ago, she and Peggy moved to Colorado to be closer to family living there.

Among many of Nancy's passions were the arts—especially the theater. She worked backstage for many theatrical productions and loved musical theater above all else. Some of her favorite shows included "The Fantasticks," "Brigadoon," "Annie Get Your Gun," "Showboat," "Kiss Me Kate," and "Yankee Doodle Dandy." She collected a variety of music including classical, ragtime, show tunes, and jazz, and learned to play the piano herself as a young adult.

Her love of words was reflected in her large book collection—from Austen to Whitman, Shakespeare to Safire, Twain to Thurber. She delighted in the Harry Potter stories, as well as stories of murder and intrigue. There was hardly a time in Nancy's life when she was without a feline friend or two, and she adored her sweet Maggie dog. She had a fascination with Germany; and after studying the language, she traveled there several times. Italy, London, and a cruise to the Caribbean were also on her list of travels.

Her love and connection to her family were never so strong as when she began an interest in genealogy and became the family historian. She spent countless hours tracing the family's ancestors' lives and traveled to many of the places they lived and died.

Nancy loved red hats, anything chocolate, irises in the spring, puzzles, popcorn, and the color purple. She loved Chaplin, Egyptology, Monet and O'Keefe. She loved so much and so many and was so loved in return. Her gentle strength and quiet courage inspired so many. She lived a difficult and challenging life with grace and dignity.

We honor her today for all the gifts she gave and all the wonderful ways she expressed her beautiful soul.

Nancy passed on January 28, 2012, in Fort Collins, Colorado.

## PERSONAL EXPLANATION

**HON. BOB GOODLATTE**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, March 5, 2012*

Mr. GOODLATTE. Mr. Speaker, on rollcall Nos. 92, 93, 94, I was unavoidably detained. Had I been present, I would have voted "aye."

IN RECOGNITION OF THE 65TH  
WEDDING ANNIVERSARY OF  
DOUGLAS AND KATIE JO  
MEDDERS

**HON. MIKE ROGERS**

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Monday, March 5, 2012*

Mr. ROGERS of Alabama. Mr. Speaker, I would like to pay tribute to a very special occasion today—the 65th wedding anniversary of Douglas and Katie Jo Medders. This event will take place on March 15th, but family and friends are celebrating the event on March 17, 2012.

Douglas and Katie Jo were married in Anniston in 1947 and had three children, Douglas Wayne, Danny and Pamela. The Medders have lived in Anniston all their lives.

Although now retired, Douglas worked at Lee Brass for 43 years retiring in 1990 and Katie Jo owned KaPam Beauty Shop for 28 years until her retirement. They are the proud grandparents of eight grandchildren and ten great-grandchildren.

I salute this lovely couple on the 65th year of their life together and join their friends and family in honoring them on this special occasion.

200TH ANNIVERSARY OF RA-  
LEIGH'S FIRST BAPTIST CHURCH

**HON. DAVID E. PRICE**

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Monday, March 5, 2012*

Mr. PRICE of North Carolina. Mr. Speaker, I rise today to honor Raleigh's First Baptist Church on the occasion of its bicentennial celebration.

First Baptist is a pillar of the Raleigh community, with a history of prophetic witness and community service. For 200 years, it has been a spiritual home to successive generations in Raleigh and beyond, a place of learning and teaching, a place of faith and sustenance, and a place of commitment to a just society.

The church was founded in 1812 by a congregation of 23 members—14 black and 9 white—who had come to the State Capitol to hear Rev. Robert Daniel. At that time, the city of Raleigh had about 1,000 residents but not a single church building. The new congregation was dubbed Raleigh Baptist Church. At first, members met at the State Capitol, but church facilities were soon built, and, for the next 56 years, Raleigh Baptist Church was a

unique multiracial assembly that reached more than 400 members.

Following the Civil War, the church's black membership, about half the congregation at the time, asked for and received permission to establish a new congregation, which was initially organized as First Colored Baptist Church. It was under these auspices that the church settled in its current location on South Wilmington Street, completing the church building early in the 20th century and ultimately becoming First Baptist. The remaining members of Raleigh Baptist Church retained the sanctuary on South Salisbury Street, just a few blocks away, and also became known as First Baptist.

The Rev. William Warwick, a Philadelphia native, was the first African-American pastor at First Baptist, leading the flock from 1867 to 1874 and establishing the Miles School, whose students were later absorbed into the public schools. The seventh pastor was Dr. Oscar S. Bullock, who, through the purchase of a bus in 1925, pioneered a program of church-provided transportation to ensure children and adults could attend Sunday school. Dr. Charles Ward led the church for a long period in the mid-20th century, from 1959 through 1988. He was a prominent leader in the NAACP and oversaw the construction of a housing development for low-income members of the community. He was nearing the end of his ministry when I first ran for Congress in 1986, and I will always be grateful for his counsel and encouragement.

In addition to Dr. Ward, I've been honored to work with several of First Baptist's other pastors during my time representing the Triangle. The Rev. Nathaniel O. Boykin and Dr. Isaac B. Horton led the church in interim capacities after the death of Dr. Ward in 1988. Since 1996, Dr. Dumas Alexander Harshaw, Jr. has led the church into a new era with his powerful preaching and teaching and a strong record of service to the broader community. Under Dr. Harshaw's guidance, the church has added an early Sunday service, purchased additional property and built an adjacent Family Life Center. Giving by the approximately 800 members recently surpassed the \$1 million mark. From daycare and after-school programs to weekly meals for the homeless, job workshops for the unemployed, and substance abuse counseling, First Baptist continues to strengthen the community.

This week the successor congregations of Raleigh Baptist Church will celebrate their bicentennial with a joint party at the place of their birth, the State Capitol. While they remain distinct these churches share the honor of being the first religious community of any denomination in Raleigh.

Mr. Speaker, the two hundredth anniversary of the founding of Raleigh Baptist Church and the continued witness of these congregations merits recognition by this body. In particular, I look forward to celebrating this milestone on Saturday night with Dr. Harshaw and his flock, to whom I will bring the good wishes of my colleagues.

HONORING HONOR FLIGHT  
CHICAGO**HON. MIKE QUIGLEY**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Monday, March 5, 2012*

Mr. QUIGLEY. Mr. Speaker, I rise today to recognize Honor Flight Chicago's commitment to serving our nation's World War II veterans.

Honor Flight Chicago began in 2008 when Mary Pettinato, Jeanmarie Kapp, Nancy Kapp, and Suzanne Stanits decided to make an important difference in the lives of World War II veterans. While our country has honored the sacrifices of our veterans by building memorials in Washington, D.C., many of these veterans are not able to make the trip to see the monuments dedicated to their service.

These four extraordinary women seized the opportunity to expand the Honor Flight Network's national mission to the Chicago area. Along with hundreds of volunteers, Honor Flight Chicago recognizes World War II Veterans with a day of gratitude, remembrance, and celebration. Because of their tireless dedication, veterans throughout northeast Illinois and northwest Indiana travel cost-free to see these memorials in Washington and return to a boisterous and heartwarming Chicago homecoming with family and friends that you have to see to believe.

As our nation loses approximately 900 World War II veterans every day, Honor Flight works hard to ensure these heroes have an opportunity to fulfill their dreams and receive the thanks they deserve before it's too late.

Since February 2008, Honor Flight Chicago has flown more than 2,000 veterans to their war memorial at no cost to them. More than 700 guardians and volunteers work day-in and day-out to raise the funds necessary to accomplish this mission and reach as many of the 25,000 World War II veterans living in the Chicago area as possible.

Mr. Speaker, I ask my colleagues to join me in commending the work of Honor Flight Chicago and in honoring our nation's veterans.

RECOGNITION OF MR. ROBERTO  
FERRAGINA**HON. FRANK PALLONE, JR.**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Monday, March 5, 2012*

Mr. PALLONE. Mr. Speaker, I rise today to congratulate Mr. Roberto Ferragina of Long Branch, New Jersey. Mr. Ferragina is the recipient of the 2012 Amerigo Vespucci Society's "Man of the Year" Award and will be recognized for his unyielding community service. Mr. Ferragina is a valuable member of my Congressional district and is deserving of this body's recognition.

Roberto Ferragina was born in Long Branch, New Jersey to Salvatore and Barbara Maria Ferragina. Mr. Ferragina attended Red Bank Catholic High School and graduated with a Bachelor of Arts Degree in History and a Minor in Political Science from Kean State College. He also completed a Master of Arts

and Master of Administrative Science from Monmouth University and Fairleigh Dickinson University, respectively. Mr. Ferragina is an accomplished athlete and was a member of the Cross Country and Track teams in High School and College. As a result of his superior performance, he was named Captain of the Red Bank Catholic High School's Men's Cross Country Team and Indoor and Outdoor Track Team. He remains an active runner in the local community. Mr. Ferragina is currently employed as the Northeast Regional Sales Manager for Mohawk, North America's largest privately held premium substrate manufacturer. He is happily married to his wife Marianne.

Mr. Ferragina developed a strong connection to his Italian heritage and culture at an early age. As an active member of the Amerigo Vespucci Society, Mr. Ferragina was elected to serve as the organization's President. He also served as the Secretary of Archives. Mr. Ferragina is dedicated to assisting with the organization of numerous events hosted by the Amerigo Vespucci Society, including the Wine Tasting Gala, in which he served as Chairman. In addition to his involvement with the Amerigo Vespucci Society, Mr. Ferragina is a National Council Member of the National Italian American Foundation and member of the National Order Sons of Italy in America, William Marconi Italian Society, and the Garibaldi-Meucci Museum. Mr. Ferragina also volunteers his time each summer with the Ray Licata Memorial Swim hosted annually in Long Branch. He is also involved with the organization of the Long Branch Columbus Day Parade.

Mr. Speaker, once again, please join me in congratulating Mr. Roberto Ferragina upon receiving the Amerigo Vespucci Society's "Man of the Year" award and thanking him for his service to the Italian American community.

#### TRIBUTE TO JANET E. CLEGHORN

#### HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, March 5, 2012*

Mr. CALVERT. Mr. Speaker, I rise today to honor and pay tribute to a dear friend of mine, Janet Cleghorn. Jan passed away on Thursday, February 16, 2012. Jan was a devoted wife, mother, grandmother, and great-grandmother and she will be deeply missed.

Jan was born July 20, 1936 in Los Angeles, California. She was the daughter of Howard B. Everett and Florence Mae Hunt. On February 3, 1956, Jan married her high school sweetheart John Cleghorn. John would later serve as Corona's Chief of Police. Jan cherished her role as wife, mother and homemaker for 56 years.

Jan loved family, friends, crafting, RV traveling, decorating her home and more recently "Facebook social networking." She was a member of the Philanthropic Educational Organization Chapter SI, Corona-Riverside U.S. Navy League, Corona Heritage Foundation (Museum Docent Heritage Park), Trilogy RVers and Friday Night-Dinner Group.

Jan is survived by her husband, John Cleghorn, father, Howard B. Everett, son,

David Cleghorn, daughter, Nancy (Tim) O'Gorman, daughter, Karen (Roger, Sr.) Minnick, grandchildren, Roger (Angela) Minnick, Jr., Elijah Minnick, Jonah Minnick, Melissa O'Gorman, Joseph O'Gorman, great-grandchildren, Berkleigh Minnick and Max Minnick. Memorial Services to celebrate Jan's life were held at Trilogy Lodge Ballroom, Tuesday, February 28, 2012.

Jan will always be remembered for her devotion to family, caring nature and selfless giving. Her dedication to those she loved is a testament to a life lived well and a legacy that will continue. I extend my condolences to Jan's family and friends; although Jan may be gone, the light and goodness she brought to the world remain and will never be forgotten.

#### TRIBUTE TO FRANK EDWARD EMERSON

#### HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, March 5, 2012*

Mr. CALVERT. Mr. Speaker, I rise today to honor and pay tribute to a dear friend of mine, Frank Emerson. Frank passed away peacefully at Corona Regional Medical Center on Saturday, February 25, 2012 with his wife, Belvia and son, Bob at his side. Frank was a pillar of the community in Corona, California and he will be deeply missed.

As a young man, Frank attended the University of Redlands on a basketball scholarship and after college decided to join the Army. Frank then decided to go into the family business and ran Emerson's Men's Wear successfully for many years. Frank took on a partner, long time employee Jim Pauly, to help with Emerson's Men's Wear. Frank was a successful businessman and dedicated community servant. Frank served on many civic groups through the years, including the Corona Planning Commission. His life was a testament to his family who had settled in Corona in the early 1900s.

Frank leaves behind his wife of 53 years Belvia, Daughter, Elizabeth Jenkins of Texas; son, Robert "Bob" Emerson of Corona and their respective families. He was preceded in death by his son Donald. He also has five grandchildren and many other family and friends who will miss Frank's big heart and quick smile.

On Friday, March 9, 2012, a memorial service celebrating Frank's extraordinary life will be held. Frank will always be remembered for his incredible work ethic, generosity, contributions to the community and love of family. His dedication to his work, family and community are a testament to a life lived well and a legacy that will continue. I extend my condolences to Frank's family and friends; although Frank may be gone, the light and goodness he brought to the world remain and will never be forgotten.

#### SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a sys-

tem for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, March 6, 2012 may be found in the Daily Digest of today's RECORD.

#### MEETINGS SCHEDULED MARCH 7

- 9 a.m.  
Armed Services  
To hold hearings to examine the situation in Syria; with the possibility of a closed session in SVC-217 following the open session. SD-106
- 9:30 a.m.  
Agriculture, Nutrition, and Forestry  
To hold hearings to examine healthy food initiatives, local production, and nutrition. SH-216
- 10 a.m.  
Commerce, Science, and Transportation  
To hold hearings to examine priorities, plans, and progress of the nation's space program. SR-253
- Finance  
To hold hearings to examine the President's 2012 trade agenda. SD-215
- Judiciary  
To hold hearings to examine lending discrimination practices and foreclosure abuses. SD-226
- Appropriations  
Departments of Labor, Health and Human Services, and Education, and Related Agencies Subcommittee  
To hold hearings to examine proposed budget estimates for fiscal year 2013 for the Department of Health and Human Services. SD-124
- Veterans' Affairs  
To hold joint hearings to examine a legislative presentation from the Veterans of Foreign Wars (VFW). SD-G50
- 10:30 a.m.  
Appropriations  
Department of Defense Subcommittee  
To hold hearings to examine proposed budget estimates for fiscal year 2013 for the Department of the Navy. SD-192
- 2 p.m.  
Aging  
To hold hearings to examine opportunities for savings, focusing on removing obstacles for small business. SD-562



2:30 p.m.

Commerce, Science, and Transportation  
Oceans, Atmosphere, Fisheries, and Coast  
Guard Subcommittee

To hold hearings to examine the President's proposed budget request for fiscal year 2013 for the Coast Guard and the National Oceanic and Atmospheric Administration.

SR-253

Energy and Natural Resources  
National Parks Subcommittee

To hold hearings to examine S. 29, to establish the Sacramento-San Joaquin Delta National Heritage Area, S. 1150, to establish the Susquehanna Gateway National Heritage Area in the State of Pennsylvania, S. 1191, to direct the Secretary of the Interior to carry out a study regarding the suitability and feasibility of establishing the Naugatuck River Valley National Heritage Area in Connecticut, S. 1198, to reauthorize the Essex National Heritage Area, S. 1215, to provide for the exchange of land located in the Lowell National Historical Park, S. 1589, to extend the authorization for the Coastal Heritage Trail in the State of New Jersey, S. 1708, to establish the John H. Chafee Blackstone River Valley National Historical Park, H.R. 1141, to authorize the Secretary of the Interior to study the suitability and feasibility of designating prehistoric, historic, and limestone forest sites on Rota, Commonwealth of the Northern Mariana Islands, as a unit of the National Park System, H.R. 2606, to authorize the Secretary of the Interior to allow the construction and operation of natural gas pipeline facilities in the Gateway National Recreation Area, S. 2131, to reauthorize the Rivers of Steel National Heritage Area, the Lackawanna Valley National Heritage Area, and the Delaware and Lehigh National Heritage Corridor, and S. 2133, to reauthorize the America's Agricultural Heritage Partnership in the State of Iowa.

SD-366

## MARCH 8

9:30 a.m.

Armed Services

To hold hearings to examine the Department of the Army in review of the Defense Authorization request for fiscal year 2013 and the Future Years Defense Program.

SD-106

10 a.m.

Banking, Housing, and Urban Affairs

To hold hearings to examine addressing the housing crisis in Indian country, focusing on leveraging resources and coordinating efforts.

SD-538

Appropriations

Commerce, Justice, Science, and Related  
Agencies Subcommittee

To examine proposed budget estimates for fiscal year 2013 for the Department of Justice.

SD-124

Health, Education, Labor, and Pensions

To hold hearings to examine the key to America's global competitiveness, focusing on a quality education.

SD-430

Appropriations

Department of Homeland Security Sub-  
committee

To hold hearings to examine proposed budget estimates for fiscal year 2013 for the Department of Homeland Security.

SD-192

Judiciary

Business meeting to consider S. 1002, to prohibit theft of medical products, and the nominations of Patty Shwartz, of New Jersey, to be United States Circuit Judge for the Third Circuit, Jeffrey J. Helmick, to be United States District Judge for the Northern District of Ohio, Mary Geiger Lewis, to be United States District Judge for the District of South Carolina, Timothy S. Hillman, to be United States District Judge for the District of Massachusetts, and Thomas M. Harrigan, of New York, to be Deputy Administrator of Drug Enforcement, Department of Justice.

SD-226

Appropriations

Transportation and Housing and Urban Development, and Related Agencies Subcommittee

To hold hearings to examine an overview of the Federal Housing Administration.

SD-138

2:15 p.m.

Indian Affairs

To hold hearings to examine the President's proposed budget request for fiscal year 2013 for Native Programs.

SD-628

2:30 p.m.

Homeland Security and Governmental Affairs

To hold hearings to examine the President's proposed budget request for fiscal year 2013 for the Department of Homeland Security.

SD-342

Intelligence

To hold closed hearings to examine certain intelligence matters.

SH-219

## MARCH 13

9:30 a.m.

Armed Services

To hold hearings to examine U.S. Southern Command and U.S. Northern Command in review of the Defense Authorization request for fiscal year 2013 and the Future Years Defense Program; with the possibility of a closed session in SVC-217 following the open session.

SD-G50

10 a.m.

Energy and Natural Resources

To hold hearings to examine the report of the Independent Consultant's Review with Respect to the Department of Energy Loan and Loan Guarantee Portfolio.

SD-366

Foreign Relations

To hold hearings to examine the nominations of Frederick D. Barton, of Maine, to be an Assistant Secretary of State (Conflict and Stabilization Operations), and to be Coordinator for Reconstruction and Stabilization, and William E. Todd, of Virginia, to be Ambassador to the Kingdom of Cambodia, both of the Department of State, and Sara Margalit Aviel, of California, to be United States Alternate Executive Di-

rector of the International Bank for  
Reconstruction and Development.

SD-419

10:30 a.m.

Homeland Security and Governmental Affairs

Contracting Oversight Subcommittee

To hold hearings to examine contractors, focusing on how much they are costing the government.

SD-342

Judiciary

To hold hearings to examine the Freedom of Information Act, focusing on safeguarding critical infrastructure information and the public's right to know.

SD-226

## MARCH 14

10 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings to examine risk management and commodities in the 2012 farm bill.

SH-216

Veterans' Affairs

To hold hearings to examine ending homelessness among veterans, focusing on Veterans' Affairs progress on its five year plan.

SR-418

2 p.m.

Armed Services

Personnel Subcommittee

To hold hearings to examine the Active, Guard, Reserve, and civilian personnel programs in review of the Defense Authorization request for fiscal year 2013 and the Future Years Defense Program.

SR-232A

2:30 p.m.

Energy and Natural Resources

To hold hearings to examine the nominations of Adam E. Sieminski, of Pennsylvania, to be Administrator of the Energy Information Administration, Department of Energy, Marcilynn A. Burke, of North Carolina, to be an Assistant Secretary of the Interior, and Anthony T. Clark, of North Dakota, and John Robert Norris, of Iowa, both to be a Member of the Federal Energy Regulatory Commission.

SD-366

Foreign Relations

To hold hearings to examine the nominations of Pamela A. White, of Maine, to be Ambassador to the Republic of Haiti, Linda Thomas-Greenfield, of Louisiana, to be Director General of the Foreign Service, and Gina K. Abercrombie-Winstanley, of Ohio, to be Ambassador to the Republic of Malta, all of the Department of State.

SD-419

## MARCH 15

9:30 a.m.

Armed Services

To hold hearings to examine the Department of the Navy in review of the Defense Authorization request for fiscal year 2013 and the Future Years Defense Program; with the possibility of a closed session in SVC-217 following the open session.

SD-G50

2:15 p.m.

## Indian Affairs

To hold an oversight hearing to examine Indian water rights, focusing on promoting the negotiation and implementation of water settlements in Indian country.

SD-628

MARCH 20

9:30 a.m.

## Armed Services

To hold hearings to examine the Department of the Air Force in review of the Defense Authorization request for fiscal year 2013 and the Future Years Defense Program; with the possibility of a closed session in SVC-217 following the open session.

SD-G50

MARCH 21

10 a.m.

## Homeland Security and Governmental Affairs

To hold hearings to examine retooling government for the 21st century, focusing on the President's reorganization plan and reducing duplication.

SD-342

## Veterans' Affairs

To hold joint hearings to examine the legislative presentations of the Military Order of the Purple Heart, Iraq and Afghanistan Veterans of America (IAVA), Non Commissioned Officers Association, American Ex-Prisoners of War, Vietnam Veterans of America, Wounded Warrior Project, National Association of State Directors of Veterans Affairs, and The Retired Enlisted Association.

SD-G50

2 p.m.

## Judiciary

## Antitrust, Competition Policy and Consumer Rights Subcommittee

To hold hearings to examine Verizon and cable deals.

SD-226

MARCH 22

10 a.m.

## Veterans' Affairs

To hold joint hearings to examine the legislative presentations of the Paralyzed Veterans of America, Air Force Sergeants Association, Blinded Veterans Association, American Veterans (AMVETS), Gold Star Wives, Fleet Reserve Association, Military Officers Association of America, and the Jewish War Veterans.

345, Cannon Building

2:30 p.m.

## Energy and Natural Resources

## Public Lands and Forests Subcommittee

To hold hearings to examine S. 303, to amend the Omnibus Budget Reconciliation Act of 1993 to require the Bureau of Land Management to provide a claimant of a small miner waiver from claim maintenance fees with a period of 60 days after written receipt of 1 or more defects is provided to the claimant by registered mail to cure the 1 or more defects or pay the claim maintenance fee, S. 1129, to amend the Federal Land Policy and Management Act of 1976 to improve the management of grazing leases and permits, S. 1473, to amend Public Law 99 548 to provide for the implementation of the multispecies habitat conservation plan for the Virgin River, Nevada, and to extend the authority to purchase certain parcels of public land, S. 1492, to provide for the conveyance of certain Federal land in Clark County, Nevada, for the environmental remediation and reclamation of the Three Kids Mine Project Site, S. 1559, to establish the San Juan Islands National Conservation Area in the San Juan Islands, Washington, S. 1635, to designate certain lands in San Miguel, Ouray, and San Juan Counties, Colorado, as wilderness, S. 1687, to adjust the boundary of Carson National Forest, New Mexico, S. 1774, to establish the Rocky Mountain Front Conservation Management Area, to designate certain Federal land as wilderness, and to improve the management of noxious weeds in the Lewis and Clark National Forest, S. 1788, to designate the Pine Forest Range Wilder-

ness area in Humboldt County, Nevada, S. 1906, to modify the Forest Service Recreation Residence Program as the program applies to units of the National Forest System derived from the public domain by implementing a simple, equitable, and predictable procedure for determining cabin user fees, S. 2001, to expand the Wild Rogue Wilderness Area in the State of Oregon, to make additional wild and scenic river designations in the Rogue River area, to provide additional protections for Rogue River tributaries, S. 2015, to require the Secretary of the Interior to convey certain Federal land to the Powell Recreation District in the State of Wyoming, and S. 2056, to authorize the Secretary of the Interior to convey certain interests in Federal land acquired for the Scofield Project in Carbon County, Utah.

SD-366

MARCH 27

2:30 p.m.

## Armed Services

## Airland Subcommittee

To hold a hearing to examine Army modernization in review of the Defense Authorization request for fiscal year 2013 and the Future Years Defense Program.

SR-222

MARCH 28

10 a.m.

## Veterans' Affairs

To hold hearings to examine the nominations of Margaret Bartley, of Maryland, and Coral Wong Pietsch, of Hawaii, both to be a Judge of the United States Court of Appeals for Veterans Claims.

SR-418

2 p.m.

## Armed Services

## Personnel Subcommittee

To resume hearings to examine the Active, Guard, Reserve, and civilian personnel programs in review of the Defense Authorization request for fiscal year 2013 and the Future Years Defense Program.

SR-232A

**SENATE—Tuesday, March 6, 2012**

The Senate met at 10 a.m. and was called to order by the Honorable RICHARD BLUMENTHAL, a Senator from the State of Connecticut.

**PRAYER**

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O God, who put into our hearts such deep desires that we can't be at peace until we rest in You, satisfy the longings of our souls with Your merciful presence.

Lord, open the minds of our lawmakers to the counsels of Your eternal wisdom, breathing into their hearts Your peace which passes understanding. Increase their hunger for justice in our Nation and world, as they find grace to seek first Your kingdom. May their moments and days ever flow in ceaseless praise.

We pray in Your holy Name. Amen.

**PLEDGE OF ALLEGIANCE**

The Honorable RICHARD BLUMENTHAL led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

**APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE**

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. INOUE).

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, March 6, 2012.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable RICHARD BLUMENTHAL, a Senator from the State of Connecticut, to perform the duties of the Chair.

DANIEL K. INOUE,  
President pro tempore.

Mr. BLUMENTHAL thereupon assumed the chair as Acting President pro tempore.

**RECOGNITION OF THE MAJORITY LEADER**

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

**SCHEDULE**

Mr. REID. Mr. President, following leader remarks, the Senate will be in a

period of morning business for 1 hour. The majority will control the first half, Republicans the second half. Following morning business, the Senate will resume consideration of S. 1813, which is the surface transportation bill. The filing deadline for second-degree amendments is today at 11:30. At noon there will be a cloture vote on the substitute amendment. The Senate will recess from 12:30 to 2:15 p.m. to allow for the weekly caucus meetings. At 2:15 there will be two votes on the confirmation of the Phillips and Rice nominations to be judges.

Will the Chair announce the business today.

**RESERVATION OF LEADER TIME**

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

**MORNING BUSINESS**

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period of morning business for 60 minutes, with Senators permitted to speak therein for up to 10 minutes, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the final half.

The Senator from Washington.

**RICE NOMINATION**

Mrs. MURRAY. Mr. President, I come to the floor today to urge my colleagues to vote in support of Thomas Rice. He has been nominated to serve as the next Federal judge for the Eastern District of my home State of Washington.

Mr. Rice is a distinguished attorney who has dedicated his professional career to serving the public in the U.S. Attorney's Office. In that time he has earned the respect of Federal judges, opposing defense attorneys, his fellow prosecutors, and local law enforcement officials.

Mr. Rice has a deep connection to eastern Washington and its legal community. He graduated from Gonzaga University with a degree in accounting, and then he returned on a full scholarship to earn his law degree. After earning that degree, Mr. Rice moved directly into public service as a trial attorney with the Department of Justice in Washington, DC. He then returned to the Eastern District to work in the U.S. Attorney's Office, climbing the ranks to become the first U.S. attorney

responsible for the management of the Spokane office, and he is currently the highest ranking career DOJ official in the Eastern District.

Over his 20 years of practice, Mr. Rice has tried over 1,000 criminal cases dealing with nearly every area of Federal law. He has gone above and beyond his duties, volunteering additional hours at the office, taking on extra cases, and establishing the local Antiterrorism Advisory Council, which brings together representatives from every law enforcement agency in the Eastern District.

As the assistant U.S. attorney, he has earned the reputation of being tough on crime but also levelheaded and fair in the conduct of his prosecutions. Mr. Rice clearly meets the standards of fairness, evenhandedness, and adherence to the law we expect of our Federal judges.

I know I speak on behalf of so many in the Washington State legal community in supporting his nomination today. Mr. Rice's nomination was the product of a bipartisan selection commission we use in the State of Washington, and he received strong endorsements from both sides of the aisle.

We continue to use our bipartisan selection process in Washington State, despite the fact that it does take more time and a lot of effort, because it works to select judges of the highest quality and because it is intended to remove partisanship in the selection of our judges. You would think someone such as Thomas Rice would be able to move through this process very quickly and get to work on the court. Unfortunately, some of our colleagues on the other side of the aisle have slowed down and delayed this vote. Mr. Rice's nomination was actually reported unanimously out of the Judiciary Committee in October of last year, with strong bipartisan support—almost 4 months ago. But his nomination has sat on the Executive Calendar because some Senate Republicans refuse to consent to debate and vote on nominations just like his. I have not heard any objections from Republicans about Mr. Rice's qualifications, nor have I heard any Republican claim they have been unfairly blocked from any process. This delay is the result of an unprecedented effort by Senate Republicans to delay and block all of President Obama's judicial nominees.

There are now 20 judicial nominations reported favorably by the Judiciary Committee that are still sitting in wait on a final Senate vote. Fourteen of those nominations have been pending since last year and should have

been confirmed before the end of last year. Eighteen of those nominations received strong bipartisan support from the Judiciary Committee. They deserve to move through this process in a fair way and get a vote here on the floor of the Senate—especially when both sides have agreed they are going to pass—because even though Republicans are making this about politics here in DC, this does have a real impact on our families and the court system throughout America. Nearly 10 percent of the Federal judgeships remain vacant right now, and 130 million Americans live in districts or circuits that have a vacancy that could be filled today if the Republican obstruction would end on nominations that have been vetted, considered, and favorably reported by the Judiciary Committee, including families in the Eastern District of my home State. This kind of obstruction is not good for our country. It hurts families' ability to access the courts in a timely fashion, and it puts politics ahead of our judicial system.

I urge all of our colleagues today to vote in support of Thomas Rice. He is a great lawyer, and he is a community leader who I believe will make an exceptional Federal judge.

I really come today to also call on Republicans to end their obstruction and allow us to move forward quickly on debates and votes on these judicial nominations that have been backlogged for far too long.

I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### PUBLIC TRUST

Mr. DURBIN. Mr. President, we live in a time when public trust in all of our government institutions is at an alltime low and unfortunately continues to deteriorate. Recent polls indicate public confidence in Congress is at 11 percent, which is a record-low approval rating.

Americans have been skeptical of politicians in general and Congress in particular from the beginning of this Republic. It is a healthy skepticism which reflects the freedoms that are part of our democracy and the right of people to disagree with leadership with impunity under our Constitution, with some limitations. So I take it in historical context but still cannot escape the reality that the numbers today are lower than ever.

The legislative branch is not the only branch of government the public holds

in low regard. Polls also indicate that the U.S. Supreme Court has recently received its second lowest approval rating in history.

One way those of us who serve in government can increase public trust and confidence is to be more transparent about how we operate and the standards to which we are held. The recent passage of the STOCK Act in the Senate is an indication of a continuing effort to alert the public to what we do as Members of Congress which bears scrutiny.

I make a disclosure each year, which goes beyond the requirements of the law, and many others do as well. The STOCK Act will bring many Members of Congress to an even higher level of disclosure—as they should be. One way we can increase our confidence in the institutions of government is to address those aspects which add to transparency and add to trust.

I think it is time for the Supreme Court to provide more transparency and accountability in two specific areas: First, the Supreme Court should allow live television cameras to broadcast open Court sessions so the general public can see firsthand how the Court operates and arrives at critical decisions that literally change our lives. Second, the Supreme Court should formally adopt the Judicial Code of Conduct, which currently applies to all other Federal judges but for some inexplicable reason does not apply to Justices of the Supreme Court. The Court should also make public the other ethics rules it follows.

The Supreme Court decisions impact the lives of every American, but access to open sessions of the Court is incredibly limited. As a result, the Court's proceedings and the way it arrives at decisions are a mystery. Most Americans will never see the Supreme Court at work unless they are willing and able to travel to Washington, DC, and wait in line for hours or sometimes sleep outside overnight on the pavement in an effort to secure one of 250 seats in the Supreme Court courtroom.

In a democratic society that values transparency and openness, there is no valid justification for such a powerful element of our government to operate largely outside the view of American people.

I am pleased to have partnered with Senator CHUCK GRASSLEY, my Republican colleague from Iowa, on the Cameras in the Courtroom Act, S. 1945. He and I continue the work of our former colleague, Senator Specter, on this important issue. Our bill would require televising of all open sessions of the Court unless a majority of the Justices determine that doing so would violate due process rights of one or more of the parties before the Court. We give to the Court the last word on any given argument or case as to whether it will be public and televised.

In the coming weeks, the Supreme Court is going to consider the constitutionality of one of the most important pieces of legislation to be considered by Congress and signed by the President in decades—the affordable care act. During the yearlong congressional debate on health care reform, every hearing, floor debate, and vote was accessible to every American with a television set or a Webcast and a computer, at all times. The American people should have the same opportunity to watch the open session of the Supreme Court as it considers the constitutionality of health care reform legislation. On this point, there is bipartisan agreement. Despite our strong disagreements about the substance of the affordable care act, Democrats and Republicans from both Chambers have written to the Supreme Court, urging them to permit live video and audio broadcasts of the health care reform argument. The Court should allow live broadcasts of the health care reform hearing and all other open sessions of Court since each of the Court's decisions has the potential to have a transformative impact on the lives of so many Americans.

There are some who say we should not allow cameras in the Supreme Court because only bits and pieces of Court proceedings would be televised, and they might be taken out of context. That reminds me of an editorial from a few years ago, and here is what it said:

Keeping cameras out to prevent people from getting the wrong idea is a little like removing the paintings from an art museum out of fear that visitors might not have the art history background to appreciate them.

Similar arguments were made when consideration was given to televising these proceedings. Nevertheless, for two decades the legislative sessions and committee meetings in the Senate and the House have been broadcast live, and the legislative branch is better for it. The majority of States permit live video coverage in some or all of their courts. It is time the Supreme Court did the same.

Mr. President, I am sure you have found when you have gone back home there are people who watch C-SPAN nonstop. I have literally had people in my hometown of Springfield come up to me in the grocery store and say: Is Senator BERNIE SANDERS feeling well? I saw him sitting at his desk, and he looked a little bit pale.

They follow it with such close regard for the Members and the speeches that it is a surprise to many of us who live in this institution and work in it every day.

In my view, the Cameras in the Courtroom Act is a reasonable approach that balances the public's need for information and transparency with the constitutional rights of those who appear before the court. As in past

years, the Cameras in the Courtroom Act enjoys bipartisan support.

I thank Senators KLOBUCHAR, CORNYN, SCHUMER, HARKIN, GILLIBRAND, BEGICH, and the Presiding Officer, Senator BLUMENTHAL, for cosponsoring the bill. These Senators, as well as Senator GRASSLEY and myself, believe public scrutiny of Supreme Court proceedings will produce greater accountability, transparency, and understanding.

I thank Senator LEAHY, chairman of the Senate Judiciary Committee, for scheduling my bill, the Cameras in the Courtroom Act, for a vote in the Judiciary Committee. It was reported out with a strong bipartisan vote, and it is now pending on the Senate calendar. The bill has been cleared by every Democratic Senator for a vote by the full Senate. I am still hoping we can bring it to the floor as quickly as possible.

Mr. President, now I would like to touch on a related issue. Just as Supreme Court hearings should be televised to the American people, so too should the Court's ethical standards be available for review by the public. The ethics rules for all branches of government should be clear and public. When ethics decisions arise in the Senate—for example, the Senate Ethics Committee is responsible for enforcing the rules for Senators and our employees. Everyone knows the standards and expectations for Congress because they are a matter of public record. That cannot be said for the Supreme Court of the United States.

Our Supreme Court has publicly adopted some limited ethics rules but not others. The Court does not have an ethics office, nor is it subject to the judicial conference which regulates all other Federal judges outside the Supreme Court. Instead, as the highest Court in the land, the Supreme Court polices itself, and it asks the American people to just trust them. Of course, I have the highest respect for the Justices' abilities and their judgment. It has been my honor to come to know some of these Justices personally over the years. But if the public is asked to trust the Justices to police themselves, we are at least entitled to know the rules by which they play.

To its credit, some of the Supreme Court's ethics rules are already pretty clear. Through an internal resolution, the Supreme Court has adopted the same financial restrictions that apply to all other Federal employees. I recently sent a letter—along with Senators LEAHY, WHITEHOUSE, FRANKEN, and BLUMENTHAL—to John Roberts, the Chief Justice of the Supreme Court, asking him to publicly release one of the Court's resolutions which says that the Justices will follow the same regulations on outside employment, honoraria, and income that apply to other justices. The Chief Justice agreed to our requests and publicly released this

resolution for the first time since it was adopted in 1991. I applaud Chief Justice Roberts' action. I encourage him and the other Justices to continue on this path by releasing all of their ethics rules.

Nevertheless, there is more work for the Supreme Court to do to increase transparency and accountability. The Court should either adopt a court resolution agreeing to follow the judicial code of conduct—the same ethics code that applies to all other Federal judges—or adopt and publicly disclose their own ethics code. Many have called for the Supreme Court to adopt the Judicial Code of Conduct.

In response, Chief Justice Roberts has explained that the Justices use the code as one source of guidance but not the only source to decide ethics questions. Given that they already apply the code in practice, it seems a logical next step for the Court to adopt its own resolution formally affirming this practice or they can adopt a resolution making it clear which ethics rules do or do not apply.

All of the Justices deserve respect for the difficult and weighty decisions they face. But as some of the most powerful members of our government, it is not too much to ask of them to make their ethical standards open and clear. By making their ethics rules more transparent, the Justices will foster greater public trust and confidence in the Court and its decisions.

In conclusion, let me emphasize that I have a high regard for the Supreme Court and all of its Justices. I do not intend to question or impugn any Justice with my suggestions. But let's be clear; we live in an era where there is a great deal of mistrust in government institutions, starting with Congress but through all branches of government. At the same time modern technology enables us to provide the American people with more access to the workings of government which could help to reduce some of this mistrust.

I, and many of my colleagues in the Senate, have worked for many years to increase openness and transparency in Congress and the executive branch. I encourage the Supreme Court to take the same approach. Televising Supreme Court proceedings and making public the Court's ethics rules would be a good start. The American people deserve to be able to watch the Supreme Court arguments and cases that can affect their lives, and they deserve to know the ethical standards that govern the Court when it decides cases.

#### GASOLINE PRICES

Mr. DURBIN. Mr. President, I mentioned yesterday on the Senate floor I spent a great deal of time in deep southern Illinois where some devastating and fatal tornadoes hit last week. As I said then and will repeat

briefly now, the amazing outpouring of voluntarism and support from people far and wide was inspiring to me. It is great to know that, just as I had hoped, the people in my State rallied to help the victims.

There were formal organizations such as the American Red Cross and informal organizations such as Operation Blessing which brought together churches from all over the area. There was a Methodist church from Carrier Mills with about 20 of their parishioners. Some were children with rakes doing everything they could to help clean up the mess. It was inspiring to see that. I was happy for that.

I will tell you that in addition to the tornado issue we faced, the one thing that hit people between the eyes in Illinois this last week was gasoline prices. I was in the suburbs of Chicago on Friday evening and saw a gas station with regular gasoline for \$4.09. I saw some lower prices over the weekend, but that was the high watermark or high gasoline mark in my State that I observed. People are very sensitive to this. Gasoline prices literally affect the lives of people individually and families as well. They also have a direct impact on business.

I asked a vice president of Walmart about monitoring retail sales and how to increase retail sales, and he told me that with all of the hundreds and thousands of Walmart stores and employees, they literally monitor sales by the second in real time.

He said: I can observe the sales pattern in a store somewhere in America and tell you within a few pennies or dimes what the price of gasoline is in that community. When gasoline goes up, people put the money into the tank instead of on the counter, and they stay home instead of going out to shop. That is how the price of gasoline directly impacts economic recovery.

I have listened to so many of the comments that have been made on the Senate floor by individuals on the other side, their approach on how to deal with the issue of gasoline prices and what to do with it. I see the Senator from California. I sometimes wonder if we are reading the same basic information.

The Keystone Pipeline could serve a valuable purpose, but to believe that this is somehow going to have an immediate impact or any major impact on gasoline prices is not realistic. Currently, the pipelines from Canada that exports these oil sands to the United States are operating at less than 50 percent of capacity. So there is plenty of room for more oil sands to come to the United States for refinement. In fact, one of the pipelines goes directly to my State to the Conoco refinery in Wood River, and this refinery has the capacity that could be used to process these Canadian oil sands right now. So to argue this Keystone Pipeline is

somehow holding back the export of Canadian oil sands that might have an impact on gasoline prices just does not work.

I have noted there has been a significant increase in the amount of oil exploration and drilling that has taken place under this administration. I believe that is an indication of what we can and should do as a nation to deal with the problem of providing the oil resources in an environmentally responsible way. It is 2 years after the BP spill, and I think it is time for us to reflect on the fact that we never ever want that to happen again.

The devastation that has been caused to so many lives, to so many businesses, and to so much in terms of wildlife will not be calculated. Perhaps it never will be. But we know we cannot allow that to occur again. We should not exalt speed over safety. We have to make certain that as we move forward to develop our energy resources, both oil and gas, we do it in a sensible way. I hope we can gather together and agree that is the way to approach it, along with the administration's proposals for more fuel efficiency in the vehicles we drive and for the development of alternative fuels which will be environmentally friendly and spark new innovation, new businesses, and new jobs in this country in the 21st century.

Mrs. BOXER. Will the Senator yield for a question?

Mr. DURBIN. I am happy to yield.

Mrs. BOXER. Mr. President, I thank my friend for putting the gas price situation into a larger picture and also note that one other factor playing a role is manipulation due to some of the instability in the world that our President is certainly dealing with, and many of us here, and the instability in Iran; the fact that we have sanctions, the fact that there is also a greater demand coming for this product from China and other very high-growth areas.

I say to my friend, is he aware—I know he is, but because of the rules I have to ask it in a question—that we are producing far more of this resource, oil, in this country than we have done? Since 2008 we have many more rigs out there, and is my colleague also aware that the oil companies are sitting on well over 50 million acres of leases on which they are not drilling when they could? And, my last point, is my friend aware that we are exporting more than we ever have from America? That is also a very important point.

To those who say, “drill, baby, drill,” that is not an answer if it is “export, baby, export.” The fact is we are drilling more, and more is leaving America.

So I say to my friend, is he aware of all of these factors, and is he as concerned as I am about the other side playing more politics with this because “drill, baby, drill” is not the answer?

We are drilling more than ever. We only have 2 percent of the world's proven supply of oil.

I wonder if my friend could comment on those points.

Mr. DURBIN. I thank the Senator from California. In response, I would ask consent of the Chair to have printed in the RECORD the New York Times editorial of Monday, March 5, 2012, entitled “Drill Baby Drill, Redux.”

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times]

DRILL BABY DRILL, REDUX

REPUBLICANS' TIRED REMEDY FOR RISING GAS PRICES WON'T FIX ANYTHING

It's campaign season and the pandering about gas prices is in full swing. Hardly a day goes by that a Republican politician does not throw facts to the wind and claim that rising costs at the pump are the result of President Obama's decisions to block the Keystone XL pipeline and impose sensible environmental regulations and modest restrictions on offshore drilling.

Next, of course, comes the familiar incantation of “drill, baby, drill.” Mr. Obama has rightly derided this as a “bumper sticker,” not a strategy. Last week, he agreed that high gas prices were a real burden, but said the only sensible response was a balanced mix of production, conservation and innovation in alternative fuels.

There are lots of reasons for the rise in gas prices, but the lack of American production is not one of them. Domestic crude oil production is actually up from 5.4 million barrels a day in 2004 to 5.59 million now; imports have dropped by more than 10 percent in the same period. Despite a temporary slowdown in exploration in the Gulf of Mexico after the BP oil disaster, the number of rigs in American oil fields has quadrupled over three years. There have been new discoveries and the administration has promised to open up more offshore reserves. To say that Mr. Obama has denied industry access is nonsense.

Equally nonsensical is the Republican claim that Mr. Obama's proposed repeal of \$4 billion in annual tax breaks for the oil and gas industry—whose five biggest players posted \$137 billion in profits last year—would drive prices upward. As is Newt Gingrich's claim that a proposal now taking shape in the Environmental Protection Agency, and fiercely opposed by refiners, to lower the sulfur content in gasoline would add 25 cents to the cost of a gallon. Agency experts say it would add about a penny.

The truth is that oil prices are set on world markets by forces largely beyond America's control. Chief among these is soaring demand in countries like China. Unrest in oil-producing countries is another factor. The Times noted fears in some quarters that gas could jump to \$5 a gallon if the standoff with Iran disrupted world supplies.

Therein lies the biggest weakness in the Republican litany. A country that consumes more than 20 percent of the world's oil supply but owns 2 percent of its reserves cannot drill its way out of high prices or dependence on exports from unstable countries. The only plausible strategy is to keep production up while cutting consumption and embarking on a serious program of alternative fuels.

American innovation is a big part of the answer. Two byproducts of the automobile bailout were the carmakers' acceptance of

sharply improved fuel economy and a new commitment to building cars that can meet those standards. The new rules are expected to cut consumption by 2.2 million barrels a day—more than America now produces in the gulf. These and other measures are not nearly as catchy as Drill, Baby, Drill. But they have a far better shot, long term, of lessening this country's dependence on oil imports and keeping gas prices under control.

Mr. DURBIN. It answers specifically what the Senator just raised, and I would like to read a portion of it.

Domestic crude oil production is actually up from 5.4 million barrels a day in 2004 to 5.59 million now; imports have dropped by more than 10 percent in the same period. Despite a temporary slowdown in exploration in the Gulf of Mexico after the BP oil disaster, the number of rigs in American oil fields has quadrupled over 3 years. There have been new discoveries, and the administration has promised to open more offshore reserves. To say that Mr. Obama has denied industry access is nonsense.

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The editorial continues:

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As the Senator from California noted—

more than 20 percent of the world's oil supply but owns 2 percent of its reserves cannot drill its way out of high prices or dependence on exports from unstable countries. The only plausible strategy is to keep production up while cutting consumption and embarking on a serious program of alternative fuels.

Let me add to this conversation a topic which I think we have been loathe to address on the floor because of its political controversy which was driven home to me over the weekend. I believe our energy conversation has to parallel an environmental conversation. We have to talk about the consumption of energy and the impact it has on the world we live in.

I would say to the Senator from California that in the Midwest, we live in tornado country. I was raised with them. I know how to run to the basement when we hear the air raid sirens, to protect our children, which rooms to go in, which corner of the house. It is just built into our lifestyle in the Midwest. So far this year, we have had over 272 reported tornadoes, early in

the tornado season. Last year, we had 50; so 272 to 50.

I would just say to anyone who would like to come challenge me: Is this worth asking a question or two? What is going on with the extreme weather patterns we are seeing more and more? In a given year, one might say these things happen. But as these patterns emerge—last year, Chicago experienced the biggest blizzard in its history in February and then in June the largest rainfall in 1 hour in its history. We think to ourselves: This is not the world in which we grew up. Things are different out there. Are these within our control or beyond our control? I think we have to rely on experts and scientists to lead us in that conversation. But let's at least embark on that conversation by understanding the connection between energy and the environment.

As we find more efficient ways to move our cars and move our economy, as we burn less energy in doing it, there is less damage to the environment. That is a positive. It also rewards innovation, creation and new business and industry so the United States can lead in this area as we have led in other areas before.

I thank the Senator from California. She is on the floor now with a bill which she has spoken of time and time again, the new Federal Transportation bill. There is no single piece of legislation that will create more jobs—specific jobs that can be identified—than this bill. We have spent 2 weeks—2 weeks, if I am not mistaken, or 3—the Senator from California would know better—3 weeks on the floor of the Senate arguing about contraception on the Federal highway bill, arguing about whether we are going to embark on a foreign policy amendment to the Federal highway bill, so 3 wasted weeks trying to come to a conclusion about a handful of amendments. Unfortunately, this is what gives our Senate a bad name. We should have resolved this long ago and moved to this bill so we can say, if we want a real jobs bill—a real jobs bill—the Senate is leading the way. To do it, we need bipartisan support.

At noon there will be a vote and those who are following the proceedings can take a look to see how many on both sides of the aisle will support moving forward on this bill. I think our earlier vote was 85. If I am not mistaken, 85 Senators said let's move forward on this bill. I hope we can do that again.

I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ISAKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ISAKSON. I ask unanimous consent to speak for up to 10 minutes in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### GAS PRICES

Mr. ISAKSON. Mr. President, I am glad to be able to come to the floor. I wish to talk about a subject that was talked about to me a lot during the Presidents Day break back in Georgia. I spent most of that week traveling in my State, going to townhall meetings, listening to Georgians from Savannah, GA, to Murray County, GA, and everywhere in between. It was absolutely easy to tell what the No. 1 issue for the average American or the average Georgia family is; that is, what the price of gasoline is doing to their budget.

Gasoline prices continue to escalate. In fact, I have a Chevrolet Silverado pickup truck that I use from time to time and I had to fill it last weekend. It cost \$78 to fill it, and it wasn't totally empty. That is a big pricetag to fill a pickup truck. When I think of every carpenter or farmer or landscaper or student taking their goods back to school to their dormitory room and how much they have to pay for gasoline to deliver those goods and services or that furniture, I realize how harmful current gas prices are and I fear how high they are going to go.

We need a comprehensive energy policy in the United States of America. I was listening to the distinguished majority whip speak before me. He made an interesting comment about the Keystone Pipeline. He said, even if we approve the Keystone Pipeline, it would not do anything for gas prices today. He is right because we have to build the pipeline. But if we had approved it 2 years ago and it was operating, we would have 700,000 barrels of petroleum more a day coming into the United States. So to say that just because it would not be ready today doesn't help gas prices is not keeping our eye on the ball.

What we have to recognize is, in the absence of a comprehensive policy, in the absence of foresight, in the absence of putting all the general items on the table that generate energy, we are putting off the day in which the United States of America is energy independent. Because we are not energy independent, then what goes on in Iran, in the Strait of Hormuz, and in Venezuela affects the speculation on gasoline and petroleum which affects the prices of gasoline in the United States.

I am not one of these "burn gas right and left, drill as much as you can, fossil fuels are fine." I know we have

problems with carbon. I drive a hybrid vehicle, not because I am trying to drive a point but because it makes sense. Anytime you can reduce carbon, that makes sense. But you cannot eliminate it. You cannot eliminate it. What we have to do is we have to put all sources of energy on the table. And one of those is to continue to explore for gasoline and petroleum in the domestic United States of America—off the Gulf of Mexico, off of our coastline, in our national lands that we own where we know we have shale oil and where we also know we have natural gas.

That exploration ought to be replete throughout the country, so we are expanding our supply and reducing our dependence on foreign imports. The best way to lower the price of gasoline in the future for Georgians and for Americans is for the Congress of the United States and the President of the United States to have a comprehensive energy policy that embraces all forms of energy.

To the credit of the President, he approved not too long ago the loan guarantees on reactors 3 and 4 at Plant Vogtle. They will be the first nuclear reactors built in the United States of America since Three Mile Island. Nuclear energy is a safe, reliable, carbon-free—carbon-free—generation of energy. Every time we can expand our nuclear capability we are lessening the pressure on domestic and foreign oil to be burned.

We know in the Haynesville shale and the Marcellus shale, which has been discovered in Pennsylvania and Louisiana and Texas, that we have gone from having a finite supply of natural gas to an infinite supply. Yet, because there is some contest over whether hydraulic fracturing is good or not good, we are not exploring that gasoline as we should or that natural gas as we should. We should be exploring it as much as possible, because it is a cleaner burning fuel than liquid petroleum and gasoline. We ought to be doing renewable energy wherever it makes sense. But we have seen renewable energy has its limits. We spent \$6 billion a year subsidizing ethanol in hopes that it would have reduced foreign imports, but it has not. It has had its own problems with two-cycle engines. But ethanol has a place. It is scalable on the farm in some cases. That is a good source of energy.

Solar is a good source of energy where it works. But it only works as a supplement. It is not a primary supply or source. And wind, great. But it is only great in the Midwest and down toward the Southwest. But we ought to be using and encouraging it.

What we ought to be doing is encouraging all forms of exploration, all forms of generation, and all of them domestically in the United States of America. That will bring down gas prices.



The distinguished majority whip was right: It will not bring it down today, because we have put off having an energy policy. But once we finally develop an energy policy, and we stick to it, and we explore all forms of renewable energy and all forms of fossil fuel and all forms of coal, and we enhance nuclear, then we will have a plethora of energy and we will have a lower price and less competition with foreign oil and foreign petroleum, which is where the United States of America needs to be.

Right now, we all realize what is going on in the Middle East is the root cause of most of the increase in the cost of oil, because of speculation. Every time we can improve our position and be free of those influences is better for the United States of America and, most importantly, it is better for the average citizens we all represent.

My message from the people I represent in Georgia, the ones I talked to all during the Presidents Day recess and that week is: Do everything you can to expand your supply of energy wherever you can find it. Take us out of a dependence on foreign imports and get us independent of foreign oil; that will bring down the price of oil. As a byproduct, that will be in the best national security interests of the people of the United States of America.

I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BOOZMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MANCHIN). Without objection, it is so ordered.

Mr. BOOZMAN. Mr. President, as February came to a close, it left behind an unfortunate new record, \$3.73 per gallon, the national average, for unleaded gasoline, the highest ever recorded during this month. Prior to this morning's drop of three-tenths of a cent, gas prices had been on the rise for 27 straight days. In just 3 years, gas prices have doubled, and they are not stopping there. Back home in Arkansas, the average price of a gallon of regular gasoline is up over 25 cents from a month ago. Many analysts are predicting we will hit \$4 a gallon by summer.

Think about what that does to the economy. For our small business owners and farmers, it means much higher overhead. Those costs ultimately get passed on to the consumers. In very dire cases, which many of our small businesses are facing today due to reduced profit margins, threats of higher taxes and increased regulations, high gas prices could be the final straw.

It puts extra pressure on budgets of already cash-strapped local govern-

ments. Just the other day I was reading a story from the Booneville Democrat that documented the negative effects the price of gas has on Logan County, AR. The county judge, Gus Young, noted if gas prices reach \$4, it is "going to take away from the other things that need to be done."

In Blytheville, AR, which is a 300-mile trek from Booneville, those same concerns are being voiced. In the Blytheville Courier News, former mayor Barrett Harrison described how in recent years, despite efforts to use more fuel-efficient vehicles and to cut down on idle time, the city would still end up having to amend the budget at the end of the year due to the high fuel costs.

For hard-working Arkansans, it is changing the way they live, and not for the better. It is especially painful for our seniors and single parents who live on fixed incomes. The high price of gas is one of the top issues I am hearing about in letters, calls, and during my visits across the State. I also recently posed the question about how the rising price of gasoline in Arkansas is affecting them on my Facebook page. I want to share a few of the responses I received.

Tim in Rogers, AR said, "The more we have to pay for gas, the less money we have for the other necessities and pleasures of life and living."

Melody in central Arkansas said it costs her family "nearly sixty-five dollars to fill up their truck" and said they have limited their driving to only their doctor in Hot Springs and the grocery store.

And it goes on from there. Many respondents said that it limits their spending at places like the grocery store and will affect their vacation plans. The overwhelming common thread in those responses is that Washington needs to do something about the high cost of gas.

There is no denying that rising fuel prices are hurting Americans and further complicating our efforts to revitalize the economy. There is also no denying that we are not moving fast enough to address these concerns. Americans want to know why, while their gas bills mount, Washington still does not have an energy policy. It is past time that we move forward on one and that begins with increasing our energy production here at home.

We have the largest recoverable resources of oil, gas and coal of any nation on the planet. America's recoverable resources are larger than the combined supply of Saudi Arabia, China and Canada. Despite that, we depend on hostile regimes—and nations that have agendas that are often at odds with our own—for much of our oil.

The current tension between Israel and Iran only serves to make matters worse. If Israel strikes Iran, there is a good chance that the Iranians could at-

tack Saudi Arabia's oil fields to retaliate against the West.

It doesn't have to be this way. The Keystone XL Pipeline, Arctic National Wildlife Refuge, ANWR, and drilling in the eastern Gulf of Mexico alone would produce 3 million barrels of oil per day. The lack of will in Washington to increase production here at home is unnecessary. It is a literal road block. It prevents our economy from picking up, increases the costs Americans pay for fuel, and it creates an enormous liability for our national and economic security.

President Obama has said that increased domestic oil production is unnecessary as he contends it is at the highest it has been in 8 years. However, you only get those numbers by relying heavily on production on private lands in North Dakota, Texas and Alaska. We simply are not utilizing the resources we have been blessed with on public lands.

We can make a major dent in the problem simply by opening the Outer Continental Shelf and ANWR to drilling in an environmentally responsible way. The Outer Continental Shelf alone is estimated to contain enough oil and natural gas to meet America's energy needs for about 60 years. Energy exploration and production in ANWR would take place on just a small portion of the 1.5 million-acre northern coastal plain, yet will allow us to safely produce 900,000 barrels of oil per day for the next 30 years. I have been there. I have seen firsthand that this can be done in an environmentally safe way.

Similarly, the Keystone Pipeline would transport 700,000 barrels of oil per day from Canada to U.S. refineries in the gulf coast. And it too can be constructed and run in an environmentally safe manner. Tapping into Canada's oil sands—one of the world's largest oil reserves—would help ease our dependence on hostile regimes for oil. As global demand for oil surges and the Canadians increase production, the addition of the Keystone pipeline would allow us to get reliable and secure oil from our largest trading partner and trusted ally.

Unfortunately, President Obama has punted on every opportunity we have given him to move the Keystone Pipeline forward. That is why I am supporting legislation to approve the project under Congress' authority enumerated in the commerce clause. This same Congressional authority was used to move the Alaska Pipeline forward 40 years ago, which has dramatically increased the amount of oil produced here at home.

I have long supported legislation that puts a heavy investment into researching wind, solar, hydrogen and other technologies. These will ultimately ease our dependence on foreign oil and gas. But we need relief now and American oil is necessary and available.

For the foreseeable future, our economy will rely heavily on fossil fuels. While we certainly need to encourage the market for alternative energy sources, it has yet to be fully developed. But there is no denying that by stalling domestic production, we create an unnecessary burden on an already weak economy and are hurting our efforts to meet our energy needs. We need to lift the moratorium on offshore oil development, open ANWR for exploration and move the Keystone Pipeline forward instead of further postponing the decision.

As I mentioned earlier, the people of Arkansas are demanding action from Washington. They are frustrated by the higher totals that appear on the receipts every time they go to fill up their gas tank. They are tired of seeing more and more of their disposable income being eaten up at the pump. Let's start providing them relief by increasing production here at home.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. What is the order at this time?

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

#### MOVING AHEAD FOR PROGRESS IN THE 21ST CENTURY ACT

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 1813, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1813) to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

Pending:

Reid amendment No. 1761, of a perfecting nature.

Reid amendment No. 1762 (to amendment No. 1761), to change the enactment date.

Reid motion to recommit the bill to the Committee on Environment and Public Works, with instructions, Reid amendment No. 1763, to change the enactment date.

Reid amendment No. 1764 (to (the instructions) amendment No. 1763), of a perfecting nature.

Reid amendment No. 1765 (to amendment No. 1764), of a perfecting nature.

The PRESIDING OFFICER. Under the previous order, the time until 12 noon will be equally divided and controlled between the two sides, with the final 10 minutes equally divided and controlled by the two leaders or their designees, with the majority leader controlling the final 5 minutes.

The Senator from California.

Mrs. BOXER. Mr. President, we are back in our fourth week trying to get a transportation bill through this body. To me, it is a very sad statement about

the dysfunction of this body that we spent approximately 3 weeks dithering over a contraception amendment that has nothing to do with the highway bill and other threats to offer foreign policy amendments, and so on.

We have a chance today to vote to end this dithering, and the Chamber of Commerce is asking us to do that. The AFL-CIO is asking us to do that. One thousand organizations are asking us to do that because they know thousands of businesses and well over 1 million jobs are at stake.

I wish to say I heard the tail end of Senator BOOZMAN's talk about the Keystone Pipeline. I wanted to make sure it was on the record—this is from a conversation I had with Senator DURBIN—that under this President we are drilling now more than we have ever drilled. Anyone who says “drill, baby, drill” doesn't understand that the number of rigs that are now moving are four times as many as in 2008. They don't understand we are now exporting oil. They don't understand the fact that we are importing less. Does that mean we are done? No. The oil companies have more than 50 million acres of approved leases. They ought to drill there and hands off my coast because my coast is an economic gold mine the way it is because we have tourism and recreation and fishing. Those jobs far outweigh any jobs that would come from oil drilling, which would tend to undermine the very economy of my great State. If we have to vote on Keystone, we will. If we have to vote on offshore drilling, we will. But I will be here to point out that if we care about jobs and about making sure the price of gasoline goes down, when we have Keystone, let's make sure the oil stays here, that oil is made in America and stays in America. These issues are not one-dimensional; they are many sided, as my friend knows. He and I have agreed on much and we have disagreed on some.

What we need is the kind of balance President Obama brings to the table when it comes to energy. He says we will do “all of the above,” but we will do it wisely. Interestingly, on the Keystone Pipeline—we now have the tea party talking about property rights and the fact that they have to be respected as well when we build a new pipeline such as this. So we will have votes.

May I make a plea to my colleagues. At noon, just about 50 minutes from now, we can have a clean vote; 60 of us can vote to move to this Transportation bill, to get rid of, as my friend OLYMPIA SNOWE has said, polarizing amendments. Why not move to something that was voted unanimously out of our committee, 18 to zero—Republicans and Democrats, all together; Senator INHOFE and myself, together; Senator SHELBY and Senator JOHNSON, together on the bill; Senator BAUCUS,

working in a bipartisan way with his committee; and Senator ROCKEFELLER, once they got rid of some bumps, working with Senator HUTCHISON. We now have pending an agreed-upon bill, plus we have added to the package 37 bipartisan amendments.

What more do my friends want? We have a bipartisan bill. We have added more bipartisan amendments to it. All these jobs are at stake, and today we can end all this dithering and wasting time. The people of America look at us and wonder what we are about. Vote yes for cloture.

I wish to talk about what is at stake if we don't invoke cloture and don't wind up with a bill. That is not just hyperbole; these are facts. All our transportation programs expire on March 31.

My friend in the chair served as a great Governor of his State of West Virginia. He knows how important the highway bill is. We work together with the States and with the planning organizations, and we get those funds out there. On March 31, we are done. This bill reauthorizes that program, and 1.8 million jobs are at stake. As soon as we fail, there is no more program. There is no more authority to collect the Federal gas tax that supports the highway program. There is no more authority to spend any money on transportation.

Again, 1.8 million jobs are at stake. Let's go to the next chart. I did a breakdown of the various States. In this time, I am going to highlight a few of the States. These charts will be available for everybody.

In Alabama, we are talking about only 27,000 jobs; in Alaska, 18,000 jobs—I am skipping; in California, 164,000 jobs; in Florida, 76,000 jobs; right here in DC, 18,000 jobs; in Georgia, almost 50,000 jobs; in Illinois, 65,000; in Indiana, 34,000; in Iowa, 17,000; in Louisiana, 25,000; in Maine, almost 7,000.

We will go on and give the rest of the States to give a sense of how many jobs will be lost if we do not act to reauthorize this bill.

In Maryland, 26,000 jobs; in Massachusetts, 31,000; in Michigan, 39,000; in Montana, almost 14,000; in Nebraska, 10,000; in Nevada, almost 14,000 jobs; in New Jersey, 50,000; in New York, 118,000; in North Dakota, 8,000; in Ohio, 50,000; in Oklahoma, 22,000; in Pennsylvania, 68,000; in Rhode Island, 8,000.

I will continue with another chart to show other examples. I will be sure to say what West Virginia is when I get to the Ws. In South Carolina, 22,000; in South Dakota, 9,000; in Tennessee, 30,000; in Texas, 128,000 jobs.

I call on Senators to vote yes to stop debate and get to the bill.

In Vermont, almost 7,000; in Virginia, 41,000; in Washington State, 34,000; in West Virginia, 15,133 jobs; in Wisconsin, 27,000; in Wyoming, 8,400 jobs.

When we talk about this as a jobs bill, this isn't some exercise in our verbiage; this is a fact of life. These jobs

add up to 1.8 million. In our bipartisan bill, we have increased a particular program—this is a reform bill, and we have taken 90 programs down to 30. It is a real reform bill. We have done away with every earmark. One particular program we increased is the TIFIA Program, transportation infrastructure financing. We took it up to \$1 billion because it leverages Federal dollars 30 times. So let's say one of our counties voted to tax themselves one-half cent to build a transit system. We would come in—and the Federal Government, you make an application from your State and we would front that money. So you could build it all in 1 or 2 years instead of waiting for the funding over 10. This was an idea that came from Mayor Antonio Villaraigosa and the Chamber of Commerce and the labor unions in Los Angeles.

So the bottom line here is not only are we saving 1.8 million jobs, but we have the potential of creating another 1 million jobs. If we fail today to cut off debate and we don't have a path forward—which I hope the leaders will figure out—if we abandon this, 2.8 million jobs are at stake.

Let's look at some other charts of unemployment. Mr. President, you know as well as anyone in your State, and I know in my State, that construction workers have been hit very hard. The national unemployment rate is 8.3 percent. We are hopeful it is on the downtick, but the construction industry unemployment rate as a whole is 17.7 percent. It could be even worse in some areas, but this is an average. So if we add to the unemployment in the construction industry, we are looking at a total crisis, a total disaster. Right now, we have 1.48 million construction workers out of work. If we fail to do this bill, we are adding another 1.8 million. So you could say this would be a depression for construction workers.

It doesn't stop there. The industry is feeling it, the businesses are feeling it, and we have a chart that talks about the thousands of businesses that would be affected. I don't know if you are aware of this, but there are over 11,000 transportation construction companies that would be adversely impacted by a shutdown on March 31. So in addition to the 1.8 million workers who would be laid off, 11,000 transportation construction companies—many of them—would have to shut their doors. And that is a very modest number.

Let me show a picture that I often show when speaking of the construction workers. I am sure you are a Super Bowl fan—we all are, Mr. President—and this is a picture of a stadium during the Super Bowl. Every seat there, about 100,000 seats, is filled. Imagine every one of these seats filled with an unemployed construction worker, and then close your eyes and envision 14 more of these stadiums filled with unemployed construction

workers. That is where we are today. Then you would have to envision another 25 or 30 of those. We cannot afford to go down this road. So today, let's vote "aye" for cloture.

The last thing I want to show is the strong support for this cloture vote. We received this yesterday from the U.S. Chamber of Commerce. The Chamber of Commerce:

... strongly supports this important legislation. Passing surface transportation reauthorization legislation is a specific action Congress and the administration can take right now to support job growth and economic productivity without adding to the deficit.

Because, as you know, this bill is 100 percent paid for. We also have a history-making group of organizations supporting this, and I will give you a sense of that as well. We have a coalition of 1,075 organizations from all 50 States. They sent us a letter on January 25, 2012, and they said:

In 2011, political leaders—Republican and Democrat, House, Senate and the administration—stated a multi-year surface transportation bill is important for job creation and economic recovery. We urge you to follow words with action.

I want to repeat that: We urge you to follow words with action.

Continuing the quote:

Make transportation job #1 and move immediately in the House and Senate to invest in the roads, bridges [and] transit systems that are the backbone of the U.S. Economy, its businesses, large and small, and communities of all sizes.

They didn't ask us to take up the Keystone Pipeline, they didn't ask us to take up repealing clean air laws, they didn't ask us to take up drilling off the coast, and they didn't ask us to take up contraception. They didn't. They asked us to take up this transportation bill. And I am saying to colleagues, please, you have had 3 weeks to discuss contraception. We disposed of it. We voted. It is okay. It is tabled. Let's move on. There are other days we can talk about that but not when we are dealing with building the highways and bridges.

You know, the state of our highways and transportation system is not what it should be, with 70,000 bridges deficient. Bridges are falling down. Senator INHOFE is eloquent on the point about a woman taking a walk and having a piece of bridge fall on her and she died. We have seen what happened in Minnesota when bridges start to fall into disrepair.

When I was growing up, my parents always taught me be responsible—be responsible. I am not always living up to their expectations, but I try. And if somebody tells me there is a problem over here, I try to fix it. So when I hear that 70,000 bridges are in trouble and they are deficient, and 50 percent of our roads are not up to standard—I now know this information. If I were ignorant and I didn't know it, that would

be one thing. But I now know it—how can I turn my back on this bill? I know how many unemployed construction workers there are. How can I turn my back on them? I know businesses—whether it is gravel companies or cement companies or general contractors—are begging us to do this. These are Republican-leaning groups along with labor and Democratic-leaning groups. Bridges are not partisan. Roads are not partisan.

This is our moment. We can vote yes on cloture. What does that mean? It means we are not going to debate these very difficult, inflammatory amendments, but we are going to stick to the highway bill, stick to the transportation bill. This vote is a very important vote for folks because I think if you don't vote to move to the bill and you vote to prolong this debate, you have to answer to your folks back home and tell them why you are playing Russian roulette with the highway bill, because on March 31 it all stops.

It is true in the past we have had extensions. This is different than usual because the trust fund is short of funds, so you can't just extend. If you extend, there is a price to be paid. Because the trust fund doesn't have the funds it needs—which is repaired in this bill—you would have an immediate cut of a third—a third—right there, which means 500,000 jobs, if you did an extension. We don't want that. We want a bill that is a reform bill, that takes this from 90 programs to 30, that uses leveraging in a smart way, and that is totally bipartisan.

Let me sum up. In a few minutes we will be voting, and let me say to my friends again, you have all the facts at hand. If you don't know what your State job loss would be if we fail to act, we have that. We will give it to you. But there is no way you can run away from what you know.

We had 85 votes to proceed to this bill. That was a long time ago. It seems like ages ago. Yet we can't get off dead center because people are offering unrelated amendments. So my hope is we will get to 60. My hope is we can, in short order, get this bill done and send a message of hope to the people.

I heard just now that Speaker BOEHNER has said he is very interested in the Senate bill; that he is going to take a look at the Senate bill because, at this point, they haven't been able to get a bill that they feel has a chance. This bill, I would reiterate for America, is bipartisan, the most bipartisan bill I have ever seen around here, and it unites people who fight and argue on everything else. When INHOFE and BOXER agree on something, you know that is a real good compromise. And we do agree. When VITTER and BAUCUS come in and agree on the same thing that INHOFE and BOXER have agreed to, it is a good day around here. And that is what we have before us.

So I call on colleagues to vote aye on the cloture vote and let's get on with this. Let's spare the people the untold suffering that will come if we have to lay off 1.8 million workers and hurt more than 11,000 businesses.

I thank the Chair, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. BOXER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. Mr. President, I ask unanimous consent that the time during these quorum calls be charged to both sides equally.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. TESTER). Without objection, it is so ordered.

Mr. REID. We appreciate everyone's patience. The Republican leader and I wanted to come and say a few words. The measure before the Senate today is moderate bipartisan legislation. Its four component parts were reported out of four different committees with bipartisan support. Eighty-five Senators voted to begin debate on this legislation. As everyone will remember, we had to file cloture on a motion to proceed to this bill, and the Senate agreed we should move forward on this legislation.

This bill will create or save 3 million middle-class jobs, and it enjoys broad support among rank-and-file members. Over 1,000 different organizations support this legislation—from the Chamber of Commerce, to the AFL-CIO, and AAA. It has the endorsement of one of the Senate's most conservative Members and one of its most liberal Members, the two main managers of this legislation. Democrats and Republicans have agreed additionally to 30 other germane and relevant amendments, so there should be nothing standing in the way of progress on this crucial legislation. Yet for weeks Republicans have refused to work with Democrats to finalize a path forward. So in a few moments the Senate will vote on whether to end debate on this measure and to end another filibuster.

The bill before this body is a bill that has been generated by the Environment and Public Works Committee. We have a provision in it from the Commerce Committee, the Finance Com-

mittee, and the Banking Committee that is before this body. But in addition to that, we have 37 amendments that are part of this measure that is before the body.

If we did nothing else but invoked cloture on this legislation and passed it and sent it to the House where we would have a conference, we would be way ahead because this bipartisan piece of legislation would help the American people save millions of jobs.

It is hard to comprehend that I had to file cloture on such a bipartisan bill, a measure Republican President Eisenhower and Democratic President Clinton could have agreed on and would have agreed on. Forty years after President Eisenhower won passage of the first highway bill, President Clinton said the law had succeeded in bringing Americans closer to each other. President Clinton said:

We were connected city-to-city, town-to-town, family-to-family, as we had never been before. That law did more to bring Americans together than any other law in this century.

That was said by Bill Clinton, but it was almost a copy of what President Eisenhower said in his memoir about the most important thing he did as President of the United States was this piece of legislation, and that says a lot coming from President Eisenhower.

I had great optimism that the transportation legislation before the Senate today would bring our two parties closer together as the interstate highways brought the American people closer together in the 1950s, 1960s, and 1970s. So it is disappointing that the Republican leadership would jeopardize this legislation and 3 million American jobs to pursue this ideological agenda.

I am hopeful the Senate will vote to move this much needed jobs legislation forward. Only seven Republicans are needed to allow us to do this. Only 7 of the 47 have to join us and move forward, but it seems more likely that my Republican colleagues will continue to take orders from the tea party and filibuster this jobs measure. Republicans are quite plainly holding up the surface transportation bill when they vote against cloture. That is what "cloture" means; it means the Senate agrees we need to focus on the germane amendments and bring endless debate to a close.

Senate Republican leaders are taking a page out of the book of the carnival magician. They have been saying since February 9: Look over here; look over here. They have been insisting on votes on contraception, on loosening clean water standards, and on drilling for oil pretty much anywhere there is water. But as the carnival magician says: Look over here, there is no need to look over there because it is just an effort to divert attention from what is really happening. No one should be fooled by what is going on here.

A vote against cloture is a vote against moving forward on this very important bipartisan legislation, and that is true no matter what diversions anyone might use to try to distract attention from this very important piece of legislation that is now ours to move forward on.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. MCCONNELL. Mr. President, as the majority leader indicated, we have had a number of very constructive conversations about reaching an agreement on voting on both germane and nongermane amendments to this bill. I think we are very close to getting there. My concern is that if cloture is invoked right now, we would not get an agreement, and amendments that we are very close to agreeing to have considered on both sides—the amendments that are sought to be offered are not just on the Republican side but on the Democratic side as well—will end up being shut out.

If we were not so close, I might have a different view, but we are very close to getting an agreement. If we invoke cloture right now, that agreement will not come together.

So I would encourage a "no" vote—not to stop the bill. This is a bill that is not going to be stopped. It has broad bipartisan support. Senator BOXER and Senator INHOFE have worked very hard on this legislation, and we anticipate being able to wrap it up.

But just to underscore where we are, I have indicated I would like to offer a unanimous consent agreement that kind of summarizes where I think we are.

I would ask unanimous consent that the pending Reid amendment be withdrawn, that it be in order to offer a new perfecting amendment cleared by both leaders which contains the three titles; further, that the following non-relevant amendments be in order to S. 1813, and they be subject to the 60-vote affirmative threshold; Senator COLLINS No. 1660, Boiler MACT; Senator VITTER No. 1535, OCS; Wyden side-by-side relevant to Hoeven No. 1537; Hoeven No. 1537 related to the Keystone Pipeline; Levin amendment on offshore tax havens; McConnell or designee relevant to Levin amendment; a Cantwell amendment on energy tax extenders; a McConnell or designee amendment relevant to the Cantwell amendment; Menendez amendment on natural gas; and a Coburn amendment, No. 1738, on duplication.

I further ask unanimous consent that the following highway-related amendments also be in order: DeMint No. 1756; Coats No. 1517; Blunt No. 1540; Paul No. 1556; Portman No. 1736; Portman No. 1742; Corker No. 1785; Corker, on highway trust fund, No. 1786; Hutchison No. 1568; McCain No. 1669; and 10 highway-related amendments to be offered by the majority leader or his designee.

I further ask unanimous consent that following the disposition of the above-listed amendments and the managers' package of amendments to be cleared by both managers of the bill, the bill be read a third time and the Senate proceed to vote on passage of the bill, as amended.

Finally, I ask unanimous consent that following passage of S. 1813, the bill be held at the desk and that when the Senate receives the companion measure from the House, the Senate proceed to its immediate consideration, all after the enacting clause be stricken, the text of S. 1813 as passed be inserted in lieu thereof; that the bill then be read three times and passed, the Senate insist on its amendment, request a conference with the House, and the Chair be authorized to appoint conferees on the part of the Senate with a ratio agreed to with the concurrence of both leaders.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object.

The PRESIDING OFFICER. The majority leader.

Mr. REID. I don't know why everything we do has to be a fight—not a disagreement, a fight. This bill was brought up on February 7, and we have been spending the better part of a month dealing with contraception—by the way, an amendment I had to offer because they wouldn't bring it up so we could vote on it.

My math says this agreement that has been suggested by the Republican leader calls for 34 amendments. I understand and I appreciate that some of them are related to what is in this bill—some of them are. As I indicated earlier, we have been dealing with contraception. There are amendments dealing with clean water standards and clean air standards. Nothing in this bill should deal with America having to breathe more mercury, more lead, and then, just for good measure, how about some arsenic? That has nothing to do with the highway bill.

As I said before, the amendment I looked at from my friend from Louisiana calls for drilling for oil anyplace there is water. Next they will be going to Lake Mead outside Las Vegas. We are producing more domestic oil now than in decades. The President has opened areas in Alaska that have never been opened before.

Why can't we just invoke cloture on this bill and move forward on it? It is not easy to get to conference—we know that—but we could go to conference. The House is doing its best to come up with a bill. They are struggling hard.

On the first day of April, it will be April Fools' Day for a lot of people in America because we will lose almost 800,000 jobs on April 1. It will be a real April Fools' Day. So if we can't move forward on this—why can't we get

seven Republicans to break from the pack over here and say that not everything we do has to be an arm-wrestling contest?

I appreciate that we at least have something in writing. I appreciate that. I will take a look at it, but I object.

The PRESIDING OFFICER. Objection is heard.

The Republican leader.

Mr. McCONNELL. Mr. President, not to continue to debate much further, but I would point out that there are demands for amendments on both sides here. We are very close to getting an agreement. I think a "no" vote on cloture is not the end of this bill but the beginning. It gives us an opportunity to go on and wrap up discussions that have been going on entirely too long, it seems to me, and I know the majority leader has been frustrated by it, and so have I. But we are very close to getting agreement on a list of amendments, and we should be able to finish this bill by the end of the week.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, I am, for lack of a better word, disappointed. These amendments are going to do nothing to advance the work product of almost 3 million Americans—none of them.

We should invoke cloture. I ask my Republican colleagues: Break this impasse. Do something that is good for the American people. Invoke cloture and stop the filibuster—another one.

#### CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order and pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The bill clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the Reid amendment No. 1761 to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

Harry Reid, Barbara Boxer, Christopher A. Coons, Robert P. Casey, Jr., Tom Harkin, Mark Udall, Richard Blumenthal, Debbie Stabenow, Patrick J. Leahy, Herb Kohl, Frank R. Lautenberg, Max Baucus, Tom Udall, Kent Conrad, Robert Menendez, Kirsten E. Gillibrand, Jeff Bingaman.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on amendment No. 1761, offered by the Senator from Nevada, Mr. REID, to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Alaska (Mr. BEGICH) and the Senator from Vermont (Mr. LEAHY) are necessarily absent.

I further announce that, if present and voting, the Senator from Vermont (Mr. LEAHY) would vote "yea."

Mr. KYL. The following Senators are necessarily absent: the Senator from Illinois (Mr. KIRK) and the Senator from Nevada (Mr. HELLER).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 52, nays 44, as follows:

[Rollcall Vote No. 25 Leg.]

#### YEAS—52

Akaka	Gillibrand	Nelson (NE)
Baucus	Hagan	Nelson (FL)
Bennet	Harkin	Pryor
Bingaman	Inouye	Reed
Blumenthal	Johnson (SD)	Rockefeller
Boxer	Kerry	Sanders
Brown (MA)	Klobuchar	Schumer
Brown (OH)	Kohl	Shaheen
Cantwell	Landrieu	Stabenow
Cardin	Lautenberg	Tester
Carper	Levin	Udall (CO)
Casey	Lieberman	Udall (NM)
Collins	Manchin	Warner
Conrad	McCaskill	Webb
Coons	Menendez	Whitehouse
Durbin	Merkley	Wyden
Feinstein	Mikulski	
Franken	Murray	

#### NAYS—44

Alexander	Graham	Murkowski
Ayotte	Grassley	Paul
Barrasso	Hatch	Portman
Blunt	Hoeven	Reid
Boozman	Hutchinson	Risch
Burr	Inhofe	Roberts
Chambliss	Isakson	Rubio
Coats	Johanns	Sessions
Coburn	Johnson (WI)	Shelby
Cochran	Kyl	Snowe
Corker	Lee	Thune
Cornyn	Lugar	Toomey
Crapo	McCain	Vitter
DeMint	McConnell	Wicker
Enzi	Moran	

#### NOT VOTING—4

Begich	Kirk
Heller	Leahy

The PRESIDING OFFICER. On this vote, the yeas are 52, the nays are 44. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. REID. Mr. President, I enter a motion to reconsider the vote by which cloture was not invoked on the Reid amendment.

The PRESIDING OFFICER. The motion is entered.

Mr. REID. Mr. President, I ask unanimous consent that the cloture vote with respect to the underlying bill be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I thank the Chair.

#### RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:54 p.m., recessed and reassembled at 2:15 p.m. when called to order by the Presiding Officer (Mr. WEBB).

#### EXECUTIVE SESSION

##### NOMINATION OF MARY ELIZABETH PHILLIPS TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF MISSOURI

##### NOMINATION OF THOMAS OWEN RICE TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF WASHINGTON

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nominations, which the clerk will report.

The legislative clerk read the nominations of Mary Elizabeth Phillips, of Missouri, to be United States District Judge for the Western District of Missouri, and Thomas Owen Rice, of Washington, to be United States District Judge for the Eastern District of Washington.

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes for debate equally divided in the usual form.

Mr. LEAHY. Mr. President, today the Senate will vote on the confirmation of two highly qualified, consensus nominees to the Federal bench: Mary Elizabeth Phillips to the U.S. District Court for the Western District of Missouri and Thomas Owen Rice to the U.S. District Court for the Eastern District of Washington. I thank the majority leader for pressing for these votes. These are nominees who were reported unanimously by the Senate Judiciary Committee last October, almost 5 months ago. They are both supported by their home State Senators, Democrats and Republicans, as are all of the judicial nominations of this President who have been voted on by the Senate Judiciary Committee.

Last month the majority leader had to file cloture petitions to end a 4-month and 2-day filibuster of the confirmation of Judge Adalberto Jordan of Florida and to end the 5 month filibuster of the nomination of Jesse Furman, a former counselor to Attorney General Mukasey. The majority leader should not have had to file cloture petitions for the Senate to vote on these outstanding judicial nominees. Senate Republicans have filibustered nine of President Obama's judicial nominations despite the fact that he has reached out to both Republican and Democratic home State Senators and nominated qualified, ideologically moderate men and women to fill vacancies on our Federal courts.

From the start of President Obama's term, Republican Senators have ap-

plied a double standard to this President's nominees. Last week, at a meeting of the Judiciary Committee, the Senator from Utah conceded that a "new standard" is being applied to President Obama's nominations. Senate Republicans have chosen to depart dramatically from the long tradition of deference on district court nominees to the home State Senators. Instead, an unprecedented number of President Obama's highly qualified district court nominees have been targeted for opposition and obstruction.

The nominations the Senate considers today did not receive a single negative vote in the Judiciary Committee. Still, they have been stalled from confirmation for almost 5 months. It is good that Senate Republicans are finally allowing them to be considered. But we need to do much more. These are only 2 of the 14 remaining judicial nominations voted on by the Judiciary Committee last year that have been stalled by Senate Republicans for months. They all should have been considered and confirmed last December. President Obama's nominees are being treated differently than those of any President, Democratic or Republican, before him.

Of those 14 judicial nominations still on the calendar from last year, none are the kind of divisive ideological nominees that should lead to the kinds of delay we have seen, let alone filibusters. President Obama should be praised by Republicans and Democrats for making consensus picks like his two nominations to fill vacancies on Federal Circuit courts, Stephanie Dawn Thacker of West Virginia, nominated to the Fourth Circuit, and Judge Jacqueline Nguyen of California, nominated to fill one of the many judicial emergency vacancies on the Ninth Circuit. Ms. Thacker, an experienced litigator and prosecutor, has the strong support of her home State Senators, Senators ROCKEFELLER and MANCHIN. Judge Nguyen, whose family fled to the United States in 1975 after the fall of South Vietnam, was confirmed unanimously to the district court in 2009 and would become the first Asian Pacific American woman to serve on a U.S. court of appeals. Both were reported unanimously by the Judiciary Committee last year, and both should be considered and confirmed by the Senate without additional damaging delays.

With 1 out of nearly every 10 Federal judgeships vacant, the Senate should be acting on all of the judicial nominations approved by the Senate Judiciary Committee but that Republican objections are stalling from final action. Regrettably, delay and obstruction have stalled action on President Obama's judicial nominees since the beginning of his administration. After the first year of President Obama's first term, only 12 Federal circuit and district court

judges were confirmed, the lowest total in 50 years. Senate Republicans allowed the Senate to confirm only 48 circuit and district court nominations the next year. That set a modern record for fewest judicial nominations confirmed during a President's first 2 years in office, the lowest in 35 years. As a result, judicial vacancies rose again over 110 and stayed around 90 for the longest period of historically high vacancies in 35 years. This is in stark contrast to the 100 confirmations that I oversaw during the last 17 months of President Bush's first 2 years in office. That action led to a significant reduction in judicial vacancies.

The truth is that the actions of Senate Republicans in stalling judicial nominations during President Obama's administration has led to what the Congressional Research Service documented as the longest period of historically high judicial vacancy rates in modern times. At the end of President Obama's second year and again at the end of last year, Senate Republicans opted to obstruct final confirmation votes on consensus judicial nominees for no good reason. Last year it took us until June to make up the ground we lost when Senate Republicans refused to complete action on judicial nominees at the end of 2010. This year the Senate started with 19 judicial nominees pending on the Senate's calendar, all but 1 of them reported with significant bipartisan support, and 16 of them unanimously. To date, the Senate has only been allowed to work its way through five. This means that it could again be summer before the Senate is allowed to work its way through the judicial nominees who could, and should, have been confirmed the year before.

The result of the Senate Republicans' obstruction is that the ability of our Federal courts to provide justice to Americans around the country is compromised. Millions of Americans, who are in overburdened districts and circuits, experience unnecessary delays in having their cases resolved. One hundred and thirty million Americans live in districts or circuits that have a judicial vacancy that could be filled today if Senate Republicans would just agree to vote on the nominations now pending on the Senate calendar. It is wrong to delay votes on these qualified, consensus judicial nominees.

Our courts need qualified Federal judges, not vacancies, if they are to reduce the excessive wait times that burden litigants seeking their day in court. It is unacceptable for hard-working Americans who turn to their courts for justice to suffer unnecessary delays. When an injured plaintiff sues to help cover the cost of his or her medical expenses, that plaintiff should not have to wait 3 years before a judge hears the case. When two small business owners disagree over a contract,



they should not have to wait years for a court to resolve their dispute.

In his "2010 Year-End Report on the Federal Judiciary," Chief Justice Roberts rightly called attention to the problem of overburdened courts across the country. Unfortunately, the unprecedented obstruction of consensus judicial nominations by Senate Republicans who dramatically departed from the Senate's longstanding tradition of regularly considering consensus, non-controversial nominations, marked a new chapter in what Chief Justice Roberts calls the "persistent problem" of filling judicial vacancies.

If Republican Senators were concerned about ensuring that our courts have the judges they need to administer justice for the American people, they would not have refused consent for the Senate to consider these consensus judicial nominees. The obstruction reminds me of the Republican pocket filibusters that blocked more than 60 of President Clinton's judicial nominations from Senate consideration.

When I became chairman in 2001 and made the committee blue slip process public for the first time and worked to confirm 100 judicial nominees of a conservative Republican President in 17 months, I hoped we were past these partisan tactics. I am disappointed that, after working for more than a decade to restore transparency and fairness to the process of considering judicial nominations, we see the Senate Republicans again using obstruction to block progress at filling judicial vacancies.

I wish that the Republican Senators who came to the Senate and the Senate Judiciary Committee in 2003 and decried what they characterized as a broken judicial confirmation process would acknowledge the 100 confirmations in 17 months that we accomplished in 2001 and 2002 when President Bush was not consulting closely with home State Senators and, instead, insisted on sending the Senate ideological nominees. I have done my part to fix and to improve the process.

By contrast, those Republicans who deemed filibusters unconstitutional and demanded up-or-down votes for every judicial nominee just a few years ago have now filibustered nine of President Obama's judicial nominees. What happened to their principle that a partisan minority should not be allowed to frustrate the will of the majority? They used to say that judicial nominees "should not be required to serve an indefinite period of time in the stocks as targets for these special interest groups that attack them on a regular basis." Now these same Republican Senators obstruct votes on qualified, consensus nominees and allow reputations to be savaged without good cause.

In 2005, the so-called Gang of 14 adopted a standard for filibusters that

require "exceptional circumstances." That standard was abandoned by Republicans who filibustered the nomination of Caitlin Halligan last year. The Washington Times' banner headline on December 7, 2011, noted what had long been apparent to me: "GOP Ends Truce on Judicial Hopefuls."

It is wrong to dismiss the delays resulting from the Senate Republicans' obstruction as merely political tit for tat. These are new and damaging tactics that Senate Republicans have devised. The standard had been that non-controversial judicial nominees reported by the Judiciary Committee were confirmed by the Senate before the end of the year. That is the standard we should have followed in 2010 and 2011, but Senate Republicans did not. Senate Republicans set a new and destructive standard to hold up qualified, consensus judicial nominees for no good reason. A New York Times editorial from January 4, 2011, refers to Senate Republicans' "refusal to give prompt consideration to noncontroversial nominees" a "terrible precedent." In a column last week, the president of the American Bar Association reiterated the call for a "sustained, concerted and bipartisan effort" to "make meaningful progress toward filling vacancies on the federal bench.

While consensus judicial nominations are stalled without a final vote by the Senate, millions of Americans across the country are being harmed by delays. The American people and our Federal courts cannot afford these unnecessary and damaging delays. As the ABA president noted last week:

Backlogs mean justice delayed in cases involving protection of individual rights, advancement of business interests, compensation of injured victims and enforcement of federal laws.

Longstanding vacancies on courts with staggering caseloads impede access to the courts. They create strains that, if not eased, threaten to reduce the quality of our justice system. They erode confidence in the courts' ability to uphold constitutional rights and render fair and timely decisions.

Delay at the federal courts puts people's lives on hold while they wait for their cases to be resolved. Businesses face uncertainty and costly holdups, preventing them from investing and creating jobs. In sum, judicial vacancies kill jobs.

Justice delayed, as the famous maxim goes, is justice denied. It's bad for business, it's unfair to individuals, and it slows government enforcement actions, which ultimately costs taxpayers money.

The Senate remains far behind where we should be in considering President Obama's judicial nominations. The Senate had confirmed a lower percentage of President Obama's judicial nominees than those of any President in the last 35 years. The Senate has confirmed just over 70 percent of President Obama's circuit and district nominees, with more than one in four not confirmed. In stark contrast, the Senate confirmed nearly 87 percent of

President George W. Bush's nominees, nearly 9 out of every 10 nominees he sent to the Senate over two terms.

The Senate remains well behind the pace set during President Bush's first term. By the end of President Bush's first term, the Senate had confirmed 205 district and circuit nominees. To date now in the fourth year of President Obama's first term, the Senate has confirmed only 129 district and circuit nominees. By this date in 2004, the Senate had confirmed 170 district and circuit nominees. Today the total is more than 40 confirmations shy of the mark.

Another way to think about this is that during President Bush's first term, the Senate confirmed the 130th nominee to our circuit and district courts in early June of his third year in office. Here we are, approaching the spring of President Obama's fourth year, nearly 9 months later, and we are just reaching that milestone—9 months later. It has taken us far too long to reach this point. That is why the judicial vacancy rate remains nearly double what it was at this point in the Bush administration.

Today we can finally confirm these two highly qualified, consensus nominees. Mary Elizabeth Phillips has been nominated to the U.S. District Court for the Western District of Missouri. Ms. Phillips is the first woman to serve as the U.S. attorney for the Western District of Missouri. Her nomination has the bipartisan support of both of her home State Senators, Democratic Senator CLAIRE McCASKILL and Republican Senator ROY BLUNT. Ms. Phillips previously worked in private practice and as a local prosecutor Jackson County, MO. The ABA's Standing Committee on the Federal Judiciary unanimously rated her "well qualified" to serve on the U.S. District Court, its highest possible rating.

Thomas Owen Rice has been nominated to the U.S. District Court for the Eastern District of Washington. Currently the first assistant U.S. attorney in the Eastern District of Washington, Mr. Rice has spent his entire career in public service as a Federal prosecutor, including as chief of the Criminal Division in the Eastern District of Washington. Both of Washington's Senators Senators MURRAY and CANTWELL—support Mr. Rice's nomination. Both of these nominations were reported by the Judiciary Committee by voice vote with no dissent nearly 5 months ago in October 2011.

I thank the majority leader for his efforts to break through the Republicans' obstructionist tactics. Last Tuesday, several other Democratic Senators also came before the Senate to talk about the need for more action to fill the judicial vacancies that have remained historically high for far too long. I thank Senators DURBIN, SCHUMER, FEINSTEIN, COONS, CARDIN, and



KLOBUCHAR for their involvement and their thoughtful statements.

Last Thursday, we had a discussion before the Judiciary Committee, as well. I commended Senator COBURN for the statement he made at that time in which he called upon Senators to step back and return to the practice of moving forward on consensus nominees and that we need to build bridges instead of burn them.

It is important that we confirm these two nominees so they can serve the people of Missouri and Washington, but we need to do much more. The Senate needs to proceed without delay to consider all 20 of the judicial nominees currently before it and to promptly consider those being sent to the Senate by the Judiciary Committee. That is how we can fulfill our responsibilities to the American people. That is how we can begin to restore the American's people's confidence in this institution.

Mr. BINGAMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I yield back any pending time on the first nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I ask unanimous consent that there be 2 minutes of debate between the two votes equally divided and controlled between the two leaders or their designees.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Mary Elizabeth Phillips, of Missouri, to be United States District Court Judge for the Western District of Missouri.

The yeas and nays are ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Alaska (Mr. BEGICH) is necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Illinois (Mr. KIRK) and the Senator from Nevada (Mr. HELLER).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 95, nays 2, as follows:

[Rollcall Vote No. 26 Ex.]

YEAS—95

Akaka	Gillibrand	Murkowski
Alexander	Graham	Murray
Ayotte	Grassley	Nelson (NE)
Barrasso	Hagan	Nelson (FL)
Baucus	Harkin	Paul
Bennet	Hatch	Portman
Bingaman	Hoeven	Pryor
Blumenthal	Hutchison	Reed
Blunt	Inhofe	Reid
Boozman	Inouye	Risch
Boxer	Isakson	Roberts
Brown (MA)	Johanns	Rockefeller
Brown (OH)	Johnson (SD)	Rubio
Burr	Johnson (WI)	Sanders
Cantwell	Kerry	Schumer
Cardin	Klobuchar	Sessions
Carper	Kohl	Shaheen
Casey	Kyl	Shelby
Chambliss	Landrieu	Snowe
Coats	Lautenberg	Stabenow
Coburn	Leahy	Tester
Cochran	Levin	Thune
Collins	Lieberman	Toomey
Conrad	Lugar	Udall (CO)
Coons	Manchin	Udall (NM)
Corker	McCain	Vitter
Cornyn	McCaskill	Warner
Crapo	McConnell	Webb
Durbin	Menendez	Whitehouse
Enzi	Merkley	Wicker
Feinstein	Mikulski	Wyden
Franken	Moran	

NAYS—2

DeMint Lee

NOT VOTING—3

Begich Heller Kirk

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate, equally divided, prior to a vote on the Rice nomination.

The Senator from Washington is recognized.

Ms. CANTWELL. Mr. President, I rise to support the nomination of Thomas Rice to the U.S. District Court for the Eastern District of Washington. He is one of our State's rising legal stars and has left his mark defending the community in which he was born. For nearly 25 years he served in the U.S. Attorney's Office in eastern Washington, and in that time he successfully prosecuted a variety of criminal cases to protect our eastern Washington communities. He has wide support from his peers and numerous accolades.

I hope my colleagues will support his nomination, making Gonzaga University, his alma mater, Spokane, and the State of Washington proud of his nomination.

The PRESIDING OFFICER. Is there further debate? If not, the question is, Will the Senate advise and consent to the nomination of Thomas Owen Rice, of Washington, to be United States District Judge for the Eastern District of Washington?

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Alaska (Mr. BEGICH) is necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from

Illinois (Mr. KIRK) and the Senator from Nevada (Mr. HELLER).

The PRESIDING OFFICER (Mr. FRANKEN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 93, nays 4, as follows:

[Rollcall Vote No. 27 Ex.]

YEAS—93

Akaka	Gillibrand	Murkowski
Alexander	Graham	Murray
Ayotte	Grassley	Nelson (NE)
Barrasso	Hagan	Nelson (FL)
Baucus	Harkin	Paul
Bennet	Hatch	Portman
Bingaman	Hoeven	Pryor
Blumenthal	Hutchison	Reed
Blunt	Inhofe	Reid
Boozman	Inouye	Risch
Boxer	Johanns	Roberts
Brown (MA)	Johnson (SD)	Rockefeller
Brown (OH)	Johnson (WI)	Rubio
Burr	Kerry	Sanders
Cantwell	Klobuchar	Schumer
Cardin	Kohl	Sessions
Carper	Kyl	Shaheen
Casey	Landrieu	Shelby
Coats	Lautenberg	Snowe
Coburn	Leahy	Stabenow
Cochran	Levin	Tester
Collins	Lieberman	Thune
Conrad	Lugar	Toomey
Coons	Manchin	Udall (CO)
Corker	McCain	Udall (NM)
Cornyn	McCaskill	Vitter
Crapo	McConnell	Warner
Durbin	Menendez	Webb
Enzi	Merkley	Whitehouse
Feinstein	Mikulski	Wicker
Franken	Moran	Wyden

NAYS—4

Chambliss Isakson  
DeMint Lee

NOT VOTING—3

Begich Heller Kirk

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motions to reconsider are considered made and laid upon the table. The President will immediately be notified of the Senate's action, and the Senate will resume legislative session.

The Senator from New Jersey.

MOVING AHEAD FOR PROGRESS IN THE 21ST CENTURY—Continued

The PRESIDING OFFICER. The Senator from New Jersey.

REMEMBERING CONGRESSMAN DONALD PAYNE

Mr. LAUTENBERG. Mr. President, I rise to pay tribute to a long-time friend from New Jersey. It is a sad day for all of us from New Jersey who knew Congressman DONALD PAYNE from north New Jersey, and I pay tribute to my colleague who died this morning after a battle with colon cancer.

Congressman PAYNE was the first African American from New Jersey to be elected to Congress. He was a trailblazer and a fine leader, one of the finest our State has ever known. For more than two decades, Congressman PAYNE served New Jersey with distinction, but the whole world benefited from his leadership. He was a proud son of Newark and became an expert on foreign relations and led efforts to restore democracy and human rights

around the world, including places as far away from one another as northern Ireland and Sudan. President Clinton chose Congressman PAYNE to accompany him on his historic tour of Africa in 1998.

The Congressman also worked hard. He secured more than \$100 million to treat victims of malaria, tuberculosis, HIV and AIDS, and stopped the spread of these diseases in Africa's poorest nations.

Three years ago, against the State Department's advice, Congressman PAYNE went to Somalia to see the turmoil there for himself, narrowly escaping with his life when insurgents launched a mortar attack near his airplane when he was leaving.

The Congressman also helped with passage of a resolution declaring the killings in Darfur as genocide and raising global awareness of these travesties.

At home Congressman PAYNE was a tireless advocate for his constituents. He brought significant economic development to counties in New Jersey, including Essex, Hudson, and Union. He was a former schoolteacher and was a leader on education. He worked hard to close the achievement gap, with making college more affordable and bringing more equity to school funding. Congressman DONALD PAYNE was a man of conscience and conviction.

I knew him for many years, and I was always struck by his soft-spoken demeanor, and that kind of made him a rarity in politics. But Congressman PAYNE knew he didn't need to raise his voice; his ideas were powerful enough. The Congressman put it best when he said: "There is a lot of dignity in being able to achieve things without having to create rapture."

As I mentioned, DONALD PAYNE was a teacher in the Newark public schools, and Newark was a poverty-stricken city. His mission was to inspire young people to use education in their lives to achieve opportunity. The people of New Jersey sent him to Washington for the first time in 1988, and they continued sending him back by overwhelming margins for the next 22 years. He became an inspiration to many, including members of his family who followed him into careers in public service.

But most of all, DONALD PAYNE was an inspiration to the people he served. He gave them hope. He gave them some ideas of what they could make of their lives. His voice sounded important and deliberate enough to convince people to try harder, and he did succeed many times.

In 1988, during his first campaign for the House, Congressman PAYNE told a reporter: "I want to be a role model for the kids I talk to on the street corners." He used to see a lot of them. He worked hard within his congressional district. He said: "I want to see there are no barriers to achievement."

DONALD PAYNE achieved this goal. An entire generation of New Jerseyans has come of age knowing and respecting Congressman DONALD PAYNE. He has undoubtedly inspired many young New Jerseyans to enter public service, and I expect we will one day see some of them walking the Halls of Congress and following in DONALD PAYNE's footsteps, but today these Halls feel emptier without his presence.

I am going to miss DON PAYNE. We will mourn his absence from our lives, but we will also take comfort in the knowledge that his legacy will endure for a long time to come, way beyond his life. We thank him at this time for all of the good he did and that he brought to our people and our State.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

#### INDIANA TORNADO DAMAGE

MR. COATS. Mr. President, I wish to speak as in morning business on a matter that affects a lot of Hoosiers. I do so with a great sense of heartfelt condolence to all who have suffered from the tragic storm and tornadoes that swept across the southern part of our State this past Friday, gratitude for all of those who responded in such a wonderful way to address this situation, and deep pride for the people of Indiana for how they have come together to help one another. Mother Nature's unforgiving force Friday afternoon, changed the lives of many Hoosiers. Imagine, if you would, a stretch of land extending for nearly 50 miles, between a quarter of a mile and a half mile wide, with everything in its path destroyed by tornadoes that touched down and moved with such unimaginable force.

Most of us from the Midwest are used to tornadoes that usually jump around and take out a shed here, a barn there, maybe a home, in perhaps a short stretch of space, but I have never seen—and most have never seen—a tornado that touches down and stays down for miles and miles with 175 mile-per-hour winds crushing everything in its path. On Sunday, I flew over the path of the tornadoes and walked on the ground and saw a site of total destruction. Every home and every business in that path destroyed. Every open field was strewn with debris. Some debris carried for miles before it was deposited. Every tree was stripped bare and flattened, every car or truck within that path damaged with either softball-sized hail or turned upside down by 175 mile-per-hour winds. A house miraculously still intact was picked up off its foundation and moved 100 yards east.

Several rural towns—small rural towns in southern Indiana—were totally destroyed by the force of nature. A high school of more than 1,100 students now lies in complete shambles. Buses stationed at the schools and cars

were hurled into the buildings across the street. An entire family—mom, dad, and children—were killed just because the storm hit seconds before they were able to reach the steps leading down to the basement.

Yet, through all of these devastating images, I saw and heard firsthand stories of heroism, generosity and resolve that I will always remember:

Two schoolbus drivers who made a split-second decision to turn around and get the kids off the bus and into a shelter—both of those buses were totally destroyed just moments later. The first responders, local police, fire, and rescue teams who searched for victims, helped the injured and did everything they could to offer support in light of this tragedy; neighbors who rushed in to help the injured, citizens from nearby towns and counties who poured into the area offering food and drink and shelter; people saying: Do you have a place to stay? Do you have something to eat? What can we do to help? Former strangers became immediate friends.

On Sunday morning, as I walked through what was the town of Henryville, I witnessed a remarkable scene: displaced homeowners picking through the rubble of their homes trying to recover lost memories and precious keepsakes; one man planting an American flag on the rubble of his former home. I was deeply moved by the indomitability of the American spirit, a spirit still so alive and well in a time of tragedy.

Soon the first responders will be returning home, if they haven't already, from a job well done, to wait for the next call to action while the State and Federal assessment teams begin the process of restoration. Piece by piece, day by day, the people of Indiana will rebuild their homes, their churches, their schools, and their communities destroyed by these tornadoes. One woman captured the feeling of Hoosiers' best when she turned to me while standing on the remains of what used to be her home and said: We will go on. We will recover. We will make it right again.

I am asking all Americans to keep Hoosiers, Kentuckians, and all of the victims of these tragic storms which raced through the Midwest in their thoughts and prayers. I ask all Americans to remember how quickly life can change, but also to remember the American spirit which compels us to reach out and help a neighbor in trouble.

I am going to continue to work with Indiana Governor Daniels, his homeland security team, the administration, and FEMA to make sure Hoosiers and the communities impacted are receiving the help they need.

We will never be able to replace the lives of those lost from Mother Nature's destruction, but Hoosiers will

come together to rebuild one day at a time. It is the Hoosier way, and thank goodness it is still the American way.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, what is the order now?

The PRESIDING OFFICER. The Senate is considering the Transportation bill.

Mr. KERRY. Thank you, Mr. President.

#### TALK HAS CONSEQUENCES

Mr. President, several of us in the Senate have run for the office of President of the United States. Two of us have been our party's nominees, and dozens of others have played major roles in tough campaigns. So none of us in the Senate are strangers to the rough and tumble of American politics. I think we all understand on a personal level what the humorist said at the turn of the century when he wrote: "Politics ain't beanbag." One has to have a thick skin and a strong backbone to survive in this business. One has to be able to take a punch and deliver one, and we all understand that.

So it is not as an innocent that I come to the floor today to say that I was troubled—deeply troubled—to read an op-ed in this morning's Washington Post by the likely Republican nominee for President Mitt Romney. It was an attack on the administration's Iran policy, and it was as inaccurate as it was aggressive.

Every candidate for the Oval Office has the right to criticize the President. But, particularly this week, while Prime Minister Netanyahu is in Washington meeting with the administration to determine the road forward that might mean the difference between war or a diplomatic solution—particularly at that moment when so much is on the line, we all ought to remember that the nuclear issue with Iran is deadly serious business, and it ought to invite sobriety and serious-minded solutions, not sloganeering and fiction and sound bites.

I don't think we should allow Iran to become another party's applause line on the Presidential stump. Talk has consequences, particularly when it is talk about war, and talk of war only helps Iran and others at this moment, by increasing the price of Iranian crude oil that pays for its nuclear program. To create false differences with the President just to score political points does nothing to move Iran off a dangerous nuclear course. Worst of all, Governor Romney's op-ed does not even do readers the courtesy of describing how a President Romney would, in fact, do anything different from what President Obama and this administration has already done. So if we are going to disagree, let's at least disagree responsibly—and honestly.

So examine the op-ed I am talking about. From the very opening para-

graphs, Mr. Romney garbles history. Going back to the Iranian revolution, he calls President Carter "feckless," saying he did nothing for over a year while Iranian revolutionaries held Americans captive. In fact, it was the months of President Carter's negotiations, leading up to an all-night session of negotiation—the very night before the inauguration of President Reagan on January 20—that actually freed the hostages.

I bring up the hostage crisis for another reason, because when those helicopters went down in the desert during the failed rescue attempt in 1980, the United States not only lost the opportunity to get our people back sooner but President Carter fundamentally lost any chance he had at reelection. Notwithstanding that reality, notwithstanding the lesson of Desert One and those helicopters that crashed and the failed mission—notwithstanding that—President Obama, whom Governor Romney calls "the most feckless President since Carter," threw that lesson out the window, knowing if he attempted to go into Pakistan and failed he would probably lose his chance at reelection—notwithstanding that, he authorized the gutsy and dangerous raid in Pakistan that finally killed Osama bin Laden.

Despite everything that could have gone wrong with that raid, the mission was ordered with confidence, executed with courage, and the man who plotted the September 11 attacks was finally held accountable for the murder of thousands of Americans. George W. Bush may have said, "Wanted: Dead or Alive," but it was President Obama who delivered.

I don't know if Governor Romney has checked the definition of the word "feckless" lately, but that raid ain't it.

The rest of Romney's argument doesn't get any better. In fact, he goes on to propose action after action that President Obama has already taken. Just look at the analysis. Let me read the first sentences from an article in today's New York Times:

To rein in Tehran's nuclear ambitions, Mitt Romney says he would conduct naval exercises in the Persian Gulf. . . . He would try to ratchet up Security Council sanctions on Iran, targeting its Revolutionary Guards, and the country's central bank and other financial institutions. And if Russia and China do not go along, he says, the United States should team up with other willing governments to put such punitive measures in place. As it turns out—

And this is part of the quote—

As it turns out, that amounts to what President Obama is doing.

Ambassador Nick Burns, President Bush's lead negotiator on Iran, said:

The attacks on Obama basically say, "He's weak and we're strong." But when you look at the specifics, you don't see any difference.

That is a quote.

So let's go point by point through the Romney plan. He writes he would pro-

ceed with missile defenses to protect Iran. He ignores the fact that one of the very first things the Obama administration did was to issue its plans for the phased adaptive approach—so that we would be able to sooner protect our friends and allies against the Iranian missile threat and to provide increasing levels of capability as the technology advances. During the debate over the New START treaty, the Senate heard in great detail—including from the Commander of the Strategic Command and the Director of the Missile Defense Agency—how that particular system was going to work and how the administration planned to proceed with it. In fact, the President sent the Senate a letter affirming his commitment to missile defense, and over the past year he has stuck by that promise.

So then Romney goes on to say that President Obama doesn't understand the seriousness of the threat from nuclear terrorism. Again, just look at the record: For the first time, the President set as a national goal securing all vulnerable nuclear material around the world within 4 years. He won international endorsement of that effort at the 2010 Nuclear Security Summit.

Last year alone, the Department of Energy removed or eliminated over 250 kilograms of highly enriched uranium from places such as Ukraine, Belarus, Serbia, and Kazakhstan. In the budget request before Congress, the administration plans to eliminate highly enriched uranium from nine countries, including Vietnam, Ukraine, and Mexico.

That is clearly an administration and leader who understands the danger of nuclear material, far more than any effort previously.

Then Romney lays out the single greatest willful avoidance of facts in his article. He calls for ever-tightening sanctions on Iran.

I don't know what he thinks has been going on around here for the last few years, but when President Obama took office Iran was in the ascendancy. As the Vice President used to say when he chaired the Senate Foreign Relations Committee: Freedom wasn't on the march; Iran was on the march. Its reach through proxies such as Hezbollah threatened the United States, its allies, and the region, and particularly, obviously, Israel.

The international community was divided; diplomacy—both multilateral and bilateral—was stalled. But in June 2010, with a decisive push from President Obama, the United Nations put in place the most comprehensive and biting international sanctions the Iranian Government has ever faced—imposing restrictions on Iran's nuclear activities, ballistic missile program, conventional military exports to Iran, Iranian banks and financial transactions, and the Islamic Revolutionary Guard Corps.

What is more, in coordination with allies such as the European Union, Japan, South Korea, Australia, Canada, and others, the Obama administration put in place additional measures, ratcheting up pressure on the country's petrochemical industry, oil and gas industry, and financial sector. Recently, Europe announced the ban of oil imports from Iran, which will further pressure Iran's economy, and that has come with significant leadership effort and diplomacy by Secretary Clinton and by the administration and Secretary Geithner.

That is just on the multilateral front. President Obama also worked closely with Congress to pass the Comprehensive Iran Sanctions, Accountability, and Investment Act, which strengthened existing U.S. sanctions. He made it harder for the Iranian Government to buy refined petroleum and to modernize its oil and gas sector. Recently, we imposed tough new sanctions on the Central Bank of Iran. So one doesn't have to take my word for it.

Let me quote Iran's President Ahmadinejad, who is the one feeling the pressure. Here is what he said last fall: "Our banks cannot make international transactions anymore."

Today, all of these sanctions are beginning to bite. Iran is now virtually cut off from large parts of the international financial system.

Almost \$60 billion in energy-related projects in Iran have been put on hold or discontinued. Iran is starting to lose oil sales to key customers in Europe and Asia. All you have to do is look at the front page of today's newspapers and read the stories of Iran hastily running around and looking for additional people to buy their oil. In fact, they have lost customers in Asia. Those losses could reach up to 40 percent of its daily sales, according to the International Energy Agency.

Banking sanctions have prevented several of Iran's customers from paying for its petroleum products, leaving the Central Bank short of hard currency and driving down the unofficial foreign exchange rate by 40 percent in a single month.

Mr. Romney needs to understand what is going on if he wants to run for President. Just yesterday the deputy chief of the Iranian Revolutionary Guard Corps was quoted as saying, "The regime is at the height of isolation." This is the Revolutionary Guard speaking:

The regime is at the height of isolation and in the midst of a technological, scientific and economic siege. We are not in a situation of imaginary threats and sanctions. Threats and sanctions against us are effectively being pursued.

Iran is also divided internally and isolated diplomatically like never before. Iran's most important ally, Syria, is facing regime collapse, which a

former director of Israel's Mossad recently said could be a bigger strategic setback for Iran than a military strike against them. That came from the former director of Israel's Mossad.

To talk about Israel for a second, we all ought to remember that President Obama has provided record amounts of security funding to help Israel maintain its qualitative military edge. Prime Minister Netanyahu has spoken of President Obama's ironclad commitment to Israel's security. He said, "Our security cooperation is unprecedented, and President Obama has backed those words with deeds."

So when you add it all up, Mitt Romney evidently is trying to ignore, twist, and distort the administration's policy. For what purpose? For his own gain—simply to try to drive a wedge in American politics. It seems to be that the strategy of his campaign is to just say anything. It does not matter what it is based on—just say it. Put it out there whether or not it is true.

I might say that I think that is exactly what the American people are tired of and fed up with, what has turned them off of all of our politics, and what threatens the quality of our democracy in this great country of ours.

We should be crystal clear. Yes, we have to prevent Iran from acquiring a nuclear weapon. That is not a question of containment and never has been; it is a question of prevention, outright denial of this ability. That is why President Obama again made that clear in his public comments yesterday, even as he builds pressure for a diplomatic solution.

I think it is appropriate to have a President who first seeks a diplomatic solution. I am one of those here in the Senate who, together with a few others of our generation, served in Vietnam—very few—and with one or two, I think, who served in World War II: Senator INOUE, Senator LAUTENBERG, maybe Senator COCHRAN. I don't recall if there are still more here. But the fact is that I think anybody who has served in a war first wants leaders who try to find if there is a way to make that war inevitable, if it has to happen, and at least turns over every stone possible to find out if diplomacy can find a solution to a problem.

President Obama has reiterated that all of the options are on the table. In its long history, Iran has had many amazing moments and has provided great accomplishments, culturally and in other ways, to its history and to all of us. This regime, many people believe, is something different and some hope might even become something different at some point in time, although it has a long way to go to evidence that. But President Obama has emphasized—in his approach, he has said, "I don't bluff." I am convinced, as I think all of us are, that the President means

exactly what he says, that Iran cannot have this weapon. I think you can ask Osama bin Laden what President Obama means when he says that he means what he says.

I know we are going to have tough debates going forward. That is appropriate. And we are going to have a bruising election season. That is OK if it is on the up-and-up, if it is really about real differences and real issues. And we ought to have those tough fights. That has proven to be how we decide the big issues in the United States. We always have. But let's have an honest debate, not a contrived one, not a phony set of propositions that have nothing to do with the reality of the situation. The American people deserve more than that.

Governor Romney can debate the man in the White House instead of inventing straw men on the op-ed pages of our newspapers. He ought to be armed with facts instead of empty rhetoric.

If we are going to succeed, as the American people want us to do in order to avoid a war in Iran, then at some point all of us have to act like statesmen, not candidates. We need to be clear-eyed about what we have accomplished and what we have yet to do. That is precisely what Americans expect from their Commander in Chief, and that is exactly what Americans deserve—no less.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MENENDEZ. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. SHAHEEN). Without objection, it is so ordered.

REMEMBERING CONGRESSMAN DON PAYNE

Mr. MENENDEZ. Madam President, I rise to mourn the passing of a great man, a great leader, a proud New Jerseyan, and my friend, Congressman DONALD PAYNE. I am saddened beyond words by his death. Personally, I have lost a close friend and the people of New Jersey have lost a tireless voice, a true advocate who spent a lifetime fighting for fairness, for justice, and for the little guy.

Wherever there was injustice, intolerance or suffering, wherever someone was downtrodden by the more powerful and didn't have a fair chance, DONALD PAYNE was there intervening. From his earliest days in Congress, he focused on New Jersey, but his influence was profoundly felt around the world. As a senior member of the House Committee on Foreign Affairs and the ranking member of the Subcommittee on Africa, Global Health, and Human Rights, DONALD PAYNE followed his passion to restore democracy and human rights in places where the suffering was greatest.

If we asked him what his greatest accomplishment was—and there were many—he would tell us it was working on global health issues, cofounding the Malaria Caucus that he launched with First Lady Laura Bush, securing \$50 million to fight drug-resistant tuberculosis, and \$50 billion for HIV/AIDS, TB, and malaria that literally—and I have heard these stories—literally saved whole villages in Sub-Saharan Africa, because that is the kind of man he was.

He built a reputation as chairman of the Africa and Global Health Subcommittee for his integrated approach to Africa, combining health, development, economic growth, and improvements for a better quality of life. He once said:

Malaria, TB and HIV/AIDS are diseases that are caused, as well, by poverty, and until we really start dealing with poverty elimination, we are going to continue to have these diseases that follow poverty. We cannot be serious about development [assistance or engagement] without effectively dealing with these three major diseases.

He did everything he could to live up to those words.

He could not ignore the fact, as he pointed out, that:

... more than 29 million people in Sub-Saharan Africa live with HIV/AIDS ... that malaria and HIV together kill more than 4 million people each year ... that 90 percent of them are in Africa ... that, for millions around the world—particularly in Sub-Saharan Africa, where the global malaria burden is heaviest—the disease is a daily reality, an enduring epidemic that kills millions and impedes the progress of entire nations ...

He believed in putting an end to the scourge of these diseases and helped broaden our focus in dealing with poverty, disease, and development as a single issue and always said: “These are global problems that warrant a global collaborative approach ...”

On World Malaria Day in 2010 he said: “This is not an endeavor for which we lack the knowledge, skills or resources to win ...”

DONALD PAYNE was determined to win.

When he put his mind to it, he could do anything. He believed he could change the world one village at a time, and he did because that is the kind of man he was.

I served with DONALD PAYNE in the House. I got to know him. I grew to respect his deep and passionate commitment to the institution and the people he served, his belief in the process as it was intended by our Founders, to bring all of us together, no matter what our politics or persuasion, to make a difference for his district, for New Jersey, for the Nation, and for people around the world.

DONALD considered himself hugely lucky to serve. He saw it as a honor and he made a difference because that too is the kind of man he was. DONALD PAYNE was a Congressman's Congress-

man. To me he was what public service is all about. He embodied the concept of Congress, the assembly of a few good people committed to the betterment of all of us.

In his passion for these issues, he worked in common cause to bring together people who were often from totally different ends of the political spectrum. Many of us would refer to him as “the great convener” because he had the unique ability to bring together people of disparate beliefs on behalf of these issues he believed in and felt so passionately about.

DON's career and accomplishments were exemplary. Before he was elected to Congress, he was an educator in the Newark and Passaic Public School Districts. He was the former national president of the YMCA. He became New Jersey's first African-American Congressman, winning election overwhelmingly in 1988, and was serving, at the time of his death, his 12th consecutive term—this year. He was a senior member of the House Committee on Education and the Workforce, and he was a steadfast vocal advocate for early childhood education. He was instrumental in making K 12 education more successful and for making college more affordable. He worked to cut in half the cost of the Stafford loans and increased the Pell grants. He was a tireless champion of working families, always an advocate of increasing the minimum wage, always enforcing workforce protections, because that is the kind of man DONALD PAYNE was. Through his life and service, he was a man of the people, and the people of New Jersey will never forget what he did for Essex, Hudson, and Union Counties or for the State as a whole.

In the end Congressman PAYNE will be remembered for the dignity and honor he brought to this institution and the Congress and the district he represented, always putting the interests of the community, New Jersey, and humanity first, because that is the kind of man he was. DONALD made New Jersey proud, and he will forever be missed by all of us who were touched by his warmth and compassion. I join my colleagues in mourning the passing of a great man.

I visited Congressman PAYNE on Saturday at the hospital and talked to his brother, who said leaders throughout the world had been calling to inquire as to how he was. Leaders throughout the world mourn his passing. They knew how he touched the lives of their citizens.

Our thoughts and prayers go out to DONALD's beloved children and his entire family and all of those who were touched by him throughout his life. He will be missed and we certainly hope God will bless this great man who gave back much more than he ever received in life.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BENNET). Without objection, it is so ordered.

#### MORNING BUSINESS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### REMEMBERING JAMES LAWRENCE ROSE

Mr. McCONNELL. Mr. President, I rise today to pay tribute to an individual who worked tirelessly to strengthen Kentucky's economy through his contributions to the coal and the banking industries. James Lawrence “Jim” Rose of Lexington, KY, passed away on December 19, 2011. He was 73 years old. Although Mr. Rose may not be with us today, the legacy he has forged throughout his lifetime will carry on for many years to come.

Jim Rose was born in Clay County, KY, but received his education in the small town of Berea, where he graduated from the Berea Foundation High School and Berea College before completing his education at the University of Kentucky in Lexington. Jim was passionate about education and made it a priority for himself, and he set out to make it one for the youth of the Commonwealth as well. He was in large part responsible for the project to construct Lexington Christian Academy's 75-acre “Rose Campus” in Lexington, KY.

Although Mr. Rose was involved in all sorts of different business aspects, his most noted business accomplishments were those in the banking and coal industries. Mr. Rose returned to Clay County and started a small coal company in 1959. Over the next three decades, his business would receive numerous national awards for conducting the best mining rescues and operating the safest mines in the United States, and the company would eventually grow to be one of the top three producers of coal in the State of Kentucky upon his retirement in 1993.

Mr. Rose made tremendous strides in the world of banking as well. He formed a bank holding company in his hometown of Manchester, KY; the town served as the site where Jim would also open his first bank in 1978. He went on to open seven more banks throughout central and southern Kentucky. Mr. Rose was an exceptional consultant

and manager, and under him the many banks he had acquired flourished.

We are all undoubtedly aware that Mr. Rose made a permanent mark on the economy of Kentucky, but let us not forget today that Jim was first and foremost a devout man of God and a beloved family man. Mr. Rose was a husband and a father who is survived by his wife of 49 years, Judy Sizemore Rose, and by his son James F. Rose and by his daughter Sonya Rose Hiler. Jim also leaves behind eight grandchildren and three step-grandchildren. He was preceded in death by his son, Dwayne Scott Rose.

The legacy left by Mr. Rose is one that will not be easily forgotten. He was able to give so much to the business world, working tirelessly for the people of Kentucky, and he was also able to pour his heart into building relationships with his employees and his family members.

I would like to ask my colleagues in the United States Senate to join me in commemorating the life and works of Mr. James Lawrence Rose, an innovative, committed and truly genuine entrepreneur.

There was an article recently printed in the Laurel County-area publication the Sentinel Echo on the accomplished life of Mr. James Lawrence "Jim" Rose. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Sentinel Echo, Dec. 23, 2011]

BANK, COAL COMPANY FOUNDER DIES AT 73

(By Carol Mills)

James "Jim" Rose, 73, died Monday of complications from a heart attack in Lexington.

Rose, who moved to Lexington in 1988, was a former Laurel Countian. He began his career by starting a small coal company in 1959 in Clay County where he was born. He moved his family to Laurel County in 1975.

Over three decades he grew his coal business dramatically, founding Interstate Coal Company, which had several operations in eastern Kentucky, including one in Laurel County on Ky. 192 where College Park is now. The coal stacks are still on the property, which is owned by the city and the county. Rose retired from the coal business in 1993.

While Rose was still in the coal business, he entered the banking business by buying a bank in his hometown of Manchester in 1978. He formed a bank holding company, United Bancorp of Kentucky, and acquired seven additional banks in London (London Bank & Trust, now PNC), Danville, Nicholasville, Richmond, Versailles, Corbin, and Harlan. United Bancorp merged with National City in 1995.

Lawrence Kuhl went to work for Rose at the London Bank & Trust in 1983 as vice-president and two years later as president.

"He was an outstanding person," Kuhl said. "He was so compassionate for humanity. He loved to help people in need. He hired a number of people throughout southeastern Kentucky to work in his coal mines as well as in his banks, and he was a very, very caring person. He helped a lot of individuals. His

whole family is like that. He has given Cardinal Hill millions of dollars to help recuperate people. He was a super fellow, very intelligent, a good businessman."

Charles Elza worked for Rose as president of London Bank & Trust for seven years from 1978 to 1985 before Kuhl took the helm.

"He was a great guy, a hard worker," Elza said. "He was a great family man. He loved his kids. He and his wife really had a heart for people who had a hard time. He worked hard. Before he made a lot of money, I heard he would go to work in the coal business Monday morning and wouldn't come home until Friday. He would sleep on the job. He provided a lot of jobs for people."

"I was in the coal business, too, before working at the bank," Elza recalled. "My brother and I sold coal to Interstate Coal Company, which he (Rose) owned."

Dr. Paul Smith and his wife, Ann, have been friends with Rose ever since he moved his family to London from Manchester.

"We got acquainted through our children," Ann Smith said. "They were all in the band, some played sports. We went to what our children did and they went to what their children did and we just got together. We had the same values in rearing our family."

"Mr. Rose was a wonderful man," she added. "He was absolutely a good man. He was a hard worker, he was always helping someone out, and he walked the talk. He was nice, and so is Judy (wife). They're both very talented musicians. Jim was a classical pianist, just as well as playing boogie-woogie. They're just a wonderful family. Jim was a good person to work for. He was very well liked by his workers. He was very fair and just."

Rose was a graduate of Berea Foundation High School and attended Berea College and the University of Kentucky. He served in leadership positions in numerous coal and banking organizations. He was also active in civic and charitable organizations such as the Scott Rose Foundation, which was formed in memory of his son, Dwayne Scott, who was killed in an automobile crash in Richmond. The foundation helps mentally and physically handicapped people. Rose also started the Scott Rose Games in honor of his late son. The games, which helped raise money for charity, ran its course after several years and was discontinued.

Rose had served on the boards of UK, Centre College, Lees College, and the UK Medical Center, and was a founding member of Kentucky Educational Television (KET).

He leaves his wife Judy Sizemore Rose, a son James "Jamie" Rose, a daughter Sonya Rose Hiler, eight grandchildren, and three step-grandchildren.

Services were Thursday at the Lexington Christian Academy chapel and a private burial will follow at a later date at A.R. Dyche Memorial Park in London.

#### REMEMBERING WILLIAM SCHUBERT

Mr. PORTMAN. Mr. President, I rise today to remember Dr. William Schubert of Cincinnati, OH, for his many years of outstanding leadership and service to Cincinnati Children's Hospital Medical Center and our Greater Cincinnati community. Dr. Schubert, a Cincinnati native, died on February 25, 2012.

Bill Schubert graduated from Walnut Hills High School and then went on to

attend the University of Cincinnati. Shortly after his arrival on campus, he was drafted into the U.S. Navy. After his service in the Navy, Dr. Schubert graduated from the University of Cincinnati and the University of Cincinnati College of Medicine.

Bill Schubert's 33 year career at Cincinnati Children's Hospital Medical Center included 13 years of service as the center's president and chief executive officer. Under his leadership, Cincinnati Children's Hospital Medical Center was ranked within the top 5 best pediatric medical centers in our country and was also designated as a Level 1 pediatric trauma center. Some of his other notable career achievements include establishing new clinical and research divisions for the center and overseeing the opening of the hospital's first two satellite outpatient centers.

In addition to his service to the Cincinnati Children's Hospital Medical Center, Bill Schubert remained active in the Cincinnati community through his involvement in various local and national organizations. In 1993, he was named a Great Living Cincinnati by the Greater Cincinnati Chamber of Commerce. He left a legacy of leadership and kindness, and his devotion to his community serves as an example for others to follow.

I would like to remember Dr. William Schubert for his dedication to Cincinnati Children's Hospital and for the extraordinary impact he made on our community.

#### ADDITIONAL STATEMENTS

##### RECOGNIZING YOUNG AUDIENCES ARTS FOR LEARNING

• Mr. BROWN of Ohio. Mr. President, I wish to acknowledge the 60th anniversary of Young Audiences Arts for Learning and commend it for its contributions to our Nation's school children. Young Audiences is the Nation's leading source of arts-in-education services. Comprised of 30 affiliates and 5,000 teaching artists, Young Audiences, in 2011 alone, reached 5 million children in over 6,000 schools.

Specifically, I would like to recognize the Young Audiences affiliate in my home state of Ohio, Young Audiences of Northeast Ohio, YANEO. Serving 18 counties, YANEO has enabled over 2,000 students in urban, rural, and suburban Ohio school districts to benefit from arts education through more than 7,000 programs during the 2009 2010 school year.

Young Audiences' mission and goal is to help make the arts an essential part of education. For this reason, Young Audiences offers programs for students throughout the P-16 pipeline. From integrating music into a middle school math class to providing poetry writing



classes for high school students, Young Audiences takes a comprehensive and innovative approach toward strengthening students' academic experiences.

According to the Arts Education Partnership, art plays a central role in a child's social, emotional, and cognitive development. Over time, this can help make students more engaged in school and thus better learners.

Arts education can alter a student's entire school experience. Involvement in the arts fosters creativity and problem solving—both of which help students during the school day and in their personal lives. From helping a student find a new social group, to providing a student with a new avenue of achievement, arts-in-education can keep students engaged and enrolled in school. Young Audiences has helped numerous students get back on track in the classroom and on a path towards higher education or the workforce.

Young Audiences not only plays a valuable role in our classrooms, but can benefit entire neighborhoods. Members of the Fullerton School community in Cleveland participated in the 'Parents as Arts Partners' program. With the guidance of a Young Audience artist, community members were able to design and install a mural that now brightens the Cleveland neighborhood. The experience was so positive for the parents, students, and the Fullerton community, they are now looking for funding to create another community mural.

To all the students who participate in Young Audiences, thank you for taking a stake in your education and in your community.

To the teachers and parents like those in the Fullerton community, thank you for your commitment to integrating arts throughout your students' lives. Even during challenging economic times, you go above and beyond your duties to provide your students with a well-rounded academic experience.

And to the dedicated artists of Young Audiences of Northeast Ohio, thank you for your service to the students throughout the region. Your passion and dedication for the arts will help lead to a new generation of artists and musicians—and engaged citizens.

I am proud to celebrate the work of Young Audiences nationwide. Thank you, for your 60 years of service.●

#### TRIBUTE TO BISHOP JOHN R. BRYANT

● Mr. CARDIN. Mr. President, I wish to recognize the 50th anniversary of the ministry of Bishop John R. Bryant, senior bishop and presiding prelate of the Fourth Episcopal District of the African Methodist Episcopal, AME, Church. Bishop Bryant is a native of Baltimore and a graduate of Baltimore City College and Morgan State Univer-

sity. From a young age, he learned the importance of spiritual and civic leadership from his father, Rev. Harrison Bryant, who was a Baltimore pastor and civil rights activist.

After John Bryant graduated from Morgan State, he served in Liberia with the Peace Corps, beginning his lifelong involvement in Africa. He returned to the United States and earned graduate degrees in theology and ministry and served as a pastor in Boston before returning to Baltimore in 1975, where he took on the mantle of leadership at Bethel AME Church, where his father had been pastor. At age 31, he was the youngest pastor in the church's history. He brought incredible energy to the pulpit and the congregation grew by the thousands. He was committed to both spiritual leadership and community development and transformed the church's Labor Day celebration into a job fair for the unemployed. He created an outreach center for the poor, 40 specialized ministries, and a Christian day school for children from kindergarten to fourth grade.

In 1988, Rev. Dr. Bryant was named Bishop of the AME Church's 14th Episcopal District, which included 101 churches in West Africa and shortly added the 10th District, including Texas and the Southwest. In 2000, he was named bishop of the Fifth District, which included 200,000 church members in 14 Western States. In 2008, he was appointed senior bishop and president prelate of the Fourth Episcopal District, which includes much of the Midwest and Canada.

Bishop Bryant's wife, the Reverend Dr. Cecilia Bryant, has been an integral partner in his ministry. She founded the AME Church in the Republic of Ivory Coast, cofounded the AME Church in India, and is currently serving alongside her husband as supervisor of the church's Fourth Episcopal District. Their children, the Reverend Dr. Jamal Harrison Bryant, pastor of Baltimore's Empowerment Temple, and Dr. Thelma Bryant-Davis, a psychologist, poet, dancer, and minister, continue the family tradition of spiritual leadership.

I ask my colleagues to join me in congratulating Bishop John R. Bryant on 50 years of ministry in the African Methodist Episcopal Church. He has built a legacy of outstanding leadership, and he has delivered a message of social reform and economic justice in Baltimore, in Maryland, throughout our Nation, and around the world.●

#### RECOGNIZING THE 11TH STREET FAMILY HEALTH SERVICES CENTER

● Mr. CASEY. Mr. President, on January 17, 2012, I visited to the 11th Street Family Health Services Center of Drexel University. The Center is lo-

cated in north Philadelphia, PA, and provides outpatient health care services to one of the most underserved communities in the city. As we work to ensure that all Americans have access to quality, affordable health care, the 11th Street Family Health Services Center serves as a model that is both innovative and effective, and I wish to highlight its efforts today.

The Center was born out of a partnership between the College of Nursing at MCP/Hahnemann University, now Drexel University's College of Nursing and Health Professions, and the Philadelphia Housing Authority to address the community's health concerns. It began as a Center focused on health promotion and disease prevention, but thanks to the tireless work of community leaders and Dr. Patty Gerrity, it quickly evolved into a comprehensive, nurse-managed, federally qualified health center.

In 1998, the center received a Health Resources and Services Administration grant for over \$3 million, which it used to build a state-of-the-art health center that was opened in 2002. That facility and the nurses that manage it now provide primary care, behavioral health, dental health and health and wellness programs to more than 2,500 adult patients annually. In fact, in 2011, the Center provided 30,000 patient visits to a section of Philadelphia that has the highest percentage of unemployed adults, the highest percentage of families living in poverty and the highest rate of diabetes in Philadelphia.

Not only does the Center serve as a creative model to address chronic health issues in underserved communities, it also serves as a great educational tool. As operated by the Drexel University College of Nursing and Health Professions, the Center encourages employment in the health care field and provides nursing students with the opportunity to learn, first-hand, the skills needed to work in today's health care industry.

As we move forward with the ongoing fight to ensure that quality and affordable care is accessible to all Americans, I strongly recommend that we learn from and seek to emulate innovative models like the 11th Street Family Health Services Center. It effectively serves our most vulnerable citizens, improves their general health and in doing so reduces the burden on our larger hospitals while decreasing medical costs in the long-term.●

#### TRIBUTE TO DR. MARY PAT SEURKAMP

● Mr. CARDIN. Mr. President, I wish to recognize the outstanding leadership and accomplishments of Mary Pat Seurkamp, Ph.D., president of Notre Dame of Maryland University.

The College of Notre Dame of Maryland was founded in Baltimore by the



School Sisters of Notre Dame to educate women and the poor. The institution was chartered in 1895 and was known as the College of Notre Dame of Maryland until September of 2011, when it was officially renamed Notre Dame of Maryland University. The undergraduate Women's College of the School of Arts and Sciences remains at the heart of the university and is the only women's college in Maryland. Under Dr. Seurkamp's leadership, Notre Dame of Maryland has flourished as one of the Nation's strongest women's institutions, fully embracing its role in preparing young women to understand and meet society's challenges.

Under Dr. Seurkamp's leadership, the college has also found new ways to meet society's needs. The Accelerated College was founded to help working women and men earn their undergraduate degrees. Now known as the College of Adult Undergraduate Studies, this division has continued to adapt to the needs of working adults and community institutions, offering courses on the Baltimore campus and at regional higher education centers and partnering hospitals.

Dr. Seurkamp, responding to expanding job opportunities in the area of health care, worked to found the Notre Dame of Maryland University School of Pharmacy, the second pharmacy school in Maryland and the first at a women's college in the United States. The School of Pharmacy, like the new School of Nursing and the School of Education, offers professional education rooted in the Catholic tradition of the liberal arts and service to others.

As part of the implementation of the campus's 20-year master plan, Dr. Seurkamp worked not only to enhance the beauty of the university grounds but also to ensure that university buildings are environmentally sustainable.

Dr. Seurkamp has been honored with numerous leadership awards, as well as the papal honor of Dame of the Order of St. Gregory. Her work reminds us of the critical role that higher education plays in defining our country's workforce and shaping our country's future.

I ask my colleagues to join me in congratulating Dr. Seurkamp on her 15 years of outstanding accomplishments as president of Notre Dame University of Maryland and in wishing her well in her retirement.●

#### RECOGNIZING HOSMER, SOUTH DAKOTA

● Mr. THUNE. Mr. President, today I wish to recognize Hosmer, SD. The town of Hosmer will commemorate the 125th anniversary of its founding this year.

Hosmer was platted on May 9, 1887. The name Hosmer comes from Stella A. Hosmer, who was the wife of a railroad

agent from Illinois. A great majority of Hosmer's residents claim German-Russian as their ancestry. Because of this heritage, the early settlers were able to thrive in the harsh South Dakota conditions which proved to be similar to those of their home countries.

From the beginning, Hosmer has been known to provide excellent services to its citizens. In the 1920s, the town prided itself on its fine educational system, as well as a road system that was well ahead of its time. Hosmer maintained a strong business reputation in the mid-1900s, when Dun and Bradstreet gave its businesses some of the best credit ratings of any Midwestern city. Hosmer's citizens are strong and determined like their ancestors. They have endured the hardships that are common in rural communities and have not only survived but have excelled.

Hosmer has been a successful community for the past 125 years, and I am confident that it will continue to serve as an example of South Dakota values and traditions. I would like to offer my congratulations to the citizens of Hosmer on this landmark occasion and wish them continued prosperity in the years to come.●

#### TRIBUTE TO MIKE SHAW

● Mr. UDALL of Colorado. Mr. President, today I want to recognize Mike Shaw, an outstanding Coloradan and this year's recipient of the prestigious TIME Dealer of the Year award. This award is given to outstanding new-car dealers who have also performed community service and exhibited a commitment to improving the world. Mike is an exceptional business owner in Colorado, an active philanthropist, and a role model in his community. I applaud Mike's achievement and would like to take a few moments to share his work with you.

Mike has long been devoted to serving his community, a value that was instilled early in his life. He is a veteran of the U.S. Army, having served in Vietnam, and as a member of the Senate Armed Services Committee, I want to extend my gratitude for his service to our country.

After returning home and entering the new-car business, Mike opened the Mike Shaw Chevrolet Saab dealership in the heart of Denver. Today he is the owner of seven dealerships throughout Colorado, Louisiana, and Texas. Mike's entrepreneurial spirit serves as a perfect example of how small businesses take root and help drive our economy, creating jobs and taking care of their customers and communities.

The auto industry has served as the backbone of American manufacturing. When it was hit hard by the 2008 recession and neared bankruptcy in 2009, thousands of dealerships across the country were at risk of closing. I had

the privilege of working with Mike to help give these important Colorado businesses and the jobs they support a second chance. He stood up to inform Congress of the actual impacts of closing auto dealerships and helped promote solutions to keep them in business. He has been a steadfast leader in Colorado, and we can all learn from his principled approach. As Mike says, "My mantra in business is that quality comes first, customers are always the focus, and integrity is never compromised."

I also want to commend him for his commitment to expanding education and opportunity for the youth in our State. His reach has extended to countless organizations and boards on which he has served or contributed to in other ways. The Denver Zoological Foundation, the Urban League of Denver, Kempe Children's Foundation, the National Western Stock Show Association, and St. Joseph Hospital Foundation are just a few that have felt his impact.

His exceptional leadership in the auto industry and involvement with these important community partners has earned Mike the Dealer of the Year award. His achievements are far-reaching, and each one of them is in the spirit of service to his community.

Mike is a determined and selfless community leader whose drive has helped provide our children a brighter future and made Colorado a better place to live. I extend to him my congratulations for being honored as the 2012 TIME Dealer of the Year, and I look forward to his continued leadership throughout Colorado.●

#### MESSAGES FROM THE HOUSE

##### ENROLLED BILL SIGNED

At 10:04 a.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 1134. An act to authorize the St. Croix River Crossing Project with appropriate mitigation measures to promote river values.

The enrolled bill was subsequently signed by the President pro tempore (Mr. INOUE).

At 11:07 a.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3413. An act to designate the facility of the United States Postal Service at 1449 West Avenue in Bronx, New York, as the "Private Isaac T. Cortes Post Office".

H.R. 3637. An act to designate the facility of the United States Postal Service located at 401 Old Dixie Highway in Jupiter, Florida, as the "Roy Schallern Road Post Office Building".

The message further announced that the House has passed the following bill, without amendment:

S. 1710. An act to designate the United States courthouse located at 222 West 7th Avenue, Anchorage, Alaska, as the James M. Fitzgerald United States Courthouse.

The message also announced that the House has agreed to the following concurrent resolutions, without amendment:

S. Con. Res. 35. Concurrent resolution to establish the Joint Congressional Committee on Inaugural Ceremonies for the inauguration of the President-elect and Vice President-elect of the United States on January 21, 2013.

S. Con. Res. 36. Concurrent resolution to authorize the use of the rotunda and Emancipation Hall of the Capitol by the Joint Congressional Committee on Inaugural Ceremonies in connection with the proceedings and ceremonies conducted for the inauguration of the President-elect and the Vice President-elect of the United States.

At 4:17 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has agreed to the following resolution:

H. Res. 571. Resolution relative to the death of the Honorable DONALD M. PAYNE, a Representative from the State of New Jersey.

#### ENROLLED BILL SIGNED

The message further announced that the Speaker has signed the following enrolled bill:

S. 1710. An act to designate the United States courthouse located at 222 West 7th Avenue, Anchorage, Alaska, as the James M. Fitzgerald United States Courthouse.

The enrolled bill was subsequently signed by the President pro tempore (Mr. INOUE).

#### MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 3413. An act to designate the facility of the United States Postal Service located at 1449 West Avenue in Bronx, New York, as the "Private Isaac T. Cortes Post Office"; to the Committee on Homeland Security and Governmental Affairs.

H.R. 3637. An act to designate the facility of the United States Postal Service located at 401 Old Dixie Highway in Jupiter, Florida, as the "Roy Schallern Rood Post Office Building"; to the Committee on Homeland Security and Governmental Affairs.

#### ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, March 6, 2012, she had presented to the President of the United States the following enrolled bill:

S. 1134. An act to authorize the St. Croix River Crossing Project with appropriate mitigation measures to promote river values.

#### EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-5191. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Importation of Wooden Handicrafts from China" ((RIN0579-AC90) (Docket No. APHIS 2007-0117)) received in the Office of the President of the Senate on March 2, 2012; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5192. A communication from the Manager of the BioPreferred Program, Office of Procurement and Property Management, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Designation of Biobased Items for Federal Procurement" (RIN0503-AA39) received in the Office of the President of the Senate on February 29, 2012; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5193. A communication from the Director of Operational Test and Evaluation, Office of the Secretary of Defense, transmitting, pursuant to law, the Director of Operational Test and Evaluation's fiscal year 2011 annual report; to the Committee on Armed Services.

EC-5194. A communication from the Acting Under Secretary of Defense (Personnel and Readiness), transmitting the report of seven (7) officers authorized to wear the insignia of the grade of brigadier general in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

EC-5195. A communication from the Acting Under Secretary of Defense (Personnel and Readiness), transmitting the report of an officer authorized to wear the insignia of the grade of brigadier general in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

EC-5196. A communication from the Chairman and President of the Export-Import Bank, transmitting, pursuant to law, a report relative to transactions involving U.S. exports to the Kingdom of Morocco; to the Committee on Banking, Housing, and Urban Affairs.

EC-5197. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Extension of Time to File Estate Tax Return to Elect Portability of a Spousal Unused Exclusion Amount" (Notice 2012-21) received in the Office of the President of the Senate on February 29, 2012; to the Committee on Finance.

EC-5198. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Applicable Federal Rates—March 2012" (Rev. Rul. 2012-9) received in the Office of the President of the Senate on February 29, 2012; to the Committee on Finance.

EC-5199. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to an amendment to part 126 of the International Traffic in Arms Regulations (ITAR); to the Committee on Foreign Relations.

EC-5200. A communication from the Assistant Secretary, Employee Benefits Security

Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled "Reasonable Contract or Arrangement Under Section 408(b)(2)—Fee Disclosure" (RIN1210-AB08) received during adjournment of the Senate in the Office of the President of the Senate on February 3, 2012; to the Committee on Health, Education, Labor, and Pensions.

EC-5201. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, a report entitled "Report of the Attorney General to the Congress of the United States on the Administration of the Foreign Agents Registration Act of 1938, as amended for the six months ending June 30, 2011"; to the Committee on the Judiciary.

EC-5202. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report entitled "U.S. Department of Transportation's 2011 Annual Report to Congress and the National Transportation Safety Board Responding to Issues on the National Transportation Safety Board's Most Wanted List"; to the Committee on Commerce, Science, and Transportation.

EC-5203. A communication from the Acting Administrator of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, a report relative to the foreign aviation authorities to which the Administration provided services during fiscal year 2011; to the Committee on Commerce, Science, and Transportation.

EC-5204. A communication from the Administrator, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, a report relative to the National 911 Program; to the Committee on Commerce, Science, and Transportation.

EC-5205. A communication from the Acting Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a biennial report entitled "Deep Sea Coral Research and Technology Program 2012 Report to Congress"; to the Committee on Commerce, Science, and Transportation.

EC-5206. A communication from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Television Broadcasting Services; Lincoln, Nebraska" (MB Docket No. 11-192; DA 12-91) received in the Office of the President of the Senate on February 16, 2012; to the Committee on Commerce, Science, and Transportation.

EC-5207. A communication from the Acting Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Threatened and Endangered Status for Distinct Population Segments of Atlantic Sturgeon in the Northwest Region" (RIN0648-XJ00) received in the Office of the President of the Senate on February 16, 2012; to the Committee on Commerce, Science, and Transportation.

EC-5208. A communication from the Acting Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Final Listing Determinations for Two Distinct Population Segments of Atlantic Sturgeon (*Acipenser oxyrinchus oxyrinchus*) in the Southeast" (RIN0648-

XN50) received in the Office of the President of the Senate on February 16, 2012; to the Committee on Commerce, Science, and Transportation.

EC-5209. A communication from the Acting Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Taking and Importing Marine Mammals; U.S. Navy's Research, Development, Test and Evaluation Activities Within the Naval Sea Systems Command Naval Undersea Warfare Center Keyport Range Complex" (RIN0648-AX11) received in the Office of the President of the Senate on March 1, 2012; to the Committee on Commerce, Science, and Transportation.

EC-5210. A communication from the Acting Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Atlantic Highly Migratory Species; 2012 Atlantic Shark Commercial Fishing Season" (RIN0648-BB36) received in the Office of the President of the Senate on February 27, 2012; to the Committee on Commerce, Science, and Transportation.

EC-5211. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod Allocations in the Gulf of Alaska; Amendment 83; Correction" (RIN0648-AY53) received during adjournment of the Senate in the Office of the President of the Senate on February 21, 2012; to the Committee on Commerce, Science, and Transportation.

EC-5212. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Trip Limit Reduction" (RIN0648-XA952) received in the Office of the President of the Senate on February 28, 2012; to the Committee on Commerce, Science, and Transportation.

EC-5213. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630 in the Gulf of Alaska" (RIN0648-XA954) received in the Office of the President of the Senate on February 28, 2012; to the Committee on Commerce, Science, and Transportation.

EC-5214. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries; General Category Fishery" (RIN0648-XA948) received in the Office of the President of the Senate on February 28, 2012; to the Committee on Commerce, Science, and Transportation.

EC-5215. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher/Processors Using Pot Gear in the Bering Sea and Aleutian Islands Management Area" (RIN0648-XA955) received in the Office of the President of the Senate on February 28, 2012;

to the Committee on Commerce, Science, and Transportation.

EC-5216. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Trip Limit Increase" (RIN0648-XA974) received in the Office of the President of the Senate on February 15, 2012; to the Committee on Commerce, Science, and Transportation.

EC-5217. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Pacific Whiting and Non-Whiting Allocations; Pacific Whiting Seasons" (RIN0648-XA927) received during adjournment of the Senate in the Office of the President of the Senate on February 21, 2012; to the Committee on Commerce, Science, and Transportation.

EC-5218. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Northeastern United States; Summer Flounder Fishery; Quota Transfer" (RIN0648-XA946) received in the Office of the President of the Senate on February 27, 2012; to the Committee on Commerce, Science, and Transportation.

EC-5219. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Greater Than or Equal To 60 Feet (18.3 Meters) Length Overall Using Pot Gear in the Bering Sea and Aleutian Islands Management Area" (RIN0648-XA947) received in the Office of the President of the Senate on February 28, 2012; to the Committee on Commerce, Science, and Transportation.

EC-5220. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic" (RIN0648-XA944) received in the Office of the President of the Senate on February 28, 2012; to the Committee on Commerce, Science, and Transportation.

EC-5221. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Northeastern United States; Spiny Dogfish Fishery; Commercial Period 2 Quota Harvested" (RIN0648-XA926) received in the Office of the President of the Senate on February 28, 2012; to the Committee on Commerce, Science, and Transportation.

EC-5222. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Non-American Fisheries Act Crab Vessels Operating as Catcher/Processors Using Pot Gear in the Western Regulatory Area of the Gulf of Alaska" (RIN0648-XA956) received in the Office of the President of the Senate on February 28, 2012; to the Committee on Commerce, Science, and Transportation.

## PETITIONS AND MEMORIALS

The following petition or memorial was laid before the Senate and was referred or ordered to lie on the table as indicated:

POM 65. A petition transmitted by a private citizen relative to pro-se prisoner litigants; to the Committee on the Judiciary.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BEGICH:

S. 2156. A bill to amend the Migratory Bird Hunting and Conservation Stamp Act to permit the Secretary of the Interior, in consultation with the Migratory Bird Conservation Commission, to set prices for Federal Migratory Bird Hunting and Conservation Stamps and make limited waivers of stamp requirements for certain users; to the Committee on Environment and Public Works.

By Mr. NELSON of Florida (for himself and Mr. RUBIO):

S. 2157. A bill to ensure that all of Brevard County, Florida, is treated as a HUBZone, and for other purposes; to the Committee on Small Business and Entrepreneurship.

By Mr. KOHL:

S. 2158. A bill to establish the Fox-Wisconsin Heritage Parkway National Heritage Area, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LEAHY (for himself and Mr. GRASSLEY):

S. 2159. A bill to extend the authorization of the Drug-Free Communities Support Program through fiscal year 2017; to the Committee on the Judiciary.

By Mr. MORAN (for himself and Mr. MANCHIN):

S. 2160. A bill to improve the examination of depository institutions, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MERKLEY:

S. 2161. A bill to amend the Internal Revenue Code of 1986 to extend and modify the credit for certain plug-in vehicles; to the Committee on Finance.

By Mr. REED (for himself, Mr. DURBIN,

Mr. SCHUMER, Mr. LEAHY, Mr. BROWN of Ohio, Mr. WHITEHOUSE, Mr. MERKLEY, Mr. BEGICH, Mr. FRANKEN, Mr. BLUMENTHAL, and Mr. AKAKA):

S. 2162. A bill to provide for the redevelopment of abandoned and foreclosed-upon properties and for the stabilization of affected neighborhoods, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. CONRAD:

S. 2163. A bill to amend title XVIII of the Social Security Act to improve Medicare benefits for individuals with kidney disease, and for other purposes; to the Committee on Finance.

By Ms. KLOBUCHAR (for herself and Mr. FRANKEN):

S. 2164. A bill to authorize the Secretary of the Army to carry out activities to manage the threat of Asian carp traveling up the Mississippi River in the State of Minnesota, and for other purposes; to the Committee on Environment and Public Works.

By Mrs. BOXER (for herself, Mr. ISAKSON, and Ms. COLLINS):

S. 2165. A bill to enhance strategic cooperation between the United States and Israel,

and for other purposes; to the Committee on Foreign Relations.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BAUCUS (for himself, Mrs. MURRAY, Mr. REID, Mr. DURBIN, Mrs. FEINSTEIN, Mr. TESTER, Mr. ISAKSON, and Mrs. BOXER):

S. Res. 389. A resolution designating the first week of April 2012 as "National Asbestos Awareness Week"; considered and agreed to.

#### ADDITIONAL COSPONSORS

S. 227

At the request of Ms. COLLINS, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 227, a bill to amend title XVIII of the Social Security Act to ensure more timely access to home health services for Medicare beneficiaries under the Medicare program.

S. 296

At the request of Ms. KLOBUCHAR, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 296, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide the Food and Drug Administration with improved capacity to prevent drug shortages.

S. 381

At the request of Mr. TESTER, the name of the Senator from Kansas (Mr. MORAN) was added as a cosponsor of S. 381, a bill to amend the Arms Export Control Act to provide that certain firearms listed as curios or relics may be imported into the United States by a licensed importer without obtaining authorization from the Department of State or the Department of Defense, and for other purposes.

S. 394

At the request of Mr. KOHL, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 394, a bill to amend the Sherman Act to make oil-producing and exporting cartels illegal.

S. 687

At the request of Mr. CONRAD, the name of the Senator from Idaho (Mr. RISCH) was added as a cosponsor of S. 687, a bill to amend the Internal Revenue Code of 1986 to permanently extend the 15-year recovery period for qualified leasehold improvement property, qualified restaurant property, and qualified retail improvement property.

S. 1190

At the request of Mr. TESTER, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1190, a bill to reduce disparities and improve access to effective and cost efficient diagnosis and treatment of pros-

tate cancer through advances in testing, research, and education, including through telehealth, comparative effectiveness research, and identification of best practices in patient education and outreach particularly with respect to underserved racial, ethnic and rural populations and men with a family history of prostate cancer, to establish a directive on what constitutes clinically appropriate prostate cancer imaging, and to create a prostate cancer scientific advisory board for the Office of the Chief Scientist at the Food and Drug Administration to accelerate real-time sharing of the latest research and accelerate movement of new medicines to patients.

S. 1374

At the request of Mr. MENENDEZ, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 1374, a bill to direct the Federal Trade Commission to prescribe rules prohibiting deceptive advertising of abortion services.

S. 1591

At the request of Mrs. GILLIBRAND, the name of the Senator from Colorado (Mr. BENNET) was added as a cosponsor of S. 1591, a bill to award a Congressional Gold Medal to Raoul Wallenberg, in recognition of his achievements and heroic actions during the Holocaust.

S. 1872

At the request of Mr. CASEY, the name of the Senator from Mississippi (Mr. WICKER) was added as a cosponsor of S. 1872, a bill to amend the Internal Revenue Code of 1986 to provide for the tax treatment of ABLE accounts established under State programs for the care of family members with disabilities, and for other purposes.

S. 1942

At the request of Mr. KOHL, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 1942, a bill to amend title 49, United States Code, to improve transportation for seniors, and for other purposes.

S. 1956

At the request of Mr. THUNE, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of S. 1956, a bill to prohibit operators of civil aircraft of the United States from participating in the European Union's emissions trading scheme, and for other purposes.

S. 1965

At the request of Mr. MORAN, the name of the Senator from Missouri (Mr. BLUNT) was added as a cosponsor of S. 1965, a bill to jump-start economic recovery through the formation and growth of new businesses, and for other purposes.

S. 2066

At the request of Ms. MURKOWSKI, the name of the Senator from Wyoming (Mr. BARRASSO) was added as a cosponsor of S. 2066, a bill to recognize the

heritage of recreational fishing, hunting, and shooting on Federal public land and ensure continued opportunities for those activities.

S. 2104

At the request of Mr. CARDIN, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 2104, a bill to amend the Water Resources Research Act of 1984 to reauthorize grants for and require applied water supply research regarding the water resources research and technology institutes established under that Act.

S. 2148

At the request of Mr. INHOFE, the name of the Senator from Arkansas (Mr. BOOZMAN) was added as a cosponsor of S. 2148, a bill to amend the Toxic Substance Control Act relating to lead-based paint renovation and remodeling activities.

S. RES. 380

At the request of Mr. GRAHAM, the names of the Senator from Florida (Mr. RUBIO), the Senator from Michigan (Ms. STABENOW), the Senator from Indiana (Mr. LUGAR), the Senator from Virginia (Mr. WARNER), the Senator from Delaware (Mr. CARPER) and the Senator from Utah (Mr. LEE) were added as cosponsors of S. Res. 380, a resolution to express the sense of the Senate regarding the importance of preventing the Government of Iran from acquiring nuclear weapons capability.

AMENDMENT NO. 1540

At the request of Mr. CASEY, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of amendment No. 1540 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1652

At the request of Mr. HARKIN, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of amendment No. 1652 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1774

At the request of Mr. PORTMAN, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of amendment No. 1774 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1784

At the request of Mr. HARKIN, the names of the Senator from Arkansas (Mr. PRYOR) and the Senator from Vermont (Mr. SANDERS) were added as cosponsors of amendment No. 1784 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

STATEMENTS ON INTRODUCED  
BILLS AND JOINT RESOLUTIONS

By Mr. KOHL:

S. 2158. A bill to establish the Fox-Wisconsin Heritage Parkway National Heritage Area, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. KOHL. Mr. President, I wanted to speak today regarding a bill I am introducing to establish the Fox-Wisconsin Heritage Parkway National Heritage Area. The Fox-Wisconsin Heritage Parkway would cut diagonally across Wisconsin through parts of 15 counties following the Fox River from Green Bay to Portage and the Wisconsin River from Portage to the Mississippi River. This parkway marks the route taken in 1673 by explorers Father Jacques Marquette and Louis Joliet through Wisconsin.

The Fox-Wisconsin Heritage Parkway concept was created in 1991 by the National Trust for Historic Preservation and the Wisconsin Department of Commerce with the purpose of highlighting and enhancing the unique heritage of the State of Wisconsin. The Fox and Wisconsin rivers that serve as the pathway of Wisconsin's first explorers will increase heritage and recreational tourism to sites within the 280 mile Parkway and create awareness of this region's contributions to United States history.

A National Heritage Area designation would revitalize the Parkway as an economic, environmental and recreational resource and ensure it for future generations. This project has the strong support of local towns, cities, businesses and non-profits that are located within this proposed parkway. I look forward to working with my colleagues in Congress on this National Heritage Area designation.

By Mr. LEAHY (for himself and Mr. GRASSLEY):

S. 2159. A bill to extend the authorization of the Drug-Free Communities Support Program through fiscal year 2017; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, today, I am pleased to join with Senator GRASSLEY to introduce the Drug Free Communities Reauthorization Act of 2012, a bill to reauthorize the successful Drug Free Communities Program. It is crucial that communities around the country have the support and resources needed to respond to serious drug problems in a comprehensive and coordinated manner. Drug Free Community, DFC, coalitions have been proven to significantly lower substance abuse rates in our communities nationwide.

The DFC program encourages local citizens to become directly involved in solving their community's drug issues through grassroots organizing and data-driven approaches. Since the program's inception, DFC grants, which

must be matched dollar for dollar, have helped to fund nearly 2,000 coalitions and have mobilized nearly 9,000 community volunteers. Today's legislation will reauthorize the DFC Program for an additional 5 years, at a reduced rate to reflect current fiscal realities. The community coalition model has proven extremely effective and has achieved impressive outcomes. It is critical that today's bill become law.

The DFC Program strategically invests Federal anti-drug resources at the community level with those who have the most power to reduce the demand for drugs—parents, teachers, business leaders, local media, religious leaders, law enforcement, youth, and others in the community. Grantees execute collaborative strategies to address their communities' unique substance use and abuse issues. This is the optimal way to ensure that the entire community benefits from prevention. I have consistently supported funding for these coalitions, and was pleased that last year, eight Vermont coalitions were awarded Drug Free Community grants totaling \$946,852.

In Vermont, we have felt the presence of drug abuse and drug-related crime in our communities, and prescription drug abuse is on the rise. The myth persists that drug abuse and drug-related crime are only big-city problems, but rural America is also coping with these issues. I have brought the Judiciary Committee to Vermont several times to examine these problems and gain perspectives to help shape solutions. One thing is clear. Law enforcement, while crucial, cannot solve the problem on its own. Reducing substance abuse requires a comprehensive approach with equal attention to law enforcement, prevention and education, and treatment, all with active community buy-in.

We see significant results in the fight against youth drug abuse when we have people working together at the local, State, and Federal levels, and in the law enforcement, prevention, and treatment fields. We have seen success driven by DFC coalitions in Vermont and throughout the country, but there is more work to be done. Drug abuse and drug-related crime is a persistent problem in major metropolitan areas and rural communities alike. I hope all Senators will support this bipartisan bill so that communities nationwide can sustain effective community coalitions to reduce youth drug use.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2159

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

## SECTION 1. EXTENSION OF THE DRUG-FREE COMMUNITIES SUPPORT PROGRAM THROUGH FISCAL YEAR 2017.

Section 1024(a) of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1524(a)) is amended by striking paragraph (9) and all that follows and inserting the following:

- “(9) \$90,000,000 for fiscal year 2006;
- “(10) \$99,000,000 for fiscal year 2007;
- “(11) \$109,000,000 for fiscal year 2008;
- “(12) \$114,000,000 for fiscal year 2009;
- “(13) \$119,000,000 for fiscal year 2010;
- “(14) \$124,000,000 for fiscal year 2011;
- “(15) \$129,000,000 for fiscal year 2012;
- “(16) \$100,000,000 for fiscal year 2013;
- “(17) \$100,000,000 for fiscal year 2014;
- “(18) \$100,000,000 for fiscal year 2015;
- “(19) \$100,000,000 for fiscal year 2016; and
- “(20) \$100,000,000 for fiscal year 2017.”.

Mr. GRASSLEY. Mr. President, throughout my years in Congress, I have worked to keep drugs out of our communities. We have all seen the destructive impact drugs have on our communities, and our families. For years, we have heard tragic stories of the lives impacted by drug abuse. These problems plague our society and we must remain united in this struggle to end abuse and addiction.

In 1997 I, along with then-Senator BIDEN, sponsored legislation to create the Drug Free Communities, DFC, program. I believed then—as I still do today—that one of the most effective ways to prevent drug abuse is by supporting community antidrug coalitions to identify, prevent and eradicate the sources of abuse at the grass roots. Since the enactment of the Drug Free Communities Act, thousands of community antidrug coalitions have received Federal support to further their efforts to halt drug abuse in their communities.

Coalitions, across the country and in my home State of Iowa, are confronted with unique challenges, but they are leading their communities in finding ways to overcome them. For example, the Van Buren Safe Coalition in Keosauqua, IA implemented comprehensive community wide strategies to address the growing marijuana problem in their community. They conducted town hall meetings to raise awareness about the dangers of drug use; facilitated various community and youth education opportunities; and partnered with local schools to ensure drug policies and codes of conduct were in place. As a result, the Van Buren County SAFE Coalition reduced marijuana use among 11th graders by one-third in a 5-year time span according to the Iowa Youth Survey.

The Kossuth Connections coalition, which is headquartered in Algona, IA, is also taking action to fight underage drinking and smoking within its communities. According to the Iowa Youth Survey, current underage drinking and smoking, although still below the statewide average, has increased slightly between 2008 and 2010 in this county. As a result, the Kossuth Connections coalition has partnered with

local businesses that sell alcohol and tobacco to ensure compliance with laws requiring age restrictions on selling alcohol and tobacco products. Youth from the county have surveyed area stores, inspected advertisements and product placements, and helped to determine whether or not the store displays a "We ID" sticker at the counter. These youth are committed to ensuring local stores are in compliance with the law and are actively working to reduce underage drinking and smoking.

These coalitions are a small sampling, but they represent the incredible efforts that many are putting into controlling and reducing drug abuse in our communities. Now is not the time to abandon community drug prevention efforts.

Unfortunately, recent trends indicate youth drug use nationally is on the rise and new synthetic drugs like K2/Spice and bath salts are gaining in popularity. In fact, the latest Monitoring the Future Survey indicates that one in nine high school seniors used synthetic drugs like K2/Spice in the past year. This is the first year this survey tested students on synthetic drug use. The high number of users in such a short time span illustrates how rapidly drug use can spread among certain populations and communities. It is discouraging to see these surveys and to read about more tragedies on a daily basis. These negative trends will continue if they are not aggressively addressed.

It is vital that communities are made aware of abuse trends and the new drugs coming on the horizon. The actions community antidrug coalitions can take to stem the growing tide of rising drug abuse, like synthetic drug abuse, can and have made a real difference. By holding town hall meetings, launching school programs, and confronting local businesses that market or sell inappropriate products community coalitions are making a real positive difference.

Whether it is a synthetic drug outbreak, a meth epidemic in a Midwestern town, or an increase in underage drinking, community antidrug coalitions will lead the way to unite their community against drug abuse. It is vital in these tough times that these coalitions continue to receive support from their communities and from the Federal Government. That is why I am pleased to join my colleague, Senator LEAHY, in introducing a bill to reauthorize The Drug Free Communities Support Program for an additional 5 years.

This reauthorizing legislation recognizes the good work local antidrug coalitions have done over the years, but it also recognizes the fact that resources at the Federal level are tight and that authorizations need to more closely resemble appropriations. Further, this program is part of an ongoing review

conducted by the Government Accountability Office (GAO) that I, along with Senator FEINSTEIN, requested to study the effectiveness of the program. This study will take some time to develop and should not hinder our efforts to reauthorize the program, but should also be taken into consideration once the results are available.

We must remain vigilant and not relent in our efforts to eradicate drug abuse. Drug abuse flourishes when the problem is ignored. If we are going to make a better future for our children and communities, we must face this menace together.

By Mr. REED (for himself, Mr. DURBIN, Mr. SCHUMER, Mr. LEAHY, Mr. BROWN of Ohio, Mr. WHITEHOUSE, Mr. MERKLEY, Mr. BEGICH, Mr. FRANKEN, Mr. BLUMENTHAL, and Mr. AKAKA):

S. 2162. A bill to provide for the redevelopment of abandoned and foreclosed-upon properties and for the stabilization of affected neighborhoods, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. REED. Mr. President, I introduce the Project Rebuild Act today, and I thank Senators DURBIN, SCHUMER, LEAHY, AKAKA, SHERROD BROWN, WHITEHOUSE, MERKLEY, BEGICH, FRANKEN, and BLUMENTHAL for joining me as original cosponsors of this bill.

Rhode Island, like America, is facing a foreclosure crisis. The bill we are introducing offers an opportunity to address this crisis—tackling foreclosures and affordable rental housing at the same time.

Building upon the successful, proven, and bipartisan Neighborhood Stabilization Plan, NSP, which has helped put Americans back to work stabilizing neighborhoods, the Project Rebuild Act could provide \$43 million for Rhode Island to help create jobs and overhaul distressed neighborhoods and commercial properties.

Nationwide, about \$10 billion would be directed to States and local governments through a formula modeled after NSP, and \$5 billion would be distributed through new competitive grants.

We are facing a challenging budget environment, but this is the right time to make smart investments in strengthening our communities, putting more construction workers back to work, and bolstering the economy. This initiative will provide a flexible source of funding to help local communities leverage federal dollars to effectively address vacant and blighted properties.

In communities across Rhode Island and the country, we have seen how the foreclosure crisis has affected not just those who have lost their homes, but also how it has impacted entire neighborhoods.

I helped ensure that Rhode Island would receive additional NSP funding

to assist communities hit hardest by the foreclosure crisis. Based on my visits to many NSP sites in Rhode Island, the State's NSP allotment of \$26 million is making a difference in neighborhoods all over the State. This crucial investment in Rhode Island has not only begun to help reverse the fallout from foreclosures, but has also provided families with affordable rental housing.

But more needs to be done. According to the Department of Housing and Urban Development, despite three rounds of NSP funding, "there is unaddressed high need in more than 76 percent of high need census tracts across the country." According to the Federal Reserve's recent housing white paper, the number of new homes that will have completed the foreclosure process could be as high as 1 million properties per year in 2012 and 2013.

We need to act to gain traction in our housing market so that we can firmly anchor a sustainable economic recovery that actually reaches and touches all Americans.

The Project Rebuild Act takes us in the right direction towards gaining this needed traction by making important enhancements to NSP, such as broadening eligible uses to include commercial vacancies.

It would offer new grants for fixing up vacant commercial properties, complementing the abilities of private developers.

It would also increase support for "land banking." Land banks work with communities to buy, hold, and redevelop distressed properties as part of a long-term redevelopment strategy. Our bill would help more communities utilize successful land bank models and provide additional resources for Rhode Island Housing's Land Bank.

The U.S. Department of Housing and Urban Development, HUD, estimates Project Rebuild could create over 190,000 jobs and renovate 150,000 properties nationwide.

Just as NSP was supported on a bipartisan basis, I hope we can build bipartisan support for this effort to help revitalize neighborhoods, create jobs, and accelerate economic growth.

I urge my colleagues to join us in supporting this bill and other efforts to address foreclosures and bolster our nation's recovery.

By Mr. CONRAD:

S. 2163. A bill to amend title XVIII of the Social Security Act to improve Medicare benefits for individuals with kidney disease, and for other purposes; to the Committee on Finance.

Mr. CONRAD. Mr. President, I am introducing the Kidney Disease Equitable Access, Prevention, and Research Act. This legislation recognizes the importance of patient choice, access to care, and educational efforts to assist the more than 400,000 Americans with



kidney failure to manage their disease and understand the treatment options.

First, the legislation seeks to maintain patient choice to retain their private insurance options, even after they qualify for Medicare by virtue of their disease state. Under current law, an individual diagnosed with kidney failure, or End Stage Renal Disease, ESRD, has the choice to maintain his/her current group health plan or transition immediately to Medicare. The legislation introduced today would direct the Secretary to clarify that this long-standing requirement also applies to group health plans established through Health Benefit Exchanges, as well as more traditional plans.

Second, the legislation seeks to improve access to preventive and educational services by expanding access to coverage for kidney disease education services.

Finally, the legislation seeks to address barriers to receiving this life-sustaining treatment, including transportation issues and factors that lead to disparities among minority populations. It also calls on the Secretary to report on gaps in quality and care management metrics to support ongoing efforts to continue quality improvement in the Medicare ESRD program.

I call on my colleagues to reaffirm the Congressional commitment to Americans with ESRD by ensuring equitable access to care for individuals with kidney disease, supporting research to improve access to high quality kidney care, and improving access to preventive care for individuals with ESRD. The Kidney Disease Equitable Access, Prevention, and Research Act is a comprehensive bill that improves upon the Medicare ESRD program. I urge my colleagues to join with me in supporting this important legislation.

#### SUBMITTED RESOLUTIONS

##### SENATE RESOLUTION 389—DESIGNATING THE FIRST WEEK OF APRIL 2012 AS “NATIONAL ASBESTOS AWARENESS WEEK”

Mr. BAUCUS (for himself, Mrs. MURRAY, Mr. REID, Mr. DURBIN, Mrs. FEINSTEIN, Mr. TESTER, Mr. ISAKSON, and Mrs. BOXER) submitted the following resolution; which was considered and agreed to:

S. RES. 389

Whereas dangerous asbestos fibers are invisible and cannot be smelled or tasted;

Whereas the inhalation of airborne asbestos fibers can cause significant damage;

Whereas asbestos fibers can cause cancer such as mesothelioma, asbestosis, and other health problems;

Whereas asbestos-related diseases can take 10 to 50 years to present themselves;

Whereas the expected survival time for those diagnosed with mesothelioma is between 6 and 24 months;

Whereas, generally, little is known about late-stage treatment of asbestos-related diseases, and there is no cure for such diseases;

Whereas early detection of asbestos-related diseases may give some patients increased treatment options and might improve their prognoses;

Whereas the United States has substantially reduced its consumption of asbestos, yet continues to consume almost 1,100 metric tons of the fibrous mineral for use in certain products throughout the United States;

Whereas asbestos-related diseases have killed thousands of people in the United States;

Whereas exposure to asbestos continues, but safety and prevention of asbestos exposure already has significantly reduced the incidence of asbestos-related diseases and can further reduce the incidence of such diseases;

Whereas asbestos has been a cause of occupational cancer;

Whereas thousands of workers in the United States face significant asbestos exposure;

Whereas thousands of people in the United States die from asbestos-related diseases every year;

Whereas a significant percentage of all asbestos-related disease victims were exposed to asbestos on naval ships and in shipyards;

Whereas asbestos was used in the construction of a significant number of office buildings and public facilities built before 1975;

Whereas people in the small community of Libby, Montana suffer from asbestos-related diseases, including mesothelioma, at a significantly higher rate than people in the United States as a whole; and

Whereas the establishment of a “National Asbestos Awareness Week” will raise public awareness about the prevalence of asbestos-related diseases and the dangers of asbestos exposure: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates the first week of April 2012 as “National Asbestos Awareness Week”;

(2) urges the Surgeon General to warn and educate people about the public health issue of asbestos exposure, which may be hazardous to their health; and

(3) respectfully requests that the Secretary of the Senate transmit a copy of this resolution to the Office of the Surgeon General.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 1800. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 1761 proposed by Mr. REID to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table.

SA 1801. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 1761 proposed by Mr. REID to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1802. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 1761 proposed by Mr. REID to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1803. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 1761 proposed by Mr. REID to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1804. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1805. Mr. ROBERTS submitted an amendment intended to be proposed to amendment SA 1741 submitted by Mr. LEVIN (for himself and Mr. CONRAD) and intended to be proposed to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1806. Mr. BARRASSO submitted an amendment intended to be proposed to amendment SA 1776 submitted by Ms. CANTWELL and intended to be proposed to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1807. Mr. BROWN of Ohio (for himself and Mr. MERKLEY) submitted an amendment intended to be proposed to amendment SA 1761 proposed by Mr. REID to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1808. Mr. DURBIN (for Mr. LEAHY (for himself and Mr. GRASSLEY)) proposed an amendment to the bill S. 1886, to prevent trafficking in counterfeit drugs.

#### TEXT OF AMENDMENTS

SA 1800. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 1761 proposed by Mr. REID to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1454, between lines 8 and 9, insert the following:

(C) AGENCY APPROVALS FOR POSITIVE TRAIN CONTROL.—

(1) COORDINATION.—The Secretary and the Chairman shall coordinate to expedite approvals of associated technology essential to implementing a positive train control system pursuant to section 20157(a) of title 49, United States Code.

(2) APPROVAL PROCESS.—

(A) IN GENERAL.—The Chairman shall give priority to all actions essential to implementing the system described in paragraph (1).

(B) SPECTRUM APPLICATIONS.—The Chairman—

(i) shall approve or deny applications for spectrum necessary to implement positive train control not later than 180 days after the submission of a complete application, unless additional time is sought by the applicant; and

(ii) in determining whether to grant an application described in subparagraph (A), shall consider the interests of public safety.

(C) EXTENSION OF TIME FOR APPROVING OR DENYING APPLICATIONS.—The Chairman may extend the time for approving or denying an application under subparagraph (B)(i) for 1 additional period of 180 days for good cause if the Chairman provides to the applicant—

(i) a statement of the grounds for the extension; and

(ii) a target date for approving or denying the application.

(3) SEMI-ANNUAL REPORT.—Not later than 90 days after the date of enactment of this Act, and every 6 months thereafter, the Secretary and the Chairman shall jointly submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that describes—

(A) the status of the applications described in paragraph (2)(B);

(B) any additional agency approvals or actions that may be necessary; and

(C) the additional agency resources that will be required to facilitate expeditious approvals and actions.



**SA 1801.** Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 1761 proposed by Mr. REID to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1323, between lines 13 and 14, insert the following:

(d) RELATIONSHIP TO OTHER LAWS.—Section 5107(g)(2) is amended by inserting “, or section 34007 of the Hazardous Materials Transportation Safety Improvement Act of 2012,” after “section 5106”.

**SA 1802.** Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 1761 proposed by Mr. REID to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**TITLE \_\_\_\_\_—PUBLIC SAFETY OFFICERS AND VOLUNTEERS**

**Subtitle A—Public Safety Officers Benefits**

**SEC. 21. SHORT TITLE.**

This subtitle may be cited as the “Dale Long Public Safety Officers’ Benefits Improvements Act of 2012”.

**SEC. 22. BENEFITS FOR CERTAIN NONPROFIT EMERGENCY MEDICAL SERVICE PROVIDERS AND CERTAIN TRAINEES; MISCELLANEOUS AMENDMENTS.**

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(1) in section 901(a) (42 U.S.C. 3791(a))—

(A) in paragraph (26), by striking “and” at the end;

(B) in paragraph (27), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(28) the term ‘hearing examiner’ includes any medical or claims examiner.”;

(2) in section 1201 (42 U.S.C. 3796)—

(A) in subsection (a), by striking “follows:” and all that follows and inserting the following: “follows (if the payee indicated is living on the date on which the determination is made)—

“(1) if there is no child who survived the public safety officer, to the surviving spouse of the public safety officer;

“(2) if there is at least 1 child who survived the public safety officer and a surviving spouse of the public safety officer, 50 percent to the surviving child (or children, in equal shares) and 50 percent to the surviving spouse;

“(3) if there is no surviving spouse of the public safety officer, to the surviving child (or children, in equal shares);

“(4) if there is no surviving spouse of the public safety officer and no surviving child—

“(A) to the surviving individual (or individuals, in shares per the designation, or, otherwise, in equal shares) designated by the public safety officer to receive benefits under this subsection in the most recently executed designation of beneficiary of the public safety officer on file at the time of death with the public safety agency, organization, or unit; or

“(B) if there is no individual qualifying under subparagraph (A), to the surviving individual (or individuals, in equal shares) des-

ignated by the public safety officer to receive benefits under the most recently executed life insurance policy of the public safety officer on file at the time of death with the public safety agency, organization, or unit;

“(5) if there is no individual qualifying under paragraph (1), (2), (3), or (4), to the surviving parent (or parents, in equal shares) of the public safety officer; or

“(6) if there is no individual qualifying under paragraph (1), (2), (3), (4), or (5), to the surviving individual (or individuals, in equal shares) who would qualify under the definition of the term ‘child’ under section 1204 but for age.”;

(B) in subsection (b)—

(i) by striking “direct result of a catastrophic” and inserting “direct and proximate result of a personal”;

(ii) by striking “pay,” and all that follows through “the same” and inserting “pay the same”;

(iii) by striking “in any year” and inserting “to the public safety officer (if living on the date on which the determination is made)”;

(iv) by striking “in such year, adjusted” and inserting “with respect to the date on which the catastrophic injury occurred, as adjusted”;

(v) by striking “, to such officer”;

(vi) by striking “the total” and all that follows through “For” and inserting “for”; and

(vii) by striking “That these” and all that follows through the period, and inserting “That the amount payable under this subsection shall be the amount payable as of the date of catastrophic injury of such public safety officer.”;

(C) in subsection (f)—

(i) in paragraph (1), by striking “, as amended (D.C. Code, sec. 4-622); or” and inserting a semicolon;

(ii) in paragraph (2)—

(I) by striking “, Such beneficiaries shall only receive benefits under such section 8191 that” and inserting “, such that beneficiaries shall receive only such benefits under such section 8191 as”; and

(II) by striking the period at the end and inserting “; or”; and

(iii) by adding at the end the following:

“(3) payments under the September 11th Victim Compensation Fund of 2001 (49 U.S.C. 40101 note; Public Law 107-42).”;

(D) by amending subsection (k) to read as follows:

“(k) As determined by the Bureau, a heart attack, stroke, or vascular rupture suffered by a public safety officer shall be presumed to constitute a personal injury within the meaning of subsection (a), sustained in the line of duty by the officer and directly and proximately resulting in death, if—

“(1) the public safety officer, while on duty—

“(A) engages in a situation involving non-routine stressful or strenuous physical law enforcement, fire suppression, rescue, hazardous material response, emergency medical services, prison security, disaster relief, or other emergency response activity; or

“(B) participates in a training exercise involving nonroutine stressful or strenuous physical activity;

“(2) the heart attack, stroke, or vascular rupture commences—

“(A) while the officer is engaged or participating as described in paragraph (1);

“(B) while the officer remains on that duty after being engaged or participating as described in paragraph (1); or

“(C) not later than 24 hours after the officer is engaged or participating as described in paragraph (1); and

“(3) the heart attack, stroke, or vascular rupture directly and proximately results in the death of the public safety officer, unless competent medical evidence establishes that the heart attack, stroke, or vascular rupture was unrelated to the engagement or participation or was directly and proximately caused by something other than the mere presence of cardiovascular-disease risk factors.”; and

(E) by adding at the end the following:

“(n) The public safety agency, organization, or unit responsible for maintaining on file an executed designation of beneficiary or executed life insurance policy for purposes of subsection (a)(4) shall maintain the confidentiality of the designation or policy in the same manner as the agency, organization, or unit maintains personnel or other similar records of the public safety officer.”;

(3) in section 1202 (42 U.S.C. 3796a)—

(A) by striking “death”, each place it appears except the second place it appears, and inserting “fatal”; and

(B) in paragraph (1), by striking “or catastrophic injury” the second place it appears and inserting “, disability, or injury”;

(4) in section 1203 (42 U.S.C. 3796a-1)—

(A) in the section heading, by striking “WHO HAVE DIED IN THE LINE OF DUTY” and inserting “WHO HAVE SUSTAINED FATAL OR CATASTROPHIC INJURY IN THE LINE OF DUTY”; and

(B) by striking “who have died in the line of duty” and inserting “who have sustained fatal or catastrophic injury in the line of duty”;

(5) in section 1204 (42 U.S.C. 3796b)—

(A) in paragraph (1), by striking “consequences of an injury that” and inserting “an injury, the direct and proximate consequences of which”;

(B) in paragraph (3)—

(i) in the matter preceding clause (i)—

(I) by inserting “or permanently and totally disabled” after “deceased”; and

(II) by striking “death” and inserting “fatal or catastrophic injury”; and

(ii) by redesignating clauses (i), (ii), and (iii) as subparagraphs (A), (B), and (C), respectively;

(C) in paragraph (5)—

(i) by striking “post-mortem” each place it appears and inserting “post-injury”;

(ii) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively; and

(iii) in subparagraph (B), as so redesignated, by striking “death” and inserting “fatal or catastrophic injury”;

(D) in paragraph (7), by striking “public employee member of a rescue squad or ambulance crew;” and inserting “employee or volunteer member of a rescue squad or ambulance crew (including a ground or air ambulance service) that—

“(A) is a public agency; or

“(B) is (or is a part of) a nonprofit entity serving the public that—

“(i) is officially authorized or licensed to engage in rescue activity or to provide emergency medical services; and

“(ii) is officially designated as a prehospital emergency medical response agency.”; and

(E) in paragraph (9)—

(i) in subparagraph (A), by striking “as a chaplain, or as a member of a rescue squad or ambulance crew;” and inserting “or as a chaplain;”;

(ii) in subparagraph (B)(ii), by striking “or” after the semicolon;

(iii) in subparagraph (C)(ii), by striking the period and inserting “; and”; and

(iv) by adding at the end the following:

“(D) a member of a rescue squad or ambulance crew who, as authorized or licensed by law and by the applicable agency or entity (and as designated by such agency or entity), is engaging in rescue activity or in the provision of emergency medical services.”;

(6) in section 1205 (42 U.S.C. 3796c), by adding at the end the following:

“(d) Unless expressly provided otherwise, any reference in this part to any provision of law not in this part shall be understood to constitute a general reference under the doctrine of incorporation by reference, and thus to include any subsequent amendments to the provision.”;

(7) in each of subsections (a) and (b) of section 1212 (42 U.S.C. 3796d-1), sections 1213 and 1214 (42 U.S.C. 3796d-2 and 3796d-3), and subsections (b) and (c) of section 1216 (42 U.S.C. 3796d-5), by striking “dependent” each place it appears and inserting “person”;

(8) in section 1212 (42 U.S.C. 3796d-1)—

(A) in subsection (a)—

(i) in paragraph (1), in the matter preceding subparagraph (A), by striking “Subject” and all that follows through “, the” and inserting “The”; and

(ii) in paragraph (3), by striking “reduced by” and all that follows through “(B) the amount” and inserting “reduced by the amount”;

(B) in subsection (c)—

(i) in the subsection heading, by striking “DEPENDENT”; and

(ii) by striking “dependent”;

(9) in section 1213(b)(2) (42 U.S.C. 3796d-2(b)(2)), by striking “dependent’s” each place it appears and inserting “person’s”;

(10) in section 1216 (42 U.S.C. 3796d-5)—

(A) in subsection (a), by striking “each dependent” each place it appears and inserting “a spouse or child”; and

(B) by striking “dependents” each place it appears and inserting “a person”; and

(11) in section 1217(3)(A) (42 U.S.C. 3796d-6(3)(A)), by striking “described in” and all that follows and inserting “an institution of higher education, as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002); and”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 402(1)(4)(C) of the Internal Revenue Code of 1986 is amended—

(1) by striking “section 1204(9)(A)” and inserting “section 1204(10)(A)”; and

(2) by striking “42 U.S.C. 3796b(9)(A)” and inserting “42 U.S.C. 3796b(10)(A)”.

## SEC. 23. AUTHORIZATION OF APPROPRIATIONS; DETERMINATIONS; APPEALS.

The matter under the heading “PUBLIC SAFETY OFFICERS BENEFITS” under the heading “OFFICE OF JUSTICE PROGRAMS” under title II of division B of the Consolidated Appropriations Act, 2008 (Public Law 110-161; 121 Stat. 1912; 42 U.S.C. 3796c-2) is amended—

(1) by striking “decisions” and inserting “determinations”;

(2) by striking “(including those, and any related matters, pending)”;

(3) by striking the period at the end and inserting the following: “: *Provided further*, That, on and after the date of enactment of the Dale Long Public Safety Officers’ Benefits Improvements Act of 2012, as to each such statute—

“(1) the provisions of section 1001(a)(4) of such title I (42 U.S.C. 3793(a)(4)) shall apply;

“(2) payment shall be made only upon a determination by the Bureau that the facts legally warrant the payment;

“(3) any reference to section 1202 of such title I shall be deemed to be a reference to

paragraphs (2) and (3) of such section 1202; and

“(4) a certification submitted under any such statute may be accepted by the Bureau as prima facie evidence of the facts asserted in the certification:

*Provided further*, That, on and after the date of enactment of the Dale Long Public Safety Officers’ Benefits Improvements Act of 2012, no appeal shall bring any final determination of the Bureau before any court for review unless notice of appeal is filed (within the time specified herein and in the manner prescribed for appeal to United States courts of appeals from United States district courts) not later than 90 days after the date on which the Bureau serves notice of the final determination: *Provided further*, That any regulations promulgated by the Bureau under such part (or any such statute) before, on, or after the date of enactment of the Dale Long Public Safety Officers’ Benefits Improvements Act of 2012 shall apply to any matter pending on, or filed or accruing after, the effective date specified in the regulations, except as the Bureau may indicate otherwise.”.

## SEC. 24. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this subtitle shall—

(1) take effect on the date of enactment of this Act; and

(2) apply to any matter pending, before the Bureau of Justice Assistance or otherwise, on the date of enactment of this Act, or filed or accruing after that date.

(b) EXCEPTIONS.—

(1) RESCUE SQUADS AND AMBULANCE CREWS.—For a member of a rescue squad or ambulance crew (as defined in section 1204(8) of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by this subtitle), the amendments made by this subtitle shall apply to injuries sustained on or after June 1, 2009.

(2) HEART ATTACKS, STROKES, AND VASCULAR RUPTURES.—Section 1201(k) of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by this subtitle, shall apply to heart attacks, strokes, and vascular ruptures sustained on or after December 15, 2003.

## Subtitle B—Liability Protection for Volunteer Pilots That Fly for Public Benefit

### SEC. 41. SHORT TITLE.

This subtitle may be cited as the “Volunteer Pilot Protection Act of 2012”.

### SEC. 42. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) Many volunteer pilots fly for public benefit and provide valuable services to communities and individuals.

(2) In 2006, volunteer pilots provided long-distance, no-cost transportation for more than 58,000 people during times of special need.

(b) PURPOSE.—The purpose of this subtitle is to promote the activities of volunteer pilots who fly for public benefit and to sustain the availability of the services that such volunteers provide, including the following:

(1) Transportation at no cost to financially needy medical patients for medical treatment, evaluation, and diagnosis.

(2) Flights for humanitarian and charitable purposes.

(3) Other flights of compassion.

### SEC. 43. LIABILITY PROTECTION FOR VOLUNTEER PILOTS THAT FLY FOR PUBLIC BENEFIT.

Section 4(a)(4) of the Volunteer Protection Act of 1997 (42 U.S.C. 14503(a)(4)) is amended

by striking “craft, or vessel” and all that follows and inserting the following: “craft, or vessel to possess an operator’s license or maintain insurance, except that this paragraph does not apply to a volunteer who—

“(A) was operating an aircraft in furtherance of the purpose of a volunteer pilot nonprofit organization that flies for public benefit; and

“(B) was properly licensed and insured for the operation of the aircraft.”.

**SA 1803.** Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 1761 proposed by Mr. REID to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

## TITLE —PUBLIC SAFETY OFFICERS

### SEC. 01. SHORT TITLE.

This title may be cited as the “Dale Long Public Safety Officers’ Benefits Improvements Act of 2012”.

### SEC. 02. BENEFITS FOR CERTAIN NONPROFIT EMERGENCY MEDICAL SERVICE PROVIDERS AND CERTAIN TRAINEES; MISCELLANEOUS AMENDMENTS.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(1) in section 901(a) (42 U.S.C. 3791(a))—

(A) in paragraph (26), by striking “and” at the end;

(B) in paragraph (27), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(28) the term ‘hearing examiner’ includes any medical or claims examiner.”;

(2) in section 1201 (42 U.S.C. 3796)—

(A) in subsection (a), by striking “follows:” and all that follows and inserting the following: “follows (if the payee indicated is living on the date on which the determination is made)—

“(1) if there is no child who survived the public safety officer, to the surviving spouse of the public safety officer;

“(2) if there is at least 1 child who survived the public safety officer and a surviving spouse of the public safety officer, 50 percent to the surviving child (or children, in equal shares) and 50 percent to the surviving spouse;

“(3) if there is no surviving spouse of the public safety officer, to the surviving child (or children, in equal shares);

“(4) if there is no surviving spouse of the public safety officer and no surviving child—

“(A) to the surviving individual (or individuals, in shares per the designation, or, otherwise, in equal shares) designated by the public safety officer to receive benefits under this subsection in the most recently executed designation of beneficiary of the public safety officer on file at the time of death with the public safety agency, organization, or unit; or

“(B) if there is no individual qualifying under subparagraph (A), to the surviving individual (or individuals, in equal shares) designated by the public safety officer to receive benefits under the most recently executed life insurance policy of the public safety officer on file at the time of death with the public safety agency, organization, or unit;

“(5) if there is no individual qualifying under paragraph (1), (2), (3), or (4), to the surviving parent (or parents, in equal shares) of the public safety officer; or

“(6) if there is no individual qualifying under paragraph (1), (2), (3), (4), or (5), to the surviving individual (or individuals, in equal shares) who would qualify under the definition of the term ‘child’ under section 1204 but for age.”;

(B) in subsection (b)—

(i) by striking “direct result of a catastrophic” and inserting “direct and proximate result of a personal”;

(ii) by striking “pay,” and all that follows through “the same” and inserting “pay the same”;

(iii) by striking “in any year” and inserting “to the public safety officer (if living on the date on which the determination is made)”;

(iv) by striking “in such year, adjusted” and inserting “with respect to the date on which the catastrophic injury occurred, as adjusted”;

(v) by striking “, to such officer”;

(vi) by striking “the total” and all that follows through “For” and inserting “for”; and

(vii) by striking “That these” and all that follows through the period, and inserting “That the amount payable under this subsection shall be the amount payable as of the date of catastrophic injury of such public safety officer.”;

(C) in subsection (f)—

(i) in paragraph (1), by striking “, as amended (D.C. Code, sec. 4-622); or” and inserting a semicolon;

(ii) in paragraph (2)—

(I) by striking “. Such beneficiaries shall only receive benefits under such section 8191 that” and inserting “, such that beneficiaries shall receive only such benefits under such section 8191 as”; and

(II) by striking the period at the end and inserting “; or”; and

(iii) by adding at the end the following:

“(3) payments under the September 11th Victim Compensation Fund of 2001 (49 U.S.C. 40101 note; Public Law 107-42).”;

(D) by amending subsection (k) to read as follows:

“(k) As determined by the Bureau, a heart attack, stroke, or vascular rupture suffered by a public safety officer shall be presumed to constitute a personal injury within the meaning of subsection (a), sustained in the line of duty by the officer and directly and proximately resulting in death, if—

“(1) the public safety officer, while on duty—

“(A) engages in a situation involving non-routine stressful or strenuous physical law enforcement, fire suppression, rescue, hazardous material response, emergency medical services, prison security, disaster relief, or other emergency response activity; or

“(B) participates in a training exercise involving nonroutine stressful or strenuous physical activity;

“(2) the heart attack, stroke, or vascular rupture commences—

“(A) while the officer is engaged or participating as described in paragraph (1);

“(B) while the officer remains on that duty after being engaged or participating as described in paragraph (1); or

“(C) not later than 24 hours after the officer is engaged or participating as described in paragraph (1); and

“(3) the heart attack, stroke, or vascular rupture directly and proximately results in the death of the public safety officer,

unless competent medical evidence establishes that the heart attack, stroke, or vascular rupture was unrelated to the engagement or participation or was directly and proximately caused by something other than the mere presence of cardiovascular-disease risk factors.”; and

(E) by adding at the end the following:

“(n) The public safety agency, organization, or unit responsible for maintaining on file an executed designation of beneficiary or executed life insurance policy for purposes of subsection (a)(4) shall maintain the confidentiality of the designation or policy in the same manner as the agency, organization, or unit maintains personnel or other similar records of the public safety officer.”;

(3) in section 1202 (42 U.S.C. 3796a)—

(A) by striking “death”, each place it appears except the second place it appears, and inserting “fatal”; and

(B) in paragraph (1), by striking “or catastrophic injury” the second place it appears and inserting “, disability, or injury”;

(4) in section 1203 (42 U.S.C. 3796a-1)—

(A) in the section heading, by striking “**WHO HAVE DIED IN THE LINE OF DUTY**” and inserting “**WHO HAVE SUSTAINED FATAL OR CATASTROPHIC INJURY IN THE LINE OF DUTY**”; and

(B) by striking “who have died in the line of duty” and inserting “who have sustained fatal or catastrophic injury in the line of duty”;

(5) in section 1204 (42 U.S.C. 3796b)—

(A) in paragraph (1), by striking “consequences of an injury that” and inserting “an injury, the direct and proximate consequences of which”;

(B) in paragraph (3)—

(i) in the matter preceding clause (i)—

(I) by inserting “or permanently and totally disabled” after “deceased”; and

(II) by striking “death” and inserting “fatal or catastrophic injury”; and

(ii) by redesignating clauses (i), (ii), and (iii) as subparagraphs (A), (B), and (C), respectively;

(C) in paragraph (5)—

(i) by striking “post-mortem” each place it appears and inserting “post-injury”;

(ii) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively; and

(iii) in subparagraph (B), as so redesignated, by striking “death” and inserting “fatal or catastrophic injury”;

(D) in paragraph (7), by striking “public employee member of a rescue squad or ambulance crew;” and inserting “employee or volunteer member of a rescue squad or ambulance crew (including a ground or air ambulance service) that—

“(A) is a public agency; or

“(B) is (or is a part of) a nonprofit entity serving the public that—

“(i) is officially authorized or licensed to engage in rescue activity or to provide emergency medical services; and

“(ii) is officially designated as a prehospital emergency medical response agency.”; and

(E) in paragraph (9)—

(i) in subparagraph (A), by striking “as a chaplain, or as a member of a rescue squad or ambulance crew;” and inserting “or as a chaplain;”;

(ii) in subparagraph (B)(ii), by striking “or” after the semicolon;

(iii) in subparagraph (C)(ii), by striking the period and inserting “; and”;

(iv) by adding at the end the following:

“(D) a member of a rescue squad or ambulance crew who, as authorized or licensed by law and by the applicable agency or entity

(and as designated by such agency or entity), is engaging in rescue activity or in the provision of emergency medical services.”;

(6) in section 1205 (42 U.S.C. 3796c), by adding at the end the following:

“(d) Unless expressly provided otherwise, any reference in this part to any provision of law not in this part shall be understood to constitute a general reference under the doctrine of incorporation by reference, and thus to include any subsequent amendments to the provision.”;

(7) in each of subsections (a) and (b) of section 1212 (42 U.S.C. 3796d-1), sections 1213 and 1214 (42 U.S.C. 3796d-2 and 3796d-3), and subsections (b) and (c) of section 1216 (42 U.S.C. 3796d-5), by striking “dependent” each place it appears and inserting “person”;

(8) in section 1212 (42 U.S.C. 3796d-1)—

(A) in subsection (a)—

(i) in paragraph (1), in the matter preceding subparagraph (A), by striking “Subject” and all that follows through “, the” and inserting “The”; and

(ii) in paragraph (3), by striking “reduced by” and all that follows through “(B) the amount” and inserting “reduced by the amount”;

(B) in subsection (c)—

(i) in the subsection heading, by striking “DEPENDENT”; and

(ii) by striking “dependent”;

(9) in section 1213(b)(2) (42 U.S.C. 3796d-2(b)(2)), by striking “dependent’s” each place it appears and inserting “person’s”;

(10) in section 1216 (42 U.S.C. 3796d-5)—

(A) in subsection (a), by striking “each dependent” each place it appears and inserting “a spouse or child”; and

(B) by striking “dependents” each place it appears and inserting “a person”; and

(11) in section 1217(3)(A) (42 U.S.C. 3796d-6(3)(A)), by striking “described in” and all that follows and inserting “an institution of higher education, as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002); and”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 402(1)(4)(C) of the Internal Revenue Code of 1986 is amended—

(1) by striking “section 1204(9)(A)” and inserting “section 1204(10)(A)”;

(2) by striking “42 U.S.C. 3796b(9)(A)” and inserting “42 U.S.C. 3796b(10)(A)”.

#### SEC. 403. AUTHORIZATION OF APPROPRIATIONS; DETERMINATIONS; APPEALS.

The matter under the heading “PUBLIC SAFETY OFFICERS’ BENEFITS” under the heading “OFFICE OF JUSTICE PROGRAMS” under title II of division B of the Consolidated Appropriations Act, 2008 (Public Law 110-161; 121 Stat. 1912; 42 U.S.C. 3796c-2) is amended—

(1) by striking “decisions” and inserting “determinations”;

(2) by striking “(including those, and any related matters, pending)”;

(3) by striking the period at the end and inserting the following: “: *Provided further*, That, on and after the date of enactment of the Dale Long Public Safety Officers’ Benefits Improvements Act of 2012, as to each such statute—

“(1) the provisions of section 1001(a)(4) of such title I (42 U.S.C. 3793(a)(4)) shall apply;

“(2) payment shall be made only upon a determination by the Bureau that the facts legally warrant the payment;

“(3) any reference to section 1202 of such title I shall be deemed to be a reference to paragraphs (2) and (3) of such section 1202; and

“(4) a certification submitted under any such statute may be accepted by the Bureau as prima facie evidence of the facts asserted in the certification:

*Provided further*, That, on and after the date of enactment of the Dale Long Public Safety Officers' Benefits Improvements Act of 2012, no appeal shall bring any final determination of the Bureau before any court for review unless notice of appeal is filed (within the time specified herein and in the manner prescribed for appeal to United States courts of appeals from United States district courts) not later than 90 days after the date on which the Bureau serves notice of the final determination: *Provided further*, That any regulations promulgated by the Bureau under such part (or any such statute) before, on, or after the date of enactment of the Dale Long Public Safety Officers' Benefits Improvements Act of 2012 shall apply to any matter pending on, or filed or accruing after, the effective date specified in the regulations, except as the Bureau may indicate otherwise."

#### SEC. 4. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this title shall—

(1) take effect on the date of enactment of this Act; and

(2) apply to any matter pending, before the Bureau of Justice Assistance or otherwise, on the date of enactment of this Act, or filed or accruing after that date.

##### (b) EXCEPTIONS.—

(1) RESCUE SQUADS AND AMBULANCE CREWS.—For a member of a rescue squad or ambulance crew (as defined in section 1204(8) of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by this title), the amendments made by this title shall apply to injuries sustained on or after June 1, 2009.

(2) HEART ATTACKS, STROKES, AND VASCULAR RUPTURES.—Section 1201(k) of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by this title, shall apply to heart attacks, strokes, and vascular ruptures sustained on or after December 15, 2003.

**SA 1804.** Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in division D, insert the following:

#### SEC. 3. TERMINATION OF PROVISIONS.

Sections 4022(g) and 4044(e) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322(g) and 1344(e)), as added by section 404 of the Pension Protection Act of 2006, are repealed as of October 1, 2011, and shall not apply with respect to proceedings initiated under title 11, United States Code, or under any similar Federal law or law of a State or political subdivision, on or after such date.

**SA 1805.** Mr. ROBERTS submitted an amendment intended to be proposed to amendment SA 1741 proposed by Mr. LEVIN (for himself and Mr. CONRAD) and intended to be proposed to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 103 and insert the following:

#### SEC. 4. TREATMENT OF FOREIGN CORPORATIONS MANAGED AND CONTROLLED IN THE UNITED STATES AS DOMESTIC CORPORATIONS.

(a) IN GENERAL.—Section 7701 (relating to definitions) is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

"(o) CERTAIN CORPORATIONS MANAGED AND CONTROLLED IN THE UNITED STATES TREATED AS DOMESTIC FOR INCOME TAX.—

"(1) IN GENERAL.—Notwithstanding subsection (a)(4), in the case of a corporation described in paragraph (2) if—

"(A) the corporation would not otherwise be treated as a domestic corporation for purposes of this title, but

"(B) the management and control of the corporation occurs, directly or indirectly, primarily within the United States,

then, solely for purposes of chapter 1 (and any other provision of this title relating to chapter 1), the corporation shall be treated as a domestic corporation.

##### "(2) CORPORATION DESCRIBED.—

"(A) IN GENERAL.—A corporation is described in this paragraph if—

"(i) section 7874(b) would apply to such corporation but for the application of the date in section 7874(a)(2)(B)(i) or the last sentence of section 7874(a)(2)(B), and

"(ii) (I) the stock of such corporation is regularly traded on an established securities market, or

"(II) the aggregate gross assets of such corporation (or any predecessor thereof), including assets under management for investors, whether held directly or indirectly, at any time during the taxable year or any preceding taxable year is \$50,000,000 or more.

"(B) WAIVER FOR CERTAIN CORPORATIONS.—A corporation shall not be treated as described in this paragraph if—

"(i) such corporation was treated as a corporation described in this paragraph in a preceding taxable year,

"(ii) such corporation—

"(I) is not regularly traded on an established securities market, and

"(II) has, and is reasonably expected to continue to have, aggregate gross assets (including assets under management for investors, whether held directly or indirectly) of less than \$50,000,000, and

"(iii) the Secretary grants a waiver to such corporation under this subparagraph.

"(C) EXCEPTION FROM GROSS ASSETS TEST.—Subparagraph (A)(ii)(II) shall not apply to a corporation which is a controlled foreign corporation (as defined in section 957) and which is a member of an affiliated group (as defined section 1504, but determined without regard to section 1504(b)(3)) the common parent of which—

"(i) is a domestic corporation (determined without regard to this subsection), and

"(ii) has substantial assets (other than cash and cash equivalents and other than stock of foreign subsidiaries) held for use in the active conduct of a trade or business in the United States.

##### "(3) MANAGEMENT AND CONTROL.—

"(A) IN GENERAL.—The Secretary shall prescribe regulations for purposes of determining cases in which the management and control of a corporation is to be treated as occurring primarily within the United States.

"(B) EXECUTIVE OFFICERS AND SENIOR MANAGEMENT.—Such regulations shall provide that—

"(i) the management and control of a corporation shall be treated as occurring primarily within the United States if substan-

tially all of the executive officers and senior management of the corporation who exercise day-to-day responsibility for making decisions involving strategic, financial, and operational policies of the corporation are located primarily within the United States, and

"(ii) individuals who are not executive officers and senior management of the corporation (including individuals who are officers or employees of other corporations in the same chain of corporations as the corporation) shall be treated as executive officers and senior management if such individuals exercise the day-to-day responsibilities of the corporation described in clause (i).

"(C) CORPORATIONS PRIMARILY HOLDING INVESTMENT ASSETS.—Such regulations shall also provide that the management and control of a corporation shall be treated as occurring primarily within the United States if—

"(i) the assets of such corporation (directly or indirectly) consist primarily of assets being managed on behalf of investors, and

"(ii) decisions about how to invest the assets are made in the United States."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning on or after the date which is 2 years after the date of the enactment of this Act.

**SA 1806.** Mr. BARRASSO submitted an amendment intended to be proposed to amendment SA 1776 proposed by Ms. CANTWELL and intended to be proposed to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

#### SEC. 323. EXEMPTION FROM ELECTRONIC ON-BOARD RECORDING DEVICE REQUIREMENT.

Section 31137(a)(1), as amended by section 32301(a)(3) of this Act, is further amended by striking "a commercial motor vehicle" and inserting "any commercial motor vehicle (except for vehicles owned and operated by an independent truck operator)".

**SA 1807.** Mr. BROWN of Ohio (for himself and Mr. MERKLEY) submitted an amendment intended to be proposed to amendment SA 1761 proposed by Mr. REID to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 888, line 18, strike "Section" and insert the following:

##### (a) IN GENERAL.—Section

Beginning on page 896, strike line 22 and all that follows through page 897, line 22, and insert the following:

##### "(3) BUY AMERICA WAIVER REQUIREMENTS.—

##### "(A) NOTICE AND COMMENT OPPORTUNITIES.—

"(i) IN GENERAL.—If the Secretary receives a request for a waiver under section 313(b) of title 23, United States Code, or under section 24305(f)(4) or 24405(a)(2) of title 49, United States Code, the Secretary shall provide notice of, and an opportunity for public comment on, the request not later than 15 days before making a finding based on such request.

"(ii) NOTICE REQUIREMENTS.—Each notice provided under clause (i)—

“(I) shall include the information available to the Secretary concerning the request, including the requestor’s justification for such request; and

“(II) shall be provided electronically, including on the official public Internet website of the Department.

“(B) PUBLICATION OF DETAILED JUSTIFICATION.—If the Secretary issues a waiver pursuant to the authority granted under a provision referenced in subparagraph (A)(i), the Secretary shall publish, in the Federal Register, a detailed justification for the waiver that—

“(i) addresses the public comments received under subparagraph (A)(i); and

“(ii) is published before the waiver takes effect.

“(C) CONSISTENCY WITH INTERNATIONAL AGREEMENTS.—This paragraph shall be applied in a manner that is consistent with United States obligations under relevant international agreements.

“(D) REVIEW OF NATIONWIDE WAIVERS.—Not later than 1 year after the date of the enactment of the Moving Ahead for Progress in the 21st Century Act, and at least once every 5 years thereafter, the Secretary shall review each standing nationwide waiver issued pursuant to the authority granted under any of the provisions referenced in subparagraph (A)(i) to determine whether continuing such waiver is necessary.

On page 900, between lines 9 and 10, insert the following:

“(10) APPLICATION TO TRANSIT PROGRAMS.—The requirements under this subsection shall apply to all contracts eligible for Federal funding for a project carried out within the scope of the applicable finding, determination, or decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), regardless of the funding source of such contracts, if at least 1 contract for the project is funded with amounts made available to carry out this chapter.

On page 904, between lines 6 and 7, insert the following:

(b) BUY AMERICA PROVISIONS.—

(1) SURFACE TRANSPORTATION.—Section 313 of title 23, United States Code, is amended by adding at the end the following:

“(g) APPLICATION TO HIGHWAY PROGRAMS.—The requirements under this section shall apply to all contracts eligible for Federal funding for a project carried out within the scope of the applicable finding, determination, or decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), regardless of the funding source of such contracts, if at least 1 contract for the project is funded with amounts made available to carry out this title.”.

(2) AMTRAK.—Section 24305(f) of title 49, United States Code, is amended by adding at the end the following:

“(5) The requirements under this subsection shall apply to all contracts eligible for Federal funding for a project carried out within the scope of the applicable finding, determination, or decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), regardless of the funding source of such contracts, if at least 1 contract for the project is funded with amounts made available to carry out this chapter.

“(6) If a project receives funding under this chapter and under the Passenger Rail Investment and Improvement Act of 2008 (division B of Public Law 110-432), the Buy America requirements set forth in the Passenger Rail Investment and Improvement Act of 2008 shall apply to all contracts in the project within the scope of the applicable finding,

determination, or decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).”.

(3) CONSISTENCY WITH INTERNATIONAL AGREEMENTS.—The amendments made by this subsection shall be applied in a manner that is consistent with United States obligations under relevant international agreements.

(c) BUY AMERICA REPORTING.—Section 308 of title 49, United States Code, is amended by inserting after subsection (c) the following:

“(d) Not later than February 1, 2013, and annually thereafter, the Secretary shall submit a report to Congress that—

“(1) specifies each highway, public transportation, or railroad project for which the Secretary issued a waiver from a Buy America requirement pursuant to the authority granted under section 313(b) of title 23, United States Code, or under section 24305(f)(4) or 24405(a)(2) of title 49, United States Code, during the preceding calendar year;

“(2) identifies the country of origin and product specifications for the steel, iron, or manufactured goods acquired pursuant to each of the waivers specified under paragraph (1); and

“(3) summarizes the monetary value of contracts awarded pursuant to each such waiver.”.

**SA 1808.** Mr. DURBIN (for Mr. LEAHY (for himself and Mr. GRASSLEY)) proposed an amendment to the bill S. 1886, to prevent trafficking in counterfeit drugs; as follows:

Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Counterfeit Drug Penalty Enhancement Act of 2011”.

#### SEC. 2. COUNTERFEIT DRUG PREVENTION.

Section 2320(b) of title 18, United States Code, is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by inserting after paragraph (1) the following:

“(2) COUNTERFEIT DRUGS.—

“(A) IN GENERAL.—Whoever commits an offense under subsection (a) with respect to a drug (as defined in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321)) shall—

“(i) if an individual, be fined not more than \$4,000,000, imprisoned not more than 20 years, or both; and

“(ii) if a person other than an individual, be fined not more than \$10,000,000.

“(B) MULTIPLE OFFENSES.—In the case of an offense by a person under this paragraph that occurs after that person is convicted of another offense under this paragraph, the person convicted—

“(i) if an individual, shall be fined not more than \$8,000,000, imprisoned not more than 20 years, or both; and

“(ii) if other than an individual, shall be fined not more than \$20,000,000.”.

#### SEC. 3. SENTENCING COMMISSION DIRECTIVE.

(a) DIRECTIVE TO SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and amend, if appropriate, its guidelines and its policy statements applicable to persons convicted of an offense described in section 2320(b)(2) of title 18, United States Code, as amended by section 2, in order to reflect the intent of Congress that such penalties be in-

creased in comparison to those currently provided by the guidelines and policy statements.

(b) REQUIREMENTS.—In carrying out this section, the Commission shall—

(1) ensure that the sentencing guidelines and policy statements reflect the intent of Congress that the guidelines and policy statements reflect the serious nature of the offenses described in subsection (a) and the need for an effective deterrent and appropriate punishment to prevent such offenses;

(2) consider the extent to which the guidelines may or may not appropriately account for the potential and actual harm to the public resulting from the offense;

(3) assure reasonable consistency with other relevant directives and with other sentencing guidelines;

(4) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

(5) make any necessary conforming changes to the sentencing guidelines; and

(6) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

#### AUTHORITY FOR COMMITTEES TO MEET

##### COMMITTEE ON ARMED SERVICES

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on March 6, 2012, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on March 6, 2012, at 10 a.m., to conduct a committee hearing entitled “Spurring Job Growth Through Capital Formation While Protecting Investors, Part II.”

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on March 6, 2012, at 10 a.m., in room 366 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON FINANCE

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on March 6, 2012, at 10 a.m., in room 215 of the Dirksen Senate Office Building, to conduct a hearing entitled “Tax Reform Options: Incentives for Capital Investment and Manufacturing.”

The PRESIDING OFFICER. Without objection, it is so ordered.

## COMMITTEE ON FOREIGN RELATIONS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on March 6, 2012, at 2:30 p.m., to hold a hearing entitled, "International Development Priorities in the FY 2013 Budget."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HOMELAND SECURITY AND  
GOVERNMENTAL AFFAIRS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on March 6, 2012, at 10:30 a.m.

The PRESIDING OFFICER. With objection, it is so ordered.

COMMITTEE ON HOMELAND SECURITY AND  
GOVERNMENTAL AFFAIRS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on March 6, 2012, at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

## SELECT COMMITTEE ON INTELLIGENCE

Mr. DURBIN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on March 6, 2012, at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

## SUBCOMMITTEE ON SCIENCE AND SPACE

Mr. DURBIN. Mr. President, I ask unanimous consent that the Subcommittee on Science and Space of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on March 6, 2012, at 2:45 p.m. in room 253 of the Russell Senate Office Building.

The Committee will hold a hearing entitled, "Keeping America Competitive through Investments in R&D."

The PRESIDING OFFICER. Without objection, it is so ordered.

COUNTERFEIT DRUG PENALTY  
ENHANCEMENT ACT OF 2011

Mr. DURBIN. I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 253, S. 1886.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1886) to prevent trafficking in counterfeit drugs.

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, I am pleased that the Senate will act today to combat the increasing problem of counterfeit pharmaceuticals. I thank Senators GRASSLEY and BENNET, and the other cosponsors, along with the

bipartisan sponsors of the House companion bill. This is important legislation to deter the influx of counterfeit medication. The bill will not only support the American economy and job creation by protecting American intellectual property, but it will protect the health and safety of American consumers.

The illegal counterfeit pharmaceutical trade is a multi-billion dollar criminal industry. The Alliance for Safe Online Pharmacies wrote in support of this legislation that "criminals are drawn to counterfeit drugs because of the significantly higher profits in comparison to the very low risks and penalties."

We cannot allow the counterfeiting of life-saving medicine to be just one more low-risk venture from which international organized criminals can profit. The Counterfeit Drug Penalty Enhancement Act raises the maximum sentences for trafficking in counterfeit pharmaceutical products and requires the United States Sentencing Commission to consider amending its guidelines to account for the harm to the public and need for an effective deterrent.

We should not expect that enactment of this or any legislation will completely deter the serious problem of counterfeit medication entering the American supply chain, but it is an important step in the fight.

Passage of this legislation today by the Senate is also evidence that Congress can work together in a bipartisan manner to protect American consumers and promote American industries. I urge the House of Representatives to act quickly on this legislation and send it to the President's desk.

Mr. DURBIN. Mr. President, I ask unanimous consent that the Leahy-Grassley substitute amendment at the desk be agreed to; the bill, as amended, be read a third time, and the Senate proceed to vote on the passage of the bill, as amended.

The amendment (No. 1808) was agreed to, as follows:

(Purpose: In the nature of a substitute)

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Counterfeit Drug Penalty Enhancement Act of 2011".

**SEC. 2. COUNTERFEIT DRUG PREVENTION.**

Section 2320(b) of title 18, United States Code, is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by inserting after paragraph (1) the following:

"(2) COUNTERFEIT DRUGS.—

"(A) IN GENERAL.—Whoever commits an offense under subsection (a) with respect to a drug (as defined in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321)) shall—

"(i) if an individual, be fined not more than \$4,000,000, imprisoned not more than 20 years, or both; and

"(ii) if a person other than an individual, be fined not more than \$10,000,000.

"(B) MULTIPLE OFFENSES.—In the case of an offense by a person under this paragraph that occurs after that person is convicted of another offense under this paragraph, the person convicted—

"(i) if an individual, shall be fined not more than \$8,000,000, imprisoned not more than 20 years, or both; and

"(ii) if other than an individual, shall be fined not more than \$20,000,000."

**SEC. 3. SENTENCING COMMISSION DIRECTIVE.**

(a) DIRECTIVE TO SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and amend, if appropriate, its guidelines and its policy statements applicable to persons convicted of an offense described in section 2320(b)(2) of title 18, United States Code, as amended by section 2, in order to reflect the intent of Congress that such penalties be increased in comparison to those currently provided by the guidelines and policy statements.

(b) REQUIREMENTS.—In carrying out this section, the Commission shall—

(1) ensure that the sentencing guidelines and policy statements reflect the intent of Congress that the guidelines and policy statements reflect the serious nature of the offenses described in subsection (a) and the need for an effective deterrent and appropriate punishment to prevent such offenses;

(2) consider the extent to which the guidelines may or may not appropriately account for the potential and actual harm to the public resulting from the offense;

(3) assure reasonable consistency with other relevant directives and with other sentencing guidelines;

(4) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

(5) make any necessary conforming changes to the sentencing guidelines; and

(6) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The question is on passage of the bill.

The bill (S. 1886), as amended, was passed.

Mr. DURBIN. I ask unanimous consent that the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL ASBESTOS AWARENESS  
WEEK

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to S. Res. 389 submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 389) designating the first week of April 2012 as "National Asbestos Awareness Week."

There being no objection, the Senate proceeded to consider the resolution.

Mr. DURBIN. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 389) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 389

Whereas dangerous asbestos fibers are invisible and cannot be smelled or tasted;

Whereas the inhalation of airborne asbestos fibers can cause significant damage;

Whereas asbestos fibers can cause cancer such as mesothelioma, asbestosis, and other health problems;

Whereas asbestos-related diseases can take 10 to 50 years to present themselves;

Whereas the expected survival time for those diagnosed with mesothelioma is between 6 and 24 months;

Whereas, generally, little is known about late-stage treatment of asbestos-related diseases, and there is no cure for such diseases;

Whereas early detection of asbestos-related diseases may give some patients increased treatment options and might improve their prognoses;

Whereas the United States has substantially reduced its consumption of asbestos, yet continues to consume almost 1,100 metric tons of the fibrous mineral for use in certain products throughout the United States;

Whereas asbestos-related diseases have killed thousands of people in the United States;

Whereas exposure to asbestos continues, but safety and prevention of asbestos exposure already has significantly reduced the incidence of asbestos-related diseases and can further reduce the incidence of such diseases;

Whereas asbestos has been a cause of occupational cancer;

Whereas thousands of workers in the United States face significant asbestos exposure;

Whereas thousands of people in the United States die from asbestos-related diseases every year;

Whereas a significant percentage of all asbestos-related disease victims were exposed to asbestos on naval ships and in shipyards;

Whereas asbestos was used in the construction of a significant number of office buildings and public facilities built before 1975;

Whereas people in the small community of Libby, Montana suffer from asbestos-related diseases, including mesothelioma, at a significantly higher rate than people in the United States as a whole; and

Whereas the establishment of a "National Asbestos Awareness Week" will raise public awareness about the prevalence of asbestos-related diseases and the dangers of asbestos exposure: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates the first week of April 2012 as "National Asbestos Awareness Week";

(2) urges the Surgeon General to warn and educate people about the public health issue of asbestos exposure, which may be hazardous to their health; and

(3) respectfully requests that the Secretary of the Senate transmit a copy of this resolution to the Office of the Surgeon General.

ORDERS FOR WEDNESDAY,

MARCH 7, 2012

Mr. DURBIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until Wednesday, March 7, at 10 a.m.; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, and the time for the two leaders be reserved for their use later in the day; that following any leader remarks, the Senate proceed to

a period of morning business for 1 hour, with Senators permitted to speak for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the Republicans controlling the first half and the majority controlling the final half; that following morning business, the Senate resume consideration of S. 1813, the surface transportation bill; and that the Senate recess from 5 p.m. to 6 p.m. to allow for a Senators-only briefing.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DURBIN. Mr. President, we continue to work toward a path to finishing the surface transportation bill.

ADJOURNMENT UNTIL 10 A.M.  
TOMORROW

Mr. DURBIN. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 6:58 p.m., adjourned until Wednesday, March 7, 2012, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 6, 2012:

THE JUDICIARY

MARY ELIZABETH PHILLIPS, OF MISSOURI, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF MISSOURI.

THOMAS OWEN RICE, OF WASHINGTON, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF WASHINGTON.



## HOUSE OF REPRESENTATIVES—Tuesday, March 6, 2012

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Ms. JENKINS).

### DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,  
March 6, 2012.

I hereby appoint the Honorable LYNN JENKINS to act as Speaker pro tempore on this day.

JOHN A. BOEHNER,  
*Speaker of the House of Representatives.*

### MORNING-HOUR DEBATE

The SPEAKER pro tempore. Pursuant to the order of the House of January 17, 2012, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning-hour debate.

The Chair will alternate recognition between the parties, with each party limited to 1 hour and each Member other than the majority and minority leaders and the minority whip limited to 5 minutes each, but in no event shall debate continue beyond 11:50 a.m.

### WHY DOCTORS DIE DIFFERENTLY

The SPEAKER pro tempore. The Chair recognizes the gentleman from Oregon (Mr. BLUMENAUER) for 5 minutes.

Mr. BLUMENAUER. Recently, there has been a series of very powerful articles in the popular press about what we call “end of life.” The most recent was by Dr. Ken Murray in *The Wall Street Journal* last week, entitled, “Why Doctors Die Differently.” This series of articles focuses in on this end of life period—usually the most intense, the most painful, the most expensive. It’s too often confusing for patients and their families. Too often, we find that people don’t get the care they want and they need.

This has been a passion of mine for years now to make sure that families and patients are equipped to deal with the end of life. It was my legislation that was in the health care reform that was, unfortunately, not in the final legislation because the reconciliation process wouldn’t allow the Senate to consider it in the House bill. We’re working on it again with legislation entitled *Personalize Your Health Care*, H.R. 1589, to make sure that these pro-

visions that are strongly supported by the public finally become law.

I think, perhaps, the best case that I have seen for this legislation is found by Dr. Murray in his article, “Why Doctors Die Differently.” It is a simple, powerful, two-page statement explaining the hows and whys.

Doctors actually do pass away, but they pass away differently. What is interesting is that, of these who are well off and connected to the medical care profession, it’s not how much health care they get in their final months but actually how little. They do have more information than the average member of the public. They know their choices, and they act to make sure that their choices are respected. Doctors are more than three times likely than the average member of the public to have an advance directive that instructs families, doctors, hospitals how they want to be treated. That percentage is even higher for older doctors.

They know, for instance, in their last moments, most doctors don’t want CPR performed on them. Unlike on television, where 75 percent of the CPR instances that the American public watches are successful and patients go on to lead happy, normal lives, doctors know that after the ribs are broken, which is what happens normally in CPR that’s done properly, that fewer than 8 percent live even another month.

Doctors understand the facts. They tell their families. It’s probably not accurate to say they get less care, but what is accurate is they get different care. They’re more likely to use hospice services. They’re more likely to have palliative care to make sure in their final moments they’re not in pain. They’re less likely to have invasive, painful, expensive treatment, particularly if they don’t want it, because they’ve taken care of making sure that their wishes are known and respected.

Now, I don’t want everybody to “die like a doctor,” but I do want everybody to have the knowledge and the power so that their wishes, whatever they are, are respected. It is time that Congress passes legislation to make sure the American public has the information and that their wishes, whatever their wishes may be, are respected, because those final months or weeks or days of life deserve to be gentle, thoughtful, respectful, and people having whatever care they and their families want.

I strongly urge my colleagues to look at H.R. 1589, *Personalize Your Health Care*.

### AFGHANISTAN

The SPEAKER pro tempore. The Chair recognizes the gentleman from North Carolina (Mr. JONES) for 5 minutes.

Mr. JONES. Last week, Congresswoman BARBARA LEE and I asked for a classified briefing on Afghanistan. Really, the only thing I can say about the briefing, because it was classified, is that I will continue to come to the floor and to say let’s bring our troops home from Afghanistan.

Also last week, we had two Army officers from Fort Bragg, North Carolina, who were in Afghanistan to train, and they were shot by the Afghan trainee at point blank range. This brings the count to 42 Americans who have been killed in Afghanistan while working with the Afghans to train them to be police and soldiers. When you factor in how many coalition troops have been killed, along with the Americans, it’s about 70. It is a totally impossible situation, as well as the fact that we continue to spend \$10 billion a month there.

I have beside me, Madam Speaker, a poster from the Greensboro News-Record in Greensboro, North Carolina. The headline is “Get Out,” and there is an honor guard bringing a transfer case off the plane. The sad thing is that the day is on a Sunday in February 2011, and we’re now in March of 2012. We continue to spend money that we cannot even account for. We send auditors to Afghanistan to try to account for the \$10 billion a month that is being given to Mr. Karzai so he can lead Afghanistan—buy some new roads and camps, I guess—while our troops are losing their legs, their arms, and their lives in a war that should be ended now, not later. We will, during the debate on the DOD bill in May, continue to try to bring amendments to the floor to bring some sanity to this involvement in Afghanistan.

As I mentioned many times, a former marine commandant has been my adviser on Afghanistan, and he continues to talk about the fact that we are wearing out our military, the equipment, our manpower. Yet, there is a threat growing in the Pacific that we seem not to pay any attention to.

Recently, JIM MCGOVERN and I and JOHN GARAMENDI and some others met with Lieutenant Colonel Danny Davis.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

He is an active duty reservist who has been to Afghanistan. He returned just a couple of months ago, and had been over there for almost 10 months. He has written articles saying that the Congress in these hearings with the military leadership is not getting the straight talk that we need to hear. Too many times they use the words: Well, the training of the Afghans is going pretty well, but it's fragile, it's real fragile.

□ 1010

Well, I'd like to say it's real fragile. No, it's even worse than that. You cannot predict what is going to happen in the country of Afghanistan. We had two marines from my district, Camp Lejeune, the Marine base in the Third District that I represent, that were over there.

About 3 months ago, Sergeant Baldus and Colonel Palmer—Colonel Palmer being from Cherry Point Marine Air Station and Sergeant Baldus from Camp Lejeune, also, like these two Army officers—were training in Afghanistan. They were having dinner with the Afghan trainees, and that night one of the trainees stood up and shot and killed both of them.

This is not fair to the American soldier, marine, sailor, airman, Navy, whatever, to continue to be in Afghanistan 11 years after it started. The money that we're going to cut here in America of the senior citizens and the children who need programs to have a better quality of life, we are going to cut their programs, but we are going to keep spending \$10 billion a month in Afghanistan. It makes no sense.

Madam Speaker, before I close, I would like to encourage every Member of Congress—who has the authority, should they want to implement that authority—to read the National Intelligence Estimate on Afghanistan that was published in 2011. It is classified, but every Member of Congress can take 1 hour—it's about 55 pages, I've read it—and read it. You need to read it, and then maybe you can help us make better decisions here on the floor about what in the world are we doing in Afghanistan spending Uncle Sam's money that he doesn't even have. He has to borrow his money from the Chinese to pay Karzai.

Where does that make any sense? The American people do not think it makes any sense.

We did a teletown hall about a month ago, and 66 percent of thousands of people that were on that call said bring our troops home now. Now, I realize that's the Third District of North Carolina, the home of Camp Lejeune, Cherry Point Marine Air Station and New River.

Madam Speaker, I do want to close by asking God to please bless our men and women in uniform and ask God to continue to bless America.

#### HONORING JOHN OLIVER

The SPEAKER pro tempore. The Chair recognizes the gentleman from Indiana (Mr. DONNELLY) for 5 minutes.

Mr. DONNELLY of Indiana. Madam Speaker, today I rise to pay tribute to John Oliver, an outstanding American citizen who has shown commitment and service to his hometown of Plymouth, Indiana, our State, and our country.

A native of Newcastle in the United Kingdom, 50 years ago this month, John immigrated to the United States on March 19, 1962, when he was only 19. In 1975, he officially became a United States citizen. He is a dear friend, not only to me, but to people all around the country and around the world.

He began his journey in the manufacturing industry as a laborer for a small research and development firm. He moved to Plymouth, Indiana, to work for that company, ultimately becoming its president in 1977. Nine years later, John purchased the company and renamed it U.S. Granules, which today produces 50 percent of the world's granulated aluminum. With his leadership, U.S. Granules remains a leader in technology and in quality, and they have established customers on five different continents.

John's heart and soul, though, is with his family, his friends, and his service to his community. He has been a pillar of support for the children of Plymouth. Quietly, and without recognition, John endowed a fund to benefit the Plymouth High School speech team, a State leader in debate competition.

To further advance the strength of local schools, John has made donation after donation to help with the purchase of books for school libraries, leadership seminars for students, and the expansion of scholarship and other award programs. In addition, John maintains an intern program at U.S. Granules, and it provides work experience and scholarship assistance and a chance for our children to succeed and for their dreams to come true.

John has also been a supporter of youth baseball, in particular, American Legion Post 27, and he has also extended his support to the Indiana Baseball Hall of Fame. When he was inducted into the Indiana Baseball Hall of Fame in 2009, he humbly, as he always did, reminded everyone that his contributions were dedicated to his community's youth and to their future and that it was not about him.

John has also been an active board member of the Saint Joseph Regional Medical Center, where his work has helped provide vital health care for an entire region. He is a former director of the Indiana Manufacturing Association, the Marshall County Industrial Association, and the Plymouth Industrial Development Company. He has served as fundraising drive chairman

for the Marshall County United Way and the Plymouth emergency vehicle fund.

John has also served in the United States Army Reserves. He exemplifies the promise and the spirit of America, that with hard work, determination, and love of country you can accomplish anything.

On behalf of the citizens of Indiana's Second District, I would like to salute John's character, his personal achievements, and his contributions to our community.

We are very lucky to have been touched by you, John, and for our lives to have been changed by you. Happy 50th anniversary as an American citizen. God bless you, and God bless the United States of America.

#### GAS PRICES AND PRESIDENT OBAMA'S ENERGY AGENDA

The SPEAKER pro tempore. The Chair recognizes the gentleman from Pennsylvania (Mr. THOMPSON) for 5 minutes.

Mr. THOMPSON of Pennsylvania. Madam Speaker, today, right now in America, around the dining room tables at home, there are two topics of discussion that I have to think are most pressing during that dinner conversation, and that is unemployment and price at the pumps; and, frankly, they're both related, very closely.

Madam Speaker, before being appointed to office, President Obama's Energy Secretary Steven Chu stated: "Somehow we have to figure out how to boost the price of gasoline to the levels in Europe."

Well, Madam Speaker, at the time of that statement, gasoline prices in Europe were \$8 to \$10 a gallon. Last week, the Energy Secretary made headlines when he seemed to say the administration's goal was not to lower gas prices. Considering the goal is not to lower gas prices, this may be the first time that the administration's energy policies match its rhetoric.

Now, despite the President's rhetoric about the need for increased domestic production of fossil fuels, to date, this administration has seemingly done everything it can to block production. But the purpose of these remarks is to highlight not the administration's statements but, instead, their policies.

Let's look at the record, starting with some positive things that happened just before President Obama took office and continuing through 2012 to present day, as shown on this graph.

First of all, July of 2008, at the peak of the 2008 gas price spike, President George Bush removed 18 years of Presidential Executive Orders restricting offshore oil and gas energy development. Prices began to fall immediately, almost overnight. Given the fact that not one additional barrel of oil was drilled, it was a message to the

market, a strong message to the market that America finally recognized that the American taxpayers owned assets in oil and were willing to use them. What a message to the market it would be today, a similar message. But back in 2008, that's where we saw this drop begin to start.

Now, in September of 2008, just a couple of months later, Congress finally followed, after its 26-year ban on offshore drilling, to allow that to expire. Prices at the pump, as you can see, Madam Speaker, dropped dramatically, even more.

Then President Obama took office. February 2009, soon after, not long after inauguration, the administration rescinded oil shale lease plans put in place during the Bush administration to aid the production of oil in U.S. Government lands. These are lands that are owned by Federal taxpayers. President Obama's actions reduced production of oil in the United States Government lands, and we see what continues to happen with prices.

In June of 2010, the House Democrats passed a cap-and-trade national energy tax, which would have dramatically increased gasoline prices.

In November of 2009, the administration unilaterally shortened lease terms on some Outer Continental Shelf leases. Well, this policy not only discouraged oil and natural gas production, but also decreased much needed government revenues.

□ 1020

In March of 2010, the administration canceled the remaining lease sales in seas off the Alaska coast, eliminating development of reserves that the government estimates could be as large as 65 billion barrels of oil.

In May of 2010, the administration canceled the Virginia offshore lease sale, which had bipartisan support from the Virginia Governor and the Virginia congressional delegation. The administration also canceled the remaining 2010 Gulf of Mexico lease sales.

In December of 2010, the administration extended the moratorium on leasing off the Atlantic and eastern Gulf of Mexico through 2017.

In January 2012, President Obama rejected the Keystone XL pipeline. Estimates show that the Keystone XL pipeline would add 1.1 million barrels a day of friendly Canadian oil to our Gulf of Mexico refineries.

Madam Speaker, moving forward with a credible energy policy can only be achieved if we all have a shared understanding of the facts. Global demand for oil is increasingly driven by developing economies such as China and India. In the U.S., our demand is down 6 percent year after year, and prices are still skyrocketing. And it's going to stay that way.

Eighty-five percent of the world's energy consumption comes from hydro-

carbons—oil, coal, and natural gas. While renewable energy is needed and new consumption efficiencies should be encouraged to meet future energy demands, hydrocarbons will be the dominant source of fuel for the world's economy for many decades to come. No one can deny that before we can create an energy supply that is substantially more diversified, we are going to need more fossil fuels to get us there.

We're not running out of Natural Gas. In 2000, shale gas represented just 1 percent of American natural gas supplies. Today, it is 30 percent and rising.

We are not running out of oil. Former CEO of Shell, John Hoffmeister, stated last week on State of the Union, "We use 20 million barrels a day every day in a full economy in this country. We only produce 7. We used to produce 10. Let's go back to 10. We know how to produce 10. We have the oil to produce 10 for decades to come."

Unfortunately, this Administration is preventing the U.S. from developing additional energy supplies to meet our demand. As a result, families are struggling with rising energy costs and higher gas prices at the pump.

Madam Speaker, these are the facts and the solutions are within our reach.

#### STOP BEING ACCESSORIES TO CRIME

The SPEAKER pro tempore. The Chair recognizes the gentleman from Tennessee (Mr. COHEN) for 5 minutes.

Mr. COHEN. Madam Speaker, I came here to speak about a topic which I will address shortly, but I couldn't not take the moment to reflect on the passing of a great man who served in this Chamber since 1989, Representative DONALD PAYNE of New Jersey, who passed away this morning. Representative PAYNE sat in this section, was a quiet, righteous, courageous man with whom I had the good fortune to travel at the request of and sponsorship of CARE and the Gates Foundation to Rwanda and to the Congo last August.

He cared about children greatly. He cared about education. He cared about people, and was very upset some years back when Don Imus, the radio shock jock, said some wrongful things about the Rutgers women's basketball team that cost Mr. Imus his position. And that brings me to what I was going to speak about today.

Yesterday, I mentioned that I slept well on my Sleep Number bed, and I slept well on my Sleep Number bed last night because they canceled their advertising on the Rush Limbaugh show. I mentioned that advertisers are accessories to the crime when radio people go too far and destroy someone's character, or try to, and make libelous statements. Limbaugh did that when he called Sandra Fluke some names, said she did some things or whatever, that were wrong, totally wrong.

Eleven advertisers have pulled their advertising because they don't want to,

in the future, be accessories to such conduct. Talk radio has gone way over the top in this country, doing anything for ratings and money.

It came to my attention that two radio stations have dropped Rush Limbaugh, and it's not just advertisers but it's radio stations that are accessories to the fact of this type of crime. It's not like we don't know it's coming because it's been out there for people to see for years, and they've sat by as this type of lies and hateful speech and wrongful speech has taken place on the radio, Rush Limbaugh being the main violator of people's rights.

I decided last night in my elections to come—and I've got a primary and a general—I've always bought billboard advertising, and Clear Channel almost has a monopoly in my city on billboards, and they have Rush Limbaugh on their network, that until they drop Rush Limbaugh, I'm not going to buy billboards for my campaign.

I'm also going to discontinue radio advertising on Clear Channel, which I've done in the past. It might hurt me a little bit politically, but it's the right thing to do. That type of conduct should not be advanced on the airwaves that are supposed to be for the public good. It's interesting to note that Don Imus' comments were about women, and Rush Limbaugh's comments are about women. It seems to be fair game sometimes for men on radio to take on women and cast aspersions.

Don Imus learned his lesson, and he said that Rush Limbaugh's apology was inadequate and weak and cowardly, and indeed it was. He hasn't called the lady. He hasn't come to Georgetown University and made amends to all those women whose character he impugned in misogynist statements, and he hasn't given a proper apology. He said he used inappropriate words. He was on an inappropriate topic. And Mitt Romney certainly didn't rise to the occasion when he said they weren't the words he would have used. It wasn't an area that anybody should have brought up or even thought about.

Limbaugh said that the woman wanted to be paid for sex because she, in his thoughts, wanted contraception so she could have sex without the fear of pregnancy. It's funny, Rush Limbaugh never questioned anybody getting a vasectomy, for what's the use of a vasectomy, that's covered by insurance, but to have sex without the fear or possibility of pregnancy. He said because she wanted sex paid for by the taxpayers that he ought to be able to watch it. Well, I wonder if he wants to watch all the men who had vasectomies have their sex.

There's something wrong in the country, and the advertisers and the radio stations are responsible, and they need to take appropriate moral and ethical action and not continue to be

accessories to the fact and support such trash.

#### CONTINUING IRANIAN THREAT

The SPEAKER pro tempore. The Chair recognizes the gentlewoman from Florida (Mrs. ADAMS) for 5 minutes.

Mrs. ADAMS. Madam Speaker, I come to the floor today to speak about the continuing Iranian threat to the United States and Israel.

Just as the President of Iran continues to spew his vile poison into the civil discourse of the United Nations, the regime of the Ayatollah issued a threat of violent aggression 2 weeks ago against Israel through the deputy head of the armed forces.

Through its actions, Iran has proven that it will never work with the peaceful nations of the world community. In fact, in yet another affront to diplomacy, Iran recently offered to allow inspectors from the IAEA into the country only to refuse them entry into the most important facilities to examine those nuclear sites in dispute.

The threat of a nuclear-armed Iran is not only a threat to Israel; it is also a direct threat to the United States and to the entire world community. Just this week, the chief of the International Atomic Energy Agency said there were unspecified activities at an Iranian military site which inspectors wanted to visit.

The Iranian regime has publicly threatened to close the Strait of Hormuz, a major shipping route for Middle Eastern nations to export oil and supply the world's energy needs. This threat by Iran amounts to economic warfare, as the closure of the Strait of Hormuz would trigger spikes in crude oil, gasoline bottlenecks in the supply chain, increased prices for all manufactured goods, and would likely lead to massive increases for gas here in the United States.

At a time when our domestic economy is struggling to recover, the last thing hardworking Americans need is for gas prices to soar even higher.

While drastic reductions in the supply of crude oil would be devastating to the world economy, the threat of a theocratic, unstable Iranian regime bent on the destruction of Israel and its allies is even worse. A nuclear Iran will not care about economic sanctions. A nuclear Iran will not care about diplomacy. A nuclear Iran will not negotiate in good faith. And a nuclear Iran will not be a friend of the United States.

Perhaps the greatest threat to peace and security in the world is the refusal to heed the warnings of the most violent and dangerous regimes when they tell us what their exact intentions are. My hope is that it will not be a mistake of this Nation, one that this Nation makes with this regime in Tehran. Again, my hope is that it will not be

our mistake not to pay attention to the signals from the regime in Tehran.

□ 1030

#### THE AGENCY FOR TOXIC SUBSTANCES AND DISEASE REGISTRY DRAFT REPORT ON VIEQUES, PUERTO RICO

The SPEAKER pro tempore. The Chair recognizes the gentleman from Puerto Rico (Mr. PIERLUISI) for 5 minutes.

Mr. PIERLUISI. Madam Speaker, I rise to discuss a subject of great importance to me, to the people I represent, and to many of our fellow citizens around the country, and that is the health of nearly 10,000 residents of Vieques, Puerto Rico.

The people of Vieques sacrificed as much as, if not more than, any other U.S. civilian population to advance our military readiness. In the 1940s, the Federal Government expropriated lands on Vieques for use by the Navy. For over 60 years, the Navy conducted training operations on eastern Vieques, including ship-to-shore bombing, aerial bombing, and ground-based exercises. The Navy has reported that it dropped between 3 and 4 million pounds of ordnance on Vieques each year between 1983 and 1998.

Training operations on Vieques ceased in 2003, in part due to concerns about the risks to safety, health, and the environment posed by decades of weapons use. The Navy is now administering the cleanup of Vieques with support from other Federal and local agencies. In 2005, the EPA listed Vieques as one of the most hazardous sites in the U.S. To date, over 35,000 munitions on Vieques have been recovered and destroyed, including at least 19,000 live munitions.

Unfortunately, numerous studies have shown that residents of Vieques have higher rates of cancer and other chronic illnesses than residents of mainland Puerto Rico, raising serious questions about whether there may be a link between those health problems and the island's long use as a military training range.

In December, the Agency for Toxic Substances and Disease Registry, an agency within HHS, released a draft report that addresses whether there is evidence of a causal relationship between the identified health problems and the Navy's activities. ATSDR examined five "pathways" through which residents of Vieques might have been exposed to harmful contaminants: air, soil, fish, local produce and livestock, and drinking water. The conclusion reached by ATSDR in its draft report is generally the same as the conclusion reached by the agency in a series of controversial public health assessments it conducted on Vieques about a decade ago, specifically, that the avail-

able data does not establish that the contaminants in these pathways, some of which can be linked to military activities, were at levels expected to cause the reported health problems.

Because the draft report leaves many crucial questions unanswered, today I'm filing extensive comments that I urge ATSDR to address before its report is finalized. My comments are intended to be constructive, because my constituents deserve a meticulous evaluation of the draft report aimed at producing concrete action by the Federal Government.

In my comments, I note that ATSDR repeatedly acknowledges that its conclusions are not definitive, or even close to it, because the available data upon which the agency relies is incomplete in many respects. While ATSDR recommends that further studies be conducted to fill certain data gaps, the agency does not go far enough.

In 2009, ATSDR stated that it expected to recommend biomonitoring to determine whether, and to what extent, residents have been exposed to harmful chemicals. Yet, in a startling reversal, the agency has now stated that "it is not recommending a comprehensive, systematic biomonitoring effort at this time."

Given the health problems on Vieques and the potential link between those problems and military activities, such an action is misplaced. Therefore, I have urged ATSDR to recommend a comprehensive biomonitoring investigation. More generally, I have encouraged ATSDR and other Federal agencies, working in partnership with independent researchers, to take a more active and assertive role in designing, implementing, and especially funding the additional studies that are still needed to determine the nature and potential causes of the health problems being experienced by residents of Vieques.

It is unacceptable that more than a decade after ATSDR completed its first public health assessments on Vieques, fundamental questions about the safety of the island's environment and the health of its residents remain unanswered. My constituents deserve better.

#### TOMB OF THE UNKNOWNNS

The SPEAKER pro tempore. The Chair recognizes the gentleman from Ohio (Mr. STIVERS) for 5 minutes.

Mr. STIVERS. Madam Speaker, I've served for 26 years in the Ohio Army National Guard and had the pleasure of serving with many brave men and women over the years, including a tour of duty in Operation Iraqi Freedom. As a member of the armed services as well as a Member of Congress, I was shocked and horrified last year by reports of the Dover Air Force Base mortuary sending veterans' remains to the Prince George landfill.

The Washington Post reported on December 7, 2011, that they uncovered "976 fragments from 274 servicemembers that were cremated, incinerated and taken to the landfill between 2004 and 2008." This is an outrage. It disrespects our men and women in uniform, and it can't be allowed to stand.

The first step to fixing this is creating a proper memorial for those who have served our country so well and given their last measure of devotion. I'm working on legislation to create a Tomb of the Unknowns at Arlington National Cemetery for every conflict moving forward. This plan will be paid for by taking money from the Air Force, because that's where the poor decisions were made. I plan to introduce this legislation very soon.

To those who have given their final measure of devotion in service to our country, they deserve a final resting place worthy of their dedication, commitment, and devotion, and we need to give that to them.

God bless The United States of America.

[From the Washington Post, Dec. 7, 2011]

**AIR FORCE DUMPED ASHES OF MORE TROOPS' REMAINS IN VA. LANDFILL THAN ACKNOWLEDGED**

(By Craig Whitlock and Mary Pat Flaherty)

The Air Force dumped the incinerated partial remains of at least 274 American troops in a Virginia landfill, far more than the military had acknowledged, before halting the secretive practice three years ago, records show.

The landfill dumping was concealed from families who had authorized the military to dispose of the remains in a dignified and respectful manner, Air Force officials said. There are no plans, they said, to alert those families now.

The Air Force had maintained that it could not estimate how many troops might have had their remains sent to a landfill. The practice was revealed last month by The Washington Post, which was able to document a single case of a soldier whose partial remains were sent to the King George County landfill in Virginia. The new data, for the first time, show the scope of what has become an embarrassing episode for vaunted Dover Air Base, the main port of entry for America's war dead.

The landfill disposals were never formally authorized under military policies or regulations. They also were not disclosed to senior Pentagon officials who conducted a high-level review of cremation policies at the Dover mortuary in 2008, records show.

Air Force and Pentagon officials said last month that determining how many remains went to the landfill would require searching through the records of more than 6,300 troops whose remains have passed through the mortuary since 2001.

"It would require a massive effort and time to recall records and research individually," Jo Ann Rooney, the Pentagon's acting undersecretary for personnel, wrote in a Nov. 22 letter to Rep. Rush D. Holt (D N.J.).

Holt, who has pressed the Pentagon for answers on behalf of a constituent whose husband was killed in Iraq, accused the Air Force and Defense Department of hiding the truth.

"What the hell?" Holt said in a phone interview. "We spent millions, tens of mil-

lions, to find any trace of soldiers killed, and they're concerned about a 'massive' effort to go back and pull out the files and find out how many soldiers were disrespected this way?" He added: "They just don't want to ask questions or look very hard."

Senior Air Force leaders said there was no intent to deceive. "Absolutely not," said Lt. Gen. Darrell D. Jones, the Air Force's deputy chief of staff for personnel.

This week, after The Post pressed for information contained in the Dover mortuary's electronic database, the Air Force produced a tally based on those records. It showed that 976 fragments from 274 military personnel were cremated, incinerated and taken to the landfill between 2004 and 2008.

An additional group of 1,762 unidentified remains were collected from the battlefield and disposed of in the same manner, the Air Force said. Those fragments could not undergo DNA testing because they had been badly burned or damaged in explosions. The total number of incinerated fragments dumped in the landfill exceeded 2,700.

A separate federal investigation of the mortuary last month, prompted by whistleblower complaints, uncovered "gross mismanagement" and documented how body parts recovered from bomb blasts stacked up in the morgue's coolers for months or years before they were identified and disposed of.

The problems also transpired at a time when the mortuary was shielded from public scrutiny. News coverage of the return of fallen troops to Dover was banned by President George H.W. Bush in 1991 before the first Persian Gulf War. The ban remained until April 2009, when the Obama administration lifted it.

The Air Force said it first cremated the remains and then included those ashes in larger loads of mortuary medical waste that were burned in an incinerator and taken to a landfill. Incinerating medical waste is a common disposal practice but including cremated human ashes is not, according to funeral home directors, regulators and waste haulers.

Air Force officials said they do not know when the landfill disposals began. They said their first record of it is Feb. 23, 2004. The mortuary database became operational in late 2003.

The Air Force said mortuary leaders decided to end the practice in May 2008 because "there was a better way to do it," Jones said. The military now cremates unclaimed and unidentified body parts and buries the ashes at sea.

Jones said the Air Force did not need to inform relatives of troops whose remains ended up in the landfill because they had signed forms stipulating that they did not wish to be notified if additional remains were identified. The forms authorized the military to make "appropriate disposition" of those subsequent remains.

Asked if the landfill was a dignified final resting place, Jones said: "The way we're doing it today is much better."

Gari-Lynn Smith, the widow of an Army sergeant killed in Iraq, said she received an e-mail in July from Trevor Dean, the mortuary director, saying that incinerated remains had been taken to landfills at least since he began working at Dover in 1996. Dean is one of the officials facing discipline for his role in the reported mismanagement at the mortuary.

Smith's husband, Sgt. 1st Class Scott R. Smith, a member of a bomb-disposal unit, was killed on July 17, 2006. In 2007, she began asking the military what happened to some

of his remains that were identified after his funeral.

After four years of letters, phone calls and records requests, she received a letter from the mortuary in April stating that the military cremated and incinerated those partial remains and disposed of them in the King George landfill.

"I hope this information brings some comfort to you during your time of loss," read the letter, signed by Dean.

Smith was infuriated. "They have known that they were doing something disgusting, and they were doing everything they could to keep it from us," she said in a phone interview.

In May 2008, then-Defense Secretary Robert M. Gates ordered a detailed review of policies at Dover after an Army officer complained that the mortuary had cremated a fallen comrade at a nearby funeral home that also cremated pets in a separate chamber.

The review team ordered changes, emphasizing the need to ensure the highest levels of dignity and honor.

The Pentagon would not release the report, which was overseen by David Chu, who was undersecretary of defense for personnel. A copy obtained by The Post, however, shows that the landfill disposal practice was never reviewed or mentioned. Chu, now president of the Institute for Defense Analyses in Alexandria, declined to comment.

Private contractors hired by the Air Force to handle the remains' incineration and disposal of the residue said they were unaware that they were transporting the ashes of dead troops. Records show that the Air Force hired the contractors to dispose of medical waste and did not specify that cremated body parts were included.

MedTrace Inc. of North East, Md., had Air Force disposal contracts between 2004 and 2007, records show. Don Holland, a manager for the company, said his employees picked up boxes of sealed containers from the Dover mortuary.

"They were certified as medical waste that had been properly treated—that's it," Holland said. "We don't go looking at what's in there. It's sealed."

MedTrace took the items to an incinerator in Baltimore, according to state records in Delaware, where the mortuary is located. Holland declined to discuss the incineration and which landfill his company used.

Lisa Kardell, a spokeswoman for Waste Management, which operates the King George landfill, said the firm has no record of a contract with MedTrace for the years 2003 through 2008.

She said that Air Force officials have not returned calls over the past two weeks from her company's attorneys, asking which haulers would have been handling the Dover materials and the disposition of the ashes.

"Obviously, we would be opposed to taking cremated remains of our servicemen and servicewomen and putting them in our landfill," Kardell said. "But it sounds like a lot of us were pulled in unknowingly to this unfortunate situation with the Air Force," she added.

"It's a moral thing," said Jeff Jenkins, the manager of the King George landfill. "Someone killed overseas fighting for our country, I wouldn't want them buried—any part of them—in the landfill."

## WOMEN'S HISTORY MONTH AND A WOMAN'S RIGHT TO CHOOSE

The SPEAKER pro tempore. The Chair recognizes the gentlewoman from

California (Ms. RICHARDSON) for 5 minutes.

Ms. RICHARDSON. In this month of March, as we celebrate Women's History Month, I would like to take a moment to recognize some of our great female leaders who, throughout history, have persevered in the face of monumental opposition and successfully have accomplished great things on behalf of the American people.

From the words of the great poet, Maya Angelou, from the beautiful singing voice of Marian Anderson, from the tireless activism of Dolores Huerta, to the groundbreaking leadership of Secretary of State Hillary Clinton, Secretary of Labor Frances Perkins, and, of course, our own Democratic leader NANCY PELOSI, these women and many more have played an integral role in the history in this Nation.

Madam Speaker, every day, women take great strides to help others and to improve the quality of life for everyone. Unfortunately, in matters involving health care, women are still facing these challenges. Whether it's on the Senate floor last week during a debate on the Blunt amendment or whether it's during a House Committee on Oversight and Government Reform hearing, women continue to face unwarranted attacks on their reproductive health rights and their access to contraceptives.

More disconcerting, these debates and veiled attacks have escalated beyond misguided attempts to repeal the Affordable Care Act. Now they've taken aim at restricting women's choices in the area of reproductive health altogether. This is wrong. Medical decisions about a woman's health must leave the political arena and be left to the discretion of the patient and their doctor, not employers, and certainly not the government.

It is astonishing and disappointing that more than 50 years after the landmark Supreme Court decision in *Griswold v. Connecticut*, a decision which found that women have a constitutional right to use contraceptives, continued attacks on women's rights of privacy and health care still persist, and at an alarming rate.

The American people want us to work towards addressing their top priority: creating jobs, not their reproductive rights. However, this Congress seems to be more focused on bringing forward legislation that targets women's access to basic health care. In this Congress alone, we've taken eight votes on antiwomen health legislation.

A 2011 Guttmacher Institute study found that over 90 percent of women, and over 90 percent of Catholic women, between the ages of 15 and 44 have used some sort of birth control at some point during their lives. Birth control can cost up to \$600 a year. So for a college student, a woman who's had multiple children and is still in child-

bearing years, low-income women or those who are underinsured, insurance coverage means the difference between accessing contraceptive services or not.

□ 1040

Quite simply, Madam Speaker, all women should have the choice and access to contraception and have the resources no matter where they work, where they live, or where they go to college. This is why I'm proud to support President Obama's Affordable Care Act, which I voted on, which will make a positive impact on women and children in their access to health care and greatly decrease the number of women and their families who are uninsured or underinsured.

Studies have shown that women who have health insurance don't always receive the medical care they need because their policies don't cover certain services or the women simply can't afford the high deductibles and copayments. The Affordable Care Act changes this unfortunate reality by assisting women in gaining access to basic preventive health care in order to prevent life-threatening diseases in the future.

Our country is facing great challenges. People need jobs. Students need affordable education. Seniors and working families need affordable health care. But one thing we don't need is to continue to waste time debating extreme legislation that is dangerous to women's health, disrespects the judgment of American women, and is nothing less than the most comprehensive and radical assault on women's health in our lifetime.

Madam Speaker, as people all over America pay tribute during the month of March to the generations of women who have committed to progress and have proved invaluable assets to our society, let us in Congress renew our commitment to support women—not with certificates at banquets, but by working to ensure equal treatment of all women in society, providing women with equal access to health care, and protecting women's rights, and their families, to choose once and for all their own health care.

#### HOOSIERS MAKE INDIANA PROUD

The SPEAKER pro tempore. The Chair recognizes the gentleman from Indiana (Mr. YOUNG) for 5 minutes.

Mr. YOUNG of Indiana. Madam Speaker, I rise today because I've never been prouder to call southern Indiana home. Late Friday afternoon, in our part of America, a disaster brought neighbors together, turned strangers into friends, and reminded us all what it means to be part of a community.

Over the course of several hours, fierce winds, softball-sized hail, and deadly tornados descended upon south-

ern Indiana communities, leaving behind a 50-mile path of destruction from New Pekin to Chelsea and beyond. Our people are still assessing the costs, but we know this much: 13 Hoosiers have died, scores have lost their homes and businesses, and citizens across the region have suffered untold damage to their personal and public property.

As hard as it is to imagine, the tragedy might have been worse were it not for the bravery and resilience of rank-and-file Hoosiers. Our firemen, policemen, EMTs, and local officials deserve our thanks. Those who serve in Indiana's National Guard, our State police, and our Department of Homeland Security stepped up, too. From the initial response through the ongoing efforts today, their service has been exemplary.

But it has been concerned citizens, so-called "ordinary" Americans who have restored a measure of stability to a region pummeled by forces beyond our control. There was a bus driver in Henryville who, in the nick of time, rushed dozens of children back to school to protect them from the approaching twister. There were the EMTs off Interstate 65 who saw a woman thrown from her car and saved her from being pummeled by hail by dragging a large metal sign across the road and holding it over her. They likely saved her life.

There were parents and friends and even strangers across southern Indiana who, as danger approached, took a moment to extend a hand to others and said, Come inside, we'll find room. After the storms left their mark, Hoosiers immediately turned to accounting for loved ones and comforting neighbors.

The damage was and is severe. One tornado—by some accounts a half-mile wide—carved a clear path through southern Indiana, ripping trees out of the Earth, hurling automobiles and combines long distances, severing power lines, and decimating countless homes and businesses. Here, again, Hoosiers didn't sit around and wait for others to help us out. We got to work.

Now, over the weekend I spent time surveying the damage and meeting with those who lost the most. Everywhere I visited, I met citizens wearing work boots and work gloves who were busily beginning to sort through the piles of rubble. I met others who had fired up their chainsaws and were clearing debris from roadways. I saw clusters of cars and pickup trucks parked outside homes that were hit hardest.

In the aftermath of such a tragedy, one would be forgiven for asking: Why me? But I never heard it. Instead, time and again I heard Hoosiers sympathize with those who lost more than they. And more than one person told me that, in the end, stuff doesn't really matter; it's people that are important.

I heard sincere, caring people ask their neighbors: How can I help? In Henryville, a pizza shop was mostly destroyed, except for the freezer. The couple who owned it, rather than worrying about the loss of their business, asked officials how they could donate food from the freezer to those who needed it most.

In Marysville, the local Christian church remains intact, but little else. Pastor Bob Priest told me their decades-old building is no longer structurally sound, but the congregation has never been stronger.

For those of us who have seen the scale and scope of destruction up close, we know the path back will not be easy, but we will fix all that Mother Nature broke. Government at all levels will and must be there to help, from local authorities, to the State of Indiana, to our congressional offices. My staff and I, in particular, are eager to connect our constituents to whatever Federal services and funds might be available to help them get their lives back on track. But make no mistake, it will be the people of Indiana, the people of tight-knit communities like Henryville, Marysville, Chelsea, and New Pekin, who will rebuild their broken lives.

Now, during these tough times, Hoosiers are reminding us what it means to be a community of citizens—one Nation under God, indivisible, come what may. That sense of community has always bound Americans together in tough times, and it will get us through this tragedy as well.

May God be with those Americans who are putting their lives back together. We're praying for you and here for you.

#### VOTE "NO" ON AMERICAN ENERGY AND INFRASTRUCTURE JOBS ACT

The SPEAKER pro tempore. The Chair recognizes the gentleman from Virginia (Mr. CONNOLLY) for 5 minutes.

Mr. CONNOLLY of Virginia. Madam Speaker, last month, the House Republican leadership commemorated Valentine's Day by planning a shotgun wedding between transportation reauthorization and the Arctic National Wildlife Refuge; between highway funding and Federal pension cuts. Many Members of this House spoke for and against this troubling bill, but I think it's time Congress started listening to the people.

Consider what my constituents wrote me when they asked me to oppose this transportation disinvestment plan. One concerned citizen in Vienna said:

I'm writing to urge you not to support the proposed American Energy and Infrastructure Jobs Act. This bill is anti-jobs, anti-business, anti-transit, and anti-environment. It slashes funding for transit, guts our Nation's environmental laws, and green-lights a set of controversial and damaging new drill-

ing projects, including in the Arctic National Wildlife Refuge.

The director of a nonprofit in Dumfries, Virginia, worried about the utter lack of transit support in the proposed legislation, wrote:

I can tell you from firsthand experience that this proposal would have a profoundly negative impact on the ability of our clients to go about their daily lives. Many clients use public transportation to access our services, seek and hold employment, and remain independent. This legislation puts jobs and the services this agency provides to vulnerable populations at risk.

A constituent from Prince William County bemoaned the dearth of transit investments and commented:

For nearly 30 years, beginning with President Reagan, a portion of Federal motor fuels tax revenues has been dedicated to public transportation investment under Federal law. These revenues are a dependable and predictable source of funding and should remain dedicated to public transportation. The House Ways and Means plan would eliminate this reliable funding source and provides no funding for public transportation after 2016.

A senior citizen from Springfield, Virginia, worried about the impact of this legislation on alternative transportation options, said:

I strongly encourage you to vote "no" on H.R. 7. I am 65 years old and have spent the last 10 years of my life utilizing the paths and trails around Fairfax County and this area of the country for safe biking and exercising. Their existence has been critical to my efforts to improve my personal health. These trails cost so little compared to building highways and using automobiles and have tremendous benefits to all of us. Please do not allow this bill to halt the great progress that this country has made in its trails. Please vote "no" on H.R. 7.

□ 1050

A constituent from Gainesville, Prince William County, Virginia, where they have one of the longest daily commutes in America:

I am writing in opposition to the proposal to pay for any of H.R. 7 through cuts to Federal workers' pay and benefits. I urge you to vote against any plan that unfairly targets Federal workers and retirees to pay more for their fair share. Our nation's Federal workers are already doing their part to address America's deficit problem, which they did not cause. Their pay freeze will have contributed over \$60 billion to debt reduction.

A constituent from Fairfax echoed those concerns:

Congressman Connolly, I am contacting you about H.R. 7. I'm disgusted and appalled that those in public service are being targeted yet again to fix Federal budget shortfalls they didn't cause. As a Federal employee, I'm acutely aware of the shared sacrifices Federal employees have made in these turbulent times. I appreciate your support and representation in defeating this bill.

Madam Speaker, my constituents make a compelling case. Americans are looking for a long-term solution to transportation. Like any successful relationship, this one must be balanced, with sustained investment in highways, transit, and non-motorized

transportation. We can't slash funding in 45 of the 50 States, including my home State of Virginia, while eliminating all dedicated funding for transit and hope to solve our transportation problems.

I urge my Republican colleagues, junk this bill. Let's start over again and work in a bipartisan fashion for transportation in America for the benefit of all of our citizens.

#### REMOVE THE FOREIGN TERRORIST ORGANIZATION DESIGNATION FROM THE MEK

The SPEAKER pro tempore. The Chair recognizes the gentleman from Texas (Mr. POE) for 5 minutes.

Mr. POE of Texas. Madam Speaker, for nearly a decade the United States has invested money, sweat, blood and tears, all in the name of a free and democratic Iraq.

Before the war, Iraqis suffered from the oppressive dictatorship of Saddam Hussein, and recent events have led me to believe that perhaps the new government does not value freedom any more than the last one did.

As a Member of Congress, I've been fortunate to go to Iraq several times to visit with our troops. And during my last visit with a bipartisan congressional delegation, we also met with Iraqi Prime Minister Maliki. During the 2-hour-long discussion covering many things, I asked one question: "Can we go see Camp Ashraf?"

Now, Madam Speaker, Camp Ashraf houses Iranian dissidents who are called the MEK, and I represent a good number of Iranian Americans who have family members in this camp. They are particularly worried at this point in time, since Iraqi forces had recently killed 36 residents at the camp just a few weeks before. Here are the pictures of those real people that were killed by the Iraqi forces that came into the camp.

Here is an example. You notice this is an American-made HUMVEE coming into the camp. And over here on this far picture, you see an Iranian dissident being run over by one of those HUMVEES driven by an Iraqi soldier.

So that is why the question was asked: can we go see the camp and see these Iranian dissidents? And of course, Maliki said, "no way that's going to happen." It left me wondering why he would refuse to let us see and talk to these people and get the other side of this invasion by the Iraqi soldiers. So we didn't get to go. And later I learned that one reason we were actually told to leave the country is because we asked to go see this camp and what happened to these 36 Iranian dissidents.

And now we have Camp Liberty. Camp Liberty, Madam Speaker, is the result of the fact that in Camp Ashraf, the Iraqi government is moving these dissidents to another camp called



Camp Liberty. These dissidents are commonly referred to as the MEK, and Camp Liberty, ironically, should be symbolic of a name of freedom, but it's anything but that.

Now the Iraqi government, having moved these dissidents from Camp Ashraf to Camp Liberty, is still oppressing these Iranian dissidents. The reality is Camp Liberty is worse than Camp Ashraf.

Former New York Mayor Rudy Giuliani said it best: "This isn't a jail, it's a concentration camp."

Even in prisons, we allow lawyers to see their clients and their family to see their loved ones. But not in Camp Liberty. And remember, these people in Camp Liberty, these Iranian dissidents, have committed no crime. They have violated no law. You can't help but think that good old Maliki has something to hide again.

But word is leaking out that there's not enough drinking water in the camp, there are ruptures in the sewage system, and they're having to be fixed by hand by the residents.

Iraqi guards have their will at the camp, and they wander around with no rules. They violate the privacy of these Iranian dissidents, many of whom are women.

What's more, no one, not even the U.N., is confident that once political refugee determination is made by other countries, those countries will accept these dissidents into their country. Why?

Because our State Department incredibly, has the MEK, these folks in this Camp Liberty, designated as a foreign terrorist organization. In fact, Maliki told Members of Congress, one reason he treated the residents in Camp Ashraf so poorly is because our own State Department designates them as a foreign terrorist organization.

This designation is an old, failed State Department foreign policy that designated these people as an FTO as a favor to the Iranian government. That hasn't worked out too well with our foreign relations with Iran, has it?

Since then, we've seen that the real terrorists in Iran are the extreme mullahs and the tiny tyrant of the desert, Ahmadinejad, not the opposition groups that want democracy in Iran.

Both the EU and the United Kingdom have removed the foreign terrorist designation from the group, the MEK, but not the State Department. As Iran defiantly marches toward nuclear weapons, the best hope for the world is the people of Iran pushing for a regime change of their own government. The longer we keep opposition groups who want to do just that on the foreign terrorist organization list, the less likely it is that the light of liberty will have a chance to shine in Iran.

The Federal courts have even ordered the State Department to review this

FTO designation, but the State Department continues to delay, to delay, delay making a decision. The State Department must remove the MEK from the foreign terrorist organization list immediately, and then let liberty prevail in Camp Liberty and let these people leave Iraq in a peaceful manner.

And that's just the way it is.

#### OUR LEGACY TO A NEW GENERATION: A WORLD FREE OF NUCLEAR WEAPONS

The SPEAKER pro tempore. The Chair recognizes the gentlewoman from California (Ms. WOOLSEY) for 5 minutes.

Ms. WOOLSEY. Madam Speaker, there was good news on the national security front last week. North Korea, one of the most dangerous rogue nations on the Earth, far more dangerous than Iraq was when we invaded 9 years ago, has agreed to suspend nuclear weapons activity. Through careful diplomacy, the Obama administration has secured this concession by offering badly needed nutritional assistance to North Koreans.

The North Korean regime has also consented to stop uranium enrichment, impose an important moratorium on long-range missile testing, and allow international weapons inspectors into the country for the first time in 3 years.

Of course, we must remain cautious, and we must remain vigilant in our dealings with North Korea. But it's clear that peaceful negotiations and diplomacy, as opposed to saber rattling that we've seen much too often in the recent past, is advancing our national security interests and moving us closer to a future of peace and security.

The President and Secretary Clinton deserve credit for this breakthrough. They have made nonproliferation and the securing of loose nuclear material top priorities. The New START Treaty represented a critical step in finally putting the Cold War behind us and increasing security cooperation between Russia and the United States.

It's my hope now that we will be bolder and more ambitious because it's time for the United States to exercise global leadership and true statesmanship, and move toward complete dismantling of our nuclear arsenal. That's exactly the long-term goal we committed to as a Nation when we signed the NPT 40 years ago.

To that end, Madam Speaker, I've introduced a resolution called NO NUKES, which stands for Nonproliferation Options for Nuclear Understanding to Keep Everyone Safe. NO NUKES. NO NUKES moves us aggressively in that direction.

It makes no sense at all that we have thousands of nuclear warheads when just one of them has the power to end life on Earth as we know it.

And if that's not good enough, eliminating nuclear weapons isn't just a matter of human rights and moral urgency, it's also a big budget item at a time when we must be exercising fiscal restraint.

□ 1100

We currently spend over \$50 billion a year on maintenance of our existing nuclear arsenal. How about we invest that money on programs that save lives instead of weapons designed to destroy life? For nearly a decade now, we've defended our country and its interests by sending thousands of troops to die in a foreign war that isn't making America safer but is costing Americans billions of dollars every month.

Madam Speaker, there has to be a different way. My SMART Security Platform advances the idea that we make the world safer, not through acts of war and arms escalation, but through cooperation and conflict resolution.

For nearly my entire life, the world has lived under a shadow of nuclear confrontation. My oldest child turned 50 over the weekend. He was an infant in my arms during the terrifying days of the Cuban Missile Crisis. We can't make another generation go through that.

Actually, my 7-year-old grandson, Jake Eddie, is joining me in Washington this week, and I believe it is our responsibility to make a promise to him and to his classmates and his peers. Our legacy to them must be a world free of nuclear weapons. Our legacy to them must be a peaceful future. And one step in the right direction, in the memory of DONALD PAYNE, is to bring our troops home from Afghanistan.

#### RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until noon today.

Accordingly (at 11 o'clock and 1 minute a.m.), the House stood in recess.

□ 1200

#### AFTER RECESS

The recess having expired, the House was called to order by the Speaker at noon.

#### PRAYER

The Chaplain, the Reverend Patrick J. Conroy, offered the following prayer: Loving God, we give You thanks for giving us another day.

Today is a significant day for Americans in this election year. We ask Your blessing upon the American people, especially those who choose to participate this day in primary elections.

Give them good judgment and a sincere desire for the welfare of this great Nation as they cast their ballots.

Bless, as well, the Members of this people's House. May they be filled with Your spirit this day and exercise their responsibilities with wisdom, understanding, and goodwill. May all they do be for Your greater honor and glory.

In the past few days, O Lord, many have been assailed by terrifying and destructive weather. Send Your healing balm upon those who have been afflicted and bless with rapid success the efforts of those emergency responders who are working tirelessly to rebuild shattered lives and communities.

And finally, with sorrow, we acknowledge the passing of DONALD PAYNE of the 10th District of New Jersey. We thank You for his years of service in this assembly and ask You to bless his family and loved ones. Eternal rest grant unto him, O Lord, and let perpetual light shine upon him. May his soul and the souls of all the departed, through the mercy of God, rest in peace.

Amen.

#### THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

#### PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from New York (Mr. HIGGINS) come forward and lead the House in the Pledge of Allegiance.

Mr. HIGGINS led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

#### ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain up to 15 requests for 1-minute speeches on each side of the aisle.

#### THE IRANIAN DUCK

(Mr. POE of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. POE of Texas. Mr. Speaker, Iran continues to inch closer to making its nuclear ambitions a reality.

The administration wants Israel to give diplomacy more time, but Prime Minister Netanyahu said, "pressure on Iran is growing, but time is growing short."

For Israel, a nuclear armed Iran threatens its very existence.

Ahmadinejad says he wants to wipe Israel off the face of the Earth, and this radical extremist means what he says.

Israel will do what it has to in order to be master of its own faith, with or without the United States. Unfortunately, the days of full trust between the U.S. and Israel seem to be on shaky ground.

Netanyahu said:

I will never let my people live in the shadow of annihilation.

If it looks like a duck, walks like a duck, and quacks like a duck, it's a duck. But this duck is a nuclear duck, and it's time the world started calling a duck a duck.

Mr. Speaker, America must totally get behind our friend and let the Iranian duck know whose side we are on.

And that's just the way it is.

#### LET'S WORK TOGETHER

(Mr. CICILLINE asked and was given permission to address the House for 1 minute.)

Mr. CICILLINE. Madam Speaker, I rise today to discuss an issue that is very important to the hardworking men and women in my home State of Rhode Island. Rhode Islanders learned yesterday that our workforce has grown smaller and our unemployment rate sits at 10.9 percent, the third highest in the Nation.

While some may struggle to see these problems from the steps of the Capitol, I hear frequently from constituents who can't understand why the House still has not considered a comprehensive jobs plan. That's why I and many of my colleagues have been working hard on legislation to put Americans back to work, including our Make it In America agenda to help reinvigorate American manufacturing.

We also need to start developing new ways to repair America's infrastructure and new ways to finance it, like a national infrastructure bank, a modern-day version of the WPA, and provide much needed help to small businesses and entrepreneurs. Yet the House leadership has stood in the path of progress on these issues.

Rhode Islanders know that Congress can do better. We need to work together and get these things done and get the American people back to work.

#### HIGHER GAS PRICES ARE HURTING OUR SMALL BUSINESSES

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Madam Speaker, since the President was sworn into office in January of 2009, gas prices have risen drastically by 156 percent. This fact shows the President's energy policy is failing our country and destroying jobs.

According to the National Federation of Independent Business, rising energy costs are a constant struggle for our small business owners. Our small business owners are already threatened with the rising cost of health care due to the mandates in the government takeover health care bill.

Instead of supporting effective energy policies that will lower the price at the pump, this administration has decided to delay the Keystone pipeline, a project that will create over 100,000 jobs at no taxpayer expense. If completed, this project will dramatically decrease our dependence on foreign oil and provide relief with energy costs for every small business.

In conclusion, God bless our troops, and we will never forget September the 11th in the global war on terrorism.

#### HEZBOLLAH IN THE WESTERN HEMISPHERE

(Mr. HIGGINS asked and was given permission to address the House for 1 minute.)

Mr. HIGGINS. Madam Speaker, I rise to express my concern about the presence of Hezbollah in the Western Hemisphere.

In the Homeland Security Committee, we've heard from experts who testified that Hezbollah, which is a terrorist proxy for Iran, Syria, and Venezuela, has an active membership in 14 North American cities, including Toronto, which is 90 miles from my western New York home.

Some dismiss this concern by saying that their activities are limited to fundraising. This is not comforting.

Madam Speaker, I have joined with my colleague, JEFF DUNCAN, to introduce H.R. 3783, the Countering Iran in the Western Hemisphere Act. Our legislation would call for the State Department to investigate Hezbollah's presence in the Western Hemisphere and to create a long-term strategy for keeping our communities and our Nation safe.

Madam Speaker, I'm pleased to say that this bipartisan legislation was unanimously passed in the subcommittee. As this bill moves through the House, I urge my colleagues to support our legislation to combat this growing threat.

#### PASS OUR JOBS BILL

(Ms. JENKINS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JENKINS. Madam Speaker, it has been 4 years since the height of the Great Recession and our economy is nowhere near where it should be. Unemployment continues to hover around 8 percent and thousands upon thousands of hardworking Americans have left the job market altogether.

After the President killed the Keystone pipeline, gas prices have skyrocketed, and, by some estimates, more

than 20 percent of homeowners are underwater on their mortgages.

Madam Speaker, Americans need real jobs, real solutions, and real results, not the unprecedented, unacceptable, and unsustainable wasteful Washington spending some of our colleagues continue to promote. It's time Washington started protecting and respecting the hardworking American taxpayers. We need a system where their hard work is rewarded and every American has a chance to succeed.

I urge the Senate and the President to pass our jobs bills and work with us to get the American people back to work.

□ 1210

#### IT'S TIME TO GET RID OF THE SPECULATORS

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute.)

Mr. DEFAZIO. I paid \$4.01 a gallon at home in Oregon last weekend. There's a lot of people who've got long-term plans, drill now, drill here, drill everywhere, conservation, whatever. They say there's nothing we can do in the short-term. Well, there is.

Seventy percent of the oil futures, the supply of oil, is owned by speculators on Wall Street and other places around the world—70 percent. The head of ExxonMobil testified that about \$38 a barrel is due to speculation. That's the head of ExxonMobil. He says we're paying 38 bucks a barrel for speculators on Wall Street.

Goldman Sachs says, well, it's only \$22 to \$28 a barrel. Let's take the lowest number, \$22 a barrel. That would lower regular gas by 64 cents a gallon if we got rid of the speculators.

I've proposed a tax of 1/100 of 1 cent per transaction that would drive most of these speculators out of the market and raise some revenues.

It's time to get rid of the speculators, provide price relief to Americans, and then we can talk about a long-term plan for energy self-sufficiency.

#### THE JOBS ACT

(Mr. HENSARLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HENSARLING. Madam Speaker, the President's policies have failed and, indeed, made our economy worse. For three straight years, unemployment has been above 8 percent, and the Congressional Budget Office predicts now that will last through 2014, the worst period of sustained high unemployment since the Great Depression.

America has a deficit of jobs because America's job creators have a deficit of confidence in this administration. New business startups are at an almost 17-

year low, and that's why House Republicans have a plan for America's job creators that will help ease the President's job-killing policies.

Our plan will continue to unfold this week when the House votes on the actual JOBS Act to help small businesses and entrepreneurs access vital equity capital and put Americans back to work. The bill does exactly what the President's own job council recommends. It's time, for once, to work together to pass the bipartisan JOBS Act and give the American people the jobs and recovery they deserve.

#### HONORING THE LIFE OF CONGRESSMAN DONALD PAYNE

(Ms. LEE of California asked and was given permission to address the House for 1 minute.)

Ms. LEE of California. Madam Speaker, last night we lost a world leader, a father, a grandfather, a brother, an uncle, a great leader who consistently brought light to human suffering taking place around the world and what we here in Washington, D.C., can do for it.

It is with a heavy heart that I rise today in memory and in honor of Congressman DON PAYNE, a brilliant leader, former chair of the Africa Subcommittee on Foreign Affairs, and to do what I'm sure he would be doing if he were with us today, speak out against the massacres taking place in Sudan.

These killings are taking place in the Sudanese state of South Kordofan, outside the view of this Congress, and most Americans are unaware of this humanitarian catastrophe unfolding in the same region where we saw bloodshed in Darfur for many, many years.

Madam Speaker, on this day of mourning for Representative PAYNE, I know he would want us to recommit ourselves to act to prevent further bloodshed and suffering in Sudan.

My thoughts and my prayers are with Congressman PAYNE's family, his friends, and his constituents. May his legacy live forever. I will deeply miss his wise counsel and his friendship.

#### HONORING THE LIFE OF CONGRESSMAN DONALD PAYNE

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Madam Speaker, today the House of Representatives lost a distinguished Member who served with honor for more than two decades. I had the pleasure of working with DONALD PAYNE many times over the years. He had an incredible heart for Africa and suffering people in every corner of the continent.

From Morocco to South Africa, he was a tireless advocate for freedom and

self-determination. We worked together speaking on behalf of the Sahrawi people in Western Sahara. Representative PAYNE watched Western Sahara closely, working toward a peaceful resolution that would allow for a free referendum that could establish self-government.

We also worked together in 2007 to recognize the 200th anniversary of the abolition of the British slave trade and to honor the legacy of William Wilberforce.

And in one amazing episode, he risked his life seeking peace in Sudan and nearly had his plane shot down in 2009.

DONALD PAYNE never missed an opportunity to advocate on behalf of the oppressed, and his work has had a lasting impact on the human rights of people around the world. I'm proud to have fought the good fight alongside of him. He will be missed.

#### GAS PRICES ARE KILLING THE AMERICAN CONSUMER

(Mr. WELCH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELCH. Gas prices are killing the American consumer. They're doing real damage to small businesses.

In my State, Cabot Creamery, which has fixed price contracts to deliver cheese, very important to farmers, very important to that business, price of gas going up a dollar, it's like another \$135,000 off their bottom line.

There are long-term issues we've got to address, but you know what? There's stuff we can do in the short term. The futures market has been flipped upside down. It should be serving end users like airlines, fuel dealers. Instead, it's been taken over by speculators.

Goldman Sachs study says about \$23 on the price of a barrel of oil is attributable to speculation. That's about 56 cents when you go to fill up your pickup truck, about an extra 15 bucks just for the speculation premium.

Past Presidents have used the Strategic Petroleum Reserve to spook the speculators, to send a shot across their bow that they're going to be on the wrong side, the losing side of these trades. Let's use the Strategic Petroleum Reserve to give some relief to our consumers and to our small businesses.

#### THE JOBS ACT

(Ms. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. HAYWORTH. Madam Speaker, I received a letter from a young constituent who is a vigorous Boy Scout and a great citizen, Matthew Barbuti from Yorktown Heights, New York. He's only in sixth grade, but he's very

concerned about our economy. And he wrote to me, "If the economy doesn't turn around, our country will no longer be a world leader, and the American people will suffer."

Matthew, you are exactly right. We do have a tremendous job ahead of us, and we are working here, all of us together, for you and for all the kids in this country who need a future, the kind of dreams that we have been privileged to dream.

So this week, we're bringing to the House floor the JOBS Act, part of a whole package of jobs bills that we've been sending to our colleagues in the Senate, and we certainly hope that, with Democratic and Republican support, and with the President's support of this bill as well, we'll be able to activate that economy to create the kind of jobs and opportunities that all of us need throughout this country, no matter where we come from.

Thank you, Matthew, for your common sense.

#### THE GOP'S ASSAULT ON WOMEN

(Mr. YARMUTH asked and was given permission to address the House for 1 minute.)

Mr. YARMUTH. Madam Speaker, Rush Limbaugh's appalling attack on Georgetown student Sandra Fluke is no isolated incident, but part of a broader GOP assault on women's health.

Republicans have ushered in Women's History Month with legislation to allow employers and insurance companies to deny women needed health coverage. But let's also take a look at their recent record on issues important to women's health.

Last year, Republicans voted to end Federal funding for Planned Parenthood, the largest provider of reproductive health services in the United States. They voted to eliminate funding for Title X family planning which, for 40 years, has provided family planning services, cancer screenings, and other preventive health services to low-income women.

And with their attempt to repeal the health care reform law, Republicans voted to allow insurance companies to, once again, deny women coverage if they've ever been pregnant, had a C-section, or been the victim of domestic violence.

Madam Speaker, Republicans' idea of Women's History Month is reenacting the women's equality fight of 100 years ago.

I call on my GOP colleagues to join us here in the 21st century, where women not only raise families, they have jobs, and they even wear pants.

#### CONGRATULATING BRIDGET BROWN ON RECEIVING THE 2012 SELF-ADVOCATE OF THE YEAR CHAMPION OF CHANGE AWARD

(Mrs. BIGGERT asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BIGGERT. Madam Speaker, hundreds of advocates from across the country traveled to Capitol Hill last week to raise awareness on behalf of the National Down Syndrome Society. Today I rise to congratulate one of those individuals, Bridget Brown, who is being honored with the 2012 Self-Advocate of the Year Champion of Change Award.

A resident of Darien, Illinois, Bridget has helped to empower and inspire thousands of others with Down Syndrome to lead full and successful lives. A role model, mentor, and national speaker, she graduated from high school in 2005 after becoming the first person with Down Syndrome to be included in her school district. She helped to promote among Illinois educators the concept of inclusion, and launched her own advocacy organization called Butterflies for Change.

I applaud Bridget for her amazing work at the local and national level to help others achieve their full potential. She has made her State and her community proud, and I wish Bridget continued success in her efforts on behalf of the more than 400,000 Americans with Down Syndrome.

□ 1220

#### PROTECT AMERICAN MANUFACTURING

(Ms. BALDWIN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. BALDWIN. Madam Speaker, I rise today in support of H.R. 4105, a bill that would allow us to protect American manufacturing, including Wisconsin's paper industry, from unfair Chinese trade practices.

The simple fact is that China is cheating. Chinese manufacturers are not outcompeting American manufacturers. Chinese companies receive direct subsidies from their government to help them undercut American businesses. We've seen the result this has had on our manufacturing base, and in my home State of Wisconsin, particularly on our paper industry.

In the paper sector alone, China has provided more than \$33.1 billion in subsidies from 2002 to 2009 and is now the world's largest producer of paper and paper products. Hardworking American businesses in these and other sectors rely on countervailing duties to combat these illegal subsidies and help them keep their doors open.

Last month, I introduced bipartisan legislation to ensure the Department of

Commerce has the legal authority to impose these countervailing duties on subsidized imports from countries like China. I am very proud to see that legislation incorporated in the larger bill before us later today, and I urge my colleagues to vote "aye."

#### WELCOMING ISRAELI PRIME MINISTER BENJAMIN NETANYAHU

(Mr. YODER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. YODER. Madam Speaker, I rise today to welcome Israeli Prime Minister Benjamin Netanyahu on his visit to the United States and to reaffirm our commitment to our strongest ally, Israel.

As Prime Minister Netanyahu visits our Nation, Israel presently stands in the shadow of a threatening neighbor who is intent on producing nuclear weapons.

Israel must remain the master of its fate and be able to defend itself against Iran. Iran's nuclear program is unequivocally a threat to Israel's existence and a threat to stability throughout the whole Middle East region and throughout the whole world by way of proliferation. There is no telling who Iran may sell their enriched uranium to; but their state policy of sponsoring groups that promote terrorism, it's not hard to speculate on the dire consequences.

Madam Speaker, as we work together to combat global terrorism and those that would threaten peace, democracy, and stability in the world, we must stand strong behind our ally Israel.

#### WOMEN WAIT AS POLITICIANS DEBATE THEIR CARE

(Ms. JACKSON LEE of Texas asked and was given permission to address the House for 1 minute.)

Ms. JACKSON LEE of Texas. Madam Speaker, I have a headline here this morning that indicates, "Women Wait as Politicians Debate Their Care."

This is not a story about accusations or calling college coeds prostitutes and, if you will, sluts and other negative words. This is about women's access to health care, and I'm sad to even say those words, but we see them broadcast across America's Federal airwaves by talk show entertainers like Rush Limbaugh. This young woman's name is Kimberly Moore, who is caught in a conflict in the State of Texas with the Women's Health Program that is funded by Medicaid and the decision of the State of Texas to evict Planned Parenthood from caring for women like Kimberly, a single mother working part time, who can't afford health care.

Between judges who want to accuse our President of dastardly things through jokes and the idea of keeping

women away from access to health care, that should not resolve around their choice of contraceptives, but plain old health care, it's time for us to stand with the women of America and the decent people of America, to stand with this President, to stand with the idea of providing women health care, and to stand against those who are in States where they want to reject Planned Parenthood for simply giving health care access to women and to stand against divisive corrosive language.

#### AFFIRMING SUPPORT FOR THE STATE OF ISRAEL

(Mr. PALAZZO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PALAZZO. Madam Speaker, like many of my colleagues, I have visited the State of Israel. I have walked the streets of Jerusalem, and I have seen firsthand the beauty of its people, its culture, and its incredible history and heritage.

Prime Minister Benjamin Netanyahu reminded us of that heritage last night as he addressed a crowd of thousands, and I know he is on Capitol Hill again today sending the same message: serious threats have been made towards Israel, and Israel must take threats seriously, especially when dealing with a madman working toward a nuclear weapon.

No one wants a war in an area where world peace rests on such a delicate balance. No one wants to have to initiate unnecessary aggression. I have supported sanctions. I have supported resolutions of disapproval. I want to believe that Iran's offer today to allow U.N. weapons inspectors in means that they have nothing to hide.

If our friends in Israel decide to act, I know it will not be a decision made lightly nor without good reason. I urge my colleagues to join me in affirming our support of Israel, not just to stand behind her but to stand beside her.

#### NATIONAL BREAKFAST WEEK

(Mr. COHEN asked and was given permission to address the House for 1 minute.)

Mr. COHEN. This week is National Breakfast Week, which offers an opportunity to talk about the importance of a healthy breakfast for America's children. Breakfast, as we've all heard, is the most important meal of the day. Studies have shown that breakfast can help boost a child's academic performance and can also improve classroom behavior, reduce absences and tardiness, as well as increase mental focus and physical performance. However, according to the U.S. Department of Agriculture, one in five children live in homes where food is not always avail-

able, making breakfast often hard to come by.

I want to commend Kellogg's, which has a cereal plant in my district, and Action for Healthy Kids for starting the Share Your Breakfast program which provides grants directly to school or school districts to help them increase participation in school breakfast programs. Our children need to receive a holistic, well-rounded education, one that includes staying active and fit and, most importantly, starts off with a healthy breakfast.

I'm off to lunch.

#### JUMPSTART OUR BUSINESS STARTUPS

(Mr. SCHWEIKERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHWEIKERT. Madam Speaker, this is going to be one of those weeks where I believe we can be proud here in the House. We're going to be moving forward with a jobs bill we've monikered Jumpstart Our Business Startups. I just had in my office a coalition from high-tech companies from Arizona, and they unanimously had a story to tell, and that was a story of the difficulty in finding capital for moving small companies, small organizations, these organizations that are creating jobs.

I'm particularly blessed this week to have multiple bills in the package. One is the Small Company Capital Formation bill, a Private Company Flexibility and Growth Act of the six bills that are coming.

I'm proud of the House. I look forward to these bills moving forward.

#### REMEMBERING THE HON. DONALD PAYNE

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Madam Speaker, I would like to speak about my dear friend and colleague, DONALD PAYNE, who passed away this morning. I saw him on Saturday for the last time, and I can't think of anybody who in this House has been closer to me and someone who made it so much better for us to be in Congress, not only for all of us as colleagues but also for the rest of the world.

DONALD always made me smile. DONALD was a very serious person who cared so much about his constituents in Norwich and the rest of the towns that he represented in New Jersey and really reached out to the rest of the world. He was always looking out for the concerns of the poor and the disadvantaged and the people in need, whether it was their health care or whether they had adequate food or housing.

But I think more than anything else, I remember his smile. He would always be happy. He would always have a joke to say; and, frankly, in dealing with all the serious issues that he dealt with and he cared so much about, both here at home, as well as overseas, it was always nice to have someone that you could call a friend, that you could confide in, that you could talk to about your own problems as well, but always with that smile, always with that joke, always with the ability to say, FRANK, you know, let's not take ourselves too seriously, even though we have a lot of serious work to do.

I will sorely miss him. I don't think there will be anybody who can replace him, and I just want to reach out to his family and his friends back at home today and express my sympathy to all of them for such a wonderful person that you were able to share some time with here.

Ms. JACKSON LEE of Texas. Would the gentleman yield for just a moment?

Mr. PALLONE. I yield to the gentleman.

Ms. JACKSON LEE of Texas. Just one simple statement. I couldn't leave the floor.

Just to express our love and affection for DON PAYNE and just to say that he saved lives because he intruded in places like Africa and Sudan, in Africa and many other places. He saved lives because of his compassion for people, his fight for human rights, and his fight for peace.

Mr. PALLONE. Thank you.

□ 1230

#### REMEMBERING THE ALAMO

(Mr. OLSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OLSON. Madam Speaker, 176 years ago, the Alamo fell. Every Texan fighting for independence was either killed or executed. I would like to read a portion of the last letter sent from the Alamo by its commander:

Fellow citizens and compatriots, I am besieged by 1,000 or more of the Mexicans under Santa Anna. I have sustained a continual bombardment and cannonade for 24 hours and have not lost a man. The enemy has demanded a surrender at discretion. Otherwise, the garrison are to be put to the sword . . . I have answered the demand with a cannon shot, and our flag still waves proudly from the walls. I shall never surrender or retreat . . . Victory or death.

Signed, William Barret Travis, Lieutenant Colonel Commander at the Alamo.

Remember the Alamo. God bless Texas.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. MILLER of Michigan). Pursuant to

clause 8 of rule XX, the Chair will postpone further proceedings today on the motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote incurs objection under clause 6 of rule XX.

Any record vote on the postponed question will be taken later.

#### APPLYING COUNTERVAILING DUTY PROVISIONS TO NONMARKET ECONOMY COUNTRIES

Mr. CAMP. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 4105) to apply the countervailing duty provisions of the Tariff Act of 1930 to nonmarket economy countries, and for other purposes.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 4105

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. APPLICATION OF COUNTERVAILING DUTY PROVISIONS TO NONMARKET ECONOMY COUNTRIES.

(a) IN GENERAL.—Section 701 of the Tariff Act of 1930 (19 U.S.C. 1671) is amended by adding at the end the following:

“(f) APPLICABILITY TO PROCEEDINGS INVOLVING NONMARKET ECONOMY COUNTRIES.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the merchandise on which countervailing duties shall be imposed under subsection (a) includes a class or kind of merchandise imported, or sold (or likely to be sold) for importation, into the United States from a nonmarket economy country.

“(2) EXCEPTION.—A countervailing duty is not required to be imposed under subsection (a) on a class or kind of merchandise imported, or sold (or likely to be sold) for importation, into the United States from a nonmarket economy country if the administering authority is unable to identify and measure subsidies provided by the government of the nonmarket economy country or a public entity within the territory of the nonmarket economy country because the economy of that country is essentially comprised of a single entity.”.

(b) EFFECTIVE DATE.—Subsection (f) of section 701 of the Tariff Act of 1930, as added by subsection (a) of this section, applies to—

(1) all proceedings initiated under subtitle A of title VII of that Act (19 U.S.C. 1671 et seq.) on or after November 20, 2006;

(2) all resulting actions by U.S. Customs and Border Protection; and

(3) all civil actions, criminal proceedings, and other proceedings before a Federal court relating to proceedings referred to in paragraph (1) or actions referred to in paragraph (2).

#### SEC. 2. ADJUSTMENT OF ANTIDUMPING DUTY IN CERTAIN PROCEEDINGS RELATING TO IMPORTS FROM NONMARKET ECONOMY COUNTRIES.

(a) IN GENERAL.—Section 777A of the Tariff Act of 1930 (19 U.S.C. 1677f-1) is amended by adding at the end the following:

“(f) ADJUSTMENT OF ANTIDUMPING DUTY IN CERTAIN PROCEEDINGS RELATING TO IMPORTS FROM NONMARKET ECONOMY COUNTRIES.—

“(1) IN GENERAL.—If the administering authority determines, with respect to a class or kind of merchandise from a nonmarket economy country for which an antidumping duty is determined using normal value pursuant to section 773(c), that—

“(A) pursuant to section 701(a)(1), a countervailable subsidy (other than an export subsidy referred to in section 772(c)(1)(C)) has been provided with respect to the class or kind of merchandise,

“(B) such countervailable subsidy has been demonstrated to have reduced the average price of imports of the class or kind of merchandise during the relevant period, and

“(C) the administering authority can reasonably estimate the extent to which the countervailable subsidy referred to in subparagraph (B), in combination with the use of normal value determined pursuant to section 773(c), has increased the weighted average dumping margin for the class or kind of merchandise,

the administering authority shall, except as provided in paragraph (2), reduce the antidumping duty by the amount of the increase in the weighted average dumping margin estimated by the administering authority under subparagraph (C).

“(2) MAXIMUM REDUCTION IN ANTIDUMPING DUTY.—The administering authority may not reduce the antidumping duty applicable to a class or kind of merchandise from a nonmarket economy country under this subsection by more than the portion of the countervailing duty rate attributable to a countervailable subsidy that is provided with respect to the class or kind of merchandise and that meets the conditions described in subparagraphs (A), (B), and (C) of paragraph (1).”.

(b) EFFECTIVE DATE.—Subsection (f) of section 777A of the Tariff Act of 1930, as added by subsection (a) of this section, applies to—

(1) all investigations and reviews initiated pursuant to title VII of that Act (19 U.S.C. 1671 et seq.) on or after the date of the enactment of this Act; and

(2) subject to subsection (c) of section 129 of the Uruguay Round Agreements Act (19 U.S.C. 3538), all determinations issued under subsection (b)(2) of that section on or after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan (Mr. CAMP) and the gentleman from Michigan (Mr. LEVIN) each will control 20 minutes.

The Chair recognizes the gentleman from Michigan (Mr. CAMP).

#### GENERAL LEAVE

Mr. CAMP. Madam Speaker, I yield myself such time as I may consume.

I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. CAMP. Madam Speaker, I urge the passage of this legislation to ensure that we can continue to fight unfair subsidies from countries like China that violate the WTO, injure our industries, and cost U.S. jobs. This legislation reaffirms that our antitrust laws, or countervailing duty laws, apply to subsidies from China and other nonmarket countries, and it overturns an erroneous decision by the Federal circuit that the Department of Commerce does not have the authority to apply these countervailing duty rules to nonmarket economies.

China distorts the free market by giving enormous subsidies to its producers and exporters, and our companies and our workers should not be expected to compete against the deep pockets of the Chinese Government. That is why it is vital that we preserve this important tool and ensure that current countervailing duty orders and investigations from nonmarket economies remain in place and that this important tool is available in the future.

In addition, this legislation fully complies with our WTO obligations. China agreed to be subject to countervailing duty laws when it joined the WTO in 2001, and the WTO has reaffirmed our right to apply these laws to China. Failing to enact this legislation would mean that we're unilaterally giving away a right that allows us to protect American workers. This legislation also brings the United States into compliance with its obligations by requiring the Department of Commerce to make an adjustment when there is evidence of a double remedy.

Finally, I am pleased that this legislation, which has already passed the Senate, is bipartisan and has administration support.

For all of these reasons, we urgently need to pass this important legislation. I urge all of my colleagues to support this bipartisan bill.

Madam Speaker, I reserve the balance of my time.

Mr. LEVIN. Madam Speaker, I yield myself such time as I may consume.

This bill will send a clear signal, especially with an overwhelming vote, that there are clear consequences when a nation violates the rules. China is, indeed, tilting the field of competition by not playing by the rules. This bill restores a key instrument for our Nation to hold China and other nations accountable. The failure to pass it would be an enormous step backwards at a time when, indeed, we need to fast-forward our efforts to rein in China's abusive trade practices that, in part, have led to our record \$295 billion trade deficit with China. This legislation ensures that tools remain available under U.S. trade law so that manufacturers can fight back against China's unfair trade subsidies.

Countervailing duties have been a part of U.S. trade law for nearly 120 years, and today, almost one-half—23 of 50—of all countervailing duty orders in place involve China. This is not surprising. A central element of Chinese industrial policy has been to provide massive subsidies to its producers to help them knock out competitors and to dominate the market. These include loans at below-market interest rates, cheap or sometimes free land, extensive tax breaks, and other subsidies designed to advantage domestic industry.

To date, countervailing duties have been the singular form of relief available to American workers and companies devastated by these mercantilist

policies. Over the last 6 years, Commerce has put in place 23 countervailing duty orders against China—23—and five other investigations are currently underway. More than \$4 billion in subsidized imports have been covered by these measures, shielding an estimated 80,000 American jobs from unfair competition.

Yet, in December, based on a deeply flawed assessment of congressional intent, the court of appeals for the Federal circuit ruled that Commerce, which administers our countervailing duty laws, does not have the authority to apply those laws to nonmarket economy countries like China. That decision threatens to eviscerate the U.S. right to apply countervailing duties to China, a right protected under WTO rules; and it threatens to cripple Commerce in its efforts to combat Chinese subsidies that harm our industries.

With this bill, we are making clear that the Federal circuit's decision was wrong and that it cannot stand. Commerce has always had the authority to apply countervailing duties to nonmarket economies such as China, and now it shall continue to have and exercise this vitally important authority in the future.

Because of this bill—and I urge the strongest possible support—tens of thousands of American workers and scores of American companies in 38 States across this country that have shown that they are entitled to relief from unfair subsidization by nonmarket economies will continue to get that relief. This bill ensures all of the existing orders and investigations remain in place.

For these reasons, I support the passage of H.R. 4105, and I urge all of my colleagues to support it.

Madam Speaker, I reserve the balance of my time.

Mr. CAMP. I yield 2 minutes to the distinguished chairman of the Trade Subcommittee, the gentleman from Texas (Mr. BRADY).

Mr. BRADY of Texas. Madam Speaker, I strongly support the passage of this bill.

When China repeatedly undermines the free market by subsidizing its exports to the United States, we can't just give them a pass, especially when the businesses China subsidizes are often government-owned businesses that compete unfairly against our American companies and workers.

□ 1240

If you don't believe the American Government should pick winners and losers in the marketplace, you certainly don't support the Chinese Government doing the same. There is an important distinction between the duties that seek to protect companies that are afraid to compete in the marketplace—those I oppose—and in this case duties assessed against those who

try to distort the free market through unfair government subsidies.

It's a distinction between the price of legal software and illegal software. We would shoot ourselves in the foot if we denied this important tool to protect the free market for American workers.

It's important, as Chairman CAMP noted today, that this legislation is WTO consistent and fully within America's rights when dealing with China and other nonmarket economies. It's also important that this bill addresses the double-remedies laws in the right way to ensure that America applies these laws in accordance with our WTO obligations.

In conclusion, this legislation ensures the freedom of U.S. companies and workers to compete in a market that is not distorted by the Chinese Government. It restores free market principles by allowing us to address China's unfair subsidies. It has no different impact on consumers than enforcing our intellectual property laws.

We owe it to America's job creators and our workers to make sure we have the tools at our disposal to offset such unfair trade practices and allow the free market to work properly. That's why I urge strong support for this vital legislation.

Mr. LEVIN. I yield 1½ minutes to a distinguished member of our committee, the gentleman from Massachusetts (Mr. NEAL).

Mr. NEAL. I thank the gentleman.

Madam Speaker, I certainly rise in support of this legislation, which confirms that the Commerce Department can continue to apply countervailing duties on subsidized imports from countries with nonmarket economies such as China and Vietnam.

In fact, this legislation strengthens the opportunity to use an international forum for the prescribed purpose of resolving disputes. If our trading partners are not playing by the rules, it's imperative that the United States have the tools to challenge these unfair practices. Countervailing duties level the playing field for U.S. employers and workers and allow them to compete against imports that are subsidized through unfair trade practices, emphasis on the word "unfair."

Since the Commerce Department started applying these duties in 2007, it is estimated that countervailing duties have protected an estimated 80,000 jobs in the United States. At the same time, it's important to point out this is not a protectionist measure. It strengthens our hand in dealing with negotiations.

Let's pass this commonsense legislation and keep American jobs defended against unfair trade practices.

Mr. CAMP. I yield 2 minutes to the distinguished gentleman from California (Mr. ROHRBACHER).

Mr. ROHRBACHER. I rise in favor of H.R. 4105 because we need to have every tool we can muster to fight Chi-

na's unfair trade practices, which not only steal markets and jobs from American producers, but also provides Beijing with a means to finance its military buildup and expanding influence around the world.

This bill should not have been necessary. It overturns a faulty court decision that claimed U.S. law prohibits the Department of Commerce from applying countervailing duties to nonmarket economies. Yet nonmarket economies, where the government directs business through trade subsidies, national planning and state ownership of firms, this is where the greatest abuses occur that distort the market.

Unfortunately, our system to combat trade abuses and unfair foreign practices does not work. We have had a massive transfer, which is evident, when we see that we have had a massive historic transfer of wealth from the American people to China over these last few decades. That policy should have been corrected long ago to prevent this deprivation of the American people.

Furthermore, this bill allows the Commerce Department to adjust actions to avoid future negative findings by the World Trade Organization. Again, this should not be necessary because China should not be part of the World Trade Organization. It is not a market economy and thus should have been denied membership. It has not lived up to its obligations of WTO membership, and thus Beijing should not be made a stakeholder in world affairs.

It remains an aggressive, communist dictatorship that supports every rogue enemy of the United States. It is the world's number one proliferator of nuclear technology and the number one abuser of human rights. It is a land of cronyism, corruption, and repression. We should not be helping a country ruled by this kind of government grow while we stagnate.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. CAMP. I yield the gentleman an additional 15 seconds.

Mr. ROHRBACHER. We ran a record \$295 billion trade deficit in goods with China last year at a time when the U.S. economy was trying to struggle from a recession and we had high unemployment. This bill would be a small step in the right direction; but we need to do much more to restore growth and balance to our international, economic and strategic relations with other countries, especially China. We should end this massive transfer of wealth from our people to China. It's a sin against our own people.

Mr. LEVIN. I yield 2 minutes to another distinguished member of our committee, the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Thank you, Mr. LEVIN. I appreciate the fact that our



chairman, Mr. CAMP, and our ranking member, Mr. LEVIN, are here today advancing H.R. 4105.

We are not going to unring the bell.

The Chinese Government is an important part of the world economy. We are interrelated and interdependent. American people buy things from China every day. I was happy to have them be part of the WTO so there would be rules of the road.

It's not about protectionism for the United States. It is making sure that our competitors in China play by the rules. Too often we have seen that they don't. We've seen their massive unjustified subsidies. We've found cheating in the international arena in terms of stealing intellectual products, stealing Web sites. The Chinese Government needs to be encouraged directly to play by the same sorts of rules.

If America is on a level playing field, our manufacturers can work and compete against the best the world has to offer. But, unfortunately, related to China right now, it is too often not a level playing field. This is an important step going forward to make sure that we can rebalance the equation.

I hope that the administration will be aggressive in using the tools that it has to make sure the rules of the road are observed. This has been a frustration I have had since I have been in Congress with both Republican and Democratic administrations. I don't think we have done all, in fact, that we could. I hope that we will.

I think this bill is a step in the right direction, and I appreciate the bipartisan show of support from our committee to move it forward. I hope that the House passes it overwhelmingly, and that it is something that the other body moves on, so that we can have this tool back in our tool kit.

Mr. CAMP. I yield 2 minutes to the distinguished chairman of the Oversight Subcommittee, the gentleman from Louisiana, Dr. BOUSTANY.

Mr. BOUSTANY. Madam Speaker, I rise in strong, vigorous support of H.R. 4105, and I want to commend Chairman CAMP for his leadership in bringing this appropriate bill to the floor today.

As a supporter of free and fair trade, I believe that U.S. companies and workers deserve a level playing field in order to successfully compete around the world. This bill restores Commerce's ability to protect American jobs and companies from unfair, WTO-inconsistent practices, inconsistent trade practices perpetrated by non-market economies, mainly China and Vietnam.

This is an important tool being used by several industries in my home State of Louisiana, the ability to use countervailing duties, companies that produce steel pipe, aluminum extrusion, woven sack industries, just to name a few. More importantly, many key industries such as shrimp proc-

essors want to make sure that this tool remains in place in case they need to use it in the future to deal with unfair trade practices.

As our industries expand and compete for businesses around the world, it's irresponsible to not have these types of measures, enforcement measures, in place and to take this vital tool away from the Department of Commerce.

□ 1250

This has been a practice that is WTO compliant. We have used it for years, and now because of a recent Federal court ruling, it has been taken away.

The bill simply amends the 1930 Tariff Act to allow this WTO-compliant technique to be used to impose countervailing duties on nonmarket economies when they use unfair subsidies. It's fully consistent with our international trade obligations, it restores current practices, and it is the right thing to do for American businesses and workers. I strongly encourage our colleagues in this House to support this important bill.

AMERICAN SHRIMP  
PROCESSORS ASSOCIATION,  
*Biloxi, MS, March 5, 2012.*

Hon. DAVE CAMP,  
*Chairman, Ways and Means Committee, Cannon House Office Building, Washington, DC.*

Hon. SANDER M. LEVIN,  
*Ranking Member, Ways and Means Committee, Longworth House Office Building, Washington, DC.*

DEAR CHAIRMAN CAMP AND RANKING MEMBER LEVIN: The American Shrimp Processors Association (ASPA) strongly supports, H.R. 4105, the bill you introduced on February 29, "to apply the countervailing duty provisions of the Tariff Act of 1930 to nonmarket economy countries." We appreciate that you took the lead on this measure and are working hard to quickly pass this critical bipartisan legislation that allows the Commerce Department to continue to apply countervailing duty laws to non-market economies. We believe passage of this measure is critical to the continued ability of domestic industries like ASPA to fight unfair Chinese and Vietnamese trade practices. Additionally, we salute the strong support offered to this measure by our Gulf coast Ways and Means Committee Member Charles Boustany, Jr.

This bipartisan and bicameral legislation aims to correct a problematic decision by the Court of Appeals for the Federal Circuit that found that U.S. law prohibits the Department of Commerce from applying countervailing duties to non-market economies like China and Vietnam. We understand that Congress must act by March 15th to ensure that the law is changed prior to final action in the courts.

As a domestic industry that has struggled to survive amidst a barrage of subsidized imports from Asian non-market and market economies alike, ASPA has a strong interest in seeing U.S. countervailing duty law enforced. If the Congress were to do nothing, important trade orders already in place on subsidized imports from China and Vietnam would disappear. These orders have corrected Chinese and Vietnamese practices that have injured a broad range of domestic industries and threatened the jobs of tens of thousands of American workers.

Additionally, and more importantly to ASPA members, the recent Court decision would prohibit the U.S. shrimp industry from ever using the U.S. trade laws designed to correct unfair government subsidies on shrimp exported from non-market economies like China and Vietnam, which have been flooding the U.S. market for years.

While the U.S. shrimp industry has repeatedly demonstrated its resilience in the past, the failure to pass this important legislation leaves the domestic shrimp industry, and all U.S. industries, at a permanent disadvantage, as they will be unable to take any action to redress the harm that subsidized imports from non-market economies cause. All our major trading partners have trade laws that allow them to go after government subsidies from non-market economies. Why would the United States want to unilaterally disarm?

Without this legislative fix, ASPA members' ability to go after egregious trade practices in China and Vietnam would be severely limited. ASPA urges you to maintain a level playing field for all domestic industries by passing this legislation this week.

Sincerely,

C. DAVID VEAL,  
*Executive Director.*

Mr. LEVIN. Madam Speaker, I now yield 2 minutes to Mr. PASCRELL from the great State of New Jersey, another very active member of our committee.

Mr. PASCRELL. Madam Speaker, as cosponsor of this legislation, I rise in strong support of the bill. I want to thank Chairman CAMP and Ranking Member LEVIN for working together in a bipartisan way to address this issue, and I hope this is the beginning of more bipartisan trade negotiations amongst ourselves. I think it's healthy.

We all know that China uses a variety of mercantilist measures to distort trade with the United States. Illegal subsidies—we must admit we are not playing on a level playing field when they are allowed to subsidize their industry, and we don't choose to do that. Second, forced technology transfers. And, third, currency manipulation.

It is important that our government have every tool at its disposal in order to combat these abuses and others. This legislation will once again allow the application of our countervailing duty laws and the enforcement of existing orders to nonmarket economies like China.

But we must go further if we are going to level this playing field with China in a way that truly benefits American workers and businesses. We need to extend our trade remedy laws to cover currency manipulation, an approach embraced by a large bipartisan majority of this body that could create over a million jobs.

Also, I believe we must embrace and fully fund the President's new Inter-agency Trade Enforcement Center to focus our resources on leveling the playing field with China. We can't continue to sit on our hands while Chinese businesses undercut American workers and our manufacturing base continues to drift overseas. Let's not stop with

the passage of this bill, but continue to move forward on a fair trade policy that places American workers and businesses first.

Mr. CAMP. Madam Speaker, at this time I yield 1 minute to the distinguished gentlewoman from North Carolina (Mrs. ELLMERS).

Mrs. ELLMERS. Madam Speaker, I would like to thank the chairman for bringing this very, very important piece of legislation to the floor for a vote. I'm here to join my colleagues in support of H.R. 4105, which will protect the free market and prevent American businesses from unfair dumping practices by countries such as China.

Madam Speaker, I hear from businesses in North Carolina every day who are telling me that in order to compete in the global market, action must be taken to prevent nonmarket countries like China from distorting the market and costing American jobs.

Since 2007, the Department of Commerce has applied countervailing duties to Chinese products where it determines that China has provided unfair subsidies that violate its WTO obligations. These duties are not punitive; they merely serve as a correction to unfair Chinese subsidies. They restore the level playing field that U.S. industries and small businesses—such as wire producers and textile companies in North Carolina—provide.

The SPEAKER pro tempore. The time of the gentlewoman has expired.

Mr. CAMP. I yield the gentlewoman an additional 15 seconds.

Mrs. ELLMERS. I thank the gentleman.

H.R. 4105 will ensure that the Department of Commerce can continue to apply countervailing duty and anti-subsidy laws to nonmarket economies that are violating current law. At the same time, we need robust trade policies that will strengthen our economy and build upon the partnerships we have made with countries around the world.

Mr. LEVIN. Madam Speaker, I now yield 2 minutes to the gentleman from Maine (Mr. MICHAUD) who is very active in trade matters.

Mr. MICHAUD. Madam Speaker, I rise today in strong support of H.R. 4105. I want to thank the chairman and the ranking member for their efforts in bringing this bill before this body. Passing this bill will ensure that the Commerce Department has the authority to apply tariffs on illegally subsidized goods from China and other nonmarket economies.

For the State of Maine, passing this bill will protect the countervailing and anti-dumping duties in place on coated paper imports from China. From 2002 to 2009, China provided more than \$33 billion in subsidies, many of them illegal, to the paper sector. As a result, China overtook the United States as the world's largest producer of paper and

paper products. This growth in Beijing's paper sector hits Maine's mills hard.

Since 2008, Maine workers from both Suppi Fine and NewPage companies have become eligible for trade adjustment assistance after they were laid off as a result of increased foreign imports. But after countervailing and anti-dumping duties were applied to paper imports from China, one mill hired 100 employees. This is just one example of how much of a difference countervailing duties can make for an American company having to compete against illegally subsidized Chinese goods.

H.R. 4105 will ensure that countervailing duties can continue to be applied to illegally subsidized goods from all countries, including China. This bill is critical to ensuring that our American businesses compete on a level playing field, and I urge all my colleagues to vote for it. And I want to once again thank the chairman and the ranking member for their efforts in bringing this bill forward. It's always good to be on the same side as the chair and the ranking member.

Mr. CAMP. Madam Speaker, I yield 1 minute to the distinguished gentleman from Pennsylvania (Mr. KELLY).

Mr. KELLY. Madam Speaker, I thank the chairman. I rise today in strong support of H.R. 4105.

Where I'm from in northwest Pennsylvania, western Pennsylvania, we relish competition. In fact, we can't wait to go head-to-head and toe-to-toe with anybody, anytime, anyplace in the world. The only thing we ask for is a level playing field, something that's fair for everyone.

And when you look at markets in Vietnam and China and other nonmarket economies that are able to game us, we don't like it. So places like Sharon Tube and Wheatland Tube, those are the workers I'm talking about. And those are workers who I will tell you today would stand here with us, arm-in-arm, in saying, Bring it on. Bring it on. We want the competition. We can prove to the competition that we are the best and always will be the best, but keep it a level playing field, keep the rules where they should be, and enforce them.

Mr. LEVIN. I now yield 1 minute to Mr. CRITZ from the great State of Pennsylvania, a gentleman who is most active on these issues.

Mr. CRITZ. Madam Speaker, I thank Mr. LEVIN. As a cosponsor of this bill, I rise in strong support of H.R. 4105.

In 2011, the U.S. Court of Appeals ruled that the Department of Commerce did not have the authority to impose countervailing duties on goods from nonmarket economies. Of the 24 countervailing duties currently in place against goods from nonmarket economies, 23 are for China. Without the legislative action we are proposing

today to overturn this ruling, it is very likely that these current countervailing duties would be negated.

This is unacceptable, and we cannot stand by when over 80,000 American manufacturing jobs are at stake. Almost every State is impacted by this decision, and almost every congressional district in Pennsylvania has companies that would be affected if this legislation does not pass.

We must take action today and pass H.R. 4105 to overturn a flawed court ruling and to ensure that the Department of Commerce can continue to fight unfair subsidies that hurt American manufacturers and American workers. We must level the playing field, and I strongly urge my colleagues to stand with American workers and pass this bill.

□ 1300

Mr. CAMP. At this time, I yield 2 minutes to a distinguished member of the Ways and Means Committee, the gentleman from New York (Mr. REED).

Mr. REED. Madam Speaker, I rise today to join in what appears to be a bipartisan sentiment that's developing on the floor of the House today, and I'm pleased to be part of it. I'm pleased to stand with my colleagues on the other side of the aisle and members of the Ways and Means Committee in support of a bill that will go a long way to protecting American job creators and American employees from coast to coast.

What we are talking about is allowing the imposition of countervailing duties in order to protect the American market to make sure that the American market is in a competitive position when it comes to our competitors in China and making sure that when we go to the battlefield of the marketplace that that marketplace is put on an even, level playing field so that we can compete squarely.

As my colleague from Pennsylvania (Mr. KELLY) just articulated, I bet on the American worker every single time when we have a marketplace that is level, that is fair, and that is even. And that's why I ask all my colleagues—all of my colleagues—to join us in sending a message today by passing the subject bill and sending a message to the world, to the world economy and to the world markets that America will compete on an even playing field and allow the imposition of countervailing duties to make sure that we have free marketplace principles in place that protect our American workers and protect our American job creators.

For that, I wholeheartedly support and stand with hardworking taxpayers across this country. I ask all colleagues to join in support of this resolution and legislation.

Mr. LEVIN. I now yield 2 minutes to our ranking member on the Rules Committee, the gentlelady from New York (Ms. SLAUGHTER).

Ms. SLAUGHTER. Madam Speaker, I thank the gentleman for yielding. This is very important legislation we're doing here today because in December the Federal Court of Appeals wrongly determined that the Commerce Department does not have the authority to respond to illegal Chinese subsidies with countervailing duties. The court said that despite illegal action from the Chinese, we, as a Nation, are unable to respond as we wish to stop the loss of thousands of American jobs.

This court decision would have immediately reversed 23 import duties that protect 80,000 American workers from subsidized goods entering our market. In addition, it would have halted six pending U.S. investigations into unfair trade practices while costing the taxpayers billions of dollars each year.

Quite simply, allowing this decision to stand would unilaterally disarm our Nation of one of the most important weapons we have in combating subsidized Chinese exports. In the world of global trade, our Nation can ill afford to let any country assume an unfair and illegal advantage. Countless American companies, from Rochester, New York, to Detroit, Michigan, rely upon a level playing field to compete and win.

From the day of this court ruling, I've been working closely with my colleagues on Ways and Means to reverse this decision, and I'm so happy to support today's bipartisan legislation. Tens of thousands of working Americans are counting on Congress today to reverse the court decision and preserve the ability of our country to respond to illegal trade.

I want to thank Chairman CAMP and Ranking Member LEVIN for the good work that they have done in working together to reach an agreement that stands up for American manufacturers. I urge all of my colleagues to support this critical legislation.

Mr. LEVIN. I yield myself the balance of our time.

The need is clear, the answer is clear, and I hope the vote will be clear. I yield back the balance of my time.

Mr. CAMP. Madam Speaker, I yield myself such time as I may consume.

In summary, I'd like to say that an identical bill to this passed the Senate with unanimous consent. The ability of the U.S. to impose countervailing duties on nonmarket economies, specifically on China, was something China agreed to when it entered the WTO. There are massive subsidies that distort the free market and cost us jobs here in the United States. This is an important tool, as so many have said, as speakers today have said, for us to have to address unfair subsidies from China that hurt our U.S. workers.

I think this is an important bill. It has bipartisan support, and I urge the passage of this legislation.

I yield back the balance of my time.

Ms. JACKSON LEE of Texas. Madam Speaker I rise today in order to debate H.R. 4105, "To apply the countervailing duty provisions of the Tariff Act of 1930 to nonmarket economy countries," would ensure that the Department of Commerce can continue to apply countervailing duty law (CDV) to non-market economies (NME), such as China and Vietnam. Countervailing duties aim to offset the benefits of government subsidies to industries. Anti-dumping (AD) duties apply to goods sold overseas at or below the price in the home country.

As we enter the first full week of spring and trees are regaining their leaves. We are once again faced with finding ways to help strengthen our economy. After years of witnessing a decline in manufacturing, before us this year there has been a revival. This legislation that would further enhance the economic viability of our manufacturing industries against unfair competition is welcome news.

The measure before us would enable U.S. manufacturers to fairly compete with goods which enter our stream of commerce. Goods supplied to the United States from nonmarket economies have a significant market advantage. Those goods receive multiple subsidies from their governments that allow them to be sold at a steeply discounted price in the United States and thereby gain a competitive advantage against products that are unsubsidized and manufactured in the United States.

Just think of a main street which employs hundreds of local workers. The main manufacturing plant on main street supplies both goods and services to the community. When outside goods and manufacturers, from non-market economies, compete with main street manufacturers by undercutting prices the result will be that manufacturers on main street will close. American workers will lose jobs and it will cause the death of main streets all over the country.

We must continue to support measures that will establish and ensure a level playing field for American workers and American companies. The issue before us is how to address goods from countries like China and Vietnam that have entered our stream of commerce, and compete with our business but have a significant market advantage because they are heavily subsidized.

I firmly believe in the importance of continuing a balanced trade relationship with China. Trade between the United States and China has expanded dramatically in the years since China acceded to the World Trade Organization in December 2001. In 2009, bilateral trade in goods totaled \$366 billion, with U.S. imports from China totaling \$296 billion and U.S. exports to China totaling \$70 billion.

In my home State of Texas we have also increased our exports of goods to China. In the District I represent, the 18th Congressional District of Texas, we export chemicals, machinery, computers & electronics, fabricated metal products, and primary metal manufacturing. Yet, I can attest that more can be done to ensure that our trading relationship must improve.

Experts agree that the disparity in imports and exports has resulted in a U.S. goods trade deficit with China. In 2009, there was a

trade deficit with China for \$227 billion in which accounts for 45.3 percent of the overall U.S. goods trade deficit.

In trade in services, the United States runs a surplus with China, with exports to China of \$16 billion in 2008 (the latest year for which numbers are available) and imports from China valued at \$10 billion.

The United States' bilateral goods trade imbalance with China may be attributed to a variety of factors such as alleged unfair trade practices and their undervalued currency and their impact on the U.S. economy.

Chinese officials, who cite different figures for the bilateral trade deficit provided by the United States, routinely seek to shift some of the blame for the trade deficit to the United States by criticizing U.S. controls on exports of advanced technology. They further argue that the sharp increase in exports to the United States reflects the shifting of production from other countries to China and many "made-in-China" products contain components from other countries.

Since 2006, the U.S. government has repeatedly raised concerns about alleged backsliding in China's implementation of commitments it made as part of its 2001 accession to the World Trade Organization. Most prominently the problem of "excessive trade-distorting government intervention intended to promote or protect China's domestic industries and state-owned enterprises." China's inadequate protection of intellectual property rights has also been a major concern. Under the Obama Administration, there have been four cases filed against China with the World Trade Organization, including three in 2010.

Those four cases relate to China's import substitution subsidies in the wind energy sector, its anti-dumping and countervailing duties on grain-oriented electrical steel from the United States, its restrictions on foreign suppliers of electronic payment services, and its restraints on exports of raw materials used in the steel, aluminum, and chemical sectors.

The White House reports, however, that it made progress on some long-standing trade issues with China at the December 2010 meeting of the U.S.-China Joint Commission on Commerce and Trade in Washington, D.C.

Currently, there are more than 300 anti-dumping and countervailing duty orders to shield American-made goods, from honey to bedroom furniture, against global competition it deems unfair and damaging to U.S. companies. About half the orders target iron and steel products.

China accounts for a third of all U.S. unfair trade cases, the most of any country, including about 100 anti-dumping and two dozen countervailing duty orders, according to the U.S. International Trade Commission.

The U.S. Commerce Department would be allowed to apply duties to offset government subsidies in nations such as China and Vietnam under this bipartisan bill.

H.R. 4105, overturns the decision of the Court of Appeals for the Federal Circuit and preserves the validity of the countervailing duty proceedings against imports from China and Vietnam, beginning in 2006. This would ensure that the Department of Commerce can continue to apply countervailing duty law (CDV) to non-market economies (NME), such

as China and Vietnam. Countervailing duties aim to offset the benefits of government subsidies to industries. Anti-dumping (AD) duties apply to goods sold overseas at or below the price in the home country.

The legislation also addresses an adverse World Trade Organization (WTO) finding that there may be “double remedies” in situations where countervailing duties are applied to NME exports at the same time that anti-dumping duties calculated using the so-called “surrogate value” methodology are applied to the exports.

As a senior Member of the Judiciary Committee it is not without hesitation that I join my colleagues in overturning a court ruling. I believe in the deliberative process from the judiciary and I was pleased that the court entrusted Congress to act.

In 2007, the Department of Commerce began applying countervailing duty laws (CVD). This was after nearly 20 years of not applying CVD laws to imports from NME countries. In 2007, Commerce began to impose CVDs to imports from China, a country which it has long been considered to be a NME for the purposes of Anti-dumping /CVD laws.

The legality of applying both CVD and AD laws to Chinese goods was first tested in the U.S. Court of International Trade (CIT) in 2009, when the CIT found that Commerce’s approach unreasonable. *GPX Int’l Tire Corp. v. United States*, 645 F. Supp. 2d 1231, 1242–1243 (Ct. Int’l Trade 2009).

The CIT ruled that the prospect of a double remedy is likely when CVD duties are imposed at the same time as the NME AD duties. As the CIT explained, “the NME AD statute was designed to remedy the inability to apply the CVD law to NME countries, so that subsidization of a foreign producer or exporter in a NME country was addressed through the NME AD methodology.”

The CIT instructed Commerce “. . . to forego the imposition of CVDs on the merchandise at issue or for Commerce to adopt additional policies and procedures to adapt its NME AD and CVD methodologies to account for the imposition of CVD remedies on merchandise from the PRC.” *GPX Int’l Tire Corp. v. United States*.

Commerce was unable to find a reasonable methodology to prevent the likely double-counting outcome and, under protest, it complied with the CIT’s order not to apply CVDs on imports of tires from China, but appealed the CIT decision.

The Federal Circuit affirmed the holding of the Court of International Trade that such countervailing duties could not be collected but did so on different grounds. Without this legislation the Department of Commerce will be required to stop imposing countervailing duties on goods imported from nonmarket economies (NME).

Rather, in affirming the CIT’s judgment, the CAFC held more broadly that the legislative history of the U.S. CVD laws, Commerce’s longtime practice up to 2007 of not applying CVD law to NMEs, and the CAFC’s 1986 opinion in *Georgetown Steel Corp. v. United States*, compel the interpretation that the CVD statute cannot be applied to NME countries. The CAFC reasoned that the earlier interpretation was considered and adopted by Con-

gress, when Congress amended the Trade Act of 1930 in the 1988 Trade Act, and again in 1994 when it reenacted most of CVD law while making changes to conform U.S. law to its international obligations as part of the Uruguay Round Agreements Act. The Federal Circuit stated:

We thus find that in amending and re-enacting the trade laws in 1988 and 1994, Congress adopted the position that countervailing duty law does not apply to NME countries. Although Commerce has wide discretion in administering countervailing duty and antidumping law, it cannot exercise this discretion contrary to congressional intent.

It is a broader ruling from several points of view, which, in practice, may succeed in providing more clarity on the issues than if the CAFC had affirmed GPX by adopting the CIT’s rationale. First, the CAFC did not distinguish between NME countries, as Commerce did in 2007 when it found that CVD law can be applied to China. In essence the CAFC’s opinion tells Commerce that it cannot have it both ways: where the agency makes a determination that a country is a NME, it does not have authority to assess CVDs on imports from that country. Second, GPX involved an alleged “domestic subsidy,” which generally benefits both domestic and exported goods, as opposed to an “export subsidy” which applies only to exports. The CIT’s opinion in GPX may have not prevented Commerce from countervailing export subsidies in other cases. However, the CAFC’s language does not distinguish between subsidies and holds that “countervailing duty law does not apply to NME countries.” Third, as noted supra, the CAFC did not adopt the CIT’s reasoning of double-counting of remedies. The CIT’s reasoning left open the possibility that Commerce may come up with a methodology that somehow eliminates double-counting, while imposing both ADs and CVDs on imports from a NME. The CAFC’s decision in GPX closed that possibility by explicitly stating that one cannot apply CVD law to a NME country. In short, had the CAFC adopted the CIT’s reasoning in GPX, it is possible that some of Commerce’s authority to proceed with CVD investigations—albeit on a much more restricted scale—would have survived. However, the CAFC’s decision, once final, will compel Commerce to cease its current CVD practice with respect to countries designated as NMEs.

The problems raised by this decision have been addressed by this legislation. As H.R. 4105 amends the Tariff Act of 1930 regarding the imposition of countervailing duties on imports into the United States from a country subsidizing, directly or indirectly, the manufacture, production, or export of merchandise which materially injures a U.S. industry or threatens to.

Declares that merchandise on which countervailing duties must be imposed includes merchandise from a nonmarket country, unless the administering authority cannot identify and measure subsidies provided by the government of the nonmarket economy country (or a public entity within its territory) because the economy of that country is essentially composed of a single entity.

Requires the administering authority to reduce the antidumping duty on a class or kind of merchandise from a nonmarket economy

country in cases where: (1) such country (or a public entity within its territory) has provided the merchandise with a countervailable subsidy (other than an export subsidy), (2) the subsidy has reduced the average price of imports of that class or kind of merchandise during the relevant period, and (3) the extent to which the subsidy, in combination with the use of normal value, has increased the weighted average dumping margin for such merchandise can be reasonably estimated.

Requires the administering authority, in such cases, to reduce the antidumping duty by the amount of the increase in the weighted average dumping margin estimated (but not by more than the portion of the countervailing duty rate attributable to the countervailable subsidy).

#### FACTS

Antidumping and countervailing duty laws are administered jointly by the U.S. International Trade Commission and the U.S. Department of Commerce.

Currently, the U.S. International Trade Commission (USITC) determines whether articles from China are being imported into the United States in such increased quantities or under such conditions as to cause or threaten to cause market disruption to the domestic producers of like or directly competitive products. If the Commission makes an affirmative determination, it proposes a remedy. The Commission sends its report to the President and the U.S. Trade Representative. The President makes the final remedy decision.

When China entered the WTO in 2001, it agreed to allow the United States to continue to treat it as a non-market economy for 12 years (codified in U.S. law under Sections 421 of the 1974 Trade Act, as amended) for the purpose of U.S. safeguards. This provision enables the United States (and other WTO members) to impose restrictions (such as quotas and/or increased tariffs) on Chinese products when imports of those products have sharply increased and have caused, or threaten to cause, market disruption to U.S. domestic producers.

Under the Bush Administration on six different occasions chose not to extend relief to various industries under the China-specific safeguard, even though in four cases the U.S. International Trade Commission (USITC) recommended relief. A number of U.S. industries and labor groups have called on the Obama Administration to utilize the China safeguard provision, especially in the face of the current U.S. recession and because of “unfair” Chinese trade practices.

Countervailing duty (CVD) laws give a similar kind of relief to domestic industries that have been, or are threatened with, the adverse impact of imported goods that have been subsidized by a foreign government or public entity, and can therefore be sold at lower prices than similar goods produced in the United States. The relief provided is an additional import duty placed on the subsidized imports.

Currently, there are more than 300 anti-dumping and countervailing duty orders to shield American-made goods, from honey to bedroom furniture, against global competition it deems unfair and damaging to U.S. companies. About half the orders target iron and steel products.

China accounts for a third of all U.S. unfair trade cases, the most of any country, including about 100 anti-dumping and two dozen countervailing duty orders, according to the U.S. International Trade Commission.

#### STORY OF SOLAR CELL AND PANEL INDUSTRY

China exports the vast majority of its solar products, and has a small domestic market. Chinese exports of crystalline silicon solar cells and panels to the United States rose more than 350 percent from 2008 to 2010. Exports in July 2011 alone exceeded those from all of 2010.

The continued push of massive volumes of dumped Chinese cells and panels, along with growing margins of underselling at artificially and illegally low prices, ultimately caused market pricing in the United States to collapse in 2011—with an average worldwide price decline of 40 percent—despite a growing market for these goods.

Chinese subsidies caused the price collapse and has had a devastating impact on the U.S. solar cell and panel industry, resulting in shut-downs, layoffs, and bankruptcies throughout the country. Over the past 18 months, seven solar plants have shut down or downsized, eliminating thousands of U.S. solar manufacturing jobs in Arizona, California, Massachusetts, Maryland, New York, and Pennsylvania.

China does not have a production cost advantage—labor accounts for only 10 percent of solar panel production costs, and China actually imports U.S. raw materials and equipment. Further, China's extra shipping costs and comparatively lower labor productivity make its pricing impossible without illegal subsidization and dumping.

#### OVERVIEW H.R. 4105

H.R. 4105 is a direct response to a December 19, 2011, decision by the United States Court of Appeals for the Federal Circuit. The Court found that certain countervailing duties levied by the Department of Commerce on tires imported from China should not have been assessed because countervailing duty law does not apply to the context of a non-market economy (NME) such as China's. The United States Court of International Trade originally ruled that the prospect of a double remedy is likely when CVD duties are imposed in parallel with NMEAD duties.

The Federal Circuit affirmed the holding of the Court of International Trade that such countervailing duties could not be collected, but did so on different grounds. If this ruling is allowed to stand then U.S. manufacturers would be adversely affected, thousands of American workers could lose their jobs, and the Commerce Department would not be able to effectively address unfair trade practices.

#### HUMAN RIGHTS VIOLATIONS

I would be remiss if I did not mention today the importance of not only establishing a fair and positive trade relationship with China, but also ensuring that our trade partner continues to address human rights issues.

In the past several years, the People's Republic of China had enacted some laws aimed at reducing human rights abuses, including those related to the use of torture, the death penalty, and labor conditions. It also has promulgated legislation protecting property rights and promoting government transparency, and

developed mechanisms for soliciting public input in the policy-making process.

However, the enforcement of human rights protections remains weak and arbitrary. The People's Republic of China's leadership has instituted few real checks on its power and remains extremely sensitive to social instability, autonomous political activity, and potential challenges to its authority.

In the past two years, the government has cracked down upon human rights lawyers, social organizations, and Internet use. Major ongoing problems include the following: excessive use of violence by security forces and their proxies; unlawful detention; torture; arbitrary use of state security laws against political dissidents; coercive family planning policies; state control of information; and harassment and persecution of people involved in unsanctioned religious activities, including worship in unregistered Protestant "house churches" and Catholic churches that express loyalty to the Pope. Many Tibetans, ethnic Uighur (Uygur) Muslims, and Falun Gong adherents have been singled out for especially harsh treatment. The Congressional-Executive Commission on China has documented 1,452 cases of political and religious prisoners known or believed to be under detention.

As we move forward in addressing the needs of American workers and American business, we must continue by leveling the playing field against highly subsidized non-market economy good through the application of countervailing duty and antidumping as laws. And, as we build trade relationships with China, Vietnam, and other Global partners they must be balanced relationships. We must also remember to ask of our partners to strongly advocate for fair trade, fair labor practices, and stress the importance of human rights. The advancement of human rights is an important American value. Today, marks the opportunity for American workers to breathe a sigh of relief, that their jobs are not going to be jeopardized by goods manufactured outside of the United States that have an unfair competitive advantage.

Mr. DINGELL. Madam Speaker, I rise in very strong support of H.R. 4105. I am an original co-sponsor of this wonderfully common-sense bill, which will permit the Department of Commerce to apply countervailing duty orders to non-market economies like China. While the term, "countervailing duty order," is not one on the tip of every American's tongue, it is an extraordinarily important trade enforcement tool. In times like these, we need to be able to use our trade laws to the fullest extent, so we can protect jobs at home and ensure our trading partners play by the rules.

H.R. 4105 is a bipartisan, bicameral bill that will be signed into law by President Obama. It is another step in the right direction for American trade, and it is one that is fully consistent with our World Trade Organization obligations. A flawed decision by the Court of Appeals for the Federal Circuit weakened our country's ability to protect itself from unfair trade practices, and H.R. 4105 will fix it. Most importantly, the bill will help workers and businesses in my home State of Michigan compete fairly on a level playing field.

I commend my good friends, Messrs. CAMP, LEVIN, BRADY, and McDERMOTT for introducing

H.R. 4105, and I congratulate House leadership for bringing it to a vote so expeditiously. I urge my colleagues in the Senate to act swiftly, so we can send this measure to President Obama for his signature.

Vote "yes" on H.R. 4105.

Mr. GENE GREEN of Texas. Madam Speaker, I rise today to ask my colleagues to join me in support of domestic manufacturing, middle class jobs, and American in-sourcing by voting in favor of H.R. 4105.

Last December, the U.S. Court of Appeals for the Federal Circuit ruled that the Commerce Department could not apply countervailing duties (CVDs) on imports from non-market economies. If this ruling were allowed to stand, it would terminate 23 existing CVD orders on certain imports from China and one from Vietnam.

H.R. 4105 would reverse the court's ruling and make clear the intent of Congress to allow CVDs to be applied to non-market economies.

Several of the endangered CVD orders provide relief to steel and pipe manufacturers, many of which, including VAM Drilling, V&M Star, and TMK IPSCO, are located in or near the 29th District of Texas.

These manufacturers, and the dozens like them throughout the country, have witnessed unfair competition on a mass scale in recent years due to the large subsidies provided by the Chinese government towards their domestic industries.

Without these countervailing duties, tens of thousands of well-paying, middle class jobs would be threatened around the country, including several thousand in the 29th District alone.

As our Nation's economy continues to recover from the Great Recession, and American industry rebounds from a decade of outsourcing and unfair competition, it is important that this Congress support domestic manufacturing and good paying jobs by voting in favor of H.R. 4105.

Mr. TURNER of Ohio. Madam Speaker, the December 2011 ruling by the U.S. Court of Appeals for the Federal Circuit bars the Department of Commerce from applying countervailing duties (CVDs) on goods produced by heavily subsidized foreign companies from non-market economy countries like China and Vietnam.

This ruling is a significant blow to U.S. manufacturers and workers. If action is not taken to remedy the situation, the Department of Commerce could likely be forced to terminate 24 existing CVD orders against unfairly subsidized products from China and Vietnam, including a CVD order to help companies and families in southwest Ohio.

In my community, paper manufacturers New Page, SMART Papers and Appleton Papers, petitioned the International Trade Commission to levy CVDs on subsidized imports of coated fresh-sheet paper from China and Indonesia. In 2008, NewPage was forced to close its sheeting facility for coated paper due to these unfair trade practices, resulting in a loss of 175 Ohio jobs. Just recently, Appleton Papers announced it would cut 330 jobs from the West Carrolton plant in my Dayton community as it struggles against unfair competition.

I strongly backed the application of CVDs against this unfair trade practice and testified

before the ITC in support of the petition, which was unanimously approved in 2010. However, the court's recent ruling could negate the ITC's unanimous action and threaten more jobs in my community.

Madam Speaker, we must move swiftly to ensure U.S. manufacturers and workers can compete on a level playing field in the global marketplace. That is why I am an original cosponsor of H.R. 4105, bipartisan legislation that confirms the Department of Commerce may continue to apply CVDs against unfairly subsidized imports from nonmarket economies like China.

At the same time, with 95 percent of consumers overseas, it is essential that U.S. companies have the opportunity to export their products. U.S. exporters face many non-tariff barriers that violate existing trade agreements, hampering the ability of U.S. companies to access foreign markets and create jobs. My bill, H.R. 3112, the Trade Law Enforcement Act, provides an affordable way for U.S. companies to have their market access complaints investigated and resolved in a manner consistent with U.S. international obligations.

Madam Speaker, I strongly support H.R. 4105 and urge my colleagues to vote yes on this important legislation. I also urge my colleagues to support and co-sponsor my bill, H.R. 3112, to help U.S. manufacturers reach new consumers abroad and spur job creation right here at home.

Mr. VISCLOSKY. Madam Speaker, I rise in support of H.R. 4105, a measure that will apply the countervailing duty provisions of the Tariff Act of 1930 to nonmarket economy countries.

Steelworkers and manufacturers in Northwest Indiana need every tool available to them to combat duplicitous trade practices, and this legislation is critical to preserving their ability to combat such practices by countries such as China.

I applaud the expeditiousness of the House Ways and Means Committee and the House leadership in bringing this important legislation to the floor, and I urge my colleagues to vote "aye."

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. CAMP) that the House suspend the rules and pass the bill, H.R. 4105.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. LEVIN. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

PROVIDING FOR CONSIDERATION OF H.R. 2842, BUREAU OF RECLAMATION SMALL CONDUIT HYDROPOWER DEVELOPMENT AND RURAL JOBS ACT OF 2011

Mr. BISHOP of Utah. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 570

and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 570

*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 2842) to authorize all Bureau of Reclamation conduit facilities for hydropower development under Federal Reclamation law, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chair and ranking minority member of the Committee on Natural Resources. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Natural Resources now printed in the bill. Each section of the committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived. No amendment to the committee amendment in the nature of a substitute shall be in order except: (1) those received for printing in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII dated at least one day before the day of consideration of the amendment; and (2) pro forma amendments for the purpose of debate. Each amendment so received may be offered only by the Member who caused it to be printed or a designee and shall be considered as read if printed. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. The chair of the Committee on Financial Services is authorized, on behalf of the committee, to file a supplemental report to accompany H.R. 3606.

The SPEAKER pro tempore. The gentleman from Utah is recognized for 1 hour.

Mr. BISHOP of Utah. Madam Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentlelady from New York (Ms. SLAUGHTER), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

GENERAL LEAVE

Mr. BISHOP of Utah. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

Mr. BISHOP of Utah. This resolution provides for a modified open rule for the consideration of H.R. 2842, succinctly titled the Bureau of Reclamation Small Conduit Hydropower Development and Rural Jobs Act of 2011. It provides for 1 hour of general debate equally divided between and controlled by the chairman and ranking member of the Committee on Natural Resources and makes in order all amendments which were preprinted in the CONGRESSIONAL RECORD and which otherwise comply with the rules of the House.

□ 1310

So this modified open rule is a very fair and generous rule—a continuation of the work of Chairman DREIER and the Rules Committee—and will provide for a balanced and open debate on the merits of the bill.

Madam Speaker, I am pleased to stand before the House today in support of this rule, as well as the underlying legislation, H.R. 2842. I appreciate the hard work of the bill's chief sponsor, Mr. TIPTON of Colorado, as well as Mr. GOSAR of Arizona, one of the cosponsors. Representative MCCLINTOCK of California, who is the chairman of the subcommittee that held the hearings on this bill, and of course Chairman HASTINGS of the Resource Committee, who brought this bill forward as one of the companion pieces of the myriad of pieces of legislation which, if enacted, would greatly improve our Nation's energy policy and provide for a responsible and balanced approach to further energy development.

With that, Madam Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. I thank the gentleman from Utah for yielding me the customary 30 minutes, and I yield myself such time as I may consume.

Madam Speaker, in my home State of New York, unemployment continues to remain stubbornly high. Thousands of Americans have given up looking for work altogether. For many, unemployment benefits have expired, and there is little hope that a paycheck will soon be a regular part of daily life.

Despite this dire economic reality, once again we are going through a bill that has nothing to do with job creation. Instead, we have piecemeal proposal after piecemeal proposal to do more to further ideological goals than create jobs.

Instead of creating jobs, today's bill would clarify lines of authority for two government agencies. Is this a worthy goal? Maybe. Some say yes. But does it create thousands of American jobs? The answer is clearly no.



As they have with so many other bills, the majority has also inserted unnecessary partisan language into today's bill language that attacks existing environmental law for no good reason. Specifically, it provides a categorical exemption for all small hydropower projects from National Environmental Policy Act compliance. There is no clear reason for this exemption from environmental protection.

Currently, hydropower projects that don't raise substantive environmental concerns have always been approved relatively quickly. From 2006 to 2010, 13 exemptions were completed in less than a year each. In 2011, there were nine exemptions that were granted in an average of 40 days. Yet, despite seeing a system that works relatively well, the majority decided to once again put industry before the environment and include this controversial provision. This approach may fill a legislative calendar, but it fails to create jobs for the American people.

We could be considering a 5-year surface transportation bill, which everybody's waiting for, something we were supposed to consider weeks ago. A well-written and bipartisan bill—and all the transportation bills from the Eisenhower administration up to now were always bipartisan bills—would have created thousands of American jobs; but, once again, no such bill has come to the floor. Instead, they were forced to pull a proposed surface transportation bill because they had alienated Members of their own party with extreme provisions that would decimate public transportation and fail to create jobs.

Now we continue to wait as the majority works to write a reasonable transportation bill that will actually create jobs. In the meantime, we consider bill after bill that does nothing to create the many thousands of jobs that are so desperately needed.

Madam Speaker, the record is clear. When the majority pushes partisan politics over good governance, the American people lose. Today is the latest in a long line of such partisan bills, and yet one more day when the American people will go without new American jobs.

I reserve the balance of my time.

Mr. BISHOP of Utah. Madam Speaker, I am pleased to yield 5 minutes to the gentleman from California (Mr. MCCLINTOCK), who is the chair of the subcommittee that heard this particular bill.

Mr. MCCLINTOCK. I thank the gentleman for yielding.

Madam Speaker, this rule brings to the floor one of the most simple and sensible bills on energy development that we have yet heard. It is H.R. 2842, offered by the gentleman from Colorado (Mr. TIPTON).

What it promises is this: At precisely no cost to taxpayers, freeing up abso-

lutely clean electricity on a scale so vast that it would take several hydroelectric dams to duplicate, simply by relaxing the regulatory stranglehold, simply by getting government bureaucrats out of the way, this bill has the potential of adding thousands of megawatts of absolutely clean and renewable electricity to the Nation's energy supply, reducing utility bills, reducing reliance on fossil fuels, and, to answer the gentlelady from New York, adding thousands of permanent high-paying jobs to the Nation's economy. All that is necessary for this to happen is for government bureaucrats to get out of the way and allow people to place small hydroelectric generators in thousands of miles of existing pipelines, canals, and aqueducts.

This doesn't involve new construction. The facilities are already there. It doesn't involve any adverse impact to the environment. These are water pipes and canals in which there are no fish of any kind. And yet this administration forces water users and developers to go through a lengthy, costly, and pointless environmental review process that literally doubles the cost of these projects and makes them cost prohibitive.

The reason there are so few applications is because the requirements of this absurd law simply make these projects cost prohibitive, and it simply doesn't make sense to move forward with them. This bill simply says this: You don't need to go through that nonsense anymore.

Now, why isn't this bill being taken up on suspension? It would be one of the all-time no-brainers. It passed the Natural Resources Committee on a bipartisan vote. The reason that this debate is required is because this commonsense legislation is vigorously opposed by the environmental left; that is the measure of extremism from which this movement now suffers. Perhaps the best way to alert the American people to this extremism is through debate that this rule makes possible.

A generation ago, in the 1960s, electricity was so cheap that some communities didn't even bother with electricity meters, and there's a reason for that. In those days, we were building hydroelectric dams that not only protected us from floods and droughts, but that delivered electricity for as little as 3 cents per kilowatt hour. At that price, an average household's electricity bill would come to about \$30 a month. That dream seems surreal today.

Today, government regulations are literally threatening the ability of this Nation to generate sufficient electricity to keep people's air conditioning and refrigerators running in the summer, just as similar policies prevent Americans from prospering from our vast petroleum reserves and nuclear power potential.

It's no coincidence that the States with the most stringent regulations also have the highest electricity prices and the sickest economies. People of my State of California, the land of vast unrealized hydroelectric potential and a pioneer in nuclear power, now use less electricity per capita than any other State in the Union, and yet we pay among the highest electricity prices in the country. We also suffer from one of the highest unemployment rates in the country, despite ceaseless empty promises of green jobs.

Now along comes this bill by Mr. TIPTON of Colorado that does everything the environmental left claims it likes: It produces absolutely clean and renewable electricity in vast quantities at precisely no cost to taxpayers. It requires no new construction. All that's necessary to achieve this is to put small generators in existing pipelines and canals that have already passed environmental review and pose no conceivable environmental impact. Yet, instead of embracing this measure, these radical elements instead throw a conniption fit.

Well, let them do that in public. Let the American people see this debate. Let them see for themselves the nihilistic ideology behind this movement and how it is practiced by those in this Congress who share and support it, and then let the American people judge. I think the debate over this bill will offer our fellow citizens a real insight into this movement, and I support the resolution that makes this debate possible.

Ms. SLAUGHTER. Madam Speaker, if we defeat the previous question—and I hope we will—I'm going to offer an amendment to the rule to provide that immediately after the House adopts the rule, we will bring up H.R. 964, the Federal Price Gouging Prevention Act.

To talk about our proposal, I am pleased to yield 3 minutes to the gentleman from New Jersey (Mr. ANDREWS).

□ 1320

Mr. ANDREWS. I thank the gentlelady for yielding.

Madam Speaker, 180 days ago, the President of the United States came to this Chamber and laid out before the country and the Congress some very specific proposals to help put Americans back to work. The President proposed that we give a tax cut to small businesses who hire people. The House has never voted on that proposal. The President proposed that at a time when our bridges and roads and airports and ports need construction and reconstruction, that we put Americans back to work in the construction industry performing those vitally necessary tasks. The House has never voted on that proposal. At a time when police officers and firefighters and teachers are being laid off across our country,



the President proposed some short-term relief so we could put our officers back on the beat, our firefighters back on the apparatus, our teachers back in the classroom. The House has never voted on that proposal.

Here we are 6 months later, doing what we're doing today. In that 6 months, another crisis has manifested itself, one that affects Americans across our country more severely every day, and that is each time they fill up their vehicle, it takes just a little bit more money out of their grocery budget, the utility budget, what they use to pay their mortgage payment, what they use to educate their children. The rising price of gasoline is a serious threat to the prosperity and stability of American families.

The president of Exxon has said that his conclusion is that about \$30 of the cost of a barrel of crude oil is attributable to the speculation of prices by people who never really buy, sell or use oil, but who bet on its price: casino gamblers, not deliverers of oil. Goldman Sachs estimates that anywhere from \$22 to \$28 a barrel is also due to speculation, and they ought to know because they're no doubt participating in it.

The bill that we would propose be put on the floor this afternoon would crack down on that speculation. It would require that trades be disclosed; it would empower regulatory agencies to identify illegal price manipulation behavior; and reduce the price of crude oil to American consumers.

There are other ways to do this. I, for one, favor increased domestic production. I think there are ways that we can increase the natural gas and coal and oil that we produce. I certainly think that we should expand renewables as well. But there is one regulatory tool that we have not given our regulators and we ought to give it to them here. The underlying bill is certainly worthy of consideration, but we have an immediate energy problem here in America, an immediate jobs problem. And I would respectfully suggest that the right vote is to defeat the previous question so we may move on and consider legislation that would deal with the current price of gasoline prices.

Mr. BISHOP of Utah. Madam Speaker, I am pleased to yield 3 minutes to the gentleman from Colorado (Mr. TIPTON), the sponsor of this particular bill, who will talk about how to create real power using water resources that we have.

Mr. TIPTON. As a sponsor of this bipartisan legislation, I support the rule on H.R. 2842, and I encourage an open debate because I believe the merits of this bill will speak for themselves. H.R. 2842 is a bipartisan plan to authorize new hydropower production and streamline the regulatory process in order to create new American jobs.

Many rural water and irrigation districts and electric utilities in western States seek to develop hydropower on Bureau of Reclamation water canals and pipelines, but overburdensome and unnecessary regulations stand in the way and discourage investment in these projects. Most of these small projects are not currently authorized at Bureau of Reclamation canals and, as a result, they never get off the ground. Those that are currently authorized are subject to an additional review process under the National Environmental Policy Act even though the canals on which they are built have already gone through a full environmental review when they were constructed or rehabilitated.

H.R. 2842 authorizes the production of hydropower at all Bureau of Reclamation conduits; and by doing so, it allows placement of small hydropower generators on existing man-made canals and pipes that have already gone through the NEPA process. This authorization does not currently exist, and therefore hydropower development under current reclamation law will not happen unless Congress acts. This bill also eliminates duplicative red tape by exempting small hydropower projects on previously disturbed ground from going through an additional NEPA review. This bill does not apply to rivers, large dams, or natural-flowing waters in any way, and it will not impact endangered fish or wildlife.

In many cases, having to go through an additional unnecessary review process determines whether or not a hydropower project is economically feasible and, as a result, determines whether or not this country moves forward with the development of green energy.

Chris Treese of the Colorado Water District in the Natural Resources Committee testified on this bill and he stated:

Environmental reviews under NEPA are universally time consuming and expensive. The River District's current experience with an environmental assessment on a non-construction action has taken over a year and nearly \$1 million in outside expenses.

By eliminating this duplicative requirement, we can add power to the grid, provide an environment for job growth in rural America and return revenues to the Treasury. This commonsense piece of legislation has bipartisan cosponsorship and passed out of the committee with bipartisan support. It's also been endorsed by the rural irrigators and electric utilities that operate the Bureau of Reclamation canals and know the issue best. These organizations include: the Family Farm Alliance, the National Water Resources Association, the American Public Power Association, and the Association of California Water Agencies.

I'm proud to offer this contribution to the House Republicans of the all-of-the-above energy strategy for America,

and I look forward to a spirited discussion on how we can produce more renewable energy and put our people in this country back to work.

Ms. SLAUGHTER. Madam Speaker, I am pleased to yield 3 minutes to the gentleman from New York (Mr. BISHOP).

Mr. BISHOP of New York. I thank the gentlelady for yielding.

I rise in opposition to the rule and in support of moving the previous question. This motion would amend the bill with strong provisions to stop price gouging at the gas pumps.

We really are long overdue for a serious debate about gas prices. Scoring political points on this issue may make us all feel good, but it serves no one, particularly our constituents; and it certainly doesn't get us any closer to solving the problem.

Here are the facts: domestic production of oil in the United States is at an 8-year high; imports of oil into the United States are at a 17-year low; more oil rigs drill in the United States today than in the rest of the world combined. Let me say that again: there are more oil rigs at work in the United States today drilling for oil than in the rest of the world combined; the number of oil rigs in operation in the United States today has quadrupled since President Obama took office. Last year, the U.S. became a net exporter of oil for the first time in 62 years.

I think what these facts demonstrate very clearly is that this is not a supply-driven problem, nor—as good as it might feel to some—is this a problem that can be blamed on the administration for not doing enough to facilitate or encourage exploration for drilling.

This is not a demand-driven problem either. Demand is down 6½ percent in just 1 year and 17 percent since 2008.

There are several factors that contribute to rising gas prices, but U.S. supply and U.S. demand are not among them.

The gas prices in my district of eastern Long Island are up over 60 cents per gallon in just a matter of weeks. Rampant speculation accounts for most of that with over 60 percent of the market controlled by speculators. The speculators' overriding goal is profit-taking, which is what our legislation targets. There is nothing wrong with profits. Profits are what made our Nation strong. But when profits are pursued at the expense of middle class families or at the expense of our fragile economic recovery, we need to take action.

This legislation makes sure that we do cut out speculators. It strengthens penalties for manipulating the market, which forces up gas prices and leads to price gouging. After we cut out speculators, we should cut out the subsidies for Big Oil, and we should reinvest those dollars in a long-term strategy focused on clean and renewable sources.

Madam Speaker, our debate should focus on a green-energy policy free of market speculation and subsidies our Nation can't afford. We must tackle this problem rather than using it to point fingers and try to score points. Thus I encourage my colleagues to vote "no" on the previous question and vote "no" on the rule.

Mr. BISHOP of Utah. I reserve the balance of my time.

I advise my colleague that I am prepared to close.

Ms. SLAUGHTER. Madam Speaker, I yield myself the balance of my time.

Millions of Americans remain out of work, countless more run out of unemployment assistance, and meanwhile gas prices continue to rise on every American family; and they are turning to us for much needed relief.

Today's bill does nothing to address these pressing economic issues. Instead, we're doing more busy work on the floor today, preparing to consider a bill that clarifies the responsibility for two government agencies. This type of bill does little to create the many thousands of jobs needed to begin reviving our economy.

I urge my colleagues to end the long delay and finally bring forth true American job-creation legislation so that American families can live with some hope.

□ 1330

Madam Speaker, I ask unanimous consent to insert the text of the amendment in the RECORD along with extraneous material immediately prior to the vote on the previous question.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Ms. SLAUGHTER. I urge my colleagues to vote "no" and defeat the previous question, and I urge a "no" vote on the rule, and I yield back the balance of my time.

Mr. BISHOP of Utah. Madam Speaker, I yield myself such time as I may consume.

I am grateful that we have found new sources of energy, specifically oil and natural gas, on private property because it has not allowed the Federal Government to stop the development of those, and that is the growth that we have seen in recent times.

However, it is interesting to note that the bill before us, which deals with hydropower and development of more hydropower, is a bipartisan bill and for just cause. We can both agree, on both sides of the aisle, that there is a great need for more energy, and that greater, cheaper energy is vital to the growth of the economy and the growth of jobs. That's what this bill tries to do.

Frequently in this House, we have brought bills that have tried to increase our offshore drilling on Federal

property. We have talked about the Keystone pipeline and the ability of 20,000 high-paying jobs if it were just permitted. We have talked about trying to increase domestic energy production on public lands that have been put off-limits by this particular administration. Those efforts we have dealt with. We have passed through this House. They're over sitting in the Senate waiting for action. And today we add to that effort with a significant bill that will add to our hydropower and hydroenergy that once again comes along with this.

But the problem that we have and the reason why this bill is here before us, if I can summarize, is, simply, our efforts to add this kind of energy to our portfolio are being stopped by special interest groups and, unfortunately, layers of bureaucracy.

It was Nelson Rockefeller who came up with the great line of calling the deadening hand of bureaucracy on proposals and programs; and, indeed, we see that and we feel it today as we are having a harder time trying to be energy independent, and we are feeling the results of the Federal Government's program to stop energy production on Federal lands and Federal property every time we fill up our cars and, unfortunately, every time we pay our electrical bills.

Now, it is bureaucratic manipulation that is causing this problem and why this bill is here. Look, it was the energy debate and the energy bill of 2005 that told the Federal Government to move forward in this area with making sure that we had a master plan for hydrological development of energy. Seven years later, now the Federal Government and our Department of the Interior is starting to move forward in that direction, which is either the old cliché of paralysis by analysis or the fact that Rockefeller was right when he called the bureaucracy a deadening hand on programs and progress.

One particular program, the Klamath River, took 5 years for government to decide who actually had the authority to move forward on the project. That is the kind of bureaucratic analysis, that's the kind of red tape that is slowing back our efforts to develop this type of energy, and we need it desperately.

That's why H.R. 2842 is here, to develop small projects that will add to our total energy portfolio and add to our independence. It stops and simplifies a regulatory process which unfortunately costs these small efforts, these small entities trying to make these efforts tens of thousands of dollars just to do the paperwork. It's ridiculous.

It clarifies the role of the Bureau of Reclamation on this area. This only deals with Bureau of Reclamation projects on manmade facilities, but the jurisdictions are not clear. Some juris-

dictions have been mandated by Congress; some are administrative; some are questions on whether FERC has responsibility, the Bureau of Reclamation has responsibility. That is causing our slowing in developing these projects. This bill clarifies what that role is.

It also clarifies NEPA, that you don't have to do a second NEPA on these small jobs. Anything greater than 1.5 megawatts of production, you do the analysis again. But for small projects, on man-made property where the land has already been disturbed and already has had an analysis done and the mitigation has already taken place, we move on and do the job.

The Bureau of Reclamation does have a right of categorical exclusion, but they won't do it. All they're saying is, We may start thinking about it some time in the future.

Let me give you an example. There are three specific projects in the neighboring State of mine. One was mandated by Congress in 1990. They are still starting the process because of that administrative red tape. Two other projects took a full year for them to decide to actually start going through a process, and when they did it, they realized there was no change; it had already been done before. All you did is take a year to check off the box and do the expense with it. We had somebody from Arizona come in and testify that the administrator review cost more than the actual construction of the project. That's silly. That is ridiculous.

H.R. 795 deals with this same issue on non-Federal land. This bill deals with this same issue on existing Bureau of Reclamation projects. It's a common-sense development to get an untapped resource that we need to develop. It would not significantly enlarge the environmental footprint because these are already man-made entities who have already gone through the NEPA process once, and there is no rational reason to reinvent the wheel and do it a second time only to find out they were right the first time.

What would be the benefit from this bill?

First of all, new sources of clean energy to add to our portfolio.

Second, we can facilitate small projects to help offset carbon-based irrigation pumping in the West.

Third, it would help reduce the cost of energy. It would produce a cash flow to irrigation districts so they could actually increase and pay for and improve their aging infrastructure and modernize these water facilities.

Fourth, it does create jobs, and for once we have a bill that actually increases revenue coming into the government from this. CBO has estimated, the Congressional Budget Office, that this will generate \$5 million in additional revenue coming into the government. So not only can we create more

energy, we can do the right thing, we can fix our infrastructure, but we actually make money that comes into the government to help with other issues.

There is a reason this is a bipartisan bill: because it's the right thing to do.

There is a reason why we should move forward with this bill: because it taps a valuable resource that will go to waste if we do not do it.

There is a reason that this bill is here: to speed up the regulatory red tape, to cut through the cost, to make things happen and help us move forward as a Nation with better energy development and energy independence.

There's a whole bunch of good reasons for this bill, and that's why I support the bill, and I also support the rule that will make it possible to give a good and fair open balance to this debate.

With that, this is a good bill and an incredibly fair rule. I urge the adoption.

The material previously referred to by Ms. SLAUGHTER is as follows:

AN AMENDMENT TO H. RES. 570 OFFERED BY  
MS. SLAUGHTER OF NEW YORK

At the end of the resolution, add the following new sections:

SEC. 3. Immediately upon adoption of this resolution the Speaker shall, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 964) to protect consumers from price-gouging of gasoline and other fuels, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chair and ranking minority member of the Committee on Energy and Commerce. After general debate the bill shall be considered for amendment under the five-minute rule. All points of order against provisions in the bill are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommend with or without instructions. If the Committee of the Whole rises and reports that it has come to no resolution on the bill, then on the next legislative day the House shall, immediately after the third daily order of business under clause 1 of rule XIV, resolve into the Committee of the Whole for further consideration of the bill.

SEC. 4. Clause 1(c) of rule XIX shall not apply to the consideration of the bill specified in section 3 of this resolution.

(The information contained herein was provided by the Republican Minority on multiple occasions throughout the 110th and 111th Congresses.)

THE VOTE ON THE PREVIOUS QUESTION: WHAT  
IT REALLY MEANS

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Republican majority agenda and

a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's Precedents of the House of Representatives (VI, 308-311), describes the vote on the previous question on the rule as "a motion to direct or control the consideration of the subject before the House being made by the Member in charge." To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that "the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition" in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R Illinois) said: "The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition."

Because the vote today may look bad for the Republican majority they will say "the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution. . . . [and] has no substantive legislative or policy implications whatsoever." But that is not what they have always said. Listen to the Republican Leadership Manual on the Legislative Process in the United States House of Representatives, (6th edition, page 135). Here's how the Republicans describe the previous question vote in their own manual: "Although it is generally not possible to amend the rule because the majority Member controlling the time will not yield for the purpose of offering an amendment, the same result may be achieved by voting down the previous question on the rule. . . . When the motion for the previous question is defeated, control of the time passes to the Member who led the opposition to ordering the previous question. That Member, because he then controls the time, may offer an amendment to the rule, or yield for the purpose of amendment."

In Deschler's Procedure in the U.S. House of Representatives, the subchapter titled "Amending Special Rules" states: "a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate." (Chapter 21, section 21.2) Section 21.3 continues: "Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon."

Clearly, the vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Republican majority's agenda and allows those with alternative views the opportunity to offer an alternative plan.

Mr. BISHOP of Utah. I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. SLAUGHTER. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

APPLYING COUNTERVAILING DUTY  
PROVISIONS TO NONMARKET  
ECONOMY COUNTRIES

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the unfinished business is the vote on the motion to suspend the rules and pass the bill (H.R. 4105) to apply the countervailing duty provisions of the Tariff Act of 1930 to nonmarket economy countries, and for other purposes, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. CAMP) that the House suspend the rules and pass the bill.

The vote was taken by electronic device, and there were—yeas 370, nays 39, not voting 24, as follows:

[Roll No. 96]

YEAS—370

Ackerman	Capps	Doyle
Adams	Capuano	Dreier
Aderholt	Carnahan	Duffy
Akin	Carney	Duncan (TN)
Alexander	Carson (IN)	Edwards
Altmire	Carter	Ellison
Amodel	Cassidy	Ellmers
Andrews	Castor (FL)	Emerson
Austria	Chabot	Engel
Baca	Chandler	Eshoo
Bachus	Chu	Farenthold
Baldwin	Ciulline	Farr
Barletta	Clarke (MI)	Filner
Barrow	Clarke (NY)	Fitzpatrick
Bartlett	Clay	Fleischmann
Barton (TX)	Cleaver	Forbes
Bass (CA)	Clyburn	Fortenberry
Bass (NH)	Coble	Fox
Becerra	Coffman (CO)	Frank (MA)
Benish	Cohen	Frelinghuysen
Berg	Cole	Galleghy
Berkley	Conaway	Garamendi
Berman	Connolly (VA)	Gerlach
Biggart	Conyers	Gibbs
Bilbray	Cooper	Gibson
Bilirakis	Costa	Gingrey (GA)
Bishop (GA)	Costello	Gonzalez
Black	Courtney	Goodlatte
Blackburn	Cravaack	Gowdy
Blumenauer	Crawford	Granger
Bonamici	Crenshaw	Graves (MO)
Bonner	Critz	Green, Al
Bono Mack	Crowley	Green, Gene
Boren	Cuellar	Griffin (AR)
Boswell	Culberson	Griffith (VA)
Boustany	Cummings	Grijalva
Brady (PA)	Davis (CA)	Grimm
Brady (TX)	Davis (KY)	Guinta
Braley (IA)	DeFazio	Guthrie
Brooks	DeGette	Gutierrez
Brown (FL)	DeLauro	Hahn
Buchanan	Denham	Hanabusa
Bucshon	Dent	Hanna
Buerkle	DesJarlais	Harper
Burton (IN)	Deutch	Hartzler
Butterfield	Diaz-Balart	Hastings (FL)
Calvert	Dicks	Hastings (WA)
Camp	Dingell	Hayworth
Cantor	Dold	Heck
Capito	Donnelly (IN)	Heinrich

Herger  
Herrera Beutler  
Higgins  
Himes  
Hinchey  
Hirono  
Hochul  
Holden  
Holt  
Honda  
Hoyer  
Huizenga (MI)  
Hultgren  
Hunter  
Hurt  
Insole  
Israel  
Issa  
Jackson (IL)  
Jackson Lee  
(TX)  
Jenkins  
Johnson (GA)  
Johnson (IL)  
Johnson (OH)  
Johnson, E. B.  
Johnson, Sam  
Jones  
Keating  
Kelly  
Kildee  
Kind  
King (NY)  
Kinzinger (IL)  
Kissell  
Kline  
Landry  
Langevin  
Lankford  
Larsen (WA)  
Larson (CT)  
Latham  
LaTourette  
Latta  
Lee (CA)  
Levin  
Lewis (CA)  
Lewis (GA)  
Lipinski  
LoBiondo  
Loeback  
Lofgren, Zoe  
Long  
Lowey  
Lucas  
Luetkemeyer  
Luján  
Lummis  
Lungren, Daniel  
E.  
Lynch  
Maloney  
Manzullo  
Marchant  
Marino  
Markey  
Matheson  
Matsui  
McCarthy (CA)  
McCarthy (NY)  
McCaul  
McCollum  
McDermott  
McGovern  
McHenry

McIntyre  
McKeon  
McKinley  
McMorris  
Rodgers  
McNerney  
Meehan  
Meeks  
Mica  
Michaud  
Miller (MI)  
Miller (NC)  
Miller, Gary  
Miller, George  
Moran  
Murphy (CT)  
Murphy (PA)  
Myrick  
Nadler  
Napolitano  
Neal  
Neugebauer  
Noem  
Nunes  
Nunnelee  
Olson  
Olver  
Owens  
Palazzo  
Pallone  
Pascrell  
Pastor (AZ)  
Paulsen  
Pelosi  
Pence  
Peters  
Peterson  
Petri  
Pingree (ME)  
Pitts  
Platts  
Poe (TX)  
Polis  
Posey  
Price (GA)  
Price (NC)  
Quigley  
Rahall  
Reed  
Rehberg  
Reichert  
Renacci  
Reyes  
Ribble  
Richardson  
Richmond  
Rigell  
Rivera  
Roby  
Roe (TN)  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rohrabacher  
Rokita  
Rooney  
Ros-Lehtinen  
Roskam  
Ross (AR)  
Ross (FL)  
Rothman (NJ)  
Roybal-Allard  
Royce  
Runyan  
Ruppersberger

Rush  
Ryan (OH)  
Ryan (WI)  
Sánchez, Linda  
T.  
Sanchez, Loretta  
Sarbanes  
Schakowsky  
Schiff  
Schilling  
Schock  
Schrader  
Scott (VA)  
Scott, Austin  
Scott, David  
Sensenbrenner  
Serrano  
Sessions  
Sewell  
Sherman  
Shimkus  
Shuler  
Shuster  
Simpson  
Sires  
Slaughter  
Smith (NE)  
Smith (NJ)  
Smith (TX)  
Smith (WA)  
Stark  
Stivers  
Stutzman  
Sullivan  
Sutton  
Terry  
Thompson (CA)  
Thompson (MS)  
Thompson (PA)  
Thornberry  
Tiberi  
Tierney  
Tipton  
Tonko  
Towns  
Tsongas  
Turner (NY)  
Turner (OH)  
Upton  
Van Hollen  
Velázquez  
Walberg  
Walden  
Walz (MN)  
Wasserman  
Schultz  
Waters  
Watt  
Waxman  
Webster  
Welch  
West  
Westmoreland  
Whitfield  
Wilson (FL)  
Wilson (SC)  
Wittman  
Wolf  
Womack  
Woodall  
Woolsey  
Yarmuth  
Young (AK)  
Young (FL)  
Young (IN)

□ 1408

Mrs. BACHMANN, Messrs. STEARNS and KINGSTON changed their vote from "yea" to "nay."

Mr. DEUTCH, Mrs. EMERSON, and Mr. SARBANES changed their vote from "nay" to "yea."

So (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. PERLMUTTER. Mr. Speaker, on rollcall No. 96, I was unavoidably detained and missed voting on H.R. 4105. Had I not been detained, I would have voted "yea."

Ms. SCHWARTZ. Mr. Speaker, on rollcall No. 96, had I been present, I would have voted "yea."

#### MOURNING THE PASSING OF CONGRESSMAN DONALD PAYNE

(Mr. SMITH of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of New Jersey. Mr. Speaker, it is with deep sorrow that I inform the House that our dear friend and colleague, DON PAYNE, has passed. He had colon cancer.

In a few moments a privileged resolution will be offered on the floor that recognizes and honors this extraordinary man who dedicated his entire life to public service, a man who made a significant difference in the lives of many in his district, in our State, in the Nation, and in the world.

Elected in 1988, after first serving as a Newark city councilman and Essex County freeholder, this high school teacher and coach-turned-politician went on to be the first African American ever to serve in Congress from the State of New Jersey.

DON fought tenaciously to combat the HIV-AIDS pandemic and mitigate the loss of life and morbidity from TB and malaria on the subcontinent of Africa. He coauthored the Sudan Peace Act and worked tirelessly to end the genocide in both South Sudan and Darfur. As a matter of fact, he even risked his life in Somalia—was shot at—in the pursuit of peace.

I know firsthand, Mr. Speaker, how much he truly cared and how hard he worked for peace and reconciliation in war-ravaged nations. I served as the ranking member of the Africa Subcommittee when he chaired it, and he served as the ranking member when I chaired it.

Finally, let me just say that DON PAYNE also served as chairman of the

Congressional Black Caucus, and until his untimely death today, chairman of the Congressional Black Caucus Foundation. He was predeceased by his wife, Hazel. DON is also the proud father of three, grandfather of four, and great grandfather of one.

DONALD PAYNE, Mr. Speaker, will be missed.

I yield to my good friend and colleague, Mr. PALLONE.

Mr. PALLONE. I thank my friend.

Mr. Speaker, I can't believe that DON PAYNE is not with us today. I'm looking over there where he would often sit, and I would come down on the floor and ask him to do a 1 minute or a Special Order.

□ 1410

He was very proud of his African American roots, and it was one of the reasons that he would often go to Africa and champion so many causes for those in Africa.

DON cared so deeply about his hometown of Newark and the other towns that he represented. He was always looking out for those in need—the disadvantaged and the poor. Those were the people that he cared about, and he spent so much time trying to deal with their problems and making their lives better.

I think more than anything else I remember DON's smile. DON always felt that things could get better and that we could work together. I think a lot of people don't know that his district was very diverse. There were many African Americans, but there were many people of other nationalities. We would often talk about the Italian Americans that he had lived with, grew up with, and worked with in his district.

DON always felt that we could have a better world, that Democrats and Republicans could work together and that people could work across ethnic and racial barriers. And he always made me feel, no matter how down I was on a particular day, that this place was important and that we can make a difference in people's lives. So I will sorely miss him.

I would ask that this afternoon, at the end of the day, at approximately 4 o'clock, we have unlimited 1 minutes, and we're going to have a bipartisan hour Special Order where Members can come down and pay tribute.

#### MOMENT OF SILENCE

Mr. SMITH of New Jersey. Mr. Speaker, I do ask for a moment of silence to remember our dearly departed friend, DON PAYNE.

The SPEAKER. Members and guests will rise and observe a moment of silence.

#### NAYS—39

Amash  
Bachmann  
Broun (GA)  
Burgess  
Canseco  
Chaffetz  
Duncan (SC)  
Fincher  
Flake  
Fleming  
Flores  
Franks (AZ)  
Gardner

Garrett  
Gosar  
Graves (GA)  
Hall  
Harris  
Hensarling  
Huelskamp  
Jordan  
Kingston  
Lamborn  
Lance  
Mack  
McClintock

Mulvaney  
Nugent  
Pearce  
Pompeo  
Quayle  
Scalise  
Schmidt  
Schweikert  
Scott (SC)  
Southern  
Stearns  
Walsh (IL)  
Yoder

#### NOT VOTING—24

Bishop (NY)  
Bishop (UT)  
Campbell  
Cardoza  
Davis (IL)  
Doggett  
Fattah  
Fudge  
Gohmert

**EXPRESSING THE CONDOLENCES OF THE HOUSE OF REPRESENTATIVES ON THE DEATH OF THE HON. DONALD M. PAYNE, A REPRESENTATIVE OF THE STATE OF NEW JERSEY**

Mr. SMITH of New Jersey. Mr. Speaker, I offer a privileged resolution and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 571

*Resolved*, That the House has heard with profound sorrow of the death of the Honorable Donald M. Payne, a Representative from the State of New Jersey.

*Resolved*, That a committee of such Members of the House as the Speaker may designate, together with such Members of the Senate as may be joined, be appointed to attend the funeral.

*Resolved*, That the Sergeant-at-Arms of the House be authorized and directed to take such steps as may be necessary for carrying out the provisions of these resolutions and that the necessary expenses in connection therewith be paid out of applicable accounts of the House.

*Resolved*, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

*Resolved*, That when the House adjourns today, it adjourn as a further mark of respect to the memory of the deceased.

The resolution was agreed to.

A motion to reconsider was laid on the table.

**ANNOUNCEMENT BY THE SPEAKER**

The SPEAKER. Under clause 5(d) of rule XX, the Chair announces to the House that, in light of the passing of the gentleman from the State of New Jersey (Mr. PAYNE), the whole number of the House is 433.

**PROVIDING FOR CONSIDERATION OF H.R. 2842, THE BUREAU OF RECLAMATION SMALL CONDUIT HYDROPOWER DEVELOPMENT AND RURAL JOBS ACT OF 2011**

The SPEAKER. The unfinished business is the vote on ordering the previous question on the resolution (H. Res. 570) providing for consideration of the bill (H.R. 2842) to authorize all Bureau of Reclamation conduit facilities for hydropower development under Federal reclamation law, and for other purposes, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER. The question is on ordering the previous question.

The vote was taken by electronic device, and there were—yeas 232, nays 177, not voting 24, as follows:

[Roll No. 97]

YEAS—232

Adams	Akin	Amash
Aderholt	Alexander	Amodei

Austria	Rowdy	Olson	Donnelly (IN)	Lee (CA)	Richmond
Bachmann	Granger	Palazzo	Doyle	Levin	Rothman (NJ)
Bachus	Graves (GA)	Paulsen	Edwards	Lewis (GA)	Roybal-Allard
Barletta	Graves (MO)	Pearce	Ellison	Lipinski	Ruppersberger
Bartlett	Griffin (AR)	Pence	Engel	Loeb	Rush
Barton (TX)	Griffith (VA)	Petri	Eshoo	Lofgren, Zoe	Ryan (OH)
Bass (NH)	Grimm	Pitts	Farr	Lowe	Sánchez, Linda
Benishek	Guinta	Platts	Fattah	Luján	T.
Berg	Guthrie	Poe (TX)	Filner	Lynch	Sanchez, Loretta
Biggert	Hall	Pompeo	Frank (MA)	Maloney	Sarbanes
Bilbray	Hanna	Posney	Garamendi	Markey	Schakowsky
Bilirakis	Harper	Price (GA)	Gonzalez	Matsui	Schiff
Bishop (UT)	Harris	Quayle	Green, Al	McCarthy (NY)	Schrader
Black	Hartzer	Reed	Green, Gene	McCollum	Schwartz
Blackburn	Hastings (WA)	Rehberg	Grijalva	McDermott	Scott (VA)
Bonner	Hayworth	Reichert	Gutierrez	McGovern	Scott, David
Bono Mack	Heck	Renacci	Hahn	McIntyre	Serrano
Boren	Hensarling	Ribble	Hanabusa	McNerney	Sewell
Boustany	Herger	Rigell	Hastings (FL)	Meeks	Sherman
Brady (TX)	Herrera Beutler	Rivera	Heinrich	Michaud	Shuler
Brooks	Huelskamp	Roby	Higgins	Miller (NC)	Sires
Brown (GA)	Huizenga (MI)	Roe (TN)	Himes	Miller, George	Slaughter
Buchanan	Hultgren	Rogers (AL)	Hinchey	Moran	Smith (WA)
Bucshon	Hunter	Rogers (KY)	Hirono	Murphy (CT)	Stark
Buerkle	Hurt	Rogers (MI)	Hochul	Nadler	Sutton
Burgess	Issa	Rohrabacher	Holden	Napolitano	Thompson (CA)
Burton (IN)	Jenkins	Rokita	Holt	Neal	Thompson (MS)
Calvert	Johnson (IL)	Rooney	Honda	Olver	Tierney
Camp	Johnson (OH)	Ros-Lehtinen	Hoyer	Owens	Tonko
Canseco	Johnson, Sam	Ross (AR)	Inslee	Pallone	Towns
Cantor	Jones	Ross (FL)	Israel	Pascarell	Tsongas
Capito	Jordan	Royce	Jackson (IL)	Pastor (AZ)	Van Hollen
Carter	Kelly	Runyan	Jackson Lee	Pelosi	Velázquez
Cassidy	King (NY)	Ryan (WI)	(TX)	Perlmutter	Walz (MN)
Chabot	Kingston	Scalise	Johnson (GA)	Peters	Wasserman
Chaffetz	Kinzie (IL)	Schilling	Johnson, E. B.	Peterson	Schultz
Chandler	Kline	Schmidt	Keating	Pingree (ME)	Waters
Coffman (CO)	Lamborn	Schock	Kildee	Polis	Watt
Cole	Lance	Schweikert	Kind	Price (NC)	Waxman
Conaway	Landry	Scott (SC)	Kissell	Quigley	Welch
Cravaack	Lankford	Scott, Austin	Langevin	Rahall	Wilson (FL)
Crawford	Latham	Sensenbrenner	Larsen (WA)	Reyes	Woolsey
Crenshaw	Latta	Sessions	Larson (CT)	Richardson	Yarmuth
Culberson	Lewis (CA)	Shimkus			
Davis (KY)	LoBiondo	Shuster			
Denham	Long	Simpson			
Dent	Lucas	Smith (NE)	Campbell	Kaptur	Paul
DesJarlais	Luetkemeyer	Smith (NJ)	Cardoza	King (IA)	Payne
Diaz-Balart	Lummis	Smith (TX)	Coble	Kucinich	Rangel
Dold	Lungren, Daniel	Southerland	Doggett	Labrador	Roskam
Dreier	E.	Stearns	Fudge	LaTourette	Speier
Duffy	Mack	Stivers	Gibson	McCotter	Visclosky
Duncan (SC)	Manzullo	Stutzman	Gohmert	Miller (FL)	Wilson (SC)
Duncan (TN)	Marchant	Sullivan	Hinojosa	Moore	Young (AK)
Ellmers	Marino	Terry			
Emerson	Matheson	Thompson (PA)			
Farenthold	McCarthy (CA)	Thornberry			
Fincher	McCaul	Tiberi			
Fitzpatrick	McClintock	Tipton			
Flake	McHenry	Turner (NY)			
Fleischmann	McKeon	Turner (OH)			
Fleming	McKinley	Upton			
Flores	McMorris	Walberg			
Forbes	Rodgers	Walden			
Fortenberry	Meehan	Walsh (IL)			
Fox	Mica	Webster			
Franks (AZ)	Miller (MI)	West			
Frelinghuysen	Miller, Gary	Westmoreland			
Galleghy	Mulvaney	Whitfield			
Gardner	Murphy (PA)	Wittman			
Garrett	Myrick	Wolf			
Gerlach	Neugebauer	Womack			
Gibbs	Noem	Woodall			
Gingrey (GA)	Nugent	Yoder			
Goodlatte	Nunes	Young (FL)			
Gosar	Nunnelee	Young (IN)			

**NAYS—177**

Ackerman	Brown (FL)	Conyers
Altmire	Butterfield	Cooper
Andrews	Capps	Costa
Baca	Capuano	Costello
Baldwin	Carnahan	Courtney
Barrow	Carney	Critz
Bass (CA)	Carson (IN)	Crowley
Becerra	Castor (FL)	Cuellar
Berkley	Chu	Cummings
Berman	Cicilline	Davis (CA)
Bishop (GA)	Clarke (MI)	Davis (IL)
Bishop (NY)	Clarke (NY)	DeFazio
Blumenauer	Clay	DeGette
Bonamici	Cleaver	DeLauro
Boswell	Clyburn	Deutch
Brady (PA)	Cohen	Dicks
Braley (IA)	Connolly (VA)	Dingell

Lee (CA)	Richmond
Levin	Rothman (NJ)
Lewis (GA)	Roybal-Allard
Lipinski	Ruppersberger
Loeb	Rush
Lofgren, Zoe	Ryan (OH)
Lowe	Sánchez, Linda
Luján	T.
Lynch	Sanchez, Loretta
Maloney	Sarbanes
Markey	Schakowsky
Matsui	Schiff
McCarthy (NY)	Schrader
McCollum	Schwartz
McDermott	Scott (VA)
McGovern	Scott, David
McIntyre	Serrano
McNerney	Sewell
Meeks	Sherman
Michaud	Shuler
Miller (NC)	Sires
Miller, George	Slaughter
Moran	Smith (WA)
Murphy (CT)	Stark
Nadler	Sutton
Napolitano	Thompson (CA)
Neal	Thompson (MS)
Olver	Tierney
Owens	Tonko
Pallone	Towns
Pascarell	Tsongas
Pastor (AZ)	Van Hollen
Pelosi	Velázquez
Perlmutter	Walz (MN)
Peters	Wasserman
Peterson	Schultz
Pingree (ME)	Waters
Polis	Watt
Price (NC)	Waxman
Quigley	Welch
Rahall	Wilson (FL)
Reyes	Woolsey
Richardson	Yarmuth

**NOT VOTING—24**

Campbell	Kaptur	Paul
Cardoza	King (IA)	Payne
Coble	Kucinich	Rangel
Doggett	Labrador	Roskam
Fudge	LaTourette	Speier
Gibson	McCotter	Visclosky
Gohmert	Miller (FL)	Wilson (SC)
Hinojosa	Moore	Young (AK)

**ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE**

The SPEAKER pro tempore (Mr. CHAFFETZ) (during the vote). There are 2 minutes remaining.

□ 1434

So the previous question was ordered. The result of the vote was announced as above recorded.

**PERSONAL EXPLANATION**

Mr. VISCLOSKEY. Mr. Speaker, on March 6, 2012, I was absent from the House and missed rollcall votes 96 and 97.

Had I been present for rollcall 96, on a motion to suspend the rules and pass H.R. 4105, to apply the countervailing duty provisions of the Tariff Act of 1930 to nonmarket economy countries, I would have voted "yea."

Had I been present for rollcall 97, on ordering the previous question of H. Res. 570, providing for consideration of the bill H.R. 2842, to authorize all Bureau of Reclamation conduit facilities for hydropower development under Federal Reclamation law, and for other purposes, I would have voted "nay."

**PERSONAL EXPLANATION**

Mr. MILLER of Florida. Mr. Speaker, due to a family emergency, I missed the following rollcall votes: No. 96 and No. 97 on March 6, 2012.

If present, I would have voted: rollcall vote No. 96—H.R. 4105—To apply the countervailing duty provisions of the Tariff Act of 1930

to nonmarket economy countries, and for other purposes, "nay"; rollcall vote No. 97—Previous Question, Providing for consideration of H.R. 2842, the Bureau of Reclamation Small Conduit Hydropower Development and Rural Jobs Act, "yea."

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

#### REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3610 AND H.R. 3611

Mr. CLAY. Mr. Speaker, I ask unanimous consent to remove my name as a cosponsor of H.R. 3610 and H.R. 3611.

The SPEAKER pro tempore (Mr. MCHENRY). Is there objection to the request of the gentleman from Missouri?

There was no objection.

#### BUREAU OF RECLAMATION SMALL CONDUIT HYDROPOWER DEVELOPMENT ACT OF 2011

Mr. HASTINGS of Washington. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the bill, H.R. 2842.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The SPEAKER pro tempore. Pursuant to House Resolution 570 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the consideration of the bill, H.R. 2842.

□ 1434

#### IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 2842) to authorize all Bureau of Reclamation conduit facilities for hydropower development under Federal reclamation law, and for other purposes, with Mr. CHAFFETZ in the chair.

The Clerk read the title of the bill.

The CHAIR. Pursuant to the rule, the bill is considered read the first time.

The gentleman from Washington (Mr. HASTINGS) and the gentlewoman from California (Mrs. NAPOLITANO) each will control 30 minutes.

The Chair recognizes the gentleman from Washington.

Mr. HASTINGS of Washington. Mr. Chairman, I yield myself as much time as I may consume.

Mr. Chairman, I rise in strong support of H.R. 2842, the Bureau of Reclamation Small Conduit Hydropower Development and Rural Jobs Act of 2011. It authorizes hydropower at existing Bureau of Reclamation facilities and, by doing so, it allows placement of

hydropower generators on existing man-made canals and pipes that have already gone through extensive environmental review.

This is a bipartisan plan to create new American jobs, cut government red tape, and expand production of clean, renewable and low-cost hydropower.

This past weekend President Obama once again tried to claim support for an all-of-the-above energy production, but unlike President Obama's empty rhetoric, House Republicans are taking real action to prove our commitment to expanding all forms of American energy.

Americans have now experienced 27 consecutive days of rising gas prices, and now the national average is pushing closer to \$4 a gallon. In order to address the skyrocketing prices, Republicans will continue to pursue an all-of-the-above approach that responsibly develops the natural resources that we have right here at home.

The facts are, Mr. Chairman, we have followed through on this commitment by passing through the House bipartisan reforms to break down government barriers to American energy production. Just weeks ago, the House passed a bipartisan jobs plan to vastly expand access to our oil and natural gas resources offshore and in ANWR. Today we're putting forth a plan to expand production of clean, renewable hydropower.

As families and small businesses across the country are worried about rising gasoline prices, they are also worried about escalating electricity costs. Rising energy prices are a drain on our economy, pure and simple. It increases business costs and makes everything we do more expensive.

Hydropower is one of the cleanest and cheapest forms of electricity. In my view, coming from the Pacific Northwest, where nearly 70 percent of our power comes from hydropower, hydropower is the poster child for clean, renewable energy. Unfortunately, as is too often the case, the Federal Government is one of the biggest obstacles to increasing the development of hydropower projects, especially small projects.

This bill would remove government roadblocks and streamline the duplicative regulatory process for developing small canal and pipeline hydropower projects on existing Bureau of Reclamation facilities. This commonsense plan would help generate thousands of megawatts of clean, cheap, abundant and reliable hydroelectricity. Furthermore, it allows for hydropower generation without a single new dam, and at no cost to the Federal Government.

Now, let there be no mistake. I am a proponent of new dams. But this bill rightly harnesses hydropower potential at existing facilities. Water users throughout the West will be empow-

ered to develop hydropower at the Federal canals they operate and maintain.

It's once again important to note that this bill only allows for small hydropower projects on existing canals and pipelines. Such manmade facilities are already on what I would call disturbed ground and have already gone through extensive environmental reviews.

Furthermore, this bill is a revenue generator for the Federal Government. The nonpartisan Congressional Budget Office, or CBO, estimates that it will generate \$5 billion over the next 10 years through increased hydropower production and rental fees associated with it.

H.R. 2842 affirms Republicans' commitment to a true, all-of-the-above energy plan. It will create jobs in rural areas, lower energy prices, and expand production of clean, renewable American energy by simply getting the Federal Government out of the way.

This bill received bipartisan support in the Natural Resources Committee and is endorsed by the Family Farm Alliance, the National Water Resources Association, the American Public Power Association, and the Association of California Water Agencies.

□ 1440

I want to commend the bill's sponsors, Mr. TIPTON of Colorado and Mr. GOSAR of Arizona, for their work on this.

I urge my colleagues to support the bill, and I reserve the balance of my time.

Mrs. NAPOLITANO. Mr. Chair, I yield myself 5 minutes.

I do rise in support of the general premise—I repeat—the general premise of this legislation, but oppose the legislation as amended. I would like to mention that only 3 out of 15 Democrats support it. So while it is bipartisan, it is minor bipartisanship on this particular issue.

H.R. 2842 does seek to generate additional hydropower at the existing Bureau of Reclamation facilities—that is, Federal properties—through developing new process of conduit and in-canal hydropower, which we should be developing at a greater speed and length.

We cannot support this bill as amended, even though the original bill did also state it and an attempt was tried to be able to take this waiver language out on page 4, lines 12 to 15. We were unsuccessful, and we cannot support it because it does have a NEPA waiver, language that we cannot support.

We are in support of the general intent. H.R. 2842, the Federal conduits, continue to fall under Reclamation Lease of Power Privilege process, LOPP. It requires offering a preference to irrigation districts or water users associations with an existing contract, those that already have a contract, which we support.

It safeguards current project users by recognizing the project's primary authorized purposes and that no financial and/or operational costs will be incurred by the existing water and power users.

The Federal Power Marketing Administrations are also—and I repeat—are not obligated to purchase or market the power produced.

The legislation does go a step too far and includes an unnecessary and unwise blanket exemption from a critical environmental law.

If my colleagues on the other side had simply followed the advice of the National Hydropower Association and the conservation group American Rivers, we would have a noncontroversial bill which would have passed unanimously out of the House. We also received a letter from six environmental groups in opposition that I would like to include in the RECORD.

Proponents for exempting the National Environmental Policy Act, NEPA, will argue that government regulatory red tape is preventing the development of more hydropower. Reclamation already has the authority to comply with NEPA through categorical exemptions, and the system is working. Categorical exclusions have been issued for hydropower sites under the reclamation's LOPP process at three specific sites in Colorado: the Lemon, which was in 1989; the Grand Valley Power Plant in 2011; and Jackson Gulch in 1995.

NEPA compliance for other sites, in fact, has not been the bureaucratic chaos some would make it out to be. There are three projects in the home State of Colorado for my colleague, the sponsor of this bill. In Jordanelle, Utah, compliance took 15 months from start to finish to receive final permit in 2004. At Lake Carter, Colorado, it took 6 months to finish NEPA in 2010. At Ridgway, Colorado, an LOPP was just issued last month after completing a 15-month NEPA process. On the South Canal Drop 3 site in Colorado, a finding of "no significant impact" was just issued last month after a 15-month NEPA process.

Developers and irrigators need clarity and certainty so their project can be developed. Waiving NEPA will not provide clarity and certainty. The stopgap for development is not NEPA; it's a lack of a Reclamation process. There must be a clear process in place for the development of hydropower at Reclamation facilities.

I urge Reclamation to finalize the directives and standards as soon as possible, and it's my understanding the draft is already out to developers and irrigators for their view, and the final directives and standards will be completed by the end of this year.

It is unfortunate that this legislation contains this controversial waiver. Without the NEPA exemption, this leg-

islation would have been on suspension, and I do oppose the legislation and ask my colleagues to join me in opposition to this very sad portion of waiver of NEPA.

MARCH 6, 2012.

DEAR REPRESENTATIVE: The undersigned organizations, on behalf of our millions of members and supporters are writing to express our opposition to the provision in Section 2 of H.R. 2842 that waives the National Environmental Policy Act (NEPA) with respect to small conduit hydropower projects at Bureau of Reclamation facilities.

While we support the legislation's intent to encourage the responsible development of renewable energy projects, waiving NEPA reviews for Bureau of Reclamation projects is unnecessary and unacceptable. The National Environmental Policy Act is not a roadblock to the successful approval of conduit hydropower projects at Bureau facilities. We believe that this backward step will not accelerate hydropower development. Rather, our experience has shown us that attempts to shortcut or sidestep environmental review typically result in delayed projects.

Successfully advancing the development of new energy resources, like conduit hydropower, requires us to do better than we have done with other forms of energy and other Bureau of Reclamation projects. While we do not oppose the development of conduit hydropower, it must be done responsibly and under all of the appropriate reviews necessary to make sure that such development is consistent with the public interest; a guarantee that NEPA provides.

Therefore we respectfully request that you oppose H.R. 2842 unless the language requiring a NEPA waiver is struck from the bill.

Sincerely,

AMERICAN RIVERS,  
CENTER FOR BIOLOGICAL  
DIVERSITY,  
DEFENDERS OF WILDLIFE,  
GRAND CANYON TRUST,  
NATURAL RESOURCES  
DEFENSE COUNCIL,  
THE WILDERNESS SOCIETY.

NATIONAL HYDROPOWER  
ASSOCIATION,  
Washington, DC, March 5, 2012.

Hon. SCOTT TIPTON:  
U.S. House of Representatives,  
Washington, DC.

DEAR REPRESENTATIVE TIPTON: The National Hydropower Association writes to express our appreciation for your work to support development of the nation's conduit power potential with your bipartisan bill, H.R. 2842, the Bureau of Reclamation Small Conduit Hydropower Development and Rural Jobs Act of 2011.

NHA believes there is tremendous untapped, renewable hydropower potential in existing man-made structures such as irrigation canals and other water conveyances, particularly on the federal system. As such, the Association supports policies encouraging these low-impact developments, while also ensuring appropriate project reviews.

NHA supports H.R. 2842, while also recommending a minor amendment to Section 2 of the bill to align the Bureau's treatment of these projects to that which they currently receive, and have received since the 1980s, at the Federal Energy Regulatory Commission. Specifically, NHA believes a provision that would require the Bureau to institute a NEPA categorical exclusion for small conduit projects provides appropriate oversight of these facilities, as longstanding practice and experience at FERC has shown.

As always, NHA stands ready to engage and work with policymakers and all stakeholders on hydropower legislation and policies. And again, we commend you for your work on this issue.

Sincerely,

LINDA CHURCH CIOCCI,  
Executive Director.

AMERICAN RIVERS,  
March 6, 2012.

DEAR REPRESENTATIVE: On behalf of American Rivers' thousands of members nationwide, I am writing to express our opposition to the provision in Section 2 of H.R. 2842 that waives the National Environmental Policy Act (NEPA) with respect to small conduit hydropower projects at Bureau of Reclamation facilities.

American Rivers supports the responsible development of conduit hydropower projects at Bureau facilities. We believe that there is significant untapped potential at these facilities for new hydropower generation. We believe that the Bureau of Reclamation should improve its process for small conduit hydropower permitting, modeling its process on that used by the Federal Energy Regulatory Commission (FERC). We believe that the Bureau should, like FERC, consider a categorical exclusion for these types of projects in order to facilitate their construction.

Unfortunately, H.R. 2842 creates a blanket waiver of NEPA for small conduit hydropower projects at Bureau facilities. We hope that in the course of House consideration of the bill, the NEPA waiver language can be amended. Pending that, American Rivers reluctantly opposes H.R. 2842 in its current form.

Sincerely,

JIM BRADLEY,  
Senior Director of Government Relations,  
American Rivers.

Mr. Chair, I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Chairman, I am very pleased to yield 4 minutes to the gentleman from Colorado (Mr. TIPTON), the sponsor of this very important legislation.

Mr. TIPTON. I thank the gentleman from Washington for yielding.

Mr. Chairman, Members of the House on both sides of the aisle talk of the need for an all-of-the-above energy solution for this country, a solution that gives serious consideration to all resources, including renewable and alternative energy.

It's easy to talk about this need, but today I offer a bill that turns that talk into action. My bill, the Bureau of Reclamation Small Conduit Hydropower Development and Rural Jobs Act of 2012, is a key piece of the all-of-the-above strategy energy that our country needs in order to strengthen reliable, domestic energy production; expand development of responsible, renewable energy; generate economic growth; and get Americans working once more.

Hydropower is the cheapest and cleanest source of electricity. This is created through modern technology. It's the highest source of non-carbon emitting energy in the world, accounting for approximately 69.9 percent of the United States' total renewable



electricity generation, making it the lead renewable energy resource power, according to the Hydropower Association.

In Colorado, nearly 30.7 percent of our renewable energy is hydropower, but only 3.1 percent of all Colorado is hydropower. We have a significant opportunity in Colorado to expand on this clean, renewable source of power while creating badly needed jobs for the Third District of Colorado in the process. In Colorado alone, there's enough existing capacity to generate as much power as the Glen Canyon Dam. However, as it stands, no major hydroelectric facilities have been built in many years. Existing facilities are being drained by endless litigation and regulatory obstacles that stifle production and lead to an increase in electricity prices and shortages in many regions of the country.

By streamlining the regulatory process and reducing administrative costs for small hydropower development at Reclamation's facilities, this common-sense legislation will encourage the production of clean, renewable hydropower and provide much needed opportunities for the creation of new jobs in Colorado for some of our Nation's hardest hit rural areas.

This commonsense bill garnered bipartisan support in the House Natural Resources Committee and has been endorsed by the Family Farm Alliance, the National Water Resources Association, the Association of California Water Agencies, and the American Public Power Association.

Chris Treese of the Family Farm Alliance and a constituent of mine in the Third Congressional District put it best when talking about the need for the bill:

The margins on small hydro are very small. Districts need to be able to make timely investment decisions without the prospect of environmental reviews of undetermined length and expense. Additionally, Western water districts share the Nation's desire to make investments that can put people to work immediately. Environmental reviews of small hydro on existing conduits represent an unnecessary and often chilling uncertainty for an economically marginal investment.

This legislation, which applies to all projects on Reclamation conduits without exception, seeks to address this concern and fix an unwieldy environmental review process that requires small developers to jump through unnecessary and duplicative bureaucratic hoops in order to complete a project on existing conduits that has already undergone the proper environmental reviews. By doing this, the Bureau of Reclamation Small Conduit Hydropower Development and Rural Jobs Act of 2012 will jump-start small hydropower development through which power generated will be sent directly to the grid and also create revenues that will help pay for aging infrastructure in our communities.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. HASTINGS of Washington. I yield the gentleman an additional 1 minute.

□ 1450

Mr. TIPTON. From the beginning, this Congress has made responsible energy development a legislative priority with the goal of putting forward a comprehensive solution that expands the development of alternative and renewable energy technologies while continuing the development of traditional energy resources.

We have an opportunity to join together in this body and pass a common-sense solution to advance the common goal of developing clean and renewable alternative energy and to put into place a key component of an all-of-the-above energy plan.

I ask my colleagues to take this into consideration and to remember the words that are inscribed in this very Chamber from Daniel Webster, saying:

Let us develop the resources of our land, call forth its powers, build up its institutions, promote all its great interests, and see whether we also in our day and generation may not perform something worthy to be remembered.

Hydropower development follows in the legacy of the responsible development of our precious natural resources with the steadfast protection of our environment. So I ask my colleagues for their support of the Bureau of Reclamation Small Conduit Hydropower Development and Rural Jobs Act of 2011.

Mrs. NAPOLITANO. I couldn't agree with him more. My only objection is the small portion of the NEPA waiver.

Mr. Chairman, I yield such time as he may consume to my colleague, the gentleman from Massachusetts, Ranking Member MARKEY.

Mr. MARKEY. I thank the gentlelady very much.

Mr. Chairman, I rise in opposition to this legislation.

After 427 days in the majority and having no energy or jobs strategy to show for it, House Republicans are now offering H.R. 2842, the Bureau of Reclamation Small Conduit Hydropower Development and Rural Jobs Act.

We need legislation that gets hydro projects moving and that gets hard hats down in the ditches again. Instead, Republicans are offering more legislation that is certain to be ditched by the Senate. We should encourage the development of small hydropower projects at existing facilities. In fact, if the legislation simply gave the Bureau of Reclamation exclusive jurisdiction to develop hydropower at Federal reclamation facilities, I would support it. If it mandated that the Bureau of Reclamation institute categorical exclusions for their small hydro projects, I would support it.

But Republicans, they just couldn't help themselves. It doesn't matter the nature of the problem. For Republicans, the problem is always just nature, so they went and gutted environmental review altogether in this bill. That's what happens when your entire economic platform is deregulation and gutting safety and environmental protections. You start waiving environmental review even when the industry you're trying to help isn't asking for it. If the Republicans had simply followed the advice of the hydro industry, we would have a noncontroversial bill that I could support and recommend to all of the Democratic Members that we pass 435 to nothing out here on the House floor this afternoon. Instead, it's ideology over hydrology. That's what the Republicans bring to the floor today.

If Republicans are serious about advancing the hydro industry, here is what they can do: extend the production tax credit, support clean renewable energy bonds, support domestic clean energy manufacturing tax credits, and extend the section 1603 renewable energy grant program.

Here is what those successful Recovery Act programs have already done:

Three companies have received \$67 million in tax credits to build hydro-related manufacturing facilities in the United States. Eight companies have received \$2 million in grants to support hydro deployment under the 1603 renewable energy grant program. Clean renewable energy bonds have supported \$531 million in public power hydro projects across the country.

But Republicans aren't interested in doing something constructive for hydro or for any other clean energy technology. With their oil-above-all strategy, Republicans want to continue subsidizing the oil and gas industry \$4 billion annually—\$40 billion over 10 years—but shut down all of the clean energy programs that I just outlined. They're going directly after any and all threats to Big Oil and Big Coal, and they're targeting clean energy jobs for elimination.

Republicans on our committee have reported out a bill that would repeal the borrowing authority that the Western Area Power Administration currently has to help finance transmission serving renewable energy projects. Between one project in Montana that is already under construction and three others that are deep into development, there are 11,500 jobs at stake, but the Republicans don't care about those 11,500 jobs.

Then there is the wind industry. Ten thousand American workers have already been cut in the wind industry because the production tax credit is expiring at the end of the year and orders are drying up; 27,000 more wind workers will lose their jobs if Republicans get their way and raise taxes on the

wind industry beginning on December 31 of this year.

A clean energy wave is upon us. America needs a vibrant domestic hydro industry, along with a healthy wind, solar, geothermal, and biomass industry, if we are to capture its benefits. Otherwise this wave will crash down upon us and, instead, carry the Chinese and the Indian and German economies to prosperity.

Let us vote down this bad bill before us and move on to the real policies that will help America's hydro sector.

Mr. HASTINGS of Washington. Mr. Chairman, I am pleased to yield 5 minutes to the chairman of the subcommittee that dealt with this legislation, the gentleman from California (Mr. MCCLINTOCK).

Mr. MCCLINTOCK. I thank the gentleman for yielding.

I would say to the gentleman from Massachusetts that nothing in this measure has anything at all to do with oil production. Quite the contrary, this bill reduces our reliance on fossil fuels by bringing hundreds of thousands of megawatts of new, clean hydroelectricity to the grid.

I don't understand the objection to this bill. This measure by Mr. TIPTON does everything the environmental left says that it likes: At precisely no cost to taxpayers, it produces absolutely clean and renewable electricity in vast quantities, on projects that have already undergone environmental review, simply by installing small generators in existing pipelines and canals where there are no fish or no flora or no fowl of any kind.

This is the alpha and omega of Mr. TIPTON's bill. Authorize these simple projects on existing Bureau of Reclamation facilities. That's it.

There are untold thousands of miles of pipelines and canals and aqueducts attached to these facilities that convey water by simple gravity. There is water in these existing facilities that is utterly devoid of any life whatsoever, and there is no conceivable environmental impact whatsoever. These existing pipelines, if equipped with simple hydroelectric generators, could generate electricity that would take several major multibillion-dollar hydroelectric dams across the West to produce.

In fact, our committee took testimony that, in Colorado alone, the hydroelectric facilities' small generators that would be encouraged by this bill could produce as much power as is currently produced by the entire Glen Canyon Dam. Now, multiply that throughout the United States, and you begin to realize what a huge impact this could have on new, clean, affordable energy for America.

Those hydroelectric generators are not going into these pipelines right now for one simple and utterly absurd reason: government regulations make it economically impossible to do so.

Our subcommittee took testimony from farmers in water districts who were trying to install these generators; but instead of doing everything it can to assist them, this administration smothers them with endless regulatory delays, demands for wildly expensive environmental studies and exorbitant permitting fees.

According to testimony before the committee that the gentleman from Colorado cited, the net effect of these environmental regulations can more than double the cost of these projects, simply pricing them out of reach. In one case, a witness told us that a \$20,000 small generator project would have required \$50,000 in permitting costs, and so it doesn't move forward.

Congressman TIPTON's bill, instead, welcomes these small hydroelectric generators by authorizing their placement in existing Bureau of Reclamation conduits. It invites existing operators and users to invest in these generators at no public cost. It establishes an office within the Bureau of Reclamation with the responsibility to assist projects, and it exempts them from paying for another costly, time-consuming, and pointless NEPA study when there is no conceivable environmental impact involved. These facilities already underwent the environmental process when they were built, when they were upgraded, or when their repayment contracts were renewed. It is simply a waste of time and money to put them through yet another review before these small generators can be installed.

I mean, think about the implications just to farming alone. Some irrigation districts are forced to use diesel generators to pump water to the fields. Put hydroelectric generators in existing canals and pipelines, and they become virtually self-sustaining while reducing their reliance on other sources of electricity that produce air emissions.

□ 1500

In addition, sales of canal-based electricity could generate local revenue for irrigators, which would help upgrade existing facilities and infrastructure, create jobs and relieve exhausted Federal taxpayers of these costs. The construction of these generators would mean new high-paying jobs for Americans.

It is truly mystifying that a nation plagued by prolonged economic stagnation, chronic unemployment, and increasingly scarce and expensive electricity would adopt a willful and deliberate policy obstructing the construction of these inexpensive and innocuous generators in already-existing facilities.

Mr. Chairman, there are fewer Americans working today than on the day that Barack Obama took office more than 3 long years ago. During that pe-

riod, he has taken well over a trillion dollars from the earnings of hardworking American families to funnel to well-connected companies, claiming to create jobs. In the case of Solyndra, it penciled out to \$450,000 per job, jobs that disappeared as soon as the government money ran out.

The CHAIR. The time of the gentleman has expired.

Mr. HASTINGS of Washington. I yield the gentleman an additional 1 minute.

Mr. MCCLINTOCK. I thank the gentleman.

Yet here, with this measure, at no cost to these hardworking families, at no cost to the environment, simply by getting absurdly and utterly duplicative government regulations out of the way, we could add tens of thousands of megawatts of clean and cheap electricity to our domestic energy supply, produce permanent jobs, reduce our reliance on fossil fuels, and lower the utility bills of American families.

Our Nation desperately needs clean, affordable, and abundant electricity; and it desperately needs permanent jobs. To get them, it most of all needs common sense restored to its government. The progress the American people have made in doing that, as well as the unfinished business remaining before them, will be very precisely measured by the roll call on this bill.

Mrs. NAPOLITANO. Mr. Chairman, how much time remains on both sides?

The CHAIR. The gentlewoman from California has 20½ minutes remaining, and the gentleman from Washington has 14 minutes remaining.

Mrs. NAPOLITANO. I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Chairman, I yield 5 minutes to a cosponsor of this legislation and a very valuable member of the Natural Resources Committee, the gentleman from Arizona (Mr. GOSAR).

Mr. GOSAR. Mr. Chairman, I rise in support of the bill Congressman TIPTON and I have worked closely on, H.R. 2842, the Bureau of Reclamation Small Conduit Hydropower Development and Rural Jobs Act of 2011.

Arizona has been hit hard by the recent recession. The rural counties that I represent are faced with unemployment rates that far exceed the national average. This bill could provide a little of the much-needed relief for these communities.

The Bureau of Reclamation Small Conduit Hydropower Development and Rural Jobs Act of 2011 is commonsense legislation that will create jobs in rural Arizona, increase our country's renewable energy portfolio, and generate revenues for the Federal Treasury by cutting duplicative, bureaucratic redtape.

Specifically, it would allow Arizonans that operate existing irrigation canals and ditch systems, man-made

canals and pipes as you can see from here, to install hydropower generators. To be clear, we are not talking about free-flowing rivers or streams. These are man-made structures that have already gone through environmental review. These canals, as you can see, do not contain endangered fish or wildlife.

I worked very closely with the Irrigation & Electrical Districts Association of Arizona, the special districts, municipalities, Indian utility authorities and project managers that are engaged in the management and delivery of water and power in my State as Congressman TIPTON and I crafted this legislation.

I am proud to be from a State that is as innovative and as resourceful as Arizona. Our State is a leader in developing safe ways to tap into our natural resources, which provides much-needed energy and jobs.

Unfortunately, due to Federal constraints, Arizona is unable to fully tap its hydroelectric power generation potential because of the duplicative regulations that make it too expensive and burdensome to develop. It is simply the failure of the Federal policies to facilitate an environment that is conducive to this type of development. Instead of working with communities that share common goals and values, the Federal Government is dictating to them.

The experts on the ground in Arizona say that we are literally sitting on a hydropower gold mine waiting for the needed clarifications and streamlining that will cut costs and make this program more attractive.

This bill does just that. For example, the Maricopa-Stanfield Irrigation & Drainage District, located in Pinal County, Arizona, estimates that it has the capacity to build 14 to 17 hydropower units if this legislation is signed into law. Those units could generate a total of approximately 2,200 kilowatts of renewable energy, which is enough electricity to power 550 to 1,000 homes. This is just one of the power managers in my State.

Another district, the Central Irrigation and Drainage District centered in Eloy, Arizona, has indicated they could install eight to 10 hydropower units with a capacity of 1,200 to 1,500 kilowatts of renewable energy, another 500 or so homes. These economic impacts are not small for these rural communities. They would provide a real economic boost and will reduce consumer energy costs.

There is not one solution to our Nation's energy crisis, but hydropower is clearly part of an overall all-options-on-the-table solution. Hydropower is the highest source of noncarbon-emitting energy in the world. It accounts for approximately 70 percent of the United States' total renewable electricity generation, and we are not even tapping the potential. Investing in hydropower infrastructure will strength-

en our economy and help move us towards energy independence.

To top it off, the nonpartisan Congressional Budget Office estimates that our bill will generate \$5 million in Federal revenue over the next 10 years. Increased revenues from the sale of this renewable energy can result in a new source of funding for operating, maintaining, and rehabilitating our aging water-delivery infrastructure at lower costs to farmers.

This legislation is truly a win-win for the American people and is exactly the type of legislation this House should be passing.

Vote "yes" on this bill, the Bureau of Reclamation Small Conduit Hydropower Development and Rural Jobs Act of 2011. It will create jobs in rural America, increase U.S. energy independence, and raise revenue for the U.S. Treasury.

So I guess the opponents of this bill are right: if commonsense solutions are your cup of tea, then I guess I can't help myself. And this is at no—let me repeat myself and this fact—this renewable energy is at no cost to the taxpayer or the public.

Mrs. NAPOLITANO. Mr. Chairman, I couldn't agree with Mr. GOSAR more on some of his presentation that the bureau would be able to expedite some of these projects, and they are working on that categorical exemption determination to be able to understand how they can expedite some of these projects.

NEPA is not some radical piece of legislation. It was overwhelmingly approved by Congress more than four decades ago and signed into law by President Nixon.

It is not an obstacle. It's a tool to be used to facilitate coordination, co-operation, and public input. It is not a barrier. It is a shield protecting our communities, yours and mine, from the unintended consequences that can occur when a big, clumsy Federal Government acts without thinking.

NEPA does not and cannot prevent projects from going forward. They just require the government to analyze alternatives and, most importantly, seek public comment. Evidence that NEPA does not stop projects is plain. Our majority cannot provide a single example where NEPA prevented one of these small projects, the hydroprojects from moving forward. Most applications are granted expeditiously and easily. It also provides the Bureau of Reclamation all the flexibility necessary to apply NEPA quickly and efficiently to the projects. There is no delay.

To oppose NEPA is to oppose public input. Again, it would then oppose public input. To oppose NEPA is to oppose thinking before we act.

This unnecessary and unwise blanket waiver of NEPA should be struck from this bill and then this bill could be passed unanimously and go on to approval in our other body.

I reserve the balance of my time.

□ 1510

Mr. HASTINGS of Washington. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I just want to point out what this bill does and the simplicity of this bill.

In 1902 when this House, along with the other House, created the Bureau of Reclamation, which was to reclaim the land—that's where "reclamation" comes from—it was designed to develop areas that heretofore did not have the resources with which to develop. Mainly, the resource they were lacking was water. And so the Bureau of Reclamation was created so that those arid areas, certainly my area of central Washington qualified as that because Grand Coulee Dam is a facility that irrigates the 500,000-plus acres in central Washington, but it was designed to develop areas that couldn't be developed before.

So now we have these facilities in place all over the West. They've gone through extensive environmental reviews in order to be put into place. Yet even with the technology that makes irrigation better and better and more and more efficient, there still is water in these canals that goes back to the river, in my case the Columbia River. It starts in the Columbia River and ends up in the Columbia River some 120 to 130 miles downstream. And during that process where the water goes to irrigate various parts of the project, we can better, more efficiently use that water by producing power, and that's what this legislation does.

Again, we have gone through the extensive environmental review to build the ditch, the canal. We saw pictures of that earlier. All we're suggesting now is we put something in there to capture the water power to generate electricity. It's no more complicated than that. That's all this bill is about. So with that, while there is an objection to the NEPA process, there is an amendment that will address that, and we will have more extensive debate on that.

But I would just repeat, Mr. Chairman, all of the building of the ditches, which is what really disturbs the land, that went through extensive environmental reviews to get to that point. We are now building within what we disturbed. Boy, to say that you have to have another process, environmental process, doesn't make sense, at least to this Member.

With that, I reserve the balance of my time.

Mrs. NAPOLITANO. Mr. Chairman, how much time remains?

The CHAIR. The gentlewoman from California has 18½ minutes, and the gentleman from Washington has 6 minutes.

Mrs. NAPOLITANO. Mr. Chairman, I would like to reiterate that we fully

support the intent of the legislation without the exemption of NEPA stated on page 4, lines 12–15. And I must say that I have working relationships with some of my universities; and one of them, Cal Poly Pomona, has been working with hydrokinetics for awhile. We have been kind of tracking the issues of hydrokinetics and some of their results, the projects that they've got in New Jersey and New York, to be able to generate electricity. We have for at least 5 years been trying to make Congress and the committee understand that this is something that is very viable. Even the heat off the pumping motors is being recaptured and converted into electricity in one of my areas.

So I fully understand and I'm glad that it's finally beginning to take hold that there is the ability to create electricity from hydro. We support increased generation at all facilities by developing conduit and in-canal hydropower.

And, again, I support all of the provisions that I stated here, but waiving NEPA does not provide the clarity and the certainty needed to be a clear process for the development of hydro at reclamation facilities. That's Federal facilities only. We must ensure that the lease-of-power privilege, the law, is clear and does provide specific certainty. It should be consistent with the FERC process, as stated in the letter from the National Hydropower Association and American Rivers, as introduced into the RECORD. We will be proposing an amendment to fix the problem, and we want to make this in a truly bipartisan manner and look forward to working with my colleagues on the other side.

I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Chairman, I would like to ask my friend from California if she has any more speakers on the debate portion of this.

Mrs. NAPOLITANO. I do not.

Mr. HASTINGS of Washington. If not, I am prepared to yield back and start the amendment process if the gentlelady yields back.

Mrs. NAPOLITANO. I yield back the balance of my time.

Mr. HASTINGS of Washington. Mr. Chairman, I yield back the balance of my time.

Ms. JACKSON LEE of Texas. Mr. Chair, I rise today in order to debate H.R. 2842. "Bureau of Reclamation Small Conduit Hydropower Development and Rural Jobs Act" would authorize the Bureau of Reclamation to permit private entities to develop small hydropower units on all irrigation canals and conduits under the agency's jurisdiction. Under current law, the Bureau or the Federal Energy Regulatory Commission, FERC, has jurisdiction over hydropower development at such facilities.

Currently both the Federal Energy Regulatory Commission and the Bureau of Rec-

lamation have the authority to manage small conduit hydropower projects in all Bureau of Reclamation irrigation canals and conduits. This bill would give this authority only to the Bureau of Reclamation thereby streamlining regulation. There will be jobs created by this measure, however not enough to be considered a Rural Jobs bill. The American people need a jobs bill.

I would have supported this legislation without hesitation if this bill did not contain a poison pill. As written I am concerned about a provision in the bill that would exempt small conduit hydropower projects from having to comply with the National Environmental Policy Act, NEPA. H.R. 2842 removes the requirement that all small hydropower projects must complete an environmental impact statement unless granted an exception from FERC. Although my colleagues who support this legislation will argue that NEPA compliance for small conduit hydropower is unnecessary and hinders developers from pursuing small conduit hydropower projects. There is a valid and proven counter to this argument.

Currently FERC has a successful licensing process for small conduit hydropower showing that compliance with NEPA need not hinder responsible development. FERC categorically exempts small conduit projects from NEPA. This approach works: from 2006–2010, 13 conduit exemptions were completed in less than a year. Of the 11 conduit exemptions that were issued in 2011, orders regarding the nine conduit exemptions that presented no substantive issues were issued on average 40 days after the comment deadline established in the public notice. We can protect our environment while meeting the needs of rural communities in need of an additional green energy resource.

I will continue to seek ways to improve the nation's hydropower system by encouraging increased generation while improving environmental performance.

Let me be clear, I support hydropower in both large scale and small projects that are developed and operated in a responsible manner that avoids harm to America's precious river resources. Given the very real environmental and social impacts of global climate change—especially on vital freshwater systems—I believe that we should develop new sources of energy that can supplement America's reliance on foreign oil.

However, I also know that the energy that we receive from hydropower if done improperly comes at an enormous cost to the health of our nation's rivers and communities.

The harm caused by any hydropower project can be avoided if hydropower is sited, constructed, and operated in a responsible manner. A few simple changes can make an enormous difference, which is why compliance with NEPA is important.

In the case of larger scale hydropower projects, hydropower operators could change the timing of power generation to mimic a river's natural hydrologic conditions, stabilize lake levels and dam releases to protect riverside land from erosion, provide fish ladders and other measures that protect fish and allow them to pass safely upstream and downstream of dams, restore habitat for fish and wildlife, alter the design and operation of

plants to maintain appropriate temperature and oxygen levels in rivers, and provide public access and release water back into rivers so that people can fish, boat, and swim. These types of changes have a miniscule impact on the overall generation of the Nation's hydropower fleet. In fact, an analysis by FERC found that since Congress passed laws in the 1980s to encourage these types of improvements, overall generating capacity has actually increased by 4.1 percent. The benefits to human and natural communities have been immense.

The Bureau of Reclamation was established to construct water works to provide water for irrigation and power for utilities in arid western states. The agency manages a number of facilities as part of larger, multi-purpose reclamation projects serving irrigation, flood control, power supply, and recreation purposes. Overall, these facilities serve approximately 31 million people, delivering a total of approximately 28.5 million acre-feet of water (an acre-foot is enough to cover one acre of land one foot deep, or 325,851 gallons) and making the agency the second largest domestic hydropower producer. H.R. 2842 seeks to utilize these existing irrigation channels/waterways by inserting small conduits to create hydro power.

Hydropower is a clean, renewable, non-emitting source of energy that provides low-cost electricity and helps reduce carbon emissions. It is more efficient than any other form of electricity generation and offsets more carbon emissions than all other renewable energy sources combined.

It accounts for 67 percent of the Nation's total renewable electricity generation. In addition to providing low-cost electricity, multipurpose dams provide water for irrigation, wildlife, recreation and barge transportation and offer flood control benefits.

As part of the New Deal, the Roosevelt Administration sought to bridge the urban-rural divide in access to electricity. In the early 1930s, according to one estimate, 90 percent of Americans in urban areas had access to electric power, while only 10 percent of rural America had access.

The establishment of the Rural Electrification Administration, REA, in 1935 sparked a series of Federal investments that brought power to rural American homes over the coming years. By 1939, the REA had helped to establish more than 400 rural electric cooperatives, which served nearly 300,000 households.

Today, the RUS continues to provide credit and other assistance to help improve electric, water, and telecommunications services in rural areas. For example, between 2002 and 2009, the RUS invested \$36 billion in electric systems and \$14 billion in water and waste management systems throughout rural America. Small hydropower projects help to address the electricity needs of rural areas in a green way.

The Department of the Interior's Bureau of Reclamation also provides hydropower, and drinking water and irrigation services to rural America. Today, the Bureau is the Nation's largest wholesaler of water, serving 31 million people, and provides irrigation to one out of five western farmers. This is a very clever

manner to use existing water ways and existing technology to create electricity.

Three manufacturers in the Nation build these small conduits. Apparently they are so prevalent that they are available at Home Depot. Again hydropower represents approximately two-thirds of the renewable electricity generation in the United States and is currently providing almost seven percent of the country's total energy generation. About forty-five percent of all hydropower in the United States is generated at federally-owned facilities. With only three percent of the Nation's approximately eighty thousand federal and non-federal dams currently generating hydropower there is great potential to increase hydropower production. Additional hydropower can be sited, constructed, and operated in a responsible manner to reduce or avoid environmental damages.

#### FAST FACTS

Each kilowatt-hour of hydroelectricity is produced at an efficiency of more than twice that of any other energy source. Where hydropower does have environmental impacts, particularly on fish species and their habitats and extensive work is done within the Bureau to evaluate and mitigate these impacts.

Further, hydropower is very flexible and reliable when compared to other forms of generation. Reclamation has nearly 500 dams and dikes and 10,000 miles of canals and owns 58 hydropower plants, 53 of which are operated and maintained by Reclamation. On an annual basis, these plants produce an average of 40 million megawatt, MW, hours of electricity, enough to meet the entire electricity needs of over 9 million people on average.

Reclamation is the second largest producer of hydroelectric power in the United States, and today we are actively engaged in looking for opportunities to encourage development of additional hydropower capacity at our facilities.

Conventional hydropower is one of the oldest and most well-established among a growing number of technologies that provide low-emissions alternatives to fossil-fuel energy. Nationally, hydropower provides about 75,000 megawatts of capacity, and represents nearly 7 percent of total generation.

It is anticipated that hydropower will continue to be a part of our Nation's energy mix for years to come, and accordingly we have signed dozens of agreements supporting the continued, long-term operation of hydroelectric dams that together provide our Nation with thousands of megawatts of generating capacity. Reasonable modifications have dramatically improved the performance of these dams, providing fish passage, improving flows, enhancing water quality, protecting riparian lands, and restoring recreational opportunities.

Hydropower represents approximately two-thirds of the renewable electricity generation in the United States and is currently providing almost seven percent of the country's total energy generation. About forty-five percent of all hydropower in the United States is generated at federally-owned facilities.

With only three percent of the nation's approximately eighty thousand federal and non-federal dams currently generating hydropower there is great potential to increase hydropower production.

#### JOBS/ECONOMY/H.R. 3710—DEFICIT REDUCTION AND ENERGY SECURITY ACT

I am committed to producing tangible results in suffering communities through legislation that creates jobs, fosters minority business opportunities, and builds a foundation for the future. Every American deserves the right to be gainfully employed or own a successful business and I know we are all committed to that right and will not rest until all Americans have access to economic opportunity.

It has been over 10 months since the Republicans took control of the House, and Republican Leadership has not considered a single jobs creation bill on the House floor.

With the national unemployment rate at 9.2 percent, and almost 1.9 million men and women who have exhausted the maximum of up to 99 weeks of state and Federal unemployment benefits, we cannot afford to continue with inaction.

Rather than wait for the economic tide to turn, Congress must take advantage of its exceptional opportunity to create jobs by embracing the development of natural and renewable resources in a responsible and environmentally conscious partnership with the energy industry.

I have recently introduced H.R. 3710 "The Deficit Reduction and Energy Security Act of 2012." My bill would protect America's energy security, reduce the deficit, and create jobs.

The energy industry has a long and storied history of facilitating robust job creation and economic growth. This legislation will help pay down the deficit and create jobs for workers with varying skill-levels nationwide. H.R. 3710 would also establish the Coastal and Ocean Sustainability Health Fund to provide grants for addressing coastal and ocean disasters, restoration, protection, and maintenance of coastal areas and oceans, as well as, research and programs in coordination with state and local agencies.

Additionally, the Deficit Reduction and Energy Security Act establishes the Office of Energy Employment and Training, and the Office of Minority and Women Inclusion to help foster job creation for groups who have traditionally been underrepresented in the energy industry. H.R. 3710 will spur our Nation's economic growth.

Working in a bipartisan spirit, Congress can aggressively take on the problem of job creation, by supporting measures like H.R. 3710.

The energy sector provides us with an exceptional starting place. In fact, we need to only look to Houston and the state of Texas for a strong example of how embracing the development of our own natural and renewable resources can play a major role in spurring our economy.

Texas serves as proof that the energy industry offers tremendous potential to provide jobs and foster economic growth. As a matter of fact, in 2008, Texas was one of the few states that saw its economy grow, grossing the second highest revenue of all states at \$1.2 trillion.

As the Representative of the 18th Congressional District of Houston, Texas, I can attest to the importance of a healthy energy industry. My district is the energy hub of Texas and is recognized worldwide for its energy industry, particularly for oil and natural gas, as well as

biomedical research and aeronautics. Renewable energy sources—wind and solar—are also growing economic bases in Houston.

The energy industry and its supporting businesses provide my fellow Texans with tens of thousands of jobs, and have helped keep the state of Texas significantly below the national unemployment rate.

This prosperity can expand well beyond Texas, if the federal and state governments will act decisively and responsibly to expand domestic energy productions in an environmentally conscious manner, and keep billions of dollars and countless jobs here at home.

In fact, a study recently conducted by Wood Mackenzie indicates that the oil and natural gas industry has the potential to create 1 million new jobs over the next 7 years through responsible development of America's oil and natural gas resources, while generating an estimated \$800 billion in revenue.

Additionally, Wood Mackenzie concluded that responsible domestic oil and natural gas development, along with increasing imports from Canada, and cultivating a domestic biofuels energy program, the United States could achieve energy independence within 15 years.

Expansion of our domestic energy industry presents us with the opportunity to divert the staggering amounts of money we spend on importing massive amounts of foreign oil. Instead, we can use these funds to make a considerable investment into our own American oil industry, which already pumps about \$1 trillion into our economy and helps create jobs for many Americans across many other industries. Furthermore, we must also bolster our investments in natural gas, wind, solar, and other forms of renewable alternative energy.

We must of course, act responsibly, and apply the safety lessons learned in the wake of the BP oil spill. Throughout my tenure in Congress, I have worked tirelessly to foster better relationship between the energy industry and regulating agencies. With an open dialogue and productive communication, we can forge compromise that will protect the environment without harming economic growth.

The benefits of a seamless domestic energy policy go beyond just creating jobs in the energy sector. A seamless domestic energy policy also promotes the ongoing need to develop the best technology to reduce risks and improve efficiency.

Demand for this technology creates an increased demand for Americans educated in Science, Technology, Engineering and Math, STEM. The energy sector can partner with educational institutions to meet that demand, foster American innovation and increase American competitiveness in an increasingly globalized economy.

The energy industry is putting my constituents back to work, and the Wood Mackenzie study indicates that increasing domestic development will create new jobs and generate government revenue.

It is time for my colleagues to join me in a truly bipartisan effort to create jobs, improve our education system, and strengthen the economy. It is time to return to an age of American ingenuity and prosperity. It is time for a seamless domestic energy policy. It's

time to support job creation it is time to support legislation like the bill I recently introduced H.R. 3710 "The Deficit Reduction and Energy Security Act of 2012."

Mr. BLUMENAUER. Mr. Chair, I strongly support the installation of small scale hydropower in water canals, pipelines and other Bureau of Reclamation facilities. A small investment could go a long way in helping farmers and rural communities produce homegrown energy to help power their farms and irrigation systems and even sell power to the grid. The Three Sisters Irrigation District in Oregon is pursuing such a project, which could eventually create over 3 kilowatts of clean renewable power for the local community.

These innovative projects should move along as quickly as possible. Because they would be installed in existing facilities, extensive environmental review is not needed. However, I cannot support this bill because it includes an unnecessary waiver of the National Environmental Policy Act. Environmental review for these projects can be expedited through the existing process, which allows categorical exemptions by the appropriate federal agency. A blanket exemption to NEPA would set a bad precedent, and history has shown that short-circuiting environmental and public reviews typically delays rather than assists project development.

I supported an amendment by Rep. NAPOLITANO that would have struck language in the bill that waives NEPA. Because this amendment did not pass, I must reluctantly vote no. However, I stand ready to work with my colleagues to promote development of small conduit hydropower without undermining environmental safeguards.

Mr. VAN HOLLEN. Mr. Chair, as Co-Chair of the House Renewable Energy and Energy Efficiency Caucus, I support the responsible development of renewable energy wherever we can generate it—and that includes the development of small conduit hydropower at Bureau of Reclamation facilities.

What I cannot support is this legislation's blanket exemption from the National Environmental Protection Act (NEPA). Conducting appropriate environmental reviews is not a barrier to the responsible development of our energy resources; it is a prerequisite for that development. Moreover, NEPA already gives federal agencies the authority to create categorical exemptions for projects that already meet statutory and regulatory criteria.

For that reason, I will be supporting the amendment offered by Rep. NAPOLITANO to correct this defect in the underlying bill. If the Napolitano amendment is not adopted, I will oppose final passage and urge my colleagues to do the same.

The CHAIR. All time for general debate has expired.

Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule.

The amendment in the nature of a substitute, printed in the bill, shall be considered as an original bill for the purpose of amendment under the 5-minute rule. Each section of the committee amendment in the nature of a substitute shall be considered as read.

No amendment to the committee amendment in the nature of a sub-

stitute shall be in order except: (1) those received for printing in the portion of the CONGRESSIONAL RECORD designated for that purpose dated at least 1 day before the date of consideration of the amendment; and (2) pro forma amendments for the purpose of debate. Each amendment so received may be offered only by the Member who caused it to be printed or a designee and shall be considered as read if printed.

The Clerk will designate section 1.

The text of section 1 is as follows:

H.R. 2842

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

*This Act may be cited as the "Bureau of Reclamation Small Conduit Hydropower Development and Rural Jobs Act of 2011".*

The CHAIR. Are there any amendments to section 1?

AMENDMENT NO. 2 OFFERED BY MR. TIPTON

Mr. TIPTON. Mr. Chairman, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

In section 1, strike "2011" and insert "2012".

The CHAIR. The gentleman from Colorado is recognized for 5 minutes.

Mr. TIPTON. Mr. Chairman, this is a technical amendment that changes the year of the bill from 2011 to 2012, and I ask my colleagues to support this non-controversial amendment.

I yield back the balance of my time.

The CHAIR. Does any Member seek recognition?

The question is on the amendment offered by the gentleman from Colorado (Mr. TIPTON).

The amendment was agreed to.

The CHAIR. The Clerk will designate section 2.

The text of section 2 is as follows:

#### SEC. 2. AUTHORIZATION.

*Section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)) is amended—*

*(1) by striking "The Secretary is authorized to enter into contracts to furnish water" and inserting "(1) The Secretary is authorized to enter into contracts to furnish water";*

*(2) by striking "(1) shall" and inserting "(A) shall";*

*(3) by striking "(2) shall" and inserting "(B) shall";*

*(4) by striking "respecting the terms of sales of electric power and leases of power privileges shall be in addition and alternative to any authority in existing laws relating to particular projects" and inserting "respecting the sales of electric power and leases of power privileges shall be an authorization in addition to and alternative to any authority in existing laws related to particular projects, including small conduit hydropower development"; and*

*(5) by adding at the end the following:*

*"(2) When carrying out this subsection, the Secretary shall first offer the lease of power privilege to an irrigation district or water users association operating the applicable transferred work, or to the irrigation district or water users association receiving water from the applicable*

*reserved work. The Secretary shall determine a reasonable time frame for the irrigation district or water users association to accept or reject a lease of power privilege offer.*

*"(3) The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall not apply to small conduit hydropower development, excluding siting of associated transmission on Federal lands, under this subsection.*

*"(4) The Power Resources Office of the Bureau of Reclamation shall be the lead office of small conduit hydropower policy and procedure-setting activities conducted under this subsection.*

*"(5) Nothing in this subsection shall obligate the Western Area Power Administration, the Bonneville Power Administration, or the Southwestern Power Administration to purchase or market any of the power produced by the facilities covered under this subsection and none of the costs associated with production or delivery of such power shall be assigned to project purposes for inclusion in project rates.*

*"(6) Nothing in this subsection shall alter or impede the delivery and management of water by Bureau of Reclamation facilities, as water used for conduit hydropower generation shall be deemed incidental to use of water for the original project purposes. Lease of power privilege shall be made only when, in the judgment of the Secretary, the exercise of the lease will not be incompatible with the purposes of the project or division involved, nor shall it create any unmitigated financial or physical impacts to the project or division involved. The Secretary shall notify and consult with the irrigation district or legally organized water users association operating the transferred work in advance of offering the lease of power privilege and shall prescribe such terms and conditions that will adequately protect the planning, design, construction, operation, maintenance, and other interests of the United States and the project or division involved.*

*"(7) Nothing in this subsection shall alter or affect any existing agreements for the development of conduit hydropower projects or disposition of revenues.*

*"(8) In this subsection:*

*"(A) CONDUIT.—The term 'conduit' means any Bureau of Reclamation tunnel, canal, pipeline, aqueduct, flume, ditch, or similar manmade water conveyance that is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity.*

*"(B) IRRIGATION DISTRICT.—The term 'irrigation district' means any irrigation, water conservation or conservancy district, multicounty water conservation or conservancy district, or any separate public entity composed of two or more such districts and jointly exercising powers of its member districts.*

*"(C) RESERVED WORK.—The term 'reserved work' means any conduit that is included in project works the care, operation, and maintenance of which has been reserved by the Secretary, through the Commissioner of the Bureau of Reclamation.*

*"(D) TRANSFERRED WORK.—The term 'transferred work' means any conduit that is included in project works the care, operation, and maintenance of which has been transferred to a legally organized water users association or irrigation district.*

*"(E) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.*

*"(F) SMALL CONDUIT HYDROPOWER.—The term 'small conduit hydropower' means a facility capable of producing 1.5 megawatts or less of electric capacity."*

The CHAIR. Are there any amendments to section 2?



AMENDMENT NO. 1 OFFERED BY MRS.  
NAPOLITANO

Mrs. NAPOLITANO. I have an amendment at the desk, Mr. Chairman.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 4, strike lines 12 through 15.

The CHAIR. The gentlewoman from California is recognized for 5 minutes.

Mrs. NAPOLITANO. Mr. Chairman, this is a simple amendment striking out language in section 2, page 4, lines 12–15. It removes the exemption of the NEPA waiver for small conduits on Federal land.

The proponents of this measure again will argue that FERC regulations allow for categorical exemption for certain conduit hydropower projects that meet statutory and regulatory criteria and do not have the potential for significant environmental impacts. This is true.

First, treatment of conduits is not the same. It is not the same as what the legislation attempts where all environmental regards are completely waived. This bill, H.R. 2842, as amended, proposes to totally exempt all small hydro from the FERC exemption process. Reclamation already has the same authority as FERC to develop a process of complying with NEPA. Reclamation has already been in the process of investigating whether small hydropower developed in conduits or canals may be appropriately placed under categorical exemption.

As I stated before, the draft is already out. They are consulting with developers and irrigators to ensure that this bill is what they need. They have also granted specific categorical exemptions to three LOP projects, as mentioned in my opening statement. Low impact hydropower can be efficiently developed by utilizing existing environmental review provisions.

We have seen examples of projects that have not unduly delayed project development, and I again point to the three projects as stated before utilizing the yellow pea process. I have placed the letters from the National Hydropower Association and American Rivers and others to highlight the views of the hydropower industry and the leading conservation group on hydropower. Both are supportive of H.R. 2842 as long as it is modeled after the process used by FERC.

□ 1520

It would provide for proper oversight, a longstanding practice FERC has shown.

I urge my colleagues to vote positively “yes” on this amendment, and I yield back the balance of my time.

Mr. TIPTON. Mr. Chairman, I move to strike the last word.

The CHAIR. The gentleman from Colorado is recognized for 5 minutes.

Mr. TIPTON. Mr. Chairman, I think our opponents on this piece of legislation are confused as to actually what the debate is truly about. If it is about jobs, if it is about the American people, if it is about providing energy certainty, and if it is about reducing the carbon footprint in this country, then 2842 is a good piece of legislation.

They say conceptually they embrace it, but they want to put on the backs of hardworking Americans more cost and more uncertainty at a time when we need to create certainty and when we need to be able to have that opportunity to be able to reduce costs.

Our opponent commented that we see no evidence that projects are being delayed. Well, the fact of the matter is, when we had testimony, Chris Trees of the Colorado Water District noted that it took well over a year for a project to be approved. Many projects were not being considered simply because of the regulatory costs.

When we look at this chart on a projected cost to build a small hydropower installation, the actual cost to build the unit is \$20,000. By the time that we concur with our Democrat colleagues' insistence that we expand bureaucracy and have more government, we are going to add an additional \$50,000 in cost.

What's the challenge for rural America? It is dollars. We have struggling communities of people that need jobs. People need to be able to be put back to work. It may, in big cities, not be big money when you start to talk about \$50,000, but for our small water districts, it truly is.

This is a chance to stand up for the American people. This is a chance to be able to create clean energy for this Nation.

When we looked at examples in terms of what does overregulation by the government do, when we went through the NEPA process, no one argued as we had photos that my colleague, Mr. GOSAR, had shown of constructed ditches made by men, were put into place to have the NEPA process, but then to duplicate that process, we could look at Bureau of Reclamation's process in which it took 5 years for it to find out that it even had jurisdiction over the Klamath project C-Drop Canal in order to pave the way for conduit hydropower—5 years.

Join with us in caring about the environment, to make sure that we're going to be delivering clean hydropower—not delaying it for 5 years, not delaying it for a year, not putting more costs on the backs of the American people when they simply can't afford it—and putting people back to work. That's the choice we have on this legislation.

As Chairman HASTINGS has noted, it's a commonsense piece of legislation. It makes sense, and it makes good common sense to vote for it.

Mr. HASTINGS of Washington. Would the gentleman yield?

Mr. TIPTON. I'll certainly yield to my colleague.

Mr. HASTINGS of Washington. I thank the gentleman for yielding.

Please put that poster back up again. That, I think, real-life example demonstrates why America is so fed up with what happens in Washington, DC. Here is a project that is affordable at \$20,000, and so somebody wants to take that opportunity to perhaps make some money—there's nothing wrong with that in our country—and you find out that the cost of regulation is 2½ times what the project is. Now, what certainty does that send to the marketplace that we want to do business? That is absolutely incredible.

And its environmental permitting costs here, in this particular example, which, of course, are exemplified by what? NEPA. And this amendment would take the waiver of NEPA out of the equation. In other words, under the bill that you have authored—correct me if I am wrong—that red dot, that red slice there would be dramatically, dramatically reduced; is that correct?

Mr. TIPTON. That is correct.

I yield back the balance of my time.

Mr. MCCLINTOCK. Mr. Chairman, I move to strike the last word.

The CHAIR. The gentleman from California is recognized for 5 minutes.

Mr. MCCLINTOCK. Mr. Chairman, this amendment, as the gentlelady has pointed out, strikes the NEPA exemption for small hydroelectric projects. Perhaps she hasn't been listening to the debate for the last hour. The NEPA exemption is the entire point of the bill.

As our subcommittee heard earlier this year, it's precisely this duplicative, costly, time-consuming, and entirely unnecessary process that has more than doubled the cost to small hydro projects which simply makes them cost-prohibitive. They don't apply for permits because they know they don't pencil out once all of the studies are factored into their costs. The Bureau of Reclamation doesn't deny permits; it simply demands such costly environmental studies as to make these projects cost-prohibitive. The bill authorizes these projects so they don't have to go through the costly, time-consuming, and pointless environmental studies.

The gentlelady, several times, mentioned the fact that the Bureau of Reclamation was moving ahead with three permits in Colorado. So what's the problem? Well, let's look at those three permits. One of these wasn't conduit hydropower, one was specifically approved by Congress in the 1980s, and the third took a full year to get the permitting done on an existing canal outlet. Now, if that's what the gentlelady describes as success, I think she has just proven our point.



Let me ask her this: What is the point of requiring expensive and time-consuming environmental reviews when all you're doing is putting a small generator in an existing Bureau of Reclamation pipe that has already undergone extensive environmental reviews?

FERC already provides for the categorical exemption on non-Federal projects. The Bureau's own NEPA manual, updated a decade ago, clearly allows categorical exemptions for—and this is from their manual—"minor construction activities associated with authorized projects which merely augment or supplement or are enclosed within existing facilities." These small hydro generators precisely meet this requirement. The problem is the agency ignores its own guidelines. That is precisely why this bill is necessary.

Mr. Chairman, either placing generators in pipelines is environmentally damaging or it's not, and anybody with a lick of sense already knows the answer to that question, and I would expect them to be supporting the bill of the gentleman from Colorado.

I yield back the balance of my time.

Mr. GOSAR. I move to strike the last word, Mr. Chairman.

The CHAIR. The gentleman from Arizona is recognized for 5 minutes.

Mr. GOSAR. Mr. Chairman, I rise against the amendment from the gentleman from California.

In fact, I want to highlight two of the Arizona witnesses who have some of the most applicable understanding of this hydropower bill.

The first person I would like to quote is Mr. Bob Lynch, in which he testified:

We need Congress to streamline the processes both for reclamation facilities and for non-Federal facilities. This companion enterprise will open up the West to a whole new product line of small hydropower facilities that can tap the energy in flowing water that is currently being wasted. If the red tape can be cut down, the cost of installing these units can be amortized. These are existing facilities and will have no impact other than to provide additional clean, renewable hydropower in small quantities all over the Western United States.

The second person I would like to highlight is Mr. Grant Ward, who represents one of these districts in which he testified how the permitting costs of \$50,000 for every small conduit hydropower unit in his area are more expensive than the actual installation of \$20,000.

So here we hear from Mr. Bob Lynch representing the Irrigation and Electrical Districts Association in Arizona, someone who has countless decades of experience and expertise in these issues, as well as Mr. Grant Ward, who experienced this on the ground level, dictating exactly their testimony.

So I rise in opposition to this amendment.

I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentle-

woman from California (Mrs. NAPOLITANO).

The question was taken; and the Chair announced that the noes appeared to have it.

Mrs. NAPOLITANO. Mr. Chairman, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from California will be postponed.

□ 1530

AMENDMENT NO. 3 OFFERED BY MR. ELLISON

Mr. ELLISON. Mr. Chairman, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

At the end of the bill, add the following:

**SEC. 3. NO NET LOSS OF JOBS.**

Section 2 and the amendments made by section 2 shall not take effect unless the Secretary finds that such section and amendments, if in effect, shall not result in a net loss of jobs.

The CHAIR. The gentleman from Minnesota is recognized for 5 minutes.

Mr. ELLISON. Mr. Chairman, our transportation program expires at the end of March, and we are still facing high unemployment. Why aren't we working on a real jobs bill that will create good infrastructure jobs?

The GOP has wasted about 427 days since they've been in charge by not producing a real jobs agenda, but it's around transportation and infrastructure where we have real opportunity. Unfortunately, certain people have used creative titles—deceiving titles in some cases—to try to distract the public. Their transportation bill is called the American Energy and Infrastructure Jobs Act, but it wouldn't promote jobs in energy or infrastructure. It would actually cut highway investment by \$16 billion in 5 years. This would mean a loss of half a million jobs nationwide. That's right, the American Energy and Infrastructure Jobs Act would cut 500,000 jobs. The bill would cost about 11,000 jobs in my home State of Minnesota.

Today, we're debating the Bureau of Reclamation Small Conduit Hydropower Development and Rural Jobs Act. Why are we talking about small conduit hydropower when we need investment in highways, bridges, transit and airports? Now, don't get me wrong, I'm not here to run down small conduit hydropower. I just think it's too small.

Also on the floor this week is the so-called Jumpstart Our Business Startups Act, JOBS. This is a rehash of access-to-capital bills that may be useful—in fact, I may support them—but will barely make a dent in our unemployment numbers. The GOP may have creative titles, may have some titles that catch attention and sound good; but if you scratch the surface just a lit-

tle bit, there's no jobs agenda even on bills that say "jobs."

The American Society of Civil Engineers is a group that knows a little bit about infrastructure. This is a group, a collection of professionals, who know the issue; and they give our infrastructure grade a D—and D don't stand for "dandy." It stands for "downright bad and unfortunate."

We have nearly 70,000 bridges across this country—or 11.5 percent of all highway bridges—classified as "structurally deficient," meaning they require significant maintenance or replacement. There are about 1,400 structurally deficient bridges in my State of Minnesota, several within walking distance of my home. In 2007, my district tragically felt the impact of deficient bridges with the collapse of I-35W. We lost 13 lives, and 100 people ended up with serious injury in the hospital.

We need a real transportation bill and a real jobs agenda to rebuild our infrastructure and to put Americans back to work.

Mr. Chairman, I yield to the gentleman from Texas (Ms. EDDIE BERNICE JOHNSON).

Ms. EDDIE BERNICE JOHNSON of Texas. Let me thank the gentleman from Minnesota for leading this position.

I rise today to speak about the current extension of the transportation bill, which is set to expire at the end of this month. I'm frustrated by the lack of action in this Chamber and the lack of attention being paid by the majority to the American people who desperately need these jobs.

The current transportation authorization expires at the end of March, but we are still facing high unemployment and a weak economy. We need the kind of long-term transportation policy that will repair our crumbling infrastructure and bring back good-paying construction jobs.

I have been on the House Transportation and Infrastructure Committee for 20 years this year; and up until now, the committee has worked in a bipartisan fashion and we have produced sound, commonsense legislation. But the progress that could have been made has been stymied by partisan bickering and bad policy.

The current transportation bill offered by the majority would cut investment in our Nation's highways by almost \$16 billion over the next 5 years. This would mean a loss of over 500,000 jobs nationwide.

Mr. Chairman, we talk about this being a jobs bill. What is before us is a job-killing bill. But the American people are waiting.

Mr. ELLISON. I yield back the balance of my time.

Mr. MCCLINTOCK. Mr. Chairman, I rise in opposition to the amendment.

The CHAIR. The gentleman from California is recognized for 5 minutes.

Mr. McCLINTOCK. Mr. Chairman, this amendment would give to the Secretary of the Interior the ability literally to unilaterally veto this measure if he finds it would result in a loss of jobs.

Now, let's be clear of what we're talking about here. This is the same Secretary of the Interior who came to the Natural Resources Committee in 2009 when Federal water diversions in California's Central Valley were throwing thousands and thousands of farm workers into unemployment. Before the committee, he admitted that he had the authority to stop the diversions and stop throwing these thousands of hardworking families into poverty, but he chose not to do so because he said it would be like admitting failure.

This is the same administration that blissfully threw thousands of gulf war workers into unemployment by declaring a de facto moratorium on oil production in the gulf. This is the same administration that's blocking energy development in the Arctic tundra. This is the same administration that's torpedoed the Keystone pipeline and the thousands of jobs it would have created. And now the gentleman from Minnesota would give this same official and this same administration the power to shut down small hydroelectric facilities that could add thousands of megawatts of additional electricity to our energy supplies.

I would assure the gentleman that the reason for this bill is because we fully expect it to produce a quantum leap in demand for small generators; and somebody's going to have to build them, and somebody's going to have to install them. That means more jobs.

Now, if the gentleman is worried about jobs being lost in the regulatory bureaucracy because they won't have as many businesses to harass, I can assure him they have demonstrated over the years a tremendous creativity in finding new businesses to harass and new reasons to increase their budgets.

But I say again, I don't believe it would be a good idea to put in the hands of this Secretary and this administration yet another tool to obstruct energy and job development. Now, high electricity prices might not be a problem in Minnesota, but I can assure the gentleman they are a serious problem in California; and that's why his amendment is so dangerous.

Mr. Chairman, I yield back the balance of my time.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I move to strike the last word.

The CHAIR. The gentlewoman is recognized for 5 minutes.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, the bill that I'm speaking of is called the Transportation and Infrastructure Committee bill.

The Secretary of Transportation, who has served on this committee, has clearly explained what this bill in its present form will do for this country. Now, I know that probably no one wants to quote this particular Secretary, who has had inside experience as well as outside experience. He is very aware because he served on this committee during the time we worked in a bipartisan fashion.

We're talking about highways. And because someone put a lot more extracurricular, extraneous kind of stuff in this bill that does not relate to these highways, then they're against it. But the progress that could have been made was really stymied by this very kind of propaganda and bad policy.

The current transportation bill offered by the majority would cut investment in our Nation's highways and kill jobs. We want to create jobs and do something about the crumbling infrastructure in this country.

Mr. Chairman, the American people are waiting for us to do something. We were sent here by our constituents to solve problems, not to create them and not to find excuses to face the real reality. So let's get back to work and produce a transportation bill that will repair our Nation's infrastructure and get thousands of Americans back to work—not to try to challenge this administration because you don't like the administration. We want to see something that's real and something that addresses the real problem, and not skirt around with a lot of ideas and a lot of propaganda that simply does not relate to this bill.

I yield back the balance of my time.

□ 1540

Mr. HASTINGS of Washington. I move to strike the last word.

The CHAIR. The gentleman is recognized for 5 minutes.

Mr. HASTINGS of Washington. Mr. Chairman, I find this debate rather interesting because the gentlelady from Texas who spoke, of course, did not speak on this bill. She spoke on another piece of pending legislation that dealt with jobs. That's good.

That pending piece of legislation, I might add, had two components to it. It had the energy component, and it had the transportation component which, of course, is pending. We know that expires at the end of this month.

But we did pass the energy component of that bill which creates tens of thousands of jobs. And I just want to point out, Mr. Chairman, the gentlelady voted against that piece of legislation. Sometimes we hear mixed messages here, but I just wanted to set the record straight.

This bill is another extension of energy production and, of course, creating American energy jobs. And with that, I find the gentleman from Minnesota's amendment really very inter-

esting, because what he is saying by his amendment is, unless the bureaucracy decides, by giving all this authority to the Secretary—and by the way, I'm not sure which Secretary it is because it's not delineated in the amendment. But leaving that aside, he is saying there will be no jobs unless—what? The bureaucracy decides there will be jobs. Now, how ludicrous is that?

But that is precisely where we seem to be today. And I think this is, as I mentioned earlier, this is one of the reasons why I think Americans are so fed up with what's happening here in D.C. with this sort of back and forth.

Let me repeat, this is infrastructure that is in place. There is water running through this infrastructure. All we're trying to do is capture that energy, at no cost to the Federal Government, and create jobs and lower the cost of energy. There's nothing more simplistic than that, Mr. Chairman.

So I urge my colleagues to vote "no" on this amendment, and I urge my colleagues to vote "yes" on the underlying bill.

I yield back the balance of my time.

Mr. TIPTON. Mr. Chairman, I move to strike the last word.

The CHAIR. The gentleman from Colorado is recognized for 5 minutes.

Mr. TIPTON. Mr. Chairman, it's interesting, our colleagues do talk about jobs. We want to be able to create jobs, to be able to facilitate that opportunity for Americans to be able to go back to work, to be able to create clean energy right here in the United States. As my colleague was pointing out, a commonsense piece of legislation.

We're going through existing conduits, what we call in our part of the world ditches, to be able to capture that energy, to be able to deliver it to allow local decisions to be able to be made.

But our colleagues seem to want to make sure that we're standing up, or they are standing up, for the status quo, and that just means say no—say no to clean energy. No, join with us and support clean energy and hydroelectric power.

You're saying no to jobs. Join with us to be able to create jobs right here in this country and be able to put our people back to work.

We have enough red tape. This amendment will simply grow more government. And as we saw from testimony in our committee and charts that have been shown during this debate, there's no need to put more expense on the backs of the American people, who simply cannot afford your stand to build more government.

This is an amendment that deserves to be rejected. I ask for that, and ask for a favorable vote on H.R. 2842.

I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from Minnesota (Mr. ELLISON).

The amendment was rejected.

Mr. HASTINGS of Washington. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. MCCLINTOCK) having assumed the chair, Mr. CHAFFETZ, Chair of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 2842) to authorize all Bureau of Reclamation conduit facilities for hydropower development under Federal reclamation law, and for other purposes, had come to no resolution thereon.

#### DEVASTATION ACROSS SOUTHERN INDIANA

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. We are told to mourn with those who mourn and grieve with those who grieve.

Mr. Speaker, I rise to do so today. Across southern Indiana, in small towns like Henryville, Marysville, Pekin, and others, Hoosier families and communities are picking up the pieces after one of the most devastating tornados in my lifetime swept through our State.

I come to the House floor today to pay tribute to the lost, and to those who lost their homes and their businesses, and pay tribute to the first responders and to the countless thousands of Hoosiers who have come alongside their neighbors in this grievous hour.

As millions of Americans have witnessed on television, these violent storms left utter destruction in their wake across a three-State area. Schools, businesses, and homes were reduced to piles of rubble. Cars were flipped and thrown about as if they were toys. Some communities, as one local official said it, were "completely gone."

In the Hoosier State we lost 13 lives, including an entire family from Pekin, Indiana. Yet in this dark hour, for so many families, as is always the case in the Hoosier State, we hear stories of communities coming together to rebuild. Despite the snow and cold that followed the storms, we see generosity, community spirit in full display.

Over the coming days, weeks and months the wounds will heal, debris will be cleared, homes and businesses and barns will be rebuilt. And as the Federal Government makes its assessment today about Federal support, we look forward to supporting all Federal assistance.

But I rise today to commend Governor Daniels, the Indiana National Guard, the Indiana State Police, all of

our first responders and Homeland Security and community leaders for their decisive leadership in this moment.

But I also rise today to commend all of those who stepped forward to provide a helping hand, either with time or talent or treasure, volunteers donating food and clothing and labor. It is profoundly inspiring and humbling, and makes me proud to be a Hoosier.

May God comfort the families of the lost, and give strength and courage to those who will rebuild in the wake of these storms.

#### HONORING THE LIFE OF CONGRESSMAN DONALD PAYNE

The SPEAKER pro tempore (Mr. FINCHER). Under the Speaker's announced policy of January 5, 2011, the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) is recognized for 60 minutes as the designee of the minority leader.

Mrs. CHRISTENSEN. Mr. Speaker, today, as you heard, the House, the Congress as a whole, the 10th District of New Jersey, our Nation, the countries of Africa and the Caribbean, of Ireland, where he was an honorary citizen and, indeed, the world, has suffered a great loss. DONALD PAYNE was a friend and advocate for the world and all of its people, but particularly for the sons of Africa here and worldwide.

Tonight I am honored to chair this Special Order in his honor, and to recognize my colleagues from both sides of the aisle who will be coming to pay tribute to DONALD PAYNE.

I'd like to begin by asking unanimous consent that all Members might have 5 legislative days in which to revise and extend their remarks and include extraneous material on the topic of the Special Order.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from the Virgin Islands?

There was no objection.

□ 1550

Mrs. CHRISTENSEN. I'd like to begin by yielding 2 minutes to the gentleman from Minnesota (Mr. ELLISON).

Mr. ELLISON. Mr. Speaker, DONALD PAYNE played a very special role in my service as a Member of Congress. I didn't know him nearly as long as many other Members, and I guess I probably didn't know him as well; but there is no doubt that as a Member coming into Congress trying to figure out how to be the best Member I could be, DONALD PAYNE was one of the people who I admired and looked to, and no more so than when he was fighting for the human rights of all people.

DONALD PAYNE gave me a new and unique perspective on suffering in Darfur, explaining the complexities as it related to making sure that Darfurians not only got relief, but also eventually one day would get justice.

But he didn't stop there. I have a large percentage of my constituents who hail from Somalia, and DONALD PAYNE gave me historic perspective on Somalia on a regular basis, which I didn't have, and also, again, helped me understand how difficult it was and how important it also was that we stand for stability for the people of Somalia. In fact, his level of commitment to the people of Somalia was so great, he got into an airplane and flew there and, on his way out, was actually shot at when al-Shabab tried to take his life for showing concern for the people.

Yet he traveled many places and really went all around the world; but he also went into my district, as he went to many districts, and I'll never forget the day when we organized a community forum on east Africa. We had Somalis in the room, people from the Ogaden region of Ethiopia, people from Eritrea, all over, immigrants who made America their home either by choice or because they were refugees. For 3 straight hours, DONALD PAYNE answered their questions, gave them comfort and assurance and information.

He is a towering figure in my world, and I don't think we'll ever forget DONALD PAYNE. I just say, may he rest in peace, and God bless him and his family.

Mrs. CHRISTENSEN. I'd like to yield 2 minutes to Mr. WOLF of Virginia.

Mr. WOLF. Mr. Speaker, I rise today to pay tribute to the life and legacy of Congressman DONALD PAYNE.

As a public servant, Congressman PAYNE has consistently stood with the forgotten people and causes. He has championed their plight and advocated on their behalf, perhaps none more so than the long-suffering people of the southern Sudan.

For years, Congressman PAYNE advocated for self-determination for the people of South Sudan, who had endured great hardship at the hands of the government in Khartoum. He was also the leading voice in urging States in the U.S. to divest from companies doing business in Sudan in light of the government's horrific human rights abuses.

Congressman PAYNE was the sponsor of the congressional resolution calling attention to the horrors unfolding in Darfur, a resolution which was rightly labeled as "tragedy," "genocide." The list goes on and on.

I had the honor of being with Congressman PAYNE in Nairobi, Kenya, in 2005 for the historic signing of the Comprehensive Peace Agreement which marked the end of a brutal civil war between the north and the south which spanned 21 years and claimed the lives of more than 2 million people. Congressman PAYNE labored for years to see that day arrive. No one did more than DONALD PAYNE to bring about the new country, which is now the country of southern Sudan.

He, fittingly, returned to South Sudan in July of 2011 to join the people of that land in celebrating their long-awaited independence, a fulfillment of the promise. Upon being chosen to be part of the official U.S. delegation, Congressman PAYNE issued the following statement. He said:

As a ranking member on the House Foreign Affairs Subcommittee on Africa, Global Health, and Human Rights, I have been committed to helping Sudan achieve peace and justice.

Indeed, he was committed. Congressman PAYNE worked hard. He traveled to the region countless times. He experienced the people suffering, and then he acted. Congressman PAYNE heard the people suffering and never chose to look the other way.

My thoughts and prayers are with Congressman PAYNE's family as they grieve, and Congress will profoundly miss his voice, as will thousands of others around the world.

Mrs. CHRISTENSEN. I would next like to yield 2 minutes to the Congresswoman from Texas, Congresswoman EDDIE BERNICE JOHNSON.

Ms. EDDIE BERNICE JOHNSON of Texas. Thank you to my colleague from the Virgin Islands.

I rise to speak today about the loss of Congressman DONALD PAYNE. Congressman PAYNE lost his battle with cancer early this morning, and we in Congress lost an esteemed colleague.

My relationship and acquaintance with Congressman PAYNE came before I came to Congress and meeting him when he served on the national YMCA board and became the chair of the national YMCA board; and I know him as a devoted public servant who used his position in Congress to advocate for those less fortunate, first, as a teacher, and later, serving on the House Committee on Education and the Workforce. He was an advocate for children and worked to make college more affordable.

As the highest ranking Democrat on the Foreign Affairs Subcommittee on Africa, Global Health, and Human Rights, he worked to promote human rights around the world and helped secure billions of dollars in foreign aid for treating HIV/AIDS, tuberculosis, and malaria.

It is difficult to lose a member of the Congressional Black Caucus family. We're small but very connected. And Congressman PAYNE served the 10th District of New Jersey with dedication and served as the chair of the Congressional Black Caucus as well.

My thoughts and prayers are with his family today in this difficult time.

Mrs. CHRISTENSEN. I would like to yield 2 minutes to the Congresswoman from the District of Columbia, Congresswoman ELEANOR HOLMES NORTON.

Ms. NORTON. I thank the gentlelady for yielding and for leading this Spe-

cial Order for our good friend and colleague, DONALD PAYNE, whose passing leaves me shocked and deeply saddened after his 12 terms of outstanding service in the House of Representatives.

DON was a friend. He was more than a colleague. He was the kind of friend you could always strike up a conversation with about matters technical or just matters at hand because DON was easy of manner but strong of conviction.

DON was a real path breaker and history maker. He came to Congress as the first African American to serve in Congress from the State of New Jersey. He followed the great Peter Rodino, who had served Newark for decades. Newark had become a majority African American city, but DON grew up in a neighborhood that was as Italian as it was black and felt comfortable with people of all ethnic groups.

When Congressman Rodino, who was then chair of the House Judiciary Committee, retired—this was, of course, before I came to Congress, but it was much commented upon—DON, who had run against him several times and was the logical person to win that seat, plunged into his work for a city that needed a man of his depth of understanding and conviction of their problems, their education, their health care, their housing needs.

For Newark, when the Congressman came here 12 terms ago, personified, symbolized the great urban communities of our country and the upheavals that they were undergoing. He plunged into that work, and yet he was able, at the same time, to become perhaps the House's most expert Member on Africa and the Caribbean.

□ 1600

DON was a leader on Africa, who did not work from the newspapers or the journals, but traveled the continent and came back with firsthand information. For the Congressional Black Caucus, DON was the go-to man. Nobody from the caucus moved on a matter affecting Africa without going to DON first. Go to the expert first, find out if you're on the right foot, and then perhaps move forward.

DON was rigorous in his evaluation of the leadership of the various countries of Africa. He never withheld when an African leader needed the strong criticism of the United States and his own strong criticism. Thus, his leadership was trusted all across the Congress when he stepped forward with his views. He worked with every President because Republican and Democratic Presidents alike have been involved in the issues affecting Africa; and they, like us, turned to DON on those issues.

Where will we find such a Member today? Is there such a Member who has devoted so much of his life not only to urban America, but especially to Africa, who knew everything, knew every-

one, and knew anything we needed to know?

DON will be greatly missed by this Chamber. He will always be remembered. I know I speak for us all when I say that his family has our deepest sympathy and our everlasting love.

Mrs. CHRISTENSEN. Thank you, Congresswoman.

I would like to now yield 2 minutes to one of DONALD's colleagues from New Jersey, Congressman HOLT.

Mr. HOLT. I thank the gentlelady.

Mr. Speaker, all of us are saddened by the country's loss of DON PAYNE, and it is going to be hard to get used to the absence of DON.

DON has been a good friend to me, someone I've looked up to here in Congress.

No one in Congress has been a stronger advocate for equality of opportunity in education. No one in Congress has been a greater advocate for children services and youth development. No one has been more knowledgeable about Africa. No one has voted more consistently for peaceful and non-military resolutions to problems. No one has been more consistent in the fight to respect workers' safety and workers' conditions.

Throughout all of this, DON PAYNE was very attentive to the interests of the entire State of New Jersey and especially to the interests of his constituents.

He was instrumental in bringing international attention and condemnation to the genocide in Darfur, as we've heard already.

As a former educator, he brought an invaluable perspective to our work together on the Education Committee. He was responsible for getting many millions of dollars to the PEPFAR program for dealing with HIV, resistant TB, malaria around the world, and especially in Africa. I might add he did that with President Bush.

He was a strong advocate for an adequate minimum wage. He was a key player in writing the College Cost Reduction and Access Act to cut interest rates for college loans, to increase Pell Grants, and to provide loan forgiveness to public service employees with student debt. It was a great pleasure and really a marvel to watch him on the Education and Labor Committee.

DON was, I think you would say, an unabashed liberal, recognizing that there are some things that we can do better together than separately. He was not a you're-on-your-own kind of guy. That was true in person too. He was very inclusive. He had good humor and dignity in everything he did. DON PAYNE was a good friend, a good Member of this House, and a great public servant.

My thoughts and prayers are with his family and his many friends, and I know his constituents will be hard pressed to find somebody to represent them as well as DON PAYNE.

Mrs. CHRISTENSEN. Thank you, Congressman HOLT.

Now, I would like to yield 2 minutes to another colleague from New Jersey, Congressman FRELINGHUYSEN.

Mr. FRELINGHUYSEN. I thank the gentlewoman for yielding.

DON PAYNE and I have been friends for over 35 years. We served together in county government as freeholders in New Jersey from our respective counties, Morris and Essex Counties, before he preceded me to Congress.

During his service in this House, he worked long and hard on issues that literally cried out for attention.

At home we all admired his steadfast commitment to ensuring that our Nation's children had the best quality education possible.

Abroad he focused on global public health issues like childhood survival and human rights on the continent of Africa and elsewhere. DON PAYNE took up the cause for suffering people around the world and gave voice to their plight even at great personal risk.

Mr. Speaker, DON PAYNE loved Congress, he loved public service, he loved New Jersey, and he loved his hometown of Newark.

I was proud to work with him to revitalize the Passaic River in Newark, that waterfront that for many years had remained inaccessible to the public.

DON will be sorely missed, especially for his dedicated service to his constituents over many decades. I'll never forget his valuable service and his enduring friendship. We've lost a great principled man who lived a life from which we could all learn something.

May the tributes and prayers of so many of his colleagues here this afternoon today be a source of strength to his family.

Thank you.

Mrs. CHRISTENSEN. Thank you for joining us and for offering those words on behalf of Congressman PAYNE.

I would now like to yield 2 minutes to the Congresswoman from California, another dear friend of Congressman PAYNE, LYNN WOOLSEY.

Ms. WOOLSEY. Mr. Speaker, I rise to pay tribute to a man I loved, a man I respected, a friend for life, and a mentor.

When I came to Congress, I couldn't have picked a better mentor: a public school teacher from New Jersey, someone kind and smart, dedicated, actually burning in his belly about issues of value and conscience.

I served on Congressman PAYNE's Africa Subcommittee. He served on my Workforce Protection Subcommittee. On both panels, I benefited from his wisdom, advice, and his expertise. On the Africa Subcommittee, I was always amazed at how much and who he knew.

This is a man who knew what public service was all about. He was, as he de-

scribed himself, a mild-mannered man; but he was also tenacious, dedicated, and stubborn.

No one has worked harder to bring peace, democracy, and human rights to Africa. He almost gave his life for the cause a few years ago when his plane was shot by rebels as he prepared to come home after a Somalia mission that actually the State Department had warned him against.

As change continues and as change continues to come—particularly to Africa in the coming years—we'll all remember the role that DONALD PAYNE played in laying the groundwork in helping make that change happen.

A true statesman and a humanitarian, DONALD's death this morning already leaves an indescribable void. DONALD PAYNE had a huge heart and a keen mind. And believe me, I will miss them both.

Mrs. CHRISTENSEN. Thank you, Congresswoman WOOLSEY.

I would now like to yield 2 minutes to another colleague from New Jersey, Congressman LANCE.

Mr. LANCE. Thank you very much, and thank you for yielding.

The Payne family occupies a fabled position in the history of Newark, New Jersey's largest and greatest city. The whole family has been involved in public service; and, of course, Congressman PAYNE's public service here is of almost a quarter-century duration.

□ 1610

Congressman PAYNE succeeded Congressman Rodino, the distinguished chairman of the House Judiciary Committee at the time of Watergate, well-known in American history. Congressman Rodino succeeded Congressman Hartley, who was the Congressman from that part of New Jersey for a generation, he, the author, with Senator Taft, of the Taft-Hartley Act.

Over the course of the 20th century, in the district that has been represented by Congressman PAYNE for a quarter century, the provenance of that district is Fred Hartley, a Republican, of the Taft-Hartley Act; Peter Rodino, the distinguished chairman of the Judiciary Committee during Watergate; and now for 24 years, DONALD PAYNE. The character of that district is the character of this Nation and certainly the character of the great city of Newark over the course of the 20th and into the 21st century.

The Payne family not only includes the distinguished Congressman, but his brother, Bill Payne, with whom I had the honor of serving in the New Jersey Legislature. His brother, Bill, and I worked together in the creation of the Amistad Commission in New Jersey. Of course, that commission dealing with the work of the great Amistad trial based upon the mutiny in 1839 of a slave ship, so brilliantly defended by John Quincy Adams, whose portrait

hangs 10 feet from the entrance of the House of Representatives. And in working with Congressman PAYNE's brother, Bill Payne, in the New Jersey Legislature, I got to know the Payne family and certainly, through his brother, Bill, I got to know the Congressman, and what a great honor for me to have served here in Congress with DON PAYNE.

Mr. Speaker, finally, several days before Martin Luther King was assassinated in Memphis, he was in Newark, and he was in Newark at the request of leaders there, including DONALD PAYNE and William Payne. Among the most prized possessions of the Payne family are photographs of Martin Luther King taken days before his assassination as the Paynes were attempting to bring about justice in the city of Newark. Certainly no Member of the House of Representatives was more committed to justice, not only here in this country, and within this country, in the city of Newark and the State of New Jersey, but justice across the world, so that children in poverty could have a decent quality of health care and, as has been cited, the Congressman almost lost his life in that regard.

The country is poorer for the loss of DONALD PAYNE, but this country is greater for his public service, his public service on the governing body of the city of Newark, his public service as a county commissioner—we use the term freeholder in Essex County, New Jersey—his public service to the entire State, and I respectfully suggest, to the United States of America. We mourn his loss, but we celebrate his life.

Mrs. CHRISTENSEN. Thank you, Congressman LANCE.

I yield to the gentlewoman from California, Congresswoman MAXINE WATERS, who I believe succeeded DONALD PAYNE as the chairperson of the Congressional Black Caucus.

Ms. WATERS. I appreciate your organizing the time for us to come to the floor and speak about our friend, DONALD PAYNE. We are all so sad, and we are going to miss him, but we also know that the service that he gave to this country, even long before he came to the Congress of the United States, and the service that he has given to this country since being a Member of Congress, is unmatched by any Member of Congress.

DONALD PAYNE was a true servant who not only served his State of New Jersey, but DONALD PAYNE was someone who took care of his district. When I take a look at all of the capacities that he served in in the State of New Jersey, I am just in awe, counting Democratic chairman, executive of the Prudential Insurance Company, vice president of Urban Data Systems, educating the New York and Passaic public school districts, a former national president of the YMCA, chairman of

the World Refugee and Rehabilitation Committee—it goes on and on and on. And he brought with him to Congress the same attitude, the same commitment to service.

Since his service in Congress, of course, he left us as chair of the Congressional Black Caucus Foundation. He served as the chair of the Congressional Black Caucus immediately prior to my being elected to the chair of the Congressional Black Caucus, and I learned a lot from his service about how to chair the Congressional Black Caucus.

DON PAYNE was known for several things but certainly known and respected for his commitment to education, closing the achievement gap, making sure that we expand opportunities for the least of these with Pell Grants, making sure that he reduced the interest rates on some of the loans, the Stafford loans, for example. He was known because he understood that as a public policy maker he could influence education in this country, and he certainly did that.

I also would like to point to his record of achievement serving as the chair of the Africa Subcommittee of the Foreign Affairs Committee, where he was the expert, unmatched. As a matter of fact, DONALD PAYNE traveled to Africa, East Africa, West Africa, throughout his career, and he knew all of these countries on the continent, and he knew the leaders, past and present.

As a matter of fact, DON didn't wait for a codel of a lot of people to be organized to go to a troubled spot. DON would get on the airplane by himself, a one-person codel, and travel, set up his own meetings with the leaders of those countries, talk with them about what was taking place in those countries and get such an understanding of what needed to be done. He coupled all of this with the history of the countries of Africa.

DON was an educator, he was a teacher, he was a historian. So he knew a lot about the backgrounds of these countries because he had studied that. When he coupled that information with what was going on at the present time that he was visiting and working on issues in those countries, he made it all come together, and he helped us all to understand. He was our go-to person on Africa for sure.

When we wanted to know what was going on—and some people who were not that involved in foreign affairs and in Africa, they just followed his vote. When they looked upon that panel, they looked at how DON PAYNE was voting, and then they followed his leadership.

We are going to miss that leadership. We are going to miss this dedication. We are going to miss this mild-mannered man who loved his job, who loved his district. I'm always going to re-

member that he invited me to his district on several occasions. I went up with DON, I campaigned with him. I went about the community. He introduced me to the ministers, and he was well respected and loved in his district.

Of course, we all know why, because he was dedicated to the district, and he did so much for the district. The district is going to miss DON PAYNE. It will be hard to match the work that he did and his success and his achievements. We're going to remember each time we're involved in some of the same issues that DON was involved in. We're going to ask ourselves, what would DON have done, and we're going to follow the thinking of DON PAYNE on those issues.

Mrs. CHRISTENSEN. Thank you, Congresswoman WATERS.

I yield 2 minutes to the Congressman from Texas (Mr. AL GREEN).

Mr. AL GREEN of Texas. I thank the gentlelady.

Mr. Speaker, it is said that a politician will always rise to the occasion, and the Honorable DON PAYNE did rise to the occasion on many occasions.

But it is also said that a statesman makes the occasion. DON PAYNE was more than a politician, he was a statesman. He made the occasion in Darfur, where he went to make sure those who were suffering, among the very least, among the very last and the lost, that they would have an opportunity to have a better quality of life, and he was to this day still working to help the people of Darfur. He made the occasion when it came to AIDS, \$50 million, \$50 million to help those who are beset with this disease.

He made the occasion when it came to working with his colleagues, pulling us together, helping us unite to do things collectively that we could never do apart. He developed a symbiotic relationship among his many relationships. When I think of DONALD PAYNE, I will always remember that he was a person of honor. He honored his word. To his friends his word meant something, but more importantly, he honored his word to foes, people who disagreed with him. Once they had his word, they had a word they could count on.

I will remember that he was a person who respected this institution. This institution meant something to the Honorable DON PAYNE.

□ 1620

What this institution stood for and how we could utilize this institution to make a difference in the lives of others was important to him. He was a person of valor. He would stand with you. He was determined. He was a fighter. He came under fire, I'm told, in Africa as he was trying to help others.

And finally, I will say this: I truly do believe that God is good all the time. Even under circumstances such as

these, I believe God is good because we didn't have to have him for 77 years. We didn't have to have him in this House for 12 terms. I didn't have to have him as a friend for 8 years. I believe that God is good all the time, and I am so proud that God allowed him to come this way and I had the benefit of calling him my friend.

DON, we love you, and I know that wherever you are, there is a statesman there who is making the occasion.

Mrs. CHRISTENSEN. I thank Congressman GREEN, and now I would like to yield to another colleague from New Jersey and friend of DONALD PAYNE, Congressman CHRIS SMITH.

Mr. SMITH of New Jersey. I thank you very much and appreciate the gentlelady for yielding. Let me join my distinguished colleagues in expressing our deepest condolences to DON PAYNE's family. He was truly a remarkable man. I had the privilege of sitting next to him for about 15 years as I was the chairman or he was the chairman of the Human Rights Committee, the Africa Committee as well. I was his ranking, he was my chairman, and we always worked in a very cooperative way. We always had mutual respect, and he had such a deep compassion for the people who have suffered so much on the subcontinent of Africa.

DON PAYNE was quiet, but always determined. Extremely thoughtful, a humanitarian in the extreme, and he fought for so many important issues. You know, it was not a slam dunk or in any way a given that PEPFAR, the President's Emergency Plan for AIDS Relief, would become law. DON was there working in a bipartisan way to ensure that sufficient funding, sufficient authorities were given to the U.S. Agency for International Development to mount a massive effort to combat the pandemic of HIV/AIDS. He did the same thing with malaria and the Malaria Caucus, and he did the same thing with tuberculosis, which sadly is an opportunistic disease that afflicts so many people who have HIV/AIDS.

On the Sudan Peace Act, again when we were looking and working so hard to try to stop the slaughter in South Sudan, there was DON PAYNE working every day of the week to ensure that somehow peace would break out and the genocide would end there, as well as in Darfur.

Again, I know that he cared deeply because I was there having those conversations with him day in and day out. You know, very often in my Subcommittee on Human Rights when I chaired that and he was the ranking member, we would go on receiving testimony, debating for hours. There would be two Members left standing in the room, DON PAYNE and me, because he cared so deeply about human rights globally, as well as in Africa. He will be deeply missed. Again, a great man, a great friend, and his passing is



mourned by everyone in this Chamber and everybody in the State of New Jersey.

God bless him, God bless his family; and thank you, DON PAYNE, for the great work you did in the U.S. House of Representatives.

Mrs. CHRISTENSEN. I thank Congressman SMITH, and now I'd like to yield to the gentleman from Michigan (Congressman CLARKE).

Mr. CLARKE of Michigan. Mr. Speaker, I want to thank the gentlewoman from the Virgin Islands for yielding to me.

I am one of the newest members of the Congressional Black Caucus. Being a freshman here in this body, you become immediately aware of the traditions of the House. For example, male Members of the House are referred to as the gentleman from the State that they represent. DONALD PAYNE was a gentleman not because he was elected to Congress but because he was a good, decent human being. He welcomed me with open arms as a new guy from Detroit that very few in the House even knew about.

Less than 2 weeks ago, DONALD PAYNE returned a call that I had placed to him. We had a short, but gracious, conversation. And I knew after I hung up the phone that I would see him soon right here in the Halls of Congress, but that never came to pass. The lesson is clear to all of us: our time, our life here on Earth is very fleeting. Let's do everything we can to cherish each moment, not necessarily to pursue a wild ambition or do a lot of things, but just to be like DONALD PAYNE, respecting others, caring for others. That's what he stood for.

Mrs. CHRISTENSEN. I now would like to yield to the gentlewoman from Florida (Ms. ROS-LEHTINEN).

Ms. ROS-LEHTINEN. I thank the gentlelady for yielding me this time. Just a few hours ago, we lost a dear friend, an esteemed and honored and respected colleague, Congressman DON PAYNE of New Jersey.

DON was a proud member of the New Jersey delegation. He was a faithful servant to his constituents. For more than two decades, he served them in this body. He was also a committed member of our Foreign Affairs Committee. He was chairman and the ranking Democrat on the Subcommittee on Africa, Global Health and Human Rights; and in that capacity he showed us his unwavering commitment to fighting diseases worldwide, but especially in Africa. He shone the light on human rights abuses throughout the world. DON's tireless efforts provided a voice for the afflicted and for the oppressed.

We are saddened as an institution, as a body, and as friends by the loss of such a courageous and loyal and conscientious public servant. DON will be greatly missed by our Foreign Affairs

Committee because he was such a tireless advocate for the causes for which he felt such passion.

He will be missed here on the House floor because he was ever present whenever there was an important issue to be debated. He will be missed in his home State of New Jersey where he was so revered and respected by his constituents whom he so faithfully served. He will be missed especially by the thousands and, indeed, countless people whom we will never know who he inspired and he impacted throughout his tenure and long career in public service.

So without a doubt, Congressman DON PAYNE's contributions will be remembered for many years to come, and our thoughts and prayers are with all of the Members of the Payne family and all of the people whom he touched in a very special way.

I thank the gentlelady for the time; and in our Foreign Affairs Committee tomorrow, we will hold a special remembrance for Congressman DON PAYNE.

Mrs. CHRISTENSEN. Thank you, Congresswoman ROS-LEHTINEN. And now I would like to yield to the gentleman from American Samoa, Congressman FALEOMAVAEGA.

□ 1630

Mr. FALEOMAVAEGA. I do want to thank the gentlelady from the Virgin Islands for managing the time for our colleagues in this Special Order that has been taken to honor our good friend who has just passed away, Congressman DON PAYNE.

Congressman DON PAYNE was my classmate. We sat next to each other for the past 23 years as members of the House Foreign Affairs Committee. We were talking about the situation where it looked very interesting as proud Americans, and yet we knew something was missing here in terms of the activities of how our foreign policies have come about, in doing things about our relationship with other countries, so DON PAYNE was committed to looking after the needs of what are our foreign policies towards Africa. My commitment was to find out what are our foreign policies towards the Asia and the Pacific region.

I want to share this little interesting thought with my colleagues. When DON PAYNE and I first became members of the House Foreign Affairs Committee, hardly any of the members wanted to be on the Asia and the Pacific or Africa subcommittees. The mentality here in Washington was entirely towards Europe and the Middle East. Being members of these two subcommittees was almost like the pits. They were not even on the radar screen, weren't even given any real sense of priority or interest.

I want to say to my colleagues that it has been truly an honor to be sitting

next to my brother, DON PAYNE, and to commit to the idea that as a champion and advocate for the needs of the poor, the great champion of human rights throughout the world, not just towards Africa, but all other regions of the world, DON PAYNE and I worked on the plight, the needs of the people of West Papua, New Guinea.

I always have remembered DON PAYNE's admonition to me every time we discussed issues about fairness and equality. He said,

Eni, let me just remind you of what Martin Luther King, Jr., once said: "In the end, we will not remember the words of our enemies, but the silence of our friends."

I think it's so true in terms of what he instituted in my own heart and mind: you can't just sit back and just let things go by. We've got to be out there being proactive and expressing ideas that will solve the many issues and the problems that we are faced with, not only in our own country, but throughout the world.

I want to express my deepest sympathies and condolences to the family of my brother, Congressman DON PAYNE. And I'm reminded of the saying, "blessed are the peacemakers, for they shall be called the children of God." This truly was a peacemaker, whom I've had the honor and privilege of witnessing his life as an example not only to our colleagues, but certainly to the Members of the American people. Both in deed and by his conduct, DON PAYNE was truly a statesman, and his voice will be surely missed in the years to come.

Mr. Speaker, I am so happy to see that so many of our colleagues are here to pay special tribute to this great man, a gentle man, and yet by such great tremendous example showing us what we should be doing: going about and helping other people. I want to wish him well. We have a saying in my culture, "Ia manuia lau faiga malaga"—"May you have a good voyage."

Mrs. CHRISTENSEN. I thank the gentleman from American Samoa.

I would now like to yield 2 minutes to the gentlelady from Illinois, Congresswoman JAN SCHAKOWSKY.

Ms. SCHAKOWSKY. Thank you for this opportunity to speak about a really good friend of mine, DON PAYNE. When I heard that his situation was grave, I gave a call to his brother, Bill, whom I had gotten to know on trips that he and DON took, and had the privilege then of speaking with DON. He was in hospice. This was just a couple of days ago. And I was able to tell him how much I loved him and able to tell him that I hoped that he found peace and comfort in the knowledge that he helped so many people in this world.

DON PAYNE was a real citizen of the world, a quiet and dignified gentleman, but he had a fierce commitment to justice and human rights everywhere. He was really the de facto ambassador to



Africa. No one in this Congress knew or cared more for the people of Africa. He also personally knew the leaders, and they knew and respected him. His knowledge and his relationships will leave a big hole here. He was the go-to person. If you wanted to know anything about what was going on, the political situation, or who was who on the continent, DON PAYNE was the one to go to.

As I said, I was able to travel with DON and Bill to many places around the world and always listened carefully, as everyone did, when DON spoke with the kind of knowledge that he had about all things dealing with foreign relations, about all things dealing with human rights. So my heart goes out to my good friend, Bill Payne, to the children and grandchildren and one great grandchild of DONALD PAYNE, my beloved friend, whom I'll miss so much.

Mrs. CHRISTENSEN. Thank you, Congresswoman SCHAKOWSKY.

I would now like to yield 2 minutes to another colleague of DON PAYNE from New Jersey, Congressman BILL PASCRELL.

Mr. PASCRELL. Ladies and gentlemen, the House has lost a real advocate, a person who respected this institution and who understood what it was.

So I know I speak for all of us when I say our condolences to the family and our condolences to his constituents. He served most distinctly.

Rather than tell you some things I was going to prepare myself about my relationship with DONALD, I got a letter this afternoon, and I think it's appropriate if I read this letter on the floor of the House because it tells us that DONALD PAYNE was not just interested in Africa. His interests as a humanitarian went beyond that.

Sinn Fein President Gerry Adams has spoken of the deep sadness at the death of United States Congressman DONALD PAYNE. On behalf of Sinn Fein, and all of those in Ireland who met Congressman PAYNE on his many visit here, the Sinn Fein leader extended his deepest sympathy to Congressman PAYNE's children and his family circle and many friends. And this is what Gerry's own words are:

Donald Payne was a champion for the disadvantaged and the downtrodden in the United States and around the world. He devoted his life to promoting civil rights, equality and democracy.

My friends, just think who is saying this. A man of valor, a very courageous person, Gerry Adams. This is how close we are in the tribe of humanity and how many times we fail to recognize it.

I met Donald many times both in Washington and in Ireland. He was always very interested in Ireland and had visited the north before the cessations in the mid-1990s. Donald was very supportive of the Irish peace process from the beginning and was a regular participant in briefings which I and other Sinn Fein visitors gave to political leaders on Capitol Hill.

Many of us were there, many of us in this room.

He was also a frequent member of congressional delegations that visited Ireland. Donald will also be fondly remembered by citizens on Garvaghy Road, in north Belfast, and the Short Strand, which he visited at a time when efforts were being made to force controversial Orange marches through those districts.

His experience as a civil rights campaigner resonated with his audience in west Belfast when he spoke there during the west Belfast Feile on the issue of equality and anti-discrimination legislation.

During a debate in Washington on the McBride principles he remarked that: "I and other members of the Congressional Black Caucus can easily identify with the Catholic minorities. I recognize many similarities in how they are treated with how people here were treated."

Donald was a thoughtful, generous and well-informed politician who was personally dedicated to improving conditions for others and who worked diligently on behalf of his constituents and of his party.

He will be remembered with gratitude and real affection for his support at difficult and dangerous times in Ireland—in difficult and dangerous times all over the world. He will be sadly missed by his constituents, by people the world over. I want to extend regrets and deepest sympathy to his family and his friends.

Go ndeanfaidh dia trocaire ar a n'anam dilis—may he rest in peace, and may all of his friends gather in this institution that he loved so well.

□ 1640

Mrs. CHRISTENSEN. Thank you, Congressman PASCRELL. And thank you for bringing the sympathies of Sinn Fein to the floor.

I would now like to yield 2 minutes to a person who served with DON for quite awhile on the Foreign Affairs Committee, Chairman DAN BURTON of Indiana.

Mr. BURTON of Indiana. I thank the gentlety for yielding.

You know, we judge, as Congressmen, our colleagues based upon their ability and how hard they work. But the thing I liked about DON PAYNE, as a colleague with whom I worked for 24 years on the Foreign Affairs Committee, was he was a nice guy. He was really a nice guy. Even when we had our differences—and there were many when we served on the Africa Subcommittee together—we would debate, and then we would walk together down the hall and talk as friends and still discuss our differences, but we did it in such a friendly way, and I really liked the guy.

One of the things I think is so important is we really don't get to know each other too much in this place. We have 435 of us. And people come who are wealthy and some who are very poor, some who came from bad beginnings and tough beginnings and some come from the top; and we don't get to know each other very well. But I knew DON PAYNE because he worked so hard for the people he represented in Newark, and he really fought for them.

He wanted a garage in Newark because of the business downtown. I remember I fought him on that garage and we were able to stop it. And I think one of the things I'll regret the day I leave this place is that I stopped that garage because I think DON PAYNE, as the kind of guy he was, really felt like it was needed for Newark. And DON, if you're listening, if I had a chance, I'd vote differently on that thing.

But anyhow, he was a nice guy. He was a credit to the Congress of the United States and to everybody who knew him. I'd like to say to his family that I extend my deepest sympathies, as the other speakers have said, but I'd also like to say that to his staff. I know his staff is going through a difficult time right now as well as his family, so I want to extend my deepest sympathy to them as well.

Mrs. CHRISTENSEN. Thank you, Chairman BURTON.

At this time, I would like to yield 2 minutes to another colleague from New Jersey, Congressman ROB ANDREWS.

Mr. ANDREWS. I thank my friend for yielding.

Sometimes the quietest voices are the ones that have the greatest impact. DONALD PAYNE always spoke quietly, humbly; but as we reflect on his life, the impact is monumental.

Tonight, there are villages in Africa where people have self-determination, human dignity, education, and health care because of the impact of his voice and his life. There are people working in the city of Newark, the counties of Essex and Union and Hudson because of businesses he helped to bring and schools he helped to build and progress he helped to make.

As we heard my friend BILL PASCRELL talk about, there are people in Ireland from very different heritages and backgrounds that DONALD brought here who are celebrating his life because of the reach of his voice and of his life.

I think, most importantly, the impact of his voice is the hollowness and sorrow that we all feel here in this institution because the quietness of his voice brought us together at times of discord and stress. DONALD believed passionately in his progressive ideology, but he believed with equal passion in tolerance for those who disputed it. DONALD fought fiercely for the causes in which he and I believed and he and others believed, but he never fought the rights of others to express differing views. He cared very personally about his causes, but he never took personally those who disagreed with him. This is a lesson that we should learn and abide by in this institution in years to come because it makes us better people and it makes our institution stronger.

Later this week, it is a remarkable thing that this humble young man, a school teacher, a leader in the YMCA

who at the beginning of his career lost many more elections than he won—lost two elections for the county executive position, lost multiple attempts to become elected to this House of Representatives, and then triumphed—someone from those humble beginnings that world leaders will come to a place of worship in the city of Newark to commemorate his life.

But I think what's more indicative of DONALD's contribution is that as those world leaders come through Newark Airport into the city that DONALD loved, there will be janitors and school teachers and truck drivers and day care providers and laborers and electricians and Americans of all walks of life, people of all walks of life who will know and acknowledge the great impact of this quiet voice.

His voice has sadly been stilled; but let us celebrate the fact that his impact will live in our world, in our country, in our institution, and in our hearts forever. May God bless his family and comfort them at this time of affliction.

Mrs. CHRISTENSEN. Thank you, Congressman ANDREWS.

At this time, I would like to yield 2 minutes to the gentleman from Troy, the gentleman from Georgia, Congressman JOHN LEWIS.

Mr. LEWIS of Georgia. I want to thank the gentlelady for yielding.

I rise today to honor the memory of our beloved colleague, the distinguished gentleman from the State of New Jersey, DONALD PAYNE.

Today we have lost a wonderful and good friend, and the people of the 10th District of New Jersey have lost a fearless leader and advocate.

Any American can be elected to public office, but not everyone can serve with dignity and great respect. DONALD PAYNE, my friend, my brother, enjoyed the admiration of his colleagues because he led by example, and through quiet, determined diplomacy he accomplished a great deal.

A deep sensitivity to the human condition was at the center of all he did. His work was an extension of the belief that each of us has a responsibility to serve one another, and that we must use the power and resources of a great Nation to relieve the burdens of the poor, the oppressed, the hungry, and the sick. That is why this former public school teacher wanted to unlock the power of education to free those who are struggling in the urban centers in America. And that is why he was a tireless advocate for the people of Africa because a heartfelt compassion guided all that he did.

In a time when the needs of the poor are hardly spoken, when the cries of the locked out and left behind are rarely heard, the Chamber will deeply miss a gentle statesman with a heart that was big enough to serve all humankind.

The thoughts and prayers of the people of the Fifth District of Georgia and

many Members of this Congress are with his family, staff, and friends now as they move through a difficult time. Just know that DONALD PAYNE was loved, and he will be deeply missed, not only by the people of the 10th District of New Jersey, but by people around this Nation and all around the world.

□ 1650

Mrs. CHRISTENSEN. We are coming close to the end of our hour. I think our colleague will probably yield us some time, but I would like to close out this particular hour, and I ask unanimous consent to extend the hour to allow the Members who are on the floor to speak.

The SPEAKER pro tempore. The Chair cannot entertain a request to extend a special-order speech.

Under the Speaker's announced policy of January 5, 2011, the gentleman from Tennessee (Mr. ROE) is recognized for 60 minutes as the designee of the majority leader.

Mr. ROE of Tennessee. I yield to your next speaker.

Mrs. CHRISTENSEN. The next speaker would be Congressman EMANUEL CLEAVER, the Chair of the Congressional Black Caucus.

Mr. CLEAVER. Mr. Speaker, this is not one of the highlights of stepping into the well of the House. This is a moment that does not yield great joy, at least not for what just happened in terms of the death of my friend and my colleague, DONALD PAYNE. There is, however, some joy, and the joy is related to the fact that I had the opportunity to know DONALD PAYNE, and I believe that my life was enriched because of it.

During his final days here in Washington, I had a number of conversations with him at Georgetown Hospital where I tried to, and was successful at least on a couple of occasions, in getting him to laugh, even as he experienced excruciating pain in his hospital bed.

DONALD PAYNE can be observed by all Members of the House, and from that observation, we can extract something that can make this place better. DONALD PAYNE was about as good and decent a human being as has ever walked the Halls of this stately House.

At a time when many elected officials believe that acidic language, acrimony, and red meat discussions are the order of the day, DONALD PAYNE was firm, soft-spoken, and respectful. No matter what happened, you could count on DONALD PAYNE being calm through it, except on one occasion, which I will not talk about on the floor. We'll talk about it later, but not here.

But DONALD PAYNE was a man who was as peaceful in private as he was in committee or even on the floor. He had a passion for the diaspora. And I joked with him that everywhere I've ever

gone in the diaspora, people asked about him.

Just 1 week before he died, 1 week, I met with a representative from Brazil who was inviting Members of the Congressional Black Caucus to come to Brazil to meet with their caucus and they would send members here. Before the meeting ended, as I knew would happen, he asked about DONALD PAYNE. And I don't believe there is an elected official or a king or prince or a potentate in the diaspora who does not know the name of DONALD PAYNE.

And what I hope will happen is one of the Members will pick up the mantle and delve into the issues and matters of foreign relations as has DONALD PAYNE. Somebody needs to step up to the plate and do that.

My final comment is this: I hate cancer. I hate cancer. I can't think of a human being that I hate, but I hate cancer. And in my hatred of cancer, I have come to the realization that all of us are temporary, that we are not permanent creatures. No matter how strong and healthy we feel we are, we are all temporary. And if we understand our temporariness, it might inspire us to be just a little better, a little kinder, a little nicer, a little more receptive to others, because we are temporary, at least in this place.

Now, I conclude by saying that life must end, but death is not a cul-de-sac. It leads somewhere. And if DONALD PAYNE is not there, that door must be locked and the rest of us can give up. He was about as good and decent and loving a human being who's walked these Halls, and I'm glad that God gave me the chance to know him.

Mr. ROE of Tennessee. I now would like to yield time to the minority leader from California (Ms. PELOSI).

Ms. PELOSI. Thank you, Mr. ROE, for yielding. I thank you and I thank our colleague, Congresswoman CHRISTENSEN, for taking this Special Order today so that we can sing the praises of a great man, our colleague, dear friend, precious person, DONALD PAYNE.

I waited. I said I wanted to go after Mr. CLEAVER because I didn't know how I was going to even have the strength to come to the floor because this is a personal as well as official loss to many of us here. And he is always a source of strength to us, putting in perspective the fragility of life and the value that we must place on the contribution of all of our colleagues, especially when we are blessed with the life, service, and leadership of someone like DONALD PAYNE. There are very few people that you can say "someone like Donald Payne," because he was exceptional and unique.

When the distinguished Mr. CLEAVER and Reverend CLEAVER says that we have to fill in where and take his mantle, that would be almost impossible to do because, over a lifetime, in public service, and a long time in the Congress of the United States, DONALD

PAYNE gained standing on issues that takes years to do. But he did teach us along the way. He gave us guidance on what paths to follow, what clues to recognize, and doing the right thing, whether it was in the continent of Asia, Africa, or Latin America, wherever it was, and in our own country.

I had the privilege of traveling with DONALD PAYNE when we were going to Darfur. He didn't want to go to the Sudan. He'd been there many times, Darfur, but he was at that moment boycotting the regime in Khartoum because of how they treated their people there. And while we were in Khartoum and in Darfur, he was in Ethiopia and Somalia and the rest, always working, always working to have policy advice to all of us and caring about what the impact of that policy was on people.

What was interesting to us, though, it was on that same trip to Africa, which many of the members of the Congressional Black Caucus were on, including our distinguished assistant leader, Mr. CLYBURN, when we went to Liberia it was a boiling hot day. And we all went to the AME college there, the AME university, and they were honoring DONALD PAYNE for his everything, for what he knew about Africa, for his values and how he was concerned about, again, policy as it related to people, the encyclopedic knowledge that he had, the great wisdom that sprang from that knowledge, the plans that he always had to make things better, and the way people just flocked to him because they would learn, they would be inspired, and they would love DONALD PAYNE.

It was boiling hot. And we go there and they decide that we're all going to dress alike that day, so it even got hotter as we donned our robes. And here we were, seeing—not only telling them the esteem with which he was held in Congress, that was the least of it, because what we were hearing was what people from around Africa, the esteem in which they held him, named a library for him at that university in Liberia.

He was a schoolteacher, and he never forgot how important it was for us to put our students first. He called them the bright lights of our Nation's future, for investing in their potential, for inspiring them to succeed, igniting the sparks that they had within them to do their very best.

He was very proud of Newark and serving there. I remember when he first came here, his work on behalf of his constituents, his neighbors, the middle class, working people, people who were striving to reach up into the middle class, he was always working for them.

□ 1700

He was New Jersey's, as has been mentioned, first African American Member of Congress. He remained a committed champion of equality and

opportunity for all. His accomplishments, both on his committee, where he served with Congressman GEORGE MILLER, who holds him in the highest esteem, and now the Foreign Affairs Committee, where he serves with Congressman HOWARD BERMAN. Well, to hear the two of them talk today as if they have lost a brother, and we all have.

We all have an appreciation of his hard work ethic. The knowledge that he brought to his subject, the concern he had for the American people, and the love he had for our country.

Just think, last week we had a visit to our office from Bill Gates coming to our office to talk about the issue of global health, and he asked if DONALD PAYNE could be in the meeting. We had hoped that would be possible but then had to say that he was not feeling well that day. That was a week ago.

But up until the end, he was in demand, recognized for his, again, standing on issues that related to the alleviation of poverty, the eradication of disease, again, alleviation of hunger throughout the world. What more could be about the gospel of Matthew than ministering to the needs of God's creation, which the Bible tells us is an act of worship. To ignore those needs is to dishonor the God who made us. DONALD PAYNE was all about worshipping God by ministering to the needs.

He was an expert on economic, political, and security situations throughout Africa, and I had the honor of nominating him, recognizing his extraordinary work around the world. I was proud to recommend that President George W. Bush name Congressman PAYNE, our representative of the House Democrats, at the United Nations. Usually it was just for one term. In the case of DONALD PAYNE, we went well beyond that in recognition of the extraordinary contribution that he makes.

So again, whether it was in his own district, whether it was Newark, New Jersey, or across the world, he was a powerful and passionate voice. I hope it's a comfort to his children—to Donald, Jr., to Wanda, and Nicole—and all who loved DONALD PAYNE, his dear brother, Bill, who traveled with him frequently and loved him so much, I hope it's a comfort to them that so many people who knew him well, loved him so much, mourn their loss and are praying for them at this sad time.

With that, Mr. Speaker, I again thank Mr. ROE and Congresswoman CHRISTENSEN for the opportunity to say just a few things about our dear friend who will be sadly missed and long remembered. His legacy lives on in the Congress of the United States.

Mr. ROE of Tennessee. I would now like to yield time to the distinguished gentleman from Maryland, Mr. STENY HOYER.

Mr. HOYER. I thank the gentleman for yielding.

This is a sad day for America. It's a sad day for the Congress. It's a sad day for our African American brothers and sisters who have lost a real leader and an extraordinary friend.

I first met DONALD PAYNE when I was in my mid-twenties. He was active in the Young Democrats in New Jersey, and I was active in the Young Democrats in Maryland, and that's how we first met. DON was about 6 years older than I am. When you're in your middle twenties, somebody in their thirties is really old. But we all saw him as a very serious individual, serious about his activities, serious about his objectives, serious about the people.

He had an extraordinarily productive career. As the leader has mentioned and as I know other speakers before me have mentioned, he was a teacher. He was a teacher in the tradition of Frederick Douglass. Frederick Douglass, a fellow Marylander, said that it is easier to build strong children than it is to repair broken men. DONALD PAYNE was focused on that concept as a teacher.

Then throughout his life, he was focused on making sure that America kept the faith with people around the world; that its values, that its hopes, its visions for ourselves were also our hopes and visions for others.

DONALD PAYNE, before he came to the Congress, I think had traveled to more countries than perhaps any other Member of Congress. He cared about people, and particularly people who lived in Africa. I think there was no Member who knew Africa better than DONALD PAYNE, no Member who risked more for the welfare of those who lived on that continent.

My first trip as majority leader, I went to Sudan and to Darfur. I made that my first trip because, at that point in time, it was one of the most troubled—and still remains—lands in our globe. DONALD PAYNE, unfortunately, could not go on that trip. He had another thing to do.

But we had a briefing before we went, and DONALD PAYNE was there. It was clear from those who briefed us that DONALD PAYNE was obviously the person they looked to for knowledge and insight into how we could get from where we were then to the plebiscite, to what is now the independent South Sudan, and hopefully it will remain so, notwithstanding the violence of Sudan itself.

DONALD PAYNE was an extraordinarily conscientious Member of this body, but more than that, he was a man who cared about his fellow man and fellow woman. DONALD PAYNE was a serious Member of this body.

That does not mean he was always serious. He had a sense of humor. He was a wonderful, engaging person, but he was serious about what he did, and it reflected how deeply he cared about those whom he served and about his country.

We could all speak for Special Order after Special Order after Special Order and still not reach the magnitude of praise and thanks that he deserves. Suffice it to say that this body was a better place for his service. As Reverend CLEAVER so eloquently intoned, we were better people for having been his friend and his colleague and his co-worker.

I am pleased to join all of you who, like me, knew DONALD PAYNE as a Member of Congress, yes, but as a human being, as an individual, as someone who cared about us, and we cared about him.

I join Leader PELOSI and all of you and our friends on the other side of the aisle, because DON worked across the aisle. DON was not an observer of partisan differences, although he understood they existed. His objective was to work with all for the betterment of all.

So, I'm pleased to have this opportunity to join all of you in thanking God that He gave us DON PAYNE, that He gave him sufficient years to make an extraordinary mark here in this country and around the world.

□ 1710

Mr. ROE of Tennessee. Mr. Speaker, I would now like to yield time to the dean of the Michigan delegation, Mr. CONYERS.

Mr. CONYERS. I thank the gentleman for yielding to me. I also thank DONNA CHRISTENSEN for her leadership in bringing us all together this evening.

This is a wonderful way, when this RECORD is read of this Special Order for DONALD PAYNE, for everyone to know the depth of the love and respect that we all had for this great and gentle human being.

He was a committed public servant and a true champion for social and economic justice at home and around the world. He had a global perspective that helped teach us that all of the 6.4 billion people on Earth are connected and related. So when I was asked to campaign for his first run for Congress that I knew about, which was in 1988, I was pleased to do so. I traveled to Newark and joined with him in that victory. I remember being struck by his deep desire to help people, and I had no idea that he would grow and develop into this leader whom we mourn and praise here today.

Through his work as a member of the House Education and the Workforce Committee and of the Foreign Affairs Committee, he led the fight to address inequities in every realm of existence. He was a great proponent for peace. I must say that I am convinced that he had the spirit and the philosophy of Dr. Martin Luther King, Jr., that he lived and demonstrated every single day of his life. He is the one Member of whom I can say I never saw angry, I never saw upset. When I was able to take him

away from his African commitments, I took him to Haiti, where he immediately understood the depth of the suffering and the tragedy that required us to go back again and again and again.

So, DONALD PAYNE, what has been said of you today is only a small token of the contributions that you have made during your life. You will be missed by your colleagues. You will be mourned by your family. You will be treasured by many people in many places on this globe.

Mr. ROE of Tennessee. I will now take the opportunity to yield 2 minutes to the gentlelady from Texas (Ms. JACKSON LEE).

Ms. JACKSON LEE of Texas. I want to thank my distinguished friend for your kindness and generosity in yielding the time and to the Speaker. I want to thank Dr. CHRISTENSEN for starting us on this journey, and I want to thank the Speaker for being educated by these powerful words of my colleagues.

I do want to say that, if you had to give a tribute biblically to DONALD PAYNE, you would certainly quote from Timothy in saying, "I fought the good fight." I am grateful to also say that DONALD PAYNE had a lot of fun in life. Some of us can trace our friendship to years past, to decades past; but I know that, as the world loves DONALD PAYNE, he loved Newark and New Jersey.

I had the good pleasure of joining him and his friends during the last Congressional Black Caucus. We had a variety of receptions to meet our constituents, and there was nothing but love in that room. I had, I would call it, the humble privilege to visit him at Georgetown Hospital, where his brother and sister were in the room as well as the chief of staff, and to have him smile as some of our colleagues have said. In the course of being in the room, I heard that the former President of South Africa, President Mbeki, was trying to reach him.

There would be a long list of Presidents and former Presidents and others of great renown trying to reach him; but you cannot in any way doubt the fact that in his acceptance and acknowledgment by all of those iconic figures, President Mandela as well, that he as a progressive stood along with the family members he loved, whether it was his son, who was a council member, and his other children or Bill Payne, and epitomized the struggles of a generation of African Americans in Newark and New Jersey in the 1950s and the 1960s, and he was on the front lines of fighting for equal rights out of the North Ward.

Oh, leave it only to DONALD PAYNE to talk about New Jersey politics, and he loved it. He had an iconic presence, but he also had a leadership, boss-man presence—and I say that lovingly—because if you needed something in that area, as my good friends, Brothers PALONE and PASCRELL out of that area,

knew, no matter who you were in his district who needed something, you could get ahold of DON PAYNE. He loved the richness of his district and its diversity, but you can be sure that he was fighting for the poor and dispossessed.

Maybe that's what brought him to his affinity and kinship for Africa. One of my predecessors, Mickey Leland, whom DON PAYNE knew, we always said died on the side of an Ethiopian mountain while trying to feed those who could not feed themselves.

But DON PAYNE was everywhere, from Ethiopia, to Sudan, to South Africa, to Angola, to the Congo, to Ghana, to Liberia. He was in all of those, if you will, conflicts where he wanted to bring about peace. He counseled Presidents—Republicans and Democrats. I remember Bill Clinton's historic trip, and you can be assured that DONALD PAYNE was at the nexus of drawing him to making that historic trip. I believe, in 1998, he counseled George Bush and others, and he counseled President Obama.

I don't know if many of you know that DONALD PAYNE was a longshoreman who worked on many different places; but when reminded of his work as a longshoreman, he said, I loved the port. I heard a Member talk about that, I believe, but he loved the working person.

Let me just conclude, as I salute him for being the progressive who did not forget the poor as well as being one who could speak eloquently with the leaders of international positions around the world, albeit that he was coach and teacher and council member and ethic freeholder, that I remember traveling to Africa on occasions, plural. In this instance, what I would say, beyond having known that in Somalia he was almost, in essence, taken down, is that many of you will remember the first Kabila, the father of the present President of the Congo, and you will know that that area has always been in conflict and that DONALD PAYNE never shunned going into conflict.

□ 1720

Two places we went: Angola, when it was still in conflict. DONALD PAYNE said, Well, I know we can meet the President in his castle and office and the place where he is, but I'm going up in the bush, and if you all are with me, we're getting on this little one-propeller plane—not two propellers—it only had one—and we're going to go up there and meet with the opponent of the President.

We sat with DONALD PAYNE, encouraging this opponent to put down his guns and come and meet with this President, who through DONALD PAYNE had promised peace. I know that man wished that he had answered the call that DONALD PAYNE made. He never left the bush, and he died in that place. I got to see him up close and personal,

where no risk of life was too much for him to bring about peace.

As I conclude, let me simply say to the peacemaker, to the intended noble peacemaker, to the man who didn't shun or didn't shy away from a conflict that might have taken his life, to the lover of Newark, to the lover of his family and his children, to the lover of his staff, to the lover of this institution: DON, may you rest in peace. Warrior, leader, hero, God knows that you never stopped working, and you deserve that angel's place in Heaven.

Mr. Speaker, I rise today in tribute of the life and service of my dear friend and colleague, Congressman PAYNE. Noted for his quiet gravitas, progressive issues advocacy and pioneering life story, Congressman PAYNE along with his older brother Bill Payne defined the struggles of a generation of Newark Blacks who in the 1950s and '60s fought for equal rights out of the North Ward.

By the dawn of the 1970s, the Paynes relocated to the South of Newark, where they built a political base on Bergen Street that served as the launch pad for Mr. PAYNE's historic campaigns for Congress in the 1980s.

DONALD PAYNE was a champion of the poor and dispossessed not only in Newark but in Africa, notably the Sudan, where he took one of this country's most forceful stands against the genocide he witnessed there. Congressman PAYNE was once arrested in Washington, D.C., for protesting against the Sudanese government.

As the Chairman of the Subcommittee on Africa for the Congressional Foreign Affairs Committee, Congressman PAYNE became a leading advocate for international human rights. "I would be remiss if I did not thank those who are personally responsible for making sure that I know about Africa," said then-President Bill Clinton.

After a 2009 trip to Africa, the congressman prepared to depart from Mogadishu when his plane sustained small arms gun fire from the ground, according to CNN. The congressman had earlier that same day discussed the crisis of piracy off the failed state's coast.

DONALD PAYNE grew up in a section of the North Ward known as Doodletown and worked on the docks in his young manhood. "I love this place," he told longshoremen at a 2008 campaign stop at Port Newark. "I worked down here from 1952 to 1956, on Doremus Avenue, where they used to have about one ship a week, believe me. But we're so glad to see this port come to where it is today."

At the beginning of their careers, he and his older brother worked in tandem as they sought greater African-American representation within the Newark Democratic Party, with Bill Payne very early gaining a reputation as the aggressive activist and DONALD PAYNE showing skills as a diplomat. Never an obvious self-promoter, DONALD PAYNE as a public person embodied old school qualities of humility and toughness. He seldom sought out a microphone but commanded attention naturally by being a presence in the room.

In the aftermath of the Newark riots, the Payne brothers became the strongest South Ward political brand in the city, using the Bergen Street business district as their most visi-

ble base of operations. The congressman scorned conventional polling, preferring instead to gauge his own popularity by the number of beeps on the horn he heard as he walked along his beloved Bergen Street.

He was a former leader of the Congressional Black Caucus. DONALD PAYNE served as a Newark City councilman and as an Essex Freeholder. Congressman PAYNE was someone who knew presidents and kings but was more comfortable with the man in the street, that's just who he was.

America has lost a noble statesman, New Jersey has lost a brilliant and caring Representative and I have lost a remarkable friend and distinguished colleague. A skilled and compassionate politician, DONALD PAYNE represented his constituents well. An ardent supporter of educational opportunity, he worked to ensure college was within reach for everyone.

DONALD worked tirelessly for small business and had a focused passion for Africa. Because of his knowledge and dedication to the issues of human rights and peace—he saved lives all over Africa. He enjoyed the respect of his colleagues; his calm demeanor will be missed. DONALD dedicated his life to helping the less fortunate and expanding and protecting human rights everywhere in a strong and determined way. He will be sorely missed by all who knew him. My thoughts and prayers go out to family, friends and constituents at this sorrowful time. The world has suffered a great loss.

Mr. ROE of Tennessee. Mr. Speaker, I now yield to the gentleman from Texas.

Mr. SESSIONS. Mr. Speaker, first let me say that I join my colleagues in recognizing not only the life and work of DON PAYNE, but I also wanted to add my personal words of support for what DON meant to me personally as a co-chairman of the Caribbean Caucus a number of years ago.

Speaker Hastert asked both DON and myself to become engaged in issues that would be considered in our hemisphere as a result of the war on terror. The Speaker recognized that the Caribbean was a gateway not only for terrorism, but also a number of other issues. DON and I accepted that role, had a number of trips down to the Caribbean, but also met with Caribbean leaders here in Washington, D.C.

DON was always upbeat, DON was always looking for answers and responses to the needs of our friends in the Caribbean, and really found a way to cut some good friendships with people to where they became better friends of the United States Congress and the United States because of his personal involvement in issues and matters.

I enjoyed working with DON. He accepted not only his role and mine, we working together—I as a younger Member, he as a senior Member. He welcomed my advances or ideas and thoughts.

It was difficult for me also as I was walking into the Capitol a few minutes ago to see the beautiful flag that flies outside the United States Capitol at

half mast in honor of our colleague DON PAYNE.

So I do want to thank this body for allowing me a chance to express not only my thoughts about DON, but also to recognize him as an outstanding Member of this body.

Mr. ROE of Tennessee. May I inquire, Mr. Speaker, how much time we have remaining?

The SPEAKER pro tempore. The gentleman has 26 minutes remaining.

Mr. ROE of Tennessee. We have 11 speakers, so I would ask if you would limit your remarks. I want to have an opportunity for everyone who wants to speak to speak.

Now I would yield time to my colleague and one of DON's very dear colleagues from New Jersey (Mr. PALLONE).

Mr. PALLONE. I thank the gentleman for yielding.

I have a lot of DON PAYNE stories. I wanted to tell one which I think says a lot about the man.

I listened to what SHEILA JACKSON LEE said before about how he was always humorous and telling jokes, but also about New Jersey politics and how he was so well respected and had the ability to basically tell other Members or indicate to other Members what they should do.

I also listened to HANSEN CLARKE when he mentioned DON being a gentleman. DON was a gentleman, and people respected him as such in the city of Newark and throughout his district.

There was an occasion after the re-districting when I gained an area—I won't mention the name necessarily—in my new district that was mostly African American, and DON PAYNE was very well-known there, and I wasn't known at all.

I actually lived at the Jersey shore. Some of you may know that the people that are down at the Jersey shore, the people from north Jersey and Newark often refer to us with names like "clam digger" and other things to indicate that we're not as sophisticated as the people from Essex County.

I was at a meeting with African American ministers in this new area of my district. And of course the purpose of DON being there was to tell them it was okay; in other words, it was okay that this guy from the shore, the clam digger, so to speak, was now going to represent you because he was okay.

As you know, DON couldn't take an occasion like that without making it into a joke and still getting the point across, but in a very humorous way. So he said to the African American ministers as we assembled:

Well, you know, this guy Frank Pallone is now coming up here and he is going to represent you. But he is down at the shore, and most of the time he spends his time talking about crabs and fish and the things at the shore. You know, I don't know if he can relate to this urban area now that he is going to represent where you all know me, but I'm

going to tell you a story. You'll often see Congressman Pallone in pictures at the shore picking up the crabs, and he picks up the crabs and he talks about how the crab had been injured, and it was important to help the crab, and the crab needed some help and needed to be fixed, needed some health care so it can become a whole crab again and lead a good life.

Of course everybody was laughing at this point, figuring out what this is all about. But it was his way of getting across in a humorous way that it was okay to have FRANK PALLONE represent you, that he was going to relate to you. He could relate to a crab, so he could obviously relate to you.

I don't know if I'm saying this properly, but this is how DON was. He was just able to use humor to get a point across, a very serious point in a very effective way.

I will miss him so much because he made me laugh so many times when situations were serious, and there didn't seem to be much humor, but he always did it in a way that made me understand how important it was to be here as a Member of Congress. He really understood how important our jobs were and how they could make a difference in people's lives.

Thank you.

Mr. ROE of Tennessee. Now I would like to yield to a gentleman also from New Jersey, one of Mr. PAYNE's very close colleagues, Mr. ROTHMAN.

Mr. ROTHMAN of New Jersey. I thank the gentleman for the time.

Madam Speaker, today Newark, the State of New Jersey, and the United States of America lost a hero, and the world lost, especially those that needed help, those who were being persecuted, they lost a champion.

□ 1730

DON PAYNE's family, they've lost their patriarch, the strong, gentle, warm, beautiful, handsome hero who held them together all these many years.

And like so many others, but in a very special way, I lost, we lost a dear, dear friend. I loved DONALD PAYNE. I know he loved me. We spent many times together as dear friends, buddies, laughing and joking, but also many great times speaking about the very, very serious issues confronting our State, his district, my district, the country, and the world.

DONALD PAYNE led an extraordinary life. A young, African American man from very humble beginnings did not have it easy growing up in America and didn't have it easy acquiring political power that enabled him to help everyone, whether it was in Newark or Essex County or New Jersey, the United States or in the world.

History will record that this young man from Newark, DONALD PAYNE, literally saved tens of thousands of lives—he did—all over the world. In America, in Africa, and in Northern

Ireland. And he was known throughout the world as a champion of the down-trodden, those in need, and a champion of human rights.

He was a longshoreman; he was a teacher; he was a waiter. He was an elected official from New Jersey who made us all so proud, but he was a citizen of the world. He was a leader in this world.

And he leaves behind a legacy, not only as a beloved husband, father, grandfather, great-grandfather, brother, family man, but also as a dear, loving friend. Beneath that strong, serious statesman's demeanor was a warm, charming, funny, irreverent, smart, and great friend. I will miss him very, very much.

God bless you, DON PAYNE, my friend. God bless you, Congressman DONALD PAYNE, you iconic figure for America and the world. We will miss you dearly, but we will never forget you.

Mr. ROE of Tennessee. Madam Speaker, I now yield to the distinguished gentleman from Illinois (Mr. RUSH).

Mr. RUSH. I want to thank the gentleman for yielding.

Madam Speaker, in the book of Ecclesiastes 3:1-2, these words are recorded:

To everything there is a season, and a time to every purpose, and to everything under the sun, a time to be mourned and a time to die, a time to plant and a time to pluck up that which is planted.

Madam Speaker, today a giant oak tree has fallen. There's a gaping hole in the forest. DON PAYNE has moved from an earthly life into an eternal heavenly life. A time, a purpose, a season.

DON PAYNE did not take his time, his season, nor his purpose for granted. Every moment, every season, the purpose for which he was created meant something to him and he gave his life. He spent his life working on his time, his season, and his purpose.

Last Thursday, DON, through his chief of staff, asked me to come to the hospital; and we talked for awhile and he whispered some words to me, some directions for me, some orders from his hospital bed. But what stands out to me on that occasion last Thursday was his last words spoken to me. We were in the middle of votes, and he said: Make those votes. Don't miss those votes.

Here, a man who knew he was spending his last hours on this Earth, he knew that his life was coming to an end. He had told me some weeks before that he had pancreatic cancer and he didn't know what was going to happen, but his last words to me were not "Woe is me," but he was thinking about public service. He was thinking about this House. He was thinking about me and the vote that I was to cast. He was thinking about a time and a purpose and a season.

In the book of Micah, life really becomes quite simple. God asked the Prophet Micah:

What do I require of thee, O man, but to love mercy and do justice and walk humbly before your God.

Madam Speaker, I know that DON passed God's requirement. He lived his life with purpose. He was a son of Africa, but he was also a servant of Africa and a servant of the world.

We're all going to miss DON. We all looked to DON being a beacon in terms of public service. I will miss him, and my condolences go out to his entire family and his entire staff.

I might add that just this morning my staff and I went to his office, as others have. We sang a song together, "Jesus, Keep Me Near the Cross."

DON not only had the cross in mind, but now he sits in his heavenly home in a better place.

God bless you, DON. God bless you.

Mr. ROE of Tennessee. I now would like to yield to the distinguished gentlelady from California (Ms. LEE).

Ms. LEE of California. I thank the gentleman for yielding.

Madam Speaker, it is with a very heavy heart that I rise tonight to honor and commemorate the life of a world leader, but more importantly, a grandfather, a great-grandfather, a father, a brother, an uncle, a boss, a dedicated family member to so many. I offer my condolences and prayers to DON's family, to his staff. They need our comfort during these very difficult days.

□ 1740

DON was more than a colleague to many of us, myself included. He was a very good friend. We lived near each other in Washington, D.C., here, and I had the privilege to drive him home quite often. These were special moments for me which I will always cherish; for it was during these rides that he counseled me. He cracked so many jokes to cheer me up because he always knew what we were going through, and we talked about family, friends and what was really real in our lives.

DON loved children, and he relished his membership on the committee on Education and the Workforce. Of course, before coming to Congress, he was the national president of the YMCA and an elementary school teacher. But, yes, DON was also a global leader. And I have traveled abroad with DON, and he was greeted as a head of state and a comrade. But DON didn't especially like traveling with large congressional delegations. He liked going by himself and with his brother to the middle of conflicts, sometimes in the bush and in the jungles, to meet with guerrilla leaders and freedom fighters. He helped negotiate truces; and all sides, everywhere in the world, loved and respected him.

Now, for many years, DON was the lone voice in the wilderness calling for a declaration of genocide in Darfur, Sudan. Finally, we all got it. And as a



result of DON's persistence working with both sides of the aisle to address the atrocities of genocide, his bill passed, this declaration of genocide, with bipartisan support.

I was honored to serve on Congressman PAYNE's subcommittee for many, many years, the Subcommittee on Africa. He was a brilliant and a fair chairman, and he helped me shepherd and negotiate many bills and many of my legislative efforts.

Yes, I was blessed to have visited DON on Thursday afternoon. He smiled, we talked, he whispered a few words, and he gave me a thumbs up.

I met DON PAYNE through the mail in 1998 when my predecessor, who I know sends his condolences today, Congressman Ron Dellums, told him I was running for Congress. He sent me a wonderful note then—I didn't even know him—and a contribution. And when I was elected, he came up to me; he hugged me and he became my mentor on so many issues.

In closing, let me just say that I know—and we talked a lot about this, and I've been to church with him—that DON PAYNE was a humble man of tremendous faith. In thinking of DON this evening, I'm reminded of a Scripture taken from 2 Timothy, chapter 4, verses 6-8. It says:

As for me, the hour has come for me to be sacrificed; the time is here for me to leave this life. I have done my best in the race, I have run the full distance, and I have kept the faith. And now there is waiting for me the victory prize of being put right with God, which the Lord, the righteous Judge, will give me on that Day—and not only to me, but to all those who wait with love for Him to appear.

May DON's soul rest in peace.

Mr. ROE of Tennessee. I would now like to yield to the distinguished gentleman from Missouri (Mr. CLAY).

Mr. CLAY. I thank the gentleman for yielding.

Madam Speaker, the untimely passing of my good friend and colleague, Congressman DONALD PAYNE, early this morning is a terrible loss for DONALD's family and friends, the House of Representatives, the people of the Tenth Congressional District of New Jersey, and our Nation.

DONALD PAYNE was a tireless advocate for his constituents at the local and municipal level before winning election to the House more than two decades ago. As New Jersey's first and—until his death—only African American Member of Congress, he was the voice of working families from all backgrounds who called the Tenth District their home.

I am privileged to have known and worked with DONALD PAYNE. I will always be grateful to him for the warm way he welcomed me into this House and into the Congressional Black Caucus. I know that my father, who worked with DONALD for more than 10 years, joins me in extending our fam-

ily's sympathies to DONALD's family, friends, colleagues, and constituents. As the people of Newark and across the State of New Jersey mourn the loss of their friend, DONALD PAYNE, the people of St. Louis, all of Missouri, and all across our country mourn with them.

His leadership, friendship, and passion for his work will be missed.

Mr. ROE of Tennessee. I now would like to yield to the distinguished gentleman from New Orleans, Louisiana (Mr. RICHMOND).

Mr. RICHMOND. Thank you for yielding, and thank you, Madam Speaker, for the time.

It was once said that a politician worries about the next election, but a statesman worries about the next generation. DON PAYNE was a statesman.

To the Payne family, I offer my sincere condolences and prayers. Thank you for sharing your brother and your father with us. While I do not have as many personal memories as my colleagues of serving with Congressman PAYNE, I stand here as a beneficiary of his work over his 77 years. I can honestly say but not for DONALD PAYNE, I probably wouldn't be here.

I, along with others of my generation and the generations after me, not only in America but all across the world, stand on the shoulders of Congressman PAYNE. So I have the honor and the pleasure of serving with him, but I also have the obligation on behalf of those generations to say thank you to Congressman PAYNE for making this world a better place for us.

If we can remember anything with his passing, we can rest assured that DONALD PAYNE did what he was purposed to accomplish in his lifetime. So I can say right now without a doubt that DONALD PAYNE earned the right to say exactly what Paul said to Timothy, and that is, "I have fought the good fight, I have finished the race, and I have kept the faith."

So, Madam Speaker, this body, this country, and the entire world lost a true gentleman in DONALD PAYNE, and we lost a quintessential statesman.

Mr. ROE of Tennessee. Madam Speaker, I would yield now to my colleague and friend from Memphis, a fellow Tennessean, Mr. COHEN.

Mr. COHEN. Thank you, Mr. ROE. I appreciate the time.

Everything has been said just about Congressman PAYNE, and by such wonderful gentlemen and gentleladies who pay tribute to the man. I had the opportunity to meet him early in my entry into the Congress, and he made me feel at home from day one. He was, indeed, a gentleman, quiet but with a marvelous record for peace and for justice for the downtrodden people who needed a helping hand.

I had the opportunity through the auspices of CARE and the Gates Foundation to travel with Congressman PAYNE, his brother and others to Rwan-

da, to Goma and to Congo this past August; and I saw how he was beloved among people in Africa where he would travel on many occasions before. We shared the experience of going to the memorial to the victims of the genocide there, and Congressman PAYNE told me some stories about when he'd been there with President Clinton, and President Clinton had gone back and expressed his regrets of not having done more earlier to prevent the genocide, but was strong in supporting the nation of Rwanda and the people getting their country back together.

DONALD PAYNE had a progressive record. He was respected and loved by all. I was fortunate that my life intersected with his for he made me feel at home. And as so many other Members of the Congressional Black Caucus have done, he made it to where it wasn't necessary to be a member of the Congressional Black Caucus to be with the Congressional Black Caucus. I value my time with him.

Mr. ROE of Tennessee. Madam Speaker, I yield back the balance of my time.

□ 1750

The SPEAKER pro tempore (Ms. BUEKLE). Under the Speaker's announced policy of January 5, 2011, the Chair now recognizes the gentlewoman from California (Ms. LEE) for 30 minutes.

Ms. LEE of California. Madam Speaker, I'd like to yield now to the gentleman from South Carolina, our assistant leader, Congressman JIM CLYBURN.

Mr. CLYBURN. I thank the gentlewoman for yielding me the time.

Madam Speaker, I often quote the poet Robert Frost, who once admonished us that two roads diverged in the wood, and I picked the one less traveled by, and that has made all the difference. I would not quarrel with Mr. Frost, but I would believe that it's the people that you meet as you travel the roads of life that really makes the difference with all of us.

Several years before I came to this body I met DONALD PAYNE. I was a bit in awe of him because he struck out to attain a seat here, and in that race, right after I met him, things did not go as he had hoped—as many of us had hoped. But DON did not lose faith. He gathered himself, and he tried again. And of course, upon his success, all of us know what a successful Congressman he made.

I traveled with DON often. We went to Africa together. Traveling with him on the continent of Africa, going in and out of country after country, sitting with him as he called heads of state by their names, and to see the respect that all of them had for him was just a joy to behold.

I learned a lot from DONALD PAYNE. And I always, whenever I could, wanted



to be around him. Just this past December, in my congressional district, DONALD came to Charleston to help me participate in a congressional panel, talking about sustaining good, healthy communities. DON, that particular day, was sort of the star, as he usually was. I had no idea at that time that we would be in this place today.

I think I can say without any threat of contradiction that if anybody has left his or her mark of service in this body, it was DONALD PAYNE. His record will never, in my estimation, be equaled. To know two continents as well as he did is something few people in this body will ever get to attain.

I want to join with my colleagues in wishing his family—his brother, Bill, who I got to know so well; his son, Donald, Jr.; and other family members—as much sympathy as I can muster. I hope that they will achieve real solace in the fact that their brother, their dad, their uncle gave so much and demanded so little in return.

Ms. LEE of California. I would now like to yield to the gentleman from Illinois, Representative DANNY DAVIS.

Mr. DAVIS of Illinois. I thank the lady for yielding.

We've heard a great deal about Representative PAYNE this evening. Some of the fondest memories that I have of DONALD was talking. He was a philosopher and a poet. All of the things that people have said that he did, he has done those. The last conversation we had was sort of a philosophical conversation. I believe that Tennyson framed DONALD PAYNE long before he was born, and he wrote this poem that said:

Sunset and evening star  
And one clear call for me!  
And may there be no moaning of the bar,  
When I put out to sea,  
But such a tide as moving seems asleep,  
Too full for sound and foam,  
When that which drew from out the bound-  
less deep  
Turns again home.  
Twilight and evening bell,  
And after that the dark!  
And may there be no sadness of farewell,  
When I embark;  
For though from out our bourne of Time and  
Place  
The flood may bear me far,  
I hope to see my Pilot face to face  
When I have crossed the bar.

DONALD crossed, but he left a great deal behind.

Ms. LEE of California. I would now like to yield to the gentlewoman from New York, Congresswoman YVETTE CLARKE.

Ms. CLARKE of New York. I thank my colleague, BARBARA LEE.

Madam Speaker, today I'm here to pay tribute to a quintessential public servant, a person who tirelessly fought on behalf of his constituents of the 10th Congressional District of New Jersey, and for all Americans of all backgrounds across this Nation. Today I pay tribute and celebrate the life of our

beloved colleague, Congressman DONALD PAYNE.

DONALD made history as the first African American in New Jersey to be elected to Congress. He served as the former chairman of the Congressional Black Caucus and was recent chairman of the Congressional Black Caucus Foundation, where I really saw him go to work on behalf of the people across this Nation.

Along with many others, I consider Representative PAYNE not just an accomplished colleague, but a role model and a dear friend. He was a relentless and iconic advocate for the continent of Africa, the African diaspora, as well as the Caribbean region. He spoke out boldly against genocide in Darfur and Rwanda, and fought alongside the Congressional Black Caucus to help Haiti recover from the devastating earthquake that struck the nation in 2010.

Congressman PAYNE was a representative of Newark, but his leadership was global. We are grateful for his world view. We will never forget his passion, zeal, and commitment to improve the United States diplomatic relations around the world.

I count myself fortunate to have established a real bond with Congressman PAYNE. He shared with me his quick wit, and we shared a lot of laughs together. We often joked about who was tougher, Newark or Brooklyn. And he was also very skilled on the dance floor. I had an opportunity to trip the world fantastic with Mr. PAYNE.

And so, I extend my condolences to his son, Councilman Donald Payne, Jr.; to his very devoted brother; his daughters Nicole and Wanda; his grandchildren; great grandchildren; his close friends; his devoted staff; and the people of the 10th Congressional District of New Jersey.

□ 1800

Know that he has left us a great legacy, building blocks, if you will, for future generations of leaders. We will continue to celebrate the contributions of this great statesman. The stars in the heavens will twinkle just a bit brighter as Congressman DONALD PAYNE makes his transition to be with our Creator in heaven.

Thank you, Congressman, for all your commitment and sacrifice for the betterment of our global community.

Ms. LEE of California. I would now like to yield to the gentleman from North Carolina, Congressman PRICE.

Mr. PRICE of North Carolina. Madam Speaker, it was with great sadness that I learned of the passing of my good friend and colleague, DONALD PAYNE. Few Members who've served in this institution have left a greater impression on their constituents, their colleagues, and their country's domestic and foreign policy than DON PAYNE.

From the moment DON set foot in Congress, he was a powerful advocate

for the needs and interests of his central New Jersey community and of working Americans across our country. Bringing to bear his impressive and diverse record as a public schoolteacher, President of the National Council of YMCAs, and an elected official in Newark, DON quickly became one of the most forceful and effective advocates for public education in the Congress, playing a key role as a member of the Education and Labor Committee on virtually every major educational reform enacted over the last two decades. As the first African American elected to Congress from New Jersey, DON was an equally forceful advocate for the continued struggle for civil rights, eventually becoming chair the Congressional Black Caucus.

Now, these accomplishments in education and civil rights would qualify as a successful career for any Member, but DON didn't stop there. Driven by his early fascination with Africa and his adventuresome travels there, DON recognized that the struggle for civil rights and human dignity knew no borders, rising to become one of the most effective chairmen of the Foreign Affairs Africa and Global Health Subcommittee that we have ever had in this institution.

Our Nation's expanded focus on AIDS, malaria, and other pandemic diseases over the past decade would simply not have occurred without DON's visionary leadership and moral courage. It was fitting that USAID announced the launch of a DONALD PAYNE Fellowship Program last week, designed to help young people enter careers in international service.

I was fortunate to benefit from DON's knowledge and advocacy personally as he became a founding member of the bipartisan House Democracy Partnership, which I cochair with my California colleague, Representative DAVID DREIER.

DON's counsel and guidance and encouragement were invaluable as the House Democracy Partnership initiated partnerships with legislatures in Africa and conducted outreach in countries affected by the Arab Spring. Our frequent travels together in the region forged a deep and lasting friendship. He probably knew more about the ins and outs of Africa politics than all the other Members of this institution combined. He had strong and well-informed views about what our country's policies should be, and he was ready to articulate those views persuasively, no matter who the President was or which party was in charge.

He also insisted on investigating situations on the ground for himself, which led to quite a few one-man codebooks and some anxious moments for those who wanted to prepackage congressional visits or maintain airtight security. It was fascinating to talk to him about his diplomatic forays, which

offered a combination of high adventure and a remarkable, inspiring dedication to the freedom and dignity of the people of Africa.

Congress has lost a true statesman, a dedicated humanitarian, and a loyal public servant. We mourn his passing, and we will miss DON PAYNE's counsel and friendship.

Ms. LEE of California. Madam Speaker, I would like to yield now to the gentlelady from Florida, Congresswoman BROWN.

Ms. BROWN of Florida. Often I say, God is good, and the audience says, All the time. But God has been good for giving us the life of DONALD PAYNE.

You know, when you're born, you get a birth certificate, and when you die, you get a death certificate, and that dash in between is what you have done to make this place a better place, and DON PAYNE has done his work.

When I think of what Paul said, You have fought a good fight, and he has. And you've finished the course, but there is still work for us to do.

We talk about DON, DONALD PAYNE, and all of his work in Africa, and I don't know anyone that knew the continent or the people more than DONALD PAYNE.

But I want to mention that my first trip as a Member of Congress was with Congressman PAYNE, and we went to Ireland and we went to other countries. He was an international leader.

I want to thank his family, the constituents that sent him here. You know that you sent someone here that loved. He loved the Lord, but more than that, he was what we want our public servants to be: someone that actually believes in serving the public.

So DONALD's work speaks for itself, and we are so grateful that we've had the opportunity to serve with him.

My thoughts and prayers go out to his family and staff. And in fact, I participate in a weekly prayer call, and I have asked all of the parishioners and participants to pray for him and his family, and all of the constituents who cared about him in the State of New Jersey.

Beyond a doubt, our Nation will mourn the loss of such a dedicated Member of Congress, who lived his life as a true symbol of an ideal public servant.

I feel privileged to have been able to work with Congressman PAYNE on a number of issues throughout the years. For me personally, within the Congressional Black Caucus, and for the Congress, he was a leader on all issues relating to the continent of Africa. He knew all of the leaders, and knew extraordinarily well the various countries' histories and domestic politics, and worked tirelessly throughout his tenure to resolve numerous deep seated conflicts on the continent, while leading many congressional delegations to war torn areas. Indeed, Congressman PAYNE always spoke out on behalf of people who struggled in many of the most difficult nations around the world: from Rwanda to Sudan and Haiti, to the peace process in Northern Ireland.

Congressman PAYNE will be deeply missed here in Washington. I will always remember his soft spoken manner, will power, drive, intelligence and energy. And as the first African-American to serve in the House of Representatives from the state of New Jersey, I am certain that he will serve as an inspiration for others to follow in his footsteps.

Ms. LEE of California. I would now like to yield to the gentlelady from the Virgin Islands, Congresswoman DONNA CHRISTENSEN.

Mrs. CHRISTENSEN. Thank you, Congresswoman LEE. And thank you, everyone who's come out to pay tribute to DONALD PAYNE this evening; and thank you, Father Conroy, for being here with us.

I recently had the opportunity to introduce DONALD at an annual gala of the Mountainside Marketing Group, where he was being honored with the 2011 Congressional Minority Business Award, and it was really an honor to do that.

I talked then about his commitment to Africa and how I always told DONALD I would never travel with him. You see, he was as comfortable, as you've heard, meeting rebels in the jungle as he was meeting Presidents and chiefs. State Department warnings meant nothing to him. You heard about his plane being shot at in Mogadishu, and he also did some jail time here at home for protests on behalf of the justice here and abroad.

Because of the high respect in which he was held by everyone on all sides, he was able to bring peace to warring factions, to broker truces, and to ease the pathway to democracy for many. And his legacy as a peacemaker was not limited to Africa. He's considered an honorary son of Ireland for his contributions there.

I talked that evening about his commitment to children. As a teacher, he used his senior position on Education and Labor to ensure that educational opportunities are available for all children, but especially poor and minority children. He worked hard to close the achievement gap, and was also a key player in legislation to reduce interest rates on college loans and to increase Pell Grants.

I was able to tell those gathered how working families had no stronger supporter of labor and worker protections than DONALD PAYNE.

Last year the Health Braintrust and all of our partners honored DONALD with the Congressional Leadership Award.

I had the honor also of traveling to Newark every other year to the Donald Payne health summits and health fairs. He was just as determined that the people in his district have access to quality health care as he was committed to their education and economic opportunity. It was always an event that was looked forward to and attended by thousands who were then

connected to the health care system, some for the very first time.

But his commitment to health extended beyond his district to our entire country, to Africa and the Caribbean. He made sure that global health was added to the responsibility of the Subcommittee on Africa, which he chaired.

He led the effort to increase PEPFAR funding more than threefold. When President Bush signaled his willingness to go from 15 to 30 billion over 5 years, DONALD took that as an opening to push for even more and, with BARBARA LEE and others, parlayed that to \$48 billion. He also led in ensuring that, for the first time, all the countries in the Caribbean would be included.

So it's no surprise that condolences are pouring in from all over the world, and I want to submit one from Dr. Claire Nelson on behalf of the Institute of Caribbean Studies.

There were only a few of us that knew that DONALD was diagnosed with cancer and undergoing treatment. He was truly amazing. I thought he was even more feisty after his diagnosis than before. He would add his humorous commentary even more often at our meetings. He teased many of us mercilessly.

He led the Congressional Black Caucus Foundation with boundless energy which, of course, all of us on the board and the staff had to try to keep up with.

□ 1810

His most recent boat ride, of which he takes pictures with everyone who comes, was lots of fun as always; and he thoroughly enjoyed every minute of it, as all of us did.

His work in this body, of course, never faltered, and I think he would have been a more formidable adversary or advocate, as the case might have been.

But above all, DONALD was a dear friend.

In the end, he succumbed to the cancer, but up until the very last, he lived his life to the fullest. The people of the U.S. Virgin Islands, and he visited us several times, my family and staff join me in extending our heartfelt sympathy to his family: his children Donald, Jr., Wanda, and Nicole; his four grandchildren and his great grandchild; his brother, Bill, and sister Kathryn; Laverne, and all of his staff, past and present here and in the district; and the people of the 10th District of New Jersey.

DONALD was not only a respected member of the Congressional Black Caucus, which he chaired. He was loved by all of us. We will miss him terribly, but we will remember him with such great affection and consider ourselves blessed to have known him, to have served with him, and to have him call us his friend.

So long, DONALD. Rest in peace. Until we meet again.

MARCH 6, 2012.

DEAR FRIENDS: "Every once in a while a GIANT walks the earth."

Over the past several years, I was privileged, to have worked with Congressman Payne who was tireless in his support for the Caribbean, as well as Africa. I remember well the first time I moderated a Task Force at the CBC Annual Legislative Caucus, that he was Co-Chair of. He was so gracious, with my anxiety about following the appropriate protocol. As Chair of the Bi-partisan Caribbean Caucus, he led the way for us to have our voice heard and helped us to understand how we as Caribbean Americans may better impact the Congress he loved and served so well.

On behalf of the Caribbean American community, ICS will offer condolences to his family and friends as the arrangements become known to us . . . by way of our Advisors who were his personal friends.

In the meantime, I offer my prayers of thanksgiving for his life and legacy and my prayers of comfort to those he loved best. May he rest in peace.

DR. CLAIRE NELSON,  
*President of the Institute  
of Caribbean Studies.*

Ms. LEE of California. I would like to yield now to the gentleman from Indiana, Congressman ANDRÉ CARSON.

Mr. CARSON of Indiana. Madam Speaker, from my first days in Congress, I always considered DONALD PAYNE to be a mentor and a friend. He took me and others under his wing and showed us what it truly means to be a Member of Congress, not just a politician. He showed me, like he showed so many of us in this Chamber, how much more we accomplish through humility and cooperation than through bravado and partisanship.

He was brilliant, and he put thought into every word he said; and because of that, Madam Speaker, his words carried weight on both sides of the aisle and in both Chambers.

Most recently, I was privileged to serve under his leadership on the board of the Congressional Black Caucus, and I was able to see up close how he brought together the diverse personalities and opinions of the caucus in order to achieve a greater purpose.

Congressman PAYNE made our caucus strong and united; and while we attempt to fill the gap he leaves behind, I know we will never have another leader like DONALD PAYNE.

Madam Speaker, learning to serve in the House is truly an honor, but it also comes with many challenges. As a young Member, I am continuing to grow and find my place amongst my distinguished colleagues; but I feel just a little more confident, and I felt just a little more confident because I had a role model in DONALD PAYNE.

As long as I am given the privilege to serve in this great House, I look forward to carrying that legacy, the one that he started—to fight for the underprivileged, to bring attention to the critical issues that don't make the front page, Madam Speaker.

I want to extend my deepest sympathies to his family and staff, and

they know like I do how great a Member and how great a man he was.

I'm reminded of a passage of a conversation that Jesus had with his disciples in the Book of Matthew, and they were dealing with this notion of leadership; and Jesus said very succinctly and very clearly and very wisely, and prophetically to them, when he said: "He who wishes to be chief among you shall first be your servant." Let us remember and honor DONALD PAYNE, a true public servant.

Ms. LEE of California. I would like to yield to the gentleman Oregon, Congressman BLUMENAUER.

Mr. BLUMENAUER. Today we mourn the loss of a colleague and friend. Newark lost its champion. Africa lost its informal ambassador, as DONALD PAYNE exercised tremendous leadership and influence as a senior member and chair of the African Subcommittee.

But with the passing of DONALD PAYNE, I think it's important to note one other loss, because for millions of people around the world who never knew DON PAYNE, they lost a hero. DON knew that almost a billion of the world's poorest people lacked access to clean drinking water, that almost three times that number lacked access to sanitation resulting in the death every 15 seconds of a child needlessly to waterborne disease.

One of the great privileges of my career in the House was working with DON PAYNE on the Paul Simon Water for the Poor Act. DON PAYNE was a quiet Member of Congress, but he knew what was important. He was clear in expressing those needs, expressing what needed to be done; and his leadership, his work behind the scenes, as well as on the front lines, made it possible for the first time in our history for the United States to have a cohesive policy towards meeting the unmet needs of water and sanitation for these poor people, to set a very clear objective that within the next 4 years we would cut in half the number of people who lack access to this fundamental.

Because of the leadership of Congressman DONALD PAYNE, literally millions of lives have been touched, improved, indeed, saved.

We thank you, Congressman PAYNE, for your leadership and influence that extended far beyond your district in New Jersey, and we thank his family and constituents for sharing him with us and sending him back repeatedly so that he could do his important work.

Ms. LEE of California. I would now like to yield to the gentleman from Georgia, Congressman SCOTT.

Mr. DAVID SCOTT of Georgia. Thank you very much, Ms. LEE.

This is indeed a very sad and, at the same time, a very precious time because we're here to talk about a life.

A life is so precious. DONALD PAYNE was indeed a very special human being. I served with DONALD PAYNE on the

Foreign Affairs Committee; and through his work on the Foreign Affairs Committee, I got to know him.

Let me just say to the people of New Jersey, to his family, you've lost a friend, you've lost a husband, a father, a public servant for the Newark area of New Jersey.

But I want you to know that DONALD PAYNE's life and his legacy go far beyond there.

There was a friend of mine who said, I don't want to hang around the shores with the little boats. I want to go way out where the big ships go. DONALD PAYNE went way out where the big ships go. Nowhere was his impact more meaningful than in the continent of Africa. It was Africa that just pulled his heart, pulled his whole being. DONALD PAYNE became the champion and the foremost advocate for the people of Africa in the Congress of the United States.

What courage.

I remember the time I was over in Africa going to the Congo, going to the real heart of the matter, going into Kenya, and going into Somalia into Yemen. But there was DONALD PAYNE with the courage at a very difficult time, at a challenging time when al-Shabab was in control of the situation in Somalia. You hear on the news that there is a Congressman who's in harm's way trying to get on an airplane to get out of Somalia at a very hot moment. But he was there in the toughest, meanest, most difficult part of Africa bringing some reason.

□ 1820

So all over this world, we can all say that we thank God for sending DONALD PAYNE our way.

Ms. LEE of California. Madam Speaker, how much time do I have remaining?

The SPEAKER pro tempore. The time of the gentlewoman has expired.

Ms. LEE of California. Madam Speaker, may we request an additional 10 minutes?

The SPEAKER pro tempore. The Chair cannot entertain that request.

(Mr. MEEKS asked and was given permission to address the House for 1 minute.)

Mr. MEEKS. Madam Speaker, I am here this evening to thank God for the life of DONALD PAYNE—to thank God for a man who was focused, for a man who was a trailblazer, for a man who when he came to Congress knew what he wanted to do. People sometimes do not know what their purposes are in life. Sometimes folks get here, and they wander all of their lives to find that purpose. DONALD PAYNE knew what his purpose was. He fought and was determined to get to this House of Representatives so that he could make a difference in so many lives.

Once he came here, he never changed his focus, and he never changed his

purpose. He knew that he wanted to deal on the international scale. He knew he wanted to take care of the people of Newark, and he knew he was focused on education. So when he had the opportunity to go on the powerful Appropriations Committee, he was so focused on what his mission was that he said “no” to Appropriations and stayed on Foreign Affairs and stayed on Education because that is what he wanted to do.

He paved the way for someone like me so that, when I came to Congress, I looked to him. It wasn't popular to be on Foreign Affairs when DONALD came. DONALD did what he knew his purpose was.

So I want to just say, thank you, DONALD PAYNE. Thank you for your work and for your mission and for paving the way for someone like me so that I now don't have to have a machete to cut away the grass. You've done it for us.

Thank you, staff. Thank you, family.

Thank You, God, for sending us DONALD PAYNE. I can see You now just saying to him, Well done. Job well done, my good and faithful son.

(Ms. MCCOLLUM asked and was given permission to address the House for 1 minute.)

Ms. MCCOLLUM. Someone was saying today that you remember your first and your last time.

The first time I met DONALD PAYNE was in my first term on the Education and the Workforce Committee. We were talking about the inequities in college funding for minorities, and they were talking about the Hispanic higher education institutions and about historical black colleges.

I spoke up, and I said, What about the tribal colleges?

Mr. PAYNE said, And we will never forget the tribal colleges again when we list off all of our colleges that serve our minority youth.

And he never did, so I thank him for that.

The last time—and it's fitting that Congresswoman WOOLSEY is on the floor with me—was at the State of the Union address. Usually, DONALD sat on this side. LYNN and I had the privilege of keeping him warm that night. So, with that, here are my remarks.

Today, the U.S. House of Representatives and the American people lost a statesman and a dedicated leader committed to human rights, quality education and social justice at home and around the world. It was my honor to serve with DONALD PAYNE on the Africa Subcommittee, as well as on the Education and the Workforce Committee. I will always remember DONALD as a friend and as a gentleman, a kind soul who spoke with authority and who legislated on behalf of those who were often too voiceless.

My deepest condolences to DONALD's family, to his staff, to his New Jersey

constituents, and to people all over the world.

(Mr. BISHOP of Georgia asked and was given permission to address the House for 1 minute.)

Mr. BISHOP of Georgia. Madam Speaker, all the world is a stage, and all the men and women merely players. Each has his entrance and his exit. One man in this time may play many parts. So it is with DONALD PAYNE.

He was a son, a brother, a husband, a father, a grandfather, a great grandfather, a teacher, a coach, a mentor, a leader. He led the CBC. He led the Congressional Black Caucus Foundation, and he was a friend. He was an extraordinary legislator. He represented the people of Newark, New Jersey, very well.

But one thing that I learned about DONALD from personal conversations was that he was truly a family man, that he loved his family. He spoke with love about the sacrifices that he made upon the untimely death of his wife, about how he had young children. He determined that he was going to take care of those children himself, not farm them out to other family members. So he sacrificed—he did the PTAs; he did the hair; he did all of the things so that his children would have a good life. It seems that DONALD's early life was difficult, and he was determined that his children would not have the difficulties that he had.

DONALD was a great man. We have lost him. The family has lost a great man. We feel your pain; but the joy we share because we knew him will sustain us because we were blessed to know, love, be a part, and to share the life, as you did, with this great, great man. He was a friend. We will miss him as you will.

Our thoughts and prayers are with you.

Mr. DREIER. Madam Speaker, I am deeply saddened by the loss of my dear friend and esteemed colleague, DON PAYNE. I was privileged to serve with DON for more than two decades. I always had enormous respect for his passion, dedication and encyclopedic knowledge of a range of foreign policy issues, particularly the 54 nations of Africa. He was one of the founding Members of the House Democracy Partnership, a commission that benefited tremendously from his expertise and commitment.

In November DON and I had the opportunity to travel together throughout Eastern and Central Europe to commemorate the post-Soviet transition to democracy of several nations. He endured with good spirits a number of speeches honoring Ronald Reagan, never failing to remind me that John F. Kennedy was the world's leading champion of democracy long before Reagan's presidency. We continued on to Egypt, where DON and I served as international witnesses in the first round of parliamentary elections. His enthusiasm and energy never flagged as he spent two long days traveling from poll to poll in Egypt's first true election in 7,000 years.

As DON always exemplified, our endeavor to protect human rights, promote the rule of law, create economic prosperity and eradicate violent extremism through the building of democratic institutions is a thoroughly bipartisan one. He will be greatly missed by all who were privileged to know him.

Mr. HINOJOSA. Madam Speaker, I rise with great sadness to pay tribute to and honor the life of Representative DONALD PAYNE, an esteemed colleague and devoted public servant.

Committed to social and economic justice, Representative DONALD PAYNE spent his life helping the most vulnerable in America and abroad.

During my tenure in Congress, I had the pleasure of serving with Congressman DONALD PAYNE on the Education and Workforce Committee. As a former public school teacher, Congressman PAYNE understood the needs of students, parents, teachers, and educators and the value of a good education.

As a senior member of the Education and Workforce Committee, Representative PAYNE worked tirelessly to expand educational opportunity for disadvantaged children and youth, and to ensure that all children had access to a quality education.

Congressman DONALD PAYNE was a true champion for American workers and the middle class, always fighting to ensure that workers had safe working conditions and family-sustaining wages. In the area of Foreign Affairs, Congressman PAYNE was known around the globe for his outstanding leadership in promoting peace and democracy in Africa.

Representative DONALD PAYNE will be greatly missed in this chamber. My thoughts and prayers go out to his family, his staff, and the people of New Jersey.

Mr. LOBIONDO. Madam Speaker, I extend my deepest sympathy to the family of Congressman DONALD PAYNE, who served New Jersey with distinction and honor for more than two decades. His leadership was welcomed and respected at home and in the Congress. His passion for civil rights and stewardship of the Congressional Black Caucus will always be remembered. My thoughts and prayers go out to the Payne family and the residents of the 10th district who lost a champion of their interests.

Ms. FUDGE. Madam Speaker, on March 6, 2012, Congressman DONALD PAYNE of New Jersey passed away due to complications from colon cancer. Today, along with my colleagues in the U.S. House of Representatives, I pay tribute to the memory of Congressman PAYNE. While today marks the end of his work on earth, the results of his labor will live on for many years to come.

In 1988, DONALD PAYNE became New Jersey's first African American to be elected to the U.S. Congress. As a public school teacher, the first African American President of the National YMCA and most recently as a Member of Congress for over two decades, DONALD was a tireless advocate for children, working families and senior citizens. He was a leader and a role model, who dedicated his life to, among other things, closing the achievement gap, providing equitable funding for public schools and making healthcare more affordable. In the 112th Congress, he was a senior member of the House Committee on

Education and the Workforce. He was a key player in the passage of the College Cost Reduction and Access Act, which cuts interest rates on Stafford loans in half, increases Pell Grants and provides loan forgiveness to public service employees with student loan debt. DONALD was also a senior member of the House Committee on Foreign Affairs, most recently serving as the highest ranked Democrat on the Subcommittee on Africa, Global Health, and Human Rights.

DONALD will always be remembered as a champion for human rights and a strong advocate for humanitarian aid for developing countries, especially African countries. Beyond his work in Africa, he traveled throughout the world serving as a voice on issues impacting the social conditions of the global community. He was a former Chairman of the Congressional Black Caucus and, most recently, served as Chairman of the Congressional Black Caucus Foundation, Inc. The absence of his passion, leadership and compassion will not go unnoticed. He will be greatly missed.

I was blessed to count DONALD as a colleague, and as a dear friend and mentor. I will always treasure his support and guidance during the past few years. My heartfelt prayers are with his family, staff, and constituents. May the thoughts and prayers of many give solace to his family and friends during this trying time.

Mr. RANGEL. Madam Speaker, I cannot fully express my sadness over the death of my dearest friend and Congressional Black Caucus Colleague Congressman DONALD PAYNE. Today his constituents in New Jersey's 10th Congressional District, our Colleague in Congress, people across America and around the globe mourn the loss of a great man, leader and humanitarian. DONALD was a champion of the lesser among us who saw wrong and fought tirelessly to make it right.

DONALD sought to give every child a quality education and a fair chance at success no matter where they came from. For over 23 years in Congress, as former Chairman of the Congressional Black Caucus, and Member of the House Committee on Education, he advocated for low-income students across our nation. Moreover, as a Member of the Committee on Foreign Affairs, DONALD worked passionately to restore democracy and human rights in Africa and throughout the world. DONALD and I shared a vision in giving Americans from all walks of life the opportunity to serve and represent our nation abroad. His most recent accomplishment before he passed was the creation of USAID's Donald Payne Development Fellowship Program. Thanks to DONALD's efforts young Americans will have the opportunity to continue DONALD's legacy of promoting peace and compassion to the rest of world.

I will deeply miss my brother DONALD PAYNE whose kindness and commitment to humanity will forever be remembered. My deepest condolences go out to his family and loved ones.

Mr. BISHOP of Georgia. Madam Speaker, I come to the House Floor today to pay tribute to our beloved colleague, dear friend and one of our nation's preeminent humanitarian icons—the late Congressman DONALD PAYNE.

I first met Congressman PAYNE nearly two decades ago and I will always remember him

as a kind, welcoming and intellectually gifted individual.

In serving in this distinguished body with Congressman PAYNE over the past few decades, I had the pleasure of seeing him excel in multiple rolls and often under challenging circumstances.

As a former Chairman of the Congressional Black Caucus and more recently Chairman of the Congressional Black Caucus Foundation, I observed firsthand his relentless and passionate advocacy on improving the standards of living for disadvantaged and disenfranchised communities of color all around the world.

And anyone who knew DONALD PAYNE well, knows that one of his biggest priorities was doing all he could to improve the educational standing of our nation's students and young scholars. As a former teacher, he understood better than most in this body, the insurmountable tasks that our educators have in simultaneously instructing and mentoring our future leaders.

He used his senior position on the U.S. House of Representatives Education and the Workforce Committee to aggressively advocate on behalf of America's children. He remained engaged in exploring ways that we could close our nation's educational achievement gap; provide equitable funding for public schools; and make college more affordable.

As the Ranking Member of the House of Representatives Foreign Affairs Subcommittee on Africa, Global Health, and Human Rights, he worked extensively to protect human rights and provide vital humanitarian assistance to developing countries throughout the African continent.

Madam Speaker, today the world has lost an uplifting and inspiring public figure and a remarkable human being. Those of us who were fortunate and blessed to have known and worked with DONALD PAYNE have lost a nurturing mentor and widely-admired colleague.

Congressman PAYNE once said, "There is a lot of dignity in being able to achieve things without having to create rapture." This quote speaks not only to the symbolism of DONALD's civil nature but to the substance of his lifelong mission of accomplishing good deeds through consensus rather than conflict.

Madam Speaker, I would ask that all my colleagues take time out of their schedules today to pay tribute to DONALD PAYNE for all that he did and all the good things that his legacy will continue to inspire us to do.

Ms. MATSUI. Madam Speaker, I rise today to remember Congressman DONALD PAYNE.

Today, we lost a dear colleague and friend in the House of Representatives, and the American people lost a dedicated leader. I am honored to have served with Congressman PAYNE, and am deeply saddened by his passing.

DONALD spent his life fighting for those less fortunate, and was a committed advocate for education, civil rights, and social justice—both at home and abroad. He was a humanitarian in the truest sense of the word, and his passion was both inspiring and contagious. As the first, and only, African-American from New Jersey elected to Congress, DONALD was a trailblazer. His achievements are a testament

to the hard work, patience, and determination that became the hallmark of DONALD PAYNE's career in public service.

As a senior member of the Education and Workforce Committee, DONALD was a steady and effective representative for working men and women across America. His efforts on their behalf led to tangible gains in the areas of worker health and safety. DONALD also lent his voice in support of early education, working tirelessly to ensure that every American child receives a first-class education, regardless of financial circumstance.

As a member of the Foreign Affairs Committee, DONALD won the admiration and respect of his colleagues for his extensive and unrivaled knowledge of international affairs, especially concerning Africa. His humanitarian efforts to secure international aid for populations ravaged by war and disease are a tribute to his compassion and unwavering resolve to improve the lives of the downtrodden. Madam Speaker, DONALD's legacy and long list of accomplishments will continue to provide a lasting example for my colleagues and I going forward. My sincere condolences go out to DONALD's family, friends, staff, and constituents. He will be missed in this House.

Mr. COSTELLO. Madam Speaker, I rise today to ask my colleagues to join me in recognizing the passing of our dear colleague, Congressman DONALD PAYNE and honoring his lifetime commitment to service and humanitarian causes.

DON PAYNE and I were classmates in Congress. I was first elected in a special election in August, 1988 and DON was first elected in 1988 and took office with the 101st Congress in 1989.

A life-long resident of Newark, New Jersey, DON PAYNE was an educator, insurance executive and President of the National Council of YMCA's, an organization with which he was involved until his passing. His passion for community service took him to elected positions on the Newark city council and as an Essex County freeholder before being elected as the first African American to represent New Jersey in the U.S. Congress.

As a Member of Congress, DON continued to be a tireless advocate for his constituents in New Jersey but he also built a reputation as a champion of human rights on an international scale. As a leader of the Subcommittee on Africa, Global Health and Human Rights, DON traveled extensively to bring aid and fight for oppressed people across the globe. DON was very involved in efforts to combat political oppression, ethnic violence, the spread of Aids and starvation in Africa but he also worked for relief efforts in Haiti and was very supportive of peace negotiations in Northern Ireland.

On this past Tuesday, March 6, DON PAYNE lost his battle with cancer, the people of Newark and the world lost a dedicated public servant, and I lost a dear friend and colleague. He will be truly missed.

Madam Speaker, I ask my colleagues to join me in an expression of appreciation for the life and service of Congressman DON PAYNE and to keep him and his family in our thoughts and prayers.

Ms. RICHARDSON. Madam Speaker, it is with a heavy heart that I rise today to remember the life and mourn the loss of our beloved

colleague, the distinguished gentleman from New Jersey, Congressman DONALD M. PAYNE.

For twelve terms, Congressman was an effective advocate for the interests of constituents, a trusted expert on international affairs and Africa policy to his colleagues, and a tireless champion for poor, vulnerable, oppressed, and marginalized people everywhere on earth. But above all, DONALD PAYNE was a good and kind man, who with unfailing good cheer enriched the lives of all he met and served.

Born in Newark, New Jersey, on July 16, 1934, to William Evander Payne and the former Norma Garrett, this son of a chauffeur and a dockworker went on to graduate from Seton Hall University, teach English and social studies and coach high school football, and serve as the first black president of the National Council of YMCAs before his election to Congress in 1988 to succeed Peter W. Rodino, another legendary figure in New Jersey politics and the chairman of the House Judiciary Committee during Watergate. DONALD PAYNE holds the distinction of being the first and only African American elected to represent New Jersey in the Congress of the United States.

Throughout his congressional career, DONALD PAYNE championed educational and economic opportunity and human and civil rights, both here and abroad. From his work in furtherance of the Northern Ireland peace process, to his efforts to bring attention and an end to the genocide in Darfur, as well as his indispensable work to secure full funding for PEPFAR to combat the HIV/AIDS and malaria in Africa, DONALD PAYNE made a difference and his impact has been felt around the world.

As a former chair of the Congressional Black Caucus and the Congressional Black Caucus Foundation, DONALD PAYNE mentored and provided wise counsel to many of his colleagues, including me. I valued his counsel and his friendship and I will miss him very much and I extend my deepest sympathies to his family and loved ones.

Mr. LARSON of Connecticut. Madam Speaker. DONALD PAYNE was a man of few words, but his actions spoke loudly and boldly for those who could not speak for themselves. He dedicated his life to helping the less fortunate, and to expanding and protecting human rights for all, both in the United States and abroad.

He served 12 distinguished terms in the U.S. House of Representatives, and was the first African American congressman from New Jersey. He served as chairman of the Congressional Black Caucus, as well as chairman of the Subcommittee on Africa, Global Health and Human Rights. His work on behalf of Darfur; his involvement in the fight against HIV and AIDS; and his extensive travels to places like Rwanda, Somalia and Haiti demonstrated the depth of his passion for social justice, and served as an example for all who seek to make the world a better place.

On a personal level, I will never forget him traveling to Connecticut for the launching of the Freedom Amistad Schooner in 2000. DONALD was also instrumental in commemorating the 200th anniversary of the abolition of the transatlantic slave trade, and ensured the success of the Amistad's anniversary trip. He him-

self traveled to Sierra Leone and back to honor the 53 slaves that were held aboard that fateful ship. He followed the Amistad's journey very closely, and it was through his tireless efforts that the Congressional Black Caucus succeeded in bringing the Amistad to DC.

Last year I was also fortunate to host DONALD and a delegation from the Congressional Black Caucus in Hartford to celebrate the 200th anniversary of author Harriet Beecher Stowe—the woman who wrote the book that started a great war. Given DONALD's commitment to social justice, and his respect for history, I knew it would be a meaningful and symbolic occasion. His attendance meant so much to me, and I was grateful for the chance to show him my district.

It was an honor to serve with Representative PAYNE, and he will be greatly missed by all who had the pleasure of knowing him.

Mr. RUNYAN. Madam Speaker, on March 6th, the state of New Jersey, and more specifically Newark and its surrounding communities, lost a dedicated public servant, Congressman DONALD PAYNE.

Congressman PAYNE truly lived a life of service, first as an educator in the Newark and Passaic public school districts, an Essex County Freeholder, a member of the Newark Municipal Service, and finally as the first African-American Congressman from the state of New Jersey. Representative PAYNE's public service record was also dedicated to helping people through his volunteer work. His involvement with the Newark YMCA and Boy's and Girl's Club, showed his passion for helping children.

In Congress, Representative PAYNE played an instrumental role as an advocate in the treatment of AIDS and drug-resistant tuberculosis. His actions in Congress were always based on how he could best serve his constituents. Congressman PAYNE served as a role model for not only his district, but the entire State of New Jersey.

His love of service was only outdone by the love he had for his family, from his late wife, to his children, grandchildren, and great-grandchildren. Congressman PAYNE will be missed.

Ms. HIRONO. Madam Speaker, I take this opportunity today to commemorate the remarkable life of Congressman DONALD PAYNE.

I am deeply saddened that my friend DON is no longer with us. DON was a special man who touched the lives of so many. He truly saw his life's work as a way to serve others and make the world a better and more just place. His compassion for all will be sorely missed.

DON was my colleague in the Education and the Workforce Committee, and I saw firsthand the passion he brought on behalf of America's children. He was a constant advocate for early education, recognizing that all children deserve a solid educational foundation regardless of income or circumstances. He recognized the power of education to further civil rights, and he strongly supported Historically Black Colleges and Native Hawaiian education. More than anything, DON saw education as a tool to create a more just and civil world.

DON's compassion extended to those suffering abroad. He worked tirelessly to promote

democracy around the world, and I was fortunate to travel with DON to Haiti as part of the House Democracy Assistance Partnership, of which he was a founding member. Our bipartisan team greatly appreciated DON's leadership and experience, and his presence helped gain the U.S. delegation the respect of our Haitian colleagues.

But DON's largest overseas focus was on Africa, where he traveled to dangerous conflict areas in Somalia and Darfur. DON refused to stand by and watch the suffering of innocent African families and children. As noted by Steve Heyes, President of the Corporate Council on Africa:

Africa mourns today for it has lost its greatest advocate in America with the passing of U.S. Congressman Don Payne, and such an advocate with so much experience and passion will not rise again soon. So, too, did the poor and downtrodden lose one of the few such Congressman who still cares about their fate and understood their lives so well.

Madam Speaker, I know that DONALD PAYNE has left a lasting impact on the world. We can all start to live up to his example by living our lives with empathy and compassion. While he will be sorely missed, he will never be forgotten. I join with my colleagues and with all of his friends and colleagues in giving thanks for Congressman DONALD PAYNE's life of service.

My thoughts and prayers are with DON's family and friends. May he rest in peace.

#### REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3606, JUMPSTART OUR BUSINESS STARTUPS ACT

Mr. SESSIONS (during the Special Order of Mr. ROE of Tennessee), from the Committee on Rules, submitted a privileged report (Rept. No. 112-409) on the resolution (H. Res. 572) providing for consideration of the bill (H.R. 3606) to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies, which was referred to the House Calendar and ordered to be printed.

#### CLEARING THE NAMES OF JOHN BROW AND BROOKS GRUBER

The SPEAKER pro tempore. Under the Speaker's announced policy of January 5, 2011, the gentleman from North Carolina (Mr. JONES) is recognized for 30 minutes.

Mr. JONES. Madam Speaker, thank you very much.

I was elected in 1995. Shortly after being sworn in, I was appointed to the Armed Services Committee. In my district of eastern North Carolina, we have Camp Lejeune Marine Base, Cherry Point Marine Corps Air Station, New River Marine Corps Air Station, and Seymour Johnson Air Force Base.

At the time, I was familiar with the Marine Corps' desire and need to have the MV-22 Osprey. The Osprey is the plane that can go from a helicopter mode to a plane mode. I realized it was



at that time very controversial. In fact, Secretary of Defense Dick Cheney was opposed to the plane's ever becoming a reality, and as a Member of Congress I was very supportive. I was a new Member, obviously, and I was very much supportive.

Madam Speaker, I am just going to hold up for a moment what the Osprey looks like, which is the plane I was just describing. It is an unusual-looking bird, but the Marine Corps believes it's what it definitely needs to complete its mission of serving this great Nation.

On April 8 of the year 2000, a tragedy happened in Marana, Arizona. Colonel John Brow, who is to my left on this poster, was the pilot; and the copilot was Major Brooks Gruber. That night, 19 marines on a mission at Marana, Arizona, on Night Hawk 72, which was being piloted by Brow and copilot Gruber, flipped and crashed and burned, and 19 marines were killed. It was a very tragic, tragic happening, a very tragic night.

The wife of Major Brooks Gruber contacted me and asked me if I would please look into the fact that the Marine Corps had issued a press release, and I'm going to just touch on this very briefly.

The Marine Corps officials say that a combination of factors caused the Osprey accident. A report released by Marine Corps officials today confirmed that a combination of human factors—and that's a problem, Madam Speaker, those words "human factors"—caused the April 8 accident. General Jones replied: "Unfortunately, the pilots' drive to accomplish that mission appears to have been the fatal factor."

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Madam Speaker, again, from Marine headquarters, they sent out this press release nationally and internationally. Therefore, people started believing that the pilots were somewhat responsible for the accident.

About a year later is when Connie Gruber contacted me, and I would like to read part of her email to me, December 10, 2002:

I contacted you in hopes that leaders of integrity, free of bias, would have both the intelligence and the courage it takes to decide the facts for him or herself. If you do that, you will agree the "human factor/pilot error" findings should not stand as it is in military history. Again, I respectfully ask for your support. Please do not simply pass this matter along to General Jones without offering the support my husband and his comrades deserve. Please remember, these 19 marines can no longer speak for themselves.

Madam Speaker, that email from Connie Gruber started a 10-year journey. From that journey I continued to reach out to experts, which I am no expert, Madam Speaker, at all. But I had to believe the wife of Brooks Gruber that she and Trish Brow, the wife of the pilot, Major John Brow, that they told me that their husbands have the right to rest in peace.

So, Madam Speaker, from that I would like to read some comments. Rex Rivolo wrote me this in the effort of trying to clear the names of John Brow and Brooks Gruber:

I write in an attempt to help correct a great injustice perpetrated on Lieutenant Colonel John Brow, United States Marine Corps, and Major Brooks Gruber, United States Marine Corps, in attributing the cause of the MV-22 mishap in Marana, Arizona, on April 8, 2000, to aircrew error. At the time of the mishap, I was the principal analyst for the V-22 as a research staff member at the Institute For Defense Analyses, a nonprofit organization supporting the Department of Defense Office of Director of Operational Test and Evaluation.

Madam Speaker, another individual who's an expert that joined us in this effort to clear the names of John Brow and Brooks Gruber is Phil Coyle, and I want to quote what he put in an email to me on November 8, 2000:

Major Gruber should not be blamed for flying his aircraft on a flight path that he was not trained to fly and expected to fly. The Marine Corps knows today that flight path was lethal, but they did not know it then, and neither did Major Gruber. Considering it was ignorance on the part of the Marine Corps that caused the April 8, 2000 accident, the Marine Corps should make it clear to Major Gruber's family—with no ifs, ands, or buts—that Major Gruber was not responsible for the accident.

Madam Speaker, I continue to go on, because this has been a 10-year effort for the families of John Brow and Brooks Gruber.

Madam Speaker, the Marine Corps, shortly after the accident, assigned three marines the day after the accident on April 8 to fly to Arizona and to do their own investigation for the United States Marine Corps. At the time, Colonel Mike Morgan was the lead investigator, assisted by Colonel Ron Radich and also Major Phil Stackhouse.

In the JAGMAN report that was the official report for the Marine Corps of the accident, on page 77 they stated:

During this investigation we found nothing that we would characterize as negligence, deliberate pilot error, or maintenance/material failure.

Madam Speaker, in this 10-year journey to clear the names of these two Marine pilots, I reached out to the attorneys. John Brow and Brooks Gruber, their families employed Jim Furman, an attorney in Texas, who himself, was a helicopter pilot in Vietnam. He is an outstanding attorney, and he defended the two pilots when they went and filed suit against Bell Boeing.

In a letter on April 28, 2010, from Jim Furman to me in this effort to clear the names of John Brow and Brooks Gruber, he wrote:

It was not the mission of the operation evaluation crew to discover the new boundaries and limitations associated with the V-22. Engineering test pilots, under appropriate test conditions, should have done this. It is simply wrong and improper to place this bur-

den upon Gruber and Brow. They did the best job they could have done under the circumstances.

Prior to the March 2000 crash, the Navy already had reports of strange asymmetric response in the aircraft. These events should have been completely investigated before any more operational testing continued.

Madam Speaker, I have over seven or eight emails that are two or three pages from Jim Furman in his effort to help us clear the names of Colonel John Brow and Major Brooks Gruber.

From the attorney for the 17 marines' families who were in the V-22 that crashed—and these young men were killed in that crash—Brian Alexander defended the 17 families, and he said:

Please thank Congressman Jones for contacting me and assure him that I stand by ready to assist him in any way that I can. As a former Army aviator and lawyer who had the privilege of representing the marines who gave their lives in the Marana crash, I applaud the Congressman's efforts to clear the names of pilots Gruber and Brow from any and all blame for this senseless tragedy. Due to these undisputed reasons, the pilots are not to blame and should be fully exonerated.

Again, the two attorneys, Jim Furman in Texas and Brian Alexander in New York, they defended the families in the lawsuit that was settled out of court by Bell Boeing. Madam Speaker, I also would like to share for the record—you might say, well, if the lawsuits are over, then why won't the Marine Corps give the families what they are looking for as a clear exoneration of John Brow and Brooks Gruber?

Madam Speaker, I can't answer that but recently, about 4 months ago, I had the pleasure of meeting with General Rutter, who was representing the Commandant, and he was asking what would help the wives bring this to an end, so to speak. There is no way you can replace the husbands and the 17 marines who were burned to death. So the wives gave me a paragraph that they would like for the Marine Corps to issue to them on Marine Corps stationery and also a press release, Madam Speaker, and it states:

The United States Marine Corps concurs that pilots Lieutenant Colonel John Brow and Major Brooks Gruber were not at fault for the April 8, 2000, Osprey accident. The original accident report will officially include this statement of fact. A copy of the official statement will be formally presented to the Gruber and Brow families as written evidence to this fact. A press release and formal statement will also be publicly issued by military officials.

Madam Speaker, I don't know why the Marine Corps has not been willing to give the families this closure that they have asked for.

I just touched on a few of the letters of many people who were so familiar with the program and the V-22 in the early stages that have joined in this effort, so it is hard to understand why the Marine Corps will not give the families this one paragraph. Madam



Speaker, I will continue to work and to speak out because that's the least that the Marine Corps can do for these families.

Let me also share that I reached out to the investigators, Major Morgan, Major Radich, and Major Stackhouse. Madam Speaker, they in July and August of this year sent me 2-page letters from each one of them stating clearly that if there is anything in the JAGMAN report that has been misunderstood, that they found it was pilot error, to please have it recanted because that's not what they wrote in the JAGMAN.

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Madam Speaker, I have a copy of the JAGMAN. I have read from one page what they said about the pilots on page 77 that nothing was done by the pilots in a deliberate way to cause the accident.

Madam Speaker, I'd like to read now just a couple of sentences from Lieutenant Colonel Mike Morgan's letter back to me. He again was the lead investigator that wrote the JAGMAN report. He said:

John Brow and Brooks Gruber performed as model wingmen on this mission. They were doing exactly what was expected of a wingman on a tactical flight.

Lieutenant Colonel Morgan further stated:

John Brow and Brooks Gruber did their job, and did it well. I look forward to the day when DOD officials accurately recognize the sacrifice made by them and all the marines of Nighthawk 72.

From Lieutenant Colonel Ron Radich, he was the assistant JAGMAN investigator:

It would be morally wrong to place the blame on the pilots of Nighthawk 72. Prior to the mishap, control measures to mitigate the risk of vortex ring state were deficient. With no knowledge, training, or warning concerning the possible consequences of vortex ring state, the pilots of Nighthawk 72 were essentially on their own in uncharted territory.

Madam Speaker, what Colonel Radich is saying is that they were put into the cockpit flying this plane with 19 marines, counting the two pilots on this plane, and they had no idea of how to react to the condition known as vortex ring state, VRS. They had not been trained. The plane was not even prepared to warn them of such a happening.

And the third investigator, Madam Speaker, was Captain Phil Stackhouse and he said:

I do not feel that our investigation reflects that the mishap was a result of pilot error and if this investigation was interpreted that way, it was misinterpreted. For any record that reflects the mishap was a result of pilot error, it should be corrected. For any publication that reflects the mishap was a result of pilot error, it should be corrected and recanted.

Madam Speaker, there cannot be stronger support for this change to

make sure that the Marine Corps would issue a statement to the families and also issue to the families a paragraph that would clearly state that their husbands were not at fault.

Madam Speaker, some people might just say, Congressman, why have you spent 10 years trying to clear the names of two pilots that you never knew?

Well, Connie Gruber, the wife of Major Brooks Gruber, she does live in Jacksonville, North Carolina, and she and her a little girl, Brook, deserve to have this paragraph for the future of their family, to clearly state that the pilots were not at fault.

Trish Brow lives over in California, Maryland. John Brow was her husband, and I have been with one of her sons, Michael, who was in my office a year ago in March when we talked about our strategy to clear the names of these two marine pilots. I never will forget that Michael leaned up after we talked, about five adults, including his mom in there, and he leaned up and he said, May I say something? And we all said, Certainly, whatever you'd like to say. And he said, Will you please let me clear my father's name.

Madam Speaker, the ball is in the Marine Corps' court. All of the evidence and all of the experts have joined in this effort to clear the names of the two pilots. On these charts, you can see the faces of the two marine pilots. Right immediately close to me is Colonel John Brow, the pilot; and beside him is Major Brooks Gruber, who was the copilot. I think about what I have said to the wives and to their sons and daughters: It's time that the Marine Corps salute Colonel John Brow and Major Brooks Gruber and say, Colonel and Major, you may rest in peace. Don't ever worry about your name again. We have done everything we can as the United States Marine Corps to make sure that the public knows that you two, pilot and copilot, were not at fault for that tragedy on April 8 of 2000.

Madam Speaker, just a couple more minutes and I will bring my comments to a close.

I had someone send to me a quote by Voltaire that says, "To the living, we owe respect; to the dead, we owe the truth." And that's why I wanted to be on the floor tonight to share just a few comments by the experts, not by me. I am no expert. I'm just one man who believes what the wife said, Connie Gruber:

My husband and John Brow cannot speak for themselves. Someone has to speak for these two men to clear their names.

The lawsuits are over. They were settled out of court. It was a closed settlement. Nobody knows the figures except the families. I've never heard a figure, so I have no idea. But I know one thing. When a firm as large as Bell-Boeing, which manufactured the V-22, when they settle out of court, they

must feel some responsibility for the accident.

I hope and pray that soon the Marine Corps will close the chapter on the tragedy in the life of Trish Brow and Connie Gruber. The reason they want the letter, Madam Speaker, is so their children, 10, 15, 20 years from now, whenever there's another article written about the V-22 crash in Arizona in the year 2000 and they misstate that this was pilot error, that the families will have an official letter from the Commandant of the Marine Corps that will clearly state that John Brow and Brooks Gruber were not at fault.

Madam Speaker, I'm going to close in about 2 minutes.

I want to call on the United States Marine Corps to come forward and give the families what they are asking. The three investigators, as I said earlier, have joined in this. Jim Shaffer, Madam Speaker, who was in the air at the same time as this crash, he was flying a V-22 when the other two were flying and before Nighthawk 72 crashed. He was a friend of John Brow and Brooks Gruber. He has joined in this effort. He believes that the right thing to do, based on the circumstances of the time, that the right thing to do is to say that the two pilots weren't at fault.

Madam Speaker, I want to thank you for staying a little bit later tonight to give me this time. I'm not going to take the full 30 minutes. There is a lot more I could say, but I think that I've done the first step of what is going to be many steps in coming to the floor and talking about these two pilots and their families until we get the letter from the Commandant that is just one paragraph that clearly states that Lieutenant Colonel John Brow, Major Brooks Gruber, pilot and copilot, were not at fault for the crash that happened on April 8, 2000, in Arizona.

So with that, Madam Speaker, I will ask God to please bless the families of these two pilots and the families of the 17 marines who were in the back of the V-22 that crashed and 19 died, to bless those families as well. I will ask God to please touch the heart of the United States Marine Corps so that these two marines can rest in peace.

Madam Speaker, with that, I yield back the balance of my time.

#### SENATE ENROLLED BILL SIGNED

The Speaker announced his signature to an enrolled bill of the Senate of the following title:

S. 1710. An act to designate the United States courthouse located at 222 West 7th Avenue, Anchorage, Alaska, as the James M. Fitzgerald United States Courthouse.

#### ADJOURNMENT

Mr. JONES. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 48 minutes p.m.), under its previous order and pursuant to House Resolution 571, the House adjourned until tomorrow, Wednesday, March 7, 2012, at 10 a.m., for morning-hour debate, as a further mark of respect to the memory of the late Honorable DONALD M. PAYNE.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XIV, executive communications were taken from the Speaker's table and referred as follows:

5181. A letter from the Acting Under Secretary, Department of Defense, transmitting authorization of Captain Hugh D. Wetherald, United States Navy, to wear the authorized insignia of the grade of rear admiral (lower half); to the Committee on Armed Services.

5182. A letter from the Acting Under Secretary, Department of Defense, transmitting authorization of Colonel Cedric T. Wins, United States Army, to wear the insignia of the grade of brigadier general; to the Committee on Armed Services.

5183. A letter from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting the Department's final rule — Exceptions or Alternatives to Labeling Requirements for Products Held by the Strategic National Stockpile [Docket No.: FDA-2006-N-0364] received February 13, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5184. A letter from the Program Manager, Department of Health and Human Services, transmitting the Department's final rule — Group Health Plans and Health Insurance Issuers Relating to Coverage of Preventive Services Under the Patient Protection and Affordable Care Act [CMS-9992-F] (RIN: 0938-AQ74) received February 14, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5185. A letter from the Chief Operating Officer/President, Financing Corporation, transmitting a copy of the Financing Corporation's Statement on the System of Internal Controls and the 2011 Audited Financial Statements; to the Committee on Oversight and Government Reform.

5186. A letter from the Senior Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; BAE SYSTEMS (Operations) Limited Airplanes [Docket No.: FAA-2011-0908; Directorate Identifier 2010-NM-251-AD; Amendment 39-16870; AD 2011-24-06] (RIN: 2120-AA64) received February 16, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5187. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a statement of actions with respect to the GAO report entitled: "NASA: Key Controls NASA Employs to Guide Use and Management of Funded Space Act Agreements are Generally Sufficient but Some Could Be Strengthened and Clarified"; to the Committee on Science, Space, and Technology.

5188. A letter from the Secretary, Department of Health and Human Services, transmitting a report entitled, Engagement in Additional Work Activities and Expenditures for Other Benefits and Services, April-June 2011: A Temporary Assistance for Needy

Families (TANF) Report to Congress; to the Committee on Ways and Means.

5189. A letter from the Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Application of Section 267 to Section 304 Transactions [Notice 2012-15] received February 13, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5190. A letter from the Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Physical Inspection Pilot Program [Notice 2012-18] received February 13, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5191. A letter from the Chief, Publications and Regulations, Internal Revenue Service, transmitting the Department's final rule — Section 51 — Work Opportunity Tax Credit; Section 52 — Special Rules; Section 3111(e) — Credit for Employment of Qualified Veterans [Notice 2012-13] received February 14, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5192. A letter from the Inspector General, Department of Health and Human Services, transmitting Community Living Assistance Services and Supports Program: 2011 Report to Congress; jointly to the Committees on Energy and Commerce and Ways and Means.

5193. A letter from the Special Inspector General For Iraq Reconstruction, transmitting the Special Inspector General for Iraq Reconstruction (SIGIR) January 2012 Quarterly Report and Semiannual Report; jointly to the Committees on Foreign Affairs and Appropriations.

5194. A letter from the Assistant Attorney General, Department of Justice, transmitting fourth quarterly report of FY 2011 on the Uniformed Services Employment and Reemployment Rights Act; jointly to the Committees on the Judiciary and Veterans' Affairs.

5195. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting Report to Congress: Under the Temporary Payroll Tax Cut Continuation Act of 2011 Section 501(b)(2) Concerning the Presidential Permit Application of the Proposed Keystone XL Pipeline; jointly to the Committees on Transportation and Infrastructure, Foreign Affairs, Energy and Commerce, and Natural Resources.

#### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BACHUS: Committee on Financial Services. Supplemental report on H.R. 3606. A bill to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies (Rept. 112-406, Pt. 2). Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. SESSIONS: Committee on Rules. House Resolution 572. Resolution providing for consideration of the bill (H.R. 3606) to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies (Rept. 112-409). Referred to the House Calendar.

#### PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following

titles were introduced and severally referred, as follows:

By Mr. BACA:

H.R. 4144. A bill to amend the State Small Business Credit Initiative Act of 2010 to allow participating States to provide program funds to community development housing organizations for development of affordable housing; to the Committee on Financial Services.

By Mr. CHABOT:

H.R. 4145. A bill to reform the program for rental assistance under section 8 of the United States Housing Act of 1937, and for other purposes; to the Committee on Financial Services.

By Mr. ELLISON (for himself, Mr. PAULSEN, and Mr. WALZ of Minnesota):

H.R. 4146. A bill to authorize the Secretary of the Army to take actions to manage the threat of Asian carp traveling up the Mississippi River in the State of Minnesota, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Natural Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MORAN:

H.R. 4147. A bill to amend title XIX of the Social Security Act to provide States an option to cover a children's program of all-inclusive coordinated care (ChiPACC) under the Medicaid Program; to the Committee on Energy and Commerce.

By Mr. PETRI:

H.R. 4148. A bill to establish the Fox-Wisconsin Heritage Parkway National Heritage Area, and for other purposes; to the Committee on Natural Resources.

By Mr. SOUTHERLAND:

H.R. 4149. A bill to amend title XVI of the Social Security Act to clarify that the value of certain funeral and burial arrangements are not to be considered available resources under the supplemental security income program; to the Committee on Ways and Means.

By Mr. SMITH of New Jersey:

H. Res. 571. A resolution expressing the condolences of the House of Representatives on the death of the Honorable Donald M. Payne, a Representative from the State of New Jersey; considered and agreed to.

By Ms. WOOLSEY (for herself, Ms.

WASSERMAN SCHULTZ, Ms. MOORE, Mr. OLVER, Ms. BORDALLO, Ms. NORTON, Ms. MCCOLLUM, Mr. LEWIS of Georgia, Mr. LEVIN, Mr. RANGEL, Ms. RICHARDSON, Mr. VAN HOLLEN, Mr. CAPUANO, Mr. GRIJALVA, Mr. LANGEVIN, Mr. FARR, Ms. LORETTA SANCHEZ of California, Mr. HINCHEY, Ms. CLARKE of New York, Ms. SPEIER, Mr. REYES, Mr. KIND, Mrs. DAVIS of California, Ms. LEE of California, Mr. CARNAHAN, Ms. MATSUI, Mr. CONYERS, Mr. SIRES, and Ms. SCHAKOWSKY):

H. Res. 573. A resolution supporting the goals and ideals of National Women's History Month; to the Committee on Oversight and Government Reform.

#### CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 7 of rule XII of the Rules of the House of Representatives, the following statements are submitted regarding the specific powers

granted to Congress in the Constitution to enact the accompanying bill or joint resolution.

By Mr. BACA:

H.R. 4144.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clause 3

By Mr. CHABOT:

H.R. 4145.

Congress has the power to enact this legislation pursuant to the following:

The U.S. Constitution, Article I, Section 8, Clause 1 and The U.S. Constitution, Article I, Section 8, Clause 18: The Congress shall have power to provide for the general Welfare of the United States [and] To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof.

By Mr. ELLISON:

H.R. 4146.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clause 3 of the United States Constitution.

Article I, Section 8, Clause 14 of the United States Constitution.

Article I, Section 8, Clause 18 of the United States Constitution.

By Mr. MORAN:

H.R. 4147.

Congress has the power to enact this legislation pursuant to the following:

This legislation, which amends the Social Security Act, title XIX relating to the Medicaid program is authorized by Article 1, Section 8, Clause 1, which grants Congress authority regarding Defence [sic] and general Welfare of the United States; and Clause 3 regarding the regulation of commerce among the states.

By Mr. PETRI:

H.R. 4148.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clause 1 of the Constitution.

By Mr. SOUTHERLAND:

H.R. 4149.

Congress has the power to enact this legislation pursuant to the following:

The Social Security Act has been upheld under the power to tax and spending under Article I Section 8, Clause 1 of the U.S. Constitution.

#### ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 31: Mr. MCCOTTER.

H.R. 32: Mr. HINOJOSA, Mr. KISSELL, and Ms. BONAMICI.

H.R. 157: Mr. LUETKEMEYER and Mr. AMODEI.

H.R. 192: Ms. SLAUGHTER.

H.R. 303: Ms. BONAMICI, Mr. BERG, and Mr. AMODEI.

H.R. 333: Ms. HOCHUL and Ms. CHU.

H.R. 431: Mrs. LUMMIS.

H.R. 450: Mr. JONES, Mr. BENISHEK, and Mr. WALSH of Illinois.

H.R. 452: Mr. ADERHOLT and Mr. HASTINGS of Washington.

H.R. 469: Ms. NORTON and Mr. SMITH of Washington.

H.R. 578: Mr. BUCHANAN.

H.R. 854: Mr. RYAN of Ohio.

H.R. 870: Mr. ROTHMAN of New Jersey and Mr. BISHOP of Georgia.

H.R. 925: Mr. HINOJOSA.

H.R. 972: Mr. MANZULLO.

H.R. 1176: Mr. ISRAEL.

H.R. 1179: Ms. GRANGER.

H.R. 1190: Mr. PIERLUISI.

H.R. 1206: Mr. RIGELL, Mrs. BLACK, and Mr. YOUNG of Alaska.

H.R. 1236: Mr. COURTNEY.

H.R. 1265: Mr. BRALEY of Iowa, Mr. WEBSTER, Mr. GARY G. MILLER of California, and Mr. LUETKEMEYER.

H.R. 1267: Mr. SCHRADER.

H.R. 1288: Ms. HAHN, Mr. BACA, Mr. HONDA, Mr. DOYLE, Mr. BOSWELL, and Mr. LATTI.

H.R. 1443: Mr. MANZULLO.

H.R. 1488: Ms. BONAMICI.

H.R. 1505: Mr. GUTHRIE.

H.R. 1509: Ms. WASSERMAN SCHULTZ.

H.R. 1614: Mr. ALEXANDER.

H.R. 1639: Mr. BARTLETT.

H.R. 1681: Mr. CLARKE of Michigan and Ms. BONAMICI.

H.R. 1697: Mr. TIBERI, Mr. GIBBS, Ms. GRANGER, Mr. FARENTHOLD, and Mr. WOLF.

H.R. 1704: Ms. HAHN and Mr. PERLMUTTER.

H.R. 1718: Mrs. CAPPS.

H.R. 1738: Mr. CLARKE of Michigan and Mr. LEWIS of Georgia.

H.R. 1742: Mr. TOWNS, Mr. TIERNEY, Mr. JOHNSON of Georgia, Mr. LATHAM, and Mr. PLATTS.

H.R. 1746: Ms. ZOE LOFGREN of California.

H.R. 1760: Mrs. CAPPS.

H.R. 1802: Mr. FITZPATRICK.

H.R. 1903: Ms. CLARKE of New York and Mr. SIRE.

H.R. 1922: Mr. ROSS of Florida.

H.R. 1956: Mrs. MYRICK.

H.R. 1964: Mr. DUFFY.

H.R. 1971: Mr. KISSELL.

H.R. 2003: Mr. FILNER.

H.R. 2016: Mr. DOYLE, Ms. RICHARDSON, and Mr. CARNAHAN.

H. R. 2106: Ms. JACKSON LEE of Texas, Mr. DAVID SCOTT of Georgia, Mr. AL GREEN of Texas, Ms. WILSON of Florida, and Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 2108: Mr. FORTENBERRY and Mr. SCHRADER.

H.R. 2139: Mr. GALLEGLY, Mr. GEORGE MILLER of California, and Mr. HARPER.

H.R. 2152: Mr. CAPUANO.

H.R. 2159: Ms. SPEIER and Mr. CHANDLER.

H.R. 2179: Mr. BILIRAKIS and Mr. JOHNSON of Ohio.

H.R. 2194: Ms. RICHARDSON.

H.R. 2245: Mr. BROOKS and Mr. ACKERMAN.

H.R. 2288: Mr. MCCOTTER.

H.R. 2324: Mr. REYES, Ms. BONAMICI, Ms. HIRONO, and Mrs. LOWEY.

H.R. 2412: Mr. DOYLE.

H.R. 2485: Mr. RIBBLE.

H.R. 2492: Mr. LATHAM.

H.R. 2502: Mr. PIERLUISI.

H.R. 2557: Mr. THOMPSON of California and Mr. ACKERMAN.

H.R. 2655: Mr. HEINRICH and Mr. TURNER of Ohio.

H.R. 2695: Mr. DOGGETT and Mr. MORAN.

H.R. 2696: Mr. DOGGETT, Mr. MCGOVERN, and Mr. MORAN.

H.R. 2738: Mr. KEATING.

H.R. 2805: Mr. CLARKE of Michigan.

H.R. 2834: Mr. HUNTER.

H.R. 2900: Mr. MANZULLO.

H.R. 2960: Mr. BENISHEK.

H.R. 3001: Mr. MURPHY of Connecticut, Mr. WEST, Mr. LIPINSKI, Mr. HARRIS, and Mr. WOLF.

H.R. 3059: Mr. CUMMINGS and Ms. HAHN.

H.R. 3151: Mrs. LOWEY, Ms. CLARKE of New York, Ms. WILSON of Florida, Mrs. CAPPS, Ms. RICHARDSON, and Mr. CONYERS.

H.R. 3164: Mr. SCHIFF and Ms. LINDA T. SANCHEZ of California.

H.R. 3238: Mr. TIERNEY.

H.R. 3269: Mr. CHAFFETZ, Mr. SOUTHERLAND, Mr. ACKERMAN, Mr. SCHWEIKERT, and Mr. FRELINGHUYSEN.

H.R. 3283: Mr. CLAY.

H.R. 3288: Mr. AMODEI.

H.R. 3313: Mr. ELLISON.

H.R. 3337: Mr. FORBES.

H.R. 3359: Mr. GRIJALVA.

H.R. 3364: Mr. ALTMIRE.

H.R. 3368: Mr. TONKO.

H.R. 3423: Mrs. SCHMIDT, Mr. LARSEN of Washington, Mr. NEAL, Mr. STIVERS, Mr. DOGGETT, Mr. MARKEY, Mr. MCGOVERN, Ms. SPEIER, Mr. ROGERS of Alabama, Mr. NUNNELEE, and Mrs. CAPPS.

H.R. 3462: Mr. ELLISON.

H.R. 3485: Mr. RYAN of Ohio, Ms. RICHARDSON, Mr. FATTAH, Mr. DOYLE, Mr. SHERMAN, Mr. COURTNEY, and Mr. SCHIFF.

H.R. 3490: Ms. HIRONO.

H.R. 3510: Mr. COHEN, Mr. FARR, Mr. ROTHMAN of New Jersey, Mr. REED, and Mr. KLINE.

H.R. 3553: Mr. BLUMENAUER and Mr. BERMAN.

H.R. 3568: Mr. HINOJOSA.

H.R. 3594: Mr. JOHNSON of Ohio, Mr. HARRIS, and Mr. YOUNG of Alaska.

H.R. 3596: Mr. ALTMIRE, Mr. PERLMUTTER, Mr. ISRAEL, Mr. CUMMINGS, Ms. RICHARDSON, and Ms. HIRONO.

H.R. 3612: Mr. THORNBERRY.

H.R. 3635: Mr. DOGGETT, Ms. ROYBAL-ALLARD, and Mr. HONDA.

H.R. 3643: Mr. HEINRICH.

H.R. 3662: Mr. AMODEI, Mr. CANSECO, Mr. FARENTHOLD, and Mr. NUNNELEE.

H.R. 3667: Mr. BONNER.

H.R. 3697: Mr. BUCHSHON.

H.R. 3737: Mr. RIBBLE.

H.R. 3767: Mr. JOHNSON of Ohio and Mr. PETERS.

H.R. 3783: Mr. CICILLINE, Mr. KELLY, Mr. MANZULLO, Mrs. BACHMANN, Mr. FALEOMAVAEGA, Mr. AUSTIN SCOTT of Georgia, Mr. RIVERA, and Mr. SHERMAN.

H.R. 3789: Ms. BONAMICI.

H.R. 3798: Mr. GEORGE MILLER of California, Mr. HINCHEY, Mr. BARTLETT, Mr. BILBRAY, and Mr. GUTIERREZ.

H.R. 3811: Mr. BARLETTA.

H.R. 3814: Mr. JOHNSON of Ohio.

H.R. 3826: Ms. BERKLEY and Ms. SCHKOWSKY.

H.R. 3849: Mr. LANKFORD.

H.R. 3850: Mr. TIPTON and Ms. HERRERA BEUTLER.

H.R. 3851: Mr. SCHILLING, Mrs. ELLMERS, and Ms. HERRERA BEUTLER.

H.R. 3859: Mr. LATHAM.

H.R. 3863: Ms. BALDWIN.

H.R. 3877: Mr. KLINE.

H.R. 3893: Mr. SCHILLING, Mr. TIPTON, and Mrs. ELLMERS.

H.R. 3895: Mr. WALSH of Illinois.

H.R. 3974: Ms. BALDWIN.

H.R. 3980: Mr. SCHILLING.

H.R. 3984: Mr. GRIJALVA, Ms. BROWN of Florida, and Mr. WAXMAN.

H.R. 3987: Mr. GRAVES of Missouri, Mr. SCHILLING, Mr. HANNA, Mr. WEST, and Mr. CHABOT.

H.R. 4010: Mr. BUTTERFIELD, Mr. BRALEY of Iowa, and Mr. CROWLEY.

H.R. 4018: Mr. MARINO.

H.R. 4032: Mr. MORAN, Mr. CLAY, Mr. GRIJALVA, Mr. BISHOP of Georgia, and Mr. KISSELL.

H.R. 4036: Mr. LANKFORD.

H.R. 4040: Mr. TERRY.

H.R. 4070: Mr. ROSS of Florida and Mr. WEST.

H.R. 4081: Mr. SCHILLING.  
H.R. 4105: Mrs. NOEM and Mr. WELCH.  
H.R. 4121: Ms. CLARKE of New York.  
H.R. 4123: Mr. SMITH of Washington, Mr. BECERRA, Mr. PASCRELL, Ms. LINDA T. SÁNCHEZ of California, and Mr. FARR.  
H.R. 4132: Mr. BILBRAY.  
H.R. 4141: Mr. CLEAVER, Mr. RUSH, Ms. LEE of California, Mr. CONYERS, Ms. CLARKE of New York, Mr. FALEOMAVAEGA, Mr. MEEKS, Mr. CONNOLLY of Virginia, Mr. SIRES, and Ms. WILSON of Florida.  
H.J. Res. 47: Mr. SARBANES.  
H.J. Res. 88: Mr. MURPHY of Connecticut.  
H.J. Res. 103: Mr. SCOTT of South Carolina.  
H.J. Res. 104: Mr. LUETKEMEYER, Mr. FLORES, and Mr. PENCE.  
H. Con. Res. 87: Mr. JACKSON of Illinois.  
H. Con. Res. 101: Mr. TIPTON.  
H. Res. 16: Ms. ROS-LEHTINEN and Mr. MCGOVERN.  
H. Res. 20: Mr. QUIGLEY.  
H. Res. 474: Mr. KUCINICH and Mr. MCINTYRE.  
H. Res. 478: Ms. SLAUGHTER.

H. Res. 568: Ms. SCHWARTZ, Mrs. LOWEY, Mr. WAXMAN, Mr. ENGEL, Mr. TOWNS, Mr. SCHIFF, Mr. ROTHMAN of New Jersey, Mr. LANCE, Mr. MARKEY, Mr. HOLT, Mr. PASCRELL, Mr. BISHOP of Georgia, Ms. BERKLEY, Mr. FINCHER, Mr. BURGESS, Mr. LANKFORD, Mr. WALBERG, Mrs. ROBY, Mr. COFFMAN of Colorado, Ms. DEGETTE, Mr. SHULER, Mr. GENE GREEN of Texas, Mr. WEST, Mr. OWENS, Mr. CRAVAACK, Mr. GALLEGLY, Mr. PRICE of Georgia, Mrs. ADAMS, Mr. CRITZ, Mr. ALTMIRE, Ms. HANABUSA, Mr. LOBIONDO, Mr. RIVERA, Mr. LARSON of Connecticut, Mr. COBLE, Mr. CAMP, Mr. SIRES, Mr. BURTON of Indiana, Mr. SCHOCK, Mr. HOLDEN, Mr. SCHWEIKERT, Mr. MICA, Mr. KINZINGER of Illinois, Mr. NUGENT, and Mr. MILLER of Florida.

#### CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, OR LIMITED TARIFF BENEFITS

Under clause 9 of rule XXI, lists or statements on congressional earmarks,

limited tax benefits, or limited tariff benefits were submitted as follows:

The amendment to be offered by Representative FINCHER, or a designee, to H.R. 3606, the Jumpstart Our Business Startups Act, does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

#### DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3610: Mr. CLAY.  
H.R. 3611: Mr. CLAY.

## EXTENSION OF REMARKS

### PERSONAL EXPLANATION

#### HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 6, 2012*

Mr. VISCLOSKY. Mr. Speaker, on March 5, 2012, I was absent from the House and missed rollcall vote 95. Had I been present for rollcall 95, on the motion to suspend the rules and pass H.R. 3637, a measure to designate the facility of the United States Postal Service located at 401 Old Dixie Highway in Jupiter, Florida, as the "Roy Schallern Rood Post Office Building," I would have voted "aye."

### RECOGNIZING THE OUTSTANDING SERVICE OF COLONEL MICHAEL G. NAYLOR ON THE OCCASION OF HIS RETIREMENT

#### HON. DARRELL E. ISSA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 6, 2012*

Mr. ISSA. Mr. Speaker, I rise today to recognize the military service of Colonel Michael G. Naylor on the occasion of his retirement from the United States Marine Corps. I commend Colonel Naylor's career and offer my sincerest thanks for his 30 years of dedicated service in protecting our Nation.

Beginning his military career in 1982, Colonel Naylor entered Officer Candidate School where he was commissioned a Second Lieutenant and designated a Naval Aviator in September 1983. This was just the start to a long and commendable career in the United States Marine Corps.

Colonel Naylor retires from his post as the Deputy Commander of Marine Corps Installations West (MCIWEST), located at Marine Corps Base, Camp Pendleton. As Deputy Commander, Colonel Naylor helped oversee seven bases with stations occupying over 160,000 acres throughout California, Nevada, and Arizona. Colonel Naylor's hard work and dedication aided Corps in providing continuous, uninterrupted service support, in a time of war, to Marines and Sailors of the First Marine Expeditionary Force (I MEF).

As a Naval Aviator he has accumulated over 4900 total flight hours in various rotary wing, tilt-rotor, and fixed wing aircraft to include the first two operational tests of the V 22. He was also tasked with flying the President, Vice President, and dignitaries while assigned to Marine One (HMX-1). Colonel Naylor commanded the Marine Medium Helicopter Training Squadron 164 (HMMT-164) where his leadership and commitment provided well trained, organized, and combat ready expeditionary aviation forces capable of short notice world wide deployment to Marine

Air Ground Task Force (MAGTF), fleet and unified commanders.

His personal decorations include the Defense Superior Service Medal, Legion of Merit with Gold Star, Meritorious Service Medal with Gold Star, Navy and Marine Corps Commendation Medal, Navy and Marine Corps Achievement Medal, the Presidential Service badge as well as numerous campaign medals and unit awards.

These recognitions are a testament of Colonel Naylor's strong leadership and unwavering commitment to our country.

I offer Colonel Naylor my congratulations and hope that he enjoys rewarding retirement knowing that his years of service will not be forgotten by those he led.

### HONORING EDITH PITTENGER ON HER 100TH BIRTHDAY

#### HON. MIKE PENCE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 6, 2012*

Mr. PENCE. Mr. Speaker, I rise to honor Edith Pittenger on the occasion of her 100th birthday.

Edith was born in Pendleton, Indiana, on February 24, 1912. She went on to attend Ball State University in 1929, and later earned her masters degree in 1961. Edith enjoyed a long and satisfying career in teaching, having held positions in both Pendleton and Muncie.

Edith is blessed with excellent health and is still able to drive. She is also a long-time member of St. Paul's United Methodist Church. She was married for 45 years and her loving family includes three children and a stepson, 10 grandchildren, 22 great-grandchildren, four great-great-grandchildren and another on the way.

As the Good Book says, "The elders [ . . . ] are worthy of double honor, especially those whose work is preaching and teaching." And so today I honor Edith Pittenger for her lifetime of service and wish her the best in the years to come.

### REPRESENTATIVE FARENTHOLD PRESENTS TECHNICAL SERGEANT ARTHUR NOWAKOWSKI WITH SILVER STAR COMMENDATION

#### HON. BLAKE FARENTHOLD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 6, 2012*

Mr. FARENTHOLD. Mr. Speaker, I had the tremendous honor of awarding Sergeant Arthur Nowakowski his Silver Star Commendation in his hometown of San Benito, Texas.

This moment was over 60 years in the making, as Sergeant Nowakowski was originally awarded the Silver Star for his gallantry in action on July 5th, 1944 in France.

A WWII veteran, Sergeant Nowakowski voluntarily enlisted in the United States Army when he was eighteen years old, joining the 90th Infantry Division.

One month after landing on France's Utah Beach on D-Day, a platoon carrying urgently needed supplies and ammunition to front line troops was pinned down by heavy fire. Sergeant Nowakowski quickly assumed command and, at risk of his own life, subjected himself to intense fire, reorganized the platoon, led it forward and delivered the supplies and ammunition to the troops. He then sent his men to the battalion command post, returned to the wounded Soldiers and, despite the unrelenting fire, administered first aid to them and remained with them until they were evacuated.

His heroics saved the lives of three men. He risked his life to save his fellow soldiers and fight for the freedoms we all hold dear today. Presenting him with his commendation is only a small thank you to a man who has sacrificed so much for our Nation.

### CONGRATULATING THE BELLINGHAM KIWANIS CLUB ON ITS 90TH ANNIVERSARY

#### HON. RICK LARSEN

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 6, 2012*

Mr. LARSEN of Washington. Mr. Speaker, I rise today to recognize and congratulate the Kiwanis Club of Bellingham on its 90th anniversary.

The members of the Kiwanis Club of Bellingham are continuing in the club's long service to Whatcom County by supporting the community's children.

Kiwanis have long served children around the world by raising money, collecting food and clothes, and by working with children one-on-one. In Bellingham, Kiwanis support local children in dozens of ways that have a true and meaningful impact in our community.

You can find Kiwanis working with students in classrooms across the county, raising money to help kids get computers and sports equipment, and working to beautify the community.

The Kiwanis' work to support kids diagnosed with cancer is especially inspiring. As a father of two sons, I know how important community support is to developing happy and healthy kids.

The Kiwanis' work helps families today and will pay dividends to our community for many generations to come. Their service projects strengthen the community one kid at a time by giving children healthy food and opportunities

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

to succeed in school and sports. Bellingham and Whatcom County are better today for the 90 years of great service the Kiwanis have given.

Mr. Speaker, I ask my colleagues to join with me in congratulating the Kiwanis Club of Bellingham on its 90th anniversary and in recognizing their significant service to children and families in Whatcom County.

HONORING THE GADSDEN ELEMENTARY SCHOOL DISTRICT MARCHING BAND, THE PRIDE OF SAN LUIS

**HON. RAÚL M. GRIJALVA**

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 6, 2012*

Mr. GRIJALVA. Mr. Speaker, I rise today to honor the Gadsden Elementary School District #32 Marching Band for their accomplishments as a student band and as representatives of the city of San Luis.

Gadsden Elementary School is in the San Luis, a city located in the Southwest corner of the State of Arizona on the border of San Luis Rio Colorado, Mexico. The school's marching band, the Pride of San Luis, is composed of 180 talented students and 15 dancers in grades 4-8. Director J. Martin Peralta, Jr. and Music Coordinator Martin Peralta, Sr. have led this group of young men and women to countless victories, including first place awards in the Lake Havasu, Parada Del Sol Parade in Scottsdale, Arizona, the APS Phoenix Light Parade, as well as in the local Somerton Founder's Day Parade and the Yuma Lights Parade and most recently have been invited to the London Days Bridge Parade. Luis Marquez, Board President, said that "Listening to the marching band is like listening to an amazing group of professionals: they have the enthusiasm, character, and talent they need to keep making a great job everywhere they go."

The Pride of San Luis is comprised of more than just talented musicians; they are exemplary scholars. Raymond V. Aguilera, Superintendent of Schools, said that "[m]any of the band members go on to receive college credit during High School, take the ACT test and qualify for the Johns Hopkins Center for Talented Youth Program. The band's alumni have attended or will attend university programs throughout the country". This group of hard working young people brings hope and pride to local residents. As William and Ellen Kiley stated: "For those who worry about the future of our country, you have only to look at these young people to feel reassured that all will be well".

The parents, teachers, and citizens of San Luis cannot be more proud of their hometown marching band. Juan Carlos Escamilla, Mayor of the City of San Luis, declared: "It is truly an honor. I'm so very proud of every single one of our kids. I'm so proud as a parent. I know they have a very strong goal. If any organization could do it—it's this group. They will make it happen." Music Coordinator Martin Peralta Sr. articulated it best: "Esta generación de estudiantes van a hacer historia y la experiencia que van a hacer historia ya que

moverá al mundo con su música donde cada uno de los ciudadanos del país se van a sentir orgullosos de ellos".

Mr. Speaker, please join me in honoring these bright young student musicians and the adults that empower them to succeed.

HONORING MATTHEW R. COOK

**HON. SAM GRAVES**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 6, 2012*

Mr. GRAVES of Missouri. Mr. Speaker, I proudly pause to recognize Matthew R. Cook. Matthew is a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 180, and earning the most prestigious award of Eagle Scout.

Matthew has been very active with his troop, participating in many scout activities. Over the many years Matthew has been involved with scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community. Most notably, Matthew has contributed to his community through his Eagle Scout project.

Mr. Speaker, I proudly ask you to join me in commending Matthew R. Cook for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

TRIBUTE TO EMORY CAMPBELL

**HON. JAMES E. CLYBURN**

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 6, 2012*

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to a remarkable man who has distinguished himself as a great South Carolinian and an outstanding scholar and advocate of the Gullah/Geechee culture. He has dedicated his life to preserving the culture and the community he loves, and has just ended his tenure as the first Chairman of the Gullah-Geechee Cultural Heritage Corridor Commission. I commend him for his outstanding work and thank him for his long-time friendship. We could not have had a better person to get this Commission off on the right foot.

Emory Shaw Campbell was born on October 11, 1941, on Hilton Head Island, South Carolina, which was at the time was an isolated Sea Island inhabited by the descendants of former slaves, not the high-end resort it has become today. He was the sixth of 12 children born to Sarah and Reginald Campbell.

While he attended elementary school on Hilton Head Island, he had to travel by boat to attend high school at Michael C. Riley High School in the mainland town of Bluffton. He graduated as valedictorian of his class in 1960. He went on to earn his bachelor's degree in biology from Savannah State College, and a master's in environmental engineering from Tufts University in Boston, Massachusetts.

Following his academic training, Dr. Campbell returned home to his beloved Sea Islands.

He served for ten years as the Director of Community Service Education at the Beaufort-Jasper Comprehensive Health Services in Ridgeland, South Carolina. This community health center provided quality, affordable health care to the underserved populations of the Sea Islands in the southernmost corner of the State. He also worked to protect Gullah communities that were threatened by the encroachment of resort development in the area.

In 1980, he became the Director of the Penn Community Center on St. Helena Island. This historic facility began as a school in the 1800s to educate freed slaves. It became a meeting place during the civil rights movement of the 1960s. As a student organizer at South Carolina State College, I attended meetings at Penn Center and subsequently served as a member of its Board of Trustees. Dr. Martin Luther King retreated there to plan protest strategies. Today, the center serves to protect and preserve the heritage of the island and its Gullah culture. Dr. Campbell was synonymous with these efforts, and he became a sought after expert on all things Gullah.

Most notably during his 22 years at the helm of Penn Center, Dr. Campbell led an effort to reconnect the Gullah community to its family roots in Sierra Leone, West Africa. This initiative resulted in Sierra Leone's President Joseph Momoh visiting Penn Center in 1988, and the following year Dr. Campbell was given the title of Honorary Paramount Chief when he took a group from the Gullah community to Sierra Leone for a reunion with their ancestral families. In 1990, South Carolina Educational Television produced a documentary Family Across the Sea, which chronicles these events.

Dr. Campbell has sought to preserve the heritage of his native culture through his book Gullah Cultural Legacies that includes Gullah traditions, beliefs, art and language. He also helped in the effort to translate the New Testament of the Bible into Gullah, which I used when I was sworn in as House Majority Whip in 2007. When Dr. Campbell retired from Penn Center in 2002, he began Gullah Heritage Consulting Services to continue his lifelong work and he manages the Gullah Heritage Trail Tours on Hilton Head Island.

In 2005, Dr. Campbell received the Carter F. Woodson Memorial Award from the National Education Association for his efforts to preserve the Gullah heritage and communities and to improve the quality of life for the Gullah people.

In 2008, I succeeded in getting the Gullah-Geechee Cultural Heritage Corridor enacted into law. The legislation included the establishment of a Commission to manage the corridor, and Dr. Campbell was fittingly chosen to Chair the inaugural Commission.

Dr. Campbell lives on Hilton Head Island with his wife, Emma. They have two adult children.

Mr. Speaker, I ask you and our colleagues to join me in thanking Dr. Emory Campbell for his dedication to preserving, protecting and promoting the Gullah culture that is unique to the Sea Islands of the American South. He has made remarkable contributions throughout his career to bring recognition and support to Gullah communities, and he is one of their most distinguished members. His work has

helped to save an entire culture that was rapidly disappearing due to encroachment and assimilation, and that is a tremendous legacy for any one individual.

HONORING KYLE A. DETERS

**HON. SAM GRAVES**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 6, 2012*

Mr. GRAVES of Missouri. Mr. Speaker, I proudly pause to recognize Kyle A. Deters. Kyle is a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 180, and earning the most prestigious award of Eagle Scout.

Kyle has been very active with his troop, participating in many scout activities. Over the many years Kyle has been involved with scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community. Most notably, Kyle has contributed to his community through his Eagle Scout project.

Mr. Speaker, I proudly ask you to join me in commending Kyle A. Deters for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

CELEBRATING THE 100TH ANNIVERSARY OF THE OREO COOKIE

**HON. ROBERT J. DOLD**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 6, 2012*

Mr. DOLD. Mr. Speaker, I would like to take a moment to celebrate the 100th anniversary of the Oreo. In 1912—the same year the South Pole was discovered, and the Titanic sank—the Oreo was first introduced. Growing up, there were many days where I would enjoy dunking an Oreo in my milk and that tradition continues today with children and adults all over the globe. There is no doubt Oreos bring joy to many people throughout the world.

Kraft Foods, headquartered in my district, is the proud custodian of Oreo, and Oreo is one of the company's 12 "billion-dollar" brands. Enjoyed in more than 100 countries, today the Oreo brand is the world's top selling cookie. Here is to another 100 years of Oreo being the world's number one cookie.

HONORING CONNOR S. THOMAS

**HON. SAM GRAVES**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 6, 2012*

Mr. GRAVES of Missouri. Mr. Speaker, I proudly pause to recognize Connor S. Thomas. Connor is a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 180, and

earning the most prestigious award of Eagle Scout.

Connor has been very active with his troop, participating in many scout activities. Over the many years Connor has been involved with scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community. Most notably, Connor has contributed to his community through his Eagle Scout project.

Mr. Speaker, I proudly ask you to join me in commending Connor S. Thomas for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

HONORING THE MODESTO CHAMBER OF COMMERCE ON 100 YEARS OF BUSINESS LEADERSHIP

**HON. JEFF DENHAM**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 6, 2012*

Mr. DENHAM. Mr. Speaker, I rise today to acknowledge and honor the rich heritage of the Modesto Chamber of Commerce as they celebrate 100 years of business leadership in the Central Valley.

Anniversaries such as this provide an opportunity for us to reflect upon the significant impact our local businesses, both large and small, have on job creation and economic growth. It is critical that we continue to increase opportunities for business owners and entrepreneurs to take risks and succeed, so that they are able to grow, innovate, and create jobs. Throughout the years, the Chamber has stayed true to its mission statement, which is "to promote the region's economic strengths and vitality; identify and promote services that are valuable to our members; advocate for public policy that is advantageous to the business community; and fully participate and partner in activities to improve quality of life."

Also celebrating 100 years is the iconic Modesto Arch. The Arch was erected by the founders of the Modesto Chamber of Commerce as a symbol to promote the city, and remains as a welcome when you enter downtown Modesto with the ever present slogan "Water, Wealth, Contentment, Health."

I would also like to recognize the following six businesses for their continuous membership in the Modesto Chamber of Commerce for the past 100 years: Foster Farms, Bank of America, Pacific Bell/ATT, Chicago Title Company, Pacific Gas & Electric, and J.S. West. They should all be commended for the community support and dedication to the city of Modesto.

Mr. Speaker, please join me in celebrating with the Modesto Chamber of Commerce on a day where we recognize not only where we have been, but the tremendous opportunities we have ahead in our efforts to fulfill our vision for the future. Congratulations on the past 100 years, and I wish you the best success in the years to come.

HONORING EVAN JONATHAN LINARD

**HON. SAM GRAVES**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 6, 2012*

Mr. GRAVES of Missouri. Mr. Speaker, I proudly pause to recognize Evan Jonathan Linard. Evan is a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 247, and earning the most prestigious award of Eagle Scout.

Evan has been very active with his troop, participating in many scout activities. Over the many years Evan has been involved with scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community. Most notably, Evan has contributed to his community through his Eagle Scout project.

Mr. Speaker, I proudly ask you to join me in commending Evan Jonathan Linard for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

INTRODUCTION OF THE FOX-WISCONSIN HERITAGE PARKWAY NATIONAL HERITAGE AREA ACT OF 2012

**HON. THOMAS E. PETRI**

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 6, 2012*

Mr. PETRI. Mr. Speaker, today I am pleased to join my colleagues . . . in introducing the Fox-Wisconsin Heritage Parkway National Heritage Area Act of 2012, legislation which would designate the Fox-Wisconsin Heritage Parkway as a National Heritage Area. I am also pleased that Senator KOHL is introducing companion legislation in the Senate.

The National Park Service defines National Heritage Areas as:

. . . places where natural, cultural, historic and scenic resources combine to form a cohesive, nationally important landscape arising from patterns of human activity shaped by geography. These patterns make National Heritage Areas representatives of the American experience through the physical features that remain and the traditions that have evolved in them. These regions are acknowledged by Congress for their capacity to tell important stories about our nation. Continued use of National Heritage Areas by people whose traditions helped to shape the landscape enhances their significance.

The Fox Wisconsin Heritage Parkway, which runs through parts of 15 counties throughout Wisconsin, marks the route taken in 1673 by explorers Father Jacques Marquette and Louis Joliet as they traveled from the Great Lakes to the Mississippi River. This journey is an integral part of Wisconsin's and our nation's development. We should do all that we can to preserve it so that future generations have an appreciation for our country's unique history, culture and heritage.



Establishing the Fox Wisconsin Heritage Parkway as a National Heritage Area will accomplish that preservation goal in a cost-effective manner. By utilizing public-private partnerships, the National Heritage Area designation can serve as a structure to coordinate the activities of businesses, non-profits and residents so they can highlight their region's unique contributions to America's national story.

Again, I am very pleased to support this region's designation as a National Heritage Area, and I ask for my colleagues' support in this effort.

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HONORING STEPHEN DEAN  
NOLTING

**HON. SAM GRAVES**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 6, 2012*

Mr. GRAVES of Missouri. Mr. Speaker, I proudly pause to recognize Stephen Dean Nolting. Stephen is a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 247, and earning the most prestigious award of Eagle Scout.

Stephen has been very active with his troop, participating in many scout activities. Over the many years Stephen has been involved with scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community. Most notably, Stephen has contributed to his community through his Eagle Scout project.

Mr. Speaker, I proudly ask you to join me in commending Stephen Dean Nolting for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

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PERSONAL EXPLANATION

**HON. LYNN C. WOOLSEY**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 6, 2012*

Ms. WOOLSEY. Mr. Speaker, on March 5, 2012, I was unavoidably detained and was unable to record my vote for rollcall No. 95. Had I been present I would have voted:

Rollcall No. 95: "Yes"—Roy Schallern Rood Post Office Building.

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HONORING JEFFREY JOSEPH  
DUER, JUNIOR

**HON. SAM GRAVES**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 6, 2012*

Mr. GRAVES of Missouri. Mr. Speaker, I proudly pause to recognize Jeffrey Joseph Duer, Junior. Jeffrey is a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop

180, and earning the most prestigious award of Eagle Scout.

Jeffrey has been very active with his troop, participating in many scout activities. Over the many years Jeffrey has been involved with scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community. Most notably, Jeffrey has contributed to his community through his Eagle Scout project.

Mr. Speaker, I proudly ask you to join me in commending Jeffrey Joseph Duer, Junior for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

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CELEBRATING THE 76TH ANNUAL  
WESTERN NEW YORK SAFETY  
CONFERENCE

**HON. BRIAN HIGGINS**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 6, 2012*

Mr. HIGGINS. Mr. Speaker, I rise today to celebrate the 76th annual Western New York Safety Conference, which will be held in my Western New York community March 12th–March 15th, 2012.

What began as a small group of safety-minded individuals in 1935 has evolved into a conference attended by over 500 delegates each year and the largest gathering of safety-oriented and interested people on the East Coast.

The Western New York Safety Conference is recognized by both employers and employees alike as an outstanding organization. This annual exchange of safety, health and environmental information has contributed greatly to the advancement of safety for the worker, and the general public. I applaud their dedication to the conservation of human life and the safety and health of the individual through the prevention of accidents and occupational diseases.

Mr. Speaker, I want to congratulate those who have led the effort to host this important conference, and am sure that they will continue to service the Western New York community to reduce injuries and illness.

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SUPPORT OF THE CONFERENCE  
REPORT TO H.R. 3630

**HON. DENNIS J. KUCINICH**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 6, 2012*

Mr. KUCINICH. Mr. Speaker, I rise in support of the Conference Report to H.R. 3630, Middle Class Tax Relief and Job Creation Act of 2012. The bill extends unemployment for those currently out of work through 2013. It continues the payroll tax break for the middle class through 2013. It prevents the scheduled cuts in Medicare reimbursement to doctors. It extends the Temporary Assistance for Needy Families (TANF) program. It protects current federal public servants by protecting their pensions and by dropping language that would

have perpetuated an unjust and unnecessary payroll freeze. As a Member of the Committee on Oversight and Government Reform, I offered an amendment in Committee last week to protect the pensions of future federal public servants as well.

However, while providing needed relief, this bill is very flawed. It reduces benefits for new federal public servants, cuts assistance to hospitals and cuts long-term unemployment benefits. It is wrong to limit any crucial safety net.

Still, extending the payroll tax means that middle class families in Ohio will have about \$1,000 more in their pockets at a time when speculation has pushed gas and basic food prices up. The needs of my district are urgent and immediate. This legislation will deliver relief. I stand with the workers and those trying to find work and I pledge to continue to fight for the middle class. When Congress returns we must ensure that our communities are protected and that hospitals and workers are taken care of. I will work with my colleagues to remedy the shortcomings of this bill.

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RECOGNIZING THE 2012 NOMINEES  
FOR THE PRINCE WILLIAM  
COUNTY TEACHER OF THE YEAR/  
AGNES MEYER OUTSTANDING  
TEACHER AWARD

**HON. GERALD E. CONNOLLY**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 6, 2012*

Mr. CONNOLLY of Virginia. Mr. Speaker, I rise today to recognize the nominees for the Prince William County Teacher of the Year/Agnes Meyer Outstanding Teacher Award.

The Agnes Meyer Outstanding Teacher Award program was established by "The Washington Post" to "recognize excellence in teaching, to encourage creative and quality instruction, and to contribute in a substantive way to the improvement of education in the Washington metropolitan area."

The annual recipients are comprised of one representative from each of the 19 metropolitan public school systems and a single representative from the area private schools. The winner selected from the Prince William Public School Division is also named the Prince William County Teacher of the Year. Teachers who meet the criteria for the award are those who instill in students a desire to learn and achieve, understand the individual needs of students, and demonstrate a thorough knowledge of subject matter and have the ability to share it effectively with students.

I extend my personal congratulations to the 2012 Prince William County nominees for the Agnes Meyer Outstanding Teacher Award:

Mrs. Anita Al-Haj—Osborn Park High School; Ms. LaTicia Anderson—Coles Elementary School; Mrs. Jenny Bates—Henderson Elementary School; Ms. Spring Byard—New Directions Alternative Education Center; Lt. Col. Ronald Cartee—Battlefield High School; Ms. Sharon Christner—Hylton High School; Mrs. Jessica English—Hylton High School; Mr. Aaron Finney—Victory Elementary School; Mrs. Kelly Haynes—Ashland Elementary School; Mr. Philip Keirstead—Marsteller Middle School

Ms. Hess Moore—Beville Middle School; Ms. Rebecca Patonetz—McAuliffe Elementary School; Mrs. Ingrid Perry—Gar-Field High School; Mrs. Ramona Richardson—Coles Elementary School; Mr. Richard Scavongelli—Brentsville District High School; Ms. Lydia Stewart—Osborn Park High School; Mrs. Patricia Swanson—Ashland Elementary School; Ms. Kendra Yount—Battlefield High School; Mrs. Ruthann Zalewski—Loch Lomond Elementary School.

Mr. Speaker, I ask that my colleagues join me in commending the nominees for the Prince William County Teacher of the Year/Agnes Meyer Outstanding Teacher Award and in thanking them for their dedication to our children. Their continued service will ensure that Prince William County students are provided with a world class education in a more vibrant learning community.

INTRODUCTION OF THE CHIPACC  
BILL CHILDREN'S PROGRAM OF  
ALL-INCLUSIVE, COORDINATED  
CARE

**HON. JAMES P. MORAN**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 6, 2012*

Mr. MORAN. Mr. Speaker, I rise today to talk about an issue of concern to all families, and everyone who has ever known a sick child.

The Children's Program of All-inclusive, Coordinated Care, ChiPACC, program serves the needs of Medicaid-eligible children who suffer from potentially terminal illnesses or conditions. The legislation I am introducing will make ChiPACC a state option under Medicaid.

Medicaid-eligible children—like all children who suffer from potentially terminal illnesses or conditions—need comprehensive, coordinated care. Currently, nearly 30 percent of the children in the United States who have life-threatening conditions qualify for Medicaid. These children are forced into a system that will only treat them on an emergency basis, sending them home to wait until their next health emergency.

Based on the highly effective, collaborative model of care developed by Children's Hospice International, CHI, the Children's Program of All-inclusive, Coordinated Care provides each enrolled child an individualized treatment plan that includes and manages services from providers across the health care spectrum. ChiPACC's services will improve upon the often inconsistent care that is currently available to seriously ill children under Medicaid, doing so at a savings to taxpayers.

With appropriate comprehensive and coordinated services under ChiPACC, many emergency episodes can be avoided or anticipated and managed, such that children receive appropriate care in their homes instead of in hospitals, and so that even when they require critical care they can enter the hospital through the front door instead of the emergency room, significantly reducing health care costs.

Under the former Medicaid model, individuals could receive only "hospice" services and

only after their doctors give them a prognosis of six months to live. Children, however, are much more likely than adults to go in and out of terminal phases multiple times. No family should be forced to give up curative care for their child in order to receive services that are predicated on accepting that their child has no more than 6 months to live. I am very pleased that the Affordable Care Act amended this policy to allow curative care for Medicaid eligible children in hospice. But ChiPACC goes beyond curative care and combines medical and support services currently available in Medicaid with counseling, respite, and other care that have previously only been available as hospice services.

Please join me in sponsoring this very important legislation.

TO RECOGNIZE THE FAIRFAX  
COUNTY YOUTH FOOTBALL  
LEAGUE AND THE 2012 FAIRFAX  
COUNTY FOOTBALL HALL OF  
FAME HONOREES

**HON. GERALD E. CONNOLLY**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 6, 2012*

Mr. CONNOLLY of Virginia. Mr. Speaker, I rise today to recognize the Fairfax County Youth Football League and to congratulate the 2012 Fairfax County Football Hall of Fame honorees.

The importance of youth sports cannot be overstated. Participation in organized sports instills in our youth many values that will serve them well throughout life. These values include sportsmanship, teamwork, honesty, a sense of belonging, and maybe most important, the work ethic developed by striving for success and working to achieve a common goal. Organized youth sports also contribute to our society. Studies have shown a correlation between participation in sporting activities and increased academic performance. Some studies indicate that a reduction in gang activity can be partially attributed to refocusing at-risk children into organized, supervised activities such as youth sports.

I commend the Fairfax County Youth Football League for providing opportunities for our children to succeed and be a part of a team. I also congratulate the following students, coaches and community leaders who are being recognized at the 22nd Annual Fairfax County Football Hall of Fame:

Fairfax County Football Hall of Fame 2012 Inductees—Owen Schmitt (NFL Philadelphia Eagles, West Virginia University, Fairfax High School), Tom Verbanic (Fairfax High School and Westfield High School), and Angela Hay and Adam Wiles (Founder, Prince William County Clubs in FCYFL).

Football Official of the Year—Youth Sports—Kanyon MacRae (Fairfax County Football Officials Association).

Karl Davey Community Achievement Award—Jasmine Faubert (Volunteer, Herndon Optimist Club, FCYFL).

Tom Davis Meritorious Service Award—Taylor Dixon (Community Outreach Specialist, Neighborhood and Community Use).

Gene Nelson Commissioner of the Year Award—Derrick Spearman (Fort Hunt Youth Football and Cheerleading).

FCFHF \$1,500 Scholarship Recipients: Dymond Cooper (Edison HS), Matthew Pisarcik (Westfield HS), Evan Jacquez (Madison HS), Michael Tobias (West Springfield HS).

High School Players of the Year: Stephen Trivieri (Stone Bridge HS), Hayden Knudson (Hayfield HS), Devin Vandyke (South County HS), Ken Ekanem (Centreville HS), Erich "Hunter" Windmuller (Flint Hill School), John Byrd (Manassas Park HS).

High School Coaches of the Year: Gerry Pannoni (South County HS), Chris Haddock (Centreville HS).

Youth Sports Players of the Year: Aaron Lahah (Gainesville/Haymarket Football), Clark Thomas (VYI), Kenny Dodson (MYFL), Wiley Counts (VYI), Brandon Burdick (CYA), Hagan Biddison (SCAA), Brandon Hilton (Fort Belvoir Youth Sports), Hunter Baldwin (FHYAA), William Cusic (FHYAA), Zach Burdick (CYA), Nathanael Lomboy (APYFL), Benjamin Garcia (LFFL), Kyle Richbourg (SYA), Bryce Simpson (Alexandria Rec), Andrew Fall (BRYC), Tyler Scanlon (SYA).

Youth Sports Coaches of the Year: Thomas Digges (MYF), John Hetzer (MYF), Jim McGrath (VYI), Steve Ross (LFFL).

Youth Sports Cheerleaders of the Year: Lakyn Fearson (APYFL), Agnis Alessandrino (Herndon Optimists), Samantha Culin (SYI), Graciela Perez (SYA), Keenan Patricia Parker (VYI).

Mr. Speaker, I ask that my colleagues join me in congratulating the Fairfax County Youth Football League as well as those students, coaches and community leaders who are being honored at this 2012 Hall of Fame celebration.

MORE DEMOCRATIC SETBACKS IN  
UKRAINE

**HON. CHRISTOPHER H. SMITH**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 6, 2012*

Mr. SMITH of New Jersey. Mr. Speaker, last week, former Ukrainian Interior Minister Yuriy Lutsenko was sentenced to four years imprisonment in yet another politically motivated trial. This comes after the imprisonment—also the result of an unfair trial on specious charges—of his ally, former Prime Minister Yuliya Tymoshenko, who continues to languish in prison in ill health.

The sentencing of Mr. Lutsenko is a further confirmation that the regime of President Viktor Yanukovich is not taking its OSCE human rights and democracy obligations seriously. The imprisonment of opposition leaders Tymoshenko and Lutsenko prohibits their participation in October's parliamentary elections, raising serious questions about whether Ukraine will meet OSCE election standards. This could be especially troubling given Ukraine's assumption of the OSCE Chairmanship in January 2013, two months after these elections. As Chairman of the Helsinki Commission, it is also of concern to me and my

colleagues, who have long advocated an independent, democratic, and free Ukraine.

Mr. Lutsenko's conviction is disconcerting in that it starkly illustrates the deterioration of human rights, democracy and the rule of law under the presidency of Viktor Yanukovich, who has pressed the pause button on Ukraine's once-promising advance towards democracy—and increasingly it seems he is switching to the reverse button. Instead, what we now see is something increasingly reminiscent of the kind of authoritarianism that exists in Russia, Belarus and elsewhere in the post-Soviet space.

Ukraine's democratic backsliding is harming relations with the EU and the United States, and both have repeatedly made clear that for relations to improve, respect for human rights and the democratic process must improve. Most importantly, this now two-year deterioration negatively affects the Ukrainian people, who, following the Orange Revolution, had tasted the fruits of freedom, and are now increasingly experiencing the burden of its undoing.

It is time for President Yanukovich to show respect for the dignity of his own people by putting an end to political prosecutions and other reprisals against those who oppose him and allow their full participation in political life. In order to find credibility with both the Ukrainian people and the international community, he must end restrictions on freedom of speech and association and reverse the debilitating corruption and judicial subservience to the executive which has so eroded the rule of law.

Mr. Speaker, the time has come for the Ukrainian authorities to stop their slide to authoritarianism and resulting isolation which will only harm Ukrainians who for so long—and at such great cost—have struggled for freedom, dignity and justice.

#### RECOGNIZING FAIRFAX COUNTY PUBLIC SCHOOLS TEACHERS FOR PARTICIPATING IN THE SALLY RIDE SCIENCE ACADEMY

##### HON. GERALD E. CONNOLLY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 6, 2012*

Mr. CONNOLLY of Virginia. Mr. Speaker, I rise to recognize a select group of math and science teachers from Fairfax County Public Schools. They recently participated in the Sally Ride 2011 Science Academy in San Diego.

The Academy is an intense one-week professional development program in which elementary and middle school teachers learn new skills for introducing students to STEM (Science, Technology, Engineering, and Math) and educating their students about the diverse education and career opportunities in those fields. The Academy uses a train-the-trainer model, in which participants return to their school districts to train other teachers during the school year. Sally Ride Science, founded by the first American woman in space, operates the Academy in partnership with ExxonMobil, which has one of its corporate headquarters in Fairfax County.

With only 29% of American 4th graders and 33% of 8th graders performing at proficient levels in science, we need to redouble our efforts in the STEM fields, particularly to recruit more girls and minorities. In today's economy, 8 of the 10 fastest growing jobs require proficiency in math and science, yet American universities rank 27th among developed nations with respect to the number of students graduating with science or engineering degrees.

Thanks to the work of the Sally Ride Science Academy, these and other teachers now have additional training and skills to assist them in encouraging more of our young people to become excited about science and math. I am pleased to recognize the following Fairfax County Public Schools teachers for participating in the Academy: Heather McCarthy, Lynnette Harris, Luann Hoyseth, Lauren Bello, Jodi Hepner, Danielle Heffron, Alane Peragallo, Shannon Waite, and Holly Eelman.

To date, the Sally Ride Science Academy has successfully trained more than 650 educators spanning 16 States, and they have returned to their perspective districts to train an additional 4,400 teachers.

Mr. Speaker, I ask my colleagues to join me in recognizing these remarkable teachers for their efforts to change the way math and science are taught in our classrooms and for improving the quality of education for youngsters in our community.

#### CONGRATULATING MEME OMOGBAI FOR BEING NAMED CHAIR OF THE AMERICAN ASSOCIATION OF MUSEUMS

##### HON. LEONARD LANCE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 6, 2012*

Mr. LANCE. Mr. Speaker, I rise today to congratulate Meme Omogbai, Chief Operating Officer of The Newark Museum, on being named Chair of the American Association of Museums. This is an unprecedented honor for The Newark Museum in Newark, New Jersey. Prior to her election, Omogbai served the AAM in many capacities including as co-author of its ground-breaking strategic plan.

Ms. Omogbai was born in Nigeria and moved to the United States as a child. She obtained both a Bachelor of Science degree in accountancy and an M.B.A. in finance and management consultancy from Rutgers University. She has a keen interest in public service and pursued opportunities in New Jersey state government. During her 10-year tenure with the state she became the youngest deputy assistant chancellor of the NJ Department of Higher Education.

Ms. Omogbai was part of the team that developed the widely acclaimed NJ College Loan to Assist State Students Program while overseeing \$6.5 billion in assets and crafting legislation as a policy adviser in the state treasurer's office. She also worked with the Casino Control Commission.

Ms. Omogbai is a community leader with important, active roles on the boards of such organizations as the New Jersey Historic

Trust, the American Association of Museums, the Advisory Board of Montclair State University, St. Vincent Academy and the Newark Regional Business Partnership.

I congratulate Meme Omogbai on being named Chair of the American Association of Museums.

#### RECOGNIZING THE 51ST ANNIVERSARY OF THE PEACE CORPS AND 11TH DISTRICT VOLUNTEERS

##### HON. GERALD E. CONNOLLY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 6, 2012*

Mr. CONNOLLY of Virginia. Mr. Speaker, it is my great honor to rise today and recognize the Peace Corps on the 51st Anniversary of its inception. Since President John F. Kennedy's inspirational call to service in the 1960s, the Peace Corps has played an integral role in the journey toward world peace and understanding.

The Peace Corps is vital to our strategies for diplomacy and development assistance. This year alone, approximately 9,000 Peace Corps Volunteers have made significant contributions in more than 75 countries. Volunteers learn more than 175 languages and dialects with placements in Asia, Africa, Europe, Central and South America, the Pacific Islands, the Caribbean, and the Middle East.

The effects of service ripple across a wide variety of communities. The Peace Corps not only provides invaluable assistance to the developing world, but also returns effective cross-cultural leaders to the American workforce. Through their service, volunteers develop steadfast creativity and determination that permeates through everything they do.

It is with great pleasure that I recognize the 28 residents of the 11th District of Virginia who have met this extraordinary call to service: Daniel Beale, Michael Burke, Megan Bush, Michelle Carr, Jennifer Cook, Kevin Dansereau, Emily Forsyth Queen, Carolyn Glidden, Kendall Gordon, Salwan Hager, Molly Jacobson, Brittany Kennell, Shantonu Kundu, Catherine Leitch, Laura Lloyd-Braff, Douglas Mann, Patricia Marks, Ryan Mccibony, Laura Olsen, Kristin Powers, Eric Reeder, Kristopher Reinertson, Ashley Studholme, Anh-Minh Tran, Anastasia Tucker, Emily Vallowe, Peter Weems, and Priscilla Yu.

Mr. Speaker, I ask my colleagues to join me in congratulating the Peace Corps for 51 years of invaluable service to our Nation and our world. Through its diplomatic and development service, the Peace Corps has established valuable cross-cultural understanding. Virginia's 11th District is especially proud to recognize the service of our 28 residents abroad.

#### PERSONAL EXPLANATION

##### HON. MICHAEL R. TURNER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 6, 2012*

Mr. TURNER of Ohio. Mr. Speaker, on March 5, 2012, I was unable to vote on rollcall

vote 95. Had I been present I would have voted "yea" on rollcall vote 95, on passage of H.R. 3637.

#### PERSONAL EXPLANATION

#### HON. JIM JORDAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 6, 2012*

Mr. JORDAN. Mr. Speaker, I was absent from the House Floor during yesterday's roll call vote.

Had I been present, I would have voted in favor of H.R. 3637.

#### RECOGNIZING THE RECIPIENTS OF THE 2012 DALE CITY CIVIC ASSOCIATION COMMUNITY AWARDS

#### HON. GERALD E. CONNOLLY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 6, 2012*

Mr. CONNOLLY of Virginia. Mr. Speaker, I rise to recognize the recipients of the 2012 Dale City Civic Association Community Awards.

The Dale City Civic Association was founded in 1967. Citizens formed the organization to give a voice to community initiatives and collective action in Dale City. Today, the organization's purpose is to represent the interests of the residents of Dale City in a manner that benefits the entire community. Members do this with robust beautification efforts, land use advocacy and volunteer responses to community needs.

The Association hosts an annual awards banquet to honor individuals and organizations that show an exceptional devotion to their community and public service. It is my honor to enter into the CONGRESSIONAL RECORD the names of the recipients of the 2012 Dale City Civic Association Community Awards:

High School Teacher of the Year: Ingrid Hoffman Perry;

Middle School Teacher of the Year: Mary Lynn Thurman;

Elementary School Teacher of the Year: Margie Norman;

John D. Jenkins Youth Citizen of the Year: Donald E. Jones, Jr.;

Dale City Youth Environmental and Conservation Award: Ann Nguyen;

Kathie Feeney Nurse of the Year: Rosey Espiritu;

Prince William County Police Department, Police Officer of the Year: Officer David C. McKeown;

Dale City Volunteer Fire Department, Officer of the Year: Lieutenant Christopher Gardner, Jr.;

Dale City Volunteer Fire Department, Emergency Medical Service Provider of the Year: Technician Danielle Miller;

Dale City Volunteer Fire Department, Firefighter of the Year: Technician Tinashe Banda;

Dale City Volunteer Fire Department, "Second to None" Volunteer Community Servant Award: Irene Dell;

Prince William County Department of Fire and Rescue, Firefighter of the Year: Captain Steve Barr;

Prince William County Department of Fire and Rescue, Emergency Medical Service Provider of the Year: Lieutenant Leif Ericson;

Deputy Sheriff of the Year: Deputy Jack Richards;

Catherine Spellane Citizen of the Year: Ellen Carleton;

Kathleen K. Seefeldt Community Service Award: Jo-Ellen Benson;

Ernestine S. Jenkins Lifetime Volunteer Award: Janice Carr; and

Business of the Year: Amici's Restaurant.

Mr. Speaker, I ask that my colleagues join me in commending the winners of the 2012 Dale City Civic Association Community Awards for their dedication to building and maintaining a healthy community. Each recipient has made a tangible imprint on Dale City, and, with these awards, we hope to show them that their contributions have not gone unnoticed.

#### OUR UNCONSCIONABLE NATIONAL DEBT

#### HON. MIKE COFFMAN

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 6, 2012*

Mr. COFFMAN of Colorado. Mr. Speaker, on January 20, 2009, the day President Obama took office, the national debt was \$10,626,877,048,913.08.

Today, it is \$15,491,983,252,196.46. We've added \$4,865,106,203,283.33 to our debt in 3 years. This is debt our Nation, our economy, and our children could have avoided with a balanced budget amendment.

#### RECOGNIZING THE 2012 OFFICERS OF THE OCCOQUAN WOODBRIDGE LORTON VOLUNTEER FIRE DEPARTMENT

#### HON. GERALD E. CONNOLLY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 6, 2012*

Mr. CONNOLLY of Virginia. Mr. Speaker, I rise to recognize the 2012 Officers of the Occoquan Woodbridge Lorton Volunteer Fire Department.

The 2012 officers and members of the board of directors are taking leadership roles in one of Northern Virginia's longest standing volunteer fire departments. The O.W.L. Volunteer Fire Department was created to address the need for organized fire response capabilities in the growing suburbs of Northern Virginia. In 1938, the Department officially formed to become the only fire department between Fredericksburg and Alexandria. In the subsequent decades O.W.L. has expanded to staff three stations and provide emergency medical services.

The members of O.W.L. are dedicated community volunteers, and the 2012 officers and directors will be diligent stewards of this tradi-

tion of service. The 250 active O.W.L. members answer 14,000 calls and serve 60,000 people each year. Their job is demanding and the hours are long, but these brave men and women are driven by their dedication to public safety and the communities that they serve. We would all do well to follow their example.

I congratulate and commend the following 2012 incoming officers:

Department Chief: James F. McAllister;

Fire Assistant Chiefs: Karl F. Fippinger, Wayne A. Haight, David S. Halman, John M. McGovern III, and Richard C. Slusher;

EMS Assistant Chief: Edward A. Craig;

Fire Captains: Kurt E. Bolland, Steven R. Godin, Michael Nazionale, and Brian J. Smith, David P. Williams, and Justin W. Witt;

EMS Captain: Richard T. Ruggieri;

Fire Lieutenants: Jonathan W. Baldwin, Robert L. Brown, Mark A. Chandler, Jon R. Colpitts, Joshua Culp, Ernie M. Firkin Jr., Harold F. Griffith, Jamieson H. Jewett, Alexander R. Moody, Richard P. Moore, Derick N. Ondra, and John M. Roberts;

EMS Lieutenants: Tara S. Gallant, Tammy L. Hill, James M. McCue, Scott A. Schneider, Kelly Shaw, and Cynthia M. Young;

Executive Vice President: Ronald D. Miller;

Admin Vice Presidents: William L. Carter, Michael W. Clark, Henry J. Neyhouse, and George W. Smith;

Membership Secretary: Melissa L. Payne;

Treasurer: George J. Nazionale, Jr.;

Election Officer: Valoree A. Brown;

Sergeant at Arms: Timothy S. VanDeusen;

Board of Directors: Jonathan D. Karnbach, Thomas S. Sullivan, and Lenny G. Peters Jr.;

New Life Members: James F. McAllister, Joseph J. Zarkauskas Jr., Derek D. Dove, and Phillip L. Hughes Jr.

Mr. Speaker, I ask that my colleagues join me in congratulating these remarkable volunteers on their new positions and in thanking all members of the Occoquan Woodbridge Lorton Volunteer Fire Department for the vital service they provide to the Prince William community. Stay safe.

#### HONORING PATRICIA SMITH OF LEBANON ON HER RETIREMENT FROM THE FARM SERVICE AGENCY

#### HON. JOE COURTNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 6, 2012*

Mr. COURTNEY. Mr. Speaker, I rise today to offer my heartiest congratulations and thanks to Patricia Smith of Lebanon for her more than three decades of service to farmers in eastern Connecticut. This past December, Pat retired after 31 years of working for the U.S. Department of Agriculture Farm Service Agency's Connecticut office.

After graduating from Norwich Free Academy, Pat began working at the Groton Sub Base. She later worked in Boston at the Naval Shipyards, a rural letter carrier in Lebanon, Connecticut and also at the Social Security office in Willimantic, Connecticut. Always a dedicated public servant, Pat worked hard to serve

the people of eastern Connecticut in her various capacities. In 1980, Pat was hired by current Connecticut Farm Service Agency Executive Director Marsha Jette to serve as a Program Technician assisting farmers in eastern Connecticut.

Pat's experience as a herdsman on her brother Nathan R. Cushman's farm gave her the hands-on experience she needed to provide dedicated and timely service to her fellow farmers. At the time she began working for USDA in 1980, Pat also milked 16–20 Brown Swiss cows that she kept at her residence that belonged to her and her daughter Julie who was actively involved in the 4–H program.

Pat's dedication to her work never wavered despite the challenging times dairy farmers and others in Connecticut faced during her three decades at USDA. While Pat's retirement has left a void that will not easily be filled at the Farm Service Agency office, she continues her service through volunteer efforts at the New London County Farm Service Agency office. Always the dedicated public servant, Pat Smith's experience and care for her fellow farmers will be sorely missed as she moves from full time work to volunteering for farmers in Connecticut. I ask that my colleagues join me in congratulating Pat on her retirement and wish her well in her continued efforts.

RECOGNIZING PRINCE WILLIAM  
COUNTY PUBLIC SCHOOLS  
TEACHERS WHO HAVE ACHIEVED  
NATIONAL BOARD CERTIFI-  
CATION

**HON. GERALD E. CONNOLLY**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 6, 2012*

Mr. CONNOLLY of Virginia. Mr. Speaker, I rise to recognize the 21 Prince William County Public Schools teachers who recently received certification from the National Board for Professional Teaching Standards. The National Board is an independent nonprofit organization governed by classroom teachers, school administrators, school board leaders, governors and state legislators, higher education officials, teacher union leaders, and business and community leaders.

These teachers have met the standards established by the National Board and have undergone a rigorous application process that required they demonstrate the knowledge, skills and accomplishments that comprise teaching excellence. A Board Certified teacher supports a vision of teaching based on the following five core principles:

1. Teachers are committed to students and their learning;
2. Teachers know the subjects they teach and how to teach those subjects to students;
3. Teachers are responsible for managing and monitoring student learning;
4. Teachers think systematically about their practice and learn from experience; and
5. Teachers are members of learning communities.

I extend my personal congratulations to the recent class of National Board Certified Teachers:

Ms. Laura Deering—Battlefield High School;  
Ms. Susan Dommer—Stonewall Middle School;  
Ms. Michelle Esmacher—Lake Ridge Middle School;  
Ms. Amanda Esteban—Battlefield High School;  
Ms. Crystal Figueroa—Triangle Elementary School;  
Mr. Jason Fox—Hylton High School;  
Mr. Mark Groom—Swans Creek Elementary School;  
Ms. Erica Ippoliti—Rosa Parks Elementary School;  
Ms. Michelle Marrero—Freedom High School;  
Ms. Megan Martin—Henderson Elementary School;  
Ms. Kristin McKittrick-Rojas—Benton Middle School;  
Ms. Catherine Naujoks—Coles Elementary School;  
Ms. Diana Pool—Battlefield High School;  
Ms. Kelly Pratte—Rosa Parks Elementary School;  
Ms. Ann Reighard—Rosa Parks Elementary School;  
Mr. Mark Rendell—T. Clay Wood Elementary School;  
Ms. Ramona Richardson—Coles Elementary School;  
Ms. Karen Roth—Antietam Elementary School;  
Ms. Amanda Shaw—Signal Hill Elementary School;  
Ms. Amanda Taylor—Gainesville Middle School; and  
Ms. Jacquelyn Zanghi—Ellis Elementary School.

Mr. Speaker, I ask that my colleagues join me in commending these teachers for their commitment to education and professional development. Prince William County Public Schools delivers a world class education due to the tireless efforts of teachers who make excellence the standard.

TRIBUTE TO ELIZABETH MCCANTS  
RAVENELL

**HON. JAMES E. CLYBURN**

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 6, 2012*

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to an everyday hero, whose abiding faith led her to a remarkable life of Christian service. Deaconess Elizabeth McCants Ravenell passed from this life on February 12, 2012, but her legacy lives on in everyone she touched.

Elizabeth McCants Ravenell was born on November 25, 1922 in Moncks Corner, South Carolina. She attended the public schools of Charleston County, but her calling was a Christian education. She earned certificates from the House of God Academy and Bible College and a degree from the Moody Bible Institute.

Mrs. Ravenell was a devout Christian, and devoted her life to her family and her faith. She first joined the Mt. Olive Baptist Church in North Charleston in 1943. Two years later,

she and her husband joined the House of God—Keith Dominion, when their oldest child, Mary Elizabeth was just one year old.

As a member of the House of God, Mrs. Ravenell served in many capacities. She was a part of the National Complex committee, Deacons Union, Chief Overseer's Anniversary Committee, and the International Missionary Outreach Society.

She sailed the Mediterranean Sea, ministering in Madrid, Spain as a guest of a community church her daughter, Margaret Catherine, organized. She represented the Piedmont Diocese of South Carolina in Mississippi. Mrs. Ravenell also took many visitors to the church's General Assembly in Nashville, Tennessee, and provided food, clothes and shelter for many of them.

She met her husband, James L. Ravenell in Charleston, South Carolina. The couple had six children, and numerous grandchildren, great grandchildren and great-great grandchildren. Mrs. Ravenell was also "mother" to all of the children of the church. Children gave her the greatest joy in life, and she doted on all of them. I met Ms. Ravenell soon after marrying into the McCants family over 50 years ago. We became fast friends and remained so until her death.

Mr. Speaker, I ask that you and our colleagues join me in celebrating an abundant life well lived. Elizabeth Ravenell was a dear friend of the family and light to all who knew her. She radiated her Christian faith and spent her life doing good works. While her presence will be missed, she has left the world a better place because of her devotion and service to others.

RECOGNIZING THE 22ND ANNUAL  
DR. MARTIN LUTHER KING JR.  
YOUTH ORATORICAL COMPETITION

**HON. GERALD E. CONNOLLY**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 6, 2012*

Mr. CONNOLLY of Virginia. Mr. Speaker, I rise to recognize the 22nd Annual Dr. Martin Luther King Jr. Youth Oratorical Competition hosted by the Prince William Alumnae Chapter of Delta Sigma Theta Sorority, Inc. and its Education Foundation.

The Reverend Dr. Martin Luther King Jr. left an indelible mark on our nation in his pursuit of civil rights through civil dialogue. Despite the violence perpetrated against Dr. King and other leaders of the Civil Rights Movement, Dr. King responded with reverent oratory and nonviolent resistance to condemn the injustice of social inequality. His legacy is one of tolerance and steadfast commitment to principled and peaceful communication.

Contestants in the MLK Youth Oratorical Contest pay tribute to Dr. King's legacy with their ability to exercise the strength of the spoken word. This skill will serve them well as they seize future leadership opportunities and forge the personal relationships necessary for effective community engagement and organizing.

I congratulate and applaud the following contestants of the 22nd Annual Dr. Martin Luther King, Jr. Youth Oratorical Competition:

Middle School Contestants:	Ebonee Johnson—Manassas Park High	ity, Inc. for recognizing the benefit that Dr.
Jonathan Adrien—Porter School;	School;	King's teachings bring to the development of
Jacob Gonzalez—Parkside Middle	Seth Opoku-Yeboah—Osbourn Park High	our youth. We lay the foundations of a more
School;	School.	tolerant society when we nurture the ability to
Nicolas Smith—Benton Middle School.		engage and communicate with one another in
High School Contestants:	Mr. Speaker, I ask that my colleagues join	a way that respects our common humanity.
Sadiyah Faruk—Gar-Field High School;	me in commending Delta Sigma Theta Soror-	